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# Congressional Record

PROCEEDINGS AND DEBATES OF THE 111<sup>th</sup> CONGRESS, FIRST SESSION

## SENATE—Wednesday, November 4, 2009

The Senate met at 9:30 a.m. and was called to order by the Honorable JEFF MERKLEY, a Senator from the State of Oregon.

### PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

Almighty God, by whose providence our forebears brought forth this Nation, give to our Senators a passion to protect those liberties for which so many have given their lives to defend. Give them also the wisdom to trust You with all their hearts and to passionately and humbly pursue Your will, knowing that You have promised to direct their paths.

Today, may our lawmakers experience the constancy of Your presence. Guide them with Your higher wisdom, and bring them to the end of this day with their hearts at peace with You.

We pray in the Redeemer's Name. Amen.

### PLEDGE OF ALLEGIANCE

The Honorable JEFF MERKLEY led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

### APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. BYRD).

The legislative clerk read the following letter:

U.S. SENATE,  
PRESIDENT PRO TEMPORE,  
Washington, DC, November 4, 2009.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable JEFF MERKLEY, a Senator from the State of Oregon, to perform the duties of the Chair.

ROBERT C. BYRD,  
President pro tempore.

Mr. MERKLEY thereupon assumed the chair as Acting President pro tempore.

### RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

### SCHEDULE

Mr. REID. Mr. President, following leader remarks, the Senate will proceed to a period of morning business for 2 hours. Senators will be permitted to speak therein for up to 10 minutes each. The Republicans will control the first half and the majority will control the second hour.

Following morning business, the Senate will resume consideration of the Worker, Home Ownership, and Business Assistance Act of 2009. Under an agreement reached last night, we will agree to a substitute amendment and at 12:15 proceed to a cloture vote on the bill. At 12:15, we will have a vote. If cloture is invoked, the postcloture debate time will be considered to have begun running as if cloture had been invoked at 11:45 p.m. last night.

### WASTING TIME

Mr. REID. Mr. President, what I just read is a short way of saying we wasted another day. With all the work we have to do, we stood and looked at each other yesterday—30 hours of doing nothing and the ability to move legislation forward. Anybody who has been watching what has taken place in the last 3 years knows the Republicans have become experts in wasting time, the American taxpayers' time, the American people's time.

Yesterday was no different. Yesterday, Republicans used every trick in the book to slow and stall so we couldn't do important work. And 7,000 additional people lost their ability to have a check. It is starting to get cold. It is getting cold in Washington; it was 40 degrees. Maybe people can buy a coat for one of their kids, maybe they can make that payment on the car before it is repossessed, or maybe they can pay their rent before they are evicted. These people have been out of

work for a long time, and we are trying to extend unemployment benefits. And it is paid for. We are not borrowing the money to do that. But, no, the Republicans have stalled and stalled. Now more than 200,000 people have lost their ability to get that extra dollar they need. These 200,000 people need help, but Republicans can't be bothered with that. They are stalling, showing everybody they can stall things here. They are doing that.

But I am grateful that the American people watching—two congressional seats were open; there were two special elections yesterday. They were both won by Democrats. Democrats, Independents, and Republicans around the country know what has happened in this body in recent years. Republicans are the party of no. That is why, in New York, a congressional district that for 150 years had been Republican went Democratic. The American people see what is going on in this Congress.

In addition to the unemployment compensation extension being held up, which is paid for—not a penny of taxpayer money is being borrowed—Republicans are standing in the way of giving businesses a tax break. This legislation, when we pass it, will allow businesses—big and little businesses—to take into consideration a tax break. If they have lost money in the last few years, they can get a tax break; that is, to carry forward a loss. They get a benefit from the loss. If they make money, they can set it off against the money they made as a result of losses they have been going through. We are trying to help businesses—especially small businesses—compensate for the losses they have endured in recent years. Again, Republicans are in no rush to help them. Each day that goes by is a real hurt to small businesses.

The good news is that we are making progress on health care reform. We look forward to receiving, in a matter of days, the CBO analysis of the proposals for fixing our health system that is so broken. We only have 1 week before Veterans Day, November 11, and 1 week before the Thanksgiving recess after that, then we will have only 3½ weeks until Christmas, and we have

● This "bullet" symbol identifies statements or insertions which are not spoken by a member of the Senate on the floor.

unemployment insurance stalled by the Republicans; military construction, which we are trying to get done to allow for construction of military bases around America and the world where we have installations; Commerce-Justice-Science, which is an important piece of legislation, stalled for weeks.

It is interesting, we hear the Republicans come to the floor—I heard one of the most unbelievable statements yesterday. Senator STABENOW was over there, and she had a chart that showed that 85 times this year the Republicans have stopped either efforts to move forward on a bill or almost 60 times we have had to invoke cloture to stop filibusters. A Republican Senator came and said: Every one of those 85 was the result of our not being allowed amendments.

That doesn't pass the test of a kindergarten. A number of the things they have held up are nominations. We have scores of President Obama's nominations being held up. And with Commerce-Justice-Science, they say they have no amendments. Interesting. They have amendments that have been filed, and as soon as we get cloture, they will be able to debate those amendments and vote on them. But, no, that wasn't enough amendments. Maybe on that one they needed another ACORN amendment because they only had one. I think that would have added up to five or six. Maybe that would please them, another ACORN amendment.

Mr. DURBIN. Will the majority leader yield for a question?

Mr. REID. Yes.

Mr. DURBIN. I think the leader is onto something because it has been a full 2 weeks since we had an ACORN amendment on the floor. So it is clear we should move to one, which is of the highest priority of Republicans. I wonder if we need more ACORN amendments.

Mr. REID. Yes, maybe we should have agreed to a couple more ACORN amendments.

For those not following this, that is an organization that has done some tremendously good work around the country. I acknowledge they have some problems. That is why I agreed with my friend from Illinois, who called for a complete investigation of ACORN. We agree that if they have done things that aren't right, they should be brought before the necessary tribunals or administrative agencies to look at that. But enough is enough. We recognize ACORN is not a perfect organization, but how much time do we need to spend on that? I also say that with nominations.

Here are things we are going to do before we have our Veterans Day break: unemployment, which is tied to first-time home buyers, and net operating loss. We are going to do military

construction. We are going to finish Commerce-Justice-Science.

We are going to do nominations. We are going to do Judge David Hamilton, Seventh Circuit, who has been waiting since April. We have agreed to time agreements. Do you want an hour, 2 hours, 5 hours, 10 hours of debate? No, we don't want anything. Up-or-down vote. The Department of Justice—one of the key officials there has been held up for months, and that is Chris Schroeder. We are going to also complete Tara O'Toole. Here is a woman who is one of the most eminently qualified people in America to serve as science adviser to Secretary Napolitano. Her expertise is in a number of areas, including bioterrorism. She has written scores of articles, and she is also an expert in pandemics. Janet Napolitano, the Secretary, called me and said, "I am desperate for this woman to come and work with me." The country is not capable of doing all the things that need to be done as a result of not having this job filled. Again, they won't let us vote on her. They won't take a time agreement. This is so important that we will spend 2 days debating it if we can have a vote. But that is not good enough. No time is sufficient.

A 6-month highway extension—we would love to get that done so we can meet the demands of the winter in America and so construction can go forward.

Mr. President, the American people see what is taking place. It is so obvious, and it is not constructive.

#### RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, leadership time is reserved.

#### MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period of morning business for 2 hours, with Senators permitted to speak therein for up to 10 minutes each, with the time equally divided and controlled between the 2 leaders or their designees, with the Republicans controlling the first half and the majority controlling the final half.

The Senator from Nebraska is recognized.

#### HEALTH CARE REFORM

Mr. JOHANNES. Mr. President, I rise today to speak about health care. I want to focus my comments today, if I could, on specifically the Medicare cuts and the impact that will have across this great Nation, and also I would like to zero in on what those Medicare cuts mean for my home State, the great State of Nebraska.

Medicare is a program that is a source of health care for about 45 million Americans. As we all know, it is essentially a program for those who are 65 and older. It dates back a lot of years.

In my State, the State of Nebraska, there are 272,000 Nebraskans who are Medicare beneficiaries. As I have talked to them—and I have done town-hall meetings and roundtables all around the State—they are pleased with the health care they receive. If they get sick, they have this program, this Medicare Program, that is there for them.

I want to start out saying that I believe the current plan, which cuts Medicare and claims reform, is really off base with this population. The proposal says Medicare will be cut by over \$400 billion.

Let me, if I might, just walk down through the various programs that will be impacted within Medicare.

There will be a \$130 billion cut for the Medicare Advantage Program. If anybody has spent any time talking to senior citizens about Medicare Advantage, they will tell you they like this program.

Mr. President, \$45 billion will be cut from hospitals that care for recipients of Medicare; \$40 billion will be cut from home health agencies; \$14.6 billion will be cut from skilled nursing facilities; and nearly \$8 billion will be cut from hospice programs.

I suggest, very respectfully, that this health care reform, which will cut Medicare by over \$400 billion, is not an improvement. These cuts ultimately will compromise the ability of Medicare beneficiaries to access the care they need.

If I may spend a moment this morning to talk about the profound impacts this will have in Nebraska, the Medicare Advantage Program, as I said, will be impacted by about a \$130 billion cut. Nationally, there are 11 million seniors enrolled. One Democratic Senator described these cuts as "intolerable." I agree with that description. Mr. President, 35,000 Nebraskans have Medicare Advantage plans. The plans provide choice and options that people like.

The President said that "if you like your plan, you can keep it." And relative to the Medicare Advantage beneficiaries, he said you will get a plan that is "just as good."

The Finance Committee markup was very instructive on this issue. The CBO Director stated that those people who have Medicare Advantage "will see changes and reductions in their benefits."

Let me turn to hospitals. The news is no better with hospitals. Hospitals that serve large numbers of seniors and the poor will have reduced payments. The current government programs actually underpay for these services. Hospital administrator after hospital administrator has told me in my State: We

could not keep our hospital open on Medicare and Medicaid. They need the additional payments they get from private insurance to keep the doors open. Yet this so-called reform bill cuts Nebraska hospitals by about \$142 million; that is, 36 percent of Nebraska hospitals will be affected.

Relative to home health care—a \$40 billion cut nationally—seniors receive care in the home instead of going to a nursing home. That is what this program is all about. Under “reform,” Nebraska home health programs will lose \$126 million over 10 years. By 2016, two-thirds of Nebraska home health agencies will be in the red.

It is especially devastating to rural areas where 80 percent are expected to lose money under this reform plan. It is hard to keep the infrastructure in place right now, much less to look at what is coming. A home health director in a small rural hospital in Cherry County, NE, said this to me:

Nebraskans are a tough and a convicted people. We have chosen to live in a more rural environment and respect the fact that not all services can be provided.

However, there are two registered nurses that provide home health services for seven counties. Our radius to see patients is 100 miles one way. If a citizen was sick or injured, they may have to travel 100 miles to see a doctor. If they are unable to travel, they would just not receive the care they need.

You see, home health care is not a convenience in our State, it is a necessity. Cuts will likely cause them to close that operation and quit providing the services. If the mission is to improve access, how does that do that?

Skilled nursing care facilities is another area that is targeted with \$14.6 billion in cuts. Registered nurses help provide 24-hour care to people who can no longer care for themselves. People depend on them for both short- and long-term care.

What is the impact in Nebraska? The impact is \$93.2 million. This dollar figure does not take into account the job loss and financial impact on local communities.

I will mention a facility, a great facility, like all facilities in Nebraska, in Fullerton—the Golden Home Living Center. That is a population in that community of 1,300 people. The nursing home there is the second largest employer. They have a \$1.5 million payroll. However, they are already struggling to try to figure out how to stay open, much less facing these cuts.

The hospice program will have \$8 billion in cuts nationally. Hospice provides dignity and comfort to seniors at the end of their life. With this “reform,” there will be a nearly 12-percent reduction in hospital reimbursements over the next decade.

We have 38 licensed hospice programs in our State. We are so proud of them. Currently, 97 percent of Nebraskans have access to at least a hospice pro-

gram. The cuts, I believe, would negatively impact the care of dying Nebraskans.

Let me wrap up with this point. Every study that is out there says Medicare is heading toward insolvency, and 2017 is the date most often used. How do we keep Medicare viable? Cutting Medicare to fund a new entitlement, I respectfully suggest, is so misguided. Unfortunately, that is the determined effort of this reform plan. We can do better. We must do better. Nebraskans are watching. Americans are watching. We have to improve on what we are doing here. We need to be able to say to those who are Medicare beneficiaries: We protected Medicare. You are first and foremost in our mind.

I yield the floor, and I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CRAPO. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. CRAPO. Mr. President, I ask unanimous consent to speak in morning business.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. CRAPO. Mr. President, I rise today to discuss Medicare also in the context of the proposed health care reform we are dealing with in the Senate.

This is one of the most troubling aspects of the health care reform proposals that are being considered in the Congress: the massive cuts to Medicare that will total, under the legislation that came out of the Finance Committee at least, about \$500 billion in cuts and similar levels of cuts are included in all major legislation being moved at this point.

In this time of economic downturn, all Americans must look to their budgets and to their own spending very carefully. The same is true for the Federal Government.

Some will argue these Medicare cuts are necessary for fiscal responsibility and that everybody must play a part. Others are going to argue that Medicare is facing insolvency in 2017 and that these cuts are necessary to slow the growth of Medicare spending. In fact, the 2009 trustees report shows that Medicare's annual costs were 3.2 percent of the gross domestic product of the United States in 2008. To give a little bit of context, that is about three-quarters of Social Security's costs. These costs are projected to surpass Social Security expenditures in 2028 and reach 11.4 percent of GDP by 2083.

The unfunded obligation of the Medicare hospital trust fund is \$13.4 trillion,

which is \$1 trillion higher than even last year's estimate. And Medicare's total unfunded obligations, which include Part B and Part D programs, have reached \$37.8 trillion.

Yes, we do need to address the solvency issues related to Medicare. We must deal with it. But let's be clear about one thing: These proposals in these health care bills do not strengthen the solvency of the Medicare Program.

These cuts accomplish one simple goal; that is, they take money from the Medicare Program in order to create a new entitlement program. The program is created at the expense of America's seniors. We are not shoring up Medicare for America's seniors with these bills; we are transferring \$500 billion out of the Medicare programs into a new government entitlement program.

A recent article described it like this: Let's imagine that Medicare is your family's overall budget. You have lived beyond your means and you have run up a huge debt. In order to deal with this new debt, your family thinks of creative ways to cut spending and reduce expenses and put some of your savings aside to catch up. Then, though, you see all this cash that you saved up and you would like to go out and buy a brandnew car. So instead of using the cash to help pay off your debts and your obligations and shore up your financial circumstances, you take this cash and go out and spend it on a brandnew car, in this case a government-run car.

This is what is happening with the Medicare system in the bills before us. These cuts damage the existing program in order to create a new one, harming America's seniors along the way. They are negatively going to impact choice, access, benefits, and quality of care. When Americans said they wanted change, I don't think this is what they were talking about.

Let's talk about a few specifics.

Among the largest cuts to the Medicare Program are the \$117 billion in cuts to the Medicare Advantage Program. Currently, there are nearly 11 million seniors enrolled in Medicare Advantage, which represents about one out of every four Medicare beneficiaries. In my home State of Idaho, there are more than 60,000 Medicare Advantage beneficiaries or 27 percent of Medicare beneficiaries in the State.

Since the creation of the Medicare Advantage Program in 2003, overall enrollment in private plans has been steadily increasing and beneficiaries across the country have had more private plans to choose from than they did 10 years ago.

A 2007 study reported “high overall satisfaction” with the Medicare Advantage Program. Mr. President, 84 percent of respondents said they were

happy with their coverage, and 74 percent would recommend Medicare Advantage to their friends or family members.

According to Congressional Research Service, as of January 2009, all Medicare beneficiaries across the country had access to Medicare Advantage plans along with traditional Medicare plans. The choice is particularly crucial in rural areas. Between 2003 and 2007, more than 600,000 beneficiaries in rural areas joined the Medicare Advantage Program, which is a 426-percent increase.

The Medicare Advantage cuts proposed in the Finance bill will force plans to cut benefits, increase premiums, or drop coverage altogether. In fact, CBO estimates that enrollment in Medicare Advantage will decrease by 2.7 million people by 2019, resulting from the changes in this proposed legislation.

This number represents not only people who would lose their plan but also those who would no longer be able to choose Medicare Advantage because of the decrease in benefits.

CBO estimates that the value of extra benefits offered by Medicare Advantage plans will drop from \$135 a month to \$42 a month. When we were in the Finance Committee markup, I asked CBO Director Elmendorf to confirm this point. I asked him:

So approximately half of the additional benefit would be lost to those current Medicare Advantage policyholders?

His response was:

For those who would be enrolled otherwise under current law, yes.

The point is, the Medicare Advantage cuts in the Finance Committee bill will clearly break the President's pledge that if you like the insurance you have, if you like the protection you have, you can keep it.

Even if some seniors on Medicare Advantage are able to keep their plans, they are not going to be able to enjoy the same level of benefits they enjoy today. During the Finance Committee markup, I offered an amendment that would have prohibited the implementation of the bill's Medicare Advantage provisions if their implementation would decrease choice and competition for seniors in Medicare—very simple and straightforward. The amendment was defeated on a straight party-line vote.

Many congressional Democrats argue that by defending Medicare Advantage you are actually defending overpayments to insurance companies. That is not true either. Medicare Advantage plans are paid 14 percent more, on average, than traditional Medicare fee-for-service. However, these overpayments—or alleged overpayments—don't go into the plans. They go to the seniors enrolled in the plans in the form of extra benefits. That is why Medicare Advantage is so popular among seniors.

Seventy-five percent of the additional payments to Medicare Advantage are used to provide seniors with additional benefits—benefits such as dental coverage or vision coverage or preventive medicine or flu shots or hearing aids. The remaining 25 percent is returned to the Federal Government. So the cuts to Medicare Advantage will reduce benefits and will deprive seniors of choice.

But that is not the only kind of cuts we have coming to Medicare. In addition to the cuts to the Medicare Advantage Program, the Finance Committee bill also contains massive cuts to other Medicare providers. It contains \$40 billion of cuts to home health agencies, there are nearly \$3 billion of cuts to hospice, and more than \$16 billion of cuts to skilled nursing facilities. These levels of cuts would be devastating for providers and will threaten access as well. As more and more providers will not take Medicare patients, it will be harder and harder for beneficiaries to find care.

I spoke to Gary Thietten, the president and owner of Idaho Home Health & Hospice, just last week about the impact of the Medicare cuts to home health and hospice. He described to me how bad the fiscal situation has become for home health, hospice, and other Medicare providers in Idaho. Idaho lost nearly 30 percent of its home care providers in 1998 and 1999, including the State's largest provider. The providers that are still in business in my home State are working under the same Medicare reimbursement levels they received in 2001—8 years ago. If the cuts from the Finance Committee bill go into effect, on top of the current reimbursement issues, the situation will get significantly worse for many providers, and the net result, again, would be a loss of providers, a loss of options, and a loss of services to our seniors.

Costs have gone up considerably due to the economic downturn, and rural Idaho is being hit the hardest. Gary compared the situation for home health and hospice providers to the farmers in Idaho. Most farmers don't grow just one crop. Similarly, home health agencies don't provide just one service. They provide hospice and private-duty care, along with medical supplies and equipment. All of these services are going to suffer because of the home health and hospice cuts.

These proposed cuts will not just affect providers in my home State, they will affect Medicare providers in every State around the country, particularly rural States, which already face significant provider access problems. At some point, providers will no longer be able to give the best care or any care, for that matter, to Medicare beneficiaries. As I indicated earlier, we have already seen the trend start with those medical service providers that simply can't afford to take Medicare patients.

I have long supported policies that increase access to high-quality affordable health care for all Americans and provide for fair reimbursements to providers of the medical services rendered. However, the types of blunt, across-the-board cuts we see in these proposed bills will result only in increased harm to providers and to Medicare beneficiaries around the country.

It is my hope that as we face these difficult times, and dealing with needed health care reform, we will not take the cuts out of the Medicare Program that are proposed in this legislation. Specifically, and importantly, it is critical that we not cut our Medicare beneficiary services in order to simply fund a new, massive government entitlement program.

With that, I yield the floor.

#### RECOGNITION OF THE MINORITY LEADER

The PRESIDING OFFICER (Mr. UDALL of New Mexico). The Senator's time has expired. The Republican leader is recognized.

Mr. McCONNELL. Mr. President, I will proceed on my leader time.

The PRESIDING OFFICER. The Senator has that right.

#### HEALTH CARE REFORM

Mr. McCONNELL. Mr. President, the American people are paying close attention to the ongoing debate over health care, and they have noticed a worrisome trend. The longer this debate goes on, the further Democrats in Congress seem to drift from the original purpose of reform.

At the outset of this debate, the American people were told reform would lower costs, a goal all of us supported. The administration is right when it says the rising cost of health care in this country is unsustainable. Costs must be reined in. But the proposals we have seen so far don't address that problem. In fact, they make it worse. Instead of reining in costs, the proposals they have advanced are expected to drive costs even higher, costs that will then be shifted onto families and small businesses.

Yesterday, I pointed out the absurdity of the situation we are in. Reform that was meant to lower costs is now independently confirmed to make health care more expensive. Reform that was meant to make life easier is now expected to make life harder for families, businesses, and seniors from one end of our country to the other.

Let's focus on Medicare a moment, a program tens of millions of America's seniors rely upon. How is this program doing financially? It is not a pretty picture. Medicare started running a deficit last year, and the Medicare trust fund is expected to run out of money in less than a decade. Looking a

little further ahead, Medicare is slated to spend nearly \$38 trillion that it doesn't have. Simply put: Medicare is broke. For the sake of our seniors, we need to fix it.

But the advocates of this legislation look at Medicare and they see something else. They do not see a problem to be fixed, they see a giant piggy bank. Rather than fix it, they want to use it to fund an entirely new set of government-run health care programs.

Medicare was an attractive target for the people who wrote this bill. They were in a bind. At a time of shrinking government revenues, nearly 10 percent unemployment, and record deficits and debt, the bill writers looked around for the money to cover the cost of their health care plan and they couldn't find it. So they decided on massive cuts to Medicare, cuts that will have serious consequences for millions of American seniors.

I am sure they didn't want to resort to cutting Medicare when they started out, but the fact is they are now proposing massive cuts that will inevitably lead to fewer services. Here is what they plan to cut: \$8 billion from hospice, more than \$40 billion from home health care agencies, more than \$130 billion from Medicare Advantage, and more than \$130 billion in Medicare cuts to hospitals that care for seniors.

At the outset of this debate, all of us knew Medicare faced significant challenges that needed to be addressed. A program that is already spending more than it is taking in, a program that is expected to be insolvent in just 8 years, should be fixed, not raided. Just about every day I receive letters in my office from Kentuckians who have Medicare. They are counting on this program. They are worried about its future. We have an obligation to our seniors, an obligation to keep our promises.

At some point, the majority will have to work with Members to address this problem. When they do, we should focus on a solution to out-of-control entitlement

ending that Americans will embrace.

Forty-four years ago, when President Johnson signed Medicare into law, he vowed that we would never refuse the hand of justice to those who have given a lifetime of service and wisdom and labor to their Nation. We have an obligation to fulfill that vow. We have an obligation to work together on solutions that both parties and the people for whom this vital program was created—seniors—will support.

The health care plan we have seen is deeply flawed. Far from fulfilling the original goal of lower cost, the Democrats' bill would drive costs even higher—an outcome that has most Americans scratching their heads in confusion and disbelief. What is worse, the plan slashes Medicare, too, as a way to pay for new government programs.

Clearly, the effort to reform health care has gotten off track. Higher taxes,

higher premiums, and cuts to Medicare is not the reform Americans are looking for. They want commonsense, step-by-step solutions, not a health care experiment that makes existing problems worse. While some may want to move this bill as quickly as possible, Americans have a different message: They would like for us to start over.

I yield the floor.

The PRESIDING OFFICER. The Senator from Florida is recognized.

Mr. LEMIEUX. Mr. President, I wish to follow up on the comments of Leader MCCONNELL and Senator CRAPO concerning Medicare. I don't think there is a State that is more affected by these potential cuts to Medicare than my home State of Florida, where we have nearly 3 million Floridians who enjoy the Medicare Program. Ultimately, the question in our health care debate is: How we are going to pay for this \$1 trillion new program—this program that encompasses some 1,990 pages in the House proposal?

As Leader MCCONNELL said, it seems it is the opinion of the majority in this Chamber, and in this Congress, that the way we are going to pay for this new entitlement program is to take money from health care for seniors. Frankly, it amazes me that we would have this conversation; that we would take nearly \$500 billion— $\frac{1}{2}$  trillion—out of health care for seniors.

It amazes me for a couple of reasons: One is that this money was paid into the system by seniors out of their paychecks for their entire lives. This was not some handout from government. This is a program they have paid into and they expect a return on it. It is a covenant with our seniors—our greatest generation, now retiring. We told them that if they paid into this system, they would have health care for the rest of their lives through Medicare. Now, even though this program is in and of itself, as Leader MCCONNELL said, in jeopardy of going bankrupt in the next few years—because less people will be paying in and more people will be taking out—we are going to take  $\frac{1}{2}$  trillion out of this program to pay for a new program. That doesn't make any sense to me.

I received a letter from one of my constituents, Shirley Anderson from Gotha, FL, which is right outside the Orlando area in central Florida, and she gets it. She says to me:

I am writing to express my deep concern about the proposed Medicare cuts in reimbursement for outpatient tests and procedures. I understand that these cuts may force doctors to either refuse to take care of me, as I have Medicare, or leave the State of Florida altogether. It has taken me a long time to find a doctor that I trust and I cannot afford to lose him. If this happens I will be forced to go to the hospital for these routine cardiac tests and procedures. My waiting times are going to be longer and more importantly my out of pocket expenses are going to be much higher and I simply cannot

afford this. I strongly believe this is going to adversely affect my health care and well-being.

What are we doing? We are going to jeopardize the promises we have already made to seniors in order to create a new program that is not going to reduce the cost of health care for Americans, a new program that is fraught with problems. It doesn't make any sense to me.

As was stated before, the proposal in the House and what we think will be the proposal in the Senate—although we have not seen the final copy—cuts \$135 billion from Medicare Advantage, \$150 billion from hospitals that care for seniors, \$51 billion from home health agencies, and nearly \$70 billion in additional cuts or fee increases. What is this going to do to the process?

I talked this morning to Ron Malone, who is the vice president of a health services company that provides home health care in Florida. They have 16 locations, they have 2,000 clinicians, they serve about 25,000 patients. He told me this proposal, as written, is going to put half of the providers underwater and out of business. Half of the home health providers, in his estimation, will go out of business. Which ones will go out of business? The small companies, the companies we are trying to help in this economy where we have over 10 percent unemployment in Florida and nearly 10 percent unemployment in this country. We are going to put those small businesses out of business.

Home health care saves costs. Home health care is the more affordable option than a nursing home. Plus seniors like it better because they get to stay in their own homes. We are going to put these people out of business. As Senator CRAPO said, where is this home health care most important? In areas where there is not a hospital or nursing home available, out in the rural areas, not only in places in Idaho but places in Florida. So we are going to make it harder for seniors to get the care they want, and we are going to do something that ultimately is going to be more expensive.

I want to also talk about Medicare Advantage. This is a program that was started to give seniors more options under Medicare. It is not a requirement, it is voluntary—they can choose it—and it is more like a private program, more like a program in the private sector where the companies actually cater to the seniors, provide them with more benefits, such as eyeglasses and dental care and hearing aids and flu shots. They have someone on the other side of the equation who is trying to give them some service, unlike government usually does.

Now we are going to cut that program. We have 915,000 Floridians in Medicare Advantage, and we are going to take \$150 billion out of it. So what is

going to happen? They are going to get less services. We cannot get blood from a stone. When the money comes out of the program, the program is going to suffer. Who is going to suffer? Our seniors.

These are increasingly popular programs in Medicare Advantage. It is also important to note that 40 percent of African Americans and 53 percent of Hispanics who do not have Medicaid or employer-based coverage are now enrolled in Medicare Advantage. Our minority populations enjoy this program also.

As a Senator from Florida, the State with the highest per capita population of seniors, the second highest total population of seniors in America—3 million seniors on Medicare—who made this country what it is, who are our greatest generation, who paid into this system and now are going to see less benefits and less care, I can't stand by and let that happen.

What I am afraid of is we are going to have two classes of health care in this country. If we pass a bill like this, what worries me is that fewer providers are going to be in the Medicare system because their reimbursement rates are going to have to go down. So our seniors and our disadvantaged are not going to get the best doctors. In fact, someday I don't think a lot of these doctors are going to take insurance. So we will have one quality of health care for the rich and one quality of health care for everybody else. That is not American. That is not what we promised our seniors, and it is not something we should be doing.

The Hippocratic Oath tells doctors: "First, do no harm." This proposal, from all we can read about it, first does harm. It harms our most vulnerable people, our seniors, whom we owe and should respect.

I yield the floor.

The PRESIDING OFFICER. The Senator from Tennessee is recognized.

Mr. ALEXANDER. Mr. President, I thank the Senator from Florida for his insightful remarks. I listened with interest to the Republican leader describe the congressional Democrats' bill, which is now about 2,000 pages. We know we do not have a Senate bill yet. It is being written behind closed doors somewhere, I think in the majority leader's office. We are not sure who is writing it. We will have it sooner or later. But we do know some things about the health care bills.

Today what I would like to talk about is just one of those things. Then I want to suggest what the Republican plan is because we have a very different approach toward dealing with health care than the Democratic bills that we have seen. Today I want to talk about Medicare.

Medicare is very important to about 40 million Americans and to a lot of other Americans who are about to be of

the age to depend on Medicare. To get it down into a nutshell, here is what all of the plans we have seen so far from the Democratic side propose to do: to take about \$½ trillion over 10 years from Medicare—in other words, cut Medicare by \$½ trillion, not to put into the Medicare Program to make it more solvent but to start a big new entitlement program called government-run health insurance for other people.

We hear from the other side the Republicans are scaring people about Medicare. The Republicans aren't scaring anybody about Medicare, it is these Democratic bills that are scaring people about Medicare. And they have a right to be worried about them because the Medicare trustees have told us this program, that 40 million seniors depend on, is going to become insolvent between 2015 and 2017. That affects the 40 million of us who are already eligible and a part of Medicare, and it affects tens of millions more who will become eligible for it.

The idea would be, if these bills are passed, to pay for new programs by cutting that \$½ trillion from this program that is going broke. The Senator from Kansas, Mr. BROWNBACK, described it this way. He said: This is a lot like writing a big check on an overdrawn bank account to buy a new car.

He said: Your bank shouldn't let you do that, and the American people should not let us do this, and I don't think they will, which is why we are glad a number of the Democratic Senators joined with all 40 Republicans and said to the Democratic leader: We want two things about this health care bill by the time it gets to us. No. 1, we want to know what it does; and, No. 2, we want to know what it costs.

What that means is, it should go up on the Internet for at least 72 hours, the complete text—that is what the letter from the Democratic Senators, as well as Senator BUNNING in the amendment he authored, said—and, No. 2, we want a complete formal estimate from the Congressional Budget Office about what the bill costs because the American people are significantly worried about health care reform. That, as the Republican leader said, is supposed to reduce costs, reduce premiums, reduce the government's debt. But, instead, everything we heard about it so far makes it look like it is more likely to increase the cost of premiums, to increase taxes, and one thing we know for sure, it will cut Medicare. So let's talk about Medicare for a moment.

A couple of weeks ago we had the first vote on health care reform. For the country, it was a fortunate vote because we saw a bipartisan act in the Senate. The proposal by the Democratic leader was to run up the debt another \$¼ trillion in Medicare spending. But 13 Democrats and all 40 Republicans were not going to do that. We have too much debt today. We had a

deficit this year of \$1.4 trillion, which is as much as the entire debt of the United States from the days of George Washington until 1990. So we all said: No, slowdown. It may be a worthy thing to do.

It is important to deal with the physician reimbursement problem. But we are not going to start off the health care debate by borrowing \$¼ trillion for more Medicare spending.

The Washington Post wrote about that proposal:

A decade ago, Congress passed legislation designed to limit health-care costs by slowing the growth of Medicare payments to doctors. Each year, Congress passes a patch to prevent the cuts from taking effect. [The Senator from Michigan] proposed to make this system "honest", [in her words] by eliminating the cuts permanently . . . it's a strange interpretation [the Washington Post said] of honesty to separate this \$250 billion cost from the health-care bill and then claim that the other bill doesn't raise the deficit.

Fortunately, the Senate came to its senses and said no. We are not going to raise the debt \$¼ trillion for more Medicare spending. But the House Democrats—who came up with a 2,000-page bill they say they may be voting on in the next few days—apparently did not get that message. Their 2,000-page bill did not include the fix, or the physician reimbursement, which we all know is a part of health care reform. It is a part of the Medicare system. It has to do with the amount of money doctors are paid for seeing Medicare patients. It has to be dealt with. Yet they have left it out to the side and, again, we have a proposal that adds to the deficit \$¼ trillion.

A Wall Street Journal editorial this week, appropriately titled "The Worst Bill Ever," notes this absence by saying:

The House pretends [as some Senators did] that Medicare payments to doctors will be cut by 21.5 percent next year and deeper after that, "saving" about \$250 billion.

According to the Wall Street Journal, making those kinds of assumptions means the 2000-page bill that has been written in the House is more likely to cost closer to \$2 trillion over 10 years instead of \$1 trillion. So we know the era of the 1,000-page bill is over because we have a 2,000-page bill; and I guess the era of the \$1 trillion legislative proposal is over because we have a \$2 trillion health care proposal being considered in the House.

The article in the Wall Street Journal goes:

All this is particularly reckless given the unfunded liabilities of Medicare—now north of \$37 trillion over 75 years.

In other words, over the next 75 years we have \$37 trillion in obligations that the Medicare Program has, \$37 trillion more than we have money coming in. How is that going to make you feel if you are part of the Medicare Program and some Member of Congress says: OK, we are going to take this program

with \$37 trillion in unfunded liabilities, a program on which you rely for your Medicare, and we are going to cut it by \$429 billion in order to start a new program for somebody else? I think you are going to say: I don't like that very much. I don't like the sound of it. And, increasingly, as Americans read these bills and understand what it costs and understand what they mean to each American, they come to that same conclusion.

So we wait with great interest to see what bill the Senate majority leader will bring from behind his closed doors when he takes the 1,500-page Finance Committee bill and the 900-page—nearly 900-page—HELP Committee bill in the Senate and puts it together, I assume, with this 2,000-page bill in the House, and all of them depend on cutting Medicare for about half of their costs.

Any reductions in Medicare, any savings in Medicare, any elimination of waste, fraud, and abuse in Medicare should go to Medicare. We should not be cutting grandma's Medicare to spend money on somebody else. We ought to save money in grandma's Medicare to spend on grandma because grandma's Medicare Program is going broke. That is what the Medicare trustees have told us.

What does this mean for seniors? The Senator from Florida outlined them: Nearly \$140 billion in cuts to Medicare Advantage—one out of four seniors, I believe, has a Medicare Advantage Program—nearly \$150 billion in Medicare cuts to hospitals that care for seniors, more than \$40 billion from home health agencies, nearly \$8 billion from hospices.

My understanding is the House bill also makes roughly \$100 billion in Medicare cuts for hospitals that care for seniors—this is the House bill—\$57 billion from home health agencies, and nearly \$24 billion from nursing homes.

The President stated that while “people who are currently signed up for Medicare Advantage are going to have Medicare at the same level of benefits. . . .” That was President Obama. Yet the Congressional Budget Office Director, the nonpartisan Congressional Budget Office Director, said after looking at the Senate Finance health care bill that fully half of the benefits currently provided to seniors under Medicare Advantage would disappear.

The Congressional Budget Office Director said the charges would reduce the extra benefits, such as dental, vision, and hearing coverage, that would be made available to beneficiaries.

What about the cost to the government? Remember, as the Republican leader said, we thought health care reform was about cost.

I remember being invited—I appreciated it very much—to a summit President Obama had earlier this year on entitlement spending. The President

said he needed to work on that, and every speaker who was there said that if we do not do something about health care spending, about Medicaid and about Medicare, we are going to go broke as a country and that almost all of our debt and deficit problems are related to health care spending.

So our goal here is to reduce the cost of premiums to individual Americans and reduce the cost of government to individual Americans. That should be our goal. But according to the Congressional Budget Office, the cost of the 2,000-page House bill reflects a gross spending total of over \$1 trillion. Now, who thinks we can spend another \$1 trillion without adding to the debt? I don't think many Americans do. This mainly includes outlays for Medicaid, children's health, and subsidies.

According to the Budget Committee's staff, though, the real 10-year cost of the Senate Finance Committee bill when fully implemented would be closer to \$2 trillion—\$1.8 trillion—because the main spending provisions do not go into effect for another few years, starting in 2013. The taxes and the fees—the new taxes, nearly \$1 trillion in taxes—start right away, over the full 10 years, but the benefits don't start until 2013. They make some other assumptions along the way such as that there will be a Medicaid commission, which will cut Medicare more. Well, those procedures haven't worked so far. And if there are savings in Medicare, they should be spent on Medicare, not to start some new program.

So Republicans—and, we hope, discerning Democrats—are not scaring seniors about Medicare; these bills are scaring seniors about Medicare. And they have a right to be worried. They have a right to be worried because they are the 40 million Americans who depend on Medicare. Just answer the question for yourself. If we are going to take \$½ trillion out of your Medicare Program that the trustees say is going to go broke in a few years and spend it on someone else, what does that do to your Medicare benefits? It puts them in more jeopardy, is the only obvious answer to that.

So we have proposals that, so far, cut Medicare, raise taxes, raise premiums, add to the debt, transfer expenses to the State that Democratic and Republican Governors say will bankrupt some States—these are the Medicaid Programs—and they create a new government-run program.

I am already getting e-mails from businesspeople in Tennessee who said that if a bill like this goes through, they are out of providing health care to their employees, they can't stand the costs. And so millions of Americans will be losing their employer insurance and shifting over to the new government program which is being paid for by grandma's Medicare. That is the scheme that is being put together here.

Mr. President, how much time is remaining?

The PRESIDING OFFICER. The Senator has 14½ minutes remaining.

Mr. ALEXANDER. I thank the Chair.

So here is what we know about the Congressional Democratic health care plan which is 2,000 pages long: higher premiums, Medicare cuts, higher taxes, more debt. It is a government-run plan. When you put the whole scheme together, if you are one of the 177 million whose employer provides insurance to you, you run a great risk—let's say it this way—of losing your employer insurance because the employer says: I can't afford to provide it anymore, and plus, the government started a new program, so you go over to the government program. That could lead to rationing. Your Governor will tell you the States can't afford the costs being transferred to them, so that means either higher State taxes or higher college tuition to pay for the reduced payments to public higher education, and a \$2 trillion cost over 10 years, according to the Wall Street Journal. That is not real health care reform.

So what is real health care reform? What is the Republican plan or what hopefully could be a bipartisan plan that we could work on? We would suggest, and we have suggested this day after day, week after week, committee meeting after committee meeting: Let's start over. We are headed in the wrong direction. Let's go in the right direction. And the right direction is having the simple goal of reducing costs, costs to those paying for health care insurance, in their premiums, and the cost to the government, which we all have to pay for as well. And how do we do it? Instead of a big, comprehensive, 2,000-page, \$2 trillion, full of surprises and mandates bill that terrifies everyone, let's go step by step in the right direction, which in this case is reducing costs.

What would that mean? Well, No. 1, we could start with a small business health insurance plan. This permits small businesses all across America to pool their resources and leverage those resources.

Let's say you are in a small business and there are 80 employees. Two people get very sick, and they use up all of the available money that small business has to help pay for employees' health care. The employer has to say, I have to reduce everybody's health care; or, I am sorry, I just can't offer it anymore. But if you allow that small business to join with small businesses all across America and pool their resources and leverage their money, then you have a different outcome. According to the Congressional Budget Office, that would mean 750,000 more Americans would be insured. It would mean three out of four people insured by small businesses would pay lower premiums. And it would reduce the cost of Medicaid, as those people went onto their



own private insurance, by \$1.4 billion. So more people insured at lower costs for premiums and less debt for Medicaid—that is one step on which we should be able to agree. Senator ENZI and the late Senator Kennedy worked on that for a long time, but we have not passed it. Why don't we pass it as the first step? That is 88 pages; that is not 2,000 pages.

Then a second step: Why don't we allow Americans to buy insurance across State lines? That increases competition. We have a number of bills that have been introduced that would allow that. Senator DEMINT of South Carolina has one of those bills, and that is 30 pages, not 2,000 pages.

Junk lawsuits. Virtually everyone who has looked at it agrees that lawsuits against doctors add to the cost of health care that we all pay. Some States have taken some steps and shown it makes a real difference. Maybe it is a small part of the cost, maybe it is a large part of the cost, but it is a part of the cost. Anyone who is injured—anyone who is injured by a negligent doctor should be paid 100 percent of the damage to that person. But this would begin to restrict the punitive damages that are often added to that which greatly benefit the trial lawyer and increase the cost to all of us. So why don't we take steps to do this?

We know of examples in my State of Tennessee—and I am sure in virtually every State—where OB/GYN doctors have moved out of rural counties because their medical malpractice premiums have gone through the roof. They just will not practice anymore. So pregnant women are having to travel to Memphis, 60 or 80 miles, for their prenatal health care and to deliver their babies. They do not have that service in the county where they live. This would help them, those women, and this would help reduce costs.

So those are three steps we can take.

A fourth step would be equal tax treatment for every individual on our health care tax policy. That is 21 pages.

Information technology for health care—this may take a few years to actually reduce costs, but virtually everyone agrees that the record keeping in our health care system is a great drag on the productivity and an obvious addition to the cost. Democrats as well as Republicans have worked on legislation to change this.

There is a 13-page bill introduced by Senators COBURN, BURR, and ENZI. I am sure there are good proposals on the Democratic side. We could take that step. And that would be five steps.

Then we could help create more health care exchanges. That is in many of the bills. It is common to many of them. It is a supermarket in which any individual can go to buy, more easily, a health care plan for that individual or for that person's family. It just takes

eight pages to create better health care exchanges across this country.

And then waste, fraud, and abuse. Senator LEMIEUX from Florida, the new Senator, made his maiden address on waste, fraud, and abuse. It is a scandal that, in the Medicaid Program, for example, \$1 out of every \$10 is waste, fraud, and abuse. That is \$32 billion a year. We can go to work on that in a variety of ways, which he talked about this morning. That is just 21 pages.

So there are seven steps in the right direction which are reducing health care costs. We should be able to take those steps in a bipartisan way.

So we have a choice of approaches here in the Congress. The American people want real health care reform, but they do not believe that raising taxes, raising premiums, cutting Medicare, increasing the debt, and 2,000-page bills full of surprises are real health care reform.

The American people are properly skeptical of a grand and risky scheme that claims we are wise enough to solve everything at once. They know we are more likely to mess up everything at once if we try such risky schemes. So to re-earn the trust of the American people, we should go step by step. Here is the choice: a 2,000-page bill or a 200-page bill.

Sometimes, the assistant Democratic leader will come on the floor and say: Where is the Republican plan? I said to him yesterday, if he is waiting for Senator MCCONNELL to bring a wheelbarrow in here with a 2,000-page Republican alternative that costs \$2 trillion and is just our way to spend \$2 trillion and is full of surprises and our grand and risky scheme, he is going to be waiting a long time because he is not going to see it. We are going to bring up several steps which we know will reduce costs, which we know we can afford, which we know will help people, which we know we can implement, and which we believe will have significant Democratic support as well as Republican support.

So is it 2,000 pages or 200 pages? Reduce premiums or increase premiums? Reduce debt or increase debt? Cut Medicare and start some new program with it or make Medicare solvent by taking any savings we can find in Medicare and use it to help Medicare?

Higher taxes—I did not say much about that, but there is \$900 billion of new taxes in the program when it is fully implemented in the Finance Committee program. And the Congressional Budget Office Director said the obvious about that—by and large, most of those new taxes will be passed on to whom? Those of us who pay insurance premiums. So there is another reason your premiums are going up, and the cost.

We should be able to enact a good health care plan this year. The country needs for us to do that. But we Republicans are offering a real choice to the

American people. The American people are appropriately skeptical of risky schemes that run up the debt, cost \$2 trillion, and are filled with higher premiums, more taxes, and Medicare cuts.

To re-earn the trust of the American people, we should set a charge goal of reducing costs and move step by step in that direction. That is the Republican health care plan, and I believe that is a plan Republicans and Democrats can agree upon.

I yield the floor.

The PRESIDING OFFICER (Mr. KIRK). The Senator from Ohio.

#### HEALTH CARE REFORM

Mr. BROWN. Mr. President, when I listen to my colleagues today from the Republican side of the aisle, part of me is incredulous. Part of me says: I can't believe what I am hearing. The other part says: Of course I can believe what I am hearing, because I have heard it since 1995, when the Republicans tried to privatize Medicare when I was a Member of the House of Representatives and heard it; when I read books about what happened in 1965, when Medicare started; and I heard about it in stuff I read from the 1930s when F.D.R. first tried to create something like Medicare. My Republican colleagues have become the party of no. They generally opposed the minimum wage, generally opposed the creation of Social Security in the 1930s, generally opposed the creation of Medicare in 1965, generally opposed SCHIP to help poor children and often not the poorest children, children whose parents had jobs but didn't have insurance. The party of no generally opposed most of those things. So why should we be surprised that they are opposing health care reform?

What makes me incredulous is to hear them say now that the Democrats are going to cut Medicare and that we are going to use the Medicare cuts to pay for health care reform. Nice try. For the party of no, the party that was against the creation of Medicare, the party that fought health insurance forever, the party that, when they got their chance, the first time Republicans had a chance, when they had a Republican Congress and a Republican President—that was the first time they had had that in many years—as soon as they got a chance, they tried to privatize Medicare.

I hear my colleagues come to the floor, at least five of them come to the floor and talk about Democrats cutting Medicare. They are the party that didn't like Medicare. They are the party that wanted to privatize Medicare throughout the 1990s, what President Bush partially succeeded in doing.

We know the history of Medicare is the history of interest groups, mostly insurance groups, teamed up with Republicans to try to stop Medicare's creation, then the interest groups, led by



the insurance industry, teaming up with Republicans to try to privatize Medicare. And now it is the interest groups, led by the insurance companies, teaming up with Republicans to try to kill our health care reform, then wrapping themselves in the flag of Medicare, saying: We are protecting Medicare. Look what the Democrats are doing. The Democrats are going to cut Medicare and pay for health care reform.

It is such an exaggeration. It is the same arguments, the same distortions, the same exaggerations, the same scare tactics we are used to. It should not surprise us at all. I see Senator DURBIN who is familiar with many of these things.

Mr. DURBIN. Mr. President, I wish to ask the Senator from Ohio if he has missed the latest criticism of health care reform. The Senator from Tennessee comes to the floor every day and the focus of his attention is the length of the bill, how many pages are in the health care reform bill. I am not making this up. He has come to the floor, even though the Senate health care reform bill is still in process—it has not been written; it will be written, posted on the Internet, as promised—the Senator from Tennessee comes to the floor and each day the number of pages gets inflated. Today he is claiming 2,000 pages in health care reform. Then he puts his alternative up and says: I can do it in 200 pages. It reminds me of the old show “Name That Tune.” How many notes do you need to hear to name that tune. The Senator from Tennessee says he can name that tune for health care reform in 200 pages. Therefore, he has a better proposal.

I wish to ask the Senator from Ohio, how much importance should we attach to the number of pages in a bill, and ask the Senator if he remembers when the previous President, President Bush, under a Republican administration, brought to Congress a 3-page bill to create the Troubled Assets Relief Program that cost \$800 billion and did it in 3 pages. Does that tell us there was wisdom in this idea of spending billions of dollars to bail out the banks? In Ohio, as you travel around, how many people have stopped you and said: Wait a minute. I will not support any health care reform bill that goes over 200 pages? If it is 201 pages, I want you to vote against it. If it is 2,000, I hope you will filibuster it. Has the Senator run into that?

Mr. BROWN. I know the question in part is in jest, but it is pretty interesting, when you contrast this bill with the TARP bill. President Bush, Secretary Paulson, and Chairman Bernanke came to us and said: Pass this 3-page bill, and we will all be better off. Obviously, that didn't quite work the way they wanted. I come to the floor regularly and read letters from people around my State, from

Zaynesville, Toledo, Bowling Green, Athens, Oxford, and Dayton. I guess the Senator is right. I don't see anybody saying: Please vote yes for the short bill and no for the long bill. I wish we could talk less around here and write a little more concisely. The letters I get that I read on the floor are letters generally from people who a year ago, if you had asked them, would have said: I have really good health insurance or at least I think it is good. But then they got sick and found out that the insurance company practiced rescission which is insurance company speak for taking your policy away or canceling your policy, or they had a child. One of my letters is from a woman who had a child and thought she had good insurance. The child had a preexisting condition. She had her insurance canceled. Others come from people who graduate from college. They are 22 years old. They are taken off their parents' insurance policy, and they are struggling because they are not making enough money. They don't have a job that has insurance at that stage in their lives. They would like to stay on their parents' policy for another 4 or 5 years, as our bill allows them to do.

I guess when I hear the assistant majority leader ask that question about the length of the bill—and he is right, that is what Senator ALEXANDER was talking about mostly, the length of the bill. Part of their criticism is the length of the bill. Their other criticism is to try to scare people. How long have they been trying to scare people?

Mr. DURBIN. If I may I ask the Senator another question through the Chair, I also understand that the major force opposing health care reform is the health insurance companies, the private, for-profit health insurance companies that, incidentally, are declaring some of the largest profits in their history, even in the midst of this recession. This week Humana announced record-breaking profits primarily from Medicare Advantage. Medicare Advantage was the health insurance companies' challenge to the Federal Government. The private insurance companies said: The Federal Government has been running Medicare for 40 years and has done a rotten job. We can do better. We can cover seniors with the benefits promised in Medicare at a lower cost because we are the private sector. We know efficiency. We are not a bureaucracy. We are the private sector.

They were given that chance. A few years ago they started offering the Medicare Advantage plan to compete with traditional government-run Medicare. At the end of the day, after years of evaluation, what we found was the private companies were charging 14 percent more, many of them, than government-run Medicare, which meant that the Medicare Program was paying

them more for the basic benefits than what the government was asking to provide the same benefits.

These health insurance companies have gotten rich on it. Humana this week announced a record-breaking profit primarily based on their Medicare Advantage plan which was supposed to save us money. In fact, it cost us more money.

I say to the Senator from Ohio, when we write a bill that deals with health insurance reform to stop these major companies from denying coverage to people for preexisting conditions, putting a cap on the amount of money that they will give them if they have a serious illness, you can count on these health insurance companies hiring their law firms, teams of lawyers to fight us. If it takes another 50 pages or 100 pages to make sure we state clearly in the law the rights of American families and consumers and businesses when it comes to health insurance reform, that is paper well spent. That is time well spent.

I ask the Senator from Ohio, he has listened to the Republicans on the other side of the aisle. I have yet to hear the first Republican Senator come forward in favor of health insurance reform. They have not come out for the consumer protections which are fundamental to our bill. I ask the Senator from Ohio if he has heard that?

Mr. BROWN. No, I haven't. Again, who are the major opponents to this bill? It is two groups. It is the insurance industry, and it is the Republican Party. Not Republicans who live in Springfield, IL or Springfield, OH, not Republicans who live Urbana, IL or Urbana, Oh. They are Republican Members of Congress. They are very closely aligned with the insurance industry. Of course, they are not going to support this legislation because the insurance industry didn't write it. In fact, it is legislation that the insurance companies obviously don't much like. We have seen these battles before. They did it with the creation of Medicare, the same arguments and scare tactics, the same distortions and the same exaggerations. And we are seeing it again.

The Senator mentioned Humana. Look at this, Humana profits, while 47 million Americans are uninsured and tens of millions more underinsured, premiums double in 9 years, small business premiums increase by 15 percent or more in 2010. Small business always gets hit harder than larger companies, because they can't spread their risk quite as much, because the companies can charge smaller businesses more for their insurance than they can charge larger companies.

You go back to their business plan. Look at what insurance companies do. The private sector says the government has these big bureaucracies. Medicare administrative expenses are

significantly under 5 percent. Private insurance administrative expenses are anywhere between 15 and 30 percent. Look at their business plan. The insurance industry hires a bunch of bureaucrats to figure out how to deny care. They hire bureaucrats to say: Sorry, you have a preexisting condition. We won't insure you. They hire bureaucrats to discriminate against people because of a disability or gender or something else. They hire people so they can sift through and get the "right customers." Then they hire a bunch of other bureaucrats on the other end to deny claims that people submit. They hire this huge bureaucracy in order to keep people from buying insurance, if they are not a good risk. And they hire this huge bureaucracy to deny your claims.

Something like 30 percent of insurance claims are denied the first time around. If you get sick, you send it in to Wellpoint or Aetna or Cigna, they deny your claim. What do you have to do? Instead of taking care of your sick wife or your mother, helping her, if you are on your own, you spend your time fighting with the insurance company instead of taking care of them. That is the good news, if you win on those. So often they turn you down and you still don't win if you appeal.

Mr. DURBIN. I wish to give the Senator a specific example. Several years ago the Illinois State Medical Society invited Members of Congress to spend a day with a doctor. I wasn't sure I wanted to do it because I thought doctors and patients, will this work? It didn't sound right to me, but I said: Only if each time I am about to see a patient, you tell them, watch out, there is a politician in the room. And make sure they give permission. Lo and behold, we did rounds with the doctor, and many folks in their hospital rooms were bored enough that they wanted to see not only their doctor but this trailing Congressman. I was in St. John's Hospital in Springfield, IL as we went into this woman's room. She was living by herself at home. She was suffering from vertigo and dizziness. As a consequence, she had stumbled down the stairs. She had not hurt herself too badly, but the doctor admitted her. After an examination, he said: We will have to do brain surgery. You have an imbalance caused by a brain tumor, and the operation will be on Monday. This was a Friday. So he said: I am going to want to keep her in the hospital until the brain surgery on Monday. I can't send her home. She lives alone. She will fall down again. She could hurt herself. I want to make sure she is ready for the surgery, which was very important for her.

Then he found out that the insurance company said: No, send her home, bring her back Monday morning for the brain surgery. This doctor said: That is an outrage.

I watched him as he went to the nurses' station, picks up the phone and gets into a debate with the clerk at an insurance company who is saying: Send her home. Finally, he slams down the phone, after spending 15 minutes arguing with no benefit to this clerk, and says: I don't care what they say. I am leaving her in the hospital. Either I will pay for it or we are going to fight it out later on.

Think about that for a minute. This is a medical doctor, a surgeon getting ready to prepare this woman for surgery, fighting with a clerk at an insurance company who says: Send her home. We don't want to pay for 2 extra days.

Mr. BROWN. These are not government bureaucrats. Medicare doesn't exclude people for preexisting conditions; right?

Mr. DURBIN. That is right.

Mr. BROWN. But insurance companies will use their bureaucracy to deny care that way.

Mr. DURBIN. Deny care. This is the reality of what we are up against. So when the Republicans come to the floor and do not want to support our efforts toward health care reform, they are saying the current system is just fine.

I saw, incidentally, the Senator from Tennessee come to the Senate floor and say: You ought to be able to buy health insurance across State lines. Well, there is some appeal to that. You would not think much of going from Ohio—I would not encourage this—to go to an adjoining State to buy a car. You know, it is the same car, and so forth.

But isn't it a fact that as you go State by State, the standards for health insurance change? Some States have very high standards of the kinds of health insurance we can expect to buy in our States; others, very low standards. Some States are much better at looking at the books of insurance companies to make sure they can pay off as promised. If you go moving around State by State shopping, you may end up with something that looks like good insurance until you really need it.

So our bills—at least the ones considered in the HELP Committee and in other committees—try to establish a basic standard of care so no matter where you live in America, you are going to have the same kind of basic protection when it comes to what your family needs. And, believe me, I have had personal examples in my family and as a lawyer where you need it.

We had, in Illinois—before we changed the law—companies that were selling health insurance to new mothers covering their obstetric care and then would not cover the newborn baby until it was 30 days old. You know what that is all about. Brandnew babies sometimes are very sick and very expensive. So this health insurance

company was excluding newborn infants from coverage for 30 days. We changed the law in Illinois and said: You cannot do that. If you want to cover the mother and the baby, you cover that baby from the very moment of birth. So there are laws to protect them.

Other States may not have this law. Their premiums may be cheaper. Then what happens when you have a sick baby?

Mr. BROWN. Well, we know from these letters I have brought to the Senate floor from Ravenna and Gallipolis and Galion and Mansfield—these letters are examples of how people thought their insurance policy had some consumer protections in it. It was a fine policy as long as they did not use it. Once somebody got sick, they found out the State laws were too weak in some States.

In my State, they are not bad, but they are not as strong as they should be. In most States, the consumer protections are not nearly strong enough. That is why our legislation says no more preexisting condition. Our legislation says, no more discrimination based on gender or geography or disability. Our legislation says no more annual caps or lifetime caps, so if you get really sick and your care is really expensive, they will not cancel your insurance.

That is why we are building these consumer protections into our bill. That is why the insurance industry and the Republicans do not much like our bill: it makes the insurance companies do some things they do not want to do. That is why the public option is so important. Not only do we change the rules for the insurance companies for consumer protection on preexisting condition—it is outlawed—and there are no more caps, no more discrimination, but we need the public option to enforce that.

I would like to talk about something else Senator DURBIN touched on. The Republican opponents to this, in their opposition and some of their exaggerations—again, I make the very clear distinction between what Republicans in Lima and Middletown, OH, think about this health care bill and what Republicans who are elected to office, who have very close ties to the insurance industry, think about this bill.

As Senator DURBIN suggested, I do not hear anyone on the street—I do not ask their party affiliation, but if I am in a Republican part of the State, I probably assume they may be a Republican. It does not matter. They may be an Independent or a Democrat. But I do not hear them say: The bill is too long or hear them say: I want the insurance companies to continue to be able to discriminate or be able to use a preexisting condition to exclude people.

It might be Republicans here who say that who are elected to office, who are

close to the insurance company lobby and the pharmaceutical drug companies' lobby. But regular people in Mansfield, OH, and Shelby, OH, and Zanesville, OH, and Cambridge, OH, do not think that way.

Last week, as shown on this chart, a constituent shared this mailing with me from Homerville, OH, Medina County. It is an official-looking notice, complete with a Pennsylvania Avenue address. As you can see, this shown here is the envelope: "325 Pennsylvania Avenue, Southeast, Washington, DC." "IMPORTANT: PROJECTED MEDICARE CHANGES." "Presorted, United States Postage." It has some identifying numbers that suggest perhaps it is a government mailing. This is not a mailing from the U.S. Government. This is not a mailing from the Center for Medicare & Medicaid Services. This is not a mailing sanctioned by anybody in our government. But it sure looks like it with "325 Pennsylvania Avenue, Southeast, Washington, DC." They did not send this from Columbus, OH, or Troy, OH. They sent it from Washington, DC, with a Pennsylvania Avenue address.

This official-looking notice declares:

Proposed cuts to existing government programs include a significant reduction in the federal Medicare program, resulting in an increase in premiums and fees that you must pay . . . and a decrease in some benefits.

It goes on to state:

This new cutback in the federal Medicare program means that you will become responsible for an even greater portion of your health care expenses . . . expenses that were previously paid by Medicare.

Again, this is made to look like a government mailing. Clearly, that was their intent. Clearly, their intent is to deceive. Clearly, their purpose was to obfuscate and to confuse and to exaggerate. These are the same accusations we hear from insurance companies, the same accusations we hear, not from Republicans in Columbus or Zanesville or Saint Clairsville, OH, but from Republicans who dress like this and who were elected to represent us around the country who are very tied in with the insurance industry.

Look at the facts. Health care reform will not increase the premiums paid by seniors for regular Medicare by a dime—no increase, zero. Health care reform will not reduce Medicare benefits, which are guaranteed by law. They will not reduce benefits.

If health care reform affects the additional benefits some seniors in Medicare Advantage receive, if it affects the premiums seniors pay for that coverage, it will not be because of any action on the part of Medicare. It will be because private insurers, the private insurance industry has decided to use health care reform as an excuse to squeeze more money out of seniors.

All you have to do—again, as Senator DURBIN suggested—is look at what has

happened. In the last 7 or 8 years, the profits of private insurance companies have gone up 400 percent. Humana profits went up 65 percent in the third quarter—\$301 million. How can they make that kind of money? How can they pay their executives what they do? Aetna pays its CEO \$24 million. For the 10 largest insurance companies in America, the average CEO pay at those 10 companies is \$11 million. How can they do that? They do that because they double the premiums in 9 years.

They do that because they increase premiums, especially on small businesses. They are able to do that because they have squeezed people. They do that because they use preexisting conditions to deny care. They do that because they hire bureaucrats who refuse to pay legitimate claims people submit to their insurance companies.

Taxpayers and seniors will continue to pay these private plans tens of billions of dollars each year to provide coverage to seniors, enough to keep premiums where they are, and, according to the industry itself, enough to offer the same benefit packages as they do today.

How is that? Medicare Advantage plans are required by law to provide the same benefits as Medicare. If they offer extra benefits, those benefits are supposed to be paid for out of efficiencies, not extra tax dollars.

So the insurance companies, 10 years ago, said: Let us in on Medicare and we will save taxpayer dollars because we are the insurance industry. We are the private sector. We can do it more efficiently than the government can. So let us into this and we will save you money. We will actually give taxpayers back 5 percent of what you now pay per person for Medicare.

Well, that is how it started. But then the insurance lobby went to work. The insurance lobby worked on Newt Gingrich successfully. The insurance lobby went to work on the Republican majority in both Houses successfully. The insurance lobby went to work on George Bush and Dick Cheney very successfully. All of a sudden, instead of discounting and paying the taxpayers back 5 percent, they have raided the Federal Treasury and have gotten 12 or 13 percent more dollars than we spend on regular Medicare, which more than 80 percent of the American people are in.

They have always claimed they operate so much more efficiently than regular Medicare that they can offer basic Medicare benefits, plus extra benefits, and not spend a penny more than Medicare spends on basic benefits only. Unfortunately, 10 years ago, some in Congress believed them. Even more tragically, some in Congress continue to believe them, as they shovel dollars out of the Federal Treasury into insurance company coffers—people who put things like this out, as shown on this chart.

So here is the question: Are Medicare Advantage plans no more efficient than Medicare? Do they require a government handout to keep their promises to seniors or is all the propaganda being fed to the public simply a ploy to pump up profits?

I find it so interesting—as the country overwhelmingly supports the public option, as doctors, in survey after survey, overwhelmingly support the public option—I hear conservatives say: The government can't do anything right. The government just messes everything up. Why? It is a big bureaucracy. It can't do anything right. Those same conservatives say: But if we have a public option, it is going to be so efficient, it is going to drive the insurance industry out of business.

Which is it? Is it they are so wasteful and bureaucratic they cannot do anything right or are they so efficient they are going to drive the insurance industry out of business? They always want to have it both ways. They want to have it both ways in Medicare Advantage. They get these government subsidies. They raid the Federal Treasury. They shovel the money off to their buddies in the insurance industry. And look what happens. Taxpayers are paying way too much, and seniors are not getting what they ought to get.

Then this mailing comes along, which is outrageously misleading, not only by what it says but by what it does not say. It does not say that health care reform legislation will actually increase Medicare benefits and decrease Medicare costs; that health care reform legislation will decrease—not increase—the amount of money that the more than 8 million seniors have to pay out of pocket for prescription drugs once they hit the doughnut hole. Remember the doughnut hole?

The doughnut hole—for people who are not seniors, they probably are not too aware of this, but the doughnut hole was created because when President Bush and the Republicans in the House and Senate wrote the Medicare drug bill 6, 7 years ago, they allowed the drug industry and the insurance companies to have a little too much influence on that bill. So they created this doughnut bill, this desert, if you will, where people still had to continue to pay their premiums month after month after month, but they did not get anything for it. They did not get any payment for their drugs.

So our legislation, first of all, begins to close that doughnut hole where seniors will not have to continue to reach into their pockets and pay that.

Health care reform legislation, in other words, will reduce, by half, the amount of money that Medicare beneficiaries must pay for needed prescription drugs. By 2019, our legislation will totally eliminate that doughnut hole. That is good news for seniors, especially those who have high prescription drug costs.

In addition, health care reform legislation will eliminate the copays that Medicare beneficiaries must pay for such crucial diagnostic services as mammograms and colonoscopies. Seniors in Medicare now typically pay 20 percent of the cost of their preventive services.

So a man who goes in for a colonoscopy—\$700, if you can get it for that—has to pay \$140 out of pocket. What does that mean for a lot of seniors? It means they probably don't get a colonoscopy. They just cross their fingers and hope they are not going to get sick, that they are not going to get colon cancer. Most of them will not, but some of them will, and some of them will have colon cancer that could have been detected early, diagnosed early, and saved both a lot of pain and perhaps their lives and saved a lot of money for the health care system.

What our bill does is very simple. It will say that preventive care will be paid for entirely by Medicare. There will be free annual checkups. Our health care reform legislation will provide a new Medicare benefit: free annual checkups for seniors. So once a year, a senior will get a checkup for free, and that can make all the difference in the world.

None of us should be surprised that opponents of health care reform are sending out these deceptive mailings. Of all the offensive aspects of this mailing, I am most appalled at the very visible writing in the lower left corner, which states down here—I did not see this when I saw it. Somebody in Ohio from Medina County handed me this little mailing, and we obviously blew it up. I never saw it until it was pointed out by Jessica McNiece in our office. The language says: "Not Affiliated With Any Government Agency." But you sure would not see that when you look at everything else that is on this mailing. But that is the game they play.

One can sure notice the large, bolded writing at the top, though, where it says: "IMPORTANT: PROJECTED MEDICARE CHANGES." Projected by whom? Projected by the insurance industry? This isn't clear because the mailing conveniently doesn't tell you who is sending it.

We are trying to get to the bottom of where this mailing originated because we know the best way to defeat legislation in this body is to scare people. The best way is to exaggerate and distort, to turn the very young against the very old. When I hear my colleagues in this body say the Democrats are going to cut Medicare to pay for insurance for the rest of the population, they are trying to turn older people against their kids and against their grandkids. It is pretty despicable to play that game, to scare people, trying to get seniors upset because they are going to cut our Medicare to pay for insurance for these other two populations.

A similar mailing in 2004 led Texas to sue the American Seniors Alliance, the front group that masterminded that scam. When we think about all this, we need to ask ourselves, what does health care reform mean for seniors? What does it mean for taxpayers? Be careful whom you believe.

When the insurance industry attacks health care reform, it is not out of altruism, it is out of greed. Usually, anybody who has been around here very long knows that when the insurance industry and the drug industry are trying to defeat legislation such as this—and, of course, they don't like this legislation; the CEO of Aetna is not going to make \$24 million anymore if our bill passes, the CEO who in 1 year made \$24 million. Their profits aren't going to keep going up and up and up and up, so they put everything they have into this. But what we see around here is, when the drug industry and the insurance industry oppose a bill, they don't send out a mailing coming from CIGNA or Aetna. They don't send out a mailing coming from Pfizer or Merck. They send out a mailing from a group they have created called—not precise names but names such as Americans For Better Patient Health Care or Americans For Safe Drugs or associations or trade names; they make them up on paper and then the drug companies and the insurance companies funnel money in. This one is not even identified that well. We don't know who sent this one out, but we are finding out.

If they had your best interests at heart, they would tell the truth. They would come to the table and play a productive role instead of a destructive one, not in their various front groups. Insurance companies are in the business of businesses. If they thought health care reform was going to help their bottom line, they would be for it. But Republicans here have consistently opposed health care legislation, at the behest of the insurance companies and the drug companies that have consistently opposed it.

I see Senator LEAHY, who wishes to speak, so I will close with this: We know these tricks. In 1965, the insurance companies teamed up with the Republicans to try to defeat the creation of Medicare. In the 1990s, the insurance companies and their allies in the drug industry, with Republicans, teamed up to try to privatize Medicare. In the first part of this decade, they succeeded, teaming up—the drug companies and the insurance companies teamed up with Republicans for a privatized prescription drug benefit that meant tens of billions of dollars for the insurance companies, tens of billions of dollars for the drug companies. But it doesn't work for the American people. That is why our health insurance legislation is so important. That is why we need to move forward and do the right thing. So dismiss

mailings such as this, when they are not identified, when you don't know who sends them. When they try to do something they are not, ignore them.

I yield the floor.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, what is the parliamentary situation?

The PRESIDING OFFICER. The Senate is in a period of morning business.

Mr. LEAHY. Mr. President, I am delighted to follow the Senator from Ohio, who has been such a leader in this area. Of course, I am delighted to see my distinguished friend from Massachusetts in the chair, a friend of probably more years than either one of us is willing to count.

Today, we as Members of Congress have the opportunity to complete an effort that actually began decades ago. The status quo has a powerful lobby, and the centuries of status quo have killed health insurance reform before. They are pouring all their energy not into offering constructive solutions but into erecting new pillars of obstruction at every turn.

Each of the various reform plans that have been brought forward by now have their strengths and their weaknesses. We all know that. But one other thing we should know: Radical reforms they are not.

As President Obama asked, these proposals are based on the existing system of employer-based private insurance. But in the absence of comprehensive national reform, several States have helped fill the void by crafting some of their own solutions. I am proud my home State of Vermont has been a leader and an innovator on several issues that are now being wrapped into the reform package. One such provision mirrors a pilot program in Vermont, the Blueprint for Health. This coordinates care among patients and does it in a way to prevent costly hospitalizations and procedures. Patients who participate in the program have their care monitored to ensure they are receiving the kinds of preventive services and disease management they need. The blueprint rewards physicians who keep their patients healthy. The program has already slowed costs. Of course, it has reduced emergency room visits.

Vermont has also coordinated patient care as one of the States at the forefront of the movement toward electronic medical records. That is a reform I have long promoted. Recently, I visited Montpelier Pharmacy in our capital city, a small city of 8,500. I had the privilege of being born there. But I visited Montpelier Pharmacy to announce a grant I secured to help small pharmacies across Vermont adopt a system for electronic prescriptions. With electronic prescribing, you can have all kinds of computer safeguards to prevent dosages from being too large

or also prescribing a medication which may conflict with another medication that has already been prescribed. The system gives the physicians—but also the pharmacists—a concrete medication history that doesn't rely just on a patient's memory alone. In fact, if you have a patient who cannot or does not remember what medication they have been taking, this can be lifesaving. It is a little bit better than a patient saying: Well, I have that small white pill, and I think it is something for heart or something like that; they can press the button and know exactly what medications they have and what the contraindications are for other medications.

Vermont has also been a national leader in children's health care and in expanding coverage for low-income Vermonters to the Medicaid Program. All this in a little State of 650,000 people. But because of our early action, more than 96 percent of Vermont's children have health insurance. In our little State—not a wealthy State, but 96 percent of Vermont's children have health insurance. We have one of the lowest rates for uninsured adults in the country. It makes Vermont a leader and model for the rest of the Nation.

The proof is in the pudding. We have 96 percent of the children with health insurance, the lowest rates for uninsured adults, so it should be no surprise that Vermont has been ranked the healthiest State in the Nation by the American Public Health Association and the Partnership for Prevention and ranked No. 1 in health care by the Commonwealth Fund. We can talk about things to do, but when you actually do them, it works.

While Vermont has been a model in coordinating care and offering wider health coverage through public programs, a provision to expand Medicaid coverage nationwide threatens to penalize States such as Vermont that have acted early to do the right thing; States, such as Vermont, that did not wait but went forward to protect the people in their State. Instead of rewarding States that have taken the initiative to expand Medicaid Programs early, one of the Senate bills would require States that have been leaders in expanding coverage to accept less Federal assistance than other States who are offered only the bare minimum of coverage. In other words, it penalizes those that have done the right thing and rewards those that have done the wrong things. Taxpayers in early leader States such as Vermont would be forced to sustain programs in States across the country that traditionally ignored the needs of their citizens. So to address this disparity, I recently joined with 13 other Senators from early leader States to offer a proposal that treats all States fairly. We can all share the goal of increasing access to essential medical services by expanding Medicaid coverage nation-

wide. I look forward to working with others in a way that does not misguidedly harm early leader States.

Even though Vermont has long recognized the importance of a health care system that includes all Vermonters and Americans, individual States can't make enough progress without comprehensive health insurance reform. We need that. Workers nationwide are losing insurance for their families when they change or lose jobs. Insurance companies can and do discriminate against sick people. Notwithstanding what the hundreds of millions of dollars' worth of ads say, they can and do discriminate.

I hear heartbreaking stories daily from constituents in Vermont. They tell me of the trouble they have getting, paying for, and keeping health insurance. I hear it when I go to the grocery stores at home. I hear it when I am putting gas in my car at home. I hear it when I am walking down the street or coming out of church, such as the woman from Winhall, VT, who spends \$500 a month on prescriptions—\$500 a month on prescriptions—but she would be uninsured if not for her husband's job. She is working two jobs just to make ends meet and afford their health care costs.

Then there is the small business owner in Vermont who has three full-time employees and one part-time worker and she works 6 and 7 days a week, but she can't afford the blood test her doctor recommended. If she becomes sick, she will lose her business, she will lose her home, her employees will lose their insurance.

There is the man from central Vermont who told me about his sister-in-law who lost parts of both feet because she didn't have health insurance. She didn't have health insurance, and when she needed medical attention, she waited, hoping things would get better. Well, they didn't, and she had to be rushed to the emergency room for amputation.

Real-life stories such as these make us ask: Why are we the only industrialized Nation in the world that lacks health insurance for its citizens? Why does the wealthiest Nation on Earth lack health insurance for its citizens? Why does the most powerful Nation on Earth lack health insurance for its citizens? It is shameful. We owe it to all Americans to pass meaningful reform.

I strongly believe the best way to meet these goals is to include a public health insurance option in health insurance reform. A public option would give consumers more choices to purchase an affordable and quality health insurance plan. It would bring about competition. It will bring down costs. I applaud the majority leader for saying the Senate bill will consider this.

In order to introduce true competition in the insurance industry we must

also end the exemption from antitrust scrutiny that has been carved out of our laws for the benefit of health insurers and medical malpractice insurance companies. The antitrust laws exist to protect consumers and promote competition, and we should no longer allow the insurance industry to hide behind its special, statutory exemption from the antitrust laws. During the Senate's debate on health insurance reform, I will offer as an amendment the Health Insurance Industry Antitrust Enforcement Act, which I introduced last month, to end the health insurance industry's exemption from our antitrust laws.

We know our current health system is unsustainable. It threatens not only our health security but also our economic security. Doing nothing has been seen as an option before us. It is always easier to do nothing, but that is not an option now. We tried doing nothing for years and the situation has grown worse. So let's debate and let's pass health insurance overhaul in the coming weeks. Let's give Americans the competition they need. Most importantly, let's give Americans the choice they need.

I yield the floor.

The PRESIDING OFFICER. The Senator from New York.

Mr. SCHUMER. Mr. President, first, I wish to compliment my good friend from Vermont on his excellent remarks. I am proud to be a cosponsor on his legislation on the antitrust exception. I also wish to say to my friend that I know he was a little bit under the weather the last few days. I called him a couple times to wish him well. I think I can speak for every one of the other 99 of us, we are glad the Chairman is back and in fighting form.

#### UNEMPLOYMENT COMPENSATION EXTENSION

Mr. SCHUMER. Mr. President, I rise to speak in favor of the unemployment relief expansion that the Senate is poised to pass, hopefully, later today, with broad bipartisan support, although there were, I am sorry to say, some unnecessary delays from the other side.

This bill is vitally important and we could have, and should have, passed it weeks ago. I am relieved to finally see the light at the end of a very long, very dark tunnel that being out of work has caused for hundreds of thousands of American workers who have lost their jobs.

Since we first began considering this vital legislation nearly a month ago, nearly a quarter of a million Americans, and 50,000 New Yorkers have seen their benefits dry up. With each passing day of inaction, tens of thousands of middle-class families have seen their safety net pulled out from under them. So I am glad to see the Senate finally take action.

I think of something that happened to me on Monday. I was rushing to my New York City office in midtown Manhattan. A well-dressed gentleman was obviously waiting at the front door of the office building in which my office is 17 floors up. He was well dressed, in a camel hair coat, and he was well groomed. I could see anxiety in his eyes. He pulled me aside and said, "Senator, I have been waiting for you. Can I speak with you for a minute?" I said, "I am late for a meeting, so can you walk with me?" He said to me again, "I would like to ask you a question. When will you pass an unemployment benefit extension? I have a lot of friends who are asking." I sort of knew what was happening. Of course, he was a man who was obviously middle class, and maybe more, who had lost his job and could not find his benefits. He was too proud to ask me for himself, so he asked me for others.

It hit home to me that New Yorkers of all backgrounds and economic levels and all parts of our State are out of work through no fault of their own. They are desperately looking for jobs, and not enough of those jobs have come back. Our job is to help them. That is what this bill does. I am glad to see the Senate finally take action.

The bill will also extend the home buyer tax credit for 7 months, which I support, and it will provide for a 5-year carryback of net operating losses, or NOLs.

The main focus of my remarks today is on this last provision, since one of the important effects of this NOL part of the legislation will be to provide much needed and deserved tax relief and, in too many cases, the money needed to survive to thousands of Americans who were lured into Ponzi schemes such as Bernie Madoff's and have lost everything. These evil schemes hurt so many people.

When we hear about the Madoff investors, we hear a lot about celebrities who lost hundreds of millions. But for every wealthy individual, there are hundreds, if not thousands, of people not at all of wealth who had their retirement savings stolen from them. They trusted Madoff or their investment adviser who put their money with Madoff. Now these poor folks have lost everything. In many ways, these average people are worse off than the people who lost many times as much, because so many—too many—of these smaller victims lost everything.

As you know, many of them are in New York, because Bernie Madoff was located there. I want to explain to my colleagues how what we are doing today helps the little guy, the average person, who saved for their retirement and now finds, at age 60, 65, or 70, that their retirement savings are gone. Everything they have worked for their whole life has been stolen from them. In many cases, the victims are des-

titute and have nothing to live on. They saved their money for years. They got statements and confirmations and 1099 forms that looked real. The SEC had checked out Madoff and said everything was fine. The victims did everything right. They played by the rules, and then their future financial security evaporated before their eyes on December 11 of last year.

Here is what we are doing to try to help those thousands of smaller investors. There are basically two types of Madoff investors, leaving out the charities and pension funds that were also decimated. There are the direct investors, who knew Madoff and invested directly with him. Then there are the indirect investors, who went through someone they knew or an investment advisor called "feeder fund" investors. In general, direct investors tend to be the bigger investors, the wealthy who had personal relationships with Madoff. The indirect investors are the folks who tend to have a lower net worth, and a lot of them are elderly people who saved all their lives, and suddenly they are destitute. Many gave their money to somebody they trusted, such as an investment advisor, and didn't even know their money was invested with Bernie Madoff.

When the IRS issued a revenue ruling in April, which I urged them to do, the ruling simplified and clarified the rules under which a direct investor could take a theft loss deduction for their Madoff losses, by saying that theft losses could be treated as NOLs, as if the individual investors were small businesses. Direct investors were allowed to "carry back" their losses for 5 years instead of 3 and carry forward any remaining losses for up to 20 years. A longer carryback is important because it allows the investor to recoup some of those losses and put cash in their pockets.

But investors in a "small business" with more than \$15 million in assets could not qualify for this relief. As a result, the IRS guidance was of help only to direct investors because the feeder funds that had the money of thousands of smaller investors were usually worth more than \$15 million. They aggregated lots of little investors and gave one big chunk of money to Madoff. The IRS was sympathetic. They told us it was right to help these people, but they said they needed a change in the law.

I should also add that the indirect investors are also not eligible for the \$500,000 of relief from the Security Investor Protection Corporation, or SIPC, so they have been hit by a double whammy: They are the smaller people usually, and they got shut out of the expanded carryback on the theft losses because the feeder funds of which they were a small part were too big, and they get no SIPC relief either.

The bill we are considering today will allow larger businesses to carry back

their NOLs for 5 years. They can offset 100 percent of the income for the first 4 years and 50 percent in the fifth. I have worked hard to ensure that this language is drafted in such a way that the Madoff indirect investors will qualify for the expanded NOL relief, because these individuals will no longer be subject to the "small business test."

I believe very strongly that the indirect and direct investors should be treated equally. I tried to amend the bill so that those who are victims of theft losses from fraudulent investment schemes could get the full 100 percent in the fifth year. I particularly thank the chairman of the Finance Committee, Senator BAUCUS, and his staff, for being receptive to this, and for working with my very capable staff to make it happen. I believe we could have added this to the bill if we could have gotten it scored in the compressed timetable that we had had.

I will continue to work with the Finance Committee and the Joint Committee on Tax and the victims advocates to get the necessary data so that future tax relief for Ponzi scheme victims can be considered by the full Senate, and not stalled by unrelated scoring issues.

The action we are taking today will help millions of unemployed, thousands of home buyers, and many large corporations that need the refunds to improve their cash flow and make new investments, and that is hugely important. But I also wanted to explain how what we are doing today will help provide some modest assistance to thousands of people whose life savings were stolen from them 11 months ago.

The victims haven't been sure where to turn, but I assure them that they have allies in the Senate, including the chairman of the committee and myself. We hear them, and we are doing everything we can to help right these wrongs and at least make up for some of the evil done by Bernie Madoff.

I yield the floor.

The PRESIDING OFFICER (Mr. KAUFMAN). The Senator from Oregon is recognized.

Mr. MERKLEY. Mr. President, I rise today to address one particular aspect of the bill before us, the Home Ownership and Business Assistance Act of 2009.

Home ownership is addressed in this bill through an extension of the \$8,000 credit to first-time home buyers. There are some adjustments to that credit encapsulated in the bill, but I will not get into that. I want to address a different aspect. This is an idea that hasn't been fully debated in the Senate. I think it is an appropriate time to put it forward.

We need a permanent \$5,000 tax credit for first-time home buyers. Folks may say: But we have a mortgage interest deduction, and that is a major home ownership program in America. Why

should we have a downpayment tax credit for first-time home buyers on an ongoing basis?

In the bill before us, the tax credit is designed to stimulate the economy, stimulate the housing market. But I put this idea forward from a different direction—the direction of empowering our working families through home ownership.

Why is that so important? I will tell you and I will give you a few vignettes.

I spent years working as director for Habitat for Humanity, working with low-income families trying to become homeowners. The community made it affordable and possible by donating land and materials and participating in the construction of the home. Habitat sold the homes to the individuals on a zero interest mortgage. Those families participated in the construction, which is often called “sweat equity.” They were out there hammering nails, putting up walls, pouring foundations, putting on roofing, putting their own labor and sweat into the construction of the house.

What I saw through that experience was the profound impact of home ownership on working families. I saw families, who were unstable and had been going from living in a van to living in a basement, become stable. I saw the positive impact on the children, who had never been able to invite a friend over before—now having pride in their home and having the ability to invite friends over, having more self-respect. I saw them doing better in school. I saw parents who didn’t believe they had a stake in the community. Now they had a stake in the community, and that affected the way they behaved. They became more involved in the affairs of the community.

I want to turn first to laying out the fact that studies that look at the details of home ownership impact find that indeed home ownership has an enormous impact on working families. Sociologist R. J. Bursik found that crime, unemployment, suicides, juvenile delinquency, teen pregnancy, and drug use are decreased by home ownership. The Journal of Urban Economics found that children in home-owning families tend to have higher levels of achievement in math and reading, to have fewer behavioral problems, stay in school longer, are more likely to graduate from high school, and are more likely to go to college.

A study by Alba, Logan, and Bellaire titled “Living with Crime” found that home ownership resulted in family members being significantly less likely to be involved in crime.

All of this is common sense. It is common sense that a family who feels part of a community is going to be less likely to be involved in crime, is going to be more involved in the community, that children who have more stable lives have more self-respect and are

going to fare better in school. The stability of home ownership makes it more likely that children are going to graduate from high school. But I think it is important to document those impacts from the studies, as well as from our common sense or from vignettes.

We have a major program in America, the home mortgage interest deduction, which is designed to facilitate home ownership. It is a terrific program, but the program does not assist working families getting into their first homes.

Let me put up a chart to explain what I am talking about.

Take a working family. Maybe they are earning \$40,000 or \$50,000 or \$70,000, and they buy a \$150,000 house and put 5 percent down. Right now, mortgage rates are low, so they pay 5 percent interest. Their total interest is \$7,078. That is less than the standard deduction for a year. The standard deduction is \$11,400. So working families are not assisted by the home mortgage interest deduction in getting into homes.

It is still a good program. It still empowers home ownership over the long term. It certainly is beneficial in an increasing way to families who earn more.

Here is a family buying a \$500,000 house. While the interest is the same, the same assumptions—5 percent down, 5 percent interest, \$23,591, far exceeding the standard deduction. So if you are a family who is better off, you can buy a bigger house. The home mortgage interest deduction helps launch you into home ownership. But if you are a working family in America, it does not help much. In fact, often the interest is less than your standard deduction. So it has no impact whatsoever. This is why we should debate fully a permanent \$5,000 downpayment tax credit for first-time home buyers.

Of course, we always struggle with the cost of programs and that is a very important thing to do. The cost of the home mortgage interest deduction in this last year was about \$97 billion. That is the cost of the home mortgage interest deduction, with most of the benefits going to affluent families. So \$97 billion is directed in ways that do not help our working families get into their first home.

What if we were to spend a fraction of that to help working families become homeowners, knowing that the externalities of home ownership—the stability for children, the lower crime rates, more likely to finish school, more likely to earn more money, you pay more in taxes, less likely to end up on public programs. All those programs are paid back to us in multiples.

What would the cost be of providing a \$5,000 downpayment tax credit, a permanent one, to first-time home buyers? It would be on the order of \$10 billion, assuming that every family, regardless of income, was eligible.

A \$97 billion program, an important program, a good program, but it does not help working families get into homes. Why not spend 10 percent of that on a program that would help launch our working families into home ownership, which makes much better lives for them and a much better community, stronger communities for everyone else, and a much better future for their children?

I will conclude in this fashion. Home ownership has enormous value to our society—home ownership done right, not with liar loans, not with prepayment penalties, not with steering payments, not with mortgages that are basically scams. But home ownership done right has enormous returns—responsible, good, solid mortgages. We should support our working families to become homeowners, for their sake and for strengthening all of America and for the future of our children.

#### CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

#### UNEMPLOYMENT COMPENSATION EXTENSION ACT OF 2009

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of H.R. 3548, which the clerk will report.

The bill clerk read as follows:

A bill (H.R. 3548) to amend the Supplemental Appropriations Act, 2008, to provide for the temporary availability of certain additional emergency unemployment compensation, and for other purposes.

Pending:

Reid (for Baucus/Reid) amendment No. 2712, in the nature of a substitute.

Reid amendment No. 2713 (to amendment No. 2712), to change the enactment date.

Reid amendment No. 2714 (to amendment No. 2713), of a perfecting nature.

Reid amendment No. 2715 (to the language proposed to be stricken by amendment No. 2712), to change the enactment date.

Reid amendment No. 2716 (to amendment No. 2715), of a perfecting nature.

The PRESIDING OFFICER. Under the previous order, all postcloture time is expired, the substitute amendment is agreed to, and the motion to reconsider is considered made and laid upon the table.

The amendment (No. 2712) was agreed to.

The PRESIDING OFFICER. Under the previous order, the time until 12:15 p.m. will be equally divided and controlled between the two leaders or their designees.

The Senator from Georgia.

Mr. ISAKSON. Mr. President, that will be, I suppose, about 12 minutes each side; is that correct?

The PRESIDING OFFICER. The Republican side has 15 minutes.

Mr. ISAKSON. Mr. President, I rise in full support of the extension of the



unemployment insurance compensation. I rise also to express my thanks to a number of people in this body.

First, as everybody knows, we adopted a substitute to the unemployment compensation bill by Senator REID. Senator REID, the majority leader, has been instrumental in seeing to it this bill not only passes but that enhancements are made to this bill to help the U.S. economy, and it is totally paid for and a net positive to the Federal Treasury. I appreciate more than I can express Senator REID's hard work to help this take place.

Secondly, I thank Max BAUCUS, chairman of the Finance Committee. Senator BAUCUS and his staff have been unbelievably cooperative in helping us find the pay-fors to match and actually exceed the cost of the home buyers tax credit which will be extended in this legislation.

Senator DODD, chairman of the Banking Committee, 3 weeks ago hosted a 3-hour hearing in the committee on the housing tax credit and the housing market. Without his giving us that time to bring forward the issues that are so pressing in our country today, I am not sure we would be standing here at all. So I am greatly appreciative of Senator DODD.

I particularly thank Chris Cook on my staff for the work he has done in helping make this take place.

Lastly, but not least, I thank Mr. Richard Smith, a private citizen, a person in the housing industry who dedicated countless hours of his life in the past month to educate people on the positive effects of what we are about to do.

Briefly, I want to say the following: We learned about 8 months ago that a tax credit for first-time home buyers worked. It worked to bring back the entry level marketplace in housing, and it helped to begin to stabilize the housing market which led us in late 2007 into the difficulties we have experienced over the last 20 months. Extending it is important, as long as everybody still understands permanent extension would be bad. Extending it to next April, which this bill does, with a closing no later than June 30, allows the American housing market and first-time home buyers to exercise their right to take tax they pay, convert it to equity in the investment and net appreciating asset, and help stimulate what is the rock-solid base of the American economy.

We also add, in addition to the \$8,000 credit extension for first-time home buyers, a move-up buyer tax credit of \$6,500. This is the cornerstone of the substitute before us now. It offers to any previous homeowner who has lived in their home for at least the last 5 years the opportunity to sell that home, invest in a new home, and take up to a \$6,500 tax credit. That is going to help us boost what is the problem in

the U.S. housing economy today, and that is what is called the move-up market. It is the gentleman who is transferred from Delaware with Hercules to Brunswick, GA, who cannot sell his house in Wilmington and cannot buy a house in Brunswick because the markets are so frozen and the move-up market is dead. Now he has an opportunity to sell that house and have an incentive for its purchase in Delaware and an incentive to come and reinvest that money in Georgia in a house in Brunswick. It will make a measurable difference over the next 7 months in our economy.

We also raised the means test on income from \$75,000 to \$150,000, which is in the current credit, to \$150,000 and \$225,000 in the new bill for both move-up buyers as well as first-time home buyers. Those income thresholds will open the incentive to more Americans and I think will show a measurable increase in the amount of business that takes place.

In response to the Internal Revenue Service concerns we expressed a few months ago on fraud, we put in every single request they made for fraud to see to it the HUD-1 is attached to tax statements, to see to it there is no fraudulent claim of the money, and to see to it the IRS has every tool they can to prosecute to the fullest anybody who would abuse this credit.

Lastly, we have one exemption to the payback. As the Presiding Officer knows, the credit has to be paid back if somebody sells their house within the first 3 years of occupancy and moves. That is because they are required to own it at least 3 years. That payback is waived if they are a member of the U.S. military who has redeployed in our military in the United States or overseas. It is not right for them to respond to our country's call and then penalize them on the tax credit if they used it before by not knowing they would be called or moved again.

Again, I thank Senator REID, Senator BAUCUS, and Senator DODD for their tremendous work. I thank the Members of this body for their positive vote of 85 to 2 on cloture on Monday night and hopefully what will be a very positive vote tomorrow night to extend and pass the first-time home buyers credit and add to it the move-up buyers home credit.

I add to this list everybody who has an interest, everybody who thinks it is a great opportunity. It is a great opportunity, but it ends on April 30 for contracts and on June 30 for closing. It would not be in the best interests of the United States or this Senate to extend this credit. Part of the benefit of a tax credit is the scarcity or the urgency of its sunset. This tax credit will sunset on April 30, 2010, and it will not be extended. Closing will have to take place by June 30 or it will not count.

I urge all Americans who have always dreamed, if they are a first-time home buyer, of having a home of their own or Americans who have been gridlocked in the failure of our move-up market to actually move up and work, you have a 7-month opportunity that is good for you, it is good for the United States of America, and it is good for this economy.

I yield the floor by thanking all the Members of this body and urging them to vote in favor of the adoption of the substitute and ultimately on the passage of the bill.

I yield the floor.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. REED. Mr. President, I commend several of my colleagues who brought us one step closer to passing an extension of unemployment insurance which is absolutely critical in the lives of millions of Americans. Hundreds of thousands—millions, indeed—have run out of their benefits or are about to run out of their benefits. They are facing the prospect of a tough economy without jobs and looking feverishly and not finding them and not having a basic support for their families. This is critical.

Majority Leader REID has helped immensely, together with Chairman BAUCUS. I particularly single out Senator ISAKSON and Senator BUNNING. They have worked collectively, collaboratively to bring to this bill two other measures which are critical. As Senator ISAKSON explained, the housing tax credit. One of the real benefits of this body when it works well is we are able to have the expertise and the judgment and the knowledge of someone such as Senator ISAKSON who understands better than anyone else the real estate market because he came up through that business.

His vision months ago gave us the option to move forward on this homeowners tax credit. It has been a huge success, and it is much to the credit of Senator ISAKSON.

Senator BUNNING recognizes the need for the net operating loss favorable treatment to small businesses.

When we work together, pooling our best ideas, we can contribute to the well-being of Americans all through this country. I thank those two Senators.

I hope that after what I anticipate to be another overwhelming procedural vote that we could move immediately to consideration of final passage of the unemployment compensation bill, together with the measures Senator ISAKSON and Senator BUNNING have offered.

I hesitate, but I will add that it has been 20-plus days since we have been considering this unemployment extension. We have been through numerous procedural votes. These procedural votes have been overwhelming. Monday

evening, it was 85 to 2. Typically, when we have that kind of underlying support for a measure, we do not need 30 additional hours, particularly now since we are considering a bipartisan bill, incorporating unemployment compensation extensions, first-time home buyers, together with net operating loss treatment for small businesses.

So I anticipate a successful procedural vote. I would like to anticipate swift and unanimous passage, and I hope that is the case.

The issue of unemployment compensation is absolutely critical all across this country. There is no place today in the United States that does not see a serious crisis in unemployment. In my home State, we have a 13-percent unemployment rate. My assembly was briefed today with the prediction that the rate will peak sometime next year at 14 percent. That is crippling in terms of its effect on families.

We have seen some progress in our economy. We saw last week, for the first time in a year, a growth in the gross domestic product—3.5 percent. The economy is expanding. We are growing again. The downward collapse has stopped, and we are beginning to grow. But, as I suggested previously on the floor, you can't feed your family GDP. You need a job. You need to be able to work. You need to have the certainty of your work, that it will be there. And you have to be able to have that job to provide for your family and to give us the confidence we need to continue to grow and expand the economy.

One of the economic effects we have seen is lagging consumer consumption, which was a major driving force in our economy. It is obvious that when people are afraid of losing their jobs, when people have lost their jobs, their consumption is necessarily limited. So in order to sustain our growth, we have to go ahead and rebuild our employment situation.

But what we have to do immediately is to recognize there are people without jobs. These are people who have worked all their lives. My colleagues have come to the floor repeatedly and they have read—Senator DURBIN and so many others—letters from constituents, husbands and wives who are now faced with no employment, are faced with the loss of their insurance because their COBRA is running out, their health care, and they are worried about losing their homes. For the first time, they are at the edge of financial ruin. Many have already exhausted their 401(k)s, all their retirement benefits, just to get by, just to survive.

Again, these are people who have worked all their lives. We owe them something more than procedural niceties in the Senate. I hope that today we will pay that debt to these people.

We are here on the verge, I hope, of quick passage and not additional delay.

We have taken it step by step. The leadership of Majority Leader REID and Chairman BAUCUS has been extraordinary, and with the thoughtful and substantive contributions of my colleagues, Senators ISAKSON and BUNNING. I hope that with this now bipartisan approach, we can, in fact, not only procedurally take it a further step but pick up the pace dramatically and cross the finish line—today, I hope. I would obviously urge all my colleagues to support this measure and support the underlying legislation as quickly as possible.

At this juncture, Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. REED. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REED. Mr. President, I ask unanimous consent that the time during the quorum be charged equally against both sides.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REED. Mr. President, again I suggest the absence of a quorum.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill clerk proceeded to call the roll.

Mr. KYL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### ANNIVERSARY OF IRAN HOSTAGE CRISIS

Mr. KYL. Mr. President, I rise today to note the 30th anniversary of a very sad day in American history. On this day 30 years ago, an angry mob of so-called students stormed the U.S. Embassy in Tehran and took 66 U.S. citizens hostage there. The original plan of the terrorists was to hold the Embassy for 3 days. In the end, they held 52 American hostages for 444 days.

The images of hostages blindfolded, with their hands tied behind their backs, should remain seared in our memories. The ABC News program "Nightline" essentially has its beginning in this crisis. The title of the news program at the time was "The Iran Crisis—America Held Hostage." Each night, as Americans went to bed, it would add a day to its count of how long Americans were held hostage. Walter Cronkite would similarly sign off his newscast.

I am sure many remember the chants of the hostage takers and those who supported them—"Death to America," they would say. The Iranian regime would call us the "Great Satan." The thing is, although the hostages have long been released, not much else has changed. The government still leads its

citizens in chants of "Death to America."

After Ayatollah Khamenei came to power, a Time magazine article in 1980 described him as the face showing "the ease with which terrorism can be adopted as government policy." Terrorism remains the policy of the Government of Iran today. Earlier this year, the State Department issued its annual report on terrorism, finding that "Iran remained the most active state sponsor of terrorism."

The Ayatollah Khamenei blessed this brazen terrorist act of holding Americans hostage. Upon his coming to power, Iran went from being an American ally in the region to our mortal enemy. The hostage crisis was, and remains, the defining symbol of this rupture.

In his inaugural address, in keeping with his campaign promises, President Obama stated to countries such as Iran, "We will extend a hand if you are willing to unclench your fist." On the nuclear weapons issue, the hand has been extended many times to Iran, but Iran has yet to unclench its fist.

Sadly, its resistance is nothing new. In October 2003, Iran concluded an agreement with France, Germany, and the United Kingdom known as the EU-3 in which Iran promised to suspend its uranium-enrichment activities. It did not live up to that promise. Iran arranged again, in November 2004, a suspension agreement with the EU-3, only to repudiate it again. This Iranian duplicity continues to this day.

In June 2006, the EU-3 was joined by Russia, China, and the United States to become the P5-plus-1. They called on Iran to suspend its uranium-enrichment activities in exchange for a variety of incentives. A revised version of this proposal was presented to Iran in the summer of 2008.

The International Atomic Energy Agency issued its most recent report on the matter in August 2009. In paragraph 27, it found that:

Iran has not suspended its uranium enrichment related activities or its work on heavy water related projects as required by the Security Council.

The most recent Congressional Research Service report on the matter says:

Iranian officials maintain that Iran will not suspend its enrichment program.

Yet another deal to bribe Iran to comply with its international obligations is before Iran today. Under this proposal, Iran would transfer stocks of its low-enriched uranium to Russia, Russia would enrich the uranium further and transfer that to France for France to fabricate into fuel assemblies, and then finally France would transfer this enriched uranium back to Iran. This deal came after the G-20 meeting in Pittsburgh in September, at which it was revealed that Iran had a covert enrichment facility in defiance

of all of its international commitments and requirements.

French President Sarkozy said:

If by December there is not an in-depth change by the Iranian leaders, sanctions will have to be taken.

Prime Minister Brown stated:

I say on behalf of the United Kingdom today, we will not let this matter rest. And we are prepared to implement further and more stringent sanctions.

I hope President Obama will join in the Europeans' forceful and clear response to continued Iranian intransigence on the nuclear issue.

This current Iranian regime represents the same terrorists who took U.S. citizens hostage 30 years ago today and held them in humiliating captivity for 444 days. That seminal event is still celebrated in Iran. I do not believe it has ever been repudiated or condemned by the Iranian Government.

In his book "Guests of the Aya-tollah," Mark Bowden describes how the U.S. Embassy has perversely become an anti-American museum to which students are bussed to commemorate the terrorist event. He further describes how "the takeover is remembered as one of the founding events of the Islamic 'republic.'"

Mr. Bowden also writes:

The Iran hostage crisis was for most Americans their first encounter with Islamofascism and, as such, can be seen as the first battle in that ongoing world conflict. [The hostages] were the first victims of the inaptly named 'war on terror.'"

Now Iran continues its nuclear activities in defiance of Security Council resolutions, and it remains the world's leading state sponsor of terrorism. This regime is not negotiating in good faith over its nuclear program, and during the time we have attempted to bring it into compliance with its international obligations, Iran has continued to defiantly develop its nuclear capabilities.

Thirty years ago today, Iran directly threatened and harmed the most vital and core U.S. interests. No one in this Chamber should be confused that 30 years later this regime still means to do us harm.

Mr. President, I wish to especially thank Michael Stransky for his research on this matter.

As a sign of remembrance and respect, I ask unanimous consent to have printed in the RECORD the names of all of those taken hostage in Iran 30 years ago today, as well as the 8 servicemembers who lost their lives in an attempt to free them.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

#### THE HOSTAGES AND THE CASUALTIES

Sixty-six Americans were taken captive when Iranian militants seized the U.S. Embassy in Tehran on Nov. 4, 1979, including three who were at the Iranian Foreign Ministry. Six more Americans escaped. Of the 66

who were taken hostage, 13 were released on Nov. 19 and 20, 1979; one was released on July 11, 1980, and the remaining 52 were released on Jan. 20, 1981. Ages in this list are at the time of release.

The 52:

Thomas L. Ahern, Jr., 48, McLean, VA. Narcotics control officer.

Clair Cortland Barnes, 35, Falls Church, VA. Communications specialist.

William E. Belk, 44, West Columbia, SC. Communications and records officer.

Robert O. Blucker, 54, North Little Rock, AR. Economics officer specializing in oil.

Donald J. Cooke, 26, Memphis, TN. Vice consul.

William J. Daugherty, 33, Tulsa, OK. Third secretary of U.S. mission.

Lt. Cmdr. Robert Englemann, 34, Hurst, TX. Naval attaché.

Sgt. William Gallegos, 22, Pueblo, CO. Marine guard.

Bruce W. German, 44, Rockville, MD. Budget officer.

Duane L. Gillette, 24, Columbia, PA. Navy communications and intelligence specialist.

Alan B. Golancinski, 30, Silver Spring, MD. Security officer.

John E. Graves, 53, Reston, VA. Public affairs officer.

Joseph M. Hall, 32, Elyria, OH. Military attaché with warrant officer rank.

Sgt. Kevin J. Hermening, 21, Oak Creek, WI. Marine guard.

Sgt. 1st Class Donald R. Hohman, 38, Frankfurt, West Germany. Army medic.

Col. Leland J. Holland, 53, Laurel, MD. Military attaché.

Michael Howland, 34, Alexandria, VA. Security aide, one of three held in Iranian Foreign Ministry.

Charles A. Jones, Jr., 40, Communications specialist and teletype operator. Only African-American hostage not released in November 1979.

Malcolm Kalp, 42, Fairfax, VA. Position unknown.

Moorhead C. Kennedy Jr., 50, Washington, DC. Economic and commercial officer.

William F. Keough, Jr., 50, Brookline, MA. Superintendent of American School in Islamabad, Pakistan, visiting Tehran at time of embassy seizure.

Cpl. Steven W. Kirtley, 22, Little Rock, AR. Marine guard.

Kathryn L. Koob, 42, Fairfax, VA. Embassy cultural officer; one of two women hostages.

Frederick Lee Kupke, 34, Francesville, IN. Communications officer and electronics specialist.

L. Bruce Laingen, 58, Bethesda, MD. Chargé d'affaires. One of three held in Iranian Foreign Ministry.

Steven Lauterbach, 29, North Dayton, OH. Administrative officer.

Gary E. Lee, 37, Falls Church, VA. Administrative officer.

Sgt. Paul Edward Lewis, 23, Homer, IL. Marine guard.

John W. Limbert, Jr., 37, Washington, DC. Political officer.

Sgt. James M. Lopez, 22, Globe, AZ. Marine guard.

Sgt. John D. McKeel, Jr., 27, Balch Springs, TX. Marine guard.

Michael J. Metrisko, 34, Olyphant, PA. Political officer.

Jerry J. Miele, 42, Mt. Pleasant, PA. Communications officer.

Staff Sgt. Michael E. Moeller, 31, Quantico, VA. Head of Marine guard unit.

Bert C. Moore, 45, Mount Vernon, OH. Counselor for administration.

Richard H. Morefield, 51, San Diego, CA. U.S. Consul General in Tehran.

Capt. Paul M. Needham, Jr., 30, Bellevue, NE. Air Force logistics staff officer.

Robert C. Ode, 65, Sun City, AZ. Retired Foreign Service officer on temporary duty in Tehran.

Sgt. Gregory A. Persinger, 23, Seaford, DE. Marine guard.

Jerry Plotkin, 45, Sherman Oaks, CA. Private businessman visiting Tehran.

MSgt. Regis Ragan, 38, Johnstown, PA. Army noncom, assigned to defense attaché's office.

Lt. Col. David M. Roeder, 41, Alexandria, VA. Deputy Air Force attaché.

Barry M. Rosen, 36, Brooklyn, NY. Press attaché.

William B. Royer, Jr., 49, Houston, TX. Assistant director of Iran-American Society.

Col. Thomas E. Schaefer, 50, Tacoma, WA. Air Force attaché.

Col. Charles W. Scott, 48, Stone Mountain, GA. Army officer, military attaché.

Cmdr. Donald A. Sharer, 40, Chesapeake, VA. Naval air attaché.

Sgt. Rodney V. (Rocky) Sickmann, 22, Krakow, MO. Marine Guard.

Staff Sgt. Joseph Subic, Jr., 23, Redford Township, MI. Military policeman (Army) on defense attaché's staff.

Elizabeth Ann Swift, 40, Washington, DC. Chief of embassy's political section; one of two women hostages.

Victor L. Tomseth, 39, Springfield, OR. Senior political officer; one of three held in Iranian Foreign Ministry.

Phillip R. Ward, 40, Culpeper, VA. Administrative officer.

One hostage was freed July 11, 1980, because of an illness later diagnosed as multiple sclerosis:

Richard I. Queen, 28, New York, NY. Vice consul.

Six American diplomats avoided capture when the embassy was seized. For three months they were sheltered at the Canadian and Swedish embassies in Tehran. On Jan. 28, 1980, they fled Iran using Canadian passports:

Robert Anders, 34, Port Charlotte, FL. Consular officer.

Mark J. Lijek, 29, Falls Church, VA. Consular officer.

Cora A. Lijek, 25, Falls Church, VA. Consular assistant.

Henry L. Schatz, 31, Coeur d'Alene, ID. Agriculture attaché.

Joseph D. Stafford, 29, Crossville, TN. Consular officer.

Kathleen F. Stafford, 28, Crossville, TN. Consular assistant.

Thirteen women and African-Americans among the Americans who were seized at the embassy were released on Nov. 19 and 20, 1979:

Kathy Gross, 22, Cambridge Springs, PA. Secretary.

Sgt. James Hughes, 30, Langley Air Force Base, VA. Air Force administrative manager.

Lillian Johnson, 32, Elmont, NY. Secretary.

Sgt. Ladell Maples, 23, Earle, AR. Marine guard.

Elizabeth Montagne, 42, Calumet City, IL. Secretary.

Sgt. William Quarles, 23, Washington, DC. Marine guard.

Lloyd Rollins, 40, Alexandria, VA. Administrative officer.

Capt. Neal (Terry) Robinson, 30, Houston, TX. Administrative officer.

Terri Tedford, 24, South San Francisco, CA. Secretary.

Sgt. Joseph Vincent, 42, New Orleans, LA. Air Force administrative manager.

Sgt. David Walker, 25, Prairie View, TX. Marine guard.

Joan Walsh, 33, Ogden, UT. Secretary.

Cpl. Wesley Williams, 24, Albany, NY. Marine guard.

Eight U.S. servicemen from the all-volunteer Joint Special Operations Group were killed in the Great Salt Desert near Tabas, Iran, on April 25, 1980, in the aborted attempt to rescue the American hostages:

Capt. Richard L. Bakke, 34, Long Beach, CA. Air Force.

Sgt. John D. Harvey, 21, Roanoke, VA. Marine Corps.

Cpl. George N. Holmes, Jr., 22, Pine Bluff, AR. Marine Corps.

Staff Sgt. Dewey L. Johnson, 32, Jacksonville, NC. Marine Corps.

Capt. Harold L. Lewis, 35, Mansfield, CT. Air Force.

Tech. Sgt. Joel C. Mayo, 34, Bonifay, FL. Air Force.

Capt. Lynn D. McIntosh, 33, Valdosta, GA. Air Force.

Capt. Charles T. McMillan II, 28, Corrytown, TN. Air Force.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. REED. Mr. President, how much time remains on our side?

The PRESIDING OFFICER. No time remains on your side. There is 32 seconds remaining on the other side.

Mr. REED. Mr. President, without objection, I will proceed for the remaining seconds and simply remind everyone that we are taking another step to expand unemployment coverage for an additional 14 weeks for every State and 6 more weeks for those States that have unemployment rates above 8.5 percent. We are incorporating a home buyer tax credit that has worked remarkably well, and we are also incorporating net operating loss treatment for small businesses so they can have additional resources to hire more Americans.

This legislation is important, it is critical, it is vital, and I hope it is unanimously accepted.

#### CLOTURE MOTION

The PRESIDING OFFICER. Under the previous order, pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will report.

The bill clerk read as follows:

#### CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on H.R. 3548, the Unemployment Compensation Extension Act of 2009.

Max Baucus, Byron L. Dorgan, Edward E. Kaufman, Mark L. Pryor, Jeff Bingaman, Tom Udall, Roland W. Burris, Tim Johnson, Mary L. Landrieu, Patty Murray, Al Franken, Michael F. Bennett, Benjamin L. Cardin, Richard Durbin, Herb Kohl, Mark Begich.

The PRESIDING OFFICER. By unanimous consent, the mandatory quorum call has been waived.

The question is, Is it the sense of the Senate that debate on H.R. 3548, the Unemployment Compensation Extension

Act of 2009, shall be brought to a close? The yeas and nays are mandatory under the rule. The clerk will call the roll.

The bill clerk called the roll.

Mr. DURBIN. I announce that the Senator from West Virginia (Mr. BYRD), and the Senator from Missouri (Mrs. MCCASKILL) are necessarily absent.

The PRESIDING OFFICER (Mrs. HAGAN). Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 97, nays 1, as follows:

[Rollcall Vote No. 333 Leg.]

#### YEAS—97

Akaka	Feingold	Merkley
Alexander	Feinstein	Mikulski
Barrasso	Franken	Murkowski
Baucus	Gillibrand	Murray
Bayh	Graham	Nelson (NE)
Begich	Grassley	Nelson (FL)
Bennet	Gregg	Pryor
Bennett	Hagan	Reed
Bingaman	Harkin	Reid
Bond	Hatch	Risch
Boxer	Hutchison	Roberts
Brown	Inhofe	Rockefeller
Brownback	Inouye	Sanders
Bunning	Isakson	Schumer
Burr	Johanns	Sessions
Burris	Johnson	Shaheen
Cantwell	Kaufman	Shelby
Cardin	Kerry	Snowe
Carper	Kirk	Specter
Casey	Klobuchar	Stabenow
Chambliss	Kohl	Tester
Coburn	Kyl	Thune
Cochran	Landrieu	Udall (CO)
Collins	Lautenberg	Udall (NM)
Conrad	Leahy	Vitter
Corker	LeMieux	Voinovich
Cornyn	Levin	Warner
Crapo	Lieberman	Webb
Dodd	Lincoln	Whitehouse
Dorgan	Lugar	Wicker
Durbin	McCain	Wyden
Ensign	McConnell	
Enzi	Menendez	

#### NAYS—1

DeMint

#### NOT VOTING—2

Byrd

McCaskill

The PRESIDING OFFICER. On this vote, the yeas are 97, the nays are 1. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

The Senator from New Hampshire is recognized.

Mr. GREGG. Madam President, I note that my colleague from New Hampshire is also on the floor. Did she want to go first?

Mrs. SHAHEEN. Go ahead.

Mr. GREGG. Madam President, I ask unanimous consent to speak for 10 minutes as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### DEBT AND DEFICIT

Mr. GREGG. Madam President, last night's elections have been interpreted in a variety of different ways. I listened to one channel and got one certain interpretation, I listened to another channel and I got the exact opposite interpretation. So I will throw in my interpretation.

I think the American people, most Americans today, are going through some tough times. They are finding it very difficult to make ends meet. Many Americans have lost their jobs, unfortunately. Those Americans who have jobs are worried about their jobs. They are going home at night, they are sitting down with their husbands or with their wives and they are trying to work through the family finances.

They are concerned about making ends meet. They are worried about their credit card debt, they are worried about their mortgage, they are worried about how they are going to pay for their children's schooling, if their kids are in school. If they are graduate students, they are not kids, they are worried about how they are going to pay all those debts they are running up to get through school.

I think Americans understand the debt is a problem personally and now they look at the Federal Government and they see we are running up this massive debt on them. We are going to be asked, fairly soon, to raise the level of the national debt by maybe \$1 trillion.

This year the deficit will exceed \$1.4 trillion—or last year—and we are seeing deficits projected for the next 10 years of over \$1 trillion a year. They are seeing our Federal debt being bought up by foreign countries. Yet our Federal debt keeps going up dramatically. They are asking themselves: How can this be? How can a country as strong and vibrant as the United States continue to run up all this debt and continue to be successful? We cannot do it as family members. We cannot do it in our household. How can the Federal Government do this?

I think the answer is fairly intuitive: It cannot do this. Yet we continue to do it as a government. So I think some of the vote last night was a statement that, hey, Federal Government, take a pause. Think about what you are doing in the area of running up deficits and running up debt and passing on to the children, to our children and to our grandchildren, a situation which is not fiscally sustainable.

Think about what is going to occur if we continue to run these massive deficits and this massive debt. It will be a situation where we have a new saying in this country, "No child left a dime" as a result of all this debt being run up. Our kids will be put in a position where their quality of life will be fundamentally undermined. They will not be able to buy their home. They will not be able to send their children to college. They will not be able to do the things we have been able to do in our generation because they will have to be paying for the debt which we put on their backs, \$1 trillion of deficit every year for the next 10 years, the public debt going to 80 percent of GDP.

Yet the proposals we are seeing come across this floor aggravate the situation almost on a daily basis. Two weeks ago, there was a proposal by the White House to add \$13 billion of new deficit spending because they wanted to give \$250 to every Social Security recipient.

Well, I think most Social Security recipients are sophisticated enough to know that putting \$13 billion of debt on their children's backs, in a system that already has severe fiscal problems, is not worth it for \$250. It is not worth doing that to their kids and their grandkids.

Then, 1 week ago, it was proposed we spend almost  $\frac{3}{4}$  trillion—\$250 billion—to fund the doctors fix. The doctors need this adjustment. But it was going to be funded by passing debt, putting debt on our children's backs. We could not afford to do that to them.

It is not right to fix the doctors' problem by passing the bill on to the next generation. Yet that was what was proposed. It passed in the House. Fortunately, over on the other side of the aisle, a number of folks stood and joined all the Republicans and said: No, that is not the way to do it. We should pay for that.

We are going to see a highway bill coming through here pretty soon. That bill is going to add potentially \$150 billion of new debt to the deficit.

The most egregious example of this problem of expanding the deficit and the debt on our children and leaving our children in a situation where no child has a dime is the situation that is coming down the pike on the health care bill. The House of Representatives leadership on the Democratic side has proposed a bill that, when fully implemented—in the first 10 years, it is not fully implemented so the costs are underestimated—is going to cost \$2.4 trillion of new spending. It will take health care spending up to 22 percent of the gross national product. We will be spending more than a fifth of this country's wealth on health care as a result of the House bill.

The practical implications of that are staggering, not only to our economy but to this government. To grow this government by \$2.4 trillion is going to put us in a situation where we will basically have a government that is piling more debt on top of debt we already can afford.

It is alleged that this is paid for. It is paid for in the first 10 years, if you use the most rosy assumptions, because they start the pay-for years on year 1, and they don't start the expenditures until year 4. So in a 10-year period they have 6 years of expenditures matched against 10 years of income. But when you get it fully implemented, it is not paid for. There is a huge gap. The pay-for assumes that you are going to take \$4- to \$500 billion out of Medicare and move it over to a new entitlement. You

will take \$4- to \$500 billion of new tax increases and pay for this new entitlement. We can't afford that. If we are going to adjust Medicare spending by  $\frac{1}{2}$  trillion, which is what the House is proposing, that money should go to making Medicare solvent. It should not go to creating a brand new entitlement which is going to weight down even further the ability of the Federal Government to pay its bills. Yet that is the proposal. If you are going to dramatically increase taxes, as the bill suggests, by  $\frac{1}{2}$  trillion, that money should also go to address the deficit and the debt. It should not go to expanding the size of government.

The fundamental problem with this health care bill, as it left the House and the Senate Finance and HELP Committees, is that it grows the government at a dramatic rate and uses resources which should be used to get the deficit under control or to make Medicare more solvent. It uses those resources to expand a brand new entitlement. We know, because we have seen it in all sorts of initiatives, that when you put a new program on the books, you inevitably, especially an entitlement program, underestimate the cost, and you equally overestimate revenues. Inevitably, the majority of that cost is financed through deficit spending and is added to the debt. You just have to look at our history to know that is true.

As we go forward from this point, I hope we will think a little bit about addressing what most Americans who voted last night were thinking about, at least when they went home to do their own budgets, and that is the deficit and debt, and that we won't put on the books a brandnew entitlement that will cost us \$2.4 trillion when fully implemented and which will dramatically aggravate our ability to pay for debt we already know is coming down the road to make Medicare more solvent, which we know is a big issue and will increase the size of the government. When this bill is fully implemented, if it were passed in its present form, the Federal Government would grow from 20 percent of GDP to 23½ percent of GDP. That would be the largest percentage of the economy the Federal Government has taken out of it since World War II. Then it continues to go up. It ends up, after 10 years, at about 26 percent of GDP, if we factor in all the different expenditures which are proposed in other parts of the budget.

It is not sustainable. It is not fair. It is not right. One generation should not do this to another generation. We should not promise new programs we cannot pay for and which will pass on to our kids costs which they will have to bear in a way which will dramatically affect their quality of life. I hope we will take a little time out and say: Let's see if there isn't a better way to do this. Let's see if we can't do this in

a more fiscally responsible way, in a way that doesn't grow the government by trillions of dollars, and which doesn't pass massive new debt on to our children.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mrs. SHAHEEN. Madam President, I agree with my colleague from New Hampshire. We have too many people who are struggling right now in this recession. We have too many people who are unemployed, who need help until they can get back on their feet, find a new job, until the economy starts creating jobs again. That is why I am having so much trouble understanding why it has taken this body so long—4 weeks now—to extend unemployment benefits for those people who are losing their benefits before the end of this year, almost 2 million Americans, and we have been trying to pass an extension of unemployment for the last month.

I rise to speak in support of the Worker Home Ownership and Business Assistance Act, a bill that will extend unemployment benefits 14 weeks for unemployed workers in every State and for an additional 6 weeks in those States with over 8.5 percent unemployment. I am pleased that today the Senate has voted by an overwhelming majority, 97-to-1, to proceed to final passage of this legislation.

This broad, bipartisan vote acknowledges that unemployment affects every community in every State in every part of the country. In fact, this is the third vote we have had now to proceed to this bill. Every vote has passed overwhelmingly with a bipartisan vote. Despite those strong votes in support of an extension, opponents have put up obstacles at every turn to delay passage of the bill. As a result of these delay tactics, approximately 200,000 workers have lost their benefits in the last month.

Hopefully after 4 long weeks, the end is in sight. Soon people like Richard, one of my constituents from Winchester, NH, who called my office yesterday, will get the help he desperately needs. Richard is a single father of three boys. He lost his job as a machinist at Greenfield Tap and Dye plant, a small manufacturing plant in the southwestern part of the State, more than a year ago. Since then he has been using his savings, his unemployment benefits to pay his mortgage, to buy food, to buy gas, and to pay for other necessities. Richard has been out looking for other manufacturing jobs, but no one is willing to hire him until this economy improves.

That is what the Senate has been working on. I disagree respectfully with my colleague from New Hampshire. Much of the effort we have expended in the Senate has been to support the economy so it does improve, so we can create jobs again.

We are on the cusp of finally passing this legislation to help Richard and his family and millions of other jobless Americans whose benefits will run out, to help them get through the holidays. As I have said many times, when we extend unemployment, we are not only helping those workers whose benefits have been exhausted, we are helping small businesses that provide the goods and services the unemployed are going to need. They are going to go out and spend those unemployment checks on those goods and services so that for every \$1 we spend on unemployment, it turns over \$1.61 in the economy. People collecting unemployment spend their benefits immediately on necessities to keep their families going, which means these dollars get into communities almost as soon as the checks arrive. Economists say that dollar for dollar, extending unemployment benefits is one of the most cost-effective actions we can take to stimulate the economy.

Passing this extension is the right choice for unemployed workers and for communities. I look forward to passing this extension for Richard and for the millions of Americans who are counting on us to act.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BURRIS. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BURRIS. Madam President, I ask unanimous consent to speak as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### HEALTH CARE REFORM

Mr. BURRIS. Thank you, Madam President.

Two months ago, I stood on the floor of this Chamber and made a solemn commitment. It is a commitment I have restated almost every day that the Senate has been in session, and I will say it once again today: I will not vote for any health care reform bill that fails to include a strong public option.

Unfortunately, there has been a great deal of misinformation about what the public option is really about and what it would mean to ordinary Americans. So let's cut through the distractions and scare tactics and talk seriously. Let's define exactly what a strong public option means.

I hear people talk about public options and triggers and opt-outs and opt-ins and all kinds of other proposals. Some people throw words around interchangeably. But words are important, and this is not some abstract idea, this is a real set of proposals that will affect real people in

real ways. So let's define exactly what we are talking about.

The strong public option is about three things: competition, lower costs, and accountability. That is why a strong public option is essential to achieve real, meaningful reform.

We can all agree that we need to fix our health care system now, but let's also agree to fix it the right way.

First and foremost, a strong public option must create true competition in the health care insurance market. A key problem with health coverage is that consumers do not have any options. In America today, only two industries are not bound by antitrust laws that apply to every other business in this country: health care insurance and Major League Baseball. When every other private enterprise has to compete in the open market for their business, why does big insurance deserve special treatment? In my opinion, they don't. In such a highly concentrated environment, there is no incentive to compete. There is no reason to improve service, expand access, or work with patients and doctors to achieve better health outcomes. In fact, there is every incentive to do just the opposite.

We have seen unprecedented consolidation in the insurance market, and that has led to a lack of competition and choice for American consumers. Over the past 13 years, there have been more than 400 corporate mergers involving health insurers. As a result, 94 percent of our Nation's health markets are now considered "highly concentrated," meaning they are virtual monopolies.

In my home State of Illinois, just two companies control 69 percent of our market. Sadly, Illinois is far from alone. In Alabama, a single company controls almost 90 percent of the market, and in Iowa, Rhode Island, Arkansas, Hawaii, Alaska, Vermont, Wyoming, Maine, and Montana, the two largest insurance companies control at least 80 percent of the market. In fact, there are only three States in the entire country where the largest three companies control less than 50 percent of the insurance market.

This must end. We must restore competition and choice to the health insurance industry. It is time to create a strong public option that will make insurers compete for people's business, just like any other company in America.

A strong public option will give people a choice for the first time in decades. No one would be forced to change their coverage, but if their current provider isn't treating them right, they deserve the opportunity to choose something better and more affordable.

That brings me to my next point. In order to achieve real reform, a public option must be strong enough to significantly lower costs. Every Member

of this Senate knows what America pays for insurance. One dollar out of every \$6 we spend in this country goes to pay for health care. Health outcomes are down, but somehow insurance company profits are through the roof. This does not make sense. Premiums are rising four times faster than wages. In fact, between 2000 and 2007, 10 of the country's top insurance companies increased their profits by an average of 428 percent. There is nothing wrong with making a profit. I think all businesses should make a profit. But there is nothing fair about creating a monopoly and then wringing money out of sick Americans who are counting on them in their hour of need.

Not only are there almost 50 million Americans without health insurance, there is also a massive segment of the population who can't afford what little coverage they have.

The American people deserve the chance to shop around, to compare options and pick plans that are right for themselves and their families or small businesses. If private companies have to compete with a strong public plan, people's premiums will come down, companies will bring costs under control, and this will help save money. But it is not just costs that will improve. Providers will also improve quality of coverage. They will start to focus on patient outcomes rather than profits. As a result, better care will become available to more people.

A strong public option would require some capital to get off the ground, just like any other business, but after that, it would rely on the premiums it collects to remain self-sufficient. It would operate like a not-for-profit insurance company, setting affordable rates based on the actual cost of care, not a desire to give giant bonuses to their executives and pay dividends to their stockholders.

The current system is a drain on the American taxpayer, but a strong public option would not be. It would not be a handout, it would not force anyone to change their current coverage, but it would drive down costs and give people a real choice for the first time in decades. A strong public option would provide a cheaper alternative to private companies and would force those companies to improve their product or risk losing customers.

That brings me to the third goal we must achieve with real health care reform. A public option must be strong enough to bring real accountability to the health insurance industry. For far too long, private insurance providers have been running roughshod over the American public. More often than not, those most in need are the ones who suffer the worst abuse. There is a lot of money to be made off of the poor. I will repeat that statement. There is a lot of money to be made off of the poor. Insurance companies don't seem to mind



raking in the cash at their expense. Private insurance companies will drop your coverage for almost any reason. They routinely exploit minor technicalities to avoid paying claims for those who need assistance the most. These companies continue to look at new and innovative ways to deny coverage to sick Americans because they know these people have nowhere else to turn. A strong public option, coupled with the rest of our insurance reform, will change all of that.

Our reforms would make it illegal to deny coverage because of a preexisting condition. A strong public option would allow people to shop around if they don't like the coverage they have or if they are paying too much. As the system exists today, the health insurance corporations are accountable to their shareholders first and their customers second. A strong public option would reverse that; it would prioritize patients over profit. It would give the American people the chance to hold their companies accountable for the first time in many years.

So that is why I support a strong public option. That is what it would mean for America: competition, cost savings, and accountability. Unless we are able to meet these three conditions in the bill, I will not vote for it. I believe a strong public option is the best way to achieve these goals. In fact, my preference is to have a robust plan that would be tied to Medicare. Whatever form the legislation takes, I will ultimately judge it based on its ability to bring about real competition, lower costs, and restore accountability.

So it is time to make good on the promise first articulated by Teddy Roosevelt almost 100 years ago. It is time to make comprehensive health care reform a reality. After a century of debate, we are faced with the opportunity to accomplish something truly historic. If we do this now and if we do this right, we can make a real difference in the lives of millions of Americans. That is why I will not stop fighting until this fight has been won.

I ask my colleagues to join me to make sure America has access to quality, affordable health care through a system that is competitive, cost-effective, and accountable.

With that, Madam President, I yield the floor and note the absence of a quorum.

THE PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BINGAMAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

THE PRESIDING OFFICER (Mr. CARDIN). Without objection, it is so ordered.

#### JOB CREATION

Mr. BINGAMAN. Mr. President, I wish to speak about the need for addi-

tional policies to create jobs in our country and about how energy legislation can help to accomplish that goal.

First, let me make a point I made last week on the Senate floor; that is, despite the recent positive economic news, Congress needs to take additional steps if we are going to create the jobs we need in this country. The economy has lost 7.2 million jobs during this recession—1 out of every 20 jobs in the country. In percentage terms, this is the biggest job loss since the recession in 1948 and 1949.

This chart vividly describes the jobs deficit we are seeing. The heading is: "Not enough job creation to maintain employment at level in January 2001." Let me explain that a little bit. These job losses we have experienced in this recession add to the jobs deficit that has been accumulating over the last 9 years. The country needs—our economy needs—12 million new jobs in order to bring employment back to where it was at the end of the Clinton administration. Economists expect the jobs report—which comes up in 2 days, this Friday—to show even more jobs were lost in October of this year.

We should not, in my view, overlook the positive news about our economy reported last week. The gross domestic product jumped to 3.5 percent in the third quarter, a complete turnaround from the 6.4-percent decline in the first quarter of this year. It is reported that the Recovery Act has created or saved 1 million jobs—640,000 through direct spending alone. The Recovery Act is working, but Congress still needs to take additional action. We need additional policies to create jobs if we are going to prevent this recovery from being a jobless recovery, much like the previous two recoveries we had from recessions.

Let me go to another chart. This chart is entitled "Job losses continued for months after the recessions in 1990–91 and 2001." What the chart shows is the change in the number of jobs during the recessions—the two recessions I have referred to, 1990–91 as one recession and 2001 as another recession. During the months after those recessions ended, the job losses continued. As you can see, the economy continued to shed jobs for 2 months after the 1990–91 recession ended, which is the green line, as you can see. After the 2001 recession, job losses continued for a staggering 18 months—not 2 months but 18 months—at that time.

This is the paradox of the recoveries from the past two recessions. The GDP began to grow, as it now has in our own period, with the results of this last quarter, but the country continued to lose jobs. When jobs finally did return, they returned very slowly.

Let me go to another chart. This chart is entitled "Unemployment rate continued to rise after the recessions in 1990–91 and 2001." This chart shows

what happened to the unemployment rate. The unemployment rate rose for 16 months after the 1990–91 recession ended. The unemployment rate rose for 20 months after the 2001 recession ended.

Even 5 years after the 2001 recession ended, more people were out of work than before that recession began. So Congress needs to take steps to ensure that the recovery this time is different.

The tax cuts enacted during the Bush administration were meant to stimulate job growth, but it is apparent now they failed to do so. Those tax cuts were too blunt an instrument to do the job. They were not focused enough on creating jobs. The \$4 trillion hole they dug in the Federal budget has made it harder for us to recover from the current recession. So the country needs policies that are more targeted on job creation.

Last week, I outlined four ideas Congress should consider: a jobs creation tax credit; second, a manufacturing tax credit; third, emergency bridge loans to homeowners to keep them in their homes; and fourth, additional aid to States.

It should be noted the aid to States that has already been provided has been effective at saving hundreds of thousands of teaching jobs—325,000 of the 640,000 jobs created or saved by the Recovery Act were jobs in education. Congress should consider providing additional aid to States to help close those budget shortfalls which are projected. The cumulative budget shortfalls are projected to total \$175 billion for the States over the next 2 years.

Let me turn now to another action we should take to create jobs. To create jobs, in my view, Congress should go ahead, at the earliest possible time, to enact the American Clean Energy Leadership Act. This is legislation that was reported out of our Energy and Natural Resources Committee in June of this year, where it received bipartisan support. The vote there was 15 in favor of reporting that legislation and 8 members voted against it.

This Energy bill I am referring to is a jobs bill. The Energy bill could create 350,000 to 500,000 jobs over the next decade. It would create jobs by increasing the amount of research and development that is supported by the Department of Energy. It would create jobs by increasing the demand for renewable energy by establishing a renewable electricity standard. It would create jobs by financing the construction of nuclear powerplants through the establishment of a clean energy deployment administration. It would create jobs by promoting energy efficiency retrofits for homes and for commercial buildings. These are jobs that cannot be outsourced. It would create jobs by building new clean energy and improving energy efficiency throughout the manufacturing sector.



Reducing energy usage means reducing the cost of doing business, which will make American businesses more competitive in the global market and allow them to expand and to create jobs in the United States. This is part of what this Energy bill is all about, creating jobs and making the United States more competitive in the global economy.

The Energy bill would position our country to lead in the development of clean energy technologies, which is a rapidly growing industrial segment that I believe will be one of the most important sectors of industry in the 21st century. It will also make our economy stronger by enabling businesses to flourish in other areas of the economy.

Before elaborating on some of the provisions in that bill, let me give a concrete example of how forward-thinking energy legislation has the effect of creating jobs for middle-class Americans. In September of this year, the Department of Energy awarded Fisker Automotive a \$529 million loan through a program that was created by the Energy Independence and Security Act of 2007. This last week, Fisker announced it will be reopen a previously owned General Motors plant in Delaware that has been shut down, and it will use that plant to produce a plug-in hybrid car. The new Fisker plant will employ 2,000 people and indirectly create another 3,000 jobs in the surrounding area. So not only will consumers benefit from the increased choices they will have in energy-efficient automobiles, but American workers will benefit from increased clean energy jobs. Similar good news stories can be told about new or retooled factories in Michigan, Indiana, and Tennessee as well.

The American Clean Energy Leadership Act I have been referring to would provide more loans of this kind by creating this clean energy deployment administration—or CEDA. CEDA will be an independent agency within the Department of Energy with a mission to support the financing of low-carbon energy projects. For example, CEDA could provide loans and loan guarantees or other credit enhancements to enable the construction of powerplants that produce renewable energy or factories that make wind turbines or other components. CEDA will also create financial mechanisms to allow affordable financing for energy efficiency retrofits and distributed generation in entire communities. This new agency will give special focus to high-risk, high-reward technologies that are otherwise difficult to finance.

Additional financing is critical at this time, when credit markets are still very tight and private investors are reluctant to take on even low-risk commercial projects. In the first quarter of 2009, investments in renewable energy

totaled only \$500 million, just one-tenth of the \$5 billion invested in the same period the year before. Even when financial markets recover, banks are leery of the risk associated with new technologies. Without CEDA—which we are creating in this legislation—to fill the gap, we run the risk of these investments continuing to be made overseas, where market conditions are better for innovative clean energy technologies.

CEDA initially will be capitalized under the legislation at \$10 billion in appropriated funds that can conservatively support Federal lending of approximately \$100 billion.

Combined with funds from private partners, a reasonable estimate would lead to \$20 billion worth of clean energy projects.

CEDA could potentially be scaled up in the future, enabling it to create even more jobs.

The energy bill would also establish a Renewable Electricity Standard, or RES, for the entire country. This policy would require electricity companies to get 15 percent of their power from renewable resources by 2021, with an exemption for small-scale utility companies. By increasing the demand for clean energy, the Renewable Electricity Standard will promote the construction of new wind farms, solar power plants, and geothermal plants. A variety of other clean technologies will also qualify, technologies such as hydro, biomass, and ocean power. Constructing these plants and manufacturing the components needed could create 100,000 to 125,000 jobs by 2025.

In addition to the Renewable Electricity Standard, the energy bill includes policies to strengthen the Nation's electricity transmission grid and increase the production of renewable energy on public lands. These policies would complement the Renewable Electricity Standard.

Improving energy efficiency is a cost-effective way to reduce the energy costs of homeowners and improve the competitiveness of American businesses. The energy bill has programs targeted both at the manufacturing sector and at residential and commercial buildings.

For residential and commercial buildings, the bill creates a grant program that states could use to fund retrofit programs for residential and commercial buildings. A home energy retrofit finance program would also be created. States could use this program to set up revolving finance funds to help homeowners pay for energy efficiency improvements. This support would be in addition to the support available through CEDA.

The residential and commercial energy efficiency programs in the energy bill could create tens of thousands of jobs. Overall, energy retrofits is potentially a large job creator. Rebuilding

America estimates that retrofitting 50 million homes over the next 10 years would create 625,000 jobs that could be sustained during that period. The programs in the energy bill would accomplish part of that goal.

The bill also includes programs to increase the energy efficiency of American manufacturers. Energy Department financing will help small and large manufacturers upgrade to energy efficient production equipment and processes. Public/private partnerships will map out and develop the technologies needed by specific industries to reduce their energy intensity. The American Council for an Energy-Efficient Economy estimates these energy efficiency programs would at a minimum create 15,000 to 20,000 jobs by 2020.

But more important than this estimate is the competitive edge American manufacturers would gain by increasing their energy efficiency. This is a key step to revitalizing the manufacturing sector and ensuring it remains strong in the future.

Nearly everyone agrees that research and development is vital to creating jobs and to the competitiveness of the United States. The energy bill would nearly double the authorization for the Office of Science in the Energy Department, to over \$8 billion in 2013. At that funding level, the Office of Science could support over 27,000 Ph.D.-level researchers across the United States. The authorization would also double for applied energy research to \$6.5 billion, research focused nuclear energy, fossil fuels, and energy efficiency. Other countries in Asia are well ahead of the United States creating research, development, and deployment roadmaps for clean energy technologies. With additional resources, this research will make American industries competitive in a carbon constrained economy.

All told, using both the specific estimates that have been made for policies in the American Clean Energy Leadership Act, and a midpoint estimate for jobs resulting from the retrofit provisions of the bill, the act could create up to 500,000 jobs over the next decade if it is enacted and funded.

This is just a part of the job creation potential in the energy sector. The National Commission on Energy Policy estimates that the country will need 400,000 new jobs in the electricity sector alone. If indirect jobs are included, the number of new jobs created could total 1 to 1.5 million. Similarly, the Center for American Progress has estimated the job-growth potential if both the public and private sectors combined were to invest \$150 billion per year in clean energy. That is the level of investment that the center estimates would be mobilized by a comprehensive set of policies that include both what Congress has already enacted as part of the American Reinvestment and Recovery Act and a full

suite of policies surrounding a cap-and-trade system for regulating greenhouse gases. In that larger context, the Center for American Progress has concluded that there is the potential to increase the number of permanent jobs in the economy related to clean energy by a net amount of 1.7 million.

The energy bill is a downpayment on reaching that target, and has significant potential to create jobs in the near term. It would strengthen the competitiveness of American businesses through energy efficiency improvements and investments in research and development. And it would position the United States to be the global leader in the development of clean energy technologies. I urge my colleagues to support this legislation when it does come to the floor for consideration.

The jobs we can create as we transition to a clean energy economy are not the total answer to our job needs in the coming years. But they are an important part of the answer.

I urge my colleagues to support this legislation not only for what it will do to meet our energy needs and reduce greenhouse gas emissions, but for what it will do to create jobs and put our economy on a growth track in future years.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. CORKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### HEALTH CARE REFORM

Mr. CORKER. Mr. President, I know there has been a lot of discussion throughout our country and probably some here on the Senate floor regarding the elections that took place last night and what that means. I think most of it has been centered around politics.

I wish to suggest something. I think that much of what the country is in some degree of upheaval about is the policies we are discussing here on the Senate floor and the things that are moving through committees. Obviously the major issue of the day is health care, health care reform.

We have a bill over in the House, we have one that can essentially be on the Senate floor in the very near future. I would like to sort of create a picture, if I could, for my friends on the other side of the aisle.

As I look at the bill, the health care bill that seems to be coming together, that I think again will be put together soon, I know, No. 1, there is a lot of hesitation. I know our majority leader is having difficulty finding 60 votes to actually move the bill ahead. What I

wish to mention to my friends on the other side of the aisle is this: If Republicans had put forth a health care bill that took \$400 to \$500 billion out of Medicare to leverage another program that was not used to make Medicare, which is insolvent, more solvent; if Republicans had put forth a bill that created an unfunded mandate for States by making States raise their Medicaid levels—in other words, we are mandating that in my State alone it is going to cost \$735 million; and if Republicans had put forth a bill that we knew was going to raise premiums—in our State it is going to raise premiums by 60 percent over the next 5 years based on an independent study; if Republicans had put forth a bill that had the exact same building blocks as the bill that has been put together through our Finance Committee, that is now being merged with the HELP Committee bill, I do not believe there would be a single Democratic vote for that bill. I absolutely do not believe that if Republicans put forth exactly the bill we have been discussing here in the Senate, I do not think there would be one Democratic vote for that bill.

What I am suggesting is that I know there is a lot of unease on the other side of the aisle regarding this bill. There is tremendous unease on our side.

I do not think we have a single Republican today who feels in any way good about the legislation that has been discussed. A lot of times we as parties make a lot of mistakes by “doing one for the Gipper,” through supporting our President. Republicans have done that in the past where sometimes we get behind a policy that maybe we were uneasy with, but our President, our leader, wanted a particular policy to be brought forth.

My sense is that is exactly what is happening right now with my friends on the other side of the aisle and our sitting President; that is, for political victory people are seeking this health care reform. But I believe, again, if Republicans offered exactly this same bill with the same fundamental funding mechanisms, there would not be a single Democratic vote.

For that reason, there has been a message sent to this body by the recent elections that have taken place. People across the country are concerned about the policies this health care bill we have been discussing puts forth. I say to my friends on the other side of the aisle: Let's stop what we are doing right now. I know there is a lot of unease. Let's get this right. I am one of those Republicans who would like to see health insurance reform. I campaigned on that when I ran for the Senate in Tennessee. I was commissioner of finance for our State in the middle 1990s and dealt with many of the issues of people in our State not having health insurance. I would like to see us

do the right thing. I would like to see us have a policy that will stand the test of time.

I say to my friends on the other side of the aisle: Let's throw this bill aside. You wouldn't vote for this bill if we offered it. You should not vote for it just because your leadership and your President want to see it happen. Let's step back and do something that will stand the test of time.

I hope my colleagues on the other side, who I know are incredibly uneasy about this legislation that has very poor building blocks, I hope they will listen. I hope together we can step back, and I hope we will put in place some policies that, again, will benefit Americans and stand the test of time.

I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant bill clerk proceeded to call the roll.

Mr. HATCH. I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. HATCH. Mr. President, this afternoon I wish to share my insights about health care reform efforts in the U.S. Congress and how beneficiaries who currently participate in the Medicare Advantage Program, Medicare Part C, would be impacted.

When I think of health care reform, I envision legislation that reduces health costs and improves affordable access to coverage. Unfortunately, the bills reported by the Senate HELP and Finance Committees do not achieve either of those goals. As a Senator from Utah, I have cast many tough votes throughout my service. Regarding health care reform, I have pushed for a strong bipartisan vote. Unfortunately, it is obvious that Senate and House floor debates on this issue will be another largely partisan exercise.

This summer I participated in more than a month of debate and partisan votes in the HELP Committee and 2 weeks of the same in the Finance Committee. Unfortunately, however, it appears those many hours of debate were all for naught.

It is important to note that the bills the members of the Senate HELP and Finance Committees spent hours considering will not be the legislation debated on the Senate floor. In fact, we have yet to see a bill that will be considered on the Senate floor.

I certainly hope Members of the Senate will have the opportunity—at least 72 hours—to review not only the entire bill but also the final Congressional Budget Office cost estimate before considering any such bill on the floor. This bill affects every American and every American business. Therefore, I believe there should be a comprehensive public review before it is even considered.

Let me take a few minutes to talk about the specifics of how Medicare will be impacted by the health care reform proposals before Congress.

The President has consistently pledged not to “mess” with Medicare. Again, this is another pledge that is not honored through the Senate health reform bills I have reviewed. The Senate Finance Committee bill reduces Medicare by over \$400 billion—according to CBO, \$117 billion comes out of the Medicare Advantage Program. I offered an amendment during the Finance Committee markup to protect extra benefits currently enjoyed by Medicare Advantage beneficiaries. Unfortunately, that amendment was defeated.

Bottom line, the President’s pledge assuring Americans they would not lose benefits was not met by the Finance Committee bill. Here is how supporters of the Finance bill justified it: The extra benefits that would be cut—such as vision care, dental care, reduced hospital deductibles, lower copayments, and premiums—were not statutory benefits offered in the Medicare fee-for-service program; therefore, those extra benefits do not count. I believe there is no logic to that position.

Let me quote what our President said last Thursday about this important promise:

The first thing I want to make clear is that if you are happy with the insurance plan that you have right now, if the costs you’re paying and the benefits you’re getting are what you want them to be, then you can keep offering that same plan. Nobody will make you change it.

Quite frankly, when a promise such as that is made assuring Americans they will not lose their benefits, that promise should be extended to Medicare Advantage beneficiaries. Congress is either going to protect existing benefits or not. It is that simple. However, under the bill reported by the Senate Finance Committee, if you are a beneficiary participating in Medicare Advantage, that promise simply does not apply to you.

I am a staunch supporter of the Medicare Advantage Program. I served on the Medicare Modernization Act House-Senate conference committee in 2003, which created the program. Medicare Advantage works. Medicare+Choice and its predecessors did not.

I know it works. I represent a State where Medicare managed care plans could not exist due to low reimbursement rates. To address that concern, Congress included language, which was signed into law, establishing a payment floor for rural areas. But it was not enough. In fact, in Utah, all the Medicare+Choice plans eventually left because they were operating in the red. This happened after promises were made that Medicare+Choice plans would be reimbursed fairly and that all Medicare beneficiaries would have access to these plans.

So during the Medicare Modernization Act conference, we fixed the problem. First, we renamed the program to Medicare Advantage. Second, we increased reimbursement rates so all Medicare beneficiaries, regardless of where they lived—be it in Fillmore, UT, or New York City—had choice in coverage. We did not want beneficiaries stuck with a one-size-fits-all government plan.

Today, Medicare Advantage works. Every Medicare beneficiary has access to a Medicare Advantage plan. Close to 90 percent of Medicare beneficiaries participating in the program are satisfied with their health coverage. But that would all change should the health care reform legislation currently being considered become law.

Choice in coverage has made a difference in the lives of over 10 million individuals nationwide. The extra benefits I mentioned earlier are being portrayed as gym memberships as opposed to lower premiums, copayments, and deductibles. To be clear, the SilverSneakers Program is one that has made a difference in the lives of many seniors because it encourages them to get out of their homes and remain active. It has been helpful to those with serious weight issues and has been invaluable to women suffering from osteoporosis and joint problems.

Additionally, these beneficiaries receive other services, such as coordinated chronic care management, dental coverage, vision care, and hearing aids. Medicare Advantage is better for seniors than traditional Medicare because beneficiaries have a choice in coverage instead of a one-size-fits-all health plan.

Another important point is, the House bill will affect Medicare Advantage enrollees differently than the bill reported by the Senate Finance Committee. The Senate bill includes competitive bidding in the Medicare Advantage Program. My analysis of competitive bidding is that some States will be hit harder than others, especially if there is not a competitive market. I worry about what happens if only one plan submits a bid. While CBO believes Medicare beneficiaries will continue to enroll in the Medicare Advantage Program should competitive bidding be implemented, fewer beneficiaries will enroll in the future.

In the House health reform bill, Medicare Advantage plans will be paid at 100 percent of the Medicare fee-for-service rate, which is fine for Miami beneficiaries but will kill Medicare Advantage plans in rural parts of the country. Those beneficiaries living in States such as Utah, Montana, South Dakota, and North Dakota could be in serious jeopardy because it is possible Medicare Advantage plans serving that part of the country could pull out due to low reimbursement rates.

CMS actuaries have estimated that more than 6 million Medicare Advan-

tage enrollees would be forced out of the program under the House bill, leaving only 4.7 million in Medicare Advantage by 2014. This does not fulfill the President’s goal that you can keep what you have. I believe it is unwise for Congress to take such a risk because, in the end, the Medicare beneficiaries will suffer the consequences.

I also wish to touch on the recent CMS guidance on how Medicare Advantage plans may communicate with their beneficiaries. It is gratifying to know HHS will now allow plans to communicate with beneficiaries once prior authorization is received from the plan enrollee.

To be frank, I was outraged by the actions taken by CMS in September. To me, there is a fine line between freedom of speech and government interference. I feel CMS may have crossed the line when it sent Medicare Advantage companies correspondence on this issue. While the new guidance is an improvement, I am still concerned about the beneficiary opt-in requirement.

Another issue that needs to be discussed is the removal of the open enrollment period for Medicare Advantage beneficiaries. Prior to 2006, beneficiaries could enroll and disenroll from Medicare Advantage plans at any time. This open marketplace allowed beneficiaries to find the plan best suited for them. The Medicare Modernization Act included a transition to enrollment periods for Medicare Advantage plans to help beneficiaries become comfortable with the program and to ensure that the selected plan was the right plan for them.

Today, there are two enrollment periods for most beneficiaries. First, the annual election period takes place between November 15 and December 31 each year. Changes take effect on January 1 of the following year. During this time, beneficiaries may change prescription drug plans, change Medicare Advantage plans, return to traditional Medicare or enroll in a Medicare Advantage plan for the first time.

Second, there is an open enrollment period from January 1 to March 31 each year. One Medicare Advantage-related selection may be made during this timeframe, such as enrolling in a new plan, changing plans or disenrolling from a plan. Coverage is then locked in until the following December 31 for most beneficiaries.

The House health reform bill essentially eliminates the Open Enrollment Period for Medicare beneficiaries starting in 2011. In addition, the House bill proposes moving the annual election period up 2 weeks, from November 1 to December 15, thus creating a 2-week processing period for enrollment—right around the holidays—before the January 1 effective date. The Senate bill also moves up the annual election period. It would take place from October 15 through December 7.

The Senate bill does not eliminate the open enrollment period. However, it is important to note that while beneficiaries may disenroll from Medicare Advantage plans during the open enrollment period, they are not allowed to reenroll in another Medicare Advantage plan. Therefore, the only choice available to these beneficiaries under the Senate bill appears to be traditional Medicare.

I feel like little has been said about the dramatic impact these changes will have on Medicare beneficiaries. The primary focus has been the reductions to the program. When we wrote the Medicare Advantage provisions in 2003, we viewed the open enrollment period as an important consumer protection for those who need flexibility when choosing health coverage.

I am worried about the impact these little known changes will have on Medicare beneficiaries. I fear it could lead to a lot of confusion among seniors, especially when they are choosing their health care plans.

Another issue that troubles me is the fee on health insurance plans included in the Senate Finance Committee bill. The Joint Committee on Taxation, JCT, estimates that this provision will save \$60 billion over the next 10 years—\$60 billion that comes from the health insurance industry. It is no secret that these fees will be passed on to consumers, including Medicare Advantage enrollees through premium increases and the reduction of health care choices. Most seniors are on a fixed income and are least capable of absorbing the added cost of this burden. I strongly oppose this fee and will continue to fight against it when the Senate debates health care reform.

Finally, let me speak for a moment about the Nelson grandfathering amendment that was included in the Senate Finance Committee bill. While many Florida Medicare Advantage beneficiaries will not lose their benefits due to this amendment, that provision does little to help Medicare Advantage beneficiaries living in rural parts of our country.

In fact, the grandfathering amendment approved during the Finance Committee markup only helps Utah beneficiaries living in two—just two—counties. What happens to Medicare Advantage beneficiaries who live in rural areas? I must conclude they will not be as lucky as the Floridian seniors. In my opinion, it does not make sense to only grandfather the Medicare Advantage plans of certain seniors living in certain States.

Before I conclude, I would like to take a few minutes to discuss issues associated with abortion coverage and conscience clause protections for medical providers.

I am concerned about the bills before both the House and the Senate. I believe it is a real possibility Federal dol-

lars will be used to finance elective abortions through both the Federal subsidies to purchase health coverage and the new public plan created through the legislation; that is, Federal taxpayers' dollars.

During both the HELP Committee and Finance Committee markups, we were told over and over again the health reform bill would not cover elective abortions. We were assured Federal dollars would not finance abortions and that the Hyde-like language would apply. More specifically, the Finance health bill attempts to segregate Federal dollars given to individuals to purchase health plans through the State exchanges. The reason these Federal funds would be segregated, we were told, is so Federal taxpayers' dollars would supposedly not pay for abortion coverage.

Let me be clear. The provision included in both the Finance and HELP bills is not the way the Hyde language works today. For example, the Medicaid Program does not segregate dollars it receives either from the State or the Federal Government. Any Federal or State money received by the Medicaid Program simply does not pay for elective abortions. There is no separation of funds. Should a person want abortion coverage, that coverage is paid for separately, either by private dollars or State-only money outside the Medicaid Program.

I think the way this needs to be resolved is simple: Hyde language, which, I wish to remind my colleagues, has been included in every appropriations bill that funds the Department of Health and Human Services since 1976, needs to be included in the legislation. The Hyde provision is a specific prohibition on the use of any public funds for elective abortions and is enforced through strict accountability.

In addition, I am very worried about the government plan option that is included in both the House and the Senate health reform bills. The government option is, of course, a Federal program, and therefore all of the money it spends is Federal funds. If the public or government option pays for abortions, then that is, without a doubt, Federal funding using taxpayer dollars for abortion. Again, today Federal dollars may not be used to fund elective abortions. I believe the language in the House and the Senate bills as currently written would include the coverage of elective abortions through this government public plan. This must be addressed immediately. It is not fair to force people who are totally opposed to elective abortions, either for religious reasons, moral reasons, or whatever, to have their taxpayer dollars used to pay for these types of abortions.

I also do not understand why it is necessary to require all State exchanges to offer at least one plan with

abortion coverage. I view that as a mandate to cover elective abortions, and I wish to point out that today there is not one Federal health plan that has such a requirement.

In addition, I strongly support including protections in this legislation to ensure health care providers are not required to perform abortions if they are opposed to abortions. It is unfair that these providers who strongly oppose abortion should be forced to perform this type of procedure. Why would we force Catholic hospitals, Catholic doctors and nurses, and other people of similar religious beliefs on abortion to participate in something they believe is inherently evil and sinful and wrong? It does not make sense. We have always protected the right of conscience. These bills do not.

It is also extremely important that State laws regulating abortion, such as those requiring parental consent or involvement or prohibiting late-term abortions, for example, are protected and not preempted through this legislation. To me, it is unclear whether the current health care bills before Congress offer these protections.

Before I conclude, I wish to read a letter from the esteemed former Surgeon General, C. Everett Koop, dated November 2, 2009.

Mr. President, Dr. C. Everett Koop is one of the alltime great Surgeons General of the United States. Liberals and conservatives, moderates and Independents, Democrats and Republicans would acknowledge that. Here is what he says:

Dear Majority Leader Reid and Madam Speaker:

As the former Surgeon General of the United States, two terms, from 1981 to 1989, I am writing to express my deep personal concerns about the direction of the health care reform bills currently being considered by the United States Congress. More specifically, I am troubled about the possibility of Federal dollars being used to pay for elective abortions and Americans being forced to subsidize them. In addition, I firmly believe that strong protections must be included in this legislation so that health care providers are not forced to participate in abortions against their will. Polls have recently shown an increasing number of participants opposed to abortion.

It is essential that a Hyde-like abortion funding restriction provision (like the amendment included in the annual appropriations bill for the Department of Health and Human Services since 1976) be included in any health care bill that is signed into law.

He goes on to say:

I believe that including this legislative language is necessary to ensure that elective abortions are not financed either directly through a public plan or indirectly through Federal subsidies provided to purchase health insurance through State exchanges. I also find it troubling that the legislation requires all State exchanges to offer at least one health plan that includes abortion coverage—no other Federal health plan has that specific requirement today.

As a physician, I also want to ensure that laws and regulations remain intact, allowing health care providers to exercise their consciences and not be forced to provide services to which they have religious or moral objections. Congress has a long history of protecting the conscience of health care providers, first passing the Church Amendment in 1973.

Finally, I believe that it must be made clear through this legislation that State laws are protected and not preempted through this legislation, especially those that prohibit abortion coverage. Since 2004, additional conscience protections were included in the annual appropriations legislation for the Department of Health and Human Services to include health care entities such as hospitals, provider-sponsored organizations, health maintenance organizations (HMOs), health insurance plans, or any other kind of health care facility, organization or plan. Today, virtually all States have conscience law protections for medical providers.

From my first days as Surgeon General until today, I have always been honest and straightforward with the American people. Therefore, before this legislation becomes law, I believe that the important issues outlined above must be addressed so that it is consistent with current laws regarding abortion coverage conscience protection. I would appreciate your serious consideration of these matters before this legislation is debated and approved by the Senate and the House of Representatives.

Sincerely yours,  
C. Everett Koop, M.D., ScD,  
U.S. Surgeon General (1981–1989)

I believe Dr. Koop's letter says it all.

Again, both the Medicare Advantage Program and pro-life related issues are matters that I believe must be carefully addressed in this health care legislation. Medicare Advantage beneficiaries should be able to continue to be covered by the plan of their choice without losing benefits, and the legislation needs to have specific and clear provisions stating that no taxpayer dollars should be used to finance elective abortions. In addition, individual State pro-life laws must be protected. Mandates that require abortion coverage should not be included in this bill. Finally, health care providers should not be forced to perform abortions against their will.

I appreciate the opportunity to share my thoughts with my colleagues on these two very important issues.

I yield the floor and suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CARPER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. CARPER. Mr. President, do I need to ask for unanimous consent to speak as in morning business?

The ACTING PRESIDENT pro tempore. Yes.

Mr. CARPER. I so request.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. CARPER. Mr. President, I go home almost every night. It is a lot easier to go home to Delaware than it is to Oregon every night, as the Presiding Officer knows. I love it because I get to really live among the people I represent. I get up in the morning, go to the Y, work out, jump on the 7:18 train, and come on down here and go to work with all of my colleagues and the staff. Almost everybody at home wants to talk about, among other things, health care, and they want to find out what we are doing and what we are not doing.

During the August recess, I did something I had never done before in terms of meeting with constituents. We did a couple of telephone townhall meetings. I don't know if the Presiding Officer has done those, but I had never done them before. I have done a lot of traditional townhall meetings, but I went ahead and did one. Senator CORKER from Tennessee told me he did a telephone townhall meeting in Tennessee, and he said it went well and he thought I might want to consider it as well.

I said: How many people were on the call?

He said: Fourteen hundred.

That is a lot of people.

Sure enough, we scheduled not one but two of them, one in August and the other in early September before Labor Day.

When we had the first telephone town meeting, it was over after an hour or an hour and a half. I asked my staff: Any idea how many people were on the call? They had 1,400 in Tennessee, a big State. In little Delaware, I thought maybe we might have 200, I don't know. They told me I had 4,000 people. Four thousand people. It really shocked me a lot.

About a week later, we had our second telephone townhall meeting, and this was done in conjunction with AARP. It was not for the whole State, just AARP members in Delaware. So I knew we wouldn't have as many people, but I thought we could have quite a few. When the second telephone townhall meeting was over, done in conjunction with AARP, I said: How many people were on the call? They said 6,000—6,000 people. Little Delaware, to have 4,000 one time and a week later have 6,000 people in a telephone townhall meeting—I was blown away.

People were very polite, they asked good questions, and I tried to give them good responses. We had hundreds of people who stayed on the line at the end of the conference call, if you will, to ask more questions. We will do some more of those in the future, and we will do traditional townhall meetings as well. But what I drew from that is there are a whole lot of people who just

had questions they wanted to have answered. They were just confused and in some cases misinformed, and they wanted to have some straight talk—what we used to call it in the Navy—just the straight skinny, the straight truth, just tell us the story. We have tried to do that in the time since then.

About two or three weekends ago, I was getting gas for my minivan not far from my house in Delaware, and I was standing there pumping the gas into my Chrysler Town and Country minivan—listen to this: 236,000 miles, and they say they don't build cars like they used to. We make them better now.

Anyway, this lady pulled up on the other side and said: Senator CARPER—just the person I have been looking for.

Sometimes when people say that, you think, maybe I should get back in the minivan and drive away while I can still escape.

I said: What would you like to talk about?

She said: Let's talk about health care.

Pretty much it was: Why can't I have the kind of health care that you have, the same health insurance for my family through my small business that I run.

She said: We are paying about \$24,000, \$25,000 a year. What are you paying?

She wasn't belligerent or rude or anything.

I said: Well, as it turns out, we are paying about half that.

In my family, it is standard BlueCross BlueShield, and we have—the secret to what we do, as the Presiding Officer knows, is we created here, long before we came along, a very large purchasing pool that includes all Federal employees, all Federal retirees and dependents. In all, it makes a huge purchasing pool of 8 million people in all. We have the Federal Office of Personnel Management that gets a whole bunch of private health insurance companies to come in and offer their products to us, and we can choose from among those private plans. Because there are so many of us, a lot of interest comes from wanting to offer the product to us. It helps drive down the cost because of the competition. With 8 million people in a purchasing pool, you can actually get pretty low administrative costs. It turns out our administrative costs are 3 percent of premiums, which is very low.

My guess is, the lady I was talking to that day at the service station—I know she wasn't getting insurance through her small business. She was a realtor. I know she wasn't getting it for 3 cents' administrative costs on the dollar per premiums—probably not 23 cents, maybe 33 cents.

She said: Why can't we have the kind of health insurance you have?

Actually, I like that. I would be happy to open it up and allow you and

others in our State—small business-people, families, or individuals who don't have coverage or who do—to buy your health insurance as part of a large purchasing pool. We will make it even bigger, and as a result, maybe we will get better prices.

As it turned out, some of my colleagues on the left here in the Senate and some of my colleagues on the right aren't crazy about that idea. Folks on the left here say: If we do that, it will sort of take the place of the public option; that will be the public option. Folks on the right say: Well, that is too much like the public option. So both sides are kind of against doing that. I still think it is a good idea.

What we are going to do is we are going to take the idea of a large purchasing pool and we are going to allow every State to create its own purchasing pool. We call them an exchange. We exchange. Each State can have its own exchange.

Every State can enter into interstate compacts with other States and create compacts with other States. For example, I don't know if Delaware would create an interstate compact with the State of the Presiding Officer because it is on the other side of America. We may want to do it with New Jersey or Pennsylvania or Maryland. We might want to do it with Idaho or other States out West. What is interesting about the interstate compacts is that States can create, under what has been reported out of the Finance Committee on which I serve, interstate compacts between two or more States, and insurance can be sold in another State, which would introduce competition, and that doesn't exist in a bunch of States.

In some States, just one or two insurance companies rule the roost and pretty much offer all the insurance. It is not very good for competition or affordability.

So what I want to do is make sure States have options to introduce competition. They can create interstate compacts across State lines, create regional exchanges and a larger purchasing pool, which would drive down costs. Some of my colleagues want States to start health care cooperatives, such as in Washington State, where there is an outfit called Group Health. The Presiding Officer is probably familiar with that. Some States might want to do that. They seem to like that idea in Washington. Maybe that will work.

Some States have their own public plans. I think Minnesota is one. States could set up their own public plan. That would be listed on the exchange as an option. States might want to open the State employees health benefit plan for State employees and pensioners and their dependents. That can be an option on the exchange.

The Senate will probably be prepared to offer a tax credit to lower income

folks. They can start with a low income and phase it out as the income goes higher. That is an effort to help folks who need help in affording health insurance. They can let States choose from that menu when there are problems with lack of competition.

What do we do then? Are we going to have a national public plan in which everybody has to participate? Are we going to have a level playing field? Senator SCHUMER has put a fair amount of time and interest into exploring that. Are we going to have a national public plan with a level playing field, where the national plan doesn't have an advantage over those in the private sector? Should the States be able to opt out of this national plan? That is the proposal I think Senator REID submitted to CBO to try to score and see what it would cost.

Should States have a right to opt into the national plan? There are a variety of ideas. I think a number of centrists I have talked to are interested, at the end of the day—if we have States where there is an affordability standard, and it is clear that affordability standard in 1, 10, 20, or 30 States is not being met, there is lack of affordability and competition—should there be some other option? I think parties are open to that.

There is probably a fair amount of concern over a couple of aspects of a public plan. One, who is going to run it? The government or the Secretary of Health and Human Services or the Department of Health and Human Services? Should it be funded by the Federal Government beyond the startup? I think if we will work around the idea that States need to meet some affordability standard, and for those that don't, there might be the opportunity to create another option for those States, maybe an option involving a national nonprofit board, and without government funding—at least not beyond the beginning of the startup, I think there is a center of gravity there that might provide a path forward for some of my colleagues, particularly the moderates.

In terms of government-run, government-funded, I think that can be addressed by having a national nonprofit board appointed by the President and confirmed by the Senate. They would have to retain funding after the startup and create their own reserve fund so that if the plan runs afoul or gets into financial difficulty, they would have a reserve fund to be able to meet that. I just wanted to lay that out. That is a place where we might find common ground.

There has been discussion in the last hour about cutting Medicare. I am not interested in that. I don't know any Democrat or Republican who is interested in doing that. The legislation I am most familiar with, reported out of

the Finance Committee, doesn't cut Medicare benefits. In fact, we add some benefits. One is, under Medicare, people only get one lifetime only physical—just one—when they sign up for Medicare. If they don't take advantage of it then, they don't get it. Most people try to get an annual physical.

One of the changes that we make in our legislation that I hope will be in whatever we finally pass is that every year, a Medicare patient would be eligible for a physical. That is good preventive medicine. You can catch problems early rather than wait until it is too late.

Some people are familiar with the Medicare prescription drug program. They know when people exceed \$2,500, up to about \$5,500, for the most part, if their drug costs are in that range, almost all of the costs are borne by the senior citizens unless they are very low income. Then Medicare picks it up.

One of the principles in our legislation that I hope will be available is that the pharmaceutical industry said they are going to put up about \$80 billion, a lot of which will be used for filling the doughnut hole to cut in half people's out-of-pocket expenses, when they would otherwise be called upon to pay for prescription drugs. We want to make sure people, No. 1—if there are pharmaceutical companies out there that will help—can find out about it, use it, and they can afford it. In the legislation reported out of our committee, I think we dramatically increase the likelihood that people will be helped by the pharmaceutical industry.

In terms of reducing spending out of Medicare, we can go out and identify—not just identify waste, fraud, and abuse, but identify it and quantify it, and we can go out and get the money back. We call that postaudit cost recovery. Last year, about \$700 million was recovered in 1 year in these postaudit cost recoveries in just three States. What we need to do this year, and what we are going to do, is go to all 50 States and do postaudit cost recovery for Medicare. The money will go back to the trust fund. If we can gather \$700 million in just three States, we can do a lot more than that in all 50 States. Those are the kinds of things we are going to do.

If folks were going to simply cut Medicare services and benefits, I am not aware of that in the legislation. I don't think that is the case.

I have one or two other points, and I will close. I had the opportunity to visit a place called the Cleveland Clinic in Cleveland, OH, a month or two ago. I went to find out how are they able to provide better health care and better outcomes for less money and to see if there is a lesson we can take from them and from the Mayo Clinic and from Geisinger up in Pennsylvania—what lessons can we take from those



places—all nonprofits—where all the doctors are on salary, where they focus on primary care and prevention and wellness, and where they focus on coordinating care among physicians and other providers within their units, and where the medical malpractice coverage is paid for by the Mayo Clinic and the Cleveland Clinic, not the individual physicians, and where all the patients have electronic health records.

If you look at all those nonprofits I have mentioned, including the Mayo Clinic, Cleveland Clinic, Geisinger, and Kaiser in California, they are all pretty much the same. I think one of the things we sought to do in our legislation is infuse that delivery system, change that and infuse that into our system for health care and, frankly, learn from what works—look to see what works and act on that.

Lastly, we will have the opportunity, after the legislation is merged together and the products from several committees, including the HELP Committee—but after the products of the two principal committees in the Senate have been merged and that has been submitted by our majority leader to the CBO, they will come back and say whether the legislation increases the budget deficit and whether the legislation can be expected to rein in the growth of health care costs. We will find out the answers to the questions, hopefully, in a week or two.

The President said, and I have heard others say:

I am not going to sign legislation that increase the deficit by a dime, now or later.

I have said that I am not going to vote for legislation that increases the budget deficit now or later. The version of the health bill that we reported out of the Finance Committee over the next 10 years will reduce the deficit by \$80 billion and the second 10 years by \$400 billion to \$800 billion. That is what we need to do.

At the end of the day, I think it is paramount for us to extend coverage to people who don't have it—40 million plus. About 14,000 people who woke up today with health insurance will not wake up tomorrow and have it. We pay way more for health insurance than anybody else, without better results. Some are going out of business. GM and Chrysler, who had a presence in my State, are bankrupt, and a lot of their trouble was because of enormous growth in health care costs.

One of the most important things we can do in health care reform this year is rein in the growth in health care costs. The idea that health care costs continue to go up two or three times the rate of inflation is not acceptable. The idea that we pay 1½ times more for health coverage than any other nation in the world is not sustainable. The idea that we don't get better results—actually, we get worse results—is unacceptable also.

Lastly, a lot of times we say: What responsibility do people have for their own health? Is there some way we can get people to take better care of themselves? As a population, we are overweight and, in many cases, obese. We have high blood pressure, and we have high levels of cholesterol. People suffer from hypertension. We smoke too much, and we eat the wrong foods, and too much of the wrong foods. We don't exercise. There are a couple of companies around the country where they have employee-provided health insurance to sort of self-insure. Some are encouraging us to allow them to do more in terms of reducing the premiums of people who basically do the right things. We have all heard about the company called Safeway, a grocery store chain headquartered in California. There are other companies, such as Pitney-Bowes and Delta, that have figured that out, and they have started to invite their employees to voluntarily enter into programs to stop smoking. If they do that, they can earn premium reductions. If they lose weight, they can reduce their premiums.

One of our colleagues, Senator ENSIGN, and I offered legislation, adopted in the HELP and Finance Committees, that says that individuals can reduce premiums by as much as 30 percent if they are doing things that will help reduce their exposure and costs to their company through the health plan. For example, at Safeway, if people stop smoking, they reduce their premiums by \$400. If people lose 10 percent of their body mass, if they are overweight, there will be roughly another \$400 reduction in their premium.

The idea is not just for people to say: I know I am overweight, and I need to exercise. So they get a gym membership, but then they stop going. Or they will walk every other day and maybe on weekends, or they will go on a diet and stay on it for a while, or they will stop smoking and then they start smoking again. That is kind of human nature, with all these temptations. Unfortunately, a lot of them lead to worse health outcomes for individuals. We want people to take better care of themselves. That should be in this legislation.

Lastly, at the Cleveland Clinic, they talked to us about defensive medicine, the fee-for-service delivery system where we incentivize doctors to do more of everything—more visits, procedures, tests, more of this and that because when they do those things—they—No. 1, may provide a better health outcome; No. 2, they make more money; and, No. 3, they reduce the likelihood that they will be successfully sued.

We don't have jurisdiction in the Finance Committee over medical malpractice. That is under the jurisdiction of the States. What we do want to do when we come to the Senate floor, my

colleagues, both Democrats and Republicans, is to robustly test what is being done in States to, No. 1, reduce the incidence of illness with defensive medicine, reduce the incidence of medical malpractice lawsuits, and do so in a way that will encourage better outcomes; to take good ideas like what works in a company in Michigan or the idea of health courts, the idea of safe harbors where doctors who provide medicine basically under best medical practices and best practiced guidelines, maybe give them a safe harbor from lawsuits.

We can test a couple of these caps—a \$250,000 cap or maybe a sliding scale cap on noneconomic. Ohio goes from \$250,000 to \$1 million. We can test those and see do they work? The certification programs, such as in Delaware, if my doctor performs a procedure on me, and I am not happy with the outcome, I have to go through a panel of knowledgeable people. If they say I don't have a case, basically I don't do it.

Those are the kinds of things we want to have the opportunity to explore, find out what is working in the States and other States to learn from it. Those are the kinds of things we will have a chance to debate on this floor in the next couple of weeks and in the end hopefully provide better insurance, a better outcome for less money, and use the savings to extend coverage to people who do not have it. That is what we are trying to do.

I thank my colleague from Arizona for his patience and for allowing me to finish my statement.

The ACTING PRESIDENT pro tempore, The Senator from Arizona.

Mr. MCCAIN. Mr. President, I always enjoy hearing the words of wisdom of my friend and colleague from Delaware.

#### 30TH ANNIVERSARY OF THE HOSTAGE CRISIS IN IRAN

Mr. MCCAIN. Mr. President, today we mark a painful anniversary for our country—the day, 30 years ago, when America's Embassy in Iran was violently seized and an institution of diplomacy became a prison for dozens of peaceful servants of this Nation. For 444 days, the United States and the world watched and feared for the safety of our citizens. Eight brave Americans lost their lives trying to rescue our diplomats. And after so many days of dread, anguish, and heartbreak, we all felt a great weight lifted when our fellow citizens were returned home safely to their friends and families.

Today we express our deepest gratitude to those Americans taken hostage in Iran 30 years ago and to those who died to save them. They all gave more for our country than should be asked of any public servant, and we thank them for it.

Today, however, we are also mindful that the pain and suffering that began on November 4, 1979, did not end after



only 444 days. For the people of Iran, that hardship continued for 30 more years, and it continues to this day.

Iran is a great nation, and the Iranian people are the stewards of a proud and accomplished civilization. Throughout their nation's history, Iranians have made spectacular contributions to the arts and sciences, to literature and learning. These achievements have not only benefited Iran, they have added to the development and enrichment of all mankind. So it is with profound sadness that we think today of all the potential of the Iranian people that has been suppressed and squandered over the past 30 years by the rulers in Tehran.

I know that the Iranian Government is singing the praises of their revolution today. But Iranians are not fools. They know what the real legacy of the past 30 years is. Iranians know that the government in Tehran has ruined their nation's economy and kept them isolated from the promise of trading and engaging with the world.

Iranians are right to ask how much better off they would be if all of the money—the billions and billions of dollars—that Iran's rulers have spent sponsoring terrorist groups, tyrannizing their people, and building weapons to threaten the world were instead devoted to creating jobs, educating young people, and caring for the sick.

Iranians are right to wonder why a country so blessed with natural resources cannot meet the basic needs of so many of its own citizens. And yet corrupt members of the ruling elite are stuffing the wealth of their nation into their own pockets.

The rulers in Iran seized power 30 years ago, promising justice and better lives for all. But now they throw innocent Iranians in prison without proper trials. They mistreat and torture Iranians in jail. They beat and murder Iranians in the streets for trying to speak freely and exercise their basic human rights.

The world watched in horror as Iran's rulers inflicted all of this abuse and more upon peaceful Iranian protesters after the flawed elections last June. But the world also watched in awe as courageous Iranians risked everything for freedom and justice.

We Americans reflect with sympathy on Iran's continuing struggle for human dignity and human rights. Our country seeks a relationship of peace and prosperity with Iran, and it is incredibly unfortunate that the Iranian Government seems determined to keep the relationship between our two countries mired in the past by funding and arming violent groups that threaten our citizens and our allies, by building a nuclear weapons program in violation of Iran's own agreements and multiple U.N. Security Council resolutions, and by spurning repeated American efforts to reach out respectfully to resolve our

differences in peace. The United States of America has no eternal enemies. We can overcome even the most painful parts of our own history, as we are doing now with countries such as Vietnam.

So today, on this solemn anniversary of the hostage crisis in Iran, we honor our fellow Americans whose lives were forever altered by that tragic day. But we also look forward to a new day, a better day when the long nightmare of the Iranian people is over and when our two nations share a relationship of mutual security, mutual respect, and mutual advantage.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. BURRIS). The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DODD. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DODD. Mr. President, I want to spend a few minutes, if I can, to express my thanks first to Majority Leader REID and the leadership team for all they have done to bring us to a final vote later this evening on the effort to extend unemployment insurance to jobless Americans as well as to provide tax credits for homebuyers and allow more businesses to utilize the net operating loss carry back. I thank the leadership for it.

I want to also thank Senator BAUCUS, the chairman of the Finance Committee, who was responsible for putting this all together, and his staff who worked very hard. I presume they did so in conjunction with Senator GRASSLEY, the ranking member of that committee. I know it took some time. I regret it took as long as it did to get the extension of unemployment insurance.

As I am sure Members have heard over the last few weeks, every day we delayed in providing some relief to people who have lost their jobs through no fault of their own, 7,000 people were losing their unemployment insurance. Again, all of us know people within our communities, our neighborhoods, and our States who have lost their jobs as a result of the tremendous downturn in our economy. These people are trying to pay mortgages, literally put food on the table and provide for their families. Unemployment insurance has been absolutely critical over the years. This is not the first time, obviously, we have had an extension. It has traditionally been a bipartisan effort. Republican and Democratic administrations have agreed to provide these extensions. This one, unfortunately, took too long, in my view, to put in place, given the depth of this recession, given the fact that so many people have now fallen outside of the employment picture.

I know the numbers people talked about are anywhere from 8 to 15 per-

cent unemployment rates, depending upon where you live. I don't think those numbers are anywhere near close to reflecting what is going on. If you asked me candidly what the unemployment rate is in this country, I think it hovers closer to 20 percent since an awful lot of people are so discouraged they have stopped looking because the economy has been that bad. So this extension of benefits is absolutely essential.

But extending unemployment benefits means in effect there is simply not enough job creation in the economy. That gets me to the second part of this bill and that is the homebuyer's tax credit.

I see my friend from Georgia who has arrived on the floor. It is perfect timing, because I was about to talk about him. He was the principal author a number of months ago of the first-time home buyer tax credit that was included as part of the Recovery Act. That provision authored by JOHNNY ISAKSON of Georgia which I was pleased to support has been used by almost 2 million people.

That provision is about to run out by the end of this month. As a result of his efforts these past few weeks—and I am pleased once more to be his partner in this effort—we have been able to extend that benefit to the first-time home buyer. But we have done something beyond that, which JOHNNY ISAKSON has talked about over the many weeks he and I have talked and that is to expand it to the move-up buyer. That is that person who literally moves up from the house they are in to that new house. That family may have grown—a couple of additional children—and they are able to move up into that next category. This bill now provides not only the benefit to the first-time home buyer but to that move-up home buyer as well. 70 percent of existing homeowners today can potentially qualify for this move-up buyer credit. That is going to be a tremendous benefit, in my view.

The credit is still \$8,000 for the first-time home buyer, but now move-up buyers can claim a credit up to \$6,500. You have to have an income, if you are a single person, of \$125,000 or less; if you are joint filers, \$225,000 or less. There is a cap on the home price of \$800,000 or less. Move-up buyers have to have lived in their current home for at least 5 years. And all home buyers, first-time or move-up, have to be prepared to stay in their new home for 3 years. This credit cannot be used by investors. We also included a lot of anti-fraud provisions.

Again, I am confident my friend from Georgia has made this point: The first-time buyer traditionally is someone who has saved just enough to get into that first home. As I think Senator ISAKSON said, they are probably sleeping on futons and eating a lot of Lean

Cuisine or other things just to survive in that new house. They are so excited to be in there, and sacrificed tremendously to get into that first home they dreamed about having.

The move-up buyer is more inclined and capable of buying that furniture, maybe building a porch, putting a garage on, a new roof on the house and generally making improvements. So the ripple effect economically from that move-up buyer is going to be a real benefit. The first-time home buyer obviously helps, but being able to actually make those kinds of investments I think is going to be help create jobs in this country. It is not going to solve all our problems, but it is going to help get people working again: the home builders, employees at home improvement and hardware stores, landscapers, contractors, people in the real estate business, those kinds of jobs that can make a difference. So I am pleased we are extending unemployment insurance, but I am also very pleased we are doing this on the homebuyer tax credit because it does provide some economic lift in the country at a time when we desperately need to restore confidence and optimism.

We have a way to go, obviously, before we start feeling that level of confidence and optimism that was present before the current downturn. But in most recessions our country has been in, real estate has been at the heart of it, and the recoveries from our recessions have been led by the real estate sector of our economy. If this recession is typical of other recessions, real estate will help our economy to come out of this downturn. It is not the only factor but it is a major factor in recovery. This extension will run to next spring, at a critical time of real estate sales in our Nation.

I can't begin to thank my colleague from Georgia enough for his tireless efforts in this arena. This is how it ought to be, by the way. This is the way we are supposed to do business around here, where we come together, listen to each other's ideas, and then try to work it so our colleagues will appreciate the effort that has been made and try to make a difference in our country.

I thank my friend from Georgia for his leadership once again on this issue. But for him, I don't think this would have happened. You can't always say that about every bill. A lot of people were involved in this issue. But I would say to my colleagues, had it not been for Senator JOHNNY ISAKSON of Georgia, I don't think we would be where we are today. On behalf of my constituents in the State of Connecticut, your first-time home buyer provision, which I was pleased to join in, will likely help 10,000 home owners in my State. I don't know what the number will be as a result of this provision, but it is going to make a difference to families in Con-

necticut, so we thank the Senator from Georgia.

Mr. ISAKSON. Will the Senator yield?

Mr. DODD. I yield.

Mr. ISAKSON. Mr. President, first, I thank the Senator from Connecticut for his many kind words. But as I said earlier today in a speech—and this is important for everybody to know—had it not been for his willingness to call the hearing 3 weeks ago in the Senate and bring in the professionals from around the country, including the head of HUD, Shaun Donovan, to talk about the application of this credit and its extension, I don't think the information necessary to bring us to this point would have happened. So the Congress and the people who take advantage of this are in no small measure indebted to Senator DODD for that leadership and, I might add, to Senator BAUCUS who helped us define the pay-for. This bill, including the UI, the loss carryback, and housing tax credit, has a net plus against the deficit, not a cost to the country. That is extremely important. We couldn't have done that without Senator BAUCUS.

Quite frankly, Majority Leader HARRY REID helped us to make this happen as only he could do as majority leader of the Senate. While I appreciate very much the kind words of the Senator, it is true this has been a team effort and the captain of the team has been the chairman of the Banking Committee who brought about the hearing and helped it happen. I thank the Senator from Connecticut for that and tell the Senate we are about to do something meaningful for the U.S. economy, meaningful for the U.S. homeowners. This bill in the end is a jobs bill.

My last point to the Senator from Connecticut that people also need to know is this is the last extension. The benefit of tax credits is when they have a finality, when they have a sunset, when there is a sense of urgency to take advantage. Now is the time. With that type of momentum, the U.S. economy will come back because housing, which led us into it, will help lead us out of it.

I am grateful to the Senator for his kind remarks.

Mr. DODD. I thank my colleague and, as I said earlier, I thank Senator REID and Senator BAUCUS and their staffs as well for allowing us to come to this moment. It is a good day for our country.

I thank my colleague again, and I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. GRASSLEY. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### HEALTH CARE REFORM

Mr. GRASSLEY. Mr. President, over the past few days, this Senator and several other Senators have been coming to the floor, talking about various aspects of the health care reform bills the majority has brought forward so far. Today I want to review the impact of these bills on Medicare beneficiaries.

First, this is the Senate Finance Committee bill. It would cut Medicare by about \$470 billion over 10 years. The House version takes an even bigger bite out of Medicare. In that bill, Medicare is cut by about \$540 billion. That is more, obviously, than \$½ trillion. Cuts of this magnitude are sure to hurt Medicare providers and threaten beneficiaries' access to care.

Take a look at the cuts in these reform bills. It shows why there is genuine concern that health care for Medicare beneficiaries will suffer greatly because of health care reform. The proposed legislation permanently cuts all annual Medicare provider updates. Permanently, or another way to say it, cuts them forever.

In addition, some providers, such as hospitals, home health agencies, and hospices, would face additional cuts over the next 10 years. These permanent cuts are supposed to reduce Medicare payments to account for increases in productivity by health care providers.

Supporters of those productivity adjustments believe Medicare generally overpays providers. I wish they would ask providers in my State of Iowa. And they say this would happen because today's Medicare payments do not take into account productivity increases that might reduce the cost of providing care to beneficiaries.

However, this proposal for productivity adjustments is an extremely blunt instrument that will threaten beneficiary access to care. It is flawed in at least two ways. First, the productivity measure used to cut provider payments in the bill does not represent productivity for specific types of providers, such as nursing homes. I mean, you would think that if Medicare is going to reduce your payments to account for increases in productivity, it would at least measure your specific productivity, but that is not the case. Instead, these reform bills would make the payment cuts based on measures of productivity for the entire economy. So if productivity in the economy grows because let's say computer chips or any other products are made more efficiently, then health care providers see their payments go down. Where is the connection?

But there is a second major problem. This other problem is that the productivity adjustment actually punishes providers for increases in productivity. This policy says that when a provider

is more productive, Medicare is going to take it all—100 percent of the productivity increase. The provider does not even get to keep half of the financial benefit for that increase in productivity. Where is the reward? Confiscating the entire productivity increase removes all of the incentives for providers to improve their productivity in the first place. This is a typical government policy. If you do better, the government wants its share. But here, the government not only takes its share, it takes all of it.

These cuts are sure to impact health care for seniors. But I don't want you to take my word for it, so I am going to go to one of those nonpartisan people in government. There are a lot of nonpartisan, very professional people in government. But now I refer to the Chief Actuary of the U.S. Department of Health and Human Services. He recently identified this threat to beneficiary access to care. He confirmed this in an October 21 memorandum analyzing the House bill. The House bill and the Senate Finance bill both propose the same types of permanent Medicare productivity cuts.

Here we have a chart referring to the Chief Actuary. Here is what Medicare's own Chief Actuary had to say about these productivity cuts. In reference to those cuts, he wrote that:

The estimated savings . . . may be unrealistic.

In their own analysis of the House bill, Medicare's own Chief Actuary says:

It is doubtful that many could improve their own productivity to the degree achieved by the economy at large.

They go on to say:

We are not aware of any empirical evidence demonstrating the medical community's ability to achieve productivity improvements equal to those of the overall economy.

In fact, the Chief Actuary's conclusion is that it would be difficult for providers to even remain profitable over time as Medicare payments fail to keep up with the costs of caring for beneficiaries.

So let's go back to this chart again. Ultimately, here is their conclusion: Providers that rely on Medicare might end their participation in Medicare, "possibly jeopardizing access to care for beneficiaries."

Medicare's Chief Actuary confirms what I have been hearing from providers back in my State of Iowa about these permanent productivity payment cuts.

Those providers are doing everything they can to be efficient and to be innovative. They are doing everything they can to get the biggest bang out of every Medicare dollar they can. But assuming the level of productivity assumed in these bills would be like getting blood out of a stone.

These health reform bills will make it even harder for them to keep their

doors open. Look at providers such as nursing homes and hospices. They provide labor-intensive services. There are few gadgets or processes in these settings that will increase productivity. Nothing in these settings replaces staff being at their bedside and providing care.

So it is very incorrect to assume these providers will achieve levels of productivity like the rest of the economy, justifying those cuts that these bills anticipate.

Let's look at other providers affected by these productivity adjustments, like ambulances. The Finance Committee bill would permanently cut payments for ambulance services beginning in 2011. It would do this in spite of the fact that Congress enacts payment increases to ambulances year after year. In fact, the Senate Finance bill extends the existing add-on payments for ambulance services for another 2 years, until 2012, and then you know what, it turns right around and cuts them.

I have no quarrel with providing additional payments for ambulance services because without them many ambulance providers would not survive. Well, what about this slight of hand? What is the impact? The bill proposes that we cut ambulance payments while we vote to increase them. It is kind of like, I voted to cut before I voted to increase.

There is another proposal in the Senate bill that cuts Medicare, and now I am talking about the Medicare Commission.

The pending insolvency of Medicare is a very serious problem, and Congress needs to stop kicking the can down the road when it comes to shoring up Medicare. We are nearing the end of that road.

This Medicare Commission is fatally flawed, and the risk of unintended consequences that will hurt seniors outweighs any benefits it might have. Not only will it be harder to find a doctor or hospital that will see Medicare patients, you can also forget President Obama's promise about keeping what you have.

After all the promises about not cutting Medicare benefits, Congressional Democrats and the White House are using the Medicare Commission to take aim at the popular Medicare prescription drug benefits and the Medicare Advantage Program. Under the Finance Committee bill, this new Medicare Commission would be given explicit authority to cut Federal subsidies for Medicare prescription drug premiums. Think about that. Today, that Federal subsidy pays for about 75 percent of the premium for Medicare prescription drug coverage for seniors, but the Finance bill says: Cut that subsidy. It says: Raise Part D premiums for our seniors. That is right.

But again, do not take my word for it. On October 13, during the Finance

Committee health reform markup, the Director of the Congressional Budget Office, CBO, was asked whether reducing the Part D subsidy would raise premiums. So chart 2 here is what Dr. Elmsdorf, the Director of CBO, said: "Yes . . . [reduced subsidies] would raise the costs to beneficiaries." So this was clear confirmation that if the Medicare Commission cuts payments to Medicare drug benefits, it will cause Part D premiums for seniors and the disabled to go up.

At a time when the country is facing record unemployment and Americans are struggling to keep up with increasing prescription drug costs, these provisions will make these lifesaving prescription drugs more expensive for beneficiaries. These are the kinds of things that get buried in a 2,000-page bill. When the other side does not understand why the American people are concerned about these huge bills, those are some of the reasons.

These health reform bills also propose to cut up to \$170 billion from Medicare Advantage. In my home State of Iowa, these cuts will cause about a 25-percent cut in the amount of money going to extra benefits for 63,000 seniors who are enrolled in Medicare Advantage. That means fewer low-income Iowans will be getting the eyeglasses, hearing aids, and chronic care management they have come to rely upon.

Some health care providers, such as hospitals, got a special deal. They are exempted from the Medicare Commission's payment cuts. That means other providers and programs, such as drug benefits for seniors and Medicare Advantage, will be bearing the brunt of payment cuts.

The Medicare Commission would also become a permanent program that Congress would, for practical purposes, be unable to undo. By making the Commission a permanent program, it becomes part of the baseline in the budget over the next decade, so it just goes on forever, sort of like the Energizer bunny—it will just keep cutting and cutting. If Congress ever wants to shut off those cuts, then it will have to offset the cost when of terminating this commission. That will make it effectively impossible, and the damage will have been done.

These Medicare cuts will also only make things worse for beneficiaries in rural areas. Seniors in rural areas already face health care access problems. Medicare generally pays rural providers less than those in urban areas. Cuts of this magnitude will make it much harder for rural Medicare providers to care for beneficiaries.

But believe it or not, it only gets worse. My colleagues on the other side of the aisle intend to create a government-run health plan. If this government plan pays providers based on already low Medicare rates, it is only going to make this whole situation

with access and keeping hospitals open much worse.

These Medicare cuts are achieved at the expense of health care access and quality. These Medicare cuts turn a blind eye to threats to health care quality and access. There are no fail-safes in these bills that kick in automatically if these drastic cuts cause limited provider access or worse quality of care. Instead, Congress will have to step in.

The Congressional Budget Office has already projected that these Medicare cuts keep increasing by—can you believe it?—the cuts will keep increasing 10 to 15 percent each year over the next decade, so 15 percent even beyond the year 2019. And provisions such as these productivity adjustments and the Medicare Commission would drive the increased cuts to the program.

So this will give you an idea of the damage these bills will do to health care, particularly for seniors. This is an example of the challenge Congress will face in the next decade if these bills become law. And this is just what we know about these bills we see. Who knows what is being cooked up behind closed doors right now.

Once again, it is time to back up this process. It is headed in the wrong direction. A bill of this magnitude should be done on a bipartisan basis with broad support. We can get it done right, if we work together. These bills have massive Medicare cuts. They will do permanent damage to our health care system—higher prescription drug premiums for seniors, increased costs, jeopardized access for beneficiaries. These bills are taking us in the wrong direction.

I yield the floor.

The PRESIDING OFFICER. The Senator from North Dakota.

#### THE ECONOMY

Mr. DORGAN. Mr. President, a couple weeks ago, I was on an airplane. The passenger sitting next to me had on a pair of sweatpants and looked pretty relaxed. I asked him where he was going. He said: I am dressed this way because I am going to Thailand, then going to Singapore, and then going to China. He said: I have a 24-hour flight ahead of me so I dressed pretty casually. I said: What are you going to do in Thailand, Singapore, and China? He said: I work for a company, and we have a lot of smaller companies that provide parts to us. We want those smaller companies to move those parts jobs to Thailand and Singapore and China so it costs us less to purchase parts. I am going to these three countries in order to see if we can offshore these jobs from companies we purchase from.

I was thinking about that as I sat there talking to him. I was thinking, there are likely hundreds of employees someplace going to work today not knowing he is on an airplane going

over to Asia to see if he can get rid of their jobs and move them to Asia so they can pay just a fraction of the price.

So it goes, day after day after day. It happened to be someone I sat next to on an airplane. This is about jobs then. It is about American jobs. I am thinking, as we are talking, we have lost 7.6 million jobs since the recession began; 7.6 million people had to come home and tell their family: I have lost my job, not because I am a bad worker, I lost my job because they are cutting back. Most of that is because of the recession. But going into the recession and even now coming out of the recession, when we still have most of those folks looking for work, we still have people getting on airplanes, finding ways to move American jobs overseas.

When you think about where we are and what our agenda needs to be in the Congress and in the country, jobs have to be right at the top. How do you put people back to work? How do you get the economic engine started? How do you stop the hemorrhaging of jobs to China, where you can find somebody to work for 50 cents an hour, working 12 or 14 hours a day, 7 days a week. The agenda has to have jobs and economic recovery right at the top, putting people back to work, getting the economic engine started.

Our agenda, of course, includes health care and climate change. I am the first to attest to the importance of both. Health care is a very important subject. The relentless climb of increasing costs year after year after year means families take a look at their bill and wonder: How on Earth can I pay the bill—it is 10, 12, 14 percent higher than last year—in order to provide insurance for my family? I can't drop the insurance. Yet I can't afford to pay for it either. Businesses—small, medium, and large—are trying to figure out how to pay the increased cost. That is certainly important.

Climate change and global warming are both important, no question about that. We are going to have a lower carbon future, and we need to find ways to address it.

But the most important agenda, while standing in a very deep economic hole, the deepest hole since the Great Depression of the 1930s, the most important part of that agenda is trying to put people back to work, restarting the economic engine and putting people back to work with good jobs that pay well. That is what makes everything else possible. It is the menu and the success that has lifted so many people out of poverty, expanded the middle class in a manner that almost no one else was able to do. It is the way we succeed in this country, economic expansion and opportunity for the American worker.

While I think health care and climate change are important, my agenda is to

put jobs right at the top, to try to understand we are in the deepest recession—or have been—since the Great Depression. The third quarter numbers of this year suggest there has been economic growth. But economic growth of GDP does not relate to people going back onto payrolls. For example, 263,000 people lost their jobs last month. That relates to the 7.6 million people total who have lost their jobs since the recession began.

The first priority is to start the economic engine, do the things that put together the policies that begin to start this big American economic engine again, get the economy back on track and create those jobs again.

I have indicated often that I taught a bit of economics in college. When I would teach the supply-and-demand curve and all the other things one teaches in economics, I used to say, by far, much more important than anything else in this book is to understand the American economy expands as a result of confidence. When people are confident about the future and they feel that confidence, they do the things that manifest confidence. They buy a suit, a car, a house. They take a trip. In other words, they are confident about their future. They are feeling good. They do the things that expand the economy. That is all about confidence. When they are confident and do the things that expand the economy, people work. The economy begins to hum along and the country does very well.

When they are not confident about the future, exactly the opposite happens. We have economic contraction. People don't buy the suit, the car, the home. They don't take a trip. We contract the economy. Confidence is at the root of progress. The question is, Standing in this deep economic hole, how do we restore confidence? How do we do that?

This President has only been in office 10 months. He inherited the biggest economic mess anybody has inherited since the Great Depression. That is a fact. We have a lot of people who want to blame the new administration for all the economic ills of the country. This President inherited the biggest economic mess any President has ever inherited since the 1930s. What do we do to restore confidence and what do we do to address this issue of the economy?

In my judgment, we do three things. One is financial reform. It seems to me the financial system went completely awry, and we had a carnival of greed, an atmosphere of anything goes, unbelievable gambling going on—they could have put a casino table in the lobby of some of the biggest banks in the country—the development of new financial engineering, things such as credit default swaps and CDOs, you name it. These folks steered this country's

economy right into the ditch. If that is the case—and I believe it is—the first step to restore confidence is to reform the financial system to say this cannot happen again. We will not allow it. We have to fix it.

Fifteen years ago, I wrote the cover story for the Washington monthly magazine called *Very Risky Business*, in which I described even then that FDIC-insured financial institutions—financial institutions guaranteed by the Federal Government and the taxpayer, therefore—were trading on their own proprietary accounts and derivatives. I said then they might as well put a keno pit in the lobby of the bank. Fifteen years later, of course, the whole thing collapsed. The center poll broke, and the tent collapsed over all of it. Financial reform has to be the first step in developing some confidence in the American people that this will not happen again.

We need regulations. I know regulation is a four-letter word to some. It is not to me. If ever there was a demonstration that we need regulations, it is this carnival of greed that happened in the last decade or so, where we had regulators come to town who said: I intend to be woefully blind. I know I will get paid by the Federal Government. I know I am supposed to be a regulator, but I want to boast about not being able to watch. I want the market system to be whatever it is.

The fact is, this should demonstrate to us we need regulators who will keep a watchful eye on the market system so they can call the fouls. We need referees. That is what regulators are for. When someone commits a foul that injures the free market system, they need to blow the whistle. We need effective regulatory authority. That is No. 1.

No. 2, deal with the issues we know are inappropriate. Never should an FDIC-insured institution be trading on unbelievably risky instruments on their own proprietary accounts. It is still going on today. We have to fix that.

No. 3, the issue of too big to fail. Have we not learned we can't have institutions that grow too big to fail without it being no-fault capitalism? I hear folks come and crow about the issue of the market system and free market capitalism. The fact is, when we have institutions that grow too big to fail, it means, when they steer the country into the ditch and they are about to go belly up, the American taxpayer is told: It is time for you to take some action. We intend to have you be a backstop for the biggest financial institutions in the country. We know they pay big bonuses. We know there are tens and tens of billions of dollars of bonuses being paid for failure, but we don't want you to pay attention to that, the fact that they lost a lot of money and paid big bonuses. We still

want you to bail them out because they are too big to be allowed to fail.

This country should no longer allow that. At the very least, we have to address this question of too big to fail. That is no-fault capitalism, and it should not be allowed to continue to exist. Financial reform is essential to restore confidence by the American people. That has to lead the list.

Second, the issue of fiscal policy and deficits. It is not irrelevant to understand we are running very large budget deficits that are unsustainable. It is relevant for this administration to point out that when you have a steep economic downturn, the deep recession we have experienced, you have a dramatic loss of revenue coming into the Federal Government, hundreds of billions in lost revenue. You have a very substantial amount of increased expenditures because there are economic stabilizers, such as unemployment compensation and other things, that when times are tough, they kick in and it costs more. So you have less revenue and higher cost. The fact is, this administration inherited this unbelievable fiscal policy of deciding let's cut taxes for the highest income Americans and then we will go to war and not ask anybody to pay for one penny of it. We will charge it all. We will charge all of it for 8 years.

This country is in a big hole. The fact is, we can't allow that to be a sustainable policy. We have to change it. The President knows it, so does the Congress.

If we are going to restore confidence by the American people in what we are doing, there needs to be a plan to address these very large budget deficits. We cannot continue to provide a level of government the American people are either unwilling or unable to pay for. That is a fact. In my judgment, with respect to this agenda of No. 1, financial reform; No. 2, addressing fiscal policy and deficits, we must develop together a plan to tame these Federal budget deficits and get this fiscal policy back on track. That is a fact.

While I am talking about it, let me also say budget deficits are unsustainable, especially in the out-years. I understand you run big deficits in the middle of the deepest recession. Your revenue is down, expenditures are up. I am talking about in the out-years. This is unsustainable, and we must come together on a plan to address it.

The other side of the deficit issue is the trade deficit. Trade deficits are unbelievable. We also have to respond to the trade deficits. That relates to what I had described about the fellow on the airplane going to move American jobs overseas. I have talked about this on the floor, but this chart shows the trade deficits we face. You can make a case on budget deficits that that is something we want to repay to ourselves. You can't make that case with

trade deficits. These are moneys we will have to repay to other countries. Last year we had an \$800 billion merchandise trade deficit. This is an avalanche of red ink that will have to be repaid. It weakens the country. This gets worse every single year.

The most important part of that is the trade deficit with China. Nearly one-third of this trade deficit is with China. This deficit increases year after year after year after year.

I have told forever on the floor—and I will again, ever so briefly—the story of Huffy bicycles. The first book I wrote, I wrote extensively about these products: Huffy bicycles; the little red wagons, the Radio Flyer; the Etch A Sketch—gone to China. They are all made in China. Huffy bicycles were made in Ohio.

All those folks who made Huffy bicycles and were proud of their jobs then lost their jobs. They all got fired. This bicycle still exists. You can still buy it. It is made in China. The brand is owned by the Chinese, and from \$11 an hour in Ohio that was paid to workers making the bicycle—\$11 an hour—this job went to China, where they have paid them 30 cents an hour, and have worked them 12 to 14 hours a day, 7 days a week. The question is this: Should Americans be asked to compete with that? Can they compete with that? The answer is: No, of course not.

If I might show a couple other points about what causes these trade deficits. As shown on this chart, 98 percent of the cars driven in South Korea are made in South Korea. Everybody understands why that is. South Korea wants it that way. They do not want American cars in South Korea, so virtually all the cars in South Korea are made in South Korea.

As shown on this chart, here is our bilateral automobile trade with South Korea. Last year, they sent us 730,000 cars to be sold in the United States. We were able to sell them 4,000 cars. Think of that: 730,000 Korean cars put on ships to be sold in the United States, and we were able to get 4,200 American cars into South Korea. It is going to be much worse with China, by the way.

My point is very simply, we have these giant trade deficits growing and growing and growing, combined with a fiscal policy deficit that is record high, and this is unsustainable. It is unsustainable. So we have to deal with financial reform, and we have to deal with deficits—fiscal policy deficits and trade deficits.

Then, finally, the issue is jobs. When I talk about restoring the economic strength of this country, it means talking about: How do you put people back to work? It is interesting to me that the Wall Street firms are reporting record profits, they are going to pay record bonuses, and so they have healed. They are all fine. It is just those 7.6 million people who lost their

jobs. They are still out there looking for work, and they ought to be plenty angry about what is going on. So the question is, How do we create jobs and keep jobs here? I want to talk about that for a moment.

It seems to me the issue of job creation—my colleagues Senators WARNER and CORKER have an idea that I have embraced that makes a lot of sense, and that is, job creation in most cases is a result of small and medium-sized businesses that have an idea and are running a business and putting people to work on Main Streets, and yet they are the very ones that cannot get lending. You need lending when you are in business. You need loan funds to finance your inventory and to expand, and so on. The very people who cannot get business loans are the very ones who would be creating the jobs.

So this Congress, without my vote, voted for \$700 billion in TARP funds to provide a pillow and some aspirin and some soft landing for some big financial firms in the country that ran the country's economy into the ditch. My colleagues suggest—and I agree—that we probably ought to convert just a portion of that—just a portion of that—to create a mechanism by which we would have a bank of small business loans that would be available to small and medium-sized businesses.

There is no excuse not to use some of those funds for the right purpose. If you believe they were appropriated for the wrong purpose—that is to help out the biggest firms that steered us into the ditch—how about helping out Main Street businesses that would create some jobs?

Second, I think we ought to finally consider—and we have talked about it for a long while—creating an infrastructure investment bank, and over a period of 30 years float the bonds that allow you to rebuild the infrastructure in this country that will put massive numbers of people back to work. We can do that. If you create it the right way with an infrastructure investment bank, you are not going to blow a hole in the Federal budget deficit, but you are going to put a lot of people back to work.

The issue that has been used previously during chronic eras of unemployment, which I think we should consider, is the issue of the new jobs tax credit. We did that in 1977 and 1978. The new jobs tax credit, it was reported, provided up to 2.1 million new jobs in this country. I think we ought to consider that.

Finally, we ought to end the disincentive for creating jobs by getting rid of these pernicious tax breaks that say: If you fire your workers and lock your plant and ship the whole thing overseas, we will give you a big fat tax break. Yes, that exists in tax law today. We cannot get it changed. It is outrageous, in my judgment. So let's

provide some incentives for people to hire employees in this country and end the disincentives by getting rid of tax breaks for those companies that ship their jobs out of the country.

There is a lot to do. I have described some big issues that, for me, would represent the top of the agenda. I know that is not the agenda we are on at the moment, and I understand that the play gets called, and we all run toward the same goalposts. But the facts is, this country, in my judgment, will not have the kind of economic recovery we need unless we put at the top of the agenda, as we move forward, the issue of financial reform, which my colleagues are working on in the Banking Committee. It is urgent we get that done. In my judgment, that should have been at the front of the agenda: the issue of fiscal policy, deficits and trade policy deficits and, finally, the issue of jobs.

I want to mention that there is one additional issue that has been kicked around, and that is climate change. As I said when I started this presentation, I do not think climate change is irrelevant at all. I think it is important. For me, it would not lead the set of issues that would require us first to put the economy back on track.

But with respect to the issue of climate change and energy, part of having confidence in the future is also having some energy security. Energy security and national security, in my judgment, go together in many ways. Because if tomorrow, God forbid, we had an interruption in the pipeline of oil that comes to this country, our economy would be flat on its back. About one-fourth of the 85 million barrels of oil that are taken out of this planet every day, has to come into this country. We have a prodigious appetite for energy. But the problem is, 70 percent of our nation's oil comes from other countries. Seventy percent of the oil we use comes from other countries.

We have a real energy security issue and we need to work hard to be less dependent on other countries—some of who do not like us very much—for the oil we need to run this American economy.

We wrote a bill about 4 months ago in the Senate Energy and Natural Resources Committee, a bill that deals with all of the energy policies that would make America more energy secure and provide greater national security as a result. The Senate Energy Committee's bill, in my judgment, should be on the floor of the Senate before the climate change bill. It does all the things in the matter of policy, that you would do to address climate change.

The Senate Energy Committee's legislation maximizes the use of renewable energy, so you can produce electricity where the wind blows, and the Sun shines, and move it through a

modern transmission system to the load centers where the energy is needed. The Senate Energy Committee's bill does the building retrofits and efficiencies, which are the lowest hanging fruit in energy. For the first time in history, it establishes a renewable electricity standard of 15 percent. It opens up the Eastern Gulf for offshore oil and natural gas production.

The Senate Energy Committee's legislation does all of the things you would do to take significant steps toward addressing climate change. The bill maximizes the production of renewable energy—it moves in exactly the right direction. Retrofitting buildings—it does exactly the right thing. The increase in the renewable electricity standard is exactly the right policy.

So I would say to those who are pushing very hard that we need to have climate change on the floor of the Senate. The fact is, it is much more important, in terms of public policy to move this country in the right direction, to bring the Senate Energy and Natural Resources Committee's bill on the floor. The Senate Energy Committee's bill includes a whole series of investments to make coal development, which is the most abundant resource in this country, more compatible with our need to address a lower carbon future.

Carbon capture and sequestration from coal development is very important. Carbon capture, beneficial use all of these investments require money, and we put some of that money in the Senate Energy Committee's bill so we can continue to use that resource as well.

The Senate Energy Committee's bill makes sense and, in my judgment, it ought to have a priority to come to the floor of the Senate after financial reform and deficits and jobs. Because all of that, I think, is necessary to address the very serious economic questions that face Americans.

Let me conclude by saying, I mentioned a few moments ago that we have these very large Federal budget deficits, and I think it would be useful to say that while there are expenditure cuts we should make—and there are plenty I have suggested; I think we should tighten our belts—there are other ways to begin to reduce the Federal budget deficit; and that is, to ask those who are not paying their fair share to pay some.

I want to describe that by showing a chart. This is a chart from a company that is part of their financial report. But I am doing this only to say this is a just a representation of many companies. But this one says: The United States Government is this company's largest single customer. The government operates in segments and supplies nuclear power systems, and so on. We are active in government-sponsored operations and research.

All right. So who is this company? This is a company that decided, in filing with the Securities and Exchange Commission, to say:

[The company] is a Panamanian corporation that has earned all of its income outside of Panama.

It is not really a Panamanian corporation. Well, it is legally now. But it used to be an American corporation that decided to do what is called an inversion; that means disavowing your U.S. citizenship and saying, as a corporation: I don't want to be an American citizen anymore. I want to be a citizen of Panama. So that is what this company did.

All right. We decided some while ago, if you want to decide not to be an American citizen, as a company, then do not tell us you want to keep doing business with the American Government. The only reason you want to invert and get rid of your American citizenship is to avoid paying U.S. taxes. So we say, if you do not want to pay U.S. taxes—do you know what?—you ought not get business from the Federal Government.

Well, this company did not like that so much. This company has 2007 revenues that were sheltered now because they inverted to Panama—2007 revenues—of \$2.6 billion.

It has taken the government a little longer than it should have to shut off these companies that inverted from doing business with the Federal Government. But now we have an understanding that one of the Federal agencies quietly approached the Appropriations Committee and asked to insert a clause in an appropriations bill which says that the contracting ban, which I have described, can only be administered consistent with U.S. international trade agreements. That was done because there is discussion of a trade agreement with Panama, and so with respect to the trade agreement with Panama, the contracting ban would be limited to not affect this company that inverted to Panama.

Isn't that interesting. Actually, we have people in government trying to help the company get Federal business once again, despite the fact that this company moved away to Panama as a legal address in order to avoid paying U.S. taxes. And it is not just this company.

Some long while ago, probably 2 years ago, I brought to the floor of the Senate—and many of my colleagues have since used this—this picture. When you talk about everybody paying their fair share, this is a picture of a little four-story building on Church Street in the Cayman Islands. It is called the Uglad House. This is actually the original chart I used about 2 years ago. There was some enterprising reporting by a reporter named Evans from Bloomberg. Mr. Evans from Bloomberg actually did the reporting on this.

This little white building on Church Street in the Cayman Islands was home to 12,748 corporations. They are not there. That is just a legal address, a figment created by lawyers, to say, if you run your mail through a mailbox in this building, you can avoid paying U.S. taxes.

Isn't that wonderful? I think it is unpatriotic. It is going on all the time. By the way, since I first used this chart, my understanding is, there are now not 12,000 corporations using this address; there are 18,000 corporations. Isn't that unbelievable?

My point is, when you talk about the need for fiscal policy reform—yes, let's cut some spending; let's tighten our belts—let's also ask some interests who decided they want all the benefits that America has to offer but they do not want to pay taxes, let's ask them to become tax-paying citizens, corporate tax-paying citizens once again. There is a lot to do, and I am convinced we can do it if we have the priorities straight.

Yesterday, it was interesting to me to hear that Warren Buffett purchased the Burlington Northern Railroad.

Berkshire Hathaway, the company owned by Warren Buffett, purchased Burlington Northern Railroad. He said he is betting on America. I know Warren Buffett. I have known him for years. I like him. He is a good guy. In fact, he is one of the smartest investors perhaps in the history of our country. He is betting on America. That is probably a pretty good bet. I don't know the details of his purchase of this railroad company, but it is probably a pretty good bet to bet on this country.

I mentioned previously that we had Warren Buffett to speak to our caucus some while ago and somebody asked him the question: What do you think the economy will be like in 6 months?

Warren Buffett said: I don't have the foggiest idea. That is not the way I think. I don't know what is going to happen 6 months from now or 16 months from now, but I will tell you this: I know what the economy is going to be like 6 years from now. It is going to be great.

He said: America always pulls itself up. Look at the couple hundred years of history, at the creativeness, the inventiveness, the ambition of the American people. It is just innate in the soul of the American people and its culture to just keep moving forward.

He said: This country is going to do fine. I don't know whether it is going to be 7 or 10 or 15 months or 5 years, but, he said, I believe this country is going to do well.

So I kind of smiled yesterday when I saw that he had purchased a railroad and said: I am betting on America.

I think this Congress should bet on America too, but America needs some help from this Congress. America needs a lot of help to deal with the issues I

have just described. I believe we can do that, but it is not going to happen unless we have some cooperation. We have gotten cooperation on nothing. By the way, just for interest's sake, we are now in this lengthy period, and we have had to burn 30 hours postcloture in 2 days, ripening cloture on everything, even on noncontroversial things, because there are people who don't want this institution to work. It doesn't make any sense to me. There ought not be two teams here; we all ought to be pulling for the same team.

Mr. President, I yield the floor.

(At the request of Mr. REID, the following statement was ordered to be printed in the RECORD.)

• Mrs. MCCASKILL. Mr. President, I rise to state my support for the extension of unemployment benefits that was included in H.R. 3548. Recent reports on gross domestic product by the Bureau of Economic Analysis indicate that we are out of the recession. However, unemployment is a lagging indicator, and we will need to see more GDP growth before employers start hiring again. In the meantime, families in Missouri and across the country are hurting. The unemployment rate in Missouri is 9.5 percent. American Airlines announced just last week that it would close its maintenance facility in Kansas City, and 490 workers are losing their jobs.

I believe we have a responsibility and an obligation to help good, hard working Americans who are struggling in these difficult times. To that end, the extension of unemployment benefits will provide a vital lifeline to people struggling to find work through one of the most severe recessions in our lifetime, and I fully support it.

I also strongly support inclusion in this bill of the provisions from the Service Members Homeownership Tax Act, which I introduced. These provisions will ensure that our troops deployed overseas this year and next will not be penalized for their service when they seek to buy their first homes. You cannot shop for a house while you are hunting al-Qaida in Afghanistan or supporting a diplomatic mission to NATO Allies, so it is only fair that service members have additional time to take advantage of the first-time homebuyer tax credit. This bill will give members of the armed, intelligence, and foreign services who were stationed abroad in 2009 or 2010 an additional year to qualify. It will also eliminate the "recapture" requirement for servicemembers. Unlike other recipients, they will not have to pay the credit back if they move within 3 years, as long as the relocation is service-related. Finally, Housing Assistance Program benefits that were expanded in the Recovery Act will be exempt from taxation. These temporary benefits are helping cushion the financial blow to military families who are



forced to sell their homes in the current, depressed market. Families who are reassigned or are relocating to seek treatment for service-related injuries are some of the biggest beneficiaries of the program. I would note that the cost of extending the first-time homebuyer tax credit for servicemembers will be less than one percent of a full extension of the credit, and that the cost was fully offset in the bill I introduced.

Unfortunately, H.R. 3548 went further than only taking care of our men and women in uniform. It also contains a fiscally irresponsible extension and expansion of the first-time homebuyer tax credit for many other Americans. I do not support this extension.

Congress created the first-time homebuyer credit last year as a timely, targeted, and temporary response to the housing crisis, designed to reduce excess housing inventories by encouraging home purchases. Judging from home sales over the past few months, the credit has helped stabilize the housing market. However, the Treasury Inspector General for Tax Administration has found serious instances of fraud within the program, and economists have suggested that extending the credit is not the most effective way of addressing the remaining problems in the housing market. Now that we are out of crisis, it is time to let the first-time homebuyer credit expire. We simply cannot continue to expand one-time programs from the stimulus and ever expect to return to a state of fiscal responsibility. If we say it is a one-time program, it should be a one-time program.

In conclusion, I applaud the important, commonsense steps we have taken for Americans looking for work and for military families. I am disappointed that a broad extension of the first-time homebuyer credit was included in this legislation. I would not have supported an extension of the credit independently. However, the positive elements of this bill outweigh the negative, and I support the overall bill. •

Mr. GRASSLEY. Mr. President, I would like to take a moment to express my concern about a provision included in the unemployment compensation bill before the Senate.

The provision I am concerned about deals with a reversal of a sound international tax policy reform. Back in 2004, Congress passed and President Bush signed a major bipartisan business tax reform bill. The centerpiece proposal in the international tax reform area was a restoration of the Finance Committee position from the 1986 Tax Reform Act on the treatment of interest for the purposes of the foreign tax credit.

This reform, known as World Wide Interest Apportionment, was due to take effect at the beginning of 2009, but its implementation was delayed for 2

years in order to pay for housing legislation enacted in July of 2008. I expressed my concerns at the time about delaying sound international tax policy in order to fund new spending priorities. However, my view lost out and the delay of this provision was used as an offset.

Now, here we are again, in need of revenue offset in order to fund other priorities. The proposal in the bill before us delays this important reform an additional 7 years, until December 31, 2017. I support the main provisions of the bill intended to provide relief to those struggling to find work by extending unemployment benefits and to provide a lift to the economy by extending the homebuyer tax credit and the expanded net operating loss carryback period for small businesses.

My opposition to this revenue offset rests in the bad tax policy this proposal represents. The interest allocation reform would, if allowed to take effect, lower the chance of double tax that arises under current law from the artificial overallocation of interest expense to foreign income, even when the debt is incurred to fund domestic investment. The current rules actually penalize domestic manufacturers that compete in global markets by making it more likely they will be double-taxed on their foreign income.

Several companies have spoken to my staff about the negative ramifications this delay will have on them. Some of these companies are just starting to grow their businesses beyond the U.S. borders. The delay of this important international reform will make it more costly for these companies to expand into these markets. If these companies cannot grow beyond the domestic economy, they will be unable to compete in the global marketplace.

Mr. President, I ask unanimous consent that a letter I received from John Deere explaining their concern about delaying the implementation of this provision be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DEERE & COMPANY,  
Moline, IL, October 22, 2009.

Hon. CHARLES GRASSLEY,  
Senate Finance Committee,  
Washington, DC.

DEAR SENATOR GRASSLEY: Deere and Company would like to reemphasize to you the importance of worldwide interest allocation and our strong desire that implementation of this provision not be further delayed by using the provision as a "pay for" for other issues. Further continued delays in implementing this provision will make U.S. companies less competitive with our foreign competitors.

We ask that you find a different offset to fund H.R. 3548, the Supplemental Appropriations, and oppose using the Reid-Baucus proposed delay of the interest allocation rules to offset other tax policy. U.S. based employers like Deere believe implementing World

Wide Interest Allocation is critically important international tax law.

THOMAS K. JARRETT,  
Vice President, Tax.

Mr. HARKIN. Mr. President, I want to speak in support of extending the unemployment insurance program, to provide up to 20 weeks of additional unemployment insurance benefits for out-of-work Americans and their families.

American workers are facing tough times. During the last recession, our country lost millions of good jobs—jobs that have never been replaced. And the downturn of the past 2 years, brought on by the subprime mortgage disaster and skyrocketing oil costs, has created a perfect storm leading to severe unemployment, with official unemployment approaching 10 percent. Today, 15.1 million Americans are out of work, and more than a third of them have been out of a job for 6 months or more. Unfortunately, the jobless rates jumps closer to 20 percent when you take into account the millions more who have given up looking for work, or can only find part-time work when they need full-time incomes.

In recent weeks we have seen signs that our economy is starting to turn the corner, with growth in consumer spending, improved home sales and expansion in some manufacturing industries. Thanks to the Recovery Act, we have also been able to keep teachers in the classroom, and get construction workers started on new jobs because this administration and this Congress made significant investments that saved or created these and hundreds of thousands of other jobs. But we know that achieving a full economic recovery won't happen overnight. As our economy gradually improves, American families will still need help to get by.

The recession has meant hardship for many thousands of families in my home state. Des Moines' nine food banks have seen a significant increase in demand. And organizations like the Salvation Army are also seeing a surge of requests for assistance with utilities, food, and clothing.

When a family member is out of work, times are particularly tough. One survey found that 70 percent of families with a person out of work reported having cut back spending on food and groceries. That is why it is important that we act now to extend unemployment insurance benefits.

The unemployment insurance program provides a vital safety net during times of economic hardship. Workers have paid into the system through their hard work, so when they are out of a job they deserve support to see them through tough times. These benefits are fundamental to helping families meet basic necessities—to provide a roof over their heads, to put food on the table, or to keep the heat on. A recent survey found that 90 percent of

people receiving unemployment benefits used them for just such necessities.

With over one-third of unemployed Americans out of a job for more than half a year, unemployment benefits have been a lifeline for these families. The critical nature of these benefits has enabled us to pass previous extensions with bipartisan support. Earlier this year we provided additional weeks of unemployment assistance and a small increase in workers' weekly benefits. Yet 400,000 workers ran out of benefits last month and another 200,000 exhausted their unemployment by the end of October. Over 30,000 Iowans have run out of State benefits since June.

Running out of unemployment support means even tougher times for Americans who are already strapped—and so I hope my colleagues will join me in supporting and quickly passing this extension of unemployment benefits.

The amendment before us will provide critical help to working families as our economy gets going again. Nationwide, it provides 14 additional weeks of benefits for workers who have run out of safety net support. In States where unemployment is at or above 8.5 percent, workers are eligible for 20 additional weeks of benefits. This amendment will provide much needed help to 1.9 million people across the country, including 31,000 in Iowa.

This help can't come too soon for hardworking men and women who are trying to hang on for better times ahead; people like Kimberly Anders, from West Des Moines, IA. She writes:

As an older person, I feel lost in the face of not being able to find a job, especially after I've worked hard my whole life and never once relied on any state or federal aid . . . now my unemployment is about to run out, and my hope with it . . .

Unemployment benefits help Michelle Paulson from Huxley, IA, who is trying to train for a new career while caring for her family. A mother of two, Michelle went back to community college after she was laid off by a window manufacturer last August. As the lagging economy continues to take its toll on Iowans, Michelle is pursuing a degree in advanced manufacturing. Unemployment benefits provide Michelle the safety net to meet basic needs for her family while building her own workforce skills.

The American people are counting on us to help them. It is time to act now.

Passing this amendment now will give people like Kimberly Anders and Michelle Paulson the immediate help they need. What's more, it will benefit them and all American workers in the long run by helping to get our economy back on track. That is because unemployment benefits provide a major, immediate boost to the economy. Economists calculate that every \$1 invested in the unemployment insurance safety net generates \$1.63 in economic activ-

ity. Unemployed households spend these dollars on immediate needs—to pay the rent or a medical bill, buy groceries and school supplies, or repair the family car—all economic activities that quickly inject dollars into our communities.

An extension of unemployment benefits gives workers and their families the support they need while people continue to look for work. And it provides a needed stimulus to the rest of our economy. I urge my colleagues to support this amendment and pass it without delay.

Mr. LEVIN. Mr. President, the measure we have before us is vital to the three-quarters of a million people in Michigan who are unemployed. It is vital to the 15.1 million Americans who are unemployed. It will keep them in their homes. It will keep their children fed and clothed.

It is also vital to the millions of American workers who remain employed, but are plagued by fear that they too will lose their job. Previous extensions of unemployment insurance benefits have played an underappreciated role in helping us avoid even greater economic collapse. There are businesses still open, neighborhoods still filled with families instead of foreclosed homes, wheels of commerce still turning because of the economic fuel these extensions have provided. This extension, too, means help not just for those facing a loss of benefits but for entire communities.

I am also pleased that this legislation extends the homebuyer tax credit which had been set to expire on November 30, 2009. This credit, which has helped pull the real-estate market from the depths of decline, will now be available until April 30, 2010. This legislation expands eligible recipients to tax payers who have owned their homes for more than 5 years. The credit will also provide additional relief to members of the military by eliminating the recapture requirement of the credit if they are forced to sell their home as a result of an official extension of duty.

So I am glad that we are ready to approve this legislation. I wish it had come sooner. During the debate and delay here in Washington, 7,000 unemployed Americans each day saw their unemployment benefits expire. By mid-October, 44,000 Michigan workers had exhausted their benefits, and that number will more than double by the end of the year if we do not act. The anxiety caused by our delays has been a tremendous hardship for families facing the loss of their benefits hardship made painfully clear by the calls and letters to my office from Michiganders desperate for any word on when Congress would act.

For a family battered by the loss of a job, fearing the loss of a home, wondering if life will ever be the same, fac-

ing such uncertainty requires genuine courage to hold onto hope. This extension of unemployment benefits is one important way we can help alleviate fear and help preserve that hope that is essential to persevere until times get better.

Mr. DURBIN. Mr. President, I ask unanimous consent that immediately after the adoption of this unanimous consent request, all postcloture time be yielded back, and the bill, as amended, be read a third time, that no points of order be in order, and the Senate then proceed to vote on passage of H.R. 3548; that upon passage, the Senate then proceed to executive session to consider Calendar No. 331, the nomination of Tara Jeanne O'Toole; and that once the nomination is reported, the Senate proceed to vote on confirmation of the nomination, with any statements relating to the nomination appearing at the appropriate place in the RECORD, as if read; that upon confirmation, the motion to reconsider be considered made and laid upon the table; that the President be immediately notified of the Senate's action and the Senate then resume legislative session; that on Thursday, November 5, after a period of morning business, the Senate consider the motion to proceed to the motion to reconsider the vote by which cloture was not invoked on the committee-reported substitute amendment to H.R. 2847, the Commerce-Justice-Science Appropriations Act; that the motion to proceed be agreed to and the motion to reconsider be agreed to; and that prior to the vote on the motion to invoke cloture on the substitute amendment, there be 40 minutes of debate, equally divided and controlled as follows: 20 minutes under the control of Senator VITTER and 20 minutes total for Senators MIKULSKI and SHELBY; that upon the use or yielding back of that time, the Senate proceed to vote on the motion to invoke cloture on the substitute amendment; further, that upon disposition of H.R. 2847, the Senate then proceed to the consideration of Calendar No. 106, H.R. 3082, the Military Construction/Veterans Affairs Appropriations Act; that immediately after the bill is reported, Senator JOHNSON or his designee be recognized to call up the substitute amendment, which is the text of S. 1407, the Senate committee-reported bill.

Mr. President, I wish to inform my colleagues that the unanimous consent request I just made has been cleared by both sides.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The amendment in the nature of a substitute was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill, as amended, pass?

Mr. DURBIN. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DURBIN. I announce that the Senator from West Virginia (Mr. BYRD) and the Senator from Missouri (Mrs. McCASKILL) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 98, nays 0, as follows:

[Rollcall Vote No. 334 Leg.]

#### YEAS—98

Akaka	Enzi	Menendez
Alexander	Feingold	Merkley
Barrasso	Feinstein	Mikulski
Baucus	Franken	Murkowski
Bayh	Gillibrand	Murray
Begich	Graham	Nelson (NE)
Bennet	Grassley	Nelson (FL)
Bennett	Gregg	Pryor
Bingaman	Hagan	Reed
Bond	Harkin	Reid
Boxer	Hatch	Risch
Brown	Hutchison	Roberts
Brownback	Inhofe	Rockefeller
Bunning	Inouye	Sanders
Burr	Isakson	Schumer
Burris	Johanns	Sessions
Cantwell	Johnson	Shaheen
Cardin	Kaufman	Shelby
Carper	Kerry	Snowe
Casey	Kirk	Specter
Chambliss	Klobuchar	Stabenow
Coburn	Kohl	Tester
Cochran	Kyl	Thune
Collins	Landrieu	Udall (CO)
Conrad	Lautenberg	Udall (NM)
Corker	Leahy	Vitter
Cornyn	LeMieux	Voinovich
Crapo	Levin	Warner
DeMint	Lieberman	Webb
Dodd	Lincoln	Whitehouse
Dorgan	Lugar	Wicker
Durbin	McCaIn	Wyden
Ensign	McConnell	

#### NOT VOTING—2

Byrd McCaskill

The bill (H.R. 3548), as amended, was passed, as follows:

#### H.R. 3548

*Resolved*, That the bill from the House of Representatives (H.R. 3548) entitled “An Act to amend the Supplemental Appropriations Act, 2008 to provide for the temporary availability of certain additional emergency unemployment compensation, and for other purposes.”, do pass with the following amendment:

Strike all after the enacting clause and insert the following:

#### SECTION 1. SHORT TITLE.

This Act may be cited as the “Worker, Homeownership, and Business Assistance Act of 2009”.

#### SEC. 2. REVISIONS TO SECOND-TIER BENEFITS.

(a) *IN GENERAL*.—Section 4002(c) of the Supplemental Appropriations Act, 2008 (Public Law 110-252; 26 U.S.C. 3304 note) is amended—

(1) in paragraph (1)—

(A) in the matter preceding subparagraph (A), by striking “If” and all that follows through “paragraph (2))” and inserting “At the time that the amount established in an individual’s account under subsection (b)(1) is exhausted”;

(B) in subparagraph (A), by striking “50 percent” and inserting “54 percent”;

(C) in subparagraph (B), by striking “13” and inserting “14”;

(2) by striking paragraph (2); and

(3) by redesignating paragraph (3) as paragraph (2).

(b) *EFFECTIVE DATE*.—The amendments made by this section shall apply as if included in the enactment of the Supplemental Appropriations Act, 2008, except that no amount shall be payable by virtue of such amendments with respect to any week of unemployment commencing before the date of the enactment of this Act.

#### SEC. 3. THIRD-TIER EMERGENCY UNEMPLOYMENT COMPENSATION.

(a) *IN GENERAL*.—Section 4002 of the Supplemental Appropriations Act, 2008 (Public Law 110-252; 26 U.S.C. 3304 note) is amended by adding at the end the following new subsection:

“(d) *THIRD-TIER EMERGENCY UNEMPLOYMENT COMPENSATION*.—

“(1) *IN GENERAL*.—If, at the time that the amount added to an individual’s account under subsection (c)(1) (hereinafter ‘second-tier emergency unemployment compensation’) is exhausted or at any time thereafter, such individual’s State is in an extended benefit period (as determined under paragraph (2)), such account shall be further augmented by an amount (hereinafter ‘third-tier emergency unemployment compensation’) equal to the lesser of—

“(A) 50 percent of the total amount of regular compensation (including dependents’ allowances) payable to the individual during the individual’s benefit year under the State law; or

“(B) 13 times the individual’s average weekly benefit amount (as determined under subsection (b)(2)) for the benefit year.

“(2) *EXTENDED BENEFIT PERIOD*.—For purposes of paragraph (1), a State shall be considered to be in an extended benefit period, as of any given time, if—

“(A) such a period would then be in effect for such State under such Act if section 203(d) of such Act—

“(i) were applied by substituting ‘4’ for ‘5’ each place it appears; and

“(ii) did not include the requirement under paragraph (1)(A) thereof; or

“(B) such a period would then be in effect for such State under such Act if—

“(i) section 203(f) of such Act were applied to such State (regardless of whether the State by law had provided for such application); and

“(ii) such section 203(f)—

“(I) were applied by substituting ‘6.0’ for ‘6.5’ in paragraph (1)(A)(i) thereof; and

“(II) did not include the requirement under paragraph (1)(A)(ii) thereof.

“(3) *LIMITATION*.—The account of an individual may be augmented not more than once under this subsection.”.

(b) *CONFORMING AMENDMENT TO NON-AUGMENTATION RULE*.—Section 4007(b)(2) of the Supplemental Appropriations Act, 2008 (Public Law 110-252; 26 U.S.C. 3304 note) is amended—

(1) by striking “then section 4002(c)” and inserting “then subsections (c) and (d) of section 4002”; and

(2) by striking “paragraph (2) of such section)” and inserting “paragraph (2) of such subsection (c) or (d) (as the case may be))”.

(c) *EFFECTIVE DATE*.—The amendments made by this section shall apply as if included in the enactment of the Supplemental Appropriations Act, 2008, except that no amount shall be payable by virtue of such amendments with respect to any week of unemployment commencing before the date of the enactment of this Act.

#### SEC. 4. FOURTH-TIER EMERGENCY UNEMPLOYMENT COMPENSATION.

(a) *IN GENERAL*.—Section 4002 of the Supplemental Appropriations Act, 2008 (Public Law 110-252; 26 U.S.C. 3304 note), as amended by section 3(a), is amended by adding at the end the following new subsection:

“(e) *FOURTH-TIER EMERGENCY UNEMPLOYMENT COMPENSATION*.—

“(1) *IN GENERAL*.—If, at the time that the amount added to an individual’s account under subsection (d)(1) (third-tier emergency unemployment compensation) is exhausted or at any time thereafter, such individual’s State is in an extended benefit period (as determined under paragraph (2)), such account shall be further augmented by an amount (hereinafter ‘fourth-tier emergency unemployment compensation’) equal to the lesser of—

“(A) 24 percent of the total amount of regular compensation (including dependents’ allowances) payable to the individual during the individual’s benefit year under the State law; or

“(B) 6 times the individual’s average weekly benefit amount (as determined under subsection (b)(2)) for the benefit year.

“(2) *EXTENDED BENEFIT PERIOD*.—For purposes of paragraph (1), a State shall be considered to be in an extended benefit period, as of any given time, if—

“(A) such a period would then be in effect for such State under such Act if section 203(d) of such Act—

“(i) were applied by substituting ‘6’ for ‘5’ each place it appears; and

“(ii) did not include the requirement under paragraph (1)(A) thereof; or

“(B) such a period would then be in effect for such State under such Act if—

“(i) section 203(f) of such Act were applied to such State (regardless of whether the State by law had provided for such application); and

“(ii) such section 203(f)—

“(I) were applied by substituting ‘8.5’ for ‘6.5’ in paragraph (1)(A)(i) thereof; and

“(II) did not include the requirement under paragraph (1)(A)(ii) thereof.

“(3) *LIMITATION*.—The account of an individual may be augmented not more than once under this subsection.”.

(b) *CONFORMING AMENDMENT TO NON-AUGMENTATION RULE*.—Section 4007(b)(2) of the Supplemental Appropriations Act, 2008 (Public Law 110-252; 26 U.S.C. 3304 note), as amended by section 3(b), is amended—

(1) by striking “and (d)” and inserting “, (d), and (e) of section 4002”; and

(2) by striking “or (d)” and inserting “, (d), or (e) (as the case may be))”.

(c) *EFFECTIVE DATE*.—The amendments made by this section shall apply as if included in the enactment of the Supplemental Appropriations Act, 2008, except that no amount shall be payable by virtue of such amendments with respect to any week of unemployment commencing before the date of the enactment of this Act.

#### SEC. 5. COORDINATION.

Section 4002 of the Supplemental Appropriations Act, 2008 (Public Law 110-252; 26 U.S.C. 3304 note), as amended by section 4, is amended by adding at the end the following new subsection:

“(f) *COORDINATION RULES*.—

“(1) *COORDINATION WITH EXTENDED COMPENSATION*.—Notwithstanding an election under section 4001(e) by a State to provide for the payment of emergency unemployment compensation prior to extended compensation, such State may pay extended compensation to an otherwise eligible individual prior to any emergency unemployment compensation under subsection (c), (d), or (e) (by reason of the amendments made by sections 2, 3, and 4 of the Worker, Homeownership, and Business Assistance Act of 2009), if such individual claimed extended compensation for at least 1 week of unemployment after the exhaustion of emergency unemployment compensation under subsection (b) (as such subsection was in effect on the day before the date of the enactment of this subsection).

“(2) *COORDINATION WITH TIERS II, III, AND IV*.—If a State determines that implementation

of the increased entitlement to second-tier emergency unemployment compensation by reason of the amendments made by section 2 of the Worker, Homeownership, and Business Assistance Act of 2009 would unduly delay the prompt payment of emergency unemployment compensation under this title by reason of the amendments made by such Act, such State may elect to pay third-tier emergency unemployment compensation prior to the payment of such increased second-tier emergency unemployment compensation until such time as such State determines that such increased second-tier emergency unemployment compensation may be paid without such undue delay. If a State makes the election under the preceding sentence, then, for purposes of determining whether an account may be augmented for fourth-tier emergency unemployment compensation under subsection (e), such State shall treat the date of exhaustion of such increased second-tier emergency unemployment compensation as the date of exhaustion of third-tier emergency unemployment compensation, if such date is later than the date of exhaustion of the third-tier emergency unemployment compensation."

#### SEC. 6. TRANSFER OF FUNDS.

Section 4004(e)(1) of the Supplemental Appropriations Act, 2008 (Public Law 110-252; 26 U.S.C. 3304 note) is amended by striking "Act;" and inserting "Act and sections 2, 3, and 4 of the Worker, Homeownership, and Business Assistance Act of 2009;"

#### SEC. 7. EXPANSION OF MODERNIZATION GRANTS FOR UNEMPLOYMENT RESULTING FROM COMPELLING FAMILY REASON.

(a) IN GENERAL.—Clause (i) of section 903(f)(3)(B) of the Social Security Act (42 U.S.C. 1103(f)(3)(B)) is amended to read as follows:

"(i) One or both of the following offenses as selected by the State, but in making such selection, the resulting change in the State law shall not supercede any other provision of law relating to unemployment insurance to the extent that such other provision provides broader access to unemployment benefits for victims of such selected offense or offenses:

"(I) Domestic violence, verified by such reasonable and confidential documentation as the State law may require, which causes the individual reasonably to believe that such individual's continued employment would jeopardize the safety of the individual or of any member of the individual's immediate family (as defined by the Secretary of Labor); and

"(II) Sexual assault, verified by such reasonable and confidential documentation as the State law may require, which causes the individual reasonably to believe that such individual's continued employment would jeopardize the safety of the individual or of any member of the individual's immediate family (as defined by the Secretary of Labor)."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply with respect to State applications submitted on and after January 1, 2010.

#### SEC. 8. TREATMENT OF ADDITIONAL REGULAR COMPENSATION.

The monthly equivalent of any additional compensation paid by reason of section 2002 of the Assistance for Unemployed Workers and Struggling Families Act, as contained in Public Law 111-5 (26 U.S.C. 3304 note; 123 Stat. 438) shall be disregarded after the date of the enactment of this Act in considering the amount of income and assets of an individual for purposes of determining such individual's eligibility for, or amount of, benefits under the Supplemental Nutrition Assistance Program (SNAP).

#### SEC. 9. ADDITIONAL EXTENDED UNEMPLOYMENT BENEFITS UNDER THE RAILROAD UNEMPLOYMENT INSURANCE ACT.

(a) BENEFITS.—Section 2(c)(2)(D) of the Railroad Unemployment Insurance Act, as added by

section 2006 of the American Recovery and Reinvestment Act of 2009 (Public Law 111-5), is amended—

(1) in clause (iii)—

(A) by striking "June 30, 2009" and inserting "June 30, 2010"; and

(B) by striking "December 31, 2009" and inserting "December 31, 2010"; and

(2) by adding at the end of clause (iv) the following: "In addition to the amount appropriated by the preceding sentence, out of any funds in the Treasury not otherwise appropriated, there are appropriated \$175,000,000 to cover the cost of additional extended unemployment benefits provided under this subparagraph, to remain available until expended."

(b) ADMINISTRATIVE EXPENSES.—Section 2006 of division B of the American Recovery and Reinvestment Act of 2009 (Public Law 111-5; 123 Stat. 445) is amended by adding at the end of subsection (b) the following: "In addition to funds appropriated by the preceding sentence, out of any funds in the Treasury not otherwise appropriated, there are appropriated to the Railroad Retirement Board \$807,000 to cover the administrative expenses associated with the payment of additional extended unemployment benefits under section 2(c)(2)(D) of the Railroad Unemployment Insurance Act, to remain available until expended."

#### SEC. 10. 0.2 PERCENT FUTA SURTAX.

(a) IN GENERAL.—Section 3301 of the Internal Revenue Code of 1986 (relating to rate of tax) is amended—

(1) by striking "through 2009" in paragraph (1) and inserting "through 2010 and the first 6 months of calendar year 2011";

(2) by striking "calendar year 2010" in paragraph (2) and inserting "the remainder of calendar year 2011"; and

(3) by inserting "(or portion of the calendar year)" after "during the calendar year".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to wages paid after December 31, 2009.

#### SEC. 11. EXTENSION AND MODIFICATION OF FIRST-TIME HOMEBUYER TAX CREDIT.

(a) EXTENSION OF APPLICATION PERIOD.—

(1) IN GENERAL.—Subsection (h) of section 36 of the Internal Revenue Code of 1986 is amended—

(A) by striking "December 1, 2009" and inserting "May 1, 2010";

(B) by striking "SECTION.—This section" and inserting "SECTION.—"

"(1) IN GENERAL.—This section", and

(C) by adding at the end the following new paragraph:

"(2) EXCEPTION IN CASE OF BINDING CONTRACT.—In the case of any taxpayer who enters into a written binding contract before May 1, 2010, to close on the purchase of a principal residence before July 1, 2010, paragraph (1) shall be applied by substituting 'July 1, 2010' for 'May 1, 2010'."

(2) WAIVER OF RECAPTURE.—

(A) IN GENERAL.—Subparagraph (D) of section 36(f)(4) of such Code is amended by striking "and before December 1, 2009".

(B) CONFORMING AMENDMENT.—The heading of such subparagraph (D) is amended by inserting "AND 2010" after "2009".

(3) ELECTION TO TREAT PURCHASE IN PRIOR YEAR.—Subsection (g) of section 36 of such Code is amended to read as follows:

"(g) ELECTION TO TREAT PURCHASE IN PRIOR YEAR.—In the case of a purchase of a principal residence after December 31, 2008, a taxpayer may elect to treat such purchase as made on December 31 of the calendar year preceding such purchase for purposes of this section (other than subsections (c), (f)(4)(D), and (h))."

(b) SPECIAL RULE FOR LONG-TIME RESIDENTS OF SAME PRINCIPAL RESIDENCE.—Subsection (c)

of section 36 of the Internal Revenue Code of 1986 is amended by adding at the end the following new paragraph:

"(6) EXCEPTION FOR LONG-TIME RESIDENTS OF SAME PRINCIPAL RESIDENCE.—In the case of an individual (and, if married, such individual's spouse) who has owned and used the same residence as such individual's principal residence for any 5-consecutive-year period during the 8-year period ending on the date of the purchase of a subsequent principal residence, such individual shall be treated as a first-time homebuyer for purposes of this section with respect to the purchase of such subsequent residence."

(c) MODIFICATION OF DOLLAR AND INCOME LIMITATIONS.—

(1) DOLLAR LIMITATION.—Subsection (b)(1) of section 36 of the Internal Revenue Code of 1986 is amended by adding at the end the following new subparagraph:

"(D) SPECIAL RULE FOR LONG-TIME RESIDENTS OF SAME PRINCIPAL RESIDENCE.—In the case of a taxpayer to whom a credit under subsection (a) is allowed by reason of subsection (c)(6), subparagraphs (A), (B), and (C) shall be applied by substituting '\$6,500' for '\$8,000' and '\$3,250' for '\$4,000'."

(2) INCOME LIMITATION.—Subsection (b)(2)(A)(i)(II) of section 36 of such Code is amended by striking "\$75,000 (\$150,000)" and inserting "\$125,000 (\$225,000)".

(d) LIMITATION ON PURCHASE PRICE OF RESIDENCE.—Subsection (b) of section 36 of the Internal Revenue Code of 1986 is amended by adding at the end the following new paragraph:

"(3) LIMITATION BASED ON PURCHASE PRICE.—No credit shall be allowed under subsection (a) for the purchase of any residence if the purchase price of such residence exceeds \$800,000."

(e) WAIVER OF RECAPTURE OF FIRST-TIME HOMEBUYER CREDIT FOR INDIVIDUALS ON QUALIFIED OFFICIAL EXTENDED DUTY.—Paragraph (4) of section 36(f) of the Internal Revenue Code of 1986 is amended by adding at the end the following new subparagraph:

"(E) SPECIAL RULE FOR MEMBERS OF THE ARMED FORCES, ETC.—

"(i) IN GENERAL.—In the case of the disposition of a principal residence by an individual (or a cessation referred to in paragraph (2)) after December 31, 2008, in connection with Government orders received by such individual, or such individual's spouse, for qualified official extended duty service—

"(I) paragraph (2) and subsection (d)(2) shall not apply to such disposition (or cessation), and

"(II) if such residence was acquired before January 1, 2009, paragraph (1) shall not apply to the taxable year in which such disposition (or cessation) occurs or any subsequent taxable year.

"(ii) QUALIFIED OFFICIAL EXTENDED DUTY SERVICE.—For purposes of this section, the term 'qualified official extended duty service' means service on qualified official extended duty as—

"(I) a member of the uniformed services,

"(II) a member of the Foreign Service of the United States, or

"(III) an employee of the intelligence community.

"(iii) DEFINITIONS.—Any term used in this subparagraph which is also used in paragraph (9) of section 121(d) shall have the same meaning as when used in such paragraph."

(f) EXTENSION OF FIRST-TIME HOMEBUYER CREDIT FOR INDIVIDUALS ON QUALIFIED OFFICIAL EXTENDED DUTY OUTSIDE THE UNITED STATES.—

(1) IN GENERAL.—Subsection (h) of section 36 of the Internal Revenue Code of 1986, as amended by subsection (a), is amended by adding at the end the following:

"(3) SPECIAL RULE FOR INDIVIDUALS ON QUALIFIED OFFICIAL EXTENDED DUTY OUTSIDE THE

UNITED STATES.—In the case of any individual who serves on qualified official extended duty service (as defined in section 121(d)(9)(C)(i)) outside the United States for at least 90 days during the period beginning after December 31, 2008, and ending before May 1, 2010, and, if married, such individual's spouse—

“(A) paragraphs (1) and (2) shall each be applied by substituting ‘May 1, 2011’ for ‘May 1, 2010’, and

“(B) paragraph (2) shall be applied by substituting ‘July 1, 2011’ for ‘July 1, 2010’.”.

(g) **DEPENDENTS INELIGIBLE FOR CREDIT.**—Subsection (d) of section 36 of the Internal Revenue Code of 1986 is amended by striking “or” at the end of paragraph (1), by striking the period at the end of paragraph (2) and inserting “, or”, and by adding at the end the following new paragraph:

“(3) a deduction under section 151 with respect to such taxpayer is allowable to another taxpayer for such taxable year.”.

(h) **IRS MATHEMATICAL ERROR AUTHORITY.**—Paragraph (2) of section 6213(g) of the Internal Revenue Code of 1986 is amended—

(1) by striking “and” at the end of subparagraph (M),

(2) by striking the period at the end of subparagraph (N) and inserting “, and”, and

(3) by inserting after subparagraph (N) the following new subparagraph:

“(O) an omission of any increase required under section 36(f) with respect to the recapture of a credit allowed under section 36.”.

(i) **COORDINATION WITH FIRST-TIME HOMEBUYER CREDIT FOR DISTRICT OF COLUMBIA.**—Paragraph (4) of section 1400C(e) of the Internal Revenue Code of 1986 is amended by striking “and before December 1, 2009.”.

(j) **EFFECTIVE DATES.**—

(1) **IN GENERAL.**—The amendments made by subsections (b), (c), (d), and (g) shall apply to residences purchased after the date of the enactment of this Act.

(2) **EXTENSIONS.**—The amendments made by subsections (a), (f), and (i) shall apply to residences purchased after November 30, 2009.

(3) **WAIVER OF RECAPTURE.**—The amendment made by subsection (e) shall apply to dispositions and cessations after December 31, 2008.

(4) **MATHEMATICAL ERROR AUTHORITY.**—The amendments made by subsection (h) shall apply to returns for taxable years ending on or after April 9, 2008.

## **SEC. 12. PROVISIONS TO ENHANCE THE ADMINISTRATION OF THE FIRST-TIME HOMEBUYER TAX CREDIT.**

(a) **AGE LIMITATION.**—

(1) **IN GENERAL.**—Subsection (b) of section 36 of the Internal Revenue Code of 1986, as amended by this Act, is amended by adding at the end the following new paragraph:

“(4) **AGE LIMITATION.**—No credit shall be allowed under subsection (a) with respect to the purchase of any residence unless the taxpayer has attained age 18 as of the date of such purchase. In the case of any taxpayer who is married (within the meaning of section 7703), the taxpayer shall be treated as meeting the age requirement of the preceding sentence if the taxpayer or the taxpayer's spouse meets such age requirement.”.

(2) **CONFORMING AMENDMENT.**—Subsection (g) of section 36 of such Code, as amended by this Act, is amended by inserting “(b)(4),” before “(c)”.

(b) **DOCUMENTATION REQUIREMENT.**—Subsection (d) of section 36 of the Internal Revenue Code of 1986, as amended by this Act, is amended by striking “or” at the end of paragraph (2), by striking the period at the end of paragraph (3) and inserting “, or”, and by adding at the end the following new paragraph:

“(4) the taxpayer fails to attach to the return of tax for such taxable year a properly executed

copy of the settlement statement used to complete such purchase.”.

(c) **RESTRICTION ON MARRIED INDIVIDUAL ACQUIRING RESIDENCE FROM FAMILY OF SPOUSE.**—Clause (i) of section 36(c)(3)(A) of the Internal Revenue Code of 1986 is amended by inserting “(or, if married, such individual's spouse)” after “person acquiring such property”.

(d) **CERTAIN ERRORS WITH RESPECT TO THE FIRST-TIME HOMEBUYER TAX CREDIT TREATED AS MATHEMATICAL OR CLERICAL ERRORS.**—Paragraph (2) of section 6213(g) of the Internal Revenue Code of 1986, as amended by this Act, is amended by striking “and” at the end of subparagraph (N), by striking the period at the end of subparagraph (O) and inserting “, and”, and by inserting after subparagraph (O) the following new subparagraph:

“(P) an entry on a return claiming the credit under section 36 if—

“(i) the Secretary obtains information from the person issuing the TIN of the taxpayer that indicates that the taxpayer does not meet the age requirement of section 36(b)(4),

“(ii) information provided to the Secretary by the taxpayer on an income tax return for at least one of the 2 preceding taxable years is inconsistent with eligibility for such credit, or

“(iii) the taxpayer fails to attach to the return the form described in section 36(d)(4).”.

(e) **EFFECTIVE DATE.**—

(1) **IN GENERAL.**—Except as otherwise provided in this subsection, the amendments made by this section shall apply to purchases after the date of the enactment of this Act.

(2) **DOCUMENTATION REQUIREMENT.**—The amendments made by subsection (b) shall apply to returns for taxable years ending after the date of the enactment of this Act.

(3) **TREATMENT AS MATHEMATICAL AND CLERICAL ERRORS.**—The amendments made by subsection (d) shall apply to returns for taxable years ending on or after April 9, 2008.

## **SEC. 13. 5-YEAR CARRYBACK OF OPERATING LOSSES.**

(a) **IN GENERAL.**—Subparagraph (H) of section 172(b)(1) of the Internal Revenue Code of 1986 is amended to read as follows:

“(H) **CARRYBACK FOR 2008 OR 2009 NET OPERATING LOSSES.**—

“(i) **IN GENERAL.**—In the case of an applicable net operating loss with respect to which the taxpayer has elected the application of this subparagraph—

“(I) subparagraph (A)(i) shall be applied by substituting any whole number elected by the taxpayer which is more than 2 and less than 6 for ‘2’,

“(II) subparagraph (E)(ii) shall be applied by substituting the whole number which is one less than the whole number substituted under subclause (I) for ‘2’, and

“(III) subparagraph (F) shall not apply.

“(ii) **APPLICABLE NET OPERATING LOSS.**—For purposes of this subparagraph, the term ‘applicable net operating loss’ means the taxpayer's net operating loss for a taxable year ending after December 31, 2007, and beginning before January 1, 2010.

“(iii) **ELECTION.**—

“(I) **IN GENERAL.**—Any election under this subparagraph may be made only with respect to 1 taxable year.

“(II) **PROCEDURE.**—Any election under this subparagraph shall be made in such manner as may be prescribed by the Secretary, and shall be made by the due date (including extension of time) for filing the return for the taxpayer's last taxable year beginning in 2009. Any such election, once made, shall be irrevocable.

“(iv) **LIMITATION ON AMOUNT OF LOSS CARRYBACK TO 5TH PRECEDING TAXABLE YEAR.**—

“(I) **IN GENERAL.**—The amount of any net operating loss which may be carried back to the

5th taxable year preceding the taxable year of such loss under clause (i) shall not exceed 50 percent of the taxpayer's taxable income (computed without regard to the net operating loss for the loss year or any taxable year thereafter) for such preceding taxable year.

“(II) **CARRYBACKS AND CARRYOVERS TO OTHER TAXABLE YEARS.**—Appropriate adjustments in the application of the second sentence of paragraph (2) shall be made to take into account the limitation of subclause (I).

“(III) **EXCEPTION FOR 2008 ELECTIONS BY SMALL BUSINESSES.**—Subclause (I) shall not apply to any loss of an eligible small business with respect to any election made under this subparagraph as in effect on the day before the date of the enactment of the Worker, Homeownership, and Business Assistance Act of 2009.

“(v) **SPECIAL RULES FOR SMALL BUSINESS.**—

“(I) **IN GENERAL.**—In the case of an eligible small business which made or makes an election under this subparagraph as in effect on the day before the date of the enactment of the Worker, Homeownership, and Business Assistance Act of 2009, clause (iii)(I) shall be applied by substituting ‘2 taxable years’ for ‘1 taxable year’.

“(II) **ELIGIBLE SMALL BUSINESS.**—For purposes of this subparagraph, the term ‘eligible small business’ has the meaning given such term by subparagraph (F)(iii), except that in applying such subparagraph, section 448(c) shall be applied by substituting ‘\$15,000,000’ for ‘\$5,000,000’ each place it appears.”.

(b) **ALTERNATIVE TAX NET OPERATING LOSS DEDUCTION.**—Subclause (I) of section 56(d)(1)(A)(ii) of the Internal Revenue Code of 1986 is amended to read as follows:

“(I) the amount of such deduction attributable to an applicable net operating loss with respect to which an election is made under section 172(b)(1)(H), or”.

(c) **LOSS FROM OPERATIONS OF LIFE INSURANCE COMPANIES.**—Subsection (b) of section 810 of the Internal Revenue Code of 1986 is amended by adding at the end the following new paragraph:

“(4) **CARRYBACK FOR 2008 OR 2009 LOSSES.**—

“(A) **IN GENERAL.**—In the case of an applicable loss from operations with respect to which the taxpayer has elected the application of this paragraph, paragraph (1)(A) shall be applied by substituting any whole number elected by the taxpayer which is more than 3 and less than 6 for ‘3’.

“(B) **APPLICABLE LOSS FROM OPERATIONS.**—For purposes of this paragraph, the term ‘applicable loss from operations’ means the taxpayer's loss from operations for a taxable year ending after December 31, 2007, and beginning before January 1, 2010.

“(C) **ELECTION.**—

“(i) **IN GENERAL.**—Any election under this paragraph may be made only with respect to 1 taxable year.

“(ii) **PROCEDURE.**—Any election under this paragraph shall be made in such manner as may be prescribed by the Secretary, and shall be made by the due date (including extension of time) for filing the return for the taxpayer's last taxable year beginning in 2009. Any such election, once made, shall be irrevocable.

“(D) **LIMITATION ON AMOUNT OF LOSS CARRYBACK TO 5TH PRECEDING TAXABLE YEAR.**—

“(i) **IN GENERAL.**—The amount of any loss from operations which may be carried back to the 5th taxable year preceding the taxable year of such loss under subparagraph (A) shall not exceed 50 percent of the taxpayer's taxable income (computed without regard to the loss from operations for the loss year or any taxable year thereafter) for such preceding taxable year.

“(ii) **CARRYBACKS AND CARRYOVERS TO OTHER TAXABLE YEARS.**—Appropriate adjustments in the application of the second sentence of paragraph (2) shall be made to take into account the limitation of clause (i).”.

(d) **ANTI-ABUSE RULES.**—The Secretary of the Treasury or the Secretary's designee shall prescribe such rules as are necessary to prevent the abuse of the purposes of the amendments made by this section, including anti-stuffing rules, anti-churning rules (including rules relating to sale-leasebacks), and rules similar to the rules under section 1091 of the Internal Revenue Code of 1986 relating to losses from wash sales.

(e) **EFFECTIVE DATES.**—

(1) **IN GENERAL.**—Except as otherwise provided in this subsection, the amendments made by this section shall apply to net operating losses arising in taxable years ending after December 31, 2007.

(2) **ALTERNATIVE TAX NET OPERATING LOSS DEDUCTION.**—The amendment made by subsection (b) shall apply to taxable years ending after December 31, 2002.

(3) **LOSS FROM OPERATIONS OF LIFE INSURANCE COMPANIES.**—The amendment made by subsection (d) shall apply to losses from operations arising in taxable years ending after December 31, 2007.

(4) **TRANSITIONAL RULE.**—In the case of any net operating loss (or, in the case of a life insurance company, any loss from operations) for a taxable year ending before the date of the enactment of this Act—

(A) any election made under section 172(b)(3) or 810(b)(3) of the Internal Revenue Code of 1986 with respect to such loss may (notwithstanding such section) be revoked before the due date (including extension of time) for filing the return for the taxpayer's last taxable year beginning in 2009, and

(B) any application under section 6411(a) of such Code with respect to such loss shall be treated as timely filed if filed before such due date.

(f) **EXCEPTION FOR TARP RECIPIENTS.**—The amendments made by this section shall not apply to—

(1) any taxpayer if—

(A) the Federal Government acquired before the date of the enactment of this Act an equity interest in the taxpayer pursuant to the Emergency Economic Stabilization Act of 2008,

(B) the Federal Government acquired before such date of enactment any warrant (or other right) to acquire any equity interest with respect to the taxpayer pursuant to the Emergency Economic Stabilization Act of 2008, or

(C) such taxpayer receives after such date of enactment funds from the Federal Government in exchange for an interest described in subparagraph (A) or (B) pursuant to a program established under title I of division A of the Emergency Economic Stabilization Act of 2008 (unless such taxpayer is a financial institution (as defined in section 3 of such Act) and the funds are received pursuant to a program established by the Secretary of the Treasury for the stated purpose of increasing the availability of credit to small businesses using funding made available under such Act), or

(2) the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation, and

(3) any taxpayer which at any time in 2008 or 2009 was or is a member of the same affiliated group (as defined in section 1504 of the Internal Revenue Code of 1986, determined without regard to subsection (b) thereof) as a taxpayer described in paragraph (1) or (2).

**SEC. 14. EXCLUSION FROM GROSS INCOME OF QUALIFIED MILITARY BASE REALIGNMENT AND CLOSURE FRINGE.**

(a) **IN GENERAL.**—Subsection (n) of section 132 of the Internal Revenue Code of 1986 is amended—

(1) in subparagraph (1) by striking “this subsection) to offset the adverse effects on housing values as a result of a military base realignment

or closure” and inserting “the American Recovery and Reinvestment Tax Act of 2009)”, and

(2) in subparagraph (2) by striking “clause (1) of”.

(b) **EFFECTIVE DATE.**—The amendments made by this act shall apply to payments made after February 17, 2009.

**SEC. 15. DELAY IN APPLICATION OF WORLDWIDE ALLOCATION OF INTEREST.**

(a) **IN GENERAL.**—Paragraphs (5)(D) and (6) of section 864(f) of the Internal Revenue Code of 1986 are each amended by striking “December 31, 2010” and inserting “December 31, 2017”.

(b) **CONFORMING AMENDMENT.**—Section 864(f) of the Internal Revenue Code of 1986 is amended by striking paragraph (7).

(c) **EFFECTIVE DATES.**—The amendments made by this section shall apply to taxable years beginning after December 31, 2010.

**SEC. 16. INCREASE IN PENALTY FOR FAILURE TO FILE A PARTNERSHIP OR S CORPORATION RETURN.**

(a) **IN GENERAL.**—Sections 6698(b)(1) and 6699(b)(1) of the Internal Revenue Code of 1986 are each amended by striking “\$89” and inserting “\$195”.

(b) **EFFECTIVE DATE.**—The amendments made by this section shall apply to returns for taxable years beginning after December 31, 2009.

**SEC. 17. CERTAIN TAX RETURN PREPARERS REQUIRED TO FILE RETURNS ELECTRONICALLY.**

(a) **IN GENERAL.**—Subsection (e) of section 6011 of the Internal Revenue Code of 1986 is amended by adding at the end the following new paragraph:

“(3) **SPECIAL RULE FOR TAX RETURN PREPARERS.**—

“(A) **IN GENERAL.**—The Secretary shall require that any individual income tax return prepared by a tax return preparer be filed on magnetic media if—

“(i) such return is filed by such tax return preparer, and

“(ii) such tax return preparer is a specified tax return preparer for the calendar year during which such return is filed.

“(B) **SPECIFIED TAX RETURN PREPARER.**—For purposes of this paragraph, the term ‘specified tax return preparer’ means, with respect to any calendar year, any tax return preparer unless such preparer reasonably expects to file 10 or fewer individual income tax returns during such calendar year.

“(C) **INDIVIDUAL INCOME TAX RETURN.**—For purposes of this paragraph, the term ‘individual income tax return’ means any return of the tax imposed by subtitle A on individuals, estates, or trusts.”.

(b) **CONFORMING AMENDMENT.**—Paragraph (1) of section 6011(e) of the Internal Revenue Code of 1986 is amended by striking “The Secretary may not” and inserting “Except as provided in paragraph (3), the Secretary may not”.

(c) **EFFECTIVE DATE.**—The amendments made by this section shall apply to returns filed after December 31, 2010.

**SEC. 18. TIME FOR PAYMENT OF CORPORATE ESTIMATED TAXES.**

The percentage under paragraph (1) of section 202(b) of the Corporate Estimated Tax Shift Act of 2009 in effect on the date of the enactment of this Act is increased by 33.0 percentage points.

Mr. HARKIN. Mr. President, I move to reconsider the vote.

Mr. WHITEHOUSE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

(At the request of Mr. REID, the following statement was ordered to be printed in the RECORD.)

• Mr. BYRD. Mr. President, it is a moral responsibility for a great nation

to help provide for its citizens when they are in dire economic circumstances. There are more than 30,000 workers in West Virginia who have exhausted their regular unemployment benefits, and thousands of them have already received their final payment of emergency unemployment benefits. These workers and their families are relying on this unemployment extension bill to survive. Later this year, many more unemployed workers will be counting on the Congress to take action to extend provisions contained in the stimulus bill, in order to be able to purchase health insurance. Congress must not fail them.

I am very pleased that the Senate has passed this unemployment extension measure, which provides a lifeline for families who are barely hanging on. •

**EXECUTIVE SESSION**

**NOMINATION OF TARA JEANNE O'TOOLE TO BE UNDER SECRETARY FOR SCIENCE AND TECHNOLOGY**

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to executive session to consider the following nomination, which the clerk will report.

The legislative clerk read the nomination of Tara Jeanne O'Toole, of Maryland, to be Under Secretary for Science and Technology, Department of Homeland Security.

Mr. MCCAIN. Mr. President, I understand the Senate is proceeding to the consideration of the nomination of Dr. Tara O'Toole to serve as Under Secretary for the Science and Technology Directorate at the Department of Homeland Security. This nomination has not been available for consideration until now because I was waiting for Dr. O'Toole to answer the nearly two dozen questions I submitted to her during the past month. As of Monday, she has answered each question.

While I continue to have concerns about this nominee failing to disclose her activities as strategic director for the Alliance for Biosecurity, I will not hold up consideration of her nomination. A September 8, 2009 article in the Washington Times referred to the Alliance as a “lobbying group funded by the pharmaceutical industry.”

Specifically, the article stated, “The alliance has spent more than \$500,000 lobbying Congress and federal agencies—including Homeland Security—since 2005, congressional records show. However, Homeland Security officials said Dr. O'Toole need not disclose her ties to the group on her government ethics form because the alliance is not incorporated . . . Analysts say the lack of disclosure reflects a potential loophole in the policies for the Obama administration, which has boasted about



its efforts to make government more transparent."

The article continued:

They also question lobbying laws that allow such a group to spend hundreds of thousands of dollars without the public knowing exactly how much money each of the companies that belongs to the group contributes, though such arrangements are permitted under the law . . . Ethics rules require nominees to report any paid or unpaid positions held outside of government, including but not limited to those of "officer, trustee, general partner, representative, employee or any consultant of any corporation, firm, partnership or other business enterprise." Dr. O'Toole signed a letter on behalf of the group sent to the White House as recently as March.

I put forward numerous questions to Dr. O'Toole about her "stealth lobbying" on behalf of the Alliance. She repeatedly answered that her "activities did not constitute lobbying." I also asked numerous questions about her involvement in securing an earmark for the Center for BioSecurity at the University of Pittsburgh Medical Center. She provided answers to the questions and stated that although she provided a statement for the media in support of the earmark, she did not provide any assistance in lobbying Congress for the earmark.

Elections have consequences, and while she would not have been the nominee I would have chosen for this position, she is the President's choice.

I ask unanimous consent that the September 8, 2009, Washington Times article be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Times, Sept. 8, 2009]

OBAMA NOMINEE OMITTED TIES TO BIOTECH  
(By Jim McElhatton)

President Obama's nominee at the Department of Homeland Security overseeing bioterrorism defense has served as a key adviser for a lobbying group funded by the pharmaceutical industry that has asked the government to spend more money for anthrax vaccines and biodefense research.

But Dr. Tara O'Toole, whose confirmation as undersecretary of science and technology is pending, never reported her involvement with the lobbying group called the Alliance for Biosecurity in a recent government ethics filing.

The alliance has spent more than \$500,000 lobbying Congress and federal agencies—including Homeland Security—since 2005, congressional records show.

However, Homeland Security officials said Dr. O'Toole need not disclose her ties to the group on her government ethics form because the alliance is not incorporated: "There's no legal existence so she wouldn't have to disclose it," said Robert Coyle, an ethics official for the Department of Homeland Security.

Analysts say the lack of disclosure reflects a potential loophole in the policies for the Obama administration, which has boasted about its efforts to make government more transparent. They also question lobbying laws that allow such a group to spend hundreds of thousands of dollars without the

public knowing exactly how much money each of the companies that belongs to the group contributes, though such arrangements are permitted under the law.

"You're not allowing the public to know the full background of this nominee," said Judy Nadler, a senior fellow at the Markkula Center for Applied Ethics at Santa Clara University in California. "It shouldn't matter whether it's incorporated or not."

Craig Holman, legislative director of the nonpartisan watchdog group Public Citizen, said the lack of disclosure "definitely and clearly runs counter to the intent of the law."

Ethics rules require nominees to report any paid or unpaid positions held outside of government, including but not limited to those of "officer, trustee, general partner, representative, employee or any consultant of any corporation, firm, partnership or other business enterprise. . . ." Dr. O'Toole signed a letter on behalf of the group sent to the White House as recently as March.

Dr. O'Toole declined to comment for this article. Her office referred questions to Mr. Coyle at Homeland Security and to officials for the Alliance for Biosecurity, who said the group is in "full compliance" with lobbying rules and noted that there were no financial ties between the Center for Biosecurity, where Dr. O'Toole is chief executive, and the lobbying group she help found.

In written testimony to Congress, Dr. O'Toole said the alliance was "created to protect the Center for Biosecurity's status as an honest broker between the biopharma companies and the U.S. government."

As undersecretary of science and technology, one of Dr. O'Toole's responsibilities would involve overseeing the department's chemical and biological division, which is in charge of making sure the nation is prepared to defend itself against chemical and biological attacks.

Dr. O'Toole was nominated less than four years after the alliance was formed in 2005. She has served as the group's unpaid strategic director and has signed her name on more than a dozen letters sent to Congress and federal agencies.

The group's letters to policymakers often seek more money for research and vaccines. She signed the letters as the group's strategic director, in addition to listing her full-time paid job as director of the Center for Biosecurity, which is affiliated with the University of Pittsburgh.

The letters, including one that Dr. O'Toole sent to House Speaker Nancy Pelosi, California Democrat, last fall, describe the Alliance for Biosecurity as a "collaboration" among the Center for Biosecurity of the University of Pittsburgh Medical Center, pharmaceutical companies and biotechnology companies "working to develop vaccines, medicines and other medical countermeasures for the nation's Strategic National Stockpile."

Members include companies such as Pfizer Inc., Sig Technologies and PharmAthene Inc. The group discloses the letters and list of members on a Web site.

But for all its lobbying and letters to Congress, the alliance isn't incorporated, it doesn't have a bank account and its day-to-day operations are overseen by the K Street lobbying arm of Drinker Biddle & Reath LLP, which also lobbies on behalf of the alliance, according to records and interviews.

The alliance's legal counsel, Anita Cicero, is also a Drinker Biddle lawyer who serves as a lobbyist for the group. In an e-mail response to questions about the alliance, Ms.

Cicero said the group was formed to work "in the public interest to improve prevention and treatment of severe infectious diseases—particularly those diseases that present global security challenges in the 21st century."

Ms. Cicero described the lobbying activities as focusing on broad issues. "The overarching advocacy issues we address run across the industry, and we do not conduct lobbying activities to advance the commercial interests of any individual member company," she said.

Still, a review of the group's correspondence to federal lawmakers along with member companies' public disclosures to investors show that the lines between advocacy and commercial interests aren't always clear.

In an Oct. 31 letter to Mrs. Pelosi signed by Dr. O'Toole and two other alliance officials, the group called on Congress to include more than \$900 million for the "advanced development of medical countermeasures" to be administered by the Biomedical Advanced Research and Development Authority.

The letter also was signed by the chief executive officer of member company PharmAthene, David Wright, who was one of the two first co-chairmen for the alliance after its creation in 2005.

Mr. Wright's company has a big financial interest in securing work from the authority, according to investor filings. A Securities and Exchange Commission filing last summer disclosed that PharmAthene has been trying to win a contract administered by the authority to supply 25 million doses of an anthrax vaccine to the national stockpile, which is overseen by the Department of Health and Human Services.

As undersecretary, Dr. O'Toole wouldn't be directly responsible for decisions on which vaccines to develop or buy. Still, she would oversee the government's threat assessments on the risks of bioagents.

Dr. O'Toole has told the Senate in written testimony that she would adhere to all ethics rule on conflicts of interests, but that because she has no financial interest in PharmAthene, she's not aware of any recusal requirements if she were to become involved in decisions concerning government funding for anthrax vaccine development.

Ethics groups say the alliance's setup is an example of what critics call "stealth lobbying," in which like-minded companies form a loosely knit compact and spend lots of money lobbying the government. The arrangement is legal, but it exposes loopholes that prevent the public from finding out how much money each company pays and whether one business exerts more control over the others.

Ms. Cicero said the group is complying with all applicable federal laws and that the alliance discloses on a Web site its membership list and correspondence to the White House, Congress and federal agencies. She said the companies pay a "pro rata" share to the Drinker Biddle & Reath firm.

"The alliance does not generate income, does not have a bank account and does not owe taxes," she said.

Ms. Cicero said the law firm "regularly convenes consortia of biopharma companies that share common goals or interests and provides secretarial and legal support for the groups." She said the alliance was formed so companies, academic institutions and the government could work together to "accelerate the development of therapeutic and vaccine countermeasures."

Ms. Cicero said Dr. O'Toole no longer has an active role as the strategic director for the alliance.



Another lobbying client of the firm, the International Pharmaceutical Aerosol Consortium, appears structured similarly. There are no records of any incorporation papers for that group, either. The group has a Web site listing several pharmaceutical companies as members, and Senate records show it has paid more than \$250,000 to Drinker, Biddle & Reath since 2007.

Government watchdog groups acknowledge that the arrangement is legal but say it seems at odds with lobbying reform laws that were intended to shed more light on who bankrolls and controls special interest groups.

"At the end of the day, companies that form coalitions like this are being able to get around having to disclose the full breadth of who they are and what they're doing," said Dave Levinthal, a spokesman for the nonpartisan Center for Responsive Politics. "Does that cut against an open and transparent government? It appears that it does."

"Stealth lobbying has been taking place for years and despite the focus on the influence of lobbying, what's happening is that organizations are finding, if not loopholes, then ways around the spirit of the law," he said. "Companies that are lobbying Congress are not necessarily disclosing the full strength of their lobbying."

Mr. LEVIN. Mr. President, I cannot support the nomination of Dr. Tara O'Toole to be the Under Secretary for Science and Technology at the Department of Homeland Security.

By its nature, this position requires a disinterested scientific approach to issues affecting homeland security. It is a position which the Department of Homeland Security and its policymakers must rely on for objective advice and counsel.

Dr. O'Toole fell short of the strict adherence to scientific principles when she was the director of the Johns Hopkins Center for Civilian Biodefense Strategies. Dr. O'Toole was one of the principal designers and authors of the June 2001 Dark Winter exercise that simulated a covert attack on the United States by bioterrorists.

The Dark Winter exercise had a deadly serious purpose: to assess the vulnerability of the United States to a biological weapons attack and our ability to deal with such an attack.

But many top scientists have said that the Dark Winter exercise was based on faulty and exaggerated assumptions about the transmission rate of smallpox.

Dr. James Koopman of the Department of Epidemiology at the University of Michigan, an expert at modeling the transmission rates of infectious diseases who participated in the smallpox eradication program, has said that Dr. O'Toole "has not sought balanced scientific input in her thinking, that she shows a lack of analytic orientation to scientific issues, and that she has generated hype about bioterrorism that she will feel obligated to defend rather than pursue a balanced approach."

Dr. Anthony Fauci, the Director of the National Institute of Allergy and

Infectious Diseases, told me that the conclusions of the Dark Winter exercise were "dramatically affected" by the assumptions that were used, and that these assumptions were "much, much worse than would have been the case" in real life.

Dr. Michael Lane, the former Director of the Centers For Disease Control Smallpox Eradication Program—who has had extensive and first-hand experience with the disease—found the assumptions about smallpox transmission rates in the Dark Winter exercise "improbable" and even "absurd."

The transmission rate of smallpox was not the only area where Dr. O'Toole exaggerated the facts. On February 19, 2002, she wrote that "Many experts believe that the smallpox virus is not confined to these 2 official repositories [1 in the United States and 1 in Russia] and may be in the possession of states or subnational groups pursuing active biological weapons programs." This statement referenced a New York Times article of June 13, 1999, for support of that very startling statement about "subnational groups." But the article she cited made no reference to any subnational or terrorist or nonstate group possessing active biological weapons programs.

Bioterrorism poses a serious threat to our national security. But it is one of many threats we face. All threats to our security must be addressed objectively and scientifically so that we spend our resources in the most effective way possible to address the most likely and most dangerous threats. Exaggerations for the purpose of influencing policy makers do a disservice and result in the misallocation of limited resources that must be utilized wisely and objectively in order to enhance our security.

Mr. LIEBERMAN. Mr. President, I rise today to urge my colleagues to take up and approve the nomination of Dr. Tara O'Toole to be Under Secretary of Science and Technology at the Department of Homeland Security.

When the Homeland Security and Governmental Affairs Committee held its confirmation hearing on Dr. O'Toole's nomination I said I believed it was an "inspired choice."

My judgment remains unchanged and I would note that her nomination was reported out of committee favorably on a bipartisan basis with just one dissenting Democratic vote.

I would also note that DHS Secretary Janet Napolitano has been pleading with the Senate to confirm Dr. O'Toole. Secretary Napolitano has said that Dr. O'Toole's biosecurity and epidemiology expertise are critical to DHS and to her, personally. The Secretary's urgency is heightened because of the critical roles Dr. O'Toole will play in both defending our Nation against bioterrorism and in the continuing preparations for the H1N1 flu pandemic.

Let's consider the tough job Dr. O'Toole has been asked to take on and then consider the qualifications she brings to it.

The Science and Technology Directorate is charged with managing our Nation's investments in homeland security research and development projects with the goal of providing its customers within and without the DHS the kinds of state-of-the-art technologies they need to achieve their missions.

The S&T Directorate got off to a rocky start and struggled in its early years to clarify and execute its primary mission. Former Under Secretary Jay M. Cohen resolved to build a leaner and more tightly managed organization that focused on better serving its customers and being transparent with Congress. He implemented internal controls to monitor S&T finances and track the progress of S&T investments. He established a structured strategic planning process that is designed to produce specific objectives and annual performance measures.

But despite this progress, big challenges await the new undersecretary, including expanding investments in innovative R&D for homeland security—like the advanced spectroscopic portal, ASP, and the secure border initiative—and insuring the reliability of the a testing and evaluation that DHS relies on for large acquisition programs.

Programs like these can be force multipliers for DHS's customers within and without the department.

Now let's consider the resume Dr. O'Toole brings to the job—both as a medical professional and as a manager.

Let's start with Dr. O'Toole's solid and impressive educational background: a bachelor's degree from Vassar College, a medical degree from George Washington University, and a master of public health degree from Johns Hopkins University.

Now let's consider her management skills: From 1989 to 1993 she served as a senior analyst and project director with the Congressional Office of Technology Assessment; from 1993 to 1997, she served as the Assistant Secretary for Environment, Safety and Health at the Department of Energy.

From 1999 to 2003, she managed the Johns Hopkins Center for Civilian Biodefense Strategies. For the last 6 years, she has served as the Director and Chief Executive Officer of the Center for Biosecurity at the University of Pittsburgh.

On top of all this, Dr. O'Toole is also an accomplished author.

She has published her research on anthrax, smallpox, the plague, biological attacks, containment of contagious disease epidemics, biodefense, and hospital preparedness. She is coeditor in chief of the Journal of Biosecurity and Bioterrorism.

And she took all this knowledge she has gained over these many years and

used it to help create the 2001 bio-terror attack simulation known as "Operation Dark Winter" that helped open our eyes to our many vulnerabilities.

Dr. O'Toole is also a former chair of the board of the Federation of American Scientists and she has participated in major studies or advisory panels at the request of the National Science Foundation, the Department of Defense, the Department of Health and Human Services and the Department of Homeland Security.

Besides these many qualifications, another important measure of her fitness for this post is the bipartisan respect she has earned across the government and scientific communities that monitor homeland security and bioterrorism challenges.

Among her many supporters are: Former Senators Bob Graham and Jim Talent, Chairman and Cochairman of the Commission on the Prevention of WMD Proliferation and Terrorism; former DHS Secretary Tom Ridge; former Senator and defense expert Sam Nunn; former National Security Adviser to Presidents Gerald Ford and George H.W. Bush, Brent Scowcroft, as well as Dr. Robert P. Kadlec, former Special Assistant for Biodefense Policy at the Homeland Security Council under President Bush; Dr. D.A. Henderson, who led the World Health Organization's efforts to rid the world of smallpox, and the Federation of American Scientists.

Dr. O'Toole brings a remarkable breadth of experience to this job that is so crucial to our nation's security and I say again she is an inspired choice and I urge my 3 colleagues to take up her nomination and confirm her to this position where our nation so desperately needs her talents.

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the nomination of Tara Jeanne O'Toole, of Maryland, to be Under Secretary for Science and Technology, Department of Homeland Security?

The nomination was confirmed.

The PRESIDING OFFICER. Under the previous order, the motion to reconsider is laid upon the table, and the President will be immediately notified of the Senate's action.

#### LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now return to legislative session.

Mr. WHITEHOUSE. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. WHITEHOUSE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. BENNET). Without objection, it is so ordered.

#### MORNING BUSINESS

Mr. WHITEHOUSE. Mr. President, I ask unanimous consent that there now be a period for the transaction of morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### ORDER OF PROCEDURE

Mr. WHITEHOUSE. Mr. President, I ask unanimous consent that the next hour be controlled by the Democratic side; that colloquies be allowed among the speakers; and that the speakers be recognized, first, the Senator from New Jersey, Mr. LAUTENBERG, then the Senator from Oregon, Mr. MERKLEY, and then as recognition may be sought on the Democratic side after that.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WHITEHOUSE. One further unanimous consent request, Mr. President. I ask unanimous consent that Senator STABENOW follow Senator MERKLEY after Senator LAUTENBERG has spoken.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from New Jersey is recognized.

#### HEALTH CARE REFORM

Mr. LAUTENBERG. Mr. President, I thank my colleagues for giving me an opportunity to talk for a few minutes about health care as we try to understand what brings us to this point with a shred of rage, trying to maintain the dignity of our society.

We are on the verge of fixing our health care system once and for all, but there is one major obstacle in our way. The obstacle I talk about is the health insurance companies, their lobbyists, CEOs, and their friends on the other side of the aisle. We can call this group the status quo caucus. They are spending unlimited funds on TV commercials and bogus studies to kill health reform. That is their mission. Think about it. They define their goal, their objective, as articulated by our colleague from South Carolina, as saying: If we can stop this health care reform from continuing, it can be the end of the Obama Presidency, it can be his Waterloo.

What kind of an objective is that, that we put politics at the top end as we ignore millions of people, over 40 million people who do not have any insurance, and many of the others who do have insurance do not have a complete picture about what their policies permit or what they might lose by way of restrictions.

This is an outrage. The public is manifesting their concern. They are not sure about what they hear, the derogatory material they see—don't do this, don't do that, no public option,

and let's take our country back. I don't know whom they are talking about. Whose country? It is our country. It is everybody's country. There is no monopoly here for participation in American society.

We hear the worst kinds of assertions about what we are trying to do—turning this country into a Socialist country. What has happened would be almost humorous if it were not so tragic; that is, for people who are on Medicare to be concerned about government interfering with their lives. Medicare is a government program, one of the most successful ever put into the structure of our country.

While this group of obstructionists goes about their business, "don't let it happen" is their mission. I just told you how it is demonstrated in the words of the Senator from South Carolina.

The insurance companies are spending millions on TV commercials and bogus studies to kill health care reform. Quenching their thirst for profits has led to some of the worst predatory practices imaginable. This is an industry that will knowingly strip children of their health care coverage when a parent loses a job. This is an industry that demeans women by treating pregnancy and domestic violence as pre-existing conditions—anything to escape their obligations under their insurance policies, for which they charge a lot of money. This is an industry that squeezes small businesses by charging them 18 percent more than they do large firms for the same health insurance policies.

The priority of the health industry is not patients, it is profits. In the richest Nation in the world, decent health care should be a basic tenet of life for everyone in our society. But that is not the way it is going and that is not the way the health insurance companies look at it. Their single-minded drive for profits is at the expense of their policyholders—policyholders who depend on them for care when they are sick or injured and when they need medical or health professional assistance.

We have a chart that demonstrates the massive profit increases at some of our largest health insurance companies for the years 2000 to 2008. These are the profit increases at health insurance companies. This is 2000 and this is 2008. How can we forget 2008, when our country was coming apart at the seams, deep in recession and terrible expectations in front of us, with people losing their jobs and losing their homes by the millions. Yes, 2008 was that kind of a year. It was a disaster year, except for the guys who were in the health insurance business.

In 2000, the profit for WellPoint, one of the best-known companies, was \$226 million. Eight years later, their profit was \$2.5 billion. Note this: \$226 million and \$2.5 billion, for a 1000-percent increase. For Aetna, \$127 million in 2000;

in 2008, \$1.4 billion. Think about it—\$127 million to \$1.4 billion, for a 990-percent increase. Humana, in 2000, had a \$90 million profit year, but by 2008 they were up to \$647 million, for a 619-percent increase. United Health had \$736 million worth of profit in the year 2000, and in 2008 these guys made \$3 billion, for a 340-percent increase. That is \$736 million compared to \$3 billion, for a 304-percent increase.

In assure you working people were not looking at these kinds of increased percentages in their incomes. As a matter of fact, their purchasing power declined. Even though salaries may have stayed the same or have been increased by some factor, their purchasing power decreased.

Humana, we recently learned, achieved these profits largely by cheating taxpayers, by taking funds that were supposed to be subsidies for lower rates for their policyholders but, in fact, they went into the company's profits.

Just like the industry's profits have risen, so has CEO compensation. Over the last 20 years, compensation for health insurance company CEOs has grown steadily while workers' pay has barely moved. The average compensation package for each of the top five health insurance company executives between 2006 and 2008 was almost \$15 million a year.

I ran a fairly large company before I came to the Senate, and I think earning a profit is good. I think it is appropriate to keep your books honestly, tell the company to be transparent, tell the country exactly what your profits are, how it was earned, what your expenses were, what your revenues were. The company I ran is a company called ADP. I started it with two other fellows. They, like I, came from poor, working-class families who worked in the mills in Paterson, NJ. We worked very hard. That company today has 46,000 employees in 26 countries across the world. We started in Paterson, NJ, in a dumpy hotel building where we could rent space. So I know something about balance sheets, financial statements, and profitability. I think that profit is a good thing.

But it is one thing if you are manufacturing lawnmowers and another thing if you are providing health care and the squeeze on the profit side comes out of people's lives; comes out of creating suffering and fear of loss of coverage.

The average salary for these insurance company executives was almost \$15 million each year—each CEO—while a year's pay for the average worker during that same time was about \$44,000. Imagine, these people are working in the shops, moving things along, doing their clerical work, doing what they have to do, and the top guy is earning \$15 million a year, while the average person working there is earn-

ing \$44,000, and \$44,000 today doesn't carry a family very far.

A single health insurance CEO earns approximately 335 times the average worker. It is scandalous. But it doesn't end there. At the same time health insurers and CEOs have made out like bandits, the industry has increased its premiums relentlessly. According to a new report from the Kaiser Family Foundation, insurance premiums for families more than doubled since 1999. Ten years ago, premiums averaged less than \$6,000 a year. Today, they have grown to an average of more than \$13,000 a year—the highest amount on record. These are for middle-class people earning very modest incomes trying to get along and watch their health insurance.

I have had people walk up to me, people I see in positions of labor, saying: Mr. Senator, please, my rent is going up, my taxes for real estate are going up, I can't afford more. My health care is the one thing that worries me so much. I can't afford to pay the premium, Mr. Senator. Please, help us.

As the following chart shows, over the past 10 years, insurance premiums have gone up three times faster than wage increases—in a period of just 10 years. So we see what is happening to a family's ability to afford to cover their needs. If today's CEOs cared as much about the public health as their financial wealth, our system wouldn't look this way. What happens is we are trading the well-being of the needy for unconscionable gains by the greedy.

It is so funny, the times we live in. I read there was a boat show that just took place in Miami, FL, and the most active part of the sales of boats was for boats that were 100 feet or longer. We are talking about millions of dollars for these boats. I don't begrudge those people. I don't, really. But look at basic America and see what it is that keeps our country going.

The health care field is one of the great abominations. We have to end this poisonous prescription for management of health care companies and change the way these health insurance companies operate. There is one way to do it and that is to make sure there is competition within the industry that is serious. The legislation we are putting forward will reshape health insurance and end the industry's choke hold on ordinary Americans.

Under our proposal, it will be against the law for insurance companies to discriminate against women. It will be against the law for them to deny coverage because of a preexisting condition. It will be against the law for them to end insurance coverage just because policyholders become sick. That is what they are supposed to take care of. On top of that, we are going to stop insurance companies from charging immense amounts of out-of-pocket expenses.

We will also make it so insurance providers have to cover routine check-ups and preventive care, so lifesaving mammograms will no longer be out of reach for millions of women. I know a world-renowned research clinician in New York who says mammograms are the gold standard for dealing with anticipation of breast cancer.

These changes will make health insurance companies more honest, more transparent and more accountable and they will still make enough money to take care of the wages and the profits they seek. They may not be as great as they are, but they shouldn't be as great as they are.

Our Republican colleagues are chasing a different goal. They are looking for political victories on the backs of the working people of our country. They are fixated on stopping the Congress and President Obama no matter what the consequences are for our country and for the people who work hard to keep their families together. But I want to remind these obstructionists that health insurance companies have shown their utter disregard for the well-being of all Americans from all walks of life. They do not care if the policyholder is a Democrat, a Republican or an Independent. I remind anybody who hears what we are saying or looks at what we are doing that fixing health care is not a choice; it is a necessity.

I know this on a personal basis, though I am fortunate. I have a grandson who is 16 years old. He has asthma. When my daughter takes him to play sports—he is a good athlete—she first checks to see where the nearest emergency clinic is in case he starts to wheeze. I have a granddaughter, 11 years old, and she has diabetes. When she was here in Washington on a visit, I looked at her, and I didn't like the way she looked. I said to my daughter—they live in Florida—you have to find out what is wrong with Maddie. There is something there. It worried me. She was pale, she didn't have any energy, and she looked terribly slim. When I went down to Florida 3 days later, after they left Washington, I went to the hospital where she had entered and I saw her. She looked like a new person because the diabetes was treated and she had insulin. She looked like a new person.

Those things mean so much. There is nothing more important to any of us—and I say this about my Republican friends as well—nothing more important than our children, our grandchildren. That is what we all live for. They have a right to live and be healthy. For the future of our children and grandchildren, every American—we have to meet our obligations. I plead with my friends on the other side, get out of the way. Don't stand there unless you are willing to come in here and say: I don't want people to

have health insurance. I don't care whether a child has health insurance. Say it out loud instead of skulking behind the walls and hiding the truth about what your mission is.

It is my hope that history will record a moment of success, success for the people of our country. We have never quite been this close to achieving fundamental health care reform. We may never have this opportunity again.

Once more, step forward, colleagues, Senators, sent here by people who trust you, who have confidence in you. Take care of them. Be honest with them. If you don't want to give them health care insurance, say so. Say: I don't want to give you health insurance. Or say: We don't want your condition to determine whether we cover you, we want to decide. This is an opportunity we have to seize.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oregon is recognized.

Mr. LEVIN. Will the Senator yield for a unanimous consent request?

Mr. MERKLEY. I will.

Mr. LEVIN. I ask unanimous consent that after the Senator from Oregon is recognized and the Senator from Michigan is recognized, under the existing unanimous consent agreement I then be recognized.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MERKLEY. Mr. President, I thank the senior Senator from New Jersey for his remarks, for his reminder that health care is not about profits, it is not about salaries of the CEOs, it is about health care for Americans so that all citizens have access to affordable and quality health care. That is what this debate is about.

One component of that debate is extending the opportunity for health care to those who do not have that opportunity right now. Another part of this debate is about improving the way insurance works for those who already have insurance. That is what I want to address tonight.

There are common practices in our insurance industry, our health care system, and that includes exclusion of preexisting conditions, gender discrimination, arbitrary annual spending limits or lifetime spending limits, and dumping—the practice of kicking people off policies when they get sick. They go against the very idea of insurance. What people expect is that their health insurance will be there if they need it. What they often find is it is not there.

For example, many people do not realize their insurer has placed an arbitrary limit on how much care they can get in a single year or over the course of their lifetime. A person may be paying monthly premiums, perhaps \$500 a month in premiums, every month for years, adding up to tens of thousands of dollars. That person may be going

forth in that fashion, needing not so much as a checkup, but then they are struck by a serious illness or a serious accident and they need regular and sometimes expensive care. Suddenly they find out that the thousands of dollars in premiums they have paid do not actually guarantee they will get the care they need.

I will give an example from my home State of Oregon. Alaya Wyndham-Price is a healthy 27-year-old from Lake Oswego, OR. She had insurance but had no reason to think she would actually need it, given that she was healthy and she was young. Imagine her surprise when she was diagnosed with a tumor the size of a golf ball just below her brain. Then imagine her further shock when she found out that her insurance policy caps treatment at \$20,000 a year.

It took \$30,000 of tests—and it doesn't take a whole lot of testing to run up that kind of bill—to determine the best treatment for her tumor. The surgery to remove that tumor is going to cost \$50,000, but because of Alaya's limit, she has to put off the surgery until next year. That means further hardship on her, for her family—emotionally, physically, and financially.

As she told me this story a couple of weeks ago, I kept pondering, what will that delay do to her ultimate health outcome? How much opportunity is that delay affording to a tumor that doesn't have her health in mind as it grows?

These caps are not right. It is not right to tell someone who is gravely ill that they can only have so much health care in a given year. It is not right to ration treatments on the ability to pay. It is not right to collect premiums year after year and then in the fine print put in an annual cap that denies care when it is desperately needed. Alaya has insurance but she has already amassed a massive amount of debt. Hopefully, she will be able to continue paying her bills and not have this critical health care issue also drive her into a critical financial situation, into bankruptcy. Indeed, that is what happens to many Americans who have health insurance. Half the people who declare bankruptcy do so because of medical bills, and three-fourths of those who declare bankruptcy because of medical bills had insurance.

Insurance at the least is supposed to be the way to keep yourself financially solvent in the case of a disaster, but that is not what is happening for millions of Americans. It is not working for many Americans.

Insurance failed Kathryn Peper of Tigard, OR. Katherine had trouble getting any insurance because she had high cholesterol, a common condition but enough to allow the insurers to deny her application because of this preexisting condition. She did finally find a policy—\$550 a month. She paid that premium and one would think in-

surance at that price would pay some of her medical expenses, but she found out it did not. Her insurer routinely refused to pay for even simple doctor appointments. So she was paying a huge amount for insurance and getting no coverage as a result, when she needed it to go to the doctor. She finally canceled her policy, and she now pays out of pocket for each visit, and she hopes she does not have a debilitating condition come up or an accident.

There are other practices. I mentioned dumping. This is egregious. Imagine you pay your premium year after year, month after month, stretching over 10, 15 years, and then you have that accident or that disease that lands you in the hospital and you need a lot of care. You get a letter from your insurance company saying: We don't think you are a good insurance risk anymore so we are canceling your insurance.

At the end of that year you are suddenly stuck with massive bills and no insurance coverage to pay for the ongoing treatments you need. That is not right.

We have built our health care system around private insurance and private insurance remains an integral part of health care reform. But things have to change. We can't continue to have our citizens pay millions to insurers and see so little in return. It is not good for the health of the American people or our Nation. We need an insurance policyholder bill of rights. It needs to have guaranteed issue, no blocks as a result of preexisting conditions, no rejection because of preexisting conditions. It needs to have no arbitrary annual or lifetime limits. It needs to say no dumping, and it needs to say no gender discrimination.

Each and every one of these concepts was debated in the Health, Education, Labor and Pensions Committee and incorporated into the bill that came out of that committee. These are principles I want to see carried straight through until we put this health care reform on the President's desk.

It is time to act for the citizens of this Nation. It is time to have a health care system that works for working Americans.

The PRESIDING OFFICER. The Senator from Michigan is recognized.

Ms. STABENOW. Mr. President, first I thank my friend and colleague from Oregon, Senator MERKLEY, for those wonderful comments and his passion and commitment on this issue; also, Senator LAUTENBERG from New Jersey and my friend and partner from Michigan, Senator LEVIN, who will be speaking, and the great Senator from Rhode Island, as well, who has been a wonderful leader on this issue and so many other issues as well. We all come today because we are committed. We are absolutely committed to seeing reforms in our insurance system so families get

what they are paying for and we can bring costs down and we can save lives.

We are here because we want to share the voices and stories from people in our States who have paid into a system and too often not gotten what they have paid for, not been able to benefit from the health care system that we have in this country.

It is important that insurance industry reforms be a part of health care reform. We know we are still in the process of bringing a bill to the floor. At this point we are talking about our goals and our commitment to the common shared values and goals that we have going forward because we know we need to make sure this is addressed.

When we started this debate earlier this year, I set up an online health care people's lobby for the people of Michigan to be able to share with me their thoughts, concerns, and stories as they relate to health care, not having health insurance, what is happening to their families. My sense was we can step outside this Chamber and meet at any moment with insurance company lobbyists and prescription drug lobbyists and others who are here representing special interests. It is very important that voices be heard from people who just want health care for their families and either cannot find it, cannot afford it, or they have it and the costs are going through the roof and then they find that what they have paid for or what they thought they were paying for is not what they are actually getting for their families.

That is specifically what we want to talk about today, the fact that there are abuses, bad practices occurring right now. People who have insurance have a stake in health care reform. We are not changing their ability to have insurance. Everyone can keep what they have. But we want to make sure they are getting what they are paying for.

That is a very important part of health care reform. It is important as we look at the fact that since 2000, insurance company profits have gone up 428 percent. People in my State would take a quarter of that. We are seeing insurance premiums during that same period go up 120 percent. Even though profits have gone up 428 percent, we still have seen premiums going up 120 percent, and now even higher. We are seeing more and more announcements of premiums going up despite the high profits in the industry.

What is most concerning is, for average people wages are either going down, they are losing their job, or if they have a job their wages certainly are growing much more slowly. In fact, over the 8-year period we have seen wages going up about 29 percent at best, if you are fortunate enough to have a job in this bad economy. That means every day insurance companies are taking a bigger chunk out of bud-

gets of our families and businesses, and it is not fair.

The status quo is not working anymore for anybody other than those who are making profits off the system. It is hurting families, it is hurting businesses, and it is costing us jobs. In fact, health care reform is about jobs. It is about saving jobs, it is about making sure if you lose your job you do not lose your health care. It is about making sure that small businesses that want to provide insurance for employees can do that or not have to lay off people because premiums are going up. So it is very much about jobs.

It is very much about jobs, and that is why we need a health care reform bill now. It is time to put an end to the insurance company abuses. The goals we share in this process are to stop the process of denying coverage because of preexisting conditions; to stop the process of annual and lifetime caps on benefits; to stop the process where someone can get charged more or dropped from coverage if they get sick.

I have seen too many situations where somebody pays in, pays in, and pays the higher premiums and so on, and then somebody in the family gets sick and, based on technicalities, they are dropped or they are not covered. That is wrong. We are committed to fixing that.

We also want to make sure on the positive end that we are focusing on prevention and on checkups and making sure you can do that without the cost of copays and deductibles. We are encouraging people to get healthy, to get those early checkups, to be able to get the care on the front end that they need.

It is also extremely important as we move forward we crack down on discrimination by insurance companies. Right now women can pay twice as much for insurance as men and, in fact, get less coverage. In eight States and the District of Columbia, being a victim of domestic violence can count as a preexisting condition. I was stunned when I first heard that, and then said, well, that cannot be. We doubled back and, yes, in fact, that is true for men and women who need help for getting the insurance care they need right when they need it.

In many places, being pregnant, having ever been pregnant, even wanting to be pregnant, can be qualified as a preexisting condition. We had a report in the Washington Post about insurance companies that even denied coverage to men who were expectant fathers. I am not sure what kind of family values those are. But we need insurance reform that addresses some pretty basic things.

Right now 60 percent of the plans in the individual and small business markets do not cover vital maternity and prenatal care for pregnant women. That needs to change with health care

reform. It is not an accident that we have an infant mortality rate of 29th in the world, below some Third World countries, children and babies who do not make it through their first year of life.

We look at the fact that too many insurance plans do not cover prenatal care and care for mom and baby during the first year of the baby's life. We are committed to changing that.

I wish to share a story I received that goes right to the heart of why insurance reform is so important to families in Michigan and all across the country. It comes from a constituent of mine in Michigan, Lynn, from Marshall, MI.

A few years ago she got the kind of news that every parent fears. Her son Justin was diagnosed with leukemia. To date, his medical bills have totalled over \$450,000. Thankfully they have insurance and his leukemia has a very high cure rate.

Justin is 21 now and a senior in college. He is doing fine, thankfully, but Lynn worries about what is going to happen when he graduates from college and can no longer stay on her insurance. With leukemia as a preexisting condition, his insurance premiums will go through the roof. And for a young man who is just starting his career, those kinds of costs would simply be unaffordable.

If Justin wants to start his own business, which is so central to the American dream, he would never be able to afford to pay for his own insurance with that kind of preexisting condition. How many other Justins are out there, who would be the innovators and the entrepreneurs we need to revitalize our economy in America? Who would make the difference if only they could afford to go out on their own and start their own company and know they could get affordable insurance without preexisting conditions and other barriers that have been in their way from insurance companies?

That is why we need health care reform. We need health insurance reform as a part of health care reform. We are committed to that. We are committed to stop abuses in the health insurance industry. Those who have insurance now who will be able to keep their insurance need to know they are getting what they are paying for in the health care system today for their families. That is why we need reform now, and we are committed to getting it done.

I yield the floor.

The PRESIDING OFFICER. The Senator from Michigan is recognized.

Mr. LEVIN. Mr. President, it should be crystal clear to all of us why the health insurance industry opposes reform so strenuously: because the status quo is so profitable.

As my colleagues have pointed out, the massive profit announced this week by Humana, Inc. illustrates this vividly. Humana's third-quarter profit of

\$301 million was a 65-percent increase over the same period a year ago. And Humana executives made no secret of the reason for this ballooning profit. The company's president and CEO said, "Our government segment continued to perform well in the third quarter particularly in our Medicare business."

It is no coincidence that Humana is one of the biggest providers of Medicare Advantage plans. These plans, in which private insurers contract with the government to provide coverage to Medicare beneficiaries, were supposed to unleash the power of private-sector competition, lowering costs, improving service, and increasing benefits to our seniors.

It has not often worked out that way. While some Medicare Advantage plans have performed well, Medicare pays, on average, 14 percent more for Medicare Advantage beneficiaries than for those in traditional Medicare, and despite this increase in payments to Medicare Advantage plans, the Government Accountability Office has found that seniors often face higher out-of-pocket costs in Medicare Advantage plans.

In fact, when the GAO studied the costs and performance of these plans, it found that in 2005, those plans spent significantly less for health care for seniors than they projected to pay. That lower spending on medical care for seniors led directly to windfall profits, \$1.1 billion more in profits than the insurance companies had told the government they expected to earn. That \$1.1 billion is taxpayer money that should be providing treatment to our seniors, and instead is boosting insurance company profits.

Indeed, health insurance companies need no taxpayer help in reaping big profits. From 2002 to 2006, profits at publicly traded insurance providers increased more than tenfold. At the same time these companies are making massive profits, working Americans and their employers have endured year after year of much higher premiums, reduced benefits, and denials of treatment.

Our citizens need a sensible health care system. We can not afford a system in which our people are denied treatment because their benefits are capped. We can not afford a system in which they are denied coverage because they have a preexisting condition. Our Nation can not afford a system in which the loss of a job means the loss of coverage and debilitating health costs. Our Nation can not afford a system in which even those with jobs and insurance face rapidly increasing premiums and out-of-pocket costs. Our nation certainly can not afford a system in which our tax dollars boost the ever-higher profits at insurance companies, or in which premiums and out-of-pocket costs constantly go up, while coverage constantly shrinks or disappears entirely.

The Senate needs to put the interests of the American people ahead of the interests of insurers. We need to take up a health reform plan that makes comprehensive, affordable health coverage available to every American, and helps keep insurance companies honest.

I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. WHITEHOUSE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WHITEHOUSE. I ask unanimous consent that the period for speakers be extended for an additional 20 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WHITEHOUSE. Mr. President, I have joined my colleagues on the floor this evening to discuss the need for health insurance reform, which is a critical component of the health care reform package that the Senate will soon consider.

Our colleagues on the other side of the aisle are fond of suggesting to the American people that our current health care system is fundamentally fine, fundamentally sound, and all it needs is some minor tweaks. But Rhode Islanders who have faced down their insurance companies over the denial of benefits they paid for will tell you that idea is dead wrong. As they and many other Americans have found to be painfully true, our current system of health care is all too often a mirage concocted by health insurance companies to extract premiums from consumers while denying coverage when it is actually needed.

Reform of this system of delusion is needed and it is needed now. As someone said the other day: Americans have all the health care they need until they need it. Then the insurance company comes and interferes.

Those profit-driven companies focus on share price and quarterly earnings and other telltales of the business world and are only too happy to diligently mail those premium notices and collect those payments when you are feeling well. But when illness strikes, they vanish, they disappear, hiding behind stacks of forms, automated 800 numbers, with no human to be found, and weeks and weeks of delay and denial.

The insurance company Humana pulled just such a stunt a few years ago. In May of 2006, a Humana policyholder was diagnosed with a rare and advanced form of liver cancer. Without treatment, he was not expected to live more than 4 years. But in September of that year, his doctor, a board-certified interventional radiologist, recommended a course of treatment for

the cancer involving a new technology, expensive but proven to be effective.

The insurance company policy explicitly covered such radiological treatment. At this point, it is an inspirational story, a terminally ill patient whose persistent and caring doctor found a technological advance that could extend his life. But when the insurer Humana became involved, this patient's bureaucratic nightmare began. The treatment recommended by the doctor is widely accepted. It is FDA approved. It is reimbursed by Medicare and Medicaid, and it is covered by several large insurance plans. But Humana's medical director denied coverage. He denied it on the basis that it was "experimental/investigational, not identified as widely used or generally accepted."

Humana decided to deny this life-saving treatment in spite of the fact that the insurance company medical director, the same fellow who made that determination, later admitted in court that:

He has never performed [the] treatment, consulted with another physician about the treatment, or even read any literature on the topic.

Without ever having performed this treatment, without ever having consulted with another physician about this treatment, without ever having read any literature on the topic, he reached the decision that this treatment was "experimental/investigational . . . not identified as widely used [or] generally accepted," leaving this man with liver cancer and a doctor telling him how to cure it hanging in bureaucratic limbo.

Since this policyholder could not pay out of pocket—it was an expensive treatment—the hospital treating him said it could not proceed with the treatment. With time running out and nowhere to turn, he hired an attorney to force Humana to stick to the terms of its health insurance policy. Thank goodness, he won.

In a blistering opinion, the trial judge found that the company could not have possibly made a well-informed decision under the provisions of the plan. Rather, the judge found, the company relied on the flimsy pretext of an internal company guideline deeming the treatment "experimental." How good is that? You are the insurance company that has the decision on whether to pay. You have a rule that says you don't pay if it is experimental, and you create your own internal, independent guideline that decides, contrary to all the rest of the evidence, that it is experimental. It is like being able to grade your own exams, except that lives hang in the balance.

The basis for that conclusion was two written summaries of medical articles by a private health insurance industry consultant. That is what they based

that internal guideline on. They said it was based on written summaries of medical articles by a private health insurance industry consultant. It makes you feel pretty good as a customer of the insurance company to think that they are getting recommendations from their own private health insurance industry consultants, right? The real problem was this: The summaries were wrong. Neither of the articles actually concluded that the treatment was experimental. The whole thing was a big, complex, bureaucratic chase founded in falsehood.

The court found that Humana inappropriately denied the treatment and ordered that it immediately pay for this patient's cancer treatment. What a waste—a waste of money, a waste of time, and a waste of resources. Worse than all of that, what a thing for this man to have to go through. Not enough that he has been diagnosed with a rare and fatal form of liver cancer, not enough that a doctor has told him that with the right treatment, he could extend his life, maybe long enough to see a daughter graduate, maybe long enough to see a son get married, maybe long enough to arrange his affairs for his family to do well after he has left them, on top of all that, he now had two battles to fight—one with his illness, one with his insurance company.

We have heard a lot of hysterical propaganda lately about how health reform will put the government between you and your doctor. Indeed, the recent GOP health care bill on the House side has in its opening passages that it will not intervene in the doctor-patient relationship, suggesting that other proposals would intervene in the doctor-patient relationship.

I submit that our colleagues on the other side are a lot less concerned about intervening in the doctor-patient relationship than they are about the Congress of the United States intervening in the insurer-to-insured relationship. I submit they are more concerned about leaving American insureds at the mercy of these insurance companies—the place where they actually intervene between the patient and the doctor. The worry for the real American isn't that the government is interfering between them and their doctor; the worry is that when they get sick, that insurance company intervenes between them and their doctor.

We hear it in Rhode Island, in Colorado, the State of the Presiding Officer. We hear it over and over. Indeed, one of the things they do is called rescission. Rescission is when you have paid your premiums, you have been a good customer, you think you are a customer in good standing, and something awful happens—an unexpected diagnosis, a terrible accident. Suddenly, you need to call on that insurance policy that you have paid for month after month, year after year, to see you through

your time of illness or injury. Then what do they do? The first thing they do is send somebody in their administrative offices squirreling off through your file to look for something you did wrong when you filled out your form. If they can find a mistake, they yank the coverage you paid for all those years.

During a recent study by House colleagues, committee investigators found a total of 19,776 rescissions from just three large insurance companies over 5 years; 19,776 families who thought they had coverage, who paid for coverage, who were good customers, but when they got sick, the insurance company turned on them, and, once again, they had to fight two battles—one against the illness or injury and one against the insurance company. The rescissions saved those three insurance companies \$300 million, a third of a billion dollars. As a prosecutor would say, there is motive.

When you look for real examples of bureaucratic interference, when you look for real examples that resemble death panels, you need look no further than the kind of story about this gentleman Humana turned on when he got his diagnosis. We are here not to encourage that, not to have the government do it, but to stop it, to put an end to it.

In stark contrast to this patient's humiliation, having to pay attorney's fees out of pocket to fight the insurance company, having to try to cope with all this nonsense while suffering from a terminal illness, Humana executives and shareholders have done quite well. The company reported this week that its third-quarter profits are up 65 percent. Its CEO, Michael McCallister, was paid \$5.2 million in 2008. Nice pay. Too bad the work is so mean-spirited.

You might think the Humana story is extreme, an outlier, a rare, tragic case, but you would be wrong. The private health insurance industry torments Americans like that patient day-in and day-out, 17,000 of them just with the rescissions.

Another example: In 2005, BlueCross of California denied a patient's claim for bone marrow treatment, writing only that its decision was "based upon the member's specific circumstances and upon peer reviewed criteria including Medical Policy." What is that? What does that mean? "Based upon the member's specific circumstances and upon peer reviewed criteria including Medical Policy"—what a lot of rigmarole. The State insurance commissioner stepped in and penalized the company because it didn't describe any reasons for its denial, nor did it cite provisions of the insurance policy upon which it relied, just "based upon the member's specific circumstances and upon peer reviewed criteria including Medical Policy." You could make that up about anything. In essence, the insurance company denied that claim for no reason.

That same year, the company denied another patient's claim for nutritional counseling to treat anorexia. In its notice of cancellation, the company wrote to its insured that "nutritional counseling is only covered when the diagnosis is diabetes. Since the claim was not submitted with a diabetes diagnosis, the claim was denied." California's insurance regulator found that the company's reasoning directly contradicted the benefits listed under the policy which said that dietary counseling "is covered if it is for the treatment of anorexia." Why do you make somebody who needs this health care go chasing through the policy to find the place where it actually says it is covered? Why make up a lie that it is not covered? There is an obvious reason: If you do that to enough people, some won't take the trouble. Some will fight back. Some will figure out that it is inaccurate. Some will go to the regulators. But some will give up. Of those who give up, you make money.

BlueCross of California is owned by WellPoint, whose CEO, Angela Braly, made \$9.8 million last year.

Many years ago, Charles Dickens wrote a book called "Bleak House." In "Bleak House," there are a lot of story lines, but one of them is about two young people who are pursuing a case in the British courts. Jarndyce v. Jarndyce was the name of the litigation. It is described in "Bleak House" as a monster extending through the courts, through writs and clerks and judges. And the storyline through "Bleak House" is that eventually, through all this bureaucracy, through all this static, through all this nightmare, through all this hassle, the couple finally gets to the point where they achieve the inheritance that was theirs, and that was the subject of the litigation they needed to claim through this arduous ordeal. The problem: By the time they got the inheritance, it had all been eaten up, every penny and farthing, by all that process and all that delay.

Our current system of private health insurance too often leaves policyholders feeling like that poor young couple in "Bleak House," surrounded by bureaucracy; surrounded by people who are out to gouge you, not to help you; surrounded by people who turn their backs on you in your hour of need; surrounded by people who sold you all the health coverage you need until you really need it. Then they are looking for loopholes and trying to deny you coverage.

We owe Americans better than that. We can build a system of health insurance about which Dickens would not be tempted to write or Franz Kafka for that matter. Let's build a system that prevents insurers from evading their



promises—in which people can't be denied coverage for a preexisting condition; in which surprise annual or lifetime caps don't pitch you into bankruptcy; in which insurers compete on customer service, not on how to figure out ways to deny you coverage. That is the system we in Congress are striving to enact into law this year.

One of the ways we will do this is by adding to the bill a public option. You can chase these insurance companies around until you are blue in the face. You can sic the regulators on them all day long. But they have been doing this for years. It is a habit. It is a pattern and practice. It is a business model. It is not going to change without competition forcing it. That is yet another one of the reasons a public option is so important in this debate.

One of my fellow Rhode Islanders, Karen Ignagni, is actually the chief lobbyist for the health insurance industry. She said something the other day about the public option. She said that it would reduce payments "to doctors and hospitals rather than driving real reforms that bring down costs and improve quality." I submit she has it exactly wrong, exactly backward.

First, as we have crafted a public option, it would have to compete and negotiate for price, just like the private insurance industry does, no different than the insurance companies Ms. Ignagni represents.

But more to the point, this idea that it will compete by reducing payments to doctors and not drive real reforms, I submit the exact opposite is true. It is the public option that will drive the real reforms. It is the public option that will pursue cost-effective quality improvements; that will pursue wellness and prevention for customers; that will find better ways to pay doctors for value, not for volume; that will take advantage of President Obama's investment in health information technology to transform American health care for the better.

So I will close with that observation, and I will add one more thing. I have used examples from public records, but many of us here have had this experience personally.

Someone in my family, whom I love very much—I would describe him as my best friend—got a terrible diagnosis some time ago, and his family and everybody who loves him gathered around to help him. One of the things that was recommended was that he go to the National Institutes of Health, where the best specialists for this terrible diagnosis he had can be found.

So he went to the National Institutes of Health. Actually, I went with him because it is just up the road in Maryland—he had to come down from New York—and I wanted to be a good friend and a good family member and show support and be there with him. So I know firsthand he went up to NIH, and

I know he spoke to that doctor, that world's best expert on this terrible diagnosis, and I know firsthand what he was told. I know exactly what he was told to do by that doctor.

He went back home to New York with this course of treatment for his condition that had been given to him by the top specialist in the field in the country, the man recognized by the National Institutes of Health, and when he began that course of treatment, guess what his insurance company told him. "I'm sorry, that's not the indicated treatment." Oh, really? Not indicated? By whom? By some person on the other end of the phone who has never even examined him? By some person on the other end of the phone who might not even have a medical degree?

Why is it that every single time the insurance companies get involved and say something is not the "indicated treatment," the indicated treatment is less expensive, the treatment they want is less expensive than what the doctor wants? You would think that maybe once in a while, just to throw us off, they might say: No, no, no, wait a minute, the indicated treatment is actually more expensive and better than what your doctor said, and we want you to have that. Has that ever happened? I do not think so. Every time the private health insurance industry steps in between you and your doctor and says: No, we are not covering that treatment, we don't care that your doctor has prescribed it—in this case, we don't even care that the top specialist in the country prescribed it—it is always to push you to a cheaper treatment.

The terrible thing is that for every American like the man I love, for every American like him who fought back, who said: Nuts to that, I have been to the NIH, this is what they told me to do, this is what I am doing, some number will give up, some number will be defeated, already scared by a terrible diagnosis, already bombarded at home with forms and bills and things they do not know how to cope with, already trying to cope with issues like preparing their family for horrible news. Dealing with the difficulties of treatment, some number of them will give up, and they will let the insurance companies get away with it. For every one of them who dies a little earlier because they did not get the treatment they should have—for every one of them—we in this Congress need to get to work to make sure this kind of behavior is never permitted again.

This is not a small matter. This hits home in every one of our States every day. So I am proud to support our health care reform. I think we are going to see this legislation through to the end, and we are going to get it right, and after all the scare mongering and all the stories about death panels

and all the phony defense about the government getting between you and your doctor—when what they are really protecting is the right of the insurance company to step in and get between you and your doctor; that is what they are about—after all of that, what people are going to find, coming out, when they actually see the real results, is that, in fact, the world has changed for them. What Americans will see is that we will have changed the world for the better for people who are now in the grip of these greed-driven insurance companies.

Mr. President, I thank the distinguished Presiding Officer very much, and I yield the floor.

I suggest the absence of a quorum.  
The PRESIDING OFFICER (Mr. BURRIS). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CASEY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CASEY. Mr. President, I also ask unanimous consent that after the next, I believe, 10 minutes expires on our time, that I be permitted to speak in morning business beyond that time by, oh, say 10 minutes at the most.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CASEY. Mr. President, I rise tonight to also speak about health care, as we have heard from some of my colleagues. I was coming in as Senator WHITEHOUSE was concluding his remarks on the floor and am grateful for his leadership and the leadership demonstrated by so many of our colleagues here on this critically important issue.

We have heard a great deal in the last couple of weeks about some of the fundamentals of health care reform. I was speaking last week about children and some of the progress we need to make in the final bill to protect our children, to make sure that especially poor children are not only not worse off at the end of this debate but also that they are, in fact, better off because of the reforms we make. We have great programs to work with. The Children's Health Insurance Program, for example, has been tremendously successful in insuring the children of working parents. We know the kinds of early, periodic screening and diagnostic testing done in Medicaid is very important to poor children and their families. So there is much we have to do just with regard to children.

Our older citizens, of course, are a huge focus of this health care reform. We want to control costs. We want to provide better quality, ensure prevention strategies that will not only save lives but also save us a lot of money. We want to wrestle, as we have been trying to do, with the cost issue, and we will continue to do that, and I think successfully.

But one area I think we often, unfortunately, overlook is what happens to our small businesses. We know that most of the jobs in America—the foundation of our economy—are created by small businesses. These are the very businesses in States such as Pennsylvania and the Presiding Officer's home State of Illinois and States across the country—big States and small State—where businesses have been devastated by health care costs. Over and over again, we hear it.

Just in the last couple of days, we saw this headline in the *New York Times*: "Small Business Faces Sharp Rise in Health Costs." And the sub-headline or the reference to the story says: "Up 15%, On the Average." "Insurers Increase Rates as Congress Weighs Major Overhaul." So there are a lot of small businesses in Pennsylvania and across America that are waiting to see what the House and the Senate will do. What kind of bill will we send to President Obama for his signature?

If we do nothing, there is one thing we are sure of. If we do nothing, if we do not pass legislation this year—as I think we will—but if the Congress did nothing, we know those costs are going up all the time. The *New York Times* reminds us of that: "Up 15 percent, On the Average." There is an increase in costs, if we do nothing, that has been escalating for years now. We have had people in the Congress, here in this Chamber, and other places saying: We have to help small businesses. We have to be conscious of what their needs are, the difficulties they have had in this recession.

Families have had a lot of difficulties, obviously. In addition to that, small businesses have. But we cannot say we really are concerned about what happens to small businesses—small business owners—in America if we do not help them on health care, if we allow this to persist, this spiraling, ever-increasing cost of health care for small businesses.

If you look at it just in terms of Pennsylvania—one way to look at this is just in terms of State numbers. These numbers, we will not have to go through. I know some of them are small. But here is the basic point: cost of health benefits to small businesses per year if there is no reform. This is just for Pennsylvania, as shown on this chart. If you look at the year 2009: 7.43—the annual spending in billions of dollars in the State of Pennsylvania. Almost \$7.5 billion spent by small businesses on health care. You do not need to read every number here because a lot of them are small, but you can see the trajectory of that graph, that blue line going up and up and up. So by the time 2018 rolls around, not even a decade away—9 years away—if we do nothing, Pennsylvania's small businesses will pay more than \$16 billion for

health care—just in less than a decade, more than a doubling of health care costs for small businesses in one State. One can just imagine. One doesn't have to be an expert with numbers to extrapolate from that what that means for the United States of America. Small businesses already crushed in many instances by health care costs, being crushed even further. That is the cost of doing nothing. There are a lot of ways to measure that, but the cost to small business is one of them.

According to an August 2009 Small Business Majority survey of 200 Pennsylvania small businesses, the top three concerns for small businesses in Pennsylvania—and I have no doubt this is similar to the rest of the country—here are the three top concerns: No. 1, controlling costs; No. 2, having insurance that covers everyone; and, No. 3, ensuring at least high-quality standard benefits. So small businesses have the same concerns that many people here have: controlling costs, enhancing quality, and making sure we have broad coverage.

Ninety percent of small businesses in Pennsylvania want to eliminate pre-existing condition rules, and 75 percent see these rules as a barrier to starting a business. So someone is making a decision, making a determination about whether they will start a small business, and they think to themselves: I may not be able to get this business off the ground because of health care costs or because of preexisting conditions.

Why have we allowed this problem—not just the cost problem but the problem that we point to all the time of preexisting conditions—why have we allowed insurance companies to do that? Well, we have allowed it over many years because we haven't taken them on and defeated them when it comes to passing legislation.

This is the year when at long last we are going to say to insurance companies: You cannot have this kind of power over people's lives, over people's business decisions by, for example—one of many examples, but the most prominent, the most egregious example—denying someone coverage because of a preexisting condition.

I know this summer, way back in the middle of July, as a member of the Health, Education, Labor and Pensions Committee, we passed our bill out of that committee and the first section of that bill dealt with the preexisting condition problem. In one sentence in that bill we set forth a determined effort to make it illegal to prevent someone from coverage because of a preexisting condition. So this is about individuals and families, as well as about small businesses. They, too, suffer from the preexisting condition problem in our health care system.

There are a lot of other numbers I could point to in a survey. I will not go through all of those, but I do wish to

highlight tonight as well what we heard just yesterday, or part of what we heard yesterday in the Health, Education, Labor and Pensions Committee where we had a number of witnesses. One of those witnesses was Jonathan Gruber who is an MIT economist. He testified that small businesses—and I am paraphrasing his testimony; it is all in the record—small businesses are disproportionately hurt by the health care status quo and that health insurance reform will lower—lower—premiums and save jobs in the small business sector.

I am quoting from Dr. Gruber from MIT:

Small business has little to fear and much to gain from health reform.

Not my words, the words of an MIT economist who has spent time not just analyzing health care reform over many years, he played a role in helping Massachusetts develop their strategy. But he is talking about reform generally on health care as it relates to small businesses.

Professor Gruber also talked about health insurance reform breaking down many of the barriers that currently are faced by small business owners or prospective small businesses. For example, unpredictable premium jumps, as we see on the chart. Whether they are predictable or not, they occur all the time. But they are especially problematic when a small business owner doesn't have any warning. Fear of starting new businesses for lack of affordable health insurance options is an impediment to starting a small business. An impediment to creating jobs is another way of saying it, in my judgment.

Professor Gruber talks about other barriers to small businesses under our current system: higher costs and limited choices due to administrative expenses and lack of bargaining power. Just imagine what it is like for a small business owner in a huge environment where they don't have the kind of bargaining power a big company has or they don't have the kind of bargaining power the Federal Government has to go into the marketplace to keep costs down. So they go in virtually unarmed or alone into that marketplace, a small business owner, who might have 4 or 5 or 7 or 8 or 10 or 20 employees.

Tax credits would help small businesses who need it the most to help them pay for insurance. Dr. Gruber unveiled a new analysis in his testimony showing that health insurance reform will save small businesses 25 percent over the next decade. One thinks: Well, 25 percent, what does that mean? By his estimate, this 25 percent savings to small business as a result of health care reform, in his judgment, would be a \$65 billion-per-year savings for small business. That is Dr. Gruber at MIT, not my words, not the words or the analysis of some Senator or House

Member on one side of the debate or the other.

So the consequences of those savings would be enormous to small businesses in America. I know we need this kind of reform in Pennsylvania.

Workers in small businesses would see an increase in their take-home pay, according to Dr. Gruber, of almost \$30 billion a year. That affects all of our lives in a very positive way. If a small business in our community can hire more people, can make an investment in the development of that small business because of health care savings as a result of a health care reform bill, our communities will be stronger. We will have more people working. We will have a much stronger economy right at the community level, not just in a macro or larger scale way.

Finally, on this analysis of what health care reform could mean to small businesses in terms of savings, that reform could save almost 80,000 jobs, according to Dr. Gruber—80,000 jobs in the small business sector by 2019. Dr. Gruber also dispelled the myth that health insurance reform will raise costs for small businesses. He said:

Objective CBO analysis shows that these claims are clearly wrong. Reform will lower, not increase, nongroup insurance costs.

So says MIT economist Dr. Gruber, who has lots of experience in this area and is lending the benefit of his experience and his insight into these analyses on health insurance reform, but in particular as it relates to small businesses.

So what we want to try to do with health care reform when it comes to a State such as Pennsylvania is take this blue line of an exponential increase in health care costs for small businesses in one State—and I think this is true of the country as well, in my judgment—we want to make sure this line and this exponential increase is turned the other way or at least begin to flatten out so that the \$7 billion that small businesses are paying in Pennsylvania for health insurance reform by the year 2018 might be only something a little less or a little more than \$7 billion.

We cannot say with a straight face or with any degree of integrity, in my judgment, that we want to lower costs for small businesses, that we want small businesses to hire more people, and then in the next breath say: But I don't think we should pass any health care reform. It is too complicated or it is too something to get it done this year. We cannot do that.

We cannot continue to say: Oh, isn't it too bad that health care costs are so high? Isn't it too bad we couldn't do something about the health care costs of small businesses? This, in the end, is not simply about the small business owner, it is not simply about what we are going to do for small businesses to help them get through this recession. This, in the end, is about our economy.

We are either going to change course, get control of costs, reform health care and be able to move our economy forward or we won't meet that challenge.

We are going to make the changes and institute reforms that will lead to lower costs, better health care outcomes, and a better bottom line for small businesses and, therefore, control long-term health care costs and long-term national debt. All of that comes from a good health care bill in the end.

We cannot fail. We cannot at long last say we didn't get the job done. We have to for our families, for children, for older citizens, as well as for small business owners. I think we can. I think we have the strategy that the American people understand fundamentally, and I think we can do it this year.

Mr. President, with that I yield the floor and note the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CASEY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### MORNING BUSINESS

Mr. CASEY. Mr. President, I ask unanimous consent that the Senate proceed to a period of morning business with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### COLD WAR PATRIOTS NATIONAL DAY OF REMEMBRANCE

Mr. BROWN. Mr. President, October 30, 2009, has been designated a national day of remembrance for hundreds of thousands of Americans who served their nation with distinction. Cold War Patriots National Day of Remembrance recognizes and commemorates former nuclear workers who built and operated our Nation's nuclear infrastructure during World War II and the Cold War.

It is an honor to recognize the thousands of Ohioans—from towns and cities across the State—whose work helped protect our Nation during five decades of ideological battles against totalitarianism. With a job to be done and a war to win, every day for more than 50 years laborers, millers, and haulers exemplified Ohio's Midwestern values of hard work and patriotism. Factory workers, metallurgists, and scientists risked exposure to hazards that are unique to the production of nuclear weapons in order to preserve our Nation's freedom and ideals to create a better world for all of us.

From the Mound laboratory in Miamisburg to the Fernald foundry

near Cincinnati to the enrichment plant in Piketon to the more than 20 other sites across the State, the people of Ohio served their Nation with distinction, confronting threats that today we still don't completely understand and that their children and grandchildren continue to face. Many of the hardworking men and women of that generation sacrificed their health some lost their lives while protecting our country and our freedom.

The Cold War Patriots National Day of Remembrance recognizes these men and women for their contribution, service, and sacrifice towards the defense of our great Nation.

#### NATIONAL BIBLE WEEK 2009

Mr. VOINOVICH. Mr. President, I am honored to serve as the congressional cochairman of National Bible Week 2009. National Bible Week, which will be held from November 22 to 29, was created to underscore the importance of regular Bible study and scripture reading. The Bible is the word of God. I know that many of us could not face the challenges, stress, and heavy burden of serving during this critical time for our country, if it were not for the daily guidance God provides us through scripture—and for those of us in the Catholic faith, reception of the Blessed Sacrament. I believe that my colleagues and I need to pay special attention to the lessons the Bible teaches us, as we work together to make a difference for our country.

The enormity of what confronts us makes it is easy to become frustrated, discouraged and tired. Thankfully, the Bible provides us with inspiration, strength, and wisdom to motivate us. Prominently displayed in my office is a picture showing an eagle soaring high in the sky. One of my favorite Bible verses, Isaiah 40:31 adorns the frame, it reads:

Those who hope in the Lord will renew their strength. They will soar on wings like eagles; they will run and not grow weary, they will walk and not be faint.

As I read those words so often, I am reminded that the Holy Spirit is always present and willing to inspire and help us. Isaiah reminds us that we can certainly try to tackle the big issues on our own, but that without the Holy Spirit by our side, the road will be long and arduous.

My colleagues have often heard me express my desire to address the ballooning Federal deficit, to create an economic climate that is conducive to higher job-growth, and to improve the standard of living and quality of life of our children and grandchildren—undertakings that take much time and effort. Isaiah's message makes the importance and urgency of these undertakings no less daunting, but does reassure us that if we trust in the Holy Spirit, he will allow us to persevere.

I urge all Americans to celebrate National Bible Week to discover the lessons, inspiration and guidance that God's scripture provides for each of us.

#### ADDITIONAL STATEMENTS

##### RECOGNIZING SIXTEENTH STREET COMMUNITY HEALTH CENTER

• Mr. KOHL. Mr. President, I would like to take this time to recognize and congratulate the Sixteenth Street Community Health Center on its 40th anniversary.

Located in the heart of Milwaukee's diverse south side, the Sixteenth Street Community Health Center provides high quality health care services to low income and non-English speaking residents in its surrounding neighborhoods. Providing more than just basic health care, the center offers a full range of social services, health education, and important mental health services.

The Sixteenth Street Community Health Center began in 1969 when a small group of residents opened the Health Contact Center with the goal of providing care to central city residents who may not otherwise have access to medical services. Residents throughout the neighborhood came together to ensure that the health center had the resources and support it needed to thrive.

Just 10 years after it opened, the health center doubled in size. Throughout its history, it has partnered with the city of Milwaukee, local hospitals and clinics, and charitable organizations to continue its growth and expand the services it provides to patients. Today, the Sixteenth Street Community Health Center offers prenatal care, social services, environmental health education, HIV treatment and prevention education, physical therapy, nutrition and wellness education, and much more. In 2006, it opened its second clinic and last year it served more than 27,000 patients.

I have a long and proud history of working with the Sixteenth Street Community Health Center. The center, widely recognized as an exemplary health organization, is a treasured vital community asset. For 40 years, the staff of the center has worked diligently to fulfill its mission of providing care to as many people as possible regardless of income or insurance status. In Milwaukee, the Sixteenth Street Community Health Center is synonymous with quality health care, community service, and passion for all.

On behalf of our State and Nation, I applaud the Sixteenth Street Community Health Center on 40 years of outstanding service and wish them continued success and a strong future.●

##### REMEMBERING RICHARD NEAL FOSTER

• Ms. MURKOWSKI. Mr. President, I rise today to acknowledge the life of one of Alaska's most dedicated public servants. Representative Richard Neal Foster served as a member of the Alaska House of Representatives for nearly 21 years. Since his election in 1988 he represented the residents of Nome and 28 villages with great love and dedication. Alaska will remember him this Friday at a memorial service in Anchorage.

A lifelong Alaskan, Representative Foster was born and raised in Nome. He received a business administration degree from the University of Alaska. He managed Foster Aviation, a family-run air service started by his father in 1946. He was a civic leader in the community of Nome serving on the boards of the Bering Straits Native Corporation, the Sitnasuak Native Corporation, Nome Eskimo Community, and the Northwest Campus of the University of Alaska.

Representative Foster will be remembered for a lifetime of public service. After serving two tours in Vietnam as a captain in military intelligence he was awarded the Bronze Star. He received a commission as a second lieutenant in the Army through the University of Alaska, Army ROTC program. As a man with passion for Alaska, he later served with the Alaska Army National Guard in Nome.

During his tenure in the Alaska State legislature, he served as majority whip from 1993 to 2007. Showing his commitment to address the challenges of rural Alaska, he was a member of the Bush Caucus as well as the Alcohol and Substance Abuse Task Force Committee. And, in 2009, he was honored as a University of Alaska Distinguished Alumni because of his dedication to public service.

As one of the longest serving members in the Alaska legislature, it saddens me to acknowledge that Alaska has lost one of our truly great leaders. I had the honor of serving in the legislature with Representative Foster. He was a man with an infectious laugh and he had a great love for the Seward Peninsula and the State of Alaska. Never letting divisive politics come between friendships, he was known for his humility and friendliness to both Republicans and Democrats. His "Friday at Fosters" events, where he hosted legislators, staff, administration officials, friends, and visitors for a Friday evening jam sessions for over 17 years, will be sorely missed.

Foster loved the outdoors of the Seward Peninsula, a region with a rich mining history. He spent his summers at Hannum Creek, working on his family's mining claims. One time, he and his sister Iris and son Neal walked 80 miles of the historic mining trail from Quartz Creek to Hannum Creek to ex-

perience the journey of "Old Timers." In addition, Foster was known for his love of military history including the Civil War and World War II and was a collector of military weapons.

He is survived by his wife Cathryn of Eatonville, WA; seven sons, Neal Foster of Nome, AK; James Foster of Anchorage, AK; Nathan Foster of Ellendale, ND; 1st Lt. Jason Weber, LCpl Richard Foster, Ramsey Foster, and Chandler Foster, all of Eatonville, WA; and two daughters, Maria Stevens of Tacoma, WA, Tiffany Sanchez of Miami, OK; and sister Margaret "Iris" Magnell of Laguna Hills, CA.

Foster's public service to the State of Alaska will continue to positively impact the lives of Alaskans for decades to come.●

##### RECOGNIZING THE NATIONAL ASSOCIATION OF BLACK MEN UNITED

• Mr. PRYOR. Mr. President, today I wish to recognize the National Association of Black Men United, NABMU, and congratulate them for 10 years of dedication to advancing education.

The National Association of Black Men United has been instrumental in increasing college students' graduation rates in my home State of Arkansas. Their focus on graduating students at the University of Central Arkansas has sparked expansion to Howard University in the District of Columbia.

Furthermore, the National Association of Black Men United was founded on the principle that everyone who attends college should reach the goal of graduation, regardless of race. The purpose is to assist black men in obtaining a bachelor's degree from an accredited college or university. The organization provides men with the tools needed to increase graduation rates and improve economic advancements within the African-American community. These tools include educational forums, workshops, mentorship programs, and financial plans to guide students to graduation. NABMU's vision is to expand across the country, helping individuals in all corners of the United States.

NABMU teaches a set of 10 primary responsibilities that encourage students to earn their degree. These responsibilities range from sitting in the front of the classroom, being diligent with their finances, and being responsible for their own actions. Another vital function of the organization is to assist young men in finding careers in the field of their choice.

I ask my colleagues to join me in recognizing the National Association of Black Men United and especially their chapter at the University of Central Arkansas for their outstanding work.●

# TRIBUTE TO CHARLES EARLE CRAFTS

• Ms. SNOWE. Mr. President, today I pay tribute to Charles Earle Crafts of Livermore, ME, who is to be awarded three exceptional valor awards on November 9, 2009, for his extraordinary service to this Nation. Charles will be presented with the prestigious Silver Star Medal for his heroic role in combat against an overwhelming Viet Cong force at the Battle of Binh Gia, South Vietnam, on December 29, 1964. In addition, he will be awarded the Bronze Star Medal in honor of the 2 years, 1 month, and 24 days he spent in brutal jungle captivity as a prisoner of war—and the Bronze Star Medal with a “V” (valor) device for his outstanding achievement in smuggling out critical information for the United States—risking further retribution—I might add. Indeed, all Americans owe a tremendous debt of gratitude to Charles for his inexhaustible service to this country contributions that we will never forget and that truly epitomize the valor of every man and woman courageous enough to wear our Nation’s uniform.

In fact, a year before most Americans became aware that there was a violent war being fought against the democratic government of South Vietnam, Charles was drafted into the U.S. Army and trained as a radio operator. Then, in November of 1964, he was sent to Saigon and became a military advisor to the Army of South Vietnam, ARVN, which was engaged in a bloody struggle against the Viet Cong insurgents.

That December, as Viet Cong forces attacked and held the village of Binh Gia which is located about 50 miles east of Saigon, Private Crafts, in his capacity as the radio operator for Sergeant Harold George Bennett, accompanied the 33rd ARVN Ranger Battalion in an attempt to retake Binh Gia. As they approached the village, their much smaller force of approximately 350 men came under heavy fire from an enemy force that was later estimated to be near 5,000 strong.

The majority of the ARVN Rangers were killed, wounded, or captured during the horrific battle that followed, but despite all of the challenges, Crafts successfully rebuffed attempts by the Viet Cong to jam radio transmissions during the deadly carnage around them. And due to his deft and flawless operation of their portable radio, they were able to warn approaching American helicopter pilots not to attempt a rescue of them in the Viet Cong killing zone.

Shortly thereafter, Sergeant Bennett and Private Crafts were captured as prisoners of war—forced to survive disease including several bouts of malaria, as well as malnutrition and even terrible retribution for attempting to escape—being told, on myriad occasions, that, “dying is easy; surviving is much more difficult.”

Both Crafts and Bennett would later be joined by CPT Donald G. Cook, a U.S. Marine Corps officer who was severely wounded at Binh Gia 2 days after their capture. And under the steadfast leadership of Captain Cook, all upheld the military Code of Conduct to the utmost of their individual ability while resisting frequent Viet Cong interrogation and indoctrination sessions—facing untold hardships on behalf of each and every American. These brave men, in the face of such profound adversity, sustained themselves by their faith, trust in their country, and above all, each other.

And through all of the trials and tribulations, in light of the countless reasons to give up hope, Charles remained resolute—and that unwavering determination to survive and to return home came to fruition as the Viet Cong political leadership decided to release two American POWs, choosing Charles and Sgt Sammie Womack. A brief ceremony was held on February 16, 1967, in the midst of the jungle, but it was after they boarded a Vietnamese bus, stopping at a U.S. military checkpoint, that they again tasted freedom on February 23 that our Nation holds so dear. And as if all that Crafts had endured and accomplished had not been enough, he smuggled documents out of the jungle, providing even further intelligence for our country.

Following several months of hospitalization—growing stronger with each passing day—Charles was honorably discharged on May 17, 1967, with the rank of specialist four class, E-4. Throughout the entire ordeal, his parents, the late Leroy Bradford Crafts and Virginia (Voter) Crafts, never gave up hope for the return of their only son. And return to Maine he did to a welcoming and loving family, to a most grateful community and State, and, although he didn’t know it at the time, his future wife Juanita during a ceremony where his high school alma mater dedicated their yearbook to him. Now that is fate!

Throughout his entire life—from his time at International Paper Company to his role as a national service officer for the Disabled American Veterans and, of course, his tireless service to this country while serving in the Army—Charles has exemplified the very best that this Nation has to offer, and he is a shining example for why we celebrate Veterans Day every year.

It goes without saying that Charles Crafts is a true American hero who risked his life, time and again, so that our lives could be better. There are no words to adequately thank or appropriately honor Charles for all that he has done, but it gives me, and surely everyone in Maine, immeasurable pride that the Department of the Army has now approved three awards for Charles Earle Crafts: the Silver Star Medal for gallantry in action during the Battle of

Binh Gia, on December 29, 1964, the Bronze Star Medal with “V” device for valorous achievement in smuggling out several documents—hiding those documents among his few possessions and memorizing those which he was unable to sneak past the guards—and finally, the Bronze Star Medal for meritorious service while caring for his fellow prisoners under extreme duress by his captors.

These awards reflect Charles’ unending patriotism and boundless spirit that, quite literally, saved lives and made this country stronger. And as we laud Charles for his limitless contributions to our Nation, I cannot help but also thank Retired Colonel Doug Moore, whose sterling efforts over the past decade were critical to collecting and providing the necessary information to ensure this fitting recognition for Charles’ heroic service in Vietnam.

I could not be more pleased to join with Charles’ friends and family in celebrating these phenomenal accolades and his remarkable service with his wife of 15 years, Juanita; his son, Jason, and wife, Julie, of Jay, ME; his two stepsons, Alan Levesque of Lewiston, ME, and Andy Levesque and fiancée Tara Averill of Poland, ME; his two sisters, Patricia Ridley of Wilton, ME, and Ann Crafts of North Jay, ME; as well as his four grandchildren, soon to be five—Sarah, Emma, Whitney and Bailey. It goes without saying that families and loved ones are undeniable pillars of strength for their tireless support and indispensable devotion to our veterans and to our country.

The enduring truth is that neither a single day nor single ceremony is enough to honor America’s veterans. We owe them and we owe Charles Crafts our praise and thanks on every day that we enjoy the blessings of liberty and benefits of security. These medals presented to Charles will be a lasting testament, commemorating his unflagging spirit of placing love of homeland above all else which has been the string upon which our pearls of freedom, liberty, and democracy have always been strung.●

## RECOGNIZING MORRIS YACHTS

• Ms. SNOWE. Mr. President, four centuries ago, in my home State of Maine, a group of colonists settled on the mouth of the Kennebec River. There, they built the Virginia, a 30-ton pinnacle that voyaged across the Atlantic Ocean at least twice. By constructing the first English-built ship in North America, these early Mainers engendered a rich tradition of shipbuilding that continues still today. In this time of economic volatility, Maine shipbuilders who carry on this lofty practice are some of the many small businesses that are piloting our Nation out of this recession. I rise today to note the achievements of one of these

remarkable companies, Morris Yachts, which is headquartered in the picturesque Maine village of Bass Harbor.

Since his business first set sail in 1972, Tom Morris has added immensely to the abundant history of Down-east shipbuilding. Mr. Morris's passion for sailing spawned from summer vacations in Maine with his family. Similarly, he instilled his zeal into his son, Cuyler, who joined him at the wheel of Morris Yachts in 1995. With father and son at the helm, the company outgrew its home of 27 years in Southwest Harbor a decade ago and now operates a complete yacht service company just down the road at its present facility.

During the company's near three decades in the Maine boatbuilding arena, Morris Yachts has become a trusted and dependable name for hundreds of clients. Its yachts generally range from 29 to 62 feet in length, and provide customers with semicustom boats of superb quality and beautiful wood-working. A testament to the Morris's remarkable craftsmanship, there are presently over 269 Morris Yachts sailing all over the world. Morris Yachts also has a connection to Hollywood, as its Pemaquid Friendship sloop was utilized as a prop in the popular film "The Truman Show."

Most recently, Morris Yachts has been asked to build four 44-foot sailing vessels for the U.S. Coast Guard Academy for use in training programs. With this new contract, Morris Yachts will be able to hire up to 20 employees, including mechanics, electricians, carpenters, and composite craftspeople this fall to work on the Coast Guard project, bringing the total number of Morris employees close to 100. While the initial contract asks for four boats, the Coast Guard Academy hopes to potentially double its order.

Not only does the company provide a valuable service to its local community, but with this contract, Morris Yachts will be able to serve the entire Nation. Providing ships to the U.S. Coast Guard is a true honor, and the firm's critical work will better equip our Nation's bravest men and women to protect our shores.

Despite the difficulty facing countless yacht manufacturers over the past year and a half, Morris Yachts has continued to produce sturdy and reliable boats. As a result, the company has been nominated for the 2010 Boat of the Year Award by Cruising World and Sailing World magazines. I congratulate everyone at Morris Yachts for this honor and look forward to the announcement of the award in January.

The Morris family story serves as an inspiration to all who pursue the American dream. I commend the Morris family for being chosen by our Nation's military to build these watercraft and congratulate them for their well-deserved accolades. Just as the colonists on the Kennebec River

did centuries ago, I am certain the Morris family will continue the great tradition of Maine shipbuilding as they have for the past 37 years. Their success is proof that commitment, resolve, and hard work still lead to great things.●

#### RECOGNIZING NEW URBAN ARTS

● Mr. WHITEHOUSE. Mr. President, today I honor New Urban Arts of Providence, RI, which has been honored by the White House with the 2009 Coming Up Taller Award, the Nation's highest honor for out-of-school arts and humanities programs. New Urban Arts is a model for what the arts can do in the lives of our urban youth, giving them the opportunity to explore the limitless possibilities of their own imaginations and helping them apply what they discover to goals they set for their futures.

New Urban Arts was founded in 1997 as a collaboration between local high school and college students, with the support of the Swearer Center for Public Service at Brown University. It has grown from those 14 students in a loft at Grace Church in downtown Providence into an organization that serves over 300 high school students every year.

The New Urban Arts afterschool and summer programs provide these students with the opportunity to work with established local artists who act as both mentors and peers, with the young people creating new works of art that reflect their experiences. We know that for youth who are on their own after school, the hours between 3 p.m. and 6 p.m. are a danger zone, a peak time for juvenile crime and experimentation with drugs and alcohol. Not only does New Urban Arts give youth in Providence a place to go, it provides them with a safe space where they can express themselves through many different art mediums and with people who can nurture their talent. This includes members from Rhode Island's acclaimed arts community, which has long understood the need to invest in our state's youth and arts education. And luckily for the people of Rhode Island, the New Urban Arts gallery and exhibition spaces allow all of us to share in the joy of that new talent.

Our investment in the youth of Providence has paid dividends. Three-quarters of the students who participate in the New Urban Arts program are low-income and over half live in neighborhoods where the poverty rate is four times the national rate. Despite these challenges, over 90 percent of the seniors in this group graduate high school and attend college. When I was attorney general of Rhode Island, I saw what too often happened to students who did not know how to set goals for themselves or understand the importance of education—they ended up in

the juvenile justice system. New Urban Arts helps students chart a course toward the future by inspiring them to create and introducing them to adults who are invested in them and treat them as equals.

This wonderful model has attracted national attention, including this most recent honor, the 2009 Coming Up Taller Award. This award recognizes after-school and out-of-school arts and humanities programs for youth in traditionally underserved communities. It honors programs that foster the creative and intellectual development of our Nation's children. The ideals set out by the Coming Up Taller Award are certainly met by New Urban Arts, and I know that they will build on this honor by helping more students.

I would like congratulate all of the students and mentors who make New Urban Arts such a dynamic and innovative program, as well as its executive director, Jason Yoon, and the chairwoman of the New Urban Arts Board of Directors, Myrth York. Their hard work and dedication to the youth of Providence and to the arts will ensure that New Urban Arts continues to help our young people realize their potential into the future, and to serve as model for the rest of the Nation.●

#### MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mrs. Neiman, one of his secretaries.

#### EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

#### MESSAGE FROM THE HOUSE

At 11:28 a.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 3157. An act to name the Department of Veterans Affairs outpatient clinic in Alexandria, Minnesota, as the "Max J. Beilke Department of Veterans Affairs Outpatient Clinic".

H.R. 3949. An act to amend title 38, United States Code, and the Servicemember Civil Relief Act, to make certain improvements in the laws relating to benefits administered by the Secretary of Veterans Affairs, and for other purposes.

#### ENROLLED BILLS SIGNED

The PRESIDENT pro tempore (Mr. BYRD) reported that he had signed the



following enrolled bills, which were previously signed by the Speaker of the House:

S. 475. An act to amend the Servicemembers Civil Relief Act to guarantee the equity of spouses of military personnel with regard to matters of residency, and for other purposes.

S. 509. A bill to authorize a major medical facility project at the Department of Veterans Affairs Medical Center, Walla Walla, Washington, and for other purposes.

#### MEASURES REFERRED

The following bills were read the first and the second times by unanimous consent, and referred as indicated:

H.R. 3157. An act to name the Department of Veterans Affairs outpatient clinic in Alexandria, Minnesota, as the "Max J. Beilke Department of Veterans Affairs Outpatient Clinic"; to the Committee on Veterans' Affairs.

H.R. 3949. An act to amend title 38, United States Code, and the Servicemember Civil Relief Act, to make certain improvements in the laws relating to benefits administered by the Secretary of Veterans Affairs, and for other purposes; to the Committee on Veterans' Affairs.

#### MEASURES DISCHARGED

The following bill was discharged from the Committee on Commerce, Science, and Transportation by unanimous consent, and referred as indicated:

S. 1506. A bill to authorize the Secretary of Transportation to establish national safety standards for transit agencies operating heavy rail on fixed guideway; to the Committee on Banking, Housing, and Urban Affairs.

#### ENROLLED BILLS PRESENTED

The Secretary of the Senate reported that on today, November 4, 2009, she had presented to the President of the United States the following enrolled bills:

S. 475. An act to amend the Servicemembers Civil Relief Act to guarantee the equity of spouses of military personnel with regard to matters of residency, and for other purposes.

S. 509. An act to authorize a major medical facility project at the Department of Veterans Affairs Medical Center, Walla Walla, Washington, and for other purposes.

#### EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC-3557. A communication from the Director of the Regulatory Management Division, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Pesticide Inert Ingredients; Revocation of Tolerance Exemption for Sperm Oil" (FRL No. 8350-6) received in the Office of the

President of the Senate on November 2, 2009; to the Committee on Agriculture, Nutrition, and Forestry.

EC-3558. A communication from the Director of the Regulatory Management Division, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Ulocladium oudemansii (U3 Strain); Exemption from the Requirement of a Tolerance" (FRL No. 8436-6) received in the Office of the President of the Senate on November 2, 2009; to the Committee on Agriculture, Nutrition, and Forestry.

EC-3559. A communication from the Director of the Regulatory Management Division, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Methamidophos; Tolerance Actions" (FRL No. 8796-1) received in the Office of the President of the Senate on November 2, 2009; to the Committee on Agriculture, Nutrition, and Forestry.

EC-3560. A communication from the Director of the Regulatory Management Division, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Certain Polyurethane Polymer; Tolerance Exemption" (FRL No. 8796-3) received in the Office of the President of the Senate on November 2, 2009; to the Committee on Agriculture, Nutrition, and Forestry.

EC-3561. A communication from the Deputy Secretary of Defense, transmitting the report of (19) officers authorized to wear the insignia of the grade of brigadier general in accordance with title 10, United States Code, section 777; to the Committee on Armed Services.

EC-3562. A communication from the Secretary of the Treasury, transmitting, pursuant to law, a six-month periodic report on the national emergency with respect to Iran that was declared in Executive Order 12170 of November 14, 1979; to the Committee on Banking, Housing, and Urban Affairs.

EC-3563. A communication from the Director of the Regulatory Management Division, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Revisions to the California State Implementation Plan, Northern Sierra Air Quality Management District and San Joaquin Valley Unified Air Pollution Control District" (FRL No. 8970-6) received in the Office of the President of the Senate on October 29, 2009; to the Committee on Environment and Public Works.

EC-3564. A communication from the Director of the Regulatory Management Division, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Air Quality Implementation Plans; Maryland; Clean Air Interstate Rule" (FRL No. 8975-2) received in the Office of the President of the Senate on October 29, 2009; to the Committee on Environment and Public Works.

EC-3565. A communication from the Director of the Regulatory Management Division, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Implementation Plans; Corrections to the Arizona and Nevada State Implementation Plans" (FRL No. 8976-3) received in the Office of the President of the Senate on October 29, 2009; to the Committee on Environment and Public Works.

EC-3566. A communication from the Director of the Regulatory Management Division, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "National Priorities List, Final Rule No. 48" (FRL No. 8977-5) received in the Office of the President of the Senate on October 29, 2009; to the Committee on Environment and Public Works.

EC-3567. A communication from the Director of the Regulatory Management Division, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Revisions to the California State Implementation Plan, California Air Resources Board Consumer Products Regulations" (FRL No. 8979-9) received in the Office of the President of the Senate on October 29, 2009; to the Committee on Environment and Public Works.

EC-3568. A communication from the Acting Assistant Administrator for Fisheries, Office of Protected Resources, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Sea Turtle Conservation; Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic" (RIN0648-AY21) received in the Office of the President of the Senate on November 3, 2009; to the Committee on Environment and Public Works.

EC-3569. A communication from the Chief of the Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Industry Director's Directive No. 1—United States Outer Continental Shelf Activity" (LMSB-4-0909-037) received in the Office of the President of the Senate on November 3, 2009; to the Committee on Finance.

EC-3570. A communication from the Deputy Assistant Administrator, Bureau for Legislative and Public Affairs, U.S. Agency for International Development, transmitting, pursuant to law, the Agency's FY 2009 fourth quarter report; to the Committee on Foreign Relations.

EC-3571. A communication from the Assistant General Counsel of the Division of Regulatory Services, Office of Postsecondary Education, Department of Education, transmitting, pursuant to law, the report of a rule entitled "General and Non-Loan Programmatic Issues" (RIN1840-AC99) received in the Office of the President of the Senate on November 2, 2009; to the Committee on Health, Education, Labor, and Pensions.

EC-3572. A communication from the Secretary of Education, transmitting, pursuant to law, the report of a rule entitled "Adjustments to Statutory Caps on State Administration—Final Notice" (RIN1810-AB05) received in the Office of the President of the Senate on November 2, 2009; to the Committee on Health, Education, Labor, and Pensions.

EC-3573. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report on the Food and Drug Administration's Report on Communicating to the Public on the Risks and Benefits of New Drugs; to the Committee on Health, Education, Labor, and Pensions.

EC-3574. A communication from the Chief of Staff, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Cut Bank, Montana)" (MB Docket No. 09-50) received in the Office of the President of the Senate on November 2, 2009; to the Committee on Commerce, Science, and Transportation.



EC-3575. A communication from the Chief of Staff, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (McNary, Arizona)" (MB Docket No. 09-7) received in the Office of the President of the Senate on November 2, 2009; to the Committee on Commerce, Science, and Transportation.

EC-3576. A communication from the Chief of Staff, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Crandon, Wisconsin)" (MB Docket No. 08-62) received in the Office of the President of the Senate on November 2, 2009; to the Committee on Commerce, Science, and Transportation.

EC-3577. A communication from the Chief of Staff, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Television Broadcasting Services; Lexington, Kentucky" (MB Docket No. 09-163) received in the Office of the President of the Senate on November 2, 2009; to the Committee on Commerce, Science, and Transportation.

EC-3578. A communication from the Chief of Staff, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Television Broadcasting Services; Opelika, Alabama" (MB Docket No. 09-162) received in the Office of the President of the Senate on November 2, 2009; to the Committee on Commerce, Science, and Transportation.

EC-3579. A communication from the Chief of Staff, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Promoting Diversification of Ownership in the Broadcasting Services" (MB Docket No. 07-294) received in the Office of the President of the Senate on November 2, 2009; to the Committee on Commerce, Science, and Transportation.

EC-3580. A communication from the Chairman of the Office of Proceedings, Surface Transportation Board, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Removal of Delegations of Authority to Secretary" (RIN2140-AA96) received in the Office of the President of the Senate on November 2, 2009; to the Committee on Commerce, Science, and Transportation.

#### REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. LIEBERMAN, from the Committee on Homeland Security and Governmental Affairs, without amendment:

H.R. 955. A bill to designate the facility of the United States Postal Service located at 10355 Northeast Valley Road in Rollingbay, Washington, as the "John 'Bud' Hawk Post Office".

H.R. 1516. A bill to designate the facility of the United States Postal Service located at 37926 Church Street in Dade City, Florida, as the "Sergeant Marcus Mathes Post Office".

H.R. 1713. A bill to name the South Central Agricultural Research Laboratory of the Department of Agriculture in Lane, Oklahoma, and the facility of the United States Postal Service located at 310 North Perry Street in Bennington, Oklahoma, in honor of former Congressman Wesley "Wes" Watkins.

H.R. 2004. A bill to designate the facility of the United States Postal Service located at

4282 Beach Street in Akron, Michigan, as the "Akron Veterans Memorial Post Office".

H.R. 2215. A bill to designate the facility of the United States Postal Service located at 140 Merriman Road in Garden City, Michigan, as the "John J. Shiven Post Office Building".

H.R. 2760. A bill to designate the facility of the United States Postal Service located at 1615 North Wilcox Avenue in Los Angeles, California, as the "Johnny Grant Hollywood Post Office Building".

H.R. 2972. A bill to designate the facility of the United States Postal Service located at 115 West Edward Street in Erath, Louisiana, as the "Conrad DeRouen, Jr. Post Office".

H.R. 3119. A bill to designate the facility of the United States Postal Service located at 867 Stockton Street in San Francisco, California, as the "Lim Poon Lee Post Office".

H.R. 3386. A bill to designate the facility of the United States Postal Service located at 1165 2nd Avenue in Des Moines, Iowa, as the "Iraq and Afghanistan Veterans Memorial Post Office".

H.R. 3547. A bill to designate the facility of the United States Postal Service located at 936 South 250 East in Provo, Utah, as the "Rex E. Lee Post Office Building".

S. 1825. A bill to extend the authority for relocation expenses test programs for Federal employees, and for other purposes.

S. 1860. A bill to permit each current member of the Board of Directors of the Office of Compliance to serve for 3 terms.

#### INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. JOHNSON:

S. 2726. A bill to modify the boundary of the Minuteman Missile National Historic Site in the State of South Dakota, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. LUGAR:

S. 2727. A bill to provide for continued application of arrangements under the Protocol on Inspections and Continuous Monitoring Activities Relating to the Treaty Between the United States of America and the Union of Soviet Socialist Republics on the Reduction and Limitation of Strategic Offensive Arms in the period following the Protocol's termination on December 5, 2009; to the Committee on Foreign Relations.

By Mr. BURR (for himself, Mrs. HAGAN, and Mr. WICKER):

S. 2728. A bill to amend the Internal Revenue Code of 1986 to provide that the value of certain historic property shall be determined using an income approach in determining the taxable estate of a decedent; to the Committee on Finance.

By Ms. STABENOW (for herself, Mr. BAUCUS, Ms. KLOBUCHAR, Mr. BROWN, Mr. BEGICH, Mr. HARKIN, and Mrs. SHAHEEN):

S. 2729. A bill to reduce greenhouse gas emissions from uncapped domestic sources, and for other purposes; to the Committee on Environment and Public Works.

By Mr. BROWN (for himself and Mr. CASEY):

S. 2730. A bill to extend and enhance the COBRA subsidy program under the American Recovery and Reinvestment Act of 2009; to the Committee on Health, Education, Labor, and Pensions.

#### SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. ISAKSON:

S. Res. 333. A resolution designating each of Saturday, November 7, 2009, and Saturday, November 6, 2010, as "National Wounded Warrior Day"; to the Committee on the Judiciary.

By Mr. HATCH (for himself, Mr. UDALL of New Mexico, Mr. REID, Mr. BENNETT, Mr. CRAPO, and Mr. LUGAR):

S. Res. 334. A resolution designating Thursday, November 19, 2009, as "Feed America Day"; to the Committee on the Judiciary.

By Mr. ISAKSON (for himself and Mr. CHAMBLISS):

S. Res. 335. A resolution designating November 29, 2009, as "Drive Safer Sunday"; to the Committee on the Judiciary.

By Mr. INOUE (for himself, Mr. LEAHY, Mr. COCHRAN, and Mr. INHOFE):

S. Res. 336. A resolution expressing the sense of the Senate regarding designation of the month of November 2009 as "National Military Family Month"; considered and agreed to.

By Mr. REID (for Mr. BYRD (for himself and Mr. ROCKEFELLER):

S. Res. 337. A resolution designating December 6, 2009, as "National Miners Day"; to the Committee on the Judiciary.

#### ADDITIONAL COSPONSORS

S. 229

At the request of Mrs. BOXER, the name of the Senator from Minnesota (Mr. FRANKEN) was added as a cosponsor of S. 229, a bill to empower women in Afghanistan, and for other purposes.

S. 428

At the request of Mr. DORGAN, the name of the Senator from North Carolina (Mrs. HAGAN) was added as a cosponsor of S. 428, a bill to allow travel between the United States and Cuba.

S. 471

At the request of Ms. SNOWE, the name of the Senator from New Jersey (Mr. MENENDEZ) was added as a cosponsor of S. 471, a bill to amend the Education Sciences Reform Act of 2002 to require the Statistics Commissioner to collect information from coeducational secondary schools on such schools' athletic programs, and for other purposes.

S. 535

At the request of Mr. NELSON of Florida, the name of the Senator from Florida (Mr. LEMIEUX) was added as a cosponsor of S. 535, a bill to amend title 10, United States Code, to repeal requirement for reduction of survivor annuities under the Survivor Benefit Plan by veterans' dependency and indemnity compensation, and for other purposes.

S. 557

At the request of Mr. KOHL, the name of the Senator from Florida (Mr. LEMIEUX) was added as a cosponsor of S. 557, a bill to encourage, enhance, and integrate Silver Alert plans throughout the United States, to authorize

grants for the assistance of organizations to find missing adults, and for other purposes.

S. 571

At the request of Mr. MENENDEZ, the name of the Senator from Maryland (Ms. MIKULSKI) was added as a cosponsor of S. 571, a bill to strengthen the Nation's research efforts to identify the causes and cure of psoriasis and psoriatic arthritis, expand psoriasis and psoriatic arthritis data collection, and study access to and quality of care for people with psoriasis and psoriatic arthritis, and for other purposes.

S. 619

At the request of Mr. KERRY, his name was added as a cosponsor of S. 619, a bill to amend the Federal Food, Drug, and Cosmetic Act to preserve the effectiveness of medically important antibiotics used in the treatment of human and animal diseases.

S. 621

At the request of Mr. DURBIN, the name of the Senator from Pennsylvania (Mr. CASEY) was added as a cosponsor of S. 621, a bill to amend the Public Health Service Act to coordinate Federal congenital heart disease research efforts and to improve public education and awareness of congenital heart disease, and for other purposes.

S. 663

At the request of Mr. NELSON of Nebraska, the name of the Senator from Minnesota (Ms. KLOBUCHAR) was added as a cosponsor of S. 663, a bill to amend title 38, United States Code, to direct the Secretary of Veterans Affairs to establish the Merchant Mariner Equity Compensation Fund to provide benefits to certain individuals who served in the United States merchant marine (including the Army Transport Service and the Naval Transport Service) during World War II.

S. 706

At the request of Mr. MENENDEZ, the names of the Senator from New Jersey (Mr. LAUTENBERG) and the Senator from New York (Mr. SCHUMER) were added as cosponsors of S. 706, a bill to increase housing, awareness, and navigation demonstration services (HANDS) for individuals with autism spectrum disorders.

S. 729

At the request of Mr. DURBIN, the name of the Senator from Wisconsin (Mr. KOHL) was added as a cosponsor of S. 729, a bill to amend the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 to permit States to determine State residency for higher education purposes and to authorize the cancellation of removal and adjustment of status of certain alien students who are long-term United States residents and who entered the United States as children, and for other purposes.

S. 841

At the request of Mr. KERRY, the name of the Senator from Connecticut

(Mr. DODD) was added as a cosponsor of S. 841, a bill to direct the Secretary of Transportation to study and establish a motor vehicle safety standard that provides for a means of alerting blind and other pedestrians of motor vehicle operation.

S. 1056

At the request of Mr. VOINOVICH, the names of the Senator from Pennsylvania (Mr. SPECTER) and the Senator from South Carolina (Mr. GRAHAM) were added as cosponsors of S. 1056, a bill to establish a commission to develop legislation designed to reform tax policy and entitlement benefit programs and ensure a sound fiscal future for the United States, and for other purposes.

S. 1147

At the request of Mr. KOHL, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 1147, a bill to prevent tobacco smuggling, to ensure the collection of all tobacco taxes, and for other purposes.

S. 1237

At the request of Mrs. MURRAY, the name of the Senator from Pennsylvania (Mr. SPECTER) was added as a cosponsor of S. 1237, a bill to amend title 38, United States Code, to expand the grant program for homeless veterans with special needs to include male homeless veterans with minor dependents and to establish a grant program for reintegration of homeless women veterans and homeless veterans with children, and for other purposes.

S. 1478

At the request of Mrs. GILLIBRAND, the names of the Senator from Utah (Mr. HATCH) and the Senator from New Jersey (Mr. MENENDEZ) were added as cosponsors of S. 1478, a bill to strengthen communities through English literacy and civics education for new Americans, and for other purposes.

S. 1547

At the request of Mr. REED, the name of the Senator from Pennsylvania (Mr. SPECTER) was added as a cosponsor of S. 1547, a bill to amend title 38, United States Code, and the United States Housing Act of 1937 to enhance and expand the assistance provided by the Department of Veterans Affairs and the Department of Housing and Urban Development to homeless veterans and veterans at risk of homelessness, and for other purposes.

S. 1584

At the request of Mr. MERKLEY, the name of the Senator from Massachusetts (Mr. KIRK) was added as a cosponsor of S. 1584, a bill to prohibit employment discrimination on the basis of sexual orientation or gender identity.

S. 1646

At the request of Mr. REED, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. 1646, a bill to keep Americans working by strengthening and expand-

ing short-time compensation programs that provide employers with an alternative to layoffs.

S. 1780

At the request of Mrs. LINCOLN, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S. 1780, a bill to amend title 38, United States Code, to deem certain service in the reserve components as active service for purposes of laws administered by the Secretary of Veterans Affairs.

S. 1823

At the request of Mr. BAUCUS, the name of the Senator from Idaho (Mr. CRAPO) was added as a cosponsor of S. 1823, a bill to renew the temporary suspension of duty on certain footwear.

S. 1833

At the request of Mr. UDALL of Colorado, the name of the Senator from Vermont (Mr. LEAHY) was added as a cosponsor of S. 1833, a bill to amend the Credit Card Accountability Responsibility and Disclosure Act of 2009 to establish an earlier effective date for various consumer protections, and for other purposes.

S. 1859

At the request of Mr. ROCKEFELLER, the name of the Senator from New Mexico (Mr. BINGAMAN) was added as a cosponsor of S. 1859, a bill to reinstate Federal matching of State spending of child support incentive payments.

S. 1927

At the request of Mr. DODD, the name of the Senator from Vermont (Mr. LEAHY) was added as a cosponsor of S. 1927, a bill to establish a moratorium on credit card interest rate increases, and for other purposes.

S. 2128

At the request of Mr. LEMIEUX, the names of the Senator from South Carolina (Mr. GRAHAM) and the Senator from Tennessee (Mr. ALEXANDER) were added as cosponsors of S. 2128, a bill to provide for the establishment of the Office of Deputy Secretary for Health Care Fraud Prevention.

S. 2336

At the request of Mr. SESSIONS, the name of the Senator from South Carolina (Mr. GRAHAM) was added as a cosponsor of S. 2336, a bill to safeguard intelligence collection and enact a fair and responsible reauthorization of the 3 expiring provisions of the USA PATRIOT Improvements and Reauthorization Act.

S. RES. 316

At the request of Mr. MENENDEZ, the name of the Senator from Rhode Island (Mr. WHITEHOUSE) was added as a cosponsor of S. Res. 316, a resolution calling upon the President to ensure that the foreign policy of the United States reflects appropriate understanding and sensitivity concerning issues related to human rights, ethnic cleansing, and genocide documented in the United

States record relating to the Armenian Genocide, and for other purposes.

#### STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. JOHNSON:

S. 2726. A bill to modify the boundary of the Minuteman Missile National Historic Site in the State of South Dakota, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. JOHNSON. Mr. President, today I introduced legislation that will allow the Minuteman Missile National Historic Site to move forward with development of a visitor center. Specifically, my legislation will allow 25 acres of national Forest Service land to be transferred to the National Park Service where the visitor center and administrative facility will be constructed.

The launch control facility and missile silo that make up the Minuteman Missile National Historic Site were preserved to illustrate the history of the cold war and the role the Air Force's Minuteman II missile defense system played in efforts to preserve world peace. Construction of a visitor center will help tell this story and allow many more to learn about this historic site. I was pleased to help establish Minuteman Missile as part of the national park system in 1999, and I am now glad to be able to follow through on fully developing resources for visitors.

#### SUBMITTED RESOLUTIONS

SENATE RESOLUTION 333—DESIGNATING EACH OF SATURDAY, NOVEMBER 7, 2009, AND SATURDAY, NOVEMBER 6, 2010, AS “NATIONAL WOUNDED WARRIOR DAY”

Mr. ISAKSON submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 333

Whereas recognizing “National Wounded Warrior Day” would embrace an already existing “mindset of remembrance” for men and women alike that have served our Nation;

Whereas the current conflicts in Iraq and Afghanistan have seen many wounded warriors whose injuries grow more serious as the enemy increases the use of improvised explosive devices;

Whereas those disabled veterans who have served in previous conflicts without any recognition and those disabled veterans who are currently recovering remind us that we, as people and as a Nation, need to thank and care for our disabled veterans; and

Whereas the number of casualties after 8 years of the current conflicts in Iraq and Afghanistan is over 4,000 and recognizing “National Wounded Warrior Day” would ensure that the sacrifice of wounded warriors would not be forgotten: Now, therefore, be it

*Resolved*, That the Senate—

(1) designates each of Saturday, November 7, 2009, and Saturday, November 6, 2010, as “National Wounded Warrior Day”; and

(2) encourages the United States to honor our wounded warriors who have sacrificed their safety in order to preserve our freedom.

SENATE RESOLUTION 334—DESIGNATING THURSDAY, NOVEMBER 19, 2009, AS “FEED AMERICA DAY”

Mr. HATCH (for himself, Mr. UDALL of New Mexico, Mr. REID, Mr. BENNETT, Mr. CRAPO, and Mr. LUGAR) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 334

Whereas Thanksgiving Day celebrates the spirit of selfless giving and an appreciation for family and friends;

Whereas the spirit of Thanksgiving Day is a virtue upon which the Nation was founded;

Whereas according to the Department of Agriculture, roughly 35,000,000 people in the United States, including 12,000,000 children, continue to live in households that do not have an adequate supply of food; and

Whereas selfless sacrifice breeds a genuine spirit of thanksgiving, both affirming and restoring fundamental principles in our society: Now, therefore, be it

*Resolved*, That the Senate—

(1) designates Thursday, November 19, 2009, as “Feed America Day”; and

(2) encourages the people of the United States to sacrifice 2 meals on Thursday, November 19, 2009, and to donate the money that they would have spent on such food to a religious or charitable organization of their choice for the purpose of feeding the hungry.

Mr. HATCH. Mr. President, I rise today to speak regarding an effort that I have supported for a number of years and something I am very proud to have championed in the Senate for over 4 years. I speak, of Feed America Day. More than just the recognition of a single day, the Feed America campaign is a nationwide effort promoted by a number of charitable organizations and supported by numerous communities throughout the country. It is aimed at encouraging our Nation's spirit of selflessness and sacrifice in order to help those in need.

Those who participate in Feed America Day encourage all Americans to sacrifice two meals on the Thursday before Thanksgiving Day and to donate the money they would have used for food to a charity or religious organization in their community for the purpose of feeding the Hungry. In a simple and practical way, this is an effort to harness the generosity of the American people in the spirit of the Thanksgiving season.

We live in the most prosperous nation on the planet. Even in the face of our current difficulties, that remains true. Yet, according to the Department of Agriculture's most recent numbers, roughly 35 million Americans, including 12 million children, live in households that do not have an adequate

supply of food. I think we can all agree that it is a good idea to encourage the American people to do more for the hungry in their communities, even if we don't always agree as to what Congress should do on such matters.

Today, I have submitted a resolution that would designate Thursday, November 19, 2009, as Feed America Day. Once passed, this will be the fifth consecutive year that this day has been recognized by the Senate. I want to personally thank Senator TOM UDALL from New Mexico for all his efforts in supporting and promoting this resolution and we are joined by Senators BENNETT, CRAPO, LUGAR, and REED. I urge my Senate colleagues and every American to join me in helping to assist those in need and affirming the long-standing values that have made our Nation great.

SENATE RESOLUTION 335—DESIGNATING NOVEMBER 29, 2009, AS “DRIVE SAFER SUNDAY”

Mr. ISAKSON (for himself and Mr. CHAMBLISS) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 335

Whereas motor vehicle travel is the primary means of transportation in the United States;

Whereas every individual traveling on the roads and highways needs to drive in a safer manner in order to reduce deaths and injuries that result from motor vehicle accidents;

Whereas according to the National Highway Traffic Safety Administration, wearing a seat belt saves more than 15,000 lives each year;

Whereas the Senate wants all people of the United States to understand the life-saving importance of wearing a seat belt and encourages motorists to drive safely, not just during the holiday season, but every time they get behind the wheel; and

Whereas the Sunday after Thanksgiving is the busiest highway traffic day of the year: Now, therefore, be it

*Resolved*, That the Senate—

(1) encourages—

(A) high schools, colleges, universities, administrators, teachers, primary schools, and secondary schools to launch campus-wide educational campaigns to urge students to be focused on safety when driving;

(B) national trucking firms to alert their drivers to be especially focused on driving safely on the Sunday after Thanksgiving, and to publicize the importance of the day through use of Citizen's Band (“CB”) radios and truck stops across the Nation;

(C) clergy to remind their members to travel safely when attending services and gatherings;

(D) law enforcement personnel to remind drivers and passengers to drive safely, particularly on the Sunday after Thanksgiving; and

(E) all people of the United States to use the Sunday after Thanksgiving as an opportunity to educate themselves about highway safety; and

(2) designates November 29, 2009, as “Drive Safer Sunday”.

**SENATE RESOLUTION 336—EX-PRESSING THE SENSE OF THE SENATE REGARDING DESIGNATION OF THE MONTH OF NOVEMBER 2009 AS “NATIONAL MILITARY FAMILY MONTH”**

Mr. INOUE (for himself, Mr. LEAHY, Mr. COCHRAN, and Mr. INHOFE) submitted the following resolution; which was considered and agreed to:

S. RES. 336

Whereas military families, through their sacrifices and their dedication to the United States and its values, represent the bedrock upon which the United States was founded and upon which the country continues to rely in these perilous and challenging times: Now, therefore, be it

*Resolved, That—*

(1) it is the sense of the Senate that the month of November 2009 should be designated as “National Military Family Month”; and

(2) the Senate encourages the people of the United States to observe “National Military Family Month” with appropriate ceremonies and activities.

**SENATE RESOLUTION 337—DESIGNATING DECEMBER 6, 2009, AS “NATIONAL MINERS DAY”**

Mr. REID (for Mr. BYRD (for himself and Mr. ROCKEFELLER)) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 337

Whereas the foundations of civilization are constructed from, advanced by, and sustained with, the materials procured with the sweat and blood of miners;

Whereas the miners of the United States have labored long and hard over our nation's existence to make it the economically strong, militarily secure Nation that it is today;

Whereas miners and their families have achieved, provided, and sacrificed so much for the betterment of their fellow Americans;

Whereas miners have struggled, in their lives and in their work, to obtain health and safety protections;

Whereas the terrible mining tragedy at Monongah, West Virginia, that occurred on December 6, 1907, is recognized for causing the greatest loss of lives in American industrial history, and this tragedy helped to launch the national effort to secure the safety and health of our miners that continues to this day; and

Whereas miners still today risk life and limb in their labors: Now, therefore, be it

*Resolved, That the Senate—*

(1) designates December 6, 2009, as “National Miners Day”, in appreciation, honor, and remembrance of the accomplishments and sacrifices of the miners of the Nation; and

(2) encourages the people of the United States to participate in local and national activities celebrating and honoring the contributions of miners.

**AMENDMENTS SUBMITTED AND PROPOSED**

**SA 2725.** Mr. WEBB submitted an amendment intended to be proposed by him to the

bill H.R. 2847, making appropriations for the Departments of Commerce and Justice, and Science, and Related Agencies for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table.

**TEXT OF AMENDMENTS**

**SA 2725.** Mr. WEBB submitted an amendment intended to be proposed by him to the bill H.R. 2847, making appropriations for the Departments of Commerce and Justice, and Science, and Related Agencies for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table; as follows:

On page 170, between lines 19 and 20, insert the following:

**SEC. 220. USE OF FUNDS FOR TECHNOLOGY UPGRADES.**

At the discretion of the Attorney General, amounts appropriated under the heading “COMMUNITY ORIENTED POLICING SERVICES” under the heading “OFFICE OF JUSTICE PROGRAMS” under title II of division B of the Omnibus Appropriations Act, 2009 (Public Law 111-8; 123 Stat. 583) for law enforcement technologies and interoperable communications for Southside Virginia law enforcement for technology upgrades may be available to the sheriffs' offices of Pittsylvania, Cumberland, Bedford, Henry, Brunswick, Campbell, and Greene counties in Virginia and the Sheriff's Office of the City of Martinsville, Virginia for law enforcement technology.

**NOTICE OF HEARING**

**COMMITTEE ON ENERGY AND NATURAL RESOURCES**

Mr. BINGAMAN. Mr. President, I would like to announce for the information of the Senate and the public that a hearing has been scheduled before the Senate Committee on Energy and Natural Resources. The hearing will be held on Thursday, November 19, 2009, at 10 a.m., in room SD-366 of the Dirksen Senate Office Building.

The purpose of this hearing is to receive testimony on environmental stewardship policies related to offshore energy production.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record may do so by sending it to the Committee on Energy and Natural Resources, United States Senate, Washington, D.C. 20510-6150, or by e-mail to Abigail\_Campbell@energy.senate.gov.

For further information, please contact Linda Lance at (202) 224-7556 or Abby Campbell at (202) 224-1219.

**AUTHORITY FOR COMMITTEES TO MEET**

**COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS**

Mr. MERKLEY. Mr. President, I ask unanimous consent that the Committee on Environment and Public

Works be authorized to meet during the session of the Senate on November 4, 2009, at 10:15 a.m. in room 406 of the Dirksen Senate Office Building.

The PRESIDING OFFICER. Without objection, it is so ordered.

**COMMITTEE ON FINANCE**

Mr. MERKLEY. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session of the Senate on November 4, 2009, at 10 a.m. in room 215 of the Dirksen Senate Office Building.

The PRESIDING OFFICER. Without objection, it is so ordered.

**COMMITTEE ON FOREIGN RELATIONS**

Mr. MERKLEY. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on November 4, 2009, at 2:30 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

**COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS**

Mr. MERKLEY. Mr. President, I ask unanimous consent that the Committee on Homeland Security and Governmental Affairs be authorized to meet during the session of the Senate on November 4, 2009, at 10 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

**COMMITTEE ON INDIAN AFFAIRS**

Mr. MERKLEY. Mr. President, I ask unanimous consent that the Committee on Indian Affairs be authorized to meet during the session of the Senate on November 4, 2009, at 2:15 p.m. in room 628 of the Dirksen Senate Office Building.

The PRESIDING OFFICER. Without objection, it is so ordered.

**COMMITTEE ON THE JUDICIARY**

Mr. MERKLEY. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on November 4, 2009, at 2 p.m. in room SD-226 of the Dirksen Senate Office Building, to conduct a hearing entitled “Nominations.”

The PRESIDING OFFICER. Without objection, it is so ordered.

**COMMITTEE ON NATIONAL PARKS**

Mr. MERKLEY. Mr. President, I ask unanimous consent that the Subcommittee on National Parks be authorized to meet during the session of the Senate to conduct a hearing on November 4, 2009, at 2:30 p.m. in room SD-366 of the Dirksen Senate Office Building.

The PRESIDING OFFICER. Without objection, it is so ordered.

**SUBCOMMITTEE ON OCEANS, ATMOSPHERE, FISHERIES, AND COAST GUARD**

Mr. MERKLEY. Mr. President, I ask unanimous consent that the Subcommittee on Oceans, Atmosphere, Fisheries, and Coast Guard of the Committee on Commerce, Science, and Transportation be authorized to meet

during the session of the Senate on November 4, 2009, at 10 a.m., in room 253 of the Russell Senate Office Building.

The PRESIDING OFFICER. Without objection, it is so ordered.

### FOREIGN TRAVEL FINANCIAL REPORTS

In accordance with the appropriate provisions of law, the Secretary of the Senate herewith submits the following reports for standing committees of the Senate, certain joint committees of the Congress, delegations and groups, and select and special committees of the Senate, relating to expenses incurred in the performance of authorized foreign travel:

#### CONSOLIDATED REPORT OF EXPENDITURE OF FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95-384—22 U.S.C. 1754(b), COMMITTEE ON AGRICULTURE FOR TRAVEL FROM JULY 1 TO SEPT. 30, 2009

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Elizabeth Croker:									
Switzerland .....	Franc .....		1,178.30						1,178.30
United States .....	Dollar .....				6,649.60				6,649.60
Total .....			1,178.30		6,649.60				7,827.90

SENATOR BLANCHE L. LINCOLN,  
Chairman, Committee on Agriculture, Oct. 7, 2009.

#### CONSOLIDATED REPORT OF EXPENDITURE OF FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95-384—22 U.S.C. 1754(b), COMMITTEE ON APPROPRIATIONS FOR TRAVEL FROM JULY 1 TO SEPT. 30, 2009

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Arthur Cameron:									
Poland .....	Zloty .....		548.96						548.96
United States .....	Dollar .....				6,085.52				6,085.52
Paul Grove:									
Pakistan .....	Rupee .....		120.00						120.00
Afghanistan .....	Afghani .....		80.00						80.00
Kyrgyzstan .....	Som .....		100.00						100.00
Turkmenistan .....	Manat .....		130.00						130.00
United States .....	Dollar .....				12,573.00				12,573.00
Senator Kay Bailey Hutchison:									
Kuwait .....	Dinar .....		414.79						414.79
United States .....	Dollar .....				10,678.43				10,678.43
Dennis A. Baskham:									
Kuwait .....	Dinar .....		414.79						414.79
United States .....	Dollar .....				11,288.03				11,288.03
David W. Davis:									
Kuwait .....	Dinar .....		414.79						414.79
United States .....	Dollar .....				8,068.59				8,068.59
Paul Grove:									
Kuwait .....	Dinar .....		218.00						218.00
Lebanon .....	Pound .....		132.00						132.00
United States .....	Dollar .....				3,687.02				3,687.02
Arthur Cameron:									
France .....	Euro .....		600.00						600.00
United States .....	Dollar .....				7,823.72				7,823.72
Howard Sutton:									
France .....	Euro .....		778.00						778.00
United States .....	Dollar .....				7,823.73				7,823.73
Senator George V. Voinovich:									
Bosnia-Herzegovina .....	Convertible Marka .....		141.00						141.00
Lithuania .....	Lita .....		800.00						800.00
Joseph Lai:									
Bosnia-Herzegovina .....	Convertible Marka .....		141.00						141.00
Lithuania .....	Lita .....		800.00						800.00
Andrew Vanlandingham:									
Japan .....	Yen .....		266.00						266.00
United States .....	Dollar .....				11,410.25				11,410.25
Senator Richard J. Durbin:									
Bosnia-Herzegovina .....	Convertible Marka .....		235.03		111.75				346.78
Lithuania .....	Lita .....		1,181.76		1,355.00				2,536.76
Senator Christopher S. Bond:									
Denmark .....	Kroner .....		330.00						330.00
Greece .....	Euro .....		334.00						
United States .....	Dollar .....				9,314.86				9,314.86
Charles M. DuBois:									
Denmark .....	Kroner .....		330.00						330.00
Greece .....	Euro .....		334.00						334.00
United States .....	Dollar .....				9,314.86				9,314.86
Nikole Manatt:									
Switzerland .....	Franc .....		290.98						290.98
United States .....	Dollar .....				9,089.85				9,089.85
Total .....			9,135.10		108,624.61				117,759.71

SENATOR DANIEL K. INOUE,  
Chairman, Committee on Appropriations, Oct. 2, 2009.

CONSOLIDATED REPORT OF EXPENDITURE OF FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95-384—22  
U.S.C. 1754(b), COMMITTEE ON ARMED SERVICES FOR TRAVEL FROM JULY 1 TO SEPT. 30, 2009

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Erskine W. Wells III:									
Bosnia & Herzegovina	Konvertibilna Mark		251.40				11.90		263.30
Lithuania	Lita		807.43				23.98		831.41
Richard Fontaine:									
Libya	Dollar		155.00						155.00
Kuwait	Dollar		59.00						59.00
Yemen	Dollar		129.00						129.00
Afghanistan	Dollar		26.00						26.00
Greece	Dollar		190.00						190.00
Terence K. Laughlin:									
United States	Dollar				11,270.10				11,270.10
Japan	Yen		192.50						192.50
Senator John McCain:									
Libya	Dollar		71.70						71.70
Kuwait	Dollar		11.70						11.70
Yemen	Dollar		62.60						62.60
Afghanistan	Dollar		31.40						31.40
Greece	Dollar		186.26				40.00		226.26
Senator Susan M. Collins:									
Libya	Dollar		155.00						155.00
Yemen	Dollar		129.00						129.00
Afghanistan	Dollar		76.00						76.00
Greece	Dollar		190.00						190.00
Senator Jack Reed:									
United States	Dollar				8,140.60				8,140.60
Afghanistan	Dollar						8.00		8.00
Carolyn Chuhta:									
United States	Dollar				8,135.60				8,135.60
Pakistan	Dollar						10.00		10.00
Afghanistan	Dollar						8.00		8.00
Senator Joseph I. Lieberman:									
Libya	Dollar		155.00						155.00
Kuwait	Dollar		159.00						159.00
Yemen	Dollar		129.00						129.00
Afghanistan	Dollar		76.00						76.00
Greece	Dollar		190.00						190.00
Vance F. Serchuk:									
Libya	Dollar		155.00						155.00
Kuwait	Dollar		159.00						159.00
Yemen	Dollar		129.00						129.00
Afghanistan	Dollar		76.00						76.00
Greece	Dollar		190.00						190.00
Brooke Buchanan:									
Libya	Dollar		155.00						155.00
Kuwait	Dollar		159.00						159.00
Yemen	Dollar		129.00						129.00
Afghanistan	Dollar		76.00						76.00
Greece	Dollar		190.00						190.00
Senator Lindsey Graham:									
Libya	Dollar		71.70						71.70
Kuwait	Dollar		23.40						23.40
Yemen	Dollar		59.20						59.20
Afghanistan	Dollar		19.70						19.70
Adam Brake:									
Libya	Dollar		60.00						60.00
Yemen	Dollar		81.50						81.50
Afghanistan	Dollar		66.50						66.50
Michael J. Kuiken:									
United States	Dollar				10,754.00				10,754.00
Mali	Dollar		246.00						246.00
Senegal	Dollar		443.00						443.00
Liberia	Dollar		244.00						244.00
Bayard Winslow Kennett II:									
Libya	Dollar		155.00						155.00
Kuwait	Dollar		159.00						159.00
Yemen	Dollar		129.00						129.00
Afghanistan	Dollar		76.00						76.00
Greece	Dollar		190.00						190.00
Dana W. White:									
United States	Dollar				10,754.00				10,754.00
Mali	Dollar		234.00						234.00
Senegal	Dollar		402.00						402.00
Liberia	Dollar		221.00						221.00
Senator Carl Levin:									
United States	Dollar				4,750.00				4,750.00
Afghanistan	Dollar		8.00						8.00
Richard D. DeBobes:									
United States	Dollar				8,140.00		25.00		8,165.00
Afghanistan	Dollar		8.00						8.00
United Arab Emirates	Dollar		254.00						254.00
William G.P. Monahan:									
United States	Dollar				8,140.00		25.00		8,165.00
Afghanistan	Dollar		8.00						8.00
United Arab Emirates	Dollar		254.00						254.00
Total			8,263.99		70,084.30		151.88		78,500.17

SENATOR CARL LEVIN,  
Chairman, Committee on Armed Services, Oct. 21, 2009.

CONSOLIDATED REPORT OF EXPENDITURE OF FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95-384—22  
U.S.C. 1754(b), COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS FOR TRAVEL FROM JULY 1 TO SEPT. 30, 2009

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Richard Shelby:									
Germany	Euro		986.00		252.68				1,238.68

CONSOLIDATED REPORT OF EXPENDITURE OF FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95-384—22  
U.S.C. 1754(b), COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS FOR TRAVEL FROM JULY 1 TO SEPT. 30, 2009—Continued

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Netherlands .....	Euro .....		458.00		223.72				681.72
Belgium .....	Euro .....		446.00		120.45				566.45
France .....	Euro .....		708.00		174.11				882.11
England .....	Pound .....		792.00		493.58				1,285.58
United States .....	Dollar .....				8,028.09				8,028.09
Anne Caldwell:									
Germany .....	Euro .....		986.00		252.68				1,238.68
Netherlands .....	Euro .....		458.00		223.72				681.72
Belgium .....	Euro .....		446.00		120.45				566.45
France .....	Euro .....		708.00		174.11				882.11
England .....	Pound .....		792.00		493.58				1,285.58
United States .....	Dollar .....				8,028.09				8,028.09
William D. Duhnke III:									
Germany .....	Euro .....		986.00		253.00				1,239.00
Netherlands .....	Euro .....		458.00		224.00				682.00
Belgium .....	Euro .....		446.00		120.00				566.00
France .....	Euro .....		708.00		174.00				882.00
United States .....	Dollar .....				8,028.00				8,028.00
Senator Mark Warner:									
France .....	Euro .....		708.00						708.00
United States .....	Dollar .....				7,840.50				7,840.50
Nathan Steinwald:									
France .....	Euro .....		372.24						372.24
United States .....	Dollar .....				7,840.50				7,840.50
Jennifer Gallagher:									
Ghana .....	Cedi .....		294.00						294.00
Liberia .....	Dollar .....		180.00						180.00
United States .....	Dollar .....				7,653.20				7,653.20
Total .....			10,338.24		50,718.46				61,056.70

SENATOR CHRISTOPHER J. DODD,  
Chairman, Committee on Banking, Housing, and Urban Affairs,  
Oct. 15, 2009.

CONSOLIDATED REPORT OF EXPENDITURE OF FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95-384—22  
U.S.C. 1754(b), COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION FOR TRAVEL FROM JULY 1 TO SEPT. 30, 2009

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Melissa Porter:									
United States .....	Dollar .....				7,375.20				7,375.20
Spain .....	Euro .....		1,332.29						1,332.29
Italy .....	Euro .....		1,655.18						1,655.18
John Drake:									
United States .....	Dollar .....				7,375.20				7,375.20
Spain .....	Euro .....		1,332.29						1,332.29
Italy .....	Euro .....		1,655.18						1,655.18
Douglas Mehan:									
United States .....	Dollar .....				2,254.80				2,254.80
Spain .....	Euro .....		1,332.29						1,332.29
Italy .....	Euro .....		1,655.18						1,655.18
Kristen Sairi:									
United States .....	Dollar .....				6,584.00				6,584.00
Switzerland .....	Franc .....		2,446.00						2,446.00
Total .....			11,408.41		23,589.20				34,997.61

SENATOR JOHN D. ROCKEFELLER IV,  
Chairman, Committee on Commerce, Science, and Transportation,  
Oct. 30, 2009.

CONSOLIDATED REPORT OF EXPENDITURE OF FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95-384—22  
U.S.C. 1754(b), COMMITTEE ON ENERGY AND NATURAL RESOURCES FOR TRAVEL FROM JULY 1 TO SEPT. 30, 2009

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Allen Stayman:									
Palau .....	Dollar .....		664.75						664.75
United States .....	Dollar .....				10,730.56				10,730.56
Isaac Edwards:									
Palau .....	Dollar .....		1,141.50						1,141.50
United States .....	Dollar .....				10,730.56				10,730.56
Allyson Anderson:									
Iceland .....	Dollar .....		1,715.00						1,715.00
United States .....	Dollar .....				3,334.70				3,334.70
Total .....			3,521.25		24,795.82				28,317.07

SENATOR JEFF BINGAMAN,  
Chairman, Committee on Energy and Natural Resources, Sept. 30, 2009.



CONSOLIDATED REPORT OF EXPENDITURE OF FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95-384—22  
U.S.C. 1754(b), COMMITTEE ON FINANCE FOR TRAVEL FROM JULY 1 TO SEPT. 30, 2009

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Maria Cantwell:									
China	RMB		513.00						513.00
United States	Dollar				12,247.00				12,247.00
Senator John Cornyn:									
Germany	Euro		1,423.17		252.68				1,675.85
Netherlands	Euro		1,704.92		223.72				1,928.64
Belgium	Euro		960.04		120.45				1,080.49
France	Euro		2,928.67		174.11				3,102.78
United Kingdom	Pound		1,728.26		493.58				2,221.84
United States	Dollar				8,418.30				8,418.30
Staci Lancaster:									
India	Rupee		312.12						312.12
Ethiopia	Birr		145.39						145.39
United States	Dollar				9,051.82				9,051.82
Chelsea Thomas:									
Kenya	Shilling		127.14						127.14
India	Rupee		443.45						443.45
Ethiopia	Birr		225.48						225.48
United States	Dollar				11,494.31				11,494.31
Jeffrey Phan:									
India	Rupee		174.12						174.12
Ethiopia	Birr		159.30						159.30
United States	Dollar				10,023.82				10,023.82
Claudia Poteet:									
Kenya	Shilling		163.94						163.94
United States	Dollar				9,887.00				9,887.00
Christopher Campbell:									
India	Rupee		455.26						455.26
Ethiopia	Birr		241.41						241.41
United States	Dollar				9,938.83				9,938.83
Amber Cottle:									
India	Rupee		336.44						366.44
Ethiopia	Birr		223.03						223.03
United States	Dollar				9,051.82				9,051.82
Travis Steven Jordan:									
India	Rupee		290.09						290.09
Ethiopia	Birr		195.12						195.12
United States	Dollar				4,068.82				4,068.82
Karin Hope:									
India	Rupee		253.92						253.92
Ethiopia	Birr		229.11						229.11
United States	Dollar				10,023.82				10,023.82
David Kavanaugh:									
India	Rupee		559.53						559.53
Ethiopia	Birr		209.43						209.43
United States	Dollar				8,930.32				8,930.32
Ayesha Khanna:									
India	Rupee		445.38						445.38
Ethiopia	Birr		207.79						207.79
United States	Dollar				8,837.31				8,837.31
Elizabeth Quint:									
India	Rupee		246.00						246.00
Ethiopia	Birr		157.66						157.66
United States	Dollar				10,023.82				10,023.82
Russell Thomasson:									
India	Rupee		382.52						382.52
Ethiopia	Birr		301.72						301.72
United States	Dollar				10,023.82				10,023.82
John Christopher Phillips:									
India	Rupee		240.95						240.95
Ethiopia	Birr		194.39						194.39
United States	Dollar				9,051.82				9,051.82
Jonathan Hale:									
China	RMB		635.74						635.74
United States	Dollar				10,199.20				10,199.20
Katharine Lister:									
China	RMB		334.53						334.53
United States	Dollar				10,789.20				10,789.20
Total			17,149.02		163,325.57				180,474.59

SENATOR MAX BAUCUS,  
Chairman, Committee on Finance, Oct. 30, 2009.

CONSOLIDATED REPORT OF EXPENDITURE OF FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95-384—22  
U.S.C. 1754(b), COMMITTEE ON FOREIGN RELATIONS FOR TRAVEL FROM JULY 1 TO SEPT. 30, 2009

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator John Barrasso:									
United States	Dollar				8,113.59				8,113.59
Senator Robert Casey, Jr.:									
United Arab Emirates	Dollar		402.71						402.71
Afghanistan	Dollar		60.00						60.00
Pakistan	Dollar		100.00						100.00
United States	Dollar				13,029.54				13,029.54
Senator Bob Corker:									
Israel	Shekel		615.00						615.00
United States	Dollar				10,078.51				10,078.51
Senator Bob Corker:									
United Arab Emirates	Dirham		210.00						210.00
Afghanistan	Afghani		176.00						176.00
Pakistan	Rupee		230.00						230.00
United States	Dollar				9,685.71				9,685.71

CONSOLIDATED REPORT OF EXPENDITURE OF FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95-384—22  
U.S.C. 1754(b), COMMITTEE ON FOREIGN RELATIONS FOR TRAVEL FROM JULY 1 TO SEPT. 30, 2009—Continued

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Kirsten Gillibrand:									
United States .....	Dollar .....				399.60				399.60
Senator Kirsten Gillibrand:									
Israel .....	Shekel .....		120.00						120.00
United States .....	Dollar .....				5,393.21				5,393.21
Senator Edward E. Kaufman:									
Afghanistan .....	Dollar .....		8.00						8.00
United States .....	Dollar .....				8,210.91				8,210.91
Senator Richard Lugar:									
United Kingdom .....	Pound .....		446.00						446.00
Turkey .....	Lira .....		197.00						197.00
United States .....	Dollar .....				8,369.54				8,369.54
Senator Jim Webb:									
Thailand .....	Baht .....		1,189.70						1,189.70
Laos .....	Kip .....		502.84						502.84
Burma .....	Kyat .....		277.00						277.00
Vietnam .....	Dong .....		1,440.00						1,440.00
United States .....	Dollar .....				11,633.00				11,633.00
Fulton Armstrong:									
Belgium .....	Euro .....		528.77						528.77
United States .....	Dollar .....				6,862.60				6,862.60
Daniel Benaim:									
Israel .....	Shekel .....		652.00						652.00
United States .....	Dollar .....				9,134.40				9,134.40
Daniel Benaim:									
Egypt .....	Pound .....		343.00						343.00
Jordan .....	Dinar .....		607.00						607.00
United States .....	Dollar .....				7,298.51				7,298.51
Jonah Blank:									
India .....	Dollar .....		2,402.00						2,402.00
Thailand .....	Dollar .....		284.75						284.75
United States .....	Dollar .....				11,466.32				11,466.32
David Bonine:									
Thailand .....	Baht .....		639.00						639.00
Vietnam .....	Dong .....		940.00						940.00
United States .....	Dollar .....				9,739.70				9,739.70
Jay Branegan:									
Russia .....	Ruble .....		794.00						794.00
Ukraine .....	Hryvnia .....		242.00						242.00
United Kingdom .....	Pound .....		165.00						165.00
United States .....	Dollar .....				9,481.83				9,481.83
Elana Broitman:									
Dominican Republic .....	Peso .....		155.00						155.00
United States .....	Dollar .....				1,399.80				1,399.80
Elana Broitman:									
Israel .....	Shekel .....		429.31						429.31
United States .....	Dollar .....				5,518.60				5,518.60
Neil Brown:									
United Kingdom .....	Pound .....		446.00						446.00
Turkey .....	Lira .....		197.00						197.00
United States .....	Dollar .....				8,369.54				8,369.54
Jason Bruder:									
Moldova .....	Leu .....		509.00						509.00
Georgia .....	Lari .....		1,404.00						1,404.00
Russia .....	Ruble .....		2,285.19						2,285.19
United States .....	Dollar .....				9,664.00				9,664.00
Heidi Crebo-Rediker:									
Philippines .....	Peso .....		452.75						452.75
Singapore .....	Dollar .....		436.42						436.42
China .....	RMB .....		1,657.06						1,657.06
United States .....	Dollar .....				12,795.00				12,795.00
Steven Feldstein:									
Uganda .....	Shilling .....		1,333.00						1,333.00
Moldova .....	Leu .....		145.00						145.00
Georgia .....	Lari .....		1,016.00						1,016.00
United States .....	Dollar .....				13,600.54				13,600.54
Andy Fisher:									
United Kingdom .....	Pound .....		446.00						446.00
Turkey .....	Lira .....		197.00						197.00
United States .....	Dollar .....				8,369.54				8,369.54
Doug Frantz:									
Belgium .....	Euro .....		582.80						582.80
United States .....	Dollar .....				6,862.60				6,862.60
Patrick Garvey:									
Kuwait .....	Dollar .....		159.00						159.00
United States .....	Dollar .....				8,393.30				8,393.30
Dillon Guthrie:									
Moldova .....	Leu .....		551.00						551.00
Georgia .....	Lari .....		1,404.00						1,404.00
United States .....	Dollar .....				9,437.67				9,437.67
Frank Jannuzzi:									
China .....	RMB .....		978.00						978.00
Republic of Korea .....	Won .....		1,200.00						1,200.00
United States .....	Dollar .....				7,771.41				7,771.41
Andrew Keller:									
Germany .....	Euro .....		520.00						520.00
United States .....	Dollar .....				7,606.01				7,606.01
Rori Kramer:									
Uganda .....	Shilling .....		218.00						218.00
United States .....	Dollar .....				10,227.56				10,227.56
Chad Kreikemeier:									
Russia .....	Ruble .....		1,589.90						1,589.90
United States .....	Dollar .....				7,453.80				7,453.80
Robin Lerner:									
Malaysia .....	Ringgit .....		345.46						345.46
Cambodia .....	Riel .....		168.00						168.00
Thailand .....	Baht .....		687.74						687.74
United States .....	Dollar .....				10,290.18				10,290.18
Mark Lopes:									
Colombia .....	Dollar .....		1,782.00						1,782.00
United States .....	Dollar .....				2,143.70				2,143.70

CONSOLIDATED REPORT OF EXPENDITURE OF FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95-384—22  
U.S.C. 1754(b), COMMITTEE ON FOREIGN RELATIONS FOR TRAVEL FROM JULY 1 TO SEPT. 30, 2009—Continued

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Nicholas Ma:									
Philippines .....	Peso .....		540.00						540.00
Singapore .....	Dollar .....		631.00						631.00
China .....	RMB .....		931.00						931.00
United States .....	Dollar .....				12,825.58				12,825.58
Marta McLellan Ross:									
Thailand .....	Baht .....		592.50						592.50
Laos .....	Kip .....		478.00						478.00
Burma .....	Kyat .....		277.00						277.00
United States .....	Dollar .....				12,290.00				12,290.00
Kenneth Myers, Jr.:									
United Kingdom .....	Pound .....		446.00						446.00
Turkey .....	Lira .....		197.00						197.00
United States .....	Dollar .....				8,369.54				8,369.54
Melanie Nakagawa:									
Germany .....	Euro .....		839.58						839.58
United States .....	Dollar .....				7,606.01				7,606.01
Ann Norris:									
Cambodia .....	Dollar .....		230.00						230.00
Thailand .....	Baht .....		660.00						660.00
United States .....	Dollar .....				4,393.20				4,393.20
Stacie Oliver:									
United Arab Emirates .....	Dirham .....		210.00						210.00
Afghanistan .....	Afghani .....		176.00						176.00
Pakistan .....	Rupee .....		345.00						345.00
United States .....	Dollar .....				4,089.10				4,089.10
Michael Phelan:									
Pakistan .....	Rupee .....		360.00						360.00
Kenya .....	Shilling .....		838.83						838.83
United States .....	Dollar .....				10,965.00				10,965.00
Peter Quaranto:									
South Africa .....	Rand .....		890.00						890.00
Zimbabwe .....	Dollar .....		885.00						885.00
Angola .....	Dollar .....		1,166.00						1,166.00
United States .....	Dollar .....				9,787.19				9,787.19
Nilmini Rubin:									
Ghana .....	Cedi .....		830.14						830.14
United States .....	Dollar .....				4,726.60				4,726.60
Shannon Smith:									
Senegal .....	CFA .....		425.00						425.00
Chad .....	CFA .....		1,365.00						1,365.00
United States .....	Dollar .....				9,713.57				9,713.57
Halie Soifer:									
Afghanistan .....	Dollar .....		21.00						21.00
United States .....	Dollar .....				8,140.59				8,140.59
Atman Trivedi:									
Japan .....	Yen .....		1,807.88						1,807.88
United States .....	Dollar .....				12,827.50				12,827.50
Atman Trivedi:									
China .....	RMB .....		1,344.00						1,344.00
Republic of Korea .....	Won .....		1,200.00						1,200.00
Vietnam .....	Dong .....		1,396.00						1,396.00
United States .....	Dollar .....				11,261.59				11,261.59
Laura Winthrop:									
Uganda .....	Shilling .....		1,479.00						1,479.00
Chad .....	CFA .....		693.00						693.00
United States .....	Dollar .....				10,979.04				10,979.04
Todd Womack:									
Israel .....	Shekel .....		615.00						615.00
United States .....	Dollar .....				10,078.51				10,078.51
Debbie Yamada:									
Bosnia-Herzegovina .....	Marka .....		198.00						198.00
Lithuania .....	Lita .....		800.00						800.00
Charles Ziegler:									
United States .....	Dollar .....				8,113.59				8,113.59
Total .....			57,733.33		404,966.83				462,700.16

SENATOR JOHN F. KERRY,  
Chairman, Committee on Foreign Relations, Oct. 22, 2009.

CONSOLIDATED REPORT OF EXPENDITURE OF FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95-384—22  
U.S.C. 1754(b), COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS FOR TRAVEL FROM JULY 1 TO SEPT. 30, 2009

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Amy Carroll:									
United States .....	Dollar .....				1,163.45				1,163.45
Germany .....	Euro .....		30.00						30.00
Norway .....	Kroner .....		975.00						975.00
Denmark .....	Kroner .....		30.00						30.00
Carol Woodcock:									
United States .....	Dollar .....				845.12				845.12
Norway .....	Kroner .....		1,150.00						1,150.00
Jennifer Hemingway:									
United States .....	Dollar .....				6,299.66				6,299.66
Tunisia .....	Dinar .....		75.68		21.00		46.00		142.68
Turkey .....	Lira .....		131.66		33.00		46.00		210.66
Israel .....	Shekel .....		201.94		88.37		32.00		322.31
Tajikistan .....	Somoni .....		25.50				20.00		45.50
Thomas Bishop:									
United States .....	Dollar .....				6,299.66				6,299.66
Tunisia .....	Dinar .....		57.30				35.00		92.30
Turkey .....	Lira .....		129.85		10.00		10.00		149.85

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Israel .....	Shekel .....	.....	255.35	.....	30.00	.....	121.00	.....	406.35
Tajikistan .....	Somoni .....	.....	20.00	.....	.....	.....	5.00	.....	25.00
Joel Spangenberg:									
United States .....	Dollar .....	.....	.....	.....	6,299.66	.....	.....	.....	6,299.66
Tunisia .....	Dinar .....	.....	60.61	.....	.....	.....	35.61	.....	96.22
Turkey .....	Lira .....	.....	142.74	.....	6.69	.....	8.94	.....	158.37
Israel .....	Shekel .....	.....	175.16	.....	.....	.....	13.19	.....	188.35
Tajikistan .....	Somoni .....	.....	6.83	.....	.....	.....	5.00	.....	11.83
Jessica Nagasaki:									
United States .....	Dollar .....	.....	.....	.....	6,299.66	.....	.....	.....	6,299.66
Tunisia .....	Dinar .....	.....	56.82	.....	.....	.....	.....	.....	56.82
Turkey .....	Lira .....	.....	127.84	.....	8.03	.....	.....	.....	135.87
Israel .....	Shekel .....	.....	178.73	.....	.....	.....	.....	.....	178.73
Tajikistan .....	Somoni .....	.....	6.83	.....	.....	.....	4.56	.....	11.39
Bradford Belzak:									
United States .....	Dollar .....	.....	.....	.....	1,287.58	.....	.....	.....	1,287.58
Austria .....	Euro .....	.....	396.84	.....	.....	.....	.....	.....	396.84
Tara Shaw:									
United States .....	Dollar .....	.....	.....	.....	4,939.94	.....	.....	.....	4,939.94
Slovakia .....	Euro .....	.....	21.35	.....	.....	.....	.....	.....	21.35
Austria .....	Euro .....	.....	345.30	.....	14.27	.....	1.43	.....	361.00
Germany .....	Euro .....	.....	271.65	.....	15.08	.....	7.90	.....	294.63
Poland .....	Zloty .....	.....	109.08	.....	.....	.....	.....	.....	109.08
France .....	Euro .....	.....	41.31	.....	54.09	.....	.....	.....	95.40
Blas Nunez-Neto:									
United States .....	Dollar .....	.....	0.00	.....	4,939.94	.....	.....	.....	4,939.94
Austria .....	Euro .....	.....	402.00	.....	.....	.....	.....	.....	402.00
Germany .....	Euro .....	.....	408.00	.....	.....	.....	.....	.....	408.00
Poland .....	Zloty .....	.....	97.00	.....	.....	.....	.....	.....	97.00
France .....	Euro .....	.....	81.00	.....	.....	.....	.....	.....	81.00
Total .....	.....	.....	6,011.37	.....	38,655.20	.....	391.63	.....	45,058.20

Name and country	Name of currency	Per diem	Transportation	Miscellaneous	Total				
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Sherrod Brown:									
United Arab Emirates .....	Dirham .....	.....	95.00	.....	.....	.....	.....	.....	95.00
Afghanistan .....	Afghani .....	.....	16.00	.....	.....	.....	.....	.....	16.00
United States .....	Dollar .....	.....	.....	10,717.89	.....	.....	.....	.....	10,717.89
Mark Fowden:									
United Arab Emirates .....	Dirham .....	.....	91.61	.....	.....	.....	.....	.....	91.61
Afghanistan .....	Afghani .....	.....	16.00	.....	.....	.....	.....	.....	16.00
United States .....	Dollar .....	.....	.....	10,424.89	.....	.....	.....	.....	10,424.89
Janice Kaguyutan:									
Malaysia .....	Ringgit .....	.....	193.64	29.49	.....	23.33	.....	.....	246.46
Cambodia .....	Dollar .....	.....	214.66	25.00	.....	23.33	.....	.....	262.99
Thailand .....	Baht .....	.....	652.75	.....	.....	.....	.....	.....	652.75
United States .....	Dollar .....	.....	.....	10,320.18	.....	.....	.....	.....	10,320.18
Total .....	.....	.....	1,279.66	31,517.45	.....	46.66	.....	.....	32,843.77

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Andrew Kerr .....	Dollar .....	.....	3,326.00	.....	12,511.66	.....	.....	.....	3,326.00
Randall Bookout .....	Dollar .....	.....	1,609.00	.....	9,767.87	.....	.....	.....	1,609.00
Gordon Matlock .....	Dollar .....	.....	3,326.00	.....	12,511.66	.....	.....	.....	3,326.00
Bryan Smith .....	Dollar .....	.....	546.00	.....	1,546.73	.....	.....	.....	546.00
Michael Pevzner .....	Dollar .....	.....	2,245.50	.....	11,192.37	.....	.....	.....	2,245.50
John Maguire .....	Dollar .....	.....	2,362.40	.....	10,252.35	.....	.....	.....	2,362.40
Dafna Hochman .....	Dollar .....	.....	282.70	.....	11,237.98	.....	.....	.....	282.70
David Koger .....	Dollar .....	.....	1,744.00	.....	7,375.39	.....	.....	.....	1,744.00
Andrew Kerr .....	Dollar .....	.....	1,676.49	.....	7,425.39	.....	.....	.....	1,676.49
Richard Girven .....	Dollar .....	.....	1,644.00	.....	7,425.39	.....	.....	.....	1,644.00
Michael Richwald .....	Dollar .....	.....	1,643.49	.....	7,425.39	.....	.....	.....	1,643.49

CONSOLIDATED REPORT OF EXPENDITURE OF FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95-384—22  
U.S.C. 1754(b), COMMITTEE ON INTELLIGENCE FOR TRAVEL FROM JULY 1 TO SEPT. 30, 2009—Continued

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Randall Bookout .....	Dollar .....		1,818.00		7,427.60				7,427.60
John Dickas .....	Dollar .....		1,571.00		12,323.42				1,818.00
Paul Matulic .....	Dollar .....		1,818.00		12,323.00				12,323.42
Jennifer Wagner .....	Dollar .....		192.00		12,122.00				1,571.00
James Smythers .....	Dollar .....		1,609.00		9,766.70				12,323.00
Senator Bill Nelson .....	Dollar .....		2,129.00		8,795.87				1,818.00
Caroline Tess .....	Dollar .....		2,552.00		8,505.91				12,122.00
Greta Lundeborg .....	Dollar .....		2,664.30		10,139.41				192.00
Total .....			34,758.88		183,526.01				9,766.70

SENATOR DIANNE FEINSTEIN,  
Chairman, Committee on Intelligence, Oct. 27, 2009.

CONSOLIDATED REPORT OF EXPENDITURE OF FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95-384—22  
U.S.C. 1754(b), JOINT ECONOMIC COMMITTEE, FOR TRAVEL FROM JULY 1 TO SEPT. 30, 2009

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Chair Carolyn B. Maloney:									
United States .....	Dollar .....				11,605.50				11,605.50
China .....	Renminbi .....		1,885.29						1,885.29
Gail Elaine Cohen:									
United States .....	Dollar .....				11,605.50				11,605.50
China .....	Renminbi .....		1,744.29						1,744.29
Barry Nolan:									
United States .....	Dollar .....				11,605.50				11,605.50
China .....	Renminbi .....		1,885.29						1,885.29
Total .....			5,514.87		34,816.50				40,331.37

REPRESENTATIVE CAROLYN B. MALONEY,  
Chairman, Joint Economic Committee, Oct. 26, 2009.

CONSOLIDATED REPORT OF EXPENDITURE OF FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95-384—22  
U.S.C. 1754(b), CONGRESSIONAL-EXECUTIVE COMMISSION ON CHINA FOR TRAVEL FROM JULY 1 TO SEPT. 30, 2009

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Andrea Worden:									
China .....	Yuan .....		4,401.00			2,216.00			6,617.00
United States .....	Dollar .....				5,297.83				5,297.83
Lawrence Liu:									
China .....	Yuan .....		4,401.00			2,216.00			6,617.00
United States .....	Dollar .....				5,297.83				5,297.83
Douglas Grob:									
China .....	Yuan .....		4,401.00			2,216.00			6,617.00
United States .....	Dollar .....				5,297.83				5,297.83
Total .....			13,203.00		15,893.49	6,648.00			35,744.49

SENATOR BYRON L. DORGAN,  
Chairman, Congressional-Executive Commission on China, Oct. 23, 2009.

CONSOLIDATED REPORT OF EXPENDITURE OF FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95-384—22  
U.S.C. 1754(b), COMMISSION ON SECURITY AND COOPERATION IN EUROPE FOR TRAVEL FROM JULY 1 TO SEPT. 30, 2009

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Erika Schlager:									
Slovakia .....	Euro .....		424.50						424.50
Austria .....	Euro .....		996.21						996.21
United States .....	Dollar .....				6,166.81				6,166.81
Janice Helwig:									
Kyrgyzstan .....	Som .....		1,476.50						1,476.50
United States .....	Dollar .....				7,216.52				7,216.52
Orest Deychakiwsky:									
Kyrgyzstan .....	Som .....		1,476.50						1,476.50
United States .....	Dollar .....				7,216.52				7,216.52
Shelly Han:									
Ghana .....	Cedi .....		505.00						505.00
Liberia .....	Dollar .....		500.00						500.00

CONSOLIDATED REPORT OF EXPENDITURE OF FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95-384—22  
U.S.C. 1754(b), COMMISSION ON SECURITY AND COOPERATION IN EUROPE FOR TRAVEL FROM JULY 1 TO SEPT. 30, 2009—Continued

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
United States .....	Dollar .....				7,593.20				7,593.20
Alex Johnson:									
Austria .....	Euro .....		1,122.00						1,122.00
United States .....	Dollar .....				7,239.80				7,239.80
Winsome Packer:									
Austria .....	Euro .....		32,416.02						32,416.02
United States .....	Dollar .....				6,106.60				6,106.60
Total .....			38,916.73		41,539.45				80,456.18

SENATOR BENJAMIN L. CARDIN,  
Chairman, Commission on Security and Cooperation in Europe,  
Oct. 21, 2009.

CONSOLIDATED REPORT OF EXPENDITURE OF FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95-384—22  
U.S.C. 1754(b), REPUBLICAN LEADER FOR TRAVEL FROM AUG. 9 TO AUG. 16, 2009

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Tom Hawkins:									
United States .....	Dollar .....				8,106.00				8,106.00
Saudi Arabia .....	Saudi Riyal .....		1,293.00						1,293.00
Yemen .....	Dollar .....		167.00						167.00
Total .....			1,460.00		8,106.00				9,566.00

SENATOR MITCH MCCONNELL,  
Republican Leader, Sept. 18, 2009.

### NATIONAL MILITARY FAMILY MONTH

Mr. CASEY. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 336, submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 336) expressing the sense of the Senate regarding designation of the month of November 2009 as "National Military Family Month."

There being no objection, the Senate proceeded to consider the resolution.

Mr. CASEY. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motions to reconsider be laid upon the table, with no intervening action or debate, and any statements related to the resolution be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 336) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

#### S. RES. 336

Whereas military families, through their sacrifices and their dedication to the United States and its values, represent the bedrock upon which the United States was founded and upon which the country continues to rely in these perilous and challenging times: Now, therefore, be it

Resolved, That—

(1) it is the sense of the Senate that the month of November 2009 should be designated as "National Military Family Month"; and

(2) the Senate encourages the people of the United States to observe "National Military Family Month" with appropriate ceremonies and activities.

### JOINT REFERRAL—EXECUTIVE CALENDAR

Mr. CASEY. Mr. President, as in executive session, I ask unanimous consent that the nomination of Suresh Kumar, to be Assistant Secretary of Commerce and Director General of the United States and Foreign Commercial Service, received in the Senate on October 29, 2009, and referred to the Banking Committee on November 2, now be jointly referred to the Commerce Committee.

The PRESIDING OFFICER. Without objection, it is so ordered.

### DISCHARGE AND REFERRAL S. 1506

Mr. CASEY. Mr. President, I ask unanimous consent that S. 1506 be discharged from the Committee on Commerce, Science, and Transportation and be referred to the Committee on Banking, Housing, and Urban Affairs.

The PRESIDING OFFICER. Without objection, it is so ordered.

### ORDERS FOR THURSDAY, NOVEMBER 5, 2009

Mr. CASEY. Mr. President, I ask unanimous consent that when the Sen-

ate completes its business today, it adjourn until 9:30 a.m., Thursday, November 5; that following the prayer and the pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day, and the Senate proceed to a period for the transaction of morning business for 2 hours, with Senators permitted to speak therein for up to 10 minutes each, with the time equally divided and controlled between the two leaders or their designees, with the majority controlling the first half and the Republicans controlling the final half; that following morning business, the Senate execute the order with respect to H.R. 2847, the Commerce, Justice, Science appropriations bill, as provided for under the previous order.

The PRESIDING OFFICER. Without objection, it is so ordered.

### PROGRAM

Mr. CASEY. Mr. President, following morning business, there will be 40 minutes for debate prior to a cloture vote on the committee-reported substitute amendment to H.R. 2847. Therefore, Senators should expect the first vote of the day to begin around 12:15 p.m.

### ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. CASEY. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that it adjourn under the previous order.



There being no objection, the Senate, at 7:32 p.m., adjourned until Thursday, November 5, 2009, at 9:30 a.m.

## NOMINATIONS

Executive nominations received by the Senate:

### THE JUDICIARY

ALBERT DIAZ, OF NORTH CAROLINA, TO BE UNITED STATES CIRCUIT JUDGE FOR THE FOURTH CIRCUIT, VICE WILLIAM W. WILKINS, JR., RETIRED.

JAMES A. WYNN, JR., OF NORTH CAROLINA, TO BE UNITED STATES CIRCUIT JUDGE FOR THE FOURTH CIRCUIT, VICE JAMES DICKSON PHILLIPS, JR., RETIRED .

### DEPARTMENT OF HOMELAND SECURITY

GRAYLING GRANT WILLIAMS, OF MARYLAND, TO BE DIRECTOR OF THE OFFICE OF COUNTERNARCOTICS ENFORCEMENT, DEPARTMENT OF HOMELAND SECURITY, VICE UTTAM DHILLON, RESIGNED.

### DEPARTMENT OF JUSTICE

JOHN GIBBONS, OF MASSACHUSETTS, TO BE UNITED STATES MARSHAL FOR THE DISTRICT OF MASSACHUSETTS FOR THE TERM OF FOUR YEARS, VICE ANTHONY DICHIO.

ROBERT WILLIAM HEUN, OF ALASKA, TO BE UNITED STATES MARSHAL FOR THE DISTRICT OF ALASKA FOR THE TERM OF FOUR YEARS, VICE RANDY MERLIN JOHNSON.

### IN THE ARMY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

#### *To be lieutenant general*

MAJ. GEN. RICHARD P. FORMICA

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

#### *To be lieutenant general*

MAJ. GEN. MICHAEL L. OATES

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE RESERVE OF THE ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

#### *To be major general*

BRIG. GEN. CHARLES J. BARR

### IN THE NAVY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

#### *To be vice admiral*

REAR ADM. MICHAEL A. LEFEVER

### IN THE ARMY

THE FOLLOWING NAMED INDIVIDUAL FOR REGULAR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY NURSE CORPS UNDER TITLE 10, U.S.C., SECTIONS 531 AND 3064:

#### *To be major*

EDWIN S. FULLER

THE FOLLOWING NAMED INDIVIDUAL FOR REGULAR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY MEDICAL SERVICE CORPS UNDER TITLE 10, U.S.C., SECTIONS 531 AND 3064:

#### *To be lieutenant colonel*

ROBERT J. SCHULTZ

THE FOLLOWING NAMED OFFICERS FOR REGULAR APPOINTMENT IN THE GRADES INDICATED IN THE UNITED STATES ARMY UNDER TITLE 10, U.S.C., SECTION 531:

#### *To be lieutenant colonel*

CLEMENT D. KETCHUM

#### *To be major*

JOHN LOPEZ

THE FOLLOWING NAMED INDIVIDUALS FOR REGULAR APPOINTMENT TO THE GRADES INDICATED IN THE

UNITED STATES ARMY DENTAL CORPS UNDER TITLE 10, U.S.C., SECTIONS 531 AND 3064:

#### *To be lieutenant colonel*

CAREY L. MITCHELL  
JOHN J. OTTEN

#### *To be major*

CHU N. LEE  
MELISSA F. TUCKER

THE FOLLOWING NAMED INDIVIDUALS FOR REGULAR APPOINTMENT TO THE GRADES INDICATED IN THE UNITED STATES ARMY MEDICAL CORPS UNDER TITLE 10, U.S.C., SECTIONS 531 AND 3064:

#### *To be colonel*

CRAIG R. BOTTONI

#### *To be lieutenant colonel*

VITTORIO G. GUERRIERO  
ROBERT L. HASH  
KATHY B. PORTER

#### *To be major*

CHUNHUI CHAO  
PATRICK J. FULLERTON  
ANDREW GAGE  
MATTHEW B. HARRISON  
JAMES B. LINDBERG  
AKASH S. TAGGARSE

## CONFIRMATION

Executive nomination confirmed by the Senate, November 4, 2009:

### DEPARTMENT OF HOMELAND SECURITY

TARA JEANNE O'TOOLE, OF MARYLAND, TO BE UNDER SECRETARY FOR SCIENCE AND TECHNOLOGY, DEPARTMENT OF HOMELAND SECURITY.

THE ABOVE NOMINATION WAS APPROVED SUBJECT TO THE NOMINEE'S COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

## HOUSE OF REPRESENTATIVES—Wednesday, November 4, 2009

The House met at 10 a.m. and was called to order by the Speaker.

### PRAYER

The Reverend Carlton Cross, First United Methodist Church, Prescott, Arkansas, offered the following prayer:

Almighty God, we pray with thanksgiving for the breath of life. May we be an example of Your love and let us be thankful for this earth that You have shared with us.

We take this opportunity to ask for wisdom for all the world leaders. At the time of creation, You tell us that Your creation was good. Let us in faithful service do our part to continue Your goodness.

We lift our prayers for President Obama, the House of Representatives, and the Senate floor. We lift our prayers on behalf of all government, State, and local leaders.

We pray for our armed forces. We ask Your protection for them physically, emotionally, and spiritually. We lift to You the families that have lost loved ones in faithful service to our country.

God, offer the House of Representatives the wisdom to conduct the business of the day in a way that would be pleasing to You.

Hear our prayers, Lord. Amen.

### THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House her approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

### PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from Arkansas (Mr. ROSS) come forward and lead the House in the Pledge of Allegiance.

Mr. ROSS led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

### WELCOMING REV. CARLTON CROSS

The SPEAKER. Without objection, the gentleman from Arkansas (Mr. ROSS) is recognized for 1 minute.

There was no objection.

Mr. ROSS. Madam Speaker, I rise today to honor my dear friend and pastor, Rev. Carlton Cross, from my home-

town of Prescott, Arkansas, and today's guest chaplain in the U.S. House of Representatives.

As an ordained deacon and elder, Rev. Cross has been serving in the United Methodist Church for the past 20 years. Leading congregations throughout Arkansas, Rev. Cross is well respected and admired wherever he goes.

Possessing a great passion for mission work, Rev. Cross' impact on the community reaches far beyond the pulpit, including his active involvement in the Ozark Mission Project for the past 15 years.

Rev. Cross is a graduate of Arkansas State University and holds a Master of Divinity from Memphis Theological Seminary. He and his wife, Tracy, have 10-year-old twins, Brady and Shelby.

Rev. Cross currently serves First Methodist United Church in Prescott, where my family and I are members. As a close personal friend and my spiritual guide, I can attest to Rev. Cross' sincere commitment to his church, his community, his faith and his country.

It is my distinct privilege and honor to recognize Rev. Carlton Cross as guest chaplain on this day in the United States House of Representatives.

### ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair will entertain up to 15 further 1-minute speeches on each side of the aisle.

### HEALTH CARE

(Mr. KUCINICH asked and was given permission to address the House for 1 minute.)

Mr. KUCINICH. Madam Speaker, before we celebrate the new health care legislation, keep in mind that the American people will be required by law to buy private insurance, and they will pay a penalty if they don't; that insurance companies will be subsidized by the government; that insurance companies have had double-digit increases in premiums in the past 4 years; that we are locking in a for-profit structure. This is the result of a health care debate, the flawed premise of which is that health care reform cannot happen without the cooperation of the insurance companies which make money not providing health care.

The truth is that reform cannot happen with them; that insurance companies are the problem, not the solution; and that the legislation, no matter how

well intended, will likely not be able to deliver and cost too much and be another bailout for Big Business at the expense of the American people.

### BRUISING THE CONSTITUTION

(Mr. POE of Texas asked and was given permission to address the House for 1 minute.)

Mr. POE of Texas. Mr. Speaker, the government-run universal health care bill forces businesses and citizens to buy the government-approved insurance whether they want to or not, and whether they can afford it or not. This is a totalitarian concept.

The Constitution does not give this oppressive power to the Federal Government. Nowhere in this document does government have the power to force citizens to buy anything. And further, if a citizen or business doesn't purchase the insurance, a criminal fine masquerading as a tax is imposed without benefit of a jury trial or legal representation. If the citizen cannot afford the fine, do they go to jail without constitutional protections?

This bill is an affront to individual liberty. It denies the citizen of life, liberty and property, and violates due process of law under the fifth amendment.

The false analogy that citizens must buy car insurance is not applicable. Driving is a privilege and an option regulated by the States. No one is forced to own or drive a car. Here everyone is forced to buy insurance or face a criminal penalty.

Somewhere in this debate we ought to be concerned with the Federal Government bruising the Constitution.

And that's just the way it is.

### HEALTH CARE

(Mr. DEFAZIO asked and was given permission to address the House for 1 minute.)

Mr. DEFAZIO. Mr. Speaker, well, 140 days after the Republican leaders promised a health care plan, it was leaked. It is a bold proposal. I think it was actually drafted downtown by the health insurance industry association, just like their prescription drug bill was drafted by the pharmaceutical industry.

Now the Democrats' bill outlaws the most abusive practices of the insurance industry: preexisting condition exclusion policy cancellation when you get sick, called rescission. Not the Republicans, they can still cancel your policy

when you get sick. Even if you have been paying your premiums, they can still discriminate against your pre-existing conditions. The Republicans wouldn't touch that one.

Now the Republicans actually are going to facilitate further abuses. The Democrats rescind the antitrust exemption of the insurance industry. Not the Republicans. In fact, they are creating a new safe haven for this industry. The industry can sell a national policy which will solve all of the problems, but they can go to any State they choose to sell that policy from.

They will choose the most abusive, least regulated State in the Union. And if you live in Oregon and you have a complaint about your insurance provider, you will have to file it in Delaware with the corporation commissioner. No, give it to the Republicans, new safe havens for the abusive insurance industry. Good work, guys.

#### SHALL V. MAY PELOSI TAKEOVER BILL

(Mr. WILSON of South Carolina asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WILSON of South Carolina. Mr. Speaker, I am grateful to join Congressmen FLEMING, GINGREY, HELLER, and HERGER to introduce an amendment to automatically enroll all Members of Congress in the government-run option.

In the Education and Labor Committee, I was able to pass the amendment requiring Congress to take the government-run option, but the Pelosi takeover plan changes the word which would make Congress take the government-run option being pushed on the American people. That one small "may" reverses the meaning of the bill.

If Speaker PELOSI insists on shoving this bill through, then I believe Members of Congress should take the government-run option. If it is good enough for the American people, then it is good enough to Congress.

In conclusion, God bless our troops, and we will never forget September 11th in the global war on terrorism. Congratulations to State Representative-elect Ralph Norman and Elaine of Rock Hill, South Carolina, for their overwhelming victory yesterday.

#### HEALTH CARE

(Mr. YARMUTH asked and was given permission to address the House for 1 minute.)

Mr. YARMUTH. Mr. Speaker, on the most important issue this Congress will consider, what was so egregious that dozens of my Republican colleagues paraded to the floor yesterday to make passionate speeches in opposition to the Affordable Health Care for

America Act? I shall tell you. It was the fact that the word "shall" appeared 3,400 times in the bill.

Well, that is an interesting point, but it also reveals a certain amount of amnesia about law writing and civilization. After all, one of our most important and formative laws had the word "shall" in every sentence: You shall honor your father and mother. You shall recognize the Sabbath to keep it holy. You shall not covet. You shall not steal. You shall not murder. And most importantly probably for this debate in this House, You shall not bear false witness.

Mr. Speaker, if this is all the Republicans have, I say let's talk about font size or paper color. No, millions of Americans are suffering because of lack of health care. They cannot afford it. Eighteen thousand are dying a year. Almost a million are going bankrupt because of health care costs. We shall give America the health care reform they deserve.

#### HEALTH CARE

(Mr. SAM JOHNSON of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SAM JOHNSON of Texas. Mr. Speaker, according to the experts at CMS, the Democrats' health care bill is bad news for seniors. Seniors citizens have a right to know that the cost for Pelosi's trillion dollar government takeover of health care is paid for with almost \$500 billion in Medicare cuts.

First, millions of seniors will lose their health plans. The experts predict that enrollment in Medicare Advantage will decline 64 percent, and that Medicare benefits will be cut for 11 million seniors enrolled in Medicare Advantage.

Second, according to the Congressional Budget Office, the Democrat health plan will increase the cost of Medicare prescription drug premiums by 20 percent. Seniors will literally lose their right to choose. Cutting the benefits seniors are entitled to in the name of creating government-run health insurance is just wrong.

Seniors want, need, and deserve better from America.

□ 1015

#### HEALTH REFORM—MEDICARE

(Mr. GENE GREEN of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GENE GREEN of Texas. Mr. Speaker, I rise today in strong support of national comprehensive health care reform for all Americans.

Since its creation under the direction of President Lyndon Johnson, Medicare has proved to be one of the great suc-

cess stories of the Federal Government. We want to improve the solvency of the program to ensure our seniors today continue to enjoy the program and that our children will be able to collect Medicare benefits in the future.

H.R. 3962, the Affordable Health Care for America Act, does not endanger traditional Medicare, but it does immediately improve the program. Currently, there are 56,000 Medicare beneficiaries in the 29th Congressional District in Texas that I represent. H.R. 3962 improves their Medicare benefits by providing free preventative and wellness care, improving primary and coordinated care, improving nursing home quality, and strengthening the Medicare Trust Fund.

Each year, 4,400 seniors in our district hit the doughnut hole and are forced to pay for drug costs despite having part D coverage. This legislation will provide these seniors with immediate relief, covering the first \$500 of doughnut hole costs next year, cutting brand-name drug costs in the doughnut hole by 50 percent, and completely eliminating the doughnut hole by 2019.

Mr. Speaker, that's why we need H.R. 3962, to improve health care for our seniors and all Americans.

#### HEALTH CARE AMENDMENTS REMOVED

(Mr. PITTS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PITTS. Mr. Speaker, the health care bill we will consider this week spent 3 months behind closed doors. It started out with 1,000 pages and came out with 2,000 pages. While you might think that nothing had been removed in those closed door sessions, you may be surprised to find out that bipartisan amendments already adopted at the committee level have been gutted or tossed out. Now Speaker PELOSI is saying that we don't need amendments on the floor since we already had that opportunity at the committee level.

In the Energy and Commerce Committee, we adopted one amendment to ensure that the Center for Comparative Effectiveness Research would not be used to ration health care. We also adopted another amendment that would have prevented the center from dictating to doctors what type of treatments they can offer. Why would these amendments be gutted or removed from the bill? The only conclusion is that the authors of the bill want to move us in the direction of government-rationed care.

In Canada and Britain, similar boards are used to ration care and dictate how doctors treat their patients. Americans do not want government bureaucrats determining their treatments. They want those decisions left to doctors that they trust.

### WATER FOR SAN JOAQUIN VALLEY

(Mr. COSTA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COSTA. Mr. Speaker, yesterday, I joined together with Congressmen CARDOZA and RADANOVICH in a bipartisan effort to introduce legislation on the part of our ongoing efforts to bring more water to the San Joaquin Valley, and today I rise in support of that bill.

As I have said before on this floor, regulatory and hydrological reductions in water supply deliveries have devastated my district and parts of the Central Valley in California, leaving our cities and communities in many areas with unemployment levels of 30 to 40 percent.

This legislation calls for the review of the Federal biological opinions that have reduced the amount of water flowing to the valley, leaving some of the hardest working people you'll ever meet in your life ironically standing in food lines, unable to provide food for their families. Our farmers are in danger of losing their farms, and in some cases they have held them for generations.

The two biological opinions in question, one issued by the Fish and Wildlife Service and the other by the National Marine Fisheries Service, focus solely on Central Valley. They need to be reconsidered because I believe they are flawed.

For the last 18 months, I have repeatedly said there is not one single cause for the decline in the Sacramento and San Joaquin River Delta system and their fisheries. This legislation will assure that all environmental factors are taken into account.

### HEALTH CARE

(Mr. FLEMING asked and was given permission to address the House for 1 minute.)

Mr. FLEMING. Mr. Speaker, as a physician with over 30 years' experience, I cannot state strongly enough how devastating this Pelosi bill is going to be for American families, businesses, and seniors.

This 1,990-page bill has come in at a cost of \$1.3 trillion by the nonpartisan Congressional Budget Office. It will create \$700 billion in new taxes. It will cover over 6 million illegal immigrants, and as many as 5.5 million American workers can lose their jobs.

The government takeover of health care proposed in the Pelosi health care plan could cause as many as 114 million Americans to lose their current coverage.

This bill will also ring in a new level of Federal spending, creating levels of bureaucracy that will cost trillions of dollars in new Federal spending and will exacerbate the deficit and imperil the Nation's long-term fiscal solvency.

And finally, cuts to Medicare Advantage plans will result in higher premiums and dropped coverage for more than 10 million seniors.

In short, the Pelosi health care bill will raise taxes, provide less coverage for families and seniors, and cost millions of Americans their jobs.

### ANNIVERSARY OF ASSASSINATION OF YITZHAK RABIN

(Mr. COHEN asked and was given permission to address the House for 1 minute.)

Mr. COHEN. Mr. Speaker, today is the 14th anniversary of the assassination of Yitzhak Rabin.

Yitzhak Rabin was the Prime Minister of Israel on November 4, 1995, when he was assassinated. He was one of the great men of the world, and like November 22 in our country, that is a date that we should all remember.

Yitzhak Rabin served two terms as prime minister, from 1974 to 1977 and 1992 to 1995. He also served as Defense Minister in Israel during the Six-Day War, and was responsible for the raid in Entebbe. He was a great Israeli leader who was killed because he reached out to bring about peace with the PLO. He was given the Nobel Peace Prize for his efforts.

During his time as Prime Minister in the seventies, he brought about peace with Egypt, and in the nineties with Jordan and with the PLO and with Yasser Arafat.

We had a debate on this floor yesterday about a resolution. I don't think we would have been having that debate if the assassin's bullet had not struck Yitzhak Rabin. I think we would have peace in the Middle East. It takes strong men like him, sometimes men of war, to bring about peace and reach across the aisle to their adversaries.

### A MESSAGE TO THE BLUE DOGS

(Mr. MCCAUL asked and was given permission to address the House for 1 minute.)

Mr. MCCAUL. Mr. Speaker, I have a message today for the 52 Blue Dog Democrats out there, 40 of whom are conservative Democrats in districts that President Bush carried, and my message is loud and clear for them today, and that is that your leadership is making you walk the plank on this health care bill. Don't do it. Don't fall for it. Don't take the bait, for it will be your political suicide.

Stand with us on the Republican side. Stand with us conservatives to defeat the Pelosi health care bill. You have the power to defeat this government takeover of our health care system and the takeover of one-sixth of our economy. You have the opportunity to do something right for America. Stand with us. Stand with us as conservatives. Stand up for the American people.

### HEALTH CARE

(Mr. KINGSTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KINGSTON. Mr. Speaker, I have looked at the revised Democrat health care bill. It raises taxes. It raises premiums. It cuts Medicare. It costs \$1 trillion. It puts a myriad of bureaucrats in between the patient and the doctor. Call me thick, but I don't get it. Why are they doing this?

We need targeted reforms. Americans have said loudly, I don't want to give up my health care. I want you to help the people who have fallen through the cracks, but let me keep mine because my program is working. And they're not being selfish; they're using common sense. If the kitchen sink is leaking, you don't take a wrecking ball to the entire kitchen. You fix the sink.

We need targeted health care that doesn't cut Medicare and doesn't raise taxes and doesn't cause premium increases. The Republican Party has offered many of these, and some of them are signed by Democrats. We can put together a targeted, bipartisan alternative, and we need to do it.

### HEALTH CARE

(Ms. FOXX asked and was given permission to address the House for 1 minute.)

Ms. FOXX. Mr. Speaker, after weeks of meeting behind closed doors, last week Speaker PELOSI unveiled her latest plan for a government takeover of health care.

According to a preliminary estimate by the Congressional Budget Office, the Pelosi health care plan includes more than \$1 trillion in new Federal spending on health care over the next 10 years. And when one looks past the budget gimmicks, the reality is the Pelosi health care plan will cost taxpayers roughly \$1.3 trillion and create 111 new bureaucracies.

This is not the kind of responsible health care reform the American people want. It's time for Speaker PELOSI to dump her budget-buster plan masquerading as health care reform and start over.

House Republicans have a plan for health care reform that will lower costs and provide greater access to affordable health care for all Americans. That's what the American people want.

### PROVIDING FOR CONSIDERATION OF H.R. 3639, EXPEDITED CARD REFORM FOR CONSUMERS ACT OF 2009

Mr. PERLMUTTER. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 884 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 884

*Resolved*, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 2(b) of rule XVIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 3639) to amend the Credit Card Accountability Responsibility and Disclosure Act of 2009 to establish an earlier effective date for various consumer protections, and for other purposes. The first reading of the bill shall be dispensed with. All points of order against consideration of the bill are waived except those arising under clause 9 or 10 of rule XXI. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chair and ranking minority member of the Committee on Financial Services. After general debate the bill shall be considered for amendment under the five-minute rule. The amendment in the nature of a substitute recommended by the Committee on Financial Services now printed in the bill, modified by the amendment printed in part A of the report of the Committee on Rules accompanying this resolution, shall be considered as adopted in the House and in the Committee of the Whole. The bill, as amended, shall be considered as the original bill for the purpose of further amendment under the five-minute rule and shall be considered as read. All points of order against provisions in the bill, as amended, are waived. Notwithstanding clause 11 of rule XVIII, no further amendment to the bill, as amended, shall be in order except those printed in part B of the report of the Committee on Rules. Each further amendment may be offered only in the order printed in the report, may be offered only by a Member designated in the report, shall be considered as read, shall be debatable for the time specified in the report equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole. All points of order against such further amendments are waived except those arising under clause 9 or 10 of rule XXI. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill, as amended, to the House with such further amendments as may have been adopted. In the case of sundry further amendments reported from the Committee, the question of their adoption shall be put to the House en gros and without division of the question. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

SEC. 2. The Chair may entertain a motion that the Committee rise only if offered by the chair of the Committee on Financial Services or his designee. The Chair may not entertain a motion to strike out the enacting words of the bill (as described in clause 9 of rule XVIII).

The SPEAKER pro tempore (Mr. HOLDEN). The gentleman from Colorado is recognized for 1 hour.

Mr. PERLMUTTER. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentlewoman from North Carolina (Ms. FOXX), and I yield myself such time as I may consume.

GENERAL LEAVE

Mr. PERLMUTTER. I ask unanimous consent that all Members be given 5

legislative days in which to revise and extend their remarks on House Resolution 884.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Colorado?

There was no objection.

Mr. PERLMUTTER. Mr. Speaker, House Resolution 884 provides for consideration of H.R. 3639, the Expedited CARD Reform for Consumers Act of 2009, under a structured rule. The rule self-executes an amendment to clarify that the accelerated effective date of December 1, 2009, will apply only to those provisions of the Credit Card Act that deal directly with credit cards and currently have an effective date on or after February 22, 2010.

The amendment also provides that the accelerated effective dates are not applicable to any credit card issuer which is a depository institution with fewer than 2 million credit cards in circulation as of the date of the enactment of the bill.

This rule makes in order five amendments printed in the Rules Committee report. The amendments are each debatable for 10 minutes. The rule provides for one motion to recommit with or without instructions.

Mr. Speaker, earlier this year, Congress passed and the President signed into law the Credit Card Accountability Responsibility and Disclosure Act, the CARD Act for short. This legislation ordered important new rules to credit card issuers to end unfair, exploitive, and sharp practices, and to protect consumers against the tide of arbitrary rate hikes, spiking fees, and hidden charges.

□ 1030

The bill moved to end double-cycle billing, universal default and over-the-limit fees.

We passed this bill to give Americans a fair shake. The CARD Act marked a broad overhaul in the way credit card companies do business, and I acknowledge some of these changes require no small measure of time and resources to implement. Indeed, many lenders have made an honest effort to come into compliance with these new rules.

However, Mr. Speaker, the reason I stand here today is that some lenders have not used this interim period in such good faith. Since the CARD Act was signed into law, instead of preparing to implement these consumer protection provisions, some credit card companies have raised interest rates and have decreased credit limits on their consumers in advance of the effective dates. Responsible cardholders who have regularly met monthly obligations have seen their minimum payments and interest rates arbitrarily double and triple. They are finding their credit limits slashed, and they're hit with new and hidden fees. To many consumers, this is a slap in the face,

and it is a violation of the spirit of the law designed to protect them. This has now unfairly increased the financial burdens on Americans in already difficult times.

Card issuers' actions highlight the need for protections under the CARD Act now more than ever. The credit card industry requires its cardholders to act responsibly, and it holds them accountable. It is in fairness that we require card issuers to act with the same level of responsibility and accountability.

H.R. 3639 would accelerate the implementation of certain provisions in existing law related to regulations and operations of the credit card companies. The CARD Act has set deadlines for implementing various reforms and procedures, with most of those measures scheduled to take effect in February and in August of 2010. This bill would move those effective dates forward to December 1, 2009.

American consumers don't need protection next year. They need it now, so I urge my colleagues to vote in favor of the rule and in favor of the underlying bill.

I reserve the balance of my time.

Ms. FOXX. I yield myself such time as I may consume.

I thank my colleague from Colorado for yielding time for us.

Mr. Speaker, this rule provides for the consideration of a wholly unnecessary and potentially destructive bill that could further aggravate the struggles of small businesses and families who are suffering from an unavailability of credit during these times of economic uncertainty.

Here we are on the 4th of November, and the majority thinks that this bill is going to be passed in time to move this date up to December 1. It's totally unrealistic in addition to all the other comments that I'm going to make.

H.R. 3639 would accelerate the implementation of H.R. 627, the Credit Card Accountability Responsibility and Disclosure Act of 2009, a bill that was signed into law earlier this year. I opposed the bill at that time because it took the wrong approach to addressing concerns with the credit card industry. The provisions it seeks to accelerate would impose unfunded private-sector Federal mandates, increased costs to borrowers; and it would limit the availability of credit to potential borrowers, which is just the opposite of what our colleagues think they are achieving.

These provisions are inappropriate in a credit card market that is fiercely competitive, and those who are concerned about the terms of their credit cards should rely on individual responsibility to become informed. Rather than taking the approach laid out in H.R. 627 and that which is accelerated by the bill before us today, consumers can always exercise the option of either avoiding carrying a balance or of

shopping for a different credit card. Many people do not realize that credit cards were created to provide for a convenient form of payment for goods and services. They were not originally intended to serve as a loan system, which is how many people are using them now.

Mr. Speaker, I will urge my colleagues to vote "no" on the rule and to vote "no" on the underlying bill.

With that, I reserve the balance of my time.

Mr. PERLMUTTER. Mr. Speaker, I yield myself such time as I might consume.

I would say to my friend from North Carolina, in walking around the district in the suburbs of Denver, which I represent, or in doing a government at the grocery every other Saturday, a number of topics are raised. It could be the Middle East. It could be energy, health care, immigration; but always among the top five are credit cards and overdraft fees because so many people are affected by what turns out to be some sharp practices by some issuers. The purpose of the CARD Act is to stop those sharp practices.

Most of the issuers are diligent, thorough, responsible companies; but some are not. What we've seen in the interim is that those who are not have just continued to increase their prices, to increase the interest rates, and to take advantage of this interim period. It's that type of sharp practice, that irresponsible behavior, that we're trying to stop by expediting the date to December 1, 2009.

I reserve the balance of my time.

Ms. FOXX. Mr. Speaker, I yield 3 minutes to my distinguished colleague from Illinois (Mr. ROSKAM).

Mr. ROSKAM. I thank the gentlewoman for yielding.

Mr. Speaker, I rise in opposition to the rule.

In a nutshell, I think we would be much better served and, ultimately, the public would have been much better served with an open rule. I have an amendment which, under an open rule, I would have proposed. While all of this is very interesting—talking about credit card debt and those protections—and while you can have a conversation about that, the elephant in the room is this idea of national debt.

My amendment would have simply said that income tax return forms would have been amended to have four lines on them as follows: Number one, the taxpayer's dependent shares of the national debt; the taxpayer family's share of the national debt; how much each individual's share of the national debt increased in the last year; and how much adjusted gross income would be required to meet the burden of that share in the national debt.

Here is where we are right now: this Congress and this administration have doubled the national debt in 5 years,

and they will triple the national debt in 10 years. Why does that matter?

That matters because we are experiencing a feeling in this country that one generation is not passing on a legacy of prosperity to the next generation. In other words, one generation is actually stealing from the next generation. Why? Because of a lack of discipline that comes from this Chamber, a lack of discipline that says we're going to spend our way into prosperity.

What Americans understand, Mr. Speaker, is you cannot borrow and spend your way into prosperity. As to the idea that we're going to incur more and more and more debt, whether it's from a stimulus that has underperformed, whether it's on a bloated budget or whether it's on a health care bill that takes people's breath away, it's so costly, I think, by and large, Americans have said enough is enough.

So, towards that end, I rise in opposition to the rule. I think the rule is tone deaf, and it doesn't offer a larger conversation on debt.

Mr. PERLMUTTER. I yield myself so much time as I might consume.

Mr. Speaker, I always appreciate hearing from my friend from Illinois. He has a number of things he wants to talk about. The trouble is that nothing he has talked about has anything to do with the bill that's before the House today. It's completely outside the topic.

I would just say to my friend from Illinois that this country, by taking a tack under President Bush and a Republican Congress, to cut taxes, prosecuting two wars, and driving this country into an economic ditch is what we, the Democrats, are trying to build ourselves out of. It will take time, and it will take a lot of effort on the part of everyone, but he should not be so quick to blame, because the roots of this financial distress go back to the Republican Congress and to President Bush.

Now, coming back to the topic at hand, this is about credit cards and about abusive practices which hurt individual Americans. It's not some amorphous kind of question that we face. It's for people who are barely making ends meet now, who have had good credit histories and who see their credit card interest rates rising three and four and five and six—and double sometimes—from what they were originally paying, through no fault of their own. This has got to stop.

So the purpose of the bill that is before the House today is to expedite the rules and regulations that were first passed by the House last May. It is to expedite them up to December 1, 2009.

I reserve the balance of my time.

Ms. FOXX. Mr. Speaker, I yield myself such time as I may consume.

Excuses. Excuses. Excuses. That's all we hear from the other side of the aisle. Blame. Blame. Blame. Don't take

responsibility, blame George Bush. I think that's getting a little old with the American people. Excuses.

You know, this country was founded on the concept of individual freedom. That's what we were founded on and on taking responsibility. We are not in the business of blaming others, or we should not be. Our economy was doing really great until the Democrats took control of this House in 2007. You can look. We've got charts. We can show you that job growth was going on and that the economy was doing terrific. The Democrats take over, and all of a sudden everything starts going downhill.

You know, the people who take out credit cards are not having guns held to their heads. They take out the credit cards. If they don't like the rates of interest that they're paying, they should get other credit cards, but don't blame the credit card companies for extending credit to people who then are irresponsible.

All this Congress is doing is setting the example for this irresponsibility by, as my colleague from Illinois said, continuing to spend money we do not have. That is the crux of the argument. It is the largest deficit in the history of this country. In fact, it is larger than all the other deficits put together. This Congress is the example for those irresponsible people out there.

I want to talk a little bit about an article by Horace Cooper, which was printed in the May 15, 2009, issue of *Politico*, which gives the history and potential consequences of the bill before us, both of which are necessary in understanding the right approach to this issue, and I will be quoting Mr. Cooper for the next few minutes:

While most Americans take credit card use and ownership for granted, credit cards are a relatively new financial device coming in in only the past 50 years, but their widespread use is ample evidence of the value they bring to most Americans.

Their use started in the 1950s with the original Bank of America cards, which cardholders were able to use at multiple merchants. Notably, the entire balance would have to be paid off each month. Now there are more than 175 million credit card holders, and today, credit cards typically have revolving accounts, giving individual users the ability to decide how much of their charges they wish to pay off each month.

Cooper continues by highlighting the consequences these new restrictions will have on financially vulnerable populations, stating: What the advocates of these reforms have failed to understand is that these changes will dramatically raise the costs of extending loans to cardholders and will cause the riskiest cardholders to be dropped all together, and that will hurt people



in the urban community—and minorities most—because their income is lower than average.

Fees and rate hikes are among the means that credit card companies use to recoup the costs associated with credit card lending. Because credit card charges aren't secured, lenders can't seize your home or even the assets you've purchased. Credit card companies use interest rates and other fees as a way to offset the risks associated with a given cardholder.

A cap or limit on fees will cause credit card companies to limit their exposure, particularly to minorities in inner city areas, since those with low incomes are at a higher risk for default, but this won't help the rest of the credit card-holding public. Everyone will likely see lower credit lines and higher average interest rates, since these are now "forever" rates instead of adjustable ones, and shorter credit card activation periods, weeks instead of months of authorized credit use.

Particularly troubling is that even minorities, women and working class families with good records of paying their debts will see credit access dry up. This is especially bad during an economic downturn as it means that fewer new small businesses, which increasingly rely on credit cards, will start to bring more jobs and economic growth into the economy, and it will be far harder for all families, including minorities and working class families, to bridge job losses or even temporary layoffs by using credit cards to temporarily buy family staples.

□ 1045

Critics of the credit card industry fail to appreciate the alternatives that presently exist to credit card use by most Americans; payday lending, auto title loans, and pawnshops for those who wish to operate within the law, and street lamp vendors named "Rocky" for those who don't. Minority and lower income families will be disproportionately forced to these alternatives when traditional credit card access goes away.

Mr. Cooper brings to the attention of the American people some very important points. What Republicans have done is to provide an alternative measure, H.R. 2327, the Protection of Consumer Credit and Consumer Choice Act of 2009, which embodies the principles necessary to protect the availability of credit while providing consumers with the information needed to make informed decisions.

H.R. 2327, of which I am a sponsor, would require credit card issuers to provide clear and conspicuous disclosures pertaining to, one, the time provided to make timely payments; two, allocation of payments when different annual percentage rates apply to different balances of such accounts; three, increases in APRs; four, a two-cycle

average daily balance method of balance calculation; and, five, fees that may be assessed at the opening of each account.

Additionally, this alternative bill would require credit card issuers to provide advanced written notice of a change in such terms before it takes effect, with certain exceptions.

With the presence of this reasonable alternative that provides sensible consumer protections, while avoiding the pitfalls of assigning a variety of new federally unfunded mandates, I urge my colleagues to vote against this rule and oppose the underlying bill.

Mr. Speaker, I reserve the balance of my time.

Mr. PERLMUTTER. Mr. Speaker, I ask my friend if she has any other speakers?

Ms. FOXX. I do not have any further speakers, but I do intend to speak a little longer on the rule.

Mr. PERLMUTTER. I reserve the balance of my time.

Ms. FOXX. Mr. Speaker, a few minutes ago during 1-minute, one of our Democratic colleagues came in and talked about the number of "shalls" in the proposed health care bill by the Democrats and then spoke about the Ten Commandments and pointed out that the Ten Commandments liberally uses the word "shall."

I think that it is the height of arrogance to compare the outrageous 2,000-page bill written in Speaker PELOSI's office with the Ten Commandments given to us by God through Moses, whose face is looking down on us from the wall of this Chamber. That, to me, is the epitome of the arrogance of the majority party right now, saying that it is okay to have a lot of "shalls" in that because the "shalls" were in the Ten Commandments.

With Federal spending and debt already out of control, the Democrat leadership is content with putting the cost of their government takeover of health care on the Nation's credit card. Again, my friend, Mr. ROSKAM from Illinois, alluded to this a few minutes ago.

The Wall Street Journal called Speaker PELOSI's 1,990-page takeover of health care the worst piece of post-New Deal legislation ever introduced.

The Congressional Budget Office estimates that Speaker PELOSI's plan will cost \$1.055 trillion over the first decade, not \$894 billion as Speaker PELOSI claims. But the Democrats are using a procedural maneuver to include the \$245 billion "doc fix" without violating PAYGO, so the real cost of the bill is closer to \$1.3 trillion.

At more than \$1 trillion and nearly 2,000 pages, H.R. 3962 is the antithesis of patient-centered reforms that empower Americans to truly own and control their health care coverage. The fact is, H.R. 3962 will force millions of Americans off their current coverage,

hand control over medical decisions to new czars and bureaucrats, raise taxes, stifle job creation, expand entitlement spending, and break already-strained State budgets.

PELOSI's plan creates 111 new boards, bureaucracies, commissions, and programs. Americans can say goodbye to personal private insurance as individual health insurance coverage is grandfathered out of existence in section 202 and more limitations also are added to Health Savings Accounts, sections 531 and 533.

H.R. 3962 permits Federal funds to be spent on abortion services, section 222, and includes a government-run plan, section 321, that will force tens of millions of Americans off their current coverage. So much for the promise that if you like your current coverage, you can keep it.

The bill increases taxes by \$729.5 billion, including a mandate that employers provide coverage or pay a tax equal to 8 percent of wages, section 512; a 5.4 percent surtax on small businesses, section 551; and a mandate that Americans purchase government-deemed acceptable health care coverage or face a tax of 2.5 percent of modified adjusted gross income, section 501.

In navigating the new health care system, Americans will have to deal with a host of new czars and bureaucracies, including the Health Benefits Advisory Committee, section 223, the Health Choices Administration and Health Choices Commissioner, section 241.

Community organizations like ACORN may assist the Health Choices Commissioner in enrolling individuals in the Health Insurance Exchange, section 305. We all know how successful ACORN has been in enrolling people appropriately into different programs.

H.R. 3962 includes a huge expansion of the Medicaid entitlement, eligibility up to 150 percent of the Federal poverty level, but leaves already overstretched State governments to pick up the \$34 billion tab, section 1701.

Mr. Speaker, I am mentioning these sections because I want the American people to know they can verify what we are saying simply by going to the bill and looking at it in these sections. This is not something we are making up. It is there.

To appease their trial lawyer base, Democrats continue to ignore the enormous medical liability crisis that needlessly drives up costs. They pay lip service to medical malpractice reform with money for States that pursue "effective" lawyer-friendly alternatives, section 2531, but they explicitly exclude States that limit attorney's fees or cap damages. Members of Congress are not subject to the same health care system Americans will have to live by under the public health insurance option, section 330.

The Democrats claim their bill allows for the sale of health insurance

across State lines. In reality, this bill will only provide for regional compacts that States can enter into if their State legislatures approve it. However, these compacts can only exist after the Federal Government has established stringent national rules for minimum benefits and what constitutes a qualified plan, virtually eliminating the individual market and creating a national exchange, causing many to wonder how this would even be possible.

Rather than forcing through a bad bill with only limited support, the Democrats should keep working until they can get a bill that represents the opinions of most Americans and helps rather than hurts Americans.

Democrats in Congress often portray Republicans as obstructionists with no health care reform solutions of our own. This is simply not true. Republicans in Congress are listening to the American people. We know that Americans want commonsense, responsible solutions that make health insurance more affordable, reduce the number of uninsured Americans, and increase quality at a price our country can afford while making sure that Americans who like their health insurance can keep it.

We have proposed many commonsense solutions that fell on deaf ears as the Democrats in charge wrote their bill in secret. Republican Members have introduced more than 50 health care reform bills this year. House Republicans will support responsible health care reform and offer an alternative plan to PELOSI's 1,990-page, \$1.3 trillion takeover of health care.

Mr. Speaker, with that, I reserve the balance of my time.

Mr. PERLMUTTER. Mr. Speaker, how much time do I have and how much time does Ms. FOXX have?

The SPEAKER pro tempore. The gentleman from Colorado has 24 minutes remaining, and the gentlewoman from North Carolina has 12 minutes remaining.

Mr. PERLMUTTER. I just was listening to my friend from North Carolina, and she really didn't talk about the bill. She talked about health care, which is a problem that has been lingering for a long time. Republicans for 12 years in the Congress, as well as 8 years under President Bush, failed to do anything about discriminating against people with prior illnesses. This health care bill takes care of that.

They failed to deal with anything related to the increase in premiums that individuals and businesses across the country are experiencing. We are going to take care of that.

Finally, they didn't do anything with the antitrust laws that protect insurance companies, and we are going to deal with that so that there is portability.

Now, let's get back to the bill at hand. The bill at hand deals with a real

problem faced by Americans every day because companies are taking advantage of them by jacking up interest rates, continuing to use sharp practices, all to the detriment and to the harm of middle Americans. We have got to change that. So for purposes of this bill, this credit card bill, we are going to expedite the new rules to December 1. That is the purpose of the bill. That is the purpose of the underlying rule. That is why we are here today.

But with respect to the credit card bill, it is the usual Republican mantra, "Just say no, we like the status quo," just as it applies to the health care bill. "Just say no, we like the status quo."

We can't afford the status quo when it comes to credit cards. We can't afford the status quo when it comes to health care.

With that, I reserve the balance of my time.

Ms. FOXX. Mr. Speaker, I like my colleague from Colorado very much on a personal level, but let's get real: This bill is going nowhere. Republicans have an alternative bill that will do very well. And those of us here know that this bill is just a time consumer, because the Democrats have no real legislation to offer. They know this bill can't go into effect by December 1, but they need something to keep us here this week because they are trying to twist arms to get the votes for the health care bill. So we have to spend time talking about something, so this is what was brought up.

Let me say that, talking about health care now, we are doing that because we know when the health care bill does come to the floor, the almost 2,000-page health care bill, or a little over 2,000 pages, I suspect, won't get any time for discussion, not what it deserves, taking over one-sixth of the economy, because, and I quote from today's Roll Call, "House Rules Chairman Louise Slaughter, Democrat-New York, said that the rule would be locked down, allowing a vote on a Republican alternative and perhaps one other, but no additional amendments," continuing the tradition that has been going on here this entire session—no amendments, because you don't want debate on what it is we should be debating.

But let me talk a minute about the Republicans' alternative plan. It will lower health care premiums for American families and small businesses, which addresses the number one priority for health care reform of Americans. It will establish universal access programs to guarantee access to affordable care for those with preexisting conditions.

I have read part of the plan that you have. It provides for waiting lists and taking people with existing conditions out of your plan. You don't even guarantee those people coverage.

Ending junk lawsuits. The Republican plan will help end costly junk lawsuits and curb defensive medicine by enacting medical liability reforms modeled after the successful laws in California and Texas.

It will prevent insurers from unjustly canceling a policy or instituting annual lifetime spending caps. It will encourage small business health plans. It gives small businesses the power to pool together and offer health care at lower prices, just as corporations and labor unions do. It will encourage innovative State programs. It will allow Americans to buy insurance across State lines.

It will codify the Hyde amendment. The Republican plan explicitly prohibits Federal funds, whether they are authorized funds or appropriated funds, from being used to pay for abortion. It will promote healthier lifestyles. It will enhance Health Savings Accounts, and it will allow dependents to remain on their parents' policies for a longer time.

We have alternatives, sensible alternatives, what the American people want. And I think yesterday's elections give us some idea about what the American people want.

With that, I reserve the balance of my time.

Mr. PERLMUTTER. Mr. Speaker, I yield myself such time as I may consume.

I think that my friend from North Carolina and I are going to have a lot of time on the Rules Committee to debate health care issues, so I am going to just remind her that the health care matter was never addressed by a Republican Congress and really not addressed by the President of the United States, except to create the doughnut hole for seniors. That is about the sum and substance of 12 years of Republicans in Congress and 8 years of President Bush in the White House.

□ 1100

Now, we've had three committees debate this health care bill over time, many, many amendments, lots of discussion, lots of conversations all across America dealing with the health care bill. So we're going to see that come up here very soon and we will continue to have this kind of spirited debate.

As it applies to the elections, I'm not sure if I want to remind my good friend from North Carolina that the Democrats picked up a seat in New York that they hadn't held for 154 years. So there was good news and bad news for both Democrats and Republicans in yesterday's elections.

But I would remind my friend we are here on the credit card bill. This is to move up the date for the rules and regulations to go into place to December 1 to stop the sharp practices that we see occurring today, which is the increase of interest rates, the continued use of

double billing cycles, and the like, which are hurting everyday Americans. And that's got to stop.

Mr. Speaker, I reserve the balance of my time.

Ms. FOXX. Mr. Speaker, again, as our good colleague from Illinois pointed out, the health care bill is going on the Federal credit card and it's going to have very high interest rates, and it's something the American people want us to talk about because of its effect on the economy.

Mr. Speaker, I now yield 5 minutes to my distinguished colleague from Indiana and the Republican Conference Chair, Mr. PENCE.

Mr. PENCE. Mr. Speaker, I rise in opposition to the rule. And while I appreciate my good friend's clarification that this rule has to do with a credit card bill that's on the floor today, I take this opportunity respectfully to speak about that issue which is foremost in the minds of the American people at this hour, and that is this freight train of Big Government moving through the Congress at a frightening speed that we believe with all our hearts will result in a government takeover of health care in America.

After months of behind-closed-doors dealings, the Democratic majority, in cooperation with the White House and special interest groups, produced late last week finally a bill. It may be amended again, Mr. Speaker, but we have a 1,990-page bill that, according to independent press estimates, includes \$1.2 trillion in new Federal spending on expanded health insurance coverage over the next 10 years. It includes \$729.5 billion in new taxes on small businesses and individuals. It is in every real sense a government takeover of health care and the burden and payment of which will be borne principally by Americans that make less than \$200,000 per year.

An independent estimate that we received yesterday, as Republicans spent hours reading the bill in our reading room, was that actually, despite the fact that as a candidate President Obama pledged that he would not raise taxes on Americans who make less than \$200,000 a year, with the Pelosi health care bill, actually the tax increases would fall most squarely on Americans making below that threshold amount. Eighty-seven percent of the taxes that are being levied in the Democrat health care bill will be paid by Americans that make less than \$200,000 a year, fees and mandates and fines and penalties falling squarely on our middle class. It's really extraordinary when you think of it that it's taking place during what is, without debate, the worst recession in a quarter of a century.

But it doesn't just stop there. When we say that it's a government takeover of health care, we are talking real numbers and real bureaucracy. Those

that say otherwise ignore the fact that in this legislation there are 43 entitlement programs that are created, expanded, or extended. There are 111 additional offices, bureaus, commissions, programs, and bureaucracies that the bill creates over and above the entitlement expansions included in the prior bill.

Lastly, we all know as legislators that the word "shall" is not a friendly word when it comes in law. When the word "shall" appears in law, it means that someone must do something, a business, an enterprise, an element of the bureaucracy shall take action. The word "shall" appears in the Democrat health care bill 3,425 times. Yet the majority and the administration continue to insist that this is not a government takeover of health care? I have to tell you, Mr. Speaker, the American people are catching on and they know otherwise.

But the good news is there's an alternative. People can go to [healthcare.gop.gov](http://healthcare.gop.gov), and as has emerged in recent days, Republicans have a bill. I know our colleagues have been pointing at some blank pages on the floor in the last 24 hours, but the American people surfing the net know that the Republican bill is actually a little bit over 200 pages, allows Americans to purchase health insurance across State lines the way big businesses can, allows associations to pool their employees to bring down the cost of insurance. It brings about medical malpractice reform to end junk lawsuits and end defensive medicine in America, and we use those savings to actually strengthen those funds at the State level, those programs that cover preexisting conditions for Americans.

While the majority is focused on growing government to achieve something called universal coverage, Republicans are focused on what the American people want us to focus on, and that is lowering the cost of health insurance and lowering the cost of health care by giving the American people and American enterprise more choices, reasonable limits on litigation, and helping people with preexisting conditions.

Mr. PERLMUTTER. Mr. Speaker, I reserve the balance of my time to allow the gentlewoman from North Carolina to close and then I will close.

Ms. FOXX. Mr. Speaker, again I thank my colleague from Colorado.

He mentioned that we would be able to debate the health care bill in the Rules Committee, that we'd have a long time to do it. But the Rules Committee is the only committee in the Congress that meets behind closed doors, that does not allow C-SPAN to televise what it does, despite the fact that Barack Obama promised to have deliberations on all bills broadcast on C-SPAN and NANCY PELOSI promised the most open Congress in history. This is like the book "1984" by George

Orwell. They say one thing and do absolutely another. It's doublespeak.

Mr. Speaker, I urge my colleagues to defeat the previous question so an amendment can be added to the rule. The amendment to the rule would provide for separate consideration of H. Res. 554, a resolution to require that legislation and conference reports be posted on the Internet for 72 hours prior to consideration by the House. It does not affect the bill made in order by the rule.

The amendment to the rule provides that the House will debate the issue of reading the bill within 3 legislative days. It does not disrupt the schedule.

The bill currently has 214 cosponsors. The discharge petition has 182 names, including five Democrats. This bill has gained support of an overwhelming majority of Americans and is widely respected by government watchdogs.

The existing House rule that committee reports be available for 3 days prior to floor consideration has been repeatedly waived by Republicans and Democrats alike.

This is not a partisan measure. As Members of Congress, we ought to agree that regardless of the legislation brought before us, we should always have the opportunity to read and understand the legislation before we vote. The American public agrees with this commonsense position. A recent survey by Rasmussen Reports found that 83 percent of Americans say legislation should be posted online and available for everyone to read before Congress votes on it. The poll also found that this is not a partisan issue: 85 percent of Republicans, 76 of Democrats, and 92 percent of unaffiliated voters favor posting legislation online prior to its being voted on.

In the beginning of the year, Members of this Congress, Democrat Members of this Congress, voted to spend almost \$790 billion in taxpayer dollars on a stimulus package that most Members did not even read. The enormous document wasn't posted on the government's Web site until after 10 p.m., the day before the vote to pass it was taken.

Furthermore, before the debate on the cap-and-tax bill offered last summer, the House was presented with a 300-plus-page amendment at 3 a.m. for debate the following morning and a vote the following afternoon. This was unacceptable and further demonstrated the need to read the bill and the arguments.

Mr. Speaker, we are elected to Congress to represent our constituents. How are we supposed to determine what is right for our fellow Americans if we have to vote on something before we even have time to read it?

We need to have this debate. If people oppose having the text of bills available to read, they should make their case. This amendment to the rule allows them to do just that. I urge my

colleagues to defeat the previous question so we can have this debate and do the right thing for the American people.

Mr. Speaker, I ask unanimous consent to have the text of the amendment and extraneous material inserted into the RECORD prior to the vote on the previous question.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

Ms. FOXX. I urge my colleagues to vote "no" on the previous question and "no" on the rule.

Mr. Speaker, I yield back the balance of my time.

Mr. PERLMUTTER. Mr. Speaker, just to correct a couple of points, TVs are always allowed in the Rules Committee, always are invited to each and every hearing and committee meeting. Sometimes they come, sometimes they don't. My guess is that they'll be there for the debate on the health care bill.

I just want to remind my friends on the other side of the aisle, in the bill that produced the doughnut hole for seniors on Medicare and was written by a Republican Congress with a Republican President, the word "shall" appeared in that bill 2,080 times.

Ms. FOXX. Would the gentleman yield for one short question?

Mr. PERLMUTTER. I will yield to my good friend for about 10 seconds.

Ms. FOXX. Do you think that two wrongs make a right?

Mr. PERLMUTTER. No. And the gentlewoman makes a point. No question about that.

But the problem here, Mr. Speaker, is that my friends on the Republican side of the aisle, they're concerned that there's too much regulation or we're focused on trying to rein in credit card companies or rein in insurance companies when it comes to health care. Their focus is on the profits of those companies. Well, our focus is on middle Americans who felt the sharp practices of credit card companies and have seen their premiums go sky high as part of the health system that we have in this country today.

Speaking about this bill, this credit card expedited bill, our purpose before the House of Representatives is to pass a rule that allows us to take up the credit card bill to move up rules and regulations to be imposed on credit card companies on December 1, 2009, instead of waiting until February of 2010 and August of 2010. The purpose is because we have seen rates being increased dramatically on all sorts of people. We see billing practice continue to be applied which hurts everyday Americans, and this has got to stop. It's not fair that the profits come before treating people honorably, responsibly, those people who have been paying their credit cards on time regularly. They're seeing their credit cards'

interest rates increase. This has got to be limited and stopped.

So I would urge my colleagues to vote "yes" on the previous question and on the rule.

The material previously referred to by Ms. FOXX is as follows:

AMENDMENT TO H. RES. 884 OFFERED BY MS. FOXX OF NORTH CAROLINA

At the end of the resolution, insert the following new section:

SEC. 3. On the third legislative day after the adoption of this resolution, immediately after the third daily order of business under clause 1 of rule XIV and without intervention of any point of order, the House shall proceed to the consideration of the resolution (H. Res. 554) amending the Rules of the House of Representatives to require that legislation and conference reports be available on the Internet for 72 hours before consideration by the House, and for other purposes. The resolution shall be considered as read. The previous question shall be considered as ordered on the resolution and any amendment thereto to final adoption without intervening motion or demand for division of the question except: (1) one hour of debate equally divided and controlled by the chair and ranking minority member of the Committee on Rules; (2) an amendment, if offered by the Minority Leader or his designee and if printed in that portion of the Congressional Record designated for that purpose in clause 8 of rule XVIII at least one legislative day prior to its consideration, which shall be in order without intervention of any point of order or demand for division of the question, shall be considered as read and shall be separately debatable for twenty minutes equally divided and controlled by the proponent and an opponent; and (3) one motion to recommit which shall not contain instructions. Clause 1(c) of rule XIX shall not apply to the consideration of House Resolution 554.

(The information contained herein was provided by the Democratic Minority on multiple occasions throughout the 109th Congress.)

#### THE VOTE ON THE PREVIOUS QUESTION: WHAT IT REALLY MEANS

This vote, the vote on whether to order the previous question on a special rule, is not merely a procedural vote. A vote against ordering the previous question is a vote against the Democratic majority agenda and a vote to allow the opposition, at least for the moment, to offer an alternative plan. It is a vote about what the House should be debating.

Mr. Clarence Cannon's *Precedents of the House of Representatives*, (VI, 308-311) describes the vote on the previous question on the rule as "a motion to direct or control the consideration of the subject before the House being made by the Member in charge." To defeat the previous question is to give the opposition a chance to decide the subject before the House. Cannon cites the Speaker's ruling of January 13, 1920, to the effect that "the refusal of the House to sustain the demand for the previous question passes the control of the resolution to the opposition" in order to offer an amendment. On March 15, 1909, a member of the majority party offered a rule resolution. The House defeated the previous question and a member of the opposition rose to a parliamentary inquiry, asking who was entitled to recognition. Speaker Joseph G. Cannon (R-Illinois) said: "The previous question having been refused, the gentleman from New York, Mr. Fitz-

gerald, who had asked the gentleman to yield to him for an amendment, is entitled to the first recognition."

Because the vote today may look bad for the Democratic majority they will say "the vote on the previous question is simply a vote on whether to proceed to an immediate vote on adopting the resolution . . . [and] has no substantive legislative or policy implications whatsoever." But that is not what they have always said. Listen to the definition of the previous question used in the Floor Procedures Manual published by the Rules Committee in the 109th Congress, (page 56). Here's how the Rules Committee described the rule using information from Congressional Quarterly's "American Congressional Dictionary": "If the previous question is defeated, control of debate shifts to the leading opposition member (usually the minority Floor Manager) who then manages an hour of debate and may offer a germane amendment to the pending business."

Deschler's Procedure in the U.S. House of Representatives, the subchapter titled "Amending Special Rules" states: "a refusal to order the previous question on such a rule [a special rule reported from the Committee on Rules] opens the resolution to amendment and further debate." (Chapter 21, section 21.2) Section 21.3 continues: "Upon rejection of the motion for the previous question on a resolution reported from the Committee on Rules, control shifts to the Member leading the opposition to the previous question, who may offer a proper amendment or motion and who controls the time for debate thereon."

Clearly, the vote on the previous question on a rule does have substantive policy implications. It is one of the only available tools for those who oppose the Democratic majority's agenda and allows those with alternative views the opportunity to offer an alternative plan.

Mr. PERLMUTTER. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The SPEAKER pro tempore. The question is on ordering the previous question.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Ms. FOXX. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 and clause 9 of rule XX, this 15-minute vote on ordering the previous question will be followed by 5-minute votes on:

Adoption of House Resolution 884, if ordered;

Suspension of the rules on H. Res. 858; and

Suspension of the rules on H. Res. 839, if ordered.

The vote was taken by electronic device, and there were—yeas 228, nays 176, not voting 28, as follows:

[Roll No. 841]

YEAS—228

Ackerman	Baldwin	Berry
Adler (NJ)	Barrow	Bishop (GA)
Altmire	Bean	Bishop (NY)
Andrews	Becerra	Blumenauer
Arcuri	Berkley	Bocieri
Baca	Berman	Boren

Boswell  
Boucher  
Boyd  
Brady (PA)  
Bright  
Brown, Corrine  
Butterfield  
Capps  
Capuano  
Cardoza  
Carnahan  
Carney  
Carson (IN)  
Castor (FL)  
Chandler  
Childers  
Clarke  
Clay  
Cleaver  
Clyburn  
Cohen  
Connolly (VA)  
Conyers  
Cooper  
Costa  
Costello  
Courtney  
Crowley  
Cuellar  
Cummings  
Dahlkemper  
Davis (AL)  
Davis (CA)  
Davis (IL)  
DeFazio  
DeGette  
Delahunt  
Dicks  
Dingell  
Doggett  
Donnelly (IN)  
Doyle  
Driehaus  
Edwards (MD)  
Edwards (TX)  
Ellison  
Ellsworth  
Engel  
Eshoo  
Etheridge  
Farr  
Fattah  
Filner  
Foster  
Frank (MA)  
Fudge  
Giffords  
Gonzalez  
Gordon (TN)  
Grayson  
Green, Al  
Green, Gene  
Griffith  
Grijalva  
Gutierrez  
Hall (NY)  
Halvorson  
Hare  
Harman  
Hastings (FL)  
Heinrich

Herseth Sandlin  
Higgins  
Himes  
Hinchey  
Hinojosa  
Hirono  
Hodes  
Holden  
Holt  
Honda  
Hoyer  
Inslee  
Israel  
Jackson (IL)  
Jackson-Lee  
(TX)  
Johnson, E. B.  
Kagen  
Kanjorski  
Kaptur  
Kennedy  
Kildee  
Kilpatrick (MI)  
Kilroy  
Kind  
Kirkpatrick (AZ)  
Kissell  
Klein (FL)  
Kosmas  
Kucinich  
Langevin  
Larsen (WA)  
Larson (CT)  
Levin  
Lipinski  
Loeb sack  
Lofgren, Zoe  
Lowey  
Lujan  
Lynch  
Maffei  
Maloney  
Markey (CO)  
Markey (MA)  
Massa  
Matheson  
Matsui  
McCarthy (NY)  
McCollum  
McDermott  
Titus  
McIntyre  
Meek (FL)  
Meeks (NY)  
Melancon  
Michaud  
Miller (NC)  
Miller, George  
Mollohan  
Moore (KS)  
Moore (WI)  
Murphy (CT)  
Murphy (NY)  
Murtha  
Nadler (NY)  
Napolitano  
Neal (MA)  
Nye  
Oberstar  
Oliver  
Ortiz

## NAYS—176

Aderholt  
Akin  
Alexander  
Austria  
Bachus  
Baird  
Bartlett  
Barton (TX)  
Biggart  
Bilbray  
Bilirakis  
Bishop (UT)  
Blackburn  
Blunt  
Boehner  
Bonner  
Bono Mack  
Boozman  
Boustany  
Brady (TX)  
Broun (GA)  
Brown (SC)

Brown-Waite,  
Ginny  
Buchanan  
Burgess  
Burton (IN)  
Buyer  
Calvert  
Camp  
Campbell  
Cantor  
Cao  
Capito  
Carter  
Cassidy  
Castle  
Chaffetz  
Coble  
Coffman (CO)  
Cole  
Conaway  
Crenshaw  
Culberson

Davis (KY)  
Dent  
Diaz-Balart, L.  
Diaz-Balart, M.  
Dreier  
Duncan  
Ehlers  
Emerson  
Fallin  
Flake  
Fleming  
Forbes  
Fortenberry  
Fox  
Franks (AZ)  
Frelinghuysen  
Gallegly  
Garrett (NJ)  
Gingrey (GA)  
Gohmert  
Goodlatte  
Granger

Pallone  
Pascarell  
Pastor (AZ)  
Payne  
Perlmutter  
Perriello  
Peters  
Peterson  
Pingree (ME)  
Polis (CO)  
Pomeroy  
Price (NC)  
Quigley  
Rahall  
Rangel  
Reyes  
Richardson  
Rodriguez  
Ross  
Ruppersberger  
Rush  
Salazar  
Sanchez, Loretta  
Sarbanes  
Schakowsky  
Schauer  
Schiff  
Schrader  
Schwartz  
Scott (GA)  
Scott (VA)  
Serrano  
Sestak  
Sherman  
Shuler  
Sires  
Skelton  
Smith (WA)  
Snyder  
Space  
Speier  
Spratt  
Stark  
Sutton  
Tanner  
Teague  
Thompson (CA)  
Thompson (MS)  
Tierney  
Titus  
Tonko  
Towns  
Tsongas  
Van Hollen  
Velázquez  
Visclosky  
Walz  
Wasserman  
Schultz  
Waters  
Watson  
Watt  
Waxman  
Weiner  
Welch  
Wexler  
Wilson (OH)  
Woolsey  
Wu  
Yarmuth

Graves  
Guthrie  
Hall (TX)  
Harper  
Hastings (WA)  
Heller  
Hensarling  
Herger  
Hill  
Hoekstra  
Hunter  
Inglis  
Issa  
Jenkins  
Johnson (IL)  
Johnson, Sam  
Jones  
Jordan (OH)  
King (IA)  
King (NY)  
Kingston  
Kline (MN)  
Kratovil  
Lamborn  
Lance  
Latham  
LaTourette  
Latta  
Lee (NY)  
Linder  
LoBiondo  
Lucas  
Luetkemeyer  
Lummis  
Lungren, Daniel  
E.  
Mack  
Manzullo

Marchant  
McCarthy (CA)  
McCauly  
McClintock  
McCotter  
McHenry  
McKeon  
McMorris  
Rodgers  
Mica  
Miller (FL)  
Miller (MI)  
Miller, Gary  
Minnick  
Mitchell  
Moran (KS)  
Murphy, Tim  
Myrick  
Neugebauer  
Olson  
Paul  
Paulsen  
Pence  
Petri  
Pitts  
Platts  
Poe (TX)  
Posey  
Price (GA)  
Putnam  
Radanovich  
Rehberg  
Reichert  
Roe (TN)  
Rogers (AL)  
Rogers (KY)  
Rogers (MI)  
Rohrabacher

## NOT VOTING—28

Abercrombie  
Bachmann  
Barrett (SC)  
Braley (IA)  
Chu  
Davis (TN)  
Deal (GA)  
DeLauro  
Gerlach  
Johnson (GA)

Kirk  
Lee (CA)  
Lewis (CA)  
Lewis (GA)  
Marshall  
McMahon  
McNerney  
Moran (VA)  
Murphy, Patrick  
Nunes

Obey  
Rothman (NJ)  
Roybal-Allard  
Ryan (OH)  
Sanchez, Linda  
T.  
Shea-Porter  
Slaughter  
Stupak

□ 1138

Mr. HOEKSTRA, Ms. GRANGER, Messrs. HUNTER and LATHAM changed their vote from “yea” to “nay.”

So the previous question was ordered.

The result of the vote was announced as above recorded.

Stated for:

Ms. SHEA-PORTER. Mr. Speaker, during rollcall vote No. 841 on H. Res. 884, I was unavoidably detained. Had I been present, I would have voted “yea.”

Ms. CHU. Mr. Speaker, on rollcall No. 841, my pager malfunctioned and did not go off. Thus, I was not notified that votes were starting and I missed my first vote. Had I been present, I would have voted “yea.”

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

## RECORDED VOTE

Ms. FOXX. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 234, noes 175, not voting 23, as follows:

[Roll No. 842]

## AYES—234

Abercrombie  
Ackerman  
Adler (NJ)  
Altmire  
Andrews  
Arcuri  
Baca  
Baird  
Baldwin  
Barrow  
Bean  
Becerra  
Berkley  
Berman  
Berry  
Bishop (GA)  
Bishop (NY)  
Blumenauer  
Bocieri  
Boren  
Boswell  
Boyd  
Brady (PA)  
Brown, Corrine  
Butterfield  
Capps  
Capuano  
Cardoza  
Carnahan  
Carney  
Carson (IN)  
Castor (FL)  
Chandler  
Childers  
Chu  
Clarke  
Clay  
Cleaver  
Clyburn  
Cohen  
Connolly (VA)  
Conyers  
Cooper  
Costa  
Costello  
Courtney  
Crowley  
Cuellar  
Cummings  
Dahlkemper  
Davis (AL)  
Davis (CA)  
DeFazio  
DeGette  
Delahunt  
DeLauro  
Dicks  
Dingell  
Doggett  
Donnelly (IN)  
Doyle  
Driehaus  
Edwards (MD)  
Edwards (TX)  
Ellison  
Ellsworth  
Engel  
Eshoo  
Etheridge  
Farr  
Fattah  
Filner  
Foster  
Frank (MA)  
Fudge  
Giffords  
Gonzalez  
Gordon (TN)  
Grayson

Green, Al  
Green, Gene  
Griffith  
Grijalva  
Gutierrez  
Hall (NY)  
Halvorson  
Hare  
Harman  
Hastings (FL)  
Heinrich  
Napolitano  
Neal (MA)  
Nye  
Oberstar  
Obey  
Olver  
Ortiz  
Pallone  
Pascarell  
Pastor (AZ)  
Payne  
Perlmutter  
Perriello  
Peters  
Peterson  
Pingree (ME)  
Polis (CO)  
Pomeroy  
Price (NC)  
Quigley  
Rahall  
Rangel  
Reyes  
Richardson  
Rodriguez  
Ross  
Roybal-Allard  
Ruppersberger  
Rush  
Ryan (OH)  
Kaptur  
Kennedy  
Kildee  
Kilpatrick (MI)  
Kilroy  
Kind  
Kirkpatrick (AZ)  
Kissell  
Kosmas  
Kucinich  
Langevin  
Larsen (WA)  
Larson (CT)  
Lee (CA)  
Levin  
Lewis (GA)  
Lipinski  
Loeb sack  
Lofgren, Zoe  
Lowey  
Lujan  
Lynch  
Maffei  
Maloney  
Markey (CO)  
Marshall  
Massa  
Matheson  
Matsui  
McCarthy (NY)  
McCollum  
McDermott  
McGovern  
McIntyre  
Meek (FL)  
Meeks (NY)  
Melancon  
Michaud  
Miller (NC)  
Miller, George  
Minnick  
Mollohan  
Moore (WI)  
Moran (VA)  
Murphy (CT)  
Murphy (NY)  
Murtha  
Nadler (NY)

## NOES—175

Bishop (UT)  
Blackburn  
Blunt  
Boehner  
Bonner  
Bono Mack  
Boozman  
Boustany  
Brady (TX)  
Broun (GA)  
Brown (SC)

Brown-Waite,  
Ginny  
Buchanan  
Burgess  
Burton (IN)  
Buyer  
Calvert  
Camp  
Campbell  
Cantor  
Cao

Capito  
Carter  
Cassidy  
Castle  
Chaffetz  
Coble  
Coffman (CO)  
Cole  
Conaway  
Crenshaw  
Davis (KY)  
Dent  
Diaz-Balart, L.  
Diaz-Balart, M.  
Dreier  
Duncan  
Ehlers  
Emerson  
Fallin  
Flake  
Fleming  
Forbes  
Fortenberry  
Foxy  
Franks (AZ)  
Frelinghuysen  
Gallegly  
Garrett (NJ)  
Gingrey (GA)  
Gohmert  
Goodlatte  
Granger  
Graves  
Guthrie  
Hall (TX)  
Harper  
Hastings (WA)  
Heller  
Hensarling  
Herger  
Hill  
Hoekstra  
Hunter  
Inglis  
Issa  
Jenkins  
Johnson (IL)  
Johnson, Sam  
Jones

Jordan (OH)  
King (IA)  
King (NY)  
Kingston  
Kline (MN)  
Kratovil  
Lamborn  
Lance  
Latham  
LaTourette  
Latta  
Lee (NY)  
Lewis (CA)  
Linder  
LoBiondo  
Lucas  
Luetkemeyer  
Lummis  
Lungren, Daniel E.  
Mack  
Manzullo  
Marchant  
McCarthy (CA)  
McCaul  
McClintock  
McHenry  
McKeon  
McMorris  
Rodgers  
Mica  
Miller (FL)  
Miller (MI)  
Miller, Gary  
Mitchell  
Moore (KS)  
Moran (KS)  
Murphy, Tim  
Neugebauer  
Olson  
Paul  
Paulsen  
Pence  
Petri  
Pitts  
Platts  
Pittman  
Poe (TX)  
Posey  
Price (GA)

Putnam  
Radanovich  
Rehberg  
Reichert  
Roe (TN)  
Rogers (AL)  
Rogers (KY)  
Rogers (MI)  
Rohrabacher  
Rooney  
Ros-Lehtinen  
Roskam  
Royce  
Ryan (WI)  
Scalise  
Schmidt  
Schock  
Sensenbrenner  
Sessions  
Shadegg  
Shimkus  
Shuler  
Shuster  
Simpson  
Smith (NE)  
Smith (NJ)  
Smith (TX)  
Souder  
Stearns  
Sullivan  
Taylor  
Terry  
Thompson (PA)  
Thornberry  
Tiahrt  
Tiberi  
Turner  
Upton  
Walden  
Westmoreland  
Whitfield  
Wilson (SC)  
Wittman  
Wolf  
Young (AK)  
Young (FL)

## NOT VOTING—23

Barrett (SC)  
Boucher  
Braley (IA)  
Bright  
Culberson  
Davis (IL)  
Davis (TN)  
Deal (GA)

Gerlach  
Hirono  
Kirk  
Klein (FL)  
Markey (MA)  
McMahon  
McNerney  
Murphy, Patrick

Myrick  
Nunes  
Rothman (NJ)  
Sánchez, Linda T.  
Slaughter  
Stupak  
Tierney

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE  
The SPEAKER pro tempore (during the vote). There are 2 minutes remaining in this vote.

□ 1146

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Ms. HIRONO. Mr. Speaker, on rollcall No. 842, had I been present, I would have voted "aye."

## PERSONAL EXPLANATION

Mr. KIRK. Mr. Speaker, on rollcall Nos. 841 and 842, I was unavoidably detained. Had I been present, I would have voted "nay" on rollcall 841 and "no" on rollcall 842.

## PERSONAL EXPLANATION

Mr. MCMAHON. Mr. Speaker, on rollcall Nos. 841 and 842 I was on a visit to Walter Reed. Had I been present, I would have voted "yea" on rollcall 841 and "aye" on rollcall 842.

## CONGRATULATING THE INTER-AMERICAN FOUNDATION

The SPEAKER pro tempore. The unfinished business is the vote on the motion to suspend the rules and agree to the resolution, H. Res. 858, on which the yeas and nays were ordered.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York (Mr. ENGEL) that the House suspend the rules and agree to the resolution, H. Res. 858.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 405, nays 1, answered "present" 2, not voting 24, as follows:

[Roll No. 843]

YEAS—405

Abercrombie  
Ackerman  
Aderholt  
Adler (NJ)  
Akin  
Alexander  
Altmire  
Arcuri  
Austria  
Baca  
Bachmann  
Bachus  
Baird  
Baldwin  
Barrow  
Bartlett  
Barton (TX)  
Bean  
Becerra  
Berkley  
Berman  
Berry  
Biggett  
Bilbray  
Bilirakis  
Bishop (GA)  
Bishop (NY)  
Bishop (UT)  
Blackburn  
Blumenauer  
Blunt  
Bocchieri  
Bonner  
Bono Mack  
Boozman  
Boren  
Boswell  
Boustany  
Boyd  
Brady (PA)  
Brady (TX)  
Bright  
Broun (GA)  
Brown (SC)  
Brown, Corrine  
Brown-Waite,  
Ginny  
Buchanan  
Burgess  
Burton (IN)  
Butterfield  
Buyer  
Calvert  
Camp  
Cantor  
Cao  
Capito  
Capps  
Capuano  
Carnahan  
Carney  
Carson (IN)  
Carter  
Cassidy  
Castle  
Castor (FL)

Chaffetz  
Chandler  
Childers  
Chu  
Clarke  
Clay  
Cleaver  
Clyburn  
Coble  
Coffman (CO)  
Cohen  
Cole  
Conaway  
Connolly (VA)  
Conyers  
Cooper  
Costa  
Costello  
Courtney  
Crenshaw  
Crowley  
Cuellar  
Culberson  
Cummings  
Dahlkemper  
Davis (AL)  
Davis (CA)  
Davis (IL)  
Davis (KY)  
DeFazio  
DeGette  
Delahunt  
DeLauro  
Dent  
Diaz-Balart, L.  
Diaz-Balart, M.  
Dicks  
Dingell  
Doggett  
Donnelly (IN)  
Doyle  
Dreier  
Driehaus  
Duncan  
Edwards (MD)  
Edwards (TX)  
Ehlers  
Ellison  
Ellsworth  
Emerson  
Engel  
Eshoo  
Etheridge  
Fallin  
Farr  
Fattah  
Filner  
Flake  
Fleming  
Forbes  
Fortenberry  
Foster  
Foxy  
Frank (MA)  
Franks (AZ)  
Frelinghuysen

Fudge  
Gallegly  
Garrett (NJ)  
Giffords  
Gingrey (GA)  
Gonzalez  
Goodlatte  
Gordon (TN)  
Granger  
Graves  
Grayson  
Green, Al  
Green, Gene  
Griffith  
Guthrie  
Gutierrez  
Hall (NY)  
Hall (TX)  
Halvorson  
Hare  
Harman  
Harper  
Hastings (FL)  
Hastings (WA)  
Heinrich  
Heller  
Hensarling  
Herger  
Herseth Sandlin  
Higgins  
Hill  
Himes  
Hinchey  
Hinojosa  
Hirono  
Hodes  
Hoekstra  
Holden  
Holt  
Honda  
Hoyer  
Hunter  
Inglis  
Israel  
Issa  
Jackson (IL)  
Jackson-Lee  
(TX)  
Jenkins  
Johnson (GA)  
Johnson (IL)  
Johnson, E. B.  
Johnson, Sam  
Jones  
Jordan (OH)  
Kagen  
Kanjorski  
Kaptur  
Kennedy  
Kildee  
Kilpatrick (MI)  
Kilroy  
Kind  
King (IA)  
King (NY)  
Kingston

Kirk  
Kirkpatrick (AZ)  
Kissell  
Klein (FL)  
Kline (MN)  
Kosmas  
Kratovil  
Kucinich  
Lance  
Langevin  
Larsen (WA)  
Larson (CT)  
Latham  
LaTourette  
Latta  
Lee (CA)  
Lee (NY)  
Levin  
Lewis (CA)  
Lewis (GA)  
Linder  
Lipinski  
LoBiondo  
Loebuck  
Lofgren, Zoe  
Lowey  
Lucas  
Luetkemeyer  
Lujan  
Lummis  
Lungren, Daniel E.  
Lynch  
Mack  
Maffei  
Maloney  
Manzullo  
Marchant  
Markey (CO)  
Markey (MA)  
Marshall  
Massa  
Matheson  
Matsui  
McCarthy (CA)  
McCarthy (NY)  
McClintock  
McCollum  
McCotter  
McDermott  
McGovern  
McHenry  
McIntyre  
McKeon  
McMahon  
McMorris  
Rodgers  
Meek (FL)  
Meeks (NY)  
Melancon  
Mica  
Michaud  
Miller (FL)  
Miller (MI)  
Miller (NC)  
Miller, Gary  
Miller, George  
Minnick  
Mitchell  
Mollohan  
Moore (KS)

Moore (WI)  
Moran (KS)  
Moran (VA)  
Murphy (CT)  
Murphy (NY)  
Murphy, Tim  
Murtha  
Myrick  
Nadler (NY)  
Napolitano  
Neal (MA)  
Neugebauer  
Nye  
Oberstar  
Obey  
Olson  
Olver  
Ortiz  
Pallone  
Pascarelli  
Pastor (AZ)  
Paulsen  
Payne  
Pence  
Perlmutter  
Perriello  
Peters  
Peterson  
Petri  
Pingree (ME)  
Pitts  
Platts  
Poe (TX)  
Polis (CO)  
Pomeroy  
Posey  
Price (GA)  
Price (NC)  
Quigley  
Radanovich  
Rahall  
Rangel  
Rehberg  
Reyes  
Richardson  
Rodriguez  
Roe (TN)  
Rogers (AL)  
Rogers (KY)  
Rogers (MI)  
Rohrabacher  
Rooney  
Ros-Lehtinen  
Roskam  
Ross  
Roybal-Allard  
Royce  
Ruppersberger  
Rush  
Ryan (OH)  
Ryan (WI)  
Salazar  
Sanchez, Loretta  
Sarbanes  
Scalise  
Schakowsky  
Schauer  
Schiff  
Schmidt  
Schock

Schrader  
Schwartz  
Scott (GA)  
Scott (VA)  
Sensenbrenner  
Serrano  
Sessions  
Sestak  
Shadegg  
Shea-Porter  
Sherman  
Shimkus  
Shuler  
Shuster  
Simpson  
Sires  
Skeltan  
Smith (NE)  
Smith (NJ)  
Smith (TX)  
Smith (WA)  
Snyder  
Souder  
Space  
Spratt  
Stark  
Stearns  
Sutton  
Tanner  
Taylor  
Teague  
Terry  
Thompson (CA)  
Thompson (MS)  
Thompson (PA)  
Thornberry  
Tiahrt  
Tiberi  
Tierney  
Titus  
Tonko  
Towns  
Tsongas  
Turner  
Upton  
Van Hollen  
Velázquez  
Visclosky  
Walden  
Walz  
Wamp  
Wasserman  
Schultz  
Waters  
Watson  
Waxman  
Weiner  
Welch  
Westmoreland  
Wexler  
Whitfield  
Wilson (OH)  
Wilson (SC)  
Wittman  
Wolf  
Woolsey  
Wu  
Yarmuth  
Young (AK)  
Young (FL)

NAYS—1

Paul

ANSWERED "PRESENT"—2

Campbell Gohmert

NOT VOTING—24

Andrews  
Barrett (SC)  
Boehner  
Boucher  
Braley (IA)  
Cardoza  
Davis (TN)  
Deal (GA)  
Gerlach

Grijalva  
Inslee  
Lamborn  
McCaul  
McNerney  
Murphy, Patrick  
Nunes  
Reichert  
Rothman (NJ)

Sánchez, Linda T.  
Slaughter  
Speier  
Stupak  
Sullivan  
Watt

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). There are 2 minutes remaining in this vote.

□ 1152

Mr. FLAKE changed his vote from “nay” to “yea.”

So (two-thirds being in the affirmative) the rules were suspended and the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

## PERSONAL EXPLANATION

Ms. SLAUGHTER. Mr. Speaker, I was unavoidably detained and missed rollcall vote Nos. 841, 842, and 843. Had I been present, I would have voted “aye” on rollcall votes Nos. 841, 842, and 843.

## CONDEMNING THE ILLEGAL EXTRACTION OF MADAGASCAR'S NATURAL RESOURCES

The SPEAKER pro tempore. The unfinished business is the question on suspending the rules and agreeing to the resolution, H. Res. 839, as amended.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. BERMAN) that the House suspend the rules and agree to the resolution, H. Res. 839, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the ayes have it.

Mrs. HALVORSON. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 409, nays 5, not voting 18, as follows:

[Roll No. 844]

YEAS—409

Abercrombie	Boccieri	Carson (IN)
Ackerman	Bonner	Carter
Aderholt	Bono Mack	Castle
Adler (NJ)	Boozman	Castor (FL)
Akin	Boren	Chaffetz
Alexander	Boswell	Chandler
Altmire	Boucher	Childers
Andrews	Boustany	Chu
Arcuri	Boyd	Clarke
Austria	Brady (PA)	Clay
Baca	Brady (TX)	Cleaver
Bachmann	Bright	Clyburn
Bachus	Brown (GA)	Coble
Baird	Brown (SC)	Coffman (CO)
Baldwin	Brown, Corrine	Cohen
Barrow	Brown-Waite,	Cole
Bartlett	Ginny	Conaway
Barton (TX)	Buchanan	Connolly (VA)
Bean	Burgess	Conyers
Becerra	Burton (IN)	Cooper
Berkley	Buyer	Costa
Berman	Calvert	Costello
Berry	Camp	Courtney
Biggert	Cantor	Crenshaw
Bilbray	Cao	Crowley
Bilirakis	Capito	Cuellar
Bishop (GA)	Capps	Culberson
Bishop (NY)	Capuano	Cummings
Blackburn	Cardoza	Dahlkemper
Blumenauer	Carnahan	Davis (AL)
Blunt	Carney	Davis (CA)

Davis (IL)	Kagen	Olver
Davis (KY)	Kaptur	Ortiz
DeFazio	Kennedy	Pallone
DeGette	Kildee	Pascarella
DeLauro	Kilpatrick (MI)	Pastor (AZ)
Dent	Kilroy	Paulsen
Diaz-Balart, L.	Kind	Payne
Diaz-Balart, M.	King (IA)	Pence
Dicks	King (NY)	Perlmutter
Dingell	Kingston	Perriello
Doggett	Kirk	Peters
Donnelly (IN)	Kirkpatrick (AZ)	Peterson
Doyle	Kissell	Petri
Dreier	Klein (FL)	Pingree (ME)
Driehaus	Kline (MN)	Pitts
Duncan	Kosmas	Platts
Edwards (MD)	Kratovil	Poe (TX)
Edwards (TX)	Kucinich	Polis (CO)
Ehlers	Lamborn	Pomeroy
Ellison	Lance	Posey
Elsworth	Langevin	Price (GA)
Emerson	Larsen (WA)	Price (NC)
Engel	Larson (CT)	Putnam
Eshoo	Latham	Quigley
Etheridge	LaTourette	Radanovich
Fallin	Latta	Rahall
Farr	Lee (CA)	Rangel
Fattah	Lee (NY)	Rehberg
Filner	Levin	Reichert
Flake	Lewis (CA)	Reyes
Fleming	Lewis (GA)	Richardson
Forbes	Linder	Rodriguez
Fortenberry	Lipinski	Roe (TN)
Foster	LoBiondo	Rogers (AL)
Fox	Loebuck	Rogers (KY)
Frank (MA)	Lofgren, Zoe	Rogers (MI)
Frelinghuysen	Lowey	Rohrabacher
Fudge	Lucas	Rooney
Gallely	Luetkemeyer	Ros-Lehtinen
Garrett (NJ)	Lujan	Roskam
Giffords	Lummis	Ross
Gingrey (GA)	Lungren, Daniel	Roybal-Allard
Gohmert	E.	Royce
Gonzalez	Lynch	Ruppersberger
Goodlatte	Mack	Rush
Gordon (TN)	Maffei	Ryan (OH)
Granger	Maloney	Ryan (WI)
Graves	Manzullo	Salazar
Grayson	Marchant	Sanchez, Loretta
Green, Al	Markey (CO)	Sarbanes
Green, Gene	Markey (MA)	Scalise
Griffith	Marshall	Schakowsky
Grijalva	Massa	Schauer
Guthrie	Matheson	Schiff
Gutierrez	Matsui	Schmidt
Hall (NY)	McCarthy (CA)	Schock
Hall (TX)	McCaul	Schwartz
Halvorson	McCollum	Scott (GA)
Hare	McCotter	Scott (VA)
Harman	McDermott	Sensenbrenner
Harper	McGovern	Serrano
Hastings (FL)	McHenry	Sessions
Hastings (WA)	McIntyre	Sestak
Heinrich	McKeon	Shadegg
Heller	McMahon	Shea-Porter
Hensarling	McMorris	Sherman
Herger	Rodgers	Shimkus
Herseth Sandlin	Meek (FL)	Shuler
Higgins	Meeks (NY)	Shuster
Hill	Melancon	Simpson
Himes	Mica	Sires
Hinchee	Michaud	Skelton
Hinojosa	Miller (FL)	Slaughter
Hirono	Miller (MD)	Smith (NE)
Hodes	Miller (NC)	Smith (NJ)
Hoekstra	Miller, Gary	Smith (TX)
Holden	Miller, George	Smith (WA)
Holt	Minnick	Snyder
Honda	Mitchell	Souder
Hoyer	Mollohan	Space
Hunter	Moore (KS)	Speier
Inglis	Moran (KS)	Spratt
Insee	Moran (VA)	Stark
Israel	Murphy (CT)	Stearns
Issa	Murphy (NY)	Sullivan
Jackson (IL)	Murphy, Tim	Sutton
Jackson-Lee	Murtha	Tanner
(TX)	Myrick	Taylor
Jenkins	Nadler (NY)	Teague
Johnson (GA)	Napolitano	Terry
Johnson (IL)	Neal (MA)	Thompson (CA)
Johnson, E. B.	Neugebauer	Thompson (MS)
Johnson, Sam	Nye	Thompson (PA)
Jones	Oberstar	Thornberry
Jordan (OH)	Obey	Tiahrt
	Olson	Tiberi

Tierney	Walz	Wexler
Titus	Wamp	Whitfield
Tonko	Wasserman	Wilson (OH)
Towns	Schultz	Wilson (SC)
Tsongas	Waters	Wittman
Turner	Watson	Wolf
Upton	Watt	Woolsey
Van Hollen	Waxman	Wu
Velázquez	Weiner	Yarmuth
Visclosky	Welch	Young (AK)
Walden	Westmoreland	Young (FL)

## NAYS—5

Bishop (UT)	Franks (AZ)	Paul
Campbell	McClintock	

## NOT VOTING—18

Barrett (SC)	Gerlach	Rothman (NJ)
Boehner	Kanjorski	Sánchez, Linda
Braley (IA)	McCarthy (NY)	T.
Butterfield	McNerney	Schrader
Cassidy	Moore (WI)	Stupak
Davis (TN)	Murphy, Patrick	
Deal (GA)	Nunes	

## ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). There are 2 minutes remaining in this vote.

□ 1200

So (two-thirds being in the affirmative) the rules were suspended and the resolution, as amended, was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

## GENERAL LEAVE

Mr. FRANK of Massachusetts. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days within which to revise and extend their remarks on H.R. 3639 and insert extraneous material thereon.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

## EXPEDITED CARD REFORM FOR CONSUMERS ACT OF 2009

The SPEAKER pro tempore. Pursuant to House Resolution 884 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 3639.

□ 1201

## IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 3639) to amend the Credit Card Accountability Responsibility and Disclosure Act of 2009 to establish an earlier effective date for various consumer protections, and for other purposes, with Mr. PAS-TOR of Arizona in the chair.

The Clerk read the title of the bill.

The CHAIR. Pursuant to the rule, the bill is considered read the first time.

The gentleman from Massachusetts (Mr. FRANK) and the gentleman from Texas (Mr. HENSARLING) each will control 30 minutes.



The Chair recognizes the gentleman from Massachusetts.

Mr. FRANK of Massachusetts. Mr. Chairman, I recognize for 4 minutes the prime mover of this bill, the gentleman from New York (Mrs. MALONEY).

Mrs. MALONEY. I thank the gentleman for yielding.

Mr. Chairman, I rise in strong support of H.R. 3639, the Expedited CARD Reform for Consumers Act of 2009. I thank the chairman of the Financial Services Committee, BARNEY FRANK, for his leadership on this issue and so many others, and Senator DODD for championing this issue in the Senate.

This bill would simply move up the effective date of the remaining provisions of the Credit Card Reform Act, which we passed earlier this year, from February 2010 to December 1, 2009, just in time for the holiday shopping season.

It is truly unfortunate that we are on the floor today having to take this step, but the credit card companies brought it on themselves. Rather than use the months after the date that it was signed into law in May to update their systems to get ready for the new reforms, they have used this time to raise interest rates unfairly at any time and for any reason on consumers retroactively on their balances, capturing many of them in never-ending cycles of debt. They are practicing the double-cycle billing, charging rates on interest that has already been paid and raising rates for unrelated reasons. Consumers are justly outraged, and they have come to their Congress Members and to this Congress asking for relief.

Just last week, the Pew Foundation issued a report that showed that interest rates have shot up by 20 percent—the average interest rate is 20 percent—and 90 percent of all credit card debt that is out there has had an interest rate increase since the President signed the bill into law.

The Pew report also found that 100 percent of bank cards were using practices that the Federal Reserve has called unfair, deceptive, and anti-competitive. This troubling information followed report after report from other not-for-profits, from other Members of Congress, from our constituents, and from the news media that have showed that interest rates have climbed 18 percent—in some cases 30 percent—for absolutely no reason for customers that are paying on time and not going over their limit.

The original implementation date for the bill that I proposed was 90 days after enactment, but many Members of this body wanted to give the credit card companies more time to implement the reforms to get their systems in place, yet they have used this time to gouge consumers and to raise rates. We had ended up, in deliberations with

the bill, with a staged implementation rate, that in August of 2009 a notice would go in of 45 days of any rate increases, but the bulk of these reforms would go into place in February of 2010. What we are doing is moving this date up by 5 months, giving relief and protection to consumers and working to help them.

The extraordinary breadth and depth of the interest rate hikes that consumers are suffering from speak to the importance of passing this important bill. I thank my colleagues on both sides of the aisle that have been supportive, and especially to the chairman.

Mr. HENSARLING. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I do not believe there is ever a good time to enact a bad law. And unfortunately, although there are some good provisions in the underlying credit card legislation, ultimately many of us predicted that if it passed, credit would become more expensive and less available to millions of Americans, and that's exactly what we see.

Now, the good part of the bill is, clearly, there have been misleading and deceptive practices by some credit card companies. We need to have better disclosure, more effective disclosure so people understand the credit relationships in which they enter. But, Mr. Chairman, we are in the midst of a huge credit contraction that's taking place today; jobs are being lost and people are having trouble accessing credit for their personal lives and for small businesses. Unfortunately, ultimately this underlying legislation on which one of three effective dates is moved up—or two of the three effective dates are moved up by the bill that is before us—will essentially exacerbate that trend. In many respects, Mr. Chairman, I hate to say I told you so, but we told you so. And so, again, all we're going to do is make a bad situation worse.

Already we have seen, for example, a recent article in USA Today, let me quote from it, October 23, "Curtis Arnold, founder of creditratings.com, said he expected credit card issuers to raise annual fees after the legislation was enacted." Sure enough, Mr. Chairman, that's exactly what we see.

Let me quote from The Wall Street Journal. "Other issuers, such as Bank of America, JPMorgan Chase Card Services, and Discover, recently converted customer fixed rates to variable ones."

New York Times, "Now Congress is moving to limit the penalties on riskier borrowers"—which is exactly what the underlying legislation did, Mr. Chairman. Let me continue on—"who have become a prime source of billions of dollars in fee revenue for the industry. And to make up for the lost income, the card companies are going

after those people with sterling credit."

So now we also find out—again, from USA Today—that starting next year Bank of America will charge a number of customers an annual fee ranging from \$29 to \$99. We see that, in the same article from USA Today, Citigroup has started charging annual fees to cardholders.

And so, again, Mr. Chairman, we have the testimony. Many of us predicted this. As I said way back in March, make no mistake about it, if this bill passes, it's going to be a lot harder for people to access the credit they need to pay their bills, cover medical emergencies, or finance large purchases.

And so all over America people are getting these notices in the mail—including the Hensarling family of Dallas, Texas, where all of a sudden I've seen our own interest rates skyrocket from 15 percent to 23 percent. And with very few exceptions, my wife and I pay our balance in full at the end of the month. It's the half of America that pays their bills on time, in full that are now having to subsidize those who don't through an act of Congress.

So I think we all agree, nobody likes what's happening in America, but the question is, who's responsible? I believe this underlying piece of legislation is exacerbating a huge credit contraction that's already taking place in the economy.

And, Mr. Chairman, it just couldn't come at a worse time. I mean, as we know, apparently on Friday or Saturday this body will vote on a huge government takeover of our health care bill which could cost easily, even according to CBO, over \$1 trillion that ultimately has to be paid for by the American people.

We've seen estimates again that premiums will rise, particularly for young, healthy people, young, healthy people who may be getting these notices in the mail today that all of a sudden maybe their credit cards have been yanked and maybe their interest rates have gone up. At the same time when we are staring in the face of an over \$1 trillion health care bill, a bill that could impose a 2.5 percent penalty, again, on young people who may not be able to afford insurance, but they could be penalized 2.5 percent. Well, if you take away their credit cards, how are they going to be able to pay the 2.5 percent tax if they don't buy the government improved health insurance?

Mr. Chairman, how about small businesses? If small businesses find that their credit cards have their interest rates skyrocket or taken away, how are they going to be able to pay the 8 percent pay-or-play tax which is in the Pelosi government takeover of health care bill?

How about the other surcharge that would go to a number of small businesses, supposedly raising half a trillion dollars? Again, we know a lot of small businesses access credit through credit cards. So if we take an underlying bad bill that's exacerbating a credit crunch and all we do is accelerate the effective date, I mean, how, again, are tens of thousands of small businesses going to be able to pay the 8 percent new pay-or-play tax in the Pelosi takeover of our health care system bill?

How about the 2.5 percent medical device tax, or the 2.5 percent what some are calling the "wheelchair tax"? Again, a number of our seniors rely on credit cards. Now they have Medigap policies. They need those credit cards for medical expenses, especially if the majority is about to impose a 2.5 percent wheelchair tax upon the American people.

Why are we going to pass a bill, again, in the middle of a huge credit contraction that is only going to exacerbate the matter, make matters worse, take away credit cards, make interest rates go up, make credit less available and more expensive at a time when we are threatened with this \$1 trillion government takeover of health care legislation?

□ 1215

Again, I want to emphasize, Mr. Chairman, that there is at least one good part of the legislation, which is that we do need effective disclosure and that we need competitive markets. But when you start taking away the ability of companies to price for risk, the people who do it right end up bailing out a number of people who don't, and those who don't—and for some of whom it may not be through any fault of their own—find that they no longer have credit opportunities at a time when many are facing a 2½ percent tax if they don't buy the government-improved health insurance. They are facing a 2½ percent tax if they need a wheeled chair, maybe even a replacement hip. I suppose that's also defined as a "medical device" under the Pelosi government takeover of our health care system legislation. Small businesses face the 8 percent pay-or-play tax.

Again, even if you thought that the underlying legislation was good, how could the timing not be worse?

If you were to ask the American people, number one, if those who pay their bills on time shouldn't be punished for those who don't, and of those who don't, if they had a choice of paying a higher interest rate or of having their credit cards taken away from them, my guess is a number of them would choose the higher interest rate.

But Congress has taken that decision away from them by enacting the underlying bill, if we choose to enact this

bill, which will simply hasten what is already a bad process which is making credit less available and more expensive to thousands of small businesses and to millions of Americans as we're facing a government takeover of our health care system.

I reserve the balance of my time.

Mr. FRANK of Massachusetts. Mr. Chairman, demonstrating that we bear no ill will to those who have deserted us, I yield 2 minutes to a former member of the committee, the gentlewoman from California (Ms. LEE).

Ms. LEE of California. Let me thank the gentleman for yielding. I will say I do miss you and miss serving on your committee, but I want to thank you for your leadership and for everything you're doing to try to help shepherd our economic recovery.

Mr. Chairman, let me just say how pleased I am to support H.R. 3639, the Expedited CARD Reform for Consumers Act.

I have to thank Congresswoman MALONEY and you for following through on the promise that you made. I don't know if you remember this, Mr. Chairman, but on the floor, you made a promise to Congressman WATT and to me on April 30, which is when the House passed these critical protections for credit card holders. I had gone to the Rules Committee to actually put this 90-day deadline back into the CARD legislation via an amendment, but I did withdraw my amendment based on the assurances of the chairman that, in his words, if banks are using the time—and this is what you said, Mr. Chairman—to take advantage of consumers and if they're trying to get in some last licks before the rule goes into effect, we would speed up the date. The banks are certainly getting in some last licks.

I just want to thank you, Mr. Chairman, for following up on your promise and on your commitment, because the situation is really desperate for so many people.

We all have constituents who have been really shocked by their banks or by their credit card companies which have suddenly raised their rates on already existing balances without notice and without any negative activity on a consumer's credit report. We have all read the news reports about the initiation of all sorts of new fees on transactions: charging consumers who are paying their bills on time and these inactivity fees. I guess they charge you for doing nothing at all.

The CHAIR. The time of the gentlewoman has expired.

Mr. FRANK of Massachusetts. I yield the gentlewoman 1 additional minute.

Ms. LEE of California. Clearly, the banks pleaded for just a little extra time to fully implement these new reforms. They're using that time to pad their profits at the expense of American families. This is unconscionable.

It really is immoral. We should be totally outraged about this practice.

So I have to thank you again, Chairman FRANK, Congresswoman MALONEY and Mr. WATT, for your commitment to consumer rights and for your hard work on this very vital reform. Hopefully, consumers now will get the justice that they deserve.

Mr. HENSARLING. Mr. Chairman, in order to help equalize the time, I continue to reserve the balance of my time.

Mr. FRANK of Massachusetts. I yield 3 minutes to an active Member, who also filed a very good piece of legislation to this bill, the gentlewoman from New York (Mrs. LOWEY).

Mrs. LOWEY. I rise in strong support of the bill, and I want to thank Chairman FRANK for bringing this very important bill to the floor.

Mr. Chairman, deceptive credit card practices allow one hidden fee to snowball into ballooning interest rates and into \$1,000 balances that many families, which are struggling to get by, cannot afford. When the President signed the Credit CARD Act into law, some companies tried to beat the clock by imposing predatory finance charges on consumers. That's why I am so pleased that, in working with Chairman FRANK and with Congresswoman MALONEY, I introduced legislation accelerating the implementation date.

The enactment of this bill will protect our constituents who cannot afford to be hit with abusive new fees or interest rate hikes. It will also accelerate other consumer protections, including a provision I cosponsored to require additional disclosure on the dangers of making only minimum payments.

So I really do want to commend the chairman and the gentlewoman from New York for their important work. I urge their support. As far as my constituents are concerned, this bill can't be passed soon enough.

Mr. HENSARLING. Mr. Chairman, I yield as much time as he may consume to the ranking member, the gentleman from Alabama (Mr. BACHUS).

Mr. BACHUS. I thank the gentleman from Texas.

I rise today in opposition to this legislation.

Mr. Chairman, let me start by saying that this bill moves up the effective date on the underlying credit card bill, and that credit card bill is not a major bill. Unlike the health care bill, unlike the climate control bill, or the cap-and-tax bill, and unlike the systemic regulation bill, this bill addressed one thing and one thing only, and that was credit cards. We passed it 5 months ago. When we passed it, there were all these prophecies of wonderful things that were going to happen to consumers.

We Republicans stood on the floor of this House, and we said there needed to

be changes in this bill. We said, if this bill passed in its present form, which it did, that the cost of credit would increase for consumers. We said there would be limits placed on their credit lines.

Sure enough—and I take no pleasure in saying this—5 months later, after President Obama signed this legislation, the so-called Credit CARD Act, into law, credit tightened. Consumers every day are facing notices in the mail that their credit rates are going up from 6 and 8 percent to 20-something percent. American Express and others have said they're going to start charging \$100 fees. These are so-called unintended consequences. As a result of this legislation, we're seeing many consumers facing the cancellation of their credit cards, millions in fact. Regrettably, those warnings have come true.

Small businesses, which rely heavily on consumer credit, are also feeling the credit crunch. They're the main creators of jobs in our country—small businesses. They need credit. According to the National Small Business Association, 79 percent of those small businesses which were surveyed just recently said that credit card lending standards have tightened dramatically in the last few months and that their credit lines are being decreased materially.

The new credit card restrictions are exacerbating the economic crisis and the loss of jobs, and they are causing the shutdown of a key source of financing for small businesses and, therefore, job creation.

Small businesses are the engine of our economy. They're the number one job creators. Of all businesses, they rely the most on credit cards and on credit lines from those credit cards. We shouldn't have restricted their ability to obtain credit. They need it to expand and to create jobs.

This original bill came at just the wrong time. We could have stopped the abusive practices; but at the same time, we went beyond that and restricted the ability of credit card companies to protect themselves from people who didn't pay their credit card bills. That's really the essence of why this bill is not working, because we protected those who didn't pay their credit card payments. They're who are protected. We did some other good things, but we did that; and that was a mistake.

Now, don't take my word for it as to the fact that this present legislation—and let me say this: it's very unlikely. This is sort of a charade because, I think, most of us realize that this legislation is not going to be enacted into law. It's December 1 now. I mean, it takes effect December 1. The Senate, I don't think, will even pick it up by December 1. Maybe they will. Maybe they will.

If they do, I think the warning of Chairman Bernanke is appropriate. When asked about the feasibility of enacting the provisions of the bill we're now considering, here is what Chairman Bernanke said—and Chairman Bernanke is often quoted by the Members on the other side of the aisle:

The board continues to believe that, given the breadth of changes required by the Credit CARD Act and its regulation, card issuers must be afforded sufficient time for implementation to allow for an orderly transition and to avoid unintended consequences, compliance difficulties, and potential liabilities.

Well, we've seen those unintended consequences: no credit cards where people had credit cards and a country in which we had the most ability to have credit cards and the choices in credit cards at the lowest interest rates. That is beginning to change before our eyes.

All of us share the goal of protecting consumers from unfair and deceptive credit card practices and of ensuring that cardholders receive useful and complete disclosures so that they have sufficient time to pay their cards and so that they aren't subjected to double-cycle billing, but we must be careful. Let this bill be a lesson to us, in trying to protect consumers or the government's intervening into these practices, that we do not impose new costs on them or on the U.S. economy as a whole. Just like the Speaker PELOSI health care plan we may consider later this week, this bill limits choice; it rations credit; it decreases costs; and it strangles innovation.

According to recent studies, as many as 114 million Americans will lose their current health insurance coverage under the Democrats' health plan. Now, that's even more serious than the few million who have lost their credit cards under this legislation. Likewise, several million consumers will lose their credit cards or will see their credit lines severely restricted by this legislation.

If there is one common denominator in Congress this year, it's the substitution of the government for the individual: with the stimulus, with the multiple bailouts, with the climate change legislation, with this credit card bill, with financial reform, and now, later this week, with health care. Instead of you making the choice, the government is making the choice for you.

The United States of America is the world's largest economy. It's three times larger than our closest competitor, Japan; and it's larger than the economies of Japan, China, Germany, and of Great Britain combined. We got there through innovation. We got there through choice. We got there through competition. We got there through individual initiative and responsibility,

not through government control and management.

As we've seen time after time, when you substitute a government-controlled and -run program for individual choice, the cost goes up and the quality goes down. When it comes to health care, there is nothing more important than quality and choice. Given the choice, I'll always place my faith in the individual, not in the government; and this time is no different. It is no different with the credit card legislation. It is no different with the health care legislation.

□ 1230

Mr. Chairman, let me conclude by saying many of my colleagues in this body, both Republicans and Democrats, are going to come in and they are going to vote for this legislation today. They are going to do so really, many of them, because of the underlying legislation and the animosity and the bad feelings it has created with the American people, who are seeing their credit lines limited and their interest rates raised. The American people are upset, and this bill is an attempt, I think, almost to cloud why those interest rates are going up.

We need to help families, we need to help businesses that are struggling in this economic recession, and we need to create jobs. And, as we said 5 months ago, that was exactly the wrong time to saddle them with additional fees, higher interest rates, limit their credit lines and add significant new compliance burdens to our community banks. That was true 5 months ago on credit cards. We have seen the unintended results.

We are going to vote on health care. Those results will be even more serious and more drastic. You will see a greater cost of health care. You will see a diminished quality. You will see rationing of care. We warned about unintended consequences 5 months ago. Those warnings weren't heeded. We are warning again, but this time we are dealing with a far more serious issue, and that is the quality of health care in America, the affordability of health care, and the ability to get services in this country that are not offered in other countries.

Mr. FRANK of Massachusetts. Mr. Chairman, I intend to close and I have no further speakers, so I reserve my time.

Mr. HENSARLING. Mr. Chairman, I assume the chairman of the full committee has the right to close?

The CHAIR. Yes, he does.

Mr. HENSARLING. The chairman having said he has no other speakers, in that case, I will close for our side.

Again, we have no great pleasure in saying "I told you so," but I think it is important before this body decides to accelerate a problem that is exacerbated by this body, they should take

full import of their actions and the consequences.

As I said back in June, we must remember that every restriction, every limit, every regulation, has a high probability of making credit less accessible, less affordable and more costly, and, unfortunately, Mr. Chairman, that is exactly what we see today.

In a recent article in *The Wall Street Journal*, we read, In the past 2 years, credit card lines have been cut by over \$1.25 trillion. During the same time, 10 percent of all credit card accounts have been canceled.

Again, we know, Mr. Chairman, that our constituents are feeling this pain as they get these notices in the mail. Let me go back to the article: According to the most recent Federal Reserve data, small business lending is down 3 percent, or \$113 million, from fourth quarter 2008.

Mr. FRANK of Massachusetts. If the gentleman would yield, someone on our side who said she wanted to speak has since come on the floor. I just wanted to alert the gentleman that I will not be the final speaker. I will be yielding one more time before I close.

Mr. HENSARLING. Reclaiming my time, I appreciate the chairman keeping me informed.

Again, Mr. Chairman, what we have seen is what I believe to be a number of unintended consequences that have taken place in this legislation. We were warned about this.

We heard from, for example, the ABA, who testified at the committee back in March, Restrictions on repricing higher risk accounts means two things. Number one, that higher risk customers will likely see less credit available to them; and, two, since the higher risk customers do not bear the full cost of the risk they pose, lower risk customers will bear some of the added cost.

We heard back in December of 2008 from Oliver Ireland of the Morrison and Forester law firm: The effects of this are going to be pretty severe. People are going to see either some combination of rising prices or a reduction in the availability of credit by either cutting lines or simply not making credit available.

Again, Mr. Chairman, we have been warned. Julie Williams, chief counsel for the OCC, who testified before our committee back in April of 2008: The risk mitigation tools used by credit card lenders to address changes in the credit risk profile of customers may include freezing or reducing credit lines, closing accounts, shortening account expiration dates and repricing for outstanding balances on the account. I could go on and on.

We have been warned, Mr. Chairman. We see it happening. We hear the anecdotal evidence. We see the statistical evidence. Again, I fear that although there are some good aspects of the leg-

islation, that ultimately, ultimately, in the midst of a huge credit contraction, that what we will see is credit become even less available and more expensive, at a time when many of our constituents need it most.

Again, this has to be put into the context of the larger legislation that this body will consider this week, according to the Speaker of the House, and that is the government takeover of our health care system.

We know that on page 297, section 501 of that bill, there is a 2.5 percent tax imposed on all individuals who do not purchase the government-approved health insurance, which clearly applies to people making less than a quarter million dollars a year, which seems to contravene a campaign commitment that was made by our President.

We also see that there are new taxes on medical devices, a 2.5 percent excise tax. Again, many call this the wheelchair tax. But as our constituents are finding it more and more difficult to access credit cards, when they are having their credit cards cancelled, when they are seeing their interest rates rise, how are they going to be able to pay the 2.5 percent medical device tax in this \$1 trillion piece of legislation?

Mr. Chairman, I hear from my constituents. I hear from the Farmer family of Athens who wrote to me once, Dear Congressman, more than once we have put medical bills on our credit cards. Two years ago, my middle son had to have cervical surgery. I split the cost of the surgery, doctors and hospital. It took my husband and me about a year to pay off that particular debt, but we did it at a low rate of interest since our credit is good. I am just thankful for having the means to help my son.

Now, what do I go back and tell the Farmer family of Athens? Well, Congress decided to pass a piece of legislation; that although your credit is good, you are going to have to start paying more for people whose credit isn't good. The next time you have a medical emergency or challenge in your family, I don't know if that credit card will be there for you.

That is a tragedy, Mr. Chairman, as, again, we continue to have this huge credit contraction. And, again, when we are looking at this \$1 trillion government takeover of our health care legislation that on page 336, section 551, imposes a half a trillion dollar surcharge, supposedly just on the wealthy, but if you read the fine print what you figure out is that half of that is going to be paid by small businesses. So you could have a \$534 billion surtax imposed in this government takeover of health care legislation, and as you impose this, again, how is small business going to be able to afford to pay this surcharge if on their credit cards their interest rates continue to rise and their availability to access credit continues to erode? I don't understand it.

Then the more visible tax on small business, page 313, section 512 of the government takeover of health care bill imposes an 8 percent tax on employers who can't afford to purchase the government-approved health insurance. Now, according to the National Federation of Independent Business, such a mandate could cost 1.6 million jobs in the next 5 years. So, if you lose your job and we are making credit more expensive and less available, Mr. Chairman, I just ask the question, how is this supposed to improve the Nation's health care?

So we have to take a look at the underlying credit card legislation and how it is going to impact our constituents as we go forward, perhaps on Friday or Saturday, to vote on this other legislation.

We also know, Mr. Chairman, that in the government takeover of our health care bill, that there are at least 43 new entitlement programs that are either created, expanded or extended in the bill.

Now, is somebody going to tell me that doesn't make health care more expensive? And if it makes health care more expensive, how are Americans who are losing their credit cards supposed to pay for the \$1 trillion takeover of our health care system?

In addition, there are 111 new offices, bureaus, commissions, programs and bureaucracies that the bill will put between Americans and their doctors. Are you going to tell me, besides rationing health care, that somehow that is going to make health care less expensive? I don't believe so.

If it doesn't make health care less expensive, and I haven't found anybody to come to this floor to tell me that this 1,990-page bill costing the American people over \$1 trillion is somehow going to make their health care less expensive, so if it doesn't make their health care less expensive, why would we want to support legislation that, again, has the impact and effect of taking away millions of Americans' credit cards or artificially raising their interest rates? I don't get it.

Mr. Chairman, in this \$1 trillion government takeover of our health care system bill, we have 3,425 uses of the word "shall" representing new duties, new obligations, new mandates on individuals, businesses and States, which, oh, by the way, is double the number that we saw in the last iteration of the government takeover of our health care system bill.

Okay. So if we have 3,425 different mandates in this bill, is that somehow going to make our health care less expensive? I don't believe that. I don't believe the American people believe that. And, again, Mr. Chairman, if it doesn't make our health care less expensive at a time when our Nation has just achieved its first \$1 trillion deficit in our history, when this Congress has enacted a spending plan that will triple,

triple the national debt in the next 10 years, that is even before the \$1 trillion government takeover of our health care bill comes to the floor, how can we pass a piece of legislation making credit less available and more expensive?

I urge rejection of the bill.

I yield back the balance of my time.

Mr. FRANK of Massachusetts. How much time remains on the other side?

The CHAIR. All of the time has expired of the gentleman from Texas.

Mr. FRANK of Massachusetts. Well, that is nice.

As I told the gentleman, the gentleman from Texas (Ms. JACKSON-LEE) is recognized for 2 minutes.

Ms. JACKSON-LEE of Texas. I thank the chairman of the Financial Services Committee and my dear friend from New York, Congresswoman MALONEY.

It is interesting, listening to my good friend on the other side, but what I would offer to say is we are now debating a bill that most Americans are crying out for. As we go into the season of giving, and many, many holidays, where Americans all over the Nation and all over the world, frankly, will be looking to share their generosity, if you will, but they are facing a steep mountain to climb. So the Expedited CARD Reform for Consumers Act allows us to push back on many credit card companies that have availed themselves of the opportunity to raise interest rates by hearing about the potential implementation of this bill in 2010, August 2010, and decrease the credit limits on their consumers before the effective date.

Mr. Chairman, we didn't do this. Credit card companies who saw the writing on the wall, rather than working with consumers in a way that would encourage purchasing in a responsible manner, they did the complete opposite.

So I am very glad to be a cosponsor of this legislation that expedites good things, providing increased written notice to consumers of any increases in interest rates or otherwise makes a significant change in the terms of the credit card account. That is simple fairness.

I am glad to be on the side of informing consumers of their right to cancel the card before the rate hike goes into effect. I am glad to be on the side of the consumer that prohibits arbitrary interest rate increases and universal default on existing balances. I am glad that college students will not be, if you will, caught in the crosshairs of paying for their college tuition while paying high interest rates on credit cards that they use.

Finally, let me say we are being fair to the credit card companies. We require penalty fees to be reasonable and proportional to these same credit companies. Let me just say, this is a good bill for America.

□ 1245

Mr. FRANK of Massachusetts. Mr. Chairman, I yield 1½ minutes to a very important member of our committee, the gentleman from Minnesota (Mr. ELLISON).

Mr. ELLISON. I thank the chairman and Congresswoman MALONEY, who have been champions for consumers.

I rise today to strongly urge my colleagues to vote in favor of H.R. 3639, the Expedited CARD Reform for Consumers Act of 2009.

Earlier this year, the Congress voted overwhelmingly to pass comprehensive credit card reform legislation that was subsequently signed into law by President Obama. Unfortunately, the credit card companies have used the past few months to push through last-minute rate hikes and other unfair practices before the law kicks into gear. To address this problem, this bill simply moves up the effective date for the remaining credit card reforms from February 22, 2010, to December 1 of this year.

I want to thank Congresswoman MALONEY and Chairman FRANK for their leadership in expeditiously bringing this bill to the floor.

The actions of the credit card companies over the past few months have amply demonstrated that the American consumer needs quick relief from punitive and unfair credit card practices. The time to act on these important reforms is now. For too long, the credit card industry has been subject to too few regulations and far too little oversight.

Mr. FRANK of Massachusetts. Mr. Chairman, I yield myself such time as I may consume to close.

I want to begin by addressing the role of small business. The gentleman from Texas said this would be unfair to small business. The gentleman from Alabama said this credit card bill, the underlying bill and the speedup, would be a problem for small business.

On April 30 of this year when we voted on the underlying bill, we received the following letter from the National Federation of Independent Business, generally considered to be the most representative and forceful advocate for small businesses:

"On behalf of the NFIB, the Nation's leading small business advocacy organization, I urge you to support H.R. 627, the Credit Cardholders' Bill of Rights. While credit cards provide an important source of credit for many small business owners, our members are troubled by some of the business practices utilized by card companies."

"H.R. 627 ends unfair penalties on cardholders who pay on time, requires 45 days' notice of interest rate increases, prohibits arbitrary interest rate increases, and establishes industrywide definitions for common terms to deter deceptive marketing advertising. These provisions can protect

small business owners' credit by giving them enough notice to pay off debt and shop for competitive credit."

"While our members favor the credit card reforms in H.R. 627, we are mindful that credit cards pay for approximately \$1 of every \$6 of sales small businesses make. We believe this legislation does not unduly punish credit card companies in these tough economic times but limits business practices that harm small business credit cardholders."

I wonder how we could be told how bad this is for small business when the National Federation for Independent Business says it would, in fact, do exactly the opposite and protect credit cardholders.

We also heard, of course, some debate on other issues such as health care, and the gentleman from Alabama in particular blamed the Obama administration for bailouts. I don't want to dwell too much on things not before this bill, but let me reiterate a point that I do not think can be even debated, certainly not refuted. Every single activity of the Federal Government now being carried on that some people have characterized as a bailout was initiated by the administration of President George Bush. President Bush's Secretary of the Treasury and his chairman of the Council of Economic Advisers, his appointees, and the President himself were the ones who initiated the funding of AIG by the Federal Reserve. They came to us and asked for the TARP program. They were the ones who first gave money to General Motors and to Chrysler. There is literally nothing now going on called a bailout that the Obama administration did not inherit from George Bush.

Now, I suppose the Obama administration could have just pulled the plug on all these ongoing operations and caused chaos and blamed the previous administration. It did not do that. But literally everything going on now that is called a bailout is an inheritance from the Bush administration.

Now, the gentleman from Alabama also quoted the Federal Reserve in saying don't speed it up. And he said, well, people sometimes quote Mr. Bernanke one way or another. Well, he just did it. In the first place, the gentleman from Alabama and the gentleman from Texas have their major quarrel with the Federal Reserve because the Federal Reserve, on its own, under its regulatory power, promulgated regulations very similar to this bill. The sequence is interesting. The gentleman from New York, as she often is, was the first one out of the box on the consumer protection here, but after the gentleman from New York began discussions on this bill in our committee, the Federal Reserve moved.

So it seems odd to cite the Federal Reserve and say you believe them when they say there are difficulties in speeding it up when you are fundamentally

opposed to the Federal Reserve's basic action here. The Federal Reserve agreed with this House that regulations were needed to protect consumers. It is a set of regulations promulgated by the Federal Reserve that are as strongly opposed by the other side as are our regulations.

By the way, in quoting the Federal Reserve even on the speedup, they did express some concerns. They also said, however, the board cannot predict how an effective date of December 1 would affect credit card interest rates and credit availability. However, moving the CARD Act's effective date to December 1, 2009, would mean that consumers would receive important benefits and protections earlier. So they invoke the Federal Reserve and they invoke small business despite the protestations of both of these organizations that they disagree fundamentally with the Republican position.

Now let's talk about substance. The single biggest piece of this—and they say it prevents the poor credit card companies, the poor beleaguered banks. They warned us that if we tried to stop them from behaving irresponsibly, they would speed irresponsible behavior. Yes, they did. But that should not be allowed to be a deterrent against stopping them from doing things.

And what this fundamentally does, the single best, biggest thing, is it says this: If you have used your credit card to buy things at a rate that you were told was binding and you have made all your payments on time for years and you have been running a credit card balance, as the credit card companies want you to do—I know if you have a credit card and you pay it off every month, they don't like that because they're not getting the interest. But at any rate, if you have fully complied with all the terms of the credit card and you have made purchases and incurred debt at a given interest rate and you have made every payment you were supposed to make on time, they have retained the right unilaterally and retroactively to raise the interest rate on what you already owe them. It is the single unfairer economic transaction I can think of that doesn't involve a pistol. The fact is that they decide they can make more money that way.

We're told they have to deal with risk management. What's the risk on debt already incurred on the part of someone who's always made the payments? This isn't risk management. This is hostage taking. This is raising money after the fact.

Now, it's true they told you that when they sent you the contract. It is true that if you have very good vision and a very high boredom threshold and nothing else to do but read pages and pages of small print, you might have figured that out if you spoke

lawyeresque. But for most people, the notion that you take your credit, you were told that this is the interest rate, you buy things at that interest rate, you incur debt, and they then say, oh, by the way, you know that rate that was at 8 percent, retroactively it's now 12 percent.

This bill doesn't prevent them from going forward with appropriate notice for raising rates. It absolutely does not. It says they can't do it retroactively and they have to give you some notice so they cannot trap you.

It also says that if you mail the bill at a certain time, you are not subject to their saying, oh, by the way, something happened to your payment, we don't know what, and you're going to have to pay extra. All the burden of any misplaced bill falls on you, the payer, not them, the payee.

Let me last say here's a problem. We have had a pattern of abuse. The National Federation of Independent Business and the Federal Reserve agreed with us that there was a pattern of abuse. Members on the other side said, oh, no, these credit card companies, wonderful people. They're just trying to help you out and they are simply trying to give you credit, and if they raise your rates retroactively, that's in your own best interest. Trust us. That's so you don't have to pay higher rates down the road.

So we said we're going to stop these practices. They then said you can't do it right away, it's very complicated, give us some time. So we gave them time, more than I wanted to at the time. They then used that time not to calibrate so they would be ready for the effective date but to start to jack up the rates.

But I reject the notion, first of all, that people who are engaging in abusive practices, as the credit card companies were, according to us, according to the National Federation of Independent Business, according to Federal Reserve, hardly radical Obamaistic organizations, they should not be allowed to stop it by saying but if you try to make things better, we're going to blow things up in advance. We should not give into those kinds of facts. In fact, I reject the notion that we caused any of this. Nothing they have done couldn't have been done without the bill, and they were doing it. All they did was to use this bill as an excuse for doing what they were trying to do anyway.

So we have here a reasonable bill that will prevent them from imposing things retroactively, that will require some notice going forward, that will fairly allocate the risk of a late payment, and that's what we are talking about. And we are talking about speeding up the date. They have many months to get ready for this.

And let me say this: They tell us, oh, my goodness, it's so hard to recal-

ibrate. But you know what? They have very odd computers over there. Maybe they've got great software. They've got software that works perfectly when they want to raise rates, but if they want to hold rates constant, the software goes berserk. Maybe we can implore the software makers to give them some software that works both ways, because they are able to raise people's rates retroactively in violation of what people thought were their contractual rights, very quickly, but they aren't able to get ready to be giving people a 45-day notice before they raise their rates going forward. And the 45-day notice is so that you can say, okay, I will go through one more billing cycle and I don't want them anymore. I will go to shop. What we have here is what we had in April.

By the way, I don't want to be unfair to the entire Republican Party. Individual Members—it's okay, but not to the entire party. Many Republicans voted for this bill. Those who were speaking in opposition to it clearly were not representative of their whole party last time. And what we have, though, is the leadership from the Financial Services Committee of the Republican Party coming firmly to the defense of the credit card firms, telling us that what they were doing was out of economic necessity. They really don't want to raise these rates but they are just forced to do it by sound risk management.

We believe, along with the National Federation of Independent Business and the Federal Reserve and every consumer group that's looked at it, that exactly the opposite is the case. They have abused the time that they asked for because they said it was for getting ready and they used it to do precisely the things the bill will stop them from doing. I, therefore, very much hope that this bill is adopted.

Mr. AL GREEN of Texas. Mr. Chair, I extend my support to H.R. 3639, the Expedited CARD Reform for Consumers Act of 2009, and thank my dear friend from New York, Ms. MALONEY, for introducing this important legislation, and Chairman FRANK for expediting it out of committee.

On May 22, 2009, President Obama signed into law the Credit Card Accountability, Responsibility, and Disclosure Act to protect consumers from the most egregious abuses that were being committed by credit card companies. Today, the important legislation before us readdresses this issue and proposes to move up the effective date of certain provisions of the Credit CARD Act to December 1, 2009. I would like to take this time now to express my support for the passage of this legislation.

Today, levels of consumer debt are at an all time high. The most recent data from the 2007 Survey of Consumer Finances shows that half of American families carried a balance on their credit cards and the average balance was \$7,300. Add to this amount the debt secured by a primary residence or other consumer and

installment loans, and the average American family is hard-pressed to meet these financial obligations.

Many of my colleagues here in Congress and I are concerned about how the current state of the economy is affecting the ability of ordinary Americans to service these high levels of debt. In September, the Bureau of Labor Statistics reported the American economy lost 260,000 jobs. Without work, most families could not afford to service these loans.

The days of easy and exotic credit are over. American families must work themselves out of debt and back into the black. We, as lawmakers, have been tasked with the job of enacting laws and enforcing fair rules that allow people to use credit cards and other financial services made available to them in a safe and responsible way. We are about to do just that today.

The Expedited CARD Reform for Consumers Act of 2009 is good policy for Americans everywhere. It fulfills our promise of establishing protections against abusive practices in the financial services industry and reaffirms our commitment to helping ordinary consumers responsibly manage their finances by ensuring that the choices available to them are fair and safe. I am proud to support H.R. 3639 and urge my colleagues to assure its passage.

Mr. HOLT. Mr. Chair, I rise today in strong support of the Expedited CARD Reform for Consumers Act of 2009, which would establish earlier effective dates for various consumer protections established by the Credit Card Accountability Responsibility and Disclosure Act, Credit CARD Act, enacted earlier this year. I commend Chairman FRANK and Ms. MALONEY for their leadership in bringing this bill to the floor today.

To be clear, my strong support does not stem from any concern that the implementation deadlines set forth in the Credit CARD Act as enacted were ill-conceived or too lax. Indeed, I assume we all thought they were reasonable, and most of us probably still do. What was unreasonable was the punitive, abusive, and—frankly—shameful behavior of some credit card issuers in the wake of enactment of the Credit CARD Act. I have been besieged with letters from outraged constituents, and I'd like to share some of those with you:

Chase Bank . . . [just increased my interest rate] from 9.99% to 16.24% a 62.5% increase. They are making it harder and harder for Americans to pay-back our loans during this economic downturn. I have never missed a payment! . . . Please help!!!

I just received a letter from my Citi Bank MasterCard (which my husband and I always pay on time) stating that my interest rate is being raised to 29.99%. My research shows that Citi Bank is slipping this rate increase in before the new Credit Card Act takes effect. This is an outrage to so many people like myself.

Most of the major banks have hiked interest rates on customers' balances, increased penalty fees or doubled minimum payments since the bill was passed in May. . . . The banks are using this lag time before the implementation date to sneak in as many rate hikes and new fees as possible, and countless good customers who pay on time each month are suffering.

I think a reality check is in order. The reality is that many credit card issuers have been

abusing their customers. Had they been treating them fairly, there would have been no need for, and no call for, legislation to reign in and prohibit those abusive practices. Another reality is that many of those same credit card issuers behaved recklessly and imprudently, as a result of which they put their own survival in jeopardy and had to come to the American taxpayers hat in hand just to stay afloat. Had those financial institutions managed their own affairs responsibly, they wouldn't have had to rely on the good graces of hard working Americans to stay in business. So where does that leave us? They abused their customers, they compromised their own financial stability, they took their customers' charity to regain that stability, then they retaliated against their customers when the government stepped in told them they had to stop abusing their customers. The whole situation is just plain astounding.

Even so, it is always important to tailor one's response carefully to the actual facts and circumstances. For example, not all credit card issuers abused their customers in the first place. And not all credit card issuers retaliated against them in the wake of enactment of the Credit CARD Act. And as I noted previously, the original implementation deadlines for the bill were reasonable—we would not have passed it that way if they weren't.

Therefore, although I heartily support this bill and urge my colleagues to do the same, I also offered an amendment to make it stronger, and to fine-tune its application. My amendment would have given credit card issuers the ability to opt out of the expedited implementation schedule set forth in this bill, and win back the right to comply with the bill in accordance with the reasonable schedule we set forth originally, under one of two circumstances.

Any creditor that could have demonstrated that it did not implement detrimental account changes against its customers on or after the date the Credit CARD Act was enacted would have been entitled to implement the bill in accordance with its original implementation schedule. This would insulate the well-behaved credit card issuers from the penalty this bill imposes, because the penalty is only being imposed in response to the bad behavior of other credit card issuers. This is not only fair, it is better for the economy. Expediting application of the implementation deadlines is going to cause disruptions in service and interruptions in the extension of credit, at precisely the same moment we go into the busiest shopping period in the annual cycle. Therefore, any credit card issuers that can justifiably be spared the requirement that they comply with the Credit CARD Act much more rapidly than originally intended, should have been spared.

With respect to credit card issuers that already penalized their customers, preventing them from penalizing any others does not do anything to help the ones they already penalized. Therefore, my amendment would have allowed those institutions to "buy back" the right to implement the bill in accordance with its original deadlines if they could demonstrate that they reversed all of the penalties they imposed in the wake of enactment of the Credit CARD Act. Because they will have a fresh

record of the interest rates, minimum payments, and penalty fees they just got through increasing, they should expeditiously have been able to reverse those and restore their customers to their pre-Credit CARD Act terms and conditions. Only an actual roll-back can help the consumers whose terms and conditions were already detrimentally changed, and only a strong incentive such as re-applying the original deadline structure would have incentivized any bank to agree to it. But to the extent they would have, this too would have been a boon to the economy, because all customers whose minimum monthly payments go back down would have that much more to spend as we go into the holiday season.

My amendment simply created options. Any institution that fits one of the foregoing descriptions could have availed itself of the option. If they did, well-behaved banks would have been protected, injured consumers would have been restored to their pre-injury terms and conditions, and in each case the economy would have been stimulated. In addition, in each case, my amendment would have provided that implementing any detrimental changes to customer accounts after the exemption was awarded but before the bill is fully implemented would result in immediate revocation of the exemption. I believe the amendment would have made the bill stronger, and applied it more deftly and equitably to the circumstances. But without it, the banks will implement the bill as of December 1, and consumers will be provided the protections we enacted for them last spring that much sooner.

I commend Chairman FRANK and my colleague Mrs. MALONEY again for offering this bill, and I urge my colleagues to support it.

Mr. MEEK of Florida. Mr. Chair, I rise today in full support of the Expedited CARD Reform for Consumers Act of 2009. When the CARD Act came to the floor in April, I rose in support of the bill but was frustrated by the delay in its implementation. I am pleased that this bill makes that correction and puts the CARD Act into effect before the winter holidays, when so many consumers will need the protections that the act creates.

My Statement for the RECORD in April on the CARD Act discussed the need to bring immediate relief to consumers. While expediting the implementation of the CARD Act is a strong first step, I believe we must continue to do more. Consumers desperately need legislation that will allow them to make informed financial decisions and protect them from unfair lending and banking practices. Despite, or perhaps because of the impending enactment of the CARD Act, banks are continuing to charge substantial penalty rates and fees, and raking in over \$19 billion from these fees.

With the average American's credit card debt reaching nearly \$10,000 in 2007, consumers are in real need of not only protection from unfair fee impositions, but in need of information as well. I am supportive of the CARD Act because it requires consumers to opt-in to over-limit fees at one time for each credit card they have. I believe this is the first step in helping consumers make more informed financial decisions.

Our next step should be to put in place a mechanism to inform consumers at the point that a debit transaction to their checking or



savings accounts will result in an overdraft and attendant fees. Consumers should be able to make financial decisions with real-time information at their fingertips. By giving consumers the ability to elect whether or not to perform a transaction that will result in overdraft and the attendant fee on any given transaction, they are given the power to make responsible decisions and many won't have to worry about starting in the red at the beginning of every month.

Consumers should be financially empowered, not defenseless against the whims of credit card issuers. I am pleased to support this bill which works to do that by halting these unfair fee practices and allowing individuals to set their own credit limits, so they don't unwittingly accumulate debt they can't possibly get out of. It also protects those who do make their payments on time, preventing them from being charged interest on debts paid during the grace period. And it gives consumers real information about the financial consequences of their decisions, by showing them the interest they are paying and have paid, and the length of time it will take to pay off the debt at the minimum monthly payment rate.

Consumers are being hit on all sides, with unfair credit card fees, overdraft banking fees and rising costs of goods and services. We must continue to work to protect consumers as financial institutions look to them to make up money lost in the economic downturn. I know I will continue to work hard on my legislation to bring financial relief to millions of Americans through bank abuse protections, and other efforts Chairwoman Maloney makes to protect consumers and small businesses from unfair lending.

I support the Expedited CARD Reform for Consumers Act of 2009 and urge its final passage.

Ms. MCCOLLUM Mr. Chair, I rise today to express my strong support for the Expedited CARD Reform for Consumers Act, H.R. 3639, which will accelerate the effective date for recently enacted credit card reforms to December 1, 2009.

Millions of American families have become trapped in a never-ending cycle of debt due to "double-billing" and other dubious credit card industry practices. On May 22, 2009, President Obama signed into law the Credit Card Accountability Responsibility and Disclosure Act, the CARD Act, P.L. 111–24, to end unfair and anticompetitive practices.

In the months following enactment of this law, many credit card companies have attempted to circumvent reforms by raising interest rates and decreasing credit limits on their customers before the reforms take effect in early 2010. According to the Pew Charitable Trusts, interest rates on over 90 percent of all outstanding credit card balances in the United States increased during the first 6 months of this year. This is totally inexcusable and evidence of why strong consumer protections in the credit card industry are needed.

H.R. 3639 accelerates the effective date of the CARD Act reforms while making sensible exceptions for small credit card issuers and prepaid gift cards. I am a co-sponsor of H.R. 3639 and I voted in support of the rule to allow its consideration on the House floor. Unfortunately, I was unavoidably detained when

the final vote was taken. Had I been present, I would have voted in favor of passage.

Mr. BLUMENAUER. Mr. Chair, I have been dismayed for many years now about the performance of some of our financial institutions in the way they treat our citizens. There are too many examples of recent banking history that reveal too many tales of abuse and greed.

Americans pay around \$15 billion in penalty fees every year. Credit card contracts seem to be drafted not to inform, but to confuse. Mysterious fees appear on statements. Payment deadlines shift. Terms change and interest rates rise arbitrarily.

In May, the President signed the Credit Cardholders' Bill of Rights Act into law, shielding credit cardholders from these widespread abusive practices. That law allowed the credit card companies a grace period to adjust their business practices to the new law. Rather than use this time to prepare for the new consumer protections and procedures, many credit card companies accelerated their aggressively targeted tactics to vulnerable consumers.

In a comprehensive survey of credit card practices, the Pew Charitable Trusts found that in the first half of 2009, credit card rate increases ranged from 13 to 23 percent; that 100 percent of credit cards used practices labeled "unfair or deceptive" by the Federal Reserve and none of these cards would meet the standards of the new laws; and that even while the Federal Reserve is promulgating new consumer-oriented standards for penalties, credit card companies are charging substantially higher penalties.

The Expedited CARD Reform for Consumers Act marks a step forward in bringing consumers badly needed relief by moving up the effective date for nearly all of the credit card reforms to December 1, 2009.

Too many Oregonians, like students and families across the country, are heavily burdened by credit card debt. I support this bill because it requires fair terms and it levels the playing field by increasing consumer protections. Not a moment too soon.

Mr. LANGEVIN. Mr. Chair, I rise in strong support of H.R. 3639, the Expedited Card Reform for Consumers Act. I am proud to be a cosponsor of this measure, which would move the effective date of the remaining provisions of the Credit CARD Act of 2009 up to December 1, 2009. This law provides tough new protections for consumers by banning unfair rate increases, abusive fees and penalties, and strengthening enforcement.

So far this year, I have hosted three telephone town halls. During every call, I have received numerous inquiries from constituents asking when Congress is going to put an end to outrageous interest rates, hidden fees, and other deceptive practices by credit card companies that have gone on for far too long.

While credit card companies argued that they needed several months to implement certain provisions included in the Credit CARD Act, many of them have instead taken advantage of this lag time, and their customers, by raising minimum payment amounts and interest rates, decreasing limits, and closing accounts without proper notification. The Pew Charitable Trusts' Safe Credit Cards Project

recently reported that every one of the 12 largest bank issuers that control ninety percent of credit card outstanding balances nationwide had at least one provision that is labeled "unfair or deceptive" by the Federal Reserve, and they would not meet the tough provisions of the Credit CARD Act.

The actions of these companies highlight the need for the consumer protections we passed into law to take effect as soon as possible. I have heard from too many of my constituents that have experienced these deceptive practices to let this go on any longer. A longstanding cardholder who makes payments on time each month and who is struggling in this economic downturn should not be subjected to a company's attempts to rake in some last-minute revenue before they are forced to abide by the new laws.

Mr. Chair, we must continue our work to put an end to the tricks and traps used by credit card companies to undermine a competitive market. I encourage all my colleagues to vote for H.R. 3639. I would also like to thank Congresswoman MALONEY and Chairman FRANK for their hard work on this issue and bringing this measure to the floor.

Mr. POLIS. Mr. Chair, I rise in support of H.R. 3639, the Expedited CARD Reform for Consumers Act. I would like to thank Chairman FRANK and my colleagues on the Financial Services Committee for bringing us this consumer protection bill. I would also like to acknowledge and thank my friend from New York, Representative MALONEY, for introducing this legislation and her continued dedication to protecting consumers and ensuring the availability of credit.

Earlier this year in response to outrageous abuses of customers, both the Senate and the House passed H.R. 627, the Credit Card Accountability Responsibility and Disclosure Act or the CARD Act. The reforms that we passed and were signed by the President were carefully designed with input from consumer advocacy groups and the financial services industry. We established an implementation date of February 22 to give the entire industry—and particularly credit unions and community banks—ample time to make the necessary adjustments to comply with the new regulations. This additional time was designed to ensure that these institutions, which have been on the side of their consumers, would be able to continue to offer credit cards.

Community Banks and Credit Unions were not responsible for the egregious consumer abuse that required the CARD Act, nor are they the reason that we must pass H.R. 3639 today. Rather, it was the larger institutions, many of whom are receiving public assistance, who took this grace period as an opportunity to double down on the very unconscionable behavior that prompted the action of this body. Their actions were made worse as they occurred in the context of a national recession, when many people found themselves resorting to credit to make ends meet, with salaries and work hours increasingly cut back.

Mr. Chair, my constituents are tired. They see the joblessness caused as the house of cards built by Wall Street collapsed on to Main Street. They have grown impatient with an industry that required unprecedented taxpayer assistance, only to have the very institutions

return the generosity of the public with unfair and unannounced interest rate hikes. This behavior is beyond unprofessional, it is beyond irresponsible, and it can only be defined in one way: un-American.

Let me be clear, I do not think the resources of this body are best used by micro-managing any industry. I have consistently supported—and even introduced—legislation that moves private business out of public stewardship as quickly as possible.

But Mr. Chair, when credit card issuers prove they cannot honor their obligation to their customers and fellow Americans, then it is incumbent upon this Congress to act.

The bill we have before us today is simple. By moving the implementation date of the policies we have already supported to December 1st, we say in clear language that the days of credit card companies financing their excess and recklessness on the dime of taxpayers and their customers are over.

To my colleagues, I offer that in joining me in support of this measure, we also speak to our constituents. We tell them that we agree that the bailouts and capricious interest rate hikes are akin to a double taxation, and that this will no longer be tolerated.

Finally Mr. Chair, as we approach the holiday season and Americans prepare to travel and buy gifts for their loved ones—giving themselves a well deserved break from what has been a trying year economically—moving the enforcement of the fair credit reforms we have agreed upon to December 1st will result in increased consumer confidence. Our nation's retailers will benefit from the public being able to shop with the security that a present for a loved one in December won't result in an unwelcome and expensive surprise in January.

Mr. Chair, today we have an opportunity to accelerate the economic and social benefits of the CARD Act. Today we have an opportunity to expedite a return of a decent level of consumer confidence. I ask my colleagues to join me in seizing this opportunity by voting for H.R. 3639.

I would once again acknowledge and thank Chairman FRANK, Representative MALONEY, the members of the Committee on Financial Services, and their staffs for their continued efforts on the issue of fair consumer credit and for this bill. I ask for the quick passage of this bill.

Mr. VAN HOLLEN. Mr. Chair, last Spring, I stood before this body to speak in support of the Credit Card Act of 2009. The bill outlawed predatory and exploitative behavior such as targeting college students regardless of their ability to make payments, shifting due dates so as to trigger penalties and other deceptive practices. I was proud to be a cosponsor of the bill. Even then, however, I argued that the bill should take effect immediately.

Today, I rise in support of H.R. 3639, the Expedited CARD Reform for Consumers Act which moves up the Credit Card Act's implementation date. Accelerating the implementation of this bill is necessary because too many card issuers are taking advantage of the act's February implementation date and increasing fees and the interest rates of their customers.

As the Credit Card Act of 2009 was taking shape, many banks expressed concern that,

without time to make the logistical and accounting adjustments necessary to accommodate such a dramatic policy shift, consumers would end up shouldering an increased financial burden in the form of higher fees and diminished access to credit. In light of this concern, we established February 2010 as the date the bill would go into effect. But, to our disappointment, many banks used the time between the President's signing the bill in May and its scheduled implantation in February to increase the exploitative practices the bill was intended to prevent.

According to a recently released report by the Pew Charitable Trust, in which they studied credit card activity in the wake of the Credit Card Act, not only have many credit cards companies continued to use practices deemed "unfair and deceptive" under Federal Reserve guidelines, in some cases these practices increased.

I have personally received reports from my constituents that, despite having solid credit histories and long relationships with their card issuers, they were contacted by banks after the Act passed and approached with the Hobbesian choice of accepting either a reduced credit line or an increase in front end interest rates. When they called the companies to complain, they were told that there was nothing they could do and that they should call their Member of Congress. Well, they did call their Members of Congress and this is our response.

I urge my colleagues to join me in supporting H.R. 3639.

Mr. BACA. Mr. Chair, I rise today in support of H.R. 3639—the Expedited CARD Act of 2009. This important piece of legislation will continue the great work that this Congress and the President completed earlier this year, by moving up the remaining dates on the original Credit CARD Act.

Since signing the CARD Act into law, credit card companies have engaged in last-ditch predatory practices, seeking to gain as much money as possible from the American consumer. Many of the same practices that the Federal Reserve labeled "unfair or deceptive" and were prohibited in the original CARD Act, have increased in past months. In fact, since last May, credit card companies have raised interest rates by an average of 20 percent.

When this law was passed, this body warned credit card companies that swift action would be taken if these companies took advantage of the staggered implementation of the bill. It is clear these companies have done just that, and we are now prepared to follow through on our promise.

I want to thank Mrs. MALONEY and Chairman FRANK for their hard work on this issue and I am proud to be a cosponsor on this important piece of legislation.

I urge my colleagues to vote "yes" on this bill.

The CHAIR. All time for general debate has expired.

Pursuant to the rule, the amendment in the nature of a substitute printed in the bill, modified by the amendment printed in part A of House report 111-326, is adopted. The bill, as amended, shall be considered as an original bill for the purpose of further amendment

under the 5-minute rule and shall be considered read.

The text of the bill, as amended, is as follows:

H.R. 3639

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE.

*This Act may be cited as the "Expedited CARD Reform for Consumers Act of 2009".*

#### SEC. 2. EARLIER EFFECTIVE DATE FOR THE CREDIT CARD PROVISIONS OF THE CREDIT CARD ACT OF 2009.

*Section 3 of the Credit Card Accountability Responsibility and Disclosure Act of 2009 (15 U.S.C. 1602 nt.) is amended—*

*(1) by striking "This Act" and inserting "(a) IN GENERAL.—This Act"; and*

*(2) by adding at the end the following new subsections:*

*(b) CERTAIN CREDIT CARD PROVISIONS.—Except as otherwise specifically provided in this Act, titles I, II, and III, and the amendments made by such titles, shall take effect on December 1, 2009.*

*(c) CERTAIN CREDIT CARD ISSUERS.—Except as otherwise specifically provided in this Act and notwithstanding subsection (b), the effective date established under subsection (a) shall apply with respect to the application of titles I, II, and III, and the amendments made by such titles, to any credit card issuer which is a depository institution (as defined in section 19(b)(1)(A) of the Federal Reserve Act) with fewer than 2,000,000 credit cards in circulation as of the date of the enactment of this Act."*

#### SEC. 3. EARLIER EFFECTIVE DATES FOR SPECIFIC PROVISIONS TO PREVENT FURTHER ABUSES.

*(a) REVIEW OF PAST CONSUMER INTEREST RATE INCREASES.—Section 148(d) of the Truth in Lending Act (15 U.S.C. 1665c(d)) (as added by section 101(c) of the Credit Card Accountability Responsibility and Disclosure Act of 2009) is amended—*

*(1) by striking "9 months after the date of enactment of this section" and inserting "December 1, 2009, except that for a depository institution, as defined in section 19(b)(1)(A) of the Federal Reserve Act (12 U.S.C. 461(b)(1)(A)), with fewer than 2 million credit cards in circulation on the date of the enactment of the Expedited CARD Reform for Consumers Act of 2009, the effective date shall be February 22, 2010,"; and*

*(2) by striking "become effective 15 months after that date of enactment" and inserting "take effect on December 1, 2009, except that for a depository institution, as defined in section 19(b)(1)(A) of the Federal Reserve Act (12 U.S.C. 461(b)(1)(A)), with fewer than 2 million credit cards in circulation on the date of the enactment of the Expedited CARD Reform for Consumers Act of 2009, the effective date shall be August 22, 2010".*

*(b) REQUIREMENT THAT PENALTY FEES BE REASONABLE AND PROPORTIONAL TO THE VIOLATION.—Section 149(b) of the Truth in Lending Act (15 U.S.C. 1665d(b)) (as added by section 102(b) of the Credit Card Accountability Responsibility and Disclosure Act of 2009) is amended—*

*(1) by striking "9 months after the date of enactment of this section," and inserting "December 1, 2009, except that for a depository institution, as defined in section 19(b)(1)(A) of the Federal Reserve Act (12 U.S.C. 461(b)(1)(A)), with fewer than 2 million credit cards in circulation on the date of the enactment of the Expedited CARD Reform for Consumers Act of 2009, the effective date shall be February 22, 2010,"; and*

*(2) by striking "become effective 15 months after the date of enactment of the section" and inserting "take effect on December 1, 2009, except that for a depository institution, as defined*

in section 19(b)(1)(A) of the Federal Reserve Act (12 U.S.C. 461(b)(1)(A)), with fewer than 2 million credit cards in circulation on the date of the enactment of the Expedited CARD Reform for Consumers Act of 2009, the effective date shall be August 22, 2010”.

The CHAIR. No further amendment to the bill, as amended, is in order except those printed in part B of the report. Each further amendment may be offered only in the order printed in the report, by a Member designated in the report, shall be considered read, shall be debatable for the time specified in the report, equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question.

□ 1300

AMENDMENT NO. 1 OFFERED BY MR. HENSARLING

The CHAIR. It is now in order to consider amendment No. 1 printed in part B of House Report 111-326.

Mr. HENSARLING. Mr. Chairman, I have an amendment at the desk.

The CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Part B amendment No. 1 offered by Mr. HENSARLING:

Page 7, after line 18, insert the following new section:

**SEC. 4. CLARIFICATION THAT 45-DAY DELAY DOES NOT APPLY TO REDUCTIONS IN INTEREST RATES AND FEES.**

Subsection (i) of section 127 of the Truth in Lending Act (15 U.S.C. 1637) (as added by section 101(a)(1) of the Credit CARD Act of 2009) is amended by adding at the end the following new paragraph:

“(5) CLARIFICATION.—No provision of this subsection shall be construed as preventing any creditor from putting any reduction in an annual percentage rate, any decrease or elimination of any fee imposed on any consumer, or any significant change in terms solely or primarily for the benefit of the consumer into effect immediately.”.

The CHAIR. Pursuant to House Resolution 884, the gentleman from Texas (Mr. HENSARLING) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Texas.

Mr. HENSARLING. Mr. Chairman, certainly we had a spirited debate on the underlying legislation. I do want to thank the chairman for his efforts for allowing this particular amendment to be made in order. I have always feared that on a number of pieces of legislation that Congress enacts that it is always fraught with unintended consequences. I believe I stumbled across one of those unintended consequences.

I believe it was last week, perhaps the week before, that I was contacted by one of my constituents who had received a credit card offer in the mail that offered him a better interest rate than the interest rate his current credit card offered; but because of a number of other provisions, he wanted to keep his current credit card.

So he called his credit card company and said, Would you match this other deal on the interest rate? I want to stay with you, but will you match this interest rate? He was told by whatever voice was on the other end of the 1-800 number, We would like to match your interest rate, and we will match your interest rate, but we cannot do it for 45 days under a law recently enacted by Congress.

Now, I certainly don't believe that was the intent of the majority, but clearly the language in the underlying bill is being interpreted by some credit card companies to prevent them from lowering rates or lowering fees without a 45-day notice. Again, I do not believe that was the intention of the majority, and they may have written their bill thinking they had taken care of that. But, clearly, the language is sufficiently ambiguous for some companies that they do not feel that they can actually lower interest rates or lower fees or cancel fees or do something that almost every single individual in this body would interpret as only, only benefiting the consumer.

So, Mr. Chairman, my simple amendment would provide a clarification that no provision in the subsection shall be construed as preventing any creditor from putting any reduction in an annual percentage rate, any decrease or elimination of any fee imposed on any consumer or any significant change in terms solely or primarily for the benefit of the consumer into effect immediately.

So, again, what I believe the majority was trying to do would be preserved, and I think what they were trying not to do and, that is, certainly I do not believe it is their intent to have consumers wait for 45 days for lower interest rates. Again, I grant you, in this economic environment, it is not a common occurrence, but apparently it does occur or this constituent wouldn't have called me in the first place.

So I believe it is a simple amendment. Again, I hope it takes care of an unintended consequence. I fear there are many other unintended consequences, but this is one that it would take care of, and I would certainly urge all Members of the body to adopt the amendment.

Again, I thank the chairman for making sure that this particular amendment was made in order.

I yield back the balance of my time. Mr. FRANK of Massachusetts. Mr. Chairman, if there is anybody opposed to this amendment, I would yield. But in the absence of anybody who is opposed, I will take the time.

The CHAIR. Without objection, the gentleman is recognized for 5 minutes. There was no objection.

Mr. FRANK of Massachusetts. I support the amendment. The gentleman from Texas is a very careful legislator. We disagree a lot. And there were

times when I had wished he wasn't as careful as he is, but he is absolutely right in this case. Let me go a step further: this may get entangled, this bill and broader things. If that should happen, I would be prepared, if nothing else worked, to break out this particular amendment at a later date and do it by suspension and hopefully do it unanimously because it, clearly, shouldn't be that way.

So I thank him for calling it to our attention, and I hope the amendment is adopted. Let me just say that I will be asking for a roll call. Mr. Chairman, I am intending to vote for it; but as you know, one doesn't always ask for roll calls simply because one has an issue on that amendment.

I will yield to the gentlewoman from New York.

Mrs. MALONEY. I join the chairman in congratulating our colleague on the other side of the aisle for this amendment. I think it's a good one. I support it. If credit cards want to decrease interest rates for their customers, there is absolutely no reason that they should have to wait 45 days. We certainly accept it. The problems that we are trying to address in our underlying bill today are the increases that are coming at any time, for any reason without notice. This is a good amendment, and I accept it.

Mr. FRANK of Massachusetts. I take back my time. In fact, in the spirit of conciliation, let me extend to my friends, if I have any left in that industry, a willingness to even allow them to decrease it retroactively for 45 days, not just waive it prospectively.

I yield back the balance of my time.

The CHAIR. The question is on the amendment offered by the gentleman from Texas (Mr. HENSARLING).

The question was taken; and the Chair announced that the ayes appeared to have it.

Mr. FRANK of Massachusetts. Mr. Chairman, I demand a recorded vote.

The CHAIR. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Texas will be postponed.

AMENDMENT NO. 2 OFFERED BY MRS. MCCARTHY OF NEW YORK

The CHAIR. It is now in order to consider amendment No. 2 printed in part B of House Report 111-326.

Mrs. MCCARTHY of New York. I have an amendment at the desk made in order under the rule.

The CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Part B amendment No. 2 offered by Mrs. MCCARTHY of New York:

Page 7, after line 18, insert the following new section:

**SEC. 4. MORATORIUM ON INCREASES IN RATES AND FEES AND CHANGES IN TERMS TO THE DETRIMENT OF THE CONSUMER.**

Notwithstanding any other provision of this Act or any amendment made by this

Act, subsection (b) of section 164 of the Truth in Lending Act (as added by section 104(4) of the Credit Card Accountability Responsibility and Disclosure Act of 2009 (Public Law 111-24)) shall not take effect until February 22, 2010 for any creditor with respect to an existing credit card account under an open end credit plan, or such a plan issued on or after the date of enactment, as long as the creditor does not—

(1) increase any annual percentage rate, fee, or finance charge applicable to any existing or future balance, except as permitted under subsection 171(b) of the Truth in Lending Act (as added by Public Law 111-24); or

(2) change the terms to the detriment of a consumer, including terms governing the repayment of any outstanding balance, except as provided in section 171(c) of the Truth in Lending Act (as added by Public Law 111-24).

The CHAIR. Pursuant to House Resolution 884, the gentlewoman from New York (Mrs. MCCARTHY) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentlewoman from New York.

Mrs. MCCARTHY of New York. Mr. Chairman, I thank Chairman FRANK and his committee staff for working with me and Congresswoman MARKEY on this amendment. It has not gone unnoticed that some credit card issuers have used this time before the pending effective date of the Credit Card Accountability Responsibility and Disclosure Act of 2009 to raise interest rates and reduce credit for some consumers.

Let me say, though, that I think there needs to be a reminder here on why we're even standing here. We have seen the economy just about collapse because there has been no oversight. We saw trillions of dollars being lost by our constituents because there was no oversight. So when I say that I'm not alone when I have heard from many in my district who are frustrated with credit card issuers who continue to raise rates during this small window of time before the Credit Card Reform Act is enacted, in these very difficult economic times, when many people are worried about being able to put food on the table or being able to pay their bills, credit card companies choose to push their consumers deeper in debt by raising the interest rates.

Many of us are outraged by this practice and agree with my colleague Congresswoman MARKEY that something has to be and should be done. Our amendment would seek to modify H.R. 3639, the Expedited CARD Reform for Consumers Act of 2009, to allow credit card issuers to choose to impose a freeze on increases to interest rates, fees and the terms of the conditions of the contract. In return for imposing a rate freeze, issuers would be given flexibility to comply with a provision in the act regarding payment allotments until the credit card reform law becomes enacted in February 2010.

Payment options and many of the system changes issues must be made in order to comply with the pending enactment date of the credit card reform

law. These changes should be carefully executed so that there is little room for error and confusion to the consumer. I believe our amendment will stop the unfair rate increases and will allow the companies that are doing the right thing to remain on the path of compliance for the pending enactment dates of the provisions, many of which do not have final regulations issued yet by the Federal Reserve.

If the real reason behind this bill is to make issuers stop raising interest rates and other abusive practices, merely moving up the implementation dates on provisions will not address the interest rate problem. My amendment will address the problem by letting the issuer make the decision to do the right thing.

With that, I reserve the balance of my time.

Mr. HENSARLING. Mr. Chairman, I rise to claim the time in opposition, although as I seek to understand the amendment, I am not completely certain that I am in opposition.

The CHAIR. Without objection, the gentleman from Texas is recognized for 5 minutes.

There was no objection.

Mr. HENSARLING. I will yield myself as much time as I may consume.

It appears that if a credit card issuer does not increase an annual percentage rate fee or finance charge applicable to any existing or future balance, it need not comply. With the bill's requirements, payments above the minimum will be allocated first to that balance until February of 2010. So I guess there is a carve-out for credit card issuers who do not increase annual percentage rates. I suppose at the margins it is good to give more choices instead of fewer choices. Whether or not this results, again, in some people having to pay even more in fees, maybe an annual fee, I don't know the answer to that question. I suppose I will urge my colleagues to adopt this.

But again, all of this legislation, Mr. Chairman, has to be put in the context of the legislation that this body will consider this Friday or Saturday and that is the 1,990-page government takeover of our health care system bill. And I think that on every single piece of legislation that we consider in this body prior to that time, we have to ask the question, If our constituents are going to be looking at having to pay for a trillion-dollar government takeover of health care legislation, is any particular amendment going to make our constituents have a greater ability or a lesser ability to pay for that?

I am thinking specifically right now of all the seniors across America, particularly those in the Fifth Congressional District of Texas that I have the honor and privilege of representing, who will see their Medicare Advantage plans cut by \$150 billion under the government-takeover-of-health-care plan.

Now, if so, on the health care benefits they're receiving under their Medicare Advantage plan that my colleagues on the other side of the aisle will cut \$150 billion from Medicare Advantage, will the seniors in the Fifth Congressional District, will they still have access to credit cards, for example, that help them fill the gap to, number one, help pay for the trillion-dollar health care bill and, on the other hand, as \$150 billion is taken away from those who receive Medicare Advantage, particularly those in rural areas?

In representing the Fifth Congressional District of Texas, I represent a lot of rural America. So it's a little unclear to me whether the underlying amendment is going to make it easier for seniors to keep those credit cards or not. I believe perhaps at the margin it does; and because of that, I will urge my colleagues to adopt this.

Again, all of this has to be put in context of the trillion-dollar government takeover of our health care system. And I hope the gentlelady's amendment helps ease the pain of that legislation.

I yield back the balance of my time.

Mrs. MCCARTHY of New York. I would like to say thank you to the gentlelady, Ms. MARKEY, for working on this legislation. Certainly her voice has been a strong voice for the consumers. I will say again, we're in this particular position mainly because there had been no oversight. If you want to talk about health care also, there has been no oversight on giving our constituents the care that they need.

I yield the remainder of my time to Ms. MARKEY.

Ms. MARKEY of Colorado. I thank Congresswoman MCCARTHY for yielding.

Mr. Chair, I rise today to urge my colleagues to support the McCarthy-Markey amendment to H.R. 3639. I have received an alarming number of complaints from my constituents regarding unreasonable credit card rate increases prior to the enactment of the Credit CARD Act reforms. Two of my constituents from Walsh, Colorado, Fred and Kay Lynn Hefley, recently received a notice from Citibank that their interest rate is jumping to 29.99 percent. The Hefleys have had this credit card since 1971 and have been responsible customers.

□ 1315

Sadly, they are not alone. Taylor Grant from Fort Collins is a small business owner. He has been a responsible Citibank cardholder since 2001 and is now facing similar interest rate increases.

Penalizing customers for maintaining responsible credit practices is unconscionable. This uncertainty in the credit market makes it especially difficult for families who are facing tough economic times at the start of the holiday season.

Our amendment offers credit card companies a choice: obey the spirit of the law and freeze increases to interest rates, fees on any existing or future balances, or changes to account terms to the detriment of a customer. In return, credit card issuers will be given until February 22 to comply with the provision of the Credit CARD Act that requires creditors to apply excess payments to the credit card balance with the highest interest rate.

The effective date of the original Credit CARD Act legislation was set for February of 2010 to give credit card companies enough time to comply with these new regulations—not additional time to violate the spirit of the law by hiking interest rates on consumers.

While I am disappointed that credit card companies have continued to raise interest rates in advance of the effective date of the Credit CARD Act, I believe this amendment provides an opportunity and an incentive for issuers to demonstrate some goodwill towards American consumers.

I urge my colleagues to support the McCarthy/Markey amendment, because it gives credit card issuers the chance to do the right thing, while still providing a benefit to consumers.

I would like to thank Congresswoman MCCARTHY, Chairman FRANK and the Financial Services Committee staff for their collaborative efforts on this amendment.

The CHAIR. The question is on the amendment offered by the gentleman from New York (Mrs. MCCARTHY).

The question was taken; and the Chair announced that the ayes appeared to have it.

Mrs. MCCARTHY of New York. Mr. Chairman, I demand a recorded vote.

The CHAIR. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from New York will be postponed.

AMENDMENT NO. 3 OFFERED BY MR. MAFFEI

The CHAIR. It is now in order to consider amendment No. 3 printed in part B of House Report 111-326.

Mr. MAFFEI. Mr. Chairman, I have an amendment at the desk made in order under the rule.

The CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Part B amendment No. 3 offered by Mr. MAFFEI:

In section 2 of the bill, strike “December 1, 2009” and insert “the date of the enactment of the Expedited CARD Reform for Consumers Act of 2009”.

Page 6, beginning on line 2, strike “December 1, 2009” and insert “the date of the enactment of the Expedited CARD Reform for Consumers Act of 2009”.

Page 6, line 12, strike “December 1, 2009” and insert “the date of the enactment of the Expedited CARD Reform for Consumers Act of 2009”.

Page 7, beginning on line 2, strike “December 1, 2009” and insert “the date of the enactment of the

Expedited CARD Reform for Consumers Act of 2009”.

The CHAIR. Pursuant to House Resolution 884, the gentleman from New York (Mr. MAFFEI) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from New York.

Mr. MAFFEI. Mr. Chairman, I yield myself such time as I may consume.

I want to thank Chairman FRANK and Representative MALONEY for all their work on this pressing issue.

Today I am offering a simple amendment to make all provisions of the Credit Cardholders’ Bill of Rights effective immediately upon enactment instead of waiting until December 1.

Now why should we care about enacting the bill a matter of just a couple of weeks earlier? Well, earlier this year we worked diligently to pass the Credit Cardholders’ Bill of Rights. It was a necessary piece of legislation to protect consumers from the abusive practices that many banks had made standard practice.

While we were working on that legislation, I heard from banks that they could not possibly enact all of the changes by the deadlines we proposed. The banks claimed that to ensure quality customer services they would need months or even years to make the proper changes. Well, that was just last May; and I am frankly disappointed to have to address this situation again today.

Since we passed and enacted the Credit Cardholders’ Bill of Rights, credit card companies attempt to fleece customers and hope that Congress didn’t notice or have time to act. The same companies that were in my office that claimed that they needed months at least to make changes to their systems apparently only needed in some cases days to find ways to raise interest rates and decrease credit limits on customers across the country.

One caseworker in my Syracuse office watched her card go from 6.9 percent last year to 13.9 earlier this year to a whopping and punitive 29.9 percent in the past few weeks. She carries a balance on that card. But with an interest rate that is suffocating her finances, she almost certainly will not be able to pay that off, so she can’t even close the card.

She is not alone. Every day I hear from more and more constituents who tell me they have good credit, that they pay their bills on time, but that the credit card issuers have found a way to raise the rates to extraordinarily high levels. That is why I want to make all provisions of the Credit Cardholders’ Bill of Rights effective immediately.

Customers, especially in this economy, cannot wait any longer for these protections. The credit card companies apparently are able to make any

changes in interest rates and procedures instantaneously, so why not demand that of them today? If we give them a week or two, they will slam our constituents with even higher rates, trying to squeeze more blood from a stone in the middle of a recession.

We are not allowed to pass legislation retroactively, even though the card companies have retroactively raised rates on consumer balances. What we can do, Mr. Chairman, is make sure that we enact this legislation immediately.

I reserve the balance of my time.

Mr. HENSARLING. Mr. Chairman, I claim the time in opposition.

The CHAIR. The gentleman from Texas is recognized for 5 minutes.

Mr. HENSARLING. Mr. Chairman, as I have said before, there is never a good time to enact a bad bill. Here we are again in the midst of a huge credit contraction. Every single day people are waking up, they’re losing credit cards. Their interest rates are increasing. We have had at least 3.5 million of our fellow citizens lose their jobs since this administration has taken office. We have the highest unemployment rate in a quarter of a century. And yet in the midst of this credit contraction, when people are having trouble expanding their business, creating jobs, paying their bills, we are going to enact legislation that simply is procyclical and makes the whole matter worse.

I heard the gentleman say we can’t enact this retroactively. I would say, at least in the years I have been in the House, we have certainly tried. I suppose that might be the next amendment. Maybe we can make this retroactive to 1974 or some other fairly arbitrary date.

Again, this particular legislation has to be put in the context of the trillion-dollar legislation, the government takeover of our health care system, that this House is due to vote on, apparently, according to the Speaker, either Friday or Saturday. And I question each and every amendment.

Will our constituents be less able or more able to afford to pay for this \$1.3 trillion government takeover of our health care system if we pass this amendment? My guess is that the gentleman from New York’s amendment fails that test.

And so I would urge that we reject that amendment.

I reserve the balance of my time.

Mr. MAFFEI. Mr. Chairman, I yield 90 seconds to the distinguished gentleman from New York, the sponsor of the bill and the chair of the Joint Economic Committee, Mrs. MALONEY.

Mrs. MALONEY. I rise in support of my colleague from the great State of New York and applaud his work to protect consumers.

The banks and credit card companies have earned this regulation and earned this amendment because they did not

use the time allocated to them to upgrade their systems. They used the time to raise rates unfairly, any time, any reason, retroactively on existing balances.

The bill that I proposed would go into effect in 5 weeks, the gentleman moves it up immediately, but I think consumers deserve relief as soon as possible, and I support his amendment.

Mr. HENSARLING. Mr. Chairman, may I inquire how much time is remaining on each side?

The CHAIR. The gentleman from Texas has 3 minutes remaining, and the gentleman from New York has 1½ minutes remaining.

Mr. HENSARLING. Thank you, Mr. Chairman.

Again, I fear that this amendment is simply going to take a bad situation and make it worse. How will all of our constituents be able, again, to pay for this monstrosity of a government takeover of our health care system, one that will directly tax a number of our constituents? Page 297, section 501, imposes a 2.5 percent tax on all individuals who do not purchase the government-approved health insurance; 2.5 percent.

Now, again, a number of our constituents use credit cards to help pay for their medical expenses, to pay for their groceries, to pay for everything else. And now a number of them are going to be subject to a 2.5 percent tax. How will this amendment help them?

New taxes on medical devices, a 2.5 percent excise tax, which many call the wheelchair tax, particularly I assume a number of seniors will be subject to this tax. I know a number of them rely upon credit cards. Will their credit cards ultimately be taken away from them under this legislation?

The underlying legislation takes away the ability, erodes the ability to do risk-based pricing and takes us back to an era where a third fewer people had access to credit cards and everybody paid annual fees and everybody paid one universal high interest rate.

The underlying legislation takes us down that road, and the gentleman from New York's amendment gets us there tomorrow. And then later in this week we're going to tell our constituents, Congratulations, we just passed a \$1.3 trillion government takeover of your health care system that you have to pay for through new taxes on individuals, new taxes on medical devices, new taxes on small businesses, at a time where this Congress and this administration has brought us the first trillion-dollar deficit in our Nation's history, tripling the national debt—tripling the national debt—in the next 10 years. The least you can do is at least allow your constituents to have a credit card to help pay for this mammoth takeover of our government health care system.

I yield back the balance of my time.

Mr. MAFFEI. Mr. Chairman, in closing, I admire the gentleman from Texas, because to try to defend what the credit card companies are doing is essentially indefensible, so he very artfully tries to change the subject. But I truly believe that this bill just addresses the abusive practices. It would actually make it a lot easier for people who have credit. They would understand exactly what they are getting and exactly what they are paying for.

Now in terms of the effective date of this particular amendment, some say it would be unreasonable to impose this effective date immediately, but not as unreasonable as the credit card issuers have been with their own customers.

Mr. Chairman, the time for delays is over. We gave the credit card companies a chance and they took advantage of our constituents. We can't take the chance of giving them even a week or a day to do it again.

I yield back the balance of my time.

The CHAIR. The question is on the amendment offered by the gentleman from New York (Mr. MAFFEI).

The question was taken; and the Chair announced that the ayes appeared to have it.

Mr. MAFFEI. Mr. Chairman, I demand a recorded vote.

The CHAIR. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from New York will be postponed.

#### AMENDMENT NO. 4 OFFERED BY MS. SUTTON

The CHAIR. It is now in order to consider amendment No. 4 printed in part B of House Report 111-326.

Ms. SUTTON. Mr. Chairman, I have an amendment at the desk.

The CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Part B amendment No. 4 offered by Ms. SUTTON:

Page 7, after line 18, insert the following new section:

#### SEC. 4. ADDITIONAL LIMITATIONS ESTABLISHED.

Section 127 of the Truth in Lending Act (U.S.C. 1637) is amended by inserting after subsection (r) (as added by the Credit CARD Act of 2009) the following new subsection:

“(s) CANCELLATION OF ACCOUNT WITHOUT DETRIMENTAL EFFECT.—If, in the case of a credit card account under an open end consumer credit plan, the consumer receives notice of the imposition of a new fee, and within the 45-day period beginning on receipt of such notice, pays off any outstanding balance on the account, no creditor and no consumer reporting agency (as defined in section 603) may use such pay off or closure of the consumer credit account to negatively impact the consumer's credit score or consumer report (as such terms are defined in section 609 and 603, respectively).”.

The CHAIR. Pursuant to House Resolution 884, the gentlewoman from Ohio (Ms. SUTTON) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentlewoman from Ohio.

Ms. SUTTON. I thank you, and I yield myself such time as I may consume.

I would like to thank both Congresswoman MALONEY and Chairman FRANK for bringing this bill to protect consumers from the egregious practices being engaged in by credit card companies to the floor and for their support of this amendment.

In May, Congress overwhelmingly passed major credit card reform legislation to end the many unfair and deceptive practices that credit card companies have been legally perpetrating for some time. But many of these protective provisions do not go into effect until February 2010 or later. So what are credit card companies doing?

Rather than preparing to implement these new consumer protections, the credit card industry saw this as a window of opportunity to squeeze more money out of consumers. They are raising interest rates and minimum payments while lowering credit limits. They are instituting fees of all shapes and sizes. I am sure that every Member of Congress has heard from constituents who have suffered under these practices. I know I have.

The bill before us today, H.R. 3639, will move up the effective date for credit card reforms to December 1, 2009. I am proud to be an original cosponsor of this bill, and I urge its final passage.

The amendment I am offering tackles the dilemma faced by consumers who receive notice of new fees on their credit card accounts. As credit card companies search for new ways to make money, they are looking to charge fees where there were none before: new annual fees, inactivity fees, fees for failure to carry a monthly balance. Yes, now some credit card companies are indicating they will be charging a fee to consumers who pay off their balances every month. Can you imagine?

I find it outrageous, but the credit card companies argue that if the consumers don't like it, they can close their account. The choice is, pay the fee or close your account. The problem is that closing your account can hurt your credit score, and credit scores and credit reports play a large role in our society and can really impact people's lives. They are used by mortgage lenders, employers, landlords and insurance providers. This amendment is about leveling the playing field.

□ 1330

This amendment protects consumers by preventing the closure of a credit card account because of new fees from negatively impacting a consumer's credit report or credit score. It will allow consumers to cancel their card or shop around for another card with terms without taking a hit on their credit score. I urge a “yes” vote on this amendment.

I reserve the balance of my time.

Mr. HENSARLING. Mr. Chairman, I claim the time in opposition.



The CHAIR. The gentleman from Texas is recognized for 5 minutes.

Mr. HENSARLING. Mr. Chairman, there are aspects of the legislation I am not sure that I completely understand, and if the gentlelady from Ohio would be willing to explain her amendment, I will be happy to yield her time.

On line 9 of the amendment, it speaks of the notice of the imposition of a new fee, and I am curious whether a new fee, does that include increasing the amount of a fee that is already in existence?

I yield to the gentlelady for a clarification.

Ms. SUTTON. I appreciate the inquiry, and I believe it would.

Mr. HENSARLING. That it would, okay.

So an altogether new fee that had not previously been imposed, that would be included in the language and any increase in an existing fee would come within your definition of new fee, correct?

I yield to the gentlelady.

Ms. SUTTON. I thank the gentleman for yielding. And yes, that would be the understanding because that fee is a new fee to the consumer. They would then have the opportunity to either continue to engage in using that account with that new fee imposed, or they would have a chance to shop around in the free market to find an account that would be more compatible with their interests. They should not be penalized on their credit report for doing so.

Mr. HENSARLING. I thank the gentlelady for her explanation.

The next question I had, on line 14 there is the phrase "to negatively impact." I am curious whether or not certain creditors feel they are getting accurate data, whether or not this could cause them to drop the consumer's credit card in total, but I suppose the language you use is to negatively impact the consumer's credit score or credit report. So if the impact of your amendment, because incomplete or inaccurate data was given by a credit bureau to a creditor and they chose instead not to take the risk, that the negative impact of losing their credit card, that is not assumed in your amendment?

I yield to the gentlelady.

Ms. SUTTON. That is not a problem that would result from what this amendment is striving to do. This would just protect the imposition of a negative credit score because when you cancel a card, it will limit the amount of credit you have available, and then that is used by credit scorers.

Mr. HENSARLING. Reclaiming my time, I thank the gentlelady for her explanation. I fear for, frankly, a number of creditors it might just have that impact.

So again, I would oppose the underlying amendment because I think,

again, under the purpose of attempting to help the consumer, you might actually hurt the consumer. And I think what we want is to make sure that creditors receive the most accurate information possible because it has helped allow more Americans to receive credit than otherwise would be possible.

Now I don't know, there may be some credit bureau out there who believe that people like me who wear red ties are a greater credit risk, I don't know, I am not an expert in it, and I feel quite certain that my colleagues are not experts on what constitutes a greater or lesser credit risk, and except for the prohibited classes of race, creed, and color which have been clearly delineated in our civil rights laws, why do we want to start dictating to credit bureaus about what constitutes a greater risk and what constitutes a lesser risk.

Again, it might make us feel better. It may have good optics; but at the end of the day, I fear the result is if you start restricting, if you go down the road of beginning to restrict the information that is available to creditors, with less information, they are either going to make credit less available or they are going to increase the cost of it because it becomes a greater risk.

Listen, on its face the gentlelady's amendment strikes me as fair; but I don't believe Congress has expertise in this. Again, when we are facing the imposition of a trillion dollar government takeover of our health care bill, I believe this will make credit less available and more costly.

I reserve the balance of my time.

Ms. SUTTON. Mr. Chairman, I would inquire how much time we have remaining.

The CHAIR. The gentlewoman from Ohio has 2½ minutes. The gentleman from Texas has 15 seconds.

Ms. SUTTON. At this time I yield 90 seconds to the distinguished gentlewoman from New York (Mrs. MALONEY).

Mrs. MALONEY. Mr. Chairman, I rise in strong support of the gentlelady's amendment. It merely gives more responsibility and control to consumers to better manage their own credit. FICO scores should not go down if consumers are trying to do the right thing by getting out of debt. What I hear from my consumers and friends and people who write my office is that they want to cancel a card because of unfair fees and interest rate increases, yet if they cancel their card, then their credit score suffers. This is absolutely wrong when they are doing the right thing of trying to get out of debt, to better control their own finances, to stop unfair fees and unfair interest rates retroactively on their balances.

This is a good amendment. I support it. It would be an important step to take even in a stand-alone bill. It is a

very important step and a responsible step to help consumers better manage their own finances and level the playing field between consumers and credit card issuers.

Mr. HENSARLING. Mr. Chairman, I reserve my time to close.

Ms. SUTTON. Mr. Chairman, I appreciate the gentlewoman from New York's remarks. I do indeed feel better when we protect consumers. This amendment is all about leveling the playing field, giving the consumer a fair shake, an opportunity to evaluate whether or not they want to continue with an account that imposes whatever fee has been dreamed up. In this case, the one that really struck a chord was imposing a new fee on credit card users who pay down their balance every month. So we have to think about that. First, they impose all kinds of interest rate increases. Then they impose all kinds of other new fees, and now they are going to actually impose a fee on people who pay down their balances every month.

Mr. FRANK of Massachusetts. Would the gentlewoman yield?

Ms. SUTTON. I yield to the gentleman.

Mr. FRANK of Massachusetts. I very much appreciate the gentlewoman's amendment. The notion that people should be penalized for being prudent is outrageous. What this says is if you close out a credit card account, which is an act of prudence, you shouldn't be penalized for it. It is one of these things that I am embarrassed that we ever had to deal with in the first place because that situation should have never been allowed to have existed. The gentlewoman has a very good amendment.

Ms. SUTTON. I thank the gentleman, and I yield back the balance of my time.

Mr. HENSARLING. Mr. Chairman, I would agree with the chairman of the full committee, people who do it right shouldn't be penalized, and that is exactly what is happening in the underlying legislation.

This particular amendment is simply tantamount to a gag order to tell credit bureaus that they can't report accurate information that creditors want in order to give credit. It is going to take credit away, make it more expensive and less available as we try to finance the trillion dollar government takeover of health care.

The CHAIR. The question is on the amendment offered by the gentlewoman from Ohio (Ms. SUTTON).

The question was taken; and the Chair announced that the ayes appeared to have it.

Ms. SUTTON. Mr. Chairman, I demand a recorded vote.

The CHAIR. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentlewoman from Ohio will be postponed.



AMENDMENT NO. 5 OFFERED BY MS. SUTTON

The CHAIR. It is now in order to consider amendment No. 5 printed in part B of House Report 111-326.

Ms. SUTTON. Mr. Chairman, as the designee of Mr. STUPAK, I have an amendment at the desk.

The CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Part B amendment No. 5 offered by Ms. SUTTON:

Page 7, after line 18, insert the following new section:

**SEC. 4. MORATORIUM ON RATE INCREASES.**

(a) IN GENERAL.—During the period beginning on the date of the enactment of this Act and ending 9 months after the date of the enactment of the Credit Card Accountability Responsibility and Disclosure Act of 2009, in the case of any credit card account under an open end consumer credit plan—

(1) no creditor may increase any annual percentage rate, fee, or finance charge applicable to any outstanding balance, except as permitted under subsection 171(b) of the Truth in Lending Act (as added by Public Law 111-24); and

(2) no creditor may change the terms governing the repayment of any outstanding balance, except as set forth in section 171(c) of the Truth in Lending Act (as added by Public Law 111-24).

(b) DEFINITIONS.—For purposes of this section, the following definitions shall apply:

(1) ANNUAL PERCENTAGE RATE.—The term “annual percentage rate” means an annual percentage rate, as determined under section 107 of the Truth in Lending Act (15 U.S.C. 1606).

(2) FINANCE CHARGE.—The term “finance charge” means a finance charge, as determined under section 106 of the Truth in Lending Act (15 U.S.C. 1605).

(3) OUTSTANDING BALANCE.—The term “outstanding balance” has the same meaning as in section 171(d) of the Truth in Lending Act (as added by Public Law 111-24).

(4) OTHER TERMS.—Any term used in this section that is defined in section 103 of the Truth in Lending Act (15 U.S.C. 1602) and is not otherwise defined in this section shall have the same meanings as in section 103 of the Truth in Lending Act.

(c) REGULATORY AUTHORITY.—

(1) IN GENERAL.—The Board of Governors of the Federal Reserve System may prescribe such regulations as may be necessary to carry out this section.

(2) EFFECTIVE DATE.—The provisions of this section shall take effect upon the date of the enactment of this title, regardless of whether rules are issued under subsection (a).

The CHAIR. Pursuant to House Resolution 884, the gentlewoman from Ohio (Ms. SUTTON) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentlewoman from Ohio.

Ms. SUTTON. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, as the designee of Mr. STUPAK, I am calling up this amendment on behalf of my good friend, the Congressman from Michigan, Mr. STUPAK, who is unable to be here with us today due to a death in his family.

Many of our Nation's largest banks received assistance through the Trou-

bled Assets Relief Program, TARP, and these same banks are some of the largest issuers of credit cards. While executives on Wall Street are paid millions of dollars in executive bonuses on the government's credit line, they continue to engage in deceptive and misleading practices that take advantage of consumers and force them to accumulate more debt.

I and 356 of my colleagues supported the Credit Cardholders' Bill of Rights, H.R. 627, passed by Congress earlier this year. Unfortunately, the reforms put into place by this law are being circumvented, as we heard here today, by credit card companies. Card issuers are raising interest rates, raising minimum payment amounts, and charging extra fees before the bill takes effect.

In this economic crisis, far too many families are forced to rely on short term, high interest credit card debt to pay for food, for housing, and other basic necessities. In Congressman STUPAK's district in northern Michigan, unemployment ranges from 6 to 28 percent. In Ohio, the unemployment rate is 10.1 percent. Families are falling behind on their payments and have fallen victim to the predatory practices of the Nation's credit card companies. Moving the enforcement date forward is critical to helping families across this country.

This amendment will immediately freeze interest rates on existing credit card balances until the Credit Cardholders' Bill of Rights goes into effect. For too long, the credit card industry has preyed upon consumers through omission of honest billing practices and through loopholes in credit regulation that are common among banking institutions.

On behalf of Congressman STUPAK, I urge my colleagues to support my amendment.

I reserve the balance of my time.

Mr. HENSARLING. Mr. Chairman, I claim the time in opposition.

The CHAIR. The gentleman from Texas is recognized for 5 minutes.

Mr. HENSARLING. While I am somewhat unclear why this amendment was made in order, it seems to do precisely the opposite of what the Expedited CARD Reform for Consumers Act was supposedly designed to do. This freezes prices. And yet we have had so many Members on the other side of the aisle tell us the bill doesn't do that.

I see that the chairman of the full committee has come back to the floor. Just in September, on September 23, the chairman was quoted as saying on the House floor, When it comes to rate setting, this bill, to the disappointment of some, doesn't limit future rates. As far as the future is concerned, if proper notice is given, this bill is not restricted.

Well, the adoption of this amendment would seem to fly in the face of that. The chairman, I assume, was correct

when he said it. But if the House adopts this amendment, it will no longer be true.

The chairman of the subcommittee, the gentleman from Illinois (Mr. GUTIERREZ), There is no limit in this bill on the interest rate that you can charge. None whatsoever. That was spoken on the House floor on April 29. Again, if the amendment is adopted, that will no longer be true.

This bill aims to bring back some balance in the playing field. Unlike other proposals out there, this bill does not set price controls or rate caps or limit the size of fees. That would be the gentlelady from New York who spoke those words in subcommittee in March of 2008. Again, if the underlying amendment is adopted, it seems to change the nature of the underlying bill.

Mr. FRANK of Massachusetts. Would the gentleman yield?

Mr. HENSARLING. I would be happy to yield to the chairman.

Mr. FRANK of Massachusetts. The bill does not impose any restrictions other than those in the underlying bill. What it says is, section 4(a) in general, during this period and ending 9 months after the date, it says no creditor may increase any annual percentage rate fee or finance charge except as permitted under subsection 171(b) of the Truth in Lending Act, the CARD Act. So it does have restrictions, but it only reaffirms those that were already in there with the 9-month date. It does not do any new restriction on the ability to raise rates.

□ 1345

Mr. HENSARLING. Well, I thank the chairman.

Reclaiming my time, During the period beginning on the date of the enactment of this act and ending 9 months after the date, no creditor may increase annual percentage rate fee finance charge. Again, under the subsection it appears again “for at least a 9-month period.”

Mr. FRANK of Massachusetts. Would the gentleman yield?

Mr. HENSARLING. Yes, I would be happy to yield to the gentleman.

Mr. FRANK of Massachusetts. He stops reading inexplicably. He's got to work on his attention span because it goes on to say, Except—

Mr. HENSARLING. Well, reclaiming my time, I was still reading as I yielded to the chairman. So I can either read or I can yield to the chairman. I would be happy to yield to the chairman.

Mr. FRANK of Massachusetts. I apologize, because the part that we were probably both going to read—and we will work on doing it in unison—says, Except as permitted under subsection 171(b). That is, it imposes no new restrictions. It does revert back to those that are already enacted into law.

Mr. HENSARLING. Well, reclaiming my time, then I would question the body on what particular purpose the amendment then serves.

Mr. FRANK of Massachusetts. Would the gentleman yield? That's not a bad question. I don't have as good an answer to that question as I had to the one before.

The CHAIR. The gentleman from Texas controls the time.

Mr. HENSARLING. At this point, I will reserve the balance of my time.

Ms. SUTTON. This amendment gives immediate protection to the consumer and will end any manipulation of existing credit card contracts by companies prior to the December 1 date. It's as simple as that.

With that, Mr. Chairman, I yield back the balance of my time.

Mr. HENSARLING. Mr. Chairman, may I inquire how much time is remaining?

The CHAIR. The gentleman has 1 minute remaining.

Mr. HENSARLING. Well, one thing of interest, I suppose, is that if we adopt the earlier amendment of the gentleman from New York, this all becomes irrelevant anyway since the effective date would be immediate. So I believe that—

Mr. FRANK of Massachusetts. Would the gentleman yield?

Mr. HENSARLING. I have only 60 seconds, but yes, I will yield a short time to the chairman.

Mr. FRANK of Massachusetts. The point is this: Given the context of all these amendments, this one doesn't have great effect. But as Members filed amendments, it wasn't clear all the amendments that were there. I think if the gentleman knew everything else that was going to be done, it might not have appeared.

Mr. HENSARLING. I thank the chairman for his clarification.

Again, I believe that ultimately this is an amendment that would simply impose price controls for a limited duration of time, contrary to what some of us were led to believe.

But again, the most important aspect of this legislation has to be put into the context of the \$1 trillion government takeover of our health care plan to be voted on Friday or Saturday. This will make credit more expensive and less available. It should be defeated.

Mr. Chairman, I yield back the balance of my time.

The CHAIR. The question is on the amendment offered by the gentleman from Ohio (Ms. SUTTON).

The question was taken; and the Chair announced that the ayes appeared to have it.

Ms. SUTTON. Mr. Chairman, I demand a recorded vote.

The CHAIR. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Ohio will be postponed.

## ANNOUNCEMENT BY THE CHAIR

The CHAIR. Pursuant to clause 6 of rule XVIII, proceedings will now resume on those amendments printed in part B of House Report 111-326 on which further proceedings were postponed, in the following order:

Amendment No. 1 by Mr. HENSARLING of Texas;

Amendment No. 2 by Mrs. MCCARTHY of New York;

Amendment No. 3 by Mr. MAFFEI of New York;

Amendment No. 4 by Ms. SUTTON of Ohio;

Amendment No. 5 by Ms. SUTTON of Ohio.

The Chair will reduce to 5 minutes the time for any electronic vote after the first vote in this series.

## AMENDMENT NO. 1 OFFERED BY MR. HENSARLING

The CHAIR. The unfinished business is the demand for a recorded vote on the amendment offered by the gentleman from Texas (Mr. HENSARLING) on which further proceedings were postponed and on which the ayes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

## RECORDED VOTE

The CHAIR. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 427, noes 0, not voting 11, as follows:

[Roll No. 845]

## AYES—427

Abercrombie	Boustany	Cole	Faleomavaega	Latham	Pomeroy
Ackerman	Boyd	Conaway	Fallin	LaTourette	Posey
Aderholt	Brady (PA)	Connolly (VA)	Farr	Latta	Price (GA)
Adler (NJ)	Brady (TX)	Conyers	Fattah	Lee (CA)	Price (NC)
Akin	Bright	Cooper	Filner	Lee (NY)	Putnam
Alexander	Brown (GA)	Costa	Flake	Levin	Quigley
Altmire	Brown (SC)	Costello	Fleming	Lewis (CA)	Radanovich
Andrews	Brown, Corrine	Courtney	Forbes	Lewis (GA)	Rahall
Arcuri	Brown-Waite,	Crenshaw	Fortenberry	Linder	Rangel
Austria	Ginny	Crowley	Foster	Lipinski	Rehberg
Baca	Buchanan	Cuellar	Fox	LoBiondo	Reichert
Bachmann	Burgess	Culberson	Frank (MA)	Loeb	Reyes
Bachus	Burton (IN)	Cummings	Franks (AZ)	Lofgren, Zoe	Richardson
Baird	Butterfield	Dahlkemper	Frelinghuysen	Lowey	Rodriguez
Baldwin	Buyer	Davis (AL)	Fudge	Lucas	Roe (TN)
Barrett (SC)	Calvert	Davis (CA)	Gallegly	Luetkemeyer	Rogers (AL)
Barrow	Camp	Davis (IL)	Garrett (NJ)	Lujan	Rogers (KY)
Bartlett	Campbell	Davis (KY)	Giffords	Lummis	Rogers (MI)
Barton (TX)	Cantor	DeFazio	Gingrey (GA)	Lungren, Daniel E.	Rohrabacher
Bean	Cao	DeGette	Gohmert	Lynch	Rooney
Becerra	Capito	Delahunt	Gonzalez	Mack	Ros-Lehtinen
Berkley	Capps	DeLauro	Goodlatte	Maffei	Roskam
Berman	Capuano	Dent	Gordon (TN)	Maloney	Ross
Berry	Cardoza	Diaz-Balart, L.	Granger	Manzullo	Rothman (NJ)
Biggert	Carahan	Diaz-Balart, M.	Graves	Marchant	Royle
Bilbray	Carney	Dicks	Grayson	Markey (CO)	Ruppersberger
Bilirakis	Carson (IN)	Dingell	Green, Al	Markey (MA)	Rush
Bishop (GA)	Carter	Doggett	Green, Gene	Marshall	Ryan (OH)
Bishop (NY)	Cassidy	Donnelly (IN)	Griffith	Massa	Ryan (WI)
Bishop (UT)	Castle	Doyle	Grijalva	Matheson	Sablan
Blackburn	Castor (FL)	Dreier	Guthrie	Matsui	Salazar
Blumenauer	Chaffetz	Drieaus	Hall (NY)	McCarthy (CA)	Sanchez, Loretta
Blunt	Chandler	Duncan	Hall (TX)	McCarthy (NY)	Sarbanes
Bocchieri	Childers	Edwards (MD)	Halvorson	McCauley	Scalise
Boehner	Christensen	Edwards (TX)	Hare	McClintock	Schakowsky
Bonner	Chu	Ehlers	Harman	McCollum	Schauer
Bono Mack	Clarke	Ellison	Harper	McCotter	Schiff
Boozman	Clay	Ellsworth	Hastings (FL)	McDermott	Schmidt
Bordallo	Cleaver	Emerson	Hastings (WA)	McGovern	Schock
Boren	Clyburn	Engel	Heinrich	McHenry	Schrader
Boswell	Coble	Eshoo	Heller	McIntyre	Schwartz
Boucher	Cohen	Etheridge	Hensarling	McKeon	Scott (GA)
			Herger	McMahon	Scott (VA)
			Herseth Sandlin	McMorris	Sensenbrenner
			Higgins	Rodgers	Serrano
			Hill	McNerney	Sessions
			Himes	Meek (FL)	Sestak
			Hinchey	Meeks (NY)	Shadegg
			Hinojosa	Melancon	Shea-Porter
			Hirono	Mica	Sherman
			Hodes	Michaud	Shimkus
			Hoekstra	Miller (FL)	Shuler
			Holden	Miller (MI)	Shuster
			Holt	Miller (NC)	Simpson
			Honda	Miller, Gary	Sires
			Hoyer	Miller, George	Skelton
			Hunter	Minnick	Slaughter
			Inglis	Mitchell	Smith (NE)
			Inslee	Mollohan	Smith (NJ)
			Israel	Moore (KS)	Smith (TX)
			Issa	Moore (WI)	Smith (WA)
			Jackson (IL)	Moran (KS)	Snyder
			Jackson-Lee	Moran (VA)	Souder
			(TX)	Murphy (CT)	Space
			Jenkins	Murphy (NY)	Speier
			Johnson (GA)	Murphy, Tim	Spratt
			Johnson (IL)	Murtha	Stark
			Johnson, E. B.	Myrick	Stearns
			Johnson, Sam	Nadler (NY)	Sullivan
			Jones	Napolitano	Sutton
			Jordan (OH)	Neal (MA)	Tanner
			Kagen	Neugebauer	Taylor
			Kanjorski	Nye	Teague
			Kaptur	Oberstar	Terry
			Kennedy	Obey	Thompson (CA)
			Kildee	Olson	Thompson (MS)
			Kilpatrick (MI)	Olver	Thompson (PA)
			Kilroy	Ortiz	Thornberry
			Kind	Pallone	Tiahrt
			King (IA)	Pascarella	Tiberi
			King (NY)	Pastor (AZ)	Tierney
			Kingston	Paul	Titus
			Kirk	Paulsen	Tonko
			Kirkpatrick (AZ)	Payne	Towns
			Kissell	Pence	Tsongas
			Klein (FL)	Perlmutter	Turner
			Kline (MN)	Perriello	Upton
			Kosmas	Peters	Van Hollen
			Kratovil	Peterson	Velázquez
			Kucinich	Petri	Vislosky
			Lamborn	Pingree (ME)	Walden
			Lance	Pitts	Walz
			Langevin	Platts	Wamp
			Larsen (WA)	Poe (TX)	Wasserman
			Larson (CT)	Polis (CO)	Schultz

Waters	Westmoreland	Wolf
Watson	Wexler	Woolsey
Watt	Whitfield	Wu
Waxman	Wilson (OH)	Yarmuth
Weiner	Wilson (SC)	Young (AK)
Welch	Wittman	Young (FL)

## NOT VOTING—11

Braley (IA)	Gerlach	Pierluisi
Coffman (CO)	Murphy, Patrick	Sánchez, Linda
Davis (TN)	Norton	T.
Deal (GA)	Nunes	Stupak

□ 1414

Messrs. WITTMAN, DINGELL and PALLONE changed their vote from “no” to “aye.”

So the amendment was agreed to.

The result of the vote was announced as above recorded.

## AMENDMENT NO. 2 OFFERED BY MRS. MCCARTHY OF NEW YORK

The CHAIR. The unfinished business is the demand for a recorded vote on the amendment offered by the gentlewoman from New York (Mrs. MCCARTHY) on which further proceedings were postponed and on which the ayes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

## RECORDED VOTE

The CHAIR. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIR. This is a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 427, noes 0, not voting 11, as follows:

[Roll No. 846]

AYES—427

Abercrombie	Boyd	Connolly (VA)
Ackerman	Brady (PA)	Conyers
Aderholt	Brady (TX)	Cooper
Adler (NJ)	Bright	Costa
Akin	Broun (GA)	Costello
Alexander	Brown (SC)	Courtney
Altire	Brown, Corrine	Crenshaw
Andrews	Brown-Waite,	Crowley
Arcuri	Ginny	Cuellar
Austria	Buchanan	Culberson
Baca	Burgess	Cummings
Bachmann	Burton (IN)	Dahlkemper
Bachus	Butterfield	Davis (AL)
Baird	Buyer	Davis (CA)
Baldwin	Calvert	Davis (IL)
Barrett (SC)	Camp	Davis (KY)
Barrow	Campbell	DeFazio
Bartlett	Cantor	DeGette
Barton (TX)	Cao	Delahunt
Bean	Capito	DeLauro
Becerra	Capps	Dent
Berkley	Capuano	Diaz-Balart, L.
Berman	Cardoza	Diaz-Balart, M.
Berry	Carnahan	Dicks
Biggert	Carney	Dingell
Bilbray	Carson (IN)	Doggett
Bilirakis	Carter	Donnelly (IN)
Bishop (GA)	Cassidy	Doyle
Bishop (NY)	Castle	Dreier
Bishop (UT)	Castor (FL)	Driehaus
Blackburn	Chaffetz	Duncan
Blumenauer	Chandler	Edwards (MD)
Blunt	Childers	Edwards (TX)
Boccheri	Christensen	Ehlers
Boehner	Chu	Ellison
Bonner	Clarke	Ellsworth
Bono Mack	Clay	Emerson
Boozman	Cleaver	Engel
Bordallo	Clyburn	Eshoo
Boren	Coble	Etheridge
Boswell	Cohen	Faleomavaega
Boucher	Cole	Fallin
Boustany	Conaway	Farr

Fattah	Lee (CA)
Filner	Lee (NY)
Flake	Levin
Fleming	Lewis (CA)
Forbes	Lewis (GA)
Fortenberry	Linder
Foster	Lipinski
Fox	LoBiondo
Frank (MA)	Loeb
Franks (AZ)	Lofgren, Zoe
Frelinghuysen	Lowe
Fudge	Lucas
Gallely	Luetkemeyer
Garrett (NJ)	Lujan
Giffords	Lummis
Gingrey (GA)	Lungren, Daniel
Gohmert	E.
Gonzalez	Lynch
Goodlatte	Mack
Gordon (TN)	Maffei
Granger	Maloney
Graves	Manzullo
Grayson	Marchant
Green, Al	Markey (CO)
Green, Gene	Markey (MA)
Griffith	Marshall
Grijalva	Massa
Guthrie	Matheson
Gutierrez	Matsui
Hall (NY)	McCarthy (CA)
Hall (TX)	McCarthy (NY)
Halvorson	McCaul
Hare	McClintock
Harman	McCollum
Harper	McCotter
Hastings (FL)	McDermott
Hastings (WA)	McGovern
Heinrich	McHenry
Heller	McIntyre
Hensarling	McKeon
Herger	McMahon
Herseth Sandlin	McMorris
Higgins	Rodgers
Hill	McNerney
Himes	Meek (FL)
Hinche	Meeks (NY)
Hinojosa	Melancon
Hirono	Mica
Hodes	Michaud
Hoekstra	Miller (FL)
Holden	Miller (MI)
Holt	Miller (NC)
Honda	Miller, Gary
Hoyer	Miller, George
Hunter	Minnick
Inglis	Mitchell
Inslee	Mollohan
Israel	Moore (KS)
Issa	Moore (WI)
Jackson (IL)	Moran (KS)
Jackson-Lee	Moran (VA)
(TX)	Murphy (CT)
Jenkins	Murphy (NY)
Johnson (GA)	Murphy, Tim
Johnson (IL)	Murtha
Johnson, E. B.	Myrick
Johnson, Sam	Nadler (NY)
Jones	Napolitano
Jordan (OH)	Neal (MA)
Kagen	Neugebauer
Kanjorski	Nye
Kaptur	Oberstar
Kennedy	Obey
Kildee	Olson
Kilpatrick (MI)	Olver
Kilroy	Ortiz
Kind	Pallone
King (IA)	Pascarella
King (NY)	Pastor (AZ)
Kingston	Paul
Kirk	Paulsen
Kirkpatrick (AZ)	Payne
Kissell	Pence
Klein (FL)	Perlmutter
Kline (MN)	Perriello
Kosmas	Peters
Kratovil	Peterson
Kucinich	Petri
Lamborn	Pierluisi
Lance	Pingree (ME)
Langevin	Pitts
Larsen (WA)	Platts
Larson (CT)	Poe (TX)
Latham	Polis (CO)
LaTourette	Pomeroy
Latta	Posey

Price (GA)	Price (NC)
Price (NC)	Putnam
Quigley	Radanovich
Rahall	Rangel
Rehberg	Reichert
Reyes	Reyes
Richardson	Rodriguez
Roe (TN)	Roe (TN)
Rogers (AL)	Rogers (KY)
Rogers (MI)	Rohrabacher
Rooney	Roybal-Allard
Ros-Lehtinen	Royce
Roskam	Ruppersberger
Ross	Rush
Rothman (NJ)	Ryan (OH)
Roybal-Allard	Ryan (WI)
Sablan	Sablan
Salazar	Salazar
Sanchez, Loretta	Sanchez, Loretta
Sarbanes	Sarbanes
Scalise	Scalise
Schakowsky	Schakowsky
Schauer	Schauer
Schiff	Schiff
Schmidt	Schmidt
Schock	Schock
Schrader	Schrader
Schwartz	Schwartz
Scott (GA)	Scott (GA)
Scott (VA)	Scott (VA)
Sensenbrenner	Sensenbrenner
Serrano	Serrano
Sessions	Sessions
Sestak	Sestak
Shadeegg	Shadeegg
Shea-Porter	Shea-Porter
Sherman	Sherman
Shimkus	Shimkus
Shuler	Shuler
Shuster	Shuster
Simpson	Simpson
Sires	Sires
Skelton	Skelton
Smith (NE)	Smith (NE)
Smith (NJ)	Smith (NJ)
Smith (TX)	Smith (TX)
Smith (WA)	Smith (WA)
Snyder	Snyder
Souder	Souder
Space	Space
Speier	Speier
Spratt	Spratt
Stark	Stark
Stearns	Stearns
Sullivan	Sullivan
Sutton	Sutton
Tanner	Tanner
Taylor	Taylor
Teague	Teague
Terry	Terry
Thompson (CA)	Thompson (CA)
Thompson (MS)	Thompson (MS)
Thompson (PA)	Thompson (PA)
Thornberry	Thornberry
Tiahrt	Tiahrt
Tiberi	Tiberi
Tierney	Tierney
Titus	Titus
Tonko	Tonko
Towns	Towns
Tsongas	Tsongas
Turner	Turner
Upton	Upton
Van Hollen	Van Hollen
Velázquez	Velázquez
Visclosky	Visclosky
Walden	Walden
Walz	Walz
Wamp	Wamp
Wasserman	Wasserman
Schultz	Schultz
Waters	Waters
Watson	Watson
Watt	Watt

Waxman	Whitfield	Woolsey
Weiner	Wilson (OH)	Wu
Welch	Wilson (SC)	Yarmuth
Westmoreland	Wittman	Young (AK)
Wexler	Wolf	Young (FL)

## NOT VOTING—11

Braley (IA)	Gerlach	Sánchez, Linda
Coffman (CO)	Murphy, Patrick	T.
Davis (TN)	Norton	Slaughter
Deal (GA)	Nunes	Stupak

## ANNOUNCEMENT BY THE CHAIR

The CHAIR (during the vote). Two minutes remain in this vote.

□ 1422

So the amendment was agreed to.

The result of the vote was announced as above recorded.

## AMENDMENT NO. 3 OFFERED BY MR. MAFFEI

The CHAIR. The unfinished business is the demand for a recorded vote on the amendment offered by the gentleman from New York (Mr. MAFFEI) on which further proceedings were postponed and on which the ayes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

## RECORDED VOTE

The CHAIR. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIR. This is a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 251, noes 174, not voting 13, as follows:

[Roll No. 847]

AYES—251

Abercrombie	Cooper	Hall (NY)
Ackerman	Costa	Halvorson
Adler (NJ)	Costello	Hare
Altmire	Courtney	Harman
Andrews	Crowley	Hastings (FL)
Arcuri	Cuellar	Heinrich
Baca	Cummings	Higgins
Baird	Dahlkemper	Hill
Baldwin	Davis (AL)	Hinche
Barrow	Davis (CA)	Hinojosa
Becerra	Davis (IL)	Hirono
Berkley	DeFazio	Hodes
Berman	DeGette	Holden
Berry	Delahunt	Holt
Bishop (GA)	DeLauro	Honda
Bishop (NY)	Dicks	Hoyer
Blumenauer	Dingell	Inslee
Blunt	Doggett	Israel
Boccheri	Donnelly (IN)	Jackson (IL)
Bordallo	Doyle	Jackson-Lee
Boren	Driehaus	(TX)
Boswell	Edwards (MD)	Johnson (GA)
Boyd	Edwards (TX)	Johnson, E. B.
Brady (PA)	Ellison	Jones
Brown, Corrine	Ellsworth	Kagen
Butterfield	Emerson	Kanjorski
Capps	Engel	Kaptur
Capuano	Eshoo	Kennedy
Cardoza	Etheridge	Kildee
Carnahan	Faleomavaega	Kilpatrick (MI)
Carney	Farr	Kilroy
Carson (IN)	Fattah	Kissell
Castor (FL)	Filner	Klein (FL)
Chandler	Foster	Kosmas
Childers	Frank (MA)	Kratovil
Christensen	Fudge	Kucinich
Chu	Gonzalez	Langevin
Clarke	Gordon (TN)	Larsen (WA)
Clay	Grayson	Larson (CT)
Cleaver	Green, Al	Latham
Clyburn	Green, Gene	LaTourette
Cohen	Griffith	Lee (CA)
Connolly (VA)	Grijalva	Levin
Conyers	Gutierrez	

Lewis (GA) Obey  
Lipinski Olver  
Loeb sack Ortiz  
Lofgren, Zoe Pallone  
Lowey Pascarell  
Luján Pastor (AZ)  
Lynch Payne  
Maffei Perlmutter  
Maloney Perriello  
Markey (CO) Peters  
Markey (MA) Peterson  
Marshall Pierluisi  
Massa Pingree (ME)  
Matheson Platts  
Matsui Polis (CO)  
McCollum Pomeroy  
McDermott Price (NC)  
McGovern Quigley  
McIntyre Rahall  
McMahon Rangel  
McNerney Reichert  
Meek (FL) Reyes  
Meeks (NY) Richardson  
Melancon Rodriguez  
Michaud Ross  
Miller (NC) Roybal-Allard  
Miller, George Rumpersberger  
Minnick Rush  
Mitchell Ryan (OH)  
Mollohan Sablan  
Moore (KS) Salazar  
Moore (WI) Sanchez, Loretta  
Moran (VA) Sarbanes  
Murphy (CT) Schakowsky  
Murphy (NY) Schauer  
Murtha Schiff  
Nadler (NY) Schrader  
Napolitano Schwartz  
Neal (MA) Scott (GA)  
Nye Scott (VA)  
Oberstar Serrano

## NOES—174

Aderholt Fallin  
Alexander Flake  
Austria Fleming  
Bachmann Forbes  
Bachus Fortenberry  
Barrett (SC) Foxx  
Bartlett Franks (AZ)  
Barton (TX) Frelinghuysen  
Bean Gallegly  
Biggert Garrett (NJ)  
Bilbray Giffords  
Bilirakis Gingrey (GA)  
Bishop (UT) Gohmert  
Blackburn Goodlatte  
Boehner Granger  
Bonner Graves  
Bono Mack Guthrie  
Boozman Hall (TX)  
Boucher Harper  
Boustany Hastings (WA)  
Brady (TX) Heller  
Bright Hensarling  
Broun (GA) Herger  
Brown (SC) Herseth Sandlin  
Brown-Waite, Ginny Himes  
Buchanan Hoekstra  
Burgess Hunter  
Burton (IN) Inglis  
Buyer Issa  
Calvert Jenkins  
Camp Johnson (IL)  
Campbell Johnson, Sam  
Cantor Jordan (OH)  
Cao King (IA)  
Capito King (NY)  
Carter Kingston  
Cassidy Kirk  
Castle Kirkpatrick (AZ)  
Chaffetz Kline (MN)  
Coble Lamborn  
Cole Lance  
Conaway Latta  
Crenshaw Lee (NY)  
Culberson Lewis (CA)  
Davis (KY) Linder  
Dent LoBiondo  
Diaz-Balart, L. Lucas  
Diaz-Balart, M. Luetkemeyer  
Dreier Lummis  
Duncan Lungren, Daniel  
Ehlers E.  
Mack

Sestak Shea-Porter  
Shearman Sherman  
Shuler  
Simpson  
Sires  
Slaughter  
Smith (WA)  
Snyder  
Space  
Speier  
Spratt  
Stark  
Sutton  
Tanner  
Teague  
Thompson (CA)  
Thompson (MS)  
Tierney  
Titus  
Tonko  
Towns  
Tsongas  
Van Hollen  
Velázquez  
Visclosky  
Walz  
Wasserman  
Schultz  
Waters  
Watson  
Watt  
Waxman  
Weiner  
Welch  
Wilson (OH)  
Woolsey  
Wu  
Yarmuth

Smith (TX)  
Souders  
Stearns  
Sullivan  
Taylor  
Terry  
Thompson (PA)  
Thornberry  
Tiahrt  
Tiberi  
Turner  
Upton  
Walden  
Wamp  
Westmoreland  
Whitfield  
Wilson (SC)  
Wittman  
Wolf  
Young (AK)  
Young (FL)

## NOT VOTING—13

Akin Gerlach  
Braley (IA) Murphy, Patrick  
Coffman (CO) Norton  
Davis (TN) Nunes  
Deal (GA) Rothman (NJ)  
Sanchez, Linda  
T.  
Stupak  
Wexler

## ANNOUNCEMENT BY THE CHAIR

The CHAIR (during the vote). Two minutes remain in this vote.

□ 1430

So the amendment was agreed to.

The result of the vote was announced as above recorded.

## PERSONAL EXPLANATION

Mr. COFFMAN of Colorado. Mr. Chair, on rollcall Nos. 845, 846, and 847 I was unavoidably detained.

Had I been present, I would have voted on rollcall 845—"aye," on rollcall 846—"aye," and on rollcall 847—"no."

## AMENDMENT NO. 4 OFFERED BY MS. SUTTON

The CHAIR. The unfinished business is the demand for a recorded vote on the amendment offered by the gentlewoman from Ohio (Ms. SUTTON) on which further proceedings were postponed and on which the ayes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

## RECORDED VOTE

The CHAIR. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIR. This is a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 353, noes 71, not voting 14, as follows:

[Roll No. 848]

AYES—353

Abercrombie Boren  
Ackerman Boswell  
Aderholt Boucher  
Adler (NJ) Boustany  
Alexander Boyd  
Altmore Brady (PA)  
Andrews Bright  
Arcuri Brown (SC)  
Baca Brown, Corrine  
Baird Brown-Waite, Ginny  
Baldwin Barrow  
Barrow Buchanan  
Bartlett Butterfield  
Barton (TX) Buyer  
Bean Camp  
Berkley Campbell  
Berman Cao  
Berry Capito  
Biggert Capps  
Bilbray Capuano  
Bilirakis Cardoza  
Bishop (GA) Carnahan  
Bishop (NY) Carney  
Bishop (UT) Carson (IN)  
Blackburn Cassidy  
Blumenauer Castor (FL)  
Blunt Chaffetz  
Bocchieri Chandler  
Bonner Childers  
Bono Mack Christensen  
Boozman Chu  
Bordallo Clarke

Doyle  
Driehaus  
Duncan  
Edwards (MD)  
Edwards (TX)  
Ehlers  
Ellison  
Ellsworth  
Emerson  
Engel  
Eshoo  
Etheridge  
Faleomavaega  
Fallin  
Farr  
Fattah  
Filner  
Fleming  
Forbes  
Fortenberry  
Foster  
Frank (MA)  
Frelinghuysen  
Fudge  
Giffords  
Gohmert  
Gonzalez  
Goodlatte  
Gordon (TN)  
Graves  
Grayson  
Green, Al  
Green, Gene  
Griffith  
Grijalva  
Guthrie  
Gutierrez  
Hall (NY)  
Halvorson  
Hare  
Harman  
Harper  
Heinrich  
Heller  
Herger  
Herseth Sandlin  
Higgins  
Hill  
Hinchey  
Hinojosa  
Hirono  
Hodes  
Hoekstra  
Holden  
Holt  
Honda  
Hoyer  
Hunter  
Inslee  
Israel  
Jackson (IL)  
Jackson-Lee  
(TX)  
Jenkins  
Johnson (GA)  
Johnson (IL)  
Johnson, E. B.  
Jones  
Kagen  
Kanjorski  
Kaptur  
Kennedy  
Kildee  
Kilpatrick (MI)  
Kilroy  
Kind  
Kingston  
Kirk  
Kirkpatrick (AZ)  
Kissell  
Klein (FL)  
Kline (MN)  
Kosmas  
Kratovil  
Kucinich  
Lance  
Langevin  
Larsen (WA)  
Larson (CT)  
Latham  
LaTourette  
Lee (CA)  
Levin  
Lewis (GA)  
Lipinski  
LoBiondo  
Loeb sack  
Lofgren, Zoe  
Lowey  
Luján  
Lummis  
Lungren, Daniel  
E.  
Lynch  
Maffei  
Maloney  
Manzullo  
Markey (CO)  
Markey (MA)  
Marshall  
Massa  
Matheson  
Matsui  
McCarthy (CA)  
McCarthy (NY)  
McCollum  
McCotter  
McDermott  
McGovern  
McHenry  
McIntyre  
McNerney  
Meek (FL)  
Melancon  
Michaud  
Miller (MI)  
Miller (NC)  
Miller, George  
Minnick  
Mitchell  
Mollohan  
Moore (KS)  
Moore (WI)  
Moran (KS)  
Moran (VA)  
Murphy (CT)  
Murphy (NY)  
Murphy, Tim  
Murtha  
Myrick  
Nadler (NY)  
Napolitano  
Neal (MA)  
Nye  
Oberstar  
Obey  
Olver  
Ortiz  
Pallone  
Pascarell  
Pastor (AZ)  
Paulsen  
Payne  
Perlmutter  
Perriello  
Peterson  
Petri  
Pierluisi  
Pingree (ME)  
Pitts  
Platts  
Polis (CO)  
Pomeroy  
Posey  
Price (NC)  
Putnam  
Quigley  
Rahall  
Rangel  
Rehberg  
Reichert  
Reyes  
Richardson  
Rodriguez  
Roe (TN)  
Rogers (AL)  
Rogers (KY)  
Rogers (MI)  
Rooney  
Ros-Lehtinen  
Roskam  
Ross  
Rothman (NJ)  
Roybal-Allard  
Rumpersberger  
Rush  
Ryan (OH)  
Sablan  
Salazar  
Sanchez, Loretta  
Sarbanes  
Schakowsky  
Schauer  
Schiff  
Schrader  
Schwartz  
Scott (GA)  
Scott (VA)  
Serrano

## NOES—71

Brady (TX)  
Broun (GA)  
Burgess  
Burton (IN)  
Calvert  
Cantor  
Carter  
Castle  
Cole  
Conaway  
Davis (KY)  
Dreier

Flake	Latta	Olson	Frank (MA)	Maffei	Ross	McClintock	Putnam	Smith (TX)
Fox	Lee (NY)	Paul	Fudge	Maloney	Rothman (NJ)	McCotter	Radanovich	Souder
Franks (AZ)	Lewis (CA)	Pence	Giffords	Markey (MA)	Roybal-Allard	McHenry	Rehberg	Stearns
Gallegly	Linder	Poe (TX)	Gordon (TN)	Marshall	Ruppersberger	McKeon	Reichert	Sullivan
Garrett (NJ)	Lucas	Price (GA)	Grayson	Massa	Rush	McMahon	Roe (TN)	Tanner
Gingrey (GA)	Luetkemeyer	Radanovich	Green, Al	Matsui	Ryan (OH)	McMorris	Rogers (KY)	Taylor
Granger	Mack	Rohrabacher	Green, Gene	McCollum	Sablan	Rodgers	Rogers (MI)	Terry
Hall (TX)	Marchant	Royce	Grijalva	McDermott	Salazar	Mica	Rohrabacher	Thompson (PA)
Hastings (WA)	McCaul	Ryan (WI)	Hall (NY)	McGovern	Sanchez, Loretta	Miller (FL)	Rooney	Thornberry
Hensarling	McClintock	Scalise	Halvorson	McIntyre	Sarbanes	Miller (MI)	Roskam	Tiahrt
Himes	McKeon	Schmidt	Hare	McNerney	Schakowsky	Miller, Gary	Royce	Tiberi
Inglis	McMahon	Schock	Harman	Meek (FL)	Schauer	Murphy (NY)	Ryan (WI)	Turner
Issa	McMorris	Sessions	Hastings (FL)	Meeks (NY)	Schiff	Myrick	Scalise	Upton
Johnson, Sam	Rodgers	Smith (TX)	Heinrich	Melancon	Schrader	Neugebauer	Schmidt	Walden
Jordan (OH)	Mica	Sullivan	Higgins	Michaud	Schwartz	Olson	Schock	Wamp
King (IA)	Miller (FL)	Thompson (PA)	Hill	Miller (NC)	Scott (GA)	Paul	Sensenbrenner	Westmoreland
Killing (NY)	Miller, Gary	Thornberry	Hinchey	Miller, George	Scott (VA)	Paulsen	Sessions	Whitfield
Lamborn	Neugebauer	Westmoreland	Hinojosa	Minnick	Serrano	Pence	Shadegg	Wilson (SC)
			Hirono	Mitchell	Sestak	Pitts	Shimkus	Wittman
			Hodes	Mollohan	Shea-Porter	Posey	Shuler	Wolf
			Holden	Moore (KS)	Sherman	Poe (TX)	Shuster	Young (FL)
			Holt	Moore (WI)	Sires	Posey	Simpson	
			Honda	Moran (KS)	Skelton	Price (GA)	Smith (NE)	
			Hoyer	Moran (VA)	Slaughter			
			Inslee	Murphy (CT)	Smith (NJ)			
			Israel	Murphy, Tim	Smith (WA)			
			Jackson (IL)	Murtha	Snyder	Baca	Gonzalez	Nunes
			Jackson-Lee	Nadler (NY)	Space	Boucher	Griffith	Sánchez, Linda
			(TX)	Napolitano	Speier	Braley (IA)	Gutierrez	T.
			Johnson (GA)	Neal (MA)	Spratt	Davis (TN)	Kind	Stupak
			Johnson, E. B.	Nye	Stark	Deal (GA)	Murphy, Patrick	Waters
			Jones	Oberstar	Sutton	Gerlach	Norton	
			Kagen	Obey	Teague			
			Kanjorski	Olver	Thompson (CA)			
			Kaptur	Ortiz	Thompson (MS)			
			Kennedy	Pallone	Tierney			
			Kildee	Pascarella	Titus			
			Kilpatrick (MI)	Pastor (AZ)	Tonko			
			Kilroy	Payne	Towns			
			Kissell	Perlmutter	Tsongas			
			Klein (FL)	Perriello	Van Hollen			
			Kucinich	Peters	Velázquez			
			Langevin	Peterson	Visclosky			
			Larsen (WA)	Pierluisi	Walz			
			Larson (CT)	Pingree (ME)	Wasserman			
			Latham	Platts	Schultz			
			Lee (CA)	Polis (CO)	Watson			
			Levin	Pomeroy	Watt			
			Lewis (GA)	Price (NC)	Waxman			
			Lipinski	Quigley	Weiner			
			LoBiondo	Rahall	Welch			
			Loebach	Rangel	Wexler			
			Lofgren, Zoe	Reyes	Wilson (OH)			
			Lowe	Richardson	Woolsey			
			Lujan	Rodriguez	Wu			
			Lummis	Rogers (AL)	Yarmuth			
			Lynch	Ros-Lehtinen	Young (AK)			

## NOT VOTING—14

Becerra	Meeks (NY)	Stupak
Braley (IA)	Murphy, Patrick	Wasserman
Davis (TN)	Norton	Schultz
Deal (GA)	Nunes	Yarmuth
Gerlach	Sánchez, Linda	
Hastings (FL)	T.	

## ANNOUNCEMENT BY THE CHAIR

The CHAIR (during the vote). There are 2 minutes remaining in this vote.

□ 1436

Messrs. HIMES and ROHRABACHER changed their vote from “aye” to “no.” So the amendment was agreed to.

The result of the vote was announced as above recorded.

## AMENDMENT NO. 5 OFFERED BY MS. SUTTON

The CHAIR. The unfinished business is the demand for a recorded vote on the amendment offered by the gentlewoman from Ohio (Ms. SUTTON) on which further proceedings were postponed and on which the ayes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

## RECORDED VOTE

The CHAIR. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIR. This is a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 249, noes 173, not voting 16, as follows:

[Roll No. 849]

AYES—249

Abercrombie	Butterfield	Davis (AL)
Ackerman	Buyer	Davis (CA)
Aderholt	Cao	Davis (IL)
Adler (NJ)	Capito	DeFazio
Andrews	Capps	DeGette
Arcuri	Capuano	Delahunt
Baird	Carnahan	DeLauro
Baldwin	Carney	Dent
Barrow	Carson (IN)	Dicks
Barton (TX)	Castor (FL)	Dingell
Becerra	Chandler	Doggett
Berkley	Christensen	Donnelly (IN)
Berman	Chu	Doyle
Berry	Clarke	Driehaus
Bishop (GA)	Clay	Edwards (MD)
Bishop (NY)	Cleaver	Edwards (TX)
Blumenauer	Clyburn	Ellison
Boccheri	Cohen	Ellsworth
Bono Mack	Connolly (VA)	Engel
Bordallo	Conyers	Eshoo
Boswell	Cooper	Etheridge
Boyd	Costa	Faleomavaega
Brady (PA)	Costello	Farr
Brown, Corrine	Courtney	Fattah
Brown-Waite,	Crowley	Finer
Ginny	Cuellar	Forbes
Buchanan	Cummings	Foster

Akin	Coble	Himes
Alexander	Coffman (CO)	Hoekstra
Altmire	Cole	Hunter
Austria	Conaway	Inglis
Bachmann	Crenshaw	Issa
Bachus	Culberson	Jenkins
Barrett (SC)	Dahlkemper	Johnson (IL)
Bartlett	Davis (KY)	Johnson, Sam
Bean	Diaz-Balart, L.	Jordan (OH)
Biggett	Dreier	King (IA)
Bilbray	Duncan	King (NY)
Bilirakis	Ehlers	Kingston
Bishop (UT)	Emerson	Kirk
Blackburn	Fallin	Kirkpatrick (AZ)
Blunt	Flake	Kline (MN)
Boehner	Fleming	Kosmas
Bonner	Fortenberry	Kratovil
Boozman	Fox	Lamborn
Boren	Franks (AZ)	Lance
Boustany	Frelinghuysen	LaTourette
Brady (TX)	Gallegly	Latta
Bright	Garrett (NJ)	Lee (NY)
Brown (GA)	Gingrey (GA)	Lewis (CA)
Brown (SC)	Gohmert	Linder
Burgess	Goodlatte	Lucas
Burton (IN)	Granger	Luetkemeyer
Calvert	Graves	Lungren, Daniel
Camp	Guthrie	E.
Campbell	Hall (TX)	Mack
Cantor	Harper	Manzullo
Cardoza	Hastings (WA)	Marchant
Carter	Heller	Markey (CO)
Cassidy	Hensarling	Matheson
Castle	Herger	McCarthy (CA)
Chaffetz	Herseth Sandlin	McCarthy (NY)
Childers		McCauley

## NOES—173

## NOT VOTING—16

Baca	Gonzalez	Nunes
Boucher	Griffith	Sánchez, Linda
Braley (IA)	Gutierrez	T.
Davis (TN)	Kind	Stupak
Deal (GA)	Murphy, Patrick	Waters
Gerlach	Norton	

## ANNOUNCEMENT BY THE CHAIR

The CHAIR (during the vote). There are 2 minutes remaining in this vote.

□ 1444

Mr. CHILDERS changed his vote from “aye” to “no.”

So the amendment was agreed to.

The result of the vote was announced as above recorded.

Stated for:

Mr. BACA. Mr. Chair, on rollcall No. 849, had I been present, I would have voted “aye.”

The CHAIR. There being no further amendments, under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Ms. DEGETTE) having assumed the chair, Mr. PASTOR of Arizona, Chair of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 3639) to amend the Credit Card Accountability Responsibility and Disclosure Act of 2009 to establish an earlier effective date for various consumer protections, and for other purposes, pursuant to House Resolution 884, he reported the bill, as amended pursuant to that resolution, back to the House with sundry further amendments adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Pursuant to House Resolution 884, the question of adoption of the further amendments will be put en gros.

The question is on the amendments.

The amendments were agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

## MOTION TO RECOMMIT

Mr. CASTLE. Madam Speaker, I have a motion to recommit at the desk.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. CASTLE. In its current form, I am, yes.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. Castle moves to recommit the bill H.R. 3639 to the Committee on Financial Services with instructions to report the same back to the House forthwith with an amendment as follows:

Page 7, after 18, insert the following new section:

**SEC. 4. FEDERAL RESERVE CERTIFICATION.**

Not later than the end of the 1-week period beginning on the date of the enactment of this Act, the Board of Governors of the Federal Reserve System shall submit a report to the Congress certifying whether or not the implementation of necessary regulations under those provisions affected by the amendments made by section 2 and section 3 of this Act is feasible by December 1, 2009. Unless such certification states that such implementation is feasible by December 1, 2009, section 2 and section 3 of this Act shall have no force or effect.

□ 1445

The SPEAKER pro tempore. The gentleman from Delaware is recognized for 5 minutes.

Mr. CASTLE. Madam Speaker, let me just give a little background on all of this. This is not a very complex motion to recommit. This legislation, which I supported, by the way, in its original form, the Credit Card Accountability Responsibility and Disclosure Act of 2009, was negotiated, I think fairly, by the chairman of the committee and various members. It was on a parallel track with what the Federal Reserve was doing as a way of protecting consumers as well.

The legislation took precedence. It was considered in committee, and there was some negotiation about the date on which it would go into effect because of the time it would take for the various credit card companies and others involved in this process to be able to manage all of this. The date that was negotiated was February 22 of next year, 2010. That would have been about 3 or 4 months sooner than what the Federal Reserve had been considering, which I believe was in July of 2010.

In the interim period of time, there has been a lot of work by various people trying to put this into place, and a lot of things have happened in arguments which we've heard on the floor, that is, that some small businesses are being impacted by this, some people have lost credit or whatever, for better or for worse.

But the bottom line is that the various credit card companies have a lot of work to do to implement this, to put their plans into place, and some probably have done it better than others, if I had to guess. The bottom line is that I don't know, I can't judge this. I don't know if they are ready to do this by the date of December 1 or not.

So the motion to recommit is relatively simple. It basically indicates that the governors of the Federal Reserve System within no more than a 1-week period of time should submit a report to us in Congress about whether these provisions under the sections of this bill that would implement it, sections 2 and 3, should go into effect or because of the mechanics of doing this, it should wait until the February 22 date.

That is simply what it does. It doesn't change it. It doesn't alter it. It just speaks to the date of all this going into place. There is a certain fairness issue in this, Madam Speaker, that we have to deal with. Even for those of us who supported this legislation, it seems to me that we're going back on these negotiations.

We're basically telling all the issuers out there, except for the smaller issuers—and I thank the chairman and others who worked on the rule change to eliminate some of the smaller issuers—but having said that, some of the others have to deal with this. They have to deal with their implementation. They have to deal with the question of whether they can do it in that kind of time or not.

As I have indicated, I don't know if any of us here can really stand in judgment of that, and we believe that the Federal Reserve is the best to do that. As a matter of fact, Sandra Bernstein, who is the Fed's own director of consumer affairs, testified at one of our hearings that the reason for this timeline is because card issuers would need to rethink their entire business models to reprogram their systems and redesign their marketing materials, solicitations, periodic statements, and contracts. It's all well and good for us to stand here as Members of Congress and say, Gee, we'll make this change that would benefit consumers or whatever, but it may not be practical.

I would encourage both sides of the aisle to listen to this. Indeed, if the Federal Reserve makes a decision—and I have no idea how they would judge it—but they make a decision that it could be done by December 1, we'll move ahead in that time. If they don't, it will be kept at the original time that was in the bill to begin with. In States like mine, which has a good deal of banking activity, and in States like Connecticut, New York, South Dakota, Nebraska, Rhode Island, the other States that have a lot of banking activity, this has been a very significant issue. They have already lost jobs in the banking world. They continue to.

My judgment is that we do need to give them the time to properly implement acts such as this. My sense is that we should at least review this before that determination is made that we can move it from February 22 to the December 1 date, which is in this legislation.

So I would encourage everybody here to look at this and to support it. It doesn't alter the fact that we are going to have this change. It just takes this date and allows it to be reviewed by people who have some expertise to determine if they should move forward at this point or not. So I would hope that this is a motion which could be considered by both sides of the aisle.

With that, I yield back the balance of my time.

Mr. FRANK of Massachusetts. Madam Speaker, I rise in opposition to the recommit motion.

The SPEAKER pro tempore. The gentleman is recognized for 5 minutes.

Mr. FRANK of Massachusetts. Madam Speaker, first, I will acknowledge—and the gentleman from Delaware was quite civil—I will acknowledge that this is a moderate approach. I only hope, given the current situation, he is not in political trouble for taking a moderate approach in his party, but that's a matter for another day.

The issue for me here is the extent to which many of my colleagues on the other side are engaged in an on-again/off-again love affair with the Federal Reserve. The Federal Reserve has often been the object of their scorn, but when it comes to consumer protection, the Federal Reserve is sometimes a convenient bulwark against that. For example, when the committee passed the Consumer Financial Protection Agency Act, which transfers more power from the Federal Reserve than any other group of Federal entities, many of my Republican colleagues ran to the defense of the Federal Reserve by quoting the Chairman of the Federal Reserve as saying, Don't take this away from us. We have this on-again/off-again.

What this bill does is really quite remarkable. It empowers the Federal Reserve to cancel an act of Congress. We are hoping to get this bill passed, and there was some concern in the Senate from the Senate chairman. And thanks to the amendment that was offered by the gentlewoman from New York (Mrs. MCCARTHY) and the gentlewoman from Colorado (Ms. MARKEY), we have accommodated his concerns. We think we have a workable proposal here.

What the recommit says is, if the bill passes the House and passes the Senate and is signed by the President, we will then wait for the permission of the Federal Reserve Board of Governors to implement it; and if they say it's not feasible, then the bill dies. In fact, they did write us, however, and say that if they had to do it by December 1—we wrote to them a couple of weeks ago—here is this problem that they wouldn't be able to get full comments in.

But they also note the Administrative Procedures Act does provide a good clause exception when the notice

Griffith	Napolitano
Grijalva	Neal (MA)
Gutierrez	Nye
Hall (NY)	Oberstar
Halvorson	Obey
Hare	Oliver
Harman	Ortiz
Hastings (FL)	Pallone
Heinrich	Pascrell
Higgins	Pastor (AZ)
Hill	Paul
Himes	Payne
Hinchey	Perlmutter
Hinojosa	Perriello
Hirono	Peters
Hodes	Peterson
Holden	Pingree (ME)
Holt	Polis (CO)
Honda	Pomeroy
Hoyer	Price (NC)
Inslee	Quigley
Israel	Rahall
Jackson (IL)	Rangel
Jackson-Lee	Reyes
(TX)	Richardson
Johnson (GA)	Rodriguez
Johnson, E. B.	Ross
Jones	Rothman (NJ)
Kagen	Roybal-Allard
Kanjorski	Ruppersberger
Kaptur	Rush
Kennedy	Ryan (OH)
Kildee	Salazar
Kilpatrick (MI)	Sanchez, Loretta
Kilroy	Sarbanes
Kind	Schakowsky
Kirkpatrick (AZ)	Schauer
Kissell	Schiff
Klein (FL)	Schrader
Kosmas	Schwartz
Kratovil	Scott (GA)
Kucinich	Scott (VA)
Langevin	Serrano
Larsen (WA)	Sestak
Larson (CT)	Shea-Porter
Latham	Sherman
LaTourette	Shuler
Lee (CA)	Simpson
Levin	Sires
Lewis (GA)	Skelton
Lipinski	Slaughter
Loeback	Smith (WA)
Lofgren, Zoe	Snyder
Lowey	Space
Lujan	Speier
Lynch	Spratt
Maffei	Stark
Maloney	Sutton
Markey (CO)	Tanner
Markey (MA)	Taylor
Marshall	Teague
Massa	Thompson (CA)
Matheson	Thompson (MS)
Matsui	Tierney
McCarthy (NY)	Titus
McCollum	Tonko
McDermott	Towns
McGovern	Tsongas
McIntyre	Van Hollen
McNerney	Velázquez
Meek (FL)	Visclosky
Meeks (NY)	Walz
Michaud	Wasserman
Miller (NC)	Schultz
Miller, George	Waters
Minnick	Watson
Mitchell	Watt
Mollohan	Waxman
Moore (KS)	Weiner
Moore (WI)	Welch
Moran (VA)	Wexler
Murphy (CT)	Wilson (OH)
Murphy (NY)	Woolsey
Murtha	Wu
Nadler (NY)	Yarmuth



## NOT VOTING—8

Braley (IA) Gerlach Sánchez, Linda  
Davis (TN) Murphy, Patrick T.  
Deal (GA) Nunes Stupak

## ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). There are 2 minutes remaining in this vote.

□ 1517

Ms. WATERS, Messrs. VISCLOSKEY, QUIGLEY, and Ms. SLAUGHTER changed their vote from “aye” to “no.”

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

## RECORDED VOTE

Mr. FRANK of Massachusetts. Madam Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 331, noes 92, not voting 9, as follows:

[Roll No. 851]

## AYES—331

Abercrombie Carson (IN) Filner  
Ackerman Cassidy Forbes  
Aderholt Castor (FL) Fortenberry  
Adler (NJ) Childers Foster  
Altmire Chu Frank (MA)  
Andrews Clarke Frelinghuysen  
Arcuri Clay Fudge  
Baca Cleaver Gallegly  
Baird Clyburn Giffords  
Baldwin Cohen Gonzalez  
Barrow Connolly (VA) Gordon (TN)  
Bartlett Conyers Graves  
Barton (TX) Cooper Grayson  
Bean Costa Green, Al  
Becerra Costello Green, Gene  
Berkley Courtney Griffith  
Berman Crenshaw Grijalva  
Berry Crowley Gutierrez  
Biggart Cuellar Hall (NY)  
Bilbray Cummings Halvorson  
Bilirakis Dahlkemper Hare  
Bishop (GA) Davis (AL) Harman  
Bishop (NY) Davis (CA) Hastings (FL)  
Blumenauer Davis (IL) Heinrich  
Blunt Davis (TN) Higgins  
Boccheri DeFazio Hill  
Bono Mack DeGette Himes  
Boozman Delahunt Hinchey  
Boren DeLauro Hinojosa  
Boswell Dent Hirono  
Boucher Diaz-Balart, L. Hodes  
Boyd Diaz-Balart, M. Hoekstra  
Brady (PA) Dicks Holden  
Bright Dingell Holt  
Brown (SC) Doggett Honda  
Brown, Corrine Donnelly (IN) Hoyer  
Brown-Waite, Doyle Hunter  
Ginny Dreier Inslee  
Buchanan Driehaus Israel  
Burgess Duncan Issa  
Butterfield Edwards (MD) Jackson (IL)  
Buyer Edwards (TX) Jackson-Lee  
Calvert Ehlers (TX)  
Camp Ellison Johnson (GA)  
Cao Ellsworth Johnson (IL)  
Capito Emerson Johnson, E. B.  
Capps Engel Jones  
Capuano Eshoo Kagen  
Cardoza Etheridge Kagen  
Carnahan Farr Kanjorski  
Carney Fattah Kennedy

Kildee Kilpatrick (MI)  
Kilroy Kilroy  
Kind Kind  
King (NY) King (NY)  
Kingston Kingston  
Kirk Kirk  
Kirkpatrick (AZ) Kirkpatrick (AZ)  
Kissell Kissell  
Klein (FL) Klein (FL)  
Kosmas Kosmas  
Kratovil Kratovil  
Kucinich Kucinich  
Lance Lance  
Langevin Langevin  
Larsen (WA) Larsen (WA)  
Larson (CT) Larson (CT)  
Latham Latham  
LaTourette LaTourette  
Lee (CA) Lee (CA)  
Lee (NY) Lee (NY)  
Levin Levin  
Lewis (GA) Lewis (GA)  
Lipinski Lipinski  
LoBiondo LoBiondo  
Loeb sack Loeb sack  
Lofgren, Zoe Lofgren, Zoe  
Lowey Lowey  
Lujan Lujan  
Lungren, Daniel E. Lungren, Daniel E.  
Lynch Lynch  
Mack Mack  
Maffei Maffei  
Maloney Maloney  
Markey (CO) Markey (CO)  
Markey (MA) Markey (MA)  
Marshall Marshall  
Massa Massa  
Matheson Matheson  
Matsui Matsui  
McCarthy (NY) McCarthy (NY)  
McCaul McCaul  
McCotter McCotter  
McDermott McDermott  
McGovern McGovern  
McIntyre McIntyre  
McMahon McMahon  
McNerney McNerney  
Meek (FL) Meek (FL)  
Meeks (NY) Meeks (NY)  
Melancon Melancon  
Michaud Michaud  
Miller (MI) Miller (MI)  
Miller (NC) Miller (NC)  
Miller, George Miller, George  
Minnick Minnick  
Mitchell Mitchell  
Mollohan Mollohan  
Moore (KS) Moore (KS)  
Moore (WI) Moore (WI)

## NOES—92

Akin Akin  
Alexander Alexander  
Austria Austria  
Bachmann Bachmann  
Bachus Bachus  
Barrett (SC) Barrett (SC)  
Bishop (UT) Bishop (UT)  
Blackburn Blackburn  
Boehner Boehner  
Bonner Bonner  
Boustany Boustany  
Brady (TX) Brady (TX)  
Broun (GA) Broun (GA)  
Burton (IN) Burton (IN)  
Campbell Campbell  
Cantor Cantor  
Carter Carter  
Castle Castle  
Chaffetz Chaffetz  
Coble Coble  
Coffman (CO) Coffman (CO)  
Cole Cole  
Conaway Conaway  
Culberson Culberson  
Davis (KY) Davis (KY)  
Fallin Fallin  
Flake Flake  
Fleming Fleming  
Foxy Foxy  
Franks (AZ) Franks (AZ)  
Garrett (NJ) Garrett (NJ)

Moran (KS) Moran (KS)  
Moran (VA) Moran (VA)  
Murphy (CT) Murphy (CT)  
Murphy (NY) Murphy (NY)  
Murphy, Tim Murphy, Tim  
Murtha Murtha  
Nadler (NY) Nadler (NY)  
Napolitano Napolitano  
Neal (MA) Neal (MA)  
Nye Nye  
Oberstar Oberstar  
Obey Obey  
Oliver Oliver  
Ortiz Ortiz  
Pallone Pallone  
Pascrell Pascrell  
Pastor (AZ) Pastor (AZ)  
Paulsen Paulsen  
Payne Payne  
Perlmutter Perlmutter  
Perriello Perriello  
Peters Peters  
Peterson Peterson  
Petri Petri  
Pingree (ME) Pingree (ME)  
Platts Platts  
Polis (CO) Polis (CO)  
Pomeroy Pomeroy  
Posey Posey  
Price (NC) Price (NC)  
Putnam Putnam  
Quigley Quigley  
Rahall Rahall  
Rangel Rangel  
Rehberg Rehberg  
Reichert Reichert  
Reyes Reyes  
Richardson Richardson  
Rodriguez Rodriguez  
Roe (TN) Roe (TN)  
Rogers (AL) Rogers (AL)  
Rogers (KY) Rogers (KY)  
Rogers (MI) Rogers (MI)  
Rooney Rooney  
Ros-Lehtinen Ros-Lehtinen  
Ross Ross  
Rothman (NJ) Rothman (NJ)  
Roybal-Allard Roybal-Allard  
Ruppersberger Ruppersberger  
Rush Rush  
Ryan (OH) Ryan (OH)  
Salazar Salazar  
Sanchez, Loretta Sanchez, Loretta  
Sarbanes Sarbanes  
Schakowsky Schakowsky  
Schauer Schauer  
Schiff Schiff  
Schock Schock  
Schrader Schrader  
Schwartz Schwartz  
Scott (GA) Scott (GA)

Scott (VA) Scott (VA)  
Serrano Serrano  
Sestak Sestak  
Shea-Porter Shea-Porter  
Sherman Sherman  
Shimkus Shimkus  
Shuler Shuler  
Shuster Shuster  
Simpson Simpson  
Sires Sires  
Skelton Skelton  
Slaughter Slaughter  
Smith (NJ) Smith (NJ)  
Smith (TX) Smith (TX)  
Smith (WA) Smith (WA)  
Snyder Snyder  
Souder Souder  
Space Space  
Speier Speier  
Spratt Spratt  
Stark Stark  
Sutton Sutton  
Tanner Tanner  
Taylor Taylor  
Teague Teague  
Thompson (CA) Thompson (CA)  
Thompson (MS) Thompson (MS)  
Tiberi Tiberi  
Tierney Tierney  
Titus Titus  
Tonko Tonko  
Towns Towns  
Tsongas Tsongas  
Turner Turner  
Upton Upton  
Van Hollen Van Hollen  
Velázquez Velázquez  
Visclosky Visclosky  
Walden Walden  
Walz Walz  
Wamp Wamp  
Wasserman Wasserman  
Schultz Schultz  
Waters Waters  
Watson Watson  
Watt Watt  
Waxman Waxman  
Weiner Weiner  
Welch Welch  
Wexler Wexler  
Whitfield Whitfield  
Wilson (OH) Wilson (OH)  
Wilson (SC) Wilson (SC)  
Wittman Wittman  
Wolf Wolf  
Woolsey Woolsey  
Wu Wu  
Yarmuth Yarmuth  
Young (AK) Young (AK)  
Young (FL) Young (FL)

## NOT VOTING—9

Braley (IA) McCollum Sánchez, Linda  
Davis (TN) Murphy, Patrick T.  
Deal (GA) Nunes Stupak  
Gerlach Gerlach

## ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). There are 2 minutes remaining in the vote.

□ 1525

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Mr. CHANDLER. Madam Speaker, during rollcall vote No. 851 on H.R. 3639, I was unavoidably detained. Had I been present, I would have voted “aye.”

## ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, the Chair will postpone further proceedings today on motions to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote incurs objection under clause 6 of rule XX.

Record votes on postponed questions will be taken later.

## COMMISSIONING OF THE USS “NEW YORK” LPD 21

Mr. TAYLOR. Madam Speaker, I move to suspend the rules and agree to the resolution (H. Res. 856) recognizing the Commissioning of the USS *New York* LPD 21.

The Clerk read the title of the resolution.

The text of the resolution is as follows:

## H. RES. 856

Whereas, on September 11, 2001, terrorists hijacked four civilian aircraft, crashing two of them into the twin towers of the World Trade Center in New York City, a third into the Pentagon, and a fourth near Shanksville, Pennsylvania;

Whereas nearly 3,000 people were killed on September 11, 2001, in the most lethal terrorist attack ever committed against the United States;

Whereas then-Governor George Pataki requested the Navy name a ship involved in counterterrorism efforts after the State of New York shortly after September 11, 2001;

Whereas, on September 6, 2002, the Secretary of the Navy announced the name of the fifth vessel of the San Antonio-class Amphibious Transport Dock ships would be named USS *New York* LPD 21;

Whereas, on March 1, 2008, the USS *New York* LPD 21 was christened at the Avondale Shipyard in Avondale, Louisiana, by Mrs. Dotty England, in a ceremony attended by officials of the New York City fire and police departments as well as surviving family and friends of those lost on September 11, 2001;

Whereas the USS *New York* LPD 21's bow is comprised of 7.5 tons of steel forged from the wreckage of the World Trade Center and

erected onto the vessel in conjunction with a dignified ceremony conducted on September 9, 2003, and attended by officials of the New York City fire and police departments as well as surviving family and friends of those lost on September 11, 2001;

Whereas the USS New York LPD 21 is the newest entry to the Navy's fleet of San Antonio-class Amphibious Transport Dock (LPD) warships;

Whereas the USS New York LPD 21 will serve as an integral part of Navy and Marine Corps Expeditionary Strike Groups and will be able to deploy 700 Marines and associated equipment of the Strike Group Marine Expeditionary Unit;

Whereas the USS New York LPD 21's primary mission will be to deploy amphibious assault capability anywhere in the world, on short notice, and that this force is the only force in the United States Armed Forces with such capability, and that such amphibious operation is central and key to suppression of terrorist organizations;

Whereas the USS New York LPD 21 displaces 24,900 tons at sea, with the capability of cruising at speeds in excess of 22 knots;

Whereas everyday, the men and women of the United States Armed Forces continue global efforts to protect and defend the United States;

Whereas nearly 10 percent of the commissioning crew of USS New York LPD 21 hail from the Empire State;

Whereas the USS New York LPD 21 has a main passageway dubbed "Broadway", the ship's insignia references the Statue of Liberty, the Twin Towers, the New York Police Department, and the Fire Department of New York, and the galley features a pre-9/11 neon outline of the city;

Whereas the motto of the USS New York LPD 21 is "Strength Forged Through Sacrifice. Never Forget"; and

Whereas the USS New York LPD 21 will be officially commissioned November 7, 2009, Commander F. Curtis Jones, United States Navy, commanding, a native son of New York, in New York waters on Pier 88 on the West Side of New York City next to the USS Intrepid CV 11: Now, therefore, be it

*Resolved*, That the House of Representatives—

(1) recognizes the commissioning of the USS New York LPD 21;

(2) congratulates the captain and commissioning crew of the USS New York LPD 21 on the occasion of their vessel entering into the service of the United States Navy;

(3) recognizes the sacrifices made by the men and women in uniform who put themselves in harm's way in order to protect and defend the United States;

(4) honors those who lost their lives at the World Trade Center, the Pentagon, and Shanksville, Pennsylvania, on September 11, 2001; and

(5) recommits itself to the counter-terrorism mission of the USS New York LPD 21 and all the members of the United States Armed Forces.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Mississippi (Mr. TAYLOR) and the gentleman from Colorado (Mr. LAMBORN) each will control 20 minutes.

The Chair recognizes the gentleman from Mississippi.

#### GENERAL LEAVE

Mr. TAYLOR. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to

revise and extend their remarks on the resolution under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

Mr. TAYLOR. Madam Speaker, I yield myself such time as I may consume.

I rise today to support House Resolution 856, recognizing the commissioning of the USS *New York*. I would like to thank my colleague, the gentleman from New York (Mr. NADLER), for his work in bringing this resolution to the floor.

The attacks in New York, Washington, and Pennsylvania on September 11, 2001, will live on in American memory as one of the darkest days in our Nation's history. We can never forget the images of the members of the New York City Fire Department and Police Department, as well as other first responders, who demonstrated unsurpassed courage and bravery as they worked day and night to retrieve and rescue victims from Ground Zero. In the days shortly after September 11, Governor George Pataki asked the Navy to name a ship involved in counterterrorism after the State of New York to honor the sacrifice and strength of the people lost that fateful day.

On November 7, 2009, the fifth San Antonio-class amphibious transport dock ship will be commissioned as the USS *New York* LPD 21. The ship's bow is comprised of 7½ tons of steel forged from the World Trade Center wreckage. F. Curtis Jones, a native son of New York, will serve as Commander. The USS *New York* will be able to deploy 700 marines and equipment to execute amphibious assault capability anywhere in the world on a moment's notice. This ability is critical to our ongoing efforts to suppress terrorist organizations, as well as protect and defend the United States of America.

Madam Speaker, I hope my colleagues will join me in congratulating the captain and commissioning crew of the USS *New York* as their ship joins the United States Navy by supporting H. Res. 856.

As a Mississippian, I want to commend the Mississippi, Louisiana, Texas, and Alabama shipbuilders who built this fine vessel.

I reserve the balance of my time.

Mr. LAMBORN. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I rise in support of House Resolution 856, which was introduced by the gentleman from New York (Mr. NADLER).

This resolution recognizes the commissioning of the USS *New York*, the newest of the U.S. Navy's San Antonio-class ships known as the landing platform dock, or LPD.

□ 1530

As has already been stated by my colleague, this is no ordinary commissioning. On Monday this week, it arrived in New York Harbor to fanfare, including a 21-gun salute near the site of the 2001 terrorist attack.

It was September 2002, in a ceremony aboard the USS *Intrepid* in New York City, that then-Secretary of the Navy Gordon England announced the decision to name the fifth amphibious ship of the San Antonio class the *New York*. During the ceremony, Secretary England stated, "USS *New York* will project American power to the far corners of the Earth and support the cause of freedom well into the 21st century. From the war for independence through the war on terrorism, which we wage today, the courage and heroism of the people of New York have been an inspiration."

During that same ceremony in 2002, Governor Pataki highlighted one special aspect of this new ship: "We are very proud that the twisted steel from the World Trade Center towers will soon be used to forge an even stronger national defense. The USS *New York* will soon be defending freedom and combating terrorism around the globe while also ensuring that the world never forgets the evil attacks of September 11, 2001, and the courage and strength New Yorkers showed in response to terror."

I am honored to speak in favor of this resolution, and I urge my colleagues to join me in support of House Resolution 856.

Madam Speaker, I reserve the balance of my time.

Mr. TAYLOR. Madam Speaker, I yield such time as he may consume to my friend and colleague, the original sponsor of this measure, the gentleman from New York (Mr. NADLER).

Mr. NADLER of New York. I thank the gentleman for yielding.

Madam Speaker, I rise in support of this resolution recognizing the commissioning of the USS *New York* LPD 21.

When the USS *New York* is commissioned on Saturday, it will serve as a memorial of September 11, 2001, in more than just name. Its bow, made from 7.5 tons of steel forged from the wreckage of the World Trade Center, will serve as evidence of America's persistent determination.

This ship will serve in our Navy, will serve to defend freedom, and will serve to recognize the fearless amongst us, those who willingly sacrifice their safety in order to protect our own and our freedom. The bravery and dedication of our men and women in uniform serving overseas never cease to amaze me and can never be forgotten.

I want to commend the captain, Commander Curt Jones, a native New Yorker, and the crew of the USS *New York* and the United States Navy on the

commissioning of our newest naval vessel. The presence of the USS *New York* in the naval fleet will serve as a constant reminder of the sacrifices made by so many Americans on September 11, 2001.

The Navy should be commended for naming the ship the USS *New York* and for naming two future San Antonio class vessels, the USS *Somerset* and the USS *Arlington*, currently under construction in honor of those who gave their lives defending the country at the Pentagon and on United Flight 93 on September 11. This is a fitting tribute to our fallen friends.

Thousands died on September 11, 2001, at the World Trade Center, at the Pentagon, and near Shanksville, Pennsylvania, and many more police, firefighters, first responders, residents, workers, school children, and others continue to suffer terrible health consequences as a result of the collapse of the World Trade Center towers because of the attacks by the terrorists.

I want to take a brief moment today to note and to urge my colleagues to support the 9/11 Health and Compensation Act, H.R. 847, which would provide health care and a path to compensation for the first responders and community members who still suffer the effects of that terrible attack. We ought to honor their continuing sacrifices today as well.

I would like to thank the entire New York delegation who joined me as original cosponsors of this resolution, and also all the additional cosponsors of H. Res. 856 who, by their actions, have helped us move this resolution so quickly to the House floor. I must also thank Chairman SKELTON and his staff for their help in crafting the resolution and building support for its passage. Furthermore, I was pleased that we were able to do this in a bipartisan fashion, and I want to thank Ranking Member MCKEON for cosponsoring the resolution as well.

I am proud to say there are some things that rise above partisan politics. Supporting our troops, honoring those who defend us, and honoring the victims of September 11 is neither Democratic nor Republican; it is simply American. This resolution can be characterized the same way. I urge everyone to support it.

Mr. LAMBORN. Madam Speaker, I am once again urging all of my colleagues to support this wonderful resolution. I am proud that I can do so as well.

Madam Speaker, I yield back the balance of my time.

Mr. TAYLOR. Madam Speaker, again, I would like to thank the gentleman—one of the many gentle men and women from the State of New York—for introducing this resolution, and I encourage every Member to vote for it.

Madam Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Mississippi (Mr. TAYLOR) that the House suspend the rules and agree to the resolution, H. Res. 856.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the ayes have it.

Mr. NADLER of New York. Madam Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

#### HONORING CURRENT AND FORMER FEMALE MEMBERS OF THE ARMED FORCES

Mrs. DAVIS of California. Madam Speaker, I move to suspend the rules and agree to the resolution (H. Res. 868) honoring and recognizing the service and achievements of current and former female members of the Armed Forces.

The Clerk read the title of the resolution.

The text of the resolution is as follows:

#### H. RES. 868

Whereas women are and have historically been an important part of all United States war efforts, voluntarily serving in every military conflict in United States history since the Revolutionary War;

Whereas 34,000 women served in World War I, 400,000 served in World War II, 120,000 served in the Korean War, over 7,000 served in the Vietnam War, and more than 41,000 served in the first Gulf War;

Whereas more than 185,000 women have been deployed in support of Operation Enduring Freedom, Operation Iraqi Freedom, and other missions since 2001;

Whereas over 350 servicewomen have given their lives for the Nation in combat zones since World War I, and more than 85 have been held as prisoners of war;

Whereas over 350,000 women serving in the Armed Forces make up approximately 15 percent of active duty personnel, 15 percent of Reserves, and 17 percent of the National Guard;

Whereas women are now playing an increasingly important role in America's military forces; and

Whereas the women of America's military, past and present, have served their Nation in times of peace and war, at great personal sacrifice for both themselves and their families: Now, therefore, be it

Resolved, That the House of Representatives—

(1) honors and recognizes the service and achievements of current and former female members of the Armed Forces;

(2) encourages all people in the United States to recognize the service and achievements of women in the military and female veterans on Memorial Day;

(3) encourages all people in the United States to learn about the history of service and achievements of women in the military; and

(4) supports groups that raise awareness about the service and achievements of women in the military and female veterans through exhibitions, museums, statues, and other programs and activities.

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from California (Mrs. DAVIS) and the gentleman from Colorado (Mr. LAMBORN) each will control 20 minutes.

The Chair recognizes the gentlewoman from California.

#### GENERAL LEAVE

Mrs. DAVIS of California. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days with which to revise and extend their remarks on the resolution under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from California?

There was no objection.

Mrs. DAVIS of California. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, every time I visit military installations I am constantly impressed by the tremendous job our servicemembers are doing.

Today, I rise to pay special tribute to the women of America's military, past and present, who have served their Nation in peace and at war at great personal sacrifice for both themselves and their families.

With Veterans Day approaching, we should recognize that our servicewomen play an increasingly important role in America's modern military forces, and our country is the better for it.

As Chair of the House Armed Services Subcommittee on Military Personnel and co-Chair of the Women's Caucus Task Force on Women in the Military and Veterans, I am privileged to honor the legacy of servicewomen in the past, the courage with which women serve today, and the enthusiasm of the young women who dream of serving this great Nation in the future. Part of honoring them is asking the tough questions about the expanding roles our servicewomen are taking on. We hear from women in the military, in person and through the media, about their contributions in combat zones and their willingness to risk their lives in defense of their fellow servicemembers, our country, and our families.

Last year, Madam Speaker, I had the opportunity to meet a group of servicewomen that are an extraordinary example of what female servicemembers are capable of. Their mission is to provide culturally sensitive search and engagement activities for combat units deployed in Iraq and Afghanistan. They are referred to as the Lionesses, and this is a very apt name. Like a lioness, their work demands a unique combination of sensitivity and strength on the ground, underlined by loyalty to their units and their country.

In my conversations with them, I was astounded by their work and their bravery. And yet, despite that dedication, these women have encountered difficulties in gaining proper recognition for their service, both within the services and in seeking assistance from the Department of Veterans Affairs.

A recent article in the New York Times underscores this problem. Female veterans worry that their combat-related physical and psychological injuries will not be validated by a military system that defines combat as an all-male activity. Because the military and the VA have not adapted to the reality of women's roles, these veterans often have to work harder than they should to prove their eligibility for benefits and combat titles that they so greatly deserve. For example, servicewomen who volunteered to accompany units during the Battle of Fallujah in 2004 have had to rely on the support of an outside organization to get recognized for their work under fire so that they can receive health care and disability benefits from the Department of Veterans Affairs.

Yet, it's not just agencies that must catch up. Female veterans confront confusion and sometimes outright disbelief about their service from those of us on the homefront. This continuous demand for proof can be exasperating. They deserve better. One veteran explained that she no longer cared about getting money; she simply wanted a little more recognition. In her own words, "Just admit it happened."

Resolutions like this one today before the House help show support for women like the Lionesses and all of the other female servicemembers and veterans, but it is legislation like the National Defense Authorization Act that truly puts our congressional sentiments into action.

Last week, I had the chance to stand by the President as he signed the NDAA into law. Contained in the House report of that bill were provisions to better recognize the service of these courageous women by reviewing the way the additional duties some servicemembers perform are documented.

There were also provisions to ensure a systematic training program that takes into account the unique mission for which Lionesses have volunteered so that they feel just as equipped as their male counterparts when on active duty.

I will continue to work to ensure women in the military are treated equally and with respect, and that they receive all of the training, the support, and the services that they need. They certainly deserve nothing less.

The dedication of women in the Armed Forces and the insight they offer about it is invaluable, but they are adamant that they do not want to be treated differently. They do not seek special recognition, but their

service is just as real as their counterparts'. This resolution recognizes the sacrifices our servicewomen and their families make to keep everyone's family safe.

Madam Speaker, thank you for the opportunity to offer this resolution. I urge my colleagues to join me in supporting it.

I reserve the balance of my time.

Mr. LAMBORN. Madam Speaker, I yield myself such time as I might consume.

Madam Speaker, I rise, too, in support of House Resolution 868, which honors and recognizes the service and achievements of current and former female members of the Armed Forces.

Throughout this great Nation's history, women have answered the call without hesitation to defend our democracy and freedom. Since colonial America, women have fought for our independence and have continued to serve with distinction in some capacity in every one of our Nation's conflicts. Before women were formally allowed to serve in the military, they served on the battlefields as nurses, water-bearers, cooks, and saboteurs.

Since 1901, when the Army Nurse Corps was established and formally granted women rank and military status, hundreds of thousands of women have served with honor in the Armed Forces. They have never shirked responsibility, shied away from tough jobs, or hesitated to go in harm's way; 34,000 women served in World War I, 400,000 in World War II, 120,000 in the Korean War, over 7,500 in Vietnam, and over 41,000 served in Desert Storm, the first Gulf War.

Today, over 350,000 women are serving in our Armed Forces. Over 190,000 have deployed to Iraq, Afghanistan, and other unheard of troubled spots around the world to help rid the world of tyranny and terrorism. They serve on land, at sea, and in the air, performing the technically challenging and dangerous missions we hear of in the news, including pilots, military police, and convoy truck drivers.

These women, just like the men in our Armed Forces, are volunteers. They have always been volunteers. They have chosen to serve and chosen to make the sacrifices that are inherent in military service. They endure long hours, long separations from loved ones, and the hardships and horrors of combat. These women have been wounded, imprisoned, and have paid the ultimate price for their devotion and duty to this great country.

It is without question that our military forces are unsurpassed. It is also undeniable that women have played a significant role in developing the extraordinarily capable military we are so proud of today.

□ 1545

Military women have been pioneers in computer science, space, undersea

exploration, and medicine. Through their accomplishments, America has made great strides in technology, mathematics, and engineering.

Next week, as we take the time to remember our veterans, I ask that all Americans take a moment to thank the men and women who serve today and who have served our Armed Forces in the past. I strongly urge all Members to support this resolution.

I reserve the balance of my time.

Mrs. DAVIS of California. Madam Speaker, I yield 2 minutes to my friend and colleague, the gentlewoman from Illinois (Ms. SCHAKOWSKY).

Ms. SCHAKOWSKY. I thank the gentlewoman from California for yielding to me and for her great leadership on behalf of members of our Armed Forces and, in particular, the women.

Madam Speaker, I rise in strong support of House Resolution 868, a resolution to honor women serving in our military and women veterans.

As co-Chair of the Congressional Caucus for Women's Issues, I am happy to be saluting the 350,000 hardworking, brave and dedicated women serving in our Armed Forces. I particularly want to say a special "thank you" to the 54,000 women veterans, living in my State of Illinois, for their commitment to our freedom.

Women have logged more than 170,000 tours of duty in Iraq and Afghanistan; 30,000 single mothers have served their country in those two wars. They have sacrificed time with their families, time from their careers here at home, and many have sacrificed their lives. It is only right that we recognize them in this Chamber today.

Year after year, we have seen the numbers of both women veterans and active duty members increase. Women are in leadership roles, and they have ascended to the highest ranks of our Armed Forces through hard work and often in the face of extreme opposition. We will continue to stand with them.

I am proud to stand in support of House Resolution 868. I urge my colleagues to support the thousands of women servicemembers and veterans by passing H. Res. 868.

Mr. LAMBORN. Madam Speaker, I yield such time as she might consume to the gentlewoman from Oklahoma (Ms. FALLIN). I want to say that she has been a welcomed and strong addition to the Armed Services Committee.

Ms. FALLIN. Madam Speaker, as a member of the Armed Services Committee and also as co-Chair of the Women's Congressional Caucus, I am very proud to support H. Res. 868, honoring the service and achievements of women in the Armed Forces and our female veterans.

With Veterans Day just around the corner, I know that many Americans will stop this week and will thank veterans in their families or in their communities. They may meet a young soldier back from a tour of duty in Iraq

and will quietly thank God that they were born in a Nation where freedom is valued and where our ideals that we have fought for are still alive and well, or they may pause to remember a loved one who is no longer with us who proudly wore the uniform.

Today, it is becoming likely that a veteran may be a woman. While men still outnumber women in the Armed Forces, military service is no longer a career choice for men only. There are many to whom we must offer thanks who are women. We have had over 200,000 women in the military, serving in all five branches, in the National Guard and in the Reserves. These women are heroes and are role models for their willingness to step in harm's way. When women choose to serve their country, they prove that there is no profession and no honor out of the reach for women of America today.

As we have since the Revolution, women are playing a vital role in the defense of our Nation. Today, deployed in two different theaters and in every corner of the world, women have played a significant role in our victory and success; but as we remember their accomplishments, we must remember those who have made the ultimate sacrifice. Since the United States went to war in Iraq and Afghanistan, over 122 women in uniform have lost their lives in support of our ongoing operations. Their sacrifice and the sacrifice of their families is very painful, but it is a sacrifice of freedom.

When faced with such sadness, it is easy to feel only the loss. While it is our duty to mourn the fallen, it is also our duty to honor those who have served with dignity and who have returned to take their places back among society. Those women today have answered that call. They chose to serve in the military. They did so because they believed in America—in freedom and in the power of our American ideals—and they believed in the need to protect those ideals here and abroad.

Today, there are more women than ever choosing to serve our country. They are pilots; they are engineers; they are commanders of ships; they are military police; they are nurses. These transitions, by the way, have not come without controversy. We have, or are working through, many of them and are finding that women are bringing new and vital skill sets to today's modern military with courage and, certainly, with honor.

By supporting House Resolution 868, we can send a clear message to our women in the military and to our women veterans in all areas that your service is not forgotten, that we honor and respect you and that we appreciate your courage, your patriotism, and your sacrifice. Today, we recognize that service.

Mr. LAMBORN. Madam Speaker, I yield back the balance of my time.

Mrs. DAVIS of California. Madam Speaker, it has really been an honor to present this resolution today.

I was recalling the trip that we last made to Kandahar, Afghanistan. We had an opportunity to meet with about 40-plus, maybe 50, women there in all of the different services, just asking them about why they were there and about why they joined the service. The kind of work they were doing was truly inspiring; and, of course, they always wanted to tell us about their children, who were at home.

These women are providing a tremendous service to our country. We honor them, and I certainly encourage and know that all of my colleagues will be supporting this resolution.

Mr. SKELTON. Madam Speaker, I rise to express my support for H. Res. 868 and to request that the following exchange of letters regarding this resolution be included in the CONGRESSIONAL RECORD.

HOUSE OF REPRESENTATIVES,  
COMMITTEE ON VETERANS' AFFAIRS,  
Washington, DC, October 28, 2009.

Hon. IKE SKELTON,  
Chairman, Committee on Armed Services, House  
of Representatives, Rayburn House Office  
Building, Washington, DC.

DEAR MR. CHAIRMAN: On October 23, 2009, H. Res. 868, "Honoring and recognizing the service and achievements of current and former female members of the Armed Forces," was introduced in the House of Representatives. This measure was sequentially referred to the Committee on Veterans' Affairs.

The Committee on Veterans' Affairs recognizes the importance of H. Res. 868 and the need to move this resolution expeditiously in order to honor the current and former female members of the Armed Forces. Therefore, while we have valid jurisdictional claims to this resolution, the Committee on Veterans' Affairs will waive further consideration of H. Res. 868. The Committee does so with the understanding that by waiving further consideration of this resolution it does not waive any future jurisdictional claims over similar measures.

I would appreciate the inclusion of this letter and a copy of your response in the Congressional Record during consideration of H. Res. 868 on the House floor.

Sincerely,

BOB FILNER,  
Chairman.

HOUSE OF REPRESENTATIVES,  
COMMITTEE ON ARMED SERVICES,  
Washington, DC, November 2, 2009.

Hon. BOB FILNER,  
Chairman, House Committee on Veterans' Affairs,  
Cannon House Office Building, Washington, DC.

DEAR MR. CHAIRMAN: Thank you for your letter regarding House Resolution 868, "Honoring and recognizing the service and achievements of current and former female members of the Armed Forces." This measure was referred to the Committee on Armed Services, and in addition to the Committee on Veterans' Affairs, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

I agree that the Committee on Veterans' Affairs has certain valid jurisdictional

claims to this resolution, and I appreciate your decision to waive further consideration of H. Res. 868 in the interest of expediting consideration of this important measure. I agree that by agreeing to waive further consideration, the Committee on Veterans' Affairs is not waiving its jurisdictional claims over similar measures in the future.

During consideration of this measure on the House floor, I will ask that this exchange of letters be included in the Congressional Record.

Very truly yours,

IKE SKELTON,  
Chairman.

Ms. JACKSON-LEE of Texas. Madam Speaker, I rise before you today in support of H. Res. 868, "Honoring and recognizing the service and achievements of current and former female members of the Armed Forces." I would like to thank my colleague, Representative DAVIS, for introducing this resolution.

As a member of the Congressional Caucus for Women's Issues I think that it is important to recognize our sisters in uniform. Today over 350,000 women serving in the Armed Forces make up approximately 15 percent of active duty personnel, 15 percent of Reserves, and 17 percent of the National Guard. Women are often overlooked and underappreciated in the military even though women are and have historically been an important part of all United States war efforts, voluntarily serving in every military conflict in United States history since the Revolutionary War.

The first American woman soldier was Deborah Sampson of Massachusetts. She enlisted as a Continental Army soldier under the name of "Robert Shurtliff." She served for 3 years in the Revolutionary War and was wounded twice; she cut a musket ball out of her own thigh so no doctor would find out she was a woman. Finally, at the end of the hostilities her secret was discovered—even so, George Washington gave her an honorable discharge. She later lectured on her experiences and became a champion of women's rights.

The Woman's Army Auxiliary Corps was established in the United States in 1941. However, political pressures stalled the attempts to create more roles for women in the American Armed Forces. Women saw combat during World War II, first as nurses in the Pearl Harbor attacks on December 7, 1941. The Woman's Naval Reserve and Marine Corps Women's Reserve were also created during this conflict. In July 1943 a bill was signed removing "auxiliary" from the Women's Army Auxiliary Corps, making it an official part of the regular army. In 1944 the Women's Army Corps, WAC, arrived in the Pacific and landed in Normandy on D-day. During the war, 67 Army nurses and 16 Navy nurses were captured and spent 3 years as Japanese prisoners of war. There were more than 350,000 American women who served during World War II and 16 were killed in action; in total, they gained over 1,500 medals, citations, and commendations.

Women are now playing an increasingly important role in America's military forces; more than 185,000 women have been deployed in support of Operation Enduring Freedom, Operation Iraqi Freedom, and other missions since 2001.

Today, women can serve on American combat ships, including in command roles. Female

enlisted members and officers can hold staff positions in every branch of the Army except infantry and armor, although they can in fact serve on the staffs of infantry and armor units at division level and above, and be members of Special Operations Forces. Women can fly military aircraft and make up 2 percent of all pilots in the U.S. military.

However, women are still limited solely due to gender. Women are not permitted to serve on submarines or to participate in Special Forces programs such as Navy SEALs. Women enlisted soldiers are barred from serving in Infantry, Special Forces, Artillery, Armor, and Air Defense Artillery. So far the positions closest to combat open to women in the U.S. Army are in the Military Police, where women operate machine-guns on armoured Humvees, guarding truck convoys. Although Army regulations bar women from infantry assignments, some female MPs are detailed to accompany male infantry units to handle search and interrogation of Iraqi suspects.

I urge my colleagues and all Americans to honor and recognize the service and achievements of current and former female members of the Armed Forces. Over 350 servicewomen have given their lives for the Nation in combat zones since World War I, and more than 85 have been held as prisoners of war; 34,000 women served in World War I, 350,000 served in World War II, 120,000 served in the Korean war, over 7,000 served in the Vietnam war, and more than 41,000 served in the first Gulf war.

Madam Speaker, the women of America's military, past and present, have served their Nation in times of peace and war, at great personal sacrifice for both themselves and their families. I hope that this Congress will recognize the service and achievements of women in the military.

Mrs. DAVIS of California. I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from California (Mrs. DAVIS) that the House suspend the rules and agree to the resolution, H. Res. 868.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the ayes have it.

Mrs. DAVIS of California. Madam Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

#### CONGRATULATING FIRST UNITED STATES AIR FORCE ACADEMY GRADUATION CLASS ON ITS 50TH ANNIVERSARY

Mrs. DAVIS of California. Madam Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 139) congratulating the first graduating class of the United States Air Force Academy on their

50th graduation anniversary and recognizing their contributions to the Nation, as amended.

The Clerk read the title of the concurrent resolution.

The text of the concurrent resolution is as follows:

#### H. CON. RES. 139

Whereas, on April 1, 1954, President Dwight D. Eisenhower signed legislation establishing the United States Air Force Academy to prepare young men for careers as Air Force officers;

Whereas, on July 11, 1955, the first class entered the Air Force Academy, attending classes in temporary facilities at Lowry Air Force Base in Denver, Colorado;

Whereas the Air Force Academy moved to its permanent home near Colorado Springs, Colorado, in August 1958;

Whereas the first class of 207 cadets graduated June 3, 1959, at the Air Force Academy in Colorado Springs, Colorado;

Whereas in 1964, President Lyndon B. Johnson signed legislation authorizing each of the Service Academies to expand enrollment from 2,529 to 4,417 students, and today, over 4,000 cadets attend the Air Force Academy;

Whereas 50 classes and more than 41,000 cadets have graduated from the Air Force Academy in its 54-year history;

Whereas the mission of the Air Force Academy is to educate, train, and inspire outstanding young men and women to become Air Force officers of character and to prepare and motivate them to lead the Air Force in its service to the Nation;

Whereas the Air Force Academy is recognized worldwide as the premier developer of air, space, and cyberspace officers and leaders with impeccable character and knowledge; and

Whereas, June 3, 2009, marks the 50th anniversary of the first graduating class of the Air Force Academy: Now, therefore, be it

*Resolved by the House of Representatives (the Senate concurring), That Congress—*

(1) congratulates the 207 graduates (157 surviving as of April 2009) of the first United States Air Force Academy class on the 50th anniversary of their graduation;

(2) acknowledges the continued excellence of the United States Air Force Academy and its critical role in the defense of the United States; and

(3) recognizes the outstanding service to the Nation that graduates from the United States Air Force Academy have provided.

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from California (Mrs. DAVIS) and the gentleman from Colorado (Mr. LAMBORN) each will control 20 minutes.

The Chair recognizes the gentlewoman from California.

#### GENERAL LEAVE

Mrs. DAVIS of California. Madam Speaker, I ask unanimous consent that all Members have 5 legislative days within which to revise and extend their remarks on the concurrent resolution under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from California?

There was no objection.

Mrs. DAVIS of California. I yield myself such time as I may consume.

Madam Speaker, I rise in support of House Concurrent Resolution 139, con-

gratulating the first graduating class of the United States Air Force Academy on their 50th graduation anniversary and recognizing their many contributions to our Nation.

I thank my colleague, Mr. LAMBORN of Colorado, for introducing this measure.

According to Forbes Magazine, the United States Air Force Academy is among the most selective public colleges in the United States. It is among only five colleges with a special mission of educating, training and inspiring young men and women in the military to serve as officers of character and preparing and motivating them to lead in its service to our great Nation. As such, the Air Force Academy has developed a strong reputation that distinguishes itself for consistently producing America's future leaders both in military service and in our society.

The youngest of the five United States service academies, the United States Air Force Academy has produced excellent officers. Since opening its doors in 1955, the academy has produced over 41,000 cadets, which includes 495 general officers, 35 Rhodes Scholars, 10 Marshall Scholars, 13 Harry S. Truman Scholars, 116 Kennedy School of Government Scholars, 92 Guggenheim Fellows, and 32 Gearhart scholarships to study in France.

Additionally, academy graduates have served in every major military conflict since the Vietnam War with the highest level of integrity and honor and, at times, paying the ultimate price in service to America, as 172 graduates have been killed in combat and another 36 were repatriated prisoners of war. Two graduates are combat aces, and one is a Medal of Honor recipient.

Their contributions to every industry and component of American life has been significant: 34 astronauts, the second highest number of astronauts of any higher learning institution, are Air Force Academy graduates. There are Olympic gold medal winners, NFL Super Bowl championship winners, and CEOs and presidents of Fortune 500 corporations. Truly, the United States Air Force Academy produces professional officers who have the knowledge, the character and the motivation which make them leaders in our military and in other aspects of society.

House Concurrent Resolution 139 is our way, as the United States Congress, of recognizing the exemplary service and contributions made by the United States Air Force Academy to the Air Force and to our Nation. This resolution also commends the first graduating class of the United States Air Force on their 50th anniversary and on their significant contributions to shaping the Air Force Academy and the Air Force to the excellence it is known for today.

I urge my colleagues to join me in honoring the United States Air Force Academy.



I reserve the balance of my time.

Mr. LAMBORN. I yield myself such time as I may consume.

I rise in support of House Concurrent Resolution 139, and I thank the gentlewoman from California for her kind and supportive remarks. Like me, she is a member of the Armed Services Committee, and I enjoy serving with her on that committee.

Madam Speaker, I introduced this resolution on June 3 of this year. That date was significant because the resolution celebrates the 50th anniversary of the first graduating class of the United States Air Force Academy.

Of the 306 men who entered the newly created Air Force Academy on July 11, 1955, 207 completed the grueling coursework and the transition to military life; 205 graduates were commissioned as second lieutenants in the Air Force; one was commissioned as a second lieutenant in the U.S. Marine Corps; and one graduate was medically disqualified.

The class included one football Academic All-American, Brock Strom. The academy's top graduate, Lieutenant General (now retired) Bradley C. Hosmer, went on to study at Oxford University as a Rhodes Scholar—the first of 35 Rhodes Scholars who graduated from the academy.

The class of '59 spent its first 3 years in refurbished World War II barracks at Lowry Air Force Base in Denver. The upperclassmen were stand-ins—active duty Air Force officers, some who had graduated from other military academies. The cadet uniforms and the campus in Colorado Springs were still works in progress. By graduation day, June 3 of 1959, the academy had earned full academic accreditation.

Ninety percent of the graduates entered pilot training and were already certified pilots in fighter and bomber aircraft during the 1962 Cuban Missile Crisis. The remainder became navigators or pursued other Air Force specialties. During the Cold War, they saw action in the Southeast Asia theater and in the Vietnam war, and they served in major commands of the day, including strategic air command, tactical air command and military airlift command.

Since that historic day in 1959, members of the class went on to serve with distinction, as has been noted already, as astronaut, general, Thunderbird pilot, CEO, doctor, farmer, entrepreneur, commander of major commands, and vice chief of staff of the Air Force.

Sixty-five percent of that graduating class served until retirement. Many of them went on to second careers in fields including defense, finance, management, education, and religion. Fifteen graduates' impressive careers culminated in being selected as general officers with three members achieving the rank of four-star general. When

Secretary of the Air Force James Douglas, Jr., awarded the diplomas in 1959, he applauded the advances in science and technology that the new graduates would embrace and explore.

The Colorado Springs campus was chosen as the ideal site of the Air Force Academy because of its unlimited training opportunities and majestic beauty.

□ 1600

The famous aviator Charles Lindbergh, a member of the site selection committee, even rented a small plane and confirmed the area was fit for flight training.

Additionally, business leaders of Colorado Springs met with local ranchers who owned the land along the Rampart Range north of town. Most agreed to sell if the site were chosen. In tribute to Colorado's strong military commitment, State leaders offered \$1 million to be put towards the purchase of the present day 18,500-acre campus, an investment that continues to yield immeasurable returns to our Nation.

The Class of '59 created traditions and set high standards for the 41,000 cadets to date who have followed. I am honored to represent the United States Air Force Academy in my district, and I personally congratulate all the living members of the Class of '59 for their 50 years of service to our great Nation, both in their military and civilian successes.

I urge my colleagues to join me in support of House Concurrent Resolution 139.

Madam Speaker, I reserve the balance of my time.

Mrs. DAVIS of California. Madam Speaker, I yield 3 minutes to my friend and colleague, the gentleman from Colorado (Mr. SALAZAR).

Mr. SALAZAR. I want to thank the gentlewoman for recognizing me.

Madam Speaker, I rise today in support of H. Con. Res. 139, a bill congratulating the first graduating class of the United States Air Force Academy on their 50th graduation anniversary. I want to commend my colleague the gentleman from Colorado (Mr. LAMBORN) for introducing this resolution.

The Air Force Academy is located just a few miles from my district, the Third Congressional District, in my home State of Colorado. Since its creation after being signed into law on April 1, 1954, by President Dwight D. Eisenhower, the Air Force Academy has not only stood as an integral training ground for our Nation's officer corps, but is recognized nationally as a pillar of education.

Since the swearing in of the 306 young men who made up the first class, many of our Nation's best and brightest have started their careers in the Air Force Academy. Each year around this time I receive applications from

students across my district looking for recommendations to attend the Academy. I am proud to lend my support to hard-working students from the Third Congressional District of Colorado who are looking to advance their education while also serving their Nation. Today's cadets enthusiastically hope to follow in the steps of their predecessors who we are honoring today.

Madam Speaker, I encourage Members on both sides of the aisle to support this measure, and congratulate those who took the first step as part of the initial graduating class 50 years ago.

Once again, I commend the gentleman from Colorado (Mr. LAMBORN).

Mr. LAMBORN. Madam Speaker, I want to thank my colleague and friend from Colorado for his kind and supportive remarks.

At this time, I would like to yield such time as he may consume to my friend, the gentleman from Tennessee (Mr. WAMP).

Mr. WAMP. Madam Speaker, I thank all of the authors and supporters of this resolution, but I come as any Member of the House of Representatives could come, because we all have the distinct privilege of nominating and then appointing great Americans to all of our service academies. So, literally, today all 435 of us could come and tell stories of great young people who commit to serve their country in a very meaningful way that we have had the privilege of nominating and appointing to the United States Air Force Academy or the other service academies.

But I come today in support of this resolution honoring the United States Air Force Academy because a year-and-a-half ago, in February of 2008, I had the distinct privilege and one of my highest privileges in my 15 years of service of being the keynote speaker at National Character Day at the United States Air Force Academy.

When you fly in to Colorado Springs and you are able to go and be greeted there in the way that you are and have dinner with them, and then go into Arnold Auditorium and you are able to present to 2,800 cadets in their dress blues at the United States Air Force Academy, it will raise the hair on the back of your neck because it is such an exhilarating and inspirational experience.

But something happened during the hour that I spent with them that I want to share with the House today. It was supernatural, in a way, but it speaks to the culture, the commitment of those cadets at the United States Air Force Academy, and in doing so honors this 50th anniversary of the first graduating class at the United States Air Force Academy.

They did not know that I committed John Stuart Mill's quote to memory, nor did I know that they all have to



commit John Stuart Mill's quote to memory. So in the course of my address, I began to say, War is an ugly thing, but not the ugliest of things. The decayed and degraded state of moral and patriotic feeling which thinks that nothing is worth war is much worse. A person who has nothing for which they are willing to fight, nothing they care more about than their personal safety, is a miserable creature who has no chance of ever being free unless those very freedoms are made and kept by better persons than themselves.

I was saying that so that they would understand that the people, the better persons than themselves that John Stuart Mill was talking about, is those 2,800 cadets and all those that came before them. What I didn't know is they all have to memorize it. So I was no more than about six words into it and it became a chorus of 2,801 persons together quoting John Stuart Mill's eternal quote about the value of our men and women in uniform who will stand between the threat and our civilian population and preserve our way of life, and we must remember that our very freedoms are kept by those better persons.

So, today we honor, rightly, this particular institution which has made extraordinary contributions to our way of life, our freedom, everything that we hold dear, all of our constitutional liberties. These men and women dedicate themselves to excellence and to service above and beyond all measure, and we honor every single one of them today and all of our service academies.

I commend so much this resolution to the House, and I know that we will all stand together to honor the United States Air Force Academy.

Mr. COFFMAN of Colorado. Madam Speaker, I want to take a moment to comment on H. Con. Res. 139, congratulating the first graduating class of the United States Air Force Academy on their 50th graduation anniversary and recognizing their contributions to the Nation.

I should start by complimenting my friend and colleague, Representative DOUG LAMBORN, for his effort to pass this resolution.

It is Colorado's honor to host the Air Force Academy. The fact that we are the home of one of our nation's premier training grounds for the best and brightest of our nation's youth is an immense point of pride to every citizen of our state. Driving down 1-25 into Colorado Springs and seeing the Academy and its famous chapel nestled in the foothills of the Rockies is always gratifying.

The 157 surviving members of the first United States Air Force Academy class, recognized today on the 50th anniversary of their graduation, were leaders not only in their own years of service to our country, but also in that they were a vanguard establishing the Air Force Academy, the city of Colorado Springs, and the State of Colorado as important and productive centers of military excellence. I am pleased we passed this resolution.

Mr. LAMBORN. Madam Speaker, I yield back the balance of my time.

Mrs. DAVIS of California. Madam Speaker, I have no further requests at this time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from California (Mrs. DAVIS) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 139, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the ayes have it.

Mrs. DAVIS of California. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

#### RECOGNIZING THE EFFORTS OF CAREER AND TECHNICAL COLLEGES

Mr. BISHOP of New York. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 880) recognizing the efforts of career and technical colleges to educate and train workers for positions in high demand industries, as amended.

The Clerk read the title of the resolution.

The text of the resolution is as follows:

#### H. RES. 880

Whereas the Bureau of Labor Statistics estimated that 15,600,000 new jobs will be added to the labor force between 2006 and 2016, with population shifts and new technologies fueling job growth;

Whereas more than 80 percent of respondents in the 2005 National Association of Manufacturers Skills Gap report indicated that they are experiencing a shortage of qualified workers;

Whereas postsecondary institutions offering career and technical education provide the real-world situations necessary to engage students and prepare them for the workforce;

Whereas postsecondary institutions offering career and technical education provide an environment where students can apply fundamental academic skills and employability skills to complex job-related problems;

Whereas postsecondary institutions offering career and technical education connections with local business leaders allow the use of workforce readiness credentials to spread from the ground up in a way that is mutually beneficial to students and employers;

Whereas 14 percent of all employers reported being a member of a career and technical education advisory committee in a Census Bureau Survey; and

Whereas employers assist postsecondary institutions offering career and technical education in developing programs that reflect the needs of industry: Now, therefore, be it

*Resolved*, That the House of Representatives—

(1) recognizes the efforts of postsecondary institutions offering career and technical education to educate and train workers for positions in high-demand industries; and

(2) supports the connection postsecondary institutions offering career and technical education provide between employers and students.

The SPEAKER pro tempore (Ms. JACKSON-LEE of Texas). Pursuant to the rule, the gentleman from New York (Mr. BISHOP) and the gentleman from Louisiana (Mr. CASSIDY) each will control 20 minutes.

The Chair recognizes the gentleman from New York.

#### GENERAL LEAVE

Mr. BISHOP of New York. Madam Speaker, I request 5 legislative days during which Members may revise and extend and insert extraneous material on H. Res. 880 into the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. BISHOP of New York. I rise today in support of H. Res. 880, which recognizes the efforts of career and technical education colleges that educate and train workers for positions in high-demand industries. This resolution supports partnerships between career and technical colleges, employers, and students so that students can be prepared to enter high demand technical fields.

Career and technical education colleges help students apply practical information learned in the classroom to employment. CTE schools serve a diverse set of students. They serve secondary students who need job skills to transition into the workplace and employees who need to upgrade their skills for new technologies. Employers work with CTE programs to hire fully competent, well-trained workers for professional technical positions.

As America has evolved from an industrial economy to a knowledge economy, the globalization of business and industry requires workers to acquire core knowledge and skills that can be applied in a wide and rapidly changing variety of work settings.

With the changing business industry, employers want more competent, skilled workers, but they are having a difficult time finding these workers. More than 80 percent of respondents in the 2005 National Association of Manufacturers Skills Gap Report indicate that employers are experiencing a shortage of qualified workers. CTEs are situated to respond rapidly to changing job market demand to prepare potential employees.

Along with CTEs, community colleges help spur the economy and provide a skilled workforce that contributes more than \$31 billion to the Nation's economy. This year, community colleges in this country will award more than 500,000 associate degrees and 270,000 associate certificates.

In September of this year, the House of Representatives passed the Student Aid and Fiscal Responsibility Act. This bill includes an unprecedented investment of \$10 billion into community colleges by encouraging partnerships between community colleges, States, businesses, job training, and adult education programs, and by creating a new competitive grant program for community colleges to improve instruction, bolster student services and implement other innovative reforms. Community colleges play an important role in career and technical education, and in many communities are leading the way in providing workforce development programs that meet the needs of local businesses.

Madam Speaker, I again wish to express my support for H. Res. 880, and I thank Congressman CASSIDY for bringing this bill forward. I urge my colleagues to support this resolution.

I reserve the balance of my time.

Mr. CASSIDY. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I rise today in support of House Resolution 880, recognizing the efforts of post-secondary institutions offering career and technical education to educate and train workers for positions in high-demand industries.

Post-secondary institutions that offer career and technical education are an incredibly valuable resource to our communities. These institutions enable adults in the community to improve their lives by furthering their education in order to improve their employability and working life. Career and technical education enables students to learn specific skills or earn a certificate or a degree that employers require or prefer.

Many institutions that offer career and technical education also have valuable connections with employers in the community. These connections allow these institutions to better serve their students. Employers in high-demand industries are able to communicate with post-secondary institutions what skills, certificates and degrees they expect potential employees to exhibit. The close relationship between post-secondary institutions that offer career and technical education and employers provide students, and potential employees, with a valuable advantage.

The Bureau of Labor Statistics estimated that 15.6 million new jobs will be added to the labor force between 2006 and 2016. These industries and employers also benefit from the unique relationship between post-secondary institutions that offer career and technical education and local business leaders. The relationship enables industries and businesses to communicate where there are experience and employment gaps and what skills they require for such positions.

Post-secondary institutions that offer career and technical education provide students and the business community with an invaluable connection.

I am honored to support this resolution, and I ask my colleagues to join me.

Madam Speaker, I yield back the balance of my time.

Mr. BISHOP of New York. Madam Speaker, we have no further speakers on our side, so with my gratitude to Mr. CASSIDY, I urge my colleagues to approve this resolution, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York (Mr. BISHOP) that the House suspend the rules and agree to the resolution, H. Res. 880, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the ayes have it.

Mr. BISHOP of New York. Madam Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

The point of no quorum is considered withdrawn.

□ 1615

#### RECOGNIZING THE TRAGIC LOSS OF LIFE THAT OCCURRED AT THE CHERRY MINE IN CHERRY, ILLINOIS

Mr. BISHOP of New York. Madam Speaker, I move to suspend the rules and agree to the resolution (H. Res. 752) recognizing the tragic loss of life that occurred at the Cherry Mine in Cherry, Illinois, on its 100th anniversary and the contributions to worker and mine safety that resulted from this and other disasters, as amended.

The Clerk read the title of the resolution.

The text of the resolution is as follows:

H. RES. 752

Whereas the St. Paul Mine Company Mine in Cherry, a town in Bureau County, Illinois, began operation in 1905;

Whereas the mine supplied the Chicago, Milwaukee, and St. Paul Railroad with 300,000 tons of coal annually for its locomotives;

Whereas coal remains an abundant source of energy in Illinois and across the country;

Whereas the majority of Cherry miners were immigrants working to achieve the American dream;

Whereas 490 men and boys were working in the mine on Saturday, November 13, 1909;

Whereas 10 of the Cherry miners were boys under the age of 16, including one who was 10 years old, were hired illegally;

Whereas United Mine Workers represented miners at the Cherry Mine in 1909 and con-

tinued to represent workers throughout the United States and Canada;

Whereas according to the Mine Safety and Health Administration, there were 2,642 coal mining fatalities in the United States in 1909;

Whereas the main and secondary shafts of the Cherry Mine contained wooden stairs and ladders;

Whereas an electrical outage at the Cherry Mine caused the workers to light kerosene lanterns and torches;

Whereas a torch caught fire 500 feet below the surface in the Cherry Mine;

Whereas the efforts to redirect the fire caused flammable material such as wood to ignite and rapidly spread the fire;

Whereas two shafts were closed to smother the fire;

Whereas the shaft closings cut off oxygen to the workers, and allowed "black damp", a mixture of deadly carbon dioxide and nitrogen to spread through the mine;

Whereas over 200 miners managed to make their way to the surface to escape the fire;

Whereas a group of miners, lead by John Bundy, showed incredible courage by journeying down the mine shaft 6 times to rescue their fellow miners;

Whereas on the seventh attempt the miners caught fire and burned to death;

Whereas a group of 21 miners, who later became known as the "eight-day men", sealed themselves from the fire;

Whereas the "eight-day men" exhibited behavior that can only be described as selfless when helping each other survive;

Whereas a team rescued these men after 8 grueling days underground in torturous conditions;

Whereas 259 miners, including 4 children, perished in what became known as the Great Cherry Mine Disaster;

Whereas the United Mine Workers pressed successfully for mine safety reforms following this and other disasters like it;

Whereas the United States Bureau of Mines was created in 1910 as a result of disasters like the Great Cherry Mine Disaster;

Whereas the State of Illinois reacted by passing stronger mine safety regulations;

Whereas those mine regulations included requiring mine owners to maintain fire-fighting equipment and require certain workers to pass safety tests;

Whereas the Illinois' Worker's Compensation Act of 1911 recognized the dangers that mine workers faced and continue to face today; and

Whereas November 13, 2009, marks the 100th anniversary of the Great Cherry Mine Disaster: Now, therefore, be it

*Resolved*, That the House of Representatives—

(1) honors the 259 miners lost in the tragedy known as the Great Cherry Mine Disaster on its 100th anniversary; and

(2) supports the important safety measures that were enacted as a result of this terrible incident and others around the country like it.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New York (Mr. BISHOP) and the gentleman from Louisiana (Mr. CASSIDY) each will control 20 minutes.

The Chair recognizes the gentleman from New York.

GENERAL LEAVE

Mr. BISHOP of New York. Madam Speaker, I request 5 legislative days during which Members may revise and

extend and insert extraneous material on H. Res. 752 into the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. BISHOP of New York. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I rise today in support of House Resolution 752, memorializing the 100th anniversary of the Cherry Mine disaster of November 13, 1909, in Cherry, Illinois.

This landmark mine disaster, which took the lives of 259 men and children and left 600 grieving widows and orphans, should not be forgotten. I commend Representative HALVORSON for bringing this important chapter in labor history to the Nation's attention.

The fire began in the Cherry Mine after an electricity outage, when burning fuel from a makeshift torch dripped on an underground hay bale. With no firefighting equipment in the mine, workers tried to douse the flames with water from an underground mule stable. The flames grew and the timber structures lining the mine quickly ignited. Some diggers in the lower level noticed the smoke and suggested to their supervisors that they get out. They were told to continue working. Other workers were reluctant to leave for fear of losing income as they were paid on a piecework basis. Company supervisors waited about an hour before making a systematic attempt to alert workers about the fire. Some of the immigrant workers spoke little English and could not understand the orders to evacuate. No fire drill had ever been practiced. At some point, the mine fan reversed, sucking flames further up the shaft. The ventilation system broke and the escape stairway was consumed in flames.

The 259 deaths from this 1909 mine disaster, coupled with 362 killed from the Monongah disaster in West Virginia in 1907, spurred Congress to create the Bureau of Mines in 1910 as a research agency. However, without enforcement powers, the bureau failed to produce significant changes.

In 1947, amidst fierce industry opposition, the bureau was finally given the power to inspect mines. A mine explosion in West Frankfort, Illinois, which took 119 lives, spurred Congress to give the Bureau of Mines the power to close mines for safety violations in 1951. Many more accidents followed until Congress created the Federal Coal Mine Safety and Health Act of 1969. That law requires quarterly mine inspections and authorized fines for violations.

In 2006, miner deaths soared to a 10-year high with disasters at Sago and Aracoma Mines in West Virginia and the Darby Mine in Kentucky. Congress responded by passing the Mine Improvement and New Emergency Re-

sponse Act, the MINER Act, which requires mine operators to provide caches of air, have rescue teams organized, develop wireless communications, and install tracking systems to locate miners who are trapped underground.

This resolution also recognizes the pioneering work of the United Mine Workers in pressing successfully for mine safety reforms in the wake of the Cherry Mine disaster and other disasters like it.

It is often said that our mine safety laws had been written with the blood of miners. That is, it is only after horrific disasters like the Cherry Mine or Sago that progress is made because of the ensuing public outcry.

While improvements have been made in recent years, more work needs to be done to make sure miners return home safely to their families at the end of each shift. Preventable disasters still occur, like the tragic loss of life we saw at Crandall Canyon Mine in Utah in 2007. Although there have been nearly 100 years of effort in Congress since the Cherry Mine disaster to protect underground miners, this resolution reminds us that our work is far from over.

Madam Speaker, once again I express my support for H. Res. 752. I thank Representative HALVORSON for bringing this forward. I urge my colleagues to support this measure.

Madam Speaker, I reserve the balance of my time.

Mr. CASSIDY. Madam Speaker, I yield myself such time as I may consume.

I rise today in support of House Resolution 752, recognizing the tragic loss of life that occurred at the Cherry Mine in Cherry, Illinois, on its 100th anniversary and the contributions to worker and mine safety that resulted from this and other disasters.

On November 13, 1909, 400 miners went to work at the Cherry Mine in Cherry, Illinois. This mine was one of the first to have electric lighting, but on the day of the disaster, the system was not working. Instead, miners were using torches to light their way. Mules were being used to bring coal to the mine elevator, and the hay to feed those mules provided the fuel that started the fire that ultimately killed 263 miners. Miraculously, 200 miners working that day escaped. Even more amazing, though, 21 miners survived for 8 days underground with no food and little water.

In order to suppress the fire, those above ground sealed the mine. Conditions below ground deteriorated rapidly. Led by mine manager George Eddy, the 21 miners who survived went into the recesses of the mine to escape the fire and seek good air. Ultimately, the miners barricaded themselves deep in the mine, attempting to block out the bad air. They were able to pool water from seepage in their shelter.

The tragedy of the Cherry Mine has sadly been repeated in one form or another throughout the history of mining. With this resolution, we honor those lost in the mine. We also honor those who demonstrated their courage and resolve in the face of the tragedy. Just as we see in today's miners, those trapped in the mine fought hard to stay alive. The men above ground did everything they could to put out the fire with the hope of saving their fellow workers.

I rise today to recognize the loss at the Cherry Mine and to honor those who work in our mines today. I ask my colleagues to support this resolution.

Madam Speaker, I reserve the balance of my time.

Mr. BISHOP of New York. Madam Speaker, I am pleased to yield 5 minutes to the gentlewoman from Illinois (Mrs. HALVORSON), the sponsor of this legislation.

Mrs. HALVORSON. I thank the gentleman for yielding.

Madam Speaker, I rise today in support of House Resolution 752, a resolution I introduced to commemorate the 100th anniversary of the Great Cherry Mine Disaster.

The Great Cherry Mine Disaster was a tragic coal mining accident that took place in Cherry, Illinois, which is a small town in Bureau County in my district. House Resolution 752 recognizes the historical significance of this mining accident, which led to the passage of landmark mine safety and worker safety legislation both in Illinois and at the Federal level.

I want to thank Chairman GEORGE MILLER and Ranking Member JOHN KLINE for bringing my resolution to the floor. And I also want to thank Calla Brown, Jody Calemine, and Richard Miller from the majority staff on Education and Labor for working with my staff on this resolution.

Madam Speaker, on Saturday, November 13, 1909, 419 employees of the St. Paul Mine Company showed up to work at the company's coal mine in Cherry. The majority of them were immigrants working to achieve the American Dream. Most were Italian or Slovenian, but others were German, Greek, French, Irish, and British. These workers were represented by the United Mine Workers of America.

In 1909, coal mining was an extremely dangerous line of work. In that year alone, there were 2,642 recorded coal mining fatalities in the United States. Two years earlier, coal mining disasters in West Virginia and Pennsylvania resulted in over 200 deaths. These deaths and disasters were often the result of inadequate workplace safety regulation, which was the case in Cherry.

On November 13, 1909, the workers at Cherry were using kerosene lanterns and torches because of an electric outage in the mine. About 500 feet below

the surface, one of the torches ignited some flammable material and the fire spread rapidly. Two shafts were closed in an attempt to smother the fire, which cut off oxygen to many of the workers. The lack of oxygen created a mixture of carbon dioxide and nitrogen known as black damp, which made its way throughout the mine, suffocating many of the workers.

Two hundred of the miners quickly made their way to the surface, but the rest were trapped in the mine. One of the mine managers, a man named John Bundy, led a courageous group of miners back into the mine to rescue their fellow workers. On the seventh trip, Bundy and his rescue group caught fire and burned to death. Another group of 21 miners, who became known as the "eight-day men," managed to survive in the mine for 8 days before they were rescued. When the disaster was over, 259 miners had died, including four children.

The Great Cherry Mine Disaster was the third deadliest mine disaster in American history. The Great Cherry Mine Disaster and other similar mine disasters moved lawmakers to enact landmark mine safety and worker safety reforms. In 1910, the Illinois General Assembly passed legislation requiring mine operators to maintain firefighting equipment and certain mine workers to pass safety tests. Also that year, Congress passed legislation creating the U.S. Bureau of Mines. In 1911, Illinois enacted its first worker compensation law.

The United Mine Workers and organized labor played a very important role in pushing for these reforms. Over the last century, we have made great progress on mine safety, but we still have more work to do. We learned this the hard way with the tragic Sago Mine disaster in West Virginia in 2006, which killed 13 coal miners.

As we move forward, we need to continue to update and improve our Nation's mine safety laws. House Resolution 752 honors the memory of those who lost their lives in the Great Cherry Mine Disaster and recognizes the important mine safety reforms enacted as a result of this and similar disasters. As we look into the future, it's important that we always remember the important lessons of the past.

Madam Speaker, I ask my colleagues to join me in supporting House Resolution 752.

Mr. CASSIDY. Madam Speaker, I yield back the balance of my time.

Mr. BISHOP of New York. Madam Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York (Mr. BISHOP) that the House suspend the rules and agree to the resolution, H. Res. 752, as amended.

The question was taken; and (two-thirds being in the affirmative) the

rules were suspended and the resolution, as amended, was agreed to.

A motion to reconsider was laid on the table.

#### NATIONAL FAMILY LITERACY DAY

Mr. BISHOP of New York. Madam Speaker, I move to suspend the rules and agree to the resolution (H. Res. 878) expressing support for the goals and ideals of National Family Literacy Day.

The Clerk read the title of the resolution.

The text of the resolution is as follows:

#### H. RES. 878

Whereas National Family Literacy Day is held on November 1;

Whereas children spend 5 times as much time outside the classroom as they do in school, and a parent's education and income are 2 of the biggest factors in determining a child's success in school;

Whereas children who participate in family literacy programs demonstrate significant gains in oral language skills and score higher on standardized tests;

Whereas National Family Literacy Day encourages parents to become involved in their children's education and schoolwork;

Whereas approximately 8,000 literacy programs and schools will hold readings, workshops, book drives, and family activities at libraries and community centers across the country in honor of National Family Literacy Day; and

Whereas National Family Literacy Day highlights multigenerational learning, the importance of literacy for children and adults, and parental involvement in the education of their children: Now, therefore, be it

*Resolved*, That the House of Representatives—

(1) supports the goals and ideals of National Family Literacy Day; and

(2) recognizes the benefits of parental involvement in a child's education.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New York (Mr. BISHOP) and the gentleman from Louisiana (Mr. CASSIDY) each will control 20 minutes.

The Chair recognizes the gentleman from New York.

#### GENERAL LEAVE

Mr. BISHOP of New York. Madam Speaker, I request 5 legislative days during which Members may revise and extend and insert extraneous materials on H. Res. 878 into the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. BISHOP of New York. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I rise today in support of H. Res. 878, which recognizes November 1, 2009, as National Family Literacy Day and acknowledges the benefits of parent involvement in their child's education.

Family literacy programs address the literacy needs and challenges children and families in our country deal with

every day. These programs provide parents with knowledge and skills that allow them to be their child's first and most important teacher. Family literacy programs also help parents to be active participants in their child's education. For children, family literacy programs help increase children's literary and oral skills. In addition, research has shown these programs can help improve children's scores on standardized tests.

National Family Literacy Day promotes the importance of literacy for both children and adults. According to the National Center for Family Literacy, parent-child literacy activities, such as parents reading to their children, improve children's language skills and increase their interest in books.

Parent-child literacy activities also benefit low-literacy adults. It helps adults build confidence and develop their literary skills and contributes to self-sufficiency for adults and families across the Nation, leading to better jobs, workforce readiness, and higher education degrees.

In honor of National Family Literacy Day, approximately 8,000 literacy programs and schools will hold workshops, book drives, and family reading activities in libraries and community centers across the Nation.

Madam Speaker, once again I express my support for National Family Literacy Day. I thank Representative PLATTS for bringing this resolution forward, and I urge my colleagues to support this resolution.

Madam Speaker, I reserve the balance of my time.

□ 1630

Mr. CASSIDY. Madam Speaker, I yield myself such time as I may consume.

I rise today in support of House Resolution 878, expressing support for the goals and ideals of National Family Literacy Day. Literacy is an issue that is important to people of all ages, from kindergarteners just learning to read to adults whose everyday lives require reading skills. Problems with literacy also affect people of all ages. Children with literacy problems are far more likely to drop out of school before they graduate than those without literacy problems. In addition, approximately 85 percent of all juvenile offenders have problems reading.

Approximately one in seven American adults have difficulty reading, according to the most recent literacy report. Difficulty reading spans generations and affects people of all ages. Family literacy encourages parents and children to learn together and encourages parents to become involved in their children's education. Multigenerational learning enables every willing family member to engage in learning and improve their ability to read.

Children specifically can benefit from family literacy in a number of ways. Children spend a large majority of their time outside of school. Engaging children in reading in their family environment allows children to extend their learning time beyond the time they spend in school. Additionally, research has shown that children whose parents are involved in their education perform better in school. Family literacy encourages families to learn together and support each other in improving their literacy skills.

National Family Literacy Day took place November 1 this year. On this day, schools, libraries and community centers were encouraged to hold book drives, family reading events, workshops and other events that encourage families to read together. Approximately 8,000 literacy programs and schools held events to honor National Family Literacy Day this year. By recognizing National Family Literacy Day, we honor the importance of families learning and reading together.

I am honored to support this resolution, and I ask my colleagues to join me.

Mr. PLATTS. Madam Speaker, I rise today in support of House Resolution 878. I am proud to have introduced this resolution that recognizes the benefits of parental involvement in a child's education, and supports the goals and ideals of National Family Literacy Day.

As we all know, the role of a parent or guardian in a child's life is one that is irreplaceable and lasts far beyond the adolescent years. Today, I stand in recognition of the importance of family literacy in the education of children. While a child's education at school is irrevocably important, we must fully recognize that education begins at home.

National Family Literacy Day occurred on November 1st of this year reminding us of the integral role parents play in their child's pathway to learning. Approximately 8,000 literacy programs and schools held readings, workshops, book drives, and family activities at libraries and community centers across the country in honor of this important day.

Research has shown that a parent's education and income are the two largest indicators of a child's success in school. Given that children spend five times as much time outside of the classroom as in school, we must continue to focus on the importance of family literacy programs. Children who participate in family literacy programs demonstrate significant gains in oral language skills and score higher on standardized tests. The future and prosperity of our great Nation is dependent on the quality of education that our children receive today.

That is why I stand in support of this resolution, recognizing the goals and ideals of Family Literacy Day. I ask for my colleagues' support of House Resolution 878.

Ms. JACKSON-LEE of Texas. Madam Speaker, I rise today in support of H. Res. 878, which "expresses support for the goals and ideals of National Family Literacy Day." A great American, Fredrick Douglass, once said

"Once you learn to read, you will be forever free." For America, literacy is the key that unlocks the door to our success, to our defense, and to our freedom.

Illiteracy should be considered the root of many problems in our lives today; it leads to alienation of students in school and their community. For example, in my home district, the 18th District of Texas approximately 68 percent of those arrested, 75 percent of welfare dependants, 85 percent of dropouts, and 72 percent of the unemployed are identified as functionally illiterate (Youth Plus). One in three adults in the greater Houston metropolitan area functions at the lowest level of literacy, they are unable to read and comprehend a menu or a street map, fill out a job application, or read the directions on a medicine bottle (Literacy Advance of Houston). And in Texas, 85 percent of teenagers appearing in juvenile court are functionally illiterate (Youth Plus).

No skill can be rendered more crucial to our future, nor to a democratic and prosperous society, than literacy. Literacy and knowledge is the premise of reaching one's full potential as an upstanding citizen. President Lyndon B. Johnson once said, "A book is the most effective weapon against intolerance and ignorance," in order for us to utilize this priceless weapon, we must educate one another.

Our children are made readers on the laps of their parents. Therefore the literacy of parents has a direct impact on the educational success of their children. Parental involvement is an intricate part of a child's success and as the level of parental involvement increases the education level of the child increases. Unfortunately, according to the National Adult Literacy Survey, 42 million adult Americans can't read. Another 50 million can recognize so few printed words they are limited to a 4th or 5th grade reading level; one out of every four teenagers drops out of high school, and of those who graduate, one out of every four has the equivalent or less of an eighth grade education. Parents in family literacy programs have proven to become more involved in their children's education and gain the tools necessary to obtain a job or find better employment.

A parent's education and income are two of the biggest factors in determining a child's success in school. Advocating literacy across America will result in children's lives becoming more stable, lead to higher achievement in the classroom and success in all future endeavors becomes inevitable. Studies have shown that two important factors that influence student achievement are the mother's education level and poverty in the home. It is clear that if adults are not part of the learning equation, then there is no long-term solution to our Nation's education challenges. The National Assessment of Adult Literacy reports that 90,000,000 adults lack the literacy, numeracy, or English language skills to succeed at home, in the workplace, and in society. National Family Literacy Day would highlight the need for our government to support efforts to ensure each and every citizen has the necessary literacy skills to succeed at home, at work, and in society. I support the designation of National Family Literacy Day on November 1, which encourages parents to become involved in their children's education and schoolwork, as well as people across the United States to

support programs to assist those in need of adult education and family literacy programs.

Children who participate in family literacy programs demonstrate significant gains in oral language skills and score higher on standardized tests. I call upon the Federal Government, States, localities, schools, libraries, non-profit organizations, community-based organizations, consumer advocates, institutions of higher education, labor unions, and businesses to support increased access to adult education and family literacy programs to ensure a literate society.

Mr. CASSIDY. I yield back the balance of my time.

Mr. BISHOP of New York. I yield back the balance of my time as well, Madam Speaker.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York (Mr. BISHOP) that the House suspend the rules and agree to the resolution, H. Res. 878.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the ayes have it.

Mr. BISHOP of New York. Madam Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

The point of no quorum is considered withdrawn.

#### ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, proceedings will resume on motions to suspend the rules previously postponed.

Votes will be taken in the following order:

H. Res. 863, by the yeas and nays;

H. Res. 641, by the yeas and nays;

H. Res. 711, de novo;

H. Res. 856, by the yeas and nays.

The first electronic vote will be conducted as a 15-minute vote. Remaining electronic votes will be conducted as 5-minute votes.

#### WORLD PNEUMONIA DAY

The SPEAKER pro tempore. The unfinished business is the vote on the motion to suspend the rules and agree to the resolution, H. Res. 863, as amended, on which the yeas and nays were ordered.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York (Mr. ENGEL) that the House suspend the rules and agree to the resolution, H. Res. 863, as amended.

The vote was taken by electronic device, and there were—yeas 421, nays 1, not voting 10, as follows:

[Roll No. 852]

YEAS—421

Abercrombie	Courtney	Hoekstra
Ackerman	Crenshaw	Holden
Aderholt	Crowley	Holt
Adler (NJ)	Cuellar	Honda
Akin	Culberson	Hoyer
Alexander	Cummings	Hunter
Altmire	Dahlkemper	Inglis
Andrews	Davis (AL)	Inslée
Arcuri	Davis (CA)	Israel
Austria	Davis (IL)	Issa
Baca	Davis (KY)	Jackson (IL)
Bachmann	Davis (TN)	Jackson-Lee
Bachus	DeFazio	(TX)
Baird	DeGette	Jenkins
Baldwin	Delahunt	Johnson (GA)
Barrett (SC)	DeLauro	Johnson (IL)
Barrow	Dent	Johnson, E. B.
Bartlett	Diaz-Balart, L.	Johnson, Sam
Barton (TX)	Diaz-Balart, M.	Jones
Bean	Dicks	Kagen
Becerra	Dingell	Kanjorski
Berkley	Doggett	Kaptur
Berman	Donnelly (IN)	Kennedy
Berry	Doyle	Killdeer
Biggert	Dreier	Kilpatrick (MI)
Billbray	Driebeaus	Kilroy
Bilirakis	Duncan	Kind
Bishop (GA)	Edwards (MD)	King (IA)
Bishop (NY)	Edwards (TX)	King (NY)
Blackburn	Ehlers	Kingston
Blumenauer	Ellison	Kirk
Blunt	Ellsworth	Kirkpatrick (AZ)
Bocieri	Emerson	Kissell
Boehner	Engel	Klein (FL)
Bonner	Eshoo	Kline (MN)
Bono Mack	Etheridge	Kosmas
Boozman	Fallin	Kratovil
Boren	Farr	Kucinich
Boswell	Fattah	Lamborn
Boucher	Filner	Lance
Boustany	Flake	Langevin
Boyd	Fleming	Larsen (WA)
Brady (PA)	Forbes	Larson (CT)
Brady (TX)	Fortenberry	Latham
Bright	Foster	LaTourette
Broun (GA)	Fox	Latta
Brown (SC)	Frank (MA)	Lee (CA)
Brown, Corrine	Franks (AZ)	Lee (NY)
Brown-Waite,	Frelinghuysen	Levin
Ginny	Fudge	Lewis (CA)
Buchanan	Gallely	Lewis (GA)
Burgess	Garrett (NJ)	Linder
Burton (IN)	Gerlach	Lipinski
Butterfield	Giffords	LoBiondo
Buyer	Gingrey (GA)	Loebsack
Calvert	Gohmert	Loftgren, Zoe
Camp	Gonzalez	Lowe
Campbell	Goodlatte	Lucas
Cantor	Gordon (TN)	Luetkemeyer
Cao	Granger	Lujan
Capito	Graves	Lummis
Capps	Grayson	Lungren, Daniel
Cardoza	Green, Al	E.
Carnahan	Green, Gene	Lynch
Carney	Griffith	Mack
Carson (IN)	Grijalva	Maffei
Carter	Guthrie	Maloney
Cassidy	Gutierrez	Manzullo
Castle	Hall (NY)	Marchant
Castor (FL)	Hall (TX)	Markey (CO)
Chaffetz	Halvorson	Markey (MA)
Chandler	Hare	Marshall
Childers	Harman	Massa
Chu	Harper	Matheson
Clarke	Hastings (FL)	Matsui
Cleaver	Hastings (WA)	McCarthy (CA)
Clyburn	Heinrich	McCarthy (NY)
Coble	Heller	McCauley
Coffman (CO)	Hensarling	McClintock
Cohen	Herger	McCollum
Cole	Herseth Sandlin	McCotter
Conaway	Higgins	McDermott
Connolly (VA)	Hill	McGovern
Conyers	Himes	McHenry
Cooper	Hinche	McIntyre
Costa	Hinojosa	McKeon
Costello	Hirono	McMahon
	Hodes	

McMorris	Putnam	Smith (WA)
Rodgers	Quigley	Snyder
McNerney	Radanovich	Souder
Meek (FL)	Rahall	Space
Meeks (NY)	Rangel	Speier
Melancon	Rehberg	Spratt
Mica	Reichert	Stark
Michaud	Reyes	Stearns
Miller (FL)	Richardson	Sullivan
Miller (MI)	Rodriguez	Sutton
Miller (NC)	Roe (TN)	Tanner
Miller, Gary	Rogers (AL)	Taylor
Miller, George	Rogers (KY)	Teague
Minnick	Rogers (MI)	Terry
Mitchell	Rohrabacher	Thompson (CA)
Mollohan	Rooney	Thompson (MS)
Moore (KS)	Ros-Lehtinen	Thompson (PA)
Moore (WI)	Roskam	Thornberry
Moran (KS)	Ross	Tiahrt
Moran (VA)	Rothman (NJ)	Tiberi
Murphy (CT)	Roybal-Allard	Tierney
Murphy (NY)	Royce	Titus
Murphy, Tim	Ruppersberger	Tonko
Murtha	Rush	Towns
Myrick	Ryan (OH)	Tsongas
Nadler (NY)	Ryan (WI)	Turner
Napolitano	Salazar	Upton
Neal (MA)	Sanchez, Loretta	Van Hollen
Neugebauer	Sarbanes	Velázquez
Nye	Scalise	Visclosky
Oberstar	Schakowsky	Walden
Obey	Schauer	Walz
Olson	Schiff	Wamp
Oliver	Schmidt	Wasserman
Ortiz	Schock	Schultz
Pallone	Schrader	Waters
Pascarell	Schwartz	Watson
Pastor (AZ)	Scott (GA)	Watt
Paulsen	Scott (VA)	Waxman
Payne	Sensenbrenner	Weiner
Pence	Sessions	Welch
Perlmutter	Sestak	Westmoreland
Perriello	Shadegg	Wexler
Peters	Shea-Porter	Whitfield
Peterson	Sherman	Wilson (OH)
Petri	Shimkus	Wilson (SC)
Pingree (ME)	Shuler	Wittman
Pitts	Simpson	Wolf
Platts	Sires	Woolsey
Poe (TX)	Skelton	Wu
Polis (CO)	Slaughter	Yarmuth
Pomeroy	Smith (NE)	Young (AK)
Posey	Smith (NJ)	Young (FL)
Price (GA)	Smith (TX)	
Price (NC)		

NAYS—1

Paul

NOT VOTING—10

Bishop (UT)	Jordan (OH)	Sánchez, Linda
Braley (IA)	Murphy, Patrick	T.
Capuano	Nunes	Shuster
Deal (GA)		Stupak

□ 1659

Mr. PAUL changed his vote from “yea” to “nay.”

Mr. ROONEY changed his vote from “nay” to yea.”

So (two-thirds being in the affirmative) the rules were suspended and the resolution, as amended, was agreed to.

The result of the vote was announced as above recorded.

The title of the resolution was amended so as to read: “Recognizing the scourge of pneumonia, urging the United States and the world to mobilize cooperation and focus resources to fight pneumonia and save children’s lives, and recognizing November 2 as World Pneumonia Day.”.

A motion to reconsider was laid on the table.

## RECOGNIZING 60TH ANNIVERSARY OF RADIO FREE EUROPE/RADIO LIBERTY

The SPEAKER pro tempore. The unfinished business is the vote on the motion to suspend the rules and agree to the resolution, H. Res. 641, as amended, on which the yeas and nays were ordered.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. BERMAN) that the House suspend the rules and agree to the resolution, H. Res. 641, as amended.

The vote was taken by electronic device, and there were—yeas 422, nays 1, not voting 9, as follows:

[Roll No. 853]

YEAS—422

Abercrombie	Carney	Forbes
Ackerman	Carson (IN)	Fortenberry
Aderholt	Carter	Foster
Adler (NJ)	Cassidy	Fox
Akin	Castle	Frank (MA)
Alexander	Castor (FL)	Franks (AZ)
Altmire	Chaffetz	Frelinghuysen
Andrews	Chandler	Fudge
Arcuri	Childers	Gallely
Austria	Chu	Garrett (NJ)
Baca	Clarke	Gerlach
Bachmann	Clay	Giffords
Bachus	Cleaver	Gingrey (GA)
Baird	Clyburn	Gohmert
Baldwin	Coble	Gonzalez
Barrett (SC)	Coffman (CO)	Goodlatte
Barrow	Cohen	Gordon (TN)
Bartlett	Cole	Granger
Barton (TX)	Conaway	Graves
Bean	Connolly (VA)	Grayson
Becerra	Conyers	Green, Al
Berkley	Cooper	Green, Gene
Berman	Costa	Griffith
Berry	Costello	Guthrie
Biggert	Courtney	Gutierrez
Billbray	Crenshaw	Hall (NY)
Bilirakis	Crowley	Hall (TX)
Bishop (GA)	Cuellar	Halvorson
Bishop (NY)	Culberson	Hare
Bishop (UT)	Cummings	Harman
Blackburn	Dahlkemper	Harper
Blumenauer	Davis (AL)	Hastings (FL)
Blunt	Davis (CA)	Hastings (WA)
Bocieri	Davis (IL)	Heinrich
Boehner	Davis (KY)	Heller
Bonner	Davis (TN)	Hensarling
Bono Mack	DeFazio	Herger
Boozman	DeGette	Herseth Sandlin
Boren	Delahunt	Higgins
Boswell	DeLauro	Hill
Boucher	Dent	Himes
Boustany	Diaz-Balart, L.	Hinche
Boyd	Diaz-Balart, M.	Hinojosa
Brady (PA)	Dicks	Hirono
Brady (TX)	Dingell	Hodes
Bright	Doggett	Hoekstra
Broun (GA)	Donnelly (IN)	Holden
Brown (SC)	Doyle	Holt
Brown, Corrine	Dreier	Honda
Brown-Waite,	Driebeaus	Hoyer
Ginny	Duncan	Hunter
Buchanan	Edwards (MD)	Inglis
Burgess	Edwards (TX)	Inslée
Burton (IN)	Ehlers	Israel
Butterfield	Ellison	Issa
Buyer	Ellsworth	Jackson (IL)
Calvert	Emerson	Jackson-Lee
Camp	Engel	(TX)
Campbell	Eshoo	Jenkins
Cantor	Etheridge	Johnson (GA)
Cao	Fallin	Johnson (IL)
Capito	Farr	Johnson, E. B.
Capps	Fattah	Johnson, Sam
Capuano	Filner	Jones
Cardoza	Flake	Kagen
Carnahan	Fleming	Kanjorski

Kaptur	Miller, Gary	Schmidt
Kennedy	Miller, George	Schock
Kildee	Minnick	Schrader
Kilpatrick (MI)	Mitchell	Schwartz
Kilroy	Mollohan	Scott (GA)
Kind	Moore (KS)	Scott (VA)
King (IA)	Moore (WI)	Sensenbrenner
King (NY)	Moran (KS)	Serrano
Kingston	Moran (VA)	Sessions
Kirk	Murphy (CT)	Sestak
Kirkpatrick (AZ)	Murphy (NY)	Shadegg
Kissell	Murphy, Tim	Shea-Porter
Klein (FL)	Murtha	Sherman
Kline (MN)	Myrick	Shimkus
Kosmas	Nadler (NY)	Shuler
Kratovil	Napolitano	Simpson
Kucinich	Neal (MA)	Sires
Lamborn	Neugebauer	Skelton
Lance	Nye	Slaughter
Langevin	Oberstar	Smith (NE)
Larsen (WA)	Obey	Smith (NJ)
Larson (CT)	Olson	Smith (TX)
Latham	Oliver	Smith (WA)
LaTourette	Ortiz	Snyder
Latta	Pallone	Souder
Lee (CA)	Pascrell	Space
Lee (NY)	Pastor (AZ)	Speier
Levin	Paulsen	Spratt
Lewis (CA)	Payne	Stark
Lewis (GA)	Pence	Stearns
Linder	Perlmutter	Sullivan
Lipinski	Perriello	Sutton
LoBiondo	Peters	Tanner
Loeback	Peterson	Taylor
Lofgren, Zoe	Petri	Teague
Lowey	Pingree (ME)	Terry
Lucas	Pitts	Thompson (CA)
Luetkemeyer	Platts	Thompson (MS)
Luján	Poe (TX)	Thompson (PA)
Lummis	Polis (CO)	Thornberry
Lungren, Daniel	Pomeroy	Tiahrt
E.	Posey	Tiberi
Lynch	Price (GA)	Tierney
Mack	Price (NC)	Titus
Maffei	Putnam	Tonko
Maloney	Quigley	Towns
Manzullo	Radanovich	Tsongas
Marchant	Rahall	Turner
Markey (CO)	Rangel	Upton
Markey (MA)	Rehberg	Van Hollen
Marshall	Reichert	Velázquez
Massa	Reyes	Visclosky
Matheson	Richardson	Walden
Matsui	Rodriguez	Walz
McCarthy (CA)	Roe (TN)	Wamp
McCarthy (NY)	Rogers (AL)	Wasserman
McCaul	Rogers (KY)	Schultz
McClintock	Rogers (MI)	Waters
McCollum	Rohrabacher	Watson
McCotter	Roose	Watt
McDermott	Ros-Lehtinen	Andrews
McGovern	Roskam	Arcuri
McHenry	Ross	Weiner
McIntyre	Rothman (NJ)	Welch
McKeon	Roybal-Allard	Westmoreland
McMahon	Royce	Wexler
McMorris	Ruppersberger	Whitfield
Rodgers	Rush	Wilson (OH)
McNerney	Ryan (OH)	Wilson (SC)
Meek (FL)	Ryan (WI)	Wittman
Meeks (NY)	Salazar	Wolf
Melancon	Sanchez, Loretta	Woolsey
Mica	Sarbanes	Wu
Michaud	Scalise	Yarmuth
Miller (FL)	Schakowsky	Young (AK)
Miller (MI)	Schauer	Young (FL)
Miller (NC)	Schiff	

## NAYS—1

Paul

## NOT VOTING—9

Braley (IA)	Murphy, Patrick	Shuster
Deal (GA)	Nunes	Stupak
Grijalva	Sánchez, Linda	
Jordan (OH)	T.	

## ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). Members are advised there are 2 minutes left in the vote.

□ 1706

So (two-thirds being in the affirmative) the rules were suspended and the resolution, as amended, was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

# CALLING ON THE U.S. AND INTERNATIONAL COMMUNITY TO ADDRESS THE NEEDS OF SRI LANKA'S TAMIL INTERNALLY DISPLACED PERSONS

The SPEAKER pro tempore. The unfinished business is the question on suspending the rules and agreeing to the resolution, H. Res. 711, as amended.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. BERMAN) that the House suspend the rules and agree to the resolution, H. Res. 711, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the ayes have it.

## RECORDED VOTE

Mr. SCHAUER. Madam Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 421, noes 1, not voting 10, as follows:

[Roll No. 854]

## AYES—421

Abercrombie	Boucher	Coble
Ackerman	Boustany	Coffman (CO)
Adlerholt	Boyd	Cohen
Adler (NJ)	Brady (PA)	Cole
Akin	Brady (TX)	Conaway
Alexander	Bright	Connolly (VA)
Altmire	Brown (GA)	Conyers
Andrews	Brown (SC)	Cooper
Arcuri	Brown, Corrine	Costa
Austria	Brown-Waite,	Costello
Baca	Ginny	Courtney
Bachmann	Buchanan	Crenshaw
Bachus	Burgess	Crowley
Baird	Burton (IN)	Cuellar
Baldwin	Butterfield	Culberson
Barrett (SC)	Buyer	Cummings
Barrow	Calvert	Dahlkemper
Bartlett	Camp	Davis (AL)
Barton (TX)	Campbell	Davis (CA)
Bean	Cantor	Davis (IL)
Becerra	Cao	Davis (KY)
Berkley	Capito	Davis (TN)
Berman	Capps	DeFazio
Berry	Capuano	DeGette
Biggert	Cardoza	Delahunt
Bilbray	Carahan	DeLauro
Bilirakis	Carney	Dent
Bishop (GA)	Carson (IN)	Diaz-Balart, L.
Bishop (NY)	Carter	Diaz-Balart, M.
Bishop (UT)	Cassidy	Dicks
Blackburn	Castle	Dingell
Blumenauer	Castor (FL)	Doggett
Blunt	Chaffetz	Donnelly (IN)
Boccieri	Chandler	Doyle
Boehner	Childers	Dreier
Bonner	Chu	Driehaus
Bono Mack	Clarke	Duncan
Boozman	Clay	Edwards (MD)
Boren	Cleaver	Edwards (TX)
Boswell	Clyburn	Ehlers
Ellison		
Ellsworth		
Emerson		
Engel		
Eshoo		
Etheridge		
Fallin		
Farr		
Fattah		
Filner		
Flake		
Fleming		
Forbes		
Fortenberry		
Foster		
Fox		
Fox		
Frank (MA)		
Franks (AZ)		
Frelinghuysen		
Fudge		
Gallegly		
Garrett (NJ)		
Gerlach		
Giffords		
Gingrey (GA)		
Gohmert		
Gonzalez		
Goodlatte		
Gordon (TN)		
Granger		
Graves		
Grayson		
Green, Al		
Green, Gene		
Griffith		
Guthrie		
Gutierrez		
Hall (NY)		
Hall (TX)		
Halvorson		
Hare		
Harman		
Harper		
Hastings (FL)		
Hastings (WA)		
Heinrich		
Heller		
Hensarling		
Herger		
Herseth Sandlin		
Higgins		
Hill		
Himes		
Hinchey		
Hinojosa		
Hirono		
Hodes		
Hoekstra		
Holden		
Holt		
Honda		
Hoyer		
Hunter		
Inglis		
Inslee		
Israel		
Issa		
Jackson (IL)		
Jackson-Lee		
(TX)		
Jenkins		
Johnson (GA)		
Johnson (IL)		
Johnson, E. B.		
Johnson, Sam		
Jones		
Kagen		
Kanjorski		
Kaptur		
Kennedy		
Kildee		
Kilpatrick (MI)		
Kilroy		
Kind		
King (IA)		
King (NY)		
Kingston		
Kirk		
Kirkpatrick (AZ)		
Kissell		
Klein (FL)		
Kline (MN)		
Kosmas		
Kratovil		
Kucinich		
Lamborn		
Lance		
Langevin		
Larsen (WA)		
Latham		
LaTourette		
Latta		
Lee (CA)		
Lee (NY)		
Levin		
Lewis (CA)		
Lewis (GA)		
Linder		
Lipinski		
LoBiondo		
Loeback		
Lofgren, Zoe		
Lowey		
Lucas		
Luetkemeyer		
Luján		
Lummis		
Lungren, Daniel		
E.		
Lynch		
Mack		
Maffei		
Maloney		
Manzullo		
Marchant		
Markey (CO)		
Markey (MA)		
Marshall		
Massa		
Matheson		
Matsui		
McCarthy (CA)		
McCarthy (NY)		
McCaul		
McClintock		
McCollum		
McCotter		
McDermott		
McGovern		
McHenry		
McIntyre		
McKeon		
McMahon		
McMorris		
Rodgers		
McNerney		
Meek (FL)		
Meeks (NY)		
Melancon		
Mica		
Michaud		
Miller (FL)		
Miller (MI)		
Miller (NC)		
Poe (TX)		
Polis (CO)		
Pomeroy		
Posey		
Price (GA)		
Price (NC)		
Putnam		
Quigley		
Radanovich		
Rahall		
Rangel		
Rehberg		
Reichert		
Reyes		
Richardson		
Rodriguez		
Roe (TN)		
Rogers (AL)		
Rogers (KY)		
Rogers (MI)		
Rohrabacher		
Roose		
Ros-Lehtinen		
Roskam		
Ross		
Rothman (NJ)		
Roybal-Allard		
Royce		
Ruppersberger		
Rush		
Ryan (OH)		
Ryan (WI)		
Salazar		
Sanchez, Loretta		
Sarbanes		
Scalise		
Schakowsky		
Schauer		
Schiff		
Schmidt		
Schock		
Schrader		
Schwartz		
Scott (GA)		
Scott (VA)		
Sensenbrenner		
Serrano		
Sessions		
Sestak		
Shadegg		
Shea-Porter		
Sherman		
Shimkus		
Shuler		
Simpson		
Sires		
Skelton		
Slaughter		
Smith (NE)		
Smith (NJ)		
Smith (TX)		
Smith (WA)		
Snyder		
Souder		
Space		
Speier		
Spratt		
Stark		
Stearns		
Sullivan		
Sutton		
Tanner		
Taylor		
Teague		
Terry		
Thompson (CA)		
Thompson (MS)		
Thompson (PA)		
Thornberry		
Tiahrt		
Tiberi		
Tierney		
Titus		
Tonko		
Towns		
Tsongas		
Turner		
Upton		
Van Hollen		
Velázquez		
Visclosky		
Walden		
Walz		
Wamp		
Wasserman		
Schultz		



Waters	Westmoreland	Wolf
Watson	Wexler	Woolsey
Watt	Whitfield	Wu
Waxman	Wilson (OH)	Yarmuth
Weiner	Wilson (SC)	Young (AK)
Welch	Wittman	Young (FL)

## NOES—1

Paul

## NOT VOTING—10

Braley (IA)	Larson (CT)	Sánchez, Linda
Deal (GA)	Murphy, Patrick T.	
Grijalva	Nunes	Shuster
Jordan (OH)		Stupak

## ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). Members have 2 minutes to vote.

□ 1715

So (two-thirds being in the affirmative) the rules were suspended and the resolution, as amended, was agreed to.

The result of the vote was announced as above recorded.

The title of the resolution was amended so as to read: "Calling on the Government of Sri Lanka to address the human rights and humanitarian needs of its civilian internally displaced Tamil population currently living in government-run camps by working with the United Nations and the international community to implement a process of release and resettlement of such internally displaced persons (IDPs), and allowing foreign aid groups to provide relief and resources throughout the process.".

A motion to reconsider was laid on the table.

COMMISSIONING OF THE USS  
"NEW YORK" LPD 21

The SPEAKER pro tempore. The unfinished business is the vote on the motion to suspend the rules and agree to the resolution, H. Res. 856, on which the yeas and nays were ordered.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Mississippi (Mr. TAYLOR) that the House suspend the rules and agree to the resolution, H. Res. 856.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 420, nays 0, not voting 12, as follows:

[Roll No. 855]

## YEAS—420

Abercrombie	Barrett (SC)	Blackburn
Ackerman	Barrow	Blumenauer
Aderholt	Bartlett	Blunt
Adler (NJ)	Barton (TX)	Bocieri
Akin	Bean	Boehner
Alexander	Becerra	Bonner
Altmire	Berkley	Bono Mack
Andrews	Berman	Boozman
Arcuri	Berry	Boren
Austria	Biggert	Boswell
Baca	Bilbray	Boucher
Bachmann	Bilirakis	Boustany
Bachus	Bishop (GA)	Boyd
Baird	Bishop (NY)	Brady (PA)
Baldwin	Bishop (UT)	Brady (TX)

Bright	Gerlach	Lungren, Daniel
Broun (GA)	Giffords	E.
Brown (SC)	Gingrey (GA)	Lynch
Brown, Corrine	Gohmert	Mack
Brown-Waite,	Gonzalez	Maffei
Ginny	Goodlatte	Maloney
Buchanan	Gordon (TN)	Manzullo
Burgess	Granger	Marchant
Burton (IN)	Graves	Markey (CO)
Butterfield	Grayson	Markey (MA)
Buyer	Green, Al	Marshall
Calvert	Green, Gene	Massa
Camp	Griffith	Matheson
Campbell	Guthrie	Matsui
Cao	Gutierrez	McCarthy (CA)
Capito	Hall (NY)	McCarthy (NY)
Capps	Hall (TX)	McCaul
Capuano	Halvorson	McClintock
Cardoza	Hare	McCollum
Carnahan	Harman	McCotter
Carney	Harper	McDermott
Carson (IN)	Hastings (FL)	McGovern
Carter	Hastings (WA)	McHenry
Cassidy	Heinrich	McIntyre
Castle	Heller	McKeon
Castor (FL)	Hensarling	McMahon
Chaffetz	Herger	McMorris
Chandler	Hereth Sandlin	Rodgers
Childers	Higgins	McNerney
Chu	Hill	Meek (FL)
Clarke	Himes	Meeks (NY)
Clay	Hinchee	Melancon
Cleaver	Hinojosa	Mica
Clyburn	Hirono	Michaud
Coble	Hodes	Miller (FL)
Coffman (CO)	Hoekstra	Miller (MI)
Cohen	Holden	Miller, Gary
Cole	Holt	Miller, George
Conaway	Honda	Minnick
Connolly (VA)	Hoyer	Mitchell
Conyers	Hunter	Mollohan
Cooper	Inglis	Moore (KS)
Costa	Inslee	Moore (WI)
Costello	Israel	Moran (KS)
Courtney	Issa	Moran (VA)
Crenshaw	Jackson (IL)	Murphy (CT)
Crowley	Jackson-Lee	Murphy (NY)
Cuellar	(TX)	Murphy, Tim
Culberson	Jenkins	Murtha
Cummings	Johnson (GA)	Myrick
Dahlkemper	Johnson (IL)	Nadler (NY)
Davis (AL)	Johnson, E. B.	Napolitano
Davis (CA)	Johnson, Sam	Neal (MA)
Davis (IL)	Jones	Neugebauer
Davis (KY)	Kagen	Nye
Davis (TN)	Kanjorski	Oberstar
DeFazio	Kaptur	Obey
DeGette	Kennedy	Olson
Delahunt	Kildee	Olver
DeLauro	Kilpatrick (MI)	Ortiz
Dent	Kilroy	Pallone
Diaz-Balart, L.	Kind	Pascarella
Diaz-Balart, M.	King (IA)	Pastor (AZ)
Dicks	King (NY)	Paulsen
Dingell	Kingston	Payne
Doggett	Kirk	Pence
Donnelly (IN)	Kirkpatrick (AZ)	Perlmutter
Doyle	Kissell	Perriello
Dreier	Klein (FL)	Peters
Driehaus	Kline (MN)	Peterson
Duncan	Kosmas	Petri
Edwards (MD)	Kratovil	Pingree (ME)
Edwards (TX)	Kucinich	Pitts
Ehlers	Lamborn	Platts
Ellison	Lance	Poe (TX)
Ellsworth	Langevin	Polis (CO)
Emerson	Larsen (WA)	Pomeroy
Engel	Larson (CT)	Posey
Eshoo	Latham	Price (GA)
Etheridge	LaTourette	Price (NC)
Fallin	Latta	Putnam
Farr	Lee (CA)	Quigley
Fattah	Lee (NY)	Radanovich
Filner	Levin	Rahall
Flake	Lewis (CA)	Rangel
Fleming	Lewis (GA)	Rehberg
Forbes	Linder	Reichert
Fortenberry	Lipinski	Reyes
Foster	LoBiondo	Richardson
Fox	Loeb	Rodriguez
Frank (MA)	Lofgren, Zoe	Roe (TN)
Franks (AZ)	Lowey	Rogers (AL)
Frelinghuysen	Lucas	Rogers (KY)
Fudge	Luetkemeyer	Rogers (MI)
Gallely	Lujan	Rohrabacher
Garrett (NJ)	Lummis	Rooney

Ros-Lehtinen	Shuler	Towns
Roskam	Simpson	Tsongas
Ross	Sires	Turner
Rothman (NJ)	Skelton	Upton
Roybal-Allard	Slaughter	Van Hollen
Royce	Smith (NE)	Velázquez
Ruppersberger	Smith (NJ)	Visclosky
Rush	Smith (TX)	Walden
Ryan (OH)	Smith (WA)	Walz
Ryan (WI)	Snyder	Wamp
Salazar	Souder	Wasserman
Sanchez, Loretta	Space	Schultz
Sarbanes	Speier	Waters
Scalise	Spratt	Watson
Schakowsky	Stark	Watt
Schauer	Stearns	Waxman
Schiff	Sullivan	Weiner
Schmidt	Sutton	Welch
Schock	Tanner	Westmoreland
Schrader	Taylor	Wexler
Schwartz	Teague	Whitfield
Scott (GA)	Terry	Wilson (OH)
Scott (VA)	Thompson (CA)	Wilson (SC)
Sensenbrenner	Thompson (MS)	Wittman
Serrano	Thompson (PA)	Wolf
Sessions	Thornberry	Woolsey
Sestak	Tiahrt	Wu
Shadegg	Tiberi	Yarmuth
Shea-Porter	Tierney	Young (AK)
Sherman	Titus	Young (FL)
Shimkus	Tonko	

## NOT VOTING—12

Braley (IA)	Miller (NC)	Sánchez, Linda
Cantor	Murphy, Patrick T.	
Deal (GA)	Nunes	Shuster
Grijalva	Paul	Stupak
Jordan (OH)		

## ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). Two minutes remain in the vote.

□ 1723

So (two-thirds being in the affirmative) the rules were suspended and the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

## PERSONAL EXPLANATION

Ms. LINDA T. SÁNCHEZ of California. Madam Speaker, due to illness, I was unable to be present in the Capitol for votes on today, Wednesday, November 4, 2009.

However, had I been present, I would have voted the following way: Ordering the Previous Question on H.R. 3639—"yea"; the rule to Debate H.R. 3639—"aye"; H. Res. 858 congratulating the Inter-American Foundation (IAF) on its 40th anniversary—"yea"; H. Res. 839 condemning the illegal extraction of Madagascar's natural resources—"yea"; Hensarling (TX) Amendment to H.R. 3639—"aye"; McCarthy (NY) Amendment to H.R. 3639—"aye"; Maffei (NY) Amendment to H.R. 3639—"aye"; Sutton (OH) Amendment to H.R. 3639—"aye"; Sutton (OH)/Stupak (MI) Amendment to H.R. 3639—"aye"; final Passage of H.R. 3639—Expedited CARD Reform for Consumers Act of 2009—"aye"; H. Res. 863—Recognizing November 2 as World Pneumonia Day—"yea"; H. Res. 641—Recognizing the 60th anniversary of the founding of Radio Free Europe/Radio Liberty—"yea"; H. Res. 711—Calling on the United States Government and the international community to address the human rights and humanitarian needs of Sri Lanka's Tamil—"aye"; H. Res. 856—Recognizing the Commissioning of the USS New York LPD 21—"yea".

I also would have voted "no" on the Motion to Recommit H.R. 3639.

#### PERSONAL EXPLANATION

Mr. BRALEY of Iowa. Madam Speaker, I missed votes today, Wednesday, November 4, 2009. If I were present, I would have voted:

"Yea" on rollcall 841, On Ordering the Previous Question, Providing for consideration of H.R. 3639, Expedited CARD Reform for Consumers Act of 2009; "aye" on rollcall 842, On Agreeing to the Resolution, Providing for consideration of H.R. 3639, Expedited CARD Reform for Consumers Act of 2009; "yea" on rollcall 843, On Motion to Suspend the Rules and Pass H. Res. 858—Congratulating the Inter-American Foundation (IAF) on its 40th anniversary and recognizing its significant accomplishments and contributions; "yea" on rollcall 844, On Motion to Suspend the Rules and Pass H. Res. 839—Condemning the illegal extraction of Madagascar's natural resources; "aye" on rollcall 845, On agreeing to the Hensarling Amendment to H.R. 3639; "aye" on rollcall 846, On agreeing to the McCarthy Amendment to H.R. 3639; "aye" on rollcall 847, On agreeing to the Maffei Amendment to H.R. 3639; "aye" on rollcall 848, On agreeing to the Sutton Amendment Number 4 to H.R. 3639; "aye" on rollcall 849, On agreeing to the Sutton Amendment Number 5 to H.R. 3639; "no" on rollcall 850, On Motion to Recommit with Instructions to H.R. 3639; "aye" on rollcall 851, On Final Passage of H.R. 3639, the Expedited CARD Reform for Consumers Act of 2009; "yea" on rollcall 852, On Motion to Suspend the Rules and Agree, as Amended H. Res. 863, Recognizing the scourge of pneumonia, urging the United States and the world to mobilize cooperation and prioritize resources to fight pneumonia and save children's lives, and recognizing November 2 as World Pneumonia Day; "yea" on rollcall 853, On Motion to Suspend the Rules and Agree, as Amended H. Res. 641, Recognizing the 60th anniversary of the founding of Radio Free Europe/Radio Liberty; "yea" on rollcall 954, On Motion to Suspend the Rules and Agree, as Amended H. Res. 711, Calling on the United States Government and the international community to address the human rights and humanitarian needs of Sri Lanka's Tamil internally displaced persons (IDP's); "yea" on rollcall 855, On Motion to Suspend the Rules and Agree to H. Res. 856, Recognizing the Commissioning of the USS New York LPD 21.

#### HONORING SEATTLE POLICE OFFICER TIM BRENTON

(Mr. McDERMOTT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. McDERMOTT. Madam Speaker, I rise today to honor a public servant, Seattle Police Officer Tim Brenton. Officer Brenton was killed in the line of duty last week on October 31, 2009. Officer Brenton lost his life in an apparent deliberate murder that has shocked Seattle and frozen our hearts.

Officer Brenton leaves behind his wife and two children and the rest of

his family, including a father and an uncle who also served the public as police officers and a brother who is a firefighter. He leaves behind a partner, Officer Britt Sweeney, who was also wounded that night.

He leaves behind a police department in mourning, and he leaves behind a community in shock because of this brutal and senseless crime. But more than that, he leaves behind a legacy of selflessness, of caring, and of commitment to service. We all owe a great debt to Officer Brenton and to the many public servants who place their lives on the line to protect us.

The Seattle Times newspaper noted that a neighbor called the Brentons "just a regular American family, going to work, making a living." But the Brentons are no regular family. They have been doubly marked by valor and by sacrifice. The perpetrators of this tragic crime have marked all of us as we mourn the effects of this violence on the family and friends of Officer Brenton.

I ask you all to join me in bowing your heads in remembrance of Officer Brenton.

#### HONORING U.N. GUARD LOUIS MAXWELL

(Ms. ROS-LEHTINEN asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. ROS-LEHTINEN. Madam Speaker, I rise tonight to honor a courageous south Floridian who made the ultimate sacrifice in the line of duty. U.N. Guard Louis Maxwell died fighting Taliban attackers at a hotel in Afghanistan last week. Louis and another U.N. security guard held off the terrorists and, in the process, saved innocent lives.

Louis graduated from Miami Central High School in the year 2000. He was such an outstanding trumpet player that he was offered a full music scholarship to Florida A&M University, yet he decided to serve his country and enlisted in the United States Navy. Louis later became a U.N. guard in the year 2007.

U.N. Secretary General Ban Ki-moon praised Louis' bravery by saying the following: "They fought through the corridors of the building and from the rooftop. They held off the attackers long enough for their colleagues to escape, armed only with pistols against assailants carrying automatic weapons and grenades and wearing suicide vests."

I hope Louis' mother, Sandra, takes comfort in knowing that 17 people are alive today because of her son. I join her and the rest of his family in thanking Louis for his service, honoring his memory, and making sure that Louis will never be forgotten.

□ 1730

#### TORT REFORM NEEDED

(Mr. SMITH of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of Texas. Madam Speaker, according to a Harvard School of Public Health study, 40 percent of medical malpractice suits in the U.S. are "without merit." These frivolous lawsuits enrich trial lawyers while increasing the cost of health care for everyone.

Despite the fact that tort reform would help reduce health care costs, the administration refuses to propose this commonsense solution. Why is that?

According to former Democratic National Committee Chairman Howard Dean, "Tort reform is not in the (health care) bill because the people who wrote it don't want to take on the trial lawyers."

In the handful of States that have enacted tort reform, health care costs have fallen, and the availability of medical care has expanded.

Tort reform and reducing the number of frivolous lawsuits against hospitals and doctors would help all Americans.

#### NO PUBLIC FUNDING FOR ABORTIONS

(Mr. INGLIS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. INGLIS. Madam Speaker, there are many things wrong with the Pelosi health care bill. Some of them rise to moral issues, and certainly the moral issue that I am focused on right now is the abortion issue.

There are a lot of people who want to say, Well, there won't be public funds used for abortion, but really, please, when we debate this bill, let's not insult the intelligence of other Members of Congress or of the American people. There is a clear commingling of resources. If you set up a public option and then there is money flowing into that from taxpayers, that money will ultimately find its way to abortion services.

So what we need in order to avoid that problem that many of us have of funding abortions with taxpayer money is an expressed prohibition on abortion services. There needs to be a bright line in this bill saying there will be no support for abortion services anywhere in the bill, similar to the Hyde amendment in HHS appropriations.

So, Madam Speaker, this is something that needs to be done in order to make it clear and to avoid this moral challenge.

#### SPECIAL ORDERS

The SPEAKER pro tempore (Ms. TITUS). Under the Speaker's announced

policy of January 6, 2009, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

#### AFFORDABLE HEALTH CARE FOR AMERICA ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Maryland (Mr. CUMMINGS) is recognized for 5 minutes.

Mr. CUMMINGS. Madam Speaker, I am compelled to address this body tonight after having listened to my colleagues over the last few days fabricate falsely about the Affordable Health Care for America Act.

Every 12 minutes, an American dies in the greatest country on Earth simply because he cannot afford to live. Americans lie right now, as I speak, in their homes while in pain, suffering because they cannot afford the care that would bring them relief.

I meet people in my district who choose between medication and food, parents who go without medical treatment to pay for heat and clothing for their children, and family members who believe with all their hearts that loved ones have died because they lacked adequate health care.

Like the misrepresentations about this bill, these injustices must stop. The time to act is now. In the words of President Obama, we must have the urgency of now.

H.R. 3962 helps uninsured Americans immediately. It immediately creates an insurance program with financial assistance for those who are uninsured or for those who have been denied policies because of preexisting conditions. It also allows those who are unemployed to keep their COBRA coverage until the exchange is operational.

Health insurance reform will mean greater stability and lower costs for all Americans. That means affordability for the middle class, security for our seniors, and responsibility to our children. It also will mean coverage for 96 percent of Americans. According to the CBO, the bill reduces the deficit by \$30 billion over the first 10 years.

In their speeches, Republicans have described this bill as the Speaker's bill. They call it the "Pelosi bill." This bill does not belong to the Speaker, although she has done a phenomenal job in helping us to craft it.

This bill belongs to the hardworking Americans who have insurance but who want a more transparent and stable health care marketplace that focuses on quality, affordable choices for all Americans, and that keeps insurers honest.

It belongs to 47 million Americans who are suffering and who have no help on the horizon.

This bill belongs to the seniors living in rural areas all over our country who will receive better Medicare coverage because of this bill.

It belongs to the children throughout our Nation who are so poor that their parents cannot even afford checkups. These are the children whose lives will be crippled by diabetes simply because doctors have not diagnosed them as being at risk.

Our children are our living messages we send to a future we will never see. The question is: What type of message are we sending? They will suffer simply because they do not know how to reverse the symptoms leading them down a troubled road.

This bill belongs to 44,000 Americans who die every year because they lack insurance. They have been guaranteed life, liberty, and the pursuit of happiness by founding documents to which my colleagues on the other side of the aisle constantly refer. Americans are denied those things by the thousands. They cannot afford care and so they die.

That's right, Madam Speaker. For every page that Republicans have printed out and have used as props, for every page, 22 Americans will die this year because they cannot pay for the care that will save their lives.

It is telling that, using valuable tax dollars, they printed those pages to make copies of a bill that is available, searchable, and downloadable online. It is a perfect metaphor for the millions of dollars this bill will save Americans.

Our health care system will save more than \$150 billion every year, a call that President Obama made in the beginning of his campaign. The bill moves America to a health care system with an electronic recordkeeping system, cutting fraud, excessive administrative costs and medical mistakes.

Republicans do not care about those savings or about that progress. Like the pages of the taxpayer-provided paper used here today on this floor, they are props—only interested in being weights to drag down, to slow down, and to eventually stop true health care reform.

It pains me to say these words, but this is how I feel.

#### ABRAHAM LINCOLN ON PRESERVING OUR FREEDOM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina (Ms. FOXX) is recognized for 5 minutes.

Ms. FOXX. Madam Speaker, in the ongoing debate over health care reform, the topic of freedom is often overlooked, but it ought not be. The Democrats' health care bill is a massive expansion of government that will alter the lives and livelihoods of every person in America. For many, that means higher taxes; and for even more, it will mean an unprecedented intrusion of Federal Government bureaucrats into the way we receive health care. This is a fundamental erosion of our freedom.

The great freedom fighter, Abraham Lincoln, gave a speech in Springfield, Illinois, in 1838 where he touched on the idea of the loss of freedom. He was very explicit. He explained that our country could one day suffer a loss of freedom, not by an outside attack but from within. I will quote what Lincoln said and then give it in its larger context:

"At what point then is the approach of danger to be expected? I answer: If it ever reach us, it must spring up amongst us. It cannot come from abroad. If destruction be our lot, we must ourselves be its author and finisher. As a nation of freemen, we must live through all time or die by suicide."

The larger context of those words is as follows:

"In the great journal of things happening under the sun, we, the American people, find our account running, under date of the 19th century of the Christian era. We find ourselves in the peaceful possession of the fairest portion of the Earth as regards extent of territory, fertility of soil and salubrity of climate. We find ourselves under the government of a system of political institutions, conducting more essentially to the ends of civil and religious liberty than any of which the history of former times tells us. We, when mounting the stage of existence, found ourselves the legal inheritors of these fundamental blessings. We toiled not in the acquirement or establishment of them. They are a legacy bequeathed us by a once hardy, brave and patriotic but now lamented and departed race of ancestors. Theirs was the task, and nobly they performed it, to possess themselves and, through themselves, us, of this goodly land; and to uprear upon its hills and its valleys a political edifice of liberty and equal rights; 'tis ours only to transmit these—the former, unprofaned—by the foot of an invader; the latter, undecayed by the lapse of time and untorn by usurpation, to the latest generation that fate shall permit the world to know. This task of gratitude to our fathers, justice to ourselves, duty to posterity, and love for our species in general all imperatively require us faithfully to perform."

"How then shall we perform it? At what point shall we expect the approach of danger? By what means shall we fortify against it? Shall we expect some transatlantic military giant to step the ocean and crush us at a blow? Never. All the armies of Europe, Asia and Africa combined, with all the treasure of the Earth, our own excepted, in their military chest, with a Bonaparte for a commander, could not by force take a drink from the Ohio or make a track on the Blue Ridge in a trial of a thousand years."

"At what point then is the approach of danger to be expected? I answer: If it

ever reach us, it must spring up amongst us. It cannot come from abroad. If destruction be our lot, we must ourselves be its author and finisher. As a nation of freemen, we must live through all time or die by suicide."

□ 1745

#### SUPPORTING BETTER HOME CARE FOR OLDER AMERICANS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Alabama (Mr. GRIFFITH) is recognized for 5 minutes.

Mr. GRIFFITH. Madam Speaker, almost one in seven residents in my home State of Alabama is over the age of 65, a sector of the American population that is expected to grow dramatically over the next 2 decades. As our citizens age, many will develop costly and debilitating health conditions that will require additional care and additional expenditures for the Medicare system.

Advanced home health treatments are now targeting some of the most serious illnesses and have been successful in keeping more of the elderly out of the hospitals and reducing the cost to Medicare. There are numerous cases in Alabama where home health care has been instrumental in preventing emergency room visits and hospital readmissions and helping older residents to live more independently at home for as long as possible.

Our goal is to improve the care of Americans and control rising costs, especially in our Medicare population. Home health care is meeting these goals and has the potential to do even more.

Yet there are provisions in the House health reform legislation that would cut \$57 billion from the Medicare home health program over the next decade. If these reductions remain in the bill, they will surely have an adverse effect on the access to home care for our senior citizens.

The cuts in home health care services in the bill are significantly disproportionate to other provider sectors. The bill seeks 14 percent of all Medicare cuts from home health care, while home health makes up only 4 percent of the Medicare program currently. This disproportionate impact is further magnified by the fact that, unlike most other health care providers and insurers, expanding health insurance will have no meaningful increase in the home health care business.

Home health patients average nearly 80 years of age and are already insured by Medicare and Medicaid. This means that the Medicare cuts to home health agencies are not offset by new revenues from newly insured patients. Instead, the proposed cuts of over 14 percent of spending on home health services will be as can be.

For these reasons, I urge my colleagues to reject the proposed cuts to home health care and support better care at home for all older Americans.

#### HONORING THE ACCOMPLISHMENTS OF FURMAN BISHER

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Georgia (Mr. GINGREY) is recognized for 5 minutes.

Mr. GINGREY of Georgia. Madam Speaker, I rise today to honor the accomplishments of famed Atlanta sports reporter Furman Bisher upon his retirement from the Atlanta Journal Constitution after 59 years.

Furman Bisher was born on November 4, 1918, in Denton, North Carolina, and became the editor of the Charlotte News in 1940. During World War II, he honorably serve our Nation from 1941 until 1945.

In 1950, Furman Bisher became a sports editor for the Atlanta Constitution, and in 1957 he became sports editor and columnist for the Atlanta Journal and the Sunday Journal-Constitution.

Furman Bisher's accomplishments are legendary. He was the president of the Football Writers Association of America in 1959 and 1960 and named one of the Nation's five best columnists by Time Magazine in 1961. Furman was president of the National Sportscasters and Sports Writers Association from 1974 to 1976, and he covered every Kentucky Derby since 1950. He also covered every National Football League Super Bowl, except the very first one played in 1967.

As an Atlanta Braves fan, I am particularly grateful for the crucial role Furman played in facilitating the arrival of the Braves baseball team to Atlanta, which was Atlanta's very first professional sports team.

Furman Bisher is a member of the Atlanta Sports Hall of Fame, the International Golf Writers Hall of Fame and the National Sportscasters and Sports Writers Hall of Fame, and he was a recipient of Professional Golfers Association's Lifetime Achievement in Journalism Award in 1996.

A testament to Furman's reputation from the very beginning can be traced to 1949, when he became the only person since 1919 to secure an interview with "Shoeless" Joe Jackson, who had been banned from baseball.

Furman Bisher retired from the Atlanta Journal Constitution on October 10, 2009, after 59 years of service, typing his last column on the Royal typewriter that was the instrument of his first Constitution column back in 1950.

At age 90, Furman is still going strong, splitting his time between a homestead in Fayette County and a retreat on St. Simons Island with his wife of 21 years, Linda.

Furman Bisher's legacy is lasting. He wrote over 10,000 columns in the At-

lanta Journal Constitution and hundreds more in newspapers in North Carolina dating back to 1938.

He forever impacted sports reporting and the Atlanta sports landscape with his actions and commentary. I know I, for one, like millions of others throughout the years, always enjoyed reading his column, and will deeply miss flipping to the sports section to find what he had to say about the sports news of the day, for it was in 1960 as a freshman at Georgia Tech that I first read his column and every Sunday morning watched his college football roundup in the TV lab at the Sigma Nu fraternity house.

I wish Furman and Linda Bisher all the best as they enjoy their retirement.

#### ENOUGH IS ENOUGH IN AFGHANISTAN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. MASSA) is recognized for 5 minutes.

Mr. MASSA. Madam Speaker, on the 7th of October of 2001, when we invaded Afghanistan, a soldier's then 10-year-old child in 5th grade is now 18, and either out of the house, off to college, or starting a young adulthood of his or her own, having grown up virtually without the benefit of military parents, some of whom today face their fifth deployment.

Today marks the 2,950th day of combat in the war in Afghanistan; 2,950 days, without asking for a concurrent sacrifice from the American people. It is only the uniformed forces and their families upon whom we have placed the burden of these 2,950 days of war.

The Congressional Research Service estimates that we have now spent or committed \$300 billion, and that is only the money for which we can account. Some will say it is twice that, for this war, like the war in Iraq, was funded off-budget with no transparency. \$300 billion. That is about \$101 million per day for 2,950 days. Or, to put out another average, that is \$3,947 per family of four that every American family has paid to date.

Tragically, that is the good news, because the irrevocable loss is comprised of 911 American combatants killed and 4,198 seriously wounded, and we do not have the ability to estimate the long-term wounds that we cannot see or quantify that will be carried by the soldiers and sailors and airmen and marines of this conflict for the rest of their lives.

We have now been in Afghanistan for 2,950 days. We fought World War I for 584 days. We have been in Afghanistan five times longer than we fought the "war to end all wars." And we have been in Afghanistan twice as long as the entire combined combatant days of World War II fought by the Greatest Generation.

Today is the 2,950th day of this war. It has cost us \$300 billion, \$3,947 per American family.

Enough is enough. It is time to bring our troops home.

More than any other issue that I have studied, sought counsel on, and drawn from my own life's experience for guidance since becoming a Member of the United States Congress, the expansion of the war in Afghanistan has drawn my late night focus. There, in the quiet of the office, I have arrived at the inevitable conclusion that the deployment of additional troops in Afghanistan and the continuation of this conflict is both not in the interest of our Nation, and, in fact, is on par with a potential error the size of our initial invasion in Iraq.

The recent election in Afghanistan has underscored the fact that we will never create a Jeffersonian democracy in that nation. After Hamid Karzai had about one-third of his ballots thrown out due to election fraud, his opponent withdrew from the coming election because he stated publicly there could not be a scenario under which he could trust the election process.

A continued escalation of this conflict to do things like secure elections and build an Afghan national identity is a false and foolish waste of American lives and treasure. Quite simply, we will never create a Jeffersonian democracy, and to continue to fight and die for what the people of Afghanistan will not fight and die for is simply wrong.

Our military should not be expended to secure elections, nor should we continue to engage in global nation building. To those who would say that we must win in Afghanistan, I simply ask after 24 years of service in the United States military and a degree from the United States War College, what does a victory look like and when can we obtain this indefinable goal?

Are we now to subordinate ourselves to an Afghan Government that has, at best, limited legitimacy in its own nation following a travesty of an election that only recently was determined to be the number one priority of our on-scene and on-the-ground commander?

When we first invaded Afghanistan, the mission was to identify, locate, capture and kill those who did or would do us harm. Al Qaeda terrorists and their camps were destroyed and the remaining elements of the organization are now in Pakistan. The regional Commander of U.S. military forces has clearly stated this reality.

Today, November 4, 2009, is the 2,950th day of the war in Afghanistan and I think that is long enough.

After these 8 years, it is clear that only the Afghan people themselves can determine their future. We built the army that destroyed Nazi Germany and Imperial Japan in 3 years. We have now been fighting a war for the Afghan people for 8 years. Enough is enough. We have achieved our military goals, and our forces have been militarily victorious. We are

now fighting an enemy who is attacking us because we are in their country and are perceived as an occupying military police force. We are not, and it is time to come home.

To continue this war at its current level and to escalate it beyond its current scope is a trillion dollar question. Are those who would so cavalierly make this commitment willing to demand another \$3,947.36 from every American family of four to pay for it? Thousands have protested federal spending to rebuild America's schools, roads, bridges and critical infrastructure, but are they willing to do the same when their taxes are being spent to rebuild Kabul? At the end of the day, what will we have bought? What have we purchased for the \$300 billion we have already spent or committed to the war in Afghanistan and where will the next \$300 billion come from?

Should terrorist camps reemerge there, we must deal with that, but there is no evidence that any of the numerous tribal factions want this; in fact, it is clear that they do not. The "war of necessity" has been fought, our enemies killed or captured. We have won and it is our clear, patriotic duty to bring our military forces home to defend vital American interests; 2,950 days and \$300 billion is enough.

#### HONORING MR. ROBERT J. "BOB" JENSEN

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Florida (Ms. ROS-LEHTINEN) is recognized for 5 minutes.

Ms. ROS-LEHTINEN. Madam Speaker, I rise tonight to honor the accomplishments and the ongoing work of one of South Florida's finest residents, Mr. Robert J. "Bob" Jensen of Homestead. Bob and his wonderful wife, Meda, are well-known for their caring and giving personalities and for their selfless work on behalf of our community.

Meda tells us that Bob's history began in a small town in Iowa where he was born and raised. He left Iowa in 1954 to serve in our U.S. Navy. He enlisted, excelled, and made Chief in 7 years. Three years later, Bob was selected for Officer Candidate School and was commissioned.

Commander Bob Jensen's specialty in the Navy was cryptology. I happen to know that his work is still classified, so please don't ask Bob. He still can't tell you about it.

The last place that Bob was stationed was our dear Homestead, Florida, and after 28 years in the United States Navy, Bob retired and chose to stay in Homestead with his wife Meda and family; Russell, Robert, Christian and Jessica. The Jensens now have lots of beautiful grandchildren.

In 1983, First National Bank's President Bill Losner asked Bob to join the bank. Bill Losner knew Bob Jensen well. He picked out a career that perfectly suited Bob and that helped First National Bank excel in Community Outreach and Marketing.

As Vice President, Bob Jensen invested the bank's resources and began

investing all his time to touch and nurture groups, organizations, and projects throughout Miami-Dade County. Everyone has told us, out of all of his volunteer and community work, Bob is proudest of his efforts to create better farm workforce housing.

Bob is also the former Chair and Commissioner with Homestead Housing and has served on the board for Centro Campesino. This outfit trains farm workers for better jobs, mostly in construction, and helps enable farm workers to build and purchase their own homes. These are wonderful legacies for Bob, his fellow board members, and those farm workers who have achieved the American dream of home ownership.

Did I mention Bob and Meda's work with the Pioneer Museum? Well, almost every Saturday of the year the Jensens and their trained docents give historical tours about our area at a restored railroad station house on Krome Avenue. He has also collected hundreds of historical photographs, on display at local shops, hotels, and other businesses in the Homestead area.

□ 1800

Bob is also a member of the Agriculture Council, which educates south Floridians and visitors on the history of the agricultural sector of south Florida. Bob serves on the Military Affairs Committee of the Homestead and Florida City Chamber of Commerce, helping our active duty, reserve, and retired military personnel. And just 5 years ago, Bob created the Heritage Hall Museum at Homestead Air Reserve Base to record its history. He's called "Mr. Homestead," a term of affection from a grateful community.

Indeed, Bob Jensen is a man about town. He's helping save the meal program that provides breakfast and lunch to the vast majority of school children at Laura Saunders Elementary.

He's received numerous awards and honors: Leadership South Dade's Leader of the Year; Presidential Award from the Homestead Chamber; honors from the Boy Scouts of America, the Mexican American Council, the American Red Cross, Miami-Dade County Public Schools, and the Miami-Dade Legislative Delegation.

Bob Jensen is a historian, a volunteer, a mentor, a leader, and a friend to all whom he touches. God has blessed our Nation and our community with a great man, Bob Jensen.

#### HEALTH CARE REFORM

The SPEAKER pro tempore (Mr. DRIEHAUS). Under the Speaker's announced policy of January 6, 2009, the gentlewoman from California (Ms. WATSON) is recognized for 60 minutes as the designee of the majority leader.

Ms. WATSON. Mr. Speaker, the Affordable Health Care for America Act,

our House bill, 3962, will make health care affordable for middle class families, provide security for seniors, and guaranteed access to health insurance coverage for the uninsured.

I'd like to go through these charts to let the viewing audience, Americans, and particularly Californians, know what will be provided by the Affordable Health Care for America Act. And this is a blend of three different bills that came out of various committees in front of the public, voted out by the committee, amended, and now combined in one bill.

Our first interest is making health care affordable for the middle class families. We want to guarantee security for our seniors. We want responsibility to our children, and it will not add a dime to the deficit.

The health insurance reform means ending discrimination for people who have preexisting medical conditions. You can never be denied coverage because you have a preexisting condition. No dropped coverage if you become sick. You know, so many people get into the health care system when they're acutely ill, and that means they cannot go to work. Then they find that they're having trouble paying their house note, paying their car note, even buying food. And we want them to know that there will be no dropped coverage if you become ill or you lose your job. No copays for preventative care. And we want Americans to go see their health care provider as often as they need to so they can stay healthy. We want to prevent conditions that require medical care. But if you should fall ill, you can be covered for your medical treatment.

Yearly caps on what you pay and no caps on what insurance companies pay. Reining in health costs for families is one of our major targets, reining in health care costs for businesses and for government.

You know, people talk about not wanting government in between their doctor and themselves. Well, just think about that statement. What is Medicare and Medicaid? What is Social Security? These are government programs. We call them the safety net so you will not fall through the cracks and into devastation. We want fiscal responsibility and we want to reduce the deficit. We want to eliminate from health care waste, fraud, and overpayments to private insurance companies. Why should health care of Americans be for profit? Health care ought to be guaranteed to every American. There's major emphasis on innovation, on keeping people well, and prevention.

Now, misinformation is out there galore. You need to understand this: If you have insurance, you like your insurance, you keep it. And if you have a doctor, you can keep that doctor. Certainly you can keep that plan. And, remember, this bill came about because

there were 38 million people in America that were uncovered, and every American should have health coverage.

We want to emphasize for seniors we strengthen Medicare and we improve the benefits. There is one Member that is telling everyone that we're going to take away the benefits from our seniors. That is so untrue. We want to improve benefits, including closing the doughnut hole, and we will get into that a little later.

If you don't have or you lose your insurance, a new health insurance exchange. It's more like a one-stop-shopping marketplace, and it includes a public option. Now, what does "option" mean? It means a decision. It means a choice. It means you have the right to make your own choice. And a public option for consumers means competition for better prices and better coverage. We want to be sure your coverage is affordable and accessible and of quality. And there will be affordability credits to help Americans and small businesses buy insurance.

Now, if we don't have health reform, there will be skyrocketing health care costs, and it will increase by \$1,800 each year for the average family. Care and medication already postponed by more than half of all Americans may become more unaffordable, and Americans face a 50/50 chance of losing their insurance in the next 10 years.

Mr. Speaker, I would like to yield to our Member from California, JUDY CHU, who might make some comments, and then we might have some questions back and forth.

Ms. CHU. Mr. Speaker, the health care reform bill is crucial to Californians across the State, but it will especially benefit my constituents in the San Gabriel Valley and East L.A. who struggle every day to survive without proper health care.

The percentage of California residents that lack health insurance is about 19 percent, one of the highest rates in the country. But fully one-third or 33 percent of the residents of my district are uninsured. This is a situation that is simply unacceptable for a State and the Nation that prides itself on being the most advanced and wealthiest in the world.

But this bill will provide everybody stability, security, and peace of mind. It will provide peace of mind for the low income and uninsured. People like Patricia, who is age 64 and had insurance until she retired. Then she was left without insurance and she got very sick. Her kidneys failed, and she was too young for Medicare. It was not until she was in the intensive care unit and dying of renal failure that she was able to qualify for early Medicare benefits. This situation will not occur with health care reform. With health care reform, people like Patricia will be able to buy health care and there will be credits provided to her so that she can afford it.

Health care reform will be good for people who don't have coverage right now, people like Scott, who had insurance all his life but changed jobs, became self-employed, and wanted to buy insurance but found, to his shock, that he was denied because of a preexisting condition. He had asthma as a child. Health care reform will help him because he will not be denied because of a preexisting condition. He will not have to worry about being dropped from insurance because of a serious illness. He will not have to worry about copays and deductibles that will cause him to go into bankruptcy. He will not have to worry about a lifetime cap on medical care in case of a very serious illness. In fact, with passage of health care reform, never again will American families face bankruptcy because of unexpected health care costs, as they will not have to pay more than \$10,000 a year for out-of-pocket health care costs.

And this bill will give peace of mind to small businesses. Small businesses and their workers are particularly impacted by the high cost of health care in this country. They account for the largest share of the uninsured. Small businesses pay higher rates today because they do not have the advantage of large numbers of employees over which to spread insurance risk.

Even if a small employer currently has healthy workers, the small business faces the prospect of dramatically increased future premiums if any employee actually needs to use the coverage, such as one small company in my district, an insurance company with five workers. One worker had a baby that was premature, causing very, very expensive care. The next year, the insurance company drastically raised their rates, and now the business has to make a decision about whether to continue covering its employees. But this bill will allow small businesses to afford health care coverage and reduce health care costs through tax credits that are available to the smallest of employers.

It is clear that the status quo is unacceptable. If we do nothing, health care costs will continue to rise, quality of care will deteriorate, and every American will risk losing their health care. The growing cost of health care is one of the biggest drains on our economy. If we are to bring our Nation back to fiscal health, we must have real, fundamental health care reform.

□ 1815

This bill is good for my district, and it's good for California, where hospitals are overwhelmed with uninsured patients, where thousands are without jobs and without insurance and where the State doesn't have the financial resources to pick up the slack. Not in six decades have we been this close to achieving this most crucial task of reforming our health care system. Let

me be clear, we would be derelict in our duty to the American people if we let this opportunity go to waste.

Ms. WATSON. Congresswoman CHU, do you find in your districts the demographics that have changed in the last few years, that people in your district are going into the health care system more acutely ill?

Ms. CHU. Yes. They wait until the last minute, such as the person I talked about, Patricia, who was age 64 and had insurance. But during this 10-year period between the time she retired at age 55 and age 65, where she would have qualified for Medicare, she had no alternative. She had kidney failure, but she waited until the last minute, and she was almost dying before she got care. This is a situation that people in California are faced with in California every day.

Ms. WATSON. You know, California being the largest State in the Union and being the first State to become a majority of minorities, people come over the Pacific as well as over the border. Many people think that many of our immigrants come from over the border. But those who come from across the Pacific have many different ways of receiving health care, more traditional and so on. So they try to treat at home. Then when they come into the system, they are more acutely ill. So I have been concerned about the formulary and having brand names on the formulary to treat these odd kinds of conditions, rather than always pushing generics.

So I understand that the bill that will come in front of us very soon will allow for not only generics but these brands to be prescribed by their physicians. I know that in my district, the 33rd Congressional District in Los Angeles—I include Hollywood, Hollywood Hills and so on—there was a young man at an event taking pictures, and when I finished explaining the bill, H.R. 3200 at that time, he sat down beside me, and he said, Thank goodness the government is looking at health care reform because I require a medication—and get this—that costs \$74,000 a month. I thought I didn't hear him correctly. I said, Are you talking about \$74,000? He said, Yes. I said, Well, what is this condition? He said, I have a condition that I was born with that starts the skeletal system, the muscular system and vital organs to deteriorate. My copayment is over \$696 a month. Thank goodness for the government helping me live.

Helping people live is so important, and I know that you have heard from people in your district, much like the ones I have described.

Ms. CHU. Yes, I have heard many stories like that. In fact, I had a town hall for people who just spoke Spanish. I had a town hall for people who just spoke Chinese. I will never forget one woman who was speaking Spanish,

talking about the fact that she was covered but that her son, age 21, was not covered and, in fact, when she tried to get coverage for him, he was denied because of a preexisting condition. So they were forced to go down to Tijuana every month to just buy medication out of pocket.

But with this health care bill, insurance companies can cover children of parents up until the age of their 27th birthday. So young adults like that will be covered with this health care reform bill.

Ms. WATSON. Isn't that wonderful. I have not been able to understand, you know, during the month of August why there was so much ranting over health care. It appeared to me that some mean-spirited persons went out and gathered people up, misinformed them and told them government is trying to take something away from them. What we're trying to do is to give something. I understand one of our own Members has asked for people to come from across the country tomorrow to confront us in the halls and say, Don't take away my health care. My response would be, We want to guarantee you health care at very little cost, at high quality.

I think it's foolish. You know, why the ranting and not the reasoning? As you know, our President has said not a penny over \$1 trillion. In fact, not a penny over \$900 billion. We are reinventing, innovating the system so that we can guarantee Americans the best, the most affordable, the most accessible quality.

Ms. CHU. Absolutely. My town halls actually showed the opposite of what some might think. It showed people who were very sincerely concerned about their futures, who wanted to have that security and stability and peace of mind and who very much needed this alternative.

But you raise a very good point. Not only will this do so much good for the people of America; it is also fiscally responsible. The Congressional Budget Office has actually said that this will actually reduce the budget deficit over the next 20 years.

Ms. WATSON. JUDY, you bring so much credibility because you were a statewide officer in California, and you dealt with a lot of these fiscal issues. So we're very pleased to have you here. I represent Hollywood, and anything can happen there. We had a rally out in front of the Catholic church on Sunset Boulevard, Blessed Sacrament. Right behind the church was Selma Avenue School, the last school I taught in. We had the Catholic priest who was emceeding; we had a rabbi, female; we had a Muslim priest—Muslim minister; and we had Protestant ministers there; and they were testifying.

One gentleman came up—he had a heavy accent. He said, I am an American citizen. I have worked four jobs.

My 2-year-old daughter got sick. I did not make enough money to pay for insurance coverage. My daughter died. There wasn't a dry eye because everyone in the audience could put themselves in that position. There was a real tall gentleman off to my left. He had a placard that he kept pushing up, and it had the face of our President, Barack Obama, with a Hitler kind of moustache. So disrespectful. So when I got to the mic—you know, I'm Catholic. I made the sign of the cross. I spoke to him in Latin and pax Domini. He put that sign down, and a woman in front of him kind of hid it. I found out he was an actor, and someone paid him to come.

I would like to kind of give the viewing public some idea of how the health reform bill will impact on my district. Forty-eight percent of the district has employer-based coverage. These constituents can keep their own insurance if they like. In my public forum, I had the audience raise their hands if they were insured, and most hands went up. How many of you like your insurance? Most of the hands went down. So I said, If you like it, you keep it. If you don't, you have a marketplace to choose the plan that best fits your family's needs.

So the bill that will be in front of us in a few days improves employer-based coverage for over 304,000 residents in the 33rd Congressional District of California. That's Los Angeles, Culver City and Hollywood. It provides credits towards insurance costs for up to 173,000 households. There are 22,200 individuals who have preexisting medical conditions that could prevent them from obtaining health insurance. The bill ensures that they will be able to obtain insurance, where they have been denied in the past. It will improve Medicare for 75,000 beneficiaries, including closing the prescription drug doughnut hole for 6,100 seniors.

It provides a tax credit for 15,100 small businesses in my district that have 25 employees or less and pay an average wage of less than \$40,000. It allows 16,300 small businesses to obtain affordable health care coverage by joining the exchange. It provides coverage to 138,000 uninsured individuals, and that includes 30 percent of the district's residents below the age of 65. It protects 1,100 vulnerable families from bankruptcy due to unaffordable health care costs. It reduces the cost of uncompensated care for hospitals and health care providers by \$29 million. That is the direct impact on my district.

In the State of California, more than 20 percent of the population is uninsured. Workers at private sector businesses of all sizes are experiencing an increased likelihood of being uninsured, although it is most pronounced in businesses with fewer than 10 employees. More than a third of the uninsured have family incomes of more



than \$50,000 per year. Of families with incomes between \$25,000 and \$50,000 in the State of California, 27 percent are uninsured. Seventy percent of uninsured children are in families where the head of the household has a year-round full-time job.

Mr. Speaker, we are so pleased that this House can come up with a piece of legislation that will guarantee our children, our working-class families, and our seniors full coverage so families won't have to go bankrupt because they had preexisting conditions, and the poorer the family, the less health care they have had because they simply can't afford it.

So, Mr. Speaker, it's incumbent on us—it should be bipartisan because I don't understand why people would rant and rave over providing all Americans with affordable health insurance.

□ 1830

If we are going to be the strongest country on the globe, then we need to ensure that we have a healthy population. If we choose to go thousands of miles away and fight unnecessary wars, and we want victory, then we have to be sure our military is healthy. We have to be sure that our families can sustain themselves while their loved ones are over fighting for this country. If we want to ensure a victory, then let's provide the infrastructure on our land that will help Americans be the strongest people on Earth.

It is an embarrassment, and right now the Inter-Parliamentary Union is meeting here in the Capitol Visitor Center. When we went over a few months ago to join them, they said, Why is America not at the table with us? We were embarrassed to say that we're caught up in a health care debate whether to give health insurance to all Americans. How can we pride ourselves of being the strongest leader, and we cannot even provide health care in an affordable fashion to our citizens?

I want everyone to hear this. A robust option, a robust health option, says that you can make a choice. You can look at a marketplace of plans that will address your family's needs. You can buy into that plan. It also says that seniors, when they get to that doughnut hole, when they have spent 24 or \$2,500, they are not going to fall into that hole where they have to make decisions whether to pay their rent, pay their house note, their car note or buy food, because this bill will help you lift that burden. We are going to pull people out of the doughnut hole.

We are going to say to you, if you lose your job, your coverage will continue. We want to say to you Americans, if you fall ill, you don't have to be bankrupt. We want to say to America that we care about your health. We are willing to put our policies on the line for you.

Do not be confused, and do not let the opposition misstate the benefits.

You will receive more health benefits under this plan. Just know, we are providing for you the best health care insurance, and we are keeping it within the budget that our President has set.

I do hope that if you come here to the Capitol, or you go to the offices of your Representative, or if you write them, e-mail them or call them, encourage them to vote for a policy that will insure all Americans. We want to be sure we are the strongest, the healthiest and the happiest nation in the world.

Mr. Speaker, I yield back the balance of my time.

#### MESSAGE FROM THE SENATE

A message from the Senate by Ms. Curtis, one of its clerks, announced that the Senate has passed with an amendment in which the concurrence of the House is requested, a bill of the House of the following titles:

H.R. 3548. An act to amend the Supplemental Appropriations Act, 2008 to provide for the temporary availability of certain additional emergency unemployment compensation, and for other purposes.

#### HEALTH CARE

The SPEAKER pro tempore. Under the Speaker's announced policy of January 6, 2009, the gentleman from Missouri (Mr. AKIN) is recognized for 60 minutes as the designee of the minority leader.

Mr. AKIN. Thank you, Mr. Speaker.

It's a pleasure to be able to once again join my colleagues and others who might be interested in listening in to our discussion on this compelling subject of health care, which has absorbed the attention of people political and the people who work down here at the Capitol, for these many months. We are on the verge of perhaps taking a landmark kind of vote as to the direction that we are going to go in health care.

I was preceded by one of my colleagues, an esteemed colleague, who was asking the question, Why would we do something that would keep us from being a prosperous and happy and a nation reflecting leadership in the world?

The reason that America has been in the past prosperous and happy and has enjoyed world leadership is not because we have rushed headlong into European socialism but because, instead, we have adopted the path of freedom. Freedom has its drawbacks. One of the drawbacks of freedom is that people can fail and that there are responsibilities required of citizens.

When a government tries to insure everybody about everything that can go wrong, unfortunately, it's trying to repeal the basic laws of supply and demand; and we are no more effective in doing that or has any government in history been effective in doing that than repealing the law of gravity.

I was aware that there was an attempt one time—I was told it was in the State of Tennessee—where the teachers unions were frustrated at trying to teach students about pi, that little funny-looking thing with the number 3.1415 after it. They decided that it would be easier in terms of teaching to change pi from 3.1415, to just make it 3, to keep it simpler.

I'm not sure how the wagon wheels in Tennessee went after that legislative change was made. I imagine that mathematics continued to operate under the same set of laws in spite of what the legislature said. Now there are many things that Americans agree to on the subject of health care. It doesn't have to be particularly complicated.

One of the big problems is covering preexisting conditions. This is something that happens when people could be quite responsible, work hard at a job; but all of a sudden after a number of years, something comes up, either a child, a wife or a husband, someone in the family develops a medical condition which you didn't see coming, which is going to break the back financially of the house, and something which occurs in America too frequently. We must deal with that question. I think Americans agree that we need to deal with it.

Stopping the cost shifting and reforming medical liability law. The cost shifting, if you take a look at the problems in American health care today, you could think of American health care in a sense in two halves. The first half is the front half. That's the provider system. It's the doctors, the nurses, the hospitals, the many staff people and the fancy equipment that continues to provide Americans with the very best health care in the world. If you don't believe that, in spite of people complaining about American health care and talking about all these problems, if you are a multimillion-dollar sheikh from Bahrain or whatever and you are sick, guess where it is that you want to come get your health care? Yes, you've got it right—good old America. People vote with their feet and come to our country. That's the provider system.

The back half of that system is how do you pay for it, and that is the part of the system that is feeling increasing stress. If there is something broken, certainly the back half is the place where there are the most problems. From a macro level, if you take a look and say, well, what really is the problem? The problem is pretty simple; that is, two-thirds of Americans are paying for the system and one-third is not. As the people that are not paying anything for health care increase in number, it puts more pressure on the people that do pay, and that is creating a lot of cost-shifting and problems.

So one of the things we've got to do is stop the cost-shifting, and one of the

ways that you can reduce the cost of health care in America is reforming medical liability law. Unfortunately, the bill that's being considered by the Democrat Congress, the Pelosi bill, goes exactly in reverse in liability and says that States that have already on a State-to-State basis passed medical liability reform are not going to be able to have those laws take place. We are going supercede the law of a whole series of States in order to raise the price of health care. This bill is going in the wrong direction if we are trying to save money. More on that later.

Making people sure that they can keep the insurance coverage that they like. Today, there are about 100 million Americans who have insurance coverage. They have relations with doctors, they are reasonably comfortable that they are getting good medical care, and they really don't want to change that. They don't want us, because there may be some problems in the system, to, in a sense, burn down the barn in order to kill a few rats, or, as another person has phrased it, to say, When you've got a leaky sink, you don't remodel your entire kitchen. Many people who have insurance coverage that they like are going to be affected by a plan that's thousands of pages long, trillions of dollars in expense, and essentially tries to remodel an entire kitchen or, if you will, burns down the barn.

And then preserving the doctor-patient relationship. If there's anything that I think is more personal or more important in the health care debate and discussion, it is this very question. I don't think anybody wants to be sick, but when they do get sick, they try to find a doctor that they trust.

Maybe, after getting a couple of opinions, they decide on some course of action, they and the doctor; the patient and the doctor decide on what is best for their health care. And whenever something gets in the way of that decision-making, it tends to be, by definition, a very bad outcome.

We want to preserve the doctor-patient relationship. There are several things that get in the way of that relationship. One that has been too common would be the fact that some insurance companies will try to second-guess the doctor, claim that they have some medical expertise, that the doctor is being too cautious, that we don't really need to spend this money. Insurance companies do that sometimes. We have found that in the Pelosi bill, there is even a section which preserves, under ERISA, the insurance company's right to second-guess the doctor-patient relationship and then, if something goes wrong, to avoid any financial or legal responsibility for that decision.

There was a press conference earlier today on that very same subject, pointing out the exact pages in the bill and

how this section, which is pretty onerous, the fact that a patient can make a decision with a doctor and be second-guessed by an insurance company and when the decision goes wrong, the insurance company skates without any liability. That's part of the Pelosi bill. We don't want insurance companies coming between a patient and a doctor. That press conference was led by Congressman JOHN SHADEGG, who did a very good job and has raised some very serious questions in this regard.

There is something worse, believe it or not, than an insurance company coming between a doctor and a patient, and that is a Federal bureaucrat coming between a doctor and a patient. If the Federal Government decides, just like the auto industry, the insurance industry, the banking industry, the student loan industry and all these other places that it wants to get into the medical business, which the Pelosi bill puts them in that business, then in order to control costs, what's going to happen is you are going to end up with bureaucrats with nice big calculators and they'll figure out whether or not you qualify to get medical care.

Now we need to make a distinction between two very important things. The first thing is medical insurance; the other is medical care. In foreign countries, all of the citizens have medical insurance. That's wonderful. But if the medical insurance doesn't result in medical care, it doesn't do you much good. One of the things that happens in foreign governments, the whole idea of a government-run medical care, they can't provide Cadillac kind of medical care for everybody in their country because they can't break the laws of supply and demand. And so how do they control costs? Well, they control costs with these bureaucrats with their calculators.

If you're a certain age, and you want to get this particular test, "Sorry, Bub, here's some aspirin. Go home and sleep it off." Now that's called rationing. If you are a more political government and you don't want to get your citizens quite as mad at you, instead of just telling somebody to go home and die, what you can do is you create these waiting lists; so you can say to some woman who's pregnant, You can have your C-section in 14 months. She might start scratching her head saying, I don't think you're doing me any favors with that. But we also see that in the socialized medicines of other countries, these long waiting lists.

The result of that, of course, is that in certain kinds of illnesses, the waiting list is very dangerous. Certainly in heart disease, which is a leading cause of death in America, if you have a long waiting period, that's not a good thing.

□ 1845

Likewise, in cancer, cancer is something that you want to catch early. If

you do, you can have some very good outcomes. If you don't, the outcomes are far more gloomy. And so timeliness is very important. And when you are trying to keep your costs low, with the government trying to manage their budget, what they are going to do is create waiting lists which then have bad outcomes. And that is what the record shows of survival rates in cancer, for instance, in the U.K., which is a socialized system as opposed to a more free enterprise system in America.

Now these are things that Americans agree to. The question is what is being proposed, will it help these things and what is the cost?

In fact, when we take a look at the issue in most any department of the Federal Government, when the government does something, or particularly if it does too much, we see some outcomes that are pretty common, regardless of what area of government that it is. We see bureaucratic rationing, which I was just talking about, inefficient allocation of resources, degraded quality, and excessive expense. All of these things come when the government does too much.

Well, would the government takeover be something that would qualify as the government doing too much? I think the old adage that "if you think health care is expensive now, just wait until it is free" might apply here.

Is the government doing too much with the Pelosi health care proposal? The first thing to understand, and this is actually a chart that was drawn up on the earlier Pelosi bill, which I believe was only about a thousand pages, the new version of this plan, which is very similar, is 2,000 pages. So this chart may not be completely accurate. In fact, it may be too simplified.

What you have here, every one of these colored boxes is some new bureaucracy, some new moving part that is created by the Pelosi health care proposal. You can see, trying to take a thousand-page bill and putting it on a chart, it is going to look a little complicated. But if you think about it, we are going to be taking one-sixth of the U.S. economy and then we are going to turn that over to the Federal Government to run with this proposal.

So you have the consumers. It is almost like a maze. Can the consumers get over to the doctors, or not?

So one of the things that you run into when the government does this is tremendous complexity. That is why when the President last July came here to the Congress and said we need to get this done, none of the other Presidents before me could get it done, but I am determined to get it done, so you need to put a bill together and I would like to have it done before the end of July, he was asking for a pretty tall order. In fact, he was asking for the impossible because trying to put this together,

even if you buy the assumption that the government should take over health care, is not a simple procedure. This gives just a little bit of the sense of how complicated that is.

Now one of the other things that you have to associate with a high level of complexity is also a high level of cost. We have a number of statements that were made by the President, and certainly he has the bully pulpit. Everyone listens when he speaks, and he makes a number of different statements which I would take a look at those and see how really accurate are they.

This is one of his statements before the Joint Session of Congress that was on August 9 before the summer break. "Most of this plan can be paid for by finding savings within the existing health care system, a system that is currently full of waste and abuse."

This sounds pretty good on the surface. We can simply take the health care system that we have, and there are pockets of waste and abuse, we tap into that like unused oil, and we can all of a sudden come up with something that the Federal Government runs which is going to be less expensive because we can pay for this government-run system by using waste and abuse. It is almost as though waste and abuse are a line item in the budget and we simply pull money out of the waste and abuse account and we stick it into health care, and we have everything taken care of financially.

Unfortunately, the government running various entities does produce a tremendous amount of waste and abuse, but it is not so easy to squeeze that fat out of the system. It is not a simple line item. The place where he is looking for this waste and abuse turns out to be an area that is politically highly controversial, particularly taking it out of Medicare.

Let's take a look at this efficiency that he is talking about that he can create by having the government take the system over. We do have some experience. We have experience of two other government, Big Government entitlement programs in the area of medicine. One is known as Medicaid; the other, of course, is Medicare. The other big entitlement is Social Security.

If we look at Medicare and Medicaid, if we look at the history of those two government-run medical systems, what we find is when the Congressional Budget Office scored those bills when they were passed by Congress some many years ago, it was found that their estimates were extremely optimistic and very low. In fact, in the case of one of them, the estimates were more than four times too low and the other one, as I recall, even many times more than that. So we are not saying a couple of percentages off, not 10, 20, 30 percent off, we are talking about 4, 5, 600 percent, that these things were estimated

to be lower in cost than they were going to be. And worst, what we see with this chart, we see that the cost of these programs is rapidly expanding. In fact, they are expanding so fast that people, both conservative and liberal alike, will say that these three entitlements will destroy the financial solvency of the United States in a period of time. This chart shows that being somewhere in the 2052 range.

Why would that be? Well, part of it is that the actual revenues that the Federal Government takes in are to a degree limited. That seems like an odd thing to say because you think, can't we always crank up the taxes? If 24 percent, or 28 or 18 percent tax rate isn't enough, let's kick it up to 50 percent. The problem is that the mechanisms that the Federal Government has to try to increase taxes, what happens is they can increase the tax but the government revenues don't go up. Now that might seem like a really odd thing. Let me stop and explain what I am talking about.

You would say if you raised taxes, you are going to get more money. So aren't you saying that water is running uphill or something to say that raising taxes doesn't generate more money? Well, in fact it does not at a certain point.

Let's use the illustration that you are king for a day. Your job is to put some taxes onto a loaf of bread and you think about Americans buying loaves of bread. You think, well, I can raise a certain amount of tax if I just put 1 penny on a loaf of bread. But then you think to yourself, or I can raise a whole lot more if I put \$100 on a loaf. But nobody would buy a \$100 loaf of bread. So common sense tells you somewhere between a penny and a hundred dollars, there is some optimum point where people will still be buying a lot of bread, but if you raise the tax more, no one will buy bread any more. So there is this sort of optimum taxation.

What this chart in actual Federal revenue shows is what that point is. So what happens is you can raise taxes above it, but what you do is stall the economy. Therefore, even though you have a high tax rate, you end up getting less money in the government.

Just to give you an example of how that principle worked, when I was first elected in Congress in 2001 and 2002, we were in a recession. If you took a look at the Federal budget, there were a lot of liberals and Democrats complaining about the large tax cut that President Bush and the Republicans passed. They said, that is costing us billions of dollars. Actually, we were following President Kennedy's model, Ronald Reagan's model, and Bush II followed that same pattern, realizing that if you reduce the taxes, you can actually increase the Federal revenues because the economy pulls out of a recession and gets going.

But if you were to add the supposed cost of those tax cuts to the cost of the war in Iraq and Afghanistan, add that all together, it was less money than the cost of the recession. So when the economy gets flat, it not only hammers mom and dad back home, it hammers the States terribly because many of them are balanced budget, and it also affects the budget of the Federal Government.

So as these programs grow out of control, what is going to happen is there is going to come a real financial breaking point.

So we are told that the government taking over all of health care is not going to follow this pattern, this is the government taking over some of health care, but in fact if we take over all of it, my goodness, we are going to have all kinds of savings. Well, if you believe that, I think there are some people that sell swampland in New Jersey.

So this is the track record of government control of health care. Now that is not the only example. There are other examples such as Massachusetts and Tennessee, and they have tried this government takeover and the government providing insurance for health care, and it hasn't worked for them and it has raised their cost of medicine in those States to the point that it has threatened the provision of good medical services.

So you have in response to the Pelosi health care bill, the Democrat Governor of Tennessee calling it "the monster of all unfunded mandates." So in order to keep the cost of the Pelosi plan under \$1 trillion, guess what, they are cost shifting costs to the States and even the Democrat Governor of Tennessee, who has had experience with this type of program, is saying that this is the monster of unfunded mandates. In other words, the Federal Government makes the State do something which is going to cost the State a whole lot of money.

Let's go on here. This is a statement by our President. "Here is what you need to know. First, I won't sign a plan that adds one dime to our deficits, either now or into the future, period."

Boy, do I feel better when I read that. The President is telling me he is not going to sign a bill that adds one dime to our deficits, either now or into the future, period.

This is one of those things you better make sure that you know what "is" is and what is this really saying because in a technical sense he can make the statement that he is not going to add one dime because it appears that he is going to add over a trillion dollars, and even that doesn't show the accurate cost. So let's be careful when we take this statement. Does he really mean that this is something that is going to be financially solvent and is going to really work well? Or is he just being a little bit cute and saying he isn't going

to add a dime, no, he is going to add a trillion dollars.

Well, it turns out that the Pelosi health care plan is going to cost over a trillion dollars.

Well, we have taken a look at how serious is the President since the beginning of the year. How serious is he in worrying about excessive spending in the Federal Government. Well, certainly President Bush was accused for overspending. But it turns out he was merely a piker because this year isn't even over yet, and the total spending from the Obama administration and the Pelosi administration is \$3.6 trillion. Now, the worst year that President Bush had was when the Democrats controlled Congress, and it was about somewhere in that \$400-plus billion of deficit. And here we have \$3.6 trillion in less than a year.

So when he says he is not going to add a dime, we have to say, wait a minute, I am not sure that passes the sniff test. Here we have the Wall Street bailout, half of that was under this administration. That is \$350 billion. Then we have the so-called economic stimulus, I call it "porkulus," it didn't have much stimulus in it at all. That is why unemployment is high.

We were promised if we didn't pass stimulus, why unemployment would get as high as 8 percent. We passed it, and it is 9.7 percent and rising. That was \$787 billion. That is a chunk of change, it really is. In fact, as we went through the year, we had already spent all of the money that the Federal Government was going to collect this year by March or April, as I recall.

SCHIP, another \$66 billion. And here are these appropriations at 410, and then we have these other tax bills that are coming along trying to compensate for this incredible \$3.6 trillion level of spending.

So when the President says I am not going to sign a bill that adds one dime, we say maybe not a dime, but you are talking over a trillion dollars and that is not even talking about what is being shifted to the States.

I would like to take a look at some of the other comments that have been made because I think trying to get a little bit of truth into this debate and kind of balance things out, it is very helpful tonight.

This is a very nice promise. I really like this promise. First, and this is the President again, "First, if you are among the hundreds of millions of Americans who already have health insurance through your job, Medicare, Medicaid, or the VA, nothing in this plan will require you or your employer to change the coverage or the doctor you have."

Whew. That is good news. Do you know there are a hundred million people in America who have health insurance. They have doctors, and they are very pleased with their health care and

they are not so sure that they want the Federal Government to come in and stir it all up and change it.

□ 1900

So if we can assure those hundred million Americans that already have insurance that they like that everything is going to be okay, then the idea would be let's just try and fix the—however many, people argue about it—10 to 20 million who do not have insurance that could have insurance that don't, well, then that would be okay.

Well, the question is is this true. We heard the last one the President said, that he's not going to add one dime. Now he's saying that you can keep what you've got. Well, that's a great promise. I wish that one were true because I think that's really nice, a lot of people would like to keep what they have.

Here is an MIT health economist, Jon Gruber. He said, in reference to this claim, With or without reform, that won't be true, said Gruber. His point is—that is, the President's point is—that the government is not going to force you to give up what you have, but that's not to say other circumstances won't make that happen. In other words, what's being said here is, yeah, the plan doesn't specifically say you can't have your current insurance and your current doctor, but it does say that all of these insurance plans have to be just like the Federal Government's insurance plan at some time in the future. And that being the case, the insurance company is going to change the plan that you have or go out of business, or quit offering it, or whatever a whole series of alternatives might be. Therefore, this statement is not true either.

In fact, what's going to happen is, just as we've talked about, this is the government takeover, either slowly or rapidly, of one-sixth of the U.S. economy. And so the idea that you can keep what you have and everything is going to stay the same, you could say that, and maybe it will stay the same—for today and tomorrow and next week and next month, but next year, maybe not; 2 years from now, certainly not; 4 years, very, very different. So, yes, can you keep what you've got and enjoy your insurance and your doctor? Yes. For how long? No promise on how long.

Then we have another promise here. There are those who also claim that our reform effort will insure illegal immigrants. This, too, is false. The reforms I'm proposing would not apply to those who are here illegally. Well, I think a lot of Americans should think, my golly, you're going to spend another \$1 trillion charging all kinds of Americans a lot more money to have this government-run health care plan, and they're thinking to themselves, I'm not sure I can afford to pay for people who come here illegally over the

border to try to get free health care off the back of the American workers.

So there is a legitimate concern, and of course that's already happening around some of our borders. It's very hard to get into emergency rooms in many hospitals because people come here from other countries and just walk straight to the emergency room and get care. And of course all that cost is being shifted to other hard-working Americans.

And so, this is a good promise that the President made. I wish this one were true, too. This would be really good if this were true; like the other ones, it would be nice if they were true.

There are also those who claim that the government will insure illegal immigrants. Well, okay. So what's the truth here? Well, one of the ways to check on whether that's true, we have an organization here in the Congress called the Congressional Research Service. They're a bunch of people who are experts at researching things. They're expert at law. And they're not Republican. They're not Democrat. They're not particularly biased. Their job is just to say just the facts, ma'am, just the facts. Here's what they said about this statement. This is the Pelosi health care bill before it was beefed up by another thousand pages, but the section that's in the bill is the same, relatively speaking, in dealing with this problem.

This 3200 health insurance exchange would begin operation in 2013 and would offer private plans alongside a public option. H.R. 3200 does not contain any restrictions on noncitizens, whether legally or illegally present, or in the United States temporarily or permanently, participating in the exchange. So what this is saying is, well, you know, the President can say the illegals won't get the service, but the fact of the matter is the way the bill is written, people who are here illegally can sign up and get the service on the backs of the hardworking American taxpayers. And so what the President said again is not true.

Now, there are other ways to try to tell whether something is true other than just something like the Congressional Research Service. One of those means of telling if something is true or not is to offer amendments. Now, because of the great transparency that we've been promised, there will not be any amendments here on the floor; if there are, it's going to be one or two.

Members who are concerned about, for instance, illegals, making sure that they have to prove their citizenship before they sign up for free health care, people who are concerned about that might offer an amendment. The amendment might say, hey, before you get into this exchange and get this insurance, here's the deal. What you have to do is you have to prove your citizenship. And so an amendment such as

that was offered in committee. It can't be offered on the floor because of our procedure. The Democrat Party does not want to have a lot of those amendments on the floor. And especially with a 2,000-page bill, it's true, we would be here a long time.

Some of those amendments are kind of important, but they don't want to take those votes. But those votes occur—although the public doesn't see them as much—in committees. That amendment to make sure that illegals didn't get health care was taken in committee. The vote was just about a straight party line—Republicans for it, Democrats against it. And so, with that amendment failing the way it did, it doesn't give people any comfort that what the President has promised is true, or that perhaps it almost seems as though it is disingenuous.

A similar criticism and complaint—there's a lot to talk about in a 2,000-page bill, my goodness. This is another statement that was made by our President, and it is, he says, a misunderstanding. "And one more misunderstanding I want to clear up—under our plan, no Federal dollars will be used to fund abortions, and Federal conscience laws will remain in place."

Well, this is a pretty controversial question. Most people know that America is deeply divided on the abortion issue. There are many good-meaning Americans who believe that abortion is the killing of an innocent child. And there are good-meaning Americans, I suppose, who think that abortion is a choice question and a mother should be able to kill her child. Well, people are going to disagree on that. But this is, in a way, a different question.

And it's interesting that the people who want to have abortion rights say that people should have choice, and yet in this particular question there is no question of choice at all, because when it comes to paying your taxes, you don't have any choice. The tax man comes to your door. If you don't pay your taxes, you go to the free hotel. And so paying taxes is compulsory, there is no choice involved in it. And is it reasonable—at least you have to acknowledge, or some people think it's wrong. Is it reasonable to tax them and have their money go for paying for abortion services for people all over the country? And so this is a very big ethical question. In fact, the National Right to Life and some of those groups would rate this as one of the biggest decisions on the abortion question since *Roe v. Wade* or *Doe v. Bolton*.

So these questions are something that is percolating within this overall health care bill of thousands of pages. And the President's saying, hey, don't worry about it. We're not going to use taxpayer money to fund abortions. The only trouble is that, like the illegal immigrant question, an amendment was offered in a committee—it would

never be allowed on the floor, but it was offered in committee—and that amendment said that we're not going to be using any of these Federal dollars and that we will not be funding abortions with Federal money. Again, that was close to but not entirely a party line vote. That amendment failed.

So as it fails, it leaves you with the irrevocable kind of conclusion that we're not going to have protection. In fact, the bill—or even if the bill doesn't do it, under Federal rules and regulations, you will have people getting abortions using taxpayers' money. This is something that actually quite a number of pro-life Democrats are hung up about, and there is a big argument about this subject. I've never been invited to those meetings. I'm a Republican. But it is interesting to note that again the President says one thing, and yet in fact, when you look at the committee votes and the amendments offered in committee, this is not true.

One of the things that's interesting to look at, you can look at health care from so many different angles. One of the angles that's interesting is what is it that women want, because it turns out in families, many times women are the ones that are involved in the details of the family health insurance, making health insurance decisions for families. And here is a survey that's just been conducted October 19-25, 2009. So this is a very, very recent survey, independent women for a nationwide survey. So they were polling people from all over this country.

Let's see, what did the survey say? Well, first of all, 64 percent of American women would rather have private health insurance than a government-run health insurance plan. You know, it's interesting. In the political world, you can ask questions in several different ways. One thing you could say is, "Would you like the government to buy you a house?" And you think, hey, that sounds pretty good. The government would buy me a house, really? "Hey, Congressman AKIN, I would really like it if the government bought me a house." So if you said, "Would you like the government to buy you a house?" probably a lot of people would say, "Well, yeah." You could ask the same question a different way, "Would you like to live in government housing?" I don't think you would find as many people that want to live in government housing. Well, this is a situation here like that.

They're saying 64 percent of American women, that they would rather have this private health insurance than a government-run health insurance plan. And that's actually kind of common sense, because, for one thing, if you like the idea of having some flexibility and choices, if you don't like your private health insurance, guess what you can do? You can go try and find somebody else. What happens if

your only choice is a government-run plan? Well, that's just like Henry Ford. You can have any color car you want as long as it's black. And the nations that have health plans that are run by the government, when you get some sour and unresponsive and underproductive Federal employee running a hospital and the hospital care is terrible, what are your alternatives? Are you going to call your Congressman and say, hey, they haven't mopped the floor and changed the sheets in X, Y, Z hospital? How much good is that going to do you? So these women here, they weren't born just yesterday. They would rather have private health insurance than government.

Sixty-six percent of them described their insurance as excellent or good. So you have a great number of Americans, that's that 100 million, or at least a good number of them, that are saying their current health insurance is excellent or good. What that means is that, as I was saying as we started our discussion on health care, that that provider network is, in America, still pretty good. You don't find so many Americans going to Canada for health care or to Mexico for health care, but you do find a fairer number of Canadians coming to America for health care or Mexicans coming to America for health care. So it's not surprising that we find two-thirds of these women saying that they think their health care is excellent or good.

Seventy-four percent of them describe their health care as excellent or good. Let's see now, what's the difference here? Health insurance. Oh, health care. This is health insurance; this is their health care. So while they weren't quite as crazy about their insurance, they said their health care, 74 percent of them—again, this is the case of the old sheikh that's sick. He wants to come to the USA to get his health care. These women are saying the same thing. Seventy-four percent of them said that actually their care is excellent or good. It doesn't make too much difference what you think of your health insurance in a way if you're getting good care.

On the other hand, you can have wonderful health insurance, but if you don't get any medical care, it's like paper Monopoly money. It doesn't do you any good.

Then here is 75 percent want few to no changes made to their own health care. So this, again, is where a lot of people are. They would like to keep what they have, they're comfortable with what they have, and they don't want us to remodel the kitchen when the drain in the sink is stopped up. They just want to fix the plumbing, but they don't want to remodel the entire kitchen. That makes a whole lot of sense. And actually, from a legislator's point of view, it also makes a lot of sense.

What you're seeing going on politically right now is an attempt to move a bill, to nationalize one-sixth of the U.S. economy. That is a very ambitious project. While I think the Democrats are wrong in trying to do that, I will take my hat off to them at least in the fact that they're doing something that is incredibly ambitious and probably more than what the legislative process can handle in a short period of time.

So part of the problem is that you just have a whole lot of people that like things the way they are, and so trying to change that for everybody is particularly difficult. And this is kind of a women's perspective on what they're seeing and what's going on.

□ 1915

Now, there are a lot of other perspectives on this bill, and that's part of the problem that this bill has, which is that a lot of people don't like it.

One of the groups of people that really doesn't like it is seniors. Seniors have gotten used to and are dependent on Medicare. Of course, Medicare costs are going up a lot, but they don't like the fact that a lot of this bill is going to be paid for through cuts in Medicare. That's something that tends to antagonize older voters, and many of them are very consistent voters. So this is a group of people that doesn't like it.

Another group of people which particularly does not like this government takeover is going to be that of the people who run small businesses or who own small businesses, because what this bill is going to say is: You must insure all of your employees, and you've got to do it in this, that or the other way. Therefore, it's going to raise a whole lot of costs for your employees if the government is going to be taking over health care and is going to be demanding these things of small business.

The result is that what we've been doing to the small businessman is hammering him just like a giant sledgehammer in some kind of circus tent. We're hammering him down into the dirt. First of all, we're going to let the dividend capital gains tax cuts expire, so he's going to get a tax increase from that. Next, we passed a bill here in the House, which is called cap-and-trade, or cap-and-tax, which is the biggest tax increase in the history of the country supposedly to take care of the dangerous gas CO<sub>2</sub> and global warming. That has a very huge tax increase. That is going to also raise the energy costs to small business.

So now they're not only getting the tax increase of the expired capital gains dividends, which is the money they use to invest in new plants and equipment, but also they're going to get hit with an energy tax. Now, on top of that, we're going to try to balance the books of this health care plan on the backs of the small businessman.

The trouble with doing that—and this was tried by FDR in the Great Depression—is that you can drive the small businessman so far into the dirt that you make him close his business down, and that has some effect on employment. In fact, small businesses in America employ—if you call “small business” 500 or fewer employees, 80 percent or 79 percent of Americans work for these smaller sized companies. So, if you hammer them into the dirt in terms of taxing and taxing and taxing, what is going to happen is you're going to have increased unemployment. It's not a big surprise to see what we've got going.

Hey, we're joined here in the Chamber by a good friend of mine. There is so much going on in health care, I would just encourage you to join in like it's a dinner conversation, my friend, and just share what you're thinking. We're even talking about a vote here within some days.

Mr. LATTA. I thank the gentleman for yielding, and I appreciate your hosting this very special Special Order this evening.

Where I come from in Ohio, we are very, very hard hit. Our unemployment rate is one of the highest in the State in our district. I represent the largest manufacturing district in Ohio. I represent the largest agricultural district in Ohio. At this time last year, we were, according to the National Manufacturers, about the ninth largest in manufacturing.

Mr. AKIN. Well, that's a very important fact. Don't go too fast. What you're saying is your district is the ninth largest manufacturing district in the country?

Mr. LATTA. We were at this time last year, but we've slipped to 15th now.

Mr. AKIN. You've slipped to 15th?

Mr. LATTA. Yes.

Mr. AKIN. So what is your take on manufacturing? Because we were told old people don't like this bill because it's cutting Medicare. Small businesses don't like it because they're getting hammered one more time into the dirt with tax increases. Let's talk about manufacturing because, in a way, that's the backbone of American industry.

Mr. LATTA. Absolutely.

Mr. AKIN. What is your take on this? How does this work?

Mr. LATTA. Well, I'll tell you. You know, when we were all home during the August work period, I went through I don't know how many different factories, and I went through lots of small businesses.

As one example in particular, I had a gentleman walk up to me. He was a factory worker. He said, You know, I'm really not sure what you all are talking about there in Washington. He says, If I can't put a roof over my family's head, if I can't put food on the

table, health care is not the top issue for me.

People are all concerned about health care, but as to where it is in the priority ranking, it's at survival right now. We've got a lot of folks out there who need to survive. At the same time, you have a lot of these smaller businesses—you know, when I talk about smaller, it could be a factory of about 150–170 which is now down to 29–35 people, and they're just hoping they can keep the lights on. When they see and hear that Washington might impose a mandate on them, especially at that 8 percent level, they say, Well, we're not going to survive.

Mr. AKIN. Let's get back and get those numbers. We were just talking about this last night.

We've got small business and even manufacturers that have been hammered so hard now that they're struggling for breath.

Mr. LATTA. Absolutely.

Mr. AKIN. We're going to nail them with another, possibly, 8 percent cost. This is 8 percent.

Also, what's going to happen to the dividends and capital gains? That's going to go up through this bill, too. So, not only do we have additional taxes on top of the other taxes, on top of the ones that are going to expire and go up—you've got all of that coming down the pike. Also, they don't see any end in sight.

So we have created an environment where there are a lot of unknowns. If you don't know what's going to happen the next month, when we get done with this tax, we're going to go to another one. What you're going to do is you're going to try and play it safe and see if you can survive. Am I on the right track?

I need to just thank you. Congressman LATTA is from Ohio, and he is really an upstanding young Member. Your opinion is very important, and Ohio is a very important State, particularly because of the manufacturing base.

Mr. LATTA. Absolutely. You hit the nail on the head.

All of these companies that are out there struggling right now look at everything. Health care is a huge issue to them. Cap-and-trade is an issue out there—the electricity costs to keep the machines running. Then we had the second highest corporate tax rate here in the United States.

If you put these all together, plus you throw in the EPA and the environmental things that have to go on at these companies, and if they're owned by a parent company that has a plant someplace else in the United States, they can say, as in our situation, Well, you know what? Your costs go up too great in Ohio. You're just going to have to move.

There are some companies out there that are multinational and they've said, You know what? We're to the

point that, with any more costs, it would be cheaper for us to actually make it on the Pacific Rim and ship it here, and then we won't have to worry about all of these costs, and there's the product.

Yet, you know, health care is one of those things that everybody wants to make sure that we have; but at the same time, we've got to do it in the right manner, and that's what a lot of folks back home are very concerned about, because I don't care if you're a senior citizen and you're on the Medicare side or if you're a businessowner. Again, these businessowners are the ones who are very frightened because they're the ones who keep people employed on Main Street.

In talking about Main Street, not too long ago, I was out on one of my Main Streets in my district. One of the businessowners asked, Bob, you know, is this thing going to pass? He said, You know what? You're looking at my business right now, and I will not be able to survive, with the numbers that I'm seeing from Washington right now, under this legislation.

Mr. AKIN. You know, a wonderful part of America are these different expressions. There is such a diversity of people in our country, and I guess that's probably why we serve here. We just love this country and love our own constituents and all.

In representing Missouri, we have some kind of rural expressions that are fun. One of them is "hunker down." Sometimes you'll hear people in Missouri say, "Hunker down." Then, if they're really serious about it, they'll add to this. "They're hunkered down like toads in a hailstorm."

It paints a picture, but that is, to a degree, the picture of the small business man and of the manufacturer in America just being hit, not with hailstones but with tax on tax on tax, and we wonder: I can't understand why there would be unemployment.

Do you see?

The thing that's tragic about this is the fact that the government has tried this before. They tried this before, and they created the Great Depression.

You had this little British economist, little Lord Keynes, running around, saying, Hey, I've got a brilliant idea. Why doesn't the government just spend tons of money, and by spending lots of money, it will get the economy going, and we will jump-start—I don't know if he used the word "jump-start." I don't know if they had car batteries back then. I guess they did. We're going to jump-start the economy by the government spending tons of money.

So FDR thought that's a pretty good idea. Plus, it's not bad politics if I can run around like Santa Claus with the paychecks, you know?

So he gets Henry Morgenthau as his Secretary of the Treasury, and they test out this nifty theory. So they go

out and spend tons of money year after year after year, hoping to see unemployment come down.

At the end of, I think it was 9 years, Henry Morgenthau came to this body, to the Ways and Means Committee, and he said, Gentlemen, we've tried this idea, and it doesn't work. He says it that simply: It doesn't work. All that has happened is that unemployment is as bad or worse than it was before, and we have a whole lot of debt to boot. Those were his words.

So what we're seeing is this idea of just taxing and taxing these businesses, and unemployment is just going to kill us because they're not going to be hiring people when they're hunkered down, worrying about what the next tax is going to be or whether it's going to put them out of business. They're going to be playing things very conservatively. Plus, it's hard to get loans for them.

Mr. LATTA. If the gentleman would yield.

Mr. AKIN. I do yield to my good friend.

Mr. LATTA. You hit on a very important point right here. One of the things they're talking about right now is that we've been coming out of this recession into a jobless recovery. When you have these unemployment rates—

Mr. AKIN. Wait a minute now, I've heard this term "jobless recovery." I'd like to pick at these words a little bit. "Jobless recovery." Do you think that's the same thing as a plastic glass or a jumbo shrimp? I mean, how is it a recovery if nobody has a job? I sure hope I don't suffer too much with that kind of recovery.

Mr. LATTA. It's the way they define when you're coming out of a recession.

Back in 1982, when I look at that recession, one of the things that a lot of people point to is that it was very, very tough. We all remember coming out of the Carter administration with double-digit unemployment, with double-digit inflation and with a 21½ percent interest rate. A lot of people also said the same thing: You know what? It's tough, but at the end of the day at some point, that factory down the street is going to reopen, and I'm going to get my job back.

In this case, we've got so many companies out there, especially in my district, that are saying, You know what? We've cut as much as we possibly can. We're going to do as much as we possibly can to make sure we can just keep the doors open, and we find right now that we can survive with what we've got.

When they say "what we've got," it's the employees who are on the floor right now. They say, We're not going to hire anybody else.

That's the scary thing because now, all of a sudden, we're going to have all of these young people coming out of high school, coming out of trade

schools, coming out of community college, and coming out of college. Where are they going to go? Because we've got more and more people saying, I can't retire. I've got to keep working because I'm not sure what I'm going to have down the road.

There are all of these things that, I think, have got to really be looked at. That's why, I think, the American people have said to us, especially in my district, We all agree. There's not one person in this body right here who would say we should not do something about health care in this country; but it's how we do it, how we proceed. It's slowing it down. The American people want it to be the best thing, not something that's rushed through, not something that's in a 1,990-page bill.

Mr. AKIN. Here we go again. It's this tremendously long, complicated bill, a complicated plan, and it almost looks like just another attempt where we already determined when we started that what we really want is the government to run it all.

We've got the government firing the president of General Motors, running General Motors, running the insurance companies, running the banks, deciding what executive salaries are going to be, and that's not good enough to have the government doing that. We want the government to take over student loans, so we passed that this year, still letting private people do the student loans. There's \$1 trillion in extra spending to cover all of these student loans. Now what we want to do is take over all of health care.

I mean, this is kind of ambitious. You know, this is a little overwhelming. My constituents are a combination of scared and angry about what's going on down here. I think it's important for us to offer simple solutions, and we've got a simple solution if you want something immediately that you can do, and that is, tomorrow at noontime, Americans are coming from all over this country to meet on the steps to talk about this whole thing and to express their opinions of whether they really think that a bill that raises premiums, that reduces health choices, that delays and denies care, that costs \$500 billion in Medicare cuts and \$729 billion in new taxes is the solution that they want to this problem.

People who want to say "no"—at least I think a lot of them want to say "no." I don't know what they're going to say because they're coming here tomorrow at noontime to this Capitol to express their opinions. They were invited by a bunch of us who are just plain old Congressmen, not leadership. They were just invited. You all come. Come talk to us about what's going on here. If people kind of get upset, this is the place to express your opinion.

I would yield.

Mr. LATTA. I thank the gentleman for yielding.



Again, that's what happened during the month of August and when we were back home. We were out in our districts, and the people got to see us and talk to us face-to-face, and that's what they really want to do. They want that opportunity to say, I want a piece of my voice to be heard on this.

One of the things, I think, that has been missing in this is that I came from the Ohio legislature, and I chaired a couple of committees in the house and the senate. One of the things that, I think, is very important is that we have people come in, be able to testify and be able to face the members.

Mr. AKIN. Yes.

Mr. LATTA. I think what we ought to have been doing during this whole period of time here is that we should have taken this back onto the road, and we should have had committee hearings across this country so that Americans could have gone to their States and to wherever it would be that the Members would be holding the hearings for the three different committees here in the House which were hearing this piece of legislation. I think that's what we should have been doing because, again, people feel left out. The most dangerous place for me to go, for my wife to send me, is to the grocery store after church.

Mr. AKIN. After church to the Rotary Club, that's dangerous?

Mr. LATTA. Well, it's the grocery store.

Mr. AKIN. Oh, the grocery store. I'm sorry.

Mr. LATTA. Because what happens is that people come up to me, and they want to talk. I go home every weekend, and I don't care if it's at the grocery store or at the gas pump. You know, it could take 45 minutes to an hour sometimes.

□ 1930

Mr. AKIN. They are saying, BOB, wait just a minute before you walk out with that loaf of bread. The loaf of bread is stale by the time you get out of the store.

Mr. LATTA. The American people want to be heard, and I think that is one of the things they are really saying here is wait a minute, I don't think we are being heard in this discussion.

Mr. AKIN. Well, a lot of us are going to go out on the steps and we are going to listen to what those people have to say. I think you committed to be going out there too and be available. And we are going to talk. There are going to be a lot of interesting people, people doing some singing and all kinds of things, people making some little short talks and discussion. And that is a healthy thing in America, to have that freedom to have free speech, to talk, and to come to the Capitol building and to let people know what you think about this.

Of course, there is a different philosophy than this kind of take everything

apart and rebuild it, and that is that there are some specific things that can be done that reduce health care costs that Republicans almost uniformly support.

One of them is tort reform, limiting the punitive damages. We know that in other States where that has been tried it reduces the cost of health care. We also know in other States where the government takes over health care, that the costs go out of sight. We have seen that in Massachusetts and in Tennessee. But we have seen in my own State of Missouri and Texas and other States, there is a distinct reduction in health care costs when you limit some of those punitive damages.

It doesn't mean that doctors don't make mistakes and shouldn't be held accountable. But the other thing is you don't rape the system and run the costs up so that every doctor is forced to practice defensive medicine.

Mr. LATTA. If the gentleman will yield, when we are talking about punitives, we are not going to say to people limit the economic damages. It is the noneconomic damages. Because it took us quite a few years in the Ohio legislature to finally get a small portion of that passed, but we saw changes almost within a year in what was happening out there.

Mr. AKIN. Did you pass one in Ohio? Did you limit the punitive damages in Ohio?

Mr. LATTA. That is one of the things we had to do on some of the noneconomic damages, and, again, it was only a small portion, because we had to pick certain areas and we picked the one area, and we watched those things come down. Because what happened was as soon as we passed the legislation, as soon as it was signed into law, it was challenged in the Ohio Supreme Court and it was upheld for being constitutional. But those are the things you have to do.

Those are the things when you are talking about doctors not having to practice that defensive medicine, instead of running four, five or six tests, maybe they only have to run the two. But they are going to run the four, five or six tests. Why? Because if it is in your neighborhood and the courts have been saying why haven't you done this, you have got a problem. That is why these doctors say I have to do it, because otherwise I am going to get sued and my malpractice insurance is going to say you didn't do what you should have done, and now you are in trouble.

Mr. AKIN. So there is the problem. That is one place that Republicans have talked about where there is a specific thing that you can do. And there are other things. We talked about the idea of letting people buy their medical insurance across State lines.

The other thing in this 2,000 pages, there are a lot of loopholes and trapdoors. One of the things that is amaz-

ing to me is they do the opposite of tort reform and they say any State that has passed any tort reform, that that gets waived in order to get this government insurance. So you are going to be taxed whether you take it or not, but if you want the benefits of your citizens being taxed, you have to basically back off from tort reform. That is kind of a weird trapdoor.

Mr. Speaker, I thank my good friend from Ohio, Congressman LATTA. It has been a treat having you here.

#### THE COST OF NOT HAVING HEALTH CARE

The SPEAKER pro tempore. Under the Speaker's announced policy of January 6, 2009, the gentleman from Florida (Mr. GRAYSON) is recognized for 60 minutes.

Mr. GRAYSON. Mr. Speaker, during the Civil War, Abraham Lincoln, our President, often pardoned people who had been convicted of treason. You may wonder why he did that. The answer is he saw death all around him in the Civil War, and he wanted to make sure he did nothing to add to it, so he pardoned people who had been found guilty of the most grievous crime one could commit in this country simply because he loved life.

In the same way, I would like to think whether I leave here after 2 years or 20 years, that there will be no blood on my hands. That is why I am against the war in Iraq, that is why I am against the war in Afghanistan, and that is why I am so much in favor of health care reform that saves lives in America.

We had a different kind of President for 8 years recently, and we had a different kind of administration, an administration that was willing to bear any degree of suffering and pain as long as it was somebody else's. If you were homeless, it was your fault; if you were jobless, it was your fault; and if you died because you had no health insurance, that was your fault.

Now that administration is out of power. We, the American people, removed them because they abused it. But they have left behind in the House and in the Senate people who feel much the way that they did.

Recently, a Harvard study published in a peer review journal, the American Journal of Public Health, announced that 44,789 Americans die every single year because they have no health insurance.

In America today, if you find two people who are physically identical, same race, same age, same gender, same smoking habits, same weight, if you find two people who are physically identical, and one of them has insurance and the other one does not, then the one without insurance, that American who has the misfortune simply not to have health coverage, that

American is 40 percent more likely to die.

This bill that we are considering now to reform health care in America would end that. It covers 96 percent of all Americans. It ends this grievous national tragedy where, day after day, week after week, month after month, 122 of us die every single day because they have no health insurance.

Now, I am sure that if we learned that al Qaeda was going to launch an attack on the United States and kill 44,789 Americans at any time next year, I am sure that we would do anything in our power to prevent that. I submit to you we should do the same about this. We should do exactly the same here, because we face the same threat. It is a less visible threat, it has gone on for generations, but it is a threat nevertheless. If you don't let people see the doctor, then a certain number of them are going to die.

To bring this point home in the face of united opposition by that side of the aisle, what we have done is something very simple. The Urban Institute has published the number of uninsured people in each district, each congressional district in this country. The American Journal of Public Health has told us what percentage of those uninsured people will die next year because they have no health insurance. So what we have done is very simple. We have taken one number and the other number, and through the magic of multiplication, we know how many of those people will die, and I think it is time we called attention to that.

So what we have done is for each Republican Member, since they are united in opposition to this bill, and apparently proud of it, for each Republican Member we have identified in each district the number of dead.

They are as follows:

Alabama District 1, Congressman Jo Bonner, 114 dead.

Alabama District 3, Congressman Mike Rogers, 88 dead.

Alabama District 4, Congressman Robert Aderholt, 114 dead.

Alabama District 6, Congressman Spencer Bachus, 69 dead.

Alaska, Congressman Don Young, 128 dead.

Arizona, District 2, Congressman Trent Franks, 150 dead.

Arizona District 3, Congressman John Shadegg, 132 dead.

Arizona District 6, Congressman Jeff Flake, 140 dead.

Arkansas District 3, Congressman John Boozman, 151 dead.

California District 2, Congressman Wally Herger, 139 dead.

California District 3, Congressman Daniel Lungren, 68 dead.

California District 4, Congressman Tom McClintock, 77 dead.

California District 19, Congressman George Radanovich, 124 dead.

California District 21, Congressman Devin Nunes, 159 dead.

California District 22, Congressman Kevin McCarthy, 110 dead.

California District 24, Congressman Elton Gallegly, 75 dead.

California District 25, Congressman Howard McKeon, 124 dead.

California District 26, Congressman David Dreier, 85 dead.

California District 40, Congressman Edward Royce, 125 dead.

California District 41, Congressman Jerry Lewis, 144 dead.

California District 42, Congressman Gary Miller, 74 dead.

California District 44, Congressman Ken Calvert, 150 dead.

California District 45, Congresswoman Mary Bono Mack, 181 dead.

California District 46, Congressman Dana Rohrabacher, 78 dead.

California District 48, Congressman John Campbell, 74 dead.

California District 49, Congressman Darrell Issa, 151 dead.

California District 50, Congressman Brian Bilbray, 103 dead.

California District 52, Congressman DUNCAN Hunter, 84 dead.

Colorado District 5, Congressman Doug Lamborn, 107 dead.

Colorado District 6, Congressman Mike Coffman, 69 dead.

Delaware, Congressman Mike Castle, 90 dead.

Florida District 1, Congressman Jeff Miller, 130 dead.

Florida District 4, Congressman Ander Crenshaw, 116 dead.

Florida District 5, Congressman Ginny Brown-Waite, 200 dead.

Florida District 6, Congressman Cliff Stearns, 152 dead.

Florida District 7, Congressman John Mica, 143 dead.

Florida District 9, Congressman Gus Bilirakis, 129 dead.

Florida District 10, Congressman Bill Young, 138 dead.

Florida District 12, Congressman Adam Putnam, 133 dead.

Florida District 13, Congressman Vern Buchanan, 160 dead.

Florida District 14, Congressman Connie Mack, 159 dead.

□ 1945

Florida District 15, Congressman Bill Posey, 152 dead.

Florida District 16, Congressman Thomas Rooney, 165 dead.

Florida District 18, Congresswoman Ileana Ros-Lehtinen, 199 dead.

Florida District 21, Congressman Lincoln Diaz-Balart, 195 dead.

Florida District 25, Congressman Mario Diaz-Balart, 195 dead.

Georgia District 1, Congressman Jack Kingston, 123 dead.

Georgia District 3, Congressman Lynn Westmoreland, 102 dead.

Georgia District 6, Congressman Tom Price, 100 dead.

Georgia District 7, Congressman John Linder, 156 dead.

Georgia District 9, Congressman Nathan Deal, 159 dead.

Georgia District 10, Congressman Paul Broun, 120 dead.

Georgia District 11, Congressman Phil Gingrey, 113 dead.

Idaho District 2, Congressman Michael Simpson, 126 dead.

Illinois District 6, Congressman Peter Roskam, 73 dead.

Illinois District 10, Congressman Mark Kirk, 55 dead.

Illinois District 13, Congresswoman Judy Biggert, 45 dead.

Illinois District 15, Congressman Timothy Johnson, 67 dead.

Illinois District 16, Congressman Donald Manzullo, 69 dead.

Illinois District 18, Congressman Aaron Schock, 62 dead.

Illinois District 19, Congressman John Shimkus, 67 dead.

Indiana District 3, Congressman Mark Souder, 119 dead.

Indiana District 4, Congressman Steve Buyer, 85 dead.

Indiana District 5, Congressman Dan Burton, 73 dead.

Indiana District 6, Congressman Mike Pence, 104 dead.

Iowa District 4, Congressman Tom Latham, 54 dead.

Iowa District 5, Congressman Steve King, 59 dead.

Kansas District 1, Congressman Jerry Moran, 86 dead.

Kansas District 2, Congresswoman Lynn Jenkins, 80 dead.

Kansas District 4, Congressman Todd Tiahrt, 87 dead.

Kentucky District 1, Congressman Ed Whitfield, 113 dead.

Kentucky District 2, Brett Guthrie, 102 dead.

Kentucky District 4, Geoff Davis, Congressman, 83 dead.

Kentucky District 5, Congressman Harold Rogers, 130 dead.

Louisiana District 1, Congressman Steve Scalise, 111 dead.

Louisiana District 2, Congressman Joseph Cao, 98 dead.

Louisiana District 4, Congressman John Fleming, 115 dead.

Louisiana District 5, Congressman Rodney Alexander, 132 dead.

Louisiana District 6, Congressman Bill Cassidy, 105 dead.

Louisiana District 7, Congressman Charles Boustany, 112 dead.

Maryland District 6, Congressman Roscoe Bartlett, 68 dead.

Michigan District 2, Congressman Peter Hoekstra, 71 dead.

Michigan District 3, Congressman Vernon Ehlers, 76 dead.

Michigan District 4, Congressman David Camp, 83 dead.

Michigan District 6, Congressman Fred Upton, 87 dead.

Michigan District 8, Mike Rogers, Congressman, 63 dead.

Michigan District 10, Candice Miller, Congresswoman, 64 dead.

Michigan District 11, Congressman Thaddeus McCotter, 64 dead.

Minnesota District 2, Congressman John Kline, 44 dead.

Minnesota District 3, Congressman Erik Paulsen, 43 dead.  
 Minnesota District 6, Congresswoman Michele Bachmann, 50 dead.  
 Mississippi District 3, Congressman Gregg Harper, 117 dead.  
 Missouri District 2, Congressman Todd Akin, 48 dead.  
 Missouri District 6, Congressman Sam Graves, 74 dead.  
 Missouri District 7, Congressman Roy Blunt, 120 dead.  
 Missouri District 8, Congresswoman Jo Ann Emerson, 110 dead.  
 Missouri District 9, Congressman Blaine Luetkemeyer, 78 dead.  
 Montana, Congressman Denny Rehberg, 179 dead.  
 Nebraska District 1, Congressman Jeff Fortenberry, 61 dead.  
 Nebraska District 2, Congressman Lee Terry, 68 dead.  
 Nebraska District 3, Congressman Adrian Smith, 69 dead.  
 Nevada District 2, Congressman Dean Heller, 172 dead.  
 New Jersey District 2, Congressman Frank LoBiondo, 71 dead.  
 New Jersey District 4, Congressman Chris Smith, 65 dead.  
 New Jersey District 5, Congressman Scott Garrett, 52 dead.  
 New Jersey District 7, Congressman Leonard Lance, 45 dead.  
 New Jersey District 11, Congressman Rodney Frelinghuysen, 44 dead.  
 New York District 3, Congressman Peter King, 42 dead.  
 New York District 26, Congressman Christopher Lee, 40 dead.  
 North Carolina District 3, Congressman Walter Jones, 100 dead.  
 North Carolina District 5, Congresswoman Virginia Foxx, 97 dead.  
 North Carolina District 6, Congressman Howard Coble, 103 dead.  
 North Carolina District 9, Congresswoman Sue Myrick, 82 dead.  
 North Carolina District 10, Congressman Patrick McHenry, 101 dead.  
 Ohio District 2, Congresswoman Jean Schmidt, 69 dead.  
 Ohio District 3, Congressman Michael Turner, 78 dead.  
 Ohio District 4, Congressman Jim Jordan, 74 dead.  
 Ohio District 5, Congressman Robert Latta, 59 dead.  
 Ohio District 7, Congressman Steve Austria, 73 dead.  
 Ohio District 8, Congressman John Boehner, 70 dead.  
 Ohio District 12, Congressman Patrick Tiberi, 66 dead.  
 Ohio District 14, Congressman Steven LaTourette, 58 dead.  
 Oklahoma District 1, Congressman John Sullivan, 125 dead.  
 Oklahoma District 3, Congressman Frank Lucas, 128 dead.  
 Oklahoma District 4, Congressman Tom Cole, 121 dead.  
 Oklahoma District 5, Congresswoman Mary Fallin, 155 dead.  
 Mr. GINGREY. Mr. Speaker, I request that the gentleman's words be taken down.

## RECESS

The SPEAKER pro tempore. The Chair has not yet conferred recognition for that demand. Accordingly, there being no question pending before the House, the Chair declares the House in recess subject to the call of the Chair pursuant to clause 12(a) of rule I.

Accordingly (at 7 o'clock and 56 minutes p.m.), the House stood in recess subject to the call of the Chair.

□ 2100

## AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. SCHAUER) at 9 p.m.

## THE COST OF NOT HAVING HEALTH CARE

The SPEAKER pro tempore. The Chair understands that the gentleman from Georgia does not seek to proceed with a call to order pursuant to clause 4 of rule XVII. As such, the gentleman from Florida is recognized for 37 minutes.

Mr. GRAYSON. We now return to our regularly scheduled program. The efforts to keep me from doing what I'm doing here have failed, and now I'm going to continue. So, for those of you who are joining, let me explain what is happening here.

The American Journal of Public Health published a study a month ago, identifying the fact that 44,789 Americans die each year from not having health insurance. If you have two identical Americans, one of whom has health insurance, one of whom doesn't—we're talking about people who are the same age, the same gender, the same race, with the same smoking habits, the same weight—the one who does not have health insurance is 40 percent more likely to die.

We also have statistics from the Urban Institute, identifying how many uninsured people there are in each district, and we all know that the Republicans have promised to vote against the Democrats' health care bill. So what we're doing here tonight is the remarkably simple exercise of A times B equals C—A times B equals C—and identifying for each Republican district what that actually means.

When I was interrupted before, I had just said the following: Ohio District 12, Congressman Patrick Tiberi, 66 dead.

Now I'm going to continue until the end.

Ohio District 14, Congressman Steve LaTourette, 58 dead.

Ohio District 1, Congressman John Sullivan, 125 dead.

Oklahoma District 3, Congressman Frank Lucas, 128 dead.

Oklahoma District 4, Congressman Tom Cole, 121 dead.

Oklahoma District 5, Congressman Mary Fallin, 155 dead.

Oregon District 2, Congressman Greg Walden, 150 dead.

Pennsylvania District 5, Congressman Glenn Thompson, 64 dead.

Pennsylvania District 6, Congressman Jim Gerlach, 49 dead.

Pennsylvania District 9, Congressman Bill Shuster, 83 dead.

Pennsylvania District 15, Congressman Charles Dent, 54 dead.

Pennsylvania District 16, Congressman Joseph Pitts, 77 dead.

Pennsylvania District 18, Congressman Tim Murphy, 40 dead.

Pennsylvania District 19, Congressman Todd Platts, 51 dead.

South Carolina District 1, Congressman Henry Brown, 157 dead.

South Carolina District 2, Congressman Joe Wilson, 118 dead.

South Carolina District 3, Congressman Gresham Barrett, 112 dead.

South Carolina District 4, Congressman Bob Inglis, 133 dead.

Tennessee District 1, Congressman David Roe, 110 dead.

Tennessee District 2, Congressman John Duncan, 85 dead.

Tennessee District 3, Congressman Zach Wamp, 94 dead.

Tennessee District 7, Congressman Marsha Blackburn, 71 dead.

Texas District 1, Congressman Louie Gohmert, 155 dead.

Texas District 2, Congressman Ted Poe, 126 dead.

Texas District 3, Congressman Sam Johnson, 144 dead.

Texas District 4, Congressman Ralph Hall, 134 dead.

Texas District 5, Congressman Jeb Hensarling, 151 dead.

Texas District 6, Congressman Joe Barton, 136 dead.

Texas District 7, Congressman John Culberson, 103 dead.

Texas District 8, Congressman Kevin Brady, 132 dead.

Texas District 10, Congressman Mike McCaul, 127 dead.

Texas District 11, Congressman Michael Conaway, 164 dead.

Texas District 12, Congressman Kay Granger, 156 dead.

Texas District 13, Congressman Mac Thornberry, 144 dead.

Texas District 14, Congressman Ron Paul, 146 dead.

Texas District 19, Congressman Randy Neugebauer, 132 dead.

Texas District 21, Congressman Lamar Smith, 119 dead.

Texas District 22, Congressman Pete Olson, 150 dead.

Texas District 24, Congressman Kenny Marchant, 138 dead.

Texas District 26, Congressman Michael Burgess, 162 dead.

Texas District 31, Congressman John Carter, 124 dead.

Texas District 32, Congressman Pete Sessions, 209 dead.

Utah District 1, Congressman Rob Bishop, 128 dead.

Utah District 3, Congressman Jason Chaffetz, 154 dead.

Virginia District 1, Congressman Robert Wittman, 68 dead.

Virginia District 4, Congressman Randy Forbes, 93 dead.

Virginia District 6, Congressman Bob Goodlatte, 99 dead.

Virginia District 7, Congressman Eric Cantor, 76 dead.

Virginia District 10, Congressman Frank Wolf, 81 dead.

Washington District 4, Congressman Doc Hastings, 152 dead.

Washington District 5, Congressman Cathy McMorris Rodgers, 88 dead.

Washington District 8, Congressman David Reichert, 69 dead.

West Virginia District 2, Congressman Shelley Moore Capito, 102 dead.

Wisconsin District 1, Congressman Paul Ryan, 64 dead.

Wisconsin District 5, Congressman James Sensenbrenner, 38 dead.

Wisconsin District 6, Congressman Thomas Petri, 52 dead.

And Wyoming, Congressman Cynthia Lummis, 73 dead.

Our constituents sent us here to do good things for them. Our constituents sent us here—some with high expectations, some not so high—but is it really asking too much of us that we keep people alive?

We know, according to this Harvard study, that if we do nothing these people will die. Is it really asking so much of us to cast our vote to save these people?

For those of us who favor health care, we realize literally the life we save may be our own. Every one of us can lose his job. Every one of us can lose his health. Every one of us can have a preexisting condition. Every one of us can be denied care. Every one of us can die. Is it really asking so much that we solve this problem for America once and for all?

Honestly, for those of us who care about these things, this is what we have in mind: if we fail, if we fail to save these lives in America, then may God have mercy on our souls.

It is important to recognize that this is not a statistic. This is much more than that. These are friends. These are neighbors. These are mothers and fathers. These are sisters and brothers. These are daughters and sons. This is us. These are the people who are losing their lives today because we haven't acted yet.

At our Web site, this Web site here, NamesoftheDead.com, we've invited these people to be more than statistics. We've invited these people to tell their stories to us, to America, to have America tell America what's going on. Just as I did last week, I'm going to do it again this week, take the remainder of my time tonight and yield my time to you, yield my time to America and understand the simple eloquence of people suffering.

So for the rest of my time tonight, you will not be hearing from me. You will be hearing from you and listening to what you have to say about real people—people who are loved, who lost their lives because they had no health care. Let's begin.

Erika Herd wrote to us about Susan Olivas in Denver, Colorado, who was 45 years old when she died:

My sister worked for a small business that did not offer health care benefits and barely paid minimum wage. She started having some health issues, including what she thought were hemorrhoids. She simply couldn't afford to see a doctor for what she thought was an over-the-counter condition. She waited for a full year before they became really bad. Susan was diagnosed with anal cancer. I can't help but believe, had she had insurance, she never would have delayed treatment. She died on November 7, 2004.

This is from the Web site NamesoftheDead.com—true stories about true people who lost their lives because they had no health care in our country in America.

Now let's listen to Carroll Chaney about Mark Wayne Chaney of England, Arkansas, who was 46 years old when he died:

My brother began to have stomach pain, but he had no insurance. He even confided to me that he was afraid he had cancer. We had a grandfather, and three of his brothers had all passed away from cancer. It all began as pancreatic cancer for each one of them, and of course, it ended up all over their body. By the time my brother was finally diagnosed, it was in his liver, and he was told by oncologists here in Little Rock and at the MD Anderson Cancer Clinic in Houston there was nothing they could do. They told him to make peace with God, and go home and die, which he did 6 months later at the age of 46—10 years ago, 2 days after Thanksgiving—leaving a young daughter and son and grieving family members, including a dad who still mows his grave site twice a week. I'm his brother, Carroll Chaney.

Angelique Louis wrote to us at the Web site, NamesoftheDead.com, and wrote to us about Bernadine Oakley, aged 60, of Des Moines, Iowa:

□ 2115

She died of an aneurysm. She once had breast cancer and ovarian cancer. She was so concerned with the cost of it that she was fearful for the return of the cancer. She couldn't afford medicine for her high blood pressure, and it finally caught up with her. My mother's funeral was a standing-room only event. She had for over 20 years instructed a preschool class and assisted many within our community. Her life left this Earth too soon.

Now let's hear from Barbara Brown writing to us about Pat Dapolito of Medford, Massachusetts.

My brother was diagnosed with colon cancer at the age of 57. He was self-employed and he didn't have health insurance. Surgery was recommended, and at one point he was asked directly by the surgeon, how do you plan on paying for this surgery? Of course, he couldn't pay for it himself. As a result, he died 6 months later.

Now let's hear from Leslie Walsh writing about William Walsh, age 62, of San Diego, California.

My ex-husband died of bladder cancer because he lived in fear of running up preventable medical expenses due to lack of insurance coverage. His cancer was far advanced by the time he was forced to seek help from the City of Hope. With simple well-person exams, his cancer could have been discovered much earlier on and could have been treated and he would be alive and living with me and my husband today.

Now let's hear from Winifred Haun concerning Declan Haun, 56 years old, right here in Washington, D.C.

My father died of throat cancer on March 7th, 1994. He had been suffering from a sore throat for nearly a year, but being a freelance photo journalist and a small business owner, he could not afford to go to the doctor. By the time he went to the doctor, the pain had become so bad that he couldn't eat. He couldn't eat. He had stage four terminal throat cancer. He was treated at the NIH in Washington, but there was very little they could do to even try to save him. If he had gone to the doctor sooner, there is a good chance he might still with be with us today.

Let's hear from Tracy Sykes about Terri-Lynn Sykes of Wilmington, North Carolina, who wrote to us at this website, namesofthedeat.com. She wrote as follows:

My sister could only afford to keep her diabetic son insured, not herself. She had to choose between her son and herself. Her cancer was not diagnosed until it was stage four. She died after fighting it for 2½ years. Her son is alive today. He is 10 years old. He lost his mother.

Let's hear now from Sam Downey about Megan Ratzow of Portland, Oregon.

Megan didn't have health insurance so she didn't go to a doctor until it was too late. She finally went to the emergency room and she died in the hospital a week later. None of us really knew she was even sick. If she had had health care, she would have been able to get the treatment she needed before her cancer was so far along that it couldn't be treated. Megan was a very good person. The world could have used her spirit for a few more years.

Now let's hear from Ellesia Blaque concerning Michelle Dennis of West Chester, Pennsylvania.

Michelle Davis, nicknamed Mickey, was not my relative, but she was the sister of my best friend and the love of

my life, Tony Dennis. She died because she did not have health care. By the time she was diagnosed with ovarian cancer, she was terminal. She was diagnosed in May 2001 and died that August. Not only did I lose Mickey, but I also lost Tony, who in his grief committed suicide the day after Mickey passed away. I lost two friends because there was no health care for Mickey to receive timely diagnosis and treatment.

Now let's hear from Elaine Gill, who wrote to us at the website [namesofthedead.com](http://namesofthedead.com), this website, concerning Donald Ray Yost.

My brother endured months of pain, putting off going to the doctor because of concerns with how much it would cost. When the pain became so severe that it was intolerable, he made a doctor's appointment. After X-rays were taken and tests were run, the doctor delivered a grim diagnosis: Cancer, spread through his whole body and bones. My brother refused treatment because he knew the costs would drain his family of any savings and they would lose their home. To prevent his wife and two daughters from having their financial security and their home taken away, my brother chose not to undergo the medical treatment he would need to give him a fighting chance to live. He said he would not bankrupt his family in order to undergo the expense of long-term treatment. He died less than 6 months later, on May 6th, 2007.

Now let's hear from Jessica Falker of Vermont, who wrote to us about her Aunt Anita.

My aunt had no health insurance and couldn't afford the test to find out what was wrong with her. By the time she finally could afford to get tested, she had stage 4 cancer. She died only 3 months later.

I am sure Jessica misses her aunt.

Let's hear now from Robert Burns about Jay Holman of Gouldsboro, Maine.

Jay never saw a doctor because he had no health insurance. For 3 years he lived with health issues until he became seriously ill. It turned out to be cancer and it spread through his body. He had stage four cancer when he was hospitalized, and 6 weeks later he passed away. A sad ending, yes, a very sad ending, for a business owner, an Eagle Scout, a Merchant Marine and a fine human being.

Now let's hear from Jennifer Lawrence, who wrote to us about Guy Lawrence in Dubuque, Iowa, at this website, [namesofthedead.com](http://namesofthedead.com).

My father worked four jobs a day to keep my family fed and housed and clothed. None of them provided him with insurance. One day he caught a cold. Two days later it turned into pneumonia. He didn't go to the hospital because he didn't have the money to pay for a visit to the emergency

room. He was sure it would go away. Instead, it killed my father.

Let's hear now from Erin Norton concerning Neil Norton of Joseph City, Arizona.

My father had his first heart attack on his 46th birthday and he survived. He was afraid to go to the hospital because of the cost and the humiliation of being uninsured. After the emergency had passed, he couldn't go to the doctor because he didn't have enough money to pay up front. Two days after his birthday, he had another heart attack, and this time he died in the back of an ambulance, still not sure whether he should even be trying to seek medical care because of what it would cost.

My mother became uninsured recently after her job fired her because she needed surgery. She is 56 years old. She is \$17,000 in debt from her surgery and hoping like hell not to get sick again. She is now an uninsured nurse, no less. I am scared of history repeating itself. I hope I don't have to come back to this web page. I hope Congress doesn't let me become a health insurance orphan.

This is Lilieth Taylor writing to us at the website [namesofthedead.com](http://namesofthedead.com) concerning Robert Taylor of East Orange, New Jersey, who died at the age of 63.

My brother was one of the working poor. He could not afford health insurance. He had several chronic illnesses. He could not afford his medication or the necessary doctor's visit. His health care provider was the emergency room. He died on April 28th, 2009. I know my brother would be alive today if we had a public option.

Now let's hear from Lenny Fairchild, who wrote to us at [namesofthedead.com](http://namesofthedead.com) concerning Judi Martin of Boothbay Harbor in Maine.

My sister's husband died of a staph infection 2 years prior to her death. In her grief, she sold her home and moved to Maine to be near us. She lost her health insurance and could not afford to purchase any. She lived on only her widow's Social Security benefit. She was not old enough for Medicare. Progressive pain finally took hold and she went to the emergency room in September of 2005. A CAT scan revealed that she had pancreatic cancer, massive pancreatic cancer. In less than 2 weeks, she was dead. I don't know how she withstood the pain.

Now we hear about Scott Shantz of DeBary, Florida, who died at the age of 47.

Scott was feeling terrible, but he wouldn't go to the hospital because he didn't have insurance. His wife even drove him to the emergency room, but he wouldn't go in because he couldn't afford it. And a week later he was dead. It turned out that he had a lung clot, something which is treatable. If he had only had insurance.

Let's hear now from Randy Krzesinski concerning Mary Hill of

Tarboro, North Carolina. Randy wrote to us at the website [namesofthedead.com](http://namesofthedead.com), this website here.

Mary Hill was my beloved sister. At age 56 she died of a sudden cardiac arrest on October 1st, 2009. Because Mary worked part-time, she couldn't find full-time work, she did not receive health care benefits. Mary had previously been diagnosed with high blood pressure. When she died, her doctor called me to inform me that Mary didn't always take her blood pressure medication because she couldn't afford it. And Mary was too proud to tell any of us in her family about this sad secret, that she couldn't afford her medication, and it cost her her life. I shall grieve for her and I shall grieve about this for a long time. Thank you for letting me tell Mary's story.

Now let's hear from Donna Startz concerning "EZ" Govella of Corpus Christi, Texas, who died at the age of 40. Forty.

EZ knew there was a problem, but his new insurance wouldn't kick in for a couple of months, so he waited to go to the doctor. When he finally went, it was discovered that he had a virulent form of testicular cancer, one where days make a difference between life and death. He fought the cancer for 2 years, but he lost his battle just days after his 40th birthday, leaving behind a wife, a 7-year-old daughter, and a mountain of debt. A mountain of debt.

Let's hear now from Stephen Marban concerning Tomas Bimmerle of New Orleans, Louisiana, who passed away at the age of 58.

My brother-in-law, Tom, died over Christmas of 2008 of lung cysts because he did not have health insurance. He survived as long as he did because of the heroic efforts of Charity Hospital in New Orleans where he lived. Tom was a very talented carpenter who worked tirelessly for Habitat for Humanity in New Orleans for years, building many houses, at times single-handedly. But since Habitat for Humanity does not offer employment or health benefits, except for one or two administrators in each city, and Tom's income outside of Habitat was minimal, he lived uninsured for years and died early as a result at age 58.

Steve Ekhome wrote to us concerning Gib Martin of Iowa City, Iowa, who passed away at the age of 37. He wrote to us at the website [names of the dead](http://namesofthedead.com).

Gib was a healthy 37-year-old who was 3 months into a new job, but unfortunately his health insurance didn't kick in until he had been employed there for 6 months.

□ 2130

He never made it. He came down with a cold and then flu, and then he seemed very sick. His mother called us to plead with him to go to the emergency room.

He refused because of what it cost. Because of what it cost. His mother found him dead of pneumonia the next morning.

Let's hear from Caitlin Howarth regarding Bob Stimpson of Providence, Rhode Island, who died at the age of 56: Caitlin writes:

Bob Stimpson was my uncle. Just over a month ago, he died of cancer. He'd been getting sicker, but he never went to a doctor because he didn't have health insurance. He was a small business owner. He ran his own restaurant in Providence. He had a teenage son and a wife. He did the best to take care of them and to take care of his own employees. But it wasn't enough to keep himself alive.

And now let's hear from Rebecca Nourse concerning Buz Nourse of Stuart, Florida, who died at the age of 48:

My father was on expensive medications for high blood pressure and high cholesterol. He had no insurance and was not eligible for any programs that would have paid for his medication or reduced their cost. For a time, he borrowed money from relatives to buy his medicine that he needed to keep himself alive. But eventually he decided that if he could not afford the medications on his own, he would do without them. He died of his first heart attack at the age of 48.

Cynthia Lovell wrote to us to tell us about her Uncle Abe of Altoona, Pennsylvania, who died at the age of 64. She wrote:

My uncle Abe worked as a self-employed plumber. Some years he could afford insurance, some years he couldn't. He came down with congestive heart failure, and he couldn't afford the insurance. He kept waiting to see a doctor until he turned 65 so that he would have Medicare. He waited and he hoped. Finally, he got so sick that my other two uncles went and got him. They intended to take him to the emergency room and to pay his bill for him. Both are retired and they're on fixed incomes, but their baby brother was so sick and they were so scared that they figured they would come up with some way to pay his hospital bills. However, my Uncle Abe died in the emergency room, waiting, trying to get to 65.

Yvonne Hebert wrote to us about Frances Dawson of Long Beach, California. This is what she wrote:

Fran was an RN. She was overweight. She was unable to get health insurance. She was well aware of the need for insurance and had been insured until she and her husband were divorced. She had two teenage children she was trying to raise. Fran became short of breath and went to the emergency room in Long Beach. They explained they couldn't care for her without insurance there, and she went to the Martin Luther King Hospital where people without insurance were being

sent for care. Martin Luther King was, and always is, overwhelmed with uninsured people. Fran died there in the emergency room after many hours waiting for care.

I could go on and on and on. We have received hundreds upon hundreds of stories just like these. And I will tell you, you would have to have a hard, hard heart to ignore them.

Now is our chance to do something about it. Now is our chance to see to it that everyone in America can see a doctor if he or she needs to; that everyone in America has affordable, comprehensive, and, most important of all, universal health care.

I'm calling not only upon the Republicans but also the Democrats to ask them to think about why they are here. We are at the decision point. We'll be voting on this bill this week, and the choice is up to us. We can save these people or we can let them die.

I vote for life.

#### HEALTH CARE REFORM

The SPEAKER pro tempore. Under the Speaker's announced policy of January 6, 2009, the gentleman from Georgia (Mr. BROUN) is recognized for 60 minutes.

Mr. BROUN of Georgia. Mr. Speaker, our previous speaker went through a long list of Republican districts insinuating that Republicans wanted these people to die, it seemed to me.

I'm a medical doctor. I've practiced medicine for almost four decades. I literally have given away hundreds of thousands of dollars of my own services with no compensation whatsoever to people who don't have health insurance. I'm joined tonight by my good friend and colleague, in fact, one of my mentors, Dr. PHIL GINGREY, who is an OB/GYN from Marietta, Georgia, and he and all the other physicians in this body on our side are very, very concerned about the future of our patients and about where we are going as a Nation.

You see, Mr. Speaker, Republicans have offered 53 bills, fixing to be 54 bills with the Republican Conference's bill, that will literally lower the cost of health care, make it more affordable for all Americans.

Our bill will not put people out of work like the Pelosi health insurance bill that we are going to be voting on very shortly. In fact, it's been estimated by the experts, in fact, Barack Obama's own economic adviser, that 5.5 million people are going to lose their jobs because of the Pelosi health care bill. Mr. Speaker, 5.5 million Americans are going to lose their job that they have today because the Democrats want to force down the throats of the American people a health insurance bill that's not about health care, Mr. Speaker. It's about power. It's about control. It's about taking over one-sixth of our economy.

There are many solutions that Democrats and Republicans alike could embrace. In fact, I've challenged many times one on one and I've challenged publicly and I challenge today Democrats to take a bill that I will give them—they can put their name on it, take credit for it—that will do four things: One is across-State purchasing for individuals and businesses to be able to buy insurance wherever they can find it cheaper in whatever State. The second issue is to have association pools where individuals can come together in an association, and that association can offer anybody that is affiliated with it a health care insurance package or multiple insurance packages that they would have their choice of purchasing. The third thing is to have some stimulation of the States to develop some high-risk pools. In fact, there are several States that have already done this, and they've been very successful in covering patients with preexisting conditions and high-risk medical conditions. And the fourth thing is to have a 100 percent deductibility for all health care expenses for everybody in this country.

Right now businesses get to deduct their health insurance that they provide, the costs anyway. They deduct the costs of the health insurance that they provide to their employees. The employees can get that health insurance as a tax-free benefit, and whatever they pay into it is not taxed. But a small business man or woman, an individual has to pay taxes on their money. They have to buy it with after-tax dollars. That makes it so expensive for individuals and small businesses to be able to buy insurance.

But if a Democrat will pick up that bill and convince Ms. PELOSI to allow us to have a debate on this floor, I will just about guarantee that 177, and I think that's what we have now on our side, 177 Republicans will cosponsor and vote for that bill and the majority of Democrats will vote for that bill and we will pass it into law.

It will make health care affordable for everybody. It won't raise taxes. It will not increase the deficit. It will not do anything to harm our economy. And we could pass that bill. We could pass that bill this week.

I challenge Democrats to take the bill. I will give them the language. I'll give them the bill. All they have to do is write their name into it. I will be the first Republican cosponsor. They'll drop it in the hopper, and we will have health care insurance financing reform that will make sense on an economic basis. It will put market-based principles into the health care financing system.

You see, Mr. Speaker, we hear people talk, particularly on the Democratic side, about health care as if it's one big monolithic theme, that if people don't have health insurance, they don't have

health care. That's hogwash. It's just balderdash. It's hogwash from the first order. It's not true.

I've treated those people. I'm also on the foundation board for St. Mary's Hospital in Athens, Georgia. St. Mary's Hospital is a Catholic East Hospital, and in that hospital the doctors, the nurses, physical therapy people, all the allied health personnel, the hospital itself, treat people without insurance.

You go to any emergency room in this country, Mr. Speaker, and it's filled with people that do not have insurance. In fact, every single individual in this country can walk into any emergency room in this country with an emergency condition and can be seen and treated. Everyone. Every single person in this country has access to health care today.

Not everybody owns insurance, that's true. Why? Insurance has become very, very expensive. I don't think there is a single person, Mr. Speaker, in this body that doesn't want to do something to help people to be able to afford insurance.

But we're going to destroy our economy. We're going to destroy our economy because we are going to spend a trillion, \$1½ trillion, \$2 trillion, \$3 trillion on this government takeover of the health care industry in America. It's going to destroy our economy. It's going to increase the debt, Mr. Speaker, markedly increase the debt.

When President Obama came and spoke in the Speaker's podium to a joint session of Congress, Senate and House Members were here. I was sitting right back there that night. Mr. Speaker, the only person who spoke the truth that night was JOE WILSON. JOE WILSON spoke the truth that night. Mr. Speaker, the Pelosi health care bill is going to be disastrous.

When I graduated from medical school, I took the Hippocratic Oath. It said, "do no harm." Mr. Speaker, the Pelosi health insurance bill is going to do a lot of harm. In fact, people on Medicare right now today are going to be denied lifesaving treatments, lifesaving procedures.

Medicare already today rations care. It tells me and my colleagues when we can put patients in the hospital, how long they can stay there, what services they'll pay for.

Mr. Speaker, we're going to have more rationing of care under the Pelosi health insurance bill. Why? The Pelosi health insurance bill is going to destroy Medicare Advantage, which there are millions of Medicare recipients on Medicare Advantage today. It's going to destroy Medicare Advantage, and it's going to move those people into the regular Medicare system. We're going to put more people on Medicare. Plus we're cutting the dollars spent on Medicare by \$500 billion. Five hundred billion, a half a trillion dollars is going to be cut out of Medicare.

□ 2145

You're going to put more people on and cut the financing of Medicare.

What does that mean? They're going to have to ration care. And, in fact, the bill itself says that the health care czar—it's called a commissioner in the bill—can establish waiting lists and rationing of care. The bill itself says that. And it's going to absolutely be done. Plus right now today, also, Mr. Speaker, you have doctors all over the country that cannot afford to see Medicare patients anymore. They want to, they're trying to, but they can't afford to, because Medicare today pays doctors and pays hospitals less than it costs them to give the service. I repeat that. Medicare pays doctors and hospitals less today than it costs to deliver the service.

Now if we cut \$500 billion out of Medicare and we put more people on Medicare, what's going to be the result? Not only is it going to be rationing of care and long waiting lines, Mr. Speaker, rural hospitals all over this country are going to go out of business. The long-term result is going to be, we'll have just a few big regional hospitals that are going to be extremely expensive for everybody; and small rural hospitals, small rural communities, even mid size rural communities, are going to be without hospitals, without doctors, without health care in their community.

That's what the Pelosi bill is going to do. This is not about health care with the Pelosi insurance bill. It's about power and control, and it's going to destroy America.

Mr. HOEKSTRA. Will the gentleman yield?

Mr. BROUN of Georgia. Yes, I will be glad to yield. I welcome my good friend from Michigan, Mr. PETE HOEKSTRA, who has been a great spokesman about these issues.

Mr. HOEKSTRA. I thank my colleague for yielding and I think you made a great point. It's not about the quality and the quantity of health care; it's about control. That's why you see such a difference between the Republican proposal and the Democrat proposal. Because the Democrat proposal says we're going to totally wipe, out over a period of time, private sector health insurance and we're going to take the freedom that the American people have to direct their insurance, to direct their health care, and we're going to move it over and we're going to put that responsibility, that authority and that control in the Federal Government.

This is their bill, but that's not all of it. That's their bill. This is their bill. This is almost all of it. I don't have the last 40 pages that the Speaker added to it last night. But when you're going to take over health care and move responsibility from you and me and our constituents and move it to government,

it takes you 2,000 pages to describe what you're going to do, create the 3,000 times where it says the commissioner shall, will or must, because those are new decisions that the Federal Government is going to make and we're not going to make.

If you want to fix health care and address the problems, this is all you really need. That's the Republican proposal.

Mr. BROUN of Georgia. That's the Republican bill.

Mr. HOEKSTRA. The Republican proposal says we want to do tort reform, we want to deal with preexisting conditions, we want to do some stuff with competition and those types of things.

This fixes health care; takes steps toward improving and fixing the problems that we have identified. This creates massive government bureaucracies. This represents a loss of freedom. And this says we're going to fix the problems that are out there.

Mr. BROUN of Georgia. Reclaiming my time, I want to bring up a point just to re-approach something that you brought up that I think the American people need to understand, Mr. Speaker. In that humongous bill that the gentleman from Michigan has his hands on right there, the Pelosi health insurance bill, in that bill it says that by 2013, no one can sell private insurance to individuals or businesses.

Remember when we heard from the President that if you have health insurance and you like it, you can keep it? That's a bald-faced lie, because the bill itself says that after 2013, no one—no one—can sell private insurance to individuals and small businesses.

Mr. HOEKSTRA. They've got to be approved by this new bureaucracy, the czar.

Mr. BROUN of Georgia. That's right.

Mr. HOEKSTRA. So what we've got is this 2,000 pages, but it's still an outline. This outline creates that which is going to make all of the decisions. And when you take a look at all the bureaucracy and paperwork that's going to come out of here, this is only the beginning. This is not the end. This is the beginning of government-run health care in America.

Mr. BROUN of Georgia. I will reclaim my time.

Our previous speaker was just saying that he wanted universal health care. The President himself has said he wants universal health care. Many of the Democrats have said they want universal health care. What does that mean? That means that the government runs all the health care, the socialized medicine, one single insurance company in America, and that's the Federal Government.

I now want to yield to my dear friend, Dr. PHIL GINGREY, an OB-GYN, graduate of the Medical College of Georgia. We were there at the same time, my medical school alma mater



and his, too. Unfortunately, he went to the North Avenue Trade School, Georgia Tech, where I went to the University of Georgia. Dr. GINGREY has been a leader on this issue here, and I will yield to the gentleman.

Mr. GINGREY of Georgia. Mr. Speaker, I really appreciate Dr. BROWN yielding to me. And in reference to the gentleman from Michigan, Representative HOEKSTRA, who just showed that 2,000-page bill and all the bureaucracy that's involved in that, I think it's appropriate for our colleagues to look at this chart that I have here at the desk that Representative HOEKSTRA is helping me hold; and it shows actually the bureaucracy involved in H.R. 3200. That was about a 1,200-page bill. Now the Pelosi health care reform that the Representative from Michigan just showed us, the 2,000-page monstrosity, these 53 bureaucrats, czarocrats, czarinas, whatever, have grown to about 150. And this is what it takes to grow a bureaucracy to have a Federal Government complete takeover of one-sixth of our economy.

And I just think it's appropriate, Mr. Speaker, for all of our Members on both sides of the aisle to understand where the almost \$1.1 trillion is going to in this takeover of our health care system. You've got to feed all these animals in this bureaucracy, every one of these czars.

Mr. HOEKSTRA. Does the gentleman mean it's not all going to health care?

Mr. GINGREY of Georgia. The gentleman from Michigan is absolutely right. It is not all going to health care. And we are proud to be able to present information this evening, Mr. Speaker, a letter from the Congressional Budget Office to Leader BOEHNER, the Honorable JOHN BOEHNER, the minority leader of the House, in regard to the Republican alternative.

Mr. BROWN of Georgia. Reclaiming my time, the Republican alternative that the Democrats say we don't have, but we do, CBO has already scored our alternative. Actually we've got 54 alternatives, but this is one. This is one that the conference, Mr. BOEHNER and the whole Republican Conference, is introducing; and CBO has literally scored the Republican alternative that the Democrats deny we have, and it's that small bill right there on the desk in front of the gentleman from Michigan.

Mr. GINGREY of Georgia. I am holding, as the gentleman said, Mr. Speaker, the letter from the Director of the Congressional Budget Office, Mr. Doug Elmendorf, who says that this Party of No, this Republican Party of No, who has no alternatives, no plan, well, surprisingly, we have a letter from the Congressional Budget Office that says this Party of No has a plan that will actually reduce health insurance premiums by 10 percent across the board.

Mr. BROWN of Georgia. Say that again, please.

Mr. GINGREY of Georgia. And also over a 10-year period of time, saves something like \$60 billion.

Mr. BROWN of Georgia. Please repeat that.

Mr. GINGREY of Georgia. I just want to say that the Republican alternative that we have, and we can talk about some of the specifics of that as we go on tonight in this hour. Tort reform obviously is one of them; allowing people to buy insurance across State lines is one of them; creating high risk pools within the States is another. Again, there are a number of us here on the floor tonight and we can talk about this. But, overall, the CBO report, the all-important, nonpartisan CBO report, says that it reduces the cost of health insurance premiums 10 percent across the board and saves \$61 billion from our deficit over the next 10 years.

Our plan works, and it doesn't break the bank. Their plan breaks the bank, and it is an Edsel. They have paid for an Edsel.

I will yield back to the gentleman that's controlling the time, but it's a pleasure to bring these facts to my colleagues tonight.

Mr. BROWN of Georgia. I thank my friend, Dr. GINGREY from Georgia, for bringing that up. If you wouldn't mind, let's talk about some of the specifics, along with Mr. HOEKSTRA.

But I want to yield to my good friend, STEVE KING from Iowa, who has been very diligent in trying to bring information. In Hosea 4:6 we read, My people are destroyed for lack of knowledge.

The American people really don't have the knowledge about this health care bill that NANCY PELOSI has presented that's going to really destroy our economy. It's going to destroy jobs. It's going to destroy a lot of things. Mr. KING from Iowa has been very vigilant in trying to inform the American people and I thank you, sir, for your effort. I will be glad to yield to you, sir.

Mr. KING of Iowa. I thank the gentleman from Georgia for heading up this Special Order tonight and for covering my back every time that I need it covered. It's a strong sense of duty that he has and a sense of friendship that I feel, and I appreciate it.

I listened to the other doctor from Georgia who showed our poster a little bit earlier, that poster with all of those colored new Federal agencies. That's enough to scare the living daylights out of anybody. But this bill that the gentleman from Michigan has just showed, these 1,990 pages plus 40, if you can stack them all up together, so it's over 2,000 pages. But in that are now, not as the colored chart originally showed was 32 new agencies and some added up to 54, but this 2,000-page bill is 111 new agencies.

I have here a list of them. I'm not going to read them all off because it

would put me to sleep before I got to the bottom, but I highlighted just a few of them to give us a sense of what kind of government bureaucracy and empire building would be launched if the Speaker has her way and socialized medicine is imposed upon America in the form of this bill.

H.R. 3962 has in it a program of administrative simplification. So we have to have a government agency to simplify the government bureaucracy. That's one of those that would be from George Orwell. Another one, Health Choices Administration. It is the scariest. That director of the Health Choices Administration becomes the commissar-isioner that writes all the new rules for everybody's health insurance policy.

Then you have the Qualified Health Benefits Plan ombudsman. Well, that's the person that has to be in between the regular person and the government, because the government will be so complicated that a regular person can't deal with the government. That's why they put an ombudsman in here.

Then you have the Health Insurance Exchange. That's where every new health insurance policy would have to qualify. There is not a single policy out of the 100,000 that are available for purchase in America today that are issued by 1,300 companies in America that the President of the United States, the Speaker of the House or the Majority Leader in the United States Senate can point to and say, that policy will be available in 2013 if a bill passes that goes to the President's desk, because they all would have to comply with new rules to be written later.

□ 2200

Then you have program for technical assistance to employees of small businesses buying exchange coverage. Well, that gives me confidence, having something that long.

Health Insurance Exchange Trust Fund, where the money goes for the new health insurance exchange.

State-based health insurance exchanges.

Public health insurance option.

Oh, yes, the ombudsman for public health insurance option because no regular person could possibly deal with the public health people. They have to have an intermediary called an ombudsman.

The list goes on. Demonstration programs, Center for Comparative Effectiveness Research, Comparative Effectiveness Research Commission to run the center.

Mr. BROWN of Georgia. Let me reclaim my time because you have hit something that we need to flesh out here a little bit. Comparative effectiveness research, now Dr. GINGREY and I know, as medical doctors, we look at comparative effectiveness for different treatment modalities. For instance, for

prostate surgery, does surgery work better than chemotherapy or radiation therapy, or does the combination of one or both or all three work best? That is the kind of comparative effectiveness we do in medicine.

But what this comparative effectiveness research is going to do, it is going to look at how to spend these limited dollars that the Federal Government is going to take away from small business and individuals through increased taxes on the middle class, increased taxes on small business that is going to rob people of their jobs, they are going to take the effectiveness of spending those dollars on a young person versus an old person. And the old person is going to get the short end of that stick. That is the reason why seniors all over this country are fearful. And they should be, rightfully so, because they are going to be denied treatments. They are going to have rationing of care.

I see Mr. HOEKSTRA is chomping at the bit. He wants to jump in here. I yield to Mr. HOEKSTRA.

Mr. HOEKSTRA. It is kind of interesting. We did a telephone town hall tonight, and we had a thousand, 1,200 people on the phone. People were asking, When is this bill going to come up?

And we say right now the plan is to have it come up on Saturday.

They say, Why?

The Senate has now said they are not going to vote on this bill, or they are not going to vote on health care reform until when? I think the majority leader has said in the Senate they are not going to do this until after the first of the year.

So we have 1,990 pages, plus 40, we are supposed to not only read this but understand it in 7 days, and we will not have any opportunity to go back to our constituents and say, What do you think of this? Or explain it to them and explain the difference between the two bills, the difference in approaches, government takeover of health care, freedom for you and more opportunity for you to select your health care.

These folks, they are outraged, saying why don't you take an extra week? Why don't you taken an extra 2 weeks? We are supposed to be home next week for Veterans Day, why not schedule a whole series of town hall meetings? We saw some of the impact of this yesterday where people from around the country sent a clear message to the White House and to the leadership of this Congress saying we don't like the arrogance with which Washington is treating our concerns and our issues. This stuff, we are not going to have an opportunity to provide an insight or a perspective on these bills to our Representatives in Congress. They are just going to ram this through.

The end result is they sent a clear message and they sent it across the country. They sent it in Virginia and

New Jersey and in Michigan, all across the country, saying if this is the change that came as a result of the elections last year, we sure don't like it and there is an arrogance that is saying we are going to force this down Congress. We are going to force this on the American people without providing them with the opportunity to provide feedback.

This is why my colleague and all of us are excited about this process, saying if we can't take this bill to the American people, the American people are going to come to Washington tomorrow, and I think my colleague from Iowa wants to talk about this house call that hopefully the American people will participate in tomorrow.

Mr. BROUN of Georgia. I will yield to Mr. KING

cause he and MICHELE BACHMANN have been right at the beginning of the discussion about the house call on Congress. I am excited about that. As a medical doctor, I made house calls full time. I went to see my patients at their home, at work, wherever they needed to me to come. I did that from 2002 until 2007 I was elected to Congress, so for 5 years I was doing house calls full time trying to take care of the needs of my patients. We are asking people to make a house call on this House. It is absolutely critical.

I yield to Mr. KING.

Mr. KING of Iowa. I appreciate the gentleman yielding.

It works like this. This is the invitation to the American people. There are American people up and down the Eastern Seaboard, there are Americans who have already converged into this city. They are walking around the Capitol grounds tonight. They are here to defend their freedom to own their own health insurance policy, the one of their choice.

What we have seen happen is from the first part of August, Members of Congress deployed out across this country and did hundreds and hundreds of town hall meetings, and hundreds of thousands of people came, filled those meetings up and said I want my freedom. I don't want you taking away my health insurance policy. Eighty-five percent of the people in America are happy with the policy they have. But that was August. This is November. The people that have come back to serve in this House have been caught in the echo chamber, in the Speaker's pressure chamber that says vote for socialized medicine and a national health care act. What changes their mind is when they have to look in the eyes of regular American people, and what we have asked is that America come to this Capitol, fill up these Capitol grounds, fill up this building, be here for a press conference at noon tomorrow over on the West Side of the steps of the Capitol, and we will have there these Members of Congress that are

here tonight, MICHELE BACHMANN, TOM PRICE, SCOTT GARRETT, MICHAEL BURGESS, and others, along with Mark Levin, Jon Voight, the actor, and many others. This will be a gathering where we talk about how we preserve our freedom at noon tomorrow on the West steps of the Capitol, and stay on the Hill because you will taken the Hill, and you have to hold it until this bill gets pulled down.

Mr. HOEKSTRA. As we were meeting in a Member's office last night we got a call, and it was two people from Oregon saying, We are coming. We will be there on Thursday. So late Tuesday night, they were wondering what can we do to have an impact.

I think another one of our colleagues reported, because we really don't know how many people are going to show up tomorrow. Yesterday he said there are 10 buses coming from New Jersey. Tonight he said 24 buses are coming from his congressional district in New Jersey tomorrow to be here with us. We don't know exactly what is going to happen, but it is a clear indication that in 4 or 5 days, we have touched people around the country who want to come to this press conference or some call it a rally, or whatever. But it is a press conference.

We have touched people from around the country. They came here in August. They came for the tea party and those types of things. This is another opportunity to express our opinion, and hopefully by coming to the Capitol and meeting with our Representatives, they will finally get the message that we want freedom, we don't want government health care.

Mr. BROUN of Georgia. I will reclaim my time here. I have been trying to gear up people all over the country, trying to light grass fires with grass root support against the Pelosi health care bill. In fact, I carry a copy of the Constitution in my pocket.

Mr. HOEKSTRA. If the gentleman would yield, I don't think that is the Constitution. That can't be the Constitution. I mean, if that is the framework for how we run this country, if it takes 1,990 pages to do health care, it ought to take at least 20,000 pages to be the Constitution. How many pages are in the Constitution?

Mr. BROUN of Georgia. This is not only the full text of the Constitution, but it is every single amendment that has ever been made to the Constitution, plus it has the entire text of the Declaration of Independence in this little book.

Mr. HOEKSTRA. When you are talking about freedom, it doesn't take very many pages, does it?

How many pages?

Mr. KING of Iowa. Forty-six pages.

Mr. HOEKSTRA. I think the point is made when you are talking about freedom, it doesn't take a lot of pages. When you are talking about government control, it takes a lot of pages and a lot of bureaucracy.

I thank the gentleman. You made a great point.

□ 2210

Mr. BROUN of Georgia. Well, I point out, too, with this document, the beginning of this document starts with three very powerful words, "We the People." It is time for America to take this country back, to take their freedom back, to fight for liberty. And that's what this House call on Congress is all about is for the people to come here and take America back, to make sure that they have good quality health care continuing, and lower the cost of insurance so that people can afford insurance.

We have been joined tonight by another good friend of ours, a freshman Member that came in with me. He was elected in a special election when I was in the last Congress, so he is serving his second term now as I am, Mr. STEVE SCALISE from New Orleans, Louisiana. But he has been actively trying to inform the people about how awful this is.

I thank you for joining us, and I yield to you, Mr. SCALISE.

Mr. SCALISE. I thank the gentleman from Georgia for yielding and for taking leadership in tonight's discussion that we're having, this House call, as we're trying to continue to go through this debate on health care.

When you showed that important document—what I think is the second most important document ever written since the Bible—the U.S. Constitution starts with those powerful words in the preamble, "We the People." Last night, we heard what we the people said in those two elections in both the State of Virginia and the State of New Jersey, where the people very vocally said they don't want this kind of rampage to socialism, they don't want this massive government takeover of all aspects of their life when they spoke in those two elections last night. Unfortunately, Speaker PELOSI has not heard that same message.

When we talk about health care, all of us agree we need to reform things that are broken in health care, but I think those of us here tonight would all also recognize that many things about health care in this country make this the best medical care system in the world with some problems, and so you should go and fix those problems. And what is Speaker PELOSI's answer? It's a 1,990-page government takeover of health care.

We have gone through and we have broken this bill down, and we have seen so many bad things that would actually make health care worse. First of all, we have seen \$700 billion in new taxes on American small businesses and families. We've seen \$500 billion in cuts to Medicare in this bill. And if you go through this bill, with all of the regulations and the czars and the different

things that take away components of health care that people like and want, one thing we do see is the real cost of this bill. It adds up, with over \$1 trillion of new spending. The real cost of this bill is over \$530 million per page.

When you look at a bill this big, 1,990 pages, you know, people ask me, what is \$1 billion? When you hear of all the ridiculous, outrageous spending in Washington and trillions of dollars being thrown around left and right, people say, What is \$1 billion? Well, you can just take pages one and two of Speaker PELOSI's bill. At \$530 million a page, these first two pages right here add up to over \$1 billion in spending on health care that doesn't do anything to improve health care.

What we have done is we have gone through and come up with a commonsense alternative. It is going to be filed in response to this bill, but it's a representation of legislation we have been pushing for months to actually fix the problems in health care. And those problems are:

Preexisting conditions. We would all agree that it's not fair that somebody is discriminated against because they have a preexisting condition. We address that in our bill.

People should be able to have portability so that if they leave a job, they can take their health care with them. We address that in our bill.

We should have commonsense medical liability reform so that people don't have to go through all these invasive tests, as you know, Doctor, that people have to go through where about one-third of all the tests and procedures that are run are just strictly defending against frivolous lawsuits.

And then you look at this bill, the 1990-page bill, this could be called the "trial lawyer protection act" because there's not one page dedicated to commonsense legal reforms. So we save hundreds of millions of dollars to lower the cost of health care in our bill. In fact, the CBO has now scored our bill and said that it would reduce health care premiums by at least 10 percent and save billions of dollars in deficits that we wouldn't have to pass on to our future generations.

So our bill lowers the cost. It addresses preexisting conditions. It allows portability and buying across State lines, and it lowers the cost of health care while lowering the deficit. Their bill has \$700 billion in new taxes. It has \$500 billion in cuts to Medicare, and it makes health care in this country worse. Two very different approaches to this health care issue.

Mr. HOEKSTRA. If the gentleman would yield, what is the other document in front of the gentleman here?

Mr. SCALISE. And as my friend from Michigan points out, we do have another document here, and that is the United States Constitution. I think the most dramatic contrast is when you

take Speaker PELOSI's approach to health care—20 pounds, by the way, and I've carried this thing around enough to know it is about 20 pounds of paper—and yet you take the U.S. Constitution and contrast it to this massive document of 1,990 pages—and this is the founding document of our country—we don't need a government takeover of health care. We need to fix the problems that are broken. We don't need to break all the things that make medical care great in this country.

That is why I thank you for your leadership. We need to continue this debate and encourage the American people to stay engaged because the American people want the problems fixed, but they don't want the government—that couldn't even run a Cash for Clunkers program properly—to be taking over their health care and interfering in that relationship between the doctor and the patient.

I yield back.

Mr. KING of Iowa. Will the gentleman yield?

Mr. BROUN of Georgia. I will reclaim my time, and then I will yield to you, Mr. KING, in just a moment.

Frankly, if you look at that document, the small one that you just dropped down, the Constitution of the United States, you won't find any constitutional authority in that document—none—where the Federal Government has the authority, where we in Congress have the authority to take over the health care system of America. There is absolutely zero constitutional authority for that big bill, none.

But I also want to remind the people in America that this is not about health care. That bill is really not about health care either. It's about power and control, and it's about health insurance. It is creating a big government insurance company that is going to be subsidized by taxpayers. The bill itself is going to pay for abortions—taxpayers are going to be paying for abortions. The bill itself is going to give taxpayer-funded free health insurance to illegal aliens in this country.

We have tried, as Republicans, to change those in that humongous, outrageous bill. The Democrats have over and over again blocked every attempt we've put forward to try to make at least a little modicum of sense to that bill, and they blocked it over and over again.

It's about power. It's about control. It's about establishing a government insurance program that's going to take people's choices away. It's going to take their liberty away. It's going to take jobs away. It's going to take money away.

I yield to Mr. KING.

Mr. KING of Iowa. Before the gentleman from Louisiana gets off the floor, I wanted to just make a point in all fairness to the very sharp attorney from down there in Cajun country

whose hospitality I have enjoyed. There is a little bit of a technicality in the presentation, and that is that the Pelosi bill actually does address some tort reform by establishing some new grant programs at the State level. But the caveat is that it is conditional to—those laws that they might set up at the State level can't limit attorneys' fees and they can't impose caps on damages. So if you can't cap damages and you can't limit attorneys' fees, then simply there can't be reform, and this is more gobbledygook Orwellian speak. It is in the bill, a matter of technicality. But functionally, I agree with the gentleman from Louisiana. I wanted to make that point.

Mr. SCALISE. If my friend from Iowa would yield through my friend from Georgia, that's one of the reasons we call this in some ways the "no trial lawyer left behind act," because this gives a protection to trial lawyers so that they can continue to raise up the cost of health care by forcing doctors to run all of these tests that they know they don't have to run for the health of patients. And all of us patients have to endure those tests. We have to pay for those tests, not because it's better for our health, but because those doctors are concerned that they're going to be faced with these frivolous lawsuits that we protect in our bill. And in fact, they prohibit in their bill those protections to patients.

So that's why their bill does so many invasive things. It protects the trial lawyers, and it prevents us from trying to address those issues that would actually lower the cost of health care, which is why we're addressing it in our bill. Unfortunately, they're blocking it in theirs.

And I yield back.

□ 2220

Mr. KING of Iowa. I appreciate the clarification.

I would point out that the cost of medical liability and the litigation and the defensive medicine is put at 8½ percent of the overall cost of health care in America by the health insurance underwriters. That is a low number compared to some of the other estimates, but the simple multiplier is \$203 billion a year, or over \$2 trillion over the course of this bill over 10 years, that would go to the trial lawyers and to the premiums and to the defensive medicine.

That's just one of the reasons we've got to come in, and we, the people, have to assert ourselves tomorrow at noon at this Capitol Building. The press conference will be on the west steps. It's a House call. The American people are here. Some are here now. Many are on their way. There will be many here tomorrow who will be surrounding this Capitol and filling up the grounds. They will be claiming their freedom, and they will be making their

opinions known to these Members of Congress who are hanging in the middle and who have maybe decided that they are a little more afraid of the Speaker than they are of their constituents, but they like their jobs.

We know that August was effective and that early September was effective, but the energy has gone down. It gets wound up tomorrow, Mr. Speaker. It gets wound up to the maximum here tomorrow.

I'm going to ask people: Come. Come up on this Hill. You take this Hill. Hold this Hill, and don't give it up until this socialized medicine bill is pulled down.

I yield back.

Mr. BROWN of Georgia. In fact, I will reclaim my time.

Mr. Speaker, a lot of people in this country may be saying, I can't do it. Congressman KING from Iowa suggests that, but I can't come to Washington tomorrow. They may ask what could they do.

What I've told people, Mr. Speaker—to many people, I've told them, What you can do is you can contact your Congressmen at home. You can contact their district offices. You can go to the U.S. Senators' State offices. You can visit them. I suggest that people at home go at noon tomorrow to their Congressmen's offices and say "no" to the Pelosi health insurance bill, "no" to the government takeover of health insurance.

Maybe you're working and can't do that, Mr. Speaker. What I suggest to folks is that they get on the telephone and call their Congressmen's offices here in Washington. Call the Congressmen's offices in their districts. Email them. Fax them. Contact them somehow.

I've reminded people over and over again that former U.S. Senator Everett Dirksen said, when he feels the heat, he sees the light. When he feels the heat, he sees the light. Now, what is he saying there?

What he's saying is that, when he's going in one direction and he gets all of these phone calls, letters, faxes, emails—there weren't emails when Everett Dirksen was around, but when he gets these contacts from his constituents—because Members of Congress want to be reelected usually, and those contacts say, Buster, you're heading in the wrong direction. Suddenly, they start seeing the light and saying, Maybe I ought to listen to the people who've elected me, and maybe I ought to go in a different direction.

So it's important for the American people, Mr. Speaker, to contact their Members of Congress and to tell their Congressmen that they do not want a government takeover of their health insurance, that they don't want the destruction of the health care system in America. It's absolutely critical, Mr. Speaker, for the American people to

get actively engaged in taking America back and in making sure that we don't destroy their health care insurance and the health care system.

Mr. HOEKSTRA is sitting there, just jumping around, wanting to speak, so I'll yield to Mr. HOEKSTRA.

Mr. HOEKSTRA. I thank my colleague, and I thank him for sharing his copy of the Constitution. We made the point that the Constitution establishing this Nation and the amendments to the Constitution are 44 pages. This is 1,990 pages, but I think more powerful is what this document says.

When you are protecting freedom, it doesn't take a lot of words. When you're limiting government, it doesn't take a lot of words. Think about the difference. This document, the Pelosi health care document, I think, over 3,000 times says "the commissioner shall," "the commissioner will," "the commissioner may." That's all losing authority.

If you take a look at the Constitution and if you read what the Constitution says, the Constitution puts limits on what government will do, and it protects individual rights. Here it says that Congress shall make no law a limitation on us—not on the people.

This expands government.

Shall not be infringed. No soldier shall without the consent. The right of the people to be secure against unreasonable searches. No person shall nor shall private property be taken. The accused shall enjoy. This. This document. It protects the American people from invasive and from overintrusive government. That's what the Founding Fathers thought.

They would be horrified by this bill to see that the commissioner shall develop the health care plans that you and I will have the opportunity to choose from. The commissioner shall establish penalties for those people who don't buy insurance. The commissioner shall develop this. The ombudsman shall do this. There are no limitations on government in here. This is all about the expansion of government, and our Founding Fathers were all about limiting government. This is night and day. This is 44 pages guaranteeing our freedoms. This is 1,990 pages taking freedoms away.

Many have called and said, Congressman, is this actually constitutional?

Maybe they'll find a court that says this is constitutional; but in the spirit of the Founding Fathers, they would have been horrified by what this document does and how it limits individual American freedoms.

We'll have to take a look and see if we can't—although, I think the people who will be at our House call tomorrow understand this document, and they understand the night and day difference between this document and what Speaker PELOSI is trying to do here with this document in that this

shreds the Constitution. It shreds personal freedom. It gives power to Washington and bureaucracies and, in one vote, 16-18 percent of the economy. That amount of freedom moves from our constituents, and it moves to Washington, D.C. It goes flying right through this House, and it goes right into unelected and unaccountable bureaucrats.

I yield back.

Mr. BROUN of Georgia. I'll reclaim my time.

In fact, those unelected bureaucrats are going to stand right between every patient in this country and their doctors. In fact, it's unelected bureaucrats appointed by the President who are going to be part of this health care czar panel, as I call it. The commissioner will be appointed and will go through confirmation by the Senate, but the panel will not. They're going to make decisions about every single health care insurance policy in this country.

So, Mr. Speaker, the American people need to understand very clearly: if they have insurance today that they like, they can forget it because it's going to be thrown out. The health care czar is going to establish every single health insurance policy in America.

The President, himself, has said his desire, his ultimate goal, is to completely take over the whole of the health care system and to put it into one single health insurance program, administered by government bureaucrats who are going to make decisions for every single American person. The doctor won't be making the medical decisions. The patient won't be making the medical decisions. The families won't be making the medical decisions. It's going to be a government bureaucrat who's going to be making those.

The American people need to understand that, Mr. Speaker. Are they going to sit back and idly let this happen? Right now, it's slated to happen Saturday night. Saturday night we're supposed to vote on that monstrosity, on what I'm calling a dead, rotten, stinking fish that NANCY PELOSI is trying to force down the throats of the American people. The American people need to say "no," Mr. Speaker.

I yield to Mr. KING.

Mr. KING of Iowa. I thank the gentleman from Georgia.

I wish they'd take that 1,990-page bill—and with the 40-page amendment, it's 2,030 pages—and put it back into the tree. It would have a lot more use there than it does here. I have to call it what it has been called before, especially by the Congresswoman from Minnesota, MICHELE BACHMANN, who called it the "crown jewel of socialism." This is socialized medicine. It's more than cradle-to-grave medicine. It goes beyond the nanny state, Mr. Speaker. This is conception to state-managed death health care that's being imposed here.

As I said earlier, there isn't a single health insurance policy that we know which could qualify beyond 2013. Any policies that are set today, according to this, would be outlawed, and they would have to jump through new hoops that would be written by the new health choices commissioner, the czar—the commissar-issuoner of health choices, I would call him. Yes, he may be confirmed, but it doesn't prevent the President from appointing someone to supersede his power. He has done that a number of times, some 57 times.

This is a call to the House. This is a House call. This is the American people coming here to this Capitol. For months, Mr. Speaker, the American people have said to me, What can I do? What can I do?

□ 2230

I don't always have a good answer. I said write letters, get on the phone and send e-mails. Go to district offices. All that needs to be done.

There are those who already have resigned themselves also. I am not among them. I believe we can kill this bill. And I would draw the parallel of about 3 years ago when there was a comprehensive amnesty bill that was pushed out of the White House with bipartisan support, and the American people rejected amnesty. A lot of people thought it was all set to pass through, pushed by the White House through the Senate to come over to the House and be passed in a comprehensive amnesty legislation. But the American people rose up and they jammed the switchboards of the United States Senate. And they did it twice that summer. They killed the bill.

We can kill this bill. It doesn't have the greased wheels like the comprehensive amnesty did. This bill is one that is wobbling along like a wounded duck, and it got wounded a lot more when it flew through the flak in New Jersey and in Virginia last night, when the Virginians and the New Jersians stood up and said we have had enough of this growth of government. We have had enough of this debt, that our grandchildren will have to be paying the interest on and that our great grandchildren will have to pay the principle on. We want to maintain our freedom.

That message was resounding out of Virginia. It was resounding out of New Jersey. And it does affect the thought process and the voting of the Members that are sitting on the fence tonight. And the American people that are in this city right now and those on their way will affect the judgment, and they will provide the good judgment for those who are sitting on the fence. Those that are more afraid of their Speaker than they are of their constituents, tomorrow they are going to see the whites of our eyes. They are going to look in the pupils to the soul of the American people that say I love

my Constitution and my country and my flag and our history and our common cause.

We do not have a common destiny if we can't maintain our freedom. Already a third of our private sector has been nationalized in the last year. This is another one-sixth. This is 17.5 percent. It does take us over 50 percent.

This is the time, this is the place, this is the "Super Bowl" of our resistance. Take the Hill tomorrow. Hold the Hill until this bill is killed.

Mr. BROUN of Georgia. Mr. KING, I thank you for this effort to get this house call on the U.S. House of Representatives. It is absolutely critical that the American people, Mr. Speaker, understand what is happening here this week and particularly is scheduled to happen Saturday night. It is going to kill 5.5 million jobs if we pass the Pelosi health insurance bill, it is going to kill our economy, and it is going to kill our children and grandchildren's future, because we are stealing with this outrageous spending that the Democrats have been doing under the leadership of Barack Obama and NANCY PELOSI and HARRY REID. We are stealing our grandchildren's future. Their standard of living is going to be less than ours today if we continue down this road.

We have to take America back, Mr. Speaker, and it is up to we people, the American citizens, the good citizens, freedom-loving citizens, who want to work, take care of their families' needs, and want the Federal Government out of their hair. That is what we are trying to do as Republicans. But the Democrats are trying to socialize this country.

Mr. HOEKSTRA, some people may have joined us since you first started speaking. There are two stacks of paper right there before you, and I want you to please tell the Speaker so that he can pass on to the American people what those two stacks of paper represent.

Mr. HOEKSTRA. We have three.

Mr. BROUN of Georgia. That is not a stack.

Mr. HOEKSTRA. This is the 44 pages that our Founding Fathers put together to establish this country and articulate and lay out the freedoms for the American people. This is a document of freedom.

Mr. BROUN of Georgia. The Constitution of the United States and the Declaration of Independence.

Mr. HOEKSTRA. Right. And this is the document that Republicans have proposed to fix health care, the parts of health care that have been identified as being broken, 232 pages.

Mr. BROUN of Georgia. Reclaiming my time, let's make it clear. That is the Republican alternative that the Democrats keep saying we don't have.

Mr. HOEKSTRA. Right. And then this is Speaker PELOSI's bill, most of

her bill, 1,990 pages introduced last week. It doesn't have the 40 pages of the manager's amendment which were added to the bill late last night. This is the document that contains in it the phrase "the commissioner shall" or "the government shall" something like 3,000 times.

The Constitution is all about freedom. This is all about the loss of freedom.

I thank my colleague for doing this session this evening.

Mr. BROUN of Georgia. It is a loss of jobs, it is a loss of everything that has made America great.

I want to thank my friends, STEVE KING from Iowa, PETE HOEKSTRA from Michigan and Dr. PHIL GINGREY from Georgia. This has been I hope an instructive evening for the listeners and for the Speaker, because we cannot let this bill pass. It is going to destroy freedom. It is a steamroller of socialism being driven by NANCY PELOSI. The American people need to put a stop sign in front of that steamroller of socialism.

#### SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. GRIFFITH) to revise and extend their remarks and include extraneous material:)

Mr. CUMMINGS, for 5 minutes, today.

Mr. TOWNS, for 5 minutes, today.

Ms. WOOLSEY, for 5 minutes, today.

Mr. GRIFFITH, for 5 minutes, today.

Mr. BISHOP of New York, for 5 minutes, today.

Mr. DEFAZIO, for 5 minutes, today.

Ms. KAPTUR, for 5 minutes, today.

Mr. MASSA, for 5 minutes, today.

(The following Members (at the request of Ms. FOXX) to revise and extend their remarks and include extraneous material:)

Mr. GINGREY of Georgia, for 5 minutes, today.

Mr. REHBERG, for 5 minutes, November 5.

#### ADJOURNMENT

Mr. HOEKSTRA. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 10 o'clock and 35 minutes p.m.), the House adjourned until tomorrow, Thursday, November 5, 2009, at 10 a.m.

#### EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of Rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

4454. A letter from the Program Manager, Health and Human Services, transmitting the Department's "Major" final rule — Medical Examination of Aliens — Removal of Human Immunodeficiency Virus (HIV) infection from Definition of Communicable Disease of Public Health Significance [Docket No.: CDC-2009-0003] (RIN: 0920-AA26) received October 30, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

4455. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Upper Mississippi River, Mile 839.7 to 840.3 [COTP Sector Upper Mississippi River-07-018] (RIN: 1625-AA00) received October 15, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4456. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; St. Croix River, Mile 022.9 to 023.5 [COTP Sector Upper Mississippi River-07-019] (RIN: 1625-AA00) received October 15, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4457. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Security Zone; Fair St. Louis 2007, Upper Mississippi River Mile Marker 179.2 to Mile Marker 180.0, St. Louis, MO [COTP Sector Upper Mississippi River-07-020] (RIN: 1625-AA00) received October 15, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4458. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Security Zone; Live on The Levee 2007, Upper Mississippi River Mile Marker 179.2 to Mile Marker 180.0, St. Louis, MO [COTP Sector Upper Mississippi River-07-021] (RIN: 1625-AA00) received October 15, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4459. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Security Zone; Upper Mississippi River, Mile 847.0 to 857.0 [COTP Sector Upper Mississippi River-07-026] (RIN: 1625-AA00) received October 15, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4460. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Lake of the Ozarks, Mile 21.0 to 23.0 [COTP Sector Upper Mississippi River-07-027] (RIN: 1625-AA00) received October 15, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4461. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Lake of the Ozarks, Mile 25.8 to 26.2 [COTP Sector Upper Mississippi River-07-028] (RIN: 1625-AA00) received October 15, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4462. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Lake of the Ozarks, Mile 13.2 to 14.2 [COTP Sector Upper Mississippi River-07-029] (RIN: 1625-AA00) received October 15, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4463. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Kaskaskia River, Mile 028.0 to 029.0 [COTP Sector Upper Mississippi River-07-030] (RIN: 1625-AA00) received October 15, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4464. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Missouri River, Mile 371.1 to 371.3 [COTP Sector Upper Mississippi River-07-031] (RIN: 1625-AA00) received October 15, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4465. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Missouri River, Mile 397.0 to 398.0 [COTP Sector Upper Mississippi River-07-032] (RIN: 1625-AA00) received October 15, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4466. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Security Zone; Savannah River, Savannah, GA [COTP Savannah-07-260] (RIN: 1625-AA87) received October 15, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4467. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Security Zone; Savannah River, Savannah, GA [COTP Savannah-07-263] (RIN: 1625-AA87) received October 15, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4468. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Elk Rapids Harbor Days Fireworks, Elk Rapids, Michigan [CGD09-06-132] (RIN: 1625-AA00) received October 15, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4469. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Security Zone; Savannah River, Savannah, GA [COTP Savannah-07-264] (RIN: 1625-AA87) received October 15, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4470. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Security Zone; Savannah River, Savannah, GA [COTP Savannah-07-269] (RIN: 1625-AA87) received October 15, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4471. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; M/V Empress of the North [COTP Southeastern Alaska 07-001] (RIN: 1625-AA00) received October 15, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4472. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Steelhead Triathlon, St. Joseph, Michigan [CGD09-06-133] (RIN: 1625-AA00) received October 15, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4473. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Safety



Zone; Waterfront Festival, Menominee, Wisconsin [CGD09-06-134] (RIN: 1625-AA00) received October 15, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4474. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Safety Zone Regulations; Tampa Bay, FL [COTP Sector St. Petersburg 07-003] (RIN: 1625-AA00) received October 15, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4475. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Irish Fest Fireworks, Milwaukee, Wisconsin [CGD09-06-136] (RIN: 1625-AA00) received October 15, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4476. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Gulf of Mexico, FL [COTP St. Petersburg 07-111] (RIN: 1625-AA00) received October 15, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4477. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Lyme Community Field Days Fireworks, Chaumont Bay, NY [CGD09-06-137] (RIN: 1625-AA00) received October 15, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4478. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Tampa Bay, FL [COTP St. Petersburg 07-026] (RIN: 1625-AA00) received October 15, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4479. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Ellison Bay, Wisconsin [CGD09-06-021] (RIN: 1625-AA00) received October 15, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4480. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Safety Zone for St. Petersburg Grand Prix; Tampa Bay, FL [COTP St. Petersburg 07-029] (RIN: 1625-AA00) received October 15, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4481. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Lake Express Water Ski Demonstration, Lake Michigan, Milwaukee, WI [CGD09-06-022] (RIN: 1625-AA00) received October 15, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4482. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Safety Zone Regulations; Tampa Bay, FL [COTP St. Petersburg 07-030] (RIN: 1625-AA00) received October 15, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4483. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Charlevoix Venetian Festival Fireworks, Round Lake, Charlevoix, MI [CGD09-

06-023] (RIN: 1625-AA00) received October 15, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4484. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Safety Zone Regulation; Tampa Bay, FL [COTP Sector St. Petersburg 07-038] (RIN: 1625-AA00) received October 15, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4485. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Safety Zone Regulations; Tampa Bay, FL [COTP Sector St. Petersburg 07-044] (RIN: 1625-AA00) received October 15, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4486. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Security Zone; Captain of the Port Detroit Zone, Detroit River, Detroit, MI [CGD09-06-028] (RIN: 1625-AA87) received October 15, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4487. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Safety Zone for St. Petersburg Grand Prix Air Show; Tampa Bay, FL [COTP Sector St. Petersburg 07-045] (RIN: 1625-AA00) received October 15, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4488. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Safety Zone — Memorial Day Fireworks, Maumee River, Toledo, OH [CGD09-06-033] (RIN: 1625-AA00) received October 15, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4489. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Safety Zone, Coast Guard Live Fire Exercise, Gulf of Mexico, Clearwater, FL [COTP Sector St. Petersburg, FL 07-050] (RIN: 1625-AA00) received October 15, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4490. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Tampa Bay, FL [COTP St. Petersburg 07-054] (RIN: 1625-AA00) received October 15, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4491. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Cuyahoga River, Cleveland, Ohio. West Third Street Bridge installment [CGD09-06-034] (RIN: 1625-AA00) received October 15, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4492. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Fireworks — Seddon Channel, Tampa Bay, Florida [COTP Sector St. Petersburg, FL 07-056] (RIN: 1625-AA00) received October 15, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4493. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Algonac Offshore Challenge, St. Clair

River North Channel, Algonac, MI [CGD09-06-037] (RIN: 1625-AA00) received October 15, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4494. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Freedom Festival Fireworks, Ludington, Michigan [CGD09-06-096] (RIN: 1625-AA00) received October 15, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4495. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Southside Summer Festival, St. Clair River, Port Huron, MI [CGD09-06-039] (RIN: 1625-AA00) received October 15, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4496. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Safety Zone, St. Anthony's Triathlon, St. Petersburg, FL [COTP Sector St. Petersburg, FL 07-069] (RIN: 1625-AA00) received October 15, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4497. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Clearwater Harbor, Florida [COTP Sector St. Petersburg 07-081] (RIN: 1625-AA00) received October 15, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4498. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Independent Holiday Fireworks Display, Detroit River, Grosse Ile, MI [CGD09-06-048] (RIN: 1625-AA48) received October 15, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4499. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Port of Toledo — Anthony Wayne Bridge, Maumee River, OH [CGD09-06-057] (RIN: 1625-AA00) received October 15, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4500. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Mineola Bay Fireworks, Fox Lake, IL [CGD09-06-071] (RIN: 1625-AA00) received October 15, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4501. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Duluth Fireworks, Lake Superior, Duluth, MN [CGD09-06-080] (RIN: 1625-AA00) received October 15, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4502. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; 4th of July Firework Display, Kenosha, Wisconsin [CGS09-06-080] (RIN: 1625-AA00) received October 15, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4503. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Madeline Island Fireworks, Lake Superior, Lapointe, WI [CGD09-06-082] (RIN:



1625-AA00) received October 15, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4504. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Harbor Spring 4th of July Fireworks, Harbor Springs, Michigan [CGD09-06-082] (RIN: 1625-AA00) received October 15, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4505. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Fish Creek Fireworks Display, Fish Creek, Wisconsin [CGD09-06-085] (RIN: 1625-AA00) received October 15, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4506. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Captain of the Port Buffalo Zone [CGD09-06-085] received October 15, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4507. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Harrisville Fireworks Display, Lake Huron, Harrisville, MI [CGD09-06-086] (RIN: 1625-AA00) received October 15, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4508. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Captain of the Port Sector Lake Michigan Zone [CGD09-06-087] received October 15, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4509. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Au Gres City Fireworks Display, Lake Huron, Au Gres, MI [CGD09-06-088] (RIN: 1625-AA00) received October 15, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4510. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Bay Harbor Yacht Club Fireworks, Bay Harbor Lake, Michigan [CGD09-06-090] (RIN: 1625-AA00) received October 15, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4511. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Taste of Chicago Fireworks, Lake Michigan, Chicago, IL [CGD09-06-091] (RIN: 1625-AA00) received October 15, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4512. A letter from the Office Manager, Department of Health and Human Services, transmitting the Department's "Major" final rule — Medicare Program; Payment Policies Under the Physician Fee Schedule and Other Revisions to Part B for CY 2010 [CMS-1413-FC] (RIN: 0938-AP40) received October 30, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); jointly to the Committees on Energy and Commerce and Ways and Means.

4513. A letter from the Office Manager, Department of Health and Human Services, transmitting the Department's "Major" final rule — Medicare Program; Home Health Prospective Payment System Rate Update

for Calendar Year 2010 [CMS-1560-F] (RIN: 0938-AP55) received October 30, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); jointly to the Committees on Ways and Means and Energy and Commerce.

4514. A letter from the Office Manager, Department of Health and Human Services, transmitting the Department's "Major" final rule — Medicare Program; Changes to the Hospital Outpatient Prospective Payment System and CY 2010 Payment Rates; Changes to the Ambulatory Surgical Center Payment System and CY 2010 Payment Rates [CMS-1414-FC] (RIN: 0938-AP41) received October 30, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); jointly to the Committees on Ways and Means and Energy and Commerce.

## REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. WAXMAN: Committee on Energy and Commerce. H.R. 3276. A bill to promote the production of molybdenum-99 in the United States for medical isotope production, and to condition and phase out the export of highly enriched uranium for the production of medical isotopes; with an amendment (Rept. 111-328). Referred to the Committee of the Whole House on the State of the Union.

## PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions of the following titles were introduced and severally referred, as follows:

By Ms. LORETTA SANCHEZ of California:

H.R. 4014. A bill to establish a program to provide guarantees for debt issued by State catastrophe insurance programs to assist in financial recovery from natural catastrophes; to the Committee on Financial Services.

By Mr. MCNERNEY (for himself and Mr. PERRIELLO):

H.R. 4015. A bill to amend the Internal Revenue Code of 1986 to extend certain estate tax provisions and restore and increase the estate tax deduction for certain family-owned business interests; to the Committee on Ways and Means.

By Mr. OBERSTAR:

H.R. 4016. A bill to reauthorize the hazardous material safety program, ensure the safe transport of hazardous material in all modes of transportation, and reduce the risks to life and property inherent in the commercial transportation of hazardous material, and for other purposes; to the Committee on Transportation and Infrastructure.

By Mr. MCGOVERN (for himself, Mr. LYNCH, Mr. TIERNEY, Mr. OLIVER, Ms. TSONGAS, Mr. MARKEY of Massachusetts, Mr. CAPUANO, Mr. NEAL of Massachusetts, Mr. FRANK of Massachusetts, and Mr. DELAHUNT):

H.R. 4017. A bill to designate the facility of the United States Postal Service located at 43 Maple Avenue in Shrewsbury, Massachusetts, as the "Ann Marie Blute Post Office"; to the Committee on Oversight and Government Reform.

By Mr. DEAL of Georgia (for himself, Mr. BURGESS, Mr. BUYER, Mr. PITTS, and Mr. BLUNT):

H.R. 4018. A bill to amend the Public Health Service Act to provide additional health insurance options for unemployed individuals; to the Committee on Energy and Commerce.

By Mr. DEAL of Georgia (for himself, Mr. BURGESS, Mr. BUYER, and Mr. BLUNT):

H.R. 4019. A bill to amend the Public Health Service Act to limit preexisting condition exclusions in the individual health insurance market to those permitted in the group health insurance market; to the Committee on Energy and Commerce.

By Mr. BURGESS (for himself, Mr. DEAL of Georgia, Mr. PITTS, Mr. BUYER, and Mr. BLUNT):

H.R. 4020. A bill to enable States to establish reinsurance programs or high risk pools to ensure that high risk individuals are able to access health insurance; to the Committee on Energy and Commerce.

By Mr. BLUMENAUER (for himself, Mrs. BONO MACK, Mrs. CAPPS, Mr. CASSIDY, Mr. CONNOLLY of Virginia, Mr. FTLNER, Mr. HOLT, Mr. SCHWARTZ, Mr. WELCH, and Mr. WU):

H.R. 4021. A bill to expand the Safe Routes to School Program to high schools; to the Committee on Transportation and Infrastructure.

By Mr. BOYD:

H.R. 4022. A bill to prohibit additional requirements for the control of *Vibrio vulnificus* applicable to the post-harvest processing of oysters; to the Committee on Energy and Commerce.

By Mr. DUNCAN:

H.R. 4023. A bill to provide for cost-of-living adjustment of the resources limits under the Supplemental Security Income Program; to the Committee on Ways and Means.

By Ms. HIRONO (for herself and Mr. ABERCROMBIE):

H.R. 4024. A bill to amend the Native Hawaiian Health Care Improvement Act to revise and extend that Act; to the Committee on Energy and Commerce.

By Ms. ROS-LEHTINEN (for herself and Mr. SHERMAN):

H.R. 4025. A bill to provide for justice and compensation for United States citizens taken hostage by Iran, and for other purposes; to the Committee on the Judiciary, and in addition to the Committee on Foreign Affairs, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. SPACE:

H.R. 4026. A bill to provide for the withholding of United States assistance to a foreign country in an amount equal to 110 percent of the total amount of costs incurred by United States hospitals and other medical facilities for the long-term care of aliens unlawfully present in the United States from that country during the preceding fiscal year, and for other purposes; to the Committee on Foreign Affairs, and in addition to the Committee on Homeland Security, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. RAHALL (for himself, Mr. MOLLOHAN, and Mrs. CAPITO):

H. Con. Res. 208. Concurrent resolution supporting the goals and ideals of a National Miner's Day to celebrate and honor the contributions of miners and encouraging the people of the United States to participate in local and National activities celebrating and

honoring the contributions of miners; to the Committee on Education and Labor.

By Ms. GRANGER (for herself, Mr. KINGSTON, and Mrs. MYRICK):

H. Res. 888. A resolution expressing the continued support and call for a renewed focus on the "Green Movement" within Iran, which embraces the yearning of the Iranian people in seeking freedom, human rights, and fundamental elements of democracy; to the Committee on Foreign Affairs.

By Mr. DAVIS of Tennessee:

H. Res. 889. A resolution congratulating the National Association of Farm Service Agency County Office Employees (NASCOE) on its 50th anniversary and its role in support of American agriculture; to the Committee on Agriculture.

By Mr. McDERMOTT (for himself, Mr. ROYCE, Mr. ACKERMAN, and Mr. BURTON of Indiana):

H. Res. 890. A resolution welcoming the Prime Minister of the Republic of India, His Excellency Dr. Manmohan Singh, to the United States; to the Committee on Foreign Affairs.

#### ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 303: Mr. KING of Iowa and Mr. GERLACH.

H.R. 391: Mr. McHENRY and Mr. LEE of New York.

H.R. 501: Mr. RUSH.

H.R. 571: Mr. HASTINGS of Florida, Mr. JACKSON of Illinois, Mr. COFFMAN of Colorado, Ms. CORRINE BROWN of Florida, Mr. TAYLOR, Mrs. BLACKBURN, Mr. WILSON of South Carolina, Mrs. BONO MACK, and Mr. NYE.

H.R. 690: Mr. DAVIS of Kentucky, Mr. ROGERS of Kentucky, Mr. FORTENBERRY, and Mr. SIMPSON.

H.R. 776: Mrs. NAPOLITANO.

H.R. 868: Mr. ARCURI, Mr. HIGGINS, Mr. HOLT, and Ms. ROYBAL-ALLARD.

H.R. 930: Mr. KILDEE.

H.R. 980: Mr. BISHOP of New York.

H.R. 1058: Mr. FLEMING.

H.R. 1086: Mr. KLINE of Minnesota.

H.R. 1175: Mr. ADLER of New Jersey, Mrs. HALVORSON, Mr. SPRATT, Ms. HERSETH SANDLIN, Mr. GORDON of Tennessee, Ms. RICHARDSON, Mr. KILDEE, and Mr. CONNOLLY of Virginia.

H.R. 1191: Mr. BOUCHER and Mr. BUTTERFIELD.

H.R. 1203: Mr. COHEN.

H.R. 1289: Ms. SHEA-PORTER.

H.R. 1308: Mr. AL GREEN of Texas.

H.R. 1443: Mrs. NAPOLITANO and Mr. WALZ.

H.R. 1454: Mr. POLIS.

H.R. 1545: Mr. LARSON of Connecticut.

H.R. 1596: Mr. AL GREEN of Texas, Mr. SERRANO, Mr. MCINTYRE, and Mr. FALDOMA VAEGA.

H.R. 1708: Mr. RUPPERSBERGER.

H.R. 1826: Mr. PASCRELL.

H.R. 1835: Mr. SABLAN, Mr. BOUSTANY, Mr. GOHMERT, and Mr. WILSON of South Carolina.

H.R. 2046: Mr. VAN HOLLEN and Mr. ROTHMAN of New Jersey.

H.R. 2160: Mr. McMAHON.

H.R. 2296: Mr. SIMPSON.

H.R. 2324: Mrs. NAPOLITANO, Mr. HALL of New York, Ms. SCHAKOWSKY, Mr. PAYNE, Ms. VELÁZQUEZ, and Mr. TOWNS.

H.R. 2381: Mr. TOWNS.

H.R. 2452: Mr. HOLT and Mr. CHAFFETZ.

H.R. 2478: Mr. MEEKS of New York.

H.R. 2480: Mr. LEWIS of Georgia and Mr. POLIS.

H.R. 2504: Mr. COHEN.

H.R. 2511: Mr. ROTHMAN of New Jersey.

H.R. 2538: Mr. WOLF.

H.R. 2546: Mr. LIPINSKI and Mr. MURPHY of Connecticut.

H.R. 2567: Mr. PASCRELL.

H.R. 2607: Mr. GERLACH and Mr. RYAN of Wisconsin.

H.R. 2608: Mr. RADANOVICH.

H.R. 2628: Mr. TURNER.

H.R. 2698: Mr. INGLIS, Mr. HALL of Texas,

Mr. OLSON, and Mr. JONES.

H.R. 2708: Mr. MINNICK and Mr. SHULER.

H.R. 2724: Mr. POLIS and Ms. BORDALLO.

H.R. 2799: Mr. NEUGEBAUER and Mr. FRANKS of Arizona.

H.R. 2906: Mr. KENNEDY and Ms. BALDWIN.

H.R. 2935: Mr. STARK and Mr. SCHRADER.

H.R. 3053: Ms. SCHAKOWSKY and Mr. FILNER.

H.R. 3147: Mr. KILDEE.

H.R. 3339: Mr. CHAFFETZ.

H.R. 3359: Mr. CLAY and Mr. WU.

H.R. 3460: Mr. CARNAHAN and Mr. GRIJALVA.

H.R. 3485: Mr. OLVER and Mr. MARKEY of Massachusetts.

H.R. 3508: Mr. PETRI, Mr. TURNER, and Mr. KLINE of Minnesota.

H.R. 3608: Mr. WALZ.

H.R. 3623: Ms. JACKSON-LEE of Texas.

H.R. 3644: Mr. ABERCROMBIE.

H.R. 3646: Mr. GENE GREEN of Texas.

H.R. 3650: Mr. BUCHANAN.

H.R. 3683: Mr. SOUDER.

H.R. 3692: Mr. HILL.

H.R. 3703: Mr. MANZULLO.

H.R. 3731: Mr. LEVIN.

H.R. 3745: Ms. SCHAKOWSKY.

H.R. 3752: Mr. SIMPSON.

H.R. 3771: Mr. COHEN.

H.R. 3790: Mrs. SCHMIDT, Mr. TIERNEY, Mr. ETHERIDGE, Mr. GONZALEZ, and Mr. TANNER.

H.R. 3791: Mr. SIREN, Mr. NADLER of New York, Mrs. CAPPS, Mr. HARE, Mr. BOSWELL,

Mr. MURPHY of Connecticut, Mr. LYNCH, Mr. CARNEY, Mr. RUPPERSBERGER, Mr. KILDEE,

Ms. SCHWARTZ, Ms. EDWARDS of Maryland, Ms. MARKEY of Colorado, Mr. BOCCIERI, Mr.

McGOVERN, Mr. BISHOP of New York, Ms. BORDALLO, Mr. SARBANES, Mr. SHERMAN, Mr.

ISRAEL, Mr. BOUCHER, Mr. SCHAUER, Mr. LOEBSACK, Mr. BLUMENAUER, and Mr. REICHERT.

H.R. 3799: Ms. BALDWIN.

H.R. 3800: Mr. SCHAUER.

H.R. 3855: Mr. CROWLEY, Mr. FATTAH, and Mr. CAPUANO.

H.R. 3906: Mr. COHEN.

H.R. 3912: Mrs. MYRICK.

H.R. 3921: Ms. BEAN, Mr. AL GREEN of Texas, Mr. BRIGHT, and Mr. QUIGLEY.

H.R. 3922: Mr. BISHOP of New York.

H.R. 3924: Mr. SESSIONS, Mr. OLSON, and Mr. WITTMAN.

H.R. 3926: Mrs. MYRICK, Mr. SALAZAR, Mr. HOLDEN, Mr. MITCHELL, Mr. TAYLOR, Mr.

BRIGHT, Ms. GIFFORDS, Mr. COOPER, Mr. TANNER, Mr. CHILDERS, Mr. CHANDLER, Mr.

SHULER, Mr. HILL, Ms. HERSETH SANDLIN, Mr. BISHOP of Georgia, Mr. THOMPSON of Cali-

fornia, Mr. BARROW, Mr. COSTA, Mr. MARSHALL, Mr. MINNICK, Mr. MOORE of Kansas,

Mr. CARNEY, Mr. MATHESON, Ms. LORETTA SANCHEZ of California, Mr. POMEROY, Mr.

SCHIFF, and Mr. CARDOZA.

H.R. 3939: Ms. LINDA T. SÁNCHEZ of California.

H.R. 3943: Mr. LOEBSACK, Mr. BISHOP of New York, Ms. KILROY, Ms. BORDALLO, and Ms. KOSMAS.

H.R. 3947: Mr. McMAHON.

H.R. 3950: Mr. WOLF.

H.R. 3966: Mr. GRIJALVA.

H.R. 3977: Mr. GEORGE MILLER of California.

H.R. 3991: Mr. GRIJALVA.

H.R. 4009: Mr. GRIJALVA.

H. Con. Res. 42: Mr. SABLAN and Mr. PIERLUISI.

H. Con. Res. 43: Mr. SABLAN and Mr. PIERLUISI.

H. Con. Res. 139: Ms. DEGETTE.

H. Con. Res. 169: Mr. MELANCON, Mrs. SCHMIDT, Mr. WITTMAN, Mr. Scalise, Mr. LINDER, and Mr. DUNCAN.

H. Con. Res. 198: Mr. BLUMENAUER, Ms. JENKINS, Mr. WITTMAN, Mr. MCINTYRE, Mr. BUYER, Mr. COSTELLO, Ms. NORTON, Mr. TURNER, and Mr. MARKEY of Massachusetts.

H. Con. Res. 199: Mr. BACA, Ms. LEE of California, Mr. WU, Mr. BOREN, Mr. MILLER of Florida, Mr. FALDOMA VAEGA, Mr. GRIJALVA,

Mr. AL GREEN of Texas, Mr. BROWN of South Carolina, Mr. GUTIERREZ, Mr. YOUNG of Alaska, Mr. CARNEY, Mr. BROUN of Georgia, Mr.

GEORGE MILLER of California, Mr. FILNER, Mr. CARSON of Indiana, and Mr. CAO.

H. Con. Res. 200: Mr. McCOTTER and Mr. FRANK of Massachusetts.

H. Con. Res. 203: Mrs. MYRICK, Mr. COBLE, Mr. COLE, Mr. DANIEL E. LUNGREN of California, and Mr. FRANKS of Arizona.

H. Res. 200: Ms. WOOLSEY.

H. Res. 227: Mr. LEVIN.

H. Res. 397: Mr. ROSS.

H. Res. 443: Mr. SABLAN.

H. Res. 577: Mr. LAMBORN, Mr. WALZ, Mr. BACHUS, Mr. SPACE, Mr. KIRK, and Mr. SCALISE.

H. Res. 615: Mr. KLINE of Minnesota.

H. Res. 700: Mr. DOGGETT and Mrs. NAPOLITANO.

H. Res. 711: Mr. FRANK of Massachusetts.

H. Res. 748: Mr. LAMBORN.

H. Res. 847: Mr. MANZULLO, Mr. SHIMKUS, Mr. ROYCE, Mr. POE of Texas, and Mr. DANIEL E. LUNGREN of California.

H. Res. 848: Mr. CARNEY.

H. Res. 856: Mr. SCALISE, Mr. ALEXANDER, and Mr. FLEMING.

H. Res. 870: Mr. GARRETT of New Jersey, Mr. WALDEN, Mr. REHBERG, Mr. RADANOVICH, and Mr. TURNER.

H. Res. 877: Mr. LEE of New York, Mr. WALZ, Mr. JOHNSON of Georgia, and Ms. LORETTA SANCHEZ of California.

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H. Res. 877: Mr. LEE of New York, Mr. WALZ, Mr. JOHNSON of Georgia, and Ms. LORETTA SANCHEZ of California.

## EXTENSIONS OF REMARKS

## PERSONAL EXPLANATION

## HON. MELISSA BEAN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 4, 2009

Ms. BEAN. Madam Speaker, due to an illness in my immediate family, I was unable to cast votes October 20 thru 23, 2009. If I had been present I would have cast the following votes:

Rollcall 790—On Motion to Suspend the Rules and Pass H.R. 3763: "Yes."

Rollcall 791—On Motion to Suspend the Rules and Pass H.R. 3319: "Yes."

Rollcall 792—On Motion to Suspend the Rules and agree to H. Res. 558: "Yes."

Rollcall 793—On Motion to Suspend the Rules and agree to S. 1793: "Yes."

Rollcall 794—On Motion to Suspend the Rules and agree to H. Res. 811: "Yes."

Rollcall 795—On Motion to Suspend the Rules and agree to H. Res. 837: "Yes."

Rollcall 796—On Motion to Suspend the Rules and agree to H. Res. 660: "Yes."

Rollcall 797—On Motion to Suspend the Rules and agree to S. Con. Res. 43: "Yes."

Rollcall 798—H. Res. 846: On ordering the previous question Agreed to: "Yes."

Rollcall 799—H. Res. 846: Providing for consideration of H.R. 3585: On agreeing to the resolution: "Yes."

Rollcall 800—On Motion to Suspend the Rules and agree to H. Res. 797: "Yes."

Rollcall 801—On Broun Amendment to H.R. 3585: "No."

Rollcall 802—On Kaptur Amendment to H.R. 3585: "Yes."

Rollcall 803—On Klein Amendment to H.R. 3585: "Yes."

Rollcall 804—On Titus-Teague-Cohen Amendment to H.R. 3585: "Yes."

Rollcall 805—On Heinrich Amendment to H.R. 3585: "Yes."

Rollcall 806—On Himes Amendment to H.R. 3585: "Yes."

Rollcall 807—On Passage of H.R. 3585: "Yes."

Rollcall 808—On Motion to Suspend the Rules and agree to H. Res. 175: "Yes."

Rollcall 809—H. Res. 853: On ordering the previous question: "Yes."

Rollcall 810—H. Res. 853: Providing Consideration for H.R. 3619: "Yes."

Rollcall 811—On Motion to Suspend the Rules and agree to H. Res. 836: "Yes."

Rollcall 812—On Kratovil Amendment to H.R. 3619: "Yes."

Rollcall 813—On Passage of H.R. 3619: "Yes."

CONGRESSMAN BROWN RECOGNIZES THE EFFORTS OF MR. RONNIE SANTOS, THE EAST COOPER PILOTS ASSOCIATION AND THE SOUTH CAROLINA AQUARIUM SEA TURTLE HOSPITAL

## HON. HENRY E. BROWN, JR.

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 4, 2009

Mr. BROWN of South Carolina. Madam Speaker, I rise today to highlight the efforts of one of my constituents. After hearing the story of three endangered sea turtles struck by the sudden freezing coastal waters in New England, Mr. Ronnie Santos, who is a proud member of the East Cooper Pilots Association, volunteered his time and resources to conduct an Angel Flight in his own personal aircraft to rescue the sea turtles and bring them back to the South Carolina Aquarium Sea Turtle Hospital in Charleston where they will be cared for.

I would like to commend Mr. Santos for leading by example and I thank him and all the hardworking staff and volunteers at the South Carolina Aquarium Sea Turtle Hospital in Charleston for putting in the long hours and doing the sometimes thankless work. Thank you for all that you do, you are all truly a symbol of what makes coastal South Carolina such a special place.

THE OVER-THE-COUNTER DERIVATIVES MARKETS ACT OF 2009

## HON. BRAD SHERMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 4, 2009

Mr. SHERMAN. Madam Speaker, I have co-sponsored H.R. 3795, the Over-the-Counter Derivatives Market Act of 2009. I believe the bill is a step in the right direction, but I would prefer even greater restrictions on over-the-counter derivatives.

CONGRATULATING DON BRANDT ON BEING NAMED THE SOLAR ELECTRIC POWER ASSOCIATION'S UTILITY CEO OF THE YEAR

## HON. HARRY E. MITCHELL

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 4, 2009

Mr. MITCHELL. Madam Speaker, I rise today to congratulate Don Brandt, who was recently named Utility CEO of the Year by the Solar Electric Power Association. This award

honors Don's exemplary leadership and the outstanding progress the Arizona Public Service Company has made under his guidance.

Don has spent more than 25 years in the electric power industry, most recently as the Chairman and CEO of APS's parent company, Pinnacle West Capital Corporation. Under his leadership, APS has undertaken significant solar initiatives including the construction of Solana, which will be the world's largest solar plant near Gila Bend, Arizona. At the same, APS has committed to invest \$500 million to develop 100 megawatts of utility-owned solar generation, and created the Community Power Project, a pilot program to install solar panels on customer homes with no upfront cost. Don also partnered with the National Park Service to power the Grand Canyon Visitors Center with solar panels.

According to Solar Electric Power Association Executive Director Julia Hamm, "Don Brandt has positioned APS to take full advantage of Arizona's most abundant natural resource, the sun. APS is creating viable business models around solar energy that not only push the envelope but also push our industry forward."

Madam Speaker, please join me in recognizing Don Brandt's contributions to making Arizona the solar capital of the world, and congratulating him on this prestigious award.

## HONORING CHEYENNE TITUS

## HON. SAM GRAVES

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 4, 2009

Mr. GRAVES. Madam Speaker, I proudly pause to recognize Cheyenne Titus, a very special young lady who has earned a spot on the National USA Karate Team. I join with Cheyenne's family and friends in expressing best wishes on her significant achievement. I commend Cheyenne on attaining such a high honor and wish her the best of luck as she competes in the World Karate Championships in Dublin, Ireland, this October.

Gaining recognition for this remarkable achievement reflects both Cheyenne's hard work and dedication. As a member of the stand-alone Missouri team, as well as the team with the largest number of students to be selected from a single school, Cheyenne should be proud of her accomplishments. She is a member of a celebrated team and has represented the state of Missouri well. With such drive and determination I am certain Cheyenne will be a strong contribution to the national team.

Madam Speaker, I respectfully request you join with me in commending Cheyenne Titus for her success with Sensei Mark Long's Shotokan Karate team and for her effort put forth in achieving this prestigious goal.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

## EARMARK DECLARATION

**HON. FRANK A. LOBIONDO**

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, November 4, 2009*

Mr. LOBIONDO. Madam Speaker, as per the requirements of the Republican Conference rules on earmarks, I secured the following earmarks included in the conference report accompanying H.R. 3183, the Energy and Water Development Appropriations Act:

Requesting Member: Rep. FRANK LOBIONDO (NJ-02)

Bill Number: HR 3183

Account: Army Corps Investigations

Legal Name of Requesting Entity: Army Corps of Engineers

Address of Requesting Entity: 100 Penn Square East, Philadelphia, PA 19107

Description of Request: Request an earmark of \$90,000 to continue a Congressionally authorized study and design of a shore protection project for the Wildwoods. The project's formal name is N.J. Shore Protection, Hereford Inlet to Cape May Inlet, N.J.

Requesting Member: Rep. FRANK LOBIONDO (NJ-02)

Bill Number: HR 3183

Account: Army Corps Investigations

Legal Name of Requesting Entity: Army Corps of Engineers

Address of Requesting Entity: 100 Penn Square East, Philadelphia, PA 19107

Description of Request: Request an earmark of \$90,000 to continue a Congressionally authorized study and design of methods to provide long term nourishment of the N.J. shoreline. The project's formal name is N.J. Shoreline Alternative Long Term Nourishment, N.J.

## INTRODUCTION OF NATIONAL MINER'S DAY RESOLUTION

**HON. NICK J. RAHALL II**

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, November 4, 2009*

Mr. RAHALL. Madam Speaker, as we, in the Congress, continue to debate the course of energy in America; as we consider the science of efficiency, the effects of power generation on the environment, and the impact of energy supply on the economy and on national security, I believe we also need to remember some very fundamental things.

We need, for example, to pay acute attention to the effects that the decisions we make in Washington will have on the men and women, the families, and the communities back home who have, for generations, provided the natural energy resources that fuel America.

Today I am proud to introduce—along with my colleagues from West Virginia, Representatives ALAN B. MOLLOHAN and SHELLEY MOORE CAPITO—a resolution honoring America's miners.

The government has long recognized that it has an obligation to do all that it can to ensure that our coal miners have safe, healthy work-

places. But I contend that we also have an obligation to do all we can to ensure that our miners simply have work.

America has grown strong through the labor of coal miners. Their work has provided, light, warmth, and economic security for generations of growing American families. It has fueled the steel furnaces that built our great cities and our military might. And the labor of miners has made reality of the creative imaginings of America's most inventive minds.

These hard-working, selfless, earnest men and women, their livelihoods, their way of life, and the future of their families and their communities are at stake. Mining can be difficult, dangerous work, but mining is also a noble, honest profession, and miners and their families are proud of the work they do for America, as well they should be.

We can mine and use coal more safely, more cleanly, and more efficiently. And we will. Our future depends upon it.

So, Madam Speaker, I introduce this resolution to support the goals and ideals of a National Miner's Day that will commemorate the work and the sacrifice of miners past and present. But I do so, as well, as a demonstration of support for the jobs of miners future.

## HONORING ZACK GRAHAM

**HON. SAM GRAVES**

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, November 4, 2009*

Mr. GRAVES. Madam Speaker, I proudly pause to recognize Zack Graham, a very special young man who has earned a spot on the National USA Karate Team. I join with Zack's family and friends in expressing best wishes on his significant achievement. I commend Zack on attaining such a high honor and wish him the best of luck as he competes in the World Karate Championships in Dublin, Ireland, this October.

Gaining recognition for this remarkable achievement reflects both Zack's hard work and dedication. As a member of the stand-alone Missouri team, as well as the team with the largest number of students to be selected from a single school, Zack should be proud of his accomplishments. He is a member of a celebrated team and has represented the State of Missouri well. With such drive and determination I am certain Zack will be a strong contribution to the national team.

Madam Speaker, I respectfully request you join with me in commending Zack Graham for his success with Sensei Mark Long's Shotokan Karate team and for his effort put forth in achieving this prestigious goal.

## PERSONAL EXPLANATION

**HON. BILL PASCRELL, JR.**

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, November 4, 2009*

Mr. PASCRELL. Madam Speaker, I want to state for the record that yesterday I missed the six rollcall votes of the day. Unfortunately

I missed these votes because I was detained in my district.

Had I been present I would have voted "yea" on rollcall vote No. 835, On Motion to Suspend the Rules and Pass, as Amended—H.R. 3949—Veterans' Small Business Assistance and Servicemembers Protection Act of 2009.

Had I been present I would have voted "yea" on rollcall vote No. 836, On Motion to Suspend the Rules and Pass—H. Res. 398—Recognizing the 60th anniversary of the Berlin Airlift's success.

Had I been present I would have voted "yea" on rollcall vote No. 837, On Motion to Suspend the Rules and Pass—H. Res. 866—Expressing support for designation of a National Veterans History Project Week to encourage public participation in a nationwide project that collects and preserves the stories of the men and women who served our nation in times of war and conflict.

Had I been present I would have voted "yea" on rollcall vote No. 838, On Motion to Suspend the Rules and Agree, as Amended—H. Res. 867—Calling on the President and the Secretary of State to oppose unequivocally any endorsement or further consideration of the "Report of the United Nations Fact Finding Mission on the Gaza Conflict" in multilateral fora.

Had I been present I would have voted "yea" on rollcall vote No. 839, On Motion to Suspend the Rules and Pass—H.R. 3157—To name the Department of Veterans Affairs outpatient clinic in Alexandria, Minnesota, as the "Max J. Beilke Department of Veterans Affairs Outpatient Clinic."

Lastly, had I been present I would have voted "yea" on rollcall vote No. 840, On Motion to Suspend the Rules and Agree—H. Res. 736—Honoring President Lincoln's Gettysburg Address on "Dedication Day", November 19, 2009.

## THE INTRODUCTION OF THE NATIVE HAWAIIAN HEALTH CARE IMPROVEMENT REAUTHORIZATION ACT OF 2009

**HON. MAZIE K. HIRONO**

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, November 4, 2009*

Ms. HIRONO. Madam Speaker, I rise today to introduce the Native Hawaiian Health Care Improvement Reauthorization Act of 2009. This legislation is a companion to S. 76, which was introduced earlier this year by Senator DANIEL K. INOUE.

Native Hawaiians, like American Indians and Alaska Natives, are an indigenous, native people. The Native Hawaiian Health Care Act of 1988, 42 U.S.C. 11701 et seq., provided the authority for the establishment of a range of programs and services designed to improve the health care status of the native people of Hawaii. While Native Hawaiian health care programs have been continuously funded since 1988, they have not been reauthorized since 1992. The bill I introduce today will reauthorize the Native Hawaiian Health Care Act through 2014.

Native Hawaiians have the highest cancer mortality rates in the State of Hawaii—216.8 out of every 100,000 male residents and 191.6 out of every 100,000 female residents. These cancer rates are 21 percent higher than for the total state male population—179.0 out of every 100,000 residents—and 64 percent higher than that for the total state female population—117.0 per 100,000. With respect to breast cancer, Native Hawaiians have the highest mortality rates in the State of Hawaii and nationally Native Hawaiians have the third highest mortality rates.

The death rate from heart disease for Native Hawaiians is 68 percent higher than that for the entire population of the State of Hawaii. The death rate from hypertension is 84 percent higher and the death rate from stroke is 20 percent higher for Native Hawaiians than for the general population of the State of Hawaii.

Congress has previously recognized the unique and historical relationship between the United States and the indigenous people of Hawaii. I urge my colleagues continued support for the health and well-being of Native Hawaiians.

Mahalo (thank you).

#### PERSONAL EXPLANATION

#### HON. DEVIN NUNES

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, November 4, 2009*

Mr. NUNES. Madam Speaker, on the legislative day of Tuesday, November 3, 2009, I was unavoidably detained and was unable to cast a vote on a number of rollcall votes. Had I been present, I would have voted: rollcall 835—"yea"; rollcall 836—"yea"; rollcall 837—"yea"; rollcall 838—"yea"; rollcall 839—"yea"; rollcall 840—"yea."

#### HONORING JESSICA GRAHAM

#### HON. SAM GRAVES

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, November 4, 2009*

Mr. GRAVES. Madam Speaker, I proudly pause to recognize Jessica Graham, a very special young lady who has earned a spot on the National USA Karate Team. I join with Jessica's family and friends in expressing best wishes on her significant achievement. I commend Jessica on attaining such a high honor and wish her the best of luck as she competes in the World Karate Championships in Dublin, Ireland, this October.

Gaining recognition for this remarkable achievement reflects both Jessica's hard work and dedication. As a member of the stand-alone Missouri team, as well as the team with the largest number of students to be selected from a single school, Jessica should be proud of her accomplishments. She is a member of a celebrated team and has represented the state of Missouri well. With such drive and determination I am certain Jessica will be a strong contribution to the national team.

Madam Speaker, I respectfully request you join with me in commending Jessica Graham for her success with Sensei Mark Long's Shotokan Karate team and for her effort put forth in achieving this prestigious goal.

#### PERSONAL EXPLANATION

#### HON. TIMOTHY V. JOHNSON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, November 4, 2009*

Mr. JOHNSON of Illinois. Madam Speaker, unfortunately Monday night, November 2, 2009, and the morning of November 3, 2009 I was unable to cast my votes on H.R. 1168, H. Res. 291, S. 509, H.R. 3949, H. Res. 398, and H. Res. 866 due to a scheduled town hall meeting in Cerro Gordo, Illinois.

Had I been present for Rollcall No. 832, on suspending the Rules and passing H.R. 1168, the Veterans Retraining Act of 2009, I would have voted "aye."

Had I been present for Rollcall No. 833, on suspending the Rules and passing H. Res. 291, Recognizing the crucial role of assistance dogs in helping wounded veterans live more independent lives, expressing gratitude to The Tower of Hope, and supporting the goals and ideals of creating a Tower of Hope Day, I would have voted "aye."

Had I been present for Rollcall No. 834, on suspending the Rules and passing S. 509, to authorize a major medical facility project at the Department of Veterans Affairs Medical Center, Walla Walla, Washington, and for other purposes, I would have voted "aye."

Had I been present for Rollcall No. 835, on suspending the Rules and passing H.R. 3949, Veterans' Small Business Assistance and Servicemembers Protection Act of 2009, I would have voted "aye."

Had I been present for Rollcall No. 836, on suspending the Rules and passing H. Res. 398, Recognizing the 60th anniversary of the Berlin Airlift's success, I would have voted "aye."

Had I been present for Rollcall No. 837, on suspending the Rules and passing H. Res. 866, Expressing support for designation of a National Veterans History Project Week to encourage public participation in a nationwide project that collects and preserves the stories of the men and women who served our Nation in times of war and conflict, I would have voted "aye."

It is my fervent hope that my absence in no way be interpreted as a lack of support and enthusiasm for these important issues and undertakings. Congress' schedule in recent days has been subject to sometimes unpredictable additions and subtractions of days. As the original schedule had established an adjournment date of Oct. 30, 2009, I felt safe in scheduling a town hall meeting the evening of Monday, Nov. 2, for the purpose of meeting with and hearing from my constituents—the voters and citizens who are critical in guiding my votes and my conscience on the important issues we all face.

#### CELEBRATING THE LIFE OF LABOR PIONEER AND CIVIL RIGHTS LEADER WILLIE JAMES

#### HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, November 4, 2009*

Mr. RANGEL. Madam Speaker, I rise today in memoriam of my dear friend, Labor Pioneer and Civil Rights Leader Willie James, who departed this life peacefully on Friday, October 30th, 2009. This strong spirited and God-fearing man dedicated his entire life to uplifting the hopes and dreams of African Americans and people in the Labor Movement and we are all consumed by his passing. In February of 1996, Willie James made labor history, when he became the first African American elected to serve as President of the Transport Workers Union, Local 100.

A native New Yorker, Willie James was born in Harlem Hospital on April 28, 1936 to the late Charles James and Geneva Nelson Surrency. From 1954 through 1957, Willie served his country in the United States Air Force as a proud member of the 80th Supply Squadron, Depot Special, and received the Good Conduct Medal for his demonstration of honor, efficiency and fidelity with great distinction. While in the service, he and a few other airmen formed a doo-wop vocal group that covered songs by the Platters and other groups. Willie was an accomplished Baritone and often told how the group was so good that people in Morocco thought they were the real Platters. After serving in the Air Force he returned to Harlem finding work as a shipping clerk.

Later in life he developed an attraction for exotic plants and beautiful flowers and in 1964, God blessed him with his own beautiful rose when he met and married Rosabelle. Their marriage lasted 41 years when she departed this life in 2005. Shortly after marriage he became a New York City Police Officer and in 1967 he began his career with the Transport Workers Union, TWU, Local 100 under the Manhattan and Bronx Surface Transit Operating Authority, MABSTOA.

He started with a metal-plating company where he was assigned to a unit with workers who were perceived as derelict workers beset by alcohol and laziness. Not looking down upon anyone but seeing the opportunity to help others; he discovered his masterful skill of organizing workers. He told the workers that if they worked with him he would make a case to the management to get them higher wages. After a series of meetings and negotiations with the bosses he won them a raise, and developed a promotional ladder for himself.

He rose through the ranks of TWU Local 100 and held a series of positions: MABSTOA DIVISION II Bus Operator; Division II Recording Secretary; Vice Chairman and Chairman at Amsterdam Garage; the Executive Board's Director of Education and Training; and Financial Secretary Treasurer. As he continued climbing the ladder of TWU he recalled how he continuously endured blatant racism.

Defying the odds in 1996, as the first African American elected to serve as President of the Transport Workers Union Local 100 Willie

set the mark that raised the bar for all of us. Willie continued to climb the ranks in the TWU and in the labor movement. Serving as Vice President of the New York AFL-CIO; Vice President of the New York City Central Labor Council and Vice President of the International Transport Workers Union.

In addition to his sufficient contributions to the labor movement Willie James was a senior executive for The Municipal Credit Union serving in a variety of roles. From 1983–1992, he served as Upgrade Training Director; from 1992–1994, he served as Treasurer; from 1994–2000, he served as President; from 2007–2009, he served as Acting Chairman; and in May 2009, Willie served as the Chairman. The Municipal Credit Union is one of the oldest and largest Credit Unions in the State of New York with more than 300,000 members and \$1.3 Billion dollars in assets.

In the struggle for Civil and Human Rights, Willie James, a Prince Hall Master Mason of Joppa 55 and founding Member of the Society of Afro-American Transit Employees, SAATE, furthered his accomplishments and dedication to helping others by serving on the Executive Board Committee of the New York Branch of the NAACP; Executive Board Member of the Black Trade Union Leadership Committee; Executive Board of the Coalition of Black Trade Unionist; Member of the 100 Black Men of America, Incorporated; and Member of the Board of 500 MEN Empowerment.

Willie was also deeply involved in many civic and community organizations. He was an ordained Deacon at Mount Hermon Baptist Church in the Bronx, New York; and a very active Member of Mount Calvary Baptist Church in Harlem, New York. He served as a Deacon at Rockland Baptist Church in Pomona, New York until his death.

Willie James firmly believed that when the opportunity presents itself, one should selflessly help somebody without expecting something in return. He often quoted, "Just ask the person who you are helping to pass the baton of love and concern to others in this race of life." Willie loved to sing and at every labor march and rally he used his mighty baritone voice to sing out against injustices and inequality; for fair wages and jobs; and Human Rights for all. I will always remember the songs of freedom and struggle that belled from the heart of this moral man.

Willie and his late wife Rosabelle leaves to cherish their memory: His sister, Janet Surrency Monroe; two children, Charles James and Daisy Moyd; three grandsons, Everett, Damon and Kiel; eleven great-grandchildren; three great-great grandchildren; and a host of nieces, nephews, cousins and friends.

Madam Speaker, As a result of Willie James service to our Nation, he leaves a multitude of colleagues, constituents, benefactors, and laborers to continue the work he had manifested in his life for their prosperity and for future generations to come. Though Willie is no longer with us, we will continue to keep his memory alive in our hearts and minds, and continue to honor his legacy with our advocacy for the issues he cared about the most.

# PERSONAL EXPLANATION

**HON. LINDA T. SÁNCHEZ**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, November 4, 2009*

Ms. LINDA T. SÁNCHEZ of California. Madam Speaker, unfortunately, I was unable to be present in the Capitol for one vote on Thursday, October 29, 2009.

However, had I been present, I would have voted "yea" on H. Res. 729, designating a "National Firefighters Memorial Day" to honor and celebrate the firefighters of the United States.

# PERSONAL EXPLANATION

**HON. ADAM SMITH**

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, November 4, 2009*

Mr. SMITH of Washington. Madam Speaker, on Monday, November 2, 2009, I was unable to be present for the last two series of recorded votes. Had I been present, I would have voted "yea" on rollcall vote No. 832 (on passage of the bill H.R. 1168, as amended), "yea" on rollcall vote No. 833 (on agreeing to the resolution H. Res. 291), and "yea" on rollcall vote No. 834 (on passage of the bill S. 509).

# HONORING KYLE TODD

**HON. SAM GRAVES**

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, November 4, 2009*

Mr. GRAVES. Madam Speaker, I proudly pause to recognize Kyle Todd, a very special young man who has earned a spot on the National USA Karate Team. I join with Kyle's family and friends in expressing best wishes on his significant achievement. I commend Kyle on attaining such a high honor and wish him the best of luck as he competes in the World Karate Championships in Dublin, Ireland, this October.

Gaining recognition for this remarkable achievement reflects both Kyle's hard work and dedication. As a member of the stand-alone Missouri team, as well as the team with the largest number of students to be selected from a single school, Kyle should be proud of his accomplishments. He is a member of a celebrated team and has represented the state of Missouri well. With such drive and determination I am certain Kyle will be a strong contribution to the national team.

Madam Speaker, I respectfully request you join with me in commending Kyle Todd for his success with Sensei Mark Long's Shotokan Karate team and for his effort put forth in achieving this prestigious goal.

FORMER EGYPTIAN PRESIDENTIAL CANDIDATE DR. AYMAN NOUR DENIED TRAVEL TO U.S.

**HON. FRANK R. WOLF**

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, November 4, 2009*

Mr. WOLF. Madam Speaker, I would like to bring to the attention of my colleagues the following statement released by former Egyptian presidential candidate and political prisoner Dr. Ayman Nour who was restricted from traveling to the United States by Egyptian authorities.

On November 3, 2009, the Egyptian public prosecutor issued an administrative decision preventing me from traveling to the U.S. and to other countries in the Middle East and Europe. My visit to the U.S. was scheduled for November 6, 2009.

The decision by the public prosecutor came as a shock, and is unjustified, especially in light of the recent permit I was granted for a visit to the European Parliament in April 2009. During that visit, I met with various European leaders and underwent substantial medical examinations. I was forced to postpone other necessary physical examinations because I could not obtain a visa for the UK from Belgium.

The public prosecutor's decision conflicts with Egyptian Constitution, Article 52, which stipulates that, "it is not acceptable to prohibit a citizen from staying somewhere or to be forced to stay somewhere." Article 52 states that "citizens have the right to permanent or temporary immigration abroad." Adding to this is the absence of objective reasons given by the authorities that would have prevented me from practicing my right. In other words, there is no probability that I will escape while I am abroad, and I do not owe money to any entity, which means that restricting is uncalled for and unnecessary. The double standard in my case is evident in the fact that the public prosecutor permitted others with real legal obstacles, similar to those described above to travel abroad in the past.

The public prosecutor justified his politically motivated restriction by referring to the fact that I was released from prison on February 18, 2009 for medical reasons, while my official release date had been set for July 22, 2009. This decision was based on claim 12886/63Q dated April 21, 2009, which allowed me to obtain an automatic curtailment of my sentence according to Article 86 of Prisons Bylaw 79/1961. The fact that I was granted an exit permit on March 15, 2009 for my Europe visit mentioned above, is further indication that the current travel restriction is unwarranted.

I would like to present the following facts: (1) The public prosecutor's decision is only one example in a series of aggression, abuses, and insistence of the political regime to deprive me of my basic human rights, including the following:

a. The right to work and earn a living as an attorney. The temporary governmental committee which ran the Association Bar canceled my membership in April 2009. I was the only individual to receive this cancellation despite the fact that there were dozen of similar cases.

b. The right to sell my assets. The notary public offices were instructed to prevent me from registering any contracts unless I provide documents proving my release. To date

I have been unsuccessful in obtaining a legal declaration of my release from any governmental authority. Likewise, they subsequently prevented me from opening a bank account. These restrictions not only affect my professional life, but intrude upon my personal life, including the ability to sustain my family and to seek the necessary medical attention I require after incurring serious injuries during my four years in prison.

c. The right to healthcare coverage. As a registered journalist, I should enjoy the benefit of health insurance coverage through the Supreme Council of Journalism and Press Syndicate. This has also been restricted to me, as the syndicate was instructed to freeze my salary and prevent me from my legal right to receive medical treatment.

d. The right to appear in court to claim my civil rights. I have been prevented from appearing before several courts to make any claims for my basic civil rights.

e. The right to file claims of defamation. The public prosecutor prevented me from filing the claims of defamation to the criminal court. I subsequently published these claims in the media. More than two thousand of these claims have been frozen, which encourages more illegal moral attacks against me.

f. The right to re-open my case in light of new evidence proving my innocence. The public prosecutor has failed to grant my request to review my claim in light of the newly acquired evidence of my innocence. This evidence would serve to acquit me from the original verdict by the Court of Administrative Justice, which took criminal proceedings against me on January 29, 2005.

g. The right to speak to the state-owned media. I am currently restricted from responding to claims broadcast against me in the state-owned media. The public prosecutor did not consider my claims to respond to the claims against me in the state-owned media.

h. The right to establish an NGO or join any social organization or group. At the instruction of the State Security forces, I have been deprived from establishing any non-governmental organization or from joining any social or sport clubs. They threatened one of the clubs that granted me an honorary membership and forced them to remove me.

i. The right to privacy. I am monitored at all hours of the day by government security forces. Recently, I have embarked on a "knock-on-the-door" campaign to meet citizens throughout Egypt. During these events, government security personnel followed me continuously. In addition, my phone calls remain illegally tapped.

j. The right to actively participate in politics. I have been restricted from practicing my political and partisan rights. This decision is being held up by an outdated 1937 Supreme Constitutional Court ruling, which subsequently has been discontinued by newer rulings from the same court which provides persons in my similar situation to receive the right to participate in politics, even after serving prison time.

It is evident to the public that such abuses arose in response to my political stances in an attempt to control my political and personal life. The authorities claim they are doing right by me in releasing me for health reasons on February 18, 2009, only very few months before the legal release. It is plain to see that this early release is in line with their goal of suffocating me politically and depriving me of my basic human rights.

(2) Regarding my trip to the U.S. and other countries, the following facts should be stated:

a. I received an invitation from the Coalition of Egyptian Organizations in the U.S. to speak to Egyptians and Egyptian Americans living in various states. The same coalition invited Gamal Mubarak, Omar Suliman, Amr Mousa, Ahmed Zweil, Mohamed Elbaradie, and a number of other public figures.

b. The aforementioned invitation met my earnest desire to meet with Egyptian communities abroad and to discuss their problems and issues of interest. I also received some other invitations from other organizations and entities including the following:

Council on Foreign Relations, National Endowment for Democracy, various think tanks, American universities, U.S. congressmen and political figures, Egyptian communities in three major states, U.S. media representatives.

c. The invitations do not include any meetings with representatives of the U.S. Administration. I have already announced that the main purpose of my visit is not to conduct high-profile meetings. I plan to focus solely on meetings with the Egyptian and American citizens and U.S. public representatives. This visit was motivated by my belief in communicating with the global community to advocate our political and partisan views. Other political figures from Egypt made similar visits recently, including Gamal Mubarak, who visited the U.S. several times, and Chief of Parliament, Fathi Sorour, who is set to meet today with Egyptians in the U.S.; the same day I received the government decision preventing my travel plans.

d. My request for travel was submitted to the public prosecutor three months ago, to which I received no response. I subsequently re-submitted the same request several times until he finally got back to me with demands for more details about the invitations I received from the U.S., as well as information about the medical examinations I plan on undergoing. After several back-and-forth messages dealing with requests for translation of documents' authenticity and such, it was clear that the public prosecutor was insisting on delaying procedures. This situation concluded with a negative response today in answer to my 3-month long request for travel permission.

In conclusion, we would like to thank the various organizations and groups which invited me to visit the U.S. Because of the unfortunate decision by the Egyptian public prosecutor, I am forced to remain in the country at this time. I will continue with my plan to address the Egyptian and American community via video conference. I would like to thank in particular the Coalition of Egyptian Organizations in the U.S. and its leaders, among which include: Cameel Halim, Saad Eddin Ibrahim, Dina Guirgus, and Omar Afifi, all who exerted tremendous effort to organize the proposed events in the U.S. and worked closely with colleagues here in Cairo to make the necessary arrangements for my potential visit to the U.S.

The Egyptian public prosecutor's decision to prevent me from traveling abroad compels us to work even more fervently overcoming the legal obstacles we face. We are not canceling the visit to the U.S., but consider this only a postponement for another date, which we are tentatively scheduling for 2010.

We call upon the Egyptian and international community, as well as to human rights organizations worldwide to condemn the aforementioned abuses, which are an assassination to my civil rights and human rights, and are more painful and damaging than the physical suffering I yet experience.

My treatment in Egypt is in direct contradiction to the international conventions signed by Egypt, most importantly, the Universal Declaration on Human Rights and International Covenant on Civil and Political Rights.

We assert that insistence on violating our rights will increase our belief in the right of Egyptians to democratic and nonviolent reform. We will work diligently on putting an end to the unjust and unacceptable situation of civil and human rights in Egypt. We will continue to fight against the inheritance of our country to despotic rule, and against the deprivation of our people from practicing their rights.

#### HONORING MATT CARPENTER

#### HON. SAM GRAVES

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 4, 2009

Mr. GRAVES. Madam Speaker, I proudly pause to recognize Matt Carpenter, a very special young man who has earned a spot on the National USA Karate Team. I join with Matt's family and friends in expressing best wishes on his significant achievement. I commend Matt on attaining such a high honor and wish him the best of luck as he competes in the World Karate Championships in Dublin, Ireland, this October.

Gaining recognition for this remarkable achievement reflects both Matt's hard work and dedication. As a member of the stand-alone Missouri team, as well as the team with the largest number of students to be selected from a single school, Matt should be proud of his accomplishments. He is a member of a celebrated team and has represented the state of Missouri well. With such drive and determination I am certain Matt will be a strong contribution to the national team.

Madam Speaker, I respectfully request you join with me in commending Matt Carpenter for his success with Sensei Mark Long's Shotokan Karate team and for his effort put forth in achieving this prestigious goal.

#### COMMENDING CARL, MARTIN AND TED RESNICK OF HUNTERDON COUNTY

#### HON. LEONARD LANCE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 4, 2009

Mr. LANCE. Madam Speaker, I rise today to commend three outstanding citizens in my Seventh Congressional District—Carl, Ted and Martin Resnick of Hunterdon County, New Jersey.

On Wednesday, November 11 these three outstanding individuals will receive the 2009 Distinguished Citizen Award from the Central New Jersey Council of the Boy Scouts of America.

All three of these men are receiving this prestigious award for their commitment to the Boy Scouts in Hunterdon County and their strong commitment to the entire Hunterdon County community. Whether it be their involvement in local sports teams, clubs, service



organizations, wildlife refuge efforts, the arts, or area first responders, the Resnick family has made significant contributions to our community.

As a lifelong resident of Hunterdon County, I have known Carl, Ted and Martin Resnick and their family for most of my life. In addition to owning the Flemington Department Store—which is a family-owned business—the Resnick family has been active members of the Hunterdon County community for more than 50 years.

In addition to his role at the Flemington Department Store, Carl Resnick is a strong advocate for blood donor programs and has donated more than eight gallons of blood to help others. Ted Resnick may be best known for his 40-year involvement in the Hunterdon County wrestling program where he still volunteers as a coach, mentor, referee and supporter. Martin Resnick has been very active in community affairs such as organizing a collection center for relief efforts for Hurricane Katrina victims.

Because of their hard work and devotion to the entire Hunterdon County community, I am pleased to join the Central New Jersey Council Boy Scouts of America in commending Carl, Martin and Ted Resnick. I am also pleased to share their good efforts and contributions with my colleagues in the United States Congress and with the American people.

#### BIRTHDAY GREETINGS TO BERTHA RICHARDSON

##### HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, November 4, 2009*

Mr. PAUL. Madam Speaker, on November 2, the family and friends of Mrs. Bertha Richardson gathered together to celebrate Mrs. Richardson's 100th birthday. I am pleased to extend belated birthday greetings to Mrs. Richardson. Mrs. Richardson is a life-long resident of Rosharon, Texas, which is in my congressional district. As the matriarch of her extended family, Mrs. Richardson continues to her relatives, and all members of her community, with the gifts of her faith and wisdom. I urge all my colleagues to join me in sending our best wishes to Bertha Richardson on the occasion of her 100th birthday.

#### HONORING SAM CROCKER

##### HON. SAM GRAVES

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, November 4, 2009*

Mr. GRAVES. Madam Speaker, I proudly pause to recognize Sam Crocker, a very special young man who has earned a spot on the National USA Karate Team. I join with Sam's family and friends in expressing best wishes on his significant achievement. I commend Sam on attaining such a high honor and wish him the best of luck as he competes in the World Karate Championships in Dublin, Ireland, this October.

Gaining recognition for this remarkable achievement reflects both Sam's hard work and dedication. As a member of the stand-alone Missouri team, as well as the team with the largest number of students to be selected from a single school, Sam should be proud of his accomplishments. He is a member of a celebrated team and has represented the state of Missouri well. With such drive and determination I am certain Sam will be a strong contribution to the national team.

Madam Speaker, I respectfully request you join with me in commending Sam Crocker for his success with Sensei Mark Long's Shotokan Karate team and for his effort put forth in achieving this prestigious goal.

#### PERSONAL EXPLANATION

##### HON. TOM PRICE

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, November 4, 2009*

Mr. PRICE of Georgia. Madam Speaker, on rollcall Nos. 835, 836, 837, 838, 839 and 840 I was unavoidably detained. Had I been present, I would have voted "yea" on all.

#### TRIBUTE TO MARY SHAFER

##### HON. JOHN J. DUNCAN, JR.

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, November 4, 2009*

Mr. DUNCAN. Madam Speaker, today I wish to pay tribute to a beloved philanthropist from my district and one of the most selfless and kindhearted persons I have ever known.

Mary Shafer recently passed away after battling breast cancer for 14 years. During that prolonged fight she never lost her faith in God and tirelessly continued her charity work.

With her husband Bo—who served as the President of Kiwanis International from 2000–2001—Mary traveled all over the World helping the indigent. Her compassion and service had no boundaries. Bo and Mary believed their work with Kiwanis was a privilege, not a duty, and they left an immeasurable mark on more people than can be counted.

Mary's most passionate cause was providing clean drinking water to people in developing countries. Many people admirably serve their community or donate money to charity, but it takes a very special and resilient person to perform such challenging work in some of the World's most impoverished places.

Closer to home, Mary also served numerous other causes and served on or chaired the boards of many agencies like the Volunteer Mission Center, the United Way, and the Florence Crittenton Agency.

Bo recently told the Knoxville News Sentinel following Mary's passing that he was head-over-heels in love with her, and, "We never had an argument. Her goal in life was to keep a smile on my face, and my goal in life was to keep a smile on her face."

Mary was very active in the Second Presbyterian Church in Knoxville and a devout Christian. According to her family, her last

words were, "Thank you, Lord Jesus. I had a great time."

Even in the face of such a lengthy and difficult illness, Mary thanked her creator for all the blessings in her life. For Mary, He had a special purpose, and although the Lord decided to call her home, she will not be forgotten by all those she knew and comforted.

Madam Speaker, the passing of Mary Shafer is a tremendous loss for my district, her husband, Bo, and her countless family and friends. I call her service and faith in God to the attention of my Colleagues and other readers of the RECORD and thank her for being a shining example to us all.

#### HONORING SARAH GRAHAM

##### HON. SAM GRAVES

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, November 4, 2009*

Mr. GRAVES. Madam Speaker, I proudly pause to recognize Sarah Graham, a very special young lady who has earned a spot on the National USA Karate Team. I join with Sarah's family and friends in expressing best wishes on her significant achievement. I commend Sarah on attaining such a high honor and wish her the best of luck as she competes in the World Karate Championships in Dublin, Ireland, this October.

Gaining recognition for this remarkable achievement reflects both Sarah's hard work and dedication. As a member of the stand-alone Missouri team, as well as the team with the largest number of students to be selected from a single school, Sarah should be proud of her accomplishments. She is a member of a celebrated team and has represented the state of Missouri well. With such drive and determination I am certain Sarah will be a strong contribution to the national team.

Madam Speaker, I respectfully request you join with me in commending Sarah Graham for her success with Sensei Mark Long's Shotokan Karate team and for her effort put forth in achieving this prestigious goal.

#### HISTORY OF EASTERN AIRLINES

##### HON. LYNN A. WESTMORELAND

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, November 4, 2009*

Mr. WESTMORELAND. Madam Speaker, I rise today to call attention to the history of the former Eastern Airlines and its loyal employees. As a member of the U.S. House of Representatives Transportation and Infrastructure Committee, Subcommittee on Aviation, this matter is of particular importance to me. I recently met with one of my constituents; Mr. Robert G. Fuhrman of Fayetteville, Georgia, who is a former Eastern pilot; Bob recounted the history of the company and its employees' fight to maintain its reputation for leadership in the airline industry. Additionally, Bob presented me with a copy of his manuscript as well as a number of correspondences to elected officials detailing his experiences, both

good and bad, at Eastern Airlines. I have brought these experiences and documents to the attention of the House Aviation Subcommittee so that the Members of the Subcommittee would be aware of the history of Eastern Airlines as well as fulfill my constituent's First Amendment right as outlined in our U.S. Constitution to petition his government for a redress of grievances.

I would like to recount some of the history of Eastern Airlines which had such a profound impact on my home state of Georgia as a hub at Hartsfield—Jackson, Atlanta International Airport.

Eastern Air Transport first emerged on the heels of the Great Depression, operating primarily as an airmail carrier. As air travel grew during the 1950s and 60s, Eastern proved to be a leader in both aviation technology and industry practices. It was the first airline to turn a profit from commercial transportation and the first to successfully implement a shuttle service.

Along with its reputation for excellence in flight, Eastern became respected for its civic and philanthropic contributions. Eddie Rickenbacker, the company's founder and World War I flying ace, oversaw Eastern's participation in U.S. war efforts. In World War II, Eastern served the United States Military by establishing military support flights connecting Florida, Pennsylvania, and Texas. This project eventually led to the creation of the airline's own Military Transport Division. The families of Eastern airlines shared both the drive for success and sense of responsibility its early founder established. Between 1985 and 1986, employees and their families sponsored three "mercy flights" to Ethiopia and the Sudan.

Despite the company's early success and innovation, Eastern began to experience financial difficulty. After years of losses, a series of labor disagreements, and the slow accumulation of debt, Eastern filed for bankruptcy in March of 1989. However, the strategic move was not enough to salvage the company, as it was unable to keep up with the expanding market and the demand for cheaper fares. Eastern Airlines finally closed its doors in 1991. While the airline is no longer in operation, the advances its management and employees contributed to the industry are still used by major carriers today. It is of great importance to me that Eastern Airlines and its employees such as my constituent Robert Fuhrman are remembered by the U.S. Congress in a positive light for their contributions to air travel.

#### A TRIBUTE TO THE PHILADELPHIA TRIBUNE NEWSPAPER

#### HON. ROBERT A. BRADY

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 4, 2009

Mr. BRADY of Pennsylvania. Madam Speaker, I rise to honor the Philadelphia Tribune, the oldest, continuously published African American owned newspaper in the nation. For 125 years the Tribune has chronicled the African American story while also being an important part of that story.

The Tribune was founded in 1884 by Christopher Perry, only 19 years after the end of the U.S. Civil War. Perry, born in Baltimore, Maryland in 1856, moved to Philadelphia at the age of 17, intent on starting a newspaper. He said, "For my people to make progress, they must have a newspaper through which they can speak against injustice."

Perry published the first edition of the Tribune Weekly when he was 28. This one-page, one-man operation newspaper debuted the same year African American inventor Lewis Latimer began working for Thomas Edison. Booker T. Washington founded the Tuskegee Institute, and Harriet Tubman was still alive. After Perry died in 1921, the leadership of the newspaper passed to his son-in-law, E. Washington Rhodes.

From 1922 to 1970, Mr. Rhodes was at the helm of the newspaper as publisher. Appointed by President Calvin Coolidge, Mr. Rhodes served as an assistant U.S. Attorney for the Eastern District, the first African American to do so. Additionally, Mr. Rhodes served as president of the National Bar Association, was elected to the Pennsylvania House of Representatives in 1938, and was president of the National Publishers Association (NNPA), a national trade organization of African American owned newspapers.

Committed to the newspaper's mission, the Tribune has been led over the past decades by Eustace Gay, John Saunders, Alfred Morris and Waverly Easley. Today under the leadership of Chairman Walter Livingston, Jr. and President/CEO Robert Bogle, the Tribune newspaper continues to expand and has been the recipient of numerous national awards including the NNPA's John B. Russwurm Award for "Best Newspaper in America" Award and the A. Phillip Randolph "Messenger Award."

President Bogle stresses that after 125 years the mission of the Philadelphia Tribune has not wavered. "For 125 years the Tribune has been the voice of those who would have been voiceless." For that reason, Madame Speaker, I salute the proud history, advocacy, and courage of the Philadelphia Tribune. The Tribune is an historic trailblazer whose light continues to lead on the path to justice and equality for the voiceless, and I ask my colleagues to join me in honoring them.

#### HONORING WILLIAM W. CHAPMAN II UPON BEING NAMED AN HONORARY GRAND MARSHAL

#### HON. JOE COURTNEY

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 4, 2009

Mr. COURTNEY. Madam Speaker, I rise today to honor retired National Guard Command Sergeant Major William W. Chapman II of Willington, Connecticut. I rise to recognize his being named an Honorary Grand Marshal, one of the most prestigious salutes to a veteran in the United States.

Sergeant Major Chapman has served over 35 years in the Marine Corps, Army Reserve, and Connecticut Army National Guard. He joined the military at age 17 because he felt the need to serve his country. During the Viet-

nam War, Chapman served as a Marine in Japan, the Philippines, and Taiwan. He was deployed after 9/11 as part of Operation Noble Eagle and Operation Iraqi Freedom serving for some of this time in Tikrit, Iraq. He recently retired from the Connecticut Army National Guard, and is the recipient of a Bronze Star, Purple Heart, Army Meritorious Service Medal, and three Army Commendation Medals. He was named Connecticut Army National Guard Honor Soldier of the year in May 2008. Chapman is a former Captain and trainer with the Connecticut Department of Correction, DOC, having retired after two decades of civilian service in 2002. He is also a member of the DOC Military Peer Support Program, which assists employees and their families during deployments.

Chapman will be featured in the 10th annual Connecticut Veterans Day Parade in Hartford on November 8. Over 4,000 people will march that afternoon near the Connecticut State Capitol to honor our nation's servicemen and women.

Chapman's dedication and sacrifices as a U.S. soldier and public servant will be remembered for years to come. I ask all of my colleagues to join with me, and the people of Connecticut in thanking Sergeant Major Chapman for his distinguished service to our country and wishing him the best in his new endeavors.

#### HONORING SIDNEY SHIELDS

#### HON. SAM GRAVES

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 4, 2009

Mr. GRAVES. Madam Speaker, I proudly pause to recognize Sidney Shields, a very special young lady who has earned a spot on the National USA Karate Team. I join with Sidney's family and friends in expressing best wishes on her significant achievement. I commend Sidney on attaining such a high honor and wish her the best of luck as she competes in the World Karate Championships in Dublin, Ireland, this October.

Gaining recognition for this remarkable achievement reflects both Sidney's hard work and dedication. As a member of the stand-alone Missouri team, as well as the team with the largest number of students to be selected from a single school, Sidney should be proud of her accomplishments. She is a member of a celebrated team and has represented the state of Missouri well. With such drive and determination I am certain Sidney will be a strong contribution to the national team.

Madam Speaker, I respectfully request you join with me in commending Sidney Shields for her success with Sensei Mark Long's Shotokan Karate team and for her effort put forth in achieving this prestigious goal.

# HONORING THE 50TH ANNIVERSARY OF THE EAST TAWAS LIONS CLUB

## HON. BART STUPAK

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 4, 2009

Mr. STUPAK. Madam Speaker, I rise to recognize the Lions Club of East Tawas, Michigan as it celebrates its 50th anniversary in the community. Throughout its history, the Lions Club has worked with city, county and State government to improve the lives of residents in East Tawas and its surrounding areas.

Chartered May 1959, the East Tawas Lions Club has undertaken efforts from day one to support sight projects locally and beyond. Each year, the group takes to the streets for the annual White Cane Drive fundraiser to benefit blind and sight-impaired individuals, as well as organizations that provide for the various needs of the blind and sight-impaired. The Club has also participated in joint state projects including Leader Dogs for the Blind and the Michigan Eye Bank for the past 50 years.

The East Tawas Lions Club has worked to improve the health and well-being of the community by building and installing wheelchair ramps for those in need. The Club has also helped to provide hearing aids to individuals with financial difficulties.

Recognizing the importance of education, the Club invests in East Tawas youth, providing scholarships to help graduating seniors attend college. The Club has also helped raise money to build dugouts for local baseball diamonds and for construction of the Dewey Durant Park pavilion.

The East Tawas Lions Club promotes community spirit, and has hosted a wide range of events throughout the years, including golf tournaments, softball tournaments, cross-country races and winter ski races on the Corsair Trails. This year, the Club served smoked whitefish and beef jerky—two staple foods of northern Michigan—at the community's winter festival.

Madam Speaker, the East Tawas Lions Club has been a leader in community and humanitarian service since 1959. It has worked tirelessly to provide support and resources to those in need by embodying the Lions motto: We Serve! I ask Madam Speaker, that you, and the entire U.S. House of Representatives, join me in thanking the members of the East Tawas Lions Club for their generous service and recognizing the Club on its 50th anniversary.

IN HONOR OF CLIFFORD A.  
SCHULMAN

## HON. DEBBIE WASSERMAN SCHULTZ

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 4, 2009

Ms. WASSERMAN SCHULTZ. Madam Speaker, I rise today to honor South Florida philanthropist, business leader and prominent attorney, Cliff Schulman.

Mr. Schulman has 37 years of wide-ranging legal experience in the environmental and land use field from both the government and private sectors.

He is well known for his involvement in the community and commitment to charitable causes. He is Chairman of the Board of the Aventura Marketing Council and serves on the Boards of the "I Have a Dream" Foundation and the Anchors Away Foundation, a program that provides specially designed sailboats for use by mentally and physically challenged children in the Miami-Dade public school system. He is also a member of the United Way of Miami-Dade Alexis de Tocqueville Society and a founder of Mt. Sinai Medical Center.

In 2004, Mr. Schulman received the Anti-Defamation League's "Torch of Freedom" award and was recently named "Impact Legal Leader" by South Florida Business Leader Magazine, a distinction for individuals who have contributed significantly to their industry, as well as active participants in civic or philanthropic groups in the community.

This month, the South Florida Shomrim Society Jewish Fraternal Order of Law Enforcement Officers is honoring him as "Person of the Year". This distinction is presented to Mr. Schulman for supporting the welfare of the local community and improving the public image of all persons engaged in public safety.

He is listed in Legal 500 US, Best Lawyers in America and Florida Trend Magazine's "Legal Elite." Additionally, Mr. Schulman serves as an adjunct professor at the University of Miami Law School's Masters Program.

I am proud to have Mr. Schulman as a constituent and honor his distinguished career and leadership in the South Florida community.

## HONORING ROBERT "BOB" BARNUM OF EUREKA, CALIFORNIA

### HON. MIKE THOMPSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 4, 2009

Mr. THOMPSON of California. Madam Speaker, I rise today in recognition of Robert "Bob" Barnum, who is being honored as the 2009 Lumberman of the Year by the Ingomar Club of Eureka. For over six decades, Mr. Barnum has presided over the family timber holdings and been a leader in the timber industry of northern California.

A Humboldt County native and fourth generation Eureka, Bob was born to Charles R. Barnum Sr. and Helen Wells Barnum in 1927. Bob began working in the forests in the summer of 1944, where he learned to cruise timber, survey boundaries and mark cutting lines. He enrolled at the University of California, Berkeley in 1945 and graduated in 1949. He attended the U.S. Merchant Marine Academy at Kings Point, New York. He married Patricia Boyle of New Jersey in 1949. Bob and Pat have five children, Patricia, Charles, Bill, Cathleen and Jane, as well as eight grandchildren and four great-grandchildren.

Bob assumed management of the family timber business in 1953. He added to the family's timber properties and formed Barnum

Timber Company in 1985. He was a founding director of Forest Landowners of California, an officer and director of many industry associations, including the Redwood Region Conservation Council and the California Forestry Association. He was appointed to the California State Board of Forestry in 1972, helping to oversee the implantation of California's landmark forest practices legislation.

A lifelong Republican, Bob has proudly represented the region at the Republican National Convention in 1976, 1980 and 1984. His commitment to the preservation of our political liberty is worthy of appreciation and recognition.

Madam Speaker, it is appropriate at this time that we recognize the contributions of Robert "Bob" Barnum to the community and to the industry which he loves, and for being honored as the 2009 Lumberman of the Year.

## HONORING TRAVIS BUTTON

### HON. SAM GRAVES

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 4, 2009

Mr. GRAVES. Madam Speaker, I proudly pause to recognize Travis Button, a very special young man who has earned a spot on the National USA Karate Team. I join with Travis' family and friends in expressing best wishes on his significant achievement. I commend Travis on attaining such a high honor and wish him the best of luck as he competes in the World Karate Championships in Dublin, Ireland, this October.

Gaining recognition for this remarkable achievement reflects both Travis' hard work and dedication. As a member of the stand-alone Missouri team, as well as the team with the largest number of students to be selected from a single school, Travis should be proud of his accomplishments. He is a member of a celebrated team and has represented the state of Missouri well. With such drive and determination I am certain Travis will be a strong contribution to the national team.

Madam Speaker, I respectfully request you join with me in commending Travis Button for his success with Sensei Mark Long's Shotokan Karate team and for his effort put forth in achieving this prestigious goal.

## TRIBUTE TO STEPHEN H. MAHLE

### HON. ERIK PAULSEN

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 4, 2009

Mr. PAULSEN. Madam Speaker, today I rise to commemorate and pay tribute to a great American, Stephen H. Mahle, a man who achieved great personal and professional success through courage, dedication and an unwavering commitment to improving the human condition.

Steve Mahle received his bachelor of arts degree in physics from Beloit College in 1967 and his master's degree in physics from Pennsylvania State University in 1969. He served in the U.S. Army, where he held the rank of Captain while serving as a research scientist at

NASA's Manned Spacecraft Center in Houston.

In 1972, Steve Mahle began what would become a highly successful 37-year career with Medtronic, Inc. where he held numerous leadership positions, including serving as president of Cardiac Rhythm Disease Management, CRDM.

Steve played a key leadership role in many important milestones in cardiac rhythm disease innovation. He was the product development manager on the first Medtronic pacemaker programmer, and was instrumental in developing the world's first rate responsive single chamber pacemaker, which revolutionized and advanced cardiac pacing technology.

He expanded Medtronic's international presence and was an integral part of growing the implantable cardioverter defibrillator business in the late 1990s. He is credited with creating cardiac resynchronization therapies that address heart failure, as well as establishing CareLink, a patient management system, that now serves more than a quarter of a million patients in the United States. Under his leadership the CRDM business grew from \$500 million to just under \$5 billion.

Madam Speaker let us join his friends, family, and colleagues in congratulating Stephen H. Mahle on his many accomplishments, and wish him well as he begins his retirement from a lifetime of leadership and innovation, and starts the next chapter in his life where he will undoubtedly continue his own personal mission to "make a difference in the lives of people throughout the world."

H.R. 4016, THE HAZARDOUS MATERIAL TRANSPORTATION SAFETY ACT OF 2009

**HON. JAMES L. OBERSTAR**

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, November 4, 2009*

Mr. OBERSTAR. Madam Speaker, today I introduce legislation to reauthorize the Department of Transportation's (DOT's) hazardous materials safety program. The authorization for the program expired on September 30, 2008. According to the Pipeline and Hazardous Materials Safety Administration (PHMSA), the agency within DOT that is tasked with the safe movement of nearly 1.2 million daily shipments of hazardous materials in the United States, over the past decade, there have been 170,527 incidents involving the transportation of hazardous materials, resulting in 137 fatalities and 2,857 injuries. However, according to an internal analysis conducted by PHMSA, dated May 11, 2007, 60 to 90 percent of all incidents involving the transportation of hazardous materials that occurred from 2004 through 2006 were not reported by regulated entities to PHMSA. PHMSA, however, has done nothing to address the under-reporting of incidents.

When Congress created PHMSA in 2004, the law included, at my request, a mandate that the agency shall consider the assignment and maintenance of safety as the highest priority. Unfortunately, PHMSA has lost sight of its safety mission.

Over the past several months, the Committee on Transportation and Infrastructure has conducted an in-depth investigation of PHMSA's hazardous materials safety program. Our preliminary findings, which were released on September 10, 2009, coupled with the preliminary findings of the DOT Office of Inspector General, which also conducted an audit of PHMSA's hazardous materials safety program, revealed some alarming problems.

We uncovered significant problems with PHMSA's special permits and approvals programs, which exempt regulated entities from hazardous materials regulations. PHMSA routinely grants these exemptions without making the findings required by its own regulations.

We also found that PHMSA has virtually no process for data collection, analysis, and reporting. Most of PHMSA's database is incomplete or contains errors. If PHMSA cannot read its own data, how can it determine what its priorities should be? In addition, PHMSA has failed time and time again to address significant safety concerns that have been raised by its own enforcement personnel, the DOT Office of Inspector General, and the National Transportation Safety Board (NTSB). The NTSB has issued safety recommendation after safety recommendation to ensure the safety of transporting lithium cells and batteries on board aircraft. The NTSB has also issued safety recommendations on eliminating the transportation of hazardous materials in external product piping of loading lines underneath cargo tank motor vehicles, known as wet lines. Yet, PHMSA has failed to address these important safety recommendations.

The safe transportation of lithium cells and batteries is an important issue and a rapidly increasing safety risk, as more and more technology relies on the use of various types of lithium cells and batteries. The batteries are widely used in personal electronic devices, such as cell phones and laptops. In 2008, more than 3.3 billion lithium cells and batteries were transported worldwide, representing an 83 percent increase since 2005. Since 1996, the Federal Aviation Administration (FAA) and the NTSB have identified more than 100 incidents involving lithium and other batteries on board aircraft where batteries have overheated, caught fire, or exploded. Since 1999, the NTSB has had concerns with the unacceptable risks posed by lithium batteries. This legislation requires the Administrator of PHMSA, in coordination with the FAA, to issue a regulation for the safe transportation of lithium cells and batteries. This regulation will include, among other things, requirements for: proper identification of lithium cells and batteries on board aircraft, packaging performance requirements, and other safety measures.

The legislation also mandates implementation of an NTSB recommendation first issued over 10 years ago regarding wet lines. Currently, 30 to 50 gallons of flammable materials, such as fuel, can be transported in unprotected loading lines beneath cargo tank trucks. Over the past 10 years, there have been 184 incidents in which these wet lines were damaged or ruptured. H.R. 4016 prohibits the transportation of certain flammable liquids in the external product piping of cargo tank motor vehicles on newly manufactured

vehicles within two years of the date of enactment, and for all existing vehicles beginning in 2021.

H.R. 4016 also includes several requirements to strengthen emergency response capabilities. The ability of first responders to adequately identify and respond to a hazardous material substance release is critical. The bill enhances training for emergency responders and requires that responders are provided a higher level of training, known as Operations Level training. The bill also requires the Secretary of Transportation to develop minimum standards for those who provide hazardous materials emergency response information services. This provision will guarantee that these services are staffed on a 24-hour basis to ensure that, day and night, our emergency response capability is not jeopardized.

The legislation makes significant safety enhancements to the "special permits and approvals" process. H.R. 4016 requires that, prior to granting any special permit or approval, the Secretary shall make a determination that a person is fit, willing, and able to conduct the authorized activity. In part, this provision requires PHMSA to perform a fitness review of any person who requests an exemption from regulation to ensure that the applicant's safety record, accident and incident history are reviewed before any special permit is authorized. Currently, PHMSA reviews thousands of applications for special permits and approvals each year, with no review of an applicant's safety record. The bill will ensure that any person requesting an exemption from the regulations have a safe record, a compliant record, and a good reason for needing an exemption from the regulations.

PHMSA is tasked with an enormous safety mission, yet it currently has only 35 investigators (plus seven supervisors) for the entire nation. H.R. 4016, authorizes 30 new inspectors for the program—almost doubling the number of inspectors. This bill also strengthens the inspection program by requiring the Secretary to carry out a new hazardous material enforcement program to develop uniform standards for inspectors and investigators; to train hazardous materials inspectors and investigators on how to collect, analyze, and publish findings from accidents and incidents; and to train hazardous materials inspectors on how to identify noncompliance with hazmat regulations and take the appropriate kind of enforcement action.

The safe transport of hazardous materials is critical and affects the entire nation. H.R. 4016, the "Hazardous Material Transportation Safety Act of 2009," will increase the hazardous materials safety program, strengthen emergency response capabilities, and increase enforcement of hazardous materials laws and regulations.

I urge my colleagues to join me in supporting H.R. 4016, the "Hazardous Material Transportation Safety Act of 2009."

## HONORING TYLER TITUS

**HON. SAM GRAVES**

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, November 4, 2009*

Mr. GRAVES. Madam Speaker, I proudly pause to recognize Tyler Titus, a very special young man who has earned a spot on the National USA Karate Team. I join with Tyler's family and friends in expressing best wishes on his significant achievement. I commend Tyler on attaining such a high honor and wish him the best of luck as he competes in the World Karate Championships in Dublin, Ireland, this October.

Gaining recognition for this remarkable achievement reflects both Tyler's hard work and dedication. As a member of the stand-alone Missouri team, as well as the team with the largest number of students to be selected from a single school, Tyler should be proud of his accomplishments. He is a member of a celebrated team and has represented the state of Missouri well. With such drive and determination I am certain Tyler will be a strong contribution to the national team.

Madam Speaker, I respectfully request you join with me in commending Tyler Titus for his success with Sensei Mark Long's Shotokan Karate team and for his effort put forth in achieving this prestigious goal.

## RECOGNIZING THE RETIREMENT OF AIR FORCE JUNIOR ROTC INSTRUCTOR LES CHAMBERS

**HON. JEFF MILLER**

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, November 4, 2009*

Mr. MILLER of Florida. Madam Speaker, I rise today to recognize Mr. Leslie R. Chambers, a Northwest Florida leader who is retiring after a lifetime of public service to his country and his community. Les spent his career serving others, and I am proud to honor his dedication and service.

Born on October 31, 1942, Les Chambers joined the Air Force in 1961 after graduating from high school. Following completion of training, he was first assigned to Laon Air Base, France. His Air Force career took him across the globe. Along the way he earned two associates degrees in applied science, then completed his bachelor's degree in management at the University of New Hampshire. He is also a graduate of the Aerospace Defense Command Noncommissioned Officer Academy, where he received the Commandant's Award, and a graduate of the USAF Senior NCO Academy.

Les retired in 1994 with over 33 years of faithful service to his country, 17 of which were spent overseas. His military decorations include the Meritorious Service Medal with three oak-leaf clusters and the Air Force Commendation Medal with two oak-leaf clusters. He was selected to serve his last three years as part of the "High Year of Tenure" program, a distinction reserved for less than one percent of the force.

After retiring from the Air Force, he settled in Valparaiso, Florida and began working for the Florida Department of Health and Rehabilitative Services (HRS) as a Senior Counselor for Children and Families. In 1997, he was selected as the "Social Worker of the Year" for the Department of HRS. Les then began his role as the Air Force Junior ROTC Aerospace Science Instructor at Fort Walton Beach High School in December of that year. Known simply as "Chief" to his students, Les retired on October 31, 2009. He will be truly missed.

Madam Speaker, on behalf of the United States Congress, I am honored to recognize Les Chambers for his service to Northwest Florida and the United States of America. My wife Vicki and I wish all the best for Les and his family, including his wife, Ingeborg, and children, Angela, Michael, and Marcus, as they embark on this next journey in their lives.

## PATRIOT ACT REAUTHORIZATION

**HON. TED POE**

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, November 4, 2009*

Mr. POE of Texas. Madam Speaker, it is imperative that the USA PATRIOT Act be reauthorized fully and not weakened, as I believe H.R. 3845 will do. In the years following 9/11, there have been a number of major terrorist attacks around the world that have caused mass casualties on civilians. I think it is important to remember some of these events:—

12 Oct 2002. Car bombing outside nightclub in Kuta, Indonesia. 202 dead.

26 Oct 2002. Hostage taking and attempted rescue in theater in Moscow, Russia. 170 dead.

16 May 2003. Suicide bombers attacked Western tourist areas in Casablanca, Morocco. 45 dead.

11 Mar 2004. Bombings of four trains in Madrid, Spain. 191 dead.

1–3 Sep 2004. Hostage taking at school in Beslan, Russia. 372 dead.

7 July 2005. Bombings of three subway trains and one bus in London, UK. 54 dead.

11 Jul 2006. Multiple bombings on commuter trains in Mumbai, India. 200 dead.

26–29 Nov 2008. Multiple shooting and grenade attacks in Mumbai, India. 174 dead.

Madam Speaker, thankfully, none of these horrific attacks occurred in the United States. I believe that part of the reason we have not suffered another terrorist attack is that our brave men and women in law enforcement have done a tremendous job of preventing further attacks. I do not believe Al Qaeda simply decided not to bother us anymore. We must not forget that many analysts warned after 9/11 that we needed to "learn to live" with terrorism. Well, thankfully, that reality never happened.

I believe that our law enforcement, armed with tools such as the PATRIOT Act, have prevented attacks and saved us from this type of suffering within the United States. We as Congress need to do all we can to give our men and women in law enforcement the tools they need to do their job, not weaken these tools.

## A TRIBUTE TO JACK L. RAY

**HON. BRETT GUTHRIE**

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, November 4, 2009*

Mr. GUTHRIE. Madam Speaker, I rise today to honor Jack L. Ray, who for over 28 years has served as a minister and elder of the Lehman Avenue Church of Christ in Bowling Green, KY.

Mr. Ray leaves a long legacy as an evangelist in the churches of Christ. Many generations have heard the teachings and sermons of Mr. Ray, and have read many of the lessons he has contributed to the publications of the churches of Christ.

In his more than 50 years of service, he has worked unselfishly to not only help other congregations grow in size and in faith, but has helped new congregations establish in Kentucky.

He is a blessing to many, including the youth in the church community, who he has helped lead, educate and nurture their faith. He is greatly loved and respected by the members of the Lehman Avenue Church of Christ, because of his dedication, strong faith and loving guidance.

Madam Speaker, I am proud to recognize Jack L. Ray for his more than 50 years of commitment and devotion. I wish him nothing but the best in his future endeavors as he continues to be a blessing to others.

## A TRIBUTE TO LESTER C. BROWN

**HON. ROBERT A. BRADY**

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, November 4, 2009*

Mr. BRADY of Pennsylvania. Madam Speaker, I rise to honor my friend, and a friend to Philadelphia, Lester C. Brown. After 18 years of service on the Philadelphia City Counsel, Mr. Brown is retiring as the Chief of Staff for Councilwoman Jannie L. Blackwell. Throughout his career, Mr. Brown has shown exceptional leadership in community service and tireless dedication to his constituents in need. For instance, he currently serves as the democratic leader of the 24th ward.

Mr. Brown was born in the 1920s in Savannah, Georgia, at a time when equality was just a distant dream for many Americans. Despite the hardships that the Jim Crow laws placed on African Americans, Lester developed the personal strength to overcome the adversities he faced. He began his career in journalism at the age of 16, when he became the first African American youth to host a radio show that aired on WTOG, a CBS affiliate. After moving to New York City, Mr. Brown became a reporter for Ban Black Audio News. His hard work and determination in a divided society eventually led him to become the first African American junior executive on Madison Avenue as an Assistant Advertising Production Manager for progressive Architecture Magazine.

From there, Mr. Brown moved to Philadelphia, where he became a successful newperson for WHAT radio. It is in the great

city of Philadelphia that Mr. Brown began his influential career in community service as a youth organizer for the parents union in the Philadelphia public schools. In the 1980s he became the Executive Director of Mantua Community Planners where he was able to better the lives of multiple families, including the donation of nine homes to the members of the Mantua community through the Remove Urban Blight program.

Currently serving as the Democratic Leader of the 24th ward, and faithfully worked under Lucien B. Blackwell and Councilwoman Jannie L. Blackwell, we are here to honor my friend, Lester C. Brown on the occasion of his retirement. Although he will be missed dearly, after 18 years of loyal service on the Council no one deserves this honor more than Mr. Brown.

Lester Brown's impressive career in the city of Philadelphia illustrates his commitment and drive to improve the lives of the city's residents. I would like to thank him for his tireless efforts, and I wish him well in the future.

#### IN MEMORY OF SVEND AUKEN

#### HON. JAY INSLEE

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, November 4, 2009*

Mr. INSLEE. Madam Speaker, today I honor the memory of Svend Auken, a dear friend of mine, a great statesman, and an international leader on environment and energy issues. He passed away this past August after a magnificently robust life of leadership. He served in the Danish Parliament from 1971 until his death, and was Minister for the Environment from 1993 to 1994, and Minister of Environment and Energy from 1994 to 2001. Earlier in his life, he spent time in my home State of Washington, studying for a year at Washington State University in 1961.

Whatever his position, he was always a determined advocate for clean energy and the environment. His leadership has been an inspiration for the world. Svend did not believe in the idea that preserving the environment required sacrificing economic growth. He believed that his Nation could prosper by protecting the environment, or as he put it, "doing well by doing good."

Due to his inspired leadership over more than three decades, Denmark introduced new policies and embarked on a national effort to produce more domestic energy and do it cleanly by focusing on energy efficiency, wind power and combined heat and power systems. Since then, Denmark has kept its energy use flat, while its economy has grown nearly 75 percent. Denmark was once entirely dependent on foreign energy, but is now a net exporter of energy. Denmark has aggressive energy efficiency standards for new buildings, and currently produces over 20 percent of its power from wind, and over half of its electricity and around 60 percent of its heat from combined heat and power. Denmark is now a world leader in both of these technologies. As our Nation embarks on its own quest to produce clean, domestic energy, grow our economy, and preserve the environment for our children and grandchildren, we would do

well to follow Svend's lead and learn from his life. When we in America adopt a vision of clean energy, it will be in part because we have been inspired by Svend's leadership.

This Friday, the Danish community in Seattle will honor Svend's life at a memorial service. As I remember my friend, I will remember his vitality, his sense of humor, his devotion to service, and most of all, his leadership and inspiration. We should all remember Svend Auken as a great citizen of the world.

#### INTRODUCTION OF THE "SAFE ROUTES TO HIGH SCHOOLS ACT OF 2009"

#### HON. EARL BLUMENAUER

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, November 4, 2009*

Mr. BLUMENAUER. Madam Speaker, obesity rates for children between the ages of 12 and 19 have more than tripled in the past fifteen years, with 17.6 percent of high school age children now classified as obese. This has a profound impact on the long-term health of our nation, as 80 percent of obese children become obese adults, putting them at a higher risk for diabetes, hypertension, cancer, and other chronic health conditions, and placing an increased long-term burden on our healthcare system. The Centers for Disease Control (CDC) recommends that children be active for at least 60 minutes five times a week, but statistics show that activity levels drop rapidly as students head into their high school years. Increasing opportunities for adolescents to be physically active will help combat the rise in teenage obesity.

We should provide students with safe, active ways to get to and from school and encourage healthy, active lifestyles and daily exercise at a time when they are seeking independence and cementing lifelong habits that will make them safer and healthier.

This is why I am introducing the Safe Routes to High Schools Act, a bill to expand the popular Safe Routes to Schools program to include high schools. The Safe Routes to Schools program has been extraordinarily successful, with over 4,500 programs across the country, but it currently does not cover high schools. High school students represent a population most likely to suffer from high rates of obesity and also most in need of flexible, independent, and low-cost transportation choices, especially in times of economic crisis. This simple policy change will allow an already successful program to serve the students who need it the most.

I hope that my colleagues will join me in supporting this legislation to ensure that children of all ages have safe ways to get to school burning calories instead of carbon.

#### RECOGNIZING SITRIN HEALTH CARE'S WHEELCHAIR CURLING TEAM

#### HON. MICHAEL A. ARCURI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, November 4, 2009*

Mr. ARCURI. Madam Speaker, I rise today in recognition of Sitrin Health Care's wheelchair curling team, which will represent the United States as Team USA at the 2010 Paralympic Games. Today marks the 100-day countdown to the games set to begin March 12, 2010 in Vancouver, B.C.

Sitrin's team has earned worldwide attention over the last few years, winning the bronze medal at the 2008 World Wheelchair Curling Championships in Switzerland and narrowly missing the bronze in the 2009 World Wheelchair Curling Championship held in Vancouver. In preparation for next year's competition, Team USA has been practicing at the Olympic Training Center in Lake Placid, New York, and competing internationally in Norway and Scotland.

The team's impressive record of achievement owes to Sitrin's Success Through Adaptive Recreation and Sports (STARS) program, created in 2001 to provide individuals with physical disabilities opportunities to engage in a variety of sports on a recreational or competitive basis. In addition to curling, the STARS program includes adaptive golf, wheelchair basketball, adaptive paddling and wheelchair road racing. Sitrin, located in my district in New Hartford, New York, operates the wheelchair curling program in partnership with the Utica Curling Club in Whitesboro, New York.

Madam Speaker, I ask my colleagues to join me in congratulating Sitrin's wheelchair curling team on its accomplishments to date, and in wishing the athletes luck in the upcoming Paralympic games. Sitrin's paralympians are an inspiration to athletes across our nation, and I look forward to following their success in Vancouver.

#### A TRIBUTE TO JESSE W. GRIDER

#### HON. BRETT GUTHRIE

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, November 4, 2009*

Mr. GUTHRIE. Madam Speaker, 1 week from today, our Nation will honor our veterans and remember all those who have fallen in order for us to be free.

I rise today to honor one veteran in particular, Jesse W. Grider, a true patriot whose dedication to our Commonwealth and Nation is to be commended.

Mr. Grider enrolled in the National Guard in 1950 at the age of 17. Upon his return from the Korean war, Mr. Grider continued his dedication to his country and district by serving in the Glasgow Police Department, attaining the rank of sergeant.

In 1958, he was appointed a U.S. Deputy Marshal in the Western District of Kentucky, where he served as an instructor and trainer.

At one point in his career, Mr. Grider had trained two-thirds of the deputy marshals in the United States.

After his work at the U.S. Marshal's Service in Washington, D.C., Mr. Grider returned to Kentucky in 1973 where he served as Chief Deputy Marshal before being appointed in 1975 as the U.S. Marshal for the Western District of Kentucky.

After his retirement as U.S. Marshal, Mr. Grider was appointed Clerk of the U.S. District Court in the Western District of Kentucky, where he served 17 years.

On Veteran's Day, friends, family and members of the Barren County and Glasgow communities will come together to recognize Mr. Grider's distinguished career. I join them in honoring Jesse W. Grider and thank him for his service and the great contributions he has made to our Nation and community.

CONGRATULATIONS, LT.  
COMMANDER JOHN R. LOGAN

**HON. DONNA M. CHRISTENSEN**  
OF VIRGIN ISLANDS  
IN THE HOUSE OF REPRESENTATIVES  
*Wednesday, November 4, 2009*

Mrs. CHRISTENSEN. Madam Speaker, today I rise to recognize the achievements of a Navy Lieutenant from my district, John R. Logan, who will be promoted to the rank of Lt. Commander in a ceremony that will be held this morning here in the Capitol Building. Presently serving as the Command Chaplain at the Marine Barracks here in Washington, D.C., Lt. Logan has been decorated with the Navy and Marine Corps Commendation Medal and the Navy Achievement Medal.

A veteran of Operation Enduring Freedom and Operation Iraqi Freedom, Lt. Logan was born in St. Croix, U.S. Virgin Islands. He received a B.A. in Theology from the Antillean Adventist University in Mayaguez, Puerto Rico in 1992. He was licensed by the North Caribbean Conference of Seventh Day Adventists and began pastoral duties on St. Croix and St. Maarten.

Lt. Logan graduated with his Master of Divinity Degree on August 8, 1998 from Andrews University in Berrien Springs, Michigan. Two years later, he received a Masters in Social Work from the University of Michigan, with a clinical emphasis in children and Youth in Marriage and Family in Society. He subsequently served as a youth pastor, mental health therapist and marriage and family therapist in Michigan.

As a soldier, Lt. Logan served as Flotilla Chaplain of the U.S. Coast Guard Auxiliary before coming on active duty in 2001, serving aboard the USS *Belleau* and deploying on WESTPAC 2002 in support of Operation Enduring Freedom. In January 2004, he was assigned as Squadron Chaplain to Marine Aircraft Group 16 and was later deployed to Al Asad, Iraq with MAG-16 Headquarters in support of Iraqi Freedom in May 2007. Earlier this year, he graduated from the U.S. Naval War College, Fleet Seminar Program, receiving a diploma from the College of Naval Command and Staff.

Madam Speaker, Lt. Logan, soon to become a Lt. Commander in the Navy has com-

bined his call to serve others with distinguished service as a soldier, a counselor and a minister. He is one of our best, as he provides counsel to his fellows in the armed services and to civilians in need of his help. We are proud of his accomplishments and on behalf of my family, staff, and the people of the Virgin Islands I wish him well as he continues to serve his country and his community with distinction.

#### HONORING PORTRAIT OF MAQUOKETA

**HON. BRUCE L. BRALEY**  
OF IOWA  
IN THE HOUSE OF REPRESENTATIVES  
*Wednesday, November 4, 2009*

Mr. BRALEY of Iowa. Madam Speaker, I rise today to congratulate Rose Frantzen, her husband Charles Morris, the Frantzen family, and the entire Maquoketa, Iowa community on the premier of Ms. Frantzen's Portrait of Maquoketa at the Smithsonian's National Portrait Gallery. This work will be on display from November 2009 to July 2010.

Portrait of Maquoketa is a compilation of 180 individual oil portraits of Maquoketa residents painted between July 2005 and July 2006. Ms. Frantzen's exceptional skill is evident in each portrait, but the paintings are more striking when displayed together.

Ms. Frantzen describes Portrait of Maquoketa as "an unfiltered representation of this small Iowa community at this time in history." Unlike many portraits that are commissioned or collected by people with a distinct interest in art, Ms. Frantzen took a democratic approach to her work and opened her store front studio to any Maquoketa who wished to pose for her. She painted children, adults, seniors and adolescents. During the sittings she conducted informal interviews and later made audio recordings of her neighbors' stories, ideas, and beliefs. Many of these recordings are part of the installation at the Portrait Gallery.

The individuals in Portrait of Maquoketa don't look distinctly Iowan. There are no clues in the paintings indicating they have any relationship to each other. Together, though, we recognize these individuals are also a community with a shared identity and future. In each portrait Ms. Frantzen expresses the dignity and beauty in her neighbors, and together her paintings proclaim the dignity and beauty of Maquoketa.

Madam Speaker, I encourage my colleagues to visit the National Portrait Gallery to see Portrait of Maquoketa. It is an inspiring interpretation of American life.

#### BRUCE VENTO PUBLIC SERVICE AWARD

**HON. BETTY McCOLLUM**  
OF MINNESOTA  
IN THE HOUSE OF REPRESENTATIVES  
*Wednesday, November 4, 2009*

Ms. MCCOLLUM. Madam Speaker, I rise today to recognize the National Park Trust

Bruce Vento Public Service Award. This award was established in 2001 by the National Park Trust to honor the memory and legacy of Congressman Bruce Vento.

Congressman Vento was a relentless advocate for America's national parks and conservation heritage and my predecessor in representing the citizens of Minnesota's 4th Congressional District in the U.S. House. As Chair of the Natural Resources Subcommittee on National Parks, Forest, and Public Lands, Mr. Vento passed more park legislation than any previous chairman.

The National Park Trust is a public-private partnership dedicated to the protection of America's parklands. This year, the National Park Trust presented the award to California Governor Arnold Schwarzenegger for his leadership in the protection of public lands in California and for his commitment to connecting children to the outdoors. I congratulate the Governor and commend the National Park Trust for its work in honoring the legacy of Congressman Vento.

#### HONORING THE REV. LLOYD SAATJIAN

**HON. LOIS CAPPS**  
OF CALIFORNIA  
IN THE HOUSE OF REPRESENTATIVES  
*Wednesday, November 4, 2009*

Mrs. CAPPS. Madam Speaker, I rise today to honor the life of the Reverend Lloyd Saatjian, who passed away on July 28, 2009. Reverend Saatjian was a beloved pastor, humanitarian, social justice advocate, and so much more. His genuine warmth was felt by all who met him, and had unique ability to connect with people.

Reverend Saatjian was appointed to lead the First United Methodist Church of Santa Barbara in 1989 where he served as Pastor until his retirement several years ago. During his time as Pastor, he was an active member of the Greater Santa Barbara Area Clergy Association where he worked closely with leaders from other local faith communities on a wide range of projects and initiatives, including an annual interfaith Thanksgiving service. Hosted at First United Methodist Church, this wonderful event brought together community members from every faith to find common ground and give thanks. This event held special significance in 2001 when it helped facilitate an open dialogue between the local Muslim community during a time of such great unrest and misunderstanding.

He also forged a unique and inspirational partnership with the local Jewish community to help rebuild African American churches in the American South that had fallen victim to arson. Beginning 11 years ago, this partnership has sent hundreds of my constituents to small rural towns across the South to help those in need. These trips have not only built places of worship, but also lasting friendships with church and community members from all walks of life. This ongoing partnership is a shining testament to Reverend Saatjian's lifelong commitment to social justice and interfaith collaboration.

Reverend Saatjian was a cherished and valued member of the Santa Barbara community, and he will be truly missed.



HONORING GERALD RICHARDSON,  
OGEMAW COUNTY VETERAN OF  
THE YEAR

### HON. BART STUPAK

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 4, 2009

Mr. STUPAK. Madam Speaker, I rise to honor a constituent who has distinguished himself both in service to his country and to his community. Mr. Gerald Richardson has been named "Ogemaw County Veteran of the Year" by the Ogemaw County Veterans Alliance. It is an honor befitting the dedication and patriotism Mr. Richardson has demonstrated both in the U.S. Navy and in civilian life.

Mr. Richardson was born January 4, 1930 in Centerline, Michigan to Carl and Pauline Richardson. Upon graduation from Hazel Park High School, Mr. Richardson went to work for Chrysler Corporation as an automatic screw machinist operator.

In January of 1951 Mr. Richardson went to serve his country, enlisting in the U.S. Navy. He attended basic training at Great Lakes Naval Training Center in Illinois and was assigned to Little Creek Naval Air Station in Virginia. After one month in Virginia, Mr. Richardson received his assignment to the USS *Casa Grande* LSD where he performed duties as a machinist mate, second class.

While onboard the USS *Casa Grande* LSD Mr. Richardson served in many missions and exercises, including supply missions to Newfoundland and Greenland. He and his crewmates also performed amphibious training in various locations. In December 1954 Mr. Richardson received an honorable discharge and returned to Michigan.

Upon discharge from the U.S. Navy, Mr. Richardson went back to working for Chrysler, where he remained employed until 1979 when he retired. After retiring, he moved to West Branch, Michigan where he resides today.

Mr. Richardson has continued to be involved in numerous civic activities of the Veterans of Foreign Wars Post 3775, and previously served as the post's commander. It is for his involvement in the community that Mr. Richardson has been bestowed with this award—the highest honor the Ogemaw County Veterans Alliance can bestow upon a fellow veteran.

Gerald Richardson is a man who understands commitment and exemplifies the values of service and responsibility toward others. He stands as an example of what it means to be a true American hero, embodying traits of honor, courage and humility.

Madam Speaker, Gerald Richardson has served his country with bravery and dignity, and has continued to draw on these traits in service to Ogemaw County. He is an individual who has been recognized by his community and his fellow veterans as a leader and a model citizen. With that in mind Madam Speaker, I ask that you, and all of my colleagues in the U.S. House of Representatives, join me in saluting Gerald Richardson for his lifetime of service and in congratulating him on being awarded Ogemaw County Veteran of the Year.

CELEBRATE THE CONTRIBUTIONS  
OF HISPANIC AMERICANS TO  
THE UNITED STATES

### HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 4, 2009

Mr. RANGEL. Madam Speaker, I rise today in support of H. Res. 783, "Recognizing Hispanic Heritage Month," and celebrating the vast contributions of Hispanic-Americans to the strength and culture of the United States.

Through the centuries, millions of Hispanic men and women have traveled to the United States looking for the American dream and a better future for their families. They are today spread far and wide across the 50 States. Their arrival resulted in a remarkable mixture of Hispanic culture, traditions, music, food, and language with the American way of life. The Census Bureau reports that Hispanic Americans are the largest ethnic minority in our Nation today, representing 15 percent of the total population.

Hispanic Americans have created their own companies and businesses and are an integral part of the American workforce that keeps our economy moving forward. There are Hispanic Americans serving in the Senate and House of Representatives, but we must do more to increase these numbers and diversify Capitol Hill offices with better Hispanic representation. This year, Sonia Sotomayor, a Bronx native of Puerto Rican descent, became the first Latina to sit on the Supreme Court after being nominated by President Obama. Finally, we must pay respects to the over one million Hispanic veterans who have fought valiantly to defend this nation.

On both big and small scales, Hispanic Americans have left their mark, their heritage, and their contributions on this great country. Their music is heard through voices like Celia Cruz, Marc Anthony, and Tito Puente. Their food is widely available in menus across the country. Their Spanish language we have grown accustomed to hearing, understanding, and loving.

Hispanic American heritage is culture, life and beauty. I urge all my colleagues to extend their support to celebrate a cultural heritage and contribution that makes us the country we are.

### HEALTH CARE

### HON. JOE BACA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 4, 2009

Mr. BACA. Madam Speaker, as Members of Congress, it is our duty to pass real health care reform this year.

Perhaps no state is in greater need of this reform than my home state of California.

Two hundred seventeen thousand people in my Congressional District go everyday without reform.

And for California as a whole—we have 13 million uninsured residents!

The people of California, and people across the United States need health care reform that:

Ends discrimination based on pre-existing conditions!

Ends dropped healthcare coverage because you get sick!

Ends co-pays for preventative care!

And ends skyrocketing costs for individuals and families!

The Republican alternative does none of these things!

It simply keeps the status quo! It costs more! And does nothing!

The 217,000 people living in my District without insurance cannot afford inaction any longer!

The 13 million people in California without insurance cannot live with the status quo!

The 15 hundred families in my District who went bankrupt because of health costs cannot afford the status quo!

Now is our opportunity to make history—and to move America forward!

We must not be short-sighted and focus only on politics and polls.

As we work for health care reform, I also urge my colleagues to pass a bill that does not include costly and discriminatory verification requirements like the SAVE requirements.

Our Nation cannot afford either the humanitarian or the fiscal costs of a health care immigration verification process.

As a Christian—my faith teaches me that we must love our fellow man, and care for them as if they were our brother or sister.

If a sick person is at the doctor's or the hospital—they need help!

They do not have time to wait for a lengthy background check to determine their citizenship status.

Can you imagine the medical errors we will have if we have to run an immigration status check every time someone who looks different needs medical care!

This can lead to a dangerous precedent of racial profiling! People may be denied life-saving care simply because of how they look!

From a fiscal perspective—numerous studies have shown us that immigration screenings cost our nation much more in tax dollars than they actually save.

SAVE requirements would become unfunded mandates that add to the administrative cost burden of our States!

In my home State of California—Los Angeles County spent \$28 million in 2008 to implement tougher verification standards on the Medi-Cal program!

I repeat—\$28 million!!

And how many undocumented immigrants did this \$28 million help to catch actually using Medi-Cal benefits? Zero!!!

Is this a cost-effective practice?! Or is this a burden on county governments?!

A mandatory verification requirement in this health bill would only add to the current cost burden of emergency rooms!

We should be working on policies that encourage people to go to clinics, where they can receive proper preventative and routine care.

SAVE electronic verification would push more and more people into the emergency room—where all of us will be left to pick up the tab!

Additional SAVE Program Verification also hinders access for the general public to health care.

This has certainly been the case since states have been required to verify legal status for Medicaid.

According to the Center for Budget and Policy Priorities—anywhere from 3 million to 5 million U.S. citizens have lost Medicaid coverage because they lacked the necessary paperwork (birth certificate or passport) to prove their citizenship.

By introducing mandatory electronic verification procedures—we are creating additional hurdles for Americans to access the care they need!

And what would be the cost in new liability suits?!

And think of our current situation with H1N1. Families need access to care immediately—to stop the spread of further outbreaks!

This would be chaos! It would burden our entire healthcare system with a costly and ineffective unfunded mandate.

From both a humanitarian and a fiscal point of view—we cannot afford mandatory electronic verification.

I am pleased the manager's amendment to this legislation does not include mandatory verification for people looking to access the health care exchange.

I urge my colleagues to remain vigilant on this issue—and work to stop any mandatory electronic verification requirements.

I am also pleased the larger bill includes the Indian Health Care Improvement Act.

As a Member of the House Native American Caucus and the Natural Resources Committee—I have been a strong supporter of ending the health disparities that exist on our reservations.

I will close my statement by again stressing the importance of this historic moment!

We passed Social Security in 1935. We passed Medicare in 1965.

I urge my colleagues to stand with the American people and pass legislation in 2009 that will make quality, affordable health care a right for all Americans!

#### PERSONAL EXPLANATION

**HON. LINDA T. SÁNCHEZ**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, November 4, 2009*

Ms. LINDA T. SÁNCHEZ of California. Madam Speaker, due to illness, I was unable to be present in the Capitol for votes on Tuesday, November 3, 2009.

However, had I been present, I would have voted "yea" on H.R. 3949, Veterans' Small Business Assistance and Servicemembers Protection Act of 2009; "yea" on H. Res. 398, Recognizing the 60th anniversary of the Berlin Airlift's success; "yea" on H. Res. 866, Expressing support for designation of a National Veterans History Project Week to encourage public participation in a nationwide project that collects and preserves the stories of the men and women who served our Nation in times of war and conflict; yea on H. Res. 867, Calling on the President and the Secretary of State to oppose unequivocally any endorsement or further consideration of the "Report of the United Nations Fact Finding Mission on the Gaza

Conflict" in multilateral for a; "yea" on H.R. 3157, To name the Department of Veterans Affairs outpatient clinic in Alexandria, Minnesota, as the "Max J. Beilke Department of Veterans Affairs Outpatient Clinic"; and "yea" on H. Res. 736, To name the Department of Veterans Affairs outpatient clinic in Alexandria, Minnesota, as the "Max J. Beilke Department of Veterans Affairs Outpatient Clinic."

#### SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Thursday, November 5, 2009 may be found in the Daily Digest of today's RECORD.

#### MEETINGS SCHEDULED

##### NOVEMBER 6

9:30 a.m.

Joint Economic Committee

To hold hearings to examine the employment situation for October 2009.

SD-106

##### NOVEMBER 9

3 p.m.

Environment and Public Works  
Water and Wildlife Subcommittee

To hold hearings to examine S. 1816, to amend the Federal Water Pollution Control Act to improve and reauthorize the Chesapeake Bay Program, and S. 1311, to amend the Federal Water Pollution Control Act to expand and strengthen cooperative efforts to monitor, restore, and protect the resource productivity, water quality, and marine ecosystems of the Gulf of Mexico.

SD-406

##### NOVEMBER 10

9 a.m.

Foreign Relations

To hold hearings to examine protocol Amending the Convention between the Government of the United States of America and the Government of the French Republic for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income and Capital, signed at Paris on August 21, 1994, as Amended by the Protocol signed on December 8, 2004, signed January 13, 2009, at Paris, together with a related Memorandum of Understanding, signed January 13, 2009

(Treaty Doc. 111-04), protocol Amending the Convention between the United States of America and New Zealand for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion With Respect to Taxes on Income, signed on December 1, 2008, at Washington (Treaty Doc. 111-03), convention Between the Government of the United States of America and the Government of Malta for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income, signed on August 8, 2008, at Valletta (Treaty Doc. 111-01), treaty between the Government of the United States of America and the Government of the Republic of Rwanda Concerning the Encouragement and Reciprocal Protection of Investment, signed at Kigali on February 19, 2008 (Treaty Doc. 110-23), and international Treaty on Plant Genetic Resources for Food and Agriculture, adopted by the Food and Agriculture Organization of the United Nations on November 3, 2001, and signed by the United States on November 1, 2002 (the "Treaty") (Treaty Doc. 110-19).

SD-419

9:30 a.m.

Budget

To hold hearings to examine bipartisan process proposals for long-term fiscal stability.

SD-608

10 a.m.

Health, Education, Labor, and Pensions  
Children and Families Subcommittee

To hold hearings to examine H1N1 and paid sick days.

SD-430

Energy and Natural Resources

To hold hearings to examine policy options for reducing greenhouse gas emissions.

SD-366

Finance

To hold hearings to examine climate change legislation, focusing on considerations for future jobs.

SD-215

Homeland Security and Governmental Affairs

To hold hearings to examine the nominations of Erroll G. Southers, of California, to be Assistant Secretary of Homeland Security, and Daniel I. Gordon, of the District of Columbia, to be Administrator for Federal Procurement Policy.

SD-342

Banking, Housing, and Urban Affairs

Housing, Transportation and Community Development Subcommittee

To hold hearings to examine ending veterans' homelessness.

SD-538

Judiciary

To hold hearings to examine strengthening our criminal justice system, focusing on extending the Innocence Protection Act.

SD-226

10:30 a.m.

Foreign Relations

To receive a briefing on Sudan.

SVC-217

2:15 p.m.

Foreign Relations

Business meeting to consider S. 1524, to strengthen the capacity, transparency, and accountability of United States

foreign assistance programs to effectively adapt and respond to new challenges of the 21st century, S. 1739, to promote freedom of the press around the world, S. 1067, to support stabilization and lasting peace in northern Uganda and areas affected by the Lord's Resistance Army through development of a regional strategy to support multilateral efforts to successfully protect civilians and eliminate the threat posed by the Lord's Resistance Army and to authorize funds for humanitarian relief and reconstruction, reconciliation, and transitional justice, H. Con. Res. 36, calling on the President and the allies of the United States to raise in all appropriate bilateral and multilateral for a the case of Robert Levinson at every opportunity, urging Iran to fulfill their promises of assistance to the family of Robert Levinson, and calling on Iran to share the results of its investigation into the disappearance of Robert Levinson with the Federal Bureau of Investigation, Hague Convention on the International Recovery of Child Support and Other Forms of Family Maintenance, adopted at The Hague on November 23, 2007, and signed by the United States on that same date (Treaty Doc. 110-21), the nominations of Jose W. Fernandez, of New York, to be Assistant Secretary

for Economic, Energy, and Business Affairs, William E. Kennard, of the District of Columbia, to be Representative of the United States of America to the European Union, with the rank and status of Ambassador, John F. Tefft, of Virginia, to be Ambassador to Ukraine, Michael C. Polt, of Tennessee, to be Ambassador to the Republic of Estonia, and Cynthia Stroum, of Washington, to be Ambassador to Luxembourg, all of the Department of State, and James LaGarde Hudson, of the District of Columbia, to be United States Director of the European Bank for Reconstruction and Development, and routine lists in the Foreign Service.

S-116, Capitol

3 p.m.

Banking, Housing, and Urban Affairs

To hold hearings to examine protecting consumers from overdraft fees, focusing on the Fairness and Accountability in Receiving Overdraft Coverage Act.

SD-538

## NOVEMBER 17

10:30 a.m.

Agriculture, Nutrition, and Forestry

To hold hearings to examine reauthorization of the United States child nutrition programs, focusing on opportuni-

ties to fight hunger and improve child health.

SD-562

2:30 p.m.

Foreign Relations

To hold hearings to examine the United States and the G-20, focusing on re-making the international economic architecture.

SD-419

## NOVEMBER 18

9:30 a.m.

Veterans' Affairs

To hold hearings to examine easing the burdens through employment.

SR-418

2:30 p.m.

Energy and Natural Resources

Public Lands and Forests Subcommittee

To hold hearings to examine managing Federal forests in response to climate change, focusing on natural resource adaptation and carbon sequestration.

SD-366

## NOVEMBER 19

10 a.m.

Energy and Natural Resources

To hold hearings to examine environmental stewardship policies related to offshore energy production.

SD-366

**SENATE—Thursday, November 5, 2009**

The Senate met at 9:31 a.m. and was called to order by the Honorable MARK L. PRYOR, a Senator from the State of Arkansas.

**PRAYER**

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

God of wonder beyond all majesty, You are worthy of our praise. Thank You for the marvel of creation that surrounds us and for Your creative presence that empowers us. Let Your presence unsettle and inspire us, as we seek to live lives of praise and thanksgiving.

Lord, unsettle us when our dreams come true because they are too small, as you inspire us to dare more boldly and attempt to accomplish great things in Your name.

Today, show Your glory, Your justice, and Your peace through the work of our lawmakers. Inspire their hearts to thirst for Your wisdom, preparing them to navigate through life's inevitable challenges and setbacks. Restore in them the wholeness that comes from seeking Your glory in everything they think, say, and do.

We pray in Your sacred Name. Amen.

**PLEDGE OF ALLEGIANCE**

The Honorable MARK L. PRYOR led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

**APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE**

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. BYRD).

The bill clerk read the following letter:

U.S. SENATE,  
PRESIDENT PRO TEMPORE,  
Washington, DC, November 5, 2009.

To the Senate:

Under the provisions of rule I, Section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable MARK L. PRYOR, a Senator from the State of Arkansas, to perform the duties of the Chair.

ROBERT C. BYRD,  
President pro tempore.

Mr. PRYOR thereupon assumed the chair as Acting President pro tempore.

**RECOGNITION OF THE MAJORITY LEADER**

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

**SCHEDULE**

Mr. REID. Mr. President, following leader remarks, the Senate will proceed to a period of morning business for 2 hours. During that period of time, Senators will be allowed to speak therein for up to 10 minutes each. The majority will control the first hour and the Republicans will control the second hour.

Following morning business, there will be 40 minutes of debate with respect to H.R. 2847, the Commerce, Justice, Science appropriations bill. Upon the use or yielding back of that time, the Senate will proceed to a cloture vote on the committee-reported substitute amendment to the bill.

A number of amendments are pending to the bill. If cloture is invoked, we would dispose of any pending germane amendments.

We also expect to reach an agreement today to consider the nomination of Andre Davis to be a circuit judge for the Fourth Circuit. That nomination, we are told, will require a rollcall vote.

We will begin consideration of the Military Construction Appropriations matter, which is important, upon completion of the Commerce, Justice, Science appropriations bill.

Senators should expect the first vote at around 12:15 or 12:30 today. That will be a vote on cloture on the CJS appropriations bill, and additional votes are expected throughout the day.

**SENATE BIPARTISANSHIP**

Mr. REID. Mr. President, one thing this body needs is more bipartisanship. The Presiding Officer has done a wonderful job in reaching out during his tenure as a Senator to other Senators, Democrats and Republicans. Legislation is the art of compromise, consensus building. The Presiding Officer certainly has filled that role very well. I want to spend a few minutes talking about this.

We have had some dramatic developments take place in the last several weeks. That is as a result of two men who are working very hard to come up with something that would be landmark legislation. We are working so hard on health care reform. It has been extremely difficult to arrive at the point where we are. But we are further now than we have ever been since 1948 in coming up with health care legislation that will make health care more available for all Americans.

Switching from health care to energy and the problems we have with the warming of the Earth, I have known JOHN KERRY for a long time. We were

both Lieutenant Governors. We came to the Congress the same year. As a relatively new Senator, I was on a select committee he cochaired, dealing with prisoners of war and those missing in action. I noticed at that time what a fine leader and fine legislator JOHN KERRY was. As a result of his good work with others on that committee, including Bob Smith of New Hampshire, we came up with an outstanding work product in that committee. JOHN KERRY, as we all know, became the Democratic nominee for President of the United States and came very close to being elected President. But he put that aside and went on to become the fine Senator he is. He is filling that role now as chairman of the Foreign Relations Committee. He has worked so hard on doing something on a bipartisan basis to move forward on this most important legislation. With what he has done in reaching out to Republicans—I say that in the plural—we have had one brave Republican step forward to work with him, LINDSEY GRAHAM. I first saw LINDSEY GRAHAM in action when we had the impeachment trial of President Clinton. He was one of the impeachment officers from the House. He was very good. I learned at that time what an outstanding trial lawyer he had been in South Carolina. I recognized that from the presentation he made right in the well of this Senate.

As we learned with the work we completed dealing with unemployment insurance, net operating loss, first-time home buyers, it only takes one person to break from the pack, for lack of a better description, to develop bipartisanship. That was done along with Senator ISAKSON from Georgia. On this most important issue dealing with climate change, it is LINDSEY GRAHAM from South Carolina. He is bravely stepping forward.

What Senators KERRY and GRAHAM have done is quite remarkable. They have reached out to the coal interests. We have a number of coal Senators who have said: No way will we ever agree to anything, and they are working toward having them as part of the agreement. Nuclear power, which when this all started, I think it is fair to say, people on this side of the aisle wanted no part of that—most people on this side. Now that will be part of the mix. The production of oil in our country—people say, does that mean you have given up on all these great things we believe in? Legislation is the art of compromise. We need to have legislation that is bipartisan. I believe what LINDSEY GRAHAM and JOHN KERRY have done will

allow us to move forward on this legislation. It is important that we do things on a bipartisan basis.

I compliment and applaud and recognize the good work these two brave men are doing in setting an example for the rest of us in moving forward on legislation that will be dramatic not only for our country but for the world.

#### RECOGNITION OF THE MINORITY LEADER

The ACTING PRESIDENT pro tempore. The minority leader is recognized.

#### HEALTH CARE REFORM

Mr. McCONNELL. Mr. President, the last 2 years haven't been easy ones for the American people. Millions have lost jobs and homes, and many have had the bitter experience of watching years of savings disappear. Unemployment stands at a 25-year high, and in many States it is worse. Just to take one example, in Kentucky unemployment rose in all 120 counties from June 2008 to June 2009. A lot of Americans are hurting. A lot of them have been struggling for a long time. And despite the occasional piece of good news, the situation doesn't seem to be getting a whole lot better for most people.

This is the situation now, and this was the situation when the White House announced its plan to undertake health care reform. Throughout this debate, the need to do something about the economy has never been far from our minds.

Indeed, from the very outset of this debate, the administration has rested its case for reform on the need to do something about the economy. The economy was in bad shape, the argument went. And reforming health care would make it better.

All of us agree that health care costs are unsustainably high, and alleviating the burden of these costs on American families and businesses is something we should work together to do. But somewhere along the way, the administration got off track. The original purpose of reform was obscured. And now we are hearing from one independent analysis after another that a bill which was meant to alleviate economic burdens will actually make these burdens worse. And the most significant finding is this: A reform that was meant to lower costs will actually drive them up.

Americans are scratching their heads about all this, and rightly so. Business owners can't believe a reform that was meant to help them survive will end up costing them more in higher taxes. Seniors can't believe a bill that was meant to improve their care will lead to nearly half a trillion dollars in cuts to their Medicare. And families can't believe that they are going to have to

pay higher health care premiums and taxes at a time when so many of them are already struggling to make ends meet.

Higher taxes, higher premiums, cuts to Medicare. These are three of the major blows this legislation would deal to the American people. And any one of them would be bad enough on its own. But let's just look at one of the unexpected consequences of the Democrat health care plan for a moment—let's look at the tax hikes.

The Senate bill we've seen targets individuals and businesses with a raft of new taxes, fees, and penalties. It imposes a 40-percent tax on high value insurance plans for individuals and families. It imposes billions in fees on health plans that will inevitably be passed along to consumers. It imposes fees on the costs of medical devices and life-saving drugs, fees that would be paid by consumers.

Millions of taxpayers managing chronic conditions and facing extraordinary medical expenses will be faced with even higher out of pocket costs because the bill makes it more difficult to deduct these expenses. And small businesses with as few as 50 employees would be required to buy insurance for all workers whether they could afford it or not, or pay a substantial tax for each of them.

Taken together, the health care plan we have seen would impose roughly half a trillion dollars in new taxes, fees, and penalties at a time when Americans are already struggling to dig themselves out of a recession. What's worse, an independent analysis by the Joint Committee on Taxation suggests that nearly 80 percent of the burden would fall on middle-class Americans.

So a reform that was meant to make life easier is now expected to make life harder. If you have insurance, you get taxed. If you don't have insurance, you get taxed. If you're a struggling business owner who can't afford insurance for your employees, you get taxed. If you use medical devices, you get taxed.

This is not the reform Americans were asking for, Mr. President. And that's precisely why more Americans now oppose this health care plan than support it.

The administration didn't listen to the American people when it put this plan together, but it can listen now, and the message it is going to hear is this: Put away the plan to raise premiums, raise taxes, and cut Medicare. Get back to the drawing board and come up with a commonsense, step-by-step set of reforms. That is what people want, and that is what they should get.

Mr. President, I yield the floor.

#### RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

#### MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period of morning business for 2 hours, with Senators permitted to speak therein for up to 10 minutes each, with the time equally divided and controlled between the two leaders or their designees, with the majority controlling the first half and the Republicans controlling the final half.

The Senator from North Carolina.

#### HEALTH CARE REFORM

Mrs. HAGAN. Mr. President, the United States spends \$2.3 trillion each year on health care—the most per capita of all industrialized nations. Yet we still have higher infant mortality and lower life expectancy than many of the other industrialized nations. Moreover, medical errors kill 100,000 patients per year and cost the system tens of billions of dollars, and \$700 billion is spent each year on treatments that do not lead to improved patient health.

Today, my freshman Senate colleagues and I are going to speak about the need to reform our health care delivery systems. You will hear from all of us about innovative initiatives that are successfully bringing down the cost of health care and at the same time improving the quality of care.

Mr. President, I would like to yield 5 minutes to my colleague from Colorado, Senator MARK UDALL, to discuss accountable care organizations.

The ACTING PRESIDENT pro tempore. Without objection, the Senator from Colorado is recognized.

Mr. UDALL of Colorado. Mr. President, I thank my colleague from North Carolina, Senator HAGAN, for convening this important session this morning where we will talk about the urgent need to reform health care in our country.

The unsustainable growth in health care costs and lack of stable, affordable coverage for millions of Americans continue to jeopardize not only our Nation's fiscal well-being but also the physical well-being of our families and neighbors. One of the key ways we can help put our health care system and our economy on the right track is by encouraging value in the delivery of health care.

I have cited these numbers before—I know many of us have—but I want to emphasize them again. As a nation, we spend over \$2 trillion per year on health care—that is nearly one-fifth of our economy. Yet between 30 and 50 percent of these dollars are not contributing to better patient health. That is not a good deal for the American people.

Health reform is designed to address this staggering amount of waste in a number of ways. One way is to encourage providers to focus on the quality of care they provide and not just on the

volume. And we can start with Medicare.

I think the American people would agree that taxpayer dollars are better spent rewarding doctors for keeping patients healthy and not for performing more tests or more procedures. Health reform legislation can move us in this direction through the development of what are known as accountable care organizations, or ACOs. These organizations would encourage groups of health care professionals to team up and provide more coordinated, streamlined care to Medicare patients. The idea is to have these ACOs take responsibility for improving patient care while lowering cost and then sharing the savings that accrue. Research indicates that this idea of shared savings would help eliminate waste and spur changes in our health care delivery system to emphasize patient outcomes and value.

The idea for ACOs no doubt came from the great work being done by a patchwork of physician groups. Groups such as the Physician Health Partners, or PHP, in my home State of Colorado, or others across the country focused on care coordination and quality.

For example, PHP has seen great success in improving care for kids suffering from asthma—the No. 1 cause of child hospitalization and school absence. They developed treatment guidelines and promoted collaboration among doctors, the Children's Hospital in Denver, and the Colorado Allergy and Asthma Centers. As a result, they have reduced emergency room visits and improved families' ability to manage asthma on their own.

PHP also has the Practice Health Project. This comprehensive effort brings doctors together to share best practices and encourage the adoption of commonsense guidelines to improve quality and efficiency. The goal of this team effort is to raise the standard and value of care and allow these physician groups to act as a model for Denver's physician community as a whole.

I would also like to tout the PHP's Transitions of Care Program in collaboration with Denver's St. Anthony Hospital and other local care providers. The program dispatches nurse coaches to help Medicare patients make the transition from the hospital to their homes. The period immediately following a hospital stay is a very confusing time, particularly for our seniors. Having someone help with this transition is crucial. PHP has had tremendous early success with this program, showing the potential to reduce costly hospital readmissions by 40 to 50 percent. At the same time, this program keeps patients healthy and it saves money.

The successes of groups such as Physician Health Partners demonstrate that we already have the will and the know-how to change our system for the

better. But under our existing system there is no incentive for programs like PHP to even exist. Under the status quo, a hospital stands to lose money if it decreases its admission rates. Primary care doctors would be at a financial disadvantage if they spent time in the development and implementation of effective treatment plans for their asthmatic patients.

This is why health reform includes commonsense proposals such as encouraging groups such as Physician Health Partners to form accountable care organizations and paying them to coordinate care for Medicare patients. Promoting ACOs and other creative pro-consumer ideas will increase quality for patients and value for the taxpayer.

Only by reshaping the way we do business in our health care system can we truly change health care delivery in our country. I look forward to working with my colleagues here today and other Senators in the coming weeks to promote the many ways we can accomplish that goal.

I thank Senator HAGAN, and I yield the floor.

Mrs. HAGAN. I thank Senator UDALL. Accountable care organizations are extremely important in health care reform.

Mr. President, I would like to yield 5 minutes to my colleague from Delaware, Senator TED KAUFMAN, to discuss Delaware's health information network.

The ACTING PRESIDENT pro tempore. The Senator from Delaware.

Mr. KAUFMAN. First, Mr. President, I want to thank Senator HAGAN not just for putting this on but for her leadership all along on health care reform, and I look forward to working with her because of her great leadership. I appreciate the opportunity to join my colleagues on the floor to highlight health care innovations in our home States that can serve as models for national reform.

Delaware is a national leader in health care IT—information technology—and I want to take a couple of minutes this morning to talk about a truly innovative approach to health care record keeping in my State. It is called the Delaware Health Information Network.

The Delaware Health Information Network, which we call DHIN, was authorized 12 years ago and went live in 2007, becoming the first operational statewide health information exchange. A public-private partnership of physicians, hospitals, laboratories, community organizations, and patients, the DHIN provides for the fast, secure, and reliable exchange of health information among the State's many medical providers. As a result of its early success, the DHIN was one of the nine initial health information exchanges selected to participate in the

U.S. Department of Health and Human Services' national health information network trial implementations. Among those nine, it was the first State to successfully establish a connection with the trial.

Right now, more than 50 percent of all providers in the State—nearly 1,300—participate in the DHIN. More than 85 percent of all lab tests are entered into the network, and 81 percent of all hospitalizations are captured by the exchange. As of June of this year, the DHIN held over 648,000 patient records, and it conducts 40 million transactions a year.

Participating providers have a choice of three options to receive lab, pathology, and radiology reports, as well as admission face sheets: they can have them sent directly into a secure in-box, similar to an e-mail account, they can have them faxed to their office, or they can get the results from an electronic medical records interface on the Web. All three provide information in a timely manner that protects the privacy of the patient.

Our State of Delaware receives four very tangible benefits from DHIN, and these are listed on this chart.

First, the DHIN provides a communication system between providers and organizations—something that did not exist previously. Individual physician offices can now easily discover if hospitals, such as Christiana, Bayhealth, and Beebe Medical Center, have admitted their patients. Doctors and hospitals can also get lab results back from the State's clinical laboratories in a timely manner.

Second, the information exchanged electronically through DHIN helps improve the quality of care being delivered in the State. When providers have access to better, faster information at the time and place of care, either in a doctor's office or an emergency room, those providers can make better decisions and reduce the chance of medical errors. Knowing what medications a patient is on or what coexisting conditions a patient may have can give the provider more complete information when delivering care, reducing the chance of an adverse outcome.

Third, the DHIN can help reduce the cost of care within the health care system. That is what we are all looking for out of health care reform—cost reduction. With nearly 650,000 patient records in the system, providers can know what tests and procedures have already been ordered, cutting out inadvertent test duplication. In addition, the DHIN can help improve disease management by allowing multiple providers treating a person to communicate and better align the treatments and prescriptions for a particular patient.

Finally, No. 4, the DHIN can enhance privacy within the medical health care system. The DHIN is a secure system

that can only be accessed by participating providers and organizations. It contains access controls, regulating who can use the network, and it contains audit requirements to ensure there are no breaches in patient privacy.

While the DHIN is still growing, it has already helped the patient care delivery system in Delaware. As it moves to include all providers in the State and works with other States' information exchanges to share ideas and successes, the DHIN will help lead our country to a widespread adoption of health information technology.

The stimulus act contained \$19 billion to promote the adoption of health IT nationwide, and the health reform effort promises to build on this momentum with even more resources. I believe it is essential that health reform boost the integration of information technology such as that provided by the DHIN throughout the health care system.

As I have said many times, it is time to gather our collective will and do the right thing during this historic opportunity by passing health care reform. We must include incentives to expand the utilization of health information technology. We can do no less. The American people deserve no less.

Mrs. HAGAN. I thank Senator KAUFMAN. A health information network is critical to improving patient care and reducing health care costs.

Now I would like to yield 5 minutes to my colleague from Alaska, Senator MARK BEGICH, to discuss customer-driven care.

The ACTING PRESIDENT pro tempore. Without objection, the Senator from Alaska is recognized.

Mr. BEGICH. Mr. President, I thank Senator HAGAN for allowing me time this morning. I am pleased to join my freshman colleagues to once again state our case for health insurance reform in this country. It is truly long overdue and very much needed.

I also wish to make a point. I have listened closely to the comments of my colleagues from the other side of the aisle over the last several weeks. A few weeks ago, I heard the Senator from North Carolina, Mr. BURR, talking on this floor about health reform. He acknowledged that we need to change the health delivery system, which I agree with, but then he said our Democratic ideas won't work. He said one reason is because government programs don't do enough innovation and wellness and they won't help people make the lifestyle changes needed to get true savings in the health system.

Quoting from the CONGRESSIONAL RECORD, here is what else he said:

Show me a government plan that pays for prevention, wellness, and chronic disease management, and I will quit coming to the floor and quit talking about the lack of reform.

Mr. President, I have one. I have a great example of just such a government plan that pays for all of those things, almost the whole thing, and gets incredible results. It comes from my home State, from an Alaska Native program called the Nuka Model of Care. It is based in Anchorage at the Southcentral Foundation, a nonprofit health system serving about 55,000 Alaska Natives.

The Nuka Model was developed about 10 years ago using the wisdom of Native leaders. They acted in response to what they saw as their own failing health care system. Like many other health providers in this country, the foundation recognized an alarming contradiction: As health costs continued to increase, the health status of their patients only got worse. More dollars going to health care only resulted in worse health outcomes.

So they decided to change things. From the ground up, they built a system of customer-driven health care. That is their term, not mine—"customer driven."

"Nuka" is a Native word associated with family, and that is certainly the approach. The Nuka model creates teams of health providers—doctors, nurses, medical assistants—to work with each patient. It requires doctors to listen to the patients, to really hear what customers are saying about their lifestyles, their jobs, their families, everything that affects their overall health.

It makes medical access much easier, guaranteeing that you can see your chosen provider for anything you want—same day. In person, via phone or e-mail—whatever is easier for the patient—same-day guarantee. Let me repeat that: same-day guarantee.

Here is another important point. Physician salaries are based on the team's overall performance. I want to make sure my friend, Senator BURR from North Carolina, hears this part. The Nuka model is funded almost entirely by the Federal Government—half by Indian Health Services and one-third by Medicaid or Medicare. It works, and it works very well.

This chart covers some of the most amazing results since the program started: a 50-percent drop in urgent care and emergency room visits; a 53-percent reduction in hospital admissions; a 65-percent drop in the need for expensive specialists; a childhood immunization rate of 93 percent, well above the State and national averages; much better management of diabetes with 50 percent of patients kept in the prediabetes stage instead of worsening into full diabetes; and happy customers. The overall satisfaction rate among our patients for this program is 91 percent.

The Nuka model has attracted attention from all over the world, as it should. Even as recent as last month,

the former Speaker, Newt Gingrich, recognized this great program.

I am sure there are similar government-backed success stories throughout this country. I think I have made my point, and truly my remarks are not intended to single out any one Senator. But I will say this: As we debate health insurance reform in this Chamber, let's arm ourselves with the facts and with open minds. Let's not say no just because of partisan differences. Let's celebrate examples of innovation and excellence that work no matter where they come from, and let's use the successful models to extend good, quality care to millions more Americans.

I am proud of the Nuka model in Alaska, of the people who got it started a decade ago, and of the people who are making it work today.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from North Carolina.

Mrs. HAGAN. Mr. President, Senator BEGICH's comments on customer-driven care is certainly working in Alaska.

I now yield 5 minutes to my colleague from Colorado, Senator MICHAEL BENNET, for his discussion on transitional care.

The ACTING PRESIDENT pro tempore. The Senator from Colorado.

Mr. BENNET. Mr. President, I thank our colleague from North Carolina for organizing this discussion this morning and for the other freshmen here yet again, week after week, to talk about the urgent need for health care reform in this country.

My colleague, Senator UDALL from Colorado, did a wonderful job talking about the models we have of transitional care in Colorado, where we see some providers able to have merely a 3-percent readmission rate just because of the way they manage patients, patient-centered care, unlike the way we do it all across the country, which is the reason we are at a 20-percent readmission hospital rate in the United States.

If we would put in some of these commonsense practices and worry about outcomes more and worry less about how many tests were given, in this case we could reduce the expenditure by \$18 billion annually and provide better quality care. It is just one of the many ideas that is bubbling up from States all across the country.

I wish to spend a couple minutes today talking about the absurd waste of time that is caused by our current system of insurance in the United States. We have two examples in Colorado that have recently been covered by the newspapers out there. The first is a story about gender discrimination when it comes to insurance. It is about a woman in my state, Peggy Robertson of Golden, CO, who was denied coverage because she had what was called a pre-existing condition, which was the C-



section that she had when she gave birth to her son. The insurance company said they would not cover her unless she became sterilized.

Peggy came and testified about this in the committee, and her story has been repeated by many people across the State of Colorado. But it got the attention of another person in our State named Matt Temme of Castle Rock, CO, who wrote a letter to the editor that I almost could not believe when I read it.

We followed up with Matt, and it turned out that it was true. Matt was denied coverage because his wife, who is insured—she has her own insurance—was pregnant. Matt is a 40-year-old commercial pilot from Castle Rock. He was furloughed from his job at the end of June. His wife Wendy is a paralegal, and she is covered through her employer. They have a 6-year-old son.

As I mentioned a minute ago, Wendy regnant. It was too expensive for Matt and his son to join his wife's plan. Because he was furloughed, he went out shopping for a new plan on the individual market, which he thought would be easy. He first checked with his previous company's health insurance. He filled out all the paperwork for himself and his son. He is healthy, he is 40 years old, and he is not eligible for coverage because his wife found out she was pregnant. He told the insurance companies: My wife is already covered by another insurer.

They said to him: That is true, but if she suffers a fatality while giving birth to her child, that child is going to become a dependent of yours and therefore will be on the insurance you buy and therefore we are not going to sell it to you.

So now Matt had to go out to the market again. They have three plans. They have the plan his wife is on, already covered; they have another plan for his 6-year-old son; and now Matt is on a version of a public option that we have in Colorado called Cover Colorado.

When I read this letter, when we heard this story, when we talked with Matt, it reminded me again of all the stories that I have heard—that all of us have heard—over these many months when we have been discussing health care about all the wasted evenings and conversations and fights that people have over their telephone just to get basic insurance for their families so they can have the kind of stability all of us want to have for our kids, for our grandkids, and for our families.

That is what this insurance reform is about. It is time for us to set aside the usual politics, the special interests that always have prevented us from getting something done, and deliver reform that creates stability for working families all across our country, deliver reform that allows us to consume a smaller portion of our gross domestic

product than we are today, deliver reform that allows us to begin to put this Federal Government back on a path of fiscal stability. It is high time to put this politics aside.

I know in this country we can do better than that. In the end, we will do better. Our working families and small businesses will be real beneficiaries of the reform that we pass.

I thank the Senator from North Carolina for giving me the opportunity to be here this morning. I appreciate her very important leadership on this critical issue.

I yield the floor.

Mrs. HAGAN. Mr. President, I thank Senator BENNET for his comments on transitional care and certainly the need to make sure no patients are denied insurance coverage for preexisting conditions and in particular because a wife is pregnant.

I yield 5 minutes to myself. I take this opportunity to talk about health care reform and how it will improve the delivery of health care to Americans.

One successful delivery system that health care reform will expand upon is patient-centered medical homes which were pioneered in my State of North Carolina. Since 1998, North Carolina has been implementing an enhanced medical home model of care and its Medicaid Program called Community Care of North Carolina.

Under this model, each patient has access to a primary care physician who is responsible for providing comprehensive and preventive care, working in collaboration with nurses, physician specialists, and other health care professionals.

The primary care physician is the go-to doctor and the gatekeeper of a patient's information. Within each network, patients are linked to a primary care provider to serve as a medical home that provides acute and preventive care, manages chronic illness, coordinates specialty care, and provides round-the-clock, on-call assistance. Case managers are integral members of the network and work in concert with the physicians to identify and manage care for high-cost, high-risk patients.

As of May of this year, Community Care of North Carolina was comprised of 14 networks that included more than 3,200 physicians and covered over 913,000 Medicaid patients in North Carolina, accounting for over 67 percent of the State's entire Medicaid population.

As an example of the benefits of a program such as this, consider the impact on asthma patients because patients get to see the same doctor and get more consistent, coordinated care. Physicians are able to quickly recognize a condition such as asthma and can more quickly and efficiently determine the most appropriate treatment. The support network then educates the

patients and their families about the management of their disease.

Due to the increased likelihood of complications when asthma patients get the flu, it is very important that they receive the flu vaccine. Since 2004, within the Community Care of North Carolina, there has been a 112-percent increase in flu shots administered to asthma patients. More than 90 percent of patients are using the most appropriate medications.

Between 2003 and 2006, asthma-related hospitalizations were decreased by 40 percent, and emergency room visits decreased by 17 percent. That saves all of us dollars.

Community Care of North Carolina has improved patient care and saved the State money. An independent analysis by Mercer, which is a government consulting group, found that this program saved between \$150 million and \$170 million in 2006.

A University of North Carolina evaluation of asthma and diabetes patients found that it saved \$3.3 million for asthma patients and \$2.1 million for diabetic patients between 2000 and 2002.

In addition to asthma patients, diabetic patients also had fewer hospitalizations, and they visited the primary care doctors more often instead of specialists and had better health outcomes.

I would like to tell a story about how access to a medical home has helped someone in North Carolina overcome the challenges of an illness.

Donald from Charlotte has type 2 diabetes. This diabetic condition of his went untreated for a long time and, as a result, he began having ministrokes, had to cut back on his work in landscaping, and he ended up in an emergency room. He was referred to a Charlotte-based medical home program called Physicians Reach Out. He now has a primary care doctor who has helped get him on a medication regimen, returning his blood sugar to a normal level which allowed him to work full time again. His primary care physician was the key to teaching him how to manage his diabetes. Without his medical home, he said getting his condition under control would have been a "wild goose chase."

The Health, Education, Labor, and Pensions Committee included two provisions in the health care reform bill to encourage patient-centered medical homes, such as we have in North Carolina. The Secretary of Health and Human Services will create a program to support the development of medical homes, and then the other States will apply for grants.

The bill also provides grants for physician training programs, giving priority to those who educate students in these physician training programs that are team-based approaches, including the patient-centered medical home.

I have been focused on a reform bill that prevents insurance companies

from turning patients away who have a preexisting condition, that expands coverage, and ensures that if you like your insurance and your doctors, you keep them. This bill actually will reduce our deficit, and that, obviously, has been a requirement of mine all along. This bill also encourages innovation in the delivery of health care to Americans using successful programs, such as the Community Care of North Carolina and the Physicians Reach Out patient-centered medical home as a model.

Mr. President, now I wish to yield 5 minutes to my colleague from New Mexico, Senator TOM UDALL, to talk about a model of community health service delivery.

The ACTING PRESIDENT pro tempore. The Senator from New Mexico is recognized.

Mr. UDALL of New Mexico. I thank Senator HAGAN very much, and thank her for her statement today and leading us on the floor in this discussion of health care.

In my case, I want to talk a little bit about health care delivery systems.

First, let me say I know when we talk about a health care delivery system it is a little bit of a wonky term. Most Americans' eyes probably glaze over when experts, politicians, or pundits describe the problems with our health care delivery system. They don't know what it has to do with their health care experience, their doctors, or their lives.

The reality is health care delivery systems have everything to do with all of that. These delivery systems determine how Americans receive their care. They dictate how a doctor treats their patients, how long a patient must wait for treatment, how much a hospital charges for its services, and how the medical community is held accountable for its mistakes.

As we continue working to reform health care, we must take an honest look at our current health care delivery system and ask ourselves some basic questions, questions such as: Do the systems we currently use to deliver health care work? Are we, as patients, businesses, and governments, getting the best value for our health care dollar? Do these systems encourage efficient, coordinated care?

If you ask the experts on this subject, the answer you will likely get is a loud and resounding "no."

The way I look at the role of health care delivery systems is the same way I look at building a house. To build a strong, solid, safe house, you have to start with a strong, solid, safe foundation. Our health care delivery systems are the foundation for all of our efforts in health care. If that foundation is off center or cracked or built on uneven ground, it does not even matter how straight the walls are or how efficient the electrical system is, nothing is going to work right.

Right now, the vast majority of health care in America rests on shaky foundations. It is our job to rebuild these foundations before more Americans slip through the cracks. The good news is that across the country, communities are achieving success with innovative health care delivery programs. We should look at these models as we continue our work here in Washington.

There is one example I wish to highlight today. That example comes from my home State of New Mexico, from a county that makes up the boot heel of the southwestern corner. Hidalgo County is one of the most rural counties of my State, with a population of 5,000 people. Hidalgo faces the same health care delivery problems as other rural areas. There are not enough doctors. Patients must travel long distances for care and, as a result, there are higher rates of chronic diseases and health problems that require specialized treatment.

To meet these challenges, the Hidalgo County medical community had to think outside the box. What they came up with is the Hidalgo Health Commons. It uses four guiding principles in its approach to health care.

First, they acknowledge that in rural areas, chronic health conditions are worsened by limited access to health providers and are often compounded by poverty.

Second, to respond to this challenge they established a one-stop shop for medical and social services. At the clinic you can find doctors, nurses, and dentists, seek mental health treatment, fill a prescription, get Medicaid or Medicare, or apply for public assistance such as WIC.

Third, they work with the community to identify local health priorities and then align their services accordingly.

Finally, they are a source of local economic and social development by creating jobs, serving schools, and offering family support.

The health commons model has worked so well that it has grown to serve five sites across New Mexico and they are not stopping there. The new Hidalgo initiative, which is still in development, will expand on the success of the health commons. The goal is to enroll all 5,000 residents of Hidalgo County into the health services program.

Hidalgo County is just one example of the innovative work going on across the country and it serves as a lesson to all of us that faulty foundations do not fix themselves. They require hard work and ingenuity and significant investment.

If we are going to fully transform our Nation's ailing health care system, we must first focus on the foundation. We must first reform our health care delivery systems.

Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from North Carolina is recognized.

Mrs. HAGAN. Mr. President, I thank Senator UDALL. His example of the community health service delivery in New Mexico is excellent.

Now I yield 5 minutes to my colleague from New Hampshire, Senator JEANNE SHAHEEN, to talk about reducing overutilization of emergency departments and reducing hospital readmissions.

The ACTING PRESIDENT pro tempore. The Senator from New Hampshire is recognized.

Mrs. SHAHEEN. Mr. President, I thank Senator HAGAN for organizing the effort today and also for her great work on the HELP Committee to develop a health care reform bill that can be supported by this body.

Once again we are here to talk about health care reform and why it is so urgently needed. We are at a critical juncture because health care costs are out of control. They are a threat to our families, our small businesses, our economy and, despite all the money we are spending on health care, we are not guaranteed better health outcomes. That means because we are spending money doesn't mean that people are healthier. The truth is, we can control costs and improve quality. We can do this by promoting effective delivery models. Senator UDALL did a great job of talking about what that term means in real language. We can promote effective delivery models that emphasize coordination and individualized care.

As I have said on a number of occasions, I am proud of the innovations that are changing health care delivery in New Hampshire, my home State. One of those that has been recognized nationally is the Dartmouth Atlas project, based in Hanover. Because of the work of the Dartmouth Atlas project, we now know that there are significant variations in the way health care resources are used and how money is spent depending on where we live.

Right now, providers are rewarded for volume rather than for value. There is a chart here that shows that very clearly. It shows the difference in spending among different regions of the country for Medicare patients. As you can see, the areas that are dark red are the most expensive, these areas. The areas that are lightest are the least expensive areas when it comes to cost per Medicare patient—from \$5,280 to \$6,600 in the lowest spending regions all the way up to \$8,600 to \$14,360 per Medicare patient in these darkest regions of the country.

Unfortunately, the sad thing about this research is not the changes in cost, but it is the fact that because someone lives in an area where the spending is higher doesn't mean they

are going to have better health outcomes. Put very simply, more costly care does not mean better care. This is a fundamental problem with our health care system. The way our health care dollars are being spent right now is analogous to a medical arms race. That is not my term, that is by Dr. Elliott Fisher, from the Atlas Project. Too often we judge the quality of our hospitals, for example, based on a new expansion wing or the latest medical device, and not on comparing the quality of care they provide.

Over the past several months, thousands of my constituents have expressed their concerns about our health care system. Last week, Dr. Jim Kelly, from Hollis, NH, was in my office sharing his concerns and frustrations. Dr. Kelly is a family physician and, like so many of our health care providers, he is dedicated to doing the best job he can for his patients. However, inefficiencies in our system often work against the best efforts of our providers.

Dr. Kelly shared one of those experiences. He talked about one of his patients who was a 73-year-old woman with diabetes who came into his office on a Friday morning with a swollen, red, and tender leg. In addition to her own illness, she is the sole caretaker for her 79-year-old husband who recently had a stroke. Dr. Kelly diagnosed her condition, a relatively common one, as cellulitis, a skin infection which required IV antibiotics. Dr. Kelly gave her the first dose in his office, but Medicare would not cover her infusion therapy at home. As a result, Dr. Kelly was forced to send her to the local emergency room to receive treatment over the weekend. As a result, she had to bring her disabled husband, whom she couldn't leave at home alone, to the emergency room. Both of them were forced to sit in the crowded ER, exposing them to more germs and using resources that could be used much more efficiently.

Unfortunately, our system does not always facilitate efficient and coordinated care. This is too often true with our most vulnerable patients.

But there are innovative projects across the country that have adapted to meet the needs of these individuals. By providing increased outreach and care coordination, one pilot program was able to reduce visits to the emergency room by almost two-thirds, after 2 years of participation.

I recently introduced the REDUCE Act, which is modeled after these successful pilots, and which I believe will change the way care is delivered to these high-risk patients with multiple chronic conditions. I think that is very important to point out.

The REDUCE Act will create demonstration projects in 10 States that are modeled off of these approaches that have been successful in places

around the country. This is the type of delivery system reform that improves quality and reduces costs simultaneously.

As I have said many times, the challenge we face is great, but we have the resources and the tools we need to reform our health care system. We can do this in a fiscally responsible way. By improving the way we deliver care, we can maximize efficiency and we can improve quality. This is the type of reform all Americans deserve. This is the type of reform we are working on here in the Senate. This is the type of reform I hope our colleagues will all support.

I thank Senator HAGAN and I yield my time back to her.

The ACTING PRESIDENT pro tempore. The Senator from North Carolina Mrs. HAGAN. Mr. President, I thank my colleague. She has made it abundantly clear that by reducing the overutilization of emergency departments, at the same time reducing hospital admissions, we can maximize efficiencies and improve patient health and health care.

I yield 5 minutes to my colleague from Virginia, Senator MARK WARNER, to talk about delivery system reforms in Virginia.

The ACTING PRESIDENT pro tempore. The Senator from Virginia is recognized.

Mr. WARNER. Mr. President, I thank my colleague from North Carolina for organizing the freshmen one more time to talk about our vision for health care reform. We invite our colleagues not only on our side of the aisle but our colleagues across the aisle to join us in this conversation about how to get health care reform right. I also commend my colleague from New Hampshire, Senator SHAHEEN, on her comments about how we can fix financial incentives in our current health care system. I think reforming our delivery system ought to be, clearly, part of any overall health care reform we take on.

I want to pick up, actually, where Senator SHAHEEN left off and talk about how we can readjust our financial incentives system in health care. We have them all wrong. We have a health care system right now that rewards bad practices. We have a health care system that rewards hospitals for multiple readmissions rather than a low readmission rate. We have a health care system that rewards volume of care rather than quality of care. Reforming the financial incentives in our delivery system has to be a key component of any health care reform going forward.

I join my colleagues in citing examples of delivery system reforms that are happening now in my own state. I have three examples here from the Commonwealth of Virginia.

In 2000, VCU Health System in Richmond, our capital, developed a system

called Virginia Coordinated Care to manage health care services for the uninsured. The uninsured often rely on emergency rooms to be treated for their illnesses and then go back home until they get sick again. There is no continuity of care and oftentimes that uninsured person will end up back on an emergency room doorstep because, outside of being treated for the episodic incident, there was no management of that patient's care during that period.

What VCU developed was a program that assigned a primary care physician to oversee each uninsured patient's health. The goal was to increase coordination between doctors and hospitals and, as a result, increase accountability, improve quality of care, and lower costs.

The Virginia Coordinated Care program started with a few participants in 2000; by 2009, there were over 20,000 members. One of the most important outcomes of the program was a significant drop in emergency room visits by enrolled patients. By increasing continuity of care, emergency room visits dropped 14 percent between 2000 and 2005. Costs were reduced for Richmond area hospitals, as well as surrounding Virginia hospitals as fewer patients showed up at other emergency rooms. By treating the patient earlier in their illness the program achieved better quality of care, and better results for the health care system as a whole.

Another example of delivery system reform took place at another end of our State, at Sentara Healthcare, located in Norfolk, VA. In 1999, Sentara studies found that intensive care units that were monitored by a doctor full time had lower mortality rates and shorter length of stays than those that were not. In order to improve quality of care, Sentara worked with a company called VISICU to install Web-based television cameras in each patient's room. With this technology, a single physician in a central location can follow patients in multiple rooms at the same time. Again, this kind of logical approach produced more efficient care at a lower cost. Sentara saw a 25-percent reduction in mortality among these patients, a 17-percent reduction in their length of stay, and a 150-percent return on investment in the program.

Perhaps the best example is now being modeled by the Carilion Clinic in Roanoke, VA. Carilion Clinic is a multispecialty health care organization, with more than 600 doctors and 8 health care organizations.

In 2010, next year, Carilion Clinic will join with Engelberg Center for Health Care Reform at Brookings and the Dartmouth Institute for Health Policy and Clinical Practice to implement a new and innovative health care model that rewards providers for improving patient outcomes while also lowering

costs. This Accountable Care Organization will encourage physicians, hospitals, insurance companies, and the government to work together to coordinate care, improve quality, and reduce costs. Under this model, providers will assume greater responsibility not only for treating the patient's illness but for the overall quality and cost of care to be delivered. They will actually be incentivized to take steps to keep patients healthy, while avoiding costly medications and procedures. Additionally, this model will encourage, and make it affordable, for doctors to finally practice preventive care. Carilion Clinic is doing the right thing: moving away from the current, and very flawed, fee-for-service system.

As long as our health care system—one-sixth of our economy—continues to reward providers simply based on quantity rather than quality of care, we are never going to get health care reform right. By increasing coordination of care, and putting in place smarter financial incentives, we can have higher quality care at lower costs. We can focus on the health of patients, rather than the number of procedures. Changing our payment mechanisms and restructuring financial incentives are a key part of health care reform.

I know my freshmen colleagues stand ready to work with our colleagues on this side of the aisle, and I again invite our colleagues on the other side of the aisle to join us in this effort. Getting it right will lead to improved quality of care, lower costs, and a healthier America.

I thank our leader today, the Senator from North Carolina, for granting me this time. I look forward to working with Senator HAGAN and all my colleagues as we move forward.

I yield the floor.

Mrs. HAGAN. I thank Senator WARNER. It is obvious that coordinated care will reduce costs and at the same time provide higher quality for our patients.

What Senator WARNER has discussed is very similar to the patient centered medical homes in North Carolina where we currently cover over 900,000 Medicaid patients.

Finally, I yield 5 minutes of my time to my new colleague from Massachusetts, Senator PAUL KIRK, to discuss some key national indicators.

Mr. KIRK. Mr. President, I thank the Senator from North Carolina. It is a privilege to be a member of her class and the class of distinguished colleagues of freshmen, and I commend her as well for her leadership in this discussion this morning, adding onto the role the freshman class is playing in advocating for health care reform for the American people.

I would like to speak this morning about a key national indicators system.

As we know, America is said to lead the world in health innovation. It can

create the finest medical devices, the most effective drugs to treat diseases and advanced processes and procedures to care for patients. It is this wide range of remarkable innovations that has resulted in today's \$2.3 trillion health care industry. But despite all of our medical achievements and technologies and the private and public money we spend on health care, we do not lead the world in health outcomes.

We need to innovate not only in the way we treat patients but in the way we create and implement health care policy. For that reason, one of the most promising provisions in the draft health reform measures about to come before us is the creation of a key national indicators system.

When illness strikes, we expect a health care team to carefully collect information from the patient and then consult the wide range of information available to them to achieve the appropriate diagnosis and treatment. That careful and complete process should yield the best possible course of treatment and recovery.

We need the same kind of approach in the creation of wise health care policy. In particular, we need measures to identify what is wrong with our current health care system, including what is driving the increasingly high cost of care. Abundant research and reports have analyzed such questions. What is missing is a central, independent organization that can analyze all of the research performed by various organizations and make that information readily available to Congress, to the executive branch, and the American people. That is an indispensable part of successful health reform. It will give decisionmakers easier access to all the knowledge available and eliminate wasteful spending of the hard-earned dollars of American families.

Senator Kennedy and Senator ENZI, in a strong, bipartisan effort, understood the need for this vital resource, and they designed a key national indicators system to provide it. It will be a nonpartisan, independent agency with a public-private partnership. It will foster better relations and relationships between members of the legislative, statistical, and scientific communities and will lead to greater transparency and accountability for spending on national health programs. Without such a resource, we will be at a serious disadvantage in fully understanding emerging health risks and in assessing whether the intended result is being achieved or adequate progress is being made on the health care challenges facing us.

The key national indicators system will make all its data available on a newly created, widely accessible Web site in the health care context. This unprecedented accessibility of data will assist the public in understanding

what information was used by politicians in creating health care policies. It will enable policymakers to see whether progress is being made in health reform. And it will permit practitioners and researchers to use the information for the greater benefit of patients and consumers of health and medical care.

Significant progress in this area has already been accomplished. Over the years, the Institute of Medicine has been able to identify five drivers of health care quality and costs: first, health outcomes; second, health-related behaviors; third, health system performance; fourth, social and physical environment; and fifth, demographic disparities. The institute has recommended 20 specific indicators for measuring these five drivers of health care quality and cost. These indicators were carefully selected to reflect both the overall health of the Nation and the efficiency and effectiveness of our health care industry. However, the institute lacks an implementation system that can use these indicators effectively to guide future policy and practice. That is the goal and that is the mission of the new agency, the key national indicators system, we propose.

Here is one example of how this legislation will improve our health care system. A recent study conducted by the Harvard School of Public Health found that using a simple checklist during surgical procedures resulted in a one-third reduction of complications from that surgery. Reports such as these are made public, but you have to know where to look in order to access this information. The key national indicators system will take these reports, compile them, disseminate them, and make them available to the public. So any time a bill is being developed, a congressional office can go to this Web site and see all of the research that has been conducted on the topic in order to make economically sound decisions for the American people.

Currently, Congress and the executive branch continue to follow old habits. We tend to reinvent the wheel with every major new bill that is introduced. That approach leads to wasted time, wasted energy, and wasted money. Old habits are not good enough to achieve tomorrow's goals. By developing this indicator system, a process will be in place so that the efficiency and effectiveness of government spending on short-, medium-, and long-term problems can be determined quickly and in a fiscally responsible manner.

Our current system is unsustainable. It creates unnecessary confusion when Americans can least afford it. We need a system that will provide insight, foresight, transparency, and accountability. We will not be doing our job for the American people if we allow their money to be spent without assessing the cost-effectiveness of the various programs being developed.

By creating the key national indicators system, we can reassure all Americans that we did our required due diligence and that our health care reform bill will truly work for them.

I yield the floor.

Mrs. HAGAN. Mr. President, I thank Senator KIRK. I thank him for his comments and the discussion on the transparency and openness of the new key national indicators system. I think this is critically important so that our public can see the progress we are making in improving health outcomes, healthy behavior, and cost-effectiveness.

In this last hour, we have heard from many of our new freshman colleagues about the successful efforts to reform the way we deliver health care in our country. I thank my colleagues for sharing those ideas with us.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Idaho.

#### HEALTH CARE REFORM

Mr. CRAPO. I, too, would like to talk about health care. As we speak here in the Senate, the House is preparing to debate and reportedly vote by late this week or early next week on a massive new health care bill that will dramatically expand the size of our government, dramatically increase taxes, and establish a government-controlled insurance system.

While in the Senate we are not yet clearly aware of what the bill we will be debating is because it is still being crafted behind closed doors, we have an idea, and we are pretty sure some of the elements that are going to be included in it are the same elements we debated in the Finance Committee and the HELP Committee as those committees worked on their product here. In that context, we expect we will see also here in the Senate a massive new expansion of the size of government, up to \$1 trillion or more. If it is anything like what the Finance Committee bill was, we will see taxes increased on the American public by over \$500 billion, we will see cuts in Medicare, which we discussed yesterday, of over \$400 billion, and a significant expansion of the control of the Federal Government over our health care economy. Today, I want to focus on just the tax piece of this situation.

One of the most common provisions we have seen here in the Senate that we clearly expect will be in the final bill is the proposed 40-percent excise tax on high-cost or "Cadillac" health care plans. This has been defined as health care plans that are valued at more than \$8,000 for an individual or valued at more than \$21,000 for a family.

It is important to note these thresholds are not indexed to the increasing cost of health care spending but in-

stead are indexed to inflation plus 1, which means that over time this will, similar to the alternative minimum tax, eat further and further into the American public's health care plans, which will then be taxed.

The Joint Tax Committee has scored this tax to generate \$201 billion of revenue to pay for that portion, \$201 billion of this new Federal spending proposal. Many think that because it is called an excise tax on health care plans, it is not going to impact them. They will be surprised to learn that in my questioning of the Joint Tax Committee, we were told the vast majority of this \$201 billion tax is expected to be collected directly from the middle class, individuals who will be paying more income and payroll taxes.

Let's figure out how that can be. It turns out that as we analyze the way this tax is going to work, employers that will face a 40-percent excise tax on the health care they provide to their employees will begin to adjust the value of their health care plans so they avoid the tax. As they do so, they will reduce the health care they are providing to their employees and, presumably—and we expect they will—increase the wages they are paying to their employees so their employees' net compensation is not changed. The result of that, though, is that since the health care portion of the compensation is not taxed and the income portion of an employee's compensation is taxed, the employee will actually pay higher taxes, both on the income and on the payroll tax level.

Maybe a real-world example will demonstrate. In my State of Idaho, the Census Bureau says the median household income is about \$55,000 per year. In this case, let's take an example of a single woman who currently earns \$60,000 per year in annual compensation from her employer. We have an example represented by this chart. Let's assume she has a \$10,000 valued health policy. Her total compensation package from her employer is going to be \$60,000—\$50,000 in wages and \$10,000 in employer-provided health care benefits. She is taxed on \$50,000 and gets the \$10,000 health care benefit without taxation. What will happen in the bill, as I have indicated, is this \$10,000 health care policy will be subject to a 40-percent excise tax. In order to avoid that excise tax, the company will simply react by reducing her health care policy to below \$8,000 and increase her income.

Let's put up another chart to see what the likely reaction of the employer will be: Not to pay the insurance fee, as many here are saying, but simply to skip that and direct her tax dollars to the Federal Government. If this new high-cost plan is to be enacted, the theory is her employer will make the adjustments to change her overall compensation package in a way that she ends up with higher wages.

Let's put the next chart up to show how this would work. Under this proposal, her health care benefits are going to go down. Let's assume the company reduces her health care benefits from \$10,000 in value to \$6,000 in value and gives her the extra \$4,000 in income. Her health care benefits will go down. She will pay more taxes because she now has \$4,000 more of her package that is subject to compensation. The net value of her compensation will go down because of increased taxes. The result is, we are going to see millions of Americans pay this excise tax squarely in contravention of the President's promise that no individuals who make less than \$200,000 will pay income taxes or payroll taxes or, in the President's words, "any other kind of taxes."

So we are clear on this, the estimates are that 84 percent of this tax is going to be paid by those who are earning less than \$200,000 per year. As a matter of fact, if we look at those who make less than \$50,000 a year, we expect somewhere in the neighborhood of 8 million Americans will fall into this category. If we look at the number who make less than \$200,000 per year, we expect that number will be above 25 million Americans who will be paying more taxes, both payroll and income taxes, and receiving less health care benefits from their employer.

The net result is, the President's promise that one can keep their health care if they like it will not be honored because of this provision. People will see, necessarily, that their employers will begin reducing health care packages to make them fit the tax structure this bill will create.

Secondly, there is the President's promise that if you make less than \$200,000 as an individual or \$250,000 as a family, you will pay no taxes under this proposal. As we have seen with this one example—and there are a number of other examples in the proposal being developed—in this one example of \$201 billion worth of the new taxes in the bill, those making less than \$200,000 will pay over 80 percent of it, and it will come directly out of their pockets and their compensation package with their employer.

In the time I have remaining, I wish to focus on one additional element. There is also a proposal to increase the bar for deductions of health care expenses. In other words, those who deduct their expenses and itemize their deductions can today deduct that portion of their income over 7.5 percent of their income that is represented by their health care expenses. This bill will increase that to 10 percent and generate over \$15 billion of additional taxes in that format. Who is the most likely to pay these taxes? People who have relatively low health care costs are going to end up not meeting that 7.5-percent threshold, now to be

brought to 10 percent, and probably will not be able to benefit from the deductibility of their health care. But those who face medical crises, those who have health care expenses that exceed the value of 10 percent, will see their deductibility reduced again by these proposals. The net result: Millions of Americans making less than \$200,000 a year will pay more taxes.

I encourage the Senate, as we move forward in the debate, to recognize that the tax provisions contained in it are squarely going to hit those in the middle class.

The PRESIDING OFFICER (Mr. WARNER). The Senator from Iowa.

Mr. GRASSLEY. Mr. President, I am sorry the Presiding Officer, the Senator from Virginia, has to listen to me twice on the same subject.

When I am referring to a bill, I am referring to the 2,000-page House bill.

Small business is very vital to the health of our economy. The President and I agree that 70 percent of new private sector jobs are created by small business. Small business is the employment machine of the American economy. However, where the President and I differ is, I believe small business taxes should be lowered, not raised, to get our economy back on track. You will hear from my discussion, this 2,000-page bill raises taxes on small business.

The President and my colleagues on the other side of the aisle have proposed increasing the top marginal tax rates from 35 percent to 39.6 percent, respectively. We can see that on the chart under the proposed Obama budget, 39.6 percent is where they would raise them. They have also proposed increasing the tax rates on capital gains and dividends to 20 percent and providing for an estate tax rate as high as 45 percent and an exemption of that estate tax of \$3.5 million. Also, the President and congressional Democrats have called for fully reinstating the personal exemption phase-out. I will refer to the personal exemption phase-out as PEP. They would do that for those making more than \$200,000 a year. In addition, they have called for fully reinstating the limitation on itemized deductions, which is known as Pease after a former Congressman Pease of Ohio, for those making also more than \$200,000.

Under the 2001 tax law, PEPs and Pease are scheduled to be completely phased out in 2010. That means the tax rate for current 35-percent-rate taxpayers would go up, as we can see on the chart, to 41 percent. For the vast majority of people who earn less than \$200,000, raising taxes on high earners might not sound so bad. However, this means many small businesses will be hit with a higher tax bill. From the standpoint of it being where they create 70 percent of the new jobs, that is bad not only for those taxpayers, that is bad for the entire economy.

As if this was not bad enough for small business, the tax increases I have already talked about, the House Democrats, in this 2,000-page health care reform bill, have proposed a new surtax of 5.4 percent. With this small business surtax, a family of four in the top bracket will pay a marginal tax rate of 46.4 percent by the year 2011. So we go from current law of 35 percent to automatically, if Congress doesn't intervene, 39.6 percent; and then eliminate the PEPs and Pease, 41 percent; and then do what the House Democrats want to do, 46.4 percent, a marginal tax rate that is very high and very negative to employment by small business.

This tax change would result, cumulatively, in an increase of marginal tax rates of 33 percent, a 33-percent increase over what taxes people pay right now.

Owners of the many small businesses, whether regular—which could be so-called C corporations—or other entities that receive dividends or realize capital gains, would face a 25-percent rate increase under this House bill. So we have a 15-percent capital gains rate today on dividends going up almost 70 percent by January 1, 2011.

Campaign promises are pretty important. Candidate Obama pledged on the campaign trail that:

Everyone in America—everyone—will pay lower taxes than they would under rates Bill Clinton had in the 1990s.

That is quite a promise. That is good for business, if it is lower than what Bill Clinton had. The small business surtax proposed by House Democrats, however, violates President Obama's pledge he made as a candidate. Therefore, I want Members to know I stand with President Obama in opposing the small business surtax proposed by House Democrats in this bill, this 2,000-page bill.

According to the National Federation of Independent Businesses—they made a survey—their data shows that 50 percent of the owners of small businesses that employ 20 to 249 workers would fall into the top bracket. The red bar shows 50 percent of all small employers fall into that bracket. According to the Small Business Administration, about two-thirds of the Nation's small business workers are employed by small businesses with 20 to 500 employees.

Do we want to raise taxes on these small businesses that create new jobs and employ two-thirds of all small business workers?

In his radio address a few months ago, the President noted small businesses are hurting. They are hurting because we are helping Wall Street, but we are not helping Main Street with all the things we are doing in Congress. Of course, there is no argument from this side of the aisle on that point.

President Obama recognized in that speech the credit crunch on small businesses continues, despite hundreds of

billions in bailout money to big banks. With these small businesses already suffering from the credit crunch, do we want to think it is wise to hit them with a double whammy of a 33-percent increase in their marginal tax rate?

Just yesterday, we received data from the nonpartisan official congressional tax scorekeepers, the Joint Committee on Taxation, that said \$1 out of every \$3 raised by the massive \$461 billion House surtax—and that is in this 2,000-page bill—would come from small businesses. That is a conservative, a very conservative estimate because other kinds of income that these business owners receive, such as capital gains and dividends, are not included in that figure.

If the proponents of the marginal rate increase on small business owners agree that a 33-percent tax increase for half-half—the small businesses that employ two-thirds of all small business workers is not wise, then they should either oppose these tax increases or present data that shows different results.

This House bill of 2,000 pages and the surtax included in it piles on the heavy taxes small businesses will face. In a time when many businesses are struggling to stay afloat, does it make sense to impose an additional burden on them by raising their taxes? Odds are, they will cut spending. In other words, the small businesses will cut spending. They will cancel orders for new equipment, cut health insurance for their employees, stop hiring, and lay off people.

Instead of seeking to raise taxes on those who create jobs in our economy, our policies need to focus on reducing excessive tax and regulatory barriers that stand in the way of small businesses and the private sector making investments, expanding production, and creating sustainable jobs—creating sustainable jobs, which is what I refer to as small business being the job-creating miracle of our economy.

So I want you to know, regardless of this 2,000-page House bill, with these big tax increases in it, I will continue to fight to prevent a dramatic tax increase on our Nation's job engine, the small businesses of America.

I hope my friends on the other side of the aisle will follow accordingly.

Mr. President, I ask unanimous consent that a statement from the Joint Committee on Taxation, backing up some of the figures I used in my speech, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:



CONGRESS OF THE UNITED STATES,  
JOINT COMMITTEE ON TAXATION,  
Washington, DC, November 3, 2009.

MEMORANDUM

To: Mark Prater, Nick Wyatt, and Jim Lyons

From: Tom Barthold

Subject: Revenue Estimate

This memorandum is in response to your request of October 30, 2009, for an estimate of the percentage of revenue raised from the 5.4-percent AGI surtax included in the "Affordable Health Care for America Act" attributable to business income.

For purposes of this analysis, business income consists of income from sole proprietorships (Schedule C); farm income (Schedule F); and income from rental real estate, royalties, partnerships, subchapter S corporations, estates and trusts, and real estate mortgage investment conduits (Schedule E), as would be reported on lines 12, 17, and 18 of the 2008 Form 1040. We do not count as "business income" income from interest, dividends, or capital gains that may flow through certain pass-through entities but which is reported elsewhere on an individual's return.

Under the "Affordable Health Care for America Act," a 5.4-percent surtax would be imposed on adjusted gross income ("AGI") in excess of \$500,000 (\$1,000,000 in the case of a married taxpayer filing a joint return). For purposes of responding to your request, we have assumed that net positive business income is "stacked" last relative to the other income components of AGI. For example, a married taxpayer filing jointly with \$2 million of AGI including \$500,000 of net business income would have one-half of the taxpayer's \$54,000 surtax liability under the "Affordable Health Care for America Act" attributed to the taxpayer's net business income.

We estimate that one-third of the \$460.5 billion estimated to be raised in fiscal years 2011–2019 from the 5.4-percent AGI surtax under the "Affordable Health Care for America Act" is attributed to business income.

Mr. GRASSLEY. Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. KIRK). The Senator from Indiana.

START TREATY INSPECTIONS  
LEGISLATION

Mr. LUGAR. Mr. President, I rise to speak on S. 2727, the START I Treaty Inspections and Monitoring Protocol Continuation Act of 2009, which I introduced yesterday.

This bill provides authority that would allow the President of the United States to extend, on a reciprocal basis, privileges and immunities to Russian arms inspection teams that may come to the United States to carry out inspections permitted under the Strategic Arms Reduction Treaty or START I.

This bill is necessary because, on December 5—1 month from today—the START I treaty will expire. This treaty, signed in 1991, is obscure to many in the Senate. Only 26 current Senators were serving at the time we voted on the resolution of ratification in October 1992. But the START I treaty has been vitally important to arms control efforts up to the present day because it

contains a comprehensive verification regime that undergirds every existing United States-Russian treaty that deals with strategic arms control.

It is essential to understand that a successful arms control regime depends on much more than mutual agreement on the numbers of weapons to be eliminated. Arms control agreements also must provide for verification measures, including seemingly mundane details, such as delineating the privileges and responsibilities of verification teams operating in each other's countries, as well as the procedures for conducting those inspections.

These details require legal authorization that minimizes disputes and reinforces reciprocal expectations of how the verification regime will function. If the legal authorization for strategic arms control verification lapses, as it will in 1 month, we will be creating unnecessary risks for the national security of the United States and our working relationship with Russia.

It had been my hope that the previous and current administrations would have made substantially more progress in ensuring the continuity of the START I verification system so the legal authorities I am proposing would not be necessary. But we have reached the point where both the United States and Russia must take steps to ensure the continuity of verification mechanisms.

In 2002, the Senate considered the Moscow Treaty governing strategic nuclear forces. That treaty contained no verification mechanisms. Instead, it relied on the verification regime established in the START I treaty. During Senate consideration of the Moscow Treaty, I asked Secretary of State Colin Powell and Secretary of Defense Donald Rumsfeld about the apparent gap in verification that could occur, given that the Moscow Treaty extends to 2012, while the START I verification provisions were set to expire on December 5, 2009, this year.

Secretary Powell stated:

It did not seem to be something that was pressing at the moment.

He said that during negotiations on the Moscow Treaty, consideration was given to extending the START verification regime past 2009 in a separate negotiation or that the transparency measures under the Moscow Treaty could be maximized in some way to provide for enhanced verification. But Secretary Powell said, in 2002, that we had "some 7 years to find an answer to that question."

Likewise, Secretary Rumsfeld was questioned about the verification gap created by the 2009 expiration of START. He stated:

There is [a gap], from 2009 to 2012, exactly. But between now and 2009 . . . there is plenty of time to sort through what we will do thereafter. . . . Will we be able to do something that is better than the START treaty?

I hope so. Do we have a number of years that we can work on that? Yes.

I was pleased to play a role in securing ratification of the Moscow Treaty on March 6, 2003. But, at that time Senators were led to understand the Bush administration would begin work with Russia on codifying a verification regime under the Moscow Treaty, either by continuing the START verification regime past 2009 or through other measures. Neither was accomplished.

The START treaty itself provides that the parties must meet to extend the treaty "no later than one year before the expiration of the 15-year period" of its duration. In 2008, we witnessed the conflict in Georgia. December 5, 2008, was the date by which the United States and Russia would have to meet to satisfy the treaty's requirements. Many worried that the atmosphere created by the Georgia situation would prevent the United States and Russia from conducting such a meeting. But to the Bush administration's credit, a meeting was held that provided us the possibility of extending the treaty. But the clock kept ticking.

I noted during Secretary Clinton's confirmation hearings, on January 13, 2009, it was vital that the START treaty be renewed. At that time, she assured the committee that "we will have a very strong commitment to the START Treaty negotiation." I do not doubt that commitment. I am hopeful the capable negotiators we have deployed to Geneva will achieve a new treaty in the remaining 30 days before expiration. But even if that happens, the time required for a thorough Senate consideration of the treaty ensures that it will not be ratified before START I expires.

At the core of the START treaty rests its verification regime—a system of data exchanges and more than 80 different types of notifications covering movement, changes in status, conversion, elimination, testing, and technical characteristics of new and existing strategic offensive arms. This data is further verified through an inspection regime. The START I treaty inspection protocol permits no less than 12 different types of inspections pursuant to the treaty.

According to a fact sheet released by the Department of State in July 2009, the United States has conducted more than 600 START inspections in Belarus, Kazakhstan, Russia, and Ukraine. Russia has conducted more than 400 inspections in the United States. These intrusive, onsite inspections permit the United States to verify the kinds and types of Russian weapons being deployed, as well as to examine modified versions of Russia's weapons. It is this ability, in addition to our own national technical means, that gives us the capabilities and confidence to ensure effective verification of the treaty.

Some skeptics have pointed out Russia may not be in total compliance



with its obligations under START. Others have expressed opposition to the START treaty on the basis that no arms control agreement is 100-percent verifiable. But such concerns fail to appreciate how much information is provided through the exchanges of data mandated by the treaty, onsite inspections, and national technical means. Our experiences, over many years, have proven the effectiveness of the treaty's verification provisions and served to build a basis for confidence between the two countries when doubts arose. The bottom line is, the United States is far safer as a result of these 600 START inspections than we would be without them.

Testifying before the Foreign Relations Committee on the INF Treaty in 1988, Paul Nitze provided the definition of "effective verification." He stated:

What do we mean by effective verification? We mean that we want to be sure that, if the other side moves beyond the limits of the Treaty in any militarily significant way, we would be able to detect such a violation in time to respond effectively and thereby deny the other side the benefit of the violation.

In a similar vein, Secretary of Defense Bob Gates testified in 1992, when he was Director of Central Intelligence, that the START treaty was effectively verifiable and that the data it provides would give us the ability to detect militarily significant cheating.

The Senate has repeatedly expressed confidence in the START I verification procedures. It approved the START I treaty in 1992, by a vote of 93 to 6. In 1996, it approved the START II treaty, which relied on the START I verification regime, by a vote of 87 to 4. Likewise, the Moscow Treaty was approved by a vote of 95 to 0.

The current administration has employed a capable team in Geneva. Just last week, National Security Adviser Jim Jones went to Moscow to underscore the importance of achieving agreement on a successor to the START treaty. The administration has publicly stated it seeks a new treaty that will "combine the predictability of START and the flexibility of the Moscow Treaty, but at lower numbers of delivery vehicles and their associated warheads."

This predictability stems directly from START's verifiability.

So far, most of the public discussion surrounding a potential successor agreement has focused on further reductions in strategic nuclear weapons. Scant attention has been paid to the verification arrangements for such a follow-on agreement. Informally, we understand that we will yet again be relying on START's verification regime in the new agreement. For me, this will be the key determinant in assessing whether a follow-on agreement that comes before the Foreign Relations Committee and the Senate furthers the national interest.

For the moment, we know only the outlines of such an agreement. What is certain is that after December 5, no legally binding treaty will exist that provides for onsite inspections.

My bill is not a substitute for a treaty, but without it, it is unclear how we can permit and by extension carry out any inspection activities. This might not appear troubling to some, but allowing a break in verification is not in the interests of the United States or Russia. Such a break could amplify suspicions or even complicate the conclusion of the START successor agreement.

I believe it is incumbent upon the United States and Russia to maintain mutual confidence and preserve a proven verification regime between December 5 and the entry into force of a new agreement. If we are to do so, the legal tools that are contained in the bill I have introduced are essential. There is nothing in my bill that requires the administration to admit Russian inspection teams in the absence of reciprocity by Moscow, nor does the bill expand verification beyond those already conducted under the START protocol. The authorities in the bill would terminate on June 5, 2010, or on the date of entry into force of a successor agreement to the START treaty.

We must ensure that needed verification tools will exist in the period between START's expiration and entry into force of a new treaty. I am hopeful that Congress will take action on S. 2727 in the near future and that both the Obama administration and the Russian Government will take steps to maintain inspection until ratification of a START successor agreement is completed.

I thank the Chair, and I yield the floor.

THE PRESIDING OFFICER. The Senator from Nebraska.

#### HEALTH CARE REFORM

Mr. JOHANNIS. Mr. President, I stand today to highlight the tax hammer, as I would describe it, that is being brought down on the American people relative to the health care bills that are making their way to the floor of the Senate and literally are about to be debated on the House side.

In the Finance Committee bill, there are over \$500 billion in additional taxes and fees and fines and penalties. In the House bill, there are over \$750 billion in new taxes, et cetera. If you shrug your shoulders thinking: Well, that is a tax on those wealthy people; I don't have anything to worry about; I am not one of them—you are missing something. Actually, nothing could be further from the truth.

In my judgment, these taxes will stifle small business. They are going to shock families who think there is no way their modest income could pos-

sibly be taxed more by the Federal Government.

The House bill, let me start there. The first tax is a 5.4-percent surtax on what are referred to as the high-income earners. It raises taxes by about \$460 billion. This is a gigantic tax increase. But supporters of it make the case that, again, this is the rich people, creating the feeling that somehow you don't have to worry about that if you are not making a lot of money. But what they don't want to acknowledge is that this is a tax on business and small businesses. In fact, I would suggest if you wanted to be fair in this debate, you wouldn't call it the millionaire tax; you would call it by the proper name—the small business tax.

The Joint Committee on Taxation released a letter yesterday. It found that one-third of the tax—one-third of the tax—will be from business income. The Wall Street Journal has said this recently, and I am quoting:

The burden will mostly fall on small businesses that have organized as Subchapter S or limited liability corporations, since the truly wealthy won't have any difficulty sheltering their incomes.

In the United States, there are over 6 million small businesses. Last count, the last available information I could get my hands on, there were over 41,000 small employers in my home State of Nebraska. I have walked through many of these small businesses. I have visited with the people who are trying to keep these businesses going, and they are facing challenges to make the payroll.

Many of these small businesses exist in small communities in my State, and their employees are not just faceless people, people without names. These are people with whom they went to high school. These are people with whom they worship on Sunday, they see at the grocery store. Our small businesses don't want to lay off these people.

Now, what would a 5.4-percent tax do to their bottom line, to their employees, to any potential of hiring in the future, to the communities they support? Well, one can see the impact it will have.

Shawne McGibbon, a former Small Business Administration official, said it very well and, again, I am quoting:

Nebraska depends on small businesses for jobs and economic growth. During this time of financial stress and economic instability, policymakers need to remember that the State's small businesses provide the economic base for families and communities.

Maybe to some from big cities or States that are mostly urban, the loss of 50 jobs is not a big deal. I can tell my colleagues it is a big deal to me. It is a big deal to my State. Fifty jobs in a community of 1,000 people is absolutely devastating. Those paychecks no longer spent on Main Street can literally bring Main Street to its knees.

Making matters worse, this tax is not indexed for inflation, so what can

we predict? What is the most certain thing we can predict about this tax? It is going to have the AMT problem all over again. Each year it is going to creep down, every year capturing more and more people in the middle class.

The second tax I wish to talk about today is the 8-percent penalty on employers who don't offer insurance. Eight percent of their payroll or pay, at least 72.5 percent of workers' premiums, that is what they are faced with. Again, no matter how one sugarcoats it, this is going to cut into wages. For those who pay the 8 percent, that is going to total \$135 billion more in taxes taken out of our economy.

The Wall Street Journal, again, I think said it very well recently:

Such "play or pay" taxes always become "pay or pay" and will rise over time, with severe consequences for hiring, job creation, and ultimately growth.

I look over there at the House and they sure seem very determined to throttle the backbone of our economy—our small businesses. I will just tell them as somebody who has represented my great State as a Governor and now as a Senator: You take those jobs out of small communities and you will bring those small communities to their knees.

I pay attention to the wisdom conveyed back home. That is why we do our townhall meetings and we walk in parades and we do everything we can to listen to the people.

A constituent from Pierce, NE, a small community, a great community in our State, said it very well:

With my husband self-employed, around 30 percent of our income is required to pay income taxes. If these income taxes weren't so high, we would be able to afford and choose our own insurance coverage. More taxes for public health care is not the answer.

I wish to reference the Senate bill and a third tax—the penalty tax on individuals without insurance. It provides that if you don't have a government-approved health plan, you will pay a penalty of \$750 for singles and \$1,500 for married couples. The Congressional Budget Office has analyzed this penalty. Almost half of those paying the penalty tax would be between 100 and 300 percent of the poverty level. In some States, these good folks qualify for government assistance programs. So we are going to tax them or penalize them and then give them subsidies. Boy, only here could somebody make an argument that is rational. It makes no sense to the people back home.

Listen to this: A family of four earning between \$23,000 and \$68,000 in 2013 would be saddled with the new tax. We are literally talking about taxing not just the middle class but even below that level.

I remember a pledge being made. Last year, President Obama said:

No one making less than \$250,000 a year will see any form of tax increase.

Yet a family of four earning \$25,000 will be hit with a tax within a few years. Boy, that is a long way away—\$25,000 from \$250,000.

Nebraskans believe they can make better decisions about their own health care than the Federal Government. Let me repeat that. Nebraskans believe they can make better decisions about their own health care for themselves and their families than can the Federal Government. I stand here today to tell my colleagues I agree with them.

A constituent from Kearney, NE, said:

Is there anything I can do to take a stand against what I consider a huge tax burden and a loss of freedoms?

The individual mandate—just one more example of government intrusion into people's lives.

I have covered three of the tax hikes pervasive in the bills, but it is the tip of the iceberg. There are new taxes, penalties, and fees as far as the eye can see.

There is a very fitting quote from John Marshall. He said: "The power to tax is the power to destroy." The power to tax is the power to destroy.

As the health care debate continues, all of us should remember Chief Justice Marshall's wise words. Make no mistake about it. These various bills raise taxes and put burdens upon the American people at a breathtaking pace. Don't be fooled that this is all about taxing the rich people and the millionaires. This is really about taxing and taking from the American people, and Americans are seeing the truth.

Thank you, Mr. President. I yield the floor.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. ALEXANDER. Mr. President, how much time remains on the Republican side?

The PRESIDING OFFICER. There is 14½ minutes remaining.

Mr. ALEXANDER. Thank you, Mr. President. Will you let me know when 3 minutes remain?

The PRESIDING OFFICER. The Chair will so notify.

Mr. ALEXANDER. I thank the President.

Mr. President, we have a lot of unusual things happening in the Senate, the Congress, and the world today, but apparently we are about to be presented with a rare opportunity that very few Senators ever have a chance to vote on. The Democratic congressional health care bill will present Senators—it is still being written from behind closed doors, but from what we can tell from the other bills—with an opportunity to vote for one-half trillion dollars in Medicare cuts and \$900 billion-plus in new taxes at the same time. It is very rare that any Senator has a chance to vote for Medicare cuts

that big and new taxes that big all at once.

It is not an opportunity that many, if any, Republicans will take advantage of, but that is the proposal that is coming. It caused my colleague from Tennessee to say on the Senate floor yesterday that if Republicans were to propose the same thing—a one-half trillion dollars cut in Medicare, a 60-percent increase in premium costs, which is the estimated increase to Tennesseans who have insurance premiums, according to Senator CORKER, plus taxes of \$900 billion when fully implemented, it wouldn't get a single Democratic vote. I think Senator CORKER is probably right about that.

Whenever we say this, this brings a deep concern from the other side of the aisle. The Senator from Ohio came to the Senate floor and engaged in a colloquy with the assistant Democratic leader yesterday after I left the floor and said:

Imagine this, the Republican Senator from Tennessee is saying that Democrats are about to cut Medicare. Why would they say that? It makes me incredulous to hear the Senator say that Democrats are going to cut Medicare and we are going to use Medicare cuts to pay for health care reform.

The only reason we and everybody else who reads their bill is saying that is because it is true. The proposal is to cut grandma's Medicare and spend it on their proposal, to cut nearly one-half trillion dollars in Medicare spending and not spend it on making Medicare solvent.

We know the Medicare trustees have said the program is going to go broke in 2015 to 2017, yet we are going to spend that money on a new government program into which many Americans who now have employer-based insurance will find their way. It is not Republicans who are scaring seniors about Medicare cuts; it is the Democratic health care bills that are scaring seniors about Medicare cuts. They have a right to be concerned.

Just in case anybody who might be listening thinks we are making this up on the Republican side of the aisle, I brought with me a few articles from reputable sources that describe the Democratic health care proposals and their proposed Medicare cuts.

Here is the New York Times on September 24, an article by Robert Pear, who writes about this subject regularly. It says:

To help offset the cost of covering the uninsured, the Senate and House bills would squeeze roughly \$400 billion to \$500 billion out of the projected growth in Medicare over 10 years.

That is the New York Times, Mr. President.

From the [sanfranciscogate.com](http://sanfranciscogate.com), this is an Associated Press article of September 22:

Congress' chief budget officer on Tuesday contradicted President Obama's oft-stated

claim that seniors wouldn't see their Medicare benefits cut under a health care overhaul.

The head of the nonpartisan Congressional Budget Office, Douglas Elmendorf, told senators that seniors in Medicare's managed care plans could see reduced benefits under a bill in the Finance Committee.

The bill would cut payment to Medicare Advantage plans by more than \$100 billion over 10 years.

Elmendorf said the changes "would reduce the extra benefits that would be made available to beneficiaries through Medicare Advantage plans."

Then there is the CBO, which in its October 7 letter to Senator BAUCUS talked about in detail the proposed Medicare cuts. Then there is the Associated Press article of July 30, 2009, which says:

Democrats are pushing for Medicare cuts on a scale not seen in years to underwrite health care for all. Many seniors now covered under the program don't like that one bit.

That is not the Republican National Committee. That is the Associated Press reporting on what the bills say. It also says:

The House bill—the congressional proposal that has advanced the most—would reduce projected increases in Medicare payments to providers by more than \$500 billion over 10 years, a gross cut of about 7 percent over the period. But the legislation would also plow nearly \$300 billion back into the program, mainly to sweeten payments to doctors.

That still leaves a net cut of more than \$200 billion—

Says the Associated Press, describing the Democratic health care plan—

which would be used to offset new Federal subsidies for workers and their families now lacking health insurance.

In other words, we are taking money from Medicare and spending it on someone else.

The Senator from Kansas said it is like writing a check on an overdrawn bank account to buy a big new car. That is a pretty good description.

I have a couple more. This is the Los Angeles Times, which is not a Republican publication. The headline on June 14 was, "Obama to Outline \$313 Billion in Medicare, Medicaid Spending Cuts."

That is what Democratic Senators have always called such proposals, that is what the Los Angeles Times calls the proposals, and that is what we call it because that is what they are. The article says:

Reporting from Washington—Under pressure to pay for his ambitious reshaping of the nation's healthcare system, President Obama today will outline \$313 billion in Medicare and Medicaid spending cuts over the next decade to help cover the cost of expanding coverage to tens of millions of America's insured.

This is from an October 22 NPR report:

Over a decade, the committee would cut \$117 billion from the Medicare Advantage plans.

This is from an article in the Washington Post on October 23:

\$500 billion in cuts to Medicare over the next decade.

That is the Washington Post.

This is the Wall Street Journal on September 8:

Other sources of funding for the Finance Committee plan include cuts to Medicare.

Mr. President, the question is not whether there are going to be cuts to Medicare; that is the proposal. Maybe it is a good idea; maybe it is a bad idea. But we don't need to come to the Senate floor and say that something that is, is not.

The proposal in these large expansive health care plans—the 2,000-page bill coming from the House soon—is that it is basically half financed by cuts in Medicare—not to make the program solvent—a program which has \$37 trillion in unfunded liabilities over the next 75 years—but to spend it on a new government program. Those are the facts. That is why it is important that the American people have an opportunity to read the bill and know what it costs and know how it affects them.

The Republican leader and Senator JOHANNES have talked about taxes in the bill. Rarely does a Senator have an opportunity to vote on so many Medicare cuts and so many new taxes, as we apparently will have when this bill comes to us.

The taxes include a tax on individuals who don't buy government-approved health insurance. The Joint Committee on Taxation, our joint committee, and the CBO estimate that at least 71 percent of that penalty, that tax, will hit people earning less than \$250,000. So it is not just taxes on rich people. When you impose, as the Senate Finance Committee bill would, \$900 billion-plus in new taxes, when fully implemented, on a whole variety of people and businesses that provide health care, what do they do?

According to the Director of the CBO, most of those taxes are passed on to the consumers. Who are the consumers? The people who are paying health care premiums—250 million Americans. What does that mean? That would mean that instead of reducing the cost of your health care premium, we are more likely to increase it.

I ask, Why are we passing a health care reform bill that increases the cost of your health care premiums, raises your taxes, and cuts Medicare to help pay for that? There are increased taxes on health care providers, manufacturers and importers of brand-named drugs, medical device manufacturers—these will all be passed on to consumers, according to the Joint Committee on Taxation and CBO. The Finance proposal raises the threshold for deducting catastrophic medical expenses, but eighty-seven percent of the 5.1 million taxpayers who claim this deduction earn less than \$100,000 a year. They are not millionaires. They earn less than \$100,000 a year. In fact,

data from the Joint Committee on Taxation and the former Director of the CBO shows, by 2019, 89 percent of the taxes—these new taxes—will be paid by taxpayers earning less than \$200,000 a year.

The 2,000-page proposal from the House of Representatives would raise taxes by \$729 million. There is a tax on millionaires, but we know what happens to that when it is not indexed. Forty years ago, we were worried about 155 high-income Americans who were avoiding taxes, so the Congress passed the millionaires tax—the alternative minimum tax. Today, if we hadn't patched it, as we say, in 2009, that tax would have raised taxes on 28.3 million Americans. The millionaires tax will hit you if you keep earning money.

I have said quite a bit about Medicare cuts and taxes. I want to conclude my remarks by quickly saying what Republicans think should be done. We believe the American people do not want this 2,000-page bill that is headed our way. We want, instead, to start over in the right direction, which means reducing costs and re-earning the trust of the American people by reducing the cost of health care step by step.

Specifically, we would start with the small business health care plans. That is just 88 pages that would lower premiums, according to the CBO. It could cover up to 1 million new small business employees, and it would reduce spending on Medicaid. Then we could take a step to encourage competition by allowing people to buy health insurance across State lines, and we can take measures to stop junk lawsuits against doctors.

More health information technology could be a bipartisan proposal. We can have more health exchanges. The number of pages are very small. Waste, fraud, and abuse are out of control—\$1 out of every \$10 spent in Medicaid. Our proposal would offer a choice—a couple hundred pages, not 2,000—reducing premiums and debt and making Medicare solvent instead of cutting it, with no tax increases instead of higher taxes, and reducing costs.

That is the kind of health care plan Republicans have offered and the kind we believe Americans will want. We hope over time that will earn bipartisan support.

I yield the floor.

The PRESIDING OFFICER. The Senator from Maryland is recognized.

Ms. MIKULSKI. Mr. President, how much time is remaining on both sides for morning business?

The PRESIDING OFFICER. The majority has 2½ minutes of morning business. The minority's time has expired.

#### HEALTH CARE

Ms. MIKULSKI. Mr. President, I would like to speak on health care. I

note with interest the remarks of the Senator from Tennessee. I think there is former bipartisan agreement, but everybody says let's go through this step by step. The Congress has had an extensive health care debate. We in the HELP Committee have had extensive hearings, and we had a markup of our bill that lasted more than 3 weeks and had over 350 amendments, of which 75 percent were offered by the other side. We offered many of those amendments. When all was said and done, they voted no. So we don't know when good would be good enough. It is one thing to disagree on policy; it is another thing to want to do a filibuster by proxy, which is what we encountered in the committees with the increased volume of amendments.

We need health care reform, and we need it now. We need it in a way that accomplishes the goal of saving lives, improving lives and, at the same time, controlling costs.

No. 1, I think we all agree, we need to save and stabilize Medicare. The other thing we need to do is end the punitive practices of insurance companies.

I am going to tell you a bone-chilling story. I held a hearing in the HELP Committee on how health insurance in the private sector treats women. First, we pay more and get less benefits. But also what happened and what emerged is that a woman who applied for health care who had a C-section was denied by a Minnesota company unless she got a sterilization.

Did you hear what I said? An insurance company told an American woman, to get health insurance, she had to have a sterilization. Is this fascist China, fascist Germany? Is this Communist China? This is the United States of America. We were outraged.

I have been in touch with this insurance company. I got lipservice promises, blow-off letters from their lawyers, and stuff like that. I am ready with an amendment on the floor. We have to get rid of these punitive practices of denying health care on the basis of a previous condition. And then, not only doing that because of a C-section, but then to engage in a coercive way to force a sterilization.

So you think I want reform? You better believe I do. And I think I speak for the majority of the country who feels this way and the good men, such as the Presiding Officer, who will support us on it. I will have an amendment to deal with this if the insurance company continues to blow me off.

Mr. President, I yield the floor.

#### CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

#### COMMERCE, JUSTICE, SCIENCE, AND RELATED AGENCIES APPROPRIATIONS ACT, 2010—Resumed

The PRESIDING OFFICER. Under the previous order, the motion to proceed to the motion to reconsider the vote by which cloture was not invoked on the committee-reported substitute to H.R. 2847 is agreed to, and the motion to reconsider that vote is agreed to.

Under the previous order, there will be 40 minutes of debate equally divided and controlled as follows: 20 minutes under the control of the Senator from Louisiana and 20 minutes total under the control of the Senator from Maryland, Ms. MIKULSKI, and the Senator from Alabama, Mr. SHELBY.

Ms. MIKULSKI. Mr. President, very shortly, we will vote on cloture on the CJS bill. As the chairperson of the committee, I wish to say that we want to finish this today so we can move forward with the blessing and the business of funding—Mr. President, I have to yield the floor a moment. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Ms. MIKULSKI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. MIKULSKI. Mr. President, reclaiming my time as the manager of the bill, I wish to bring to my colleagues' attention that at 12:25 p.m. today, we are going to vote on cloture of the Commerce-Justice-Science appropriations bill. We wish to finish this bill today. When I say "we," I mean Senator SHELBY, my ranking member, and myself.

This bill is the result of a rigorous bipartisan effort to fund the Department of Justice, including the FBI and DEA, the Commerce Department, and major science agencies that propel our country in the area of innovation and technology development, such as the National Science Foundation and the National Space Agency.

We want the Senate to be able to deal with this and then move on to other business.

After the cloture vote, it is our intention to dispose of any pending amendments that are germane to the bill. This bill has been public since June. It has been on the floor already for 4 days and over 20 hours. Senators have had ample time to draft and call up their amendments. Senator SHELBY and I hope to be able to move through the amendments in a well-paced but brisk fashion.

We hope our colleagues will cooperate and have any decisions relating to the funding of these important agencies be decided on robust debate and the merits of the argument rather than

delay and dither, delay and dither, delay-and-dither tactics of the other side. We don't want to delay. We don't want to dither. We want to proceed, debate germane amendments, and bring our bill to a prompt closure.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. CHAMBLISS. Mr. President, I ask unanimous consent that when the Senate resumes consideration of H.R. 2847, that it be in order for me to offer amendment No. 2676, which is filed at the desk.

The PRESIDING OFFICER. Is there objection?

Ms. MIKULSKI. I object, Mr. President. The intention is to vote on cloture and dispose of pending germane amendments. The Senator's amendment is not pending, so I do object, with all courtesy because of my respect for the Senator.

The PRESIDING OFFICER. Objection is heard.

Mr. CHAMBLISS. Mr. President, I obviously am very disappointed to see my colleagues on the other side of the aisle object to my amendment. It is a pretty simple, straightforward amendment.

We have voted several different times when appropriations bills have been on the Senate floor over the last couple of weeks, wherein the folks on the other side of the aisle insist on allowing the transfer of prisoners from Guantanamo Bay to the United States for trial. My amendment prohibits that. I simply think it is not appropriate to bring battlefield combatants into article III trials inside the United States for any number of procedural reasons relative to the treatment of Guantanamo Bay prisoners within our Federal courts. But even beyond that, the potential for the release of those enemy combatants, once they arrive on U.S. soil, certainly is increased.

This is not the way we need to be treating enemy combatants. Those men who are at Gitmo are the meanest, nastiest killers in the world. Every single one of them wakes up every day thinking of ways they can kill and harm Americans, both our soldiers as well as individuals. Some of them were involved in the planning and the carrying out of the September 11 attacks. Others were arrested on the battlefield in Iraq and are at Guantanamo. We are not equipped nor have we ever in our history dealt with trials in article III courts of any enemy combatant arrested on the battlefield. The FBI has not investigated cases prior to arrest. These folks were not given Miranda warnings because our soldiers captured these individuals with AK-47s in their hands with which they were shooting at our men. These are not the types of individuals that our criminal courts are designed to handle or can feasibly handle.

I am disappointed we are not going to get a vote on this amendment. I will continue to raise this issue as long as we possibly can between now and the time that Guantanamo Bay is scheduled to be closed and, from a practical standpoint, until it is closed, if that ever does happen. We have the courts at Guantanamo Bay equipped to handle and try these individuals before military tribunals. Those tribunals have been established, just reauthorized. We are capable of handling the trials at Guantanamo Bay, and that is where they should take place.

I want to make sure the time I utilized is charged against Senator VITTER, which has been agreed to by the Senator.

The PRESIDING OFFICER. It will be so charged.

The Senator from South Carolina.

Mr. DEMINT. Mr. President, I appreciate the Senator from Georgia attempting to get a very important amendment on the floor. I wish to also propound a unanimous-consent request for a related amendment, related to the terrorists in Guantanamo Bay.

This week, I was advised by the officials at the Air Force and Navy base in Charleston—

Ms. MIKULSKI. Will the Senator yield for a question?

Mr. DEMINT. I will in a second.

Yes, I will yield.

Ms. MIKULSKI. Is the Senator offering an amendment or giving a speech about the desire to offer an amendment?

Mr. DEMINT. Mr. President, I desire to offer an amendment, and I will propound a unanimous-consent request to allow my amendment to be considered postcloture. I have a request. I will get to the request in a moment. I wish to give a few seconds of background.

We know this is not an idle threat because inquiries have been made in Charleston for moving detainees from Guantanamo Bay to minimum security brigades in Charleston.

I ask unanimous consent that when the Senate resumes consideration of H.R. 2847, it be in order for me to offer an amendment preventing the transfer of known terrorists at Guantanamo to U.S. soil.

The PRESIDING OFFICER. Is there objection?

Ms. MIKULSKI. Mr. President, I object to the amendment. The intention is to vote on cloture and dispose of pending germane amendments. The Senator's amendment is not pending, so I object.

The PRESIDING OFFICER. Objection is heard.

Mr. DEMINT. Mr. President, this amendment has been filed as a second degree. It makes no sense at this point for us to not have a short debate about moving the most dangerous people in the world to American soil. It is appropriate for us to allow at least a small

amount of time, as we rush these bills through, to talk about the issues that are important to Americans.

I am obviously disappointed that we will not allow the discussion of my amendment or the amendment of the Senator from Georgia or others who are trying to get this issue in front of this body for discussion. It does not mean you cannot vote it down. But not to allow a debate is certainly discouraging at this point.

I appreciate Senator VITTER giving us a few minutes.

I yield the floor.

The PRESIDING OFFICER (Mr. BURRIS). The Senator from Louisiana.

AMENDMENT NO. 2644

Mr. VITTER. Mr. President, I rise again in strong support of my amendment No. 2644 to the Commerce-Justice-Science appropriations bill. It is coauthored by the distinguished Senator BENNETT from Utah, and it is strongly supported by many other Members.

There has been a lot said about this amendment, most of it inaccurate, so let me step back and start with what the amendment says. It is pretty simple, pretty straightforward when you actually read it.

The amendment simply requires the census that we are set to take next year to ask whether the respondent is a citizen. The amendment does not do anything but that. It simply says: The census should ask folks if they are citizens. It is very straightforward.

We should count every person in the United States. The census should include everyone, but in so doing, I am encouraging, and my amendment would require, that the census ask if an individual is a citizen.

Compared to that statement of policy, that simple goal, it is absolutely mind-boggling to me some of the statements that have been made about it. First, the distinguished majority leader Senator REID admitted in several conference calls and statements to the press that he is trying to invoke cloture on this bill specifically to block out any vote, any discussion of the Vitter amendment.

Secondly, in saying that, the majority leader called my amendment "anti-immigrant." I honestly don't see how any reasonable person can say that when we take a census and we simply ask whether the respondent is a citizen or a noncitizen—and plenty of noncitizens are here legally—that is anti-immigrant.

Third, and perhaps most outrageously, Senator REID said my effort is akin to the activities in the 1950s and 1960s to intimidate Black citizens and try to get them to stay away from voting in the voting booth. I take personal offense to that. I think there is no reasonable comparison, and I ask Senator REID to apologize to me for that outrageous statement on the Senate floor.

As I said, what the amendment does is simple. It says that the census should ask whether a respondent is a citizen or not. Why is that important? Well, for at least two reasons. First of all, the census is an enormously important tool we in Congress are supposed to use—information and statistics—as we tackle any number of significant issues and Federal programs. Certainly it is a very significant and important issue that we deal with the immigration problem and the issue of illegal immigration. And certainly it is useful to know, if we are going to spend \$14 billion to do a census, who within that number are citizens and who within that number are noncitizens.

Secondly, and even more important, the top thing the census is used for, the first thing the census is used for is to reapportion the U.S. House of Representatives, to determine after each census is done how many U.S. House Members each State gets. The current plan is to count everybody and not ask whether a person is a citizen or a noncitizen. So the current plan is to reapportion House seats using that overall number—using both citizens and noncitizens in the mix. I think that is wrong. I think that is contrary to the whole intent of the Constitution and the establishment of Congress as a democratic institution to represent citizens. I believe only citizens should be in that particular calculation for the reapportionment of the U.S. House of Representatives.

This is a significant issue for many States, including my State of Louisiana. It has a very big and direct and concrete impact on Louisiana and certain other States. It comes down to this: If the census is done next year and reapportionment happens using everybody—citizens and noncitizens—Louisiana is going to lose a seat in the U.S. House of Representatives. We will lose one-seventh of our standing there, our representation there, our clout. If the census was done and only the number of citizens was used to determine reapportionment, Louisiana would not lose that House seat. We would retain seven seats. So that has a very big and direct impact on my State of Louisiana.

I would also point out that it will have the same impact in seven other States: North Carolina, South Carolina, Oregon, Pennsylvania, Mississippi, Michigan, Iowa, and Indiana—excuse me, eight other States. So a total of nine States are in this position, Louisiana being one of them. So it is a very significant issue that directly impacts many citizens and many States.

So I urge all of my colleagues to support getting a vote on the Vitter amendment by denying cloture on the Commerce-Justice-Science appropriations bill. However you may vote, this is an important issue, and however you

may vote, we need a full debate and a vote. In particular, I would urge my colleagues from North Carolina, South Carolina, Oregon, Pennsylvania, Mississippi, Michigan, Iowa, Indiana, and, of course, Louisiana to vote no on cloture so we can examine this very significant issue and so we can have a vote on the Vitter-Bennett amendment.

There has been discussion in at least two areas that I wish to quickly address. One is some discussion in the press, including from my distinguished colleague from Louisiana, Senator LANDRIEU, who has indicated that what I just laid out in terms of the impact on reapportionment isn't true. Well, I think every expert who has looked at this, every demographer who has looked at this agrees with what I just said, that this factor is the difference between Louisiana losing a House seat or not and these other States losing a House seat or not.

I would point out three experts, but there are many others. Dr. Elliott Stonecipher, demographer from Louisiana, has been leading the charge on this issue. I compliment him for his tenacity and his hard work. But there are others as well. In an October 27, 2009, New York Times article, my numbers were again confirmed by Andrew Beveridge, professor of sociology at Queens College, New York. He did an independent analysis and said exactly the same thing, that, yes, this issue of whether we use citizens and noncitizens in reapportionment does make that huge difference for those States. And last week, my analysis and my numbers were confirmed yet again by an independent and well-respected demographic expert—again in my State of Louisiana—Greg Rigamer with GCR and Associates. And that is very significant.

Secondly, I wish to briefly address this cost issue. It is interesting that in this debate, the other side has been flailing around for an argument against my amendment, though nobody has argued—or nobody whom I have heard—that reapportionment should be done counting citizens and noncitizens, and that is more consistent with the notion of Congress being the representative body of citizens of the United States. So folks on the other side are wildly flailing around for some argument, and the one they have come across is cost: Oh my goodness, the census would have to incur additional cost to add this to the form.

Well, it is certainly true that it would cost some more. I can't give you a precise dollar figure, but it would cost something more. It is certainly true it would have been better for this to have been caught and debated earlier rather than later. Unfortunately, the committee of jurisdiction, the Committee on Homeland Security and Governmental Affairs, which reviews

the census forms, did not bring this issue up in a significant way. I agree with that. I don't agree with this wild figure that it would cost \$1 billion.

Let me point out a couple of things. First of all, the cost of the census has ballooned from the last census. The last census was \$3.4 billion; this census is going to be \$14 billion. So the first thing I would say, quite honestly, is that it is pretty ironic for an agency that has had a budget balloon from \$3.4 billion in the last census to \$14 billion this census to say they can't squeeze in that question, that they can't do it right for \$14 billion.

Secondly, quite frankly, the Census Bureau has a horrendous record in terms of cost estimates. When they threw out this very large, very round figure of it costing an additional \$1 billion, I called them and said: OK, can you give us the rationale for that, the background on that cost estimate? After 3 weeks of asking for the data behind that \$1 billion claim, they sent us one piece of paper with 10 bullet points on it, all very general statements and suggestions, with a final bottom line being a nice even round figure of \$1 billion—very unimpressive, in my opinion, in terms of any precise accounting for \$1 billion.

I would also draw everyone's attention to an October 7, 2009, GAO report delivered to the Subcommittee on Federal Financial Management, Government Information, Federal Services, and International Security. It was about the census. In that report, the GAO said:

Given the Bureau's past difficulties in developing credible and accurate cost estimates, we are concerned about the reliability of the figures that were used to support the 2010 budget.

In another example, the Office of the Inspector General filed a report in 2008 about the census. In that report, the office inspected a particular cost estimate from the Census Bureau that came up to \$494 million for a certain portion of their activity, and they said: We think this is a wildly inflated figure, and we can immediately identify cost savings that bring it down to \$348 million—a significant savings of almost \$150 million. When the Census Bureau was confronted with that, they had to agree and they had to adopt the lower figure.

So, Mr. President, the bottom line is simple: We do a census every 10 years. It is a very important event. We need to do it right, and to do it right, we need a full debate and a vote on this central question embodied by the Vitter-Bennett amendment. So I urge all of my colleagues to vote no on cloture of the Commerce-Justice-Science appropriations bill to demand a reasonable debate and vote on the Vitter-Bennett amendment. This is an important question, and we simply shouldn't forge ahead. Americans have a funda-

mental problem with not even asking the citizenship question and therefore forging ahead with a plan to reapportion the entire U.S. House of Representatives by putting noncitizens in the mix, when the whole notion of our representative democracy and of Congress is to represent the citizens of the country.

I urge my colleagues to support that position, and I thank my colleagues who have done so thus far. In particular, I urge my colleagues from North Carolina, South Carolina, Oregon, Pennsylvania, Mississippi, Michigan, Iowa, Indiana, and certainly Louisiana to stand up for their States, to stand up for their interests, to stand up for their clout and their representation in the U.S. House of Representatives.

With that, Mr. President, I yield the floor.

**THE PRESIDING OFFICER.** The Senator from Maryland.

**MS. MIKULSKI.** Mr. President, I object to the Senator's amendment, and I object to the arguments he has made.

First of all, we adopt cloture so that we can proceed on amendments that are germane. Second, in terms of the inaccurate accusation that we are plowing ahead and forging forward, we were on this bill for 4 days, with over 20 hours of debate. There was plenty of time to talk about this amendment, and I was here and ready to engage.

The other thing is that there have been other times—since my bill was pulled from the floor—called morning business, when a Senator could talk for any length of time on any topic he or she wants. Yet silence, silence, silence. So don't use the cloture vote as a way to say there wasn't enough time.

Now let's go to being asleep at the switch. Two accusations were made—the ballooning of the census cost. Well, one of the reasons and the main reason the cost is exploding is that the party in power prior to 2008 was asleep at the switch with the census. They completely dropped the ball on the new technology for being able to go door to door to get a count. It turned into a big techno-boondoggle. It finally took the Secretary of Commerce to uncover that under that rock was another rock, and under that rock were a lot of buckets of malfunctioning microchips. So we had to bail out Secretary Gutierrez and the census because of the techno-boondoggle because the other party was asleep at the switch in maintaining strict quality controls.

Now let's go to the asking of another question. The Senator from Louisiana says he wants to stand up for his State. I agree, we have to stand up for the States, but the time to stand up was in April of 2007. Did you know that the Census is mandated by law to submit the questionnaires to Congress—and they did? So for 1 year, from April 1, 2007, to the close of the review by Congress 1 year later, April 2008, there was



plenty of time to say: We don't like the questionnaire; we want to add a citizenship question. That was the time and the place. When you are going to stand up for your State, stand up at the right time to make a difference and not try to amend the law in a way that is going to create administrative havoc.

We can debate the merits of the question, but I am here as an appropriator on the process. The Census Bureau did meet its statutory responsibility. It submitted the questionnaire to the Congress on April 1, 2007. It did not come by stealth in the night, it was not written in invisible ink, it was written in English here for all to see—and also in other languages we could test and use—to say: Do you, Congress, like this questionnaire? Do you have any comments? For all those who want to stand up, that was the time to do it and the time to make a change.

Let's talk about the consequences. It will delay the census so we could essentially not meet our constitutional mandate of having the census done in a timely way. No. 2, it will cost, if we did not do it, another \$1 billion and wreak, again, administrative havoc.

Let's go into this whole claim about citizens and noncitizens. The census already tracks the number of citizens and noncitizens through a separate survey. We could talk about what this will mean in reapportionment and so on. Those questions are for debates that lie with the Judiciary Committee.

We are not going to vote up or down on the Vitter amendment, we are going to vote on cloture. Why is cloture important? So we do not have distracting amendments that are better offered on the appropriate substance of the bill. We have to fund the State, Commerce, Justice, Science agencies. The FBI needs us to fund this agency. The Marshals Service needs us to fund this agency. Federal law enforcement, our Federal prisons—you might not like whom the Obama administration puts in Federal prisons, but we need Federal prisons. So we need to pass cloture so we can dispose of germane amendments and move democracy forward.

Mr. President, how much time do I have?

The PRESIDING OFFICER. The Senator from Maryland has 7½ minutes remaining.

Ms. MIKULSKI. I wish to reserve my time. Did the Senator from Kansas have a question?

Mr. ROBERTS. I would be delighted to respond to my good friend from Maryland. I am in a position to yield back all the minority's time. We have no more speakers.

Ms. MIKULSKI. Mr. President, we are not prepared to yield back any time. I reserve the remainder of my time.

Mr. ROBERTS. Will the distinguished Senator yield?

Ms. MIKULSKI. Certainly.

Mr. ROBERTS. Today, the U.S. Marine Corps is celebrating its birthday. As I speak, the Commandant of the Marine Corps, the Drum and Bugle Corps and various and assorted marines are over in the Russell Building. I am to cut the cake, and I am getting into deeper and deeper trouble if we delay the ceremonies to the degree they could be delayed. If somebody wants to talk, obviously, you have 7 minutes, but I appreciate any consideration you might be able to give us.

Ms. MIKULSKI. That is one heck of an argument, I respond to the Senator from Kansas. I have great admiration for the Marine Corps. If the Semper Fi guys call and you need to cut the cake, I will certainly be willing to cooperate.

Seriously, our congratulations to the U.S. Marine Corps on their birthday. We value them for what they have done in their most recent conflicts and their incredible history. They are truly Semper Fi. In the spirit of what I hope will be the comity of the day, the civility of the day, we yield back our time in order to permit the vote.

Mr. ROBERTS. I tell the Senator Semper Fi, and on behalf of the minority, I yield back all our time.

#### CLOTURE MOTION

The PRESIDING OFFICER. All time has expired. Under the previous order, pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will report.

The legislative clerk read as follows:

#### CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the committee-reported substitute amendment to H.R. 2847, the Departments of Commerce, Justice and Science and Related Agencies Appropriations Act of Fiscal Year 2010.

Harry Reid, Barbara A. Mikulski, Barbara Boxer, Robert Menendez, Charles E. Schumer, Patty Murray, Tom Harkin, Patrick J. Leahy, Roland W. Burris, Mark Begich, Ben Nelson, Daniel K. Inouye, Debbie Stabenow, Bernard Sanders, Dianne Feinstein, John F. Kerry, Edward E. Kaufman.

The PRESIDING OFFICER. By unanimous consent, the mandatory quorum call is waived.

The question is, Is it the sense of the Senate that debate on the committee-reported substitute amendment to H.R. 2847, the Departments of Commerce, Justice, and Science, and Related Agencies Appropriations Act of 2010 shall be brought to a close?

The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. KYL. The following Senator is necessarily absent: the Senator from Arizona (Mr. MCCAIN).

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 60, nays 39, as follows:

[Rollcall Vote No. 335 Leg.]

#### YEAS—60

Akaka	Franken	Mikulski
Baucus	Gillibrand	Murray
Bayh	Hagan	Nelson (NE)
Begich	Harkin	Nelson (FL)
Bennet	Inouye	Pryor
Bingaman	Johnson	Reed
Boxer	Kaufman	Reid
Brown	Kerry	Rockefeller
Burris	Kirk	Sanders
Byrd	Klobuchar	Schumer
Cantwell	Kohl	Shaheen
Cardin	Landrieu	Specter
Carper	Lautenberg	Stabenow
Casey	Leahy	Tester
Conrad	Levin	Udall (CO)
Dodd	Lieberman	Udall (NM)
Dorgan	Lincoln	Warner
Durbin	McCaskill	Webb
Feingold	Menendez	Whitehouse
Feinstein	Merkley	Wyden

#### NAYS—39

Alexander	Crapo	LeMieux
Barrasso	DeMint	Lugar
Bennett	Ensign	McConnell
Bond	Enzi	Murkowski
Brownback	Graham	Risch
Bunning	Grassley	Roberts
Burr	Gregg	Sessions
Chambliss	Hatch	Shelby
Coburn	Hutchison	Snowe
Cochran	Inhofe	Thune
Collins	Isakson	Vitter
Corker	Johanns	Voinovich
Cornyn	Kyl	Wicker

#### NOT VOTING—1

McCain

The PRESIDING OFFICER. On this vote, the yeas are 60, the nays are 39. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 2847) making appropriations for the Departments of Commerce, Justice, and Science, and Related Agencies for the fiscal year ending September 30, 2010, and for other purposes.

Pending:

Vitter/Bennett amendment No. 2644, to provide that none of the funds made available in this act may be used for collection of census data that does not include a question regarding status of United States citizenship.

Johanns amendment No. 2393, prohibiting the use of funds to fund the Association of Community Organizations for Reform Now (ACORN).

Levin/Coburn amendment No. 2627, to ensure adequate resources for resolving thousands of offshore tax cases involving hidden accounts at offshore financial institutions.

Durbin modified amendment No. 2647, to require the Comptroller General to review and audit Federal funds received by ACORN.

Begich/Murkowski amendment No. 2646, to allow tribes located inside certain boroughs in Alaska to receive Federal funds for their activities.

Ensign modified amendment No. 2648, to provide additional funds for the State Criminal Alien Assistance Program by reducing corporate welfare programs.

Shelby/Feinstein amendment No. 2625, to provide danger pay to Federal agents stationed in dangerous foreign field offices.

Leahy amendment No. 2642, to include nonprofit and volunteer ground and air ambulance crew members and first responders for certain benefits.



Graham amendment No. 2669, to prohibit the use of funds for the prosecution in article III courts of the United States of individuals involved in the September 11, 2001, terrorist attacks.

Coburn amendment No. 2631, to redirect funding of the National Science Foundation toward practical scientific research.

Coburn amendment No. 2632, to require public disclosure of certain reports.

Coburn amendment No. 2667, to reduce waste and abuse at the Department of Commerce.

The PRESIDING OFFICER. The Senator from Maryland.

Ms. MIKULSKI. I ask for the regular order.

Mr. NELSON of Florida. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. NELSON of Florida. I ask unanimous consent that the order for the quorum be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NELSON of Florida. Mr. President, the Food and Drug Administration is proposing a rule that will basically eliminate raw oysters from the Gulf of Mexico. There have been 15 people in the past year who have died from a bacterial infection that comes out of raw oysters. But what has been discovered is that the people had a pre-existing condition prior to eating the oysters that made their immune system wear down so they were much more susceptible. In a sweeping administrative executive branch decision trying to correct a problem, they are suddenly proposing that they are going to stop the rest of America eating raw oysters from the Gulf of Mexico. This is like saying: If you have a food allergy to peanuts, we are going to ban you eating peanuts unless you cook them.

There is a thriving industry along the coast of America, particularly the gulf coast, that has a delicacy known as raw oysters that people enjoy. Apalachicola oysters, the creme de la creme, are shipped all over the world. And in some of the fanciest restaurants you get Apalachicola oysters on the half shell. The Food and Drug Administration is about to basically ban raw oysters from the Gulf of Mexico. Some of us in the Senate are going to try not to let it happen.

Senator LANDRIEU and I, who both have some interest in this because it affects our States, are filing a bill today that would utilize the appropriations means of not letting an appropriation be enacted or used for the purpose of the FDA implementing such a rule that would basically ban raw oysters from the Gulf of Mexico. This is trying to kill a gnat with a sledgehammer. If people were, because of a preexisting condition, already subject to coming down with an illness, there

is simply no sense. This is government run amok. This is government out of control. This is government trying to kill a gnat with a sledgehammer. We are not going to let it happen.

I inform the Senate today that we are filing this legislation.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. FRANKEN. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FRANKEN. I ask unanimous consent to speak as in morning business for up to 5 minutes and that the time be charged postcloture.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The remarks of Mr. FRANKEN pertaining to the introduction of S. 2734 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. FRANKEN. Mr. President, I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. UDALL of New Mexico). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. NELSON of Florida. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NELSON of Florida. Mr. President, I wish to be recognized as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NELSON of Florida. Mr. President, it goes without saying that NASA, the National Aeronautics and Space Administration, is at a crossroads. It is an agency that has been starved of funds, so it finds itself in the position that its human-rated capable vehicle, the space shuttle, will be ceasing to fly after six more flights that will continue to build the space station and equip it.

This last flight will probably not be until the first quarter of 2011. But the crossroads NASA is facing is because it has been starved of funds over the course of the last half a dozen years, it will not have a new human-rated vehicle to take our crews to the International Space Station. As a matter of fact, there is a great deal of consternation and conflict within NASA itself as to what that vehicle should be. So the President, recognizing this earlier when he appointed the new NASA Administrator, GEN Charlie Bolden, set up a blue ribbon panel headed by Norman Augustine.

They have now reported, and the strong inference of their extensive and

detailed report is that the vehicle that was planned to fly but was obviously going to be delayed because it hadn't been developed quickly enough, the Ares I—by the way, the same vehicle that had a very successful test flight a week ago—the strong inference of the Augustine Commission Report is that the Ares I would not even be ready to fly astronauts until the year 2017. Its sole purpose would be, according to the Augustine Commission Report, to get astronauts to and from the space station, and that would be, in the Augustine report's inference, too late. So they are recommending, or at least the strong inference of the recommendation in the Augustine report, is that commercial vehicles be developed to take cargo and crew to the International Space Station. The Augustine Commission Report is suggesting the space station certainly should be kept alive until the year 2020, but to now start to reap some of the science from the experiments that just now the space station is getting equipped to be able to do, in the nodule that is now designated as a national laboratory on the International Space Station.

If what I have said sounds confusing, indeed it is. That is why NASA is at a crossroads. NASA is even more at a crossroads because NASA can't do anything unless it gets some serious new additional money, and that is the strong recommendation of the Augustine Commission Report. What they are saying is that NASA should have \$1 billion extra over the President's request in this fiscal year, the fiscal year that started October 1 known as fiscal year 2010, and that the next fiscal year it should have an additional \$2 billion over the President's baseline recommendation in the budget, and that thereafter, for the decade, it should have an additional \$3 billion per year to fill out the decade so that NASA can do what it does best.

What does it do best? It explores the unknown. It explores the heavens. What should that architecture be? I don't think our Senate committee can decide that. I don't think the White House can decide that, but the White House can give direction and our committee can give direction to NASA to go figure it out: Figure out what that architecture is to do what NASA does best, which is explore the heavens. That direction is certainly recommended in the Augustine Commission Report as: Get out of low Earth orbit. Expand out into the cosmos, with humans, to explore.

So what I am hoping the President of the United States, Barack Obama, is going to do, now that he has received the Augustine Commission Report—it is my hope, it is my plea to the President that he will take their recommendations seriously and that he will do three things. First, even in the midst of an economic recession, when

the budgets are very constrained and tight, he will say that a part of America we are not going to give up is our role as explorers and that he will commit to recommend in his budgets the additional money as recommended by the Augustine Commission, and in this first year, this fiscal year we are in now, fiscal year 2010, that is a lot easier because you can get that additional \$1 billion out of the unused money in the stimulus bill. But it gets tougher as we get on down the line. That is the first thing.

The second thing the President should say to his administrator of NASA, General Bolden, is convene the guys and determine the architecture of how we should go about and what is the mission we are going to explore. I can tell my colleagues that this Senator thinks the goal should be to go to Mars. It may not be to the surface of Mars; it may be first to Phobos, one of the moons of Mars; we would have to spend so much less energy in getting down to the surface of that moon because of the gravitational pull instead of going all the way to the surface of Mars. The science that we could gain from that would be extraordinary.

Therefore, the President's direction, I would hope, to NASA would be: Figure out the architecture. Does that mean we are going to take the Ares I and make it into an Ares V?

Is that going to be the heavy lift vehicle to get the hardware up to expand out into the cosmos, be it to Phobos, be it to an asteroid, be it to the Moon? My hope is that the President would give that direction: Figure out that architecture and what are the steps along to the goal of getting to Mars. That would be the second thing.

The third thing I hope the President would do is give direction to NASA that since NASA is at this crossroads and since there is going to be disruption in the workforce because there is not another human-rated rocket ready after the space shuttle is shut down, then you have to help the workforce. You have to move work around among the NASA centers. You have to bring in new kinds of research and development, of which NASA is a good example of an R&D agency.

It is through the direction of those three things that I think we can get NASA out of this fix it finds itself in at this crossroads point. Give the direction, No. 1, for the additional funding that NASA needs; No. 2, direct NASA to produce that architecture for exploring the heavens; and No. 3, take care of the workforce in the meantime.

Mr. President, I yield the floor and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. KAUFMAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KAUFMAN. Mr. President, I ask unanimous consent to speak as in morning business for up to 20 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KAUFMAN. Mr. President, I rise today because I am deeply concerned that just over 1 year since the collapse of Lehman Brothers, a failure that helped send us to the brink of depression, Wall Street is essentially unchanged. Congress and the SEC have not enacted any reform, and the American people remain at risk of another financial debacle—not just because the same practices that led to the crisis 14 months ago are continuing but from new practices that are leading to new problems and new systemic risks.

Last year, the financial world almost came to an end. Yet most of Wall Street then believed that no government review or additional regulation was necessary—right up until the moment government had to step in and save it.

We had been assured that the system was sound. We were assured that a host of checks and balances were in place that would suffice. We were assured that companies have to report their financial holdings with full disclosure and transparency. We were assured that accountants have to verify those assets. We were assured that due diligence is conducted on every deal and transaction. We were assured that boards of directors have a fiduciary duty to undertake prudent risk management. We were sure that management wanted their companies to thrive over the long term. Most important, we were assured that regulatory bodies and law enforcement agencies are in place to police the system. But those safeguards did not prevent the disaster.

In the past 10 years or more, one of the most important safeguards—the regulators—had simply given up on the importance of regulation. We believed and they believed that markets could police themselves, they would self-regulate, and so in effect we pulled the regulators off the field.

We now know the confluence of events that led to the disaster, and there is blame enough to go around. We failed to regulate the derivatives market. Government-backed agencies, such as Fannie Mae and Freddie Mac, pushed to make housing available for greater numbers of people; unscrupulous mortgage brokers pushed subprime mortgages at every opportunity; and investment bankers pooled and securitized those subprime mortgages by the trillions of dollars and sold them like hotcakes. Rating agencies, left unmonitored by the SEC, incredibly stamped these pools with AAA ratings.

The SEC, which changed the capital-to-leverage ratio level for investment

banks from 30-and-50-to-1, allowed these banks to buy huge pools of these soon-to-be toxic assets, and investment banks wrote credit default swaps and then hedged those risks without any central clearinghouse, without any understanding of who was writing how much or what it all meant—all of this, incredible to believe, without any regulation or oversight.

This chart conveys that banks were involved in high-risk return investments that were largely unregulated. Then, crash—the housing bubble burst and a disaster of truly monumental proportions struck. Americans lost \$20 trillion in housing and equity value during the ensuing financial meltdown. The economy lurched into free fall, and the GDP shrunk by a staggering percentage not seen since the 1950s.

What happened next? The American taxpayer, the deep-pocket lender of last resort, had to ride to the rescue. We can barely even count the trillions of dollars in taxpayer money that have gone into bailing out the banks, AIG, and a number of other financial institutions. That is not including the billions of taxpayer dollars we had to spend to stimulate the economy.

We must never let this happen again. Yet here we are 1 year later, with no immediate crisis at hand, and we are falling back into complacency. The credit default swap market remains unregulated. The credit rating agencies have not yet been reformed. The banks are back to their old habits—paying out billions of dollars in bonuses for employees who are still engaged in high-risk, high-reward practices.

What is the great lesson we should have learned from the financial disaster of 2008? When markets develop rapidly and change dramatically, when they are not regulated, and when they are not fully transparent, it can lead to financial disaster. That is what happened in the credit default swap market—rapid and dramatic change in the market, no regulation, and opacity, which equaled disaster. This must never happen again.

I look forward to working with my colleagues to regulate the derivatives markets, to ensure that credit default swaps are traded on an exchange or at least cleared through a central clearinghouse with appropriate safeguards enforced, and to enact meaningful financial regulatory reforms.

At the same time, we need to be looking carefully to see if these three deadly ingredients—rapid technological development, lack of transparency, and a lack of regulation—are appearing again in other markets. There is no question in my mind that in today's stock markets, those three disastrous ingredients do exist.

Due to rapid technological advances in computerized trading, stock markets have changed dramatically in recent years. They have become so highly fragmented that they are opaque—

beyond the scope of effective surveillance—and our regulators have failed to keep pace.

The facts speak for themselves. We have gone from an era dominated by a duopoly of the New York Stock Exchange and Nasdaq to a highly fragmented market of more than 60 trading centers.

Dark pools, which allow confidential trading away from the public eye, have flourished, growing from 1.5 percent to 12 percent of market trades in under 5 years.

Competition for orders is intense and increasingly problematic. Flash orders, liquidity rebates, direct access granted to hedge funds by the exchanges, dark pools, indications of interest, and payment for order flow are each a consequence of these 60 centers all competing for market share.

Moreover, in just a few short years, high-frequency trading, which feeds everywhere on small price differences in the many fragmented trading venues, has skyrocketed from 30 percent to 70 percent of the daily volume.

Indeed, the chief executive of one of the country's biggest block trading dark pools was quoted 2 weeks ago as saying that the amount of money devoted to high-frequency trading could "quintuple between this year and next."

Let's put the last chart back up for a second. Again, we have learned that if you have rapid and dramatic change, opaqueness, and no effective regulation, which is exactly what exists in the high frequency trading markets, we have a disaster. We should look at this in terms of high-frequency trading. We have no effective regulation in these markets.

Last week, Rick Ketchum, the chairman and CEO of the Financial Industry Regulatory Authority—the self-regulatory body governing broker-dealers—gave a very thoughtful and candid speech, which I applaud. In it, Mr. Ketchum admitted that we have inadequate regulatory market surveillance.

His candor was refreshing but also ominous:

There is much more to be done in the areas of front-running, manipulation, abusive short selling, and just having a better understanding of who is moving the markets and why.

Mr. Ketchum went on to say:

[T]here are impediments to regulatory effectiveness that are not terribly well understood and potentially damaging to the integrity of the markets . . . The decline of the primary market concept, where there was a single price discovery market whose on-site regulator saw 90-plus percent of the trading activity, has obviously become a reality. In its place are now two or three or maybe four regulators all looking at an incomplete picture of the market—

And this is important—and knowing full well that this fractured approach does not work.

At the same time that we have no effective regulatory surveillance, we

have also learned about potential manipulation by high-frequency traders.

Last week, the Senate Banking Subcommittee for Securities, Insurance, and Investment held a hearing on a wide range of important market structure issues. At the hearing, Mr. James Brigagliano, co-acting director of the Division of Trading and Markets, testified that the Commission intends to do a "deep dive" into high-frequency trading issues due to concerns that some high-frequency programs may enable possible front-running and manipulation.

Mr. Brigagliano's testimony about his concerns was troubling:

. . . if there are traders taking position and then generating momentum through high frequency trading that would benefit those positions, that could be manipulation which would concern us. If there was momentum trading designed—or that actually exacerbated intra-day volatility—that might concern us because it could cause investors to get a worse price. And the other item I mentioned was if there were liquidity detection strategies that enabled high frequency traders to front-run pension funds and mutual funds, that also would concern us.

Reinforcing the case for quick action, several panelists acknowledged that it is a daily occurrence for dark pools to exclude certain possible high-frequency manipulators. For example, Robert Gasser, president and CEO of Investment Technology Group, asserted that surveillance is a "big challenge" and that improving market surveillance must be a regulatory priority.

He said:

I can tell you that there are some frictional trades going on out there that clearly look as if they are testing the boundaries of liquidity provision versus market manipulation.

But none of the panelists, when asked, felt responsible to report any of their suspicions of manipulative activity to the SEC. That is up to the regulators and their surveillance to stop, they believe.

Finally, at the end of the hearing, Subcommittee Chairman REED asked about the reported arrest of a Goldman Sachs employee who allegedly had stolen code from Goldman used for their high-frequency trading programs.

A Federal prosecutor, arguing that the judge should set a high bail, said he had been told that with this software, there was the danger that a knowledgeable person could manipulate the markets in unfair ways.

The SEC has said it intends to issue a concept release to launch a study of high-frequency trading. According to news reports, this will happen next year. I do not believe next year is soon enough. We need the SEC to begin its study immediately. Where is the sense of urgency?

Our stock markets are also opaque. Again, I refer to Chairman Ketchum's speech:

There are impediments to regulatory effectiveness that are not terribly well under-

stood and potentially damaging to the integrity of the markets.

He went on to say:

We need more information on the entities that move markets—the high frequency traders and hedge funds that are not registered. Right now, we are looking through a translucent veil, and only seeing the registered firms, and that gives us an incomplete—if not inaccurate—picture of the markets.

Senator SCHUMER echoed this theme at last week's hearing. He said:

Market surveillance should be consolidated across all trading venues to eliminate the information gaps and coordination problems that make surveillance across all the markets virtually impossible today.

Let me repeat: ". . . market surveillance across all the markets virtually impossible today." I totally agree with that, and none of the industry witnesses disagreed with Senator SCHUMER. That is why the SEC must not let months go by without taking meaningful action. We need the Commission to report now on what it should be doing sooner to discover and stop any such high-frequency manipulation.

Where is the sense of urgency?

We must also act urgently because high-frequency trading poses a systemic risk. Both industry experts and SEC Commissioners have recognized this threat. One industry expert has warned about high-frequency malfunctions:

The next LongTerm Capital meltdown would happen—

And get this—

in a five-minute time period . . .

"The next LongTerm Capital meltdown would happen in a five-minute time period."

At 1,000 shares per order and an average price of \$20 per share, \$2.4 billion of improper trades could be executed in [a] short timeframe.

This is a real problem. We have unregulated entities—hedge funds—using high-frequency trading programs, interacting directly with the exchanges.

As Chairman REED said at last week's hearing, nothing requires that these people even be located within the United States. Known as "sponsored access," hedge funds use the name of a broker-dealer to gain direct trading access to the exchange but do not have to comply with any of the broker-dealer rules or risk checks.

SEC Commissioner Elisse Walter has recognized this threat:

[Sponsored access] presents a variety of unique risks and concerns, particularly when trading firms have unfiltered access to the markets. These risks could affect several market participants and potentially threaten the stability of the markets.

Let me repeat that:

These risks could affect several marketing participants and potentially threaten the stability of the markets.

This is from a member of the SEC. Even those on Wall Street responsible

for overseeing their firms' high-frequency programs are not up to speed on the risks involved, according to a recent study conducted by 7city Learning. In a survey of quantitative analysts who design and implement high-frequency trading algorithms, two-thirds asserted their supervisors "do not understand the work they do."

And though the quants and risk managers played a central role exacerbating last year's financial crisis, 86 percent of those surveyed indicated their supervisor's "level of understanding of the job of a quant is the same or worse than it was a year ago," and 70 percent said the same thing about their institutions as a whole.

I agree with the market expert and 7city director Paul Wilmott who said:

These numbers are alarming. They indicate that even with the events of the past year, financial institutions are still not taking the importance of financial education seriously.

Let me repeat that.

... They indicate that even with the events of the past year, financial institutions are still not taking the importance of financial education seriously.

Where is the urgency? Time is of the essence. We must act now.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

Mr. SPECTER. I thank the Chair.

(The remarks of Mr. SPECTER pertaining to the submission of S. Res. 339 are printed in today's RECORD under "Submission of Concurrent and Senate Resolutions.")

Mr. SPECTER. I thank the Chair, and I yield the floor.

Ms. MIKULSKI. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. BROWN). The clerk will call the roll.

The bill clerk proceeded to call the roll.

Ms. MIKULSKI. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. MIKULSKI. Mr. President, our colleague from Pennsylvania, Senator SPECTER, just gave an eloquent speech on why the Supreme Court should be televised and how it would provide greater openness and transparency were decisions being made in the public's eye. I think that argument was very interesting. But there is one institution that is absolutely on television already, and that is the Congress of the United States. Through C-SPAN, what goes on in this Chamber and often in the committee rooms goes out all over America. We get phone calls, in many instances, from the C-SPAN watchers. I think it is an outstanding tool.

Someone watching what is going on all day would wonder: What are they doing? We have kind of lost sight, given some of the amendments that were offered, of just what is the pend-

ing business on the floor of the Senate today. As the person who chairs the Appropriations Subcommittee on Commerce, Justice and Science, I would like to remind the American people watching, and my colleagues, what is the pending business.

The pending business is how should we best fund those important agencies at the Commerce Department that promote trade and scientific innovation; also the Justice Department, rendering impartial justice, enforcing the laws that are on the books; to important science agencies, such as the American space program. What the appropriations bill does is it determines what goes in the Federal checkbook to fund these programs.

I am very proud of the way we, in our subcommittee, have worked on a bipartisan basis to bring a bill to the Senate floor that we believe reflects national priorities. I have worked hand in hand with my ranking member, the Republican Senator from Alabama, Mr. SHELBY, and we wrote good legislation.

What do we like about it? First of all, what we like about it is that we want to promote innovation and competition in our society. We are in a terrible economic mess. Our economy is rocking and rolling. The fact is, we still do not have jobs. What about these jobs? What do we do? I want to talk about the role of the Commerce Department in coming up with new ideas, making sure we have innovation from the government. Innovation is important because it is the new ideas that create the new products that create the new jobs.

I note the Presiding Officer is from the State of Ohio. There, as in my State, manufacturing has been very hard hit. Many of the traditional ways of life are not there. We have to look ahead to what is promoting innovation-friendly government. Right there in the Commerce Department is the Bureau of Industry and Security, which makes sure we are able to provide exports of our technology. We have the Patent and Trademark Office, which is guardian of our intellectual property around the world. It protects ideas and those who come up with inventions as private property, the hallmark of capitalism—the ability to own private property and benefit from the fruits of your labor in an open and competitive marketplace. We would fund that.

When you come up with new products, you also have to have standards so a yardstick is the same in the United States as in any other country—or the metric system. What the National Institute of Standards does is it sets standards for products that will enable the private sector to compete among themselves and around the world. I am proud of them. They are located in Maryland, but even if they were located in Utah or Wyoming I would be proud of them because it is there that they set the standards which

help set the pace for America to compete.

Much is said about our arms race, but one of the races we have been in is the race for America's future. One of the agencies that is the greatest inventor of technology has been the National Space Agency. We have all been thrilled to watch our astronauts go into space. Many of us, particularly this summer, were excited about the bold and courageous astronauts because they were able to retrofit Hubble with new batteries and a new camera so we could do the scientific work needed to send Hubble on its final journey. It is at the National Space Agency, though, that so much invention of new technology occurs.

As someone who has spoken out so much for women's health, and also the desire to prevent breast cancer, one of the things I am proud of is out of NASA's x-ray technology we have been able to develop other products for the civilian population, such as digital mammography.

A few months ago I broke my ankle and then wore a boot that looked like a space boot. It looked like a space boot because it maybe was—well, not mine. I would love to wear a space boot worn by Sally Ride or one of the great women astronauts. But the fact is, it is because of the technology that was developed to protect our astronauts that we now know how to protect us on Earth. This is what we are talking about.

Should we fund these agencies? Should we be able to make public investments that lead to private sector jobs? While we are fighting over should we have this prisoner over at Gitmo or other kinds of provocative social questions, we have a duty to promote those agencies that promote private sector jobs.

The other area I am very proud of in this bill is our support of law enforcement. Yes, we support Federal law enforcement, our FBI, our Marshal Service, as well as our Bureau of Alcohol, Tobacco, Firearms and Explosives. But I am also proud that we support that thin blue line of local law enforcement. For many of our communities, mayors and county executives are stretched to the limit. Sometimes people who commit crimes are better armed and have the latest technology, more than our cops on the beat. Through a program called the Byrne grants they are able to apply for Federal funds to be able to modernize themselves.

We don't want to hold up the funding. We want this bill to go ahead. We want things to happen. That is what this bill is. We have worked hard. Senator SHELBY and I held hearings, we held meetings, we met with local law enforcement.

We took the time to meet with people who have been victims, battered women. We fund the Violence Against

Women Act. Do you know, since JOE BIDEN created that program, over 1 million people have called on the hotline; that we have protected over 1 million women from being abused and maybe even facing violence of such a degree that it threatened their lives?

This is not only about spending. These are about public investments that protect our communities and protect American jobs. I hope my colleagues will come and agree to complete discussion on their amendments so we can complete votes and bring this to a close so we can go to a conference with the House.

I note the Senator from Louisiana is on the Senate floor. I want to single her out, as they say in the colloquial: Do a shout-out. The Senator is well known for her work on adoption, and I salute her for that. Also, international adoption, making sure the laws are made and making sure, as people seek international adoption, there is not the exploitation of those children. We work with that in our bill. We also make sure we protect missing and exploited children in their own country.

You know, we see horrific, ghoulish, and grisly things done to young people who have been picked up. But thanks to the Adam Walsh Act, the Missing Children and Exploitation Act, we are stopping that. We have tough laws now against sexual predators and a way to keep them off the streets and to keep them registered. We have the money in the Federal checkbook to do that.

I really like this subcommittee because it does protect American jobs. It does protect American communities. It does protect the American people. I hope that today we can conclude our debate on the five pending amendments, move to a vote and try to get our country and our economy back again.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. COBURN. I ask unanimous consent that the Senator from Louisiana be recognized for 3 minutes and then I follow with the 30 minutes I had allotted.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. LANDRIEU. Mr. President, I appreciate the comments from our leader, Senator MIKULSKI from Maryland, who does a magnificent job as a member of the Appropriations Committee, and particularly in this area she feels passionate about. I look forward to continuing to work with her in all sorts of criminal justice areas, particularly as it relates to the protection of children. I thank her for those comments.

I thank the Senator for giving me a chance to speak very briefly, to do two things: one, to give a statement on an amendment that was proposed on this bill by Senator VITTER, that related to

adding a question to the Census. I have submitted a letter on this to him personally.

Senator VITTER contends that the founding fathers only believed that citizens should be counted by Census officials for the purposes of congressional apportionment.

He argues that the inclusion of non-citizens in the census will result in Louisiana losing a congressional seat since the population of States like California and Texas could be inflated by millions of illegal immigrants, making their population growth relatively greater than ours.

Should noncitizens be included in the calculation that determines the allocation of seats in the House of Representatives? I believe that the answer is no.

But merely adding a question to the Census will not fix that. That change requires an amendment to the Constitution, which states: "Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State".

I think that the Constitution is clear. But my staff has checked with the Nation's foremost constitutional scholars at Yale, Stanford, and UCLA to name a few. They have checked with scholars from the political right and scholars from the political left. So far, every single scholar agrees: If you want to exclude noncitizens you must amend the Constitution.

Professor Eugene Volokh, a well-regarded constitutional law scholar at UCLA, and a staunch conservative, has written publicly that the notion would be unconstitutional.

Were the founders wrong to create the formula for congressional apportionment in that way? That is a very serious question for all 50 States, but it is far from the most important challenge confronting Louisiana today.

The fact is that if Louisiana does not bolster law enforcement, our communities will not be safe enough to attract new residents. If we do not improve our failing public schools, families will not want to call Louisiana home, and businesses would not have the employment base that will grow our economy.

The truth is that our State has seen more outward migration than any other in the Union. Only Louisiana and North Dakota lost population this decade, and Louisiana's population was reduced by a much higher degree.

Illegal immigration is a very serious problem, but it is not responsible for Louisiana's loss of representation. Andrew Beveridge, a sociologist at Queens College and the Graduate Center of the City University of New York, has shown that even if all illegal immigrants were excluded, Louisiana would still lose a seat.

Here is our real problem: Decades of stagnant economic growth drove many

Louisianians elsewhere, and that was before Hurricanes Katrina, Rita, Gustav and Ike severely impacted our populous coastal communities.

Demonstrating that Louisiana means business when it comes to reforming our schools and our police departments and our basic infrastructure takes serious work. That is the work that I engage in every day.

Blaming immigrants for our problems does not take much effort, but it will not make our State a better place to live either.

Secondly, quickly, since Puerto Rico does not have a Senator, as it is still a territory and not a State, I wanted to take the opportunity to express to the people of Puerto Rico our sadness about a terrible explosion that happened recently, on October 24. It occurred at one of their major refineries.

This came to my attention for two reasons. One, we also have a lot of refineries in Louisiana, so we are sensitive that accidents such as this can happen, but also as the Chair of the Subcommittee on Disaster Response, I wanted to talk a minute about this. The fire burned for 24 hours. It destroyed 22 of the 40 storage tanks. Thankfully and amazingly, no one was killed.

I come to the floor to congratulate the local officials, the Governor, the FEMA representatives, the law enforcement that responded to this horrific disaster. Some 1,500 people were evacuated, 596 people were sheltered outside of the impacted area. There were 130 firefighters and National Guard troops who worked to bring the inferno under control. The good news is that they did.

The purpose of this comment for the RECORD is to say that training and preparedness help. The Members of this body, both Democrats and Republicans, supported additional funding in last year's bill for FEMA for local training. Congress recognized the importance of training. Since 2007 we have appropriated over \$250 million each year in grants. The post-Katrina emergency management reform gave FEMA regional administrators specific responsibility for coordinating that training.

I am encouraged that FEMA seems to have learned some of the lessons from Hurricane Katrina and also from September 11, which is now several years behind us, but nonetheless still on our minds. So I wanted to say that training, the appropriate amount of investment in training, works. Again, no one was killed.

I want to give credit to FEMA and the Governor of Puerto Rico, Luis Fortuño, for their quick action in keeping people safe, in responding to this situation. Hopefully we will continue to refine our processes, make our disaster response even better for disasters such as this. For hurricanes, for earthquakes, or for anything else that

comes our way, we will be ready and able to respond.

I yield the floor and I thank the Senator from Oklahoma for being gracious with his time.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. COBURN. Mr. President, I am going to spend about 20 minutes talking about amendments I have that are germane and we will be voting on. But they are small amendments. There is nothing big here. They are amendments that are designed to make a point.

We ran, by a factor of two, the largest deficit in the history of this country. Of the money we spent in the 2009 fiscal year, we borrowed 43 percent of it: 43 cents out of every dollar we expended, 43 cents we borrowed from our children and our grandchildren.

We have before us a bill, the Commerce-Justice-Science bill, that will go up almost 13 percent, 12.6 percent this year, on the back of a 15.5-percent increase last year. The latest inflation numbers are deflation, a minus four-tenths of 1 percent.

The question America has to ask itself, after we pass \$800 billion of stimulus spending for which this agency got billions which are not reflected in any of these increases, is how is it that when we can spend \$1.4 trillion we do not have, we can come to the floor and continue to have double-digit increases in almost everything we pass?

It does not take a lot of math to figure out that if we keep doing what we are doing, in 4½ years the size of the Federal Government doubles. If you do this for another 4 years, we will double the size of the Federal Government. So there is absolutely no fiscal restraint within the appropriations bills that are going through this body with the exception of one, and that is the Defense Department, probably the one that is most important to us in terms of our national security, in terms of where there is no question we have waste but where we need to make sure that we are prepared for the challenges that face us.

If you look at what we passed through the body, and you look at 2008, 2009, you go 10, 9.9, 9.4, 13.0, 13.3, 14.1, 15.7—that was last year—and now we are going to go 5.7, 7.2, 1.4, 12.6, 22.5, 16.2, and 12.6.

Not only are we on an unsustainable course as far as mandatory programs such as Social Security and Medicare—by the way, we have now borrowed from Social Security, stolen from Social Security, \$2.4 trillion which we do not even recognize we owe. We do not put it on our balance sheet. We have stolen \$758 billion from the Medicare trust fund, which we do not even recognize. So we borrowed \$3 trillion from funds that were supposed to be there for our seniors and our retirees which our children—not us; our children and our grandchildren—will have to repay.

I saw this the other day on the Internet. It speaks a million words to me. Here is a little girl, a toddler with a pacifier in her mouth. She has got a sign hanging around her neck. She says: I am already \$38,375 in debt and I only own a doll house.

The problem with that is that she way understates what she is in debt for. That is just the recognized external debt. That does not count what we borrowed internally from our grandchildren. It does not count the unfunded liabilities she through her lifetime will never get any benefit from but will pay because we have stolen the benefit for us, without being good stewards of the money that has been given to us.

If you go through this and you look at it, by the time she is 40, she will be responsible for the \$1,119,000 worth of debt we have accumulated for payments for Medicare, Social Security, and Medicaid that she got absolutely zero benefit from.

Then if you think about a \$1 million debt for a little girl like this and what it costs, what the interest is to fund that debt, if you just said 6 percent, she has got to make \$60,000 first to pay the interest on that debt before she pays any taxes, her share of the taxes, and before she has the capability to have a home and have children and have a college education, own a car. We are absolutely, with bills such as this, strangling her. We are strangling her.

I am reminded what one of our Founders said, and it is so important. I love the Senator from Maryland. She said we had plenty of money in the checkbook to do this. We do not have plenty of money in the checkbook to do this. What we have is an unlimited credit card that we keep putting into the machine and saying, we will take the money and our kids will pay later. That is what we are doing.

Thomas Jefferson said, “I predict future happiness for Americans if they can prevent the government from wasting the labors of the people under the pretense of taking care of them.”

When we are seeing 12.6 and 15 percent increases in the nonmandatory side, the non-Social Security, the non-Medicare, the non-Medicaid side of the budget, we have fallen into the trap Thomas Jefferson was worried about.

I know my colleagues are sick of me talking about this. But you know what, the American people are not sick of us talking about it. They get it. They realize that we refuse to make hard choices. Every one of them is making hard choices today with their families about their future based on their income. Yet we have the gall to bring to the floor double-digit spending at a time when people, 10 percent of Americans, are out of work, seeking work, another 5 percent have given up, and we are saying, that is fine if we have a 12-percent increase. It is fine. No prob-

lem. There is plenty of money in the checking account.

There is no money in the checking account. We are perilously close to having our foreign policy dictated to us by those who own our bonds, people outside of this country. The time to start changing that is now.

I have two little amendments, and one is very instructive. The political science community is hot and bothered because I would dare to say that maybe in a time of \$1.4 trillion deficits, maybe at a time when we have 10 percent unemployment, maybe at a time when we are at the worst financial condition we have ever been in our country's history, maybe we ought not spend money asking the questions why politicians give vague answers, or how we can do tele-townhall meetings and raise our numbers. Maybe we ought not to spend this money on those kinds of things right now.

You see, it is instructive because those who are getting from the Federal Government now do not care about their grandchildren. What they want is what they are getting now. Give me now; it doesn't matter what happens to the rest of the generations that follow us.

So we have the political science community all in an uproar, not because I am against the study of political science but because I think now is not the time to spend money on that. Now is the time to spend money we absolutely have to spend, on things which are absolute necessities, as every family in America is making those decisions today. We do not have the courage to do it because it offends individual interest groups that are getting money from the Federal Government for a priority that is much less than the defense of this country, protecting people, securing the future, taking care of their health care, and making sure we have law and order.

You see, Alexander Tyler warned of this as he studied why republics fail. He said, “All republics fail.” They fail because when people learn they can vote themselves money from the public treasury, all of the other priorities go out the window. They become totally self-focused, self-centered on what is in it for them, with no long-range vision, only parochial vision, no vision for the country as a whole, but only what is good for them. It is called self-centeredness. It is called selfishness. And we perpetuate it in this body by bringing bills to the floor that are resistant to amendments that say: Maybe this is not a priority right now.

I would bet if you polled the American public and said, we are going to run another \$1.4 trillion deficit this year, we probably would not want to spend \$12 million telling politicians how to stay elected. We probably would not.



The fact is, it is major universities that get this small amount of money are in debt in excess of \$50 billion.

They have plenty of money to fund this if they wanted, but they don't do it because they are getting from the person who is out of work. They are getting from the person who didn't get that job because the economy is on its back, because we are borrowing \$1.4 trillion and competing with the capital that is required to create a job. It is just a small amount of money. It by itself won't make any difference. But supporting this amendment will build on confidence with the American people that says, he is right, we ought to be about priorities.

We ought to be about doing what is most important first and cutting out what is least important because the times call for discipline so we don't further hamstring the generation of children to which this young lady belongs. If you take \$5 or \$6 million and do it once, pretty soon, if you have done it 10 times, you have \$60 million. You do it another 10 times, you have \$600 million. Pretty soon, we have billions of dollars we are not spending because it is low priority and we are not borrowing it against our children. All of a sudden, the value of the dollar starts to rise. Confidence around the world in the dollar starts increasing. Competition for capital by the Federal Government competing in the private sector for the capital goes down. The cost of capital goes down. Credit flows and job opportunities are created. We don't connect that because we have always done it that way. We have a budget allocation. As long as we are under that budget allocation, everything is fine.

Where is the leadership in our country today that says we are going to model a leadership that we know the American people expect of us—make hard choices, take the heat to eliminate things that are lower priority so that we can preserve the priority of this child and those of her generation? The fact is, that leadership is nonexistent. There is no reason for anyone to doubt why confidence in the Congress is at alltime lows. We are not realists. We are not listening.

The message out there, the No. 1 concern with fear isn't health care; it is economic. Am I going to have a job tomorrow? Am I going to be able to pay my bills? Will I be able to pay my mortgage? There are thousands of items in every appropriations bill just like this one, just like that amendment that we could eliminate tomorrow. It might create some small hardship but nothing compared to the hardship we are transferring to the following generation.

I have no doubt of the outcome of the votes on my amendments. I understand we are a resistant, recalcitrant body that refuses to recognize the will and

direction of the American people in terms of commonsense priorities. I understand that. But what we must understand is, they are awake now, they are listening, and they are watching. It is time to respond to the desires of the American people and stop responding to the special interests of those who are getting money from the Federal Government that are low priority in terms of what really counts and really matters for our future.

I have one other amendment we will be voting on that transfers money to increase the money at the inspector general. It will not slow down the conversion of the Hoover Building at all. We have been told that. But it will help to make good government.

Part of our problem in government is about 10 percent of everything we do is pure waste, pure fraud, or pure duplication. If we are going to invest dollars in something, we ought to invest in the transparency and accountability mechanisms we have already set up.

I find myself encouraged by the attitude of the American people, yet discouraged by the attitude of my colleagues. Nobody wants to take and make the hard choices, the hard choices that say we are going to get heat if we start prioritizing. The easiest is to do nothing. The easiest is to continue to let the programs run whether they are high priority or not. That is easy. But America is having a rumble right now. The ground is shaking. The American people are paying attention. They are going to watch votes just like this one. Then we are going to be called to account as to, why won't you make priority choices, why won't you take the heat.

If there ought to be any political science study done, it is, why are Members of Congress such cowards? That is the thing we ought to study. We ought to study why we refuse to do the right thing because it puts our job at risk. We ought to be doing the right thing when it does put our job at risk and when it doesn't.

I will finish up by reminding us of what our oath is. Our oath never mentions our State. Our oath never mentions our special interest. Our oath never mentions our campaign contributors. What our oath mentions is that we are Senators of the United States—not from Oklahoma, not from Delaware, not from Maryland, not from Ohio. We are Senators of the United States; we just happen to be from those places. Our oath is to the long-term best interest of the country, never a parochial interest.

As you go through these bills, what you see are parochial interests trumping the long-term best interests of the country. That is not to demean the fine job the Senator from Maryland has done. She came in with the number that was given her. There is no question that she probably made some

tough choices as she did that. But we haven't made enough. This kind of increase in this kind of bill is absurd. It is obscene. It is obscene at a time when the average family's income is declining, their ability to have the freedom to make choices, relaxed choices about what they do versus very stern choices about what is a necessity. We have not gotten the message.

I yield the floor.

The PRESIDING OFFICER. The Senator from Connecticut is recognized.

AMENDMENT NO. 2669

Mr. LIEBERMAN. I thank the Chair.

Mr. President, I rise to speak on behalf of amendment No. 2669 that has been offered by Senator GRAHAM, with Senators WEBB, MCCAIN, and myself as cosponsors. It is a pending amendment.

The purpose of this amendment is quite straightforward. It would prevent the use of any funds made available to the Department of Justice by this appropriations bill from being used to prosecute any individual suspected of involvement in the 9/11/01 attacks against the United States in an article III court—that means essentially a regular Federal court created pursuant to article III of our Constitution.

Why would we feel we need to do such a thing? It is because the current protocol governing the disposition of cases referred for possible prosecution of detainees currently held at Guantanamo Bay, Cuba, the current protocol of the U.S. Department of Justice governing the referral of these detainees from Guantanamo Bay, says as follows:

No. 2, Factors for Determination of Prosecution. There is a presumption that, where feasible, referred cases will be prosecuted in an Article III court in keeping with traditional principles of federal prosecution.

It is because we who are sponsoring this amendment think there is a fundamental error of judgment—in fact, in its way, an act of injustice—that these individuals, suspected terrorists being held at Guantanamo Bay, Cuba, suspected in this case, according to our amendment, of having been involved in the attacks of 9/11 on the United States which resulted in the deaths of almost 3,000 people, that these individuals would be tried in a regular U.S. Federal court as if they were accused of violating our criminal laws. They are not common criminals or uncommon criminals; they are suspected of being war criminals. As such, they should not be brought to prosecution in a traditional Federal court along with other accused criminals.

Citizens of the United States have all the right to the protections of our Constitution in the Federal courts, article III courts of the United States. These are suspected terrorist war criminals who are not entitled to all the protections of our Constitution and whose prosecution should not be confused with a normal criminal law prosecution. They are war criminals. They



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ought to be tried according to all the rules that prevail for war criminals, including, of course, the Geneva Conventions.

This Congress has established a tradition and improved in recent times a system of military commissions, a system adopted by both Houses of Congress, signed into law by the President, which provides standards of due process and fairness in the trial of suspected war criminals, not just in compliance with the Geneva Conventions and the Supreme Court of the United States but well above the standards that have been required by both the Supreme Court and the Geneva Conventions.

Those who are accused of committing the heinous, cowardly acts of intentionally targeting unsuspecting, defenseless civilians in an act of war as part of a larger declared war of Islamic extremists against, frankly, anybody who is not like them—the most numerous victims of these Islamic terrorists around the world are fellow Muslims who don't agree with their extremism. They have killed many people of other religions. When they struck us in the United States on 9/11, they killed an extraordinary classically American diverse group of people. The only reason they were targeted was that they were in the United States. The terrorists, these people who are suspected of being terrorists participating in and aiding the attacks of 9/11, are war criminals, not common criminals. They should, therefore, be tried by a military commission system, which goes back as long as the Revolutionary War in the United States. There is a proud and fair tradition. We have upgraded and strengthened all the due process and legal protections of them after 9/11. So why would we take these war criminals, suspected war criminals, and bring them into the criminal courts of the United States and give them the rights of the Constitution. I don't understand.

Every Member of the Senate received a letter today from quite a large number of families of the victims of 9/11, 140-plus at last writing. I want to read briefly from the letter. The letter is in support of the amendment Senators GRAHAM, WEBB, MCCAIN, and I have offered.

The American people were rightly outraged by this act of war. Whether the cause was retribution or simple recognition of our common humanity, the words "Never Forget" were invoked in tearful or angry recitation, defiantly written in the dust of Ground Zero or humbly penned on makeshift memorials all across this land.

The country was united in its determination that these acts should not go unmarked and unpunished.

Eight long years have passed since that dark and terrible day.

Remember, Mr. President, this is written by people who lost dear ones on 9/11.

They continue:

Sadly, some have forgotten the promises we made to those whose lives were taken in such a cruel and vicious manner.

We have not forgotten. We are the husbands and wives, mothers and fathers, sons, daughters, sisters, brothers and other family members of the victims of these depraved and barbaric attacks, and we feel a profound obligation to ensure that justice is done on their behalf.

They continue:

It is incomprehensible to us that Members of the United States Congress would propose that the same men who today refer to the murder of our loved ones as a "blessed day" and who targeted the United States Capitol for the same kind of destruction that was wrought in New York, Virginia and Pennsylvania, should be the beneficiaries of a social compact of which they are not a part, do not recognize, and which they seek to destroy: the United States Constitution.

So they say:

We adamantly oppose prosecuting the 9/11 conspirators in Article III courts, which would provide them with the very rights that may make it possible for them to escape the justice which they so richly deserve. We believe that military commissions . . . are the appropriate legal forum for the individuals who declared war on America.

Mr. President, I know there will be further debate on this amendment, but I ask my colleagues to join in this. We are doing it not just because of the protocol I cited at the beginning but because of stories that are emanating that perhaps as early as next week, the Department of Justice will announce they are going to bring Khalid Shaikh Mohammed, the man who planned the 9/11 attacks, who is in our custody, to trial in a Federal court. This man is, from all that I know, one of the devils of history, an evil man who wrought terrible destruction and suffering on our country, and he ought to be given due process, but he ought to be given due process in a forum reserved for suspected war criminals, and that is the military commissions.

I thank the Chair and yield the floor.

The PRESIDING OFFICER. The senior Senator from Arizona is recognized.

Mr. MCCAIN. Mr. President, I thank my friend and colleague, Senator LIEBERMAN. Along with Senator GRAHAM and Senator WEBB, we are strongly supporting this amendment.

Senator LIEBERMAN made reference to a letter that has currently been signed by 214 9/11 family members. Mr. President, I ask unanimous consent that this letter be printed in the RECORD, along with an article from the Wall Street Journal dated October 19, 2009, entitled "Civilian Courts Are No Place To Try Terrorists" by Michael B. Mukasey, the former Attorney General of the United States of America.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE,  
*The U.S. Capitol,*  
*Washington, DC.*

DEAR SENATORS: On September 11, 2001, the entire world watched as 19 men hijacked four commercial airliners, attacking passengers and killing crew members, and then turned the fully-fueled planes into missiles, flying them into the World Trade Center twin towers, the Pentagon and a field in Shanksville, Pennsylvania. 3,000 of our fellow human beings died in two hours. The nation's commercial aviation system ground to a halt. Lower Manhattan was turned into a war zone, shutting down the New York Stock Exchange for days and causing tens of thousands of residents and workers to be displaced. In nine months, an estimated 50,000 rescue and recovery workers willingly exposed themselves to toxic conditions to dig out the ravaged remains of their fellow citizens buried in 1.8 million tons of twisted steel and concrete.

The American people were rightly outraged by this act of war. Whether the cause was retribution or simple recognition of our common humanity, the words "Never Forget" were invoked in tearful or angry recitation, defiantly written in the dust of Ground Zero or humbly penned on makeshift memorials erected all across the land. The country was united in its determination that these acts should not go unmarked and unpunished.

Eight long years have passed since that dark and terrible day. Sadly, some have forgotten the promises we made to those whose lives were taken in such a cruel and vicious manner.

We have not forgotten. We are the husbands and wives, mothers and fathers, sons, daughters, sisters, brothers and other family members of the victims of these depraved and barbaric attacks, and we feel a profound obligation to ensure that justice is done on their behalf. It is incomprehensible to us that members of the United States Congress would propose that the same men who today refer to the murder of our loved ones as a "blessed day" and who targeted the United States Capitol for the same kind of destruction that was wrought in New York, Virginia and Pennsylvania, should be the beneficiaries of a social compact of which they are not a part, do not recognize, and which they seek to destroy: the United States Constitution.

We adamantly oppose prosecuting the 9/11 conspirators in Article III courts, which would provide them with the very rights that may make it possible for them to escape the justice which they so richly deserve. We believe that military commissions, which have a long and honorable history in this country dating back to the Revolutionary War, are the appropriate legal forum for the individuals who declared war on America. With utter disdain for all norms of decency and humanity, and in defiance of the laws of warfare accepted by all civilized nations, these individuals targeted tens of thousands of civilian non-combatants, brutally killing 3,000 men, women and children, injuring thousands more, and terrorizing millions.

We support Senate Amendment 2669 (pursuant to H.R. 2847, the Commerce, Justice, Science Appropriations Act of 2010), "prohibiting the use of funds for the prosecution in Article III courts of the United States of individuals involved in the September 11, 2001 terrorist attacks." We urge its passage by all those members of the United States Senate who stood on the senate floor eight years ago

and declared that the perpetrators of these attacks would answer to the American people. The American people will not understand why those same senators now vote to allow our cherished federal courts to be manipulated and used as a stage by the “mastermind of 9/11” and his co-conspirators to condemn this nation and rally their fellow terrorists the world over. As one New York City police detective, who lost 60 fellow officers on 9/11, told members of the Department of Justice’s Detainee Policy Task Force at a meeting last June, “You people are out of touch. You need to hear the locker room conversations of the people who patrol your streets and fight your wars.”

The President of the United States has stated that military commissions, promulgated by congressional legislation and recently reformed with even greater protections for defendants, are a legal and appropriate forum to try individuals captured pursuant to the 2001 Authorization for the Use of Military Force Act, passed by Congress in response to the attack on America. Nevertheless, on May 21, 2009, President Obama announced a new policy that Al-Qaeda terrorists should be tried in Article III courts “whenever feasible.”

We strongly object to the President creating a two-tier system of justice for terrorists in which those responsible for the death of thousands on 9/11 will be treated as common criminals and afforded the kind of platinum due process accorded American citizens, yet members of Al Qaeda who aspire to kill Americans but who do not yet have blood on their hands, will be treated as war criminals. The President offers no explanation or justification for this contradiction, even as he readily acknowledges that the 9/11 conspirators, now designated “unprivileged enemy belligerents,” are appropriately accused of war crimes. We believe that this two-tier system, in which war criminals receive more due process protections than would-be war criminals, will be mocked and rejected in the court of world opinion as an ill-conceived contrivance aimed, not at justice, but at the appearance of moral authority.

The public has a right to know that prosecuting the 9/11 conspirators in federal courts will result in a plethora of legal and procedural problems that will severely limit or even jeopardize the successful prosecution of their cases. Ordinary criminal trials do not allow for the exigencies associated with combatants captured in war, in which evidence is not collected with CSI-type chain-of-custody standards. None of the 9/11 conspirators were given the Miranda warnings mandated in Article III courts. Prosecutors contend that the lengthy, self-incriminating tutorials Khalid Sheikh Mohammed and others gave to CIA interrogators about 9/11 and other terrorist operations—called “pivotal for the war against Al-Qaeda” in a recently released, declassified 2005 CIA report—may be excluded in federal trials. Further, unlike military commissions, all of the 9/11 cases will be vulnerable in federal court to defense motions that their prosecutions violate the Speedy Trial Act. Indeed, the judge presiding in the case of Ahmed Ghailani, accused of participating in the 1998 bombing of the American Embassy in Kenya, killing 212 people, has asked for that issue to be briefed by the defense. Ghailani was indicted in 1998, captured in Pakistan in 2004, and held at Guantanamo Bay until 2009.

Additionally, federal rules risk that classified evidence protected in military commissions would be exposed in criminal trials, re-

vealing intelligence sources and methods and compromising foreign partners, who will be unwilling to join with the United States in future secret or covert operations if doing so will risk exposure in the dangerous and hostile communities where they operate. This poses a clear and present danger to the public. The safety and security of the American people is the President’s and Congress’s highest duty.

Former Attorney General Michael Mukasey recently wrote in the Wall Street Journal that “the challenges of terrorism trials are overwhelming.” Mr. Mukasey, formerly a federal judge in the Southern District of New York, presided over the multi-defendant terrorism prosecution of Sheikh Omar Abdel Rahman, the cell that attacked the World Trade Center in 1993 and conspired to attack other New York landmarks. In addition to the evidentiary problems cited above, he expressed concern about courthouse and jail facility security, the need for anonymous jurors to be escorted under armed guard, the enormous costs associated with the use of U.S. marshals necessarily deployed from other jurisdictions, and the danger to the community which, he says, will become a target for homegrown terrorist sympathizers or embedded Al Qaeda cells.

Finally, there is the sickening prospect of men like Khalid Sheikh Mohammed being brought to the federal courthouse in Lower Manhattan, or the courthouse in Alexandria, Virginia, just a few blocks away from the scene of carnage eight years ago, being given a Constitutionally mandated platform upon which he can mock his victims, exult in the suffering of their families, condemn the judge and his own lawyers, and rally his followers to continue jihad against the men and women of the U.S. military, fighting and dying in the sands of Iraq and the mountains of Afghanistan on behalf of us all.

There is no guarantee that Mr. Mohammed and his co-conspirators will plead guilty, as in the case of Zacarias Moussaoui, whose prosecution nevertheless took four years, and who is currently attempting to recant that plea. Their attorneys will be given wide latitude to mount a defense that turns the trial into a shameful circus aimed at vilifying agents of the CIA for alleged acts of “torture,” casting the American government and our valiant military as a force of evil instead of a force for good in places of the Muslim World where Al Qaeda and the Taliban are waging a brutal war against them and the local populations. For the families of those who died on September 11, the most obscene aspect of giving Constitutional protections to those who planned the attacks with the intent of inflicting maximum terror on their victims in the last moments of their lives will be the opportunities this affords defense lawyers to cast their clients as victims.

Khalid Sheikh Mohammed and his co-conspirators are asking to plead guilty, now, before a duly-constituted military commission. We respectfully ask members of Congress, why don’t we let them?

Respectfully submitted,  
(214 Family Members).

[From the Wall Street Journal, Oct. 19, 2009]  
CIVILIAN COURTS ARE NO PLACE TO TRY  
TERRORISTS

(By Michael B. Mukasey)

The Obama administration has said it intends to try several of the prisoners now detained at Guantanamo Bay in civilian courts in this country. This would include Khalid Sheikh Mohammed, the mastermind of the

Sept. 11, 2001 terrorist attacks, and other detainees allegedly involved. The Justice Department claims that our courts are well suited to the task.

Based on my experience trying such cases, and what I saw as attorney general, they aren’t. That is not to say that civilian courts cannot ever handle terrorist prosecutions, but rather that their role in a war on terror—to use an unfashionably harsh phrase—should be, as the term “war” would suggest, a supporting and not a principal role.

The challenges of a terrorism trial are overwhelming. To maintain the security of the courthouse and the jail facilities where defendants are housed, deputy U.S. marshals must be recruited from other jurisdictions; jurors must be selected anonymously and escorted to and from the courthouse under armed guard; and judges who preside over such cases often need protection as well. All such measures burden an already overloaded justice system and interfere with the handling of other cases, both criminal and civil.

Moreover, there is every reason to believe that the places of both trial and confinement for such defendants would become attractive targets for others intent on creating mayhem, whether it be terrorists intent on inflicting casualties on the local population, or lawyers intent on filing waves of lawsuits over issues as diverse as whether those captured in combat must be charged with crimes or released, or the conditions of confinement for all prisoners, whether convicted or not.

Even after conviction, the issue is not whether a maximum-security prison can hold these defendants; of course it can. But their presence even inside the walls, as proselytizers if nothing else, is itself a danger. The recent arrest of U.S. citizen Michael Finton, a convert to Islam proselytized in prison and charged with planning to blow up a building in Springfield, Ill., is only the latest example of that problem.

Moreover, the rules for conducting criminal trials in federal courts have been fashioned to prosecute conventional crimes by conventional criminals. Defendants are granted access to information relating to their case that might be useful in meeting the charges and shaping a defense, without regard to the wider impact such information might have. That can provide a cornucopia of valuable information to terrorists, both those in custody and those at large.

Thus, in the multidetendant terrorism prosecution of Sheikh Omar Abdel Rahman and others that I presided over in 1995 in federal district court in Manhattan, the government was required to disclose, as it is routinely in conspiracy cases, the identity of all known co-conspirators, regardless of whether they are charged as defendants. One of those coconspirators, relatively obscure in 1995, was Osama bin Laden. It was later learned that soon after the government’s disclosure the list of unindicted co-conspirators had made its way to bin Laden in Khartoum, Sudan, where he then resided. He was able to learn not only that the government was aware of him, but also who else the government was aware of.

It is not simply the disclosure of information under discovery rules that can be useful to terrorists. The testimony in a public trial, particularly under the probing of appropriately diligent defense counsel, can elicit evidence about means and methods of evidence collection that have nothing to do with the underlying issues in the case, but which can be used to press government witnesses to either disclose information they

would prefer to keep confidential or make it appear that they are concealing facts. The alternative is to lengthen criminal trials beyond what is tolerable by vetting topics in closed sessions before they can be presented in open ones.

In June, Attorney General Eric Holder announced the transfer of Ahmed Ghailani to this country from Guantanamo. Mr. Ghailani was indicted in connection with the 1998 bombing of U.S. Embassies in Kenya and Tanzania. He was captured in 2004, after others had already been tried here for that bombing.

Mr. Ghailani was to be tried before a military commission for that and other war crimes committed afterward, but when the Obama administration elected to close Guantanamo, the existing indictment against Mr. Ghailani in New York apparently seemed to offer an attractive alternative. It may be as well that prosecuting Mr. Ghailani in an already pending case in New York was seen as an opportunity to illustrate how readily those at Guantanamo might be prosecuted in civilian courts. After all, as Mr. Holder said in his June announcement, four defendants were "successfully prosecuted" in that case.

It is certainly true that four defendants already were tried and sentenced in that case. But the proceedings were far from exemplary. The jury declined to impose the death penalty, which requires unanimity, when one juror disclosed at the end of the trial that he could not impose the death penalty—even though he had sworn previously that he could. Despite his disclosure, the juror was permitted to serve and render a verdict.

Mr. Holder failed to mention it, but there was also a fifth defendant in the case, Mamdouh Mahmud Salim. He never participated in the trial. Why? Because, before it began, in a foiled attempt to escape a maximum security prison, he sharpened a plastic comb into a weapon and drove it through the eye and into the brain of Louis Pepe, a 42-year-old Bureau of Prisons guard. Mr. Pepe was blinded in one eye and rendered nearly unable to speak.

Salim was prosecuted separately for that crime and found guilty of attempted murder. There are many words one might use to describe how these events unfolded; "successfully" is not among them.

The very length of Mr. Ghailani's detention prior to being brought here for prosecution presents difficult issues. The Speedy Trial Act requires that those charged be tried within a relatively short time after they are charged or captured, whichever comes last. Even if the pending charge against Mr. Ghailani is not dismissed for violation of that statute, he may well seek access to what the government knows of his activities after the embassy bombings, even if those activities are not charged in the pending indictment. Such disclosures could seriously compromise sources and methods of intelligence gathering.

Finally, the government (for undisclosed reasons) has chosen not to seek the death penalty against Mr. Ghailani, even though that penalty was sought, albeit unsuccessfully, against those who stood trial earlier. The embassy bombings killed more than 200 people.

Although the jury in the earlier case declined to sentence the defendants to death, that determination does not bind a future jury. However, when the government determines not to seek the death penalty against a defendant charged with complicity in the murder of hundreds, that potentially distorts every future capital case the government

prosecutes. Put simply, once the government decides not to seek the death penalty against a defendant charged with mass murder, how can it justify seeking the death penalty against anyone charged with murder—however atrocious—on a smaller scale?

Even a successful prosecution of Mr. Ghailani, with none of the possible obstacles described earlier, would offer no example of how the cases against other Guantanamo detainees can be handled. The embassy bombing case was investigated for prosecution in a court, with all of the safeguards in handling evidence and securing witnesses that attend such a prosecution. By contrast, the charges against other detainees have not been so investigated.

It was anticipated that if those detainees were to be tried at all, it would be before a military commission where the touchstone for admissibility of evidence was simply relevance and apparent reliability. Thus, the circumstances of their capture on the battlefield could be described by affidavit if necessary, without bringing to court the particular soldier or unit that effected the capture, so long as the affidavit and surrounding circumstances appeared reliable. No such procedure would be permitted in an ordinary civilian court.

Moreover, it appears likely that certain charges could not be presented in a civilian court because the proof that would have to be offered could, if publicly disclosed, compromise sources and methods of intelligence gathering. The military commissions regimen established for use at Guantanamo was designed with such considerations in mind. It provided a way of handling classified information so as to make it available to a defendant's counsel while preserving confidentiality. The courtroom facility at Guantanamo was constructed, at a cost of millions of dollars, specifically to accommodate the handling of classified information and the heightened security needs of a trial of such defendants.

Nevertheless, critics of Guantanamo seem to believe that if we put our vaunted civilian justice system on display in these cases, then we will reap benefits in the coin of world opinion, and perhaps even in that part of the world that wishes us ill. Of course, we did just that after the first World Trade Center bombing, after the plot to blow up airliners over the Pacific, and after the embassy bombings in Kenya and Tanzania.

In return, we got the 9/11 attacks and the murder of nearly 3,000 innocents. True, this won us a great deal of goodwill abroad—people around the globe lined up for blocks outside our embassies to sign the condolence books. That is the kind of goodwill we can do without.

Mr. MCCAIN. Mr. President, I urge my colleagues, who will be made aware of a letter from Mr. Holder and Secretary Gates, who are urging defeat of this amendment, to look at the views of the previous Attorney General of the United States, which are diametrically opposed.

The 9/11 families say—and I am sure they represent all of the 9/11 families—

We adamantly oppose prosecuting the 9/11 conspirators in Article III courts, which would provide them with the very rights that may make it possible for them to escape the justice which they so richly deserve. We believe that military commissions, which have a long and honorable history in this country dating back to the Revolutionary War, are the appropriate legal forum for the

individuals who declared war on America. With utter disdain for all norms of decency and humanity, and in defiance of the laws of warfare accepted by all civilized nations, these individuals targeted tens of thousands of civilian non-combatants, brutally killing 3,000 men, women and children, injuring thousands more, and terrorizing millions.

I would be glad to respond to a question from the Senator from Illinois.

Mr. DURBIN. Mr. President, I thank the Senator from Arizona. I would ask the Senator if he would be kind enough to ask unanimous consent that I could follow him, speaking after his remarks.

Mr. MCCAIN. Mr. President, I ask unanimous consent that the Senator from Illinois follow me.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MCCAIN. Mr. President, these are the 9/11 families. All Americans were impacted by 9/11, the 9/11 families in the most tragic fashion. This is a very strong letter from them concerning the strong desire that these 9/11 conspirators not be tried in article III courts but be tried according to the military commissions.

The 9/11 victims experienced an act of war against the United States, carried out not on some distant shore but in our communities on the very symbols of our national power. Because it involved attacks on innocent civilians and innocent civilian targets, it is a war crime. It is a war crime that was committed by the 9/11 terrorists. It is important that we call things what they are and not gloss over the essence of these events, even though they occurred 8 years ago.

In response to the attacks, the Congress quickly and overwhelmingly passed the Authorization for Use of Military Force giving the President the authority to "use all necessary and appropriate force against those nations, organizations, or persons he determines planned, authorized, committed, or aided the terrorist attacks that occurred on September 11, 2001. . . ." The Senate passed this legislation unanimously.

The Authorization for Use of Military Force recognized the true nature of these attacks and committed the entire resources of the United States to our self-defense in light of the grave threat to our national security and foreign policy. The United States does not go to war over a domestic criminal act, nor should it. It was clearly understood at that time that far more was at stake. We sent our sons and daughters off to war, where they have been bravely risking their lives and futures on our behalf for the last 8 years.

Given the facts and history of the 9/11 attacks, we should not deal with the treachery and barbarism of the slaughter of thousands of innocent civilians as a matter of law enforcement in the ordinary sense. To do so would belittle the events that transpired, the symbolism and purpose of the attacks,

the huge number of lives that were lost, and the threat posed to the United States—which continues in the caves and sanctuaries of al-Qaida to this day.

During my life, I have been a warrior, although that seems a long time ago now. I have some experience in the reality of combat and the suffering it brings. I know something of the law of war, having fought constrained by it and having lived through it, with the help of my comrades and my faith, times when my former enemy felt unconstrained by it.

No, the attacks of 9/11 were not a crime; they were a war crime. Together with my colleagues in Congress, I have worked closely with the President to provide a means to address war crimes committed against this country in a war crimes tribunal—the Military Commissions Act of 2009. It was designed specifically for this purpose. It should be used not to mete out a guilty verdict and sentence that could not be achieved in Federal criminal court but to call things what they are, to be unshakable in our resolve to respond to the unprecedented attacks of 9/11 consistent with the Authorization for Use of Military Force and to tell this and any future enemy that when they attack our innocent civilians at home, we will not be sending the police after them to make an arrest.

By denying funds to the Department of Justice to prosecute these horrendous crimes in article III courts, I do not mean these outrages against our country and its citizens should go unpunished. In fact, I have long argued that justice in these cases was long overdue and that prosecutions should be pursued as expeditiously as possible. Rather, my support for this amendment is based on my unshakable view that these events were acts of war and war crimes and that the proper forum for bringing the war criminals to justice is a military tribunal consistent with longstanding traditions in this country that date back to George Washington's Continental Army during the founding of the Republic.

For that reason, I urge my colleagues to support this amendment so that the prosecution of war crimes will take place in the traditional and long-accepted forum of a military tribunal, as the Congress overwhelmingly enacted in 2006 and which the National Defense Authorization Act for 2010 amended and improved in a statute that was enacted into law by President Obama just days ago.

Again, I hope we will, as we have in the past, listen to the families of 9/11. From the trauma and sorrow of the tragedy they experienced in the loss of their families, they became a force. They became a force that without them we would have never had the 9/11 Commission, we would have never been able to make the reforms that arguably have made our Nation much safer.

Now, today, the families are standing up and saying: Try these war criminals according to war crimes which they committed—the heinous acts of 9/11, which I know Americans will never forget.

Mr. President, I hope we will vote in favor of the amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Mr. President, I have great respect for my colleagues from Arizona and Connecticut, but I respectfully disagree with them on this amendment.

If this amendment passes, it will say that the only people in the world who cannot be tried in the courts of America for crimes of terrorism are those who are accused of terrorism on 9/11. Think about that for a moment. The argument is being made that we should say to the President and Attorney General that when they plot their strategy to go after the men and women responsible for 9/11, we will prohibit them, by the language of this amendment, from considering the prosecution of these terrorists in the courts of America.

What are the odds of prosecuting a terrorist successfully in the courts of America, our criminal courts, as opposed to military commissions, commissions that have been created by law, argued before the Supreme Court, debated at great length? What are the odds of a successful prosecution of a terrorist in the courts of our land as opposed to a military commission? I can tell you what the odds are. They are 65 to 1 in favor of prosecution in our courts. Mr. President, 195 terrorists have been prosecuted in our courts since 9/11. Three have been prosecuted by military commissions. But the offerers of this amendment want to tie the hands of our Department of Justice and tell them: You cannot spend a penny, not one cent, to pursue the prosecution of a terrorist in an American court.

Who disagrees with this amendment? It is not just this Senator from Illinois. It would be our Secretary of Defense, Robert Gates, and our Attorney General, Eric Holder. Here is what they said in a letter to all Members of the Senate about this amendment:

We write to oppose the amendment proposed by Senator Graham (on behalf of himself and Senators McCain and Lieberman). . . . This amendment would prohibit the use of Department of Justice funds "to commence or continue the prosecution in an Article III court of the United States of an individual suspected of planning, authorizing, organizing, committing, or aiding the attacks on the United States and its citizens that occurred on September 11, 2001."

They go on to say:

As you know, both the Department of Justice and the Department of Defense have responsibility for prosecuting alleged terrorists. Pursuant to a joint prosecution protocol, our departments are currently en-

gaged in a careful case-by-case evaluation of the cases of Guantanamo detainees who have been referred for possible prosecution, to determine whether they should be prosecuted in an Article III, court or by military commission. We are confident that the forum selection decisions that are made pursuant to this process will best serve our national security interests.

We believe it would be unwise, and would set a dangerous precedent, for Congress to restrict the discretion of either department to fund particular prosecutions. The exercise of prosecutorial discretion has always been and should remain an Executive Branch function. We must be in a position to use every lawful instrument of national power—including both courts and military commissions—to ensure that terrorists are brought to justice and can no longer threaten American lives.

For these reasons, we respectfully request that you oppose this amendment.

This amendment would hinder President Obama's efforts to combat terrorism. That is why the Secretary of Defense and the Attorney General have written to each one of us urging us to vote no.

The Graham amendment would be an unprecedented intrusion into the authority of the executive branch of our government to combat terrorism.

There is a great argument. For 8 long years, Republicans argued it was inappropriate to interfere in any way with President Bush's Commander in Chief authority. Time and again, we were told by our Republican colleagues that it is inappropriate and even unconstitutional for Congress to ask basic questions about the Bush administration's policies on issues such as Iraq, Guantanamo, torture, or warrantless wiretapping. Time and again, we were told that Congress should defer to the Defense Department's expertise.

Let me give one example. On September 19, 2007, the author of this amendment, Senator GRAHAM, said, and I quote:

The last thing we need in any war is to have the ability of 535 people who are worried about the next election to be able to micromanage how you fight the war. This is not only micromanagement, this is a constitutional shift of power.

Just 2 years later, a different President of a different party, and my Republican colleagues have a different view. My colleagues think Congress should not defer to that very same Defense Secretary, Robert Gates, and they think it is not only appropriate but urgent for Congress to tie the hands of this administration, making it more difficult to bring terrorists to justice. Clearly, there is a double standard at work.

Some of my Republican colleagues argue that Federal courts are not well suited to prosecute terrorists, and terrorists should only be prosecuted by military commissions. But look at the facts. Since 9/11, 195 terrorists have been convicted in Federal courts. Three have been convicted by military commissions. Again, the odds are 65 to 1

that if we want to find a terrorist guilty and be incarcerated for endangering or killing Americans, it is better to go to a regular court in America than to a military commission. That is the record since 9/11.

According to the Justice Department, since January 1 of this year, more than 30 terrorists have been successfully prosecuted or sentenced in Federal courts. I would like to ask my colleagues behind this amendment and their inspiration, the *Wall Street Journal*: Was this a mistake, taking accused terrorists into our courts and successfully prosecuting them under the laws of America?

Clearly, it was not. The Department of Justice made the right decision effectively prosecuting these individuals and, equally important, showing to the world we would take these people accused of terrorism into the very same system of justice that applies to every one of us as American citizens, hold them to the same standards of proof, give them the rights that are accorded to them in our court system, and come to a just verdict.

That is an important message. It is a message which says we can treat these individuals in our judicial system in a fair way and come to a fair conclusion and find justice, and we did—195 times since 9/11, 30 times just this year.

Recently, the administration transferred Ahmed Ghailani to the United States to prosecute him for involvement in the 1998 bombings of our Embassies in Kenya and Tanzania. Those bombings killed 224 people, including 12 Americans. My colleagues on the other side of the aisle have been very critical of this administration's decision to bring this man to justice in the courts of America. One of them, a House Republican Member from Virginia, ERIC CANTOR, said, and I quote:

We have no judicial precedence for the conviction of someone like this.

That is from Congressman CANTOR. Unfortunately, the Congressman is wrong. There are many precedents for convicting terrorists in U.S. courts. I will name a few: Ramzi Yousef, the mastermind of the 1993 World Trade Center bombing; Omar Abdel Rahman, the so-called Blind Sheikh; Richard Reid, the Shoe Bomber; Zacarias Moussaoui; Ted Kaczynski, the Unabomber; and Terry Nichols, the Oklahoma City coconspirator. They were all accused of terrorism. Some were citizens of the United States, some not. All were tried in the same article III courts which this amendment would prohibit—would prohibit—our President and Attorney General from using.

In fact, there is precedent for convicting terrorists who were involved in the bombing of U.S. Embassies in Tanzania and Kenya, the same attack in which Ahmed Ghailani was allegedly involved. In 2001, four men were sen-

tenced to life without parole at the Federal courthouse in Lower Manhattan, the same court in which Mr. Ghailani will be tried. To argue that we cannot successfully prosecute a terrorist in American courts is to ignore the truth and ignore history.

Susan Hirsch lost her husband in the Kenya Embassy bombing. She testified at the sentencing hearing for the four terrorists who were convicted in 2001. Mrs. Hirsch said she supports the Obama administration's decision to prosecute Ahmed Ghailani for that same bombing that took the life of her husband. She said, and I quote:

I am relieved we are finally moving forward. It is really, really important to me that anyone we have in custody accused of acts related to the deaths of my husband and others be held accountable for what they have done.

Mrs. Hirsch also said she believes it is safe to try Ahmed Ghailani in a Federal court. I quote her again: "I have some trust in the New York Police Department" based on her experience at the 2001 trial.

Listen to what she said about the critics of this administration: "They're just raising fear and alarm." This is from the widow of a terrorist bombing where the terrorists have been brought to justice in the courts of our land.

I agree with Susan Hirsch. I have faith in the New York Police Department. I have faith in our law enforcement agencies, I have faith in our courts, and I have faith in our system of justice.

We know how to prosecute terrorists, and we know how to hold them safely. We have living proof in 195 prosecutions since 9/11 and 350 convicted terrorists being held today in America's jails across the United States.

The Graham amendment is not about whether military commissions are superior to Federal courts. The amendment doesn't just express a preference for one over the other. The amendment expressly prohibits this administration and the Department of Justice from trying a terrorist in a Federal court.

The truth is, President Obama may choose to try the 9/11 terrorists in military commissions. That should be the President's decision. If it is his decision that it is in the interests of the security of the United States or in a successful prosecution to turn to a military commission over a regular Federal court in America, that should be the President's decision, the decision of his Attorney General, the decision of the prosecutors, not the decision of Members of the Senate who do not know the facts of the case and don't know the likelihood of prosecution.

Defense Secretary Gates and Attorney General Holder have developed a joint protocol to determine whether individual cases should be tried in Federal courts or commissions. The President worked closely with Congress to

reform the military commissions so he would have another lawful tool to use in the fight against terrorism. The two lead cosponsors of the amendment before us, Senator MCCAIN and Senator GRAHAM, who is on the Senate floor, were very involved in that effort, as was Senator LEVIN of Michigan, the chairman of our Armed Services Committee. They sat down to rewrite the rules for military commissions because, frankly, we haven't had a great deal of success with prosecutions of terrorists with military commissions. Only three cases have gone before the Supreme Court, raising issues about military commissions, the standard of justice, due process, and fairness.

Now there is a new effort by President Obama, with the bipartisan help of Members of the Senate. So I am not standing here in criticism of the use of military commissions, but I am standing here taking exception to the point of view that we should preclude prosecutions in any other forum than military commissions of the terrorists of 9/11. President Obama may very well choose to try Khalid Sheikh Mohammad and other terrorists in military commissions. That should be his choice. Let him choose the forum, the most effective forum to pursue justice and to protect America from future acts of terrorism.

In their letter to Senators REID and MCCONNELL, Secretary Gates and Attorney General Holder said it well, and I quote them again:

We must be in a position to use every lawful instrument of national power, including both courts and military commissions, to ensure that terrorists are brought to justice and can no longer threaten American lives.

The decision may be reached at some future date by the administration, with the concurrence of the Secretary of Defense and the Attorney General, that it is a better forum to move to military commissions for a variety of reasons. They could be issues of national security. They could be issues of evidence.

But do we want to take away from them with this pending amendment the right to make that decision? Why would Congress choose to take away one of these lawful instruments from the President, our Commander in Chief? Don't we want the President to have the use of every lawful tool to bring these terrorists to justice?

One word in closing. I have the greatest respect for the families of 9/11. Those who have spoken out on behalf of this amendment, I respect them greatly. They have been a force in America since the untimely and tragic deaths of members of their families. They forced on the previous administration a dramatic investigation of 9/11 and where our government had failed and what we could do to improve things. They have become a voice and a force in so many other respects since that awful day of 9/11. But they don't

speak with one voice on this issue. Many support the pending amendment; others see it differently.

Susan Hirsch, whose husband was lost in a terrorism bombing in Africa, clearly sees it differently than these survivors of 9/11. With the greatest respect for those who support this amendment, I would say there are others who see this in a much different light.

I urge my colleagues to reject the Graham amendment. It is an unprecedented effort to interfere with the executive branch's prosecutorial discretion and President Obama's genuine efforts to combat terrorism.

I yield the floor.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. GRAHAM. Mr. President, I appreciate Senator LEVIN allowing me to speak now. I know we are going back and forth. I appreciate that.

To my friend, Senator DURBIN, it is my honest desire that as we move forward with what to do with Guantanamo Bay, we can find some bipartisanship and close the facility. I am one of the few Republicans who expressed that thought, simply because I have listened enough to our commanders to know—General Petraeus, Admiral Mullen, and others—that Guantanamo Bay has become a symbol for recruitment and propaganda usage against American forces in the war on terror.

It is probably the best run jail in the world right now, to those of us who have been down there. To the ground forces, I wish to acknowledge your patriotism and your service. It is a tough place to do duty because there are some pretty tough characters down there.

At the end of the day, I have tried to be helpful where I could, and I will tell you in a little detail why I am offering this amendment. But my hope was that when President Obama was elected, we could find a way to reform Guantanamo Bay policy, detainee policy, because I have been a military lawyer for 25 years. I do understand detainee policy affects the war effort. If we mess it up, if we abuse detainees, we can turn populations against us that will be helpful in winning the war.

One of the great things that happened in World War II is that we had over 400,000 German prisoners, Japanese prisoners housed in the United States. We took 40,000 hard-core Nazis from the British and put them in American military jails in the United States. So this idea that we can't find a place for 200 detainees in America, I don't agree with. We have done that before. These people are not 10 feet tall. They are definitely dangerous, but as a nation I believe we could start over.

By closing Guantanamo Bay in a logical, rational way, we would be improving our ability to effect the outcome of the war in the Mideast because we

would be taking a tool away from the enemy.

President Obama and Senator MCCAIN both, when they were candidates, agreed with the idea of closing Guantanamo Bay and reforming interrogation policy.

To most Americans, it is kind of: Why are we worried about what we do with these guys, because they would cut our heads off. You are absolutely right. It is not lost upon me or any other military member out there that the enemy we are dealing with knows no boundaries and they are barbarians and brutal.

The question is not about them but about us. The fact that we are a civilized people is not a liability, it is an asset. So when you capture a member of al-Qaida, I have always believed it becomes about us, not them. We need interrogation techniques that will allow us to get good intelligence and make the country safe. We need to understand we are at war, and the people we are dealing with are some of the hardest, meanest people known since the Nazis.

But if you try to say, in the same breath, that anything goes to get that information, it will come back to haunt you. So some of the interrogation techniques we have used that come from the Inquisition got us some information, but I can assure you it has created a problem. Ask anybody in the Mideast who has to deal with America. They will tell you this has been a problem. You don't need to do that to protect this country. You can have interrogation techniques that get you good information but also adhere to all your laws.

As to the trials, some people wonder: Why do we care about this? They wouldn't give us a trial. You are absolutely right. The fact that our country will give the worst terrorist in the world a trial with a defense attorney, for free; a judge who is going to base his decision on facts and law and not prejudice; a jury, where the press can show up and watch the trial; and the ability to appeal the result, makes us stronger, not weaker. So count me in for starting over with Guantanamo Bay, with a new legal process that recognizes we have had abuses in the past and we are going to chart a new course.

Regarding the Military Commission Act that just passed the Congress, I wish to say publicly that Senator LEVIN was a great partner to work with. The military commission system we have in place today has been reformed. I think it is a model justice system that I will put up against any in the world, including the International Criminal Court at the Hague, in terms of due process rights for detainees. It also recognizes we are at war. This military commission system, while transparent, with the ability to appeal all verdicts to the civilian sys-

tem, has safeguards built in it to recognize we are at war and how you handle evidence and access the evidence and intelligence sources are built into that military system that are not built into civilian courts.

Since this country was founded, we have historically used military commissions as a venue to try suspected war criminals caught on battlefields. Why have I brought forth this amendment? I have been told by too many people, with reliable access, that the administration is planning on trying Khalid Shaikh Mohammed—the mastermind of 9/11, the perpetrator of the attacks against our country in Washington, Pennsylvania, and New York—in Federal court in the lower district of Manhattan. If that is true, you have lost me as a partner.

Why do I say that? It would be the biggest mistake we could possibly make, in my view, since 9/11. We would be giving constitutional rights to the mastermind of 9/11, as if he were any average, everyday criminal American citizen. We would be basically saying to the mastermind of 9/11, and to the world at large, that 9/11 was a criminal act, not an act of war.

I do believe in prosecutorial discretion and executive branch discretion. I introduced this amendment reluctantly but with all the passion and persuasion I can muster to tell my colleagues: Act now, so we will get this right later. Congress said we are not going to fund the closing of Gitmo. Well, is Congress meddling in the ability of the Commander in Chief to run a military jail? Hell, yes, because we don't know what the plan is. We have an independent duty as Members of Congress to make sure there is balance. This Nation is at war. It is OK for us to speak up. As a matter of fact, it has been too much passing—too many passes during the Bush administration, where Congress sort of sat back and watched things happen. Don't watch this happen. Get on the record now, before it is too late, to tell the President we are not going to sit by as a body and watch the mastermind of 9/11 go into civilian court and criminalize this war. If he goes to Federal court, here is what awaits: a chaos zoo trial.

Yes, we have taken people into Federal court before for acts of terrorism. We took the Blind Sheikh—the first guy to try to blow up the World Trade Center—and put him in civilian court. We treated these people as common criminals. What a mistake we made. What if we had treated them as warriors rather than a guy who robbed a liquor store? Where would we have been in 2001 if we had the foresight in the 1990s to recognize that we are at war and these people are not some foreign criminal cartel; they are warriors bent on our destruction who have been planning for years to attack this country and are planning, as I speak, to attack us again?



We are not fighting crime. We are fighting a war. The war is not over. What happened in the Blind Sheikh trial? Because it was a civilian court, built around trying common criminals, the court didn't have the protections military commissions will have to protect this Nation's secrets and classified information. As a result of that trial, the unindicted coconspirator list was provided to the defense as part of discovery in a Federal civilian criminal court. That unindicted coconspirator list was an intelligence coup for the enemy. It went from the defense counsel, to the defendant, to the Mideast. Al-Qaida was able to understand, from that trial, whom we were looking at and whom we had our eye on.

During the 1990s, we tried to treat these terrorist warriors as just some other form of crime. It was a mistake. Don't repeat it. If you take Khalid Shaikh Mohammed, the mastermind of 9/11, and put him in Federal civilian court, you will have learned nothing from the 1990s. You will have sent the wrong signal to the terrorists and to our own people.

Judge Mukasey, who presided over the Blind Sheikh trial, wrote an op-ed piece about how big a mistake it would be to put the 9/11 coconspirators into Federal court. He went into great detail about the problems you would have trying these people in a civilian court. He became our Attorney General. So if you don't listen to me, listen to the judge who presided over the trial in the 1990s.

I don't know what they are going to do in the Obama administration. If I believed they were going to do something other than take Khalid Shaikh Mohammed to Federal court in New York, I would not introduce this amendment. I know this is not a cavalier thing to do. I have taken some grief for trying to help the President form new policies with Guantanamo Bay and reject the arguments made by some of my dear friends that these people are too dangerous to bring to the United States. We can find a way to bring them to the United States; we just have to be smart about it.

To our military men and women who will be administering the commission, my biggest fear has always been that the military commission system will become a second-class justice system. Nothing could be further from the truth. The men and women who administer justice in the military commission system are the same judge advocates and jurors who administer justice to our own troops. The Judge Advocate General of the Navy said the new military commission system is such that he would not hesitate to have one of our own tried in it.

We will gain nothing, in terms of improving our image, by sending the mastermind of 9/11 to a New York civilian court, giving him the same constitu-

tional rights as anybody listening to me in America who is a citizen. The military commission system will be transparent. He will have his say in court. He will have the ability to appeal a conviction to our civilian judges. He will be defended by a military lawyer—or private attorney, if he wants to be. He will be presumed innocent until found guilty. It will be required by the “beyond a reasonable doubt” standard for him to be found guilty of anything.

For those who are wondering about military commissions, I can tell you the bill we have produced I will put up against any system in the world. To those who think it is no big deal to send Khalid Shaikh Mohammed to Federal court, I could not disagree with you more. What you will have done is set in motion the dynamic that led to criminalizing the war in the 1990s. You will have lost focus, yet again. You will have been lured into the sense that we are not at war, that these are just a bunch of bad people committing crimes. The day we take the mastermind of 9/11 and put him in Federal court, who the hell are you going to try in the military commission? How can you tell that detainee you are an enemy combatant, you are a bad guy? You are at war, but the guy who planned the whole thing is just a common criminal. What a mistake we would make.

It is imperative this Nation have a legal system that recognizes we are at war and that we have rules to protect this country's national security balance against the interests and the rights of the accused detainee. The military commission forum has created that balance. It is a system built around war, a system built around the rules of military law, a system that recognizes the difference between a common criminal and a warrior, a system that understands military intelligence is different than common evidence. If we do not use that system for the guy who planned 9/11, we will all regret it.

My amendment is limited in scope. It is a chance for you, as a Member of the Senate, to speak up about what you would like to see happen as this Nation moves forward and our desire to correct past mistakes and defend this Nation, which is still at war this very day. It is a chance for you to have a say, on behalf of your constituents, as to how they would like to see this Nation defend itself.

I argue that most Americans—not just the 9/11 families—would be very concerned to learn that the man who planned the attacks that killed 3,000 of our fellow citizens—who would do it again tomorrow—is going to be treated the same as any other criminal. No good will come from that. You will have compromised the military commission system beyond repair. You will

have adopted the law enforcement model that failed us before, and we will not be a better people.

I, along with Senator LEVIN, was at Guantanamo Bay the day Khalid Shaikh Mohammed appeared before the Combat Status Review Tribunal. We were in the next room. We listened on a monitor. You could see him and could hear the chains rattle next door when he went through great detail about 9/11 and all the other acts of terrorism he planned against our country.

I never will forget when he told the military judge that he was a high-ranking commander in the al-Qaida military organization and he appreciated being referred to as a military commander. Some would say: You don't want to elevate this guy. What I would say is you want to understand who he is. If you think he is a common criminal, no different than any other person who wants to hurt people, you have made a mistake.

Khalid Shaikh Mohammed is bent on our destruction. He did not attack us for financial gain. He attacked us because he hates us. He is every bit as dangerous as the Nazis. These people we are fighting are very dangerous people. I am insistent they get a trial consistent with our values, that they do not get railroaded, that they get a chance to defend themselves. The media will see how the trial unfolds and you can see most of it, if not all of it. But I am also insistent that we not take our eye off the ball. It has been a long time since we have been attacked. For a lot of people—those who were on the front lines of 9/11—they relive it every night. It replays itself over and over every night of their lives.

For the rest of us, please do not lose sight of the fact that this country is engaged in an armed conflict with an enemy that knows no boundaries, has no allegiance to anything beyond their radical religion, and is conspiring to attack us as I speak.

When we try them, we need to understand that the trial itself is part of the war effort. How we do the trial can make us safer or it can make us weaker. If we criminalize this war, it would take the man who planned the attacks of 9/11 and put him in civilian court. It is going to be impossible with a straight face to take somebody under him and put him in a military court. And the day you put him back in civilian court, you are going to create the problems Judge Mukasey warned us against. You are going to have evidence compromised and you are going to regret it.

I hope to continue to work with the administration to find a way to close Guantanamo Bay, to create a transparent legal system that will allow every detainee their day in court, due process rights they deserve based on our law, not based on what they have done but based on who we are as a people.



The 20th hijacker said this in Federal court—the victims were allowed to testify about the impact of 9/11. They had a U.S. Navy officer talking about being at the Pentagon and the impact on her life and on her friends. During the testimony, the officer started to cry. Here is what the defendant said, Moussaoui, the 20th hijacker:

I think it was disgusting for a military person to pretend that they should not be killed as an act of war. She is military.

It was a Navy female officer.

She should expect that the people who are at war with her will try to kill her.

This is the 20th hijacker in civilian court:

I will never, I will never cry because an American bombed my camp.

If you have any doubt that we are at war, the one thing you ought to be certain of, they have no doubt that they are at war with us.

The one thing the men and women who go off to fight this war should expect of their government and of their Congress is to watch their back the best we can. We would be doing those men and women a great disservice if we put the mastermind of 9/11, who killed the friends of this Navy officer, in a civilian court that could lead to compromising events that would make their job harder. We would be doing them a disservice to act on our end as if we are not at war.

Mr. President, I say to my colleagues, they have a chance to speak. They have a chance to be on the record for their constituents to send a signal that needs to be sent before it is too late. Here is what I ask them to say with their vote: I believe we are at war and that the legal system we are going to use to try people who attacked this country and killed 3,000 American citizens should be a military legal system, consistent with us being at war. I will not, with my vote, go back to the law enforcement model that jeopardized our national security back in the nineties. I will insist that these detainees have a full and fair trial and that they be treated appropriately. But I will not, with my vote, take the mastermind of 9/11, the man who planned the attacks, who would do it tomorrow, and give him the same constitutional rights as an average, everyday American in a legal system that is not built around being at war.

If they will say that, we will get a good outcome. If they equivocate, we are slowly but surely going to create a legal hodgepodge that will come back to haunt us.

I yield the floor.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, the amendment that has been sponsored by Senators GRAHAM, MCCAIN, LIEBERMAN, and WEBB is wrong and it is unnecessary. It would, as Senator GRAHAM said, prohibit the prosecution of any

individual suspected of involvement with the September 11 attacks against the United States from being tried in our article III courts.

The idea that we cannot try a terrorist and mass murderer in our courts is beneath the dignity of this great country. Timothy McVeigh was one of the greatest mass murderers this Nation has ever known and we had no difficulty trying him and convicting him and executing him using our laws and our article III courts.

The real intent of this amendment is clear, to ensure that the detainees held at Guantanamo Bay, some who have been held for years without charge, can only be tried by military commissions.

As a former prosecutor, I find it deeply troubling that the Senate would be asked to prohibit the administration from trying even dangerous terrorists in our Federal courts. These Senators should not use an amendment that politicizes decisions about significant prosecutions as a backdoor to require the use of military commissions.

The administration has worked hard to revise the military commissions to make sure that they meet constitutional standards. However, their use has been plagued with problems and repeatedly overturned by a conservative Supreme Court.

In contrast, our Federal courts have a long and distinguished history of successfully prosecuting even the most atrocious violent acts, and they are respected throughout the world. When we use our Federal courts, the rest of the world recognizes that we are following over 200 years of judicial history of the United States of America. We earn respect for doing so.

The administration strongly opposes this amendment. In a letter to the Senate leadership the Secretary of Defense, Robert Gates, and the Attorney General of the United States, Eric Holder, warn that this amendment would "set a dangerous precedent" by directing the Executive Branch's prosecutorial determination.

They also point out this amendment would prohibit them from being able to "use every lawful instrument of national power . . . to ensure that terrorists are brought to justice and can no longer threaten American lives."

If we really want to stop terrorists, if we really want to make sure they pay for their crime, why would we block off any of the avenues available to us? Two senior administration officials, individuals directly responsible for the disposition of these detainees, are telling us not to tie their hands in the fight against terrorism. This Senator is listening to them, and I believe all Senators should listen to them.

There has been an outpouring of opposition against this amendment including by numerous human rights groups such as Human Rights First, the National Institute of Military Jus-

tice, Constitution Project and Amnesty International.

We have also seen a strong public declaration in support of trying terrorism offenses in Federal courts, signed by a bipartisan group of former Members of Congress, high-ranking military officials and judges.

The Senate Judiciary Committee has held several hearings on the issue of how best to handle detainees. Experts and judges across the political spectrum have agreed that our criminal justice system can handle this challenge and indeed has handled it many times already.

We are a nation that fought hard to have a strong, independent judiciary, with a history of excellence. Do we now want to say to the world that in spite of all of our power, our history, our strong judiciary, that we are not up to trying those who struck us in our traditional federal courts? I think we should say just the opposite, that we can and will prosecute these people in a way that will gain the respect of the whole world and protect our nation. Republican luminaries, such as General Colin Powell, have agreed with this idea.

In fact, one of the things we tend to forget is since January of this year alone, over 30 terrorism suspects have been successfully prosecuted or sentenced in Federal courts. Those federal courts have sentenced individuals directly implicated by this amendment, such as Zacarias Moussaoui.

If this amendment were law Moussaoui, the so called "20th hijacker" who was directly involved in the planning of September 11, would not have been convicted by our federal courts and sentenced to life in prison. This amendment takes away one of the greatest tools we have to protect our national security—the ability to prosecute suspects in Federal court. Instead, as the Justice Department has said in its opposition to it, the Graham amendment would make it more likely that terrorists will escape justice.

I believe as strongly as all Americans do that we should take all steps possible to prevent terrorism, and we must ensure severe punishment for those who do us harm. As a former prosecutor, I have made certain that perpetrators of violent crime receive serious punishment. I also believe strongly that we can ensure our safety and security, and bring terrorists to justice, in ways that are consistent with the laws and the values that make us a great democracy.

The administration has said where possible they will try individuals in Federal courts. When we unnecessarily preempt that option, we are saying we do not trust the legal system on which we have relied for so long. All that does is give more ammunition to our enemies. It further hurts our standing around the world, a standing which has

already suffered so much from the stain of Guantanamo Bay. Worse still it sends the message to other countries that they do not have to use traditional legal regimes with established protections for defendants if they are prosecuting American soldiers or civilians.

Just as partisan Republicans were wrong in trying to hold up the confirmation of Attorney General Holder to extort a pledge from him that he would not exercise independent prosecutorial judgment—something I have never seen done before in 35 years here—it is also wrong to force an amendment politicizing prosecutions in the Commerce-Justice-Science appropriations bill. I opposed the effort by some Republican Senators who wanted the Nation's chief prosecutor to agree in advance to turn a blind eye to possible lawbreaking before even investigating whether it occurred. Republicans asked for such a pledge, a commitment that no prosecutor should give. To his credit, Eric Holder didn't give that pledge.

Passing a far-reaching amendment that takes away a powerful tool from the Justice Department in bringing terrorists to justice and usurps the Attorney General's constitutional responsibilities is not the path forward. All administrations should be able to decide who to prosecute and where they should be prosecuted. This amendment denies us the benefit of using not only our Federal courts, with their successful track record convicting terrorists, but also from using our Federal laws, which are arguably more expansive and better suited for use in terrorism cases than the narrower set of charges that can be brought in a military commission. We should not tie the hands of our law enforcement in their efforts to secure our national security. Any former prosecutor, any lawyer and any citizen should know it is not the decision of or an appropriate role for the United States Senate.

It is time to act on our principles and our constitutional system. Those we believe to be guilty of heinous crimes should be tried, and when convicted, punished severely. Where the administration decides to try them in Federal courts, our courts and our prisons are more than up to the task. I agree with the Justice Department that this amendment "would ensure that the only individuals in the world who could not be prosecuted under the criminal terrorist offenses Congress has enacted would be those who are responsible for the most devastating terrorist acts in U.S. history." That means that the only people in the world who could not be prosecuted under our terrorism laws are the people who committed the most devastating terrorist acts against us. That is Alice in Wonderland justice. It makes no sense to have tough terrorism laws, to have the best judicial

system in the world and then, when terrorist acts are committed against us, to simply ignore that system and decide we cannot use it to prosecute those acts. It makes no sense.

Let us put aside heated and distorted rhetoric and support the President in his efforts to truly make our country safe and strong and a republic worthy of the history and values that have always made America great.

Mr. President, I yield the floor.

The PRESIDING OFFICER (Mrs. McCASKILL). The Senator from Michigan.

Mr. LEVIN. Madam President, I very much oppose the Graham amendment, and I want to take a few moments to explain why.

It has been argued that we are at war. Indeed, we are. I can't think of anything clearer, that any of us in this country understands than we are at war. And being at war, it totally mystifies me why we would deny ourselves one of the tools that we could use against people who are attacking us, who have attacked us, who will attack us, who will kill us, who kill innocent people. Why would we deny ourselves one of the tools which are available to try these people, to lock them up, or execute them and throw away the key? Why we would, by law, say this particular group of people can't be tried in a Federal court, that they can only be tried in a military commission, when we have tried so many terrorists in court, convicted them and executed them, is something I do not understand.

I believe we ought to not only throw the book at these people, but I think we ought to throw both books at these people. Why limit ourselves to one book—the book that sets the procedures for military commissions? Why do we deny ourselves the opportunity, if it is more effective—for whatever reasons the Justice Department determines it is more effective—to prosecute in a Federal court? Why would we deny them that?

In fact, under this amendment, they could not even continue the prosecution they had begun. The language of the amendment says either "to commence or continue the prosecution in an Article III court." So the question isn't whether these are the most dangerous people around—they are.

I also went down to Guantanamo. I went with Senator GRAHAM, and we watched the proceeding against Khalid Shaikh Mohammed. I want us to use all of the tools. I want them all to be available. I want the Justice Department to be able to determine which is more effective, and not for us to decide in a political setting, in a legislative setting, that they cannot use one of the tools which has been proven to be effective against dozens of terrorists.

What about the law of war? What about war crimes? The argument is

these are war crimes. As far as I am concerned, they are crimes; they are war crimes—both. War crimes can be prosecuted in an article III court. Let me repeat that because the argument is these are war crimes. War crimes can be prosecuted in an article III court under our laws that we adopted about 10 or 15 years ago. So Khalid Shaikh Mohammed needs to be given justice. He needs to be dealt with as strongly as we possibly can and as effectively as we possibly can. I believe he was the mastermind of 9/11. I don't think there is a Member of this body that would not want to see him dealt with as strongly as can possibly be done. But I don't know why we would tell the Justice Department that they only can consider one of the two tools that they could use against him; that they only can consider the military commissions but they can't consider article III courts.

I have been deeply involved in rewriting the military commissions law. That law, when we first wrote it, was defective, and I argued against it because it was defective. This body adopted it. That is the way things work. The majority decided to go with it. It was not usable. So we took a major step in the last few months to revise the military commissions law. I helped to lead that effort, and I know how important it is. But it was never our intent to make that the exclusive remedy for people who would attack us or attack this country. We want that remedy to be available if that is the most effective remedy. But there is nothing in that law that we wrote, or intended, that said this would displace article III courts if the Justice Department decided the most effective place to try an alleged terrorist was an article III court.

Are we actually, on the floor of the Senate, going to decide which terrorists should be tried in article III courts and which ones should be tried in military commission courts? Why would we tie the hands of the Justice Department in that way?

I know Senator GRAHAM feels very strongly these should be tried in front of military commissions, and if he were the Justice Department, or if he were the Attorney General, he may make that decision, assuming he knows all the facts that go into the decision. He may make that decision, and he could strongly recommend it to the Justice Department. But why would we decide to displace the discretion of the Justice Department is a mystery to me. I find it unacceptable.

More importantly, the Attorney General and the Secretary of Defense find it unacceptable. They have urged us not to do this. They have written our leaders—Senator REID and Senator MCCONNELL—opposing the Graham amendment.

They say in their letter that there is a joint prosecution protocol, and the

departments are “currently engaged in a careful case-by-case evaluation of the cases of Guantanamo detainees who have been referred for possible prosecution, to determine whether they should be prosecuted in an Article III court or by military commission. We are confident that the forum selection decisions that are made pursuant to this process will best serve our national security interests.”

That is the Attorney General of the United States and the Secretary of Defense. Can we truly say in the Senate that we are going to displace that process which will determine what is the most effective way to prosecute these people? Can we and should we do that? I hope not.

They end their letter of October 30 by saying the following:

The exercise of prosecutorial discretion has always been and should remain an Executive Branch function. We must be in a position to use every lawful instrument of national power—including both courts and military commissions—to ensure that terrorists are brought to justice and can no longer threaten American lives.

If we adopt the Graham amendment, we are saying no; we are only going to use one instrument of national power. We are not going to consider both instruments of national power, and that is truly not only limiting our options but tying one of our hands behind our back in the essential prosecution of these people.

Madam President, Zacarias Moussaoui, the so-called 20th hijacker, was convicted in Federal court in May of 2006 for conspiring to hijack aircraft and crash them into the World Trade Center. He was quoted by Senator GRAHAM as saying that “we are at war with you people.” I don’t have the slightest doubt that he means it and if he were ever released he would go back to war.

But I also have no doubt about something else. He was saying this in a Federal court, after being convicted in a Federal court of the terrorist acts that he perpetrated. He is now in a supermax facility in Florence, CO. He is serving life imprisonment without parole. If the Graham amendment had been in place at the time that Moussaoui was being prosecuted—indeed, if the Graham amendment had come in the middle of that prosecution—the prosecution would have had to have been suspended.

This amendment, if it is adopted, is going to make it more difficult to bring some of the 9/11 terrorists to justice. Let me share some of the reasons this possibility exists.

A court could decide that one of the 9/11 detainees does not meet the test, under the military commissions law, of being an “unprivileged enemy belligerent.” In particular, a court could decide that one of the 9/11 alleged terrorists did not participate in a “hostility” and therefore was not subject—a belligerent subject to the laws of war. So we

are saying to the Justice Department: If you see the possibility that someone could be let out or somebody could be found not guilty based on that kind of a technicality, we are not going to let you go and try that person in a Federal court. You must try that person where that person could escape justice based on a technicality.

Why would we want to do that? How can we possibly sit here and reach a judgment on all of the possible factual situations which might allow one of these people to escape justice? We cannot do that. That is what prosecutors are for. That is what a Justice Department is for. We should be giving them tools, not denying them tools. We should be handing them every possible tool we can give them to prosecute these people instead of saying you can’t use this tool or you can’t use that tool.

A court could decide that the crimes committed by one of the 9/11 detainees is not justiciable under the Military Commissions Act. So therefore we are going to say you have to prosecute him there anyway? A court could decide that an offense under the Military Commissions Act cannot be retroactively applied to an offense that took place before the enactment of the act. In our language, they can be tried even though it is a retroactive application. What happens if that occurs and then a court comes along, a court of appeals following a military commission, and says: No, you can’t do that. Why would we not want the Justice Department to be able to weigh all of these possible escape loopholes that a defendant could use and decide that they have a better chance of convicting somebody and making that conviction stick if they proceed in an article III court?

Maybe the procedural rights which we have written into our Military Commissions Act, which is now law—maybe a court will determine they are not adequate. Maybe they will throw out the entire process despite our best efforts to correct what we had previously done. We should not presume the outcome of the judicial process and throw away legal tools that may be needed to bring the 9/11 terrorists to justice. We should not be tying the hands of our prosecutors against these people.

Prosecutorial discretion is one of the cornerstones of the American judicial system. It is wrong for us to be limiting that discretion by directing cases to a particular forum. It denies our prosecutors the ability to choose the forum that is best suited to a successful outcome in the case. The mechanism of cutting off funds for a prosecution, which is what this amendment does because Congress believes that a prosecution should take place in one forum or another, would set a terrible precedent. We should not be intervening in that kind of decision through the appropriations act.

The determination of the proper forum for the trial of 9/11 terrorists should be made by the professional prosecutors based on the circumstances of the case and their judgment as to where is the best chance to gain a successful prosecution. We should not decide where these cases are going to be tried. I don’t believe we should presume they will be tried in one place or another.

There is a process underway, including both the Defense Department and the Justice Department, to make a determination as to which will be the most effective place to try these terrorists. So that is the appropriate process, and we ought to let it continue without this kind of intervention by the Senate.

Before I yield the floor and suggest the absence of a quorum, I ask unanimous consent to have printed in the RECORD the letter from the Attorney General and the Secretary of Defense to Senators REID and MCCONNELL.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

OCTOBER 30, 2009.

Hon. HARRY REID,  
Majority Leader, U.S. Senate, Washington, DC.  
Hon. MITCH MCCONNELL,

Minority Leader, U.S. Senate, Washington, DC.

DEAR SENATORS REID AND MCCONNELL: We write to oppose the amendment proposed by Senator Graham (on behalf of himself and Senators McCain and Lieberman) to H.R. 2847, the Commerce, Justice, Science, and Related Agencies Appropriations Act of 2010. This amendment would prohibit the use of Department of Justice funds “to commence or continue the prosecution in an Article III court of the United States of an individual suspected of planning, authorizing, organizing, committing, or aiding the attacks on the United States and its citizens that occurred on September 11, 2001.”

As you know, both the Department of Justice (in Article III courts) and the Department of Defense (in military commissions, reformed under the 2010 National Defense Authorization Act) have responsibility for prosecuting alleged terrorists. Pursuant to a joint prosecution protocol, our departments are currently engaged in a careful case-by-case evaluation of the cases of Guantanamo detainees who have been referred for possible prosecution, to determine whether they should be prosecuted in an Article III court or by military commission. We are confident that the forum selection decisions that are made pursuant to this process will best serve our national security interests.

We believe that it would be unwise, and would set a dangerous precedent, for Congress to restrict the discretion of either department to fund particular prosecutions. The exercise of prosecutorial discretion has always been and should remain an Executive Branch function. We must be in a position to use every lawful instrument of national power—including both courts and military commissions—to ensure that terrorists are brought to justice and can no longer threaten American lives.

For these reasons, we respectfully request that you oppose this amendment.

ROBERT M. GATES,  
Secretary of Defense.

ERIC H. HOLDER, JR.,  
Attorney General.

Mr. LEVIN. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. MCCONNELL. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MCCONNELL. Madam President, most Americans recognize that our continued success in preventing another terrorist attack on U.S. soil depends on our ability as a Nation to remain vigilant and clear-eyed about the nature of the threats we face at home and abroad.

Some threats come in the form of terror cells in distant countries. Others come from people plotting attacks within our own borders.

And still others can come from a failure to recognize the distinction between everyday crimes and war crimes.

This last category of threat is extremely serious but sometimes overlooked—and that is why Senators GRAHAM, LIEBERMAN, and MCCAIN have offered an amendment to the Commerce, Justice and Science appropriations bill that would reassure the American people that the Senate has not taken its eye off the ball.

The amendment is simple and straightforward. It explicitly prohibits any of the terrorists who were involved in the September 11, 2001, attacks from appearing for trial in a civilian U.S. courtroom. Instead, it would require the government to use military commissions; that is, the courts proper to war, for trying these men.

By requiring the government to use military commissions, the supporters of this amendment are reaffirming two things: First, that these men should have a fair trial.

And second, we are reaffirming what American history has always showed; namely, that war crimes and common crimes are to be tried differently—and that military courts are the proper forum for prosecuting terrorists.

Some might argue that terrorists like Zacarias Moussaoui, one of the 9/11 conspirators, are not enemy combatants—that they are somehow on the same level as a convenience store stick-up man. But listen to the words of Moussaoui himself. He disagrees.

Asked if he regretted his part in the September 11 attacks, Moussaoui said: “I just wish it will happen on the 12th, the 13th, the 14th, the 15th, the 16th, the 17th, and [on and on].” He went on to explain how happy he was to learn of the deaths of American service men and women in the Pentagon on 9/11. And then he mocked an officer for weeping about the loss of men under her command, saying:

I think it was disgusting for a military person to pretend that they should not be killed as an act of war. She is military. She should expect that people who are at war with her will try to kill her. I will never cry because an American bombed my camp.

There is no question Moussaoui himself believes he is an enemy combatant engaged in a war against us.

The Senate has also made itself clear on this question. Congress created the military commissions system 3 years ago, on a bipartisan basis, precisely to deal with prosecutions of al-Qaida terrorists consistent with U.S. national security, with the expectation that they would be used for that purpose.

The Senate reaffirmed this view 2 years ago when it voted 94-3 against transferring detainees from Guantanamo stateside, including the 9/11 planners.

We reaffirmed it again earlier this year when we voted 90-6 against using any funds from the war supplemental to transfer any of the Guantanamo detainees to the United States.

And just this summer the Senate reaffirmed that military commissions are the proper forum for bringing enemy combatants to justice when we approved without objection an amendment to that effect as part of the Defense authorization bill.

Further, our past experiences with terror trials in civilian courts have clearly been shown to undermine our national security. During the trial of Ramzi Yousef, the mastermind of the first Trade Center bombing, we saw how a small bit of testimony about a cell phone battery was enough to tip off terrorists that one of their key communication links had been compromised.

We saw how the public prosecution of the Blind Sheikh, Abdel Rahman, inadvertently provided a rich source of intelligence to Osama bin Laden ahead of the 9/11 attacks. And in that case, we remember that Rahman’s lawyer was convicted of smuggling orders to his terrorist disciples.

We also saw how the trial of Zacarias Moussaoui resulted in the leak of sensitive information.

And we saw how the trials of the East African Embassy bombers compromised intelligence methods to the benefit of Osama bin Laden.

The administration calls these prosecutions “successful.” But given the loss of sensitive information that resulted, former Federal judge and Attorney General Michael Mukasey has noted “there are many words one might use to describe how these events unfolded; ‘successfully’ is not among them.”

Trying terror suspects in civilian courts is also a giant headache for communities; just look at the experience of Alexandria, VA, during the Moussaoui trial. As I have pointed out before, parts of Alexandria became a virtual encampment every time

Moussaoui was moved to the courthouse. Those were the problems we saw in Northern Virginia when just one terrorist was tried in civilian court. What will happen to Alexandria, New York City, or other cities if several terrorists are tried there? You can imagine.

It is because of dangers and difficulties like these that we established military commissions in the first place. The administration has now rewritten the military commission procedures precisely to its liking. If we can’t expect the very people who masterminded the 9/11 attacks and went to war with us to fall within the jurisdiction of these military courts, then who can we expect to fall within the jurisdiction of these military courts?

The American people have made themselves clear on this issue. They do not want Guantanamo terrorists brought to the U.S., and they certainly do not want the men who planned the 9/11 attacks on America to be tried in civilian courts—risking national security and civic disruption in the process.

Congress created military commissions for a reason. But if the administration fails to use military commissions for self-avowed combatants like Khalid Sheikh Mohammed, then it is wasting this time-honored and essential tool in the war on terror.

I would ask the opponents of the Graham amendment the following: what material benefit is derived by bringing avowed foreign combatants like KSM into a civilian court and giving them all the rights and privileges of a U.S. citizen; and why should we further delay justice for the families of the victims of 9/11?

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WEBB. Madam President, I rise with some regret because I am in a contradiction with our President and with many members of my own caucus. I am a cosponsor of the Graham amendment. I have no regrets about cosponsoring the amendment. I do regret that I am in contradiction with a number of my colleagues on this side.

I believe this is an appropriate amendment. I believe it is the best way for us to move forward and bring a solution with respect to those who are detained in Guantanamo.

I would start by saying I have consistently argued that the appropriate venue for trying perpetrators of international terrorism who are, in fact, enemy combatants is a military tribunal. One of my primary focuses in my time in the Senate has been to work toward a fairer and more efficient criminal justice system in the United States.

As all my colleagues know, we have an enormous backlog in many court systems right now. Prisons are overcrowded. We have 2.3 million people in prison right now, 7 million people inside the criminal justice system. The

process of trying enemy combatants in our already overburdened domestic courts, on the one hand, is not necessary and, on the other, would introduce major logjams and work against our goals of improving our criminal justice system.

As someone who served in the military, has spent 5 years in the Pentagon, and is privileged to serve in this body, I would like to say, in my view, the Guantanamo Bay detainee situation is challenging, it is complicated, it involves balancing an entire host of considerations, including national security, constitutional due process requirements, international law, procedural and practical considerations, and the responsibilities and authority of all three branches of government.

Given the complicated nature of this situation, I believe it is very important for us to move forward with a careful and considered approach. These are among the considerations we should be looking at: First, the Supreme Court has reviewed this issue a number of times and, in several cases, has given clear guidance on due process requirements.

Second, taking into consideration these Supreme Court's decisions, Congress enacted new procedures for military tribunals. These new pressures, which were included in the recently passed Defense authorization bill, contain safeguards that protect detainees' due process and habeas rights.

President Obama, as a Senator, took part in the creation of these new procedures. President Obama signed these new procedures into law. Additionally, the facilities for properly holding and trying dangerous detainees who are, in fact in many cases, enemy combatants, exist at the cost of approximately millions of dollars in Guantanamo.

The Guantanamo debate has, in my view, improperly focused on place versus process over the past couple of years. The most important factor has been to improve the process as we consider these different cases, not simply whether this was Guantanamo or anywhere else.

Removing our detainees from Guantanamo to the United States is not going to solve the problem. The improved processes we have put in place is one of the key factors in addressing the problem.

The people we are seeking to prosecute—I think it needs to be said again and again—are enemy combatants. They were apprehended during a time of war, while hostilities are still ongoing. Prosecuting these individuals in domestic courts gives rise to a host of problematic issues which are basically unnecessary because of the availability now of properly constituted military tribunals.

The problems with trying alleged detainees in domestic courts include: procedural, constitutional, and evi-

dentiary rules in place to protect civilian criminal defendants in our country. These protections would require the production of classified materials. It could require military and intelligence officers to be called from other duties, in some cases from the battlefield, to testify.

This could lead to the exposure of sensitive material or, alternatively, to acquittal of enemy combatants who are guilty of these crimes. In the U.S. legal system, when a defendant is acquitted he goes free. In this complex scenario, it is unclear what will happen in our domestic judicial system if one of those enemy combatants is actually acquitted.

This mixing of the legal and military paradigms, I believe, would confuse our criminal justice system without a real upside. The burden of trying enemy combatants in a domestic court is overwhelming. Other people have mentioned this. There is an issue, of course, of maintaining security for the courtroom and for the jail facilities: the additional security burdens to the U.S. Marshals Service and to local police services, the security and procedural complexities would tie up our court system at a time when we need to move criminal cases forward.

I think it is very important for the understanding of this body, that while this amendment only applies to six detainees at Guantanamo Bay, it is long past time that we work to reach a consensus on how and where all these detainees are going to be tried and/or held. The administration has consistently talked about three different categories of detainees: Those who have been found not to be a threat to the United States and can be released and a number of them have; those who are a threat and can be prosecuted, which takes up most of our discussion, but, importantly, a third group is those who we have reason to believe will continue to be a threat to the United States, but we may not have sufficient admissible evidence to bring them to trial. That is the category that is the most troubling when we start talking about moving these detainees from Guantanamo Bay to the United States.

Every Member of this body should be concerned with the implications of confining such individuals indefinitely inside the United States without due process. I took the time, after a number of discussions, including a long discussion with the President about this, to read the Hamdi case, the Supreme Court case that deals with indefinite detention of detainees.

There is a conundrum here, if you think about the reality of what we are doing. If you bring these people into the United States and do not try them, you are going to put them in a civilian prison. There are only two possibilities here: either as legally here in the United States they have to be given a

speedy trial or, as enemy combatants, we do not have to give them a speedy trial until the end of hostilities. How do we define the end of hostilities? We are simply going to be importing a problem, affecting about 50 people at Guantanamo, from Guantanamo into the United States.

Again, it is not the place, it is the process. Ten years from now, fifteen years from now we don't want to find ourselves saying: There is an individual in a super-max prison somewhere in Illinois who has never been charged with a crime.

Why do we need to bring that into our system? Why do we need to bring that into our country? We have to commit ourselves to examining that issue in detail and figure out a way to move forward. I am committed to working with the administration. I have said this to the President in the past and to Members of this body, we need to move forward and develop a final trial and detention plan.

But the bottom line is, we are a nation at war. The Supreme Court has outlined due process rights for detainees. Guantanamo Bay is the appropriate facility for holding the enemy belligerents, particularly since we just passed these improvements in the Military Commissions Act. I hope this body will think seriously about the implications of bringing large numbers of Guantanamo Bay detainees into the United States.

I yield the floor.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. DEMINT. I see the Senator from Rhode Island.

Mr. WHITEHOUSE. Madam President, I will be speaking for only 4 or 5 minutes. I see Senator DEMINT. I ask unanimous consent that I follow him. But I will be considerably briefer than Senator WEBB.

Mr. DEMINT. I would be happy to let the Senator from Rhode Island go first, as long as I can follow him.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Rhode Island is recognized.

Mr. WHITEHOUSE. I appreciate the Senator's courtesy. I wish to take a different view than our distinguished colleague from Virginia. He comes from a military background and he views this from that lens. I come from a prosecutor's and lawyer's background. I see it through a different lens.

I take exception to a number of the concerns the distinguished Senator from Virginia elucidated. My concern is, the balancing of those concerns and the determination as to on which side, military commissions or traditional law enforcement prosecution, the government should come down on is one that should not be a legislative determination.

We have executive officials who are very capable of making this determination. It is at the soul of prosecutorial discretion to decide whom to charge, what to charge, and in what forum to bring the charge. I think we are in the wrong location, trying to inject ourselves as the legislative branch of government into the executive determination as to where a case should be brought.

It may very well be that a great number of these cases should indeed be brought in military commissions. But I do not think it is up to us as Members of the Senate to force the executive branch's hands.

A second point is, we have had very bad luck with these military commissions so far. Many believe the procedures for those commissions did not afford adequate process to the accused, and, as a result, the perceived legitimacy of the commissions was undermined. That is the finding of the Detention Policy Task Force.

Some of those shortcomings have been improved upon recently. But we are in a stage, at this point, in which article III courts—the Federal American courts—have handled 119 terrorism cases with 289 defendants. Of those, 75 cases are still pending in our courts, but 195 defendants have been convicted. Our conviction rate has been 91 percent.

Our Bureau of Prisons currently holds 355 terrorists in its facilities, by its own estimation, 216 international terrorists, and 139 domestic terrorists. So regular, traditional American law enforcement, prosecution by the Department of Justice, is a tried-and-true vehicle for prosecuting and punishing terrorists.

By contrast, the Gitmo military tribunals have convicted three detainees. After all those years of trouble and effort, 289 defendants convicted in our criminal courts, three in our military commissions.

So I submit there may be very good logic for those military commissions, but it is not a wise decision and not properly our decision to force the hand of the executive branch of government and close down the side of the war on terrorism that has been most effective at incarcerating and punishing our terrorist enemies.

I yield the floor and, again, thank the Senator for his courtesy.

**THE PRESIDING OFFICER.** The Senator from South Carolina.

Mr. DEMINT. I thank the Chair.

Madam President, I wish to associate myself with Leader MCCONNELL and thank him for his leadership on the Guantanamo Bay issue. I know as the President looks to close this facility which costs the American taxpayers \$275 million, people around the country, including in my own State of South Carolina, are concerned that we will now move some of the world's

most dangerous people into a civilian area that is not designed for this type of security threat. I appreciate the leadership of Senator MCCONNELL in trying to bring some rational thinking.

#### HONDURAS

I wish to take a break from the discussion of Guantanamo Bay and the appropriations bills to discuss briefly the situation in Honduras. Honduras is one of America's best allies in this hemisphere. For the last 4 months they have been involved in a constitutional crisis. I have been very critical of the administration's handling of the Honduras situation. In fact, I have held two nominees, one to Latin America and one to Brazil, in order to shine a spotlight on the situation and get this administration and this Congress to focus on what I consider very bad policy toward a very close friend of the United States.

While I have been critical, it is important, when the administration changes its view and puts things on the right course, to thank Secretary Clinton, Secretary Tom Shannon for their work in Honduras. I also wish to talk a little bit about the situation.

As part of my talk, I want Senator REID to know it is my intent to release my holds on the nominees so they can move forward, now that I believe the administration has set a good course for our allies in Honduras.

Let me take a few minutes to go through the background of the situation. Not many people have paid much attention to it. Over 4 months ago, I believe our administration rushed to judgment in declaring the removal of President Zelaya from office as a military coup. All branches of the Honduran Government agreed that he should have been removed. The congress, the electoral tribunal, the attorney general, the supreme court, all institutions of democracy in Honduras, agreed the president had violated the constitution and the law and needed to be removed from office. For weeks leading up to his arrest, President Manuel Zelaya defied his nation's laws and attempted to illegally rewrite the Honduran constitution so he could remain in office past his term. That probably sounds familiar because that is the same course Hugo Chavez has taken in Venezuela and Ortega in Nicaragua. We know about the Castros, of course. It is a pandemic in Latin America that democracies elect leaders who change the constitution and become dictators. Zelaya was on the same course until the democratic institutions in Honduras stopped him short.

He attempted to force a national vote to allow himself to stay in office. He went so far as to lead a violent mob to try to retrieve ballots printed in Venezuela that had been confiscated by the Honduran authorities so he could not have the national referendum he wanted. As I mentioned before, every Hon-

duran institution supported his removal because of his open defiance of the laws and the constitution. The people of Honduras have struggled too long to have their hard-won democracy stolen from them by a would-be dictator. The Honduran Government had little choice but to act in accordance with the Honduran constitution and their own rule of law. They had to remove Zelaya from office to protect their democracy.

Since June, the Law Library of Congress made public a thorough report defending the actions undertaken by the Honduran institutions in contradicting the claims made by the Obama administration. Our own State Department said they have secret legal memos of their own supporting their actions, but they have refused our request to release them and have kept them hidden from the public. Instead of siding with the Honduran people, the administration decided to put their full support behind Mr. Zelaya, who is a close ally of Hugo Chavez and who the State Department even said had undertaken provocative actions that led to his removal. Despite this admission, the Obama administration has waged a war directly against the Honduran people by denying visas, terminating aid, and refusing to acknowledge that free and fair elections would solve the problems in Honduras.

The Presidential election is on schedule for November 29. It has been scheduled that way since 1982, when their constitution was put in place. Under Honduras's one-term-limit requirement, Zelaya could not have sought reelection anyway. The current president, Roberto Micheletti, whom I just got off the phone with, was installed after Zelaya's removal per the constitution. He is not on the ballot either. He is not seeking power in Honduras. The Presidential candidates were nominated in primaries over a year ago, and all of them, including Zelaya's former vice president, expect these elections to be free and fair and transparent, as has every other Honduran election for almost a generation. I have been terribly disappointed with the administration's policies on Honduras and have consistently argued that the upcoming November 29 elections are the only way out of this mess. We as a nation have to send a signal that we will recognize these elections.

I personally visited Honduras last month and was satisfied as to the legitimacy of the interim government of Micheletti and as to the legitimacy of the long-scheduled Presidential elections that will be held later this month. I am happy to report that after many months, Secretary Clinton and Assistant Secretary Shannon have led the Obama administration back in the right direction. I met yesterday with Assistant Secretary of State of Latin America Tom Shannon and spoke



today with Secretary Clinton. I can report that we now appear to be on the right track. Both Assistant Secretary Shannon and Secretary Clinton assured me that notwithstanding any previous statements by administration officials, the United States will recognize the November 29 Honduran election, regardless of whether the Honduras Government votes to reinstate Zelaya. They have made it clear the administration will recognize the elections, regardless of whether the Honduran Congress votes on the Zelaya reinstatement before or after the November 29 election.

The independence, transparency, and fairness of those elections has never been in doubt. Thanks to the reversal of the Obama administration, the new government sworn into office next January can expect the full support of the United States and, I hope, the entire international community.

I applaud the administration. I am thankful they have ended their focus on whom I consider a would-be dictator and are now standing firmly with the Honduran people and for a Honduran solution to the problem. Today starts a major step forward for the cause of freedom and democracy for the western hemisphere, for the United States, and especially for the brave people of Honduras. They are proving that despite crushing hardships and impossible odds, freedom and democracy can succeed anywhere people are willing to fight for it. The condemnation heaped on the free people of Honduras these last several months never had to happen. The Obama administration erred in its assessment of the situation in Honduras because of a rush to judgment based on bad information. We have all learned a lesson about distinguishing friends from foes and the paramount importance of constitutional democracy to international stability.

For months I have made it clear I would continue to object to two State Department nominations until the United States reversed its flawed Honduras policy. My goal has been to get this administration to recognize the November 29 elections. Now that this has happened, I will keep my part of the bargain and release these holds. I will notify Senator REID that these nominations can move ahead on his schedule. It is no secret that I have been critical of the administration on their handling of these issues. But I take this opportunity today to thank Secretary Clinton and Assistant Secretary Shannon for reengaging the Honduran Government and working out a solution that President Micheletti and the government in Honduras, as well as the Honduran people, feel is fair.

There are still a number of concerns. As I talked to President Micheletti moments ago, he is concerned that the Or-

ganization of American States continues to support deposed President Zelaya and is organizing, along with Zelaya, a lot of mischief related to the upcoming elections, encouraging people to take to the streets and violence. I hope the State Department and the Obama administration, along with Congress, will continue to support the Honduran people and make sure the Organization of American States and any other country will support the agreement that has been signed by the people in Honduras and that we have agreed to.

I am thankful for the opportunity to speak on this issue, to bring it to the attention of this Congress and the American people. I look forward to releasing the holds on these nominations and continue to follow the situation closely, particularly the November 29 elections, as Honduras continues as a free and democratic nation.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. WHITEHOUSE). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Ms. MIKULSKI. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. MIKULSKI. Mr. President, as the chairman of the Commerce, Justice, Science Committee, I ask unanimous consent that all postcloture time be yielded back, except the 10 minutes specified for debate as noted in this agreement; that the Senate now resume the Coburn amendments Nos. 2631 and 2667, and that prior to the votes in relation to each amendment in the order listed, there be 2 minutes of debate, equally divided and controlled in the usual form; that upon the use or yielding back of time, the Senate proceed to vote in relation to the amendments; that upon the disposition of the Coburn amendments, the Senate resume consideration of the Graham amendment No. 2669, and that prior to a vote in relation to the amendment, there be 4 minutes of debate, equally divided and controlled between Senators GRAHAM and LEAHY or their designees; that upon the use or yielding back of time, the Senate proceed to vote in relation to the amendment; that upon disposition of the Graham amendment, the Senate then resume the Ensign amendment No. 2648, as modified; that there be 2 minutes of debate, equally divided and controlled in the usual form, prior to a vote in relation to the amendment; that upon disposition of the Ensign amendment, the Senate resume the Johanns amendment No. 2393; that the amendment be agreed to and the motion to reconsider be laid upon the table, with no amendments in order to the aforementioned

amendments; that no further amendments be in order; that the substitute amendment, as amended, be agreed to, the bill, as amended, be read a third time, and the Senate then proceed to vote on passage of the bill; that upon passage, the Senate insist on its amendment, request a conference with the House on the disagreeing votes of the two Houses, and that the Chair be authorized to appoint conferees, with the subcommittee plus Senators BYRD and COCHRAN appointed as conferees; that if a point of order is raised and sustained against the substitute amendment, then it be in order for a new substitute to be offered, minus the offending provisions but including any amendments previously agreed to; that the new substitute be considered and agreed to, no further amendments be in order, the bill, as amended, be read a third time, with the provisions of this agreement after adoption of the original substitute amendment remaining in effect; and that the cloture motion on the bill be withdrawn; and that the order commence after the remarks of Senator CHAMBLISS.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT—EXECUTIVE CALENDAR

Ms. MIKULSKI. Mr. President, as in executive session, I ask unanimous consent that upon disposition of H.R. 2847, the Senate proceed to executive session and immediately proceed to vote on confirmation of the nomination of Calendar No. 462, and that upon confirmation, the motion to reconsider be considered made and laid upon the table; that no further motions be in order, the President be immediately notified of the Senate's action, and the Senate then resume legislative session.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The PRESIDING OFFICER. The Senator from Alabama.

AMENDMENT NO. 2669

Mr. SESSIONS. Mr. President, I would like to speak, briefly, in support of Senator GRAHAM's amendment dealing with the trial of 9/11 terrorists in Federal court. It, in effect, would prohibit the administration from doing that by denying funding for any such trials.

This is a very important matter. One of the things we learned when 9/11 occurred was that this country had made a mistake in treating people who are at war with the United States, who attempt to destroy the United States, as normal criminals and that they should be tried in court.

We learned the only effective way to deal with persons such as that is to treat them as prisoners of war or unlawful combatants, who are people who violate the rules of war—and all these individuals do, basically, with the way



they conduct themselves. So we would try them according to military commissions. The Constitution makes reference to military commissions. They can be tried fairly in that method without all the rules and procedures we cherish so highly in Federal courts for the trials of normal crimes that people are accused of in this country.

I spoke about al-Marri just last week, who came to the United States on September 10. He had met bin Laden. He had been to a training camp in Afghanistan. He had a goal, pretty clearly, to participate in an attack on the United States. He seemed to be a part of that entire effort. He came 1 day before 9/11. He was tried by a Federal judge who apparently gave a conviction but sentenced him to, in effect, 7 years. He had training in bomb making and that kind of thing. He had done other acts that indicated an intent to kill American people, innocent civilians, in a surreptitious way, contrary to the laws of war. So as a result of that, I think he should have been tried by a military commission, and he was not.

As one of the professors said in commenting on this case, it raises questions about the ability of our normal Federal court system to try these people who may be subject to having the courthouse attacked in an attempt to free them. Jurors may feel threatened because they are willing to kill to promote their agenda—or their allies are. Courthouses have to be armed with guards all around and with people on top of the courthouse to protect the courthouse throughout the trial.

They can be tried effectively by military commissions. So Senator GRAHAM is serving the national interest in raising this issue. It is not a little bitty matter. It is correct. He has a good idea about it. He has focused it narrowly on the 9/11 issue and on those who participated in that attack. I think that is at least what we should do today.

We need to have a sincere analysis of the determination by this administration to try more and more cases in Federal court when they have been captured by the military. In fact, they say there is a presumption in their commission report to date that they would be tried in Federal courts rather than military commissions. I think that is very dangerous because military people do not give them Miranda warnings when they are arrested. They do not do the kinds of things that are necessary to maintain change of custody or to admit evidence into trials in a way we would normally do. These kinds of procedures could cause a trial to be extremely difficult. They could bring witnesses from the battlefield and the like.

It is not the way, I am aware, any country tries people who are at war with them—any country. All countries provide for military commissions against unlawful combatants.

I see my friend, Senator CHAMBLISS, in the Chamber. I know he wants to speak on this issue.

I thank the Chair and yield the floor.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. CHAMBLISS. Mr. President, I rise in strong support of the Graham amendment, and I wish to echo the sentiments expressed by my friend from Alabama, who, like me, has had extensive experience in trying cases for many years.

In this country, over our 225-plus years, we have been involved in many different military conflicts. In each of those conflicts, dating back to the early years, there have always been prisoners captured, and we have always had a procedure whereby we incarcerated and ultimately tried those individuals who were captured on the battlefield.

The process of how we operate from an article III criminal standpoint relative to criminals in America who commit offenses against the United States of America is one thing. The process we have always used to deal with those individuals whom we capture on the battlefield has been entirely different and all for the right reasons.

I know there are those who have gotten up here over the past several weeks and months as we have talked about this issue from time to time, and I have had any number of amendments on this issue and have spoken on the floor numerous times about it. It is important for the protection and security of the American people to keep all these individuals whom we capture on the battlefield, who are incarcerated at Guantanamo, outside America. We have the mechanics set up to try them. We have a very safe place for them to be incarcerated. That is, frankly, where they ought to stay until some method can be worked out to deal with them, to have them housed somewhere outside the United States.

Unfortunately, the President has made a commitment to close Guantanamo by January 22, without ever having a plan in place as to how he was going to deal with them. What we are talking about doing is making sure, because folks on the other side of the aisle have already said: We want to bring the prisoners from Guantanamo to American soil, we try them there. Ultimately, I guess they are saying: We want to house them in American prisons. I think that is wrong.

This amendment, though, is even narrower than that. That is why it is so important. This amendment says: We are going to take the meanest of these individuals, who get up every day thinking of ways to kill and harm Americans, and make sure they never come to American soil for trial and are never subjected to the process that is developed in article III courts for aver-

age, ordinary criminals who are tried every single day in America.

Khalid Shaikh Mohammed is the admitted mastermind of September 11. He is one of the individuals who today is housed at Guantanamo Bay. He is one of the individuals who is going to be directly affected by this amendment. Does Khalid Shaikh Mohammed want justice? No. Khalid Shaikh Mohammed wants a platform. He wants a platform on which to exude his arrogance and his hatred of America and his hatred of Americans, as exhibited by the plan he put in place to fly airplanes into the Pentagon, the World Trade Center, and another entity that was probably the U.S. Capitol. That airplane, ultimately, crashed in Pennsylvania.

There were over 3,000 victims on September 11. It is my understanding family members of those victims have written letters and made phone calls urging the passage of this amendment. They are an indication of the strong feeling that prevails all across America relative to how we deal with these individuals who, particularly—particularly—intended and did, in fact, carry out an attack against America, an atrocious attack that took the lives of over 3,000 people.

I commend Senator GRAHAM for even thinking of the idea of narrowing this amendment to include just those individuals who participated in the September 11 attack. I would rather broaden it to include all those who are housed at Guantanamo. I defy anyone to stand and say that trying any of those individuals who are housed at Guantanamo, who were captured on the battlefield, in an article III court in the United States would be similar to some other terrorists we have tried in this country. That is wrong. We have never tried anybody who was arrested on the battlefield in an article III court in the United States.

So Senator GRAHAM's amendment is very appropriate. It ought to be passed. It ought to be passed with a large margin. A vote against this amendment is simply a vote to give Khalid Shaikh Mohammed that platform he wants to have to talk about why he hates America and about everything that is wrong with America. That is not what we ought to be doing in this body today or at any other time.

I urge a positive and affirmative vote on the Graham amendment.

I yield back, Mr. President.

AMENDMENT NO. 2631

Ms. MIKULSKI. Mr. President, what is the pending amendment?

The PRESIDING OFFICER. Coburn amendment No. 2631 is the pending amendment.

Ms. MIKULSKI. Mr. President, I vigorously and unabashedly oppose the Coburn amendment. It eliminates not

only the dollars from the science program at the National Science Foundation, it specifically targets the \$9 million cut in the area of funding for research by political scientists.

The very first American woman to win the Nobel Prize for economics ever has received 28 awards from the National Science Foundation, the science program offered to political science professors. It shows what groundbreaking work can be done.

This amendment is an attack on science. It is an attack on academia. We need full funding to keep America innovative, and I urge my colleagues to vote no on this amendment.

Mr. President, I yield back the remainder of our time, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays are ordered.

The PRESIDING OFFICER. Who yields time in favor of the amendment?

Is there objection to yielding back all time?

Without objection, all time is yielded back.

The question is on agreeing to the amendment.

The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from West Virginia (Mr. BYRD) and the Senator from Louisiana (Ms. LANDRIEU) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 36, nays 62, as follows:

[Rollcall Vote No. 336 Leg.]

#### YEAS—36

Barrasso	Enzi	McConnell
Baucus	Graham	Murkowski
Bayh	Grassley	Nelson (NE)
Bennett	Hatch	Risch
Brownback	Hutchison	Roberts
Bunning	Inhofe	Sessions
Chambliss	Isakson	Shelby
Coburn	Kyl	Thune
Corker	LeMieux	Vitter
Crapo	Lugar	Voinovich
DeMint	McCain	Webb
Ensign	McCaskill	Wicker

#### NAYS—62

Akaka	Dorgan	Levin
Alexander	Durbin	Lieberman
Begich	Feingold	Lincoln
Bennet	Feinstein	Menendez
Bingaman	Franken	Merkley
Bond	Gillibrand	Mikulski
Boxer	Gregg	Murray
Brown	Hagan	Nelson (FL)
Burr	Harkin	Pryor
Burris	Inouye	Reed
Cantwell	Johanns	Reid
Cardin	Johnson	Rockefeller
Carper	Kaufman	Sanders
Casey	Kerry	Schumer
Cochran	Kirk	Shaheen
Collins	Klobuchar	Snowe
Conrad	Kohl	Specter
Cornyn	Lautenberg	Stabenow
Dodd	Leahy	

Tester	Udall (NM)	Whitehouse
Udall (CO)	Warner	Wyden

#### NOT VOTING—2

Byrd	Landrieu
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The amendment (No. 2631) was rejected.

Mr. REID. Mr. President, I ask unanimous consent that all succeeding votes in the tranche of votes—and I think there are five—be 10 minutes in duration.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Mr. President, people are anxious to finish tonight. If everybody will try to stay close and not wander around, we can wrap these up.

I yield at this time to the Senator from Texas, KAY BAILEY HUTCHISON.

#### MOMENT OF SILENCE

Mrs. HUTCHISON. Mr. President, I ask unanimous consent that this body have a moment of silence in memory of 11 great soldiers at Fort Hood, TX, who have been shot down this afternoon at the base at a processing center where they were being prepared to be deployed to Iraq and Afghanistan. In addition, the person who was the main shooter has also been killed. Over 30 of our great personnel are also injured and being treated as we speak.

When I spoke to the general a few minutes ago, the base, Fort Hood, was still in lockdown to make sure they have checked every possibility that there would be no more shootings. I know all of us love our military and appreciate everything they do. For them to have to suffer even more tragedy like this, as they are on their way to protect our freedom, is unthinkable.

I ask unanimous consent that all of us show how deeply we care about them right now on the floor of the Senate.

The PRESIDING OFFICER. Without objection, a moment of silence will commence.

[Moment of Silence.]

Mrs. HUTCHISON. Mr. President, I thank Senators very much.

#### AMENDMENT NO. 2667

The PRESIDING OFFICER. There will now be 2 minutes of debate equally divided in relation to the Coburn amendment No. 2667. Who yields time?

The Senator from Oklahoma.

Mr. COBURN. Mr. President, this is a straightforward amendment that actually increases the funding for the IG. One of our weaknesses is waste, fraud, and abuse. According to GSA, this will not affect the renovations whatsoever at the Hoover Building. We are simply transferring funds.

I understand a point of order is going to be made against this amendment. But if my colleagues want control and have accurate work done by our IGs, we need to fund them appropriately, and this amendment is intended to do that.

The PRESIDING OFFICER. The Senator from Maryland.

Ms. MIKULSKI. Mr. President, I share the concerns of the Senator from Oklahoma about oversight at the Department of Commerce. That is why the bill already funds the inspector general at \$25.8 million, the same as the President's request. There is an additional \$6 million furnished through the stimulus.

This amendment does cut the Hoover Building and it would only delay the renovations to meet basic health and safety standards. I oppose the amendment. The amendment would cause the CJS bill to exceed its allocation. Therefore, I make a point of order that the amendment violates section 302(f) of the Congressional Budget Act of 1974.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. COBURN. Mr. President, I move to waive the applicable section of the Budget Act with respect to my amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The question is on agreeing to the motion.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from West Virginia (Mr. BYRD) is necessarily absent.

The PRESIDING OFFICER (Mr. BEGICH). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 42, nays 57, as follows:

[Rollcall Vote No. 337 Leg.]

#### YEAS—42

Alexander	Crapo	LeMieux
Barrasso	DeMint	Lincoln
Baucus	Ensign	Lugar
Bayh	Enzi	McCain
Bennett	Feingold	McCaskill
Brownback	Graham	McConnell
Bunning	Grassley	Risch
Burr	Gregg	Roberts
Chambliss	Hatch	Sessions
Coburn	Hutchison	Shelby
Cochran	Inhofe	Snowe
Collins	Isakson	Thune
Corker	Johanns	Vitter
Cornyn	Kyl	Wicker

#### NAYS—57

Akaka	Hagan	Nelson (NE)
Begich	Harkin	Nelson (FL)
Bennet	Inouye	Pryor
Bingaman	Johnson	Reed
Bond	Kaufman	Reid
Boxer	Kerry	Rockefeller
Brown	Kirk	Sanders
Burris	Klobuchar	Schumer
Cantwell	Kohl	Shaheen
Cardin	Landrieu	Specter
Carper	Lautenberg	Stabenow
Casey	Leahy	Tester
Conrad	Levin	Udall (CO)
Dodd	Lieberman	Udall (NM)
Dorgan	Menendez	Voinovich
Durbin	Merkley	Warner
Feinstein	Mikulski	Webb
Franken	Murkowski	Whitehouse
Gillibrand	Murray	Wyden

#### NOT VOTING—1

Byrd

The PRESIDING OFFICER. On this vote, the yeas are 42, the nays are 57.

Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is not agreed to. The point of order is sustained, and the amendment fails.

Mrs. BOXER. Mr. President, I move to reconsider the vote.

Mrs. MURRAY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

## AMENDMENT NO. 2669

The PRESIDING OFFICER. There is now 4 minutes equally divided before the vote on the Graham amendment, No. 2669.

The Senator from South Carolina.

Mr. GRAHAM. Colleagues, we are about to take a vote. It is a tough vote, and I regret we are having to do this, but at the end of the day, I have a view that this country is at war. I think most of you share it. Our civilian court system serves us well, but we have had a long history of having military commission trials when the Nation is at war. The military commission bill which this Congress wrote is reformed. It is new, it is transparent, and it is something I am proud of.

This amendment says that the six co-conspirators who planned 9/11—Khalid Shaikh Mohammed at the top of the list—will not be tried in Federal court because the day you do that, you will criminalize this war.

In the first attack on the World Trade Center, the Blind Sheik was tried in Federal court, and the unindicted coconspirators list wound up in the hands of al-Qaida.

Military commissions are designed to administer justice in a fair and transparent way, but they know and understand we are at war. Our civilian courts are not designed to deal with war criminals; the military system is.

Khalid Shaikh Mohammed, the mastermind of 9/11, didn't rob a liquor store; he didn't commit a crime under domestic criminal law; he took this Nation to war and he killed 3,000 of our citizens. He needs to have justice rendered in the system that recognizes we are at war.

Please support this idea of not criminalizing the war the second time around.

The PRESIDING OFFICER. Who yields time?

Mr. REED. Mr. President, we all recognize the severity of this issue and the passion the Senator from South Carolina brings to the issue. But since 9/11, we have tried 195 terrorists in article III courts; we have tried 3 in military commissions. I think we have recognized that our courts are durable enough to stand up to the issues of the culpability of these individuals and the magnitude of their actions. Secretary Gates and Attorney General Holder have asked for the option to use article III courts or military commissions. We are preserving that if we reject the Graham amendment.

Let me say something else. Our enemies see themselves as jihadists—holy warriors. They don't object to being tried in military commissions because they see themselves as combatant warriors. They are criminals. They committed murder. The sooner we can convince the world that these aren't holy warriors, that they are criminals, the sooner we will take an advantage in this battle of ideas between those people and the system of laws and justice that we represent and try to protect and defend.

So I recognize the sincerity and the passion of the Senator, but I would urge a vote against this amendment, and I move to table the amendment.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. GRAHAM. To my dear friend, this is the biggest issue of the day: Are they criminals? Are they warriors? Does it matter? These people are not criminals, they are warriors, and they need to be dealt with in a legal system that recognizes that.

And to the 214 9/11 families who support my amendment, I understand that the people who killed your family members are at war with us. I hope the Senate will understand that so we don't have another.

The PRESIDING OFFICER. The Senator's time has expired.

The Senator from Rhode Island.

Mr. REED. Mr. President, do I have time remaining?

The PRESIDING OFFICER. Twenty-five seconds.

Mr. REED. Mr. President, this present statute that is on the books gives the Secretary of Defense the opportunity to recommend and the Attorney General the opportunity to prosecute in either an article III court or a military tribunal. I think that choice should be maintained.

I would urge that we defeat this amendment.

I move to table the amendment.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. REID. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is on agreeing to the motion.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from West Virginia (Mr. BYRD) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 54, nays 45, as follows:

[Rollcall Vote No. 338 Leg.]

## YEAS—54

Akaka	Franken	Mikulski
Baucus	Gillibrand	Murray
Bayh	Hagan	Nelson (NE)
Begich	Harkin	Nelson (FL)
Bennet	Inouye	Reed
Bingaman	Johnson	Reid
Boxer	Kaufman	Rockefeller
Brown	Kerry	Sanders
Burris	Kirk	Schumer
Cardin	Klobuchar	Shaheen
Carper	Kohl	Specter
Casey	Landrieu	Stabenow
Conrad	Lautenberg	Tester
Dodd	Leahy	Udall (CO)
Dorgan	Levin	Udall (NM)
Durbin	McCaskill	Warner
Feingold	Menendez	Whitehouse
Feinstein	Merkley	Wyden

## NAYS—45

Alexander	DeMint	Lugar
Barrasso	Ensign	McCain
Bennett	Enzi	McConnell
Bond	Graham	Murkowski
Brownback	Grassley	Pryor
Bunning	Gregg	Risch
Burr	Hatch	Roberts
Cantwell	Hutchison	Sessions
Chambliss	Inhofe	Shelby
Coburn	Isakson	Snowe
Cochran	Johanns	Thune
Collins	Kyl	Vitter
Corker	LeMieux	Voinovich
Cornyn	Lieberman	Webb
Crapo	Lincoln	Wicker

## NOT VOTING—1

Byrd

The motion was agreed to.

Mrs. MURRAY. Mr. President, I move to reconsider the vote.

Mr. LEVIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

## AMENDMENT NO. 2648, AS MODIFIED

The PRESIDING OFFICER. There is now 2 minutes equally divided with respect to the Ensign amendment, No. 2648. The Senator from Nevada is recognized.

Mr. ENSIGN. Mr. President, my amendment is very simple. It would add \$172 million to the State Criminal Alien Assistance Program. This program provides payment to States that incur correctional officer salary costs for incarcerating undocumented criminal aliens for at least one felony or two misdemeanor convictions. This amendment is offset by simply an across-the-board decrease in spending, so it is budget neutral.

I believe this is an important amendment. It is especially important if you are in one of the Southwestern States or border States. Local law enforcement in those states incur a lot of expenses; those associated with illegal immigrants, especially those who are criminals. I urge my colleagues to support this amendment and match what the House of Representatives did when they passed this amendment by a vote of 405 to 1. Let's go along with the House of Representatives and make sure our local law enforcement has the resources they need to fight those who are here illegally and committing serious crimes.

The PRESIDING OFFICER. The Senator from Alabama is recognized.

Mr. SHELBY. Mr. President, I rise in opposition to the Ensign amendment. The State Criminal Alien Assistance Program, a program that was not requested by this nor the previous administration, is currently overfunded in this bill at \$228 million. With the Ensign amendment, we are being asked to add \$172 million to a program that barely touches most of our States. Since 2004, five States have received 71 percent of the \$2.1 billion in funding for this program.

Let me say that again, 71 percent, or \$1.5 billion of the amount for this program since 2004, has gone to five States. This can hardly be called a national program.

In 2008, during the CJS Senate floor debate a year ago, this amendment was tabled and rejected by a vote of 68 to 25. I strongly oppose this amendment and urge my colleagues to vote against this amendment.

The PRESIDING OFFICER. The Senator from Maryland is recognized.

Ms. MIKULSKI. Mr. President, I support every comment made by my ranking member. I believe this amendment will cause the CJS bill to exceed its allocation, therefore I make a point of order the amendment violates section 302(f) of the Congressional Budget Act of 1974.

The PRESIDING OFFICER. The Senator from Nevada is recognized.

Mr. ENSIGN. To clear up a couple of facts, first of all, not every State has the same problem with illegal immigrants that other States do.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. ENSIGN. I move to waive the applicable sections of the Budget Act with respect to my amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The question is on agreeing to the motion. The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from West Virginia (Mr. BYRD) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 32, nays 67, as follows:

[Rollcall Vote No. 339 Leg.]

#### YEAS—32

Barrasso	Ensign	LeMieux
Baucus	Enzi	McCain
Bingaman	Feinstein	McConnell
Boxer	Graham	Nelson (NE)
Brownback	Grassley	Reid
Burr	Hagan	Risch
Chambliss	Hatch	Roberts
Coburn	Hutchison	Tester
Cornyn	Isakson	Thune
Crapo	Johanns	Wicker
DeMint	Kyl	

#### NAYS—67

Akaka	Gillibrand	Murray
Alexander	Gregg	Nelson (FL)
Bayh	Harkin	Pryor
Begich	Inhofe	Reed
Bennet	Inouye	Rockefeller
Bennett	Johnson	Sanders
Bond	Kaufman	Schumer
Brown	Kerry	Sessions
Bunning	Kirk	Shaheen
Burris	Klobuchar	Shelby
Cantwell	Kohl	Snowe
Cardin	Landrieu	Specter
Carper	Lautenberg	Stabenow
Casey	Leahy	Udall (CO)
Cochran	Levin	Udall (NM)
Collins	Lieberman	Vitter
Conrad	Lincoln	Voinovich
Corker	Lugar	Warner
Dodd	McCaskill	Webb
Dorgan	Menendez	Whitehouse
Durbin	Merkley	Wyden
Feingold	Mikulski	
Franken	Murkowski	

#### NOT VOTING—1

Byrd

The PRESIDING OFFICER. On this vote, the yeas are 32, the nays are 67. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is not agreed to, the point of order is sustained, and the amendment falls.

#### AMENDMENT NO. 2393

The question is on agreeing to amendment No. 2393.

The amendment (No. 2393) was agreed to.

The PRESIDING OFFICER. The Senator from Maryland is recognized.

Ms. MIKULSKI. Mr. President, I ask unanimous consent that it be in order to make a point of order against the remaining amendments.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. MIKULSKI. I make a point of order en bloc that amendments Nos. 2644, 2627, 2646, 2625, 2642, and 2632 are either not germane postclosure or violate rule XVI.

The PRESIDING OFFICER. The points of order are well taken. The amendments fall.

#### AMENDMENT NO. 2647, AS MODIFIED

Ms. MIKULSKI. Mr. President, not withstanding the order regarding the passage of H.R. 2847, I now ask unanimous consent that amendment No. 2647, as modified, be agreed to and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 2647), as modified, was agreed to.

#### EFFECTS OF RESEARCH AND DEVELOPMENT AND ENERGY ON THE GDP

Mr. BINGAMAN. Speaking through the Chair to the manager of the Commerce-Justice-Science bill, I would like to ask if she is aware that the President's fiscal year 2010 budget for the Bureau of Economic Analysis contained two important initiatives to measure the impact that research and development as well as energy has on the gross domestic product?

Ms. MIKULSKI. Yes, I am aware of these two important initiatives I know

from the COMPETES Act, which I was integrally involved in with the Senator, that one of the more important policy questions is what effect research and development has on gross domestic product. There are many estimates that it is substantial and it is an important question for Congress to consider.

Mr. BINGAMAN. As chairman of the Energy and Natural Resources Committee, I would also like to point out another initiative by the Bureau in the fiscal year 2010 budget on the effect of energy consumption on the gross domestic product. I believe that such macroeconomic information will be critical as we develop a comprehensive energy policy that is currently before the Congress.

Ms. MIKULSKI. Yes, I am aware of the initiative and it is important we understand how the recent price increases for the energy we use affects the overall gross domestic product.

Mr. BINGAMAN. I would like to ask the manager if during conference with the House consideration can be given to help start these two initiatives so that we in Congress can begin to understand how these two important parameters affect our gross domestic product.

Ms. MIKULSKI. I thank Senator BINGAMAN. I will work with the House and Senate conferees to give these two important initiatives the consideration they deserve.

#### COPS HIRING PROGRAM FUNDING

Mr. BENNET. Mr. President, I congratulate the senior Senators from Maryland and Alabama for their excellent work putting together a Commerce, Justice, Science—CJS—appropriations bill that invests in critical national priorities. At this moment, I would like to invite Chairwoman MIKULSKI to enter into a colloquy about how important that the Community-Oriented Policing Services, COPS, Hiring Program is for our local law enforcement personnel. Given the budget shortfalls faced by states and local governments, federal resources through the COPS program are absolutely essential to ensure that work we are doing locally to prevent domestic violence and drug trafficking, for example, do not go neglected during this recession. I know Senator MIKULSKI has championed the COPS program, and I would love to hear more of her thoughts.

Ms. MIKULSKI. Certainly, I thank the Senator for his kind words. As the Senator noted, I am a strong supporter of the COPS Hiring Program. This year in particular, we faced difficult funding decisions and had to juggle a number of priorities because we were trying to make up for years of underinvestment in Justice Department programs. That is why our fiscal year 2010 CJS spending bill provides \$100 million for the

COPS Hiring Program to put an additional 500 cops on the beat, patrolling our streets and protecting our families. As we move forward to conference with the House, I expect to hear from Democratic members about the need to increase those funds. I intend to do my part in conference to see that this program remains a high priority in the conference report.

Mr. BENNET. I agree with the Senator that we need to ensure that our law enforcement ranks remain stable. In February, this body took significant steps to ensure that our law enforcement maintained its ranks through investments made in the American Recovery and Reinvestment Act. The stimulus provided \$1 billion for the COPS Hiring Recovery Program, CHRP, which was intended to help communities hire and rehire police officers during the recession. Nearly 7,300 CHRP applications requesting over 39,000 officers and \$8.3 billion in funds were submitted to the COPS Office. Because of limited funds available, COPS was able to fund only 1,046—14 percent of the 7,272 CHRP requests received during the 2009 solicitation.

Some local law enforcement in my state are in need of assistance, though, and have not been able to get it. In July, the Montrose Police Department tragically lost Sgt. David Kinterknecht in a shooting. His sacrifice in the line of fire is a testament to the commitment of law enforcement in Colorado. Unfortunately, Montrose and some other departments in my state were rejected when they applied for the COPS Hiring Recovery Program. After the loss of Sergeant Kinterknecht, they were not only unable to add to their force, but also could not refill their ranks after this tragic death. The Montrose Police Department remains an officer short.

The story of the Montrose Police Department is just one of the many challenges faced by law enforcement as they try to protect our communities. Denver had to forego pay increases for 2010 and 2011 due to shortfalls in the city budget, for example. The city faced layoffs and our law enforcement made hard concessions in order to protect crucial jobs. Now in addition to making sacrifices in the line of duty, law enforcement is making financial sacrifices as our communities struggle to stay above water.

An increase in funding for the COPS Hiring Program would go a long way toward helping communities brace with the challenges of the current economic crisis.

Ms. MIKULSKI. I agree that we need to do all we can to help our police officers to ensure they are not walking a thin blue line. Our cops need a full team to combat violence, protect families, and fight the crime that's destroying neighborhoods. The funding provided in the stimulus went a long way

toward helping put cops back on the beat. It is clear that the demand and needs of local communities are high. The Senators tireless advocacy for his State's law enforcement is much appreciated. The Senator has made his point loud and clear, and I know we will continue to hear from him on the importance of the COPS Hiring Program as we move into conference.

Mr. BENNET. I thank the Senator.

Mr. CARDIN. Mr. President, I rise today to express my support for the Senate amendment to H.R. 3288 and to thank my colleagues on the Commerce, Justice, Science, and Related Agencies Appropriations Subcommittee for their fine work on this bill. I congratulate the senior Senator from Maryland, Ms. MIKULSKI, and the ranking member, Mr. SHELBY, for crafting legislation that positively impacts the course of technology-based innovation, U.S. competitiveness, and scientific advances while protecting Americans from terrorism and violent crime.

In my home State of Maryland, we are fortunate to have many Maryland facilities that have crucial roles in the development and advancement of science and technology. The Senate amendment provides \$878.8 million for the National Institute of Standards and Technology, or NIST. NIST operates a 234-acre headquarter facility in Gaithersburg, MD, where more than 2,500 scientists, engineers, technicians, and support personnel are employed. NIST assists industry in developing technology to improve product quality, helps modernize manufacturing processes, ensure product reliability, and facilitate rapid commercialization of products based on scientific discoveries.

Maryland is also fortunate to be home to several National Oceanic and Atmospheric, or NOAA, facilities. The Senate amendment provides \$4.77 billion for NOAA. NOAA provides scientific, technical, and management expertise to promote safe and efficient marine and air navigation; assess the health of coastal and marine resources; monitor and predict the coastal, ocean, and global environments—including weather forecasting—and protect and manage the Nation's coastal resources. NOAA's significance is strongly felt in Maryland which, with the Chesapeake Bay, boasts 4,000 miles of coastal land. The bill funds several environmental projects important to Maryland including the Chesapeake Bay Interpretive Buoy System and NOAA's Chesapeake Bay Oyster Restoration, and the Chesapeake Bay Environmental Center to name a few.

As we are all acutely aware, the decennial Census will soon be upon us. This legislation provides \$7.32 billion for the Census Bureau. The challenges of the 2010 Census will be unlike any previously experienced. Hot button issues such as immigration and

healthcare have cultivated mistrust of the government and will impede public cooperation on the Census. Responses to economic conditions such as families whose home have been foreclosed living in recreational vehicles or multiple families "doubling up" into single family homes present even more challenges. However, these challenges simply underscore the importance of the Census and the necessity of making sure every person counts. The Census count will determine federal financial formula allocations. Not in the past seven decades has the Census been so significant, economically speaking. And for those who question whether their voices are heard on Capitol Hill; the Census ensures that they do through the process of reapportionment. It is imperative that the 2010 Census count be accurate. I thank the appropriators for their attention to this important matter on behalf of the nearly 4,300 employees of the U.S. Census Bureau Headquarters in Suitland, MD.

The committee has provided \$27.39 billion for the Department of Justice. This will fund important grant programs like the Byrne justice assistance grants for local law enforcement, and Community Oriented Policing Service or COPS grants, and other crime abatement activities. The bill combats crime in Maryland by providing funding for programs such as the Annapolis Capital City Safe Streets Program and the Maryland Department of Juvenile Services Violence Prevention Initiative. This bill supports our law enforcement officers who protect and serve Americans each day by giving them the resources needed to combat and deter violent crimes. In Maryland, this includes the State Police First Responder Radio Interoperability Project. The State of Maryland has committed to developing a Radio Interoperability Project that will link State and local law enforcement agencies for coordinated, comprehensive protective services.

I commend Senator MIKULSKI for boosting funding for the Legal Services Corporation, LSC, in this bill, and for removing the restrictions on the use of non-LSC funds by LSC grant recipients. Lifting this restriction in the law is important, because it allows LSC grantees to use their own funds to pursue class action lawsuits and attorneys fees. These are critical tools for lawyers to have in their arsenal as they fight to protect their low-income clients against egregious miscarriages of justice, and help the most vulnerable individuals in our society secure equal justice under the law. I chaired a hearing in May 2008 in the Judiciary Committee on "Closing the Justice Gap." This bill is consistent with many of our witnesses' recommendations at the hearing, and also with the underlying reauthorization legislation—the Civil

Access to Justice Act—filed by Senators KENNEDY, HARKIN, and me in March 2009. I am also pleased that the House has introduced legislation to reauthorize LSC, and look forward to working with the Obama administration and my colleagues in Congress to enact both the LSC appropriations and reauthorization legislation in this Congress.

In closing, again let me say how much I appreciate the work of Senator MIKULSKI, Senator SHELBY, and their staffs along with the rest of the subcommittee. In addition to providing for critical law enforcement needs, they have crafted a bill that spurs American interests in science and technology forward; making way for American innovation in the global economy. I find that quite impressive and I support this bill.

Mr. AKAKA. Mr. President, I support the Commerce, Justice, Science, and Related Agencies appropriations bill for fiscal year 2010. This bill's priorities will protect America from terrorism and violent crime; create jobs for Americans by investing in the Nation's scientific infrastructure and in new technologies; and ensure a timely and accurate 2010 decennial census.

In Hawaii, as in the rest of the Nation, sexual and domestic violence unfortunately persists, bringing with it the need for programs and services that address such violence and meet the needs of victims. For nearly four decades, the Sexual Assault Response Services of the Hawaii County and Kauai County YWCAs, have offered a 24/7 sexual assault hotline, 24/7 on-call crisis intervention, and support for victims of sexual assault and violence through the medical examination and legal services process, individual/group therapeutic counseling, and case management. I am therefore thankful that this bill includes \$400,000 to enable the Hawaii and Kauai County YWCAs to continue their critically needed services.

Like other political jurisdictions across the Nation, Hawaii has pursued collaborative, community based delinquency prevention programs targeted to at-risk youth. To address this need the bill includes \$300,000 for Ka Wili Pu (Native Hawaiian for "the blend") a project that would provide 400 at-risk youth on Maui with adult guidance and adult role models and one-on-one instruction to bolster their self-esteem, self-confidence, school attendance, and academic performance and dissuade them from becoming truants and dropouts. By encouraging at-risk youth to remain in school, fulfill their promise, and avoid a problematic future with few meaningful options, Ka Wili Pu promotes a healthier and more stable society.

Recognizing that children and elderly adults can become lost and disoriented in the urban and suburban areas of Ha-

wai, \$500,000 is provided for A Child Is Missing—ACIM—Hawaii. ACIM currently operates in 49 States but not in Hawaii, where its advanced telephone-based computer system only recently became available. That system can place 1,000 phone calls every 60 seconds to residences and businesses in the area where a missing child or adult was last seen. This initiative will provide that critical rapid response to assist law enforcement agencies in Hawaii to locate missing children and adults.

I am also pleased that \$500,000 was included in this legislation for the State Courts Improvement Initiative of the National Center or to Courts, NCSC. The NCSC was founded in 1971 by the Conference of Chief Justices, CCJ, the Conference of State Court Administrators, COSCA, and former U.S. Supreme Court Chief Justice Warren E. Burger. Today, the NCSC serves as a think tank, forum, and voice for 30,000 judges, and 20,000 courthouses, in the State court system in the 50 States, DC, Puerto Rico, the U.S. Virgin Islands, Guam, and American Samoa, where annually 98 percent of court filings are submitted. This request funds the implementation of the NCSC's State Courts Improvement Initiative, which will increase support services to judges, administrators and other personnel in the state court system. Improving the operations of the state courts will help shape Americans' understanding of and confidence in the Nation's judicial system.

Because there may be Hawaii prisoners with credible claims to actual innocence who have exhausted their appellate rights and their rights to counsel, the bill includes \$300,000 for the Hawaii Innocence Project. Founded in 2005 by Hawaii attorneys in partnership with the William S. Richardson School of Law, this project, in which law students work alongside practicing criminal defense attorneys, provides pro bono assistance to Hawaii prisoners who no longer have access to legal resources but who may be innocent of the crimes for which they were convicted, and whose innocence may now be proven through technology unavailable at the time of their trials. The possible exoneration of any wrongfully convicted individual will help to serve the cause of justice.

The Violence Against Women Act, VAWA, acknowledges that immigrant women, particularly indigent women, are a specific and often overlooked at-risk group. In Hawaii, the Hawaii Immigrant Justice Center, HIJC, is the only agency providing pro bono civil legal services to indigent immigrants, particularly immigrant women who are victims of sexual assault and domestic violence. For many years, the HIJC has coordinated and delivered comprehensive assistance to indigent immigrant women through a cost-effective delivery of legal, medical, psychological,

and social services that would otherwise have required the intervention of a range of other public agencies and at far greater cost. I am pleased that this bill includes \$200,000 for the HIJC to enable the agency to continue to perform its good work, which not only assists immigrant victims of sexual violence but places them on a path to self-sufficiency that will, in time and over the long term, mitigate the effects of crime and promote family and social stability.

All in all, the fiscal year 2010 Department of Justice-related appropriations will help Hawaii to discourage delinquency and crime, bring criminals to justice, address and meet the needs of victims, and promote a fairer and more just society.

Funding included in this bill also bolsters advancements in science and technology, as well as enhances U.S. competitiveness. I am proud to have worked with Senator INOUE to secure resources that support ecosystem based management, preserve the endangered Hawaiian Monk Seal, strengthen our understanding of climate change, improve warning systems for public safety, and further science education at the 'Imiloa Astronomy Center. These programs will inform our decisions on how we manage our resources, as well as understand and interact with our natural environment.

Maintaining healthy ecosystems that extend into our oceans is important. Coral reef ecosystems provide benefits by protecting coastal communities, sustaining fisheries, and preserving biodiversity. Hawaii's coral reefs generate more than \$360 million a year on reef related tourism and fisheries activities. To ensure this natural resource is preserved, \$2.250 million is provided in this bill to conduct studies that will enable scientists to develop predictive management tools for the conservation and management of healthy coral reef ecosystems in Hawaii and develop best practices to restore reefs where human related activities result in reef ecosystem decline. This initiative will help ensure that these reefs are protected and managed well, while also empowering coastal communities across the country to minimize human impact on our reefs.

The National Oceanic and Atmospheric Administration will receive \$4 million in this bill to continue the implementation of the Hawaiian monk seal recovery plan. The Hawaiian monk seal, endemic to Hawaii, is the most endangered seal in the country and one of the most endangered marine mammals in the world. In the last 50 years the Hawaiian monk seal population has fallen by 60 percent, with a current population of less than 1,200 individual seals. Funding will address female and juvenile monk seal survival and enhancement, as well as efforts to minimize monk seal mortality. Further,

these funds will strengthen coordinated regional office efforts for field response teams and enhance implementation of the 2007 recovery plan.

We know that there are significant effects of climate change, especially in Hawaii and the Pacific region. As island communities, sea level rise, coral bleaching, and severe weather associated with climate change have unique impacts on the public safety, economic development, and health of our ecosystems and wildlife. Fortunately, \$1.5 million is provided in the bill for the International Pacific Research Center at the University of Hawaii to conduct systematic and reliable climatographic research for the Pacific. Improving our understanding of climate variability empowers us to use data and models to mitigate adverse impacts.

Given Hawaii's geographic isolation, having warning systems in place to address public safety needs is critical. In order to focus on response and preparedness needs, I worked to ensure that \$2 million was provided to foster the development of infrasound as a warning tool for natural hazards. As a joint initiative by the University of Hawaii and University of Mississippi, infrasound technology has the potential to minimize the catastrophic human and economic loss resulting from a natural disaster. The objective is to develop technologies for infrasound warning systems for emergency organizations and traffic control agencies. Potential applications of infrasound monitoring may include volcanic eruptions, gulf coast hurricane tracking, tsunami infrasound warning, acoustic monitoring of ocean swells, infrasonic tornado detection, and other natural disasters such as avalanches and wild fires. Development of this technology and lessons learned can help enhance existing warning systems nationwide.

Developing interest in science by our Nation's youth at an early age ensures that they are better prepared to pursue and excel in the fields of science, technology, engineering, and math. In an effort to cultivate a life-long interest in science and learning, \$2.5 million is provided to expand astronomy and culture exhibits, as well as to develop community and educational programming at the Imliloa Astronomy Center. This endeavor is a joint initiative supported by partners including the National Oceanic and Atmospheric Administration and Hawaii Volcanoes National Park. This program will serve as a model that integrates university/research institution resources with community learning needs using the center as a catalyst to engage and educate students and the general community. Further, this initiative increases public understanding and enjoyment of science research, while supporting the national priority of attracting more students into science and technology related fields.

In conclusion, I would like to thank the senior Senator from Hawaii and the senior Senator from Mississippi, the chairman and ranking member, respectively, of the Appropriations Committee, as well as the senior Senator from Maryland and the senior Senator from Alabama, the Chairwoman and ranking member, respectively, for the Appropriations Subcommittee on Commerce, Justice, Science, and Related Agencies, for their support in funding these important priorities for Hawaii and for their efforts in developing and managing this bill through the legislative process.

The PRESIDING OFFICER. The substitute amendment, as amended, is agreed to.

The question is on the engrossment of the committee amendment, as amended, and third reading of the bill.

The amendment, as amended, was ordered to be engrossed, and the bill to be read a third time.

The bill was read a third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill pass?

Ms. MIKULSKI. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from West Virginia (Mr. BYRD) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 71, nays 28, as follows:

[Rollcall Vote No. 340 Leg.]

YEAS—71

Akaka	Franken	Murray
Alexander	Gillibrand	Nelson (NE)
Baucus	Gregg	Nelson (FL)
Begich	Hagan	Pryor
Bennet	Harkin	Reed
Bennett	Hutchison	Reid
Bingaman	Inouye	Rockefeller
Bond	Johnson	Sanders
Boxer	Kaufman	Schumer
Brown	Kerry	Shaheen
Brownback	Kirk	Shelby
Burris	Klobuchar	Snowe
Cantwell	Kohl	Specter
Cardin	Landrieu	Stabenow
Carper	Lautenberg	Tester
Casey	Leahy	Udall (CO)
Cochran	LeMieux	Udall (NM)
Collins	Levin	Vitter
Conrad	Lieberman	Voinovich
Dodd	Lincoln	Warner
Dorgan	Menendez	Webb
Durbin	Merkley	Whitehouse
Feingold	Mikulski	Wyden
Feinstein	Murkowski	

NAYS—28

Barrasso	Ensign	McCain
Bayh	Enzi	McCaskill
Bunning	Graham	McConnell
Burr	Grassley	Risch
Chambliss	Hatch	Roberts
Coburn	Inhofe	Sessions
Corker	Isakson	Thune
Cornyn	Johanns	Wicker
Crapo	Kyl	
DeMint	Lugar	

NOT VOTING—1

Byrd

The bill (H.R. 2847), as amended, was passed, as follows:

H.R. 2847

*Resolved*, That the bill from the House of Representatives (H.R. 2847) entitled "An Act making appropriations for the Departments of Commerce and Justice, and Science, and Related Agencies for the fiscal year ending September 30, 2010, and for other purposes.", do pass with the following amendment:

Strike out all after the enacting clause and insert:

*That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 2010, and for other purposes, namely:*

TITLE I

DEPARTMENT OF COMMERCE

INTERNATIONAL TRADE ADMINISTRATION  
OPERATIONS AND ADMINISTRATION

*For necessary expenses for international trade activities of the Department of Commerce provided for by law, and for engaging in trade promotional activities abroad, including expenses of grants and cooperative agreements for the purpose of promoting exports of United States firms, without regard to 44 U.S.C. 3702 and 3703; full medical coverage for dependent members of immediate families of employees stationed overseas and employees temporarily posted overseas; travel and transportation of employees of the International Trade Administration between two points abroad, without regard to 49 U.S.C. 40118; employment of Americans and aliens by contract for services; rental of space abroad for periods not exceeding 10 years, and expenses of alteration, repair, or improvement; purchase or construction of temporary demountable exhibition structures for use abroad; payment of tort claims, in the manner authorized in the first paragraph of 28 U.S.C. 2672 when such claims arise in foreign countries; not to exceed \$327,000 for official representation expenses abroad; purchase of passenger motor vehicles for official use abroad, not to exceed \$45,000 per vehicle; obtaining insurance on official motor vehicles; and rental of tie lines, \$455,704,000, to remain available until September 30, 2011, of which \$9,439,000 is to be derived from fees to be retained and used by the International Trade Administration, notwithstanding 31 U.S.C. 3302: Provided, That not less than \$49,530,000 shall be for Manufacturing and Services; not less than \$43,212,000 shall be for Market Access and Compliance; not less than \$68,290,000 shall be for the Import Administration; not less than \$257,938,000 shall be for the Trade Promotion and United States and Foreign Commercial Service; and not less than \$27,295,000 shall be for Executive Direction and Administration: Provided further, That the provisions of the first sentence of section 105(f) and all of section 108(c) of the Mutual Educational and Cultural Exchange Act of 1961 (22 U.S.C. 2455(f) and 2458(c)) shall apply in carrying out these activities without regard to section 5412 of the Omnibus Trade and Competitiveness Act of 1988 (15 U.S.C. 4912); and that for the purpose of this Act, contributions under the provisions of the Mutual Educational and Cultural Exchange Act of 1961 shall include payment for assessments for services provided as part of these activities: Provided further, That negotiations shall be conducted within the World Trade Organization to recognize the right of members to distribute monies collected from antidumping and countervailing duties: Provided further, That negotiations shall be conducted within the World Trade Organization consistent with the negotiating objectives contained in the Trade Act of 2002, Public Law 107-210, to maintain*



strong U.S. remedies laws, correct the problem of overreaching by World Trade Organization Panels and Appellate Body, and prevent the creation of obligation never negotiated or expressly agreed to by the United States: Provided further, That within the amounts appropriated, \$1,500,000 shall be used for the projects, and in the amounts, specified in the table entitled "Congressionally designated projects" in the report of the Committee on Appropriations of the Senate to accompany this Act.

#### BUREAU OF INDUSTRY AND SECURITY OPERATIONS AND ADMINISTRATION

For necessary expenses for export administration and national security activities of the Department of Commerce, including costs associated with the performance of export administration field activities both domestically and abroad; full medical coverage for dependent members of immediate families of employees stationed overseas; employment of Americans and aliens by contract for services abroad; payment of tort claims, in the manner authorized in the first paragraph of 28 U.S.C. 2672 when such claims arise in foreign countries; not to exceed \$15,000 for official representation expenses abroad; awards of compensation to informers under the Export Administration Act of 1979, and as authorized by 22 U.S.C. 401(b); and purchase of passenger motor vehicles for official use and motor vehicles for law enforcement use with special requirement vehicles eligible for purchase without regard to any price limitation otherwise established by law, \$100,342,000, to remain available until expended, of which \$14,767,000 shall be for inspections and other activities related to national security: Provided, That the provisions of the first sentence of section 105(f) and all of section 108(c) of the Mutual Educational and Cultural Exchange Act of 1961 (22 U.S.C. 2455(f) and 2458(c)) shall apply in carrying out these activities: Provided further, That payments and contributions collected and accepted for materials or services provided as part of such activities may be retained for use in covering the cost of such activities, and for providing information to the public with respect to the export administration and national security activities of the Department of Commerce and other export control programs of the United States and other governments.

#### ECONOMIC DEVELOPMENT ADMINISTRATION ECONOMIC DEVELOPMENT ASSISTANCE PROGRAMS

For grants for economic development assistance as provided by the Public Works and Economic Development Act of 1965, and for trade adjustment assistance, \$200,000,000, to remain available until expended: Provided, That of the amounts provided, no more than \$4,000,000 may be transferred to "Economic Development Administration, Salaries and Expenses" to conduct management oversight and administration of public works grants.

#### SALARIES AND EXPENSES

For necessary expenses of administering the economic development assistance programs as provided for by law, \$38,000,000: Provided, That these funds may be used to monitor projects approved pursuant to title I of the Public Works Employment Act of 1976, title II of the Trade Act of 1974, and the Community Emergency Drought Relief Act of 1977.

#### MINORITY BUSINESS DEVELOPMENT AGENCY MINORITY BUSINESS DEVELOPMENT

For necessary expenses of the Department of Commerce in fostering, promoting, and developing minority business enterprise, including expenses of grants, contracts, and other agreements with public or private organizations, \$31,200,000: Provided, That within the amounts appropriated, \$200,000 shall be used for the projects, and in the amounts, specified in the

table entitled, "Congressionally designated projects" in the report of the Committee on Appropriations of the Senate to accompany this Act.

#### ECONOMIC AND STATISTICAL ANALYSIS SALARIES AND EXPENSES

For necessary expenses, as authorized by law, of economic and statistical analysis programs of the Department of Commerce, \$100,600,000, to remain available until September 30, 2011.

#### BUREAU OF THE CENSUS SALARIES AND EXPENSES

For expenses necessary for collecting, compiling, analyzing, preparing, and publishing statistics, provided for by law, \$259,024,000.

#### PERIODIC CENSUSES AND PROGRAMS

For necessary expenses to collect and publish statistics for periodic censuses and programs provided for by law, \$7,065,707,000, to remain available until September 30, 2011: Provided, That none of the funds provided in this or any other Act for any fiscal year may be used for the collection of census data on race identification that does not include "some other race" as a category: Provided further, That from amounts provided herein, funds may be used for additional promotion, outreach, and marketing activities.

#### NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION SALARIES AND EXPENSES

For necessary expenses, as provided for by law, of the National Telecommunications and Information Administration (NTIA), \$19,999,000, to remain available until September 30, 2011: Provided, That, notwithstanding 31 U.S.C. 1535(d), the Secretary of Commerce shall charge Federal agencies for costs incurred in spectrum management, analysis, operations, and related services, and such fees shall be retained and used as offsetting collections for costs of such spectrum services, to remain available until expended: Provided further, That the Secretary of Commerce is authorized to retain and use as offsetting collections all funds transferred, or previously transferred, from other Government agencies for all costs incurred in telecommunications research, engineering, and related activities by the Institute for Telecommunication Sciences of NTIA, in furtherance of its assigned functions under this paragraph, and such funds received from other government agencies shall remain available until expended.

#### PUBLIC TELECOMMUNICATIONS FACILITIES, PLANNING AND CONSTRUCTION

For the administration of grants, authorized by section 392 of the Communications Act of 1934, \$20,000,000, to remain available until expended as authorized by section 391 of the Act: Provided, That not to exceed \$2,000,000 shall be available for program administration as authorized by section 391 of the Act: Provided further, That, notwithstanding the provisions of section 391 of the Act, the prior year unobligated balances may be made available for grants for projects for which applications have been submitted and approved during any fiscal year.

#### UNITED STATES PATENT AND TRADEMARK OFFICE SALARIES AND EXPENSES

For necessary expenses of the United States Patent and Trademark Office (USPTO) provided for by law, including defense of suits instituted against the Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office, \$1,930,361,000, to remain available until expended: Provided, That the sum herein appropriated from the general fund shall be reduced as offsetting collections assessed and collected pursuant to 15 U.S.C. 1113 and 35 U.S.C. 41 and

376 are received during fiscal year 2010, so as to result in a fiscal year 2010 appropriation from the general fund estimated at \$0: Provided further, That during fiscal year 2010, should the total amount of offsetting fee collections be less than \$1,930,361,000, this amount shall be reduced accordingly: Provided further, That of the amount received in excess of \$1,930,361,000 in fiscal year 2010, in an amount up to \$100,000,000 shall remain until expended: Provided further, That from amounts provided herein, not to exceed \$1,000 shall be made available in fiscal year 2010 for official reception and representation expenses: Provided further, That of the amounts provided to the USPTO within this account, \$25,000,000 shall not become available for obligation until the Director of the USPTO has completed a comprehensive review of the assumptions behind the patent examiner expectancy goals and adopted a revised set of expectancy goals for patent examination: Provided further, That in fiscal year 2010 from the amounts made available for "Salaries and Expenses" for the USPTO, the amounts necessary to pay: (1) the difference between the percentage of basic pay contributed by the USPTO and employees under section 8334(a) of title 5, United States Code, and the normal cost percentage (as defined by section 8331(17) of that title) of basic pay, of employees subject to subchapter III of chapter 83 of that title; and (2) the present value of the otherwise unfunded accruing costs, as determined by the Office of Personnel Management, of post-retirement life insurance and post-retirement health benefits coverage for all USPTO employees, shall be transferred to the Civil Service Retirement and Disability Fund, the Employees Life Insurance Fund, and the Employees Health Benefits Fund, as appropriate, and shall be available for the authorized purposes of those accounts: Provided further, That sections 801, 802, and 803 of division B, Public Law 108-447 shall remain in effect during fiscal year 2010: Provided further, That the Director may, this year, reduce by regulation fees payable for documents in patent and trademark matters, in connection with the filing of documents filed electronically in a form prescribed by the Director: Provided further, That \$2,000,000 shall be transferred to "Office of Inspector General" for activities associated with carrying out investigations and audits related to the USPTO.

#### NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY

#### SCIENTIFIC AND TECHNICAL RESEARCH AND SERVICES

For necessary expenses of the National Institute of Standards and Technology, \$520,300,000, to remain available until expended, of which not to exceed \$9,000,000 may be transferred to the "Working Capital Fund": Provided, That not to exceed \$5,000 shall be for official reception and representation expenses: Provided further, That within the amounts appropriated, \$10,500,000 shall be used for the projects, and in the amounts, specified in the table entitled "Congressionally designated projects" in the report of the Committee on Appropriations of the Senate to accompany this Act.

#### INDUSTRIAL TECHNOLOGY SERVICES

For necessary expenses of the Hollings Manufacturing Extension Partnership of the National Institute of Standards and Technology, \$124,700,000, to remain available until expended. In addition, for necessary expenses of the Technology Innovation Program of the National Institute of Standards and Technology, \$69,900,000, to remain available until expended.

#### CONSTRUCTION OF RESEARCH FACILITIES

For construction of new research facilities, including architectural and engineering design, and for renovation and maintenance of existing

facilities, not otherwise provided for the National Institute of Standards and Technology, as authorized by 15 U.S.C. 278c–278e, \$163,900,000, to remain available until expended: Provided, That within the amounts appropriated, \$47,000,000 shall be used for the projects, and in the amounts, specified in the table entitled “Congressionally designated projects” in the report of the Committee on Appropriations of the Senate to accompany this Act: Provided further, That the Secretary of Commerce shall include in the budget justification materials that the Secretary submits to Congress in support of the Department of Commerce budget (as submitted with the budget of the President under section 1105(a) of title 31, United States Code) an estimate for each National Institute of Standards and Technology construction project having a total multi-year program cost of more than \$5,000,000 and simultaneously the budget justification materials shall include an estimate of the budgetary requirements for each such project for each of the five subsequent fiscal years.

NATIONAL OCEANIC AND ATMOSPHERIC  
ADMINISTRATION  
OPERATIONS, RESEARCH, AND FACILITIES  
(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses of activities authorized by law for the National Oceanic and Atmospheric Administration, including maintenance, operation, and hire of aircraft and vessels; grants, contracts, or other payments to nonprofit organizations for the purposes of conducting activities pursuant to cooperative agreements; and relocation of facilities, \$3,301,131,000, to remain available until September 30, 2011, except for funds provided for cooperative enforcement, which shall remain available until September 30, 2012: Provided, That fees and donations received by the National Ocean Service for the management of national marine sanctuaries may be retained and used for the salaries and expenses associated with those activities, notwithstanding 31 U.S.C. 3302: Provided further, That in addition, \$3,000,000 shall be derived by transfer from the fund entitled “Coastal Zone Management” and in addition \$104,600,000 shall be derived by transfer from the fund entitled “Promote and Develop Fishery Products and Research Pertaining to American Fisheries”: Provided further, That of the \$3,304,131,000 provided for in direct obligations under this heading \$3,301,131,000 is appropriated from the general fund, \$3,000,000 is provided by transfer: Provided further, That the total amount available for the National Oceanic and Atmospheric Administration corporate services administrative support costs shall not exceed \$226,809,000: Provided further, That payments of funds made available under this heading to the Department of Commerce Working Capital Fund including Department of Commerce General Counsel legal services shall not exceed \$36,583,000: Provided further, That within the amounts appropriated, \$57,725,000 shall be used for the projects, and in the amounts, specified in the table entitled “Congressionally designated projects” in the report of the Committee on Appropriations of the Senate to accompany this Act: Provided further, That any deviation from the amounts designated for specific activities in the report accompanying this Act, or any use of deobligated balances of funds provided under this heading in previous years, shall be subject to the procedures set forth in section 505 of this Act: Provided further, That in allocating grants under sections 306 and 306A of the Coastal Zone Management Act of 1972, as amended, no coastal State shall receive more than 5 percent or less than 1 percent of increased funds appropriated over the previous fiscal year.

In addition, for necessary retired pay expenses under the Retired Serviceman's Family

Protection and Survivor Benefits Plan, and for payments for the medical care of retired personnel and their dependents under the Dependents Medical Care Act (10 U.S.C. 55), such sums as may be necessary.

PROCUREMENT, ACQUISITION AND CONSTRUCTION

For procurement, acquisition and construction of capital assets, including alteration and modification costs, of the National Oceanic and Atmospheric Administration, \$1,397,685,000, to remain available until September 30, 2012, except funds provided for construction of facilities which shall remain available until expended: Provided, That of the amounts provided for the National Polar-orbiting Operational Environmental Satellite System, funds shall only be made available on a dollar-for-dollar matching basis with funds provided for the same purpose by the Department of Defense: Provided further, That except to the extent expressly prohibited by any other law, the Department of Defense may delegate procurement functions related to the National Polar-orbiting Operational Environmental Satellite System to officials of the Department of Commerce pursuant to section 2311 of title 10, United States Code: Provided further, That any deviation from the amounts designated for specific activities in the report accompanying this Act, or any use of deobligated balances of funds provided under this heading in previous years, shall be subject to the procedures set forth in section 505 of this Act: Provided further, That the Secretary of Commerce is authorized to enter into a lease, at no cost to the United States Government, with the Regents of the University of Alabama for a term of not less than 55 years, with two successive options each of 5 years, for land situated on the campus of University of Alabama in Tuscaloosa to house the Cooperative Institute and Research Center for Southeast Weather and Hydrology: Provided further, That within the amounts appropriated, \$19,000,000 shall be used for the projects, and in the amounts, specified in the table entitled “Congressionally designated projects” in the report of the Committee on Appropriations of the Senate to accompany this Act.

PACIFIC COASTAL SALMON RECOVERY

For necessary expenses associated with the restoration of Pacific salmon populations, \$80,000,000, to remain available until September 30, 2011: Provided, That of the funds provided herein the Secretary of Commerce may issue grants to the States of Washington, Oregon, Idaho, Nevada, California, and Alaska, and federally recognized tribes of the Columbia River and Pacific Coast for projects necessary for conservation of salmon and steelhead populations that are listed as threatened or endangered, or identified by a State as at-risk to be so-listed, for maintaining populations necessary for exercise of tribal treaty fishing rights or native subsistence fishing, or for conservation of Pacific coastal salmon and steelhead habitat, based on guidelines to be developed by the Secretary of Commerce: Provided further, That funds disbursed to States shall be subject to a matching requirement of funds or documented in-kind contributions of at least 33 percent of the Federal funds.

COASTAL ZONE MANAGEMENT FUND  
(INCLUDING TRANSFER OF FUNDS)

Of amounts collected pursuant to section 308 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1456a), not to exceed \$3,000,000 shall be transferred to the “Operations, Research, and Facilities” account to offset the costs of implementing such Act.

FISHERIES FINANCE PROGRAM ACCOUNT

Subject to section 502 of the Congressional Budget Act of 1974, during fiscal year 2010, obligations of direct loans may not exceed

\$16,000,000 for Individual Fishing Quota loans and not to exceed \$59,000,000 for traditional direct loans as authorized by the Merchant Marine Act of 1936: Provided, That none of the funds made available under this heading may be used for direct loans for any new fishing vessel that will increase the harvesting capacity in any United States fishery.

DEPARTMENTAL MANAGEMENT

SALARIES AND EXPENSES

For expenses necessary for the departmental management of the Department of Commerce provided for by law, including not to exceed \$5,000 for official reception and representation, \$61,000,000: Provided, That the Secretary, within 120 days of enactment of this Act, shall provide a report to the Committee on Appropriations of the Senate that audits and evaluates all decision documents and expenditures by the Bureau of the Census as they relate to the 2010 Census: Provided further, That of the amounts provided to the Secretary within this account, \$5,000,000 shall not become available for obligation until the Secretary certifies to the Committee on Appropriations of the Senate that the Bureau of the Census has followed and met all standards and best practices, and all Office of Management and Budget guidelines related to information technology projects and contract management.

HERBERT C. HOOVER BUILDING RENOVATION AND  
MODERNIZATION

For expenses necessary, including blast windows, for the renovation and modernization of the Herbert C. Hoover Building, \$22,500,000, to remain available until expended.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978 (5 U.S.C. App.), \$27,000,000.

GENERAL PROVISIONS—DEPARTMENT OF  
COMMERCE

(INCLUDING TRANSFER OF FUNDS)

SEC. 101. During the current fiscal year, applicable appropriations and funds made available to the Department of Commerce by this Act shall be available for the activities specified in the Act of October 26, 1949 (15 U.S.C. 1514), to the extent and in the manner prescribed by the Act, and, notwithstanding 31 U.S.C. 3324, may be used for advanced payments not otherwise authorized only upon the certification of officials designated by the Secretary of Commerce that such payments are in the public interest.

SEC. 102. During the current fiscal year, appropriations made available to the Department of Commerce by this Act for salaries and expenses shall be available for hire of passenger motor vehicles as authorized by 31 U.S.C. 1343 and 1344; services as authorized by 5 U.S.C. 3109; and uniforms or allowances therefor, as authorized by law (5 U.S.C. 5901–5902).

SEC. 103. Not to exceed 5 percent of any appropriation made available for the current fiscal year for the Department of Commerce in this Act may be transferred between such appropriations, but no such appropriation shall be increased by more than 10 percent by any such transfers: Provided, That any transfer pursuant to this section shall be treated as a reprogramming of funds under section 505 of this Act and shall not be available for obligation or expenditure except in compliance with the procedures set forth in that section: Provided further, That the Secretary of Commerce shall notify the Committees on Appropriations at least 15 days in advance of the acquisition or disposal of any capital asset (including land, structures, and equipment) not specifically provided for in this Act or any other law appropriating funds for the Department of Commerce: Provided further, That

for the National Oceanic and Atmospheric Administration this section shall provide for transfers among appropriations made only to the National Oceanic and Atmospheric Administration and such appropriations may not be transferred and reprogrammed to other Department of Commerce bureaus and appropriation accounts.

SEC. 104. Any costs incurred by a department or agency funded under this title resulting from personnel actions taken in response to funding reductions included in this title or from actions taken for the care and protection of loan collateral or grant property shall be absorbed within the total budgetary resources available to such department or agency: Provided, That the authority to transfer funds between appropriations accounts as may be necessary to carry out this section is provided in addition to authorities included elsewhere in this Act: Provided further, That use of funds to carry out this section shall be treated as a reprogramming of funds under section 505 of this Act and shall not be available for obligation or expenditure except in compliance with the procedures set forth in that section.

SEC. 105. The requirements set forth by section 112 of division B of Public Law 110-161 are hereby adopted by reference.

SEC. 106. Notwithstanding any other law, the Secretary may furnish services (including but not limited to utilities, telecommunications, and security services) necessary to support the operation, maintenance, and improvement of space that persons, firms or organizations are authorized pursuant to the Public Buildings Cooperative Use Act of 1976 or other authority to use or occupy in the Herbert C. Hoover Building, Washington, DC, or other buildings, the maintenance, operation, and protection of which has been delegated to the Secretary from the Administrator of General Services pursuant to the Federal Property and Administrative Services Act of 1949, as amended, on a reimbursable or non-reimbursable basis. Amounts received as reimbursement for services provided under this section or the authority under which the use or occupancy of the space is authorized, up to \$200,000, shall be credited to the appropriation or fund which initially bears the costs of such services.

SEC. 107. With the consent of the President, the Secretary of Commerce shall represent the United States Government in negotiating and monitoring international agreements regarding fisheries, marine mammals, or sea turtles: Provided, That the Secretary of Commerce shall be responsible for the development and interdepartmental coordination of the policies of the United States with respect to the international negotiations and agreements referred to in this section.

SEC. 108. Section 101(k) of the Emergency Steel Loan Guarantee Act of 1999 (15 U.S.C. 1841 note) is amended by striking "2009" and inserting "2011".

SEC. 109. Nothing in this title shall be construed to prevent a grant recipient from deterring child pornography, copyright infringement, or any other unlawful activity over its networks.

SEC. 110. The National Marine Fisheries Service is authorized to accept land, buildings, equipment, and other contributions including funding, from public and private sources, which shall be available until expended without further appropriation to conduct work associated with existing authorities.

This title may be cited as the "Department of Commerce Appropriations Act, 2010".

TITLE II  
DEPARTMENT OF JUSTICE  
GENERAL ADMINISTRATION  
SALARIES AND EXPENSES

For expenses necessary for the administration of the Department of Justice, \$118,488,000, of

which not to exceed \$4,000,000 for security and construction of Department of Justice facilities shall remain available until expended: Provided, That the Attorney General is authorized to transfer funds appropriated within General Administration to any office in this account: Provided further, That \$18,693,000 is for Department Leadership; \$8,101,000 is for Intergovernmental Relations/External Affairs; \$12,715,000 is for Executive Support/Professional Responsibility; and \$78,979,000 is for the Justice Management Division: Provided further, That any change in amounts specified in the preceding proviso greater than 5 percent shall be submitted for approval to the House and Senate Committees on Appropriations consistent with the terms of section 505 of this Act: Provided further, That this transfer authority is in addition to transfers authorized under section 505 of this Act.

JUSTICE INFORMATION SHARING TECHNOLOGY

For necessary expenses for information sharing technology, including planning, development, deployment and departmental direction, \$95,000,000, to remain available until expended, of which \$21,132,000 is for the unified financial management system.

TACTICAL LAW ENFORCEMENT WIRELESS COMMUNICATIONS

For the costs of developing and implementing a nation-wide Integrated Wireless Network supporting Federal law enforcement communications, and for the costs of operations and maintenance of existing Land Mobile Radio legacy systems, \$206,143,000, to remain available until expended: Provided, That the Attorney General shall transfer to this account all funds made available to the Department of Justice for the purchase of portable and mobile radios: Provided further, That any transfer made under the preceding proviso shall be subject to section 505 of this Act.

ADMINISTRATIVE REVIEW AND APPEALS

For expenses necessary for the administration of pardon and clemency petitions and immigration-related activities, \$300,685,000, of which \$4,000,000 shall be derived by transfer from the Executive Office for Immigration Review fees deposited in the "Immigration Examinations Fee" account.

DETENTION TRUSTEE

For necessary expenses of the Federal Detention Trustee, \$1,438,663,000, to remain available until expended: Provided, That the Trustee shall be responsible for managing the Justice Prisoner and Alien Transportation System: Provided further, That not to exceed \$5,000,000 shall be considered "funds appropriated for State and local law enforcement assistance" pursuant to 18 U.S.C. 4013(b).

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General, \$84,368,000, including not to exceed \$10,000 to meet unforeseen emergencies of a confidential character, of which \$2,000,000 is designated as being for overseas deployments and other activities pursuant to sections 401(c)(4) and 423(a)(1) of S. Con. Res. 13 (111th Congress), the concurrent resolution on the budget for fiscal year 2010.

UNITED STATES PAROLE COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the United States Parole Commission as authorized, \$12,859,000.

LEGAL ACTIVITIES

SALARIES AND EXPENSES, GENERAL LEGAL ACTIVITIES  
(INCLUDING TRANSFER OF FUNDS)

For expenses necessary for the legal activities of the Department of Justice, not otherwise provided for, including not to exceed \$20,000 for ex-

penses of collecting evidence, to be expended under the direction of, and to be accounted for solely under the certificate of, the Attorney General; and rent of private or Government-owned space in the District of Columbia, \$875,097,000, of which \$2,500,000 is designated as being for overseas deployments and other activities pursuant to sections 401(c)(4) and 423(a)(1) of S. Con. Res. 13 (111th Congress), the concurrent resolution on the budget for fiscal year 2010; and of which not to exceed \$10,000,000 for litigation support contracts shall remain available until expended: Provided, That of the total amount appropriated, not to exceed \$10,000 shall be available to the United States National Central Bureau, INTERPOL, for official reception and representation expenses: Provided further, That notwithstanding section 205 of this Act, upon a determination by the Attorney General that emergent circumstances require additional funding for litigation activities of the Civil Division, the Attorney General may transfer such amounts to "Salaries and Expenses, General Legal Activities" from available appropriations for the current fiscal year for the Department of Justice, as may be necessary to respond to such circumstances: Provided further, That any transfer pursuant to the previous proviso shall be treated as a reprogramming under section 505 of this Act and shall not be available for obligation or expenditure except in compliance with the procedures set forth in that section: Provided further, That of the amount appropriated, such sums as may be necessary shall be available to reimburse the Office of Personnel Management for salaries and expenses associated with the election monitoring program under section 8 of the Voting Rights Act of 1965 (42 U.S.C. 1973f): Provided further, That of the amounts provided under this heading for the election monitoring program \$3,390,000 shall remain available until expended.

In addition, for reimbursement of expenses of the Department of Justice associated with processing cases under the National Childhood Vaccine Injury Act of 1986, not to exceed \$7,833,000, to be appropriated from the Vaccine Injury Compensation Trust Fund.

SALARIES AND EXPENSES, ANTITRUST DIVISION

For expenses necessary for the enforcement of antitrust and kindred laws, \$163,170,000, to remain available until expended: Provided, That notwithstanding any other provision of law, fees collected for premerger notification filings under the Hart-Scott-Rodino Antitrust Improvements Act of 1976 (15 U.S.C. 18a), regardless of the year of collection (and estimated to be \$102,000,000 in fiscal year 2010), shall be retained and used for necessary expenses in this appropriation, and shall remain available until expended: Provided further, That the sum herein appropriated from the general fund shall be reduced as such offsetting collections are received during fiscal year 2010, so as to result in a final fiscal year 2010 appropriation from the general fund estimated at \$61,170,000.

SALARIES AND EXPENSES, UNITED STATES ATTORNEYS

For necessary expenses of the Offices of the United States Attorneys, including inter-governmental and cooperative agreements, \$1,926,003,000: Provided, That of the total amount appropriated, not to exceed \$8,000 shall be available for official reception and representation expenses: Provided further, That not to exceed \$25,000,000 shall remain available until expended: Provided further, That of the amount provided under this heading, not less than \$36,980,000 shall be used for salaries and expenses for assistant U.S. Attorneys to carry out section 704 of the Adam Walsh Child Protection and Safety Act of 2006 (Public Law 109-248) concerning the prosecution of offenses relating to the sexual exploitation of children.

## UNITED STATES TRUSTEE SYSTEM FUND

For necessary expenses of the United States Trustee Program, as authorized, \$224,488,000, to remain available until expended and to be derived from the United States Trustee System Fund: Provided, That notwithstanding any other provision of law, deposits to the Fund shall be available in such amounts as may be necessary to pay refunds due depositors: Provided further, That, notwithstanding any other provision of law, \$210,000,000 of offsetting collections pursuant to 28 U.S.C. 589a(b) shall be retained and used for necessary expenses in this appropriation and shall remain available until expended: Provided further, That the sum herein appropriated from the Fund shall be reduced as such offsetting collections are received during fiscal year 2010, so as to result in a final fiscal year 2010 appropriation from the Fund estimated at \$9,488,000.

## SALARIES AND EXPENSES, FOREIGN CLAIMS SETTLEMENT COMMISSION

For expenses necessary to carry out the activities of the Foreign Claims Settlement Commission, including services as authorized by section 3109 of title 5, United States Code, \$2,117,000.

## FEES AND EXPENSES OF WITNESSES

For fees and expenses of witnesses, for expenses of contracts for the procurement and supervision of expert witnesses, for private counsel expenses, including advances, and for expenses of foreign counsel, \$168,300,000, to remain available until expended: Provided, That not to exceed \$10,000,000 may be made available for construction of buildings for protected witness safesites: Provided further, That not to exceed \$3,000,000 may be made available for the purchase and maintenance of armored and other vehicles for witness security caravans: Provided further, That not to exceed \$11,000,000 may be made available for the purchase, installation, maintenance, and upgrade of secure telecommunications equipment and a secure automated information network to store and retrieve the identities and locations of protected witnesses.

## SALARIES AND EXPENSES, COMMUNITY RELATIONS SERVICE

For necessary expenses of the Community Relations Service, \$11,479,000: Provided, That notwithstanding section 205 of this Act, upon a determination by the Attorney General that emergent circumstances require additional funding for conflict resolution and violence prevention activities of the Community Relations Service, the Attorney General may transfer such amounts to the Community Relations Service, from available appropriations for the current fiscal year for the Department of Justice, as may be necessary to respond to such circumstances: Provided further, That any transfer pursuant to the preceding proviso shall be treated as a reprogramming under section 505 of this Act and shall not be available for obligation or expenditure except in compliance with the procedures set forth in that section.

## ASSETS FORFEITURE FUND

For expenses authorized by 28 U.S.C. 524(c)(1)(B), (F), and (G), \$20,990,000, to be derived from the Department of Justice Assets Forfeiture Fund.

## UNITED STATES MARSHALS SERVICE

## SALARIES AND EXPENSES

For necessary expenses of the United States Marshals Service, \$1,125,763,000; of which not to exceed \$30,000 shall be available for official reception and representation expenses; of which not to exceed \$4,000,000 shall remain available until expended for information technology systems.

## CONSTRUCTION

For construction in space controlled, occupied or utilized by the United States Marshals Service for prisoner holding and related support, \$26,625,000, to remain available until expended; and of which not less than \$12,625,000 shall be available for the costs of courthouse security equipment, including furnishings, relocations, and telephone systems and cabling.

## NATIONAL SECURITY DIVISION

## SALARIES AND EXPENSES

For expenses necessary to carry out the activities of the National Security Division, \$87,938,000; of which not to exceed \$5,000,000 for information technology systems shall remain available until expended: Provided, That notwithstanding section 205 of this Act, upon a determination by the Attorney General that emergent circumstances require additional funding for the activities of the National Security Division, the Attorney General may transfer such amounts to this heading from available appropriations for the current fiscal year for the Department of Justice, as may be necessary to respond to such circumstances: Provided further, That any transfer pursuant to the preceding proviso shall be treated as a reprogramming under section 505 of this Act and shall not be available for obligation or expenditure except in compliance with the procedures set forth in that section.

## INTERAGENCY LAW ENFORCEMENT

## INTERAGENCY CRIME AND DRUG ENFORCEMENT

For necessary expenses for the identification, investigation, and prosecution of individuals associated with the most significant drug trafficking and affiliated money laundering organizations not otherwise provided for, to include inter-governmental agreements with State and local law enforcement agencies engaged in the investigation and prosecution of individuals involved in organized crime drug trafficking, \$315,000,000, of which \$50,000,000 shall remain available until expended: Provided, That any amounts obligated from appropriations under this heading may be used under authorities available to the organizations reimbursed from this appropriation.

## FEDERAL BUREAU OF INVESTIGATION

## SALARIES AND EXPENSES

For necessary expenses of the Federal Bureau of Investigation for detection, investigation, and prosecution of crimes against the United States; \$7,668,622,000, of which \$101,066,000 is designated as being for overseas deployments and other activities pursuant to sections 401(c)(4) and 423(a)(1) of S. Con. Res. 13 (111th Congress), the concurrent resolution on the budget for fiscal year 2010; and of which not to exceed \$150,000,000 shall remain available until expended: Provided, That not to exceed \$205,000 shall be available for official reception and representation expenses: Provided further, That notwithstanding section 205 of this Act, the Director of the Federal Bureau of Investigation, upon a determination that additional funding is necessary to carry out construction of the Biometrics Technology Center, may transfer from amounts available for "Salaries and Expenses" to amounts available for "Construction" up to \$30,000,000 in fees collected to defray expenses for the automation of fingerprint identification and criminal justice information services and associated costs: Provided further, That any transfer made pursuant to the previous proviso shall be subject to section 505 of this Act.

## CONSTRUCTION

For all necessary expenses, to include the cost of equipment, furniture, and information technology requirements, related to construction or acquisition of buildings, facilities and sites by

purchase, or as otherwise authorized by law; conversion, modification and extension of federally owned buildings; and preliminary planning and design of projects; \$244,915,000, to remain available until expended.

## DRUG ENFORCEMENT ADMINISTRATION

## SALARIES AND EXPENSES

For necessary expenses of the Drug Enforcement Administration, including not to exceed \$70,000 to meet unforeseen emergencies of a confidential character pursuant to 28 U.S.C. 530C; and expenses for conducting drug education and training programs, including travel and related expenses for participants in such programs and the distribution of items of token value that promote the goals of such programs, \$2,014,682,000; of which \$10,000,000 is designated as being for overseas deployments and other activities pursuant to sections 401(c)(4) and 423(a)(1) of S. Con. Res. 13 (111th Congress), the concurrent resolution on the budget for fiscal year 2010; and of which not to exceed \$75,000,000 shall remain available until expended; and of which not to exceed \$100,000 shall be available for official reception and representation expenses.

## BUREAU OF ALCOHOL, TOBACCO, FIREARMS AND EXPLOSIVES

## SALARIES AND EXPENSES

For necessary expenses of the Bureau of Alcohol, Tobacco, Firearms and Explosives, not to exceed \$40,000 for official reception and representation expenses; for training of State and local law enforcement agencies with or without reimbursement, including training in connection with the training and acquisition of canines for explosives and fire accelerants detection; and for provision of laboratory assistance to State and local law enforcement agencies, with or without reimbursement, \$1,114,772,000, of which not to exceed \$1,000,000 shall be available for the payment of attorneys' fees as provided by section 924(d)(2) of title 18, United States Code; and of which \$10,000,000 shall remain available until expended: Provided, That no funds appropriated herein shall be available for salaries or administrative expenses in connection with consolidating or centralizing, within the Department of Justice, the records, or any portion thereof, of acquisition and disposition of firearms maintained by Federal firearms licensees: Provided further, That no funds appropriated herein shall be used to pay administrative expenses or the compensation of any officer or employee of the United States to implement an amendment or amendments to 27 CFR 478.118 or to change the definition of "Curios or relics" in 27 CFR 478.11 or remove any item from ATF Publication 5300.11 as it existed on January 1, 1994: Provided further, That none of the funds appropriated herein shall be available to investigate or act upon applications for relief from Federal firearms disabilities under 18 U.S.C. 925(c): Provided further, That such funds shall be available to investigate and act upon applications filed by corporations for relief from Federal firearms disabilities under section 925(c) of title 18, United States Code: Provided further, That no funds made available by this or any other Act may be used to transfer the functions, missions, or activities of the Bureau of Alcohol, Tobacco, Firearms and Explosives to other agencies or Departments in fiscal year 2010: Provided further, That, beginning in fiscal year 2010 and thereafter, no funds appropriated under this or any other Act may be used to disclose part or all of the contents of the Firearms Trace System database maintained by the National Trace Center of the Bureau of Alcohol, Tobacco, Firearms and Explosives or any information required to be kept by licensees pursuant to section 923(g) of title 18, United States Code, or required to be reported pursuant to paragraphs (3)

and (7) of such section 923(g), except to: (1) a Federal, State, local, tribal, or foreign law enforcement agency, or a Federal, State, or local prosecutor; or (2) a foreign law enforcement agency solely in connection with or for use in a criminal investigation or prosecution; or solely in connection with and for use in a criminal investigation or prosecution; or (3) a Federal agency for a national security or intelligence purpose; unless such disclosure of such data to any of the entities described in (1), (2) or (3) of this proviso would compromise the identity of any undercover law enforcement officer or confidential informant, or interfere with any case under investigation; and no person or entity described in (1), (2) or (3) shall knowingly or publicly disclose such data; and all such data shall be immune from legal process, shall not be subject to subpoena or other discovery, shall be inadmissible in evidence, and shall not be used, relied on, or disclosed in any manner, nor shall testimony or other evidence be permitted based on the data, in a civil action in any State (including the District of Columbia) or Federal court or in an administrative proceeding other than a proceeding commenced by the Bureau of Alcohol, Tobacco, Firearms and Explosives to enforce the provisions of chapter 44 of such title, or a review of such an action or proceeding; except that this proviso shall not be construed to prevent: (A) the disclosure of statistical information concerning total production, importation, and exportation by each licensed importer (as defined in section 921(a)(9) of such title) and licensed manufacturer (as defined in section 921(a)(10) of such title); (B) the sharing or exchange of such information among and between Federal, State, local, or foreign law enforcement agencies, Federal, State, or local prosecutors, and Federal national security, intelligence, or counterterrorism officials; or (C) the publication of annual statistical reports on products regulated by the Bureau of Alcohol, Tobacco, Firearms and Explosives, including total production, importation, and exportation by each licensed importer (as so defined) and licensed manufacturer (as so defined), or statistical aggregate data regarding firearms traffickers and trafficking channels, or firearms misuse, felons, and trafficking investigations: Provided further, That no funds made available by this or any other Act shall be expended to promulgate or implement any rule requiring a physical inventory of any business licensed under section 923 of title 18, United States Code: Provided further, That no funds under this Act may be used to electronically retrieve information gathered pursuant to 18 U.S.C. 923(g)(4) by name or any personal identification code: Provided further, That no funds authorized or made available under this or any other Act may be used to deny any application for a license under section 923 of title 18, United States Code, or renewal of such a license due to a lack of business activity, provided that the applicant is otherwise eligible to receive such a license, and is eligible to report business income or to claim an income tax deduction for business expenses under the Internal Revenue Code of 1986.

#### CONSTRUCTION

For necessary expenses to construct or acquire buildings and sites to purchase, or as otherwise authorized by law (including equipment for such buildings); conversion and extension of federally owned buildings; and preliminary planning and design of projects; \$6,000,000, to remain until expended.

#### FEDERAL PRISON SYSTEM

##### SALARIES AND EXPENSES

For necessary expenses of the Federal Prison System for the administration, operation, and maintenance of Federal penal and correctional institutions, including purchase (not to exceed

831, of which 743 are for replacement only) and hire of law enforcement and passenger motor vehicles, and for the provision of technical assistance and advice on corrections related issues to foreign governments, \$5,979,831,000, of which \$10,500,000 is designated as being for overseas deployments and other activities pursuant to sections 401(c)(4) and 423(a)(1) of S. Con. Res. 13 (111th Congress), the concurrent resolution on the budget for fiscal year 2010: Provided, That the Attorney General may transfer to the Health Resources and Services Administration such amounts as may be necessary for direct expenditures by that Administration for medical relief for inmates of Federal penal and correctional institutions: Provided further, That the Director of the Federal Prison System, where necessary, may enter into contracts with a fiscal agent or fiscal intermediary claims processor to determine the amounts payable to persons who, on behalf of the Federal Prison System, furnish health services to individuals committed to the custody of the Federal Prison System: Provided further, That not to exceed \$6,000 shall be available for official reception and representation expenses: Provided further, That not to exceed \$50,000,000 shall remain available for necessary operations until September 30, 2011: Provided further, That, of the amounts provided for contract confinement, not to exceed \$20,000,000 shall remain available until expended to make payments in advance for grants, contracts and reimbursable agreements, and other expenses authorized by section 501(c) of the Refugee Education Assistance Act of 1980 (8 U.S.C. 1522 note), for the care and security in the United States of Cuban and Haitian entrants: Provided further, That the Director of the Federal Prison System may accept donated property and services relating to the operation of the prison card program from a not-for-profit entity which has operated such program in the past notwithstanding the fact that such not-for-profit entity furnishes services under contracts to the Federal Prison System relating to the operation of pre-release services, halfway houses, or other custodial facilities.

#### BUILDINGS AND FACILITIES

For planning, acquisition of sites and construction of new facilities; purchase and acquisition of facilities and remodeling, and equipping of such facilities for penal and correctional use, including all necessary expenses incident thereto, by contract or force account; and constructing, remodeling, and equipping necessary buildings and facilities at existing penal and correctional institutions, including all necessary expenses incident thereto, by contract or force account, \$99,155,000, to remain available until expended, of which not less than \$73,769,000 shall be available only for modernization, maintenance and repair, and of which not to exceed \$14,000,000 shall be available to construct areas for inmate work programs: Provided, That labor of United States prisoners may be used for work performed under this appropriation.

#### FEDERAL PRISON INDUSTRIES, INCORPORATED

The Federal Prison Industries, Incorporated, is hereby authorized to make such expenditures, within the limits of funds and borrowing authority available, and in accord with the law, and to make such contracts and commitments, without regard to fiscal year limitations as provided by section 9104 of title 31, United States Code, as may be necessary in carrying out the program set forth in the budget for the current fiscal year for such corporation, including purchase (not to exceed five for replacement only) and hire of passenger motor vehicles.

#### LIMITATION ON ADMINISTRATIVE EXPENSES, FEDERAL PRISON INDUSTRIES, INCORPORATED

Not to exceed \$2,700,000 of the funds of the Federal Prison Industries, Incorporated shall be available for its administrative expenses, and for

services as authorized by section 3109 of title 5, United States Code, to be computed on an accrual basis to be determined in accordance with the corporation's current prescribed accounting system, and such amounts shall be exclusive of depreciation, payment of claims, and expenditures which such accounting system requires to be capitalized or charged to cost of commodities acquired or produced, including selling and shipping expenses, and expenses in connection with acquisition, construction, operation, maintenance, improvement, protection, or disposition of facilities and other property belonging to the corporation or in which it has an interest.

#### STATE AND LOCAL LAW ENFORCEMENT ACTIVITIES

##### OFFICE ON VIOLENCE AGAINST WOMEN

##### VIOLENCE AGAINST WOMEN PREVENTION AND PROSECUTION PROGRAMS

For grants, contracts, cooperative agreements, and other assistance for the prevention and prosecution of violence against women, as authorized by the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) ("the 1968 Act"); the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103-322) ("the 1994 Act"); the Victims of Child Abuse Act of 1990 (Public Law 101-647) ("the 1990 Act"); the Prosecutorial Remedies and Other Tools to end the Exploitation of Children Today Act of 2003 (Public Law 108-21); the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5601 et seq.) ("the 1974 Act"); the Victims of Trafficking and Violence Protection Act of 2000 (Public Law 106-386) ("the 2000 Act"); and the Violence Against Women and Department of Justice Reauthorization Act of 2005 (Public Law 109-162) ("the 2005 Act"); and for related victims services, \$435,000,000, to remain available until expended: Provided, That except as otherwise provided by law, not to exceed 3 percent of funds made available under this heading may be used for expenses related to evaluation, training, and technical assistance: Provided further, That of the amount provided (which shall be by transfer, for programs administered by the Office of Justice Programs)—

(1) \$15,000,000 for the court-appointed special advocate program, as authorized by section 217 of the 1990 Act;

(2) \$2,500,000 for child abuse training programs for judicial personnel and practitioners, as authorized by section 222 of the 1990 Act;

(3) \$200,000,000 for grants to combat violence against women, as authorized by part T of the 1968 Act, of which—

(A) \$18,000,000 shall be for transitional housing assistance grants for victims of domestic violence, stalking or sexual assault as authorized by section 40299 of the 1994 Act; and

(B) \$2,000,000 shall be for the National Institute of Justice for research and evaluation of violence against women and related issues addressed by grant programs of the Office on Violence Against Women;

(4) \$60,000,000 for grants to encourage arrest policies as authorized by part U of the 1968 Act;

(5) \$15,000,000 for sexual assault victims assistance, as authorized by section 41601 of the 1994 Act;

(6) \$41,000,000 for rural domestic violence and child abuse enforcement assistance grants, as authorized by section 40295 of the 1994 Act;

(7) \$3,000,000 for training programs as authorized by section 40152 of the 1994 Act, and for related local demonstration projects;

(8) \$3,000,000 for grants to improve the stalking and domestic violence databases, as authorized by section 40602 of the 1994 Act;

(9) \$9,500,000 for grants to reduce violent crimes against women on campus, as authorized by section 304 of the 2005 Act;

(10) \$45,000,000 for legal assistance for victims, as authorized by section 1201 of the 2000 Act;

(11) \$14,250,000 for enhanced training and services to end violence against and abuse of women in later life, as authorized by section 40802 of the 1994 Act;

(12) \$14,000,000 for the safe havens for children program, as authorized by section 1301 of the 2000 Act;

(13) \$6,750,000 for education and training to end violence against and abuse of women with disabilities, as authorized by section 1402 of the 2000 Act;

(14) \$3,000,000 for an engaging men and youth in prevention program, as authorized by section 41305 of the 1994 Act;

(15) \$1,000,000 for analysis and research on violence against Indian women, as authorized by section 904 of the 2005 Act;

(16) \$1,000,000 for tracking of violence against Indian women, as authorized by section 905 of the 2005 Act;

(17) \$3,500,000 for services to advocate and respond to youth, as authorized by section 41201 of the 1994 Act;

(18) \$3,000,000 for grants to assist children and youth exposed to violence, as authorized by section 41303 of the 1994 Act;

(19) \$3,000,000 for the court training and improvements program, as authorized by section 41002 of the 1994 Act;

(20) \$500,000 for the National Resource Center on Workplace Responses to assist victims of domestic violence, as authorized by section 41501 of the 1994 Act; and

(21) \$1,000,000 for grants for televised testimony, as authorized by part N of title I of the 1968 Act.

#### OFFICE OF JUSTICE PROGRAMS JUSTICE ASSISTANCE

For grants, contracts, cooperative agreements, and other assistance authorized by title I of the Omnibus Crime Control and Safe Streets Act of 1968; the Missing Children's Assistance Act (42 U.S.C. 5771 et seq.); the Prosecutorial Remedies and Other Tools to end the Exploitation of Children Today Act of 2003 (Public Law 108-21); the Justice for All Act of 2004 (Public Law 108-405); the Violence Against Women and Department of Justice Reauthorization Act of 2005 (Public Law 109-162); the Second Chance Act of 2007 (Public Law 110-199); the Victims of Child Abuse Act of 1990 (Public Law 101-647); the Victims of Crime Act of 1984 (Public Law 98-473); the Adam Walsh Child Protection and Safety Act of 2006 (Public Law 109-248); the PROTECT Our Children Act of 2008 (Public Law 110-401); subtitle D of title II of the Homeland Security Act of 2002 (Public Law 107-296), which may include research and development; and other programs (including the Statewide Automated Victim Notification Program); \$215,000,000, to remain available until expended, of which:

(1) \$40,000,000 is for criminal justice statistics programs, pursuant to part C of the 1968 Act, of which \$35,000,000 is for the National Crime Victimization Survey;

(2) \$48,000,000 is for research, development, and evaluation programs;

(3) \$12,000,000 is for the Statewide Victim Notification System of the Bureau of Justice Assistance;

(4) \$45,000,000 is for the Regional Information System Sharing System, as authorized by part M of title I of the 1968 Act; and

(5) \$70,000,000 is for the Missing Children's Program.

#### STATE AND LOCAL LAW ENFORCEMENT ASSISTANCE

For grants, contracts, cooperative agreements, and other assistance authorized by the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103-322) ("the 1994 Act"); the Omnibus Crime Control and Safe Streets Act of 1968 ("the 1968 Act"); the Justice for All Act of 2004 (Public Law 108-405); the Victims of Child Abuse

Act of 1990 (Public Law 101-647) ("the 1990 Act"); the Trafficking Victims Protection Reauthorization Act of 2005 (Public Law 109-164); the Violence Against Women and Department of Justice Reauthorization Act of 2005 (Public Law 109-162); the Adam Walsh Child Protection and Safety Act of 2006 (Public Law 109-248); the Second Chance Act of 2007 (Public Law 110-199); and the Victims of Trafficking and Violence Protection Act of 2000 (Public Law 106-386); and other programs; \$1,159,000,000, to remain available until expended as follows:

(1) \$510,000,000 for the Edward Byrne Memorial Justice Assistance Grant program as authorized by subpart 1 of part E of title I of the 1968 Act, (except that section 1001(c), and the special rules for Puerto Rico under section 505(g), of the 1968 Act, shall not apply for purposes of this Act), of which \$5,000,000 is for use by the National Institute of Justice in assisting units of local government to identify, select, develop, modernize, and purchase new technologies for use by law enforcement, \$2,000,000 is for a program to improve State and local law enforcement intelligence capabilities including anti-terrorism training and training to ensure that constitutional rights, civil liberties, civil rights, and privacy interests are protected throughout the intelligence process, \$10,000,000 is to support the Nationwide Pegasus Program in coordination with the National Sheriff's Association, for rural and non-urban law enforcement databases and connectivity to enhance information sharing technology capacity, and \$10,000,000 is for implementation of a student loan repayment assistance program pursuant to section 952 of Public Law 110-315;

(2) \$178,500,000 for discretionary grants to improve the functioning of the criminal justice system, to prevent or combat juvenile delinquency, and to assist victims of crime (other than compensation): Provided, That within the amounts appropriated, \$178,500,000 shall be used for the projects, and in the amounts specified in the table entitled "Congressionally designated projects" in the report of the Committee on Appropriations of the Senate to accompany this Act;

(3) \$40,000,000 for competitive grants to improve the functioning of the criminal justice system, to prevent or combat juvenile delinquency, and to assist victims of crime (other than compensation) of which \$8,000,000 shall be available for the SMART Office activities and \$2,000,000 shall be available for grants to States and local law enforcement agencies as authorized by section 5 of Public Law 110-344;

(4) \$2,000,000 for the purposes described in the Missing Alzheimer's Disease Patient Alert Program (section 240001 of the 1994 Act);

(5) \$15,000,000 for victim services programs for victims of trafficking, as authorized by section 107(b)(2) of Public Law 106-386 and for programs authorized under Public Law 109-164;

(6) \$40,000,000 for Drug Courts, as authorized by section 1001(25)(A) of title I of the 1968 Act;

(7) \$5,000,000 for prison rape prevention and prosecution and other programs, as authorized by the Prison Rape Elimination Act of 2003 (Public Law 108-79);

(8) \$20,000,000 for grants for Residential Substance Abuse Treatment for State Prisoners, as authorized by part S of title I of the 1968 Act;

(9) \$50,000,000 for offender re-entry programs, as authorized by the Second Chance Act of 2007 (Public Law 110-199), of which \$25,000,000 is for grants for adult and juvenile offender State, tribal and local reentry demonstration projects, \$15,000,000 is for grants for mentoring and transitional services and \$5,000,000 is for family-based substance abuse treatment;

(10) \$5,500,000 for the Capital Litigation Improvement Grant Program, as authorized by section 426 of Public Law 108-405;

(11) \$10,000,000 for mental health courts and adult and juvenile collaboration program grants, as authorized by parts V and HH of title I of the 1968 Act, and the Mentally Ill Offender Treatment and Crime Reduction Reauthorization and Improvement Act of 2008 (Public Law 110-416);

(12) \$30,000,000 for assistance to Indian tribes, of which—

(A) \$10,000,000 shall be available for grants under section 20109 of subtitle A of title II of the 1994 Act;

(B) \$10,000,000 shall be available for the Tribal Courts Initiative;

(C) \$7,000,000 shall be available for tribal alcohol and substance abuse reduction assistance grants; and

(D) \$3,000,000 shall be available for training and technical assistance and civil and criminal legal assistance as authorized by title I of Public Law 106-559;

(13) \$228,000,000 for the State Criminal Alien Assistance Program, as authorized by section 241(i)(5) of the Immigration and Nationality Act (8 U.S.C. 1231(i)(5)); and

(14) \$25,000,000 for the Border Prosecutor Initiative to reimburse State, county, parish, tribal, or municipal governments for costs associated with the prosecution of criminal cases declined by local offices of the United States Attorneys: Provided, That no less than \$20,000,000 shall be for prosecution efforts on the Southern border: Provided further, That no less than \$5,000,000 shall be for prosecution efforts on the Northern border:

Provided, That, if a unit of local government uses any of the funds made available under this heading to increase the number of law enforcement officers, the unit of local government will achieve a net gain in the number of law enforcement officers who perform nonadministrative public safety service.

#### WEED AND SEED PROGRAM FUND

For necessary expenses, including salaries and related expenses of the Office of Weed and Seed Strategies, \$20,000,000, to remain available until expended, as authorized by section 103 of title I of the Omnibus Crime Control and Safe Streets Act of 1968.

#### JUVENILE JUSTICE PROGRAMS

For grants, contracts, cooperative agreements, and other assistance authorized by the Juvenile Justice and Delinquency Prevention Act of 1974 ("the 1974 Act"), the Omnibus Crime Control and Safe Streets Act of 1968 ("the 1968 Act"), the Violence Against Women and Department of Justice Reauthorization Act of 2005 (Public Law 109-162), the Missing Children's Assistance Act (42 U.S.C. 5771 et seq.); the Prosecutorial Remedies and Other Tools to end the Exploitation of Children Today Act of 2003 (Public Law 108-21); the Victims of Child Abuse Act of 1990 (Public Law 101-647); the Adam Walsh Child Protection and Safety Act of 2006 (Public Law 109-248); the PROTECT Our Children Act of 2008 (Public Law 110-401), and other juvenile justice programs, \$407,000,000, to remain available until expended as follows:

(1) \$75,000,000 for programs authorized by section 221 of the 1974 Act, and for training and technical assistance to assist small, non-profit organizations with the Federal grants process: Provided, That no less than \$5,000,000 shall be for the Safe Start Program, as authorized by the 1974 Act;

(2) \$82,000,000 for grants and projects, as authorized by sections 261 and 262 of the 1974 Act: Provided, That within the amounts appropriated, \$82,000,000 shall be used for the projects, and in the amounts, specified in the table entitled "Congressionally designated projects" in the report of the Committee on Appropriations of the Senate to accompany this Act;



(3) \$100,000,000 for youth mentoring grants;  
 (4) \$65,000,000 for delinquency prevention, as authorized by section 505 of the 1974 Act, of which, pursuant to sections 261 and 262 thereof—

(A) \$25,000,000 shall be for the Tribal Youth Program;

(B) \$10,000,000 shall be for a gang education initiative; and

(C) \$25,000,000 shall be for grants of \$360,000 to each State and \$4,840,000 shall be available for discretionary grants, for programs and activities to enforce State laws prohibiting the sale of alcoholic beverages to minors or the purchase or consumption of alcoholic beverages by minors, for prevention and reduction of consumption of alcoholic beverages by minors, and for technical assistance and training;

(5) \$25,000,000 for programs authorized by the Victims of Child Abuse Act of 1990; and

(6) \$60,000,000 for the Juvenile Accountability Block Grants program as authorized by part R of title I of the 1968 Act and Guam shall be considered a State:

Provided, That not more than 10 percent of each amount may be used for research, evaluation, and statistics activities designed to benefit the programs or activities authorized: Provided further, That not more than 2 percent of each amount may be used for training and technical assistance: Provided further, That the previous two provisos shall not apply to grants and projects authorized by sections 261 and 262 of the 1974 Act.

#### PUBLIC SAFETY OFFICER BENEFITS

For payments and expenses authorized under section 1001(a)(4) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796), such sums as are necessary (including amounts for administrative costs, which amounts shall be paid to the "Salaries and Expenses" account); and \$5,000,000 for payments authorized by section 1201(b) of such Act; and \$4,100,000 for educational assistance, as authorized by section 1218 of such Act, to remain available until expended.

#### COMMUNITY ORIENTED POLICING SERVICES

For activities authorized by the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103-322); the Omnibus Crime Control and Safe Streets Act of 1968 ("the 1968 Act"); the Violence Against Women and Department of Justice Reauthorization Act of 2005 (Public Law 109-162); subtitle D of title II of the Homeland Security Act of 2002 (Public Law 107-296), which may include research and development; and the USA PATRIOT Improvement and Reauthorization Act of 2005 (Public Law 109-177); the NICS Improvement Amendments Act of 2007 (Public Law 110-180); the Adam Walsh Child Protection and Safety Act of 2006 (Public Law 109-248) (the "Adam Walsh Act"); and the Justice for All Act of 2004 (Public Law 108-405), \$658,500,000, to remain available until expended: Provided, That any balances made available through prior year deobligations shall only be available in accordance with section 505 of this Act. Of the amount provided (which shall be by transfer, for programs administered by the Office of Justice Programs)—

(1) \$30,000,000 for the matching grant program for law enforcement armor vests, as authorized by section 2501 of title I of the 1968 Act: Provided, That \$1,500,000 is transferred directly to the National Institute of Standards and Technology's Office of Law Enforcement Standards from the Community Oriented Policing Services Office for research, testing, and evaluation programs;

(2) \$39,500,000 for grants to entities described in section 1701 of title I of the 1968 Act, to address public safety and methamphetamine manufacturing, sale, and use in hot spots as author-

ized by section 754 of Public Law 109-177, and for other anti-methamphetamine-related activities: Provided, That within the amounts appropriated, \$34,500,000 shall be used for the projects, and in the amounts, specified in the table entitled "Congressionally designated projects" in the report of the Committee on Appropriations of the Senate to accompany this Act;

(3) \$187,000,000 for a law enforcement technologies and interoperable communications program, and related law enforcement and public safety equipment: Provided, That within the amounts appropriated, \$187,000,000 shall be used for the projects, and in the amounts, specified in the table entitled "Congressionally designated projects" in the report of the Committee on Appropriations of the Senate to accompany this Act;

(4) \$10,000,000 for grants to assist States and tribal governments as authorized by the NICS Improvements Amendments Act of 2007 (Public Law 110-180);

(5) \$10,000,000 for grants to upgrade criminal records, as authorized under the Crime Identification Technology Act of 1998 (42 U.S.C. 14601);

(6) \$166,000,000 for DNA related and forensic programs and activities as follows:

(A) \$151,000,000 for a DNA analysis and capacity enhancement program and for other local, State, and Federal forensic activities including the purposes of section 2 of the DNA Analysis Backlog Elimination Act of 2000 (the Debbie Smith DNA Backlog Grant Program);

(B) \$5,000,000 for the purposes described in the Kirk Bloodsworth Post-Conviction DNA Testing Program (Public Law 108-405, section 412);

(C) \$5,000,000 for Sexual Assault Forensic Exam Program Grants as authorized by Public Law 108-405, section 304; and

(D) \$5,000,000 for DNA Training and Education for Law Enforcement, Correctional Personnel, and Court Officers as authorized by Public Law 108-405, section 303;

(7) \$20,000,000 for improving tribal law enforcement, including equipment and training;

(8) \$15,000,000 for programs to reduce gun crime and gang violence;

(9) \$10,000,000 for training and technical assistance;

(10) \$20,000,000 for a national grant program the purpose of which is to assist State and local law enforcement to locate, arrest and prosecute child sexual predators and exploiters, and to enforce sex offender registration laws described in section 1701(b) of the 1968 Act, of which:

(A) \$5,000,000 for sex offender management assistance as authorized by the Adam Walsh Act and the Violent Crime Control Act of 1994 (Public Law 103-322); and

(B) \$1,000,000 for the National Sex Offender Public Registry;

(11) \$16,000,000 for expenses authorized by part AA of the 1968 Act (Secure our Schools);

(12) \$35,000,000 for Paul Coverdell Forensic Science Improvement Grants under part BB of title I of the 1968 Act; and

(13) \$100,000,000 for grants under section 1701 of title I of the 1968 Act (42 U.S.C. 3796dd) for the hiring and rehiring of additional career law enforcement officers under part Q of such title notwithstanding subsections (g) and (i) of such section and notwithstanding 42 U.S.C. 3796dd-3(c).

#### SALARIES AND EXPENSES

For necessary expenses, not elsewhere specified in this title, for management and administration of programs within the Office on Violence Against Women, the Office of Justice Programs and the Community Oriented Policing Services Office, \$179,000,000, of which not to exceed \$15,708,000 shall be available for the Office on Violence Against Women; not to exceed

\$125,830,000 shall be available for the Office of Justice Programs; not to exceed \$37,462,000 shall be available for the Community Oriented Policing Services Office: Provided, That, notwithstanding section 109 of title I of Public Law 90-351, an additional amount, not to exceed \$21,000,000 shall be available for authorized activities of the Office of Audit, Assessment, and Management: Provided further, That the total amount available for management and administration of such programs shall not exceed \$200,000,000.

#### GENERAL PROVISIONS—DEPARTMENT OF JUSTICE

SEC. 201. In addition to amounts otherwise made available in this title for official reception and representation expenses, a total of not to exceed \$75,000 from funds appropriated to the Department of Justice in this title shall be available to the Attorney General for official reception and representation expenses.

SEC. 202. None of the funds appropriated by this title shall be available to pay for an abortion, except where the life of the mother would be endangered if the fetus were carried to term, or in the case of rape: Provided, That should this prohibition be declared unconstitutional by a court of competent jurisdiction, this section shall be null and void.

SEC. 203. None of the funds appropriated under this title shall be used to require any person to perform, or facilitate in any way the performance of, any abortion.

SEC. 204. Nothing in the preceding section shall remove the obligation of the Director of the Bureau of Prisons to provide escort services necessary for a female inmate to receive such service outside the Federal facility: Provided, That nothing in this section in any way diminishes the effect of section 203 intended to address the philosophical beliefs of individual employees of the Bureau of Prisons.

SEC. 205. Not to exceed 5 percent of any appropriation made available for the current fiscal year for the Department of Justice in this Act may be transferred between such appropriations, but no such appropriation, except as otherwise specifically provided, shall be increased by more than 10 percent by any such transfers: Provided, That any transfer pursuant to this section shall be treated as a reprogramming of funds under section 505 of this Act and shall not be available for obligation except in compliance with the procedures set forth in that section.

SEC. 206. The Attorney General is authorized to extend through September 30, 2011, the Personnel Management Demonstration Project transferred to the Attorney General pursuant to section 1115 of the Homeland Security Act of 2002, Public Law 107-296 (6 U.S.C. 533) without limitation on the number of employees or the positions covered.

SEC. 207. Notwithstanding any other provision of law, Public Law 102-395 section 102(b) shall extend to the Bureau of Alcohol, Tobacco, Firearms and Explosives in the conduct of undercover investigative operations and shall apply without fiscal year limitation with respect to any undercover investigative operation by the Bureau of Alcohol, Tobacco, Firearms and Explosives that is necessary for the detection and prosecution of crimes against the United States.

SEC. 208. None of the funds made available to the Department of Justice in this Act may be used for the purpose of transporting an individual who is a prisoner pursuant to conviction for crime under State or Federal law and is classified as a maximum or high security prisoner, other than to a prison or other facility certified by the Federal Bureau of Prisons as appropriately secure for housing such a prisoner.

SEC. 209. (a) None of the funds appropriated by this Act may be used by Federal prisons to purchase cable television services, to rent or purchase videocassettes, videocassette recorders,



or other audiovisual or electronic equipment used primarily for recreational purposes.

(b) The preceding sentence does not preclude the renting, maintenance, or purchase of audiovisual or electronic equipment for inmate training, religious, or educational programs.

SEC. 210. None of the funds made available under this title shall be obligated or expended for Sentinel, or for any other major new or enhanced information technology program having total estimated development costs in excess of \$100,000,000, unless the Deputy Attorney General and the investment review board certify to the Committees on Appropriations that the information technology program has appropriate program management and contractor oversight mechanisms in place, and that the program is compatible with the enterprise architecture of the Department of Justice.

SEC. 211. The notification thresholds and procedures set forth in section 505 of this Act shall apply to deviations from the amounts designated for specific activities in this Act and accompanying statement, and to any use of deobligated balances of funds provided under this title in previous years.

SEC. 212. None of the funds appropriated by this Act may be used to plan for, begin, continue, finish, process, or approve a public-private competition under the Office of Management and Budget Circular A-76 or any successor administrative regulation, directive, or policy for work performed by employees of the Bureau of Prisons or of Federal Prison Industries, Incorporated.

SEC. 213. Notwithstanding any other provision of law, no funds shall be available for the salary, benefits, or expenses of any United States Attorney assigned dual or additional responsibilities by the Attorney General or his designee that exempt that United States Attorney from the residency requirements of 28 U.S.C. 545.

SEC. 214. None of the funds appropriated in this or any other Act shall be obligated for the initiation of a future phase of the Federal Bureau of Investigation's Sentinel program until the Attorney General certifies to the Committees on Appropriations that existing phases currently under contract for development or fielding have completed a majority of the work for that phase under the performance measurement baseline validated by the integrated baseline review conducted in 2008: Provided, That this restriction does not apply to planning and design activities for future phases: Provided further, That the Bureau will notify the Committees on Appropriations of any significant changes to the baseline.

SEC. 215. In addition to any amounts that otherwise may be available (or authorized to be made available) by law, with respect to funds appropriated by this Act under the headings "Justice Assistance", "State and Local Law Enforcement Assistance", "Weed and Seed", "Juvenile Justice Programs", and "Community Oriented Policing Services"—

(1) Up to 3 percent of funds made available to the Office of Justice Programs for grants or reimbursement may be used to provide training and technical assistance; and

(2) Up to 1 percent of funds made available to such Office for formula grants under such headings may be used for research or statistical purposes by the National Institute of Justice or the Bureau of Justice Statistics, pursuant to, respectively, sections 201 and 202, and sections 301 and 302 of title 1 of Public Law 90-351.

SEC. 216. Section 5759(e) of title 5, United States Code, is amended by striking subsection (e).

SEC. 217. (a) The Attorney General shall submit quarterly reports to the Inspector General of the Department of Justice regarding the costs and contracting procedures relating to each

conference held by the Department of Justice during fiscal year 2010 for which the cost to the Government was more than \$20,000.

(b) Each report submitted under subsection (a) shall include, for each conference described in that subsection held during the applicable quarter—

(1) a description of the subject of and number of participants attending that conference;

(2) a detailed statement of the costs to the Government relating to that conference, including—

(A) the cost of any food or beverages;

(B) the cost of any audio-visual services; and

(C) a discussion of the methodology used to determine which costs relate to that conference; and

(3) a description of the contracting procedures relating to that conference, including—

(A) whether contracts were awarded on a competitive basis for that conference; and

(B) a discussion of any cost comparison conducted by the Department of Justice in evaluating potential contractors for that conference.

SEC. 218. (a) Subchapter IV of chapter 57 of title 5, United States Code, is amended by adding at the end of the following:

**"§5761. Foreign language proficiency pay awards for the Federal Bureau of Investigation"**

"The Director of the Federal Bureau of Investigation may, under regulations prescribed by the Director, pay a cash award of up to 10 percent of basic pay to any Bureau employee who maintains proficiency in a language or languages critical to the mission or who uses one or more foreign languages in the performance of official duties."

(b) The analysis for chapter 57 of title 5, United States Code, is amended by adding at the end of the following:

"§5761. Foreign language proficiency pay awards for the Federal Bureau of Investigation."

SEC. 219. The Attorney General is authorized to waive the application of 42 U.S.C. 3755(d)(2)(A) with respect to grants made to units of local government pursuant to 42 U.S.C. 3755(d)(1), if such units of local government were eligible to receive such grants under the transitional rule in 42 U.S.C. 3755(d)(2)(B).

This title may be cited as the "Department of Justice Appropriations Act, 2010".

### TITLE III

#### SCIENCE

##### OFFICE OF SCIENCE AND TECHNOLOGY POLICY

For necessary expenses of the Office of Science and Technology Policy, in carrying out the purposes of the National Science and Technology Policy, Organization, and Priorities Act of 1976 (42 U.S.C. 6601-6671), hire of passenger motor vehicles, and services as authorized by 5 U.S.C. 3109, not to exceed \$2,500 for official reception and representation expenses, and rental of conference rooms in the District of Columbia, \$6,154,000.

##### NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

#### SCIENCE

For necessary expenses, not otherwise provided for, in the conduct and support of science research and development activities, including research, development, operations, support, and services; maintenance; construction of facilities including repair, rehabilitation, revitalization, and modification of facilities, construction of new facilities and additions to existing facilities, facility planning and design, and restoration, and acquisition or condemnation of real property, as authorized by law; environmental compliance and restoration; space flight, spacecraft control, and communications activities; program

management; personnel and related costs, including uniforms or allowances therefor, as authorized by 5 U.S.C. 5901-5902; travel expenses; purchase and hire of passenger motor vehicles; and purchase, lease, charter, maintenance, and operation of mission and administrative aircraft, \$4,517,000,000, to remain available until September 30, 2011.

#### AERONAUTICS

For necessary expenses, not otherwise provided for, in the conduct and support of aeronautics research and development activities, including research, development, operations, support, and services; maintenance; construction of facilities including repair, rehabilitation, revitalization, and modification of facilities, construction of new facilities and additions to existing facilities, facility planning and design, and restoration, and acquisition or condemnation of real property, as authorized by law; environmental compliance and restoration; space flight, spacecraft control, and communications activities; program management; personnel and related costs, including uniforms or allowances therefor, as authorized by 5 U.S.C. 5901-5902; travel expenses; purchase and hire of passenger motor vehicles; and purchase, lease, charter, maintenance, and operation of mission and administrative aircraft, \$507,000,000, to remain available until September 30, 2011.

#### EXPLORATION

For necessary expenses, not otherwise provided for, in the conduct and support of exploration research and development activities, including research, development, operations, support, and services; maintenance; construction of facilities including repair, rehabilitation, revitalization, and modification of facilities, construction of new facilities and additions to existing facilities, facility planning and design, and restoration, and acquisition or condemnation of real property, as authorized by law; environmental compliance and restoration; space flight, spacecraft control, and communications activities; program management; personnel and related costs, including uniforms or allowances therefor, as authorized by 5 U.S.C. 5901-5902; travel expenses; purchase and hire of passenger motor vehicles; and purchase, lease, charter, maintenance, and operation of mission and administrative aircraft, \$3,940,400,000, to remain available until September 30, 2011.

#### SPACE OPERATIONS

For necessary expenses, not otherwise provided for, in the conduct and support of space operations research and development activities, including research, development, operations, support and services; space flight, spacecraft control and communications activities including operations, production, and services; maintenance; construction of facilities including repair, rehabilitation, revitalization and modification of facilities, construction of new facilities and additions to existing facilities, facility planning and design, and restoration, and acquisition or condemnation of real property, as authorized by law; environmental compliance and restoration; program management; personnel and related costs, including uniforms or allowances therefor, as authorized by 5 U.S.C. 5901-5902; travel expenses; purchase and hire of passenger motor vehicles; and purchase, lease, charter, maintenance and operation of mission and administrative aircraft, \$6,161,600,000, to remain available until September 30, 2011.

#### EDUCATION

For necessary expenses, not otherwise provided for, in carrying out aerospace and aeronautical education research and development activities, including research, development, operations, support, and services; program management; personnel and related costs, uniforms

or allowances therefor, as authorized by 5 U.S.C. 5901–5902; travel expenses; purchase and hire of passenger motor vehicles; and purchase, lease, charter, maintenance, and operation of mission and administrative aircraft, \$140,100,000, to remain available until September 30, 2011.

#### CROSS AGENCY SUPPORT

For necessary expenses, not otherwise provided for, in the conduct and support of science, aeronautics, exploration, space operations and education research and development activities, including research, development, operations, support, and services; maintenance; construction of facilities including repair, rehabilitation, revitalization, and modification of facilities, construction of new facilities and additions to existing facilities, facility planning and design, and restoration, and acquisition or condemnation of real property, as authorized by law; environmental compliance and restoration; space flight, spacecraft control, and communications activities; program management; personnel and related costs, including uniforms or allowances therefor, as authorized by 5 U.S.C. 5901–5902; travel expenses; purchase and hire of passenger motor vehicles; not to exceed \$70,000 for official reception and representation expenses; and purchase, lease, charter, maintenance, and operation of mission and administrative aircraft, \$3,383,500,000, to remain available until September 30, 2011: Provided, That within the amounts appropriated \$47,000,000 shall be used for the projects, and in the amounts, specified in the table entitled “Congressionally designated projects” in the report of the Committee on Appropriations of the Senate to accompany this Act.

#### OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the Inspector General Act of 1978, \$36,400,000, to remain available until September 30, 2011.

#### ADMINISTRATIVE PROVISIONS

Notwithstanding the limitation on the duration of availability of funds appropriated to the National Aeronautics and Space Administration for any account in this Act, except for “Office of Inspector General”, when any activity has been initiated by the incurrence of obligations for environmental compliance and restoration activities as authorized by law, such amount available for such activity shall remain available until expended.

Notwithstanding the limitation on the availability of funds appropriated to the National Aeronautics and Space Administration for any account in this Act, except for “Office of Inspector General”, the amounts appropriated for construction of facilities shall remain available until September 30, 2014.

Funds for announced prizes otherwise authorized shall remain available, without fiscal year limitation, until the prize is claimed or the offer is withdrawn.

Not to exceed 5 percent of any appropriation made available for the current fiscal year for the National Aeronautics and Space Administration in this Act may be transferred between such appropriations, but no such appropriation, except as otherwise specifically provided, shall be increased by more than 10 percent by any such transfers. Any transfer pursuant to this provision shall be treated as a reprogramming of funds under section 505 of this Act and shall not be available for obligation except in compliance with the procedures set forth in that section.

Notwithstanding any other provision of law, no funds shall be used to implement any Reduction in Force or other involuntary separations (except for cause) by the National Aeronautics and Space Administration prior to September 30, 2010.

The unexpired balances of the Science, Aeronautics, and Exploration account, for activities for which funds are provided under this Act, may be transferred to the new accounts established in this Act that provide such activity. Balances so transferred shall be merged with the funds in the newly established accounts, but shall be available under the same terms, conditions and period of time as previously appropriated.

Funding designations and minimum funding requirements contained in any other Act shall not be applicable to funds appropriated by this title for the National Aeronautics and Space Administration.

#### NATIONAL SCIENCE FOUNDATION RESEARCH AND RELATED ACTIVITIES (INCLUDING TRANSFER OF FUNDS)

For necessary expenses in carrying out the National Science Foundation Act of 1950, as amended (42 U.S.C. 1861–1875), and the Act to establish a National Medal of Science (42 U.S.C. 1880–1881); services as authorized by 5 U.S.C. 3109; maintenance and operation of aircraft and purchase of flight services for research support; acquisition of aircraft; and authorized travel; \$5,618,000,000, to remain available until September 30, 2011, of which not to exceed \$570,000,000 shall remain available until expended for polar research and operations support, and for reimbursement to other Federal agencies for operational and science support and logistical and other related activities for the United States Antarctic program: Provided, That from funds specified in the fiscal year 2010 budget request for icebreaking services, \$54,000,000 shall be transferred to the U.S. Coast Guard “Operating Expenses”: Provided further, That receipts for scientific support services and materials furnished by the National Research Centers and other National Science Foundation supported research facilities may be credited to this appropriation: Provided further, That not less than \$147,800,000 shall be available for activities authorized by section 7002(c)(2)(A)(iv) of Public Law 110–69.

#### MAJOR RESEARCH EQUIPMENT AND FACILITIES CONSTRUCTION

For necessary expenses for the acquisition, construction, commissioning, and upgrading of major research equipment, facilities, and other such capital assets pursuant to the National Science Foundation Act of 1950, as amended (42 U.S.C. 1861–1875), including authorized travel, \$122,290,000, to remain available until expended.

#### EDUCATION AND HUMAN RESOURCES

For necessary expenses in carrying out science and engineering education and human resources programs and activities pursuant to the National Science Foundation Act of 1950, as amended (42 U.S.C. 1861–1875), including services as authorized by 5 U.S.C. 3109, authorized travel, and rental of conference rooms in the District of Columbia, \$857,760,000, to remain available until September 30, 2011: Provided, That not less than \$55,000,000 shall be available until expended for activities authorized by section 7030 of Public Law 110–69.

#### AGENCY OPERATIONS AND AWARD MANAGEMENT

For agency operations and award management necessary in carrying out the National Science Foundation Act of 1950, as amended (42 U.S.C. 1861–1875); services authorized by 5 U.S.C. 3109; hire of passenger motor vehicles; not to exceed \$9,000 for official reception and representation expenses; uniforms or allowances therefor, as authorized by 5 U.S.C. 5901–5902; rental of conference rooms in the District of Columbia; and reimbursement of the Department of Homeland Security for security guard services; \$300,370,000: Provided, That contracts may be entered into under this heading in fiscal year

2010 for maintenance and operation of facilities, and for other services, to be provided during the next fiscal year.

#### OFFICE OF THE NATIONAL SCIENCE BOARD

For necessary expenses (including payment of salaries, authorized travel, hire of passenger motor vehicles, the rental of conference rooms in the District of Columbia, and the employment of experts and consultants under section 3109 of title 5, United States Code) involved in carrying out section 4 of the National Science Foundation Act of 1950, as amended (42 U.S.C. 1863) and Public Law 86–209 (42 U.S.C. 1880 et seq.), \$4,340,000: Provided, That not to exceed \$2,500 shall be available for official reception and representation expenses.

#### OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General as authorized by the Inspector General Act of 1978, as amended, \$14,000,000.

This title may be cited as the “Science Appropriations Act, 2010”.

#### TITLE IV

#### RELATED AGENCIES

#### COMMISSION ON CIVIL RIGHTS

#### SALARIES AND EXPENSES

For necessary expenses of the Commission on Civil Rights, including hire of passenger motor vehicles, 400,000: Provided, That none of the funds appropriated in this paragraph shall be used to employ in excess of four full-time individuals under Schedule C of the Excepted Service exclusive of one special assistant for each Commissioner: Provided further, That none of the funds appropriated in this paragraph shall be used to reimburse Commissioners for more than 75 billable days, with the exception of the chairperson, who is permitted 125 billable days.

#### EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

#### SALARIES AND EXPENSES

For necessary expenses of the Equal Employment Opportunity Commission as authorized by title VII of the Civil Rights Act of 1964, the Age Discrimination in Employment Act of 1967, the Equal Pay Act of 1963, the Americans with Disabilities Act of 1990, the Civil Rights Act of 1991, the Genetic Information Non-Discrimination Act (GINA) of 2008 (Public Law 110–23); the ADA Amendments Act of 2008 (Public Law 110–325), and the Lilly Ledbetter Fair Pay Act of 2009 (Public Law 111–2), including services as authorized by 5 U.S.C. 3109; hire of passenger motor vehicles as authorized by 31 U.S.C. 1343(b); nonmonetary awards to private citizens; and not to exceed \$30,000,000 for payments to State and local enforcement agencies for authorized services to the Commission, \$367,303,000: Provided, That the Commission is authorized to make available for official reception and representation expenses not to exceed \$2,500 from available funds: Provided further, That the Commission may take no action to implement any workforce repositioning, restructuring, or reorganization until such time as the House and Senate Committees on Appropriations have been notified of such proposals, in accordance with the reprogramming requirements of section 505 of this Act: Provided further, That the Chair is authorized to accept and use any gift or donation to carry out the work of the Commission.

#### INTERNATIONAL TRADE COMMISSION

#### SALARIES AND EXPENSES

For necessary expenses of the International Trade Commission, including hire of passenger motor vehicles, and services as authorized by 5 U.S.C. 3109, and not to exceed \$2,500 for official reception and representation expenses, \$82,700,000, to remain available until expended.

## LEGAL SERVICES CORPORATION

## PAYMENT TO THE LEGAL SERVICES CORPORATION

For payment to the Legal Services Corporation to carry out the purposes of the Legal Services Corporation Act of 1974, \$400,000,000, of which \$374,600,000 is for basic field programs and required independent audits; \$4,000,000 is for the Office of Inspector General, of which such amounts as may be necessary may be used to conduct additional audits of recipients; \$17,000,000 is for management and grants oversight; \$3,400,000 is for client self-help and information technology; and \$1,000,000 is for loan repayment assistance: Provided, That the Legal Services Corporation may continue to provide locality pay to officers and employees at a rate no greater than that provided by the Federal Government to Washington, DC-based employees as authorized by 5 U.S.C. 5304, notwithstanding section 1005(d) of the Legal Services Corporation Act, 42 U.S.C. 2996(d).

## ADMINISTRATIVE PROVISION—LEGAL SERVICES CORPORATION

None of the funds appropriated in this Act to the Legal Services Corporation shall be expended for any purpose prohibited or limited by, or contrary to any of the provisions of, sections 501, 502, 503, 504, 505, and 506 of Public Law 105-119, and all funds appropriated in this Act to the Legal Services Corporation shall be subject to the same terms and conditions set forth in such sections, except that all references in sections 502 and 503 to 1997 and 1998 shall be deemed to refer instead to 2009 and 2010, respectively.

MARINE MAMMAL COMMISSION  
SALARIES AND EXPENSES

For necessary expenses of the Marine Mammal Commission as authorized by title II of Public Law 92-522, \$3,250,000.

OFFICE OF THE UNITED STATES TRADE  
REPRESENTATIVE  
SALARIES AND EXPENSES

For necessary expenses of the Office of the United States Trade Representative, including the hire of passenger motor vehicles and the employment of experts and consultants as authorized by 5 U.S.C. 3109, \$48,326,000, of which \$1,000,000 shall remain available until expended: Provided, That not to exceed \$124,000 shall be available for official reception and representation expenses: Provided further, That negotiations shall be conducted within the World Trade Organization to recognize the right of members to distribute monies collected from antidumping and countervailing duties: Provided further, That negotiations shall be conducted within the World Trade Organization consistent with the negotiating objectives contained in the Trade Act of 2002, Public Law 107-210 to maintain strong U.S. remedies laws, correct the problem of overreaching by World Trade Organization Panels and Appellate Body, and prevent the creation of obligation never negotiated or expressly agreed to by the United States.

STATE JUSTICE INSTITUTE  
SALARIES AND EXPENSES

For necessary expenses of the State Justice Institute, as authorized by the State Justice Institute Authorization Act of 1984 (42 U.S.C. 10701 et. seq.) \$5,000,000, of which \$500,000 shall remain available until September 30, 2011: Provided, That not to exceed \$3,000 shall be available for official reception and representation expenses.

TITLE V  
GENERAL PROVISIONS

SEC. 501. No part of any appropriation contained in this Act shall be used for publicity or propaganda purposes not authorized by the Congress.

SEC. 502. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 503. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

SEC. 504. If any provision of this Act or the application of such provision to any person or circumstances shall be held invalid, the remainder of the Act and the application of each provision to persons or circumstances other than those as to which it is held invalid shall not be affected thereby.

SEC. 505. (a) None of the funds provided under this Act, or provided under previous appropriations Acts to the agencies funded by this Act that remain available for obligation or expenditure in fiscal year 2009, or provided from any accounts in the Treasury of the United States derived by the collection of fees available to the agencies funded by this Act, shall be available for obligation or expenditure through the reprogramming of funds that:

(1) creates or initiates a new program, project or activity;

(2) eliminates a program, project or activity, unless the House and Senate Committees on Appropriations are notified 15 days in advance of such reprogramming of funds;

(3) increases funds or personnel by any means for any project or activity for which funds have been denied or restricted by this Act, unless the House and Senate Committees on Appropriations are notified 15 days in advance of such reprogramming of funds;

(4) relocates an office or employees, unless the House and Senate Committees on Appropriations are notified 15 days in advance of such reprogramming of funds;

(5) reorganizes or renames offices, programs or activities, unless the House and Senate Committees on Appropriations are notified 15 days in advance of such reprogramming of funds;

(6) contracts out or privatizes any functions or activities presently performed by Federal employees, unless the House and Senate Committees on Appropriations are notified 15 days in advance of such reprogramming of funds;

(7) proposes to use funds directed for a specific activity by either the House or Senate Committee on Appropriations for a different purpose, unless the House and Senate Committees on Appropriations are notified 15 days in advance of such reprogramming of funds;

(8) augments funds for existing programs, projects or activities in excess of \$500,000 or 10 percent, whichever is less, or reduces by 10 percent funding for any program, project or activity, or numbers of personnel by 10 percent as approved by Congress, unless the House and Senate Committees on Appropriations are notified 15 days in advance of such reprogramming of funds; or

(9) results from any general savings, including savings from a reduction in personnel, which would result in a change in existing programs, projects or activities as approved by Congress, unless the House and Senate Committees on Appropriations are notified 15 days in advance of such reprogramming of funds.

(b) None of the funds provided under this Act, or provided under previous appropriations Acts to the agencies funded by this Act that remain available for obligation or expenditure in fiscal year 2010, or provided from any accounts in the Treasury of the United States derived by the collection of fees available to the agencies fund-

ed by this Act, shall be available for obligation or expenditure through the reprogramming of funds after August 1, except in extraordinary circumstances, and only after the House and Senate Committees on Appropriations are notified 30 days in advance of such reprogramming of funds.

SEC. 506. Hereafter, none of the funds made available in this or any other Act may be used to implement, administer, or enforce any guidelines of the Equal Employment Opportunity Commission covering harassment based on religion, when it is made known to the Federal entity or official to which such funds are made available that such guidelines do not differ in any respect from the proposed guidelines published by the Commission on October 1, 1993 (58 Fed. Reg. 51266).

SEC. 507. If it has been finally determined by a court or Federal agency that any person intentionally affixed a label bearing a "Made in America" inscription, or any inscription with the same meaning, to any product sold in or shipped to the United States that is not made in the United States, the person shall be ineligible to receive any contract or subcontract made with funds made available in this Act, pursuant to the debarment, suspension, and ineligibility procedures described in sections 9.400 through 9.409 of title 48, Code of Federal Regulations.

SEC. 508. The Departments of Commerce and Justice, the National Science Foundation, and the National Aeronautics and Space Administration, shall provide to the House and Senate Committees on Appropriations a quarterly accounting of the cumulative balances of any unobligated funds that were received by such agency during any previous fiscal year.

SEC. 509. Any costs incurred by a department or agency funded under this Act resulting from, or to prevent, personnel actions taken in response to funding reductions included in this Act shall be absorbed within the total budgetary resources available to such department or agency: Provided, That the authority to transfer funds between appropriations accounts as may be necessary to carry out this section is provided in addition to authorities included elsewhere in this Act: Provided further, That use of funds to carry out this section shall be treated as a reprogramming of funds under section 505 of this Act and shall not be available for obligation or expenditure except in compliance with the procedures set forth in that section.

SEC. 510. None of the funds provided by this Act shall be available to promote the sale or export of tobacco or tobacco products, or to seek the reduction or removal by any foreign country of restrictions on the marketing of tobacco or tobacco products, except for restrictions which are not applied equally to all tobacco or tobacco products of the same type.

SEC. 511. None of the funds appropriated pursuant to this Act or any other provision of law may be used for—

(1) the implementation of any tax or fee in connection with the implementation of subsection 922(t) of title 18, United States Code; and

(2) any system to implement subsection 922(t) of title 18, United States Code, that does not require and result in the destruction of any identifying information submitted by or on behalf of any person who has been determined not to be prohibited from possessing or receiving a firearm no more than 24 hours after the system advises a Federal firearms licensee that possession or receipt of a firearm by the prospective transferee would not violate subsection (g) or (n) of section 922 of title 18, United States Code, or State law.

SEC. 512. None of the funds made available in this Act may be used to pay the salaries and expenses of personnel of the Department of Justice to obligate more than \$705,000,000 during fiscal year 2010 from the fund established by section

1402 of chapter XIV of title II of Public Law 98–473 (42 U.S.C. 10601): Provided, That hereafter the availability of funds under section 1402(d)(3) to improve services shall be understood to mean availability for pay or salary, including benefits for the same.

SEC. 513. None of the funds made available to the Department of Justice in this Act may be used to discriminate against or denigrate the religious or moral beliefs of students who participate in programs for which financial assistance is provided from those funds, or of the parents or legal guardians of such students.

SEC. 514. None of the funds made available in this Act may be transferred to any department, agency, or instrumentality of the United States Government, except pursuant to a transfer made by, or transfer authority provided in, this Act or any other appropriations Act.

SEC. 515. Any funds provided in this Act used to implement E-Government Initiatives shall be subject to the procedures set forth in section 505 of this Act.

SEC. 516. (a) Tracing studies conducted by the Bureau of Alcohol, Tobacco, Firearms and Explosives are released without adequate disclaimers regarding the limitations of the data.

(b) The Bureau of Alcohol, Tobacco, Firearms and Explosives shall include in all such data releases, language similar to the following that would make clear that trace data cannot be used to draw broad conclusions about firearms-related crime:

(1) Firearm traces are designed to assist law enforcement authorities in conducting investigations by tracking the sale and possession of specific firearms. Law enforcement agencies may request firearms traces for any reason, and those reasons are not necessarily reported to the Federal Government. Not all firearms used in crime are traced and not all firearms traced are used in crime.

(2) Firearms selected for tracing are not chosen for purposes of determining which types, makes, or models of firearms are used for illicit purposes. The firearms selected do not constitute a random sample and should not be considered representative of the larger universe of all firearms used by criminals, or any subset of that universe. Firearms are normally traced to the first retail seller, and sources reported for firearms traced do not necessarily represent the sources or methods by which firearms in general are acquired for use in crime.

SEC. 517. (a) The Inspectors General of the Department of Commerce, the Department of Justice, the National Aeronautics and Space Administration, the National Science Foundation, and the Legal Services Corporation shall conduct audits, pursuant to the Inspector General Act (5 U.S.C. App.), of grants or contracts for which funds are appropriated by this Act, and shall submit reports to Congress on the progress of such audits, which may include preliminary findings and a description of areas of particular interest, within 180 days after initiating such an audit and every 180 days thereafter until any such audit is completed.

(b) Within 60 days after the date on which an audit described in subsection (a) by an Inspector General is completed, the Secretary, Attorney General, Administrator, Director, or President, as appropriate, shall make the results of the audit available to the public on the Internet website maintained by the Department, Administration, Foundation, or Corporation, respectively. The results shall be made available in redacted form to exclude—

(1) any matter described in section 552(b) of title 5, United States Code; and

(2) sensitive personal information for any individual, the public access to which could be used to commit identity theft or for other inappropriate or unlawful purposes.

(c) A grant or contract funded by amounts appropriated by this Act may not be used for the purpose of defraying the costs of a banquet or conference that is not directly and program-matically related to the purpose for which the grant or contract was awarded, such as a banquet or conference held in connection with planning, training, assessment, review, or other routine purposes related to a project funded by the grant or contract.

(d) Any person awarded a grant or contract funded by amounts appropriated by this Act shall submit a statement to the Secretary of Commerce, the Attorney General, the Administrator, Director, or President, as appropriate, certifying that no funds derived from the grant or contract will be made available through a subcontract or in any other manner to another person who has a financial interest in the person awarded the grant or contract.

(e) The provisions of the preceding subsections of this section shall take effect 30 days after the date on which the Director of the Office of Management and Budget, in consultation with the Director of the Office of Government Ethics, determines that a uniform set of rules and requirements, substantially similar to the requirements in such subsections, consistently apply under the executive branch ethics program to all Federal departments, agencies, and entities.

SEC. 518. None of the funds appropriated or otherwise made available under this Act may be used to issue patents on claims directed to or encompassing a human organism.

SEC. 519. None of the funds made available in this Act shall be used in any way whatsoever to support or justify the use of torture by any official or contract employee of the United States Government.

SEC. 520. (a) Notwithstanding any other provision of law or treaty, none of the funds appropriated or otherwise made available under this Act or any other Act may be expended or obligated by a department, agency, or instrumentality of the United States to pay administrative expenses or to compensate an officer or employee of the United States in connection with requiring an export license for the export to Canada of components, parts, accessories or attachments for firearms listed in Category I, section 121.1 of title 22, Code of Federal Regulations (International Trafficking in Arms Regulations (ITAR), part 121, as it existed on April 1, 2005) with a total value not exceeding \$500 wholesale in any transaction, provided that the conditions of subsection (b) of this section are met by the exporting party for such articles.

(b) The foregoing exemption from obtaining an export license—

(1) does not exempt an exporter from filing any Shipper's Export Declaration or notification letter required by law, or from being otherwise eligible under the laws of the United States to possess, ship, transport, or export the articles enumerated in subsection (a); and

(2) does not permit the export without a license of—

(A) fully automatic firearms and components and parts for such firearms, other than for end use by the Federal Government, or a Provincial or Municipal Government of Canada;

(B) barrels, cylinders, receivers (frames) or complete breech mechanisms for any firearm listed in Category I, other than for end use by the Federal Government, or a Provincial or Municipal Government of Canada; or

(C) articles for export from Canada to another foreign destination.

(c) In accordance with this section, the District Directors of Customs and postmasters shall permit the permanent or temporary export without a license of any unclassified articles specified in subsection (a) to Canada for end use in Canada or return to the United States, or tem-

porary import of Canadian-origin items from Canada for end use in the United States or return to Canada for a Canadian citizen.

(d) The President may require export licenses under this section on a temporary basis if the President determines, upon publication first in the Federal Register, that the Government of Canada has implemented or maintained inadequate import controls for the articles specified in subsection (a), such that a significant diversion of such articles has and continues to take place for use in international terrorism or in the escalation of a conflict in another nation. The President shall terminate the requirements of a license when reasons for the temporary requirements have ceased.

SEC. 521. Notwithstanding any other provision of law, no department, agency, or instrumentality of the United States receiving appropriated funds under this Act or any other Act shall obligate or expend in any way such funds to pay administrative expenses or the compensation of any officer or employee of the United States to deny any application submitted pursuant to 22 U.S.C. 2778(b)(1)(B) and qualified pursuant to 27 CFR section 478.112 or .113, for a permit to import United States origin "curios or relics" firearms, parts, or ammunition.

SEC. 522. None of the funds made available in this Act may be used to include in any new bilateral or multilateral trade agreement the text of—

(1) paragraph 2 of article 16.7 of the United States-Singapore Free Trade Agreement;

(2) paragraph 4 of article 17.9 of the United States-Australia Free Trade Agreement; or

(3) paragraph 4 of article 15.9 of the United States-Morocco Free Trade Agreement.

SEC. 523. None of the funds made available in this Act may be used to authorize or issue a national security letter in contravention of any of the following laws authorizing the Federal Bureau of Investigation to issue national security letters: The Right to Financial Privacy Act; The Electronic Communications Privacy Act; The Fair Credit Reporting Act; The National Security Act of 1947; USA PATRIOT Act; and the laws amended by these Acts.

SEC. 524. If at any time during any quarter, the program manager of a project within the jurisdiction of the Departments of Commerce or Justice, the National Aeronautics and Space Administration, or the National Science Foundation totaling more than \$75,000,000 has reasonable cause to believe that the total program cost has increased by 10 percent, the program manager shall immediately inform the Secretary, Administrator, or Director. The Secretary, Administrator, or Director shall notify the House and Senate Committees on Appropriations within 30 days in writing of such increase, and shall include in such notice: the date on which such determination was made; a statement of the reasons for such increases; the action taken and proposed to be taken to control future cost growth of the project; changes made in the performance or schedule milestones and the degree to which such changes have contributed to the increase in total program costs or procurement costs; new estimates of the total project or procurement costs; and a statement validating that the project's management structure is adequate to control total project or procurement costs.

SEC. 525. Funds appropriated by this Act, or made available by the transfer of funds in this Act, for intelligence or intelligence related activities are deemed to be specifically authorized by the Congress for purposes of section 504 of the National Security Act of 1947 (50 U.S.C. 414) during fiscal year 2010 until the enactment of the Intelligence Authorization Act for fiscal year 2010.

SEC. 526. The Departments, agencies, and commissions funded under this Act, shall establish and maintain on the homepages of their Internet websites—

(1) a direct link to the Internet websites of their Offices of Inspectors General; and

(2) a mechanism on the Offices of Inspectors General website by which individuals may anonymously report cases of waste, fraud, or abuse with respect to those Departments, agencies, and commissions.

SEC. 527. None of the funds appropriated or otherwise made available by this Act may be used to enter into a contract in an amount greater than \$5,000,000 or to award a grant in excess of such amount unless the prospective contractor or grantee certifies in writing to the agency awarding the contract or grant that, to the best of its knowledge and belief, the contractor or grantee has filed all Federal tax returns required during the three years preceding the certification, has not been convicted of a criminal offense under the Internal Revenue Code of 1986, and has not, more than 90 days prior to certification, been notified of any unpaid Federal tax assessment for which the liability remains unsatisfied, unless the assessment is the subject of an installment agreement or offer in compromise that has been approved by the Internal Revenue Service and is not in default, or the assessment is the subject of a non-frivolous administrative or judicial proceeding.

SEC. 528. None of the funds appropriated or otherwise made available in this Act may be used in a manner that is inconsistent with the principal negotiating objective of the United States with respect to trade remedy laws to preserve the ability of the United States—

(1) to enforce vigorously its trade laws, including antidumping, countervailing duty, and safeguard laws;

(2) to avoid agreements that—

(A) lessen the effectiveness of domestic and international disciplines on unfair trade, especially dumping and subsidies; or

(B) lessen the effectiveness of domestic and international safeguard provisions, in order to ensure that United States workers, agricultural producers, and firms can compete fully on fair terms and enjoy the benefits of reciprocal trade concessions; and

(3) to address and remedy market distortions that lead to dumping and subsidization, including overcapacity, cartelization, and market-access barriers.

SEC. 529. None of the funds made available in this Act may be used to purchase first class or premium airline travel in contravention of sections 301-10.122 through 301-10.124 of title 41 of the Code of Federal Regulations.

SEC. 530. None of the funds made available in this Act may be used to send or otherwise pay for the attendance of more than 50 employees from a Federal department or agency at any single conference occurring outside the United States.

#### (RESCISSIONS)

SEC. 531. (a) Of the unobligated balances available to the Department of Justice from prior appropriations, the following funds are hereby rescinded, not later than September 30, 2010, from the following accounts in the specified amounts:

(1) "Legal Activities, Assets Forfeiture Fund", \$379,000,000, of which \$136,000,000 shall be permanently rescinded and returned to the general fund;

(2) "Office of Justice Programs", \$42,000,000; and

(3) "Community Oriented Policing Services", \$40,000,000.

(b) The Department of Justice shall, within 30 days of enactment of this Act, submit to the Committee on Appropriations of the House of

Representatives and the Senate a report specifying the amount of each rescission made pursuant to this section.

(c) The rescissions contained in this section shall not apply to funds provided in this Act.

SEC. 532. Section 504(a) of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1996 (as contained in Public Law 104-134) is amended:

(1) in subsection (a), in the matter preceding paragraph (1), by inserting after "(1)" the following: "that uses Federal funds (or funds from any source with regard to paragraphs (14) and (15)) in a manner";

(2) by striking subsection (d); and

(3) by redesignating subsections (e) and (f) as subsections (d) and (e), respectively.

SEC. 533. None of the funds made available under this Act may be distributed to the Association of Community Organizations for Reform Now (ACORN) or its subsidiaries.

#### REVIEW AND AUDIT OF ACORN FEDERAL FUNDING

SEC. 534. (a) REVIEW AND AUDIT.—The Comptroller General of the United States shall conduct a review and audit of Federal funds received by the Association of Community Organizations for Reform Now (referred to in this section as "ACORN") or any subsidiary or affiliate of ACORN to determine—

(1) whether any Federal funds were misused and, if so, the total amount of Federal funds involved and how such funds were misused;

(2) what steps, if any, have been taken to recover any Federal funds that were misused;

(3) what steps should be taken to prevent the misuse of any Federal funds; and

(4) whether all necessary steps have been taken to prevent the misuse of any Federal funds.

(b) REPORT.—Not later than 180 days after the date of enactment of this Act, the Comptroller General shall submit to Congress a report on the results of the audit required under subsection (a), along with recommendations for Federal agency reforms.

This Act may be cited as the "Commerce, Justice, Science, and Related Agencies Appropriations Act, 2010".

Mrs. MURRAY. I move to reconsider the vote.

Mr. NELSON of Nebraska. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Under the previous order, the Senate insists on its amendment, requests a conference with the House, and the Chair appoints Ms. MIKULSKI, Mr. INOUE, Mr. LEAHY, Mr. KOHL, Mr. DORGAN, Mrs. FEINSTEIN, Mr. REED, Mr. LAUTENBERG, Mr. NELSON of Nebraska, Mr. PRYOR, Mr. BYRD, Mr. SHELBY, Mr. GREGG, Mr. MCCONNELL, Mrs. HUTCHISON, Mr. ALEXANDER, Mr. VOINOVICH, Ms. MURKOWSKI, and Mr. COCHRAN conferees on the part of the Senate.

The majority leader.

#### ORDER OF BUSINESS

Mr. REID. Mr. President, we have one more vote tonight. In the last 24 hours we have had a lot of accomplishments that we are going to be able to point to. I appreciate the cooperation of the Republicans. We have a number of nominations we are going to be able to complete.

We are going to move, as soon as this next vote is over, to military construction. I have spoken to the Republican leader. We are going to do our best to finish that on Monday or Tuesday. We are going to have that one vote, the one vote I indicated. On Monday, at 5:30, we will have a judge vote. We will see if there is anything else we can have to vote on on Monday, but at least we will have that one at—5:30 will be fine.

Mr. President, we are going to be in Monday and Tuesday. I told everyone I thought this was going to be the day that REID finally called "wolf" and the wolf showed up, but it is not going to be the case. The reason it is not is because we have been able to get a lot of stuff done. I indicated to the Republican leader there were things we needed to get done. We did not get everything I wanted done, but we got things I had not put on the list done that amounts to the same.

So I am grateful for the cooperation we have gotten recently, and I look forward to a good week next week. Remember, it is only 2 days long.

#### EXECUTIVE SESSION

#### NOMINATION OF IGNACIA S. MORENO TO BE AN ASSISTANT ATTORNEY GENERAL

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to executive session to consider a nomination, which the clerk will report.

The assistant legislative clerk read the nomination of Ignacia S. Moreno, of New York, to be an Assistant Attorney General.

Mr. LEAHY. Mr. President, today, the Senate will confirm yet another outstanding nominee to fill a high-level vacancy at the Department of Justice. The confirmation of Ignacia Moreno to head the Environment and Natural Resources Division is long overdue. Ms. Moreno's nomination has been stalled on the Senate Executive Calendar without explanation for almost 6 weeks. Nominations for four other Assistant Attorneys General to run divisions at the Department remain stalled by Republican objections to their consideration.

I thank Senator WHITEHOUSE for chairing the Judiciary Committee hearing on this nomination on September 9. When we reported this nomination by unanimous consent—without a single dissenting vote—on September 24, I did not imagine it would not be considered by the full Senate until November.

Senate Republicans have irresponsibly held up nominations to critical posts in the Department of Justice, depriving the President, the Attorney General, and the country of the leaders

needed to head key law enforcement divisions at the Justice Department. These are leaders in our Federal law enforcement efforts. Presidents of both parties, especially newly elected ones, are normally accorded significant deference to put in place appointees for their administrations.

Yet, 10 months into President Obama's first term, even after we confirm Ms. Moreno, four nominations to be Assistant Attorneys General will remain stalled on the Senate's Executive Calendar due to Republican opposition and obstruction. These are the President's nominees to run 4 of the 11 divisions at the Justice Department—nearly half. By comparison, at this point in the Bush administration the Senate had confirmed nine Assistant Attorneys General and only one nomination was pending on the Senate Executive Calendar. The difference is that the Republican minority is refusing to consider these nominations.

The nomination we consider today, President Obama's nomination of Ignacia Moreno to be the Assistant Attorney General in charge of the Environment and Natural Resources Division, has been on the Senate Executive Calendar for almost 6 weeks, even though it was reported by the Judiciary Committee without a single Republican Senator dissenting. By comparison, a Democratic majority in the Senate confirmed President Bush's nomination of Thomas Sansonetti to the position only 1 day after it was reported by the Judiciary Committee.

The President nominated Dawn Johnsen to be the Assistant Attorney General in charge of the Office of Legal Counsel at the Justice Department on February 11. Her nomination has been pending on the Senate Executive Calendar since March 19. That is the longest pending nomination on the calendar by over 2 months. We did not treat President Bush's first nominee to head the Office of Legal Counsel the same way. We confirmed Jay Bybee to that post only 49 days after he was nominated by President Bush and only 5 days after his nomination was reported by the committee. Of course, his work in the Office of Legal Counsel is now the subject of an ongoing review by the Office of Professional Responsibility.

Mary Smith's nomination to be the Assistant Attorney General in charge of the Tax Division has been pending on the Senate's Executive Calendar since June 11—nearly 5 months. We confirmed President Bush's first nomination to that position, Eileen O'Connor, only 57 days after her nomination was made and 1 day after her nomination was reported by the Committee. Her replacement, Nathan Hochman, was confirmed without delay, just 34 days after his nomination.

Chris Schroeder's nomination to be the Assistant Attorney General in

charge of the Office of Legal Policy has been pending on the Senate Executive Calendar since July 28. It was reported by voice vote without a single dissenting voice. President Bush's first nominee to head that division, Viet Dinh, was confirmed 96 to 1 only 1 month after he was nominated and only a week after his nomination was reported by the committee. The three nominees to that office that succeeded Mr. Dinh—Daniel Bryant, Rachel Brand, and Elisabeth Cook—were each confirmed by voice vote in a shorter time than Professor Schroeder's nomination has been pending. Ms. Cook was confirmed 13 days after her nomination was reported by the committee, even though it was the final year of the Bush Presidency. By contrast, the majority leader may have to file another cloture position in order to overcome Republican obstruction and obtain Senate consideration of Professor Schroeder's nomination.

Instead of withholding consents and filibustering President Obama's nominees, the other side of the aisle should join us in treating them fairly. We should not have to fight for months to schedule consideration of the President's judicial nominations and nomination for critical posts in the executive branch.

Upon the announcement of her nomination, President Obama described Ignacia Moreno as a "talented individual" whose leadership will help us "preserve our environment." I agree. Ignacia Moreno is a well-qualified nominee who has chosen to leave a lucrative private practice to return to government service.

Ms. Moreno currently works for General Electric, where she oversees that corporation's compliance with State and Federal laws. Prior to that, she spent 7 years in the Energy and Natural Resources Division, where she served as a Special Assistant and later Principal Counsel to the Assistant Attorney General. I am confident that Ms. Moreno's significant experience will be put to good use when she is confirmed to return to the Justice Department.

I congratulate Ms. Moreno and her family on her confirmation today. I thank her many supporters for helping to free this nomination for Senate consideration.

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the nomination of Ignacia S. Moreno, of New York, to be an Assistant Attorney General?

Mr. CARDIN. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from West Virginia (Mr.

BYRD), the Senator from Delaware (Mr. CARPER), and the Senator from Louisiana (Ms. LANDRIEU) are necessarily absent.

Mr. KYL. The following Senators are necessarily absent: the Senator from Georgia (Mr. CHAMBLISS), the Senator from South Carolina (Mr. DEMINT), the Senator from Georgia (Mr. ISAKSON), and the Senator from Ohio (Mr. VOINOVICH).

Further, if present and voting, the Senator from South Carolina (Mr. DEMINT) would have voted "yea."

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 93, nays 0, as follows:

[Rollcall Vote No. 341 Leg.]

YEAS—93

Akaka	Feingold	Menendez
Alexander	Feinstein	Merkley
Barrasso	Franken	Mikulski
Baucus	Gillibrand	Murkowski
Bayh	Graham	Murray
Begich	Grassley	Nelson (NE)
Bennet	Gregg	Nelson (FL)
Bennett	Hagan	Pryor
Bingaman	Harkin	Reed
Bond	Hatch	Reid
Boxer	Hutchison	Risch
Brown	Inhofe	Roberts
Brownback	Inouye	Rockefeller
Bunning	Johanns	Sanders
Burr	Johnson	Schumer
Burris	Kaufman	Sessions
Cantwell	Kerry	Shaheen
Cardin	Kirk	Shelby
Casey	Klobuchar	Snowe
Coburn	Kohl	Specter
Cochran	Kyl	Stabenow
Collins	Lautenberg	Tester
Conrad	Leahy	Thune
Corker	LeMieux	Udall (CO)
Cornyn	Levin	Udall (NM)
Crapo	Lieberman	Vitter
Dodd	Lincoln	Warner
Dorgan	Lugar	Webb
Durbin	McCain	Whitehouse
Ensign	McCaskey	Wicker
Enzi	McConnell	Wyden

NOT VOTING—7

Byrd	DeMint	Voinovich
Carper	Isakson	
Chambliss	Landrieu	

The nomination was confirmed.

The PRESIDING OFFICER. The President will be notified of the Senate's action.

#### LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will resume legislative session.

#### MILITARY CONSTRUCTION, VETERANS AFFAIRS AND RELATED AGENCIES APPROPRIATIONS ACT, 2010

The PRESIDING OFFICER. The Senate will now proceed to the consideration of H.R. 3082, which the clerk will report.

The legislative clerk read as follows:

A bill (H.R. 3082) making appropriations for military construction, the Department of Veterans Affairs, and related agencies for the fiscal year ending September 30, 2010, and for other purposes.



The PRESIDING OFFICER. The Senator from South Dakota is recognized.

AMENDMENT NO. 2730

Mr. JOHNSON. Mr. President, I call up amendment No. 2730.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from South Dakota [Mr. JOHNSON], for himself and Mrs. HUTCHISON, proposes an amendment numbered 2730.

Mr. JOHNSON. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The amendment is printed in today's RECORD under "Text of Amendments.")

Mr. JOHNSON. Mr. President, I am pleased to present the fiscal year 2010 Military Construction, Veterans Affairs, and Related Agencies appropriations bill. The bill was unanimously reported out of committee on July 7. It is a well balanced and bipartisan measure, and I hope all Senators will support it.

I thank my ranking member, Senator HUTCHISON, for her help and cooperation in crafting the bill. Senator HUTCHISON's dedication to America's veterans and to our military forces has been a tremendous asset in developing this bill. I also thank Chairman INOUE and Vice Chairman COCHRAN for their support and assistance in moving this bill forward.

The Military Construction and Veterans Affairs bill provides critical investments in capital infrastructure for our military, including barracks and family housing; training and operational facilities; and childcare and family support centers. In addition, it fulfills the Nation's promise to our veterans by providing the resources needed for the medical care and benefits that our veterans have earned through their service.

The bill before the Senate today provides a total of \$134 billion in funding for fiscal year 2010. This includes \$76.7 billion in discretionary funding—\$439 million over the budget request; \$1.4 billion for overseas contingency operations to support our troops in Afghanistan, and \$56 billion in mandatory funding for veterans programs.

In addition, I am pleased to report that, for the first time, the bill before us contains \$48.2 billion in advance appropriations for veterans medical care for fiscal year 2011. This funding will ensure that the VA has a predictable stream of funding and that medical services will not be adversely affected should another stopgap funding measure be needed in the future. As an original cosponsor of the legislation authorizing advance appropriations for veterans health care, I am particularly pleased that Senator HUTCHISON and I were able to provide the funding in this bill to implement this important legislation.

Other funding priorities in the bill include \$53 billion in discretionary funding for veterans programs, \$150 million over the budget request and \$3.9 billion more than last year; \$45 billion for veterans' medical care, \$4.2 billion over last year; \$23 billion for military construction, \$286 million over the President's budget request; \$1.3 billion for Guard and reserve construction projects, \$264 million above the budget request, and \$279 million for related agencies, including the American Battle Monuments Commission and Arlington National Cemetery.

For fiscal year 2010, the bill provides \$53.2 billion in discretionary funding for veterans programs, an increase of \$150 million over the budget request and \$3.9 billion over last year. This includes \$44.7 billion for veterans medical care, an increase of \$4.2 billion over last year.

The veterans funding also includes \$250 million requested by the President for rural health care, continuing an initiative the committee began last year. To further improve outreach to veterans in rural areas, including Native Americans, the bill provides \$50 million above the budget request for a new rural clinic initiative to serve veterans in rural areas currently underserved by VA facilities.

For military construction, the bill provides \$23.2 billion, \$286 million over the President's budget request. This includes nearly \$1.3 billion for Guard and Reserve projects, \$264 million above the budget request. As so many of us know, our Reserve components have provided unparalleled support to their active component counterparts in operations around the globe. Providing quality infrastructure for the Guard and Reserve is only a small token of our appreciation.

In all, the military construction projects included within this bill are as diverse as the individuals serving our Nation—from building a field training facility in North Carolina, to constructing a military school in Europe; from developing a military health clinic in Washington State to providing dining halls in forward operating locations in Afghanistan.

For the first time since the war in Afghanistan began, the President has requested war-related funding as part of the regular budget process. This year, we have incorporated projects for Afghanistan into the normal budget order by providing an overseas contingency operations account to support war fighting operations. Within this account, we supported the President's budget request of \$1.4 billion for military construction projects at 22 forward operating locations in Afghanistan.

For military family housing, the bill provides \$2 billion as requested. The budget request for family housing is \$1.5 billion below the fiscal year 2009

enacted level, due primarily to the nearing completion of the military's housing privatization initiative and subsequent reductions in operating expenses. The privatization of military family housing has been a good news story for our military families and the American taxpayers. Our military families will get first rate housing while at the same time reducing construction and maintenance costs to the military.

Our committee mark also includes funding to complete previous and ongoing base closure actions. This bill contains \$7.5 billion for BRAC 2005 as requested and \$421.8 million for BRAC 1990, a \$25 million increase above the request. The BRAC 2005 request is \$1.3 billion below the fiscal year 2009 enacted level, reflecting reduced construction requirements.

The bill also includes \$276.3 million as requested to fund the NATO Security Investment Program, NSIP. This program provides the U.S. funding share of joint U.S.-NATO military facilities.

Two military construction programs of particular importance to me are the Homeowners Assistance Program, HAP, which provides mortgage relief to military families required to relocate, and the Energy Conservation Investment Program. Building on an expansion of the HAP program that was funded in the stimulus bill, this bill adds \$350 million to complete the funding requirement to temporarily extend HAP benefits to all eligible military families who have suffered losses on home sales due to the mortgage crisis. The additional funding also supports the permanent extension of HAP benefits to wounded warriors who must relocate for medical reasons and to surviving spouses of fallen warriors. As everyone knows, the mortgage crisis has had a devastating impact on many Americans, and our military families are not immune from the collapse in the housing market. In particular, military families have been adversely impacted when forced to sell their homes at a loss when required by the military to relocate either within the United States or overseas. In such circumstances, our military men and women do not have the luxury of waiting for the housing market to recover.

The Energy Conservation Investment Program—ECIP—is designed to promote energy conservation and efficiency, including investments in renewable and alternative energy resources, on our military installations. The subcommittee has added \$135 million in funding to the President's budget request to provide for such innovations. Our bill also includes language urging the Department of Defense to develop a more comprehensive strategy to address energy conservation, energy efficiency and energy security. While I am encouraged by the efforts of the services at finding ways to reduce energy use on military installations, I



worry that the Department as a whole does not have a single point of coordination that will ensure that innovative ideas and projects are shared across all of the services and within the Department.

This bill includes \$26.9 million for projects at active duty installations and Guard facilities in my home State of South Dakota. This includes \$14.5 million to expand the Deployment Center at Ellsworth Air Force Base; \$7.89 million for the Army and Air Guard Joint Force Headquarters Readiness Center at Camp Rapid; \$1.95 million for a National Guard troop medical clinic addition at Camp Rapid; \$1.3 million to construct an above-ground magazine storage facility for the Air Guard at Joe Foss Field; and \$1.3 million for a munitions maintenance complex addition, also for the Air Guard at Joe Foss Field.

Once again we have made veterans a top priority this year by including \$53.2 billion in discretionary funding for the VA, an increase of \$150 million over the budget request and \$3.9 billion over last year. The Department is expecting to treat almost 6.1 million patients in fiscal year 2010; therefore we have targeted the bulk of the discretionary funding for the three medical care accounts, which total \$44.7 billion this year. This includes a \$3.7 billion increase over fiscal year 2009 for the medical services account.

The challenges that face the VA in the 21st century are daunting but not insurmountable. These include modernizing and transforming antiquated systems; treating combat injuries, many of which leave no physical scars; and adjusting services to meet changing demographics. The VA will have to balance the services required by aging veterans, such as long term care, with the needs required by a surge of new veterans from the wars in Iraq and Afghanistan. Moreover, as more and more women are choosing the Armed Forces as a career, the VA will need to transform from a culture dominated by services designed for men to one that includes services specific to the health care needs of women veterans. To that end, this bill includes \$183 million to specifically address the unique health care needs of women veterans.

Veterans Affairs Secretary Shinseki has laid out an ambitious plan to transform the Department of Veterans Affairs into a 21st century organization. The bill before the Senate is a step in that direction by providing the VA with the resources needed to address these and other issues. For example, the bill provides \$6 billion for long-term care, a \$663 million increase from last year. The funding includes both institutional and home based care programs. In addition, the bill provides \$115 million for grants for the construction of State extended care facilities, \$30 million over the budget request.

This program provides grants to State veterans homes to construct new facilities or to correct life threatening code violations.

The bill also includes \$2.1 billion, \$460 million above fiscal year 2009, for medical care for veterans of the wars in Iraq and Afghanistan. The VA has seen a surge of these veterans and expects to see over 419,000 this year alone, a 61 percent increase in patient load since 2008. Many of these veterans suffer combat specific injuries such as polytrauma, post traumatic stress disorder, and traumatic brain injury. The resources provided in the bill are essential to the VA's ability to treat these veterans.

As a Senator from a large, highly rural state, I have been emphatic that the VA must change its way of doing business when it comes to providing services to veterans who live well outside urban areas. Last year, as chairman of the subcommittee, I established a new rural health initiative at the VA, and provided \$250 million specifically for the Department to address the gap in services that exists in rural areas. This year's bill includes an additional \$250 million, as requested by the President, to continue this program. To further bolster the rural health effort, I added \$50 million to the bill for a new Rural Clinic Initiative. This will provide the VA with additional funding to establish Community Based Outpatient Clinics—CBOCs—in rural areas that are currently underserved by VA health care facilities.

According to the VA, roughly 131,000 veterans are homeless on any given night. This is 131,000 too many veterans. Secretary Shinseki has made combating homelessness a top priority at the VA. To assist, the bill includes \$3.2 billion for health care and support services for homeless veterans. This includes \$500 million in direct programs to assist homeless veterans.

The bill also puts a priority on reducing the time it takes for veterans to receive the benefits they have earned. Funding is included which will provide the Veterans Benefits Administration with the resources to hire 1,200 new claims processors in fiscal year 2010. This will bring the compensation and pensions workforce level to 14,549 in 2010 as compared to 7,550 in 2005. This increased workforce will be necessary as claims for benefits are estimated to reach almost one million in fiscal year 2010.

The last two issues I will highlight deal with infrastructure, both capital and electronic. The VA operates the Nation's largest integrated health care system in the United States. It does so through a system of 153 hospitals and 1,002 outpatient clinics. These buildings must be maintained at the highest level to ensure patient safety and high quality medical care. Once again this year, the bill contains additional fund-

ing above the budget request to ensure that VA facilities do not become dilapidated and that the backlog of code violations identified in facility condition assessment reports is addressed. In total, this bill provides \$1.3 billion, \$300 million above the President's request, to address critical non-recurring maintenance at existing VA hospitals and clinics. Additionally, \$1.9 billion is provided for the construction of new VA hospitals and clinics. The bill also includes \$685 million for minor construction projects, \$85 million above the President's request.

Funding for bricks and mortar and recapitalization is not the only infrastructure investment made in the bill. In the 21st century, health care delivery is dependent on modern technology and robust information technology. Therefore, we have included \$3.3 billion for the Department to modernize its information technology programs, including its electronic medical records, a new paperless claims system, and systems designed for seamless integration of medical and service records with the Department of Defense.

Finally, the bill provides \$279 million for a handful of small but important related agencies, including the American Battle Monuments Commission and Arlington National Cemetery.

Next Wednesday is Veterans Day, a day on which the Nation honors all those who have served in the armed forces of the United States. I can think of no better way to express the Senate's gratitude for the service of our veterans and the sacrifices they have made for our country than to pass this bill without delay. Again, I thank my ranking member for her support in crafting the bill. I also thank the staff of the subcommittee—Christina Evans, Chad Schulken and Andy Vanlandingham of my staff, and Dennis Balkham and Ben Hammond of the minority staff—for their hard work and cooperative effort to produce this bill.

Mr. President, I want to express my sorrow at the tragic events that unfolded at Fort Hood, TX, this afternoon. I extend my condolences to the troops and families at Fort Hood, and to my ranking member Senator HUTCHISON. Our thoughts and prayers are with her and with the Fort Hood community in this difficult time.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Kansas is recognized.

Mr. ROBERTS. Mr. President, suddenly I find myself a member of the powerful Appropriations Committee, but it comes under a dark cloud indeed. The distinguished chairman, who does such a great job in behalf of our veterans and military construction, has pointed out the terrible tragedy that has happened at Fort Hood. So I am here standing in, if you will, for Senator HUTCHISON, who does such a good job, in partnership with my colleague

and my friend and my neighbor, whom I respect a great deal. So I appreciate the opportunity to speak on the bill before us.

As Senator HUTCHISON departs as early as she possibly can to get to Texas to assist in the challenge of this great tragedy, we wish her well, and our prayers are with her and all the people at Fort Hood and all the people in Texas.

As the distinguished chairman has stated, a lot of time and energy have gone into putting this legislation together. Senator HUTCHISON wanted to thank Chairman JOHNSON and his staff for working hard to address the needs of our servicemembers and veterans. I am going to repeat just a couple of things that are in the full statement of the distinguished Senator from Texas.

As Chairman JOHNSON has pointed out, the Military Construction, Veterans Affairs, and Related Agencies appropriations bill includes for fiscal year 2010 \$76.7 billion in discretionary spending, \$23.2 billion for military construction, \$53.2 billion for our veterans, \$55.8 billion in mandatory spending for veterans' benefits, and \$1.4 billion for military construction projects to assist our troops in Afghanistan in their fight against terrorism.

A lot of the figures Senator HUTCHISON has here have been mentioned by the distinguished chairman, so I won't go into those, but Senator HUTCHISON wanted to indicate and wanted to highlight that she was very pleased that the bill provides full funding for the base realignment and closure actions. The funds are essential to bringing our troops home, predominantly from Europe and Korea, and basing them in the United States. By fully funding BRAC, we can help the Department of Defense to stay on schedule to achieve this goal by September of 2011.

Senator HUTCHISON would also like to highlight that the legislation contains the necessary funds for the Defense Department program especially designed to help our servicemembers who were forced to relocate in this harsh economic housing environment—I might add that we see this at Fort Leavenworth and Fort Riley as well in Kansas—the Homeowners Assistance Fund. Chairman JOHNSON has been absolutely instrumental in making this program a success.

The legislation contains about \$1.4 billion in emergency funding for the war in Afghanistan. Senator HUTCHISON, myself—almost every Senator knows that the policies of this conflict have been passionately debated on the Senate floor in recent days, but I am sure we can all agree that independent of our views on the war or the strategy of that national security threat, we must provide the infrastructure needs of our sailors, soldiers, airmen, and marines, who, by the

way, celebrated their birthday today. This bill does just that.

In addition, I would point out that the distinguished ranking member wanted to express her strong commitment to making sure that our NATO allies—our NATO allies—fund their fair share of these joint projects.

The chairman has already gone over the figures for the Department of Veterans Affairs, although Senator HUTCHISON did want to point out that it includes funding to enhance outreach and services for mental health care, combat homelessness, further meet the needs of women veterans, and expand our health care to rural areas—something the chairman knows all about, something which I like to think I know something about, and something that I know Senator HUTCHISON knows about a great deal.

Finally, we have included \$48.2 billion in advanced appropriations for veterans' medical care for fiscal year 2011. This funding will allow the VA to better plan the budget for our veterans' health care.

Congress has shown its resolve time and again to care for our Nation's veterans and provide the infrastructure for our men and women in uniform. We all owe them a debt of gratitude and will do our part to take care of them.

So I ask my colleagues to support this bill. We have no objection on this side.

Again, I wish to thank the distinguished chairman for all of his work and leadership.

I yield the floor.

(At the request of Mr. ROBERTS, the following statement was ordered to be printed in the RECORD.)

• Mrs. HUTCHISON. Mr. President, as the ranking member of the Military Construction, Veterans Affairs, and Related Agencies Subcommittee, I appreciate the opportunity to speak on the bill before us. A lot of time and energy has gone into putting this legislation together, and I would like to thank Chairman JOHNSON and his staff for working hard to address the needs of our service members and veterans.

This is a bipartisan bill, and I can say with great confidence that this subcommittee makes sure that the priorities of all Senators, on both sides of the aisle, are evaluated and taken care of to the best of our ability.

As Chairman JOHNSON has pointed out, this Military Construction, Veterans Affairs, and Related Agencies Appropriations bill includes, for fiscal year 2010: \$76.7 billion in discretionary spending, including \$23.2 billion for military construction and \$53.2 billion for our veterans; \$55.8 billion in mandatory spending for veterans' benefits, and \$1.4 billion for military construction projects to assist our troops in Afghanistan in their fight against terrorists and insurgents.

This legislation provides \$23.2 billion for the Defense Department's military

construction program. I am concerned that the DOD requested over \$7 billion less for 2010, a 25 percent decrease from the previous year, and I hope this trend does not continue. Of all the funds we provide for our government, supporting the infrastructure needs of our soldiers is one of the most important I can think of.

I am pleased that our bill provides full funding for the Base Realignment and Closure actions at almost \$7.5 billion. These funds are essential to bring our troops home, predominantly from Europe and Korea, and basing them in the United States. By fully funding BRAC we can help the DOD stay on schedule to achieve this goal by September 2011.

I wish to point out as well that our legislation contains the necessary funds for the Defense Department program specially designed to help our service members who are forced to relocate in this harsh economic housing environment, the Homeowners Assistance Fund. Chairman JOHNSON has been instrumental in making this program a success.

This bill funds the Guard and Reserve at \$264 million above the President's request. A significant number of the troops fighting the war on terror consist of Guard and Reserve members, so I am very glad we were able to provide additional resources for them.

This summer, as our Nation was preparing for its Fourth of July celebrations, I had the honor of visiting our troops in Iraq and Kuwait. I listened to their concerns and saw first hand how the facilities we provide in this bill are instrumental in their ability to carry out their mission.

This legislation contains almost \$1.4 billion in emergency funding for the war in Afghanistan. The policies of this conflict have been passionately debated on the Senate floor in recent days. But I am sure we can all agree that—independent of our views of the war—we must provide the infrastructure needs of our sailors, soldiers, airmen and marines. This bill does that.

In addition, I would like to point out that this subcommittee is committed to making sure that our NATO allies fund their fair share of all joint projects. I can assure my colleagues, and the American people, that every MILCON facility shared by allied forces is evaluated for NATO reimbursement and that we push hard for cost sharing at every possible opportunity.

Our bill provides \$109 billion for the Department of Veterans Affairs, a 14 percent increase above fiscal year 2009. Veterans' healthcare is funded at \$45 billion, and medical research is funded at \$580 million. This bill also makes a significant investment in VA infrastructure needs, with nearly \$5 billion for the maintenance and repair of VA medical facilities and \$2 billion in new construction projects.

The Veterans Benefits Administration is funded at \$56 billion to administer compensation, pension, and readjustment benefits earned by our veterans. We have fully funded the new education benefits provided by the post-9/11 educational assistance program, and included funding for 1,200 new claims processors to reduce the claims backlog.

This legislation addresses the many demands facing the Department of Veterans Affairs. It includes funding over 2009 levels to enhance outreach and services for mental health care, combat homelessness, further meet the needs of women veterans, and expand access to healthcare in rural areas. Finally, we included \$48.2 billion in advance appropriations for veterans' medical care for fiscal year 2011. This funding will allow the Veterans Health Administration to better plan and budget for veterans' health care.

Congress has shown its resolve time and again to care for our nation's veterans and provide the infrastructure for our men and women in uniform. We owe all of them our gratitude, and we will do our part to take care of them. I ask my colleagues to support this bill.

Again, I would like to thank Senators INOUE and COCHRAN for their support putting this bill together, and I would especially like to thank Chairman JOHNSON for his leadership and the hard work of his staff: Christina Evans, Chad Schulken, and Andy Vanlandingham.●

The PRESIDING OFFICER. The Senator from South Dakota is recognized.

AMENDMENT NO. 2732 TO AMENDMENT NO. 2730

Mr. JOHNSON. Mr. President, I send an amendment to the desk on behalf of myself and Senator HUTCHISON and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from South Dakota [Mr. JOHNSON], for himself and Mrs. HUTCHISON, proposes an amendment numbered 2732 to amendment No. 2730.

Mr. JOHNSON. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To make a technical amendment regarding the designation of funds)

On page 56, between lines 9 and 10, insert the following:

SEC. 401. Amounts appropriated or otherwise made available by this title are designated as being for overseas deployments and other activities pursuant to sections 401(c)(4) and 423(a)(1) of S. Con. Res. 13 (111th Congress), the concurrent resolution on the budget for fiscal year 2010.

Mr. JOHNSON. Mr. President, this amendment is a technical amendment which provides for the proper designation for title IV of the bill, Overseas Contingency Operations. This information was inadvertently left out of the bill. An amendment would correct this error.

I note the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. JOHNSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JOHNSON. Mr. President, I believe it has been cleared by both sides. I ask unanimous consent that the amendment be agreed to.

Mr. ROBERTS. Will the chairman yield?

Mr. JOHNSON. Yes.

Mr. ROBERTS. The chairman has accurately described the contents of the amendment. We have no objection and ask that it be agreed to.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 2732) was agreed to.

Mr. JOHNSON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BROWN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BROWN. Mr. President, with respect to amendment No. 2732, I move to reconsider and table the vote on adoption of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CONRAD. Mr. President, section 401(c)(4) of S. Con. Res. 13, the 2010 budget resolution, permits the chairman of the Senate Budget Committee to adjust the section 401(b) discretionary spending limits, allocations pursuant to section 302(a) of the Congressional Budget Act of 1974, and aggregates for legislation making appropriations for fiscal years 2009 and 2010 for overseas deployments and other activities by the amounts provided in such legislation for those purposes and so designated pursuant to section 401(c)(4). The adjustment is limited to the total amount of budget authority specified in section 104(21) of S. Con. Res. 13. For 2009, that limitation is \$90.745 billion, and for 2010, it is \$130 billion.

On July 7, 2009, the Senate Appropriations Committee reported S. 1407, the Military Construction and Veterans Affairs and Related Agencies Appropriations Act, 2010. The reported bill contains \$1.399 billion in funding that the Senate Appropriations Committee intends to designate for overseas deployments and other activities pursuant to section 401(c)(4). An amendment has been offered that provides a designation consistent with section 401(c)(4). The Congressional Budget Office estimates that the \$1.399 billion in budget authority will result in \$145 million in new outlays in 2010. As a result, I am revising both the discretionary spending limits and the allocation to the Senate Committee on Appropriations for discretionary budget authority and outlays by those amounts in 2010. When combined with previous adjustments made pursuant to section 401(c)(4), \$129.999 billion has been designated so far for overseas deployments and other activities for 2010.

I ask unanimous consent that the following revisions to S. Con. Res. 13 be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CONCURRENT RESOLUTION ON THE BUDGET FOR FISCAL YEAR 2010—S. CON. RES. 13; FURTHER REVISIONS TO THE CONFERENCE AGREEMENT PURSUANT TO SECTION 401(c)(4) TO THE ALLOCATION OF BUDGET AUTHORITY AND OUTLAYS TO THE SENATE APPROPRIATIONS COMMITTEE AND THE SECTION 401(b) SENATE DISCRETIONARY SPENDING LIMITS

[In millions of dollars]

	Current allocation/ limit	Adjustment	Revised allocation/limit
FY 2009 Discretionary Budget Authority .....	1,482,201	0	1,482,201
FY 2009 Discretionary Outlays .....	1,247,872	0	1,247,872
FY 2010 Discretionary Budget Authority .....	1,218,252	1,399	1,219,651
FY 2010 Discretionary Outlays .....	1,376,050	145	1,376,195

## HEALTH CARE REFORM

Mr. BROWN. Mr. President, I rise again this evening, as I have many days in the last couple of months, to share with my colleagues letters from people in Ohio—from Bucyrus, Lima, Springfield, and Zanesville—people who are sharing their stories with us.

As I have been in the Senate now for 3 years, it occurs to me that perhaps more often than not, we talk about policy up here, but we simply do not pay enough attention to individual problems and individual people. That is why a lot of people think their elected officials are out of touch with them. These letters really do share with us where we are, what we ought to do, and how we should respond as we move forward on the health issue.

This letter comes from Ann from Montgomery County. She writes:

Our insurance premiums have nearly tripled in the last 6 years, going from \$500 per month to \$1,500 per month. At the same time, none of our benefits have increased. Since we bought our policy, we have paid the insurance company \$68,000 for the insurance. Anthem's total spending for my family's claims since we bought the insurance: \$4,064.24. Anthem's profit from my family: \$64,000. Anthem's CEO's total compensation last year alone: \$10 million.

Ann from Montgomery County, Dayton, Huber Heights, Centerville, Oakwood—that area of the State, southwest Ohio. Obviously, Ann is angry and frustrated with what she has seen. She has paid so much for insurance, gotten so few benefits, and she sees Anthem's CEO taking down \$10 million a year.

What we see repeatedly in the insurance industry, the average CEO salary for the biggest 11 insurance companies is \$11 million a year. Insurance company profits have gone up more than 400 percent in the last 7 years.

The way they make this money is this kind of business model where they hire a huge bureaucracy, a bunch of bureaucrats to keep people from buying insurance if they are sick. They discriminate based on gender. They discriminate based on age. They discriminate based on disability. In some cases, they use the excuse of preexisting condition to keep people from buying policies, including, believe it or not, women who have been victims of domestic violence. Some insurance companies consider that a preexisting condition. If their husband hit them once, they might hit them again, and that would be a cost to the insurance company. They cannot get insurance. Sometimes a woman who has had a C-section is a preexisting condition. She cannot get insurance because if a woman has had a C-section, she might get pregnant again and need another one. That is too expensive. They don't give her insurance. That is how Anthem and these other companies make these kinds of profits, because they hire bureaucrats to keep you from buying insurance if you have a preexisting condition.

On the other end, they hire more bureaucrats to reject your claims when you have been sick. Oftentimes the insurance company records show that about 30 percent of all claims are rejected initially. Sometimes they are appealed and then they pay these claims. But then you as the patient or you the family of a sick husband, wife, child have to spend your time on the phone fighting with the insurance company while at the same time you are trying to nurse your husband, wife, child, or mother. What kind of system is that, that we allow these insurance companies to do that.

What I found in these letters, in the last 3 months I have been doing this on the Senate floor, is a couple of things. One is, consistently people were pretty happy with their insurance, if you asked them a year or two earlier, but then they got sick and they found out their insurance wasn't what they thought it was. That frustration and anger builds from that.

Another thing I found is that people in their late fifties and sixties have lost their insurance, they have lost their jobs, their insurance is canceled or their employers cannot afford it because they are a small business, they don't have insurance, they are 58, 62 years old, and they just hope they can hang on until they are Medicare eligible or until they can get a stable public plan, such as a public option, such as Medicare.

I will share two more letters.

John from Richland County—that is my home county. I grew up in Mansfield. There is Shelby, Lexington, Butler—north central Ohio.

Health care reform will not be achieved unless a public option is in place to compete with insurance carriers. I recently retired after 45 years as a family physician. If government-run medicine is so bad, why should insurance companies object to the competition? Cost and treatment is already controlled by the insurance providers whose only motive is profit.

Allowing the insurance industry to dictate terms of cost and treatment has not worked and will not work. Please fight for a public option.

John, a physician of 45 years, absolutely gets it. He says something interesting. I hear opponents of the public option, a lot of conservatives say government cannot do anything right, they mess everything up, and then they say that if we have a public option, they will be so efficient that they will run private insurance out of business. So which is it—the government cannot do anything right or the government is so efficient, it is going to run private insurance out of business?

The point is, insurance executives' average salary is \$11 million. Insurance companies' profits are up 400 percent in the last 7 or 8 years. Insurance companies don't want the public option because you know what will happen—their profits won't be quite as high.

They won't go up 400 percent. Salaries won't be as high because they have competition from the public option. They know they will be in a situation where life is not going to be quite as good for insurance companies and insurance executives. That is why they don't like the public option. That is why they fight the public option. And we know that is why the public option will work. It will mean more choice for consumers.

In southwest Ohio, two companies have 85 percent of the insurance policies. A public option will provide competition, will stabilize prices, which means prices will come down and quality will be better. If you have two companies controlling 85 percent of the business in Cincinnati, Batavia, Lebanon, Hamilton, Littleton, Fairfield, or any of those counties, you have two companies controlling 85 percent of the business, you know the quality is lower and prices are too high.

Let me conclude—Senator CASEY is here. He more than any single Senator has spoken out strongly and fought successfully to make sure this health care bill works for our Nation's children, from when we passed the SCHIP back months ago to the health care bill on which my colleague from Pennsylvania has done remarkable work. Let me read one more letter and turn to him.

Cheryl from Cuyahoga County in northern Ohio, the Cleveland area, writes:

My daughter is paying costly health care out of her own pocket to treat her depression. Despite getting a new job, she was told her condition is preexisting and would not be covered.

After struggling for a year to find a good job, she doesn't need this preexisting condition to shadow her.

I, too, have a preexisting condition of breast cancer. Please stop insurance companies from denying insurance due to preexisting conditions.

This letter again shows this insurance reform—our health care bill makes so much sense. I am hearing from hundreds and hundreds of them from Gallipolis, Pomeroy, along the Ohio River to Lake Erie, Lake County, to the Indiana border, Troy, Preble County—all over—that too many people are denied coverage because of a preexisting condition.

Why does it make sense that people who are sick or maybe are going to get sick cannot get insurance? Why does it make sense that they would have to pay so much, they simply cannot qualify or literally cannot get it no matter how much they pay?

One of the important things about our bill is that it will outlaw—there will be no more exclusions for preexisting conditions. Nobody will be prohibited from getting insurance because of a preexisting condition, including women who have been victims of domestic violence, women who have

had C-sections, men who have had colon cancer, whatever, No. 1.

No. 2, nobody will be denied care because of discrimination, because of their disability, because of their age or their gender or their geography.

No. 3, nobody will have their insurance policy rescinded. That is what the insurance companies say when they take away your insurance. Nobody will have their policy rescinded because they got sick and it was a very expensive illness they had and the insurance companies want to cut them off.

In addition to these changes in the law that we are going to do with insurance reform, the public option will make sure these rules are enforced, that people simply can't game the system. The insurance companies will not be able to game the system the way they have.

It makes so much sense to pass this bill. It is going to mean people who have insurance and are happy with it will be able to keep their insurance and have consumer protections. Small businesses will get help with tax incentives and other things to insure their employees. And it will mean those without insurance can get insurance and have the option of going to Medical Mutual, CIGNA, BlueCross, Aetna, WellPoint, or the public option and have that choice.

Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. BENNET). The Senator from Pennsylvania.

Mr. CASEY. Mr. President, I rise tonight to speak about the health insurance reform bill that will eventually come before the Congress. We have a process underway in the Senate that is still playing out. We don't have a bill, but I think we are cognizant of the fact that we need to talk about the challenge we face with regard to health care, as well as talk about some good ideas to confront this challenge.

I commend my colleague from Ohio, Senator BROWN, who has led the fight on making sure the public option is a priority. From day one, he not only has led this fight, but also from day one, way back in the summer when we were actually working on language in the Health, Education, Labor, and Pensions Committee, he and others sat down to actually rewrite that section. We are grateful for his leadership and for his ability to relate to us what a public option means to real people—not the concept, not only the policy of it, but what it means to real people and real families. I commend him for that great work.

One of the areas I have tried to spend as much time as possible on is the question of what happens with regard to our children. Will children at the end of this process be better off or worse off, especially in the context of children who happen to be vulnerable because of income? We are concerned about poor children and children with special needs in particular.

I believe one of the principles—or maybe the better word is a goal—that we must meet at the end of the road, when we have a bill that gets through both Houses of Congress and goes to the President, when a bill gets to the President of the United States, President Obama, for his signature—and I believe we will get there; it is going to take some time and we are going to be continuing to work very hard in the next couple of weeks to get that done. But when that bill gets to President Obama, I believe we have to make sure in this process over these many months of work—and for some people, many years—we have to make sure that bill ensures that no child, especially those who are vulnerable, is worse off. I believe we can get there. I believe we must get there. I believe we have an obligation, especially when it comes to vulnerable children, poor children, and those with special needs.

To set forth a foundation for that, I submitted a resolution several months ago, resolution 170. I won't read it or review it tonight, but it was a resolution that focused on that basic goal of making sure no child was worse off. I was joined in that resolution by Senator DODD, then-chairman of our health care reform hearings, this summer. Senator ROCKEFELLER also was a cosponsor of this resolution, someone who has led on not just health care issues in the Finance Committee but also in a very particular way he stood up for children, as has Senator DODD—both Senators in their many years in the Senate.

We just heard from Senator BROWN. He was a cosponsor of this joint resolution for children, as well as Senator SANDERS from the State of Vermont and Senator WHITEHOUSE from Rhode Island. Those five Senators joined with me in this resolution which I believe is the foundation for what we have to do with regard to children.

The chart on my left is a summation of some of the things we just talked about. First of all, this first point with regard to our children, children are not small adults. It seems like a simple statement. It seems very much self-evident, but, unfortunately, we forget that. I think we forget it once we become adults. But even in the context of health care reform, we cannot just say this is a health care strategy or program or manner of delivering care or a treatment option or a way to cover more Americans with regard to health care, so if it applies to an adult it will work for children. Unfortunately, because they are not simply small adults, we have to have different strategies for children that differ from the way we approach the challenge in providing health care for adults.

The second bullet: Children have different health care needs than do adults. I think that is a basic fundamental principle; that children have to

be approached in a different way. The treatment is different, the prevention strategies are different, and sometimes the outcome of a health care treatment or strategy is different.

It is also critical that all children, particularly those who are most disadvantaged, get the highest quality care throughout childhood. And that is the foundation of that resolution.

When it comes to health care reform generally, but in particular with regard to our children, we have to get this right. We can't just say: Well, we tried, and we tinkered with some details or some programs, and we did our best. When it comes to health care for children, not only for that child or his or her family or the community they live in—and we tend to forget this—but also our long-term economic strength is predicated in large measure, in my judgment, on how we care for our children, and especially the kind of health care our children will receive. So we have to get this right for our kids, for their families, and for our economy long term.

Fortunately, we have made great strides over the last 15 years. Really even less, maybe the last 12 years we have made great strides on children's health insurance. President Clinton signed a law passed by Congress in 1997 creating a nationwide Children's Health Insurance Program—the so-called CHIP program. In that case, we had something that had its origin in the States.

My home State of Pennsylvania started one of the largest, if not the largest, children's health insurance efforts in the Nation, and that was built upon by way of Federal legislation so that we now have had a program in existence since about 1997 nationally where millions of children have health care because we made them a priority.

In Pennsylvania, for example, we have had, fortunately, a diminution, a decreasing number of children who are uninsured, to the point where last year, when there was a survey done for the State of Pennsylvania, the uninsured rate for children was 5 percent. That is still too high, but it is lower than it used to be. We want to bring that, obviously, to zero, but we have a 5-percent rate of uninsured children in Pennsylvania and 12 percent uninsured for people between the ages of 19 and 64.

For children and for citizens over the age of 64—65 and up—we have had strategies for both those age groups; children more recently, with regard to children's health insurance, as well as Medicaid for low-income children, and also, we have had Medicare for our older citizens. But the problem is that age category in the middle, that vast middle age group of 19 to 64. We haven't had a strategy recently, or over many decades, and that is one of the many reasons we are talking about

health insurance reform for everyone but especially for those who are in that age category.

With regard to children, we have to make sure what we know works stays in place. We have plenty of data to show that children with health care coverage do better than children without health care coverage. That is irrefutable. It is absolutely indisputable now. I don't think anyone would dispute that as a matter of public policy. Children with insurance are more likely to have access to preventive care.

A major part of our reform effort—and the major part of the HELP bill we passed this summer—is all about prevention. Children in public programs are 1½ times more likely to obtain well-child care than uninsured children. What does that mean? Well, it is simple. The experts tell us children enrolled in the CHIP program—or SCHIP, as we sometimes call it—in their first year of life have six well-child visits to the doctor. That is fundamentally important. It can alter in a positive sense that child's destiny. Their future can be determined in the first couple of weeks and months, and certainly the first year of life. It is good for that child in the first year of life to go to the doctor at least six times for a well-child visit, as they do in the CHIP program. It is important that we have prevention strategies in place for that child in the very early months of that child's life, but certainly in the first year.

Here is another chilling statistic. Uninsured children are 10 times more likely to have an unmet health care need than insured children—not double or triple but 10 times more likely to have an unmet health care need.

We hear some people in this debate say: Well, that is about someone else. That is about some other family, someone else's child. That is not our problem.

Well, it actually is your problem. Even if you have no compassion, even if someone out there says: Well, that is not my problem; that is someone else's problem.

It is your problem because for every child who has no insurance, and as a result has no well-child visits to the doctor or does not get to the dentist or does not get preventive care, there is, in some way, an adverse impact on our economy. Think about it long term. If you are running a company, who do you think will be a stronger employee for you or a more productive employee, someone who got good health care in the dawn of their life—as Hubert Humphrey used to say—or someone who didn't get that kind of health care or nutrition or early learning?

All these things we talk about have ramifications for our long-term economy because of our workforce. To have a high-skilled workforce, you have to have access to health care. So that

number of 10 times more likely to have an unmet health care need for the uninsured child versus the child with insurance is chilling. It is one of those numbers that alone should compel us, should motivate us to pass this bill.

Insured children are better equipped to do well in school. Uninsured children, with poorly controlled chronic diseases, such as asthma, can suffer poor academic performance if their health care condition causes them to miss many days of school. We know that. This is not news, but, unfortunately, we have allowed conditions to persist in our system where a child doesn't get the kind of care they need, and that allows their asthma or other condition to be made worse. Insurance improves children's access to the medications and treatments they need to control chronic diseases, allowing them to miss fewer days of school. We know that is the case.

The chart on my left gives a brief overview of a Johns Hopkins University study published in the *New York Times* on October 30, just a few days ago, which states that hospitalized children without insurance are more likely to die. So this isn't just about a child getting a slower start in life because they didn't have health care or a child not having a B average in school because they didn't get health care or missing days from school. All of that is terrible for that child and for that family, but this is a lot worse than that. This is literally about the life and death of a child, according to this study and others as well.

Mr. President, I ask unanimous consent to have printed in the *RECORD* an article dated October 30, 2009, in the *New York Times* with the headline: "Hospitalized Children Without Insurance Are More Likely to Die, a Study Finds."

The PRESIDING OFFICER. Without objection, it is so ordered.

(See Exhibit 1.)

Mr. CASEY. This is what the article says:

Researchers at Johns Hopkins Children's Center analyzed data from more than 23 million children's hospitalizations in 37 states from 1988 to 2005.

This wasn't a quick survey, Mr. President. This was a detailed study of millions of records over that long a time period. Continuing the quote:

Compared with insured children, uninsured children faced a 60 percent increased risk of dying, the researchers found.

So this research showed a 60-percent increased risk of dying. That is what we are talking about. This isn't theoretical. This isn't some public policy argument we have pulled down from a public policy report. This is about life and death for children. We are either going to stay on the course we have been on with regard to children, making improvements, strengthening a program like CHIP, or we are not. I

think it is vitally important that we continue to make progress as it relates to children's health insurance.

So this is fundamental to this discussion about health care reform, and sometimes a study or a chart or a public policy report doesn't tell us nearly enough. Sometimes the life of a person says it best.

Senator BROWN has been highlighting letters that he has received from people in the State of Ohio, and people in Pennsylvania have written to me or sent an e-mail or appeared in my office and relayed their own stories. In this case, when it comes to real families and real children, it is especially important to highlight them.

I just have one example to share tonight. I received a letter from a Pennsylvania resident named Denise Lewis. Denise has four children who are now older, but when she contacted us, she was recalling what she went through with her four children in terms of health care. All through their childhood, Denise and her husband struggled with being either uninsured or underinsured. What health insurance they have had has always been employer-based but often was limited and only covered hospitalizations. Her family couldn't afford the premiums on more expensive coverage, and much of this, unfortunately, was before the Children's Health Insurance Program was in effect. Her family never qualified for any other kind of assistance.

She said she would work a second job part time as a waitress so they could afford food and to pay off medical bills. Today, even though her youngest is 19 years old—her youngest child of the four is 19 years old today—she is still sending monthly checks to her pediatrician to pay for all the care her children received.

Imagine that, all these years later, because of the system we have. Goodness knows there are great parts to our system that we should celebrate and be proud of, but there are a lot of parts of our health care system which simply don't work for too many Americans and is hurting families, hurting businesses, and killing our ability to grow our economy long term, and this is one example.

Why should Denise Lewis or anyone have to worry like this, have to choose between food and getting medical care or paying for a hospital visit? Why should anyone have to pay off medical bills years and years later for children who are already grown?

At times, Denise said the medical care her children needed would actually determine what food the family ate that week. They managed to make ends meet but never had any money for extras of any kind.

Listen to this in terms of what Denise said, and these are her words:

Wondering whether you should go to the doctor is completely different from wondering whether your kids should go to the doctor.

That is the nightmare that too many families are living through. There are those who say: Well, let's just think about it for another 6 months. Some are saying: Let's not pass a bill. Let's slow it down. It's too complicated. We can't do this.

For those who are saying that, I would ask them if they have ever had to face that decision—the question of what kind of care their child would get. Had they ever faced the dilemma of how much your family can eat in a particular week or can you pay for a doctor's visit?

Denise Lewis, one of her children had frequent ear infections as a baby, and more than once she would call the pediatrician and ask if she could get a prescription without coming to the office so she wouldn't have to pay for the office visit.

Why have we tolerated this, year after year and decade after decade, of people telling stories such as this? The Congress of the United States, year after year, has said we will get to that later; it is too complicated. Why should any parent, mother or father, single parent—why should any parent have to make those choices or say to a pediatrician can I get a prescription without coming to the office because I can't afford the office visit?

We are the greatest country in the world. We have all the benefits of the wonders of technology and great doctors and dedicated and skilled nurses, great hospitals and hospital systems, all this brainpower and talent and ability—ability to cure disease. Yet on the other side of our system we tell people you have to pay more for a doctor visit for your child. Why did we allow this to happen? Year after year, we have just allowed the problem to persist.

Our system has said to women, you should engage in some preventive strategy. With regard to breast cancer, you should get a mammogram. Then we say you have to pay for all or most of it. Why do we do that? Why should we allow that to continue?

I want to move to two more charts. I know I am over my time a little bit. Let me go to the next chart. I really believe, when we describe some of these challenges, we are talking about, really, a national tragedy, that the children in our country should be reduced to having the emergency room as their primary care physician or their doctor's office.

When we were growing up, we knew what it was like to go to the doctor, but for too many children the emergency room is the doctor's office. That is not good for the child because that usually means they are further down the road for a condition or problem; they are sicker and have more complications. It is also bad for how we pay for health care.

We also know the emergency room care by uninsured Americans with no

place to go but an emergency room is one of the biggest drivers of the out-of-control costs we often see in our system. That is why we need health care reform now.

We now cover about 7 million children in CHIP. Thankfully, fortunately, we reauthorized it in 2009. It kind of went by people pretty quickly, but that was a major achievement. That bill went through and the President, President Obama, signed it into law. By virtue of that one signature and the work that led up to that, those 7 million who are covered now by CHIP will double by 2013 to 14 million children who will be covered by that program.

But even with that reauthorization, there are still things that will challenge us with regard to the Children's Health Insurance Program. One of them is a failure that could take place over time where we do not strengthen the Children's Health Insurance Program.

I meant to highlight this chart as well: "Uninsured low-income children are four times as likely to rely on an emergency department or have no regular source of care." That is the point I wanted to make about emergency room visits.

Finally, let me move to the fourth chart. Not only is this program, the Children's Health Insurance Program, a major success across the country, but it has reduced the rate of uninsured children by more than one-third. As we can see by this chart on my left, insuring children is something people across America strongly support. Prior to the amendments and the markup process in the Finance Committee this fall, there was a proposal to move the Children's Health Insurance Program into the health insurance exchange as part of the Finance Committee bill. Many members of that committee, and others like me and others, didn't think that was a good idea. Senator JAY ROCKEFELLER was another and, fortunately, he was on the Finance Committee. His amendment in that committee fortunately removed the Children's Health Insurance Program from the exchange.

Why was that important? The data is overwhelming that placing families that are covered by the Children's Health Insurance Program into that newly created insurance exchange would, in fact, increase their costs and decrease their benefits. There was a debate about it, but I think the Finance Committee did the right thing. By keeping the Children's Health Insurance Program as a stand-alone program that we know works—all the data shows it. It is not an experiment. It is not a new program. We have had more than a decade of evidence that shows that it works. We have to keep that in the final bill. We have to keep that as a stand-alone program, and we have some work to do to make sure that happens.

When you see the numbers here, an overwhelming three to one majority, 62 percent to 21 percent of Americans, would oppose the elimination of the Children's Health Insurance Program if they learned that a new health insurance exchange "may be more costly for families and provide fewer benefits for children." We have to make sure when we get to the point of having a final bill worked out that we keep that in mind.

We know for now that we have a stand-alone program. Thank goodness that change was made. We know it works. But we have to do everything we can to strengthen the Children's Health Insurance Program, because in the coming years there will be recommendations to change it. There will be others who will make suggestions about how the Children's Health Insurance Program fits into our health care system, and we have to be very careful about how we do that.

But for now I want to emphasize two points and I will conclude. A commitment to that basic goal that no child at the end of this is worse off, especially vulnerable children who happen to be poor or have one or more special needs—we have to make sure that happens. We also have to reaffirm what I think is self-evident and irrefutable. The Children's Health Insurance Program works. We have to keep it as a stand-alone program, and we have to continue to strengthen it because there are some changes we can make to strengthen it.

I look forward to working with our colleagues in the Senate to meet those goals. I know the Presiding Officer has a concern about this as well. He has been a great leader on health care in his first year in the Senate. I thank him for his work.

I will conclude with this. In the Scriptures it tells us "A faithful friend is a sturdy shelter." We have heard that line from Scripture. We have heard it other places as well. We think of a friendship as a kind of shelter when things get difficult, when life gets difficult. One of the questions we have to ask ourselves in this debate is, Will the Congress of the United States really be a friend to children? Will we be that faithful friend who acts as a sturdy shelter? Because children can't do it on their own; we have to help them. I believe by getting this right we can be that faithful friend and we can be that sturdy shelter for our children.

Let it be said of us many years from now, when people reflect upon how this debate took place and what we passed, in terms of health care reform—let it be said of us, when our work is done, that we, all of us as Members of the Senate and Members of the Congress overall, that we created at this time, at this place, a sturdy shelter for our children and that we can say that with confidence and with integrity.



[From the New York Times, Oct. 30, 2009]

EXHIBIT 1.

HOSPITALIZED CHILDREN WITHOUT INSURANCE  
ARE MORE LIKELY TO DIE, A STUDY FINDS

(By Roni Caryn Rabin)

Nicole Bengiveno/The New York Times Researchers analyzed data from more than 23 million children's hospitalizations from 1988 to 2005.

Uninsured children who wind up in the hospital are much more likely to die than children covered by either private or government insurance plans, according to one of the first studies to assess the impact of insurance coverage on hospitalized children.

Researchers at Johns Hopkins Children's Center analyzed data from more than 23 million children's hospitalizations in 37 states from 1988 to 2005. Compared with insured children, uninsured children faced a 60 percent increased risk of dying, the researchers found.

The authors estimated that at least 1,000 hospitalized children died each year simply because they lacked insurance, accounting for 16,787 of some 38,649 children's deaths nationwide during the period analyzed.

"If you take two kids from the same demographic background—the same race, same gender, same neighborhood income level and same number of co-morbidities or other illnesses—the kid without insurance is 60 percent more likely to die in the hospital than the kid in the bed right next to him or her who is insured," said David C. Chang, co-director of the pediatric surgery outcomes group at the children's center and an author of the study, which appeared today in *The Journal of Public Health*.

Although the research was not set up to identify why uninsured children were more likely to die, it found that they were more likely to gain access to care through the emergency room, suggesting they might have more advanced disease by the time they were hospitalized.

In addition, uninsured children were in the hospital, on average, for less than a day when they died, compared with a full day for insured children. Children without insurance incurred lower hospital charges—\$8,058 on average, compared with \$20,951 for insured children.

In children who survived hospitalization, the length of stay and charges did not vary with insurance status.

The paper's lead author, Dr. Fizan Abdullah, assistant professor of surgery at Johns Hopkins, dismissed the possibility that providers gave less care or denied procedures to the uninsured. "The children who were uninsured literally died before the hospital could provide them more care," Dr. Abdullah said.

Furthermore, Dr. Abdullah said, indications are that the uninsured children "are further along in their course of illness."

The results are all the more striking because children's deaths are so rare that they could be examined only by a very large study, said Dr. Peter J. Pronovost, a professor of surgery at Johns Hopkins and an author of the new study.

"The striking thing is that children don't often die," Dr. Pronovost said. "This study provides further evidence that the need to insure everyone is a moral issue, not just an economic one."

An estimated seven million children are uninsured in the United States, despite recent efforts to extend coverage under the federal Children's Health Insurance Program.

Advocates for children said they were saddened by the findings but not surprised.

"We know from studies of adults that lack of insurance contributes to worse outcomes, and this study provides evidence that there are similar consequences for children," said Alison Buist, director of child health at the Children's Defense Fund, a nonprofit advocacy organization. "If you wait until a child gets care at a hospital, you have missed an opportunity to get them the types of screening and preventive services that prevent them from getting to that level of severity to begin with."

The most common reasons for children being hospitalized were complications from birth, pneumonia and asthma. The study found that the reasons did not differ depending on insurance status.

Earlier studies have found that uninsured children are more likely than insured children to have unmet medical needs, like untreated asthma or diabetes, and are more likely to go for two years without seeing a doctor.

Following a recent expansion, 14 million children will be covered by the CHIP program by 2013, according to the Congressional Budget Office. Advocates for children are concerned that efforts to overhaul the health care system may actually reverse the progress made toward covering more children if CHIP is phased out and many families remain unable to afford health insurance.

"You can't just dump 14 million vulnerable children into a new system without evidence that the benefits and the affordability provisions are better than they are now," Dr. Buist said. "That's not health reform."

Mr. CASEY. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. CASEY. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS CONSENT AGREE-  
MENT—EXECUTIVE CALENDAR

Mr. CASEY. Mr. President, as in executive session, I ask unanimous consent that at 4:30 p.m. on Monday, November 9, the Senate proceed to executive session to consider Calendar No. 185, the nomination of Andre M. Davis to be a U.S. Circuit Judge for the Fourth Circuit; that there be 60 minutes of debate with respect to the nominations, with the time equally divided and controlled between Senators LEAHY and SESSIONS or their designees; that at 5:30 p.m. the Senate proceed to vote on confirmation of the nomination; that upon confirmation, the motion to reconsider be made and laid on the table, the President be immediately notified of the Senate's action, and the Senate then resume legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CASEY. For the information of the Senate, if Members wish to speak with respect to this nomination on Friday, they are encouraged to do so.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. CASEY. Mr. President, I ask unanimous consent the Senate proceed to executive session to consider en bloc Calendar Nos. 314, 495, 496, 502, 503, 515, 516, 517, 518, 523, 524, 525, 528, and 529; that the nominations be confirmed; that the motions to reconsider be laid on the table en bloc; that no further motions be in order; that any statements relating to the nominations be printed in the RECORD; that the President be immediately notified of the Senate's action, and that the Senate resume legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations considered and agreed to are as follows:

DEPARTMENT OF STATE

Arturo A. Valenzuela, of the District of Columbia, to be an Assistant Secretary of State (Western Hemisphere Affairs).

NATIONAL FOUNDATION ON THE ARTS AND THE  
HUMANITIES

Rolena Klahn Adorno, of Connecticut, to be a Member of the National Council on the Humanities for a term expiring January 26, 2014.

Marvin Krislov, of Ohio, to be a Member of the National Council on the Humanities for a term expiring January 26, 2014.

DEPARTMENT OF JUSTICE

Laurie O. Robinson, of the District of Columbia, to be an Assistant Attorney General.

Benjamin B. Wagner, of California, to be United States Attorney for the Eastern District of California for the term of four years.

FEDERAL MOTOR CARRIER SAFETY  
ADMINISTRATION

Anne S. Ferro, of Maryland, to be Administrator of the Federal Motor Carrier Safety Administration.

DEPARTMENT OF TRANSPORTATION

Cynthia L. Quarterman, of Georgia, to be Administrator of the Pipeline and Hazardous Materials Safety Administration, Department of Transportation.

NATIONAL AERONAUTICS AND SPACE  
ADMINISTRATION

Elizabeth M. Robinson, of Virginia, to be Chief Financial Officer, National Aeronautics and Space Administration.

DEPARTMENT OF COMMERCE

Patrick Gallagher, of Maryland, to be Director of the National Institute of Standards and Technology.

MERIT SYSTEMS PROTECTION BOARD

Susan Tsui Grundmann, of Virginia, to be Chairman of the Merit Systems Protection Board.

Susan Tsui Grundmann, of Virginia, to be a Member of the Merit Systems Protection Board for the term of seven years expiring March 1, 2016.

Anne Marie Wagner, of Virginia, to be a Member of the Merit Systems Protection Board for the term of seven years expiring March 1, 2014.

DEPARTMENT OF JUSTICE

Carmen Milagros Ortiz, of Massachusetts, to be United States Attorney for the District of Massachusetts for the term of four years.

Edward J. Tarver, of Georgia, to be United States Attorney for the Southern District of Georgia for the term of four years.

### LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate resumes legislative session.

### MORNING BUSINESS

Mr. CASEY. Mr. President, I ask unanimous consent that the Senate proceed to a period of morning business, with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

### GLOBAL CHILD SURVIVAL ACT OF 2009

Mr. DURBIN. Mr. President, I rise before you today to speak about a population that is all too often forgotten in the poorest corners of our world; women and children. A woman's pregnancy should be a joyous time in her life. Sadly, in many developing countries countless women suffer from pregnancy-related injuries, infections, diseases, and disabilities often with lifelong consequences. Too often their children die or struggle from a lack of basic childhood medical care.

Over the years I have traveled to some of the poorest corners of the world, from Congo to Haiti. I have seen those who struggle to find food and water, battle AIDS, TB and malaria, and fight every day to eke out a living against great odds.

Yet one of the most fundamental struggles I have witnessed is that of a mother and child surviving pregnancy and childbirth. It is heartbreaking to hear stories of women who have been in labor for days before being able to reach a hospital, of those who die giving birth because of a lack of basic medical facilities, of the thousands of children who could be saved with low cost vitamin A supplements, or of the thousands of children left as orphans.

What could be a more fundamental need in our world than making sure women and children survive childbirth?

Reducing child mortality and improving maternal health make up two of the eight United Nations Millennium Development Goals. While progress has been made in many countries, an effort to reduce under-five mortality by two-thirds and improve maternal mortality to achieve MDG targets has made the least progress than any of the other MDG's.

That is why Senators DODD, CORKER and I introduced the Global Child Survival Act of 2009.

This legislation is about strengthening the U.S. Government's role in saving the lives of children and mothers in poor countries. The act would require the U.S. Government to develop a

strategy for supporting the improvement of newborns, children, and mothers.

Across the developing world, mothers are dying giving birth from complications such as hemorrhaging, sepsis, hypertensive disorders, and obstructed labor. Each year, more than half a million women die from causes related to pregnancy and childbirth.

The sad reality is that most of these complications have easy and preventable solutions. In fact, if women had access to basic maternal health services, an estimated 80 percent of maternal deaths could be prevented.

Key interventions, such as adequate nutrition, antenatal care, skilled attendance at birth and access to emergency obstetric care when necessary, are already improving the health outcomes for mothers and infants around the world.

But we can do more. We must do more.

Accordingly, the Global Child Survival Act would create an interagency task force on child and maternal health. Through building local capacity and self-sufficiency, partnering with nongovernmental organizations and participation by local communities we can better coordinate activities directed at achieving maternal and child health goals.

The act builds on existing interventions that support counseling for new mothers. Research has shown that most of the 4 million newborn babies that die every year could be saved by training parents in simple care practices and by training health workers to help newborns with complications.

Factors such as malnutrition, unsafe drinking water, and inadequate access to vaccines contribute greatly to global child mortality. Three quarters of newborn deaths take place in the first 7 days of life; most of these deaths are also preventable. Effective low-cost tools—such as vaccines and antibiotics—could save the lives of 6 million of these children.

The reproductive risks young girls in developing countries face are linked to lower levels of schooling and to underlying factors of poverty, poor nutrition, and reduced access to health care. That is why the Global Child Survival Act also supports activities to promote scholarships for secondary education. Educating girls and young women is one of the most powerful ways of breaking the poverty trap and creating a supportive environment for maternal and newborn health.

I am pleased that many partners in this fight are showing an interest in moving forward in this fight. In May, President Obama announced a Global Health Initiative proposing \$63 billion over 6 years, specifically emphasizing maternal and child health as a piece of the initiative.

President Obama also called attention to maternal and child mortality

during his recent travel to Africa. After visiting a USAID funded hospital in Accra, Ghana the President stated, "Part of the reason this is so important is that throughout Africa, the rate of both infant mortality but also maternal mortality is still far too high."

I urge my colleagues to join me in supporting the Global Child Survival Act to help show our commitment to improving the lives of women and children around the world. It is an important step, along with such basics as clean water and sanitation, food security, and education, in improving the lives of the world's poor.

### UNEMPLOYMENT COMPENSATION EXTENSION ACT

Mr. BAUCUS. Mr. President, the provision of S.A. 2712 to H.R. 3548, The Worker, Homeownership, and Business Act of 2009 as voted on yesterday, November 4, 2009, provide relief for unemployed workers, homeowners and businesses. Senate Finance Committee Chairman BAUCUS has asked the non-partisan Joint Committee on Taxation to make available to the public a technical explanation of the bill, JCX-44-09. The technical explanation expresses the committee's understanding and legislative intent behind this important legislation. It is available on the Joint Committee's Web site at [www.house.gov/jct](http://www.house.gov/jct).

Mr. President, I ask unanimous consent to have the technical explanation printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

### TECHNICAL EXPLANATION OF CERTAIN REVENUE PROVISIONS OF THE WORKER, HOMEOWNERSHIP, AND BUSINESS ASSISTANCE ACT OF 2009

#### INTRODUCTION

This document, prepared by the staff of the Joint Committee on Taxation, provides a technical explanation of certain revenue provisions of The Worker, Homeownership, and Business Assistance Act of 2009.

#### A. EXTENSION AND MODIFICATION OF FIRST-TIME HOMEBUYER CREDIT (SECS. 11 AND 12 OF THE BILL AND SEC. 36 OF THE CODE)

##### PRESENT LAW

##### *In general*

An individual who is a first-time homebuyer is allowed a refundable tax credit equal to the lesser of \$8,000 (\$4,000 for a married individual filing separately) or 10 percent of the purchase price of a principal residence. The credit is allowed for qualifying home purchases on or after April 9, 2008, and before December 1, 2009.

The credit phases out for individual taxpayers with modified adjusted gross income between \$75,000 and \$95,000 (\$150,000 and \$170,000 for joint filers) for the year of purchase.

An individual is considered a first-time homebuyer if the individual had no ownership interest in a principal residence in the United States during the 3-year period prior to the purchase of the home.

An election is provided to treat a residence purchased after December 31, 2008, and before

December 1, 2009, as purchased on December 31, 2008, so that the credit may be claimed on the 2008 income tax return.

No District of Columbia first-time homebuyer credit is allowed to any taxpayer with respect to the purchase of a residence after December 31, 2008, and before December 1, 2009, if the national first-time homebuyer credit is allowable to such taxpayer (or the taxpayer's spouse) with respect to such purchase.

#### *Recapture*

For homes purchased on or before December 31, 2008, the credit is recaptured ratably over fifteen years with no interest charge beginning in the second taxable year after the taxable year in which the home is purchased. For example, if an individual purchases a home in 2008, recapture commences with the 2010 tax return. If the individual sells the home (or the home ceases to be used as the principal residence of the individual or the individual's spouse) prior to complete recapture of the credit, the amount of any credit not previously recaptured is due on the tax return for the year in which the home is sold (or ceases to be used as the principal residence). However, in the case of a sale to an unrelated person, the amount recaptured may not exceed the amount of gain from the sale of the residence. For this purpose, gain is determined by reducing the basis of the residence by the amount of the credit to the extent not previously recaptured. No amount is recaptured after the death of an individual. In the case of an involuntary conversion of the home, recapture is not accelerated if a new principal residence is acquired within a two-year period. In the case of a transfer of the residence to a spouse or to a former spouse incident to divorce, the transferee spouse (and not the transferor spouse) will be responsible for any future recapture. Recapture does not apply to a home purchased after December 31, 2008 that is treated (at the election of the taxpayer) as purchased on December 31, 2008.

For homes purchased after December 31, 2008, and before December 1, 2009, the credit is recaptured only if the taxpayer disposes of the home (or the home otherwise ceases to be the principal residence of the taxpayer) within 36 months from the date of purchase.

#### EXPLANATION OF PROVISION

##### *Extension of application period*

In general, the credit is extended to apply to a principal residence purchased by the taxpayer before May 1, 2010. The credit applies to the purchase of a principal residence before July 1, 2010 by any taxpayer who enters into a written binding contract before May 1, 2010, to close on the purchase of a principal residence before July 1, 2010.

The waiver of recapture, except in the case of disposition of the home (or the home otherwise ceases to be the principal residence of the taxpayer) within 36 months from the date of purchase, is extended to any purchase of a principal residence after December 31, 2008.

The election to treat a purchase as occurring in a prior year is modified. In the case of a purchase of a principal residence after December 31, 2008, a taxpayer may elect to treat the purchase as made on December 31 of the calendar year preceding the purchase for purposes of claiming the credit on the prior year's tax return.

No District of Columbia first-time homebuyer credit is allowed to any taxpayer with respect to the purchase of a residence after December 31, 2008, if the national first-time homebuyer credit is allowable to such tax-

payer (or the taxpayer's spouse) with respect to such purchase.

##### *Long-time residents of the same principal residence*

An individual (and, if married, the individual's spouse) who has maintained the same principal residence for any five-consecutive year period during the eight-year period ending on the date of the purchase of a subsequent principal residence is treated as a first-time homebuyer. The maximum allowable credit for such taxpayers is \$6,500 (\$3,250 for a married individual filing separately).

##### *Limitations*

The bill raises the income limitations to qualify for the credit. The credit phases out for individual taxpayers with modified adjusted gross income between \$125,000 and \$145,000 (\$225,000 and \$245,000 for joint filers) for the year of purchase.

No credit is allowed for the purchase of any residence if the purchase price exceeds \$800,000.

No credit is allowed unless the taxpayer is 18 years of age as of the date of purchase. A taxpayer who is married is treated as meeting the age requirement if the taxpayer or the taxpayer's spouse meets the age requirement.

The definition of purchase excludes property acquired from a person related to the person acquiring such property or the spouse of the person acquiring the property, if married.

No credit is allowed to any taxpayer if the taxpayer is a dependent of another taxpayer.

No credit is allowed unless the taxpayer attaches to the relevant tax return a properly executed copy of the settlement statement used to complete the purchase.

##### *Waiver of recapture for individuals on qualified official extended duty*

In the case of a disposition of principal residence by an individual (or a cessation of use of the residence that otherwise would cause recapture) after December 31, 2008, in connection with government orders received by the individual (or the individual's spouse) for qualified official extended duty service, no recapture applies by reason of the disposition of the residence, and any 15-year recapture with respect to a home acquired before January 1, 2009, ceases to apply in the taxable year the disposition occurs.

Qualified official extended duty service means service on official extended duty as a member of the uniformed services, a member of the Foreign Service of the United States, or an employee of the intelligence community.

Qualified official extended duty is any period of extended duty while serving at a place of duty at least 50 miles away from the taxpayer's principal residence or under orders compelling residence in government furnished quarters. Extended duty is defined as any period of duty pursuant to a call or order to such duty for a period in excess of 90 days or for an indefinite period.

The uniformed services include: (1) the Armed Forces (the Army, Navy, Air Force, Marine Corps, and Coast Guard); (2) the commissioned corps of the National Oceanic and Atmospheric Administration; and (3) the commissioned corps of the Public Health Service.

The term "member of the Foreign Service of the United States" includes: (1) chiefs of mission; (2) ambassadors at large; (3) members of the Senior Foreign Service; (4) Foreign Service officers; and (5) Foreign Service personnel.

The term "employee of the intelligence community" means an employee of the Of-

fice of the Director of National Intelligence, the Central Intelligence Agency, the National Security Agency, the Defense Intelligence Agency, the National Geospatial-Intelligence Agency, or the National Reconnaissance Office. The term also includes employment with: (1) any other office within the Department of Defense for the collection of specialized national intelligence through reconnaissance programs; (2) any of the intelligence elements of the Army, the Navy, the Air Force, the Marine Corps, the Federal Bureau of Investigation, the Department of the Treasury, the Department of Energy, and the Coast Guard; (3) the Bureau of Intelligence and Research of the Department of State; and (4) the elements of the Department of Homeland Security concerned with the analyses of foreign intelligence information.

##### *Extension of the first-time homebuyer credit for individuals on qualified official extended duty outside of the United States*

In the case of any individual (and, if married, the individual's spouse) who serves on qualified official extended duty service outside of the United States for at least 90 days during the period beginning after December 31, 2008, and ending before May 1, 2010, the expiration date of the first-time homebuyer credit is extended for one year, through May 1, 2011 (July 1, 2011, in the case of an individual who enters into a written binding contract before May 1, 2011, to close on the purchase of a principal residence before July 1, 2011).

##### *Mathematical error authority*

The bill makes a number of changes to expand the definition of mathematical or clerical error for purposes of administration of the credit by the Internal Revenue Service ("IRS"). The IRS may assess additional tax without issuance of a notice of deficiency as otherwise required in the case of: an omission of any increase in tax required by the recapture provisions of the credit; information from the person issuing the taxpayer identification number of the taxpayer that indicates that the taxpayer does not meet the age requirement of the credit; information provided to the Secretary by the taxpayer on an income tax return for at least one of the two preceding taxable years that is inconsistent with eligibility for such credit; or, failure to attach to the return a properly executed copy of the settlement statement used to complete the purchase.

#### EFFECTIVE DATE

The extension of the first-time homebuyer credit and coordination with the first-time homebuyer credit for the District of Columbia apply to residences purchased after November 30, 2009.

Provisions relating to long-time residents of the same principal residence, and income, purchase price, age, related party, dependent, and documentation limitations apply for purchases after the date of enactment.

The waiver of recapture provision applies to dispositions and cessations after December 31, 2008.

The expansion of mathematical and clerical error authority applies to returns for taxable years ending on or after April 9, 2008.

B. FIVE-YEAR CARRYBACK OF OPERATING LOSSES (SEC. 13 OF THE BILL AND SEC. 172 OF THE CODE)

#### PRESENT LAW

##### *In general*

Under present law, a net operating loss ("NOL") generally means the amount by which a taxpayer's business deductions exceed its gross income. In general, an NOL

may be carried back two years and carried over 20 years to offset taxable income in such years. NOLs offset taxable income in the order of the taxable years to which the NOL may be carried.

For purposes of computing the alternative minimum tax ("AMT"), a taxpayer's NOL deduction cannot reduce the taxpayer's alternative minimum taxable income ("AMTI") by more than 90 percent of the AMTI.

In the case of a life insurance company, present law allows a deduction for the operations loss carryovers and carrybacks to the taxable year, in lieu of the deduction for net operation losses allowed to other corporations. A life insurance company is permitted to treat a loss from operations (as defined under section 810(c)) for any taxable year as an operations loss carryback to each of the three taxable years preceding the loss year and an operations loss carryover to each of the 15 taxable years following the loss year.

#### *Temporary rule for small business*

Present law provides an eligible small business with an election to increase the present-law carryback period for an "applicable 2008 NOL" from two years to any whole number of years elected by the taxpayer that is more than two and less than six. An eligible small business is a taxpayer meeting a \$15,000,000 gross receipts test. An applicable 2008 NOL is the taxpayer's NOL for any taxable year ending in 2008, or if elected by the taxpayer, the NOL for any taxable year beginning in 2008. However, any election under this provision may be made only with respect to one taxable year.

#### EXPLANATION OF PROVISION

The provision provides an election to increase the present-law carryback period for an applicable NOL from two years to any whole number of years elected by the taxpayer which is more than two and less than six. An applicable NOL is the taxpayer's NOL for a taxable year beginning or ending in either 2008 or 2009. Generally, a taxpayer may elect an extended carryback period for only one taxable year.

The amount of an NOL that may be carried back to the fifth taxable year preceding the loss year is limited to 50 percent of taxable income for such taxable year (computed without regard to the NOL for the loss year or any taxable year thereafter). The limitation does not apply to the applicable 2008 NOL of an eligible small business with respect to which an election is made (either before or after the date of enactment of the bill) under the provision as presently in effect. The amount of the NOL otherwise carried to taxable years subsequent to such fifth taxable year is to be adjusted to take into account that the NOL could offset only 50 percent of the taxable income in such year. Thus, in determining the excess of the applicable NOL over the sum of the taxpayer's taxable income for each of the prior taxable years to which the loss may be carried, only 50 percent of the taxable income for the taxable year for which the limitation applies is to be taken into account.

The provision also suspends the 90-percent limitation on the use of any alternative tax NOL deduction attributable to carrybacks of the applicable NOL for which an extended carryback period is elected.

For life insurance companies, the provision provides an election to increase the present-law carryback period for an applicable loss from operations from three years to four or five years. An applicable loss from operations is the taxpayer's loss from operations

for any taxable year beginning or ending in either 2008 or 2009. A 50-percent of taxable income limitation applies to the fifth taxable year preceding the loss year.

A taxpayer must make the election by the extended due date for filing the return for the taxpayer's last taxable year beginning in 2009, and in such manner as may be prescribed by the Secretary. An election, once made, is irrevocable.

An eligible small business that timely made (or timely makes) an election under the provision as in effect on the day before the enactment of the bill to carryback its applicable 2008 NOL may also elect to carryback a 2009 NOL under the amended provision. It is intended that an eligible small business may continue to make the present-law election under procedures prescribed in Rev. Proc. 2009-26 following the enactment of the bill.

The provision generally does not apply to: (1) any taxpayer if (a) the Federal government acquired or acquires at any time, an equity interest in the taxpayer pursuant to the Emergency Economic Stabilization Act of 2008, or (b) the Federal government acquired or acquires, at any time, any warrant (or other right) to acquire any equity interest with respect to the taxpayer pursuant to such Act; (2) the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation; and (3) any taxpayer that in 2008 or 2009 is a member of the same affiliated group (as defined in section 1504 without regard to subsection (b) thereof) as a taxpayer to which the provision does not otherwise apply. An equity interest (or right to acquire an equity interest) is disregarded for this purpose if acquired by the Federal government after the date of enactment from a financial institution pursuant to a program established by the Secretary for the stated purpose of increasing the availability of credit to small businesses using funding made available under the Emergency Economic Stabilization Act of 2008.

#### EFFECTIVE DATE

The provision is generally effective for net operating losses arising in taxable years ending after December 31, 2007. The modification to the alternative tax NOL deduction applies to taxable years ending after December 31, 2002. The modification with respect to operating loss deductions of life insurance companies applies to losses from operations arising in taxable years ending after December 31, 2007.

Under transition rules, a taxpayer may revoke any election to waive the carryback period under either section 172(b)(3) or section 810(b)(3) with respect to an applicable NOL or an applicable loss from operations for a taxable year ending before the date of enactment by the extended due date for filing the tax return for the taxpayer's last taxable year beginning in 2009. Similarly, any application for a tentative carryback adjustment under section 6411(a) with respect to such loss is treated as timely filed if filed by the extended due date for filing the tax return for the taxpayer's last taxable year beginning in 2009.

#### C. EXCLUSION FROM GROSS INCOME OF QUALIFIED MILITARY BASE REALIGNMENT AND CLOSURE FRINGE (SEC. 14 OF THE BILL AND SEC. 132 OF THE CODE)

##### PRESENT LAW

#### *Homeowners Assistance Program payment*

The Department of Defense Homeowners Assistance Program ("HAP") provides payments to certain employees and members of the Armed Forces to offset the adverse ef-

fects on housing values that result from a military base realignment or closure.

In general, under the HAP, eligible individuals receive either: (1) a cash payment as compensation for losses that may be or have been sustained in a private sale, in an amount not to exceed the difference between (a) 95 percent of the fair market value of their property prior to public announcement of intention to close all or part of the military base or installation and (b) the fair market value of such property at the time of the sale; or (2) as the purchase price for their property, an amount not to exceed 90 percent of the prior fair market value as determined by the Secretary of Defense, or the amount of the outstanding mortgages.

The American Recovery and Reinvestment Act of 2009 expands the HAP in various ways. It amends the Demonstration Cities and Metropolitan Development Act of 1966 to allow, under the HAP under such Act, the Secretary of Defense to provide assistance or reimbursement for certain losses in the sale of family dwellings by members of the Armed Forces living on or near a military installation in situations where: (1) there was a base closure or realignment; (2) the property was purchased before July 1, 2006, and sold between that date and September 30, 2012; (3) the property is the owner's primary residence; and (4) the owner has not previously received benefits under the HAP. Further, it authorizes similar HAP assistance or reimbursement with respect to: (1) wounded members and wounded civilian Department of Defense and Coast Guard employees (and their spouses); and (2) members permanently reassigned from an area at or near a military installation to a new duty station more than 50 miles away (with similar purchase and sale date, residence, and no-previous-benefit requirements as above). It allows the Secretary to provide compensation for losses from home sales by such individuals to ensure the realization of at least 90 percent (in some cases, 95 percent) of the pre-mortgage-crisis assessed value of such property.

#### *Tax treatment*

Present law generally excludes from gross income amounts received under the HAP (as in effect on November 11, 2003). Amounts received under the program also are not considered wages for FICA tax purposes (including Medicare). The excludable amount is limited to the reduction in the fair market value of property.

#### EXPLANATION OF PROVISION

The bill expands the exclusion to HAP payments authorized under the American Recovery and Reinvestment Tax Act of 2009.

#### EFFECTIVE DATE

The provision is effective for payments made after February 17, 2009 (the date of enactment of the American Recovery and Reinvestment Tax Act of 2009).

#### D. DELAY IN APPLICATION OF WORLDWIDE ALLOCATION OF INTEREST (SEC. 15 OF THE BILL AND SEC. 864 OF THE CODE)

##### PRESENT LAW

#### *In general*

To compute the foreign tax credit limitation, a taxpayer must determine the amount of its taxable income from foreign sources. Thus, the taxpayer must allocate and apportion deductions between items of U.S.-source gross income, on the one hand, and items of foreign-source gross income, on the other.

In the case of interest expense, the rules generally are based on the approach that money is fungible and that interest expense

is properly attributable to all business activities and property of a taxpayer, regardless of any specific purpose for incurring an obligation on which interest is paid. For interest allocation purposes, all members of an affiliated group of corporations generally are treated as a single corporation (the so-called "one-taxpayer rule") and allocation must be made on the basis of assets rather than gross income. The term "affiliated group" in this context generally is defined by reference to the rules for determining whether corporations are eligible to file consolidated returns.

For consolidation purposes, the term "affiliated group" means one or more chains of includible corporations connected through stock ownership with a common parent corporation that is an includible corporation, but only if: (1) the common parent owns directly stock possessing at least 80 percent of the total voting power and at least 80 percent of the total value of at least one other includible corporation; and (2) stock meeting the same voting power and value standards with respect to each includible corporation (excluding the common parent) is directly owned by one or more other includible corporations.

Generally, the term "includible corporation" means any domestic corporation except certain corporations exempt from tax under section 501 (for example, corporations organized and operated exclusively for charitable or educational purposes), certain life insurance companies, corporations electing application of the possession tax credit, regulated investment companies, real estate investment trusts, and domestic international sales corporations. A foreign corporation generally is not an includible corporation.

Subject to exceptions, the consolidated return and interest allocation definitions of affiliation generally are consistent with each other. For example, both definitions generally exclude all foreign corporations from the affiliated group. Thus, while debt generally is considered fungible among the assets of a group of domestic affiliated corporations, the same rules do not apply as between the domestic and foreign members of a group with the same degree of common control as the domestic affiliated group.

#### *Banks, savings institutions, and other financial affiliates*

The affiliated group for interest allocation purposes generally excludes what are referred to in the Treasury regulations as "financial corporations." A financial corporation includes any corporation, otherwise a member of the affiliated group for consolidation purposes, that is a financial institution (described in section 581 or section 591), the business of which is predominantly with persons other than related persons or their customers, and which is required by State or Federal law to be operated separately from any other entity that is not a financial institution. The category of financial corporations also includes, to the extent provided in regulations, bank holding companies (including financial holding companies), subsidiaries of banks and bank holding companies (including financial holding companies), and savings institutions predominantly engaged in the active conduct of a banking, financing, or similar business.

A financial corporation is not treated as a member of the regular affiliated group for purposes of applying the one-taxpayer rule to other non-financial members of that group. Instead, all such financial corporations that would be so affiliated are treated as a separate single corporation for interest allocation purposes.

#### *Worldwide interest allocation*

##### *In general*

The American Jobs Creation Act of 2004 ("AJCA") modified the interest expense allocation rules described above (which generally apply for purposes of computing the foreign tax credit limitation) by providing a one-time election (the "worldwide affiliated group election") under which the taxable income of the domestic members of an affiliated group from sources outside the United States generally is determined by allocating and apportioning interest expense of the domestic members of a worldwide affiliated group on a worldwide-group basis (i.e., as if all members of the worldwide group were a single corporation). If a group makes this election, the taxable income of the domestic members of a worldwide affiliated group from sources outside the United States is determined by allocating and apportioning the third-party interest expense of those domestic members to foreign-source income in an amount equal to the excess (if any) of (1) the worldwide affiliated group's worldwide third-party interest expense multiplied by the ratio that the foreign assets of the worldwide affiliated group bears to the total assets of the worldwide affiliated group, over (2) the third-party interest expense incurred by foreign members of the group to the extent such interest would be allocated to foreign sources if the principles of worldwide interest allocation were applied separately to the foreign members of the group.

For purposes of the new elective rules based on worldwide fungibility, the worldwide affiliated group means all corporations in an affiliated group as well as all controlled foreign corporations that, in the aggregate, either directly or indirectly, would be members of such an affiliated group if section 1504(b)(3) did not apply (i.e., in which at least 80 percent of the vote and value of the stock of such corporations is owned by one or more other corporations included in the affiliated group). Thus, if an affiliated group makes this election, the taxable income from sources outside the United States of domestic group members generally is determined by allocating and apportioning interest expense of the domestic members of the worldwide affiliated group as if all of the interest expense and assets of 80-percent or greater owned domestic corporations (i.e., corporations that are part of the affiliated group, as modified to include insurance companies) and certain controlled foreign corporations were attributable to a single corporation.

##### *Financial institution group election*

Taxpayers are allowed to apply the bank group rules to exclude certain financial institutions from the affiliated group for interest allocation purposes under the worldwide fungibility approach. The rules also provide a one-time "financial institution group" election that expands the bank group. At the election of the common parent of the pre-election worldwide affiliated group, the interest expense allocation rules are applied separately to a subgroup of the worldwide affiliated group that consists of (1) all corporations that are part of the bank group, and (2) all "financial corporations." For this purpose, a corporation is a financial corporation if at least 80 percent of its gross income is financial services income (as described in section 904(d)(2)(C)(i) and the regulations thereunder) that is derived from transactions with unrelated persons. For these purposes, items of income or gain from a transaction or series of transactions are disregarded if a pri-

ncipal purpose for the transaction or transactions is to qualify any corporation as a financial corporation.

In addition, anti-abuse rules are provided under which certain transfers from one member of a financial institution group to a member of the worldwide affiliated group outside of the financial institution group are treated as reducing the amount of indebtedness of the separate financial institution group. Regulatory authority is provided with respect to the election to provide for the direct allocation of interest expense in circumstances in which such allocation is appropriate to carry out the purposes of these rules, to prevent assets or interest expense from being taken into account more than once, or to address changes in members of any group (through acquisitions or otherwise) treated as affiliated under these rules.

##### *Effective date of worldwide interest allocation*

The common parent of the domestic affiliated group must make the worldwide affiliated group election. It must be made for the first taxable year beginning after December 31, 2010, in which a worldwide affiliated group exists that includes at least one foreign corporation that meets the requirements for inclusion in a worldwide affiliated group. The common parent of the pre-election worldwide affiliated group must make the election for the first taxable year beginning after December 31, 2010, in which a worldwide affiliated group includes a financial corporation. Once either election is made, it applies to the common parent and all other members of the worldwide affiliated group or to all members of the financial institution group, as applicable, for the taxable year for which the election is made and all subsequent taxable years, unless revoked with the consent of the Secretary of the Treasury.

##### *Phase-in rule*

HERA also provided a special phase-in rule in the case of the first taxable year to which the worldwide interest allocation rules apply. For that year, the amount of the taxpayer's taxable income from foreign sources is reduced by 70 percent of the excess of (i) the amount of its taxable income from foreign sources as calculated using the worldwide interest allocation rules over (ii) the amount of its taxable income from foreign sources as calculated using the present-law interest allocation rules. For that year, the amount of the taxpayer's taxable income from domestic sources is increased by a corresponding amount. Any foreign tax credits disallowed by virtue of this reduction in foreign-source taxable income may be carried back or forward under the normal rules for carrybacks and carryforwards of excess foreign tax credits.

#### EXPLANATION OF PROVISION

The provision delays the effective date of worldwide interest allocation rules for seven years, until taxable years beginning after December 31, 2017. The required dates for making the worldwide affiliated group election and the financial institution group election are changed accordingly.

The provision also eliminates the special phase-in rule that applies in the case of the first taxable year to which the worldwide interest allocation rules apply.

##### EFFECTIVE DATE

The provision is effective for taxable years beginning after December 31, 2010.

**E. MODIFICATION OF PENALTY FOR FAILURE TO FILE PARTNERSHIP OR S CORPORATION RETURNS (SEC. 16 OF THE BILL AND SECS. 6698 AND 6699 OF THE CODE)**

**PRESENT LAW**

Both partnerships and S corporations are generally treated as pass-through entities that do not incur an income tax at the entity level. Income earned by a partnership, whether distributed or not, is taxed to the partners. Distributions from the partnership generally are tax-free. The items of income, gain, loss, deduction or credit of a partnership generally are taken into account by a partner as allocated under the terms of the partnership agreement. If the agreement does not provide for an allocation, or the agreed allocation does not have substantial economic effect, then the items are to be allocated in accordance with the partners' interests in the partnership. To prevent double taxation of these items, a partner's basis in its interest is increased by its share of partnership income (including tax-exempt income), and is decreased by its share of any losses (including nondeductible losses). An S corporation generally is not subject to corporate-level income tax on its items of income and loss. Instead, the S corporation passes through its items of income and loss to its shareholders. The shareholders take into account separately their shares of these items on their individual income tax returns.

Under present law, both partnerships and S corporations are required to file tax returns for each taxable year. The partnership's tax return is required to include the names and addresses of the individuals who would be entitled to share in the taxable income if distributed and the amount of the distributive share of each individual. The S corporation's tax return is required to include the following: the names and addresses of all persons owning stock in the corporation at any time during the taxable year; the number of shares of stock owned by each shareholder at all times during the taxable year; the amount of money and other property distributed by the corporation during the taxable year to each shareholder and the date of such distribution; each shareholder's pro rata share of each item of the corporation for the taxable year; and such other information as the Secretary may require.

In addition to applicable criminal penalties, present law imposes assessable civil penalties for both the failure to file a partnership return and the failure to file an S corporation return. Each of these penalties is currently \$89 times the number of shareholders or partners for each month (or fraction of a month) that the failure continues, up to a maximum of 12 months for returns required to be filed after December 31, 2008.

**EXPLANATION OF PROVISION**

Under the provision, the base amount on which a penalty is computed for a failure with respect to filing either a partnership or S corporation return is increased to \$195 per partner or shareholder.

**EFFECTIVE DATE**

The provision applies to returns for taxable years beginning after December 31, 2009.

**F. EXPANSION OF ELECTRONIC FILING BY RETURN PREPARERS (SEC. 17 OF THE BILL AND SEC. 6011(E) OF THE CODE)**

**PRESENT LAW**

The IRS Restructuring and Reform Act of 1998 ("RRA 1998") states a Congressional policy to promote the paperless filing of Federal tax returns. Section 2001(a) of RRA 1998 sets a goal for the IRS to have at least 80 percent

of all Federal tax and information returns filed electronically by 2007. Section 2001(b) of RRA 1998 requires the IRS to establish a 10-year strategic plan to eliminate barriers to electronic filing.

Present law authorizes the IRS to issue regulations specifying which returns must be filed electronically. There are several limitations on this authority. First, it can only apply to persons required to file at least 250 returns during the calendar year. Second, the Secretary is prohibited from requiring that income tax returns of individuals, estates, and trusts be submitted in any format other than paper, although these returns may be filed electronically by choice.

Regulations require corporations and tax-exempt organizations that have assets of \$10 million or more and file at least 250 returns during a calendar year, including income tax, information, excise tax, and employment tax returns, to file electronically their Form 1120/1120S income tax returns and Form 990 information returns for tax years ending on or after December 31, 2006. Private foundations and charitable trusts that file at least 250 returns during a calendar year are required to file electronically their Form 990-PF information returns for tax years ending on or after December 31, 2006, regardless of their asset size. Taxpayers can request waivers of the electronic filing requirement if they cannot meet that requirement due to technological constraints, or if compliance with the requirement would result in undue financial burden on the taxpayer.

**EXPLANATION OF PROVISION**

The provision generally maintains the current rule that regulations may not require any person to file electronically unless the person files at least 250 tax returns during the calendar year. However, the proposal provides an exception to this rule and mandates that the Secretary require electronic filing by specified tax return preparers. "Specified tax return preparers" are all return preparers except those who neither prepare nor reasonably expect to prepare ten or more individual income tax returns in a calendar year. The term "individual income tax return" is defined to include returns for estates and trusts as well as individuals.

**EFFECTIVE DATE**

The provision is effective for tax returns filed after December 31, 2010.

**G. TIME FOR PAYMENT OF CORPORATE ESTIMATED TAXES (SEC. 18 OF THE BILL AND SEC. 6655 OF THE CODE)**

**PRESENT LAW**

In general, corporations are required to make quarterly estimated tax payments of their income tax liability. For a corporation whose taxable year is a calendar year, these estimated tax payments must be made by April 15, June 15, September 15, and December 15. In the case of a corporation with assets of at least \$1 billion (determined as of the end of the preceding tax year), payments due in July, August, or September, 2014, are increased to 100.25 percent of the payment otherwise due and the next required payment is reduced accordingly.

**EXPLANATION OF PROVISION**

The provision increases the required payment of estimated tax otherwise due in July, August, or September, 2014, by 33 percentage points.

**EFFECTIVE DATE**

The provision is effective on the date of the enactment of this Act.

**SETTLEMENT STATEMENTS AND MANUFACTURED HOUSING**

Mr. NELSON of Florida. Mr. Chairman, the amendment requires the taxpayer to provide a settlement statement to the IRS as proof that a home was purchased. While I support that requirement, the fact is that there is no settlement statement in the case of a manufactured home that is purchased and will be either sited on land already owned by the home buyer or sited on land to be leased by the home buyer. In those instances, a retail sales contract is used to purchase the home. This contract contains all of the truth in lending disclosures, as well as all the itemized disbursements relating to the transaction. Mr. Chairman, is it the view of the Senate that the IRS should accept retail sales contracts as proof of purchase in the event that a settlement statement is not available to the taxpayer?

Mr. BAUCUS. The Senator from Florida is correct. The purpose of the legislation is to eliminate fraud by requiring documentation of the proof of purchase. It is the Senate's intent that the IRS should accept retail sales contracts from taxpayers as proof of purchase of a manufactured home in the event that a settlement statement is not available.

Mrs. LINCOLN. I thank the chairman very much for that important clarification which will provide more certainty for our constituents who wish to purchase a manufactured home.

**A NEPHEW'S MEMORIES OF "TEDDY"**

Mr. KERRY. Mr. President, during his long illness, the Senate missed Ted Kennedy and Ted Kennedy missed the Senate. But Ted was especially missed by a young Senate page with whom he had a special connection—his nephew, Jack Schlossberg, Caroline Kennedy's son.

Jack worked as a page over the summer months, and I got to know him. When he wasn't busy with his page duties in the cloakroom and on the Senate floor, we talked about the lessons he had learned from his uncle.

Ted was thrilled that Jack was walking the same corridors where his Uncle Bobby and his grandfather, John F. Kennedy, had once served. When young Jack returned to school this fall, he had a chance to reflect on all that had happened during his summer in Washington, but mostly he thought about his Uncle Teddy. He wrote about it in an essay he titled "EMK."

Jack shared his essay with me, and I would like to share it with the Congress, because it reflects not only what a tower of strength Teddy was to his family, but also the extraordinary qualities of Ted's loving nephew, Jack Schlossberg.

Mr. President, I ask unanimous consent that Jack's essay be printed in the



RECORD, and I recommend that it be read by all who knew Ted, all who called him their friend, all who benefited from his extraordinary career in the U.S. Senate:

There being no objection, the material was ordered to be printed in the RECORD as follows:

EMK

(By Jack Schlossberg)

When I was little, I could only remember general things about him, like the way his voice sounded, or the feeling I got when we went sailing on his boat. As I grew up I started to understand what Uncle Teddy was saying to me and what he meant. As Teddy became sick, I understood him differently. He was still at times the same person I knew and loved, but his imperfections startled me. During his last few months I began to study every word he said. I idolized him in a way I never had before. No longer was my Uncle Teddy a summer memory or someone I heard about from my mother; he meant something to me. As I watched him go through Boston for the last time in August, I realized that I was not the only person who grew up with him this way, and that multiple generations had. Hundreds of thousands of people knew Teddy as the loving man who had always been there, and who never disappointed them.

It was my first year playing basketball and my team had made it to the championships. I was ten years old and I had never been more excited in my life. It was a tie game well into the fourth quarter when Teddy showed up. He came barreling into the gloomy PS 188 gym and sat down with my mother and father on the sidelines. He did not cheer too loud or even make himself heard, he just sat there and watched me. After my team's victory, he got up and gave me a great big hug. Soon after, he left and went home, as did I. I did not think twice about him coming to my game. I had not told him about it—he probably asked my mother what time and where it was, and moved everything that he was doing that day around my 11:00 am basketball game. That night I got a call from him: "The game of all games," he shouted into the phone. "And you scored the winning shot. I can't believe it. I just can't believe it," he said. Of course, I had not actually scored the winning shot, but all of sudden I believed I had. Teddy was always there to make your story a little more dramatic and entirely more fun. After he told a story about something you both had done, you started telling the story exactly as he had. At the time, I never understood how much effort he put into our relationship. Not only was he the senior Senator from Massachusetts, but also he was also quite busy, unlike many Senators. It was not as if he called me every day, every week, or even every month, but without fail, when you needed Teddy, he was there.

A year ago Teddy was diagnosed with brain cancer. A person who never made me sad, and never seemed weak, was said to have months to live. At first I was more baffled than I was upset. We were not talking about your average person, this was Teddy. He was not someone who came and went, he simply was always there. This was the first time I saw him affected by anything, and I was so confused by his vulnerability. My view of Teddy changed completely without any interaction with him. I suddenly became endlessly interested in his life. I read about him, I followed his policy and studied his speeches. Soon after his diagnosis my family

and I went to visit Teddy in Florida. For the first time, I was aware of who Teddy was when he was not with me. In Florida, I asked him about his life and his politics, something I had never done before. He explained how he was seven years old (in the eighth grade because he was sent to school with his older brother) and his classmates stole his turtle and buried it: "I cried for hours and ran outside to dig him up," he said with a grin. "They were so mean over there at Riverdale." Although he could not express himself the way he wanted to at all times, he still stunned me with stories about civil rights and Lyndon Johnson. He also triggered the same emotions he always had. As he and his wife, Vicki, sat down to watch "24" one night, I saw Teddy as himself. I sat next to him as he commented on the show: "She's always cross," he said about one character. He made joke after joke about every possible thing he could and had everyone in the room laughing. This was Teddy's way. It was not as if every word he said was brilliant, but his way as a person was truly unique. He could make a very depressing evening hilarious just by cracking a few jokes.

My final memories of Teddy are not really of him, but of what I learned about him. His death was both upsetting and uplifting. At first I only thought of how I would miss him and how unfair it was that he was gone. But, as I went through Boston with him for the last time, I realized that many others loved him too. The drive started slowly as we went through Hyannis and waved to the people we passed on the street. The crowds got bigger as we approached Boston, and as we passed Teddy's famed "Rose Fitzgerald Kennedy Greenway" the crowd was enormous. The signs people held that said "We love you Teddy" struck deep in my heart. We drove through all of Boston as people lined the streets everywhere. There was no animosity, no hatred, just appreciation and love for Teddy. This made me realize that I was not the only person who loved him, and that the same effort he had made for me, he had made for everyone. He is the only person I know who was capable of making the type of effort he made. Whether it was my basketball game or grandparents day, Teddy showed up and made you laugh.

The drive continued as we pulled into the JFK Library and saw news cameras, photographers, and another gigantic crowd. It became clear to me then that in both political and personal life, he had something only few have: people trusted him. Everyone who came out to see Teddy trusted that he was going to take care of them, because he always had. I never knew any of this to be true until that day. Teddy was my uncle, so naturally I figured only those who really knew him would feel like I did. But Teddy's charm was universal, although he brought it up a notch in Massachusetts. The final way in which I remember Teddy, is as someone who always was truly who they appear to be. It would have been possible for his trust to apply only to his family and friends, and for it to have been somewhat artificial, the way most people behave. However, Teddy acted toward everyone the way he did with me, and this is the highest praise any public figure can attain.

Teddy's relationship with me during his life was spectacular. Not once did he disappoint me, and he provided continuous support and much-needed laughs. Teddy's legacy lies in many places. It lies in his legislative and political accomplishments. It lies in changes in the lives of his friends and constituents. It lies in his family bonds, and his

love for the sea. However, it also lies in the way he left us. Teddy's illness at first seemed unfair and depressing. This is not the case at all. Teddy was able to teach everyone who watched him how to fight and how to succeed. Many people do not realize that he outlived everyone's initial predictions, and lived seven times as long as anyone thought possible. This was not because his doctors were wrong about the severity of his cancer, but because this prediction did not consider that they were dealing with Teddy. Not once did he stop fighting. In fact, he took the most aggressive and strenuous approach to fighting his cancer, and always remained hopeful. Teddy's death taught me that no cause is lost, and that every day is worth living.

#### CLEAN ENERGY JOBS AND AMERICAN POWER ACT

Mr. CARDIN. Mr. President, I was proud to cast my vote today in the Environment and Public Works Committee for S. 1733, the Clean Energy Jobs and American Power Act. At this critical juncture in our Nation's history, we face an economic crisis, an energy security crisis, and a global climate crisis. The good news is that the solutions to these problems are intertwined with one another. This bill will help us meet these challenges and emerge stronger than we are today. We have an urgent responsibility to move forward and I want to thank the chairman of our committee, Senator BARBARA BOXER, for her leadership and courage in taking action on this bill today.

If we do not act on this bill which invests in clean, domestic energy, we will be stuck with an energy policy that is undermining our national security and our economy.

If we do not act on this bill which invests in the industries of tomorrow, we will continue to lose clean energy jobs, jobs that stem from American inventions and ideas, to countries overseas.

If we do not act on this bill which provides significant investment in clean fuels and public transit, we will lose an opportunity to change the way we move people and goods around this country. Right now, the transportation sector represents 30 percent of our greenhouse gas emissions and 70 percent of our oil use. If we could double the number of transit riders in the United States, we would reduce our dependence on foreign oil by more than 40 percent, nearly the amount of we import from Saudi Arabia each year.

If we do not act on this bill, we face irreversible, catastrophic climate change. Our children and grandchildren—my two grandchildren—face a world where there is not enough clean water, food, or fuel, a world that is less diverse, less beautiful, less secure.

I am glad that the majority members of the Environment and Public Works Committee convened today in order to act. And we needed to act on this bill



today because this is a global problem and we want all countries to act. In just a few weeks, the international community will meet in Copenhagen to work on an international agreement to do just that.

I am hopeful that Copenhagen will produce an agreement on the architecture of a final climate regime in which countries make a commitment to reduce greenhouse gas emissions. I hope we have an agreement that spells out the mechanism for reaching and enforcing those targets as well as outlining the financing for the developing world.

In my role as chairman of the Commission for Security and Cooperation in Europe and as a member of the Foreign Relations Committee, I speak often to our colleagues in Europe and around the world. And what other countries want to know before they take additional steps—or take first steps—on climate change is: Where is the United States? They are impressed with the action the Obama administration has taken. They are happy to see that the House has acted.

But for the countries of the world to commit to reduce greenhouse gasses in Copenhagen in just a few weeks, they want to see that both Houses of Congress are serious. They want to know that the Senate is making progress toward producing comprehensive climate legislation. The vote today in the Environment and Public Works Committee demonstrates that progress.

But this bill is good for this country and good for Maryland even if we don't get an international agreement. Marylanders understand the opportunities this bill promises. With this bill, we can invest in clean energy jobs: like those at Algenol in Baltimore where they are national leaders in making fuel from algae; like those at Volvo-Mack Truck in Hagerstown where they are making hybrid trucks; like those at Chesapeake Geosystems, a Maryland company that is an east coast leader in geothermal heating; and like those at DAP that makes spackling that is used in weatherizing homes and businesses.

With this bill, we can invest in the transportation improvements Marylanders so desperately need. Transit ridership in Maryland increased by 15 percent in 2008. But recent train and bus accidents in the DC Metro area demonstrate that we need new investment in transit. Our transit systems will not be a safe and reliable solution to our pollution and energy security problems without it.

Marylanders also know the costs of inaction. The people of Smith Island are watching their island disappear under rising sea levels. The crabs, fish, and other aquatic life Maryland's watermen rely on are disappearing along with their way of life. And it is only going to get worse. Maryland's sea levels are projected to rise 3.5 feet.

That means thousands of Marylanders are going to lose their homes and farms. This bill provides critical assistance to States, especially coastal States such as Maryland, to help address these challenges and protect our treasured resources such as the Chesapeake Bay.

The vote that we took today in the Environment and Public Works Committee is just the beginning of putting America back in control of its energy future. And we must remember that even after Copenhagen, any deals we reach, any papers we sign, are still but the foundation. The work must continue with earnest followthrough, dedication to truly changing the way we work and live and move around this Earth. That is work for each of us, and we took one important step forward today.

#### CLEAN ENERGY PARTNERSHIPS ACT

Ms. STABENOW. Mr. President, yesterday I introduced S. 2729, the Clean Energy Partnerships Act. I am proud to have as cosponsors for this bill Senator MAX BAUCUS, Senator AMY KLOBUCHAR, Senator SHERROD BROWN, Senator TOM HARKIN, Senator MARK BEGICH, and Senator JEANNE SHAHEEN, who has been working with me on the carbon conservation program after she introduced S. 1576, the Forest Carbon Incentives Program Act.

As we work toward creating a clean energy economy in America, we need a strategy that protects our environment while protecting and creating jobs and revitalizing our economy.

The bill I introduced yesterday is an important part of that strategy. By creating partnerships among manufacturing, utilities, agriculture, and forestry, we can reduce costs now to help transition to a clean energy economy tomorrow.

As we work to develop new technologies to reduce emissions in the future, we also need to find cost-effective ways to limit emissions in the short-term that do not cost us jobs. This bill is about creating a lower cost strategy to help us reach our emission reduction goals while protecting and strengthening our economy.

We can counteract, or offset, our current carbon emissions by investing in practices like sustainable agriculture and forestry projects that capture and store carbon. A ton of carbon is a ton of carbon. That is what this offset bill is all about.

For example, we can change farming practices through more efficient application of fertilizer, the use of cover crops, or by utilizing tillage practices, called "no till farming." No-till farming reduces carbon emissions by leaving old plant matter buried underground. In contrast, conventional tilling moves old plant matter from last

year's crop from under the soil to the top of the soil, where it decomposes and releases carbon into the atmosphere.

Improved forestry practices are another example of effective and scientifically-proven methods to help reduce carbon emissions. These practices must be a central component of any clean energy legislation. It is estimated that forests store up to 80 percent of above-ground carbon and nearly 70 percent of the carbon stored in the soil. Reducing deforestation, restoring forests, and better land management can all help reduce atmospheric carbon levels, not just in our country but around the world.

This bill also creates incentives to develop new technologies for reducing other greenhouse gas emissions. For example, methane is more than 20 times more potent than carbon dioxide and can be produced from landfills, coal mines, farms, natural gas systems and oil pipelines.

Equipment that can reduce or eliminate methane emissions can have a drastic impact on our environment. We can even use technologies that not only capture the methane but use it to generate cleaner electricity. That equipment can be designed and built right here in America, building on our innovative and manufacturing expertise to create good-paying jobs.

Not only will an offsets program help store carbon, it will also result in cleaner water, more wildlife habitat, and reduced costs for business and agriculture. That is why this legislation has the broad support of organizations and leaders in agriculture, forestry, conservation, utilities and manufacturing, including National Milk Producers Federation; National Farmers Union; National Corn Growers Association; National Cattlemen's Beef Association; American Farmland Trust; National Alfalfa & Forage Association; Dow Chemical Company; Duke Energy; American Electric Power; PG&E Corporation; Dominion; John Deere; Business Council for Sustainable Development; Coalition for Emission Reduction Projects; Generators for Clean Air; National Association of Forest Owners; American Forest Foundation; Binational Softwood Lumber Council; Conservation Forestry; First Environment, Inc.; Forest Guild; Hardwood Federation; Lyme Timber Company; Maine Forest Service; National Alliance of Forest Owners; National Association of State Foresters; National Association of University Forest Resource Programs; National Hardwood Lumber Association; Society of American Foresters; Weyerhaeuser; The Nature Conservancy; Association of Fish and Wildlife Agencies; and Trust for Public Land.

The legislation I introduced yesterday creates partnerships between our agricultural and manufacturing industries, protecting jobs and revitalizing

our economy. It is estimated that strong agriculture and forestry offsets could be worth up to \$24 billion annually to our economy. If the right clean energy policies are put in place, we have the opportunity to make this work for manufacturing and agriculture and create jobs.

Manufacturing in America created the middle class and is the backbone of our economy. We cannot have an economy if we aren't making things in this country—so any energy bill we pass must protect our industries, protect jobs, and protect our American middle class.

By creating partnerships between manufacturers and agriculture, we can link up the people who “bring home the bacon” with the people who actually make the bacon.

By allowing our manufacturing industries to offset their carbon emissions with savings made by sustainable agriculture and forestry practices, we can create a real win-win situation for America's economy.

In my home State of Michigan, we know how to make things and grow things. We know that to reach the clean energy future, we must link our manufacturing expertise with our agricultural expertise. Supported by some of the finest research universities in the world, we are already making key investments in clean energy technology that will reinvigorate our economy, create jobs, and protect our environment for the next generation.

That is what this bill is all about. We still have a long way to go in creating a clean energy bill that makes sense for our manufacturing and agricultural industries. But this bill is an important step toward reaching a balanced approach to energy legislation that respects our environment while also respecting the men and women who build things and grow things in this country.

#### ADDITIONAL STATEMENTS

##### TRIBUTE TO THE REVEREND JOHN (JACK) SHARP

• Mr. CARDIN. Mr. President, I rise today to pay special tribute to an outstanding community leader, the Reverend John (Jack) Sharp of Baltimore, MD. Reverend Sharp served as pastor of the Govans Presbyterian Church for 27 years. He has distinguished himself by reaching far beyond his parish to the entire Baltimore community as a visionary and activist determined to move people and social programs from inaction to accomplishment.

Reverend Sharp's mission had always been to aid the poor and the most vulnerable citizens. His boldness of purpose and tenacity, coupled with a winning and commanding personality, enabled him to unite diverse people to work for a common good. Few commu-

nity activists can match his accomplishments. During his career, he encouraged neighborhoods to accept and embrace housing for the mentally ill and the homeless. In 1991, he founded the Govans Ecumenical Development Corporation, GEDCO, and he has become one of Baltimore's most dynamic and expansive nonprofit developers of senior housing and supportive services for those with special needs.

GEDCO projects and facilities are numerous, providing housing and services for the mentally ill and the homeless—including men and women with HIV/AIDS—a large community pantry, financial assistance, and job development and mentoring. Jack Sharp is most proud of the development of his grand vision, Stadium Place, a state-of-the-art senior residential campus on the grounds of the old Memorial Stadium. The campus is home to four independent living buildings for retirees, an intergenerational and interfaith community “Y” and playground, and shovel-ready plans for an innovative Green House long-term care residential facility.

Reverend Sharp accomplished all of this while serving as a pastor; president of the Board of Community Housing Associates of the Baltimore Mental Health Systems, Inc; president of the Glen Meadows Retirement community; and treasurer of the Baltimore Interfaith Hospitality Network. In 2008, he was honored with the Governor's Leadership in Aging Award and the National Football League—Ravens—Community Quarterback Award for Community Service.

I ask my colleagues to join me in recognizing and applauding Jack Sharp for all that he has accomplished to improve the lives of citizens in Baltimore. He made their challenges his challenge and he has made Baltimore City a better place in which to live.●

#### MESSAGES FROM THE HOUSE

At 11:21 a.m., a message from the House of Representatives, delivered by Mrs. Cole, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 3639. An act to amend the Credit Card Accountability Responsibility and Disclosure Act of 2009 to establish an earlier effective date for various consumer protections, and for other purposes.

At 2:49 p.m., a message from the House of Representatives, delivered by Mrs. Cole, one of its reading clerks, announced that the House agrees to the amendment of the Senate to the bill (H.R. 3548) to amend the Supplemental Appropriations Act, 2008 to provide for the temporary availability of certain additional emergency unemployment compensation, and for other purposes.

##### ENROLLED BILL SIGNED

At 3:25 p.m., a message from the House of Representatives, delivered by

Mrs. Cole, one of its reading clerks, announced that the Speaker has signed the following enrolled bill:

H.R. 3548. An act to amend the Supplemental Appropriations Act, 2008 to provide for the temporary availability of certain additional emergency unemployment compensation, and for other purposes.

The enrolled bill was subsequently signed by the President pro tempore (Mr. BYRD).

#### EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC-3581. A communication from the Department of State, transmitting, pursuant to law, a report relative to the transfer of detainees (OSS Control No. 2009-1854); to the Committee on Armed Services.

EC-3582. A communication from the Under Secretary of Defense (Comptroller), transmitting, pursuant to law, a report entitled “Notification to Congress on Transfer Authorities Used in Fiscal Year 2009”; to the Committee on Armed Services.

EC-3583. A communication from the Under Secretary of Defense, transmitting, pursuant to law, the Uniform Resource Locator (URL) for a report relative to the FY2009 Agency Financial Report for the Department of Defense; to the Committee on Armed Services.

EC-3584. A communication from the Director of Defense Procurement and Acquisition Policy, Department of Defense, transmitting, pursuant to law, the report of a rule entitled “Defense Federal Acquisition Regulation Supplement; Senior DoD Officials Seeking Employment with Defense Contractors” ((RIN0750-AG07) (DFARS Case 2008-D007)) received in the Office of the President of the Senate on November 4, 2009; to the Committee on Armed Services.

EC-3585. A communication from the Director of Defense Procurement and Acquisition Policy, Department of Defense, transmitting, pursuant to law, the report of a rule entitled “Defense Federal Acquisition Regulation Supplement; Pilot Program for Transition to Follow—on Contracting After Use of Other Transaction Authority” ((RIN0750-AG17) (DFARS Case 2008-D030)) received in the Office of the President of the Senate on November 4, 2009; to the Committee on Armed Services.

EC-3586. A communication from the Chairman and President of the Export-Import Bank, transmitting, pursuant to law, a report relative to transactions involving U.S. exports to the Dominican Republic; to the Committee on Banking, Housing, and Urban Affairs.

EC-3587. A communication from the Chairman and President of the Export-Import Bank, transmitting, pursuant to law, a report relative to transactions involving U.S. exports to Ireland; to the Committee on Banking, Housing, and Urban Affairs.

EC-3588. A communication from the Chief Counsel, Federal Emergency Management Agency, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled “Suspension of Community Eligibility” ((44 CFR Part 64) (Docket ID FEMA-2008-0020; Internal Agency Docket No. FEMA-8101)) received in the Office of the President of the Senate on November 4, 2009; to the Committee on Banking, Housing, and Urban Affairs.

EC-3589. A communication from the Chief Counsel, Federal Emergency Management Agency, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Changes in Flood Elevation Determinations" ((44 CFR Part 65) (Docket ID FEMA-2008-0020; Internal Agency Docket No. FEMA-B-1070)) received in the Office of the President of the Senate on November 4, 2009; to the Committee on Banking, Housing, and Urban Affairs.

EC-3590. A communication from the Chief Counsel, Federal Emergency Management Agency, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Changes in Flood Elevation Determinations" ((44 CFR Part 65) (Docket ID FEMA-2008-0020; Internal Agency Docket No. FEMA-B-1067)) received in the Office of the President of the Senate on November 4, 2009; to the Committee on Banking, Housing, and Urban Affairs.

EC-3591. A communication from the Senior Advisor, Office of Foreign Assets Control, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Economic Sanctions Enforcement Guidelines" (31 CFR Part 501) received in the Office of the President of the Senate on November 4, 2009; to the Committee on Banking, Housing, and Urban Affairs.

EC-3592. A communication from the Assistant Secretary, Office of Legislative Affairs, Department of State, transmitting, pursuant to law, a report relative to defense articles and defense services that were licensed for export under Section 38 of the Arms Export Control Act during fiscal year 2008; to the Committee on Foreign Relations.

EC-3593. A communication from the Director of Congressional Affairs, Federal and State Materials and Environmental Management, Nuclear Regulatory Commission, transmitting, pursuant to law, the report of a rule entitled "List of Approved Spent Fuel Storage Casks: HI-STORM 100 Revision 7" (RIN3150-A170) received in the Office of the President of the Senate on November 4, 2009; to the Committee on Environment and Public Works.

EC-3594. A communication from the Assistant General Counsel of the Division of Regulatory Services, Office of Postsecondary Education, Department of Education, transmitting, pursuant to law, the report of a rule entitled "Institutional Eligibility Under the Higher Education Act of 1965, as Amended, and the Secretary's Recognition of Accrediting Agencies" (RIN1840-AD00) received in the Office of the President of the Senate on November 4, 2009; to the Committee on Health, Education, Labor, and Pensions.

EC-3595. A communication from the Deputy Director of Regulations and Policy Management Staff, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Investigational New Drug Applications; Technical Amendment" (Docket No. FDA-2009-N-0464) received in the Office of the President of the Senate on November 4, 2009; to the Committee on Health, Education, Labor, and Pensions.

EC-3596. A communication from the Deputy Director of Regulations and Policy Management Staff, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Medical Devices; Clinical Chemistry and Clinical Toxicology Devices; Classification of the Cardiac Allograft Gene Expression Profiling Test Systems" (Docket No. FDA-2009-N-0472) received in the Office of the President of the

Senate on November 4, 2009; to the Committee on Health, Education, Labor, and Pensions.

EC-3597. A communication from the Chairman, Merit System Protection Board, transmitting, pursuant to law, a report entitled "Job Simulations: Trying Out for a Federal Job"; to the Committee on Homeland Security and Governmental Affairs.

EC-3598. A communication from the Acting Director of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Ocean Perch in the Central Aleutian Islands" (RIN0648-XS57) received in the Office of the President of the Senate on November 4, 2009; to the Committee on Commerce, Science, and Transportation.

EC-3599. A communication from the Acting Director of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Ocean Perch in the Western Aleutian Islands" (RIN0648-XS59) received in the Office of the President of the Senate on November 4, 2009; to the Committee on Commerce, Science, and Transportation.

EC-3600. A communication from the Acting Director of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Fisheries of the Exclusive Economic Zone Off Alaska; Atka Mackerel in the Western Aleutian Islands" (RIN0648-XS58) received in the Office of the President of the Senate on November 4, 2009; to the Committee on Commerce, Science, and Transportation.

EC-3601. A communication from the Acting Assistant Administrator for Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Fisheries of the Northeastern United States; Northeast Multispecies Fishery; Secretarial Final Interim Action; Rule Extension" (RIN0648-AW87) received in the Office of the President of the Senate on November 4, 2009; to the Committee on Commerce, Science, and Transportation.

EC-3602. A communication from the Deputy Bureau Chief, Public Safety and Homeland Security Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Improving Public Safety Communications in the 800 MHz Band" ((FCC 07-92)(WT Docket No. 02-55)) received in the Office of the President of the Senate on November 4, 2009; to the Committee on Commerce, Science, and Transportation.

EC-3603. A communication from the Acting Division Chief, Wireline Competition Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Petition to Establish Procedural Requirements to Govern Proceedings for Forbearance Under Section 10 of the Communications Act of 1934, as Amended" ((WC Docket No. 07-267)(FCC09-56)) received in the Office of the President of the Senate on November 4, 2009; to the Committee on Commerce, Science, and Transportation.

EC-3604. A communication from the Program Analyst, Office of Managing Director—Financial Operations, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Notice of Proposed Rulemaking and Order, Assessment and Collection of Regulatory Fees for Fiscal

Year 2009" ((FCC 09-38; 09-65)(MD Docket Nos. 09-65 and 08-65)) received in the Office of the President of the Senate on November 4, 2009; to the Committee on Commerce, Science, and Transportation.

## REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. INOUE, from the Committee on Appropriations:

Special Report entitled "Further Revised Allocation to Subcommittees of Budget Totals from the Concurrent Resolution, Fiscal Year 2010" (Rept. No. 111-97).

By Mr. LEAHY, from the Committee on the Judiciary, with amendments:

S. 1490. A bill to prevent and mitigate identity theft, to ensure privacy, to provide notice of security breaches, and to enhance criminal penalties, law enforcement assistance, and other protections against security breaches, fraudulent access, and misuse of personally identifiable information.

## EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of nominations were submitted:

By Mr. LEAHY for the Committee on the Judiciary.

Ketanji Brown Jackson, of Maryland, to be a Member of the United States Sentencing Commission for a term expiring October 31, 2013.

Kenyen Ray Brown, of Alabama, to be United States Attorney for the Southern District of Alabama for the term of four years.

Stephanie M. Rose, of Iowa, to be United States Attorney for the Northern District of Iowa for the term of four years.

Nicholas A. Klinefeldt, of Iowa, to be United States Attorney for the Southern District of Iowa for the term of four years.

(Nominations without an asterisk were reported with the recommendation that they be confirmed.)

## INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Ms. LANDRIEU (for herself and Mr. NELSON of Florida):

S. 2731. A bill to improve disaster assistance provided by the Small Business Administration, and for other purposes; to the Committee on Small Business and Entrepreneurship.

By Mr. MENENDEZ:

S. 2732. A bill to require the Administrator of the Federal Aviation Administration to promulgate regulations to prohibit the use of certain portable electronic devices in the cockpit of commercial aircraft during flight and to conduct a study of the safety impact of distracted pilots; to the Committee on Commerce, Science, and Transportation.

By Mr. BROWN (for himself, Ms. MIKULSKI, Mr. FRANKEN, and Mr. BENNETT):

S. 2733. A bill to provide for the establishment of a Private Education Loan Ombudsman; to the Committee on Health, Education, Labor, and Pensions.

By Mr. FRANKEN (for himself and Mr. LUGAR):

S. 2734. A bill to amend the Public Health Service Act with respect to the prevention of diabetes, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. NELSON of Florida (for himself, Ms. LANDRIEU, Mr. VITTER, and Mr. INHOFE):

S. 2735. A bill to prohibit additional requirements for the control of *Vibrio vulnificus* applicable to the post-harvest processing of oysters; to the Committee on Health, Education, Labor, and Pensions.

By Mr. FRANKEN (for himself, Mr. GRASSLEY, Mrs. FEINSTEIN, and Mr. HATCH):

S. 2736. A bill to reduce the rape kit backlog and for other purposes; to the Committee on the Judiciary.

By Mr. BROWNBACK (for himself, Mr. INHOFE, Mr. KYL, Mr. CORNYN, Mr. LIEBERMAN, Mr. VITTER, and Mr. BUNNING):

S. 2737. A bill to relocate to Jerusalem the United States Embassy in Israel, and for other purposes; to the Committee on Foreign Relations.

By Mr. DODD (for himself and Mr. GRASSLEY):

S. 2738. A bill to authorize National Mall Liberty Fund D.C. to establish a memorial on Federal land in the District of Columbia to honor free persons and slaves who fought for independence, liberty, and justice for all during the American Revolution; to the Committee on Energy and Natural Resources.

By Ms. CANTWELL (for herself and Mrs. MURRAY):

S. 2739. A bill to amend the Federal Water Pollution Control Act to provide for the establishment of the Puget Sound Program Office, and for other purposes; to the Committee on Environment and Public Works.

By Mrs. MURRAY (for herself, Mr. FRANKEN, and Mr. BROWN):

S. 2740. A bill to establish a comprehensive literacy program; to the Committee on Health, Education, Labor, and Pensions.

By Mr. UDALL of New Mexico:

S. 2741. A bill to establish telehealth pilot projects, expand access to stroke telehealth services under the Medicare program, improve access to "store-and-forward" telehealth services in facilities of the Indian Health Service and Federally qualified health centers, reimburse facilities of the Indian Health Service as originating sites, establish regulations to consider credentialing and privileging standards for originating sites with respect to receiving telehealth services, and for other purposes; to the Committee on Finance.

By Mr. CASEY (for himself and Mr. BROWN):

S. 2742. A bill to provide for a Climate Change Worker and Community Assistance Program, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Ms. SNOWE (for herself, Mr. WEBB, Mrs. LINCOLN, and Ms. LANDRIEU):

S. 2743. A bill to amend title 10, United States Code, to provide for the award of a military service medal to members of the Armed Forces who served honorably during the Cold War, and for other purposes; to the Committee on Armed Services.

By Mr. BARRASSO (for himself, Mr. BINGAMAN, and Mr. ENZI):

S. 2744. A bill to amend the Energy Policy Act of 2005 to expand the authority for

awarding technology prizes by the Secretary of Energy to include a financial award for separation of carbon dioxide from dilute sources; to the Committee on Energy and Natural Resources.

By Mr. DORGAN (for himself, Ms. KLOBUCHAR, Mr. ROCKEFELLER, Mr. LAUTENBERG, and Mr. FRANKEN):

S. 2745. A bill to prohibit the use of personal wireless communications devices and laptop computers by the flight crew of commercial aircraft on the flight deck of such aircraft during aircraft operations; to the Committee on Commerce, Science, and Transportation.

By Mr. SANDERS:

S. 2746. A bill to address the concept of "Too Big To Fail" with respect to certain financial entities; to the Committee on Banking, Housing, and Urban Affairs.

## SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. HATCH (for himself, Mr. BINGAMAN, Mrs. McCASKILL, Mr. COCHRAN, and Mr. RISCH):

S. Res. 338. A resolution designating November 14, 2009, as "National Reading Education Assistance Dogs Day"; to the Committee on the Judiciary.

By Mr. SPECTER (for himself, Mr. KAUFMAN, Mr. CORNYN, Mr. FEINGOLD, Mr. DURBIN, Ms. KLOBUCHAR, Mr. WHITEHOUSE, and Mr. SCHUMER):

S. Res. 339. A resolution to express the sense of the Senate in support of permitting the televising of Supreme Court proceedings; to the Committee on the Judiciary.

By Mr. CRAPO (for himself and Mrs. LINCOLN):

S. Res. 340. A resolution expressing support for designation of a National Veterans History Project Week to encourage public participation in a nationwide project that collects and preserves the stories of the men and women who served our Nation in times of war and conflict; to the Committee on Veterans' Affairs.

By Mr. CARDIN (for himself and Mr. LUGAR):

S. Res. 341. A resolution supporting peace, security, and innocent civilians affected by conflict in Yemen; to the Committee on Foreign Relations.

By Mr. DORGAN (for himself, Mr. BARRASSO, Mr. BAUCUS, Mr. BEGICH, Mr. BINGAMAN, Ms. CANTWELL, Mr. CONRAD, Mr. CRAPO, Mr. FRANKEN, Mr. JOHNSON, Mr. MCCAIN, Mr. MERKLEY, Ms. MURKOWSKI, Mrs. MURRAY, Mr. TESTER, Mr. THUNE, Mr. UDALL of Colorado, and Mr. UDALL of New Mexico):

S. Res. 342. A resolution recognizing National American Indian and Alaska Native Heritage Month and celebrating the heritage and culture of American Indians and Alaska Natives and the contributions of American Indians and Alaska Natives to the United States; considered and agreed to.

By Mrs. BOXER (for herself and Mrs. FEINSTEIN):

S. Con. Res. 47. A concurrent resolution recognizing the 75th anniversary of the establishment of the East Bay Regional Park District in California, and for other purposes; to the Committee on the Judiciary.

## ADDITIONAL COSPONSORS

S. 448

At the request of Mr. SPECTER, the name of the Senator from Delaware (Mr. KAUFMAN) was added as a cosponsor of S. 448, a bill to maintain the free flow of information to the public by providing conditions for the federally compelled disclosure of information by certain persons connected with the news media.

S. 456

At the request of Mr. DODD, the name of the Senator from Nevada (Mr. ENSIGN) was added as a cosponsor of S. 456, a bill to direct the Secretary of Health and Human Services, in consultation with the Secretary of Education, to develop guidelines to be used on a voluntary basis to develop plans to manage the risk of food allergy and anaphylaxis in schools and early childhood education programs, to establish school-based food allergy management grants, and for other purposes.

S. 572

At the request of Mr. WEBB, the name of the Senator from Virginia (Mr. WARNER) was added as a cosponsor of S. 572, a bill to provide for the issuance of a "forever stamp" to honor the sacrifices of the brave men and women of the Armed Forces who have been awarded the Purple Heart.

S. 827

At the request of Mr. ROCKEFELLER, the name of the Senator from Oregon (Mr. WYDEN) was added as a cosponsor of S. 827, a bill to establish a program to reunite bondholders with matured unredeemed United States savings bonds.

S. 850

At the request of Mr. KERRY, the name of the Senator from New Mexico (Mr. BINGAMAN) was added as a cosponsor of S. 850, a bill to amend the High Seas Driftnet Fishing Moratorium Protection Act and the Magnuson-Stevens Fishery Conservation and Management Act to improve the conservation of sharks.

S. 1067

At the request of Mr. FEINGOLD, the name of the Senator from New York (Mrs. GILLIBRAND) was added as a cosponsor of S. 1067, a bill to support stabilization and lasting peace in northern Uganda and areas affected by the Lord's Resistance Army through development of a regional strategy to support multilateral efforts to successfully protect civilians and eliminate the threat posed by the Lord's Resistance Army and to authorize funds for humanitarian relief and reconstruction, reconciliation, and transitional justice, and for other purposes.

S. 1461

At the request of Mrs. BOXER, the name of the Senator from Michigan (Ms. STABENOW) was added as a cosponsor of S. 1461, a bill to amend the Internal Revenue Code of 1986 to treat trees

and vines producing fruit, nuts, or other crops as placed in service in the year in which it is planted for purposes of special allowance for depreciation.

S. 1490

At the request of Mr. LEAHY, the name of the Senator from Utah (Mr. HATCH) was added as a cosponsor of S. 1490, a bill to prevent and mitigate identity theft, to ensure privacy, to provide notice of security breaches, and to enhance criminal penalties, law enforcement assistance, and other protections against security breaches, fraudulent access, and misuse of personally identifiable information.

S. 1523

At the request of Mr. BURR, the name of the Senator from New Jersey (Mr. MENENDEZ) was added as a cosponsor of S. 1523, a bill to amend the Public Health Service Act to establish a grant program to provide supportive services in permanent supportive housing for chronically homeless individuals and families, and for other purposes.

S. 1628

At the request of Mr. UDALL of Colorado, the name of the Senator from Minnesota (Mr. FRANKEN) was added as a cosponsor of S. 1628, a bill to amend title VII of the Public Health Service Act to increase the number of physicians who practice in underserved rural communities.

S. 1635

At the request of Mr. DORGAN, the name of the Senator from Alaska (Mr. BEGICH) was added as a cosponsor of S. 1635, a bill to establish an Indian Youth telemental health demonstration project, to enhance the provision of mental health care services to Indian youth, to encourage Indian tribes, tribal organizations, and other mental health care providers serving residents of Indian country to obtain the services of predoctoral psychology and psychiatry interns, and for other purposes.

S. 1681

At the request of Mr. LEAHY, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of S. 1681, a bill to ensure that health insurance issuers and medical malpractice insurance issuers cannot engage in price fixing, bid rigging, or market allocations to the detriment of competition and consumers.

At the request of Mr. BENNETT, his name was added as a cosponsor of S. 1681, *supra*.

S. 1682

At the request of Ms. CANTWELL, the name of the Senator from Vermont (Mr. SANDERS) was added as a cosponsor of S. 1682, a bill to provide the Commodity Futures Trading Commission with clear antimarket manipulation authority, and for other purposes.

S. 1724

At the request of Mr. SCHUMER, the name of the Senator from New Jersey (Mr. MENENDEZ) was added as a cospon-

sor of S. 1724, a bill to establish a competitive grant program in the Department of Justice to be administered by the Bureau of Justice Assistance which shall assist local criminal prosecutor's offices in investigating and prosecuting crimes of real estate fraud.

S. 1756

At the request of Mr. HARKIN, the name of the Senator from Pennsylvania (Mr. CASEY) was added as a cosponsor of S. 1756, a bill to amend the Age Discrimination in Employment Act of 1967 to clarify the appropriate standard of proof.

S. 1792

At the request of Mr. ROCKEFELLER, the name of the Senator from Kentucky (Mr. BUNNING) was added as a cosponsor of S. 1792, a bill to amend the Internal Revenue Code of 1986 to modify the requirements for windows, doors, and skylights to be eligible for the credit for nonbusiness energy property.

S. 1859

At the request of Mr. ROCKEFELLER, the name of the Senator from Louisiana (Mr. VITTER) was added as a cosponsor of S. 1859, a bill to reinstate Federal matching of State spending of child support incentive payments.

S. 1982

At the request of Mr. BROWN, the name of the Senator from Pennsylvania (Mr. CASEY) was added as a cosponsor of S. 1982, a bill to renew and extend the provisions relating to the identification of trade enforcement priorities, and for other purposes.

S. 2336

At the request of Mr. SESSIONS, the name of the Senator from New Hampshire (Mr. GREGG) was added as a cosponsor of S. 2336, a bill to safeguard intelligence collection and enact a fair and responsible reauthorization of the 3 expiring provisions of the USA PATRIOT Improvements and Reauthorization Act.

S. 2532

At the request of Mr. SPECTER, the name of the Senator from Tennessee (Mr. ALEXANDER) was added as a cosponsor of S. 2532, a bill to extend the temporary duty suspensions on certain cotton shirting fabrics, and for other purposes.

S. 2729

At the request of Ms. STABENOW, the name of the Senator from Pennsylvania (Mr. CASEY) was added as a cosponsor of S. 2729, a bill to reduce greenhouse gas emissions from uncapped domestic sources, and for other purposes.

S. 2730

At the request of Mr. BROWN, the name of the Senator from Minnesota (Mr. FRANKEN) was added as a cosponsor of S. 2730, a bill to extend and enhance the COBRA subsidy program under the American Recovery and Reinvestment Act of 2009.

S. RES. 71

At the request of Mr. WYDEN, the name of the Senator from Georgia (Mr. ISAKSON) was added as a cosponsor of S. Res. 71, a resolution condemning the Government of Iran for its state-sponsored persecution of the Baha'i minority in Iran and its continued violation of the International Covenants on Human Rights.

S. RES. 334

At the request of Mr. HATCH, the names of the Senator from Illinois (Mr. DURBIN) and the Senator from Ohio (Mr. BROWN) were added as cosponsors of S. Res. 334, a resolution designating Thursday, November 19, 2009, as "Feed America Day".

AMENDMENT NO. 2669

At the request of Mr. GRAHAM, the names of the Senator from Georgia (Mr. CHAMBLISS), the Senator from Texas (Mr. CORNYN) and the Senator from Utah (Mr. BENNETT) were added as cosponsors of amendment No. 2669 proposed to H.R. 2847, a bill making appropriations for the Departments of Commerce and Justice, and Science, and Related Agencies for the fiscal year ending September 30, 2010, and for other purposes.

AMENDMENT NO. 2685

At the request of Mr. SCHUMER, the name of the Senator from New Jersey (Mr. MENENDEZ) was added as a cosponsor of amendment No. 2685 intended to be proposed to H.R. 2847, a bill making appropriations for the Departments of Commerce and Justice, and Science, and Related Agencies for the fiscal year ending September 30, 2010, and for other purposes.

#### STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Ms. LANDRIEU (for herself and Mr. NELSON, of Florida):

S. 2731. A bill to improve disaster assistance provided by the Small Business Administration, and for other purposes; to the Committee on Small Business and Entrepreneurship.

Ms. LANDRIEU. Mr. President, I come to the floor today to speak on an issue that is of great importance to my home State of Louisiana—Federal disaster preparedness. As you know, along the Gulf Coast, we keep an eye trained on the Gulf of Mexico during hurricane season. This is following the devastating one-two punch of Hurricanes Katrina and Rita of 2005 as well as Hurricanes Gustav and Ike last year. Our communities and businesses are still recovering from these disasters—some from a disaster that devastated the Gulf Coast almost 5 years ago. For this reason, as Chair of the Senate Committee on Small Business and Entrepreneurship disaster preparedness is one of my top priorities. While the Gulf Coast is prone to hurricanes, other parts of the country are no strangers to

disaster. For example, the Midwest has tornadoes, California experiences earthquakes and wildfires, and the Northeast sees crippling snowstorms. So no part of our country is spared from disasters—disasters which can and will strike at any moment. With this in mind, we must ensure that the Federal Government is better prepared and has the tools necessary to respond quickly, effectively following a disaster.

As I mentioned, everyone around the country is familiar with the impact of Hurricanes Katrina and Rita on the New Orleans area and the southeast part of our state. Images from the devastation following these storms, and the subsequent Federal levee breaks, were transmitted around the country and around the world. This is because Katrina was the deadliest natural disaster in United States history, with 1,800 people killed—1,500 alone in Louisiana. Katrina was also the costliest natural disaster in United States history with over \$81.2 billion in damage. In Louisiana, we had 18,000 businesses catastrophically destroyed and 81,000 businesses economically impacted. I believe that, across the entire Gulf Coast, some estimates ran as high as 125,000 businesses impacted by Katrina and Rita. While we have made significant progress in rebuilding infrastructure, housing, and our economy, I continue to hear from individual business owners who are struggling to fully recover. These business owners tell me that they have not been hit by one disaster but three: Hurricane Katrina in 2005, Hurricane Gustav in 2008, and the economic downturn. Louisiana was slow to feel the brunt of the credit crunch and economic meltdown but last year we began to see the drying up of investments and the shrinking of consumers' pocketbooks.

One business owner that I have met with is Charles R. "Ray" Bergeron. He and his wife own Fleur de Lis Car Care Center in New Orleans, Louisiana. Small Business Administration, SBA, Administrator Karen Mills and I toured Mr. Bergeron's business during a visit to New Orleans on June 30, 2009. As a result of Hurricane Katrina, Mr. and Mrs. Bergeron found themselves having to take out two loans, one for their house and another for their small business. Pre-Katrina, Fleur de Lis Car Care Center had 8 employees. As of our visit in June, they were down to 2 employees not including Mr. Bergeron. They have a \$225,000 SBA disaster loan with a standard 30-year term. According to Mr. Bergeron, he will not pay it off until he is 101 years old. The business was back at about 40 percent of pre-Katrina sales, due in large measure to the population not being back. Their neighborhood is mostly empty homes. He attributes part of slow population recovery to high flood insurance premiums, high property taxes and high

homeowner's insurance. These are the type of businesses that we must ensure keep their doors open: businesses that took the initiative to re-open right after the disaster. These "pioneer" businesses serve as anchors to the community in the early days of recovery. If residents see their favorite restaurant open or the local gas station, they are more likely to come back to rebuild their homes.

In order to help ongoing recovery efforts in the Gulf Coast, and to give the SBA more tools to respond after a future disaster, I am introducing the Small Business Administration Disaster Recovery and Reform Act of 2009. This legislation builds off of SBA disaster reforms enacted last year and also provides targeted assistance for Gulf Coast recovery. My bill also includes an important provision authorizing SBA to help families impacted by defective drywall manufactured in the People's Republic of China.

In terms of immediate recovery assistance, Title I of the bill includes three provisions which I believe will help both Gulf Coast businesses as well as families nationwide dealing with toxic drywall in their homes. First, this bill amends Section 12086 added by SBA disaster reforms in the 2008 Farm Bill. This provision created a Gulf Coast Disaster Loan Refinancing Program. The intent of the program, as I understand it from my colleagues in the House of Representatives, was to allow Gulf Coast businesses and homeowners to defer for up to 4 years, payments on SBA disaster loans. This provision certainly had good intentions, however, we are a year on and the program has yet to be implemented. That is because in practice the program would likely be re-amortizing the same debt and, under the Credit Reform Act, to refinance a \$1,000,000 disaster loan would require \$1,000,000 in additional funding. To try to salvage this program, my bill would require SBA to report back to Congress in 30 days with recommendations on improving this program. These recommendations could include such additional options as modifying the end of the deferment date of loans, reducing interest payments on loans, extending out the term of loans to 35 years or other changes to the program that might make it more workable. I believe this program is on the right track, Congress just needs advice from the SBA on how we can make it work better to actually help people in the Gulf Coast.

The next provision in Title I relates to minority businesses in the Gulf Coast that were impacted by Hurricanes Katrina and Rita. Everyone is familiar with the images and the cost of these storms, but they may not be too familiar with the impact on individual businesses. In particular, I am speaking about the affects of Hurricanes Katrina and Rita on minority firms in

the Gulf Coast. As a result of these storms, many minority firms in the Gulf Coast were disrupted and thus lost valuable time for participating in the 8(a) program. The 8(a) business development initiative, created under the Small Business Administration, helps minority entrepreneurs access Federal contracts and allows companies to be certified for increments of three years. These contracts are vital to the revival of these impacted areas. However, as currently structured the program allows businesses to participate for a limited length of time, 9 years, after which they can never re-apply nor get back into the program. It is imperative that we provide contracting assistance to our local minority businesses.

My bill includes a provision which would tackle this problem in three important ways. First, the bill extends 8(a) eligibility for program participants in Katrina/Rita-impacted areas in Louisiana, Mississippi, and Alabama by 24 months. The bill would also apply to any areas in the state of Louisiana, Mississippi and Alabama that have been designated by the Administrator of the Small Business Administration as a disaster area as a result of Hurricanes Katrina or Rita. Lastly, the bill would require the administrator of the Small Business Administration to ensure that every small business participating in the 8(a) program before the date of enactment of the Act is reviewed and brought into compliance with this act. This requirement would ensure that any eligible previous 8(a) participants will be allowed back into the program. As such, these key provisions would ensure that these businesses continue to play a vital role in rebuilding their communities. I note that I introduced a similar provision as part of S. 3285, the Disadvantaged Business Disaster Eligibility Act during the 110th Congress. Last Congress, the proposal passed the House of Representatives but we were unable to pass the legislation here in the Senate before we adjourned for the year. I look forward to renewing my fight this Congress as I believe that this is a commonsense proposal which would not cost a great deal. It would, however, make a huge difference for these businesses impacted by Katrina and Rita.

The last recovery-related provision in Title I of the bill is focused on families impacted by defective drywall manufactured in the People's Republic of China. Since 2006, more than 550 million pounds of drywall have been imported to the United States from China. This drywall was used because at the time there was a shortage of product by domestic drywall producers and there was increased demand due to recovery from the 2004/2005 hurricanes and the housing boom. In the last 20 months, however, countless homeowners across the country have reported serious metal corrosion, noxious



fumes, and health concerns. Reported symptoms have included bloody noses, headaches, insomnia, and skin irritation. Preliminary testing has confirmed that imported defective drywall is the problem, but these tests have not been able to pinpoint the problem substance in the drywall.

Just last week, the Consumer Product Safety Commission, CPSC, released additional preliminary results of this drywall which did not identify the exact cause but did outline areas for concern. First, CPSC tested Chinese drywall and compared it with U.S.-made drywall. Chinese drywall contained elemental sulfur and higher levels of strontium—both not in domestic drywall. These findings are similar to May 2009 test results from the Environmental Protection Agency, EPA. Strontium and sulfur, in increased levels, have been linked to possible health problems. CPSC also carried out chamber testing on emissions from samples of Chinese-made and domestic drywall. Early results show that Chinese drywall emits volatile sulfur compounds at a higher rate than U.S. drywall. Further testing is underway to determine the specific compounds being emitted. Lastly, Federal officials analyzed indoor air results from 10 homes in Florida and Louisiana. This study led to a preliminary finding of detectable concentrations of two known irritants: acetaldehyde and formaldehyde. The concentrations were at levels that could worsen asthma or other conditions, especially when air conditioners were off/not working. Later this month, the CPSC is expected to release more comprehensive information on Chinese drywall. This includes results of a 50-home air sampling project and a preliminary engineering analysis of potential electrical/fire safety issues related to metal corrosion. Key to any results would be Federal recommendations on testing and remediation protocols for Chinese drywall. This would be crucial for homeowners who currently have no definitive way to prove they have Chinese drywall in their homes or procedures to remove the product for good.

In total, as of last week the CPSC had received 1,900 incident reports from 30 States, the District of Columbia and Puerto Rico. The majority of these reports, 1,317, came from Florida, with Louisiana next, 339, followed by Virginia, 69, Mississippi, 63, and Alabama, 32. These figures demonstrate that this problem is not just an obstacle to Gulf Coast recovery efforts but may also pose a threat to homeowners across the country.

To help homeowners struggling with this defective product, I have worked closely over the past few months with my Senate colleagues from Florida and Virginia. This summer, Senator BILL NELSON and I were successful, along with the leadership of the Senate Ap-

propriations Committee, in pushing the CPSC to allocate \$2,000,000 in unobligated funds to help the Chinese drywall investigation. Senator NELSON and Senators MARK WARNER and JIM WEBB from Virginia also wrote to the Internal Revenue Service inquiring if they could assist homeowners. The IRS indicated in July that homeowners may be able to claim a casualty loss on their tax returns if they have Chinese drywall that emits an unusual or severe concentration of chemical fumes that causes extreme and unusual damage. We have also written to the Federal Emergency Management Agency, FEMA, inquiring if the agency could provide emergency rental assistance as it has done in the past.

In July, my Senate colleagues and I wrote to the SBA asking what they could do under existing authority to help these families. In its October 29, 2009, response to this letter, SBA indicated that it did not currently have the authority to assist homeowners impacted by drywall. This is because, under the current law, SBA's definition of a disaster only includes typical natural disasters such as tornadoes, hurricanes, wildfires, or snowstorms. However, it is my understanding that for previous disasters, there is a precedent in Congress authorizing SBA to respond to a specific disaster and one instance where Congress tasked \$25,000,000 in existing funds to help ongoing recovery efforts. Manufacturers of this product should bear the majority of the financial burden for remediation but I believe there is a limited role for SBA to play in assisting homeowners with toxic drywall.

For this reason, the legislation I am introducing today includes an authorization for the SBA Administrator to provide disaster home loans in States in which a Governor declares a disaster because of defective drywall. The provision would cover drywall which entered the United States from China from 2004 to 2008 and is demonstrated to cause corrosion or property damage. I note that this provision would not provide SBA funds for losses or damage covered by insurance or other sources. This authorization also caps the funding at this program at no more than 25 percent of the funds appropriated for SBA disaster assistance. In a normal Appropriations cycle, this would equate to about \$25,000,000 in funds or \$250,000,000 in actual disaster loans. If enacted, this provision would go a long way towards helping these struggling families.

While it is important to respond to ongoing recovery-related needs across the country, we must also ensure that the SBA is better prepared for future disasters. To these ends, my committee held a field hearing in Galveston, Texas on September 25, 2009. This hearing focused on the initial Federal response and ongoing recovery efforts from Hur-

ricane Ike in 2008. The hearing was the first Congressional hearing held in Galveston since Hurricane Ike struck the Texas Gulf Coast last year. With this in mind, we were able to hear firsthand Federal, State, and local officials on the progress of rebuilding Galveston Island. My committee also heard from business owners on the challenges that emerged in the year that passed since Ike made landfall.

This hearing highlighted improvements in SBA's disaster programs since the 2005 storms. For example, after Katrina and Rita, the Federal response was slow; planning was insufficient, and staff and funding came up short. Following the 2005 storms, it took SBA 90 days to process a home loan and 70 days to process a business loan. After this woeful performance, I pushed for a change in SBA leadership and changes in the way they respond to disasters. In 2006, a new SBA Administrator, Steve Preston, took over and, at my request, he implemented a new SBA Disaster Response Plan in time for the 2007 hurricane season. This plan was a major improvement over the unwieldy, bureaucratic procedures that guided SBA post-Katrina/Rita. SBA will also be submitting to Congress in the next few weeks 2009 revisions to the Disaster Response Plan. I look forward to reviewing these changes in the event that additional improvements are needed.

Last year, as part of the 2008 Farm Bill, Congress also passed legislative reforms to SBA's disaster programs. These reforms, along with other key improvements: Increased SBA loan limits from \$1.5 million to \$2 million; created new tools such as bridge loans or private disaster loans following catastrophic disasters; required coordination between FEMA, SBA, and the IRS; and allowed nonprofits, for the first time, to be eligible for SBA economic injury disaster loans. Earlier this year, our committee heard testimony from local officials in southwest Louisiana that SBA was better prepared and more responsive following Gustav and Ike. As evidence of this, I note that it took 5 days to process a home loan following Ike, compared to the 90 days after Katrina and Rita. Business loans averaged a little over a week to process, compared to the 70 days in 2005.

However, although we heard about improvements to SBA's disaster response at the Galveston hearing, we also learned of additional areas that SBA could further improve its operations. While SBA is processing loans faster, there are still complaints from disaster victims on paperwork and bureaucracy. For example, as of August 31, SBA had received about 2,400 business applications for disaster assistance in Galveston County. 536 of those applications were approved for \$84 million but, to date, only \$24 million has been disbursed for 280 of these loans. In light of these facts, I am concerned



that 2008 disaster reforms might not have gone far enough in giving SBA the tools it needs to help businesses and homeowners after a future disaster. Title II of my legislation dovetails upon the reforms from last year to improve SBA coordination with other disaster response agencies. This section also makes SBA disaster loans more effective in reaching disaster victims most in need of assistance.

As indicated above, when Katrina hit, our businesses and homeowners had to wait months for loan approvals. I do not know how many businesses we lost because help did not come in time. Because of the scale of this disaster, what these businesses needed was immediate, short-term assistance to hold them over until SBA was ready to process the tens of thousands of loan applications it received. That is why in last year's SBA disaster reforms, I included a provision—the Expedited Disaster Assistance Loan Program—to allow the SBA Administrator with the ability to set up a program to make short-term, low-interest loans to keep them afloat. These loans will allow businesses to make payroll, begin making repairs, and address other immediate needs while they are awaiting insurance payouts or regular SBA Disaster Loans.

This provision also directed SBA to study ways to expedite disaster loans for those businesses in a disaster area that have a good, solid track record with the SBA or can provide vital recovery efforts. We had many businesses in the Gulf Coast that had paid off previous SBA loans, were major sources of employment in their communities, but had to wait months for decisions on their SBA Disaster Loan applications. I do not want to get rid of the SBA's current practice of reviewing applications on a first-come-first-served basis, but there should be some mechanism in place for major disasters to get expedited loans out the door to specific businesses that have a positive record with SBA or those that could serve a vital role in the recovery efforts. Expedited loans would jump-start impacted economies, get vital capital out to businesses, and retain essential jobs following future disasters.

While I am proud of this provision, I believe that with a few additional revisions, this program could be more successful. For this reason, Section 201 of this bill increases the loan limit from \$150,000 to \$250,000 and allows the SBA Administrator to utilize this program, as needed, in either a catastrophic or a major disaster. Currently, the program is limited only to a catastrophic disaster, despite the fact that another bridge loan program from the 2008 Farm Bill—the Immediate Disaster Assistance Loan Program—is available for both catastrophic and major disasters. I realize that every disaster is different and could range from a disaster

on the scale of Hurricane Katrina or 9/11, to an ice storm or drought. The modification in my bill would allow SBA additional options and flexibility in the kinds of relief they can offer a community. When a tornado destroys 20 businesses in a small town in the Midwest, SBA can get the regular disaster program up and running fairly quickly. You may not need short-term loans in this instance. But if you know that SBA's resources would be overwhelmed by a storm—just as they were initially with Katrina—these expedited business loans would be very helpful. This section also changes the name of the program to the “Pioneer Business Recovery Program” as the intent of the program is to help “second responder” or “pioneer” businesses that want to reopen immediately following a storm.

The next provision of my bill, Section 202, increases SBA disaster loan limits. In particular, it is my understanding that SBA's disaster home loan limits have not been adjusted since the 1990s. The current limit for SBA disaster loans to replace personal property is \$40,000, and the limit for SBA disaster loans to repair damaged homes is \$200,000. My legislation would increase the limits to \$80,000 and \$400,000, respectively. The bill also increases the SBA disaster business loan limit from \$2,000,000 to \$4,000,000. I believe that these increases would allow SBA to better address the needs of disaster victims in the future.

Section 203 of the bill authorizes SBA to create a State Bridge Loan Guarantee Program. This program would enhance existing partnerships between SBA and States which administer bridge loan programs following disasters. Currently, SBA consults with States pre-disaster on the structure of their program. This is to ensure that these programs run effectively and do not duplicate assistance provided by the SBA disaster assistance program. There are various States, including Louisiana and Florida, which have successful bridge loan programs, and other States which would consider this type of program if there was better Federal-State coordination. Section 203 would allow the SBA Administrator to issue guidelines on an SBA-approved bridge loan program. After issuing these guidelines, SBA could then review State applications and, if necessary, guarantee bridge loans from approved States following a disaster. I would note that this provision was part of S. 3664, the Small Business Disaster Recovery Assistance Improvements Act of 2006 which I introduced in the 109th Congress.

Another provision which I would like to highlight in this bill is Section 205. This section amends the Small Business Act to make aquaculture businesses eligible for SBA Economic Injury Disaster Loans. Currently, such

businesses, including crawfish farmers, oyster farmers, shellfish farmers, are excluded from eligibility for these loans. In Louisiana, our aquaculture businesses in the southern part of the State were hit hard by both Hurricane Katrina and Rita. These businesses, many crawfish farmers or those with fish farms, were ineligible for U.S. Department of Agriculture, USDA, disaster assistance, but were also ineligible for SBA disaster loans. We also learned that similar problems followed Hurricanes Gustav and Ike in 2008. I believe that the commonsense fix in my bill will give these businesses the help they need to recover from future disasters.

I am concerned about the larger problem which was raised by aquaculture businesses in my State being caught in limbo between USDA and SBA disaster programs. SBA for example provides physical and economic injury disaster loan assistance to businesses that are victims of a declared disaster. However, the Small Business Act excludes agricultural enterprises from eligibility. The act defines “agricultural enterprises” as “those businesses engaged in the production of food and fiber, ranching, and raising livestock, aquaculture, and all other farming and agricultural related industries.” Thus, if a business is an agricultural enterprise, SBA is prohibited from providing disaster loan assistance. Prior to 1976, agricultural enterprises were covered by USDA only, and between 1976 and 1986, several statutes allowed agricultural enterprises to be eligible for SBA assistance under certain conditions. As a result of a couple of factors though including duplication of benefits, disparity of service between SBA and USDA and loan shopping, Public Law, 99-272 repealed agricultural eligibility for SBA disaster loans. Since then, all agricultural enterprises have been referred to USDA for disaster loans.

Though USDA has several disaster programs, most are related to production loss of crops. The Farm Service Agency's Emergency Loan Program covers some agriculture related disaster losses, but operates under different eligibility rules from SBA. They are limited to production on agriculture operations and restrict eligibility to “family farm” operations. The disparity between eligibility requirements for the SBA and USDA has resulted in many agricultural businesses being ineligible for disaster assistance at all. Included in that category are horse-related businesses, feedlots, animal breeders and sellers, nurseries, floriculture, tree farms, fish or shellfish business, seed producers, along with others. That is because, to currently be eligible for an SBA disaster loan, a primarily agricultural enterprise must have a separable non-agricultural component, which may be eligible for physical disaster loan assistance provided

that it is a separate part of the agricultural enterprise, with separate income, operations, expenses, assets, etc. For economic injury disaster loan assistance, the Small Business Act limits eligibility to small businesses, small agricultural cooperatives, producer cooperatives, and private non-profit organizations. Therefore, the business must meet the eligibility requirements for a small business, and for purposes of EIDL eligibility, the activity of a business must be nonagricultural.

To try to identify some of these gaps between USDA and SBA disaster assistance, Section 209 would require SBA, in consultation with USDA, to report to Congress within 120 days. This report would identify gaps in assistance and provide recommended legislative/administrative changes to fix these problems. For my part, I would like to get these agencies on the same page to ensure that businesses in need—whether they be small businesses or agricultural businesses—are not deprived of assistance if a disaster happens in their area.

In closing, the legislation I am introducing today is an important first step for the Small Business Administration. That is because I am hopeful that, at the appropriate time, my committee can send to the full Senate legislation which will both reform SBA's disaster programs and address ongoing recovery needs across the country. With that goal in mind, I plan to work with my colleagues on both sides of the aisle in the coming months to identify their priorities on these issues.

Mr. President, I ask unanimous consent that the text of the bill and letters of support be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2731

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE.

This Act may be cited as the "Small Business Administration Disaster Recovery and Reform Act of 2009".

#### SEC. 2. DEFINITIONS.

In this Act—

(1) the terms "Administration" and "Administrator" mean the Small Business Administration and the Administrator thereof, respectively;

(2) the term "approved State Bridge Loan Program" means a State Bridge Loan Program approved under section 203(b);

(3) the term "small business concern" has the meaning given that term under section 3 of the Small Business Act; and

(4) the term "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Northern Mariana Islands, the Virgin Islands, Guam, American Samoa, and any territory or possession of the United States.

#### SEC. 3. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

Sec. 1. Short title.

Sec. 2. Definitions.

Sec. 3. Table of contents.

#### TITLE I—GULF COAST RECOVERY AND ASSISTANCE FOR HOMEOWNERS IMPACTED BY DRYWALL MANUFACTURED IN THE PEOPLE'S REPUBLIC OF CHINA

Sec. 101. Report on the Gulf Coast Disaster Loan Refinancing Program.

Sec. 102. Extension of participation term for victims of Hurricane Katrina or Hurricane Rita.

Sec. 103. Assistance for homeowners impacted by drywall manufactured in the People's Republic of China.

#### TITLE II—IMPROVEMENTS TO ADMINISTRATION DISASTER ASSISTANCE PROGRAMS

Sec. 201. Improvements to the Pioneer Business Recovery Program.

Sec. 202. Increased limits.

Sec. 203. State bridge loan guarantee.

Sec. 204. Modified collateral requirements.

Sec. 205. Aquaculture business disaster assistance.

Sec. 206. Regional outreach on disaster assistance programs.

Sec. 207. Duplication of benefits.

Sec. 208. Administration coordination on economic injury disaster declarations.

Sec. 209. Coordination between Small Business Administration and Department of Agriculture disaster programs.

Sec. 210. Technical and conforming amendment.

#### TITLE I—GULF COAST RECOVERY AND ASSISTANCE FOR HOMEOWNERS IMPACTED BY DRYWALL MANUFACTURED IN THE PEOPLE'S REPUBLIC OF CHINA

##### SEC. 101. REPORT ON THE GULF COAST DISASTER LOAN REFINANCING PROGRAM.

Section 12086 of the Food, Conservation, and Energy Act of 2008 (Public Law 110-246; 122 Stat. 2184) is amended by adding at the end the following:

"(g) REPORT TO CONGRESS.—

"(1) IN GENERAL.—Not later than 30 days after the date of enactment of this subsection, the Administrator shall submit to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives a report making recommendations regarding improvements to the program.

"(2) CONTENTS.—The report under paragraph (1) may include recommendations relating to—

"(A) modifying the end of the deferment date of Gulf Coast disaster loans;

"(B) reducing interest payments on Gulf Coast disaster loans, subject to the availability of appropriations;

"(C) extending the term of Gulf Coast disaster loans to 35 years; and

"(D) any other modification to the program determined appropriate by the Administrator."

##### SEC. 102. EXTENSION OF PARTICIPATION TERM FOR VICTIMS OF HURRICANE KATRINA OR HURRICANE RITA.

(a) RETROACTIVITY.—If a small business concern, while participating in any program or activity under the authority of paragraph (10) of section 7(j) of the Small Business Act (15 U.S.C. 636(j)), was located in a parish or county described in subsection (b) of this section and was affected by Hurricane

Katrina of 2005 or Hurricane Rita of 2005, the period during which that small business concern is permitted continuing participation and eligibility in that program or activity shall be extended for 24 months after the date such participation and eligibility would otherwise terminate.

(b) PARISHES AND COUNTIES COVERED.—Subsection (a) applies to any parish in the State of Louisiana, or any county in the State of Mississippi or in the State of Alabama, that has been designated by the Administrator as a disaster area by reason of Hurricane Katrina of 2005 or Hurricane Rita of 2005 under disaster declaration 10176, 10177, 10178, 10179, 10180, 10181, 10205, or 10206.

(c) REVIEW AND COMPLIANCE.—The Administrator shall ensure that the case of every small business concern participating before the date of enactment of this Act in a program or activity covered by subsection (a) is reviewed and brought into compliance with this section.

##### SEC. 103. ASSISTANCE FOR HOMEOWNERS IMPACTED BY DRYWALL MANUFACTURED IN THE PEOPLE'S REPUBLIC OF CHINA.

(a) DEFINITIONS.—In this section, the term "defective drywall" means drywall board that the Administrator determines—

(1) was manufactured in the People's Republic of China;

(2) was imported into the United States during the period beginning on January 1, 2004, and ending on December 31, 2008; and

(3) is directly responsible for substantial metal corrosion or other property damage in the dwelling in which the drywall is installed.

(b) DISASTER ASSISTANCE FOR HOMEOWNERS IMPACTED BY DEFECTIVE DRYWALL.—

(1) IN GENERAL.—The Administrator may, upon request by a Governor that has declared a disaster as a result of property loss or damage as a result of defective drywall, declare a disaster under section 7(b) of the Small Business Act (15 U.S.C. 636(b)) relating to the defective drywall.

(2) USES.—Assistance under a disaster declared under paragraph (1) may be used only for the repair or replacement of defective drywall.

(3) LIMITATION.—Assistance under a disaster declared under paragraph (1) may not—

(A) provide compensation for losses or damage compensated for by insurance or other sources; and

(B) exceed more than 25 percent of the funds appropriated to the Administration for disaster assistance during any fiscal year.

#### TITLE II—IMPROVEMENTS TO ADMINISTRATION DISASTER ASSISTANCE PROGRAMS

##### SEC. 201. IMPROVEMENTS TO THE PIONEER BUSINESS RECOVERY PROGRAM.

(a) IN GENERAL.—Section 12085 of the Food, Conservation, and Energy Act of 2008 (15 U.S.C. 636j) is amended—

(1) in the section heading, by striking "EXPEDITED DISASTER ASSISTANCE LOAN PROGRAM" and inserting "PIONEER BUSINESS RECOVERY PROGRAM";

(2) by striking "expedited disaster assistance business loan program" each place it appears and inserting "Pioneer Business Recovery Program";

(3) in subsection (b) by striking "paragraph (9)" and all that follows and inserting "section 7(b) of the Small Business Act (15 U.S.C. 636(b))."; and

(4) in subsection (d)(3)(A), by striking "\$150,000" and inserting "\$250,000".

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of contents in section 1(b)

of the Food, Conservation, and Energy Act of 2008 (Public Law 110-246; 122 Stat. 1651) is amended by striking the item relating to section 12085 and inserting the following:

“Sec. 12085. Pioneer Business Recovery Program.”.

#### SEC. 202. INCREASED LIMITS.

Section 7 of the Small Business Act (15 U.S.C. 636) is amended—

- (1) in subsection (d)(6)—
- (A) by striking “\$100,000” and inserting “\$400,000”; and
- (B) by striking “\$20,000” and inserting “\$80,000”;
- (2) by striking “(e) [RESERVED].”; and
- (3) by striking “(f) [RESERVED].”.

#### SEC. 203. STATE BRIDGE LOAN GUARANTEE.

(a) AUTHORIZATION.—After issuing guidelines under subsection (c), the Administrator may guarantee loans made under an approved State Bridge Loan Program.

(b) APPROVAL.—

(1) APPLICATION.—A State desiring approval of a State Bridge Loan Program shall submit an application to the Administrator at such time, in such manner, and accompanied by such information as the Administrator may require.

(2) CRITERIA.—The Administrator may approve an application submitted under paragraph (1) based on such criteria as the Administrator may establish under this section.

(c) GUIDELINES.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Administrator shall issue to the appropriate economic development officials in each State, the Committee on Small Business and Entrepreneurship of the Senate, and the Committee on Small Business of the House of Representatives, guidelines regarding approved State Bridge Loan Programs.

(2) CONTENTS.—The guidelines issued under paragraph (1) shall—

- (A) identify appropriate uses of funds under an approved State Bridge loan Program;
- (B) set terms and conditions for loans under an approved State Bridge loan Program;
- (C) address whether—
- (i) an approved State Bridge Loan Program may charge administrative fees; and
- (ii) loans under an approved State Bridge Loan Program shall be disbursed through local banks and other financial institutions; and
- (D) establish the percentage of a loan the Administrator will guarantee under an approved State Bridge Loan Program.

#### SEC. 204. MODIFIED COLLATERAL REQUIREMENTS.

Section 7(d)(6) of the Small Business Act (15 U.S.C. 636(d)(6)) is amended by inserting after “which are made under paragraph (1) of subsection (b)” the following: “: *Provided further*, That the Administrator shall not require collateral for a loan of not more than \$200,000 under paragraph (1) or (2) of subsection (b) relating to damage to or destruction of property of, or economic injury to, a small business concern”.

#### SEC. 205. AQUACULTURE BUSINESS DISASTER ASSISTANCE.

Section 18(b)(1) of the Small Business Act (15 U.S.C. 647(b)(1)) is amended—

- (1) by striking “aquaculture.”; and
- (2) by inserting before the semicolon “, and does not include aquaculture”.

#### SEC. 206. REGIONAL OUTREACH ON DISASTER ASSISTANCE PROGRAMS.

(a) REPORT.—In accordance with sections 7(b)(4) and 40(a) of the Small Business Act (15

U.S.C. 636(b)(4) and 6571(a)) and not later than 60 days after the date of enactment of this Act, the Administrator shall submit to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives, a report detailing—

- (1) information on the disasters, manmade or natural, most likely to occur in each region of the Administration and likely scenarios for each disaster in each region;
- (2) information on plans of the Administration, if any, to conduct annual disaster outreach seminars, including events with resource partners of the Administration, in each region before periods of predictable disasters described in paragraph (1);
- (3) information on plans of the Administration for satisfying the requirements under section 40(a) of the Small Business Act not satisfied on the date of enactment of this Act; and
- (4) such additional information as determined necessary by the Administrator.

(b) AVAILABILITY OF INFORMATION.—The Administrator shall—

- (1) post the disaster information provided under subsection (a) on the website of the Administration; and
- (2) make the information provided under subsection (a) available, upon request, at each regional and district office of the Administration.

#### SEC. 207. DUPLICATION OF BENEFITS.

(a) FINDINGS.—Congress finds the following:

(1) Section 312 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5155) states the following:

(A) “The President, in consultation with the head of each Federal agency administering any program providing financial assistance to persons, business concerns, or other emergency, shall assure that no such person, business concern, or other entity will receive such assistance with respect to any part of such loss as to which he has received financial assistance under any other program or from insurance or any other source.”.

(B) “Receipt of partial benefits for a major disaster or emergency shall not preclude provision of additional Federal assistance for any part of a loss or need for which benefits have not been provided.”.

(C) A recipient of Federal assistance will be liable to the United States “to the extent that such assistance duplicates benefits available to the person for the same purpose from another source.”.

(2) The Administrator should make every effort to ensure that disaster recovery needs unmet by Federal and private sources are not overlooked in determining duplication of benefits for disaster victims.

(b) REVISED DUPLICATION OF BENEFITS CALCULATIONS.—The Administrator may, after consultation with other relevant Federal agencies, determine whether benefits are duplicated after a person receiving assistance under section 7(b) of the Small Business Act (15 U.S.C. 636(b)) receives other Federal disaster assistance by a disaster victim.

#### SEC. 208. ADMINISTRATION COORDINATION ON ECONOMIC INJURY DISASTER DECLARATIONS.

Not later than 180 days after the date of enactment of this Act, the Administrator shall submit to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives, a report providing—

- (1) information on economic injury disaster declarations under section 7(b)(2) of the

Small Business Act (15 U.S.C. 636(b)(2)) made by the Administrator during the 10-year period ending on the date of enactment of this Act based on a natural disaster declaration by the Secretary of Agriculture;

(2) information on economic injury disaster declarations under section 7(b)(2) of the Small Business Act (15 U.S.C. 636(b)(2)) made by the Administrator during the 10-year period ending on the date of enactment of this Act based on a fishery resource disaster declaration from the Secretary of Commerce;

(3) information on whether the disaster response plan of the Administration under section 40 of the Small Business Act (15 U.S.C. 6571) adequately addresses coordination with the Secretary of Agriculture and the Secretary of Commerce on economic injury disaster assistance under section 7(b)(2) of the Small Business Act (15 U.S.C. 636(b)(2));

(4) recommended legislative changes, if any, for improving agency coordination on economic injury disaster declarations under section 7(b)(2) of the Small Business Act (15 U.S.C. 636(b)(2)); and

(5) such additional information as determined necessary by the Administrator.

#### SEC. 209. COORDINATION BETWEEN SMALL BUSINESS ADMINISTRATION AND DEPARTMENT OF AGRICULTURE DISASTER PROGRAMS.

(a) DEFINITIONS.—In this section—

(1) the term “agricultural small business concern” means a small business concern that is an agricultural enterprise, as defined in section 18(b)(1) of the Small Business Act (15 U.S.C. 647(b)(1)), as amended by this Act; and

(2) the term “rural small business concern” means a small business concern located in a rural area, as that term is defined in section 1393(a)(2) of the Internal Revenue Code of 1986.

(b) REPORT.—Not later than 120 days after the date of enactment of this Act, the Administrator, in consultation with the Secretary of Agriculture, shall submit to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives, a report detailing—

(1) information on disaster assistance programs of the Administration for rural small business concerns and agricultural small business concerns;

(2) information on industries or small business concerns excluded from programs described in paragraph (1);

(3) information on disaster assistance programs of the Department of Agriculture to rural small business concerns and agricultural small business concerns;

(4) information on industries or small business concerns excluded from programs described in paragraph (3);

(5) information on disaster assistance programs of the Administration that are duplicative of disaster assistance programs of the Department of Agriculture;

(6) information on coordination between the two agencies on implementation of disaster assistance provisions of the Food, Conservation, and Energy Act of 2008 (Public Law 110-246; 122 Stat. 1651), and the amendments made by that Act;

(7) recommended legislative or administrative changes, if any, for improving coordination of disaster assistance programs, in particular relating to removing gaps in eligibility for disaster assistance programs by rural small business concerns and agricultural small business concerns; and

(8) such additional information as determined necessary by the Administrator.

## SEC. 210. TECHNICAL AND CONFORMING AMENDMENT.

Section 7(b) of the Small Business Act (15 U.S.C. 636(b)) is amended in the matter following paragraph (9), by striking "section 312(a) of the Disaster Relief and Emergency Assistance Act" and inserting "section 312(a) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5155(a))".

SMALL BUSINESS ADMINISTRATION,  
OFFICE OF THE ADMINISTRATOR,  
Washington, DC, October 28, 2009.

Hon. MARY LANDRIEU,  
*Chairwoman, Committee on Small Business & Entrepreneurship, U.S. Senate, Washington, DC.*

DEAR MADAM CHAIRWOMAN: Thank you for your letter requesting that the U.S. Small Business Administration (SBA) review its existing authority under the Stafford Act to provide disaster assistance to affected businesses and homeowners impacted by the use of allegedly defective drywall. Having toured New Orleans earlier this year, I share your concern for the victims of Hurricane Katrina.

The Stafford Act is the general statutory authority for most Federal disaster response activities as they pertain to Federal Emergency Management Authority (FEMA) programs. When, pursuant to the Stafford Act, the President declares a Major Disaster or emergency and authorizes Federal assistance, including individual assistance, SBA is authorized to make physical disaster loans and economic injury disaster loans to disaster victims. In addition, SBA has the authority under the Small Business Act (Act) to issue disaster declarations and to make physical and economic injury disaster loans to disaster victims in SBA-declared disasters. Under the Act, a "disaster" is generally defined as a sudden event which causes severe damage. Product defects do not fall within the statutory definition for a "disaster." Thus, SBA has never based a disaster declaration on defective products. While we are sympathetic to these victims, the installation of defective drywall likewise would not fall within this statutory definition and could not serve as the basis for an SBA disaster declaration.

In response to the specific issues raised in your letter, SBA does have the authority to disburse additional funds to existing disaster borrowers for disaster-related damage that is discovered within a reasonable time after original loan approval and before repairs are complete. However, if the repair, replacement or rehabilitation of the disaster-damaged property has been completed, SBA does not increase an existing loan.

You also asked whether SBA may issue a disaster declaration based on a request from a Governor. After SBA receives a request from a Governor that satisfies the statutory and regulatory requirements, SBA can issue a physical or economic injury disaster declaration and make low interest loans to cover uninsured losses. As noted above, however, the installation of defective drywall would not qualify as a disaster under the SBA's statutory definition.

Thank you again for your continued support of the SBA disaster loan program and the small business community. A similar response is being sent to your colleagues, Senators Nelson, Warner, and Webb.

With warmest regards,

KAREN G. MILLS.

U.S. SENATE,

Washington, DC, July 28, 2009.

Hon. KAREN G. MILLS,  
*Administrator, U.S. Small Business Administration, Washington, DC.*

DEAR ADMINISTRATOR MILLS: As we write to you, the Consumer Product Safety Commission (CPSC) and the Environmental Protection Agency (EPA), in coordination with other Federal and State agencies, are conducting a comprehensive investigation into the health and safety impacts of Chinese-made drywall on American consumers. The U.S. Small Business Administration (SBA) has an important role in disaster response and recovery efforts—helping both homeowners and businesses impacted by manmade and natural disasters. We believe that, at the appropriate time, your agency may be of assistance to homeowners impacted by this toxic product.

Since 2006, more than 550 million pounds of drywall have been imported to the United States from China. In the last 18 months, countless homeowners across the country have reported serious metal corrosion, noxious fumes and health concerns. Reported symptoms have included bloody noses, headaches, insomnia and skin irritation. Preliminary testing has confirmed that imported defective drywall is the problem, but these tests have not been able to pinpoint the specific problem substance within the drywall. More comprehensive results are expected from CPSC and EPA in August/September. In total, the CPSC has received 608 incident reports from 21 states and the District of Columbia, demonstrating that this poses a threat to homeowners across the country.

With this in mind, we respectfully request that the SBA review its existing authority under the Stafford Act and respond no later than August 28, 2009 on the following:

Whether SBA may disburse additional funds on SBA Real Property Disaster Loans from previous disaster or emergency declarations (such as Hurricanes Katrina and Rita in 2005, the 2004 Florida Hurricanes, the 2008 Midwest floods, or other emergency/disaster declarations).

Also outline if the SBA can waive the two year time limit for requesting an increase in loan limits since extraordinary and unforeseeable circumstances may apply in this situation;

Whether SBA—following a written request from a Governor that has declared a disaster or emergency—may make a physical disaster declaration if homes, businesses or a combination of the two, have sustained uninsured losses; and

Whether SBA may make an economic injury declaration if it is demonstrated that at least five small businesses in a disaster area have suffered economic injury as a result of the disaster or emergency and are in need of financial help not otherwise available.

In closing, families in our states are, in many cases, watching their dream homes turn into nightmares. As the Federal government determines the full size and scope of this disaster, we believe it is important to marshal all appropriate Federal resources that may assist these families. We therefore thank you for your consideration of this important request.

Sincerely,

MARY L. LANDRIEU,  
*U.S. Senator.*

BILL NELSON,  
*U.S. Senator.*

MARK R. WARNER,  
*U.S. Senator.*

JIM WEBB,

U.S. Senator.

By Mr. FRANKEN (for himself and Mr. LUGAR):

S. 2734. A bill to amend the Public Health Service Act with respect to the prevention of diabetes, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. FRANKEN. Mr. President, right now many of us are engaged in a worthwhile discussion about health care and health insurance. These are immensely important topics, and I look forward to working with all colleagues to pass health reform this year. In these broader discussions, it is easy to forget that the best way to become a healthier country with lower health care costs is to prevent Americans from becoming sick in the first place. A great place to prioritize wellness over sickness comes in our prevention of diabetes.

Today 24 million Americans suffer from diabetes, and the epidemic is getting worse. If we do not make some changes soon, the prevalence of the disease will double over the next 30 years. The annual cost of diabetes in the country is expected to reach \$338 billion by 2020. Right now 57 million Americans are what is considered prediabetic.

That means they are at risk of developing the full-blown disease because they have high blood pressure or high glucose levels. These statistics include over a million adults and 92,000 youth in my State alone. These are Minnesotans who may find out tomorrow they have become diabetic.

We know that diabetes may become debilitating and require costly medical interventions, from daily injections of insulin all the way to amputations. We know how devastating this disease is from the stories we hear when we are back home.

This week I was on the floor and shared the story of Liz MacCaskie from Minneapolis. She lost her job in September and is 58 years old, my exact age. She lives with diabetes and was just diagnosed with kidney failure. She is paying close to \$20,000 a year for her insurance and trying to live on \$1,000 a month.

If we could help people such as Liz avoid the pain and suffering that comes from diabetes, it would be a healthier, more prosperous country. The good news is that we can help Americans avoid this costly and debilitating disease. Research has shown that prediabetics can avoid full-blown diabetes if they receive access to community services such as nutrition counseling and gym memberships. These are proven to cut the risk of developing diabetes in half.

I am pleased to be offering legislation with Senator LUGAR to ensure that prediabetics have access to services that will stop this disease in its

tracks. The Diabetes Prevention Act is based on an NIH research study done in partnership with the YMCA in Indiana. The study showed that a 16-week intensive lifestyle program can prevent diabetes and cost less than \$300 per person—less than \$300 per person—per year. Studies have shown us that this investment can save us money within 2 to 3 years.

The Minnesota Department of Health has been working with our local YMCAs in Willmar, Rochester, and Minneapolis to implement this program. We have a diverse group of instructors who speak Spanish, Hmong, Somali, and American Sign Language. They include parish nurses, dietitians, and community health educators. All these folks are helping community members to eat healthier and become more physically active. For the lucky people who get to participate in these programs, it is working. They are losing weight, getting healthier, and avoiding diabetes.

But right now, these efforts are a drop in the bucket because the epidemic is so great. With this bill, we will replicate this cost-effective program and improve the lives of millions of Americans. This bill will help communities across the country to set up diabetes prevention programs—on Indian reservations, in rural areas, and urban centers. Ultimately, health insurance companies will be reimbursing for these services because prevention saves money and it saves lives.

This is an investment in our Nation's future. I look forward to working with my colleagues to enact this important legislation.

By Mr. FRANKEN (for himself,  
Mr. GRASSLEY, Mrs. FEINSTEIN,  
and Mr. HATCH):

S. 2736. A bill to reduce the rape kit backlog and for other purposes; to the Committee on the Judiciary.

Mr. FRANKEN. Mr. President, sexual assault is a heinous crime. It is also a startlingly common one. Last year, 90,000 people were raped. We as a Nation have an obligation to help the survivors of sexual assault—by providing them prompt medical attention, and by bringing their assailants to justice.

Thanks to modern technology, we have an unparalleled tool to bring sexual predators to justice: forensic DNA analysis. Using the DNA evidence collected in a rape kit, a police department can conclusively identify an assailant—even when the survivor cannot visually identify her attacker. When DNA collected in rape kits matches existing DNA records, police can quickly capture habitual rapists before they strike again. Rape kit DNA evidence is survivors' best bet for justice. It is also communities' best bet for public safety.

Unfortunately, we have failed to make adequate use of DNA analysis. In

1999, a study commissioned by the National Institute of Justice estimated that there was a backlog of over 180,000 untested rape kits. In 2004, responding to studies like this one, then-Senator BIDEN, Chairman LEAHY and others worked to pass the Debbie Smith Act, a law named after a rape survivor whose backlogged rape kit was tested six years after her assault. That act provided federal funding for the testing of backlogged DNA evidence. Unfortunately, it did not require those funds to test DNA evidence in rape kits.

Because of this loophole—and because many States and localities simply did not use the Debbie Smith funds they were allocated—the promise of the Debbie Smith Act remains unfulfilled. Since 2004, the federal government has distributed about \$500 millions in Debbie Smith grants to law enforcement agencies around the country. Local figures suggest that these funds have not had their intended effect. In March 2009, Los Angeles County had 12,500 untested rape kits in police storage. L.A. County is not alone. This fall, the Houston Police Department found at least 4,000 untested rape kits in storage, and Detroit reported a backlog of possibly 10,000 kits.

Those are just three cities. This means that potentially hundreds of thousands of rape kits are sitting, untested, in police departments and crime labs around the country. That is hundreds of thousands of women who have not seen justice. That is countless assailants still free and countless new assaults that have occurred because of this. The New York Times recently highlighted a case which occurred years after the passage of The Debbie Smith Act where a rapist struck twice while the rape kit for one of his earlier victims sat unprocessed at a State crime lab. Sadly, that lab's four month processing delay was one of the shortest in the state.

When rape kits are not tested, rapists are not caught. When rape kits are not tested, more women are raped. Having a backlog of thousands of kits endangers our communities and sends a clear message to perpetrators and survivors of sexual violence: that cases of sexual assault are not a priority. Unfortunately, because our Nation lacks any mechanism to track rape kit backlogs, we have no way of knowing the full scope of this rape kit backlog and the national tragedy that it causes.

The Justice for Survivors of Sexual Assault Act of 2009, which I am introducing today with Senator GRASSLEY, Senator FEINSTEIN, and Senator HATCH, addresses the national rape kit backlog and several other problems that work to deny justice to survivors of sexual assault. These include the denial of free rape kits to survivors of sexual assault, and the shortage of trained health professionals capable of administering rape kit exams.

First, this bill will create strong financial incentives for states to clear their rape kit backlogs once and for all. This bill will reward states who make progress in clearing up their rape kit backlog and start processing their incoming rape kits in a timely manner. It will penalize those that don't, while allowing them the opportunity to regain any lost funds. Having a backlog is not an impossible situation to remedy. In just a few years, the city of New York cleaned up their rape kit backlog, and as a result, saw its arrest rate for rapes jump from 40 to 70 percent.

Second, this bill will put measures in place to track progress and hold States and localities accountable. Law enforcement agencies will be responsible for reporting their reductions of rape kit backlogs, and the Department of Justice will be responsible for analyzing that data and reporting back to Congress.

Third, this bill will guarantee that survivors of sexual assault don't ever pay for their rape kits. Right now, States must cover the full cost of a rape kit examination, either upfront or through reimbursement. But some states don't even cover half of the cost. Survivors who live in States who are in compliance with the law still mistakenly receive bills because of the confusing nature of the reimbursement process. We don't bill criminals for fingerprint processing. Survivors of sexual assault should never see the bill for their rape kit exam, let alone pay any upfront costs.

Fourth, this bill will train more health professionals to administer rape kit exams. If survivors of sexual assault are lucky enough to have their rape kit processed, it is important to ensure it is not declared inadmissible in court due to faulty evidence collection.

Lastly, this bill will provide funds for a study on the availability of trained health professionals to administer rape kit exams at Indian Health Services facilities. Recent studies have shown that Native American women suffer a disproportionately high amount of sexual violence, and we need to make sure that IHS has the proper resources it needs to serve survivors.

We have waited too long to address the rape kit backlog in the United States to the detriment of survivors and our communities. It is time to aggressively clear rape kit backlogs and put rapists where they belong: off our streets and behind bars. With the Federal Government beginning to collect more DNA samples from convicted, non-violent offenders and dozens of State governments following its lead inaction now would mean that rape kits wait longer on the shelf, rape survivors wait longer for justice, and rapists spend more time on the streets.

Survivors of sexual assault do not deserve this. They deserve justice. I want

to continue Congress's work in trying to address this issue. In doing so, I follow in the footsteps of people like Vice President BIDEN and Chairman LEAHY, who have consistently and powerfully championed sexual assault survivors within the Senate Judiciary Committee and on the floor of the Senate.

I ask that my colleagues join Senator GRASSLEY, Senator FEINSTEIN, Senator HATCH, and me in supporting the Justice for Survivors of Sexual Assault Act of 2009.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 2736

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE.

This Act may be cited as the "Justice for Survivors of Sexual Assault Act of 2009".

#### SEC. 2. FINDINGS.

Congress finds the following:

(1) Rape is a serious problem in the United States.

(2) The Department of Justice reports that in 2006, there were an estimated 261,000 rapes and sexual assaults, and studies show only 1/3 of rapes are reported.

(3) The collection and testing of DNA evidence is a critical tool in solving rape cases. Law enforcement officials using the Combined DNA Index System have matched unknown DNA evidence taken from crime scenes with known offender DNA profiles in the State and National DNA database 2,371 times.

(4) Despite the availability of funding under the amendments made by the Debbie Smith Act of 2004 (title II of Public Law 108-405; 118 Stat. 2266) there exists a significant rape kit backlog in the United States.

(5) A 1999 study commissioned by the National Institute of Justice estimated that there was an annual backlog of 180,000 rape kits that had not been analyzed.

(6) No agency regularly collects information regarding the scope of the rape kit backlog in the United States.

(7) Certain States cap reimbursement for rape kits at levels that are less than 1/2 the average cost of a rape kit in those States. Yet, section 2010 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796gg-4) requires that in order to be eligible for grants under part T of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796gg et seq.) (commonly known as "STOP Grants") States shall administer rape kits to survivors free of charge or provide full reimbursement.

(8) There is a lack of sexual assault nurse examiners and health professionals who have received specialized training specific to sexual assault victims.

#### SEC. 3. PURPOSE.

The purpose of this Act is to seek appropriate means to address the problems surrounding forensic evidence collection in cases of sexual assault, including rape kit backlogs, reimbursement for or free provision of rape kits, and the availability of trained health professionals to administer rape kit examinations.

#### SEC. 4. RAPE KIT BACKLOGS.

(a) ADDITIONAL PROTOCOL REQUIREMENT FOR RECEIVING EDWARD BYRNE GRANTS.—Section

502 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3752) is amended—

(1) by redesignating paragraph (5) as paragraph (6); and

(2) by inserting after paragraph (4) the following:

"(5) A certification that the applicant has implemented a policy requiring all rape kits collected by or on behalf of the applicant to be sent to crime laboratories for forensic analysis."

(b) ADDITIONAL DEBBIE SMITH GRANT REQUIREMENTS; DEFINITIONS.—Section 2 of the DNA Analysis Backlog Elimination Act of 2000 (42 U.S.C. 14135) is amended—

(1) in subsection (a)(2), by striking "samples from rape kits, samples from other sexual assault evidence, and samples taken in cases without an identified suspect." and inserting "to eliminate a rape kit backlog and to ensure that DNA analyses of samples from rape kits are carried out in a timely manner.";

(2) in subsection (b)—

(A) paragraph (6), by striking "and" at the end;

(B) in paragraph (7), by striking the period at the end and inserting a semicolon; and

(C) by adding at the end the following:

"(8) If the State or unit of local government has a rape kit backlog, include a plan to eliminate the rape kit backlog that includes performance measures to assess progress of the State or local unit of government toward a 50 percent reduction in the rape kit backlog over a 2-year period; and

"(9) specify the portion of the amounts made available under the grant under this section that the State or unit of local government shall use for the purpose of DNA analyses of samples from untested rape kits.";

(3) in subsection (f)—

(A) in paragraph (1), by striking "and" at the end;

(B) by redesignating paragraph (2) as paragraph (3); and

(C) by inserting after paragraph (1) the following:

"(2) the amount of funds from a grant under this section expended for the purposes of DNA analyses for untested rape kits; and"

(4) by striking subsection (i) and inserting the following:

"(i) DEFINITIONS.—In this section:

"(1) RAPE KIT.—The term 'rape kit' means DNA evidence relating to—

"(A) sexual assault (as defined in section 4002(a) of the Violence Against Women Act of 1994 (42 U.S.C. 13925(a))); or

"(B) conduct described in section 2251, 2251A, or 2252 of chapter 110 of title 18, United States Code, regardless of whether the conduct affects interstate commerce.

"(2) RAPE KIT BACKLOG.—The term 'rape kit backlog' means untested rape kits that are in the possession or control of—

"(A) a law enforcement agency; or

"(B) a public or private crime laboratory.

"(3) STATE.—The term 'State' means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, American Samoa, Guam, and the Northern Mariana Islands.

"(4) UNTESTED RAPE KIT.—The term 'untested rape kit' means a rape kit collected from a victim that—

"(A) has not undergone forensic analysis; and

"(B) for a combined total of not less than 60 days, has been in the possession or control of—

"(i) a law enforcement agency; or

"(ii) a public or private crime laboratory.".

(c) ADJUSTING BYRNE GRANT FUNDS FOR COMPLIANCE AND NONCOMPLIANCE; STATISTICAL REVIEW.—Section 505 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3755) is amended by adding at the end the following:

"(i) ADJUSTING BYRNE GRANT FUNDS FOR COMPLIANCE AND NONCOMPLIANCE.—

"(1) DEFINITION.—In this subsection the term 'date for implementation' means the last day of the second fiscal year beginning after the date of enactment of this subsection.

"(2) ADDITIONAL FUNDS FOR COMPLIANCE.—

"(A) REDUCTION OF RAPE KIT BACKLOG.—

"(i) 50 PERCENT REDUCTION.—For any fiscal year beginning after the date of enactment of this subsection, a State or unit of local government shall receive an allocation under this section in an amount equal to 110 percent of the otherwise applicable allocation to the State or unit of local government if the State or unit of local government reduced the rape kit backlog by not less than 50 percent, as compared to the date of enactment of this subsection.

"(ii) 75 PERCENT REDUCTION.—For any fiscal year beginning after the date of enactment of this subsection—

"(I) a State or unit of local government that has received additional funds under clause (i) in any previous fiscal year shall receive an allocation under this section in an amount equal to 110 percent of the otherwise applicable allocation to the State or unit of local government if the State or unit of local government reduced the rape kit backlog by not less than 75 percent, as compared to the date of enactment of this subsection; and

"(II) a State or unit of local government that has not received additional funds under clause (i) in any previous fiscal year shall receive an allocation under this section in an amount equal to 120 percent of the otherwise applicable allocation to the State or unit of local government if the State or unit of local government reduced the rape kit backlog by not less than 75 percent, as compared to the date of enactment of this subsection.

"(iii) 95 PERCENT REDUCTION.—For any fiscal year beginning after the date of enactment of this subsection—

"(I) a State or unit of local government that has received additional funds under clause (ii) in any previous fiscal year shall receive an allocation under this section in an amount equal to 110 percent of the otherwise applicable allocation to the State or unit of local government if the State or unit of local government reduced the rape kit backlog by not less than 95 percent, as compared to the date of enactment of this subsection;

"(II) a State or unit of local government that has received additional funds under clause (i) in any previous fiscal year, and has not received additional funds under clause (ii) in any previous fiscal year, shall receive an allocation under this section in an amount equal to 120 percent of the otherwise applicable allocation to the State or unit of local government if the State or unit of local government reduced the rape kit backlog by not less than 95 percent, as compared to the date of enactment of this subsection; and

"(III) a State or unit of local government that has not received additional funds under clause (i) or (ii) in any previous fiscal year shall receive an allocation under this section in an amount equal to 130 percent of the otherwise applicable allocation to the State or unit of local government if the State or unit



of local government reduced the rape kit backlog by not less than 95 percent, as compared to the date of enactment of this subsection.

“(B) **TIMELY PROCESSING.**—For the first fiscal year beginning after the date of enactment of this subsection, and each fiscal year thereafter, a State or unit of local government that, during the previous fiscal year, tested 95 percent of all rape kits collected from a victim during that previous fiscal year not later than 60 days after the date the rape kit was taken into the possession or control of a law enforcement agency of the State or unit of local government shall receive an allocation under this section in an amount equal to 105 percent of the otherwise applicable allocation to the State or unit of local government.

“(3) **WITHHOLDING OF GRANT FUNDS FOR NON-COMPLIANCE.**—

“(A) **FAILURE TO REDUCE RAPE KIT BACKLOG.**—

“(i) **YEAR 1.**—For the first fiscal year after the date for implementation, a State or unit of local government shall receive an allocation under this section in an amount equal to 90 percent of the otherwise applicable allocation to the State or unit of local government if the State or unit of local government—

“(I) has a rape kit backlog;

“(II) received a grant under this subpart during each of the 2 previous fiscal years; and

“(III) has failed to reduce the rape kit backlog by not less than 50 percent, as compared to the date of enactment of this subsection.

“(ii) **YEAR 3.**—For the third fiscal year beginning after the date for implementation, a State or unit of local government shall receive an allocation under this section in an amount equal to 90 percent of the otherwise applicable allocation to the State or unit of local government if the State or unit of local government—

“(I) has a rape kit backlog;

“(II) received a grant under this subpart during the previous fiscal year; and

“(III) has failed to reduce the rape kit backlog by not less than 75 percent, as compared to the date of enactment of this subsection.

“(iii) **YEARS 5, 7, AND 9.**—For each of the fifth, seventh, and ninth fiscal years beginning after the date for implementation, a State or unit of local government shall receive an allocation under this section in an amount equal to 90 percent of the otherwise applicable allocation to the State or unit of local government if the State or unit of local government—

“(I) has a rape kit backlog;

“(II) received a grant under this subpart during the previous fiscal year; and

“(III) has failed to reduce the rape kit backlog by not less than 95 percent, as compared to the date of enactment of this subsection.

“(B) **TIMELY PROCESSING.**—For the second fiscal year beginning after the date for implementation, and each fiscal year thereafter, a State or unit of local government that, during the previous fiscal year, tested less than 95 percent of the rape kits collected from a victim during that previous fiscal year not later than 90 days after the date the rape kit was taken into the possession or control of a law enforcement agency of the State or unit of local government shall receive an allocation under this section in an amount equal to 95 percent of the otherwise applicable allocation to the State or unit of local government.

“(j) **ANNUAL STATISTICAL REVIEW AND REPORT.**—

“(1) **IN GENERAL.**—The Director of the National Institute of Justice of the Department of Justice (in this subsection referred to as the ‘Director’) shall conduct an annual comprehensive statistical review of the number of untested rape kits collected by Federal, State, local, and tribal law enforcement agencies.

“(2) **REPORT OF DATA TO DIRECTOR.**—Each law enforcement agency of the Federal Government or of a State or unit of local government receiving a grant under this subpart (in this subsection referred to as a ‘covered law enforcement agency’) shall record and report to the Director the number of untested rape kits administered by or on behalf of, or in the possession or control of, the covered law enforcement agency at the end of each fiscal year.

“(3) **REPORT TO CONGRESS AND THE STATES.**—

“(A) **INITIAL REPORT.**—Not later than 2 years after the date of enactment of this subsection, and annually thereafter, the Director shall submit to Congress and the States a report regarding the number of untested rape kits administered by or on behalf of, or in the possession of, a covered law enforcement agency.

“(B) **SUBSEQUENT ANNUAL REPORTS.**—The Director shall include, in the second report, under subparagraph (A), and each subsequent report, the percentage change in the number of untested rape kits for each covered law enforcement agency, as compared to the previous year.

“(4) **PENALTY.**—For fiscal year 2011, and each fiscal year thereafter, if a State or unit of local government has received a grant under this subpart, and a covered law enforcement agency of the State or local government has failed to report the data required under paragraph (2), the State or unit of local government shall receive an allocation under this section in an amount equal to 95 percent of the otherwise applicable allocation to the State or unit of local government.

“(k) **DEFINITIONS.**—In this section:

“(1) **RAPE KIT.**—The term ‘rape kit’ means DNA evidence relating to—

“(A) sexual assault (as defined in section 40002(a) of the Violence Against Women Act of 1994 (42 U.S.C. 13925(a))); or

“(B) conduct described in section 2251, 2251A, or 2252 of chapter 110 of title 18, United States Code, regardless of whether the conduct affects interstate commerce.

“(2) **RAPE KIT BACKLOG.**—The term ‘rape kit backlog’ means untested rape kits that are in the possession or control of—

“(A) a law enforcement agency; or

“(B) a public or private crime laboratory.

“(3) **UNTESTED RAPE KIT.**—The term ‘untested rape kit’ means a rape kit collected from a victim that—

“(A) has not undergone forensic analysis; and

“(B) for a combined total not less than 60 days, has been in the possession or control of—

“(i) a law enforcement agency; or

“(ii) a public or private crime laboratory.”

**SEC. 5. RAPE KIT BILLING.**

(a) **COORDINATION WITH REGIONAL HEALTH CARE PROVIDERS.**—Section 210(a)(1) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796gg-4(a)(1)) is amended by striking “assault.” and inserting “assault and coordinates with regional health care providers to notify victims of

sexual assault of the availability of rape exams at no cost to the victims.”

(b) **REPEAL OF REIMBURSEMENT OPTION.**—Effective 2 years after the date of enactment of this Act, section 210(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796gg-4(b)) is amended—

(1) by striking paragraph (3);

(2) in paragraph (1), by inserting “or” after “victim;” and

(3) in paragraph (2), by striking “victims; or” and inserting “victims.”

(c) **PROVISION OF RAPE KITS REGARDLESS OF COOPERATION WITH LAW ENFORCEMENT.**—Section 210(d) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796gg-4(d)) is amended by striking “(d) **RULE OF CONSTRUCTION**” and all that follows through the end of paragraph (1) and inserting the following:

“(d) **NONCOOPERATION.**—

“(1) **IN GENERAL.**—A State, Indian tribal government, or unit of local government shall not be in compliance with this section unless the State, Indian tribal government, or unit of local government complies with subsection (b) without regard to whether the victim cooperates with the law enforcement agency investigating the offense.”

**SEC. 6. SEXUAL ASSAULT NURSE EXAMINER TRAINING.**

(a) **DEFINITION.**—Section 40002(a) of the Violence Against Women Act of 1994 (42 U.S.C. 13925(a)) is amended—

(1) by redesignating paragraphs (29) through (37) as paragraphs (30) through (38), respectively; and

(2) inserting after paragraph (28) the following:

“(29) **TRAINED EXAMINER.**—The term ‘trained examiner’ means a health care professional who has received specialized training specific to sexual assault victims, including training regarding gathering forensic evidence and medical needs.”

(b) **ADDITIONAL PERSONNEL.**—Section 2101(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796hh(b)) is amended by adding at the end the following:

“(14) To provide for sexual assault forensic medical personnel examiners to collect and preserve evidence, provide expert testimony, and provide treatment of trauma relating to sexual assault.”

**SEC. 7. SEXUAL ASSAULT NURSE AVAILABILITY AT INDIAN HEALTH SERVICES STUDY.**

(a) **STUDY.**—The Comptroller General of the United States shall conduct a study of the availability of sexual assault nurse examiners and trained examiners (as defined in section 40002(a) of the Violence Against Women Act of 1994 (42 U.S.C. 13925(a)), as amended by this Act), at all Indian Health Service facilities operated pursuant to contracts under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.).

(b) **REPORT AND RECOMMENDATIONS.**—Not later than 1 year after the date of enactment of this Act, the Comptroller General of the United States shall submit to the Committee on the Judiciary and to the Committee on Indian Affairs of the Senate and to the Committee on the Judiciary and the Committee on Natural Resources of the House of Representatives a report containing the findings of the study conducted under subsection (a), and recommendations for improving the availability of sexual assault nurse examiners and trained examiners (as defined in section 40002(a) of the Violence Against Women Act of 1994 (42 U.S.C. 13925(a)), as amended by this Act).



By Mr. BROWNBACK (for himself, Mr. INHOFE, Mr. KYL, Mr. CORNYN, Mr. LIEBERMAN, Mr. VITTER, and Mr. BUNNING):

S. 2737. A bill to relocate to Jerusalem the United States Embassy in Israel, and for other purposes; to the Committee on Foreign Relations.

Mr. BROWNBACK. Mr. President, I rise today to introduce the Jerusalem Embassy Relocation Act of 2009. My colleagues and I have sponsored this important piece of legislation in order to pave the way for the United States to correct a longstanding and—I believe—dangerous deficiency in our diplomatic relations and foreign policy. For too long, our embassy in Israel has been located in a different city than Jerusalem, which is the capital of Israel according to longstanding Israeli and American law and practice. The time has come to remove the barriers that have encouraged this state of affairs to continue, and that is precisely what this legislation will do, by repealing the waiver included in the Jerusalem Embassy Act of 1995 that has been abused by the Executive Branch for 14 years.

Jerusalem is the spiritual center of the Jewish faith. First conquered by King David more than 3000 years ago, there has always been a Jewish presence there, a fact attested to by incalculable archaeological evidence. Although at various times the Jewish people lost sovereignty in the land of Israel—to the Babylonians, Greeks, Romans, Byzantines, Ottomans, British—Jerusalem has never served as the capital of any other political or religious entity in history. In every year during the nearly two thousand year exile in 70 A.D., Jews around the world concluded their Passover seder with the phrase, “Next Year in Jerusalem.” Despite the depths of despair to which the Jewish people descended throughout their long exile, Jerusalem always remained at the center of Jewish religious life.

Since 1950, just two years after the miraculous rebirth of the State of Israel, Jerusalem has served as Israel’s capital. The seat of Parliament, Prime Minister’s residence, and Supreme Court, all reside there, in addition to numerous ministries and government buildings. American officials conduct business with Israeli officials in Jerusalem, in de facto recognition of the status of the city. The Jerusalem Embassy Act of 1995, passed into law by an overwhelming vote of Congress, stated unequivocally as a matter of United States policy that “Jerusalem should be recognized as the capital of the State of Israel,” and “the United States Embassy in Israel should be established in Jerusalem no later than May 31, 1999.

This is our policy, yet for some reason our embassy remains in Tel Aviv. This is despite the fact that the gov-

ernment of Israel many times has declared Jerusalem to be the eternal and undivided capital of Israel, a policy reflected in American law. Such a state of affairs constitutes an ongoing affront to the people of Israel who, under international law, have the sovereign right to choose the location of their capital. It also harms the interests of American citizens living in Israel, who face procedural and substantive harm as a result of the confusing diplomatic structure that has arisen in place of a Jerusalem embassy.

The failure of the State Department to relocate the embassy is not only inconvenient and inefficient, but also is dangerous. The State Department’s refusal to acknowledge clear U.S. law and policy radicalizes Israel’s opponents by creating the false hope that the U.S. would support the division of Jerusalem. Were the embassy to be moved to Jerusalem, and Israel’s capital respected in both American law and in practice, then Palestinians and Arab governments would have no choice but to accept the unchanging reality of Jerusalem, which is that Israel, regardless of the political party or government in power, will not move its capital away from this city.

I and my fellow sponsors of this legislation recognize that the Executive Branch generally has discretion over diplomatic arrangements. However, when a waiver included for the limited purpose of national security becomes perfunctory and contradicts the clear will of the Congress, the time has come to reevaluate the wisdom of such a waiver. This bill simply restores the statutory effect of the Jerusalem Embassy Act, updating the timeline of fiscal years required for action, but without the waiver.

I urge my colleagues to support this necessary and appropriate legislation.

By Mr. DODD (for himself and Mr. GRASSLEY):

S. 2738. A bill to authorize National Mall Liberty Fund D.C. to establish a memorial on Federal land in the District of Columbia to honor free persons and slaves who fought for independence, liberty, and justice for all during the American Revolution; to the Committee on Energy and Natural Resources.

Mr. DODD. Mr. President, I rise today to speak about the National Liberty Memorial Act, a bill I am introducing with my colleague Senator GRASSLEY. This important legislation would authorize the construction of a memorial in Washington, DC honoring the African American patriots who fought in the Revolutionary War.

For too long, the role these brave Americans played in the founding of our Nation has been relegated to the dusty back pages of history. Fortunately, historians are now beginning to uncover their forgotten heroism, and

they estimate that more than 5,000 slaves and free blacks fought in the army, navy, and militia during the Revolutionary War. They served and struggled in major battles from Lexington and Concord to Yorktown, fighting side by side with white soldiers. More than 400 of these brave Americans hailed from my home state of Connecticut.

More than 20 years ago, Congress authorized a memorial to black Revolutionary War soldiers and sailors, those who provided civilian assistance, and the many slaves who fled slavery or filed petitions to courts or legislatures for their freedom. Unfortunately, the group originally authorized to raise funds for and build the memorial was unable to conclude its task, and there remains no memorial to the important, and too often unacknowledged, contributions made by these 5,000 Americans.

But a group of committed citizens has formed the Liberty Fund DC to complete this memorial and ensure that these patriots receive the tribute they deserve here in our Nation’s capital. I am honored to work alongside them in completing this mission.

The time has come to recognize the sacrifice and the impact of the African Americans who fought for the birth of our country. I urge my colleagues to support the National Liberty Memorial Act.

By Mr. UDALL, of New Mexico:

S. 2741. A bill to establish telehealth pilot projects, expand access to stroke telehealth services under the Medicare program, improve access to “store-and-forward” telehealth services in facilities of the Indian Health Service and Federally qualified health centers, reimburse facilities of the Indian Health Service as originating sites, establish regulations to consider credentialing and privileging standards for originating sites with respect to receiving telehealth services, and for other purposes; to the Committee on Finance.

Mr. UDALL of New Mexico. Mr. President, access to quality, affordable health care is an issue that impacts every American across our country. Whether someone is struggling to find coverage for themselves or their family members, or searching in vain for a doctor who is accepting new patients, or giving advice to a friend who has just lost his job and, as a result, his health insurance, no American is spared.

These problems hit particularly hard in America’s rural communities. Residents there are more likely to be uninsured than their urban counterparts, have higher rates of chronic disease, and are often forced to travel hundreds of miles for preventive or emergency care, if they can find it at all.

As we continue moving forward with health care reform, we must make sure

we do not leave our rural communities behind. In my home State of New Mexico, for example, 30 of our 33 counties are designated as medically underserved. That is why I am please to introduce the Rural TECH Act of 2009, Rural Telemedicine Enhancing Community Health. Through this legislation, I propose that we use technology to connect experts with providers, facilities and patients in rural areas, and to extend critical health care services to underserved areas across the country.

Telehealth technology can help diagnose and treat patients, provide education and training, and conduct community-based research. It uses videoconferencing, the Internet, and handheld mobile devices to provide consultation and case reviews, direct patient care and coordinate support groups, for example. There are many benefits with telehealth, including increased access to education and care, such as connecting remote generalists to urban specialists. This knowledge bridge will help remote areas retain health care providers, and improve the continuity of care. It also would allow patients to stay in their homes and communities, rather than spend precious time and money to travel for treatment and care. In New Mexico, Dr. Steve Adelsheim at the University of New Mexico has been using telehealth during the past few months to provide therapy to a Navajo teenager who is at high risk of suicide.

My bill would create three telehealth pilot projects, expand access to stroke telehealth services, and improve access to "store-and-forward" telehealth services in Indian Health Service, IHS, and Federally Qualified Health Centers, FQHCs. I'd like to tell you a bit about each today.

First, the creation of three telehealth pilot projects. These projects would analyze tie clinical health outcomes and cost-effectiveness of telehealth systems in medically underserved and tribal areas. The first pilot project focuses on using telehealth for behavioral health interventions, such as post traumatic stress disorder. A second pilot project focuses on increasing the capacity of health care workers to provide health services in rural areas, using knowledge networks like New Mexico's Project ECHO. And lastly, I am proposing a pilot project for stroke rehabilitation using telehealth technology.

Second, we will expand access to telehealth services for strokes, a leading cause of death and long-term disability. Travel time to hospitals and shortages of neurologists—especially in rural areas—are among the barriers to stroke treatment. However, Primary Stroke Centers are not accessible for much of the population. For example, there is only one certified Primary Stroke Center in my State, at the Uni-

versity of New Mexico Hospital. This bill would connect many more residents with needed services. In New Mexico alone, there are almost 173,000 Medicare beneficiaries who would gain access to telestroke services.

Third, we will improve access to store-and-forward telehealth services. These services allow rural health facilities to hold and share transmission of medical training, diagnostic information and other data, which is important for remote areas. This bill also would allow IHS facilities to be reimbursed as users of telehealth services. Finally, it would establish regulations for credentialing and privileging telehealth providers at rural sites, saving important resources and time as they accept telehealth services from an area of specialty.

I am pleased to note that my bill is supported by the University of New Mexico Center for Telehealth and Cybermedicine Research, the American Telemedicine Association, and the Telehealth Leadership Initiative. In addition, it is supported by the New Mexico Stroke Advisory Committee, the American Heart Association/American Stroke Association, the American Academy of Neurology, the American Physical Therapy Association, the American Occupational Therapy Association, and the American Speech-Language-Hearing Association. I want to thank each of these groups for their support and encouragement.

By Ms. SNOWE (for herself, Mr. WEBB, Mrs. LINCOLN, and Ms. LANDRIEU):

S. 2743. A bill to amend title 10, United States Code, to provide for the award of a military service medal to members of the Armed Forces who served honorably during the Cold War, and for other purposes; to the Committee on Armed Services.

Ms. SNOWE. Mr. President, I rise today with my colleagues Senator WEBB, Senator LINCOLN, and Senator LANDRIEU to introduce the Cold War Medal Act of 2009. This legislation would provide the authority for the secretaries of the military departments to award Cold War Service Medals to the courageous American patriots who for nearly half-a-century defended the Nation, and indeed, freedom-loving peoples throughout the world, against the advance of communist ideology.

From the end of World War II to dissolution of the Soviet Union in 1991, the Cold War veterans were in the vanguard of this Nation's defenses. They manned the missile silos, ships, and aircraft, on ready alert status or on far off patrols, or demonstrated their resolve in hundreds of exercises and operations worldwide. The commitment, motivation, and fortitude of the Cold War Veterans was second to none.

Astonishingly, no medal exists to recognize the dedication of our patriots

who so nobly stood watch in the cause of promoting world peace. Although there have been instances where medals or ribbons, such as the Armed Forces Expeditionary Medal, Korean Defense Service Medal, and Vietnam Service Medal, have been issued, the vast majority of Cold War Veterans did not receive any medal to pay tribute to their dedication and patriotism during this extraordinary period in American history. It is only fitting that these brave servicemembers who served honorably during this era receive the recognition for their efforts in the form of the Cold War Service Medal.

Specifically, the Cold War Service Medal Act of 2009 would allow the Defense Department to issue a Cold War Service Medal to any honorably discharged veteran who served on active duty for not less than two years or was deployed for thirty days or more during the period from September 2, 1945, to December 26, 1991. In the case of those veterans who are now deceased, the medal could be issued to their family or representative, as determined by the Defense Department. The bill would also express the sense of Congress that the secretary of Defense should expedite the design of the medal and expedite the establishment and implementation mechanisms to facilitate the issuance of the Cold War Service Medal.

The award of the Cold War Service Medal is supported by the American Cold War Veterans, the American Legion, the Veterans of Foreign Wars, and many other veterans' services organizations.

With November 9, 2009, the 20th anniversary of the fall of the Berlin Wall which marked the beginning of the end of the Cold War, quickly approaching, Senator WEBB, Senator LINCOLN, Senator LANDRIEU, and I invite our colleagues to cosponsor this significant legislation to honor our Cold War Veterans.

#### SUBMITTED RESOLUTIONS

SENATE RESOLUTION 338—DESIGNATING NOVEMBER 14, 2009, AS "NATIONAL READING EDUCATION ASSISTANCE DOGS DAY"

Mr. HATCH (for himself, Mr. BINGAMAN, Mrs. McCASKILL, Mr. COCHRAN, and Mr. RISCH) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 338

Whereas reading provides children with an essential foundation for all future learning;

Whereas the Reading Education Assistance Dogs (R.E.A.D.) program was founded in November of 1999 to improve the literacy skills of children through the mentoring assistance of trained, registered, and insured pet partner reading volunteer teams;

Whereas children who participate in the R.E.A.D. program make significant improvements in fluency, comprehension, confidence, and many additional academic and social dimensions;

Whereas the R.E.A.D. program now has an active presence in 49 States, 3 provinces in Canada, Europe, Asia, and beyond with more than 2,400 trained and registered volunteer teams participating and influencing thousands of children in classrooms and libraries across the Nation;

Whereas the program has received awards and recognition from distinguished entities including the International Reading Association, the Delta Society, the Latham Foundation, the American Library Association, and PBS Television; and

Whereas the program has garnered enthusiastic coverage from national media, including major television networks NBC, CBS, and ABC, as well as international television and print coverage: Now, therefore, be it

*Resolved*, That the Senate, in honor of the 10th anniversary of the R.E.A.D. program, designates November 14, 2009, as "National Reading Education Assistance Dogs Day".

Mr. HATCH. Mr. President, I rise today to submit a resolution regarding the 10th Anniversary of the Reading Education Assistance Dogs, R.E.A.D., program by designating November 14, 2009, as "National Reading Assistance Dogs Day." This is a nationwide program promoted by a number of organizations throughout the U.S. and even throughout countries around the world as an innovative, successful approach aimed at assisting some of our nation's most vulnerable citizens, our children, learn how to read.

The R.E.A.D. program was the first literacy program in the country to use therapy animals as reading companions for children. This unique method provides children an opportunity to improve their reading skills in a comfortable environment by reading aloud to dogs. After 10 years of results, the program has proven to be incredibly successful in helping children who are struggling with this most-crucial and basic of skills. Simply put, this is a program that fills a vital place in the spectrum of a child's literary education and with over 2,400 voluntary therapy teams around the world, it would be an understatement to say this program has not touched and improved thousands of young lives.

Over the span of the previous 10 years, this is an achievement that is virtually impossible to measure, yet today, as small token of my own personal appreciation, I submit a resolution that would designate Saturday, November 14, 2009, as National Reading Education Assistance Dogs Day. Once agreed to, this resolution will recognize the thousands of lives that have been touched as a direct result of this initiative. I am grateful to be the sponsor of a resolution recognizing such an accomplishment and am joined by Senators BINGAMAN, MCCASKILL, COCHRAN, and RISCH in this effort. I commend Intermountain Therapy Animals, a nonprofit organization based in Utah,

for first launching this program just ten short years ago. Therefore, in addition to the numerous news stories, television programs, and awards highlighting the value and benefit of this program, I urge my Senate colleagues and every American to join me in recognizing 10 successful years of the R.E.A.D. program with hopes of many more years of success to come.

**SENATE RESOLUTION 339—TO EXPRESS THE SENSE OF THE SENATE IN SUPPORT OF PERMITTING THE TELEVISION OF SUPREME COURT PROCEEDINGS**

Mr. SPECTER (for himself, Mr. KAUFMAN, Mr. CORNYN, Mr. FEINGOLD, Mr. DURBIN, Ms. KLOBUCHAR, Mr. WHITEHOUSE, and Mr. SCHUMER) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 339

*Resolved*,

**SECTION 1. SENSE OF THE SENATE.**

It is the sense of the Senate that the Supreme Court should permit live television coverage of all open sessions of the Court unless the Court decides, by a vote of the majority of justices, that allowing such coverage in a particular case would constitute a violation of the due process rights of 1 or more of the parties before the Court.

Mr. SPECTER. Mr. President, I have sought recognition to introduce a sense-of-the-Senate resolution urging the Supreme Court to permit live television coverage of its open proceedings. This is different from previous legislation which I have introduced which would require the Court to permit live television coverage.

I offer this resolution on behalf of Senator CORNYN, Senator KAUFMAN, Senator FEINGOLD, Senator DURBIN, Senator KLOBUCHAR, Senator WHITEHOUSE, and Senator SCHUMER.

The previous bills, which would have required the Supreme Court to open its proceedings to live television coverage, were voted out of the Judiciary Committee in the 109th Congress by a vote of 12 to 6 and the 110th Congress by a vote of 11 to 8.

The basis for the legislative action is on the recognized authority of Congress to establish administrative matters for the Court. For example, the Congress determines how many Justices there will be—nine; the Congress determines how many Justices are required for a quorum—six; the Congress determines that the Court will begin its operation on the first day of October; the Congress has set time limits.

The shift in the resolution for urging the Court is to take a milder approach to avoid a confrontation and to avoid a possible constitutional clash on the separation of powers.

There is no doubt that the Court would have the last word if the Congress required live television coverage.

And, as I say, there are analogous administrative matters which the Congress does control. But as a first step, today the resolution urges the Court to open its proceedings for live television coverage.

The thrust of this resolution is that the Court should be televised, just as the Senate is televised, just as the House is televised, to familiarize the American people with what the Court does. The average person knows very little about what the Court does.

The Supreme Court itself has held that newspapers have a right to be in a courtroom. In an electronic age, television and radio ought to have the same standing.

The importance of the Court is seen in the scope of the cases which they decide and the kinds of cases which they do not decide. For example, the Court makes a determination on life, a woman's right to choose, makes a determination on the application of the death penalty, a determination on civil rights, on Guantanamo, on wireless wiretapping, on congressional authority, on Executive authority.

The Court is the final word since 1803, in the case of *Marbury v. Madison*, when the Court decided the Court would be the final word. That was the statement of Chief Justice Marshall, and it has stood for the life of our country. I believe it is a sound judgment for the Supreme Court to have the final word. But if the Framers were to rewrite the Constitution, I think the Court would now be article I instead of the Congress being article I, and the executive branch—the President—being article II.

It is also important to note what the Court does not decide. The Court declined to hear the terrorist surveillance program. That warrantless wiretap program was found unconstitutional by the Federal court in Detroit. It was reversed by the Sixth Circuit Court of Appeals on standing ground, with a very vigorous and better reasoned dissent. Standing is a very flexible doctrine and usually made when the Court simply doesn't want to take up the issue. But the terrorist surveillance program presented the sharpest conflict—perhaps the sharpest conflict between congressional authority, under article I, with the Foreign Intelligence Surveillance Act establishing the exclusive way to conduct wiretaps and the President's article II powers as Commander in Chief to conduct warrantless wiretaps.

The Supreme Court denied hearing the case of the survivors of victims of 9/11 against Saudi Arabia, even though congressional mandate is clear that sovereign immunity does not apply to foreign government officials.

Just in the past few years, the Supreme Court has decided cases of enormous importance. A few illustrate the proposition: The Court did decide cutting-edge issues on whether local

school districts may fulfill the promise of *Brown v. Board of Education* by taking voluntary remedial steps to maintain integrated schools; whether public universities may consider race when evaluating applicants for admission in order to ensure diversity within their student bodies; whether citizens have a constitutional right to own guns; whether States may exercise the power of eminent domain to take a personal residence in order to make room for commercial development.

The Court has also declined to hear cases involving splits—that is, differences of judgment—between different courts of appeals. It is not an effective administration of the judicial system if the case may be decided differently depending on whether a person litigates in the First Circuit or in the Eleventh Circuit and then the district courts, where the circuit has not ruled, speculate as to what the court of appeals would have decided.

We had a confirmation hearing yesterday with Judge Vanaskie of the Middle District of Pennsylvania. I asked him if he had seen situations where there were circuit splits, but your circuit hasn't decided, and how do you handle that case. Judge Vanaskie pointed out that was very problematic. There are major matters where the Supreme Court has left these circuit splits standing. For example, whether jurors may consult the Bible during their deliberations in a criminal case, whether a civil lawsuit must be dismissed predicated on state secret, whether the spouse of a U.S. citizen remains eligible for an immigration visa after the citizen dies, whether an employee who alleges that he or she was unlawfully discriminated against for claiming benefits or exercising other rights under an employer-sponsored health care or pension plan, or when does a collective bargaining agreement confer on retirees the right to lifetime health care benefits? may a Federal court toll the statute of limitations in a suit brought under the Federal Tort Claims Act?

These are illustrative of very important decisions which the Supreme Court does not decide. Congress can't tell the Supreme Court what to decide, but Congress may mandate the Court's jurisdiction. If this were in the public view, if the Court were accountable for not handling such cases, I think the Court might well take a different view.

It is not as if the Court is too busy to hear these cases. Take a brief survey of the Court's docket. In 1886, there were 1,396 cases on the Supreme Court docket. It decided 451. In 1926, there were 223 signed opinions. So it was down from 451 in 1886 to 223 in 1926. Then by 1987, it was down to 146. In 2007, the Court heard argument in only 75 cases and issued only 67 signed opinions. So it is perfectly clear that the Court's docket, with the four clerks—which each one of

the Supreme Court Justices has—could well accommodate a more vigorous workload.

In the written statement that I will include when I finish these extemporaneous remarks, I have cited several recent cases where the Court has not followed well-established precedent. Well, they have the authority to overrule their own precedents, but it is something the public ought to have an idea on and an understanding of.

I think this is a particularly good time for the Court to consider televising itself under the resolution urging them to be televised since Justice Souter recently left the Court. Justice Souter made the famous statement that if the Supreme Court were to be televised, the cameras would roll in over his dead body. The members of the Supreme Court are very concerned about what their fellows think, and it may well have been that in light of a strenuous objection by Justice Souter, when he was on the Court, that would have tipped the scales. But listen to what the Justices have had to say on the issue of televising the Supreme Court.

I have made it a practice to question the nominees for the Supreme Court to get their views on television. Justice Paul Stevens said: Literally hundreds of people have stood in line for hours in order to hear oral argument only to be denied admission because the courtroom was filled.

The practice is, if you can get in at all, you stay for 3 minutes and then you are ushered out to let other people in because it is a small chamber.

Justice John Paul Stevens said: Television in the Court is worth a try.

Justice Ruth Bader Ginsburg said: I don't see any problem with having proceedings televised. I think it would be good for the public.

Justice Breyer said—at a time when he was chief judge of the First Circuit—I voted in the judicial conference in favor of experimenting with television in the courtroom. The judicial conference made an analysis of television—made a favorable recommendation—and some circuit courts and some lower courts have been televised.

Justice Sotomayor, in her recent confirmation hearing, said, referring to her experience with cameras in the courtroom, that the experience has “generally been positive, and I would certainly recount that,” referring to her colleagues on the Supreme Court.

Justice Alito said, in the Third Circuit, there was a debate and he argued we should do it; that is, televise it. He said: I would keep an open mind on the subject with respect to the Supreme Court.

The fact is the Justices frequently appear on television on their own. For example, Chief Justice Roberts and Justice Stevens appeared on interviews on ABC's “Prime Time.” Justice Gins-

burg has appeared on CBS News. Justice Breyer has been on “FOX News Sunday.” Justices Scalia and Thomas have appeared on CBS's “60 Minutes.” All the Justices appeared for interviews that C-SPAN recently aired during its “Supreme Court Week.”

Public opinion polls are strongly in favor of having the Supreme Court televised. There have been numerous editorials in support, and recently the Supreme Court of the United Kingdom opened its proceedings for television.

That is a very brief statement of a more expansive statement, which I have prepared, and I think the reasons for opening the Court are overwhelming. In a Democratic society, there should be transparency at all levels of government. The judicial independence of the Supreme Court is of vital importance to be maintained, and they have life tenure, but there is no reason why the American people should not understand what they are doing.

The American people should understand that when they take a case such as *Bush v. Gore*, where there is a challenge on the counting of the votes in Florida and where Justice Scalia says there would be irreparable harm in allowing the votes in Florida to be counted because it might undermine the legitimacy of the new administration, the American people ought to have maximum access to understand what the Court is doing. The American people ought to have maximum access to know that the Supreme Court of the United States declined to hear a decision on whether the President had authority to conduct warrantless wiretaps. The American people ought to know that all these circuit splits remain unresolved at a time when the workload and the agenda and the docket of the Supreme Court has declined enormously.

Mr. President, I ask unanimous consent to have printed in the RECORD at this point a “Dear Colleague” letter signed by Senator CORNYN and myself.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

UNITED STATES SENATE,  
WASHINGTON, DC,

November 5, 2009.

DEAR COLLEAGUE: We write to ask for your co-sponsorship on a Sense of the Senate Resolution which urges the Supreme Court to permit live television coverage of its open proceedings. This would provide a modest level of transparency and accountability to the Supreme Court whose members enjoy life tenure and decide so many cutting-edge issues which border on making the law rather than interpreting the law. There is little public understanding about the Supreme Court's role even though it decides major issues such as a woman's right to choose, the death penalty, civil rights, 2nd Amendment gun rights, and the scope of Congress's Article I power and the President's Article II power.

The Court declines to hear many important cases where conflicting decisions are

rendered by different Circuit Courts of Appeals. That results in different treatment for different litigants depending on what Circuit their case is brought. It leaves uncertainty in other Circuits since there is a question about which Circuit precedent should be followed.

The Court has time to resolve Circuit splits and hear many other important cases which it declines since its docket is so light compared to prior years. In 1886, the Supreme Court decided 451 of the 1,309 cases on its docket. In 1926, the Court issued 223 signed opinions. In the first year of the Rehnquist Court, 1987, the Court issued 146 opinions. During the 2007 term, the Court held argument in 75 cases and issued 67 signed opinions.

Few Americans have any real opportunity to observe its proceedings. Most who visit the Court for an oral argument will be allowed only a three-minute seating, if they are seated at all. Recently, the UK's highest court decided to allow TV cameras into its courtroom. A recent C-SPAN poll reveals that two-thirds of Americans support televising the Court's proceedings.

This Sense of the Senate Resolution differs from previous legislative proposals in urging rather than requiring the Supreme Court to permit TV coverage. While there is substantial authority for Congress to require such coverage based on analogous administrative matters, we believe the milder approach should be followed first which may draw a favorable response and would avoid any possible confrontation.

If you have any questions or wish to co-sponsor this Resolution, please contact the undersigned or have your staff contact Matthew Wiener (extension 4-6598) or Matthew Johnson (extension 4-7840).

Sincerely,

ARLEN SPECTER,  
JOHN CORNYN.

Mr. SPECTER. Mr. President, I ask unanimous consent to have printed in the RECORD an extensive floor statement and that the CONGRESSIONAL RECORD contain my introduction of the floor statement. Frequently, when the floor statement occurs right after the oral extemporaneous comments, the reader may wonder why the speaker is repeating himself on so many of the same points.

So, I would like to have the full text as to what I am saying now appear in the CONGRESSIONAL RECORD so that it is understandable why the long text appears after so much of what has already been said.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Mr. President, I have sought recognition to introduce a sense-of-the-Senate resolution urging the Supreme Court to permit television coverage of its open proceedings.

I have previously introduced legislation on the subject. In the 109th Congress, I introduced S. 1768, on behalf of myself and Senators Allen, Cornyn, Durbin, Feingold, Grassley, Leahy, and Schumer. It would have required the Court to permit television coverage of its proceedings. On March 30, 2006, the Committee on the Judiciary favorably reported S. 1768 by a vote of 12 to 6. In the 110th Congress, I introduced an identical bill, S. 344, on behalf of myself and Senators Cornyn, Durbin, Feingold, Grassley and

Schumer. On September 8, 2008, the Committee favorably reported the bill by a vote of 11 to 8. Early in this Congress I again introduced an identical bill, S. 446, this time on behalf of myself and Senators Cornyn, Durbin, Feingold, Grassley, Kaufman, Klobuchar, and Schumer.

The resolution takes a more restrained and modest approach than does S. 446 and its predecessors. It would do no more than "urge" the Court to allow the television coverage of its open proceedings (unless Court decides that television coverage would violate a litigant's due-process rights, which is unlikely).

I urge the Senate to pass this non-binding resolution rather than taking action on S. 446 at this time. My reason is not that S. 446 may be unconstitutional. It is not. Congress' well-founded authority to regulate various aspects of the Court's activities—to fix the number of Justices who sit on the Court (nine) and constitute a quorum (six), to set the beginning of the Court's term as the first Monday in October, and to establish the contours of its appellate jurisdiction—would sustain S. 446 against a constitutional challenge. Rather, I have four prudential reasons for proceeding with a non-binding resolution at this time:

First, the Court's most outspoken critic of television coverage, Justice Souter, has retired. Justice Souter once said that the "day you see a camera come into our courtroom, it's going to roll over my dead body." Several Justices have indicated their reluctance to permit television coverage in the face of opposition by a colleague. Justice Souter's departure may lead his colleagues to revisit the issue. His replacement, Justice Sotomayor, testified during her confirmation hearings that she had favorable experiences with television coverage while sitting on the court of appeals and that, if confirmed, she would share her experiences with her new colleagues. Some commentators have raised the possibility that Justice Sotomayor will help convince her reluctant colleagues that the time for television coverage has come. (E.g., Editorial, "Cameras in the Court," USA Today, July 13, 2009; Editorial, "Camera shy justice: The Supreme Court should be televised," Pittsburgh Post Gazette, July 7, 2009; Editorial, "Supreme Court TV," Los Angeles Times, June 11, 2009.) No one knows, of course, what Justice Sotomayor will do. But we should at least give the newly constituted Court some reasonable period of time to consider the issue.

Second, a non-binding resolution is likely to draw more support among Senators than a statutory mandate, and it need not be passed by the House or signed by the President. There is no reason to enact a law if a resolution will do.

Third, the Court may receive a non-binding resolution more favorably than a statutory mandate. The Court may perceive a mandate as an affront to its constitutional autonomy as a separate branch of government. Justice Kennedy suggested as much during testimony before a Congressional committee. It may even decide to ignore a mandate on the ground that it violates the Constitution's scheme of separation of powers. We need not provoke what might be an unnecessary constitutional challenge.

Fourth, the newly established Supreme Court of the United Kingdom has just decided to allow cameras in its courtroom. A press release announcing the Court's opening reports that "proceedings will be routinely filmed and made available to broadcasters." (Supreme Court of the United Kingdom,

Press Release, Oct. 1, 2009.) The press release cites the need for "transparent[cy]" and the "crucial role" that television can play in "letting the public see how justice is done" and "increase[ing] awareness of the UK's legal system and the impact the law has on people's lives." (Ibid.) When the Court held its opening session just a few weeks ago, TV cameras sat "discretely" in the corners of the courtroom, according to the BBC. (BBC News, "Supreme Court hears first appeal," [http://news.bbc.co.uk/2/hi/uk\\_news/8289949.stm](http://news.bbc.co.uk/2/hi/uk_news/8289949.stm).) Hopefully the experience of the United Kingdom's Supreme Court with television coverage will encourage our Supreme Court to follow suit.

My extensive floor statements of January 29, 2007, introducing S. 246, and February 13, 2009, introducing S. 446, set forth compelling reasons for allowing television coverage of the Supreme Court's open proceedings and also explained why S. 445 is constitutional. (Cong. Record, Jan. 29, 2007, S831-34; Cong. Record, Feb. 13, 2009, S2332-36.) I laid out those reasons again on August 5, 2009, when I commented on the state of the Court during the floor debate on now-Justice Sotomayor's nomination. (Cong. Record, Aug. 5, 2009, S880006.) This statement summarizes the key points of and supplements my earlier statements.

My main point was this: The American people have the right to observe the Court's proceedings. But few Americans have any meaningful opportunity to do so. There are well less than a hundred oral arguments per year. Even those who are able to visit the Court are not likely to see an argument in full. Most will be given just three minutes to watch before they are shuffled out to make room for others. In high-profile cases, most visitors will be denied even a three-minute seating. There are not nearly enough seats to accommodate the demand. Those who wish to follow the Court's proceedings must content themselves with reading the voluminous transcripts or listening to audiotapes released at the end of the Court's term. It should come as no surprise that, according to a recent C-SPAN poll, nearly two-third of Americans favor televising the Court's proceedings.

The Court decides too many cutting-edge questions of monumental importance to the American people—not just, as Justice Scalia once suggested in opposing television coverage, disputes between litigants—to deny them a meaningful opportunity to observe its proceedings. Consider just some of the issues the Court has decided in recent years: whether local school districts may fulfill the promise of Brown v. Board of Education by taking voluntary remedial steps to maintain integrated schools (Parents Involved in Community Schools v. Seattle School District No. 1, 551 U.S. 701 (2007)); whether public universities may consider race when evaluating applicants for admission in order to ensure diversity within their student bodies (Grutter v. Bollinger, 539 U.S. 306 (2003), and Gratz v. Bollinger, 539 U.S. 2344 (2003)); whether citizens have a constitutional right to own guns (District of Columbia v. Heller, 128 S. Ct. 2783 (2008)); and whether states may exercise the power of eminent domain to take a personal residence in order to make room for a commercial development (Kelo v. City of New London, 545 U.S. 469 (2005)).

And in 2000, of course, the Supreme Court decided what was perhaps the most important—and certainly the most controversial—question of all: who the next president of the United States would be (Bush v. Gore, 531 U.S. 98 (2000)). Can anyone seriously contend

that the American people were not entitled to watch the oral argument in the case that ultimately decided the Presidency? Or that reading a transcript or listening to an audio was an adequate substitute for watching the oral argument?

Trends over the last few years show that the need for public scrutiny of the Court's work, which only television coverage can adequately provide, is now more important than ever. None is more significant than the Court's declining workload and willingness to leave important issues and circuit splits unresolved.

The Court's workload has steadily declined. In 1870, the Court decided 280 of the 636 cases on its docket; in 1880, 365 of the 1,202 cases on its docket; and in 1886, 451 of the 1,396 cases on its docket. (E.g., Edward A. Hartnett, "Questioning Certiorari: Some Reflections on Seventy Five Years After the Judges Bill," 100 *Colum. L. Rev.* 1643, 1650 (2006).) In 1926, the year Congress gave the Court nearly complete control of its docket by passing the Judiciary Act of 1925, the Court issued 223 signed opinions. The Court's output has declined significantly ever since. In the first year of the Rehnquist Court, the Court issued 146 opinions; in its last year, the Court issued only 74. (E.g., Kenneth W. Starr, "The Supreme Court and Its Shrinking Docket: The Ghost of William Howard Taft," 90 *Minnesota Law Review* 1363, 1367-68 (2006).)

Chief Justice Rehnquist's successor, John Roberts, said during his confirmation hearing that the Court could and should take more cases. But it has not done so. During the 2005 Term, it heard argument in 87 cases, and issued 69 signed opinions; during the 2006 Term, it heard argument in 78 cases and issued 68 signed opinions; and during the 2007 Term, it heard argument in 75 cases and issued 67 signed opinions. The numbers were much the same during the recently concluded 2008 Term: The Court heard argument in 78 cases and issued 75 signed opinions. A recent article in the *Duke Law Journal* notes that "[e]ven though it possess resources unimaginable to its predecessors, including . . . a bevy of talented clerks, the Supreme Court decides only a trickle of cases." The article goes on to observe that the "most striking feature of contemporary Supreme Court jurisprudence is how little of it there is." (Tracey E. George & Christopher Guthrie, "Remaking the United States Supreme Court in the Courts' of Appeals Image," 58 *Duke Law Journal* 1439, 1441-42 (2009).)

As Kenneth Starr has observed, Congress gave the Supreme Court control over what cases it hears so it can focus on "two broad objectives: (i) to resolve important questions of law and (ii) to maintain uniformity in federal law." (Starr, *supra*, at 1364.) It is clear that the Court has failed to meet either objective and that only by putting its "shoulder to the wheel and working harder," to quote Mr. Starr, can it ever hope to do so. (*Id.* at 1385.)

The Court continues to leave important issues unresolved. Recently it even refused to decide the constitutionality of the Bush Administration's Terrorist Surveillance Program—commonly referred to as the "warrantless wiretapping program." This program, which began soon after the 9-11 attacks, operated in secret until *The New York Times* exposed it in 2005. Well-deserved public condemnation followed its exposure. In 2006, a federal district court declared the program unconstitutional. A divided court of appeals reversed on the ground that the plaintiffs lacked standing to bring suit,

thereby leaving the merits unaddressed. In 2008, the plaintiffs asked the Supreme Court to hear case, but it declined. This year I introduced legislation (S. 877) to require the Court to exercise jurisdiction over appeals challenging the constitutionality of the Program.

More recently, the Court refused to decide whether the Foreign Sovereign Immunities Act shields Saudi Arabia and its officials from damages suits arising from their apparent complicity in the 9-11 terrorist attacks. Last year the United States Court of Appeals for the Second Circuit ruled (incorrectly, in my view) that the Act immunizes them from suit. The victims petitioned the Court for certiorari. In its certiorari-stage brief, the Solicitor General conceded that the Second Circuit had misinterpreted the Act. But late last year the Court denied the petition without dissent and, as usual, without explanation. (In re Terrorist Attacks on September 11, 2001 (No. 08-640).) The result will be to deny legal redress to thousands of 9-11's victims.

No less important, the Court also continues to leave too many circuit splits unresolved. The article in the *Duke Law Journal* I cited a moment ago notes that the Roberts Court "is unable to address even half" of the circuit splits "identified by litigants." (George and Guthrie, *supra*, at 1449.) Mr. Starr notes that the "Supreme Court by and large does not even pretend to maintain the uniformity of federal law." (Starr, *supra*, at 1364.) Among the questions on which the circuits have recently split are: May jurors consult the Bible during their deliberations in a criminal case and, if so, under what circumstances? Must a civil lawsuit predicated on a "state secret" be dismissed? Does the spouse of a United States citizen remain eligible for an immigrant visa after the citizen dies? Must an employee who alleges that he was unlawfully discriminated against for claiming benefits or exercising other rights under an employer-sponsored healthcare or pension plan "exhaust administrative remedies" (that is, first allow the plan to address his claim) before filing suit in court? When does a collective bargaining agreement confer on retirees the right to lifetime healthcare benefits? May a federal court "toll" the statute of limitations in a suit brought against the federal government under the Federal Tort Claims Act if the plaintiff establishes that the government withheld information on which his claim is based? Is a defendant convicted of drug trafficking with a gun subject to additional prison time under a penalty-enhancing statute, or is his sentence limited to the period of time provided for in the federal drug-trafficking law? When may a federal agency withhold information in response to a FOIA request or court subpoena on the ground that it would disclose the agency's "internal deliberations." Should a federal admiralty claim, to which a jury trial right does not attach, be tried to a jury if it is joined with a non-admiralty claim?

Two developments since I gave my last floor speech have served only to reinforce my conclusion that public scrutiny must be brought to bear on the Court.

The first is the Court's well-documented disregard of precedent, which the Court took to new levels during its 2008 Term. (E.g., Erwin Chemerinsky, "Forward, Supreme Court Review," 43 *Tulsa L. Rev.* 627 (2008).) Consider three especially significant opinions handed down just this year: (1) 14 Penn Plaza, LLC v. Pyett, which held that an employee can be compelled to arbitrate a statu-

tory discrimination claim under a collectively bargained-for arbitration clause to which he or she did not consent, contrary to the Court's thirty-five-year-old decision in *Alexander v. Gardner-Denver Co.*, 415 U.S. 36 (1974); (2) *Gross v. FBL Financial Services, Inc.* (2009), which held that in age discrimination cases, unlike cases brought under Title VII of the Civil Rights Act of 1964, the employer never bears the burden of proof no matter how compelling a showing of discrimination the plaintiff makes, contrary to the Court's thirty-year-old decision in *Price Waterhouse v. Hopkins*, 490 U.S. 228 (1989); and (3) *Ashcroft v. Iqbal*, which gave license to district court judges to evaluate the "plausibility" of a complaint's allegations, contrary to well-established rules of pleadings that date back at least fifty years to *Conley v. Gibson*, 355 U.S. 41 (1957). Legislation to overturn each of these decisions is now pending.

Each of these examples reflects a second recent trend: the Court's bias in favor of corporate interests over the public interest. This has been the subject of extensive commentary. One commentator, Professor Jeffrey Rosen, has characterized the Court as "Supreme Court, Inc." as a result of its decidedly pro-business rulings. (Jeffrey Rosen, "Supreme Court, Inc.," *The New York Times*, Mar. 16, 2008.) Another, Professor Erwin Chemerinsky, has characterized the current Court as the "most pro-business Court of any since the mid-1930's." (Chemerinsky, "The Roberts Court at Age Three," 54 *Wayne Law Review* 947 (2008).)

A final point: While the Justices have so far refused to appear on television during open courtroom proceedings, they have not been shy about appearing on television outside the courtroom. Chief Justice Roberts and Stevens have appeared for interviews on ABC's "Prime Time," Justice Ginsburg on CBS News, Justice Breyer on "Fox News Sunday," and Justices Scalia and Thomas on CBS's "60 Minutes." All of the Justices appeared for interviews that C-SPAN aired recently during its "Supreme Court Week" series. Justice Breyer and Auto even appeared on television to debate how the Court should interpret the Constitution and statutes. We cannot accept the Justices' plea for anonymity when they so regularly appear before the camera.

I note in conclusion that, since my last floor speech, the media has continued to call for the televising of the Supreme Court's proceedings. At least a dozen editorials have appeared during 2009 alone. (E.g., "Televised justice would be for all," *Boston Herald*, August 7, 2009; "Cameras in the court," *USA Today*, July 13, 2009; "Camera shy justice: The Supreme Court should be televised," *Pittsburgh Post Gazette*, July 7, 2009; "Supreme Court TV," *Los Angeles Times*, June 11, 2009.) One editorial writer, *The National Law Journal*'s Tony Mauro, makes the case especially well, when he writes: "The Internet Age demands transparency from all institutions all the time. Any government body that lags behind is in danger of losing legitimacy, relevance and, at the very least, public awareness. . . . It does not take a battery of surveys to realize that the public will learn and understand more about the Supreme Court . . . if its proceedings are on view nationwide." ("Court, cameras, action! Souter's departure could clear the way for far more transparency at the Supreme Court," *USA Today*, May 27, 2009.) A list of 2009 editorials, as compiled by C-SPAN, is appended.

Television coverage of the Supreme Court is long overdue. It is time for Congress to



act. I urge my colleagues to support the resolution I am introducing today.

**SENATE RESOLUTION 340—EXPRESSING SUPPORT FOR DESIGNATION OF A NATIONAL VETERANS HISTORY PROJECT WEEK TO ENCOURAGE PUBLIC PARTICIPATION IN A NATIONWIDE PROJECT THAT COLLECTS AND PRESERVES THE STORIES OF THE MEN AND WOMEN WHO SERVED OUR NATION IN TIMES OF WAR AND CONFLICT**

Mr. CRAPO (for himself and Mrs. LINCOLN) submitted the following resolution; which was referred to the Committee on Veterans' Affairs:

**S. RES. 340**

Whereas the Veterans History Project was established by a unanimous vote of the United States Congress to collect and preserve the wartime stories of American veterans;

Whereas Congress charged the American Folklife Center at the Library of Congress to undertake the Veterans History Project and to engage the public in the creation of a collection of oral histories that would be a lasting tribute to individual veterans and an abundant resource for scholars;

Whereas there are 17,000,000 wartime veterans in America whose stories can educate people of all ages about important moments and events in the history of the United States and the world and provide instructive narratives that illuminate the meanings of "service", "sacrifice", "citizenship", and "democracy";

Whereas the Veterans History Project relies on a corps of volunteer interviewers, partner organizations, and an array of civic minded institutions nationwide who interview veterans according to the guidelines it provides;

Whereas increasing public participation in the Veterans History Project will increase the number of oral histories that can be collected and preserved and increase the number of veterans it so honors; and

Whereas "National Veterans Awareness Week" commendably preceded this resolution in the years 2005 and 2006: Now, therefore, be it

*Resolved*, That the Senate—

(1) recognizes "National Veterans Awareness Week";

(2) supports the designation of a "National Veterans History Project Week";

(3) calls on the people of the United States to interview at least one veteran in their families or communities according to guidelines provided by the Veterans History Project; and

(4) encourages local, State, and national organizations, along with Federal, State, city, and county governmental institutions, to participate in support of the effort to document, preserve, and honor the service of American wartime veterans.

**SENATE RESOLUTION 341—SUPPORTING PEACE, SECURITY, AND INNOCENT CIVILIANS AFFECTED BY CONFLICT IN YEMEN**

Mr. CARDIN (for himself and Mr. LUGAR) submitted the following resolution; which was referred to the Committee on Foreign Relations:

**S. RES. 341**

Whereas the people and government of Yemen currently face tremendous security challenges, including the presence of a substantial number of al Qaeda militants, a rebellion in the northern part of the country, unrest in southern regions, and piracy in the Gulf of Aden;

Whereas these security challenges are compounded by a lack of governance throughout portions of the country;

Whereas this lack of governance creates a de facto safe haven for al Qaeda and militant forces in regions of Yemen;

Whereas Yemen also faces significant development challenges, reflected in its ranking of 140 out of 182 countries in the United Nations Development Program's 2009 Human Development Index;

Whereas Yemen is also confronted with limited and rapidly depleting natural resources, including oil, which accounts for over 75 percent of government revenue, and water, ⅓ of which goes to the cultivation of qat, a narcotic to which a vast number of Yemenis are addicted;

Whereas government subsidies are contributing to the depletion of Yemen's scarce resources;

Whereas the people of Yemen suffer from a lack of certain government services, including a robust education and skills training system;

Whereas the Department of State's 2009 International Religious Freedom Report notes that nearly all of the once-sizeable Jewish population in Yemen has emigrated, and, based on fears for the Jewish community's safety in the country, the United States Government has initiated a special process to refer Yemeni Jews for refugee resettlement in the United States;

Whereas women in Yemen have faced entrenched discrimination, obstacles in accessing basic education, and gender-based violence in their homes, communities, and workplaces while little is done to enforce or bolster the equality of women;

Whereas these challenges pose a threat not only to the Republic of Yemen, but to the region and to the national security of the United States;

Whereas, to the extent that Yemen serves as a base for terrorist operations and recruitment, these threats must be given sufficient consideration in the global strategy of the United States to combat terrorism;

Whereas this threat has materialized in the past, including the March 18 and September 17, 2008, attacks on the United States Embassy in Sana'a and the October 12, 2000, attack on the U.S.S. Cole while it was anchored in the Port of Aden, as well as numerous other terrorist attacks;

Whereas the population of Yemen has suffered greatly from conflict and underdevelopment in Yemen;

Whereas up to 150,000 civilians have fled their homes in northern Yemen since 2004 in response to conflict between Government of Yemen forces and al-Houthi rebel forces; and

Whereas the people and government of the United States support peace in Yemen and improved security, economic development, and basic human rights for the people of Yemen: Now, therefore, be it

*Resolved*, That the Senate—

(1) supports the innocent civilians in Yemen, especially displaced persons, who have suffered from instability, terrorist operations, and chronic underdevelopment in Yemen;

(2) recognizes the serious threat instability and terrorism in Yemen pose to the security

of the United States, the region, and the population in Yemen;

(3) calls on the President to give sufficient weight to the situation in Yemen in efforts to prevent terrorist attacks on the United States, United States allies, and Yemeni civilians;

(4) calls on the President to promote economic and political reforms necessary to advance economic development and good governance in Yemen;

(5) applauds steps that have been taken by the President and the United Nations High Commissioner for Refugees to assist displaced persons in Yemen;

(6) urges the Government of Yemen and rebel forces to immediately halt hostilities, allow medical and humanitarian aid to reach civilians displaced by conflict, and create an environment that will enable a return to normal life for those displaced by the conflict; and

(7) calls on the President and international community to use all appropriate measures to assist the people of Yemen to prevent Yemen from becoming a failed state.

Mr. CARDIN. Mr. President, today I would like to draw attention to a dangerous situation that has implications for the national security of the U.S. and our allies, a situation involving dire humanitarian circumstances, with over 150,000 displaced persons since 2004. I am speaking about the situation in Yemen.

Senator LUGAR and I are introducing a resolution supporting peace, security, and the innocent civilians affected by conflict in Yemen. This resolution calls on the President and international community to use all appropriate measures to prevent Yemen from becoming a failed state.

The gravity of the challenges Yemen faces should not be ignored. To document a few of these challenges: Yemen is home to a substantial number of al-Qaeda militants, a rebellion in the northern part of the country, unrest in southern regions, and piracy in the Gulf of Aden. Yemen has limited and rapidly depleting natural resources including oil, which accounts for over 75 percent of government revenue, and water. Yemen is underdeveloped, ranking 140th out of 182 countries in the United Nations Development Program's 2009 Human Development Index. Thousands of Yemenis are currently displaced as a result of the ongoing conflict between the Government of Yemen and al-Houthi rebel forces. Regions of Yemen have a large degree of lawlessness; religious minorities—particularly the Jewish population—have emigrated due to safety concerns; and human rights violations persist.

The U.S., the international community, and the people of Yemen must do all that we can to prevent Yemen from becoming a failed state. Disrupting, dismantling, and defeating al-Qaeda and violent extremism requires a global strategy that includes preventing Yemen from serving as a base for terrorist operations conducted elsewhere. Americans and our allies are all too familiar with the dangers of terrorists



operating unimpeded. The March 18 and September 17, 2008, attacks on the U.S. Embassy in Sana'a and the October 12, 2000 attack on the U.S.S. *Cole* remind us of this threat specifically in Yemen.

Aside from Yemen's impact on the national security of America and our allies, we cannot ignore the tremendous hardships many in Yemen currently endure. Yemenis deserve to have basic security, basic human rights, and their basic needs met. We need to stand with those who want to live in peace and achieve improved living conditions. I am especially concerned with the plight of those displaced by conflict in Yemen, and I applaud efforts taken by the Obama administration and United Nations High Commissioner for Refugees to assist these displaced persons. I urge the Government of Yemen and rebel forces to halt hostilities, allow medical and humanitarian aid to reach civilians displaced by conflict, and create an environment that will enable a return to normal life for internally displaced persons in Yemen.

I would like to thank the senior Senator from Indiana, who is the Ranking Member of the Senate Foreign Relations Committee, for cosponsoring this resolution on this important issue.

**SENATE RESOLUTION 342—RECOGNIZING NATIONAL AMERICAN INDIAN AND ALASKA NATIVE HERITAGE MONTH AND CELEBRATING THE HERITAGE AND CULTURE OF AMERICAN INDIANS AND ALASKA NATIVES AND THE CONTRIBUTIONS OF AMERICAN INDIANS AND ALASKA NATIVES TO THE UNITED STATES**

Mr. DORGAN (for himself, Mr. BARASSO, Mr. BAUCUS, Mr. BEGICH, Mr. BINGAMAN, Ms. CANTWELL, Mr. CONRAD, Mr. CRAPO, Mr. FRANKEN, Mr. JOHNSON, Mr. MCCAIN, Mr. MERKLEY, Ms. MURKOWSKI, Mrs. MURRAY, Mr. TESTER, Mr. THUNE, Mr. UDALL of Colorado, and Mr. UDALL of New Mexico) submitted the following resolution; which was considered and agreed to:

S. RES. 342

Whereas from November 1, 2009, through November 30, 2009, the United States celebrates National American Indian and Alaska Native Heritage Month;

Whereas American Indians and Alaska Natives are descendants of the original, indigenous inhabitants of what is now the United States;

Whereas, in 2000, the United States Census Bureau reported that there were more than 4,000,000 people in the United States of American Indian and Alaska Native descent;

Whereas, on December 2, 1989, the Committee on Indian Affairs of the Senate held a hearing exploring the contributions of the Iroquois Confederacy, and its influence on the Founding Fathers in the drafting of the Constitution of the United States with the concepts of freedom of speech, the separation of governmental powers, and checks and balances among the branches of government;

Whereas the Senate has reaffirmed that a major national goal of the United States is to provide the resources, processes, and structure that will enable Indian Tribes and tribal members to obtain the quantity and quality of health care services and opportunities that will eliminate the health disparities between American Indians and the general population of the United States;

Whereas Congress recently reaffirmed its trust responsibility to improve the housing conditions and socioeconomic status of American Indians and Alaska Natives by providing affordable homes in a safe and healthy environment;

Whereas, throughout its course of dealing with Indian Tribes, the United States Government has engaged in a government-to-government relationship with Tribes;

Whereas the United States Government owes a trust obligation to Tribes, acknowledged in treaties, statutes, and decisions of the Supreme Court, to protect the interests and welfare of tribal governments and their members;

Whereas American Indians and Alaska Natives have consistently served with honor and distinction in the Armed Forces of the United States, some as early as the Revolutionary War, and continue to serve in the Armed Forces in greater numbers per capita than any other group in the United States;

Whereas American Indians and Alaska Natives speak and preserve indigenous languages and have contributed hundreds of words to the English language, including the names of people and locations in the United States;

Whereas Congress has recognized Native American code talkers who served with honor and distinction in World War I and World War II, using indigenous languages as an unbreakable military code, saving countless American lives;

Whereas American Indians and Alaska Natives are deeply rooted in tradition and culture, which drives their strength of community; and

Whereas American Indians and Alaska Natives of all ages celebrate the great achievements of their ancestors and heroes and continue to share their stories with future generations: Now, therefore, be it

*Resolved*, That the Senate—

(1) recognizes the celebration of National American Indian and Alaska Native Heritage Month during the month of November 2009;

(2) honors the heritage and culture of American Indians and Alaska Natives and the contributions of American Indians and Alaska Natives to the United States; and

(3) urges the people of the United States to observe National American Indian and Alaska Native Heritage Month with appropriate programs and activities.

**SENATE CONCURRENT RESOLUTION 47—RECOGNIZING THE 75TH ANNIVERSARY OF THE ESTABLISHMENT OF THE EAST BAY REGIONAL PARK DISTRICT IN CALIFORNIA AND FOR OTHER PURPOSES**

Mrs. BOXER (for herself and Mrs. FEINSTEIN) submitted the following concurrent resolution; which was referred to the Committee on the Judiciary:

S. CON. RES. 47

Whereas November 6, 2009, will mark the 75th anniversary of the historic passage of a

ballot measure to create the East Bay Regional Park District (referred to in this preamble as the "District") in California's San Francisco Bay Area by a convincing "yes" vote of a 2½ to 1 margin in 1934 during the height of the Depression;

Whereas with the help of the Civilian Conservation Corps, the Works Progress Administration, and private contractors, the District began putting people to work to establish the District's first 3 regional parks—Tilden, Temescal, and Sibley;

Whereas over the intervening 75 years, the District has grown to be the largest regional park agency in the United States with nearly 100,000 acres of parklands spread across 65 regional parks and over 1,100 miles of trails in Alameda and Contra Costa Counties;

Whereas approximately 14,000,000 visitors a year from throughout the San Francisco Bay Area and beyond take advantage of the vast and diverse District parklands and trails;

Whereas the vision of the District is to preserve the priceless heritage of the region's natural and cultural resources, open space, parks, and trails for the future, and to set aside park areas for enjoyment and healthful recreation for current and future generations;

Whereas the mission of the District is to acquire, develop, manage, and maintain a high quality, diverse system of interconnected parklands that balances public usage and education programs with the protection and preservation of the East Bay's most spectacular natural and cultural resources;

Whereas an environmental ethic guides the District in all that it does;

Whereas in 1988, East Bay voters approved the passage of Measure AA, a \$225,000,000 bond to provide 20 years of funding for regional and local park acquisition and development projects;

Whereas in 2008, under the strategic leadership of its Board of Directors and General Manager Pat O'Brien, East Bay voters approved passage of the historic Measure WW, a \$500,000,000 renewal of the original Measure AA bond—the largest regional or local park bond ever passed in the United States; and

Whereas throughout 2009, the District's 75th Anniversary will be recognized through special events and programs: Now, therefore, be it

*Resolved by the Senate (the House of Representatives concurring)*, That Congress—

(1) recognizes the 75th anniversary of the establishment of the East Bay Regional Park District; and

(2) honors the board members, general managers, and East Bay Regional Park District staff who have dutifully fulfilled the mission of protecting open space and providing outdoor recreation opportunities for generations of families in the East Bay.

**AMENDMENTS SUBMITTED AND PROPOSED**

SA 2726. Mr. DEMINT submitted an amendment intended to be proposed by him to the bill H.R. 2847, making appropriations for the Departments of Commerce and Justice, and Science, and Related Agencies for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table.

SA 2727. Mr. SHELBY submitted an amendment intended to be proposed by him to the bill H.R. 2847, supra; which was ordered to lie on the table.

SA 2728. Mr. REID submitted an amendment intended to be proposed to amendment

SA 2393 proposed by Mr. JOHANNIS to the bill H.R. 2847, *supra*; which was ordered to lie on the table.

SA 2729. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill H.R. 3082, making appropriations for military construction, the Department of Veterans Affairs, and related agencies for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table.

SA 2730. Mr. JOHNSON (for himself and Mrs. HUTCHISON) proposed an amendment to the bill H.R. 3082, *supra*.

SA 2731. Mr. BINGAMAN (for himself and Mr. UDALL, of New Mexico) submitted an amendment intended to be proposed to amendment SA 2730 proposed by Mr. JOHNSON (for himself and Mrs. HUTCHISON) to the bill H.R. 3082, *supra*; which was ordered to lie on the table.

SA 2732. Mr. JOHNSON (for himself and Mrs. HUTCHISON) proposed an amendment to amendment SA 2730 proposed by Mr. JOHNSON (for himself and Mrs. HUTCHISON) to the bill H.R. 3082, *supra*.

SA 2733. Mr. JOHNSON submitted an amendment intended to be proposed to amendment SA 2730 proposed by Mr. JOHNSON (for himself and Mrs. HUTCHISON) to the bill H.R. 3082, *supra*; which was ordered to lie on the table.

SA 2734. Mr. JOHNSON submitted an amendment intended to be proposed to amendment SA 2730 proposed by Mr. JOHNSON (for himself and Mrs. HUTCHISON) to the bill H.R. 3082, *supra*; which was ordered to lie on the table.

SA 2735. Mr. INOUE (for himself, Mr. COCHRAN, and Mr. JOHNSON) submitted an amendment intended to be proposed to amendment SA 2730 proposed by Mr. JOHNSON (for himself and Mrs. HUTCHISON) to the bill H.R. 3082, *supra*; which was ordered to lie on the table.

SA 2736. Mr. AKAKA (for himself and Mr. VOINOVICH) proposed an amendment to the bill S. 806, to provide for the establishment, administration, and funding of Federal Executive Boards, and for other purposes.

#### TEXT OF AMENDMENTS

**SA 2726.** Mr. DEMINT submitted an amendment intended to be proposed by him to the bill H.R. 2847, making appropriations for the Departments of Commerce and Justice, and Science, and Related Agencies for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. \_\_\_\_\_. None of the funds appropriated or otherwise made available by this Act may be used to support, prepare for, or otherwise facilitate the transfer to or the detention in any State or territory of the United States any individual who has detained as of October 1, 2009, at Naval Station, Guantanamo Bay, Cuba.

**SA 2727.** Mr. SHELBY submitted an amendment intended to be proposed by him to the bill H.R. 2847, making appropriations for the Departments of Commerce and Justice, and Science, and Related Agencies for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table; as follows:

On page 170 at the end of line 19 insert the following:

SEC. XXX. At the discretion of the Attorney General, funds appropriated under the heading "Methamphetamine enforcement and cleanup" under funding for the Department of Justice in the Commerce, Justice, Science, and Related Agencies Appropriations Act, 2009 (Public Law 108-11) to the Blount, Dekalb, Etowah, Marshall, Marion, Morgan, Pickens, Walker Counties, Alabama Drug Task Forces for the Anti-Methamphetamine Project may be available to the Etowah County Drug Enforcement Unit for the Dekalb, Etowah, Marshall, Marion, Morgan, Pickens, Walker Counties, Alabama Drug Task Forces and the Blount County Sheriffs Department.

**SA 2728.** Mr. REID submitted an amendment intended to be proposed to amendment SA 2393 proposed by Mr. JOHANNIS to the bill H.R. 2847, making appropriations for the Departments of Commerce and Justice, and Science, and Related Agencies for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the amendment, add the following:

The provisions of the amendment shall become effective one day after enactment.

**SA 2729.** Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill H.R. 3082, making appropriations for military construction; the Department of Veterans Affairs, and related agencies for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table; as follows:

On page 27, between lines 3 and 4, insert the following:

SEC. 128. (a) During each of fiscal years 2010 through 2014, the Secretary of Defense shall submit to the congressional defense committees a report analyzing alternative designs for any anticipated major construction projects related to the security of strategic nuclear weapons facilities.

(b) The report shall examine, with regard to each alternative—

- (1) the costs, including full life cycle costs; and
- (2) the benefits, including security enhancements.

**SA 2730.** Mr. JOHNSON (for himself and Mrs. HUTCHISON) proposed an amendment to the bill H.R. 3082, making appropriations for military construction, the Department of Veterans Affairs, and related agencies for the fiscal year ending September 3, 2010, and for other purposes; as follows:

That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for military construction, the Department of Veterans Affairs, and related agencies for the fiscal year ending September 30, 2010, and for other purposes, namely:

#### TITLE I

#### DEPARTMENT OF DEFENSE

#### MILITARY CONSTRUCTION, ARMY

For acquisition, construction, installation, and equipment of temporary or permanent public works, military installations, facili-

ties, and real property for the Army as currently authorized by law, including personnel in the Army Corps of Engineers and other personal services necessary for the purposes of this appropriation, and for construction and operation of facilities in support of the functions of the Commander in Chief, \$3,477,673,000, to remain available until September 30, 2014: *Provided*, That of this amount, not to exceed \$191,573,000 shall be available for study, planning, design, architect and engineer services, and host nation support, as authorized by law, unless the Secretary of Defense determines that additional obligations are necessary for such purposes and notifies the Committees on Appropriations of both Houses of Congress of the determination and the reasons therefor: *Provided further*, That the amounts made available under this heading shall be expended for the projects and activities, and in the amounts specified, under this heading in the Committee recommendations and detail tables, including the table entitled "Military Construction Projects Listing by Location" in the report accompanying this Act.

#### MILITARY CONSTRUCTION, NAVY AND MARINE CORPS

For acquisition, construction, installation, and equipment of temporary or permanent public works, naval installations, facilities, and real property for the Navy and Marine Corps as currently authorized by law, including personnel in the Naval Facilities Engineering Command and other personal services necessary for the purposes of this appropriation, \$3,548,771,000, to remain available until September 30, 2014: *Provided*, That of this amount, not to exceed \$176,896,000 shall be available for study, planning, design, and architect and engineer services, as authorized by law, unless the Secretary of Defense determines that additional obligations are necessary for such purposes and notifies the Committees on Appropriations of both Houses of Congress of the determination and the reasons therefor: *Provided further*, That the amounts made available under this heading shall be expended for the projects and activities, and in the amounts specified, under this heading in the Committee recommendations and detail tables, including the table entitled "Military Construction Projects Listing by Location" in the report accompanying this Act.

#### MILITARY CONSTRUCTION, AIR FORCE

For acquisition, construction, installation, and equipment of temporary or permanent public works, military installations, facilities, and real property for the Air Force as currently authorized by law, \$1,213,539,000, to remain available until September 30, 2014: *Provided*, That of this amount, not to exceed \$106,918,000 shall be available for study, planning, design, and architect and engineer services, as authorized by law, unless the Secretary of Defense determines that additional obligations are necessary for such purposes and notifies the Committees on Appropriations of both Houses of Congress of the determination and the reasons therefor: *Provided further*, That the amounts made available under this heading shall be expended for the projects and activities, and in the amounts specified, under this heading in the Committee recommendations and detail tables, including the table entitled "Military Construction Projects Listing by Location" in the report accompanying this Act.

#### MILITARY CONSTRUCTION, DEFENSE-WIDE (INCLUDING TRANSFER OF FUNDS)

For acquisition, construction, installation, and equipment of temporary or permanent

public works, installations, facilities, and real property for activities and agencies of the Department of Defense (other than the military departments), as currently authorized by law, \$3,069,114,000, to remain available until September 30, 2014: *Provided*, That such amounts of this appropriation as may be determined by the Secretary of Defense may be transferred to such appropriations of the Department of Defense available for military construction or family housing as the Secretary may designate, to be merged with and to be available for the same purposes, and for the same time period, as the appropriation or fund to which transferred: *Provided further*, That of the amount appropriated, not to exceed \$142,942,000 shall be available for study, planning, design, and architect and engineer services, as authorized by law, unless the Secretary of Defense determines that additional obligations are necessary for such purposes and notifies the Committees on Appropriations of both Houses of Congress of the determination and the reasons therefor: *Provided further*, That the amounts made available under this heading shall be expended for the projects and activities, and in the amounts specified, under this heading in the Committee recommendations and detail tables, including the table entitled "Military Construction Projects Listing by Location" in the report accompanying this Act.

#### MILITARY CONSTRUCTION, ARMY NATIONAL GUARD

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the Army National Guard, and contributions therefor, as authorized by chapter 1803 of title 10, United States Code, and Military Construction Authorization Acts, \$497,210,000, to remain available until September 30, 2014: *Provided*, That the amounts made available under this heading shall be expended for the projects and activities, and in the amounts specified, under this heading in the Committee recommendations and detail tables, including the table entitled "Military Construction Projects Listing by Location" in the report accompanying this Act.

#### MILITARY CONSTRUCTION, AIR NATIONAL GUARD

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the Air National Guard, and contributions therefor, as authorized by chapter 1803 of title 10, United States Code, and Military Construction Authorization Acts, \$297,661,000, to remain available until September 30, 2014: *Provided*, That the amounts made available under this heading shall be expended for the projects and activities, and in the amounts specified, under this heading in the Committee recommendations and detail tables, including the table entitled "Military Construction Projects Listing by Location" in the report accompanying this Act.

#### MILITARY CONSTRUCTION, ARMY RESERVE

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the Army Reserve as authorized by chapter 1803 of title 10, United States Code, and Military Construction Authorization Acts, \$379,012,000, to remain available until September 30, 2014: *Provided*, That the amounts made available under this heading shall be expended for the projects and activities, and in the amounts specified, under this heading in the Committee recommendations and de-

tail tables, including the table entitled "Military Construction Projects Listing by Location" in the report accompanying this Act.

#### MILITARY CONSTRUCTION, NAVY RESERVE

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the reserve components of the Navy and Marine Corps as authorized by chapter 1803 of title 10, United States Code, and Military Construction Authorization Acts, \$64,124,000, to remain available until September 30, 2014: *Provided*, That the amounts made available under this heading shall be expended for the projects and activities, and in the amounts specified, under this heading in the Committee recommendations and detail tables, including the table entitled "Military Construction Projects Listing by Location" in the report accompanying this Act.

#### MILITARY CONSTRUCTION, AIR FORCE RESERVE

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the Air Force Reserve as authorized by chapter 1803 of title 10, United States Code, and Military Construction Authorization Acts, \$47,376,000, to remain available until September 30, 2014: *Provided*, That the amounts made available under this heading shall be expended for the projects and activities, and in the amounts specified, under this heading in the Committee recommendations and detail tables, including the table entitled "Military Construction Projects Listing by Location" in the report accompanying this Act.

#### NORTH ATLANTIC TREATY ORGANIZATION SECURITY INVESTMENT PROGRAM

For the United States share of the cost of the North Atlantic Treaty Organization Security Investment Program for the acquisition and construction of military facilities and installations (including international military headquarters) and for related expenses for the collective defense of the North Atlantic Treaty Area as authorized by section 2806 of title 10, United States Code, and Military Construction Authorization Acts, \$276,314,000, to remain available until expended: *Provided*, That of the amount appropriated, not to exceed \$41,400,000 shall be available for the United States share of the planning, design and construction of a new North Atlantic Treaty Organization headquarters.

#### FAMILY HOUSING CONSTRUCTION, ARMY

For expenses of family housing for the Army for construction, including acquisition, replacement, addition, expansion, extension, and alteration, as authorized by law, \$273,236,000, to remain available until September 30, 2014: *Provided*, That the amounts made available under this heading shall be expended for the projects and activities, and in the amounts specified, under this heading in the Committee recommendations and detail tables, including the table entitled "Military Construction Projects Listing by Location" in the report accompanying this Act.

#### FAMILY HOUSING OPERATION AND MAINTENANCE, ARMY

For expenses of family housing for the Army for operation and maintenance, including debt payment, leasing, minor construction, principal and interest charges, and insurance premiums, as authorized by law, \$523,418,000.

#### FAMILY HOUSING CONSTRUCTION, NAVY AND MARINE CORPS

For expenses of family housing for the Navy and Marine Corps for construction, including acquisition, replacement, addition, expansion, extension, and alteration, as authorized by law, \$146,569,000, to remain available until September 30, 2014: *Provided*, That the amounts made available under this heading shall be expended for the projects and activities, and in the amounts specified, under this heading in the Committee recommendations and detail tables, including the table entitled "Military Construction Projects Listing by Location" in the report accompanying this Act.

#### FAMILY HOUSING OPERATION AND MAINTENANCE, NAVY AND MARINE CORPS

For expenses of family housing for the Navy and Marine Corps for operation and maintenance, including debt payment, leasing, minor construction, principal and interest charges, and insurance premiums, as authorized by law, \$368,540,000.

#### FAMILY HOUSING CONSTRUCTION, AIR FORCE

For expenses of family housing for the Air Force for construction, including acquisition, replacement, addition, expansion, extension, and alteration, as authorized by law, \$66,101,000, to remain available until September 30, 2014: *Provided*, That the amounts made available under this heading shall be expended for the projects and activities, and in the amounts specified, under this heading in the Committee recommendations and detail tables, including the table entitled "Military Construction Projects Listing by Location" in the report accompanying this Act.

#### FAMILY HOUSING OPERATION AND MAINTENANCE, AIR FORCE

For expenses of family housing for the Air Force for operation and maintenance, including debt payment, leasing, minor construction, principal and interest charges, and insurance premiums, as authorized by law, \$502,936,000.

#### FAMILY HOUSING CONSTRUCTION, DEFENSE-WIDE

For expenses of family housing for the activities and agencies of the Department of Defense (other than the military departments) for construction, including acquisition, replacement, addition, expansion, extension and alteration, as authorized by law, \$2,859,000, to remain available until September 30, 2014: *Provided*, That the amounts made available under this heading shall be expended for the projects and activities, and in the amounts specified, under this heading in the Committee recommendations and detail tables, including the table entitled "Military Construction Projects Listing by Location" in the report accompanying this Act.

#### FAMILY HOUSING OPERATION AND MAINTENANCE, DEFENSE-WIDE

For expenses of family housing for the activities and agencies of the Department of Defense (other than the military departments) for operation and maintenance, leasing, and minor construction, as authorized by law, \$49,214,000.

#### DEPARTMENT OF DEFENSE FAMILY HOUSING IMPROVEMENT FUND

For the Department of Defense Family Housing Improvement Fund, \$2,600,000, to remain available until expended, for family housing initiatives undertaken pursuant to section 2883 of title 10, United States Code, providing alternative means of acquiring and

improving military family housing and supporting facilities.

#### HOMEOWNERS ASSISTANCE FUND

For the Homeowners Assistance Fund established by section 1013 of the Demonstration Cities and Metropolitan Development Act of 1966 (42 U.S.C. 3374), as amended by section 1001 of division A of the American Recovery and Reinvestment Act of 2009 (Public Law 111-5; 123 Stat. 194), \$373,225,000, to remain available until expended.

#### CHEMICAL DEMILITARIZATION CONSTRUCTION, DEFENSE-WIDE

For expenses of construction, not otherwise provided for, necessary for the destruction of the United States stockpile of lethal chemical agents and munitions in accordance with section 1412 of the Department of Defense Authorization Act, 1986 (50 U.S.C. 1521), and for the destruction of other chemical warfare materials that are not in the chemical weapon stockpile, as currently authorized by law, \$151,541,000, to remain available until September 30, 2014, which shall be only for the Assembled Chemical Weapons Alternatives program: *Provided*, That the amounts made available under this heading shall be expended for the projects and activities, and in the amounts specified, under this heading in the Committee recommendations and detail tables, including the table entitled "Military Construction Projects Listing by Location" in the report accompanying this Act.

#### DEPARTMENT OF DEFENSE BASE CLOSURE ACCOUNT 1990

For deposit into the Department of Defense Base Closure Account 1990, established by section 2906(a)(1) of the Defense Base Closure and Realignment Act of 1990 (10 U.S.C. 2687 note), \$421,768,000, to remain available until expended.

#### DEPARTMENT OF DEFENSE BASE CLOSURE ACCOUNT 2005

For deposit into the Department of Defense Base Closure Account 2005, established by section 2906A(a)(1) of the Defense Base Closure and Realignment Act of 1990 (10 U.S.C. 2687 note), \$7,479,498,000, to remain available until expended: *Provided*, That the Department of Defense shall notify the Committees on Appropriations of both Houses of Congress 14 days prior to obligating an amount for a construction project that exceeds or reduces the amount identified for that project in the most recently submitted budget request for this account by 20 percent or \$2,000,000, whichever is less: *Provided further*, That the previous proviso shall not apply to projects costing less than \$5,000,000, except for those projects not previously identified in any budget submission for this account and exceeding the minor construction threshold under 10 U.S.C. 2805.

#### ADMINISTRATIVE PROVISIONS

SEC. 101. None of the funds made available in this title shall be expended for payments under a cost-plus-a-fixed-fee contract for construction, where cost estimates exceed \$25,000, to be performed within the United States, except Alaska, without the specific approval in writing of the Secretary of Defense setting forth the reasons therefor.

SEC. 102. Funds made available in this title for construction shall be available for hire of passenger motor vehicles.

SEC. 103. Funds made available in this title for construction may be used for advances to the Federal Highway Administration, Department of Transportation, for the construction of access roads as authorized by section 210 of title 23, United States Code,

when projects authorized therein are certified as important to the national defense by the Secretary of Defense.

SEC. 104. None of the funds made available in this title may be used to begin construction of new bases in the United States for which specific appropriations have not been made.

SEC. 105. None of the funds made available in this title shall be used for purchase of land or land easements in excess of 100 percent of the value as determined by the Army Corps of Engineers or the Naval Facilities Engineering Command, except: (1) where there is a determination of value by a Federal court; (2) purchases negotiated by the Attorney General or the designee of the Attorney General; (3) where the estimated value is less than \$25,000; or (4) as otherwise determined by the Secretary of Defense to be in the public interest.

SEC. 106. None of the funds made available in this title shall be used to: (1) acquire land; (2) provide for site preparation; or (3) install utilities for any family housing, except housing for which funds have been made available in annual Acts making appropriations for military construction.

SEC. 107. None of the funds made available in this title for minor construction may be used to transfer or relocate any activity from one base or installation to another, without prior notification to the Committees on Appropriations of both Houses of Congress.

SEC. 108. None of the funds made available in this title may be used for the procurement of steel for any construction project or activity for which American steel producers, fabricators, and manufacturers have been denied the opportunity to compete for such steel procurement.

SEC. 109. None of the funds available to the Department of Defense for military construction or family housing during the current fiscal year may be used to pay real property taxes in any foreign nation.

SEC. 110. None of the funds made available in this title may be used to initiate a new installation overseas without prior notification to the Committees on Appropriations of both Houses of Congress.

SEC. 111. None of the funds made available in this title may be obligated for architect and engineer contracts estimated by the Government to exceed \$500,000 for projects to be accomplished in Japan, in any North Atlantic Treaty Organization member country, or in countries bordering the Arabian Sea, unless such contracts are awarded to United States firms or United States firms in joint venture with host nation firms.

SEC. 112. None of the funds made available in this title for military construction in the United States territories and possessions in the Pacific and on Kwajalein Atoll, or in countries bordering the Arabian Sea, may be used to award any contract estimated by the Government to exceed \$1,000,000 to a foreign contractor: *Provided*, That this section shall not be applicable to contract awards for which the lowest responsive and responsible bid of a United States contractor exceeds the lowest responsive and responsible bid of a foreign contractor by greater than 20 percent: *Provided further*, That this section shall not apply to contract awards for military construction on Kwajalein Atoll for which the lowest responsive and responsible bid is submitted by a Marshallese contractor.

SEC. 113. The Secretary of Defense is to inform the appropriate committees of both Houses of Congress, including the Committees on Appropriations, of the plans and

scope of any proposed military exercise involving United States personnel 30 days prior to its occurring, if amounts expended for construction, either temporary or permanent, are anticipated to exceed \$100,000.

SEC. 114. Not more than 20 percent of the funds made available in this title which are limited for obligation during the current fiscal year shall be obligated during the last two months of the fiscal year.

#### (INCLUDING TRANSFER OF FUNDS)

SEC. 115. Funds appropriated to the Department of Defense for construction in prior years shall be available for construction authorized for each such military department by the authorizations enacted into law during the current session of Congress.

SEC. 116. For military construction or family housing projects that are being completed with funds otherwise expired or lapsed for obligation, expired or lapsed funds may be used to pay the cost of associated supervision, inspection, overhead, engineering and design on those projects and on subsequent claims, if any.

SEC. 117. Notwithstanding any other provision of law, any funds made available to a military department or defense agency for the construction of military projects may be obligated for a military construction project or contract, or for any portion of such a project or contract, at any time before the end of the fourth fiscal year after the fiscal year for which funds for such project were made available, if the funds obligated for such project: (1) are obligated from funds available for military construction projects; and (2) do not exceed the amount appropriated for such project, plus any amount by which the cost of such project is increased pursuant to law.

SEC. 118. (a) The Secretary of Defense, in consultation with the Secretary of State, shall submit to the Committees on Appropriations of both Houses of Congress, by February 15 of each year, an annual report in unclassified and, if necessary, classified form, on actions taken by the Department of Defense and the Department of State during the previous fiscal year to encourage host countries to assume a greater share of the common defense burden of such countries and the United States.

(b) The report under subsection (a) shall include a description of—

(1) attempts to secure cash and in-kind contributions from host countries for military construction projects;

(2) attempts to achieve economic incentives offered by host countries to encourage private investment for the benefit of the United States Armed Forces;

(3) attempts to recover funds due to be paid to the United States by host countries for assets deeded or otherwise imparted to host countries upon the cessation of United States operations at military installations;

(4) the amount spent by host countries on defense, in dollars and in terms of the percent of gross domestic product (GDP) of the host country; and

(5) for host countries that are members of the North Atlantic Treaty Organization (NATO), the amount contributed to NATO by host countries, in dollars and in terms of the percent of the total NATO budget.

(c) In this section, the term "host country" means other member countries of NATO, Japan, South Korea, and United States allies bordering the Arabian Sea.

#### (INCLUDING TRANSFER OF FUNDS)

SEC. 119. In addition to any other transfer authority available to the Department of Defense, proceeds deposited to the Department

of Defense Base Closure Account established by section 207(a)(1) of the Defense Authorization Amendments and Base Closure and Realignment Act (10 U.S.C. 2687 note) pursuant to section 207(a)(2)(C) of such Act, may be transferred to the account established by section 2906(a)(1) of the Defense Base Closure and Realignment Act of 1990 (10 U.S.C. 2687 note), to be merged with, and to be available for the same purposes and the same time period as that account.

(INCLUDING TRANSFER OF FUNDS)

SEC. 120. Subject to 30 days prior notification to the Committees on Appropriations of both Houses of Congress, such additional amounts as may be determined by the Secretary of Defense may be transferred to: (1) the Department of Defense Family Housing Improvement Fund from amounts appropriated for construction in "Family Housing" accounts, to be merged with and to be available for the same purposes and for the same period of time as amounts appropriated directly to the Fund; or (2) the Department of Defense Military Unaccompanied Housing Improvement Fund from amounts appropriated for construction of military unaccompanied housing in "Military Construction" accounts, to be merged with and to be available for the same purposes and for the same period of time as amounts appropriated directly to the Fund: *Provided*, That appropriations made available to the Funds shall be available to cover the costs, as defined in section 502(5) of the Congressional Budget Act of 1974, of direct loans or loan guarantees issued by the Department of Defense pursuant to the provisions of subchapter IV of chapter 169 of title 10, United States Code, pertaining to alternative means of acquiring and improving military family housing, military unaccompanied housing, and supporting facilities.

SEC. 121. (a) Not later than 60 days before issuing any solicitation for a contract with the private sector for military family housing the Secretary of the military department concerned shall submit to the Committees on Appropriations of both Houses of Congress the notice described in subsection (b).

(b)(1) A notice referred to in subsection (a) is a notice of any guarantee (including the making of mortgage or rental payments) proposed to be made by the Secretary to the private party under the contract involved in the event of—

(A) the closure or realignment of the installation for which housing is provided under the contract;

(B) a reduction in force of units stationed at such installation; or

(C) the extended deployment overseas of units stationed at such installation.

(2) Each notice under this subsection shall specify the nature of the guarantee involved and assess the extent and likelihood, if any, of the liability of the Federal Government with respect to the guarantee.

(INCLUDING TRANSFER OF FUNDS)

SEC. 122. In addition to any other transfer authority available to the Department of Defense, amounts may be transferred from the accounts established by sections 2906(a)(1) and 2906A(a)(1) of the Defense Base Closure and Realignment Act of 1990 (10 U.S.C. 2687 note), to the fund established by section 1013(d) of the Demonstration Cities and Metropolitan Development Act of 1966 (42 U.S.C. 3374) to pay for expenses associated with the Homeowners Assistance Program incurred under 42 U.S.C. 3374(a)(1)(A). Any amounts transferred shall be merged with and be available for the same purposes and for the

same time period as the fund to which transferred.

SEC. 123. Funds made available in this title for operation and maintenance of family housing shall be the exclusive source of funds for repair and maintenance of all family housing units, including general or flag officer quarters: *Provided*, That not more than \$35,000 per unit may be spent annually for the maintenance and repair of any general or flag officer quarters without 30 days prior notification to the Committees on Appropriations of both Houses of Congress, except that an after-the-fact notification shall be submitted if the limitation is exceeded solely due to costs associated with environmental remediation that could not be reasonably anticipated at the time of the budget submission: *Provided further*, That the Under Secretary of Defense (Comptroller) is to report annually to the Committees on Appropriations of both Houses of Congress all operation and maintenance expenditures for each individual general or flag officer quarters for the prior fiscal year.

SEC. 124. Amounts contained in the Ford Island Improvement Account established by subsection (h) of section 2814 of title 10, United States Code, are appropriated and shall be available until expended for the purposes specified in subsection (i)(1) of such section or until transferred pursuant to subsection (i)(3) of such section.

(INCLUDING TRANSFER OF FUNDS)

SEC. 125. None of the funds made available in this title, or in any Act making appropriations for military construction which remain available for obligation, may be obligated or expended to carry out a military construction, land acquisition, or family housing project at or for a military installation approved for closure, or at a military installation for the purposes of supporting a function that has been approved for realignment to another installation, in 2005 under the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101-510; 10 U.S.C. 2687 note), unless such a project at a military installation approved for realignment will support a continuing mission or function at that installation or a new mission or function that is planned for that installation, or unless the Secretary of Defense certifies that the cost to the United States of carrying out such project would be less than the cost to the United States of canceling such project, or if the project is at an active component base that shall be established as an enclave or in the case of projects having multi-agency use, that another Government agency has indicated it will assume ownership of the completed project. The Secretary of Defense may not transfer funds made available as a result of this limitation from any military construction project, land acquisition, or family housing project to another account or use such funds for another purpose or project without the prior approval of the Committees on Appropriations of both Houses of Congress. This section shall not apply to military construction projects, land acquisition, or family housing projects for which the project is vital to the national security or the protection of health, safety, or environmental quality: *Provided*, That the Secretary of Defense shall notify the congressional defense committees within seven days of a decision to carry out such a military construction project.

(INCLUDING TRANSFER OF FUNDS)

SEC. 126. During the 5-year period after appropriations available in this Act to the Department of Defense for military construc-

tion and family housing operation and maintenance and construction have expired for obligation, upon a determination that such appropriations will not be necessary for the liquidation of obligations or for making authorized adjustments to such appropriations for obligations incurred during the period of availability of such appropriations, unobligated balances of such appropriations may be transferred into the appropriation "Foreign Currency Fluctuations, Construction, Defense", to be merged with and to be available for the same time period and for the same purposes as the appropriation to which transferred.

SEC. 127. Amounts appropriated or otherwise made available in an account funded under the headings in this title may be transferred among projects and activities within that account in accordance with the reprogramming guidelines for military construction and family housing construction contained in the report accompanying this Act, and in the guidance for military construction reprogrammings and notifications contained in Department of Defense Financial Management Regulation 7000.14-R, Volume 3, Chapter 7, of December 1996, as in effect on the date of enactment of this Act.

TITLE II

DEPARTMENT OF VETERANS AFFAIRS

VETERANS BENEFITS ADMINISTRATION

COMPENSATION AND PENSIONS

(INCLUDING TRANSFER OF FUNDS)

For the payment of compensation benefits to or on behalf of veterans and a pilot program for disability examinations as authorized by section 107 and chapters 11, 13, 18, 51, 53, 55, and 61 of title 38, United States Code; pension benefits to or on behalf of veterans as authorized by chapters 15, 51, 53, 55, and 61 of title 38, United States Code; and burial benefits, the Reinstated Entitlement Program for Survivors, emergency and other officers' retirement pay, adjusted-service credits and certificates, payment of premiums due on commercial life insurance policies guaranteed under the provisions of title IV of the Servicemembers Civil Relief Act (50 U.S.C. App. 541 et seq.) and for other benefits as authorized by sections 107, 1312, 1977, and 2106, and chapters 23, 51, 53, 55, and 61 of title 38, United States Code, \$47,218,207,000, to remain available until expended: *Provided*, That not to exceed \$29,283,000 of the amount appropriated under this heading shall be reimbursed to "General operating expenses", "Medical support and compliance", and "Information technology systems" for necessary expenses in implementing the provisions of chapters 51, 53, and 55 of title 38, United States Code, the funding source for which is specifically provided as the "Compensation and pensions" appropriation: *Provided further*, That such sums as may be earned on an actual qualifying patient basis, shall be reimbursed to "Medical care collections fund" to augment the funding of individual medical facilities for nursing home care provided to pensioners as authorized.

READJUSTMENT BENEFITS

For the payment of readjustment and rehabilitation benefits to or on behalf of veterans as authorized by chapters 21, 30, 31, 33, 34, 35, 36, 39, 51, 53, 55, and 61 of title 38, United States Code, \$8,663,624,000, to remain available until expended: *Provided*, That expenses for rehabilitation program services and assistance which the Secretary is authorized to provide under subsection (a) of section 3104 of title 38, United States Code, other than under paragraphs (1), (2), (5), and (11) of that subsection, shall be charged to this account.

## VETERANS INSURANCE AND INDEMNITIES

For military and naval insurance, national service life insurance, servicemen's indemnities, service-disabled veterans insurance, and veterans mortgage life insurance as authorized by title 38, United States Code, chapters 19 and 21, \$49,288,000, to remain available until expended.

## VETERANS HOUSING BENEFIT PROGRAM FUND

For the cost of direct and guaranteed loans, such sums as may be necessary to carry out the program, as authorized by subchapters I through III of chapter 37 of title 38, United States Code: *Provided*, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974: *Provided further*, That during fiscal year 2010, within the resources available, not to exceed \$500,000 in gross obligations for direct loans are authorized for specially adapted housing loans.

In addition, for administrative expenses to carry out the direct and guaranteed loan programs, \$165,082,000.

## VOCATIONAL REHABILITATION LOANS PROGRAM ACCOUNT

## (INCLUDING TRANSFER OF FUNDS)

For the cost of direct loans, \$29,000, as authorized by chapter 31 of title 38, United States Code: *Provided*, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974: *Provided further*, That funds made available under this heading are available to subsidize gross obligations for the principal amount of direct loans not to exceed \$2,298,000.

In addition, for administrative expenses necessary to carry out the direct loan program, \$328,000, which may be paid to the appropriation for "General operating expenses".

## NATIVE AMERICAN VETERAN HOUSING LOAN PROGRAM ACCOUNT

For administrative expenses to carry out the direct loan program authorized by subchapter V of chapter 37 of title 38, United States Code, \$664,000.

## GUARANTEED TRANSITIONAL HOUSING LOANS FOR HOMELESS VETERANS PROGRAM ACCOUNT

For the administrative expenses to carry out the guaranteed transitional housing loan program authorized by subchapter VI of chapter 20 of title 38, United States Code, not to exceed \$750,000 of the amounts appropriated by this Act for "General operating expenses" and "Medical support and compliance" may be expended.

VETERANS HEALTH ADMINISTRATION  
MEDICAL SERVICES

## (INCLUDING TRANSFER OF FUNDS)

For necessary expenses for furnishing, as authorized by law, inpatient and outpatient care and treatment to beneficiaries of the Department of Veterans Affairs and veterans described in section 1705(a) of title 38, United States Code, including care and treatment in facilities not under the jurisdiction of the Department, and including medical supplies and equipment, food services, and salaries and expenses of healthcare employees hired under title 38, United States Code, and aid to State homes as authorized by section 1741 of title 38, United States Code; \$34,704,500,000, plus reimbursements: *Provided*, That of the funds made available under this heading, not to exceed \$1,600,000,000 shall be available until September 30, 2011: *Provided further*, That, notwithstanding any other provision of law, the Secretary of Veterans Affairs

shall establish a priority for the provision of medical treatment for veterans who have service-connected disabilities, lower income, or have special needs: *Provided further*, That, notwithstanding any other provision of law, the Secretary of Veterans Affairs shall give priority funding for the provision of basic medical benefits to veterans in enrollment priority groups 1 through 6: *Provided further*, That, notwithstanding any other provision of law, the Secretary of Veterans Affairs may authorize the dispensing of prescription drugs from Veterans Health Administration facilities to enrolled veterans with privately written prescriptions based on requirements established by the Secretary: *Provided further*, That the implementation of the program described in the previous proviso shall incur no additional cost to the Department of Veterans Affairs: *Provided further*, That for the Department of Defense/Department of Veterans Affairs Health Care Sharing Incentive Fund, as authorized by section 8111(d) of title 38, United States Code, a minimum of \$15,000,000, to remain available until expended, for any purpose authorized by section 8111 of title 38, United States Code.

## MEDICAL SUPPORT AND COMPLIANCE

For necessary expenses in the administration of the medical, hospital, nursing home, domiciliary, construction, supply, and research activities, as authorized by law; administrative expenses in support of capital policy activities; and administrative and legal expenses of the Department for collecting and recovering amounts owed the Department as authorized under chapter 17 of title 38, United States Code, and the Federal Medical Care Recovery Act (42 U.S.C. 2651 et seq.); \$5,100,000,000, plus reimbursements, of which \$250,000,000 shall be available until September 30, 2011.

## MEDICAL FACILITIES

For necessary expenses for the maintenance and operation of hospitals, nursing homes, and domiciliary facilities and other necessary facilities of the Veterans Health Administration; for administrative expenses in support of planning, design, project management, real property acquisition and disposition, construction, and renovation of any facility under the jurisdiction or for the use of the Department; for oversight, engineering, and architectural activities not charged to project costs; for repairing, altering, improving, or providing facilities in the several hospitals and homes under the jurisdiction of the Department, not otherwise provided for, either by contract or by the hire of temporary employees and purchase of materials; for leases of facilities; and for laundry services, \$4,849,883,000, plus reimbursements, of which \$250,000,000 shall be available until September 30, 2011: *Provided*, That \$100,000,000 for non-recurring maintenance provided under this heading shall be allocated in a manner not subject to the Veterans Equitable Resource Allocation.

## MEDICAL AND PROSTHETIC RESEARCH

For necessary expenses in carrying out programs of medical and prosthetic research and development as authorized by chapter 73 of title 38, United States Code, \$580,000,000, plus reimbursements, to remain available until September 30, 2011.

## NATIONAL CEMETERY ADMINISTRATION

For necessary expenses of the National Cemetery Administration for operations and maintenance, not otherwise provided for, including uniforms or allowances therefor; cemetery expenses as authorized by law; purchase of one passenger motor vehicle for

use in cemetery operations; hire of passenger motor vehicles; and repair, alteration or improvement of facilities under the jurisdiction of the National Cemetery Administration, \$250,000,000, of which not to exceed \$24,200,000 shall be available until September 30, 2011.

## DEPARTMENTAL ADMINISTRATION

## GENERAL OPERATING EXPENSES

For necessary operating expenses of the Department of Veterans Affairs, not otherwise provided for, including administrative expenses in support of Department-Wide capital planning, management and policy activities, uniforms, or allowances therefor; not to exceed \$25,000 for official reception and representation expenses; hire of passenger motor vehicles; and reimbursement of the General Services Administration for security guard services, and the Department of Defense for the cost of overseas employee mail, \$2,086,251,000: *Provided*, That expenses for services and assistance authorized under paragraphs (1), (2), (5), and (11) of section 3104(a) of title 38, United States Code, that the Secretary of Veterans Affairs determines are necessary to enable entitled veterans: (1) to the maximum extent feasible, to become employable and to obtain and maintain suitable employment; or (2) to achieve maximum independence in daily living, shall be charged to this account: *Provided further*, That the Veterans Benefits Administration shall be funded at not less than \$1,689,207,000: *Provided further*, That of the funds made available under this heading, not to exceed \$11,000,000 shall be available for obligation until September 30, 2011: *Provided further*, That from the funds made available under this heading, the Veterans Benefits Administration may purchase (on a one-for-one replacement basis only) up to two passenger motor vehicles for use in operations of that Administration in Manila, Philippines.

## INFORMATION TECHNOLOGY SYSTEMS

For necessary expenses for information technology systems and telecommunications support, including developmental information systems and operational information systems; for pay and associated costs; and for the capital asset acquisition of information technology systems, including management and related contractual costs of said acquisitions, including contractual costs associated with operations authorized by section 3109 of title 5, United States Code, \$3,307,000,000, plus reimbursements, to be available until September 30, 2011: *Provided*, That not later than 30 days after the date of the enactment of this Act, the Secretary of Veterans Affairs shall submit to the Committees on Appropriations of both Houses of Congress a reprogramming base letter which sets forth, by project, the Operations and Maintenance and Salaries and Expenses costs to be carried out utilizing amounts made available by this heading: *Provided further*, That of the amounts appropriated, \$800,485,000 may not be obligated or expended until the Secretary of Veterans Affairs or the Chief Information Officer of the Department of Veterans Affairs submits to the Committees on Appropriations of both Houses of Congress a certification of the amounts, in parts or in full, to be obligated and expended for each development project: *Provided further*, That amounts specified in the certification with respect to development projects under the preceding proviso shall be incorporated into the reprogramming base letter with respect to development projects funded using amounts appropriated by this heading.



## OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General, to include information technology, in carrying out the provisions of the Inspector General Act of 1978 (5 U.S.C. App.), \$109,000,000, of which \$6,000,000 shall be available until September 30, 2011.

## CONSTRUCTION, MAJOR PROJECTS

For constructing, altering, extending, and improving any of the facilities, including parking projects, under the jurisdiction or for the use of the Department of Veterans Affairs, or for any of the purposes set forth in sections 316, 2404, 2406, 8102, 8103, 8106, 8108, 8109, 8110, and 8122 of title 38, United States Code, including planning, architectural and engineering services, construction management services, maintenance or guarantee period services costs associated with equipment guarantees provided under the project, services of claims analysts, offsite utility and storm drainage system construction costs, and site acquisition, where the estimated cost of a project is more than the amount set forth in section 8104(a)(3)(A) of title 38, United States Code, or where funds for a project were made available in a previous major project appropriation, \$1,194,000,000, to remain available until expended, of which \$16,000,000 shall be to make reimbursements as provided in section 13 of the Contract Disputes Act of 1978 (41 U.S.C. 612) for claims paid for contract disputes: *Provided*, That except for advance planning activities, including needs assessments which may or may not lead to capital investments, and other capital asset management related activities, including portfolio development and management activities, and investment strategy studies funded through the advance planning fund and the planning and design activities funded through the design fund, including needs assessments which may or may not lead to capital investments, and funds provided for the purchase of land for the National Cemetery Administration through the land acquisition line item, none of the funds appropriated under this heading shall be used for any project which has not been approved by the Congress in the budgetary process: *Provided further*, That funds provided in this appropriation for fiscal year 2010, for each approved project shall be obligated: (1) by the awarding of a construction documents contract by September 30, 2010; and (2) by the awarding of a construction contract by September 30, 2011: *Provided further*, That the Secretary of Veterans Affairs shall promptly submit to the Committees on Appropriations of both Houses of Congress a written report on any approved major construction project for which obligations are not incurred within the time limitations established above.

## CONSTRUCTION, MINOR PROJECTS

For constructing, altering, extending, and improving any of the facilities, including parking projects, under the jurisdiction or for the use of the Department of Veterans Affairs, including planning and assessments of needs which may lead to capital investments, architectural and engineering services, maintenance or guarantee period services costs associated with equipment guarantees provided under the project, services of claims analysts, offsite utility and storm drainage system construction costs, and site acquisition, or for any of the purposes set forth in sections 316, 2404, 2406, 8102, 8103, 8106, 8108, 8109, 8110, 8122, and 8162 of title 38, United States Code, where the estimated cost of a project is equal to or less than the amount set forth in section 8104(a)(3)(A) of

title 38, United States Code, \$685,000,000, to remain available until expended, along with unobligated balances of previous "Construction, minor projects" appropriations which are hereby made available for any project where the estimated cost is equal to or less than the amount set forth in such section: *Provided*, That funds in this account shall be available for: (1) repairs to any of the non-medical facilities under the jurisdiction or for the use of the Department which are necessary because of loss or damage caused by any natural disaster or catastrophe; and (2) temporary measures necessary to prevent or to minimize further loss by such causes.

GRANTS FOR CONSTRUCTION OF STATE  
EXTENDED CARE FACILITIES

For grants to assist States to acquire or construct State nursing home and domiciliary facilities and to remodel, modify, or alter existing hospital, nursing home, and domiciliary facilities in State homes, for furnishing care to veterans as authorized by sections 8131 through 8137 of title 38, United States Code, \$115,000,000, to remain available until expended.

GRANTS FOR CONSTRUCTION OF STATE  
VETERANS CEMETERIES

For grants to assist States in establishing, expanding, or improving State veterans cemeteries as authorized by section 2408 of title 38, United States Code, \$42,000,000, to remain available until expended.

ADMINISTRATIVE PROVISIONS  
(INCLUDING TRANSFER OF FUNDS)

SEC. 201. Any appropriation for fiscal year 2010 for "Compensation and pensions", "Readjustment benefits", and "Veterans insurance and indemnities" may be transferred as necessary to any other of the mentioned appropriations: *Provided*, That before a transfer may take place, the Secretary of Veterans Affairs shall request from the Committees on Appropriations of both Houses of Congress the authority to make the transfer and such Committees issue an approval, or absent a response, a period of 30 days has elapsed.

## (INCLUDING TRANSFER OF FUNDS)

SEC. 202. Amounts made available for the Department of Veterans Affairs for fiscal year 2010, in this Act or any other Act, under the "Medical services", "Medical support and compliance" and "Medical facilities" accounts may be transferred between the accounts to the extent necessary to implement the restructuring of the Veterans Health Administration accounts: *Provided*, That any transfers between the "Medical services" and "Medical support and compliance" accounts of 1 percent or less of the total amount appropriated to the account in this or any other Act may take place subject to notification from the Secretary of Veterans Affairs to the Committees on Appropriations of both Houses of Congress of the amount and purpose of the transfer: *Provided further*, That any transfers between the "Medical services" and "Medical support and compliance" accounts in excess of 1 percent, or exceeding the cumulative 1 percent for the fiscal year, may take place only after the Secretary requests from the Committees on Appropriations of both Houses of Congress the authority to make the transfer and an approval is issued: *Provided further*, That any transfer to or from the "Medical facilities" account may take place only after the Secretary requests from the Committees on Appropriations of both Houses of Congress the authority to make the transfer and an approval is issued.

SEC. 203. Appropriations available in this title for salaries and expenses shall be avail-

able for services authorized by section 3109 of title 5, United States Code, hire of passenger motor vehicles; lease of a facility or land or both; and uniforms or allowances therefore, as authorized by sections 5901 through 5902 of title 5, United States Code.

SEC. 204. No appropriations in this title (except the appropriations for "Construction, major projects", and "Construction, minor projects") shall be available for the purchase of any site for or toward the construction of any new hospital or home.

SEC. 205. No appropriations in this title shall be available for hospitalization or examination of any persons (except beneficiaries entitled to such hospitalization or examination under the laws providing such benefits to veterans, and persons receiving such treatment under sections 7901 through 7904 of title 5, United States Code, or the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.)), unless reimbursement of the cost of such hospitalization or examination is made to the "Medical services" account at such rates as may be fixed by the Secretary of Veterans Affairs.

SEC. 206. Appropriations available in this title for "Compensation and pensions", "Readjustment benefits", and "Veterans insurance and indemnities" shall be available for payment of prior year accrued obligations required to be recorded by law against the corresponding prior year accounts within the last quarter of fiscal year 2009.

SEC. 207. Appropriations available in this title shall be available to pay prior year obligations of corresponding prior year appropriations accounts resulting from sections 3328(a), 3334, and 3712(a) of title 31, United States Code, except that if such obligations are from trust fund accounts they shall be payable only from "Compensation and pensions".

## (INCLUDING TRANSFER OF FUNDS)

SEC. 208. Notwithstanding any other provision of law, during fiscal year 2010, the Secretary of Veterans Affairs shall, from the National Service Life Insurance Fund (38 U.S.C. 1920), the Veterans' Special Life Insurance Fund (38 U.S.C. 1923), and the United States Government Life Insurance Fund (38 U.S.C. 1955), reimburse the "General operating expenses" and "Information technology systems" accounts for the cost of administration of the insurance programs financed through those accounts: *Provided*, That reimbursement shall be made only from the surplus earnings accumulated in such an insurance program during fiscal year 2010 that are available for dividends in that program after claims have been paid and actuarially determined reserves have been set aside: *Provided further*, That if the cost of administration of such an insurance program exceeds the amount of surplus earnings accumulated in that program, reimbursement shall be made only to the extent of such surplus earnings: *Provided further*, That the Secretary shall determine the cost of administration for fiscal year 2010 which is properly allocable to the provision of each such insurance program and to the provision of any total disability income insurance included in that insurance program.

SEC. 209. Amounts deducted from enhanced-use lease proceeds to reimburse an account for expenses incurred by that account during a prior fiscal year for providing enhanced-use lease services, may be obligated during the fiscal year in which the proceeds are received.

## (INCLUDING TRANSFER OF FUNDS)

SEC. 210. Funds available in this title or funds for salaries and other administrative



expenses shall also be available to reimburse the Office of Resolution Management of the Department of Veterans Affairs and the Office of Employment Discrimination Complaint Adjudication under section 319 of title 38, United States Code, for all services provided at rates which will recover actual costs but not exceed \$34,158,000 for the Office of Resolution Management and \$3,278,000 for the Office of Employment and Discrimination Complaint Adjudication: *Provided*, That payments may be made in advance for services to be furnished based on estimated costs: *Provided further*, That amounts received shall be credited to the "General operating expenses" and "Information technology systems" accounts for use by the office that provided the service.

SEC. 211. No appropriations in this title shall be available to enter into any new lease of real property if the estimated annual rental is more than \$1,000,000 unless the Secretary submits a report which the Committees on Appropriations of both Houses of Congress approve within 30 days following the date on which the report is received.

SEC. 212. No funds of the Department of Veterans Affairs shall be available for hospital care, nursing home care, or medical services provided to any person under chapter 17 of title 38, United States Code, for a non-service-connected disability described in section 1729(a)(2) of such title, unless that person has disclosed to the Secretary of Veterans Affairs, in such form as the Secretary may require, current, accurate third-party reimbursement information for purposes of section 1729 of such title: *Provided*, That the Secretary may recover, in the same manner as any other debt due the United States, the reasonable charges for such care or services from any person who does not make such disclosure as required: *Provided further*, That any amounts so recovered for care or services provided in a prior fiscal year may be obligated by the Secretary during the fiscal year in which amounts are received.

#### (INCLUDING TRANSFER OF FUNDS)

SEC. 213. Notwithstanding any other provision of law, proceeds or revenues derived from enhanced-use leasing activities (including disposal) may be deposited into the "Construction, major projects" and "Construction, minor projects" accounts and be used for construction (including site acquisition and disposition), alterations, and improvements of any medical facility under the jurisdiction or for the use of the Department of Veterans Affairs. Such sums as realized are in addition to the amount provided for in "Construction, major projects" and "Construction, minor projects".

SEC. 214. Amounts made available under "Medical services" are available—

(1) for furnishing recreational facilities, supplies, and equipment; and

(2) for funeral expenses, burial expenses, and other expenses incidental to funerals and burials for beneficiaries receiving care in the Department.

#### (INCLUDING TRANSFER OF FUNDS)

SEC. 215. Such sums as may be deposited to the Medical Care Collections Fund pursuant to section 1729A of title 38, United States Code, may be transferred to "Medical services", to remain available until expended for the purposes of that account: *Provided*, That, for fiscal year 2010, \$200,000,000 deposited in the Department of Veterans Affairs Medical Care Collections Fund shall be transferred to "Medical Facilities", to remain available until expended, for non-recurring maintenance at existing Veterans Health Adminis-

tration medical facilities: *Provided further*, That the allocation of amounts transferred to "Medical Facilities" under the preceding proviso shall not be subject to the Veterans Equitable Resource Allocation formula.

SEC. 216. The Secretary of Veterans Affairs may enter into agreements with Community Health Centers in rural Alaska, Indian tribes and tribal organizations which are party to the Alaska Native Health Compact with the Indian Health Service, and Indian tribes and tribal organizations serving rural Alaska which have entered into contracts with the Indian Health Service under the Indian Self Determination and Educational Assistance Act, to provide healthcare, including behavioral health and dental care. The Secretary shall require participating veterans and facilities to comply with all appropriate rules and regulations, as established by the Secretary. The term "rural Alaska" shall mean those lands sited within the external boundaries of the Alaska Native regions specified in sections 7(a)(1)-(4) and (7)-(12) of the Alaska Native Claims Settlement Act, as amended (43 U.S.C. 1606), and those lands within the Alaska Native regions specified in sections 7(a)(5) and 7(a)(6) of the Alaska Native Claims Settlement Act, as amended (43 U.S.C. 1606), which are not within the boundaries of the Municipality of Anchorage, the Fairbanks North Star Borough, the Kenai Peninsula Borough or the Matanuska Susitna Borough.

#### (INCLUDING TRANSFER OF FUNDS)

SEC. 217. Such sums as may be deposited to the Department of Veterans Affairs Capital Asset Fund pursuant to section 8118 of title 38, United States Code, may be transferred to the "Construction, major projects" and "Construction, minor projects" accounts, to remain available until expended for the purposes of these accounts.

SEC. 218. None of the funds made available in this title may be used to implement any policy prohibiting the Directors of the Veterans Integrated Services Networks from conducting outreach or marketing to enroll new veterans within their respective Networks.

SEC. 219. The Secretary of Veterans Affairs shall submit to the Committees on Appropriations of both Houses of Congress a quarterly report on the financial status of the Veterans Health Administration.

#### (INCLUDING TRANSFER OF FUNDS)

SEC. 220. Amounts made available under the "Medical services", "Medical support and compliance", "Medical facilities", "General operating expenses", and "National Cemetery Administration" accounts for fiscal year 2010, may be transferred to or from the "Information technology systems" account: *Provided*, That before a transfer may take place, the Secretary of Veterans Affairs shall request from the Committees on Appropriations of both Houses of Congress the authority to make the transfer and an approval is issued.

SEC. 221. Amounts made available for the "Information technology systems" account may be transferred between projects: *Provided*, That no project may be increased or decreased by more than \$1,000,000 of cost prior to submitting a request to the Committees on Appropriations of both Houses of Congress to make the transfer and an approval is issued, or absent a response, a period of 30 days has elapsed.

#### (INCLUDING TRANSFER OF FUNDS)

SEC. 222. Any balances in prior year accounts established for the payment of benefits under the Reinstated Entitlement Pro-

gram for Survivors shall be transferred to and merged with amounts available under the "Compensation and pensions" account, and receipts that would otherwise be credited to the accounts established for the payment of benefits under the Reinstated Entitlement Program for Survivors program shall be credited to amounts available under the "Compensation and pensions" account.

SEC. 223. The Department shall continue research into Gulf War illness at levels not less than those made available in fiscal year 2009, within available funds contained in this Act.

SEC. 224. (a) Upon a determination by the Secretary of Veterans Affairs that such action is in the national interest, and will have a direct benefit for veterans through increased access to treatment, the Secretary of Veterans Affairs may transfer not more than \$5,000,000 to the Secretary of Health and Human Services for the Graduate Psychology Education Program, which includes treatment of veterans, to support increased training of psychologists skilled in the treatment of post-traumatic stress disorder, traumatic brain injury, and related disorders.

(b) The Secretary of Health and Human Services may only use funds transferred under this section for the purposes described in subsection (a).

(c) The Secretary of Veterans Affairs shall notify Congress of any such transfer of funds under this section.

SEC. 225. None of the funds appropriated or otherwise made available by this Act or any other Act for the Department of Veterans Affairs may be used in a manner that is inconsistent with—

(1) section 842 of the Transportation, Treasury, Housing and Urban Development, the Judiciary, and Independent Agencies Appropriations Act, 2006 (Public Law 109-115; 119 Stat. 2506); or

(2) section 8110(a)(5) of title 38, United States Code.

SEC. 226. Of the amounts made available to the Department of Veterans Affairs for fiscal year 2010, in this Act or any other Act, under the "Medical Facilities" account for non-recurring maintenance, not more than 20 percent of the funds made available shall be obligated during the last 2 months of the fiscal year: *Provided*, That the Secretary may waive this requirement after providing written notice to the Committees on Appropriations of both Houses of Congress.

SEC. 227. Section 1925(d)(3) of title 38, United States Code, is amended by striking "appropriation 'General Operating Expenses, Department of Veterans Affairs'", and inserting "appropriations for 'General Operating Expenses and Information Technology Systems, Department of Veterans Affairs'".

SEC. 228. Section 1922(a) of title 38, United States Code, is amended by striking "(5) administrative costs to the Government for the costs of", and inserting "(5) administrative support performed by General Operating Expenses and Information Technology Systems, Department of Veterans Affairs, for".

#### TITLE III

##### RELATED AGENCIES

##### AMERICAN BATTLE MONUMENTS COMMISSION SALARIES AND EXPENSES

For necessary expenses, not otherwise provided for, of the American Battle Monuments Commission, including the acquisition of land or interest in land in foreign countries; purchases and repair of uniforms for caretakers of national cemeteries and monuments outside of the United States and its territories and possessions; rent of office and

garage space in foreign countries; purchase (one-for-one replacement basis only) and hire of passenger motor vehicles; not to exceed \$7,500 for official reception and representation expenses; and insurance of official motor vehicles in foreign countries, when required by law of such countries, \$63,549,000, to remain available until expended.

#### FOREIGN CURRENCY FLUCTUATIONS ACCOUNT

For necessary expenses, not otherwise provided for, of the American Battle Monuments Commission, such sums as may be necessary, to remain available until expended, for purposes authorized by section 2109 of title 36, United States Code.

#### UNITED STATES COURT OF APPEALS FOR VETERANS CLAIMS

##### SALARIES AND EXPENSES

For necessary expenses for the operation of the United States Court of Appeals for Veterans Claims as authorized by sections 7251 through 7298 of title 38, United States Code, \$27,115,000, of which \$1,820,000 shall be available for the purpose of providing financial assistance as described, and in accordance with the process and reporting procedures set forth, under this heading in Public Law 102-229.

#### DEPARTMENT OF DEFENSE—CIVIL

##### CEMETERIAL EXPENSES, ARMY

##### SALARIES AND EXPENSES

For necessary expenses, as authorized by law, for maintenance, operation, and improvement of Arlington National Cemetery and Soldiers' and Airmen's Home National Cemetery, including the purchase of two passenger motor vehicles for replacement only, and not to exceed \$1,000 for official reception and representation expenses, \$37,200,000, to remain available until expended. In addition, such sums as may be necessary for parking maintenance, repairs and replacement, to be derived from the Lease of Department of Defense Real Property for Defense Agencies account.

Funds appropriated under this Act may be provided to Arlington County, Virginia, for the relocation of the federally owned water main at Arlington National Cemetery making additional land available for ground burials.

#### ARMED FORCES RETIREMENT HOME

##### TRUST FUND

For expenses necessary for the Armed Forces Retirement Home to operate and maintain the Armed Forces Retirement Home—Washington, District of Columbia, and the Armed Forces Retirement Home—Gulfport, Mississippi, to be paid from funds available in the Armed Forces Retirement Home Trust Fund, \$134,000,000, of which \$72,000,000 shall remain available until expended for construction and renovation of the physical plants at the Armed Forces Retirement Home—Washington, District of Columbia, and the Armed Forces Retirement Home—Gulfport, Mississippi.

#### TITLE IV

##### OVERSEAS CONTINGENCIES OPERATIONS

##### MILITARY CONSTRUCTION

##### MILITARY CONSTRUCTION, ARMY

For an additional amount for "Military Construction, Army", \$924,484,000, to remain available until September 30, 2012: *Provided*, That notwithstanding any other provision of law, such funds may be obligated and expended to carry out planning and design and military construction projects not otherwise authorized by law.

#### MILITARY CONSTRUCTION, AIR FORCE

For an additional amount for "Military Construction, Air Force", \$474,500,000, to remain available until September 30, 2012: *Provided*, That notwithstanding any other provision of law, such funds may be obligated and expended to carry out planning and design and military construction projects not otherwise authorized by law.

#### TITLE V

##### DEPARTMENT OF VETERANS AFFAIRS

##### VETERANS HEALTH ADMINISTRATION

##### MEDICAL SERVICES

For necessary expenses for furnishing, as authorized by law, inpatient and outpatient care and treatment to beneficiaries of the Department of Veterans Affairs and veterans described in section 1705(a) of title 38, United States Code, including care and treatment in facilities not under the jurisdiction of the Department, and including medical supplies and equipment, food services, and salaries and expenses of healthcare employees hired under title 38, United States Code, and aid to State homes as authorized by section 1741 of title 38, United States Code; \$37,136,000,000, plus reimbursements, which shall become available on October 1, 2010, and shall remain available through September 30, 2011: *Provided*, That, notwithstanding any other provision of law, the Secretary of Veterans Affairs shall establish a priority for the provision of medical treatment for veterans who have service-connected disabilities, lower income, or have special needs: *Provided further*, That, notwithstanding any other provision of law, the Secretary of Veterans Affairs shall give priority funding for the provision of basic medical benefits to veterans in enrollment priority groups 1 through 6: *Provided further*, That, notwithstanding any other provision of law, the Secretary of Veterans Affairs may authorize the dispensing of prescription drugs from Veterans Health Administration facilities to enrolled veterans with privately written prescriptions based on requirements established by the Secretary: *Provided further*, That the implementation of the program described in the previous proviso shall incur no additional cost to the Department of Veterans Affairs: *Provided further*, That for the Department of Defense/Department of Veterans Affairs Health Care Sharing Incentive Fund, as authorized by section 8111(d) of title 38, United States Code, a minimum of \$15,000,000, to remain available until expended, for any purpose authorized by section 8111 of title 38, United States Code.

##### MEDICAL SUPPORT AND COMPLIANCE

For necessary expenses in the administration of the medical, hospital, nursing home, domiciliary, construction, supply, and research activities, as authorized by law; administrative expenses in support of capital policy activities; and administrative and legal expenses of the Department for collecting and recovering amounts owed the Department as authorized under chapter 17 of title 38, United States Code, and the Federal Medical Care Recovery Act (42 U.S.C. 2651 et seq.); \$5,307,000,000, plus reimbursements, which shall become available on October 1, 2010, and shall remain available through September 30, 2011.

##### MEDICAL FACILITIES

For necessary expenses for the maintenance and operation of hospitals, nursing homes, and domiciliary facilities and other necessary facilities of the Veterans Health Administration; for administrative expenses in support of planning, design, project man-

agement, real property acquisition and disposition, construction, and renovation of any facility under the jurisdiction or for the use of the Department; for oversight, engineering, and architectural activities not charged to project costs; for repairing, altering, improving, or providing facilities in the several hospitals and homes under the jurisdiction of the Department, not otherwise provided for, either by contract or by the hire of temporary employees and purchase of materials; for leases of facilities; and for laundry services, \$5,740,000,000, plus reimbursements, which shall become available on October 1, 2010, and shall remain available through September 30, 2011.

#### TITLE VI

##### GENERAL PROVISIONS

SEC. 601. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 602. Such sums as may be necessary for fiscal year 2010 for pay raises for programs funded by this Act shall be absorbed within the levels appropriated in this Act.

SEC. 603. None of the funds made available in this Act may be used for any program, project, or activity, when it is made known to the Federal entity or official to which the funds are made available that the program, project, or activity is not in compliance with any Federal law relating to risk assessment, the protection of private property rights, or unfunded mandates.

SEC. 604. No part of any funds appropriated in this Act shall be used by an agency of the executive branch, other than for normal and recognized executive-legislative relationships, for publicity or propaganda purposes, and for the preparation, distribution, or use of any kit, pamphlet, booklet, publication, radio, television, or film presentation designed to support or defeat legislation pending before Congress, except in presentation to Congress itself.

SEC. 605. All departments and agencies funded under this Act are encouraged, within the limits of the existing statutory authorities and funding, to expand their use of "E-Commerce" technologies and procedures in the conduct of their business practices and public service activities.

SEC. 606. None of the funds made available in this Act may be transferred to any department, agency, or instrumentality of the United States Government except pursuant to a transfer made by, or transfer authority provided in, this or any other appropriations Act.

SEC. 607. Unless stated otherwise, all reports and notifications required by this Act shall be submitted to the Subcommittee on Military Construction, Veterans Affairs, and Related Agencies of the Committee on Appropriations of the House of Representatives and the Subcommittee on Military Construction, Veterans Affairs, and Related Agencies of the Committee on Appropriations of the Senate.

This Act may be cited as the "Military Construction and Veterans Affairs and Related Agencies Appropriations Act, 2010".

**SA 2731.** Mr. BINGAMAN (for himself and Mr. UDALL of New Mexico) submitted an amendment intended to be proposed to amendment SA 2730 proposed by Mr. JOHNSON (for himself and Mrs. HUTCHISON) to the bill H.R. 3082, making appropriations for military

construction, the Department of Veterans Affairs, and related agencies for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table; as follows:

On page 27, between lines 3 and 4, insert the following:

SEC. 128. (a)(1) The amount appropriated or otherwise made available by this title under the heading "MILITARY CONSTRUCTION, AIR FORCE" is hereby increased by \$37,500,000.

(2) Of the amount appropriated or otherwise made available by this title under the heading "MILITARY CONSTRUCTION, AIR FORCE", as increased by paragraph (1), \$37,500,000 shall be available for construction of an Unmanned Aerial System Field Training Complex at Holloman Air Force Base, New Mexico.

(b) Of the amount appropriated or otherwise made available by title I of the Military Construction and Veterans Affairs Appropriations Act, 2009 (division E of Public Law 110-329; 122 Stat. 3692) under the heading "MILITARY CONSTRUCTION, AIR FORCE" and available for the purpose of Unmanned Aerial System Field Training facilities construction, \$37,500,000 is hereby rescinded.

**SA 2732.** Mr. JOHNSON (for himself and Mrs. HUTCHISON) proposed an amendment to amendment SA 2730 proposed by Mr. JOHNSON (for himself and Mrs. HUTCHISON) to the bill H.R. 3082, making appropriations for military construction, the Department of Veterans Affairs, and related agencies for the fiscal year ending September 30, 2010, and for other purposes; as follows:

On page 56, between lines 9 and 10, insert the following:

SEC. 401. Amounts appropriated or otherwise made available by this title are designated as being for overseas deployments and other activities pursuant to sections 401(c)(4) and 423(a)(1) of S. Con. Res. 13 (111th Congress), the concurrent resolution on the budget for fiscal year 2010.

**SA 2733.** Mr. JOHNSON submitted an amendment intended to be proposed to amendment SA 2730 proposed by Mr. JOHNSON (for himself and Mrs. HUTCHISON) to the bill H.R. 3082, making appropriations for military construction, the Department of Veterans Affairs, and related agencies for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table; as follows:

On page 52, after line 21, add the following:

SEC. 229. (a)(1) The amount appropriated or otherwise made available by this title under the heading "CONSTRUCTION, MINOR PROJECTS" is hereby increased by \$50,000,000.

(2) Of the amount appropriated or otherwise made available by this title under the heading "CONSTRUCTION, MINOR PROJECTS", as increased by paragraph (1), \$50,000,000 shall be available for renovation of Department of Veterans Affairs buildings for the purpose of converting unused structures into housing with supportive services for homeless veterans.

(b) The amount appropriated or otherwise made available by title I under the heading "HOMEOWNERS ASSISTANCE FUND" is hereby reduced by \$50,000,000.

**SA 2734.** Mr. JOHNSON submitted an amendment intended to be proposed to

amendment SA 2730 proposed by Mr. JOHNSON (for himself and Mrs. HUTCHISON) to the bill H.R. 3082, making appropriations for military construction, the Department of Veterans Affairs, and related agencies for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table; as follows:

On page 27, between lines 3 and 4, insert the following:

SEC. 128. Not later than each of April 15, 2010, July 15, 2010, and October 15, 2010, the Secretary of Defense shall submit to the congressional defense committees a consolidated report from each of the military departments and Defense agencies identifying, by project and dollar amount, bid savings resulting from cost and scope variations pursuant to section 2853 of title 10, United States Code, exceeding 25 percent of the appropriated amount for military construction projects funded by this Act, the Supplemental Appropriations Act, 2009 (Public Law 111-32), and the Military Construction and Veterans Affairs Appropriations Act, 2009 (division E of Public Law 110-329), including projects funded through the regular military construction accounts, the Department of Defense Base Closure Account 2005, and the overseas contingency operations military construction accounts.

**SA 2735.** Mr. INOUE (for himself, Mr. COCHRAN, and Mr. JOHNSON) submitted an amendment intended to be proposed to amendment SA 2730 proposed by Mr. JOHNSON (for himself and Mrs. HUTCHISON) to the bill H.R. 3082, making appropriations for military construction, the Department of Veterans Affairs, and related agencies for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table; as follows:

On page 27, between lines 3 and 4, insert the following:

SEC. 128. (a)(1) The amount appropriated or otherwise made available by this title under the heading "MILITARY CONSTRUCTION, DEFENSE-WIDE" is hereby increased by \$68,500,000, with the amount of such increase to remain available until September 30, 2014.

(2) Of the amount appropriated or otherwise made available by this title under the heading "MILITARY CONSTRUCTION, DEFENSE-WIDE", as increased by paragraph (1), \$68,500,000 shall be available for the construction of an Aegis Ashore Test Facility at the Pacific Missile Range Facility, Hawaii. Notwithstanding any other provision of law, such funds may be obligated and expended to carry out planning and design and construction not otherwise authorized by law.

(b) Of the amount appropriated or otherwise made available by title I of the Military Construction and Veterans Affairs Appropriations Act, 2009 (division E of Public Law 110-329; 122 Stat. 3692) under the heading "MILITARY CONSTRUCTION, DEFENSE-WIDE" and available for the purpose of European Ballistic Missile Defense program construction, \$68,500,000 is hereby rescinded.

**SA 2736.** Mr. AKAKA (for himself and Mr. VOINOVICH) proposed an amendment to the bill S. 806, to provide for the establishment, administration, and funding of Federal Executive Boards, and for other purposes; as follows:

Strike all after the enacting clause and insert the following:

#### SECTION 1. SHORT TITLE.

This Act may be cited as the "Federal Executive Board Authorization Act of 2009".

#### SEC. 2. FEDERAL EXECUTIVE BOARDS.

(a) IN GENERAL.—Chapter 11 of title 5, United States Code, is amended by adding at the end the following:

##### "§ 1106. Federal Executive Boards

"(a) PURPOSES.—The purposes of this section are to—

"(1) strengthen the coordination of Government activities;

"(2) facilitate interagency collaboration to improve the efficiency and effectiveness of Federal programs;

"(3) facilitate communication and collaboration on Federal emergency preparedness and continuity of operations for the Federal workforce in applicable geographic areas; and

"(4) provide stable funding for Federal Executive Boards.

"(b) DEFINITIONS.—In this section:

"(1) AGENCY.—The term 'agency'—

"(A) means an Executive agency as defined under section 105; and

"(B) shall not include the Government Accountability Office.

"(2) DIRECTOR.—The term 'Director' means the Director of the Office of Personnel Management.

"(3) FEDERAL EXECUTIVE BOARD.—The term 'Federal Executive Board' means an interagency entity established by the Director, in consultation with the headquarters of appropriate agencies, in a geographic area with a high concentration of Federal employees outside the Washington, DC, metropolitan area to strengthen the management and administration of agency activities and coordination among local Federal officers to implement national initiatives in that geographic area.

"(c) ESTABLISHMENT.—

"(1) IN GENERAL.—The Director shall establish Federal Executive Boards in geographic areas outside the Washington, D.C. metropolitan area. Before establishing Federal Executive Boards that are not in existence on the date of enactment of this section, the Director shall consult with the headquarters of appropriate agencies to determine the number and location of the Federal Executive Boards.

"(2) MEMBERSHIP.—Each Federal Executive Board for a geographic area shall consist of an appropriate senior officer for each agency in that geographic area. The appropriate senior officer may designate, by title of office, an alternate representative who shall attend meetings and otherwise represent the agency on the Federal Executive Board in the absence of the appropriate senior officer. An alternate representative shall be a senior officer in the agency.

"(3) LOCATION OF FEDERAL EXECUTIVE BOARDS.—In determining the location for the establishment of Federal Executive Boards, the Director shall consider—

"(A) whether a Federal Executive Board exists in a geographic area on the date of enactment of this section;

"(B) whether a geographic area has a strong, viable, and active Federal Executive Association;

"(C) whether the Federal Executive Association of a geographic area petitions the Director to become a Federal Executive Board; and

"(D) such other factors as the Director and the headquarters of appropriate agencies consider relevant.

"(d) ADMINISTRATION AND OVERSIGHT.—

“(1) IN GENERAL.—The Director shall provide for the administration and oversight of Federal Executive Boards, including—

“(A) establishing staffing policies in consultation with the headquarters of agencies participating in Federal Executive Boards;

“(B) designating an agency to staff each Federal Executive Board based on recommendations from that Federal Executive Board;

“(C) establishing communications policies for the dissemination of information to agencies;

“(D) in consultation with the headquarters of appropriate agencies, establishing performance standards for the Federal Executive Board staff;

“(E) developing accountability initiatives to ensure Federal Executive Boards are meeting performance standards; and

“(F) administering Federal Executive Board funding through the fund established in subsection (f).

“(2) STAFFING.—In making designations under paragraph (1)(B), the Director shall give preference to agencies staffing Federal Executive Boards.

“(e) GOVERNANCE AND ACTIVITIES.—

“(1) IN GENERAL.—Each Federal Executive Board shall—

“(A) subject to the approval of the Director, adopt by-laws or other rules for the internal governance of the Federal Executive Board;

“(B) elect a Chairperson from among the members of the Federal Executive Board, who shall serve for a set term;

“(C) serve as an instrument of outreach for the national headquarters of agencies relating to agency activities in the geographic area;

“(D) provide a forum for the exchange of information relating to programs and management methods and problems—

“(i) between the national headquarters of agencies and the field; and

“(ii) among field elements in the geographic area;

“(E) develop local coordinated approaches to the development and operation of programs that have common characteristics;

“(F) communicate management initiatives and other concerns from Federal officers and employees in the Washington, D.C. area to Federal officers and employees in the geographic area to achieve better mutual understanding and support;

“(G) develop relationships with State and local governments and nongovernmental organizations to help fulfill the roles and responsibilities of that Board;

“(H) in coordination with appropriate agencies and consistent with any relevant memoranda of understanding between the Office of Personnel Management and such agencies, facilitate communication, collaboration, and training to prepare the Federal workforce for emergencies and continuity of operations; and

“(I) take other actions as agreed to by the Federal Executive Board and the Director.

“(2) COORDINATION OF CERTAIN ACTIVITIES.—The facilitation of communication, collaboration, and training described under paragraph (1)(H) shall, when appropriate, be coordinated and defined through memoranda of understanding entered into between the Director and headquarters of appropriate agencies.

“(f) FUNDING.—

“(1) ESTABLISHMENT OF FUND.—The Director shall establish a fund within the Office of Personnel Management for financing essential Federal Executive Board functions—

“(A) including basic staffing and operating expenses; and

“(B) excluding the costs of the Office of Personnel Management relating to administrative and oversight activities conducted under subsection (d).

“(2) DEPOSITS.—There shall be deposited in the fund established under paragraph (1) contributions from the headquarters of each agency participating in Federal Executive Boards, in an amount determined by a formula established by the Director, in consultation with the headquarters of such agencies and the Office of Management and Budget.

“(3) CONTRIBUTIONS.—

“(A) FORMULA.—The formula for contributions established by the Director shall consider the number of employees in each agency in all geographic areas served by Federal Executive Boards. The contribution of the headquarters of each agency to the fund shall be recalculated at least every 2 years.

“(B) IN-KIND CONTRIBUTIONS.—At the sole discretion of the Director, the headquarters of an agency may provide in-kind contributions instead of providing monetary contributions to the fund.

“(4) USE OF EXCESS AMOUNTS.—Any unobligated and unexpended balances in the fund which the Director determines to be in excess of amounts needed for essential Federal Executive Board functions shall be allocated by the Director, in consultation with the headquarters of agencies participating in Federal Executive Boards, among the Federal Executive Boards for the activities under subsection (e) and other priorities, such as conducting training.

“(5) ADMINISTRATIVE AND OVERSIGHT COSTS.—The Office of Personnel Management shall pay for costs relating to administrative and oversight activities conducted under subsection (d) from appropriations made available to the Office of Personnel Management.

“(g) REPORTS.—The Director shall submit annual reports to Congress and agencies on Federal Executive Board program outcomes and budget matters.

“(h) REGULATIONS.—The Director shall prescribe regulations necessary to carry out this section.”.

(b) REPORT.—Not later than 60 days after the date of enactment of this Act, the Director of the Office of Personnel Management shall submit a report to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Oversight and Government Reform of the House of Representatives that includes—

(1) a description of essential Federal Executive Board functions;

(2) details of basic staffing requirements for each Federal Executive Board;

(3) estimates of basic staffing and operating expenses for each Federal Executive Board; and

(4) a comparison of basic staffing and operating expenses for Federal Executive Boards operating before the date of enactment of this Act and such expenses for Federal Executive Boards after the implementation of this Act.

(c) TECHNICAL AND CONFORMING AMENDMENTS.—The table of sections for chapter 11 of title 5, United States Code, is amended by inserting after the item relating to section 1105 the following:

“1106. Federal Executive Boards.”.

## AUTHORITY FOR COMMITTEES TO MEET

### COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Ms. MIKULSKI. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on November 5, 2009, at 9:30 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

### COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Ms. MIKULSKI. Mr. President, I ask unanimous consent that the Committee on Environment and Public Works, be authorized to meet during the session of the Senate on November 5, 2009, at 9 a.m. in room 406 of the Dirksen Senate Office Building.

The PRESIDING OFFICER. Without objection, it is so ordered.

### COMMITTEE ON FOREIGN RELATIONS

Ms. MIKULSKI. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on November 5, 2009, at 2:30 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

### COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

Ms. MIKULSKI. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions be authorized to meet during the session of the Senate, to conduct a hearing entitled “Employment Non-Discrimination Act: Ensuring Opportunity for All Americans” on November 5, 2009. The hearing will commence at 10 a.m. in room 430 of the Dirksen Senate Office Building.

The PRESIDING OFFICER. Without objection, it is so ordered.

### COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

Ms. MIKULSKI. Mr. President, I ask unanimous consent that the Committee on Homeland Security and Governmental Affairs be authorized to meet during the session of the Senate on November 5, 2009, at 10 a.m. to conduct a hearing entitled “Business Formation and Financial Crime: Finding a Legislative Solution.”

The PRESIDING OFFICER. Without objection, it is so ordered.

### COMMITTEE ON THE JUDICIARY

Ms. MIKULSKI. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on November 5, 2009, at 10 a.m., in SD-226 of the Dirksen Senate Office Building, to conduct an executive business meeting.

The PRESIDING OFFICER. Without objection, it is so ordered.

### COMMITTEE ON VETERANS' AFFAIRS

Ms. MIKULSKI. Mr. President, I ask unanimous consent that the Committee on Veterans' Affairs be authorized to meet during the session of the

Senate on November 5, 2009 at 10 a.m. to conduct a hearing on VA and Indian Health Service Cooperation. The Committee will meet in room 418 of the Russell Senate Office Building beginning at 10 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### SELECT COMMITTEE ON INTELLIGENCE

Ms. MIKULSKI. Mr. President, I ask unanimous consent that the Committee on Intelligence be authorized to meet during the session of the Senate on November 5, 2009, at 3 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### SUBCOMMITTEE ON CRIME AND DRUGS

Ms. MIKULSKI. Mr. President, I ask unanimous consent that the Committee on the Judiciary, Subcommittee on Crime and Drugs, be authorized to meet during the session of the Senate on November 5, 2009, at 2 p.m., in room SD-226 of the Dirksen Senate Office Building, to conduct a hearing entitled "The First Line of Defense: Reducing Recidivism at the Local Level."

The PRESIDING OFFICER. Without objection, it is so ordered.

#### SUBCOMMITTEE ON WATER AND POWER

Ms. MIKULSKI. Mr. President, I ask unanimous consent that the Subcommittee on Water and Power be authorized to meet during the session of the Senate to conduct a hearing on November 5, at 2:30 p.m., in room SD-366 of the Dirksen Senate Office Building.

The PRESIDING OFFICER. Without objection, it is so ordered.

### PRIVILEGES OF THE FLOOR

Ms. MIKULSKI. Mr. President, I ask unanimous consent, on behalf of Senator DURBIN, that Richard Burkard, a detailee from the Financial Services and General Government Appropriations Subcommittee, be granted the privilege of the floor during the consideration of the Commerce-Justice-Science Appropriations Act and any votes thereon.

The PRESIDING OFFICER. Without objection, it is so ordered.

### FEDERAL EXECUTIVE BOARD AUTHORIZATION ACT OF 2009

Mr. CASEY. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 164, S. 806.

The PRESIDING OFFICER. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (S. 806) to provide for the establishment and administration and funding of Federal Executive Boards, and for other purposes.

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee

on Homeland Security and Governmental Affairs, with an amendment to strike all after the enacting clause and insert in lieu thereof the following:

#### SECTION 1. SHORT TITLE.

This Act may be cited as the "Federal Executive Board Authorization Act of 2009".

#### SEC. 2. FEDERAL EXECUTIVE BOARDS.

(a) IN GENERAL.—Chapter 11 of title 5, United States Code, is amended by adding at the end the following:

##### "§ 1106. Federal Executive Boards

"(a) PURPOSES.—The purposes of this section are to—

"(1) strengthen the coordination of Government activities;

"(2) facilitate interagency collaboration to improve the efficiency and effectiveness of Federal programs;

"(3) facilitate communication and collaboration on Federal activities outside the Washington, D.C. metropolitan area; and

"(4) provide stable funding for Federal Executive Boards.

"(b) DEFINITIONS.—In this section:

"(1) AGENCY.—The term 'agency'—

"(A) means an Executive agency as defined under section 105; and

"(B) shall not include the Government Accountability Office.

"(2) DIRECTOR.—The term 'Director' means the Director of the Office of Personnel Management.

"(3) FEDERAL EXECUTIVE BOARD.—The term 'Federal Executive Board' means an interagency entity established by the Director, in consultation with the headquarters of appropriate agencies, in a geographic area with a high concentration of Federal employees outside the Washington, D.C. metropolitan area to strengthen the management and administration of agency activities and coordination among local Federal officers to implement national initiatives in that geographic area.

"(c) ESTABLISHMENT.—

"(1) IN GENERAL.—The Director shall establish Federal Executive Boards in geographic areas outside the Washington, D.C. metropolitan area. Before establishing Federal Executive Boards that are not in existence on the date of enactment of this section, the Director shall consult with the headquarters of appropriate agencies to determine the number and location of the Federal Executive Boards.

"(2) MEMBERSHIP.—Each Federal Executive Board for a geographic area shall consist of an appropriate senior officer for each agency in that geographic area. The appropriate senior officer may designate, by title of office, an alternate representative who shall attend meetings and otherwise represent the agency on the Federal Executive Board in the absence of the appropriate senior officer. An alternate representative shall be a senior officer in the agency.

"(3) LOCATION OF FEDERAL EXECUTIVE BOARDS.—In determining the location for the establishment of Federal Executive Boards, the Director shall consider—

"(A) whether a Federal Executive Board exists in a geographic area on the date of enactment of this section;

"(B) whether a geographic area has a strong, viable, and active Federal Executive Association;

"(C) whether the Federal Executive Association of a geographic area petitions the Director to become a Federal Executive Board; and

"(D) such other factors as the Director and the headquarters of appropriate agencies consider relevant.

"(d) ADMINISTRATION AND OVERSIGHT.—

"(1) IN GENERAL.—The Director shall provide for the administration and oversight of Federal Executive Boards, including—

"(A) establishing staffing policies in consultation with the headquarters of agencies participating in Federal Executive Boards;

"(B) designating an agency to staff each Federal Executive Board based on recommendations from that Federal Executive Board;

"(C) establishing communications policies for the dissemination of information to agencies;

"(D) in consultation with the headquarters of appropriate agencies, establishing performance standards for the Federal Executive Board staff;

"(E) developing accountability initiatives to ensure Federal Executive Boards are meeting performance standards; and

"(F) administering Federal Executive Board funding through the fund established in subsection (f).

"(2) STAFFING.—In making designations under paragraph (1)(B), the Director shall give preference to agencies staffing Federal Executive Boards.

"(e) GOVERNANCE AND ACTIVITIES.—Each Federal Executive Board shall—

"(1) subject to the approval of the Director, adopt by-laws or other rules for the internal governance of the Federal Executive Board;

"(2) elect a Chairperson from among the members of the Federal Executive Board, who shall serve for a set term;

"(3) serve as an instrument of outreach for the national headquarters of agencies relating to agency activities in the geographic area;

"(4) provide a forum for the exchange of information relating to programs and management methods and problems—

"(A) between the national headquarters of agencies and the field; and

"(B) among field elements in the geographic area;

"(5) develop local coordinated approaches to the development and operation of programs that have common characteristics;

"(6) communicate management initiatives and other concerns from Federal officers and employees in the Washington, D.C. area to Federal officers and employees in the geographic area to achieve better mutual understanding and support;

"(7) develop relationships with State and local governments and nongovernmental organizations to help in coordinating agency outreach; and

"(8) take other actions as agreed to by the Federal Executive Board and the Director.

"(f) FUNDING.—

"(1) ESTABLISHMENT OF FUND.—The Director shall establish a fund within the Office of Personnel Management for financing essential Federal Executive Board functions—

"(A) including basic staffing and operating expenses; and

"(B) excluding the costs of the Office of Personnel Management relating to administrative and oversight activities conducted under subsection (d).

"(2) DEPOSITS.—There shall be deposited in the fund established under paragraph (1) contributions from the headquarters of each agency participating in Federal Executive Boards, in an amount determined by a formula established by the Director, in consultation with the headquarters of such agencies and the Office of Management and Budget.

"(3) CONTRIBUTIONS.—

"(A) FORMULA.—The formula for contributions established by the Director shall consider the number of employees in each agency in all geographic areas served by Federal Executive Boards. The contribution of the headquarters of each agency to the fund shall be recalculated at least every 2 years.

"(B) IN-KIND CONTRIBUTIONS.—At the sole discretion of the Director, the headquarters of an agency may provide in-kind contributions instead of providing monetary contributions to the fund.

“(4) *USE OF EXCESS AMOUNTS.*—Any unobligated and unexpended balances in the fund which the Director determines to be in excess of amounts needed for essential Federal Executive Board functions shall be allocated by the Director, in consultation with the headquarters of agencies participating in Federal Executive Boards, among the Federal Executive Boards for the activities under subsection (e) and other priorities, such as conducting training.

“(5) *ADMINISTRATIVE AND OVERSIGHT COSTS.*—The Office of Personnel Management shall pay for costs relating to administrative and oversight activities conducted under subsection (d) from appropriations made available to the Office of Personnel Management.

“(g) *REPORTS.*—The Director shall submit annual reports to Congress and agencies on Federal Executive Board program outcomes and budget matters.

“(h) *REGULATIONS.*—The Director shall prescribe regulations necessary to carry out this section.”.

(b) *REPORT.*—Not later than 60 days after the date of enactment of this Act, the Director of the Office of Personnel Management shall submit a report to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Oversight and Government Reform of the House of Representatives that includes—

(1) a description of essential Federal Executive Board functions;

(2) details of basic staffing requirements for each Federal Executive Board;

(3) estimates of basic staffing and operating expenses for each Federal Executive Board; and

(4) a comparison of basic staffing and operating expenses for Federal Executive Boards operating before the date of enactment of this Act and such expenses for Federal Executive Boards after the implementation of this Act.

(c) *TECHNICAL AND CONFORMING AMENDMENTS.*—The table of sections for chapter 11 of title 5, United States Code, is amended by inserting after the item relating to section 1105 the following:

“1106. Federal Executive Boards.”.

#### EMERGENCY PREPAREDNESS

Mr. AKAKA. Mr. President, Senator VOINOVICH and I have offered a floor amendment to S. 806, the Federal Executive Board Authorization Act of 2009, to clearly authorize and provide guidance for the existing work of Federal Executive Boards, FEBs, in emergency preparedness and continuity of operations, COOP.

Mr. VOINOVICH. Mr. President, I want to thank Senator AKAKA for leading this amendment to recognize FEBs' role in preparing the Federal workforce for emergencies. FEBs participate in a number of activities in this regard, including working with the Department of Health and Human Services to brief the Federal workforce on points of distribution that can be set up to dispense medication during health emergencies and working with the Office of Personnel Management, OPM, and the Chief Human Officers Council to distribute information on human resources flexibilities available during snow storms and other emergencies. Our floor amendment clarifies that these activities can and should continue.

Mr. AKAKA. Mr. President, as Senator VOINOVICH has mentioned, FEBs

already participate in a range of emergency preparedness efforts. These include working with OPM and individual agencies to develop COOP plans and taking other actions to prepare the Federal workforce for and protect them from public health dangers, inclement weather, and other emergencies. In 2004, the Government Accountability Office, GAO, released a report on COOP planning in the federal sector, which recognized that FEBs are uniquely positioned to coordinate emergency preparedness efforts among the Federal workforce, given their responsibility for improving coordination among federal activities outside of Washington, D.C. Following GAO's recommendation, OPM and the Federal Emergency Management Agency began more closely coordinating their efforts to improve guidance to federal agencies on emergency preparation and COOP.

Our amendment recognizes and provides guidance for such coordination. Specifically, our amendment requires FEBs to facilitate communication and collaboration on emergency preparedness and COOP activities for the Federal workforce in areas where FEBs exist. Our amendment also requires each FEB to develop relationships with State and local governments and non-governmental organizations to help fulfill the roles and responsibilities of that FEB, and requires that the communication, collaboration, and training to prepare the Federal workforce for emergencies and COOP be defined through memoranda of understanding, MOU, between the Director of OPM and the headquarters of appropriate agencies when necessary.

We do not intend for MOUs to be created for every activity that FEBs participate in, nor with every agency participating in FEBs. As the substitute amendment states, MOUs should be created where appropriate. OPM may need MOUs with those agencies with which FEBs coordinate most actively because they play a substantial role in preparing the Federal workforce for emergencies and COOP.

Mr. VOINOVICH. Mr. President, I concur with my colleague. Our floor amendment requires FEBs to coordinate with appropriate agencies for preparedness, response, and COOP. We do not mean that OPM must enter into a memorandum of understanding with every agency that participates in an FEB or every agency that is affected by an FEB. We believe OPM should have the discretion and flexibility to determine which agencies are the “appropriate agencies” to coordinate with in any particular situation as well as the discretion to decide when that coordination needs to be defined in memoranda of understanding or other formal agreement.

Mr. AKAKA. Mr. President, I thank my good friend and colleague from Ohio for entering into this colloquy.

Recognizing FEBs' role in emergency preparedness operations is important to supporting their efforts to prepare our Federal workforce. Again, I want to say mahalo to Senator VOINOVICH for his leadership on this important legislation.

Mr. CASEY. I ask unanimous consent the committee substitute amendment be withdrawn; that an Akaka-Voinovich substitute amendment be agreed to; the bill, as amended, be read a third time and passed; the motions to reconsider be laid upon the table, with no intervening action or debate and any statements be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 2736) was agreed to, as follows:

#### AMENDMENT NO. 2736

(Purpose: In the nature of a substitute)

Strike all after the enacting clause and insert the following:

#### SECTION 1. SHORT TITLE.

This Act may be cited as the “Federal Executive Board Authorization Act of 2009”.

#### SEC. 2. FEDERAL EXECUTIVE BOARDS.

(a) IN GENERAL.—Chapter 11 of title 5, United States Code, is amended by adding at the end the following:

#### “§ 1106. Federal Executive Boards

“(a) *PURPOSES.*—The purposes of this section are to—

“(1) strengthen the coordination of Government activities;

“(2) facilitate interagency collaboration to improve the efficiency and effectiveness of Federal programs;

“(3) facilitate communication and collaboration on Federal emergency preparedness and continuity of operations for the Federal workforce in applicable geographic areas; and

“(4) provide stable funding for Federal Executive Boards.

“(b) *DEFINITIONS.*—In this section:

“(1) *AGENCY.*—The term ‘agency’—

“(A) means an Executive agency as defined under section 105; and

“(B) shall not include the Government Accountability Office.

“(2) *DIRECTOR.*—The term ‘Director’ means the Director of the Office of Personnel Management.

“(3) *FEDERAL EXECUTIVE BOARD.*—The term ‘Federal Executive Board’ means an interagency entity established by the Director, in consultation with the headquarters of appropriate agencies, in a geographic area with a high concentration of Federal employees outside the Washington, D.C. metropolitan area to strengthen the management and administration of agency activities and coordination among local Federal officers to implement national initiatives in that geographic area.

“(c) *ESTABLISHMENT.*—

“(1) IN GENERAL.—The Director shall establish Federal Executive Boards in geographic areas outside the Washington, D.C. metropolitan area. Before establishing Federal Executive Boards that are not in existence on the date of enactment of this section, the Director shall consult with the headquarters of appropriate agencies to determine the number and location of the Federal Executive Boards.

“(2) *MEMBERSHIP.*—Each Federal Executive Board for a geographic area shall consist of



an appropriate senior officer for each agency in that geographic area. The appropriate senior officer may designate, by title of office, an alternate representative who shall attend meetings and otherwise represent the agency on the Federal Executive Board in the absence of the appropriate senior officer. An alternate representative shall be a senior officer in the agency.

“(3) LOCATION OF FEDERAL EXECUTIVE BOARDS.—In determining the location for the establishment of Federal Executive Boards, the Director shall consider—

“(A) whether a Federal Executive Board exists in a geographic area on the date of enactment of this section;

“(B) whether a geographic area has a strong, viable, and active Federal Executive Association;

“(C) whether the Federal Executive Association of a geographic area petitions the Director to become a Federal Executive Board; and

“(D) such other factors as the Director and the headquarters of appropriate agencies consider relevant.

“(d) ADMINISTRATION AND OVERSIGHT.—

“(1) IN GENERAL.—The Director shall provide for the administration and oversight of Federal Executive Boards, including—

“(A) establishing staffing policies in consultation with the headquarters of agencies participating in Federal Executive Boards;

“(B) designating an agency to staff each Federal Executive Board based on recommendations from that Federal Executive Board;

“(C) establishing communications policies for the dissemination of information to agencies;

“(D) in consultation with the headquarters of appropriate agencies, establishing performance standards for the Federal Executive Board staff;

“(E) developing accountability initiatives to ensure Federal Executive Boards are meeting performance standards; and

“(F) administering Federal Executive Board funding through the fund established in subsection (f).

“(2) STAFFING.—In making designations under paragraph (1)(B), the Director shall give preference to agencies staffing Federal Executive Boards.

“(e) GOVERNANCE AND ACTIVITIES.—

“(1) IN GENERAL.—Each Federal Executive Board shall—

“(A) subject to the approval of the Director, adopt by-laws or other rules for the internal governance of the Federal Executive Board;

“(B) elect a Chairperson from among the members of the Federal Executive Board, who shall serve for a set term;

“(C) serve as an instrument of outreach for the national headquarters of agencies relating to agency activities in the geographic area;

“(D) provide a forum for the exchange of information relating to programs and management methods and problems—

“(i) between the national headquarters of agencies and the field; and

“(ii) among field elements in the geographic area;

“(E) develop local coordinated approaches to the development and operation of programs that have common characteristics;

“(F) communicate management initiatives and other concerns from Federal officers and employees in the Washington, D.C. area to Federal officers and employees in the geographic area to achieve better mutual understanding and support;

“(G) develop relationships with State and local governments and nongovernmental organizations to help fulfill the roles and responsibilities of that Board;

“(H) in coordination with appropriate agencies and consistent with any relevant memoranda of understanding between the Office of Personnel Management and such agencies, facilitate communication, collaboration, and training to prepare the Federal workforce for emergencies and continuity of operations; and

“(I) take other actions as agreed to by the Federal Executive Board and the Director.

“(2) COORDINATION OF CERTAIN ACTIVITIES.—The facilitation of communication, collaboration, and training described under paragraph (1)(H) shall, when appropriate, be coordinated and defined through memoranda of understanding entered into between the Director and headquarters of appropriate agencies.

“(f) FUNDING.—

“(1) ESTABLISHMENT OF FUND.—The Director shall establish a fund within the Office of Personnel Management for financing essential Federal Executive Board functions—

“(A) including basic staffing and operating expenses; and

“(B) excluding the costs of the Office of Personnel Management relating to administrative and oversight activities conducted under subsection (d).

“(2) DEPOSITS.—There shall be deposited in the fund established under paragraph (1) contributions from the headquarters of each agency participating in Federal Executive Boards, in an amount determined by a formula established by the Director, in consultation with the headquarters of such agencies and the Office of Management and Budget.

“(3) CONTRIBUTIONS.—

“(A) FORMULA.—The formula for contributions established by the Director shall consider the number of employees in each agency in all geographic areas served by Federal Executive Boards. The contribution of the headquarters of each agency to the fund shall be recalculated at least every 2 years.

“(B) IN-KIND CONTRIBUTIONS.—At the sole discretion of the Director, the headquarters of an agency may provide in-kind contributions instead of providing monetary contributions to the fund.

“(4) USE OF EXCESS AMOUNTS.—Any unobligated and unexpended balances in the fund which the Director determines to be in excess of amounts needed for essential Federal Executive Board functions shall be allocated by the Director, in consultation with the headquarters of agencies participating in Federal Executive Boards, among the Federal Executive Boards for the activities under subsection (e) and other priorities, such as conducting training.

“(5) ADMINISTRATIVE AND OVERSIGHT COSTS.—The Office of Personnel Management shall pay for costs relating to administrative and oversight activities conducted under subsection (d) from appropriations made available to the Office of Personnel Management.

“(g) REPORTS.—The Director shall submit annual reports to Congress and agencies on Federal Executive Board program outcomes and budget matters.

“(h) REGULATIONS.—The Director shall prescribe regulations necessary to carry out this section.”

(b) REPORT.—Not later than 60 days after the date of enactment of this Act, the Director of the Office of Personnel Management shall submit a report to the Committee on

Homeland Security and Governmental Affairs of the Senate and the Committee on Oversight and Government Reform of the House of Representatives that includes—

(1) a description of essential Federal Executive Board functions;

(2) details of basic staffing requirements for each Federal Executive Board;

(3) estimates of basic staffing and operating expenses for each Federal Executive Board; and

(4) a comparison of basic staffing and operating expenses for Federal Executive Boards operating before the date of enactment of this Act and such expenses for Federal Executive Boards after the implementation of this Act.

(c) TECHNICAL AND CONFORMING AMENDMENTS.—The table of sections for chapter 11 of title 5, United States Code, is amended by inserting after the item relating to section 1105 the following:

“1106. Federal Executive Boards.”

The bill (S. 806), as amended, was ordered to be engrossed for a third reading, was read the third time, and passed.

#### TERMS OF SERVICE IN THE OFFICE OF COMPLIANCE

Mr. CASEY. Mr. President, I ask unanimous consent the Senate proceed to the immediate consideration of Calendar No. 197, S. 1860.

The PRESIDING OFFICER. The clerk will report the bill by title.

The assistant legislative clerk read as follows.

A bill (S. 1860) to permit each current member of the Board of Directors of the Office of Compliance to serve for 3 terms.

There being no objection, the Senate proceeded to consider the bill.

Mr. CASEY. Mr. President, I ask unanimous consent the bill be read a third time, and passed, the motion to reconsider be laid upon the table, with no intervening action or debate, and any statements be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (S. 1860) was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 1860

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. ADDITIONAL TERM FOR MEMBERS OF BOARD OF DIRECTORS OF OFFICE OF COMPLIANCE.

Notwithstanding the second sentence of section 301(e)(1) of the Congressional Accountability Act of 1995 (2 U.S.C. 1381(e)(1)), any individual serving as a member of the Board of Directors of the Office of Compliance as of September 30, 2009, may serve for 3 terms.

#### NATIONAL AMERICAN INDIAN AND ALASKA NATIVE HERITAGE MONTH

Mr. CASEY. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 342, submitted earlier today.



The PRESIDING OFFICER. The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 342) recognizing National American Indian and Alaska Native Heritage Month and celebrating the heritage and culture of American Indians and Alaska Natives and the contributions of American Indians and Alaska Natives to the United States.

There being no objection, the Senate proceeded to consider the resolution.

Mr. DORGAN. Mr. President, on October 30, 2009, President Obama issued a proclamation designating November 2009 as National American Indian and Alaska Native Heritage Month. This President follows a tradition of Presidents since 1990 of issuing proclamations honoring the significant contributions of tribal governments and individual Native Americans to our Nation's history and development.

Congress also has traditionally recognized the contributions of Native Americans to the United States in the form of resolutions, findings, coins and medals. The resolution introduced here today continues in that tradition.

This resolution recognizes some of the many contributions that Native Americans have made to help build our great Nation as well as the continued contributions of Native Americans to the growth of the United States. Native Americans have made significant contributions in the fields of agriculture, medicine, music, language, and art. They were an influencing force in the founding documents of our Federal Government. Indian tribes have even made use of Native languages to develop an unbreakable military code that helped defeat the Axis powers in World War II. These remarkable tribes and individual Native Americans have shaped our Nation's history in so many very meaningful ways.

Through this resolution, we recognize and celebrate these and many other contributions of tribal governments and Native Americans during the month of November. It is particularly important that President Obama has decided to host a Tribal Leaders Summit at the White House. The President will meet with tribal leaders in Washington, DC, November 5, 2009, to discuss the many issues facing tribal communities throughout the Nation.

We have several very important pieces of legislation before this body that I hope to move in the interest of the First Americans. S. 1790, the Indian Health Care Improvement Reauthorization and Extension Act of 2009, was introduced on October 15, 2009, after much consultation and discussion among tribal leaders and Indian health experts. I will work very hard this Congress to get this important piece of legislation to the President's desk. In addition, after many, many hearings and

numerous listening sessions, I introduced S. 797, the Tribal Law and Order Act of 2009, earlier this year. This important piece of legislation has strong bipartisan support and will help to improve the status of law and order on tribal lands. The bill has been approved by the Indian Affairs Committee and is waiting for approval by the full Senate.

I urge all citizens, and local, State, and Federal governments and agencies to take time this month to learn more about the many facets of Native American history, traditions, and their important contributions to the formation of the United States. Mr. President, I ask that this resolution be adopted quickly and that it act as encouragement to all people of the United States to observe the month of November as National American Indian and Alaska Native Heritage Month.

Mr. CASEY. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motions to reconsider be laid upon the table, with no intervening action or debate, and any statements be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 342) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

#### S. RES. 342

Whereas from November 1, 2009, through November 30, 2009, the United States celebrates National American Indian and Alaska Native Heritage Month;

Whereas American Indians and Alaska Natives are descendants of the original, indigenous inhabitants of what is now the United States;

Whereas, in 2000, the United States Census Bureau reported that there were more than 4,000,000 people in the United States of American Indian and Alaska Native descent;

Whereas, on December 2, 1989, the Committee on Indian Affairs of the Senate held a hearing exploring the contributions of the Iroquois Confederacy, and its influence on the Founding Fathers in the drafting of the Constitution of the United States with the concepts of freedom of speech, the separation of governmental powers, and checks and balances among the branches of government;

Whereas the Senate has reaffirmed that a major national goal of the United States is to provide the resources, processes, and structure that will enable Indian Tribes and tribal members to obtain the quantity and quality of health care services and opportunities that will eliminate the health disparities between American Indians and the general population of the United States;

Whereas Congress recently reaffirmed its trust responsibility to improve the housing conditions and socioeconomic status of American Indians and Alaska Natives by providing affordable homes in a safe and healthy environment;

Whereas, throughout its course of dealing with Indian Tribes, the United States Government has engaged in a government-to-government relationship with Tribes;

Whereas the United States Government owes a trust obligation to Tribes, acknowl-

edged in treaties, statutes, and decisions of the Supreme Court, to protect the interests and welfare of tribal governments and their members;

Whereas American Indians and Alaska Natives have consistently served with honor and distinction in the Armed Forces of the United States, some as early as the Revolutionary War, and continue to serve in the Armed Forces in greater numbers per capita than any other group in the United States;

Whereas American Indians and Alaska Natives speak and preserve indigenous languages and have contributed hundreds of words to the English language, including the names of people and locations in the United States;

Whereas Congress has recognized Native American code talkers who served with honor and distinction in World War I and World War II, using indigenous languages as an unbreakable military code, saving countless American lives;

Whereas American Indians and Alaska Natives are deeply rooted in tradition and culture, which drives their strength of community; and

Whereas American Indians and Alaska Natives of all ages celebrate the great achievements of their ancestors and heroes and continue to share their stories with future generations: Now, therefore, be it

*Resolved*, That the Senate—

(1) recognizes the celebration of National American Indian and Alaska Native Heritage Month during the month of November 2009;

(2) honors the heritage and culture of American Indians and Alaska Natives and the contributions of American Indians and Alaska Natives to the United States; and

(3) urges the people of the United States to observe National American Indian and Alaska Native Heritage Month with appropriate programs and activities.

#### APPOINTMENT

The PRESIDING OFFICER. The Chair, on behalf of the Vice President, pursuant to Public Law 110-181, and in consultation with chairmen of the Committee on Armed Services, the Committee on Homeland Security and Governmental Affairs, and the Committee on Foreign Relations, appoints the following individual to be a member of the Commission on Wartime Contracting in Iraq and Afghanistan: Katherine Schinasi of Washington, DC, vice Linda J. Gustitus of the District of Columbia.

#### ORDERS FOR FRIDAY, NOVEMBER 6, 2009

Mr. CASEY. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 9:30 a.m., Friday, November 6; that following the prayer and pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day, and the Senate resume consideration of H.R. 3082, the Military Construction and Veterans Affairs appropriations bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

## PROGRAM

Mr. CASEY. There will be no rollcall votes during Friday's session of the Senate. As previously announced, the next vote will occur at approximately 5:30 p.m. Monday.

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ADJOURNMENT UNTIL 9:30  
TOMORROW

Mr. CASEY. If there is no further business to come before the Senate, I ask unanimous consent that it adjourn under the previous order.

There being no objection, the Senate, at 8:31 p.m., adjourned until Friday, November 6, 2009, at 9:30 a.m.

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CONFIRMATIONS

Executive nominations confirmed by the Senate, Thursday, November 5, 2009:

## DEPARTMENT OF STATE

ARTURO A. VALENZUELA, OF THE DISTRICT OF COLUMBIA, TO BE AN ASSISTANT SECRETARY OF STATE (WESTERN HEMISPHERE AFFAIRS).

## NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

ROLENA KLAHN ADORNO, OF CONNECTICUT, TO BE A MEMBER OF THE NATIONAL COUNCIL ON THE HUMANITIES FOR A TERM EXPIRING JANUARY 26, 2014.

MARVIN KRISLOV, OF OHIO, TO BE A MEMBER OF THE NATIONAL COUNCIL ON THE HUMANITIES FOR A TERM EXPIRING JANUARY 26, 2014.

## FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION

ANNE S. FERRO, OF MARYLAND, TO BE ADMINISTRATOR OF THE FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION.

## DEPARTMENT OF TRANSPORTATION

CYNTHIA L. QUARTERMAN, OF GEORGIA, TO BE ADMINISTRATOR OF THE PIPELINE AND HAZARDOUS MATERIALS SAFETY ADMINISTRATION, DEPARTMENT OF TRANSPORTATION.

## NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

ELIZABETH M. ROBINSON, OF VIRGINIA, TO BE CHIEF FINANCIAL OFFICER, NATIONAL AERONAUTICS AND SPACE ADMINISTRATION.

## DEPARTMENT OF COMMERCE

PATRICK GALLAGHER, OF MARYLAND, TO BE DIRECTOR OF THE NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY.

## MERIT SYSTEMS PROTECTION BOARD

SUSAN TSUI GRUNDMANN, OF VIRGINIA, TO BE CHAIRMAN OF THE MERIT SYSTEMS PROTECTION BOARD.

SUSAN TSUI GRUNDMANN, OF VIRGINIA, TO BE A MEMBER OF THE MERIT SYSTEMS PROTECTION BOARD FOR THE TERM OF SEVEN YEARS EXPIRING MARCH 1, 2016.

ANNE MARIE WAGNER, OF VIRGINIA, TO BE A MEMBER OF THE MERIT SYSTEMS PROTECTION BOARD FOR THE TERM OF SEVEN YEARS EXPIRING MARCH 1, 2014.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

## DEPARTMENT OF JUSTICE

IGNACIA S. MORENO, OF NEW YORK, TO BE AN ASSISTANT ATTORNEY GENERAL.

LAURIE O. ROBINSON, OF THE DISTRICT OF COLUMBIA, TO BE AN ASSISTANT ATTORNEY GENERAL.

BENJAMIN B. WAGNER, OF CALIFORNIA, TO BE UNITED STATES ATTORNEY FOR THE EASTERN DISTRICT OF CALIFORNIA FOR THE TERM OF FOUR YEARS.

CARMEN MILAGROS ORTIZ, OF MASSACHUSETTS, TO BE UNITED STATES ATTORNEY FOR THE DISTRICT OF MASSACHUSETTS FOR THE TERM OF FOUR YEARS.

EDWARD J. TARVER, OF GEORGIA, TO BE UNITED STATES ATTORNEY FOR THE SOUTHERN DISTRICT OF GEORGIA FOR THE TERM OF FOUR YEARS.

# HOUSE OF REPRESENTATIVES—Thursday, November 5, 2009

The House met at 10 a.m. and was called to order by the Speaker pro tempore (Mr. PASTOR of Arizona).

## DESIGNATION OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,  
November 5, 2009.

I hereby appoint the Honorable ED PASTOR to act as Speaker pro tempore on this day.

NANCY PELOSI,  
Speaker of the House of Representatives.

## PRAYER

The Chaplain, the Reverend Daniel P. Coughlin, offered the following prayer: I will sing forever of Your love, O Lord; throughout the years I will proclaim Your truth.

The starry heavens are Yours. The whole world is Yours. You established the earth and all it holds together. You created the north and the south, the boundaries of the land.

In You we find power and strength. Your justice becomes the foundation of all lawmaking. You help us keep all things in order.

We will find love and truth in Your presence, now and forever. Amen.

## THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

## PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from Louisiana (Mr. FLEMING) come forward and lead the House in the Pledge of Allegiance.

Mr. FLEMING led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

## ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair will entertain up to 10 requests for 1-minute speeches on each side of the aisle.

## IS THIS A TIME TO PLANT OR A TIME TO REAP

(Mr. KUCINICH asked and was given permission to address the House for 1 minute.)

Mr. KUCINICH. Mr. Speaker, the Book of Ecclesiastes says, To everything there is a season, and a time to every purpose under heaven, a time to plant, a time to reap.

Many years ago, people in States across America planted the seeds of single payer health care. Those seeds have sprouted and borne fruit where powerful State citizens' movements exist to create not-for-profit health care. This led to passage of an amendment to the health care bill which protected the rights of States to pursue single payer. Unfortunately, that amendment was taken out of the bill and we must try to get it into the conference report.

While the State health care movement is strong, the national single payer movement is still growing. It has resulted in the Conyers bill, H.R. 676, Medicare for All. The bill has 87 cosponsors, a significant number, but nowhere near enough to bring the bill to the floor where it would face certain defeat.

To those who want a stand-alone vote on single payer now, I want to ask this question: Is this a time to plant or a time to reap? What fruit will be borne from a tree that has received no light and no water in this Capitol?

## ILLEGALS AND THE HEALTH CARE BILL

(Mr. POE of Texas asked and was given permission to address the House for 1 minute.)

Mr. POE of Texas. Mr. Speaker, the \$1 trillion government will take care of us all health care bill will allow illegals to get benefits. Every year, 10 million illegals use fake or stolen Social Security cards to work here. The Government Accountability Office reports over a 15-year period, 9 million people even used the same Social Security number. It was 000-00-0000. How is that for policing the system?

This is the same inept, goofy program that will be used to monitor citizenship under the health care bill. No one has to even show a valid photo ID to sign up. Can't do that, it might hurt someone's feelings. There is no real enforcement to prevent illegals from receiving health care that citizens and legal immigrants must pay for; all they need is a name and fake Social Security number. Isn't that lovely.

Once again, Americans will continue to pay for illegals who disrespect the law. So now Americans and illegals will stand in line side by side together for that expensive rationed health care.

And that's just the way it is.

## HEALTH CARE

(Mr. PASCRELL asked and was given permission to address the House for 1 minute.)

Mr. PASCRELL. Mr. Speaker, after months of fire and fury and endless rhetoric, after months of staged protests and shouting down honest debate about health reform, after months and months of promising a real plan for the reform we all agreed we need, I stand before this Congress literally astounded by the health reform plan offered by the loyal opposition.

After all this time, this is the best you could produce? It seems that you have backtracked. Now you don't believe in health reform. Instead, the Republicans have embraced a plan that will drive up the cost of health insurance for the sickest and most vulnerable, a plan that will start a race to the bottom where insurers drop the sick and flock to States with the weakest regulations. Yes, that's exactly what I said.

A plan that bails out the insurance companies, relieving them of any responsibility to cover the individuals that need insurance the most. You are going backwards instead of forwards.

I must admit that I congratulate them for somehow turning the status quo into 230 pages of legislative text. I contend there is only one real reform plan, and we will be voting on it in a few days.

## ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair would remind Members to address their remarks to the Chair, not to others in the second person.

## HEALTH CARE

(Mr. BROUN of Georgia asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BROUN of Georgia. Mr. Speaker, God tells us in Hosea 4:6, My people are destroyed for lack of knowledge.

Mr. Speaker, the American citizens need to know that the Pelosi health mandate bill that we are going to be

voting on evidently Saturday night is going to destroy our economy. It is going to destroy jobs. In fact, the President's own economic adviser says 5.5 million people will lose their jobs if this bill becomes law.

Mr. Speaker, the American people need to read the bill and need to know what is in it. It is being forced down the throats of the American people. Mr. Speaker, this is a dead, rotten, stinking fish that the Speaker is trying to force down the throats of the American people before they have an opportunity to see it. I encourage the American people to know what is going on here and to tell their Congressman that they reject the insurance mandate that is proposed by the Speaker in the Speaker's health insurance mandate bill.

#### HEALTH CARE REFORM

(Ms. SCHWARTZ asked and was given permission to address the House for 1 minute.)

Ms. SCHWARTZ. Mr. Speaker, central to finding a uniquely American solution to America's health care challenges is strengthening Medicare for our Nation's seniors. Our health care reform effort renews our commitment to the health and security of American seniors by ensuring the long-term fiscal health of Medicare and improving the quality of care that seniors receive. The House bill adds valuable new benefits for seniors and improves access to primary care.

Seniors now pay up to 20 percent of the cost of preventive services like mammograms and colonoscopies and vaccines. As of January 1, 2011, seniors will no longer have to pay any copay for preventive services. This is a major win for America's seniors.

Health care reform also sets us on a path to close the coverage gap in Medicare part D, known as the doughnut hole. In 2011, Medicare will pay \$50 more for seniors to get drugs, and they will receive a 50 percent discount on brand name drugs. Health care is good for our seniors. Health care is good for America. Now is the time to act.

#### ENROLL CONGRESS IN PUBLIC OPTION

(Mr. FLEMING asked and was given permission to address the House for 1 minute.)

Mr. FLEMING. Mr. Speaker, in July, I offered House Resolution 615, which urged my colleagues who vote for a government-run health care plan to lead by example and enroll themselves in the same public plan. The resolution has 96 Republican cosponsors and prompted almost 2 million Americans from across the country to contact my office in support of this.

Yesterday, I and several of my colleagues offered an amendment to the

Pelosi health care bill that, if passed, will automatically enroll all Members of Congress and all Senators in this public option. This amendment is a direct response to the outcry of millions of Americans who have contacted me.

Members of Congress are exempt from this government takeover of health care, and I believe that if a law is good enough for the American people, then it should be good enough for the elected officials that represent them.

Tonight I will host a Webcast at 7 p.m. Eastern Standard Time, and I urge anyone watching to join me through my Web site, [fleming.house.gov](http://fleming.house.gov), to talk more about it.

#### CONGRATULATING MICHELLE WILMOT

(Mr. SABLAN asked and was given permission to address the House for 1 minute.)

Mr. SABLAN. Mr. Speaker, I rise today to congratulate a Chamorro soldier, Michelle Wilmot, for receiving the 2009 Outstanding Woman Veteran Award.

Michelle was a member of Team Lioness, the first female Army team attached to Marine infantry units to conduct operations such as raids, checkpoints, and personal searches for weapons and explosives. She also served as a medic and a retention NCO during her 8-year stint.

As a member of Team Lioness, she was featured in a documentary film entitled *Lioness*, and in a chapter of Kirsten Holmstedt's book, *The Girls Come Marching Home*. Michelle holds a bachelor of science degree in political science and speaks Arabic and six other languages.

Having personal understanding of the difficulties facing soldiers returning from war, she was chosen as program director of the Northeast Veteran Training and Rehab Center in Gardner, Massachusetts. The center specializes in treating veterans who suffer from post-traumatic stress disorder.

On behalf of the people of the Northern Mariana Islands, I want to congratulate Sergeant Michelle Wilmot, winner of the Massachusetts 2009 Outstanding Woman Veteran Award.

#### HEALTH CARE

(Mr. PENCE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PENCE. Mr. Speaker, across the country, the American people have been calling for months for Washington to pass responsible reform that will lower the cost of health insurance to small business owners, working families, and family farms.

Yesterday, House Republicans answered that call by putting forward

commonsense legislation that will reduce the deficit, lower health insurance premiums, and ensure coverage for those with preexisting conditions. You can read all about it by going on [www.healthcare.gov](http://www.healthcare.gov).

As a result of the House Republican bill, the nonpartisan Congressional Budget Office now confirms, families will see their health insurance premiums reduced by up to 10 percent, and hardworking taxpayers can expect deficits to decrease by \$68 billion over the next decade.

The Pelosi health care plan: more government, more spending, more deficits. The Republican plan: less government, lower deficits, and lower health insurance premiums.

That's your choice, America. Let your voice be heard.

#### HEALTH CARE REFORM FOR WOMEN

(Ms. HIRONO asked and was given permission to address the House for 1 minute.)

Ms. HIRONO. Mr. Speaker, few Americans have more at risk or at stake in health care reform than women. Forty States allow private health insurance companies to gender rate their premiums. As a result, a 25-year-old woman may pay between 6 percent and 45 percent more than a 25-year-old man for the same coverage.

Fifty-two percent of women reported postponing or foregoing medical care because of cost. Only 39 percent of men report having had those experiences.

Nine States allow private plans to refuse coverage for domestic violence survivors.

Eighty-eight percent of private insurance plans do not cover comprehensive maternity care. In many policies, a previous C-section and being pregnant are considered preexisting conditions.

Less than half of all women in America have employer-sponsored insurance. This is partly due to the fact that more women tend to work for small businesses or have part-time jobs where health insurance is not offered.

Women matter. Health care reform matters. I urge my colleagues' support to change this broken system.

□ 1015

#### UNEMPLOYMENT EXTENSION

(Ms. ROS-LEHTINEN asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. ROS-LEHTINEN. Mr. Speaker, over 8 months ago, Congress passed and the President signed a so-called "economic stimulus" bill which added nearly \$1 trillion to our national debt, and now we are told by this administration, as the White House Council of Economic Advisors recently said, that we

can expect 10 percent unemployment through the end of next year and that the economic stimulus bill will contribute little to further economic growth. However, since then, over 3 million jobs have been lost, and the national unemployment rate has soared from 8.1 percent to a 26-year high of 9.8 percent.

State unemployment numbers from my home State of Florida in September continue to reveal the sad fact that since the stimulus passed, unemployment has now risen to 11 percent, which is a record-high level not experienced since 1975.

Today, the House of Representatives will vote on legislation to extend unemployment benefits to those individuals who are unable to find a job. I have supported extensions of these benefits in the past, and I am proud to do so again today.

#### REPUBLICAN HEALTH PLAN

(Mr. DEFAZIO asked and was given permission to address the House for 1 minute.)

Mr. DEFAZIO. Unlike any other industry or business in America, the health insurance industry is exempt from antitrust laws. That means they can and they do collude to drive up your premiums, to exclude you from coverage, to rescind your policy, a whole host of abuses. We do have a little bit of State regulation, but the Republicans are going to take care of that. They're going to create a new safe haven for insurance company abuses.

Insurance companies will be able to offer national plans—that's their big thing, yes—but they can choose any State in the 50 in which to base that plan. And no matter where you live and no matter what the laws are of your State, if you've got a problem—if they've denied you coverage, if they revoked your policy because you got sick, all the other abuses that go on every day within the insurance industry—if you live in Oregon, you'll have to be talking to the insurance commissioner in Delaware or Mississippi with your complaint. And guess what? They don't have consumer protections there for health insurance. The States will provide and compete, some States, the lowest common denominator, the least regulation to attract this great new business of abusive health insurers.

That's the Republican plan. They're always delivering for their buddies in the health insurance industry while the payments roll in at campaign time.

#### ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Members are limited to 1 minute and should heed the gavel.

#### PELOSI HEALTH CARE

(Ms. FOXX asked and was given permission to address the House for 1 minute.)

Ms. FOXX. Mr. Speaker, when I talk with constituents in my district, it's clear that more and more of the American people do not support the Pelosi plan for a government takeover of health care. Sadly, that will not stop liberal Democrats from pushing forward with the Pelosi plan anyway.

Buried in the 1,990-page bill are more than \$700 billion in new taxes on small businesses and individuals and employers who can't afford health care. The Pelosi health care plan also includes more than 100 new bureaucracies, boards, commissions, and programs. What it does not include is coverage for 29 million of the 30 million people that Pelosi and President Obama say need health insurance. They will still not be covered by this huge tax increase and increased bureaucracy.

We need to reject the Pelosi health plan—it is a tax increase masquerading as a health plan—and take up the Republican alternative, which covers everyone.

#### HEALTH CARE BILL

(Mr. WELCH asked and was given permission to address the House for 1 minute.)

Mr. WELCH. Mr. Speaker, America knows that we live with a health care contradiction: some of the best hospitals and doctors in the world providing health care to those who have access to the best health care in the world, but a health care system that also shuts the door of access to 47 million Americans with exploding costs, putting a punishing financial burden on our middle class and on our businesses that are hanging on to their health care by their fingernails.

This system has worked very well for the insurance companies—unregulated, unsupervised, and unapologetic—but they have plundered the wallets of families and the profits of businesses to record record profits. That, Mr. Speaker, is the status quo.

On Saturday, this House of Representatives will face a question that has eluded it for 60 years: Will we accept the status quo or turn the page and provide health care to all Americans?

Our health care legislation is going to do what needs to be done to take that first step, extend access to 36 million Americans, insurance reforms, and a public option.

#### WHAT'S IN THE HEALTH CARE PACKAGE?

(Mr. DANIEL E. LUNGREN of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DANIEL E. LUNGREN of California. Mr. Speaker, if you want to know what's in a package, you ought to open it up and take a look at it.

Let me just talk about one thing that's in this package we're going to vote on on Saturday. It's in the area of tort reform, litigation reform, a subject that every single audience I've spoken to in my district has said should be in any bill, because right now the litigation system puts tremendous strain on our health care system, adding additional trillions of dollars.

What does this program do? It says that it's going to provide an opportunity for pilot projects. But if your State has on its books a law which says there will be any limitation on attorneys' fees or any limitation on damages, including noneconomic damages, you are ineligible to participate. So my State of California, which had medical malpractice reform 30 years ago, will be ineligible, will be punished.

We're not talking about the status quo on litigation reform; we're talking about going back 30 years. If that's in this package, what else is in this package?

#### HEALTH REFORM FOR SMALL BUSINESSES

(Mr. GENE GREEN of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GENE GREEN of Texas. Mr. Speaker, I rise in support of national health reform to help relieve the economic burden of rising health costs on small businesses.

Nationwide, 25 percent of the uninsured, 11 million people, are employees of firms with less than 25 workers. Because they lack bargaining leverage, some small businesses pay 18 percent more than larger businesses with the same health insurance.

If H.R. 3962, the Affordable Health Care Act for America, is enacted, small businesses will be able to find affordable health insurance coverage in the health insurance exchange.

Under the legislation, businesses with up to 100 employees will be able to join the health insurance exchange, benefiting from group rates and a greater choice of insurers. There are 16,600 small businesses in the district I represent that will be able to join that health insurance exchange.

H.R. 3962 will allow small businesses with 25 employees or less and average wages of less than \$40,000 to qualify for tax credits up to 50 percent of the cost of providing health insurance. There are 14,600 small businesses in our Texas district that will qualify for these credits. That's why it's important we pass health care.

## HEALTH CARE REFORM

(Mr. GERLACH asked and was given permission to address the House for 1 minute.)

Mr. GERLACH. Mr. Speaker, I rise today in opposition to the Democrats' most recent health care reform proposal. Frankly, it's a bad bill that keeps getting worse and worse. Not only will it cost over \$1.2 trillion over 10 years, it continues the typical Democrat model of huge tax increases on individuals and small business owners, and it will devastate our seniors' Medicare Advantage program.

Under the latest bill, it will now begin taxing our medical device manufacturers, of which there are 600 such companies in Pennsylvania employing nearly 20,000 people. That tax will do nothing but cut jobs, increase prices, and stifle new product innovation for an industry who wants to grow and prosper in the face of increasing European competition.

If this bill is the best reform this body can produce, it is a sad commentary, indeed, on the Democrats' professed willingness to achieve a commonsense, bipartisan solution to this most pressing issue.

## HEALTH INSURANCE COMPANY PROTECTION ACT

(Ms. WASSERMAN SCHULTZ asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. WASSERMAN SCHULTZ. Well, it's finally here. The long-promised Republican health care bill was rolled out Tuesday night. Republicans controlled Congress from 1994 to 2006, so you could say that we've actually waited 15 years for their bill. But after 15 years of waiting, the Republican bill maintains the status quo and allows insurance companies to continue engaging in unfair practices that boost their profits at the expense of the American consumer.

Indeed, the Republican plan amounts to a "health insurance company protection act" and shows once and for all that Republicans don't want real reform and will fight to protect the status quo every step of the way. At least it's consistent with their message of "no." Does it cover 96 percent of the American public? No. Does it end denials because of a preexisting condition? No. Does it emphasize wellness and prevention? No. Does it rein in health care costs? No.

The Republican health insurance company protection act, it says "no" to Americans and "yes" to insurance company CEOs.

## IT'S TIME FOR ALL PEOPLE TO HAVE ACCESS TO INSURANCE

(Ms. EDDIE BERNICE JOHNSON of Texas asked and was given permission to address the House for 1 minute.)

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, the time has come—it is long past time—that we should pass health care reform.

I know there is a lot of influence that is passing out a lot of information that is not true. We are not cutting Medicare. We are rearranging it so that it can cover more people, but there is no cut in services.

It's so easy to say things that are not true, to have scare tactics. Actually, all we have to do is try to understand the bill and tell the truth.

The people of this Nation want this change. It is time for the change. It is time for all people to have access to insurance. All the people—47 million, or whatever—that are not insured now could very well be insured if the insurance companies would insure them and allow them to use the insurance. That is not happening.

We have to think of another way. And the insurance companies can still live, but hopefully with some competition.

## PROVIDING FOR CONSIDERATION OF H.R. 2868, CHEMICAL FACILITY ANTI-TERRORISM ACT OF 2009

Mr. HASTINGS of Florida. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 885 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

## H. RES. 885

*Resolved*, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 2(b) of rule XVIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 2868) to amend the Homeland Security Act of 2002 to extend, modify, and recodify the authority of the Secretary of Homeland Security to enhance security and protect against acts of terrorism against chemical facilities, and for other purposes. The first reading of the bill shall be dispensed with. All points of order against consideration of the bill are waived except those arising under clause 9 or 10 of rule XXI. General debate shall be confined to the bill and shall not exceed 90 minutes equally divided among and controlled by the chair and ranking minority member of the Committee on Homeland Security, the chair and ranking minority member of the Committee on Energy and Commerce, and the chair and ranking minority member of the Committee on Transportation and Infrastructure. After general debate the bill shall be considered for amendment under the five-minute rule. In lieu of the amendments in the nature of a substitute recommended by the Committees on Homeland Security and Energy and Commerce now printed in the bill, it shall be in order to consider as an original bill for the purpose of amendment under the five-minute rule the amendment in the nature of a substitute printed in part A of the report of the Committee on Rules accompanying this resolution. That amendment in the nature of a substitute shall be considered as read. All points of order against that amendment in the nature of a

substitute are waived except those arising under clause 10 of rule XXI. Notwithstanding clause 11 of rule XVIII, no amendment to that amendment in the nature of a substitute shall be in order except those printed in part B of the report of the Committee on Rules. Each amendment may be offered only in the order printed in the report, may be offered only by a Member designated in the report, shall be considered as read, shall be debatable for the time specified in the report equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question. All points of order against such amendments are waived except those arising under clause 9 or 10 of rule XXI. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommend with or without instructions.

SEC. 2. The Chair may entertain a motion that the Committee rise only if offered by the chair of the Committee on Homeland Security or his designee. The Chair may not entertain a motion to strike out the enacting words of the bill (as described in clause 9 of rule XVIII).

SEC. 3. It shall be in order at any time through the legislative day of November 7, 2009, for the Speaker to entertain motions that the House suspend the rules. The Speaker or her designee shall consult with the Minority Leader or his designee on the designation of any matter for consideration pursuant to this section.

□ 1030

The SPEAKER pro tempore. The gentleman from Florida is recognized for 1 hour.

Mr. HASTINGS of Florida. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to my friend, the gentleman from Florida (Mr. LINCOLN DIAZ-BALART). All time yielded during consideration of the rule is for debate only.

## GENERAL LEAVE

Mr. HASTINGS of Florida. I ask unanimous consent that all Members be given 5 legislative days in which to revise and extend their remarks on House Resolution 885.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. HASTINGS of Florida. I yield myself such time as I may consume.

Mr. Speaker, H. Res. 885 provides for consideration of H.R. 2868, the Chemical Facility Anti-Terrorism Act of 2009, under a structured rule. The rule provides 90 minutes of general debate equally divided between the Committees on Homeland Security, Energy and Commerce, and Transportation and Infrastructure.

The rule waives all points of order against consideration of the bill except those arising under clause 9 or 10 of rule XXI. It further provides that in lieu of the amendments in the nature

of a substitute recommended by the Committees on Homeland Security and Energy and Commerce, the amendment in the nature of a substitute printed in the Rules Committee report shall be considered as an original bill for the purpose of amendment.

The rule waives all points of order against the amendment in the nature of a substitute except those arising under clause 10 of rule XXI.

The rule makes in order 10 amendments listed in the Rules Committee report, each debatable for 10 minutes. All points of order against the amendments printed in part B of the report are waived except for clauses 9 and 10 of rule XXI. It further provides one motion to recommit with or without instructions.

Finally, the rule allows the Speaker to entertain motions to suspend the rules through the legislative day of November 7, 2009. The Speaker or her designee shall consult with the minority leader or his designee on the designation of any matter for consideration pursuant to this resolution.

Mr. Speaker, now I will proceed to the underlying legislation.

I wish to thank Chairman BENNIE THOMPSON, Chairman HENRY WAXMAN, Chairman JIM OBERSTAR, and other members of the House Energy and Commerce Committee who contributed to this legislation meaningfully and to the resulting amendment in the nature of a substitute.

H.R. 2868 amends the Homeland Security Act of 2002 to extend, modify, and recodify the authority of the Secretary of Homeland Security to enhance security and protect against acts of terrorism against chemical facilities and for other purposes.

This bill helps ensure that the chemical manufacturing and storage industry, which generates \$550 billion in revenue each year, is safe and secure and less susceptible to a terrorist-inspired attack. Importantly, it offers additional protections for the people and families who live near these facilities.

The concentration of lethal chemicals near large population centers makes these facilities attractive terrorist targets. The bill protects workers and neighbors of chemical facilities by asking the highest risk facilities to switch to safer chemicals and processes when it is economically feasible.

By establishing a single agency responsible for security at drinking water and wastewater facilities, the bill promotes consistent implementation of security across the industry. This legislation also helps to ensure added security for this industry. This legislation has been endorsed by the National Association of Clean Water Agencies and by the American Public Works Association.

Also, it is critical to ensure that Chemical Facility Anti-Terrorism Standards—CFATS is the acronym—is

a floor and not a ceiling for safety measures, allowing States and localities to implement more stringent chemical security standards for chemical facilities, community water systems, port facilities, and wastewater treatment facilities. The bill promotes innovation and best practices to ensure that our citizens are protected and secure.

Mr. Speaker, it is worth noting that my friends across the aisle may argue that the implementation of inherently safer technology, IST, standards will hurt small businesses and will cause job loss. However, IST is already recognized as a “best practice,” and is widely accepted within the chemical sector. Only facilities that are judged most at-risk may be required to implement IST due to the danger posed by the release of large quantities of toxic substances at the facility.

Before IST is even implemented, it would have to be shown in writing that incorporating IST would significantly reduce the risk of death, injury or serious adverse effects to human health and that implementation is, number one, technically feasible; number two, cost-effective; and, number three, that it lowers the risk at that facility while also not shifting it to other facilities or elsewhere in the supply chain.

Mr. Speaker, I would be remiss to not again thank Chairman BENNIE THOMPSON for his support of an amendment that I will offer later to the underlying legislation.

My amendment strengthens the newly created Office of Chemical and Facility Security by designating a specific point of contact for interagency coordination with the EPA.

My amendment also requires the Secretary to proactively inform State emergency response commissions and local emergency planning committees about activities related to the implementation of the act so that they may update their emergency planning and training procedures.

I look forward to offering this amendment to the underlying legislation so that we can ensure that this legislation informs and better interfaces with activities currently underway based on the Emergency Planning and Community Right-to-Know Act of 1986.

I urge my colleagues to support the rule and the underlying legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. LINCOLN DIAZ-BALART of Florida. I yield myself such time as I may consume.

I want to thank my good friend, the gentleman from Florida (Mr. HASTINGS), for the time.

In 2006, Mr. Speaker, as part of the Homeland Security Appropriations Act of 2007, Congress gave the Department of Homeland Security the authority to promulgate risk-based security per-

formance standards for chemical facilities that use or store chemicals.

I am glad that Mr. LUNGREN of California is here, because he was intimately involved with the legislation that ultimately became law.

The DHS subsequently issued the Chemical Facility Anti-Terrorism Standards (CFATS), requiring chemical facilities to report the types and amounts of chemicals housed on sites. The legislative authority for CFATS was scheduled to sunset this year in October. The underlying bill, the Chemical Facility Anti-Terrorism Act of 2009, makes permanent the authority of the Secretary of Homeland Security to regulate security at chemical plants.

I believe it's important to address the sunset of the existing CFATS program at the Department of Homeland Security. However, I have concerns that this bill fails to enhance our security and, at a time when we are facing 10 percent unemployment, perhaps even higher unemployment in the future, that it could endanger economic recovery.

Of particular concern is the IST, the inherently safer technology, provisions included in this legislation. IST allows the Federal Government to mandate the use of certain chemicals and technologies regardless of the efficiency and effectiveness of the IST. This was all the more worrisome when a witness from the Department of Homeland Security testified that the Department employs no specialists with IST expertise and that there is no future funding planned.

Now, I first learned how IST may hurt job creation and how, in fact, it may increase unemployment from a small business in my district, Allied Universal Corporation, that operates a chemical manufacturing facility.

I was informed that the IST is an attempt by the Federal Government to impose a one-size-fits-all approach to a complicated and disparate sector of our economy. It will cost Allied alone, this corporation that employs people in my community, hundreds of thousands of dollars in consulting fees and in staff time alone.

It is not a good use of resources. It has no tangible benefit as manufacturing struggles to survive in this economy. Furthermore, the underlying bill reduces existing protections on information regarding chemical facilities, and it reduces the penalties for the disclosure of security information.

These regulations that we are talking about today were thoughtfully included following the terrorist attacks on September 11, 2001. The primary responsibility, Mr. Speaker, of our government is to protect the citizenry. By making chemical facilities less secure, we endanger the security of our neighborhoods and of our communities. By



easing penalties for unlawfully disclosing sensitive information, we increase our vulnerability. To make matters worse, the majority includes these provisions in a bill that is supposed to help prevent attacks.

As I said before, I am glad Mr. LUNGREN is here. He can explain the process by which the current regulations came into being, the amount of discussion, negotiation, and consensus that led to those regulations coming into effect, and really how unfortunate now this attempt at an imposition of further or different regulations is.

□ 1045

Mr. Speaker, later this week the Congress is expected to consider health care bills. I would like to take this moment to compare today's rule on the chemical facility bill with the rule expected on the health care bills.

Today's rule allows 10 amendments, five from the majority and five from the minority, on a bill that costs approximately \$900 million. Although the rule is not open, it's important to admit that the rule allows some debate on the underlying issues. The rule expected later this week on the health care legislation will probably include an amendment written by the Speaker. Perhaps that's the only amendment that will be allowed. We'll see. And that bill spends about \$1.3 trillion, I believe.

It seems that the more money Congress spends, the more likely we seem to have a closed debate process. And that, I believe, is contrary to the way the majority promised to run this House.

On the opening day of the 110th Congress, the distinguished chairwoman of the Rules Committee came to the floor and said that the new majority would "begin to return this Chamber to its rightful place as the home of democracy and deliberation in our great Nation." That pledge was echoed in a document written by the distinguished Speaker called a New Direction for America, where she stated, and, by the way, the statement is still on her Web site: "Bills should generally come to the floor under a procedure that allows open, full, and fair debate."

After contrasting today's rule with the expected health care rule in a few days, today's rule might look fair, but really it's not. It blocks amendments from both sides of the aisle from receiving a full and fair debate on the House floor that was, as I pointed out, promised by the Speaker.

During the hearing in the Rules Committee, the ranking member, Mr. DREIER, made a motion to allow an open rule on this legislation that's being brought to the floor; in other words, a rule that would allow all Members the ability to offer any amendment for a vote by the full House. If the Rules Committee had ap-

proved the motion, it would have been their first open rule this Congress. Unfortunately, the motion was voted down by a majority on the Rules Committee. The majority used to criticize us when we were in the majority for not allowing more open rules. They have offered none.

This rule that is bringing the underlying legislation to the floor today also gives the majority the authority to allow consideration of bills under suspension of the rules until Saturday. Suspension bills, as you know, Mr. Speaker, are usually noncontroversial bills, but the suspension authority has in the past been used to pass bills with obviously minimal debate and sometimes as a way to block the minority from offering amendments or a motion to recommit.

Now, in the past, a senior member of the majority on the Rules Committee referred to that process as "outside the normal parameters of the way the House should conduct its business. It effectively curtails our responsibilities and rights as serious legislators."

It's interesting how it's wrong when they're in the minority, but once they're in the majority, it's right.

ALLIED UNIVERSAL CORPORATION,  
Miami, FL, October 23, 2009.

Re H.R. 2868.

Hon. LINCOLN DIAZ-BALART,  
House of Representatives,  
Washington, DC.

DEAR CONGRESSMAN DIAZ-BALART: My company is a small business as defined by the U.S. Small Business Administration. It operates a chemical manufacturing and distribution facility in your district (8350 NW 93 Street, Miami, FL), employing individuals and providing materials to a number of industries critical to our nation's and state's economy and public health. I am writing to express my opposition to H.R. 2868, the Chemical Facility Anti-Terrorism Act, which will be scheduled for a House floor vote within days. This legislation will make significant changes to the Chemical Facility Anti-Terrorism Standards (CFATS), which took effect just two and a half years ago.

Security is a major priority for Allied Universal Corp. We are members of the Chlorine Institute and National Association of Chemical Distributors (NACD), which requires our participation in the Responsible Distribution Process, an environmental, health, safety, and security management program. My company has spent substantial resources on security upgrades in recent years, and will continue to do so going forward under the current CFATS regulations. I do not embellish when I state that a significant amount of our company's capital budget and personnel time has been spent on security improvement projects, and will continue to be spent as Allied works to address the Department of Homeland Security's identified security risks for our facility.

I am concerned that H.R. 2868 is too prescriptive and includes requirements that are not appropriate for all facilities. Security is very important, but a command and control type regulation would not benefit the nation let alone the thousands of businesses that must comply with the regulation. For example, the requirement to conduct an assessment of inherently safer technologies (IST).

or Methods to Reduce the Consequences of a Terrorist Attack, could easily cost my company hundreds of thousands of dollars in consulting fees and staff time. This is not a good use of resources for a chemical manufacturing and distribution facility like mine, which stocks products based on our customers' needs and operates on extremely tight margins. I am also concerned about other mandates in the bill and the fact that state and local measures are not preempted, which is critical for a national security program. No federal preemption would cause much confusion, not to mention additional staff time and resources that could otherwise be allocated to other pressing needs (i.e. one state may have stricter regulations, causing my company to allocate more resources to the facility in that state rather than say a facility in a state with less restrictions, but more significant security concerns or risks such as a high population area).

Therefore, I urge you to oppose H.R. 2868 unless the following changes are made:

(1) All IST assessment and implementation mandates must be removed.

(2) Specific requirements regarding drills, employee and union involvement in SVA and SSP development, and other areas must be removed. A Risk Based Performance Standards approach should be continued as in the current CFATS regulations.

(3) The federal standards must preempt state and local requirements.

Thank you for your consideration. Please feel free to contact me if you have questions or would like more details on how H.R. 2868 would impact my company.

Sincerely,

ROBERT NAMOFF,  
Chairman of the Board.

Mr. Speaker, I reserve the balance of my time.

Mr. HASTINGS of Florida. Mr. Speaker, before yielding to the distinguished Chair, I would like to remind my good friend on the other side of the aisle that what we're debating here is the rule for H.R. 2868, the Chemical Facility Anti-Terrorism Act of 2009. This bill is about renewing the Homeland Security Department's authority to implement, enforce, and improve the chemical facility anti-terrorism standards and to require that the EPA establish parallel security programs for drinking water and wastewater facilities. It's important that we pass this legislation.

I find it striking that my friend and colleague would reference the fact that a distinguished legislator, a friend of mine, who was doubtless here when this legislation originated, and I'm sure has insight as to its origination—but as I have lived here in this institution for nearly 20 years, I've found an evolutionary process to just about all legislation. And there was a major intervention between the implementation of this legislation initially and today, and that intervention was 9/11. And the things that have flowed from it allowed that we have more than 6,000 facilities in this country that are vulnerable and we have an absolute responsibility to deal with them. We also have an absolute responsibility to pass health care.

With that, Mr. Speaker, I'm pleased to yield 3 minutes to my good friend, the gentleman from Mississippi (Mr. THOMPSON), distinguished chairman of the Committee on Homeland Security.

Mr. THOMPSON of Mississippi. I appreciate the gentleman's providing the time.

Mr. Speaker, I rise today in support of the rule for H.R. 2868. I want to first express my gratitude to Chairwoman SLAUGHTER and the Rules Committee for this rule that allows five Democratic and five Republican amendments.

In the wake of the September 11 attacks, security experts immediately identified the threat of an attack on a chemical facility as one of the greatest security vulnerabilities facing the Nation. In 2006, Congress gave the Department of Homeland Security authority to regulate security within the chemical sector. DHS established the Chemical Facility Anti-Terrorism Standards program in 2007, and since that time, DHS has, by all accounts, worked in a collaborative manner with industry to implement this risk-based, performance-based program.

Earlier this year, I introduced H.R. 2868 to not only reauthorize this important program, which will sunset in October 2010, but to also improve it in a few key areas. At the start of this Congress, Chairman WAXMAN and I reached an agreement on issues that have dogged this effort. In Chairman WAXMAN I found a partner who was equally committed to making progress on this important homeland security issue. Starting last fall we began bipartisan discussions in earnest and engaged a wide array of stakeholders including DHS, EPA, chemical sector representatives, water groups, environmental groups, and labor groups. What emerged was the package you see before you today.

Title I is a reauthorization of the DHS program. Titles II and III provide new regulatory authority to the EPA to regulate drinking water and wastewater utilities respectively. This package eliminates the exemptions for the water sector that both the Bush and Obama administrations identified as security gaps and makes a number of improvements to the DHS program.

The underlying legislation, which I introduced in June, built upon two hearings and two markups that were held in the last Congress. H.R. 2868 was marked up by the Homeland Security Committee over the course of 3 days in late June. The Committee on Energy and Commerce held a legislative hearing on H.R. 2868 and drinking water security legislation this October. Both bills were marked up in subcommittee and full committee in October, also.

Whether it was the staff negotiations or during markups, numerous Republican requests and concerns were included in the final product.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. HASTINGS of Florida. I yield to the gentleman an additional 2 minutes.

Mr. THOMPSON of Mississippi. Thank you very much.

The detailed collaborative approach used to create the underlying legislation is a process for which we should all be proud.

As a Congressperson who represents one of the more agricultural districts, I also said that this bill does not harm agricultural interests. I have never voted against an agricultural interest. And I look forward to working with that interest on any concerns they might have.

Mr. Speaker, I support the rule for H.R. 2868, and I look forward to today's debate and passage of this important legislation that will help to make America more secure.

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, as Dr. King said in my favorite of his speeches, longevity has its place. And in Congress we have some Members who have been here for many years. I would like to yield to one such distinguished Member who was here for many years, then left us but then returned, which is even more unusual. But he has the historical knowledge with regard to this legislation, which, by the way, was in this decade that he worked on and that led to the regulations that the majority seeks to amend drastically, change drastically today.

I yield 5 minutes to my distinguished friend from California, Mr. DANIEL E. LUNGREN.

Mr. DANIEL E. LUNGREN of California. I thank the gentleman very much. I must add, though, I was a very, very young man when I first came here. I appreciate that.

First of all, I rise in opposition to this rule. I will talk about the underlying bill and the rule as it applies there, but we should also recognize this rule goes beyond the underlying bill and establishes what has been affectionately referred to as martial law, which means that the majority, basically without notice, can bring up at any time through Saturday, November 7, under suspension of the rules any measure. Any measure. There's no limit on what measure it might be. And for Members who may have forgotten what that means, a suspension of the rule means we suspend all rules and can consider virtually anything we want here, and a bill can be brought up from a committee and the entire text of the bill as passed out of the committee can be removed and we can have a different bill here on the floor. So Members should be aware that we are with this rule passing martial law, giving the majority the ability to bring up anything.

Frankly, that language that has never been seen by any committee can

be entered into a bill with just the name and it could be presented on this floor. So Members should be aware that this rule goes beyond the underlying bill.

With respect to the underlying bill, why would I have concerns about this bill when I serve, with true joy, on this committee and serve with the chairman of the full committee who presents this bill before us? It is because we've been working on this area of concern for the last 5 years and we did come up with legislation that was incorporated into the appropriations bill dealing with homeland security back in 2006, and that language is the language which has been brought forward in the regulations and under which the Department of Homeland Security has operated over these last number of years. And it is the reason why this administration has asked for a simple 1-year extension, not the changes that we have in this bill. Why is that of concern?

□ 1100

Why is it that organizations that have worked carefully with the Department of Homeland Security to come up with a regime that is workable so that we can protect against potential terrorist attacks in the area of chemicals, why would these organizations now have some question?

Why would, for instance, as recently as several days ago, the American Farm Bureau Federation, the American Petroleum Institute, the American Trucking Association, the Fertilizer Institute, the National Association of Chemical Distributors, the National Association of Manufacturers, the National Petrochemical and Refiners Association, and the U.S. Chamber of Commerce all oppose this bill?

It is primarily because while the administration, both the prior administration and the current administration, have worked well with all of these industries to come up with a regime that is workable, that does protect us, that does make a distinction between the larger companies and the smallest companies, that has engaged them in such a way that they have put forward new practices and capital investment, that all of that could be thrown out of the window now as we adopt new regulations under a new regulatory scheme.

What is the major concern they have? It has to do with something called inherently safer technology. It sounds great. Who could be against it? The problem is this legislation misunderstands what that is. We've been working on this for the last half decade.

In 2006, I remember Scott Berger, director of the Center for Chemical Process Safety of the American Institute of Chemicals, testified before us on this. His organization is the organization which has produced the accepted reference book on the issue of inherently

safer processes. That is what we are talking about here. Here is what he said:

Inherently safer design is a concept related to the design and operation of chemical plants, and the philosophy is generally applicable to any technology. But he goes on to say that this is an evolving concept, and the specific tools and techniques for application are in the early stages of development and such methods do not now exist.

What basically we got out of his testimony and the testimony of every witness that appeared before us, both brought by the Democratic Party and Republican Party—

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. LINCOLN DIAZ-BALART of Florida. I yield the gentleman an additional 2 minutes.

Mr. DANIEL E. LUNGREN of California. Is that this is a process, not a product; yet we are now giving blanket authority for the Secretary to impose inherently safer technologies as if it were a product.

Now, this is going to impact companies disproportionately which are small. Mr. Speaker, 59 percent of the companies that will be impacted by this law employ 50 workers or less. In my home State of California, it's 62 percent. So at a time when we are having difficulty maintaining and producing jobs, when everybody comes to the floor and says, We want to protect small business, we want to help small business, small businesses are going to be hurt disproportionately by this legislation. This legislation is at least premature.

The administration has said, Just give us a simple reauthorization for a year of what you're already doing. We did that in the appropriations bill, but somehow, because we seem to have more time on our hands, we have to bring bills to the floor as we wait for the health care reform, the mother of all bills, to come to this floor. That's why we're here dealing with this, despite the fact the administration doesn't support it, the industry doesn't support it, small business doesn't support it, and even those who came up with the idea of inherently safer technologies have told us in testimony, You folks don't understand; you're misapplying it if you are going to put it in the bill as it is in this bill.

It sounds great. Everybody is for inherently safer technologies, but it's the substance of what it is that we ought to be concerned about, and we ought not put another job-killer bill on this floor just a day or 2 days before we're going to hear the latest unemployment statistics.

Mr. HASTINGS of Florida. Mr. Speaker, inherently safer technologies, known as methods to reduce the consequences of a terrorist attack, includes techniques such as eliminating

or reducing the amount of toxic chemicals stored on-site or using safer processes that facilitate as a best practice often integrated into the operations.

My good friend from California doth protest too much about us legislating on something that is particularly critical that we have this IST technology, and his argument, as I heard a portion of it, is we are doing this for the reason that we are waiting for health care and we don't have anything else to do. Well, that's just not true. We've been a pretty busy Congress from the inception of this Congress. If there was no health care provision, we would have matters that we would have to undertake, including this particularly critical matter.

Only a small subset of the people that he is talking about, covered chemical facilities, are placed in the top two riskiest tiers by the Department of Homeland Security because of the consequences in the event of a chemical release, and it could be required to implement IST. Between 100 and 200 chemical facilities nationwide currently fall into that category, according to DHS.

I am continually surprised at my colleagues' arguments. A while back, we were describing them as the party of "no," and I think that that had currency and still does after you look at their health care provision, which insures nobody. But the thing that really I find interesting about this is that they really are the party of "status quo." And if you look at this legislation that Congressman THOMPSON, Congressman OBERSTAR, and Congressman WAXMAN have fashioned, had hearings that were in the public, everybody had an opportunity to make their presentation, including what you just heard from our colleague, someone that had a different view as occurs in just about every hearing—the minority has an opportunity most times to bring witnesses and the majority brings witnesses, and generally, they don't agree. But that doesn't mean in this body that we don't have an exacting responsibility to go forward with legislation demonstrably to improve the American public's safety. That is what we are here about at this time.

I reserve the balance of my time.

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, it is my pleasure to yield 5 minutes to my friend from Pennsylvania, Mr. DENT.

Mr. DENT. Mr. Speaker, you are going to hear a lot of talk here today about chemical plant security, but let's be very clear. All of us, I think, in this Chamber understand the need for greater chemical plant security. As Mr. LUNGREN so eloquently stated, we have regulations in place, the so-called CFATS regulations, that are being implemented, and we should give them time to be implemented. I will get into that in more specificity in a few mo-

ments. But I do rise to oppose the rule here today.

Mr. AUSTRIA of Ohio offered an amendment that was rejected by the Rules Committee that would have exempted small businesses from the inherently safer technologies provisions contained in the legislation that we are discussing today. I would like to get into that IST in just a moment.

Again, we all support the need for greater chemical plant security. We should also note, too, that by adding drinking water and wastewater facilities, we will double the number of facilities that will need to be reviewed under the existing regulatory scheme. Actually, 4,000 of the 6,000 security vulnerability assessments have not yet been reviewed by the Department of Homeland Security, currently. Adding IST will complicate this thing to a much greater extent.

People who know a great deal about IST—"inherently safer technologies" is the term—have opposed mandating it into this law. Congress is acting as chief engineer. We ought not to be doing that. But this legislation is not simply about chemical facilities. It is about facilities with chemicals. And what kind of facilities have chemicals? Well, what about hospitals, colleges, and universities? We have 3,630 facilities that employ 50 or fewer people who are going to be impacted by this. The point being is hospitals and colleges and universities are going to be subject to these inherently safer technology provisions contained in the legislation.

Now, specifically with respect to IST, Mr. LUNGREN just referred to the gentleman Scott Berger who came before our committee previously and vehemently argued against mandating inherently safer technologies in this legislation. But I do want to focus my comments on section 2111 of the chemical security title, addressing the concept of IST that was shoehorned into this security-focused bill.

There are similar provisions in the drinking water and wastewater titles, but this bill attempts to define IST, which is a catchy phrase. But I want to say that the concept of IST is not a new one. It's been around for decades as part of the environmental movement. As the Committee on Homeland Security prepared to tackle this bill back in June, I met with a number of scientists and subject matter experts. They consider it a conceptual framework, as Mr. LUNGREN said, that involves four basic elements: first, minimizing the use of hazardous substance; two, replacing a substance with a less hazardous one; three, using a less hazardous process; and four, simplifying the design of a process.

This is not a technology. It is a concept. It is a framework. It's an engineering process that may or may not lead to a technology. The engineers are very concerned about us mandating

this, and here we are, Congress, filled with a lot of lawyers. I'm not a lawyer, but a lot of lawyers are telling them how to build a chemical plant. I represent a district where I have about 4,000 people who make a living building chemical plants, not just in this country but all over the world. They understand this. I'll give you an example.

They built hydrogen plants down by refineries on the gulf coast because you need the hydrogen to help purify or clean the air as it relates to sulfur emissions. It's a requirement. So you build a hydrogen plant down by the refinery. Substituting hydrogen for something else won't work. These plants were placed where they were for a specific reason, and the chemicals they are producing there are being produced for a specific reason. Let not Congress act like chief engineer for the government. We are about to ask the Department of Homeland Security to institute a means by which to police our chemical facilities on their implementation of a conceptual framework. Think about the implication of this for a second.

DHS will be required, under threat of lawsuit by any person, any person that the citizen suit provisions, to fine companies \$25,000 a day for noncompliance with a bureaucrat's idea of whether a particular facility has sufficiently implemented a concept. Think about that. During the committee's only hearing on this legislation in June, I inquired with Deputy Under Secretary Reitingier about how many IST specialists they currently have at the department. His answer was, "I think the answer is none." Similarly, when I asked Secretary Napolitano about the number of IST experts currently employed at the Department during our budget hearing earlier this year, she, too, indicated zero.

The SPEAKER pro tempore. The time of the gentleman from Pennsylvania has expired.

Mr. LINCOLN DIAZ-BALART of Florida. I recognize the gentleman for an additional 1 minute.

Mr. DENT. I would also be remiss if I didn't mention the response of Sue Armstrong, director of the office responsible for implementing these requirements, when questioned on this topic. When I asked exactly what IST was, she demurred, stating, "There is enough debate in industry and academia that I can't take a position on that very topic." Yet this bill not only asks her to do so but requires her, under threat of lawsuit, and saddles hundreds of facilities with the costs of the decision.

So, in closing, I just wanted to make this point once and for all that, you know, with unemployment rates approaching 10 percent, this legislation will imperil many jobs of people who make things, who make chemicals. I think perhaps the intent of some peo-

ple proposing this legislation is simply that they would rather not have these chemicals be made in this country, that they be made elsewhere. This legislation will have the effect of making it more difficult to produce chemicals that we need in this country. They will be produced elsewhere.

I urge the rejection of this rule. We all support greater chemical plant security, but this is not the way to do it, and this will certainly cost jobs throughout America at this time.

Mr. HASTINGS of Florida. Mr. Speaker, I yield to the distinguished chairman of this committee to correct a few of the inaccuracies that my distinguished colleague, Mr. DENT, offered. One that I heard, the Department of Homeland Security has a responsibility of regulating the matter under our consideration and not the Environmental Protection Agency.

I yield to Mr. THOMPSON such time as he may consume.

Mr. THOMPSON of Mississippi. Thank you very much. I appreciate the gentleman yielding the time.

Mr. DENT, as you know, is a member of the committee. I thank the Rules Committee for being so generous in allowing Mr. DENT to have two of the amendments that we'll consider later in the debate.

First of all, Mr. Speaker, I want to say that the administration supports this bill. It is absolutely clear that they do. The other issue is the reference to jobs. Well, we've been doing security at chemical plants since 2007. There is no data that says that that security risk has created a loss in jobs.

□ 1115

All we are doing is codifying what the Department is already doing. To say that it's anti-jobs is just totally inaccurate.

The other issue is, my colleague, Mr. DENT, as you know, this is our second time having this bill brought before us. Mr. DENT supported the bill the first time. Now he is against it. I guess you could say he was for it before he was against it. But, clearly, what I am supporting is the fact that the Department looked at several thousand facilities.

Mr. DENT. Will the gentleman yield?

Mr. THOMPSON of Mississippi. I yield to the gentleman from Pennsylvania.

Mr. DENT. Thank you, Mr. Chairman.

I just wanted to point out that the legislation we are considering today is very different from the legislation that the committee considered a couple years ago. There are civil lawsuit provisions, civil suit provisions in here that are very, very different in this legislation than the bill we considered a couple of years ago.

The IST provisions have not been changed, but there are other differences in the legislation as well. This

is not comparing apples to apples. These are very different bills, and there are a lot of reasons to oppose this bill. I just wanted to correct the record about my position on this bill and the previous bill.

Mr. THOMPSON of Mississippi. Since the gentleman raised the question, the civil lawsuit provision has changed in this bill. I would suggest, Mr. DENT, if you look at it, a plant cannot get sued under this particular legislation. A citizen can't bring lawsuit against a plant. We did change it. We heard you. So we have changed it. That's why I think between the rule and the ultimate vote, if you read the bill, we have made the changes.

In addition to that, let me say that hospitals, all those other entities, Mr. Speaker, they have been considered in the DHS review. DHS has determined that there are only 6,000 facilities that require this kind of scrutiny. So it might be hospitals, it might be anything, but they are already doing it. This is nothing new. It's not adding any, and it's not taking any jobs from small business.

Let me say this bill also requires that DHS assess potential impacts on small business. It's not taking jobs. They have to first decide if it's harmful. If it is, then we put in this program monies to help small business improve their security. It's not an undue requirement for them. I want to make very clear; this bill does not hurt small business. It provides monies to support any vulnerability that DHS might find at a small business. It does not require them to fund that improvement on its own.

It's an effort to get risk tied to threat and vulnerability. That's how we do it. The first piece of legislation we carried in the 110th was a bill addressing risk. But that risk has to be decided based on certain metrics. Those metrics are threats and vulnerabilities.

Regardless of what you might hear, this bill does not do away with jobs. It is small business friendly. Because if there is a vulnerability, a vulnerability is a risk, Mr. Speaker, that the Department determines. Nobody would want to work in an environment where a security risk was identified and not corrected. That's why we have the Department. That's why the Department, through the help of Congress, passed this bill in 2006. We are just doing in the CFATS requirement what's already established.

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, I yield 3 minutes to my friend from Illinois, Mr. SHIMKUS.

Mr. SHIMKUS. First of all to my friend, the chairman, when you start involving medical hospitals, you could change medical protocols and that segues into health care debate and other issues.

But I want to start by saying, you cannot tell me that this debate is about safety. You just cannot. Much of this bill is a means to an end to use Homeland Security regulations to force new processes and procedures, in refineries, chemical plants, or water facilities that are going to be more costly.

Now why would we do that? In a time when we have job loss after job loss, why would we add more costs to this struggling economy? Because there's an agenda here, and the agenda is an environmental agenda that's been running this country since the Democrats took over.

I want to point out the hypocrisy of this safety and security debate. I have been reading through the health care bill, and we got it Friday. I have family obligations and other things, so I am not through with it yet, but I almost am through.

The last 300 pages deal with the Indian Health Service, which has never come through the committee process. Why has it not? Because it could not pass on its own.

On page 1,785, I want to read something. So don't tell me safe drinking water is not a safety and security concern because in your health care bill, this is what you have in there:

"Certain capabilities are not a prerequisite. The financial and technical capability of an Indian Tribe, Tribal Organization, or Indian community to safely operate, manage, and maintain a sanitation facility shall not be a prerequisite to the provision or construction of sanitation facilities by the Secretary."

In other words, in our health care bill we're going to give money to build new water purification plants and they don't have to be trained. They don't have to meet any scientific categories.

Here you are putting a burden on private water systems, on community water systems, municipal water plants, and you are going to exempt tribes from even knowing how to operate the water plant.

This is your bill. Page 1,785. Read your bill. Unbelievable. I only read this last night; 1,990 pages. On page 1,785, "The financial and technical capability of an Indian Tribe, Tribal Organization, or Indian community to safely operate"—shall not be a prerequisite; shall not.

Although we are going to do some weird IST provisions, inherently safer technology, put a new burden on water technology systems, put new burdens on water community systems, put new burdens on rural systems, you're exempting tribes from even knowing how to operate the water plant.

Mr. HASTINGS of Florida. Mr. Speaker, I appreciate my good friend's passion. I don't know whether he has any Native American tribes in his constituency, but I do. I have Seminoles and Miccosukees in my constituency,

and they are as proud of their ability to operate facilities and to do those things. As a matter of fact, quite frankly, both of those tribes are doing a whole whale of a lot better than a part of the systemic institutions that have existed in the non-Native American area.

And I remind my friend that we are not here about the health care bill.

I yield 3 minutes to the distinguished gentlewoman, who is the subcommittee Chair of the Homeland Security committee that has jurisdiction on this particular matter, SHEILA JACKSON-LEE.

Ms. JACKSON-LEE of Texas. Mr. Speaker, let me explain to the colleagues that have gathered here in this august institution that this is the Homeland Security Committee, and, as the American people have asked us to do, we are doing our duty.

I look forward to a vigorous debate on the health care bill, for the American people deserve that vigorous debate and transparency. But today the Homeland Security Committee is doing its job. The idea that we have lived in safety and security since 9/11 to a certain degree has been because of the diligent and vigilant work of the men and women of the Homeland Security Department; members, of course, of the United States military; and Congresspersons who have the absolute duty to address the question of security of this Nation.

I would also remind my good friend that Indian tribes in sovereign areas have a sovereign legal distinction. We know that their structure is somewhat different than what we have.

I rise to support this rule because it is a fair rule. It has allowed a number of amendments by our friends on the other side of the aisle, but this chemical security bill is not a bill that started last week. It started a number of years ago. It has had the jurisdictional oversight of several committees, including the Energy and Commerce Committee.

As I have listened to a number of experts as the subcommittee Chair, we have held hearings, we have authored letters, we have requested briefings, and we have visited sites. I have visited a waste and water system site. I see the vulnerability. I see the utilization of chemicals that could be used or tampered with to contaminate the water of innocent people and innocent families and innocent children.

At the end of each step of the way, in establishing the record for this legislation, we worked in a transparent and a bipartisan manner to ensure that the legislation was thoughtful and well balanced. We dealt with the farmers. Chairman THOMPSON worked with the farmers over a period of time.

You have already heard that we have in this legislation crafted a response to our small businesses, the backbone of

America. We have several Republican amendments that were adopted at markup, and I know that the minority staff was able to make important changes with our staff.

Our door remained open. Regardless of the rhetoric that we hear today, this has been a process that is the obligation of Homeland Security to protect the American people. It is no doubt that terrorism has been franchised and there are numerous creative ways that terrorists will be looking to contaminate.

The SPEAKER pro tempore. The time of the gentlewoman has expired.

Mr. HASTINGS of Florida. I yield the gentlelady an additional minute.

Ms. JACKSON-LEE of Texas. I thank the distinguished member of the Rules Committee and thank him for managing this bill.

I am grateful to the Committee on Rules for specifically ruling 10 amendments in order, five of which come from our friends on the other side. But this again, I want to emphasize, is a responsibility that is not a nonserious responsibility, because water and wastewater sites proliferate our Nation all over, in rural hamlets and urban centers, and it is necessary to look at that as a potential target of any terrorist, just as our rail system, just as our aviation system.

What is our job than to provide the framework than to ensure that our water is secure. Working with the administration, this legislation gives regulatory authority over chemical facilities for DHS while giving EPA a lead role.

I look forward to the passage of this legislation. Why? Because the American people send us here to do our job, and our job is to provide for the security of the American people. I am grateful that over a period of time we have protected small businesses, we are concerned about water and wastewater facilities, chemical facilities, and we will be securing this Nation by pairing this rule and this bill on chemical security.

Mr. Speaker, I rise today to speak in support of the rule for H.R. 2868 and the underlying bill.

The underlying legislation reaffirms our solemn oath to keep the American people safe.

The legislation improves and extends a critical DHS program.

I have been a champion of previous iterations of this legislation and I am an original co-sponsor of H.R. 2868.

By holding hearings in my Subcommittee on chemical security, authoring letters, and requesting briefings, I have been intimately involved in the implementation of this program and assessing its needs.

At each step of the way in establishing the record for this legislation, we worked in a transparent, bipartisan manner to ensure that the legislation was thoughtful and well balanced.

Several Republican amendments were adopted at mark-up and I know that Minority

staff was able to make important changes at the staff level.

Regardless of the rhetoric we hear today, this legislation will be considered following a process of which we can all be proud.

I am grateful to the Committee on Rules for ruling 10 amendments in order, 5 of which come from our friends on the other side of the aisle.

Today's discussion will further demonstrate this process' commitment to fairness and transparency.

Working with the support of the Administration, this legislation gives regulatory authority over chemical facilities to DHS while giving EPA a lead role, in consultation with DHS, over water and wastewater facilities.

I look forward to the passage of H.R. 2868, which will represent the culmination of comprehensive and collaborative efforts to protect the American people while doing so in a manner that understands the sector being regulated.

I support the rule for H.R. 2868 and I look forward to passage of the critical chemical security legislation in the underlying bill.

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, before closing, I will yield 20 seconds to the gentleman from Pennsylvania (Mr. DENT).

Mr. DENT. Mr. Speaker, just very briefly, I want to thank the chairlady of the subcommittee for commenting on the amendments that were adopted in the Homeland Security Committee on a bipartisan basis. Those amendments were stripped out of the bill that we are considering today. They are not in. So even though we had amendments in the bill that came out of the Homeland Security Committee, they are not here in this bill today.

Mr. HASTINGS of Florida. Mr. Speaker, I am very pleased to yield 2 minutes to my good friend from Rhode Island, a member of the Energy and Commerce Committee, Mr. LANGEVIN.

Mr. LANGEVIN. Mr. Speaker, I rise today in strong support of the rule for H.R. 2868, the Chemical Facility Anti-Terrorism Act, and in strong support of the underlying bill. I thank the gentleman for yielding the time and for all those who had a hand in bringing this legislation to the floor.

This bill will help secure our chemical infrastructure from attack or sabotage, and I want to particularly thank Chairman THOMPSON for focusing particular attention on cyber threats to this sector.

Securing our critical infrastructure from cyber attack cannot be an afterthought. The vulnerabilities to control systems and network infrastructure are numerous and, if ignored, could have serious consequences just as severe as a physical attack. This bill will require increased cybersecurity training, improved reporting of cyber attacks and a chemical facility security director who is knowledgeable on cyber issues, greatly increasing the opportunity to address and prevent cyber attacks before any damage occurs.

Cybersecurity and cyber vulnerabilities are one of those areas that are not fully addressed across government to this point. We can see that from numerous cyber penetrations and exfiltration of data that clearly more needs to be done in this area. The most critical area, though, and the area of greatest vulnerability is critical infrastructure. This act today takes a major step forward in addressing an area that could cause widespread damage or potentially loss of life.

This is an important piece of legislation. I urge my colleagues to support it.

□ 1130

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, the American people are demanding that we have at least 72 hours on any legislation and every piece of legislation, to read it and study it before it is brought to the floor; 182 Members have signed a discharge petition to consider a bill that would require that.

That is why today I will be asking for a "no" vote on the previous question, so we can amend this rule and allow the House to consider that legislation, H. Res. 554, offered by Representatives BAIRD and CULBERSON, requiring 72 hours on every piece of legislation before it is taken to a vote.

If anyone is concerned, Mr. Speaker, that that would jeopardize the chemical security bill, be not concerned, because the motion I am making provides for separate consideration of the Baird-Culberson bill within 3 days so we can vote on the chemical security bill and then, once we are done, consider H. Res. 554. The American people are demanding that on every piece of legislation there should be 72 hours to study it and read it thoroughly before it is voted on.

Mr. Speaker, I ask unanimous consent to insert the text of the amendment and extraneous materials immediately prior to the vote on the previous question.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. LINCOLN DIAZ-BALART of Florida. I yield back the balance of my time.

Mr. HASTINGS of Florida. Mr. Speaker, in closing, I would like to remind my colleagues of the urgency of this legislation. This bill takes important steps to protect our Nation's wastewater infrastructure. Publicly owned treatment facilities serve more than 200 million Americans and consist of 16,000 treatment plants, 100,000 major pumping stations, and 600,000 miles of sanitary sewers. Damage to these facilities and collection systems could result in loss of life, contamination of drinking water facilities, catastrophic damage to lakes and rivers, and long-term public health impacts.

Also, by requiring the Environmental Protection Agency to establish risk-based performance standards for community water systems serving more than 3,300 people and other exceptional water systems posing significant risk, the bill safeguards our Nation's drinking water supply and restores confidence at a time of upheaval and uncertainty.

I urge a "yes" vote on the previous question and on the rule.

The material previously referred to by Mr. LINCOLN DIAZ-BALART of Florida is as follows:

AMENDMENT TO H. RES. 885 OFFERED BY MR. LINCOLN DIAZ-BALART OF FLORIDA

At the end of the resolution, insert the following new section:

SEC. 4. On the third legislative day after the adoption of this resolution, immediately after the third daily order of business under clause 1 of rule XIV and without intervention of any point of order, the House shall proceed to the consideration of the resolution (H. Res. 554) amending the Rules of the House of Representatives to require that legislation and conference reports be available on the Internet for 72 hours before consideration by the House, and for other purposes. The resolution shall be considered as read. The previous question shall be considered as ordered on the resolution and any amendment thereto to final adoption without intervening motion or demand for division of the question except: (1) one hour of debate equally divided and controlled by the chair and ranking minority member of the Committee on Rules; (2) an amendment, if offered by the Minority Leader or his designee and if printed in that portion of the Congressional Record designated for that purpose in clause 8 of rule XVIII at least one legislative day prior to its consideration, which shall be in order without intervention of any point of order or demand for division of the question, shall be considered as read and shall be separately debatable for twenty minutes equally divided and controlled by the proponent and an opponent; and (3) one motion to recommit which shall not contain instructions. Clause 1(c) of rule XIX shall not apply to the consideration of House Resolution 554.

(The information contained herein was provided by Democratic Minority on multiple occasions throughout the 109th Congress.)

THE VOTE ON THE PREVIOUS QUESTION: WHAT IT REALLY MEANS

This vote, the vote on whether to order the previous question on a special rule, is not merely a procedural vote. A vote against ordering the previous question is a vote against the Democratic majority agenda and a vote to allow the opposition, at least for the moment, to offer an alternative plan. It is a vote about what the House should be debating.

Mr. Clarence Cannon's Precedents of the House of Representatives, (VI, 308-311) describes the vote on the previous question on the rule as "a motion to direct or control the consideration of the subject before the House being made by the Member in charge." To defeat the previous question is to give the opposition a chance to decide the subject before the House. Cannon cites the Speaker's ruling of January 13, 1920, to the effect that "the refusal of the House to sustain the demand for the previous question passes the control of the resolution to the opposition"



in order to offer an amendment. On March 15, 1909, a member of the majority party offered a rule resolution. The House defeated the previous question and a member of the opposition rose to a parliamentary inquiry, asking who was entitled to recognition. Speaker Joseph G. Cannon (R-Illinois) said: "The previous question having been refused, the gentleman from New York, Mr. Fitzgerald, who had asked the gentleman to yield to him for an amendment, is entitled to the first recognition."

Because the vote today may look bad for the Democratic majority they will say "the vote on the previous question is simply a vote on whether to proceed to an immediate vote on adopting the resolution \* \* \* [and] has no substantive legislative or policy implications whatsoever." But that is not what they have always said. Listen to the definition of the previous question used in the Floor Procedures Manual published by the Rules Committee in the 109th Congress, (page 56). Here's how the Rules Committee described the rule using information from Congressional Quarterly's "American Congressional Dictionary": "If the previous question is defeated, control of debate shifts to the leading opposition member (usually the minority Floor Manager) who then manages an hour of debate and may offer a germane amendment to the pending business."

Deschler's Procedure in the U.S. House of Representatives, the subchapter titled "Amending Special Rules" states: "a refusal to order the previous question on such a rule [a special rule reported from the Committee on Rules] opens the resolution to amendment and further debate." (Chapter 21, section 21.2) Section 21.3 continues: "Upon rejection of the motion for the previous question on a resolution reported from the Committee on Rules, control shifts to the Member leading the opposition to the previous question, who may offer a proper amendment or motion and who controls the time for debate thereon."

Clearly, the vote on the previous question on a rule does have substantive policy implications. It is one of the only available tools for those who oppose the Democratic majority's agenda and allows those with alternative views the opportunity to offer an alternative plan.

Mr. HASTINGS of Florida. I yield back the balance of my time, and I move the previous question on the resolution.

The SPEAKER pro tempore. The question is on ordering the previous question on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 and clause 9 of rule XX, this 15-minute vote on ordering the previous question will be followed by 5-minute votes on adoption of House Resolution 885, if ordered, and motion to suspend the rules on H. Res. 868.

The vote was taken by electronic device, and there were—yeas 241, nays 180, not voting 11, as follows:

[Roll No. 856]

#### YEAS—241

Abercrombie	Grijalva	Napolitano
Ackerman	Gutierrez	Neal (MA)
Adler (NJ)	Hall (NY)	Nye
Andrews	Halvorson	Oberstar
Arcuri	Hare	Obey
Baca	Harman	Olver
Baldwin	Hastings (FL)	Ortiz
Barrow	Heinrich	Pallone
Bean	Hersth Sandlin	Pascrell
Becerra	Higgins	Pastor (AZ)
Berkley	Himes	Payne
Berman	Hinche	Perlmutter
Berry	Hinojosa	Perriello
Bishop (GA)	Hirono	Peters
Bishop (NY)	Hodes	Peterson
Blumenauer	Holden	Pingree (ME)
Boccieri	Holt	Polis (CO)
Boren	Honda	Pomeroy
Boswell	Hoyer	Price (NC)
Boucher	Inslee	Quigley
Boyd	Israel	Rahall
Bright	Jackson (IL)	Rangel
Brown, Corrine	Jackson-Lee	Reyes
Butterfield	(TX)	Richardson
Capps	Johnson (GA)	Rodriguez
Cardoza	Johnson, E. B.	Ross
Carnahan	Kagen	Rothman (NJ)
Carney	Kanjorski	Roybal-Allard
Carson (IN)	Kaptur	Ruppersberger
Castor (FL)	Kennedy	Rush
Chandler	Kildee	Ryan (OH)
Chu	Kilpatrick (MI)	Salazar
Clarke	Kilroy	Sanchez, Loretta
Clay	Kissell	Sarbanes
Cleaver	Kirkpatrick (AZ)	Schakowsky
Clyburn	Kissell	Schauer
Cohen	Klein (FL)	Schiff
Connolly (VA)	Kosmas	Schrader
Conyers	Kucinich	Schwartz
Cooper	Langevin	Scott (GA)
Costa	Larsen (WA)	Scott (VA)
Costello	Larson (CT)	Serrano
Courtney	Lee (CA)	Sestak
Crowley	Levin	Shea-Porter
Cuellar	Lewis (GA)	Sherman
Cummings	Lipinski	Shuler
Dahlkemper	Loeb sack	Sires
Davis (AL)	Lofgren, Zoe	Skelton
Davis (CA)	Lowey	Slaughter
Davis (IL)	Lujan	Smith (WA)
Davis (TN)	Lynch	Snyder
DeFazio	Maffei	Space
DeGette	Maloney	Spratt
Delahunt	Markey (CO)	Stark
DeLauro	Markey (MA)	Sutton
Dicks	Marshall	Tanner
Dingell	Massa	Teague
Doggett	Matheson	Thompson (CA)
Donnelly (IN)	Matsui	Thompson (MS)
Doyle	McCarthy (NY)	Tierney
Driehaus	McCollum	Titus
Edwards (MD)	McDermott	Tonko
Edwards (TX)	McGovern	Towns
Ellison	McIntyre	Tsongas
Ellsworth	McMahon	Van Hollen
Engel	McNerney	Velázquez
Eshoo	Meek (FL)	Visclosky
Etheridge	Meeks (NY)	Walz
Farr	Melancon	Wasserman
Fattah	Michaud	Schultz
Filner	Miller (NC)	Waters
Foster	Miller, George	Watson
Frank (MA)	Mitchell	Watt
Fudge	Mollohan	Waxman
Giffords	Moore (KS)	Weiner
Gonzalez	Moore (WI)	Welch
Gordon (TN)	Moran (VA)	Wexler
Grayson	Murphy (CT)	Wilson (OH)
Green, Al	Murphy (NY)	Woolsey
Green, Gene	Murtha	Wu
Griffith	Nadler (NY)	Yarmuth

#### NAYS—180

Akin	Barton (TX)	Bono Mack
Alexander	Bigert	Boozman
Altmire	Bilbray	Boustany
Austria	Bilirakis	Brady (TX)
Bachmann	Bishop (UT)	Broun (GA)
Bachus	Blackburn	Brown (SC)
Baird	Blunt	Brown-Waite,
Barrett (SC)	Boehner	Ginny
Bartlett	Bonner	Buchanan

Burgess	Hoekstra	Pence
Burton (IN)	Hunter	Petri
Buyer	Inglis	Pitts
Calvert	Issa	Platts
Camp	Jenkins	Poe (TX)
Campbell	Johnson (IL)	Posey
Cantor	Johnson, Sam	Price (GA)
Cao	Jones	Putnam
Capito	Jordan (OH)	Radanovich
Carter	King (IA)	Rehberg
Cassidy	King (NY)	Reichert
Castle	Kingston	Roe (TN)
Chaffetz	Kirk	Rogers (AL)
Childers	Kline (MN)	Rogers (KY)
Coble	Kratovil	Rohrabacher
Coffman (CO)	Lamborn	Rooney
Cole	Lance	Ros-Lehtinen
Conaway	Latham	Roskam
Crenshaw	LaTourette	Royce
Culberson	Latta	Ryan (WI)
Davis (KY)	Lee (NY)	Scalise
Deal (GA)	Lewis (CA)	Schmidt
Dent	Linder	Schock
Diaz-Balart, L.	LoBiondo	Sensenbrenner
Diaz-Balart, M.	Lucas	Sessions
Dreier	Luetkemeyer	Shadegg
Duncan	Lummis	Shimkus
Ehlers	Lungren, Daniel	Shuster
Emerson	E.	Simpson
Fallin	Mack	Smith (NE)
Flake	Manzullo	Smith (NJ)
Fleming	Marchant	Smith (TX)
Forbes	McCarthy (CA)	Souder
Fortenberry	McCaul	Stearns
Fox	McClintock	Sullivan
Franks (AZ)	McCotter	Taylor
Frelinghuysen	McHenry	Terry
Gallegly	McKeon	Thompson (PA)
Garrett (NJ)	McMorris	Thornberry
Gerlach	Rodgers	Tiahrt
Gingrey (GA)	Mica	Tiberi
Goodlatte	Miller (FL)	Turner
Granger	Miller (MI)	Upton
Graves	Miller, Gary	Walden
Guthrie	Minnick	Wamp
Hall (TX)	Moran (KS)	Westmoreland
Harper	Murphy, Tim	Whitfield
Hastings (WA)	Myrick	Wilson (SC)
Heller	Neugebauer	Wittman
Hensarling	Olson	Wolf
Herger	Paul	Young (AK)
Hill	Paulsen	Young (FL)

#### NOT VOTING—11

Aderholt	Gohmert	Sánchez, Linda
Brady (PA)	Murphy, Patrick	T.
Braley (IA)	Nunes	Speier
Capuano	Rogers (MI)	Stupak

#### □ 1200

Mr. LOBIONDO changed his vote from "yea" to "nay."

So the previous question was ordered.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 233, nays 182, not voting 17, as follows:

[Roll No. 857]

#### YEAS—233

Abercrombie	Barrow	Bishop (NY)
Ackerman	Bean	Blumenauer
Adler (NJ)	Becerra	Boren
Arcuri	Berkley	Boswell
Baca	Berman	Boucher
Baird	Berry	Boyd
Baldwin	Bishop (GA)	Bright



Brown, Corrine  
Butterfield  
Capps  
Cardoza  
Carnahan  
Carson (IN)  
Castor (FL)  
Chandler  
Chu  
Clarke  
Clay  
Cleaver  
Clyburn  
Cohen  
Connolly (VA)  
Conyers  
Cooper  
Costa  
Costello  
Courtney  
Crowley  
Cuellar  
Cummings  
Dahlkemper  
Davis (AL)  
Davis (CA)  
Davis (IL)  
Davis (TN)  
DeFazio  
DeGette  
DeLauro  
Dicks  
Dingell  
Doggett  
Donnelly (IN)  
Doyle  
Driehaus  
Edwards (MD)  
Edwards (TX)  
Ellison  
Engel  
Eshoo  
Etheridge  
Farr  
Fattah  
Filner  
Foster  
Frank (MA)  
Fudge  
Giffords  
Gonzalez  
Gordon (TN)  
Grayson  
Green, Al  
Green, Gene  
Grijalva  
Gutierrez  
Hall (NY)  
Halvorson  
Hare  
Harman  
Hastings (FL)  
Heinrich  
Herseth Sandlin  
Higgins  
Himes  
Hinchey  
Hinojosa  
Hirono  
Hodes  
Holden  
Holt

Honda  
Hoyer  
Inslee  
Israel  
Jackson (IL)  
Jackson-Lee  
(TX)  
Johnson (GA)  
Johnson, E. B.  
Kagen  
Kanjorski  
Kaptur  
Kennedy  
Kildee  
Kilpatrick (MI)  
Kilroy  
Kind  
Kirkpatrick (AZ)  
Kissell  
Klein (FL)  
Kosmas  
Kucinich  
Langevin  
Larsen (WA)  
Larson (CT)  
Lee (CA)  
Levin  
Lewis (GA)  
Lipinski  
Loeb sack  
Lofgren, Zoe  
Lowey  
Lujan  
Lynch  
Maffei  
Maloney  
Markey (CO)  
Markey (MA)  
Marshall  
Massa  
Matheson  
Matsui  
McCarthy (NY)  
McCollum  
McDermott  
McGovern  
McIntyre  
McMahon  
McNerney  
Meek (FL)  
Meeke (NY)  
Melancon  
Michaud  
Miller (NC)  
Miller, George  
Mitchell  
Mollohan  
Moore (KS)  
Moore (WI)  
Moran (VA)  
Murphy (CT)  
Murtha  
Nadler (NY)  
Napolitano  
Neal (MA)  
Nye  
Oberstar  
Obey  
Oliver  
Ortiz  
Pallone  
Pascrell

Pastor (AZ)  
Payne  
Perlmutter  
Perrillo  
Peters  
Peterson  
Pingree (ME)  
Polis (CO)  
Pomeroy  
Price (NC)  
Quigley  
Rahall  
Rangel  
Reyes  
Richardson  
Rodriguez  
Ross  
Rothman (NJ)  
Roybal-Allard  
Ruppersberger  
Rush  
Ryan (OH)  
Salazar  
Sanchez, Loretta  
Sarbanes  
Schakowsky  
Schauer  
Schiff  
Schradler  
Schwartz  
Scott (GA)  
Scott (VA)  
Serrano  
Sestak  
Shea-Porter  
Sherman  
Sires  
Skelton  
Slaughter  
Smith (WA)  
Snyder  
Space  
Speier  
Spratt  
Stark  
Sutton  
Tanner  
Teague  
Thompson (CA)  
Thompson (MS)  
Tierney  
Titus  
Tonko  
Tsongas  
Van Hollen  
Velázquez  
Visclosky  
Walz  
Wasserman  
Waters  
Watson  
Watt  
Waxman  
Weiner  
Welch  
Wilson (OH)  
Woolsey  
Wu  
Yarmuth

## NAYS—182

Akin  
Alexander  
Altmire  
Austria  
Bachmann  
Bachus  
Barrett (SC)  
Bartlett  
Barton (TX)  
Biggert  
Bilbray  
Billirakis  
Bishop (UT)  
Blackburn  
Blunt  
Bocieri  
Boehner  
Bonner  
Bono Mack  
Boozman  
Boustany

Brady (TX)  
Broun (GA)  
Brown (SC)  
Brown-Waite,  
Ginny  
Buchanan  
Burgess  
Burton (IN)  
Buyer  
Calvert  
Camp  
Campbell  
Cantor  
Cao  
Capito  
Carney  
Carter  
Cassidy  
Castle  
Chaffetz  
Childers

Coble  
Coffman (CO)  
Cole  
Conaway  
Crenshaw  
Culberson  
Davis (KY)  
Deal (GA)  
Dent  
Diaz-Balart, L.  
Diaz-Balart, M.  
Dreier  
Duncan  
Ehlers  
Emerson  
Fallin  
Flake  
Fleming  
Forbes  
Fortenberry  
Foxx

Franks (AZ)  
Frelinghuysen  
Gallegly  
Gerlach  
Gingrey (GA)  
Goodlatte  
Granger  
Graves  
Griffith  
Guthrie  
Hall (TX)  
Harper  
Hastings (WA)  
Heller  
Hensarling  
Herger  
Hill  
Hoekstra  
Hunter  
Inglis  
Issa  
Jenkins  
Johnson (IL)  
Johnson, Sam  
Jones  
Jordan (OH)  
King (IA)  
King (NY)  
Kingston  
Kirk  
Kline (MN)  
Kratovil  
Lance  
Lamborn  
Latham  
LaTourette  
Latta  
Lee (NY)  
Lewis (CA)  
Linder  
LoBiondo

Lucas  
Luetkemeyer  
Lummis  
Lungren, Daniel  
E.  
Mack  
Manzullo  
Marchant  
McCarthy (CA)  
McCaul  
McClintock  
McCotter  
McHenry  
McKeon  
McMorris  
Rodgers  
Mica  
Miller (FL)  
Miller (MI)  
Miller, Gary  
Minnick  
Moran (KS)  
Murphy (NY)  
Murphy, Tim  
Myrick  
Neugebauer  
Olson  
Paul  
Paulsen  
Pence  
Petri  
Pitts  
Platts  
Posey  
Price (GA)  
Putnam  
Radanovich  
Rehberg  
Reichert  
Roe (TN)  
Rogers (AL)

Rogers (KY)  
Rohrabacher  
Rooney  
Ros-Lehtinen  
Roskam  
Royce  
Ryan (WI)  
Scalise  
Schmidt  
Schock  
Sensenbrenner  
Sessions  
Shadegg  
Shimkus  
Shuler  
Shuster  
Simpson  
Smith (NE)  
Smith (NJ)  
Smith (TX)  
Souder  
Stearns  
Sullivan  
Taylor  
Terry  
Thompson (PA)  
Thornberry  
Tiahrt  
Tiberi  
Turner  
Upton  
Walden  
Wamp  
Westmoreland  
Whitfield  
Wilson (SC)  
Wittman  
Wolf  
Young (AK)  
Young (FL)

## NOT VOTING—17

Aderholt  
Andrews  
Brady (PA)  
Braley (IA)  
Capuano  
Delahunt  
Ellsworth  
Garrett (NJ)  
Gohmert  
Murphy, Patrick  
Nunes  
Poe (TX)  
Rogers (MI)  
Sanchez, Linda  
T.  
Stupak  
Towns  
Wexler

## ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). There are 2 minutes remaining on the vote.

□ 1208

So the resolution was agreed to.  
The result of the vote was announced as above recorded.  
A motion to reconsider was laid on the table.

## COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER laid before the House the following communication from the Clerk of the House of Representatives:

HOUSE OF REPRESENTATIVES,  
Washington, DC, November 4, 2009.  
Hon. NANCY PELOSI,  
The Speaker, House of Representatives, Washington, DC.

DEAR MADAM SPEAKER: I have the honor to transmit herewith a facsimile copy of a letter received from Ms. Cathy Mitchell, Chief of the Elections Division of the California Secretary of State's office, indicating that, according to the unofficial returns of the Special Election held November 3, 2009, the Honorable John Garamendi was elected Representative to Congress for the Tenth Congressional District, State of California.

With best wishes, I am

Sincerely,

LORRAINE C. MILLER,  
Clerk.

Enclosure.

STATE OF CALIFORNIA,  
SECRETARY OF STATE,  
Sacramento, CA, November 4, 2009.

Hon. LORRAINE C. MILLER,  
Clerk, House of Representatives, The Capitol,  
Washington, DC.

DEAR MS. MILLER: This is to advise you that the unofficial results of the Special Election held on Tuesday, November 3, 2009, for Representative in Congress from the Tenth Congressional District of California, show that John Garamendi received 66,311 votes or 52.98% of the total number of votes cast for that office.

According to the unofficial results, John Garamendi has been elected as Representative in Congress from the Tenth Congressional District of California.

To the best of the Secretary of State's knowledge and belief at this time, there is no contest to this election.

As soon as the official results are certified to this office by Alameda, Contra Costa, Sacramento, and Solano counties, an official Certificate of Election will be prepared for transmittal as required by law.

Sincerely,

CATHY MITCHELL,  
Chief, Elections Division.

# SWearing IN OF THE HONORABLE JOHN GARAMENDI, OF CALIFORNIA, AS A MEMBER OF THE HOUSE

Mr. STARK. Madam Speaker, I ask unanimous consent that the gentleman from California, the Honorable JOHN GARAMENDI, be permitted to take the oath of office today.

His certificate of election has not arrived, but there is no contest and no question has been raised with regard to his election.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

The SPEAKER. Will the Representative-elect and the members of the California delegation present themselves in the well.

Mr. GARAMENDI appeared at the bar of the House and took the oath of office, as follows:

Do you solemnly swear or affirm that you will support and defend the Constitution of the United States against all enemies, foreign and domestic; that you will bear true faith and allegiance to the same; that you take this obligation freely, without any mental reservation or purpose of evasion; and that you will well and faithfully discharge the duties of the office on which you are about to enter, so help you God.

The SPEAKER. Congratulations. You are now a Member of the 111th Congress.

# WELCOMING THE HONORABLE JOHN GARAMENDI TO THE HOUSE OF REPRESENTATIVES

The SPEAKER. Without objection, the gentleman from California (Mr. STARK) is recognized for 1 minute.

There was no objection.

Mr. STARK. Madam Speaker, as Dean of the California delegation, it is my pleasure to introduce the newest addition to our delegation, JOHN GARAMENDI. He and his wife, Patti, began their years of public service as Peace Corps volunteers in Ethiopia. Since then, JOHN has spent over 27 years serving the people of California in the State Assembly, as Insurance Commissioner, and as Lieutenant Governor, and he helped preserve our Nation's parks and wildlife as President Clinton's Deputy Secretary of the Interior.

As we prepare to enact health care reform, JOHN will lend an effective voice to that effort. As California's Insurance Commissioner, he learned the problems families face when trying to buy health coverage. He is an expert on insurance regulation, and his perspective will be of great value.

Please join me in welcoming JOHN GARAMENDI, his wife Patti, their six children, and nine grandchildren to our congressional family.

I would like at this time to yield to the distinguished ranking Republican, Congressman DREIER.

Mr. DREIER. Madam Speaker, I thank my good friend, Mr. STARK, for yielding, and I want to join from our side of the aisle in extending congratulations to Governor GARAMENDI. It is interesting that he is now part of a long-standing tradition of the relationship between California's congressional delegation and the Office of Lieutenant Governor of California.

As I look across the aisle at my friend Mr. STARK and many others, we have had the privilege of serving with two former Lieutenant Governors who came to the House of Representatives, Glenn Anderson and Mervyn Dymally, and of course, the very distinguished opponent Mr. GARAMENDI had, David Harmer's father, John Harmer, served as Ronald Reagan's Lieutenant Governor. And so I know that this is another in that long list of challenges that Mr. GARAMENDI will face, and I hope very much, Madam Speaker, that we will be able to work together in a bipartisan way to address the needs of our State and our Nation as well.

We extend congratulations.

□ 1215

The SPEAKER. Without objection, the gentleman from California, Representative JOHN GARAMENDI, is recognized.

There was no objection.

Mr. GARAMENDI. Madam Speaker, it is a great privilege, indeed, I suspect the greatest privilege, a person could have to stand in the well of the House of Representatives of the United States of America and address this august body. It is a privilege that I shall always remember, and I will always remember this particular moment.

Allow me a moment, if I might, of personal privilege to introduce my wife of almost 44 years, Patti. She is delighted to return, at least in part, to her old stomping grounds here in Washington as the associate director of the Peace Corps and then as the deputy director of the Foreign Agricultural Service in the Department of Agriculture.

We have with us our six children. They're there in the gallery, and I think all of you may have seen six of our nine grandchildren. There are a couple who are testing the H1N1 vaccine back home in California.

Madam Speaker, if I might just tell you what a great privilege it is for me to be here. I look forward to working with all of you on the floor who are here and who are not here today. We have many, many issues that I will look forward to addressing.

I want to congratulate my opponent in the primary, David Harmer, who ran a very solid and, fortunately for me, unsuccessful race but, nonetheless, a very solid race; and he is a very good person.

I want to thank the voters in my district and all of the constituents for their support, giving me this opportunity to extend what has been the most important thing that, I think, any of us could ever do, and that is to spend our life in public policy, addressing the issues that confront our fellow citizens and the world beyond.

Thank you so very much for the privilege and honor.

Madam Speaker, thank you.

#### ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. Under clause 5(d) of rule XX, the Chair announces to the House that, in light of the administration of the oath to the gentleman from California, the whole number of the House is 434.

#### ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. HOLDEN). Without objection, 5-minute voting will continue.

Mr. DREIER. I object.

The SPEAKER pro tempore. Objection is heard.

#### HONORING CURRENT AND FORMER FEMALE MEMBERS OF THE ARMED FORCES

The SPEAKER pro tempore. The unfinished business is the vote on the motion to suspend the rules and agree to the resolution, H. Res. 868, on which the yeas and nays were ordered.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the motion offered by

the gentlewoman from California (Mrs. DAVIS) that the House suspend the rules and agree to the resolution, H. Res. 868.

The vote was taken by electronic device, and there were—yeas 366, nays 0, not voting 67, as follows:

[Roll No. 858]

#### YEAS—366

Abercrombie	Delahunt	Jones
Ackerman	DeLauro	Jordan (OH)
Adler (NJ)	Dent	Kagen
Alexander	Diaz-Balart, L.	Kanjorski
Altmire	Dicks	Kaptur
Andrews	Dingell	Kennedy
Arcuri	Doggett	Kildee
Austria	Donnelly (IN)	Kirkpatrick (MI)
Baca	Doyle	Kilroy
Bachus	Dreier	Kind
Baird	Driehaus	King (NY)
Baldwin	Duncan	Kingston
Barrow	Edwards (MD)	Kirk
Bartlett	Edwards (TX)	Kirkpatrick (AZ)
Barton (TX)	Ehlers	Kissell
Bean	Ellison	Klein (FL)
Becerra	Ellsworth	Kline (MN)
Berkley	Emerson	Kosmas
Berman	Engel	Kratovil
Berry	Eshoo	Kucinich
Bilirakis	Etheridge	Lamborn
Bishop (GA)	Fallin	Lance
Bishop (NY)	Farr	Langevin
Bishop (UT)	Fattah	Larsen (WA)
Blackburn	Filner	Larson (CT)
Blumenauer	Flake	Latham
Bonner	Forbes	LaTourette
Bono Mack	Fortenberry	Latta
Boozman	Foster	Lee (CA)
Boren	Frank (MA)	Levin
Boswell	Franks (AZ)	Lewis (CA)
Boucher	Frelinghuysen	Lewis (GA)
Boyd	Fudge	Lipinski
Brady (TX)	Garamendi	LoBiondo
Bright	Gerlach	Loeb sack
Brown, Corrine	Giffords	Lowe y
Buchanan	Gonzalez	Lucas
Burton (IN)	Goodlatte	Luetkemeyer
Butterfield	Gordon (TN)	Lujan
Calvert	Graves	Lungren, Daniel
Camp	Grayson	E.
Campbell	Green, Al	Lynch
Cantor	Green, Gene	Mack
Cao	Griffith	Maffei
Capito	Grijalva	Maloney
Capps	Guthrie	Manzullo
Cardoza	Gutierrez	Markey (CO)
Carnahan	Hall (NY)	Markey (MA)
Carney	Hall (TX)	Marshall
Carson (IN)	Halvorson	Massa
Cassidy	Hare	Matheson
Castle	Harman	Matsui
Castor (FL)	Harper	McCarthy (CA)
Chandler	Hastings (FL)	McCarthy (NY)
Childers	Heinrich	McCaul
Chu	Heller	McClintock
Clarke	Hensarling	McCollum
Clay	Herger	McCotter
Cleaver	Herseth Sandlin	McDermott
Clyburn	Higgins	McGovern
Coble	Himes	McHenry
Cohen	Hinchey	McIntyre
Cole	Hinojosa	McKeon
Conaway	Hirono	McMahon
Connolly (VA)	Hodes	McNerney
Conyers	Hoekstra	Meek (FL)
Cooper	Holden	Meeks (NY)
Costa	Holt	Melancon
Costello	Honda	Michaud
Courtney	Hoyer	Miller (NC)
Crenshaw	Hunter	Miller, Gary
Crowley	Inglis	Miller, George
Cuellar	Inslee	Minnick
Culberson	Israel	Mitchell
Cummings	Issa	Mollohan
Dahlkemper	Jackson (IL)	Moore (KS)
Davis (AL)	Jackson-Lee	Moore (WI)
Davis (CA)	(TX)	Moran (KS)
Davis (IL)	Jenkins	Moran (VA)
Davis (TN)	Johnson (GA)	Murphy (CT)
Deal (GA)	Johnson (IL)	Murphy (NY)
DeFazio	Johnson, E. B.	Murphy, Tim
DeGette	Johnson, Sam	Murtha

Nadler (NY)	Rothman (NJ)	Sutton
Napolitano	Roybal-Allard	Tanner
Neal (MA)	Ruppersberger	Taylor
Nye	Rush	Teague
Oberstar	Ryan (OH)	Terry
Obey	Ryan (WI)	Thompson (CA)
Ortiz	Salazar	Thompson (MS)
Pallone	Sanchez, Loretta	Thornberry
Pascarell	Sarbanes	Tiberi
Pastor (AZ)	Scalise	Tierney
Paul	Schakowsky	Titus
Paulsen	Schauer	Tonko
Payne	Schiff	Towns
Perlmuter	Schock	Tsongas
Perriello	Schrader	Turner
Peters	Schwartz	Upton
Peterson	Scott (GA)	Van Hollen
Petri	Scott (VA)	Velázquez
Pingree (ME)	Sensenbrenner	Visclosky
Pitts	Serrano	Walden
Platts	Sessions	Walz
Polis (CO)	Sestak	Wasserman
Price (NC)	Shea-Porter	Schultz
Putnam	Sherman	Waters
Quigley	Shimkus	Watson
Radanovich	Shuler	Watt
Rahall	Simpson	Waxman
Rangel	Sires	Weiner
Rehberg	Skelton	Welch
Reichert	Slaughter	Westmoreland
Reyes	Smith (NE)	Wexler
Richardson	Smith (NJ)	Whitfield
Rodriguez	Smith (TX)	Wilson (OH)
Roe (TN)	Smith (WA)	Wittman
Rogers (AL)	Snyder	Wolf
Rohrabacher	Souder	Woolsey
Rooney	Space	Wu
Ros-Lehtinen	Speier	Yarmuth
Roskam	Spratt	Young (AK)
Ross	Stark	Young (FL)

## NOT VOTING—67

Aderholt	Fleming	Olson
Akin	Fox	Olver
Bachmann	Gallely	Pence
Barrett (SC)	Garrett (NJ)	Poe (TX)
Biggart	Gingrey (GA)	Pomeroy
Bilbray	Gohmert	Posey
Blunt	Granger	Price (GA)
Boccheri	Hastings (WA)	Rogers (KY)
Boehner	Hill	Rogers (MI)
Boustany	King (IA)	Royce
Brady (PA)	Lee (NY)	Sánchez, Linda
Braley (IA)	Linder	T.
Brown (GA)	Lofgren, Zoe	Schmidt
Brown (SC)	Lummis	Shadegg
Brown-Waite,	Marchant	Shuster
Ginny	McMorris	Stearns
Burgess	Rodgers	Stupak
Buyer	Mica	Sullivan
Capuano	Miller (FL)	Thompson (PA)
Carter	Miller (MI)	
Chaffetz	Murphy, Patrick	Tiahrt
Coffman (CO)	Myrick	Wamp
Davis (KY)	Neugebauer	Wilson (SC)
Diaz-Balart, M.	Nunes	

□ 1237

So (two-thirds being in the affirmative) the rules were suspended and the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Mr. STEARNS. Mr. Speaker, on rollcall No. 858, I was inadvertently detained. Had I been present, I would have voted "yea."

Mr. COFFMAN of Colorado. Mr. Speaker, on rollcall No. 858, I was unavoidably detained. Had I been present, I would have voted "yea."

Mr. MICA. Mr. Speaker, on rollcall No. 858, I was unavoidably detained. Had I been present, I would have voted "yea."

Mrs. BIGGERT. Mr. Speaker, on rollcall No. 858, honoring and recognizing the service and achievements of current and former female

members of the Armed Forces I was absent. Had I been present, I would have voted "yea."

Mr. BUYER. Mr. Speaker, on rollcall No. 858, I was unavoidably detained and therefore did not vote on passage of H. Res. 868, honoring and recognizing the service and achievements of current and former female members of the Armed Forces. Had I been present, I would have voted "yea."

Mrs. MYRICK. Mr. Speaker, I was unable to participate in the following vote. If I had been present, I would have voted as follows: Rollcall vote 858, on motion to suspend the rules and agree—H. Res. 868, honoring and recognizing the service and achievements of current and former female members of the Armed Forces—I would have voted "yea."

Mr. THOMPSON of Pennsylvania. Mr. Speaker, on rollcall No. 858, I was unintentionally late upon return to the House Chamber and consequently missed this vote due to a meeting with my constituents who traveled to Washington, DC, to voice their opposition of pending health care legislation. I most certainly share overwhelming sense of the House in honoring and recognizing the service and achievements of current and former female members of the Armed Forces. Had I been present, I would have voted "yea."

Ms. FOX. Mr. Speaker, on rollcall No. 858, I was unavoidably detained but as a co-sponsor of the resolution I would have voted "yea."

Mr. GINGREY of Georgia. Mr. Speaker, on rollcall No. 858, I was unavoidably detained. Had I been present, I would have voted "yea."

Mr. WILSON of South Carolina. Mr. Speaker, today I missed a rollcall vote. Unfortunately I missed this vote due to a scheduling conflict.

Had I been present I would have voted "yea" on rollcall vote No. 858, On Motion to Suspend the Rules and Pass, H. Res. 868, honoring and recognizing the service and achievements of current and former female members of the Armed Forces.

ANNOUNCEMENT BY THE SPEAKER  
PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, the Chair will postpone further proceedings today on motions to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote incurs objection under clause 6 of rule XX.

Record votes on postponed questions will be taken later.

UNEMPLOYMENT COMPENSATION  
EXTENSION ACT OF 2009

Mr. RANGEL. Mr. Speaker, I move to suspend the rules and concur in the Senate amendment to the bill (H.R. 3548) to amend the Supplemental Appropriations Act, 2008 to provide for the temporary availability of certain additional emergency unemployment compensation, and for other purposes.

The Clerk read the title of the bill.

The text of the Senate amendment is as follows:

Senate amendment:

Strike all after the enacting clause and insert the following:

## SECTION 1. SHORT TITLE.

This Act may be cited as the "Worker, Homeownership, and Business Assistance Act of 2009".

## SEC. 2. REVISIONS TO SECOND-TIER BENEFITS.

(a) IN GENERAL.—Section 4002(c) of the Supplemental Appropriations Act, 2008 (Public Law 110–252; 26 U.S.C. 3304 note) is amended—

(1) in paragraph (1)—

(A) in the matter preceding subparagraph (A), by striking "If" and all that follows through "paragraph (2))" and inserting "At the time that the amount established in an individual's account under subsection (b)(1) is exhausted";

(B) in subparagraph (A), by striking "50 percent" and inserting "54 percent"; and

(C) in subparagraph (B), by striking "13" and inserting "14";

(2) by striking paragraph (2); and

(3) by redesignating paragraph (3) as paragraph (2).

(b) EFFECTIVE DATE.—The amendments made by this section shall apply as if included in the enactment of the Supplemental Appropriations Act, 2008, except that no amount shall be payable by virtue of such amendments with respect to any week of unemployment commencing before the date of the enactment of this Act.

## SEC. 3. THIRD-TIER EMERGENCY UNEMPLOYMENT COMPENSATION.

(a) IN GENERAL.—Section 4002 of the Supplemental Appropriations Act, 2008 (Public Law 110–252; 26 U.S.C. 3304 note) is amended by adding at the end the following new subsection:

"(d) THIRD-TIER EMERGENCY UNEMPLOYMENT COMPENSATION.—

"(1) IN GENERAL.—If, at the time that the amount added to an individual's account under subsection (c)(1) (hereinafter 'second-tier emergency unemployment compensation') is exhausted or at any time thereafter, such individual's State is in an extended benefit period (as determined under paragraph (2)), such account shall be further augmented by an amount (hereinafter 'third-tier emergency unemployment compensation') equal to the lesser of—

"(A) 50 percent of the total amount of regular compensation (including dependents' allowances) payable to the individual during the individual's benefit year under the State law; or

"(B) 13 times the individual's average weekly benefit amount (as determined under subsection (b)(2)) for the benefit year.

"(2) EXTENDED BENEFIT PERIOD.—For purposes of paragraph (1), a State shall be considered to be in an extended benefit period, as of any given time, if—

"(A) such a period would then be in effect for such State under such Act if section 203(d) of such Act—

"(i) were applied by substituting '4' for '5' each place it appears; and

"(ii) did not include the requirement under paragraph (1)(A) thereof; or

"(B) such a period would then be in effect for such State under such Act if—

"(i) section 203(f) of such Act were applied to such State (regardless of whether the State by law had provided for such application); and

"(ii) such section 203(f)—

"(I) were applied by substituting '6.0' for '6.5' in paragraph (1)(A)(i) thereof; and

"(II) did not include the requirement under paragraph (1)(A)(ii) thereof.

"(3) LIMITATION.—The account of an individual may be augmented not more than once under this subsection."

(b) CONFORMING AMENDMENT TO NON-AUGMENTATION RULE.—Section 4007(b)(2) of the Supplemental Appropriations Act, 2008 (Public Law 110–252; 26 U.S.C. 3304 note) is amended—

(1) by striking "then section 4002(c)" and inserting "then subsections (c) and (d) of section 4002"; and

(2) by striking “paragraph (2) of such section” and inserting “paragraph (2) of such subsection (c) or (d) (as the case may be))”.

(c) **EFFECTIVE DATE.**—The amendments made by this section shall apply as if included in the enactment of the Supplemental Appropriations Act, 2008, except that no amount shall be payable by virtue of such amendments with respect to any week of unemployment commencing before the date of the enactment of this Act.

#### SEC. 4. FOURTH-TIER EMERGENCY UNEMPLOYMENT COMPENSATION.

(a) **IN GENERAL.**—Section 4002 of the Supplemental Appropriations Act, 2008 (Public Law 110–252; 26 U.S.C. 3304 note), as amended by section 3(a), is amended by adding at the end the following new subsection:

“(e) **FOURTH-TIER EMERGENCY UNEMPLOYMENT COMPENSATION.**—

“(1) **IN GENERAL.**—If, at the time that the amount added to an individual’s account under subsection (d)(1) (third-tier emergency unemployment compensation) is exhausted or at any time thereafter, such individual’s State is in an extended benefit period (as determined under paragraph (2)), such account shall be further augmented by an amount (hereinafter ‘fourth-tier emergency unemployment compensation’) equal to the lesser of—

“(A) 24 percent of the total amount of regular compensation (including dependents’ allowances) payable to the individual during the individual’s benefit year under the State law; or

“(B) 6 times the individual’s average weekly benefit amount (as determined under subsection (b)(2)) for the benefit year.

“(2) **EXTENDED BENEFIT PERIOD.**—For purposes of paragraph (1), a State shall be considered to be in an extended benefit period, as of any given time, if—

“(A) such a period would then be in effect for such State under such Act if section 203(d) of such Act—

“(i) were applied by substituting ‘6’ for ‘5’ each place it appears; and

“(ii) did not include the requirement under paragraph (1)(A) thereof; or

“(B) such a period would then be in effect for such State under such Act if—

“(i) section 203(f) of such Act were applied to such State (regardless of whether the State by law had provided for such application); and

“(ii) such section 203(f)—

“(I) were applied by substituting ‘8.5’ for ‘6.5’ in paragraph (1)(A)(i) thereof; and

“(II) did not include the requirement under paragraph (1)(A)(ii) thereof.

“(3) **LIMITATION.**—The account of an individual may be augmented not more than once under this subsection.”.

(b) **CONFORMING AMENDMENT TO NON-AUGMENTATION RULE.**—Section 4007(b)(2) of the Supplemental Appropriations Act, 2008 (Public Law 110–252; 26 U.S.C. 3304 note), as amended by section 3(b), is amended—

(1) by striking “and (d)” and inserting “, (d), and (e) of section 4002”; and

(2) by striking “or (d)” and inserting “, (d), or (e) (as the case may be))”.

(c) **EFFECTIVE DATE.**—The amendments made by this section shall apply as if included in the enactment of the Supplemental Appropriations Act, 2008, except that no amount shall be payable by virtue of such amendments with respect to any week of unemployment commencing before the date of the enactment of this Act.

#### SEC. 5. COORDINATION.

Section 4002 of the Supplemental Appropriations Act, 2008 (Public Law 110–252; 26 U.S.C. 3304 note), as amended by section 4, is amended by adding at the end the following new subsection:

“(f) **COORDINATION RULES.**—

“(1) **COORDINATION WITH EXTENDED COMPENSATION.**—Notwithstanding an election under

section 4001(e) by a State to provide for the payment of emergency unemployment compensation prior to extended compensation, such State may pay extended compensation to an otherwise eligible individual prior to any emergency unemployment compensation under subsection (c), (d), or (e) (by reason of the amendments made by sections 2, 3, and 4 of the Worker, Homeownership, and Business Assistance Act of 2009), if such individual claimed extended compensation for at least 1 week of unemployment after the exhaustion of emergency unemployment compensation under subsection (b) (as such subsection was in effect on the day before the date of the enactment of this subsection).

“(2) **COORDINATION WITH TIERS II, III, AND IV.**—If a State determines that implementation of the increased entitlement to second-tier emergency unemployment compensation by reason of the amendments made by section 2 of the Worker, Homeownership, and Business Assistance Act of 2009 would unduly delay the prompt payment of emergency unemployment compensation under this title by reason of the amendments made by such Act, such State may elect to pay third-tier emergency unemployment compensation prior to the payment of such increased second-tier emergency unemployment compensation until such time as such State determines that such increased second-tier emergency unemployment compensation may be paid without such undue delay. If a State makes the election under the preceding sentence, then, for purposes of determining whether an account may be augmented for fourth-tier emergency unemployment compensation under subsection (e), such State shall treat the date of exhaustion of such increased second-tier emergency unemployment compensation as the date of exhaustion of third-tier emergency unemployment compensation, if such date is later than the date of exhaustion of the third-tier emergency unemployment compensation.”.

#### SEC. 6. TRANSFER OF FUNDS.

Section 4004(e)(1) of the Supplemental Appropriations Act, 2008 (Public Law 110–252; 26 U.S.C. 3304 note) is amended by striking “Act,” and inserting “Act and sections 2, 3, and 4 of the Worker, Homeownership, and Business Assistance Act of 2009;”.

#### SEC. 7. EXPANSION OF MODERNIZATION GRANTS FOR UNEMPLOYMENT RESULTING FROM COMPELLING FAMILY REASON.

(a) **IN GENERAL.**—Clause (i) of section 903(f)(3)(B) of the Social Security Act (42 U.S.C. 1103(f)(3)(B)) is amended to read as follows:

“(i) One or both of the following offenses as selected by the State, but in making such selection, the resulting change in the State law shall not supercede any other provision of law relating to unemployment insurance to the extent that such other provision provides broader access to unemployment benefits for victims of such selected offense or offenses:

“(I) Domestic violence, verified by such reasonable and confidential documentation as the State law may require, which causes the individual reasonably to believe that such individual’s continued employment would jeopardize the safety of the individual or of any member of the individual’s immediate family (as defined by the Secretary of Labor); and

“(II) Sexual assault, verified by such reasonable and confidential documentation as the State law may require, which causes the individual reasonably to believe that such individual’s continued employment would jeopardize the safety of the individual or of any member of the individual’s immediate family (as defined by the Secretary of Labor).”.

(b) **EFFECTIVE DATE.**—The amendment made by this section shall apply with respect to State applications submitted on and after January 1, 2010.

#### SEC. 8. TREATMENT OF ADDITIONAL REGULAR COMPENSATION.

The monthly equivalent of any additional compensation paid by reason of section 2002 of the Assistance for Unemployed Workers and Struggling Families Act, as contained in Public Law 111–5 (26 U.S.C. 3304 note; 123 Stat. 438) shall be disregarded after the date of the enactment of this Act in considering the amount of income and assets of an individual for purposes of determining such individual’s eligibility for, or amount of, benefits under the Supplemental Nutrition Assistance Program (SNAP).

#### SEC. 9. ADDITIONAL EXTENDED UNEMPLOYMENT BENEFITS UNDER THE RAILROAD UNEMPLOYMENT INSURANCE ACT.

(a) **BENEFITS.**—Section 2(c)(2)(D) of the Railroad Unemployment Insurance Act, as added by section 2006 of the American Recovery and Reinvestment Act of 2009 (Public Law 111–5), is amended—

(1) in clause (iii)—

(A) by striking “June 30, 2009” and inserting “June 30, 2010”; and

(B) by striking “December 31, 2009” and inserting “December 31, 2010”; and

(2) by adding at the end of clause (iv) the following: “In addition to the amount appropriated by the preceding sentence, out of any funds in the Treasury not otherwise appropriated, there are appropriated \$175,000,000 to cover the cost of additional extended unemployment benefits provided under this subparagraph, to remain available until expended.”.

(b) **ADMINISTRATIVE EXPENSES.**—Section 2006 of division B of the American Recovery and Reinvestment Act of 2009 (Public Law 111–5; 123 Stat. 445) is amended by adding at the end of subsection (b) the following: “In addition to funds appropriated by the preceding sentence, out of any funds in the Treasury not otherwise appropriated, there are appropriated to the Railroad Retirement Board \$807,000 to cover the administrative expenses associated with the payment of additional extended unemployment benefits under section 2(c)(2)(D) of the Railroad Unemployment Insurance Act, to remain available until expended.”.

#### SEC. 10. 0.2 PERCENT FUTA SURTAX.

(a) **IN GENERAL.**—Section 3301 of the Internal Revenue Code of 1986 (relating to rate of tax) is amended—

(1) by striking “through 2009” in paragraph (1) and inserting “through 2010 and the first 6 months of calendar year 2011”; and

(2) by striking “calendar year 2010” in paragraph (2) and inserting “the remainder of calendar year 2011”; and

(3) by inserting “(or portion of the calendar year)” after “during the calendar year”.

(b) **EFFECTIVE DATE.**—The amendments made by this section shall apply to wages paid after December 31, 2009.

#### SEC. 11. EXTENSION AND MODIFICATION OF FIRST-TIME HOMEBUYER TAX CREDIT.

(a) **EXTENSION OF APPLICATION PERIOD.**—

(1) **IN GENERAL.**—Subsection (h) of section 36 of the Internal Revenue Code of 1986 is amended—

(A) by striking “December 1, 2009” and inserting “May 1, 2010”; and

(B) by striking “SECTION.—This section” and inserting “SECTION.—

“(1) **IN GENERAL.**—This section”, and

(C) by adding at the end the following new paragraph:

“(2) **EXCEPTION IN CASE OF BINDING CONTRACT.**—In the case of any taxpayer who enters into a written binding contract before May 1, 2010, to close on the purchase of a principal residence before July 1, 2010, paragraph (1) shall be applied by substituting ‘July 1, 2010’ for ‘May 1, 2010’.”.

## (2) WAIVER OF RECAPTURE.—

(A) IN GENERAL.—Subparagraph (D) of section 36(f)(4) of such Code is amended by striking “, and before December 1, 2009”.

(B) CONFORMING AMENDMENT.—The heading of such subparagraph (D) is amended by inserting “AND 2010” after “2009”.

(3) ELECTION TO TREAT PURCHASE IN PRIOR YEAR.—Subsection (g) of section 36 of such Code is amended to read as follows:

“(g) ELECTION TO TREAT PURCHASE IN PRIOR YEAR.—In the case of a purchase of a principal residence after December 31, 2008, a taxpayer may elect to treat such purchase as made on December 31 of the calendar year preceding such purchase for purposes of this section (other than subsections (c), (f)(4)(D), and (h)).”.

(b) SPECIAL RULE FOR LONG-TIME RESIDENTS OF SAME PRINCIPAL RESIDENCE.—Subsection (c) of section 36 of the Internal Revenue Code of 1986 is amended by adding at the end the following new paragraph:

“(6) EXCEPTION FOR LONG-TIME RESIDENTS OF SAME PRINCIPAL RESIDENCE.—In the case of an individual (and, if married, such individual's spouse) who has owned and used the same residence as such individual's principal residence for any 5-consecutive-year period during the 8-year period ending on the date of the purchase of a subsequent principal residence, such individual shall be treated as a first-time homebuyer for purposes of this section with respect to the purchase of such subsequent residence.”.

(c) MODIFICATION OF DOLLAR AND INCOME LIMITATIONS.—

(1) DOLLAR LIMITATION.—Subsection (b)(1) of section 36 of the Internal Revenue Code of 1986 is amended by adding at the end the following new subparagraph:

“(D) SPECIAL RULE FOR LONG-TIME RESIDENTS OF SAME PRINCIPAL RESIDENCE.—In the case of a taxpayer to whom a credit under subsection (a) is allowed by reason of subsection (c)(6), subparagraphs (A), (B), and (C) shall be applied by substituting ‘\$6,500’ for ‘\$8,000’ and ‘\$3,250’ for ‘\$4,000’.”.

(2) INCOME LIMITATION.—Subsection (b)(2)(A)(i)(II) of section 36 of such Code is amended by striking “\$75,000 (\$150,000)” and inserting “\$125,000 (\$225,000)”.

(d) LIMITATION ON PURCHASE PRICE OF RESIDENCE.—Subsection (b) of section 36 of the Internal Revenue Code of 1986 is amended by adding at the end the following new paragraph:

“(3) LIMITATION BASED ON PURCHASE PRICE.—No credit shall be allowed under subsection (a) for the purchase of any residence if the purchase price of such residence exceeds \$800,000.”.

(e) WAIVER OF RECAPTURE OF FIRST-TIME HOMEBUYER CREDIT FOR INDIVIDUALS ON QUALIFIED OFFICIAL EXTENDED DUTY.—Paragraph (4) of section 36(f) of the Internal Revenue Code of 1986 is amended by adding at the end the following new subparagraph:

“(E) SPECIAL RULE FOR MEMBERS OF THE ARMED FORCES, ETC.—

“(i) IN GENERAL.—In the case of the disposition of a principal residence by an individual (or a cessation referred to in paragraph (2)) after December 31, 2008, in connection with Government orders received by such individual, or such individual's spouse, for qualified official extended duty service—

“(I) paragraph (2) and subsection (d)(2) shall not apply to such disposition (or cessation), and

“(II) if such residence was acquired before January 1, 2009, paragraph (1) shall not apply to the taxable year in which such disposition (or cessation) occurs or any subsequent taxable year.

“(ii) QUALIFIED OFFICIAL EXTENDED DUTY SERVICE.—For purposes of this section, the term ‘qualified official extended duty service’ means service on qualified official extended duty as—

“(I) a member of the uniformed services,

“(II) a member of the Foreign Service of the United States, or

“(III) an employee of the intelligence community.

“(iii) DEFINITIONS.—Any term used in this subparagraph which is also used in paragraph (9) of section 121(d) shall have the same meaning as when used in such paragraph.”.

(f) EXTENSION OF FIRST-TIME HOMEBUYER CREDIT FOR INDIVIDUALS ON QUALIFIED OFFICIAL EXTENDED DUTY OUTSIDE THE UNITED STATES.—

(1) IN GENERAL.—Subsection (h) of section 36 of the Internal Revenue Code of 1986, as amended by subsection (a), is amended by adding at the end the following:

“(3) SPECIAL RULE FOR INDIVIDUALS ON QUALIFIED OFFICIAL EXTENDED DUTY OUTSIDE THE UNITED STATES.—In the case of any individual who serves on qualified official extended duty service (as defined in section 121(d)(9)(C)(i)) outside the United States for at least 90 days during the period beginning after December 31, 2008, and ending before May 1, 2010, and, if married, such individual's spouse—

“(A) paragraphs (1) and (2) shall each be applied by substituting ‘May 1, 2011’ for ‘May 1, 2010’, and

“(B) paragraph (2) shall be applied by substituting ‘July 1, 2011’ for ‘July 1, 2010’.”.

(g) DEPENDENTS INELIGIBLE FOR CREDIT.—Subsection (d) of section 36 of the Internal Revenue Code of 1986 is amended by striking “or” at the end of paragraph (1), by striking the period at the end of paragraph (2) and inserting “, or”, and by adding at the end the following new paragraph:

“(3) a deduction under section 151 with respect to such taxpayer is allowable to another taxpayer for such taxable year.”.

(h) IRS MATHEMATICAL ERROR AUTHORITY.—Paragraph (2) of section 6213(g) of the Internal Revenue Code of 1986 is amended—

(1) by striking “and” at the end of subparagraph (M),

(2) by striking the period at the end of subparagraph (N) and inserting “, and”, and

(3) by inserting after subparagraph (N) the following new subparagraph:

“(O) an omission of any increase required under section 36(f) with respect to the recapture of a credit allowed under section 36.”.

(i) COORDINATION WITH FIRST-TIME HOMEBUYER CREDIT FOR DISTRICT OF COLUMBIA.—Paragraph (4) of section 1400C(e) of the Internal Revenue Code of 1986 is amended by striking “and before December 1, 2009.”.

(j) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by subsections (b), (c), (d), and (g) shall apply to residences purchased after the date of the enactment of this Act.

(2) EXTENSIONS.—The amendments made by subsections (a), (f), and (i) shall apply to residences purchased after November 30, 2009.

(3) WAIVER OF RECAPTURE.—The amendment made by subsection (e) shall apply to dispositions and cessations after December 31, 2008.

(4) MATHEMATICAL ERROR AUTHORITY.—The amendments made by subsection (h) shall apply to returns for taxable years ending on or after April 9, 2008.

## SEC. 12. PROVISIONS TO ENHANCE THE ADMINISTRATION OF THE FIRST-TIME HOMEBUYER TAX CREDIT.

(a) AGE LIMITATION.—

(1) IN GENERAL.—Subsection (b) of section 36 of the Internal Revenue Code of 1986, as amended by this Act, is amended by adding at the end the following new paragraph:

“(4) AGE LIMITATION.—No credit shall be allowed under subsection (a) with respect to the purchase of any residence unless the taxpayer

has attained age 18 as of the date of such purchase. In the case of any taxpayer who is married (within the meaning of section 7703), the taxpayer shall be treated as meeting the age requirement of the preceding sentence if the taxpayer or the taxpayer's spouse meets such age requirement.”.

(2) CONFORMING AMENDMENT.—Subsection (g) of section 36 of such Code, as amended by this Act, is amended by inserting “(b)(4),” before “(c)”.

(b) DOCUMENTATION REQUIREMENT.—Subsection (d) of section 36 of the Internal Revenue Code of 1986, as amended by this Act, is amended by striking “or” at the end of paragraph (2), by striking the period at the end of paragraph (3) and inserting “, or”, and by adding at the end the following new paragraph:

“(4) the taxpayer fails to attach to the return of tax for such taxable year a properly executed copy of the settlement statement used to complete such purchase.”.

(c) RESTRICTION ON MARRIED INDIVIDUAL ACQUIRING RESIDENCE FROM FAMILY OF SPOUSE.—Clause (i) of section 36(c)(3)(A) of the Internal Revenue Code of 1986 is amended by inserting “(or, if married, such individual's spouse)” after “person acquiring such property”.

(d) CERTAIN ERRORS WITH RESPECT TO THE FIRST-TIME HOMEBUYER TAX CREDIT TREATED AS MATHEMATICAL OR CLERICAL ERRORS.—Paragraph (2) of section 6213(g) of the Internal Revenue Code of 1986, as amended by this Act, is amended by striking “and” at the end of subparagraph (N), by striking the period at the end of subparagraph (O) and inserting “, and”, and by inserting after subparagraph (O) the following new subparagraph:

“(P) an entry on a return claiming the credit under section 36 if—

“(i) the Secretary obtains information from the person issuing the TIN of the taxpayer that indicates that the taxpayer does not meet the age requirement of section 36(b)(4),

“(ii) information provided to the Secretary by the taxpayer on an income tax return for at least one of the 2 preceding taxable years is inconsistent with eligibility for such credit, or

“(iii) the taxpayer fails to attach to the return the form described in section 36(d)(4).”.

(e) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to purchases after the date of the enactment of this Act.

(2) DOCUMENTATION REQUIREMENT.—The amendments made by subsection (b) shall apply to returns for taxable years ending after the date of the enactment of this Act.

(3) TREATMENT AS MATHEMATICAL AND CLERICAL ERRORS.—The amendments made by subsection (d) shall apply to returns for taxable years ending on or after April 9, 2008.

## SEC. 13. 5-YEAR CARRYBACK OF OPERATING LOSSES.

(a) IN GENERAL.—Subparagraph (H) of section 172(b)(1) of the Internal Revenue Code of 1986 is amended to read as follows:

“(H) CARRYBACK FOR 2008 OR 2009 NET OPERATING LOSSES.—

“(i) IN GENERAL.—In the case of an applicable net operating loss with respect to which the taxpayer has elected the application of this subparagraph—

“(I) subparagraph (A)(i) shall be applied by substituting any whole number elected by the taxpayer which is more than 2 and less than 6 for ‘2’,

“(II) subparagraph (E)(ii) shall be applied by substituting the whole number which is one less than the whole number substituted under subclause (I) for ‘2’, and

“(III) subparagraph (F) shall not apply.

“(ii) APPLICABLE NET OPERATING LOSS.—For purposes of this subparagraph, the term ‘applicable net operating loss’ means the taxpayer's

net operating loss for a taxable year ending after December 31, 2007, and beginning before January 1, 2010.

“(iii) ELECTION.—

“(I) IN GENERAL.—Any election under this subparagraph may be made only with respect to 1 taxable year.

“(II) PROCEDURE.—Any election under this subparagraph shall be made in such manner as may be prescribed by the Secretary, and shall be made by the due date (including extension of time) for filing the return for the taxpayer's last taxable year beginning in 2009. Any such election, once made, shall be irrevocable.

“(iv) LIMITATION ON AMOUNT OF LOSS CARRYBACK TO 5TH PRECEDING TAXABLE YEAR.—

“(I) IN GENERAL.—The amount of any net operating loss which may be carried back to the 5th taxable year preceding the taxable year of such loss under clause (i) shall not exceed 50 percent of the taxpayer's taxable income (computed without regard to the net operating loss for the loss year or any taxable year thereafter) for such preceding taxable year.

“(II) CARRYBACKS AND CARRYOVERS TO OTHER TAXABLE YEARS.—Appropriate adjustments in the application of the second sentence of paragraph (2) shall be made to take into account the limitation of subclause (I).

“(III) EXCEPTION FOR 2008 ELECTIONS BY SMALL BUSINESSES.—Subclause (I) shall not apply to any loss of an eligible small business with respect to any election made under this subparagraph as in effect on the day before the date of the enactment of the Worker, Homeownership, and Business Assistance Act of 2009.

“(v) SPECIAL RULES FOR SMALL BUSINESS.—

“(I) IN GENERAL.—In the case of an eligible small business which made or makes an election under this subparagraph as in effect on the day before the date of the enactment of the Worker, Homeownership, and Business Assistance Act of 2009, clause (iii)(I) shall be applied by substituting ‘2 taxable years’ for ‘1 taxable year’.

“(II) ELIGIBLE SMALL BUSINESS.—For purposes of this subparagraph, the term ‘eligible small business’ has the meaning given such term by subparagraph (F)(iii), except that in applying such subparagraph, section 448(c) shall be applied by substituting ‘\$15,000,000’ for ‘\$5,000,000’ each place it appears.”

(b) ALTERNATIVE TAX NET OPERATING LOSS DEDUCTION.—Subclause (I) of section 56(d)(1)(A)(ii) of the Internal Revenue Code of 1986 is amended to read as follows:

“(I) the amount of such deduction attributable to an applicable net operating loss with respect to which an election is made under section 172(b)(1)(H), or”.

(c) LOSS FROM OPERATIONS OF LIFE INSURANCE COMPANIES.—Subsection (b) of section 810 of the Internal Revenue Code of 1986 is amended by adding at the end the following new paragraph:

“(4) CARRYBACK FOR 2008 OR 2009 LOSSES.—

“(A) IN GENERAL.—In the case of an applicable loss from operations with respect to which the taxpayer has elected the application of this paragraph, paragraph (1)(A) shall be applied by substituting any whole number elected by the taxpayer which is more than 3 and less than 6 for ‘3’.

“(B) APPLICABLE LOSS FROM OPERATIONS.—For purposes of this paragraph, the term ‘applicable loss from operations’ means the taxpayer's loss from operations for a taxable year ending after December 31, 2007, and beginning before January 1, 2010.

“(C) ELECTION.—

“(i) IN GENERAL.—Any election under this paragraph may be made only with respect to 1 taxable year.

“(ii) PROCEDURE.—Any election under this paragraph shall be made in such manner as may

be prescribed by the Secretary, and shall be made by the due date (including extension of time) for filing the return for the taxpayer's last taxable year beginning in 2009. Any such election, once made, shall be irrevocable.

“(D) LIMITATION ON AMOUNT OF LOSS CARRYBACK TO 5TH PRECEDING TAXABLE YEAR.—

“(i) IN GENERAL.—The amount of any loss from operations which may be carried back to the 5th taxable year preceding the taxable year of such loss under subparagraph (A) shall not exceed 50 percent of the taxpayer's taxable income (computed without regard to the loss from operations for the loss year or any taxable year thereafter) for such preceding taxable year.

“(ii) CARRYBACKS AND CARRYOVERS TO OTHER TAXABLE YEARS.—Appropriate adjustments in the application of the second sentence of paragraph (2) shall be made to take into account the limitation of clause (i).”

(d) ANTI-ABUSE RULES.—The Secretary of the Treasury or the Secretary's designee shall prescribe such rules as are necessary to prevent the abuse of the purposes of the amendments made by this section, including anti-stuffing rules, anti-churning rules (including rules relating to sale-leasebacks), and rules similar to the rules under section 1091 of the Internal Revenue Code of 1986 relating to losses from wash sales.

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to net operating losses arising in taxable years ending after December 31, 2007.

(2) ALTERNATIVE TAX NET OPERATING LOSS DEDUCTION.—The amendment made by subsection (b) shall apply to taxable years ending after December 31, 2002.

(3) LOSS FROM OPERATIONS OF LIFE INSURANCE COMPANIES.—The amendment made by subsection (d) shall apply to losses from operations arising in taxable years ending after December 31, 2007.

(4) TRANSITIONAL RULE.—In the case of any net operating loss (or, in the case of a life insurance company, any loss from operations) for a taxable year ending before the date of the enactment of this Act—

(A) any election made under section 172(b)(3) or 810(b)(3) of the Internal Revenue Code of 1986 with respect to such loss may (notwithstanding such section) be revoked before the due date (including extension of time) for filing the return for the taxpayer's last taxable year beginning in 2009, and

(B) any application under section 6411(a) of such Code with respect to such loss shall be treated as timely filed if filed before such due date.

(f) EXCEPTION FOR TARP RECIPIENTS.—The amendments made by this section shall not apply to—

(1) any taxpayer if—

(A) the Federal Government acquired before the date of the enactment of this Act an equity interest in the taxpayer pursuant to the Emergency Economic Stabilization Act of 2008,

(B) the Federal Government acquired before such date of enactment any warrant (or other right) to acquire any equity interest with respect to the taxpayer pursuant to the Emergency Economic Stabilization Act of 2008, or

(C) such taxpayer receives after such date of enactment funds from the Federal Government in exchange for an interest described in subparagraph (A) or (B) pursuant to a program established under title I of division A of the Emergency Economic Stabilization Act of 2008 (unless such taxpayer is a financial institution (as defined in section 3 of such Act) and the funds are received pursuant to a program established by the Secretary of the Treasury for the stated purpose of increasing the availability of credit to

small businesses using funding made available under such Act), or

(2) the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation, and

(3) any taxpayer which at any time in 2008 or 2009 was or is a member of the same affiliated group (as defined in section 1504 of the Internal Revenue Code of 1986, determined without regard to subsection (b) thereof) as a taxpayer described in paragraph (1) or (2).

#### SEC. 14. EXCLUSION FROM GROSS INCOME OF QUALIFIED MILITARY BASE REALIGNMENT AND CLOSURE FRINGE.

(a) IN GENERAL.—Subsection (n) of section 132 of the Internal Revenue Code of 1986 is amended—

(1) in subparagraph (1) by striking “this subsection) to offset the adverse effects on housing values as a result of a military base realignment or closure” and inserting “the American Recovery and Reinvestment Tax Act of 2009”, and

(2) in subparagraph (2) by striking “clause (1) of”.

(b) EFFECTIVE DATE.—The amendments made by this act shall apply to payments made after February 17, 2009.

#### SEC. 15. DELAY IN APPLICATION OF WORLDWIDE ALLOCATION OF INTEREST.

(a) IN GENERAL.—Paragraphs (5)(D) and (6) of section 864(f) of the Internal Revenue Code of 1986 are each amended by striking “December 31, 2010” and inserting “December 31, 2017”.

(b) CONFORMING AMENDMENT.—Section 864(f) of the Internal Revenue Code of 1986 is amended by striking paragraph (7).

(c) EFFECTIVE DATES.—The amendments made by this section shall apply to taxable years beginning after December 31, 2010.

#### SEC. 16. INCREASE IN PENALTY FOR FAILURE TO FILE A PARTNERSHIP OR S CORPORATION RETURN.

(a) IN GENERAL.—Sections 6698(b)(1) and 6699(b)(1) of the Internal Revenue Code of 1986 are each amended by striking “\$89” and inserting “\$195”.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to returns for taxable years beginning after December 31, 2009.

#### SEC. 17. CERTAIN TAX RETURN PREPARERS REQUIRED TO FILE RETURNS ELECTRONICALLY.

(a) IN GENERAL.—Subsection (e) of section 6011 of the Internal Revenue Code of 1986 is amended by adding at the end the following new paragraph:

“(3) SPECIAL RULE FOR TAX RETURN PREPARERS.—

“(A) IN GENERAL.—The Secretary shall require that any individual income tax return prepared by a tax return preparer be filed on magnetic media if—

“(i) such return is filed by such tax return preparer, and

“(ii) such tax return preparer is a specified tax return preparer for the calendar year during which such return is filed.

“(B) SPECIFIED TAX RETURN PREPARER.—For purposes of this paragraph, the term ‘specified tax return preparer’ means, with respect to any calendar year, any tax return preparer unless such preparer reasonably expects to file 10 or fewer individual income tax returns during such calendar year.

“(C) INDIVIDUAL INCOME TAX RETURN.—For purposes of this paragraph, the term ‘individual income tax return’ means any return of the tax imposed by subtitle A on individuals, estates, or trusts.”

(b) CONFORMING AMENDMENT.—Paragraph (1) of section 6011(e) of the Internal Revenue Code of 1986 is amended by striking “The Secretary may not” and inserting “Except as provided in paragraph (3), the Secretary may not”.



(c) *EFFECTIVE DATE.*—The amendments made by this section shall apply to returns filed after December 31, 2010.

**SEC. 18. TIME FOR PAYMENT OF CORPORATE ESTIMATED TAXES.**

The percentage under paragraph (1) of section 202(b) of the Corporate Estimated Tax Shift Act of 2009 in effect on the date of the enactment of this Act is increased by 33.0 percentage points.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New York (Mr. RANGEL) and the gentleman from Texas (Mr. BRADY) each will control 20 minutes.

The Chair recognizes the gentleman from New York.

**GENERAL LEAVE**

Mr. RANGEL. Mr. Speaker, I ask that all Members have 5 legislative days to revise and extend their remarks and insert extraneous material in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. RANGEL. Mr. Speaker, along with the Ways and Means Committee ranking member, Mr. CAMP, we asked the nonpartisan Joint Committee on Taxation to make available to the public a technical explanation of the bill. The technical explanation expresses the committee's understanding and legislative intent behind this very important piece of legislation. It is available on the Joint Committee's Web site at [www.jct.gov](http://www.jct.gov) and is listed under the document No. JCX-44-09.

Over 6 weeks ago, the House sent legislation in a bipartisan way to the Senate to extend unemployment insurance for workers who live in high unemployment districts, high unemployment States, that have already used all of the tiers of the benefits available under current law. Since that time, hundreds of thousands of workers have lost or gone without unemployment compensation.

This committee, with the leadership and working together in a bipartisan way, sent to the Senate a bill which allowed an additional 14 weeks of unemployment benefits in every State and a total of 20 weeks in high unemployment States. Our committees worked hard together in order to soften the blow that so many hundreds of thousands of people have felt.

Mr. Speaker, I yield the balance of my time to Chairman JIM McDERMOTT, who, over his lifetime, has spent so much time in trying to improve the quality of lives of those that have suffered economic deficits in this great country of ours, and with the permission from the Speaker, I ask unanimous consent that he be allowed to control that time.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. McDERMOTT. Mr. Speaker, I reserve the balance of my time.

Mr. BRADY of Texas. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of key parts of this legislation.

The bill before us today offers long-term unemployment workers in all States 14 weeks of additional unemployment benefits and provides 20 additional weeks of benefits in high unemployment States. In all, with the passage of this bill, a record total of up to 99 weeks of Federal and State unemployment benefits will be paid in a total of 29 States and territories where the unemployment rate is 8.5 percent or greater. In the State of Texas, where the unemployment rate is 8.2 percent, it would provide an additional 14 weeks of unemployment benefits for the long-term unemployed who continue to struggle to find a new job.

In addition, the bill we are considering today includes a number of important tax relief provisions that will help families, businesses, and our economy as a whole. This bill will extend the \$8,000 homebuyer tax credit, which is currently scheduled to expire just a few short weeks from now, until the middle of next year. It will also create a new \$6,500 tax credit that will help current homeowners who have lived in their homes for at least 5 years to move up into new homes. And especially with Veterans Day coming up next week, I'm pleased this bill includes a number of homeownership provisions that would specifically benefit the brave men and women who serve in our Armed Forces.

Taken all together, this bill's homeownership tax relief provisions will provide a much-needed boost to our struggling housing market and our broader economy by helping to soak up the excess housing inventory that we see in so many parts of our country. Estimates show that there may be up to 3 million renters who are currently financially well qualified to buy a median-priced home. Timely help to bolster the housing market is essential.

Another important component is the expanded net operating loss provision, which will provide an immediate cash infusion to struggling businesses, large and small, all across the Nation. By giving businesses that are currently in loss positions the opportunity to claim refunds on taxes they paid when they were profitable, we can help employers make crucial new investments in our economy and, most importantly, free up additional payroll to help get more Americans back to work. That's the goal that all of us on both sides of the aisle should share. And I'm pleased to support the 5-year net operating loss carryback included in this legislation.

But this is not the end of the process. There is much more work to be done. Before the end of the year, the House is expected to consider legislation to extend the current Federal extended un-

employment benefit program possibly through all of next year. This would cost \$80 billion or more and simply add to the enormous deficits and equally enormous State tax hikes on jobs this system is amassing.

All of this begs the question: Where are the jobs? While long-term unemployed workers appreciate the additional help, what they really want is a good job. Yet for all the massive spending and debt we've incurred this year in the name of stimulating the economy, job creation is one thing this administration and congressional Democrats have failed to deliver. Unfortunately, that's why we are here today. These policies and stimulus have failed.

Mr. Speaker, I reserve the balance of my time.

□ 1245

Mr. McDERMOTT. Mr. Speaker, I yield myself as much time as I may consume.

We've waited for 6 weeks for the Senate to dither around on this bill. The decisions made in it could have been made in a week if they really were thinking about the half million people who have lost their benefits over the last 6 weeks. Since the House acted, that's happened. There have been no jobs, no benefits, and no hope. Now, today, we can restore that by the bill that's before us, and also perhaps give them some hope that this won't happen in the future.

This legislation returned from the Senate will provide an additional 14 weeks of unemployment benefits in every State and a total of 20 weeks in high unemployment States. I welcome the additional weeks in the bill compared to the legislation we sent over. It seems the least we can do after we've made them wait for 6 weeks. However, I heard concerns that the complexity of the Senate amendment may present some administrative challenges for State government, so I hope every State is actively planning on how to deliver these benefits in the quickest possible time frame. This is a wake-up call to State unemployment insurance programs.

I would ask my colleagues to keep in mind that Congress must act again before the end of this year to continue the extended unemployment benefits that we are now improving.

The cost of this extension of unemployment benefits is completely offset by an 18-month continuation of a tax called the FUTA surtax, which has been in place for over 30 years. In addition to helping unemployed workers, this bill now includes the extension and expansion of two other relief provisions. One helps and encourages those buying homes and another helps struggling businesses.

Mr. Speaker, our Nation has lost 8 million jobs since the great recession



started in December of 2007. Even as we see signs of economic recovery, such as last week's announcement that the GDP rose substantially for the first time in over a year, we know it will take considerable time to restore those lost jobs. There are predictions that it will rise above 10 percent nationally and will not come down until late in 2010.

We must continue to provide the lifeline for the unemployed workers who have lost their jobs from no fault of their own and who are searching for new employment. Sending this bill to President Obama today will accomplish that goal for over 1 million of our fellow citizens before the end of the year. Additionally, it would help keep families in their homes and prevent foreclosures. This is the right thing to do, and we shouldn't have waited so long to do it.

Mr. STARK. Would the gentleman yield?

Mr. McDERMOTT. I yield to the gentleman from California.

Mr. STARK. I associate myself with the remarks of the distinguished chairman and urge adoption.

Mr. McDERMOTT. I reserve the balance of my time.

Mr. BRADY of Texas. I yield 5 minutes to the gentleman from Georgia (Mr. LINDER).

Mr. LINDER. I thank the gentleman for yielding.

Six weeks ago, we stood on this floor to discuss a prior version of this bill providing extended unemployment benefits. Since then, we have gotten additional checkups on jobs and unemployment in the United States, and the Democrats' 2009 stimulus plan has received more failing grades. Another 263,000 jobs were eliminated in September, and the unemployment rate rose to 9.8 percent. More job losses and higher unemployment are expected to be announced tomorrow. This and other Democrat legislation is perpetuating unemployment, not solving it.

The Democratic energy policies would increase the price of energy and kill millions of jobs. The Democrat health policies would make health care and health insurance more expensive and kill millions of jobs. Democrats promised a stimulus policy that would keep unemployment from exceeding 8 percent. It is now 9.8 percent, soon to reach 10 percent. Despite administration claims that 1 million jobs were saved or created, nearly 3 million real jobs have been destroyed since the stimulus plan was signed into law, and yesterday we found out how they count saved jobs.

Stimulus money went to a south Georgia community organizing group. They took all the money and gave raises to their employees and put information into the administration that they had saved 980 jobs. They have 508 employees. But they gave them raises,

and the administration has a formula for how you can call that a job saved.

Like those job losses, the bill before us has only grown. In all, this legislation would now make available a record 99 weeks of unemployment benefits in more than half of the United States, but what it doesn't make available are jobs. Americans are rightly asking, Where are the jobs? Our colleagues on the other side have no answers, other than to spend more, tax more, and borrow more. That is not good enough.

But the good news is that we can start to turn this around. For starters, we could not raise taxes on jobs, as this legislation does. It raises taxes on jobs by \$2.4 billion in the coming 18 months, hitting every employee in America, and that's to pay for benefits paid out generally in the next 2 months. How does raising taxes create jobs? It won't. And this bill isn't the end. Far from it.

Before this year is out, we will be back on this floor passing yet another extension of Federal unemployment benefits, only the next bill will be so massive—possibly costing \$80 billion—even Democrats won't be able to stomach the tax hikes to pay for it. So we will borrow that money, adding to the \$100 billion in unemployment benefit spending already scheduled to be piled onto our debt by the end of this year. How will that create jobs? It won't.

Mr. Speaker, we can and must do better. It is well past time for us to shelve Democratic job-killing tax hike agendas. We will then unleash America's job creation engine so that laid-off workers can once again earn paychecks, not unemployment checks. That effort can start with not raising taxes on jobs and by offering unemployed workers real help in finding new work instead of just more benefit checks. Sadly, this bill does none of that. How then will it create jobs? It won't.

Mr. McDERMOTT. Mr. Speaker, I yield 1½ minutes to the gentleman from Michigan (Mr. LEVIN).

Mr. LEVIN. This bill combines equity and growth. Equity for the unemployed, people who are looking for work. The estimate is that 1.3 million will exhaust their benefits by the end of the year. This is a response. There are six people looking for every job. The Michigan Unemployment Office has been swamped with phone calls. Today, one of the staff there told my office: These are the unemployed. They call asking, When is Congress going to pass this extension? What are they waiting for? Don't they understand we are desperate?

As to growth, there are two provisions here. I am surprised that the previous speaker says nothing is being done to create jobs when we have two provisions here that are aimed to do that. The homeowners' tax credit is extended and is also expanded, and the

net operating loss provision is inserted here to create jobs. This is a bill that combines equity and, hopefully—and I think it will—create jobs.

So let's vote for it without equivocation and, if I might say, without debating other issues like health care. We'll debate those tomorrow and Saturday.

Mr. BRADY of Texas. I yield 2 minutes to the gentleman from Indiana (Mr. BURTON).

Mr. BURTON of Indiana. I thank the gentleman for yielding.

One of the things that has been a real drag on the economy, Mr. Speaker, has been the housing industry, and the tax credit that we've given first-time homebuyers, according to the Realtors and the homebuilders with whom I've talked, has been a real plus. That is one of the few things that we've done around here that has helped the economy and helped create some jobs.

Now, in this bill, we're not only extending the first-time homebuyer credit, which I think is going to help the economy, but we're also going to say to people that already own homes, we're going to give you a \$6,500 tax credit if you choose to move up and buy another house. That's been one of the shortcomings that we've had over the last few months, because people that want to get another home feel like with the economy being the way it is right now, they don't want to move. But if you encourage them with a \$6,500 tax credit—a tax credit. We like tax cuts and tax credits. If we give them a \$6,500 tax credit, I guarantee you there is going to be a lot of people that will move up into more homes, newer homes, and it will really help economic growth in this country.

So I just want to congratulate the sponsors, even on the Democrat side, for putting this in the bill. I really think this is a plus. I don't compliment my colleagues too much over there, but the \$8,000 tax credit that is being extended for first-time homebuyers is good, and the \$6,500 tax credit for people that are going to buy a home, a second home or a third home, as they get rid of their first one, I really think this is going to be a plus for the economy. So even though I disagree with my colleagues 95 percent of the time, this is one time they have put something good in a bill.

Mr. McDERMOTT. Mr. Speaker, I would remind the gentleman from Indiana, even a stopped clock is right twice a day.

I am now going to yield 1½ minutes to the gentleman from Georgia (Mr. LEWIS).

Mr. LEWIS of Georgia. Mr. Speaker, I rise today in strong support of this legislation. I want to thank my good friend, the chairman, Mr. McDERMOTT, for his hard work in bringing this bill to the floor.

Under this bill, a Georgian would receive an additional 20 weeks of unemployment benefits. Many have been

waiting, worrying, and juggling bills for months. People from all over the State of Georgia call my offices every day asking what is taking Congress so long to act. Let me be clear, these are not people who want a handout. These are people who want to work. Many are older workers with all levels of education who have worked in the same jobs for years, and now their jobs are gone, just gone.

We can act today, and we must act. Now is the time to act to pass this legislation, send it to the President, and let him sign it into law so our citizens will receive the necessary benefits.

Mr. BRADY of Texas. I reserve the balance of my time.

Mr. McDERMOTT. Mr. Speaker, may I ask how much time remains?

The SPEAKER pro tempore. The gentleman from Washington has 12½ minutes remaining, and the gentleman from Texas has 12 minutes remaining.

Mr. McDERMOTT. Thank you.

I yield 1½ minutes to the gentleman from New Jersey (Mr. PASCARELL).

Mr. PASCARELL. Thank you.

Mr. Speaker, last week we saw that 5.8 million Americans were collecting unemployment benefits at the end of October. I want to remind my friends on both sides of the aisle that in the first quarter of this year, we saw a loss of 691,000. The stimulus went into effect—partially, anyway—after we passed it in February with no votes from the other side, and in the third quarter of this year, we're at a loss of 256,000. That's a gain of 435,000 jobs. You compare that to the last year, the last 4 years of the former administration, and I think that the stimulus has been a great help.

This Congress is working hard to get people back on their feet. For this reason, it is imperative that, today, we pass the Unemployment Compensation Extension Act.

I am proud to say that we've also extended the homebuyer assistance through the first-time homebuyer tax credit while putting in place new and significant fraud protection. I think that's important. It came out in Mr. LEWIS' hearings, and we've done something about that.

I applaud Chairman LEWIS for convening a hearing through the Ways and Means Oversight Subcommittee on the first-time homebuyer tax credit, which brought light to some of the abuses that were plaguing this important credit. The American people need to know that this Congress is working to remedy the insufficient regulation and oversight that has plagued our Nation for too long.

I urge all my colleagues on both sides to take swift and decisive action to pass this legislation.

Mr. BRADY of Texas. I understand Chairman McDERMOTT has additional speakers, so I will reserve the balance of my time.

Mr. McDERMOTT. Mr. Speaker, I yield 1½ minutes to the gentlewoman from Nevada (Ms. BERKLEY).

Ms. BERKLEY. I thank the gentleman from Washington for yielding.

Mr. Speaker, I rise today in strong support of H.R. 3548. This proposal would extend unemployment benefits by 20 weeks for workers in States with high unemployment, like Nevada. This would serve as a lifeline, aiding those still struggling to find work in Las Vegas and other parts of Nevada. The once recession-proof economy of my district of Las Vegas has not been spared from the effects of this downturn. Quite the contrary. Nevada has been hard-hit, and almost harder hit than any other State by the foreclosure crisis, and currently our unemployment rate has skyrocketed to over 13 percent, second highest in the Nation.

□ 1300

Additionally, this bill includes important tax provisions, extending and expanding the homebuyer tax credit and allowing businesses to carryback losses in 2008 or 2009 for 5 years. The extended homebuyer credit will allow more people to purchase a home in my district and help stop the continued downward spiral in housing prices caused by the foreclosure crisis. The net operating loss provision will help keep businesses afloat during the tough times, preventing further layoffs.

Mr. BRADY of Texas. I continue to reserve my time.

Mr. McDERMOTT. Mr. Speaker, I yield 1½ minutes to the gentleman from Texas (Mr. DOGGETT).

Mr. DOGGETT. This bill represents a textbook example of how not to deal with the economic challenges that our country faces. While previously approved by the House solely to address the needs of the unemployed in economically depressed areas at a cost of a little more than a billion dollars, the Senate has taken the good work of Chairman McDERMOTT, delayed it, not responded promptly, and has now mushroomed the cost to \$24 billion.

Economists have advised us that every dollar we invest to help the unemployed spurs economic growth (GDP) by \$1.61, very effective, a real winner, what the House did originally. But the corporate giveaway that the Senate added to this bill—the so-called “loss carry-back provision”—yields, according to the same economists, 19 cents for every dollar of revenue that we invest—a real loser.

Today's bill allocates \$2 billion to the winner and \$10 billion to the loser.

Understand that this bill now directs the Treasury to essentially write a check directly to corporations for more than \$10 billion; checks to corporations that have committed fraud, checks to corporations that have no ability to create jobs because they have no em-

ployees and exist solely on paper as a fiction. It rewards some of the very corporate losers who have brought us to the brink of economic ruin.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. McDERMOTT. I yield the gentleman an additional 15 seconds.

Mr. DOGGETT. If this is such a great idea, why don't we first apply loss carry-back to workers who have lost their jobs and give them back some of the taxes that they paid when they had a job? That would certainly be more stimulative.

As we move forward next month to extending benefits for next year, it will be much more costly. We should use this lesson as a reminder that good policy to address jobs and the needs of the unemployed should not be burdened with windfalls to those with good lobbyists.

Mr. BRADY of Texas. Mr. Speaker, I yield myself 2 minutes.

While there are serious disagreements about what direction to go on the economy, there is bipartisan support for the provisions to help people try to buy that first home or to move up into that next one, and there is bipartisan support across the aisle strongly in this Congress to help small businesses survive this recession, not just small businesses but medium-sized businesses and larger businesses. The truth of the matter is, a job is a job. And if we can help companies weather this storm, if we can help them keep workers on the payroll, if we can help them sort of balance out their tax payments over these years, allow them to be in a position to recover and grow when this economy finally does grow, I think that that tax relief, targeted to those who can most create jobs, is extremely helpful.

I reserve the balance of my time.

Mr. McDERMOTT. Mr. Speaker, I yield 1 minute to JOE COURTNEY, the gentleman from Connecticut.

Mr. COURTNEY. Mr. Speaker, last fall, 2008, this country got a lesson in how central the housing market is to the American economy. When housing prices started to fall, the financial markets soon followed, and we are today now in the deepest recession since the Great Depression.

In the stimulus bill last February, we included a first-time homebuyer tax credit, which by all accounts has been a smashing success in terms of increasing home sales and stabilizing housing prices. The market, though, needs a little bit more time to nurture, and that is why, as has been said earlier, there is strong bipartisan support for extending this tax credit.

I, along with Congressman CALVERT from California, put together a letter with 165 signatures in support of extending the tax credit. I salute the chairman and all the leadership who worked hard on a bipartisan basis to

make sure that we are going to continue to grow the real estate market. That's how we got into this recession and that's how we are going to get out of it.

I urge strong support for the measure.

Mr. McDERMOTT. Mr. Speaker, I yield 1 minute to the majority leader, the gentleman from Maryland (Mr. HOYER).

Mr. HOYER. I thank the gentleman from Washington, and I rise in support of this bill.

Mr. Speaker, a year ago this week Barack Obama was elected President in the midst of the greatest economic crisis in almost three-quarters of a century. Since his inauguration and the swearing in of the 111th Congress, we have been working hard to turn our economy around and put America and Americans back to work.

And whether we are Democrats or Republicans, there is reason for hope in the results we have seen in that time, because they mean growing economic security for the people we represent. We're not there, we need to keep working on it, but we've made progress.

Last month, we saw news that the American economy grew at a rate of 3.5 percent between July and September. That, Mr. Speaker, is the best growth in 2 years and a reversal of four quarters of decline. That's progress. It is not yet success.

According to Moody's, the Congressional Budget Office and the Council of Economic Advisors, the Recovery Act has saved or created about 1 million jobs. The Center on Budget and Policy Priorities recently concluded that the Recovery Act kept 6 million Americans from falling into poverty and reduced the severity of poverty for 33 million Americans. It was the right thing to do. But we're not there yet. Facts like these have combined to convince unbiased observers that the recession the President inherited is over.

Yet that is not the whole picture. For millions of American families struggling with unemployment, the recession is not over. It's not over until their loved ones get back to work, until they have a job, until they can pay for the housing and the food and the clothing and the schooling their families need.

So we in Congress cannot consider the work of recovery done until those jobs are back. The truth is that long-term unemployment remains at its highest rate since we began measuring it in 1948. Over 33 percent of the total unemployed have been out of work for more than 26 weeks.

And because it's harder to get hired the longer you've been out of the workforce, long-term unemployment can become a vicious cycle. This bill lends a hand to nearly 2 million Americans whose unemployment insurance is set to run out by the end of the year. It ex-

tends their unemployment insurance by up to 14 weeks, and by a further 6 weeks in the States with the most difficult job markets. This means they will be able to survive; not thrive, but survive.

Who are those 2 million Americans and who will benefit? Many of them are middle-class Americans who lost their jobs without warning. According to a survey recently conducted at the Rutgers University, "Six in 10 of those whose employer had let them go had no advance warning." What a wrenching experience that was, for them, for their spouses, for their children and, yes, for their entire extended families, as well as their communities.

Adding to the pain for many, nearly four in 10 said they had been employed by their company for more than 3 years and one in 10 more than a decade. These were people with stable jobs and commitments based upon those stable jobs, such as college payments and mortgages. People have found the ground falling out from under them through no fault of their own. We owe it to them, Mr. Speaker, and their families to help, and we owe it to our economic health as well.

The money provided by unemployment insurance quickly goes to necessities and boosts local economies. In fact, according to the CBO, every dollar we spend on unemployment insurance generates \$1.61 in local economic activity, making this bill an investment that pays off for all of us, so we have a win-win situation here. We help people in very bad straits; and we help our economy and help us all. I am also glad that this bill is fiscally sound. It's fully paid for. It does not contribute to the deficit.

Though we have made progress since the depths of last winter and the depths of the recession inherited by President Obama and this Congress, there is, as I have said, clearly more work to do. We pledge to continue that work. We can take action today for those families for whom recovery is not yet a reality, and I urge my colleagues to support this legislation.

Mr. BRADY of Texas. I yield 2 minutes to the gentleman from Indiana (Mr. BURTON).

Mr. BURTON of Indiana. I thank the gentleman for yielding.

I have great respect for the majority leader. I just want to correct a couple of things that he said.

He said this is the worst economy in the last three-quarters of a century, and I would like to bring to his attention that in the Jimmy Carter administration we had 12 percent unemployment, which is worse than now. We had 14 percent inflation. When Ronald Reagan came in, Mr. Volcker had to raise the interest rates, or did raise the interest rates, to 21.5 percent. What happened was the economy took another huge nosedive because of the ter-

rible inflation and economic problems that were created during the Carter administration, which was not three-quarters of a century ago; it was just a mere 20-some years ago.

The other thing I would like to say is that while we are doing the right thing by passing this bill, and I complimented my colleagues on the other side of the aisle for the extension of the home building credit for first-time homebuyers and adding to it the tax credit for second-time homebuyers—and I think those are great steps in the right direction, and I will support this bill—the things that they are doing on the other side of the aisle with the stimulus bill, \$1 trillion, with the health care bill that they are going to try to ram through here Saturday that's going to cost \$1 to \$3 trillion that we don't have, when there is a better way to do that, really troubles me.

I would hope my colleagues would start thinking about what Ronald Reagan did because the deficits were so high and inflation was so high, and that is cut taxes. When you cut taxes, you stimulate economic growth and you sell more products and people go back to work. That creates economic expansion.

Mr. McDERMOTT. Mr. Speaker, may I have the time remaining?

The SPEAKER pro tempore. The gentleman from Washington has 4¾ minutes remaining and the gentleman from Texas has 9 minutes remaining.

Mr. McDERMOTT. I yield 1 minute to the Speaker of the House, the gentlewoman from California (Ms. PELOSI).

Ms. PELOSI. I thank the gentleman for yielding and thank him for his longstanding leadership on this issue that relates to the economic well-being of America's families.

Anytime families gather across America at their dinner table to see how they are going to make ends meet or struggle through the loss of a job, they know they have a friend in JIM McDERMOTT in the Congress. This has been one of his premier issues, and he has served them and this Congress and this country excellently in that regard. I thank him for bringing this legislation to the floor.

We passed this bill over a month ago. At long last it is back, but we are glad it is back, no matter how long it took. I am pleased to rise to support the legislation.

The bill will mark another step forward to boost our economic growth, and it will make a critical investment in our families and our workers.

This legislation offers a lifeline to out-of-work Americans, to the men and women hardest hit by the recession, by extending unemployment benefits—you have heard it over and over—by 14 weeks nationwide and an extra 6 weeks in States suffering the highest jobless rates. It's a smart choice for our Nation's economy. Every dollar spent on

unemployment benefits generates more than \$1.60 in new economic demand. It's good for businesses. It's good for workers.

This money, because it is so needed by these out-of-work families will, again, be spent immediately, inject demand into the economy, creating jobs, to the tune of \$1.60 for every dollar. It's hard to think of any other initiative we can name that is as beneficial to job creation.

□ 1315

Its original purpose is fairness to those workers who have paid into the insurance system, and now they are getting an insurance benefit. But it also has an impact as a stimulant. It means more Americans will have access to the support and assistance they need to get back on their feet, reenter the workforce, contribute to our economy and succeed.

The bill also places a down payment on the future of our middle class because it extends for the first-time homebuyer a tax credit, helping more Americans purchase homes and making it a little easier for families to move into a new house and keep a roof over their heads.

This initiative has already been successful. We have seen the positive impact, the steadier foundation in our housing market. Most significantly, we have watched new generations of Americans start living out their dream of homeownership and economic security.

The bill also has the net operating loss carryback, which businesses tell us is necessary for them to succeed and to hire new people, and also to mitigate some of the damage that has been done to the economy from past policies.

Taking action now to turn around our country is our most urgent and pressing challenge. It must be our top priority, regardless of party. That is why I am so pleased that we are going to have such a strong bipartisan vote. Mr. BRADY, thank you today.

The House acted more than a month ago, as I mentioned, to pass the bill and help 1.3 million Americans set to lose their unemployment benefits by the end of the year. Today, we are proud to see the Senate version come back to the floor, to this Chamber. We would have wanted it sooner, but here it is.

The Nation's leaders have a responsibility to give every American the opportunity to recover, to thrive, to reap the rewards of our common progress and to take part in our prosperity. Today's vote is about a never-ending effort to put our economy on the road to recovery, create jobs, and establish the building blocks for growth in the long term.

President Obama has said over and over again, and so eloquently, that our success here would be measured only in

the progress made by America's families as they get back on their feet and as we help them address their economic struggles.

The economic security of America's families is important to them, to their children, to their children's future; and it is important to the strength of our country. For that reason, I again commend Mr. McDERMOTT and Mr. BRADY and urge all Members to support this bill.

Mr. BRADY of Texas. Mr. Speaker, I reserve my time.

Mr. McDERMOTT. Mr. Speaker, I yield 1 minute to the gentleman from Massachusetts (Mr. NEAL).

Mr. NEAL of Massachusetts. Mr. Speaker, I thank the gentleman, and I want to offer my strong support for this legislation that is before us today and certainly to acknowledge the role that Mr. RANGEL and Mr. McDERMOTT played and the leadership they offered to us on this legislation.

This bill before us is fully vetted and fully paid for. It is bipartisan in nature. I take great satisfaction from the fact that not only does it extend unemployment insurance benefits for many families that need help in this difficult economy, but the reminder that we all ought to embrace, and that is, that in this atmosphere, you are far better off as being perceived for being for something than against everything.

This bill extends the first-time homebuyer credit to help our ailing housing industry get back from the worst record in our history. I support both provisions.

Finally, the bill provides net operating loss relief for many businesses that have been simply hanging on in this country over the last year. It is particularly important to retailers. Based on a bill that I filed with Representative TIBERI which became the basis for this provision, this relief for businesses, big and small, will provide quick capital at a time when it is currently impossible to find. I think that this is an affirmative position, it ought to be embraced, and I thank Mr. McDERMOTT for moving it forward.

Mr. BRADY of Texas. I reserve my time.

Mr. McDERMOTT. Mr. Speaker, I yield 1 minute to the gentleman from North Carolina (Mr. ETHERIDGE).

Mr. ETHERIDGE. I thank the gentleman for yielding.

Mr. Speaker, across this country people are suffering. In my State of North Carolina, unemployment has been in double digits for several months. Economists tell us that the economy is turning around, but folks at home don't feel it yet.

This bill continues Congress' critical efforts to restore the economy and put our people back to work. Fixing the economy and creating jobs needs to be our top priority in this economic downturn.

This bill helps folks who are out of work in two ways. First, it extends the safety net of unemployment insurance to those who are struggling the most. This is critical to help people put food on their table and keep their lives together until they can find new employment.

Second, it supports the struggling companies which are trying to create jobs. The tax credits in this bill will help restore the health of businesses so they can get healthy again, contribute to the growth of this economy, and put our people back to work.

I applaud the Senate for their work in joining these two goals and moving it forward. I thank my colleagues for their work and urge my colleagues to vote for H.R. 3548.

Mr. BRADY of Texas. I reserve my time.

The SPEAKER pro tempore. The gentleman from Washington has 1¼ minutes remaining.

Mr. McDERMOTT. Mr. Speaker, I yield 1 minute to the gentleman from Illinois (Mr. DAVIS).

Mr. DAVIS of Illinois. Mr. Speaker, I want to thank Chairman McDERMOTT for yielding. I also want to commend the Senate for its work.

I simply rise in support of this legislation. It will provide an opportunity certainly for individuals who are unemployed to continue to receive unemployment compensation, and it will indeed help stimulate the economy by allowing individuals credits for the first time if they are purchasing a home.

It is good legislation. I am pleased to support it and urge that all Members do so.

Mr. BRADY of Texas. I yield myself such time as I may consume.

There is bipartisan support for much of this bill. For all the good this bill will do to help people buy their first home, and perhaps move up, for all the help it will provide to help businesses survive this recession, make no mistake: the unemployment benefits are no substitute for a good job, and in that regard, this Congress and this White House has failed the American public.

We were told that the stimulus bill, all \$787 billion of it, \$1 trillion with interest, as Christina Romer said, the head of the President's economic advisers, would provide an immediate jolt to the economy. They promised us that it would keep the unemployment rate under 8 percent. They promised it would create jobs in every State in the Nation.

Today, the unemployment rate is not 8 percent. It is 9.8 percent and rising, for the numbers we will hear tomorrow, to 9.9 percent in all likelihood. Forty-nine of 50 States have lost jobs.

The two areas of manufacturing and construction, where we were promised the greatest rate of job creation, have actually seen the greatest rate of job

loss. In fact, nearly 3 million jobs have been lost since the stimulus took effect.

We are not simply in, as the White House would say, a jobless recovery. We are in a "job loss" recovery. We continue to shed hundreds of thousands of workers every month, 175,000 in the past month; and unfortunately, the stimulus has lost all credibility as to job creation.

We hear each day reports of wildly exaggerated jobs claims. The Associated Press did a revealing story that shows that in some cases contractors exaggerated their job numbers by 10 times. In other cases they counted the same job four times. In many cases the money didn't come from the stimulus at all.

This morning, a Dallas Morning News investigation showed that in Texas, one out of every four jobs related to education was a part-time summer job. In one community, an organization claimed 450 jobs were created with stimulus money of \$26,000. In one case, again, the money didn't even come from stimulus money. And in Beaumont, they are paying for child care for people out of stimulus dollars.

Unfortunately, the claim that the stimulus has created millions of new jobs, created or saved them, simply isn't backed up. And, in fact, the majority of economists today say it has had little impact on the stimulus, and a second stimulus down the road isn't needed or, in fact, will be damaging.

I think what is critical, too, is a lot of businesses are holding off creating those new jobs, especially small businesses, because of Washington. They watch what we are doing and considering on health care. It will drive up their premiums. Cap-and-trade will drive up their energy costs. New energy taxes will offshore American energy jobs. They look at new financial regulations, tax increases on everything from income to capital to dividends to international investment, and they are saying we are not going to create jobs. They are not going to risk jobs in this environment.

It is hard enough to predict the market itself, much less to predict the market and Congress together. And when they look at the bill that this Congress will vote on this weekend on health care, they see tax increases on small businesses that will cost us about 4 million jobs, mandates on small businesses that will force their workers out of their own health care system, and a job trap that actually punishes small businesses. When they hire between 11 and 25 workers, actually in this bill Congress punishes them, and punishes them more if they raise the wages of those workers.

So, there is a lot more that needs to be done on the economy. This bill is no substitute for a good job. It is a step forward in housing and for business re-

tention. For that, there is bipartisan support, and I do appreciate Chairman MCDERMOTT's work on trying to bring a bill forward to this floor that many can support.

I yield back the balance of my time. The SPEAKER pro tempore. The gentleman from Washington has 45 seconds remaining.

Mr. MCDERMOTT. Mr. Speaker, I appreciate Mr. BRADY's work on bringing this bill to the floor, but I would say that in 1935 there was no unemployment insurance, there was no welfare, there were no jobs, and the Federal Government stepped in and acted to change all of that.

Now, we clearly need to stimulate the economy; and if we don't stimulate the economy, we will continue to have businesses sitting back waiting forever and watching their health care costs go out of sight.

The bill tomorrow on health care is really to help businesses get control over one cost item in their budget, and in my view, that is the kind of thing we should be doing to help create more jobs. If we sit here, we can build this bridge of unemployment insurance, but it is a bridge to nowhere if the economy does not start to turn around, and that means dealing with the things that are destroying this economy.

The health care costs of every single business are rising totally out of control, and you can't expect them to invest if we haven't done something about getting control of health care costs.

So this is only one part of the issue. We have many other issues we are going to have to deal with on the floor, but I am grateful today for your help in passing this piece of it.

Ms. RICHARDSON. Mr. Speaker, I rise today in strong support of the Senate amendments to H.R. 3548, the "Unemployment Compensation Extension Act of 2009," because they will provide much-needed relief to the millions of unemployed American workers who are struggling to find jobs today and to others who are working to buy their first home.

With the passage of this bill, Congress will provide up to 14 additional weeks of desperately needed unemployment benefits to workers who are about to exhaust their unemployment benefits, directing much-needed help to the unemployed who live in states where unemployment rates are highest.

California has the 4th highest unemployment rate in the Nation and in terms of my district the numbers are staggering:

Carson—12.6 percent  
Compton—20.9 percent  
Long Beach—13.7 percent  
Signal Hill—9.4 percent

Mr. Speaker, although job losses have begun to decline more recently, unemployment is still too high, and the American people need relief now. With the national unemployment rate at 9.7 percent, we must act now. Over 1 million people will exhaust their benefits by the end of December if we do not act.

In addition to providing relief to the unemployed, H.R. 3548 will help stimulate the econ-

omy. Extending unemployment benefits is one of the most cost-effective and fast-acting ways to stimulate the economy because the money is spent quickly. Every \$1 spent on unemployment benefits generates \$1.63 in new economic activity.

The new Senate amendments to this bill will do even more to breathe life into our economy. With the inclusion of these amendments, this crucial legislation will strengthen our domestic housing market by extending the \$8,000 first-time homebuyer tax credit through April, 2010. These amendments will also expand eligibility for the homebuyer credit so more families qualify. Specifically, the bill will establish a \$6,500 tax credit for families that have lived in their current home for five or more consecutive years and who are looking to purchase and move into a new home. By expanding the tax credit to include more than just first-time homebuyers, this bill will further stimulate the economy and help us to continue to fully recover from the recession.

I strongly support these amendments because, for many people in my district, the extended and expanded tax credit will allow them to realize the American Dream of owning a home. If passed, this bill will also provide housing tax relief for military families that have sacrificed so much to defend our great nation.

Mr. Speaker, I urge my colleagues to support this necessary and timely legislation because it provides relief to unemployed Americans when they need it the most and it extends and expands the first-time homebuyer tax credit. If we do not pass this bill, we will not only face a financial crisis but a moral deficit in this country as well. We cannot allow that to happen. I urge all members to vote "aye" on the Senate amendments to H.R. 3548, the Unemployment Compensation Extension Act of 2009.

Mr. VAN HOLLEN. Mr. Speaker, I rise in strong support of this bipartisan legislation to extend unemployment insurance benefits, extend and expand the homebuyer tax credit, and provide needed liquidity to businesses struggling to stay afloat in this difficult economy.

Millions of Americans remain unemployed through no fault of their own and are struggling to make ends meet. If Congress and the President had not taken action with the Recovery Act, millions more would be unemployed. We now know that the Recovery Act has saved or created at least 640,000 jobs across the country and 6,700 jobs in Maryland.

We are seeing signs of economic recovery and progress. The housing and stock markets are rebounding and the gross domestic product increased for the first time last month. To help sustain the rebound in the housing market, I am pleased that the bill will extend the first-time homebuyer tax credit as well as expand the credit to those homeowners who have been in their current residence for at least the last five years. Additionally, this legislation will provide needed liquidity to cash-strapped businesses by giving companies a one-time opportunity to carry back their operating losses for five years in order to further support our economic recovery.

Mr. Speaker, much work remains to be done. Protecting the middle class, rebuilding

our economy, and providing job growth remains our top priority. I urge my colleagues to support this much-needed legislation.

Mr. CONYERS. Mr. Speaker, I rise today in strong support of H.R. 3548, which extends unemployment benefits to scores of Americans who are out of work due to the severe downturn in the economy. The bill will also continue to extend the First Time Home Buyer Tax Credit through April 30, 2010.

The \$8,000 First Time Home Buyer Tax Credit program has allowed approximately 350,000 hard working Americans to achieve the dream of home ownership this year. Given that this nation is still struggling, providing American families with an \$8,000 homebuyer tax credit will stabilize the housing market and stimulate the economy. The bill will also provide a \$6,500 homebuyer credit to current homeowners who purchase another home.

Furthermore, providing an extension of the First Time Home Buyer Tax Credit will also help further encourage job growth at a time when it is desperately needed. With the purchase of a home, other jobs are created in various sectors. This includes construction, plumbing, home appliances, and numerous other jobs that are the result of expanding affordable housing. There is also evidence that suggests that neighborhoods are safer and become more stable when there are high rates of home ownership in the community.

This legislation also extends unemployment benefits to millions of Americans who otherwise would lose much needed and deserved benefits. In this sluggish economy, American workers are finding it more difficult to find good jobs and this benefit will fill this gap.

This bill could not be any timelier. It extends a provision that allows states with high unemployment, like Michigan, to provide a total of twenty weeks of extended benefits.

Mr. Speaker, I believe today's legislation will further help the workers of Michigan through these difficult times. I rise in strong support of H.R. 3548 and urge my colleagues to support today's legislation.

Mr. BLUMENAUER. Mr. Speaker, Oregon has one of the highest unemployment rates in the country at 11.5%, which means that hundreds of thousands of Oregonians are without work. In the Portland region, roughly 140,000 residents are out of work.

The average weekly unemployment insurance benefit in Oregon is \$310. Each week, I receive letters indicating how much of a lifeline these unemployment benefits are. Unfortunately, many families are nearing the end of these benefits.

Today, I voted to provide stability to American families hit hardest by the recession by extending unemployment benefits. The legislation will provide families with at least 14 weeks of additional benefits, and six more weeks to those living in the 27 states with the highest unemployment rates—states including Oregon. This means over 11,000 Oregonians will retain their insurance for an additional 20 weeks.

Also, this bill does not add to the deficit. Rather, it is paid for by extending a federal unemployment tax that has been in place for more than 30 years.

It is important to recognize that the losses from unemployment will last long after these workers—and the millions like them around

the country—have again found work. Income losses for workers who are let go in a recession can persist for as long as two decades, and in some cases longer.

The economic crisis gripping the United States is one of the greatest economic challenges that the country has faced. It can be squarely traced to the ideology of economic deregulation, leaving the government with few tools to address the reckless actions of many financial institutions until it was too late.

It is time to rebuild the foundations of our economy and improve our fiscal fitness. I look forward to working with my colleagues to create a nation where every family is safe, healthy, and economically secure.

Ms. BORDALLO. Mr. Speaker, I rise today in support of H.R. 3548, the Worker, Homeownership, and Business Assistance Act of 2009. The bill contains an important provision extending and expanding the successful First-Time Homebuyer Tax Credit to homes purchased through April 30, 2010. Under current law, the tax credit would expire on December 1, 2009, and would not apply to homes closed on or after that date. The extension allows for homebuyers to claim the credit if they enter into a binding contract before May 1, 2010 and close within 60 days of that date. In addition to the extension of the First-Time Homebuyer Tax Credit worth up to \$8,000, the legislation expands the credit to homebuyers who have been in their current residence for at least the past five years. The expanded credit is worth up to \$6,500.

There is strong evidence that suggests this program has greatly aided in stabilizing our nation's housing market, and it has also helped to improve Guam's housing market. The extension of the First-Time Homebuyer Tax Credit will allow this program to complete its designed purpose and provide a longer term stimulus to the recovering, but still lagging housing market. This legislation further expands the tax credit to current homeowners who have been in their homes for at least five years but wish to move to a new residence. This expansion will provide an additional incentive for responsible homeowners to participate in this program. The tax credit will further stimulate the housing market to a point where more potential buyers will enter the market, in turn helping to stabilize and eventually increase housing prices. The passage of this legislation marks an important step toward the full recovery of our nation's housing market and our economy overall.

Mr. ETHERIDGE. Mr. Speaker, I rise in support of the Senate Amendment to H.R. 3548. This bill combines vital assistance to unemployed Americans and includes measures to help get our economy back on track.

Despite some significant indicators that our economy is beginning to recover, far too many people are looking for work. In my state of North Carolina, unemployment has risen to 10.8 percent, with many counties experiencing rates above 15 percent. This bill will extend unemployment insurance to provide critical assistance for these Americans who are struggling the most. Unemployment insurance would be extended for 14 additional weeks, with an extra six weeks for states like North Carolina with unemployment levels over 8.5 percent.

Other provisions in this bill are critical to creating new job opportunities and helping millions of Americans keep the jobs they have. This bill would extend the First-Time Homebuyers Tax Credit through the end of April 2010 and create a new credit of \$6,500 for homeowners who have lived in their current residence for at least five years. The housing industry has been hit hard during this recession, and creating an incentive for homebuyers to rejoin the market can lessen the drag that this is creating on the economy as a whole. The extended homebuyer tax credit not only helps put American families in new homes, but it benefits our flagging housing industry and the millions of jobs throughout this sector whether it is real estate, construction, or the building supply chain.

As a Member of the House Committee on Ways and Means, I am also proud that this bill expands the carryback of net operating losses that was included in the American Recovery and Reinvestment Act. The Net Operating Loss provisions in this bill will help many businesses offset past losses and reduce their tax liability. Many American businesses are continuing to struggle in the face of our sluggish economy. The Five-Year Carryback of Net Operating Losses results in more capital for these businesses, allowing them to get healthy, contribute to the growth of our economy, and create more jobs.

I applaud the Senate for sending this timely bill back to the House for a vote, as we move forward on growing our economy and creating jobs for Americans. I support the Senate amendment to H.R. 3548, and I urge my colleagues to join me in voting in favor of it.

Mr. CAPUANO. Mr. Speaker, I rise today in strong support of H.R. 3548, the Worker, Homeownership, and Business Assistance Act of 2009. There are currently millions of workers who are looking for a job, but through no fault of their own are unable to find employment. This bill would extend emergency unemployment for an additional 20 weeks in high unemployment States like Massachusetts. In Massachusetts alone, the National Employment Law Center estimates that 39,530 workers would be exhausting their benefits if not for the additional assistance created by this bill. I cosponsored this extension, and have been a strong supporter of extended unemployment compensation during economic recessions so that those most directly affected by these difficult times are not left to fend for themselves.

I also support extending the temporary homebuyer tax credit, which will help more Americans purchase homes. Congress first passed this provision in July 2008 by creating a refundable tax credit for first-time homebuyers. The credit served as an interest-free loan. In February, Congress extended the duration of the credit and also waived the repayment requirement. I supported the homebuyer tax credit on both occasions.

H.R. 3548 includes a provision to extend the homebuyer tax credit for 5 additional months and to raise the income cap so more families are eligible. In addition, the measure would provide a \$6,500 tax credit for current homeowners buying a new residence who consecutively live in their home for 5 years. I am a proud supporter of this reasonable extension of the homebuyer tax credit.



I urge my colleagues to pass this bill quickly and clear it for the President.

Mr. HOLT. Mr. Speaker, I rise in support of the Worker, Homeownership, and Business Assistance Act of 2009, H.R. 3548. This emergency extension of unemployment benefits for states with high rates of unemployment is important for my home state of New Jersey and I urge this body to pass this legislation and the President to sign it expeditiously.

With over 15 million Americans currently out of work it is essential that this body take action to preserve jobs by helping companies that are struggling in these uncertain economic times. More and more companies are falling into the position where their losses exceed their income. Businesses are being forced to close their doors, lay off employees and cut operating costs.

As American employers continue to struggle to stay afloat in the worst economic crisis since the 1930s, Congress must fully utilize the tax code to provide timely and targeted relief for American entrepreneurs. Current tax law allows "net operating loss carrybacks" to help companies recoup their losses by offsetting taxable income from the two previous tax years. In the American Recovery and Reinvestment Act Congress extended the period that small businesses could write off their net operating losses for 2008 and 2009 from two years to five years; enacting H.R. 3548 will extend to this all companies that have suffered losses during this recession.

Extending the net operating loss provision will help businesses free up funds and prevent further job loss, which is critical for our economic security. This bill will provide essential tax relief that gives owners and entrepreneurs better means to make payroll and invest in new equipment, put people back to work, and create new jobs when they can.

Mr. HOLT. Mr. Speaker, I rise in strong support of the emergency extension of unemployment benefit passed yesterday for States with high rates of unemployment like my home state of New Jersey. Today's passage of the Worker, Homeownership, and Business Assistance Act of 2009 is the final step before it is presented to President Obama for his signature.

As I said in September when we first considered this measure, I hear all the time from central New Jersey residents who are working hard each day to find a new job. Recently, a Mercer County resident wrote me to say his wife had been out of work for 11 months. He wrote to say, "The jobs are just not available for her to go back to work." This bill answers his plea and the pleas of countless other out of work New Jersey residents to extend unemployment benefits while they continue to search for employment.

In tough economic times, Congress and the President have worked together to extend unemployment benefits when needed. The previous extensions of unemployment insurance during this current recession have helped many New Jersey residents keep a roof over their head and food on the table when times were tough. In this tight job market and with the economy just starting to show signs of recovery, there are still six unemployed workers for each job opening and more than 5 million people who have been unemployed for more than 6 months.

The Unemployment Compensation Extension Act of 2009, H.R. 3548, would extend by 14 weeks unemployment benefits for individuals who have exhausted their current benefits in all States and by an additional 6 weeks for individuals who live in States with an unemployment rates above 8.5 percent.

Our Government must help those in need as they seek new work. Morally, it is the right thing to do and the economists tell us that unemployment benefits are one of the most cost-efficient and fast-acting forms of economic stimulus.

The bill does not add to the deficit, by off setting its cost with a 1 year extension of a employment tax that has been in place for 30 years.

Once this bill is signed into law it is estimated that the extension of unemployment benefits will help more than 1.3 million out of work employees.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York (Mr. RANGEL) that the House suspend the rules and concur in the Senate amendment to the bill, H.R. 3548.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the ayes have it.

Mr. McDERMOTT. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

#### WORLD WAR I MEMORIAL AND CENTENNIAL ACT OF 2009

Mr. DAVIS of Illinois. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1849) to designate the Liberty Memorial at the National World War I Museum in Kansas City, Missouri, as the National World War I Memorial, to establish the World War I centennial commission to ensure a suitable observance of the centennial of World War I, and for other purposes, as amended.

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 1849

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE.

This Act may be cited as the "World War I Memorial and Centennial Act of 2009".

#### SEC. 2. FINDINGS.

Congress finds the following:

(1) More than 4,000,000 men and women from the United States served in uniform in the defense of liberty during World War I, among them two future presidents, Harry S. Truman and Dwight D. Eisenhower.

(2) 2,000,000 individuals from the United States served overseas during World War I, including 200,000 naval personnel who served on the seas.

(3) The United States suffered 375,000 casualties during World War I.

(4) The events of 1914 through 1918 shaped the world, our country, and the lives of millions of people in countless ways.

(5) The centennial of World War I offers an opportunity for people in the United States to learn about the sacrifices of their predecessors.

(6) Commemorative efforts allow people in the United States to gain a historical understanding of the type of conflicts that cause countries to go to war and how those conflicts are resolved.

(7) Kansas City is home to the Liberty Memorial and America's National World War I Museum (as so recognized in the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108-375)).

(8) America's National World War I Museum seeks—

(A) to preserve the history of World War I; and

(B) to educate and enlighten people about this significant event, the consequences of which are still with us.

(9) Kansas City is home to the national headquarters for the Veterans of Foreign Wars.

(10) Missouri is the home State of General John Joseph Pershing, who commanded the American Expeditionary Forces in Europe during World War I.

(11) The Kansas City area is the home of the Harry S. Truman Presidential Library and Museum.

(12) The Dwight David Eisenhower Presidential Library and Museum is located close to Kansas City in the neighboring State of Kansas.

(13) There is no nationally recognized memorial honoring the service of Americans who served in World War I.

(14) In 1919, the people of Kansas City, Missouri, expressed an outpouring of support and raised more than \$2,000,000 in two weeks for a memorial to the service of Americans in World War I. That fundraising was an accomplishment unparalleled by any other city in the United States irrespective of population and reflected the passion of public opinion about World War I, which had so recently ended.

(15) Following the drive, a national architectural competition was held by the American Institute of Architects for designs for a memorial to the service of Americans in World War I, and the competition yielded a design by architect H. Van Buren Magonigle.

(16) On November 1, 1921, more than 100,000 people witnessed the dedication of the site for the Liberty Memorial in Kansas City, Missouri. That dedication marked the only time in history that the five allied military leaders; Lieutenant General Baron Jacques of Belgium, General Armando Diaz of Italy, Marshal Ferdinand Foch of France, General John J. Pershing of the United States, and Admiral Lord Earl Beatty of Great Britain, were together at one place.

(17) General Pershing noted at the November 1, 1921, dedication that "[t]he people of Kansas City, Missouri, are deeply proud of the beautiful memorial, erected in tribute to the patriotism, the gallant achievements, and the heroic sacrifices of their sons and daughters who served in our country's armed forces during the World War. It symbolized their grateful appreciation of duty well done, an appreciation which I share, because I know so well how richly it is merited".

(18) During an Armistice Day ceremony in 1924, President Calvin Coolidge marked the beginning of a three-year construction project for the Liberty Memorial by the laying of the cornerstone of the memorial.



(19) The 217-foot Liberty Memorial Tower has an inscription that reads "In Honor of Those Who Served in the World War in Defense of Liberty and Our Country" as well as four stone "Guardian Spirits" representing courage, honor, patriotism, and sacrifice, which rise above the observation deck, making the Liberty Memorial a noble tribute to all who served in World War I.

(20) During a rededication for the Liberty Memorial in 1961, World War I veterans and former Presidents Harry S. Truman and Dwight D. Eisenhower recognized the memorial as a constant reminder of the sacrifices during World War I and the progress that followed.

(21) The 106th Congress recognized the Liberty Memorial as a national symbol of World War I.

(22) The National World War I Museum is the only public museum in the United States specifically dedicated to the history of World War I.

(23) The National World War I Museum is known throughout the world as a major center of World War I remembrance.

**SEC. 3. DESIGNATION OF THE LIBERTY MEMORIAL AT THE NATIONAL WORLD WAR I MUSEUM IN KANSAS CITY, MISSOURI, AS THE NATIONAL WORLD WAR I MEMORIAL.**

The Liberty Memorial at the National World War I Museum in Kansas City, Missouri, is hereby designated as the "National World War I Memorial". No Federal funds may be used for the annual operation or maintenance of such Memorial.

**SEC. 4. COMMISSION ON THE COMMEMORATION OF THE CENTENNIAL OF WORLD WAR I.**

(a) **ESTABLISHMENT.**—There is established a commission to be known as the World War I Centennial Commission (in this Act referred to as the "Commission").

(b) **PURPOSE.**—The purpose of the Commission is to ensure a suitable observance of the centennial of World War I that promotes the values of honor, courage, patriotism, and sacrifice, in keeping with the representation of these values through the four Guardian Spirits sculpted on the Liberty Memorial Monument at America's National World War I Museum.

(c) **DUTIES.**—The Commission shall have the following duties:

(1) To plan, develop, and execute programs, projects, and activities to commemorate the centennial of World War I.

(2) To encourage private organizations and State and local governments to organize and participate in activities commemorating the centennial of World War I.

(3) To facilitate and coordinate activities throughout the United States related to the centennial of World War I.

(4) To serve as a clearinghouse for the collection and dissemination of information about events and plans for the centennial of World War I.

(d) **MEMBERSHIP.**—

(1) **NUMBER AND APPOINTMENT.**—The Commission shall be composed of 24 members as follows:

(A) Four members appointed by the Speaker of the House of Representatives.

(B) Three members appointed by the minority leader of the House of Representatives.

(C) Four members appointed by the Senate majority leader.

(D) Three members appointed by the Senate minority leader.

(E) Seven members who are broadly representative of the people of the United States (including members of the armed

services and veterans), appointed by the President.

(F) The executive director of the Veterans of Foreign Wars of the United States (or the director's delegate).

(G) The executive director of the American Legion (or the director's delegate).

(H) The president of the Liberty Memorial Association, the nonprofit entity responsible for the management of America's National World War I Museum (or the president's delegate).

(2) **EX OFFICIO MEMBERS.**—The Archivist of the United States and the Secretary of the Smithsonian Institution shall serve in an ex officio capacity on the Commission to provide advice and information to the Commission.

(3) **CONTINUATION OF MEMBERSHIP.**—If a member of the Commission under subparagraph (F), (G), or (H) of paragraph (1) ceases to hold a position named in such subparagraph, that member must resign from the Commission as of the date that the member ceases to hold that position.

(4) **TERMS.**—Each member shall be appointed for the life of the Commission.

(5) **DEADLINE FOR APPOINTMENT.**—All members of the Commission shall be appointed not later than 90 days after the date of the enactment of this Act.

(6) **VACANCIES.**—A vacancy on the Commission shall—

(A) not affect the powers of the Commission; and

(B) be filled in the manner in which the original appointment was made.

(7) **PAY.**—Members shall not receive compensation for the performance of their duties on behalf of the Commission.

(8) **TRAVEL EXPENSES.**—Each member shall receive travel expenses, including per diem in lieu of subsistence, in accordance with the applicable provisions under subchapter I of chapter 57 of title 5, United States Code.

(9) **QUORUM.**—A majority of members of the Commission plus one shall constitute a quorum, but a lesser number may hold hearings.

(10) **CHAIRPERSON; VICE CHAIRPERSON.**—The Commission shall elect the Chairperson and Vice Chairperson of the Commission by a majority vote of the members of the Commission.

(11) **MEETINGS.**—

(A) **IN GENERAL.**—The Commission shall meet at the call of the Chairperson, except that the first meeting shall be held before the end of the 120-day period beginning on the effective date of this Act.

(B) **LOCATION.**—The Commission shall hold the first meeting at America's National World War I Museum in Kansas City, Missouri, and thereafter shall hold at least one meeting per year at such location.

(e) **DIRECTOR AND ADDITIONAL PERSONNEL OF THE COMMISSION; EXPERTS AND CONSULTANTS.**—

(1) **DIRECTOR AND STAFF.**—

(A) **APPOINTMENT.**—The Chairperson of the Commission shall, in consultation with the members of the Commission, appoint an executive director and such other additional personnel as may be necessary to enable the Commission to perform its duties.

(B) **PAY.**—The executive director and staff of the Commission may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that the rate of pay for the

executive director and other staff may not exceed the rate payable for level V of the Executive Schedule under section 5316 of such title.

(C) **WORK LOCATION.**—If the city government for Kansas City, Missouri, and the nonprofit organization which administers America's National World War I Museum make space available, the executive director and any additional personnel appointed under subparagraph (A) shall work in the building that houses that museum.

(2) **EXPERTS AND CONSULTANTS.**—The Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code.

(3) **STAFF OF FEDERAL AGENCIES.**—Upon request of the Commission, the head of any Federal department or agency may detail, on a reimbursable basis, any personnel of that department or agency to the Commission to assist it in carrying out its duties under this Act.

(f) **POWERS OF THE COMMISSION.**—

(1) **HEARINGS AND SESSIONS.**—For the purpose of carrying out this Act, the Commission may hold hearings, sit and act at times and places, take testimony, and receive evidence as the Commission considers appropriate.

(2) **POWERS OF MEMBERS AND AGENTS.**—If authorized by the Commission, any member or agent of the Commission may take any action which the Commission is authorized to take by this section.

(3) **OBTAINING OFFICIAL DATA.**—The Commission shall secure directly from any department or agency of the United States information necessary to enable it to carry out this Act. Upon the request of the Chairperson of the Commission, the head of that department or agency shall furnish that information to the Commission.

(4) **GIFTS, BEQUESTS, AND DEVICES.**—

(A) **ACCEPTANCE BY COMMISSION.**—The Commission may accept, use, and dispose of gifts, bequests, or devices of services or property, both real and personal, for the purpose of aiding or facilitating the work of the Commission.

(B) **DEPOSIT AND AVAILABILITY.**—Gifts, bequests, or devices of money and proceeds from sales of other property received as gifts, bequests, or devices shall be deposited in the Treasury and shall be available for disbursement upon order of the Commission.

(5) **MAILS.**—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

(6) **ADMINISTRATIVE SUPPORT SERVICES.**—Upon the request of the Commission, the Administrator of General Services shall provide to the Commission, on a reimbursable basis, the administrative support services necessary for the Commission to carry out its responsibilities under this Act.

(7) **CONTRACT AUTHORITY.**—The Commission is authorized to procure supplies, services, and property and to make or enter in contracts, leases, or other legal agreements; except that any contract, lease, or other legal agreement made or entered into by the Commission may not extend beyond the date of termination of the Commission.

(g) **REPORTS.**—

(1) **PERIODIC REPORT.**—Beginning not later than the last day of the 3-month period beginning on the effective date of this Act, and the last day of each 3-month period thereafter, the Commission shall submit to Congress and the President a report on the activities and plans of the Commission.

(2) **ANNUAL REPORTS.**—The Commission shall submit to the President and Congress

annual reports on the revenue and expenditures of the Commission, including a list of each gift, bequest, or devise to the Commission with a value of more than \$250, together with the identity of the donor of each gift, bequest, or devise.

(3) RECOMMENDATIONS.—Not later than 2 years after the effective date of this Act, the Commission shall submit to Congress and the President a report containing specific recommendations for commemorating the centennial of World War I and coordinating related activities.

(h) FEDERAL ADVISORY COMMITTEE ACT WAIVER.—Section 14 of the Federal Advisory Committee Act (5 U.S.C. App.), relating to the termination of advisory committees, shall not apply to the Commission.

(i) AUTHORIZATION OF FUNDS.—

(1) IN GENERAL.—There is authorized to be appropriated to the Commission to carry out this Act \$500,000 for each of fiscal years 2010 through 2019.

(2) AVAILABILITY.—Amounts made available under this subsection shall remain available until the termination of the Commission as described in subsection (k).

(j) ANNUAL AUDIT.—For any fiscal year for which the Commission receives an appropriation of funds, the Inspector General of the Department of the Interior shall perform an audit of the Commission, shall make the results of any audit performed available to the public, and shall transmit such results to the Committee on Oversight and Government Reform of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate.

(k) TERMINATION.—The Commission shall terminate on the earlier of the date that is 30 days after the activities honoring the centennial observation of World War I are carried out, or July 28, 2019.

(l) EFFECTIVE DATE.—This section shall take effect on January 1, 2010.

□ 1330

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Illinois (Mr. DAVIS) and the gentleman from California (Mr. BILBRAY) each will control 20 minutes.

The Chair recognizes the gentleman from Illinois.

GENERAL LEAVE

Mr. DAVIS of Illinois. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. DAVIS of Illinois. Mr. Speaker, it is my pleasure to yield such time as he might consume to the author of this legislation, the gentleman from Missouri (Mr. CLEAVER).

Mr. CLEAVER. Mr. Speaker, the First World War ended with an armistice on November 11, 1918. The people of Missouri's largest city began to think about what they could do to memorialize the men and women who had sacrificed in World War I. And so in November of 1918, community leaders came together and raised \$2.5 million in 10 days. Now if you recalculate the \$2.5 million to inflation, it totals \$30 million in 10 days.

The memorial was opened on November 1, 1921, to a tumultuous crowd of 200,000 people, including General John J. Pershing, and this photo shows a portion of the 200,000 people who came and listened to the five Allied leaders who were together only once in history at the dedication of the Liberty Memorial in 1921.

Harry Truman played a pivotal role in this because there was a rededication in 1961 with 40,000 people showing up to join Harry Truman and Dwight Eisenhower as they rededicated the memorial.

This was 1921. Let me show you a picture of the memorial today.

When I was elected mayor of Kansas City in 1991, the Liberty Memorial was in disrepair and so I came to Washington, met with the head of the National Park Service and asked if they could help. He said what National Park Service directors should say, We don't have any money to try to rebuild the Liberty Memorial and since we don't have a World War I memorial and there is no space on the mall, we hope something else can transpire.

So as mayor, I went out for a vote with a half cent sales tax which the voters approved, and we then repaired the World War I monument, and this is it with part of the downtown skyline in the background. Not only did we rebuild the World War I monument, but also the museum at the bottom. This is an actual photograph.

Now the sales tax was a point of great pride because we were trying to show the National Park Service that the people of Kansas City would, in fact, take care of this. This is the newspaper clipping, the front page on the day after the tax, "Voters Endorse Higher Sales Tax to Fix Landmark," and it shows the map which is every part of the city approved this tax in order to maintain the Liberty Memorial.

The Liberty Memorial is a special place in Kansas City, Missouri, and people come there from all over the Nation. In fact, 3 years ago at the annual Veterans Day ceremony, the oldest living veteran from World War I, Mr. Buckles, at 106 years of age, actually came to the memorial, sat beside me in a wheelchair and wept.

Here is a photograph of the Liberty Memorial just 15 months ago that shows me standing in front of 75,000 people, and then President Barack Obama, taking advantage of the crowd I drew, standing also in the background to speak to 75,000 just 15 months ago.

Mr. Speaker, this legislation is supported by over 101 Members of Congress. It is bipartisan. All nine Members of the Missouri delegation support it. A part of Kansas City is in the district of Congressman SAM GRAVES who has been an ardent supporter of this.

I yield first to the gentleman from Missouri (Mr. SKELTON) whose father

was there at the beginning of this landmark.

Mr. SKELTON. I certainly thank the gentleman from Missouri for yielding, and I compliment him on this effort today which I fully support, as well as for his successful effort when he was mayor of Kansas City.

The Liberty Memorial is not only a landmark, it is a museum that is like no other museum in our country. It reflects that war, the war to end all wars in which America was engaged so deeply. And this memorial has a special meaning for me, Mr. Speaker, since my father served in the Navy during that war. If you go into the memorial, you will see his picture in his pancake hat with USS *Missouri* emblazoned on the front with the ribbon down the back. He was so proud of his service in that war.

Those folks are gone now, but this serves as a memorial to them, and more than that, and it serves as a museum like none other. It is good for people interested in the art of warfare, it is good for people who understand and enjoy history to go there and learn. It is a special place for all those in uniform to reflect upon what America did in yesteryear.

This is a wonderful undertaking. I am so proud of the gentleman from Missouri (Mr. CLEAVER) for this resolution. I compliment him and fully support it and hope it has a unanimous vote.

Mr. BILBRAY. Mr. Speaker, I would like to yield such time as he may consume to the gentleman from Missouri (Mr. GRAVES).

Mr. GRAVES. Mr. Speaker, I rise today in support of H.R. 1849, the World War I Memorial and Centennial Act of 2009, and I want to thank my friend and Missouri colleague, Congressman EMANUEL CLEAVER, for introducing this legislation. I would very much like to echo his remarks. He has been very active in this process, the work he has done at the memorial in Kansas City, and I am very proud to call him a good friend.

As Mr. CLEAVER has already mentioned, H.R. 1849 is a fitting recognition and tribute to all U.S. veterans who served in World War I, at home and abroad. This bill designates the Liberty Memorial, the National World War I Museum in Kansas City, Missouri, as the National World War I Memorial. To be clear, there is no nationally recognized memorial honoring the service of Americans who served in World War I. H.R. 1849 also establishes a World War I Centennial Commission to ensure suitable observance of the centennial of World War I which is fast approaching.

Again, I thank Congressman CLEAVER for his outstanding work on this important legislation. I would strongly urge its adoption. Thanks for letting me be a part of it.

Mr. DAVIS of Illinois. Mr. Speaker, I yield such time as he may consume to Mr. SKELTON.

Mr. SKELTON. Mr. Speaker, I include for the record a letter from the Department Commander and Department Adjutant of the Department of Missouri, The American Legion, as well as an American Legion Department of Missouri resolution to designate the Liberty Memorial of Kansas City at the National World War I Museum as the National World War I Memorial.

THE AMERICAN LEGION,  
DEPARTMENT OF MISSOURI, INC.,  
Jefferson City, MO, October 7, 2009.

Representative IKE SKELTON,  
Rayburn Office Bldg.,  
Washington, DC.

DEAR REPRESENTATIVE SKELTON: On Behalf of the 54,000 Legionnaires of The American Legion Department of Missouri, we would like to take this opportunity to thank you for your service to our Country and to the citizens of the Great State of Missouri. Recently during our 91st Annual Department Convention, held in Jefferson City, Missouri, we adopted Missouri Resolution Three, which urges the Congress of the United States to designate the Liberty Memorial, at the National World War I Museum in Kansas City, Missouri, as "The National World War I Memorial." I have attached a copy of said resolution.

The Liberty Memorial site was dedicated in November of 1921 and marks the only time in history that five Allied Military Leaders were present to honor the more than 4,000,000 men and women that served during World War I. General of the Armies John J. Pershing, a native of Missouri, noted on that day "the people of Kansas City, Missouri are deeply proud of this beautiful memorial, erected in Tribute to the Patriotism, the gallant achievements, and the heroic sacrifices of their sons and daughters who served in our country's Armed Forces during the World War. It Symbolized their grateful appreciation of Duty Well Done, and appreciation, which I share, because I know so well how richly it is merited."

The Memorial has been and still remains a proud part of the patriotic heritage of, not only the people of Missouri, but of the United States of America and should be designated as "The National World War I Memorial".

Thank you for your consideration and continued support.

Sincerely,

VICTOR J. STRAGLIATI,  
Department Commander.  
WADE F. PROSSER,  
Department Adjutant.

RESOLUTION

Subject: Designate Liberty Memorial, Kansas City, Missouri at the National World War I Museum as the National World War I Memorial.

Whereas more than 4,000,000 American served in World War I, and

Whereas there is no nationally recognized Memorial honoring the Service of those over 4,000,000 American, and

Whereas in 1919 (90 years ago since this is 2009) the people of Kansas City, Missouri, expressed an outpouring of support and raised more than \$2,000,000 in two (2) weeks for a Memorial to the service of American who served in World War I. This fund was an accomplishment Unparalleled by any other city in the United States Irrespective of pop-

ulation and reflected the passion of Public opinion about World War I, which had so recently ended, and

Whereas following the drive, a national architectural competition was held by the American Institute of Architects for designs for a memorial to the service of Americans in World War I, and the competition yielded a design by Architect H. Van Buren Magonigle, and

Whereas on November 1, 1921, more than 100,000 people witnessed the dedication of the site for the Liberty Memorial in Kansas City, Missouri, and

Whereas the dedication of the site on November 1, 1921 marked the only time in history that the five (5) allied Military Leaders present, Lieutenant General Baron Jacques of Belgium, General Armando Diaz of Italy, Marshal Ferdinand Foch of France, Admiral Lord Earl Beatty of Great Britain, and General of the Armies John J. Pershing of the United States of America, were together at one place, and

Whereas General of the Armies John J. Pershing, a native of Missouri and the Commander of the American Expeditionary Forces in World War I, noted at the November 1, 1921 Dedication that "the people of Kansas City, Missouri are deeply proud of the beautiful memorial, erected in Tribute to the patriotism, the gallant achievements, and the heroic sacrifices of their sons and daughters who served in our country's armed forces during the World War. It symbolized their grateful appreciation of duty well done, and appreciation which I share, because I know so well how richly it is merited", and

Whereas during an Armistice Day ceremony in 1924, President Calvin Coolidge marked the beginning of a three year construction project for the Liberty Memorial by the Laying of the cornerstone, and

Whereas the 217 foot Liberty Memorial Tower has an inscription that reads, "In honor of Those Who Served in the World War in Defense of Liberty and Our Country" as well as Four (4) stone "Guardian Spirits" representing Courage, Honors, Patriotism, and Sacrifices, which rise above the Observation deck, making the Liberty Memorial a noble Tribute to all who served in World War I, and

Whereas during a rededication of the Liberty Memorial in 1961, World War I Veterans and former Presidents Harry S. Truman and Dwight D. Eisenhower recognized the memorial as a constant reminder of the sacrifices during World War I and the progress that followed, and

Whereas the 106th Congress recognized the Liberty Memorial as a National Symbol of World War I, and

Whereas the 108th Congress designated that the museum at the base of The Liberty Memorial as "American's National World War I Museum", and

Whereas the American's National World War I Museum is the only Public museum in the United States specifically Dedicated to the History of World War I, and

Whereas the National World War I Museum is known throughout the World as a major center of World War I remembrance, now Therefore, be it

Resolved: by The American Legion Department of Missouri in regular Convention assembled in Jefferson City, Missouri on July 16, 17, 18, and 19, That The American Legion Department of Missouri urges The Congress of The United States of America to designate The Liberty Memorial, Kansas City, Missouri at the National World War I Museum in Kansas City, Missouri as the "NATIONAL WORLD WAR I MEMORIAL".

VICTOR J. STRAGLIATI,  
Department Commander,  
Department of Missouri, The  
American Legion.

WADE F. PROSSER,  
Department Adjutant,  
Department of Missouri, The American  
Legion.

Mr. BILBRAY. Mr. Speaker, I would like to yield such time as he may consume to the distinguished gentleman once removed from Missouri, but from California now, Mr. DREIER.

Mr. DREIER. Mr. Speaker, I thank my colleague from San Diego for yielding, and I am very privileged and honored to join here with my fellow natives of the Show Me State. And I want to congratulate my former mayor from Kansas City and now distinguished colleague here in the House for introducing this resolution.

First and foremost, this is about recognizing those tens of thousands of Americans who lost their lives in the First World War. It was a very challenging time for the entire world when we look at the two alliances that existed at that time. It is often forgotten when we talk about the Great World War being the Second World War.

The Liberty Memorial is very important to me personally, as the gentleman from Kansas City and I have discussed, Mr. Speaker. My great-grandfather was on the city council of Kansas City, Charles O. LaRue. He was one of the individuals who played a role in the construction of the Liberty Memorial itself when it was built in 1921. In 1921, he was a member of the city council.

I have memories of having first visited the Liberty Memorial when I was a very young child. In fact, I remember very vividly when I was 4 or 5 years old and President Eisenhower came and delivered a spectacular address at the foot of the Liberty Memorial in Kansas City, Missouri.

Recently, I had a chance to be there and see the dramatic expansion of this memorial. As one walks in and see the poppies on display that you walk over, it is a very moving experience when you think about the men who faced the conflict in World War I.

I just want to say that I have told my friend from Kansas City that I anxiously look forward, with my great-grandfather's name being inscribed at the base of the Liberty Memorial, to be able to participate in any celebration or ceremony they have. He has invited me to be there, and I will join him and it will be a great honor. I am privileged to be invited, and I am proud to be a cosponsor of Mr. CLEAVER's resolution.

Mr. BILBRAY. Mr. Speaker, I yield myself such time as I may consume.

Too quickly we forget those who have served all over the world. Sadly, we even forget the magnitude of the wars they fought. So often in the

United States, we think about Europe in World War I and service there, but this truly was a world war. It was a war that transformed not only Europe, but Asia and Africa. We forget about that. We forget that the wars were not just fought in Flanders Field, but fought in villages and on three continents. And we not only saw the battles of Americans in the skies of France, but we also saw, like my mother's side of the family, Australians fighting in Turkey; the battles in Saudi Arabia; the concepts and the battles in Africa. These are things that we don't read about and think about, but it truly was a world conflict involving millions and millions of men and women around the world.

This memorial in the heart of America is so appropriate for us to stop and think about the fact that although a lot of Americans had second thoughts and misgivings about our venturing overseas, the first major venture that we had seen in that century following the last venture, which was actually very close to our neighborhoods.

□ 1345

So I think it is quite appropriate that today, where America finds itself today involved around the world, that we've got to remember that we didn't start this. We inherited the fact that World War I was truly when America stepped forward, and not just declaring ourselves a world power, but one that would stand up and fight for freedom whenever and wherever it was threatened.

Mr. Speaker, I yield back the balance of my time.

Mr. DAVIS of Illinois. Mr. Speaker, to close, let me just, first of all, commend all of our colleagues with lineage and heritage to the great State of Missouri. Let me also commend Representative CLEAVER for his introduction of this legislation.

And I couldn't end without paying special tribute to the family of Representative SKELTON for the tremendous service that they have provided to this country, both in the military, and of course Chairman SKELTON here in this House of Representatives.

As we move towards Veterans Day, where we will honor and pay tribute to all of our veterans because they have given all of us the opportunity to live in a free and democratic society—and I don't think there is anything more important than that—I ask all of my colleagues to join me in supporting H.R. 1849.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois (Mr. DAVIS) that the House suspend the rules and pass the bill, H.R. 1849, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the ayes have it.

Mr. DAVIS of Illinois. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

#### CORPORAL JOSEPH A. TOMCI POST OFFICE BUILDING

Mr. DAVIS of Illinois. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3788) to designate the facility of the United States Postal Service located at 3900 Darrow Road in Stow, Ohio, as the "Corporal Joseph A. Tomci Post Office Building".

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 3788

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. CORPORAL JOSEPH A. TOMCI POST OFFICE BUILDING.

(a) DESIGNATION.—The facility of the United States Postal Service located at 3900 Darrow Road in Stow, Ohio, shall be known and designated as the "Corporal Joseph A. Tomci Post Office Building".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the "Corporal Joseph A. Tomci Post Office Building".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Illinois (Mr. DAVIS) and the gentleman from California (Mr. BILBRAY) each will control 20 minutes.

The Chair recognizes the gentleman from Illinois.

#### GENERAL LEAVE

Mr. DAVIS of Illinois. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. DAVIS of Illinois. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, on behalf of the House subcommittee with jurisdiction over the United States Postal Service, I am very proud to present H.R. 3788 for consideration. This measure will designate the facility of the United States Postal Service located at 3900 Darrow Road in Stow, Ohio, as the "Corporal Joseph A. Tomci Post Office Building."

H.R. 3788 was introduced by my colleague Representative STEVEN LATOURETTE of Ohio on October 13, 2009, and favorably reported out of the Oversight Committee by unanimous consent on October 29, 2009. Additionally, this leg-

islation enjoys the overwhelming support of the Ohio House delegation.

After graduating from Stow-Munroe Falls High School in 2003, Corporal Tomci joined the U.S. Marine Corps and was assigned to the 3rd Battalion, 9th Marine Regiment, 2nd Marine Division, II Marine Expeditionary Force out of Camp Lejeune, North Carolina.

Tragically, on August 2, 2006, while conducting combat operations during his second tour in support of Operation Iraqi Freedom, Corporal Tomci was killed in a roadside bomb in al Anbar province, Iraq. He was only 21 years old at the time.

Although Corporal Tomci is no longer with us, his spirit will endure in the memory of his mother, Gayle, his stepfather, Phil, his friends, and all those who were fortunate enough to know this brave young man. In fact, every year since his death, a group of Corporal Tomci's friends gather together in Silver Springs Park in Stow, Ohio, to remember the life of their friend and hero. Affectionately called "Joe Tom Day" after Corporal Tomci's nickname, about 150 joined in this year's commemoration and wore black T-shirts with Corporal Tomci's quote, "You guys will be telling your kids about me," on their backs.

And so, Mr. Speaker, let us, as a body, take this opportunity to recognize the life of Corporal Tomci, which stands as a testament to the bravery and dedication of the heroic men and women who serve our great Nation.

I urge all of our Members to join in support of this resolution.

Mr. Speaker, I reserve the balance of my time.

Mr. BILBRAY. Mr. Speaker, at this time, I would like to yield as much time as he may consume to the distinguished gentleman from Ohio (Mr. LATOURETTE).

Mr. LATOURETTE. I thank my friend from California for yielding.

I want to thank the Chair and ranking member of the Government Reform and Oversight Committee for moving this bill in such an expedited manner. I want to thank my friend and colleague from Illinois (Mr. DAVIS) and from California (Mr. BILBRAY) for bringing this bill to the floor today.

I am proud to be the lead sponsor of H.R. 3788. It is going to honor a marine and native of Stow, Ohio, who gave his life in the line of duty, Corporal Joseph A. Tomci, and I urge my colleagues to support the bill. This bill will name the post office at 3900 Darrow Road in Stow as the Corporal Joseph A. Tomci Post Office Building.

As has been mentioned, Joe Tomci, a graduate of Stow-Munroe Falls High School, was killed in a roadside bombing on August 2, 2006. It was his second tour of duty in Iraq, and he happened to be only 21.

While I didn't have the pleasure of knowing Joe Tomci when he was alive,

I have been awed by the impact that he had on those who did have the privilege of knowing him, loving him, and calling him a friend. There were thousands of people, Mr. Speaker, at his funeral. And every year since his death, friends and family have gathered to remember Joe on the anniversary that he died.

There is also a tree planted at Fish Creek Elementary School. And you may think, well, maybe that's where Joe went to school, but the reason the tree is there is that Joe was a pen pal of the students for 2 years, and the students would chart Joe's progress in Iraq on a map to reflect his experiences.

Joe Tomci was a great son, a great friend, and a great leader. And I honestly can't think of many people at the age of 21 who have made such a mark on the world in such a short amount of time.

He loved his family and his friends, he loved serving his country, and he loved being a marine. He told his mother, Gayle, that he believed in what he was doing and that he believed that his service was a benefit to the world.

I've had the privilege, as most of our colleagues have, of travelling to Iraq to witness firsthand the important work of servicemen and -women like Joe and what they're doing every day, as well as the selfless sacrifices that they and their families make. Some, like Joe, have made the ultimate sacrifice, but their deaths have not been in vain.

Mr. Speaker, I appreciate the work of the committee in approving this legislation, and I urge my colleagues to support the bill.

Mr. DAVIS of Illinois. Mr. Speaker, I reserve the balance of my time.

Mr. BILBRAY. Mr. Speaker, I yield myself as much time as I may consume.

Mr. Speaker, my words on this quite appropriate bill would pale in comparison to the fine words from the gentleman from Ohio and the gentleman from Chicago. I think they said it quite well and eloquently, so at this time I think it's appropriate that I just urge all Members to support H.R. 3788.

I rise today in support of this bill designating the United States Postal Facility, located at 3900 Darrow Road in Stow, Ohio as the "Corporal Joseph A. Tomci Post Office Building."

A native of Ohio, Corporal Joseph Tomci was a "humble, determined and athletic" man. A football player and avid outdoorsman, Corporal Tomci graduated from Stow-Munroe Falls High School located in Stow, Ohio in 2003.

As a teenager he was determined to join the Marines. After the September 11th attacks, his decision was reinforced and he enlisted in the United States Marine Corps just a few months after graduating from high school. Corporal Tomci was inspired by his favorite quote "the only thing necessary for the triumph of evil is for good men to do nothing". He was assigned to the 2nd Marine Division, 3rd Battalion, 8th Marines, Lima Company based in Camp

Lejeune and quickly rose to a leadership position. He was deployed three times—Haiti in 2004, Fallujah, Iraq in 2005, and Ramadi in 2006.

When on leave from Iraq, Corporal Tomci often told friends "I'm doing this so you guys don't have to." As a squad leader, Corporal Tomci had great concern for the 12 Marines under his command. He was especially conscious of training the soldiers who had just been deployed to Iraq, once telling his mother that now he knew what it felt like to be a parent.

Tragically, while serving his 3rd deployment in Ramadi, he was killed by a roadside bomb on August 2, 2006.

After his death, one of Corporal Tomci's friends put it best when he said Corporal Tomci was a patriot and "he was made to be a Marine."

I urge the passage of this bill in honor of an ambitious, caring, and dedicated American who sacrificed his life while serving his country.

Mr. BILBRAY. Mr. Speaker, I yield back the balance of my time.

Mr. DAVIS of Illinois. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois (Mr. DAVIS) that the House suspend the rules and pass the bill, H.R. 3788.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the ayes have it.

Mr. DAVIS of Illinois. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

#### ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, proceedings will resume on motions to suspend the rules previously postponed.

Votes will be taken in the following order:

Concurring in the Senate amendment to H.R. 3548, by the yeas and nays;

H. Con. Res. 139, by the yeas and nays;

H. Res. 880, de novo.

The first electronic vote will be conducted as a 15-minute vote. Remaining electronic votes will be conducted as 5-minute votes.

#### UNEMPLOYMENT COMPENSATION EXTENSION ACT OF 2009

The SPEAKER pro tempore. The unfinished business is the vote on the motion to suspend the rules and concur in the Senate amendment to the bill, H.R. 3548, on which the yeas and nays were ordered.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York (Mr. RANGEL) that the House suspend the rules and concur in the Senate amendment to the bill, H.R. 3548.

The vote was taken by electronic device, and there were—yeas 403, nays 12, not voting 18, as follows:

[Roll No. 859]

YEAS—403

Abercrombie	Cooper	Himes
Ackerman	Costa	Hinchey
Adler (NJ)	Costello	Hinojosa
Akin	Courtney	Hirono
Alexander	Crenshaw	Hodes
Altmire	Crowley	Hoekstra
Andrews	Cuellar	Holden
Arcuri	Cummings	Holt
Austria	Dahlkemper	Hoyer
Baca	Davis (AL)	Hunter
Bachmann	Davis (CA)	Inglis
Bachus	Davis (IL)	Inslee
Baird	Davis (TN)	Israel
Baldwin	Deal (GA)	Issa
Barrett (SC)	DeFazio	Jackson (IL)
Barrow	DeGette	Jackson-Lee
Bartlett	Delahunt	(TX)
Barton (TX)	DeLauro	Jenkins
Bean	Dent	Johnson (GA)
Becerra	Diaz-Balart, L.	Johnson (IL)
Berkley	Diaz-Balart, M.	Johnson, E. B.
Berman	Dicks	Johnson, Sam
Berry	Dingell	Jones
Biggert	Doggett	Jordan (OH)
Bilbray	Donnelly (IN)	Kagen
Bilirakis	Doyle	Kanjorski
Bishop (GA)	Dreier	Kaptur
Bishop (NY)	Driehaus	Kennedy
Bishop (UT)	Duncan	Kildee
Blackburn	Edwards (MD)	Kilpatrick (MI)
Blumenauer	Edwards (TX)	Kilroy
Blunt	Ehlers	Kind
Boccieri	Ellison	King (IA)
Boehner	Ellsworth	King (NY)
Bonner	Emerson	Kingston
Bono Mack	Engel	Kirk
Boozman	Eshoo	Kirkpatrick (AZ)
Boren	Etheridge	Kissell
Boswell	Fallin	Klein (FL)
Boucher	Farr	Kline (MN)
Boustany	Fattah	Kosmas
Boyd	Filner	Kratovil
Brady (TX)	Fleming	Kucinich
Bright	Forbes	Lamborn
Brown (SC)	Fortenberry	Lance
Brown, Corrine	Foster	Langevin
Brown-Waite,	Fox	Larsen (WA)
Ginny	Frank (MA)	Larson (CT)
Buchanan	Frelinghuysen	Latham
Burton (IN)	Fudge	LaTourrette
Butterfield	Gallely	Latta
Buyer	Garamendi	Lee (CA)
Calvert	Gerlach	Lee (NY)
Camp	Giffords	Levin
Campbell	Gingrey (GA)	Lewis (CA)
Cantor	Gohmert	Lewis (GA)
Cao	Gonzalez	Lipinski
Capito	Goodlatte	LoBiondo
Capps	Gordon (TN)	Loeb sack
Cardoza	Granger	Lofgren, Zoe
Carnahan	Graves	Lowe
Carney	Grayson	Lucas
Carson (IN)	Green, Al	Luetkemeyer
Carter	Green, Gene	Lujan
Cassidy	Griffith	Lummis
Castle	Grijalva	Lungren, Daniel
Castor (FL)	Guthrie	E.
Chaffetz	Gutierrez	Lynch
Chandler	Hall (NY)	Mack
Childers	Hall (TX)	Maffei
Chu	Halvorson	Maloney
Clarke	Hare	Manzullo
Clay	Harman	Marchant
Cleaver	Hastings (FL)	Markey (CO)
Clyburn	Hastings (WA)	Markey (MA)
Coble	Heinrich	Marshall
Coffman (CO)	Heller	Massa
Cohen	Hensarling	Matheson
Conaway	Herger	Matsui
Connolly (VA)	Higgins	McCarthy (CA)
Conyers	Hill	McCarthy (NY)

McCaul  
McCollum  
McCotter  
McDermott  
McGovern  
McHenry  
McIntyre  
McKeon  
McMahon  
McMorris  
Rodgers  
McNerney  
Meek (FL)  
Meeks (NY)  
Melancon  
Mica  
Michaud  
Miller (FL)  
Miller (MI)  
Miller (NC)  
Miller, Gary  
Miller, George  
Minnick  
Mitchell  
Mollohan  
Moore (KS)  
Moore (WI)  
Moran (KS)  
Moran (VA)  
Murphy (CT)  
Murphy (NY)  
Murphy, Tim  
Murtha  
Myrick  
Nadler (NY)  
Napolitano  
Neal (MA)  
Neugebauer  
Nye  
Oberstar  
Olson  
Olver  
Ortiz  
Pallone  
Pascrell  
Pastor (AZ)  
Paulsen  
Payne  
Pence  
Perlmutter  
Perriello  
Peters  
Peterson  
Petri  
Pingree (ME)

Pitts  
Platts  
Polis (CO)  
Pomeroy  
Posey  
Price (NC)  
Putnam  
Quigley  
Rahall  
Rangel  
Rehberg  
Reichert  
Reyes  
Richardson  
Rodriguez  
Roe (TN)  
Rogers (AL)  
Rogers (KY)  
Rohrabacher  
Rooney  
Ros-Lehtinen  
Roskam  
Ross  
Rothman (NJ)  
Roybal-Allard  
Royce  
Ruppersberger  
Rush  
Ryan (OH)  
Ryan (WI)  
Salazar  
Sanchez, Loretta  
Sarbanes  
Schakowsky  
Schauer  
Schiff  
Schmidt  
Schock  
Schrader  
Schwartz  
Scott (GA)  
Scott (VA)  
Sensenbrenner  
Serrano  
Sestak  
Shea-Porter  
Sherman  
Shimkus  
Shuler  
Shuster  
Simpson  
Sires  
Skelton  
Slaughter  
Smith (NE)

## NAYS—12

Broun (GA)  
Burgess  
Flake  
Franks (AZ)

Garrett (NJ)  
Linder  
McClintock  
Paul

Price (GA)  
Radanovich  
Scalise  
Shadegg

## NOT VOTING—18

Aderholt  
Brady (PA)  
Braley (IA)  
Capuano  
Cole  
Culberson  
Davis (KY)

Harper  
Herseht Sandlin  
Honda  
Murphy, Patrick  
Nunes  
Obey  
Poe (TX)

Rogers (MI)  
Sánchez, Linda T.  
Sessions  
Stupak

□ 1420

Messrs. FRANKS of Arizona and LIN-  
DER changed their vote from “yea” to  
“nay.”

Ms. CLARKE changed her vote from  
“nay” to “yea.”

So (two-thirds being in the affirma-  
tive) the rules were suspended and the  
Senate amendment was concurred in.

The result of the vote was announced  
as above recorded.

A motion to reconsider was laid on  
the table.

Stated for:

Mr. POE of Texas. Mr. Speaker, on rollcall  
No. 859, I was unavoidably detained. Had I  
been present, I would have voted “yea.”

Mr. HARPER. Mr. Speaker, on rollcall No.  
859, I was unavoidably detained. Had I been  
present, I would have voted “yea.”

Mr. ROGERS of Michigan. Mr. Speaker, on  
rollcall No. 859, I was unable to vote as I was  
in Michigan attending to a recent death in my  
family. Had I been present, I would have voted  
“yea.”

Mr. OBEY. Mr. Speaker, on rollcall No. 859  
I was involved in discussions with Wisconsin’s  
Governor about upcoming health reform legis-  
lation and missed the vote. Had I been  
present, I would have voted “yea.”

### CONGRATULATING FIRST UNITED STATES AIR FORCE ACADEMY GRADUATION CLASS ON ITS 50TH ANNIVERSARY

The SPEAKER pro tempore. The un-  
finished business is the vote on the mo-  
tion to suspend the rules and agree to  
the concurrent resolution, H. Con. Res.  
139, as amended, on which the yeas and  
nays were ordered.

The Clerk read the title of the con-  
current resolution.

The SPEAKER pro tempore. The  
question is on the motion offered by  
the gentlewoman from California (Mrs.  
DAVIS) that the House suspend the  
rules and agree to the concurrent reso-  
lution, H. Con. Res. 139, as amended.

This will be a 5-minute vote.

The vote was taken by electronic de-  
vice, and there were—yeas 411, nays 0,  
not voting 22, as follows:

[Roll No. 860]

YEAS—411

Abercrombie  
Ackerman  
Adler (NJ)  
Akin  
Alexander  
Altmire  
Andrews  
Arcuri  
Austria  
Baca  
Bachmann  
Bachus  
Baird  
Baldwin  
Barrett (SC)  
Barrow  
Bartlett  
Barton (TX)  
Bean  
Becerra  
Berkley  
Berman  
Berry  
Biggart  
Bilbray  
Bilirakis  
Bishop (GA)  
Bishop (NY)  
Bishop (UT)  
Blackburn  
Blumenauer  
Blunt  
Bocieri  
Bonner  
Bono Mack  
Boozman  
Boren  
Boswell  
Boucher  
Boustany  
Boyd  
Brady (TX)  
Bright  
Broun (GA)  
Brown (SC)  
Brown, Corrine  
Brown-Waite,  
Ginny

Buchanan  
Burgess  
Burton (IN)  
Butterfield  
Buyer  
Calvert  
Camp  
Campbell  
Cao  
Capito  
Capps  
Cardoza  
Carnahan  
Carney  
Carson (IN)  
Carter  
Cassidy  
Castle  
Castor (FL)  
Chaffetz  
Chandler  
Childers  
Chu  
Clarke  
Clay  
Cleaver  
Clyburn  
Coble  
Coffman (CO)  
Cohen  
Conaway  
Connolly (VA)  
Conyers  
Cooper  
Costa  
Costello  
Courtney  
Crenshaw  
Crowley  
Cuellar  
Culberson  
Dahlkemper  
Davis (AL)  
Davis (CA)  
Davis (TN)  
DeFazio  
DeGette  
Delahunt

DeLauro  
Dent  
Diaz-Balart, L.  
Diaz-Balart, M.  
Dicks  
Dingell  
Doggett  
Donnelly (IN)  
Doyle  
Dreier  
Driehaus  
Duncan  
Edwards (MD)  
Edwards (TX)  
Ehlers  
Ellison  
Ellsworth  
Emerson  
Engel  
Eshoo  
Etheridge  
Fallin  
Farr  
Fattah  
Filner  
Flake  
Fleming  
Forbes  
Fortenberry  
Foster  
Fox  
Frank (MA)  
Franks (AZ)  
Frelinghuysen  
Fudge  
Gallegly  
Garamendi  
Garrett (NJ)  
Gerlach  
Giffords  
Gingrey (GA)  
Gohmert  
Gonzalez  
Goodlatte  
Granger  
Graves  
Grayson  
Green, Al

Green, Gene  
Griffith  
Grijalva  
Guthrie  
Gutierrez  
Hall (NY)  
Hall (TX)  
Halvorson  
Hare  
Harman  
Harper  
Hastings (FL)  
Hastings (WA)  
Heinrich  
Heller  
Hensarling  
Herger  
Higgins  
Hill  
Himes  
Hinchey  
Hinojosa  
Hirono  
Hodes  
Hoekstra  
Holden  
Holt  
Honda  
Hoyer  
Hunter  
Inglis  
Inslie  
Israel  
Issa  
Jackson (IL)  
Jackson-Lee  
(TX)  
Jenkins  
Johnson (GA)  
Johnson (IL)  
Johnson, E. B.  
Jones  
Jordan (OH)  
Kagen  
Kanjorski  
Kaptur  
Kildee  
Kilpatrick (MI)  
Kilroy  
Kind  
King (IA)  
King (NY)  
Kingston  
Kirk  
Kirkpatrick (AZ)  
Kissell  
Klein (FL)  
Kline (MN)  
Kosmas  
Kratovil  
Kucinich  
Lamborn  
Lance  
Larsen (WA)  
Larsen (CT)  
Latham  
LaTourette  
Latta  
Lee (CA)  
Lee (NY)  
Levin  
Lewis (CA)  
Lewis (GA)  
Linder  
Lipinski  
LoBiondo  
Loebbeck  
Lofgren, Zoe  
Lowey  
Lucas  
Luetkemeyer  
Lujan  
Lummis  
Lungren, Daniel  
E.  
Lynch  
Mack  
Maffei  
Maloney  
Manzullo  
Marchant

Markey (CO)  
Markey (MA)  
Marshall  
Massa  
Matheson  
Matsui  
McCarthy (CA)  
McCarthy (NY)  
McCaul  
McClintock  
McCollum  
McCotter  
McDermott  
McGovern  
McHenry  
McIntyre  
McKeon  
McMahon  
McMorris  
Rodgers  
McNerney  
Meek (FL)  
Meeks (NY)  
Melancon  
Mica  
Michaud  
Miller (FL)  
Miller (MI)  
Miller (NC)  
Miller, Gary  
Miller, George  
Minnick  
Mitchell  
Mollohan  
Moore (KS)  
Moore (WI)  
Moran (KS)  
Moran (VA)  
Murphy (CT)  
Murphy (NY)  
Murphy, Tim  
Murtha  
Myrick  
Nadler (NY)  
Napolitano  
Neal (MA)  
Neugebauer  
Nye  
Oberstar  
Obey  
Olson  
Olver  
Ortiz  
Pallone  
Pascrell  
Pastor (AZ)  
Paul  
Paulsen  
Payne  
Perlmutter  
Perriello  
Peters  
Peterson  
Petri  
Pingree (ME)  
Pitts  
Platts  
Poe (TX)  
Polis (CO)  
Pomeroy  
Posey  
Price (GA)  
Price (NC)  
Putnam  
Quigley  
Radanovich  
Rahall  
Rangel  
Rehberg  
Reichert  
Reyes  
Richardson  
Rodriguez  
Roe (TN)  
Rogers (AL)  
Rogers (KY)  
Rohrabacher  
Rooney  
Ros-Lehtinen  
Roskam  
Ross

Rothman (NJ)  
Roybal-Allard  
Royce  
Ruppersberger  
Rush  
Ryan (OH)  
Ryan (WI)  
Salazar  
Sanchez, Loretta  
Sarbanes  
Scalise  
Schakowsky  
Schauer  
Schiff  
Schmidt  
Schock  
Schrader  
Schwartz  
Scott (GA)  
Scott (VA)  
Sensenbrenner  
Serrano  
Sessions  
Sestak  
Shadegg  
Shea-Porter  
Sherman  
Shimkus  
Shuler  
Shuster  
Simpson  
Sires  
Skelton  
Slaughter  
Smith (NE)  
Smith (NJ)  
Smith (TX)  
Smith (WA)  
Snyder  
Souder  
Space  
Speier  
Spratt  
Stark  
Stearns  
Sullivan  
Sutton  
Tanner  
Taylor  
Teague  
Terry  
Thompson (CA)  
Thompson (MS)  
Thompson (PA)  
Thornberry  
Tiahrt  
Tiberi  
Tierney  
Titus  
Tonko  
Towns  
Tsongas  
Turner  
Upton  
Van Hollen  
Velázquez  
Visclosky  
Walden  
Walz  
Wamp  
Wasserman  
Schultz  
Waters  
Watson  
Watt  
Waxman  
Weiner  
Welch  
Westmoreland  
Wexler  
Whitfield  
Wilson (OH)  
Wilson (SC)  
Wittman  
Wolf  
Woolsey  
Wu  
Yarmuth  
Young (AK)  
Young (FL)

NOT VOTING—22

Aderholt  
Boehner  
Brady (PA)  
Braley (IA)  
Cantor  
Capuano

Cole  
Cummings  
Davis (IL)  
Davis (KY)  
Deal (GA)  
Gordon (TN)

Herseeth Sandlin  
Johnson, Sam  
Kennedy  
Langevin  
Murphy, Patrick  
Nunes

Pence  
Rogers (MI)  
Sánchez, Linda  
T.  
Stupak

Diaz-Balart, L.  
Diaz-Balart, M.  
Dicks  
Dingell  
Doggett  
Donnelly (IN)

King (NY)  
Kingston  
Kirk  
Kirkpatrick (AZ)  
Kissell  
Klein (FL)

Payne  
Perlmutter  
Perriello  
Peters  
Peterson  
Petri

Upton  
Van Hollen  
Velázquez  
Visclosky  
Walden  
Walz  
Wamp  
Wasserman  
Schultz

Waters  
Watson  
Watt  
Waxman  
Weiner  
Welch  
Westmoreland  
Wexler  
Whitfield

Wilson (OH)  
Wilson (SC)  
Wittman  
Wolf  
Woolsey  
Wu  
Yarmuth  
Young (AK)  
Young (FL)

□ 1428

So (two-thirds being in the affirmative) the rules were suspended and the concurrent resolution, as amended, was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

#### RECOGNIZING THE EFFORTS OF CAREER AND TECHNICAL COLLEGES

The SPEAKER pro tempore (Mr. SERRANO). The unfinished business is the question on suspending the rules and agreeing to the resolution, H. Res. 880, as amended.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York (Mr. BISHOP) that the House suspend the rules and agree to the resolution, H. Res. 880, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the ayes have it.

#### RECORDED VOTE

Mr. CONNOLLY of Virginia. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 409, noes 0, not voting 24, as follows:

[Roll No. 861]

AYES—409

Abercrombie  
Ackerman  
Adler (NJ)  
Akin  
Alexander  
Altmire  
Andrews  
Arcuri  
Austria  
Baca  
Bachmann  
Bachus  
Baldwin  
Barrett (SC)  
Barrow  
Bartlett  
Barton (TX)  
Bean  
Becerra  
Berkley  
Berman  
Berry  
Biggert  
Bilbray  
Bilirakis  
Bishop (GA)  
Bishop (NY)  
Bishop (UT)  
Blackburn  
Blumenauer  
Blunt  
Bocieri  
Bonner

Bono Mack  
Boozman  
Boren  
Boswell  
Boucher  
Boustany  
Boyd  
Brady (TX)  
Bright  
Broun (GA)  
Brown (SC)  
Brown, Corrine  
Brown-Waite,  
Ginny  
Buchanan  
Burgess  
Burton (IN)  
Butterfield  
Buyer  
Calvert  
Camp  
Campbell  
Cantor  
Cao  
Capito  
Capps  
Cardoza  
Carnahan  
Carney  
Carson (IN)  
Carter  
Cassidy  
Castle

Castor (FL)  
Chaffetz  
Chandler  
Childers  
Chu  
Clarke  
Clay  
Cleaver  
Clyburn  
Coble  
Coffman (CO)  
Cohen  
Conaway  
Conyers  
Cooper  
Costa  
Costello  
Courtney  
Crenshaw  
Crowley  
Cuellar  
Culberson  
Cummings  
Dahlkemper  
Davis (AL)  
Davis (CA)  
Davis (IL)  
Davis (TN)  
DeFazio  
DeGette  
Delahunt  
DeLauro  
Dent

Dingell  
Doggett  
Donnelly (IN)  
Doyle  
Dreier  
Driehaus  
Duncan  
Edwards (MD)  
Edwards (TX)  
Ehlers  
Ellison  
Ellsworth  
Emerson  
Engel  
Eshoo  
Etheridge  
Fallin  
Farr  
Fattah  
Filner  
Flake  
Fleming  
Forbes  
Fortenberry  
Foster  
Fox  
Frank (MA)  
Franks (AZ)  
Frelinghuysen  
Fudge  
Gallegly  
Garamendi  
Garrett (NJ)  
Gerlach  
Giffords  
Gingrey (GA)  
Gohmert  
Gonzalez  
Goodlatte  
Gordon (TN)  
Granger  
Graves  
Grayson  
Green, Al  
Green, Gene  
Griffith  
Grijalva  
Guthrie  
Hall (NY)  
Hall (TX)  
Halvorson  
Hare  
Harman  
Harper  
Hastings (FL)  
Hastings (WA)  
Heinrich  
Heller  
Hensarling  
Herger  
Higgins  
Himes  
Hincey  
Hinojosa  
Hirono  
Hodes  
Hoekstra  
Holden  
Holt  
Honda  
Hoyer  
Hunter  
Inglis  
Inslee  
Israel  
Issa  
Jackson (IL)  
Jackson-Lee  
(TX)  
Jenkins  
Johnson (GA)  
Johnson (IL)  
Johnson, E. B.  
Jones  
Jordan (OH)  
Kagen  
Kanjorski  
Kaptur  
Kildee  
Kilpatrick (MI)  
Kilroy  
Kind  
King (IA)

King (NY)  
Kingston  
Kirk  
Kirkpatrick (AZ)  
Kissell  
Klein (FL)  
Kline (MN)  
Kosmas  
Kratovil  
Kucinich  
Lamborn  
Lance  
Larsen (WA)  
Larson (CT)  
Latham  
LaTourette  
Latta  
Lee (CA)  
Levin  
Lewis (CA)  
Lewis (GA)  
Linder  
Lipinski  
LoBiondo  
Loebbeck  
Lofgren, Zoe  
Lortie  
Lucas  
Luetkemeyer  
Luján  
Lummis  
Lungren, Daniel  
E.  
Lynch  
Mack  
Maffei  
Maloney  
Manzullo  
Marchant  
Markey (CO)  
Markey (MA)  
Marshall  
Massa  
Matheson  
Matsui  
McCarthy (CA)  
McCarthy (NY)  
McCaul  
McClintock  
McCollum  
McCotter  
McDermott  
McGovern  
McHenry  
McIntyre  
McKeon  
McMahon  
McMorris  
Rodgers  
McNerney  
Meek (FL)  
Meeks (NY)  
Melancon  
Mica  
Michaud  
Miller (FL)  
Miller (MI)  
Miller (NC)  
Miller, Gary  
Miller, George  
Minnick  
Mitchell  
Mollohan  
Moore (KS)  
Moore (WI)  
Moran (KS)  
Moran (VA)  
Murphy (CT)  
Murphy (NY)  
Murphy, Tim  
Murtha  
Myrick  
Nadler (NY)  
Napolitano  
Neal (MA)  
Neugebauer  
Nye  
Oberstar  
Olson  
Olver  
Ortiz  
Pallone  
Pascarella  
Pastor (AZ)  
Paul  
Paulsen

Payne  
Perlmutter  
Perriello  
Peters  
Peterson  
Petri  
Pingree (ME)  
Pitts  
Platts  
Poe (TX)  
Polis (CO)  
Pomeroy  
Posey  
Price (GA)  
Price (NC)  
Putnam  
Quigley  
Radanovich  
Rahall  
Rangel  
Rehberg  
Reichert  
Reyes  
Richardson  
Rodriguez  
Roe (TN)  
Rogers (AL)  
Rogers (KY)  
Rohrabacher  
Rooney  
Ros-Lehtinen  
Roskam  
Ross  
Rothman (NJ)  
Roybal-Allard  
Royce  
Ruppersberger  
Rush  
Ryan (OH)  
Ryan (WI)  
Salazar  
Sanchez, Loretta  
Sarbanes  
Scalise  
Schakowsky  
Schauer  
Schiff  
Schmidt  
Schock  
Schrader  
Schwartz  
Scott (GA)  
Scott (VA)  
Sensenbrenner  
Serrano  
Sessions  
Sestak  
Shadeegg  
Shea-Porter  
Sherman  
Shimkus  
Shuler  
Shuster  
Simpson  
Sires  
Skelton  
Slaughter  
Smith (NE)  
Smith (NJ)  
Smith (TX)  
Smith (WA)  
Snyder  
Souder  
Space  
Speier  
Spratt  
Stark  
Stearns  
Sullivan  
Sutton  
Tanner  
Taylor  
Teague  
Terry  
Thompson (CA)  
Thompson (MS)  
Thompson  
Thornberry  
Tiahrt  
Tiberi  
Tierney  
Titus  
Tonko  
Towns  
Tsongas  
Turner

Upton  
Van Hollen  
Velázquez  
Visclosky  
Walden  
Walz  
Wamp  
Wasserman  
Schultz

Waters  
Watson  
Watt  
Waxman  
Weiner  
Welch  
Westmoreland  
Wexler  
Whitfield

Wilson (OH)  
Wilson (SC)  
Wittman  
Wolf  
Woolsey  
Wu  
Yarmuth  
Young (AK)  
Young (FL)

NOT VOTING—24

Aderholt  
Baird  
Boehner  
Brady (PA)  
Braley (IA)  
Capuano  
Cole  
Connolly (VA)  
Davis (KY)

Deal (GA)  
Gutierrez  
Herseeth Sandlin  
Hill  
Johnson, Sam  
Kennedy  
Langevin  
Lee (NY)  
Murphy, Patrick

Nunes  
Obey  
Pence  
Rogers (MI)  
Sánchez, Linda  
T.  
Stupak

□ 1437

So (two-thirds being in the affirmative) the rules were suspended and the resolution, as amended, was agreed to. The result of the vote was announced as above recorded.

The title of the resolution was amended so as to read: "Recognizing the efforts of postsecondary institutions offering career and technical education to educate and train workers for positions in high-demand industries."

A motion to reconsider was laid on the table.

#### PERSONAL EXPLANATION

Mr. COLE. Mr. Speaker, on today, Thursday, November 5, 2009, I was unavoidably detained and I missed a series of three votes. I missed rollcall Nos. 859, 860, and 861. Had I been present and voting, I would have voted as follows: Rollcall vote No. 859 "yea" (On Senate Amendments to H.R. 3548). Rollcall vote No. 860 "yea" (On agreeing to H. Con. Res. 139). Rollcall vote No. 861 "aye" (On agreeing to H. Res. 880).

#### PERSONAL EXPLANATION

Ms. HERSETH SANDLIN. Mr. Speaker, I regret that I was unable to participate in three votes on the floor of the House of Representatives today because I was participating in a panel on public safety and housing as part of the White House Tribal Nations Conference.

The first vote was on the Senate Amendments to H.R. 3548—Unemployment Compensation Extension Act of 2009. Had I been present, I would have voted "yea" on that question.

The second vote was H. Con. Res. 139—congratulating the first graduating class of the United States Air Force Academy on their 50th graduation anniversary and recognizing their contributions to the Nation. Had I been present, I would have voted "yea" on that question.

The third vote was H. Res. 880—Recognizing the efforts of career and technical colleges to educate and train workers for positions in high-demand industries. Had I been present, I would have voted "yea" on that question.

#### PERSONAL EXPLANATION

Mr. BRALEY of Iowa. Mr. Speaker, I regret missing floor votes today, Thursday, November 5, 2009. If I was present, I would have



voted: "yea" on rollcall 856, On Ordering the Previous Question on H. Res. 885, Providing for consideration of H.R. 2868—Chemical Facility Anti-Terrorism Act of 2009; "yea" on rollcall 857, agreeing to H. Res. 885, Providing for consideration of H.R. 2868—Chemical Facility Anti-Terrorism Act of 2009; "yea" on rollcall 858, agreeing to H. Res. 868, Honoring and recognizing the service and achievements of current and former female members of the Armed Forces; "yea" on rollcall 859, to suspend the rules and concur in the Senate amendment to H.R. 3547, the Worker, Homeownership, and Business Assistance Act; "yea" on rollcall 860, agreeing to H. Con. Res. 139, Congratulating the first graduating class of the United States Air Force Academy on their 50th graduation anniversary and recognizing their contributions to the Nation; "aye" on rollcall 861, agreeing to H. Res. 880, Recognizing the efforts of career and technical colleges to educate and train workers for positions in high-demand industries.

#### PERSONAL EXPLANATION

Mr. DAVIS of Kentucky. Mr. Speaker, today, Thursday, November 5, 2009, I was unavoidably detained from a vote series.

Had I been present I would have voted: On rollcall No. 858—"yes"—H. Res. 868, Honoring and recognizing the service and achievements of current and former female members of the Armed Forces; on rollcall No. 859—"yes"—Senate Amendments to H.R. 3548, Unemployment Compensation Extension Act of 2009; on rollcall No. 860—"yes"—H. Con. Res. 139, Congratulating the first graduating class of the United States Air Force Academy on their 50th graduation anniversary and recognizing their contributions to the Nation; on rollcall No. 861—"yes"—H. Res. 880, Recognizing the efforts of career and technical colleges to educate and train workers for positions in high-demand industries.

#### ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, the Chair will postpone further proceedings today on motions to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote incurs objection under clause 6 of rule XX.

Record votes on postponed questions will be taken later.

#### JACK F. KEMP POST OFFICE BUILDING

Mr. DAVIS of Illinois. Mr. Speaker, I move to suspend the rules and pass the bill (S. 1211) to designate the facility of the United States Postal Service located at 60 School Street, Orchard Park, New York, as the "Jack F. Kemp Post Office Building".

The Clerk read the title of the bill.

The text of the bill is as follows:

S. 1211

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. JACK F. KEMP POST OFFICE BUILDING.

(a) DESIGNATION.—The facility of the United States Postal Service located at 60 School Street, Orchard Park, New York, shall be known and designated as the "Jack F. Kemp Post Office Building".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the "Jack F. Kemp Post Office Building".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Illinois (Mr. DAVIS) and the gentleman from California (Mr. BILBRAY) each will control 20 minutes.

The Chair recognizes the gentleman from Illinois (Mr. DAVIS).

#### GENERAL LEAVE

Mr. DAVIS of Illinois. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. DAVIS of Illinois. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, on behalf of the Committee on Oversight and Government Reform, I am very proud to present S. 1211 for consideration. This measure would designate the facility of the United States Postal Service located at 60 School Street, Orchard Park, New York, as the "Jack F. Kemp Post Office Building."

S. 1211 was introduced July 9, 2009, by Senator CHUCK SCHUMER of New York and passed by the United States Senate by unanimous consent on September 4, 2009. The bill was then favorably reported out of the House Committee on Oversight and Government Reform by unanimous consent on October 29, 2009.

Mr. Speaker, S. 1211 will designate the postal facility at 60 School Street in Orchard Park, New York, as the Jack F. Kemp Post Office. Mr. Kemp launched his first political campaign in 1970 and ran for the congressional seat in upstate New York's 39th District. Mr. Kemp won his first election and proceeded to serve eight additional terms in Congress.

In addition to his tenure in Congress, Mr. Kemp's political career also includes his service as Secretary of Housing and Urban Development in the administration of President George Herbert Walker Bush from 1989 to 1993 and as the Republican Party's Vice Presidential candidate in 1996.

Mr. Speaker, regretfully, Jack Kemp passed away on May 2 of this year. In honor of his legacy of public service, Mr. Kemp was posthumously awarded the Presidential Medal of Freedom by President Barack Obama in 2009. Let us continue to honor this dedicated public servant through passage of this legisla-

tion to designate the School Street post office in his name.

I urge my colleagues to join me in supporting S. 1211 and reserve the balance of my time.

Mr. BILBRAY. Mr. Speaker, I yield myself as much time as I may consume.

I rise today in support of S. 1211, designating the United States Post Office at 60 School Street in Orchard Park, New York, as the Jack F. Kemp Post Office.

A former Congressman, Secretary of Housing and Urban Development, and, most importantly, a former quarterback for the San Diego Chargers, Jack Kemp will always be remembered in San Diego and around this country for his unwavering dedication to the ideals of conservative principles, a passion for economics, faith in helping poor people across the country, and for his eloquent quotes of Abraham Lincoln, Winston Churchill, or one of the influential citizens he met along his journey, such as Kimi Gray. Jack Kemp was truly an American original.

Through his years as a Congressman and as a Cabinet Secretary, Jack Kemp inspired us all to hold fast to our ideals. He was known and respected by people in both political parties and by people from all walks of life for his leadership and commitment to principles, no matter what the issue.

Jack Kemp spent the majority of his political career staunchly advocating tax cuts, promoting economic growth, and encouraging us all to recognize, as John Kennedy did, that a rising economic tide raises all boats. His devotion to supply-side economics saw its height when, due largely to his influence, it became a cornerstone in the Reagan administration's economic policy. He believed in expanding and growing the economic pie, not just parceling up what was available at the time.

He was also deeply committed to minority rights. Throughout his life, Jack Kemp relentlessly urged the GOP to fight for and support minorities. He sincerely believed in the party of Abraham Lincoln as the party that should be leading all people in this country.

□ 1445

As Secretary of Housing and Urban Development, he was a forceful advocate for affordable housing for all Americans, especially in the inner cities.

Congressman Kemp was a role model because of his integrity and his passion, whether it be on the football field, in the House Chamber or in the executive branch, and it is appropriate today that we name this post office after him.

I reserve the remainder of my time.

Mr. DAVIS of Illinois. Mr. Speaker, it is my pleasure to yield such time as he might consume to Representative BRIAN HIGGINS of New York.

Mr. HIGGINS. I thank the gentleman for the time.

Mr. Speaker, I rise today in support of S. 1211, a bill to honor former Congressman Jack Kemp by naming a post office in Orchard Park, New York, in his memory.

Jack Kemp was born and raised in Los Angeles, and he did much of his important work here in Washington. But in his adopted home of western New York we consider him one of our own. We are especially proud of the contributions he made to our community, both on the football field as quarterback of the Buffalo Bills and in public service as our Representative in the United States Congress.

During his 7-year tenure as quarterback of the Bills, Jack was embraced by the western New York community. He led the Bills to back-to-back AFL championships in 1964 and in 1965, winning the league's Most Valuable Player award in 1965 as well. Today he still ranks third all time in Bills' record books for yards and touchdowns thrown.

Before he ever stood for public office, Jack's leadership skills were evident when his teammates named him captain of the San Diego Chargers in 1960, and after he was claimed by Buffalo, the Bills, in 1962. In a preview of the interest he would later take in matters of economic policy, he cofounded the AFL Players' Association and was elected its president five times.

After he retired from football, Jack ran for an open House seat in New York's 31st congressional district. He served nine terms in the House of Representatives, where many of my colleagues had the privilege to serve with him.

As a Member of the House, Congressman Kemp was a tireless advocate for job creation, particularly in urban areas like Buffalo. He helped promote the idea of using special tax incentives to encourage job creation and private investment in distressed communities. This is a cause that I try to advance on behalf of western New York today through my work on the House Ways and Means Committee, and I owe a great deal to the foundation and the groundwork that Jack laid in this area.

After leaving Congress, Jack went on to serve as Secretary of Housing and Urban Development in the administration of George H. W. Bush, where he continued to advocate for America's urban centers through promoting enterprise zones to attract investment to cities and by moving more Americans into homeownership.

Jack also famously joined the 1996 Presidential ticket of Senator Bob Dole. While I may not have agreed with much of the platform on which they ran, I, like all western New Yorkers, was proud that Jack represented our community so well on the national stage.

Jack Kemp passed away on May 2, 2009, at his home in Bethesda, Maryland. He was an accomplished politician, an outstanding athlete and a tireless public servant to this Nation. He will be, and already is, greatly missed.

Mr. Speaker, S. 1211 would name a post office in Orchard Park, New York—where the Buffalo Bills play—after Jack Kemp. I would like to thank Senator CHARLES SCHUMER and Senator KIRSTEN GILLIBRAND for proposing this fitting tribute in his honor, and I urge its passage.

Mr. BILBRAY. Mr. Speaker, I yield as much time as he may consume to the distinguished gentleman from New York (Mr. KING).

Mr. KING of New York. I thank the gentleman from California for yielding, and I am proud to rise in support of this legislation which will be naming a post office in honor of Jack Kemp.

As the Speaker well knows, Jack Kemp was a long-time Congressman from New York. Jack Kemp was a proud Republican who was always willing to reach across party lines. Jack Kemp was a principled conservative who tried to find ways always to make those who were not as well off as others, to enable them to move up in society.

He was particularly interested in low-income areas. He was particularly interested in expanding housing opportunities for the underprivileged. As the Speaker knows, Congressman Kemp worked very closely with Congressman Garcia in the Bronx to expand housing, to provide more opportunities. Jack Kemp was a Republican who saw a large world. He saw a world where we could reach out to all people.

In my own case, I was proud to call Jack Kemp a friend. I knew him for many years before I had the opportunity to be here in Congress. During that time I was always struck by his integrity, by his candor and by his willingness to explain, even to people like myself, the nuances of economics. Jack Kemp was the author and the architect—and no one was more involved than he was in the Reagan Revolution—of the Kemp-Roth tax bills which brought unprecedented job growth to this country.

Mr. Speaker, Jack Kemp personified the very best of this Congress. He personified the very best of being an all-pro athlete, a person who was always there for his friends, always there for his country, a man who until the day he died was fighting for the principles he believed in.

I am proud to join in this resolution.

Mr. DAVIS of Illinois. Mr. Speaker, it's my pleasure to yield such time as he might consume to the gentleman from Pennsylvania, Representative FATTAH.

Mr. FATTAH. Mr. Speaker, I rise in support of this legislation. I knew Jack Kemp and worked with him when he

was Secretary of HUD on an initiative in Philadelphia to take a major step in reforming public housing, move away from high-rise public housing for families with children and create real neighborhoods. It was Secretary Kemp, former Congressman Kemp, who really supported this effort and today, with a whole new skyline, a city of neighborhoods, increased our property values in all of the communities where we took down the high-rises and created real homes and neighborhoods for families.

So I want to just rise—even though I know he is from New York and the Yankees won—as a Philadelphian to thank Jack Kemp for his service and to support this legislation today. He truly made a difference, not just as a Member of Congress but in his life after his work in the Congress as part of the President's Cabinet and as the Secretary of Housing and Urban Development.

Mr. BILBRAY. Mr. Speaker, I yield myself as much time as I may consume.

I want to compliment the gentleman from Pennsylvania. It's true, as somebody who had to endure, as my father was stationed in South Philly before the urban renewal, but mostly before we abandoned the old concepts of urban renewal and talked about true revitalization, which was a totally different restructuring of the way government went in, it wasn't the one-size-fits-all Washington knows best, it went in and incorporated with the community, allowed the community to decide, right sizing, human sizing, not just government sizing. It really did transform, especially South Philly.

As somebody that spent his childhood, some of his childhood in Philly, I was happy to see that Jack Kemp was able to work with the local Congressmen, the local community, to make sure that in the future the children in that area wouldn't have to endure what we did in those days.

I also want to point out, Mr. Speaker, that Jack Kemp was somebody who really stood up for the concept that thinking outside of the box was important, that Democrat or Republican or left and right, that being right was all that mattered and not worrying about staying in and being locked in to parameters of so-called political doctrine.

I would also like to point out in closing that as a personal friend of his, I appreciate the fact that we have been able to discuss his life. I just want to correct for the record that as far as I remember, Jack Kemp was not only a quarterback for the Chargers, he was the first quarterback for the Chargers. He was the guy that we first saw carrying the lightning bolt in what was then Balboa Stadium. We will always remember him not as a Congressman, not as a Secretary, but always the guy who was carrying the ball for those of us in San Diego.

I have no further requests for time, and I yield back the balance of my time.

Mr. TIAHRT. Mr. Speaker, I would like to add my voice to those supporting S. 1211, honoring the life of Jack Kemp by designating the facility of the United States Postal Service located at 60 School Street, Orchard Park, New York, as the "Jack F. Kemp Post Office Building."

Jack was an accomplished and respected politician and athlete. He served his country in the United States Army Reserve and was a professional quarterback for 13 years, probably best known for his time with the San Diego Chargers and Buffalo Bills. He served as a Member of this body from 1971 to 1989, as the Secretary of Housing and Urban Development from 1989 to 1993, and as the Republican Party's nominee for Vice President and presidential nominee Bob Dole's running-mate in the 1996 election.

Both as a public official and as a private citizen, Jack was a great voice for common-sense conservatism in America. Laws still bear his name, which is a testament to his effectiveness as a Member of Congress. Jack Kemp left behind a legacy of principled determination and resolve to find practical solutions, not only within the Republican Party, but in the realm of public service as a whole.

Even more important than his career accomplishments was Jack's strong character. He had a deep faith that he lived out every day. He cherished his wife Joanne and their four children, making sure that, despite his many roles and responsibilities, he was there for them as a husband and father.

I am honored to have known Jack as a colleague and friend, and hope that the designation of the Jack F. Kemp Post Office Building will serve as one of many different recognitions of his life and service to our country. His family remains in our thoughts and prayers, and I encourage my colleagues to keep his memory alive as we work together in the fight for freedom and opportunity for all Americans.

Mr. DAVIS of Illinois. Mr. Speaker, I have no further requests for time, I would urge the passage of S. 1211, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois (Mr. DAVIS) that the House suspend the rules and pass the bill, S. 1211.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the ayes have it.

Mr. DAVIS of Illinois. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

#### CESAR E. CHAVEZ POST OFFICE

Mrs. DAVIS of California. Mr. Speaker, I move to suspend the rules and pass the bill (S. 748) to redesignate the facility of the United States Postal

Service located at 2777 Logan Avenue in San Diego, California, as the "Cesar E. Chavez Post Office".

The Clerk read the title of the bill.

The text of the bill is as follows:

S. 748

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. CESAR E. CHAVEZ POST OFFICE.

(a) REDESIGNATION.—The facility of the United States Postal Service located at 2777 Logan Avenue in San Diego, California, and known as the Southeastern Post Office, shall be known and designated as the "Cesar E. Chavez Post Office".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the "Cesar E. Chavez Post Office".

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from California (Mrs. DAVIS) and the gentleman from California (Mr. BILBRAY) each will control 20 minutes.

The Chair recognizes the gentlewoman from California.

#### GENERAL LEAVE

Mrs. DAVIS of California. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days in which to revise and extend their remarks.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from California?

There was no objection.

Mrs. DAVIS of California. Mr. Speaker, I now yield myself such time as I may consume.

Mr. Speaker, I would like to encourage passage of S. 748, a bill to name a post office in the Logan Heights community of San Diego after Cesar Chavez.

I originally introduced this bill, and I am very pleased to see Senator BOXER's companion legislation move forward. Cesar Chavez was born in Yuma, Arizona, in 1927, and he spent the majority of his life advocating for safe working conditions and fair wages for migrant workers.

This work of his was driven by a commitment to the principles of non-violence and community building, which has become his legacy. Cesar Chavez means so much to my constituents in San Diego because he embodied the spirit of our city, a big Navy town.

In addition to his community activism, Mr. Chavez served in the Navy, was a World War II veteran, and a recipient of the Presidential Medal of Freedom. Though most well-known for his work with farm workers, in San Diego we know him best for his work improving conditions for the men and women who worked on fishing boats and in the local canneries.

Let me tell you a little bit about Logan Heights. Logan Heights is actually one of the oldest communities in the City of San Diego, and it's a neigh-

borhood rich in Hispanic heritage. Cesar Chavez is a hero to the people of Logan Heights.

Every year the community holds a parade in honor of him on his birthday, March 31, which is celebrated in California as a State holiday. In fact, many young people devote themselves to service on that day.

In 2003, the United States Postal Service issued a commemorative postage stamp to honor Cesar Chavez. A post office named in his honor in our community would be a lasting tribute to his legacy and symbolic of how one person can truly make a difference.

Please join me in recognizing an American hero and honoring the community of Logan Heights.

I reserve the balance of my time.

Mr. BILBRAY. Mr. Speaker, I have no speakers at this time, and I reserve the balance of my time.

Mrs. DAVIS of California. Mr. Speaker, I yield 3 minutes to my friend and colleague from California (Ms. ZOE LOFGREN).

Ms. ZOE LOFGREN of California. Mr. Speaker, it is a great honor to be able to be here today to urge passage of this bill. Especially for those of us who personally knew Cesar Chavez, it has a special meaning.

Every year in San Jose, on Cesar's birthday, we walk from Cesar Chavez School on the east side to Cesar Chavez Plaza, which is right in the heart of San Jose.

□ 1500

Many of his relatives continue to live in San Jose, and in fact he did his first organizing about eight blocks from my home in San Jose. So it is with a great deal of pride that people in San Jose, California, endorse and support the idea of this post office, even if it is in San Diego, not in San Jose.

We would just like to say that it is an honor to be supportive of his memory. We think of him often. He was a leader who brought people together, and I will give just one example. We have the Mexican Heritage Plaza in San Jose that sits on the site of the Safeway that was the object of the first organizing effort on the grape boycott that Cesar Chavez led. One of the major contributors to that plaza is Safeway. So he managed actually to bring people who were in opposition together and made for a more peaceful and a more just world.

Mr. Speaker, I urge my colleagues to support this tribute to him.

Mr. BILBRAY. Mr. Speaker, I reserve my time.

Mrs. DAVIS of California. Mr. Speaker, I am pleased to yield 3 minutes to my colleague and friend from San Diego, Mr. FILNER, who, by the way, actually represented this district and had carried similar legislation.

Mr. FILNER. I thank Mrs. DAVIS. As she said, I represented this area, Logan

Heights, for 10 years in Congress. I want to thank her for picking up the banner and doing something that the community really wants and understands as a clear incentive and appropriate honor that children in the area and other members will look to Cesar Chavez as their hero.

When I was a graduate student at Cornell University studying history, I had a colleague in the department of philosophy who was doing a Ph.D. thesis on the nature of saintliness, what constitutes a saint throughout history. The only American figure that he could find really to exemplify his notion of saintliness was Cesar Chavez. And it was not just because Chavez was an advocate of some of the most oppressed members of our society, farm workers, seasonal workers, but in the manner in which he approached politics.

I marched with Cesar. I knew him. He approached politics with an air of humility and contemplation, and, of course, nonviolence. The marches he undertook, the boycotts, the hunger strikes, all were done in a spirit that he was going to serve the people that he represented. He was their servant, and he exemplifies the notion of being a servant to those people in the most calm, nonviolent way that you can imagine; and people around him, and as his movement grew, were inspired by this incredible saintly manner that he exemplified and practiced.

He was a politician, yes, and he organized the farm workers. He organized boycotts. He had great victories for organizing and unionizing farm workers in California and other parts of the Nation. But it was the manner in which he did this, the calmness, the nonviolence, the sense that he could take all of these indignities and all the pressure and oppression, and respond in a positive way.

I think that is what influenced so many people, and why this honor that Mrs. DAVIS is sponsoring today is so important, to name a post office in the Logan Heights Community that really were his constituents.

Mr. BILBRAY. Mr. Speaker, just to close, I yield myself such time as I may consume.

Mr. Speaker, there is a lot about Cesar Chavez that a lot of people don't remember. The fact is that he was a decorated naval veteran. Also, they don't remember that Cesar Chavez was probably a good, well, 20 years ahead of his time. In fact, Cesar Chavez in 1969 led the first march on the Mexican border to protest illegal immigration. He was accompanied by Walter Mondale and Ralph Abernathy at that time to alert all to the problems that were equating with illegal immigration at that time.

In fact, in 1979, Mr. Chavez, testifying before Congress, pointed out that when farm workers strike and their strike is successful, the employers go to Mexico

and have unlimited, unrestricted use of illegal immigrants to break our strikes. He also pointed out that the employers used professional smugglers to recruit and transport human contraband across the Mexican border specifically to break the union strikes of the farm workers.

I think as we recognize him, we understand that history does repeat itself. Years and years later, 20 years later, there were those raising the issue of the impact on the working class by illegal immigration, but first and foremost there was Cesar Chavez at the Mexican border saying illegal immigration is hurting us more than anybody is willing to admit and that the growers and the wealthy were benefiting from the exploitation of illegal immigration. History will show that Cesar Chavez was right and brave to stand up in 1969, and we should be doing the same today.

I yield back the balance of my time. Mrs. DAVIS of California. Mr. Speaker, before closing, I include for the RECORD this letter from the council president of San Diego, Mr. Ben Hueso, who also is celebrating and encouraging us to support this post office for Cesar Chavez in the community and recognizing what a hero he is to the people.

THE CITY OF SAN DIEGO,  
San Diego, CA, October 6, 2009.

Hon. SUSAN A. DAVIS,  
House of Representatives, Washington, DC.

DEAR MS. DAVIS: Cesar Chavez is a hero in my community, so I heartily endorse the proposal that the United States Postal Service facility located at 2777 Logan Avenue, San Diego, be renamed the Cesar E. Chavez Post Office in his honor. Though he passed away in 1993, this union leader's accomplishments continue to impact the quality of life for farm workers and other laborers.

I am happy that you have sponsored H.R. 1820 to effect this change, and that the bill has 15 House cosponsors. I am not surprised that support for the redesignation of the post office is widespread. This proposal was unanimously endorsed by the Senate in August, cosponsored by Senator Barbara Boxer.

Please let me know if there is anything else I can do to support your effort to honor Cesar Chavez.

Sincerely,

BENJAMIN HUESO,  
Council President.

Mr. Speaker, I also wanted to mention in closing, I mentioned the fact that we have a holiday in California that young people devote to service. I think what is so really engaging about that particular holiday is that we have young people throughout the community that are so eager to carry on his legacy. They do it throughout the community in multiple ways, with the environment, educating others, educating their peers and going into schools and preschool centers to really feel that they are part of his legacy and to speak to the students.

To see the way that they really tell you so proudly of the experiences that they have had in his memory is very,

very appealing; and I think it is continuing to make a difference in the lives of young people in San Diego today.

With that, I urge my colleagues to join me in supporting S. 748.

I yield back the balance of my time. The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from California (Mrs. DAVIS) that the House suspend the rules and pass the bill, S. 748.

The question was taken; and (two-thirds being in the affirmative) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

#### AMERICAN MEDICAL ISOTOPES PRODUCTION ACT OF 2009

Mr. MARKEY of Massachusetts. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3276) to promote the production of molybdenum-99 in the United States for medical isotope production, and to condition and phase out the export of highly enriched uranium for the production of medical isotopes, as amended.

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 3276

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE.

This Act may be cited as the "American Medical Isotopes Production Act of 2009".

#### SEC. 2. FINDINGS.

Congress finds the following:

(1) Molybdenum-99 is a critical medical isotope whose decay product technetium-99m is used in approximately two-thirds of all diagnostic medical isotope procedures in the United States, or 16 million medical procedures annually, including for the detection of cancer, heart disease, and thyroid disease, investigating the operation of the brain and kidney, imaging stress fractures, and tracking cancer stages.

(2) Molybdenum-99 has a half-life of 66 hours, and decays at a rate of approximately one percent per hour after production. As such, molybdenum-99 cannot be stockpiled. Instead, molybdenum-99 production must be scheduled to meet the projected demand and any interruption of the supply chain from production, to processing, packaging, distribution, and use can disrupt patient care.

(3) There are no facilities within the United States that are dedicated to the production of molybdenum-99 for medical uses. The United States must import molybdenum-99 from foreign production facilities, and is dependent upon the continued operation of these foreign facilities for millions of critical medical procedures annually.

(4) Most reactors in the world which produce molybdenum-99 utilize highly enriched uranium, which can also be used in the construction of nuclear weapons. In January 2009, the National Academy of Sciences encouraged molybdenum-99 producers to convert from highly enriched uranium to low enriched uranium, and found that there are "no technical reasons that adequate quantities cannot be produced from LEU targets

in the future” and that “a 7-10 year phase-out period would likely allow enough time for all current HEU-based producers to convert”.

(5) The 51-year-old National Research Universal reactor in Canada, which is responsible for producing approximately sixty percent of United States demand for molybdenum-99 under normal conditions, was shut down unexpectedly May 14, 2009, after the discovery of a leak of radioactive water. It is unclear whether the National Research Universal reactor will be able to resume production of molybdenum-99.

(6) The United States currently faces an acute shortage of molybdenum-99 and its decay product technetium-99m due to technical problems which have seriously interrupted operations of foreign nuclear reactors producing molybdenum-99.

(7) As a result of the critical shortage of molybdenum-99, patient care in the United States is suffering. Medical procedures requiring technetium-99 are being rationed or delayed, and alternative treatments which are less effective, more costly, and may result in increased radiation doses to patients are being substituted in lieu of technetium-99.

(8) The radioactive isotope molybdenum-99 and its decay product technetium-99m are critical to the health care of Americans, and the continued availability of these isotopes, in a reliable and affordable manner, is in the interest of the United States.

(9) The United States should move expeditiously to ensure that an adequate and reliable supply of molybdenum-99 can be produced in the United States, without the use of highly enriched uranium.

(10) Other important medical isotopes, including iodine-131 and xenon-133, can be produced as byproducts of the molybdenum-99 fission production process. In January 2009, the National Academy of Sciences concluded that these important medical isotopes “will be sufficiently available if Mo-99 is available”. The coproduction of medically useful isotopes such as iodine-131 and xenon-133 is an important benefit of establishing molybdenum-99 production in the United States without the use of highly enriched uranium, and these coproduced isotopes should also be available for necessary medical uses.

(11) The United States should accelerate its efforts to convert nuclear reactors worldwide away from the use of highly enriched uranium, which can be used in nuclear weapons, to low enriched uranium. Converting nuclear reactors away from the use of highly enriched uranium is a critically important element of United States efforts to prevent nuclear terrorism, and supports the goal announced in Prague by President Barack Obama on April 5, 2009, to create “a new international effort to secure all vulnerable nuclear material around the world within four years”.

(12) The United States is engaged in an effort to convert civilian nuclear test and research reactors from highly enriched uranium fuel to low enriched uranium fuel through the Global Threat Reduction Initiative. As of September 2009, this program has successfully converted 17 reactors in the United States to low enriched uranium fuel, some of which are capable of producing molybdenum-99 for medical uses.

### SEC. 3. IMPROVING THE RELIABILITY OF DOMESTIC MEDICAL ISOTOPE SUPPLY.

(a) MEDICAL ISOTOPE DEVELOPMENT PROJECTS.—

(1) IN GENERAL.—The Secretary of Energy shall establish a program to evaluate and

support projects for the production in the United States, without the use of highly enriched uranium, of significant quantities of molybdenum-99 for medical uses.

(2) CRITERIA.—Projects shall be judged against the following primary criteria:

(A) The length of time necessary for the proposed project to begin production of molybdenum-99 for medical uses within the United States.

(B) The capability of the proposed project to produce a significant percentage of United States demand for molybdenum-99 for medical uses.

(C) The cost of the proposed project.

(3) EXEMPTION.—An existing reactor fueled with highly enriched uranium shall not be disqualified from the program if the Secretary of Energy determines that—

(A) there is no alternative nuclear reactor fuel, enriched in the isotope U-235 to less than 20 percent, that can be used in that reactor;

(B) the reactor operator has provided assurances that, whenever an alternative nuclear reactor fuel, enriched in the isotope U-235 to less than 20 percent, can be used in that reactor, it will use that alternative in lieu of highly enriched uranium; and

(C) the reactor operator has provided a current report on the status of its efforts to convert the reactor to an alternative nuclear reactor fuel enriched in the isotope U-235 to less than 20 percent, and an anticipated schedule for completion of conversion.

(4) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Energy for carrying out the program under paragraph (1) \$163,000,000 for the period encompassing fiscal years 2010 through 2014.

(b) DEVELOPMENT ASSISTANCE.—The Secretary of Energy shall establish a program to provide assistance for—

(1) the development of fuels, targets, and processes for domestic molybdenum-99 production that do not use highly enriched uranium; and

(2) commercial operations using the fuels, targets, and processes described in paragraph (1).

(c) URANIUM LEASE AND TAKE BACK.—The Secretary of Energy shall establish a program to make low enriched uranium available, through lease contracts, for irradiation for the production of molybdenum-99 for medical uses. The lease contracts shall provide for the Secretary to retain responsibility for the final disposition of radioactive waste created by the irradiation, processing, or purification of leased uranium. The lease contracts shall also provide for compensation in cash amounts equivalent to prevailing market rates for the sale of comparable uranium products and for compensation in cash amounts equivalent to the net present value of the cost to the Federal Government for the final disposition of such radioactive waste, provided that the discount rate used to determine the net present value of such costs shall be no greater than the average interest rate on marketable Treasury securities. The Secretary shall not barter or otherwise sell or transfer uranium in any form in exchange for services related to final disposition of the radioactive waste from such leased uranium.

### SEC. 4. EXPORTS.

Section 134 of the Atomic Energy Act of 1954 (42 U.S.C. 2160d(b)) is amended by striking subsections b. and c. and inserting in lieu thereof the following:

“b. Effective 7 years after the date of enactment of the American Medical Isotopes

Production Act of 2009, the Commission may not issue a license for the export of highly enriched uranium from the United States for the purposes of medical isotope production.

“c. The period referred to in subsection b. may be extended for no more than four years if, no earlier than 6 years after the date of enactment of the American Medical Isotopes Production Act of 2009, the Secretary of Energy certifies to the Committee on Energy and Commerce of the House of Representatives and the Committee on Energy and Natural Resources of the Senate that—

“(1) there is insufficient global supply of molybdenum-99 produced without the use of highly enriched uranium available to satisfy the domestic United States market; and

“(2) the export of United States-origin highly enriched uranium for the purposes of medical isotope production is the most effective temporary means to increase the supply of molybdenum-99 to the domestic United States market.

“d. At any time after the restriction of export licenses provided for in subsection b. becomes effective, if there is a critical shortage in the supply of molybdenum-99 available to satisfy the domestic United States medical isotope needs, the restriction of export licenses may be suspended for a period of no more than 12 months, if—

“(1) the Secretary of Energy certifies to the Congress that the export of United States-origin highly enriched uranium for the purposes of medical isotope production is the only effective temporary means to increase the supply of molybdenum-99 necessary to meet United States medical isotope needs during that period; and

“(2) the Congress passes a Joint Resolution approving the temporary suspension of the restriction of export licenses.

“e. As used in this section—

“(1) the term ‘alternative nuclear reactor fuel or target’ means a nuclear reactor fuel or target which is enriched to less than 20 percent in the isotope U-235;

“(2) the term ‘highly enriched uranium’ means uranium enriched to 20 percent or more in the isotope U-235;

“(3) a fuel or target ‘can be used’ in a nuclear research or test reactor if—

“(A) the fuel or target has been qualified by the Reduced Enrichment Research and Test Reactor Program of the Department of Energy; and

“(B) use of the fuel or target will permit the large majority of ongoing and planned experiments and isotope production to be conducted in the reactor without a large percentage increase in the total cost of operating the reactor; and

“(4) the term ‘medical isotope’ includes molybdenum-99, iodine-131, xenon-133, and other radioactive materials used to produce a radiopharmaceutical for diagnostic, therapeutic procedures or for research and development.”.

### SEC. 5. REPORT ON DISPOSITION OF EXPORTS.

Not later than 1 year after the date of the enactment of this Act, the Chairman of the Nuclear Regulatory Commission, after consulting with other relevant agencies, shall submit to the Congress a report detailing the current disposition of previous United States exports of highly enriched uranium, including—

(1) their location;

(2) whether they are irradiated;

(3) whether they have been used for the purpose stated in their export license;

(4) whether they have been used for an alternative purpose and, if so, whether such alternative purpose has been explicitly approved by the Commission;

(5) the year of export, and reimportation, if applicable;

(6) their current physical and chemical forms; and

(7) whether they are being stored in a manner which adequately protects against theft and unauthorized access.

#### SEC. 6. DOMESTIC MEDICAL ISOTOPE PRODUCTION.

(a) IN GENERAL.—Chapter 10 of the Atomic Energy Act of 1954 (42 U.S.C. 2131 et seq.) is amended by adding at the end the following new section:

“SEC. 112. DOMESTIC MEDICAL ISOTOPE PRODUCTION. a. The Commission may issue a license, or grant an amendment to an existing license, for the use in the United States of highly enriched uranium as a target for medical isotope production in a nuclear reactor, only if, in addition to any other requirement of this Act—

“(1) the Commission determines that—

“(A) there is no alternative medical isotope production target, enriched in the isotope U-235 to less than 20 percent, that can be used in that reactor; and

“(B) the proposed recipient of the medical isotope production target has provided assurances that, whenever an alternative medical isotope production target can be used in that reactor, it will use that alternative in lieu of highly enriched uranium; and

“(2) the Secretary of Energy has certified that the United States Government is actively supporting the development of an alternative medical isotope production target that can be used in that reactor.

“b. As used in this section—

“(1) the term ‘alternative medical isotope production target’ means a nuclear reactor target which is enriched to less than 20 percent of the isotope U-235;

“(2) a target ‘can be used’ in a nuclear research or test reactor if—

“(A) the target has been qualified by the Reduced Enrichment Research and Test Reactor Program of the Department of Energy; and

“(B) use of the target will permit the large majority of ongoing and planned experiments and isotope production to be conducted in the reactor without a large percentage increase in the total cost of operating the reactor;

“(3) the term ‘highly enriched uranium’ means uranium enriched to 20 percent or more in the isotope U-235; and

“(4) the term ‘medical isotope’ includes molybdenum-99, iodine-131, xenon-133, and other radioactive materials used to produce a radiopharmaceutical for diagnostic, therapeutic procedures or for research and development.”

(b) TABLE OF CONTENTS.—The table of contents for the Atomic Energy Act of 1954 is amended by inserting the following new item after the item relating to section 111:

“Sec. 112. Domestic medical isotope production.”

#### SEC. 7. ANNUAL DEPARTMENT OF ENERGY REPORTS.

The Secretary of Energy shall report to Congress no later than one year after the date of enactment of this Act, and annually thereafter for 5 years, on Department of Energy actions to support the production in the United States, without the use of highly enriched uranium, of molybdenum-99 for medical uses. These reports shall include the following:

(1) For medical isotope development projects—

(A) the names of any recipients of Department of Energy support under section 3 of this Act;

(B) the amount of Department of Energy funding committed to each project;

(C) the milestones expected to be reached for each project during the year for which support is provided;

(D) how each project is expected to support the increased production of molybdenum-99 for medical uses;

(E) the findings of the evaluation of projects under section 3(a)(2) of this Act; and

(F) the ultimate use of any Department of Energy funds used to support projects under section 3 of this Act.

#### SEC. 8. NATIONAL ACADEMY OF SCIENCES REPORT.

The Secretary of Energy shall enter into an arrangement with the National Academy of Sciences to conduct a study of the state of molybdenum-99 production and utilization, to be provided to the Congress not later than 5 years after the date of enactment of this Act. This report shall include the following:

(1) For molybdenum-99 production—

(A) a list of all facilities in the world producing molybdenum-99 for medical uses, including an indication of whether these facilities use highly enriched uranium in any way;

(B) a review of international production of molybdenum-99 over the previous 5 years, including—

(i) whether any new production was brought online;

(ii) whether any facilities halted production unexpectedly; and

(iii) whether any facilities used for production were decommissioned or otherwise permanently removed from service; and

(C) an assessment of progress made in the previous 5 years toward establishing domestic production of molybdenum-99 for medical uses, including the extent to which other medical isotopes coproduced with molybdenum-99, such as iodine-131 and xenon-133, are being used for medical purposes.

(2) An assessment of the progress made by the Department of Energy and others to eliminate all worldwide use of highly enriched uranium in reactor fuel, reactor targets, and medical isotope production facilities.

#### SEC. 9. DEFINITIONS.

In this Act the following definitions apply:

(1) HIGHLY ENRICHED URANIUM.—The term “highly enriched uranium” means uranium enriched to 20 percent or greater in the isotope U-235.

(2) LOW ENRICHED URANIUM.—The term “low enriched uranium” means uranium enriched to less than 20 percent in the isotope U-235.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Massachusetts (Mr. MARKEY) and the gentleman from Michigan (Mr. UPTON) each will control 20 minutes.

The Chair recognizes the gentleman from Massachusetts.

Mr. MARKEY of Massachusetts. I reluctantly, but I think graciously, congratulate the Speaker and his Yankees on their victory in the World Series. Twenty-seven times—

Mr. UPTON. Reserving the right to object.

Mr. MARKEY of Massachusetts. I appreciate the gentleman from Michigan's warning to me to not go overboard; but it is, without question, a historic day.

#### GENERAL LEAVE

Mr. MARKEY of Massachusetts. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous material in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

Mr. MARKEY of Massachusetts. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the American Medical Isotopes Production Act will safeguard Americans' health care and our national security. By helping to establish production of critical medical isotopes here at home, the American Medical Isotopes Production Act will end our dependence on aging nuclear reactors outside of our borders. And by responsibly ending the export of weapons-usable, highly enriched uranium for medical isotope production, this bill will give a much-needed boost to U.S. efforts to permanently convert all reactors away from the unnecessary and dangerous use of bomb-quality material.

The bipartisan bill authorizes \$163 million for the Department of Energy to evaluate and support projects in the private sector or at universities to develop domestic sources of the most critical medical isotopes. This is necessary because we currently face a daunting supply shortage caused by technical problems at the aging foreign reactors upon which we are presently reliant. With a robust and reliable domestic production capacity, the 50,000 daily procedures which normally occur in this country, including for cancer scans and bone and brain imaging, will be secure.

The nuclear nonproliferation benefits of this bill are significant and they are timely. Shockingly, the United States still allows for nuclear weapons-grade highly enriched uranium to be exported to other countries for medical isotope production. This 1950s-era policy simply does not work in a post-9/11 world. It is dangerous, unnecessary, and it must come to an end. We simply cannot afford to have additional nuclear weapons materials in circulation when we know that terrorists would like nothing more than to steal or buy such dangerous materials.

Fortunately, according to the National Academy of Sciences, there are no technical or economic reasons why medical isotopes cannot be produced with low enriched uranium.

Currently, nuclear medicine is practiced mostly in the most developed countries, like the United States. But that is changing. And as more countries practice more nuclear medicine, more medical isotopes will need to be produced. In preparation for this, it is absolutely essential that we stop using



highly enriched uranium for this purpose.

Previously, the United States spread these dangerous technologies around the world, including to some surprising places. For instance, the United States built a reactor in Iran which we fueled with weapons-grade uranium. Today, the Iranians want to use this reactor to produce medical isotopes, and negotiations are ongoing on this point. Fortunately for the world, the Iranian reactor was converted to low enriched uranium by Argentina in the 1980s. Converting reactors away from the use of highly enriched uranium, both at home and abroad, is very much in our national security interest. And that is exactly what this bill will do.

By sending a clear signal that the United States will no longer export this dangerous material, H.R. 3276 will accelerate U.S. efforts to convert reactors around the world from highly enriched to low enriched uranium. In fact, this has already begun, as the Department of Energy testified in September that all the medical isotope production reactors around the world which still use highly enriched uranium have approached the Department of Energy to ask for assistance in converting to low enriched uranium in the past few years.

This bill has the support of a wide variety of stakeholders, including the unanimous support of industry and the nuclear medical community, and nuclear nonproliferation advocates.

This is also a bipartisan bill, and I would like very much to thank my friend FRED UPTON from Michigan for working in such a bipartisan fashion. This is the way it should be done, and we thank him and we thank the other members of the minority and the majority for working towards this conclusion. You could not have a more excellent partner. Mr. WAXMAN and I and the other members of the committee want to note the incredible cooperation that did exist.

This bill will help to ensure that America has a reliable domestic source of the radio isotopes needed for life-saving medical procedures, it will close a dangerous loophole in our Nation's nonproliferation policy by phasing out exports of highly enriched uranium, and it does so without increasing the Federal deficit, according to the Congressional Budget Office.

I urge a "yes" vote on this important bill.

I reserve the balance of my time.

□ 1515

Mr. UPTON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, let me just start off by congratulating the gentleman from New York. I feel we will have a resolution honoring the Yankees. I would just note as a Tigers, Cubs and White Sox fan and coming from Michigan,

Derek Jeter does hail from Kalamazoo, Michigan. And to his credit, he has not forgotten his roots. He is a great individual, and we appreciate his prowess on the field. I congratulate him and the Yankees as well.

Mr. Speaker, I too want to commend my colleague, ED MARKEY, and the Democratic and Republican Members on this committee for moving swiftly on an issue that is of critical importance. Problems abroad have exposed troublesome flaws here at home in nuclear medicine. Every year, 16 million medical procedures in the United States rely on the import of nuclear isotope molybdenum-99. That is 50,000 procedures every single day, and yet we import 100 percent of our supply of this isotope.

The Canadian reactor that has for decades supplied over 60 percent of molybdenum-99 is now off-line, and the nuclear reactor may never ever return to operation. Among their many medical uses, these isotopes are critical in the procedures for the detection and staging of cancer as well as heart disease. Without a proper supply of this critical isotope, tens of thousands of patients seeking diagnosis or treatment will be in jeopardy literally every single day.

So what this bill does, it will help insure a reliable supply of the most critical isotopes that are produced here in the U.S. Today, with the passage of this bill, we are a step closer to ensuring the tens of thousands of Americans who seek diagnosis and treatment every day promptly receive the care that they need. Literally, the clock is ticking, and the well-being of countless folks continues to hang in the balance.

I would note that there is a good laundry list of organizations that support this legislation, among them: American Association of Physicists in Medicine; American College of Radiology; American College of Cardiology; as well as the American Society of Nuclear Cardiology.

We don't want to deny Americans this long-practiced medical procedure which we know produces early diagnosis of a good number of diseases, and we can save countless American lives.

I would urge my colleagues on both sides to support this. Again, I congratulate the speed with which our committee held hearings, moved this through both the subcommittee and full committee. Both Mr. WAXMAN and BARTON are to be complimented, and particularly my friend, ED MARKEY, who recognized this very early, and we worked together to get it to the House floor.

I reserve the balance of my time.

Mr. MARKEY of Massachusetts. Mr. Speaker, I yield 3 minutes to the gentleman from Washington (Mr. INSLEE).

Mr. INSLEE. Mr. Speaker, I want to thank the chairman and Mr. UPTON for their leadership on this bill. I want to

thank Mr. MARKEY for working with me to include language in the bill that recognizes the 17 research reactors in this country that have converted from highly enriched uranium to low enriched uranium fuel. One of these reactors is in my home State at Washington State University. This reactor can be used for medical isotope production with the use of highly enriched uranium.

I would like to clarify with Mr. MARKEY that the purpose of section 3(a)(3) which allows reactors that are in the process of converting from highly enriched uranium to low enriched uranium fuel to qualify for funds under this bill. It is my understanding that this provision should not be interpreted as giving any preferences to these reactors and that all applicants for these funds will be given full and equal consideration.

I yield to Mr. MARKEY.

Mr. MARKEY of Massachusetts. The gentleman is correct. Neither this provision nor the bill as a whole give any preference whatsoever to any technology type. The purpose of this provision is to give the Department of Energy the greatest number of options for dealing with the medical isotope crisis while also maintaining the incentive for reactors to convert to low enriched uranium fuel.

The bill includes several conditions on reactors using the exemption to ensure that their conversion to low enriched uranium fuel is successful. I fully expect the Department of Energy to give full consideration to every application for these funds, and to do so in an equitable and technology-neutral manner.

Mr. INSLEE. I would like to thank the Chair for that clarification and for working with me on one of those conditions which would make sure that we have updated status report for reactors using this exemption.

#### PARLIAMENTARY INQUIRY

Mr. INSLEE. Before I close, I have a parliamentary inquiry, if I may pose it.

The SPEAKER pro tempore. The gentleman may state his parliamentary inquiry.

Mr. INSLEE. Mr. Speaker, do the rules of the House prevent Members, including those in the Chair, from wearing Yankee hats on the floor of the House of Representatives?

The SPEAKER pro tempore. The wearing of a hat is in violation of the House rules.

Mr. INSLEE. I thank you, Mr. Speaker. I am sure that rule is supported by the vast majority of Americans. Thank you for your Speakership.

Mr. UPTON. Mr. Speaker, I urge my colleagues to vote for this bill, and I yield back the balance of my time.

Mr. MARKEY of Massachusetts. Mr. Speaker, I yield myself the balance of my time to close.

Mr. Speaker, I include for the RECORD the letters of support for H.R.



3276, including from the Society For Nuclear Medicine, the American College of Cardiology, the Health Physics Society and the Union of Concerned Scientists.

GE HITACHI NUCLEAR ENERGY,

*Wilmington, NC, July 22, 2009.*

Hon. HENRY A. WAXMAN,  
*Chairman, Committee on Energy and Commerce,  
House of Representatives, Rayburn House  
Office Building, Washington, DC.*

DEAR CONGRESSMAN WAXMAN, On behalf of GE Hitachi Nuclear Energy, I would like to offer my strong support for House passage of the American Medical Isotopes Production Act, introduced by Representative Edward Markey and Representative Fred Upton.

This bill will provide the resources necessary for the United States to move expeditiously to ensure that an adequate and reliable supply of molybdenum-99 can be produced in the United States, without the use of highly enriched uranium. Accordingly, Americans will benefit from a more robust supply of life-saving diagnostic medical isotopes like molybdenum-99.

GEH is pleased that this legislation has been introduced. It is in the best interest of the health and well being of the citizens of our great nation that this legislation is passed. We look forward to working with the government in bringing a solution to the medical isotope crisis facing America.

Thank you for your leadership on this important issue.

Sincerely,

LISA M. PRICE.

NUCLEAR THREAT INITIATIVES,

*Washington, DC, July 20, 2009.*

Hon. EDWARD J. MARKEY,  
*House of Representatives,  
Washington, DC.*

DEAR CONGRESSMAN MARKEY, You have asked for our reaction to your draft American Medical Isotopes Production Act of 2009. I believe this legislation can and will make an important contribution to reducing commercial use of highly enriched uranium (HEU).

As we know, HEU is the most attractive raw ingredient for nuclear terrorism, and its use to produce essential medical isotopes constitutes a continuing and dangerous global commerce in HEU. Means are now available to meet the world's medical isotopic needs with production technologies that do not rely on HEU, and conversion of existing facilities appears achievable in a span of seven-to-ten years.

We understand this legislation is principally intended to provide both a legal and a financial basis to develop domestic isotope production capacity based on low enriched uranium (LEU), which removes its proliferation potential. It would also provide for the elimination of U.S. HEU exports and the vulnerabilities associated with any transport of fissile material. These elements would constitute significant progress toward reducing nuclear terrorism risks.

We also welcome your efforts to support international steps to convert commercial isotope production processes to LEU. The U.S. can provide a valuable example by concentrating its own isotope production on LEU-based technologies, but other countries may need additional technical assistance and international coordination to accomplish their own conversions. NTI has been supporting programmatic work at the International Atomic Energy Agency to accelerate the production of molybdenum-99 without HEU, but a more focused effort sup-

ported by adequate technical and financial resources is needed to get the job done.

These collective steps would go far to eliminating a major hole in our web of efforts to reduce nuclear dangers. We appreciate your initiative in addressing these important matters, and your long record of attention to nonproliferation issues. This bill's purposes are consistent with NTI's effort to minimize highly enriched uranium use and commerce and will do much to advance that mission.

Sincerely,

SAM NUNN,

*Co-Chairman.*

CHARLES B. CURTIS,  
*President.*

COUNCIL ON RADIONUCLIDES  
AND RADIOPHARMACEUTICALS, INC.,

*Moraga, CA, September 25, 2009.*

DEAR CHAIRMAN MARKEY AND RANKING MEMBER UPTON, CORAR has been asked to provide the Committee (1) the feasibility of LEU based Mo-99 medical isotopes and (2) CORAR's position on H.R. 3276, the American Medical Isotopes Production Act of 2009. CORAR supports H.R. 3276 and supports increasing the capacity for medical radionuclides in the U.S.

In regards to the technical feasibility of supply for U.S. patients of LEU medical isotopes, CORAR member companies produce all of the Tc-99m generators used by the U.S. nuclear medicine community for the detection of heart disease, cancer and other illnesses. These companies need a reliable supply of Mo-99 used to produce these Tc-99m generators to fulfill patients' needs. The reactors used to produce this Mo-99 are not operated by CORAR member companies. All of the five reactors currently producing Mo-99 to supply the U.S. are operated by government subsidized companies or government entities. Several groups have proposed different methods of producing LEU-based Mo-99 to increase the current capacity. Although CORAR believes some of these represent worthwhile efforts to supplement the current capacity, they have significantly different timetables to completion due to different regulatory and operational issues. Each of these groups has developed their own timetables and milestones for completion of their new method of Mo-99 production. Since these efforts to supplement the current Mo-99 capacity are being done by different groups it would be more appropriate for these individual groups to present the Committee with their own timetables. CORAR respectfully suggests the Committee contact each one of these groups to request a Gantt chart for their plans for the design, construction and completion of their project. CORAR also believes it would be in the committee's best interest to review the funding applications for Mo-99 projects submitted to DOE.

As you are aware, CORAR has expressed its concern that the mandatory 7 to 10 year halt of exports could be problematic if medical isotope production is insufficient to meet U.S. patient needs at that time. However, CORAR believes that the mandatory deadline included in H.R. 3276 is critical to ensure that the proposed medical isotope projects will be aggressively pursued and funded. As a result CORAR would not support modifying the deadline contained in H.R. 3276. However CORAR would encourage the committee to maintain ongoing oversight of the medical isotope supply and ensure that our patient's medical isotope needs are not restricted in 2020.

Thank you for the opportunity to provide this information to the Committee. CORAR

looks forward to working with you toward the enactment of the legislation.

Sincerely,

ROY W. BROWN,  
*Senior Director, Federal Affairs.*

THE SOCIETY OF NUCLEAR MEDICINE,

*Reston, VA, July 10, 2009.*

Hon. EDWARD MARKEY,  
*House of Representatives,  
Washington, DC.*

DEAR CONGRESSMAN MARKEY: The Society of Nuclear Medicine (SNM)—an international scientific and medical organization dedicated to raising public awareness about what molecular imaging is and how it can help provide patients with the best health care possible—appreciates your efforts to ensure a domestic supply of the important isotope Molybdenum-99 (Mo-99) within the U.S. and to curtail the use of highly-enriched uranium (HEU) in radionuclide production as a non-proliferation strategy to deter terrorism. We further appreciate your willingness to work with SNM and other stakeholders to draft legislation to responsibly address these important issues and keep patient needs in the forefront. As you know, Mo-99 decays into Technetium-99m (Tc-99m), which is used in approximately 16 million nuclear medicine procedures each year in the U.S. Recent disruptions in the supply of Mo-99 have highlighted the urgent need to ensure a domestic supply for the U.S. Your bill, the American Medical Isotope Production Act of 2009, will help patients who rely on medical imaging for the treatment and diagnosis of many common cancers by authorizing funding and providing a clear road map to create a domestic supply of Mo-99 while also allowing a responsible timeline and safeguards for the transfer of HEU to low enriched uranium (LEU); therefore, SNM endorses the American Medical Isotope Production Act of 2009.

Tc-99m is used in the detection and staging of cancer; detection of heart disease; detection of thyroid disease; study of brain and kidney function; and imaging of stress fractures. In addition to pinpointing the underlying cause of disease, physicians can actually see how a disease is affecting other functions in the body. Imaging with Tc-99m is an important part of patient care. As you may be aware, SNM, along with thousands of nuclear medicine physicians in the U.S., have, over the course of the last two years, been disturbed about supply interruptions of Mo-99 from foreign vendors and the lack of a reliable supplier of Mo-99 in the U.S. Due to these recent shutdowns in Canada, numerous nuclear medicine professionals across the country have delayed or had to cancel imaging procedures. Because Mo-99 is produced through the fission of uranium and has a half-life of 66 hours, it cannot be produced and stored for long periods of time. Unlike traditional pharmaceuticals, which are dispensed by pharmacists or sold over-the-counter, nuclear reactors produce radioactive isotopes that are processed and provided to hospitals and other nuclear medicine facilities based on demand. Any disruption to the supply chain can wreak havoc on patient access to important medical imaging procedures.

In order to ensure that patient needs are not compromised, a continuous reliable supply of medical radioisotopes is essential. Currently there are no facilities in the U.S. that are dedicated to manufacturing Mo-99 for Mo-99/Tc-99m generators. The United States must develop domestic capabilities to produce Mo-99, and not rely solely on foreign

suppliers. In addition, forcing a change from HEU to LEU must be done with adequate time made available for the research and development needed for the transition period. There also must be consideration of economic and environmental factors to prevent, first and foremost, putting patients at risk because of delays in production of much needed radionuclides, such as Technetium-99m (Tc-99m) which is made from Mo-99.

Your legislation will help address the needs of patients by promoting the production of Mo-99 in the United States. We thank you for your efforts and look forward to continuing to work with you on this important issue.

Should you have any further questions, please contact Hugh Cannon, Director of Health Policy and Regulatory Affairs.

Sincerely,

MICHAEL M. GRAHAM, PHD, MD,  
President, SNM.

This is, in my opinion, a very important piece of legislation. It makes a connection between the nuclear medicine that is practiced in this country and the nuclear proliferation issue that we are trying to solve around the world. So this really does begin to draw that line between atoms for peace and atoms for war in a way which I think we can all on a bipartisan basis come to support. History has been pointing us in this direction. This legislation is something that all Members of this Chamber can be proud of.

Mr. Speaker, I hope that all of the Members support this legislation.

Mr. INSLEE. Mr. Speaker, I request that the attached letters in support of H.R. 3276 be entered into the RECORD. They are from Covidien, Lantheus Medical Imaging, and the Health Physics Society.

COVIDIEN,

Hazelwood, MO, July 21, 2009.

Hon. EDWARD J. MARKEY,  
House of Representatives,  
Washington, DC.

DEAR CONGRESSMAN MARKEY: Your timely introduction of the American Medical Isotopes Production Act of 2009 (AMIPA) represents an impressive effort to achieve conversion to low enriched uranium (LEU) without disruption to patients who depend on critical medical radioisotopes.

Currently, the world is experiencing a molybdenum-99 (Mo-99) shortage due to the unexpected shutdown of a reactor in Canada for urgent repair. This reactor and the four others which produce the vast majority of the world's Mo-99 supply are all aging, nearing the end of their useful lives. At stake are millions of diagnostic procedures that utilize radioisotopes produced using Mo-99, especially technetium 99m (Tc-99m).

As one of the world's principal Tc 99m suppliers and given our commitment to secure a global, interdependent Mo-99 supply chain for patients worldwide, Covidien is pleased to support AMIPA and looks forward to working with you further on this legislation as it progresses through Congress.

While Covidien supports AMIPA, we do believe aspects of the bill merit additional attention during the legislative process. For example, we appreciate your acknowledgment that the 7 to 10 year timetable may not provide adequate time to fully transition to commercial-scale LEU utilization. We are encouraged that the legislative language provides annual reports to Congress on the status of domestic development and a Na-

tional Academy of Sciences report reviewing international production of Mo-99. We hope these reports will provide ample time for Congress, if necessary, to intervene if the 7-10 year deadline cannot be met. Also, while the bill is focused on Mo-99, it does not preclude the development and manufacturing of other important radioisotopes currently produced using highly enriched uranium (HEU), such as radioiodine (I-131), which are also critically important to patients.

Please accept our thanks for your work on this important challenge and the opportunity to collaborate with you.

Sincerely,

TIMOTHY R. WRIGHT,  
President.

LANTHEUS MEDICAL IMAGING,  
North Billerica, MA, July 24, 2009.

Hon. EDWARD J. MARKEY,  
Chair, Subcommittee on Energy and Environment,  
House Energy and Commerce Committee,  
Rayburn House Office Building,  
Washington, DC.

DEAR MR. MARKEY: We are very pleased to write in strong support of the American Medical Isotopes Production Act of 2009, of which you are a co-sponsor.

Based in Billerica, Massachusetts, Lantheus Medical Imaging, Inc. ("Lantheus") has been a worldwide leader in diagnostic medical imaging for the past 50 years. We have over 600 employees worldwide, approximately 400 of whom work in Massachusetts and approximately two dozen of whom live in the 7th Congressional District (including the undersigned). Lantheus is the home to leading diagnostic imaging brands, including, among others, Technelite® (Technetium Tc99m Generator), the leading Technetium-based generator produced in the United States in both quality and number of units sold. Lantheus sells Technelite® generators to customers located in the United States and around the world.

Molybdenum-99 is the key ingredient in the Technelite® generator. Molybdenum-99 spontaneously decays into Technetium Tc-99m which is then eluted from the generator to radiolabel organ-specific imaging agents. These radiolabelled agents are then used in a variety of heart, brain, bone and other diagnostic imaging procedures.

As the largest consumer of Molybdenum-99 in the United States, we are very concerned about the fragility of the global Molybdenum-99 supply chain. We currently rely for our Molybdenum-99 supply on nuclear reactors which produce Molybdenum-99 in Canada, South Africa, Australia, Belgium and The Netherlands. Most of these five reactors (all located outside of the United States) are aging and are increasingly subject to unscheduled shutdowns and time-consuming repairs, which limit the predictability of and accessibility to potentially millions of important medical diagnostic procedures for patients in the United States and throughout the world. We have worked closely with your office over the past several months, discussing issues affecting the medical imaging industry, and we have reviewed earlier drafts of the bill. We strongly endorse your efforts to promote the production of Molybdenum-99 in the United States for medical isotope applications.

In your discussions with your colleagues in the House and Senate about the bill, it will be important to note that the medical imaging procedures that rely on Technetium-based imaging agents contribute to improved medical care as well as cost savings for the entire medical system. It is established that

better diagnostic medicine results in more appropriate treatments, better patient outcomes, less morbidity associated with inappropriate treatments and significant cost savings for the system. As a good example of this, between approximately 20% and 40% of patients that undergo a diagnostic cardiac catheterization—an invasive and costly procedure with significant morbidity and mortality risks—are found not to have coronary artery disease. In other words, hundreds of thousands of procedures are performed each year at an annual cost to the system of potentially billions of dollars, and no underlying disease is identified. A number of these cardiac catheterization procedures could be avoided if the patients had had a nuclear cardiology imaging study using a Technetium-based imaging agent, such as Lantheus' Cardiolite® (Kit for Preparation of Technetium Tc99m Sestamibi for Injection). A nuclear imaging study is non-invasive, and the radiation exposure to the patient is comparable to a cardiac catheterization (although the radiation exposure to health care professionals performing the procedures is substantially less for nuclear imaging). Moreover, a nuclear diagnostic study is between approximately 20% and 30% of the cost of a cardiac catheterization. Thus, cardiac medical imaging procedures that rely on Technetium produced from Molybdenum-99 can improve patient outcomes and reduce costs—core goals of the Obama Administration's proposed health care reforms.

Lantheus congratulates you and Congressman Upton on introducing the American Medical Isotopes Production Act of 2009. We would be pleased and honored to assist you in any way we can to ensure that this important and much-needed bill becomes enacted into law.

Sincerely,

MICHAEL P. DUFFY,  
Vice President and General Counsel.

HEALTH PHYSICS SOCIETY,  
McLean, VA, July 20, 2009.

Hon. EDWARD J. MARKEY,  
House of Representatives,  
Washington, DC.

DEAR MR. MARKEY: On behalf of the Health Physics Society, I am pleased to endorse your proposed bill entitled the "American Medical Isotopes Production Act of 2009" and to suggest two additions to the bill for your consideration that I feel will enhance the understanding of the need for the bill and the implementation of the bill's provisions.

From our previous collaborations you know that the Health Physics Society is an independent nonprofit scientific organization of radiation science and radiation safety professionals. As such, we strive to assist national leaders and decision makers in providing excellence in the legislation and regulation of issues related to radiation safety. We have been pleased to support and work with your staff in the past on important legislation like the series of "Dirty Bomb Prevention Act" bills starting in 2002 that culminated in important radiological terrorism prevention and security measures in the Energy Policy Act of 2005, and the more recent "Nuclear Facility and Material Security Act of 2008" introduced last year.

Once again, we would like to support and work with your staff in developing and promoting your "American Medical Isotopes Production Act of 2009."

The Health Physics Society interest in this legislation is based on radiation safety considerations. Specifically, the lack of a reliable supply of the isotope Molybdenum-99

(Mo-99) requires substitution of diagnostic procedures that result in a higher radiation dose to the patient and the medical practitioners performing the procedure than would be received if the Mo-99 daughter, Technetium-99m (Tc-99m), were available. In addition, the lack of a domestic supply of Mo-99 production requires the United States to ship Highly Enriched Uranium (HEU) to foreign countries with the subsequent shipment of the radioactive materials and waste products from the production of the Mo-99 back into the United States. Although we believe this is being done safely, it carries an unnecessary risk as compared to domestic production of Mo-99 using Low Enriched Uranium (LEU). One consequence, however, of using LEU in place of HEU for Mo-99 production is an increase in radioactive waste, including an increase in the production of plutonium. These waste products can be safely disposed of in properly designed disposal facilities. However, approximately 34 states do not have access to the currently authorized disposal facilities licensed by the Nuclear Regulatory Commission.

In light of these radiation safety issues associated with the proposed "American Medical Isotopes Production Act of 2009", the Health Physics Society recommends two additional items be included in the bill:

1. First, we recommend the "Findings" in the bill include a finding that the lack of a reliable supply of Mo-99 results in an unnecessary increase in the radiation doses received by patients and medical practitioners.

2. Second, we recommend the bill require the Secretary of Energy be responsible for seeing that any domestic medical isotope production facility created by this bill has access to an appropriate radioactive waste disposal facility, including a federal facility if no licensed commercial facility is available.

I hope these suggestions are helpful and I look forward to the Health Physics Society helping you in advancing this legislation. Please do not hesitate to contact me if you, or your staff, would like further information or assistance on this matter, or any other radiation safety issue.

Sincerely,

HOWARD W. DICKSON,  
*President.*

Mr. MARKEY of Massachusetts. I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Massachusetts (Mr. MARKEY) that the House suspend the rules and pass the bill, H.R. 3276, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the yeas have it.

Mr. MARKEY of Massachusetts. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

#### GENERAL LEAVE

Mr. THOMPSON of Mississippi. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative

days in which to revise and extend their remarks and insert extraneous material on H.R. 2868.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

#### CHEMICAL FACILITY ANTI-TERRORISM ACT OF 2009

The SPEAKER pro tempore. Pursuant to House Resolution 885 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the state of the Union for the consideration of the bill, H.R. 2868.

□ 1525

#### IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 2868) to amend the Homeland Security Act of 2002 to extend, modify, and recodify the authority of the Secretary of Homeland Security to enhance security and protect against acts of terrorism against chemical facilities, and for other purposes, with Mr. INSLEE in the chair.

The Clerk read the title of the bill.

The CHAIR. Pursuant to the rule, the bill is considered the first time.

General debate shall not exceed 90 minutes equally divided and controlled by the Chair and ranking minority member of the Committee on Homeland Security, the Chair and ranking minority member of the Committee on Energy and Commerce, and the Chair and ranking minority member of the Committee on Transportation and Infrastructure.

The gentleman from Mississippi (Mr. THOMPSON), the gentleman from New York (Mr. KING), the gentleman from California (Mr. WAXMAN), the gentleman from Texas (Mr. BARTON), the gentleman from Minnesota (Mr. OBERSTAR), and the gentleman from Florida (Mr. MICA) each will control 15 minutes.

The Chair recognizes the gentleman from Mississippi.

Mr. THOMPSON of Mississippi. Mr. Chairman, I yield myself such time as I may consume.

I am pleased to present H.R. 2868, a bill to authorize reasonable, risk-based security standards for chemical facilities.

Faced with the fact that DHS' chemical security program, CFATS, would expire, the President requested and received a 1-year extension to allow this bill to go through the legislative process. Under the CFATS program, DHS placed about 6,000 facilities in four risk tiers. These sites account for just 16 percent of the 36,000 facilities that initially submitted information to DHS.

My committee began working on comprehensive chemical security legis-

lation 4 years ago in response to widespread concern that chemical plants may be ideal terrorist targets. Previous attempts at getting comprehensive chemical security legislation to the floor in the last two Congresses were unsuccessful.

However, this Congress, thanks to the collaborative approach taken by Chairman WAXMAN, as well as by Chairmen OBERSTAR and CONYERS, the House now has an opportunity to consider this homeland security bill. I am proud of the robust stakeholder engagement that went into this bill, and to the extent with which Department and Republican input was sought and included.

H.R. 2868 closes a major security gap identified by both the Bush and Obama administrations. Specifically, titles II and III authorize EPA to establish a security program for drinking water and wastewater facilities. EPA's new program will complement CFATS.

This approach, which is fully supported by the Obama administration, taps into the existing regulatory relationship between EPA and public water facilities.

Additionally, H.R. 2868 requires all tiered facilities to assess "methods to reduce the consequences of a terrorist attack." Plants that voluntarily perform these assessments, which are sometimes called IST assessments, often find that good security equals good business. In fact, this week, Clorox announced, to strengthen its operation and add another layer of security, it would voluntarily replace chlorine gas with a safer alternative at six of its bleach manufacturing facilities.

□ 1530

H.R. 2868 simply incorporates this best practice into how all tiered facilities integrate security into their operations. Additionally, H.R. 2868 strengthens CFATS by adding enforcement tools, protecting the rights of whistleblowers, and enhancing security training.

Some on the other side are arguing for a 3-year blanket extension of DHS's current authority. Such an approach flies in the face of testimony that we received about gaps in CFATS and would be a rejection of all the carefully tailored security enhancements in the bill.

This legislation demonstrates the progress we can make with a transparent process that is open to diverse viewpoints and addresses the concerns of everyone who wants to be in the process. This is exactly how government should work.

With that, Mr. Chairman, I urge passage of this important legislation and I reserve the balance of my time.

Mr. KING of New York. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the issue of chemical plant security is obviously a very vital

one. It's one that has to be addressed. It's an issue which certainly since September 11 is more vital than ever. That is why, in 2006, the Homeland Security Committee, when I was chairman working across the aisle, worked long and hard to enact landmark legislation. There was much negotiation. There was much debate. We covered issues such as preemption and inherently safer technology.

Legislation was put in place, and that is the basis upon which the Department has been acting for the past 3 years. And this legislation that we enacted then is in the process of being implemented by the Department of Homeland Security. In fact, the Department, itself, asked for a 1-year extension. That was voted on in the appropriations bill last month, which I strongly supported. As far as I know, the administration has not asked for this legislation, and I'm not aware of any statement of support that they've sent up in support of it.

But before I get to that, let me just commend the chairman, Mr. THOMPSON, the Chair of the subcommittee, Ms. JACKSON-LEE, and the ranking member of the subcommittee, Mr. DENT, because even though we are going to have differences during this debate today, I want to emphasize the fact that this was done very fairly, very openly, and with a tremendous spirit of cooperation from your side of the aisle and I hope from ours as well. The differences today are very honest ones, but I want to emphasize the level of cooperation that existed throughout this process.

I am, however, opposed to the legislation because I believe it is going to create confusion and undue cost. It is going to cost jobs, and it's going to raise taxes. It gives far too much credibility to IST, or inherently safer technology, which is a concept, yet this concept will have, I believe, a very stifling effect on the private sector. We should keep in mind that we're not just talking about large chemical plant facilities, but we're also talking about institutions such as colleges and hospitals which will have to incur these costs.

The current law is working. And I asked the chairman this during the time of the debate when it was in the committee, what is the rush to move it through? And when I say "rush," obviously, if it had to be done, we should do it immediately, we should do it yesterday. But the fact is that the Department did not ask for this extension, did not ask for these changes. I believe that we took a good concept, an admirable concept of enhancing chemical plant security, and have allowed concepts and ideas regarding the environment, regarding certain pet projects, and allowed that to, I believe, have too large an influence on this bill.

There is another aspect of this bill which has been added, and that's the

concept of civil lawsuits against the Department. I know Mr. MCCAUL, in the debate later, is going to offer an amendment on this issue. But any fair reading of the testimony of the Department at the hearing we held on this legislation made it clear that they did not support this language regarding the civil lawsuits.

Quite frankly, with all the work the Department of Homeland Security has to do, with the difficulty there is in bringing all of these thousands of entities into compliance with the law, I believe the last thing they need right now is to be subjected to civil lawsuits where there would virtually be no limitations on who could bring those lawsuits. My understanding is that the person doesn't even have to be a citizen to bring a lawsuit under this or live in the State where the facility is located.

So, Mr. Chairman, this is a bridge too far. This is a rush to judgment. Rather than work with the carefully crafted and thought-out legislation that we adopted in a bipartisan way 3 years ago, we are now changing it—and changing again—without a request from the Obama administration. We have language in this legislation which was clear the administration opposed at the time of the debate on the bill when it was before the committee. So I strongly urge, reluctantly, that the legislation be voted down.

But in doing that, let me also say, Mr. Chairman, that there are a large number of organizations opposed to this legislation, such as the American Farm Bureau, the Chamber of Commerce, the American Trucking Association. I will place into the RECORD the letter which was sent by a group of these organizations in opposition to the legislation, H.R. 2868.

Mr. Chairman, let me just conclude—and by the way, I will be asking Mr. DENT to manage the balance of the time on our side. I would ask those on the other side to go easy on Mr. DENT; he is suffering from trauma. His team, the Phillies, after being lucky last year, have gone back to their usual ways and they were defeated last night. I give him credit for coming out of his bed, from coming out from underneath the covers to be here today to take part in this debate. So especially I would ask the gentleman from New Jersey (Mr. PASCRELL) who has a talent for going for the jugular, you can do it to me, but please go easy on Mr. DENT today if you would. And I'm sure the chairman concurs in the sympathy we feel for the gentleman from Pennsylvania.

Mr. Chairman, on a serious note, we started work on this legislation in good faith. That good faith continues. But I strongly believe, and others on our side do, that the extreme environmental language in the bill is going to tie the hands of the Homeland Security Secretary with unrelated costly and burdensome provisions.

Congress has granted the President's request for a 1-year extension. We should let the Department of Homeland Security continue its work. I believe that moving this legislation forward will hurt the Department, will hurt small businesses, and will not improve the security of these facilities.

NOVEMBER 4, 2009.

Hon. NANCY PELOSI,  
*Speaker, House of Representatives, Capitol Building, Washington, DC.*

Hon. JOHN BOEHNER,  
*Republican Leader, House of Representatives, Capitol Building, Washington, DC.*

DEAR SPEAKER PELOSI AND REPUBLICAN LEADER BOEHNER: We write to you today to express our opposition to H.R. 2868, the "Chemical and Water Security Act of 2009." Despite the changes made to this legislation in the Energy and Commerce and Homeland Security Committees, we continue to oppose the bill due to the detrimental impact it will have on national security and economic stability.

Specifically, we strongly object to the Inherently Safer Technology (IST) provisions of this legislation that would allow the Department of Homeland Security (DHS) to mandate that businesses employ specific product substitutions and processes. These provisions would be significantly detrimental to the progress of existing chemical facility security regulations (the "CFATS" program) and should not be included in this legislation. DHS should not be making engineering or business decisions for chemical facilities around the country. It should be focused instead on making our country more secure and protecting American citizens from terrorist threats. Decisions on chemical substitutions or changes in processes should be made by qualified professionals whose job it is to ensure safety at our facilities.

Furthermore, forced chemical substitutions could simply transfer risk to other points along the supply chain, failing to reduce risk at all. Because chemical facilities are custom-designed and constructed, such mandates would also impose significant financial hardship on facilities struggling during the current economic recession. Some of these forced changes are estimated to cost hundreds of millions of dollars per facility. Ultimately, many facilities would not be able to bear this expense.

Thank you for taking our concerns into account as the House of Representatives continues to consider the "Chemical Water and Security Act of 2009." We stand ready to work with Congress towards the implementation of a responsible chemical facility security program.

Sincerely,

Agricultural Retailers Association American Farm Bureau Federation American Forest & Paper Association; American Petroleum Institute; American Trucking Associations; Chemical Producers and Distributors Association; Consumer Specialty Products Association; The Fertilizer Institute; Institute of Makers of Explosives; International Association of Refrigerated Warehouses; International Liquid Terminals Association; International Warehouse Logistics Association; National Agricultural Aviation Association; National Association of Chemical Distributors; National Association of Manufacturers; National Grange of the Order of Patrons of Husbandry; National Mining Association; National

Oilseed Processors Association; National Paint and Coatings Association; National Pest Management Association; National Petrochemical and Refiners Association; National Propane Gas Association; North American Millers' Association; Petroleum Equipment Suppliers Association; Petroleum Marketers Association of America; U.S. Chamber of Commerce; USA Rice Federation.

I reserve the balance of my time.

Mr. THOMPSON of Mississippi. Mr. Chairman, I would like to enter into the RECORD testimony from Under Secretary Rand Beers from an October hearing that reflects that this administration supports this bill and desires for action this year.

STATEMENT FOR THE RECORD BY RAND BEERS, UNDER SECRETARY, NATIONAL PROTECTION AND PROGRAMS DIRECTORATE, DEPARTMENT OF HOMELAND SECURITY, OCTOBER 1, 2009.

Thank you, Chairman MARKEY, Ranking Member UPTON, and distinguished Members of the Committee. It is a pleasure to appear before you today as the Committee considers H.R. 3258, the Drinking Water System Security Act of 2009. This Act is intended to close the security gap at drinking water facilities that possess substances of concern.

We have made significant progress since the implementation of the Chemical Facilities Anti-Terrorism Standards (CFATS). We have reviewed over 36,900 facilities' Top-Screen consequence assessment questionnaires, and in June 2008, we notified 7,010 preliminarily-tiered facilities of the Department's initial high-risk determinations and of the facilities' requirement to submit Security Vulnerability Assessments (SVAs). We received and are reviewing almost 6,300 SVAs. We have recently begun to notify facilities of their final high-risk determinations, tiering assignments, and the requirement to complete and submit Site Security Plans (SSPs) or Alternative Security Programs (ASPs). CFATS currently covers approximately 6,200 high-risk facilities nationwide. The current state of coverage reflects changes related to chemicals of interest that facilities have made since receiving preliminary tiering notifications in June 2008, including security measures implemented and the consolidation or closure of some facilities.

#### CHEMICAL SECURITY REGULATIONS

Section 550 of the FY 2007 Department of Homeland Security Appropriations Act directed the Department to develop and implement a regulatory framework to address the high level of security risk posed by certain chemical facilities. Specifically, Section 550(a) of the Act authorized the Department to adopt rules requiring high-risk chemical facilities to complete SVAs, develop SSPs, and implement protective measures necessary to meet risk-based performance standards established by the Department. Consequently, the Department published an Interim Final Rule, known as CFATS, on April 9, 2007. Section 550, however, expressly exempts from those rules certain facilities that are regulated under other Federal statutes. For example, Section 550 exempts facilities regulated by the United States Coast Guard pursuant to the Maritime Transportation Security Act (MTSA). Drinking water and wastewater treatment facilities as defined by Section 1401 of the Safe Water Drinking Act and Section 212 of the Federal Water Pollution Control Act, respectively,

are similarly exempted. In addition, Section 550 exempts facilities owned or operated by the Departments of Defense and Energy, as well as certain facilities subject to regulation by the Nuclear Regulatory Commission (NRC).

The following core principles guided the development of the CFATS regulatory structure:

(1) Securing high-risk chemical facilities is a comprehensive undertaking that involves a national effort, including all levels of government and the private sector. Integrated and effective participation by all stakeholders—Federal, State, local, and the private sector—is essential to securing our national critical infrastructure, including high-risk chemical facilities. Implementing this program means tackling a sophisticated and complex set of issues related to identifying and mitigating vulnerabilities and setting security goals. This requires a broad spectrum of input, as the regulated facilities bridge multiple industries and critical infrastructure sectors. By working closely with experts, members of industry, academia, and Federal Government partners, we leveraged vital knowledge and insight to develop the regulation.

(2) Risk-based tiering will ensure that resources are appropriately deployed. Not all facilities present the same level of risk. The greatest level of scrutiny should be focused on those facilities that, if attacked, present the most risk and could endanger the greatest number of lives.

(3) Reasonable, clear, and equitable performance standards will lead to enhanced security. The current CFATS rule includes enforceable risk-based performance standards. High-risk facilities have the flexibility to select among appropriate site-specific security measures that will effectively address risk. The Department will analyze each tiered facility's SSP to see if it meets CFATS performance standards. If necessary, DHS will work with the facility to revise and resubmit an acceptable plan.

(4) Recognition of the progress many companies have already made in improving facility security leverages those advancements. Many responsible companies have made significant capital investments in security since 9/11. Building on that progress in implementing the CFATS program will raise the overall security baseline at high-risk chemical facilities.

Appendix A of CFATS lists 322 chemicals of interest, including common industrial chemicals such as chlorine, propane, and anhydrous ammonia, as well as specialty chemicals, such as arsine and phosphorus trichloride. The Department included chemicals based on the consequences associated with one or more of the following three security issues:

(1) Release—toxic, flammable, or explosive chemicals that have the potential to create significant adverse consequences for human life or health if intentionally released or detonated;

(2) Theft/Diversion—chemicals that have the potential, if stolen or diverted, to be used or converted into weapons that could cause significant adverse consequences for human life or health; and

(3) Sabotage/Contamination—chemicals that, if mixed with other readily available materials, have the potential to create significant adverse consequences for human life or health.

The Department established a Screening Threshold Quantity for each chemical based on its potential to create significant adverse

consequences for human life or health in one or more of these ways.

#### IMPLEMENTATION STATUS

Implementation and execution of the CFATS regulation require the Department to identify which facilities it considers high-risk. The Department developed the Chemical Security Assessment Tool (CSAT) to identify potentially high-risk facilities and to provide methodologies that facilities can use to conduct SVAs and to develop SSPs. CSAT is a suite of online applications designed to facilitate compliance with the program; it includes user registration, the initial consequence-based screening tool (Top-Screen), an SVA tool, and an SSP template. Through the Top-Screen process, the Department initially identifies and sorts facilities based on their associated risks.

If a facility is initially identified during the Top-Screen process as having a level of risk subject to regulation under CFATS, the Department assigns the facility to one of four preliminary risk-based tiers, with Tier 1 indicating the highest level of risk. Those facilities must then complete SVAs and submit them to the Department. Results from the SVA inform the Department's final determinations as to whether a facility is high-risk and, if so, of the facility's final tier assignment. To date, the Department has received over 6,300 SVAs. Each one is carefully reviewed for its physical, cyber, and chemical security content.

Only facilities that receive a final high-risk determination letter under CFATS will be required to complete and submit an SSP or an Alternative Security Program (ASP). DHS's final determinations as to which facilities are high-risk are based on each facility's individual consequentiality and vulnerability as determined by its Top-Screen and SVA.

After approval of their SVAs, the final high-risk facilities are required to develop SSPs or ASPs that address their identified vulnerabilities and security issues. The higher the risk-based tier, the more robust the security measures and the more frequent and rigorous the inspections will be. The purpose of inspections is to validate the adequacy of a facility's SSP and to verify that measures identified in the SSP are being implemented.

In May, the Department issued approximately 140 final tiering determination letters to the highest risk (Tier 1) facilities, confirming their high-risk status and initiating their 120-day timeframe for submitting an SSP. In June and July, we notified approximately 826 facilities of their status as final Tier 2 facilities and the associated due dates for their SSPs. Most recently, on August 31, 2009, we notified approximately 137 facilities of their status as either a final Tier 1, 2, or 3 facility and the associated due dates for their respective SSPs. Following preliminary authorization of the SSPs, the Department expects to begin performing inspections in the first quarter of FY 2010, starting with the Tier 1-designated facilities.

Along with issuing the final tiering determination notifications for Tier 1 facilities in May, the Department launched two additional measures to support CFATS. The first is the SSP tool, which was developed by DHS with input from an industry working group. A critical element of the Department's efforts to identify and secure the Nation's high-risk chemical facilities, the SSP enables final high-risk facilities to document their individual security strategies for meeting the Risk-Based Performance Standards (RBPS) established under CFATS.

Each final high-risk facility's security strategy will be unique, as it depends on its

risk level, security issues, characteristics, and other factors. Therefore, the SSP tool collects information on each of the 18 RBPS for each facility. The RBPS cover the fundamentals of security, such as restricting the area perimeter, securing site assets, screening and controlling access, cybersecurity, training, and response. The SSP tool is designed to take into account the complicated nature of chemical facility security and allows facilities to describe both facility-wide and asset-specific security measures, as the Department understands that the private sector in general, and CFATS-affected industries in particular, are dynamic. The SSP tool also allows facilities to involve their subject-matter experts from across the facility, company and corporation, as appropriate, in completing the SSP and submitting a combination of existing and planned security measures to satisfy the RBPS. The Department expects that most approved SSPs will consist of a combination of existing and planned security measures. Through a review of the SSP, in conjunction with an on-site inspection, DHS will determine whether a facility has met the requisite level of performance given its risk profile and thus whether its SSP should be approved.

Also issued with the final Tier 1 notifications and the SSP tool was the Risk-Based Performance Standards Guidance document. The Department developed this guidance to assist high-risk chemical facilities subject to CFATS in determining appropriate protective measures and practices to satisfy the RBPS. It is designed to help facilities comply with CFATS by providing detailed descriptions of the 18 RBPS as well as examples of various security measures and practices that would enable facilities to achieve the appropriate level of performance for the RBPS at each tier level. The Guidance also reflects public and private sector dialogue on the RBPS and industrial security, including public comments on the draft guidance document. High-risk facilities are free to make use of whichever security programs or processes they choose, provided that they achieve the requisite level of performance under the CFATS RBPS. The Guidance will help high-risk facilities gain a sense of what types and combination of security measures may satisfy the RBPS.

To provide a concrete example: in the case of a Tier 1 facility with a release hazard security issue, the facility is required to appropriately restrict the area perimeter, which may include preventing breach by a wheeled vehicle. To meet this standard, the facility is able to consider numerous security measures, such as cable anchored in concrete block along with movable bollards at all active gates or perimeter landscaping (e.g., large boulders, steep berms, streams, or other obstacles) that would thwart vehicle entry. As long as the measures in the SSP are sufficient to address the performance standards, the Department does not mandate specific measures to approve the plan.

#### OUTREACH EFFORTS AND PROGRAM IMPLEMENTATION

Since the release of CFATS in April 2007, the Department has taken significant steps to publicize the rule and ensure that our security partners are aware of its requirements. As part of this dedicated outreach program, the Department has regularly updated the Sector and Government Coordinating Councils of industries most impacted by CFATS, including the Chemical, Oil and Natural Gas and Food and Agriculture Sectors. We have also made it a point to solicit feedback from our public and private sector

partners and, where appropriate, to reflect that feedback in our implementation activities, such as adjustments made to the SSP template.

We have presented at numerous security and chemical industry conferences; participated in a variety of other meetings of relevant security partners; established a Help Desk for CFATS questions; and developed and regularly updated a highly-regarded Chemical Security Web site. These efforts are having a positive impact: approximately 36,900 facilities have submitted Top-Screens to the Department via CSAT.

Additionally, the Department continues to focus on fostering solid working relationships with State and local officials as well as first responders in jurisdictions with high-risk facilities. To meet the risk-based performance standards under CFATS, facilities need to cultivate and maintain effective working relationships—including a clear understanding of roles and responsibilities—with local officials who would aid in preventing, mitigating and responding to potential attacks. To facilitate these relationships, our inspectors have been actively working with facilities and officials in their areas of operation, and they have participated in almost 100 Local Emergency Planning Committee meetings to provide a better understanding of CFATS' requirements.

We are also working with the private sector as well as all levels of government in order to identify facilities that may meet the threshold for CFATS regulation but that have not yet registered with CSAT or filed a Top-Screen. We have recently completed pilot efforts at the State level with New York and New Jersey to identify such facilities in those jurisdictions. We will use these pilots to design an approach that all States can use to identify facilities for our follow up. Further, we are in the process of commencing targeted outreach efforts to certain segments of industry where we believe compliance may need improvement.

Internally, we are continuing to build the Infrastructure Security Compliance Division that is responsible for implementing CFATS. We have hired, or are in the process of onboarding, over 125 people, and we will continue to hire throughout this fiscal year to meet our goals. The FY 2010 budget request contains an increase to allow the hiring, training, equipping, and housing of additional inspectors to support the CFATS program as well as to continue deployment and maintenance of compliance tools for covered facilities.

#### NEW LEGISLATION

We have enjoyed a constructive dialogue with Congress, including this Committee, as it works on new authorizing legislation. The Department recognizes the significant work that this Committee and others, particularly the House Committee on Homeland Security, have devoted to drafting legislation to reauthorize the CFATS program and to address chemical security at the Nation's water systems. We appreciate this effort and look forward to continuing the constructive engagement with Congress on these important matters. CFATS is enhancing security today by helping to ensure high-risk chemical facilities throughout the country have security postures commensurate with their levels of risk.

The Department supports a permanent authorization of the program. Given the complexity of chemical facility regulation, the Department is committed to fully exploring all issues before the program is made permanent. To that end, the President's FY 2010

budget includes a request for a one-year extension of the statutory authority for CFATS, which will allow the time needed to craft a robust permanent program while avoiding the sunset of the Department's regulatory authority on October 4, 2009. Further, as this one year extension is considered, we urge Congress to provide adequate time and resources to implement any new requirements under the prospective legislation and to ensure that new requirements would not necessitate the Department to extensively revisit aspects of the program that are either currently in place or will be implemented in the near future. Throughout our discussions with congressional committees, the Department has communicated a series of issues for consideration as part of any CFATS legislative proposal.

It is important to note that the Administration has developed a set of guiding principles for the reauthorization of CFATS and for addressing the security of our Nation's waste water and drinking water treatment facilities. These principles are:

(1) The Administration supports permanent chemical facility security authorities and a detailed and deliberate process in so doing, hence our preference for that process to be completed in FY10.

(2) Nonetheless, CFATS single year reauthorization in this session presents an opportunity to promote the consideration and adoption of inherently safer technologies (IST) among high-risk chemical facilities. We look forward to working with this Committee and others on this important matter.

(3) CFATS reauthorization also presents an opportunity to close the existing security gap for waste water and drinking water treatment facilities by addressing the statutory exemption of these facilities from CFATS. The Administration supports closing this gap.

As DHS and EPA have stated before, we believe that there is a critical gap in the U.S. chemical security regulatory framework—namely, the exemption of drinking water and wastewater treatment facilities. We need to work with Congress to close this gap in order to secure substances of concern at these facilities and to protect the communities they serve; drinking water and wastewater treatment facilities that meet CFATS thresholds for chemicals of interest should be regulated. We do, however, recognize the unique public health and environmental requirements and responsibilities of such facilities. For example, we understand that a "cease operations" order that might be appropriate for another facility under CFATS would have significant public health and environmental consequences when applied to a water facility. The Administration has established the following policy principles in regards to regulating security at water sector facilities:

The Administration believes that EPA should be the lead agency for chemical security for both drinking water and wastewater systems, with DHS supporting EPA's efforts. Many of these systems are owned or operated by a single entity and face related issues regarding chemicals of concern. Establishing a single lead agency for both will promote consistent and efficient implementation of chemical facility security requirements across the water sector.

To address chemical security in the water sector, EPA would utilize, with modifications as necessary to address the uniqueness of the sector, DHS' existing risk assessment tools and performance standards for chemical facilities. To ensure consistency of tiering determinations across high-risk



chemical facilities, EPA would apply DHS' tiering methodology, with modifications as necessary to reflect any differences in statutory requirements. DHS would in turn run its Chemical Security Assessment Tool and provide both preliminary and proposed final tiering determinations for water sector facilities to EPA. EPA and DHS would strive for consensus in this tiering process with EPA in its final determination, attaching significant weight to DHS' expertise.

EPA would be responsible for reviewing and approving vulnerability assessments and site security plans as well as enforcing high-risk chemical facility security requirements. Further, EPA would be responsible for inspecting water sector facilities and would be able to authorize states to conduct inspections and work with water systems to implement site security plans. It is important to note that any decisions on IST methods for the water sector would need to engage the states given their primary enforcement responsibility for drinking water and wastewater regulations.

DHS would be responsible for ensuring consistency of high-risk chemical facility security across all 18 critical infrastructure sectors.

CFATS currently allows, but does not require, high-risk facilities to evaluate transferring to safer and more secure chemicals and processes. Many facilities have already made voluntary changes to, among other things, their chemical holdings and distribution practices (for example, completely eliminating use of certain chemicals of interest). The Administration supports, where possible, using safer technology, such as less toxic chemicals, to enhance the security of the nation's high-risk chemical facilities. However, we must recognize that risk management requires balancing threat, vulnerabilities, and consequences with the cost to mitigate risk. Similarly, the potential public health and environmental consequences of alternative chemicals must be considered with respect to the use of safer technology. In this context, the Administration has established the following policy principles in regards to IST at high-risk chemical facilities:

The Administration supports consistency of IST approaches for facilities regardless of sector.

The Administration believes that all high-risk chemical facilities, Tiers 1-4, should assess IST methods and report the assessment in the facilities' site security plans. Further, the appropriate regulatory entity should have the authority to require facilities posing the highest degree of risk (Tiers 1 and 2) to implement IST method(s) if such methods enhance overall security, are feasible, and, in the case of water sector facilities, consider public health and environmental requirements.

For Tier 3 and 4 facilities, the appropriate regulatory entity should review the IST assessment contained in the site security plan. The entity should be authorized to provide recommendations on implementing IST, but it would not require facilities to implement the IST methods.

The Administration believes that flexibility and staggered implementation would be required in implementing this new IST policy. DHS, in coordination with EPA, would develop an IST implementation plan for timing and phase-in at water facilities designated as high-risk chemical facilities. DHS would develop an IST implementation plan for high-risk chemical facilities in all other applicable sectors.

Because CFATS and MTSA both address chemical facility security, there certainly should be harmonization, where applicable, between these programs. We of course continue to work closely within the Department with the Coast Guard to review the processes and procedures of both programs. We also support further clarification in the statute concerning the type of NRC-regulated facilities exempt from CFATS.

In the area of enforcement, we have expressed in our testimony on H.R. 2868 the Department's support for eliminating the requirement that an Order Assessing Civil Penalty may only be issued following an Administrative Order for compliance. This change would greatly streamline the civil enforcement process, enhancing the Department's ability to promote compliance from facilities. We also support language that would authorize the Department to enforce compliance by initiating a civil penalty action in district court or commencing a civil action to obtain appropriate relief, including temporary or permanent injunction. We note, however, that the enforcement provisions this Committee has proposed in H.R. 3258 would subject drinking water facilities to a lower maximum penalty as compared to chemical facilities regulated under H.R. 2868 if enforcement is pursued through a civil penalty action in district court. This could result in inconsistent enforcement between facilities.

The Department notes that the Drinking Water System Security Act of 2009 would give the Administrator discretion in divulging information about the reasons for placing a facility in a given tier. This provision is preferable to the provision in Title I of HR 2868 which mandates that the Department disclose specific information to tiered facilities that could include classified information.

The Department also notes that HR 3258 and HR 2868 contain provisions that require covered facilities and government agencies to comply with all applicable state and Federal laws and exclude from protection "information that is required to be made publicly available under any law." While the Department supports current requirements for facilities to report certain information to Federal and state agencies under other statutes, DHS is concerned that this language as written could increase the likelihood that sensitive information could be inappropriately disclosed to the general public. The Department would like to work with the Committee to explore what other Federal statutes and information might be affected by this language in order to ensure that there are no inconsistencies that could undermine the important goal of protecting sensitive information from unwarranted disclosure, while still protecting the public right-to-know about information that may affect public health and the environment, as embodied in these other statutes. We will also consult with our partner agencies that administer the affected Federal statutes.

#### CONCLUSION

The Department is collaborating extensively with the public, including members of the chemical sector and other interested groups, to work toward achieving our collective goals under the CFATS regulatory framework. In many cases, industry has voluntarily done a tremendous amount to ensure the security and resiliency of its facilities and systems. As we implement the chemical facility security regulations, we will continue to work with industry, our other Federal partners, States, and localities to get the job done.

The Administration recognizes that further technical work to clarify policy positions regarding IST and water treatment facility security is required. The policy positions discussed above represent starting points in renewed dialogue in these important areas. DHS and EPA staff are ready to engage in technical discussions with Committee staff, affected stakeholders, and others to work out the remaining technical details. We must focus our efforts on implementing a risk-and performance-based approach to regulation and, in parallel fashion, continue to pursue the voluntary programs that have already resulted in considerable success. We look forward to collaborating with the Committee to ensure that the chemical security regulatory effort achieves success in reducing risk in the chemical sector. In addition to our Federal Government partners, success is dependent upon continued cooperation with our industry and State and local government partners as we move toward a more secure future.

Thank you for holding this important hearing. I would be happy to respond to any questions you may have.

Mr. THOMPSON of Mississippi. Mr. Chairman, I now recognize a member of the committee, the gentleman from New Jersey (Mr. PASCARELL), for 2 minutes.

Mr. PASCARELL. Mr. Chairman, I rise in strong support as an original cosponsor of the Chemical Facility Anti-Terrorism Act of 2009. We must take extraordinary measures to defend America. This is common sense.

I want to thank the chairman of Homeland Security for all of his work on the bill, as well as commending Chairman OBERSTAR and Chairman WAXMAN for coming together with one voice on this critical piece of legislation.

It has to be clear to all of us that this bill is long overdue and that chemical security is one of the greatest vulnerabilities to our homeland security infrastructure. Both sides admit to that point.

This bill reauthorizes the Department of Homeland Security's authority to implement and enforce the Chemical Facility Anti-Terrorism Standards which are currently set to expire in October of 2010. In fact, the bill strengthens these standards in a number of significant ways.

Now, let's get to the meat and potatoes of what we will be debating this afternoon—and getting the amendments whenever the heck that happens.

The State of New Jersey is home to the most dangerous 2 miles in America—the FBI has pointed this out many times—along the Jersey Turnpike. Because it is the most densely populated State, with a very large chemical industry presence, I am proud to say that the State has adopted some of the strongest chemical security standards in the Nation, and it's time the Federal Government caught up. That is why I am surprised and deeply disappointed that there are Members of this body who actually hope to strip the State preemption language out of this bill.



We need to raise Federal standards, as we do in this bill, and not force States to lower their standards.

The Acting CHAIR (Mr. SERRANO). The time of the gentleman has expired.

Mr. THOMPSON of Mississippi. Mr. Chairman, I yield the gentleman 1 additional minute.

Mr. PASCRELL. I am also very disappointed that the chemical industry and Members of this body continue to raise unnecessary fears about the inherently safer technology assessments. We have gone over this in testimony since 2006.

The State of New Jersey has rightfully required chemical facilities to assess for safer technology assessments, and believe it or not, our State is not only safer for it, but the sky hasn't fallen on the chemical companies in New Jersey. The truth is that this bill is not only the best thing for our homeland security, but also the best thing for the chemical industry, because assuring safety and greater efficiencies is a tremendous cost saver in the long run.

Mr. Chairman, this should be a bipartisan issue. We say that protecting the American people is our number one priority. Now is the moment to prove it.

I urge bipartisan passage of this bill.

Mr. DENT. Mr. Chairman, I appreciate this opportunity to address this legislation, and I want to thank Ranking Member KING for rubbing it in on the Phillies. I know you're very pleased about the Yankees, but at least the Phillies beat the Mets. That's all I have to say today about that. So with that, congratulations to the Yankees.

Again, this is a very important piece of legislation, as we all know. I have very serious concerns about it for a number of reasons, but it should be remembered that in 2006, we, Congress, enacted a law that gave the Department of Homeland Security the authority to regulate chemical facilities.

You're hearing a lot of talk today about inherently safer technologies, and I would like to get into that in just a moment and what it means. I should also point out as well that the State of New Jersey does require IST assessments, but not implementation of IST, which is quite different. We are going much further than the State of New Jersey in this legislation.

It's important to point out, too, that I certainly support the Department's efforts to secure chemical facilities, but unfortunately, I think this legislation is riddled with costly provisions that go beyond the underlying security purpose of the bill.

Currently, there are vulnerability assessments that the Department must do under the current regulations. There are about 6,000 vulnerability assessments that must be done. So far, 2,000 have been completed, leaving about 4,000 vulnerability assessments that remain. Adding these IST assessments will be enormously costly.

I should also point out that the Department of Homeland Security has no one on staff who is an expert in these inherently safer technologies, so I wanted to point that out for the record.

We've had a lot of testimony, too, and I want to say something about inherently safer technologies. Testimony was referenced. There was a statement from a Scott Berger, who is a director for the Center for Chemical Process Safety. Mr. Berger is an expert in inherently safer technology and inherently safer design. And as the organization that developed the most widely used reference addressing inherently safer design, inherently safer processes, and lifecycle approach, they are the leaders. That was in his testimony. And he said, What is inherently safer design, from his testimony back in June of 2006. He said, Inherently safer design is a concept related to the design and operation of chemical plants, and the philosophy is generally applicable to any technology. Inherently safer design is not a specific technology or set of tools and activities at this point in its development. It continues to evolve, and specific tools and techniques for application of inherently safer design are in the early stages of development. And he goes on.

But essentially what he's saying is inherently safer technology is a conceptual framework. It's not a technology; it's an engineering process. Unfortunately, it seems that too many in Congress are trying to act as chief engineers. We are essentially trying to tell people how to produce certain types of chemicals and what chemicals to use.

These are very technical issues. It will be very costly to implement. It will affect jobs in this country, and with unemployment rates approaching 10 percent nationally, I am very concerned about the impact on this.

I happen to represent a district, the 15th District of Pennsylvania. I have a company called Air Products and Chemicals. About 4,000 people work there. They spend their time designing and building chemical plants in this country and throughout the world. They know a bit about this. And I am extremely concerned that those types of jobs will be put at risk because these chemical plants will be built, but they will not be built here. They will be built elsewhere to produce the chemicals that we need every day in our lives. So that is something that I just feel we have to talk about.

Mr. PASCRELL. Will the gentleman yield?

Mr. DENT. I will yield briefly.

□ 1545

Mr. PASCRELL. My good friend from the 15th District of Pennsylvania, you're not suggesting that each State should decide for itself as to what the standard for chemical security should be, are you?

Mr. DENT. No.

Mr. PASCRELL. You're not. Then what are you suggesting?

Mr. DENT. I am suggesting that we, as a country, maintain the regulations.

Mr. PASCRELL. Which regulations?

Mr. DENT. Reclaiming my time, the ones that are currently in place. The regulations that we just extended for 1 year.

About a month ago, when we passed the Homeland Security Appropriations Act, we extended the current regulations for 1 year. I think we should extend them for another 2 years. Let those regulations take effect. Let's implement them. We have agreement. There was a great deal of opposition to this legislation by farmers, manufacturers and others who are going to be saddled with these costs. I have to point this out:

Inherently safer technology deals with workplace safety issues and how you develop the product or the process. It doesn't deal with securing the plant—you know, hiring more guards or building fortifications to secure a plant. That deals with safety as opposed to security. I want to make that distinction because we all agree—you and I agree—that we need to make sure that these plants are secure, but inherently safer technology is really not about plant security, and I think we have to be clear about that.

I reserve the balance of my time.

Mr. THOMPSON of Mississippi. Mr. Chairman, before I yield to the gentleman from Texas, I would like to say that this is a security bill. A good security bill makes all of us safe. What we're looking at now is an opportunity to go into facilities that don't, in many instances, have security assessments. If we make security assessments, then we will identify those vulnerabilities those facilities have and help them correct them. Bad people would love to get into facilities with vulnerabilities and do harm. What we're trying to do is help those facilities create the capacity to be secure. That's all we're doing.

Mr. Chairman, I yield 2 minutes to the gentleman from Texas (Mr. AL GREEN), who is a member of the committee.

Mr. AL GREEN of Texas. I thank Chairman THOMPSON for yielding me the time.

Mr. Chairman, I rarely use the personal pronoun "I." I don't like using it because rarely do we accomplish things by ourselves; but to thank Chairman THOMPSON, it is appropriate that I use this personal pronoun for he was the person who helped us to put a provision into CFATS which deals with the administration of facilities along ports. In Houston, Texas, we have 25 miles of ports that we have to contend with.

Thank you, Mr. THOMPSON. Thank you, Mr. Chairman.

Let me say this: proactive measures can prevent reactive remediation. This

is a proactive measure that we are taking to prevent having to do something that will help us after an event has occurred, and it's important to note that this is not just about chemical facilities.

There are many people who would say, Well, I don't have a chemical facility in my neighborhood. It really doesn't concern me. It doesn't impact me.

You do have drinking water in your neighborhood, however. This legislation deals with drinking water and with wastewater treatment facilities. It is important that wastewater treatment facilities that are in every neighborhood be properly secured, and it is of utmost importance that drinking water be secured. That's what this piece of legislation addresses as well. I don't want it said on my watch that we had an opportunity to take some preventative measures and that we failed to do so such that somebody's child, somebody's husband or wife, that somebody was harmed when we had it within our power to prevent it.

This is good, sound legislation. It is a proactive approach to prevent us from having to take some sort of remediation after the fact.

The Acting CHAIR. The time of the gentleman has expired.

Mr. THOMPSON of Mississippi. Mr. Chairman, I yield 1 additional minute to the gentleman.

Mr. AL GREEN of Texas. Finally, citizen lawsuits are appropriate because citizens are near the problem. They know what's not going on.

Why can't we put citizens in the loop of protecting their communities?

Yes, people can sue, but there are also means by which persons who sue can be removed from the dockets of courts. Anybody can sue. You can walk into any court and sue right now for anything that you want. You don't prevail just because you file a lawsuit. Citizens can help us to help protect our communities by having this opportunity to sue.

It is a good piece of legislation, and I thank the chairman for his hard work with the other committees of jurisdiction to promulgate this legislation.

Mr. DENT. Mr. Chairman, may I inquire as to how much time I have remaining.

The Acting CHAIR. The gentleman from Pennsylvania has 4 minutes remaining. The gentleman from Mississippi has 5 minutes remaining.

Mr. DENT. Mr. Chairman, I yield 2½ minutes to the ranking member of the Committee on Agriculture, the distinguished gentleman from Oklahoma (Mr. LUCAS).

Mr. LUCAS. Mr. Chairman, I rise in opposition to H.R. 2868, the so-called Chemical and Water Security Act of 2009.

It no longer surprises me that the Democratic leadership is, once again,

racing to impose more government mandates on our farmers, ranchers and small businesses without considering the economic impact of their actions. From cap-and-trade to food safety and soon to health care, rushing ill-conceived, ill-timed legislation through Congress has shamefully become the norm around here.

In renaming the bill the Chemical Facility Anti-Terrorism Act to the Chemical and Water Security Act, I appreciate that the authors of the bill at least acknowledge that it has nothing to do with protecting our country from acts of terrorism but, rather, that it has everything to do with pacifying the extreme environmental lobby.

Some have said that agriculture should not be concerned about this legislation. Well, if that were true, then a coalition of agriculture groups, which includes the American Farm Bureau Federation, would not be circulating a letter to all Members of Congress urging them to vote against it.

Let me be clear: this bill will have a deep and negative impact on the agriculture industry.

Under the current regulatory framework, which I would support to reauthorize, farmers would have an extension appropriate to the small risks they impose. Under those regulations, chemical facilities are treated fairly and work with the Department of Homeland Security in a cooperative manner to enhance site security.

This legislation destroys that relationship. This legislation contains absolutely no authority for the Secretary of Homeland Security to grant extensions to farmers for the future. In fact, under this bill, there is no authority for the Secretary to provide for the appropriate risk-based treatment of farmers or any other disproportionately affected groups when it reissues its regulations. That's not all.

Manufacturers and suppliers of agricultural inputs, like fertilizers and pesticides, will also not be exempt from the nonsecurity-related provisions of the bill. Such provisions will jeopardize the availability of those widely used and lower-cost agricultural inputs that are essential for agriculture production.

In essence, this sets up a scenario where input supplies will be limited, where costs will skyrocket and where U.S. food security and the livelihoods of our farmers will be threatened.

Beyond devastating the agriculture industry, this bill does not provide any additional security against acts of terrorism, which is supposed to be its purpose. National security will actually be compromised since provisions of the bill will allow citizen lawsuits in the national and homeland security arena.

The Acting CHAIR. The time of the gentleman has expired.

Mr. DENT. I yield the gentleman an additional 30 seconds.

Mr. LUCAS. Mr. Chairman, this is an irresponsible and carelessly crafted piece of legislation that will impose mandates on family farms, small businesses, hospitals, and universities. It expands the environmental legal framework under the guise of security; and it fails to preserve, let alone expand and protect, current security protections for our country.

I urge my colleagues to oppose the bill.

Mr. THOMPSON of Mississippi. Before I recognize the gentlewoman from California, let me say that nothing in this bill prevents the Secretary from using her discretion in continuing the exemption for farmers. I will put my credentials from agriculture up against anyone's in this body. I represent a rural district. Nothing I would do in this body would harm agriculture, and I think if you check my voting record, you will absolutely see that.

Also for the record, to the gentleman from Oklahoma, let me say that, before any of these things are done, the Department has to see if it's technically feasible; they have to see if it's cost effective, and if it lowers the risk at the facility.

So all of those concerns you raise are justified, but they are addressed in the bill. So I would say that, between the time for general debate and when we start voting, if you would go back and look at that, I think some of your concerns will be resolved.

I yield 2 minutes to a member of the committee, the gentlewoman from California (Ms. RICHARDSON).

Ms. RICHARDSON. Mr. Chairman, I rise today to express my strong support for the Chemical and Water Security Act of 2009.

I would like to thank Chairman THOMPSON for his hard work in crafting this vital piece of legislation.

I support this legislation because it will enhance the security of our Nation in terms of chemicals, drinking water, and wastewater facilities. This legislation lessens the vulnerability of our most critical sectors, one of which I live in.

More specifically, I rise today to speak to a provision that I offered which protects workers who identify and report violations affecting the safety and security of chemical facilities. When it comes to the security of our facilities, we should not leave our first preventers at the door. We depend upon them to be competent, to be vigilant, and to be proactive. We owe them the assurance that they will not be penalized for doing their jobs properly. That is why I am pleased that the bill also incorporates a provision that requires the facility owners to certify in writing their knowledge of protections for whistleblowers.

So, Mr. Chairman, when we look at H.R. 2868, the answers are really clear. All you have to look back at is the poison gas leak of a Union Carbide plant

in 1984 which killed 10,000 people in 72 hours, and that was an accident. Imagine the economic and strategic damage that could be done to our country.

Let's talk about my district, the 37th. I am a proud Representative of the Joint Water Pollution Control Plant in Carson, California. That wastewater treatment plant switched from using chlorine gas to liquid bleach disinfection. We need to do this throughout the country, and this legislation will enable us to do that.

I applaud Chairman THOMPSON for his work and for working with our other colleagues on the other committees.

I urge my colleagues on the other side: we can't wait. We can't wait anymore because our constituents are in danger.

The Acting CHAIR. The Chair will note that the gentleman from Pennsylvania has 1 minute remaining, and the gentleman from Mississippi has 2 minutes remaining.

Mr. DENT. Mr. Chairman, in conclusion to this discussion, I must restate my reasons for opposition to this bill.

There is not one person in the Department of Homeland Security who has any expertise in inherently safer technology. They are not prepared to deal with this mandate. I am concerned that much of this bill is, in fact, not focusing on security at all but is, rather, focusing on Federal mandates that may force our small businesses and farms to shed American jobs, further harming our vulnerable economy.

I have a letter here from 27 different organizations, including the Chamber of Commerce, the Farm Bureau and the Fertilizer Institute, which oppose the underlying legislation. They said: "We continue to oppose the bill due to the detrimental impact it will have on national security and economic stability."

A lot has been said about chemical facilities, but this bill is not so much about chemical facilities as it is about facilities with chemicals, and those facilities include hospitals, colleges and universities, and 3,630 employers with fewer than 50 employees. These are the people who are going to be impacted, and jobs will be lost. With unemployment approaching 10 percent, I don't think now is the time to impose this kind of a mandate, which will not have any real security benefit to the American people.

So, with that, I would like to submit this letter for the RECORD from the various organizations in opposition to this legislation. Let's let the current regulations be implemented. Let's extend them for that 1 year and beyond.

NOVEMBER 3, 2009.

Hon. NANCY PELOSI,  
*Speaker, House of Representatives,*  
*Washington, DC.*

Hon. JOHN BOEHNER,  
*Republican Leader, House of Representatives,*  
*Washington, DC.*

DEAR SPEAKER PELOSI AND REPUBLICAN LEADER BOEHNER: We write to you today to

express our opposition to H.R. 2868, the "Chemical Facility Anti-Terrorism Act of 2009" (CFATS). Despite the changes made to this legislation in the Energy and Commerce and Homeland Security Committees, we continue to oppose the bill due to the detrimental impact it will have on national security and economic stability.

Specifically, we strongly object to the Inherently Safer Technology (IST) provisions of this legislation that would allow the Department of Homeland Security (DHS) to mandate that businesses employ specific product substitutions and processes. These provisions would be significantly detrimental to the progress of existing chemical facility security regulations (the "CFATS" program) and should not be included in this legislation. DHS should not be making engineering or business decisions for chemical facilities around the country when it should be focused instead on making our country more secure and protecting it from terrorist threats. Decisions on chemical substitutions or changes in processes should be made by qualified professionals whose job it is to ensure safety at our facilities.

Furthermore, forced chemical substitutions could simply transfer risk to other points along the supply chain, failing to reduce risk at all. Because chemical facilities are custom-designed and constructed, such mandates would also impose significant financial hardship on facilities struggling during the current economic recession. Some of these forced changes are estimated to cost hundreds of millions of dollars per facility. Ultimately, many facilities would not be able to bear this expense.

Thank you for taking our concerns into account as the Committee continues to consider the "Chemical Facility Anti-Terrorism Act of 2009." We stand ready to work with the Committee and Congress towards the implementation of a responsible chemical facility security program.

Sincerely,

Agricultural Retailers Association;  
American Farm Bureau Federation;  
American Forest & Paper Association;  
American Petroleum Institute;  
American Trucking Associations;  
Chemical Producers and Distributors Association;  
Consumer Specialty Products Association;  
The Fertilizer Institute;  
Institute of Makers of Explosives;  
International Association of Refrigerated Warehouses;  
International Liquid Terminals Association;  
International Warehouse Logistics Association;  
National Agricultural Aviation Association;  
National Association of Chemical Distributors;  
National Association of Manufacturers;  
National Grange of the Order of Patrons of Husbandry;  
National Mining Association;  
National Oilseed Processors Association;  
National Pest Management Association;  
National Petrochemical and Refiners Association;  
National Propane Gas Association;  
North American Millers' Association;  
Petroleum Equipment Suppliers Association;  
U.S. Chamber of Commerce.

Mr. Chairman, I yield back the balance of my time.

Mr. THOMPSON of Mississippi. Mr. Chairman, I yield 1 minute to a mem-

ber of the committee, the gentlewoman from Houston, Texas (Ms. JACKSON-LEE).

□ 1600

Ms. JACKSON-LEE of Texas. I thank the chairman of the committee for his leadership.

I'm pleased, as the Chair of the Transportation Security and Critical Infrastructure Protection Subcommittee, to rise to support this legislation and particularly highlight for my colleagues the importance of legislation and language that I put in the bill in our subcommittee. One dealing with whistleblower protections that requires the DHS Secretary to establish and process and to accept information from whistleblowers. We cannot be a secure Nation if people don't feel that they have the ability to tell the truth.

I'm very pleased that language is in the bill that reduces the consequence of a terrorist attack by requiring the use of inherently safer technologies, which is crucial as we begin to look at chemical facilities and wastewater facilities. In addition, the aspect of the citizen enforcement that allows a citizen to file suit against the DHS, not against a private company, that speaks to the issue of making sure that the Department of Homeland Security is in compliance.

Then, of course, I think it is important to note, as we look at background checks, that we also are reminded of people's right to work. Title I requires the Department of Homeland Security Secretary to issue regulations to require tiered facilities to undertake background checks for the safety of the American people.

This is a legislative initiative that is overdue. I ask my colleagues to support this legislation.

Mr. THOMPSON of Mississippi. Mr. Chair, I yield myself the balance of my time.

As you've heard, Mr. Chair, this legislation before us today is critical to the security of our Nation and is deserving of the full support of this House.

With that, Mr. Chair, I yield back the balance of my time.

The Acting CHAIR. The gentleman from Massachusetts (Mr. MARKEY) will be recognized for 15 minutes and the gentleman from Texas (Mr. BARTON) will be recognized for 15 minutes.

The Chair recognizes the gentleman from Massachusetts.

Mr. MARKEY of Massachusetts. Mr. Chairman, I yield myself such time as I may consume.

I rise in support of the Chemical and Water Security Act, legislation that is a product of about 9 months of effort by the House Energy and Commerce, Homeland Security, and Transportation and Infrastructure Committees. We've worked as partners towards the final construction of this legislation.

Now, I come from a district that was home to some of the 9/11 terrorists before they launched their attacks, before they walked in our streets, scoped out our airports, rehearsed their mission. The September 11th attacks demonstrated that America's very strengths, its technology, could be turned into weapons of mass destruction to be used against us.

Mohammed Atta and the other nine terrorists that hijacked those two planes at Logan Airport on September 11th were roaming around my district for about a year trying to determine how they could exploit deficiencies in technology. And when they found it, they struck. And more than 150 people were on those planes flying from Logan towards New York City. It is something that is etched forever in my mind, and I am committed to ensuring that it is not repeated.

Since 9/11, as a result of what happened on that day, we have enacted legislation to secure aviation, to secure maritime, rail, mass transit, nuclear energy, and other sectors. But what we have yet to do is act on comprehensive legislation to secure the facilities that make or store dangerous chemicals. Instead, we have relied on an incomplete and an adequate legislative rider that was inserted into an appropriations bill in 2006 that amounted to little more than a long run-on sentence.

The chemical sector represents the best of American technological might. Its products help to purify our water; make the microchips used in our computers, cell phones, and military technologies; refine our oil; grow our food. But these same chemicals could also be turned into a weapon of mass destruction, something we are reminded of just recently when we learned of a disrupted terrorist plot to use hydrogen peroxide purchased in Colorado for a bomb planned to be detonated in New York.

While the Department of Homeland Security has done an admirable job of implementing the rather hastily crafted legislative rider from 2006, the bill before us today closes the loopholes left open by that provision that could be exploited by terrorists.

The bill contains provisions that represent more than 5 years of work on my part to ensure that facilities containing toxic chemicals switch to safer processes or substances only when it is technologically and economically feasible to do so. Terrorists cannot blow up what is no longer there. The language in this bill represents a true compromise that the Energy and Commerce Committee developed in close consultation with and using considerable input from the American Chemistry Council. Only the riskiest facilities would be subject to this provision. The Department of Homeland Security puts the number at between 100 and 200 out of a total of more than 6,000 regulated facilities.

Under 3 percent of the chemical facilities in our country would be covered under this legislation, the most dangerous, the most vulnerable, the most likely targets by al Qaeda in our country. And we know that al Qaeda has metastasized around the world. They are still trying to find the most vulnerable way that our country can be exploited, and it is our job to make sure that we pass the legislation that closes those vulnerabilities.

The American Chemistry Council and the Society of Chemical Manufacturers and Affiliates have endorsed the citizen enforcement provisions which were added in the Energy and Environment Subcommittee markup. These provisions remove all lawsuits against private companies, a change that the Chamber of Commerce has also deemed positive. The bill retains the ability for citizens to bring suit only against the Department of Homeland Security for failure to perform nondiscretionary duties and against Federal facilities for failure to comply with orders. It also establishes a citizen petition process to give citizens an official forum to report alleged security problems at private facilities to the Department of Homeland Security.

The legislation closes what both the Bush and Obama administrations have called a "critical security gap" for drinking water and wastewater facilities that were exempted from the 2006 law and the powers given to the Department of Homeland Security to close homeland security gaps that can be exploited by al Qaeda. In this bill, we grant the Environmental Protection Agency authority to establish a parallel security program for the water sector, consistent with the Bush and Obama administrations' views that EPA should be the lead regulator for these facilities.

Like the chemical facility language, drinking and wastewater facilities that use and store chemicals in amounts that could cause injury in the event of a release must assess whether they can switch to safer chemicals or processes and that these processes may be required by State regulators only if, and I repeat, only if they are economically and technologically feasible and if their adoption will not impair water quality. The Blue-Green coalition of environmental and labor organizations, the Association of Metropolitan Water Agencies, whose member utilities provide safe drinking to more than 125 million Americans, and the Association of California Water Agencies have all endorsed the drinking water title of this bill.

This legislation is a compromise. We engaged with all of the stakeholders and crafted language that addresses all of the concerns. And it is notable that even the Chamber of Commerce has said that it "recognizes that several provisions have been reworked and

modified to address concerns raised by the business community."

This, ladies and gentlemen of the House, is still a glaring regulatory black hole that we must ensure is closed. We cannot allow al Qaeda to exploit this weakness that exists in the security that we place around the chemical facilities in our country. We know that it is at or near the very top of the al Qaeda target terrorist list. This legislation closes that loophole. It ensures that we are going to provide the protection for the American public from that attack, which we know somewhere in the world al Qaeda is planning if they can only find the way to exploit a weakness in our defense.

Mr. Speaker, I reserve the balance of my time.

Mr. BARTON of Texas. Mr. Speaker, first, let me express my heartfelt condolences to my friend from Massachusetts on the Yankees' ascendancy last night. I am one of many, many, many people in this country who, while I'm not a Red Sox fan, do not put me down in the Yankee Blue column. So maybe my Rangers one of these days will come up and at least tussle with the Red Sox and the Yankees for the American League pennant.

Mr. Speaker, I rise in opposition to this bill. Before I go into my prepared remarks, I think it's educational to explain to the body what we're actually marking up.

We had two bills that came out of the Energy and Commerce Committee, and I would assume out of the Homeland Security Committee that were marked up and subject to debate. We had a bill in the Transportation Committee that, from what I can tell, was never marked up, and we now have merged the two work products from Homeland Security, the two work products from Energy and Commerce, and a work product from the Transportation Committee that was never publicly marked up and changed them in this bill and then it's going to be yet changed again in the manager's amendment in the nature of a substitute tomorrow so that the bill that we will actually be voting on is a bill that has never seen the light of day as a single bill.

Now, on the surface all these bills, or this bill, this merged bill, should pass 435-0. The Chemical and Water Security Act sounds like something that's a suspension calendar bill. The problem is, Mr. Speaker, that the bill before us has almost nothing to do with security in the sense of protection against terrorism. It has everything to do with what I consider to be radical environmentalism under the guise of homeland security. Let me elaborate on that in the written remarks.

The approach in this legislation is deeply flawed. The overreaching problem is simply this: Protecting chemical facilities and drinking water systems from terrorist attacks should not be

done under the umbrella of environmental law. If it's about stopping terrorism, we ought to be talking about computer security and fiscal security and prevention and terrorism tracking and all of the things that really make these facilities safer against terrorism. Instead, we're debating something called IST, inherently safer technology, which is a chemical process, a manufacturing process, so that you process the water, you process the chemicals in a fashion that is safer from an environmental standpoint or perhaps from a safety standpoint for the workers in the surrounding community.

□ 1615

Mr. Chair, that has nothing to do with protecting against terrorism. H.R. 2868 goes beyond the reasonable requirements that have been the core of many Homeland Security programs for several sectors. Vulnerability assessments, site security plans, emergency response plans, these are real things that should be done and are being done to protect our chemical and water facilities against terrorism, but we're substituting in this bill for this IST and these environmental requirements that really have nothing to do with security.

We have an existing security regime in place for chemical facilities and water systems, including a chemical security program that the Congress passed 3 years ago, which is still in the process of being implemented by the Department of Homeland Security. My good friend from Massachusetts talked about how that was put into law back in 2006 and seemed to intimate that it was not thoughtfully done. I would assure my friend that it was very thoughtfully done.

The Energy and Commerce Committee at that time had primary jurisdiction, and my concern, as chairman of the committee at that time, was that we really shouldn't do something on an appropriations bill. We should do it through the regular process. But because it came late in the year, we did yield to the appropriators and put it in the omnibus bill. But even doing that, we spent weeks debating and working with the Homeland Security Committee and the stakeholders to come up with what, today, I think is a better process than what is in this bill.

It is considered that the existing chemical plant security program that we already have is going to cost \$18.5 billion in public and private investment right now. The reasonable thing to do, in my opinion, is to let that program be implemented before we scrap it with a totally new concept from this Congress. We need to know what the deficiencies, if any, are in the existing program before we move to a brand new program and a brand new concept.

This legislation refuses to honor common sense when simplistic ide-

ology seems to offer a quick return on a political investment. More to the point about this being an environmental bill is the fact that I am struck by some of the key words used in the entire legislation to address terror prevention. For example, page 10, line 20 of the amendment in the nature of a substitute—and I want to be very clear about this—defines a “chemical facility terrorist incident” as a “release of a substance of concern.” If you look up the definition of “release,” starting on page 12, line 19, that mirrors the exact language of the toxic waste cleanup law, which we call Superfund, right down to making its covered universe of “hazardous substances, pollutants, or contaminants.”

Mr. Chair, this means that the Department of Homeland Security is now going to treat an environmental accident or an environmental cleanup as a terrorist incident. Now, I don't want to imply that an environmental accident is not a serious issue that needs to be dealt with seriously, but it's not a terrorist attack if you have a spill of a toxic chemical at a chemical facility. It's an accident. It's a problem. It needs to be dealt with. There are environmental issues. But it is not a terrorist incident. It is not a terrorist attack. But if this bill becomes law and you have that type of an accident, it is going to be a terrorist incident, and it has to be considered by the Department of Homeland Security. I think that is ludicrous. I think it's wrong. I think it is shortsighted, and I think it is unnecessary.

I'm an industrial engineer. I understand, to some extent, plant processes and chemical processes and things like that. I think we're very blessed in this country to have a robust chemical industry, much of which is located in the States of Texas and Louisiana on the Texas and Louisiana gulf coast. If this bill becomes law, my projection is that within 10 years or so, many of those facilities are going to be closed down and inoperable, and tens of thousands of jobs are going to be lost because our chemical industry is simply going to move offshore. They're not going to stay under a legislative proposal that, on the surface of it, is almost impossible to be implemented.

I am not convinced that there is a single, true, security-enhancing thing about the specific requirements in this bill, and I know for certain that we're already making these facilities do types of things under the EPA's risk assessment program and OSHA's process safety management program that this bill then doubles down on.

We have existing laws and existing processes to handle the issues these bills really do handle. The concept is an engineering process philosophy. Congress has repeatedly heard expert testimony that the provisions in section 2111 of this bill are expensive, hard

to define because of significant technical challenges, and very tough, if not impossible, to enforce.

Further, even if these problems did not exist, the Department of Homeland Security does not even have the professionals it needs to make informed decisions on how to operate the program or give guidance to those who have to implement the program. Let me repeat. This legislation is not directed at preventing terrorist attacks. It is, instead, directed at setting up a regulatory regime under which the Department of Homeland Security and EPA employees, who really don't know much about production processes at the Nation's chemical and drinking water facilities, are going to force and have to make key technical decisions—not security decisions—technical, manufacturing, process decisions about those processes.

As if this were not enough, the legislation weakens the protections traditionally given to high-risk security information by treating need-to-know information like environmental right-to-know data. I am for transparency in government, but why should we give the terrorists that we're trying to prevent from attacking these facilities almost an open book to go in and, under those open meeting requirements and open record requirements, get information that could allow them to concoct schemes to destroy those various facilities?

These provisions are not just troubling to me because this legislation will allow for more information, ironically, to be made publicly through litigation but, more so, because it's going to be very hard to penalize people that reveal this information to the public. As one of my Democrat friends said in the committee markup in the Energy and Commerce Committee, “Loose lips sink ships,” and there are few repercussions under this bill for somebody with loose lips.

I could go on and on, Mr. Chairman, but let me simply say, this is a bad bill at the wrong time. It's unnecessary. I hope that we can have a bipartisan vote against it, and I hope that we can defeat it.

I do want to say one good thing about the process. Mr. WAXMAN and Mr. MARKEY did have a subcommittee markup. They did have a full committee markup, and a number of amendments have been made in order by the Rules Committee for the minority to try to improve the bill, and for that, I am thankful.

Mr. Chair, I ask unanimous consent to yield the balance of my time to my good friend from Florida (Mr. STEARNS) to control.

The Acting CHAIR (Mr. TIERNEY). The gentleman from Florida will be recognized in that event.

Mr. MARKEY of Massachusetts. Mr. Chair, will you inform us as to how much time is remaining on either side.

The Acting CHAIR. The gentleman from Massachusetts (Mr. MARKEY) has 7 minutes remaining, and the gentleman from Texas (Mr. BARTON) has 3 minutes remaining.

Mr. MARKEY of Massachusetts. Mr. Chair, I yield 5 minutes to the chairman of the full committee, the gentleman from California (Mr. WAXMAN).

Mr. WAXMAN. Mr. Chairman, I rise in strong support of H.R. 2868, the Chemical and Water Security Act of 2009. This legislation resolves some important unfinished business from 9/11. We learned on that terrible day how determined terrorists can turn our critical assets into weapons of mass destruction. Despite that wake-up call, we've been slow and inconsistent in securing our Nation's chemical facilities and water systems from terrorist attack. Passing this legislation will enhance our Homeland Security, improve the safety of our workforce, and help protect our public health.

First, the bill strengthens security at America's chemical plants by providing permanent authority for the Department of Homeland Security's chemical facility antiterrorism standard program. This legislation would establish a number of security enhancements, including requiring, for the very first time, that covered chemical facilities assess whether there are any safer chemical processes or technologies that they can adopt that would reduce the consequences of a terrorist attack against that facility. This bill would also authorize the Secretary of Homeland Security, under certain circumstances, to require that the riskiest chemical facilities adopt the safer chemical processes or technologies when necessary to reduce the likelihood that the facility will be attacked.

The bill also provides chemical facilities with an appeals process if they disagree with the DHS Secretary's determination. We crafted this provision in close consultation with considerable input from the largest chemical industry association, the American Chemistry Council.

Second, the bill establishes minimum security standards at drinking water and wastewater facilities, closing what the Bush and Obama administrations agree is a critical security gap. Under this bill, for the first time, covered water systems that use a certain amount of dangerous chemicals will have to assess whether they can switch to safer chemicals or processes to protect their employees, their neighbors, and the communities they serve.

We worked closely with the water sector to craft a bill that meets several important policy goals—clean and safe water and homeland security. I am pleased that the associations representing drinking water and wastewater utilities have endorsed the bill. These endorsing associations include

the Association of Metropolitan Water Agencies, the American Public Works Association, the National Association of Clean Water Agencies, and the Association of California Water Agencies.

Third, this bill gives chemical facility workers much-needed protection by ensuring that chemical facilities and water systems involve their workers in developing plans to address any vulnerability to terrorist attack. Not only are workers the first line of defense against any attack, they would also be the first injured in the event of a chemical release. That's why this legislation is strongly supported by labor organizations, including the United Steelworkers, United Auto Workers, Communications Workers of America, and the International Chemical Workers Union Council.

And finally, this bill improves current law by creating a citizen enforcement tool that citizens can use to protect their communities when DHS fails to perform its nondiscretionary duties. It also allows States to take additional action to protect their communities from terrorists if they find it to be necessary.

This bill is the product of careful compromise, and it was drafted in close consultation with key stakeholders from government, the chemical industry, the water utilities, labor and other groups. That's why it has been endorsed by a broad coalition of labor and environmental organizations in addition to many water industry associations. I am proud of the balance we have struck.

I urge all Members to support H.R. 2868 to close these critical security gaps once and for all.

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First, the bill strengthens security at America's chemical plants by providing permanent authority for the Department of Homeland Security's Chemical Facility Anti-Terrorism Standards program. This legislation would establish a number of security enhancements including requiring for the first time that covered chemical facilities assess whether there are any safer chemicals, processes, or technologies that they can adopt which would reduce the consequences of a terrorist attack against the facility. This bill will also authorize the Secretary of Homeland Security, under certain circumstances, to require the riskiest chemical facilities to adopt the safer chemicals, processes, or technologies when necessary to reduce the likelihood that the facility will be attacked.

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Finally, I'd like to highlight two aspects of the bill.

#### INFORMATION PROTECTION

Each title of H.R. 2868 contains a section related to the protection of sensitive security information that could be detrimental to facility security if disclosed. The bill requires the Secretary of Homeland Security and the EPA Administrator to develop rules for the appropriate sharing of protected information with those who have a need to know it. The bill also establishes criminal penalties for any person who discloses this protected information in knowing violation of the rules.

The bill defines the types of information that is considered "protected" as well as the types



of information that the bill's sponsors intended to exclude from that definition. The bill states that protected information does not include "information that is required to be made publicly available under any other provision of law." Laws such as the Clean Air Act, the Emergency Planning and Community Right to Know Act or the Occupational Safety and Health Act require disclosure of important safety information to regulators, workers and often the public at large. An individual who discloses information in compliance with one of these other statutes should not face criminal penalties even if that information is also contained in a document such as a security vulnerability assessment that is protected under the rules established by Secretary of Homeland Security and the EPA Administrator.

#### DRINKING WATER FACILITIES AND SITE SECURITY PLANS

The Committee on Energy and Commerce reported H.R. 3258 favorably on October 21, 2009. H.R. 3258, now Title II of H.R. 2868, requires each covered water system to assess the system's vulnerability to a range of intentional acts. The vulnerability assessment must include a review of vulnerable assets within the fenceline of the system, such as water treatment and pre-treatment facilities and chemical storage units, as well as the off-site water distribution system. Each covered water system also must complete a site security plan that addresses the vulnerabilities identified in the assessment. With regard to the on-site vulnerabilities, the Committee intends for each covered water system to develop a site security plan that addresses those vulnerabilities using layered security measures to meet risk-based performance standards developed by EPA.

With regard to any off-site vulnerabilities identified by the covered water system, the Committee expects EPA to recognize that it would be impractical for the covered water system to guarantee the physical protection of the system's entire network of pipes, conveyances, and other usage points that comprise its distribution system. For example, it would be impracticable for the covered water system to control access to all fire hydrants or residential connections within its distribution system or all pipes that deliver its water. Similarly, the Committee does not expect for the covered water system to describe employees' roles and responsibilities for securing the distribution system beyond the fenceline of the system as part of its site security plan, unless the system has assigned one or more employees such responsibilities. The covered water system, however, may use funds granted by EPA to address off-site vulnerabilities, such as tamper-proofing of manhole covers, fire hydrants, and valve boxes.

Mr. STEARNS. Mr. Chair, may I inquire how much time is left on our side of the aisle?

The Acting CHAIR. The gentleman from Florida has 3 minutes.

#### PARLIAMENTARY INQUIRIES

Mr. STEARNS. Parliamentary inquiry, Mr. Chairman.

We understand that the Transportation Committee under Mr. DENT has extra time and that could be allotted, if he's not using it, to our side to use

it. Is that possible by unanimous consent that we could take his 15 minutes? We have some Members who actually are going to be affected by this bill, and they're going to lose jobs in their districts. They're quite passionate about this bill, and I would like to give them more than the 3 minutes that is available. So I am asking unanimous consent if it's appropriate to do that.

The Acting CHAIR. The Committee of the Whole may not change the scheme of debate established by an order of the House. A member of the Committee on Transportation and Infrastructure would have to manage that debate.

□ 1630

Mr. STEARNS. All right, then, so we are stuck with just 3 minutes.

Is it possible, Mr. Chairman, by unanimous consent that we can extend our time beyond the 3 minutes?

The Acting CHAIR. It is not possible in the Committee of the Whole.

Mr. STEARNS. Parliamentary inquiry, Mr. Chairman. If Mr. DENT shows up on the House floor and he makes a request to give us his 15 minutes, do we need a unanimous consent? Or I will stand in and manage the time for him and then we will have 15 more minutes that we can use for these individuals who are going to be affected by this bill?

The Acting CHAIR. The Committee of the Whole cannot change the scheme of control of debate. The gentleman from Pennsylvania (Mr. DENT) could manage the time.

Mr. STEARNS. If Mr. DENT comes down, he can manage the time.

The Acting CHAIR. A member of the appropriate committee could manage the time.

Mr. STEARNS. Well, just to be careful here, I think what I am going to do is I am going to take a minute, and hopefully Mr. DENT will show up and then we can have that extra time for us.

The Acting CHAIR. As a clarification to the gentleman from Florida, the gentleman from Pennsylvania would have to be on the Transportation and Infrastructure Committee to be recognized to control the time.

Mr. STEARNS. He is coming. In fact, he might be on the floor as I speak.

The Acting CHAIR. The gentleman from Florida is recognized for such time as he may use.

Mr. STEARNS. Mr. Chairman, at a time when the U.S. Bureau of Labor Statistics cites a 16 percent decline in chemical manufacturing jobs, this Chemical Facility Anti-Terrorism Act would force people out of work by imposing needless and harmful regulations on American industries by making the production, use and storage of chemicals more expensive and burdensome with little benefit to public safety or national security.

Absent Federal preemption and a uniform national standard, this legislation will create overlapping and conflicting security requirements that could cause disruption of Federal security standards, increase government red tape, and create more economic instability. This legislation will also impose new mandates on American manufacturers as to which products and processes they use without any regard for practicality, availability or cost.

I, along with undoubtedly every Member of this body, believe that securing chemical facilities against deliberate attacks is crucial to protecting Americans, which is why, since 2006, clear and comprehensive chemical security regulations have been put in place. Removing the sunset date and making the current chemical security regulations permanent would provide the certainty needed to both protect citizens and support our Nation's economic recovery.

I encourage all my colleagues to join me in strong opposition to this detrimental bill.

With that, Mr. Chairman, I reserve the balance of my time.

Mr. MARKEY of Massachusetts. Mr. Chairman, I yield for the purpose of a unanimous consent request to the gentleman from California (Mr. MILLER).

Mr. GEORGE MILLER of California. Mr. Chairman, I rise in strong support of the Chemical Facility Anti-Terrorism Act.

Mr. Chairman, I would like to thank my friend from California, Chairman WAXMAN, my friend from Minnesota, Chairman OBERSTAR, and my friend from Mississippi, Chairman THOMPSON, for their work in bringing the Chemical Facility Anti-Terrorism Act to the House floor. They deserve great credit for crafting legislation to improve security at facilities around the country.

One particular concern that this legislation can help address is the risk posed by bulk quantities of chlorine—one of the most powerful disinfectants available, but a potentially dangerous chemical when transported by rail through our neighborhoods en route to wastewater and drinking water utilities and the conventional bleach producers that often supply them.

Federal estimates are that a release of chlorine from just one of the 36,000 annual rail car shipments could result in up to 100,000 casualties. Many water utilities are shifting to bleach, which is as effective as a disinfectant but less dangerous to ship, store, and use. However, bleach made using conventional manufacturing process also relies on chlorine shipped by rail.

I am pleased to have learned that there is a safer alternative, the use of which I believe should be greatly expanded. That alternative is bleach made using only salt, water, and electricity, eliminating the need to ship chlorine across the country. This safer bleach is just as effective as conventional bleach and can be produced at costs competitive with the cost of conventional bleach.

This technology is being implemented at locations around the country, including in Florida, Ohio, Virginia, and in my congressional



district in Pittsburg, California. Also, Clorox Corporation just this week announced plans to shift all of their bleach plants to use a method that would eliminate the transport of chlorine by railcar to its facilities across the country. The elimination of chlorine transport by rail is welcomed by security advocates and the railroads that bear the liability risk from transporting chlorine.

H.R. 2868 calls for identification of chemicals of concern and the use of inherently safer technology by the highest risk water utilities. Clearly, chlorine is one of these chemicals of concern—perhaps more than any other chemical used by water utilities.

However, simply changing from chlorine to bleach as a disinfectant may not solve the problem.

Chlorine railcars could continue to pass through neighborhoods to the nearby conventional bleach manufacturers, who may argue that the cost for them is too high to shift to a safer process.

For this reason, I believe that we must look at the entire supply chain and the procurement process as we work to eliminate or mitigate the consequences of a terrorist attack. In order to fully achieve Congress' intent in passing this bill, the Environmental Protection Agency and Department of Homeland Security should work together to evaluate this problem and develop a policy that will lead to safer utilities and communities by reducing the hazardous transport of chlorine.

Once again, I appreciate the work of Chairman WAXMAN, Chairman OBERSTAR and Chairman THOMPSON on this bill and I look forward to working with them and the industry as we go forward to help reduce the risks associated with the transportation of chlorine across our country.

Mr. MARKEY of Massachusetts. Mr. Chairman, I yield 1½ minutes to the gentleman from Texas (Mr. GENE GREEN).

Mr. GENE GREEN of Texas. I thank my colleague.

First of all, I rise in strong support of H.R. 2868. I represent the largest petrochemical complex in the country. These chemical facilities contribute much to our economy and way of life and the employ thousands of workers in high-paying, quality jobs.

These chemical facilities have invested \$8 billion in security improvements since 2001 and are fully complying with DHS' Chemical Facilities Antiterrorism Standards, or CFATS, that has not been fully implemented. These dedicated chemical employees, as well as the communities around them, deserve the best security standards possible to prevent another unthinkable act of terrorism on U.S. soil.

When this bill was originally introduced, I had some concerns about it. Working with both Chairman WAXMAN and Subcommittee Chairman EDDIE MARKEY along with industry and labor officials, we made a number of changes in here and I would like to summarize some of them.

We worked with the Chair to include new language to clarify that the Coast

Guard would be the main entity enforcing the requirements similar to the maritime security facilities; provide an explicit consultative role for the Coast Guard if the DHS Secretary considers IST for a maritime security facility; ensure maritime security facilities would not perform additional background security requirements other than under CFATS; and identify the TWIC credential that is being used to satisfy CFATS would also satisfy this bill. That's what's so important.

Mr. Chair, I rise today in support of H.R. 2868, the Chemical and Water Security Act, a bill to protect chemical facilities and drinking water and wastewater systems across the country.

The Houston Ship Channel I represent is home to the largest petrochemical complex in the country. These chemical facilities contribute much to our economy and way of life and employ thousands of workers in high-paying, quality jobs.

Chemical facilities have already invested nearly \$8 billion in security improvements since 2001 and are fully complying with DHS' Chemical Facilities Antiterrorism Standards, or CFATS, which are not yet fully implemented.

These dedicated chemical employees, as well as the communities that surround these facilities, deserve the best security standards possible to prevent another unthinkable act of terrorism on U.S. soil.

As introduced, I had several concerns with H.R. 2868 that were mostly addressed in the final bill by working with Chairman HENRY WAXMAN, Subcommittee Chairman ED MARKEY, and industry and labor representatives.

First, granting the DHS Secretary authority to mandate a facility to perform a "method to reduce a consequence of a terrorist attack"—or IST—raises questions as to whether, or how, to involve government agencies like DHS that have few, if any, process safety experts, chemical engineers and other qualified staff.

We worked to include a fair and transparent technical appeals process in H.R. 2868 that requires DHS to examine such decisions with facility representatives as well as with experts knowledgeable in the fields of process safety, engineering, and chemistry.

In addition, the scope of affected facilities nationwide potentially subject to IST requirements was substantially reduced by focusing exclusively on chemical facilities in populated areas subject to a release threat, and DHS may not mandate IST if it were not feasible or if the facility would no longer be able to continue operations at its location.

Second, H.R. 2868 as introduced created unnecessary duplication with existing regulations for chemical facilities already regulated under the Maritime Transportation Security Act, or MTSA.

We worked with the Chairmen to include new language to clarify that the Coast Guard will be the main entity enforcing the requirements of this act for MTSA facilities; provide an explicit consultative role for the Coast Guard if the DHS Secretary considers mandating IST on a MTSA facility; ensure MTSA facilities would not have to perform additional background security requirements under CFATS; and identify the TWIC credential as

being able to satisfy the CFATS requirements in the bill.

Third, workers were not afforded a robust redress process in the case of any adverse decisions made due to the personnel surety requirements in the legislation.

We worked to include a "Reconsideration Process" by which workers could petition DHS to make a determination as to whether the worker poses an actual terrorist security risk, as well as included annual reports to Congress assessing much needed background check and redress process data.

Fourth, the civil suit provisions could have unnecessarily disclosed sensitive security information for facilities.

Revised language was included to permit affected citizens the ability to compel agency action on CFATS and provide an avenue for citizens to report facilities in potential violation of the bill's requirements while safeguarding sensitive information. No private right of action is permitted against private companies.

Finally, the original bill failed to streamline the regulation of both drinking water and wastewater facilities and lacked an appeals process for water systems subjected to IST decisions.

H.R. 2868 now places EPA in charge of regulating both drinking water and wastewater facilities and includes an appeals process for water systems to ensure a fair and open hearing on any IST decisions made by the State or EPA.

H.R. 2868 is far from perfect, but it includes substantial compromises to permanently extend chemical and water security regulations while reducing duplicative regulatory standards, increasing worker protections, and providing important safeguards to chemical facilities and water systems.

I want to again thank Chairman WAXMAN and Subcommittee Chairman MARKEY for working with me and other Members to improve this legislation.

The Acting CHAIR. The gentleman from Florida has 1½ minutes remaining.

Mr. STEARNS. With that, I yield that time to the gentleman from California (Mr. RADANOVICH).

The Acting CHAIR. The gentleman from California is recognized for 1½ minutes.

Mr. RADANOVICH. I realize that my friends in the majority like to trumpet the support of the drinking water title of the bill by the American Municipal Water Association, yet I want to provide my colleagues with the rest of the story.

The AMWA is just a sliver of the regulated universe covered by this bill. There are three other groups that are much larger in terms of the number of facilities and people served.

While the AMWA members claim to serve 125 million Americans, the American Water Works Association serves 180 million customers and 4,700 utilities. The National Association of Water Companies, or the NAWC, represents 22 million customers, and the National Rural Water Association represents 25,000 utilities. None of these associations has proclaimed their support for this entire bill.

In my own State, the town of Modesto, and the Modesto Irrigation District, an AWWA member contacted me to express its concerns about the citizen suit provisions and the weak information protection and penalty provisions in this bill. They were also very concerned about the expense of the mandates that would be placed on them by this legislation.

I want to remind my colleagues that drinking water treatment can be complex and is closely constrained by Safe Water Drinking Act regulations, production demands and customer affordability. Evaluating changes to water treatment must be thoughtful, must be technically transparent and fully consider all the alternatives available to the water system, as set out by the system operators and local officials, not some bureaucrat who is unsure what they are doing.

I would have hoped that a problem-solving rather than politically motivated bill would be before us to address this matter. Because there isn't, I urge defeat of this bill.

The Acting CHAIR. The gentleman from Massachusetts has 30 seconds remaining.

Mr. MARKEY of Massachusetts. I yield myself the balance of my time.

Mr. Chairman, I want to thank Michal Freedhoff from my staff; and Alison Cassady, David Leviss, Jacqueline Cohen, Phil Barnett, Greg Dotson, Kristin Amerling, Peter Ketcham-Caldwell and Melissa Cheatham from Chairman WAXMAN's staff. I would also like to thank Chris Debosier of Mr. MELANCON's staff and Derrick Ramos from Mr. GREEN's staff.

This is not an environmental bill. This is not a bill banning chemicals. This is a bill about national security, to make sure that al Qaeda cannot turn a chemical facility in our country into a weapon of mass destruction in some hometown in our country. That is what this bill is all about.

I urge an "aye" vote.

The Acting CHAIR. The gentlewoman from Texas (Ms. EDDIE BERNICE JOHNSON) will be recognized for 15 minutes and the gentleman from Pennsylvania (Mr. DENT) will be recognized for 15 minutes.

The Chair recognizes the gentleman from Texas.

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Chairman, I yield myself as much time as I may consume.

I rise in support of H.R. 2868, the Chemical and Water Security Act of 2009.

I join my chairman, Mr. OBERSTAR, in thanking the chairman of the Committee on Homeland Security and the chairman of the Committee on Energy and Commerce for including an amended text of my bill, H.R. 2883, the Wastewater Treatment Works Security Act of 2009, as title III in H.R. 2868.

Enactment of the Wastewater Treatment Works Security Act, in concert

with the underlying language produced by the Committees on Homeland Security and Energy and Commerce, will preserve the historical relationship between wastewater utility operators and the Environmental Protection Agency in meeting both the security enhancements called for in this measure as well as the goals and purposes of the Clean Water Act.

In the wake of September 11, 2001, our Nation has learned the importance of protection of our critical infrastructure. In the weeks following 9/11, the Committee on Transportation and Infrastructure held several hearings on the overall vulnerability of infrastructure to terrorist attack, including the vulnerability of the Nation's wastewater utilities.

Since these hearings, the position of our committee, both under Democratic and Republican majorities, has been consistent. We must strive to reduce the vulnerability of wastewater infrastructure and to minimize the potential adverse impact to human health, critical infrastructure and the environment that could occur from an intentional act.

According to EPA, there are over 16,000 publicly owned treatment works in the United States as well as 100,000 major pumping stations, 600,000 miles of sanitary sewers, and another 200,000 miles of storm sewers. Taken together, these systems represent the backbone of the Nation's primary sewage treatment capacity, as well as an extensive network that runs near or beneath key buildings and roads and alongside many critical communication and transportation networks.

Significant damage to the Nation's wastewater treatment facilities or collection systems could result in the loss of life, catastrophic environmental damage to rivers, lakes and wetlands, contamination of drinking water supplies, long-term public health impacts, destruction of fish and shellfish production areas, and disruption to commerce, the economy and the Nation's way of life.

In the same light, certain wastewater treatment works throughout the United States use chemicals in their disinfectant process, such as chlorine gas, that pose a threat to public health if improperly released into the environment.

Title III of this bill, the Wastewater Treatment Works Security Act, ensures that all large- and medium-sized wastewater treatment facilities—those that treat at least 2.5 million gallons of sewage per day—perform a nationally consistent threshold security assessment and take proactive steps to reduce their overall vulnerability.

According to EPA, the provisions of title III of this act should cover approximately 17 percent of the 16,000 publicly owned treatment works in this country, yet addresses an estimated 70

percent of the population served by municipal wastewater treatment.

For those facilities that possess sufficient quantities of potentially dangerous chemicals, such as chlorine gas, this legislation requires an assessment of whether inherently safer technologies can be implemented to reduce the overall risk posed by the facility.

Yet while it is appropriate that we take action to improve the overall safety and security of our Nation's wastewater treatment facilities, we must also be aware of the unique role and public service played by our water and wastewater utilities.

Unlike typical chemical manufacturing facilities, water and wastewater facilities must remain in constant operation and cannot simply be turned off.

Mr. Chairman, a majority of the Nation's wastewater is treated by publicly owned treatment works. Discharges from these facilities, more commonly known as sewage treatment plants, are typically subject to regulation under the National Pollutant Discharge Elimination System program, established under the Clean Water Act.

Today, all but five States have received EPA approval to manage their point-source discharge programs. However, whether it is an approved State or EPA, the appropriate permitting authority is responsible for establishing designated uses for waters and for establishing water quality criteria sufficient to protect those uses.

The permitting authority then issues Clean Water Act permits for facilities, such as sewage treatment plants, that limit the amount of pollution they may legally discharge in order to meet the established water quality criteria and the uses.

During formulation of the Chemical and Water Security Act of 2009, the Committee on Transportation and Infrastructure worked with the Committees on Homeland Security and Energy and Commerce to ensure that the security-related requirements of this bill not negatively impact the ability of wastewater treatment facilities to meet their clean water obligations.

Equally as important, this bill preserves the historic oversight of EPA and approved States in implementation of the security-related requirements of this legislation.

Mr. Chairman, I have heard that this legislation will place an unnecessary financial burden on local governments or ratepayers, or that the inherently safer technologies called for in this legislation cannot be implemented.

To answer this first concern, title III authorizes \$1 billion over 5 years in grants to publicly owned treatment works to carry out the requirements of the title. State and local governments would be eligible for up to 75 percent of the costs to carry out vulnerability assessments, site security and emergency

response plans, and to implement measures to improve the overall security of publicly owned wastewater treatment facilities.

□ 1645

This legislation also provides grant funding for emergency response training to first responders and firefighters who may be called upon in the event of a terrorist attack.

In response to the second concern about inherently safer technologies, I would highlight the findings of the 2006 report of the Government Accountability Office which noted that over half, 56 percent, of the largest wastewater facilities use an alternative chlorine gas in their disinfection process. Of the remaining facilities surveyed by GAO in 2006, an additional 20 percent of the facilities that used chlorine gas have reported plans to switch to another form of disinfectant.

One key example is here in the Nation's Capital, just across the Anacostia River. In 2001, the Blue Plains Wastewater Treatment Plant, which serves the Capitol complex, switched from chlorine gas to a concentrated bleach formula for disinfection of wastewater. While the changes had been planned for some time, heightened security concerns following 9/11, including the potential impact of a terrorist attack on the U.S. Capitol complex, led facility personnel to accelerate the implementation of the inherently safer technology. If the switch from chlorine gas to the other inherently safer product was important enough to protect Members of Congress, it should be equally as important to protect our families throughout the United States.

This legislation has been endorsed by the leading wastewater utility organizations, including the National Association of Clean Water Agencies, the California Department of Sanitation Agencies, and the American Public Works Association.

I support the passage of this legislation.

I reserve the balance of my time.

Mr. DENT. Mr. Chairman, I rise in opposition to this legislation. Our side of the aisle is going to focus on the impact on jobs. This legislation is devastating to jobs in this country, and we will get into that in just a moment.

Mr. Chairman, I yield 4 minutes to the gentleman from Houston, Texas (Mr. CULBERSON).

Mr. CULBERSON. I appreciate the time.

We in the fiscally conservative minority, Mr. Chairman, are focused on jobs. Every day that we are here, we are working to make sure we protect job growth in this Nation, and we have correctly identified this bill as a job-killing bill. And the reason is very straightforward. Just let me walk you through it.

In Texas alone, we have 470,000 jobs either directly or indirectly related to the petrochemical refining industry. In Louisiana next door, they have got about another half million jobs.

Now, the EPA has for many years, they are looking to try to change, for example, a bleaching process in the paper industry that would cost up to \$200 million. The EPA has also tried to switch a refining process in the petrochemical industry from hydrochloric acid to sulfuric acid. That can be just as dangerous in a terrorist attack, but requires 250 times more acid to achieve the same result and will cost between \$45 million and \$150 million per refinery to convert to the sulfuric acid process, with an increase in operating costs between 200 and 400 percent.

I apologize for my voice, but I was participating in the rally outside the Capitol of people who came here today concerned about the job-killing effect of that health care bill that I share their concern and their opposition over, and wore my voice out.

But we in Texas understand the importance of protecting these facilities from terrorist attacks, and that is not our concern. We are concerned about the bureaucracy this bill creates.

But let me very quickly just read from the bill, Mr. Chairman. Let's look at the definitions. If you look at the definition of chemical facility, that is any facility that contains a substance of concern.

When you look at the definition of the environment, you will see right away that means the waters, navigable water or saltwater, contiguous to the United States. And one of our biggest concerns in this legislation, you will find it buried on page 95.

"The Environmental Protection Agency Administrator," I am quoting directly from the bill, "may designate any chemical substance as a substance of concern and shall establish a threshold quantity for the release of the substance, and if that substance has any serious adverse effect on the environment, the EPA administrator can shut it down."

This is not a safety provision for protecting us against terrorist attacks. This is a straightforward environmentalist piece of legislation designed to give the EPA authority that they do not currently have.

This chart shows the Houston ship channel, which my friend GENE GREEN represents. There are tens of thousands of jobs that are reliant on the petrochemical refining industry along the Houston ship channel.

This map shows southwest Louisiana and southeast Texas between Baton Rouge and Corpus Christi, Texas. Almost half of the Nation's petrochemical refining capacity is concentrated in southwest Louisiana and southeast Texas. They are doing a far better job today in protecting the envi-

ronment and in protecting against terrorist attacks. We have already got legislation on the books that Mr. BARTON mentioned that is costing about \$18 billion to implement to protect against terrorist attacks.

I would ask the majority, it makes no sense for this Congress to pass legislation today that would so clearly kill jobs. According to the National Association of Manufacturing, this bill will kill tens of thousands of jobs in the petrochemical refining industry across this Nation. When we have already got legislation on the books to protect against terrorist attacks, why would this Congress pass legislation which so obviously will kill jobs, which so clearly, here it is on page 95 in clear English, is directed at giving the administrator of the EPA the ability to designate any chemical they want as a threat to the environment.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. DENT. I yield the gentleman an additional 20 seconds.

Mr. CULBERSON. This is an extremely dangerous piece of legislation which will kill jobs in the petrochemical refining industry across the United States, and I urge my colleagues to defeat it. In a time of recession, we have got to protect jobs and build jobs, not pass more regulations that will kill jobs.

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Chairman, I would like to yield 3 minutes to the gentleman from New Jersey (Mr. SIREN).

Mr. SIREN. Mr. Chairman, I rise today as a proud supporter of H.R. 2868, the Chemical and Water Security Act of 2009. I would like to thank Chairman THOMPSON, Chairman OBERSTAR, and Chairman WAXMAN for their leadership in this crucial piece of legislation.

I know firsthand the challenges and risks that large urban areas face. The district I represent is densely populated and home to critical transportation infrastructure, as well as chemical plants. In fact, the district is considered to have the most dangerous 2-mile stretch in the Nation.

On the morning of September 11, I witnessed the destructive capabilities of terrorism. I believe we must do everything in our power to address the known threats so we can reduce our risk and prevent future catastrophes. I know H.R. 2868 will bring us several steps closer to securing the facilities across the country that we rely on each day. The safety of our communities depends on the security measures taken at these facilities.

Mr. Chairman, increased security measures should not be viewed as a burden, but as an opportunity to reduce threats by promoting best practices. This legislation is skillfully designed to increase our security without jeopardizing facility services, and I urge my colleagues to vote in favor of H.R. 2868.

I also would like to add, we heard concerns today about the potential impact of this bill on the economy and jobs. I want to take this opportunity to share with you the views of those who have the most at stake in this argument, the workers themselves.

The United Steelworkers, the International Chemical Workers Union Council, the International Brotherhood of Teamsters, the Service Employees International Union, the Communication Workers of America, and the United Auto Workers Union Legislative Alliance sent a letter to Congress on October 30 expressing their strong support for this bill. The workers are on the front lines in defending chemical facilities in this country.

Mr. DENT. Mr. Chairman, I would like to yield 4 minutes to the distinguished gentleman from New Orleans, Mr. SCALISE.

Mr. SCALISE. I want to thank the gentleman for yielding.

I rise in opposition to this bill because it has nothing to do with security of our chemical facilities. The chemicals facilities spend millions and millions of dollars to secure their facilities, and I would suggest that those facilities are more secure than most Federal buildings because there is so much at stake, and nobody has challenged or suggested anything other than that they do protect their facilities.

What this is about is radical environmentalists coming in and trying to impose new policies. They call it "inherently safer technologies." And what is that? Well, clearly it is not anything that is going to make the plant more efficient because those companies spend millions of dollars continuing to upgrade and make the most modern facilities that they have so they can continue manufacturing in this country. What it means is there is some people in the Federal Government who want to go in and tell manufacturing companies which products to use in their manufacturing facilities.

Now, one of the problems we have got right now in our economy is that the government is trying to run every business that there is out there. The government is trying to run car companies, and look at how well that has turned out. The government is running banks, and look at how well that has turned out. The government has czars trying to run all of these different aspects of our economy, and it is not working.

In fact, unemployment is now at 9.8 percent, approaching 10 percent, when they said their stimulus bill would cap unemployment at 8 percent. So clearly their approach to fixing this economy is not working and it has led to more job losses.

In fact, if you look at the results of the elections on Tuesday night in Virginia and New Jersey, people turned

out in droves and said it is jobs. It is the economy. We want government to stop running jobs out of this country.

So what do they do? They bring us another bill today that runs more jobs out of this country. Because if you look at what is going to happen to these facilities, petrochemical facilities that refine oil, there is talk about, oh, we want to reduce our dependence on foreign oil.

Sure we want to reduce our dependence on foreign oil. You don't do it by running every refinery out of this country to China or India or the Middle East. That is what this bill will do. It will increase our dependence on foreign oil and on companies in the Middle East that refine oil.

It will run millions of jobs out of this country, and these are high-paying jobs. The average cost at some of these chemical facilities is over \$70,000 per year per employee. And their bill that they are bringing forward will run thousands, in south Louisiana thousands, of those jobs out of this country.

You wonder why businesses are running around right now feeling like they have a bull's eye on their back by the Federal Government. It is because of policies just like this. Cap-and-trade is still out there. You have the card check bill that has businesses scared to death to hire anybody in America because of what Congress is going to do to them.

That is not the role of government. That is not the role of Congress. We should be trying to spend time here helping create jobs. Instead, we have got a bill on the floor, yet another of a long laundry list of legislation, that will run more jobs out of the economy, out of this country.

Nobody has disputed that. All of the business groups that have looked at this have said this will run jobs out of this country, and it won't do anything to increase security at our facilities, because they are already doing the things they need to do to keep us safe, and nobody has suggested otherwise. We need to defeat this legislation.

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Chairman, I yield 2 minutes to the gentleman from Iowa (Mr. BOSWELL).

Mr. BOSWELL. I am taking a little bit different tack here. I don't object to what we are trying to do, but as I have thought about this over the last few hours, I have a concern, and this concern has to do with I think there has been very little discussion with those that produce our food and fiber in this country, which I have been involved in most of my life, as well as many others here. I am told that there has not been too much coordination.

So I am not saying don't do this. I am wondering if we could just pause for a minute and take some time to discuss the impact on another area of security, if you will, homeland security and the production of food and fiber.

Our farmers in this country, dairy farmers by the multitudes, are going under. Pork producers are down about \$22 per head over the last 24 months. Beef producers can't meet the cost of input. Corn producers in my State are not meeting the cost of input. And I think maybe it would be time well spent if we could just pause and think about the impact of these things on what we are trying to do.

Yes, we need to protect our environment. Yes, we need to protect our water. Nobody is arguing about that. We in agriculture think that very strongly.

□ 1700

But probably who I need to be talking to is not here listening on the floor today to be able to cause this pause to take place. Mr. Chairman, I think this is deserving of some careful consideration because one thing that we haven't done in this country compared to some places around the world, we haven't been hungry. If that should happen, we would certainly, surely have a very, very serious security situation.

I think the intent is good, but I think we need a little pause to talk for a day or two about the possibility, about the impact that this has on food and fiber production in this great country of ours.

Mr. DENT. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from Kansas (Mr. MORAN).

Mr. MORAN of Kansas. Mr. Chairman, thank you very much. I appreciate the chance to be on the House floor today to speak in opposition to this bill, and I am particularly delighted to speak after the gentleman from Iowa (Mr. BOSWELL) has just spoken because my message to my colleagues on the Agriculture Committee and others from rural America, whether Republicans or Democrats, is this is a bad bill for rural America and for our agriculture producers and the small businesses that support agriculture in rural America.

While it is a noble effort and something that I think everyone on the House floor would agree on, we need to move in the direction of greater security in regard to chemicals. Aspects of this bill, as indicated by the gentleman from Texas (Mr. BARTON), really do not relate to security. They are about employee safety, workforce safety, the environment in which we work. It is about environmental rules and regulations. And in some fashion in our legislative process here, the Department of Homeland Security issues have been overcome, the positives that may be there from increasing our security, are overcome by the detrimental costs associated with environmental and labor issues.

So this bill, particularly because of the IST provisions, is a bill that is detrimental. As Mr. BOSWELL indicated,

increasing input costs—fertilizers, chemicals, pesticides—those things matter to production agriculture today, especially today when the economic circumstances in which our farmers find themselves is so narrow, so difficult, anything that increases the cost is very damaging.

Finally, the businesses that support them, they make up a huge component of rural communities across my State, across rural America and across our country, and putting those folks out of business has a significant consequence to the future of the people that I represent.

So I urge my colleagues from all across rural America to oppose this legislation for the dramatic and damaging effect it will have upon the people who produce food and fiber in this country and the businesses that support that effort.

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Chairman, I would like to include for the RECORD correspondence from the National Association of Clean Water Agencies and the California Association of Sanitation Agencies.

OCTOBER 29, 2009.

Hon. NANCY PELOSI,  
Speaker of the House, House of Representatives,  
Washington, DC.

DEAR MADAM SPEAKER: The National Association of Clean Water Agencies and the California Association of Sanitation Agencies support incorporating wastewater facility security legislation into the Chemical Facility Anti-Terrorism Act (H.R. 2868) once chemical facility legislation is sent to the House floor. In furtherance of this objective, we support including the Wastewater Treatment Works Security Act (H.R. 2883) as a separate title in comprehensive chemical facility legislation. We have reviewed the manager's amendment to H.R. 2883, and believe this language addresses our primary concern: the prospect of separate regulatory regimes for drinking water and wastewater treatment systems. Numerous local agencies provide both water and wastewater treatment services. The dual regulatory system is counterproductive and entirely without any security benefits.

Our organizations have appreciated the opportunity to work with the Homeland Security, Transportation and Infrastructure, and Energy and Commerce Committees on reaching a resolution to this issue. We look forward to supporting your efforts to bring this legislation to the House floor for floor debate and passage. If you have any questions or wish to discuss this matter further, please contact Patricia Sinicropi, NACWA Legislative Director.

Sincerely,

KEN KIRK,  
Executive Director,  
National Association  
of Clean Water  
Agencies (NACWA).

CATHERINE SMITH,  
Executive Director,  
California Association  
of Sanitation  
Agencies (CASA).

#### AMERICAN

PUBLIC WORKS ASSOCIATION,  
Kansas City, MO, October 29, 2009.

Hon. NANCY PELOSI,  
Speaker of the House, Cannon House Office  
Building, Washington, DC.

DEAR MADAM SPEAKER: I am writing to urge you to move the Chemical Facility Anti-Terrorism Act (HR 2868), which now includes language addressing security at drinking water and wastewater facilities, to the floor for a vote as soon as possible. The committees with an interest in chemical security at facilities across the nation have worked diligently to craft a comprehensive package that provides an appropriate and sensible approach to closing the existing regulatory gap in the current regulatory framework by leaving EPA as the lead regulatory authority over the water sector.

Establishing a single lead agency for security over substances of concern from intentional incidents or natural disasters at drinking water and wastewater facilities will promote consistent and efficient implementation of chemical security across the water sector while simultaneously ensuring continued protection of public health and the environment. Moreover, the Environmental Protection Agency (EPA) has a long established and active water security program that promotes security and resiliency within the water sector. EPA, in close cooperation with the sector, is using a multi-layered approach to ensure the water sector assesses its vulnerabilities, reduces risks, prepares for emergencies and responds to intentional incidents and/or natural disasters. Over the past several years, great progress has been made and the comprehensive approach taken in HR 2868 will ensure that this progress continues.

Working in the public interest, the more than 29,000 members of the American Public Works Association plan, design, build, operate, manage and maintain the water supply, sewage and refuse disposal systems, public buildings, transportation infrastructure and other structures and facilities essential to our nation's economy and way of life.

Again, I urge you to bring the Chemical Facility Anti-Terrorism Act to the floor of the House for a vote. Thank you for your leadership and attention to this matter.

Sincerely,

PETER B. KING,  
Executive Director

Mr. Chairman, I yield the balance of my time to the gentleman from Minnesota (Mr. OBERSTAR), the chairman of the full committee.

Mr. OBERSTAR. I thank the gentlewoman for her splendid management of the bill, for her work in the subcommittee and holding the hearings and crafting the legislation.

I want to just point out that our committee's role was to ensure that while the Department of Homeland Security will set the standards, it will be the EPA and publicly owned treatment works, locally owned, operated, and managed will carry them out. It will not be done by Homeland Security.

I heard just a fragment of my good friend and colleague from Iowa raising his concerns about the effect on agriculture. I want to emphasize, and while this is not directly our committee's jurisdiction, we made it very clear that the Department of Homeland Security

has definitely, completely, exempted all end users of chemicals in agriculture. That means, farms, ranches, crops, feed and livestock facilities from the chemical security program. It does not add agricultural facilities. We were very clear about that. We wanted to be sure in our discussions with the Committee on Homeland Security that we did not have any spillover of unintended consequences.

Only the largest terminals, manufacturers, wholesale distributors of agricultural chemicals remain in the chemical security program, not farmers, not ranchers, not crop, feed, or livestock facilities. The EPA administrator has authority only to regulate security at wastewater and drinking water facilities, not on farms, not on ranches, not to any of the chemicals that they use. The legislation ensures that EPA will appropriately balance clean water, wastewater treatment with security needs of the Nation as set in standards set by the Department of Homeland Security. It does not give EPA any authority over chemical facilities now regulated under other provisions or by DHS.

Mr. Chair, I rise in strong support of H.R. 2868, the "Chemical and Water Security Act of 2009".

At the outset, let me also thank the gentleman from Mississippi (Mr. THOMPSON), Chairman of the Committee on Homeland Security, and the gentleman from California (Mr. WAXMAN), Chairman of the Committee on Energy and Commerce, for their efforts on this legislation and their willingness to include the text of the "Wastewater Treatment Works Security Act of 2009" as title III of the bill under consideration today.

In June of 2009, I joined with the Chairwoman of the Subcommittee on Water Resources and Environment, EDDIE BERNICE JOHNSON, in introducing H.R. 2883, the "Wastewater Treatment Works Security Act of 2009," to address the security needs of wastewater treatment facilities under the auspices of the Clean Water Act. That legislation, as amended, is incorporated as title III of H.R. 2868.

Enactment of the "Wastewater Treatment Works Security Act," in concert with the underlying language produced by the Committees on Homeland Security and Energy and Commerce, will preserve the historical relationship between wastewater utility operators and the Environmental Protection Agency (EPA) in meeting both the security measures called for in this legislation, as well as the goals and purposes of the Clean Water Act.

Mr. Chair, following the terrorist attacks of September 11, 2001, the identification and protection of critical infrastructure, including the Nation's system of wastewater infrastructure, has become a national priority. EPA has worked with state and local governments to enhance wastewater security since 2001, and the majority of wastewater treatment works have conducted vulnerability assessments and implemented emergency response planning procedures.

However, wastewater treatment works have undertaken these activities, with guidance

from EPA, on a voluntary basis, as nothing in current law requires wastewater treatment works to carry out specific security measures. H.R. 2868 closes this significant security gap and enacts mandatory security standards applicable to treatment works. EPA will establish security regulations and oversee their implementation to appropriately balance water quality and security goals.

Our Nation's wastewater treatment capacity consists of approximately 16,000 publicly owned wastewater treatment plants, 100,000 major pumping stations, 600,000 miles of sanitary sewers and another 200,000 miles of storm sewers, with a total value of more than \$2 trillion. Taken together, the sanitary and storm sewers form an extensive network that runs near or beneath key buildings and roads, the heart of business and financial districts, and the downtown areas of major cities, and is contiguous to many communication and transportation networks.

Publicly owned treatment works also serve more than 200 million people, or about 70 percent of the Nation's total population, as well as approximately 27,000 commercial or industrial facilities, that rely on the treatment works to treat their wastewater. Significant damage to the Nation's wastewater facilities or collection systems could result in loss of life, catastrophic environmental damage to rivers, lakes, and wetlands, contamination of drinking water supplies, long-term public health impacts, destruction of fish and shellfish production, and disruption to commerce, the economy, and our Nation's normal way of life.

In the same light, certain wastewater treatment works throughout the United States utilize chemicals in their disinfectant processes, such as gaseous chlorine, that may pose a threat to public health or the environment if improperly released into the surrounding environment. While proper storage of and security for such chemicals on-site may reduce the potential risk of improper release, similar security-related issues in the shipment and use of potentially harmful chemicals must also be considered in relation to the overall security of the wastewater treatment works.

The "Wastewater Treatment Security Works Act" ensures that all large- and medium-sized wastewater treatment facilities—those that treat at least 2.5 million gallons of sewage per day—perform a nationally-consistent, threshold security assessment, and take proactive steps to reduce their overall vulnerability. For those facilities that possess sufficient quantities of potentially-dangerous chemicals, this legislation requires an assessment of whether "inherently safer technologies" can be implemented to reduce the overall risk posed by the facility; while enabling the facility to continue meeting its water quality obligations under the Clean Water Act.

Finally, this legislation authorizes \$1 billion over 5 years in grants to publicly owned treatment works to carry out vulnerability assessments, site security and emergency response plans, and to implement measures to improve the overall security of the wastewater treatment facilities, as well as provide emergency response training to first responders and firefighters who may be called upon in the event of a terrorist act.

This legislation has been endorsed by the Nation's leading wastewater utility organiza-

tions, including the National Association of Clean Water Agencies, the California Association of Sanitation Agencies, and the American Public Works Association.

Mr. Chair, I would like to discuss certain sections of title III of the bill.

#### SECTION 301. SHORT TITLE

This section designates this title as the "Wastewater Treatment Works Security Act of 2009".

#### SEC. 302. WASTEWATER TREATMENT WORKS SECURITY

This section amends the Federal Water Pollution Control Act of 1972 to add a new section 222 to address the security of wastewater treatment works (hereinafter "treatment works") under the authority of the Administrator of EPA.

#### SECTION 222(A). ASSESSMENT OF TREATMENT WORKS VULNERABILITY AND IMPLEMENTATION OF SITE SECURITY AND EMERGENCY RESPONSE PLANS

Section 222(a) defines the new security-related obligations for treatment works required under this subsection, as well as the terms "vulnerability assessment", and "site security plan". Under section 222(a)(1), any treatment works with a treatment capacity of at least 2.5 million gallons per day (estimated by EPA to be a treatment works that serves a population of 25,000 or greater), or in the discretion of the Administrator, presents a security risk, is required to: (1) conduct a vulnerability assessment; (2) develop and implement a site security plan; and (3) develop an emergency response plan for the treatment works.

#### SECTION 222(B). RULEMAKING AND GUIDANCE DOCUMENTS

Section 222(b) directs the Administrator to conduct a rulemaking, to be completed no later than December 31, 2010, to: (1) establish risk-based performance standards for the security of a treatment works covered by this section; and (2) establish requirements and deadlines for each owner and operator of a treatment works to conduct (and periodically update) a vulnerability assessment, to develop (and periodically update) and implement a site security plan, to develop (and periodically revise) an emergency response plan, and to provide annual training for employees of the treatment works.

Section 222(b)(2) directs the Administrator, in carrying out the rulemaking under section 222(b), to provide for four risk-based tiers for treatment works (with tier one representing the highest degree of security risk), and to establish "risk-based performance standards for site security plans and emergency response plans" required under section 222(a). Under subsection (b)(2)(B), the Administrator is directed to assign (and reassign, when appropriate) treatment works into one of the four designated risk-based tiers, based on consideration of the size of the treatment works, the proximity of the treatment works to large population centers, the adverse impacts of an intentional act on the operations of the treatment works, critical infrastructure, public health, safety or the environment, and any other factor determined appropriate by the Administrator. Section 222(b)(2)(B)(iii) provides the Administrator authority to request information from the owner or operator of a treatment works necessary to determine the appropriate risk-based tier, and section 222(b)(2)(B)(iv) directs the Administrator to provide the treat-

ment works with the reasons for the tier assignment.

Section 222(b)(2)(C) requires the Administrator to ensure that risk-based performance standards are consistent with the level of risk associated with the risk-based assignment for the treatment works, and take into account the risk-based performance standards outlined in the Chemical Facility Anti-Terrorism Standards (CFATS) of the DHS, contained in section 27.230 of title 6, Code of Federal Regulations.

Section 222(b)(3) directs the Administrator, in carrying out the rulemaking under section 222(b), to require any treatment works that "possesses or plans to possess" a designated amount of a substance of concern (as determined by the Administrator under section 222(c)) to include within its site security plan an assessment of "methods to reduce the consequences of a chemical release from an intentional act" at the treatment works. Section 222(b)(3)(A) defines such an assessment as one that reduces or eliminates the potential consequences of a release of a substance of concern from an intentional act, including: (1) the elimination or reduction of such substances through the use of alternate substance, formulations, or processes; (2) the modification of operations at the treatment works; and (3) the reduction or elimination of onsite handling of such substances through improvement of inventory control or chemical use efficiency.

Section 222(b)(3)(B) requires each treatment works that possesses or plans to possess a designated amount of a substance of concern to consider, in carrying out such an assessment, the potential impact of any method to reduce the consequences of a chemical release from an intentional act on the responsibilities of the treatment works to meet its effluent discharge requirements under the Clean Water Act, and to include relevant information on any proposed method, such as how implementation of the method could reduce the risks to human health or the environment, whether the method is feasible (as such term is defined by the Administrator), and the potential costs (both expenditures and savings) from implementation of the method.

Section 222(b)(3)(C) provides for mandatory implementation of a method to reduce the consequences of a chemical release from an intentional act for a treatment works that is assigned to one of the two highest risk-based tiers, and possesses or plans to possess a designated amount of a substance of concern. Section 222(b)(3)(C)(ii) authorizes the Administrator, or a State, in the case of a State with an approved program under section 402 of the Clean Water Act, to require the owner or operator of the treatment works to implement such a method, and includes a series of factors for the Administrator or State to consider in making such a determination. Section 222(b)(3)(D) provides a formal opportunity for the owner or operator of a treatment works to appeal the decision of the Administrator or a State that requires the implementation of such a method.

Section 222(b)(3)(E) authorizes the Administrator to address incomplete or late assessments of methods to reduce the consequences of a chemical release from an intentional act at the treatment works by an owner or operator of a treatment works.



Section 222(b)(3)(F) authorizes the Administrator to take action, in a State with an approved program under section 402 of the Clean Water Act, to determine whether a treatment works should be required to implement a method to reduce the consequences of a chemical release from an intentional act, and to compel the treatment works to implement such methods through an enforcement action, in the absence of State action.

Section 222(b)(4) and (5) directs the Administrator to consult with the States (with approved programs), the Secretary of Homeland Security and, as appropriate, other persons, in developing regulations under this subsection. Section 222(b)(6) requires the Administrator to ensure that regulations developed under this subsection are consistent with the goals and requirements of the Clean Water Act.

#### SECTION 222(C). SUBSTANCES OF CONCERN

Section 222(c) authorizes the Administrator, in consultation with the Secretary of Homeland Security, to designate any chemical substance as a substance of concern, and to establish, by rulemaking, a threshold quantity of such substance that, as a result of a release, is known to cause death, injury, or serious adverse impacts to human health or the environment. In carrying out this authority, the Administrator is required to take into account the list of "Chemicals of Interest", developed by the DHS, and published in appendix A to part 27 of title 6, Code of Federal Regulations.

#### SECTION 222(D). REVIEW OF VULNERABILITY ASSESSMENT AND SITE SECURITY PLAN

Section 222(d) requires an owner or operator of a treatment works covered by this section to submit a vulnerability assessment and site security plan to the Administrator for review in accordance with deadlines established by the Administrator. Section 222(d)(2) and (3) direct the Administrator to review such assessments and plans, and to either approve or disapprove such assessments and plans. Section 222(d)(3) and (4) establish criteria for the disapproval of a vulnerability assessment or site security plan, and requires the Administrator to provide the owner or operator of a treatment works with a written notification of any deficiency in the vulnerability assessment or site security plan, including guidance for correcting such deficiency and a timeline for resubmission of the assessment or plan.

#### SECTION 222(E). EMERGENCY RESPONSE PLAN

Section 222(e) establishes the requirements for an owner or operator of a treatment works to develop and, as appropriate, revise an emergency response plan that incorporates the results of the current vulnerability assessment and site security plan for the treatment works. Section 222(e)(2) requires the owner or operator to certify to the Administrator that an emergency response plan meeting the requirements of this section has been completed, and is appropriately updated. Section 222(e)(4) requires the owner or operator of a treatment works to provide appropriate information to any local emergency planning committee, local law enforcement, and local emergency response providers.

#### SECTION 222(F). ROLE OF EMPLOYEES

Section 222(f)(1) requires that a site security plan and emergency response plan identify the appropriate roles or responsibilities for em-

ployees and contractor employees of treatment works in carrying out the plans. Section 222(f)(2) requires the owner or operator of a treatment works to provide sufficient training, as determined by the Administrator, to employees and contractor employees in carrying out site security plans and emergency response plans.

#### SECTION 222(G). MAINTENANCE OF RECORDS

Section 222(g) requires that an owner or operator of a treatment works maintain an updated copy of its vulnerability assessment, site security plan, and emergency response plan on the premises of the treatment works.

#### SECTION 222(H). AUDIT; INSPECTION

Section 222(h) directs the Administrator to audit and inspect treatment works, as necessary, to determine compliance with this section, and authorizes access by the Administrator to the owners, operators, employees, contract employees, and, as applicable, employee representatives, to carry out this subsection.

#### SECTION 222(I). PROTECTION OF INFORMATION

Section 222(i) establishes requirements for the prohibition of public disclosure of protected information, as defined by this subsection, and authorizes the Administrator to prescribe by regulation or issue orders, as necessary, to prohibit the unauthorized disclosure of such information. Section 222(i)(2)(B) provides authority to facilitate the appropriate sharing of protected information with and among Federal, State, local, and tribal authorities, first responders, law enforcement officials, and appropriate treatment works personnel or employee representatives. Section 222(i)(4), (5) and (6) ensure that the requirements of this subsection not affect the implementation of other laws or the oversight authorities of Congressional committees. Section 222(i)(7) defines the term "protected information".

#### SECTION 222(J). VIOLATIONS

Section 222(j) provides criminal, civil, and administrative penalties for the violation of any requirement of this section, including any regulations promulgated pursuant to this section, consistent with the criminal, civil, and administrative penalties contained in section 309 of the Clean Water Act.

#### SECTION 222(K). REPORT TO CONGRESS

Section 222(k) directs the Administrator to report to Congress within three years of the date of enactment of the Wastewater Treatment Works Security Act of 2009, and every three years thereafter, on progress in achieving compliance with this section. Section 222(k)(3) provides that such reports be made publicly available.

#### SECTION 222(L). GRANTS FOR VULNERABILITY ASSESSMENTS, SECURITY ENHANCEMENTS, AND WORKER TRAINING

Section 222(l) authorizes Federal grants for the conduct of vulnerability assessments and the implementation of security enhancements and publicly-owned treatment works, and for security related training of employees or contractor employees of a treatment works and training of first responders and emergency response providers. Section 222(l)(2)(C) provides that grants made available under this Act not be used for personnel cost or operation or maintenance of facilities, equipment, or systems. Section 222(l)(2)(D) provides for a

maximum 75 percent Federal share for grants made available under this Act.

#### SECTION 222(M). PREEMPTION

Section 222(m) provides that nothing in this section precludes or denies the right of any State or political subdivision thereof to adopt or enforce any regulation, requirement, or standard of performance with respect to a treatment works that is more stringent than a regulation, requirement, or standard of performance under this section.

#### SECTION 222(N). AUTHORIZATION OF APPROPRIATIONS

Section 222(n) authorizes to be appropriated to the Administrator \$200 million for each of fiscal years 2010 through 2014 for making grants under section 222(l).

#### SECTION 222(O). RELATION TO CHEMICAL FACILITY SECURITY REQUIREMENTS

Section 222(o) provides that the requirements of Title XXI of the Homeland Security Act of 2002, section 550 of the Department of Homeland Security Appropriations Act, 2007, and the Chemical and Water Security Act of 2009, (and any regulations promulgated thereunder), do not apply to a treatment works, as such term is defined in section 212 of the Clean Water Act.

#### LEGISLATIVE HISTORY

In the 107th Congress, on October 10, 2001, the Subcommittee on Water Resources and Environment held a hearing on the security of infrastructure within the Subcommittee's jurisdiction, including issues related to the nation's network of wastewater infrastructure.

On July 22, 2002, then-Chairman DON YOUNG introduced H.R. 5169, the "Wastewater Treatment Works Security Act of 2002". On July 24, 2002, the Committee on Transportation and Infrastructure met in open session and ordered the bill reported favorably to the House by voice vote. H. Rept. 107-645. On October 7, 2002, the House passed H.R. 5169 by voice vote. No further action was taken on this legislation.

In the 108th Congress, on February 13, 2003, then-Chairman DON YOUNG introduced H.R. 866, the "Wastewater Treatment Works Security Act of 2003". On February 26, 2003, the Committee on Transportation and Infrastructure met in open session and ordered the bill reported favorably to the House by voice vote. H. Rept. 108-33. On May 7, 2003, the House passed H.R. 5169 by a rollcall vote of 413-2. No further action was taken on this legislation.

In the 111th Congress, on June 16, 2009, Water Resources and Environment Subcommittee Chairwoman EDDIE BERNICE JOHNSON introduced H.R. 2883, the "Wastewater Treatment Works Security Act of 2009".

Mr. DENT. Mr. Chairman, first, there has been considerable debate here today whether farmers and small agricultural retailers currently exempt from existing regulations will be exempt from the new regulations required by this legislation.

The short answer is: They will not. Section 2120 of this bill requires the Secretary to issue new regulations to replace the existing CFATS regulations. Nowhere in this bill does the Secretary have any authority to exempt certain individuals or classes from those regulations. Nowhere.



If the majority disagrees and would care to point to a particular provision that authorizes the Secretary to grant exemptions from the provisions, including the costly IST assessment and implementation provisions, I would ask that they point to that provision.

At this time, I would like to yield 2 minutes to the gentleman from Illinois (Mr. SHIMKUS).

Mr. SHIMKUS. Mr. Chairman, it is all about jobs today. This bill affects jobs and the economy. We are close to 9.8 percent unemployment in the manufacturing sector, and here we are going to put more, additional burdens on those who create jobs. If you don't have employers, you don't have employees.

I appreciate my agriculture members coming down here because it is not about the end users, it is about the producers of the chemicals. It is about the producers of the anhydrous. Those are the folks whose costs are going to go up.

Now I like to come down here and talk about the hypocrisy of this whole debate, especially on the Safe Drinking Water Act, because if it really was about security, and I talked about this in the Rules Committee, and no one has answered this question, on the health care bill, Mr. Chairman, your bill, page 1785, we say this: "The financial and technical capability of an Indian Tribe, or Tribal Organization, or Indian community to safely operate, manage, and maintain a sanitation facility shall not be a prerequisite to the provision or construction of sanitation facilities by the Secretary."

Your health care bill says if the Indian Tribe cannot safely run a plant, we are going to build you one anyway. We are not worried about safety and security.

Page 1785, a financial and technical capability of an Indian Tribe, shall be exempt even if they can't operate safely a water treatment plant. So what you are doing in the health care bill, exempting Indian tribes who don't know how to manage a refinery, you are giving them protections in this health care bill. But in this bill, municipal water plants pay more; private water plants pay more; refineries pay more. Indian tribes under your health care bill—

The Acting CHAIR. The time of the gentleman has expired.

Mr. DENT. I yield the gentleman an additional 30 seconds.

Mr. SHIMKUS. I would just say why would we exempt Indian tribes from the ability to prove that they can actually operate a water purification plant? Why would we do that? If safety and security is important, the whole premise of this bill, why would we exempt Indian tribes? Page 1785 of your bill in the health care reform. Three hundred pages on Indian health, not one page through the committee process. It is an abomination of the process.

Mr. DENT. Mr. Chairman, I think you just heard some very powerful arguments in opposition to this legislation. This issue is all about jobs. I want to say one thing. It is a darn good thing that the House of Representatives just a couple of hours ago passed an extension of unemployment benefits. Because of this legislation, people are going to need them. That said, people around this country are very scared of Washington right now. They are scared of the agenda, and they are scared of the national energy tax called cap-and-trade. They are afraid of the card check bill and the health care bill that will cost more than a trillion dollars. So is it any wonder that unemployment rates are going the way they are going.

But one thing about these IST assessments, and I feel we have to talk about this from a jobs standpoint, but contesting these IST assessments will be costly, too costly for most small businesses to afford.

Experts estimate that a simple, one ingredient substitution would take two persons 2 weeks to complete and cost between \$10,000 and \$40,000, and that is on the low end. A pharmaceutical pilot plant with about 12 products would take three to six persons up to 10 weeks to complete an assessment at a cost of \$100,000 to \$500,000.

Larger facilities with particularly hazardous chemicals, already regulated by OSHA, would require 8 to 10 people 6 months or more to complete at a cost of over a million dollars for the assessment. Fifty-nine percent of the facilities regulated under the current CFATS regulations that would be required to conduct these costly assessments employ 50 or fewer people. Mandating IST will be devastating to small businesses across America.

According to a California fertilizer manufacturer, eliminating the use of anhydrous ammonia and substituting it with urea can cost a 1,000 acre farm up to \$15,000 per application. This would be a recurring cost passed on to the consumer.

On Friday, the Department of Labor is expected to revise the unemployment figures. Does anyone in this Chamber expect those numbers to go down? We hope they do, but I am afraid we know what the answer may be.

Ms. RICHARDSON. Mr. Chair, I rise today to express my strong support for the Chemical and Water Security Act of 2009. I would also like to thank Chairman OBERSTAR, Chairman WAXMAN, and my distinguished colleague on the Homeland Security Committee, Chairman THOMPSON, for their hard work in crafting this vital legislation.

I support this legislation because it will enhance the security of our nation's chemical, drinking water, and wastewater facilities and it lessens the vulnerability of our most critical sectors to a terrorist attack. Specifically, this legislation:

Protects our nation by making critical infrastructure more secure;

Helps my district by enhancing the security of its chemical, drinking water, and wastewater facilities; and

Helps our economy by providing greater protection to the nation's major job creating sectors and by providing incentives to spur production and technological innovation.

I also support H.R. 2868 because it contains a provision I offered that protects workers who identify and report violations affecting the safety and security of chemical facilities to management or regulatory authorities from retaliation and reprisal. When it comes to the security of our chemical, drinking water, and wastewater facilities, the employees who work in them are the "First Preventers." We depend on them to be competent, vigilante, and proactive. We owe them the assurance that they will not be penalized for doing their jobs properly. That is why I am pleased the bill also incorporates a provision I offered requiring facility owners to certify in writing their knowledge of the protections provided whistleblowers and the Secretary's power to protect them.

Mr. Chair, eight years ago this September 11 terrorists attacked our country and inflicted incalculable damage to our people, economy, and national psyche. We responded to the horror and trauma of that day by resolving to honor the victims and heroes of 9-11 by doing all we can to protect our homeland and our people from any future attack.

There is a simple answer for those who question the timing or need for a comprehensive legislation to safeguard these facilities.

The poison gas leak at Union Carbide's Bhopal plant in 1984 that killed 10,000 people within 72 hours, and more than 25,000 people since, was an accident! Imagine the carnage that could result from an intentional act of terrorism or sabotage.

Mr. Chair, the chemical industry alone employs nearly a million Americans and it accounts for nearly \$600 billion of the GDP. More than 70,000 industrial, consumer, and defense-related products—from plastics to fiber optics—are produced by the nation's chemical facilities.

The economic and strategic value of the chemical industry makes it an attractive target to terrorists because many chemicals, either in their base form or when combined with others, can cause significant harm to both humans and the environment if misused.

My congressional district alone abuts one of the nation's largest ports and is home to several major oil refineries, as well as gas treatment and petrochemical facilities. It is, as they say in the military, a "target rich environment."

So I am not willing to wait. The time has come for us to approve legislation that puts in place the necessary protections and authorizes the necessary resources to keep our chemical, wastewater, and drinking water facilities secure. This bill does that.

Chemical facilities determined by the Secretary to be at risk are required to conduct a Security Vulnerability Assessment ("SSV"). Based upon that assessment, the facility must then develop and implement a Site Security Plan ("SSP"), which is subject to review, approval, and inspection by the DHS Office of Chemical Facility Security.

The legislation also authorizes the DHS Secretary to require, where appropriate, that

chemical facilities in the highest risk tiers implement "methods to reduce the consequences of a terrorist attack" by utilizing "inherently safer technologies" (IST). And it authorizes the Secretary to award \$225 million in grants to provide technical assistance and funding to finance the capital costs incurred in transitioning to inherently safer technologies.

I am also pleased to note that facilities around the country have already begun taking action to make their chemical processes safer. For example, in the 37th district, of which I am a proud representative, the Joint Water Pollution Control Plant in Carson, California, a wastewater treatment plant, switched from using chlorine gas to liquid bleach disinfection. This legislation is already spurring companies to make important changes that will keep our country and our communities safer.

Mr. Chair, I could go on but it suffices to state that this legislation is a balanced and pragmatic response to a critical security need. And again, I want to thank Chairman OBERSTAR, Chairman THOMPSON, and Chairman WAXMAN for their leadership in crafting this extraordinary bill.

I support the Chemical and Water Security Act and urge all members to do likewise.

Ms. HERSETH SANDLIN. Mr. Chair, today the House is considering H.R. 2868, the Chemical and Water Security Act of 2009. Chemical and water security is essential and of course we must take every sensible step to support the establishment of adequate security programs for drinking water and wastewater facilities and a continuation of efforts to properly improve security measures and risks related to chemical facilities.

However, I have heard serious concerns from agricultural retailers and farm groups in South Dakota about the potential implications of this legislation and am concerned that it is being rushed through the House. Specifically, these constituents are concerned about the inclusion of Inherently Safer Technology (IST) requirements, which will affect products important to agriculture in our state such as anhydrous ammonia fertilizer. Anhydrous ammonia fertilizer is a widely-used and essential lower-cost source of plant nutrients on which many farmers in South Dakota rely. The South Dakota Agribusiness Association has informed my office that, while the bill does not require smaller Tier 3 and 4 facilities to switch to a safer product or process, in the face of higher regulatory costs and increased liability concerns, these facilities may well opt to stop handling this product. While there are replacement fertilizers that could be substituted for anhydrous ammonia, the South Dakota Agribusiness Association anticipates that the cost per acre would increase for farmers as more product application would be needed to obtain the same nitrogen levels needed for certain leading crops, like corn. Farmers in South Dakota are already struggling with increased input costs and I believe we should not rush to put in place new rules that could further raise these costs.

This is especially true, where, as here, the U.S. Department of Homeland Security (DHS) is currently engaged in implementing Chemical Facility Anti-Terrorism Standards (CFATS), which were authorized as part of the Homeland Security Appropriations Act of 2007,

which I supported. The crop-related chemical facilities have been working cooperatively with DHS throughout the CFATS process to establish appropriate risk-based standards and ensure compliance. This rulemaking process is not yet complete and I would prefer to allow the Department time to implement CFATS so we can more fully assess the effectiveness of current regulation before authorizing further significant changes to the program. In addition, during testimony before the Committees on Homeland Security and Energy and Commerce, Administration officials expressed concern over whether DHS had the necessary resources and expertise to properly administer IST requirements. Such uncertainty over a critical section of the proposed regulations further supports the view that it is more appropriate to allow the current regulatory process to continue.

At this point there is no companion authorization bill in the Senate. However, as the legislative process continues to move forward, I will continue to work with my colleagues in the House and Senate toward a bill that achieves the goal of properly protecting our citizens, in South Dakota and across the country, from risks posed by accidents or terrorist attacks on chemical, drinking water and wastewater facilities, and ensures that agricultural and other businesses will be protected from overly burdensome regulations. Thank you.

Mr. HARE. Mr. Chair, I rise today in opposition to H.R. 2868, the Chemical and Water Security Act.

As the bill stands now, I cannot vote in favor of this legislation. A provision in the bill to require Inherently Safer Technology, IST, in chemical facilities would likely create costly mandates for local farm suppliers and jeopardize the availability of widely-used fertilizer and pesticides. This language could inadvertently have the effect of causing my district to lose much needed jobs. While I support the intention of this legislation, to safeguard our chemical and drinking water facilities from terrorist attack, the current language would severely impact the ability of farmers to produce food and would adversely impact farmers all across my district.

It is my hope that as this legislation progresses that the concerns of the agricultural community will be addressed and I can vote for the final product.

Mr. SOUDER. Mr. Chair, I rise in opposition to H.R. 2869. I voted against the bill during committee consideration. Unfortunately, the bill before us today is even worse than the version reported out of the Homeland Security Committee.

This legislation gives the Secretary of Homeland Security the authority to require farms, manufacturing plants, timber companies, hospitals, and thousands of other facilities across the United States to change the way they do business. The Secretary will be able to dictate what chemicals are used, how they are used and how they are stored. The bill tries to cover this government take over of the private sector with terms like "inherently safer technologies" and "methods to reduce terrorists attack."

The Federal Government could impose mandates to adopt unproven technologies and chemical substitutions, but lacks the technical

and personnel expertise to evaluate whether these alternatives are effective, productive, and safe across these sectors.

There are over 3,000 facilities in the U.S. that would be covered under this legislation that employ 50 or fewer people. According to experts, mandating inherently safer technologies, IST, could cost anywhere from thousands to hundreds of thousands of dollars. Companies in my district do not have excess funds to alter how they do business because some bureaucrat in D.C. thinks there is a better way to do it.

Another unprecedented measure in the bill is the establishment of a system allowing any person, even nonaffected persons, to file a lawsuit against the Secretary of Homeland Security if IST is not implemented. This bill might as well be called the Homeland Security Trial Lawyer Employment Act.

Citizen suits are not appropriate in a national security context and this would be the first time Congress would be authorizing such citizen suits in the national or homeland security arena.

The Department of Homeland Security has testified that these suits could result in the release of very sensitive security information through the legal discovery process that would be helpful to terrorists.

This legislation is misguided and interrupts actions on-going at DHS to evaluate and enhance security at chemical facilities. I urge a "no" vote.

Mr. SKELTON. Mr. Chair, as the Chairman of the House Armed Services Committee, I study national security issues a great deal and fully understand the risks posed by terrorism.

Terrorists from home and abroad have killed innocent Americans, which is why we in Congress have an obligation to diminish the likelihood of these kinds of terrorist attacks by strengthening our military, by giving law enforcement additional tools, and by authorizing common sense homeland security regulations. But, in writing laws to protect the American people, we must carefully consider how new regulations might impact citizens and businesses.

In 2006, Congress directed the Department of Homeland Security to establish risk-based security performance standards for chemical facilities that use or store chemicals that can be attractive to terrorists. The Department issued its final chemical security regulations—the Chemical Facility Anti-Terrorism Standards—in 2007, and, since then, businesses have been working in a collaborative manner with the Department to implement them.

For agriculture, the Department has acknowledged the unique nature of farming with respect to chemical regulations and has indefinitely exempted from regulation all end-users of chemicals used in agriculture, including farms, ranches, and other crop, feed, or livestock facilities.

In October 2009, the authority for the Department of Homeland Security to regulate chemical facilities expired. It was recently extended for one year through the fiscal year 2010 Homeland Security appropriations bill. In an effort to more permanently extend the Department's authority to regulate chemical facilities and to expand federal regulations to drinking water and waste water facilities, the House

of Representatives considered H.R. 2868, the Chemical and Water Security Act of 2009.

To be sure, improving the security around these entities is an important national security objective, and the House Homeland Security Committee and the House Energy and Commerce Committee deserve a great deal of praise for gluing together H.R. 2868.

However, as a Congressman from rural Missouri, I examined H.R. 2868 through the lens of the farmers I represent. Some in the agricultural community do not support portions of this legislation relating to so-called Inherently Safer Technology requirements. They believe these new requirements could force makers of their fertilizers to change to more expensive or less effective products, eventually adding to producers' input costs.

I realize that the Committees of jurisdiction over H.R. 2868 worked hard to reach out to the agricultural community and that the bill was improved in Committee by Congressman MIKE ROSS (D-AR) and Congressman ZACH SPACE (D-OH) who added technical assistance grants for agricultural wholesalers. I also fully appreciate that the Department has exempted farms from its regulations for an indefinite period of time.

But, after careful consideration and review, it seems more work remains to assuage agriculture's concerns about the Inherently Safer Technology requirements. As H.R. 2868 was presented in the House, I could not lend my support to it based on the concerns of my farmers and Missouri's agricultural retailers.

The Acting CHAIR (Mr. KRATOVIL). All time for general debate has expired.

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Chairman, as the designee of the chairman of the Committee on Homeland Security, I move that the Committee do now rise.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. TIERNEY) having assumed the chair, Mr. KRATOVIL, Acting Chair of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 2868) to amend the Homeland Security Act of 2002 to extend, modify, and recodify the authority of the Secretary of Homeland Security to enhance security and protect against acts of terrorism against chemical facilities, and for other purposes, had come to no resolution thereon.

#### ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, proceedings will resume on motions to suspend the rules previously postponed.

Votes will be taken in the following order:

H.R. 1849, by the yeas and nays;

H.R. 3276, by the yeas and nays;

H. Res. 878, de novo.

The first electronic vote will be conducted as a 15-minute vote. Remaining electronic votes will be conducted as 5-minute votes.

#### WORLD WAR I MEMORIAL AND CENTENNIAL ACT OF 2009

The SPEAKER pro tempore. The unfinished business is the vote on the motion to suspend the rules and pass the bill, H.R. 1849, as amended, on which the yeas and nays were ordered.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois (Mr. DAVIS) that the House suspend the rules and pass the bill, H.R. 1849, as amended.

The vote was taken by electronic device, and there were—yeas 418, nays 1, not voting 14, as follows:

[Roll No. 862]

YEAS—418

Abercrombie	Chaffetz	Gerlach	Kosmas	Moran (VA)	Scott (GA)
Ackerman	Chandler	Giffords	Kratovil	Murphy (CT)	Scott (VA)
Adler (NJ)	Childers	Gingrey (GA)	Kucinich	Murphy (NY)	Sensenbrenner
Akin	Chu	Gonzalez	Lamborn	Murphy, Tim	Serrano
Alexander	Clarke	Goodlatte	Lance	Murtha	Sessions
Altmire	Clay	Gordon (TN)	Langevin	Myrick	Sestak
Andrews	Cleaver	Granger	Larsen (WA)	Napolitano	Shadegg
Arcuri	Clyburn	Graves	Larson (CT)	Neal (MA)	Shea-Porter
Austria	Coble	Grayson	Latham	Neugebauer	Sherman
Baca	Coffman (CO)	Green, Al	LaTourette	Nye	Shimkus
Bachmann	Cohen	Green, Gene	Latta	Oberstar	Shuler
Bachus	Cole	Griffith	Lee (CA)	Obey	Shuster
Baird	Conaway	Grijalva	Lee (NY)	Olson	Simpson
Baldwin	Connolly (VA)	Guthrie	Levin	Oliver	Sires
Barrett (SC)	Conyers	Gutierrez	Lewis (CA)	Ortiz	Skelton
Barrow	Cooper	Hall (NY)	Lewis (GA)	Pallone	Slaughter
Bartlett	Costa	Hall (TX)	Linder	Pascarell	Smith (NE)
Barton (TX)	Costello	Halvorson	Lipinski	Pastor (AZ)	Smith (NJ)
Bean	Courtney	Hare	LoBiondo	Paulsen	Smith (TX)
Becerra	Crenshaw	Harman	Loeb sack	Payne	Smith (WA)
Berkley	Crowley	Harper	Lofgren, Zoe	Pence	Snyder
Berman	Cuellar	Hastings (FL)	Lowey	Perlmutter	Souder
Berry	Culberson	Hastings (WA)	Lucas	Perriello	Space
Biggert	Cummings	Heinrich	Luetkemeyer	Peters	Speier
Bliley	Dahlkemper	Heller	Lujan	Peterson	Spratt
Bilirakis	Davis (AL)	Hensarling	Lummis	Petri	Stearns
Bishop (GA)	Davis (CA)	Hergert	Lungren, Daniel	Pingree (ME)	Sullivan
Bishop (NY)	Davis (IL)	Herseth Sandlin	E.	Pitts	Sutton
Bishop (UT)	Davis (KY)	Higgins	Lynch	Platts	Tanner
Blackburn	Davis (TN)	Hill	Mack	Poe (TX)	Taylor
Blumenauer	DeFazio	Himes	Maffei	Polis (CO)	Teague
Blunt	DeGette	Hinchev	Maloney	Pomeroy	Terry
Bocieri	DeLauro	Hinojosa	Manzullo	Posey	Thompson (CA)
Boehner	Dent	Hirono	Marchant	Price (GA)	Thompson (MS)
Bonner	Diaz-Balart, L.	Hodes	Markey (CO)	Price (NC)	Thompson (PA)
Bono Mack	Diaz-Balart, M.	Hoekstra	Markey (MA)	Putnam	Thornberry
Bonzo	Dicks	Holden	Marshall	Quigley	Tiahrt
Boren	Dingell	Holt	Massa	Radanovich	Tiberi
Boswell	Doggett	Honda	Matheson	Rahall	Tierney
Boucher	Donnelly (IN)	Hoyer	Matsui	Rangel	Titus
Boustany	Doyle	Hunter	McCarthy (CA)	Rehberg	Tonko
Boyd	Dreier	Inglis	McCarthy (NY)	Reichert	Towns
Brady (TX)	Driebehaus	Inslee	McCaul	Reyes	Tsongas
Braley (IA)	Duncan	Issa	McClintock	Richardson	Turner
Bright	Edwards (MD)	Jackson (IL)	McCollum	Rodriguez	Upton
Broun (GA)	Edwards (TX)	Jackson-Lee	McCotter	Roe (TN)	Van Hollen
Brown (SC)	Ehlers	(TX)	McDermott	Rogers (AL)	Velázquez
Brown, Corrine	Ellison	Jenkins	McGovern	Rogers (KY)	Visclosky
Brown-Waite,	Ellsworth	Johnson (GA)	McHenry	Rohrabacher	Walden
Ginny	Emerson	Johnson (IL)	McIntyre	Rooney	Walz
Buchanan	Engel	Johnson (LA)	McKeon	Ros-Lehtinen	Wamp
Burgess	Eshoo	Johnson, E. B.	McMahon	Roskam	Wasserman
Burton (IN)	Etheridge	Jones	McMorris	Ross	Schultz
Butterfield	Fallin	Jordan (OH)	Rodgers	Rothman (NJ)	Waters
Buyer	Farr	Kagen	McNerney	Roybal-Allard	Watson
Calvert	Fattah	Kanjorski	Meek (FL)	Royce	Watt
Camp	Filner	Kaptur	Meeks (NY)	Ruppersberger	Waxman
Campbell	Flake	Kennedy	Melancon	Rush	Weiner
Cantor	Fleming	Kildee	Mica	Ryan (OH)	Welch
Cao	Fortenberry	Kilpatrick (MI)	Michaud	Ryan (WI)	Westmoreland
Capito	Foster	Kilroy	Miller (FL)	Salazar	Wexler
Capps	Fox	Kind	Miller (MI)	Sanchez, Loretta	Whitfield
Cardoza	Frank (MA)	King (IA)	Miller (NC)	Sarbanes	Wilson (OH)
Carnahan	Frank (AZ)	King (NY)	Miller, Gary	Scalise	Wilson (SC)
Carney	Frelinghuysen	Kingston	Miller, George	Schakowsky	Wittman
Carson (IN)	Fudge	Kirk	Minnick	Schauer	Wolf
Carter	Galleghy	Kirkpatrick (AZ)	Mitchell	Schiff	Woolsey
Cassidy	Garamendi	Kissell	Mollohan	Schmidt	Wu
Castle	Garrett (NJ)	Klein (FL)	Moore (KS)	Schock	Yarmuth
Castor (FL)		Kline (MN)	Moore (WI)	Schrader	Young (AK)
			Moran (KS)	Schwartz	Young (FL)

NAYS—1

Paul

NOT VOTING—14

Aderholt	Gohmert	Rogers (MI)
Brady (PA)	Johnson, Sam	Sánchez, Linda
Capuano	Murphy, Patrick	T.
Deal (GA)	Nadler (NY)	Stark
Forbes	Nunes	Stupak

□ 1740

Messrs. FLAKE and LOEBSACK changed their vote from “nay” to “yea.”

So (two-thirds being in the affirmative) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

# AMERICAN MEDICAL ISOTOPES PRODUCTION ACT OF 2009

The SPEAKER pro tempore. The unfinished business is the vote on the motion to suspend the rules and pass the bill, H.R. 3276, as amended, on which the yeas and nays were ordered.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Massachusetts (Mr. MARKEY) that the House suspend the rules and pass the bill, H.R. 3276, as amended.

This is a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 400, nays 17, not voting 16, as follows:

[Roll No. 863]

YEAS—400

Abercrombie	Chu	Gordon (TN)
Ackerman	Clarke	Granger
Adler (NJ)	Clay	Graves
Akin	Cleaver	Grayson
Alexander	Clyburn	Green, Al
Altmire	Coble	Green, Gene
Andrews	Coffman (CO)	Griffith
Arcuri	Cohen	Grijalva
Austria	Cole	Guthrie
Baca	Connolly (VA)	Gutierrez
Bachmann	Conyers	Hall (NY)
Baird	Cooper	Hall (TX)
Baldwin	Costa	Halvorson
Barrett (SC)	Costello	Hare
Barrow	Courtney	Harman
Bartlett	Crenshaw	Harper
Barton (TX)	Crowley	Hastings (FL)
Bean	Cuellar	Hastings (WA)
Becerra	Culberson	Heinrich
Berkley	Cummings	Heller
Berman	Dahlkemper	Heger
Berry	Davis (AL)	Herseth Sandlin
Biggart	Davis (CA)	Higgins
Billbray	Davis (IL)	Hill
Bilirakis	Davis (KY)	Himes
Bishop (GA)	Davis (TN)	Hinche
Bishop (NY)	DeFazio	Hinojosa
Bishop (UT)	DeGette	Hirono
Blackburn	Delahunt	Hodes
Blumenauer	DeLauro	Hoekstra
Blunt	Dent	Holden
Bocciari	Diaz-Balart, L.	Holt
Boehner	Diaz-Balart, M.	Honda
Bonner	Dicks	Hoyer
Bono Mack	Dingell	Hunter
Boozman	Doggett	Inglis
Boren	Donnelly (IN)	Inslee
Boswell	Doyle	Israel
Boucher	Dreier	Issa
Boustany	Driehaus	Jackson (IL)
Boyd	Duncan	Jackson-Lee
Brady (TX)	Edwards (MD)	(TX)
Braley (IA)	Edwards (TX)	Jenkins
Bright	Ehlers	Johnson (GA)
Brown (SC)	Ellsworth	Johnson (IL)
Brown, Corrine	Emerson	Johnson, E. B.
Brown-Waite,	Engel	Jones
Ginny	Eshoo	Kagen
Buchanan	Etheridge	Kanjorski
Burgess	Fallin	Kaptur
Burton (IN)	Farr	Kennedy
Butterfield	Fattah	Kildee
Buyer	Filner	Kilpatrick (MI)
Calvert	Fleming	Kilroy
Camp	Fortenberry	Kind
Cantor	Foster	King (IA)
Cao	Fox	King (NY)
Capito	Frank (MA)	Kirk
Capps	Franks (AZ)	Kirkpatrick (AZ)
Cardoza	Frelinghuysen	Kissell
Carnahan	Fudge	Klein (FL)
Carney	Gallely	Kline (MN)
Carson (IN)	Garamendi	Kosmas
Carter	Garrett (NJ)	Kratovil
Cassidy	Gerlach	Kucinich
Castle	Giffords	Lance
Castor (FL)	Gingrey (GA)	Langevin
Chandler	Gonzalez	Larsen (WA)
Childers	Goodlatte	Larson (CT)

Latham	Murphy, Tim	Serrano
LaTourette	Murtha	Sessions
Latta	Myrick	Sestak
Lee (CA)	Napolitano	Shea-Porter
Lee (NY)	Neal (MA)	Sherman
Levin	Neugebauer	Shimkus
Lewis (CA)	Nye	Shuler
Lewis (GA)	Oberstar	Shuster
Linder	Obey	Simpson
Lipinski	Olson	Sires
LoBiondo	Olver	Skelton
Loeback	Ortiz	Slaughter
Lofgren, Zoe	Pallone	Smith (NE)
Lowey	Pascarella	Smith (NJ)
Lucas	Pastor (AZ)	Smith (TX)
Luetkemeyer	Paulsen	Smith (WA)
Lujan	Payne	Snyder
Lummis	Perlmutter	Souder
Lungren, Daniel	Perriello	Space
E.	Peters	Speier
Lynch	Peterson	Spratt
Mack	Petri	Stearns
Maffei	Pingree (ME)	Sullivan
Maloney	Pitts	Sutton
Manzullo	Platts	Tanner
Marchant	Polis (CO)	Taylor
Markey (CO)	Pomerooy	Teague
Markey (MA)	Posey	Terry
Marshall	Price (GA)	Thompson (CA)
Massa	Price (NC)	Thompson (MS)
Matheson	Putnam	Thompson (PA)
Matsui	Quigley	Thornberry
McCarthy (CA)	Radanovich	Tiahrt
McCarthy (NY)	Rahall	Tiberi
McCaul	Rangel	Tierney
McClintock	Rehberg	Titus
McCollum	Reichert	Tonko
McCotter	Reyes	Towns
McDermott	Richardson	Tsongas
McGovern	Rodriguez	Turner
McHenry	Roe (TN)	Upton
McIntyre	Rogers (AL)	Van Hollen
McKeon	Rogers (KY)	Velázquez
McMahon	Rohrabacher	Visclosky
McMorris	Ros-Lehtinen	Walden
Rodgers	Roskam	Walz
McNerney	Ross	Wamp
Meek (FL)	Rothman (NJ)	Wasserman
Meeks (NY)	Roybal-Allard	Schultz
Melancon	Ruppersberger	Waters
Mica	Rush	Watson
Michaud	Ryan (OH)	Watt
Miller (FL)	Ryan (WI)	Waxman
Miller (MI)	Salazar	Weiner
Miller (NC)	Sanchez, Loretta	Welch
Miller, Gary	Sarbanes	Wexler
Miller, George	Scalise	Whitfield
Minnick	Schakowsky	Wilson (OH)
Mitchell	Schauer	Wilson (SC)
Mollohan	Schiff	Wittman
Moore (KS)	Schmidt	Wolf
Moore (WI)	Schock	Woolsey
Moran (KS)	Schrader	Wu
Moran (VA)	Schwartz	Yarmuth
Murphy (CT)	Scott (GA)	Young (AK)
Murphy (NY)	Scott (VA)	Young (FL)

NAYS—17

Broun (GA)	Jordan (OH)	Rooney
Campbell	Kingston	Royce
Chaffetz	Lamborn	Sensenbrenner
Conaway	Paul	Shadegg
Flake	Pence	Westmoreland
Hensarling	Poe (TX)	

NOT VOTING—16

Aderholt	Forbes	Rogers (MI)
Bachus	Gohmert	Sánchez, Linda
Brady (PA)	Johnson, Sam	T.
Capuano	Murphy, Patrick	Stark
Deal (GA)	Nadler (NY)	Stupak
Ellison	Nunes	

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). There are 2 minutes remaining in this vote.

□ 1806

Messrs. PENCE, LAMBORN, and WESTMORELAND changed their vote from “yea” to “nay.”

So (two-thirds being in the affirmative) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

## MOMENT OF SILENCE FOR THE VICTIMS OF VIOLENCE AT FORT HOOD

(Mr. HOYER asked and was given permission to address the House for 1 minute.)

Mr. HOYER. Ladies and gentlemen, I rise with the extraordinarily sad and wrenching news that 12 of our people at Fort Hood have been killed today by a gunman or more and 31 others were wounded.

President Obama called the incident a horrific outburst of violence, and he went on to say these are men and women who made the selfless and courageous decision to risk their lives in the service of our Nation. The President went on to say it's horrifying that they should come under fire at an Army base on American soil.

I know that all of us are extraordinarily saddened and shocked by this incident. Our hearts, our minds, our prayers go out to the families of all of those whose lives have been lost and our prayers for their wholeness and health go out to those who have been injured.

Now, Madam Speaker, I yield to Congressman CARTER in whose district Fort Hood is located.

Mr. CARTER. I thank the gentleman for yielding.

Madam Speaker, we have had a tragedy in my district. I am very sad to report that the latest report that I have received from Fort Hood, we have 12 Americans dead, 32 wounded. They have all been shipped to Scott & White Hospital in Temple, and they are calling for blood; so there are obviously some very serious wounds involved in the wounded.

There is one shooter that has been confirmed who has since died, but he has been confirmed, and there are two other people in custody.

We do not know the nature of this attack, but it is a serious attack on our warfighters. These are people at Fort Hood, most of whom have been deployed four times.

So it is a real tragedy that these families are losing loved ones, and I would hope that we could have a moment of silence not only for those who have died and those who are wounded but also for their families.

Mr. HOYER. Madam Speaker, I join Mr. CARTER in asking for this moment of silence. And as we do, we remember all of those in our Armed Forces, whether they are here in America, they are in uniform or in civilian service in the defense of our country.

Obviously, these brave souls were the objects as members of our Armed Forces. And as we rise in a moment of silence to them, we remember as well all of those brave men and women who are serving around the world to maintain peace, security, and freedom.

The SPEAKER. The Members and those in the gallery will please rise and observe a moment of silence in memory of the victims of violence at Fort Hood.

### LEGISLATIVE PROGRAM

(Mr. CANTOR asked and was given permission to address the House for 1 minute.)

Mr. CANTOR. Mr. Speaker, I yield to the majority leader, the gentleman from Maryland, so that he may inform the House on what to expect about this weekend's schedule.

Mr. HOYER. I thank the gentleman for yielding.

Ladies and gentlemen of the House, as the House well knows, we are contemplating the consideration of the Health Care for All Americans Act on Saturday. We will be considering the amendments on the chemical protection bill that we are now considering tomorrow. We will consider perhaps some other suspensions as well.

My expectation is that on Saturday we will convene at 9 o'clock in the morning. I expect to have five 1-minute speeches on each side, as we usually do on Friday and the end of the week. We will then go to the rule on the health care bill, and then it is my expectation we will have consideration of the health care bill and the Republican substitute.

It is my expectation that if we proceed apace and come to a vote and disposition on that piece of legislation, that we would then adjourn Saturday at whatever hour we complete our work and that the adjournment would be to the 16th of November, the Monday of the following week.

We will convene on the 16th at 6:30 p.m. and meet through Friday of that week. It is my expectation, as I have indicated, that we would be off the following week, which is Thanksgiving week.

That's my present plan, which oft go awry, as all of us know, but that is my present plan for the balance of the month.

Mr. CANTOR. I thank the gentleman.

I would just like to ask the gentleman for a point of clarification, our Members can count on a vote on final passage on the health care bill on Saturday and, upon having done that, can anticipate being able to leave sometime Saturday night or Sunday?

I yield.

Mr. HOYER. I thank the gentleman for yielding.

That would be my expectation. Again, I want to clarify and make sure

that everybody understands it is our intent to finish the health care bill, but assuming that we finish the health care bill sometime Saturday, Saturday night, or early Sunday morning, it would be my expectation there would be no further business until the 16th.

Mr. CANTOR. I thank the gentleman.

### ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. LARSEN of Washington). Without objection, 5-minute voting will continue.

There was no objection.

### NATIONAL FAMILY LITERACY DAY

The SPEAKER pro tempore. The unfinished business is the question on suspending the rules and agreeing to the resolution, H. Res. 878.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York (Mr. BISHOP) that the House suspend the rules and agree to the resolution, H. Res. 878.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the ayes have it.

### RECORDED VOTE

Ms. MCCOLLUM. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This is a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 409, noes 0, not voting 24, as follows:

[Roll No. 864]

### AYES—409

Abercrombie	Boozman	Clarke	Dreier	Kosmas	Peterson
Ackerman	Boren	Clay	Driehaus	Kratovil	Petri
Adler (NJ)	Boswell	Cleaver	Duncan	Kucinich	Pingree (ME)
Akin	Boucher	Clyburn	Edwards (MD)	Lamborn	Pitts
Alexander	Boustany	Coble	Edwards (TX)	Lance	Platts
Altmire	Boyd	Coffman (CO)	Ehlers	Langevin	Poe (TX)
Andrews	Braley (IA)	Cohen	Ellison	Larsen (WA)	Polis (CO)
Arcuri	Bright	Cole	Ellsworth	Larson (CT)	Pomeroy
Austria	Broun (GA)	Conaway	Emerson	Latham	Posey
Baca	Brown (SC)	Connolly (VA)	Engel	LaTourette	Price (GA)
Bachmann	Brown, Corrine	Cooper	Eshoo	Latta	Price (NC)
Baird	Brown-Waite,	Costa	Etheridge	Lee (CA)	Putnam
Baldwin	Ginny	Costello	Fallin	Lee (NY)	Quigley
Barrett (SC)	Buchanan	Courtney	Farr	Levin	Radanovich
Barrow	Burgess	Crenshaw	Fattah	Lewis (CA)	Rahall
Bartlett	Burton (IN)	Crowley	Filner	Lewis (GA)	Rangel
Barton (TX)	Butterfield	Cuellar	Flake	Linder	Rehberg
Bean	Buyer	Culberson	Fleming	Lipinski	Reichert
Becerra	Calvert	Cummings	Fortenberry	LoBiondo	Reyes
Berkley	Camp	Dahlkemper	Foster	Loeb sack	Richardson
Berman	Campbell	Davis (AL)	Fox	Loftgren, Zoe	Rodriguez
Berry	Cantor	Davis (CA)	Frank (MA)	Lowey	Roe (TN)
Biggert	Cao	Davis (IL)	Franks (AZ)	Lucas	Rogers (AL)
Bilbray	Capito	Davis (KY)	Frelinghuysen	Luetkemeyer	Rogers (KY)
Bilirakis	Capps	Davis (TN)	Fudge	Lujan	Rohrabacher
Bishop (GA)	Cardoza	DeFazio	Gallegly	Lummis	Rooney
Bishop (NY)	Carnahan	Delahunt	Garamendi	Lungren, Daniel	Ros-Lehtinen
Bishop (UT)	Carney	Dent	Garrett (NJ)	E.	Roskam
Blackburn	Carson (IN)	Diaz-Balart, L.	Gerlach	Lynch	Ross
Blumenauer	Cassidy	Diaz-Balart, M.	Giffords	Mack	Rothman (NJ)
Blunt	Castle	Dicks	Gingrey (GA)	Maffei	Roybal-Allard
Bocciari	Castor (FL)	Dingell	Gonzalez	Maloney	Royce
Boehner	Chaffetz	Doggett	Goodlatte	Manzullo	Ruppersberger
Bonner	Childers	Donnelly (IN)	Gordon (TN)	Marchant	Rush
Bono Mack	Chu	Doyle	Granger	Markey (CO)	Ryan (OH)
			Graves	Markey (MA)	Ryan (WI)
			Grayson	Marshall	Salazar
			Green, Al	Massa	Sanchez, Loretta
			Green, Gene	Matheson	Sarbano
			Griffith	Matsui	Scalise
			Grijalva	McCarthy (CA)	Schakowsky
			Guthrie	McCarthy (NY)	Schauer
			Gutierrez	McCauley	Schiff
			Hall (NY)	McClintock	Schmidt
			Hall (TX)	McCollum	Schock
			Halvorson	McCotter	Schrader
			Hare	McDermott	Schwartz
			Harman	McGovern	Scott (GA)
			Harper	McHenry	Scott (VA)
			Hastings (FL)	McIntyre	Sensenbrenner
			Hastings (WA)	McKeon	Serrano
			Heinrich	McMahon	Sessions
			Heller	McMorris	Sestak
			Hensarling	Rodgers	Shadegg
			Herger	McNerney	Shea-Porter
			Herseth Sandlin	Meek (FL)	Sherman
			Higgins	Meeks (NY)	Shimkus
			Hill	Melancon	Shuler
			Himes	Mica	Shuster
			Hinchey	Michaud	Simpson
			Hinojosa	Miller (FL)	Sires
			Hirono	Miller (MI)	Skelton
			Hoekstra	Miller (NC)	Slaughter
			Holden	Miller, Gary	Smith (NE)
			Holt	Miller, George	Smith (NJ)
			Honda	Minnick	Smith (TX)
			Hunter	Mitchell	Smith (WA)
			Inglis	Mollohan	Snyder
			Inslee	Moore (KS)	Souder
			Israel	Moore (WI)	Space
			Issa	Moran (KS)	Speier
			Jackson (IL)	Moran (VA)	Spratt
			Jackson-Lee	Murphy (CT)	Stearns
			(TX)	Murphy (NY)	Sullivan
			Jenkins	Murphy, Tim	Sutton
			Johnson (GA)	Murtha	Tanner
			Johnson (IL)	Myrick	Taylor
			Johnson, E. B.	Napolitano	Teague
			Jones	Neal (MA)	Terry
			Jordan (OH)	Neugebauer	Thompson (CA)
			Kagen	Nye	Thompson (MS)
			Kanjorski	Oberstar	Thompson (PA)
			Kaptur	Obey	Thornberry
			Kennedy	Olson	Tiahrt
			Kildee	Oliver	Tiberi
			Kilpatrick (MI)	Ortiz	Tierney
			Kilroy	Pallone	Titus
			Kind	Pascrell	Tonko
			King (IA)	Pastor (AZ)	Towns
			King (NY)	Paul	Tsongas
			Kingston	Paulsen	Turner
			Kirk	Payne	Upton
			Kirkpatrick (AZ)	Pence	Van Hollen
			Kissell	Perlmutter	Velázquez
			Klein (FL)	Perriello	Visclosky
			Kline (MN)	Peters	Walden

Walz	Waxman	Wilson (SC)
Wamp	Weiner	Wittman
Wasserman	Welch	Wolf
Schultz	Westmoreland	Wu
Waters	Wexler	Yarmuth
Watson	Whitfield	Young (AK)
Watt	Wilson (OH)	Young (FL)

## NOT VOTING—24

Aderholt	DeGette	Nunes
Bachus	DeLauro	Rogers (MI)
Brady (PA)	Forbes	Sánchez, Linda
Brady (TX)	Gohmert	T.
Capuano	Hodes	Stark
Carter	Hoyer	Stupak
Chandler	Johnson, Sam	Woolsey
Conyers	Murphy, Patrick	
Deal (GA)	Nadler (NY)	

## ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). There are 2 minutes remaining in this vote.

□ 1806

So (two-thirds being in the affirmative) the rules were suspended and the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

## HONORING MONICA RODRIGUEZ

(Ms. CHU asked and was given permission to address the House for 1 minute.)

Ms. CHU. Madam Speaker, I rise today to honor Monica Rodriguez from El Monte, California. Monica was a wife, mother of three children, and 5 months pregnant. Monica went twice to a hospital in El Monte with flu symptoms, including flu, fever, congestion, and cough. She was sent away with cough syrup. Days later, Monica was admitted into intensive care, but it was too late, and Monica passed away on October 25 due to complications from the H1N1 virus.

Monica was a pregnant woman with flu-like symptoms that should have set off alarm bells. Despite multiple visits to the hospital, she was denied treatment that could have saved her life. The Centers for Disease Control issued guidelines for health care providers that said, "Pregnant women are at higher risk for severe complications and death from influenza, including both 2009 H1N1 influenza and seasonal influenza." If the El Monte hospital had followed these guidelines, her tragic death could have been avoided. Her husband, Jorge Gonzalez, wants others to know about his wife's death so that they can receive proper care.

In memory of Monica Rodriguez, I will introduce a resolution alerting people so no other person will needlessly die in this manner.

TRIBUTE TO THE 2009 EDINA  
GIRLS TENNIS TEAM

(Mr. PAULSEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PAULSEN. Madam Speaker, I rise to pay tribute to the Edina High School girls tennis team who won the Minnesota 2-A State Championship just last week. Their final victory, a 6-1 triumph over a strong Elk River team, continued a string of dominance by the Edina program that has clearly become one of the most successful high school athletic programs in the entire State of Minnesota.

The Hornets' victory marked the 13th consecutive State tennis championship, a streak in which Edina has impressively won 248 of their past 249 dual matches. Led by coach Steve Paulsen, the Hornets finished the 2009 season with a record of 24-0 in dual matches.

To all of the student athletes, to the coaches and the parents, I offer my congratulations on a great accomplishment and for an impressive run of championships that is truly a tribute to everyone involved. The streak is still alive, and I am proud to represent a school and athletics program with such a longstanding commitment to success.

## BRANDON'S LAW

(Mr. HARE asked and was given permission to address the House for 1 minute.)

Mr. HARE. Madam Speaker, I rise today to honor the life of Brandon Ballard of Taylor Ridge, Illinois, and to support testicular cancer education, the best medicine to fight the most common cancer in young men.

Madam Speaker, Brandon Ballard was a star high school basketball player with a champion's heart. Although Brandon had been active in sports and had annual physical exams, his cancer went undetected for 2 years. During his illness, Brandon dedicated himself to raising awareness about the warning signs of testicular cancer. One year ago this month, Brandon lost a hard-fought battle with testicular cancer at the young age of 19.

Madam Speaker, I stand here today not only to share with you Brandon's story but to recognize the efforts of Jim and Kristen Ballard to carry on Brandon's work. With the support of Senator Mike Jacobs, the Ballards lobbied the State assembly to require health classes to teach the signs and symptoms of testicular cancer and encourage screenings of male athletes. I am proud to say that their hard work paid off in August when Governor Pat Quinn signed Brandon's Law.

Madam Speaker, I commend the Ballard family for turning the tragic loss of their son into an opportunity to save the lives of young men.

AMERICANS OPPOSE SANCTUARY  
CITIES

(Mr. SMITH of Texas asked and was given permission to address the House

for 1 minute and to revise and extend his remarks.)

Mr. SMITH of Texas. Madam Speaker, a recent Rasmussen Report shows that 68 percent of U.S. voters oppose the creation of sanctuary cities that give safe haven to illegal immigrants. And by a 5-2 margin, voters say sanctuary policies that protect illegal immigrants lead to an increase in crime.

Not only are sanctuary cities unpopular, they are illegal. They are specifically prohibited in the Illegal Immigration Reform and Immigrant Responsibility Act of 1996. But the Obama administration has not held any jurisdictions that adopt and maintain sanctuary policies responsible.

It's no wonder that a recent CNN/Opinion Research poll found that 58 percent of respondents disapproved of the President's handling of illegal immigration while only 36 percent approve. And his poll numbers aren't going to be helped if taxpayers subsidize illegal immigrants in the health care bill that we are considering this week.

Rather than flout the will of the American people, the White House should heed their advice and enforce our Nation's immigration laws.

HEALTH CARE REFORM IS GOOD  
FOR AMERICA

(Mr. COHEN asked and was given permission to address the House for 1 minute.)

Mr. COHEN. Madam Speaker, this weekend this House will be the scene of a debate on the most important bill that has faced this Congress and this country since 1965, and that is health care, putting out country on a path where it should have been in the 20th century but catching up. The AARP has recently endorsed the bill because they know that it helps senior citizens. It will guarantee that the rates don't go up and the doughnut hole will be closed.

My local alternative paper, the Memphis Flyer, had a feature story, Young People and Health Insurance. Most young people don't have health insurance. They think they're invincible, they don't necessarily have jobs, and they can't stay on their parents' policy. When this bill passes, Madam Speaker, young people will be able to stay on their parents' health insurance policies until they're 27, filling a great void. Most parents don't like the idea of their children not having health insurance.

This will help the young and the old. It will help all of America. It is, indeed, America's bill. I will proudly vote for it.

□ 1815

## SPECIAL ORDERS

The SPEAKER pro tempore (Mrs. DAHLKEMPER). Under the Speaker's announced policy of January 6, 2009, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

## TAX TAX TAX

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. POE) is recognized for 5 minutes.

Mr. POE of Texas. Madam Speaker, there are brand new ways to tax people in this Federal health care bill. According to the Americans for Tax Reform, these new health care taxes will affect everyone. There are at least \$700 billion in taxes in this takeover. It taxes small businesses; it taxes individuals.

For the first time in history, Congress is going to require individuals to buy something. If this health care bill passes, citizens will be required to buy government-approved health insurance. If they don't buy that government-approved health insurance, they are going to have to pay a criminal fine. That violates the Fifth Amendment of the United States Constitution, the due process clause.

If someone owns a small business, they will be required to pay about three-quarters of the cost of health insurance for their employees, whether they can afford it or not. Employees would be required to pay the rest of the government-approved health insurance, whether they can afford it or not.

The government decides what a person can and cannot afford. Employers and employees who don't buy the government-approved insurance then have to pay this fine. This is a criminal penalty on citizens.

There is also a new tax hike on flexible spending accounts and health savings accounts. Right now people can put as much pretax money as they want into one of these accounts to help pay for insurance. These accounts will get a \$1.3 billion new tax. The new government-run health care bill won't let anyone buy over-the-counter drugs out of these accounts. All of the medicines that have been made easier to buy without a prescription are now going to be taxed. Now why, Madam Speaker, would the government discourage people from taking care of themselves and having these health savings accounts?

The new health care bill also makes other legal tax deductions now illegal. This new tax is called the economic substance doctrine. Under this new health care bill, the IRS would be able to decide what a person was thinking when they bought something and they deducted it from their income tax as a business expense.

What that means is my friend Sammy Mahan in Baytown, Texas, buys a new wrecker truck for his tow truck business, and he writes it off on his income tax as a business expense. The IRS would be able to decide what he was really thinking when he bought that wrecker truck. If the IRS decides he bought that new wrecker just to go fishing in it, they won't allow the tax write-off. And the IRS decides what he was thinking, not what he says. In fact, the IRS is presumed to know what he was thinking when he lawfully wrote off that truck as a business expense. These thought police may not approve his lawful tax deduction. This new rule not only penalizes Sammy for his thoughts, it penalizes him for what the government thinks his thoughts were; what Sammy was really thinking when he bought that wrecker truck anyway and claimed that lawful tax.

Having tax thought police is strange enough, but what this is doing in a health care bill in the first place makes no sense. This ought to be in a separate piece of legislation to begin with. Do the taxacrats really think people will go out and have a heart valve replacement just to write it off their income tax?

But there's also more. There is a new tax on medical devices, a 2.5 percent tax on things like pacemakers and wheelchairs and hip replacement devices and new heart valves, lawful tax deductions for medical expenses that will be outlawed under this bill. So the tax thought police could not only deny a tax deduction for that heart valve replacement, but they could turn around and tax that new heart valve as well.

Madam Speaker, people are hurting out there in their pocketbooks and we can't afford a government-run health insurance policy at this time because it costs too much. The people can't afford all these new taxes and seniors can't afford to have a half trillion dollars cut out of their Medicare.

This government takeover of health care is just in time for Thanksgiving. Hopefully the American people won't be the turkey served up on the plate of government-run health care reform.

And that's just the way it is.

## LET'S HELP THE AFGHAN PEOPLE TO REJECT VIOLENT EXTREMISM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Ms. WOOLSEY) is recognized for 5 minutes.

Ms. WOOLSEY. Madam Speaker, the last 8 years has taught us a very hard lesson. There is no military solution to Afghanistan. Escalating the war by sending in tens of thousands more troops will not defeat violent extremism in that country.

That's why I have urged President Obama to change the mission in Afghanistan. We must abandon the mili-

tary-only strategy that has failed us and that we must begin to emphasize humanitarian aid, economic development, reconstruction, better health care and education. These are the tools that the Afghan people need to improve their lives and to reject extremism.

Nicholas Kristof of the New York Times wrote a column last week entitled, "More Schools, Not Troops." His article makes the case for changing our mission very well. In his column, Kristof writes that investments in education, health and agriculture "have a better record at stabilizing societies than military solutions, which have a pretty dismal record."

Education is especially important, he says. He argues that "schools are not a quick fix, but we have abundant evidence that they can, over time, transform countries."

He gave Pakistan and Bangladesh as examples of that. The United States has spent \$15 billion in Pakistan, Madam Speaker, since 9/11, mostly on military support. Yet Pakistan is more unstable than ever and al Qaeda has found a home there.

Meanwhile, Bangladesh, once a part of Pakistan, has made major investments in education, especially for girls. This has spurred economic growth, which has helped keep al Qaeda out of that country.

Kristof also writes that "when I travel in Pakistan, I see evidence that one group, the extremists, believes in the transformative power of education. They provide free schooling and often free meals for students. They offer scholarships for the best pupils. What I don't see is similar numbers of American-backed schools. It breaks my heart that we don't invest in schools as much as medieval, misogynist extremists."

He then goes on to say that "for roughly the same cost as stationing 40,000 troops in Afghanistan for 1 year, we could educate the great majority of the 75 million children worldwide who are not getting even a primary education. Such a vast global education campaign would reduce poverty, cut birth rates, improve America's image in the world, promote stability and chip away at extremism."

Madam Speaker, I hope that President Obama will keep this in mind as he reviews his options on Afghanistan and makes his decisions in the coming weeks. America simply cannot afford to rely on our military power alone, because that strategy plays right into the hands of the extremists. Our heavy military footprint is feeding the insurgency in Afghanistan, not weakening it.

By changing the mission to emphasize education and the other tools that can give the Afghan people a real stake in peace, we can stop violent extremism in its tracks. And we can keep our troops safer and build a more



peaceful world for our children and our grandchildren.

#### HEALTH CARE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Washington (Mr. HASTINGS) is recognized for 5 minutes.

Mr. HASTINGS of Washington. Madam Speaker, the Democrat health bill is not about lowering costs or making health care more affordable, it's about government control and higher spending. It's about a government takeover of our health care system. It follows that it's about the Federal Government deciding how, where and when you get your health care.

At its most basic, the bill creates a government-run health insurance system that will end private health insurance options and, in doing so, will force Americans to purchase coverage only from a government-controlled program. The Federal Government would therefore decide which health care plans are acceptable. A Federal commissioner would decide which health care benefits are offered and how much is to be charged for those benefits. The proposed Medicare cuts would eliminate options for seniors and place recipients under a Medicare without choices, choices like the current Medicare Advantage program.

In page after page of this massive bill, Federal health programs are expanded while private health care is restricted. In section after section, personal health care choices dwindle, and Federal control over decisions that should be made by you and your doctor increase.

One of the most striking examples, Madam Speaker, begins on page 481. The Democrat bill arbitrarily bars doctors from opening new doctor-owned hospitals, including the 124 hospitals that are currently under construction, and it severely restricts the existing 235 doctor-owned hospitals like the Wenatchee Valley Medical Center in my district from expanding their services.

The Wenatchee Valley Medical Center is a top-rated hospital that serves a rural underserved area. It was founded in 1940 by three doctors and today is owned by 150 doctors, each with an equal share. The medical center employs 1,500 people; serves a population of a quarter of a million people in an area the size of the State of Maryland; and treats 150,000 patients a year, half of whom are Medicare and Medicaid recipients.

Democrats, though, have decided that doctors cannot own hospitals regardless of the quality of care or degree of need. Under the Democrat bill, doctor-owned hospitals would face unprecedented reporting requirements, punishing new restrictions and strict limitations on their ability to expand. In

fact, with the exception of a small handful of facilities selected by Democrat leaders, hospitals that are owned by doctors are barred from growing, barred from adding even a single hospital bed ever.

Madam Speaker, something is very, very wrong when this Congress is blocking access to health care, banning new hospitals and blocking the growth of top-quality facilities because they are simply doctor owned. But now the position of Democrats in charge of writing health policy in this House is very, very clear: They want to outlaw all doctor-owned hospitals, period.

Madam Speaker, we are headed down a very dangerous road when the Federal Government is getting in the business of deciding who can and who cannot own a hospital. But I am convinced that this is only the start. A Democrat Ways and Means subcommittee chairman was quoted this week as saying, "Get your toe in, get your knee in, get your shoulder in, and pretty soon you're in the room." This is a blunt admission that if Democrats succeed with this government takeover, those in Washington, D.C. will already have bigger plans to seize even more control of every American's health care.

Madam Speaker, I don't think that's where America wants to go. There is a better solution, and it doesn't involve penalizing hospitals, raising taxes or cutting Medicare. The plan I support focuses on lowering costs by expanding health care choices and tools to help families save, making it easier for small businesses to afford and offer health care; ending lawsuit abuse; and, Madam Speaker, more importantly, protecting the doctor-patient relationship from government intrusion.

#### HEALTH CARE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Washington (Mr. McDERMOTT) is recognized for 5 minutes.

Mr. McDERMOTT. Madam Speaker, we have been waiting for 10 months for the Republican health care plan. All we hear is the Party of No—no, no, no; go slow; don't do anything. That's all we've heard. But, finally, they came out with a plan, and I thought we ought to take it seriously and read it, so I did.

□ 1830

Sadly, the proposal from my Republican colleagues was not worth the wait, and CBO agrees.

The Congressional Budget Office indicated that the Republican bill will not—will not—significantly decrease the ranks of the uninsured. Instead, under the Republican proposal, the ranks of the uninsured will decrease by only 3 million people, leaving 52 million people without coverage.

Contrast that with the Democratic proposal, which covers 96 percent of all Americans.

The Republican proposal would not address the ability of insurance companies to exclude individuals based upon preexisting conditions. According to the Republican leadership, they purposely failed to address this issue because it supposedly cost too much.

The Democratic proposal would prohibit insurers from excluding individuals from purchasing health insurance based on preexisting conditions by 2013.

The Republican proposal would allow insurance companies to sell insurance across State lines. Sounds like a good idea. But most experts agree that that would create a "race to the bottom," where insurers will set up shops in States with the fewest consumer protections.

Contrast that with the Democratic proposal, which will allow insurance companies to sell insurance across State lines so long as the States involved have set up interstate compacts. Under these interstate compacts, participating States would ensure consumer protections would be followed and monitored at all times.

Now, the Republicans got this one pretty close to right. They will allow dependents to remain on their parents' insurance until they are age 26.

Contrast that with the Democratic proposal, which keeps them on until age 27. So they copied us at least on that point.

The Republican proposal will cut the deficit by \$68 billion over the next 10 years. Sounds great, right?

Contrast this with the Democratic proposal, which will cut the deficit by \$104 billion over the next 10 years. For the Republicans who sound off about fiscal responsibility all the time, the Democratic proposal is clearly the more responsible for deficit reduction.

The Republican plan purports to end "junk lawsuits." However, the focus is solely on capping certain damages for pain and suffering. This is an old approach, and it will help insurance companies flaunt State consumer protection laws.

The Democratic proposal, on the other hand, would ensure providers are accountable for providing quality care by developing payment policies that have quality as a central tenet of reimbursement. The Democratic proposal seeks to recognize the autonomy of States.

The CBO found that the Republican plan would have virtually no effect on reducing premiums in the large group market in which most Americans are involved, where most people purchase their health insurance.

Contrast this with the Democratic proposal that seeks to increase transparency with regard to insurance premium increases and decrease the amount insurers can dedicate to profits.

The Democratic proposal ends the antitrust exemption for insurers, which has caused a significant lack of competition in the insurance marketplace whereby one or two insurers provide virtually all of the coverage for enrollees in some markets. This is focused insurance reform rather than business as usual, which the Republicans seek to promote.

The Republican plan was introduced to the world on November 4, 2009, after being slapped together because they realized that something was going to happen out here and they had no alternative to saying no. It has all the failures I have described relative to the Democratic proposal.

Contrast this with what has been a deliberative, thoughtful process that has created a bill that has been reported out of three committees and is at the precipice of enacting the most far-reaching, consequential health reform in a century.

The American people have been waiting for 100 years. They got the Republican proposal a day or so ago, and it is totally inadequate. Despite claims of my Republican colleagues to the contrary, in all aspects, the Democratic proposal is simply better. It will provide universal coverage, and I hope that the Republicans can see the wisdom of voting for it this Saturday.

It provides nearly universal coverage, deficit reduction, and reforms designed to effectuate cost control over the next decade.

My Republican colleagues have tunnel vision and are focused on what they believe to be the one positive about their bill: it costs less than the Democratic proposal. Well, it still costs \$8 billion, and insures virtually no one according to multiple media outlets as well as the CBO.

The Republican plan ensures that insurance companies maintain the status quo in the insurance market, and provides no consumer protections. Sometimes, you get what you pay for.

#### TRIBUTE TO DANNY ROY PRICE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Tennessee (Mr. ROE) is recognized for 5 minutes.

Mr. ROE of Tennessee. Madam Speaker, I rise today to pay tribute to Danny Roy Price, who passed away in October at the age of 69. Danny was my most dedicated volunteer, a trusted staff member; but, most importantly, he was my friend. He dedicated his life to his Lord and to the service of others.

There are literally countless stories of Danny's sense of duty and commitment to service. He served our country in the U.S. Army; and because of that, he had a strong connection to every man and woman who served our country.

His wife, Carol, spoke of the day he helped a veteran and his wife receive benefits to which they were entitled

but had never received. When Danny informed them their benefits had been approved, they began to tear up and weep. Carol said that when Danny returned home that evening, he told her the story and he too began to weep. I am incredibly proud to have had a person like him serving east Tennessee.

In 2007, Danny was named Tennessee's Statesman of the Year by the Tennessee House of Representatives. It was a fitting tribute to Danny, whose incredible attitude and passion I saw on display time and time again during my campaign during 2008 and as we traveled throughout the district this past year. Everywhere Danny went, he was a statesman, greeted and loved by everyone whose life he touched. He never wanted the credit. He only wanted a sense of satisfaction from knowing the job that he had done had been done right.

On the last day I shared with Danny, we had a full day of meetings in Bull's Gap, Gatlinburg, Morristown, Knoxville, and Greeneville, Tennessee, with a variety of doctors and local businessmen and businesswomen.

But it wasn't out of the ordinary for Danny and me. We finished up, and Danny told me, Phil, we had a great day. And it was a good day. To Danny, a good day wasn't getting the personal accolades. A good day was traveling up and down the district, getting to know the people, and learning about how he could help them.

At his eulogy, Danny's pastor of Hope Community Church in Rogersville, Tennessee, Rip Noble, talked of Danny's service to his Lord, Jesus Christ. Danny wanted others to experience the relationship he had with his Lord, so he constantly invited those he met to come worship with him. And then he would make sure that those people were welcomed into the service, first by himself, and then by the pastor.

When regular members hadn't attended in a while, Danny would call them and make sure that everything was all right and invite them back. Indeed, in large part due to Danny's efforts, the church has over 500 members, after starting just 5 years ago.

Danny is survived by his wife, Carol; his children, Jennifer and Brent Price; his granddaughter, Neyla Price; his brothers, Admiral Price and Keith Price; and his sister, Judy.

I extend our deepest condolences to the family for their loss, and hope they can find comfort in the knowledge that Danny was an extraordinary individual.

#### PROS AND CONS OF HEALTH CARE REFORM PROPOSALS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Virginia (Mr. GOODLATTE) is recognized for 5 minutes.

Mr. GOODLATTE. Madam Speaker, I rise in opposition to the health care reform bill offered by Speaker PELOSI and the Democratic leadership, which we anticipate will be voted on possibly before the end of this week, and in support of the commonsense, practical alternative offered by Congressman JOHN BOEHNER, the Republican leader in the House.

Madam Speaker, this legislation offered by Speaker PELOSI is over 2,000 pages long and contains about 400,000 words. To give you an idea of the magnitude of this government takeover of the health care system in the United States, this legislation uses the word "shall" 3,425 times. When you see the word "shall" in legislation, you should read a mandate, a requirement, that the government is requiring somebody to do something to comply with what people here in Washington know best, not in terms of what people know is best for themselves. This legislation contains that word 3,425 times. It is truly a remarkable, complex government takeover.

In the original bill offered earlier this year, which was 1,000 pages long, there was the creation of 53 new Federal Government agencies and programs. In the new improved revised version, there are now 111 Federal Government agencies and programs contained in this legislation, which will cost the American taxpayers and our senior citizens more than \$1.1 trillion. That is the official government estimate. There are many health care experts who say that the implementation of this legislation will cost far, far more.

As an example, many have pointed to the projected cost of Medicare when it was enacted in 1965. It was projected that it would cost \$10 billion to \$12 billion 25 years later; but by the end of the 1980s, Medicare was actually costing the American taxpayers more than \$100 billion. In fact, today it costs more than \$400 billion per year; and the Speaker's proposal says, well, let's take out of that \$400 billion per year. Let's take about \$40 billion a year, or 10 percent of that, and divert it to other new government programs.

Well, Madam Speaker, the problem with that is that the Medicare program today is faced with enormous challenges. The projected unfunded liability for Medicare over the lifetime of the average American today is more than \$17 trillion, here at a time when starting next year senior citizens will increase in their numbers dramatically because the baby boomers, those born in the years after World War II and up until the early 1960s, will be retiring, will be reaching eligibility age for Medicare, and year after year after year the number of Medicare-eligible senior citizens will increase dramatically.

At the same time that will be occurring, this Congress is suggesting that it

will be okay to take \$400 billion out of the Medicare program to spend on an entirely new health care program that is projected to cost \$1.1 trillion over 10 years, and I suggest will cost far more than that. So Medicare is going to be jeopardized by this legislation, and senior citizens across this country are aware of that.

They certainly were aware of it in Virginia this year, my home State, when they turned out on Tuesday in very large numbers to send a message to Washington that this health care proposal and other dramatic government takeovers of sectors of our economy is unacceptable and it resulted in a sweep across the elections in Virginia. And in the only two States in the country where there were Governors races up this year, New Jersey and Virginia, Democratic Governors were replaced by Republican Governors. People are looking to Washington.

There is a story in today's New York Times entitled "Democrats to Use Election to Push Agenda in Congress." Well, good luck with that, because I can tell you that the people who turned out at the polls in Virginia were not asking for this agenda to be pushed forward as a result of what they have been seeing going on in Washington, D.C. Instead, they want commonsense, bipartisan reforms of health care.

Health care is in need of reform. It costs too much, and not enough Americans receive it. The Republican alternative provides for that. The Democratic alternative does not.

#### REASONS TO LEAVE AFGHANISTAN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Tennessee (Mr. DUNCAN) is recognized for 5 minutes.

Mr. DUNCAN. Madam Speaker, this morning I was honored to go with five other Members, three Democrats and three Republicans, to have breakfast at the Pentagon with Secretary of Defense Robert Gates. The Secretary is a kind man and this was a very nice thing for him to do. I have great respect for Secretary Gates.

The purpose of the breakfast was to discuss the situation in Afghanistan. When I got this invitation, I wondered if I should go, since I have been very much opposed to our war there. However, I decided that the only right and fair thing to do was to go listen to what he had to say.

Unfortunately, I still believe that what we are doing in Afghanistan is a horrendous waste that we cannot afford. I also believe that Afghanistan is no realistic threat to us, unless our war there continues to anger so many people around the world.

George C. Wilson, military columnist for Congress Daily, wrote recently:

"The American military's mission to pacify the 40,000 tiny villages in Afghanistan will look like mission impossible, especially if our bombings keep killing Afghan civilians and infuriating the ones who survive."

General Petraeus said this summer we should not forget that Afghanistan has been known as the "graveyard of empires."

Congressional Quarterly reported on September 17 that members of both parties were "fretting openly about a lack of progress in the conflict."

As much as Americans love our troops, we need to realize that the Defense Department is not just a military organization. It is also the world's largest bureaucracy. Every gigantic bureaucracy always wants to expand its mission and frequently exaggerates its challenges so it can get more money and personnel.

The Taliban guerillas have almost no money, and a top U.N. antiterrorism official said recently that al Qaeda is having "difficulty in maintaining credibility."

National defense is the most legitimate function of our Federal Government. However, that does not mean Congress should automatically or blindly approve the Pentagon's every request or never criticize its waste.

Much of what we are doing in Afghanistan is of a civic, charitable or governmental nature, like building schools and teaching agribusiness. But the Defense Department should not be the "Department of Foreign Aid," or much of our military primarily a very large version of the Peace Corps.

In March, the President promised a "dramatic increase" in our effort in Afghanistan, including "agricultural specialists and educators, engineers and lawyers." Why, when we are \$12 trillion in debt, are we spending mega-billions in Afghanistan doing practically everything for them? We are spending money we do not have on a very unnecessary war and jeopardizing our own future in the process.

Many people think that all conservatives support this war. Well, I believe that there are many millions of conservatives who do not and who want us to bring our troops home, the sooner the better. In fact, this war goes very much against traditional conservatism.

When I was in high school, I worked as a bag boy at an A&P grocery store making \$1.10 an hour. I sent my first paycheck, \$19 and some cents, as a contribution to the Barry Goldwater campaign. I am still one of the most conservative Members of Congress.

But this war has required huge deficit spending, almost half a trillion in war and war-related costs for Afghanistan. Fiscal conservatives should be the people most upset about this. This war has spent mega-billions in foreign aid, because probably at least half of what we have done and are doing there

is of a civic or charitable nature. Traditional conservatives have been the strongest opponents of massive foreign aid.

□ 1845

We went into the wars in Iraq and Afghanistan under U.N. resolutions, yet conservatives have traditionally been the biggest critics of the U.N. Conservatives have traditionally been the biggest opponents of world government because it is too elitist and arrogant and too far removed from control by the people. We should not now support what is essentially world government just because it is being run by our military.

I am a veteran and I am very pro military, but I am for national defense, not international defense. I know that the leaders of Afghanistan want us to keep spending hundreds of billions there, but we cannot afford it. We cannot afford it economically, and as far as I am concerned, it is not worth one more American life.

I know that when leaders of the Defense Department and the State Department and the National Security Council all get together in their meetings, that all of the pressures are on getting involved or staying involved in just about every military, political or ethnic dispute all around the world. I know that they want to be considered as great world statesmen, but 8 years in Afghanistan is not only enough, it is far too long. It is time, Madam Speaker, to come home. It is time to start putting our own people and our own country first once again.

#### FIGHTING FOR DEMOCRACY AND HUMAN RIGHTS IN CUBA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. LINCOLN DIAZ-BALART) is recognized for 5 minutes.

Mr. LINCOLN DIAZ-BALART of Florida. Madam Speaker, I had the privilege a few days ago to speak by telephone with one of the great heroes that fight for democracy and human rights in Cuba, Jorge Luis Garcia Perez, "Antunez." He is in the city of Placetas in Cuba. His house is surrounded by thugs of the dictatorship. He is continuously harassed, often detained, has spent 17 years as a political prisoner, and was recently released. Yet he continues his fight, peacefully, nonviolently, against the totalitarian system in Cuba, in that island that has been forgotten by the world, and yet its people continue to suffer under the yoke of a brutal, totalitarian, nightmarish regime led by a dictator who is infirm now, he is sick. By virtue of that, he has turned over some titles, titles of power to his brother, but yet he retains, Fidel Castro, retains absolute personal power, total power in that totalitarian fiefdom.

His brother receives visitors, heads of state and has some titles of power, but be not mistaken, the totalitarian power remains in the hands of Fidel Castro, who, for example, is the one that orders that heroes like Antunez be detained or released, that heroes such as Oscar Elias Biscet or Rolando Arroyo or Pedro Arguelles Moran or Normando Hernandez or Ariel Sigler Amaya or Librado Linares or Horacio Pina or Ricardo Gonzalez Alfonso or Hector Maceda or Felix Navarro or Rafael Ibarra and countless others be retained in the gulag being tortured simply because those heroes support the ability for the Cuban people to have the rights, for example, that the American people, or free people throughout the world have.

Jorge Luis Garcia Perez told me, when I spoke to him on the phone about the fact that his wife's brother, his wife is Iris Perez Aguilera, and she is also a fantastic, formidable freedom fighter. Her brother, Mario Perez Aguilera, is in the gulag being tortured, and is being denied access, visits by his family. In other words, Iris cannot visit her brother who is in horrible physical condition. We don't know how gravely ill, but we know he is very ill, and he is being denied access. His family cannot visit them.

So I told Antunez that I would come to this floor and use the great privilege given to me by my constituents to tell the world about the brutality that Mario Perez Aguilera, that political prisoner, and the many others, that they are facing day in and day out, and the added inhumanity of not being able to be seen by their family members.

The island that the world ignores. And what is most tragic is that it is 90 miles from our shores and for over 50 years, it has been in the grasp of a demented despot who orders such actions as the ones I have discussed this evening.

So I will continue to denounce the brutality, the inhumanity, and I will also continue to remind the world that despite that brutality, Cuba will soon be free.

To be continued.

#### NO FEDERAL FUNDING FOR ABORTION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina (Ms. FOXX) is recognized for 5 minutes.

Ms. FOXX. Madam Speaker, there was a wonderful gathering in Washington today of thousands of people from all over the country. Many of those people held up signs that said Abortion is Not Health Care. The American public is more intelligent than those in charge in this House.

Pro-life Members here in the House are continuing to stand up and speak out for the unborn, and we will, until

we defeat this bill or stop Federal funds from being used for abortions through this bill. Pro-life Members have offered amendments to the majority's original health care plan, H.R. 3200, to permanently exclude Federal funding of abortion. All of these amendments were rejected by the majority. Minority whip CANTOR's amendment to stop health care from funding abortion was rejected in the Ways and Means Committee on July 16, 2009. Representative SOUDER's amendment to stop abortion funding was rejected by the majority in the Education and Labor Committee on July 17, 2009.

Democrat Representative BART STUPAK and Republican Representative JOE PITTS offered another amendment to stop abortion funding in Energy and Commerce, and the majority rejected it on July 30, 2009. The reasons given by the majority for rejecting these amendments was that they were not needed as there was no abortion funding in the bill.

Now the contrast to that is the Republican substitute which will be offered has a permanent, government-wide Hyde amendment, meaning unequivocally, no Federal funds can be used for abortion anywhere in any bill that passes. Yet despite claims from the majority that abortion funding was not in the bill, the Energy and Commerce Committee voted on July 31, 2009, to include the Capps amendment to explicitly include abortion funding in the health care bill.

Recently, Speaker PELOSI unveiled H.R. 3962, her 2,000 page \$1.3 trillion government takeover of health care. This bill also includes the Capps amendment, which will increase the number of elective abortions and gut the well-established government policy that prevents Federal funds from being used to pay for elective abortion known as the Hyde amendment.

Before the Hyde amendment was passed in 1976, Medicaid funded almost 300,000 abortions. In contrast, the Republican substitute again has a permanent government-wide Hyde amendment, meaning unequivocally, no Federal funds for abortion anywhere.

Section 222 of H.R. 3962 permits Federal funds to be used for abortion in the government insurance plan.

Section 4(a) refers to elective abortion procedures that are otherwise prohibited from receiving Federal funds in other government programs due to current Hyde amendment policies, but cannot be prohibited in the government-run public insurance plan.

Supporters of the bill assert that only private funds will be used to fund abortion in the government-run public insurance plan. This is not true. The bill places individual premium payments for the government-run public insurance plan into a Federal treasury account that may be used to pay for abortions. The bill also federally subsidizes private insurance plans that cover abortion in the government-run exchange.

Let there be no doubt that Pelosi's plan explicitly authorizes the government-run public insurance plan to pay for elective abortions and subsidizes private plans on the government-run exchange that cover elective abortion. Despite assurance from the majority that something would be done to correct this, the manager's amendment for H.R. 3962 does not contain any language regarding abortion funding.

The proposal outlined by Representative BRAD ELLSWORTH of Indiana yesterday falls short of addressing these issues. In his plan, the government-run public insurance plan would still cover abortion, but would have to contract with private contractors to carry out the administrative functions related to paying for elective abortion. Rather than reducing the number of abortions, the majority seems content with overseeing legislation to create the largest expansion of abortion since *Roe v. Wade*. This is unacceptable.

Pro-life Members on both sides of the aisle want the opportunity to vote on the Stupak-Pitts amendment to apply the Hyde amendment and exclude the abortion funding in Pelosi's plan. The American people understand this. We should not be using our Federal funding to kill innocent life.

#### HEALTH CARE RALLY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. GOHMERT) is recognized for 5 minutes.

Mr. GOHMERT. Madam Speaker, an extraordinary thing happened here today, right out here down the hill. There were tens of thousands of people that came out on very short notice. They came out, and these were not the super wealthy. These weren't the Wall Street folks that if you will check, give four to one to Democrats over Republicans. These people didn't care about party at all. They were concerned about the America that they knew, an America where people were given a chance to succeed and a chance to fail. Because as people far more wise than I am have noted over the years, any government that can take away your chance to fail has taken away your chance to succeed.

So people came out on very short notice. These were working people. You could see these were not people of leisure. These were people who had jobs, but they felt like this was something so critical they had to come, make their voices heard. You see them around offices all over the Capitol Hill area.

□ 1900

It was immensely moving. And the way the people all said the pledge to

the flag at the start and honored the prayer as it was said to start the proceedings. And I don't know that I have ever heard a group sing the National Anthem with such fervor as a group. It was immensely touching because the people were up here to let their voices be heard and to let people know that the government does not need to take over 18 percent of this country's economy. Haven't we messed up the car companies enough? Haven't we messed up the banks and the lenders and the housing market enough that we're not satisfied yet until we take over 18 percent of the world's economy and muck it up as well? Do we really have to meddle and take over that kind of thing?

The role of the government should be as a referee, not as a player. We shouldn't be out there taking over businesses. You want to speed up the demise of a country, then let the government start becoming the player. Now, the Soviet Union was brutal enough and totalitarian enough. They were able to make a socialist form of government last for 70 years, as a record. Extraordinary. But they were brutal and totalitarian enough, they could force it that far. We won't last that long, not when we've moved the government in charge of everything.

Under the bill—I haven't gotten through the full bill, but I have seen some things that are staggering. I do remember hearing a number of our Nation's leaders saying that there was no way Federal dollars would be paying for abortion, so let me just read straight from page 110, subsection B, titled, Abortions for Which Public Funding is Allowed. And I'm reading the quote from page 110: The services described in this subparagraph are abortions for which the expenditure of Federal funds appropriated for the Department of Health and Human Services is permitted.

Then it goes on and says, Based on the laws in effect of the date that is 6 months before the beginning of the plan year involved—yeah, right—no money there will be used for abortions, and then there it is in black and white.

We were told that if you liked your plan, you're going to get to keep it. And yet you could go over here—actually, that's an easy section to find. You're not going to be keeping it because it says here—and this is on page 91. This says, Protecting the Choice to Keep Current Coverage. The number one limitation on keeping your insurance, the individual health insurance issuer offering such coverage does not enroll any individual in such coverage. The second limitation is the issuer does not change any of its terms or conditions. Good grief. You're going to add beneficiaries to every policy, you're going to change terms and conditions. It turns out that wasn't true either.

It is time to be true and faithful in this job to the American people and the job for which they sent us here. It is time to honor the Constitution.

#### ABORTION AND THE DEMOCRAT HEALTH CARE BILL

The SPEAKER pro tempore. Under the Speaker's announced policy of January 6, 2009, the gentleman from New Jersey (Mr. SMITH) is recognized for 60 minutes as the designee of the minority leader.

Mr. SMITH of New Jersey. Madam Speaker, even though reputable polls consistently show that public funding of abortion is opposed by a supermajority of Americans, some 67 percent, the multibillion-dollar abortion industry, its lobbyists and friends in Congress are today demanding that the two massive new government programs created by the Democratic leadership's so-called "health care reform" bill force Americans to facilitate and fund the killing of unborn children by abortion.

Anyone who tells you otherwise—and I appreciate the gentleman from Texas pointing out the text. It clearly states it. Anyone who tells you otherwise that public funding for abortion on demand is not in the pending legislation is either seriously misinformed or simply not telling the truth.

Americans do want to know up front what's in this bill. No games. No brinksmanship. Americans want and the public deserves total transparency and truth in legislating.

Madam Speaker, despite the fact that in 2009 we know more and understand more about the magnificent world of unborn children than ever before—the fact that these babies move inside the womb and stretch and do somersaults and kick, they wake and sleep, believe it or not—and it is true, they have a waking and sleeping cycle. The fact that beneficial prenatal health care interventions, including microsurgery, can be performed in utero, inside the womb, blood transfusions inside the womb, the fact that these children can feel excruciating physical pain before birth, including the pain deliberately inflicted by abortionists—I would note, parenthetically, that I authored the Unborn Child Pain Awareness Act, which got 250 votes in a bipartisan vote a few years ago. And we know for a fact that at least at 20 weeks gestation, unborn children feel excruciating pain up to four times what everyone else after birth feels because, in part, the pain receptors are very close to the skin. And we do believe that these children feel pain even earlier than the 20th week. Despite all of this, President Obama and the Democratic leadership are on a fast track to compel, force, mandate, and coerce public funding for abortions.

Madam Speaker, pro-life Americans want no role or complicity in this as-

sault on the weakest and the most vulnerable. Frankly, Madam Speaker, it is time to face an inconvenient truth—abortion is violence against children, and it exploits and harms women.

There has been study after study that shows that women who procure abortions experience immediate relief followed by very serious psychological and deleterious consequences to them. And the younger they are based on the empirical data, the more egregious the pain and suffering and the agony endured by these young women.

New Zealand did a study in 2006, a very comprehensive study, and found that 78.6 percent of the 15- to 18-year-old girls who had abortions displayed symptoms of major depression compared to 31 percent of their peers. Twenty-seven percent of the 21- to 25-year-old women who had abortions had suicidal idealization compared to 8 percent of those who did not have abortions. Abortion hurts women.

I would remind my colleagues that organizations like the Silent No More Campaign, run so admirably and courageously by people like Dr. Alveda King, the niece of Dr. Martin Luther King, a woman who had two abortions and had profound, profound psychological problems from that but now knows reconciliation and hope again, Silent No More is made up exclusively of women who have had abortions. Dr. King has said of her uncle's dream, how does it survive if we murder the children? And then she went on to say the other victim is and always will be the woman.

Time magazine, and others, have finally reported on another little known fact—abortion adversely affects subsequent children born to women who abort. Recent studies have indicated that the risks of preterm birth goes up 36 percent after one abortion, and a staggering 93 percent after two or more abortions. Similarly, the risk of subsequent children being born with low birth weight increases by 36 percent after one abortion and 72 percent after two or more.

The health consequences to subsequent children born to women who abort is deeply troubling and largely unrecognized and underreported upon. Thus, abortion not only kills babies and wounds women, it directly injures subsequent children. And as we all know, prematurity is one of the leading causes of disabilities in children.

As you know better than I, Madam Speaker, Congress will vote as early as Saturday on the health care restructuring bill, H.R. 3962, and it includes highly deceptive policy language that will massively increase the number of children killed and mothers wounded by abortion. Let's be clear and unambiguous, both the public option and the program establishing affordability credits authorize public funding and facilitation of abortion on demand, which means, of course, that the number of children who will be forced to

suffer unspeakable agony of abortion methods including dismemberment, decapitation, starvation—people say, How does RU46 work? First it starves the baby to death, and then the other chemical in RU46 just simply causes that dead baby to be expelled from the uterus. Then there are also chemicals that are providing for or forcing early expulsion from the womb and other types of chemical poisoning. All of this will skyrocket.

The empirical evidence that public funding of abortions means more abortions is both logical and compelling. Even the Guttmacher Institute, formerly the research arm of Planned Parenthood, says that prohibiting Federal funds under the Hyde Amendment prevents abortions that otherwise would have been procured by a stunning 25 percent. That means that since enactment of the funding ban in the late seventies and early eighties, millions of children who would have otherwise been brutally killed by abortionists if public funding had facilitated their demise, today live and go to school, play sports, perhaps watched the World Series last night. Some of those spared are today raising their own kids, perhaps even serving as staff or Members of Congress. So whether we publicly fund abortion or not literally means life or death for countless individuals, going forward.

The Democratic health bill, Madam Speaker, discriminates against the most vulnerable minority in America today, unborn babies, and is the quintessential example of the politics of exclusion—in this case because of the child's age, condition of dependency, and vulnerability.

There is nothing whatsoever benign, compassionate, or nurturing about abortion. Abortion is a serious lethal violation of human rights. And now we are on the verge of being compelled to massively subsidize this violence against children.

Madam Speaker, no one is really fooled by the multiple attempts to craft language that funds abortions but uses surface appeal text to suggest otherwise. I'm afraid the rule will likely contain self-enacting text that further misleads and obfuscates. Thus, the only policy language that honestly and transparently precludes public funding for abortion is the Stupak-Pitts amendment. The Capps amendment that is already in the bill, as I said, explicitly authorizes Federal funding for abortion in the public option. And again, I urge Members to just read it. With abortion covered under the public option, we will see more abortions. It also allows the government subsidies, the other program, to pay for insurance plans that cover abortion. As a matter of fact, every region will have to have a plan that provides for abortion.

One of the great successes of the Right to Life movement is increasingly

calling out to those so-called providers, abortionists, and inviting them to leave that grizzly business. And most of the hospitals in the country and most of the counties in the country no longer have abortionists. This legislation provides economic incentives and the force of law to ensure that every one of these localities has abortionists and abortions provided in an insurance plan.

Madam Speaker, I urge Members to vote for the Bart Stupak-Joe Pitts amendment if it is given an opportunity to be voted on. And if not, this whole bill—because you know what Hippocrates said, "Do no harm." What did the great leaders and nurturers and health care leaders say in the past? Never do harm to an innocent. This is not health care. Abortion is not health care. It is the deliberate and willful killing of an unborn child, the wounding of their mothers, and the hurting, the serious destruction in terms of disabilities and the like to subsequent children.

I would like to yield Congresswoman SCHMIDT such time as she might consume. And I want to thank her for her leadership on behalf of the unborn through these many years in service to Congress and before that.

□ 1915

Mrs. SCHMIDT. Thank you so much, my good friend from New Jersey. I'm having a display brought up.

I would like to talk a minute about something that happened to me over the weekend, and I would like to go back 35 years ago because, well, in the exact same environment, a similar situation occurred.

I'm Catholic and I go to mass. Every weekend, I go to mass. In fact, I go every day, but 35 years ago when I went to mass, it was right before election, and I remember my Catholic priest, Francis Buttlemeyer, said something that really shocked me.

He said, when we went to the polls that Tuesday, we had a choice to make for a Member of Congress—and yeah, we had a Catholic running and we had a non-Catholic running, but the Catholic was pro-choice and the non-Catholic was pro-life. He said that you have to vote for the person who will protect the unborn. I remember coming home and saying to my mother how surprised I was that this priest had been so bold.

Well, last Saturday night, I didn't go to my Catholic church. I went to a different one in my community. During our litany of prayers, they mentioned the fact that Congress would be voting on a bill, the health care bill, and that, in the bill, there were some issues that the Catholic church had with it—abortion, our elderly and the conscience clause for our health care professionals—and that we must pray that they resolve these before we vote on this legislation. I was blown away by

that, but what came next stunned me more.

The priest stood up and said, Look, I've got to talk about this for a minute. He did. Then he said, There will be an insert in the bulletin. This was the insert: "Health care reform is about saving lives, not destroying them." The second part of it is a letter from the Catholic conference of bishops: "Tell Congress: Remove abortion funding and mandates from needed health care reform."

So they're in favor of health care reform but not of this health care reform. In fact, I want to put these two things into the public record. I was stunned because I hadn't in 35 years heard from the pulpit this strong of a message.

So, when I got in the car, I started to make some phone calls to some of my relatives around the city. What had they heard? The same thing. The priest had said something, and yes, it was in the bulletin. In my own home parish, yep, our priest said something, and yep, it was in the bulletin. It made me think that, if this moved the Catholic church after 35 years in my district to speak again publicly about abortion, this is something that is truly serious because, Madam Speaker, it is a game changer.

So, today, when I read the Roll Call, Madam Speaker, I read: Activists gear up for fight.

I thought, Ooh, what's this about? I'd like to read it.

It reads: Lately, Donna Crane hasn't been making it home early. The policy director of NARAL Pro-Choice America has been lobbying nonstop to ensure that the House does not slip anti-abortion language into its health care legislation, which the Chamber is expected to vote on this weekend.

We're working a lot of late nights, Crane said.

Then it goes on to talk about how various lobbyists are trying to have input into this, but it ends by saying that NARAL and the other pro-choice groups are comfortable with the Capps language and are comfortable with the Ellsworth language. The reason they are is that it really doesn't prohibit the funding of abortion. It's a ruse—it's a game—because what it says is that at least one plan has to have it, but we're going to have this little magical thing over here that's going to allow it to be funded in a different way before it comes through the public fund system.

Madam Speaker, the language in this bill, either the Capps amendment or the Ellsworth amendment, will not only allow the public funding of abortion for the first time with Federal dollars since the Hyde amendment in 1976, but it will also expand it, and that's the dirty, little secret in this bill.

This Saturday, we are to vote on this bill at right about the same time that I was in church last Saturday night, at



right about this same time that the priest stood up and said, Tell your Member of Congress.

Let me tell you, Madam Speaker, that it made me a little nervous because they kind of were looking at me, and I wanted to put up a sign and say, I get it, but I couldn't.

At right about this same time, we're going to be making a decision, not just on the health care for Americans and on the game changer that that is, but on a point that for the last 35 years has been protected, and that is not allowing the public funding of abortion.

Madam Speaker, we cannot allow the public funding of abortion to occur in any way in this bill. It is truly a game changer, and until it is corrected, no one should even contemplate anything but a "no" on this bill.

UNITED STATES CONFERENCE OF CATHOLIC  
BISHOPS NATIONWIDE BULLETIN

Tell Congress: Remove abortion funding and mandates from needed health care reform.

Congress is preparing to debate health care reform legislation on the House and Senate floors. Genuine health care reform should protect the life and dignity of all people from the moment of conception until natural death. The U.S. bishops' conference has concluded that all committee-approved bills are seriously deficient on the issues of abortion and conscience, and do not provide adequate access to health care for immigrants and the poor. The bills will have to change or the bishops have pledged to oppose them.

Our nation is at a crossroads. Policies adopted in health care reform will have an impact for good or ill for years to come. None of the bills retains longstanding current policies against abortion funding or abortion coverage mandates, and none fully protects conscience rights in health care.

As the U.S. bishops' letter of October 8 states: "No one should be required to pay for or participate in abortion. It is essential that the legislation clearly apply to this new program longstanding and widely supported federal restrictions on abortion funding and mandates, and protections for rights of conscience. No current bill meets this test. . . . If acceptable language in these areas cannot be found, we will have to oppose the health care bill vigorously."

For the full text of this letter and more information on proposed legislation and the bishops' advocacy for authentic health care reform, visit: [www.usccb.org/healthcare](http://www.usccb.org/healthcare).

Congressional leaders are attempting to put together final bills for floor consideration. Please contact your Representative and Senators today and urge them to fix these bills with the pro-life amendments noted below. Otherwise much needed health care reform will have to be opposed. Health care reform should be about saving lives, not destroying them.

Action: Contact Members through e-mail, phone calls or FAX letters. To send a pre-written, instant e-mail to Congress go to [www.usccb.org/action](http://www.usccb.org/action). Call the U.S. Capitol switchboard at: 202-224-3121, or call your Members' local offices. Full contact info can be found on Members' web sites at [www.house.gov](http://www.house.gov) and [www.senate.gov](http://www.senate.gov).

Message to Senate: "During floor debate on the health care reform bill, please support an amendment to incorporate longstanding policies against abortion funding and in

favor of conscience rights. If these serious concerns are not addressed, the final bill should be opposed."

Message to House: "Please support the Stupak Amendment that addresses essential pro-life concerns on abortion funding and conscience rights in the health care reform bill. Help ensure that the Rule for the bill allows a vote on this amendment. If these serious concerns are not addressed, the final bill should be opposed."

When: Both House and Senate are preparing for floor votes now. Act today! Thank you!

HEALTH CARE REFORM IS ABOUT SAVING  
LIVES, NOT DESTROYING THEM

Abortion is not health care because killing is not healing.

For over 30 years, the Hyde Amendment and other longstanding and widely supported laws have prevented federal funding of elective abortions.

Yet health care reform bills advancing in Congress violate this policy.

Americans would be forced to subsidize abortions through their taxes and health insurance premiums.

We need genuine health care reform—reform that helps save lives, not destroy them.

Tell Congress: "Remove Abortion Funding and Mandates from Needed Health Care Reform!"

Visit [www.usccb.org/action](http://www.usccb.org/action) to send your e-mails today.

For more information on the U.S. bishops' advocacy for authentic Health Care Reform, visit [www.usccb.org/healthcare](http://www.usccb.org/healthcare).

Mr. SMITH of New Jersey. Madam Speaker, I yield to Mr. CAO, the distinguished gentleman from Louisiana.

I thank him for his leadership, the first Vietnamese American Member of Congress and a staunch fighter for human rights. I've known him in the refugee battles, especially for the boat people, and in so many other human rights' issues.

So I yield to my friend.

Mr. CAO. Thank you, my friend from New Jersey, CHRISTOPHER SMITH, for yielding me time.

I just want to say that you have been my mentor, and you have been my friend, and I have been very honored to be part of your life and to have known you all of these years. So thank you very much.

Madam Speaker, abortion is a destructive perversion of our society. It is a distorted emphasis on rights to the disregard of individual responsibilities.

Our country was founded on fundamental human rights, and rightly so. "We hold these truths to be self-evident that all men are created equal, that they are endowed by their Creator, with certain unalienable rights, that among these are life, liberty and the pursuit of happiness."

These rights were reinforced and more succinctly elaborated in the first 10 amendments to the U.S. Constitution. These 10 amendments, more commonly known as the Bill of Rights, have served as the heart and soul of our legal tradition and as the foundation upon which we have built the most powerful democracy in the history of the world.

But life is "short and brutish," said Sir Thomas Hobbes, and if left to our devise, absolute right will lead to anarchy and chaos. Rousseau, Hobbes, and other thinkers of The Enlightenment saw the dangers of absolute rights, and proposed a social contract upon which to build a civil society where mutual obligations are imposed on all parties to the agreement.

The balance between rights and responsibilities has served as a basis for an ethical context, but our society has disrupted this delicate balance between rights and responsibilities by accentuating rights, and it has contrived an anthropology detached from the moral conscience and has called it "social progress." The result is a skewed social politic devoid of moral coherency.

In his encyclical "Caritas in Veritate," Pope Benedict XVI loudly proclaimed, "Individual rights detached from a framework of duties can run wild." This is what we have seen in our society today.

We provide rights to convicted murderers, but at the same time, sanction the slaughter of the innocent. We protest in rage at the slaying of dogs, but barely blink an eye at the murder of millions of innocent children. Traditional principles of social ethics, like transparency, honesty and responsibility, have been ignored or attenuated. As a result, our moral tenor does not respect the right to life and the dignity of a natural death.

To protect individual rights, we have distorted the continuity of human development to portray the human fetus as something less than human and, therefore, as something that can be disposed of.

What happened to personal responsibility—the responsibility to respect and nurture a human life who happens to be one's own child?

Our children cry out for life, for justice, and until the U.S. Supreme Court can garner enough courage to overturn *Roe v. Wade*, it is up to the voices of the Christopher Smiths, of the Bart Stupaks, of the Jean Schmidts, of the Marsha Blackburns, and of others like myself to fight for those who cannot fight for themselves.

Yes, health care reform is important, and I support responsible reform; but, Madam Speaker, as my friend CHRISTOPHER SMITH so eloquently articulated, abortion is wrong, and I can never support a reform bill that seeks to fund abortion with the tax dollars of hardworking Americans.

Thank you.

Mr. SMITH of New Jersey. I want to thank my friend and colleague for his eloquent and very passionate statement. Knowing of his work on behalf of human rights and of his standing as a human rights advocate globally, thank you so very much. And, for that very powerful statement.

I would like to yield to my good friend and colleague from Texas (Mr.



GOHMERT), and want to, again, thank him for his leadership for so many years in the defense of life.

Mr. GOHMERT. I so much appreciate my friend, Mr. SMITH from New Jersey. Earlier, he was talking about RU-486, and I couldn't help but reflect.

You know, we see people who are so concerned, properly, about our environment, about this wonderful garden with which we've been blessed, and they fight against the use of chemicals that may affect this wonderful garden. They go to organic food stores so they can buy food that has never had chemicals used. They exercise. They go to health clubs, you know, to stay in good shape because they're so concerned about living clean, wholesome lives. Then they would think about taking a poison into their bodies, and they know at the time they take the poison that it's not good for them, for sure. They know that the very reason for taking it is to kill a life within.

How could we get to this point that such a caring society—one that cares about the environment, that cares so much about the world around us and about the people around us, one that will walk up and just chew out anybody who is smoking because of what it does to their bodies and because of what the secondhand smoke does to them, and one that will protect any others around them from someone's smoking—would take a poison into their own bodies for the very purpose of killing? I mean how does that make sense? How did we get to this point?

Then you realize, well, the reason you do that—take a poison to kill a child, a life within—is you're wanting to avoid the consequences of your conduct. That's the bottom line.

Then you come to realize, if you live in a society that goes on, say, 35 or 36 years where it becomes completely legal and acceptable to even poison or to kill or to decapitate for the sole purpose of avoiding the consequences of what we do, then you get to a point where people would want to avoid any tough decisions, any consequences. So you would get to the point where we are today where, perhaps, 40 percent or so would be willing to say, You know what? I'm willing to give up my freedoms just so I don't have to worry about consequences anymore. I'm going to give up my liberties, give up my freedoms so that my government will take care of all of my health care decisions from now on.

□ 1930

Isn't that wonderful. The government will make our health care decisions. They'll decide which things will be funded and which things will not, and I won't have to think about it anymore. I won't have to worry about it anymore. Just like when I got involved when I shouldn't have and the consequence was a life within me. I didn't

have to worry about them because I could just kill that life with no consequences.

There is a woman named Abby Johnson who's self-described as "extremely pro-choice," who said she knew it was time to quit in September when she watched an unborn child "crumble" as the baby was vacuumed, dismembered, and destroyed.

I appreciate my friend CHRIS SMITH's bringing this to my attention. Abby Johnson is from Texas. She said, "The clinic was pushing employees to strive for abortion quotas to boost profits." In former clinic director Abby Johnson's words, "There are definitely client goals. We'd have a goal for every month for abortion clients." The article continued, "The Bryan Texas Planned Parenthood clinic expanded access to abortion to increase earnings." They reported that Johnson said, "One of the ways they were able to up the number of patients they saw was they started doing the RU-486 chemical abortions all throughout the week."

Yes, that's the ticket. Just give people poison and let them not only kill a life, but poison their own systems. People that wouldn't dream of smoking, it's okay, take this poison, can kill a life, and hurt yourself.

Well, World Net Daily did an article and they explained that "RU-486 chemical abortions kill the lining of the uterus, cutting off oxygen and nutrients, resulting in the death of an unborn baby."

Just like CHRIS SMITH was talking about, you're starving a child.

Johnson said the chemical abortion cost the same as an early first-trimester abortion: between \$505 and \$695 for each procedure. And Johnson's words were "Abortion is the most lucrative part of Planned Parenthood's operations . . . they really wanted to increase the number of abortions so they could increase their income."

Folks, it is wrong. And if you didn't believe abortion was going to get funds under this bill, then you ought to believe it when you read the bill. You go to the trouble to read the bill. And when the subtitle is, and this is Page 110, "Abortions for which Public Funding is Allowed" and then read through there, gee, public funding must be allowed for abortion because it's in the bill if people will bother to read it.

But we come back to this: We're living in a time when we have got to come back to educating our children that conduct has consequences. And when you make them believe for 35 years that their conduct has no consequences, then you get to the point where we are today. You have a Republican administration running up the deficit and then you have a Democratic administration raising it exponentially because there are no consequences to our conduct. We can break the Nation

but we won't go broke. We can, in the face of terrible economic conditions, run up the deficit even more and have no consequences because we know, going back to Roe versus Wade, we have learned in this country you don't have to have consequences to conduct.

We have got to come back to sanity while we have still got a country because we are in this country not because of what we did, what we deserve, but because people who came before us sacrificed, because they knew there were consequences to conduct. And we've got all we have today because of them. And the only way we will ever show we deserve what we have is if we can pass on a country with freedom and liberty, where, yes, there are consequences to conduct to those who come after us. And if we don't turn this thing around, they're not going to get the gift we were given.

I thank my friend from New Jersey for taking this hour and concentrating his time on such a critical issue.

Mr. SMITH of New Jersey. I thank Mr. GOHMERT for his, again, very eloquent statement and for his logic, which is so important and sometimes lacking in this august body.

Let me also point out that we have a man who is going to speak next, MARK SOUDER. Truth in legislating is not a forgotten art, and when people say, as you pointed out, Mr. GOHMERT, that the abortion funding in both the public option and in the program that establishes affordability credits couldn't be more clear, there's no ambiguity about it. There is some language that is very, very deceiving that leads people to think it's not in there. And then people say it. The President of the United States suggested that funding for abortion is not in his plan. And, frankly, assuming he was misled by perhaps staff, nothing could be further from the truth.

I would like to yield to a man who offered airtight pro-life language in the committee on which he serves, Education and Labor Committee, to speak, Mr. SOUDER.

Mr. SOUDER. I thank my friend from New Jersey for yielding.

Before I get into a couple of specifics with that, this isn't the bill. This is the bill. Originally we had a bill with about 1,200. It was like this. Now it's gone to 1,900. And I want to make it clear that I definitely oppose this abortion funding in this bill, but this is an unconstitutional attack on capitalism, our freedoms, our health care. And even if they fix the abortion, this bill is an atrocity.

But in addition to being a generally bad bill, it's a specifically bad bill in the protection of human life. I've worked with this issue for much of my life. Actually even before the Supreme Court decision on abortion, I was concerned about what California and New York had done. When I was a grad student at the University of Notre Dame,

they did the original decision on *Roe v. Wade*, and we formed within 48 hours the student coalition to support a constitutional amendment. I've spent much of my life doing that.

We now have our first grandchildren. And when you have grandchildren and your own children, you cannot possibly not want to defend that life.

I worked with my friend and colleague from New Jersey. We did a hearing in my subcommittee when I was Chair on RU-486, the only hearing that was ever held here.

It's not only a danger to the baby where they die, and it's a certain death to the baby, but it's a death threat to the mother. And they deliberately covered up these stats. We held a hearing showing that RU-486 was supposed to be the safe thing, the way to do it behind doors; then you're not cutting up the baby and having to take the pieces out. You're not burning the skin off the baby. You're not exploding the baby into pieces. It's supposed to be more humane. It kills the baby. It destroys it at its early stages.

But this they don't report. They don't separate out the facts. We had over a hundred that even years ago were near-death experiences, a number of deaths. We pull drugs off the market if they're risky. We document this. And all of a sudden, they're on the non-scientist side. They don't want to see the science on RU-486. On top of that it appears they're prescribing it even outside of FDA guidelines. And by the time that the mothers learn they're pregnant, by the time they go into Planned Parenthood, even RU-486 says it's unsafe to the mother after a certain date, and they're getting away with this at Planned Parenthood.

Some say there's no abortion in the bill. Let me ask you, from personal experience, then why did Planned Parenthood fund ads against me after I offered the two amendments? They funded ads in my district in August, along with ACORN and the government unions, to try to "make an example," was their words, for my offering two amendments in the Ed and Labor Committee to make it clear that it didn't fund abortion. Why were those amendments defeated?

Well, part of the frustration of the general public with a bill like this, and you've heard different parts, but in the section on abortion services, I love the section before: "Nothing in this act shall be construed as preventing the public health insurance option from providing for or prohibiting coverage of services described in (4)(A)." "Well, what's (4)(A)?"

(4)(A) says, "The services described in this subparagraph are abortions for which the expenditure of Federal funds appropriated for the Department of Health and Human Services is not permitted."

Excuse me? It says that it's prohibited, but the thing before says nothing

in the next section applies. What kind of double-talk is this? I just do not understand. Do they think that with all the information systems today, with the posting of this, with all of us out there that somebody isn't going to read this? I mean how stupid.

"Nothing in this act shall be construed as preventing the public health insurance option from providing for or prohibiting coverage of services described in (4)(A)."

(4)(A) says, right off the bat, "The services described in this subparagraph are abortions for which the expenditure of Federal funds appropriated for the Department of Health and Human Services is not permitted." A, reverse A, and you think we're going to buy that?

Furthermore, the Capps amendment, which is what this is basically trying to do, is trying to bypass the Hyde that doesn't cover elective abortion. They say this bill will put a Planned Parenthood clinic in every county in the United States, that it mandates multiple types of things in the public health option.

Congressman ANDREWS very eloquently responded to my amendment and said if there's a public option, there has to be public payment of abortion. He said if it's a constitutional right, you have a constitutional right to have it paid for.

I have a constitutional right to have a Shelby Cobra and I'm hoping to get one soon from the government.

Just because it's a constitutional right does not mean you have a constitutional right to have it paid for, but that's the language behind this.

Then they came up this week with the so-called Ellsworth compromise, a friend of mine from Indiana. This Ellsworth language, however, merely channels the funding through another entity. This is like saying, well, if SBA gives you a direct loan, it's a government loan, but if the SBA runs through a bank and you get it through the bank, well, that's not an SBA loan, that's a bank loan. Now, the government put all the money in, the guarantee. The government's standing behind it. It's an SBA loan. But it's not really an SBA loan because now we're going through a fig leaf.

The American people are getting sick of the misleading nature and the double-talking of Congress. You have double-talk straight in the bill. Then you have another compromise that double-talks the double-talk. And they wonder why the confidence in government is down? They wonder why people don't trust American politicians as much anymore and American political leaders?

There is a fix for this. There was a fix in committee. There's a fix on the floor. But if we come out with this type of thing and people who claim they're pro-life vote for this, hold them accountable.

Mr. SMITH of New Jersey. Thank you, Mr. SOUDER. And I do want to thank you again for offering that amendment and for that very illuminating and incisive hearing on RU-486.

Again, we know that the trials that led to approval by the FDA, when Kessler was the head of the FDA under President Clinton, he on bended knee asked the company that manufactures RU-486 to bring it here. Sham trials were conducted where women who were seriously hurt were not reported. And we know for a fact, women are actually dying from RU-486. Probably because they had the best reporting of any other State, those women have surfaced in California from those deaths attributable to RU-486. And it's baby pesticide that has serious consequences for women, including death.

Again, no pharmaceutical company in America would take up RU-486, the abortion drug, simply because it was so dangerous. So they found the Population Council Company. Try suing them when you have egregious harm done to a woman or a death, a fatality. It's an organization. It's not like Merck or some other because all of them took a pass because it is so dangerous.

And you held the only hearing, as you so well pointed out, and I commend the gentleman for them.

I would like to yield to Mr. FORTENBERRY, a good friend and great champion of human rights as well.

Mr. FORTENBERRY. I thank my colleague Mr. SMITH from New Jersey, whom I learned a great deal from primarily about being passionate for those who are least among us, for being passionate in the belief that women deserve better than abortion. So I thank you for your leadership, sir.

I would like to point out what is becoming increasingly clear, Madam Speaker, that the health care plan under consideration would authorize Federal funding for elective abortion, even though the majority of Americans do not want their government funding that procedure.

Several amendments, as has been discussed, introduced in the committees of jurisdiction to make sure abortion funding was explicitly excluded from the bill all failed. Now it is reported that there is a so-called abortion funding compromise that I fear is put in place to draw the support of pro-life House Members who otherwise, in good conscience, would not vote for this particular bill.

□ 1945

This move should not mislead the American people. However clearly, cleverly worded the proposal might be, this plan would authorize a government-run option to fund elective abortion and subsidize private plans that cover elected abortion. This language

creates a smokescreen by appearing to offer a restriction on the use of Federal funds for abortion while leaving in place the key legal authority which says, "Nothing in the act" should be interpreted to "prevent the public health insurance option from providing for coverage of elective abortion."

The abortion language requires the public option to hire contractors to ensure that money paid into the government option could potentially be used to pay for elective abortions. For example, Medicare contracts with private business to handle claims, but no one in their right mind would say that Medicare payments are private payments. They're government payments. So this new compromise language is a hoax.

So, Madam Speaker, I don't believe my colleagues should be misled. I also believe that we should have the opportunity for more dialogue, debate, and consideration of potential amendments that could actually strengthen the opportunity for good health care reform in this country. I would personally like to offer an amendment that broadens a long-held American tradition that we call freedom of conscience. I would like to simply read a part of the amendment that I will potentially offer. It says, The Federal Government and any State or local government or health care entity that receives Federal health assistance shall not subject a health care entity to discrimination on the basis that the entity does not perform, participate in, or cover specific surgical or medical procedures or services or prescribe specific pharmaceuticals in violation of the moral or ethical or religious beliefs of such entities.

This amendment goes on and actually protects the freedom of conscience of those who are actually in the health insurance coverage business by saying that the Federal Government, any State or local government that receives Federal health assistance shall not prevent the development, marketing, or offering of health insurance coverage or a health benefit plan which does not cover specific surgical or medical procedures or services or specific pharmaceuticals to which the issuer of the coverage or sponsor of the plan has an objection of conscience that is clearly articulated in its corporate or organizational policy.

So, Madam Speaker, here is the issue. We should be allowed to amend this bill. We should be trying to work together to strengthen health care for all Americans by improving health care outcomes, reducing costs, and protecting our most vulnerable. The most vulnerable include people who find themselves in very difficult circumstances, those who call upon us—maybe not verbally because they're inside the womb, but those who are the least among us that need our protection and help.

So, with that, I yield back to my colleague CHRIS SMITH.

Mr. SMITH of New Jersey. I would like to yield to my good friend and colleague Dr. ROE, an OB/GYN who knows so much about this and has been a leader in this Congress on all life-related issues as well as other things.

Mr. ROE of Tennessee. Madam Speaker, I thank the gentleman from New Jersey. I am going to go back many years ago in my life to a time when I was a young physician trying to decide what I was going to be in life. I decided I was going to be an internist, which is a noble thing to do. But I realized one day when I was in the hospital that what I really had a passion for were for babies and children and delivering babies, and it was fun. And of the almost 5,000 babies I delivered, they were fun. I had a wonderful time doing it, bringing life onto this planet. The group I belong to in a small town in Tennessee, Johnson City, Tennessee, has delivered almost 25,000 babies since I joined the group. We're a pro-life group.

I think back to the children I have delivered during the past 30 years, and these young people have become musicians and attorneys and physicians and teachers and carpenters and pastors. I was at my college homecoming last week, and one of them was a 6-foot 7-inch, 300-pound football player. They become all kinds of things. To me, the thought of them not being here is heartwrenching and heartbreaking because you've snuffed out a life that could have otherwise been a Congressman, a teacher, anything.

This bill that we're discussing should be a health care bill, and, distressingly, in my opinion, elective abortion is not health care. We should be doing, as the previous speaker said, everything we can to protect the unborn. Let me explain a little bit about that.

When I first began practice, of the babies born before 32 weeks, half of them died. And we have used extraordinary means and technology. Now a child born at 32 weeks is a term baby, and I recall a child that we delivered at 24 weeks over 20 years ago, which even then would have almost been considered a miscarriage. This child got down to 14 ounces, that's how big, and that was over 20 years ago. That child is a fully grown adult today. If we had used the idea that this was, hey, an abortion or a miscarriage, that child would not be there with a mother and a father who are loving it and a family and a chance to have a family.

We shouldn't disguise health care as abortion coverage. Madam Speaker, I think this is one of the most egregious things in this particular bill. There are a lot of things in this health care bill that are not related to health care, but this is one that should be done away with, and whether you are pro-life or you are pro-choice, the majority of

people in this country don't want their tax dollars used for abortion. To me, it's a very emotional issue, a very personal issue, and I will continue to be a pro-life doctor until I'm not on this Earth.

I yield back my time.

Mr. SMITH of New Jersey. I thank the gentleman from Tennessee (Mr. ROE) very much.

I now yield to my good friend and colleague Mr. JORDAN from Ohio.

Mr. JORDAN of Ohio. Madam Speaker, let me thank Representative SMITH for his many years of leading the Pro-Life Caucus and fighting to protect the sanctity of human life. I especially want to thank him, along with Congressman PITTS and Congressman STUPAK and a host of others, and you as well, Madam Speaker, for your efforts in working to get this language out of the bill which would take us to a point that would cross a line in this country that I believe is very, very scary.

If you remember when the decision happened in 1973 and we started down this road, one of the arguments we heard from the pro-life community—and we, frankly, continue to hear—is the slippery slope argument, the fact that this slope is slippery, it is steep, and that if we begin to allow unborn life to be taken, it will lead to a whole host of things. Now, here we have a health care bill in front of us scheduled to be voted on this weekend, this Saturday, which would, in fact, permit taxpayer dollars, Federal dollars, government money to be used to end the life of an unborn child. That is just wrong. It is important that we tell the American people we do not want to go past this. The American people understand this. They do not want their tax dollars used in this way. I think it is critical that we just continue to fight.

So again, I want to be brief tonight. I know we have a few more speakers in just the few minutes we have left, but it is so critical that we understand how sacred life is.

There was a precedent here today in the Nation's Capital where thousands of people came. One of the things that concerned them—not just the price of this bill, not just other elements, not just a lack of empowerment for families and small business owners and taxpayers in this bill, but the fact that their tax dollars could, in fact, be used to end life, and they spoke out loud and clear.

And one of the things that was said at that conference, we went back to the document that started it all—and I will finish with this. The document that started it all. I tell people, next to Scripture, the best words ever put on paper in the Declaration of Independence, where the folks who started this great country, this great experiment in freedom and liberty, they wrote these words: "We hold these truths to be self-evident, that all men are created equal,

that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness."

We've all heard this before, but it's so interesting to go back to these fundamentals, to go back to these basic principles that started this grand place we call America. It's interesting the order the Founders placed the rights they chose to mention. Life, liberty, pursuit of happiness.

Just ask yourself a question, Madam Speaker. Can you pursue happiness? Can you go after your goals, your dreams? Can you go after those things, pursue those things that have meaning and significance to you if you first don't have liberty, if you first don't have freedom? And do you ever truly have real liberty, true freedom if government doesn't protect your most fundamental right, the right to live? That's what's at stake here.

We are on the verge of crossing a very dangerous line if we allow this health care bill with all its other problems, but the central focus in this bill of allowing taxpayer dollars, Federal money to be used to end the life of an unborn child. It's so critical that we stop this bill in general, but certainly to make sure that provision is not there and continue to be a country that respects the sanctity and sacredness of human life.

So again, I want to commend the Chair of the Pro-Life Caucus for his many years in doing just that and fighting this good fight. God bless you.

With that, I will yield back the balance of my time.

Mr. SMITH of New Jersey. Thank you for your kind words, but more importantly, for your leadership on the behalf of innocent unborn children and the wounded mothers. I know you work very hard with pregnancy care centers and believe passionately that we need to love and affirm both. It's not about one or the other. It's both. So I thank the gentleman from Ohio for his leadership and consistency.

I would like to yield to my good friend and colleague Mr. KING from Iowa.

Mr. KING of Iowa. I thank the gentleman from New Jersey for heading up this Special Order tonight and for taking the lead on life in this Congress for years and years. Maybe we could start to count that in decades, it's been such a persistent and relentless effort that has been made.

As I listen to the dialogue here tonight and I see the pro-life leaders that are here in this Congress, the core of the pro-life people that are on my side of the aisle and the help we have of some of the pro-life people that are on the other side of the aisle come to a head here in this Congress this week with the very idea that Congress might pass a national health care act, a socialized medicine act that would have

in it the kind of language that would compel pro-life, God-loving, God-fearing, unborn baby-loving and protecting Americans with a conscience to fund abortions, and this would be the complete component of a socialized medicine piece of legislation that wouldn't just be cradle to grave, it would be conception to grave. We have long held this standard in this Congress, with the Hyde Amendment, with the Mexico City policy, that it is immoral to impose the costs of abortion on the people who strongly believe in this—it is a majority of the American people that strongly believe that innocent, unborn human life are human beings too.

I simply ask two questions, and I will raise these questions in a high school auditorium or anywhere across this land. Madam Speaker, I especially make this point to the young people in America. I tell them, You will have a profound moral question to answer, and it will be very soon that you need to come to this conclusion. And when you make moral decisions, they need to be very well grounded. They need to be grounded in the fundamental principles.

The first question that young people need to ask is, is human life sacred in all of its forms? Do you believe in the sanctity of human life? I ask them to look at the person who sits next to them. Is that person on your right, is their life sacred? The person on your left, is their life sacred? They will say yes. Is your life sacred? And, Madam Speaker, they will say yes. It's almost universal in America that we believe our lives are sacred, each one.

And the law in America doesn't differentiate between someone who is 101 or someone that's 1, whether they have a century of life ahead of them or a century of life behind them. All human life has the same value under the law in the United States of America with equal protection under the law. That's the principle. That's the belief.

The late father of Senator CASEY from Pennsylvania, Bob Casey, the former Governor of Pennsylvania, made this statement that I had put on the wall in my office at home in Iowa, and it's been there for years. Bob Casey, Democrat, denied the ability to speak before the National Convention, but his statement on life, Madam Speaker, was this: Human life cannot be measured. It is the measure itself against which all other things are weighed. Life is sacred.

Question number one, do you believe in the sanctity of human life? Answer, yes, we all believe that. Then the only other question we have to ask, in what instant does life begin? I pick the instant at conception. It's the only instance we have. If there was a moment before that, we should examine that. The instant of fertilization/conception. Those two questions ask, do you believe in the sanctity of human life?

Yes. Does it begin in any other instant other than that of conception? No. Therefore, life begins at the instant of conception.

It's immoral to ask the American people—to compel the American people to fund abortion.

□ 2000

Yet that's what this Speaker is prepared to do and that's what we are prepared to oppose.

Mr. SMITH of New Jersey. I thank my good friend. That was a very wise and eloquent statement.

I would like to yield to Mr. BURTON of Indiana.

Mr. BURTON of Indiana. I thank the gentleman for yielding.

I won't give my normal 20-minute speech, but I would just like to say that CHRIS SMITH has been a leader on the right-to-life issue as long as I have been in Congress. He and Henry Hyde were the stalwarts that were always fighting for the unborn, and I am very happy to lend my support to their efforts.

I would just like to say that in addition to the language that's in the bill that's going to allow the taxpayer to pay for abortions, this bill is really an abomination. The bill that is going to be before us Saturday costs \$2.25 million per word and the bill is over 2,000 pages long. It's going to cost \$1.3 or \$1.4 trillion and maybe more than that. It's an absolute disaster waiting to happen. It's going to cause rationing; it's going to cause seniors to lose Medicare Advantage; it's going to cost \$500 billion out of Medicare and Medicare Advantage. This is a disaster.

And when I hear the President say that the doctors want this, my wife's a doctor. He says the AMA wants it. Doctors across this country don't want it. He says that the seniors want it because of AARP. Seniors don't want it. AARP is getting 61 percent of their money from kickbacks from insurance companies and commissions, and they are going to get more if Medicare Advantage goes down the tubes because they will sell more Medigap insurance.

There are a lot of problems with this bill, but one of the most important things to me and to CHRIS and all those who are here tonight is the right-to-life issue. For that reason alone we should defeat this, but there are a lot of other problems with it as well.

Mr. SMITH of New Jersey. Mr. BURTON, thank you very much for your leadership, longstanding, over these many decades. Thank you for being such a great defender of life.

I would like to yield to Dr. BROWN.

Mr. BROWN of Georgia. Thank you, CHRIS SMITH. I greatly appreciate all your leadership on this.

Madam Speaker, I'm a medical doctor. I've practiced medicine in Georgia for almost four decades. The very first bill I introduced in Congress, the first

bill I will ever introduce in every Congress, as long as the Lord continues to send me up here, is one called the Sanctity of Human Life Act. It defines life beginning at fertilization.

As a medical doctor, I know that that's when my life and all of our lives begin. Madam Speaker, God cannot continue to bless America while we are killing 4,000 babies every day through abortion. He just cannot and will not because He is a holy, righteous God.

He tells us in Jeremiah that He knows us before we are ever knit together in our mother's womb. We have to stop abortion. We have to stop this bill that is going to continue to fund abortions with taxpayers' dollars. The future of our America depends upon it. Right to life is absolutely the central part of liberty and freedom in America.

Madam Speaker, we cannot lose that right.

Mr. SMITH of New Jersey. Dr. PHIL GINGREY.

Mr. GINGREY of Georgia. Madam Speaker, I thank the gentleman for yielding.

We were on the floor last night and a gentleman on the Democratic side on the part of the majority in their hour, Mr. GRAYSON, talked about the number of lives that were lost or are being lost in every congressional district across this country because of the lack of health insurance.

Last night I asked the gentleman to yield to a friendly question, and my question was going to be, Representative, are you pro-life or pro-choice on the abortion issue? The gentleman chose not to yield to me. I don't really know the answer to that question to this day.

But 4,000 babies are losing their lives every day. I hope the gentleman is pro-life, because he said, Stand for life.

#### GENERAL LEAVE

Mr. SMITH of New Jersey. Madam Speaker, I ask unanimous consent that all Members have 5 legislative days in which to revise and extend their remarks and include extraneous material on the subject of my Special Order.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

#### THE PROGRESSIVE MESSAGE

The SPEAKER pro tempore. Under the Speaker's announced policy of January 6, 2009, the gentleman from Minnesota (Mr. ELLISON) is recognized for 60 minutes as the designee of the majority leader.

Mr. ELLISON. Madam Speaker, my name is KEITH ELLISON. I am here to speak for the Progressive Caucus, to talk about the Progressive Message.

Tonight, before I begin, I just want to say that my heart is sick and broken

for the horrible tragedy that occurred at Fort Hood, and I ask all Americans to keep the families in their prayers and in their thoughts.

I now will proceed with the hour.

Tonight is the Progressive Message, we are here to talk about a progressive message for America, a message that says the human and civil rights of all people must be respected; a message that says dignity of people, regardless of their race, class or religion must be respected; a dignity that says that if 36 other countries in the world can provide universal health care coverage for their citizens, how come the richest country in the world, not only the richest country in the world but the richest country in the history of the world, can't do it.

Why do we have 50 million people who are not covered? Why do we have a doubling of premiums for the people who do have health care coverage? Why do we have people being excluded for a preexisting condition? Why do we have these things?

Well, the time for those things to end is now. We are within grasp of major health care reform and no scare tactics, no fear-mongering, no stretches of the facts are going to change that.

My colleagues on the other side of the aisle are quite upset about the present state of affairs because they know that Americans want health care reform. They want health care reform, and I believe they're going to get it.

I want to say that I have spent these last several weeks talking about the problem. I have also spent many days discussing the Democratic bill, and I will do so tonight.

But I want to spend a little time talking about what our friends on the other side of the aisle are proposing in their bill because, ladies and gentlemen, Mr. Speaker, we haven't heard much detail from the Republican side of the aisle. We haven't heard much at all, but they recently put forth an outline of a plan, an outline of a plan, not a plan, but just sort of like an outline of one, and it's not good.

It was always convenient to just bang, bang, bang on what the Democrats were proposing, but now that America has said, okay, you guys don't like what the Democrats are calling for, what have you got? And their answer was less than satisfactory.

Under the GOP health plan—I don't believe it's been introduced as a bill yet; it's just sort of a plan—people with preexisting conditions would pay up to 50 percent more than average for insurance coverage under the GOP plan. States would have to cover the rest of the tab with a stable funding source. This is Roll Call, November 4, 2009. Check it out. Under the Republican plan, most States already have such plans but typically are much more expensive than regular insurance and have not made much of a dent in the

ranks of the uninsured. Also from Roll Call.

A key piece of earlier Republican drafts, tax credits that would help people afford insurance, was rejected by the House minority leader as too expensive. Also Roll Call, November 4.

The Republican measure has no limits on annual out-of-pocket costs, which means bankruptcy for some. But let me quote from the Roll Call article: The Republican measure has no limits on annual out-of-pocket costs, nor does it provide any direct assistance for uninsured people to buy insurance.

So how are we going to deal with the uninsured problem, which you and I pay for anyway?

The Congressional Budget Office, the CBO, has said on Wednesday that an alternative health care plan put forward by House Republicans would have, quote, little impact in extending health care benefits to roughly 30 million uninsured Americans. This is from the New York Times.

Do you mean to tell me after all this attacking of the Democrats' proposal, the Democratic plan, that the Republicans have just bashed us, week after week, day after day, hour after hour, minute after minute—oh, it's bad, bad, bad, and that's all you ever hear is "no"—they finally come up with their idea and they're going to leave 30 million people uninsured?

This has got to be April Fool's Day come early. The Republican bill has no chance of passage, because Americans really don't want it, because if they did, we would be talking about it. But I quote again from the New York Times: The Republican bill, which has no chance of passage, would extend insurance coverage to about 3 million people by the year 2019.

Why aren't they embarrassed? I have no idea. The Republican bill, which has no chance of passage, would extend insurance coverage to about 3 million people by 2019, and, continuing to quote, would leave 52 million people uninsured. The budget office said, meaning the proportion of nonelderly Americans with coverage would remain about the same as it is now, roughly at 83 percent.

Let me read it again. The proportion of nonelderly Americans with coverage would remain about the same as now, about 83 percent, meaning that we have upwards of 16 to 17 percent who don't have insurance.

Going along with the Republican plan, the Republican plan tonight, as we are discussing the Progressive Message, we're just going to talk about their plan since they got real expert talking about ours, we're going to let the American people know the real facts about the Republican plan. This is not a criticism or an attack on any individual member of the party opposite. I regard that they are honorable people, but we have to talk about their

plan because it's not a good one. And the reason they haven't been bragging about it is because not even they are proud of it.

The Congressional Budget Office umpires say the House Republican health plan would only make a small dent in the number of uninsured Americans. Let me say that again. According to the Associated Press article on November 4, 2009, Congressional Budget umpires say, quote, the House Republican health plan would make only a small dent in the number of uninsured Americans.

Wait a minute. I thought that they had some great plan. How can you not make a dent in the number of uninsured Americans and still claim you have a good plan? Their plan is an embarrassment. They're not bragging about it because they, themselves, know that it's far more strategic to just bash away on the Democratic plan rather than talk about their own plan, which is nothing but status quo and keep insurance companies making lots and lots and lots of money. That's what it's all about—protect the wealthy and let everybody else do the best they can with what they got.

Let me go to another important quote: Late Wednesday, last night, a bill that Republicans expect to offer as an alternative to the Democratic package received its assessment from the congressional budget analysts who concluded that the proposal wouldn't do anything to help reduce the ranks of the uninsured. The CBO said some people would see higher premiums, including older and sicker people.

This is the Republican plan? Here is one. The CBO, the Congressional Budget Office, begins with the baseline estimate that 17 percent of legal nonelderly residents won't have health care in 2010. That's a lot of people. Seventeen percent of legal nonelderly residents won't have health care insurance in 2010. That's an indictment of the status quo, which the Republicans support.

But, in 2019, after 10 years of the Republican plan, the CBO estimates that it will still be stuck at 17 percent of the legal nonelderly residents not having insurance.

□ 2015

That is from the Washington Post today.

My goodness, how in the world can our friends from the other side of the aisle claim that they are offering an improvement on the status quo when they are not changing the proportion of the uninsured even 10 years from now?

This is a scathing indictment, and I don't expect to hear them talk much about their plan. And, if they do, they are not going to tell you about this, because this is embarrassing to them. They don't want this out. They don't

want you to know about this. They want you to just keep on listening to the nonsense about death panels and school sex clinics, and they want to talk about the polarizing political issue of abortion. And I want to get to this issue of abortion in a little while.

But I want to say that they want to use polarizing language, polarizing issues that divide Americans. They want to throw up scare tactics, all of it ultimately accruing to the benefit of the status quo now, which is an industry that reaps enormous magnitudes of profit at the expense of citizens who see their premiums escalate and see themselves denied coverage and see rescissions and see all these things that have cost the American economy dearly and the American middle class.

This is a Washington Post quote: "The Republican alternative will have helped 3 million people secure coverage, which is barely keeping up with the population growth. Compare that to the Democratic bill, which covers 36 million more people and cuts the uninsured population down to 4 percent."

How can the Republicans have a straight face and offer this bill? How can they look you in the eye, after months and months of all of these disruptive meetings, where people were disrupting meetings and causing so much trouble, causing so much fear, and this is what they have to show for it?

Madam Speaker, I can't believe that they honestly are offering this as a proposal.

According to the Congressional Budget Office, the Grand Old Party, the Republican Party's alternative, will shave or cut \$86 billion off the deficit in 10 years. But get this: the Democrats, according to the CBO, will cut \$104 billion off the deficit. The Democratic bill is fiscally superior to the Republican alternative.

According to the Washington Post today, you can read it, according to the CBO, the Republican alternative only cuts \$68 billion off the deficit in the next 10 years. The Democratic bill cuts \$104 billion off the deficit. That is just about \$40 million more.

Wait a minute. Aren't these the guys who always complain about the deficit and spending and all this? Maybe that claim rings hollow.

The Democratic bill, however, in other words, covers 12 times as many people and saves \$36 billion more than the Republican plan. Let me just say this again for people listening out there. I know you have been scared.

They want to tell you that the Democrats want to take away Medicare. Not true. They are trying to tell you the Democrats are trying to change the scenario as it relates to this very polarizing issue among Americans, abortion. It basically keeps things as they are today. They are trying to talk about death panels and school sex clinics,

and they are trying to say that health care reform is only about the uninsured.

None of these things are true, and it is important to come to the House floor and refute these false allegations. It is not the case, it is not right, it isn't true.

I just want to say I am so proud to be joined by one of the finest Members of this body, my dear friend from the great State of California, DIANE WATSON. She is going to get her papers together; but when she is ready to start talking, I am going to yield to her right away.

I just want to say the Democratic bill that has been released covers 12 times as many people and saves \$36 billion more than the Republican plan. It covers 12 times as many people and saves \$36 billion more than the Republican plan. Yes, I am going to keep saying this on the House floor. It needs to be said.

The fact is, today we had a lot of visitors in Washington, and I want to say welcome to those folks. My colleague from the great State of Minnesota, and I am so proud to be from Minnesota, my friend, Congresswoman BACHMANN, invited people down, and folks came. And I am glad they showed up, because democracy is good, and it is good to have people here.

Now, I will say that many of the people who came down to support my colleague from Minnesota, we probably didn't see the issue the same. But I just want to say, I was honored to have them in my office. I am so proud that I was able to talk to my colleagues.

But here is the thing that broke my heart. As they were explaining to me what their concerns were, they were saying, I have been dropped because of a preexisting condition. They were saying, I have been unemployed and I can't find an insurance policy to cover me. They were saying, I am afraid that I am going to go bankrupt. My family doesn't have any money. I lost my job. My husband lost his job. What are we going to do? And I said, you know what? You got on the wrong bus coming here, my friend. This Democratic bill is the one you need to be looking at.

The fact is that good people have been scared away from policy that is going to help them. Good people, made afraid that policies that are going to help them are not for them. And that is a shame.

So we had to come down here to the House floor today to explain that the fact is that middle class, working-class people struggling to make ends meet are going to benefit from the Democrats' proposal.

I just want to say that after years of the Republicans being in power, years where they had the House, the White House, the Senate, doing nothing at all to help Americans, Democrats are taking care of business right now. I am so

glad we had a lot of people and I was able to talk to constituents and others about this important issue of health care. Some of us started out not on the same page, but we ended up a lot closer together because I was able to say here are the true facts, not the made-up ones.

I yield to the gentlelady from California.

Ms. WATSON. Madam Speaker, it is a pleasure and an honor for me to come down and join my colleague, KERTH ELLISON. He has been a driving force to bring reality to the public.

Congressman ELLISON, I want to thank you for your diligence. What really gets to me is the misstatements, the fear that has been put out to the public. And think about this: Why are people ranting about health coverage and not reasoning about it?

They have made fun of our President, Barack Obama. They have disrespected him on this floor when a Member hollered out for the first time in the history of this House, "You lie." I hope the world saw that and questioned what that was all about.

When they talk about NANCY PELOSI, the first woman to be Speaker, and talk about PelosiCare, that it is going to take benefits away from seniors, those are lies.

I tell people when they come up to me, remember, we started off trying to cover Americans that had no insurance, somewhere around 38 million. Private insurance companies make profits off your health care. They make profits off the condition you are in. Why should health, good health, be profit-making? We should address the health needs of Americans.

Now, you are going to hear the opposers say, You are putting our kids and our grandkids in debt. Well, they never said that when we fought an unnecessary war in Iraq, costing us \$15 billion a month. If we were to send additional troops to Afghanistan, it is going to cost us \$5 billion. And what do we get as a result of that? Do you think we are going to be able to stabilize these nations thousands of miles away at the expense of our people and our country?

Just today, there was a horrible massacre on one of our greatest and largest bases, Fort Hood in Texas. Think about all the medical personnel that would have to be there to care for those 31 that were injured. Twelve people lost their lives. And one of the suspects is a mental health professional, a major who is a licensed psychiatrist. What does that tell you?

So what are we trying to do? If we want to be the strongest Nation on Earth, we have to be sure Americans are strong. We have to provide for those less able than many of us.

You are going to hear people say you don't want government running your health care. They don't do anything successfully. Then you are already con-

demning our victory that some people are expecting in Iraq and Afghanistan and so on. If government doesn't do anything successfully, then we all ought to go home. We are a fraud.

But ask this question: What is Medicare? What is Medicaid? What is Social Security? These are government-run programs as part of that safety net.

In the richest country on Earth, why should anyone go hungry or go without health care? If we had a government-sponsored option, and let me just define for the people who don't understand the meaning of "option," "option" says you make the decisions. It is a misstatement to say that government will get in between you and your doctor. That is so untrue, and the people who are saying that know it.

Mr. ELLISON. If the gentlelady will yield, is it not the case today that some insurance company bureaucrat can get between a patient and her doctor?

Ms. WATSON. I chaired the Health and Human Services Committee in the California State Senate in Sacramento, California, for 17 years; and we put in place a program. We were always coming up against HMOs, health maintenance organizations. If a doctor prescribed a particular drug for his patient, they would have to call in to some other office, maybe it is the secretary or whatever, and say, Can the doctor prescribe this medicine for the patient? If it wasn't on the formulary, it won't happen.

□ 2030

So I know the experiences because being there 17 years and having people come and testify in front of us because an HMO said I want 150,000 patients in my pool, and they are all-out in south central Los Angeles, our hospital closed out there, they were assigned to a hospital maybe 30 or 40 miles away, a mother with her three children would have to spend 3 hours trying to get health care. It is not accessible.

I know of what I speak. I lived through it. We designed policies so we could address the human needs of all of our people. And we can't have a successful democracy if we discriminate. What I mean by discrimination, we fought the battles in the 1960s discriminating against people of color. Now we are trying to fight the battle of poor people, fight for them who cannot afford this expensive insurance.

In my State of California, if we didn't have this plan, your insurance would go up by \$1,800 for the year for a family of three. So I am doing everything I can. You know, we live in a State that is the first State in the Union to be a majority of minorities. What most people don't know, don't want to know, is most of our immigrants don't come from across the southern border, they come from across the Pacific Ocean. Vietnam—you have heard of some of

these places—Korea, Japan, China, and they come with their own needs. We try to accommodate human beings in our State. Our State is the largest State in the Union, and we are suffering like many other States, but we are suffering to provide the necessary needs of our citizens.

We say for all Americans, we can quibble over whether they are here legally or whatever, but what we are trying to do is provide quality health care for Americans.

So I don't understand those people who are ranting and are outraged. They believe the lies they have been told.

Mr. ELLISON. I talked to some of the people walking around today. I was impressed with how good and decent many of them were. Many didn't have the facts straight. Many were suffering with real problems with health care. I think we need to take the time to talk to people. The fact is everyone knows there are certain TV people and radio personalities, and I am not even going to give them credit by mentioning their names, but these people, because of entertainment and ratings, they try to play on fear and whip up anxiety among Americans who are just trying to put food on the table. So they get scared.

People want to express themselves politically, but the leaders in front of them are not giving them good alternatives, they are just giving them fear. They are saying, Be afraid of those immigrants. Be afraid of those people over there who are not the same religion as you. Be afraid of these people over here. Just be afraid. As people are afraid, they are easier to manipulate. We ask people to overcome their fear and get the facts.

If I may just offer a few more critiques of the Republican bill. Here is what The Washington Post said: Amazingly, the Democratic bill has already been through three committees and a merger process. It is already being shown to interest group and advocacy organizations and industry stakeholders. It has already made compromises and been through the legislative sausage grinder. And yet, it covers more people and saves more money than the blank-slate alternative proposed by House Republicans.

Now I just want to ask the gentlelady from California, we have been working on health care for a long, long time. I have had to deal with angry folks at angry community meetings. People are worried. They are concerned. We have walked through that fiery furnace and done those tough town meetings. We have withstood all of that. You would think that our bill would be watered down to the point where it couldn't help anybody, but that isn't the case. The Democratic bills covers 12 times as many people and saves \$36 billion more than the Republican plan. How can



that be? The Republican plan, which was just recently introduced to the American people, actually doesn't save as much money and doesn't cover as many people as the Democratic plan when they are just getting started.

You and I know when you first introduce a bill, it is just going to get sandpapered. People are going to wear it away. People show up and say, I don't like this part, and I don't like that part. After a while, your bill used to be here, and it is getting less and less. It doesn't meet as much of your vision, but that is okay, that is democracy. We have to come in here and we have to give and take and try and consider everybody's interests.

But this Democratic bill, having gone through a very rigorous process of democracy, the writer here calls it a sausage grinder, still saves way more money and covers way more people than the Republican bill. I want to know, how can that possibly be? Where are these great ideas we have been hearing about?

You remember during President Obama's speech in this very room, they're holding up pieces of paper, here is our plan, here is our plan, and they come up with a plan that is more expensive and doesn't cover as many people as the Democratic plan. There is a reason why the American people voted overwhelmingly to send Democrats to Congress last November because this is the best they could come up with. It is actually quite embarrassing. I feel a little bad for them.

I yield back to the gentlelady.

Ms. WATSON. I always say be a seeker of truth. I taught school for many years. I told my youngsters, you need to reason. Let's think this through together. I can tell you anything. Seek the truth. Check it out. When it is said that we are going to take benefits away from seniors, that is untrue.

When it is said that government, who fails at everything it does, you know, how are they going to do this, we are not running the program. What we do is allow citizens to come to the marketplace and choose a plan, A, that they can afford; B, that is accessible; C, that will allow them to get into the coverage even if they have asthma, even if they had breast cancer, even if they have diabetes, they can come in and be covered.

You can say to seniors under our plan, when you hit that doughnut hole, you won't go through the hole and hit rock bottom because we are going to close that hole.

Mr. ELLISON. Which party was in power when the doughnut hole, the doughnut hole that people are falling into that needs to be fixed and is going to be fixed by the Democrats, what party was in power when the doughnut hole came to be?

Ms. WATSON. The Republicans were in the White House, they had the Sen-

ate and this House. I was in here. We were in here until 6 in the morning. I watched them browbeat one of the Members. She had voted, and they brought her back and huddled around her, and she was in tears until she changed her vote.

That was the worst thing we could do for seniors because when they fall into that hole after they have spent \$2,700, they fall into that hole and they cannot afford to buy food or to pay their rent if they are going to buy their prescriptions that keep them living day by day.

Why should an American, and particularly our seniors, have to make that kind of choice? We are not playing with this. You know, I have heard people say they have done it in secret in some dark, smoky room. It has been up on their e-mails, it has been up on their computers for weeks. There is a process that you go through and you do not violate the process in Congress. Every bill that comes out of a committee has to be heard, and most Members have time to speak to that bill and most Members vote on the bill with an audience out there.

And if the bill gets a number of votes, then it leaves that committee. It might go to another, but everyone knows the process.

Now they are saying well, you've taken three bills and you are blending them together and we don't know what is in those bills. I have even heard Members come up with these thick stacks of paper and say look at this. Well, when you write law that you expect to impact on Americans, you better put everything in there you mean, and that is where you use the word "shall." I heard the minority leader say, Do you know how many times they used the word "shall"? Well, if you want it to be law, you need to say "shall." If you don't mean for it to become law, then you can make it permissive and say "may." Let's explain the process to our people. Let's not keep the people ignorant. Let's educate them. As an educator, that is what I want to do.

To finish, I want to let our seniors know that the majority of people in this Congress know that our health care system in this country is broken and we want to strengthen what is working. Medicare has provided health care for Americans age 65 and older for the last 44 years, and it is working. When they say they want a coverage like ours, we are covered under Medicare. And it will be strengthened under the House's reform legislation. The reform will mean better benefits at lower cost and will preserve Medicare solvency for years to come. And without reform for all Americans, health care costs will keep rising and could jeopardize Medicare's ability to keep covering the costs.

Rising costs hits seniors, their wallets, too. And so with the average part

D plus part B premium consuming an estimated 12 percent of the average Social Security benefit in 2010, and it will be 16 percent by 2025, so we know that the debate on reform has been intense, but it is a good thing. Let's get this all out in the open and then let's correct the misstatements. Let's be sure that we educate the people with the truth, and just know that nothing has been done behind closed doors that you have not heard.

We can debate it on this floor, and we are going to do that. So I want to end by saying we can have a better America. We can keep our people healthy. We can have peace, but it starts here. And we need to come together as a House of Representatives; not as Democrats, Republicans, Independents, fighting each other. We can express our positions, and we can do it with comity. We can do it with collegiality. We can do it by listening to someone else's position.

I am going to truly close, but when I held my last community forum, I said: All of you have the right to be heard, but you don't have the right to disrupt and block me from hearing you. So if you do that, then you will be escorted toward the door. If you have a question, write it down. Be proud of your question and put your name on it. If you don't put your name on your question, it goes to the bottom of the list. So we will listen to you and respond to you, but you cannot block the communication.

So what we are doing is trying to communicate with Americans out there in the field. We are going to express the truth the best we can. Thank you so much for having tonight's Special Order. We really appreciate your commitment and your dedication.

Mr. ELLISON. I thank the gentlelady and appreciate the gentlelady's remarks about collegiality, and also the gentlelady reassuring our seniors about what is really in the bill. This whole fear thing about scaring seniors about taking away their Medicare, I really don't appreciate. My dad was born in 1928 and my mom was born in 1938. Both of them are folks who would be classified as seniors, both very active, vibrant people, and both of them definitely active at the polling places and voting.

□ 2045

And they've actually asked me, Is this really true? And I have to explain, Mom, no, it isn't true. But the reality is this is a campaign tactic to try to scare seniors and try to scare all kinds of Americans. I'm of the mind that, let's not use fear tactics, let's use logic and truth.

Here's a few facts:

The House Republican bill will cover just about 3 million more Americans over the course of 10 years. Today, 83 percent of the nonelderly Americans

are insured. Under the GOP plan, 83 percent of nonelderly Americans would still be the proportion of the uninsured in 2019. No change.

So I ask the gentlelady, look, if the problem today is the high percentage of the uninsured, people who are authorized to be in America and people who are nonelderly, if the proportion of uninsured is 17 percent, shouldn't we be better off in 10 years? Under the Republican plan, we will not be. I think that is a complete failure of their effort.

The Affordable Health Care for America Act put forward by the Democratic-led Congress extends coverage to 36 million more Americans. Today, 83 percent of the nonelderly Americans are uninsured. Under the Democratic plan, 96 percent of nonelderly Americans will be insured. That's what I call success. I hope some of our friends on the other side of the aisle come on and join this plan that's good for America.

The House Republican bill does not reduce the number of people who must buy insurance on the individual market because they're self-insured, don't have coverage of their employer, or lose their jobs. This segment of the market now pays the highest premiums and consumer abuses by the insurance industry. No change in this unfair practice.

The Affordable Health Care for America Act put forward by the Democrats creates a health insurance exchange with a public plan as one of the choices people have that provides competition and offers large group rates to employees of small businesses, entrepreneurs, and Americans looking for jobs. Under the Democratic plan, affordable options and affordability credits make all the difference, something the Republican plan—even though they've had all this time to think of something good, haven't been able to think of anything good at all.

Preexisting conditions. The Republican bill fails to require insurance companies to end the practice of discriminating against Americans with preexisting medical conditions. Let me just say this one more time, Mr. Speaker. The Republican bill fails to require insurance companies to end the practice of discriminating against Americans with preexisting conditions.

There's no wonder that they have and will spend their time this evening talking about the divisive, polarizing issue of abortion, this very important issue which has Americans of goodwill arguing both relatively strongly held positions, trying to get us fighting over that when we're talking about health care reform. They say, Don't worry about this health care reform. Let's talk about this divisive issue that has divided Americans for so long. This is not a bill about abortion. This is a bill about health care reform. Why don't they want to talk about that fact?

The Republican bill does not repeal antitrust exemptions for health insur-

ance companies. Why not? The Republican bill does not repeal antitrust exemptions for health insurance companies. Why do they want to protect the health insurance companies? Why don't they want the health insurance companies to compete? Who is getting PAC money from the health insurance companies? Let's find out.

The House Republican bill does not include provisions to stop price gouging by insurance companies. Why not? The Affordable Health Care for Americans Act put forth by the Democrats—and, again, we've only had the White House for a few months and only had this Chamber, been the majority in the House for a couple of years; not long. We haven't been here long, but even though we haven't been here long, we've come up strong, because this bill, the Democratic bill, ends discrimination against Americans with preexisting medical conditions. The Democratic bill finally ends the antitrust exemption. The Democratic bill gives States \$1 billion to crack down on price gouging by health insurance companies.

The fact is American consumers and small businesses deserve better than what the Republican bill offers to them. The Democratic bill, the Affordable Health Care for America Act, is a fiscally responsible bill that will reduce the deficit by \$104 billion over 10 years; way more, way more, \$36 billion more than the Republican bill. And I want to know, if the Democrats can face this very difficult process that we've gone through all summer—I had health care forums in my district and so did the gentlelady from California. Some people came up very upset because they've been listening to some of these radio guys and some of these TV guys scaring them and giving them misinformation, so they come into the meeting upset, loaded for bear. They want to talk to me. I want to talk to you, Mr. ELLISON. But when the facts come out, they're like, Oh, okay, I get it now. And we just ask people to keep their minds open.

I just say that if the Republicans have a real alternative around health care, how come they didn't come up with anything in the House from 1994 to 2006? Nothing did they come up with. Oh, they did veto SCHIP. We've got to give them credit for that. Vetoed SCHIP. Vetoed State Children's Health Insurance Program; can you imagine that? Oh, my goodness. I think that that is not good service to the American people.

I do hope we get some Republican votes on this bill because I think there has got to be some Republicans who say, You know what? Skip all the bickering. The Democrats have been open to our ideas when we offered them, but we didn't offer them because we would rather beat the Democrats at the polls than give Americans real health care

reform. Think about that. They would rather beat the Democrats at the polls and try to use this as a political thing rather than say, You know what? We're going to do something for the American people. Oh, my goodness.

Let me turn to this poster board I have here. The Democratic bill—let's set the record straight. Here's a myth: The Democratic bill will hurt small businesses. Not true. If you heard it today or if you hear it later today, don't believe it. Small chemical facilities are already regulated by the DHS. The bill requires DHS to assess potential impacts of IST on small businesses. And \$225 billion in grant funding is available for small businesses.

This will interfere with business operations. The fact is is that this bill will not interfere with business operations, it will not be a boon to plaintiffs' attorneys, and it will not do any of these things that are claimed by the Republicans over and over and over again.

We hear the Republicans say we need to have tort reform. Let me just say, if you have a loved one who has a medical error, you have a right to go to court over that. Don't let anybody scare you away from your right to go to court when a doctor or a hospital fails to meet medical standards.

Ms. WATSON. Would you yield?

Mr. ELLISON. Yes, I will.

Ms. WATSON. You know, it's always very interesting to me. I sat on the Judiciary Committee for 17 years and I carried the California trial lawyers' funding bill every other year. And of course opposition would say, frivolous. Well, if your right leg was amputated and the condition was in the left leg, they amputated your right leg, the first thing you would do is run to get the most high-powered lawyer you could and you would sue the doctor and the hospital out of business. So you can say frivolous cases, but when it comes to your own health and the health of your loved ones—and I haven't seen a company without its set of lawyers. So we use them when we want to be sure that the law works on behalf of ourselves and our loved ones. If it's for somebody else, it's frivolous. So let's think about what we're saying with tort reform.

And we can lower the cost if we have quality health care, meaning we have quality personnel. And do you know there are provisions in our bill that will help to subsidize medical students that want to go into primary care? And so we want to build a whole cadre of quality health providers that will practice medicine on behalf of the human interest to keep our people healthy.

So when we talk about tort reform, let's think it all the way through and don't treat it in a frivolous way.

Thank you very much, and good night.

Mr. ELLISON. Well, let me just thank the gentlelady for that, because

the reality is that Republicans are saying, Oh, we have a plan on tort reform and we want to give tax cuts and tax breaks—they've been talking about fragments of their plan for a long time, but when the reality of their plan came out, it was pretty dismal. I mean, here's what Ezra Klein says, of the Washington Post: Republicans are learning an unpleasant lesson this morning. The only thing worse than having no health care reform plan is releasing a bad one, getting thrashed by the CBO, and making the House Democrats look good.

We want to thank you for that.

The Democratic bill covers 12 times as many people and saves \$36 billion more than the Republican plan. The New York Times, the Budget Monitor says: GOP leaves many uninsured.

Again, the Congressional Budget Office said Wednesday that the alternative health care bill put forward by House Republicans would have little impact on extending health benefits to roughly 30 million uninsured Americans. You can go right down the ranks, but piece after piece shows that this Republican plan that they released is abysmal.

I want to have some conversation about the Republican plan, because they've been beating up on the Democratic plan from the very beginning, yet it has gone through three committees. It has had a merger process. It has been beaten and smashed and attacked, and yet, still, still the Democratic bill is far and away superior to the Republican plan, maintains its public option. The fact is I think the American people are really going to start seeing who is looking out for their health.

Let me turn now to a few health care stories if I may.

A good friend, Amy. Amy says, "I'm a graduate student working part-time at a restaurant. I applied for individual health insurance through Medica, hoping to pay their nice low rate, \$99 a month for a pretty good plan and a fairly low deductible; however, Medica denied my individual application because I marked on my application that I have anxiety and take medication for it. It is a little ironic; not having insurance gives me more anxiety.

"I was recently approved for group health insurance through a company that owns the restaurant I work for. However, to stay on the group plan, I have to maintain a workload of 24 hours a week on average over a year, which can be hard to do as a full-time student. This group insurance is through Medica, and I will be paying \$95 each month, which is affordable for me. However, I got a letter from Medica saying that my anxiety is considered a preexisting condition, so any treatment or medication for it will not be covered for a year. After 1 year, I can appeal for coverage. In the meantime, I will continue to pay for my

medication out of pocket and not go to therapy because it will be too expensive.

"Please pass Federal health care reform that includes a public health insurance option that is affordable to middle-income families in Minnesota."

This young lady would not be barred from getting health care insurance because of her anxiety, which the insurance company called a preexisting condition, yet under the Republican plan she still would be.

David from Minneapolis: "I am a small business owner and do provide health care to my employees, but this is a serious financial risk to my company. It's a moral issue, so I don't want to cancel health insurance, but I might have to in order to survive. It's scary to think about not being able to provide health insurance for employees or going under as a business. Knowing that I would always have access to reliable, affordable health care would relieve my fears.

"I would like to tell those who oppose health care reform that this is a moral issue. We should be taking care of each other. It's an embarrassment to our country to be one of the wealthiest countries and not have health care for all. Please pass Federal health care reform that includes a public insurance option."

□ 2100

We've been joined by JARED POLIS, who is an excellent advocate for the people's rights. He has been very vocal and has been a strong advocate of health care reform. I want to turn it over and yield to my friend from Colorado (Mr. POLIS).

Mr. POLIS. I would like to thank Mr. ELLISON, certainly, for the kind introduction and for sharing very powerful stories.

I have had the opportunity to share a number of stories on the floor of the House of Representatives, and these are all real people who are impacted. I think that, perhaps, my colleagues in the House and those watching us can see in themselves some of the experiences that American families go through.

We're not just talking about the uninsured out there, some mysterious group that you're not a part of because you might have insurance. We're talking about American families, American families who are worrying because one of the parents lost a job; we're talking about soccer moms; we're talking about people with preexisting conditions.

I want to briefly talk about immigration in the context of immigration and health care reform. I received some false information from an anti-immigrant group. The name of this group is the Federation for American Immigration Reform. They're actually a group that fights against immigration re-

form, but their name says that they're for immigration reform.

They believe—and I believe that similar comments have been echoed on the floor of the House of Representatives—that there is in the health care bill before us something that allows illegal aliens to game the system and to access taxpayer-subsidized health care benefits.

What they're seeking to do—and it would significantly raise the cost of the bill should they succeed—is to prevent our undocumented population, some 12 to 15 million people who reside in our country and who contribute in so many ways, from buying insurance through the exchange.

Now, remember, the "exchange" is something that doesn't exist today. It's set up under law. It is not subsidized health care. It is where small businesses or individuals will go. They, of course, will pay the full market rate. There will be many private companies that will participate in the exchange and that will design products for the exchange. It is not a benefit. It is simply a marketplace. We've never before barred anyone from being able to purchase a product like health insurance at full price because of one's citizenship or immigration status, nor is it good policy.

I think that many of us on both sides of the aisle would agree that we shouldn't have as large an undocumented population as we do. I dare say we shouldn't have an undocumented population at all. There might be different solutions to that. Mine would simply be to normalize the status of those who are here, who work hard and who contribute so much to our country. My colleagues on the other side of the aisle, who also agree we shouldn't have a large undocumented population, might, in fact, have a different solution to that.

Insofar as they are here, we should, all of us, regardless of where we stand ideologically, want them to buy insurance with their own money if they are willing to. They certainly all won't; but to the extent that they do, they are less of a burden on the rest of us. Anybody who would seek to prevent them from accessing the exchange, which will really be "the place"—"the place" for individuals to buy insurance—effectively is saying that taxpayers should subsidize illegal immigrants.

Frankly, I think that there are many across the country who have a problem with that. To prevent undocumented immigrants from being able to buy insurance from the exchange is saying that taxpayers should pay for their health care. They're going to go to the emergency rooms. They won't have insurance. The costs will be shifted to the rest of us and to taxpayers. We should encourage our undocumented population to buy insurance with their own money. Again, I don't think all of

them will, but some of them will. That's a very good thing, and I'm very hopeful that many undocumented immigrants will participate in this exchange.

The exchange makes health care affordable for individuals. Right now, we have an issue where individuals don't have the buying power of big companies. If you have a preexisting condition, which is that scarlet letter that so many residents of our country wear, forget about it. Whether you're a citizen or a noncitizen, if you're an individual, the exchange will allow you to pool your risk. The exchange has the buying power that previously has only been enjoyed by large corporations. It allows one to negotiate the very best rates with insurers. Once again, the exchange is not a benefit. It is not a product.

Mr. ELLISON. I just want to say thank you, Madam Speaker, for allowing us the time for the Progressive message. I yield back the balance of my time.

#### MESSAGE FROM THE SENATE

A message from the Senate by Ms. Curtis, one of its clerks, announced that the Senate has passed with an amendment in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 2847. An act making appropriations for the Departments of Commerce and Justice, and Science, and Related Agencies for the fiscal year ending September 30, 2010, and for other purposes.

The message also announced that the Senate insists upon its amendment to the bill (H.R. 2847) "An Act making appropriations for the Departments of Commerce and Justice, and Science, and Related Agencies for the fiscal year ending September 30, 2010, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Ms. MIKULSKI, Mr. INOUE, Mr. LEAHY, Mr. KOHL, Mr. DORGAN, Mrs. FEINSTEIN, Mr. REED, Mr. LAUTENBERG, Mr. NELSON (NE), Mr. PRYOR, Mr. BYRD, Mr. SHELBY, Mr. GREGG, Mr. MCCONNELL, Mrs. HUTCHISON, Mr. ALEXANDER, Mr. VOINOVICH, Ms. MURKOWSKI, and Mr. COCHRAN, to be the conferees on the part of the Senate.

#### HEALTH CARE REFORM

The SPEAKER pro tempore (Ms. PIN-GRÉE of Maine). Under the Speaker's announced policy of January 6, 2009, the gentleman from Georgia (Mr. GINGREY) is recognized for 60 minutes.

Mr. GINGREY of Georgia. Madam Speaker, I thank you for the time, and I thank my minority leadership for the time.

We will spend our hour talking about health care reform; and we will try to compare and contrast, Madam Speaker,

many of the policies that were just described by our colleagues on the Democratic side of the aisle, by the majority party Members: the gentleman from Minnesota, the gentlewoman from California, the gentleman from Colorado. A number of statements were made in regard to their bill, the Pelosi health care bill, the 2,000-page bill. In fact, Madam Speaker, I have that bill behind me, and we'll take a look at it in just a few minutes.

We certainly want to talk about the 261-page bill, Madam Speaker, which is the Republican alternative that, indeed, as we know from a letter that we just received yesterday from the Director of the Congressional Budget Office, across the board, the Republican alternative lowers the price of health insurance premiums on an average of 10 percent. I'm not sure that my colleagues who have left the floor now—and if they were still here, I would be happy to yield them time, but I'm not sure that they can say that with regard to this massive, monstrosity of a bill of over 2,000 pages that they are going to have on the floor of this great body on Friday, tomorrow, to debate and on Saturday morning to vote on, the outcome of which, of course, remains to be seen.

Madam Speaker, I wanted to take a little time, though, at the outset to talk about the thousands and thousands of great Americans who came to Washington today to bring a message to this Congress—a message to their Members on both sides of the aisle but especially on the Democratic majority's side of the aisle—to tell them how strongly they are in opposition to the Federal Government's taking over our health care system lock, stock and barrel.

Madam Speaker, I had an opportunity with many, many of my colleagues, led by Mr. ELLISON of Minnesota, the gentleman who just spoke; his colleague from the great State of Minnesota, Representative MICHELE BACHMANN; and others. There were many who worked very hard in putting that together and in encouraging people to come to Washington—to take time away from your jobs, away from your families. There were many physicians in the group. They did it. They did it. We had an opportunity to speak to them.

When I took my minute or so, Madam Speaker, I said to them, You know, you're bringing a second opinion. You are practitioners of common sense. You are practitioners who love freedom and liberty. You've looked at this bill. You've probably read it. You've probably read more of it than have most Members of Congress, and you have made a diagnosis. You have taken the medical history, and you have done the physical examination. You have checked the pulse of the American people, and you have found it

strong. You have checked the blood pressure of the American people, and you have found it, Madam Speaker, rising. You have taken a stethoscope, and have listened to the heart of the American people, and you have heard it pounding, pounding for freedom and liberty; and you have made a diagnosis, and you have written a prescription.

Madam Speaker, these tens of thousands of people who were here today brought that prescription to Capitol Hill, and here is what it said:

Dispense no taxpayer money to fund abortions. Dispense no taxpayer money to provide government subsidies to illegal immigrants, despite what my colleagues on the majority side of the aisle have said. Finally, that prescription said: dispense not one dime of my hard-earned taxpayer money to allow the Federal Government to take over our health care system and one-sixth of our economy, and come between me and my doctor. That's the prescription that these great Americans came to Washington to bring today.

I hope, Madam Speaker, I hope that the Members of Congress on both sides of the aisle but especially within the majority party—because, after all, it is your bill that's going to be voted on, not our bill. We have a bill. It will be a motion to recommit—a substitute, if you will—of 261 pages, which brings down the cost of health insurance across the board on an average of 10 percent. I don't think that they can say, Madam Speaker, that you can say, that the majority party can say, that your bill does that. This bill, according to the Congressional Budget Office, saves \$61 billion over 10 years.

Now, Madam Speaker, I heard my colleagues say just a minute ago that their bill, which is the Pelosi bill, saves \$100 billion over 10 years, but the Congressional Budget Office, again, that bipartisan group of expert economists who works for the Congress, the Director of whom is hired by Speaker PELOSI, said it's going to cost to create this legislation \$1.55 trillion over 10 years.

So, my colleagues, if you save \$100 billion but you've spent \$1 trillion, do the arithmetic. This is not calculus. It's certainly not brain surgery. You have spent a whole lot of money saving \$100 billion. In fact, my math tells me that you're kind of in the red there about \$900 billion. It's ludicrous. It's absolutely ludicrous.

I say again, Madam Speaker, to those folks who came up—to those great Americans who came today on buses and in cars and on planes, many of whom traveled 16 hours—and I met some great Georgians from my State. They're folks I had talked to last weekend when I was home, and I encouraged them to come. They did. They came. A contingent of the disabled came. I was so proud to see them.

This was not a mob, Madam Speaker. These were not thugs. I'm not suggesting that you or any Member of this body has referred to them in that way, but certainly the media has; the press has—and it's insulting. It was insulting back in August when all of these seniors showed up for these town hall meetings. Every Member was describing town hall meetings that had 10 times as many people as they had ever seen before. It's true for me in my district, and I'm in my fourth term. It's true for others. We'll hear from Congressman JOHN BOOZMAN from Arkansas, and we'll hear from Congressman PAUL BROWN from the great State of Georgia, from Athens; and they'll tell you the same thing.

These were nice people. These were senior citizens. These were Medicare recipients, and they were scared to death, and they are scared to death today. I know that, of those who couldn't come, many of them maybe are shut-ins and who for health reasons were not able to come but would have loved to have been here. You were well represented, and you will be well represented in this Chamber come Saturday morning when it's time to vote.

My colleagues on the other side of the aisle referenced back to the days in 2003 when we added a prescription drug benefit to Medicare, which is something that our seniors have been wanting for so many years, long before I even thought about running for Congress. The problem, of course, was that in 1965 when Medicare was enacted, the emphasis was on surgical procedures and on hospitalizations, and we didn't have all the wonder drugs back then, 40-something years ago, that we have today.

□ 2115

So why was a prescription drug benefit so important? Why did the Republican majority at the time spend so much political capital giving that to the American people and our 40 million of them who are on Medicare?

It's because they couldn't afford it. The price of these prescriptions had gone up, these wonder drugs, research and development, very expensive. And people were halving the dose and in many cases not taking their medication if it ran out before the month was over and they had to wait 2 more weeks to get another prescription. And the people with high blood pressure were having strokes. The people with high cholesterol were having heart attacks. The people with diabetes, which was out of control because they couldn't buy their insulin, were having their limbs amputated. People with kidney disease were ending up on dialysis machines and in a long cue maybe for a renal transplant.

We, in a very compassionate way, Madam Speaker, passed Medicare part D so that these seniors could afford to

have those prescriptions filled and to take them in a timely way. And I stand here today very proud that I voted "yes" on that bill on this House floor in the wee hours of that morning, yes. A very close vote because all the Democrats were voting "no." All the Democrats were voting "no."

But what this bill has done has given them affordable prescription drug coverage. And it will keep these seniors, more importantly than the cost, out of the emergency room. It will keep them off the operating table. It will keep them out of a long-term skilled nursing home where they might be for life having had a massive stroke because prior to 2003 they couldn't afford the blood pressure medication to lower that blood pressure to a safe range. So, yes, I'm proud of that. I'm very proud of it.

Our Democratic counterparts, Madam Speaker, then in the minority, they fought it every step of the way. And they absolutely insisted, until the final moment when they knew that they couldn't accomplish it, they wanted the government to step in and control prices. They wanted government price control then and they want it now. It wasn't necessary then, Madam Speaker and my colleagues, and it's not necessary now.

The free market works in this country. It always has and it always will. The monthly price of those prescription drug plans, on average, was \$24 when the Democratic minority said that it would be \$40. In fact, the Democratic minority wanted us, the Republican majority at the time, to agree to set the price at \$40 a month. We wouldn't do it because we knew, Madam Speaker, that the free market works and we wanted to see that competition without the heavy hand of the government in there being a competitor and a rule maker and a referee, just exactly what your party and its leadership, Ms. PELOSI, the Speaker; Mr. REID, the majority leader; and yes, President Obama—they want the heavy hand of the government in this bill.

And what they really want, and I imagine if any amendment is made in order, it will be the one that will be proffered by our friend from New York (Mr. WEINER) from my Energy and Commerce Committee and part of the majority party, an amendment that would have a single-payer national health insurance program. Socialized medicine.

If we see any amendment, Madam Speaker, I am going to predict that that will be the one that will be here because, in fact, they want to make that statement one last time. They won't have quite enough votes to pass it, but there will be a significant number. And I think my colleagues certainly on our side of the aisle, we understand that. We understand what the plan is. And the American people understand that. But the majority party

and this President and this administration and all the folks that are advising him, many of whom I guess advised President Clinton and his wife, Hillary, 15 years ago, they don't seem to get it. Maybe they're not going to get it until that first week in November of 2010.

We've got a lot of things to talk about tonight, Madam Speaker, and I am pleased and honored to have my colleagues join me. The hour is getting late. A lot of times folks at this point in the evening are ready to go home and get a little rest, do a little reading before they go to bed and face a long, hard, tough day tomorrow. But they're here. They're here tonight. That old saying "miles and miles and miles to go before I sleep." I'm not sure which of our poets wrote that. Maybe it was Robert Frost. But my colleagues are with me tonight because they know how important this is.

They know that they are the sentinels. And we're going to fight this thing, and we're going to do everything in our power to stop it because we know it's wrong. It's the wrong prescription for America.

Let me at this point, Madam Speaker, yield to my good friend and fellow doctor from the great State of Arkansas. Dr. BOOZMAN is a part of the GOP Doctors Caucus. We have been meeting on a very regular basis during this entire 111th Congress. We're 11 months into it now. Time really flies when you're having fun. But this group has, I think, brought a lot of knowledge to our side of the aisle on this issue. We have tried desperately to have an opportunity to meet with the President. We've sent letters. He said the door was open, but if the door was open, unfortunately the several gates getting to the door were closed.

But I'm honored at this point to yield to my good friend from Arkansas, Dr. JOHN BOOZMAN.

Mr. BOOZMAN. I appreciate the gentleman from Georgia yielding to me.

I also want to thank you for your leadership on the Doctors Caucus as one of the co-Chairs. You've done an outstanding job.

I think one of the reasons that's so important, I think the reason that we had so many thousands of people up here today—and I would just echo your sentiments about the importance of that. As I looked around, I saw all of these predominantly middle-aged and seniors that had made a trip, made a tough trip in many cases from all over the country. I think it's due to the fact that we've worked very, very hard as a conference. And under your leadership as one of the co-Chairs, I think the Doctors Caucus has done a good job of trying to get accurate information as to what this bill actually does.

We did a town hall teleconference 2 days ago. And as you said, there are many people all over the country that would have loved to have been up here

today, but they couldn't get up here. And we did a poll during the course of that teletown hall. We had 12 percent for, 75 percent against, 13 percent undecided. And I think if we had done that a few months ago, the numbers wouldn't have been that great.

The more the American people learn about this bill, the unintended consequences that are going to occur, the more they don't like it.

The gentleman talked earlier about somebody working in a place and was a part-time employed person. The reality is that under this bill, as you start taxing small business the way that it does for full- and part-time employees where you don't offer good enough insurance by government standards, many of those jobs are going to disappear, and this truly is a job killer.

I'm going to go ahead and yield back because I really want us to talk about our alternative versus what's being presented. I want us to talk about the fact that we're not cutting Medicare. I have got 25,000 Advantage patients in my district. Our bill does not cut them in any way. That program goes ahead and continues on. Then I also want to talk about the effect on small business, our bill cutting the insurance rates versus taxing small business in the other plan.

Mr. GINGREY of Georgia. Reclaiming my time, I thank the gentleman and I hope the gentleman will stay with us so we can continue—

Mr. BOOZMAN. Yes, very much.

Mr. GINGREY of Georgia. Because I do want to hear from Dr. BOOZMAN in regard to the Republican alternative and some of the unique things that he's talking about. And I mentioned, of course, the CBO score and that's fantastic. But I think it is important for our colleagues to know, especially those who are undecided. And quite honestly, I think, Madam Speaker, there are a lot of undecideds.

I know there are many caucuses in the Democratic majority. You have 257, something like a 40-seat majority over us Republicans. And you have those many caucuses. You have the Hispanic Caucus. You have the Congressional Black Caucus. You have the Progressive/Liberal Caucus of which Speaker PELOSI is, I guess, the titular head. And then you have the Blue Dog Caucus, some 52 members, who many of them, Madam Speaker, and I know you're aware of this, hold seats that Candidate Senator JOHN MCCAIN carried in the 2008 election. So their districts, Madam Speaker, are not unlike mine. And I won my last election, my third re-elect fourth term with 69 percent of the vote. And I know that many of these Members are agonizing over their vote come Saturday.

Our colleagues earlier—I think the gentlewoman from California was here in 2003 when we had the vote on Medicare modernization and the prescrip-

tion drug plan, Medicare part D. And she said some things that were accurate in regard to the length of the vote and the fact that it was a very close vote, and when the clock struck double zeros, there were still people undecided. And there was still a lot of persuasion going on. Maybe a little arm twisting, maybe a few calls from the President, the Secretary of Health and Human Services, a lot of weeping and gnashing of teeth. And then, of course, finally that bill did pass at 5 o'clock in the morning, as I recall.

I would say to the gentlewoman from California, you ain't seen nothing yet until we get to 2 days from now, on Saturday, when we're trying to—when I say “we,” I think most people on my side of the aisle, if given the opportunity to vote on our bill, would vote “yes,” every one of us, but I doubt if there will be too many of us voting for the Federal Government to completely take over our health care system.

And there's going to be some arm twisting and there's going to be some blood letting, not literally but figuratively. A lot of persuasion going on. So we'll see what happens.

I am also joined by a good friend who, like Dr. BOOZMAN, is a part of our GOP Doctors Caucus. Dr. PAUL BROWN is one of three doctors, three on the Republican side, from the great State of Georgia. Our other colleague who is chairman of the Republican Study Committee, 110 conservative Republican members, Dr. TOM PRICE chairs that group.

And I want to, Madam Speaker, mention the fact that Dr. PRICE was also very involved in this effort today to have this House call on Congress and bring these 15,000. In fact, Dr. PRICE moderated that and did an excellent job.

□ 2130

But Dr. BROWN has been wonderful on this issue, brings a tremendous amount of knowledge, plus about 40 years of clinical experience as a family practitioner who it comes as close to Marcus Welby as anybody I have met in years because he did house calls.

Madam Speaker, I will now yield to Dr. BROWN so that we can hear from him.

Mr. BROWN of Georgia. I thank the gentleman, Dr. GINGREY. I did house calls full time prior to coming to Congress in 2007, and I actually still make house calls.

I appreciate the people coming here today and getting in the house call business. They made a house call on the people's House, and I congratulate them on doing so because their voices were heard. The Constitution of the United States. I carry it in my pocket all the time. I believe in this document, as it was intended by our Founding Fathers. It starts out with three very powerful words.

Mr. GINGREY of Georgia. And if the gentleman will yield just for a second, just for the visual effect. Congressman GINGREY also carries it, and I think every Republican—this document is not what we describe as a living, breathing, changing document unless we do it under the rules of the Constitution by amendment, but I wanted to let the gentleman know that I, too, carry this every day.

I yield back.

Mr. BROWN of Georgia. Thank you.

The Constitution starts out with three extremely powerful words “We the People.” We the People are speaking, and they don't want a government takeover of their health care system. In Hosea 4:6, God says, “My people are destroyed for lack of knowledge.” Mr. Speaker, the Doctors Caucus and Dr. GINGREY have been trying to educate the people about the onerous effects of a government takeover of health care. I just want to mention a few of those things.

Dr. BOOZMAN, my good friend from Arkansas, was already mentioning the increased taxes and the attacks on small business. But this bill, if it's passed into law, is going to destroy our economy. It's going to destroy our economy because it's going to spend—right now CBO, with their zombie economics, is going to spend over \$1 trillion. I call it zombie economics because you have to be a dead person walking around to believe the accounting procedures that CBO went about utilizing in evaluating this bill. But this bill has been scored by CBO as costing over \$1 trillion. When Medicare was passed into law 40-some-odd years ago, CBO, when they evaluated it then, they missed the mark. In fact, Medicare, in the first decade, cost almost 10 times what CBO scored it, and that's exactly what's going to happen with this one. I think 10 times will be a conservative estimate of what the CBO is scoring it. It's going to destroy our economy.

The second thing it is going to do is it's going to destroy the State's budget. In Georgia, as the gentleman from Georgia, Dr. GINGREY, knows, we have a balanced budget amendment to our State Constitution. Well, this bill shifts a lot of cost in unfunded mandates to the State because it expands Medicaid. Georgia is already struggling to meet its balanced budget amendments and is already cutting services in the State of Georgia. This bill, for the State of Georgia, from everything I can tell, is going to increase the cost to Medicaid to the State of Georgia \$1 billion. We don't have that kind of money. The State of Georgia is going to have to cut its services markedly or increase taxes.

Mr. Speaker, the Governors all over this country should be contacting every single Member of Congress in their delegation and telling them to vote “no” on this Pelosi bill that is



going to take over the health care system. It's going to destroy States' budgets. It's going to destroy everybody's home budgets because taxes are going to go up on all goods and services, particularly health care services. But there is going to be taxes on every single small business and large business in this country, which means that those taxes are going to be passed through at an increased cost for every good and service in this country. So everybody, including the middle class, the poor people, those on limited income, the elderly are going to have to pay more for everything that they buy, for every service that they contract for. So it's going to destroy everybody's home budgets.

It's going to destroy our children's futures. It's going to destroy their futures because Congress is borrowing and spending dollars that our children and our grandchildren are going to have to pay for. So we're stealing their future.

Scripture says in the Ten Commandments, "Thou shalt not steal," and I call on this House to stop stealing our children's and our grandchildren's futures.

Mr. GINGREY of Georgia. If the gentleman will yield back to me, and I think that is a very, very good point. Mr. Speaker, I agree with the gentleman that it, indeed, is stealing our children's futures to have a current debt of \$11.2 trillion. A trillion, you can't imagine. I've heard Members describe what \$1 trillion is. I won't try to do that tonight. It's unfathomable. Our current debt is \$11.2 trillion.

It's estimated that in the next 10 to 15 years, if we continue down this road, that debt will be \$24 trillion. We'll be paying more interest on the debt than we do on discretionary spending. We'll have no money to defend our country. In talking about that Constitution, when you really look at it, there is nothing in here about spending trillions of dollars for health care or for education, but we just keep spending and spending.

But I did want to take this a step further before yielding back to the gentleman from Arkansas, Dr. BOOZMAN. We're not only stealing our children's and grandchildren's futures, Dr. BROUN—and I know you know this—we are stealing their present. Now, let me explain.

First of all, Mr. Speaker, the irony of that is that in the cohort of people age 18 to 29 in this recent election, 66 percent of them voted for then-Senator, now-President, Obama. They elected him. In the 18- to 29-year-old cohort, 66 percent. Of that group, Mr. Speaker, that's the highest plurality for a President ever from that age group. I don't impugn their motive or their vote. That's what's great about this country. I'm not sure why each and every one of the 66 percent made that decision. I'm

sure they were, as I was, impressed by then-candidate Senator Obama's youth, his energy, his charisma, his communication skills, and he made promises. He made attractive promises. You know, after 8 years of an administration, people are ready for a change, and he promised them change. Indeed, I think he said a change that they could believe in. My English teacher would have changed that and said a change in which they can believe. But in any regard, it made a good sound bite.

Shortly after the President was elected and inaugurated, the President was asked by the media or asked by the minority about these policies of massive government expansion in every sphere, and his response was a glib, Elections have consequences.

Mr. Speaker, indeed, elections have consequences. That's what I'm talking about, Dr. BROUN, in regard to robbing our youth not only of their futures but of their present, because this bill that guarantees community rating and universal coverage, it drives up the cost of health insurance for all of our young, healthy 18- to 29- to 39- to 45-year-olds who are taking care of themselves, who are exercising, who are not overweight, who don't smoke. Today, they're able—in most States—to be able to get affordable health insurance because their lifestyle is less risky and because their age is less risky.

What the President and what Speaker PELOSI and Leader REID and the Democratic majority want to do is have a one-size-fits-all, where the costs for people that are in their fifties—obviously not eligible yet, Mr. Speaker, for Medicare—it will lower the cost of health insurance for them, and that's a good thing. But at the same time, it drives up significantly the cost of health insurance for those low-risk individuals. In fact, today, many young people will choose a low premium, a low monthly premium, you know, maybe \$100 a month, with a very high deductible, and they'll combine it with a health savings account. Under this plan, H.R. 3962, they will not be permitted to do that.

Mr. Speaker, we are robbing the future of the youth of America.

With that, I yield to my friend from Arkansas, Dr. BOOZMAN.

Mr. BOOZMAN. Let me just say that, again, one of the concerns that I have are the unintended consequences that are going to be as a result of the bill, as you are talking about now.

I had a gentleman call me, oh, a month or so ago, and he owns several fast food restaurants. Many of the people that he employs are part-time employees. They're high school kids going to school, working a little bit on the side, many, many college kids. He said that if this bill goes through and he's going to have to be responsible for providing coverage for all of those part-time employees—he provides the cov-

erage now for the full-time employees—he simply can't do that. In this economy, that's so tough, you know. He's barely making it now. So the first thing he's going to do is start laying off those kids. So again, the unintended consequences of them not having a job, going to school and things like that, those are the things that we're going to see so much as a result of this.

I will give you another example. This bill hits community hospitals very, very hard. The only way that you can save money is to consolidate. In Arkansas, and I know in Georgia where you gentlemen are from, there are many, many community hospitals. You start consolidating. You start ratcheting back on your community hospital. That's probably the best jobs in that community, you know, well paid and all of the ancillary things that they buy and things. It is a big part of the economy. You lose your hospital. It's not too long that you lose your physicians? You lose your doctors, you lose your providers. You lose your providers, and then at that point, you really start talking about losing these small communities.

So again, there are so many things out there that this is such a huge deal. You can be for this or against it, but the reality is that it truly is a massive increase in government.

Mr. BROUN of Georgia. Would the gentleman yield?

Mr. BOOZMAN. Very much so. The only other point I would make is that, from Washington, the important aspects of health care—who does what, who gets paid or whatever—are going to come out of Washington, D.C., versus from a myriad of places right now.

Mr. BROUN of Georgia. Well, I appreciate that, Dr. BOOZMAN. I practiced medicine for a few years in Blakely, Georgia, a town of 5,000 people. We had a small community hospital there. I moved from there to Americus, Georgia, which has 17,000 people; 25,000 in Sumter County, Georgia, both down in rural southwest Georgia.

We had a regional hospital in Sumter County, an excellent regional hospital. At the time I was there, we had a little over 30 doctors in Americus, Georgia. We had just about any specialty, except for neurosurgery and neurology, in that community.

Then from there, the Lord moved me to Oconee County, just outside of Athens, Georgia, where I still live today. Athens is a town of a little over 100,000 people. There are two hospitals in Athens, Georgia. St. Mary's, I am on the foundation board. I have worked with St. Mary's Hospital. It's a Catholic hospital. I have worked with them for years, trying to help provide care for indigents and people that don't have insurance and to help that hospital be viable. But we also have Athens Regional Hospital.



□ 2145

Now that I am a Member of Congress, I represent the northeast corner of the State of Georgia, and we have a lot of small community hospitals scattered through my congressional district in Hart County and Elbert County and Thomson, which is McDuffie County, and a lot of these, and I can go on. There are many small rural hospitals.

Now, back to something I just said earlier in Hosea 4:6: My people are destroyed for lack of knowledge. What it's going to do if the Pelosi bill, this one right here in front of me, is passed into law, small rural community hospitals all over this country are going to close down. Small communities are going to have all those people who work there be jobless. They are going to be put out of work.

Folks are going to have to drive miles and miles to those regional hospitals to get the health care that they so ably deserve. This is not a health care bill. This is a health insurance bill to set up—in fact, the President himself has said he wants to establish socialized medicine where the Federal Government is the only insurer. This bill is the step that they need to put that into place.

That's exactly why the progressives, I call them Marxists, because that's really their philosophy is Marxism or communism, socialism, is based upon, this bill is a step to go to that socialized medicine. But not only the health care markets and small community hospitals are going to be put out of a job. The President's economic adviser has said 5.5 million people are going to lose their job, so it's going to destroy jobs all over America.

Mr. Speaker, if the American people could see this document and understand how onerous it is, they would say "no," and they should. This is the Republican alternative that's going to be considered on and voted on Saturday. Look at the difference in the size.

The Republican Party is the Party of Know, k-n-o-w, know. We know how to lower the cost of health insurance for everybody in this country and let the doctor-patient relationship be how health care decisions are made. This bill is going to put a bureaucrat from Washington D.C., making health care decisions for every single person in this country.

Mr. GINGREY of Georgia. Reclaiming my time, I think the gentleman is making some excellent points, but we do want to have a moment to talk about our alternative. Dr. BROUN is holding that up now, the 261-page Republican alternative that's fully paid for, that cuts insurance premiums on average by 10 percent across the board, according to the CBO, and saves \$65 billion over 10 years.

I am going to yield back to Dr. BOOZMAN. Before I ask him to go through a couple of slides with us, I want to point

one out to our colleagues, this second opinion. I talked about this earlier, about these great Americans that were up here today, as Dr. BROUN referenced. They were making a House call on the House, their House, the people's House, absolutely.

Their second opinion included, I talked about that prescription: dispense no money to pay for abortions, dispense no money to pay for illegal immigrants, dispense no money to let a big government bureaucracy take over our health care system and come between our great doctors and their patients, indeed, our constituents. But also in their second opinion they are going to say and they did say today, many of them are wearily driving back home now, but they said, and I point out in this slide: patients don't want government-run health care, period.

Now, I am going to yield to Dr. BOOZMAN for a few minutes, because I have got a couple of slides. I hope he can see those. He should; he is an optometrist. He knows about eyesight. I will lend him my glasses if he needs them. But we will go through a couple of bullet points and talk about things that people are outraged, Mr. Speaker, outraged over.

It's unbelievable, but I will yield to Dr. BOOZMAN and let him talk about it.

Mr. BOOZMAN. Well, again, our first point that it is not government-run health care, and we have alluded to that earlier. We don't federalize 16 percent of the economy. We don't cut seniors to pay for health reform.

Again, I have 25,000 Advantage members. The Advantage Program is so important to them. Also, the other Medicare cuts, you can't increase the population by 30 percent that you are going to serve, not give them any more resources. Something is going to give and the quality of care will suffer with the Pelosi plan.

It doesn't raise the deficit. Your fourth point, health care choices, not government mandates. Then, again, this is a bipartisan compromise.

The other thing I would add, I heard the discussion earlier, people from Arkansas, it just drives them crazy when they hear us talking about giving, allowing illegal immigrants to buy subsidized health care programs. I mean, that's something that they just don't understand.

I am very much opposed to that. I know that you all are very much opposed to that.

But, again, that's something that the majority of this country does not understand, why we would want to do that. Our country is struggling. We are barely—I get the phone calls, as an optometrist, a provider. I used to see people all the time that couldn't afford their health care. That's what we are trying to do to fix.

But the idea, like I say, of giving illegal immigrants subsidies such that

they can buy makes no sense at all to the average American. That's one of the reasons so many people are opposed to this is things like this in the bill.

Mr. BROUN of Georgia. Some people may say that that's a racist comment you just made.

First thing, they are not immigrants. They are aliens, they are law breakers, they are criminals, and they need to go home. We certainly should not give them taxpayer subsidies, not only health care but a lot of the taxpayer subsidies, and they are getting them today. In spite of being against the law getting Medicaid, SCHIP, they are getting those things today because they have fraudulent Social Security numbers, fraudulent driver's licenses. They are criminals. They need to go home.

I want to tell you, I have been accused of being a racist by saying things like that. But I also volunteer as a medical doctor at a clinic called Mercy Clinic in Athens, Georgia, and the vast majority of people that come to that are illegal aliens, people who have no insurance. I have devoted my time, and there are 40-some-odd doctors in our community that devoted our time to go take care of sick people who need our help.

I have a heart for them, but I also believe in the law.

Mr. GINGREY of Georgia. Reclaiming my time, Dr. BROUN, as I referred to him earlier as a modern day Dr. Welby, I like the compassion, and I know that he treats people without regard of their ability to pay, and he is a good man.

I wanted to go back to Dr. BOOZMAN because we got into talking about the cost. This next slide, and I want my colleagues to look closely, please. I hope you can see this because these three bullet points are hugely important. I will ask Dr. BOOZMAN to begin to comment on the very first one.

Because on this chart, on this slide, this is how the Democrats, the Pelosi health reform bill comes up with the \$1.055 trillion to so-call pay for this thing and not add one dime, as they say, to the deficit.

Mr. BOOZMAN. Right. Well first one, no \$570 billion in Medicare cuts, which again is such a concern to seniors and why they are very much, I think, as a group, opposed to this bill, at least in the Third District of Arkansas. No 700 billion in taxes on employers and citizens. Again, small business is very, very concerned about the impact that this is going to have on their businesses.

No taxing States. The Medicaid increases, Dr. BROUN alluded to that earlier. That's going to be a huge impact on our States, and the States have to either raise taxes or cut services in order to provide that service. Again, that's a real problem.

Mr. GINGREY of Georgia. Dr. BOOZMAN, I don't think there is anything

about raising Medicare coverage to 150 percent and putting this burden on the back of States in the Republican bill, is there?

Mr. BOOZMAN. No, not at all. In fact, I think an unintended consequence that we might see that people need to look at is many of our State county employees, city employees, our teachers, I don't think that they will meet the mandate that is pushed forward in the Pelosi plan. I think that will up their costs greatly at the State level. Again, that's going to have to be taken through increased property taxes and things like that to pay that bill. So many unintended consequences.

Mr. GINGREY of Georgia. Dr. BOOZMAN, I did want to go back to my first bullet point. Again, my colleagues, I refer you to this slide that's on the easel, "no \$570 billion in Medicare cuts."

If the camera could focus on Dr. BROUN for a second, because that bill, that bill, H.R. 3962, is right in front of him. I am glad he is not trying to hold it, because we would be working on his back tomorrow; he would probably be in a back brace.

But in that bill, that \$1.055 trillion pay-for includes this \$570 billion, \$570 billion cuts in Medicare.

Dr. BOOZMAN, would you elaborate on some of those cuts and why that should be of some concern to our seniors, because the folks on the other side of the aisle, Dr. BOOZMAN, Dr. BROUN, Mr. Speaker, my colleagues, just an hour ago said they don't need to worry about that; they are not going to hurt them. They are going to be okay. Let's talk about that a little bit.

Mr. BROUN of Georgia. They lie. They lie.

Mr. BOOZMAN. Well, I will just say this—

Mr. GINGREY of Georgia. Well, you know like some others on this side of the body Dr. BROUN just spoke out of turn, but we will forgive him for that.

I will yield now officially to the gentleman from Arkansas.

Mr. BOOZMAN. Well, we have a situation where Medicare gets in big trouble and goes broke in 2017 without aid. I have many people call me, I know that you guys do too, that have moved to town, you know, that maybe their mom has moved in or something, they can't find a Medicare provider now because physicians, because we are not paying them what it takes to see some of these patients.

They are starting to either not accept new Medicare patients, or they are limiting the Medicare patients that they already see. Again, we are already seeing a form of rationing.

So to make 570 billion in cuts, with that going on, it's just makes no sense at all. If anything, we need to be shoring up Medicare.

The other thing, too, is that they add significant increased population, in-

creased patients to the thing. We already have 10 percent-plus. I think everyone agrees it's at least 10 percent in fraud and abuse.

Why increase the system? Why not take care of the problems that we have got now, shore it up so we don't have problems in 2017 before we just throw more money into it and just create even more problems?

Mr. GINGREY of Georgia. Dr. BOOZMAN, reclaiming my time, I am so glad you elaborate on that \$570 billion Medicare cut, because that's 12 percent a year over the next 10 years. We are not spending \$570 billion today on Medicare; I can assure you we will in the very near future, but we are not today. So a \$570 billion cut is more than what our yearly expenditure is today on Medicare. So over a 10-year period of time, about a 12 percent cut. The most egregious cut is coming from Medicare Advantage. Some 120-something billion dollars, a 17 percent cut per year, from that program.

Well, if that program was just some fluke that a few seniors signed up for and it wasn't that good of a program and we were wasting money on it, that would be one thing, Mr. Speaker. But 20 percent of our seniors are Medicare patients. They love it; they love it.

They get prescription drug coverage so they don't have to sign up for part D and pay that extra monthly premium. They get an annual physical. You don't get that in Medicare fee-for-service. They get screening, they get follow up, they have a nurse practitioner call them after their appointments to make sure they are taking their medication. They have a nurse call them when it's time for the next appointment, and they are staying healthy. The President and the majority party and all of us agree that preventive care is cheaper than treating the illness.

Yet you want to cut that program? That's bizarre to me.

□ 2200

I want to yield to my friend from Athens, Dr. BROUN. He may want to discuss the \$700 billion in taxes in addition to the Medicare cuts and where that is going to come from and whose back is that on. Is this from the ultra-rich, Bill Gates and Warren Buffett and folks like that?

Mr. BROUN of Georgia. Yes, they are going to pay higher taxes. Everybody in this country is going to pay higher taxes, from the extremely rich to the poorest people; but most of those taxes will come on the backs of the small businesses. That is the reason that the President's own economic adviser has said that 5.5 million jobs in America are going to be destroyed. People are going to be put out of work because of that tax burden that is placed on small businesses.

This whole bill, this Pelosi health care takeover, is going to destroy

America. It is going to destroy everything we have in America.

Let me tell you a little story. Recently, I was talking to one of the Blue Dog Democrats, and I asked him to show me in this document where NANCY PELOSI has the constitutional authority to take over the health care system in America. He could not because this is unconstitutional.

Mr. GINGREY of Georgia. Mr. Speaker, we have just a few minutes left. This bill that we are talking about, H.R. 3962, this bill that we will be voting on on Saturday, this massive increase in bureaucracy, when it came through the Energy and Commerce Committee, I counted that it had 53 czars. I think we are up to 120 now. But the most egregious of all the czars that have been created through this bureaucratic bill is someone called the health choices administrator.

Now the health choices administrator is the person who is going to say what has to be in every health plan. That is why I was talking about driving up the prices for the youth of America, and why we are robbing from their present as well as their future. This health choices administrator is going to be more powerful than the Social Security administrator. They are going to decide not only are we going to force you to buy insurance or we are going to charge you a 2 percent fine, maybe put you in jail, or force your employers to provide insurance for your employees or fine you 8 percent, or maybe put you in jail, too. The person that is making those decisions on what type of plan is offered, and, Mr. Speaker, I am sure these low-premium, high-deductible health savings accounts are the types that young people love because it gives them protection against "horrendoplasty," as we call it in medicine, a terrible car accident which causes them to lose a limb, and every bit of their financial wherewithal.

Here on this slide is a caricature of the health choices administrator. The gentleman from Georgia recognizes him because he ran Hazard County, Georgia. His name was Boss Hogg. Some may be too young to remember the "Dukes of Hazard," but Boss Hogg, he made all of the decisions. He was the health choices administrator. And Boss Hogg says, kind of like Big Boss Hogg says, the President of the United States, you can have whatever you like as long as the boss approves it. As long as the boss approves it.

Let me just conclude by saying the people that came up here today had a prescription for America, and they told us, and I had one, too. I had it in my pocket, I just didn't have a chance to share it.

Here is my 10 prescriptions for a healthy America:

No government-run health care plan. No cuts to senior care.

No new deficit spending. The President promised that.

No new taxes. That is in the Republican bill.

No rationing of care. The seniors don't want to get thrown under the bus, but they will under H.R. 3962.

No employer mandate. It is unconstitutional to force them. We want to encourage them. We want to lower the prices, as the Republican bill does, so they can get health care insurance, but in a voluntary way.

And we don't want to have taxpayer-funded coverage for illegal immigrants.

And we don't want to pay for abortions with taxpayer dollars.

Mr. Speaker, thank you for your patience. We will be back tomorrow night. God bless you and good evening.

#### LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. PATRICK J. MURPHY of Pennsylvania (at the request of Mr. HOYER) for today on account of the birth of a child.

#### SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. MCDERMOTT) to revise and extend their remarks and include extraneous material:)

Mr. TOWNS, for 5 minutes, today.

Ms. WOOLSEY, for 5 minutes, today.

Mr. BISHOP of New York, for 5 minutes, today.

Mr. DEFAZIO, for 5 minutes, today.

Mr. MCDERMOTT, for 5 minutes, today.

Mr. SESTAK, for 5 minutes, today.

Ms. KAPTUR, for 5 minutes, today.

Ms. CHU, for 5 minutes, today.

(The following Members (at the request of Mr. ROE of Tennessee) to revise and extend their remarks and include extraneous material:)

Mr. MORAN of Kansas, for 5 minutes, November 6.

Mr. REHBERG, for 5 minutes, November 6.

Mr. POE of Texas, for 5 minutes, November 7 and 12.

Mr. JONES, for 5 minutes, November 7 and 12.

Mr. ROE of Tennessee, for 5 minutes, today and November 6.

Mr. DUNCAN, for 5 minutes, today.

Ms. ROS-LEHTINEN, for 5 minutes, November 7.

Mr. GOODLATTE, for 5 minutes, today.

(The following Members (at their own request) to revise and extend their remarks and include extraneous material:)

Mr. LINCOLN DIAZ-BALART of Florida, for 5 minutes, today.

Mr. GOHMERT, for 5 minutes, today.

#### ENROLLED BILL SIGNED

Mr. Lorraine C. Miller, Clerk of the House, reported and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker:

H.R. 3548. An act to amend the Supplemental Appropriations Act, 2008 to provide for the temporary availability of certain additional emergency unemployment compensation, and for other purposes.

#### BILLS PRESENTED TO THE PRESIDENT

Lorraine C. Miller, Clerk of the House reports that on October 30, 2009, she presented to the President of the United States, for his approval, the following bills.

H.R. 3606. To amend the Truth in Lending Act to make a technical correction to an amendment made by the Credit CARD Act of 2009

H.R. 2996. Making appropriations for the Department of the Interior, environment, and related agencies for the fiscal year ending September 30, 2010, and for other purposes

#### ADJOURNMENT

Mr. BROUN of Georgia. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 10 o'clock and 6 minutes p.m.), the House adjourned until tomorrow, Friday, November 6, 2009, at 9 a.m.

#### OATH OF OFFICE MEMBERS, RESIDENT COMMISSIONER, AND DELEGATES

The oath of office required by the sixth article of the Constitution of the United States, and as provided by section 2 of the act of May 13, 1884 (23 Stat. 22), to be administered to Members, Resident Commissioner, and Delegates of the House of Representatives, the text of which is carried in 5 U.S.C. 3331:

"I, AB, do solemnly swear (or affirm) that I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties of the office on which I am about to enter. So help me God."

has been subscribed to in person and filed in duplicate with the Clerk of the House of Representatives by the following Member of the 111th Congress, pursuant to the provisions of 2 U.S.C. 25:

JOHN GARAMENDI, California, Tenth.

#### EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of Rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

4515. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 18-229, "Anacostia Business Improvement District Amendment Act of 2009", pursuant to D.C. Code section 1-233(c)(1); to the Committee on Oversight and Government Reform.

4516. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Sabine-Neches Canal, Intracoastal Waterway Mile Markers 279, Port Arthur, TX [COTP Port Arthur-07-003] (RIN: 1625-AA00) received October 15, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4517. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Sabine-Neches Canal, Intracoastal Waterway Mile Markers 281, Port Arthur, TX [COTP Port Arthur-07-002] (RIN: 1625-AA00) received October 15, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4518. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Sabine-Neches Canal, Sabine River, Orange, TX [COTP Port Arthur-07-001] (RIN: 1625-AA00) received October 15, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4519. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Main Street Oceanside Fireworks Display; Oceanside Pier, Oceanside, California [COTP San Diego 06-052] (RIN: 1625-AA00) received October 15, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4520. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Ocean Beach Pier, Ocean Beach, CA [COTP San Diego 06-052] (RIN: 1625-AA00) received October 15, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4521. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Mission Bay, San Diego, CA [COTP San Diego 06-052] (RIN: 1625-AA00) received October 15, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4522. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Mission Bay, San Diego, CA [COTP San Diego 06-052] (RIN: 1625-AA00) received October 15, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4523. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; San Diego, San Diego, CA [COTP San Diego 06-052] (RIN: 1625-AA00) received October 15, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4524. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Safety

Zone: Surf City, NC [CGD05-05-062—tfr] (RIN: 1625-AA00) Received October 15, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4525. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Mission Bay, San Diego, CA [COTP San Diego 06-052] (RIN: 1625-AA00) received October 15, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4526. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Pungo Ferry Bridge, North Landing River, VA [CGD05-06-012] (RIN: 1625-AA00) received October 15, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4527. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; San Diego Bay, San Diego, CA [COTP San Diego 06-051] (RIN: 1625-AA00) received October 15, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4528. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Special Local Regulations for Marine Events; Chesapeake Bay Bridge Swim Races, Chesapeake Bay, MD [CGD05-06-022] (RIN: 1625-AA08) received October 15, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4529. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; San Diego Bay, San Diego, CA [COTP San Diego 06-051] (RIN: 1625-AA00) received October 15, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4530. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Potomac River, St. George Creek, Piney Point, Maryland [CGD05-06-095] (RIN: 1625-AA87) received October 15, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4531. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Fireworks, Lower Colorado River, Laughlin, NV [COTP San Diego 06-025] (RIN: 1625-AA00) received October 15, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4532. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Lower Colorado River, Laughlin, NV [COTP San Diego 06-025] (RIN: 1625-AA00) received October 15, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4533. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; North San Diego Bay, San Diego, CA [COTP San Diego 06-022] (RIN: 1625-AA00) received October 15, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4534. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Chester, Pennsylvania; Marcus Hook, Pennsylvania; and Essington, Pennsylvania [CGD05-06-099] (RIN: 1625-AA00) received October 15, 2009, pursuant to 5 U.S.C.

801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4535. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Crazy Horse Campground, Lake Havasu, Arizona [COTP San Diego 06-017] (RIN: 1625-AA00) received October 15, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4536. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Colorado River, Parker, AZ [COTP San Diego 06-011] (RIN: 1625-AA00) received October 15, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4537. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Special Local Regulations for Marine Events; Approaches to Annapolis Harbor, Spa Creek and Severn River, Annapolis, MD [CGD05-06-102] (RIN: 1625-AA08) received October 15, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4538. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Live-Fire Gun Exercises; San Diego, off of Point Loma, CA [COTP San Diego 06-003] (RIN: 1625-AA00) received October 15, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4539. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Chesapeake Bay, Chesapeake Channel, MD [CGD05-06-077] (RIN: 1625-AA00) received October 15, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4540. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Hopewell Christmas Parade Fireworks, Appomattox River, Hopewell, VA [CGD05-06-107] (RIN: 1625-AA00) received October 15, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4541. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Safety Zone for Marine Events; Pasquotank River, Atlantic Intra-Coastal Waterway, Elizabeth City, North Carolina [CGD05-06-073] (RIN: 1625-AA00) received October 15, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4542. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Potomac River, Alexandria Channel, DC [CGD05-06-111] (RIN: 1625-AA00) received October 15, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4543. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Special Local Regulations for Marine Events; Harborfest 2006, Norfolk Harbor, Elizabeth River, Norfolk and Portsmouth, VA [CGD05-06-061] (RIN: 1625-AA08) received October 15, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4544. A letter from the Attorney Advisor, Department of Homeland Security, transmitting

the Department's final rule — Security Zone: Satellite Launch, NASA Wallops Flight Facility, Wallops Island, VA [CGD05-06-115] (RIN: 1625-AA00) received October 15, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4545. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Special Local Regulations for Marine Events; Hampton River, Hampton, VA [CGD05-06-058] (RIN: 1625-AA08) received October 15, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4546. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Potomac River, Alexandria Channel, DC [CGD05-06-116] (RIN: 1625-AA00) received October 15, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4547. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Gulf of Mexico, FL [COTP St. Petersburg 07-184] (RIN: 1625-AA00) received October 15, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4548. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Sabine-Neches Canal, Intracoastal Waterway Mile Markers 281, Port Arthur, TX [COTP Port Arthur-07-005] (RIN: 1625-AA00) received October 15, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4549. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Moving Safety Zone; Gulf of Mexico; Sabine Pass, Texas; Port Arthur, Texas [COTP Port Arthur-07-006] (RIN: 1625-AA00) received October 15, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4550. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Sabine-Neches Canal, Intracoastal Waterway Mile Markers 284-285, Port Arthur, TX [COTP Port Arthur-07-007] (RIN: 1625-AA00) received October 15, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4551. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Fireworks Display, Chesapeake Bay, Tred Avon River, Oxford, MD [CGD05-06-056] (RIN: 1625-AA00) received October 15, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4552. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Sabine-Neches Canal, Sabine River, Orange, TX [COTP Port Arthur-07-008] (RIN: 1625-AA00) received October 15, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4553. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Gulf of Mexico, Posit 29°46'20"N 093°11'38"W [COTP Port Arthur-07-009] (RIN: 1625-AA00) received October 15, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4554. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Safety

Zone; Back River, Hampton, VA [CGD05-06-050] (RIN: 1625-AA00) received October 15, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4555. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Gulf of Mexico, Posit 29°5'54"N 093°11'36"W [COTP Port Arthur-07-010] (RIN: 1625-AA00) received October 15, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4556. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Security Zone; Potomac River, Washington Channel, Washington, DC [CGD-06-034] (RIN: 1625-AA87) received October 15, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4557. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Neches River, Beaumont Texas [COTP Port Arthur-07-011] (RIN: 1625-AA00) received October 15, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4558. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Special Local Regulations for Marine Events; Great Egg Harbor, Somers Point, NJ [CGD05-06-032] (RIN: 1625-AA08) received October 15, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4559. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Security Zone; Savannah River, Savannah, GA [COTP Savannah-07-259] (RIN: 1625-AA87) received October 15, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4560. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Gulf Intracoastal Waterway (GIW), Hackberry, LA [COTP Port Arthur-07-012] (RIN: 1625-AA00) received October 15, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4561. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Security Zone; Savannah River, Savannah, GA [COTP Savannah-07-248] (RIN: 1625-AA87) received October 15, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4562. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Sabine River, Orange, TX [COTP Port Arthur-07-013] (RIN: 1625-AA00) received October 15, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4563. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Security Zone; Savannah River, Savannah, GA [COTP Savannah-07-017] (RIN: 1625-AA00) received October 15, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4564. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Security Zone; Savannah River, Savannah, GA [COTP Savannah-07-078] (RIN: 1625-AA87) received

October 15, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4565. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Security Zone; Savannah River, Savannah, GA [COTP Savannah-07-247] (RIN: 1625-AA87) received October 15, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4566. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Security Zone; Savannah River, Savannah, GA [COTP Savannah-07-159] (RIN: 1625-AA87) received October 15, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4567. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Savannah River, Hutchinson Island, Savannah, GA [COTP Savannah-07-166] (RIN: 1625-AA00) received October 15, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4568. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Security Zone; Savannah River, Savannah, GA [COTP Savannah-07-243] (RIN: 1625-AA87) received October 15, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4569. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Security Zone; Savannah River, Savannah, GA [COTP Savannah-07-168] (RIN: 1625-AA87) received October 15, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4570. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Security Zone; Savannah River, Savannah, GA [COTP Savannah-07-239] (RIN: 1625-AA87) received October 15, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4571. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Security Zone; Savannah River, Savannah, GA [COTP Savannah-07-182] (RIN: 1625-AA87) received October 15, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4572. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Container Berth 1, Savannah River, Savannah, GA [COTP Savannah-07-188] (RIN: 1625-AA00) received October 15, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4573. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Security Zone; Savannah River, Savannah, GA [COTP Savannah-07-189] (RIN: 1625-AA87) received October 15, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4574. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Security Zone; Savannah River, Savannah, GA [COTP Savannah-07-211] (RIN: 1625-AA87) received October 15, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4575. A letter from the Attorney Advisor, Department of Homeland Security, transmit-

ting the Department's final rule — Security Zone; Savannah River, Savannah, GA [COTP Savannah-07-236] (RIN: 1625-AA87) received October 15, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

## REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. TOWNS: Committee on Oversight and Government Reform. H.R. 1849. A bill to designate the Liberty Memorial at the National World War I Museum in Kansas City, Missouri, as the National World War I Memorial, to establish the World War I centennial commission to ensure a suitable observance of the centennial of World War I, and for other purposes; with an amendment (Rept. 111-329, Pt. 1). Referred to the Committee of the Whole House on the State of the Union.

### DISCHARGE OF COMMITTEE

Pursuant to clause 2 of rule XII the Committee on Natural Resources discharged from further consideration. H.R. 1849 referred to the Committee of the Whole House on the State of the Union, and ordered to be printed.

## PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions of the following titles were introduced and severally referred, as follows:

By Mr. HASTINGS of Washington (for himself and Mr. MCCLINTOCK):

H.R. 4027. A bill to amend the Hoover Power Plant Act of 1984 to ensure that project beneficiaries are solely responsible for repaying the costs of Western Area Power Administration power transmission and delivery projects, and for other purposes; to the Committee on Natural Resources.

By Mr. WU (for himself, Mr. ALTMIRE, Mr. BLUMENAUER, Ms. BORDALLO, Mr. CHILDERS, Mr. COURTNEY, Mr. DeFAZIO, Mr. GORDON of Tennessee, Mr. HILL, Mr. HINCHAY, Mr. HINOJOSA, Mr. KAGEN, Mr. MINNICK, Mr. PETERSON, Mr. PIERLUISI, Mr. ROSS, Mr. SALAZAR, Mr. SCHRADER, Mr. WALZ, and Mr. WILSON of Ohio):

H.R. 4028. A bill to amend title 38, United States Code, to improve services for veterans residing in rural areas; to the Committee on Veterans' Affairs.

By Mr. DICKS (for himself, Mr. BAIRD, Mr. SMITH of Washington, Mr. LARSEN of Washington, Mr. McDERMOTT, Mr. INSLEE, and Mr. REICHERT):

H.R. 4029. A bill to amend the Federal Water Pollution Control Act to provide assistance for programs and activities to protect the water quality of Puget Sound, and for other purposes; to the Committee on Transportation and Infrastructure.

By Mr. DENT:

H.R. 4030. A bill to suspend temporarily the duty on Triethylenediamine; to the Committee on Ways and Means.

By Ms. BALDWIN:

H.R. 4031. A bill to amend the Energy Policy and Conservation Act to establish a motor efficiency rebate program; to the Committee on Energy and Commerce.

By Mr. BRADY of Texas:

H.R. 4032. A bill to amend the Internal Revenue Code of 1986 to extend the first-time homebuyer tax credit and to eliminate the first-time homebuyer requirement and increase the adjusted gross income limitations with respect to such credit, and for other purposes; to the Committee on Ways and Means.

By Mr. ISRAEL:

H.R. 4033. A bill to require the Election Assistance Commission to establish an American Democracy Index to measure and improve the quality of voter access to polls and voter services in Federal elections; to the Committee on House Administration.

By Mr. KISSELL (for himself and Mr. ETHERIDGE):

H.R. 4034. A bill to amend title 10, United States Code, to authorize the Secretary of the Army to lease portions of the Airborne and Special Operations Museum facility to the Airborne and Special Operations Museum Foundation to support operation of the Museum; to the Committee on Armed Services.

By Mr. MARCHANT:

H.R. 4035. A bill to amend the Internal Revenue Code of 1986 to allow the estate of a decedent to use the capital loss carryover of the decedent as a deduction against estate tax; to the Committee on Ways and Means.

By Mr. PAYNE:

H.R. 4036. A bill to authorize National Mall Liberty Fund D.C. to establish a memorial on Federal land in the District of Columbia to honor free persons and slaves who fought for independence, liberty, and justice for all during the American Revolution; to the Committee on Natural Resources.

By Mr. FORTENBERRY:

H. Con. Res. 209. Concurrent resolution recognizing the 30th anniversary of the Iranian hostage crisis, during which 52 United States citizens were held hostage for 444 days from November 4, 1979, to January 20, 1981, and for other purposes; to the Committee on Foreign Affairs.

By Ms. LORETTA SANCHEZ of California (for herself, Mr. THOMPSON of Mississippi, Mr. OBERSTAR, Mr. KING of New York, Mr. MICA, Mr. CUMMINGS, Mr. LOBIONDO, Mr. SOUDER, Ms. HARMAN, Mr. MCCAUL, Mr. CUELLAR, Mr. ROGERS of Alabama, Mr. CARNEY, Mr. BILIRAKIS, Ms. ZOE LOFGREN of California, Mr. DANIEL E. LUNGREN of California, Mr. CLEAVER, Mr. DENT, Ms. NORTON, Mrs. MILLER of Michigan, Ms. RICHARDSON, Mr. CAO, Mr. AL GREEN of Texas, Mr. OLSON, Mr. LUJÁN, Mr. BROWN of Georgia, Mrs. KIRKPATRICK of Arizona, Mr. MASSA, and Mr. HIMES):

H. Res. 891. A resolution expressing the gratitude of the House of Representatives for the service to our Nation of the Coast Guard and Marine Corps aircraft pilots and crewmembers lost off the coast of California on October 29, 2009, and for other purposes; to the Committee on Transportation and Infrastructure, and in addition to the Committee on Armed Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. BERMAN (for himself, Mr. WEXLER, Mr. DELAHUNT, Ms. BERKLEY, Mr. COSTA, Ms. KAPTUR, and Mr. LIPINSKI):

H. Res. 892. A resolution recognizing the 20th anniversary of the remarkable events leading to the end of the Cold War and the creation of a Europe, whole, free, and at peace; to the Committee on Foreign Affairs.

By Mr. SERRANO (for himself, Mr. ACKERMAN, Mr. ARCURI, Mr. BACA, Mr. BISHOP of New York, Ms. BORDALLO, Ms. CLARKE, Mr. CROWLEY, Ms. DELAUNO, Mr. DICKS, Mr. ENGEL, Mr. GONZALEZ, Mr. GRIJALVA, Mr. GUTIERREZ, Mr. HALL of New York, Mr. HIGGINS, Mr. HINCHEY, Mr. HINOJOSA, Mr. KING of New York, Mr. ISRAEL, Mr. LARSON of Connecticut, Mr. LEWIS of Georgia, Mrs. LOWEY, Mrs. MALONEY, Mrs. MCCARTHY of New York, Ms. MCCOLLUM, Mr. MCMAHON, Mr. MEEKS of New York, Mr. MURPHY of New York, Mr. NADLER of New York, Mrs. NAPOLITANO, Ms. NORTON, Mr. OBEY, Mr. ORTIZ, Mr. PASCRELL, Mr. PASTOR of Arizona, Mr. PIERLUISI, Mr. REYES, Mr. RODRIGUEZ, Mr. ROTHMAN of New Jersey, Mr. SALAZAR, Mr. SIREN, Mr. THOMPSON of California, Mr. TONKO, Ms. VELÁZQUEZ, Mr. ALEXANDER, Mr. PAYNE, Mr. WAMP, Mr. REHBERG, Mr. HOLT, Mr. DAVIS of Kentucky, Mr. ABERCROMBIE, Mr. HONDA, Mr. KUCINICH, Ms. BERKLEY, Mr. WEXLER, Mr. BISHOP of Georgia, Mr. WATT, Mr. RANGEL, Ms. WASSERMAN SCHULTZ, Mr. MASSA, Mr. GRAYSON, Ms. HIRONO, Mr. MAFFEI, Mr. LINCOLN DIAZ-BALART of Florida, Mr. SABLÁN, and Mr. UPTON):

H. Res. 893. A resolution congratulating the 2009 Major League Baseball World Series Champions, the New York Yankees; to the Committee on Oversight and Government Reform.

By Mr. CONYERS (for himself, Mr. GRIJALVA, Mr. MCGOVERN, and Mr. ABERCROMBIE):

H. Res. 894. A resolution honoring the 50th anniversary of the recording of the album "Kind of Blue" and reaffirming jazz as a national treasure; to the Committee on the Judiciary.

## ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 182: Ms. CHU.  
H.R. 197: Mr. CAMPBELL.  
H.R. 198: Mr. WITTMAN.  
H.R. 208: Mr. SESSIONS.  
H.R. 272: Ms. FOXX and Mr. HERGER.  
H.R. 305: Ms. DELAUNO.  
H.R. 417: Mr. FALDOMAVALGA, Mr. FATTAH, Ms. SCHAKOWSKY, Ms. MOORE of Wisconsin, Ms. WOOLSEY, Mr. OBERSTAR, Mr. HONDA, and Mr. SIREN.  
H.R. 502: Mr. KLINE of Minnesota.  
H.R. 510: Mr. MELANCON.  
H.R. 521: Mr. MANZULLO.  
H.R. 564: Mr. PASCRELL, Ms. HIRONO, and Mr. NADLER of New York.  
H.R. 571: Mr. WATT.  
H.R. 644: Mr. PERRIELLO.  
H.R. 678: Mr. ROTHMAN of New Jersey, Mr. YARMUTH, and Mr. CLAY.  
H.R. 734: Mr. ALTMIRE, Mr. GERLACH, and Ms. MARKEY of Colorado.  
H.R. 739: Ms. LEE of California.  
H.R. 901: Ms. SUTTON and Ms. KILPATRICK of Michigan.  
H.R. 930: Mr. TOWNS.  
H.R. 1020: Mr. GRAYSON, Mr. CLAY, Mr. WERNER, and Mr. RUSH.  
H.R. 1067: Mr. ROE of Tennessee.  
H.R. 1079: Mr. BARROW.  
H.R. 1086: Mrs. BONO MACK.  
H.R. 1126: Mr. WELCH.

H.R. 1157: Mr. COHEN.  
H.R. 1159: Ms. BERKLEY.  
H.R. 1175: Mr. HOLT, Mr. WU, and Ms. KILROY.  
H.R. 1189: Mrs. NAPOLITANO.  
H.R. 1207: Mr. WEINER and Mr. KISSELL.  
H.R. 1220: Mr. SHUSTER.  
H.R. 1326: Ms. LEE of California.  
H.R. 1347: Mr. KENNEDY.  
H.R. 1396: Mr. DOGGETT.  
H.R. 1475: Mr. MEEKS of New York.  
H.R. 1547: Mr. BLUNT.  
H.R. 1623: Ms. BERKLEY.  
H.R. 1806: Mr. DAVIS of Alabama and Ms. MATSUI.  
H.R. 1818: Mr. COHEN.  
H.R. 1827: Mr. KISSELL and Ms. LINDA T. SANCHEZ of California.  
H.R. 1831: Mr. CAMP.  
H.R. 1855: Mr. COURTNEY.  
H.R. 1925: Mr. BARROW and Ms. ROYBAL-ALLARD.  
H.R. 2251: Mr. ROTHMAN of New Jersey and Mr. YOUNG of Alaska.  
H.R. 2254: Mr. HEINRICH.  
H.R. 2279: Mr. CONNOLLY of Virginia and Ms. LORETTA SANCHEZ of California.  
H.R. 2296: Mr. CAMPBELL.  
H.R. 2324: Mr. MEEKS of New York and Mr. RANGEL.  
H.R. 2365: Ms. WASSERMAN SCHULTZ.  
H.R. 2452: Ms. LORETTA SANCHEZ of California, Mr. SESTAK, Ms. HARMAN, Mr. TOWNS, Mr. FARR, Mrs. CAPPES, Ms. MATSUI, and Ms. WATSON.  
H.R. 2478: Mr. GEORGE MILLER of California.  
H.R. 2560: Ms. GIFFORDS.  
H.R. 2573: Mr. QUIGLEY.  
H.R. 2579: Mr. DOGGETT.  
H.R. 2626: Mr. GRAYSON.  
H.R. 2648: Mr. SABLÁN.  
H.R. 2746: Mr. CLAY, Mr. HONDA, and Mr. GRIJALVA.  
H.R. 2866: Mr. SPRATT and Mr. YOUNG of Florida.  
H.R. 2894: Mr. KANJORSKI and Mr. SHULER.  
H.R. 2932: Ms. DELAUNO and Ms. MCCOLLUM.  
H.R. 3002: Mr. GOODLATTE and Mr. PITTS.  
H.R. 3012: Mr. DONNELLY of Indiana.  
H.R. 3048: Mr. GRAYSON.  
H.R. 3077: Mr. PUTNAM, Mrs. NAPOLITANO, and Ms. JACKSON-LEE of Texas.  
H.R. 3191: Mr. SESTAK.  
H.R. 3227: Mr. BRALEY of Iowa.  
H.R. 3238: Mr. WELCH.  
H.R. 3245: Ms. KILPATRICK of Michigan.  
H.R. 3328: Mr. BISHOP of Georgia, Mr. CLAY, Ms. MOORE of Wisconsin, Ms. CORRINE BROWN of Florida, Ms. NORTON, and Ms. RICHARDSON.  
H.R. 3359: Ms. MCCOLLUM, Mr. THOMPSON of California, Ms. MOORE of Wisconsin, Mr. ELLISON, Ms. CHU, Mr. HARE, Mr. FARR, Ms. HIRONO, Mr. HINCHEY, Ms. BERKLEY, Mr. DELAHUNT, Mr. LYNCH, Mr. NEAL of Massachusetts, Mr. COSTELLO, Mr. PIERLUISI, Mr. LEVIN, Mr. CONYERS, Ms. SCHAKOWSKY, Ms. SHEA-PORTER, Ms. WATERS, Mr. RANGEL, Mr. TIERNEY, Mr. DAVIS of Illinois, Mr. THOMPSON of Mississippi, Ms. CASTOR of Florida, and Mr. MCGOVERN.  
H.R. 3381: Mr. NEAL of Massachusetts.  
H.R. 3421: Ms. NORTON, Mr. FARR, Mr. NADLER of New York, and Mr. CLAY.  
H.R. 3439: Ms. ESHOO.  
H.R. 3457: Mr. NADLER of New York, Mr. HONDA, and Ms. SCHAKOWSKY.  
H.R. 3458: Ms. MATSUI, Mr. THOMPSON of California, Mr. GEORGE MILLER of California, Mrs. CAPPES, Mr. FARR, Ms. ZOE LOFGREN of California, Ms. WATSON, and Ms. SPEIER.  
H.R. 3464: Mr. PENCE.  
H.R. 3524: Mr. HONDA, Mr. BARROW, and Ms. SHEA-PORTER.

H.R. 3564: Mr. MCGOVERN.  
 H.R. 3569: Mr. BARRETT of South Carolina.  
 H.R. 3612: Mr. FORBES and Mr. HALL of Texas.  
 H.R. 3650: Mr. PUTNAM and Mr. MARKEY of Massachusetts.  
 H.R. 3656: Mr. MORAN of Virginia.  
 H.R. 3660: Mr. INGLIS.  
 H.R. 3705: Ms. KILPATRICK of Michigan, Mr. AL GREEN of Texas, Ms. KILROY, and Mr. BLUMENAUER.  
 H.R. 3724: Ms. HIRONO.  
 H.R. 3731: Mr. BLUMENAUER.  
 H.R. 3758: Mr. GORDON of Tennessee.  
 H.R. 3779: Mrs. BIGGERT.  
 H.R. 3822: Mr. WITTMAN and Mrs. BONO MACK.  
 H.R. 3823: Mrs. BONO MACK.  
 H.R. 3824: Mr. WITTMAN and Mrs. BONO MACK.  
 H.R. 3852: Mr. CASTLE.  
 H.R. 3885: Mr. KILDEE.  
 H.R. 3904: Ms. JACKSON-LEE of Texas, Ms. KILPATRICK of Michigan, Mr. CLEAVER, Mr. AL GREEN of Texas, Ms. RICHARDSON, Mr. HASTINGS of Florida, Mr. RODRIGUEZ, Mr. REYES, Mr. BUTTERFIELD, Mr. JACKSON of Illinois, Mr. MOORE of Kansas, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. PAYNE, Mr. THOMPSON of Mississippi, Mr. HARE, Mr. LEVIN, Mr. COHEN, Ms. MATSUI, Mr. CONYERS, and Mr. RYAN of Ohio.  
 H.R. 3907: Mr. FILNER, Mr. TIERNEY, Mr. CUMMINGS, Ms. SCHAKOWSKY, Ms. BORDALLO, Mr. WEXLER, Mr. KILDEE, Mr. GERLACH, Mr. BLUMENAUER, Mr. HARE, Mr. BERMAN, Mr. ANDREWS, Mr. GEORGE MILLER of California, Mr. MITCHELL, Mr. RAHALL, Mr. MCGOVERN,

Ms. WOOLSEY, Mr. PASTOR of Arizona, Mr. FRANK of Massachusetts, Mr. MCCAUL, Ms. MATSUI, Mr. MURTHA, Mr. MCNERNEY, Ms. LEE of California, Mr. CLEAVER, Mr. COURTNEY, Mr. BISHOP of New York, Mr. HODES, and Mr. WELCH.  
 H.R. 3929: Mr. ALEXANDER.  
 H.R. 3942: Mr. GRIJALVA.  
 H.R. 3943: Mr. FILNER, Mr. WILSON of South Carolina, and Mr. WU.  
 H.R. 3957: Mr. HONDA, Mr. PAYNE, Mr. POLIS, Ms. MCCOLLUM, and Mr. MCGOVERN.  
 H.J. Res. 50: Mr. ADERHOLT.  
 H. Con. Res. 175: Mr. SARBANES.  
 H. Con. Res. 207: Mr. POSEY and Mr. LINDER.  
 H. Res. 200: Mr. ROHRBACHER.  
 H. Res. 252: Mr. LATOURETTE.  
 H. Res. 486: Mr. LEVIN.  
 H. Res. 699: Mr. MCCARTHY of California, Mr. DANIEL E. LUNGREN of California, Mr. HARPER, Mr. CLAY, Mr. MCHENRY, Mr. DUNCAN, Mr. TAYLOR, Mr. REHBERG, Mr. GUTHRIE, Mr. TERRY, Mr. BISHOP of Utah, Mr. MCCOTTER, Mr. MORAN of Kansas, Mr. HOEKSTRA, Mr. SHUSTER, Mr. PAULSEN, Mr. AKIN, Mr. HUNTER, Mr. ROGERS of Alabama, Mr. ROGERS of Michigan, Ms. FALLIN, Mr. SKELTON, Mr. EHLERS, Mr. SULLIVAN, Mr. LATHAM, Mr. COFFMAN of Colorado, Mr. BARTLETT, Mr. TIBERI, Mr. LINCOLN DIAZ-BALART of Florida, Mr. MARIO DIAZ-BALART of Florida, Mr. TURNER, Mrs. McMORRIS RODGERS, Mr. FLEMING, and Mr. FLAKE.  
 H. Res. 700: Mr. MARSHALL.  
 H. Res. 704: Mr. RODRIGUEZ, Mr. TIAHRT, Ms. SCHAKOWSKY, Mr. FRANK of Massachusetts, Ms. DELAURO, Mr. SAM JOHNSON of

Texas, Mrs. MYRICK, Mr. BONNER, and Ms. CHU.

H. Res. 727: Ms. LEE of California.  
 H. Res. 833: Mr. WAMP and Mr. MCMAHON.  
 H. Res. 847: Mr. SCALISE.  
 H. Res. 857: Mr. ROSKAM and Mr. CLEAVER.  
 H. Res. 861: Mr. MORAN of Virginia, Ms. ROS-LEHTINEN, Mr. KLINE of Minnesota, Mr. ALEXANDER, and Mr. PLATTS.  
 H. Res. 870: Mr. CASTLE, Mr. BARRETT of South Carolina, Mr. MANZULLO, Mr. BURGESS, Mr. SCHOCK, Mr. THORNBERRY, Mr. THOMPSON of Pennsylvania, Mr. LOBIONDO, Mrs. McMORRIS RODGERS, Mr. GERLACH, Mr. GUTHRIE, Mr. CALVERT, Mr. CAMP, and Mr. LANCE.  
 H. Res. 877: Mr. FATTAH, Mr. EDWARDS of Texas, Mr. LIPINSKI, Mr. YOUNG of Alaska, Mr. WEINER, Mr. KENNEDY, Mr. FOSTER, Mr. OLVER, Mr. COURTNEY, and Ms. ROS-LEHTINEN.

#### CONGRESSIONAL EARMARKS, LIMITED TAX BENEFITS, OR LIMITED TARIFF BENEFITS

Under clause 9 of rule XXI, lists or statements on congressional earmarks, limited tax benefits, or limited tariff benefits were submitted as follows:

The amendment to be offered by Representative DINGELL, or a designee, to H.R. 3962, the Affordable Health Care for America Act, does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9 of rule XXI.



## EXTENSIONS OF REMARKS

HONORING ROBERT WAMPLE

**HON. GEORGE RADANOVICH**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, November 5, 2009*

Mr. RADANOVICH. Madam Speaker, I rise today to commend and congratulate Robert Wample upon his retirement as the director of the Viticulture and Enology Research Center and the chair of the Department of Viticulture and Enology at California State University, Fresno. Dr. Wample was honored on September 19, 2009 at a fundraising event for the Robert L. Wample Viticulture and Enology Endowment Fund in support of the Jordan College of Agricultural Sciences and Technology.

Dr. Wample served in the United States Marine Corps from 1962 until 1966. Upon separating from the military, he began his college education. In 1971, he graduated cum laude from the University of Idaho with a Bachelors of Science degree in Botany. While attending college he worked as a Research Technician for the United States Department of Agriculture at the Forest Service research center in Idaho. Dr. Wample continued his education at the University of Calgary in Calgary, Alberta, Canada, where he earned his Ph.D. in Plant Physiology. His teaching career began while in Calgary; while completing his Ph.D. he was a Graduate Teaching Assistant at the University.

After earning his Ph.D., Dr. Wample served as a Postgraduate Scholar for the National Research Council of Canada. In 1976, he moved to southern California to take an Associate Professor of Botany position with California State University, Fullerton. After two years, he moved to Washington State University where he was an Associate Professor of Horticulture and Assistant Horticulturist for nine years. In 1993, he became a Professor, Horticulturist and Viticulturist for the Department of Horticulture and Landscape Architecture at Washington State University. In 2000, Dr. Wample found his way to California State University, Fresno. Over the past nine years, he has served as the Julio Gallo Chair and Director of the Viticulture and Enology Research Center, as well as the Chair of the Department of Viticulture and Enology.

Prior to Dr. Wample joining CSU Fresno, the viticulture and enology had been operating independently of each other for fifty years. Under his leadership, the two programs were merged together to become the first California State University to combine the two research and academic programs. The merge has had great success, including the recognition of CSU Fresno as a global agricultural education prominence. Further, during Dr. Wample's tenure, the program has raised well over five hundred thousand dollars in industry funding for the research programs.

Dr. Wample has served on a number of committees for the departments and colleges

he has worked in. He has served on the Washington State Animal Damage Control Advisory Board, the Washington Agriculture and Forestry Leadership Selection Committee, the W-130/WRCC-17, organizing committee for the International Symposium on Nitrogen in Grapes and Wine, the National Grapevine Importation Program and he served as the co-chairman of the committee for the International Symposium on Wine Grape Irrigation. He is also involved with the American Association for the Advancement of Science, American Society of Plant Physiology, American Society of Horticulture Science, American Society of Enology and Viticulture and the Northwest Chapter of the American Society of Enology and Viticulture. Dr. Wample's civic and community membership includes Rotary International, Prosser Wine and Food Fair Committee, Advisor to the Prosser Economic Development Association and United Good Neighbors.

Dr. Wample has been involved with, and led numerous research projects, including research on specific physiological responses of a plant and agricultural advancements in machinery and irrigation. He has spoken at many seminars and given many presentations. Dr. Wample is published in well over two hundred journals, books, magazines, reports, abstracts, papers and publications.

For his activities, inside the university and the community, Dr. Wample has been widely honored. He has been honored by the American Society of Enology and Viticulture, the International Symposium of Nitrogen in Grapes and Wine, the Second International Symposium on Climate Viticulture, International Conference on Crop Productivity and the National Research Council of Canada.

Madam Speaker, I rise today to commend and congratulate Dr. Robert Wample upon his retirement from California State University, Fresno. I invite my colleagues to join me in wishing Dr. Wample many years of continued success.

THANKING JOE ADAMS FOR HIS  
SERVICE TO THE HOUSE**HON. ROBERT A. BRADY**

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, November 5, 2009*

Mr. BRADY of Pennsylvania. Madam Speaker, on the occasion of his retirement on November 2, 2009, we rise to thank Mr. Joe Adams for his 32 years of distinguished service to Congress. Joe has served this great institution as a valued employee of the Architect of the Capitol for 19 years and House Information Resources (HIR), in the Office of the Chief Administrative Officer (CAO) for 13 years.

Joe joined HIR in 1996 as a Data Network Engineer. During this time, he successfully up-

graded the House Campus Data Network to an Ethernet-based, high-capacity data communications backbone and increased the House Internet connection capacity 200 fold from 3 Megabits per second (Mbps) to 600 Mbps. These upgrades were the foundation of greatly improved information technology service delivery and contributed significantly to highly available, mission critical data transport services.

In recent years, as manager for the Network Systems Engineering Branch, Joe led a team of engineers who helped implement upgrades to support efficient, effective and sustainable services to the House. His unparalleled dedication, considerable institutional knowledge and attention to detail have helped the Office of the CAO maintain a high degree of customer satisfaction. For his performance, he was awarded the "CAO Distinguished Service Award" in 2003 and the "CAO Excellence Award for Knowledge" in 2008.

On behalf of the entire House community, we extend congratulations to Joe for his years of dedication and outstanding contributions to the United States Congress.

IN HONOR AND REMEMBRANCE OF  
TERRY JOYCE, SR.**HON. DENNIS J. KUCINICH**

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Thursday, November 5, 2009*

Mr. KUCINICH. Madam Speaker, I rise today in honor and remembrance of Terry "Kelly" Joyce, Sr., devoted husband, father, grandfather, friend and staunch labor advocate, whose commitment to family, to his Irish heritage and to the workers of Cleveland has left an indelible imprint throughout our community.

Born and raised in County Mayo, Ireland, Mr. Joyce immigrated to America in 1957 and settled in Cleveland. A year later, he met his wife, Bridget "Bridie" Jennings, whose journey to America also originated in County Mayo. They married in 1964 and raised three children, Maureen, Eileen and Terry. Mr. Joyce's wife, children and grandchildren were the center and spark of his life—and he remained actively involved in their lives. Mr. and Mrs. Joyce held their Irish homeland close to their hearts, and regularly celebrated treasured customs and traditions for their children and grandchildren to know and cherish. They travelled often from Cleveland to the Emerald Isle, and their strong connection to their heritage reflected throughout our community. Mr. Joyce was named the Irish Fellowship Man of the Year in 1974, and helped found the Irish National Caucus in Cleveland, serving as its president in 1971. He also served on the board of the West Side Irish American Club (WSIA) for many years, and was named the WSIA Man of the Year in 1978. In 1991, he

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

served as co-chair of the Cleveland St. Patrick's Day Parade, and served as parade announcer for twenty-four years.

Mr. Joyce lived his life with heart, compassion, integrity, a great sense of humor and an unwavering work ethic. He mastered the construction trades and became a union member and leader. In 1957, the same year he settled in America, Mr. Joyce joined Cleveland's Laborers Local 310. From 1965 until his retirement in 1991, he served as Local 310's business agent. Mr. Joyce also served as president of the Ohio Labor District Council from 1975 until his retirement in 1991. During his tenure as labor leader, he worked tirelessly on behalf of workers and their families. Mr. Joyce was responsible for major advances in the labor force, including the attainment of critical benefits, including pensions, for union workers. Because of his leadership, Laborers Local 310 of Cleveland grew to become one of the most effective labor unions in the country.

Madam Speaker, please join me in honor and remembrance of Terry "Kelly" Joyce, Sr., whose energy for life, kind heart, and unwavering service to others will forever endure within the hearts and memories of his family, friends and the laborers of our community. I extend my condolences to Mr. Joyce's wife, Bridget; to his children, Maureen, Eileen and Terry; to his son-in-law John and daughter-in-law Nicole; to his grandchildren, Brona, Eoin, Cormac and Aislinn; sister, Grace; and to his extended family members and numerous friends. From family and friends to County and Cleveland Mayor, Mr. Joyce's love of life and service to others will continue to touch the hearts of many, and he will be remembered always.

#### PERSONAL EXPLANATION

#### HON. BILL SHUSTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 5, 2009

Mr. SHUSTER. Madam Speaker, on rollcall No. 852 H. Res. 863, No. 853 H. Res. 641, No. 854 H. Res. 711, and No. 855 H. Res. 856 I was not present. Had I been present, I would have voted "yea" on No. 852; "yea" on No. 853; "yea" on No. 854, and "yea" on No. 855.

#### CELEBRATING INCREASED FUNDING FOR NATIONAL ENDOWMENT FOR THE ARTS AND NATIONAL ENDOWMENT FOR THE HUMANITIES

#### HON. RUSH D. HOLT

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 5, 2009

Mr. HOLT. Madam Speaker, I rise today to highlight the recent increase in funding for the National Endowment for the Arts and National Endowment for the Humanities. The Fiscal Year 2010 Interior Appropriations bill, which President Obama has signed into law, contains \$167.5 million in funding for both agen-

cies, an increase of \$12.5 million over last year's level. This is on top of the \$50 million that the NEA received in the American Recovery and Reinvestment Act to preserve jobs in the arts. As a member of both the Arts and Humanities Caucuses, I want to thank Representatives SLAUGHTER, PLATTS, PRICE (NC), and PETRI, as well as Chairman DICKS, for their hard work in pushing for these funding increases.

The arts and humanities play a crucial role in our society: they enhance our creativity, promote critical aspects of education, and provide Americans with the opportunity to view works of beauty and personal expression. Through exposure to the arts and humanities, our children are inspired to explore their own creativity and encouraged towards positive development in the course of their educational careers. There are also economic benefits of local arts in our communities, not just for those employed in theaters or museums, but also for tourism and economic revitalization programs. The downturn in philanthropic giving, brought on by the economic collapse, has constrained or even closed cultural institutions and, in turn, the restaurants, hotels, and construction industries that rely on their success. This is just one more reason that these funding increases are needed.

I also want to recognize President Obama for understanding the important role that the arts and humanities play in enriching our lives and strengthening our economy. The President has appointed two exceptionally qualified individuals to head the NEA and NEH. Jim Leach, our former colleague, has a distinguished academic background, including his recent service as Visiting Professor of Public and International Affairs at Princeton University's Woodrow Wilson School. He brings to the NEH a first-hand understanding of the needs of educators, historians, curators, researchers, archivists and scholars. Rocco Landesman, the Director of the NEA, has a long and varied career in the performing arts, and has brought an energy and focus to the job that will help foster a vibrant artistic landscape.

Again, I rise to celebrate these important funding increases, and I look forward to working with the President and my colleagues to strengthen support for the arts and humanities.

#### IN HONOR AND REMEMBRANCE OF LENA T. HUGHES

#### HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 5, 2009

Mr. KUCINICH. Madam Speaker, I rise today in honor and remembrance of the beloved Lena T. Hughes, devoted wife, mother, grandmother, great-grandmother, sister and friend.

Mrs. Hughes' family was the foundation and joy of her life. She was the wife of the late Patrick Gilbert Hughes, with whom she created a loving home and raised three daughters, Rose, Lynne and Mary Jo. Their mutual devotion to family was reflected in the close-

ness they shared with their seven grandchildren and three great-grandchildren.

Mrs. Hughes created a warm and inviting home for her family and friends. From never missing special events in the lives of her children and grandchildren, to preparing wonderful meals for family gatherings, her priority was always her family.

Madam Speaker and colleagues, please join me in honor of Mrs. Lena T. Hughes, whose joyous spirit and love for others will exist forever within the hearts and memories of those who knew her best—her family and friends. I extend my deepest condolences to her daughters; her son-in-law, Timothy; her seven grandchildren and three great-grandchildren; her sister, Anne; and to her many friends. Mrs. Hughes will be remembered always.

#### CELEBRATING THE SUNNYVALE PECAN HARVEST FESTIVAL AND HONORING PECAN QUEEN LEONA FISCHER

#### HON. JEB HENSARLING

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 5, 2009

Mr. HENSARLING. Madam Speaker, today I am pleased to recognize the Sunnyvale Pecan Harvest Festival and the first ever Sunnyvale Pecan Queen.

The Sunnyvale Pecan Harvest Festival was a vision of Sunnyvale Chamber of Commerce Chairman Terry Reid and has been brought to fruition through her tremendous efforts, as well as that of other Chamber members, local businesses and the Town of Sunnyvale. This festival is the first of its kind in Sunnyvale and is sure to be a popular community event for years to come.

A festival would not be complete without a Queen, and Sunnyvale has chosen a wonderful lady to serve as the first ever "Pecan Queen." Ms. Leona Fischer has been a resident of Sunnyvale for more than 40 years and continues to contribute to her community as much today as she did when she first moved there. As the director of the Douglas and Michael Kindergarten and Day School, Ms. Fischer would bring the children attending the school out to her property in Sunnyvale for camping, swimming and fishing. When she moved to Sunnyvale permanently, Ms. Fischer and her husband started antique and real estate businesses and continued to contribute to their community.

While her antique shop has since closed, Ms. Fischer can still be seen around Sunnyvale, running her real estate business. Ms. Fischer makes towns like Sunnyvale a great place to live and work, and I am proud to represent Ms. Fischer and congratulate her on this well-deserved honor.

With a Classic Custom Car and Truck show, live music performances—including a special guest appearance by Grammy winner Art Greenhaw and the awarding of the "Beth Bassett Music Achievement Award"—the baking and photo contests and the food and shopping opportunities, the First Annual Sunnyvale Pecan Harvest Festival is sure to be an outstanding event for the families of Sunnyvale.

Madam Speaker, on behalf of the Fifth District of Texas, I am privileged to recognize Terry Reid, Leona Fischer, the Sunnyvale Chamber of Commerce and the town of Sunnyvale for all their hard work and dedication. I wish them great success.

# RECOGNIZING THE SIGNIFICANT ANNIVERSARIES OF THE CZECH REPUBLIC AND SLOVAKIA

## HON. EMANUEL CLEAVER

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 5, 2009

Mr. CLEAVER. Madam Speaker, I rise today to recognize the anniversary of two U.S. allies. Twenty years ago, during the month of November 1989, the country then known as Czechoslovakia freed itself of communist control, instituted democratic elections and set out to adapt its command economy to the free market. From what many refer to as the "Velvet Revolution of 1989" or the "Gentle Revolution," Czechoslovakia peacefully became two democratic countries by mutual consent: the Czech Republic and Slovakia on January 1, 1993. The Velvet Revolution or the Gentle Revolution, if you wish, opened the way for democracy and prosperity for the people of the former Czechoslovakia.

During their brief history as independent nations, both the Czech Republic and Slovak Republic garnered worldwide respect with their admittance into the European Union, the North Atlantic Treaty Organization (NATO) and the United Nations. They have further solidified their commitment with their military units participating in NATO missions throughout the globe.

The Czech Republic has a local tie to its NATO admission with Missouri's Fifth District. The documents of admission were signed at the Truman Presidential Library in Independence, Missouri. We are honored to have H.E. Peter Burian, Ambassador of the Slovak Republic to the U.S. and Daniel Kostoval, Deputy Chief of Mission from the Embassy of the Czech Republic in Missouri's Fifth District from November 5–7, 2009 to celebrate the birth and growth of two allied nations. Amongst their many activities with our local Czech-American and Slovak-American communities, the visiting dignitaries will lay a wreath at President Truman's grave on Friday, November 6th to commemorate their NATO affiliations.

Madam Speaker, please join me in expressing our heartfelt congratulations to the Czech Republic and Slovakia for their relentless efforts in extending goodwill and democratic principles, not only within their borders, but to the global community including the Fifth Congressional District of Missouri. I urge my colleagues to please join me in expressing our appreciation to two nations who continue to evolve in the democratic tradition.

## PERSONAL EXPLANATION

### HON. PAUL C. BROUN

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 5, 2009

Mr. BROUN of Georgia. Madam Speaker, on rollcall No. 832—H.R. 1168, the Veterans Retraining Act of 2009, on rollcall No. 833—H. Res. 291, Recognizing the crucial role of assistance dogs in helping wounded veterans live more independent lives, and on rollcall No. 834—S. 509, A bill to authorize a major medical facility project at the Department of Veterans Affairs Medical Center, Walla Walla, Washington, had I been present, I would have voted "yea."

## PERSONAL EXPLANATION

### HON. DEVIN NUNES

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 5, 2009

Mr. NUNES. Madam Speaker, on the legislative day of Wednesday, November 4, 2009, I was unavoidably detained and was unable to cast a vote on a number of rollcall votes. Had I been present, I would have voted:

Rollcall 841—"nay."  
Rollcall 842—"noe."  
Rollcall 843—"yea."  
Rollcall 844—"yea."  
Rollcall 845—"aye."  
Rollcall 846—"aye."  
Rollcall 847—"noe."  
Rollcall 848—"noe."  
Rollcall 849—"noe."  
Rollcall 850—"aye."  
Rollcall 851—"noe."  
Rollcall 852—"yea."  
Rollcall 853—"yea."  
Rollcall 854—"yea."  
Rollcall 855—"yea."

## RECOGNIZING DR. SHEILA O'SHEA KAHRS

### HON. JOHN LINDER

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 5, 2009

Mr. LINDER. Madam Speaker, it is with great honor and enthusiasm that I rise today to recognize Dr. Sheila O'Shea Kahrs, the Principal of Haymon-Morris Middle School in Winder, Georgia, who has been named the 2010 MetLife/National Association of Secondary School Principals, NASSP, National Principal of the Year.

The MetLife/NASSP National Principal of the Year program honors distinguished middle level and high school principals who have provided first-rate learning opportunities for students and made significant contributions to the education profession.

Each state, the District of Columbia, and the Department of Defense Education Activity selects one middle level and one high level school principal to represent them. From these

individuals, six finalists are chosen as candidates for the National Principal of the Year award. Dr. Kahrs distinguished herself from these outstanding educators and was chosen as the 2010 MetLife/NASSP National Principal of the Year.

The Seventh District of Georgia is privileged to have such an accomplished educator serving our children. Extending my sincerest thanks to Dr. Kahrs for all her hard work and dedication to the profession of teaching, I wish her the best on her future endeavors.

## INTRODUCTION OF H.R. 4027, THE AMERICAN TAXPAYER AND WESTERN AREA POWER ADMINISTRATION FIRM POWER CUSTOMER PROTECTION ACT

### HON. DOC HASTINGS

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 5, 2009

Mr. HASTINGS of Washington. Madam Speaker, as Ranking Republican of the House Natural Resources Committee, I am today introducing legislation to protect American taxpayers and existing customers of the Western Area Power Administration, WAPA. It is called the "The American Taxpayer and Western Area Power Administration Firm Power Customer Protection Act." I'm pleased that TOM MCCLINTOCK, the Ranking Republican on the Water and Power Subcommittee, is joining me in sponsoring this bill.

Earlier this year, the Democrat Majority passed the American Recovery and Reinvestment Act, which is better known as the stimulus spending bill. Many of the new programs in this law were never debated beforehand and were inserted behind closed doors without transparency or an opportunity for Members of Congress or the American people to review and scrutinize them.

Included among these new programs was WAPA's Transmission Infrastructure Program's borrowing authority. This new \$3.25 billion borrowing authority allows the WAPA Administrator to provide loans to develop new transmission aimed solely at integrating renewable energies. As some envisioned, the loans would be mainly given to private wind and solar developers for transmission investments. This new borrowing authority is quite unlike the Bonneville Power Administration's, BPA, longstanding borrowing authority, which can be used for integrating all generation sources, as well as for fish and wildlife mitigation and conservation efforts.

Madam Speaker, there is another key difference between the two borrowing authorities and it's one that my legislation directly addresses: the risk of a bailout funded by American taxpayers. The actual WAPA statute describes it best: "If, at the end of the useful life of a project, there is a remaining balance owed to the Treasury under this section, the balance shall be forgiven." This means that American taxpayers will foot the bill for any outstanding balances on a project that cannot be repaid. This would be similar to a homeowner defaulting on a 30 year loan and having the bank pick up the remaining balance, except that the taxpayer would end up paying for

the bad investment. BPA, which proudly boasts about repaying its debts with interest and ahead of schedule, does not have a similar taxpayer bailout provision in its borrowing authority. I might also add that the Tennessee Valley Authority repays its debt with interest as well.

To date, WAPA has announced one project under the borrowing authority: a wind transmission project owned by a Canadian company. Under the taxpayer bailout provision, if this project failed, then the American taxpayer would have to bail out a foreign company for up to \$161 million.

It is also important to recognize that some of WAPA's existing customers, who are theoretically not impacted by this program, remain concerned that they will now bear some costs even if they do not benefit due to the lack of defined rules and regulations to govern the borrowing authority. It's critical that the principle of "beneficiaries pay" is maintained and not undermined. It is not the responsibility of those who may not benefit from a project, or the federal taxpayers, to fund such projects. Those who build and benefit from a project must bear its full costs.

For these reasons, I am introducing this legislation to amend WAPA's borrowing authority to both add protections for existing customers and to eliminate the taxpayer bailout provisions. I hope for this action on this bill.

**HONORING SISTER REPARATA  
FAUBERT, OP**

**HON. DALE E. KILDEE**

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Thursday, November 5, 2009*

Mr. KILDEE. Madam Speaker, I ask the House of Representatives to join me in congratulating Sister Reparata Faubert, OP as she celebrates 60 years as a member of the Dominican Sisters of Grand Rapids. An open house will be held in her honor on November 8 in Flint Michigan.

A native of St. Charles, Michigan, Sister Reparata was taught at Holy Family School by the Dominican Sisters of Grand Rapids. At the age of 18 she entered the congregation and professed her vows. This was followed by years of teaching high school and working on her education. Sister Reparata obtained a BA from Aquinas College, an MA from the Theological Institute in Saginaw, and a second MA from Cardinal Stritch College.

After completing a CPE program at the University of Michigan Medical Center in Ann Arbor, Sister Reparata began working as a hospital chaplain for the 3 public hospitals in Flint. Her gentle, serene thoughtfulness to patients, families and hospital staff brings solace and hope to persons facing difficult, heart-wrenching events. With the grace that comes from the Eucharist, the Office and the Rosary, Sister Reparata visits the sick and passes on the spiritual blessings.

St. Dominic's life mission was to Praise, to Bless and to Preach and in 1206 he lead 12 women into religious life. They became the first Dominican Sisters Convent and Sister Reparata is part of the line of women that has

taken the same vows and served Our Lord, Jesus Christ, with the same joy, stretching back to that first group. She embodies the part of Dominican Life that calls its adherents to be open to encountering the Holy in all people.

When asked to comment on the past 60 years as a member of the Dominican Order, Sister Reparata recalled John 14:23: "If you do the will of My Father, we will come to you and make our abode with you." It is this humble submission to God's will that has endeared Sister Reparata to everyone that knows her.

Madam Speaker, I ask the House of Representatives to join me in applauding Sister Reparata as she celebrates this milestone. The Flint area has truly been blessed by God for allowing her to work with us. I pray that He will continue to bless us with Sister Reparata's compassion and kindness for many, many years to come.

**LIEUTENANT ADAM W. BRYANT**

**HON. THOMAS S. P. PERRIELLO**

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, November 5, 2009*

Mr. PERRIELLO. Madam Speaker, today I recognize Lieutenant Adam W. Bryant of the United States Coast Guard, who went missing in a helicopter collision over the Pacific Ocean on October 29, 2009, along with eight fellow Coast Guard officers. My heart goes out to his parents, Jerry and Nina Bryant, his brother Ben, and all of those who knew and loved Adam. He is sorely missed by his friends, family, community, and fellow servicemembers.

Adam was a graduate of Kenston Forest School in Blackstone, Virginia, and the United States Coast Guard Academy. After completing his mandatory enlistment, he continued his service in the Coast Guard. He had served for 10 years. His family has described him as an intelligent, talented young man who knew from an early age that his calling was service to his country. I know that many will feel his loss deeply, for his accomplishments, his potential, and his role as a loving son, brother, grandson, and nephew. On behalf of Virginia's 5th District, I offer Adam's family my sincerest condolences and thank them for Adam's years of courageous and devoted service.

**PERSONAL EXPLANATION**

**HON. BARBARA LEE**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, November 5, 2009*

Ms. LEE of California. Madam Speaker, today I missed rollcall vote No. 841, on a motion ordering the previous question on the rule for H.R. 3639, The Expedited CARD Reform for Consumers Act of 2009. Had I been present, I would have voted "aye" on this rollcall vote.

**THE AMERICAN MEDICAL ISO-  
TOPES PRODUCTION ACT OF 2009**

**HON. CATHY McMORRIS RODGERS**

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

*Thursday, November 5, 2009*

Mrs. McMORRIS RODGERS. Madam Speaker, I rise today in strong support of H.R. 3276, the American Medical Isotopes Production Act of 2009. Currently a vast majority of our nation's critical supply of medical isotopes are imported from Canada and the Netherlands. Yet, unforeseeable and unpreventable disruptions and delays in obtaining the isotopes has severely impacted nuclear medical procedure throughout the country.

The American Medical Isotopes Production Act will enable research institutions, like Washington State University in my district, that already have reactors capable of producing low enriched uranium to supply a significant portion of U.S. demand for molybdenum-99 and other medical isotopes. The domestic production of moly-99 will ensure that facilities such as WSU can store isotopes necessary to continue treatment and early detection programs for cancer, heart disease, and thyroid disease.

Madam Speaker, this bipartisan bill not only will lower the cost and improve medical treatments here at home but it will be a significant step in reducing the United States reliance on foreign energy. The American Medical Isotopes Production Act is a fiscally responsible measure that makes the United States safer, more independent, and will provide hospitals across the country with the resources they need to continue to provide the best healthcare in the world. I urge my colleagues to support H.R. 3276, the American Medical Isotopes Production Act of 2009.

**HONORING HARRISBURG MASONIC  
LODGE #325 A.F. & A.M.**

**HON. JOHN SHIMKUS**

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, November 5, 2009*

Mr. SHIMKUS. Madam Speaker, I rise today to honor the Harrisburg Masonic Lodge #325 A.F. & A.M. in Harrisburg, Illinois upon the dedication of their new facility on November 7, 2009. Additionally, I wish to congratulate them on their 150th anniversary.

The Harrisburg Lodge #325 was granted a charter by the State of Illinois Grand Lodge on October 5, 1859. The charter members were: Green Berry Raum, Worshipful Master; Moses P. McGehee, Senior Warden; Richard N. Warfield, Junior Warden; Benjamin Bruce, Treasurer; John W. Mitchell, Secretary; John S. Eubanks, Senior Deacon; Harvey R. Pearce, Junior Deacon; William G. Sloan, Senior Steward; Charles Nyberg, Junior Steward and Charles A. Towle, Tiler.

Born in Golconda, Illinois, Green Berry Raum led a life of continued service, was a member of the 40th Congress. Mr. Raum practiced law in Harrisburg, Illinois; served in the Union Army during the Civil War as a

major in the Fifty-sixth Regiment, Illinois Volunteer Infantry and served in the 40th Congress.

Richard C. Davenport of Harrisburg Lodge #325 A.F. & A.M. became the Grand Master Mason of Illinois, overseeing all Masons in the state. His tenure in that position lasted from 1925 to 1926 and then served as Grand Secretary from 1928–1960. During his term, The Grand Lodge Secretary's office was in the Harrisburg Masonic Lodge, located on North Main and Walnut Streets.

The 2009 officers include Terry Mott, Worshipful Master; Don Leibenguth, Secretary; Richard D. Harper, Treasurer; Bruce Tolley, Senior Warden; Mark Mathis, Junior Warden; Mack Farmer, Senior Deacon; Raymond Gunning, Junior Deacon; Dave Businaro, Marshall; George Knight, Senior Steward; Kerry Jones, Junior Steward; Cameron Brown, Tiler and Lyndel Alexander, Chaplin.

I am pleased to recognize the Harrisburg Masonic Lodge #325 A.F. & A.M. on this special occasion. I extend my best wishes for an enjoyable rededication and grand opening.

#### HONORING OAKDALE IRRIGATION DISTRICT

### HON. GEORGE RADANOVICH

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, November 5, 2009*

Mr. RADANOVICH. Madam Speaker, I rise today to congratulate the Oakdale Irrigation District upon celebrating its 100th anniversary.

In 1853 miners built a small diversion dam off of the Stanislaus River, upstream from Knight's Ferry, and began digging a canal along the right bank of the river to their gravel works in Knight's Ferry. In the late 1850s, David Locke built a flour mill at Knight's Ferry. The mill was destroyed by a flood in 1862, but was rebuilt by David Tulloch in 1866. Charles Tulloch, David's son, assumed management of the mill and purchased the miner's canal and water rights so he could extend the canal and sell the water to irrigate six thousand acres near Oakdale and Valley Home.

In 1887, the Wright Irrigation Act was approved by the California State Legislature and signed into law, giving water districts eminent domain rights, authority to issue bonds and to tax properties for the construction, maintenance and operations of irrigation works. In 1890, the Oakdale Irrigation Company began to work on an eleven mile long canal near Knight's Ferry. A few years later the Stanislaus Power and Water Company, headed by Mr. Tulloch, took over the irrigation company works. In 1909, Oakdale citizens held a town hall meeting to demand their own irrigation system; the land was surveyed and the district boundaries were established. With this completed, the Stanislaus County Board of Supervisors authorized an election in Oakdale; the people voted 849 to 27 to create the Oakdale Irrigation District. On November 1, 1909, the Oakdale Irrigation District, OID, was formally established.

In 1910, the OID partnered with the South San Joaquin Irrigation District (SSJID) to jointly purchase the "Tulloch System" for six hun-

dred and fifty thousand dollars. The two districts agreed on equal water rights, totaling over nine hundred second-feet of natural flow diversion. Since 1912, the OID and the SSJID have jointly constructed five dams on the Stanislaus River. The first was Goodwin Dam constructed at a cost of \$325,000.

The Melones Dam was completed in 1926, providing 112,500 acre-feet of water storage. Completed in 1957, the Tri-Dam project, including the Donnels, Beardsley and Tulloch Dams, added 230,400 acre-feet of storage capacity to the watershed and a combined power generation capacity of eighty-one thousand kilowatts. Along with these storage facilities the OID built approximately three hundred and fifty miles of canals and laterals to supply water to users throughout the district. Completed in 1984, the Sand Bar Hydroelectric powerhouse added over sixteen thousand kilowatts of power for the district.

In 2004, the OID launched a major Water Resource Plan to study means to repair, rebuild, and modernize the old and outdated system. The plan's overall goal was to protect the OID's water rights while enhancing the system and improving services. The Plan has led to major rehabilitation efforts that continue today.

Madam Speaker, I rise today to commend and congratulate the Oakdale Irrigation District on 100 years of development and service within its region. I invite my colleagues to join me in wishing the Oakdale Irrigation District many years of continued success.

#### PERSONAL EXPLANATION

### HON. NEIL ABERCROMBIE

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

*Thursday, November 5, 2009*

Mr. ABERCROMBIE. Madam Speaker, I regret that I missed rollcall votes Nos. 832–841. Had I been present, I would have voted "yea" on rollcall votes 832–837 and votes 839–841. On rollcall vote No. 838, I would have voted "nay."

#### AVA SUZANNE CULVER MAKES HER MARK ON THE WORLD

### HON. BOB ETHERIDGE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, November 5, 2009*

Mr. ETHERIDGE. Madam Speaker, I rise today to congratulate Chad and April Culver on the birth of their daughter, Ava Suzanne Culver. Ava was born yesterday, Wednesday, November 4, 2009. She weighed 7 pounds and 14 ounces and measured 22 inches long. My wife Faye joins me in wishing Chad and April, and Avery's grandparents Durwood and Vickie Stephenson, great happiness upon this new addition to their family.

As the father of three, I know the joy and pride that Chad and April feel at this special time. Children remind us of the incredible miracle of life, and they keep us young at heart. Every day they show us a new way to view

the world. I know the Culvers look forward to the changes and challenges that their new daughter will bring to their lives while taking pleasure in the many rewards they are sure to receive as they watch Ava grow.

I welcome young Ava into the world and wish Chad and April all the best.

#### TRIBUTE TO JOHN OVERINGTON

### HON. SHELLEY MOORE CAPITO

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, November 5, 2009*

Mrs. CAPITO. Madam Speaker, I rise today to honor John Overington as he becomes the first member to reach 25 years of service in the West Virginia House of Delegates.

First elected to represent the 55th District of West Virginia in 1984, John has spent the past 25 years working tirelessly to address the needs of Berkeley County. He has become revered for his public service while successfully bringing results through his leadership and involvement with numerous community organizations. Working on many vital pieces of legislation, John has assured that the best interests of West Virginia are at the forefront.

John is involved in countless organizations and has received several recognitions for his efforts, including Martinsburg-Berkeley County Chamber of Commerce Outstanding Chairman Award in 1988. I know his involvement in the Bedington Ruritan Club is very special to him, where his passionate support has helped achieve fellowship, goodwill, and community service in the area.

It is an honor to congratulate such a distinguished public servant for his years of service and contribution to Berkeley County and the State of West Virginia. I'm proud to call John a friend and fellow West Virginian.

#### IN HONOR OF BILL POOLE

### HON. DUNCAN HUNTER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, November 5, 2009*

Mr. HUNTER. Madam Speaker, many years ago on a high mountain lake, two young boys were catching trout from a small rowboat, using corn kernels for bait. The "captain" of this ten-foot boat was a wiry, older guy with an ageless face and a direct manner. He was all business.

"Keep your rod tip up. You're hooked into a monster," he commanded. The boy let out a whoop as the "monster," a twelve-inch rainbow trout, broke the surface of the lake.

That boy was me. The other boy was my brother Sam, who is now serving in Iraq.

The captain of the rowboat was Bill Poole who, on this and other occasions, made life very exciting for us. Sadly, Bill lost his battle with cancer last month.

After our first experience together, I would learn that Bill was a legendary outdoorsman and sport fishing captain, whose "monsters" were fish that weighed in at hundreds of pounds, whose fishing trips were 1,000 mile

sojourns, and whose boats were the standard for the sport fishing industry.

But on that day, Bill was exhibiting the quality that made so many San Diegans and outdoorsmen from around the world want to be near him. He radiated outdoor excitement and anticipation. Bill Poole was fun. For us kids, his mock sternness would half-frighten us and then melt into a big smile as he showed us "the right way to do it."

Bill represented the fabulous outdoor dimension of our San Diego community. Early on he recognized the treasure that the fishing grounds of California and Baja California offered to outdoorsmen who wanted their fishing trip to be a real adventure. He was the father of long-range sport fishing in San Diego. His talent for finding big fish was legendary. His integrity was stainless, and his personality pulled people of all ages to him like a giant magnet.

One of those people was his wife Ingrid. A combination of beauty and purpose, she shared Bill's life on a thousand outdoor adventures around the world. Together, and with thousands of adventurous San Diego friends, they made the Safari Club a wellspring of conservation and outdoor fun.

When the Hunter family was going on a hunting trip, Dad would always make a swing by Bill's house to "borrow" equipment. Bill would ladle out gear and advice on our upcoming outing, interspersed with comments like "I'll never see this again." Then he and Dad would laugh. The gear would eventually make it back to Bill's garage.

A new generation is charged with stewardship of the magnificent outdoors resource that we call America. It's our job to keep our waters and land full of game and fish. As important, it's our job to keep our wonderful resource open for enjoyment by our citizens and their kids. Let's remember that enjoying that resource was Bill's legacy, so that a hundred years from now, a small boy can bring in a 12-inch "monster" rainbow trout under of the encouragement of people just like Bill Poole.

#### INTRODUCTION OF THE PUGET SOUND RECOVERY ACT OF 2009

**HON. NORMAN D. DICKS**

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

*Thursday, November 5, 2009*

Mr. DICKS. Madam Speaker, today I am introducing the Puget Sound Recovery Act of 2009.

One of the iconic physical features of my home state is Puget Sound. It is a keystone of our identity in Washington State. In a region known for its beauty, Puget Sound is beyond comparison.

But the postcard image of Puget Sound belies the fact that it is in decline. Over the last 20 years we have seen increasing signs that water quality is deteriorating. We are experiencing low-oxygen zones in a growing number of areas within Puget Sound. Many of our most cherished aquatic species are in trouble with salmon and Orcas listed under the Endangered Species Act. At this point, nearly three-quarters of our original estuaries and

wetlands are gone. And as a toxic remnant of its more industrialized past, the bottom of the Sound has many thousands of acres of extreme contamination.

Even with this decline, the Sound remains a natural wonder, and my legislation will provide an increased Federal role to reverse the deterioration. Its 2,800 square miles of inland marine waters makes Puget Sound the Nation's second largest estuary after Chesapeake Bay. There is a strong marine and natural resource industry. The bounty of the Sound includes several hundred fish species, plentiful shellfish and shrimp, 25 different marine mammals and 100 different species of sea birds.

Several years ago, the State of Washington led by Governor Gregoire recognized the dire condition of Puget Sound. In response, the Puget Sound Partnership was set up to lead the state effort to restore the Sound. The Partnership developed the Puget Sound Action Agenda which was recently approved by the EPA as the Comprehensive Conservation Management Plan. This Action Agenda will serve as the blueprint that local and state government, Tribes, and federal agencies will follow in this cooperative effort to restore Puget Sound. In tandem with these efforts occurring in Washington State, the Interior Appropriations Subcommittee which I chair has approved increasing amounts of funding for Puget Sound in the annual EPA budget. For FY 2010, I am proud that the EPA budget contains \$50 million for Puget Sound. President Obama signed this spending bill into law on October 30th.

The Puget Sound Recovery Act of 2009 sets up an EPA office in Washington State to coordinate the federal effort to implement the Action Agenda. The other Federal agencies that are involved in the cleanup include the Fish and Wildlife Service, the Park Service, the Forest Service and the Natural Resources Conservation Service within the Department of Agriculture, the United States Geological Survey, the Army Corps of Engineers, and the Departments of Commerce, Defense, Homeland Security and Transportation. In addition, this bill authorizes grants to study the causes of the Sound's declining water quality and ways to counter these threats, as well as grants for sewer and stormwater discharge projects.

I am pleased that the 6 Washington State Delegation Members whose districts surround the Puget Sound are original cosponsors of this legislation.

Madam Speaker, the Puget Sound Recovery Act of 2009 is an important step to authorize the federal role in the cleanup of this important water body.

#### CHERYL ANDERSON PEGUES ON THE OCCASION OF HER RETIREMENT

**HON. ROSA L. DeLAURO**

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

*Thursday, November 5, 2009*

Ms. DELAURO. Madam Speaker, it is with great pleasure that I rise today to join the many family, friends, and colleagues who

have gathered to pay tribute to an outstanding member of our community and my good friend, Cheryl Pegues, as she celebrates her retirement. A dedicated professional, volunteer, mentor and friend, Cheryl has earned the respect and admiration of those throughout our community.

Cheryl has been a member of the Administration at Gateway Community College in New Haven, Connecticut for more than two decades. She spent 18 years as the Director of Financial Aid, a year and a half as Acting Dean of Students, and, today, is retiring from the position of Director of Student Development and Services. Prior to her move to Gateway, she served as Assistant Director of the Connecticut Talent Assistance Cooperative-Education Opportunity Center—a federal TRIO program where she also served as an education counselor. As you know, TRIO programs are educational opportunity outreach programs designed to motivate and support students from disadvantaged backgrounds.

Throughout her professional career, Cheryl sought to assist young people in their endeavors to further their education. Many of those she worked with would not have otherwise benefitted from a college education. Education is the cornerstone of success and today, more than ever before, our young people are facing weighty challenges as they try to pursue a college degree—and those challenges are even larger for disadvantaged children. Cheryl's work has opened the doors of opportunity for countless young people and made all the difference in their lives.

Cheryl's interest in enriching the lives of young people extends far beyond her professional life. Over the years she has been an active member of the Board of Directors of the Latino Youth Development, the Education Support Services program, the Children in Crisis Coordinating Committee, and the Urban Improvement Corps. Cheryl served on the original Martin Luther King, Jr. Youth Conference Committee and has organized financial aid workshops and college orientation seminars upon request from local high schools, churches, as well as civic and service organizations.

In addition to all of this, Cheryl still finds the time to serve as a Deacon and active parishioner at Immanuel Missionary Baptist Church. She also served as a member of numerous professional organizations including the Theta Epsilon Omega Chapter of Alpha Kappa Alpha Sorority, the National Council of Negro Women, the Greater New Haven Chapter of the NAACP, and the New Haven Chapter of the Jack and Jill of America, Inc. Her invaluable contributions have left an indelible mark on our community and I have no doubt that Cheryl will continue in her work to enrich the lives of young people and make our community a better place to live, learn and grow.

Today, as she celebrates her retirement from her professional life, I am proud to join her husband, Elbert, her children, Elbert and Elicia, and her granddaughter, Kaila, as well as the many family, friends, and colleagues in extending my sincere congratulations to Cheryl Pegues. Her extraordinary professional career and infinite generosity touched the hearts and minds of many. I wish her all the best for many more years of health and happiness.

## HEALTH CARE

**HON. TIMOTHY H. BISHOP**

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Thursday, November 5, 2009*

Mr. BISHOP of New York. Madam Speaker, 4-1/2 decades ago on this very floor, Congress debated legislation closely related to the bill we will consider later this week.

It is said that history is destined to repeat itself, especially when we repeat ourselves. So listen to these statements from the predecessors of my friends in the minority when they debated the bill creating Medicare.

Their arguments sound very familiar—some strikingly similar—to the comments we've been hearing about the Affordable Health Care for America Act:

Quoting Representative Durwood G. Hall, a Republican congressman from Missouri, who happened to also be a medical doctor:

Mr. Speaker, the basis of quality medical care is the voluntary relationship between the doctor and patient. This would begin to disappear as the Government supplants the individual as the purchaser and provider of health services . . .

Are we to tell the people of America, the senior citizens, that they are not capable of determining this matter . . .

The result will inescapably be third-party intrusion into the practice of hospitalization and medicine. The physician's judgment would be open to question by others, not responsible for the patient's wellbeing . . .

Congressman Hall went onto say:

. . . Its adoption would be another downward step toward loss of freedom of choice.

Consequently, we cannot stand idly by now, as the Nation is urged to embark on an ill-conceived adventure in Government medicine, the end of which, no one can see, and from which the patient is certain to be the ultimate sufferer. For make no mistake about it: The medical profession will never deprive the people of high-quality medical care and the fruits of progress of medical science. That will come when the Government begins meddling and interfering with medical freedom.

Quoting Edward Derwinski, a Republican congressman from Illinois, who made similar arguments:

As we look into the future, we see clear signs of rigid governmental control of our medical system which can only be detrimental to all our citizens. At the risk of oversimplification, may I state that this bill is a sugar-coated pill that is being swallowed in an easy fashion, but its ill effects will be felt in the ultimate crippling of our medical services and unwarranted regressive tax burden on our citizens.

Quoting Congressman Thomas Curtis, also from the state of Missouri, who has this to say:

What we have done is to take a system that has proved successful for 85 percent of our people, including our older people, in order to solve the problems of the 15 percent.

These arguments were made by Republicans while debating the Social Security Amendments of 1965, commonly known as Medicare—the bill that became law and responsible for the program that has treated and

cared for tens of millions of American seniors with the medical care they need,

It is striking but not all too surprising that the Grand Old Party is using the same old arguments on the other side of the aisle today.

I doubt there is any member in this chamber today who would reasonably argue that Medicare has not benefited our Nation. Do they think insurance companies would step in to cover a 75-year old cancer patient if it were not for Medicare?

Madam Speaker, the specter of a government takeover of health care has been part of the Republican playbook for nearly 45 years. It wasn't true then and it isn't true now.

Medicare is the life blood of today's seniors. It put the 'great' in LBJ's Great Society. History is destined to repeat itself—not just the mistakes, but the triumphs as well.

**HONORING THE LATE ANTHONY T. KAHOOHANOHANO ON BEING AWARDED THE MEDAL OF HONOR**

**HON. MAZIE K. HIRONO**

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

*Thursday, November 5, 2009*

Ms. HIRONO. Madam Speaker, I would like to recognize the late Anthony T. Kahooohanohano for his extraordinary heroism while serving during the Korean War. Private First Class Kahooohanohano's service was recently acknowledged with our Nation's highest award of merit, the Medal of Honor.

I am grateful to my colleague Senator AKAKA for inserting a provision in this year's defense authorization bill that awards the Medal of Honor to Mr. Kahooohanohano and to President Obama for signing the bill into law.

Awarding the Medal of Honor to Anthony Kahooohanohano has long been overdue. A 19-year-old soldier from Wailuku on the island of Maui, Kahooohanohano bravely sacrificed his own life to protect fellow soldiers in the area of Chupa-ri, Korea on September 1, 1951.

After ordering members of his machine-gun squad to take up more secure positions to provide cover as U.S. forces withdrew, Kahooohanohano bravely stayed behind to fight the enemy on his own, even fighting in hand-to-hand combat after he ran out of ammunition. He was killed in action, but his courageous actions inspired other American troops to launch a counterattack against the enemy.

On behalf of Anthony Kahooohanohano's family and the State of Hawaii, and in honor of the service and sacrifice of our servicemembers and veterans, I thank my colleagues for supporting this measure.

**OUR UNCONSCIONABLE NATIONAL DEBT**

**HON. MIKE COFFMAN**

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Thursday, November 5, 2009*

Mr. COFFMAN of Colorado. Madam Speaker, this morning our national debt was \$11,978,953,722,825.90.

On January 6, 2009, the start of the 111th Congress, the national debt was \$10,638,425,746,293.80.

The national debt has increased by \$1,340,527,976,532.10 so far this year.

According to the non-partisan Congressional Budget Office, the forecast deficit for this year is \$1.6 trillion. That means that so far this year, we borrowed and spent \$4.4 billion a day more than we have collected, passing that debt and its interest payments to our children and all future Americans.

**COMMENDING WOODBRIDGE TOWNSHIP'S SALUTE TO OLD GLORY PROGRAM**

**HON. LEONARD LANCE**

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Thursday, November 5, 2009*

Mr. LANCE. Madam Speaker, I rise today to address the House for one minute.

On Wednesday, November 11, Veterans' Day, there will be a special celebration entitled a Salute to Old Glory in Woodbridge Township, New Jersey. The goal of the program is to refurbish all American flags and flag poles throughout the Woodbridge Township School District. This is a huge undertaking; Woodbridge Township is the largest municipality in New Jersey's Seventh Congressional District.

A Salute to Old Gory began is a vision of Woodbridge Board of Education Member George Yuhasz, a lifelong resident of Woodbridge Township. With the help of community activist Charlie Shaughnessey of Colonia, New Jersey the program to replace and preserve American flags throughout the Township has become a huge success.

Veterans as well as civic organizations have joined in this effort in making Salute to Old Glory a positive initiative throughout the community.

The American Flag stands for many things in our beloved Nation. It also serves as a great inspiration for those who want to become part of our great democracy.

Educational involvement incorporated into the program included student essays and artistic presentations that allowed for involvement of students throughout the school district.

The program has been successful because it has been a total community effort. In fact, Salute to Old Glory will become an ongoing effort not only for the Woodbridge Board of Education but for all public buildings in Woodbridge Township that may need a replenishment of an American flag or flagpole.

All of those involved in with the Salute to Old Glory program in Woodbridge Township should be commended for their efforts.

I am pleased to share their hard work with my colleagues here in Congress and with the American people.



## HONORING PHILLIP SHORT

**HON. GEORGE RADANOVICH**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, November 5, 2009*

Mr. RADANOVICH. Madam Speaker, I rise today to honor the life of Phillip Short for his dedication to his family and community. Mr. Short passed away on Sunday, September 27, 2009 at Doctors Medical Center in Modesto, California. Mr. Short was seventy-three years old.

Phillip Short was born and raised in Hughson, California and graduated from Hughson High School. He attended the University of California, Berkley where he played football and majored in engineering. After college, he returned to Hughson and began growing walnuts and almonds along the Tuolumne River for over fifty years.

Mr. Short began his political activity within his community in 1967, when he joined the Hughson Elementary School Board. He served on the board for ten years. In August, 1977 Mr. Short was appointed to the Turlock Irrigation District Board of Directors. He was elected to serve on the TID board for eight consecutive four-year terms; serving over thirty-two years. During his tenure he dealt with droughts, floods, environmental rules and the expansion of the TID electricity system be-

tween south Modesto and northern Merced County. His position with TID allowed him to oversee recreation at Don Pedro Reservoir on the Tuolumne River. Over the years, Mr. Short was also a member of the California Walnut Commission and the Federal Walnut Control Board. He served as a chairman of the export and research committees of the California Walnut Marketing Board and served as president of the Association of California Water Agencies from 1993 to 1995. In addition, Mr. Short served our nation as a United States Marine Corp reservist.

Mr. Short is survived by his wife, Kay, and five children.

Madam Speaker, I rise today to posthumously honor Phillip Short. I invite my colleagues to join me in honoring Mr. Short's life and wishing the best for his family.

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**ILLEGAL ALIEN LOOPHOLE IN  
PELOSI HEALTH CARE TAKEOVER**
**HON. JOE WILSON**

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, November 5, 2009*

Mr. WILSON of South Carolina. Madam Speaker, on Tuesday I joined my colleagues to comb through the Pelosi health care takeover. The takeover bill weighs in at 21 pounds

and is 2,000 pages long. You would think in a bill that size, we would be able to find an adequate enforcement or citizenship verification system.

Unfortunately, we did not. All we found were weak citizenship verification measures that will give illegal aliens easy access to health care benefits paid for by hard working taxpayers—with overcrowding of medical providers delaying services for legal citizens.

In an effort to close this loophole, I am going to join Congressmen NATHAN DEAL, DEAN HELLER and SAM JOHNSON to present several amendments to the Rules Committee. Our amendments will prevent American taxpayers from being forced to finance benefits for illegal aliens by adding strong enforcement and verification provisions to the Pelosi health care takeover bill.

I encourage the Rules Committee to accept our amendments to eliminate the loopholes for fraud and abuse.

In conclusion, God bless our troops, and we will never forget September 11th in the Global War on Terrorism. I am grateful for the visit on Capitol Hill today by the Morristown Tea Party led by Jeff Weingarten who I visited last Sunday to encourage turnout in the New Jersey gubernatorial election Tuesday. With dedicated volunteers such as Synnove Bakke of East Brunswick, there was an historic turnout.

## SENATE—Friday, November 6, 2009

The Senate met at 9:30 a.m. and was called to order by the Honorable JEFF MERKLEY, a Senator from the State of Oregon.

### PRAYER

The PRESIDING OFFICER. Today's prayer will be offered by the Reverend Dr. Timothy Keller, Pastor, Redeemer Presbyterian Church, New York City.

The guest Chaplain offered the following prayer:

Let us pray.

Almighty and Everlasting God, Your presence brings joy in every condition, and Your grace is the health of every community.

We ask now that You would be both present and gracious toward these lawmakers and leaders as they begin their daily work. Visit them with a spirit of understanding, counsel, and courage, so that they may both know and do what is right.

Give them wisdom as well as compassion as they ponder the plight of the powerless, so that they may seek justice and peace in our country. Give them a spirit of unity, so that, despite honest and deeply felt differences of conviction, they may humbly work together for the common good.

And so that we may obtain all that You promise, empower us, as a nation, to love all that You do command.

This we ask in the Name of the one Redeemer, who gives Himself to us, that we might give ourselves to Him. Amen.

### PLEDGE OF ALLEGIANCE

The Honorable JEFF MERKLEY led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

### APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. BYRD).

The assistant legislative clerk read the following letter:

U.S. SENATE,  
PRESIDENT PRO TEMPORE,  
Washington, DC, November 6, 2009.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable JEFF MERKLEY, a Senator from the State of Oregon, to perform the duties of the Chair.

ROBERT C. BYRD,  
President pro tempore.

Mr. MERKLEY thereupon assumed the chair as Acting President pro tempore.

### RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

### SCHEDULE

Mr. REID. Mr. President, following leader remarks, the Senate will resume consideration of the Military Construction and Veterans Affairs appropriations bill. I encourage Senators to come to the floor today and offer amendments.

Also, we will probably come in around 1 o'clock or 2 o'clock Monday and that will be an opportunity to offer amendments. It is very important to finish this bill before Veterans Day. I think that would send a good message to the veterans of our country. Senators are, therefore, encouraged to come to the floor and offer amendments.

There will be no rollcall votes today. There will be rollcall votes Monday starting at 5:30. The first vote on Monday will be on Andre Davis to be a circuit judge for the Fourth Circuit. We hope to have other votes that evening, based on the amendments that are filed.

It is my understanding the distinguished Senator from New Mexico, Mr. UDALL, is going to be here to offer an amendment today. The manager is here, the chairman, Senator JOHNSON of South Dakota. We are open for business. It is very important people understand that they have the opportunity to offer amendments, if, in fact, they have any.

In years past, we have finished this appropriations bill in a matter of a couple hours. This year, it has been a little tough to get through appropriations bills. We need to get through the bill. We have a lot to do before this year ends.

I express my appreciation to Senator JOHNSON for his usual fine work. He is an outstanding Senator and has done a good job of managing this bill through the committee process to get where we are today.

### RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, leadership time is reserved.

MILITARY CONSTRUCTION, VETERANS AFFAIRS, AND RELATED AGENCIES APPROPRIATIONS ACT, 2010

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of H.R. 3082, which the clerk will state by title.

The assistant legislative clerk read as follows:

A bill (H.R. 3082) making appropriations for military construction, the Department of Veterans Affairs, and related agencies for the fiscal year ending September 30, 2010, and for other purposes.

Pending:

Johnson/Hutchison amendment No. 2730, in the nature of a substitute.

The ACTING PRESIDENT pro tempore. The Senator from South Dakota is recognized.

Mr. JOHNSON. Mr. President, as we resume consideration of the MilCon/VA bill, I remind my colleagues how important this bill is to the health and well being of our Nation's veterans and military troops and families.

Overall, the bill provides \$134 billion for veterans health and benefits and for urgent investments in military construction, including family housing, barracks and operational facilities.

Within that total, the bill before the Senate provides increased funding for a number of smaller but important initiatives. Let me cite just a few examples.

For veterans, the bill provides \$3.2 billion for health care and supportive services for homeless veterans. Ending homelessness among veterans is one of Secretary Shinseki's top priorities, and I am committed to doing everything possible through the appropriations process to help him achieve that goal. To that end, I have an amendment to provide another \$50 million to the VA to renovate empty buildings on VA medical campuses to provide housing and services to homeless vets.

For the military, the bill fully funds the expansion of the Homeowners Assistance Program to help military families who face steep losses on home sales as a result of orders to new posts during the current mortgage crisis. Military families cannot pick and choose when or where they move—they go where their orders send them when they are told to move. The expansion of the Homeowners Assistance Program is designed to help military families who must move at a time when home values have plummeted to avoid foreclosure or financial ruin by compensating them for losses on home sales.

And for the Nation's economic and environmental health, the bill provides \$225 million to promote energy conservation and investment in renewable energy resources at U.S. military bases, nearly triple the budget request. The Defense Department is the single largest consumer of energy in the Nation. This bill provides the funding to step up efforts to reduce energy consumption on military bases and to promote renewable energy alternatives, ranging from installing energy efficient light bulbs to powering an installation with geothermal energy.

These are just a few examples of the many important programs funded in this bill, and a few of the reasons why it is important that we act swiftly to pass the bill. I urge my colleagues to come to the floor if they wish to speak or if they have amendments to offer, and to work with the committee staff to clear amendments.

Mr. President, I yield the floor and suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. UDALL of New Mexico. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

AMENDMENT NO. 2737 TO AMENDMENT NO. 2730  
(Purpose: To make available from Medical Services, \$150,000,000 for homeless veterans comprehensive service programs)

Mr. UDALL of New Mexico. Mr. President, I call up amendment No. 2737.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from New Mexico [Mr. UDALL], for himself, Mr. BINGAMAN, and Mr. BOND, proposes an amendment numbered 2737 to amendment No. 2730.

On page 52, after line 21, add the following:  
SEC. 229. Of the amount appropriated or otherwise made available by this title under the heading "MEDICAL SERVICES", \$150,000,000 shall be available for the grant program under section 2011 of title 38, United States Code, and per diem payments under section 2012 of such title.

Mr. UDALL of New Mexico. Mr. President, let me, first of all, thank Senator JOHNSON for all his hard work on this appropriations bill. The Military Construction, Veterans Affairs appropriations bill is one of the most important bills we do in the Congress because, as he has said earlier, it supports our veterans, supports their health care, supports military construction, and supports what they do in the communities around the country and across the world. In particular, it supports the Department of Veterans Affairs.

After reviewing this piece of legislation, I commend Senator JOHNSON on

his excellent leadership. I also thank him for working with me on this particular amendment. I also thank his excellent staff.

I rise to talk about America's forgotten heroes and to offer this amendment to improve upon the excellent legislation before us today. Imagine dedicating your life to serving your country. You give up time with your family, you put your life on the line, you sacrifice everything for the freedom and security of your fellow Americans. Then, you come home and you cannot hold down a job or you cannot adjust to everyday life because of the traumatic experience you have been through. Soon, you find yourself without four walls to call home.

Many of our veterans transition back into civilian life without problems. For many others, it simply takes more time. But for some veterans, that transition is painfully difficult. Sometimes, it never happens at all. Right now, more than 130,000 of our Nation's 24 million military veterans—brave Americans who answered the call to serve—are homeless on any given day. They are in their greatest hour of need, living on the streets without support or any hope for a better tomorrow.

If every American living on the street is a tragedy, every veteran living on the street is a crime. Our veterans deserve better than that from the Nation they served. At the bare minimum, this country has a responsibility to provide its veterans with a place to lay their heads.

Sadly, when it comes to this basic duty, we have not lived up to our ideals. Roughly, 200,000 American veterans experience homelessness at some time during the year. Veterans are twice as likely as other Americans to be homeless. This is a statistic that should outrage all of us.

President Obama has set a goal of eliminating the homelessness of veterans in 5 years. I commend him for that. I commend the subcommittee for the legislation they have put together to provide funding for several VA homelessness programs—and I commend Senator JOHNSON for his leadership on this legislation—including \$144 million for the Homeless Grant and Per Diem Program.

My amendment, however, increases the funding in the bill by a modest \$6 million, bringing it to the program's full authorization level. Senators BOND and BINGAMAN are joining in this effort as amendment cosponsors, and I thank them for their support.

This amendment will provide additional funds to construct, renovate, and acquire buildings to be used as service centers or transitional housing for homeless veterans. These grants are critical to organizations working to provide shelter to our homeless veterans. In my home State of New Mexico, six organizations in Albuquerque,

Gallup, Las Cruces, and Las Vegas, have received these funds over the past 8 years. They will tell you firsthand how critical this funding is to our veterans and to our country.

While I know this funding is not an end-all, be-all solution to veteran homelessness, it is a good start.

I received a letter from a 15-year-old Boy Scout from Albuquerque a bit ago. His father and grandfather are veterans, and he is planning to follow in their footsteps and join the military himself when he is old enough. This young man wrote to say how angry he is that we are not doing enough to help our homeless veterans. Here is what he said in his letter that he wrote me:

These men and women are doing what they were called to do by our government . . . but then they come back and are treated so poorly by everyone . . . We, as a nation, need to do more to help our veterans.

As long as America faces threats and values freedom, we will need men and women to protect us. And as long as men and women serve in uniform, we all have a sacred responsibility to support them.

To the smart young man who wrote me that letter and to all America's veterans, this bill and this amendment builds on efforts to meet our country's moral obligations to the men and women who so bravely served our country. I urge my colleagues to support passage of both.

Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from South Dakota.

Mr. JOHNSON. Mr. President, this is an excellent amendment. I thank the Senator for offering it. I will accept this amendment at the appropriate time.

Mr. UDALL of New Mexico. Mr. President, if the Senator will yield for a comment, I, once again, thank Senator JOHNSON. I know when he looks at these veterans issues and deals with them, he has the utmost respect. I believe he has a son who has served. He brings a compassion to these veterans issues that shows in this legislation we have on the floor today.

I hope all of my colleagues will review the legislation and see that the Senator from South Dakota put a lot of hard work in and his staff has put a lot of hard work in. I once again appreciate him and his staff for working with me on this amendment. I look forward to working with him to see that it is accepted.

Mr. JOHNSON. I thank the Senator from New Mexico.

Mr. INOUE. Mr. President, I submit pursuant to Senate rules a report, and I ask unanimous consent that it be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DISCLOSURE OF CONGRESSIONALLY DIRECTED  
SPENDING ITEMS

I certify that the information required by rule XLIV of the Standing Rules of the Senate related to congressionally directed spending items has been identified in the committee report which accompanies S. 1407 and that the required information has been available on a publicly accessible congressional website at least 48 hours before a vote on the pending bill.

Mr. SANDERS. Mr. President, I ask unanimous consent to speak as in morning business.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

## TOO BIG TO FAIL LEGISLATION

Mr. SANDERS. Mr. President, as a result of the greed, the recklessness, and the illegal behavior of a handful of executives on Wall Street, we are in the midst of the worst economic crisis since the Great Depression. Millions of Americans from one end of this country to the other have lost their jobs, they have lost their homes, they have lost their savings, they have lost their ability to send their kids to college, and they have lost their hope. In fact, just this morning, we have learned that the official unemployment rate is now a staggering 10.2 percent—the highest in over 26 years.

Since the recession began in December of 2007, 8.2 million Americans have lost their jobs and the unemployment rate has more than doubled. In total, today 15.7 million Americans are officially unemployed; another 9.3 million are working part time—they want to work 40 hours a week, but they are only working part time; and 2.2 million workers have given up looking for work altogether. When you add those three factors together—official unemployment, people who have given up looking for work, and people working part time who want to work full time—what you are left with is an incredible 17.5 percent of the American workforce unemployed or underemployed—27 million Americans. And when we go out and we find that people are angry or hurt or depressed, that is one of the reasons.

Over a year has gone by since Congress—against my vote—passed the \$700 billion bailout for Wall Street. The Federal Reserve has committed trillions of additional dollars in virtually zero-interest loans and other assistance to large financial institutions. Add it all together, and you are looking at the largest taxpayer bailout in the history of the world.

Then-President Bush, Secretary of the Treasury Paulson, and Fed Chairman Ben Bernanke told us at that time that we needed to bail out Wall Street because we could not allow these huge financial institutions and insurance companies to fail because if they failed, their failure would be systemic and would impact every aspect of our economy and would take down large

segments not only of financial services but the entire economy as well. We all remember: This is not a bailout of Wall Street, this is a bailout to help Main Street.

One might think, if these institutions were “too big to fail,” one kind of obvious solution—and you don’t need a Ph.D. in economics to figure this out—is that you might want to make them smaller. If they are too big to fail, maybe you would want to reduce their size. Yet, under the leadership of the Bush administration and Fed Chairman Ben Bernanke, these financial institutions did not get smaller, they got bigger.

Last year, Bank of America, the largest commercial bank in this country, which received a \$45 billion taxpayer bailout, purchased Countrywide, the largest mortgage lender in this country, and Merrill Lynch, the largest brokerage firm in this country. You don’t become smaller when you incorporate other large institutions into your existence.

Last year, JPMorgan Chase, which received a \$25 billion bailout from the Treasury Department and a \$29 billion bridge loan from the Fed, acquired Bear Stearns and Washington Mutual, the largest savings and loan in the country.

Last year, the Treasury Department provided an \$18 billion tax break to Wells Fargo to purchase Wachovia, allowing that bank to control 11 percent of all bank deposits in this country.

Today, these huge financial institutions have become so big that, according to the Washington Post, the four largest banks in America—and I want people to hear this—Bank of America, Wells Fargo, JPMorgan Chase, and Citigroup, now issue one of every two mortgages. Got that? The largest four financial institutions issue half of the mortgages in America. They issue two out of three credit cards and hold \$4 out of every \$10 in bank deposits in the entire country.

The face value of over-the-counter derivatives at commercial banks has grown to \$290 trillion, 95 percent of which are held at just five financial institutions in the entire country—JPMorgan Chase, Bank of America, Citigroup, Goldman Sachs, and Morgan Stanley. Derivatives are nothing more than side bets by Wall Street gamblers that oil prices will go up or down or that the subprime mortgage market will continue to get worse or on the weather or whatever can make them a quick buck. Risky derivative schemes led to the \$182 billion bailout of AIG, the collapse of Lehman Brothers, the downfall of Bear Stearns, and precipitated the largest bailout in the history of the world.

If any of these financial institutions were to get into major trouble again—and, frankly, there is no reason to believe that will not happen because they

are spending millions of dollars trying to influence Congress to prevent any action to stop them from going back to the way they were before the collapse—we would be in line for a bailout that would be even larger than the bailout that took place over a year ago. Obviously, we cannot allow that to happen.

Not only are too-big-to-fail financial institutions bad for taxpayers, the enormous concentration of ownership in the financial sector has led to higher bank fees, usurious interest rates on credit cards, and fewer choices for consumers.

Mr. President, I am sure you have gotten the same calls I have gotten from people who say: You know, I pay my credit card bills on time every single month, and suddenly they raise my interest rates to 29 percent, to 30 percent. And one of the reasons these guys can get away with doing that is there is not a heck of a lot of competition out there. One out of four American families, as a result of this greed, this usury, is now paying an interest rate of at least 20 percent on their credit cards. That is another issue that, obviously, we have to deal with.

According to BusinessWeek:

Bank of America sent letters notifying some responsible cardholders that it would more than double their rates to as high as 28 percent.

These are people who pay their bills on time.

According to a recent study by the Pew Charitable Trusts, credit card interest rates went up by an average of 20 percent in the first 6 months of this year, even as banks’ cost of lending declined. In other words, as banks get bigger, consumers are having to pay twice—once to bail out these institutions when they screw up altogether and a second time to pay higher fees and interest rates.

The time has come for us to do exactly what Teddy Roosevelt, a good Republican, did in the early 1900s; the time is now to do what I think most Americans understand we have to do; that is, break up these huge financial institutions.

Yesterday, I introduced S. 2746, the Too Big To Fail, Too Big To Exist Act, which would do just that, and that is the bottom line. The bottom line here is that if a financial institution is too big to fail, that financial institution is too big to exist, and we have to start breaking them up.

This legislation is all of two pages. So when people ask you if you have read it, unlike the 1,900-page health care legislation, you can say with all confidence that you have read it, because it is all of two pages. What it says is, first, that the Secretary of the Treasury has to identify every single financial institution and insurance company in this country that is too big to fail within 90 days. In other words, what are the institutions that if they

fail would cause widespread economic harm to the country? The Secretary of the Treasury does that within 90 days. After 1 year, the Secretary of the Treasury would be required to break up these institutions so that their failure would not lead to the collapse of the U.S. or global economy.

There is growing support in our country and around the world for breaking up too-big-to-fail financial institutions. Let me give you a few important examples of that growing sentiment all over the world.

It was reported in the Washington Post and major media all over the world that the British Government, in fact, is moving in that direction. Let me quote from the Washington Post:

The British Government will break up parts of major financial institutions bailed out by taxpayers. Spurred on by European regulators, the British Government is forcing the Royal Bank of Scotland, Lloyds Banking Group and Northern Rock to sell off parts of their operations. The Europeans are calling for more and smaller banks to increase competition and eliminate the threat posed by banks so large that they must be rescued by taxpayers, no matter how they conducted their business, in order to avoid damaging the global financial system.

That is about it. Ain't more complicated than that. Let's break them up before they again lead this world to a major financial crisis. Let's break them up before they require hundreds and hundreds of billions of dollars in bailout. And in my view, it is a positive thing that the Government of the UK is moving in that direction.

But it is not just the Government of UK. On October 15, 2009, Bloomberg News reported that former Federal Reserve Chairman Alan Greenspan—perhaps more than any other individual, the person most responsible for the de-regulatory efforts which led us to where we are today—said this. This is what Greenspan said on October 15, 2009:

If they're too big to fail, they're too big. In 1911, we broke up Standard Oil—so what happened? The individual parts became more valuable than the whole.

Former Fed Reserve Chairman Paul Volcker, the head of President Obama's Economic Recovery Advisory Board, said:

Keep banks small so that any failure won't have systematic importance . . . People say I'm old-fashioned and banks can no longer be separated from nonbank activity. That argument brought us to where we are today.

That is former Fed Chairman Paul Volcker.

Robert Reich, President Clinton's former Labor Secretary, said:

No important public interest is served by allowing giant banks to grow too big to fail . . . Wall Street giants should be split-up—and soon.

Sheila Bair, the head of the Federal Deposit Insurance Corporation, has said:

We need to reduce our reliance on large financial institutions and put an end to the idea that certain banks are too big to fail.

On and on, people all over our country, conservatives, progressives, are making that point.

Let me conclude by saying this. As Members of the Senate, Members of Congress, we are besieged every day by enormously powerful and wealthy special interests. The health insurance industry is spending over \$1 million a day on lobbying, huge amounts of campaign contributions. The drug companies, the military defense contractors, you name it, they are all outside the door, fighting to make sure that their special interests are getting more and more. But at the top of that list of powerful special interests certainly are the large financial interests. Over a 10-year period they spent over \$5 billion in lobbying and campaign contributions in order to make sure that Congress deregulated their activities so they could merge, so they could engage in reckless financial speculation.

They won and the American people have lost, and the American people are paying that price today. The time is now for us to say enough is enough, for us to do what I think the vast majority of the American people want us to do and that is, if an institution is too big to fail, it is too big to exist.

Let's start breaking them up for two basic reasons. No. 1, I don't want to see a huge bailout having to take place again, hundreds and hundreds of billions of dollars of taxpayer money going to these guys. No. 2, it is unhealthy for the economy when so few people have such a concentration of ownership in terms of credit cards, in terms of mortgages, in terms of other financial transactions. The small business community and middle business community desperately need credit and they are not getting credit. You have people on there who are controlling a whole lot of our financial system.

Now is the time to do what Teddy Roosevelt did well over 100 years ago, and that is to stand up to these guys. For the well-being of the economy and for the American people, let's break them up.

Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from South Dakota.

Mr. JOHNSON. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. TESTER. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. TESTER. Mr. President, I ask unanimous consent to speak as in morning business.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

#### RURAL VETERANS HEALTH CARE

Mr. TESTER. Mr. President, I rise to join with the chairman of the Veterans' Affairs Committee to urge passage of S. 1963. This bill contains the Rural Veterans Healthcare Improvement Act, a bipartisan measure that will make countless improvements in the VA for veterans in most of the rural places in this country. This bill locks in the mileage reimbursement rate for disabled veterans who have to travel long distances to get to a VA clinic. It also gives greater authority to develop new strategies to address the mental health needs of OIF and OEF veterans in highly rural areas where access to health care is an enormous challenge.

I am also pleased the bill authorized hiring of health care coordinators at a local level, to prioritize the needs of our country's 184,000 American Indian veterans. Most of these veterans are located in only a few States. The bill gets folks who understand the unique needs of tribal veterans to the areas that need them the most. I am honored we were able to get strong support across the veterans community for this bill and I think it will help a lot of rural veterans if we get this bill passed.

When someone puts their life on the line to defend this country, they have earned health care, education benefits, and disability benefits if needed. America's responsibility to honor the promise of our veterans should not depend on whether the veteran lives in an urban area, but too often that is still the case. This bill helps to address some of the inequalities facing rural veterans.

This bill was approved unanimously by the VA Committee just before Memorial Day. It is now almost Veterans Day. We can do better by folks who served our country and settled down in rural America. Let's not stand in the way for better VA services for rural veterans.

I understand there has been a hold put on this bill. Our veterans are too important for politics. The fact of the matter is, our veterans are folks who, as I said in my comments, have served this country so very well. We need to step to the plate and serve them in the same way they served us—live up to our promises, live up to our obligations to the veterans of this country.

I encourage the Senate to pass this bill very soon. Hopefully, we can get it done before Veterans Day.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Tennessee is recognized.

Mr. CORKER. Mr. President, I rise to speak as in morning business.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

#### HEALTH CARE REFORM

Mr. CORKER. Mr. President, I will be very brief. I know there are very few

Senators still here in the Capitol. Most people, as they should, have gone home to meet with constituents, something I will do a little later this afternoon. I realize there may be very few staff members who may be listening. I realize the other body is in session and may possibly take up the health care bill that all of us have been talking about for some time here on the floor.

I want to make a point I made a few days ago one more time. Early this week I woke up early in the morning and was thinking about the health care legislation that is before this body—or will be before this body very soon. It has been the focus of the country, if you will, over the last several months. I thought about the provisions that are the base building blocks in this legislation. You have a piece of legislation that is taking Medicare savings, \$400 to \$500 billion, and using those “savings” to leverage a whole new entitlement, not using those “savings” to take Medicare and make it more solvent or to deal with the SGR issue so many physicians around this country are concerned about.

I thought about the fact that not long ago, a couple of years ago—and probably, Mr. President, even when you were doing the same thing I was doing and that is seeking this office—so many people were concerned about the unfunded liabilities we had in Medicare and Social Security. There seemed to be a bipartisan move to want to solve that problem for the long haul so we knew that those particular entities would be dealt with in an appropriate way. Here we have a bill that is taking \$400 billion to \$500 billion in savings, depending on which draft, whether it is the House or the Senate, and instead of making Medicare more solvent—it has \$38 trillion in unfunded liabilities—we in this body are using those savings to leverage a whole new program.

Second, we are using Medicaid and basically creating huge unfunded mandates for our States. I think all of us know that. In my own State we have a Democratic Governor who wants to see health care reform occur, as I do, but he is very concerned, in a State that expects revenues to be at 2008 levels in 2013, that all of a sudden he has this unfunded mandate.

Third, this bill, as we know, is going to raise insurance rates because of some of the provisions wherein insurance companies have to take all comers but everyone doesn't have to bill health insurance. In my own State, it is a 60-percent increase projected in 5 years by an independent group. This is not something the insurance companies directly put together; an audit was put together to look at this.

If I had drafted this bill, BOB CORKER from Tennessee, a Republican, if any of the people on this side of the aisle had drafted this bill, there would not be one single Democratic vote for this bill

if you look at those components which are the basic building blocks of this bill. This week, as I have come up here to vote, I have talked to numbers of my friends, like you, Mr. President. You are one of the specific ones. I don't want to throw you in this category, but you are my friend. I have numbers of friends on the other side of the aisle where I seek to find common ground and we cosponsor legislation together. You and I are working on something right now.

As I rode the elevator up yesterday to the vote we had last night, I talked to some numbers of my friends on the other side of the aisle, both on the elevator, walking here, but on this floor.

And I said: You know, guys, if I had offered this bill, or any Republican had offered this bill that we are getting ready to debate on the Senate floor, there would not be a single Democratic vote for it.

That is not because of partisanship, by the way; it is because of what is in the bill itself. Almost to a person, there were a few who said they agreed.

They said: You are right. If Republicans offered a bill that is at \$400 to \$500 billion of Medicare savings and did not apply it to making Medicare more solvent but took that to leverage a whole new program, there would not be a single Democratic vote for that bill.

So I understand. We had a President of our party during the first 2 years I was here. I understand what happens when you are going to “do one for the Gipper,” if you will. You are going to “do one for the President” who needs this. But this is a very important piece of legislation. I do not understand—I really do not—on something that is going to be hard to undo, why so many of my colleagues on the other side of the aisle are supporting a piece of legislation that if they were left to their own accord and in a vacuum—did not have the President, did not have the majority leader, did not have the Speaker of the House pushing this legislation—if it was just presented to them if they were at a townhall meeting, they had never heard of this legislation before, and somebody said: Would you support a bill that does this, I do not think there would be a person on the other side of the aisle who would support this legislation.

So as we move into this weekend—and I know this body is not going to take it up. I know the House is. I hope there are a few House Members listening. I hope people will think about this and step back away from it.

I am one of those Republicans who wants to see responsible health care reform. I want to see us lower the costs of this delivery system, which this bill candidly does not do. I want to see more Americans have access—if not all—to affordable, quality health care.

This bill, we all know, takes us in a direction, there is no question, that is

not the right direction. I hope that together we will figure out a way to address health care reform in a way that will stand the test of time.

This bill will not do that, and I know I have already talked to many of the people I mentioned yesterday who said: We realize we are going to create lots of problems. They are going to have to be dealt with down the road, but we cannot vote against this piece of legislation today.

I hope the body will rise to the occasion. I hope the body will put aside a piece of legislation that I do not think anybody feels great about. I hope we will come together and do something that is in the best interests of our country.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Hawaii is recognized.

Mr. AKAKA. Mr. President, I ask unanimous consent to proceed as in morning business.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

#### RURAL VETERANS HEALTH CARE

Mr. AKAKA. Mr. President, I have come to the floor today to discuss an important veterans' bill. Before I do so, I wish to express my great sadness about the horrible tragedy yesterday at Fort Hood. My thoughts and prayers are with those wounded, the families of those killed, and to all the soldiers and civilians defending our great nation at Fort Hood.

As chairman of the Senate Committee on Veterans' Affairs, I take my responsibility to the Nation's veterans very seriously. We are an active committee and are working hard to make improvements in VA care and benefits.

I am delighted to note that the President signed the Veterans Health Care Budget Reform and Transparency Act of 2009 into law last month. This measure will provide timely and predictable funding for the veterans health care system. I am grateful to all who worked on this, including the committee's ranking member, and the Veterans Service Organizations, that made this one of their priorities.

Despite this success, we, as a committee, have not been able to achieve action on S. 1963, the proposed Caregiver and Veterans Health Services Act of 2009. This vitally important veterans' health bill is being held up by a single Senator. Each day that this measure is delayed, means that vital benefits for veterans are delayed.

This is a bipartisan bill, the provisions of which were reported by the committee as S. 801 and S. 252, with the full support of our ranking member, Senator BURR.

This bill is supported by many veterans' organizations, including the American Legion, the Veterans of Foreign Wars, the Disabled American Veterans, the Paralyzed Veterans of America, and the Wounded Warrior Project.

Various other advocates support this bill, as well, including the Nurses Organization of Veterans Affairs, the Brain Injury Association of America, the American Academy of Ophthalmology, the American Association of Colleges of Nursing, and many others.

By blocking S. 1963, this single senator is denying veterans many benefits and services.

One of the key benefits is caregiver assistance for our most seriously wounded veterans.

The committee continues to hear about family members who quit their jobs, go through their savings, and lose their health insurance, as they stay home to care for their wounded family members.

For those family members who manage to keep their jobs, their employers, including many small businesses already struggling in these economic times, lose money from absenteeism and declining productivity.

The toll on the caregivers, who try to do it all, can be measured in higher rates of depression, and poor health as they struggle to care for these wounded warriors, an obligation that ultimately belongs to the government.

This legislation fulfills VA's obligation to care for the nation's wounded veterans, by providing their caregivers with counseling, support, and a living stipend.

The measure also provides health care to the family caregivers of injured veterans. These caregivers deserve our support and assistance.

As a representative of the Wounded Warrior project said in testimony before the committee, "The time has surely come to create a robust, nationwide wounded warrior family caregiver program to address the urgent needs of these family members." S. 1963 creates such a program.

By blocking S. 1963, this Senator is also blocking benefits specifically for women veterans. This bill, and Senator MURRAY has been a leader on this, would do a number of things, such as increase funding for mental health care for women who suffered military sexual trauma, and for medical services for newborn children.

With the help of Senator TESTER, this bill also would improve access to care in rural areas. States which have an especially high number of veterans living in rural areas, such as Montana, Nevada, Wyoming, Florida, Arizona, Arkansas, Virginia, Idaho, Oklahoma, and New Mexico, would benefit greatly from these programs.

The bill also attacks another problem, that of homeless veterans.

On any given night we know that more than 130,000 veterans are homeless.

We know that homelessness is often a consequence of multiple factors, including unstable family supports, job loss, and health problems.

S. 1963 would also create programs to help ease the burden of veteran homelessness, including programs aimed at outreach so that veterans know that they are eligible for benefits.

This lone Senator also is blocking provisions that would improve quality controls for VA health care, from the facility level to the national level.

Two years ago, the VA hospital in Marion, IL, had nine veterans die following surgery.

The VA's inspector general found that the Marion VA's quality controls were not adequate to ensure that veterans received good quality care.

This month, the IG published another report on the Marion hospital, finding that it still did not have adequate quality controls. It is time for this body to act, so that no more veterans receive less than the best care VA can provide.

Senator DURBIN drafted provisions in this bill that will help improve overall quality management so as to help fix the problems at Marion and other facilities.

S. 1963 would provide uniform allowances for VA police officers. Many organizations have expressed support for these provisions, including the Fraternal Order of Police.

VA police officers ensure the security of veterans and their families while they are visiting VA hospitals and clinics.

To refuse to provide for these officers because it is too expensive is not only penny-wise and pound-foolish, it cheapens the sacrifices of these uniformed officers and the Nation's veterans who are protected by them.

While I understand that the Senator who is refusing to agree to allow this bill to go forward questions the cost of the underlying bill, I would say that we cannot now turn our back on the obligation to care for those who fought in those efforts.

When we, as a body, vote to send American troops to war, we are promising to care for them when they return.

I firmly believe the cost of veterans' benefits and services is a true cost of war and must be treated as such.

We are preparing to observe Veterans Day.

Let us remember that we owe our veterans our gratitude and appreciation year round, and not merely on the day set aside for the commemoration of their service and sacrifice.

It would be truly disgraceful if veterans were made to feel forgotten except for this 1 day per year.

Indeed, our gratitude should be as steadfast as the great monuments that Americans have built in commemoration of the very service and sacrifices our veterans made.

There should be no ambivalence in our attitude toward those who serve in the U.S. Armed Forces.

And this legislation should be immediately cleared by the Senate.

The ACTING PRESIDENT pro tempore. The Senator from Alaska.

Mr. BEGICH. Mr. President, I ask unanimous consent to speak in morning business.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BEGICH. Mr. President, I rise in support of S. 1963, the Caregiver and Veterans Omnibus Health Services Act of 2009. I thank the chairman of the Veterans' Affairs Committee, Senator AKAKA, for his leadership on this bill and in committee.

S. 1963 is comprehensive legislation that addresses many of the needs of our veterans, our Nation's heroes. Provisions are included to improve veterans health care, provide benefits for caregivers of wounded veterans, enhance outreach to homeless veterans, and expand health care for female veterans. The bill also provides for VA personnel improvement and quality management. Rural veterans, such as those in my State who face challenges accessing health care every day, will benefit from this bill. It expands telemedicine programs and provides the Department of Veterans Affairs authority to recruit and retain high-quality health professionals in rural communities. The bill also improves mental health care. Eligibility to receive readjustment counseling for Iraq and Afghanistan vets, including the National Guard and reservists, will increase.

So many issues facing our veterans today are addressed in S. 1963. Passage of this legislation and its enactment into law will improve and increase services for veterans and acknowledge the sacrifice of their caregivers.

Yet even as Veterans Day approaches, a Member of the Senate has placed a hold on this bill, denying better services for our veterans. I cannot imagine why this hold has been placed on this legislation. How can a Member of the Senate deny our veterans better care? How can my Senate colleague justify his hold on a bill that helps homeless and wounded veterans? How can my colleague deny veteran caregivers deserved relief and support? There is no excuse for not supporting our veterans and their caregivers. They have earned better than what we have provided to date. This bill gives us an opportunity to provide for veterans and to honor their sacrifices. This bill, on which my colleague has placed a hold, will eliminate copayments for veterans who are catastrophically disabled and allow the VA to reimburse these veterans for emergency care at non-VA facilities. How can my colleague deny disabled veterans easier and less costly medical care? Veterans have paid their dues, and it is our turn, our duty, and our obligation to take care of them.

I am disappointed my Senate colleague does not share this same sense of duty and responsibility to our Nation's heroes who have sacrificed so



much for our very right to stand in this body and debate this matter. There is no good reason or rationale for a hold to be placed on this legislation.

I call on my colleague to remove this hold and ask my colleague to remember, as Veterans Day approaches, that those who have served this country deserve better. They have earned it. It is my obligation and his obligation to support our veterans and to always remember the sacrifice they have made.

Senator COBURN, let the Senate proceed with recognizing and providing for our Nation's veterans by removing your hold on S. 1963.

Again, I thank Chairman AKAKA for his unwavering support and advocacy for our veterans.

I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. REED. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

#### TRAGEDY AT FORT HOOD, TEXAS

Mr. REED. Mr. President, I come to the floor today, as so many of my colleagues have, to reflect on the extraordinary tragedy that took place at Fort Hood, TX, yesterday. It is almost inconceivable such an event could take place.

As we sort through the motives and the rationale, which may take weeks, I think we, obviously, have to extend our deepest, sincerest condolences to the families of these men and women. They were there because they wanted to serve their country. They were there because they were willing to risk their lives in service to this Nation.

Tragically and inexplicably, it happened on a post in the United States not in a faraway land. I think this is a moment where we all have to stop, not only to extend our warmest condolences to the families, but also to reflect on the service and sacrifice of all the troops. Their continued willingness to serve and expose themselves to risk, to leave their families behind—all of this creates the pressure, the tension, the burden of soldiering in this moment in our history. We owe them more than we can repay them.

At this moment, I express my deepest condolences to the families and also to those soldiers who came to the aid of their comrades, who exposed themselves in a dangerous manner to try to get people to safety, to try to provide first aid to the wounded. They continue to be our heroes, and they always will be.

Mr. President, I would now like to speak on the military construction bill before us. I want to commend, obviously, my colleagues, Senator JOHNSON and Senator HUTCHISON, for their great

work. I had the privilege for a short time to serve as the acting chairman of the subcommittee and worked very closely with both Senator JOHNSON, our chairman, and Senator HUTCHISON, the ranking member. They are both very committed and dedicated colleagues, and they have done a remarkable job.

This bill provides \$134 billion for military construction, military family housing, and veterans affairs programs, an increase of approximately \$429 million over the President's request.

This bill provides a total of \$109 billion for the VA and increases funding for medical care by \$4.2 billion over last year's funding.

For the first time, the bill includes advance appropriations for the VA's medical programs to ensure a stable and uninterrupted funding stream.

This bill also provides funding to combat homelessness among veterans. This is a priority of both Secretary Gates and Secretary Shinseki, and also Admiral Mullen, the Chairman of the Joint Chiefs of Staff. This bill includes \$3.2 billion for health care, support services, and housing assistance for homeless veterans.

I hope, again, the Senate will act before Veterans Day to pass this measure. I think it would be a fitting tribute to our veterans, whom we honor in words, and I think we have the chance, early next week, to honor them in deeds.

Mr. President, I ask unanimous consent that my following remarks be printed elsewhere in Morning Business.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

(The remarks of Mr. REED are printed in today's RECORD under "Morning Business.")

Mr. REED. Mr. President, I yield the floor and suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REED. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

#### MORNING BUSINESS

Mr. REED. Mr. President, I ask unanimous consent that the Senate proceed to a period of morning business, with Senators permitted to speak for up to 10 minutes each.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

#### TRIBUTE TO LIEUTENANT GENERAL THOMAS F. METZ

Mr. REED. Mr. President, I have been very fortunate in my life. One of the

great opportunities I received from Senator John O. Pastore of Rhode Island was the opportunity to attend West Point. At West Point, it was not just a great education, it was not just an opportunity to serve the Nation. The most important opportunity I had was to meet an extraordinary group of my colleagues and classmates who have served this Nation with great distinction now for over 30 years.

Recently, some of my colleagues who have reached general officer ranks have retired: LTG Dell Dailey, who was one of the chiefs of our special operations forces, someone whose heroism and courage would be well renowned if it could be revealed, but because of his special operations missions, much of what he has done will be classified for many years; LTG Mike Maples, who was the head of the Defense Intelligence Agency—two valued friends and classmates who have retired.

In a few days, another of my classmates will join that distinguished roster: LTG Tom Metz. Tom Metz is someone who personifies the values of duty, honor, and country, and who has spent his entire life in service to the Nation.

He joined the Army as an enlisted man in 1966. He went to the Army's West Point preparatory school, and then he joined the class of 1971 in the summer of 1967. Even then, back in the late 1960s, it was quite obvious that Tom Metz was going to be a leader in our Army, that he was going to command great responsibilities. It was a function of his skill but, most importantly, it was a function of his character, his commitment to those he led and to the Nation he chose to serve.

Tom Metz's career has been an extraordinary one. He started as a lieutenant in the 1st Battalion of the 509th Parachute Infantry Regiment in Germany in the 1970s. He rose through the ranks to hold command at every level: platoon, company, battalion.

He concluded his command responsibilities in Iraq as the commander of Multi-National Corps-Iraq during Operation Iraqi Freedom. There he led our forces from January 2004 to February 2005. In a difficult moment, he provided the leadership and the example that our forces needed.

His previous assignments included being the assistant division commander of the 4th Infantry Division, where he was able to begin the technological improvement of our Army by introducing new digital technology for our armored forces. He also served in several staff positions of great responsibility.

Presently, he is the head of the Joint Improvised Explosive Device Defeat Organization. This is the weapon—the IED—of choice of our opponents, and the Department of Defense chose one of the most capable and most caring individuals to lead our effort to defeat these devices.

Tom will conclude a distinguished career. He was bolstered, supported, encouraged, and sustained throughout his career by his wife Pam and his family. They, too, served and they, too, deserve our great commendation and respect.

I am extraordinarily proud of his service as a classmate, as a friend, as someone who admires his character, his courage, and his unstinting commitment to the soldiers he led and the Nation he served. I thank him for his great service.

Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

The ACTING PRESIDENT pro tempore. The Senator from Pennsylvania is recognized.

Mr. CASEY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

#### AFGHANISTAN

Mr. CASEY. Mr. President, I rise today to talk about the aftermath of the elections debacle in Afghanistan.

President Hamid Karzai's first term was characterized by a cloud of corruption and mismanagement. In his speech on Tuesday, President Karzai promised to battle corruption and to build a government that includes elements of his political opposition. Our President, President Obama, said that Mr. Karzai's performance should be measured not in words but deeds. I believe this to be true, and I wish to offer some thoughts on how President Karzai can rebuild the confidence of the Afghan people as well as the international community.

I am afraid the time window for this new government will be very short, so President Karzai needs to move quickly and with resolve. We might ask, what are the markers by which we should measure the progress of this new Afghan Government? I believe there are at least five areas to review.

First: President Karzai intends to build a better legislative framework to combat corruption. This is good. But he has also said that corruption cannot be solved by replacing high-ranking officials. I could not disagree more with that assessment. With a host of government officials accused of corruption, we will not see a significant break with the past. A large part of battling corruption is removing the perception of corruption. Keeping these officials in place will only serve to fuel a commonly held perception that Mr. Karzai refuses to resolutely deal with this issue of corruption.

I echo President Obama's call for strengthening the country's anticor-

ruption commission. The establishment of such a body is long overdue and could play a key role in rebuilding Afghanistan's trust in the legitimacy of the Karzai government. The CIA should not—should not—be cooperating with Wali Karzai. If we are serious about corruption, we should also be judged by our deeds and not our words.

There are ministries in Afghanistan that are in need of serious reform. The Interior Ministry, which oversees the police, must confront the corruption practiced by police officers on a daily basis. The Agriculture, Energy, and Private Development Ministries also require substantial reforms.

A second area to examine: President Karzai should move quickly to publicly distance himself from some of the more unsavory characters from his election campaign.

GEN Abdul Rashid Dostum, the Uzbek warlord, has been accused of terrible human rights violations for his role in detaining thousands of Taliban fighters who were suffocated in shipping containers. Mr. Karzai's Vice Presidential partner, Mr. Fahim, has been accused of drug trafficking.

I fully acknowledge and I think everyone in this body fully acknowledges that President Karzai has a difficult job of balancing a wide variety of Afghan power centers and ethnic groups. We know that. But building a foundation for his country on such dubious grounds not only calls into question his judgment but seriously endangers the prospects for sustainable reform.

Third: Karzai should keep in place those who have competently fulfilled their responsibilities.

Most noteworthy, perhaps, is the Governor of Helmand Province, Governor Mangal, who continues to struggle on the front lines against the Taliban. I had the opportunity this past August to meet Governor Mangal and to spend some time with him. He is very brave, and he is very competent. I think President Karzai should understand that the American people expect Governors to be strengthened and not undermined. Mr. Karzai should empower provincial Governors and local leaders who have proven their ability to lead. At the national level, the Health Minister has also done a commendable job, and the Education Ministry has made some important strides.

We cannot tell Karzai whom to retain or dismiss in his new government, but these personnel decisions send a very strong signal to the Afghan people and the international community of where he intends to lead the country in the short term.

Fourth: President Karzai needs to take steps to improve the election process in Afghanistan.

Systemic and widespread fraud marred the 2009 election. President Karzai should call for an inquiry into the 2009 electoral process led by experts

from Afghanistan and the international community. Parliamentary elections are scheduled for next year. Without a serious investigation and an effort to address the shortcomings of the electoral system, the elections in 2010 and in the future are at risk. Without clean electoral processes in place, the Afghan people will continue to question the legitimacy of their elected leaders.

Fifth and finally: The viability and legitimacy of this new Karzai government will be determined in large part by whom he decides to incorporate from the opposition.

While his main opponent, Abdullah, has said he will not join a unity government, there are competent people from his team who can play a constructive role in Afghanistan.

We want and need President Karzai as a reliable partner. I hope his reelection will provide the opportunity for a fresh start in Afghanistan, a start that is characterized by a commitment to good governance, political inclusion, and a realization that Afghanistan's future must be based upon the rule of law.

When I saw President Karzai in August just after the election, I implored him to confront these pressing issues and explained that the patience of the American people was not infinite—in fact, it grows shorter by the day.

The next few weeks will be pivotal. President Karzai can do so much to rebuild the confidence of the international community and the Afghan people in this short period of time. As President Obama determines our troop commitment to the Afghan theater, it must be done with a confidence in Afghanistan's decisionmakers—a confidence that frequently does not often exist today.

President Karzai cannot let his golden hour pass. It is too important to the future of Afghanistan. It is too important to the Afghan people. Finally and most critically, it is too important for the American families who have lost loved ones in Afghanistan and have relatives currently serving in Afghanistan. The sacrifice made by U.S. troops and civilians working to bring stability and a democratic future to the country cannot be overstated or undervalued. This should be the starting point for any discussion with President Karzai.

I believe he has a solemn obligation to get this right, just as we have an obligation here in the Congress to get our strategy in Afghanistan right. There won't be just one way to do that. We will get it right only by vigorous debate, only by an honest dialog of the challenges we face.

But one of the most significant challenges, in addition to the obvious security challenge as well as the developmental challenges, is this central concern we have about governance. Governance in Afghanistan starts with

President Karzai. He has an opportunity to demonstrate he is committed to these reforms on corruption, on the better delivery of services to his people, but he has not done very well in a lot of those measures in the recent past. He has to prove himself first and foremost to his own people that he is serious about these reforms, but I think he also has an obligation to our government and to the international community to demonstrate that he wants to get this right.

Mr. President, I yield the floor and note the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

The ACTING PRESIDENT pro tempore. The Senator from Florida is recognized.

Mr. LEMIEUX. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. LEMIEUX. Mr. President, I ask unanimous consent to speak as in morning business.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

#### CONGRESSIONAL SPENDING

Mr. LEMIEUX. Mr. President, before I begin my remarks for today, I wish to say a few words about the tragedy that occurred yesterday at Fort Hood. I know I share the feelings of all Americans who were deeply saddened by the events of yesterday, and our thoughts and prayers go out to the families of the young men and women who were lost and who were injured in the tragic situation that occurred yesterday.

I also wish to take this opportunity to add words of appreciation to the first responders and the medical professionals who helped these men and women who were injured yesterday. It is heroes helping heroes that really shows America at its best. Our thoughts and prayers will be with all of these brave young men and women who were tragically slain yesterday, and their families.

Mr. President, the purpose for which I rise today is to talk about the spending of this Congress, something I have been doing for the last few weeks since I had the privilege to join this institution as the Senator from Florida. I have big concerns, and the more I have been here and the more I have seen over the past few weeks has given me even more concern.

Unlike American families and unlike the majority of American States, this institution spends money it doesn't have. Each day, we go more than \$4 billion in debt as we pay for programs we don't have enough money for—\$4 bil-

lion a day, the national debt grows. Additionally, we spend \$253 billion a year on interest payments. It is the fourth largest expenditure in the budget after defense, Social Security, and Medicare. So the fourth largest expenditure that we spend every year doesn't go to a new program, it doesn't go to help a person; it goes to pay for programs in the past that we couldn't afford. It took us until 1982 to go \$1 trillion in debt. Yet we are shortly coming upon nearly \$12 trillion in debt. In a matter of days, we will hit that number. More troubling still, this past year, 2009, this Congress, for its annual budget, grew a deficit of \$1.4 trillion. That is as much deficit as was accrued in the past 4 years combined.

So I plan to come to this Chamber every week and talk about the spending problem this Congress has in order to highlight this issue. It is of grave concern to me, not just as a Senator who represents 18 million people in Florida but as a father of three children—Max, Taylor, and Chase, 6, 4, and 2—and a baby on the way. My wife and I are concerned, as every parent should be, about their future. It is our obligation as parents to make sure they have better opportunities than we had. In fact, that is the American creed, that every generation ensures that its children have equal or better opportunities than the opportunities they enjoy. But I am concerned for my children and for all the children in this country that at this present rate of spending, we will not be able to ensure that they have those equal or better opportunities.

Congress is spending too much. Both sides of the aisle talk about fiscal restraint and fiscal discipline, and yet we keep spending more than we have. This government took in \$2.1 trillion in revenues this year; yet we spent \$3.5 trillion.

I am not used to this system because, as you know, I come from a State system, where I served as a chief of staff to a Governor. In Florida, we have to balance our budget. Every year we looked at the receipts. We anxiously looked, almost on a monthly basis, to see how much money was coming in to determine how much could be spent, or what kind of tax breaks could be given back to the people, or how much could be put in the reserves. Those were the good times. As the economy declined, we watched the money and made decisions about how much we were going to have to cut. At the end of the day, we had to balance the budget.

Congress doesn't do that. Congress spends more than it takes in, and it puts those obligations on our children and grandchildren who some day will have to pay off this debt. But the time to make tough choices should not be tomorrow; the time to make tough choices is today.

One of the first pieces of legislation I had an opportunity to consider and to

vote on was an appropriations bill for housing, urban development, and transportation—important issues for this country. In the opportunity to consider that appropriations bill, this Congress could have cut spending or increased the deficit. Well, it chose to increase the deficit, and the increase was by more than 23 percent over last year's budget, in a time when we are spending much more than we have. In a time when we are about to have a \$12 trillion national debt, we decided to spend 23 percent more than we did last year. What did we spend the money on? Certainly, plenty of good things. Obviously, transportation and housing are important. But we spent money on a lot of questionable things, too. We built transportation museums—monuments to roads we have not yet built. We put up congratulatory signs, saying this is how we spent money on a road, and we funded airports with no planes, as the number of Americans losing their jobs has now risen to a 10.2-percent national unemployment level.

We are spending \$700 million a day to pay the interest on the debt, and we are funding transportation museums. If we would have stayed at the spending level from last year and cut out these extraneous programs, congratulatory signs that tell us we built a road, transportation museums, and other spending programs—which some amendments sought to cut, but they did not pass—we would have saved \$12.7 billion. In Washington, \$12.7 billion doesn't sound like a lot of money. We talk about trillions of dollars here. But \$12.7 billion could have done a lot of good.

What could we have spent that money on? I think it is important to realize that every time we spend a dollar, we are making a choice. It is a choice about how we are going to direct this country's future. We can either return that dollar and not spend it, give it back to the people who paid it, or we could not spend it and not increase our debt and put that on our children's backs, or we could have spent it on something different and maybe better.

Here is an example: One thing I applaud the administration for in their stimulus program is they have \$8 billion set aside for high-speed rail. That is exactly the kind of thing this country should undertake. The Federal Government should not do much, but they can do things that communities and States cannot often do for themselves. High-speed rail is such a national-sized project, in my opinion, that the role of the Federal Government is there. It makes sense in this difficult economic time, because you will actually create thousands of jobs by building the high-speed rail. Once it is built, you will have a long-term gain, because that high-speed rail will be there to promote infrastructure, to

promote jobs, and to ease the burdens on our everyday lives. There is \$8 billion in the Federal budget this year that States can apply for to build high-speed rail. My State has an application in, along with 40 other States. We are seeking \$2.5 billion to connect Orlando to Tampa, which would be fantastic for our State. I hope our State gets those dollars. But there is only \$8 billion to apply for, and there are 40 States that want the money. Imagine if we would have taken the \$12.7 billion we wasted here and put it into that program; maybe more States could have had high-speed rail.

Let me give another example. What can you do with \$12.7 billion? With \$12 billion, you could put 427,000 college students through a 4-year college. We have to realize every time we spend a dollar, it is a choice. That dollar could have been spent better, or it could have been returned to the people.

President Obama recommended in this appropriations bill that we cut \$211 million out of it. I don't think that was enough, but let's give credit where it is due. He suggested we cut \$211 million. We didn't even do that. The Senate could only find \$15 million to cut and the House only \$20 million. Because of Congress's spending and the administration's lack of willingness to cut spending, President Obama has presided over more new domestic spending in his first 10 months in office than President Clinton did in 8 years.

One of the first bills I supported when I came here was the Budget Enforcement Legislative Tool Act of 2009. It is a long title. It is a proposal I think both Republicans and Democrats should be able to agree upon. The bill requires us in Congress to do an up-or-down vote on the President's recommendation on spending. In this case, we would have cut more than \$200 million if we would have adopted the President's recommendation; not enough but better than what we did.

I believe it is time to stop talking about cutting spending and do something about it. I am going to come each week to the floor and talk about the various appropriations bills we have gone over. I will keep a running tally, starting with the \$12 billion we could have saved in this appropriation. At the end of the day, hopefully, the comments I make will encourage others in this body and in the House of Representatives to take this spending situation seriously.

I guess all of us wish we were in the situation the Federal Government is in, where we could spend more than we have, in terms of income, and never have to pay it back. But the truth is, the Federal Government isn't in that situation either. One day the chickens are going to come home to roost. One day we are going to be accountable for the money we spend. One day it will impact our standing in the world. I be-

lieve that day is very soon. We already know that the banks of the world—the central banks—are starting to shed dollars. They no longer want to hold our currency because they are losing faith in the United States of America as the leading world financial power. We already know we are having to sell more and more debt to countries that don't even have our interests—countries such as China—and we already know we are losing our standing and our ability to move forward because the rest of the world doesn't feel we financially manage our situation well.

While our economy is straining, while countries look at us as suspect for our spending patterns, countries such as Brazil are on fire, American dollars and investments go there, because people think there is a better opportunity to make money in those countries than in the United States.

I want a better future for our children. If we are going to have a better future for our children, we are going to have to restrain our spending and get serious about balancing the budget of the Federal Government, as the States do and as families do across America.

Mr. President, I yield the floor and suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. WEBB. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

#### TRIALS OF THE 9/11 PERPETRATORS

Mr. WEBB. Mr. President, last night this body voted by a margin of 55 to 45 against an amendment I cosponsored, which had been offered by Senator GRAHAM, the purpose of which would be to prohibit the use of funds from the Commerce, Justice, Science appropriations bill to transfer individuals from Guantanamo and conduct trials of the alleged 9/11 perpetrators in the United States domestic court system.

The key argument in favor of tabling that amendment was that the President should be allowed discretion between using article III Federal courts and the military commissions that had been set up in Guantanamo.

First, I was clear to the President, and to others, that I recognize his constitutional authority to use article III courts in that type of situation. But, again, I want to express my deep concern that, as we proceed forward with examining the cases of those detainees who are at Guantanamo, this issue is actually going to get more complicated, and we should hope that the discretion the President uses is very narrowly applied.

The amendment Senator GRAHAM offered addresses only the six alleged perpetrators in the 9/11 situation. A number of my colleagues came up to me and said: If you have an individual who is conducting an act of terror on American soil, shouldn't the President be authorized the discretion to try them in a Federal court?

My personal view is, it is perhaps constitutionally permissible but inappropriate, in the same sense as on December 7, 1941, when Japanese bombers attacked Pearl Harbor. This was a foreign entity killing Americans, including American civilians, on American soil. It was not considered appropriate at that time, say, if we had a prisoner of war, if we shot a pilot down, that we would have brought them into the American court system and given them all due process rights, tried them for homicides, et cetera. They were combatants. They committed an act of war, and they should have been—and they were in the past—treated in that way.

My belief is, even with the 9/11 perpetrators conducting such acts on our soil, there should be a different way, a more proper way to address these situations that involve enemy combatants.

This issue is only going to get more complicated. We have a second increment of people who are at Guantanamo who are foreign nationals, not American citizens, who were apprehended on foreign soil—Afghanistan being a classic example—for acts of war that were conducted not in this country but, again, on foreign soil. They are in Guantanamo. One would question the logic of whether they should be brought on American soil to be examined by an American court system and then apprehended in American prisons. I strongly believe this is not the appropriate way to deal with these individuals and particularly since, with the national Defense authorization bill that was just signed by the President, we have built in appropriate procedural protections in the Military Commissions Act.

Then we have a third increment of people who are in Guantanamo who, we are told, because of either tainted evidence or the lack of sufficient evidence, may never be tried at all, nor will they be released because they are considered to be threats to our future at a time when we have ongoing, basically, combat relations against the international forces of terrorism, of which they are a part.

This third increment which, as I said, will probably never be tried, is also being considered relevant to move into the United States. Here is the question we are going to have to answer: If you bring these people into the United States, our Constitution provides that individuals tried in article III courts should have a right—or an individual subject to article III courts should be

tried in a speedy manner. We all have a right to a speedy trial if you are in the United States. We are not going to do that. So then the question is: What are we going to do with them?

If you read the Supreme Court cases—and, again, as I said yesterday during the debate, I read in detail the Hamdi case which deals in part with this situation—if this individual is deemed an enemy combatant, they can be held for the duration of what we call the hostilities, until hostilities cease. That is a huge conundrum in terms of dealing with people who are not going to be charged, who are not American citizens, who are apprehended for acts outside our country and yet are going to be put into our prison system potentially indefinitely. I don't think it is going to reduce the situation we have had in Guantanamo in terms of the way a lot of people have viewed the processes that were in place there. I think it is only going to transfer that concern into the United States because these people will be detained in U.S. prisons, and I don't think that is going to be mitigated if these U.S. prisons happen to be military prisons.

I wished to come to the floor to express my concern that the President, who has been given the discretion through the vote yesterday which tabled the Graham amendment, should be using it very narrowly, should not be in a rush to shut down the Guantanamo facility in a manner that brings us the second and third increment of problems.

I ask that the Members of this body join me in expressing their concern about a proper way to address this very complicated situation.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Virginia.

Mr. DORGAN. Mr. President, will the Senator from Virginia yield for a unanimous consent request?

Mr. WARNER. Yes.

Mr. DORGAN. I ask unanimous consent that I be recognized following the presentation by the Senator from Virginia.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

#### SYSTEMIC RISK COUNCIL

Mr. WARNER. Mr. President, I rise to address an issue I know this body will be dealing with in much greater detail in the coming weeks and months; that is, financial reregulation.

On Monday, I am introducing legislation to establish a systemic risk council. I have worked with Chairman DODD on this issue and his staff, and I am very grateful that his discussion draft—although I have not seen the specific language—is expected to include a strong systemic oversight council which I have been advocating.

I appreciate Chairman DODD's leadership on this issue and look forward to working with him and the administration on making it a reality.

As I have articulated previously on the floor and in an opinion piece published in the Washington Post, we need to establish a framework for addressing systemic risk in our financial system. Systemic risk is not the only area we need to address but is an area where the current system has unequivocally failed.

Systemic risk is actually a number of risks united by the possibility that, if left uncontrolled, they could have consequences for the entire markets or the entire economy. We saw examples of that a year ago.

Most often, systemic risk comes from the failure of an important financial institution. But because that is not the only source, we should not expect to control systemic risks with a rigid, one-size-fits-all approach.

In order to do this, we need a body that can look across our financial system at all sources of risk, that can spot gaps or opportunities for firms to avoid regulation, and that will not be consumed by other day-to-day responsibilities or protecting its own regulatory turf.

Some have proposed that the Federal Reserve serve as the systemic risk regulator. But its monetary policy responsibilities present potential conflicts, and it has proven incapable of properly regulating large institutions.

The Federal Reserve claims to be the systemic risk regulator at the moment, but it has obviously failed to take on that task, and we need to be careful in balancing its responsibilities and authorities in the coming years.

That is why, if we want to ensure that monetary policy and systemic risk are each managed in the best possible manner, we must recognize that institutional structures and responsibilities do matter. Doubling down on a structure of the past that has not performed well outside of its core function is not how we should confront the challenges of the future.

Our Founding Fathers opposed concentrations of power and favored a system of checks and balances. We have resisted creating an all-powerful central bank, and a council would allow for such a system of checks and balances.

The Federal Reserve is, of course, not the only agency that has not performed well in the crisis over the last year or so. The current system has failed to provide proper checks and balances and has replaced healthy competition where efficient and innovative firms flourish with a system where a handful of firms are too large to fail, can threaten the safety of the entire system, and enjoy an implicit—or maybe even more explicit now—government guarantee that destroys any notion of market competition.

This failure points to another task we must take on in financial regulatory modernization. We must end the notion of too big to fail. That is why I believe we should establish a strong systemic risk oversight council, and I will be introducing legislation, as I mentioned, to do that.

A systemic risk council is not a silver bullet but avoids the pitfalls of entrusting systemic risk responsibility with one single agency that has other missions, and those other missions could serve as a source of conflict of interest.

A council could see across the horizon and have all the information and expertise flow up into it. It addresses our stovepipe problems and avoids the conflicts that come from also conducting monetary policy and helps to stave off regulatory capture.

The systemic risk oversight council I propose would consist of the Treasury Secretary, of course, the Chairman of the Federal Reserve—they would play a valuable role—and the heads of the major financial regulatory agencies, two independent members, including the chair of the council.

This chair of the council would be independently appointed by the President. It would be charged with the responsibility for working to improve our understanding and control of systemic risks. This builds on the model of the President's working group on financial markets. An independent chair, appointed by the President and approved by Congress and supported by a permanent staff, has proven to be relatively effective and ends up resembling the National Transportation Safety Board or the National Security Council.

Critics of this approach have said you cannot convene a committee to put out a fire. But we do convene committees to prepare for and respond to large-scale crises time and again across our whole system. Experience has taught us boards and councils can work in a wide range of contexts, provided they have the right responsibilities, powers, and membership. Even the Federal Reserve and the Federal Deposit Insurance Corporation are run by boards.

In addition, I believe we should leave the real emergency powers with the regulators. The Federal Reserve should retain its 13(3) authority, though it should be tightened up. Bank regulators should retain prompt and corrective action authority, and the FDIC should retain its resolution powers. As a matter of fact, Senator CORKER and I have introduced legislation already that expands the FDIC's resolution powers to include bank holding companies.

In a crisis, however, the council should coordinate all of these regulators and their actions, as police, fire, and emergency response all coordinate in local emergencies. But the systemic risk council cannot just be a debating

society, and so it would have real resources and power.

First, in addition to gathering and analyzing data, the council could help to determine how to regulate new products and markets in order to minimize regulatory gaps. Those regulatory gaps often end up with regulatory arbitrage, as we have seen recently. It would first identify gaps in the system and then have the appropriate regulators work together to fill these gaps.

With these tools, we will eliminate the huge blind spots our regulators had last fall when new and unregulated markets tail-spun out of control. We will eliminate the ability of firms to avoid regulation or find the weakest regulator by ensuring consistent treatment of activities across the financial markets.

Second, in order to address the too-big-to-fail issue, the council will work to prevent firms from becoming too large to fail. It would do this in three specific ways.

First, it would have the authority to identify large firms that could pose systemic risk if they failed but did not currently have an end-to-end prudential regulator and would assign them a Federal regulator. This could include hedge funds, insurance companies or other nonbank financial companies. Making sure those companies that have no regulatory oversight, if they fall into this category of too big to fail, have some kind of oversight is terribly important.

Second, the council would establish systemwide prudential standards for large firms, including counterparty exposure limits, increased capital requirements, reduced leverage and strengthened risk management requirements, all to make sure that while we would not set arbitrary caps on size, we would make sure, as a firm gets too large or takes on too much excessive risk, that there are additional requirements, such as additional capital and others I outlined.

Finally, it would work with the council to ensure that any firm could fail safely—we saw in the past that there was no plan on how we would unwind a Lehman or an AIG—by working with the financial regulators, the day-to-day prudential regulators, to develop clear, written plans for the unwinding or failure of a financial company. In a sense, we would be asking some of these too-big-to-fail institutions to preapprove or put forward their own funeral plans or dissolution plans so we would know how we go through this process, should that unfortunate event take place. These plans would be made in advance of trouble and could not rely on the type of government intervention we were forced into last fall.

As I have said, the systemic risk council is not a silver bullet. Many systemic risks already lie squarely within the responsibility of our day-to-day fi-

nancial regulators. We need to make sure our current regulators have clear missions, including managing risks within their institutions and regulated markets, and we must ensure these regulators do their job.

But that is only half of the answer because other systemic risks lay outside of the day-to-day prudential regulators' job description, in between the cracks of our existing regulatory system. The Systemic Risk Council's responsibilities would be clear and focused. Systemic risk would be its only job, and it would help fill in the cracks and prevent problems from becoming unmanageably large or complex.

What I am proposing today boils down to a simple, consistent, and I believe common sense idea: If we want to do something constructive about systemic risk, we should create a mechanism that can ensure our regulators do their jobs, avoid conflicts of interest, and fully leverage our existing regulatory resources to promote the proactive identification and control of systemic risks. By having this council, made up of the heads of the day-to-day prudential regulators—the Fed, the Treasury, independent members, and this independent chair appointed by the President—I believe we create this mechanism.

We need to make sure we never again put the American taxpayer into the kind of financial duress we had take place last year. I believe the Systemic Risk Council approach, working as one piece of an overall financial modernization and reregulation, will lead us in that direction.

Mr. DORGAN. Mr. President, would the Senator yield for a question?

Mr. WARNER. I would yield for a question.

Mr. DORGAN. I want to talk about jobs today, but the Senator piqued my interest by talking about too big to fail. Some believe—and I am one of those who believe—that too big to fail means you are too big. As you know, in Great Britain this week they decided to begin taking apart institutions that are too big to fail. And I know there are other approaches here in trying to deal with systemic risk and a variety of approaches to try to address the issue, but has the Senator had thoughts about whether too big to fail is just flatout too big?

Mr. WARNER. I am very familiar with what happened in the UK, with the situation with the Bank of Scotland, which had received governmental assistance—somewhat similar to the banks that had received our TARP financing. They came in and said: We are going to start to break up this institution. Former Fed Chair Paul Volcker has suggested that certain banks should perhaps be prohibited from taking on excessive risk activities, in a sense going back almost to a Glass-Steagall approach. Those are both

areas that I believe warrant further consideration.

Our approach here has been to say that while it is hard, in this interconnected financial system we have where institutions crisscross all across the world, to put an arbitrary size cap on it, what we can do, by putting this type of Systemic Risk Council in place, we can put barriers and a price of getting too large by having added capital requirements; by having this designation that you have to show us a dissolution plan and that the Systemic Risk Council would weigh in; by assuring that if you take on too much risk activities on your own trading desk, there is a higher price to pay for that.

There are these other examples, as you mentioned, that we will be debating through this whole process. I know the Senator has raised this issue at times on the floor as well, and I will solicit his advice and comments. And perhaps we need to go even beyond that in looking at, as I think you appropriately pointed out, at the end of the day, does too big to fail mean just too big? It is a hard place to draw a line. But I thank the Senator for his question, and I yield my time.

Mr. DORGAN. The Senator from Virginia is very thoughtful on these issues. I know the workshops he has been putting on are very helpful. As we try to work through these with respect to resolution and other authorities, it is very important for us to try to use the best ideas that exist in this Chamber to put together an approach that would prevent ever again what happened last year and the year before.

So I have some thoughts about the use of the Fed with respect to systemic risk and other things, and I will speak about them later. But my interest was piqued by the Senator's discussion on the floor because I think this is very important. If we don't find ways to put the foundation back under this economic system of ours, people aren't going to have confidence going forward. Part of financial reform is to establish that confidence, and I think the work the Senator from Virginia has been doing is extraordinary work.

My hope is that at the end stage we can probably come closer to the side of, if you are too big to fail, you are probably too big, because too big to fail is almost, by definition, no-fault capitalism. But between here and there, there are a lot of interesting and useful ideas that are being developed, and the Senator from Virginia is in the middle of them, and I appreciate his work.

Mr. WARNER. I thank the Senator from North Dakota for his comments, and I look forward to working with him. I think this is clearly an area where we will find common cause with our colleagues on the other side of the aisle. Never again should the American taxpayer have to pick up the burden from institutions that have been financially irresponsible and then from

those financial irresponsibilities that pose a systemic risk where we the taxpayers are left basically holding the bag.

So I thank the Senator for his comments, and I look forward to working with him on this very important issue.

The PRESIDING OFFICER (Mr. KAUFMAN). The Senator from North Dakota.

#### JOBS AND THE ECONOMY

Mr. DORGAN. Mr. President, I would like to comment this morning about the information that was released this morning on unemployment. The unemployment level has now gone to 10.2 percent. That is an antisepic number. It doesn't mean so much as a number, but it sure means a whole lot to the folks who have lost their jobs.

We are now at a point where we have had a massive number of job losses since this economic decline began. This is the steepest economic decline since the Great Depression.

In the same couple of weeks where we have learned that the economy has once again begun to grow—that is good news—we also know that people are still losing their jobs, and that is bad news. An economic recovery that is a jobless recovery, in my judgment, is not a real economic recovery.

We are working on a lot of things here in the Senate, all very important—health care, climate change—but in my judgment, the most important thing for this Congress and this government to do is to try to restart this economic engine in a way that creates real jobs, puts our economy back on track, produces real, significant jobs that pay well, and that puts the American people to work in order to make a living and to care for their families. When that happens, we will have achieved something significant.

Let me say quickly, as I have said before, this President has been in office less than 10 months. He inherited an unbelievable economic mess—the deepest economic downturn since the Great Depression. So I understand that. I know he understood this was not an optimal time, perhaps, to assume the reins, but he understands and we understand that we have to do everything we can to get this economy started once again.

To hear a report on a Friday that we are at 10.2 percent unemployment—that is tough news, and we have a lot to do here in the Congress and in our government to try to find a way to put this back on track. There is some evidence that maybe this is beginning, but, again, a jobless economic recovery is not a real economic recovery. We need to focus like a laser on the question of how do you create new jobs in this country.

Clearly, small-to-medium-sized businesses are the job generators in this

country, and we need to find ways and we need to focus all our attention to finding ways to incentivize the creation of jobs once again in the private sector. I think public policies that can incentivize the creation of those jobs is what is expected of us. There is a lot of urgency for a lot of things. In my judgment, the most significant urgent priority at the moment is the focus on jobs and getting people back to work.

I am going to have a meeting next Tuesday morning with a good many of my colleagues to talk about putting together the set of policies on an urgent basis that will try to push that result. We just cannot decide that, well, this is the long tail of a serious long-term economic downturn that has now reached bottom and is now coming back up with an economic growth of, I believe 3.6 percent this quarter. We cannot believe that somehow that is going to do the job because growth without jobs is not real economic recovery. So we have a lot of work to do.

While saying what I have just said, we also have two different economies working in this country. A lot of folks lost their jobs last month, last year, and the last few years—somewhere over 7.6 million Americans—and they had to tell their loved ones that they weren't employed anymore, that their jobs were gone, not because they were bad workers, not because they did a bad job, but because of cutbacks, because of this steep economic decline. And now we see day after day that there is another economy working out there.

I just brought a few of these to the floor of the Senate to describe the difficulty of people who are looking for work, who lost their jobs last month. When they read these papers, it explains the difficulty they see in this, and probably the anger—more likely the anger.

October 17: The headline from the New York Times reads “Bailout Helps Fuel a New Era of Wall Street Wealth.” Quoting from the article:

Titans like Goldman Sachs and JPMorgan Chase are making fortunes in hot areas like trading stocks and bonds, rather than in the ho-hum business of lending people money. They are also profiting by taking risks that weaker rivals are unable or unwilling to shoulder—a benefit of less competition after the failure of some investment firms last year.

October 26, Bloomberg. Quoting from this article:

Citigroup Inc. and Bank of America Corp. paid top executives an average of \$18.2 million each last year as the banks accepted a total of \$90 billion in taxpayer funds to survive the financial crisis. Citigroup . . . paid \$390 million to 21 people, an average of \$18.6 million each . . . Bank of America paid \$227.8 million to 13 executives, or \$17.5 million apiece.

Again, these payments in some cases are from companies that might not have been around were it not for the

Federal Government providing some funds for them. These are payments and bonuses that are unbelievable. And we are told now that in the next 30 days or so Wall Street is going to pay itself somewhere around \$140 billion in bonuses.

Let me just describe again what was done in the last year and a half for some of the biggest financial firms in this country that steered this country's economy into the ditch. So far, it has been between \$12 billion and \$15—excuse me, trillion. It is hard to get the b's and t's straight. Between \$12 trillion and \$15 trillion has been lent, spent, committed, pledged, subsidized, or guaranteed. Let me say that again. Somewhere between \$12 trillion and \$15 trillion of the taxpayers' money, through the Congress—mostly through the Federal Reserve Board and other devices—has been lent, spent, committed, pledged, subsidized, or guaranteed. And because of that, presumably, some of these firms that are now paying these bonuses are firms that would otherwise not have been around. But for those taxpayer funds, they wouldn't have been around.

So what we are doing is picking up the paper every single day and seeing articles such as this: October 20, the New York Times, Bob Herbert writes:

The lead headline, in the upper right-hand corners, said: “U.S. Deficit Rises to \$1.4 Trillion; Biggest Since '45.” The headline next to it said: “Bailout Helps Revive Banks, And Bonuses.”

And this is Allan Sloan, September 8:

A Year After Lehman, Wall Street's Acting Like Wall Street Again. It's been 12 months since Lehman Brothers failed, setting off a chain reaction that came horrifyingly close to destroying the world's financial system. That anniversary makes this a convenient time to take a deep breath, look back . . . and see what we can learn from the past turbulent year . . . What are the lessons? How has Wall Street changed since Lehman went broke last September 15?

That is a year ago. The fact is, Wall Street is back doing the same things they did prior to the collapse.

Here is another article:

What Red Ink? Wall Street Paid Hefty Bonuses. Despite crippling losses, multibillion-dollar bailouts and the passing of some of the most prominent names and businesses, employees at financial companies in New York, the now diminished world capital of capital, collected an estimated \$178.4 billion in bonuses for the year.

And they are speaking of the year 2008.

Continuing with this article:

That was the sixth-largest haul on record, according to a report by the New York State comptroller.

Again, that was in the New York Times.

Here is one from the Washington Post dated July 30, 2009. The headline read: “Report Outlines Big Bonuses at Rescued Banks.” Quoting from the article:



Two firms, Citigroup and Merrill Lynch, suffered losses of more than \$27 billion each but paid out \$5.3 billion and \$3.6 billion in bonuses, respectively, the report noted. At Citigroup, 738 employees got bonuses of at least \$1 million, the report said, while 11 executives received a combined \$77 million in cash, deferred cash and stock awards.

The point is, we have a couple of different economies working here. We have an economy in which we read of some companies making very large profits and paying very large bonuses—and some of them, by the way, wouldn't exist were it not for the American taxpayer backstopping the reckless behavior and the losses they incurred as they steered this economy into the ditch; then, today, 10.2 percent unemployment at the same time we see the economy, we are told, is growing at a 3.6-percent rate in the third quarter.

The point I want to make this morning is simple. The American people will not stand long for two economies. The fact is, 10.2 percent unemployment is not acceptable, not acceptable to anybody. Those who are losing their jobs and losing hope and losing their homes, in some cases, should expect that the urgent priority, among all of us in government, is to decide that jobs are No. 1. Restarting this economic engine, putting this economy back on track, and putting people back to work has to be the urgent priority of this Congress. I hope the work I and others can do will make some small contribution to that in the coming days.

I think the American people, if you look at the history of this country, have always been a resilient bunch. We have been through tough times and been through good times. But it is time now, as I said the other day, for us to stop thinking of ourselves as two different teams in places like the Senate. There ought to be only one team that works together to find ways to put people back to work in this country and get this country's economy started again.

If you take a look over the economic history of this country and see what made America great, it is lifting people out of poverty, putting people to work, on payrolls, making a good wage to be able to take care of their families. That expansion of the middle class is what has made this country great. It is not the capability of the people at the very top to make even more and to pay even bigger bonuses, it is the expansion of the middle class that has made this country a great country, and what we have seen now is a shrinking of the middle class. We have seen more unemployment in what used to be the middle class. Day after day, even as people are losing their jobs in this country, we still see companies shipping American jobs overseas and getting a tax break for doing it.

We have a lot of things on our plate to do to try to fix what is wrong. I am convinced we can. I have an effe-

vescent spirit of hope that we can do these things, but we have to start now. Of those this morning who read in the paper that the unemployment rate is 10.2 percent, those who have lost their jobs fully understand what that number means. I hope all of us in this Chamber do as well. It requires from us an urgent priority to get to work and fix this problem.

I yield the floor.

#### NATIONAL FAMILY CAREGIVERS MONTH

Mr. REID. Mr. President, I rise today to call the attention of the Senate to National Family Caregivers Month, sponsored by the National Family Caregivers Association. Every day more and more American families are put in the tough situation of taking care of their elderly loved ones. Caregivers are our friends, family, and neighbors who have become an instrumental part of providing the necessary care that their families need and deserve. Eighty percent of all homecare services today are provided by family caregivers, and I am proud to support them this month during National Caregivers Month. I have always been a strong supporter of family caregivers and have worked hard to make sure they get the resources and funding that they deserve.

It has been my privilege to do all I can here on the federal level to help in this endeavor. Recently, the Washoe County Senior Services Respite Care Program needed resources to provide nonmedical respite care for those suffering from dementia, Alzheimer's, and a host of other terrible diseases. I secured the necessary funding in the Commerce, Justice, Science and Related Agencies Appropriations Act of 2010. When this act passes, it will allot \$95,000 to aid our seniors who are afflicted. And I am pleased that I was able to get bipartisan support for the passage of the Lifespan Respite Care Act. This act authorizes the Secretary of Health and Human Services to award matching grants to eligible state agencies that are in desperate need for funding to help families.

As our fight for quality and affordable health care continues, I will make sure that our family caregivers get the support and resources that they need to continue this difficult task. We will do all we can during National Family Caregivers Month to give these dedicated family members the recognition they deserve.

Dr. Martin Luther King Jr. once said, "An individual has not started living until he can rise above the narrow confines of his individualistic concerns to the broader concerns of all humanity." I firmly believe that the National Family Caregivers Association characterizes this ideal. I wish this organization all the best as it works to raise aware-

ness during National Family Caregivers Month.

#### MESSAGE FROM THE HOUSE

At 10:39 a.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 1849. An act to designate the Liberty Memorial at the National World War I Museum in Kansas City, Missouri, as the National World War I Memorial, to establish the World War I centennial commission to ensure a suitable observance of the centennial of World War I, and for other purposes.

H.R. 3276. An act to promote the production of molybdenum-99 in the United States for medical isotope production, and to condition and phase out the export of highly enriched uranium for the production of medical isotopes.

The message also announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 139. Concurrent resolution congratulating the first graduating class of the United States Air Force Academy on their 50th graduation anniversary and recognizing their contributions to the Nation.

The message further announced that it passed the bill (S. 748) to redesignate the facility of the United States Postal Service located at 2777 Logan Avenue in San Diego, California, as the "Cesar E. Chavez Post Office".

#### MEASURES REFERRED

The following bills were read the first and the second times by unanimous consent, and referred as indicated:

H.R. 1849. An act to designate the Liberty Memorial at the National World War I Museum in Kansas City, Missouri, as the National World War I Memorial, to establish the World War I centennial commission to ensure a suitable observance of the centennial of World War I, and for other purposes; to the Committee on Energy and Natural Resources.

H.R. 3276. An act to promote the production of molybdenum-99 in the United States for medical isotope production, and to condition and phase out the export of highly enriched uranium for the production of medical isotopes; to the Committee on Energy and Natural Resources.

The following concurrent resolution was read, and referred as indicated:

H. Con. Res. 139. Concurrent resolution congratulating the first graduating class of the United States Air Force Academy on their 50th graduation anniversary and recognizing their contributions to the Nation; to the Committee on Armed Services.

#### EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC-3605. A communication from the Assistant Secretary of the Navy (Installations and Environment), transmitting, pursuant to law, a report relative to the result of a public-private competition conducted on March 31, 2008; to the Committee on Armed Services.

EC-3606. A communication from the Director of the Regulatory Management Division, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Significant New Use Rules on Certain Chemical Substances; Technical Amendment" (FRL No. 8438-5) received in the Office of the President of the Senate on November 5, 2009; to the Committee on Environment and Public Works.

EC-3607. A communication from the Director of the Regulatory Management Division, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Revisions to the California State Implementation Plan, San Joaquin Valley Unified Air Pollution Control District and South Coast Air Quality Management District" (FRL No. 8970-4) received in the Office of the President of the Senate on November 5, 2009; to the Committee on Environment and Public Works.

EC-3608. A communication from the Director of the Regulatory Management Division, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Revisions to the Arizona State PM-10 Implementation Plan; Maricopa County Air Quality Department" (FRL No. 8975-6) received in the Office of the President of the Senate on November 5, 2009; to the Committee on Environment and Public Works.

EC-3609. A communication from the Director of the Regulatory Management Division, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Revisions to the Arizona State Implementation Plan, Maricopa County Air Quality Department and Maricopa County" (FRL No. 8902-6) received in the Office of the President of the Senate on November 5, 2009; to the Committee on Environment and Public Works.

EC-3610. A communication from the Director of the Regulatory Management Division, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Air Quality Implementation Plans; Indiana" (FRL No. 8971-9) received in the Office of the President of the Senate on November 5, 2009; to the Committee on Environment and Public Works.

EC-3611. A communication from the Chief of the Scientific Authority Division, Fish and Wildlife Services, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled "Endangered and Threatened Wildlife and Plants; Listing the Chatham Petrel, Fiji Petrel, and Magenta Petrel as Endangered Throughout Their Ranges" (RIN1018-AV21) received in the Office of the President of the Senate on November 5, 2009; to the Committee on Environment and Public Works.

EC-3612. A communication from the Director of Fish and Wildlife Services, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled "Endangered and Threatened Wildlife and Plants; Reinstatement of Protections for the Gray Wolf in the Western Great Lakes in Compli-

ance with Settlement Agreement and Court Order" (RIN1018-AW80) received in the Office of the President of the Senate on November 5, 2009; to the Committee on Environment and Public Works.

EC-3613. A communication from the Program Manager, Office of the Secretary, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "HIPAA Administrative Simplification: Enforcement" (RIN0991-AB55) received in the Office of the President of the Senate on November 5, 2009; to the Committee on Finance.

EC-3614. A communication from the Assistant Secretary, Bureau of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification of a proposed amendment to a technical assistance agreement for the export of defense articles, including, technical data, and defense services to the United Arab Emirates relative to the post-delivery modifications and integrated logistics support of four CH-47F Chinook Helicopters in the amount of \$50,000,000 or more; to the Committee on Foreign Relations.

EC-3615. A communication from the Assistant General Counsel of the Division of Regulatory Services, Office of Postsecondary Education, Department of Education, transmitting, pursuant to law, the report of a rule entitled "Federal Perkins Loan Program, Federal Family Education Loan Program, and William D. Ford Federal Direct Loan Program" (RIN1840-AC98) received in the Office of the President of the Senate on November 5, 2009; to the Committee on Health, Education, Labor, and Pensions.

## REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. LEAHY, from the Committee on the Judiciary, with amendments:

S. 1472. A bill to establish a section within the Criminal Division of the Department of Justice to enforce human rights laws, to make technical and conforming amendments to criminal and immigration laws pertaining to human rights violations, and for other purposes.

## INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. BINGAMAN (for himself and Mr. BAUCUS):

S. 2747. A bill to amend the Land and Water Conservation Fund Act of 1965 to provide consistent and reliable authority for, and for the funding of, the land and water conservation fund to maximize the effectiveness of the fund for future generations, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. KERRY (for himself, Mrs. LINCOLN, and Ms. LANDRIEU):

S. 2748. A bill to amend the Internal Revenue Code of 1986 to extend for one year the employer wage credit for employees who are active duty members of the uniformed services; to the Committee on Finance.

By Mrs. GILLIBRAND:

S. 2749. A bill to amend the Richard B. Russell National School Lunch Act to improve access to nutritious meals for young children

in child care; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. SCHUMER (for himself and Mrs. GILLIBRAND):

S. 2750. A bill to amend the Public Health Service Act to authorize the Secretary of Health and Human Services to make grants to eligible States for the purpose of reducing the student-to-school nurse ratio in public secondary schools, elementary schools, and kindergarten; to the Committee on Health, Education, Labor, and Pensions.

## SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. REID:

S. Res. 343. A resolution to constitute the majority party's membership on certain committees for the One Hundred Eleventh Congress, or until their successors are chosen; considered and agreed to.

By Mrs. HUTCHISON (for herself, Mr. CORNYN, Mr. REID, Mr. MCCONNELL,

Mr. AKAKA, Mr. ALEXANDER, Mr. BARASSO, Mr. BAUCUS, Mr. BAYH, Mr. BEGICH, Mr. BENNETT, Mr. BENNETT, Mr. BINGAMAN, Mr. BOND, Mrs. BOXER, Mr. BROWN, Mr. BROWNBACK, Mr. BUNNING, Mr. BURR, Mr. BURRIS, Mr. BYRD, Ms. CANTWELL, Mr. CARDIN, Mr. CARPER, Mr. CASEY, Mr. CHAMBLISS, Mr. COBURN, Mr. COCHRAN, Ms. COLLINS, Mr. CONRAD, Mr. CORKER, Mr. CRAPO, Mr. DEMINT, Mr. DODD, Mr. DORGAN, Mr. DURBIN, Mr. ENSIGN, Mr. ENZI, Mr. FEINGOLD, Mrs. FEINSTEIN, Mr. FRANKEN, Mrs. GILLIBRAND, Mr. GRAHAM, Mr. GRASSLEY, Mr. GREGG, Mrs. HAGAN, Mr. HARKIN, Mr. HATCH, Mr. INHOFE, Mr. INOUE, Mr. ISAKSON, Mr. JOHANNIS, Mr. JOHNSON, Mr. KAUFMAN, Mr. KERRY, Mr. KIRK, Ms. KLOBUCHAR, Mr. KOHL, Mr. KYL, Ms. LANDRIEU, Mr. LAUTENBERG, Mr. LEAHY, Mr. LEMIEUX, Mr. LEVIN, Mr. LIEBERMAN, Mrs. LINCOLN, Mr. LUGAR, Mr. MCCAIN, Mrs. MCCASKILL, Mr. MENENDEZ, Mr. MERKLEY, Ms. MIKULSKI, Ms. MURKOWSKI, Mrs. MURRAY, Mr. NELSON of Nebraska, Mr. NELSON of Florida, Mr. PRYOR, Mr. REED, Mr. RISCH, Mr. ROBERTS, Mr. ROCKEFELLER, Mr. SANDERS, Mr. SCHUMER, Mr. SESSIONS, Mrs. SHAHEEN, Mr. SHELBY, Ms. SNOWE, Mr. SPECTER, Ms. STABENOW, Mr. TESTER, Mr. THUNE, Mr. UDALL of Colorado, Mr. UDALL of New Mexico, Mr. VITTER, Mr. VOINOVICH, Mr. WARNER, Mr. WEBB, Mr. WHITEHOUSE, Mr. WICKER, and Mr. WYDEN):

S. Res. 344. A resolution expressing the sense of the Senate regarding the tragic shooting at Fort Hood, Texas on November 5, 2009; considered and agreed to.

## ADDITIONAL COSPONSORS

S. 327

At the request of Mr. LEAHY, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. 327, a bill to amend the Violence Against Women Act of 1994 and the Omnibus Crime Control and Safe Streets Act of 1968 to improve assistance to domestic and sexual violence

victims and provide for technical corrections.

S. 456

At the request of Mr. DODD, the name of the Senator from Delaware (Mr. KAUFMAN) was added as a cosponsor of S. 456, a bill to direct the Secretary of Health and Human Services, in consultation with the Secretary of Education, to develop guidelines to be used on a voluntary basis to develop plans to manage the risk of food allergy and anaphylaxis in schools and early childhood education programs, to establish school-based food allergy management grants, and for other purposes.

S. 1055

At the request of Mrs. BOXER, the name of the Senator from Pennsylvania (Mr. CASEY) was added as a cosponsor of S. 1055, a bill to grant the congressional gold medal, collectively, to the 100th Infantry Battalion and the 442nd Regimental Combat Team, United States Army, in recognition of their dedicated service during World War II.

S. 1128

At the request of Mr. ROBERTS, the name of the Senator from New Mexico (Mr. UDALL) was added as a cosponsor of S. 1128, a bill to authorize the award of a military service medal to members of the Armed Forces who were exposed to ionizing radiation as a result of participation in the testing of nuclear weapons or under other circumstances.

S. 1183

At the request of Mr. DURBIN, the name of the Senator from Massachusetts (Mr. KIRK) was added as a cosponsor of S. 1183, a bill to authorize the Secretary of Agriculture to provide assistance to the Government of Haiti to end within 5 years the deforestation in Haiti and restore within 30 years the extent of tropical forest cover in existence in Haiti in 1990, and for other purposes.

S. 1490

At the request of Mr. LEAHY, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 1490, a bill to prevent and mitigate identity theft, to ensure privacy, to provide notice of security breaches, and to enhance criminal penalties, law enforcement assistance, and other protections against security breaches, fraudulent access, and misuse of personally identifiable information.

S. 1492

At the request of Ms. MIKULSKI, the name of the Senator from New Hampshire (Mrs. SHAHEEN) was added as a cosponsor of S. 1492, a bill to amend the Public Health Service Act to fund breakthroughs in Alzheimer's disease research while providing more help to caregivers and increasing public education about prevention.

S. 1619

At the request of Mr. DODD, the name of the Senator from Iowa (Mr. HARKIN)

was added as a cosponsor of S. 1619, a bill to establish the Office of Sustainable Housing and Communities, to establish the Interagency Council on Sustainable Communities, to establish a comprehensive planning grant program, to establish a sustainability challenge grant program, and for other purposes.

S. 1737

At the request of Mr. FRANKEN, the name of the Senator from Alaska (Mr. BEGICH) was added as a cosponsor of S. 1737, a bill to amend the Richard B. Russell National School Lunch Act and the Child Nutrition Act of 1966 to increase the number of children eligible for free school meals, with a phased-in transition period.

S. 1740

At the request of Mrs. MURRAY, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. 1740, a bill to promote the economic security and safety of victims of domestic violence, dating violence, sexual assault, or stalking, and for other purposes.

S. 1761

At the request of Ms. LANDRIEU, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S. 1761, a bill to provide an extension of the low-income housing credit placed-in-service date requirement for certain disaster areas.

S. 1861

At the request of Ms. LANDRIEU, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S. 1861, a bill to amend the Internal Revenue Code of 1986 to provide a 2-year extension of the increased rehabilitation credit for structures in the Gulf Opportunity Zone.

S. 1930

At the request of Mr. CASEY, the name of the Senator from Illinois (Mr. BURRIS) was added as a cosponsor of S. 1930, a bill to amend the Internal Revenue Code of 1986 to enhance the administration of, and reduce fraud related to, the first-time homebuyer tax credit, and for other purposes.

#### STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BINGAMAN (for himself and Mr. BAUCUS):

S. 2747. A bill to amend the Land and Water Conservation Fund Act of 1965 to provide consistent and reliable authority for, and for the funding of, the land and water conservation fund to maximize the effectiveness of the fund for future generations, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. BINGAMAN. Mr. President, today I am introducing the Land and Water Conservation Authorization and Funding Act of 2009. I am pleased that Senator BAUCUS has joined me as an original cosponsor.

The legislation I am introducing today will provide consistent funding of the Land and Water Conservation Fund, LWCF, program at a time when its purposes have never been more important to our communities and quality of life. This program provides funding for States and Federal land management agencies for the purchase of land and interests in land from willing sellers. Since its inception in 1964, LWCF has led to the protection of more than five million acres of land and water across the country, including such irreplaceable landscapes as the Grand Canyon National Park in Arizona, the redwood forests in California, the Rocky Mountain Front in Montana, and Denali National Park and Preserve in Alaska.

In my own State of New Mexico, LWCF funds have been used in many important landscapes including the Santa Fe National Forest to provide hundreds of miles of trails for hiking, horseback riding and off-road vehicle use, and to protect the unique Valles Caldera from development. Going forward, the Bureau of Land Management hopes to protect portions of the Rio Grande National Wild and Scenic River in New Mexico using LWCF funds.

Equally important, this program's flexibility means that it also is used to protect what is sometimes most valuable to our communities—the lesser-known special places virtually in our own backyard. The availability of portions of this funding to States means that it can be used to protect local landscapes when development threatens the open spaces that communities need for clean water and recreation. It is also available for the purchase of conservation easements when public ownership of land is not the best solution. These easements—acquired at the request of the landowner—protect the landscape against development while retaining private ownership.

Since its inception in 1964, the law has provided that the Land and Water Conservation Fund will accumulate revenues from Federal outdoor recreation user fees, the Federal motorboat fuel tax, surplus property sales, and from oil and gas leases on the Outer Continental Shelf. It has been authorized at \$900 million a year since 1977. In establishing LWCF, Congress recognized the importance of the protection of lands with significant natural, recreation and scenic attributes, and for the development of outdoor recreation lands and facilities at the State and local level.

Under current law these funds cannot be spent until they are further appropriated each year. Congress has rarely appropriated the \$900 million annually that was authorized as necessary as far back as 1977. The levels of funding for both Federal agencies and States have fluctuated wildly over the years. In addition, LWCF itself will expire in 2015 if not reauthorized.

However, the purpose of LWCF—the acquisition of land and interests in land—is one that requires consistency and predictability in order to be truly effective. The opportunity for land purchase can emerge quickly and can be quickly lost. The cost often requires that deals be structured over a period of time. The absence of a consistent amount of funding annually makes it virtually impossible for Federal agencies or States to plan effectively or to ensure that they can protect those areas most important to communities and to the nation as a whole and at the lowest cost.

Protection of special places and landscapes for the common good has always been a great American idea that we have exported to the rest of the world. These lands are a wonderful gift that every taxpayer receives at birth, and values very highly. Today, even more than when LWCF was enacted, there is increasing pressure on our natural landscapes, both as a result of man-made development and changes in our climate. It is more imperative than ever that we protect and restore our ecosystems so that they stay resilient. By protecting natural systems, we are protecting human health and the economy by providing clean water, clean air, livable coastal areas and the quality of life that is so important to all Americans.

The time has come to make sure that the Land and Water Conservation Fund has consistent and predictable funding and that it continues beyond 2015. This bill will not change the authorized amount or the well-established purposes and parameters of the Fund. It simply provides that the monies deposited in the Fund under current law will be available without further appropriation at the authorized amount. It is my hope that this will be a down payment on something vitally important to all Americans—protection and conservation of our natural heritage and our most special places for ourselves and for future generations.

I would like to thank Senator BAUCUS for his leadership on this issue and I look forward to working with my colleagues to pass this legislation in a timely manner.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 2747

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE.

This Act may be cited as the “Land and Water Conservation Authorization and Funding Act of 2009”.

#### SEC. 2. PERMANENT AUTHORIZATION; FULL FUNDING.

(a) PURPOSES.—The purposes of the amendments made by subsection (b) are—

(1) to provide consistent and reliable authority for, and for the funding of, the land and water conservation fund established under section 2 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601–5); and

(2) to maximize the effectiveness of the fund for future generations.

#### (b) AMENDMENTS.—

(1) PERMANENT AUTHORIZATION.—Section 2 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601–5) is amended—

(A) in the matter preceding subsection (a), by striking “During the period ending September 30, 2015, there” and inserting “There”; and

(B) in subsection (c)(1), by striking “through September 30, 2015”.

(2) FULL FUNDING.—Section 3 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601–6) is amended to read as follows: “SEC. 3. AVAILABILITY OF FUNDS.

“Monies covered into the fund under section 2 shall be available for expenditure to carry out the purposes of this Act, without further appropriation.”.

By Mr. KERRY (for himself, Mrs. LINCOLN, and Ms. LANDRIEU):

S. 2748. A bill to amend the Internal Revenue Code of 1986 to extend for one year the employer wage credit for employees who are active duty members of the uniformed services; to the Committee on Finance.

Mr. KERRY. Mr. President, today I am introducing the Small Business and Military Families Assistance Act which provides an extension of a provision included in the Heroes Earnings Assistance and Relief Tax, HEART, Act of 2008 which passed last Congress. Senator LINCOLN is a cosponsor. The HEART Act has been referred to as the “thank you bill” and that is very appropriate. The purpose of the HEART Act was to provide military families with well deserved tax relief. As we approach Veterans Day, I believe that it is appropriate to extend the tax credit for small employers of reservists called to active duty.

The best definition of patriotism is keeping faith with those who serve our country. That means giving our troops the resources they need to keep them safe while they are protecting us. It means supporting our troops at home as well as abroad.

Currently, there are over 120,000 military personnel serving in Iraq. There are approximately 68,000 U.S. service members in Afghanistan. Many of these men and women are reservists and have been called to active duty, frequently for multiple tours.

Most large businesses have the resources to provide supplemental income to reservist employees called up. I applaud the businesses that have been able to pay supplemental income to their reservists, but it is not easy for small businesses to do the same.

In January 2007, the Committee on Small Business and Entrepreneurship held a hearing on veterans’ small business issues. A majority of our veterans returning from Iraq and Afghanistan

are Reserve and National Guard members—35 percent of whom are either self-employed or own or are employed by a small business.

We heard some disturbing statistics about the impact and unintended consequences the call up of reservists is having on small businesses. According to a January 2007 survey conducted by Workforce Management, 54 percent of the businesses surveyed responded that they would not hire a citizen soldier if they knew that they could be called up for an indeterminate amount of time. I am concerned that long call ups and re-deployments have made it hard for small businesses to be supportive of civilian soldiers.

The HEART Act provides a tax credit to small businesses to assist with the cost of paying the salary of their reservist employees when they are called to active duty. This tax credit provides an incentive for small employers to eliminate any pay gap between civilian and military pay. The provision provides small businesses with less than 50 employees with a tax credit of 20 percent of the differential pay. The maximum credit is \$4,000. The credit is for amounts paid for before January 1, 2010. My legislation would extend this provision for an additional year.

While our reservists are continuing to serve, we should continue to provide assistance. Now is not the time to end this credit which helps small business do the right thing. During these difficult economic times, it is a struggle for small business to pay their employees who are called up a wage differential.

Our service men and women need to know that we are honoring their service. An extension of the small business credit will help our military families with some of their financial burdens. It cannot repay the sacrifices they have made for us, but it is a small way we can support our troops and their families.

#### SUBMITTED RESOLUTIONS

SENATE RESOLUTION 343—TO CONSTITUTE THE MAJORITY PARTY’S MEMBERSHIP ON CERTAIN COMMITTEES FOR THE ONE HUNDRED ELEVENTH CONGRESS, OR UNTIL THEIR SUCCESSORS ARE CHOSEN

Mr. REID submitted the following resolution; which was considered and agreed to:

S. RES. 343

*Resolved*, That the following shall constitute the majority party’s membership on the following committee for the One Hundred Eleventh Congress, or until their successors are chosen:

COMMITTEE ON RULES AND ADMINISTRATION: Mr. Schumer (Chairman), Mr. Byrd, Mr. Inouye, Mr. Dodd, Mrs. Feinstein, Mr. Durbin, Mr. Nelson (Nebraska), Mrs.

Murray, Mr. Pryor, Mr. Udall (New Mexico), Mr. Warner.

**SENATE RESOLUTION 344—EX-  
PRESSING THE SENSE OF THE  
SENATE REGARDING THE TRAG-  
IC SHOOTING AT FORT HOOD,  
TEXAS ON NOVEMBER 5, 2009**

Mrs. HUTCHISON (for herself, Mr. CORNYN, Mr. REID, Mr. MCCONNELL, Mr. AKAKA, Mr. ALEXANDER, Mr. BARRASSO, Mr. BAUCUS, Mr. BAYH, Mr. BEGICH, Mr. BENNETT, Mr. BENNETT, Mr. BINGAMAN, Mr. BOND, Mrs. BOXER, Mr. BROWN, Mr. BROWNBARK, Mr. BUNNING, Mr. BURR, Mr. BURRIS, Mr. BYRD, Ms. CANTWELL, Mr. CARDIN, Mr. CARPER, Mr. CASEY, Mr. CHAMBLISS, Mr. COBURN, Mr. COCHRAN, Ms. COLLINS, Mr. CONRAD, Mr. CORKER, Mr. CRAPO, Mr. DEMINT, Mr. DODD, Mr. DORGAN, Mr. DURBIN, Mr. ENSIGN, Mr. ENZI, Mr. FEINGOLD, Mrs. FEINSTEIN, Mr. FRANKEN, Mrs. GILLIBRAND, Mr. GRAHAM, Mr. GRASSLEY, Mr. GREGG, Mrs. HAGAN, Mr. HARKIN, Mr. HATCH, Mr. INHOFE, Mr. INOUE, Mr. ISAKSON, Mr. JOHANNIS, Mr. JOHNSON, Mr. KAUFMAN, Mr. KERRY, Mr. KIRK, Ms. KLOBUCHAR, Mr. KOHL, Mr. KYL, Ms. LANDRIEU, Mr. LAUTENBERG, Mr. LEAHY, Mr. LEMIEUX, Mr. LEVIN, Mr. LIEBERMAN, Mrs. LINCOLN, Mr. LUGAR, Mr. MCCAIN, Mrs. MCCASKILL, Mr. MENENDEZ, Mr. MERKLEY, Ms. MIKULSKI, Ms. MURKOWSKI, Mrs. MURRAY, Mr. NELSON of Nebraska, Mr. NELSON of Florida, Mr. PRYOR, Mr. REED, Mr. RISCH, Mr. ROBERTS, Mr. ROCKEFELLER, Mr. SANDERS, Mr. SCHUMER, Mr. SESSIONS, Mrs. SHAHEEN, Mr. SHELBY, Ms. SNOWE, Mr. SPECTER, Ms. STABENOW, Mr. TESTER, Mr. THUNE, Mr. UDALL of Colorado, Mr. UDALL of New Mexico, Mr. VITTER, Mr. VOINOVICH, Mr. WARNER, Mr. WEBB, Mr. WHITEHOUSE, Mr. WICKER, and Mr. WYDEN) submitted the following resolution; which was considered and agreed to:

**S. RES. 344**

Whereas Fort Hood, Texas, the largest military installation in the world, is home to numerous distinguished units of the Armed Forces of the United States, including the Third Corps, the First Cavalry Division, the Third Armored Cavalry Regiment, and others;

Whereas Fort Hood has long been a source of pride for the State of Texas and for all the people of the United States who value the selfless service and sacrifice of our men and women in uniform;

Whereas the soldiers, family members, and civilian employees who live and serve at Fort Hood play a critical role in the defense of our Nation;

Whereas the soldiers of Fort Hood have served with honor and distinction in the Global War on Terror, frequently on the front lines in the combat theaters of Iraq and Afghanistan; and

Whereas the Fort Hood community experienced a monumental tragedy on November 5, 2009, when a gunman opened fire on large groups of soldiers on the installation: Now, therefore, be it

*Resolved*, That the Senate—

(1) offers its deepest and most sincere condolences to the families, friends, and loved

ones of the innocent victims killed or wounded in the senseless violence that occurred on November 5, 2009;

(2) offers support and hope for a full recovery for those who have been wounded;

(3) honors the heroic service, actions, and sacrifices of law enforcement personnel, first responders, soldiers present on the scene, medical personnel, and countless others who aided the innocent victims of this attack; and

(4) shares in the pain and grief felt by the people of the United States in the aftermath of this tragic event.

**AMENDMENTS SUBMITTED AND  
PROPOSED**

SA 2737. Mr. UDALL of New Mexico (for himself, Mr. BINGAMAN, and Mr. BOND) proposed an amendment to amendment SA 2730 proposed by Mr. JOHNSON (for himself and Mrs. HUTCHISON) to the bill H.R. 3082, making appropriations for military construction, the Department of Veterans Affairs, and related agencies for the fiscal year ending September 30, 2010, and for other purposes.

SA 2738. Mr. WARNER (for himself and Mr. WEBB) submitted an amendment intended to be proposed by him to the bill H.R. 3082, supra; which was ordered to lie on the table.

SA 2739. Mr. WARNER submitted an amendment intended to be proposed by him to the bill H.R. 3082, supra; which was ordered to lie on the table.

SA 2740. Mr. AKAKA (for himself, Mr. INOUE, and Mr. BURR) submitted an amendment intended to be proposed by him to the bill H.R. 3082, supra; which was ordered to lie on the table.

SA 2741. Mr. MENENDEZ submitted an amendment intended to be proposed by him to the bill H.R. 3082, supra; which was ordered to lie on the table. SA 2742. Mr. BURR (for himself and Mr. AKAKA) submitted an amendment intended to be proposed to amendment SA 2730 proposed by Mr. JOHNSON (for himself and Mrs. HUTCHISON) to the bill H.R. 3082, supra; which was ordered to lie on the table.

SA 2743. Mr. BURR (for himself and Mr. AKAKA) submitted an amendment intended to be proposed to amendment SA 2730 proposed by Mr. JOHNSON (for himself and Mrs. HUTCHISON) to the bill H.R. 3082, supra; which was ordered to lie on the table.

SA 2744. Mr. DODD submitted an amendment intended to be proposed by him to the bill H.R. 3082, supra; which was ordered to lie on the table.

SA 2745. Mr. FRANKEN (for himself and Mr. JOHNSON) submitted an amendment intended to be proposed by him to the bill H.R. 3082, supra; which was ordered to lie on the table.

**TEXT OF AMENDMENTS**

**SA 2737.** Mr. UDALL of New Mexico (for himself, Mr. BINGAMAN, and Mr. BOND) proposed an amendment to amendment SA 2730 proposed by Mr. JOHNSON (for himself and Mrs. HUTCHISON) to the bill H.R. 3082, making appropriations for military construction, the Department of Veterans Affairs, and related agencies for the fiscal year ending September 30, 2010, and for other purposes; as follows:

On page 52, after line 21, add the following:

SEC. 229. Of the amount appropriated or otherwise made available by this title under

the heading "MEDICAL SERVICES", \$150,000,000 shall be available for the grant program under section 2011 of title 38, United States Code, and per diem payments under section 2012 of such title.

**SA 2738.** Mr. WARNER (for himself and Mr. WEBB) submitted an amendment intended to be proposed by him to the bill H.R. 3082, making appropriations for military construction, the Department of Veterans Affairs, and related agencies for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table; as follows:

On page 27, between lines 3 and 4, insert the following:

SEC. 128. (a) Of the funds appropriated or otherwise made available by this title under the heading "DEPARTMENT OF DEFENSE BASE CLOSURE ACCOUNT, 2005", \$450,000 shall be available for the Secretary of Defense to enter into an arrangement with the National Academy of Sciences to conduct a study through the Transportation Research Board of Federal funding of transportation improvements to accommodate installation growth associated with the 2005 Defense Base Closure and Realignment (BRAC) program.

(b) The study conducted pursuant to subsection (a) shall—

(1) examine case studies of congestion caused on metropolitan road and transit facilities when BRAC requirements cause shifts in personnel to occur faster than facilities can be improved through the usual State and local processes;

(2) review the criteria used by the Defense Access Roads (DAR) program for determining the eligibility of transportation projects and the appropriate Department of Defense share of public highway and transit improvements in BRAC cases;

(3) assess the adequacy of current Federal surface transportation and Department of Defense programs that fund highway and transit improvements in BRAC cases to mitigate transportation impacts in urban areas with preexisting traffic congestion and saturated roads;

(4) identify promising approaches for funding road and transit improvements and streamlining transportation project approvals in BRAC cases; and

(5) provide recommendations for modifications of current policy for the DAR and Office of Economic Adjustment programs, including funding strategies, road capacity assessments, eligibility criteria, and other government policies and programs the National Academy of Sciences may identify, to mitigate the impact of BRAC-related installation growth on preexisting urban congestion.

(c) The Secretary of Defense shall enter into an arrangement with the National Academy of Sciences to provide the study conducted pursuant to subsection (a) by not later than 45 days after the date of the enactment of the Act.

(d)(1) Not later than May 15, 2010, the National Academy of Sciences shall provide an interim report of its findings to the Secretary of Defense and the Committees on Armed Services and Appropriations of the Senate and the House of Representatives.

(2) Not later than January 31, 2011, the National Academy of Sciences shall provide a final report of its findings to the Secretary of Defense and the Committees on Armed Services and Appropriations of the Senate and the House of Representatives.

**SA 2739.** Mr. WARNER submitted an amendment intended to be proposed by him to the bill H.R. 3082, making appropriations for military construction, the Department of Veterans Affairs, and related agencies for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table; as follows:

On page 52, after line 21, add the following:  
**SEC. 229.** Not later than January 29, 2010, the Secretary of Veterans Affairs shall submit to the Committee on Veterans' Affairs of the Senate and the Committee on Veterans' Affairs of the House of Representatives a report on the use of advanced technology to automate the administration of veterans disability claims. Such report shall include the following:

- (1) A survey of advanced technology that can be used for such automation.
- (2) An assessment of the feasibility and advisability of using such technology for such automation.

**SA 2740.** Mr. AKAKA (for himself, Mr. INOUE, and Mr. BURR) submitted an amendment intended to be proposed by him to the bill H.R. 3082, making appropriations for military construction, the Department of Veterans Affairs, and related agencies for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table; as follows:

On page 52, after line 21, add the following:  
**SEC. 229.** Section 315(b) of title 38, United States Code, is amended by striking "December 31, 2009" and inserting "December 31, 2010".

**SA 2741.** Mr. MENENDEZ submitted an amendment intended to be proposed by him to the bill H.R. 3082, making appropriations for military construction, the Department of Veterans Affairs, and related agencies for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table; as follows:

On page 52, after line 21, add the following:  
**SEC. 229.** (a) **ADDITIONAL AMOUNT FOR STATE VETERANS CEMETERIES.**—The amount appropriated by this title under the heading "GRANTS FOR CONSTRUCTION OF STATE VETERANS CEMETERIES" is hereby increased by \$4,000,000.

(b) **OFFSET.**—The amount appropriated or otherwise made available by this title under the heading "GENERAL OPERATING EXPENSES" is hereby decreased by \$4,000,000.

**SA 2742.** Mr. BURR (for himself and Mr. AKAKA) submitted an amendment intended to be proposed to amendment SA 2730 proposed by Mr. JOHNSON (for himself and Mrs. HUTCHISON) to the bill H.R. 3082, making appropriations for military construction, the Department of Veterans Affairs, and related agencies for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table; as follows:

On page 52, after line 21, add the following:  
**SEC. 229.** (a) **ADDITIONAL AMOUNT FOR HOMELESS VETERANS COMPREHENSIVE SERVICE PROGRAMS AND HOUSING ASSISTANCE AND SUPPORTIVE SERVICES.**—The amount appro-

priated by this title under the heading "MEDICAL SERVICES" is hereby increased by \$43,387,240, with the amount of the increase to be available for the following:

(1) The grant program under section 2011 of title 38, United States Code.

(2) Per diem payments under section 2012 of such title.

(3) Housing assistance and supportive services under subchapter V of chapter 20 of such title.

(b) **OFFSETTING RESCISSION.**—There is hereby rescinded, from amounts appropriated for fiscal years beginning before fiscal year 2010 for the guaranteed transitional housing loan program authorized by subchapter VI of chapter 20 of title 38, United States Code, that remain available for obligation as of the date of the enactment of this Act, the amount of \$43,387,240.

(c) **REDUCTION IN AVAILABILITY OF FUNDS FOR GUARANTEED TRANSITIONAL HOUSING LOANS FOR HOMELESS VETERANS PROGRAM.**—The amount made available by this title under the heading "GUARANTEED TRANSITIONAL HOUSING LOANS FOR HOMELESS VETERANS PROGRAM ACCOUNT" is hereby reduced by \$750,000.

**SA 2743.** Mr. BURR (for himself and Mr. AKAKA) submitted an amendment intended to be proposed to amendment SA 2730 proposed by Mr. JOHNSON (for himself and Mrs. HUTCHISON) to the bill H.R. 3082, making appropriations for military construction, the Department of Veterans Affairs, and related agencies for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table; as follows:

On page 52, after line 21, add the following:

**SEC. 229.** (a) **ADDITIONAL AMOUNT FOR HOMELESS VETERANS COMPREHENSIVE SERVICE PROGRAMS AND HOUSING ASSISTANCE AND SUPPORTIVE SERVICES.**—The amount appropriated by this title under the heading "MEDICAL SERVICES" under the heading "VETERANS HEALTH ADMINISTRATION" is increased by \$750,000, with the amount of the increase to be available for the following:

(1) The grant program under section 2011 of title 38, United States Code.

(2) Per diem payments under section 2012 of such title.

(3) Housing assistance and supportive services under subchapter V of chapter 20 of such title.

(b) **OFFSET.**—The amount appropriated or otherwise made available by this title under the heading "GENERAL OPERATING EXPENSES" under the heading "DEPARTMENTAL ADMINISTRATION" is decreased by \$750,000.

**SA 2744.** Mr. DODD submitted an amendment intended to be proposed by him to the bill H.R. 3082, making appropriations for military construction, the Department of Veterans Affairs, and related agencies for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. \_\_\_\_\_.** Section 129 of the Continuing Appropriations Resolution, 2010 (Public Law 111-68) is amended by striking "by substituting" and all that follows through the period at the end, and inserting "by substituting June 30, 2010 for the date specified in each such section."

**SA 2745.** Mr. FRANKEN (for himself and Mr. JOHNSON) submitted an amendment intended to be proposed by him to the bill H.R. 3082, making appropriations for military construction, the Department of Veterans Affairs, and related agencies for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table; as follows:

On page 52, after line 21, add the following:  
**SEC. 229.** Of the amounts appropriated or otherwise made available by this title for the Department of Veterans Affairs, \$5,000,000 shall be available for the study required by section 1077 of the National Defense Authorization Act for Fiscal Year 2010.

#### PRIVILEGES OF THE FLOOR

Mr. DORGAN. Mr. President, I ask unanimous consent that LTC Joseph J. Martin, a U.S. Army Special Forces officer currently serving as Senator REID's military legislative fellow this year, be granted floor privileges for the duration of H.R. 3082, the Military Construction and Veterans Affairs Appropriations Act for fiscal year 2010.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### CONSTITUTING MAJORITY PARTY MEMBERSHIP

Mr. DORGAN. Mr. President, I ask unanimous consent that the Senate proceed to immediate consideration of S. Res. 343, submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 343) to constitute the majority party's membership on certain committees for the One Hundred Eleventh Congress, or until their successors are chosen.

There being no objection, the Senate proceeded to consider the resolution.

Mr. DORGAN. Mr. President, I ask unanimous consent that the resolution be agreed to and the motion to reconsider be laid upon the table without further intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 343) was agreed to, as follows:

S. RES. 343

*Resolved,* That the following shall constitute the majority party's membership on the following committee for the One Hundred Eleventh Congress, or until their successors are chosen:

**COMMITTEE ON RULES AND ADMINISTRATION:** Mr. Schumer (Chairman), Mr. Byrd, Mr. Inouye, Mr. Dodd, Mrs. Feinstein, Mr. Durbin, Mr. Nelson (Nebraska), Mrs. Murray, Mr. Pryor, Mr. Udall (New Mexico), Mr. Warner.

#### REGARDING THE TRAGIC SHOOTING AT FORT HOOD, TEXAS

Mr. DORGAN. Mr. President, I ask unanimous consent that the Senate



now proceed to the consideration of S. Res. 344, which was submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 344) expressing the sense of the Senate regarding the tragic shooting at Fort Hood, Texas on November 5, 2009.

There being no objection, the Senate proceeded to consider the resolution.

Mr. DORGAN. I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, and the motions to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 344) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

#### S. RES. 344

Whereas Fort Hood, Texas, the largest military installation in the world, is home to numerous distinguished units of the Armed Forces of the United States, including the Third Corps, the First Cavalry Division, the Third Armored Cavalry Regiment, and others;

Whereas Fort Hood has long been a source of pride for the State of Texas and for all the people of the United States who value the selfless service and sacrifice of our men and women in uniform;

Whereas the soldiers, family members, and civilian employees who live and serve at Fort Hood play a critical role in the defense of our Nation;

Whereas the soldiers of Fort Hood have served with honor and distinction in the Global War on Terror, frequently on the front lines in the combat theaters of Iraq and Afghanistan; and

Whereas the Fort Hood community experienced a monumental tragedy on November 5, 2009, when a gunman opened fire on large groups of soldiers on the installation: Now, therefore, be it

*Resolved*, That the Senate—

(1) offers its deepest and most sincere condolences to the families, friends, and loved ones of the innocent victims killed or wounded in the senseless violence that occurred on November 5, 2009;

(2) offers support and hope for a full recovery for those who have been wounded.

(3) honors the heroic service, actions, and sacrifices of law enforcement personnel, first responders, soldiers present on the scene, medical personnel, and countless others who aided the innocent victims of this attack; and

(4) shares in the pain and grief felt by the people of the United States in the aftermath of this tragic event.

#### EXECUTIVE SESSION

#### EXECUTIVE CALENDAR

Mr. DORGAN. Mr. President, I ask unanimous consent that the Senate

proceed to executive session to consider en bloc Calendar Nos. 480 and 522; that the nominations be confirmed, and the motions to reconsider be laid upon the table en bloc; that no further motions be in order; that any statements be printed in the RECORD; and that the President be immediately notified of the Senate's action.

#### NOMINATION DISCHARGED

I further ask unanimous consent that the Environment and Public Works Committee be discharged of PN931, the nomination of Barbara Bennett to be CFO of the EPA; that the Senate then proceed to the nomination; that the nomination be confirmed and the motion to reconsider be laid upon the table; that no further motions be in order; the President be immediately notified of the Senate's action; that the Senate return to legislative session; and that any statements be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered. Both requests are agreed to.

The nominations considered and confirmed en bloc are as follows:

#### OFFICE OF SURFACE MINING RECLAMATION AND ENFORCEMENT

Joseph G. Pizarchik, of Pennsylvania, to be Director of the Office of Surface Mining Reclamation and Enforcement.

#### NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

David S. Ferriero, of North Carolina, to be Archivist of the United States.

#### ENVIRONMENTAL PROTECTION AGENCY

Barbara J. Bennett, of Virginia, to be Chief Financial Officer, Environmental Protection Agency.

#### LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will resume legislative session.

#### ORDER FOR RECORD TO REMAIN OPEN

Mr. DORGAN. I ask unanimous consent that notwithstanding an adjournment of the Senate, the RECORD remain open today until 1:30 p.m. for the submission of legislation, statements, and cosponsorships.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### ORDERS FOR MONDAY, NOVEMBER 9, 2009

Mr. DORGAN. I ask unanimous consent that when the Senate completes its business today, it adjourn until 2 p.m. Monday, November 9; that following the prayer and pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be re-

served for their use later in the day, and the Senate proceed to a period of morning business until 3 p.m., with Senators permitted to speak up to 10 minutes each; that following morning business, the Senate resume consideration of H.R. 3082, Military Construction and Veterans Affairs appropriations.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### PROGRAM

Mr. DORGAN. Under a previous order, at 4:30 p.m. Monday the Senate will debate the nomination of Andre Davis to be U.S. Circuit judge for the Fourth Circuit. At 5:30 p.m. the Senate will proceed to vote on the confirmation of the nomination. We could also have a vote on an amendment to the Military Construction bill following the 5:30 vote.

#### ADJOURNMENT UNTIL MONDAY, NOVEMBER 9, 2009, AT 2 P.M.

Mr. DORGAN. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that it adjourn under the previous order.

There being no objection, the Senate, at 12:34 p.m., adjourned until Monday, November 9, 2009, at 2 p.m.

#### DISCHARGED NOMINATION

The Senate Committee on Environment and Public Works was discharged from further consideration of the following nomination by unanimous consent and the nomination was confirmed:

BARBARA J. BENNETT, OF VIRGINIA, TO BE CHIEF FINANCIAL OFFICER, ENVIRONMENTAL PROTECTION AGENCY.

#### CONFIRMATIONS

Executive nominations confirmed by the Senate, Friday, November 6, 2009:

#### OFFICE OF SURFACE MINING RECLAMATION AND ENFORCEMENT

JOSEPH G. PIZARCHIK, OF PENNSYLVANIA, TO BE DIRECTOR OF THE OFFICE OF SURFACE MINING RECLAMATION AND ENFORCEMENT.

#### NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

DAVID S. FERRIERO, OF NORTH CAROLINA, TO BE ARCHIVIST OF THE UNITED STATES.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

#### ENVIRONMENTAL PROTECTION AGENCY

BARBARA J. BENNETT, OF VIRGINIA, TO BE CHIEF FINANCIAL OFFICER, ENVIRONMENTAL PROTECTION AGENCY.



## HOUSE OF REPRESENTATIVES—*Friday, November 6, 2009*

The House met at 9 a.m. and was called to order by the Speaker.

### PRAYER

The Chaplain, the Reverend Daniel P. Coughlin, offered the following prayer: The Holy Scriptures tell us:

“The Lord is my stronghold, my fortress and my champion. My God, my rock where I find safety . . .”

And yet, Lord, even our celebrated stronghold, the home of the brave, our heroic military and their families, Fort Hood, can be penetrated with violence.

Be with those fallen, the wounded and their families, as the Nation mourns with them and prays with them and for them.

Renew the fortress of faith and be their champion over all the forces of evil, those recognized as outside us and the insidious hidden in our midst.

Lead us not into temptation but deliver us from evil. For Thine is the kingdom, the power and the glory forever and ever. Amen.

### THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House her approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

### PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from Colorado (Mr. PERLMUTTER) come forward and lead the House in the Pledge of Allegiance.

Mr. PERLMUTTER led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

### ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair will entertain up to five requests for 1-minute speeches from each side of the aisle.

### ECONOMIC INEQUITIES

(Mr. KUCINICH asked and was given permission to address the House for 1 minute.)

Mr. KUCINICH. Madam Speaker, why is it we have finite resources for health care but unlimited money for war? The inequities in our economy are piling up: trillions for war, trillions for Wall

Street, tens of billions for insurance companies. Banks and other corporations are sitting on piles of cash and taxpayers' money, while firing workers, cutting pay, and denying small businesses money to survive.

People are losing their homes, their jobs, their health, their retirement security. Yet there is unlimited money for war and Wall Street and insurance companies but very little money for jobs. There is unlimited money to blow up things in Iraq and Afghanistan, relatively little money to build things in the U.S.

The administration will soon bring to Congress a request for an additional \$50 billion for war. I can tell you, a Democratic version of the wars in Iraq and Afghanistan is no more acceptable than a Republican version of the wars in Iraq and Afghanistan. Trillions for war, for Wall Street, billions for insurance companies. When we were promised change, we weren't thinking it meant we give a dollar and get back 2 cents.

### FORT HOOD, TEXAS

(Mr. POE of Texas asked and was given permission to address the House for 1 minute.)

Mr. POE of Texas. Madam Speaker, the bugle sounds Taps. The flags of Texas and the U.S. are at half staff this crisp morning.

In the hill country of central Texas, at the largest military base, a place called Fort Hood, soldiers and families mourn. They mourn for 13 of their own who have been murdered. They weep for 30 others who fill hospitals because of bullet wounds.

The soldiers were going about the business of making ready to deploy and defend this country overseas against tyranny and terrorism, only to face a terrorist here at home. A radicalized soldier named Nidal Hasan rejected his order to go abroad and took out his anger on those he knew.

We come upon Veterans Day next week where we honor our veterans, but let us here today in Congress on this solemn occasion give thought, prayer, and thanks to the men and women of the military who have volunteered to defend the rest of us against those forces of evil. We mourn with their families. These of our military are a rare breed, a unique breed, the American breed.

And that's just the way it is.

### HEALTH CARE

(Mr. KAGEN asked and was given permission to address the House for 1 minute.)

Mr. KAGEN. Madam Speaker, I rise this morning to speak out in favor of reforming our health care system to guarantee that every citizen has access to the care that they need when and where they need it, at a price they can afford to pay. People like Jenny, who is a single mother of two asthmatic children who I got the fortune of taking care of. With two asthmatic children, she couldn't afford the price of the prescription drugs they needed to keep her children healthy.

People like Mary with rheumatoid arthritis so severe that she is an expensive date to the insurance companies and for which no other insurance company would take her because of her preexisting condition.

People like Stacie, who had cancer of her thyroid and had it surgically cured, and yet, because of a preexisting condition, would be denied access to the care she needs.

And, finally, people like a 6-day-old child named Hope, who at 6 days of age, through no fault of her own, had to have heart surgery to correct a heart deformity.

We are going to change this health care system and guarantee that no one shall suffer from discrimination any longer in this country.

### WRONG BILL AT WRONG TIME

(Mr. CHAFFETZ asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CHAFFETZ. Madam Speaker, all across this country there are families that are waking up concerned about their future. They are concerned about their jobs. They are concerned about what the direction of this country is. We read a new statistic that showed that only 2,500 of the supposed 640,000 jobs that were created or saved by the stimulus were manufacturing jobs. Only 2,500. Manufacturing is good. We need that in this country.

At the same time, we hear this morning that the unemployment now has risen to 10.2 percent. At a time when our Nation is suffering, it is not the time, it is not the place to implement the proposed Nancy Pelosi health care bill.

We need health care reform, but this is the wrong bill at the wrong time. It

raises taxes on businesses and individuals. It raises taxes on medical manufacturers. I urge my colleagues to strike this down and kill that bill.

#### HONORING COLONEL TODD HIXSON

(Ms. EDWARDS of Maryland asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. EDWARDS of Maryland. Madam Speaker, it is with great sadness that I rise today to honor the life and memory of Colonel Todd Hixson. Colonel Hixson passed away tragically and unexpectedly on Sunday, November 1, 2009, in Silver Spring, Maryland.

Along with so many other brave men and women, Colonel Hixson served for many years in the United States Marine Corps. Just a few weeks ago, he returned from his most recent tour of duty in Iraq. I feel privileged to honor such a courageous son of the State of Maryland.

With a heavy and sad heart, I offer my sincere condolences to the family of Colonel Todd Hixson. He was the son of the Honorable Sheila E. Hixson, Maryland State Delegate; and my thoughts and prayers are with her and all of Colonel Hixson's family and friends at this time.

I would also like to call attention to the flag flying over our Capitol today in honor of Colonel Hixson, and it is with great pride that I stand here before my colleagues to pay tribute to him. His courage, bravery, and dedication to his country and family serve as an inspiration to us all. I wish peace to the family and friends of Colonel Todd Hixson, and I thank him for his service to the United States and the State of Maryland.

On this Friday before Veterans Day, we honor Colonel Hixson's memory and all our veterans and service men and women and their families who make their greatest sacrifice for each of us.

#### PROTECT OUR JOBS

(Mr. DANIEL E. LUNGREN of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DANIEL E. LUNGREN of California. Madam Speaker, a number of years ago, a prominent Democratic political consultant coined the phrase, "It's the economy, stupid." What that meant was, after the issues of national security and personal security, the state of the economy is number one in the minds and hearts of the American people.

We have just heard disturbing news: The unemployment rate is now 10.2 percent, the highest rate in decades. At this point in time when our constituents are worried about jobs, worried about the economy, worried about how they are going to pay their bills, does

it make sense for us to rush to judgment on a bill that has been analyzed to show that it is a job killer bill? I refer to the Pelosi health care plan that we are going to be kept in this place this weekend to vote on. Let us hear what the American people are saying. Make sure we protect our jobs, not destroy our jobs.

#### TOMORROW IS THE DAY

(Mr. MCDERMOTT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MCDERMOTT. Madam Speaker, here's what you are hearing from opponents to health care reform: Nothing scares Members of Congress more than freedom-loving Americans. We should surround the Capitol Building until they give us freedom. This bill is legislative malpractice.

Now these are all catchy phrases. They are catchy phrases that are purposely designed to hide the fact that the Republicans have no viable alternative health care plan. Critics have panned the plan that they have offered. Headlines in The New York Times screamed, "Budget monitor says GOP bill leaves many uninsured." Headlines from The Washington Post booms, "Congressional Budget Office thrashes the Republican health care plan."

The verdict is in: The Republican plan is woefully inadequate. It is not a cheap alternative. It would cover only three million uninsured. It maintains the status quo for insurance companies. It has no serious reforms to eliminate the perverse incentives in our present payment system.

So the Republican are left with catchy phrases. The American people see through it. That is why they are still supporting this bill. The American people know that the time to enact quality health care is now. Tomorrow is the day.

#### AMERICAN PEOPLE KNOW BEST

(Ms. FOXX asked and was given permission to address the House for 1 minute.)

Ms. FOXX. Madam Speaker, yesterday was an exciting day for those of us who believe the American people know best. Thousands of people came to Capitol Hill to tell Speaker PELOSI that they do not want her tax increase government takeover of health care. They said that this bill is a bill the American people cannot afford. Republicans in the House agree with them.

Hardworking Americans do not want to pay for abortions and illegal aliens and should not have to pay for them.

Unemployment is now 10.2 percent, and this bill will make it worse. Like other ill-conceived bills such as the wrongly named stimulus bill that the Democrats have crammed down the

throats of the American people, the so-called health reform bill will do more harm than good.

Speaker PELOSI, listen to the voices of the American people. My colleagues on the other side, listen to the voices of the American people. Do not vote for more taxes, more government control, and an erosion of our freedoms. Remember, the first three words of the Constitution are, "We the people."

#### HEALTH CARE

(Mr. GENE GREEN of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GENE GREEN of Texas. Madam Speaker, a lot of us think we represent the people. With unemployment now over 10 percent, the second biggest issue if you don't have a job is that you don't have health care. We have a lot of problems in our country, unemployment and health care, and hopefully Congress will take that.

We made a step early in the year with a stimulus bill to try and create jobs. It hasn't done what we wanted. We need to do something, but we also need to deal with health care.

Let me take the last part of my time to say our country lost 12 brave soldiers yesterday at Fort Hood, Texas. They were prepared to be deployed to defend our country. I think that is what this House ought to be thinking about today, those families and those soldiers at Fort Hood, Texas.

#### HEALTH CARE

(Mr. WILSON of South Carolina asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WILSON of South Carolina. Madam Speaker, included in the 2,000 pages of the Pelosi takeover bill are massive cuts in Medicare that will hurt seniors across the country. According to the nonpartisan Congressional Budget Office, these cuts are \$162 billion, causing many seniors to lose their current coverage or limit their choices. But that is not all. The Pelosi takeover also increases seniors' Medicare prescription drug premiums by 20 percent over the next decade.

These negative policies hurt seniors. That is why I am pleased that senior organizations like Sixty Plus Association and the Senior Citizens League stand tall for seniors against the Pelosi takeover.

Squeezing Medicare and Medicaid half a trillion dollars is an attack on senior citizens. A better bill is H.R. 3400 for affordability and accessibility. Our bill will save jobs, while the Pelosi takeover will kill jobs with record 10.2 unemployment.

In conclusion, God bless our troops, and we will never forget September

11th in the global war on terrorism. Our prayers and sympathy are with the families of Fort Hood, Texas.

□ 0915

#### ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Ms. DEGETTE). Pursuant to clause 8 of rule XX, the Chair will postpone further proceedings today on motions to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote incurs objection under clause 6 of rule XX.

Record votes on postponed questions will be taken later.

#### CONGRATULATING THE NEW YORK YANKEES

Mr. TOWNS. Madam Speaker, I move to suspend the rules and agree to the resolution (H. Res. 893) congratulating the 2009 Major League Baseball World Series Champions, the New York Yankees.

The Clerk read the title of the resolution.

The text of the resolution is as follows:

H. RES. 893

Whereas the New York Yankees are the most successful franchise in the history of Major League Baseball;

Whereas prior to this year the Yankees had won 26 World Series Championships, the most in the Major Leagues;

Whereas this historic franchise is located in the Bronx and is known as the "Bronx Bombers";

Whereas the Yankees franchise has included all-time great players;

Whereas for many years the Yankees played baseball in the historic Yankee Stadium;

Whereas this year the Yankees opened a new stadium and hope to emulate the success achieved in the "House that Ruth Built";

Whereas during the 2009 regular season, the Yankees had the best record in baseball, going 103-59;

Whereas the Yankees finished at the top of the American League East Division;

Whereas the Yankees went on to beat the Minnesota Twins 3 games to 0;

Whereas the Yankees then faced off against the Los Angeles Angels of Anaheim in the American League Championship Series, and emerged victorious in 6 games;

Whereas that victory represented the 40th American League Pennant that the Yankees have won;

Whereas the Yankees were matched up against a valiant Philadelphia Phillies squad for the World Series title;

Whereas the Yankees were able to defeat the defending World Series Champions by 4 games to 2;

Whereas this victory represents the Yankees' 27th World Series Championship win;

Whereas this number of championship wins is 17 more than their next closest competitor;

Whereas the contributions of the Yankees' players throughout the season were all vital in securing the title; and

Whereas the Yankees were guided to victory by Manager Joe Girardi, General Manager Brian Cashman, President Randy Levine, and the leadership of Hank and Hal Steinbrenner: Now therefore be it

*Resolved*, That the House of Representatives congratulate—

(1) the 2009 Major League Baseball World Series Champions, the New York Yankees, for an outstanding season and a record 27th World Series Championship win; and

(2) the players, coaches, staff and leadership of the Yankees organization for their great success.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New York (Mr. TOWNS) and the gentleman from Utah (Mr. CHAFFETZ) each will control 20 minutes.

The Chair recognizes the gentleman from New York.

GENERAL LEAVE

Mr. TOWNS. Madam Speaker, I ask unanimous consent that all Members have 5 legislative days in which to revise and extend their remarks.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. TOWNS. I yield myself such time as I may consume.

Madam Speaker, I rise today as a proud New Yorker to call up this resolution honoring the New York Yankees on the occasion of their victory in the 2009 World Series.

With this win, the Yankees once again have broken their own record as the most successful Major League Baseball franchise, and of course the most successful professional sports franchise in our Nation's history.

The achievements of the Yankees are made even more remarkable by the high caliber of the teams they faced throughout the season and in the playoffs. The defending champions, the Philadelphia Phillies, had an outstanding season and performed well during the World Series. But Wednesday night, the Yankees once again returned the World Series trophy to New York City, the 27th time they have done this.

We are proud of our Yankees, and I could go on and on for hours discussing the Yankees. I recall just last weekend I spent time with friends of mine, Dr. Witherspoon and Dr. Brown, talking about the Yankees of yesteryear and today. And of course we talked about the long line of outstanding players and the great success that they have had. We talked about Babe Ruth, Mickey Mantle, and of course now we can talk about Matsui as well.

We have important business to consider in this House today and tomorrow, but it is fitting that we take a small amount of time now to congratulate the New York Yankees on their World Series victory.

Madam Speaker, I reserve the balance of my time.

Mr. CHAFFETZ. Madam Speaker, I yield myself such time as I may consume.

I rise today in support of House Resolution 893, congratulating the 2009 Major League Baseball World Series champions, the New York Yankees.

For the 27th time in the history of the World Series, the Yankees have once again proven to be the champions by defeating the Philadelphia Phillies to win the World Series. Again they have distinguished themselves as the dominant team in baseball.

On a cold November evening, the game kept fans riveted to their seats until nearly midnight in the sixth game of the series with the Phillies until Mariano Rivera threw his 41st and final pitch of the game to end the game.

The Yankees, also affectionately known as the "Bronx Bombers" because of their stadium's location in the Bronx, achieved another exciting victory for the storied franchise. After finishing the regular season with baseball's best record of 103 wins, they showed their consummate professionalism by winning it all.

They finished the regular season by defeating the Minnesota Twins and then the Angels to capture the American League Championship. Moving on to the World Series, the Yankees defeated the National League's champion Phillies by winning four out of six games in the series even though the Phillies gave it their all to the very end.

It is of particular note that the Yankees' 27th World Series wins puts them in an unequalled place in baseball history. They have now won 17 more World Series than their closest competitor.

I also want to congratulate the rest of the Yankees organization, all of whom deserve credit for providing a terrific season for so many devoted fans. I would also like to congratulate the Philadelphia Phillies, their fans and their players for putting together an exciting season.

On a particular note, I have the honor of standing here and helping to honor Harry Kalas, who affected so many people throughout his career. We were sad to see his passing earlier this year; but he touched the lives, in a very positive way, of countless Americans, and we will miss him.

I reserve the balance of my time, Madam Speaker.

Mr. TOWNS. Madam Speaker, let me thank the gentleman from Utah for his kind words. I am happy to hear him say something great about New York, and of course our Yankees in particular.

I would like to yield 7 minutes to the gentleman from New York who actually represents the area where the Yankees play, and of course that's Congressman SERRANO from the Bronx, New York.

Mr. SERRANO. I thank the gentleman. I thank the ranking member for his kindness.

I hope, Madam Speaker, that the rules can be slightly bent to allow this wonderful hat to sit by me as I speak, but we do bring other charts and other things to the House floor.

I have to tell you, I am one of those Yankee fans who doesn't take anything for granted, so I was nervous during these games and the playoffs.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The gentleman is reminded that wearing a hat is a violation of the rules.

Mr. SERRANO. I have proudly worn that hat on my head for many years, and I promise not to wear it during the debate, of course, out of respect for the House, which I am proud to be a Member of.

Having said that, I am not one of those Yankee fans, if there are any, who thinks we are going to win all the time. I am very nervous. I was nervous with the Minnesota Twins; I was nervous with the Angels. I was very nervous with the talented Phillies.

But that does not compare to the nervousness I felt yesterday when I introduced the resolution and wondered if we could get it on the House floor before we left this weekend and before we did health care. But thanks to the chairman and the ranking member and the leadership, here it is.

I rise to pay tribute to the Yankees on their 27th World Series championship. As the chairman has said, they are the most successful franchise in sports history. Congratulations especially should go to the Phillies, the Philadelphia Phillies, a fine team, world champions prior to this year, who repeated their championship in the National League and gave the Yankees a very tough time. They're a successful team, and I suspect they will be back next year when I'm sure they will play the Yankees again in the World Series.

I am very proud to be the Congressman who represents the Yankee Stadium area. In fact, I can tell when the Yankees are doing well by just opening my window and hearing the sound of a crowd. Whenever you hear the crowd—I live that close to the stadium—you know the Yankees have scored a run or gotten a big hit.

The Yankees have been a tradition in the neighborhood and have been a tradition in sports history. What's interesting about it is that, as you know, this year they opened up a new stadium and they won the World Series in that stadium. My understanding also is that they won the first World Series they played in the old stadium in 1923, The House That Ruth Built. So they move, but they still keep their winning tradition.

They are, indeed, the Bronx Bombers, and they've become a sign of perfection, of teamwork. And much has been said throughout the years about how the Yankees played and how they got

along or at times didn't get along, and everyone says that this team came together and played as a true organization and a true institution.

They have been in the World Series an astonishing, an amazing 40 times and they have won 27 of those 40 times. Professional baseball is a few years over 100 years old, and 40 percent of the time one team was in that appearance. In 2009, they won 103 games. Then they went on to defeat the Twins and defeat the Angels, and then finally the very talented Phillies. They put it all together.

And they put it all together as they continue to build on that tradition. We hear about Ruth and Gehrig; we hear about DiMaggio and Mantle and Berra, and the other players of the 1950s. Then we know that there was that period with Reggie Jackson, and the wonderful years with Bernie Williams and the rest of the team. And now we have Jeter and we have Posada and we have Pettitte and we have Mariano. And of course the Yankees in many ways also do great things beyond New York.

The MVP, Hideki Matsui, my understanding was, practically shut down the great country of Japan as they watched the game on TV. Little did they know that their son would become the MVP by having a fabulous last game with three hits and six RBIs.

It was, indeed, a wonderful World Series. I understand from my relatives in Puerto Rico that everybody was glued to the TV set to see the Yankees, not only to see the Yankees, but then to see how Jorge Posada would do. In the Dominican Republic, in the Dominican neighborhoods in New York, people were out in the street watching just to see what Robinson Cano and Melky Cabrera and others were doing.

So you see, it goes beyond baseball. It is a tradition, and now it has expanded globally. And it is only fitting that the most successful team in baseball would be part of this expansion of baseball throughout the world.

So my congratulations go to the Yankees. We will be here today doing the work we have to do. At 11 a.m., in Mr. TOWNS' great city and mine, the Yankees will have a ticker tape parade along the Canyon of Heroes. After that, they will go to city hall at 1 o'clock where every other elected official except Members of Congress will be there taking pictures with the Yankees.

So that is one of the reasons why we are here today, to do our part in celebrating this great team; to do our part in celebrating their home in the Bronx, New York; to do our part in saying that, yes, we have problems in this country; yes, we have serious debate; yes, we have difficulties, but we can take some time to celebrate something that is beautiful, something that we can come together on.

Even Boston Red Sox fans, I'm sure, are celebrating the Yankee victory—

well, I try to always tell the truth, but every so often I bend it a little bit.

Ladies and gentlemen, and to the leadership, thank you very much for putting this resolution on the floor. Thank you for this opportunity to honor our beloved Yankees. Congratulations to the Yankee management, to the Steinbrenner family; to my friend, Randy Levine; to Joe Girardi; and to all the Yankees that made this the winning season it has been. Congratulations. Viva los Yankees. Thank you.

Mr. CHAFFETZ. Madam Speaker, I yield myself such time as I may consume.

You know, baseball is such a great sport. It is often referred to as our national pastime because it's a great way to escape the realities of all the pressures that happen in life. It has done that for so many people and will continue for decades and centuries to come, I'm sure. But the reality, once the game is over and we go back home and people start to realize what is truly happening in their lives, there is a lot of concern out there. You have people all across this country, right in the pit of their stomach they're worried. They're worried about their future; they're worried about their kids; they're worried about their parents. And so we look at statistics that come out and we just gaze and wonder and think, gosh, my goodness, what can we do to help? Unfortunately, I believe that we are moving in the wrong direction in this country.

Earlier this week, we saw some new statistics that came out. Supposedly there were 640,000 jobs that were either created or saved through the stimulus. Now, I have serious reservations about the accuracy of those numbers.

They have been often overstated; I know they were overstated in our State of Utah. But let's go ahead and just assume that that is true. Part of this report showed that only 2,500 of 640,000 jobs were manufacturing jobs. But the stimulus bill and the economic policies instituted by this Congress and this administration have grown government; they haven't grown jobs. We have missed the mark. The very best hope for our future is to focus on small business. It's going to be businesses and the American entrepreneur that are going to grow this country. It is not going to be government.

There is another statistic that was released today where the unemployment rate unfortunately has gone to 10.2 percent. In many States it has been in double digits for a long time.

The stimulus did not work. It is not doing what it is supposed to do because it was fundamentally flawed from the beginning; it was fundamentally flawed at the start. It did not give relief; it did not focus on the small business man and woman. It did not focus on Main Street. It was a bailout to government, it was a bailout to the States, and it's fundamentally wrong.

And so at this time, when we are having such concern about our country, we are now considering a health care bill I doubt most any person in the body has actually fully read let alone comprehended from start to finish. It's 1,990 pages. It is so complex; it is a total takeover of health care. It demonstrates in there that there is going to be a tax increase on medical device manufacturers, a so-called "wheelchair tax." Whether you buy your wheelchair or crutches or need a defibrillator, whatever it might be, they're now going to have a tax increase. Weren't we promised that there wouldn't be one dime, not one dime of tax increase for anybody who is earning less than \$250,000? This is a tax that is going to be implemented on every single American, every American.

□ 0930

There are tax increases on small businessmen and -women. Yet we know that 70 percent of the jobs that will be created in this country will come from small businesses. So, at the very time we need that economic engine to drive us forward, to propel us forward as a country, this administration and the bill we are considering would implement a tax increase at the wrong time.

Madam Speaker, I reserve the balance of my time.

Mr. TOWNS. Madam Speaker, may I inquire as to how much time is remaining?

The SPEAKER pro tempore. The gentleman from New York has 12 minutes remaining. The gentleman from Utah has 15 minutes remaining.

Mr. TOWNS. Madam Speaker, I reserve the balance of my time.

Mr. CHAFFETZ. Madam Speaker, I yield as much time as he may consume to the gentleman from Texas (Mr. GOHMERT).

Mr. GOHMERT. I appreciate my friend from Utah for yielding.

Madam Speaker, it is an honor even for a Texan to pay tribute to the team from New York. Even as a kid growing up, you know, when I was 6 years old and was out on the playground, I was one of many who wanted to be Mickey Mantle, as we started playing, and Roger Maris. You know, the first bat I was ever given for Christmas had Bobby Richardson's name on it. Who could forget his incredible grand slam?

The New York Yankees have always been a franchise that has prided itself on excellence. Sure, they've had some bad years along the way, but nobody touches their record when it comes to the World Series. It probably goes without saying, but my friend from New York does look good in a New York Yankee's hat even though he's not allowed to wear it on the floor.

As I thought about the Yankee team—and you go back to, you know, thinking about an incredible player like Lou Gehrig, and he considered

himself the luckiest man in the world. Those were great teams—excellence on the field of play—and you think about having a closer in the bullpen that, when you get ahead, you bring in Rivera, and he's going to close out, and you're going to win, and he knows it.

You know, some of Reggie Jackson's cockiness sometimes bothered me, but you just knew that, come late in the season, no matter whether he'd had a slump or not, the guy was such an incredible baseball player that he was going to come through. You just knew because he knew.

As I've thought over the years of the incredible excellence of the New York Yankees—and this takes a real effort on my part to pay tribute to that kind of excellence in New York. They have been good so many times—not just good but great. Then it took me to thinking about all of the cities in America, including right here in Washington, D.C., which have not been so fortunate, you know, and where wins have come so difficultly. It's such a struggle. You lose week after week, and you think, Do you know what we need? Maybe we need a public option for baseball teams. Why is it fair that one city gets to have the corner on the market of all of the excellence in baseball? You know, shouldn't we spread that around the country? You know, not everybody has the money that New York City has to spend on baseball, so let's have more choice.

Let's give the government a few baseball teams. That way, people can choose to support the government baseball team when their town really can't afford to have one or they can choose to support the independent baseball teams like those in New York; but we'll probably need to put a cap on New York so that everybody will spend exactly the same amount of money. Nobody can spend more because, you know, there's a bigger TV market in New York, which gives them more revenue and which allows them to pay more for baseball players. Even with a cap, they're able to spend more money, and it just creates unfairness. We should avoid having one team be so excellent, maybe, by spreading it around and by letting people choose a government option baseball team. That's what was occurring to me.

I had a conversation this morning with a Democrat for whom I have tremendous respect, tremendous respect. We come at problems from different directions. He was sincerely saying that he believed that—you know what?—we don't know enough as patients when a doctor tells us we need treatment or when we need an MRI or a test. We don't know enough to say, No, we don't, or, Maybe we shouldn't. We have to rely on the doctors, and the doctors are out to make a profit. You know, when times get tough, maybe they order more MRIs. Who are we to know?

We need that help from the government to make our decisions.

As I thought about it, can you imagine a baseball team that the government runs? I mean, if the Nats played nothing but government-run baseball teams, they would have been in the World Series this year. I mean it's just that pronounced.

My Democratic friend, again, I have the utmost respect. He is truly a good man, but he just believes, in his heart, that people need that help from the government to make their decisions in the most personal areas of their lives. I don't believe that. I believe that you let people spend their own money, that you encourage tax incentives to have health savings accounts of people's own so it's their own money to be spent on health care and that you don't let the insurance companies make those decisions. I don't like them making decisions for me. I'm changing insurance companies at the end of this year, but we don't want the government, some of us, making those calls either. Let's allow the individuals to excel or to fail or to succeed on their own.

For those in our society who simply cannot afford to have health savings accounts, let's give those to them, and then let's provide the catastrophic insurance to cover things above that. That's in my health care bill. Then encourage everyone else who can to go in that direction, and let's not allow the government to make those decisions for us.

I saw socialized medicine in 1973 where the government makes those decisions for people. They don't get that choice, and they would have loved to have had that choice. If you've got your own health savings account and if the insurance company can't tell you what to do and if the government can't tell you what to do and if you're not sure that the doctor's telling you to get an MRI is the thing to do, then you go get a second opinion. You know, of course, that's where the joke comes in.

Somebody like me goes to a doctor, and he says, I think you're ugly.

I want a second opinion.

Well, you know, you're not a very good athlete either.

Anyway, we should be able to get second opinions, not because the government says that we should, not because the insurance companies say we shouldn't, but of our own choice. I believe in the ability and in the propriety of the individuals. That's what the Founders believed in.

The truth of the matter is, if I take my tongue out of my cheek, the New York Yankees excel as individuals and as a team. They are given that ability to excel. Thank God the New York Yankees are not a government option, because they showed us what incredible baseball really can be when people are allowed to reach their full potential. That's what I'd like to see all around,

including in health care—not a government takeover, not a government telling us what to do and, thank God, not a government telling baseball teams whether to pull a squeeze play or whether they can or can't intentionally walk somebody. Let the baseball teams make their own decisions, and then you have excellence like we saw this year in the New York Yankees.

Mr. TOWNS. Madam Speaker, before I yield 5 minutes to the gentleman from New York, I would just like to say that, for a moment there, I thought the gentleman from Texas was trying to help us close a doughnut hole, but after a point there, I wasn't sure as to where he was going. First, he praised the Yankees, and then at the same time, he indicated that there were some problems. The point is that, at the end, he indicated that he was very supportive of the Yankees.

We want to thank you for that.

I yield 5 minutes to the gentleman from New York (Mr. ENGEL).

Mr. ENGEL. I thank my friend from New York for yielding to me.

I think the gentleman from Texas came out in favor of a public option, so I'm really happy about that.

Madam Speaker, I rise this morning, of course, to congratulate the New York Yankees on its 27th winning of the World Series.

I'm about as Bronx as you can get. I was born in the Bronx, and I've represented parts of the Bronx for the past 21 years. I still live in the Bronx. I always tease Mr. SERRANO because, you know, we change district lines. Every 10 years, we get redistricted, and if we still had the 1992–2002 lines, Yankee Stadium would be in my district instead of in Mr. SERRANO's.

I was there at the World Series. I was there for game 6, and I can tell everyone that the celebration after the Yankees won, both in Yankee Stadium and outside of Yankee Stadium on River Avenue and 161st Street, was like New Year's Eve. I've never seen anything like it in my life.

As we speak today, the Yankees are in New York, having a ticker-tape parade up Broadway. We all wish we could be there, but of course we have pressing business here in Washington, so we are in Washington, but if I could, I would be in New York for the ticker-tape parade, which is just a fantastic experience. Several years ago, I had the experience of riding in the ticker-tape parade. I am very proud of the Yankees and of what they have done.

You know, the Bronx, for many years, has been maligned. Congressman SERRANO and I, who both live in the Bronx, know what a wonderful borough it is, what a wonderful county it is, and what wonderful people live in the Bronx neighborhoods. Sometimes the media report on some of the negative things, and every time I go to a com-

munity meeting or see a civic association fighting for its community, I always ask, Why isn't the media here? Because this is the real Bronx. I am very, very proud of the Bronx and am very, very proud of the symbol of the Bronx—the New York Yankees.

They're not called the Bronx Bombers for nothing. They're called the Bronx Bombers because they are bombers, and they're from the Bronx. I'm proud to be a Bronxite. I'm proud to live in the Bronx, and I'm proud of the New York Yankees.

I know it's violating rules to put a hat on, but I'm going to do it just for 2 seconds because I think it's really important that I put this on. This hat is worn more than any other hat. We see people in far corners of the world who are wearing a Yankee hat. In Asia, in Africa, in Europe, in the Middle East, wherever we go, we see people wearing Yankee hats. So it's really a symbol of unity. It's a symbol at a time when we need unity, not only in this country but around the world. I'm just so proud of the New York Yankees—of the Bronx Bombers—and I'm proud to be a son of the Bronx.

Mr. CHAFFETZ. I yield myself such time as I may consume.

Madam Speaker, again, we congratulate the New York Yankees, but we also recognize that the administration, the people who work there, the guy who sells the popcorn, and the fans who go there are also going to have to deal with the realities of what's happening and what will potentially happen with this health care bill that we are dealing with.

One of the deep concerns that we have about what these fans, the players, and particularly their wives, are going to have to deal with in our potentially passing this 1,990-page bill is that there are 118 new boards, bureaucracies, commissions, and programs that we believe are created within that bill. Let me just read the list. I'm going to go through this as fast as I possibly can. Bear with me here.

The retiree reserve trust fund; the grant program for wellness programs to small employers; the grant program for State health access programs; the program of administrative simplification found on page 76; the health benefits advisory committee; the health choices administration; the qualified health benefits plan ombudsman; the health insurance exchange; a program for technical assistance to employees of small businesses buying exchange coverage as found on page 191; a mechanism for insurance risk pooling to be established by health choices commissioner; the health insurance exchange trust fund; the State-based health insurance exchanges as found on page 197; the grant program for health insurance cooperatives; a public health insurance option as found on page 211; an ombudsman for public health insurance option.

No. 16, an account for receipts and disbursements for public health insurance option; the telehealth advisory committee; a demonstration program providing reimbursement for culturally and linguistically appropriate services as found on page 617; a demonstration program for shared decisionmaking using patient decision aids as articulated on page 648; an accountable care organization pilot program under Medicare; an independent patient-centered medical home pilot program under Medicare.

No. 22, a community-based medical home pilot program under Medicare; an independence at home demonstration program; the center for comparative effectiveness research as found on page 734; the comparative effectiveness research commission; the patient ombudsman for comparative effectiveness research; a quality assurance and performance improvement program for skilled nursing facilities.

□ 0945

No. 28, the quality assurance and improvement program for nursing facilities; a special focus facility program for skilled nursing facilities; special focus facility program for nursing facilities; the national independent monitor pilot program for skilled nursing facilities and nursing facilities, as found on page 859; a demonstration program for approved teaching health centers with respect to Medicare GME; pilot program to develop anti-fraud compliance systems for Medicare providers.

We are up to No. 33. We have to get to 118. There is no possible way that this body understands the complexity and what all of these programs do—that's the point—let alone the American people. We need time to digest this. Somehow the President wants to take more than 60 days to study a program because it's of deep significance to what we will do or not do in Afghanistan; yet we have hours to digest what's going to affect 16-plus percent of our economy in all of these different programs.

No. 34, the special inspector general for the health insurance exchange; the medical home pilot program under Medicare, as found on page 1,058; accountable care organization pilot program under Medicaid; the nursing facility supplemental payment program; a demonstration program for Medicaid coverage to stabilize emergency medical conditions in institutions for mental diseases; comparative effectiveness research trust fund; "identifiable office or program" within CMS to "provide for improved coordination between Medicare and Medicaid in the case of dual eligibles," as found on page 1,191; the center for medicare and medicaid innovation. Again, this is No. 41 on the list.

No. 42, public health investment fund; No. 43, scholarships for service in

health professional needs areas; program for training medical residents in community-based settings; grant program for training in dentistry programs; public health workforce corps; the public health workforce scholarship program, as found on page 1,254; No. 48 on the list, public health workforce loan forgiveness program; No. 49, grant program for innovations in interdisciplinary care; No. 50, advisory committee on health workforce evaluation and assessment.

Madam Speaker, I would like to inquire as to how much time we have remaining?

The SPEAKER pro tempore. The gentleman from Utah has 1 minute remaining.

Mr. CHAFFETZ. I reserve the balance of my time.

Mr. TOWNS. Does the gentleman have other speakers?

Mr. CHAFFETZ. I have one speaker remaining.

Mr. TOWNS. How much time do we have available on this side, Madam Speaker?

The SPEAKER pro tempore. The gentleman from New York has 8½ minutes remaining.

Mr. TOWNS. I yield myself as much time as I may consume.

I just want to make certain my friend from Utah understands what we are talking about here this morning. I think he is confused. I think he thinks this is H.R. 3962, but this is a resolution congratulating the 2009 Major League Baseball World Series Champions, which is the New York Yankees. I want to make certain that he understands that's what this discussion is about because for a moment there I thought he was talking about H.R. 3962. I understand that debate is going to be tomorrow.

I don't know whether he is generally a day early in matters of this nature or what, but the point is that I just want to make it clear to let him know that's what we are talking about, the New York Yankees who won the World Series, and this resolution deals with that. I just want to sort of remind him, just in case he had forgotten what we were talking about. He is a very good friend of mine, incidentally. We have been traveling together and all of that. I am telling you this morning I am convinced that he is confused. This is about baseball, of the Yankees winning the World Series, and he keeps thinking it's about health care.

I just want to make certain that he knows that because I listened to his comments very carefully, and I can't see anything that connects with baseball in the conversation that he has put forward. I thought maybe one time he was talking about somebody striking out, but then I listened real carefully, and no, maybe he is talking about hitting a home run. Then I listened a little carefully, and he wasn't

talking about a home run. Then I realized that he was just confused about the issue this morning.

Let's me just say to you, Madam Speaker, the story of the New York Yankees and the story of baseball is the story of America. With hard work, talent, the support of a community, and a little bit of luck, they have been able to find success.

When I think about the Bronx and what this team has done, not only for the Bronx but for the City of New York and the Nation in terms of how people rallied around, and the economic development that has come out of it and the fact that people have been able to be provided with a lot of things they would not have been able to be provided with as a result of their success and as a result of them being placed in the Bronx, I want you to know that I see this as truly a team effort in terms of the community being involved; of course, in terms of the City of New York being involved; and of course, the Nation being involved because of the fact that, as my colleague from New York, Congressman ENGEL, pointed out that you see people all around the world wearing hats that say New York, New York Yankees, because they are proud and they know in terms of what the team has meant not only to the city but to the Nation.

On this note, Madam Speaker, I, of course, say to my colleague, this is H. Res. 893 congratulating Major League Baseball and not H.R. 3962.

Mr. ENGEL. Would the gentleman yield?

Mr. TOWNS. I would be delighted to yield to the gentleman from New York.

Mr. ENGEL. I want to thank my friend, Mr. TOWNS, for pointing out that this is a resolution supporting and congratulating the New York Yankees. I grew up less than a mile from Yankee Stadium, and I have seen the Bronx during good times and bad times. These are good times now.

So I want to congratulate the Steinbrenner family. I want to congratulate Randy Levine and Lonn Trost and all the others who are connected with the New York Yankees.

I am glad that the gentleman from New York (Mr. TOWNS) pointed out that this is a resolution about the Yankees. Frankly, I think that people should have the respect to talk about the Yankees when we are debating a resolution about the Yankees, not to talk about other bills or other things that the Congress is doing.

I would hope that our friends on both sides of the aisle would respect that and would congratulate us and would congratulate the New York Yankees.

Mr. TOWNS. Madam Speaker, I reserve the balance of my time.

Mr. CHAFFETZ. Madam Speaker, I yield myself such time as I may consume.

I would like to concur with, actually, my friend from New York. He is a dis-

tinguished Member of this body. I agree that there is confusion in this room. While the Democrats want to talk baseball, we want to talk about health care.

The only thing that I am concerned about is, yes, we are going to go ahead and recognize the New York Yankees. I urge the adoption of this and spoke to that. But while the New York Yankees are winning the World Series, the American families are striking out. That's the point. That's the point.

We can pause for a moment and recognize the New York Yankees. We can pause, and we should, for an extended time of what happened at Fort Hood. We also have to remember the focus on the debate in this body ought to be about the serious issues of this day, and there are deep concerns about the 1,990-page health care bill that is going to come before this body because there are those of us who don't fully believe that we understand all of the implications, unintended consequences, and direct consequences of what is found in that bill.

Madam Speaker, I yield back the balance of my time.

Mr. TOWNS. I yield 1 minute to the gentleman from the Bronx, Mr. SERRANO.

Mr. SERRANO. I thank the gentleman.

I understand what the other side is trying to do. I don't think the American people have a problem with the fact that we pause momentarily in our very serious work to celebrate something positive that is happening in our country; just the way we pause when something terrible happens, a tragedy, we pause to take time out.

I make no excuses about the fact that this is a resolution I brought to the floor and that I sponsored this resolution. But I really think it's a shame that we would take this moment to use it to attack on a partisan issue other issues.

The New York Yankees won the World Series. Americans love sports. Americans celebrate success, and I am positive that there is not a single American in this country, except for some in this House, who would think that what we are doing today is wrong.

This weekend we will deal with the biggest issue of our time. For this moment, for these 20 minutes of this whole week, we take to celebrate the American pastime, baseball and its global implications in bringing so many people together.

The SPEAKER pro tempore. The gentleman from Utah's time has expired. The gentleman from New York has 3 minutes remaining.

Mr. TOWNS. Madam Speaker, let me say to the gentleman from Utah, one of the great athletes of our time holds records in terms of kicks, field goals, extra points, all of that, a person who should be deeply indebted to sports and



to athletics because I am certain that he said sometime during his life that I would not be what I am or I could not be what I am if it had not been for sports. I am sure he has made speeches and has said that along the way, that everything that I am and everything I hope to be, I owe it to football. I am certain he said it.

But then to come this morning and to ignore the accomplishments of a team that won the World Series—and we are pausing for 20 minutes to say congratulations—I don't think, to me, that's out of line.

But I do think that when you twist it and you talk about something else that's not related to the resolution, I think that's unfair, and I think that I would use a word that might be a little strong for him. I would say that's inappropriate on this occasion anyway, recognizing that I know that he has been very involved in athletics.

Of course, Madam Speaker, I would like to take this time to recognize the Yankees again and to say to them and to Mr. Steinbrenner and, of course, Randy Levine and all of them that had the opportunity to put together this magnificent team that has made all of us proud.

Of course, we again salute the New York Yankees, the world champions, who happens to be a team that is based in the Bronx.

Mr. McMAHON. Madam Speaker, I rise today to congratulate the New York Yankees, baseball's most storied franchise, on winning their 27th World Series. After a hard-fought series, the Yankees won game six at home in the Bronx against the Philadelphia Phillies. Winning their record 27th World Series is something that the whole organization, city, and State can be proud of. I am elated to join my fellow Representatives from New York and Representatives from across this great country in honoring this historic moment. The Yankees have won more championships than any other baseball club in history.

The Yankees certainly have a season to be proud of. After finishing at the top of the American League's Eastern Division, the Yankees went on to beat the Minnesota Twins 3–0 in the American League Division Series. Facing off against the Los Angeles Angels of Anaheim in the American League Championship Series, the Yankees fought hard to win the series four games to two.

Under the leadership of team captain and ten-time all-star Derek Jeter, the Yankees have added another heroic chapter to the story that already includes such immortals and Lou Gehrig, Babe Ruth, Joe DiMaggio, Mickey Mantle, Yogi Berra, Reggie Jackson, and Don Mattingly. I am proud to not only be from the great city of New York, but I am also proud to represent the Yankees minor league affiliate, the Staten Island Yankees, also known as the Baby Bombers.

The Yankees and their farm teams bring much to the places they reside. They bring, pride, hope, jobs, and on occasions such as this week, they bring happiness and joy to their many supporters.

Ms. CLARKE. Madam Speaker, I rise today in an Empire State of Mind, to voice my full support of H. Res. 893. I am a lifelong New Yorker and proud to stand with the New York City Congressional Delegation and congratulate the “Bronx Bombers,” also known as the New York Yankees on winning their 27th World Championship. Amazingly, the Yankees have won more championships than any other franchise in North American professional sports history. This would not have been possible without the contributions of some of baseball's greatest players. Historic players like Babe Ruth, Joe DiMaggio, Mickey Mantle, Lou Gehrig, Yogi Berra, Elston Howard, Roger Maris, Reggie Jackson, Don Mattingly, Ricky Henderson, Bernie Williams, Willie Randolph, Paul O'Neill, Mariano Rivera, Coach Joe Girardi, Alex Rodriguez, Andy Pettitte and my all time favorite, Derek Jeter. These players have all contributed to the fame and legacy of this historic franchise.

Throughout my entire life, the Yankees have been a symbol of great baseball and epitomized the vibrant spirit, unyielding hope and strength of the great city of New York. The city's history has been through much adversity and challenge. Thankfully, the Yankees have helped us get through the best of times and the worst of times. Their winning history has helped lift our spirit and boost our morale through the Great Depression, the terrorist attacks of September 11, 2001, and this current economic crisis. Over the years, this great franchise has lit the torch of honor and resilience, showing the nation that no matter what our city, state or country goes through, victory is on the horizon.

I congratulate the franchise owner, George Steinbrenner, as well as manager Joe Girardi, the players, the staff, the millions of fans all over the world and all who contributed to this monumental achievement.

Mr. TOWNS. Madam Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York (Mr. TOWNS) that the House suspend the rules and agree to the resolution, H. Res. 893.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the ayes have it.

Mr. SERRANO. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

#### SMALL BUSINESS MICROLENDING EXPANSION ACT OF 2009

Ms. VELÁZQUEZ. Madam Speaker, I move to suspend the rules and pass the bill (H.R. 3737) to amend the Small Business Act to improve the Microloan Program, and for other purposes, as amended.

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 3737

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE.

This Act may be cited as the “Small Business Microlending Expansion Act of 2009”.

#### SEC. 2. MICROLOAN CREDIT BUILDING INITIATIVE.

Section 7(m) of the Small Business Act (15 U.S.C. 636(m)) is amended by adding at the end the following:

“(14) CREDIT REPORTING INFORMATION.—The Administrator shall establish a process, for use by an intermediary making a loan to a borrower under this subsection, under which the intermediary shall provide to the major credit reporting agencies the information about the borrower, both positive and negative, that is relevant to credit reporting, such as the payment activity of the borrower on the loan. Such process shall allow an intermediary the option of providing information to the major credit reporting agencies through the Administration or independently.”

#### SEC. 3. FLEXIBLE CREDIT TERMS.

Section 7(m) of the Small Business Act (15 U.S.C. 636(m)), as amended by this Act, is further amended—

(1) in paragraph (1)(B)(i) by striking “short-term,”;

(2) in paragraph (6)(A) by striking “short-term,”; and

(3) in paragraph (11)(B) by striking “short-term,”.

#### SEC. 4. INCREASED PROGRAM PARTICIPATION.

Section 7(m)(2) of the Small Business Act (15 U.S.C. 636(m)(2)) is amended—

(1) in subparagraph (A) by striking “paragraph (10)” and inserting “paragraph (11)”; and

(2) by amending subparagraph (B) to read as follows:

“(B) has—

“(i) at least—

“(I) 1 year of experience making microloans to startup, newly established, or growing small business concerns; or

“(II) 1 full-time employee who has not less than 3 years of experience making microloans to startup, newly established, or growing small business concerns; and

“(ii) at least—

“(I) 1 year of experience providing, as an integral part of its microloan program, intensive marketing, management, and technical assistance to its borrowers; or

“(II) 1 full-time employee who has not less than 1 year of experience providing intensive marketing, management, and technical assistance to borrowers.”

#### SEC. 5. INCREASED LIMIT ON INTERMEDIARY BORROWING.

Section 7(m)(3)(C) of the Small Business Act (15 U.S.C. 636(m)(3)(C)) is amended—

(1) by striking “\$750,000” and inserting “\$1,000,000”;

(2) by striking “\$3,500,000” and inserting “\$7,000,000”; and

(3) by adding at the end the following: “The Administrator may treat the amount of \$7,000,000 in this subparagraph as if such amount is \$10,000,000 if the Administrator determines, with respect to an intermediary, that such treatment is appropriate.”

#### SEC. 6. EXPANDED BORROWER EDUCATION ASSISTANCE.

Section 7(m)(4)(E) of the Small Business Act (15 U.S.C. 636(m)(4)(E)) is amended—

(1) in clause (i) by striking “25 percent” and inserting “35 percent”; and

(2) in clause (ii) by striking “25 percent” and inserting “35 percent”.

**SEC. 7. YOUNG ENTREPRENEURS PROGRAM.**

Section 7(m)(4) of the Small Business Act (15 U.S.C. 636(m)(4)) is amended by adding at the end the following:

“(G) YOUNG ENTREPRENEURS PROGRAM.—

“(i) IN GENERAL.—An intermediary that receives a grant under paragraph (1)(B)(ii) may establish a program for the geographic area served by such intermediary that provides to young entrepreneurs technical assistance regarding the following:

“(I) Establishing or operating a small business concern in the geographic area served by the intermediary.

“(II) Acquiring or securing financing to carry out the activities described in subclause (I).

“(ii) YOUNG ENTREPRENEUR DEFINED.—For purposes of this subparagraph, a young entrepreneur is an individual who—

“(I) is 25 years of age or younger; and

“(II) has resided in the geographic area served by the intermediary for not less than 2 years.

“(iii) GOOD FAITH EFFORT REQUIREMENT.—If a young entrepreneur who receives technical assistance under this subparagraph from an intermediary establishes or operates a small business concern, the young entrepreneur shall make a good faith effort to establish or operate such concern in the geographic area served by the intermediary.

“(iv) DEFERRED REPAYMENT.—If a small business concern established or operated by a young entrepreneur receives a loan under this subsection, such concern may defer repayment on such loan for a period of not more than 6 months beginning on the date that such concern receives the final disbursement of such loan.”.

**SEC. 8. INTEREST RATES AND LOAN SIZE.**

Section 7(m) of the Small Business Act (15 U.S.C. 636(m)), as amended by this Act, is further amended—

(1) in paragraph (3)(F)(iii) by striking “\$7,500” and inserting “\$10,000”;

(2) in paragraph (6)(C)(i) by striking “\$7,500” and inserting “\$10,000”; and

(3) in paragraph (6)(C)(ii) by striking “\$7,500” and inserting “\$10,000”.

**SEC. 9. REPORTING REQUIREMENT.**

Section 7(m) of the Small Business Act (15 U.S.C. 636(m)), as amended by this Act, is further amended by adding at the end the following:

“(15) REPORTING REQUIREMENT.—Not later than 90 days after the end of each fiscal year, the Administrator shall submit to the Committee on Small Business of the House of Representatives and the Committee on Small Business and Entrepreneurship of the Senate a report that includes, with respect to such fiscal year of the microloan program, the following:

“(A) The names and locations of each intermediary that received funds to make microloans or provide marketing, management, and technical assistance.

“(B) The amounts of each loan and each grant provided to each such intermediary in such fiscal year and in prior fiscal years.

“(C) A description of the contributions from non-Federal sources of each such intermediary.

“(D) The number and amounts of microloans made by each such intermediary to all borrowers and to each of the following:

“(i) Women entrepreneurs and business owners.

“(ii) Low-income entrepreneurs and business owners.

“(iii) Veteran entrepreneurs and business owners.

“(iv) Disabled entrepreneurs and business owners.

“(v) Minority entrepreneurs and business owners.

“(E) A description of the marketing, management, and technical assistance provided by each such intermediary to all borrowers and to each of the following:

“(i) Women entrepreneurs and business owners.

“(ii) Low-income entrepreneurs and business owners.

“(iii) Veteran entrepreneurs and business owners.

“(iv) Disabled entrepreneurs and business owners.

“(v) Minority entrepreneurs and business owners.

“(F) The number of jobs created and retained as a result of microloans and marketing, management, and technical assistance provided by each such intermediary.

“(G) The repayment history of each such intermediary.

“(H) The number of businesses that achieved success after receipt of a microloan.”.

**SEC. 10. SURPLUS INTEREST RATE SUBSIDY FOR BUSINESSES.**

Section 7(m) of the Small Business Act (15 U.S.C. 636(m)), as amended by this Act, is further amended by adding at the end the following:

“(16) INTEREST ASSISTANCE.—The Administrator is authorized to make grants to intermediaries for the purposes of reducing interest rates charged to borrowers that receive financing under this subsection.”.

**SEC. 11. AUTHORIZATION OF APPROPRIATIONS.**

Section 20 of the Small Business Act (15 U.S.C. 631 note) is amended by inserting after subsection (e) the following:

“(f) FISCAL YEARS 2010 AND 2011 WITH RESPECT TO SECTION 7(m).—

“(1) PROGRAM LEVELS.—For the programs authorized by this Act, the Administration is authorized to make during each of fiscal years 2010 and 2011—

“(A) \$80,000,000 in technical assistance grants, as provided in section 7(m);

“(B) \$110,000,000 in direct loans, as provided in section 7(m); and

“(C) \$10,000,000 in interest assistance grants, as provided in section 7(m)(16).

“(2) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated such sums as may be necessary to carry out paragraph (1).”.

**SEC. 12. REGULATIONS.**

Except as otherwise provided in this Act or in amendments made by this Act, after an opportunity for notice and comment, but not later than 180 days after the date of the enactment of this Act, the Administrator shall issue regulations to carry out this Act and the amendments made by this Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from New York (Ms. VELÁZQUEZ) and the gentleman from Missouri (Mr. GRAVES) each will control 20 minutes.

The Chair recognizes the gentlewoman from New York.

Ms. VELÁZQUEZ. Madam Speaker, I just would like the record to reflect the fact that I am a Mets fan, and I do not associate myself with the previous comments.

During economic downturns, like the one our Nation faces today, many Americans who cannot find work elsewhere take the initiative to launch their own ventures. Time and time

again, these start-up businesses have helped strengthen the economy, created new jobs, and led our Nation to recovery. And in the short term, these new businesses give hard-working Americans a way to support their families when times are tough.

The Small Business Administration's microloan program helps entrepreneurs secure the start-up capital they need to get new ventures off the ground. Microloans have always been a great tool for job creation. At its core, this program is about helping Americans with a good business idea take the first step to get a new business off the ground.

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New businesses mean new jobs. With this bill, we are making the microloan program an even more powerful tool for job creation.

The legislation before us will make a number of important changes to improve how the SBA microloan program functions. Under the bill, we will reduce the interest rate that borrowers pay in the program. The bill will also help more lenders get involved in the program, giving businesses more options and making it easier to access the program. And this legislation will allow existing lenders to increase the amount of money they lend. These changes will expand the program's capacity and mean additional capital flows to small businesses.

Finally, the bill allows lenders to spend more on providing technical assistance for small firms. The valuable services that microlenders provide, like teaching entrepreneurs how to write a business plan, often means the difference between a new venture succeeding or failing.

The American spirit of entrepreneurship is critical during times of economic downturn. By improving the SBA's microloan program and getting more capital in the hands of small business owners, this bill will accelerate our Nation's recovery. I urge the bill's passage. I reserve the balance of my time.

Mr. GRAVES. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today in support of H.R. 3737, which is the Small Business Microlending Expansion Act of 2009, and with that, I will go ahead and yield such time as he may consume to the gentleman from Indiana (Mr. PENCE), who is the Chairman of the Republican Caucus.

Mr. PENCE. Mr. Speaker, first, I thank the gentleman for yielding.

Let me thank the chairman of the committee and the ranking member for working in a bipartisan way on what is very worthy legislation that I support. Small business America is the engine of the American economy, and I appreciate in these tumultuous times the development of this program in this legislation.

But I rise today with a heavy heart, Mr. Speaker, a heavy heart, because this morning we crossed a milestone. Unemployment was announced this morning at 10.2 percent, the worst rate of unemployment in the United States of America since 1983. Now, that is just a number, but I can't help but feel and see in my mind the faces and the families and the businesses that that represents.

Working families, small businesses, and family farmers in this country are hurting; and at 10.2 percent unemployment, it is time for this Congress to rethink the approach that we have taken to legislation and to this economy.

First, on the economy. Clearly, the so-called stimulus bill that was passed in February of this year has failed. The American people know that we can't borrow and spend and bail our way back to a growing economy. But, sadly, that was the approach that this administration and this majority took. Borrowing more than \$700 billion from future generations of Americans, spreading it out in a wish list of liberal spending priorities, has seen unemployment go from 7.5 percent at the time the stimulus bill was passed to today's gut-wrenching 10.2 percent unemployment. So we have got to take a different approach to this economy.

Back in Indiana, I can tell you a lot of things we focus on out here are not really what I hear about walking up and down the streets of Muncie and Anderson and New Castle, Indiana. I hear people talking about jobs. People are asking, when is Congress going to get the message that the time has come for us to enact fast-acting tax relief for working families, small businesses, and family farms, tax relief that would take effect right now, hit the bottom line of households and businesses all across this country right now?

Republicans offered an alternative to the so-called stimulus bill earlier this year that, using the economic models of the White House at the time, would have cost half as much and created twice as many jobs; and there is still time to get it right.

The lessons of history are clear: John F. Kennedy knew it, Ronald Reagan knew it, and after the Towers fell, George W. Bush knew it. The way to jump-start the American economy is to give the American people more of their hard-earned tax dollars to spend on their families and on their enterprises, and that we should do. That is first.

Secondly, let me say I think the time has come, Mr. Speaker, for this Congress to make the priorities of the American people its priorities and set aside this massive government takeover of health care that is being driven to the floor of the Congress tomorrow, with \$700 billion in higher taxes, with \$1.3 trillion in new spending, 111 new government programs and bureauc-

racies are created; 43 entitlements are created or expanded.

At 10.2 percent unemployment, now is not the time to launch a massive new government-run insurance plan and pay for it on the backs of working families, small businesses, and family farms.

An analysis of the tax increase, there is \$729.5 billion in new taxes on small businesses and individuals who can't afford health coverage in the Democrat health care bill. I saw one piece of analysis that suggested that, despite the President's promise in last year's election that he would allow no tax increases on any Americans that make less than \$200,000 per year, 87 percent of the new taxes in the Democrat health care bill will be paid by Americans who make less than \$200,000 per year. A 1,990-page bill creating a massive new government-run insurance plan at a time when working families and small businesses are struggling and shedding jobs and making sacrifices at home and at work just to keep the lights on and the doors open is unthinkable.

So, Mr. Speaker, I plead with this party: Belay your plans to launch a government takeover of health care. Put the interests of American families in this hurting economy first. Let's not add the insult of a massive new government program to the injury of 10.2 percent unemployment.

And one last point. I note, Mr. Speaker, an admired colleague of mine just moments ago said on the floor of this House that it was a shame that Members of the minority were using unrelated legislation to talk about health care reform, and I don't begrudge that esteemed Member his opinion.

But let me say, with press reports that suggest that we won't spend any more than half a day on the floor of this House debating what could amount to a government takeover of one-sixth of the American economy, it is a shame. There are great ideas on the Democrat side of the aisle. I want to say without hesitation, there are better ideas on the Republican side of the aisle.

But why don't we let the People's House work its will? Why don't we start the debate immediately? Let's bring the hundreds of amendments that Republicans and Democrats have offered, as we do with appropriations bills, let's bring them to the floor. Let's have wide-open, free-wheeling debate, and let's call the votes one after another. I have nowhere to be, except home standing with my veterans next Wednesday, from now until Thanksgiving. So let's get started. Let's go around the clock.

The people that should be feeling shame, Mr. Speaker, are those that would pile drive through this Congress a massive expansion of the Federal Government, an enormous increase in

taxes, at a heart-breaking time when unemployment reaches historic levels in this generation. It is time for Washington, DC, to listen to the heart of the American people and make their priorities our priorities.

GENERAL LEAVE

Ms. VELÁZQUEZ. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous material on H.R. 3737, as amended.

The SPEAKER pro tempore (Mr. SERRANO). Is there objection to the request of the gentleman from New York?

There was no objection.

Ms. VELÁZQUEZ. I yield myself such time as I may consume.

I just would like to comment to the previous speaker that it seems like the American public didn't buy the argument that the other side has a better idea, and that is why they are in the minority today.

I would like to take this opportunity to commend the sponsor of this bill, Mr. ELLSWORTH from Indiana.

I would like to inquire from the ranking member if he has further speakers at this time?

Mr. GRAVES. Just myself, Mr. Speaker.

Ms. VELÁZQUEZ. I reserve my time.

Mr. GRAVES. Mr. Speaker, just before I get started, in talking about the last bill that was up, I want the chairman of the committee to know that I am going to reserve my judgment on how I am going to vote on that bill, since we have a recorded vote, until I consult with her, given her statement that she is a Mets fan. So I just wanted to make sure she knew that. So I will wait to see how she votes before I make a decision on how I am going to vote on that.

Mr. Speaker, I mentioned earlier I do rise today in support of H.R. 3737, which is the Small Business Micro-lending Expansion Act of 2009. The committee has worked on a very bipartisan basis to bring this technical but very important piece of legislation to the floor.

H.R. 3737 represents the first substantive change to the microloan program in nearly a decade. In the United States, micro-lending is used as potential engines of economic activity for those individuals that do not have access to commercial financial institutions and the technical knowledge needed to start a small business.

The Small Business Administration created a pilot program and Congress created a permanent authority for the program in 1992. SBA does not provide micro-credit directly to entrepreneurs. Instead, the SBA provides below-market rate loans to nonprofit intermediaries. These institutions then make loans to entrepreneurs.

As with other SBA financing programs, the SBA does not provide all

the funds for financing. Intermediaries must contribute 15 percent of the value of loans in non-Federal funds.

But the key to the success of micro-lending is not the loans, but, rather, it is the education and counseling that the intermediaries provide to their borrowers. With this knowledge, these entrepreneurs are able to manage their financial resources and ensure repayment of the loans. The success is demonstrated by the very low number of defaults by borrowers and cost-effective means by which it produces jobs in areas that need economic revitalization.

Despite its success, the microloan program needs to be revised in light of changes to the economy during the past 6 years and in some cases to update matters that have not been altered since the program's inception more than 15 years ago.

Micro-lenders exist mainly because normal commercial lending institutions do not provide access to credit for those who are highly credit risky. One way to improve that is to have borrowers' histories passed along to credit bureaus, and I think having the SBA work with the intermediaries to accomplish the delivery of credit histories will benefit borrowers. IH06NO9-110[H12469]1015

□ 1015

H.R. 3737 also enables the intermediaries to determine the length of the credit that will be made available to the borrowers. Given the expertise of the intermediaries, it makes abundant sense for the determinations on the length of loans to rest with the intermediaries and the borrowers. I want to emphasize that this change has no impact on the loan obligations of intermediaries to the SBA. So the change involves no risk to the Federal Treasury.

H.R. 3737 also raises the level of the average loan size in the intermediary's portfolio from \$7,500 to \$10,000. This level has not been changed since 1992, and the adjustment is appropriate to take account of inflation in the intervening 15 years. One key element in the microloan program is the preloan training provided by intermediaries to ensure that only those individuals with the right aptitude start small businesses. H.R. 3737 expands the capacity of intermediaries to provide such training.

Again, I would like to thank the chairwoman and the gentleman from Indiana for bringing forward these important changes to the microloan program.

Mr. Speaker, I don't think we have anymore speakers, so I will yield back the balance of my time.

Ms. VELÁZQUEZ. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by

the gentlewoman from New York (Ms. VELÁZQUEZ) that the House suspend the rules and pass the bill, H.R. 3737, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the ayes have it.

Ms. VELÁZQUEZ. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

The point of no quorum is considered withdrawn.

#### WOMEN'S BUSINESS CENTERS IMPROVEMENTS ACT

Ms. VELÁZQUEZ. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1838) to amend the Small Business Act to modify certain provisions relating to Women's Business Centers, and for other purposes, as amended.

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 1838

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. NOTIFICATION OF GRANTS; PUBLICATION OF GRANT AMOUNTS.

Section 29 of the Small Business Act (15 U.S.C. 656) is amended by adding at the end the following new subsection:

“(o) NOTIFICATION OF GRANTS; PUBLICATION OF GRANT AMOUNTS.—The Administrator shall disburse funds to a women's business center not later than 1 month after the center's application is approved under this section. At the end of each fiscal year the Administrator (acting through the Office of Women's Business ownership) shall publish on the Administration's website a report setting forth the total amount of the grants made under this Act to each women's business center in the fiscal year for which the report is issued, the total amount of such grants made in each prior fiscal year to each such center, and the total amount of private matching funds provided by each such center over the lifetime of the center.”.

#### SEC. 2. COMMUNICATIONS.

Section 29 of the Small Business Act (15 U.S.C. 656), as amended, is further amended by adding at the end the following new subsection:

“(p) COMMUNICATIONS.—The Administrator shall establish, by rule, a standardized process to communicate with women's business centers regarding program administration matters, including reimbursement, regulatory matters, and programmatic changes. The Administrator shall notify each women's business center of the opportunity for notice and comment on the proposed rule.”.

#### SEC. 3. FUNDING.

(a) FORMULA.—Section 29(b) of the Small Business Act (15 U.S.C. 656(b)) is amended to read as follows:

“(b) AUTHORITY.—

“(1) IN GENERAL.—The Administrator may provide financial assistance to private non-

profit organizations to conduct projects for the benefit of small business concerns owned and controlled by women. The projects shall provide—

“(A) financial assistance, including training and counseling in how to apply for and secure business credit and investment capital, preparing and presenting financial statements, and managing cash flow and other financial operations of a business concern;

“(B) management assistance, including training and counseling in how to plan, organize, staff, direct, and control each major activity and function of a small business concern, including implementing cost-saving energy techniques; and

“(C) marketing assistance, including training and counseling in identifying and segmenting domestic and international market opportunities, preparing and executing marketing plans, developing pricing strategies, locating contract opportunities, negotiating contracts, and utilizing varying public relations and advertising techniques.

“(2) TIERS.—The Administrator shall provide assistance under paragraph (1) in 3 tiers of assistance as follows:

“(A) The first tier shall be to conduct a 5-year project in a situation where a project has not previously been conducted. Such a project shall be in a total amount of not more than \$150,000 per year. Projects receiving assistance under this subparagraph that possess the capacity to train existing or potential business owners in the fields of green technology, clean technology, or energy efficiency shall receive the maximum award under this subparagraph.

“(B) The second tier shall be to conduct a 3-year project in a situation where a first-tier project is being completed. Such a project shall be in a total amount of not more than \$100,000 per year.

“(C) The third tier shall be to conduct a 3-year project in a situation where a second-tier project is being completed. Such a project shall be in a total amount of not more than \$100,000 per year. Third-tier grants shall be renewable subject to established eligibility criteria as well as criteria in subsection (b)(4).

“(3) ALLOCATION OF FUNDS.—Of the amounts made available for assistance under this subsection, the Administrator shall allocate—

“(A) at least 40 percent for first-tier projects under paragraph (2)(A);

“(B) 20 percent for second-tier projects under paragraph (2)(B); and

“(C) the remainder for third-tier projects under paragraph (2)(C).

“(4) BENCHMARKS FOR THIRD-TIER PROJECTS.—In awarding third-tier projects under paragraph (2)(C), the Administrator shall use benchmarks based on socio-economic factors in the community and on the performance of the applicant. The benchmarks shall include—

“(A) the total number of women served by the project;

“(B) the proportion of low income women and socio-economic distribution of clients served by the project;

“(C) the proportion of individuals in the community that are socially or economically disadvantaged (based on median income);

“(D) the future fund-raising and service coordination plans;

“(E) the capacity of the project to train existing or potential business owners in the fields of green technology, clean technology, or energy efficiency;

“(F) the diversity of services provided; and  
 “(G) geographic distribution within and across the 10 regions of the Small Business Administration.”.

(b) **MATCHING.**—Subparagraphs (A) and (B) of section 29(c)(1) of the Small Business Act (15 U.S.C. 656(c)(1)) are amended to read as follows:

“(A) For the first and second years of the project, 1 non-Federal dollar for each 2 Federal dollars.

“(B) Each year after the second year of the project—

“(i) 1 non-Federal dollar for each Federal dollar; or

“(ii) if the center is in a community at least 50 percent of the population of which is below the median income for the State or United States territory in which the center is located, 1 non-Federal dollar for each 2 Federal dollars.”.

(c) **AUTHORIZATION.**—Section 20 of the Small Business Act (15 U.S.C. 631 note) is amended by inserting the following new subsection after subsection (e):

“(f) **WOMEN’S BUSINESS CENTERS.**—There is authorized to be appropriated for purposes of grants under section 29 to women’s business centers not more than \$20,000,000 in fiscal year 2010 and not more than \$22,000,000 in fiscal year 2011.”.

#### SEC. 4. PERFORMANCE AND PLANNING.

(a) **IN GENERAL.**—Section 29(h)(1) of the Small Business Act (15 U.S.C. 656(h)(1)) is amended—

(1) by striking “and” at the end of subparagraph (A);

(2) by redesignating subparagraph (B) as subparagraph (D); and

(3) by inserting the following new subparagraphs after subparagraph (A):

“(B) establish performance measures, taking into account the demographic differences of populations served by women’s business centers, which measures shall include—

“(i) outcome-based measures of the amount of job creation or economic activity generated in the local community as a result of efforts made and services provided by each women’s business center, and

“(ii) service-based measures of the amount of services provided to individuals and small business concerns served by each women’s business center;

“(C) require each women’s business center to submit an annual plan for the next year that includes the center’s funding sources and amounts, strategies for increasing outreach to women-owned businesses, strategies for increasing job growth in the community, strategies for increasing job placement of women in nontraditional occupations, and other content as determined by the Administrator; and”.

(b) **CONFORMING AMENDMENT.**—Section 29(h)(1) of the Small Business Act (15 U.S.C. 656(h)(1)), as amended, is further amended by adding the following at the end thereof:

“The Administrator’s evaluation of each women’s business center as required by this subsection shall be in part based on the performance measures under subparagraphs (B) and (C). These measures and the Administrator’s evaluations thereof shall be made publicly available.”.

#### SEC. 5. NATIONAL WOMEN’S BUSINESS COUNCIL.

The Women’s Business Ownership Act of 1988 is amended as follows:

(1) In section 409(a) (15 U.S.C. 7109(a)), by adding the following at the end thereof: “Such studies shall include a study on the impact of the 2008–2009 financial markets crisis on women-owned businesses, and a study of the use of the Small Business Administra-

tion’s programs by women-owned businesses.”.

(2) In section 410(a) (15 U.S.C. 7110(a)), by striking “2001 through 2003” and insert “2010 and 2011”.

#### SEC. 6. APPLICANT EVALUATION CRITERIA.

Section 29(f) of the Small Business Act (15 U.S.C. 656(f)) is amended—

(1) in paragraph (3) by striking “and” at the end;

(2) in paragraph (4) by striking the period and inserting “; and”; and

(3) by adding at the end the following:

“(5) whether the applicant has the capacity to train existing or potential business owners in the fields of green technology, clean technology, or energy efficiency.”.

The **SPEAKER pro tempore**. Pursuant to the rule, the gentlewoman from New York (Ms. VELÁZQUEZ) and the gentlewoman from Oklahoma (Ms. FALLIN) each will control 20 minutes.

The Chair recognizes the gentlewoman from New York.

#### GENERAL LEAVE

Ms. VELÁZQUEZ. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous material on H.R. 1838, as amended.

The **SPEAKER pro tempore**. Is there objection to the request of the gentlewoman from New York?

There was no objection.

Ms. VELÁZQUEZ. Mr. Speaker, I rise in support of H.R. 1838, the Women’s Business Centers Improvements Act. In America today, the face of business is changing. A big part of that change is the growing role of women business owners. Female entrepreneurs are bringing new thought processes and ingenuity into our economy. The Small Business Administration’s women’s business centers enable women to take these great ideas and put them into practice. Not only do these centers provide the technical training and advice that are available at other SBA centers, but they offer guidance that is specifically tailored to female business owners.

H.R. 1838 will supply these organizations with needed stability. Through technical assistance and counseling, the bill would also renew the program’s original mission, bolstering low-income communities. More women than ever before are going into business for themselves. For minorities and socially disadvantaged women, launching your own enterprise is an especially important option. We have heard time and again stories of women lifting themselves out of poverty by starting their own enterprise.

Mr. Speaker, women-owned businesses are increasingly important to our national economy. They generate \$3 trillion in economic activity and are responsible for 16 percent of the U.S. jobs. By strengthening and improving the SBA’s network of women’s business centers, H.R. 1838 will expand this success, offering greater economic opportunity to women everywhere.

I will take this opportunity to thank and congratulate the gentlewoman from Oklahoma (Ms. FALLIN) for the work that she put into this legislation.

I reserve the balance of my time.

Ms. FALLIN. Mr. Speaker, I yield myself as much time as I may consume.

I rise today in support of H.R. 1838, the SBA Women’s Business Centers Improvements Act. This important legislation rearranges the distribution of funding to women’s business centers to offer temporary assistance for new businesses and startups for women’s business centers rather than empower and make permanent dependency on the Federal Government with our current system. I want to just say thank you to Chairwoman VELÁZQUEZ for all her help on this piece of legislation. It has been a great pleasure to work with her.

Mr. Speaker, small businesses create seven out of 10 new jobs in the United States, and they are the economic engine of our economy. Further, women-owned businesses contribute nearly \$3 trillion to our national economy and create or maintain 23 million jobs and employ or generate 16 percent of the jobs in our Nation’s economy.

Women’s business centers are an important part of the grant programs that are funded by the Small Business Administration. Today, women’s business centers across the country are providing women entrepreneurs with much-needed education, with training, with technical assistance and access to capital in startup and operating their small businesses.

Women’s business centers serve over 100,000 women and tens of thousands of businesses each year. In the mid-1990s, the Federal Government began awarding grants to women’s business centers that were operating as nonprofit organizations in conjunction with institutions of higher learning. Originally these grants were intended to be awarded to business centers in their first 5 years with the understanding that after this 5-year period had ended, the center would be financially self-sustaining.

Although many women’s business centers did make this goal, some have not, and for a variety of reasons. As a result, a greater percentage of the funding of this program has been consumed by the operating costs of potentially unviable centers, rather than the intended purpose of helping to establish new business centers. The result is a drag on the system, unviable business centers that are not truly serving an unmet need in their communities. This, of course, jeopardizes the effectiveness and the viability of the entire program.

The SBA Women’s Business Centers Improvements Act of 2009 will restore the original purpose held by the Federal Government when this program

was created. By offering a three-tiered system of funding and lower caps on spending for older business centers, we can ensure a balanced approach and a balanced percentage of funding is used to support both new and existing business centers.

Modernizing the SBA entrepreneurial development programs will ensure small businesses have the opportunity to lead our Nation out of this recession into economic prosperity. The SBA Women's Business Centers Improvements Act is a huge step in the right direction and provides a much-needed helping hand to help our Nation's small businesses and our women's business centers.

Mr. Speaker, I reserve the balance of my time.

Ms. VELÁZQUEZ. Mr. Speaker, I would like to inquire if the gentlelady has further speakers. I don't have additional speakers on this side, so I am prepared to yield back if you are prepared to yield back.

Ms. FALLIN. I don't have any other speakers, but I do have some further comments, Mr. Speaker.

Ms. VELÁZQUEZ. I continue to reserve the balance of my time.

Ms. FALLIN. Mr. Speaker, I want to talk about a few issues today as I finish up here and that is about the Department of Labor and how they have announced the national unemployment rate, which has reached 10.2 percent during the month of October. Another report shows that businesses with less than 50 employees lost 75,000 private sector jobs in the month of October, also. Small businesses and individuals and families have been devastated by this 26-year high unemployment rate.

Here we are, Mr. Speaker, during this important debate in our Nation about health care reform, talking about raising taxes on small business during this recession. Mr. Speaker, I personally believe, and I think the majority of us believe, that small businesses are the economic engines in our communities and in our States and are the way that we can help lead our Nation out of this recession.

Yet as we look at the health care reform bill that we're getting ready to take up, and you look at different sections of it and how it will affect small businesses and job creation and unemployment, I am deeply concerned about several sections of this piece of legislation.

An example is page 297. Section 501 would impose a 2.5 percent tax on all individuals who do not purchase bureaucrat-approved health insurance. This tax would apply to individuals with incomes under \$250,000, thus breaking a central promise of President Obama's Presidential campaign that we would not be taxing people under \$250,000. Section 512 under page 313 imposes an 8 percent tax on jobs for firms that cannot afford to purchase

the bureaucrat-approved health coverage. And according to an analysis by a Harvard professor, such a tax would place millions of people at risk for unemployment; and a majority of those workers could be minorities who, we believe, would lose their jobs at twice the rate of their white counterparts.

Section 551, page 336 imposes additional job-killing taxes in the form of a \$500 billion surcharge, more than half of which will hit small businesses, according to a model developed by President Obama's senior economic adviser, which could increase taxes and cost us another 5.5 million jobs. Of course we know that this piece of legislation also adds \$729 billion in new taxes on small businesses and on individuals who cannot afford health insurance coverage and employers who cannot afford to even provide that health insurance.

And of course another \$1 trillion in new Federal spending on expanded health care insurance coverage over 10 years is some of the projections of this health care bill that we're getting ready to take up. We've had several different groups express concern about small businesses, about the unemployment rate, about the cost of this proposed health care plan. The NFIB has estimated that 1.5 million jobs will be lost due to the employer mandate on small businesses. The nearly one-third of uninsured workers who earn within \$3 of the minimum wage will be put at risk of unemployment if their employers are required to offer insurance when one in 10 Americans are unemployed already.

It is a bad time to be mandating these new tax increases on our small businesses. We know that the pay-or-play provision could reduce the hiring of low-income workers and that those wages could fall even more because of required mandates on health insurance.

This bill that we're talking about for health care is going to leave, we believe, 34 million Americans without health insurance because of expansion of Medicaid, and millions of Americans will lose their current health care coverage if the private sector market is driven out of the marketplace that offers insurance.

According to a 2009 study by the National Federation of Independent Business, the cost of health insurance is the number one concern to small business owners. Small businesses create seven out of 10 new jobs in the U.S. and should be able to provide their employees with health benefits and should be able to provide it at a reasonable rate that helps these small businesses be competitive, be one of the vital benefits that they can provide to their employees, which is small businesses.

The Kaiser Family Foundation reports that health insurance premiums for single workers rose 74 percent for small businesses between the period of 2001 and 2008; and administrative ex-

penses for small group plans account for 25 to 27 percent of premiums compared to that of 5 to 10 percent for large businesses.

So, Mr. Speaker, what we know is that if we impose more taxes, more mandates, more surcharges on our small businesses at a time when our unemployment rate just hit a record high for 26 years, over 10 percent, then our small businesses are going to be further devastated by any type of health care reform proposal that has a government mandate, that has new surcharges, new taxes, huge new taxes on small businesses.

Mr. Speaker, I am very concerned because small businesses are the economic engine of our local economies. They are the way that we can lead ourselves out of this recession, and that is why I will be opposed to the current health care proposal by Speaker PELOSI.

Mr. Speaker, I urge passage of this bill.

I yield back the balance of my time.

Ms. VELÁZQUEZ. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from New York (Ms. VELÁZQUEZ) that the House suspend the rules and pass the bill, H.R. 1838, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the ayes have it.

Ms. VELÁZQUEZ. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

The point of no quorum is considered withdrawn.

□ 1030

#### SMALL BUSINESS DISASTER READINESS AND REFORM ACT OF 2009

Ms. VELÁZQUEZ. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3743) to amend the Small Business Act to improve the disaster relief programs of the Small Business Administration, and for other purposes, as amended.

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 3743

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE.

This Act may be cited as the "Small Business Disaster Readiness and Reform Act of 2009".

#### SEC. 2. REVISED COLLATERAL REQUIREMENTS.

Section 7 of the Small Business Act (15 U.S.C. 636) is amended—



(1) by striking “(e) [RESERVED].” and “(f) [RESERVED].”; and

(2) in subsection (f), as added by section 12068(a)(2) of the Small Business Disaster Response and Loan Improvements Act of 2008 (subtitle B of title XII of the Food, Conservation, and Energy Act of 2008; Public Law 110-246), by adding at the end the following:

“(2) REVISED COLLATERAL REQUIREMENTS.—In making a loan with respect to a business under subsection (b), if the total approved amount of such loan is less than or equal to \$250,000, the Administrator may not require the borrower to use the borrower’s home as collateral.”.

### SEC. 3. INCREASED LIMITS.

Section 7(b) of the Small Business Act (15 U.S.C. 636(b)) is amended—

(1) in paragraph (3)(E) by striking “\$1,500,000” each place it appears and inserting “\$3,000,000”; and

(2) in paragraph (8)(A) by striking “\$2,000,000” and inserting “\$3,000,000”.

### SEC. 4. REVISED REPAYMENT TERMS.

Section 7(f) of the Small Business Act (15 U.S.C. 636(f)) is amended by adding at the end the following:

“(3) REVISED REPAYMENT TERMS.—In making loans under subsection (b), the Administrator—

“(A) may not require repayment to begin until the date that is 12 months after the date on which the final disbursement of approved amounts is made; and

“(B) shall calculate the amount of repayment based solely on the amounts disbursed.”.

### SEC. 5. REVISED DISBURSEMENT PROCESS.

Section 7(f) of the Small Business Act (15 U.S.C. 636(f)), as amended by this Act, is further amended by adding at the end the following:

“(4) REVISED DISBURSEMENT PROCESS.—In making a loan under subsection (b), the Administrator shall disburse loan amounts in accordance with the following:

“(A) If the total amount approved with respect to such loan is less than or equal to \$150,000—

“(i) the first disbursement with respect to such loan shall consist of 40 percent of the total loan amount, or a lesser percentage of the total loan amount if the Administrator and the borrower agree on such a lesser percentage;

“(ii) the second disbursement shall consist of 50 percent of the loan amounts that remain after the first disbursement, and shall be made when the borrower has produced satisfactory receipts to demonstrate the proper use of 50 percent of the first disbursement; and

“(iii) the third disbursement shall consist of the loan amounts that remain after the preceding disbursements, and shall be made when the borrower has produced satisfactory receipts to demonstrate the proper use of the first disbursement and 50 percent of the second disbursement.

“(B) If the total amount approved with respect to such loan is more than \$150,000 but less than or equal to \$500,000—

“(i) the first disbursement with respect to such loan shall consist of 20 percent of the total loan amount, or a lesser percentage of the total loan amount if the Administrator and the borrower agree on such a lesser percentage;

“(ii) the second disbursement shall consist of 30 percent of the loan amounts that remain after the first disbursement, and shall be made when the borrower has produced satisfactory receipts to demonstrate the

proper use of 50 percent of the first disbursement;

“(iii) the third disbursement shall consist of 25 percent of the loan amounts that remain after the first and second disbursements, and shall be made when the borrower has produced satisfactory receipts to demonstrate the proper use of the first disbursement and 50 percent of the second disbursement; and

“(iv) the fourth disbursement shall consist of the loan amounts that remain after the preceding disbursements, and shall be made when the borrower has produced satisfactory receipts to demonstrate the proper use of the first and second disbursements and 50 percent of the third disbursement.

“(C) If the total amount approved with respect to such loan is more than \$500,000—

“(i) the first disbursement with respect to such loan shall consist of at least \$100,000, or a lesser amount if the Administrator and the borrower agree on such a lesser amount; and

“(ii) the number of disbursements after the first, and the amount of each such disbursement, shall be in the discretion of the Administrator, but the amount of each such disbursement shall be at least \$100,000.”.

### SEC. 6. GRANT PROGRAM.

Section 7(b) of the Small Business Act (15 U.S.C. 636(b)), as amended by this Act, is further amended by inserting after paragraph (9) the following:

“(10) GRANTS TO DISASTER-AFFECTED SMALL BUSINESSES.—

“(A) IN GENERAL.—If the Administrator declares eligibility for additional disaster assistance under paragraph (9), the Administrator may make a grant, in an amount not exceeding \$100,000, to a small business concern that—

“(i) is located in an area affected by the applicable major disaster;

“(ii) submits to the Administrator a certification by the owner of the concern that such owner intends to reestablish the concern in the same county in which the concern was originally located;

“(iii) has applied for, and was rejected for, a conventional disaster assistance loan under this subsection; and

“(iv) was in existence for at least 2 years before the date on which the applicable disaster declaration was made.

“(B) PRIORITY.—In making grants under this paragraph, the Administrator shall give priority to a small business concern that the Administrator determines is economically viable but unable to meet short-term financial obligations.

“(C) PROGRAM LEVEL AND AUTHORIZATION OF APPROPRIATIONS.—

“(i) PROGRAM LEVEL.—The Administrator is authorized to make \$100,000,000 in grants under this paragraph for each of fiscal years 2010 and 2011.

“(ii) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Administrator such sums as may be necessary to carry out this paragraph.”.

### SEC. 7. REGIONAL DISASTER WORKING GROUPS.

Section 40 of the Small Business Act (15 U.S.C. 657l) is amended—

(1) in subsection (a), in the matter preceding paragraph (1), by striking “or” and inserting “and”;

(2) by redesignating subsection (d) as subsection (e); and

(3) by inserting after subsection (c) the following:

“(d) REGIONAL DISASTER WORKING GROUPS.—In carrying out the responsibilities pertaining to loan making activities under subsection (a), the Administrator, acting

through the regional administrators of the regional offices of the Administration, shall develop a disaster preparedness and response plan for each region of the Administration. Each such plan shall be developed in cooperation with Federal, State, and local emergency response authorities and representatives of businesses located in the region to which such plan applies. Each such plan shall identify and include a plan relating to the 3 disasters, natural or manmade, most likely to occur in the region to which such plan applies.”.

### SEC. 8. OUTREACH GRANTS FOR LOAN APPLICATION ASSISTANCE.

Section 7(b) of the Small Business Act (15 U.S.C. 636(b)), as amended by this Act, is further amended by inserting after paragraph (10) the following:

“(11) OUTREACH GRANTS FOR LOAN APPLICATION ASSISTANCE.—

“(A) IN GENERAL.—From amounts made available for administrative expenses relating to activities under this subsection, the Administrator is authorized to make grants to the following:

“(i) A women’s business center in an area affected by a disaster.

“(ii) A small business development center in an area affected by a disaster.

“(iii) A Veteran Business Outreach Center in an area affected by a disaster.

“(iv) A chamber of commerce in an area affected by a disaster.

“(B) USE OF GRANT.—An entity specified under subparagraph (A) shall use a grant received under this paragraph to provide application preparation assistance to applicants for a loan under this subsection.

“(C) PROGRAM LEVEL.—The Administrator is authorized to make \$50,000,000 in grants under this paragraph for each of fiscal years 2010 and 2011.”.

### SEC. 9. HOMEOWNERS IMPACTED BY TOXIC DRYWALL.

Section 7(b) of the Small Business Act (15 U.S.C. 636(b)), as amended by this Act, is further amended by inserting after paragraph (11) the following:

“(12) HOMEOWNERS IMPACTED BY TOXIC DRYWALL.—The Administrator may make a loan under this subsection to any homeowner if the primary residence of such homeowner has been adversely impacted by the installation of toxic drywall manufactured in China. A loan under this paragraph may be used only for the repair or replacement of such toxic drywall.”.

### SEC. 10. AUTHORIZATION OF APPROPRIATIONS.

Section 20 of the Small Business Act (15 U.S.C. 631 note) is amended by inserting after subsection (e) the following:

“(f) FISCAL YEARS 2010 AND 2011 WITH RESPECT TO SECTION 7(b).—There is authorized to be appropriated such sums as may be necessary for administrative expenses and loans under section 7(b).”.

### SEC. 11. REGULATIONS.

Except as otherwise provided in this Act or in amendments made by this Act, after an opportunity for notice and comment, but not later than 180 days after the date of the enactment of this Act, the Administrator shall issue regulations to carry out this Act and the amendments made by this Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from New York (Ms. VELÁZQUEZ) and the gentleman from Missouri (Mr. GRAVES) each will control 20 minutes.

The Chair recognizes the gentlewoman from New York.



## GENERAL LEAVE

Ms. VELÁZQUEZ. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous material on H.R. 3743, as amended.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

Ms. VELÁZQUEZ. Mr. Speaker, I yield myself such time as I may consume.

I rise in support of H.R. 3743, the Small Business Disaster Readiness and Reform Act of 2009.

The Small Business Administration's Disaster Loan Program is an important lifeline for businesses struggling to recover following natural disasters. Low-interest loans offered through the program help entrepreneurs rebuild their firms and get back on their feet. These loans also help small businesses avoid the economic shocks that often accompany disasters.

While these programs are valuable in helping our communities recover from crises, they have not reached their full potential. Earlier this year, the Government Accountability Office examined the SBA's disaster recovery programs, including the agency's new measures following Hurricane Katrina. In July, the GAO testified to the Small Business Committee that the Small Business Administration has not done enough to prepare for major emergencies. The GAO's findings give cause for concern that the SBA will fall short of the needs of entrepreneurs during critical times.

The legislation we are considering today will help the SBA better meet the needs of those recovering from natural disasters. This bill will improve how the SBA disburses assistance, ensuring small firms get help more quickly. This legislation will also require SBA to establish regional disaster working groups. These groups will develop localized disaster preparedness plans, putting the SBA in a better position to address the unique challenges facing small businesses recovering from disasters.

Mr. Speaker, small businesses need access to capital to make payroll and carry on their daily operations. However, for firms recovering from natural disasters, finding an affordable loan can make all the difference between staying open or closing forever. The legislation before us will ensure entrepreneurs can receive the help they need when times are tough.

I commend Mr. GRIFFITH, who is the sponsor of this bill, for his work on this important legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. GRAVES. Mr. Speaker, I yield myself such time as I may consume.

I rise today in support of H.R. 3743, the Small Business Disaster Readiness

and Reform Act of 2009. I would like to thank the chairwoman and the gentleman from Alabama for working very hard, obviously, in the committee to bring this bill to the floor.

In 2008, Congress took action to address the inadequate response that the Small Business Administration had to the gulf hurricanes of 2005. The expectation was that those changes would alleviate many of the problems identified by small business owners, the Government Accountability Office, and the SBA found in response to Hurricane Katrina. However, GAO testified before the committee this summer and found that the SBA implementation of those changes had not been accomplished. That means that the SBA may not be able to respond adequately to a major disaster like Hurricane Katrina.

A key element noted by GAO is the need for coordination. The bill requires the establishment of regional working groups to develop regional disaster plans in addition to the national plan that was required by Congress last year. This is sensible because some areas of the country are more prone to flooding and others to even things like wildfires. The national plan simply cannot cover with any specificity the range of disasters to which the SBA must respond. This should improve the overall emergency preparedness of the SBA.

GAO and the committee remain concerned about the difficulty that small businesses have in filing applications for disaster loans. H.R. 3743 recognizes that the SBA entrepreneur development partners can assist small business owners that need to file an application for a disaster loan and authorizes additional funds to these partners to provide such assistance to those seeking to recover from a disaster.

Another primary focus of the committee's examination of the disaster loan process has been the disbursement process. Although changes were made in 2008, further refinements are needed to ensure that small businesses have access to funds needed to restore their operations and help their communities recover from the disaster.

I would reiterate that this bill before us today builds on important work already done by Congress and will provide additional assurances that the SBA is capable of responding to the next natural or manmade disaster.

Mr. Speaker, I reserve the balance of my time.

Ms. VELÁZQUEZ. Mr. Speaker, I continue to reserve the balance of my time.

Mr. GRAVES. Mr. Speaker, I yield such time as he may consume to the gentleman from Illinois (Mr. SHIMKUS).

Mr. SHIMKUS. Mr. Speaker, I'm pleased to be down here on the suspension calendar to talk about the importance of the emergency response of

small business centers. But you know what the real emergency response to small business should be is the assault on the workers that's coming because of this health care bill.

Let me talk about the reports today: 10.2 percent unemployment. "The unemployment rate spiked to its highest level since 1983, much worse than expected as employers continue to trim jobs despite other signs of growth."

And do you know what the real catastrophe is? We are doing nothing here to help create jobs. In fact, what we're doing, based upon the Democratic bill, H.R. 3962, will destroy jobs. Here are some of the job-destruction aspects of this health care bill:

Tax on jobs will increase unemployment. The Democrat bill would impose \$150 billion in taxes on businesses who can't afford to finance their workers' health coverage. Guess what they'll do. They're going to lay off people to be able to afford the taxes to provide the few remaining employees jobs.

The CBO confirmed this tax on jobs would reduce the hiring of low-wage workers and could also lead to wage stagnation as wage compensation is diverted to comply with new Federal taxes and mandates. A model developed by the chief Obama adviser Christina Romer indicates that as many as 5.5 million jobs could be lost. That's not us. That's not the Small Business Committee. That's not the ranking member. That's the administration that's saying 5.5 million jobs could be lost.

Hundreds of billions of dollars in taxes on businesses. In addition to the tax on jobs, H.R. 3962 includes nearly half a trillion dollars in other taxes, including a surtax more than half of whose intended targets are small businesses.

We would be hoping that the Small Business Committee would come down here and say let's don't tax small business with this health care bill. Let's incentivize small businesses to provide health care coverage to their employees.

That's what we'll do on the House version in the amendment offered, once the bill comes to the floor, is we're going to incentivize small businesses to stay in business, keep their employees, and provide health insurance coverage.

In addition to the tax on jobs, the Democrat bill includes a half trillion dollars in other taxes including, as I said before, a surtax. More than half of those intended targets are small businesses.

This is the disaster that we ought to be talking about here. This is a problem that we have with this Congress, the job-destroying plans coming to the floor of the House. Imposing a total of \$729.5 billion in higher taxes on a struggling economy will be a recipe for years, if not decades, of prolonged stagnation.

I thank the ranking member for yielding me the time.

Mr. GRAVES. Mr. Speaker, I yield back the balance of my time.

Ms. VELÁZQUEZ. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from New York (Ms. VELÁZQUEZ) that the House suspend the rules and pass the bill, H.R. 3743, as amended.

The question was taken; and (two-thirds being in the affirmative) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

#### SMALL BUSINESS DEVELOPMENT CENTERS MODERNIZATION ACT OF 2009

Ms. VELÁZQUEZ. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1845) to amend the Small Business Act to modernize Small Business Development Centers, and for other purposes, as amended.

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 1845

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE.

This Act may be cited as the “Small Business Development Centers Modernization Act of 2009”.

#### SEC. 2. SMALL BUSINESS DEVELOPMENT CENTERS OPERATIONAL CHANGES.

(a) ACCREDITATION REQUIREMENT.—Section 21(a)(1) of the Small Business Act (15 U.S.C. 648(a)(1)) is amended as follows:

(1) In the proviso, by inserting before “institution” the following: “accredited”.

(2) In the sentence beginning “The Administration shall”, by inserting before “institutions” the following: “accredited”.

(3) By adding at the end the following new sentence: “In this paragraph, the term ‘accredited institution of higher education’ means an institution that is accredited as described in section 101(a)(5) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)(5)).”.

(b) PROGRAM NEGOTIATIONS.—Section 21(a)(3) of the Small Business Act (15 U.S.C. 648(a)(3)) is amended in the matter preceding subparagraph (A), by inserting before “agreed” the following: “mutually”.

(c) CONTRACT NEGOTIATIONS.—Section 21(a)(3)(A) of the Small Business Act (15 U.S.C. 648(a)(3)(A)) is amended by inserting after “uniform negotiated” the following: “mutually agreed to”.

(d) SBDC HIRING.—Section 21(c)(2)(A) of the Small Business Act (15 U.S.C. 648(c)(2)(A)) is amended by inserting after “full-time staff” the following: “, the hiring of which shall be at the sole discretion of the center without the need for input or approval from any officer or employee of the Administration”.

(e) CONTENT OF CONSULTATIONS.—Section 21(a)(7)(A) of the Small Business Act (15 U.S.C. 648(a)(7)(A)) is amended in the matter preceding clause (i) by inserting after “under this section” the following: “, or the content of any consultation with such an individual or small business concern,”.

(f) AMOUNTS FOR ADMINISTRATIVE EXPENSES.—Section 21(a)(4)(C)(v)(I) of the

Small Business Act (15 U.S.C. 648(a)(4)(C)(v)(I)) is amended to read as follows:

“(I) IN GENERAL.—Of the amounts made available in any fiscal year to carry out this section, not more than \$500,000 may be used by the Administration to pay expenses enumerated in subparagraphs (B) through (D) of section 20(a)(1).”.

(g) NON-MATCHING PORTABILITY GRANTS.—Section 21(a)(4)(C)(viii) of the Small Business Act (15 U.S.C. 648(a)(4)(C)(viii)) is amended by adding at the end the following: “In the event of a disaster, the dollar limitation in the preceding sentence shall not apply.”.

(h) DISTRIBUTION TO SBDCs.—Section 21(b) of the Small Business Act (15 U.S.C. 648(b)) is amended by adding at the end the following new paragraph:

“(4) LIMITATION ON DISTRIBUTION TO SMALL BUSINESS DEVELOPMENT CENTERS.—

“(A) IN GENERAL.—Except as otherwise provided in this paragraph, the Administration shall not distribute funds to a Small Business Development Center if the State in which the Small Business Development Center is located is served by more than one Small Business Development Center.

“(B) UNAVAILABILITY EXCEPTION.—The Administration may distribute funds to a maximum of two Small Business Development Centers in any State if no applicant has applied to serve the entire State.

“(C) GRANDFATHER CLAUSE.—The limitations in this paragraph shall not apply to any State in which more than one Small Business Development Center received funding prior to January 1, 2007.

“(D) DEFINITION.—For the purposes of this paragraph, the term ‘Small Business Development Center’ means the entity selected by the Administration to receive funds pursuant to the funding formula set forth in subsection (a)(4), without regard to the number of sites for service delivery such entity establishes or funds.”.

(i) WOMEN’S BUSINESS CENTERS.—Section 21(a)(1) of the Small Business Act (15 U.S.C. 648(a)(1)), as amended, is further amended—

(1) by striking “and women’s business centers operating pursuant to section 29”; and

(2) by striking “or a women’s business center operating pursuant to section 29”.

#### SEC. 3. ACCESS TO CREDIT AND CAPITAL.

Section 21 of the Small Business Act (15 U.S.C. 648) is amended by adding at the end the following new subsection:

“(o) ACCESS TO CREDIT AND CAPITAL PROGRAM.—

“(1) IN GENERAL.—The Administration shall establish a grant program for small business development centers in accordance with this subsection. To be eligible for the program, a small business development center must be in good standing and comply with the other requirements of this section. Funds made available through the program shall be used to—

“(A) develop specialized programs to assist local small business concerns in securing capital and repairing damaged credit;

“(B) provide informational seminars on securing credit and loans;

“(C) provide one-on-one counseling with potential borrowers to improve financial presentations to lenders; and

“(D) facilitate borrowers’ access to non-traditional financing sources, as well as traditional lending sources.

“(2) AWARD SIZE LIMIT.—The Administration may not award an entity more than \$300,000 in grant funds under this subsection.

“(3) AUTHORITY.—Subject to amounts approved in advance in appropriations Acts and

separate from amounts approved to carry out the program established in subsection (a)(1), the Administration may make grants or enter into cooperative agreements to carry out this subsection.

“(4) AUTHORIZATION.—There is authorized to be appropriated not more than \$2,500,000 for the purposes of carrying out this subsection for each of the fiscal years 2010 and 2011.”.

#### SEC. 4. PROCUREMENT TRAINING AND ASSISTANCE.

Section 21 of the Small Business Act (15 U.S.C. 648), as amended, is further amended by adding at the end the following new subsection:

“(p) PROCUREMENT TRAINING AND ASSISTANCE.—

“(1) IN GENERAL.—The Administration shall establish a grant program for small business development centers in accordance with this subsection. To be eligible for the program, a small business development center must be in good standing and comply with the other requirements of this section. Funds made available through the program shall be used to—

“(A) work with local agencies to identify contracts that are suitable for local small business concerns;

“(B) prepare small businesses to be ready as subcontractors and prime contractors for contracts made available under the American Recovery and Reinvestment Act of 2009 (Public Law 111-5) through training and business advisement, particularly in the construction trades; and

“(C) provide technical assistance regarding the Federal procurement process, including assisting small business concerns to comply with federal regulations and bonding requirements.

“(2) AWARD SIZE LIMIT.—The Administration may not award an entity more than \$300,000 in grant funds under this subsection.

“(3) AUTHORITY.—Subject to amounts approved in advance in appropriations Acts and separate from amounts approved to carry out the program established in subsection (a)(1), the Administration may make grants or enter into cooperative agreements to carry out this subsection.

“(4) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated not more than \$2,500,000 for the purposes of carrying out this subsection for each of the fiscal years 2010 and 2011.”.

#### SEC. 5. GREEN ENTREPRENEURS TRAINING PROGRAM.

Section 21 of the Small Business Act (15 U.S.C. 648), as amended, is further amended by adding at the end the following new subsection:

“(q) GREEN ENTREPRENEURS TRAINING PROGRAM.—

“(1) IN GENERAL.—The Administration shall establish a grant program for small business development centers in accordance with this subsection. To be eligible for the program, a small business development center must be in good standing and comply with the other requirements of this section. Funds made available through the program shall be used to—

“(A) provide education classes and one-on-one instruction in starting a business in the fields of energy efficiency, green technology, or clean technology and in adapting a business to include such fields;

“(B) coordinate such classes and instruction, to the extent practicable, with local community colleges and local professional trade associations;

“(C) assist and provide technical counseling to individuals seeking to start a business in the fields of energy efficiency, green technology, or clean technology and to individuals seeking to adapt a business to include such fields; and

“(D) provide services that assist low-income or dislocated workers to start businesses in the fields of energy efficiency, green technology, or clean technology.

“(2) AWARD SIZE LIMIT.—The Administration may not award an entity more than \$300,000 in grant funds under this subsection.

“(3) AUTHORITY.—Subject to amounts approved in advance in appropriations Acts and separate from amounts approved to carry out the program established in subsection (a)(1), the Administration may make grants or enter into cooperative agreements to carry out this subsection.

“(4) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated not more than \$2,500,000 for the purposes of carrying out this subsection for each of the fiscal years 2010 and 2011.”.

#### SEC. 6. MAIN STREET STABILIZATION.

Section 21 of the Small Business Act (15 U.S.C. 648), as amended, is further amended by adding the following new subsection at the end thereof:

“(r) MAIN STREET STABILIZATION.—

“(1) IN GENERAL.—The Administration shall establish a grant program for small business development centers in accordance with this subsection. To be eligible for the program, a small business development center must be in good standing and comply with the other requirements of this section. Funds made available through the program shall be used to—

“(A) establish a statewide small business helpline within every State and United States territory to provide immediate expert information and assistance to small business concerns;

“(B) develop a portfolio of online survival and growth tools and resources that struggling small business concerns can utilize through the Internet;

“(C) develop business advisory capacity to provide expert consulting and education to assist small businesses at-risk of failure and to, in areas of high demand, shorten the response time of small business development centers, and, in rural areas, support added outreach in remote communities;

“(D) deploy additional resources to help specific industry sectors with a high presence of small business concerns, which shall be targeted toward clusters of small businesses with similar needs and build upon best practices from earlier assistance;

“(E) develop a formal listing of financing options for small business capital access; and

“(F) deliver services that help dislocated workers start new businesses.

“(2) AWARD SIZE LIMIT.—The Administration may not award an entity more than \$250,000 in grant funds under this subsection.

“(3) AUTHORITY.—Subject to amounts approved in advance in appropriations Acts and separate from amounts approved to carry out the program established in subsection (a)(1), the Administration may make grants or enter into cooperative agreements to carry out this subsection.

“(4) AUTHORIZATION.—There is authorized to be appropriated not more than \$2,500,000 for the purposes of carrying out this subsection for each of the fiscal years 2010 and 2011.”.

#### SEC. 7. PROHIBITION ON PROGRAM INCOME BEING USED AS MATCHING FUNDS.

Section 21(a)(4)(B) (15 U.S.C. 648(a)(4)(B)) is amended by inserting after “Federal pro-

gram” the following: “and shall not include any funds obtained through the assessment of fees to small business clients”.

#### SEC. 8. AUTHORIZATION OF APPROPRIATIONS.

Section 20 of the Small Business Act (15 U.S.C. 631 note) is amended by inserting after subsection (e) the following new subsection:

“(f) SMALL BUSINESS DEVELOPMENT CENTERS.—There is authorized to be appropriated to carry out the Small Business Development Center Program under section 21 \$150,000,000 for fiscal year 2010 and \$160,000,000 for fiscal year 2011.”.

#### SEC. 9. SMALL MANUFACTURERS TRANSITION ASSISTANCE PROGRAM.

Section 21 of the Small Business Act (15 U.S.C. 648), as amended, is further amended by adding at the end the following new subsection:

“(s) SMALL MANUFACTURERS TRANSITION ASSISTANCE PROGRAM.—

“(1) IN GENERAL.—The Administration shall establish a grant program for small business development centers in accordance with this subsection. To be eligible for the program, a small business development center must be in good standing and comply with the other requirements of this section. Funds made available through the program shall be used to—

“(A) provide technical assistance and expertise to small manufacturers with respect to changing operations to another industry sector or reorganizing operations to increase efficiency and profitability;

“(B) assist marketing of the capabilities of small manufacturers outside the principal area of operations of such manufacturers;

“(C) facilitate peer-to-peer and mentor-protégé relationships between small manufacturers and corporations and Federal agencies; and

“(D) conduct outreach activities to local small manufacturers with respect to the availability of the services described in subparagraphs (A), (B), and (C).

“(2) DEFINITION OF SMALL MANUFACTURER.—In this subsection, the term ‘small manufacturer’ means a small business concern engaged in an industry specified in sector 31, 32, or 33 of the North American Industry Classification System in section 121.201 of title 13, Code of Federal Regulations.

“(3) AWARD SIZE LIMIT.—The Administration may not award an entity more than \$250,000 in grant funds under this subsection.

“(4) AUTHORITY.—Subject to amounts approved in advance in appropriations Acts and separate from amounts approved to carry out the program established in subsection (a)(1), the Administration may make grants or enter into cooperative agreements to carry out this subsection.

“(5) AUTHORIZATION.—There is authorized to be appropriated not more than \$2,500,000 for the purposes of carrying out this subsection for each of the fiscal years 2010 and 2011.”.

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from New York (Ms. VELÁZQUEZ) and the gentleman from Illinois (Mr. SCHOCK) each will control 20 minutes.

The Chair recognizes the gentlewoman from New York.

#### GENERAL LEAVE

Ms. VELÁZQUEZ. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous material on H.R. 1845, as amended.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from New York?

There was no objection.

Ms. VELÁZQUEZ. Mr. Speaker, I yield myself such time as I may consume.

I rise in support of H.R. 1845, introduced by Representative SCHOCK, which would modernize the Nation's Small Business Development Centers, and I would like to take the opportunity to commend the gentleman for his great work on this important legislation.

Mr. Speaker, in today's challenging business environment, entrepreneurial assistance is a critical tool for the success of a small business. After all, even in good times, starting and running a small business is no easy lift. In fact, businesses that receive this kind of help are twice as likely to succeed.

During economic downturns, Small Business Development Centers are critical to help aspiring entrepreneurs get their ventures off the ground. The SBDC program is an important resource for both new entrepreneurs and more established small business owners. H.R. 1845 builds on this successful model, improving existing initiatives and giving entrepreneurs the tools they need to flourish.

In this bill, we streamline the SBDC program, taking important steps to develop new service offerings for small businesses. One example is the bill's access to capital program for aspiring entrepreneurs that need to secure capital and repair damaged credit. By connecting these entrepreneurs and displaced workers with seed money, this initiative will help get more ventures off the ground. For more established firms, this legislation will help businesses tap into the booming Federal marketplace.

Billions of stimulus dollars are now in play, making the Federal Government an even better customer for small businesses. In order to assist small firms in winning Federal contracts, this bill establishes a new procurement program. This will enable SBDCs to work with local agencies in identifying suitable small business contracts.

Mr. Speaker, SBDCs are important resources for expert information and business development assistance for small firms. This legislation will make sure they are running at full capacity, giving entrepreneurs powerful tools to invest in their own success. With a renewed emphasis on entrepreneurship, the Nation can emerge from the current recession stronger and more resilient. This bill is an important step in allowing that to happen, and I urge my colleagues to support its passage.

Mr. Speaker, I reserve the balance of my time.

Mr. SCHOCK. Mr. Speaker, I yield myself such time as I may consume.

I rise in support of H.R. 1845, legislation that I introduced earlier this year

to help modernize the Small Business Development Center programs, often referred to as SBDCs, with the resources they need to deal with increased demand and usage during this difficult time.

First, I would like to thank Chairwoman VELÁZQUEZ for her leadership and work on this important Small Business Committee and also Ranking Member GRAVES for working together with me to move this important piece of legislation through the committee and now here on the House floor.

Nationwide, the over 1,000 SBDCs serve as important and informative resources for growing small businesses. SBDCs provide emerging entrepreneurs with the tools needed to successfully take their small business concepts into reality. Additionally, they provide existing small business owners with important financial and budgeting consulting to assist in long-term growth and management. The investments made into the SBDC network provide a cost-effective way to help grow the economy while also enhancing American competitiveness.

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Let us look at the facts. A new business is opened by an SBDC client every 41 minutes. A new job is created in the United States by an SBDC client every 7 minutes. And, in 2007, Small Business Development Center clients created over 70,000 new full-time jobs. With the recent unemployment figures over 10 percent nationwide, more and more small businesses are investing and visiting their local SBDCs seeking advice on how to best manage their companies.

As such, I am pleased this House is considering H.R. 1845 today. This legislation will do a great deal to continue to help develop the resources and programs our small business owners depend on. Additionally, H.R. 1845 makes several operational changes to the SBDC program to eliminate waste, fraud, and duplicative programs within the SBDCs.

Lastly, I am encouraged by the provisions in this legislation which will reward SBDCs which focus on access to credit and capital for small businesses. Everyone understands that the economic rebound for our country will be directly related to the growth and fortune of our Nation's small businesses. Their access to credit and capital is essential not only to keep them in business today but also for future expansion, growth, and investment within their business.

This body voices its continued backing of the important support system on which our Nation's small businesses truly rely by passing H.R. 1845. I urge passage.

I reserve the balance of my time.

Ms. VELÁZQUEZ. I reserve the balance of my time.

Mr. SCHOCK. Mr. Speaker, I yield to the gentleman from Illinois (Mr. SHIMKUS) for such time as he may consume.

Mr. SHIMKUS. Mr. Speaker, I again come down on the floor. It is a good time to talk about jobs and the economy and the importance of what the Small Business Committee here does. I applaud my colleague from Illinois for addressing the Small Business Development Centers because, guess what, they are going to be needed. They are going to be needed to help train and find jobs when we have this massive loss of jobs that will occur because of the Democrat health care bill.

Don't take my word for it, take the word of Christina Romer, who is the adviser to the President. She says that the Democrat bill would impose \$150 billion in taxes on businesses who cannot afford to finance their workers' health coverage. So what will happen, these employees will be laid off. People will lose their jobs to try to make the payment on the new tax that is going to be burdened by this bill.

CBO confirmed this tax on jobs could reduce, and CBO is the Congressional Budget Office, nonpartisan, they confirmed this tax on jobs could reduce the hiring of low-wage workers and could also lead to wage stagnation as wage compensation is diverted to comply with new Federal taxes and mandates. Roemer indicates that as many as 5.5 million jobs could be lost. So we are really going to need these SBDCs, and we will need them to be current to help find positions for these displaced workers.

This Democrat Affordable Health Care for America Act will destroy jobs, hundreds of billions in taxes on businesses. In addition to the tax on jobs, the Democrat health care bill includes nearly half a trillion dollars in other taxes, including a surtax, more than half of those whose intended targets are small businesses.

So as the Small Business Committee is bringing bills to the floor, they ought to be worried about what is reported today, 10.2 percent unemployment. But, no, we are not talking about how to create jobs on the floor of this House. We are talking about how to destroy jobs by new regulations, new taxation, hundreds of billions of dollars in taxes on businesses. H.R. 3962, the Democrat health bill, includes nearly half a trillion dollars in other taxes, including a surtax, more than half whose intended targets are small businesses. Imposing a total of \$729.5 billion in higher taxes on a struggling economy would be a recipe for years, if not decades, of prolonged stagnation.

So I appreciate the time from my colleague. We are going to need these Small Business Development Centers because of the massive tax regulatory regime being passed by Democrats on the floor of this House which will continue to destroy jobs, not create jobs.

Ms. VELÁZQUEZ. Mr. Speaker, I continue to reserve my time.

Mr. SCHOCK. Mr. Speaker, I think we can all agree, based on the current climate here in our country, it is always a good time to invest in our small businesses but especially now with unemployment at an all-time high. Once again, I appreciate the work of Members on both sides of the aisle.

Mr. Speaker, at this time, I would yield to my other good friend from the great State of Illinois (Mr. MANZULLO) for such time as he may consume.

Mr. MANZULLO. Mr. Speaker, today, we are considering a lot of bills, good bills, to help out small business people. But I find it ironic that at the same time we pass more programs and try to fund what is out there, the same Congress continues to pass, one after the other, job-killing bills. We can start with cap-and-trade that will kill millions and millions of jobs across this country.

The largest city in the congressional district I represent, Rockford, Illinois, is close to 17 percent unemployment. One out of four families in Rockford is on public assistance. No news has hit that city in a long time, but the news from Washington is we want to raise your taxes, give you more regulations, and here we are on the eve of passing one of the biggest small business job-killing bills, this massive so-called health care reform bill that will put between 4 and 5 million people out of work, small businesses.

There is something wrong in this city that says it wants to help the small business people and turns right around, and the very people that the majority in this Congress say that they want to help, they are hurting, making them bleed with regulation after regulation, tax increase after tax increase, mandate after mandate, penalty after penalty.

I was raised in small business. When I was 4, my father bought a small grocery store in the rough-and-tough part of Rockford, Illinois; and he personally grubstaked. That is, he gave credit to thousands of people coming in from the displaced persons camps of Eastern Europe and people coming from Arkansas with the massive crop failures. All we know is small business.

He went from the grocery store business into the drive-in restaurant business and the family Italian restaurant business. After awhile, my brother, who ran the restaurant business for 41 years, said, Donnie, all I do is work for the government and for higher insurance premiums.

He and the people and the rest of the Frankie Manzullos out there shouldn't have to go to another government agency and beg for help. This city should be recognizing the fact that the best way to help the small business people is not to suck \$544 billion in taxes from people working in small

businesses. Because, Mr. Speaker, what we are doing here is, by raising taxes on these small business people, this money is going to the government which squanders it, as opposed to the money staying in the private sector, which is used to keep the businesses going, to nurture them, and create more businesses.

The city has it all wrong. No wonder the people of America are upset. No wonder there is a revolution going on, with the small businessmen saying, We can't take it anymore. We don't want any more help from Washington. Just leave us alone.

Ms. VELÁZQUEZ. I yield myself such time as I may consume.

Mr. Speaker, it is kind of ironic that the previous gentleman spoke about the impact of health care on small businesses, but for the 10-plus years that they were in the majority, we saw double digits in terms of premiums going up, and they didn't provide any vision, any leadership, any legislation to deal with the unsustainable health care costs that small businesses were suffering from.

And then, the gentlemen from Illinois, let me just remind him that last week we passed a bill, H.R. 3854, which provides \$44 billion in financing and investment for small businesses. It is quite ironic that he comes to the floor to speak on small businesses and how we are impacting small businesses, but let me remind that, in the last 10 years, the other side, all they cared about was providing tax breaks for the wealthiest people in this country, not for small businesses. And, today, we are passing four bills under suspension. In fact, more bills than he passed in the years that he was the chairman of the Small Business Committee.

I welcome the debate on health care, and for that we will have time tomorrow.

I reserve the balance of my time.

Mr. SCHOCK. Mr. Speaker, I yield to the gentleman from Illinois (Mr. MANZULLO) for such time as he may consume.

Mr. MANZULLO. Mr. Speaker, there is no irony here. When the Republicans controlled this body, on two different occasions we passed association health plans only to have them fail in the Senate because there weren't 60 votes.

And I believe on three different occasions when the Republicans controlled the House of Representatives, we passed meaningful medical liability reform. That wasn't even taken up in the Senate. It wasn't taken up in the Senate, even though the Republicans controlled the Senate because you needed 60 votes to get it through.

And we had to fight tooth and nail to eliminate the horrible death tax that destroyed small businesses. In fact, some of the statistics show that three out of four small businesses could not go down beyond three generations be-

cause of the confiscatory death tax. And farmers were losing their farms. I know. I practiced law in the country for 22 years, and I was there when one of the family farms had to be sold to pay for death tax.

We got those changes through. It was difficult, but we got those changes through.

And of course we know what is going to happen now. Neither the White House nor the Democratic leadership is interested in making sure that the death tax stays repealed in this country.

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These are all job killers for small business people.

It doesn't make sense for us to continue to pass bill after bill after bill to laud the efforts of the small business people of this country, to say that without the small businesses—the ones who produce more than 57 percent of all the employees in this country—why is it that they will be the beneficiaries of the lack of capital that is sucked up on \$454 billion worth of new taxes—yes, on those, the third wealthiest, if you want to call it that, that make more than \$250,000 a year?

But instead of paying money in taxes, they would be putting that money back into keeping their businesses going and helping their employees keep their jobs.

I have visited hundreds, hundreds of factories across the district that I represent, several parts of Illinois, talking to the people who own these factories, trying to find out what is it that they need so they can continue to be more productive. And what I hear from them is the fact that they want to be left alone by Washington. They look at what this cap-and-trade will do to them—and this is a valid debate, we're talking about helping small business people—but they look at what cap-and-trade will do to the factories, to the productivity, to push more jobs offshore.

In fact, we got a call from a national company that has employees all over the country that has a call center, a series of call centers. To keep the jobs in this country, they decided to close the physical facilities and to allow the people to work from home part-time to make those phone calls, to keep the call centers here in America as opposed to being exported overseas. The people from one of these call centers says, If this health bill passes mandating health insurance for part-time employees, it's easy for them, they will close their facilities, and 50,000 more jobs will be exported overseas.

This doesn't help the small businesses of this country. What we need is to start retracting these regulations. What we need to do is to start reducing the taxes. What we need to do is to

make it easier for people to have the capital.

Ms. VELÁZQUEZ. I continue to reserve, Mr. Speaker.

Mr. SCHOCK. May I inquire as to how much time is remaining.

The SPEAKER pro tempore (Mr. HOLDEN). The gentleman from Illinois has 4½ minutes remaining, and the gentlewoman from New York has 15½ minutes remaining.

Mr. SCHOCK. Mr. Speaker, I yield 4 minutes to my good friend from California (Mr. GARY G. MILLER).

Mr. GARY G. MILLER of California. Thank you for yielding.

We have been led to believe that the AMA, the doctors, now support this health care bill that is before us today, and the board of directors was somehow coerced to come out publicly and say they do. But the AMA House of Delegates Conference is convening today in Houston, Texas. It's made up of elected representatives from across the country. These representative doctors represent members of the AMA within their region. They meet to vote on policy issues affecting their doctors. They believe this was an unauthorized vote before the delegates arrived, that the board of directors should not have taken this vote.

Today, the AMA doctors are circulating a petition requesting a vote of "no confidence" against the board of directors of the AMA. I repeat again, the doctors and delegates of the AMA believe this vote of their board was unauthorized, it should not have taken place prior to their convening, and there is a petition being circulated today by doctors who are extremely angry that their board would have taken this position.

There are thousands of delegates meeting today in Houston who never had an opportunity to even voice an opinion or a concern or even have the light of day shine on this issue before they convened, before their board took this decision.

I believe that AARP should be absolutely ashamed of coming out and voting for a bill that is against the interest of their people. I have over 70,000 Medicare-eligible seniors in my district; \$500,000-plus dollars of cuts to Medicare. Now, many individuals in my district love the concept of Medicare Advantage. They say it's a great program, it covers things that they need covered, and there is no other opportunity for them to get this type of coverage. \$170 billion in cuts to Medicare Advantage; that's not waste, fraud and abuse; that's cuts to Medicare Advantage—\$23.9 billion in cuts to skilled nursing facilities, \$143.6 billion in cuts to hospitals, skilled nursing rehabilitation facilities, psychiatric hospitals and hospice cares. Again, \$143.6 billion in cuts to the very hospitals that Medicare recipients need to go to.

They need to look at this bill and say, Is this good for the people of this

country? We were told that if we passed this huge stimulus bill, unemployment would not go above 8 percent. We are at 10.2 percent today. In reality, it's about 17.5 percent when you figure the individuals who are discouraged and have given up trying to get a job. The underemployed people who have part-time jobs that would love to have a full-time job, they are not being considered. They need to be taken into consideration. This bill destroys jobs in our Nation.

These are letters from business people within my district that I've received in this last week that say it is going to kill jobs in our communities. The Orange County Department of Education, I received a letter from them today saying many jobs in education will be eliminated. "I firmly believe that if Congress passes the proposed health care legislation that many jobs in education will be eliminated. Passing this legislation in this form will have a tremendous impact on students, their education, and the workforce in Orange County." Even one franchise dealer with Pizza Hut says it will cost him \$3.5 million each year, on an annual basis, \$3.5 million.

You need to say, what are we doing in this country when doctors who are delegates representing other doctors are livid at this bill saying we are being accused of supporting something we do not support.

Let's see how this vote goes. Let's see if they will even allow this vote to come to fruition tomorrow as it should. But think of the people we're supposed to be helping that we're going to hurt.

Ms. VELÁZQUEZ. Mr. Speaker, I continue to reserve.

The SPEAKER pro tempore. The gentleman from Illinois has 30 seconds remaining.

Mr. SCHOCK. Mr. Speaker, I appreciate the cooperation of our members on this committee on this important piece of legislation. With unemployment at an all-time high, it is now more than ever important for us to invest in our SBDCs, to support our small businesses, to expand their access to credit and capital, thus allowing them to keep their doors open and invest and expand their businesses, employing more Americans.

Now more than ever it is important to pass H.R. 1845, and I urge passage and a "yes" vote by all Members.

Mr. Speaker, I yield back the balance of my time.

Ms. VELÁZQUEZ. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York (Ms. VELÁZQUEZ) that the House suspend the rules and pass the bill, H.R. 1845, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the ayes have it.

Ms. VELÁZQUEZ. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

The point of no quorum is considered withdrawn.

#### PROVIDING FOR CONCURRENCE WITH AMENDMENT IN SENATE AMENDMENT TO H.R. 1299, UNITED STATES CAPITOL POLICE ADMINISTRATIVE TECHNICAL CORRECTIONS ACT OF 2009

Mrs. DAVIS of California. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 896) providing for the concurrence by the House in the Senate amendment to H.R. 1299, with an amendment.

The Clerk read the title of the resolution.

The text of the resolution is as follows:

#### H. RES. 896

*Resolved*, That upon the adoption of this resolution the bill (H.R. 1299) entitled "An Act to make technical corrections to the laws affecting certain administrative authorities of the United States Capitol Police, and for other purposes," with the Senate amendment thereto, shall be considered to have been taken from the Speaker's table to the end that the Senate amendment thereto be, and the same is hereby, agreed to with the following amendment:

In lieu of the matter proposed to be inserted by the amendment of the Senate, insert the following:

#### SECTION 1. SHORT TITLE.

This Act may be cited as the "United States Capitol Police Administrative Technical Corrections Act of 2009".

#### SEC. 2. ADMINISTRATIVE AUTHORITIES OF THE CHIEF OF THE CAPITOL POLICE.

(a) CLARIFICATION OF CERTAIN HIRING AUTHORITIES.—

(1) CHIEF ADMINISTRATIVE OFFICER.—Section 108(a) of the Legislative Branch Appropriations Act, 2001 (2 U.S.C. 1903(a)) is amended to read as follows:

"(a) CHIEF ADMINISTRATIVE OFFICER.—

"(1) ESTABLISHMENT.—There shall be within the United States Capitol Police an Office of Administration, to be headed by the Chief Administrative Officer, who shall report to and serve at the pleasure of the Chief of the Capitol Police.

"(2) APPOINTMENT.—The Chief Administrative Officer shall be appointed by the Chief of the United States Capitol Police, after consultation with the Capitol Police Board, without regard to political affiliation and solely on the basis of fitness to perform the duties of the position.

"(3) COMPENSATION.—The annual rate of pay for the Chief Administrative Officer shall be the amount equal to \$1,000 less than the annual rate of pay in effect for the Chief of the Capitol Police."

(2) ADMINISTRATIVE PROVISIONS.—Section 108 of the Legislative Branch Appropriations Act, 2001 (2 U.S.C. 1903) is amended by striking subsection (c).

(3) CERTIFYING OFFICERS.—Section 107 of the Legislative Branch Appropriations Act, 2001 (2 U.S.C. 1904) is amended—

(A) in subsection (a), by striking "the Capitol Police Board" and inserting "the Chief of the Capitol Police"; and

(B) in subsection (b)(1), by striking "the Capitol Police Board" and inserting "the Chief of the Capitol Police".

(4) PERSONNEL ACTIONS OF THE CHIEF OF THE CAPITOL POLICE.—

(A) IN GENERAL.—Section 1018(e) of the Legislative Branch Appropriations Act, 2003 (2 U.S.C. 1907(e)) is amended by striking paragraph (1) and inserting the following:

"(1) AUTHORITY.—

"(A) IN GENERAL.—The Chief of the Capitol Police, in carrying out the duties of office, is authorized to appoint, hire, suspend with or without pay, discipline, discharge, and set the terms, conditions, and privileges of employment of employees of the Capitol Police, subject to and in accordance with applicable laws and regulations.

"(B) SPECIAL RULE FOR TERMINATIONS.—The Chief may terminate an officer, member, or employee only after the Chief has provided notice of the termination to the Capitol Police Board (in such manner as the Board may from time to time require) and the Board has approved the termination, except that if the Board has not disapproved the termination prior to the expiration of the 30-day period which begins on the date the Board receives the notice, the Board shall be deemed to have approved the termination.

"(C) NOTICE OR APPROVAL.—The Chief of the Capitol Police shall provide notice or receive approval, as required by the Committee on Rules and Administration of the Senate and the Committee on House Administration of the House of Representatives, as each Committee determines appropriate for—

"(i) the exercise of any authority under subparagraph (A); or

"(ii) the establishment of any new position for officers, members, or employees of the Capitol Police, for reclassification of existing positions, for reorganization plans, or for hiring, termination, or promotion for officers, members, or employees of the Capitol Police."

(B) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) SUSPENSION AUTHORITY.—Section 1823 of the Revised Statutes of the United States (2 U.S.C. 1928) is repealed.

(2) PAY OF MEMBERS UNDER SUSPENSION.—The proviso in the Act of Mar. 3, 1875 (ch. 129; 18 Stat. 345), popularly known as the "Legislature, Executive, and Judicial Appropriation Act, fiscal year 1876", which is codified at section 1929 of title 2, United States Code (2000 Editions, Supp. V), is repealed.

(5) CONFORMING APPLICATION OF CONGRESSIONAL ACCOUNTABILITY ACT OF 1995.—

(A) IN GENERAL.—Section 101(9)(D) of the Congressional Accountability Act of 1995 (2 U.S.C. 1301(9)(D)) is amended by striking "the Capitol Police Board," and inserting "the United States Capitol Police."

(B) NO EFFECT ON CURRENT PROCEEDINGS.—Nothing in the amendment made by subparagraph (A) may be construed to affect any procedure initiated under title IV of the Congressional Accountability Act of 1995 prior to the date of the enactment of this Act.

(6) NO EFFECT ON CURRENT PERSONNEL.—Nothing in the amendments made by this subsection may be construed to affect the status of any individual serving as an officer or employee of the United States Capitol Police as of the date of the enactment of this Act.



(b) DEPOSIT OF REIMBURSEMENTS FOR LAW ENFORCEMENT ASSISTANCE.—

(1) IN GENERAL.—Section 2802 of the Supplemental Appropriations Act, 2001 (2 U.S.C. 1905) is amended—

(A) in subsection (a)(1), by striking “Capitol Police Board” each place it appears and inserting “United States Capitol Police”; and

(B) in subsection (a)(2), by striking “Capitol Police Board” and inserting “Chief of the United States Capitol Police”.

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall take effect as if included in the enactment of the Supplemental Appropriations Act, 2001.

(c) PRIOR NOTICE TO AUTHORIZING COMMITTEES OF DEPLOYMENT OUTSIDE JURISDICTION.—Section 1007(a)(1) of the Legislative Branch Appropriations Act, 2005 (2 U.S.C. 1978(a)(1)) is amended by striking “prior notification to” and inserting the following: “prior notification to the Committee on House Administration of the House of Representatives, the Committee on Rules and Administration of the Senate, and”.

(d) ADVANCE PAYMENTS FOR SUBSCRIPTION SERVICES.—

(1) IN GENERAL.—Section 1002 of the Legislative Branch Appropriations Act, 2008 (Public Law 110-161; 2 U.S.C. 1981) is amended by inserting “the Committee on House Administration of the House of Representatives, and the Committee on Rules and Administration of the Senate” after “the Senate”.

(2) EFFECTIVE DATE AND APPLICATION.—The amendment made by this subsection shall take effect 30 days after the date of enactment of this Act and apply to payments made on or after that effective date.

### SEC. 3. GENERAL COUNSEL TO THE CHIEF OF POLICE AND THE UNITED STATES CAPITOL POLICE.

(a) APPOINTMENT AND SERVICE.—

(1) IN GENERAL.—There shall be within the United States Capitol Police the General Counsel to the Chief of Police and the United States Capitol Police (in this subsection referred to as the “General Counsel”), who shall report to and serve at the pleasure of the Chief of the United States Capitol Police.

(2) APPOINTMENT.—The General Counsel shall be appointed by the Chief of the Capitol Police in accordance with section 1018(e)(1) of the Legislative Branch Appropriations Act, 2003 (2 U.S.C. 1907(e)(1)) (as amended by section 2(a)(4)), after consultation with the Capitol Police Board, without regard to political affiliation and solely on the basis of fitness to perform the duties of the position.

(3) COMPENSATION.—

(A) IN GENERAL.—Subject to subparagraph (B), the annual rate of pay for the General Counsel shall be fixed by the Chief of the Capitol Police.

(B) LIMITATION.—The annual rate of pay for the General Counsel may not exceed an annual rate equal to \$1,000 less than the annual rate of pay in effect for the Chief of the Capitol Police.

(4) TECHNICAL AND CONFORMING AMENDMENT.—House Resolution 661, Ninety-fifth Congress, agreed to July 29, 1977, as enacted into permanent law by section 111 of the Legislative Branch Appropriation Act, 1979 (2 U.S.C. 1901 note) is repealed.

(5) NO EFFECT ON CURRENT GENERAL COUNSEL.—Nothing in this subsection or the amendments made by this subsection may be construed to affect the status of the individual serving as the General Counsel to the Chief of Police and the United States Capitol Police as of the date of the enactment of this Act.

(b) LEGAL REPRESENTATION AUTHORITY.—

(1) IN GENERAL.—Section 1002(a)(2)(A) of the Legislative Branch Appropriations Act, 2004 (2 U.S.C. 1908(a)(2)(A)) is amended by striking “the General Counsel for the United States Capitol Police Board and the Chief of the Capitol Police” and inserting “the General Counsel to the Chief of Police and the United States Capitol Police”.

(2) NO EFFECT ON CURRENT PROCEEDINGS.—Nothing in the amendment made by paragraph (1) may be construed to affect the authority of any individual to enter an appearance in any proceeding before any court of the United States or of any State or political subdivision thereof which is initiated prior to the date of the enactment of this Act.

### SEC. 4. EMPLOYMENT COUNSEL TO THE CHIEF OF POLICE AND THE UNITED STATES CAPITOL POLICE.

(a) LEGAL REPRESENTATION AUTHORITY.—

(1) IN GENERAL.—Section 1002(a)(2)(B) of the Legislative Branch Appropriations Act, 2004 (2 U.S.C. 1908(a)(2)(B)) is amended by striking “the Employment Counsel for the United States Capitol Police Board and the United States Capitol Police” and inserting “the Employment Counsel to the Chief of Police and the United States Capitol Police”.

(2) NO EFFECT ON CURRENT PROCEEDINGS.—Nothing in the amendment made by paragraph (1) may be construed to affect the authority of any individual to enter an appearance in any proceeding before any court of the United States or of any State or political subdivision thereof which is initiated prior to the date of the enactment of this Act.

(b) NO EFFECT ON CURRENT EMPLOYMENT COUNSEL.—Nothing in this section or the amendments made by this section may be construed to affect the status of the individual serving as the Employment Counsel to the Chief of Police and the United States Capitol Police as of the date of the enactment of this Act.

### SEC. 5. CLARIFICATION OF AUTHORITIES REGARDING CERTAIN PERSONNEL BENEFITS.

(a) NO LUMP-SUM PAYMENT PERMITTED FOR UNUSED COMPENSATORY TIME.—

(1) IN GENERAL.—No officer or employee of the United States Capitol Police whose service with the United States Capitol Police is terminated may receive any lump-sum payment with respect to accrued compensatory time off, except to the extent permitted under section 203(c)(4) of the Congressional Accountability Act of 1995 (2 U.S.C. 1313(c)(4)).

(2) REPEAL OF RELATED OBSOLETE PROVISIONS.—

(A) OVERTIME PAY DISBURSED BY HOUSE.—Section 3 of House Resolution 449, Ninety-second Congress, agreed to June 2, 1971, as enacted into permanent law by chapter IV of the Supplemental Appropriations Act, 1972 (85 Stat. 636) (2 U.S.C. 1924), together with any other provision of law which relates to compensatory time for the Capitol Police which is codified at section 1924 of title 2, United States Code (2000 Editions, Supp. V), is repealed.

(B) OVERTIME PAY DISBURSED BY SENATE.—The last full paragraph under the heading “Administrative Provisions” in the appropriation for the Senate in the Legislative Branch Appropriations Act, 1972 (85 Stat. 130) (2 U.S.C. 1925) is repealed.

(b) OVERTIME COMPENSATION FOR OFFICERS AND EMPLOYEES EXEMPT FROM FAIR LABOR STANDARDS ACT OF 1938.—

(1) CRITERIA UNDER WHICH COMPENSATION PERMITTED.—The Chief of the Capitol Police may provide for the compensation of over-

time work of exempt individuals which is performed on or after the date of the enactment of this Act, in the form of additional pay or compensatory time off, only if—

(A) the overtime work is carried out in connection with special circumstances, as determined by the Chief;

(B) the Chief has established a monetary value for the overtime work performed by such individual; and

(C) the sum of the total amount of the compensation paid to the individual for the overtime work (as determined on the basis of the monetary value established under subparagraph (B)) and the total regular compensation paid to the individual with respect to the pay period involved may not exceed an amount equal to the cap on the aggregate amount of annual compensation that may be paid to the individual under applicable law during the year in which the pay period occurs, as allocated on a per pay period basis consistent with premium pay regulations of the Capitol Police Board.

(2) EXEMPT INDIVIDUALS DEFINED.—In this subsection, an “exempt individual” is an officer or employee of the United States Capitol Police—

(A) who is classified under regulations issued pursuant to section 203 of the Congressional Accountability Act of 1995 (2 U.S.C. 1313) as exempt from the application of the rights and protections established by subsections (a)(1) and (d) of section 6, section 7, and section 12(c) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206 (a)(1) and (d), 207, 212(c)); or

(B) whose annual rate of pay is not established specifically under any law.

(3) CONFORMING AMENDMENT.—

(A) IN GENERAL.—Section 1009 of the Legislative Branch Appropriations Act, 2003 (Public Law 108-7; 117 Stat. 359) is repealed.

(B) EFFECTIVE DATE.—The amendment made by subparagraph (A) shall take effect as if included in the enactment of the Legislative Branch Appropriations Act, 2003, except that the amendment shall not apply with respect to any overtime work performed prior to the date of the enactment of this Act.

### SEC. 6. OTHER MISCELLANEOUS TECHNICAL CORRECTIONS.

(a) REPEAL OF OBSOLETE PROCEDURES FOR INITIAL APPOINTMENT OF CHIEF ADMINISTRATIVE OFFICER.—Section 108 of the Legislative Branch Appropriations Act, 2001 (2 U.S.C. 1903) is amended by striking subsections (d) through (g).

(b) REPEAL OF REQUIREMENT THAT OFFICERS PURCHASE OWN UNIFORMS.—Section 1825 of the Revised Statutes of the United States (2 U.S.C. 1943) is repealed.

(c) REPEAL OF REFERENCES TO OFFICERS AND PRIVATES IN AUTHORITIES RELATING TO HOUSE AND SENATE OFFICE BUILDINGS.—

(1) HOUSE OFFICE BUILDINGS.—The item relating to “House of Representatives Office Building” in the Act entitled “An Act making appropriations for sundry civil expenses of the Government for the fiscal year ending June thirtieth, nineteen hundred and eight, and for other purposes”, approved March 4, 1907 (34 Stat. 1365; 2 U.S.C. 2001), is amended by striking “other than officers and privates of the Capitol police” each place it appears and inserting “other than the United States Capitol Police”.

(2) SENATE OFFICE BUILDINGS.—The item relating to “Senate Office Building” in the Legislative Branch Appropriation Act, 1943 (56 Stat. 343; 2 U.S.C. 2023) is amended by striking “other than for officers and privates of the Capitol Police” each place it appears



and inserting “other than for the United States Capitol Police”.

(d) **CLARIFICATION OF APPLICABILITY OF U.S. CAPITOL POLICE AND LIBRARY OF CONGRESS POLICE MERGER IMPLEMENTATION ACT OF 2007.**—

(1) **REPEAL OF DUPLICATE PROVISIONS.**—Effective as if included in the enactment of the Legislative Branch Appropriations Act, 2008 (Public Law 110-161), section 1004 of such Act is repealed, and any provision of law amended or repealed by such section is restored or revived to read as if such section had not been enacted into law.

(2) **NO EFFECT ON OTHER ACT.**—Nothing in paragraph (1) may be construed to prevent the enactment or implementation of any provision of the U.S. Capitol Police and Library of Congress Police Merger Implementation Act of 2007 (Public Law 110-178), including any provision of such Act that amends or repeals a provision of law which is restored or revived pursuant to paragraph (1).

(e) **AUTHORITY OF CHIEF OF POLICE.**—

(1) **REPEAL OF CERTAIN PROVISIONS CODIFIED IN TITLE 2, UNITED STATES CODE.**—The provisions appearing in the first paragraph under the heading “Capitol Police” in the Act of April 28, 1902 (ch. 594; 32 Stat. 124), and the provisions appearing in the first paragraph under the heading “Capitol Police” in title I of the Legislative and Judiciary Appropriation Act, 1944 (ch. 173; 57 Stat. 230), insofar as all of those provisions are related to the sentence “The captain and lieutenants shall be selected jointly by the Sergeant at Arms of the Senate and the Sergeant at Arms of the House of Representatives; and one-half of the privates shall be selected by the Sergeant at Arms of the Senate and one-half by the Sergeant at Arms of the House of Representatives.”, which appears in 2 U.S.C. 1901 (2000 Edition, Supp. V), are repealed.

(2) **RESTORATION OF REPEALED PROVISION.**—Section 1018(h)(1) of the Legislative Branch Appropriations Act, 2003 (Public Law 108-7, div. H, title I, 117 Stat. 368) is repealed, and the sentence “The Capitol Police shall be headed by a Chief who shall be appointed by the Capitol Police Board and shall serve at the pleasure of the Board.”, which was repealed by such section, is restored to appear at the end of section 1821 of the Revised Statutes of the United States (2 U.S.C. 1901).

(3) **CONFORMING AMENDMENT.**—The first sentence of section 1821 of the Revised Statutes of the United States (2 U.S.C. 1901) is amended by striking “, the members of which shall be appointed by the Sergeants-at-Arms of the two Houses and the Architect of the Capitol Extension”.

(4) **EFFECTIVE DATE.**—The amendments made by this subsection shall take effect as if included in the enactment of the Legislative Branch Appropriations Act, 2003.

#### **SEC. 7. TREATMENT OF CAPITOL POLICE EMPLOYEES AS CONGRESSIONAL EMPLOYEES.**

(a) **DEFINITION OF CONGRESSIONAL EMPLOYEE.**—Section 2107(4) of title 5, United States Code, is amended by inserting “or employee” after “member”.

(b) **DUAL PAY AND DUAL EMPLOYMENT.**—

(1) **DEFINITION OF AGENCY IN THE LEGISLATIVE BRANCH.**—Section 5531(4) of title 5, United States Code, is amended by striking “and the Congressional Budget Office” and inserting “the Congressional Budget Office, and the United States Capitol Police”.

(2) **DUAL PAY.**—Section 5533 of title 5, United States Code, is amended—

(A) in subsection (c)—

(i) in paragraph (1), by striking “or the Chief Administrative Officer of the House of

Representatives” and inserting “, the Chief Administrative Officer of the House of Representatives, or the Chief of the Capitol Police”; and

(ii) in paragraph (2), by inserting “or the Chief of the Capitol Police” after “House of Representatives”; and

(B) in subsection (d)(5)(A), by striking “or the Chief Administrative Officer of the House of Representatives” and inserting “, the Chief Administrative Officer of the House of Representatives, or the Chief of the Capitol Police”.

(c) **FEES FOR JURY AND WITNESS SERVICE.**—

(1) **CREDITING AMOUNTS RECEIVED.**—Section 5515 of title 5, United States Code, is amended by striking “or the Chief Administrative Officer of the House of Representatives” and inserting “, the Chief Administrative Officer of the House of Representatives, or the Chief of the Capitol Police”.

(2) **FEES FOR SERVICE.**—Section 5537(a) of title 5, United States Code, is amended by striking “or the Chief Administrative Officer of the House of Representatives” and inserting “, the Chief Administrative Officer of the House of Representatives, or the Chief of the Capitol Police”.

(d) **EFFECTIVE DATE.**—The amendments made by this section shall take effect as though enacted as part of section 1018 of the Legislative Branch Appropriations Act, 2003 (2 U.S.C. 1907).

#### **SEC. 8. LAW ENFORCEMENT AUTHORITY OF SERGEANT-AT-ARMS AND DOORKEEPER OF THE SENATE.**

(a) **IN GENERAL.**—The Sergeant-at-Arms and Doorkeeper of the Senate shall have the same law enforcement authority, including the authority to carry firearms, as a member of the Capitol Police. The law enforcement authority under the preceding sentence shall be subject to the requirement that the Sergeant-at-Arms and Doorkeeper of the Senate have the qualifications specified in subsection (b).

(b) **QUALIFICATIONS.**—The qualifications referred to in subsection (a) are the following:

(1) A minimum of 5 years of experience as a law enforcement officer before beginning service as the Sergeant-at-Arms and Doorkeeper of the Senate.

(2) Current certification in the use of firearms by the appropriate Federal law enforcement entity or an equivalent non-Federal entity.

(3) Any other firearms qualification required for members of the Capitol Police.

(c) **REGULATIONS.**—The Committee on Rules and Administration of the Senate shall have authority to prescribe regulations to carry out this section.

#### **SEC. 9. TRAVEL PROMOTION ACT OF 2009.**

(a) **SHORT TITLE.**—This section may be cited as the “Travel Promotion Act of 2009”.

(b) **THE CORPORATION FOR TRAVEL PROMOTION.**—

(1) **ESTABLISHMENT.**—The Corporation for Travel Promotion is established as a nonprofit corporation. The Corporation shall not be an agency or establishment of the United States Government. The Corporation shall be subject to the provisions of the District of Columbia Nonprofit Corporation Act (D.C. Code, section 29-1001 et seq.), to the extent that such provisions are consistent with this subsection, and shall have the powers conferred upon a nonprofit corporation by that Act to carry out its purposes and activities.

(2) **BOARD OF DIRECTORS.**—

(A) **IN GENERAL.**—The Corporation shall have a board of directors of 11 members with knowledge of international travel promotion and marketing, broadly representing various

regions of the United States, who are United States citizens. Members of the board shall be appointed by the Secretary of Commerce (after consultation with the Secretary of Homeland Security and the Secretary of State), as follows:

(i) 1 shall have appropriate expertise and experience in the hotel accommodations sector;

(ii) 1 shall have appropriate expertise and experience in the restaurant sector;

(iii) 1 shall have appropriate expertise and experience in the small business or retail sector or in associations representing that sector;

(iv) 1 shall have appropriate expertise and experience in the travel distribution services sector;

(v) 1 shall have appropriate expertise and experience in the attractions or recreations sector;

(vi) 1 shall have appropriate expertise and experience as officials of a city convention and visitors' bureau;

(vii) 2 shall have appropriate expertise and experience as officials of a State tourism office;

(viii) 1 shall have appropriate expertise and experience in the passenger air sector;

(ix) 1 shall have appropriate expertise and experience in immigration law and policy, including visa requirements and United States entry procedures; and

(x) 1 shall have appropriate expertise in the intercity passenger railroad business.

(B) **INCORPORATION.**—The members of the initial board of directors shall serve as incorporators and shall take whatever actions are necessary to establish the Corporation under the District of Columbia Nonprofit Corporation Act (D.C. Code, section 29-301.01 et seq.).

(C) **TERM OF OFFICE.**—The term of office of each member of the board appointed by the Secretary shall be 3 years, except that, of the members first appointed—

(i) 3 shall be appointed for terms of 1 year;

(ii) 4 shall be appointed for terms of 2 years; and

(iii) 4 shall be appointed for terms of 3 years.

(D) **REMOVAL FOR CAUSE.**—The Secretary of Commerce may remove any member of the board for good cause.

(E) **VACANCIES.**—Any vacancy in the board shall not affect its power, but shall be filled in the manner required by this subsection. Any member whose term has expired may serve until the member's successor has taken office, or until the end of the calendar year in which the member's term has expired, whichever is earlier. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which that member's predecessor was appointed shall be appointed for the remainder of the predecessor's term. No member of the board shall be eligible to serve more than 2 consecutive full 3-year terms.

(F) **ELECTION OF CHAIRMAN AND VICE CHAIRMAN.**—Members of the board shall annually elect one of the members to be Chairman and elect 1 or 2 of the members as Vice Chairman or Vice Chairmen.

(G) **STATUS AS FEDERAL EMPLOYEES.**—Notwithstanding any provision of law to the contrary, no member of the board may be considered to be a Federal employee of the United States by virtue of his or her service as a member of the board.

(H) **COMPENSATION; EXPENSES.**—No member shall receive any compensation from the Federal government for serving on the Board. Each member of the Board shall be

paid actual travel expenses and per diem in lieu of subsistence expenses when away from his or her usual place of residence, in accordance with section 5703 of title 5, United States Code.

**(3) OFFICERS AND EMPLOYEES.—**

(A) **IN GENERAL.**—The Corporation shall have an executive director and such other officers as may be named and appointed by the board for terms and at rates of compensation fixed by the board. No individual other than a citizen of the United States may be an officer of the Corporation. The Corporation may hire and fix the compensation of such employees as may be necessary to carry out its purposes. No officer or employee of the Corporation may receive any salary or other compensation (except for compensation for services on boards of directors of other organizations that do not receive funds from the Corporation, on committees of such boards, and in similar activities for such organizations) from any sources other than the Corporation for services rendered during the period of his or her employment by the Corporation. Service by any officer on boards of directors of other organizations, on committees of such boards, and in similar activities for such organizations shall be subject to annual advance approval by the board and subject to the provisions of the Corporation's Statement of Ethical Conduct. All officers and employees shall serve at the pleasure of the board.

(B) **NONPOLITICAL NATURE OF APPOINTMENT.**—No political test or qualification shall be used in selecting, appointing, promoting, or taking other personnel actions with respect to officers, agents, or employees of the Corporation.

**(4) NONPROFIT AND NONPOLITICAL NATURE OF CORPORATION.—**

(A) **STOCK.**—The Corporation shall have no power to issue any shares of stock, or to declare or pay any dividends.

(B) **PROFIT.**—No part of the income or assets of the Corporation shall inure to the benefit of any director, officer, employee, or any other individual except as salary or reasonable compensation for services.

(C) **POLITICS.**—The Corporation may not contribute to or otherwise support any political party or candidate for elective public office.

(D) **SENSE OF CONGRESS REGARDING LOBBYING ACTIVITIES.**—It is the sense of Congress that the Corporation should not engage in lobbying activities (as defined in section 3(7) of the Lobbying Disclosure Act of 1995 (5 U.S.C. 1602(7))).

**(5) DUTIES AND POWERS.—**

(A) **IN GENERAL.**—The Corporation shall develop and execute a plan—

(i) to provide useful information to foreign tourists, business people, students, scholars, scientists, and others interested in traveling to the United States, including the distribution of material provided by the Federal government concerning entry requirements, required documentation, fees, processes, and information concerning declared public health emergencies, to prospective travelers, travel agents, tour operators, meeting planners, foreign governments, travel media and other international stakeholders;

(ii) to identify, counter, and correct misperceptions regarding United States entry policies around the world;

(iii) to maximize the economic and diplomatic benefits of travel to the United States by promoting the United States of America to world travelers through the use of, but not limited to, all forms of advertising, outreach to trade shows, and other appropriate promotional activities;

(iv) to ensure that international travel benefits all States and the District of Columbia and to identify opportunities and strategies to promote tourism to rural and urban areas equally, including areas not traditionally visited by international travelers; and

(v) to give priority to the Corporation's efforts with respect to countries and populations most likely to travel to the United States.

(B) **SPECIFIC POWERS.**—In order to carry out the purposes of this subsection, the Corporation may—

(i) obtain grants from and make contracts with individuals and private companies, State, and Federal agencies, organizations, and institutions;

(ii) hire or accept the voluntary services of consultants, experts, advisory boards, and panels to aid the Corporation in carrying out its purposes; and

(iii) take such other actions as may be necessary to accomplish the purposes set forth in this subsection.

(C) **PUBLIC OUTREACH AND INFORMATION.**—The Corporation shall develop and maintain a publicly accessible website.

(6) **OPEN MEETINGS.**—Meetings of the board of directors of the Corporation, including any committee of the board, shall be open to the public. The board may, by majority vote, close any such meeting only for the time necessary to preserve the confidentiality of commercial or financial information that is privileged or confidential, to discuss personnel matters, or to discuss legal matters affecting the Corporation, including pending or potential litigation.

(7) **MAJOR CAMPAIGNS.**—The board may not authorize the Corporation to obligate or expend more than \$25,000,000 on any advertising campaign, promotion, or related effort unless—

(A) the obligation or expenditure is approved by an affirmative vote of at least 2/3 of the members of the board present at the meeting;

(B) at least 6 members of the board are present at the meeting at which it is approved; and

(C) each member of the board has been given at least 3 days advance notice of the meeting at which the vote is to be taken and the matters to be voted upon at that meeting.

**(8) FISCAL ACCOUNTABILITY.—**

(A) **FISCAL YEAR.**—The Corporation shall establish as its fiscal year the 12-month period beginning on October 1.

(B) **BUDGET.**—The Corporation shall adopt a budget for each fiscal year.

(C) **ANNUAL AUDITS.**—The Corporation shall engage an independent accounting firm to conduct an annual financial audit of the Corporation's operations and shall publish the results of the audit. The Comptroller General of the United States may review any audit of a financial statement conducted under this paragraph by an independent accounting firm and may audit the Corporation's operations at the discretion of the Comptroller General. The Comptroller General and the Congress shall have full and complete access to the books and records of the Corporation.

(D) **PROGRAM AUDITS.**—Not later than 2 years after the date of enactment of this section, the Comptroller General shall conduct a review of the programmatic activities of the Corporation for Travel Promotion. This report shall be provided to appropriate congressional committees.

**(c) ACCOUNTABILITY MEASURES.—**

(1) **OBJECTIVES.**—The Board shall establish annual objectives for the Corporation for

each fiscal year subject to approval by the Secretary of Commerce (after consultation with the Secretary of Homeland Security and the Secretary of State). The Corporation shall establish a marketing plan for each fiscal year not less than 60 days before the beginning of that year and provide a copy of the plan, and any revisions thereof, to the Secretary.

(2) **BUDGET.**—The board shall transmit a copy of the Corporation's budget for the forthcoming fiscal year to the Secretary not less than 60 days before the beginning of each fiscal year, together with an explanation of any expenditure provided for by the budget in excess of \$5,000,000 for the fiscal year. The Corporation shall make a copy of the budget and the explanation available to the public and shall provide public access to the budget and explanation on the Corporation's website.

(3) **ANNUAL REPORT TO CONGRESS.**—The Corporation shall submit an annual report for the preceding fiscal year to the Secretary of Commerce for transmittal to the Congress on or before the 15th day of May of each year. The report shall include—

(A) a comprehensive and detailed report of the Corporation's operations, activities, financial condition, and accomplishments under this section;

(B) a comprehensive and detailed inventory of amounts obligated or expended by the Corporation during the preceding fiscal year;

(C) a detailed description of each in-kind contribution, its fair market value, the individual or organization responsible for contributing, its specific use, and a justification for its use within the context of the Corporation's mission;

(D) an objective and quantifiable measurement of its progress, on an objective-by-objective basis, in meeting the objectives established by the board;

(E) an explanation of the reason for any failure to achieve an objective established by the board and any revisions or alterations to the Corporation's objectives under paragraph (1);

(F) a comprehensive and detailed report of the Corporation's operations and activities to promote tourism in rural and urban areas; and

(G) such recommendations as the Corporation deems appropriate.

(4) **LIMITATION ON USE OF FUNDS.**—Amounts deposited in the Fund may not be used for any purpose inconsistent with carrying out the objectives, budget, and report described in this subsection.

**(d) MATCHING PUBLIC AND PRIVATE FUNDING.—**

(1) **ESTABLISHMENT OF TRAVEL PROMOTION FUND.**—There is hereby established in the Treasury a fund which shall be known as the Travel Promotion Fund.

**(2) FUNDING.—**

(A) **START-UP EXPENSES.**—For fiscal year 2010, the Secretary of the Treasury shall make available to the Corporation such sums as may be necessary, but not to exceed \$10,000,000, from amounts deposited in the general fund of the Treasury from fees under section 217(h)(3)(B)(i)(I) of the Immigration and Nationality Act (8 U.S.C. 1187(h)(3)(B)(i)(I)) to cover the Corporation's initial expenses and activities under this section. Transfers shall be made at least quarterly, beginning on January 1, 2010, on the basis of estimates by the Secretary, and proper adjustments shall be made in amounts subsequently transferred to the extent prior estimates were in excess or less than the amounts required to be transferred.

(B) **SUBSEQUENT YEARS.**—For each of fiscal years 2011 through 2014, from amounts deposited in the general fund of the Treasury during the preceding fiscal year from fees under section 217(h)(3)(B)(i)(I) of the Immigration and Nationality Act (8 U.S.C. 1187(h)(B)(i)(I)), the Secretary of the Treasury shall transfer not more than \$100,000,000 to the Fund, which shall be made available to the Corporation, subject to paragraph (3) of this subsection, to carry out its functions under this section. Transfers shall be made at least quarterly on the basis of estimates by the Secretary, and proper adjustments shall be made in amounts subsequently transferred to the extent prior estimates were in excess or less than the amounts required to be transferred.

(3) **MATCHING REQUIREMENT.**—

(A) **IN GENERAL.**—No amounts may be made available to the Corporation under this subsection after fiscal year 2010, except to the extent that—

(i) for fiscal year 2011, the Corporation provides matching amounts from non-Federal sources equal in the aggregate to 50 percent or more of the amount transferred to the Fund under paragraph (2); and

(ii) for any fiscal year after fiscal year 2011, the Corporation provides matching amounts from non-Federal sources equal in the aggregate to 100 percent of the amount transferred to the Fund under paragraph (2) for the fiscal year.

(B) **GOODS AND SERVICES.**—For the purpose of determining the amount received from non-Federal sources by the Corporation, other than money—

(i) the fair market value of goods and services (including advertising) contributed to the Corporation for use under this section may be included in the determination; but

(ii) the fair market value of such goods and services may not account for more than 80 percent of the matching requirement under subparagraph (A) for the Corporation in any fiscal year.

(C) **RIGHT OF REFUSAL.**—The Corporation may decline to accept any contribution in-kind that it determines to be inappropriate, not useful, or commercially worthless.

(D) **LIMITATION.**—The Corporation may not obligate or expend funds in excess of the total amount received by the Corporation for a fiscal year from Federal and non-Federal sources.

(4) **CARRYFORWARD.**—

(A) **FEDERAL FUNDS.**—Amounts transferred to the Fund under paragraph (2)(B) shall remain available until expended.

(B) **MATCHING FUNDS.**—Any amount received by the Corporation from non-Federal sources in fiscal year 2010, 2011, 2012, 2013, or 2014 that cannot be used to meet the matching requirement under paragraph (3)(A) for the fiscal year in which amount was collected may be carried forward and treated as having been received in the succeeding fiscal year for purposes of meeting the matching requirement of paragraph (3)(A) in such succeeding fiscal year.

(e) **TRAVEL PROMOTION FUND FEES.**—Section 217(h)(3)(B) of the Immigration and Nationality Act (8 U.S.C. 1187(h)(3)(B)) is amended to read as follows:

“(B) **FEES.**—

“(i) **IN GENERAL.**—No later than 6 months after the date of enactment of the Travel Promotion Act of 2009, the Secretary of Homeland Security shall establish a fee for the use of the System and begin assessment and collection of that fee. The initial fee shall be the sum of—

“(I) \$10 per travel authorization; and

“(II) an amount that will at least ensure recovery of the full costs of providing and administering the System, as determined by the Secretary.

“(ii) **DISPOSITION OF AMOUNTS COLLECTED.**—Amounts collected under clause (i)(I) shall be credited to the Travel Promotion Fund established by subsection (d) of section 11 of the Travel Promotion Act of 2009. Amounts collected under clause (i)(II) shall be transferred to the general fund of the Treasury and made available to pay the costs incurred to administer the System.

“(iii) **SUNSET OF TRAVEL PROMOTION FUND FEE.**—The Secretary may not collect the fee authorized by clause (i)(I) for fiscal years beginning after September 30, 2014.”

(f) **ASSESSMENT AUTHORITY.**—

(1) **IN GENERAL.**—Except as otherwise provided in this subsection, the Corporation may impose an annual assessment on United States members of the international travel and tourism industry (other than those described in subsection (b)(2)(A)(iii) or (H)) represented on the Board in proportion to their share of the aggregate international travel and tourism revenue of the industry. The Corporation shall be responsible for verifying, implementing, and collecting the assessment authorized by this subsection.

(2) **INITIAL ASSESSMENT LIMITED.**—The Corporation may establish the initial assessment after the date of enactment of this section at no greater, in the aggregate, than \$20,000,000.

(3) **REFERENDA.**—

(A) **IN GENERAL.**—The Corporation may not impose an annual assessment unless—

(i) the Corporation submits the proposed annual assessment to members of the industry in a referendum; and

(ii) the assessment is approved by a majority of those voting in the referendum.

(B) **PROCEDURAL REQUIREMENTS.**—In conducting a referendum under this paragraph, the Corporation shall—

(i) provide written or electronic notice not less than 60 days before the date of the referendum;

(ii) describe the proposed assessment or increase and explain the reasons for the referendum in the notice; and

(iii) determine the results of the referendum on the basis of weighted voting apportioned according to each business entity's relative share of the aggregate annual United States international travel and tourism revenue for the industry per business entity, treating all related entities as a single entity.

(4) **COLLECTION.**—

(A) **IN GENERAL.**—The Corporation shall establish a means of collecting the assessment that it finds to be efficient and effective. The Corporation may establish a late payment charge and rate of interest to be imposed on any person who fails to remit or pay to the Corporation any amount assessed by the Corporation under this section.

(B) **ENFORCEMENT.**—The Corporation may bring suit in Federal court to compel compliance with an assessment levied by the Corporation under this section.

(5) **INVESTMENT OF FUNDS.**—Pending disbursement pursuant to a program, plan, or project, the Corporation may invest funds collected through assessments, and any other funds received by the Corporation, only in obligations of the United States or any agency thereof, in general obligations of any State or any political subdivision thereof, in any interest-bearing account or certificate of deposit of a bank that is a member of the Federal Reserve System, or in obliga-

tions fully guaranteed as to principal and interest by the United States.

(g) **OFFICE OF TRAVEL PROMOTION.**—Title II of the International Travel Act of 1961 (22 U.S.C. 2121 et seq.) is amended by inserting after section 201 the following:

“**SEC. 202. OFFICE OF TRAVEL PROMOTION.**

“(a) **OFFICE ESTABLISHED.**—There is established within the Department of Commerce an office to be known as the Office of Travel Promotion.

“(b) **DIRECTOR.**—

“(1) **APPOINTMENT.**—The Office shall be headed by a Director who shall be appointed by the Secretary.

“(2) **QUALIFICATIONS.**—The Director shall be a citizen of the United States and have experience in a field directly related to the promotion of travel to and within the United States.

“(3) **DUTIES.**—The Director shall be responsible for ensuring the office is carrying out its functions effectively and shall report to the Secretary.

“(c) **FUNCTIONS.**—The Office shall—

“(1) serve as liaison to the Corporation for Travel Promotion established by subsection (b) of section 11 of the Travel Promotion Act of 2009 and support and encourage the development of programs to increase the number of international visitors to the United States for business, leisure, educational, medical, exchange, and other purposes;

“(2) work with the Corporation, the Secretary of State and the Secretary of Homeland Security—

“(A) to disseminate information more effectively to potential international visitors about documentation and procedures required for admission to the United States as a visitor;

“(B) to ensure that arriving international visitors are generally welcomed with accurate information and in an inviting manner;

“(C) to collect accurate data on the total number of international visitors that visit each State; and

“(D) enhance the entry and departure experience for international visitors through the use of advertising, signage, and customer service; and

“(3) support State, regional, and private sector initiatives to promote travel to and within the United States.

“(d) **REPORTS TO CONGRESS.**—Within a year after the date of enactment of the Travel Promotion Act of 2009, and periodically thereafter as appropriate, the Secretary shall transmit a report to the Senate Committee on Commerce, Science, and Transportation, the Senate Committee on Homeland Security and Governmental Affairs, the Senate Committee on Foreign Relations, the House of Representatives Committee on Energy and Commerce, the House of Representatives Committee on Homeland Security, and the House of Representatives Committee on Foreign Affairs describing the Office's work with the Corporation, the Secretary of State and the Secretary of Homeland Security to carry out subsection (c)(2).”

(h) **RESEARCH PROGRAM.**—Title II of the International Travel Act of 1961 (22 U.S.C. 2121 et seq.), as amended by subsection (g), is further amended by inserting after section 202 the following:

“**SEC. 203. RESEARCH PROGRAM.**

“(a) **IN GENERAL.**—The Office of Travel and Tourism Industries shall expand and continue its research and development activities in connection with the promotion of international travel to the United States, including—

“(1) expanding access to the official Mexican travel surveys data to provide the States

with traveler characteristics and visitation estimates for targeted marketing programs;

“(2) expanding the number of inbound air travelers sampled by the Commerce Department’s Survey of International Travelers to reach a 1 percent sample size and revising the design and format of questionnaires to accommodate a new survey instrument, improve response rates to at least double the number of States and cities with reliable international visitor estimates and improve market coverage;

“(3) developing estimates of international travel exports (expenditures) on a State-by-State basis to enable each State to compare its comparative position to national totals and other States;

“(4) evaluate the success of the Corporation in achieving its objectives and carrying out the purposes of the Travel Promotion Act of 2009; and

“(5) research to support the annual reports required by section 202(d) of this Act.

“(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Commerce for fiscal years 2010 through 2014 such sums as may be necessary to carry out this section.”

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from California (Mrs. DAVIS) and the gentleman from California (Mr. DANIEL E. LUNGREN) each will control 20 minutes.

The Chair recognizes the gentlewoman from California.

#### GENERAL LEAVE

Mrs. DAVIS of California. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days in which to revise and extend their remarks and to include extraneous material on the measure now under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from California?

There was no objection.

Mrs. DAVIS of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, on March 31, the House passed H.R. 1299, to make technical corrections to laws governing administration of the Capitol Police. In the weeks since, the Senate Rules Committee has worked with us to improve the bill even further. The results of our joint effort are incorporated into the motion before the House.

I especially want to thank the gentleman from California (Mr. DANIEL E. LUNGREN) and his able staff for their invaluable assistance on this important bill, and I urge an “aye” vote.

Mr. Speaker, I now want to yield to the gentlewoman from Florida (Ms. CASTOR) such time as she may consume.

Ms. CASTOR of Florida. I thank my good friend, the gentlewoman from California (Mrs. DAVIS), for yielding me time.

I rise in support of the United States Capitol Police Administrative Technical Corrections Act of 2009. As part of the act, Mr. Speaker, the House will consider Senate bill 1023, the Travel Promotion Act, which is similar to

H.R. 2935 by Representative DELAHUNT of Massachusetts, a bill of which I am pleased to be a cosponsor. I would like to thank Congressman DELAHUNT, who is on the floor here this morning, for fighting for jobs for Americans because the Travel Promotion Act is a jobs bill. It’s a vital economic development initiative to combat the economic downturn that we’ve been battling since the spring of 2008.

The Travel Promotion Act establishes a nonprofit corporation for travel promotion to promote tourism in the United States and to provide travel information to people around the world. It is very similar to an initiative in my home State of Florida, and we all know that tourism is especially important to the State of Florida.

Florida is a top travel destination from across the globe. The millions and millions of tourists who travel to warm and sunny Florida support a \$57 billion tourism industry and our economy. People come from every nation to visit our beautiful beaches, Busch Gardens, Disney World, Universal Studios, the Everglades, and more. The Florida economy thrives, just like many other States across the Nation, and families have good jobs and a clean industry because of tourism.

Having beaches and attractions often is not enough, however. Florida also communicates to the world about Florida vacations through the Visit Florida tourism advertising campaign. We have a Web site and many outreach efforts, but there is no similar initiative for the United States as a whole internationally. So the intent of the Travel Promotion Act is to create new jobs through growing tourism nationwide.

Unfortunately, there are many misconceptions that the United States is not a friendly place for international tourists. Other nations actively promote international tourism through advertising campaigns and outreach, but some say that we have allowed our image to become an unwelcome one. Nations that project a welcoming image are reaping economic benefits while we run the risk of being left behind.

Overseas travel in the United States has declined by 10 percent in the first quarter of 2009. But we are going to turn that around through this Travel Promotion Act. Our travel bill would let world travelers know that we want them to visit America’s great cities and natural wonders. We want the world to come and share our culture and experience the richness that is the United States of America. Therefore, I urge adoption of the Travel Promotion Act to get our economy moving and create jobs.

Hats off again to Congressman DELAHUNT and the other sponsors of this legislation in the Energy and Commerce Committee. This is an important bipartisan effort.

Mr. DANIEL E. LUNGREN of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today in support of this resolution, which includes the United States Capitol Police Technical Corrections Act. I am pleased to rise in support of the bill which will enable the Chief of the Capitol Police to exercise the necessary authority to improve operations of the Capitol Police. The bill is an effort to resolve conflicting provisions in existing law and eliminate unnecessary regulations.

This bill is the result of the cooperative effort between the chairman of the full committee as well as the Subcommittee on Capitol Security to facilitate the most efficient framework in which the Capitol Police may operate. I am confident this collaborative approach will continue, resulting in a safer and more effectively managed Capitol complex, and I urge the support of my colleagues.

As was mentioned, this is combined with a bill on travel. And some might say, What do these two separate bills have to do with one another? Absolutely nothing.

□ 1115

Yet what is allowed on this floor, because we adopted yesterday a rule, is martial law. What’s martial law? It means that the majority at any time may bring up any subject whatever, and we suspend all rules. “Suspending all rules” means that you can change every word in a bill and can present that on the floor, and we vote on that.

The only reason I bring this to the attention of my colleagues is that some colleagues may not be aware that, sometimes when we bring a bill to the floor which has the same name of a bill they passed in subcommittee and committee, it may be an entirely different bill. We normally have around here a rule of germaneness, but we have a suspension of the rules so we can put completely separate, non-germane bills together, and that’s what we have. It’s an interesting comment on how we do things here.

With that, I reserve the balance of my time.

Mrs. DAVIS of California. Mr. Speaker, I yield once again to the gentlewoman from Florida (Ms. CASTOR).

Ms. CASTOR of Florida. I thank my colleague from California for yielding time.

Mr. Speaker, at this time, I would like to reference the CONGRESSIONAL RECORD of October 7, 2009. On that date, I entered into a colloquy with Congresswoman LORETTA SANCHEZ of the Homeland Security Committee during the House’s earlier consideration of S. 1023 as attached to House Resolution 806. That colloquy and its commitments are still valid today as we work again to pass the Tourism Promotion Act.

I would like to enter into the RECORD the letters that were cross-referenced in that colloquy. I would also like to add for the RECORD that we intend to work with Congressman DOYLE of Pennsylvania regarding nonprofit cultural destinations as part of the bill.

HOUSE OF REPRESENTATIVES,  
COMMITTEE ON ENERGY AND COMMERCE,  
*Washington, DC, October 7, 2009.*

Hon. JOHN D. ROCKEFELLER IV,  
*Chairman, Senate Committee on Commerce,  
Science, and Transportation.*

Hon. AMY KLOBUCHAR,  
*Chairman, Subcommittee on Competitiveness,  
Innovation, and Export Promotion.*

Hon. BYRON L. DORGAN,  
*U.S. Senator.*

DEAR SENATORS ROCKEFELLER, KLOBUCHAR, AND DORGAN: As the House may consider S. 1023, the Travel Promotion Act of 2009, shortly, we write to clarify your intent with regard to several provisions in the bill.

#### CREATION OF THE CORPORATION

It is our understanding that the intent of the legislation is for the Department of Commerce to administer grants to the newly created nonprofit, "Corporation for Travel Promotion." It will be left to the judgment of the Secretary of Commerce to transfer sums necessary for the operations of the nonprofit and the administration of the grants. We understand further that the Department of Treasury will hold the separate "Travel Promotion Fund," but will have no substantive role with regard to the Corporation. By having the Department of Commerce issue grants to the Corporation, we can assure the application of Circular A-110, Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations. A-110 imposes a number of requirements on non-profit entities spending federal dollars, including the requirement that contracts target small businesses owned by women and minorities.

In addition, we appreciate that you share our commitment to diversity on the Corporation Board of Directors. We want to stress that the Secretary of Commerce should make every effort to ensure that the homeland security and small business communities are adequately represented on the Corporation's Board, and that the Board has a balance of gender, ethnicity, and economic status, as well as representatives from both urban and rural areas.

Also, we understand the importance of a functioning Corporation and the decision to allow expenditures to be made when six Board members are present. We would suggest that for expenditures over \$25 million, the Board strive to have more than four members support approval of such an expenditure.

Moreover, we would expect the Corporation's campaigns to target travelers from a diverse set of regions of the world and to advertise a wide range of destinations across the United States and its territories.

#### II. COORDINATION WITH THE FEDERAL GOVERNMENT

Although the legislation creates a requirement that the Corporation consult with the Department of Commerce, we believe that the Corporation should consult regularly with the Departments of State and Homeland Security which also have key responsibilities relating to travel and tourism. For example, it is imperative that the Corporation coordinate on any information it may

disseminate regarding entry requirements, required documentation, fees, processes, and information concerning declared public health emergencies and requirements for entering the United States. This coordination is necessary in order to avoid the risk that prospective travelers to the United States could receive conflicting or confusing information regarding entry requirements and processes.

#### III. TRAVEL PROMOTION FUND FEES

Under the Implementing Recommendations of the 9/11 Commission Act of 2007 (P.L. 100-53), the Secretary of Homeland Security already has authority to charge a fee to cover the cost of administering the Electronic System for Travel Authorization (ESTA), but also has discretion to pay for ESTA with other funds. Similarly, the legislation before us should maintain the Secretary's discretion to determine the most appropriate manner to fund ESTA administration.

The legislation does not specify how funds collected in excess of \$100 million or greater than the needs of the Corporation for Travel Promotion should be used. We believe that these funds should be transferred to the Department of Homeland Security to: 1) reinvest in ESTA to support changes necessary to collect the new fee, and 2) enhance critical border security programs such as US-VISIT and Global Entry. Under the Implementing Recommendations of the 9/11 Commission Act of 2007, full implementation of the US-VISIT air exit capability is required for increased flexibility to expand the Visa Waiver Program, which would help increase tourism to the United States.

#### IV. LIMITATIONS AND ACCOUNTABILITY

Furthermore, we believe it is essential to ensure that the Corporation's funds are invested only in low risk vehicles and that none of the funds provided to the Corporation be used to directly promote or advertise a specific corporation. Finally, we understand that under this bill, Congress has full and complete access to the books and records of the Corporation. We would suggest that the Corporation proactively send its marketing plan to Congress.

#### V. SUMMARY

While there is strong support in the House for passage of S. 1023, the Travel Promotion Act of 2009, we remain concerned about some aspects of the bill. We look forward to working with you to conduct vigorous oversight of the Travel Promotion Act once it is law and to make any changes to the legislation that may become necessary. Thank you in advance for clarifying your thoughts on the matters discussed in this letter.

Sincerely,

HENRY WAXMAN,  
*Chairman.*

JOHN D. DINGELL,  
*Chairman Emeritus.*

U.S. SENATE, COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION,

*Washington, DC, October 7, 2009.*

Hon. HENRY A. WAXMAN,  
*Chairman, House Committee on Energy and Commerce, Rayburn House Office Building, Washington, DC.*

Hon. JOHN D. DINGELL,  
*Chairman Emeritus, House Committee on Energy and Commerce, Rayburn House Office Building, Washington, DC.*

DEAR CHAIRMAN WAXMAN AND CHAIRMAN EMERITUS DINGELL: Thank you for your letter regarding S. 1023, the Travel Promotion

Act of 2009. We appreciate your significant interest in and contributions to this important piece of economic development legislation.

Many members of the Senate have praised this legislation for two main reasons. First, the legislation would stimulate the economy at a time when our country is facing record level job losses and deficits. A study by Oxford Economics showed that a coordinated international travel promotion campaign, such as the type that would be created by S. 1023, could drive as much as \$8 billion in new spending and create nearly \$1 billion in tax revenues annually. Additionally, the Congressional Budget Office found that enacting S. 1023 would have the added benefit of reducing budget deficits by \$425 million over fiscal years 2010-2019. This is the rare bill that stimulates economic growth while reducing the deficit at the same time.

Second, S. 1023 is a broadly bipartisan piece of legislation. Authored by Senators Dorgan and Ensign, 53 senators signed on as co-sponsors to the measure. The Travel Promotion Act of 2009 passed the Senate on September 9, 2009 by a vote of 79-19. While bipartisanship has been difficult to achieve on many issues, the solidarity of support across the aisle shows the Senate's strong commitment to enacting this legislation. The travel industry is crucial to every state and region, and we are excited to join together with you and the members of the House to aid in sending this important bill to President Obama's desk.

Presuming House passage of the Travel Promotion Act of 2009 on Wednesday, October 7, 2009 and the President's signature thereafter, we agree that the efficient and proper implementation of the Act is the cornerstone of a successful and equitable program. As Chairman of the Senate Committee on Commerce, Science, and Transportation, joined by the Chairman of the Subcommittee on Competitiveness, Innovation, and Export Promotion and the author of S. 1023, please find the following statements of intent regarding the Travel Promotion Act of 2009.

*Consultation with the Department of Homeland Security and the Department of State:* One of the central purposes of the Travel Promotion Act of 2009 is to assist in disseminating information to foreign travelers about documents and procedures required for admission to the United States. While the Office of Travel Promotion and the Corporation would have the mandated responsibility to serve as an outlet for this information, in no way does the Act change the primary responsibilities of the Departments of State and Homeland Security for this function. The Department of Homeland Security has authority over the entry portals to the United States, and the Department of State is responsible for the execution of the visa policy. The Act does not create an express or implied ability for the Department of Commerce to supersede either agency's responsibilities. The purpose of the Office of Travel Promotion is to educate potential foreign tourists regarding the visa and entry policies set by those agencies—not to change visa and entry policies.

It is our expectation that the consultation requirements established in Sections 3 and 7 of the Act will establish an open, ongoing and vigorous line of communication between the Departments of Commerce, Homeland Security and State. The goal is for the Commerce Department and the Office of Travel Promotion to work closely with the other agencies to clearly and accurately communicate visa and entry policies and to improve

the entry experience for international arrivals. In that vein, we expect the Departments of Homeland Security and State to work with the Department of Commerce to achieve the goals of the Act, and we would insist that the Department of Commerce, the Office of Travel Promotion, or the Corporation for Travel Promotion not go forward with any communication regarding the entry or visa process without prior consultation with the Departments of State and Homeland Security.

**Board of Directors Composition and Guidance:** The Secretary of Commerce has the responsibility of appointing the Board of Directors for the Corporation for Travel Promotion, after consultation with the Secretaries of Homeland Security and State. In addition to the mandates regarding the Board expressed in Section 2(a), (b), (c) and (d), we strongly encourage the Secretary of Commerce to select board members that are reflective of the diversity of our country. As with any governmental posting, we would expect the Board to reflect a balance of gender, racial and ethnic diversity.

Section 2(g) limits the Board's ability to obligate or expend more than \$25 million without at least 6 members of the Board present. We would strongly suggest that as part of the Board's procedures and rules of corporate governance that at least 5 members be present before the authorization, obligation or expenditure of any funds for campaigns, promotions or related efforts.

**Small Business Representation and Diversity of Contractors:** Approximately 90 percent of all employers that are part of the travel industry are small businesses. One of the primary purposes of the Act is to craft campaigns to encourage overseas travelers to come to America so these small businesses generate new revenue and create new jobs. Because small businesses play a vital role in the travel industry, we strongly encourage the Secretary of Commerce to select board members who have knowledge and expertise of small businesses. We expect the Board and the Executive Director to strive to make certain that promotional efforts benefit small businesses in every region. In the planning and execution of campaigns, the Corporation should make special efforts in the bidding and contract process to target small businesses and businesses owned by women and minorities.

**Considerations for Promotion Campaigns:** The Corporation and the Office for Travel Promotion shall plan and execute the promotion campaigns to maximize the return of investment for each advertising dollar expended. The campaigns should be comprehensive in scope and should advertise in all regions of the world to encourage overseas arrivals to the United States.

Per the mandate in Section 2(e)(1)(D), the Corporation shall develop and execute a plan to generate international tourism benefits for all states and the District of Columbia and to identify opportunities and strategies to encourage tourism to underserved rural and urban areas equally, including areas not traditionally visited by international travelers. It is our intention that U.S. territories are included in the promotional plan along with the states and District of Columbia. We expect the Corporation and the Office of Travel Promotion to vigorously implement and execute this mandate.

**Accountability and Oversight:** Section 3(c) of the Act mandates that the Secretary of Commerce transmit an annual report to Congress, which shall include a comprehensive and detailed report of the operations, activi-

ties, financial condition and accomplishments of the Corporation. To aid in the oversight of the Corporation and the Office of Travel Promotion, we strongly suggest the Corporation submit its marketing plan to the Senate Committee on Commerce, Science, and Transportation and the House Committee on Energy and Commerce.

**Corporation for Travel Promotion Funding:** The Corporation has the fiduciary duty to collect and ascertain the quality of the private sector contributions, protect the corpus of the fund from undue and unnecessary risks, and to make certain that the funds are not used in a discriminatory fashion.

**In-Kind Goods and Services:** The Act allows for up to 80 percent of the private sector contribution be fulfilled with in-kind contributions of goods and services that are appropriate to carry out the dictates of the Act. The Corporation shall be very conservative in its acceptance of these goods and services. The contributions must be directly useable for the campaigns, their value assessed at current fair market rates, and they must have true commercial value. In making that evaluation, we suggest that the good or service be able to be sold on the open market and garner the assessed fair market return. As example, but not for the purposes of limiting the discretion of the Corporation, we would consider television air-time or print advertising space to be examples of goods and services that would be appropriate for acceptance and usage.

**Protecting the Corpus of the Fund:** As part of its fiduciary duties to protect the Fund, the Board of Directors must invest the fund in conservative investment vehicles, such as United States Government Treasury Bills. While the Corporation should invest a \$200 million dollar corpus to take advantage of the fund's size to benefit American travel businesses and taxpayers, the Fund should not be exposed to undue risk.

**Prohibition on Discriminatory Fund Distribution and Campaign Focus:** As mandated in Section 2(e), the international travel advertising campaign must benefit all states and the District of Columbia. We read this mandate as strictly forbidding the Corporation from expending funds to promote one specific company. The campaign should promote travel to the United States to provide benefits to multiple regions and businesses. A campaign singling out specific travel related companies would violate Section 3(d) of the Act.

**Governmental Responsibilities for Collecting and Distributing Funds:** We expect the Departments of Commerce, Homeland Security and Treasury to work together collaboratively to execute the collection and distribution of monies to the Travel Promotion Fund.

**Department of Homeland Security and Electronic System for Travel Authorization (ESTA) Funding Discretion:** The Travel Promotion Act of 2009 mandates that the Secretary of Homeland Security establish and collect a fee from visa waiver travelers to use the ESTA for the Travel Promotion Fund and an amount to ensure the costs of providing and administering the system. This mandate does not supersede or limit any additional authority or discretion for the Department of Homeland Security to pay for ESTA administration with other funds. The need for this additional ESTA fee is at the determination of the Secretary. If the ESTA system is funded by other means, the Secretary of Homeland Security shall collect the minimum \$10 for the Travel Promotion Fund as mandated by the Travel Promotion Act of 2009.

**Usage of Fees after seeding the Travel Promotion Fund:** The Travel Promotion Fund Fee as established in Section 5 of the Act is to provide the funding level mandated by the year of collection. After the Federal contribution level for the Fund has reached its annual cap, we strongly suggest that any funds collected beyond that level may be used to complete visa waiver system improvements to the ESTA.

The Department of Commerce is the Primary Agency: The Department of Commerce is responsible for administering the Travel Promotion Fund. As part of the Secretary's duties, which include selecting the Board of Directors of the Corporation, overseeing the Office of Travel Promotion within the Department, and executing the accountability measures mandated by the Act, the Secretary also is responsible for administering the Fund. The Department of the Treasury is not responsible for administering the Travel Promotion Fund; its responsibilities are limited to holding and distributing the funds to the Corporation of Travel Promotion.

Again, we thank you for your consideration and assistance in bringing the Travel Promotion Act of 2009 before the House for a vote. The Senate Committee on Commerce, Science and Transportation will stand with you to execute aggressive and exacting oversight of the implementation and execution of S. 1023. As always, we look forward to working with you on this and other matters before our Committees.

Sincerely,

JOHN D. ROCKEFELLER IV,  
Chairman.

AMY KLOBUCHAR,  
Chairman, Subcommittee on Competitiveness, Innovation and Export Promotion.

BYRON DORGAN,  
U.S. Senator.

Mr. DANIEL E. LUNGREN of California. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Missouri (Mr. BLUNT).

Mr. BLUNT. I thank the gentleman for yielding.

Mr. Speaker, I rise in support of both the Capitol Police Administrative Technical Corrections Act, which is an important bill which is appropriately championed by Mr. BRADY, by Mr. LUNGREN, and by others, and I also hope that whatever the rules are today that they allow us to finally pass the Travel Promotion Act.

I, along with Ms. CASTOR, would refer my colleagues to the comments made on October 7, the colloquies entered into on October 7, which was when the Travel Promotion Act was last considered. My good friend Mr. DELAHUNT and I worked on an act highly similar to this in the last Congress. The House passed it in the last Congress. The House has passed it in this Congress. I look forward to the House's passing it again today.

Again, I want to particularly thank Mr. DELAHUNT for his efforts on this bill. SAM FARR, who is the cochairman, along with me, of the Travel and Tourism Caucus, has been a leader in this as well.

The SPEAKER pro tempore. The time of the gentleman has expired.



Mr. DANIEL E. LUNGREN of California. I yield the gentleman 1 additional minute.

Mr. BLUNT. There are 17 million jobs in the travel and tourism industry, and 200,000 of those jobs have been lost this year already. This bill is a step in the right direction of encouraging foreign travelers to stay longer, as I'm sure I must have said on October 7. They spend more money in their travel than do domestic travelers. Their trips are, on average, longer. Frankly, in virtually every instance, they leave the United States of America understanding us better and liking us better. This is an important diplomatic tool as well as an important economic tool.

Mr. Speaker, I look forward to seeing this bill pass the House and the Senate, and hopefully this year, Mr. DELAHUNT and I, if we're not with the President when he signs the bill, we'll at least know that the President has finally signed this bill into law.

Mrs. DAVIS of California. Mr. Speaker, I yield 1 minute to the gentleman from Massachusetts (Mr. DELAHUNT).

Mr. DELAHUNT. I thank the gentleman.

I just want to take the time to convey my thanks and my gratitude to the gentleman from Missouri. This has been an arduous trip on occasion, but I can't imagine this bill coming at a more propitious time given the news on unemployment.

As Mr. BLUNT said and as Ms. CASTOR said—and let me, too, acknowledge her tremendous leadership in terms of enhancing and promoting tourism, not just in the State of Florida but in this country. This bill will provide a stimulus to an important segment of our economy that has seen, over the course of time, a declining market share of international visitors.

The gentleman from Missouri is correct. This, too, is a diplomatic tool as far as how the United States is perceived by people from abroad and by nations whom we will need in terms of securing our objectives in terms of foreign policy.

Again, thank you, Mr. BLUNT, and thank you, Ms. CASTOR.

Mr. DANIEL E. LUNGREN of California. I yield myself such time as I may consume.

Mr. Speaker, my friend, the gentleman from Massachusetts, said that this is a propitious time for the Travel Promotion bill to be considered on the floor because of the discouraging news we received today about unemployment—10.2 percent. That is the highest unemployment rate experienced in this country in 26 years—10.2 percent.

In my home State of California, we haven't received the most up-to-date figures, but the figures as of last month were 12.2 percent—over 10 percent for the Nation, over 12 percent for my State. My district is even higher than that, I believe. A propitious time

to consider this bill since we have lost, by some estimates, as much as 200,000 jobs in the travel industry.

But is this a propitious time for us to be considering a health care bill which, by objective analysis by a number of different observers, will cause us to lose millions of jobs?

I've been home to my district. I realize that, by the Gregorian calendar, we have 12 months out of the year, but by the Pelosian calendar, we only have 11 months out of the year because we have been told to ignore August—it didn't exist—just as we are to ignore those thousands of everyday Americans who showed up yesterday, just as, presumably, the leaders in the AMA are ignoring their rank-and-file doctors who are today bringing forward a vote of "no confidence" against their board of directors for supporting the health care bill that is going to be presented to us sometime this week.

That's the bill that we were going to vote on in June, July, August, September, October, November, yesterday, today, tomorrow, maybe the next day. The President of the United States was going to come up here and, we understand, speak to our colleagues on the majority side yesterday, then today. We understand now it's going to be tomorrow.

The reason I bring this up is that, when I speak to my folks back home—and I was on a tele-town hall meeting last night and spoke with thousands of them—the first thing on their minds are jobs. The first thing on their minds is the economy. The first thing on their minds is whether or not they can take care of their families. At this time, at this propitious time, at this time when we have received with a thud the report that the unemployment rate is 10.2 percent, we have decided that we must consider a bill with very few, if any, amendments allowed, creating a new government takeover of health care that's going to cost trillions of dollars.

Someone on my tele-town hall last night said, Congressman, can you explain to me why in the bill that you're going to vote on this week the so-called benefits in it are not going to take place for several years?

I had to explain it's because you want to bring the costs down when you explain it to the public, so you're going to start the taxes in year one, but you're not going to start the benefits from the program until year four or five, so at the end of 10 years, the net costs will be less than they would be if it were fully implemented.

Now, maybe I take this a little personally because part of what they have in here is a 2.5 percent tax on medical instruments, on medical equipment, including, by the way, new hips. So now, in this country, if you have a new hip, as I did a year ago, you will be taxed for the privilege of having that oper-

ation done in the United States, 2.5 percent. I thought we were concerned about bringing costs down. For a wheelchair, you're going to have an extra tax on that. I don't understand why we are doing this. Oh, yes. We're going to have taxes of huge amounts on business. Small businesses and medium-sized businesses are going to have taxes imposed on them in the hundreds of millions of dollars.

So, as the gentleman from Massachusetts said, this is a propitious moment. We are being confronted with the magnitude of the economic downturn that affects each and every one of our constituents. So what are we giving them in return?

We have a bill that is going to create 111 new programs, boards, bureaucracies, and commissions. I have had town hall after town hall, tele-town hall after tele-town hall. Not a single member of my constituency, not a single, average, everyday American has said, Please create 111 new programs. Please create 111 new boards, bureaucracies, and commissions. Please put another \$1 trillion or \$2 trillion on our backs. Please add new taxes. By the way, that doesn't include the \$200 billion doc fix that's going to be put in another bill so that we pretend it is not there.

A 2.5 percent tax on individuals who fail to purchase health insurance. A 2.5 percent excise tax on medical devices. A 5.4 percent surtax on "high-income" filers, over 50 percent of which are small businesses and which file as individuals. An 8 percent tax on employers who cannot afford to purchase government-approved health care benefits.

A propitious time, yes.

Now, I happen to represent a district in which we have 42,000 seniors—people over 65—who have made the voluntary decision to sign up for Medicare Advantage. There are 42,000 seniors in my district alone, and there are millions around the country. This bill cuts over \$150 billion from that program; \$150 billion from that program. When I speak to people in my district, they tell me it will gut that program.

So, as we consider a bill here dealing with travel at the propitious time of confronting the unemployment rate, one has to ask oneself: Why would we be forced to vote on a bill that will have an immediate short-term and long-term impact of killing jobs in this country? It does not make sense.

I also wonder whether any bill has had more uses of the word "shall" than the bill we are going to consider this week. By my count, there are 3,425 uses of the word "shall" in the bill that we are to be presented. Now, for those who don't fully appreciate statutory construction, the word "shall" means "mandate." It means "you must." There is no discretion.



□ 1130

Then 3,425 times, this bill, if it becomes law, will command people, including average everyday American citizens to do something. They will have no discretion about it. They will be required to do that; 3,425 instances of that.

And so, Mr. Speaker, as we all, I hope, support the bill that is before us at this time, providing direction for the Capitol Police in a more efficient operation of their force, and as we have combined it with the travel promotion authority, which many people believe will help us deal with the loss of jobs in the travel industry, I still have to ask, Why would we be running pell-mell towards voting for a bill that will take over one-sixth of the economy of the United States and, by outside objective analysis, will result in the loss of millions of jobs in this country, primarily in the small business community? It defies logic. And while the majority is allowed to bring up anything on the floor under the prevailing rule for these several days called martial law, it doesn't have to be germane with anything else, you would hope that there would at least be the concept of consistency if we are truly concerned about the unemployed in America; if we know that 10.2 percent is much more than a number, that it reflects real live human beings who have lost their jobs. Remember, this doesn't count the hundreds of thousands of discouraged workers, those who are so discouraged by the current economic situation they are no longer looking for jobs and, therefore, they are not counted in this number. We know we have lost hundreds of thousands of those people as well. They are people with children, people with wives, people with husbands, people with grandparents and parents, people who have bills to pay, these are the people who are hurting. And for us to do something in this House which is going to even cause them more difficulty is beyond me.

So I would just ask this: If this is a propitious time for us to consider a travel promotion bill because of the unemployment that's faced by that particular segment of our society, is it not a propitious time for us to acknowledge that maybe we ought to withdraw, go back to the drawing board and come up with a bill that deals with the concerns, the legitimate concerns about the shortcomings of our health care system but that does not at the same time destroy jobs? That may be a rhetorical question, but the answer to that question is very real to the people back home.

Once again, Mr. Speaker, I want to thank my colleagues on the majority side for having worked so closely with us on this bill that's before us now.

I would urge support for this bill.

With that, Mr. Speaker, I yield back the balance of my time.

Mrs. DAVIS of California. My colleague from California, I certainly appreciate the work that we have done together on the Administration Committee. He speaks of this propitious time for trade, for travel promotion, and what we are trying to speak to here today.

I would suggest to him that it's also a propitious time, as it was on travel promotion, to work together in a bipartisan fashion and to try to work out the details of this kind of legislation over a period of time. It's been that same kind of propitious time that we would have liked to have worked on health care in that way, to have had people come together and really want to try and solve these issues for the American people.

What we have tried to do is keep the American people in the center of this discussion, to keep consumer protections for the American people in the center of this discussion. We saw that Consumers Union recently endorsed the health care proposal. People trust Consumers Union. When they are going to purchase something, a major purchase, they want to look it up in Consumer Reports, and they want to see what they are saying about it. I think it speaks well to what we have brought together here that Consumers Union is supportive of our efforts. It is a propitious time.

It's too bad that we weren't able to work together in the way that my colleagues were able to work on this trade promotion. But I have to think about the people in my district who have become bankrupt because of their health care bills. I have to think about the people who know that they are just an illness away from losing their insurance; that preexisting conditions can even be a pregnancy in some cases. That's wrong.

We're focusing on the American people, on consumers, on people who would love to be able to even change a job that they have been in, that they know they can do better, they can innovate, they can change. They can't do that today because they are too afraid of losing their health insurance.

Mr. Speaker, I am pleased that we are able to address the issues governing the administration of the Capitol Police here today. I am very pleased as a Californian and as a San Diegan that we are addressing these issues on trade promotion today. That is very important. It is a propitious time to do that. But we also acknowledge that it's a propitious time for us to work together on the issues that the American people care about. That's what we are trying to do.

I urge an "aye" vote on this legislation.

Mr. WELCH. Mr. Speaker, I want to thank Representative DELAHUNT for working diligently to ensure the passage of the Travel Promotion Act of 2009. As the U.S. slips fur-

ther behind other countries in attracting international visitors, we must take a look at how we are promoting and marketing our country, and find innovative solutions to strengthen the travel industry. I am proud to be a sponsor of this legislation in House.

The Travel Promotion Act addresses some of the important strategies that will provide greater outreach to international tourists and find ways to bring them here—to visit, to spend, and to learn about our country.

In my state of Vermont, our tourism economy is one of the most precious and valuable economic development engines we have. From our small bed and breakfast sector, to our crafts, and our cultural festivals, to being the home of Ben & Jerry's and some of the best skiing in the country—Vermont is a tourist destination, and this legislation will help it grow.

However, I want to also point out the importance of supporting cultural tourism in this country. This legislation and its implementation should remember that not all states have a major theme park or world-class resorts. But all states have cultural and heritage resources that are valuable and critical to tourism. I hope that when this legislation is implemented, cultural tourism will be strengthened through it.

I urge my colleagues on both sides of the aisle to join me in supporting this important legislation.

Ms. BERKLEY. Mr. Speaker, I rise today once again in strong support of the Travel Promotion Act. In these difficult economic times, this bill is vital for our Nation's economy.

Last year the U.S. lost nearly 200,000 travel-related jobs. In my district, we have been hit particularly hard, with one of the highest unemployment rates in the country and a hotel occupancy rate among the lowest we've ever seen.

The Travel Promotion Act would help bring back those jobs and put Americans back to work. Independent economists have said that every dollar spent on this program will bring in three dollars in increased revenue—from the added jobs and economic growth that we will see from increased tourism to our country. And this can all be accomplished without adding to the Nation's debt.

Every State in our Nation benefits from tourism—whether you have mountains, beaches, amusement parks, vineyards, ballparks, historic monuments or casinos, we all benefit from this bill.

This is a common sense piece of legislation that will help energize our economy at a time when we need it most. I urge support for the bill.

Mrs. DAVIS of California. I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from California (Mrs. DAVIS) that the House suspend the rules and agree to the resolution, H. Res. 896.

The question was taken; and (two-thirds being in the affirmative) the rules were suspended and the resolution was agreed to.

A motion to reconsider was laid on the table.

# NATIONAL SCHOOL PSYCHOLOGY WEEK

Mr. LOEBSACK. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 700) expressing support for designation of the week beginning on November 9, 2009, as National School Psychology Week, as amended.

The Clerk read the title of the resolution.

The text of the resolution is as follows:

## H. RES. 700

Whereas all children and youth learn best when they are healthy, supported, and receive an education that meets their individual needs;

Whereas schools can more effectively ensure that all students are ready and able to learn if they work to meet the needs of each student;

Whereas sound psychological principles are critical to proper instruction and learning, social and emotional development, prevention and early intervention in a culturally diverse student population;

Whereas school psychologists are specially trained to deliver mental health services and academic support that lowers barriers to learning and allows teachers to teach more effectively;

Whereas school psychologists facilitate collaboration that helps parents and educators identify and reduce risk factors, promote protective factors, create safe schools, and access community resources;

Whereas school psychologists are trained to assess barriers to learning, utilize data-based decisionmaking, implement research-driven prevention and intervention strategies, evaluate outcomes, and improve accountability;

Whereas State educational agencies and other State entities credential more than 35,000 school psychologists who practice in schools in the United States as key professionals that promote the learning and mental health of all children;

Whereas the National Association of School Psychologists establishes and maintains high standards for training, practice, and school psychologist credentialing, in collaboration with organizations such as the American Psychological Association, that promote effective and ethical services by school psychologists to children, families, and schools;

Whereas the people of the United States should recognize the vital role school psychologists play in the personal and academic development of the Nation's children; and

Whereas the week beginning on November 9, 2009, would be an appropriate week to designate as National School Psychology Week: Now, therefore, be it

*Resolved*, That the House of Representatives—

(1) supports the designation of National School Psychology Week;

(2) honors and recognizes the contributions of school psychologists to the success of students in schools across the United States; and

(3) encourages the people of the United States to observe the week with appropriate activities that promote awareness of the vital role school psychologists play in schools, in the community, and in helping students develop into successful and productive members of society.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from

Iowa (Mr. LOEBSACK) and the gentleman from Illinois (Mrs. BIGGERT) each will control 20 minutes.

The Chair recognizes the gentleman from Iowa.

## GENERAL LEAVE

Mr. LOEBSACK. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks and to insert extraneous material on H. Res. 700 into the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Iowa?

There was no objection.

Mr. LOEBSACK. Mr. Speaker, I yield myself as much time as I may consume.

I am honored to speak in support of House Resolution 700, which I introduced with my colleague, Representative EHLERS, to designate the week of November 9, 2009, as National School Psychology Week. I want to thank Mr. EHLERS in particular for his work on this resolution and his dedication to the mental health needs of students in America. Mr. EHLERS has been a leader on these issues, and it is always a pleasure to work with him.

As a former college teacher and a husband to a former second grade teacher, I have seen firsthand that the educational success of a student is based on many different factors, including their social and emotional health. Many children come to school with concerns for themselves, their family, and their loved ones. These students often face difficult home lives and the challenges they face at home follow them into the classroom, causing attention issues, behavior issues, poor grades and potentially lower educational success.

In fact, research shows one in five children and adolescents will experience a significant mental health problem that can interfere with their educational achievement during their school years. The more than 35,000 psychologists in our schools today have one priority—to help students in need.

They are trained to identify and address barriers to learning. School psychologists collaborate with teachers, school administrators and families in the classroom and even in the home. School psychologists also work to address potential barriers to learning before they arise by screening and testing for educational and developmental problems.

In addition, school psychologists work to ensure students' safety while attending school. They work to properly assess possible threats from students that could do harm to themselves or others. They also sit on school crisis teams that plan, and if called upon, act in the case of a serious crisis.

School psychologists are an integral part of the dedicated team of professionals working in our schools every

day to ensure that every student in America has an opportunity for academic success and reaching his or her full potential. I am glad that we are recognizing their good work by designating next week as National School Psychology Week.

I reserve the balance of my time.

Mrs. BIGGERT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of House Resolution 700, expressing the support for the designation of the week beginning November 9, 2009, as National School Psychology Week.

National School Psychology Week takes place from November 9 to November 13 this year. Recognizing National School Psychology Week promotes the importance of providing support for children to help create a healthy, safe and positive learning environment.

The theme of this year's National School Psychology week is "See the possibilities in you. We do!" This theme focuses on highlighting the positive work school psychologists do to promote the endless possibilities for academic and personal success in the lives of the students they serve. School psychologists assist the students they serve by helping to remove academic and personal barriers to learning and by assisting school administrators and teachers in improving the learning environment.

By recognizing National School Psychology Week we show our support for the work school psychologists do to help create a healthy, safe and positive learning environment and to address barriers that prevent learning.

I applaud the gentleman from Iowa (Mr. LOEBSACK) for authoring and bringing this resolution to the floor. I also commend the gentleman from Michigan (Mr. EHLERS) for cosponsoring the bill. I am honored to support this resolution and ask my colleagues to join me in voting "yes."

I yield back the balance of my time.

Mr. LOEBSACK. Mr. Speaker, I again want to thank Mr. EHLERS for his work on this resolution and Mrs. BIGGERT as well for her comments. I thank all the cosponsors for their support and work.

I again urge my colleagues to vote in favor of this resolution designating the week of November 9, 2009, as National School Psychology Week.

Mr. PAUL. Mr. Speaker, I voted against H. Res. 700, designating the week of November 9 as National School Psychology Week to draw attention to the threat to liberty posed by proposals that school physiologists perform mandatory mental evaluations of all school children without parental consent.

The New Freedom Commission on Mental Health has recommended that the federal and state governments work toward the implementation of a comprehensive system of mental-

health screening for all Americans. The commission recommends that universal or mandatory mental-health screening first be implemented in public schools as a prelude to expanding it to the general public. However, neither the commission's report nor any related mental-health screening proposal requires parental consent before a child is subjected to mental-health screening. Federally funded universal or mandatory mental-health screening in schools without parental consent could lead to labeling more children as "ADD" or "hyperactive" and thus force more children to take psychotropic drugs, such as Ritalin, against their parents' wishes.

Too many children are suffering from being prescribed psychotropic drugs for nothing more than children's typical rambunctious behavior. According to Medco Health Solutions, more than 2.2 million children are receiving more than one psychotropic drug at one time. In fact, according to Medco Trends, in 2003, total spending on psychiatric drugs for children exceeded spending on antibiotics or asthma medication.

Many children have suffered harmful side effects from using psychotropic drugs. Some of the possible side effects include mania, violence, dependence, and weight gain. Yet, parents are already being threatened with child abuse charges if they resist efforts to drug their children. Imagine how much easier it will be to drug children against their parents' wishes if a federally funded mental-health screener makes the recommendation.

Universal or mandatory mental-health screening could also provide a justification for stigmatizing children from families that support traditional values. Even the authors of mental-health diagnosis manuals admit that mental-health diagnoses are subjective and based on social constructions. Therefore, it is all too easy for a psychiatrist to label a person's disagreement with the psychiatrist's political beliefs a mental disorder. For example, a federally funded school violence prevention program lists "intolerance" as a mental problem that may lead to school violence. Because "intolerance" is often a code word for believing in traditional values, children who share their parents' values could be labeled as having mental problems and a risk of causing violence. If the mandatory mental-health screening program applies to adults, everyone who believes in traditional values could have his or her beliefs stigmatized as a sign of a mental disorder. Taxpayer dollars should not support programs that may label those who adhere to traditional values as having a "mental disorder."

In order to protect our nation's children from mandatory mental health screening, I have introduced introduce the Parental Consent Act (H.R. 2218). This bill forbids Federal funds from being used for any universal or mandatory mental-health screening of students without the express, written, voluntary, informed consent of their parents or legal guardians. This bill protects the fundamental right of parents to direct and control the upbringing and education of their children. I hope all my colleagues will cosponsor H.R. 2218.

Mr. LOEBSACK. I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by

the gentleman from Iowa (Mr. LOEBSACK) that the House suspend the rules and agree to the resolution, H. Res. 700, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the ayes have it.

Mr. LOEBSACK. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

The point of no quorum is considered withdrawn.

#### HONORING VICTIMS OF FORT HOOD ATTACK

Mr. SKELTON. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 895) honoring the lives of the brave soldiers and civilians of the United States Army who died or were wounded in the tragic attack of November 5, 2009 at Fort Hood, Texas.

The Clerk read the title of the resolution.

The text of the resolution is as follows:

#### H. RES. 895

*Resolved*, That the House of Representatives honors the lives of the brave soldiers and civilians of the United States Army who died or were wounded in the tragic attack of November 5, 2009, at Fort Hood, Texas. The American people share the pain and grief of this tragic loss. Our thoughts and prayers will continue to be with the families of those who were so unfortunately taken from them.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Missouri (Mr. SKELTON) and the gentleman from Texas (Mr. MCCAUL) each will control 20 minutes.

The Chair recognizes the gentleman from Missouri.

#### GENERAL LEAVE

Mr. SKELTON. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days within which to revise and extend their remarks on this resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

There was no objection.

Mr. SKELTON. Mr. Speaker, I yield myself such time as I may consume.

Less than 24 hours ago our Nation was shocked to learn that a shooting had taken place at Fort Hood, Texas, one of the largest military bases in our country. Over the course of these initial news reports, we were saddened to learn that at least 13 soldiers were killed or have died and more than 30 were wounded, including the alleged assailant and the officer who was instrumental in bringing an end to the shooting.

□ 1145

What was shocking to most Americans is that a fellow member is alleged to have carried out this vicious attack on his comrades in arms. Yesterday, as these soldiers were in the midst of preparing for combat overseas, a fellow soldier opened fire on these unsuspecting patriots and those civilians and soldiers who were supporting them.

While many of those who were there were spared from the flying bullets, a number of these courageous soldiers and civilians were wounded, and they will face months, perhaps even years, recovering from their wounds. The heartache for these individuals and their families will be compounded by the fact that they will face these challenges knowing they were injured in the line of duty by an individual from within their own ranks. In the following days and months to come, these individuals and their families will need both emotional and physical sustenance and encouragement. It is our responsibility to ensure that they and their families have the resources they need to make a full and complete recovery.

Our prayers are with those who have lost a loved one in this senseless killing. These military families are already stressed with the thought of their family member deploying to Afghanistan or Iraq for a year, of the holidays and special moments that they would not share because of this deployment. And now their world has been turned upside down. Those last days prior to deployment when many families often make special plans to spend those few precious moments together have been taken away.

This morning, they will awaken to the realization that time will not bring their family member home to their welcoming arms. These families will need much love and support in the coming days; and we, as Americans, will be there with them and for them in their time of need.

Mr. Speaker, there is an ongoing investigation into this incident, and it is not appropriate for us to speculate on the motivations and why this occurrence happened. The investigation should be allowed to be completed without intervention as quickly as possible so it can bring closure to those who were tragically impacted by this event.

My thoughts and my prayers go out to those who have lost a loved one and to those who have been wounded, but I also want to reach out to all of our military families who are stationed around the world, who each understandably are touched by the heartbreaking events of yesterday at Fort Hood.

Mr. Speaker, I am extremely saddened by this occurrence. All of us in this body are extremely saddened by this occurrence.

I reserve the balance of my time.

Mr. McCAUL. Mr. Speaker, I yield such time as he may consume to the gentleman from South Carolina (Mr. WILSON).

Mr. WILSON of South Carolina. Mr. Speaker, I rise in support of House Resolution 895. I appreciate the leadership of Congressman MIKE McCAUL of Texas, a proven friend of military families.

Yesterday marked a dark and painful chapter in the history of Fort Hood, Texas. The Nation's largest military installation was devastated when the soldiers and civilians of the United States Army were heinously attacked by the least likely of assailants, a murderer who benefited from the American dream of unlimited opportunity, attending medical school at military expense, and a person given trust as a high rank in our military. He cowardly then committed treason.

In the aftermath, we have learned that 13 of our bravest and finest Americans were killed and several dozen more were wounded. This senseless act of horror betrays our respect and dignity for human life. Our deepest thoughts and prayers are with each of the families affected by this great tragedy.

My constituents are shocked and saddened. In discussing today this tragedy with Carl Gooding of WDOG radio of Allendale, South Carolina, I know firsthand the Lowcountry of South Carolina is praying for the Fort Hood families.

Amidst this tragedy, there are reports that many soldiers in the immediate vicinity of the attack provided heroic aid to their fellow soldiers who had been wounded, several of them already wounded themselves. These selfless acts undoubtedly saved the lives of several and mitigated what was already a terrible tragedy. Many have come forward to donate much-needed blood and offer themselves to help at this needed time. This bravery and determination is a testimony to our servicemen and -women, the new greatest generation, and stands in bold opposition to the horror of yesterday's events.

Military installations are the last place our servicemen and -women should fear for their safety. Over the last few years, we have made great effort to ensure the security of our military personnel, but still there is work to be done.

I know of the great efforts our military police and protective services who are making a difference at bases I represent, Fort Jackson in Columbia, Parris Island Marine Base, the Marine Corps Air Station in Beaufort, and the Beaufort Naval Hospital.

Today, as Fort Hood observes a day of mourning, we also offer our prayers to all those touched by this tragedy, including our soldiers, civilians, military families, and the Central Texas community.

As the son of a World War II Army veteran, as a 31-year Army Reserve and National Guard veteran myself, as the father of four sons serving today in the American military, with a nephew serving in Baghdad, I know military members support each other as family.

America's extended military family across the world deeply cares for our fellow family members at Fort Hood. I urge my colleagues to support H. Res. 895.

Mr. SKELTON. Mr. Speaker, I ask unanimous consent that the gentleman from Texas (Mr. EDWARDS) be permitted to control the remainder of my time.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

There was no objection.

Mr. EDWARDS of Texas. Mr. Speaker, I yield 1 minute to my friend and colleague, the chairman of the Subcommittee on Readiness of the House Armed Services Committee, the gentleman from Texas (Mr. ORTIZ).

Mr. ORTIZ. Mr. Speaker, today, I rise in honor of those servicemembers who gave the ultimate sacrifice in support of our Nation. My thoughts and prayers are with the families of the 12 soldiers and one civilian who were killed yesterday at Fort Hood and with the 30 who were wounded. I am very familiar with Fort Hood. Not only is it in Texas, but this is where I went through my basic training many years ago.

At this time, we must not judge. Instead, it is imperative that we understand. We must understand what prompted a psychiatrist who has helped so many of his fellow soldiers in the past to take their lives yesterday. We must realize that no one is above the need for mental health counseling, and we must help to ensure that this is readily available to all.

The Army as a whole is under significant stress in support of the Nation's operations overseas. This stress manifests itself in many ways, and we must do more to understand those stresses and support the servicemembers and their families for the sacrifices they make on a daily basis.

I join my colleagues in offering my sincere condolences to our brave soldiers and their families at Fort Hood, especially those who paid the ultimate sacrifice.

Mr. McCAUL. Mr. Speaker, I yield such time as he may consume to the gentleman from Texas (Mr. POE).

Mr. POE of Texas. I thank the gentleman for yielding time.

Fort Hood, Texas, has a long, long history. It is right in the center of the State of Texas, and many of us from the State of Texas have connections with that institution.

It is named after a Confederate general, John Bell Hood, who was in charge of the 4th Texas during the War Between the States. After the war was

over with, it became a military installation for the United States Army, the biggest Army installation in the world. Those from every State, every territory, from all over the U.S., come and serve at Fort Hood, Texas; and it has been that way for a great number of years.

My father, who served in the great World War II when he was an 18-year-old did basic training in Texas and came back home in 1945, was sent to Fort Hood, Texas, to be re-equipped for the invasion of Japan. That, fortunately, never took place. But he met my mom there in Temple, Texas. They got married, and that is why I was born in Temple, Texas, and have a great affection for that institution and all those that have served with the United States Army at that location.

It is now the deployment post for individuals who go overseas to represent the rest of us. They go to Iraq. They go to Afghanistan. They go to Kosovo. They go all over the world. They are being deployed at this time to represent our country and the values that we have. Many of them have served multiple tours of duty, some of them up to four tours of duty in Iraq. But yet they are all volunteers, they continue to serve, and they continue proudly to wear the United States uniform.

Approximately 40,000 people are associated with the base at Fort Hood, Texas. And not only the soldiers, but their families are there. We must remember as Americans, when troops go to war, their families go to war, too; only they stay home. Those Blue Star Moms and those Gold Star Moms, they stay here and they support our troops.

This event that occurred yesterday at Fort Hood, is an attack that was done by one of their own, someone who had been apparently radicalized, who was opposed to the war. He will be held accountable to the law for his actions. Hopefully, he will be tried by the State of Texas for his actions. But what makes this a tragedy, are the 13 that were killed, and the 30 that were wounded.

Yet, as my friend Mr. WILSON has pointed out, the people at the base, civilians and military, came to the rescue to help others, even though it endangered their own lives. And, today, this morning, not far from Fort Hood, Texas, in Temple, Texas, at Scott and White, many of those 30 are still there, receiving treatment because of their injuries; and the whole community and the whole Nation needs to understand the importance of taking care of the survivors and the families who have lost those loved ones.

We owe a great deal to our military. Next week is Veterans Day, where we celebrate the end of the great World War I and honor the veterans that have served since that time. While we celebrate our veterans and honor them

next week, we should continue to honor those who continue to serve and are in the military today, including those who have given their lives and those that have been injured because by some act of criminal activity against them.

So our hearts, our prayers, and our thoughts are for them, those brave few, those noble few, that rare breed, that unique breed, the American breed, who volunteer to represent the United States wherever they are assigned, somewhere in the world.

And that's just the way it is.

Mr. EDWARDS of Texas. Mr. Speaker, I yield 2 minutes to my friend and colleague from Texas (Mr. REYES), a senior member of the Armed Services Committee and the chairman of the House Intelligence Committee.

Mr. REYES. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I rise today to join with my colleagues in expressing our deepest condolences to the families, friends, and colleagues of those killed and wounded in yesterday's tragic shooting at Fort Hood. While there are no words that perhaps we can say here today on the floor of the House that will lessen the grief of the entire Army family, we do want them to know that our Nation mourns with them.

As a Congress, we must work to understand why this attack occurred; and we must pledge to do everything within our power to prevent any future tragedies from happening so other families do not know and have to share the pain and suffering that is going on today at Fort Hood. But, for now, I want them to know that they are in our thoughts and in our prayers. The days and months ahead will be difficult, but we will persevere together.

To the families of those who perished, please accept our deepest appreciation on behalf of all Americans for their willingness to volunteer for service to our Nation. You have stepped forward to answer the call of our country, to put yourselves in harm's way to defend us, and we owe all of you a tremendous debt of gratitude.

To our men and women at Fort Hood, military and civilian alike, you are not alone. Our thoughts, prayers and blessings are with you. We will get through this together.

□ 1200

Mr. MCCAUL. Mr. Speaker, yesterday marked a dark and painful chapter in American history and for the State of Texas. People all across this Nation were devastated when they heard the news that soldiers and civilians of the United States Army at Fort Hood, Texas, were attacked by the least likely of assailants. It wasn't short an act of treason.

I want to first thank my colleague and good friend, JOHN CARTER of Texas, who represents Fort Hood in his dis-

trict, for introducing this legislation to give all Members of Congress the opportunity to stand here today in support of the brave men and women at Fort Hood and their families in such a time of trial. Fort Hood lies just north of my district, just north of Austin. It's in central Texas. Many of us all across this Nation have constituents who have gone through Fort Hood to train for the wars in Iraq and Afghanistan. I have had many of my constituents trained at Fort Hood.

But yesterday was a dark chapter; and in the aftermath, we learned that 13 of our finest Americans were killed, and several dozen more were wounded. This senseless act of horror betrays our respect and deepest dignity for life. Our deepest thoughts and prayers are with each of the families affected by this great tragedy. During this tragedy, there were reports that many soldiers provided heroic aid to their fellow soldiers who had been wounded, several of them already wounded themselves. These selfless acts saved the lives of many, and so many in central Texas have come forward to donate much-needed blood and offer themselves to help in this time of need.

This selfless service and determination is a testament to our servicemen and -women and stands in bold opposition to the horror of yesterday's events. And today as Fort Hood observes a day of mourning, we offer our prayers and support in this hallowed Chamber in the Congress to all those touched by this tragedy, including our soldiers, civilians, military families and the central Texas community.

Mr. Hasan, the suspect responsible for these acts of violence, these senseless acts of violence, was reported to have yelled out, "Allahu Akbar," as he murdered innocents, as he wounded innocents. Translated that means God is great. To me, that's very disturbing. That is not my God. That is not our God. That is not the God of our fathers and Founding Fathers who have served in the military. May our God reach out to the families and the victims. May our God provide comfort in this great time of need. May our God hold them in the palm of his hand.

I reserve the balance of my time.

Mr. EDWARDS of Texas. Mr. Speaker, I now yield 2 minutes to my friend and colleague, the gentlewoman from California (Mrs. DAVIS), the chairwoman of the Subcommittee on Military Personnel.

Mrs. DAVIS of California. Mr. Speaker, like my colleagues, I rise to express my deepest sympathies for the families and loved ones of all affected in the tragedy that occurred at Fort Hood. They are certainly in our thoughts and in our hearts. As someone whose committee works hard to look out for and care for our servicemembers who dedicate themselves to our country, news like this, of course, is devastating.

As the stories unfolded yesterday, I could only think of the fact that we had sent so many of our men and women to the most dangerous places in the world; and here they were, probably in what they might have thought was the safest place in the world.

We also have to think about our mental health providers today as well because we know that we have mental health care professionals who are very professional, providing the most highly demanding, specialized, emotional and invaluable care to our servicemembers; and it's important to emphasize at these rare times that the actions of one individual certainly don't reflect on all those serving in the profession. It would only add to the tragedy if we let this tarnish those working in the very profession that provide so much help to our troops and their families.

Mr. Speaker, I would like to say, having spoken to so many families, that a tiny percentage serve, and often families don't believe that the American people really understand what they go through. Today in a tragedy like this, we must do our best. We must make certain this does not happen again and that we reach out to the families and let them know we are listening. We will try harder.

Mr. MCCAUL. Mr. Speaker, I reserve the balance of my time.

Mr. EDWARDS of Texas. Mr. Speaker, I would like to yield myself such time as I may consume.

One of the greatest privileges of my lifetime was to represent the soldiers and families of Fort Hood for 14 years in the U.S. Congress. On behalf of all Americans, we rise today to express our deepest respect and heartfelt sorrow to the soldiers and families of Fort Hood. These great Americans who have sacrificed so much in service to country now face a tragedy that one day ago would have seemed unimaginable. In the hours, days and months ahead, I hope the Fort Hood family knows that the thoughts and prayers of the American people are with them.

It is a tragedy beyond words that young Americans who are willing to risk their lives for our country in combat abroad ended up losing their lives here at home. While these soldiers did not die in combat, they surely gave their lives in service to country. And for that, we will always consider them as heroes. The spouses, children, and families of the fallen may not have worn our Nation's uniform; but they have served our Nation through their deep personal sacrifice. Let us be clear today, we will never, ever forget that sacrifice. We cannot bring back their loved ones, but I hope they will forever feel the collective love, gratitude, and prayers of millions of their fellow Americans.

To the wounded and their loved ones, our Nation's fervent hopes and prayers are with you in these difficult moments. Please know that you are not

alone. Mr. Speaker, in the days ahead, Fort Hood will become known to the world as a place of unspeakable tragedy, but I know it is a place of great triumph, a place where service to country isn't an ideal. It is a way of life, a place where the American spirit is alive and well, even amidst this tragedy.

I hope the world will see the Fort Hood I saw as its Representative. When I think of Fort Hood, I think of the 29-year-old Army widow who asked me not long after her husband's death in Iraq, not how I could help her but, rather, how she could help others who had lost their loved ones in combat. When I think of Fort Hood, I think of the young soldier I met at a welcome home ceremony. It was just 3 days before my wife gave birth to our first child. And when I saw him with his wife and his newborn baby, I told him how excited I was, the thought of becoming a father and being there when our son came into the world. Without complaining, he looked at me and said, Sir, I missed the birth of my first child because I was in Iraq, and I missed the birth of my second child while I was deployed to Bosnia. When I think of Fort Hood, I think of the parents I met there this summer who lost their two sons in combat in Iraq just 9 days apart.

How can the Nation measure the depth of that kind of sacrifice? When I think of Fort Hood, I think of soldiers, families and their neighbors in nearby communities who care for each other and are proud to serve and, yes, even sacrifice for our Nation's freedom. Fort Hood is known as "the great place." That's what they call it. That's what it is—past, present and future—and the actions of one deranged person should not and will not change that fact.

But with the support and prayers of the American family, Fort Hood will recover from this terrible tragedy. The servicemen and -women at Fort Hood, their families and the neighboring communities are a very special and unique family. They make Fort Hood what it is, a shining star in our Nation's defense, a star that will burn brightly for many years to come. From this tragedy, just days before Veterans Day, I pray that Americans will be reminded how blessed we are to live in a land where a special few, our servicemen and -women and their families, are willing to give up so much for country.

Let us all rededicate ourselves to honoring our troops, our veterans, and their families. Let us remember them not just on Veterans Day and Memorial Day or on a day of tragedy but every day. As we ask God's blessings on those whose lives we honor with this resolution, let us remember that we are the land of the free because we are still the home of the brave.

I reserve the balance of my time.

Mr. MCCAUL. Mr. Speaker, I reserve the balance of my time.

Mr. EDWARDS of Texas. Mr. Speaker, I now yield 2 minutes to my friend and colleague, the gentleman from Alabama (Mr. BRIGHT), a valued member of the Committee on Armed Services here in the House.

Mr. BRIGHT. I would like to thank my colleague. Mr. Speaker, I rise today in support of the resolution, honoring the soldiers who lost their lives at Fort Hood. As someone who represents two military bases, I can only imagine the profound sense of loss the great Fort Hood community must feel today. This is not just a loss for central Texas. This is a loss for our entire country. Military bases are not walled off from their surroundings. They are vital parts of our communities. When I served as mayor of Montgomery, Alabama, the airmen at Maxwell-Gunter Air Force Base were upstanding citizens who went above and beyond to improve and advance our city. As a Congressman from southeast Alabama, I have seen the brave soldiers at Fort Rucker rush to the aid of nearby towns in the wake of tragedy and crisis. Now it's time for us to show our appreciation to these bases and their families and stand with them as we mourn the tragic and senseless loss at Fort Hood. Our thoughts and prayers are with the families of those who died and also with the ones who are wounded.

Mr. MCCAUL. Mr. Speaker, I continue to reserve the balance of my time.

Mr. EDWARDS of Texas. Mr. Speaker, I now yield 1 minute to my friend and colleague, the gentleman from Texas (Mr. RODRIGUEZ), who served on the House Armed Services Committee for 8 years.

Mr. RODRIGUEZ. Mr. Speaker, I want to thank Congressman CHET EDWARDS for allowing me this opportunity to speak this morning on this tragic shooting that occurred at Fort Hood, Texas, yesterday. The most important thing that we can do right now is to make ourselves available to the families and friends of those who were killed and wounded. I wish to express my condolences to the families at Fort Hood who lost their loved ones. Our prayers are with you all as you try to make sense of it all.

This tragedy, once again, raises the extreme importance of providing true quality in our mental health care services and the need for thorough mental health assessments not only for our veterans but also for those that are in the service at the present time, for those members notified of deployment as well as those returning from deployment. This must also be a time to take into consideration the medication needs, the financial difficulties, and the coping mechanisms that our soldiers are having to go through. These also highlight the need for our family and friends and peers to stand up to get their friends help when they need it.

The signs of suicide, homicide and extreme behavior are almost always there.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. EDWARDS of Texas. I yield 1 additional minute to the gentleman from Texas, Mr. Speaker.

Mr. RODRIGUEZ. In the military, of all places, each individual must be aware of what is being said or done by their peers and friends and recognize when those behaviors or statements may not be consistent with a healthy mindset. In the military, these behaviors absolutely must be identified to the unit commander so he can review the servicemember and get the member appropriate help. I believe that we can all learn from this tragic incident to not take things too lightly and for leaders to be proactive in their efforts to ensure the mental health of the troops. Hopefully, we can reach out to help as many as we can.

I will close by expressing my condolences, once again, to the family and friends of those who have been wounded and those who have lost their lives.

Mr. MCCAUL. Mr. Speaker, I yield as much time as she may consume to the gentlelady from Illinois (Mrs. BIGGERT).

Mrs. BIGGERT. I thank the gentleman for yielding. Mr. Speaker, my heart goes out to all of the families and friends, to all of those who lost loved ones during the senseless shooting that occurred yesterday at Fort Hood. Nothing can really prepare you for a tragedy like this, especially when the lives of such dedicated young men and women are cut short by unthinkable violence right here on American soil. And one of those young men, Private First Class Michael Pearson, was from a family that lives in my district, Bolingbrook. He served his country with distinction and honor, and his life and sacrifice will be remembered always here in Bolingbrook and across the Nation.

□ 1215

And to his parents and family I offer my deepest thoughts and prayers at this difficult time.

Mr. EDWARDS of Texas. Mr. Speaker, I yield 1 minute to my friend and colleague, the distinguished Speaker of the House of Representatives, the gentlewoman from California (Ms. PELOSI), who has been a champion as a Speaker of this House on behalf of a better quality of life, educational benefits, and health care for America's veterans, our service men and women, and their families.

Ms. PELOSI. I thank the gentleman for his kind remarks, and I accept them on behalf of the entire House because we have worked in a bipartisan way on behalf of our men and women in uniform and our veterans. I particularly want to salute Chairman



EDWARDS' outstanding leadership in that regard in his position as Chair of the Military Construction, Veterans Affairs Subcommittee of Appropriations.

Mr. Speaker, words fail when a tragedy of this magnitude comes in such an unexpected way, that someone who had the confidence of the military, within its own walls, would perpetrate such a tragedy on people whose lives are dedicated to protecting the American people. It was an unspeakable tragedy, of course, for the families, soldiers, civilians, and support staff on the base at Fort Hood. But it was also a wound to our country.

Our brave men and women in uniform train day in and day out to preserve our security. They should never have to face or fear the forces of violence here at home.

At Fort Hood yesterday, ordinary citizens performed extraordinary acts when they were called upon. They were heroes. In the face of great cowardice on behalf of the perpetrator, Americans demonstrated great bravery from stopping the gunman from causing more loss of life to coming to the aid of those who were wounded and protecting the lives of others.

The entire Nation and this Congress stands with the members of the military every day. I hope it is a comfort to the families affected by this, and everyone in America has been affected by this, but those who have lost their loved ones and the families of those who are seriously wounded and those who have been shaken at Fort Hood, that our entire country mourns the losses of those who were killed and are praying for them at this very, very sad time.

I said to Mr. CARTER, Congressman CARTER, who represents Fort Hood, and Mr. EDWARDS, who had represented Fort Hood and many of his constituents worked at Fort Hood, that whatever this Congress can do to ease the pain, to help the recovery, we stand ready to do. And we do that on both sides of the aisle.

I thank you, Mr. EDWARDS, for the opportunity to extend my condolences and that of the Congress to the families affected.

Mr. McCAUL. Mr. Speaker, I yield to the gentleman from California (Mr. McKEON) such time as he may consume.

Mr. McKEON. Mr. Speaker, today I rise to join my colleagues in honoring the lives of the brave soldiers and civilians who were killed or wounded in the tragic attack at Fort Hood yesterday.

I know the country was riveted by the news, watching their TVs yesterday, trying to understand, trying to comprehend the tragedy that we saw.

We expect much of the men and women in our military and their families. We never expect to have violence appear on their front steps. I was lis-

tening to General Cone yesterday as he was trying to brief the Nation on the tragedy. One of the questions was, Well, aren't the military armed?

And he said, This is our home. We do not carry weapons in our home.

So they were unprepared to defend themselves against a dastardly attack from the inside from someone that they never would have thought would attack them, would come at them when they were least prepared.

Mr. Speaker, I join with my colleagues to express my deepest condolences to the families who lost loved ones, to the survivors, the Fort Hood family, and the entire United States Army. Also, I would like to thank those first responders, all those in the cities surrounding Fort Hood, the civilians that came to their aid and, as General Cone said, have offered so much to be of assistance. I think there are many that we need to remember in our prayers this day, and I thank all those for all that they have given.

Mr. EDWARDS of Texas. Mr. Speaker, I now yield 2 minutes to my friend and colleague, the gentleman from Washington (Mr. McDERMOTT).

Mr. McDERMOTT. Mr. Speaker, one can't help but feel grief and anger and desperation in all of what went on at Fort Hood.

But the larger issue here, and I think the one we must not lose sight of, is what Dr. Hasan was dealing with was posttraumatic stress disorder. I sat for 2 years at the Long Beach Naval Station and listened to these stories from young men and women coming back from Vietnam day after day after day, and I can tell you the impact is huge.

The biggest loss from this event will be if we do not deal with the fact that stigma about going to see mental health professionals prevents many of our people from getting the help they need.

I had dinner the other night with the Vice Chief of Staff of the United States Army, General Chiarelli, who has made it his goal to deal with posttraumatic stress disorder for the people of Iraq and Afghanistan wars.

This issue, because we sort of say, well, you're supposed to be tough and pull yourself together and never admit you've got a problem, is with all kinds of people in the military. A military psychiatrist is as vulnerable to it as is a grunt out on the field dealing with war at every corner. And as we talk about this today, I don't want people to draw conclusions and make decisions about why this happened and all the rest. It's human breakdown. It happens to people all the time in the military. When you put people in the kind of stress that we put those people in and send them back again and again and again, leave their families, see the awful things of it, you cannot expect everybody to be able to keep it together. We need to be sympathetic and

put the money up for the help that these people need.

Mr. McCAUL. Mr. Speaker, I reserve the balance of my time.

Mr. EDWARDS of Texas. Mr. Speaker, I yield 1 minute to my friend and colleague, the gentleman from Georgia (Mr. BISHOP).

Mr. BISHOP of Georgia. I thank the gentleman for yielding.

Mr. Speaker, I am stunned and saddened by the tragic events that occurred yesterday at Fort Hood, and I want to express my deepest sympathies to the families and the friends of those who were harmed in this horrific and senseless act that defies explanation.

I have the privilege of representing Fort Benning in Columbus, Georgia, and the Marine Corps Logistics Base in Albany, Georgia, and I know that the many servicemen and -women there are mourning the loss of their friends and colleagues in Texas.

The units and the families at Fort Hood, home of the 1st Cavalry Division, 4th Infantry Division, 3rd Corps Headquarters, have long served as models of honor and selfless service to our country. We thank them today for their noble service and we grieve with them over their tremendous loss.

As the Fort Hood community struggles to find answers in the wake of this tragedy, I pledge the continued prayers and support of all the people in Georgia's 2nd District and, indeed, all of our servicemen and -women and military families who are stationed in bases throughout Georgia.

Mr. McCAUL. Mr. Speaker, I reserve the balance of my time.

Mr. EDWARDS of Texas. Mr. Speaker, I yield the balance of my time to the gentleman from California (Mr. FARR), who is the vice chairman of the Appropriations Subcommittee on Military Construction and Veterans Affairs in the House.

Mr. FARR. I thank my Chair, CHET EDWARDS, for yielding.

I rise today on the eve of Veterans Day recess in support of the condolence resolution. I fought all of my political career trying to get State, local, and Federal governments, including the Department of Defense, to seriously take the invisible wounds of war into consideration. This tragic loss of innocent lives to mental breakdowns is not new, so why should it be so hard to treat this illness?

As we have to pay condolences in this resolution, let's not forget that the other House has on hold S. 1963, the Caregivers and Veterans Omnibus Health Care Services Act of 2009. Until Congress is willing to support the funding of mental health, we will not be able to fully assure safety for all in all our communities, be they civilian or military.

I urge we support one with our hearts and the other with our minds in our vote.



Mr. McCAUL. Mr. Speaker, in closing, I'd just like to say, when things like this happen, you have to ask the question, many ask the question, why? Why did this have to happen? Why such a senseless act of violence that killed 13 people and wounded 30? Why did they have to die, our men and women serving in uniform? And there will be an investigation into why, what was the motivation of Mr. Hasan, but that's for a later day.

Today we honor these fallen heroes. And when I think about them, I think about the mothers and fathers and brothers and sisters who have lost their loved ones both in Iraq and Afghanistan. I think the hardest thing we have to do as Members of Congress is to comfort these families who have lost their loved ones and try to make some sense out of it. They know that they have died for a just and noble cause. And, as Mr. EDWARDS knows, my good friend and colleague from Texas who knows so many people from the State of Texas that have gone through this training facility, one of the greatest in the world, the largest military installation in the United States, they are brave.

I know there are many families at home today, many families watching the television, some maybe watching this on C-SPAN who are in tears, whose hearts are broken, who know that they can't get back what they lost. But to those families, know that we in the Congress hear their tears. We hear their cries. This resolution stands in strong support of them. We emotionally stand behind them, that we have passed legislation for both the veterans and active-duty servicemen, in addition to posttraumatic disorder.

There are many issues regarding our veterans and our active-duty men and women. We are addressing those in this Congress. We are taking care of them. In my view, our most solemn obligation under the Constitution is for the Congress to not only take care of our veterans returning home but to fully support our active men and women serving both in the United States and abroad.

With that, let me end by saying God bless them and God bless the United States of America.

Mr. AL GREEN of Texas. Mr. Speaker, I am deeply saddened about the tragic incident that occurred yesterday at the Army base in Fort Hood, Texas, that has taken the lives of 12 brave American soldiers, 1 civilian, and wounded 30 more.

My condolences and support go to the families of the fallen and the wounded. Our service members and their families make enormous sacrifices for the sake of freedom in this country and we owe them a special debt of gratitude. During this difficult time my thoughts and prayers go out to each of them.

Fort Hood represents a crucial post for the U.S. Military and the fact that this tragedy has taken place in my home state of Texas just makes my lament even stronger.

I am hopeful the thorough investigation of the incident that the federal government has already announced will clarify what has happened and will bring justice.

Mr. RODRIGUEZ. Mr. Speaker, I rise today to honor the Fort Sam Houston Memorial Services Detachment.

The Fort Sam Houston Memorial Services Detachment was formed in 1990 to fill the void left when the Department of Defense determined that it was no longer able to perform full military burial honors for veterans of the Armed Forces. The Memorial Services Detachment is comprised of about 80 veterans, with an average age of 75, from World War II, Korea, Vietnam, and the gulf war. These selfless veterans volunteer their time, on rotating shifts throughout the week, to ensure the traditional military honors of the 3-volley-salute and the playing of "Taps" are provided to every veteran buried at the Fort Sam Houston National Cemetery. Since 1990 the Memorial Services Detachment has performed services for over 25,000 deceased veterans.

The veterans of the Memorial Services Detachment have touched the lives of countless family and friends by their dedicated service under the simple motto of "Veterans Serving Veterans." They are a lasting reminder of what is best about our country and about those that have served our Nation in its defense.

Mr. LANGEVIN. Mr. Speaker, I rise today to express my shock and sadness in the wake of yesterday's tragedy at Fort Hood.

This type of senseless violence is tragic in any circumstance, but it is especially painful to have it strike at our men and women serving in uniform, who sacrifice so much for their country.

It is crucial that we work to protect not only our forces deployed overseas from road-side bombs or insurgent attacks, but also the safety of those who are serving at home on bases around the nation.

My thoughts and prayers are with the entire Fort Hood community, and especially the families, friends and colleagues of those killed and wounded in this tragedy.

Mr. ABERCROMBE. Mr. Speaker, I rise today in support of H. Res. 895, which honors the lives of the soldiers and civilians wounded or killed in the horrific tragedy at Fort Hood, Texas, on November 5, 2009. As chairman of the Air and Land Forces Subcommittee of the House Armed Services Committee, I am profoundly saddened by the loss of life at Fort Hood. I extend my condolences to the injured and the families of those who were killed.

The most appropriate course for the Air Land Subcommittee, however, is to continue to provide the most effective force protection possible for our military personnel—the proper vehicles, the best counter-improvised explosive device capability, the proper body armor and helmets, and best weapons.

And of course, I will continue to work with Chairwoman DAVIS and Ranking Member WILSON to support their activities of the Military Personnel Subcommittee to ensure that our men and women in uniform are provided the proper health care and are fully prepared for their overseas assignments.

Mr. BARTLETT. Mr. Speaker, I rise today in support of H. Res. 895, which honors the lives

of the soldiers and civilians wounded or killed in the horrific tragedy at Fort Hood, Texas on November 5, 2009. NEIL ABERCROMBIE and I, as chairman and ranking member of the Air and Land Forces Subcommittee of the House Armed Services Committee are profoundly saddened by the loss of life at Fort Hood. We extend our condolences to the injured and the families of those who were killed.

The most appropriate course for us, however, is to continue to provide the most effective force protection possible for our military personnel—the proper vehicles, the best counter-improvised explosive device capability, the proper body armor and helmets, and best weapons.

And of course, we will continue to work with Chairwoman DAVIS and Ranking Member WILSON to support their activities of the Military Personnel Subcommittee to ensure that our men and women in uniform are provided the proper health care and are fully prepared for their overseas assignments.

Ms. JACKSON-LEE of Texas. Mr. Speaker, Fort Hood is the largest active duty armored post in the United States, and is the only post in the United States that is capable of supporting two full armored divisions and covers 339 square miles. Home to about 52,000 troops as of earlier this year, the sprawling base is located halfway between Austin and Waco, Texas.

I am deeply saddened by the tragic shooting that took the lives of 13 soldiers and wounded 31 others. This is one of the worst soldier-on-soldier violence in U.S. history. It is a great misfortune that our nation has lost 13 brave soldiers who have dedicated their lives to serving our country.

The gunfire broke out around 1:30 p.m. at the Soldier Readiness Center, where soldiers who are about to be deployed or who are returning undergo medical screening. Nearby, some soldiers were readying to head into a graduation ceremony for troops and families who had recently earned degrees. The suspected shooter, Maj. Nidal Malik Hasan, was shot four times and authorities believed they had killed him, only to discover later that he had survived. Military officials are starting to piece together what may have pushed this Army psychiatrist trained to help soldiers in distress, turn on his comrades in a shooting rampage.

I want to commend the soldiers at Fort Hood for their valiant and selfless acts of bravery. Soldiers rushed to treat their injured colleagues by ripping their uniforms into makeshift bandages. The top commander at Fort Hood is crediting a civilian police officer, Sgt. Kimberly Munley, for stopping the shooting. Fort Hood police Sgt. Kimberly Munley and her partner responded within 3 minutes of reported gunfire Thursday afternoon. Munley shot the gunman four times despite being shot herself.

Another story of heroism is that of 19-year-old Amber Bahr. The nutritionist put a tourniquet on a wounded soldier and carried him out to medical care. And only after she had taken care of others did she realize she had been shot. Both women heroically intervened despite being shot.

I would like to express my deepest sympathies for the loss of these 13 soldiers. My

thoughts and prayers go out to their families during their time of bereavement. It is unacceptable that soldiers should fear attacks on American soil. I want the military and their families to always be protected as they are the backbone of American society. It is not only our soldiers who make sacrifices to protect our great Nation, but their families as well. I am deeply saddened and troubled by the shootings at Fort Hood, especially because soldiers and their families from my own district are there.

Mr. SESSIONS. Mr. Speaker, I rise today in memory of the armed service members whose lives were taken from us yesterday at Fort Hood.

I am deeply saddened over the unspeakable violence that has shattered the lives of brave and honorable soldiers at Fort Hood. This senseless shooting will no doubt be met with the justice and goodness of America, and I stand ready to support the Fort Hood family in any way possible.

The fallen and wounded soldiers represent the best of America. In the coming days and weeks, we will learn about their dreams, love of country, and acts of bravery that will engrave their honorable legacy in service of our country. They will be greatly missed. May the peace of God be with the victims and their loved ones. My thoughts and prayers remain with them.

Mr. HINOJOSA. Mr. Speaker I rise today to express my deepest condolences to the families and friends of the soldiers and civilians who were killed in yesterday's attack on our Army military base in Fort Hood, Texas.

The senseless and cowardly act by one has inflicted a terrible wound in our military family. But I want the Ft. Hood family to know that we stand with them today and offer them all of our love and support.

We in Texas, in the Nation and around the world grieve and pray for the families of the 13 lives who were taken so violently. We pray for the swift and full recovery of the more than 30 wounded who are holding on to life.

The sacrifices our troops make are already so great. It is particularly tragic that after surviving the dangers of combat, they lost their lives back home where they should have been safe. Today and every day we stand with them as they stand for us, as they stand always and forever for our country.

Mr. McCAUL. Mr. Speaker, I yield back the balance of my time.

□ 1230

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Missouri (Mr. SKELTON) that the House suspend the rules and agree to the resolution, H. Res. 895.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the ayes have it.

Mr. McCAUL. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

## PROVIDING FOR AN ADJOURNMENT OR RECESS OF THE TWO HOUSES

Mr. EDWARDS of Texas. Mr. Speaker, I send to the desk a privileged concurrent resolution (H. Con. Res. 210) and ask for its immediate consideration.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 210

*Resolved by the House of Representatives (the Senate concurring), That when the House adjourns on any legislative day from Friday, November 6, 2009, through Tuesday, November 10, 2009, on a motion offered pursuant to this concurrent resolution by its Majority Leader or his designee, it stand adjourned until 2 p.m. on Monday, November 16, 2009, or until the time of any reassembly pursuant to section 2 of this concurrent resolution, whichever occurs first; and that when the Senate recesses or adjourns on any day from Friday, November 6, 2009, through Tuesday, November 10, 2009, on a motion offered pursuant to this concurrent resolution by its Majority Leader or his designee, it stand recessed or adjourned until noon on Monday, November 16, 2009, or such other time on that day as may be specified in the motion to recess or adjourn, or until the time of any reassembly pursuant to section 2 of this concurrent resolution, whichever occurs first.*

SEC. 2. The Speaker of the House and the Majority Leader of the Senate, or their respective designees, acting jointly after consultation with the Minority Leader of the House and the Minority Leader of the Senate, shall notify the Members of the House and the Senate, respectively, to reassemble at such place and time as they may designate if, in their opinion, the public interest shall warrant it.

The SPEAKER pro tempore. The question is on the concurrent resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. McCAUL. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, this 15-minute vote on adoption of House Concurrent Resolution 210 will be followed by 5-minute votes on motions to suspend the rules relating to: H. Res. 893; H.R. 3788; and S. 211.

The vote was taken by electronic device, and there were—yeas 235, nays 179, not voting 19, as follows:

[Roll No. 865]

YEAS—235

Abercrombie  
Ackerman  
Altmire  
Andrews  
Arcuri  
Baca  
Baldwin  
Barrow  
Bean  
Becerra  
Berkley  
Berman  
Berry  
Bishop (GA)  
Bishop (NY)  
Blumenauer

Bocieri  
Boren  
Boswell  
Boucher  
Boyd  
Brady (PA)  
Braley (IA)  
Bright  
Brown, Corrine  
Butterfield  
Cao  
Capps  
Capuano  
Cardoza  
Carnahan  
Carney

Carson (IN)  
Castor (FL)  
Chaffetz  
Childers  
Chu  
Clarke  
Cleaver  
Clyburn  
Cohen  
Connolly (VA)  
Cooper  
Costa  
Costello  
Courtney  
Crowley  
Cuellar

Cummings  
Dahlkemper  
Davis (AL)  
Davis (CA)  
Davis (IL)  
Davis (TN)  
DeFazio  
DeGette  
Delahunt  
DeLauro  
Dicks  
Dingell  
Doggett  
Doyle  
Driehaus  
Edwards (MD)  
Edwards (TX)  
Ellison  
Ellsworth  
Engel  
Eshoo  
Etheridge  
Farr  
Fattah  
Filner  
Foster  
Frank (MA)  
Fudge  
Garamendi  
Giffords  
Gonzalez  
Gordon (TN)  
Grayson  
Green, Al  
Green, Gene  
Griffith  
Grijalva  
Gutierrez  
Hall (NY)  
Halvorson  
Hare  
Harman  
Hastings (FL)  
Heinrich  
Heller  
Herseth Sandlin  
Higgins  
Hill  
Hinchey  
Hinojosa  
Hirono  
Hodes  
Holden  
Holt  
Honda  
Hoyer  
Inslee  
Israel  
Jackson (IL)  
Jackson-Lee  
(TX)  
Johnson, E. B.  
Kagen

Kanjorski  
Kaptur  
Kennedy  
Kildee  
Kilpatrick (MI)  
Kilroy  
Kind  
Kirkpatrick (AZ)  
Kissell  
Klein (FL)  
Kucinich  
Langevin  
Larsen (WA)  
Larson (CT)  
Lee (CA)  
Levin  
Lewis (GA)  
Lipinski  
Loebach  
Lofgren, Zoe  
Lowey  
Lujan  
Lynch  
Maloney  
Markey (MA)  
Marshall  
Matheson  
Matsui  
McCarthy (NY)  
McCollum  
McDermott  
McIntyre  
McMahon  
McNerney  
Meek (FL)  
Meeks (NY)  
Melancon  
Michaud  
Miller (NC)  
Miller, George  
Mollohan  
Moore (KS)  
Moran (VA)  
Murphy (CT)  
Murtha  
Nadler (NY)  
Napolitano  
Neal (MA)  
Nye  
Oberstar  
Obey  
Olson  
Olver  
Ortiz  
Pallone  
Pascarell  
Pastor (AZ)  
Payne  
Perlmutter  
Peters  
Peterson  
Pingree (ME)  
Polis (CO)

Pomeroy  
Price (NC)  
Quigley  
Rahall  
Rangel  
Reyes  
Richardson  
Rodriguez  
Ross  
Rothman (NJ)  
Roybal-Allard  
Ruppersberger  
Rush  
Ryan (OH)  
Salazar  
Sanchez, Loretta  
Sarbanes  
Schakowsky  
Schauer  
Schiff  
Schradner  
Schwartz  
Scott (GA)  
Scott (VA)  
Serrano  
Shea-Porter  
Sherman  
Shuler  
Sires  
Skelton  
Slaughter  
Smith (WA)  
Snyder  
Space  
Speier  
Spratt  
Stark  
Sutton  
Tanner  
Teague  
Thompson (CA)  
Thompson (MS)  
Tierney  
Titus  
Tonko  
Towns  
Tsongas  
Van Hollen  
Velázquez  
Visclosky  
Walz  
Waters  
Watson  
Watt  
Waxman  
Weiner  
Welch  
Wexler  
Wilson (OH)  
Woolsey  
Wu  
Yarmuth

NAYS—179

Adler (NJ)  
Akin  
Alexander  
Austria  
Bachmann  
Bachus  
Baird  
Barrett (SC)  
Bartlett  
Barton (TX)  
Biggart  
Bilbray  
Bilirakis  
Bishop (UT)  
Blackburn  
Blunt  
Boehner  
Bonner  
Bono Mack  
Boozman  
Boustany  
Brady (TX)  
Brown (SC)  
Brown-Waite,  
Ginny  
Buchanan  
Burgess  
Burton (IN)  
Buyer  
Calvert

Camp  
Campbell  
Cantor  
Capito  
Castle  
Coble  
Coffman (CO)  
Cole  
Crenshaw  
Culberson  
Davis (KY)  
Deal (GA)  
Dent  
Diaz-Balart, L.  
Diaz-Balart, M.  
Donnelly (IN)  
Dreier  
Duncan  
Emerson  
Fallin  
Flake  
Fleming  
Forbes  
Fortenberry  
Foxy  
Franks (AZ)  
Frelinghuysen  
Gallegly  
Garrett (NJ)  
Gerlach

Gingrey (GA)  
Gohmert  
Goodlatte  
Granger  
Graves  
Guthrie  
Hall (TX)  
Harper  
Hastings (WA)  
Hensarling  
Herger  
Himes  
Hoekstra  
Hunter  
Inglis  
Issa  
Jenkins  
Johnson (IL)  
Johnson, Sam  
Jones  
Jordan (OH)  
King (IA)  
King (NY)  
Kingston  
Kirk  
Kline (MN)  
Kosmas  
Kratovil  
Lamborn  
Lance

Latham	Mitchell	Sensenbrenner	Berkley	Fleming	LoBiondo	Roybal-Allard	Sires	Towns
LaTourette	Moran (KS)	Sessions	Berman	Forbes	Loeback	Royce	Skelton	Turner
Latta	Murphy (NY)	Sestak	Biggart	Portenberry	Loftgren, Zoe	Ruppersberger	Slaughter	Upton
Lee (NY)	Murphy, Tim	Shadegg	Bilbray	Foster	Lowe	Rush	Smith (NE)	Van Hollen
Lewis (CA)	Myrick	Shimkus	Bilirakis	Fox	Lucas	Ryan (OH)	Smith (NJ)	Velázquez
Linder	Neugebauer	Shuster	Bishop (GA)	Frank (MA)	Luetkemeyer	Ryan (WI)	Smith (TX)	Visclosky
LoBiondo	Paul	Simpson	Bishop (NY)	Franks (AZ)	Luján	Salazar	Smith (WA)	Walden
Lucas	Paulsen	Smith (NE)	Bishop (UT)	Frelinghuysen	Lummis	Sanchez, Loretta	Snyder	Walz
Luetkemeyer	Pence	Blackburn	Blackburn	Fudge	Lynch	Sarbanes	Space	Wamp
Lummis	Petri	Blumenauer	Blumenauer	Gallegly	Mack	Scalise	Speier	Wasserman
Lungren, Daniel	Pitts	Blunt	Blunt	Garamendi	Maffei	Schakowsky	Spratt	Schultz
E.	Platts	Bocieri	Bocieri	Garrett (NJ)	Maloney	Schauer	Stark	Waters
Mack	Poe (TX)	Boehner	Boehner	Gerlach	Manzullo	Schiff	Stearns	Watson
Maffei	Posey	Bonner	Bonner	Giffords	Marchant	Schmidt	Sullivan	Watt
Manzullo	Price (GA)	Bono Mack	Bono Mack	Gingrey (GA)	Markey (CO)	Schock	Sutton	Waxman
Marchant	Putnam	Boozman	Boozman	Gonzalez	Markey (MA)	Schrader	Tanner	Weiner
Markey (CO)	Radanovich	Boren	Boren	Goodlatte	Massa	Scott (GA)	Taylor	Westmoreland
Massa	Rehberg	Boswell	Boswell	Gordon (TN)	Matheson	Scott (VA)	Teague	Wexler
McCarthy (CA)	Reichert	Boucher	Boucher	Granger	Matsui	Serrano	Terry	Whitfield
McCaul	Roe (TN)	Boustany	Boustany	Graves	McCarthy (CA)	Sessions	Thompson (CA)	Wilson (OH)
McClintock	Rogers (AL)	Boyd	Boyd	Grayson	McCarthy (NY)	Sestak	Thompson (MS)	Wilson (SC)
McCotter	Rogers (KY)	Brady (PA)	Brady (PA)	Green, Al	McCaul	Shadegg	Thompson (PA)	Wittman
McHenry	Rohrabacher	Brady (TX)	Brady (TX)	Green, Gene	McClintock	Shea-Porter	Thornberry	Wolf
McKeon	Rooney	Bright	Bright	Griffith	McCollum	Sherman	Tiahrt	Woolsey
McMorris	Ros-Lehtinen	Brown (SC)	Brown (SC)	Grijalva	McCotter	Shimkus	Tiberi	Wu
Rodgers	Roskam	Brown, Corrine	Brown, Corrine	Guthrie	McDermott	Shuler	Tierney	Yarmuth
Mica	Royce	Brown-Waite,	Brown-Waite,	Gutierrez	McHenry	Shuster	Titus	Young (AK)
Miller (FL)	Ryan (WI)	Ginny	Ginny	Hall (NY)	McIntyre	Simpson	Tonko	Young (FL)
Miller (MI)	Scalise	Buchanan	Buchanan	Hall (TX)	McKeon			
Miller, Gary	Schmidt	Burgess	Burgess	Halvorson	McMahon			
Minnick	Schock	Burton (IN)	Burton (IN)	Hare	McMorris			
		Butterfield	Butterfield	Harman	Rodgers			
		Buyer	Buyer	Harper	McNerney			
		Calvert	Calvert	Hastings (FL)	Meek (FL)			
		Camp	Camp	Hastings (WA)	Meeks (NY)			
		Cantor	Cantor	Heinrich	Melancon			
		Cao	Cao	Heller	Mica			
		Capito	Capito	Hensarling	Michaud			
		Capps	Capps	Herger	Miller (FL)			
		Capuano	Capuano	Herseth Sandlin	Miller (MI)			
		Cardoza	Cardoza	Higgins	Miller (NC)			
		Carnahan	Carnahan	Hill	Miller, Gary			
		Carney	Carney	Himes	Miller, George			
		Carson (IN)	Carson (IN)	Hinchey	Minnick			
		Castle	Castle	Hinojosa	Mitchell			
		Castor (FL)	Castor (FL)	Hirono	Mollohan			
		Chaffetz	Chaffetz	Hoekstra	Moore (KS)			
		Childers	Childers	Holden	Moran (KS)			
		Chu	Chu	Holt	Moran (VA)			
		Clarke	Clarke	Honda	Murphy (NY)			
		Cleaver	Cleaver	Hoyer	Murphy, Tim			
		Clyburn	Clyburn	Inglis	Murtha			
		Coble	Coble	Issa	Myrick			
		Coffman (CO)	Coffman (CO)	Israel	Nadler (NY)			
		Cohen	Cohen	Issa	Napolitano			
		Cole	Cole	Jackson (IL)	Neal (MA)			
		Connolly (VA)	Connolly (VA)	Jackson-Lee	Neugebauer			
		Cooper	Cooper	(TX)	Nye			
		Costa	Costa	Jenkins	Obey			
		Costello	Costello	Johnson (GA)	Olson			
		Courtney	Courtney	Johnson (IL)	Ortiz			
		Crenshaw	Crenshaw	Johnson, E. B.	Pallone			
		Crowley	Crowley	Johnson, Sam	Pascarell			
		Cuellar	Cuellar	Jones	Pastor (AZ)			
		Culberson	Culberson	Jordan (OH)	Paul			
		Cummings	Cummings	Kanjorski	Paulsen			
		Dahlkemper	Dahlkemper	Kennedy	Payne			
		Davis (AL)	Davis (AL)	Kildee	Pence			
		Davis (CA)	Davis (CA)	Kilpatrick (MI)	Perlmutter			
		Davis (IL)	Davis (IL)	Kilroy	Perriello			
		Davis (TN)	Davis (TN)	Kind	Peters			
		Deal (GA)	Deal (GA)	King (IA)	Peterson			
		DeGette	DeGette	King (NY)	Petri			
		DeLauro	DeLauro	Kingston	Pingree (ME)			
		Dent	Dent	Kirk	Pitts			
		Diaz-Balart, L.	Diaz-Balart, L.	Kirkpatrick (AZ)	Platts			
		Diaz-Balart, M.	Diaz-Balart, M.	Kissell	Poe (TX)			
		Dicks	Dicks	Klein (FL)	Polis (CO)			
		Dingell	Dingell	Kline (MN)	Pomeroy			
		Doggett	Doggett	Kosmas	Price (GA)			
		Donnelly (IN)	Donnelly (IN)	Kratovich	Price (NC)			
		Doyle	Doyle	Kucinich	Putnam			
		Dreier	Dreier	Lamborn	Quigley			
		Duncan	Duncan	Lance	Rangel			
		Edwards (MD)	Edwards (MD)	Larsen (WA)	Rehberg			
		Edwards (TX)	Edwards (TX)	Larson (CT)	Reichert			
		Ellison	Ellison	Latham	Reyes			
		Ellsworth	Ellsworth	LaTourette	Richardson			
		Emerson	Emerson	Latta	Rodriguez			
		Engel	Engel	Lee (CA)	Roe (TN)			
		Eshoo	Eshoo	Lee (NY)	Rogers (AL)			
		Etheridge	Etheridge	Levin	Rogers (KY)			
		Fallin	Fallin	Lewis (CA)	Ros-Lehtinen			
		Farr	Farr	Lewis (GA)	Roskam			
		Fattah	Fattah	Linder	Ross			
		Flake	Flake	Lipinski	Rothman (NJ)			

## NOT VOTING—19

Aderholt	Conyers	Perriello
Broun (GA)	Ehlers	Rogers (MI)
Carter	Johnson (GA)	Sánchez, Linda
Cassidy	McGovern	T.
Chandler	Moore (WI)	Stupak
Clay	Murphy, Patrick	Wasserman
Conaway	Nunes	Schultz

□ 1257

Messrs. TAYLOR, SHIMKUS, PAULSEN, PRICE of Georgia, DONNELLY of Indiana, and Ms. JENKINS changed their vote from “yea” to “nay.”

Mr. ORTIZ changed his vote from “nay” to “yea.”

So the concurrent resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

## CONGRATULATING THE NEW YORK YANKEES

The SPEAKER pro tempore. The unfinished business is the vote on the motion to suspend the rules and agree to the resolution, H. Res. 893, on which the yeas and nays were ordered.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York (Mr. Towns) that the House suspend the rules and agree to the resolution, H. Res. 893.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 386, nays 17, answered “present” 11, not voting 19, as follows:

[Roll No. 866]

YEAS—386

Abercrombie	Austria	Barrett (SC)
Ackerman	Baca	Barrow
Akin	Bachmann	Bartlett
Alexander	Bachus	Barton (TX)
Andrews	Baird	Bean
Arcuri	Baldwin	Becerra

## NAYS—17

Adler (NJ)	Filner	Radanovich
Altmire	Hunter	Rahall
Berry	Kaptur	Rohrabacher
Braley (IA)	Lungren, Daniel	Rooney
Campbell	E.	Schwartz
Delahunt	Murphy (CT)	Sensenbrenner

## ANSWERED “PRESENT”—11

DeFazio	Langevin	Souder
Driehaus	Marshall	Tsongas
Hodes	Oberstar	Welch
Kagen	Oliver	

## NOT VOTING—19

Aderholt	Conyers	Nunes
Broun (GA)	Davis (KY)	Posey
Carter	Ehlers	Rogers (MI)
Cassidy	Gohmert	Sánchez, Linda
Chandler	McGovern	T.
Clay	Moore (WI)	Stupak
Conaway	Murphy, Patrick	

## ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). There are 2 minutes remaining in this vote.

□ 1305

So (two-thirds being in the affirmative) the rules were suspended and the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

## PERSONAL EXPLANATION

Mr. CONYERS. Mr. Speaker, I was unable to make the following votes today. If I were present I would vote “yea” to: H. Con. Res. 210—Providing for the House, upon completion of the Affordable Health Care of America Act, to adjourn until November 16, 2009 and H. Res. 893—Congratulating the 2009 Major League Baseball World Series Champions, the New York Yankees.

## COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER laid before the House the following communication from the Clerk of the House of Representatives:

OFFICE OF THE CLERK,  
HOUSE OF REPRESENTATIVES,  
Washington, DC, November 5, 2009.

Hon. NANCY PELOSI,  
*The Speaker, House of Representatives,*  
Washington, DC.

DEAR MADAM SPEAKER: I have the honor to transmit herewith a facsimile copy of a letter received from Mr. Todd D. Valentine and Mr. Robert A. Brehm, Co-Executive Directors of the New York State Board of Elections, indicating that, according to the unofficial returns of the Special Election held November 3, 2009, the Honorable William L. Owens was elected Representative to Congress for the Twenty-Third Congressional District, State of New York.

With best wishes, I am  
Sincerely,

LORRAINE C. MILLER,  
*Clerk.*

Enclosure.

STATE OF NEW YORK,  
STATE BOARD OF ELECTIONS,  
Albany, NY, November 5, 2009.

Hon. LORRAINE C. MILLER,  
*Clerk, House of Representatives,*  
*The Capitol, Washington, DC.*

DEAR MS. MILLER: This is to advise that the unofficial results of the Special Election held on Tuesday, November 3, 2009 for Representative in Congress from the Twenty-Third Congressional District of New York show that, as of the close of polls on election day, the returns for that office show William L. Owens received 66,698 votes, Douglas Hoffman received 63,672 votes, and Dede Scozzafava received 6,485 votes.

As soon as the official results are certified to this office by all county boards in the Twenty-Third Congressional District in New York an official Certification of Election will be prepared for transmittal as required by law.

Sincerely,

ROBERT A. BREHM,  
*Co-Executive Director.*  
TODD D. VALENTINE,  
*Co-Executive Director.*

#### SWEARING IN OF THE HONORABLE WILLIAM L. OWENS, OF NEW YORK, AS A MEMBER OF THE HOUSE

Mr. RANGEL. Madam Speaker, I ask unanimous consent that the gentleman from New York, the Honorable WILLIAM L. OWENS, be permitted to take the oath of office today.

His certificate of election has not arrived, but there is no contest and no question has been raised with regard to his election.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

The SPEAKER. Will Representative-elect OWENS and the members of the New York delegation present themselves in the well?

Mr. OWENS appeared at the bar of the House and took the oath of office, as follows:

Do you solemnly swear or affirm that you will support and defend the Constitution of the United States against all enemies, foreign and domestic; that you will bear true faith and allegiance

to the same; that you take this obligation freely, without any mental reservation or purpose of evasion; and that you will well and faithfully discharge the duties of the office on which you are about to enter, so help you God.

The SPEAKER. Congratulations, you are now a Member of the 111th Congress.

#### WELCOMING THE HONORABLE WIL- LIAM L. OWENS TO THE HOUSE OF REPRESENTATIVES

The SPEAKER. Without objection, the gentleman from New York is recognized for 1 minute.

There was no objection.

Mr. RANGEL. Madam Speaker and my colleagues, on behalf of the delegation of the great State of New York, I have the honor to present to you this outstanding member of New York, this outstanding member of our great country.

BILL OWENS was born in Brooklyn, raised in Long Island, and conducted his business life and service to this great country in upstate New York. As a retired United States Air Force captain, he has a beautiful wife, who is with him today. He has three children and two superstar grandchildren, and it's my understanding that another addition will be added to this group.

BILL is a hardworking lawyer and a businessman from upstate New York. He is a job creator. At the former Air Force base in Plattsburgh, he was able to bring some creative activity, bring together businesses, and as a result of that, was able to bring 2,000 jobs to the great State of New York, most of them from Canada.

He comes here today as a supporter of education, as a supporter, naturally, of jobs, as a supporter of making this country all that she can be, and certainly as someone who would like to see all American citizens have access to health care, as most of you, I know, do.

So, BILL, we will be working with you and working for you. Congratulations. Our heartbeat is heavy for your victory, which we know is the Congress' victory and our Nation's victory.

Mr. KING of New York. Will the gentleman yield?

Mr. RANGEL. I yield to my friend, the minority leader of the State of New York, and welcome him joining in with us, Congressman PETER KING.

Mr. KING of New York. I thank Chairman RANGEL for yielding.

Speaking on behalf of myself and on behalf of the entire New York Republican delegation of myself and Congressman LEE—a very powerful two-man delegation against 27—seriously, Congressman OWENS, it is a privilege to welcome you to the House of Representatives.

Thank you for your years of service to your country. We look forward to

working with you. You will find, whether it's 27-2 or 18-13—or whatever it was a few years ago—we in the New York delegation do work across the aisle and work with each other, and I wish you the very best.

Mr. RANGEL. My colleagues, Congressman BILL OWENS.

Mr. OWENS. Thank you. Like all of my speeches, it will be brief.

Madam Speaker, I am honored to be here with you all today and to join in continuing our effort to build a better, stronger America.

This is a proud day for me and my family, but it is also a sad day for our country. The shooting at Fort Hood last night that claimed the lives of 13 fine Americans is a stunning reminder of how quickly the peace we enjoy here at home can turn to violence and how much we rely on our brave men and women to keep us free from harm. My thoughts and prayers are with the families of the victims and with our soldiers to whom we owe our safety and our freedom.

I would like to thank my family for being with me and for standing behind me every step of the way.

To my wife, Jane; my three children, Tara, Jenna, and Brendan, and their spouses; and my three grandchildren, Caroline, Tommy, and Tess, I know that I would never have made it without you, and I am grateful for your support and for all the laughs we had along the way.

I most especially want to thank the people of New York's 23rd Congressional District, whose work I begin today. Conscious of the challenges that face us, I am eager to join my colleagues in finding bipartisan solutions to health care, energy, our farm crisis, and getting our economy back up and running.

My family and I came to Plattsburgh when I was transferred to Plattsburgh Air Force Base. When I left the Air Force, we decided to stay and make it our home, which we've done, but I remain committed to serving my country and my community. That's why I have tried throughout my life in upstate New York to do the right thing by my community, and it is the reason that I ran for Congress.

□ 1315

I am proud to begin a new chapter of service to my country and remain hopeful that if we can continue seeking bipartisan solutions to the problems that face us, we can build a brighter future for our children and grandchildren. I pledge to work hard every day, and I am honored to serve each of my constituents and to move the country and my district forward.

#### ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. Under clause 5(d) of rule XX, the Chair announces to the

House that, in light of the administration of the oath to the gentleman from New York, the whole number of the House is 435.

#### ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. SALAZAR). Without objection, 5-minute voting will continue.

There was no objection.

#### CORPORAL JOSEPH A. TOMCI POST OFFICE BUILDING

The SPEAKER pro tempore. The unfinished business is the vote on the motion to suspend the rules and pass the bill, H.R. 3788, on which the yeas and nays were ordered.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois (Mr. DAVIS) that the House suspend the rules and pass the bill, H.R. 3788.

This is a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 415, nays 1, not voting 18, as follows:

[Roll No. 867]

YEAS—415

Abercrombie	Butterfield	Doggett
Ackerman	Buyer	Donnelly (IN)
Adler (NJ)	Calvert	Doyle
Akin	Camp	Dreier
Alexander	Campbell	Driehaus
Altmire	Cantor	Duncan
Andrews	Cao	Edwards (MD)
Arcuri	Capito	Edwards (TX)
Austria	Capps	Ellison
Baca	Capuano	Ellsworth
Bachmann	Cardoza	Emerson
Bachus	Carnahan	Engel
Baird	Carney	Eshoo
Baldwin	Carson (IN)	Etheridge
Barrett (SC)	Castle	Fallin
Barrow	Castor (FL)	Farr
Bartlett	Chaffetz	Fattah
Barton (TX)	Childers	Filner
Bean	Chu	Flake
Becerra	Clarke	Fleming
Berkley	Cleaver	Forbes
Berman	Clyburn	Fortenberry
Biggert	Coble	Foster
Bilbray	Coffman (CO)	Fox
Billirakis	Cohen	Frank (MA)
Bishop (GA)	Cole	Franks (AZ)
Bishop (NY)	Connolly (VA)	Frelinghuysen
Bishop (UT)	Conyers	Fudge
Blackburn	Cooper	Gallegly
Blumenauer	Costa	Garamendi
Blunt	Costello	Garrett (NJ)
Boccieri	Courtney	Gerlach
Boehner	Crenshaw	Giffords
Bonner	Crowley	Gingrey (GA)
Bono Mack	Cuellar	Gohmert
Boozman	Culberson	Gonzalez
Boren	Cummings	Goodlatte
Boswell	Dahlkemper	Granger
Boucher	Davis (AL)	Graves
Boustany	Davis (CA)	Grayson
Boyd	Davis (IL)	Green, Al
Brady (PA)	Davis (KY)	Green, Gene
Brady (TX)	Davis (TN)	Griffith
Braley (IA)	Deal (GA)	Grijalva
Bright	DeFazio	Guthrie
Brown (SC)	DeGette	Gutierrez
Brown, Corrine	Delahunt	Hall (NY)
Brown-Waite,	DeLauro	Hall (TX)
Ginny	Dent	Halvorson
Buchanan	Diaz-Balart, L.	Hare
Burgess	Diaz-Balart, M.	Harman
Burton (IN)	Dingell	Harper

Hastings (FL)	Matsui	Royce
Hastings (WA)	McCarthy (CA)	Ruppersberger
Heinrich	McCarthy (NY)	Rush
Heller	McCaul	Ryan (OH)
Hensarling	McClintock	Ryan (WI)
Herger	McCollum	Salazar
Hereth Sandlin	McCotter	Sanchez, Loretta
Higgins	McDermott	Sarbanes
Hill	McHenry	Scalise
Himes	McIntyre	Schakowsky
Hinche	McMahon	Schauer
Hinojosa	McMorris	Schiff
Hirono	Rodgers	Schmidt
Hodes	McNerney	Schock
Hoekstra	Meek (FL)	Schrader
Holden	Meeks (NY)	Schwartz
Holt	Melancon	Scott (GA)
Honda	Mica	Scott (VA)
Hoyer	Michaud	Sensenbrenner
Hunter	Miller (FL)	Serrano
Inglis	Miller (MI)	Sessions
Inslee	Miller (NC)	Sestak
Israel	Miller, Gary	Shadegg
Issa	Miller, George	Shea-Porter
Jackson (IL)	Minnick	Sherman
Jackson-Lee	Mitchell	Shimkus
(TX)	Mollohan	Shuler
Jenkins	Moore (KS)	Shuster
Johnson (GA)	Moore (WI)	Simpson
Johnson (IL)	Moran (KS)	Sires
Johnson, E. B.	Moran (VA)	Skelton
Johnson, Sam	Murphy (CT)	Slaughter
Jones	Murphy (NY)	Smith (NE)
Jordan (OH)	Murphy, Tim	Smith (NJ)
Kanjorski	Murtha	Smith (TX)
Kaptur	Myrick	Smith (WA)
Kennedy	Nadler (NY)	Snyder
Kildee	Napolitano	Souder
Kirkpatrick (MI)	Neal (MA)	Space
Kilroy	Neugebauer	Speier
Kind	Nye	Spratt
King (IA)	Oberstar	Stark
King (NY)	Obey	Stearns
Kingston	Olson	Sullivan
Kirk	Oliver	Sutton
Kirkpatrick (AZ)	Ortiz	Tanner
Kissell	Owens	Taylor
Klein (FL)	Pallone	Teague
Kline (MN)	Pascarella	Terry
Kosmas	Pastor (AZ)	Thompson (CA)
Kratovil	Paul	Thompson (MS)
Kucinich	Paulsen	Thompson (PA)
Lamborn	Payne	Thornberry
Lance	Pence	Tiahrt
Langevin	Perlmutter	Tiberi
Larsen (WA)	Perriello	Tierney
Larson (CT)	Peters	Titus
Latham	Peterson	Tonko
LaTourette	Petri	Towns
Latta	Pingree (ME)	Tsongas
Lee (CA)	Pitts	Turner
Lee (NY)	Platts	Upton
Levin	Poe (TX)	Van Hollen
Lewis (CA)	Polis (CO)	Velázquez
Lewis (GA)	Pomeroy	Visclosky
Linder	Posey	Walden
Lipinski	Price (GA)	Walz
LoBiondo	Price (NC)	Wamp
Loeb	Putnam	Wasserman
Lofgren, Zoe	Quigley	Schultz
Lowe	Radanovich	Waters
Lucas	Rahall	Watson
Luetkemeyer	Rangel	Watt
Luján	Rehberg	Waxman
Lummis	Reichert	Weiner
Lungren, Daniel	Reyes	Welch
E.	Richardson	Westmoreland
Lynch	Rodriguez	Wexler
Mack	Roe (TN)	Whitfield
Maffei	Rogers (AL)	Wilson (OH)
Maloney	Rogers (KY)	Wilson (SC)
Malzullo	Rohrabacher	Wittman
Marchant	Rooney	Wolf
Markey (CO)	Ros-Lehtinen	Woolsey
Markey (MA)	Roskam	Wu
Marshall	Ross	Yarmuth
Massa	Rothman (NJ)	Young (AK)
Matheson	Roybal-Allard	Young (FL)

NAYS—1

Berry

NOT VOTING—18

Carter

Cassidy

Chandler

Clay

Conaway	McGovern	Sánchez, Linda
Dicks	McKeon	T.
Ehlers	Murphy, Patrick	Stupak
Gordon (TN)	Nunes	
Kagen	Rogers (MI)	

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). There are 2 minutes remaining in this vote.

□ 1324

So (two-thirds being in the affirmative) the rules were suspended and the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Mr. BERRY. Mr. Speaker, on November 6, 2009, I made a mistake and voted "nay" on H.R. 3788 (rollcall vote 867). I meant to vote "yea" on H.R. 3788. I have the highest respect and appreciation for Corporal Joseph A. Tomci and his family, and I apologize for any anguish my vote may have caused them. His service is greatly appreciated, and this honor is a fitting tribute to him and his family.

#### MOMENT OF SILENCE FOR THE VICTIMS OF VIOLENCE IN ORLANDO, FLORIDA

(Ms. CORRINE BROWN of Florida asked and was given permission to address the House for 1 minute.)

Ms. CORRINE BROWN of Florida. Madam Speaker, I am extremely sad to announce a tragedy in Orlando, Florida, today. Early reports are saying that at least two people are dead and six have been wounded in a mass shooting at an office building in downtown Orlando. Seven people were taken to Orlando Regional Medical Center and one to Florida Hospital South.

My thoughts and prayers go out to the family and the victims. Madam Speaker, would you please ask the House to stand. These are two tragic back-to-back days in our country. Let's ask to pray for our country and for the families and the victims.

The SPEAKER. Will all Members rise and observe a moment of silence for the victims of violence in Orlando, Florida.

#### ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Ms. EDWARDS of Maryland). Without objection, 5-minute voting will continue.

There was no objection.

#### JACK F. KEMP POST OFFICE BUILDING

The SPEAKER pro tempore. The unfinished business is the vote on the motion to suspend the rules and pass the bill, S. 1211, on which the yeas and nays were ordered.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois (Mr. DAVIS) that the House suspend the rules and pass the bill, S. 1211.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 408, nays 0, not voting 26, as follows:

[Roll No. 868]

YEAS—408

Abercrombie	Cooper	Hill
Ackerman	Costa	Himes
Adler (NJ)	Costello	Hinchee
Akin	Courtney	Hinojosa
Alexander	Crenshaw	Hirono
Altmire	Cuellar	Hodes
Andrews	Culberson	Hoekstra
Arcuri	Cummings	Holden
Austria	Dahlkemper	Holt
Baca	Davis (AL)	Honda
Bachmann	Davis (CA)	Hoyer
Bachus	Davis (IL)	Hunter
Baird	Davis (KY)	Inglis
Baldwin	Davis (TN)	Inslee
Barrett (SC)	Deal (GA)	Israel
Barrow	DeFazio	Issa
Bartlett	DeGette	Jackson (IL)
Barton (TX)	Delahunt	Jackson-Lee
Bean	DeLauro	(TX)
Becerra	Dent	Jenkins
Berkley	Diaz-Balart, L.	Johnson (GA)
Berman	Diaz-Balart, M.	Johnson (IL)
Berry	Dingell	Johnson, E. B.
Biggert	Doggett	Johnson, Sam
Bilbray	Donnelly (IN)	Jones
Bilirakis	Doyle	Jordan (OH)
Bishop (GA)	Dreier	Kagen
Bishop (NY)	Driedhaus	Kanjorski
Bishop (UT)	Duncan	Kaptur
Blackburn	Edwards (MD)	Kennedy
Blumenauer	Edwards (TX)	Kildee
Blunt	Ellsworth	Kilpatrick (MI)
Boccieri	Emerson	Kilroy
Boehner	Engel	Kind
Bonner	Eshoo	King (IA)
Bono Mack	Etheridge	King (NY)
Boozman	Fallin	Kingston
Boren	Farr	Kirk
Boswell	Fattah	Kirkpatrick (AZ)
Boucher	Filner	Kissel
Boustany	Flake	Klein (FL)
Boyd	Fleming	Kline (MN)
Brady (PA)	Forbes	Kosmas
Brady (TX)	Fortenberry	Kratovil
Braley (IA)	Foster	Kucinich
Bright	Fox	Lamborn
Brown (SC)	Franks (AZ)	Lance
Brown, Corrine	Frelinghuysen	Langevin
Brown-Waite,	Fudge	Larson (CT)
Ginny	Gallely	Latham
Buchanan	Garamendi	LaTourette
Burgess	Garrett (NJ)	Latta
Burton (IN)	Gerlach	Lee (CA)
Butterfield	Giffords	Lee (NY)
Buyer	Gingrey (GA)	Levin
Calvert	Gohmert	Lewis (CA)
Camp	Gonzalez	Lewis (GA)
Campbell	Goodlatte	Linder
Cantor	Granger	Lipinski
Cao	Graves	LoBiondo
Capito	Grayson	Loeb
Capps	Green, Al	Lowey
Capuano	Green, Gene	Lucas
Cardoza	Griffith	Luetkemeyer
Carnahan	Grijalva	Lujan
Carney	Guthrie	Lummis
Carson (IN)	Gutierrez	Lungren, Daniel
Castle	Hall (NY)	E.
Castor (FL)	Hall (TX)	Lynch
Chaffetz	Halvorson	Mack
Childers	Hare	Maffei
Chu	Harman	Maloney
Clarke	Harper	Manzullo
Clay	Hastings (FL)	Marchant
Cleaver	Hastings (WA)	Markey (CO)
Clyburn	Heinrich	Markey (MA)
Coble	Heller	Marshall
Cohen	Hensarling	Massa
Cole	Herger	Matheson
Connolly (VA)	Hersteth Sandlin	Matsui
Conyers	Higgins	McCarthy (CA)

McCarthy (NY)	Petri	Skelton
McCaul	Pingree (ME)	Smith (NE)
McClintock	Pitts	Smith (NJ)
McCollum	Platts	Smith (TX)
McCotter	Poe (TX)	Smith (WA)
McDermott	Polis (CO)	Snyder
McHenry	Pomeroy	Souder
McIntyre	Posey	Space
McKeon	Price (GA)	Speier
McMahon	Price (NC)	Spratt
McMorris	Putnam	Stark
Rodgers	Quigley	Stearns
McNerney	Radanovich	Stupak
Meek (FL)	Rahall	Sullivan
Meeks (NY)	Rehberg	Sutton
Melancon	Reichert	Tanner
Mica	Reyes	Taylor
Michaud	Richardson	Teague
Miller (FL)	Rodriguez	Terry
Miller (MI)	Roe (TN)	Thompson (CA)
Miller (NC)	Rogers (AL)	Thompson (MS)
Miller, Gary	Rogers (KY)	Thompson (PA)
Miller, George	Rohrabacher	Thornberry
Minnick	Rooney	Tiahrt
Mitchell	Ros-Lehtinen	Tiberi
Mollohan	Roskam	Tierney
Moore (KS)	Ross	Titus
Moore (WI)	Rothman (NJ)	Tonko
Moran (KS)	Roybal-Allard	Towns
Moran (VA)	Royce	Tsongas
Murphy (CT)	Ruppersberger	Turner
Murphy (NY)	Rush	Upton
Murphy, Tim	Ryan (OH)	Van Hollen
Murtha	Ryan (WI)	Velazquez
Myrick	Salazar	Visclosky
Nadler (NY)	Sarbanes	Walden
Napolitano	Scalise	Walz
Neal (MA)	Schakowsky	Wamp
Neugebauer	Schauer	Wasserman
Nye	Schiff	Schultz
Oberstar	Schmidt	Waters
Obey	Schrader	Watson
Olson	Schwartz	Watt
Oliver	Scott (GA)	Waxman
Ortiz	Scott (VA)	Weiner
Owens	Sensenbrenner	Welch
Pallone	Serrano	Wexler
Pascarella	Sessions	Whitfield
Pastor (AZ)	Sestak	Wilson (OH)
Paul	Shadegg	Wilson (SC)
Paulsen	Shea-Porter	Wittman
Payne	Sherman	Wolf
Pence	Shimkus	Wu
Perlmutter	Shuler	Yarmuth
Perriello	Shuster	Young (AK)
Peters	Simpson	Young (FL)
Peterson	Sires	

NOT VOTING—26

Aderholt	Ehlers	Rangel
Broun (GA)	Ellison	Rogers (MI)
Carter	Frank (MA)	Sánchez, Linda
Cassidy	Gordon (TN)	T.
Chandler	Larsen (WA)	Sanchez, Loretta
Coffman (CO)	Lofgren, Zoe	Schock
Conaway	McGovern	Slaughter
Crowley	Murphy, Patrick	Westmoreland
Dicks	Nunes	Woolsey

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). One minute remains in this vote.

□ 1335

So (two-thirds being in the affirmative) the rules were suspended and the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

#### CHEMICAL FACILITY ANTI-TERRORISM ACT OF 2009

The SPEAKER pro tempore. Pursuant to House Resolution 885 and rule XVIII, the Chair declares the House in the Committee of the Whole House on

the State of the Union for the further consideration of the bill, H.R. 2868.

□ 1335

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 2868) to amend the Homeland Security Act of 2002 to extend, modify, and recodify the authority of the Secretary of Homeland Security to enhance security and protect against acts of terrorism against chemical facilities, and for other purposes, with Mr. SALAZAR (Acting Chair) in the chair.

The Clerk read the title of the bill.

The Acting CHAIR. When the Committee of the Whole rose on Thursday, November 5, 2009, all time for general debate had expired.

In lieu of the amendments in the nature of a substitute recommended by the Committees on Homeland Security and Energy and Commerce printed in the bill, the amendment in the nature of a substitute printed in part A of House Report 111-327 shall be considered as an original bill for purpose of amendment under the 5-minute rule and shall be considered read.

The text of the amendment in the nature of a substitute is as follows:

H.R. 2868

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the “Chemical and Water Security Act of 2009”.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

#### TITLE I—CHEMICAL FACILITY SECURITY

Sec. 101. Short title.

Sec. 102. Findings and purpose.

Sec. 103. Extension, modification, and recodification of authority of Secretary of Homeland Security to regulate security practices at chemical facilities.

#### TITLE II—DRINKING WATER SECURITY

Sec. 201. Short title.

Sec. 202. Intentional acts affecting the security of covered water systems.

Sec. 203. Study to assess the threat of contamination of drinking water distribution systems.

#### TITLE III—WASTEWATER TREATMENT WORKS SECURITY

Sec. 301. Short title.

Sec. 302. Wastewater treatment works security.

#### TITLE I—CHEMICAL FACILITY SECURITY

##### SEC. 101. SHORT TITLE.

This title may be cited as the “Chemical Facility Anti-Terrorism Act of 2009”.

##### SEC. 102. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress makes the following findings:

(1) The Nation’s chemical sector represents a target that terrorists could exploit to cause consequences, including death, injury, or serious adverse effects to human health, the environment, critical infrastructure,

public health, homeland security, national security, and the national economy.

(2) Chemical facilities that pose such potential consequences and that are vulnerable to terrorist attacks must be protected.

(3) The Secretary of Homeland Security has statutory authority pursuant to section 550 of the Department of Homeland Security Appropriations Act, 2007 (Public Law 109-295) to regulate the security practices at chemical facilities that are at significant risk of being terrorist targets.

(4) The Secretary of Homeland Security issued interim final regulations called the Chemical Facility Anti-Terrorism Standards, which became effective on June 8, 2007.

(b) PURPOSE.—The purpose of this title is to modify and make permanent the authority of the Secretary of Homeland Security to regulate security practices at chemical facilities.

**SEC. 103. EXTENSION, MODIFICATION, AND RECODIFICATION OF AUTHORITY OF SECRETARY OF HOMELAND SECURITY TO REGULATE SECURITY PRACTICES AT CHEMICAL FACILITIES.**

(a) IN GENERAL.—The Homeland Security Act of 2002 (6 U.S.C. 101 et seq.) is amended by adding at the end the following new title:

**“TITLE XXI—REGULATION OF SECURITY PRACTICES AT CHEMICAL FACILITIES**

**“SEC. 2101. DEFINITIONS.**

“In this title, the following definitions apply:

“(1) The term ‘chemical facility’ means any facility—

“(A) at which the owner or operator of the facility possesses or plans to possess at any relevant point in time a substance of concern; or

“(B) that meets other risk-related criteria identified by the Secretary.

“(2) The term ‘chemical facility security performance standards’ means risk-based standards established by the Secretary to ensure or enhance the security of a chemical facility against a chemical facility terrorist incident that are designed to address the following:

“(A) Restricting the area perimeter.

“(B) Securing site assets.

“(C) Screening and controlling access to the facility and to restricted areas within the facility by screening or inspecting individuals and vehicles as they enter, including—

“(i) measures to deter the unauthorized introduction of dangerous substances and devices that may facilitate a chemical facility terrorist incident or actions having serious negative consequences for the population surrounding the chemical facility; and

“(ii) measures implementing a regularly updated identification system that checks the identification of chemical facility personnel and other persons seeking access to the chemical facility and that discourages abuse through established disciplinary measures.

“(D) Methods to deter, detect, and delay a chemical facility terrorist incident, creating sufficient time between detection of a chemical facility terrorist incident and the point at which the chemical facility terrorist incident becomes successful, including measures to—

“(i) deter vehicles from penetrating the chemical facility perimeter, gaining unauthorized access to restricted areas, or otherwise presenting a hazard to potentially critical targets;

“(ii) deter chemical facility terrorist incidents through visible, professional, well-maintained security measures and systems,

including security personnel, detection systems, barriers and barricades, and hardened or reduced value targets;

“(iii) detect chemical facility terrorist incidents at early stages through counter surveillance, frustration of opportunity to observe potential targets, surveillance and sensing systems, and barriers and barricades; and

“(iv) delay a chemical facility terrorist incident for a sufficient period of time so as to allow appropriate response through on-site security response, barriers and barricades, hardened targets, and well-coordinated response planning.

“(E) Securing and monitoring the shipping, receipt, and storage of a substance of concern for the chemical facility.

“(F) Deterring theft or diversion of a substance of concern.

“(G) Deterring insider sabotage.

“(H) Deterring cyber sabotage, including by preventing unauthorized onsite or remote access to critical process controls, including supervisory control and data acquisition systems, distributed control systems, process control systems, industrial control systems, critical business systems, and other sensitive computerized systems.

“(I) Developing and exercising an internal emergency plan for owners, operators, and covered individuals of a covered chemical facility for responding to chemical facility terrorist incidents at the facility. Any such plan shall include the provision of appropriate information to any local emergency planning committee, local law enforcement officials, and emergency response providers to ensure an effective, collective response to terrorist incidents.

“(J) Maintaining effective monitoring, communications, and warning systems, including—

“(i) measures designed to ensure that security systems and equipment are in good working order and inspected, tested, calibrated, and otherwise maintained;

“(ii) measures designed to regularly test security systems, note deficiencies, correct for detected deficiencies, and record results so that they are available for inspection by the Department; and

“(iii) measures to allow the chemical facility to promptly identify and respond to security system and equipment failures or malfunctions.

“(K) Ensuring mandatory annual security training, exercises, and drills of chemical facility personnel appropriate to their roles, responsibilities, and access to chemicals, including participation by local law enforcement, local emergency response providers, appropriate supervisory and non-supervisory facility employees and their employee representatives, if any.

“(L) Performing personnel surety for individuals with access to restricted areas or critical assets by conducting appropriate background checks and ensuring appropriate credentials for unescorted visitors and chemical facility personnel, including permanent and part-time personnel, temporary personnel, and contract personnel, including—

“(i) measures designed to verify and validate identity;

“(ii) measures designed to check criminal history;

“(iii) measures designed to verify and validate legal authorization to work; and

“(iv) measures designed to identify people with terrorist ties.

“(M) Escalating the level of protective measures for periods of elevated threat.

“(N) Specific threats, vulnerabilities, or risks identified by the Secretary for that chemical facility.

“(O) Reporting of significant security incidents to the Department and to appropriate local law enforcement officials.

“(P) Identifying, investigating, reporting, and maintaining records of significant security incidents and suspicious activities in or near the site.

“(Q) Establishing one or more officials and an organization responsible for—

“(i) security;

“(ii) compliance with the standards under this paragraph;

“(iii) serving as the point of contact for incident management purposes with Federal, State, local, and tribal agencies, law enforcement, and emergency response providers; and

“(iv) coordination with Federal, State, local, and tribal agencies, law enforcement, and emergency response providers regarding plans and security measures for the collective response to a chemical facility terrorist incident.

“(R) Maintaining appropriate records relating to the security of the facility, including a copy of the most recent security vulnerability assessment and site security plan at the chemical facility.

“(S) Assessing and, as appropriate, utilizing methods to reduce the consequences of a terrorist attack.

“(T) Methods to recover or mitigate the release of a substance of concern in the event of a chemical facility terrorist incident.

“(U) Any additional security performance standards the Secretary may specify.

“(3) The term ‘chemical facility terrorist incident’ means any act or attempted act of terrorism or terrorist activity committed at, near, or against a chemical facility, including—

“(A) the release of a substance of concern from a chemical facility;

“(B) the theft, misappropriation, or misuse of a substance of concern from a chemical facility; or

“(C) the sabotage of a chemical facility or a substance of concern at a chemical facility.

“(4) The term ‘employee representative’ means the representative of the certified or recognized bargaining agent engaged in a collective bargaining relationship with a private or public owner or operator of a chemical facility.

“(5) The term ‘covered individual’ means a permanent, temporary, full-time, or part-time employee of a covered chemical facility or an employee of an entity with which the covered chemical facility has entered into a contract who is performing responsibilities at the facility pursuant to the contract.

“(6) The term ‘covered chemical facility’ means a chemical facility that meets the criteria of section 2102(b)(1).

“(7) The term ‘environment’ means—

“(A) the navigable waters, the waters of the contiguous zone, and the ocean waters of which the natural resources are under the exclusive management authority of the United States under the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.); and

“(B) any other surface water, ground water, drinking water supply, land surface or subsurface strata, or ambient air within the United States or under the jurisdiction of the United States.

“(8) The term ‘owner or operator’ with respect to a facility means any of the following:

“(A) The person who owns the facility.



“(B) The person who has responsibility for daily operation of the facility.

“(C) The person who leases the facility.

“(9) The term ‘person’ means an individual, trust, firm, joint stock company, corporation (including a government corporation), partnership, association, State, municipality, commission, political subdivision of a State, or any interstate body and shall include each department, agency, and instrumentality of the United States.

“(10) The term ‘release’ means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the environment (including the abandonment or discarding of barrels, containers, and other closed receptacles containing any hazardous substance or pollutant or contaminant).

“(11) The term ‘substance of concern’ means a chemical substance in quantity and form that is so designated by the Secretary under section 2102(a).

“(12) The term ‘method to reduce the consequences of a terrorist attack’ means a measure used at a chemical facility that reduces or eliminates the potential consequences of a chemical facility terrorist incident, including—

“(A) the elimination or reduction in the amount of a substance of concern possessed or planned to be possessed by an owner or operator of a covered chemical facility through the use of alternate substances, formulations, or processes;

“(B) the modification of pressures, temperatures, or concentrations of a substance of concern; and

“(C) the reduction or elimination of onsite handling of a substance of concern through improvement of inventory control or chemical use efficiency.

#### **“SEC. 2102. RISK-BASED DESIGNATION AND RANKING OF CHEMICAL FACILITIES.**

“(a) SUBSTANCES OF CONCERN.—

“(1) DESIGNATION BY THE SECRETARY.—The Secretary may designate any chemical substance as a substance of concern and establish the threshold quantity for each such substance of concern.

“(2) MATTERS FOR CONSIDERATION.—In designating a chemical substance or establishing or adjusting the threshold quantity for a chemical substance under paragraph (1), the Secretary shall consider the potential extent of death, injury, and serious adverse effects to human health, the environment, critical infrastructure, public health, homeland security, national security, and the national economy that could result from a chemical facility terrorist incident.

“(b) LIST OF COVERED CHEMICAL FACILITIES.—

“(1) CRITERIA FOR LIST OF FACILITIES.—The Secretary shall maintain a list of covered chemical facilities that the Secretary determines are of sufficient security risk for inclusion on the list based on the following criteria:

“(A) The potential threat or likelihood that the chemical facility will be the target of a chemical facility terrorist incident.

“(B) The potential extent and likelihood of death, injury, or serious adverse effects to human health, the environment, critical infrastructure, public health, homeland security, national security, and the national economy that could result from a chemical facility terrorist incident.

“(C) The proximity of the chemical facility to large population centers.

“(2) SUBMISSION OF INFORMATION.—The Secretary may require the submission of information with respect to the quantities of sub-

stances of concern that an owner or operator of a chemical facility possesses or plans to possess in order to determine whether to designate a chemical facility as a covered chemical facility for purposes of this title.

“(c) ASSIGNMENT OF CHEMICAL FACILITIES TO RISK-BASED TIERS.—

“(1) ASSIGNMENT.—The Secretary shall assign each covered chemical facility to one of four risk-based tiers established by the Secretary, with tier one representing the highest degree of risk and tier four the lowest degree of risk.

“(2) PROVISION OF INFORMATION.—The Secretary may request, and the owner or operator of a covered chemical facility shall provide, any additional information beyond any information required to be submitted under subsection (b)(2) that may be necessary for the Secretary to assign the chemical facility to the appropriate tier under paragraph (1).

“(3) NOTIFICATION.—Not later than 60 days after the date on which the Secretary determines that a chemical facility is a covered chemical facility or is no longer a covered chemical facility or changes the tier assignment under paragraph (1) of a covered chemical facility, the Secretary shall notify the owner or operator of that chemical facility of that determination or change together with the reason for the determination or change and, upon the request of the owner or operator of a covered chemical facility, provide to the owner or operator of the covered chemical facility the following information:

“(A) The number of individuals at risk of death, injury, or severe adverse effects to human health as a result of a worst case chemical facility terrorist incident at the covered chemical facility.

“(B) Information related to the criticality of the covered chemical facility.

“(C) The proximity or interrelationship of the covered chemical facility to other critical infrastructure.

“(d) REQUIREMENT FOR REVIEW.—The Secretary—

“(1) shall periodically review—

“(A) the designation of a substance of concern and the threshold quantity under subsection (a)(1); and

“(B) the criteria under subsection (b)(1); and

“(2) may at any time determine whether a chemical facility is a covered chemical facility or change the tier to which such a facility is assigned under subsection (c)(1).

“(e) PROVISION OF THREAT-RELATED INFORMATION.—In order to effectively assess the vulnerabilities to a covered chemical facility, the Secretary shall provide to the owner, operator, or security officer of a covered chemical facility threat information regarding probable threats to the facility and methods that could be used in a chemical facility terrorist incident.

#### **“SEC. 2103. SECURITY VULNERABILITY ASSESSMENTS AND SITE SECURITY PLANS.**

“(a) IN GENERAL.—

“(1) REQUIREMENT.—The Secretary shall—

“(A) establish standards, protocols, and procedures for security vulnerability assessments and site security plans to be required for covered chemical facilities;

“(B) require the owner or operator of each covered chemical facility to—

“(i) conduct an assessment of the vulnerability of the covered chemical facility to a range of chemical facility terrorist incidents, including an incident that results in a worst-case release of a substance of concern and submit such assessment to the Secretary;

“(ii) prepare and implement a site security plan for that covered chemical facility that

addresses the security vulnerability assessment and meets the risk-based chemical security performance standards under subsection (c) and submit such plan to the Secretary;

“(iii) include at least one supervisory and at least one non-supervisory employee of the covered chemical facility, and at least one employee representative, from each bargaining agent at the covered chemical facility, if any, in developing the security vulnerability assessment and site security plan required under this section; and

“(iv) include, with the submission of a security vulnerability assessment and the site security plan of the covered chemical facility under this title, a signed statement by the owner or operator of the covered chemical facility that certifies that the submission is provided to the Secretary with knowledge of the penalty provisions under section 2107;

“(C) set deadlines, by tier, for the completion of security vulnerability assessments and site security plans;

“(D) upon request, as necessary, and to the extent that resources permit, provide technical assistance to a covered chemical facility conducting a vulnerability assessment or site security plan required under this section;

“(E) establish specific deadlines and requirements for the submission by a covered chemical facility of information describing—

“(i) any change in the use by the covered chemical facility of more than a threshold amount of any substance of concern that may affect the requirements of the chemical facility under this title; or

“(ii) any material modification to a covered chemical facility’s operations or site that may affect the security vulnerability assessment or site security plan submitted by the covered chemical facility;

“(F) require the owner or operator of a covered chemical facility to review and resubmit a security vulnerability assessment or site security plan not less frequently than once every 5 years; and

“(G) not later than 180 days after the date on which the Secretary receives a security vulnerability assessment or site security plan under this title, review and approve or disapprove such assessment or plan and notify the covered chemical facility of such approval or disapproval.

“(2) INHERENTLY GOVERNMENTAL FUNCTION.—The approval or disapproval of a security vulnerability assessment or site security plan under this section is an inherently governmental function.

“(b) PARTICIPATION IN PREPARATION OF SECURITY VULNERABILITY ASSESSMENTS OR SITE SECURITY PLANS.—Any person selected by the owner or operator of a covered chemical facility or by a certified or recognized bargaining agent of a covered chemical facility to participate in the development of the security vulnerability assessment or site security plan required under this section for such covered chemical facility shall be permitted to participate if the person possesses knowledge, experience, training, or education relevant to the portion of the security vulnerability assessment or site security plan on which the person is participating.

“(c) RISK-BASED CHEMICAL SECURITY PERFORMANCE STANDARDS.—The Secretary shall establish risk-based chemical security performance standards for the site security plans required to be prepared by covered chemical facilities. In establishing such standards, the Secretary shall—

“(1) require separate and, as appropriate, increasingly stringent risk-based chemical

security performance standards for site security plans as the level of risk associated with the tier increases; and

“(2) permit each covered chemical facility submitting a site security plan to select a combination of security measures that satisfy the risk-based chemical security performance standards established by the Secretary under this subsection.

“(d) CO-LOCATED CHEMICAL FACILITIES.—The Secretary may allow an owner or operator of a covered chemical facility that is located geographically close to another covered chemical facility to develop and implement coordinated security vulnerability assessments and site security plans.

“(e) ALTERNATE SECURITY PROGRAMS SATISFYING REQUIREMENTS FOR SECURITY VULNERABILITY ASSESSMENT AND SITE SECURITY PLAN.—

“(1) ACCEPTANCE OF PROGRAM.—In response to a request by an owner or operator of a covered chemical facility, the Secretary may accept an alternate security program submitted by the owner or operator of the facility as a component of the security vulnerability assessment or site security plan required under this section, if the Secretary determines that such alternate security program, in combination with other components of the security vulnerability assessment and site security plan submitted by the owner or operator of the facility—

“(A) meets the requirements of this title and the regulations promulgated pursuant to this title;

“(B) provides an equivalent level of security to the level of security established pursuant to the regulations promulgated under this title; and

“(C) includes employee participation as required under subsection (a)(1)(B)(iii).

“(2) SECRETARIAL REVIEW REQUIRED.—Nothing in this subsection shall relieve the Secretary of the obligation—

“(A) to review a security vulnerability assessment and site security plan submitted by a covered chemical facility under this section; and

“(B) to approve or disapprove each such assessment or plan on an individual basis according to the deadlines established under subsection (a).

“(3) COVERED FACILITY'S OBLIGATIONS UNAFFECTED.—Nothing in this subsection shall relieve any covered chemical facility of the obligation and responsibility to comply with all of the requirements of this title.

“(4) PERSONNEL SURETY ALTERNATE SECURITY PROGRAM.—In response to an application from a non-profit, personnel surety accrediting organization acting on behalf of, and with written authorization from, the owner or operator of a covered chemical facility, the Secretary may accept a personnel surety alternate security program that meets the requirements of section 2115 and provides for a background check process that is—

“(A) expedited, affordable, reliable, and accurate;

“(B) fully protective of the rights of covered individuals through procedures that are consistent with the privacy protections available under the Fair Credit Reporting Act (15 U.S.C. 1681 et seq.); and

“(C) is a single background check consistent with a risk-based tiered program.

“(f) OTHER AUTHORITIES.—

“(1) REGULATION OF MARITIME FACILITIES.—

“(A) RISK-BASED TIERING.—Notwithstanding any other provision of law, the owner or operator of a chemical facility required to submit a facility security plan

under section 70103(c) of title 46, United States Code, shall be required to submit information to the Secretary necessary to determine whether to designate such a facility as a covered chemical facility and to assign the facility to a risk-based tier under section 2102 of this title.

“(B) ADDITIONAL MEASURES.—In the case of a facility designated as a covered chemical facility under this title for which a facility security plan is required to be submitted under section 70103(c) of title 46, United States Code, the Commandant of the Coast Guard, after consultation with the Secretary, shall require the owner or operator of such facility to update the vulnerability assessments and facility security plans required under that section, if necessary, to ensure an equivalent level of security for substances of concern, including the requirements under section 2111, in the same manner as other covered chemical facilities in this title.

“(C) PERSONNEL SURETY.—

“(i) EXCEPTION.—A facility designated as a covered chemical facility under this title that has had its facility security plan approved under section 70103(c) of title 46, United States Code, shall not be required to update or amend such plan in order to meet the requirements of section 2115 of this title.

“(ii) EQUIVALENT ACCESS.—An individual described in section 2115(a)(1)(B) who has been granted access to restricted areas or critical assets by the owner or operator of a facility for which a security plan is required to be submitted under section 70103(c) of title 46, United States Code, may be considered by that owner or operator to have satisfied the requirement for passing a security background check otherwise required under section 2115 for purposes of granting the individual access to restricted areas or critical assets of a covered chemical facility that is owned or operated by the same owner or operator.

“(D) INFORMATION SHARING AND PROTECTION.—Notwithstanding section 70103(d) of title 46, United States Code, the Commandant of the Coast Guard, after consultation with the Secretary, shall apply the information sharing and protection requirements in section 2110 of this title to a facility described in subparagraph (B).

“(E) ENFORCEMENT.—The Secretary shall establish, by rulemaking, procedures to ensure that an owner or operator of a covered chemical facility required to update the vulnerability assessment and facility security plan for the facility under subparagraph (B) is in compliance with the requirements of this title.

“(F) FORMAL AGREEMENT.—The Secretary shall—

“(i) require the Office of Infrastructure Protection and the Coast Guard to enter into a formal agreement detailing their respective roles and responsibilities in carrying out the requirements of this title, which shall ensure that the enforcement and compliance requirements under this title and section 70103 of title 46, United States Code, are not conflicting or duplicative; and

“(ii) designate the agency responsible for enforcing the requirements of this title with respect to covered chemical facilities for which facility security plans are required to be submitted under section 70103(c) of title 46, United States Code, consistent with the requirements of subparagraphs (B) and (D).

“(2) COORDINATION OF STORAGE LICENSING OR PERMITTING REQUIREMENT.—In the case of any storage required to be licensed or permitted under chapter 40 of title 18, United States

Code, the Secretary shall prescribe the rules and regulations for the implementation of this section with the concurrence of the Attorney General and avoid unnecessary duplication of regulatory requirements.

“(g) ROLE OF EMPLOYEES.—

“(1) DESCRIPTION OF ROLE REQUIRED.—Site security plans required under this section shall describe the roles or responsibilities that covered individuals are expected to perform to deter or respond to a chemical facility terrorist incident.

“(2) ANNUAL TRAINING FOR EMPLOYEES.—The owner or operator of a covered chemical facility required to submit a site security plan under this section shall annually provide each covered individual with a role or responsibility referred to in paragraph (1) at the facility with a minimum of 8 hours of training. Such training shall, as relevant to the role or responsibility of such covered individual—

“(A) include an identification and discussion of substances of concern;

“(B) include a discussion of possible consequences of a chemical facility terrorist incident;

“(C) review and exercise the covered chemical facility's site security plan, including any requirements for differing threat levels;

“(D) include a review of information protection requirements;

“(E) include a discussion of physical and cyber security equipment, systems, and methods used to achieve chemical security performance standards;

“(F) allow training with other relevant participants, including Federal, State, local, and tribal authorities, and first responders, where appropriate;

“(G) use existing national voluntary consensus standards, chosen jointly with employee representatives, if any;

“(H) allow instruction through government training programs, chemical facilities, academic institutions, nonprofit organizations, industry and private organizations, employee organizations, and other relevant entities that provide such training;

“(I) use multiple training media and methods; and

“(J) include a discussion of appropriate emergency response procedures, including procedures to mitigate the effects of a chemical facility terrorist incident.

“(3) EQUIVALENT TRAINING.—During any year, with respect to any covered individual with roles or responsibilities under paragraph (1), an owner or operator of a covered chemical facility may satisfy any of the training requirements for such covered individual under subparagraphs (A), (B), (C), (D), (E), or (J) of paragraph (2) through training that such owner or operator certifies, in a manner prescribed by the Secretary, is equivalent.

“(4) WORKER TRAINING GRANT PROGRAM.—

“(A) AUTHORITY.—The Secretary shall establish a grant program to award grants to or enter into cooperative agreements with eligible entities to provide for the training and education of covered individuals with roles or responsibilities described in paragraph (1) and first responders and emergency response providers that would respond to a chemical facility terrorist incident.

“(B) ADMINISTRATION.—The Secretary shall seek to enter into an agreement with the Director of the National Institute for Environmental Health Sciences, or with the head of another Federal or State agency, to make and administer grants or cooperative agreements under this paragraph.

“(C) USE OF FUNDS.—The recipient of funds under this paragraph shall use such funds to

provide for the training and education of covered individuals with roles or responsibilities described in paragraph (1), first responders, and emergency response providers, including—

“(i) the annual mandatory training specified in paragraph (2); and

“(ii) other appropriate training to protect nearby persons, property, critical infrastructure, or the environment from the effects of a chemical facility terrorist incident.

“(D) ELIGIBLE ENTITIES.—For purposes of this paragraph, an eligible entity is a non-profit organization with demonstrated experience in implementing and operating successful worker or first responder health and safety or security training programs.

“(h) STATE, REGIONAL, OR LOCAL GOVERNMENTAL ENTITIES.—No covered chemical facility shall be required under State, local, or tribal law to provide a vulnerability assessment or site security plan described under this title to any State, regional, local, or tribal government entity solely by reason of the requirement under subsection (a) that the covered chemical facility submit such an assessment and plan to the Secretary.

#### “SEC. 2104. SITE INSPECTIONS.

“(a) RIGHT OF ENTRY.—For purposes of carrying out this title, the Secretary shall have, at a reasonable time and on presentation of credentials, a right of entry to, on, or through any property of a covered chemical facility or any property on which any record required to be maintained under this section is located.

“(b) INSPECTIONS AND VERIFICATIONS.—

“(1) IN GENERAL.—The Secretary shall, at such time and place as the Secretary determines to be reasonable and appropriate, conduct chemical facility security inspections and verifications.

“(2) REQUIREMENTS.—To ensure and evaluate compliance with this title, including any regulations or requirements adopted by the Secretary in furtherance of the purposes of this title, in conducting an inspection or verification under paragraph (1), the Secretary shall have access to the owners, operators, employees, and employee representatives, if any, of a covered chemical facility.

“(c) UNANNOUNCED INSPECTIONS.—In addition to any inspection conducted pursuant to subsection (b), the Secretary shall require covered chemical facilities assigned to tier 1 and tier 2 under section 2102(c)(1) to undergo unannounced facility inspections. The inspections required under this subsection shall be—

“(1) conducted without prior notice to the facility;

“(2) designed to evaluate at the chemical facility undergoing inspection—

“(A) the ability of the chemical facility to prevent a chemical facility terrorist incident that the site security plan of the facility is intended to prevent;

“(B) the ability of the chemical facility to protect against security threats that are required to be addressed by the site security plan of the facility; and

“(C) any weaknesses in the site security plan of the chemical facility;

“(3) conducted so as not to affect the actual security, physical integrity, safety, or regular operations of the chemical facility or its employees while the inspection is conducted; and

“(4) conducted—

“(A) every two years in the case of a covered chemical facility assigned to tier 1; and

“(B) every four years in the case of a covered chemical facility assigned to tier 2.

“(d) CHEMICAL FACILITY INSPECTORS AUTHORIZED.—During the period of fiscal years

2011 and 2012, subject to the availability of appropriations for such purpose, the Secretary shall increase by not fewer than 100 the total number of chemical facility inspectors within the Department to ensure compliance with this title.

“(e) CONFIDENTIAL COMMUNICATIONS.—The Secretary shall offer non-supervisory employees the opportunity to confidentially communicate information relevant to the employer's compliance or non-compliance with this title, including compliance or non-compliance with any regulation or requirement adopted by the Secretary in furtherance of the purposes of this title. An employee representative of each certified or recognized bargaining agent at the covered chemical facility, if any, or, if none, a non-supervisory employee, shall be given the opportunity to accompany the Secretary during a physical inspection of such covered chemical facility for the purpose of aiding in such inspection, if representatives of the owner or operator of the covered chemical facility will also be accompanying the Secretary on such inspection.

#### “SEC. 2105. RECORDS.

“(a) REQUEST FOR RECORDS.—In carrying out this title, the Secretary may require submission of, or on presentation of credentials may at reasonable times obtain access to and copy, any records, including any records maintained in electronic format, necessary for—

“(1) reviewing or analyzing a security vulnerability assessment or site security plan submitted under section 2103; or

“(2) assessing the implementation of such a site security plan.

“(b) PROPER HANDLING OF RECORDS.—In accessing or copying any records under subsection (a), the Secretary shall ensure that such records are handled and secured appropriately in accordance with section 2110.

#### “SEC. 2106. TIMELY SHARING OF THREAT INFORMATION.

“(a) RESPONSIBILITIES OF SECRETARY.—Upon the receipt of information concerning a threat that is relevant to a certain covered chemical facility, the Secretary shall provide such information in a timely manner, to the maximum extent practicable under applicable authority and in the interests of national security, to the owner, operator, or security officer of that covered chemical facility, to a representative of each recognized or certified bargaining agent at the facility, if any, and to relevant State, local, and tribal authorities, including the State Homeland Security Advisor, if any.

“(b) RESPONSIBILITIES OF OWNER OR OPERATOR.—The Secretary shall require the owner or operator of a covered chemical facility to provide information concerning a threat in a timely manner about any significant security incident or threat to the covered chemical facility or any intentional or unauthorized penetration of the physical security or cyber security of the covered chemical facility whether successful or unsuccessful.

#### “SEC. 2107. ENFORCEMENT.

“(a) REVIEW OF SECURITY VULNERABILITY ASSESSMENT AND SITE SECURITY PLAN.—

“(1) DISAPPROVAL.—The Secretary shall disapprove a security vulnerability assessment or site security plan submitted under this title if the Secretary determines, in his or her discretion, that—

“(A) the security vulnerability assessment or site security plan does not comply with the standards, protocols, or procedures under section 2103(a)(1)(A); or

“(B) in the case of a site security plan—

“(i) the plan or the implementation of the plan is insufficient to address vulnerabilities identified in a security vulnerability assessment, site inspection, or unannounced inspection of the covered chemical facility; or

“(ii) the plan fails to meet all applicable chemical facility security performance standards.

“(2) NOTIFICATION OF DISAPPROVAL.—If the Secretary disapproves the security vulnerability assessment or site security plan submitted by a covered chemical facility under this title or the implementation of a site security plan by such a chemical facility, the Secretary shall provide the owner or operator of the covered chemical facility a written notification of the disapproval not later than 14 days after the date on which the Secretary disapproves such assessment or plan, that—

“(A) includes a clear explanation of deficiencies in the assessment, plan, or implementation of the plan; and

“(B) requires the owner or operator of the covered chemical facility to revise the assessment or plan to address any deficiencies and, by such date as the Secretary determines is appropriate, to submit to the Secretary the revised assessment or plan.

“(b) REMEDIES.—

“(1) ORDER FOR COMPLIANCE.—Whenever the Secretary determines that the owner or operator of a covered chemical facility has violated or is in violation of any requirement of this title or has failed or is failing to address any deficiencies in the assessment, plan, or implementation of the plan by such date as the Secretary determines to be appropriate, the Secretary may—

“(A) after providing notice to the owner or operator of the covered chemical facility and an opportunity, pursuant to the regulations issued under this title, for such owner or operator to seek review within the Department of the Secretary's determination, issue an order assessing an administrative penalty of not more than \$25,000 for each day on which a past or current violation occurs or a failure to comply continues, requiring compliance immediately or within a specified time period, or both; or

“(B) in a civil action, obtain appropriate equitable relief, a civil penalty of not more than \$25,000 for each day on which a past or current violation occurs or a failure to comply continues, or both.

“(2) ORDER TO CEASE OPERATIONS.—Whenever the Secretary determines that the owner or operator of a covered chemical facility continues to be in noncompliance after an order for compliance is issued under paragraph (1), the Secretary may issue an order to the owner or operator to cease operations at the facility until compliance is achieved to the satisfaction of the Secretary.

“(c) APPLICABILITY OF PENALTIES.—A penalty under subsection (b)(1) may be awarded for any violation of this title, including a violation of the whistleblower protections under section 2108.

#### “SEC. 2108. WHISTLEBLOWER PROTECTIONS.

“(a) ESTABLISHMENT.—The Secretary shall establish and provide information to the public regarding a process by which any person may submit a report to the Secretary regarding problems, deficiencies, or vulnerabilities at a covered chemical facility associated with the risk of a chemical facility terrorist incident.

“(b) CONFIDENTIALITY.—The Secretary shall keep confidential the identity of a person that submits a report under subsection (a) and any such report shall be treated as protected information under section 2110 to

the extent that it does not consist of publicly available information.

“(c) **ACKNOWLEDGMENT OF RECEIPT.**—If a report submitted under subsection (a) identifies the person submitting the report, the Secretary shall respond promptly to such person to acknowledge receipt of the report.

“(d) **STEPS TO ADDRESS PROBLEMS.**—The Secretary shall review and consider the information provided in any report submitted under subsection (a) and shall, as necessary, take appropriate steps under this title to address any problem, deficiency, or vulnerability identified in the report.

“(e) **RETALIATION PROHIBITED.**—

“(1) **PROHIBITION.**—No owner or operator of a covered chemical facility, profit or not-for-profit corporation, association, or any contractor, subcontractor or agent thereof, may discharge any employee or otherwise discriminate against any employee with respect to the employee's compensation, terms, conditions, or other privileges of employment because the employee (or any person acting pursuant to a request of the employee)—

“(A) notified the Secretary, the owner or operator of a covered chemical facility, or the employee's employer of an alleged violation of this title, including notification of such an alleged violation through communications related to carrying out the employee's job duties;

“(B) refused to participate in any conduct that the employee reasonably believes is in noncompliance with a requirement of this title, if the employee has identified the alleged noncompliance to the employer;

“(C) testified before or otherwise provided information relevant for Congress or for any Federal or State proceeding regarding any provision (or proposed provision) of this title;

“(D) commenced, caused to be commenced, or is about to commence or cause to be commenced a proceeding under this title;

“(E) testified or is about to testify in any such proceeding; or

“(F) assisted or participated or is about to assist or participate in any manner in such a proceeding or in any other action to carry out the purposes of this title.

“(2) **ENFORCEMENT ACTION.**—Any employee covered by this section who alleges discrimination by an employer in violation of paragraph (1) may bring an action governed by the rules and procedures, legal burdens of proof, and remedies applicable under subsections (d) through (h) of section 20109 of title 49, United States Code. A party may seek district court review as set forth in subsection (d)(3) of such section not later than 90 days after receiving a written final determination by the Secretary of Labor.

“(3) **PROHIBITED PERSONNEL PRACTICES AFFECTING THE DEPARTMENT.**—

“(A) **IN GENERAL.**—Notwithstanding any other provision of law, any individual holding or applying for a position within the Department shall be covered by—

“(i) paragraphs (1), (8), and (9) of section 2302(b) of title 5, United States Code;

“(ii) any provision of law implementing any of such paragraphs by providing any right or remedy available to an employee or applicant for employment in the civil service; and

“(iii) any rule or regulation prescribed under any such paragraph.

“(B) **RULE OF CONSTRUCTION.**—Nothing in this paragraph shall be construed to affect any rights, apart from those referred to in subparagraph (A), to which an individual described in that subparagraph might otherwise be entitled to under law.

#### “SEC. 2109. FEDERAL PREEMPTION.

“This title does not preclude or deny any right of any State or political subdivision thereof to adopt or enforce any regulation, requirement, or standard of performance with respect to a covered chemical facility that is more stringent than a regulation, requirement, or standard of performance issued under this title, or otherwise impair any right or jurisdiction of any State or political subdivision thereof with respect to covered chemical facilities within that State or political subdivision thereof.

#### “SEC. 2110. PROTECTION OF INFORMATION.

“(a) **PROHIBITION OF PUBLIC DISCLOSURE OF PROTECTED INFORMATION.**—Protected information, as described in subsection (g)—

“(1) shall be exempt from disclosure under section 552 of title 5, United States Code; and

“(2) shall not be made available pursuant to any State, local, or tribal law requiring disclosure of information or records.

“(b) **INFORMATION SHARING.**—

“(1) **IN GENERAL.**—The Secretary shall prescribe such regulations, and may issue such orders, as necessary to prohibit the unauthorized disclosure of protected information, as described in subsection (g).

“(2) **SHARING OF PROTECTED INFORMATION.**—The regulations under paragraph (1) shall provide standards for and facilitate the appropriate sharing of protected information with and between Federal, State, local, and tribal authorities, emergency response providers, law enforcement officials, designated supervisory and nonsupervisory covered chemical facility personnel with security, operational, or fiduciary responsibility for the facility, and designated facility employee representatives, if any. Such standards shall include procedures for the sharing of all portions of a covered chemical facility's vulnerability assessment and site security plan relating to the roles and responsibilities of covered individuals under section 2103(g)(1) with a representative of each certified or recognized bargaining agent representing such covered individuals, if any, or, if none, with at least one supervisory and at least one non-supervisory employee with roles or responsibilities under section 2103(g)(1).

“(3) **PENALTIES.**—Protected information, as described in subsection (g), shall not be shared except in accordance with the regulations under paragraph (1). Whoever discloses protected information in knowing violation of the regulations and orders issued under paragraph (1) shall be fined under title 18, United States Code, imprisoned for not more than one year, or both, and, in the case of a Federal officeholder or employee, shall be removed from Federal office or employment.

“(c) **TREATMENT OF INFORMATION IN ADJUDICATIVE PROCEEDINGS.**—In any judicial or administrative proceeding, protected information described in subsection (g) shall be treated in a manner consistent with the treatment of sensitive security information under section 525 of the Department of Homeland Security Appropriations Act, 2007 (Public Law 109-295; 120 Stat. 1381).

“(d) **OTHER OBLIGATIONS UNAFFECTED.**—Except as provided in section 2103(h), nothing in this section affects any obligation of the owner or operator of a chemical facility under any other law to submit or make available information required by such other law to facility employees, employee organizations, or a Federal, State, tribal, or local government.

“(e) **SUBMISSION OF INFORMATION TO CONGRESS.**—Nothing in this title shall permit or authorize the withholding of information

from Congress or any committee or subcommittee thereof.

“(f) **DISCLOSURE OF INDEPENDENTLY FURNISHED INFORMATION.**—Nothing in this title shall affect any authority or obligation of a Federal, State, local, or tribal government agency to protect or disclose any record or information that the Federal, State, local, or tribal government agency obtains from a chemical facility under any other law.

“(g) **PROTECTED INFORMATION.**—

“(1) **IN GENERAL.**—For purposes of this title, protected information is any of the following:

“(A) Security vulnerability assessments and site security plans, including any assessment required under section 2111.

“(B) Portions of the following documents, records, orders, notices, or letters that the Secretary determines would be detrimental to chemical facility security if disclosed and that are developed by the Secretary or the owner or operator of a covered chemical facility for the purposes of this title:

“(i) Documents directly related to the Secretary's review and approval or disapproval of vulnerability assessments and site security plans under this title.

“(ii) Documents directly related to inspections and audits under this title.

“(iii) Orders, notices, or letters regarding the compliance of a covered chemical facility with the requirements of this title.

“(iv) Information, documents, or records required to be provided to or created by the Secretary under subsection (b) or (c) of section 2102.

“(v) Documents directly related to security drills and training exercises, security threats and breaches of security, and maintenance, calibration, and testing of security equipment.

“(C) Other information, documents, or records developed exclusively for the purposes of this title that the Secretary has determined by regulation would, if disclosed, be detrimental to chemical facility security.

“(2) **EXCLUSIONS.**—For purposes of this section, protected information does not include—

“(A) information that is otherwise publicly available, including information that is required to be made publicly available under any law;

“(B) information that a chemical facility has lawfully disclosed other than in accordance with this title; or

“(C) information that, if disclosed, would not be detrimental to the security of a chemical facility, including aggregate regulatory data that the Secretary has determined by regulation to be appropriate to describe facility compliance with the requirements of this title and the Secretary's implementation of such requirements.

#### “SEC. 2111. METHODS TO REDUCE THE CONSEQUENCES OF A TERRORIST ATTACK.

“(a) **ASSESSMENT REQUIRED.**—

“(1) **ASSESSMENT.**—The owner or operator of a covered chemical facility shall include in the site security plan conducted pursuant to section 2103, an assessment of methods to reduce the consequences of a terrorist attack on that chemical facility, including—

“(A) a description of the methods to reduce the consequences of a terrorist attack implemented and considered for implementation by the covered chemical facility;

“(B) the degree to which each method to reduce the consequences of a terrorist attack, if already implemented, has reduced,

or, if implemented, could reduce, the potential extent of death, injury, or serious adverse effects to human health resulting from a release of a substance of concern;

“(C) the technical feasibility, costs, avoided costs (including liabilities), personnel implications, savings, and applicability of implementing each method to reduce the consequences of a terrorist attack; and

“(D) any other information that the owner or operator of the covered chemical facility considered in conducting the assessment.

“(2) FEASIBLE.—For the purposes of this section, the term ‘feasible’ means feasible with the use of best technology, techniques, and other means that the Secretary finds, after examination for efficacy under field conditions and not solely under laboratory conditions, are available for use at the covered chemical facility.

“(b) IMPLEMENTATION.—

“(1) IMPLEMENTATION.—

“(A) IN GENERAL.—The owner or operator of a covered chemical facility that is assigned to tier 1 or tier 2 because of the potential extent and likelihood of death, injury, and serious adverse effects to human health, the environment, critical infrastructure, public health, homeland security, national security, and the national economy from a release of a substance of concern at the covered chemical facility, shall implement methods to reduce the consequences of a terrorist attack on the chemical facility if the Director of the Office of Chemical Facility Security determines, in his or her discretion, using the assessment conducted pursuant to subsection (a), that the implementation of such methods at the facility—

“(i) would significantly reduce the risk of death, injury, or serious adverse effects to human health resulting from a chemical facility terrorist incident but—

“(I) would not increase the interim storage of a substance of concern outside the facility;

“(II) would not directly result in the creation of a new covered chemical facility assigned to tier 1 or tier 2 because of the potential extent and likelihood of death, injury, and serious adverse effects to human health, the environment, critical infrastructure, public health, homeland security, national security, and the national economy from a release of a substance of concern at the covered chemical facility;

“(III) would not result in the reassignment of an existing covered chemical facility from tier 3 or tier 4 to tier 1 or tier 2 because of the potential extent and likelihood of death, injury, and serious adverse effects to human health, the environment, critical infrastructure, public health, homeland security, national security, and the national economy from a release of a substance of concern at the covered chemical facility; and

“(IV) would not significantly increase the potential extent and likelihood of death, injury, and serious adverse effects to human health, the environment, critical infrastructure, public health, homeland security, national security, and the national economy from a release of a substance of concern due to a terrorist attack on the transportation infrastructure of the United States;

“(ii) can feasibly be incorporated into the operation of the covered chemical facility; and

“(iii) would not significantly and demonstrably impair the ability of the owner or operator of the covered chemical facility to continue the business of the facility at its location.

“(B) WRITTEN DETERMINATION.—A determination by the Director of the Office of

Chemical Facility Security pursuant to subparagraph (A) shall be made in writing and include the basis and reasons for such determination, including the Director's analysis of the covered chemical facility's assessment of the technical feasibility, costs, avoided costs (including liabilities), personnel implications, savings, and applicability of implementing each method to reduce the consequences of a terrorist attack.

“(C) MARITIME FACILITIES.—With respect to a covered chemical facility for which a security plan is required under section 70103(c) of title 46, United States Code, a written determination pursuant to subparagraph (A) shall be made only after consultation with the Captain of the Port for the area in which the covered chemical facility is located.

“(2) REVIEW OF INABILITY TO COMPLY.—

“(A) IN GENERAL.—An owner or operator of a covered chemical facility who is unable to comply with the Director's determination under paragraph (1) shall, within 120 days of receipt of the Director's determination, provide to the Secretary a written explanation that includes the reasons therefor. Such written explanation shall specify whether the owner or operator's inability to comply arises under clause (i) or (ii) of paragraph (1)(A), or both.

“(B) REVIEW.—Not later than 120 days of receipt of an explanation submitted under subparagraph (A), the Secretary, after consulting with the owner or operator of the covered chemical facility who submitted such explanation, as well as experts in the subjects of environmental health and safety, security, chemistry, design and engineering, process controls and implementation, maintenance, production and operations, chemical process safety, and occupational health, as appropriate, shall provide to the owner or operator a written determination, in his or her discretion, of whether implementation shall be required pursuant to paragraph (1). If the Secretary determines that implementation is required, the Secretary shall issue an order that establishes the basis for such determination, including the findings of the relevant experts, the specific methods selected for implementation, and a schedule for implementation of the methods at the facility.

“(c) SECTORAL IMPACTS.—

“(1) GUIDANCE FOR FARM SUPPLIES MERCHANT WHOLESALERS.—The Secretary shall provide guidance and, as appropriate, tools, methodologies or computer software, to assist farm supplies merchant wholesalers in complying with the requirements of this section. The Secretary may award grants to farm supplies merchant wholesalers to assist with compliance with subsection (a), and in awarding such grants, shall give priority to farm supplies merchant wholesalers that have the greatest need for such grants.

“(2) ASSESSMENT OF IMPACTS OF COMPLIANCE.—Not later than 6 months after the date of the enactment of this title, the Secretary shall transmit an assessment of the potential impacts of compliance with provisions of this section regarding the assessment and, as appropriate, implementation, of methods to reduce the consequences of a terrorist attack by manufacturers, retailers, aerial commercial applicators, and distributors of pesticide and fertilizer to the Committee on Energy and Commerce of the House of Representatives, the Committee on Homeland Security of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate. Such assessment shall be conducted by the Secretary in consultation with

other appropriate Federal agencies and shall include the following:

“(A) Data on the scope of facilities covered by this title, including the number and type of manufacturers, retailers, aerial commercial applicators and distributors of pesticide and fertilizer required to assess methods to reduce the consequences of a terrorist attack under subsection (a) and the number and type of manufacturers, retailers, aerial commercial applicators and distributors of pesticide and fertilizer assigned to tier 1 or tier 2 by the Secretary because of the potential extent and likelihood of death, injury, and serious adverse effects to human health, the environment, critical infrastructure, public health, homeland security, national security, and the national economy from the release of a substance of concern at the facility.

“(B) A survey of known methods, processes or practices, other than elimination of or cessation of manufacture of the pesticide or fertilizer, that manufacturers, retailers, aerial commercial applicators, and distributors of pesticide and fertilizer could use to reduce the consequences of a terrorist attack, including an assessment of the costs and technical feasibility of each such method, process, or practice.

“(C) An analysis of how the assessment of methods to reduce the consequences of a terrorist attack under subsection (a) by manufacturers, retailers, aerial commercial applicators, and distributors of pesticide and fertilizer, and, as appropriate, the implementation of methods to reduce the consequences of a terrorist attack by such manufacturers, retailers, aerial commercial applicators, and distributors of pesticide and fertilizer subject to subsection (b), are likely to impact other sectors engaged in commerce.

“(D) Recommendations for how to mitigate any adverse impacts identified pursuant to subparagraph (C).

“(3) FARM SUPPLIES MERCHANT WHOLESALER.—In this subsection, the term ‘farm supplies merchant wholesaler’ means a covered chemical facility that is primarily engaged in the merchant wholesale distribution of farm supplies, such as animal feeds, fertilizers, agricultural chemicals, pesticides, plant seeds, and plant bulbs.

“(d) ASSESSMENT OF IMPACTS ON SMALL COVERED CHEMICAL FACILITIES.—

“(1) IN GENERAL.—Not later than 6 months after the date of the enactment of this title, the Secretary shall transmit to the Committee on Energy and Commerce of the House of Representatives, the Committee on Homeland Security of the House of Representatives, and the Committee on Homeland Security and Governmental Affairs of the Senate an assessment of the potential effects on small covered chemical facilities of compliance with provisions of this section regarding the assessment and, as appropriate, implementation, of methods to reduce the consequences of a terrorist attack. Such assessment shall include—

“(A) data on the scope of facilities covered by this title, including the number and type of small covered chemical facilities that are required to assess methods to reduce the consequences of a terrorist attack under subsection (a) and the number and type of small covered chemical facilities assigned to tier 1 or tier 2 under section 2102(c)(1) by the Secretary because of the potential extent and likelihood of death, injury, and serious adverse effects to human health, the environment, critical infrastructure, public health, homeland security, national security, and

the national economy from the release of a substance of concern at the facility; and

“(B) a discussion of how the Secretary plans to apply the requirement that before requiring a small covered chemical facility that is required to implement methods to reduce the consequences of a terrorist attack under subsection (b) the Secretary shall first determine that the implementation of such methods at the small covered chemical facility not significantly and demonstrably impair the ability of the owner or operator of the covered chemical facility to continue the business of the facility at its location.

“(2) DEFINITION.—For purposes of this subsection, the term ‘small covered chemical facility’ means a covered chemical facility that has fewer than 350 employees employed at the covered chemical facility, and is not a branch or subsidiary of another entity.

“(e) PROVISION OF INFORMATION ON ALTERNATIVE APPROACHES.—

“(1) IN GENERAL.—The Secretary shall make available information on the use and availability of methods to reduce the consequences of a chemical facility terrorist incident.

“(2) INFORMATION TO BE INCLUDED.—The information under paragraph (1) may include information about—

“(A) general and specific types of such methods;

“(B) combinations of chemical sources, substances of concern, and hazardous processes or conditions for which such methods could be appropriate;

“(C) the availability of specific methods to reduce the consequences of a terrorist attack;

“(D) the costs and cost savings resulting from the use of such methods;

“(E) emerging technologies that could be transferred from research models or prototypes to practical applications;

“(F) the availability of technical assistance and best practices; and

“(G) such other matters that the Secretary determines are appropriate.

“(3) PUBLIC AVAILABILITY.—Information made available under this subsection shall not identify any specific chemical facility, violate the protection of information provisions under section 2110, or disclose any proprietary information.

“(f) FUNDING FOR METHODS TO REDUCE THE CONSEQUENCES OF A TERRORIST ATTACK.—The Secretary may make funds available to help defray the cost of implementing methods to reduce the consequences of a terrorist attack to covered chemical facilities that are required by the Secretary to implement such methods.

#### “SEC. 2112. APPLICABILITY.

“This title shall not apply to—

“(1) any chemical facility that is owned and operated by the Secretary of Defense;

“(2) the transportation in commerce, including incidental storage, of any substance of concern regulated as a hazardous material under chapter 51 of title 49, United States Code;

“(3) all or a specified portion of any chemical facility that—

“(A) is subject to regulation by the Nuclear Regulatory Commission (hereinafter in this paragraph referred to as the ‘Commission’) or a State that has entered into an agreement with the Commission under section 274 b. of the Atomic Energy Act of 1954 (42 U.S.C. 2021 b.);

“(B) has had security controls imposed by the Commission or State, whichever has the regulatory authority, on the entire facility or the specified portion of the facility; and

“(C) has been designated by the Commission, after consultation with the State, if any, that regulates the facility, and the Secretary, as excluded from the application of this title;

“(4) any public water system subject to the Safe Drinking Water Act (42 U.S.C. 300f et seq.); or

“(5) any treatment works, as defined in section 212 of the Federal Water Pollution Control Act (33 U.S.C. 1292).

#### “SEC. 2113. SAVINGS CLAUSE.

“(a) IN GENERAL.—Nothing in this title shall affect or modify in any way any obligation or liability of any person under any other Federal law, including section 112 of the Clean Air Act (42 U.S.C. 7412), the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), the Resource Conservation and Recovery Act of 1976 (42 U.S.C. 6901 et seq.), the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), the Occupational Safety and Health Act (29 U.S.C. 651 et seq.), the National Labor Relations Act (29 U.S.C. 151 et seq.), the Emergency Planning and Community Right to Know Act of 1996 (42 U.S.C. 11001 et seq.), the Safe Drinking Water Act (42 U.S.C. 300f et seq.), the Maritime Transportation Security Act of 2002 (Public Law 107-295), the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.), the Toxic Substances Control Act (15 U.S.C. 2601 et seq.), and the Fair Credit Reporting Act (15 U.S.C. 1681 et seq.).

“(b) OTHER REQUIREMENTS.—Nothing in this title shall preclude or deny the right of any State or political subdivision thereof to adopt or enforce any regulation, requirement, or standard of performance relating to environmental protection, health, or safety.

“(c) ACCESS.—Nothing in this title shall abridge or deny access to a chemical facility site to any person where required or permitted under any other law or regulation.

#### “SEC. 2114. OFFICE OF CHEMICAL FACILITY SECURITY.

“(a) IN GENERAL.—There is established in the Department an Office of Chemical Facility Security, headed by a Director, who shall be a member of the Senior Executive Service in accordance with subchapter VI of chapter 53 of title 5, United States Code, under section 5382 of that title, and who shall be responsible for carrying out the responsibilities of the Secretary under this title.

“(b) PROFESSIONAL QUALIFICATIONS.—The individual selected by the Secretary as the Director of the Office of Chemical Facility Security shall have professional qualifications and experience necessary for effectively directing the Office of Chemical Facility Security and carrying out the requirements of this title, including a demonstrated knowledge of physical infrastructure protection, cybersecurity, chemical facility security, hazard analysis, chemical process engineering, chemical process safety reviews, or other such qualifications that the Secretary determines to be necessary.

“(c) SELECTION PROCESS.—The Secretary shall make a reasonable effort to select an individual to serve as the Director from among a group of candidates that is diverse with respect to race, ethnicity, age, gender, and disability characteristics and submit to the Committee on Homeland Security and the Committee on Energy and Commerce of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate information on the selection process, including details on efforts to assure diversity among the candidates considered for this position.

#### “SEC. 2115. SECURITY BACKGROUND CHECKS OF COVERED INDIVIDUALS AT CERTAIN CHEMICAL FACILITIES.

“(a) REGULATIONS ISSUED BY THE SECRETARY.—

“(1) IN GENERAL.—

“(A) REQUIREMENT.—The Secretary shall issue regulations to require covered chemical facilities to establish personnel surety for individuals described in subparagraph (B) by conducting appropriate security background checks and ensuring appropriate credentials for unescorted visitors and chemical facility personnel, including permanent and part-time personnel, temporary personnel, and contract personnel, including—

“(i) measures designed to verify and validate identity;

“(ii) measures designed to check criminal history;

“(iii) measures designed to verify and validate legal authorization to work; and

“(iv) measures designed to identify people with terrorist ties.

“(B) INDIVIDUALS DESCRIBED.—For purposes of subparagraph (A), an individual described in this subparagraph is—

“(i) a covered individual who has unescorted access to restricted areas or critical assets or who is provided with a copy of a security vulnerability assessment or site security plan;

“(ii) a person associated with a covered chemical facility, including any designated employee representative, who is provided with a copy of a security vulnerability assessment or site security plan; or

“(iii) a person who is determined by the Secretary to require a security background check based on chemical facility security performance standards.

“(2) REGULATIONS.—The regulations required by paragraph (1) shall set forth—

“(A) the scope of the security background checks, including the types of disqualifying offenses and the time period covered for each person subject to a security background check under paragraph (1);

“(B) the processes to conduct the security background checks;

“(C) the necessary biographical information and other data required in order to conduct the security background checks;

“(D) a redress process for an adversely-affected person consistent with subsections (b) and (c); and

“(E) a prohibition on an owner or operator of a covered chemical facility misrepresenting to an employee or other relevant person, including an arbiter involved in a labor arbitration, the scope, application, or meaning of any rules, regulations, directives, or guidance issued by the Secretary related to security background check requirements for covered individuals when conducting a security background check.

“(b) MISREPRESENTATION OF ADVERSE EMPLOYMENT DECISIONS.—The regulations required by subsection (a)(1) shall set forth that it shall be a misrepresentation under subsection (a)(2)(E) to attribute an adverse employment decision, including removal or suspension of the employee, to such regulations unless the owner or operator finds, after opportunity for appropriate redress under the processes provided under subsection (c)(1) and (c)(2), that the person subject to such adverse employment decision—

“(1) has been convicted of, has been found not guilty of by reason of insanity, or is under want, warrant, or indictment for, a permanent disqualifying criminal offense listed in part 1572 of title 49, Code of Federal Regulations;

“(2) was convicted of, or found not guilty of by reason of insanity, an interim disqualifying criminal offense listed in part 1572 of title 49, Code of Federal Regulations, within 7 years of the date on which the covered chemical facility performs the security background check;

“(3) was incarcerated for an interim disqualifying criminal offense listed in part 1572 of title 49, Code of Federal Regulations, and released from incarceration within 5 years of the date that the chemical facility performs the security background check;

“(4) is determined by the Secretary to be on the consolidated terrorist watchlist; or

“(5) is determined, as a result of the security background check, not to be legally authorized to work in the United States.

“(c) REDRESS PROCESSES.—Upon the issuance of regulations under subsection (a), the Secretary shall—

“(1) require the owner or operator to provide an adequate and prompt redress process for a person subject to a security background check under subsection (a)(1) who is subjected to an adverse employment decision, including removal or suspension of the employee, due to such regulations that is consistent with the appeals process established for employees subject to consumer reports under the Fair Credit Reporting Act (15 U.S.C. 1681 et seq.), as in force on the date of the enactment of this title;

“(2) provide an adequate and prompt redress process for a person subject to a security background check under subsection (a)(1) who is subjected to an adverse employment decision, including removal or suspension of the employee, due to a determination by the Secretary under subsection (b)(4), that is consistent with the appeals process established under section 70105(c) of title 46, United States Code, including all rights to hearings before an administrative law judge, scope of review, and a review of an unclassified summary of classified evidence equivalent to the summary provided in part 1515 of title 49, Code of Federal Regulations;

“(3) provide an adequate and prompt redress process for a person subject to a security background check under subsection (a)(1) who is subjected to an adverse employment decision, including removal or suspension of the employee, due to a violation of subsection (a)(2)(E), which shall not preclude the exercise of any other rights available under collective bargaining agreements or applicable laws;

“(4) establish a reconsideration process described in subsection (d) for a person subject to an adverse employment decision that was attributed by an owner or operator to the regulations required by subsection (a)(1);

“(5) have the authority to order an appropriate remedy, including reinstatement of the person subject to a security background check under subsection (a)(1), if the Secretary determines that the adverse employment decision was made in violation of the regulations required under subsection (a)(1) or as a result of an erroneous determination by the Secretary under subsection (b)(4);

“(6) ensure that the redress processes required under paragraphs (1), (2), or (3) afford to the person a full disclosure of any public-record event covered by subsection (b) that provides the basis for an adverse employment decision; and

“(7) ensure that the person subject to a security background check under subsection (a)(1) receives the person's full wages and benefits until all redress processes under this subsection are exhausted.

“(d) RECONSIDERATION PROCESS.—

“(1) IN GENERAL.—The reconsideration process required under subsection (c)(4) shall—

“(A) require the Secretary to determine, within 30 days after receiving a petition submitted by a person subject to an adverse employment decision that was attributed by an owner or operator to the regulations required by subsection (a)(1), whether such person poses a security risk to the covered chemical facility; and

“(B) include procedures consistent with section 70105(c) of title 46, United States Code, including all rights to hearings before an administrative law judge, scope of review, and a review of an unclassified summary of classified evidence equivalent to the summary provided in part 1515 of title 49, Code of Federal Regulations.

“(2) DETERMINATION BY THE SECRETARY.—In making a determination described under paragraph (1)(A), the Secretary shall—

“(A) give consideration to the circumstance of any disqualifying act or offense, restitution made by the person, Federal and State mitigation remedies, and other factors from which it may be concluded that the person does not pose a security risk to the covered chemical facility; and

“(B) provide his or her determination as to whether such person poses a security risk to the covered chemical facility to the petitioner and to the owner or operator of the covered chemical facility.

“(3) OWNER OR OPERATOR RECONSIDERATION.—If the Secretary determines pursuant to paragraph (1)(A) that the person does not pose a security risk to the covered chemical facility, it shall thereafter constitute a prohibited misrepresentation for the owner or operator of the covered chemical facility to continue to attribute the adverse employment decision to the regulations under subsection (a)(1).

“(e) RESTRICTIONS ON USE AND MAINTENANCE OF INFORMATION.—Information obtained under this section by the Secretary or the owner or operator of a covered chemical facility shall be handled as follows:

“(1) Such information may not be made available to the public.

“(2) Such information may not be accessed by employees of the facility except for such employees who are directly involved with collecting the information or conducting or evaluating security background checks.

“(3) Such information shall be maintained confidentially by the facility and the Secretary and may be used only for making determinations under this section.

“(4) The Secretary may share such information with other Federal, State, local, and tribal law enforcement agencies.

“(f) SAVINGS CLAUSE.—

“(1) RIGHTS AND RESPONSIBILITIES.—Nothing in this section shall be construed to abridge any right or responsibility of a person subject to a security background check under subsection (a)(1) or an owner or operator of a covered chemical facility under any other Federal, State, local, or tribal law or collective bargaining agreement.

“(2) EXISTING RIGHTS.—Nothing in this section shall be construed as creating any new right or modifying any existing right of an individual to appeal a determination by the Secretary as a result of a check against a terrorist watch list.

“(g) PREEMPTION.—Nothing in this section shall be construed to preempt, alter, or affect a Federal, State, local, or tribal law that requires criminal history background checks, checks on the authorization of an in-

dividual to work in the United States, or other background checks of persons subject to security background checks under subsection (a)(1).

“(h) DEFINITION OF SECURITY BACKGROUND CHECK.—The term ‘security background check’ means a review at no cost to any person subject to a security background check under subsection (a)(1) of the following for the purpose of identifying individuals who may pose a threat to chemical facility security, to national security, or of terrorism:

“(1) Relevant databases to verify and validate identity.

“(2) Relevant criminal history databases.

“(3) In the case of an alien (as defined in section 101 of the Immigration and Nationality Act (8 U.S.C. 1101(a)(3))), the relevant databases to determine the status of the alien under the immigration laws of the United States.

“(4) The consolidated terrorist watchlist.

“(5) Other relevant information or databases, as determined by the Secretary.

“(i) DEPARTMENT-CONDUCTED SECURITY BACKGROUND CHECK.—The regulations under subsection (a)(1) shall set forth a process by which the Secretary, on an ongoing basis, shall determine whether alternate security background checks conducted by the Department are sufficient to meet the requirements of this section such that no additional security background check under this section is required for an individual for whom such a qualifying alternate security background check was conducted. The Secretary may require the owner or operator of a covered chemical facility to which the individual will have unescorted access to sensitive or restricted areas to submit identifying information about the individual and the alternate security background check conducted for that individual to the Secretary in order to enable the Secretary to verify the validity of the alternate security background check. Such regulations shall provide that no security background check under this section is required for an individual holding a transportation security card issued under section 70105 of title 46, United States Code.

“(j) TERMINATION OF EMPLOYMENT.—If, as the result of a security background check, an owner or operator of a covered chemical facility finds that a covered individual is not legally authorized to work in the United States, the owner or operator shall cease to employ the covered individual, subject to the appropriate redress processes available to such individual under this section.

#### “SEC. 2116. CITIZEN ENFORCEMENT.

“(a) IN GENERAL.—Except as provided in subsection (c), any person may commence a civil action on such person's own behalf—

“(1) against any governmental entity (including the United States and any other governmental instrumentality or agency, to the extent permitted by the eleventh amendment to the Constitution, and any federally owned-contractor operated facility) alleged to be in violation of any order that has become effective pursuant to this title; or

“(2) against the Secretary, for an alleged failure to perform any act or duty under this title that is not discretionary for the Secretary.

“(b) COURT OF JURISDICTION.—

“(1) IN GENERAL.—Any action under subsection (a)(1) shall be brought in the district court for the district in which the alleged violation occurred. Any action brought under subsection (a)(2) may be brought in the district court for the district in which the alleged violation occurred or in the United States District Court for the District of Columbia.



“(2) RELIEF.—The district court shall have jurisdiction, without regard to the amount in controversy or the citizenship of the parties to enforce the order referred to in subsection (a)(1), to order such governmental entity to take such action as may be necessary, or both, or, in an action commenced under subsection (a)(2), to order the Secretary to perform the non-discretionary act or duty, and to order any civil penalties, as appropriate, under section 2107.

“(c) ACTIONS PROHIBITED.—No action may be commenced under subsection (a) prior to 60 days after the date on which the person commencing the action has given notice of the alleged violation to—

“(1) the Secretary; and

“(2) in the case of an action under subsection (a)(1), any governmental entity alleged to be in violation of an order.

“(d) NOTICE.—Notice under this section shall be given in such manner as the Secretary shall prescribe by regulation.

“(e) INTERVENTION.—In any action under this section, the Secretary, if not a party, may intervene as a matter of right.

“(f) COSTS; BOND.—The court, in issuing any final order in any action brought pursuant to this section, may award costs of litigation (including reasonable attorney and expert witness fees) to the prevailing or substantially prevailing party, whenever the court determines such an award is appropriate. The court may, if a temporary restraining order or preliminary injunction is sought, require the filing of a bond or equivalent security in accordance with the Federal Rules of Civil Procedure.

“(g) OTHER RIGHTS PRESERVED.—Nothing in this section shall restrict any right which any person (or class of persons) may have under any statute or common law.

#### “SEC. 2117. CITIZEN PETITIONS.

“(a) REGULATIONS.—The Secretary shall issue regulations to establish a citizen petition process for petitions described in subsection (b). Such regulations shall include—

“(1) the format for such petitions;

“(2) the procedure for investigation of petitions;

“(3) the procedure for response to such petitions, including timelines; and

“(4) the procedure for referral to and review by the Office of the Inspector General of the Department without deference to the Secretary's determination with respect to the petition; and

“(5) the procedure for rejection or acceptance by the Secretary of the recommendation of the Office of the Inspector General.

“(b) PETITIONS.—The regulations issued pursuant to subsection (a) shall allow any person to file a petition with the Secretary—

“(1) identifying any person (including the United States and any other governmental instrumentality or agency, to the extent permitted by the eleventh amendment to the Constitution) alleged to be in violation of any standard, regulation, condition, requirement, prohibition, plan, or order that has become effective under this title; and

“(2) describing the alleged violation of any standard, regulation, condition, requirement, prohibition, plan, or order that has become effective under this title by that person.

“(c) REQUIREMENTS.—Upon issuance of regulations under subsection (a), the Secretary shall—

“(1) accept all petitions described under subsection (b) that meet the requirements of the regulations promulgated under subsection (a);

“(2) investigate all allegations contained in accepted petitions;

“(3) determine whether enforcement action will be taken concerning the alleged violation or violations;

“(4) respond to all accepted petitions promptly and in writing;

“(5) include in all responses to petitions a brief and concise statement, to the extent permitted under section 2110, of the allegations, the steps taken to investigate, the determination made, and the reasons for such determination;

“(6) maintain an internal record including all protected information related to the determination; and

“(7) with respect to any petition for which the Secretary has not made a timely response or the Secretary's response is unsatisfactory to the petitioner, provide the petitioner with the opportunity to request—

“(A) a review of the full record by the Inspector General of the Department, including a review of protected information; and

“(B) the formulation of recommendations by the Inspector General and submittal of such recommendations to the Secretary and, to the extent permitted under section 2110, to the petitioner; and

“(8) respond to a recommendation submitted by the Inspector General under paragraph (7) by adopting or rejecting the recommendation.

#### “SEC. 2118. NOTIFICATION SYSTEM TO ADDRESS PUBLIC CONCERNS.

“(a) ESTABLISHMENT.—The Secretary shall establish a notification system, which shall provide any individual the ability to report a suspected security deficiency or suspected non-compliance with this title. Such notification system shall provide for the ability to report the suspected security deficiency or non-compliance via telephonic and Internet-based means.

“(b) ACKNOWLEDGMENT.—When the Secretary receives a report through the notification system established under subsection (a), the Secretary shall respond to such report in a timely manner, but in no case shall the Secretary respond to such a report later than 30 days after receipt of the report.

“(c) STEPS TO ADDRESS PROBLEMS.—The Secretary shall review each report received through the notification system established under subsection (a) and shall, as necessary, take appropriate enforcement action under section 2107.

“(d) FEEDBACK REQUIRED.—Upon request, the Secretary shall provide the individual who reported the suspected security deficiency or non-compliance through the notification system established under subsection (a) a written response that includes the Secretary's findings with respect to the report submitted by the individual and what, if any, compliance action was taken in response to such report.

“(e) INSPECTOR GENERAL REPORT REQUIRED.—The Inspector General of the Department shall submit to the Committee on Homeland Security and the Committee on Energy and Commerce of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate an annual report on the reports received under the notification system established under subsection (a) and the Secretary's disposition of such reports.

#### “SEC. 2119. ANNUAL REPORT TO CONGRESS.

“(a) ANNUAL REPORT.—Not later than one year after the date of the enactment of this title, annually thereafter for the next four years, and biennially thereafter, the Secretary shall submit to the Committee on Homeland Security and the Committee on Energy and Commerce of the House of Rep-

resentatives and the Committee on Homeland Security and Governmental Affairs of the Senate a report on progress in achieving compliance with this title. Each such report shall include the following:

“(1) A qualitative discussion of how covered chemical facilities, differentiated by tier, have reduced the risks of chemical facility terrorist incidents at such facilities, including—

“(A) a generalized summary of measures implemented by covered chemical facilities in order to meet each risk-based chemical facility performance standard established by this title, and those that the facilities already had in place—

“(i) in the case of the first report under this section, before the issuance of the final rule implementing the regulations known as the ‘Chemical Facility Anti-Terrorism Standards’, issued on April 9, 2007; and

“(ii) in the case of each subsequent report, since the submittal of the most recent report submitted under this section; and

“(B) any other generalized summary the Secretary deems appropriate to describe the measures covered chemical facilities are implementing to comply with the requirements of this title.

“(2) A quantitative summary of how the covered chemical facilities, differentiated by tier, are complying with the requirements of this title during the period covered by the report and how the Secretary is implementing and enforcing such requirements during such period, including—

“(A) the number of chemical facilities that provided the Secretary with information about possessing substances of concern, as described in section 2102(b)(2);

“(B) the number of covered chemical facilities assigned to each tier;

“(C) the number of security vulnerability assessments and site security plans submitted by covered chemical facilities;

“(D) the number of security vulnerability assessments and site security plans approved and disapproved by the Secretary;

“(E) the number of covered chemical facilities without approved security vulnerability assessments or site security plans;

“(F) the number of chemical facilities that have been assigned to a different tier or are no longer regulated by the Secretary due to implementation of a method to reduce the consequences of a terrorist attack and a description of such implemented methods;

“(G) the number of orders for compliance issued by the Secretary;

“(H) the administrative penalties assessed by the Secretary for non-compliance with the requirements of this title;

“(I) the civil penalties assessed by the court for non-compliance with the requirements of this title;

“(J) the number of terrorist watchlist checks conducted by the Secretary in order to comply with the requirements of this title, the number of appeals conducted by the Secretary pursuant to the processes described under paragraphs (2), (3) and (4) of section 2115(c), aggregate information regarding the time taken for such appeals, aggregate information regarding the manner in which such appeals were resolved, and, based on information provided to the Secretary annually by each owner or operator of a covered chemical facility, the number of persons subjected to adverse employment decisions that were attributed by the owner or operator to the regulations required by section 2115; and

“(K) any other regulatory data the Secretary deems appropriate to describe facility

compliance with the requirements of this title and the Secretary's implementation of such requirements.

“(b) PUBLIC AVAILABILITY.—A report submitted under this section shall be made publicly available.

**“SEC. 2120. AUTHORIZATION OF APPROPRIATIONS.**

“There is authorized to be appropriated to the Secretary of Homeland Security to carry out this title—

“(1) \$325,000,000 for fiscal year 2011, of which \$100,000,000 shall be made available to provide funding for methods to reduce the consequences of a terrorist attack, of which up to \$3,000,000 shall be made available for grants authorized under section 2111(c)(1);

“(2) \$300,000,000 for fiscal year 2012, of which \$75,000,000 shall be made available to provide funding for methods to reduce the consequences of a terrorist attack, of which up to \$3,000,000 shall be made available for grants authorized under section 2111(c)(1); and

“(3) \$275,000,000 for fiscal year 2013, of which \$50,000,000 shall be made available to provide funding for methods to reduce the consequences of a terrorist attack, of which up to \$3,000,000 shall be made available for grants authorized under section 2111(c)(1).”.

(b) CLERICAL AMENDMENT.—The table of contents in section 1(b) of such Act is amended by adding at the end the following:

**“TITLE XXI—REGULATION OF SECURITY PRACTICES AT CHEMICAL FACILITIES**

“Sec. 2101. Definitions.

“Sec. 2102. Risk-based designation and ranking of chemical facilities.

“Sec. 2103. Security vulnerability assessments and site security plans.

“Sec. 2104. Site inspections.

“Sec. 2105. Records.

“Sec. 2106. Timely sharing of threat information.

“Sec. 2107. Enforcement.

“Sec. 2108. Whistleblower protections.

“Sec. 2109. Federal preemption.

“Sec. 2110. Protection of information.

“Sec. 2111. Methods to reduce the consequences of a terrorist attack.

“Sec. 2112. Applicability.

“Sec. 2113. Savings clause.

“Sec. 2114. Office of Chemical Facility Security.

“Sec. 2115. Security background checks of covered individuals at certain chemical facilities.

“Sec. 2116. Citizen enforcement.

“Sec. 2117. Citizen petitions.

“Sec. 2118. Notification system to address public concerns.

“Sec. 2119. Annual report to Congress.

“Sec. 2120. Authorization of appropriations.”.

(c) CONFORMING REPEAL.—

(1) REPEAL.—The Department of Homeland Security Appropriations Act, 2007 (Public Law 109-295) is amended by striking section 550.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect on the date of the enactment of this title.

(d) REGULATIONS.—

(1) DEADLINE.—The Secretary shall issue proposed rules to carry out title XXI of the Homeland Security Act of 2002, as added by subsection (a), by not later than 6 months after the date of the enactment of this Act, and shall issue final rules to carry out such title by not later than 18 months after the date of the enactment of this Act.

(2) CONSULTATION.—In developing and implementing the rules required under paragraph (1), the Secretary shall consult with

the Administrator of the Environmental Protection Agency, and other persons, as appropriate, regarding—

(A) the designation of substances of concern;

(B) methods to reduce the consequences of a terrorist attack;

(C) security at drinking water facilities and wastewater treatment works;

(D) the treatment of protected information; and

(E) such other matters as the Secretary determines necessary.

(3) SENSE OF CONGRESS REGARDING CFATS.—It is the sense of Congress that the Secretary of Homeland Security was granted statutory authority under section 550 of the Department of Homeland Security Appropriations Act (Public Law 109-295) to regulate security practices at chemical facilities until October 1, 2009. Pursuant to that section the Secretary prescribed regulations known as the Chemical Facility Anti-Terrorism Standards, or “CFATS” (referred to in this section as “CFATS regulations”).

(4) INTERIM USE AND AMENDMENT OF CFATS.—Until the final rules prescribed pursuant to paragraph (1) take effect, in carrying out title XXI of the Homeland Security Act of 2002, as added by subsection (a), the Secretary may, to the extent the Secretary determines appropriate—

(A) continue to carry out the CFATS regulations, as in effect immediately before the date of the enactment of this title;

(B) amend any of such regulations as may be necessary to ensure that such regulations are consistent with the requirements of this title and the amendments made by this title; and

(C) continue using any tools developed for purposes of such regulations, including the list of substances of concern, usually referred to as “Appendix A”, and the chemical security assessment tool (which includes facility registration, a top-screen questionnaire, a security vulnerability assessment tool, a site security plan template, and a chemical vulnerability information repository).

(5) UPDATE OF FACILITY PLANS ASSESSMENTS AND PLANS PREPARED UNDER CFATS.—The owner or operator of a covered chemical facility, who, before the effective date of the final regulations issued under title XXI of the Homeland Security Act of 2002, as added by subsection (a), submits a security vulnerability assessment or site security plan under the CFATS regulations, shall be required to update or amend the facility's security vulnerability assessment and site security plan to reflect any additional requirements of this title or the amendments made by this title, according to a timeline established by the Secretary.

(e) REVIEW OF DESIGNATION OF SODIUM FLUOROACETATE AS A SUBSTANCE OF CONCERN.—The Secretary of Homeland Security shall review the designation of sodium fluoroacetate as a substance of concern pursuant to subsection (d) of section 2102 of the Homeland Security Act of 2002, as added by subsection (a), by the earlier of the following dates:

(1) The date of the first periodic review conducted pursuant to such subsection after the date of the enactment of this title.

(2) The date that is one year after the date of the enactment of this title.

**TITLE II—DRINKING WATER SECURITY**

**SEC. 201. SHORT TITLE.**

This title may be cited as the “Drinking Water System Security Act of 2009”.

**SEC. 202. INTENTIONAL ACTS AFFECTING THE SECURITY OF COVERED WATER SYSTEMS.**

(a) AMENDMENT OF SAFE DRINKING WATER ACT.—Section 1433 of the Safe Drinking Water Act (42 U.S.C. 300i-2) is amended to read as follows:

**“SEC. 1433. INTENTIONAL ACTS.**

“(a) RISK-BASED PERFORMANCE STANDARDS; VULNERABILITY ASSESSMENTS; SITE SECURITY PLANS; EMERGENCY RESPONSE PLANS.—

“(1) IN GENERAL.—The Administrator shall issue regulations—

“(A) establishing risk-based performance standards for the security of covered water systems; and

“(B) establishing requirements and deadlines for each covered water system—

“(i) to conduct a vulnerability assessment or, if the system already has a vulnerability assessment, to revise the assessment to be in accordance with this section, and submit such assessment to the Administrator;

“(ii) to update the vulnerability assessment not less than every 5 years and promptly after any change at the system that could cause the reassignment of the system to a different risk-based tier under subsection (d);

“(iii) to develop, implement, and, as appropriate, revise a site security plan not less than every 5 years and promptly after a revision to the vulnerability assessment and submit such plan to the Administrator;

“(iv) to develop an emergency response plan (or, if the system has already developed an emergency response plan, to revise the plan to be in accordance with this section) and revise the plan not less than every 5 years thereafter; and

“(v) to provide annual training to employees and contractor employees of covered water systems on implementing site security plans and emergency response plans.

“(2) COVERED WATER SYSTEMS.—For purposes of this section, the term ‘covered water system’ means a public water system that—

“(A) is a community water system serving a population greater than 3,300; or

“(B) in the discretion of the Administrator, presents a security risk making regulation under this section appropriate.

“(3) CONSULTATION WITH STATE AUTHORITIES.—In developing and carrying out the regulations under paragraph (1), the Administrator shall consult with States exercising primary enforcement responsibility for public water systems.

“(4) CONSULTATION WITH OTHER PERSONS.—In developing and carrying out the regulations under paragraph (1), the Administrator shall consult with the Secretary of Homeland Security, and, as appropriate, other persons regarding—

“(A) provision of threat-related and other baseline information to covered water systems;

“(B) designation of substances of concern;

“(C) development of risk-based performance standards;

“(D) establishment of risk-based tiers and process for the assignment of covered water systems to risk-based tiers;

“(E) process for the development and evaluation of vulnerability assessments, site security plans, and emergency response plans;

“(F) treatment of protected information; and

“(G) such other matters as the Administrator determines necessary.

“(5) SUBSTANCES OF CONCERN.—For purposes of this section, the Administrator, in consultation with the Secretary of Homeland Security—

“(A) may designate any chemical substance as a substance of concern;

“(B) at the time any substance is designated pursuant to subparagraph (A), shall establish by rule a threshold quantity for the release or theft of the substance, taking into account the toxicity, reactivity, volatility, dispersability, combustibility, and flammability of the substance and the amount of the substance that, as a result of a release, is known to cause or may be reasonably anticipated to cause death, injury, or serious adverse effects to human health or the environment; and

“(C) in making such a designation, shall take into account appendix A to part 27 of title 6, Code of Federal Regulations (or any successor regulations).

“(6) **BASILINE INFORMATION.**—The Administrator, after consultation with appropriate departments and agencies of the Federal Government and with State, local, and tribal governments, shall, for purposes of facilitating compliance with the requirements of this section, promptly after the effective date of the regulations under subsection (a)(1) and as appropriate thereafter, provide baseline information to covered water systems regarding which kinds of intentional acts are the probable threats to—

“(A) substantially disrupt the ability of the system to provide a safe and reliable supply of drinking water;

“(B) cause the release of a substance of concern at the covered water system; or

“(C) cause the theft, misuse, or misappropriation of a substance of concern.

“(b) **RISK-BASED PERFORMANCE STANDARDS.**—The regulations under subsection (a)(1) shall set forth risk-based performance standards for site security plans required by this section. The standards shall be separate and, as appropriate, increasingly stringent based on the level of risk associated with the covered water system's risk-based tier assignment under subsection (d). In developing such standards, the Administrator shall take into account section 27.230 of title 6, Code of Federal Regulations (or any successor regulations).

“(c) **VULNERABILITY ASSESSMENT.**—The regulations under subsection (a)(1) shall require each covered water system to assess the system's vulnerability to a range of intentional acts, including an intentional act that results in a release of a substance of concern that is known to cause or may be reasonably anticipated to cause death, injury, or serious adverse effects to human health or the environment. At a minimum, the vulnerability assessment shall include a review of—

“(1) pipes and constructed conveyances;

“(2) physical barriers;

“(3) water collection, pretreatment, treatment, storage, and distribution facilities, including fire hydrants;

“(4) electronic, computer, and other automated systems that are used by the covered water system;

“(5) the use, storage, or handling of various chemicals, including substances of concern;

“(6) the operation and maintenance of the covered water system; and

“(7) the covered water system's resiliency and ability to ensure continuity of operations in the event of a disruption caused by an intentional act.

“(d) **RISK-BASED TIERS.**—The regulations under subsection (a)(1) shall provide for 4 risk-based tiers applicable to covered water systems, with tier one representing the highest degree of security risk.

“(1) **ASSIGNMENT OF RISK-BASED TIERS.**—

“(A) **SUBMISSION OF INFORMATION.**—The Administrator may require a covered water system to submit information in order to deter-

mine the appropriate risk-based tier for the covered water system.

“(B) **FACTORS TO CONSIDER.**—The Administrator shall assign (and reassign when appropriate) each covered water system to one of the risk-based tiers established pursuant to this subsection. In assigning a covered water system to a risk-based tier, the Administrator shall consider the potential consequences (such as death, injury, or serious adverse effects to human health, the environment, critical infrastructure, national security, and the national economy) from—

“(i) an intentional act to cause a release, including a worst-case release, of a substance of concern at the covered water system;

“(ii) an intentional act to introduce a contaminant into the drinking water supply or disrupt the safe and reliable supply of drinking water; and

“(iii) an intentional act to steal, misappropriate, or misuse substances of concern.

“(2) **EXPLANATION FOR RISK-BASED TIER ASSIGNMENT.**—The Administrator shall provide each covered water system assigned to a risk-based tier with the reasons for the tier assignment and whether such system is required to submit an assessment under subsection (g)(2).

“(e) **DEVELOPMENT AND IMPLEMENTATION OF SITE SECURITY PLANS.**—The regulations under subsection (a)(1) shall permit each covered water system, in developing and implementing its site security plan required by this section, to select layered security and preparedness measures that, in combination, appropriately—

“(1) address the security risks identified in its vulnerability assessment; and

“(2) comply with the applicable risk-based performance standards required under this section.

“(f) **ROLE OF EMPLOYEES.**—

“(1) **DESCRIPTION OF ROLE.**—Site security plans and emergency response plans required under this section shall describe the appropriate roles or responsibilities that employees and contractor employees are expected to perform to deter or respond to the intentional acts described in subsection (d)(1)(B).

“(2) **TRAINING FOR EMPLOYEES.**—Each covered water system shall annually provide employees and contractor employees with roles or responsibilities described in paragraph (1) with a minimum of 8 hours of training on carrying out those roles or responsibilities.

“(3) **EMPLOYEE PARTICIPATION.**—In developing, revising, or updating a vulnerability assessment, site security plan, and emergency response plan required under this section, a covered water system shall include—

“(A) at least one supervisory and at least one non-supervisory employee of the covered water system; and

“(B) at least one representative of each certified or recognized bargaining agent representing facility employees or contractor employees with roles or responsibilities described in paragraph (1), if any, in a collective bargaining relationship with the private or public owner or operator of the system or with a contractor to that system.

“(g) **METHODS TO REDUCE THE CONSEQUENCES OF A CHEMICAL RELEASE FROM AN INTENTIONAL ACT.**—

“(1) **DEFINITION.**—In this section, the term ‘method to reduce the consequences of a chemical release from an intentional act’ means a measure at a covered water system that reduces or eliminates the potential consequences of a release of a substance of concern from an intentional act such as—

“(A) the elimination or reduction in the amount of a substance of concern possessed

or planned to be possessed by a covered water system through the use of alternate substances, formulations, or processes;

“(B) the modification of pressures, temperatures, or concentrations of a substance of concern; and

“(C) the reduction or elimination of onsite handling of a substance of concern through improvement of inventory control or chemical use efficiency.

“(2) **ASSESSMENT.**—For each covered water system that possesses or plans to possess a substance of concern in excess of the release threshold quantity set by the Administrator under subsection (a)(5), the regulations under subsection (a)(1) shall require the covered water system to include in its site security plan an assessment of methods to reduce the consequences of a chemical release from an intentional act at the covered water system. The covered water system shall provide such assessment to the Administrator and the State exercising primary enforcement responsibility for the covered water system, if any. The regulations under subsection (a)(1) shall require the system, in preparing the assessment, to consider factors appropriate to the system's security, public health, or environmental mission, and include—

“(A) a description of the methods to reduce the consequences of a chemical release from an intentional act;

“(B) how each described method to reduce the consequences of a chemical release from an intentional act could, if applied, reduce the potential extent of death, injury, or serious adverse effects to human health resulting from a chemical release;

“(C) how each described method to reduce the consequences of a chemical release from an intentional act could, if applied, affect the presence of contaminants in treated water, human health, or the environment;

“(D) whether each described method to reduce the consequences of a chemical release from an intentional act at the covered water system is feasible, as defined in section 1412(b)(4)(D), but not including cost calculations under subparagraph (E);

“(E) the costs (including capital and operational costs) and avoided costs (including savings and liabilities) associated with applying each described method to reduce the consequences of a chemical release from an intentional act at the covered water system;

“(F) any other relevant information that the covered water system relied on in conducting the assessment; and

“(G) a statement of whether the covered water system has implemented or plans to implement one or more methods to reduce the consequences of a chemical release from an intentional act, a description of any such methods, and, in the case of a covered water system described in paragraph (3)(A), an explanation of the reasons for any decision not to implement any such methods.

“(3) **REQUIRED METHODS.**—

“(A) **APPLICATION.**—This paragraph applies to a covered water system—

“(i) that is assigned to one of the two highest risk-based tiers under subsection (d); and

“(ii) that possesses or plans to possess a substance of concern in excess of the release threshold quantity set by the Administrator under subsection (a)(5).

“(B) **HIGHEST-RISK SYSTEMS.**—If, on the basis of its assessment under paragraph (2), a covered water system described in subparagraph (A) decides not to implement methods to reduce the consequences of a chemical release from an intentional act, the State exercising primary enforcement responsibility

for the covered water system, if the system is located in such a State, or the Administrator, if the covered water system is not located in such a State, shall, in accordance with a timeline set by the Administrator—

“(i) determine whether to require the covered water system to implement the methods; and

“(ii) for States exercising primary enforcement responsibility, report such determination to the Administrator.

“(C) STATE OR ADMINISTRATOR’S CONSIDERATIONS.—Before requiring, pursuant to subparagraph (B), the implementation of a method to reduce the consequences of a chemical release from an intentional act, the State exercising primary enforcement responsibility for the covered water system, if the system is located in such a State, or the Administrator, if the covered water system is not located in such a State, shall consider factors appropriate to the security, public health, and environmental missions of covered water systems, including an examination of whether the method—

“(i) would significantly reduce the risk of death, injury, or serious adverse effects to human health resulting directly from a chemical release from an intentional act at the covered water system;

“(ii) would not increase the interim storage of a substance of concern by the covered water system;

“(iii) would not render the covered water system unable to comply with other requirements of this Act or drinking water standards established by the State or political subdivision in which the system is located; and

“(iv) is feasible, as defined in section 1412(b)(4)(D), to be incorporated into the operation of the covered water system.

“(D) APPEAL.—Before requiring, pursuant to subparagraph (B), the implementation of a method to reduce the consequences of a chemical release from an intentional act, the State exercising primary enforcement responsibility for the covered water system, if the system is located in such a State, or the Administrator, if the covered water system is not located in such a State, shall provide such covered water system an opportunity to appeal the determination to require such implementation made pursuant to subparagraph (B) by such State or the Administrator.

“(4) INCOMPLETE OR LATE ASSESSMENTS.—

“(A) INCOMPLETE ASSESSMENTS.—If the Administrator finds that the covered water system, in conducting its assessment under paragraph (2), did not meet the requirements of paragraph (2) and the applicable regulations, the Administrator shall, after notifying the covered water system and the State exercising primary enforcement responsibility for that system, if any, require the covered water system to submit a revised assessment not later than 60 days after the Administrator notifies such system. The Administrator may require such additional revisions as are necessary to ensure that the system meets the requirements of paragraph (2) and the applicable regulations.

“(B) LATE ASSESSMENTS.—If the Administrator finds that a covered water system, in conducting its assessment pursuant to paragraph (2), did not complete such assessment in accordance with the deadline set by the Administrator, the Administrator may, after notifying the covered water system and the State exercising primary enforcement responsibility for that system, if any, take appropriate enforcement action under subsection (o).

“(C) REVIEW.—The State exercising primary enforcement responsibility for the covered water system, if the system is located in such a State, or the Administrator, if the system is not located in such a State, shall review a revised assessment that meets the requirements of paragraph (2) and applicable regulations to determine whether the covered water system will be required to implement methods to reduce the consequences of an intentional act pursuant to paragraph (3).

“(5) ENFORCEMENT.—

“(A) FAILURE BY STATE TO MAKE DETERMINATION.—Whenever the Administrator finds that a State exercising primary enforcement responsibility for a covered water system has failed to determine whether to require the covered water system to implement methods to reduce the consequences of a chemical release from an intentional act, as required by paragraph (3)(B), the Administrator shall so notify the State and covered water system. If, beyond the thirtieth day after the Administrator’s notification under the preceding sentence, the State has failed to make the determination described in such sentence, the Administrator shall so notify the State and covered water system and shall determine whether to require the covered water system to implement methods to reduce the consequences of a chemical release from an intentional act based on the factors described in paragraph (3)(C).

“(B) FAILURE BY STATE TO BRING ENFORCEMENT ACTION.—If the Administrator finds, with respect to a period in which a State has primary enforcement responsibility for a covered water system, that the system has failed to implement methods to reduce the consequences of a chemical release from an intentional act (as required by the State or the Administrator under paragraph (3)(B) or the Administrator under subparagraph (A)), the Administrator shall so notify the State and the covered water system. If, beyond the thirtieth day after the Administrator’s notification under the preceding sentence, the State has not commenced appropriate enforcement action, the Administrator shall so notify the State and may commence an enforcement action against the system, including by seeking or imposing civil penalties under subsection (o), to require implementation of such methods.

“(C) CONSIDERATION OF CONTINUED PRIMARY ENFORCEMENT RESPONSIBILITY.—For a State with primary enforcement responsibility for a covered water system, the Administrator may consider the failure of such State to make a determination as described under subparagraph (A) or to bring enforcement action as described under subparagraph (B) when determining whether a State may retain primary enforcement responsibility under this Act.

“(6) GUIDANCE FOR COVERED WATER SYSTEMS ASSIGNED TO TIER 3 AND TIER 4.—For covered water systems required to conduct an assessment under paragraph (2) and assigned by the Administrator to tier 3 or tier 4 under subsection (d), the Administrator shall issue guidance and, as appropriate, provide or recommend tools, methodologies, or computer software, to assist such covered water systems in complying with the requirements of this section.

“(h) REVIEW BY ADMINISTRATOR.—

“(1) IN GENERAL.—The regulations under subsection (a)(1) shall require each covered water system to submit its vulnerability assessment and site security plan to the Administrator for review according to deadlines set by the Administrator. The Administrator shall review each vulnerability assess-

ment and site security plan submitted under this section and—

“(A) if the assessment or plan has any significant deficiency described in paragraph (2), require the covered water system to correct the deficiency; or

“(B) approve such assessment or plan.

“(2) SIGNIFICANT DEFICIENCIES.—A vulnerability assessment or site security plan of a covered water system has a significant deficiency under this subsection if the Administrator, in consultation, as appropriate, with the State exercising primary enforcement responsibility for such system, if any, determines that—

“(A) such assessment does not comply with the regulations established under section (a)(1); or

“(B) such plan—

“(i) fails to address vulnerabilities identified in a vulnerability assessment; or

“(ii) fails to meet applicable risk-based performance standards.

“(3) STATE, REGIONAL, OR LOCAL GOVERNMENTAL ENTITIES.—No covered water system shall be required under State, local, or tribal law to provide a vulnerability assessment or site security plan described in this section to any State, regional, local, or tribal governmental entity solely by reason of the requirement set forth in paragraph (1) that the system submit such an assessment and plan to the Administrator.

“(i) EMERGENCY RESPONSE PLAN.—

“(1) IN GENERAL.—Each covered water system shall prepare or revise, as appropriate, an emergency response plan that incorporates the results of the system’s most current vulnerability assessment and site security plan.

“(2) CERTIFICATION.—Each covered water system shall certify to the Administrator that the system has completed an emergency response plan. The system shall submit such certification to the Administrator not later than 6 months after the system’s first completion or revision of a vulnerability assessment under this section and shall submit an additional certification following any update of the emergency response plan.

“(3) CONTENTS.—A covered water system’s emergency response plan shall include—

“(A) plans, procedures, and identification of equipment that can be implemented or used in the event of an intentional act at the covered water system; and

“(B) actions, procedures, and identification of equipment that can obviate or significantly lessen the impact of intentional acts on public health and the safety and supply of drinking water provided to communities and individuals.

“(4) COORDINATION.—As part of its emergency response plan, each covered water system shall provide appropriate information to any local emergency planning committee, local law enforcement officials, and local emergency response providers to ensure an effective, collective response.

“(j) MAINTENANCE OF RECORDS.—Each covered water system shall maintain an updated copy of its vulnerability assessment, site security plan, and emergency response plan.

“(k) AUDIT; INSPECTION.—

“(1) IN GENERAL.—Notwithstanding section 1445(b)(2), the Administrator, or duly designated representatives of the Administrator, shall audit and inspect covered water systems, as necessary, for purposes of determining compliance with this section.

“(2) ACCESS.—In conducting an audit or inspection of a covered water system, the Administrator or duly designated representatives of the Administrator, as appropriate,

shall have access to the owners, operators, employees and contractor employees, and employee representatives, if any, of such covered water system.

“(3) CONFIDENTIAL COMMUNICATION OF INFORMATION; AIDING INSPECTIONS.—The Administrator, or a duly designated representative of the Administrator, shall offer non-supervisory employees of a covered water system the opportunity confidentially to communicate information relevant to the employer's compliance or noncompliance with this section, including compliance or noncompliance with any regulation or requirement adopted by the Administrator in furtherance of the purposes of this section. A representative of each certified or recognized bargaining agent described in subsection (f)(3)(B), if any, or, if none, a non-supervisory employee, shall be given an opportunity to accompany the Administrator, or the duly designated representative of the Administrator, during the physical inspection of any covered water system for the purpose of aiding such inspection, if representatives of the covered water system will also be accompanying the Administrator or the duly designated representative of the Administrator on such inspection.

“(1) PROTECTION OF INFORMATION.—

“(1) PROHIBITION OF PUBLIC DISCLOSURE OF PROTECTED INFORMATION.—Protected information shall—

“(A) be exempt from disclosure under section 552 of title 5, United States Code; and

“(B) not be made available pursuant to any State, local, or tribal law requiring disclosure of information or records.

“(2) INFORMATION SHARING.—

“(A) IN GENERAL.—The Administrator shall prescribe such regulations, and may issue such orders, as necessary to prohibit the unauthorized disclosure of protected information, as described in paragraph (7).

“(B) SHARING OF PROTECTED INFORMATION.—The regulations under subparagraph (A) shall provide standards for and facilitate the appropriate sharing of protected information with and between Federal, State, local, and tribal authorities, first responders, law enforcement officials, designated supervisory and non-supervisory covered water system personnel with security, operational, or fiduciary responsibility for the system, and designated facility employee representatives, if any. Such standards shall include procedures for the sharing of all portions of a covered water system's vulnerability assessment and site security plan relating to the roles and responsibilities of system employees or contractor employees under subsection (f)(1) with a representative of each certified or recognized bargaining agent representing such employees, if any, or, if none, with at least one supervisory and at least one non-supervisory employee with roles and responsibilities under subsection (f)(1).

“(C) PENALTIES.—Protected information, as described in paragraph (7), shall not be shared except in accordance with the standards provided by the regulations under subparagraph (A). Whoever discloses protected information in knowing violation of the regulations and orders issued under subparagraph (A) shall be fined under title 18, United States Code, imprisoned for not more than one year, or both, and, in the case of a Federal officeholder or employee, shall be removed from Federal office or employment.

“(3) TREATMENT OF INFORMATION IN ADJUDICATIVE PROCEEDINGS.—In any judicial or administrative proceeding, protected information, as described in paragraph (7), shall be treated in a manner consistent with the

treatment of Sensitive Security Information under section 525 of the Department of Homeland Security Appropriations Act, 2007 (Public Law 109-295; 120 Stat. 1381).

“(4) OTHER OBLIGATIONS UNAFFECTED.—Except as provided in subsection (h)(3), nothing in this section amends or affects an obligation of a covered water system—

“(A) to submit or make available information to system employees, employee organizations, or a Federal, State, tribal, or local government agency under any other law; or

“(B) to comply with any other law.

“(5) CONGRESSIONAL OVERSIGHT.—Nothing in this section permits or authorizes the withholding of information from Congress or any committee or subcommittee thereof.

“(6) DISCLOSURE OF INDEPENDENTLY FURNISHED INFORMATION.—Nothing in this section amends or affects any authority or obligation of a Federal, State, local, or tribal agency to protect or disclose any record or information that the Federal, State, local, or tribal agency obtains from a covered water system or the Administrator under any other law.

“(7) PROTECTED INFORMATION.—

“(A) IN GENERAL.—For purposes of this section, protected information is any of the following:

“(i) Vulnerability assessments and site security plans under this section, including any assessment developed pursuant to subsection (g)(2).

“(ii) Documents directly related to the Administrator's review of assessments and plans described in clause (i) and, as applicable, the State's review of an assessment prepared under subsection (g)(2).

“(iii) Documents directly related to inspections and audits under this section.

“(iv) Orders, notices, or letters regarding the compliance of a covered water system with the requirements of this section.

“(v) Information, documents, or records required to be provided to or created by, the Administrator under subsection (d).

“(vi) Documents directly related to security drills and training exercises, security threats and breaches of security, and maintenance, calibration, and testing of security equipment.

“(vii) Other information, documents, and records developed exclusively for the purposes of this section that the Administrator determines would be detrimental to the security of one or more covered water systems if disclosed.

“(B) DETRIMENT REQUIREMENT.—For purposes of clauses (ii), (iii), (iv), (v), and (vi) of subparagraph (A), the only portions of documents, records, orders, notices, and letters that shall be considered protected information are those portions that—

“(i) would be detrimental to the security of one or more covered water systems if disclosed; and

“(ii) are developed by the Administrator, the State, or the covered water system for the purposes of this section.

“(C) EXCLUSIONS.—For purposes of this section, protected information does not include—

“(i) information that is otherwise publicly available, including information that is required to be made publicly available under any law;

“(ii) information that a covered water system has lawfully disclosed other than in accordance with this section; and

“(iii) information that, if disclosed, would not be detrimental to the security of one or more covered water systems, including aggregate regulatory data that the Adminis-

trator determines appropriate to describe system compliance with the requirements of this section and the Administrator's implementation of such requirements.

“(m) RELATION TO CHEMICAL FACILITY SECURITY REQUIREMENTS.—Title XXI of the Homeland Security Act of 2002 and the amendments made by title I of the Chemical and Water Security Act of 2009 shall not apply to any public water system subject to this Act.

“(n) PREEMPTION.—This section does not preclude or deny the right of any State or political subdivision thereof to adopt or enforce any regulation, requirement, or standard of performance with respect to a covered water system that is more stringent than a regulation, requirement, or standard of performance under this section.

“(o) VIOLATIONS.—

“(1) IN GENERAL.—A covered water system that violates any requirement of this section, including by not implementing all or part of its site security plan by such date as the Administrator requires, shall be liable for a civil penalty of not more than \$25,000 for each day on which the violation occurs.

“(2) PROCEDURE.—When the Administrator determines that a covered water system is subject to a civil penalty under paragraph (1), the Administrator, after consultation with the State, for covered water systems located in a State exercising primary responsibility for the covered water system, and, after considering the severity of the violation or deficiency and the record of the covered water system in carrying out the requirements of this section, may—

“(A) after notice and an opportunity for the covered water system to be heard, issue an order assessing a penalty under such paragraph for any past or current violation, requiring compliance immediately or within a specified time period; or

“(B) commence a civil action in the United States district court in the district in which the violation occurred for appropriate relief, including temporary or permanent injunction.

“(3) METHODS TO REDUCE THE CONSEQUENCES OF A CHEMICAL RELEASE FROM AN INTENTIONAL ACT.—Except as provided in subsections (g)(4) and (g)(5), if a covered water system is located in a State exercising primary enforcement responsibility for the system, the Administrator may not issue an order or commence a civil action under this section for any deficiency in the content or implementation of the portion of the system's site security plan relating to methods to reduce the consequences of a chemical release from an intentional act (as defined in subsection (g)(1)).

“(p) REPORT TO CONGRESS.—

“(1) PERIODIC REPORT.—Not later than 3 years after the effective date of the regulations under subsection (a)(1), and every 3 years thereafter, the Administrator shall transmit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Environment and Public Works of the Senate a report on progress in achieving compliance with this section. Each such report shall include, at a minimum, the following:

“(A) A generalized summary of measures implemented by covered water systems in order to meet each risk-based performance standard established by this section.

“(B) A summary of how the covered water systems, differentiated by risk-based tier assignment, are complying with the requirements of this section during the period covered by the report and how the Administrator is implementing and enforcing such requirements during such period including—

“(i) the number of public water systems that provided the Administrator with information pursuant to subsection (d)(1);

“(ii) the number of covered water systems assigned to each risk-based tier;

“(iii) the number of vulnerability assessments and site security plans submitted by covered water systems;

“(iv) the number of vulnerability assessments and site security plans approved and disapproved by the Administrator;

“(v) the number of covered water systems without approved vulnerability assessments or site security plans;

“(vi) the number of covered water systems that have been assigned to a different risk-based tier due to implementation of a method to reduce the consequences of a chemical release from an intentional act and a description of the types of such implemented methods;

“(vii) the number of audits and inspections conducted by the Administrator or duly designated representatives of the Administrator;

“(viii) the number of orders for compliance issued by the Administrator;

“(ix) the administrative penalties assessed by the Administrator for non-compliance with the requirements of this section;

“(x) the civil penalties assessed by courts for non-compliance with the requirements of this section; and

“(xi) any other regulatory data the Administrator determines appropriate to describe covered water system compliance with the requirements of this section and the Administrator's implementation of such requirements.

“(2) PUBLIC AVAILABILITY.—A report submitted under this section shall be made publicly available.

“(q) GRANT PROGRAMS.—

“(1) IMPLEMENTATION GRANTS TO STATES.—The Administrator may award grants to, or enter into cooperative agreements with, States, based on an allocation formula established by the Administrator, to assist the States in implementing this section.

“(2) RESEARCH, TRAINING, AND TECHNICAL ASSISTANCE GRANTS.—The Administrator may award grants to, or enter into cooperative agreements with, non-profit organizations to provide research, training, and technical assistance to covered water systems to assist them in carrying out their responsibilities under this section.

“(3) PREPARATION GRANTS.—

“(i) NEED.—The Administrator may award grants to, or enter into cooperative agreements with, covered water systems to assist such systems in—

“(i) preparing and updating vulnerability assessments, site security plans, and emergency response plans;

“(ii) assessing and implementing methods to reduce the consequences of a release of a substance of concern from an intentional act; and

“(iii) implementing any other security reviews and enhancements necessary to comply with this section.

“(B) PRIORITY.—

“(i) NEED.—The Administrator, in awarding grants or entering into cooperative agreements for purposes described in subparagraph (A)(i), shall give priority to cov-

ered water systems that have the greatest need.

“(ii) SECURITY RISK.—The Administrator, in awarding grants or entering into cooperative agreements for purposes described in subparagraph (A)(ii), shall give priority to covered water systems that pose the greatest security risk.

“(4) WORKER TRAINING GRANTS PROGRAM AUTHORITY.—

“(A) IN GENERAL.—The Administrator shall establish a grant program to award grants to eligible entities to provide for training and education of employees and contractor employees with roles or responsibilities described in subsection (f)(1) and first responders and emergency response providers who would respond to an intentional act at a covered water system.

“(B) ADMINISTRATION.—The Administrator shall enter into an agreement with the National Institute of Environmental Health Sciences to make and administer grants under this paragraph.

“(C) USE OF FUNDS.—The recipient of a grant under this paragraph shall use the grant to provide for—

“(i) training and education of employees and contractor employees with roles or responsibilities described in subsection (f)(1), including the annual mandatory training specified in subsection (f)(2) or training for first responders in protecting nearby persons, property, or the environment from the effects of a release of a substance of concern at the covered water system, with priority given to covered water systems assigned to tier one or tier two under subsection (d); and

“(ii) appropriate training for first responders and emergency response providers who would respond to an intentional act at a covered water system.

“(D) ELIGIBLE ENTITIES.—For purposes of this paragraph, an eligible entity is a non-profit organization with demonstrated experience in implementing and operating successful worker or first responder health and safety or security training programs.

“(r) AUTHORIZATION OF APPROPRIATIONS.—

“(1) IN GENERAL.—To carry out this section, there are authorized to be appropriated—

“(A) \$315,000,000 for fiscal year 2011, of which up to—

“(i) \$30,000,000 may be used for administrative costs incurred by the Administrator or the States, as appropriate; and

“(ii) \$125,000,000 may be used to implement methods to reduce the consequences of a chemical release from an intentional act at covered water systems with priority given to covered water systems assigned to tier one or tier two under subsection (d); and

“(B) such sums as may be necessary for fiscal years 2012 through 2015.

“(2) SECURITY ENHANCEMENTS.—Funding under this subsection for basic security enhancements shall not include expenditures for personnel costs or monitoring, operation, or maintenance of facilities, equipment, or systems.”

(b) REGULATIONS; TRANSITION.—

(1) REGULATIONS.—Not later than 2 years after the date of the enactment of this title, the Administrator of the Environmental Protection Agency shall promulgate final regulations to carry out section 1433 of the Safe Drinking Water Act, as amended by subsection (a).

(2) EFFECTIVE DATE.—Until the effective date of the regulations promulgated under paragraph (1), section 1433 of the Safe Drinking Water Act, as in effect on the day before the date of the enactment of this title, shall continue to apply.

(3) SAVINGS PROVISION.—Nothing in this section or the amendment made by this section shall affect the application of section 1433 of the Safe Drinking Water Act, as in effect before the effective date of the regulations promulgated under paragraph (1), to any violation of such section 1433 occurring before such effective date, and the requirements of such section 1433 shall remain in force and effect with respect to such violation until the violation has been corrected or enforcement proceedings completed, whichever is later.

## SEC. 203. STUDY TO ASSESS THE THREAT OF CONTAMINATION OF DRINKING WATER DISTRIBUTION SYSTEMS.

Not later than 180 days after the date of the enactment of this title, the Administrator of the Environmental Protection Agency, in consultation with the Secretary of Homeland Security, shall—

(1) conduct a study to assess the threat of contamination of drinking water being distributed through public water systems, including fire main systems; and

(2) submit a report to the Congress on the results of such study.

## TITLE III—WASTEWATER TREATMENT WORKS SECURITY

### SECTION 301. SHORT TITLE.

This title may be cited as the “Wastewater Treatment Works Security Act of 2009”.

### SEC. 302. WASTEWATER TREATMENT WORKS SECURITY.

(a) IN GENERAL.—Title II of the Federal Water Pollution Control Act (33 U.S.C. 1281 et seq.) is amended by adding at the end the following:

#### “SEC. 222. WASTEWATER TREATMENT WORKS SECURITY.

“(a) ASSESSMENT OF TREATMENT WORKS VULNERABILITY AND IMPLEMENTATION OF SITE SECURITY AND EMERGENCY RESPONSE PLANS.—

“(1) IN GENERAL.—Each owner or operator of a treatment works with either a treatment capacity of at least 2,500,000 gallons per day or, in the discretion of the Administrator, that presents a security risk making coverage under this section appropriate shall, consistent with regulations developed under subsection (b)—

“(A) conduct and, as required, update a vulnerability assessment of its treatment works;

“(B) develop, periodically update, and implement a site security plan for the treatment works; and

“(C) develop and, as required, revise an emergency response plan for the treatment works.

“(2) VULNERABILITY ASSESSMENT.—

“(A) DEFINITION.—In this section, the term ‘vulnerability assessment’ means an assessment of the vulnerability of a treatment works to intentional acts that may—

“(i) substantially disrupt the ability of the treatment works to safely and reliably operate; or

“(ii) have a substantial adverse effect on critical infrastructure, public health or safety, or the environment.

“(B) REVIEW.—A vulnerability assessment shall include an identification of the vulnerability of the treatment works’—

“(i) facilities, systems, and devices used in the storage, treatment, recycling, or reclamation of municipal sewage or industrial wastes;

“(ii) intercepting sewers, outfall sewers, sewage collection systems, and other constructed conveyances under the control of the owner or operator of the treatment works;

“(iii) electronic, computer, and other automated systems;

“(iv) pumping, power, and other equipment;

“(v) use, storage, and handling of various chemicals, including substances of concern, as identified by the Administrator;

“(vi) operation and maintenance procedures; and

“(vii) ability to ensure continuity of operations.

“(3) SITE SECURITY PLAN.—

“(A) DEFINITION.—In this section, the term ‘site security plan’ means a process developed by the owner or operator of a treatment works to address security risks identified in a vulnerability assessment developed for the treatment works.

“(B) IDENTIFICATION OF SECURITY ENHANCEMENTS.—A site security plan carried out under paragraph (1)(B) shall identify specific security enhancements, including procedures, countermeasures, or equipment, that, when implemented or utilized, will reduce the vulnerabilities identified in a vulnerability assessment (including the identification of the extent to which implementation or utilization of such security enhancements may impact the operations of the treatment works in meeting the goals and requirements of this Act).

“(b) RULEMAKING AND GUIDANCE DOCUMENTS.—

“(1) IN GENERAL.—Not later than December 31, 2010, the Administrator, after providing notice and an opportunity for public comment, shall issue regulations—

“(A) establishing risk-based performance standards for the security of a treatment works identified under subsection (a)(1); and

“(B) establishing requirements and deadlines for each owner or operator of a treatment works identified under subsection (a)(1)—

“(i) to conduct and submit to the Administrator a vulnerability assessment or, if the owner or operator of a treatment works already has conducted a vulnerability assessment, to revise and submit to the Administrator such assessment in accordance with this section;

“(ii) to update and submit to the Administrator the vulnerability assessment not less than every 5 years and promptly after any change at the treatment works that could cause the reassignment of the treatment works to a different risk-based tier under paragraph (2)(B);

“(iii) to develop and implement a site security plan and to update such plan not less than every 5 years and promptly after an update to the vulnerability assessment;

“(iv) to develop an emergency response plan (or, if the owner or operator of a treatment works has already developed an emergency response plan, to revise the plan to be in accordance with this section) and to revise the plan not less than every 5 years and promptly after an update to the vulnerability assessment; and

“(v) to provide annual training to employees of the treatment works on implementing site security plans and emergency response plans.

“(2) RISK-BASED TIERS AND PERFORMANCE STANDARDS.—

“(A) IN GENERAL.—In developing regulations under this subsection, the Administrator shall—

“(i) provide for 4 risk-based tiers applicable to treatment works identified under subsection (a)(1), with tier one representing the highest degree of security risk; and

“(ii) establish risk-based performance standards for site security plans and emer-

gency response plans required under this section.

“(B) RISK-BASED TIERS.—

“(i) ASSIGNMENT OF RISK-BASED TIERS.—The Administrator shall assign (and reassign when appropriate) each treatment works identified under subsection (a)(1) to one of the risk-based tiers established pursuant to this paragraph.

“(ii) FACTORS TO CONSIDER.—In assigning a treatment works to a risk-based tier, the Administrator shall consider—

“(I) the size of the treatment works;

“(II) the proximity of the treatment works to large population centers;

“(III) the adverse impacts of an intentional act, including a worst-case release of a substance of concern designated under subsection (c), on the operation of the treatment works or on critical infrastructure, public health or safety, or the environment; and

“(IV) any other factor that the Administrator determines to be appropriate.

“(iii) INFORMATION REQUEST FOR TREATMENT WORKS.—The Administrator may require the owner or operator of a treatment works identified under subsection (a)(1) to submit information in order to determine the appropriate risk-based tier for the treatment works.

“(iv) EXPLANATION FOR RISK-BASED TIER ASSIGNMENT.—The Administrator shall provide the owner or operator of each treatment works assigned to a risk-based tier with the reasons for the tier assignment and whether such owner or operator of a treatment works is required to submit an assessment under paragraph (3)(B).

“(C) RISK-BASED PERFORMANCE STANDARDS.—

“(i) CLASSIFICATION.—In establishing risk-based performance standards under subparagraph (A)(ii), the Administrator shall ensure that the standards are separate and, as appropriate, increasingly more stringent based on the level of risk associated with the risk-based tier assignment under subparagraph (B) for the treatment works.

“(ii) CONSIDERATION.—In carrying out this subparagraph, the Administrator shall take into account section 27.230 of title 6, Code of Federal Regulations (or any successor regulation).

“(D) SITE SECURITY PLANS.—

“(i) IN GENERAL.—In developing regulations under this subsection, the Administrator shall permit the owner or operator of a treatment works identified under subsection (a)(1), in developing and implementing a site security plan, to select layered security and preparedness measures that, in combination—

“(I) address the security risks identified in its vulnerability assessment; and

“(II) comply with the applicable risk-based performance standards required by this subsection.

“(3) METHODS TO REDUCE THE CONSEQUENCES OF A CHEMICAL RELEASE FROM AN INTENTIONAL ACT.—

“(A) DEFINITION.—In this section, the term ‘method to reduce the consequences of a chemical release from an intentional act’ means a measure at a treatment works identified under subsection (a)(1) that reduces or eliminates the potential consequences of a release of a substance of concern designated under subsection (c) from an intentional act, such as—

“(i) the elimination of or a reduction in the amount of a substance of concern possessed or planned to be possessed by a treatment works through the use of alternate substances, formulations, or processes;

“(ii) the modification of pressures, temperatures, or concentrations of a substance of concern; and

“(iii) the reduction or elimination of on-site handling of a substance of concern through the improvement of inventory control or chemical use efficiency.

“(B) ASSESSMENT.—

“(i) IN GENERAL.—In developing the regulations under this subsection, for each treatment works identified under subsection (a)(1) that possesses or plans to possess a substance of concern in excess of the release threshold quantity set by the Administrator under subsection (c)(2), the Administrator shall require the treatment works to include in its site security plan an assessment of methods to reduce the consequences of a chemical release from an intentional act at the treatment works.

“(ii) CONSIDERATIONS FOR ASSESSMENT.—In developing the regulations under this subsection, the Administrator shall require the owner or operator of each treatment works, in preparing the assessment, to consider factors appropriate to address the responsibilities of the treatment works to meet the goals and requirements of this Act and to include—

“(I) a description of the methods to reduce the consequences of a chemical release from an intentional act;

“(II) a description of how each described method to reduce the consequences of a chemical release from an intentional act could, if applied—

“(aa) reduce the extent of death, injury, or serious adverse effects to human health or the environment as a result of a release, theft, or misappropriation of a substance of concern designated under subsection (c); and

“(bb) impact the operations of the treatment works in meeting the goals and requirements of this Act;

“(III) whether each described method to reduce the consequences of a chemical release from an intentional act at the treatment works is feasible, as determined by the Administrator;

“(IV) the costs (including capital and operational costs) and avoided costs (including potential savings) associated with applying each described method to reduce the consequences of a chemical release from an intentional act at the treatment works;

“(V) any other relevant information that the owner or operator of a treatment works relied on in conducting the assessment; and

“(VI) a statement of whether the owner or operator of a treatment works has implemented or plans to implement a method to reduce the consequences of a chemical release from an intentional act, a description of any such method, and, in the case of a treatment works described in subparagraph (C)(i), an explanation of the reasons for any decision not to implement any such method.

“(C) REQUIRED METHODS.—

“(i) APPLICATION.—This subparagraph applies to a treatment works identified under subsection (a)(1) that—

“(I) is assigned to one of the two highest risk-based tiers established under paragraph (2)(A); and

“(II) possesses or plans to possess a substance of concern in excess of the threshold quantity set by the Administrator under subsection (c)(2).

“(ii) HIGHEST-RISK SYSTEMS.—If, on the basis of its assessment developed pursuant to subparagraph (B), the owner or operator of a treatment works described in clause (i) decides not to implement a method to reduce the consequences of a chemical release from



an intentional act, in accordance with a timeline set by the Administrator—

“(I) the Administrator or, where applicable, a State with an approved program under section 402, shall determine whether to require the owner or operator of a treatment works to implement such method; and

“(II) in the case of a State with such approved program, the State shall report such determination to the Administrator.

“(iii) CONSIDERATIONS.—Before requiring the implementation of a method to reduce the consequences of a chemical release from an intentional act under clause (ii), the Administrator or a State, as the case may be, shall consider factors appropriate to address the responsibilities of the treatment works to meet the goals and requirements of this Act, including an examination of whether the method—

“(I) would significantly reduce the risk of death, injury, or serious adverse effects to human health resulting from a chemical release from an intentional act at the treatment works;

“(II) would not increase the interim storage by the treatment works of a substance of concern designated under subsection (c);

“(III) could impact the operations of the treatment works in meeting the goals and requirements of this Act or any more stringent standards established by the State or municipality in which the treatment works is located; and

“(IV) is feasible, as determined by the Administrator, to be incorporated into the operations of the treatment works.

“(D) APPEAL.—Before requiring the implementation of a method to reduce the consequences of a chemical release from an intentional act under clause (ii), the Administrator or a State, as the case may be, shall provide the owner or operator of the treatment works an opportunity to appeal the determination to require such implementation.

“(E) INCOMPLETE OR LATE ASSESSMENTS.—

“(i) INCOMPLETE ASSESSMENTS.—If the Administrator determines that a treatment works fails to meet the requirements of subparagraph (B) and the applicable regulations, the Administrator shall, after notifying the owner or operator of a treatment works and the State in which the treatment works is located, require the owner or operator of the treatment works to submit a revised assessment not later than 60 days after the Administrator notifies the owner or operator. The Administrator may require such additional revisions as are necessary to ensure that the treatment works meets the requirements of subparagraph (B) and the applicable regulations.

“(ii) LATE ASSESSMENTS.—If the Administrator finds that the owner or operator of a treatment works, in conducting an assessment pursuant to subparagraph (B), did not complete such assessment in accordance with the deadline set by the Administrator, the Administrator may, after notifying the owner or operator of the treatment works and the State in which the treatment works is located, take appropriate enforcement action under subsection (j).

“(iii) REVIEW.—A State with an approved program under section 402 or the Administrator, as the case may be, shall review a revised assessment that meets the requirements of subparagraph (B) and applicable regulations to determine whether the treatment works will be required to implement methods to reduce the consequences of a chemical release from an intentional act pursuant to subparagraph (C).

“(F) ENFORCEMENT.—

“(i) FAILURE BY STATE TO MAKE DETERMINATION.—

“(I) IN GENERAL.—If the Administrator determines that a State with an approved program under section 402 failed to determine whether to require a treatment works to implement a method to reduce the consequences of a chemical release from an intentional act, as required by subparagraph (C)(ii), the Administrator shall notify the State and the owner or operator of the treatment works.

“(II) ADMINISTRATIVE ACTION.—If, after 30 days after the notification described in subclause (I), a State fails to make the determination described in that subclause, the Administrator shall notify the State and the owner or operator of the treatment works and shall determine whether to require the owner or operator to implement a method to reduce the consequences of a chemical release from an intentional act based on the factors described in subparagraph (C)(iii).

“(ii) FAILURE BY STATE TO BRING ENFORCEMENT ACTION.—

“(I) IN GENERAL.—If, in a State with an approved program under section 402, the Administrator determines that the owner or operator of a treatment works fails to implement a method to reduce the consequences of a chemical release from an intentional act (as required by the State or the Administrator under subparagraph (C)(ii) or the Administrator under clause (i)(II)), the Administrator shall notify the State and the owner or operator of the treatment works.

“(II) ADMINISTRATIVE ENFORCEMENT ACTION.—If, after 30 days after the notification described in subclause (I), the State has not commenced appropriate enforcement action, the Administrator shall notify the State and may commence an enforcement action against the owner or operator of the treatment works, including by seeking or imposing civil penalties under subsection (j), to require implementation of such method.

“(4) CONSULTATION WITH STATE AUTHORITIES.—In developing the regulations under this subsection, the Administrator shall consult with States with approved programs under section 402.

“(5) CONSULTATION WITH OTHER PERSONS.—In developing the regulations under this subsection, the Administrator shall consult with the Secretary of Homeland Security, and, as appropriate, other persons regarding—

“(A) the provision of threat-related and other baseline information to treatment works identified under subsection (a)(1);

“(B) the designation of substances of concern under subsection (c);

“(C) the development of risk-based performance standards;

“(D) the establishment of risk-based tiers and the process for the assignment of treatment works identified under subsection (a)(1) to such tiers;

“(E) the process for the development and evaluation of vulnerability assessments, site security plans, and emergency response plans;

“(F) the treatment of protected information; and

“(G) any other factor that the Administrator determines to be appropriate.

“(6) CONSIDERATION.—In developing the regulations under this subsection, the Administrator shall ensure that such regulations are consistent with the goals and requirements of this Act.

“(c) SUBSTANCES OF CONCERN.—For purposes of this section, the Administrator, in consultation with the Secretary of Homeland Security—

“(1) may designate any chemical substance as a substance of concern;

“(2) at the time any chemical substance is designated pursuant to paragraph (1), shall establish by rulemaking a threshold quantity for the release or theft of a substance, taking into account the toxicity, reactivity, volatility, dispersability, combustibility, and flammability of the substance and the amount of the substance, that, as a result of the release or theft, is known to cause death, injury, or serious adverse impacts to human health or the environment; and

“(3) in making such a designation, shall take into account appendix A to part 27 of title 6, Code of Federal Regulations (or any successor regulation).

“(d) REVIEW OF VULNERABILITY ASSESSMENT AND SITE SECURITY PLAN.—

“(1) IN GENERAL.—Each owner or operator of a treatment works identified under subsection (a)(1) shall submit its vulnerability assessment and site security plan to the Administrator for review in accordance with deadlines established by the Administrator.

“(2) STANDARD OF REVIEW.—The Administrator shall review each vulnerability assessment and site security plan submitted under this subsection and—

“(A) if the assessment or plan has a significant deficiency described in paragraph (3), require the owner or operator of the treatment works to correct the deficiency; or

“(B) approve such assessment or plan.

“(3) SIGNIFICANT DEFICIENCY.—A vulnerability assessment or site security plan of a treatment works has a significant deficiency under this subsection if the Administrator, in consultation, as appropriate, with a State with an approved program under section 402, determines that—

“(A) such assessment does not comply with the regulations promulgated under subsection (b); or

“(B) such plan—

“(i) fails to address vulnerabilities identified in a vulnerability assessment; or

“(ii) fails to meet applicable risk-based performance standards.

“(4) IDENTIFICATION OF DEFICIENCIES.—If the Administrator identifies a significant deficiency in the vulnerability assessment or site security plan of an owner or operator of a treatment works under paragraph (3), the Administrator shall provide the owner or operator with a written notification of the deficiency that—

“(A) includes a clear explanation of the deficiency in the vulnerability assessment or site security plan;

“(B) provides guidance to assist the owner or operator in addressing the deficiency; and

“(C) requires the owner or operator to correct the deficiency and, by such date as the Administrator determines appropriate, to submit to the Administrator a revised vulnerability assessment or site security plan.

“(5) STATE, LOCAL, OR TRIBAL GOVERNMENTAL ENTITIES.—No owner or operator of a treatment works identified under subsection (a)(1) shall be required under State, local, or tribal law to provide a vulnerability assessment or site security plan described in this section to any State, local, or tribal governmental entity solely by reason of the requirement set forth in paragraph (1) that the owner or operator of a treatment works submit such an assessment and plan to the Administrator.

“(e) EMERGENCY RESPONSE PLAN.—

“(1) IN GENERAL.—The owner or operator of a treatment works identified under subsection (a)(1) shall develop or revise, as appropriate, an emergency response plan that

incorporates the results of the current vulnerability assessment and site security plan for the treatment works.

“(2) CERTIFICATION.—The owner or operator of a treatment works identified under subsection (a)(1) shall certify to the Administrator that the owner or operator has completed an emergency response plan, shall submit such certification to the Administrator not later than 6 months after the first completion or revision of a vulnerability assessment under this section, and shall submit an additional certification following any update of the emergency response plan.

“(3) CONTENTS.—An emergency response plan shall include a description of—

“(A) plans, procedures, and identification of equipment that can be implemented or used in the event of an intentional act at the treatment works; and

“(B) actions, procedures, and identification of equipment that can obviate or significantly reduce the impact of intentional acts to—

“(i) substantially disrupt the ability of the treatment works to safely and reliably operate; or

“(ii) have a substantial adverse effect on critical infrastructure, public health or safety, or the environment.

“(4) COORDINATION.—As part of its emergency response plan, the owner or operator of a treatment works shall provide appropriate information to any local emergency planning committee, local law enforcement officials, and local emergency response providers to ensure an effective, collective response.

“(f) ROLE OF EMPLOYEES.—

“(1) DESCRIPTION OF ROLE.—Site security plans and emergency response plans required under this section shall describe the appropriate roles or responsibilities that employees and contractor employees of treatment works are expected to perform to deter or respond to the intentional acts identified in a current vulnerability assessment.

“(2) TRAINING FOR EMPLOYEES.—The owner or operator of a treatment works identified under subsection (a)(1) shall annually provide employees and contractor employees with the roles or responsibilities described in paragraph (1) with sufficient training, as determined by the Administrator, on carrying out those roles or responsibilities.

“(3) EMPLOYEE PARTICIPATION.—In developing, revising, or updating a vulnerability assessment, site security plan, and emergency response plan required under this section, the owner or operator of a treatment works shall include—

“(A) at least one supervisory and at least one nonsupervisory employee of the treatment works; and

“(B) at least one representative of each certified or recognized bargaining agent representing facility employees or contractor employees with roles or responsibilities described in paragraph (1), if any, in a collective bargaining relationship with the owner or operator of the treatment works or with a contractor to the treatment works.

“(g) MAINTENANCE OF RECORDS.—The owner or operator of a treatment works identified under subsection (a)(1) shall maintain an updated copy of its vulnerability assessment, site security plan, and emergency response plan on the premises of the treatment works.

“(h) AUDIT; INSPECTION.—

“(1) IN GENERAL.—The Administrator shall audit and inspect a treatment works identified under subsection (a)(1), as necessary, for purposes of determining compliance with this section.

“(2) ACCESS.—In conducting an audit or inspection of a treatment works under paragraph (1), the Administrator shall have access to the owners, operators, employees and contractor employees, and employee representatives, if any, of such treatment works.

“(3) CONFIDENTIAL COMMUNICATION OF INFORMATION; AIDING INSPECTIONS.—The Administrator shall offer nonsupervisory employees of a treatment works the opportunity confidentially to communicate information relevant to the compliance or noncompliance of the owner or operator of the treatment works with this section, including compliance or noncompliance with any regulation or requirement adopted by the Administrator in furtherance of the purposes of this section. A representative of each certified or recognized bargaining agent described in subsection (f)(3)(B), if any, or, if none, a nonsupervisory employee, shall be given an opportunity to accompany the Administrator during the physical inspection of any treatment works for the purpose of aiding such inspection, if representatives of the treatment works will also be accompanying the Administrator on such inspection.

“(1) PROTECTION OF INFORMATION.—

“(1) PROHIBITION OF PUBLIC DISCLOSURE OF PROTECTED INFORMATION.—Protected information shall—

“(A) be exempt from disclosure under section 552 of title 5, United States Code; and

“(B) not be made available pursuant to any State, local, or tribal law requiring disclosure of information or records.

“(2) INFORMATION SHARING.—

“(A) IN GENERAL.—The Administrator shall prescribe such regulations, and may issue such orders, as necessary to prohibit the unauthorized disclosure of protected information, as described in paragraph (7).

“(B) SHARING OF PROTECTED INFORMATION.—The regulations under subparagraph (A) shall provide standards for and facilitate the appropriate sharing of protected information with and among Federal, State, local, and tribal authorities, first responders, law enforcement officials, supervisory and nonsupervisory treatment works personnel with security, operational, or fiduciary responsibility for the system designated by the owner or operator of the treatment works, and facility employee representatives designated by the owner or operator of the treatment works, if any.

“(C) INFORMATION SHARING PROCEDURES.—Such standards shall include procedures for the sharing of all portions of the vulnerability assessment and site security plan of a treatment works relating to the roles and responsibilities of the employees or contractor employees of a treatment works under subsection (f)(1) with a representative of each certified or recognized bargaining agent representing such employees, if any, or, if none, with at least one supervisory and at least one nonsupervisory employee with roles and responsibilities under subsection (f)(1).

“(D) PENALTIES.—Protected information, as described in paragraph (7), shall not be shared except in accordance with the standards provided by the regulations under subparagraph (A). Whoever discloses protected information in knowing violation of the regulations and orders issued under subparagraph (A) shall be fined under title 18, United States Code, imprisoned for not more than one year, or both, and, in the case of a Federal officeholder or employee, shall be removed from Federal office or employment.

“(3) TREATMENT OF INFORMATION IN ADJUDICATIVE PROCEEDINGS.—In any judicial or

administrative proceeding, protected information, as described in paragraph (7), shall be treated in a manner consistent with the treatment of sensitive security information under section 525 of the Department of Homeland Security Appropriations Act, 2007 (120 Stat. 1381).

“(4) OTHER OBLIGATIONS UNAFFECTED.—Nothing in this section amends or affects an obligation of the owner or operator of a treatment works to—

“(A) submit or make available information to employees of the treatment works, employee organizations, or a Federal, State, local, or tribal government agency under any other law; or

“(B) comply with any other law.

“(5) CONGRESSIONAL OVERSIGHT.—Nothing in this section permits or authorizes the withholding of information from Congress or any committee or subcommittee thereof.

“(6) DISCLOSURE OF INDEPENDENTLY FURNISHED INFORMATION.—Nothing in this section amends or affects any authority or obligation of a Federal, State, local, or tribal agency to protect or disclose any record or information that the Federal, State, local, or tribal agency obtains from a treatment works or the Administrator under any other law except as provided in subsection (d)(5).

“(7) PROTECTED INFORMATION.—

“(A) IN GENERAL.—For purposes of this section, protected information is any of the following:

“(i) Vulnerability assessments and site security plans under this section, including any assessment developed under subsection (b)(3)(B).

“(ii) Documents directly related to the Administrator's review of assessments and plans described in clause (i) and, as applicable, the State's review of an assessment developed under subsection (b)(3)(B).

“(iii) Documents directly related to inspections and audits under this section.

“(iv) Orders, notices, or letters regarding the compliance of a treatment works described in subsection (a)(1) with the requirements of this section.

“(v) Information required to be provided to, or documents and records created by, the Administrator under subsection (b)(2).

“(vi) Documents directly related to security drills and training exercises, security threats and breaches of security, and maintenance, calibration, and testing of security equipment.

“(vii) Other information, documents, and records developed for the purposes of this section that the Administrator determines would be detrimental to the security of a treatment works if disclosed.

“(B) DETRIMENT REQUIREMENT.—For purposes of clauses (ii), (iii), (iv), (v), and (vi) of subparagraph (A), the only portions of documents, records, orders, notices, and letters that shall be considered protected information are those portions that—

“(i) would be detrimental to the security of a treatment works if disclosed; and

“(ii) are developed by the Administrator, the State, or the treatment works for the purposes of this section.

“(C) EXCLUSIONS.—For purposes of this paragraph, protected information does not include—

“(i) information that is otherwise publicly available, including information that is required to be made publicly available under any law;

“(ii) information that a treatment works has lawfully disclosed other than in accordance with this section; and

“(iii) information that, if disclosed, would not be detrimental to the security of a treatment works, including aggregate regulatory data that the Administrator determines appropriate to describe compliance with the requirements of this section and the Administrator’s implementation of such requirements.

“(j) VIOLATIONS.—For the purposes of section 309 of this Act, any violation of any requirement of this section, including any regulations promulgated pursuant to this section, by an owner or operator of a treatment works described in subsection (a)(1) shall be treated in the same manner as a violation of a permit condition under section 402 of this Act.

“(k) REPORT TO CONGRESS.—

“(1) PERIODIC REPORT.—Not later than 3 years after the effective date of the regulations issued under subsection (b) and every 3 years thereafter, the Administrator shall transmit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate a report on progress in achieving compliance with this section.

“(2) CONTENTS OF THE REPORT.—Each such report shall include, at a minimum, the following:

“(A) A generalized summary of measures implemented by the owner or operator of a treatment works identified under subsection (a)(1) in order to meet each risk-based performance standard established by this section.

“(B) A summary of how the treatment works, differentiated by risk-based tier assignment, are complying with the requirements of this section during the period covered by the report and how the Administrator is implementing and enforcing such requirements during such period, including—

“(i) the number of treatment works that provided the Administrator with information pursuant to subsection (b)(2)(B)(iii);

“(ii) the number of treatment works assigned to each risk-based tier;

“(iii) the number of vulnerability assessments and site security plans submitted by treatment works;

“(iv) the number of vulnerability assessments and site security plans approved or found to have a significant deficiency under subsection (d)(2) by the Administrator;

“(v) the number of treatment works without approved vulnerability assessments or site security plans;

“(vi) the number of treatment works that have been assigned to a different risk-based tier due to implementation of a method to reduce the consequences of a chemical release from an intentional act and a description of the types of such implemented methods;

“(vii) the number of audits and inspections conducted by the Administrator; and

“(viii) any other regulatory data the Administrator determines appropriate to describe the compliance of owners or operators of treatment works with the requirements of this section and the Administrator’s implementation of such requirements.

“(3) PUBLIC AVAILABILITY.—A report submitted under this section shall be made publicly available.

“(1) GRANTS FOR VULNERABILITY ASSESSMENTS, SECURITY ENHANCEMENTS, AND WORKER TRAINING PROGRAMS.—

“(1) IN GENERAL.—The Administrator may make a grant to a State, municipality, or intermunicipal or interstate agency—

“(A) to conduct or update a vulnerability assessment, site security plan, or emergency

response plan for a publicly owned treatment works identified under subsection (a)(1);

“(B) to implement a security enhancement at a publicly owned treatment works identified under subsection (a)(1), including a method to reduce the consequences of a chemical release from an intentional act, identified in an approved site security plan and listed in paragraph (2);

“(C) to implement an additional security enhancement at a publicly owned treatment works identified under subsection (a)(1), including a method to reduce the consequences of a chemical release from an intentional act, identified in an approved site security plan; and

“(D) to provide for security-related training of employees or contractor employees of the treatment works and training for first responders and emergency response providers.

“(2) GRANTS FOR SECURITY ENHANCEMENTS.—

“(A) PREAPPROVED SECURITY ENHANCEMENTS.—The Administrator may make a grant under paragraph (1)(B) to implement a security enhancement of a treatment works for one or more of the following:

“(i) Purchase and installation of equipment for access control, intrusion prevention and delay, and detection of intruders and hazardous or dangerous substances, including—

“(I) barriers, fencing, and gates;

“(II) security lighting and cameras;

“(III) metal grates, wire mesh, and outfall entry barriers;

“(IV) securing of manhole covers and fill and vent pipes;

“(V) installation and re-keying of doors and locks; and

“(VI) smoke, chemical, and explosive mixture detection systems.

“(ii) Security improvements to electronic, computer, or other automated systems and remote security systems, including controlling access to such systems, intrusion detection and prevention, and system backup.

“(iii) Participation in training programs and the purchase of training manuals and guidance materials relating to security.

“(iv) Security screening of employees or contractor support services.

“(B) ADDITIONAL SECURITY ENHANCEMENTS.—The Administrator may make a grant under paragraph (1)(C) for additional security enhancements not listed in subparagraph (A) that are identified in an approved site security plan. The additional security enhancements may include the implementation of a method to reduce the consequences of a chemical release from an intentional act.

“(C) LIMITATION ON USE OF FUNDS.—Grants under this subsection may not be used for personnel costs or operation or maintenance of facilities, equipment, or systems.

“(D) FEDERAL SHARE.—The Federal share of the cost of activities funded by a grant under paragraph (1) may not exceed 75 percent.

“(3) ELIGIBILITY.—To be eligible for a grant under this subsection, a State, municipality, or intermunicipal or interstate agency shall submit information to the Administrator at such time, in such form, and with such assurances as the Administrator may require.

“(m) PREEMPTION.—This section does not preclude or deny the right of any State or political subdivision thereof to adopt or enforce any regulation, requirement, or standard of performance with respect to a treatment works that is more stringent than a regulation, requirement, or standard of performance under this section.

“(n) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Administrator \$200,000,000 for each of fiscal years 2010 through 2014 for making grants under subsection (1). Such sums shall remain available until expended.

“(o) RELATION TO CHEMICAL FACILITY SECURITY REQUIREMENTS.—Title XXI of the Homeland Security Act of 2002 and the amendments made by title I of the Chemical and Water Security Act of 2009 shall not apply to any treatment works.”.

The Acting CHAIR. No amendment to that amendment shall be in order except those printed in part B of the report. Each amendment may be offered only in the order printed in the report, by a Member designated in the report, shall be considered read, shall be debatable for the time specified in the report, equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question.

AMENDMENT NO. 1 OFFERED BY MR. THOMPSON OF MISSISSIPPI

The Acting CHAIR. It is now in order to consider amendment No. 1 printed in part B of House Report 111-327.

Mr. THOMPSON of Mississippi. Mr. Chair, I have an amendment at the desk.

The Acting CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 1 offered by Mr. THOMPSON of Mississippi:

Page 5, beginning on line 22, strike “counter surveillance” and insert “counter-surveillance”.

Page 7, beginning on line 2, strike “. Any such plan shall include” and insert “, including”.

Page 7, line 19, strike “Department” and insert “Secretary”.

Page 8, line 2, strike “chemicals” and insert “a substance of concern”.

Page 8, line 4, insert “and” after the comma.

Page 9, line 5, strike “Department” and insert “Secretary”.

Page 9, line 9, strike “in” and insert “at”.

Page 9, line 10, strike “site” and insert “covered chemical facility”.

Page 10, line 6, insert a comma after “plan”.

Page 17, line 3, insert “chemical” after “designation of a”.

Page 17, line 3, insert “as a substance” after “substance”.

Page 17, line 4, insert “for the substance” after “quantity”.

Page 17, line 8, strike “may at any time” and insert “may, at any time,”.

Page 18, line 10, insert a comma after “concern”.

Page 18, line 22, strike the comma after “representative”.

Page 19, line 6, strike “this title” and insert “this section”.

Page 22, line 3, insert “, as determined by the Secretary,” after “geographically close”.

Page 23, line 1, strike “under” and insert “pursuant to”.

Page 24, line 11, strike “is”.

Page 30, line 22, strike “that” and insert “who”.

Page 34, line 9, strike “the period of”.

Page 36, line 8, strike “information” and insert “to the Secretary in a timely manner, information”.

Page 36, line 9, strike “in a timely manner”.

Page 38, line 17, insert “departmental” after “seek”.

Page 38, line 17, strike “within the Department”.

Page 39, line 24, strike “that” and insert “who”.

Page 39, line 25, insert a comma after “subsection (a)”.

Page 40, line 15, strike “, profit” and insert “, for-profit”.

Page 46, line 16, strike “protected information is any of the following” and insert “the term ‘protected information’ means any of the following”.

Page 46, line 22, strike “determines” and insert “has determined by regulation”.

Page 48, strike lines 3 through 17 and insert the following:

“(2) EXCLUSIONS.—Notwithstanding paragraph (1), the term ‘protected information’ does not include—

“(A) information, other than a security vulnerability assessment or site security plan, that the Secretary has determined by regulation to be—

“(i) appropriate to describe facility compliance with the requirements of this title and the Secretary’s implementation of such requirements; and

“(ii) not detrimental to chemical facility security if disclosed; or

“(B) information, whether or not also contained in a security vulnerability assessment, site security plan, or in a document, record, order, notice, or letter, or portion thereof, described in subparagraph (B) or (C) of paragraph (1), that is obtained from another source with respect to which the Secretary has not made a determination under either such subparagraph, including—

“(i) information that is required to be made publicly available under any other provision of law; and

“(ii) information that a chemical facility has lawfully disclosed other than in a submission to the Secretary pursuant to a requirement of this title.

Page 54, line 3, strike “of” and insert “after”.

Page 63, line 7, strike “1996” and insert “1986”.

Page 75, line 13, strike “Department” and insert “Secretary”.

Page 92, line 23, insert “and resubmit” after “update”.

Page 93, beginning on line 10, strike “(or, if the system has already developed an emergency response plan, to revise the plan to be in accordance with this section)” and insert “or, if the system has already developed an emergency response plan, to revise the plan to be in accordance with this section.”.

Page 110, beginning on line 2, strike “commence an enforcement action against the system, including by seeking or imposing civil penalties” and insert “take appropriate enforcement action”.

Page 115, beginning on line 22, strike “, as described in paragraph (7)”.

Page 116, beginning on line 21, strike “, as described in paragraph (7)”.

Page 117, beginning on line 9, strike “, as described in paragraph (7)”.

Page 117, line 22, insert “provision of” before “law”.

Page 117, line 23, insert “provision of” before “law”.

Page 118, line 10, insert “provision of” before “law”.

Page 118, beginning on line 13, strike “protected information is any of the following” and insert “the term ‘protected information’ means any of the following”.

Page 119, line 17, strike “determines” and insert “has determined by regulation”.

Page 120, line 1, insert before “would” the following: “the Secretary has determined by regulation”.

Page 120, strike lines 7 through 24 and insert the following:

“(C) EXCLUSIONS.—Notwithstanding subparagraphs (A) and (B), the term ‘protected information’ does not include—

“(i) information, other than a security vulnerability assessment or site security plan, that the Administrator has determined by regulation to be—

“(I) appropriate to describe system compliance with the requirements of this title and the Administrator’s implementation of such requirements; and

“(II) not detrimental to the security of one or more covered water systems if disclosed; or

“(ii) information, whether or not also contained in a security vulnerability assessment, site security plan, or in a document, record, order, notice, or letter, or portion thereof, described in any of clauses (ii) through (vii) of subparagraph (A) that is obtained from another source with respect to which the Administrator has not made a determination under either subparagraph (A)(vii) or (B), including—

“(I) information that is required to be made publicly available under any other provision of law; and

“(II) information that a covered water system has lawfully disclosed other than in a submission to the Administrator pursuant to a requirement of this title.

Page 121, line 3, strike “the amendments made by”.

Page 131, beginning on line 3, strike “threat of contamination of drinking water being distributed through public water systems, including fire main systems” and insert “threat to drinking water posed by an intentional act of contamination, and the vulnerability of public water systems, including fire hydrants, to such a threat”.

Page 151, line 24, after “cause” and insert “, or may be reasonably anticipated to cause,”.

Page 161, line 12, insert “provision of” before “law”.

Page 161, line 13, insert “provision of” before “law”.

Page 161, line 25, insert “provision of” before “law”.

Page 162, beginning on line 3, strike “protected information is any of the following” and insert “the term ‘protected information’ means any of the following”.

Page 163, beginning on line 6, strike “determines” and insert “has determined by regulation”.

Page 163, line 15, before “would” insert the following: “the Secretary has determined by regulation”.

Strike line 20 on page 163 and all that follows through page 164, line 13, and insert the following:

“(C) EXCLUSIONS.—Notwithstanding subparagraphs (A) and (B), the term ‘protected information’ does not include—

“(i) information, other than a security vulnerability assessment or site security plan, that the Administrator has determined by regulation to be—

“(I) appropriate to describe treatment works compliance with the requirements of this title and the Administrator’s implementation of such requirements; and

“(II) not detrimental to the security of one or more treatment works if disclosed; or

“(ii) information, whether or not also contained in a security vulnerability assess-

ment, site security plan, or in a document, record, order, notice, or letter, or portion thereof, described in any of clauses (ii) through (vii) of subparagraph (A) that is obtained from another source with respect to which the Administrator has not made a determination under either subparagraph (A)(vii) or (B), including—

“(I) information that is required to be made publicly available under any other provision of law; and

“(II) information that a treatment works has lawfully disclosed other than in a submission to the Administrator pursuant to a requirement of this title.

Page 171, line 5, strike “the amendments made by”.

The Acting CHAIR. Pursuant to House Resolution 885, the gentleman from Mississippi (Mr. THOMPSON) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Mississippi.

Mr. THOMPSON of Mississippi. Mr. Chair, before discussing the specifics of my amendment, I would like to address an argument that I expect we will hear throughout the day.

The other side of the aisle seems to be arguing that the economy is so delicate that we simply cannot afford to protect the American people from terrorism. Democrats fundamentally reject that argument. In fact, we have testimony from labor that this bill is no threat to jobs. They have testified “that the bill will have zero impact on employment.”

We also reject the Republicans’ argument because if there is one thing the American people expect us to do, it is to ensure that the country is protected from terrorism. Some facility operators may find it inconvenient to make their facilities more secure, but, frankly, the security of the American people is more important.

My manager’s amendment makes a number of technical and clerical corrections to the amendment in the nature of a substitute. My amendment clarifies the types of information we were excluding from the definition of protected information.

Specifically, it clarifies that DHS cannot include in the definition of protected information any information that, number one, is required to be made publicly available under any other law, or information that a chemical facility has lawfully disclosed under another law. DHS can determine by regulation that certain information provided for compliance purposes is not protected. This information may include summary data on the number of facilities that have submitted site security plans or the number of enforcement actions taken, so long as information detrimental to chemical security is not disclosed. This clarification is made in all three titles.

I urge support of this clarifying amendment.

I would also like to address an issue that seems to have come up yesterday.

There was a question about the bill's intention regarding DHS' indefinite extension for farmers. Both committee reports filed on this bill speak to this issue.

The Homeland Security report states that the Department has been appropriately sensitive to the concerns of agricultural end users, farms and farmers, regarding chemical security. The Energy and Commerce report states that the committee does not intend for this legislation to require the Department to deviate from its current plan to address the security of agricultural end users on a separate timeline.

Our position is clear. This legislation in no way disturbs the current extension. That said, I am willing to explore how we could make this bill clearer on this point as the legislation moves forward.

Before I reserve the balance of my time, I would like to take a moment to acknowledge the staff that has worked so diligently and collaboratively to get us to this day. On my staff, Chris Beck, Michael Beland, Michael Stroud, Brian Turbyfill, Rosaline Cohen, and Lanier Avant; the Energy and Commerce Committee team, led by Alison Cassidy and Michael Freedhoff; and Ryan Seigert on the Transportation and Infrastructure Committee.

With that, Mr. Chair, I reserve the balance of my time.

Mr. BARTON of Texas. Mr. Chairman, I rise in opposition to the manager's amendment.

The Acting CHAIR. The gentleman is recognized for 5 minutes.

Mr. BARTON of Texas. I yield myself such time as I may consume.

Mr. Chairman, normally, you do not object, even in the minority, to a manager's amendment that supposedly is a technical manager's amendment, technical in nature, so it is unusual for myself as the ranking minority member of the Energy and Commerce Committee to rise in opposition to this particular amendment. But I am doing so for one reason: It is not a technical amendment.

Now, here is the manager's amendment; and, if you could read it, for the first two to three pages, it is very technical. It is just changing one word here or there, or putting a sentence here, or a semicolon, or something like that.

But then you get down to the bottom the third page, and I am going to read this so that the distinguished chairman of the Homeland Security Committee, the gentleman from Mississippi, understands exactly what the opposition is.

"Page 48, strike lines 3 through 17 and insert the following:"

So we are getting away from a technical amendment and you are actually putting substantive policy into the manager's amendment.

"Exclusions. Notwithstanding paragraph 1, the term 'protected information' does not include (A) information,

other than a security vulnerability assessment or site security plan, that the Secretary has determined by regulation to be (i) appropriate to describe the facility compliance with the requirements of this title and the Secretary's implementation of such requirements; and (ii) not detrimental to the chemical facility security if disclosed; or," and this is where it gets really interesting, "(B) information, whether or not contained in the security vulnerability assessment, site security plan, or in a document, record, order, notice, or letter, or portion thereof, described in subparagraph (B) or (C) of paragraph (1), that is obtained from another source."

So what we are doing here, Mr. Chairman, is saying, as the distinguished chairman said, we don't want to try to give the Department of Homeland Security the ability to prevent information that has already been publicly disclosed by somebody we regulate as part of the site security plan. But then they are creating this new loophole, that if a group that is not controlled by Homeland Security somehow gets information, they can publish it. They can put it on their Web site, and they're not liable.

□ 1345

They are not subject to the penalties. That's wrong, Mr. Chair. That's just wrong. It does it in not only one place. These are three different bills that were merged. It goes on in other parts of the manager's amendment and makes those same changes in two to three other places. That's not a technical manager's amendment. That's a substantive policy change that's detrimental to the security, in my opinion, of the United States of America.

So while it is somewhat unusual to object to the manager's amendment that's portrayed as a technical amendment, this is not a technical amendment—or at least those portions of it. So I am very strongly in opposition to this.

I think on a day on which we have another reported shooting in Orlando, Florida, which may or may not be of a terrorist nature, and a shooting at Fort Hood, Texas, yesterday which was, we think, possibly of a terrorist nature, that if we're going to have a terrorist security bill on the floor for chemical plants and water facilities, it ought to be a real terrorist security bill.

But the underlying bill is not about more guards and more physical security and more computer protections, as we said in the general debate yesterday. The underlying bill is about enforcing this new standard of IST, or inherently safer technology. In my opinion, it is a radical environmental bill masquerading as a security bill. So I am strongly opposed to Mr. THOMPSON's manager's amendment because it is a substantive policy amendment, in

my opinion, that fundamentally weakens the ostensible purpose of the bill.

With that, Mr. Chair, I reserve the balance of my time.

Mr. THOMPSON of Mississippi. Mr. Chair, I yield 1 minute to the gentleman from Massachusetts (Mr. MARKEY).

Mr. MARKEY of Massachusetts. I thank the gentleman for his excellent work on this legislation. We are not talking here about an environmental bill. We are talking about a security bill. We are talking about the targets which we know al Qaeda has on their target list. That's what this whole debate is about. It's to protect the American people from the attempts by al Qaeda to come back to our country and to strike us once again, and we must protect against that attack. That's all this debate is about.

It's not any attempt to have an environmental agenda here at all. It is solely to ensure that al Qaeda cannot attack us in our country and to put in place the same protections at chemical facilities that we now have at airports, that we now have at nuclear power plants. That is all that this debate is about, and I urge support for the manager's amendment propounded by Mr. THOMPSON of Mississippi.

Mr. BARTON of Texas. Can I inquire how much time I have remaining?

The Acting CHAIR. Both sides have 30 seconds remaining.

Mr. BARTON of Texas. I assume Chairman THOMPSON has the right to close?

The Acting CHAIR. The gentleman from Texas actually has the right to close.

Mr. BARTON of Texas. Well, I will let Mr. THOMPSON close.

In the remaining 30 seconds, let me simply say that I agree with what Mr. MARKEY said, but I will also say to the gentleman from Massachusetts that this bill doesn't do any of that. I wish we were debating a true safety bill, a true antiterrorism bill, but inherently safer technology deals with processes and chemical manufacturing. It doesn't deal with real security.

In Chairman THOMPSON's manager's amendment, some of which is technical, the part that I oppose is a glaring creation of a loophole to give environmental groups and other outside groups the ability to put information on their Web sites that's not subject to the penalties of this bill. So I would oppose the manager's amendment.

I yield back the balance of my time.

Mr. THOMPSON of Mississippi. To the ranking member, you are exactly wrong on your definition. It does the exact opposite. It protects information, and that's why we put it in there. It was recommended by the Judiciary Committee, and this is a security piece of legislation, not safety. I think if the Chair would recognize that, we would all be better.

Mr. Chair, I yield back the balance of my time.

The Acting CHAIR. The question is on the amendment offered by the gentleman from Mississippi (Mr. THOMPSON).

The question was taken; and the Acting Chair announced that the ayes appeared to have it.

Mr. BARTON of Texas. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The Acting CHAIR. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Mississippi will be postponed.

The point of no quorum is considered withdrawn.

#### PARLIAMENTARY INQUIRIES

Mr. BARTON of Texas. Parliamentary inquiry, Mr. Chair.

The Acting CHAIR. The gentleman from Texas will state his inquiry.

Mr. BARTON of Texas. Mr. Chair, would it not be parliamentarily correct to now call for the yeas and nays on that vote since we requested it?

The Acting CHAIR. The yeas and nays are not available in the Committee of the Whole.

Mr. BARTON of Texas. Further parliamentary inquiry, so I will have to ask for that when we come back into the Whole House?

The Acting CHAIR. Pursuant to clause 6 of rule XVIII, the request for a recorded vote on the amendment offered by the gentleman from Mississippi was postponed.

#### AMENDMENT NO. 2 OFFERED BY MR. BARTON OF TEXAS

The Acting CHAIR. It is now in order to consider amendment No. 2 printed in part B of House Report 111-327.

Mr. BARTON of Texas. Mr. Chair, I have an amendment at the podium.

The Acting CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 2 offered by Mr. BARTON of Texas:

Page 43, strike lines 7 through 16, and insert the following:

#### “SEC. 2109. FEDERAL PREEMPTION.

“No State or political subdivision thereof may adopt or attempt to enforce any regulation, requirement, or standard of performance with respect to a covered chemical facility if such regulation, requirement, or standard of performance poses obstacles to, hinders, or frustrates the purpose of any requirement or standard of performance under this title.

Page 121, strike lines 6 through 11, and insert the following:

“(n) PREEMPTION.—No State or political subdivision thereof may adopt or attempt to enforce any regulation, requirement, or standard of performance with respect to a covered water system if such regulation, requirement, or standard of performance poses obstacles to, hinders, or frustrates the purpose of any requirement or standard of performance under this section.

Page 170, strike lines 17 through 22, and insert the following:

“(m) PREEMPTION.—No State or political subdivision thereof may adopt or attempt to enforce any regulation, requirement, or standard of performance with respect to a treatment works if such regulation, requirement, or standard of performance poses obstacles to, hinders, or frustrates the purpose of any requirement or standard of performance under this section.

The Acting CHAIR. Pursuant to House Resolution 885, the gentleman from Texas (Mr. BARTON) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Texas.

Mr. BARTON of Texas. Thank you, Mr. Chair.

The merged bill that's before us gives States the right, if they want to do things that are more strict or different than in the pending bill, they have the right to do that. The Federal Government, which normally in a bill of this sort there would be a Federal preemption standard that would preempt States from doing things differently than the Federal standard, this bill sets a floor but does not set a ceiling on what the States can do.

So the amendment that we have before us, Mr. Chair, does create the traditional Federal preemption in these areas. There are three sections in today's bill that allow State, local, or tribal governments to enact more stringent laws and regulations from chemical, drinking water and wastewater treatment facilities. This is not only a new standard for chemical security legislation. It is a new standard, and I think a troubling standard, for comprehensive security legislation.

Where did this come from? Like many other provisions in this legislation, the standard is borrowed directly from Federal environmental law, the Clean Air Act, the Solid Waste Disposal Act and the Superfund law, to name a few.

This so-called new stringency standard appears only once in the Homeland Security Act of 2002. In there, it relates to information protection, not to security operations. Allowing State, local, or tribal governments to be more stringent in the context of national security, in my opinion, is problematic because it means that there will be no certainty associated with the Federal standard.

Why have a Federal standard, Mr. Chair, if any State, local, or tribal government can supersede it? Proving my point, other national security laws, including nuclear, hazmat, aviation and port security make the Federal Government the dominant regulator with clear Federal preemption standards.

In the 111th Congress, the Democrat majority specifically included Federal preemption provisions in both the TSA Authorization Act and the Coast Guard Authorization Act of 2010. These were

both security-related legislative vehicles. Mr. Chair, we should not import environmental provisions into security law. Local pollution control is obviously much different than terrorism protection and prevention.

Unlike local pollution problems, security at chemical and water facilities does require national coordination. The principle is simple: national problems should have national solutions. This is why Federal preemption has always been the norm in aviation security, nuclear security, hazardous materials transportation security, and port security.

My amendment is very simple. It would replace the State's stringency standard with provisions allowing the Federal Government to preempt State and local law that “hinder, pose obstacles to, or frustrate the purpose of the Federal program.” This would allow the Federal Government to operate a truly national network to fight terror in the same way the Armed Forces are coordinated through a central command.

Mr. Chair, I have several other written comments that I will submit for the RECORD, but my amendment is straightforward. It sets a Federal preemption standard as opposed to the State-by-State or local stringency standard under the current bill.

With that, I reserve the balance of my time.

Mr. MARKEY of Massachusetts. I rise to claim the 5 minutes in opposition to the Barton amendment.

The Acting CHAIR. The gentleman is recognized for 5 minutes.

Mr. MARKEY of Massachusetts. Mr. Chair, at this time I yield 2 minutes to the gentleman from New Jersey.

Mr. PASCRELL. Thank you. The section which Mr. BARTON is referring to is on page 42 of the bill and extends over to page 43.

Mr. Chair, I rise strongly against Ranking Member BARTON's amendment to the Chemical Facility Anti-Terrorism Act of 2009. It would strip State preemption language out of this bill. Simply put, that's what it would do. As a member of the Homeland Security Committee, I worked hard to secure language in this bill that protects the rights of States to mandate higher chemical security standards than the Federal Government.

It is bizarre that you want to take that right away from the States. It is bizarre. Most of the time, you are always fighting that we ignore States' rights. Here is a perfect example. In fact, it is very clear in the Constitution of the United States of America, article VI, paragraph 2:

“This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land;



and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding."

This is a very clear violation of that. I have to say that I am surprised that the Ranking Member, who hails from the proud State of Texas, would now want to infringe on the right of the States to take extra steps. You know what's happened in New Jersey. We have been the pioneers of being first on this issue. We have stringent rules. No part of the chemical industry has opposed those rules. There is not one chemical facility that is opposed to what has gone on in the State of New Jersey. What right does the Federal Government have to come in and say that you should lower your standards and increase the risks of the citizens?

The Acting CHAIR. The time of the gentleman has expired.

Mr. MARKEY of Massachusetts. I yield 30 additional seconds to the gentleman from New Jersey.

Mr. PASCRELL. The New Jersey Turnpike, the FBI has ruled very specifically that it is the most dangerous section in the whole country. We can't protect ourselves? The volatile chemicals that are on that site would put a million people in jeopardy, God forbid, if something happens. We need to raise Federal standards, not force States to lower theirs. We can all agree. And I just got a letter from the National Governors Association in total support of this legislation, opposed to this amendment; and they write in the letter that the bill rifely clarifies that chemical facility antiterrorism standards represent a floor, not a ceiling.

Mr. BARTON of Texas. Could I inquire as to the time I have remaining.

The Acting CHAIR. The gentleman from Texas has 2 minutes.

Mr. BARTON of Texas. I yield 1 minute to the gentleman from Pennsylvania (Mr. DENT), a distinguished minority member of the Homeland Security Committee.

Mr. DENT. Mr. Chair, I just wanted to clarify one point. I understand the sensitivities in the State of New Jersey. It is a great State. But I do want to say that New Jersey IST assessments are required. Implementation of IST is not required. The huge cost with this legislation is in the implementation of IST. The legislation we're considering here today goes far beyond New Jersey standards and would actually require an IST implementation as well as the assessment, which will add an enormous cost and put a number of jobs at risk. I just wanted to point that out for the record.

Mr. MARKEY of Massachusetts. I yield myself 2 minutes.

This is a very simple principle that the gentleman from New Jersey has been making reference to. Al Qaeda was in Newark, New Jersey, on September 11. Al Qaeda was in Boston on

September 11. Al Qaeda attacked New York City on September 11. If the Governor of New York, if the Governor of Massachusetts, if the Governor of New Jersey wishes to promulgate stronger regulations to protect the chemical facilities in their States, that should be their right.

□ 1400

They should be making the public safety determination.

These people who rushed into the World Trade Center, these first responders, they're firemen, they're policemen from the local community. They're health care workers from the local community. They're heroes. But while waiting for the Federal Government to come, it is the local public safety people who have to respond. If they want to put stronger protections around these facilities, knowing that al Qaeda was there on September 11th already, that that is where the attack emanated from, they should have their right. That is why the National Governors Association opposes this amendment. They should have, as the highest public safety official in their States, the right to determine how much protection they give to their citizens, how much extra measure of safety they give for their policemen, for their firemen, for their public health officials who will have to rush in in the aftermath of a successful attack.

I urge a "no" vote on the Barton amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. BARTON of Texas. Mr. Chairman, I yield myself the balance of my time.

My friends, let's be clear. I oppose the underlying bill. I'm going to vote "no" on the underlying bill. But if we're going to have a Federal bill, we ought to have a Federal bill. It should preempt the States.

My friends on the other side are trying to have it both ways. You want a Federal bill that does lots of things that I don't support, but then you want to let the States that want to go beyond the Federal bill. If that's the case, you don't need a Federal bill. I'd be happy to let each State decide what they wanted to do.

I would point out to my good friend from New Jersey, who was such an excellent baseball player in our congressional baseball game, that what has to be implemented in this bill is stronger than what currently exists in New Jersey. But if we don't accept the Barton amendment, New Jersey could go beyond what's in this bill. And, again, if you're going to have a Federal system for security, it should be a Federal system.

So I very respectfully ask my friends on the majority to accept the Barton amendment, and if we are going to have a Federal standard within a Fed-

eral bill, let's have a Federal standard in a Federal bill.

I ask for a "yes" vote on the Barton amendment.

Mr. Chairman, I yield back the balance of my time.

Mr. MARKEY of Massachusetts. Mr. Chairman, I yield the balance of my time to the gentleman from New Jersey (Mr. PASCRELL).

Mr. PASCRELL. Mr. Chairman, this amendment is written so imprecisely that it could preempt the rights of States and localities to pass or enforce any State regulation or standard that applies to a chemical facility, such as worker safety laws or even zoning laws. Try that on for size. One could even read the language as prohibiting States from passing stronger drinking water standards.

This is an unacceptable infringement on the right of States. I urge my colleagues to vote "no" on this amendment. Please vote "no" on this amendment.

The Acting CHAIR. The question is on the amendment offered by the gentleman from Texas (Mr. BARTON).

The question was taken; and the Acting Chair announced that the noes appeared to have it.

Mr. BARTON of Texas. Mr. Chairman, I demand a recorded vote.

The Acting CHAIR. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Texas will be postponed.

#### AMENDMENT NO. 3 OFFERED BY MR. HASTINGS OF FLORIDA

The Acting CHAIR. It is now in order to consider amendment No. 3 printed in part B of House Report 111-327.

Mr. HASTINGS of Florida. Mr. Chairman, I have an amendment at the desk.

The Acting CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 3 offered by Mr. HASTINGS of Florida:

Page 65, after line 2, insert the following:

"(d) OUTREACH SUPPORT.—

"(1) POINT OF CONTACT.—The Secretary shall designate a point of contact for the Administrator of the Environmental Protection Agency, and the head of any other agency designated by the Secretary, with respect to the requirements of this title.

"(2) OUTREACH.—The Secretary shall, as appropriate, and in accordance with this title, inform State emergency response commissions appointed pursuant to section 301(a) of the Emergency Planning and Community Right-To-Know Act of 1986 (42 U.S.C. 11001) and local emergency planning committees appointed pursuant to section 301(c) of such Act, and any other entity designated by the Secretary, of the findings of the Office of Chemical Facility Security so that such commissions and committees may update emergency planning and training procedures.

The Acting CHAIR. Pursuant to House Resolution 885, the gentleman from Florida (Mr. HASTINGS) and a Member opposed each will control 5 minutes.



The Chair recognizes the gentleman from Florida.

Mr. HASTINGS of Florida. Mr. Chairman, I will be brief. I once again thank Chairman BENNIE THOMPSON for offering this vital legislation, and I thank him for supporting this amendment.

As Vice Chair of the House Permanent Select Committee on Intelligence, I commend the recognition of the potential risks associated with our chemical manufacturing and water treatment infrastructure. Securing these industries is vital not only to America's economic viability, it is essential to the human security of surrounding communities.

My amendment will strengthen the Office of Chemical Facility Security created by designating a specific point of contact for interagency coordination with the Environmental Protection Agency and other agencies. This amendment also requires the Secretary to proactively inform State Emergency Response Commissions and Local Emergency Planning Committees about activities related to the implementation of the act so that they may update their emergency planning and training procedures.

I know that Chairman THOMPSON would agree with the fact that many facilities that will be designated with significant risk through the implementation of this legislation lie in communities of significant economic need and vulnerability to chemical and contaminant exposure. For this reason, many of such areas are characterized as environmental justice communities. It is necessary that these communities be better empowered to strategically plan for potential chemical releases and security risks.

The fact is incidents like the 1984 methyl isocyanate released from a chemical facility in Bhopal, India continue to happen throughout the United States on a smaller scale. Until we enforce chemical release regulations and take aggressive steps to protect vulnerable environmental justice communities, they will be at even greater risk for acts of terror.

Also, the amendment designates a specific point of contact for interagency coordination to ensure greater transparency when it comes to our oversight responsibilities as Members of Congress. This adjustment will ensure that all agencies invoked by this legislation will cooperate as closely as possible.

I appreciate the opportunity to offer this amendment, and I urge my colleagues to support the amendment and the underlying legislation.

Mr. Chairman, I reserve the balance of my time.

Mr. DENT. Mr. Chairman, I seek to claim time in opposition to the amendment, though I am not necessarily opposed to the amendment.

The Acting CHAIR. Without objection, the gentleman from Pennsylvania is recognized for 5 minutes.

There was no objection.

Mr. DENT. This amendment requires the Secretary of Homeland Security to establish a point of contact with the Administrator of the EPA. The amendment also requires the Secretary to notify State and local emergency planning committees of findings that may be necessary to update their emergency plans. This amendment certainly encourages the sharing of information with the appropriate people at the State and local level, those responsible for developing emergency planning and training procedures. And while the bill envisions this type of information sharing, the amendment certainly makes it explicit. Additionally, this bill requires a single point of contact for the EPA Administrator.

Knowing how bad bureaucracy can be, we certainly understand the need of legislating communication between two agencies and ensuring that State and local first responders are included in these information-sharing regimes.

And I should point out that my good friend Mr. PASCRELL from New Jersey has a smile on his face still from the New York Yankees' victory over my Philadelphia Phillies. I had to get that off my chest after the ribbing you gave me yesterday, along with our good friend Mr. KING. And, again, congratulations. It still hurts. I'm a Phillies fan.

Mr. Chairman, I yield back the balance of my time.

Mr. HASTINGS of Florida. Mr. Chairman, I yield the balance of my time to the distinguished subcommittee Chair, Mr. PASCRELL.

Mr. PASCRELL. Mr. Chair, this amendment I support gives effective coordination, which we certainly had been lacking, between the Department of Homeland Security and Environmental Protection Agency in carrying out the requirements of the bill. In committee, we worked to require the Department of Homeland Security, Mr. Chairman, to alert State Homeland advisers on any chemical security emergencies. This is a big relief, as my friend from Pennsylvania said. And I want to reiterate and support his words that this will be a great big help to first responders all across this United States of America.

The Acting CHAIR. The question is on the amendment offered by the gentleman from Florida (Mr. HASTINGS).

The amendment was agreed to.

AMENDMENT NO. 4 OFFERED BY MR. DENT

The Acting CHAIR. It is now in order to consider amendment No. 4 printed in part B of House Report 111-327.

Mr. DENT. Mr. Chairman, I offer an amendment.

The Acting CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 4 offered by Mr. DENT:

Page 2, beginning on line 1, strike title I and insert the following (and conform the table of contents accordingly):

# TITLE I—CHEMICAL FACILITY SECURITY

## SEC. 101. SHORT TITLE.

This Act may be cited as the "Chemical Facility Security Authorization Act of 2009".

## SEC. 102. EXTENSION OF AUTHORITY OF SECRETARY OF HOMELAND SECURITY TO REGULATE THE SECURITY OF CHEMICAL FACILITIES.

Section 550(b) of the Department of Homeland Security Appropriations Act, 2007 (Public Law 109-295; 6 U.S.C. 121 note) is amended by striking "three years after the date of enactment of this Act" and inserting "on October 1, 2012".

The Acting CHAIR. Pursuant to House Resolution 885, the gentleman from Pennsylvania (Mr. DENT) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Pennsylvania.

Mr. DENT. Mr. Chairman, I am offering this amendment on behalf of myself and Mr. OLSON.

This amendment would simply strike title I and extend the Department's current regulatory authority until October 2012. Simply, it extends the current CFATS regulations until 2012.

This amendment addresses the largest problem of the underlying bill, that the bill is a so-called solution in search of a problem.

The majority will argue that chemical facilities need to be secure. We agree. That's why we acted swiftly 3 years ago to give the Department of Homeland Security the regulatory authority it needed to secure them. In the 3 years since, the Department has taken steps to implement that authority, but it is far from complete.

As of last week, the Department of Homeland Security had not reviewed two-thirds of the over 6,000 security vulnerability assessments it required regulated facilities to submit based on regulations it issued in June of 2007. The addition of drinking water and wastewater facilities by titles II and III of this bill will double the 6,000 security vulnerability assessments already required by the Department. We are asking too much of the Department too soon.

The bill proposes to nearly double the Department's workload. The Department should be allowed to fully implement its existing regulatory authority. By all accounts, including those of the Democratic majority, the Department is doing an excellent job implementing its current regulatory framework.

In the committee hearing on the subject this past June, Chairman THOMPSON stated, "As a close observer, I give credit to the Department for the good job it has done so far in promulgating and enforcing the CFATS regulations." We agree with him.

Why are we here today looking to make significant and costly changes to the manner in which the Department is regulating chemical facilities if, as the chairman himself has said, the Department is doing a "good job"?

Despite the fact that the Department has yet to conduct a single onsite inspection, not a single one, the majority seeks to halt the progress the Department has made and start over with new costly and burdensome requirements.

This amendment maintains the current authorizing language, requiring security vulnerability assessments, site security plans, and enforcement. But it does not include costly IST assessments or mandatory implementation that will cost Americans their jobs. It does not include civil suit provisions that would allow any person, whether in Peoria or Pakistan, the authority to sue the Secretary and the Department of Homeland Security. It does not include weakened information protection language that makes prosecution for unauthorized disclosures nearly impossible.

This amendment would maintain the drinking and wastewater security titles of the bill. When will the Democratic leadership recognize that moving precipitously in uncharted territory through legislation is ill-advised and a rush to judgment? A Democrat-imposed 100 percent maritime cargo-scanning mandate legislated before the results of a pilot program were published has led the Secretary of Homeland Security to state on the record that it was an unachievable goal. A Democrat-imposed 100 percent aviation cargo-scanning mandate legislated before any feasibility studies were completed has led the Acting Administrator of the TSA to state on the record that it cannot be done. Requiring costly IST assessments and mandatory implementation and then studying its effect on the agricultural sector and small business is equally ill-advised.

If it isn't broken, don't fix it. And as Chairman THOMPSON said, the Department of Homeland Security is doing a "good job." Let them finish their work, learn from the process, and consider this legislation.

Mr. Chairman, I reserve the balance of my time.

□ 1415

Ms. JACKSON-LEE of Texas. Mr. Chairman, I rise to claim the time in opposition.

The Acting CHAIR. The gentlewoman is recognized for 5 minutes.

Ms. JACKSON-LEE of Texas. Mr. Chairman, first of all, let me thank Chairman THOMPSON for years of commitment to this process, listening to our friends from the other side of the aisle. Frankly, I remember sitting in Cannon room 311 when we were in the minority and the cooperation we worked through when we were dealing with our farmers. Each step of the way, we made efforts to be responsive to the security of the Nation and the elements to which my good friends speak of.

Let me also mention our other collaborators, Energy and Commerce, Chairman MARKEY, and my subcommittee of Transportation and Infrastructure which had any number of hearings to answer the question: Why? So I stand here today in the backdrop of recognizing the importance of securing the Nation. And I am proud to have co-authored H.R. 2868 and to pass it through the subcommittee I chair, before full committee.

Might I just indicate for a moment that I come from Texas, and I would be remiss not to acknowledge the devastation of yesterday. Of course, we have heard of another tragedy today in Florida. But my sympathy to the families of the 13 dead and 31 wounded. Never again. That is why we stand here today as Homeland Security members.

The gentleman's amendment would extend the current chemical security program for another 3 years without any of the security enhancements we included in H.R. 2868.

Section 550 of the fiscal year 2007 appropriations, a provision that the gentleman from Pennsylvania is seeking to extend, was just a page-and-a-half long and had many deficiencies. He is eliminating the inherently secure technology for chemical facilities, the very facilities that are in the eye of the storm. He apparently does not believe it is important to protect workers, to improve the program so that the deficiencies in the current chemical facilities security program by including provisions that strengthen enforcement to provide workers subject to background checks with access to adequate redress and strengthen whistleblower protections.

Our challenge is to be fair. This legislation is fair. We must pass H.R. 2868.

Mr. Chair, I rise to claim time in opposition to the amendment offered by the gentleman from Pennsylvania.

Mr. Chair, I oppose this amendment.

The gentleman's amendment would extend the current chemical security program for another 3 years without any of the security enhancements we included in H.R. 2868. I urge my colleagues to oppose it.

The Department of Homeland Security set up the Chemical Facility Anti-Terrorism Standards in 2007 when DHS was granted narrow authority in an appropriations bill to regulate security at most chemical plants.

Section 550 of the Fiscal Year 2007 Appropriations Act—the provision that the gentleman from Pennsylvania is seeking to extend—was just 14 lines long and had many deficiencies.

It is no substitute for the comprehensive authorization legislation that moved through regular order in the relevant committees this year. H.R. 2868 is the product of years of work by multiple committees and extensive input from the chemical industry, water sector, Department of Homeland Security, and Environmental Protection Agency, as well as environmental and labor organizations.

We have the responsibility to the public, the private sector, and the Department to provide

comprehensive, clear congressional guidance about how this program should be executed.

The gentleman's amendment ignores our responsibility to respond to what we have learned and to make improvements to the program that the Bush and Obama administrations requested. It just kicks the can down the road another three years.

H.R. 2868 addresses acknowledged deficiencies in the current chemical facility security program by including provisions that strengthen enforcement, provide workers subject to background checks with access to adequate redress, and strengthen whistleblower protections.

It also requires the assessment, and, in some cases, implementation of safer technologies.

If we merely extend the current program, we will sacrifice all of these improvements and ignore the countless hours of discussion and testimony that highlighted the need to strengthen this program in several key areas.

The American Chemistry Council, which represents the largest chemical companies, said in a letter to the Energy and Commerce Committee that, and I quote, "H.R. 2868 is the appropriate vehicle for ensuring a permanent CFATS program." CropLife America and the National Council of Farmer Cooperatives share this view.

It is time for us to pass comprehensive legislation to address chemical facility security in this country.

I reserve my time at this time, as this debate proceeds.

Mr. DENT. Mr. Chairman, I would like to yield 1½ minutes to the distinguished cosponsor of this amendment, the gentleman from Texas (Mr. OLSON).

Mr. OLSON. I thank the gentleman for yielding, and I thank him for sponsoring this amendment with me and for his leadership on this issue.

Two years ago, the Department of Homeland Security began developing the chemical facility anti-terrorism standards, and since that time DHS has implemented an objective, risk-based approach to regulating chemical facilities. This includes a risk-based tiering system for chemical plants and requires them to implement specific security measures in accordance with their level of risk.

While much progress has been made, much remains to be done. Instead of allowing the work to be completed properly, the majority wishes to rush to solutions and mandate that DHS scrap the current program and start over. Such a move would take 2 years of hard work and throw it out the window.

Our amendment is simple: Extend the current risk-based regulations through 2012 and let the professionals do their job. Nothing more, nothing less.

I urge Members to support the Dent-Olson amendment.

Ms. JACKSON-LEE of Texas. I reserve the balance of my time.

Mr. DENT. Mr. Chairman, I yield the balance of my time to the gentleman from Michigan (Mr. UPTON).

Mr. UPTON. I want to say, as a member of the Energy and Commerce Committee, when we had hearings on this

issue, we learned from the Homeland Security folks that there were no inspections. They had not conducted one single inspection during the time they had this authority before them.

We know that chemical companies across the country have invested more than \$18 billion to try to make sure that their places are secure. We heard the terrible news this morning about unemployment going up to 10.2 percent. We have lost one in five manufacturing jobs in the last year and a half. There is almost 12 percent unemployment in manufacturing. How is this going to help us keep more jobs? They are going to leave. Those companies are going to look at the added expenses that they are going to have, and they are going to move like you know to other countries and other places and those jobs are going to be lost.

So I would like to think that we will learn our lesson. We can have the inspections and go through what is right and what is wrong. I would urge my colleagues to accept this amendment offered by Mr. DENT so we can bring some reasonableness to the issue.

Mr. DENT. Mr. Chairman, in closing, I just want to say once again, I think extending these CFATS regulations until 2012 is a reasonable approach. The Department of Homeland Security is doing a good job with these regulations. We need to give them more time to implement the existing regulations that will require security assessments.

As we said, 2,000 of the 6,000 required have been completed. So let's give them some time. The Department of Homeland Security has not spoken in support of this legislation in its entirety. Again, this bill is a solution in search of a problem. Please accept the Dent-Olson amendment that is a reasonable approach, accepting the regulations that we just approved as part of the Homeland Security appropriations bill. So let's do that. It is the right way to go.

I yield back the balance of my time.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I rise again to oppose this amendment.

Mr. Chairman, we have worked for 4 years on this legislation. Can you imagine 2009 to 2012, 7 years to put the American people in jeopardy. The Department of Homeland Security is for this legislation, and the approach that our friends are using is no substitute for the comprehensive authorization legislation that moved through regular order in the relevant committees this year.

H.R. 2868 is a product of years of work by multiple committees and extensive input from the chemical industry. Let me cite for you the letter from the American Chemistry Council which represents the largest chemical companies. They said, in a letter to Energy and Commerce, "H.R. 2868 is the appropriate vehicle for ensuring a permanent

CFATS program." CropLife America and the National Council of Farmer Cooperatives share the same view.

So what are my colleagues suggesting? They want us to shortchange the American people. I stood here with all of the solemnness that I could, when the House recognized those lost at Fort Hood. Others at Fort Hood were wounded in my home State. We mourn them, we honor them, but we have the responsibility to stand on their side.

Just as we have to get to the bottom of the tragedy at Fort Hood, Texas, we have to get to the bottom of realizing that it is on our table to ensure that whistleblowers are protected, as provided for in H.R. 2868 to make sure that inherently safer technologies are used in chemical facilities, and, yes, that jobs are not lost. But jobs will not be lost when you improve technology. You will become more efficient, and you will protect not only the water and wastewater systems in our communities but you will have workers working in safe, productive chemical facilities that will be part of the economic engine.

Jobs are important. But so is the security of this Nation. That is what this particular committee has done over a 4-year period. We have worked in consultation with those in business as well as those in law enforcement. I don't know how we can stand here and oppose the Department of Homeland Security's Department that supports us moving forward on this legislation, the Chemical Facility Anti-Terrorism Act 2009.

I ask my colleagues, consider the fact of what their responsibility is. Their responsibility again is to stand with those who we have to secure. I think that the Dent-Olson amendment, my good friends on the committee have good intentions, but those intentions are quashed by the responsibility that we have and the long work that we have done to ensure inherently safer technologies for chemical facilities.

I ask my colleagues to oppose the amendment, again, in response to securing America.

I yield back the balance of my time.

The Acting CHAIR. The question is on the amendment offered by the gentleman from Pennsylvania (Mr. DENT).

The question was taken; and the Acting Chair announced that the noes appeared to have it.

Mr. DENT. Mr. Chairman, I demand a recorded vote.

The Acting CHAIR. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Pennsylvania will be postponed.

AMENDMENT NO. 5 OFFERED BY MR. DENT

The Acting CHAIR. It is now in order to consider amendment No. 5 printed in part B of House Report 111-327.

Mr. DENT. Mr. Chairman, I rise for the purpose of offering an amendment.

The Acting CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 5 offered by Mr. DENT:

Page 25, line 12, strike " , including the requirements under section 2111".

Page 46, line 18, strike " , including any assessment required under section 2111".

Page 48, beginning on line 18, strike the proposed section 2111 and redesignate the proposed sections 2112 through 2120 as sections 2111 through 2119, respectively.

Pg 87, line 4, strike " , of which up to \$3,000,000 shall be made available for grants authorized under section 2111(c)(1)".

Pg 87, line 10, strike " , of which up to \$3,000,000 shall be made available for grants authorized under section 2111(c)(1)".

Pg 87, line 16, strike " , of which up to \$3,000,000 shall be made available for grants authorized under section 2111(c)(1)".

Page 88, in the proposed amendment to the table of contents of the Homeland Security Act of 2002, strike the item relating to section 2111 and redesignate the items relating to sections 2112 through 2120 as items relating to sections 2111 through 2119, respectively.

The Acting CHAIR. Pursuant to House Resolution 885, the gentleman from Pennsylvania (Mr. DENT) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Pennsylvania.

Mr. DENT. Mr. Chairman, I want to point out, too, for the record, the American Chemistry Council, just referenced a moment ago by the gentleman from Texas (Ms. JACKSON-LEE), in a letter dated October 20, the ACC basically said that the IST provisions which authorize DHS to order the mandatory implementation of IST have proven the most difficult issue on which to find common ground and the primary reason ACC is unable to endorse this bill. They do not support the bill. To be very clear about that, they do not support this legislation.

Now, with respect to the Dent-Austria amendment that we are talking about now, this amendment would strike the IST provisions in the bill. IST is inherently subjective and without a widely accepted definition. When the Department of Homeland Security's subject matter expert on IST was specifically asked what IST was, she responded, "There's enough debate in industry and academia that I can't take a position on that very topic." The Deputy Under Secretary responsible for overseeing the program stated unequivocally that the Department had no staff—no staff—capable of conducting an IST assessment.

Under direct questioning, Deputy Under Secretary Reitingger made it very clear that neither the fiscal year 2009 nor the fiscal year 2010 budget included any funding to hire the necessary expertise to review IST assessments and recommend alternative methods for complex engineering processes.

Again, under direct questioning, most of the witnesses considered IST unnecessary, with the Department's witness adding that the facilities can and are already doing IST.

Clearly, no one at DHS is in a position to dictate to a wide range of facilities what engineering process or chemicals should be used to make plastics, prescription drugs, or computer chips. Despite its fancy labeling, and its inclusion in a security bill, IST is not about security and may simply shift the security risk.

A decision to keep fewer chemicals on site will likely require more frequent shipments of chemicals. This increases the risk of an attack on the transportation of the chemicals or an accident releasing the substances of concern into neighborhoods outside the security perimeters.

It would be foolish to mandate IST in this bill when there is so much uncertainty and lack of expertise in the Department.

Finally, and most importantly, IST will cost American jobs. Let me say that again: IST will cost American jobs. With the national unemployment rate at 10.2 percent, and rising, can we really afford unnecessary congressional mandates that provide little security?

Conducting an IST assessment will be costly, too costly for many small businesses to afford. Experts estimate that a simple one-ingredient substitution would take two persons 2 weeks to complete and cost between \$10,000 and \$40,000, and that is on the low end. A pharmaceutical pilot plant with about 12 products would take three to six persons up to 10 weeks to complete an assessment at a cost of \$100,000 to a half million dollars.

Larger facilities with particularly hazardous chemicals already regulated by OSHA would require 8 to 10 people 6 months or more to complete, and cost over \$1 million for the assessment. Fifty-nine percent of the facilities regulated under current CFATS regulations that would be required to conduct these costs assessments employ 50 or fewer employees.

Mandating IST will be devastating for small businesses. According to a California fertilizer manufacturer, eliminating the use of anhydrous ammonia and substituting it with urea can cost a 1,000 acre farm up to \$15,000 per application. This would be a recurring cost passed to the consumer.

□ 1430

As we heard earlier, in the current state of our economy, small businesses relying on chemicals simply may not survive. Today, the Department of Labor announced that unemployment has reached 10.2 percent. Does anybody in this Chamber expect that unemployment figure to go down any time soon? We hope it does, but this is not going to help.

"If I were to build a 20-foot high, 20-foot thick concrete barricade that surrounded my facility on all sides, utilized the most state-of-the-art intrusion detection systems and was better protected than the White House, this legislation would still require me to conduct an IST assessment and potentially implement the findings of that assessment."

Let me close by quoting subcommittee chairman and chief sponsor, Mr. MARKEY, who stated at the Energy and Commerce Committee on the markup on October 21 of the proposed legislation, "The safer technology requirement is not about bolstering security." If it's not about security, why is IST in the bill? Why are we asking the smallest of small businesses to pay for it?

Mr. Chairman, I reserve the balance of my time.

Mr. MARKEY of Massachusetts. Mr. Chairman, I rise to claim the time in opposition.

The Acting CHAIRMAN. The gentleman is recognized for 5 minutes.

Mr. MARKEY of Massachusetts. I yield 30 seconds to the gentlelady from Texas.

Ms. JACKSON-LEE of Texas. I thank the distinguished gentleman for his ongoing leadership.

Let me just cite the language out of the letter that my dear friend just read: "The Chemical Facility Anti-Terrorism Act of 2009, H.R. 2868, is the appropriate vehicle for ensuring a permanent CFATS program." We've answered that question.

And, secondarily, it's not a notion because Clorox announced its plans to begin transitioning U.S. operations to high-strength bleach and to be able to use inherently safer technologies.

What we are speaking about today, this is a way of creating jobs, in a secure environment but also it is a way of securing America.

The gentleman's amendment would extend the current chemical security program for another 3 years without any of the security enhancements we included in H.R. 2868. I urge my colleagues to oppose it.

The Department of Homeland Security set up the Chemical Facility Anti-Terrorism Standards in 2007 when DHS was granted narrow authority in an appropriations bill to regulate security at most chemical plants.

Section 550 of the Fiscal Year 2007 Appropriations Act—the provision that the gentleman from Pennsylvania is seeking to extend—was just a page and a half long and had many deficiencies.

It is no substitute for the comprehensive authorization legislation that moved through regular order in the relevant committees this year. H.R. 2868 is the product of years of work by multiple committees and extensive input from the chemical industry, water sector, Department of Homeland Security, and Environmental Protection Agency, as well as environmental and labor organizations.

We have the responsibility to the public, the private sector, and the Department to provide

comprehensive, clear congressional guidance about how this program should be executed.

The gentleman's amendment ignores our responsibility to respond to what we have learned and to make improvements to the program that the Bush and Obama administrations requested. It just kicks the can down the road another three years.

H.R. 2868 addresses acknowledged deficiencies in the current chemical facility security program by including provisions that strengthen enforcement, provide workers subject to background checks with access to adequate redress, and strengthen whistleblower protections.

It also requires the assessment, and, in some cases, implementation of safer technologies.

If we merely extend the current program, we will sacrifice all of these improvements and ignore the countless hours of discussion and testimony that highlighted the need to strengthen this program in several key areas.

The American Chemistry Council, which represents the largest chemical companies, said in a letter to the Energy and Commerce Committee that, and I quote, "H.R. 2868 is the appropriate vehicle for ensuring a permanent CFATS program." CropLife America and the National Council of Farmer Cooperatives share this view.

It is time for us to pass comprehensive legislation to address chemical facility security in this country.

#### CLOROX ANNOUNCES PLANS TO BEGIN TRANSITIONING U.S. OPERATIONS TO HIGH-STRENGTH BLEACH

OAKLAND, Calif., Nov. 2, 2009.—The Clorox Company (NYSE: CLX) today announced that it plans to begin modifying manufacturing processes in its U.S. bleach operations. The initiative calls for Clorox to begin transitioning from chlorine to high-strength bleach as a raw material for making its namesake bleach.

"This decision was driven by our commitment to strengthen our operations and add another layer of security," said Chairman and CEO Don Knauss.

Clorox will start with its Fairfield, Calif., plant. The company expects to complete the transition there within six months, followed by a phased, multiyear transition for six additional plants.

"This process requires significant expertise, training, and changes in infrastructure and equipment," Knauss said. "Our plant-by-plant approach will also enable us to apply what we learn along the way, ensure supply availability, minimize business disruptions and help make sure the transition is undertaken in the most effective manner possible."

"Clorox leads our industry in safety and security," Knauss said. "Our bleach plant employees are experts at handling chlorine, and we're proud of the fact that we've used it responsibly for our entire 96-year history. Even so, we're pleased to begin implementing this process change to make our products using high-strength bleach."

#### THE CLOROX COMPANY

The Clorox Company is a leading manufacturer and marketer of consumer products with fiscal year 2009 revenues of \$5.5 billion. Clorox markets some of consumers' most trusted and recognized brand names, including its namesake bleach and cleaning products, Green Works® natural cleaners, Armor

All® and SIP® auto-care products, Fresh Step® and Scoop Away® cat litter, Kingsford® charcoal, Hidden Valley®, and K C Masterpiece® dressings and sauces, Brita®, water-filtration systems, Glad® bags, wraps and containers, and Burt's Bees® natural personal care products. With approximately 8,300 employees worldwide, the company manufactures products in more than two dozen countries and markets them in more than 100 countries. Clorox is committed to making a positive difference in the communities where its employees work and live. Founded in 1980, The Clorox Company Foundation has awarded cash grants totaling more than \$77 million to nonprofit organizations, schools and colleges. In fiscal 2009 alone, the foundation awarded \$3.6 million in cash grants, and Clorox made product donations valued at \$7.8 million. For more information about Clorox, visit [www.TheCloroxCompany.com](http://www.TheCloroxCompany.com).

AMERICAN CHEMISTRY COUNCIL,  
Arlington, VA, October 20, 2009.

Hon. HENRY WAXMAN,  
Chairman, Committee on Energy and Commerce,  
House of Representatives, Washington, DC.

DEAR CHAIRMAN WAXMAN: The American Chemistry Council (ACC) strongly supports DHS' existing Chemical Facility Anti-Terrorism Standards (CFATS). The program should be made permanent and DHS should be given adequate resources to fully implement and enforce the regulations. The Chemical Facility Anti-Terrorism Act of 2009, H.R. 2868, is the appropriate vehicle for a permanent CFATS program. As the full Energy and Commerce Committee prepares to mark up H.R. 2868, I want to provide you with ACC's views on the bill.

First, I want to commend you, Subcommittee Chairman MARKEY and your staffs for the willingness to invite and consider our views. While ACC is unable to endorse H.R. 2868 due primarily to concerns over the potential impact of the authority granted to DHS to mandate the implementation of inherently safer technology (IST), the manager's amendment reflects several months of serious, constructive dialog that has, I believe, resulted in important improvements to H.R. 2868. For example:

Employee participation and training provisions were modified to make them more consistent with existing company programs, to ensure that employee representatives possess the necessary knowledge or experience to work on Security Vulnerability Assessments or Site Security Plans, and to help provide proper protections for security sensitive information.

Unannounced inspections would be performed using a more meaningful measure, and in a manner that would not significantly interfere with regular operations.

Significant provisions concerning MTSA facilities were added, ensuring that the United States Coast Guard maintains, in its role as guardian of our ports, the lead regulator role, and limiting any possible duplication of the efforts that would result from the harmonization of MTSA and CFATS requirements.

The civil lawsuit provision was appropriately modified so that chemical companies would not be subject to civil actions brought by private citizens. The modification helps prevent the disclosure of sensitive security information and leaves enforcement authority in the hands of DHS and its security professionals. ACC can, therefore, support this modified provision.

The IST provisions, which authorize DHS to order the mandatory implementation of

IST, have proven the most difficult issue on which to find common ground, and are the primary reason ACC is unable to endorse the bill. ACC members are concerned that providing government with authority to direct process changes or product substitutions could result in making critical products unavailable throughout our economy, with potentially significant impact on our companies and our customers. We acknowledge, however, that certain modifications made in the manager's amendment reflect input from ACC and its members and direct DHS to focus on risk. Further, the creation of an IST technical appeal process which factors unique facility characteristics into the DHS decision making process recognizes that IST implementation is a complicated and complex issue faced by our companies.

After 9/11, ACC and many others in the chemical industry stepped up and implemented serious, stringent security programs at their facilities before there was any government direction. To date, ACC members have invested nearly \$8 billion in security enhancements under our own Responsible Care Security Code®. We remain committed to working with this committee, the Congress, and the Administration to move forward with a strong, smart regulatory program to protect our facilities, our employees, the communities in which we operate, and the products we supply throughout our economy.

Sincerely,

CAL DOOLEY,  
President and CEO.

Mr. MARKEY of Massachusetts. I thank the gentlelady.

Can we get a review of where we are in time, Mr. Chairman.

The Acting CHAIR. The gentleman from Pennsylvania has 30 seconds remaining and the gentleman from Massachusetts has 4½ minutes remaining.

Mr. MARKEY of Massachusetts. Mr. Chairman, I yield 2 minutes to the gentleman from New Jersey (Mr. PASCRELL).

Mr. PASCRELL. I must remind my friend from Pennsylvania, my good friend, that you voted for this bill last session.

Mr. DENT. Would the gentleman yield?

Mr. PASCRELL. Yes, sure.

Mr. DENT. This is a very different bill than the one from last session. This bill has citizen suits in it and all kinds of—it's a very different bill.

Mr. PASCRELL. Reclaiming my time, that's your story. We come here with different stories, many rise quickly to the specter of terror and cause fear in people. But you're the last to act to protect the American people. You get some flak from an industry, and all of a sudden you back off. Clorox did this voluntarily; November 2 they made the announcement.

Because these simple assessments that you have tried to minimize not only help protect and save lives, but they have also proven to actually save the chemical companies money, which is just the opposite of what you tried to communicate to the American people and to this body for the last 25 minutes, just the opposite: greater effi-

ciencies and safety measures that prevent catastrophic accidents.

And it only stands to reason if you're using highly volatile chemicals, it would seem that you would want to reduce your risk, and providing it is because most of the companies aren't going to be forced to do anything, if you read the legislation. Please read the legislation. I say that to all bills, not just health bills. I say that to security bills. Read it, you may like it. Please, get off the kick of using the industry's program. I think highly of you. Don't follow the script.

ANNOUNCEMENT BY THE ACTING CHAIR

The Acting CHAIR. The Chair must remind all Members to direct their remarks to the Chair.

Mr. DENT. At this time, I yield the balance of my time to the gentleman from Ohio (Mr. AUSTRIA).

Mr. AUSTRIA. I thank the gentleman from Pennsylvania for offering this amendment, and I support this amendment.

Conducting an inherently safer technology, IST, assessment will be costly, too costly for many of our small businesses to afford. I submitted a commonsense amendment to the Rules Committee that would have exempted small businesses from this new costly and burdensome requirement. I might add that it would not exempt them from the current law, but from these new costly and burdensome requirements. Unfortunately for our Nation's small businesses, the majority decided not to allow a vote on that commonsense amendment on the floor.

Just to reiterate what the chairman said, over half of our facilities currently regulated under CFATS regulations that would now be regulated by these new costly assessments employing 50 or fewer employees. Mandating IST will be devastating for our small businesses.

The Acting CHAIR. The gentleman from Massachusetts has 2½ minutes remaining.

Mr. MARKEY of Massachusetts. I will complete debate on this amendment. I yield myself the balance of the time.

Mr. Chairman, what we're doing here is not providing more security in the classic sense of the word. What we're really doing is saying, what happens if al Qaeda is successful in penetrating into the heart of a chemical facility? What will the consequences be for the workers on site? What will the consequences be for the population area in the vicinity of that chemical facility? That's what this debate is all about.

What we are trying to do is to minimize the impact after al Qaeda has in fact been successful in launching an attack on a chemical facility. But what we say in the language is that, while there has to be an evaluation of the level of security at each one of the facilities, the language in our bill makes

it quite clear that if the inherently safer technology or process costs too much, it doesn't have to be implemented. If there is no feasible, safer technology or process, the facility doesn't have to implement one. If implementing the inherently safer technology or process would not reduce the risk at the facility or would shift it elsewhere, it doesn't have to be implemented.

And so what we say here is that, yes, we need to make it clear that we don't want al Qaeda to have a successful attack, and if it is successful, have catastrophic consequences, but at the same time, there has to be an evaluation as to whether or not it is economically feasible at each facility. That is the balance which we strike. But I don't think anyone here for a second would want to have unnecessarily dangerous chemicals in highly populated areas that, if al Qaeda could be successful, would cause an event which would once again cripple our economy as did the attack on September 11. That is the heart of terrorism, having a population which is frightened.

At Logan Airport, we lost 27 percent of our air traffic for 2 years after 9/11. The same thing happened in Newark. It happened at LaGuardia; it happened at JFK. It happened all around the country. It plummeted, and that was key to their success.

So this amendment is something that was language developed in close consultation with and considerable input from the American Chemistry Council. It is something which should be adopted, and the amendment which is under consideration should be rejected.

The Acting CHAIR. The question is on the amendment offered by the gentleman from Pennsylvania (Mr. DENT).

The question was taken; and the Acting Chair announced that the noes appeared to have it.

Mr. DENT. Mr. Chairman, I demand a recorded vote.

The Acting CHAIR. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Pennsylvania will be postponed.

#### AMENDMENT NO. 6 OFFERED BY MR. FLAKE

The Acting CHAIR. It is now in order to consider amendment No. 6 printed in part B of House Report 111-327.

Mr. FLAKE. Mr. Chairman, I have an amendment at the desk designated as No. 6.

The Acting CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 6 offered by Mr. FLAKE:  
Page 31, after line 25, insert the following:  
“(E) PRESUMPTION OF CONGRESS RELATING TO COMPETITIVE PROCEDURES.—

“(i) PRESUMPTION.—It is the presumption of Congress that grants awarded under this paragraph will be awarded using competitive procedures based on merit.

“(ii) REPORT TO CONGRESS.—If grants are awarded under this paragraph using proce-

dures other than competitive procedures, the Secretary shall submit to Congress a report explaining why competitive procedures were not used.

“(F) PROHIBITION ON EARMARKS.—None of the funds appropriated to carry out this paragraph may be used for a congressional earmark as defined in clause 9d, of Rule XXI of the rules of the House of Representatives of the 111th Congress.”.

The Acting CHAIR. Pursuant to House Resolution 885, the gentleman from Arizona (Mr. FLAKE) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Arizona.

Mr. FLAKE. Mr. Chairman, I have offered different iterations of this non-controversial amendment many times during this Congress and the last. This particular amendment was offered last June to the TSA Authorization Act when it was adopted by voice vote.

H.R. 2868 establishes a new Worker Training Grants program that seeks to provide grants to nonprofit organizations with demonstrated experience in implementing and operating successful worker or first responder health and safety training programs. This amendment would simply prohibit the Worker Training Grants program from being earmarked by Members for pet projects or favored entities back home. This amendment also establishes that it is the presumption of Congress that these grants would be awarded competitively based on merit.

I am often asked why I offer this. These are set up to be programs that are competitively awarded, but sometimes it's explicitly stated, sometimes it's not. In either case, sometimes when it is explicitly stated—and when it's not—these grant programs are sometimes just earmarked, all of them. All of the money in some of these accounts, if you take, for example, some of the programs in the Homeland Security bill, nearly 100 percent of the funds in one particular grant program were earmarked in the most recent Homeland Security spending bill.

So what we are seeking to do is make sure that people who want to apply for these grants are able to, and that Members aren't able to simply earmark that money for people in their district or favored entities.

Mr. Chairman, I reserve the balance of my time.

Mr. PASCRELL. Mr. Chairman, while not opposed to the amendment, I ask unanimous consent to claim the time in opposition.

The Acting CHAIR. Without objection, the gentleman from New Jersey is recognized for 5 minutes.

There was no objection.

Mr. PASCRELL. Mr. Chairman, I am pleased to support this amendment that seeks to ensure that worker training grants are distributed based on merit. This was a longstanding fight in Homeland Security to deal with risk

rather than spreading out money across the landscape.

I have worked to make sure Homeland Security grants are given on the basis of merit, as I have with the successful Fire Act and the SAFER Act.

Under the chemical security regulations, facility operators are responsible for adhering to the risk-based, performance-based site security plans that they develop internally. A key feature of any site security plan under H.R. 2868 is the provision of annual security training to each worker in the facility.

The worker training grants are intended to help create an environment where there is a cadre of qualified organizations that are available to help facility operators fulfill this important requirement.

The underlying bill does a good job of setting forth what qualifies as an “eligible entity,” but with the helpful addition of the language authored by the gentleman from Arizona (Mr. FLAKE), there can be no ambiguity about what is expected, none whatsoever.

Grants are to be distributed based on merit and cannot be earmarked. That may have a spillover to other things, who knows. That makes sense security-wise and is a solid approach. I urge my fellow Members to support this amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. FLAKE. I thank the chairman. And would that all chairmen shared your view on earmarks and programs of this type. I am glad the chairman has agreed to accept this amendment, and I urge its adoption.

Mr. Chairman, I yield back the balance of my time.

Mr. PASCRELL. Mr. Chairman, I yield back the balance of my time.

The Acting CHAIR. The question is on the amendment offered by the gentleman from Arizona (Mr. FLAKE).

The amendment was agreed to.

#### AMENDMENT NO. 7 OFFERED BY MR. SCHRADER

The Acting CHAIR. It is now in order to consider amendment No. 7 printed in part B of House Report 111-327.

Mr. SCHRADER. Mr. Chairman, I have an amendment at the desk.

The Acting CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 7 Offered by Mr. SCHRADER:

Page 54, line 24, strike “SECTORAL IMPACTS” and insert “AGRICULTURAL SECTOR”.

Page 55, beginning on line 12, strike “IMPACTS OF COMPLIANCE” and insert “AGRICULTURAL IMPACTS”.

Page 55, beginning on line 19, strike “by manufacturers, retailers, aerial commercial applicators, and distributors of pesticide and fertilizer” and insert “on the agricultural sector”.

Page 55, line 23, insert a comma after “Representatives”.

Page 55, line 24, strike “and” before “the Committee”.



Page 55 line 25, insert “, the Committee on Agriculture of the House of Representatives, and the Committee on Agriculture, Nutrition and Forestry of the Senate” after “Senate”.

Page 56, line 4, insert “agricultural” after “scope of”.

Page 57, beginning on line 15, strike “other sectors engaged in commerce” and insert “agricultural end-users”.

Strike line 20 on page 57 and all that follows through page 58, line 2, and insert the following:

“(3) DEFINITIONS.—In this subsection:

“(A) FARM SUPPLIES MERCHANT WHOLESALE.—The term ‘farm supplies merchant wholesaler’ means a covered chemical facility that is primarily engaged in the merchant wholesale distribution of farm supplies, such as animal feeds, fertilizers, agricultural chemicals, pesticides, plant seeds, and plant bulbs.

“(B) AGRICULTURAL END-USERS.—The term ‘agricultural end-users’ means facilities such as—

“(i) farms, including crop, fruit, nut, and vegetable farms;

“(ii) ranches and rangeland;

“(iii) poultry, dairy, and equine facilities;

“(iv) turfgrass growers;

“(v) golf courses;

“(vi) nurseries;

“(vii) floricultural operations; and

“(viii) public and private parks.

The Acting CHAIR. Pursuant to House Resolution 885, the gentleman from Oregon (Mr. SCHRADER) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Oregon.

□ 1445

Mr. SCHRADER. I yield myself as much time as I may consume.

Mr. Chairman, I want to thank my colleague Mr. KISSELL from North Carolina for working with me on this amendment to help address some of the concerns from the agricultural community with the underlying bill.

The Schrader-Kissell amendment is a perfecting amendment, and it builds on the efforts of Mr. ROSS of Arkansas, of Mr. SPACE of Ohio, and of the Energy and Commerce Committee in the consideration of H.R. 2868. I believe it is noncontroversial and that it has broad support from the agricultural community.

There are concerns within the ag community that H.R. 2868 has the potential to cause undue burdens, possibly resulting in the industry's dropping widely used and essential products listed as “chemicals of interest” due to increased regulatory costs and liability concerns.

This amendment would require the Department of Homeland Security to conduct an impact assessment that an inherently safer technology would have on agricultural facilities covered by these security regulations. Through this impact assessment, we hope to determine whether an IST mandate would result in fewer product options for farmers or ranchers, possibly leading to increased production costs as al-

ternative, higher-priced crop input products that may not have the same agronomic benefits may only be available and could impact their crop yields. Additionally, the amendment would authorize grant funding for agricultural facilities to assist with any IST compliance requirements.

I think my colleagues will all agree we want to ensure the highest safety standards possible for facilities using these potentially dangerous chemicals. However, it is also essential we have all of the data at our disposal, so we will proceed in a thoughtful manner and will fully understand the impacts these new regulations may have on our family farms and ranchers.

I ask that my colleagues support this amendment and urge its adoption.

Mr. Chairman, I yield the balance of my time to the gentleman from North Carolina.

Mr. KISSELL. I would like to thank the gentleman from Oregon for recognizing me.

Mr. Chair, I would just like to add to what Mr. SCHRADER has said. This bill is straight, simple—straightforward.

In the agricultural community, farm supply wholesalers and agriculture end users very much want to protect homeland security. They very much want to protect the safety of the facilities of whose products end up in our food supply. Also, they are concerned about what possible ramifications the bill may have.

This is just simply calling for a study to see what impacts may be had. It strengthens the language that is already in the bill. It strengthens that language so that we can see what the results may be in terms of ranchers and farmers and the agricultural community all together.

Mr. DANIEL E. LUNGREN of California. Mr. Chairman, I seek time in opposition, although I do not oppose the amendment.

The Acting CHAIR. Without objection, the gentleman is recognized for 5 minutes.

There was no objection.

Mr. DANIEL E. LUNGREN of California. Mr. Chairman, I would support this amendment as it does give, after the fact, support for the position of agriculture in this debate over the imposition of ISTs, which I would remind my colleagues, from every single expert who testified before our committee, is a concept, not a completed process or product. Yet we are requiring that which is a concept, for which there are no true methodologies, to be imposed by the Secretary.

This is better than nothing, I suppose, because what this amendment does is it requires a report to be submitted to Congress after the mandates on agriculture go into effect, so at least we'll know how bad it is.

I support this amendment because, as I say, it's better than nothing, but I

would remind my colleagues that, in the letter of November 3, 2009, signed by representatives of the American Farm Bureau Federation, the Chemical Producers and Distributors Association, the National Agriculture Association, the National Association of Wheat Growers, the National Cotton Council, The Fertilizer Institute, and the USA Rice Federation, they oppose this bill precisely because of the mandate of inherently safer technologies on their industries.

It is not a question of the great men and women in agriculture being opposed to securing this Nation against a terrorist attack. It is the position of the great men and women in agriculture that this is an imposition of a technology or a process or a concept, whatever you want to call it, that those who came up with it testified before our committee does not fit neatly into a legislative mandate. Nonetheless, we here on this floor are saying we know better than those who came up with the concept those who actually will suffer from this concept being imposed on them.

I support this amendment. I only wish that this amendment were stronger because, unfortunately, it is going to mandate a report that will come too late, a report to tell us what the effects of the mandate of IST will be or will have been on agriculture.

So, Mr. Chairman, I hope we will support this amendment. I only wish we could have had a stronger amendment.

I yield back the balance of my time.

Mr. SCHRADER. Mr. Chairman, I just urge my colleagues to support the amendment.

I yield back the balance of my time.

The Acting CHAIR. The question is on the amendment offered by the gentleman from Oregon (Mr. SCHRADER).

The amendment was agreed to.

AMENDMENT NO. 8 OFFERED BY MR. MCCAUL

The Acting CHAIR. It is now in order to consider amendment No. 8 printed in part B of House Report 111-327.

Mr. MCCAUL. Mr. Chairman, I have an amendment at the desk.

The Acting CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 8 offered by Mr. MCCAUL:

Page 76, beginning on line 11, strike the proposed section 2116 and redesignate the proposed sections 2117 through 2120 as sections 2116 through 2119, respectively.

Page 88, in the proposed amendment to the table of contents of the Homeland Security Act of 2002, strike the item relating to section 2116 and redesignate the items relating to sections 2117 through 2120 as items relating to sections 2116 through 2119, respectively.

The Acting CHAIR. Pursuant to House Resolution 885, the gentleman from Texas (Mr. MCCAUL) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Texas.



Mr. McCAUL. I yield myself as much time as I may consume.

Mr. Chairman, this amendment would strike the provision authorizing the Secretary of Homeland Security to be subjected to civil suits by uninjured third parties. If complaints have been made against the Secretary for failing to enforce the law, the inspector general of DHS can already initiate an investigation. If that is insufficient, then Congress can act.

Allowing any third party—anybody—to sue the Secretary is both reckless and unnecessary. This provision would be a boon to trial lawyers and to environmentalists at the expense of the Department of Homeland Security and national security interests. Citizen suits have no place in a national security context, and this would be the very first time that Congress would be authorizing such suits in the homeland security arena.

Environmentalists file hundreds of citizen suits annually, and they consume substantial governmental resources and taxpayer funds. Some agencies expend almost their entire annual budgets simply responding to these lawsuits. For instance, in May of 2008, The Washington Post noted that the Fish and Wildlife Service had been caught in a legal vise that has forced it to spend most of its time responding to lawsuits and following judges' orders while its mission has slowed to a near halt. We cannot afford the same consequence with the Department of Homeland Security. In the meantime, the mission of the agency falls by the wayside.

This bill currently allows a citizen suit by any person. There is no requirement that the person be harmed or that the person be a local resident or even a United States citizen. The Congress has always treated national security as an inherently governmental matter and one in which sensitive security-related information has been rigorously protected. This marks the first time that citizen suits may result in the disclosure of very sensitive chemical facility vulnerability information.

The Department of Homeland Security also opposes the civil suit provisions. Deputy Under Secretary Philip Reitering, who I had the pleasure to work with at the Department of Justice, testified that it is true that any civil suit provision at least raises a specter of some diversion of resources. As a former longtime litigator in the DOJ, he also testified that, inevitably, there is some risk of disclosure of information, and this information is very sensitive. That means sensitive security information could easily get into the wrong hands. I think yesterday is a reminder that we need to stay vigilant.

Committee staff spoke just this Tuesday with DHS staff to see if their position on this citizen suit provision had changed. It had not. They are still strongly opposed to this provision.

Introducing these provisions in the national security arena has the potential not only to divert DHS from its security-related missions but to also result in the disclosure of protected sensitive information. This entire bill, including the provision I am trying to strike, will inadvertently have an impact on the private sector, on business, and on the overall economy at a time when we can least afford it.

I reserve the balance of my time.

Mr. PASCRELL. Mr. Chairman, I rise to claim time in opposition to Brother McCAUL's amendment.

The Acting CHAIR. The gentleman from New Jersey is recognized for 5 minutes.

Mr. PASCRELL. First of all, this bill does not authorize suits by uninjured parties. Article III of the Constitution is very, very clear. It requires that any person who files a lawsuit be able to show injury. H.R. 2868 will have no effect on this constitutional requirement whatsoever, Mr. Chairman. In fact, the Supreme Court has repeatedly held that Congress cannot pass a law changing this requirement. So it's in the Constitution. It has been upheld by the Supreme Court of this country.

I oppose this amendment. It works against government accountability and against the security of our chemical facilities.

Title I of H.R. 2868 allows citizens to file suit against the Secretary of Homeland Security for failing to meet her duties, such as issuing regulations or reviewing site security plans in a timely manner, in other words, if the Secretary, whomever that may be, does not do what he is supposed to do according to law.

Are you putting our citizens in further jeopardy? Is this what you think of the American citizens that they cannot speak for themselves?

This bill does not allow citizens to file suit against privately owned chemical facilities for alleged violations. Here is the bill. On pages 66, 67, 68, it doesn't say it. I don't know what you're reading.

Therefore, this bill will not compel a chemical facility to turn over sensitive security information in court. It will not put this information at risk of public disclosure. Moreover, citizens cannot file suit against the Secretary for making a decision that is discretionary. It is very different from what the Constitution is talking about, such as whether to require a facility to switch chemicals or processes. Any claims to the contrary are simply false. This amendment would strip citizen enforcement out entirely.

Why would we want to discourage the enforcement of these critical security standards? The American Chemical Council, the Society of Chemical Manufacturers and its affiliate, and the environmental and labor groups have endorsed the citizen enforcement provi-

sions in this bill. I rest my case. With that breadth of support for the compromise, this amendment is an ineffective solution for a nonexistent problem.

The members of the Energy and Commerce Committee devoted considerable time to crafting a solution that ensures government accountability while protecting sensitive information. Eliminating citizen suits without replacement is unnecessary. It undermines accountability, and it will leave our Nation less secure.

I urge my colleagues to vote "no" on Mr. McCAUL's amendment.

I reserve the balance of my time.

Mr. McCAUL. Mr. Chairman, how much time is remaining?

The Acting CHAIR. Both sides have 2 minutes remaining.

Mr. McCAUL. Very quickly, to my good friend from New Jersey, courts have broadly and loosely interpreted the constitutional standing requirement to virtually allow anyone with any evidence of perceived harm to bring a lawsuit under these citizen suits.

With respect to sensitive information, we are now going to turn that over into the discovery process as to what is sensitive and what information is not.

With respect to the groups that my good friend mentioned, it is my understanding, while they are not opposed to the bill, they have certainly not endorsed this bill.

I yield the remainder of my time to the gentleman from Texas (Mr. POE).

Mr. POE of Texas. Mr. Chairman, how much time remains?

The Acting CHAIR. The gentleman has 1½ minutes remaining.

Mr. POE of Texas. I thank the gentleman from Texas for yielding.

Mr. Chairman, specifically, I stand in support of the gentleman's amendment. I probably represent as many, if not more, refineries and chemical plants as any Member of Congress.

I agree. It is imperative that we have security at these institutions, at these plants. I do believe, however, that the citizen suit problem exposes two specific issues, one of which is that it's too broad. It allows anybody to file a lawsuit, and it leaves the discretion as to what is sensitive material up to the Federal judges, and the Federal judges have broad discretion as to what material they will release and will make public.

The second problem I see—and it's specifically under (b)(2)—is that "the district court will have jurisdiction without regard of the amount in controversy or the citizenship of the parties." I am not clear why that would be added, but it allows standing to anyone, regardless of citizenship of the parties, to file a lawsuit. Specifically, it gives that permission.

□ 1500

Under the environmental suits that have been filed, standing has always been regarded—in most cases it's very broad, giving many people that standing. I think it's unwise. What it will do is bring unnecessary litigation. I think that's the purpose and duty of the Federal agencies, to bring this litigation against these chemical plants and not citizens because, of course, it will promote litigation; it will promote discovery of sensitive information; and it will allow anyone, anywhere, to file these lawsuits.

Mr. PASCRELL. Mr. Chairman, a couple of things here. First, the groups that I mentioned before support that part of the legislation which I mentioned. Number two, let's get to the meat and potatoes: this bill does not create a boon for trial lawyers. No one is eligible to receive damage awards in lawsuits under this bill.

Mr. MCCAUL. Will the gentleman yield?

Mr. PASCRELL. I yield to the gentleman from Texas.

Mr. MCCAUL. They certainly will receive attorneys' fees. They're being paid by these organizations to bring lawsuits.

Mr. PASCRELL. Reclaiming my time, no one is eligible to receive damage awards. Lawyers will not receive a dime of any civil penalties that the courts may award because they are paid to the United States Treasury. I don't think that this is a Treasury scheme by any stretch of the imagination.

This bill is not the first time citizen suits have been authorized in a national security context. Since the passage of the Bioterrorism Act in 2002, citizen suits have been available to enforce the requirements of section 1433 of the Safe Drinking Water Act, which is focused on security at drinking water facilities throughout the United States of America.

By the way, to my other friend from Texas, this is very standard language that is used throughout this legislation.

I yield to my friend from Massachusetts.

Mr. MARKEY of Massachusetts. I just want to say that this is just giving the right to ordinary people to sue their own government because they're not providing for the security around facilities that could be attacked by al Qaeda. This is at the essence of the philosophy of the tea-baggers, to give ordinary citizens the right to challenge their government, to be able to rise up and to be able to say, you are not doing your job to protect us, your fundamental responsibility to protect the security of citizens in their homes and where they work.

Mr. PASCRELL. Reclaiming my time, we must remember also—I think you would agree with me, Mr. Chair-

man—that nowhere in this legislation are we in any manner, shape or form jeopardizing the private plans of any facility, any chemical facility.

The Acting CHAIR (Mr. MORAN of Virginia). The question is on the amendment offered by the gentleman from Texas (Mr. MCCAUL).

The question was taken; and the Acting Chair announced that the noes appeared to have it.

Mr. MCCAUL. Mr. Chairman, I demand a recorded vote.

The Acting CHAIR. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Texas will be postponed.

#### AMENDMENT NO. 9 OFFERED BY MRS. HALVORSON

The Acting CHAIR. It is now in order to consider amendment No. 9 printed in part B of House Report 111-327.

Mrs. HALVORSON. Mr. Chairman, I have an amendment at the desk.

The Acting CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 9 offered by Mrs. HALVORSON:

Page 58, beginning on line 3, strike "ASSESSMENT OF IMPACTS ON SMALL COVERED CHEMICAL FACILITIES" and insert "SMALL COVERED CHEMICAL FACILITIES".

Page 58, after line 4, insert the following: "(1) GUIDANCE FOR SMALL COVERED CHEMICAL FACILITIES.—The Secretary may provide guidance and, as appropriate, tools, methodologies, or computer software, to assist small covered chemical facilities in complying with the requirements of this section.

Page 58, line 5, strike "(1) IN GENERAL" and insert "(2) ASSESSMENT OF IMPACTS ON SMALL COVERED CHEMICAL FACILITIES".

Page 59, line 20, strike "(2) DEFINITION" and insert "(3) DEFINITION".

The Acting CHAIR. Pursuant to House Resolution 885, the gentlewoman from Illinois (Mrs. HALVORSON) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentlewoman from Illinois.

Mrs. HALVORSON. Mr. Chairman, as a small business owner and as a member of the Small Business Committee, I understand the challenges that small business owners face on a day-to-day basis. I offer this amendment to help small chemical facilities in meeting some of those challenges.

My amendment is straightforward and necessary. It would improve this bill by giving the Secretary of the Department of Homeland Security the authority to provide facilities with less than 350 employees the guidance, tools and software to help them comply with the security requirements of this bill.

We have a responsibility to make sure chemical facilities are safe, but we also have a responsibility to make sure that small businesses have the assistance and the resources that they need to comply with new security requirements. That is what my amendment

does. It helps small chemical facilities to comply with security standards in an effective and profitable manner.

Based on DHS analysis, we can expect that 15 to 20 percent of the chemical facilities across the country have less than 350 employees onsite. That's a significant number of small businesses that we cannot forget as we move forward on security requirements. These are facilities that create jobs that invest in economic growth. In a tough economic environment, these small businesses need to have the tools available to compete and succeed and, again, that's what this amendment does.

The bottom line is that we need small chemical facilities to be secure, but we also need them to be successful. This is an important amendment, and it will help make sure that those two critical goals are accomplished. We can't forget that as we move forward.

I reserve the balance of my time.

Mr. OLSON. Mr. Chairman, I claim time in opposition, but I don't necessarily oppose the bill.

The Acting CHAIR. Without objection, the gentleman from Texas is recognized for 5 minutes.

There was no objection.

Mr. OLSON. Mr. Chairman, this amendment allows the Secretary to provide guidance, tools, methodologies or computer software to assist small covered chemical facilities in complying with the IST assessments and implementation requirements of the act.

While I support the sentiment behind the amendment, given the costs associated with IST assessments and mandatory implementation, I am genuinely concerned there will be few small businesses left that would benefit from any guidance the Secretary may or may not provide based on this provision.

This amendment simply gives the Secretary the option of providing guidance to small businesses to meet the costly IST provisions of the bill. How much guidance do we expect from an office that employs fewer than 200 people and is responsible for overseeing a program that covers 6,100 facilities?

While it's difficult to object to Mrs. HALVORSON's amendment, I find it ironic that the majority would make in order an amendment that recognizes that small businesses will be affected by the IST mandate. But rather than address the problem before they create it, they ask the Secretary to clean up the mess for them.

I would have preferred to debate Mr. AUSTRIA's amendment that was not ruled in order. That amendment would have been a real benefit to the 3,630 smallest of the small businesses by exempting them altogether from this costly and unnecessary provision.

I reserve the balance of my time.

Mrs. HALVORSON. Mr. Chairman, I yield such time as he may consume to

the gentleman from Mississippi (Mr. THOMPSON).

Mr. THOMPSON of Mississippi. Mr. Chairman, I rise in support of the gentlelady's amendment. The size of a facility's workforce or annual operating budget has nothing to do with the facility's security risk.

At our October 1 hearing, we heard testimony from Rand Beers, Undersecretary of the DHS, about this issue. He said, and I quote, this is not an issue of defining whether the risk is less important because the size of a firm is small. The risk doesn't change with respect to the size of a firm.

But what is different about small businesses is that some lack the administrative resources of large multi-billion-dollar chemical companies. They might not have an in-house security expert that can direct or prepare their security vulnerability assessment or site security plan. They might not know how to navigate the Washington bureaucracy in order to learn how to best comply with these new regulations.

The underlying legislation does acknowledge that the impact of inherently safer technology provisions on small businesses should be examined by the Department of Homeland Security. DHS has told us that they estimate that 15 to 20 percent of all regulated facilities might be classified as small businesses.

I think the gentlelady's amendment takes the language one useful step further by giving DHS the authority to create tools specifically for small businesses to help them in complying with the inherent safer technology provisions of the bill. This could be guidance and outreach directed to the small business community or it could be software or other methodologies that could make compliance easier.

I urge my colleagues to support the Halvorson amendment.

Mr. OLSON. Mr. Chairman, I yield back the balance of my time.

Mrs. HALVORSON. I yield back the balance of my time.

The Acting CHAIR. The question is on the amendment offered by the gentlewoman from Illinois (Mrs. HALVORSON).

The amendment was agreed to.

AMENDMENT NO. 10 OFFERED BY Mr. FOSTER

The Acting CHAIR. It is now in order to consider amendment No. 10 printed in part B of House Report 111-327.

Mr. FOSTER. Mr. Chair, I have an amendment at the desk.

The Acting CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 10 offered by Mr. FOSTER: Page 13, after line 21, insert the following: "(13) The term 'academic laboratory' means a facility or area owned by an institution of higher education (as defined under section 101 of the Higher Education Act of

1965 (20 U.S.C. 1001)) or a non-profit research institute or teaching hospital that has a formal affiliation with an institution of higher education, including photo laboratories, art studios, field laboratories, research farms, chemical stockrooms, and preparatory laboratories, where relatively small quantities of chemicals and other substances, as determined by the Secretary, are used on a non-production basis for teaching, research, or diagnostic purposes, and are stored and used in containers that are typically manipulated by one person.

Page 20, line 12, strike "and" after the semicolon.

Page 20, line 19, strike the period after "disapproval" and insert "; and".

Page 20, after line 19, insert the following: "(H) establish, as appropriate, modified or separate standards, protocols, and procedures for security vulnerability assessments and site security plans for covered chemical facilities that are also academic laboratories."

The Acting CHAIR. Pursuant to House Resolution 885, the gentleman from Illinois (Mr. FOSTER) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Illinois.

Mr. FOSTER. Mr. Chair, I yield myself 2 minutes.

I would like to first thank Mr. LUJÁN of New Mexico for allowing me to work with him on this important and commonsense amendment to the Chemical Facility Anti-Terrorism Act.

The underlying bill is a positive step towards ensuring the security of America's chemical facilities, but overlooks key differences between commercial facilities and university and educational laboratories. This amendment directs the Secretary of Homeland Security to take a graduated approach to security in school labs and to create a separate and appropriate set of protocols for university affiliated laboratories with relatively small quantities of chemicals.

One-size-fits-all safety regulations only create more paperwork, more bureaucracy and more confusion without necessarily making us safer. This is especially true in educational settings where large numbers of students move in and out of smaller chemical labs constantly, making it difficult and expensive to impose on them the same security protocols as large commercial facilities.

However, this amendment does not let our schools off the hook for maintaining a safe and secure environment. The Secretary of Homeland Security will still require that universities create and report a security plan of precaution and prevention as part of normal campus safety procedures. At a time when university budgets are already tight, this amendment will avoid placing potentially large financial hardships on our educational institutions.

This amendment is supported by a number of higher educational associations, including the American Council

on Education, the Association of American Universities, and the Association of Public and Land-grant Universities. I was very happy to be able to work on this commonsense solution.

I reserve the balance of my time.

Mr. OLSON. Mr. Chairman, I claim time in opposition, but do not necessarily oppose the underlying amendment.

The Acting CHAIR. Without objection, the gentleman from Texas is recognized for 5 minutes.

There was no objection.

Mr. OLSON. Mr. Chairman, this amendment addresses academic laboratories which is defined as a facility owned by an institution of higher learning where relatively small quantities of substances are used for teaching or research purposes.

These types of institutions are vastly different from the majority of chemical facilities that we all think of in terms of large manufacturing plants. The Secretary is required to take these differences into account and may develop modified or separate procedures for such institutions.

The American Council on Education supports this amendment.

□ 1515

They will still be required to conduct security vulnerability assessments and site security plans.

The qualifier "as appropriate" included in the amendment still gives the Secretary some direction as to if she wants to provide separate procedures for conducting the vulnerability assessments and site security plans. Most colleges and universities have already completed these required vulnerability assessments, and so this language, while well-intended, will have little impact.

It is unfortunate that the amendment does not provide colleges and universities any exceptions or alternative procedures for the IST assessment and implementation requirements of this legislation. Despite this amendment, 99 colleges and universities will have to conduct costly IST assessments, and 23 of them in 14 States may be required to implement the findings of these assessments.

I reserve the balance of my time.

Mr. FOSTER. Mr. Chairman, I happily yield such time as he may consume to my colleague from New Mexico (Mr. LUJÁN).

Mr. LUJÁN. Mr. Chairman, I thank my colleague, Mr. FOSTER, for recognition and for his cooperation in working on this amendment. I also commend Chairman THOMPSON for bringing this important legislation to the floor.

In universities, colleges, and educational institutions across the Nation, researchers and students are currently utilizing educational laboratories to expand the limits of our scientific knowledge and develop the skills needed to thrive in high-tech jobs of tomorrow. This is an important opportunity

to make sure that we are preparing them for the jobs of the future.

This commonsense amendment will allow this work to continue, while ensuring that academic laboratories are protected from the unique security threats that they may face. Through this amendment, the Department of Homeland Security will have the flexibility to recognize that these labs, which may contain a large variety of chemicals, rarely possess any specific chemical in the large quantities typical of industrial facilities. The Department will have the capability to assess and oversee specific security challenges these labs face from infiltration, tampering, theft or attack.

This amendment is supported by the American Chemical Society, and I want to reiterate and emphasize it is also supported by the American Council of Education and institutions of learning across the country.

I urge my colleagues to join me in support of this amendment, which will ensure that the Department of Homeland Security adequately protects our Nation's students, teachers, and research institutions.

Mr. OLSON. Mr. Chairman, with no one on my side waiting to speak, I yield back the balance of my time.

Mr. FOSTER. I yield back the balance of my time.

The Acting CHAIR. The question is on the amendment offered by the gentleman from Illinois (Mr. FOSTER).

The amendment was agreed to.

#### ANNOUNCEMENT BY THE ACTING CHAIR

The Acting CHAIR. Pursuant to clause 6 of rule XVIII, proceedings will now resume on those amendments printed in part B of House Report 111-327 on which further proceedings were postponed, in the following order:

Amendment No. 1 by Mr. THOMPSON of Mississippi.

Amendment No. 2 by Mr. BARTON of Texas.

Amendment No. 4 by Mr. DENT of Pennsylvania.

Amendment No. 5 by Mr. DENT of Pennsylvania.

Amendment No. 8 by Mr. MCCAUL of Texas.

The Chair will reduce to 5 minutes the time for any electronic vote after the first vote in this series.

#### AMENDMENT NO. 1 OFFERED BY MR. THOMPSON OF MISSISSIPPI

The Acting CHAIR. The unfinished business is the demand for a recorded vote on the amendment offered by the gentleman from Mississippi (Mr. THOMPSON) on which further proceedings were postponed and on which the ayes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

#### RECORDED VOTE

The Acting CHAIR. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 253, noes 168, not voting 19, as follows:

[Roll No. 869]

#### AYES—253

Abercrombie	Green, Gene	Neal (MA)
Ackerman	Griffith	Nye
Adler (NJ)	Grijalva	Oberstar
Altmire	Gutierrez	Obey
Andrews	Hall (NY)	Oliver
Arcuri	Halvorson	Ortiz
Baca	Hare	Owens
Baird	Harman	Pallone
Baldwin	Hastings (FL)	Pascrell
Barrow	Heinrich	Pastor (AZ)
Bean	Herseth Sandlin	Payne
Becerra	Higgins	Perlmutter
Berkley	Hill	Perriello
Berman	Himes	Peters
Berry	Hinchee	Peterson
Bishop (NY)	Hinojosa	Pierluisi
Blumenauer	Hirono	Pingree (ME)
Boccheri	Hodes	Polis (CO)
Bordallo	Holden	Pomeroy
Boren	Holt	Price (NC)
Boswell	Honda	Quigley
Boucher	Hoyer	Rahall
Boyd	Inslee	Rangel
Brady (PA)	Israel	Reyes
Braley (IA)	Jackson (IL)	Richardson
Bright	Jackson-Lee	Rodriguez
Brown, Corrine	(TX)	Ross
Butterfield	Johnson (GA)	Rothman (NJ)
Capps	Kagen	Roybal-Allard
Capuano	Kanjorski	Ruppersberger
Cardoza	Kaptur	Rush
Carnahan	Kennedy	Ryan (OH)
Carney	Kildee	Sablan
Carson (IN)	Kilpatrick (MI)	Salazar
Castor (FL)	Kilroy	Sanchez, Loretta
Childers	Kind	Sarbanes
Chu	Kirkpatrick (AZ)	Schakowsky
Clarke	Kissell	Schauer
Clay	Klein (FL)	Schiff
Cleaver	Kosmas	Schrader
Clyburn	Kratovil	Schwartz
Cohen	Kucinich	Scott (GA)
Connolly (VA)	Langevin	Scott (VA)
Conyers	Larsen (WA)	Serrano
Cooper	Larson (CT)	Sestak
Costello	Lee (CA)	Shea-Porter
Courtney	Levin	Sherman
Crowley	Lewis (GA)	Shuler
Cuellar	Lipinski	Sires
Cummings	Loeb sack	Skelton
Dahlkemper	Lofgren, Zoe	Slaughter
Davis (AL)	Lowe	Smith (WA)
Davis (CA)	Lujan	Snyder
Davis (IL)	Lynch	Space
Davis (TN)	Maffei	Spratt
DeFazio	Maloney	Stark
DeGette	Markey (CO)	Stupak
Delahunt	Markey (MA)	Sutton
DeLauro	Marshall	Tanner
Dicks	Massa	Taylor
Dingell	Matheson	Teague
Doggett	Matsui	Thompson (CA)
Donnelly (IN)	McCarthy (NY)	Thompson (MS)
Doyle	McCollum	Tierney
Driehaus	McDermott	Titus
Edwards (MD)	McGovern	Tonko
Edwards (TX)	McIntyre	Towns
Ellison	McMahon	Tsongas
Ellsworth	McNerney	Van Hollen
Engel	Meek (FL)	Velazquez
Eshoo	Melancon	Visclosky
Etheridge	Michaud	Walz
Faleomavaega	Miller (NC)	Wasserman
Farr	Miller, George	Schultz
Fattah	Minnick	Waters
Filner	Mitchell	Watson
Foster	Mollohan	Watt
Frank (MA)	Moore (KS)	Waxman
Fudge	Moore (WI)	Weiner
Garamendi	Moran (VA)	Welch
Giffords	Murphy (CT)	Wexler
Gonzalez	Murphy (NY)	Wilson (OH)
Gordon (TN)	Murtha	Woolsey
Grayson	Nadler (NY)	Wu
Green, Al	Napolitano	Yarmuth

#### NOES—168

Akin	Gerlach	Murphy, Tim
Alexander	Gingrey (GA)	Myrick
Austria	Gohmert	Neugebauer
Bachmann	Goodlatte	Olson
Bachus	Granger	Paul
Barrett (SC)	Graves	Paulsen
Bartlett	Guthrie	Pence
Barton (TX)	Hall (TX)	Petri
Biggert	Harper	Pitts
Billbray	Hastings (WA)	Platts
Bilirakis	Heller	Poe (TX)
Bishop (UT)	Hensarling	Posey
Blackburn	Herger	Price (GA)
Blunt	Hoekstra	Putnam
Bonner	Hunter	Radanovich
Bono Mack	Inglis	Rehberg
Boozman	Issa	Reichert
Boustany	Jenkins	Roe (TN)
Brady (TX)	Johnson (IL)	Rogers (AL)
Brown (GA)	Johnson, Sam	Rogers (KY)
Brown (SC)	Jones	Rohrabacher
Brown-Waite,	Jordan (OH)	Rooney
Ginny	King (IA)	Ros-Lehtinen
Buchanan	King (NY)	Roskam
Burgess	Kingston	Royce
Burton (IN)	Kirk	Ryan (WI)
Buyer	Kline (MN)	Scalise
Calvert	Lamborn	Schmidt
Camp	Lance	Schock
Campbell	Latham	Sensenbrenner
Cantor	LaTourette	Sessions
Cao	Latta	Shadegg
Capito	Lee (NY)	Shimkus
Castle	Lewis (CA)	Shuster
Chaffetz	Linder	Simpson
Coble	LoBiondo	Smith (NE)
Coffman (CO)	Lucas	Smith (NJ)
Cole	Luetkemeyer	Smith (TX)
Crenshaw	Lummis	Souder
Culberson	Lungren, Daniel	Stearns
Davis (KY)	E.	Sullivan
Deal (GA)	Mack	Terry
Dent	Manzullo	Thompson (PA)
Diaz-Balart, L.	Marchant	Thornberry
Diaz-Balart, M.	McCarthy (CA)	Tiahrt
Dreier	McCaul	Tiberi
Duncan	McClintock	Turner
Fallin	McCotter	Upton
Flake	McHenry	Walden
Fleming	McKeon	Wamp
Forbes	McMorris	Westmoreland
Fortenberry	Rodgers	Whitfield
Fox	Mica	Wilson (SC)
Franks (AZ)	Miller (FL)	Wittman
Frelinghuysen	Miller (MI)	Wolf
Gallegly	Miller, Gary	Young (AK)
Garrett (NJ)	Moran (KS)	Young (FL)

#### NOT VOTING—19

Aderholt	Conaway	Norton
Bishop (GA)	Costa	Nunes
Boehner	Ehlers	Rogers (MI)
Carter	Emerson	Sánchez, Linda
Cassidy	Johnson, E. B.	T.
Chandler	Meeks (NY)	Speier
Christensen	Murphy, Patrick	

□ 1544

Messrs. CALVERT, McHENRY, PLATTS and CAO changed their vote from "aye" to "no."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

Stated for:

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Chair, on rollcall No. 869, I had a personal emergency. Had I been present, I would have voted "aye."

#### AMENDMENT NO. 2 OFFERED BY MR. BARTON OF TEXAS

The Acting CHAIR. The unfinished business is the demand for a recorded vote on the amendment offered by the gentleman from Texas (Mr. BARTON) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

# RECORDED VOTE

The Acting CHAIR. A recorded vote has been demanded.

A recorded vote was ordered.

The Acting CHAIR. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 165, noes 262, not voting 13, as follows:

[Roll No. 870]

## AYES—165

Akin	Foxx	Miller (MI)
Alexander	Franks (AZ)	Miller, Gary
Altmire	Gallely	Minnick
Andrews	Garrett (NJ)	Moran (KS)
Austria	Gingrey (GA)	Murphy, Tim
Bachmann	Gohmert	Myrick
Bachus	Goodlatte	Olson
Barrett (SC)	Gordon (TN)	Paulsen
Bartlett	Granger	Pence
Barton (TX)	Graves	Petri
Biggert	Griffith	Pitts
Billbray	Guthrie	Poe (TX)
Bilirakis	Hall (TX)	Posey
Bishop (UT)	Harper	Price (GA)
Blackburn	Hastings (WA)	Putnam
Blunt	Heller	Radanovich
Bonner	Hensarling	Rehberg
Bono Mack	Herger	Reichert
Boozman	Hoekstra	Roe (TN)
Boren	Hunter	Rogers (AL)
Boswell	Inglis	Rogers (KY)
Boucher	Issa	Rooney
Boustany	Jenkins	Ros-Lehtinen
Brady (TX)	Johnson (IL)	Roskam
Bright	Johnson, Sam	Royce
Brown (SC)	Jordan (OH)	Ryan (WI)
Buchanan	King (IA)	Scalise
Burgess	King (NY)	Schmidt
Burton (IN)	Kirk	Schock
Buyer	Kline (MN)	Sensenbrenner
Calvert	Lamborn	Sessions
Camp	Latham	Shadegg
Campbell	LaTourette	Shea-Porter
Cantor	Latta	Shimkus
Cao	Lee (NY)	Shuster
Cardoza	Lewis (CA)	Simpson
Chaffetz	Linder	Smith (NE)
Coble	Lucas	Smith (TX)
Coffman (CO)	Luetkemeyer	Souder
Cohen	Lummis	Stearns
Cole	Lungren, Daniel	Sullivan
Cooper	E.	Teague
Crenshaw	Mack	Terry
Davis (KY)	Marchant	Thompson (PA)
Dent	Marshall	
Diaz-Balart, L.	Matheson	
Diaz-Balart, M.	McCarthy (CA)	
Dreier	McCaul	
Duncan	McClintock	
Ellsworth	McCotter	
Emerson	McHenry	
Fallin	McKeon	
Fleming	McMorris	
Forbes	Rodgers	
Fortenberry	Mica	
Foster	Miller (FL)	

## NOES—262

Abercrombie	Bordallo	Childers
Ackerman	Boyd	Christensen
Adler (NJ)	Brady (PA)	Chu
Arcuri	Braley (IA)	Clarke
Baca	Broun (GA)	Clay
Baird	Brown, Corrine	Cleaver
Baldwin	Brown-Waite,	Clyburn
Barrow	Ginny	Connolly (VA)
Bean	Butterfield	Conyers
Becerra	Capito	Costa
Berkley	Capps	Costello
Berman	Capuano	Courtney
Berry	Carnahan	Crowley
Bishop (GA)	Carney	Cuellar
Bishop (NY)	Carson (IN)	Culberson
Blumenauer	Castle	Cummings
Bocieri	Castor (FL)	Dahlkemper

Davis (AL)	Kingston	Price (NC)
Davis (CA)	Kirkpatrick (AZ)	Quigley
Davis (IL)	Kissell	Rahall
Davis (TN)	Klein (FL)	Rangel
Deal (GA)	Kosmas	Reyes
DeFazio	Kratovil	Richardson
DeGette	Kucinich	Rodriguez
Delahunt	Lance	Rohrabacher
DeLauro	Langevin	Ross
Dicks	Larsen (WA)	Rothman (NJ)
Dingell	Larson (CT)	Roybal-Allard
Doggett	Lee (CA)	Ruppersberger
Donnelly (IN)	Levin	Rush
Doyle	Lewis (GA)	Ryan (OH)
Driehaus	Lipinski	Sablan
Edwards (MD)	LoBiondo	Salazar
Edwards (TX)	Loebbeck	Sanchez, Loretta
Ellison	Lofgren, Zoe	Sarbantes
Engel	Lowe	Schakowsky
Eshoo	Lujan	Schauer
Etheridge	Lynch	Schiff
Faleomavaega	Maffei	Schrader
Farr	Maloney	Schwartz
Fattah	Manzullo	Scott (GA)
Filner	Markey (CO)	Scott (VA)
Flake	Markey (MA)	Serrano
Frank (MA)	Massa	Sestak
Frelinghuysen	Matsui	Sherman
Fudge	McCarthy (NY)	Shuler
Garamendi	McCollum	Sires
Gerlach	McGovern	Skelton
Giffords	McIntyre	Slaughter
Gonzalez	McMahon	Smith (NJ)
Grayson	McNerney	Smith (WA)
Green, Al	Meek (FL)	Snyder
Green, Gene	Meeks (NY)	Space
Grijalva	Melancon	Speier
Gutierrez	Michaud	Spratt
Hall (NY)	Miller (NC)	Stark
Halvorson	Miller, George	Stupak
Hare	Mitchell	Sutton
Harman	Mollohan	Tanner
Hastings (FL)	Moore (KS)	Taylor
Heinrich	Moore (WI)	Thompson (CA)
Herseht Sandlin	Moran (VA)	Thompson (MS)
Higgins	Murphy (CT)	Thornberry
Hill	Murphy (NY)	Tierney
Himes	Murtha	Titus
Hinchoy	Nadler (NY)	Tonko
Hinojosa	Napolitano	Towns
Hirono	Neal (MA)	Tsongas
Hodes	Neugebauer	Van Hollen
Holden	Nye	Velázquez
Holt	Oberstar	Visclosky
Honda	Obey	Walz
Hoyer	Oliver	Wamp
Inlee	Ortiz	Wasserman
Israel	Owens	Schultz
Jackson (IL)	Pallone	Waters
Jackson-Lee	Pascarell	Watson
(TX)	Pastor (AZ)	Watt
Johnson (GA)	Paul	Waxman
Johnson, E. B.	Payne	Weiner
Jones	Perlmutter	Welch
Kagen	Perriello	Wexler
Kanjorski	Peters	Wilson (OH)
Kaptur	Peterson	Woolsey
Kennedy	Pierluisi	Wu
Kildee	Pingree (ME)	Yarmuth
Kilpatrick (MI)	Platts	Young (FL)
Kilroy	Polis (CO)	
Kind	Pomeroy	

# NOT VOTING—13

Aderholt	Conaway	Nunes
Boehner	Ehlers	Rogers (MI)
Carter	McDermott	Sánchez, Linda
Cassidy	Murphy, Patrick	T.
Chandler	Norton	

## ANNOUNCEMENT BY THE ACTING CHAIR

The Acting CHAIR (during the vote). Members have 2 minutes remaining in this vote.

□ 1551

Mr. MORAN of Virginia changed his vote from “aye” to “no.”

So the amendment was rejected.

The result of the vote was announced as above recorded.

## AMENDMENT NO. 4 OFFERED BY MR. DENT

The Acting CHAIR. The unfinished business is the demand for a recorded vote on the amendment offered by the gentleman from Pennsylvania (Mr. DENT) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

# RECORDED VOTE

The Acting CHAIR. A recorded vote has been demanded.

A recorded vote was ordered.

The Acting CHAIR. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 186, noes 241, not voting 13, as follows:

[Roll No. 871]

## AYES—186

Akin	Frelinghuysen	Moran (KS)
Alexander	Gallely	Murphy, Tim
Austria	Garrett (NJ)	Myrick
Bachmann	Gerlach	Neugebauer
Bachus	Gingrey (GA)	Olson
Baird	Gohmert	Paul
Barrett (SC)	Goodlatte	Paulsen
Barrow	Granger	Pence
Bartlett	Graves	Petri
Barton (TX)	Green, Gene	Pitts
Biggert	Griffith	Platts
Billbray	Guthrie	Poe (TX)
Bilirakis	Hall (TX)	Posey
Bishop (UT)	Halvorson	Price (GA)
Blackburn	Harper	Putnam
Blunt	Hastings (WA)	Radanovich
Boehner	Heller	Rehberg
Bonner	Hensarling	Reichert
Bono Mack	Herger	Roe (TN)
Boozman	Hoekstra	Rogers (AL)
Boren	Hunter	Rogers (KY)
Boustany	Inglis	Rohrabacher
Brady (TX)	Issa	Rooney
Bright	Jenkins	Ros-Lehtinen
Broun (GA)	Johnson (IL)	Roskam
Brown (SC)	Johnson, Sam	Royce
Brown-Waite,	Jones	Ryan (WI)
Ginny	Jordan (OH)	Salazar
Buchanan	King (IA)	Scalise
Burgess	King (NY)	Schmidt
Burton (IN)	Kingston	Sensenbrenner
Buyer	Kirk	Sessions
Calvert	Kline (MN)	Shadegg
Camp	Lamborn	Shimkus
Campbell	Lance	Shuster
Cantor	Latham	Simpson
Cao	LaTourette	Skelton
Capito	Latta	Smith (NE)
Cassidy	Lee (NY)	Smith (NJ)
Castle	Lewis (CA)	Smith (TX)
Chaffetz	Linder	Souder
Coble	LoBiondo	Space
Coffman (CO)	Lucas	Spratt
Cole	Luetkemeyer	Stearns
Crenshaw	Lummis	Sullivan
Culberson	Lungren, Daniel	Taylor
Davis (KY)	E.	Teague
Deal (GA)	Mack	Terry
Dent	Manzullo	Thompson (PA)
Diaz-Balart, L.	Marshall	Thornberry
Diaz-Balart, M.	McCarthy (CA)	Tiahrt
Donnelly (IN)	McCaul	Tiberi
Dreier	McClintock	Turner
Duncan	McCotter	Upton
Ellsworth	McHenry	Walden
Emerson	McKeon	Wamp
Fallin	McMorris	Westmoreland
Flake	Rodgers	Whitfield
Fleming	Mica	Wilson (SC)
Forbes	Miller (FL)	Wittman
Fortenberry	Miller (MI)	Wolf
Foxx	Miller, Gary	Young (AK)
Franks (AZ)	Minnick	Young (FL)

## NOES—241

Abercrombie	Grijalva	Napolitano
Ackerman	Gutierrez	Neal (MA)
Adler (NJ)	Hall (NY)	Nye
Altmire	Hare	Oberstar
Andrews	Harman	Obey
Arcuri	Hastings (FL)	Olver
Baca	Heinrich	Ortiz
Baldwin	Herseth Sandlin	Owens
Bean	Higgins	Pallone
Becerra	Hill	Pascarell
Berkley	Himes	Pastor (AZ)
Berman	Hinchey	Payne
Berry	Hinojosa	Perlmutter
Bishop (GA)	Hirono	Perriello
Bishop (NY)	Hodes	Peters
Blumenauer	Holden	Peterson
Boccieri	Holt	Pierluisi
Bordallo	Honda	Pingree (ME)
Boswell	Hoyer	Polis (CO)
Boucher	Inslee	Pomeroy
Boyd	Israel	Price (NC)
Brady (PA)	Jackson (IL)	Quigley
Braley (IA)	Jackson-Lee	Rahall
Brown, Corrine	(TX)	Rangel
Butterfield	Johnson (GA)	Reyes
Capps	Johnson, E. B.	Richardson
Capuano	Kagen	Rodriguez
Cardoza	Kanjorski	Ross
Carnahan	Kaptur	Rothman (NJ)
Carney	Kennedy	Roybal-Allard
Carson (IN)	Kildee	Ruppersberger
Castor (FL)	Kilpatrick (MI)	Rush
Childers	Kilroy	Ryan (OH)
Christensen	Kind	Sablan
Chu	Kirkpatrick (AZ)	Sanchez, Loretta
Clarke	Kissell	Sarbantes
Clay	Klein (FL)	Schakowsky
Cleaver	Kosmas	Schauer
Clyburn	Kratovil	Schiff
Cohen	Kucinich	Schrader
Connolly (VA)	Langevin	Schwartz
Conyers	Larsen (WA)	Scott (GA)
Cooper	Larson (CT)	Scott (VA)
Costa	Lee (CA)	Serrano
Costello	Levin	Sestak
Courtney	Lewis (GA)	Shea-Porter
Crowley	Lipinski	Sherman
Cuellar	Loebach	Shuler
Cummings	Lofgren, Zoe	Sires
Dahlkemper	Lowe	Slaughter
Davis (AL)	Lujan	Smith (WA)
Davis (CA)	Lynch	Snyder
Davis (IL)	Maffei	Speier
Davis (TN)	Maloney	Stark
DeFazio	Markey (CO)	Stupak
DeGette	Markey (MA)	Sutton
Delahunt	Massa	Tanner
DeLauro	Matheson	Thompson (CA)
Dicks	Matsui	Thompson (MS)
Dingell	McCarthy (NY)	Tierney
Doggett	McCormack	Titus
Doyle	McDermott	Tonko
Driehaus	McGovern	Towns
Edwards (MD)	McIntyre	Tsongas
Edwards (TX)	McMahon	Van Hollen
Ellison	McNerney	Velázquez
Engel	Meek (FL)	Visclosky
Eshoo	Meeks (NY)	Walz
Etheridge	Melancon	Wasserman
Faleomavaega	Michaud	Schultz
Fattah	Miller (NC)	Waters
Filner	Miller, George	Watson
Foster	Mitchell	Watt
Frank (MA)	Mollohan	Waxman
Fudge	Moore (KS)	Weiner
Garamendi	Moore (WI)	Welch
Giffords	Moran (VA)	Wexler
Gonzalez	Murphy (CT)	Wilson (OH)
Gordon (TN)	Murphy (NY)	Woolsey
Grayson	Murtha	Wu
Green, Al	Nadler (NY)	Yarmuth

## NOT VOTING—13

Aderholt	Farr	Rogers (MI)
Carter	Marchant	Sánchez, Linda
Chandler	Murphy, Patrick	T.
Conaway	Norton	Schack
Ehlers	Nunes	

## ANNOUNCEMENT BY THE ACTING CHAIR

The Acting CHAIR (during the vote).  
Members have 2 minutes remaining in this vote.

□ 1558

So the amendment was rejected.  
The result of the vote was announced as above recorded.

## AMENDMENT NO. 5 OFFERED BY MR. DENT

The Acting CHAIR. The unfinished business is the demand for a recorded vote on the amendment offered by the gentleman from Pennsylvania (Mr. DENT) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

## RECORDED VOTE

The Acting CHAIR. A recorded vote has been demanded.

A recorded vote was ordered.

The Acting CHAIR. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 193, noes 236, not voting 11, as follows:

[Roll No. 872]

## AYES—193

Akin	Fallin	Marshall
Alexander	Flake	McCarthy (CA)
Arcuri	Fleming	McCaul
Austria	Forbes	McClintock
Bachmann	Fortenberry	McCotter
Bachus	Fox	McHenry
Baird	Franks (AZ)	McKeon
Barrett (SC)	Frelinghuysen	McMorris
Bartlett	Gallegly	Rodgers
Barton (TX)	Garrett (NJ)	Mica
Berry	Gerlach	Miller (FL)
Biggart	Gingrey (GA)	Miller (MI)
Bilbray	Gohmert	Miller, Gary
Bilirakis	Goodlatte	Minnick
Bishop (UT)	Granger	Moran (KS)
Blackburn	Graves	Murphy, Tim
Blunt	Griffith	Myrick
Boehner	Guthrie	Neugebauer
Bonner	Hall (TX)	Olson
Bono Mack	Halvorson	Paul
Boozman	Harper	Paulsen
Boren	Hastings (WA)	Pence
Boswell	Heller	Petri
Boustany	Hensarling	Pitts
Brady (TX)	Herger	Platts
Bright	Herseth Sandlin	Poe (TX)
Brown (GA)	Hoekstra	Pomeroy
Brown (SC)	Holden	Posey
Brown-Waite,	Hunter	Price (GA)
Ginny	Inglis	Putnam
Buchanan	Issa	Radanovich
Burgess	Jenkins	Rehberg
Burton (IN)	Johnson (IL)	Reichert
Buyer	Johnson, Sam	Roe (TN)
Calvert	Jones	Rogers (AL)
Camp	Jordan (OH)	Rogers (KY)
Campbell	King (IA)	Rohrabacher
Cantor	King (NY)	Rooney
Cao	Kingston	Ros-Lehtinen
Capito	Kirk	Roskam
Cassidy	Kline (MN)	Royce
Castle	Lamborn	Ryan (WI)
Chaffetz	Lance	Scalise
Coble	Latham	Schmidt
Coffman (CO)	LaTourrette	Schrock
Cole	Latta	Sensenbrenner
Costello	Lee (NY)	Sessions
Crenshaw	Lewis (CA)	Shadegg
Culberson	Linder	Shimkus
Davis (KY)	LoBiondo	Shuster
Deal (GA)	Lucas	Simpson
Dent	Luetkemeyer	Skelton
Diaz-Balart, L.	Lummis	Smith (NE)
Diaz-Balart, M.	Lungren, Daniel	Smith (NJ)
Donnelly (IN)	E.	Smith (TX)
Dreier	Mack	Souder
Duncan	Manzullo	Stearns
Ellsworth	Marchant	Sullivan
Emerson	Markey (CO)	

Tanner	Tiberi	Wilson (SC)
Taylor	Turner	Wittman
Teague	Upton	Wolf
Terry	Walden	Young (AK)
Thompson (PA)	Wamp	Young (FL)
Thornberry	Westmoreland	
Tiahrt	Whitfield	

## NOES—236

Abercrombie	Gutierrez	Oberstar
Ackerman	Hall (NY)	Obey
Adler (NJ)	Hare	Olver
Altmire	Harman	Ortiz
Andrews	Hastings (FL)	Owens
Baca	Heinrich	Pallone
Baldwin	Higgins	Pascarell
Barrow	Hill	Pastor (AZ)
Bean	Himes	Payne
Becerra	Hinchey	Perlmutter
Berkley	Hinojosa	Perriello
Berman	Hirono	Peters
Bishop (GA)	Hodes	Peterson
Bishop (NY)	Holt	Pierluisi
Blumenauer	Honda	Pingree (ME)
Boccieri	Hoyer	Polis (CO)
Bordallo	Inslee	Price (NC)
Boucher	Israel	Quigley
Boyd	Jackson (IL)	Rahall
Brady (PA)	Jackson-Lee	Rangel
Braley (IA)	(TX)	Reyes
Brown, Corrine	Johnson (GA)	Richardson
Butterfield	Johnson, E. B.	Rodriguez
Capps	Kagen	Ross
Capuano	Kanjorski	Rothman (NJ)
Cardoza	Kaptur	Roybal-Allard
Carnahan	Kennedy	Ruppersberger
Carney	Kildee	Rush
Carson (IN)	Kilpatrick (MI)	Ryan (OH)
Castor (FL)	Kilroy	Sablan
Childers	Kind	Salazar
Christensen	Kirkpatrick (AZ)	Sanchez, Loretta
Chu	Kissell	Sarbantes
Clarke	Klein (FL)	Schakowsky
Clay	Kosmas	Schauer
Clyburn	Kratovil	Schiff
Cohen	Kucinich	Schrader
Connolly (VA)	Langevin	Schwartz
Conyers	Larsen (WA)	Scott (GA)
Cooper	Larson (CT)	Scott (VA)
Costa	Lee (CA)	Levin
Courtney	Lewis (GA)	Serrano
Crowley	Lipinski	Sestak
Cuellar	Loebach	Shea-Porter
Cummings	Lofgren, Zoe	Sherman
Dahlkemper	Lowe	Shuler
Davis (AL)	Lujan	Sires
Davis (CA)	Lynch	Slaughter
Davis (IL)	Maffei	Smith (WA)
Davis (TN)	Maloney	Snyder
DeFazio	Markey (MA)	Speier
DeGette	Markey (MA)	Spratt
Delahunt	Massa	Stark
DeLauro	Matheson	Stupak
Dicks	Matsui	Sutton
Dingell	McCarthy (NY)	Thompson (CA)
Doggett	McCormack	Thompson (MS)
Doyle	McDermott	Tierney
Driehaus	McGovern	Titus
Edwards (MD)	McIntyre	Tonko
Edwards (TX)	McMahon	Towns
Ellison	McNerney	Tsongas
Engel	Meek (FL)	Van Hollen
Eshoo	Meeks (NY)	Velázquez
Etheridge	Melancon	Visclosky
Faleomavaega	Michaud	Walz
Farr	Miller (NC)	Wasserman
Fattah	Miller, George	Schultz
Filner	Mitchell	Waters
Foster	Mollohan	Watson
Frank (MA)	Moore (KS)	Watt
Fudge	Moore (WI)	Waxman
Garamendi	Moran (VA)	Weiner
Giffords	Murphy (CT)	Welch
Gonzalez	Murphy (NY)	Wexler
Gordon (TN)	Murtha	Wilson (OH)
Grayson	Nadler (NY)	Woolsey
Green, Al	Napolitano	Wu
Green, Gene	Neal (MA)	Yarmuth
Grijalva	Nye	

## NOT VOTING—11

Aderholt	Conaway	Nunes
Carter	Ehlers	Rogers (MI)
Chandler	Murphy, Patrick	Sánchez, Linda
Cleaver	Norton	T.

## ANNOUNCEMENT BY THE ACTING CHAIR

The Acting CHAIR (during the vote). There are 2 minutes remaining on this vote.

□ 1605

Mrs. CAPPS changed her vote from “aye” to “no.”

So the amendment was rejected.

The result of the vote was announced as above recorded.

## AMENDMENT NO. 8 OFFERED BY MR. MCCAUL

The Acting CHAIR. The unfinished business is the demand for a recorded vote on the amendment offered by the gentleman from Texas (Mr. MCCAUL) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

## RECORDED VOTE

The Acting CHAIR. A recorded vote has been demanded.

A recorded vote was ordered.

The Acting CHAIR. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 196, noes 232, not voting 12, as follows:

[Roll No. 873]

AYES—196

Adler (NJ)	Crenshaw	Lamborn
Akin	Culberson	Lance
Alexander	Dahlkemper	Latham
Altmire	Davis (KY)	LaTourette
Arcuri	Deal (GA)	Latta
Austria	Dent	Lee (NY)
Bachmann	Diaz-Balart, L.	Lewis (CA)
Bachus	Diaz-Balart, M.	Linder
Baird	Donnelly (IN)	LoBiondo
Barrett (SC)	Dreier	Lucas
Bartlett	Duncan	Luetkemeyer
Barton (TX)	Ellsworth	Lummis
Bean	Emerson	Lungren, Daniel
Berry	Fallin	E.
Biggert	Flake	Mack
Bilbray	Fleming	Manzullo
Bilirakis	Forbes	Marchant
Bishop (UT)	Fortenberry	Marshall
Blackburn	Fox	McCarthy (CA)
Blunt	Franks (AZ)	McCauley
Boehner	Frelinghuysen	McClintock
Bonner	Galleghy	McCotter
Bono Mack	Garrett (NJ)	McHenry
Boozman	Gerlach	McKeon
Boren	Gingrey (GA)	McMahon
Boswell	Goodlatte	McMorris
Boustany	Gordon (TN)	Rodgers
Brady (TX)	Granger	Mica
Bright	Graves	Miller (FL)
Broun (GA)	Griffith	Miller (MI)
Brown (SC)	Guthrie	Miller, Gary
Brown-Waite,	Hall (TX)	Minnick
Ginny	Halvorson	Moran (KS)
Buchanan	Harper	Murphy (NY)
Burgess	Hastings (WA)	Murphy, Tim
Burton (IN)	Heller	Myrick
Buyer	Hensarling	Neugebauer
Calvert	Herger	Olson
Camp	Hoekstra	Paul
Campbell	Hunter	Paulsen
Cantor	Inglis	Pence
Cao	Issa	Petri
Capito	Jenkins	Pitts
Cassidy	Johnson, Sam	Platts
Castle	Jones	Poe (TX)
Chaffetz	Jordan (OH)	Pomeroy
Coble	King (NY)	Posey
Coffman (CO)	Kingston	Price (GA)
Cole	Kirk	Putnam
Cooper	Kline (MN)	Radanovich
Costa	Kratovil	Rehberg

Reichert	Shadegg
Roe (TN)	Shimkus
Rogers (AL)	Shuster
Rogers (KY)	Simpson
Rohrabacher	Smith (NE)
Rooney	Smith (NJ)
Ros-Lehtinen	Smith (TX)
Roskam	Souder
Royce	Spratt
Ryan (WI)	Stearns
Salazar	Sullivan
Scalise	Taylor
Schmidt	Teague
Schock	Terry
Sensenbrenner	Thompson (PA)
Sessions	Thornberry

NOES—232

Abercrombie	Hare
Ackerman	Harman
Andrews	Hastings (FL)
Baca	Heinrich
Baldwin	Hereth Sandlin
Barrow	Higgins
Becerra	Hill
Berkley	Himes
Berman	Hinchey
Bishop (GA)	Hinojosa
Bishop (NY)	Hirono
Blumenauer	Hodes
Boccheri	Holden
Bordallo	Holt
Boucher	Honda
Boyd	Hoyer
Brady (PA)	Inslee
Braley (IA)	Israel
Brown, Corrine	Jackson (IL)
Butterfield	Jackson-Lee
Capps	(TX)
Capuano	Johnson (GA)
Cardoza	Johnson (IL)
Carnahan	Johnson, E. B.
Carney	Kagen
Carson (IN)	Kanjorski
Castor (FL)	Kaptur
Childers	Kennedy
Christensen	Kildee
Chu	Kilpatrick (MI)
Clarke	Kilroy
Clay	Kind
Cleaver	Kirkpatrick (AZ)
Clyburn	Kissell
Cohen	Klein (FL)
Connolly (VA)	Kosmas
Conyers	Kucinich
Costello	Langevin
Courtney	Larsen (WA)
Crowley	Larson (CT)
Cuellar	Lee (CA)
Cummings	Levin
Davis (AL)	Lewis (GA)
Davis (CA)	Lipinski
Davis (IL)	Loeb
Davis (TN)	Lofgren, Zoe
DeFazio	Lowey
DeGette	Lujan
Delahunt	Lynch
DeLauro	Maffei
Dicks	Maloney
Dingell	Markey (CO)
Doggett	Markey (MA)
Doyle	Massa
Driehaus	Matheson
Edwards (MD)	Matsui
Edwards (TX)	McCarthy (NY)
Ellison	McCollum
Engel	McDermott
Eshoo	McGovern
Etheridge	McIntyre
Faleomavaega	McNerney
Farr	Meek (FL)
Fattah	Meeks (NY)
Filner	Melancon
Foster	Michaud
Frank (MA)	Miller (NC)
Fudge	Miller, George
Garamendi	Mitchell
Giffords	Mollohan
Gonzalez	Moore (KS)
Grayson	Moore (WI)
Green, Al	Moran (VA)
Green, Gene	Murphy (CT)
Grijalva	Murtha
Gutierrez	Nadler (NY)
Hall (NY)	Napolitano

Tiahrt
Tiberi
Turner
Upton
Walden
Wamp
Watt
Westmoreland
Whitfield
Wilson (SC)
Wittman
Wolf
Young (AK)
Young (FL)

Welch	Wilson (OH)	Wu
Wexler	Woolsey	Yarmuth

NOT VOTING—12

Aderholt	Gohmert	Rogers (MI)
Carter	King (IA)	Sánchez, Linda
Chandler	Murphy, Patrick	T.
Conaway	Norton	
Ehlers	Nunes	

## ANNOUNCEMENT BY THE ACTING CHAIR

The Acting CHAIR (during the vote). There are 2 minutes remaining on this vote.

□ 1612

Mr. TERRY changed his vote from “no” to “aye.”

So the amendment was rejected.

The result of the vote was announced as above recorded.

The Acting CHAIR. The question is on the amendment in the nature of a substitute, as amended.

The amendment in the nature of a substitute, as amended, was agreed to.

The Acting CHAIR. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. PASTOR of Arizona) having assumed the chair, Mr. MORAN of Virginia, Acting Chair of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 2868) to amend the Homeland Security Act of 2002 to extend, modify, and recodify the authority of the Secretary of Homeland Security to enhance security and protect against acts of terrorism against chemical facilities, and for other purposes, pursuant to House Resolution 885, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

The question is on the amendment in the nature of a substitute, as amended.

The amendment in the nature of a substitute, as amended, was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

□ 1615

## MOTION TO RECOMMIT

Mr. DENT. Mr. Speaker, I have a motion to recommit at the desk.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. DENT. I am, in its present form.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. Dent moves to recommit the bill H.R. 2868 to the Committee on Homeland Security with instructions to report the same back to the House forthwith with the following amendments:

Page 52, line 16, strike “and”.



Page 52, line 21, strike the period and insert “; and”.

Page 52, after line 21, insert the following: “(iv) would not significantly or demonstrably reduce the operations of the covered chemical facility or result in any net reduction in private sector employment when national unemployment is above 4 percent.”.

Mr. DENT (during the reading). Mr. Speaker, I ask unanimous consent that the motion to recommit be considered as read.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The SPEAKER pro tempore. The gentleman from Pennsylvania is recognized for 5 minutes.

Mr. DENT. Mr. Speaker, today, the Bureau of Labor Statistics issued the most recent unemployment numbers, and they rose yet again to 10.2 percent, the highest unemployment rate in over 25 years. Last month, 190,000 hardworking Americans lost their jobs, almost a third of which came from the manufacturing sector.

Now, there are plenty of reasons to oppose the inclusion of any IST mandate in this bill; it's a vague and subjective philosophy that will cost facilities millions of dollars. The Department has no experts on IST, inherently safer technologies, nor any plans to hire them. And it's not really even about security at all.

But the worst part of the IST mandate is that nowhere in the current bill is the Secretary required to consider the impact on the local economy and on the local workforce before imposing these unnecessary requirements. This is simply unimaginable in the current economy. Unemployment is now at 10.2 percent.

The agricultural sector, much of which will now be regulated under this bill, has an unemployment rate of over 11 percent. Perhaps that's why agriculture groups, including the Farm Bureau and others, warn that IST “could have a devastating impact on American agriculture.” That's the Farm Bureau's words, not mine.

Mandating implementation would result in increased costs, higher consumer prices, and lower crop yields. And for those of you who say that sector will be exempt, I say prove it. That's not true. That's not in the legislation. If it is, just tell me which page to turn to in here, and we'll try to find it. It's not in here.

The cost of mandating IST is staggering. Twenty-seven associations, including the U.S. Chamber of Commerce, stated that the costs are estimated to range from thousands of dollars to millions of dollars per facility—millions of dollars. Almost 60 percent of the facilities regulated under this act employ fewer than 50 individuals. These are the smallest of small businesses. Do we really think they can afford to put millions of dollars into the

redesigning of processes and facilities during these difficult economic times?

We know the reality of these expenses. When the cost of doing business goes up, there are only two options: you can pass the cost on to consumers, or you can lay off workers. In today's competitive market, unfortunately, it is much easier to shed a few employees than to raise prices. You know it, I know it, and the American people know it.

This is just the latest in a string of bills that will cost American jobs. The health care bill will result in millions of lost jobs across the country. In my district alone, more than 2,000 jobs are at risk because of the medical device tax, and another 300 are in jeopardy just because of the dental provisions in the health care bill.

The cap-and-trade bill, the national energy tax will force the Commonwealth of Pennsylvania to shed as many as 66,000 jobs by 2020, according to the Pennsylvania Public Utility Commission, and raise energy costs for consumers and businesses alike. Every district in every State will point to similar job losses as a result of these detrimental policies.

The hemorrhaging of American jobs must stop. I'm not sure about other Members in this Chamber, but to me every job is important and every job counts. This motion to recommit simply requires the Secretary to consider the jobs of hardworking Americans before imposing a mandate to implement inherently safer technologies, ISTs.

This in no way reduces our Nation's security. They are still required to implement site security plans, but as Chairman MARKEY said during markup, The safer technology requirement is not about bolstering security. When I offered a similar amendment at the full committee, my friend, Ms. JACKSON-LEE, and my friend, Mr. CUELLAR, both spoke in strong support stating, We want to make sure that it does not adversely affect the workforce, which is something we all support. That provision passed unanimously. That's why I was angered when it was stripped out by the Rules Committee.

Now, I say enough is enough. This motion simply says we've lost enough American jobs, and we don't need to lose anymore.

We heard the promises from the majority to create jobs. We heard that the stimulus bill would cap unemployment at 8 percent. Just yesterday, I heard several Members of Congress say that this legislation would not cost American jobs. If you believe that, if that wasn't just talk for the television cameras, then you should support this motion to recommit.

This is an opportunity to save jobs before they need creating, to prevent putting more hardworking Americans on unemployment, to stand up for the farmers who put food on our table, to

stand up for manufacturers and to stand up for the small businesses owners.

Support the motion to recommit and let's keep America working.

I yield back the balance of my time.

Mr. THOMPSON of Mississippi. Mr. Speaker, I rise in opposition to the motion.

The SPEAKER pro tempore. The gentleman is recognized for 5 minutes.

Mr. THOMPSON of Mississippi. Mr. Speaker, I can say to my colleague in this motion to recommit, we will have a jobs bill coming out of this body in the not-too-distant future. I look forward to Republican support of that jobs bill when it comes forth.

But this is a security bill, Mr. Speaker. How in the world can we sacrifice security and tie it to unemployment? Can you believe when the terrorists come they'll say, Is the unemployment rate low enough for us to attack you, or should we wait until it gets to 4 percent? In the last 478 months, we've had 4 percent unemployment 6 of those months. So we're going to have to wait all that time before we invest in security.

This is a security bill; it is not a jobs bill. We will have an opportunity to do a jobs bill later. I look forward to the Republican support for that.

Mr. Speaker, I yield the balance of my time to the gentleman from Massachusetts (Mr. MARKEY).

Mr. MARKEY of Massachusetts. I thank the gentleman from Mississippi, and I thank him for his great work on this historic legislation.

Unemployment has not been under 4 percent since September 11. One of the reasons that it has not been under 4 percent since September 11 is the attack on September 11, which paralyzed our airline industry, paralyzed our tourism industry, and led to a precipitous drop in GDP because of the reaction to it.

And by the way, these workers that the Republicans want to protect, well, we received a letter from the Steelworkers, the Communications Workers, the Autoworkers, the Chemical Workers, the Teamsters, the SEIU. Here is their letter to us: “We oppose amendments that purport to protect jobs but in fact only hinder the implementation of methods to reduce the consequences of a terrorist attack.”

And why do they take that position? They take that position because the attack is coming on them, the workers at these plants.

So the nuclear industry, we have the protections in place, the aviation industry, the cargo industry, the rail industry, the shipping industry; but the chemical industry, with facilities in urban areas or near large population areas, the Republicans for 7 years have said no protection. When unemployment was at 5 percent, they said no; 6 percent; 7 percent; 8 percent; 9 percent;

no, no, no, no protection for these workers at chemical facilities and those who live around them.

Al Qaeda has metastasized in the last 7 years. They are coming back; that is their goal. Chemical facilities are at the top of their terrorist target list. We are trying to, finally, in this one last industry, put in place the security around these facilities to protect the American people, to protect the workers at these facilities. That's what this debate is all about. This amendment will undermine, will make it impossible for us to give those protections to the American people.

We need a resounding “no” against this recommittal motion. We must stand up for the workers of this country; we must give them the protection that they need. Vote “no” on the recommittal motion of the Republicans.

Mr. THOMPSON of Mississippi. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

#### RECORDED VOTE

Mr. DENT. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. Pursuant to clause 9 of rule XX, the Chair will reduce to 5 minutes the minimum time for any electronic vote on the question of passage.

The vote was taken by electronic device, and there were—ayes 189, noes 236, not voting 9, as follows:

[Roll No. 874]

#### AYES—189

Akin	Campbell	Gerlach
Alexander	Cantor	Gingrey (GA)
Austria	Cao	Gohmert
Bachmann	Capito	Goodlatte
Bachus	Cassidy	Granger
Baird	Castle	Graves
Barrett (SC)	Chaffetz	Griffith
Bartlett	Childers	Guthrie
Barton (TX)	Coble	Hall (TX)
Biggert	Coffman (CO)	Hare
Billbray	Cole	Harper
Billirakis	Costa	Hastings (WA)
Bishop (UT)	Crenshaw	Heller
Blackburn	Culberson	Hensarling
Blunt	Davis (KY)	Herger
Boehner	Deal (GA)	Herseth Sandlin
Bonner	Dent	Hoekstra
Bono Mack	Diaz-Balart, L.	Hunter
Boozman	Diaz-Balart, M.	Inglis
Boren	Donnelly (IN)	Jenkins
Boustany	Dreier	Johnson (IL)
Brady (TX)	Duncan	Johnson, Sam
Bright	Emerson	Jones
Broun (GA)	Fallin	Jordan (OH)
Brown (SC)	Flake	King (IA)
Brown-Waite,	Fleming	King (NY)
Ginny	Forbes	Kingston
Buchanan	Fortenberry	Kirk
Burgess	Fox	Kirkpatrick (AZ)
Burton (IN)	Franks (AZ)	Kline (MN)
Buyer	Frelinghuysen	Lamborn
Calvert	Gallegly	Lance
Camp	Garrett (NJ)	Latham

LaTourette	Moran (KS)	Sensenbrenner
Latta	Murphy, Tim	Sessions
Lee (NY)	Myrick	Shadegg
Lewis (CA)	Neugebauer	Shimkus
Linder	Olson	Shuster
LoBiondo	Paul	Simpson
Lucas	Paulsen	Smith (NE)
Luetkemeyer	Pence	Smith (NJ)
Lummis	Perriello	Smith (TX)
Lungren, Daniel	Petri	Souder
E.	Pitts	Space
Mack	Platts	Stearns
Manzullo	Poe (TX)	Sullivan
Marchant	Posey	Taylor
Marshall	Price (GA)	Teague
Massa	Putnam	Terry
McCarthy (CA)	Radanovich	Thompson (PA)
McCaul	Rehberg	Thornberry
McClintock	Reichert	Tiahrt
McCotter	Roe (TN)	Tiberi
McHenry	Rogers (AL)	Turner
McKeon	Rogers (KY)	Upton
McMorris	Rohrabacher	Walden
Rodgers	Rooney	Wamp
McNerney	Ros-Lehtinen	Westmoreland
Mica	Roskam	Whitfield
Miller (FL)	Royce	Wilson (SC)
Miller (MI)	Ryan (WI)	Wittman
Miller, Gary	Scalise	Wolf
Minnick	Schmidt	Young (AK)
Mitchell	Schock	Young (FL)

#### NOES—236

Abercrombie	Ellison	Lipinski
Ackerman	Ellsworth	Loeb
Adler (NJ)	Engel	Lofgren, Zoe
Altmire	Eshoo	Lowey
Andrews	Etheridge	Lujan
Arcuri	Farr	Lynch
Baca	Fattah	Maffei
Baldwin	Filner	Maloney
Barrow	Foster	Markey (CO)
Bean	Frank (MA)	Markey (MA)
Becerra	Fudge	Matheson
Berkley	Garamendi	Matsui
Berman	Giffords	McCarthy (NY)
Berry	Gonzalez	McCollum
Bishop (GA)	Gordon (TN)	McDermott
Bishop (NY)	Grayson	McGovern
Blumenauer	Green, Al	McIntyre
Bocchieri	Green, Gene	McMahon
Boswell	Grijalva	Meek (FL)
Boucher	Gutierrez	Meeks (NY)
Boyd	Hall (NY)	Melancon
Brady (PA)	Halvorson	Michaud
Braley (IA)	Harman	Miller (NC)
Brown, Corrine	Hastings (FL)	Miller, George
Butterfield	Heinrich	Mollohan
Capps	Higgins	Moore (KS)
Capuano	Hill	Moore (WI)
Cardoza	Himes	Moran (VA)
Carnahan	Hinche	Murphy (CT)
Carney	Hinojosa	Murphy (NY)
Carson (IN)	Hirono	Murtha
Castor (FL)	Hodes	Nadler (NY)
Chu	Holden	Napolitano
Clarke	Holt	Neal (MA)
Clay	Honda	Nunes
Cleaver	Hoyer	Nye
Clyburn	Inslie	Oberstar
Cohen	Israel	Obe
Connolly (VA)	Jackson (IL)	Olver
Conyers	Jackson-Lee	Ortiz
Cooper	(TX)	Owens
Costello	Johnson (GA)	Pallone
Courtney	Johnson, E. B.	Pascarell
Crowley	Kagen	Pastor (AZ)
Cuellar	Kanjorski	Payne
Cummings	Kaptur	Perlmutter
Dahlkemper	Kennedy	Peters
Dallas	Kildee	Peterson
Davis (AL)	Kilpatrick (MI)	Pingree (ME)
Davis (CA)	Kilroy	Polis (CO)
Davis (IL)	Kind	Pomeroy
Davis (TN)	Kissell	Price (NC)
DeFazio	Klein (FL)	Quigley
DeGette	Kosmas	Rahall
Delahunt	Kratovil	Rangel
DeLauro	Kucinich	Reyes
Dicks	Langevin	Richardson
Dingell	Larsen (WA)	Rodriguez
Doggett	Larson (CT)	Ross
Doyle	Lee (CA)	Rothman (NJ)
Driehaus	Levin	Roybal-Allard
Edwards (MD)	Lewis (GA)	Ruppersberger

Rush	Skelton	Velázquez
Ryan (OH)	Slaughter	Visclosky
Salazar	Smith (WA)	Walz
Sanchez, Loretta	Snyder	Wasserman
Sarbanes	Speier	Schultz
Schakowsky	Spratt	Waters
Schauer	Stark	Watson
Schiff	Stupak	Watt
Schrader	Sutton	Waxman
Schultz	Tanner	Weiner
Scott (GA)	Thompson (CA)	Welch
Scott (VA)	Thompson (MS)	Wexler
Serrano	Tierney	Wilson (OH)
Sestak	Titus	Woolsey
Shea-Porter	Tonko	Wu
Sherman	Towns	Yarmuth
Shuler	Tsongas	
Sires	Van Hollen	

#### NOT VOTING—9

Aderholt	Ehlers	Sánchez, Linda
Carter	Issa	T.
Chandler	Murphy, Patrick	
Conaway	Rogers (MI)	

□ 1643

Mr. CLEAVER changed his vote from “aye” to “no.”

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

#### RECORDED VOTE

Mr. DENT. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This is a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 230, noes 193, not voting 11, as follows:

[Roll No. 875]

#### AYES—230

Abercrombie	Crowley	Harman
Ackerman	Cuellar	Hastings (FL)
Adler (NJ)	Cummings	Heinrich
Altmire	Dahlkemper	Higgins
Andrews	Davis (AL)	Hill
Arcuri	Davis (CA)	Himes
Baca	Davis (IL)	Hinche
Baldwin	DeFazio	Hinojosa
Barrow	DeGette	Hirono
Bean	Delahunt	Hodes
Becerra	DeLauro	Holden
Berkley	Dicks	Holt
Berman	Dingell	Honda
Bishop (GA)	Doggett	Hoyer
Bishop (NY)	Donnelly (IN)	Inslie
Blumenauer	Doyle	Israel
Boswell	Driehaus	Jackson (IL)
Boucher	Edwards (MD)	Jackson-Lee
Boyd	Edwards (TX)	(TX)
Brady (PA)	Ellison	Johnson (GA)
Braley (IA)	Ellsworth	Johnson, E. B.
Brown, Corrine	Engel	Kagen
Butterfield	Eshoo	Kanjorski
Capps	Etheridge	Kaptur
Capuano	Farr	Kennedy
Carnahan	Fattah	Kildee
Carney	Filner	Kilpatrick (MI)
Carson (IN)	Foster	Kilroy
Castor (FL)	Frank (MA)	Kind
Childers	Fudge	Kirkpatrick (AZ)
Chu	Garamendi	Kissell
Clarke	Giffords	Klein (FL)
Clay	Gonzalez	Kosmas
Clyburn	Gordon (TN)	Kratovil
Cohen	Grayson	Kucinich
Connolly (VA)	Green, Al	Langevin
Conyers	Green, Gene	Larsen (WA)
Cooper	Grijalva	Larson (CT)
Costello	Gutierrez	Lee (CA)
Courtney	Hall (NY)	Levin

Lewis (GA)  
Lipinski  
Loebsock  
Lofgren, Zoe  
Lowey  
Luján  
Lynch  
Maffei  
Maloney  
Markey (MA)  
Massa  
Matheson  
Matsui  
McCarthy (NY)  
McCollum  
McGovern  
McIntyre  
McMahon  
McNerney  
Meek (FL)  
Meeks (NY)  
Melancon  
Michaud  
Miller (NC)  
Miller, George  
Mitchell  
Mollohan  
Moore (KS)  
Moore (WI)  
Moran (VA)  
Murphy (CT)  
Murphy (NY)  
Murtha  
Nadler (NY)  
Napolitano  
Neal (MA)  
Nye  
Oberstar

## NOES—193

Akin  
Alexander  
Austria  
Bachmann  
Bachus  
Baird  
Barrett (SC)  
Bartlett  
Barton (TX)  
Berry  
Biggart  
Bilbray  
Bilirakis  
Bishop (UT)  
Blackburn  
Blunt  
Boccieri  
Boehner  
Bonner  
Bono Mack  
Boozman  
Boren  
Boustany  
Brady (TX)  
Bright  
Broun (GA)  
Brown (SC)  
Brown-Waite,  
Ginny  
Buchanan  
Burgess  
Burton (IN)  
Buyer  
Calvert  
Camp  
Campbell  
Cantor  
Cao  
Capito  
Cardoza  
Cassidy  
Castle  
Chaffetz  
Coble  
Coffman (CO)  
Cole  
Costa  
Crenshaw  
Culberson  
Davis (KY)  
Davis (TN)  
Deal (GA)  
Dent  
Diaz-Balart, L.  
Diaz-Balart, M.

Obey  
Olver  
Ortiz  
Owens  
Pallone  
Pascarell  
Pastor (AZ)  
Payne  
Perlmutter  
Peters  
Peterson  
Pingree (ME)  
Polis (CO)  
Pomeroy  
Price (NC)  
Quigley  
Rahall  
Rangel  
Reyes  
Richardson  
Rodriguez  
Rothman (NJ)  
Roybal-Allard  
Ruppersberger  
Rush  
Ryan (OH)  
Salazar  
Sanchez, Loretta  
Sarbanes  
Schakowsky  
Schauer  
Schiff  
Schrader  
Schwartz  
Scott (GA)  
Scott (VA)  
Serrano  
Sestak

Shea-Porter  
Sherman  
Shulser  
Sires  
Slaughter  
Smith (WA)  
Snyder  
Speier  
Spratt  
Stark  
Stupak  
Sutton  
Tanner  
Thompson (CA)  
Thompson (MS)  
Tierney  
Titus  
Tonko  
Townes  
Tsongas  
Van Hollen  
Velázquez  
Visclosky  
Walz  
Wasserman  
Schultz  
Watson  
Watt  
Waxman  
Weiner  
Welch  
Wexler  
Wilson (OH)  
Woolsey  
Wu  
Yarmuth

Sessions  
Shadegg  
Shimkus  
Shuster  
Simpson  
Skelton  
Smith (NE)  
Smith (NJ)  
Smith (TX)  
Souder  
Space

Aderholt  
Carter  
Chandler  
Cleaver

## ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). There are 2 minutes remaining in this vote.

□ 1651

So the bill was passed.

The result of the vote was announced as above recorded.

The title was amended so as to read: "A bill to amend the Homeland Security Act of 2002 to enhance security and protect against acts of terrorism against chemical facilities, to amend the Safe Drinking Water Act to enhance the security of public water systems, and to amend the Federal Water Pollution Control Act to enhance the security of wastewater treatment works, and for other purposes."

A motion to reconsider was laid on the table.

# AUTHORIZING THE CLERK TO MAKE CORRECTIONS IN ENGROSSMENT OF H.R. 2868, CHEMICAL FACILITY ANTI-TERRORISM ACT OF 2009

Mr. THOMPSON of Mississippi. Mr. Speaker, I ask unanimous consent that in the engrossment of H.R. 2868, the Clerk be authorized to correct section numbers, punctuation, cross-references, and to make such other technical and conforming changes as may be necessary to accurately reflect the actions of the House.

The SPEAKER pro tempore (Mr. SCHRADER). Is there objection to the request of the gentleman from Mississippi?

There was no objection.

## MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Ms. Wanda Evans, one of his secretaries.

## COMMUNICATION FROM THE HONORABLE FORTNEY PETE STARK, MEMBER OF CONGRESS

The SPEAKER pro tempore laid before the House the following communication from the Honorable FORTNEY PETE STARK, Member of Congress:

Stearns  
Sullivan  
Taylor  
Teague  
Terry  
Thompson (PA)  
Thornberry  
Tiahrt  
Tiberi  
Turner  
Upton

## NOT VOTING—11

Conaway  
Ehlers  
McDermott  
Murphy, Patrick  
Rogers (MI)  
Sanchez, Linda  
T.  
Waters

HOUSE OF REPRESENTATIVES,  
Washington, DC, November 2, 2009.

Hon. NANCY PELOSI,  
Speaker, House of Representatives, Washington, DC

DEAR MADAME SPEAKER: This is to notify you formally, pursuant to rule VIII of the Rules of the House of Representatives, that I have been served with a subpoena for testimony and production of documents issued by the Superior Court of California, County of Yolo, in connection with a traffic court matter now pending in the same court.

After consultation with the Office of the General Counsel, I have determined that compliance with the subpoena is inconsistent with the precedents and privileges of the House.

Sincerely,

PETE STARK,  
Member of Congress.

## CONTINUATION OF NATIONAL EMERGENCY WITH RESPECT TO WEAPONS OF MASS DESTRUCTION—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 111-75)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, referred to the Committee on Foreign Affairs and ordered to be printed:

*To The Congress of the United States:*

Section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)) provides for the automatic termination of a national emergency unless, prior to the anniversary date of its declaration, the President publishes in the *Federal Register* and transmits to the Congress a notice stating that the emergency is to continue in effect beyond the anniversary date. In accordance with this provision, I have sent to the *Federal Register* for publication the enclosed notice, stating that the national emergency with respect to the proliferation of weapons of mass destruction that was declared in Executive Order 12938, as amended, is to continue in effect for 1 year beyond November 14, 2009.

BARACK OBAMA.  
THE WHITE HOUSE, November 6, 2009.

## ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, the Chair will postpone further proceedings today on motions to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote incurs objection under clause 6 of rule XX.

Record votes on postponed questions will be taken later.

## EXPRESSING SUPPORT FOR CHINESE HUMAN RIGHTS ACTIVISTS HUANG QI AND TAN ZUOREN

Mr. BERMAN. Mr. Speaker, I move to suspend the rules and agree to the

resolution (H. Res. 877) expressing support for Chinese human rights activists Huang Qi and Tan Zuoren for engaging in peaceful expression as they seek answers and justice for the parents whose children were killed in the Sichuan earthquake of May 12, 2008.

The Clerk read the title of the resolution.

The text of the resolution is as follows:

#### H. RES. 877

Whereas Chinese human rights activists Huang Qi and Tan Zuoren both sought to help the parents whose children were killed as a result of the collapse of numerous school buildings during the Sichuan earthquake of May 12, 2008;

Whereas the parents allege that school buildings collapsed at a much higher rate than other types of buildings during the Sichuan earthquake;

Whereas the parents also allege that poor construction contributed to the higher rate of school building collapses and that possible corruption among local officials and builders contributed to inferior construction and poor maintenance of the school buildings;

Whereas Chinese courts have refused to hear lawsuits brought by parents seeking accountability for the school collapses, and Chinese officials have warned lawyers not to take on these cases;

Whereas local Chinese officials have taken steps to prevent parents from petitioning to higher authorities and have kept some parents in arbitrary detention;

Whereas, Huang Qi, founder of the human rights advocacy website Tianwang Human Rights Center (64tianwang.com), traveled to the earthquake zone after the Sichuan earthquake and later posted articles on his website about the demands by parents for an investigation into the collapse of school buildings that killed thousands of children;

Whereas plainclothes police took Huang into custody on June 10, 2008, and Chengdu public security officials formally arrested him on July 18, 2008, on charges of illegally possessing state secrets;

Whereas Huang's lawyer said that during Huang's detention, authorities questioned him about interviews he conducted during visits to areas affected by the quake;

Whereas Chinese officials have considerable discretion to declare information a state secret, and their power to use such a charge to deny defendants access to counsel and an open trial is subject to few limitations;

Whereas Huang's closed trial was held on August 5, 2009, and according to the international nongovernmental organization Human Rights in China, four police officers kidnapped a volunteer for the Tianwang Human Rights Center, Pu Fei, to prevent him from testifying on Huang's behalf;

Whereas Huang suffers from numerous serious medical conditions, but Chinese authorities reportedly have denied him adequate treatment;

Whereas Chinese officials denied requests to allow Huang to visit his seriously ill father, who passed away in early September 2009;

Whereas following the Sichuan earthquake, writer and environmental activist Tan Zuoren was active in calling for the government to investigate the cause of the large number of school building collapses during the earthquake;

Whereas Tan was quoted in a May 27, 2008, South China Morning Post article as saying

that "the government and the public must work together to find an answer" regarding why so many school buildings collapsed and urging local governments to inspect other school buildings for poor construction;

Whereas in February 2009, Tan issued a proposal via the Internet calling on volunteers to travel to Sichuan to compile lists of students killed in the quake, research the treatment of the deceased students' parents, and conduct an independent investigation into the quality of school building construction;

Whereas Tan issued a preliminary report in March 2009 that criticized officials for failing to follow through on a commitment to fully investigate the role that inferior construction played in the school building collapses and for failure to deal with parents' demands;

Whereas authorities detained Tan on March 28, 2009, three days after the report was published;

Whereas the indictment, dated July 17, 2009, said Tan was charged with inciting subversion of state power in part because he gave interviews to international media after the earthquake in which he allegedly harmed the image of the Communist Party of China and the Chinese Government;

Whereas Tan's trial, held by the Chengdu Intermediate People's Court on August 12, 2009, was marred by procedural violations;

Whereas the court reportedly rejected requests by Tan's lawyers to call three witnesses, including Ai Weiwei, a noted artist who helped design the Beijing Olympics' National Stadium, or Bird's Nest, and who also was investigating student deaths in the Sichuan earthquake;

Whereas Ai told various news agencies that police came to his hotel and used force to prevent him and 10 other volunteers from leaving until after the trial ended;

Whereas Tan's lawyers reported that the judge frequently cut them off during the trial and that their request to show video evidence was not accepted;

Whereas the parents of earthquake victims who attempted to attend Tan's trial were detained;

Whereas court officials reportedly did not allow reporters into the courtroom, and police also barred hundreds of supporters from entering the courtroom, saying the supporters needed passes even though court officials had told them earlier that no passes were necessary;

Whereas the courts have not yet issued judgments in either Huang's case or Tan's case; and

Whereas the Chinese Government's own National Human Rights Action Plan, issued by the State Council Information Office in April 2009, says that "the state will guarantee citizens' rights to criticize, give advice to, complain of, and accuse state organs and civil servants, and give full play to the role of mass organizations, social organizations and the news media in supervising state organs and civil servants": Now, therefore, be it

*Resolved*, That the House of Representatives—

(1) expresses its support for Huang Qi and Tan Zuoren for engaging in peaceful expression as they seek answers and justice for the parents whose children were killed in the Sichuan earthquake of May 12, 2008; and

(2) calls on the Government of the People's Republic of China to—

(A) provide Huang Qi and Tan Zuoren with the rights that all Chinese citizens have under article 35 and article 41 of China's Con-

stitution, namely freedom of speech and association and the right to make suggestions to officials free from suppression and retaliation;

(B) ensure that Huang Qi and Tan Zuoren are afforded the rights guaranteed to all defendants under the Criminal Procedure Law of the People's Republic of China; and

(C) implement its own National Human Rights Action Plan by allowing parents, concerned citizens, and the news media to conduct their own investigations into the role inferior construction and corruption may have played in the collapse of school buildings during the Sichuan earthquake, free from government harassment and official interference, and by ensuring that citizens have full access to effective legal remedies for their grievances.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California (Mr. BERMAN) and the gentlewoman from Florida (Ms. ROSELEHTINEN) each will control 20 minutes.

The Chair recognizes the gentleman from California.

#### GENERAL LEAVE

Mr. BERMAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks and include extraneous material on the resolution under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. BERMAN. Mr. Speaker, I yield myself as much time as I may consume.

I rise in strong support of this resolution. This resolution expresses support for two Chinese activists who have been crusading for answers and justice for the parents of the thousands of children killed in the Sichuan earthquake of May 12, 2008.

I would like to thank my friend the gentleman from Oregon (Mr. WU) for introducing this resolution and for bringing the plight of these two activists to our attention.

This past August, Chinese courts held separate trials for Huang Qi and Tan Zuoren, both of whom sought to help the parents of children who died in the collapses of school buildings during the May 2008 earthquake in Sichuan Province. That devastating earthquake left almost 69,000 people dead and 18,000 missing. Five thousand three hundred thirty-five children were, according to official records, killed or missing in that earthquake.

The collapse of such a large number of schools, while nearby buildings remained standing, raised questions of shoddy construction. Chinese officials acknowledged that poor construction may have contributed to the buildings' collapse.

They also initially pledged to investigate the collapses and punish those responsible. But officials later were unwilling to honor those commitments and, even worse, responded with suppression and harassment.

Mr. Huang publicized the parents' demands on his human rights Web site, while Mr. Tan organized an independent investigation into the causes of the collapses. For their actions, the Chinese Government charged Mr. Huang with illegal possession of state secrets and Mr. Tan with inciting subversion. The pair's separate trials were reportedly marred by procedural irregularities and misconduct, and both their trials have adjourned without verdicts issued.

Mr. Huang and Mr. Tan were engaged in peaceful activities guaranteed under China's constitution and international law, and this resolution urges the Chinese Government to protect their rights to freedom of speech, expression and association.

The resolution also calls on the Chinese Government to allow parents, concerned citizens and the media to conduct their own investigations into the school collapses, free from harassment or interference. I urge the Chinese Government to provide greater transparency regarding its own investigations into the building collapses and release any information it may have.

The parents of those children killed at the school during the earthquake deserve answers and deserve justice. Mr. Tan and Mr. Huang deserve our support for their efforts in trying to help those parents.

I strongly urge the resolution be supported.

I reserve the balance of my time.

Ms. ROS-LEHTINEN. Mr. Speaker, I yield myself such time as I may consume.

I rise in support of this resolution, which addresses the unjust incarceration of two Chinese human rights advocates whose only crime was to seek answers and justice for the parents of children killed in the collapse of a schoolhouse during a major earthquake last year. Any parent would understand this resolution.

□ 1700

This is about dead school children. This is about accountability. These courageous individuals sought such accountability from a government which allowed the construction of substandard buildings for school children, buildings which could not withstand the aftershocks of a major quake.

It has been widely assumed in China that the building materials used for these schools were substandard due to the corruption involving those officials who authorized the construction. Grieving parents have a right to know why their children died after being buried in rubble, but their efforts for legal redress were summarily dismissed. These two brave men sought answers for the grieving parents, but their efforts led to their own imprisonment on trumped-up charges followed by trials in kangaroo courts.

How can anyone call the Chinese regime a responsible stakeholder when it uses its massive police force and its court system to engage in a major cover-up of corruption which led to the deaths of innocent children? And how can America be silent to such blatant defiance of not only the rule of law but also what is considered decent and moral?

This resolution is more than just about two human rights activists, heroic victims of injustice though they are. This is about a totalitarian system which is so afraid of its own population that it resorts to harsh and brutal measures to conceal the truth about the deaths of innocent school children.

This is about the massive human rights abuses such as the continued persecutions of tens of thousands of Falun Gong petitioners, an issue addressed in a resolution which I introduced with wide bipartisan support months ago but which has yet to reach the floor of this Chamber. This is about the continued repression of the Tibetan and Uyghur people and the need to engage in truth-telling with their leaders, the Dalai Lama and Ms. Kadeer, not only in Beijing, but in the White House here in Washington, D.C.

This is about speaking truth to power. It is about President Obama during his upcoming summit in China putting human rights and religious freedom issues squarely on the table, instead of just agreeing to disagree.

Mr. Speaker, I yield such time as he may consume to the gentleman from California, my good friend, Mr. LEWIS, the ranking member on the Committee on Appropriations.

Mr. LEWIS of California. Mr. Speaker, I very much appreciate the gentle lady yielding, and I rise in part to express my appreciation to both her and Mr. BERMAN for working so hard on behalf of human rights throughout the country.

But, Mr. Speaker, I rise at this moment to express my grave concerns about the impact the Democratic health care plan will have upon businesses and jobs in this country, another human rights concern.

Mr. Speaker, I rise today to express my grave concerns about impact that the Democrat health reform plan will have on businesses and jobs across this country. Despite the trillions the Federal Government has spent on shoring up our economy, today we learned that national unemployment rose over 10 percent—the highest since 1983. In the Inland Empire of California that I represent, unemployment remains over a staggering 14 percent.

Instead of focusing on fixing the economy and creating more jobs—the House is taking up a \$1.3 trillion government takeover of healthcare that includes \$135 billion in new taxes on businesses. The Congressional Budget Office has confirmed that this tax on jobs will reduce the hiring of new workers and President Obama's own advisor has sug-

gested that 5.5 million jobs could be lost due to this bill's new taxes.

As we approach the holiday season this House is threatening to deliver a big bah hum bug. No sensible business owner is going to hire more workers in the face of these new taxes.

Mr. Speaker, we must work together in a bipartisan fashion to fix this economy and create more jobs—not pass massive spending increases, job-destroying taxes, and a government takeover of health care.

Mr. BERMAN. Mr. Speaker, I am very pleased to yield 6 minutes to the gentleman from Oregon (Mr. WU), a former member of our committee and the sponsor of this resolution.

Mr. WU. Mr. Speaker, it is a tragedy when any child is killed. It is an abomination when the act of asking questions about one's child's death leads to harassment or persecution by one's own government.

We all remember when a major earthquake struck Sichuan Province, China, on May 12, 2008. It was the most devastating natural disaster to hit China in over three decades. That day, I was the first personally to present condolences to the Chinese people for their grievous loss. Particularly heart-breaking were the stories of the children who were killed as their school buildings collapsed around them and the images of parents overwhelmed with grief.

In the aftermath of the earthquake, these parents started questioning why school buildings collapsed at a much higher rate than other types of buildings. They allege that poor construction and corruption among local officials and builders contributed to the school building collapses.

These allegations have been stonewalled or, worse, resulted in the harassment of the complainants. Chinese courts have refused to hear lawsuits brought by the parents. Local officials have even kept some complaining parents in arbitrary detention. As a parent myself, I find it a tragic failure of justice to have these grievances go unaddressed, especially if a society chooses to enforce a one-child policy.

Two human rights activists from Sichuan's capital city of Chengdu attempted to stand up for these grieving parents and give voice to their concerns. Soon after the earthquake truck, Mr. Huang Qi posted articles on his Web site, the Tianwang Human Rights Center, about the parents' demands for an investigation into the school building collapses.

Separately, in February of this year Mr. Tan Zuoren issued a proposal on the Internet calling for volunteers to travel to Sichuan to compile lists of students killed in the quake, to document the parents' treatment, and to conduct an investigation of school building construction.

Mr. Tan's report criticized officials for failing to follow through on their

commitments to fully investigate the role that inferior construction played in the school building collapses and for failure to deal with the parents' demands.

For these actions, the local Chengdu municipal government charged both Mr. Huang and Mr. Tan with endangering national security. Mr. Huang was charged with illegally possessing state secrets, and Mr. Tan was also charged with inciting subversion of state power. After months of being held in prison, Mr. Huang for over a year, both of these men were put on trial in August of this year.

There are allegations that both trials were fraught with numerous substantive and procedural violations. In the case of Mr. Tan, the parents of the earthquake victims said they were detained to prevent them from attending the trial.

The court reportedly rejected requests from Mr. Tan's lawyers to call three witnesses, including the noted architectural designer, Ai Weiwei, who helped design the Beijing Olympics' Bird's Nest Stadium and who also was investigating student deaths in the Sichuan earthquake. According to Mr. Ai, police came to his hotel and used force to prevent him and 10 others from leaving the premises until after the trial ended.

Mr. Huang's trial was allegedly fraught with similar violations, including the detention of a volunteer from the Tianwang Human Rights Center to prevent him from testifying on Mr. Huang's behalf.

To date, judgments have not issued in either Mr. Huang's or Mr. Tan's trial. The trials have been suspended or held open. Both men continue to be held in prison.

Mr. Speaker, I rise today to urge my colleagues to pass House Resolution 877 to express their support for Mr. Huang's and Mr. Tan's peaceful request for answers and justice on behalf of the parents whose children were killed in the Sichuan earthquake. This bipartisan resolution, with 176 cosponsors, calls on the Chinese government to adhere to its own constitutional guarantees, its own criminal procedure laws, and its own recently passed national human rights action plan to ensure that Mr. Huang and Mr. Tan and all Chinese citizens are accorded the right to free speech and the right to criticize and make suggestions to their government as guaranteed by their own Constitution.

Mr. Speaker, no one who suffers the loss of a child deserves abandonment by or punishment from his or her own government. Support this resolution.

Ms. ROS-LEHTINEN. Mr. Speaker, I am honored to yield 4 minutes to the gentleman from Virginia (Mr. WOLF), the ranking member on Appropriations, on Commerce, Justice, and Science, and a longtime advocate of

human rights for the people of China and elsewhere.

Mr. WOLF. I thank the gentlelady, and I particularly thank her for her comments about China.

I rise in support of this, but there is a connection because in China today there are 35 Catholic bishops that are either in house arrest or in jail and Protestant pastors that plundered Tibet.

China, unfortunately, and I think the American people know, has now become our banker. This ties in to the health care bill that we are ready to vote on tomorrow. That bill will cost \$1 trillion.

To think America is unsinkable, the White House projects the Federal debt will grow by more than \$9 trillion in the next 10 years. How big is a trillion? One million seconds equals 12 days. One trillion seconds is more than 30,000 years. China is our banker. This bill will cost \$1 trillion, and it is important that we deal with this issue.

Now, the second poster sums up on where we are today. This happens to be Uncle Sam. He is saying, don't let the debt defeat a great nation.

We are obligated to China. China holds a large portion of our debt. The Saudis hold a large portion of our debt. The Saudis, who funded the radical madrassas up on the Pakistan-Afghan border and some who were on the airplanes that killed the people on 9/11, 30 or more so from my congressional district, hold our debt.

We need to get control of this debt. And the health care bill will not lower costs. The health care bill will cost over \$1 trillion. What kind of legacy are we leaving for our children, and I have five, or our grandchildren, and I have 14? A legacy of debt and deficit.

So \$1 trillion for this health care bill. We have \$57 trillion of unfunded obligations. We have \$12 trillion in debt.

So I close by saying to vote against the bill, because it costs us money; and on behalf of Uncle Sam we say, don't let debt defeat a great nation.

Mr. BERMAN. Mr. Speaker, I am pleased to yield 3 minutes to the gentleman from American Samoa (Mr. FALEOMAVAEGA), the chairman of the Asia, Pacific, and Global Environment Subcommittee.

Mr. FALEOMAVAEGA. Mr. Speaker, I certainly would like to thank our distinguished chairman of our Foreign Affairs Committee and our senior ranking member, the gentlelady from Florida, for their leadership and sponsorship and certainly support for this important resolution. I also would like to particularly thank my colleague, the gentleman from Oregon, for his authorship of this important bill.

I think I know something about earthquakes, since recently my own district was just devastated by an 8.3 Richter scale earthquake for which the distance was only about 120 miles

south of Samoa. Traveling at about 500 miles an hour, the shock wave was such that, within a matter of minutes, we ended up with a 20-foot tsunami that caused tremendous devastation in property, our homes, and villages, and the deaths of many people.

I do want to commend my good friend from Oregon for his leadership and for raising this important issue to our colleagues and also to commend the two citizens who really wanted just to investigate how was it that, because of faulty construction of these classroom facilities, that these children died, and the government of China did not allow these investigations to go on.

I have tremendous respect for the leaders of the People's Republic of China, given the fact they have only been in existence for about 60 years. As I remind my colleagues sometimes, when China was founded in 1948, there were 400 million people living in China at the time. Yes, under Communist rule, China has evolved itself, and it still has a lot of serious problems, like any other country.

I think also in the time I have that I want to express very much the concerns that I have that I think it is time, especially under the circumstances on how these children ended up dead because of faulty construction of the buildings and the Chinese government refused to have this kind of investigation, for which these two citizens of China were victimized and prosecuted and certainly abused by the Chinese officials. This is not right.

I want to again thank my good friend from Oregon, DAVID WU, for bringing this matter to the attention of our colleagues, and I urgently urge my colleagues to support this resolution.

□ 1715

Ms. ROS-LEHTINEN. Mr. Speaker, I yield 4 minutes to the gentleman from California (Mr. GARY G. MILLER), an esteemed member of the Financial Services and Transportation Committees.

Mr. GARY G. MILLER of California. I thank the gentlewoman for the time. The resolution before us deals with China, and many of our jobs are going to go to China if the health care bill the Democrats are proposing is enacted. The administration is using the American Medical Association and AARP to garner support for their health care bill. The AMA House of Delegates is meeting today in Houston, Texas. It is made up of elected representatives from across the country, representing doctors and their members of the AMA. They meet to vote on policy issues affecting doctors. They're saying that it was an unauthorized vote of the board prior to the delegates arriving that went to support this bill.

AMA doctors are demanding a vote of no confidence against the board of directors. In fact, there are two resolutions that they're demanding to be

heard tomorrow. One is from the rank-and-file membership and members of the House of Delegates of the American Medical Association. It reads: "We of the rank and file membership and the members of the House of Delegates of the American Medical Association do hereby object to your recent vote supporting H.R. 3962, also known as the Affordable Health Care for America Act."

"Whereas, H.R. 3962 will change the practice of medicine in America forever; and whereas, the AMA leadership voted to support H.R. 3962 prior to the convening of our House of Delegates; and whereas the AMA House of Delegates has strong feelings, beliefs that in many cases grave misgivings regarding H.R. 3962; and whereas the AMA leadership has denied our membership full discussion on this vitally important issue, we the undersigned do hereby demand, prior to addressing any item of business on the current agenda, immediate suspension of the rules of the House of Delegates of the American Medical Association."

And they called for a "full discussion and debate of H.R. 3962, including a vote of no confidence in our leadership by the members of the House of Delegates." A very, very strong statement.

The second resolution was filed, and it's called Resolution 1006. It was introduced by the Alabama delegation, the Arkansas delegation, the Delaware delegation, the District of Columbia delegation, the Florida delegation, the Georgia delegation, the Kansas delegation, Louisiana delegation, the New Jersey delegation, the South Carolina delegation, the American Academy of Facial Plastic and Reconstructive Surgery, the American Association of Neurological Surgeons, the Congress of Neurological Surgeons, the American Society of General Surgeons and Triological Society.

The subject is "Withdrawal support of H.R. 3962." Obviously, there is a problem that doctors are having with this bill. AARP has also come out saying that they represent seniors supporting this bill. But you have to look at this bill. I represent over 70,000 Medicare-eligible seniors in my district alone. The bill cuts over \$500 billion out of Medicare starting in 2010, including \$23.9 billion in cuts to skilled nursing facilities, \$143.6 billion in cuts to hospitals, including skilled nursing facilities, long-term care facilities, inpatient rehabilitation facilities, psychiatric hospitals and hospital care. Again, \$143.6 billion in cuts to hospitals.

Worst of all is \$170 billion in cuts to Medicare Advantage, which effectively will eliminate Medicare Advantage in the future. You can't support this bill and say you support seniors and you support doctors who represent their patients. With unemployment over 10.2 percent, a 26-year high, in reality it's 17.5 percent when you include the indi-

viduals who are discouraged trying to find jobs and they can't find them and those who are underemployed having part-time jobs and would really prefer to work full time.

We have a problem in this country. We've passed a stimulus bill that said unemployment would not go above 8 percent. It's 10.2 percent today. It said it would not go up to 8 percent and lose more jobs, and it lost over 3 million jobs since then. We need to look at what we're doing. We need to say we care about the American people; we care about those people who are going to be taxed to pay for this; and we care about a system of health care that's the best in the world that will be ruined.

Mr. BERMAN. Mr. Speaker, I am very pleased to yield 3 minutes to the gentlewoman from Texas (Ms. JACKSON-LEE), a very distinguished member of our committee.

Ms. JACKSON-LEE of Texas. I thank the distinguished chairman, and I thank the distinguished ranking member for coming together around the legislation of my friend Mr. WU from Oregon.

Mr. Speaker, I want to recapture the moment of why we're here on this floor today. We will have an expanded opportunity tomorrow, Saturday, for there to be a vigorous debate on this health care reform, which, by the way, Mr. Speaker, the American Medical Association has indicated their recognition of the importance of this legislation. But I think it's important for us to recapture the horrific scenes, those of us who are parents, those of us who engaged with children during the tragedy of the earthquake in China on May 12, 2008.

We looked in horror as rescue workers worked feverishly to draw out children, limp bodies covered with dirt and dust, crying parents, some losing more than one child, children being where they were supposed to be, in school, just as any of us who during our lifetime have dropped our precious souls off at a school building. You can imagine the outcry and the pain.

Just go back to that time and see the video of parents on their knees screaming, maybe in prayer to ask for mercy, maybe to hope that their child either would be found or the limp body was not their child. Can you imagine two wonderful, heroic individuals Huang Qi and Tan Zuoren who came to speak for those voiceless parents, many of them oppressed by, unfortunately, the structure of China, even though it is a country that is represented to have democratic and constitutional rights.

These men, these individuals were working to get the truth. What happened? Why did most of the school buildings fall as they did? What kind of cheap construction? Why was life so cheap that they did not focus?

This resolution recounts that these individuals who are human rights ac-

tivists were literally picked up by plain-clothes police on June 10, 2008, and formally arrested on July 18, 2008, on charges of illegally possessing state secrets. All they were trying to do was to give a voice to the voiceless and to recognize that truth had to be found. When Huang's closed trial was held on August 5, 2009—and according to the international nongovernmental organization of human rights in China, four police officers kidnapped a volunteer for the human rights center to prevent him from testifying on Huang's behalf. So there are a lot of violations. In fact, China has violated their own constitutional rights.

The SPEAKER pro tempore. The time of the gentlewoman has expired.

Mr. BERMAN. I am pleased to yield the gentlewoman 1 additional minute.

Ms. JACKSON-LEE of Texas. I thank the gentleman. So when they reached out to try to get others to join their cause, to tell the truth or have the truth be told to these parents, these mourning parents, these parents without children—and we all know about China's birth control policies. Some may have had only one child. Each child is precious. So I rise today to support providing these human rights activists with the rights that all Chinese citizens have under article 35 and 41 of China's constitution, namely, freedom of speech and association, a right to make suggestions to officials free of suppression and retaliation. I ask for a human rights plan for China. It is time to tell the truth, but it is also time that China rises to recognize the rights of all of its citizens and the right to promote human rights.

Ms. ROS-LEHTINEN. Mr. Speaker, I yield 4 minutes to the gentleman from Nebraska (Mr. TERRY), a member on the Committee on Energy and Commerce.

Mr. TERRY. Mr. Speaker, I too rise in support of this resolution and commend my friend and colleague and classmate from Oregon. He and I share something. We both have children about similar ages, elementary school, now middle school ages. I can't think of anything more horrific than your children dying when the buildings collapse upon them and the frustration of a parent who just wants answers.

When I think about those buildings collapsing on those children, I can't help but think about the incompetency of a large centralized government that's in charge of every facet of their economy. Here we are faced this weekend with a debate of whether or not we're going to move our government in that same direction, of building a huge bureaucracy, one that is separated from the people, one that will be a thousand miles away, that won't really have the passion or interest, other than just passing paper around desks, and realizing that their lack of interest allows for this waste and the fraud and



the abuse that's inherent in the buildings that collapsed in Sichuan.

I fear that as we grow our massive government and bureaucracy to manage the government's portion of the health care taking over 18 percent of our economy, we're going to have to live with that level of incompetency, fraud, waste and abuse. Think of those schools collapsing and that equaling how our health care is going to be run in this country.

Another thing that the gentleman from Virginia said—and I want to associate myself with his remarks—this is a \$1.2 trillion bill. Yeah, they raise a lot of taxes to be able to pay for it. Some of it's \$500 billion out of Medicare. My worry is that that \$500 billion out of Medicare really isn't going to be cut. It's just going to go to our national debt. Therefore, we're going to have to rely on China to buy that debt from us. Again, relying on it. Notice that this resolution condemns the action of the Chinese Government for their humanitarian violations, but there are no penalties here.

See, when they're our creditors and they own us like they do and will continue to own more of us when we have to sell our debt to them, it limits our abilities to sit down and negotiate with them. Did you notice that the last couple of administration officials that have gone, or even congressional officials that have gone, to China haven't brought up human rights violations with China?

Well, that's because they know they've got us by the economics. We can't do that or they could do such things as flood the world's economy with our debt, ruining our dollars and further jeopardizing our economy and more jobs. But then again, maybe the bright side of this health care bill, perhaps costing as many as 5.5 million jobs, is that they can go to China and help rebuild Sichuan.

Ms. ROS-LEHTINEN. Mr. Speaker, I yield 2 minutes to the gentleman from Louisiana (Mr. CASSIDY), a member of the Committees on Agriculture, Education, and Natural Resources.

Mr. CASSIDY. Mr. Speaker, when they have events such as they had in China, one thing that happens is that as the buildings fall upon folks, they crush their muscles, and they end up having kidney failure. This comes to mind because after Katrina, one of the disasters that happened was that there were many people on dialysis that had to be evacuated from New Orleans to Baton Rouge, and there had to be an emergency dialysis center situation established.

I thought about it: one of the great things about our current system of care is that there is this elasticity that exists in our country that often does not exist elsewhere. Yet when I toured recently those dialysis centers in my city, as it turns out, they're kept

afloat by the few patients they see who have private insurance. Many of those patients are on Medicaid or Medicare. As it turns out, Medicaid pays about 60 percent of costs and Medicare pays about 90 percent of cost. So were it not for the private insurers paying over cost, we would not have the ability to treat the dialysis patients here or in the emergency situations, those that are evacuated up.

It brings to mind immediately, of course, the health care bill that is before us. It attempts to expand the system of Medicaid and Medicare that is actually depriving our system of the resources it needs to care more carefully for those who are in times of natural disaster.

That said, it is admirable to control costs in this bill, but paradoxically, the CBO says that this bill, which supposedly controls costs, actually will have an inflation rate of 8 percent per year. So 8 percent per year more than doubles costs over the next 10 years, Mr. Speaker. It's ironic when the President says that if we do nothing, costs will double in 10 years, if we do this bill, according to the Congressional Budget Office, costs will more than double in the next 10 years.

So I guess, Mr. Speaker, in closing I would say that there are three imperatives to health care reform: it is controlling costs so we can expand access to quality care. We've seen in other countries where there is inadequate resources placed or inadequate attention to cost that, indeed, these are not addressed. I would ask that we reject this reform for its deleterious effects on our system.

Ms. ROS-LEHTINEN. Mr. Speaker, I am pleased to yield the remainder of my time to the gentleman from Georgia (Mr. KINGSTON), a member of the Committee on Appropriations.

Mr. KINGSTON. I thank the gentleman for yielding. When I think of China, I think of this health care plan. Centralized planning, that's what it is. Mr. Speaker, I know you and so many others have been spending their weekends reading this 1,990-page monstrosity, which some people think is going to save health care. I think rather it will save the bureaucracy.

□ 1730

This bill, these 1,990 pages, which have yet to be amended with yet another amendment called the manager's amendment. Now, what goes into the manager's amendment are kind of what is the result of having your arm twisted. What did you get for your twisted arm? It will be in the manager's amendment, which is not in these 1,990 pages. But what is?

Premium increases, tax increases, Medicare cuts, bureaucrats between you and your doctor, and at a mere cost of \$1 trillion.

In the year that we have had the highest deficit in the history of the

United States, \$1.4 trillion, the Pelosi plan comes in weighing at \$1 trillion, when we just got our unemployment figures back.

Think about this: The President, with an 8.5 percent unemployment rate, pushes upon the Congress a \$787 billion stimulus bill, and now unemployment has gone from 8.5 percent to 10.2 percent, and in so many other pockets of America it's 14, 15, and 16 percent.

Where are the jobs? Why have we taken the focus off the main thing, the economy? Why are we going down the track of government takeover of health care and massive mandates on individuals, doctors, and small businesses, just like China? Mr. Speaker, 1,990 pages, it's ridiculous.

The Republican alternative, which is not even half, not even 25 percent, but I'd say maybe 15 percent in size, weighing in at, say, maybe a mere 150 pages: Cross-line selling to bring more competition for individuals. Association health care plans to let small businesses pull together. Expansion of health savings accounts. Medical malpractice reform to reduce frivolous lawsuits. This is the Republican alternative.

The difference in the philosophy is simple. If your kitchen sink is leaking, you fix the sink. You don't take a wrecking ball to the entire kitchen. That's what the Pelosi plan does.

The Republican plan focuses on those who have unfortunately fallen through the cracks, people who may be too young for Medicare, too wealthy for Medicaid. Maybe they're 40 years old, unemployed in this Obama economy, and maybe they have a preexisting illness. The Republican targeted reforms try to help that person. They don't try to take the health care away from the rest of the American public who are happy with what they have. We do not need a centralized command/control government in Washington, D.C., that tries to take away the rights of businesses and individuals in the form of a huge government takeover of health care.

Ms. ROS-LEHTINEN. Mr. Speaker, I yield back the balance of my time.

Mr. BERMAN. Mr. Speaker, I yield myself 1 minute simply to point out that the relevance of the size of the Democratic health care bill to the Republican alternative is, I think, limited to the ratio of people covered under the Democratic bill and covered under the Republican bill, about 10 to 1.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. BERMAN) that the House suspend the rules and agree to the resolution, H. Res. 877.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the ayes have it.

Mr. BERMAN. Mr. Speaker, I object to the vote on the grounds that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

The point of no quorum is considered withdrawn.

#### RECOGNIZING 20TH ANNIVERSARY OF THE ENDING OF THE COLD WAR

Mr. BERMAN. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 892) recognizing the 20th anniversary of the remarkable events leading to the end of the Cold War and the creation of a Europe, whole, free, and at peace.

The Clerk read the title of the resolution.

The text of the resolution is as follows:

##### H. RES. 892

Whereas the year 1989 witnessed a series of remarkable events in Europe that helped lead to the end of the Cold War and the beginning of the creation of a Europe whole, free, and at peace;

Whereas, on February 6, 1989, after almost 10 years of unarmed struggle, the Polish free trade union Solidarity finally succeeded in forcing the Government of Poland to begin talks on broad political and economic change;

Whereas, on April 6, 1989, Solidarity was legalized, enabling it to contest elections for 35 percent of the seats in the Sejm and all the seats in the Senat, resulting in the historic election victory for Solidarity on June 4 in which Solidarity won all the seats available to it in the Sejm and 99 out of 100 seats in the Senat, leading to the installation of the first non-Communist government since January 1945;

Whereas, on May 2, 1989, the Hungarian government began dismantling the barbed wire fence separating Hungary in the Soviet-controlled East from Austria in the free West, causing a "tear in the Iron Curtain" that was never to be closed again;

Whereas, following the exodus of several hundred East Germans from Hungary between May and mid-July 1989, the Hungarian government announced on September 10, that as of midnight, the border to the West would be open for all East Germans wishing to leave, leading to the departure of thousands of East Germans and representing the first break in the Warsaw Pact policy of preventing each other's citizens from fleeing to the West;

Whereas, on August 23, 1989, 2,000,000 people living in the Baltic states of Estonia, Latvia, and Lithuania linked hands to form a human chain almost 400 miles long in a peaceful protest of Soviet rule and in order to demand the restoration of independent statehood;

Whereas, on November 9, 1989, in response to protests that had grown to include over a million people in Berlin's Alexanderplatz, now referred to as the "Peaceful Revolution",

Gunter Schabowski, the communist East German Minister of Propaganda, announced that the border would be opened for "private trips abroad";

Whereas, on November 9, 1989, thousands of East Germans streamed into West Berlin, following the opening of checkpoints between the two halves of the divided city and resulting in the days that followed in one of the most momentous events of the 20th century, the tearing down of the Berlin Wall;

Whereas, on November 24, 1989, months of protests by pro-democracy forces in Czechoslovakia led by visionary leader Vaclav Havel resulted in the culmination of the "Velvet Revolution" and the en masse resignation of the entire Czechoslovak ruling Politburo, followed by the resignation of President Gustav Husak on December 10, and a new democratic beginning with the election of President Havel on December 29;

Whereas in November 1989, the first-known post-war public protests in Bulgaria organized by civil rights groups led to the ouster and resignation of Communist Party leader Todor Zhivkov after 34 years in power, and the first free elections since 1946 in Bulgaria the following June;

Whereas, on December 17, 1989, in the town of Timisoara, Romania, citizens protesting against the arrest of a local priest were brutally killed by Romanian security forces under orders of President Ceausescu, causing international outrage and condemnation, and leading to mass protests and escalating violence throughout the country, resulting at the end of the year in the overthrow of the Ceausescu regime and his execution;

Whereas the events of 1989 prove that the will and the desire of millions of people for freedom cannot be forever repressed and that the actions of a few courageous leaders can inspire millions of others to join the inexorable struggle to be free;

Whereas in the past 20 years, most of the countries of Central and Eastern Europe have become stable, prosperous, and vibrant democracies, with many becoming members of the North Atlantic Treaty Organization (NATO) and the European Union (EU);

Whereas in the past 20 years, the prospect of membership in NATO and the EU has been a major stabilizing force and has helped promote greater peace and prosperity within Europe; and

Whereas there is still much work that needs to be done to overcome the remaining challenges within Europe and to create a Europe whole, free, and at peace: Now, therefore, be it

*Resolved*, That the House of Representatives—

(1) recognizes the events of 1989 that helped lead to the end of the Cold War;

(2) congratulates the countries of Central and Eastern Europe who have made great progress in the past 20 years and emerged as strong, vibrant democracies;

(3) expresses strong support and friendship for the countries of Central and Eastern Europe, and reaffirms its commitment to the solemn obligations set forth in article 5 of the North Atlantic Treaty;

(4) welcomes the commitment by the European Union (EU) and the North Atlantic Treaty Organization (NATO) to keep the door to membership open for all European countries which meet the conditions for accession; and

(5) supports the continued efforts to create a Europe whole, free and at peace.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California (Mr. BERMAN) and the gen-

tlewoman from Florida (Ms. ROSELEHTINEN) each will control 20 minutes.

The Chair recognizes the gentleman from California.

##### GENERAL LEAVE

Mr. BERMAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks and include extraneous material on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. BERMAN. Mr. Speaker, I yield myself such time as I may consume.

If, on January 1, 1989, anyone had predicted the events that would occur in Central and Eastern Europe during the following 12 months culminating in the fall of the Berlin Wall and the end of the Cold War, he or she would have been called a hopeless dreamer, a lunatic, or a naive revolutionary. And yet by January 1 of 1990, the region and indeed the whole world had fundamentally changed.

The events of 1989 were indeed remarkable, beginning with the opening of talks between the communist Polish Government and the Solidarity trade union in February and ending with the execution of Romanian dictator Ceausescu on Christmas Day.

They began with a few ripples and became a tidal wave that swept throughout the region, toppling governments and destroying the walls, real and virtual, that had divided the continent of Europe for so many years.

The initial fissures had begun some years before, aided by the actions and policies of the United States and Western Europe, as well as the reform measures of glasnost and perestroika introduced by Soviet General Secretary Mikhail Gorbachev. But the real cracks that led to the crumbling of the Wall and the entire regime were brought about by the courageous actions of the men and women of Central and Eastern Europe in 1989.

This resolution commemorates those events and those people:

The startling election victory of Solidarity, winning every seat it was allowed to contest in the lower House and 99 of 100 in the Senate;

The unprecedented decision by the Hungarian Government to open the border to Austria, enabling thousands of East Germans to flee to the West;

The amazing 400-mile-long human chain across Estonia, Latvia, and Lithuania, comprising 2 million citizens linking hands to protest Soviet rule and to demand restoration of independent statehood;

The "Velvet Revolution" in Czechoslovakia, which caused the resignation of the communist government and the free election of President Vaclav Havel;

The protests in Bulgaria that led to the end of the 34-year rule of Communist leader Zhivkov and the first free elections since 1946;

The uprising of the people in Romania against the efforts to arrest a popular priest and the brutal killing of innocent protesters that followed, that led to the deposing and the execution of Romanian dictator Ceausescu;

And, of course, the iconic event of 1989, the tearing down of the Berlin Wall and the joyous celebrations of people who were finally free.

Today these countries are important, vibrant, strong democracies, important partners in NATO and the European Union. I am proud to call them our allies and our friends. We have worked together to address the challenges in Afghanistan, the threats posed by terrorists and the proliferation of weapons of mass destruction and the risks to our environment, to energy security and economic well-being. We share the same values and hope for the future.

We still have much work to do to resolve difficult issues remaining within Europe, but 20 years after it was considered inconceivable, the dream of a Europe, whole, free, and at peace is finally within reach.

I urge my colleagues to join me in commemorating the 20th anniversary of the remarkable events leading to the end of the Cold War and the creation of a Europe, whole, free, and at peace.

Mr. Speaker, I reserve the balance of my time.

Ms. ROS-LEHTINEN. Mr. Speaker, I yield myself such time as I may consume.

I rise in support of House Resolution 892 commemorating the extraordinary events in 1989 which led to the end of the Soviet regime's domination over Eastern Europe and those people it held captive within its borders.

As this resolution points out, 1989 was an important and pivotal year for freedom in Europe. In the course of only 365 days, walls fell, free elections were held, dictators were washed away, and people who had long yearned for freedom crossed barriers and walked into liberty. The trade union Solidarity won its historic election victory leading to the first noncommunist government in Poland since 1945.

Two million people living in the Baltic States linked hands to form a human chain almost 400 miles long in a dramatic, peaceful protest against Soviet rule.

In response to protests that had grown to include over a million people, East Germany opened the border with West Berlin for "private trips abroad"; then thousands of East Germans flooded across the border and the Berlin Wall fell.

The "Velvet Revolution" protests in Czechoslovakia led to a free election of a new democratic government.

Romanian security forces brutally murdered brave Romanians who were

protesting the arrest of a local priest, but subsequent mass protests overthrew the communist regime there.

Mr. Speaker, and while I do support this resolution, it might have been an even more important statement by this House if it had clarified more specifically the great importance that membership in the NATO alliance now holds for these countries formerly trapped behind the Iron Curtain.

While this measure indeed reaffirms our commitment to article 5 of the alliance, I would like to point out some disturbing recent incidents involving some of our allies in Eastern Europe which would seem to call for an even stronger statement of the strength and commitment of our alliance.

In April of 2007, the Russian Foreign Minister threatened serious consequences after the Estonian Government moved the site of a Soviet war memorial in Tallinn. Subsequently, Estonian Internet and technological information systems were subjected to large-scale, systematic cyberattacks suspected to have originated in Russia.

Furthermore, Russian officials recently threatened undefined aggressive actions against Poland and the Czech Republic if those states agreed to the deployment by their NATO ally, the United States, of strategic missile defense components on their territory.

In August of 2008, a Russian general stated, "By hosting (missile defense components on its territory), Poland is making itself a target. This is 100 percent certain. It becomes a target for attack. Such targets are destroyed as a first priority."

Recent efforts undertaken by Russia and its state-controlled energy companies to monopolize control over energy supplies to European states have raised concerns over future Russian intentions regarding influence over political processes in those states. Again, this measure would have been a good opportunity to include specific references to those incidents.

The kinds of statements and actions emanating from the Russian Government are extremely serious and they must be viewed with the utmost concern for the sake of security of the countries of Eastern Europe that did work so hard to gain the freedom they finally achieved in 1989, the subject of this resolution.

□ 1745

Overlooking such statements and actions, the measure before us today forgoes the opportunity to send a truly clear and powerful message that we will not ignore statements and actions of that nature aimed at our allies, that their hard-won freedom and security do matter to us, and that we will stand with them against such intimidation.

In closing, Mr. Speaker, I would like to note today's news report concerning comments just made by the Russian

Foreign Minister. These statements can only be interpreted as a subtle warning to our Polish ally against allowing any U.S. troops—its NATO ally—being deployed on sovereign Polish territory.

When told that the Polish Foreign Minister had stated that the United States should deploy troops in Central Europe, the Russian Foreign Minister replied, "I'm astounded, because he and I discussed in tiny detail the objectives that Russia pursues with its initiative on a new treaty on European security."

With such comments in mind, let us take note of the serious challenges that our allies in Eastern Europe continue to face today and send a strong message of support against any attempts to threaten or intimidate them.

Mr. Speaker, I am pleased to yield 6 minutes to my good friend, the gentleman from Indiana (Mr. BURTON), who is the ranking member on the Foreign Affairs Subcommittee on the Middle East and South Asia.

Mr. BURTON of Indiana. I thank the gentlelady for yielding.

I was afraid you were going to leave, Mr. Chairman, before I got to talk to you. I always like to address you when I am down in the well.

You made a comment about my colleague, Mr. KINGSTON, when he said something about our bill being so much smaller. You said, I think it was 10 times bigger because it did 10 times more. It does do a lot more. It spends a lot more. It is 1,990 pages—now don't walk away, I want you to hear this—and each word, each word in the bill is \$2.25 million. Each word, not each page out of 1,990 pages. Each word. And it is going to cost not \$1 trillion but about \$1.3 trillion. And it is going to cause rationing of health care. And it is going to cause a big cut of Medicare and Medicare Advantage.

I see you moving. You are moving toward the door. I want to tell you, Mr. Chairman, I love you, but this is not the best bill that I have ever seen. In fact, I think it is a bill—well, he is leaving now. He is going out the door. So, Mr. Chairman, I will just tell you, I would like to take issue with that.

I would like to just say one more thing before you leave, because I want to talk about Ronald Reagan for a minute. When you did your dissertation—hold it. When you did your dissertation, you didn't mention Ronald Reagan and what he did and when he said, "Mr. Gorbachev, tear down this wall."

Now you can go.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE  
The SPEAKER pro tempore. Members are reminded to address their remarks to the Chair.

Mr. BURTON of Indiana. I'm sorry. Oh well, he is gone now anyhow.

Mr. Speaker, Madam Ranking Member, Ronald Reagan forced Gorbachev and the Soviet Union to spend money

they didn't have, like we are doing right now with that health care bill, spend money they didn't have to build T-55 tanks and weapons to keep up with us in the Cold War, and he forced that country, that Soviet Union, and all of the countries involved, to fall apart. And he said, "Mr. Gorbachev, tear down this wall." And I thought at the time, that's a great speech, Mr. President, but it will never happen.

And I went to Namibia to monitor the election in Namibia with former Senator Edwin Muskie about a year and a half later, and we were going to a German beer garden for lunch before the election took place. I walked in, and everybody was holding steins, and I thought it was a big birthday party or wedding party. And I said, What's going on?

And this guy with tears rolling down his cheeks, a German fellow, said, Haven't you heard? The Berlin Wall is coming down.

I got tears in my eyes and said, I'll be darned; he got it done.

Ronald Reagan is one of the greatest Presidents this country has ever had. I'm serious. I really mean that. He did whatever it took to deal with the Soviet Union, and he won.

But not only that, Ronald Reagan said if we ever move toward government control of health care, it would be a strong move toward socialist control of everybody in this country. I'm paraphrasing him, but he actually said that. When Ronald Reagan came in, instead of moving toward more government control over our lives, he said instead of raising taxes and creating more government, we are going to cut taxes and give people more disposable income and we are going to give businesses more money so they can expand. And what happened, we ended up with the longest period of economic recovery that I can remember and probably in our history.

So the Obama administration comes in and they take over the car industry, the financial industry, the banking industry. They want to take over the energy industry, and now they want to take over 18 percent of our entire society's economy, and that is health care. It is going to be destruction of much of what we believe in and the way we live in this country. We don't need socialism in America, and that is what it is.

And if you say that is a pretty strong word, go to the dictionary and look and see what socialism is. It is government control over people's lives. It is government regulation over everything.

And this health care bill is an absolute disaster. Seniors are going to see rationing of health care first, and then others will. They will see the cuts in Medicare and Medicare Advantage, \$500 billion. They are going to see all kinds of problems that they don't realize right now.

I just hope, I just hope that the people of this country who appeared on the

mall yesterday by the thousands will continue to fight, Mr. Speaker, will continue to fight to stop this bill before it gets passed into law. Because it is going to change everybody's life, and it is going to mortgage the future of our kids and our grandkids. Inflation, higher taxes, all of the things that we don't want.

Ms. ROS-LEHTINEN. Mr. Speaker, I yield such time as he may consume to my good friend, the gentleman from Nebraska (Mr. TERRY), a member of the Committee on Energy and Commerce.

Mr. TERRY. Mr. Speaker, I rise in support of this resolution.

I want to talk about the cold war that has been created in the House of Representatives over this health care bill. This is my 11th year here, and I have never seen this House so divided and vitriolic. It is intense around here, and it doesn't have to be this way. We have heard speech after speech from my friends on the other side of the aisle saying that we, because we oppose government involvement in our health care and a \$1.2 trillion price tag, that somehow we want people to die, we don't want there to be or somehow we support the preexisting exclusion in contracts or caps or insurance dumping.

Frankly, when you get past that level of vitriolic leadership-supported rhetoric, what you find out is that we actually agree on a lot between the two sides. We just haven't been able to actually discuss a real bill between us because the Republicans have been shut out. We are angry about that. I think that is the root or part of the problem with this health care bill, is that we have not been involved in its shaping at all.

For example, the bill that I supported or drafted and is up in Rules Committee and may be heard at 1, 2 or 3 in the morning, I guess, specifically forbids the use of a preexisting clause in a contract, that eliminates the caps that have been put on, either yearly or lifetime, that prevents the dumping. These are the type of things that we tend to all agree on, but we can't work together to get those done that have been identified as part of the problem.

Another part of the problem that I think we all agree on is the high price of the policies in health care in general prevents many people from being able to access or purchase health insurance. Therefore, not being able to access as well as many others the health care system. But there are ways to deal with that as well.

The GOP alternative, and the one I put in, allows people to be packaged together in large groups. We attack the underlying costs of health care, and we make it more affordable and policies available to a lot more people by doing that. Mine is a replication, an exact identical twin of what we have as Federal employees and Members of Congress. And that is 9 million people.

I agree with the insurance exchange idea where you can put maybe 15 million people that are uninsured, don't have access to one large group and let the private sector compete for them. This has been found by most economists to really dramatically reduce the costs by buying in bulk in the competition, and those two principles are embraced in the alternatives.

But I want to break down a little bit where we start separating, because really the real problems between the philosophical basis for our bill boils down to the public option. There's has a public option where it involves the government in health care. It sets up, and if you read the bill and understand how it works, you see where we will have a single-payer, totally-run-by-the-government health care system within 10 years. I oppose that. I ran on individual liberties, not growing government. That is where we are going to hopefully have the debate tomorrow, instead of the rhetoric that we have heard to date.

This is not only on the principles of big government versus limited government, individuals and patient rights versus big government and centralized leadership over health care, but it is also going to be a debate about \$1.2 trillion or more. And even some of this, there is additional costs that are even hidden. Let me just give you one before I yield back my time.

In order to help insure the lower-income people right above the poverty mark, this bill tomorrow moves Medicaid from 100 percent of poverty as the eligibility cutoff to 150 percent. Why is that? Why do I say that is a trick? Well, it is good that they get uninsured, but ours would allow them access and probably a little bit of support to be able to help them. What this does then is shifts those costs to the State. Because Medicaid, most of the dollars for Medicaid people are borne by the State. So the price tag for this bill is actually higher.

One of the things that we are going to hear is, yes, they soak the rich, which involves a lot of small businesses, but the middle-income people are the ones that are going to get hit when they put these burdens on the States. When the States, like Nebraska, have to come up with tens of millions of more dollars at a time when we are in a special session trying to figure out how to balance that budget, the reality is they are going to have to raise taxes, and that is sales taxes and property taxes. So this bill trickles down to the local levels by forcing the States to have to expand their Medicaid coverage, hiding the costs, the true costs of this bill, but also is going to increase the local taxes. I think that is unfair and I think the American public needs to know about some of these little nuances or even tricks, as I would call them.

So I stand up in opposition to the health care bill; and when hopefully this bill is defeated or can't get the votes, then we can come together in a bipartisan way and fix the problems that we all agree on and we can actually help the American public, as opposed to creating this large new bureaucracy.

Ms. ROS-LEHTINEN. Mr. Speaker, I reserve the balance of my time.

The SPEAKER pro tempore. Without objection, the gentleman from New York (Mr. MCMAHON) will control the time of the gentleman from California.

There was no objection.

Mr. MCMAHON. Mr. Speaker, I request to know how much time I have remaining.

The SPEAKER pro tempore. The gentleman has 16½ minutes.

Mr. MCMAHON. Mr. Speaker, I yield 4 minutes to the gentleman from Tennessee (Mr. COHEN).

Mr. COHEN. Mr. Speaker, I thank the gentleman for yielding me this time. I had planned on doing a 1-minute on the Berlin Wall. I think the 20th anniversary of the falling of the Berlin Wall is a historic occasion. It is a story about freedom and oppression and people having the opportunity to have that freedom.

I had the opportunity to visit Berlin before the wall came down and after the wall came down.

□ 1800

The contrast in East Berlin and West Berlin, when the wall was up, was about as stark as the debate is from this side of the aisle and the other side of the aisle. There was the idea of light and frivolity and freedom and action and caring—and just life on one side, and the other side of the wall was dark, negative, gray and repressive.

When I traveled over there, it was just startling for me to experience it. Kurfurstendamm, which is the main street in West Berlin, was a street of people and musicians and buskers on the street and wonderful food and all kinds of life and freedom, and the other side was dark. As soon as the people went home in these communist-style, Stalinesque architecture buildings, they went home, they were not out, there was no nightlife.

The waitress that waited on us in an East German, East Berlin restaurant was almost afraid to talk to us. She yearned to visit the West and to visit around the world, didn't know if she would ever have that opportunity. We tipped her handsomely, and I hope she used that money at some time to make her trip across to the free world.

When we went through Checkpoint Charlie, I gave the guard there—and it was one of the most ominous moments that I've experienced seeing a combination of a police person, a border patrol person, a German—and I say that in all the best respect to Germans, just a

characterization thereof, the same for police and border guards—and a communist checking you through Checkpoint Charlie. It was rather stern and official-like and intimidating. I slipped him an Elvis Presley swizzle stick, which he kind of looked askance and took his hand and got it into his hand and stuck it in his pocket and never moved his eyes from looking forward. I was happy to pass Elvis along.

While I agree with the gentleman who spoke earlier about President Reagan and some of the things he did in spending to help defeat the Soviet Union and bring down that wall, a lot of what brought down that wall was the people and their yearning for freedom, which was expressed through Radio Free Europe and other manners in which the German youth heard American music and saw American life. They saw blue jeans and they heard rock and roll, they heard Elvis, they heard the Beatles, they heard all kinds of people. Eventually that wall came down and they heard Pink Floyd; Pink Floyd played and the world listened and the wall came down.

When I returned years later to Berlin, I drove through the Brandenburg Gate, which I don't think I was supposed to, but I did. And that was fun, I could do it, it was freedom.

I thought back upon the last time I had been in East Berlin and you couldn't do anything; it was such an ominous state. East Berlin now is a fun, thriving, great place with great restaurants and art scenes and freedom and people. It has really become more happening than the KuDam or Kreuzberg or the other areas in the West which are happening as well. But it was a great day when that wall came down.

The Newseum has three or four portions of the wall here in Washington. I went there last week. I would encourage everybody, Mr. Speaker, to go to the Newseum, which is a great museum. It's a museum about history in America and the world, not just the news media, but about freedom. The reason they've got the Berlin Wall there is because of that freedom in the First Amendment, the freedom of press, the freedom of expression, and the freedom of association. You can learn about that and value it.

You look at that wall and you see pictures of the people who died trying to get across, and coming up with ways to tunnel their way under the wall or to leap or to create some type of flying machines, and all the different ways, being inside cars or under cars and taken to freedom. Many died, some made it. It's a great tribute to people's yearnings for freedom and their desires to overcome the barriers put before them by repressive regimes.

So I wanted to speak today because that was a momentous occasion in my life to see the Berlin Wall, to go into

East Berlin and see the difference between our type of government and the Soviet repression, and then to go back later and see the joy that is now in East Berlin and the freedom that has been allowed to flourish.

So I thank the gentleman for bringing the resolution, I thank the lady for bringing the resolution, and I encourage everybody to go to the Newseum and to cherish their freedom.

Ms. ROS-LEHTINEN. Mr. Speaker, just to close on our side, I thank my good friend, the esteemed chairman of our Foreign Affairs Committee, Mr. BERMAN, for introducing this resolution.

As important as it is to pass feel-good resolutions, I think that this resolution would have been strengthened if we would have talked about the difficult realities that we are confronting now with Russia and other states that are threatening the stability and the democracy and the integrity of those countries who fought long and hard for their independence, for their freedom, and for their democracy.

With that, Mr. Speaker, I yield back the balance of my time.

Mr. MCMAHON. Mr. Speaker, in closing, I would also echo the words of the gentlelady from Florida and all of those who spoke on the relevant issue this evening of the resolution which honors the incredible accomplishments that transpired in 1989, the fall of the wall, the opening of the gate, and the spirit of freedom that blew through Eastern Europe.

And it was not the result of one individual or one group of people. Hundreds of thousands of people yearned and thirsted for freedom for decades, and it finally came in the great fruition of that physical breaking down of that wall.

We heard tonight about the memory of Ronald Reagan, and we are reminded of what a great role he played in ordering Mr. Gorbachev to open the gate and tear down the wall. I would close by only reminding all of those in this Chamber tonight that I think if he were here, Ronald Reagan would be a little disappointed in those who come in this great august body at a time that we are honoring such a momentous occasion in the history of our world and use it to discuss things, though important, not relevant, and to seem to do so for political advantage rather than honoring the memory of those who lost their lives fighting and questing for freedom. They are an inspiration to all of us, and they should be for all time.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. BERMAN) that the House suspend the rules and agree to the resolution, H. Res. 892.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the ayes have it.

Mr. McMAHON. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

The point of no quorum is considered withdrawn.

#### HONORING 60TH ANNIVERSARY OF DIPLOMATIC RELATIONS BETWEEN THE U.S. AND JORDAN

Mr. McMAHON. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 833) honoring the 60th anniversary of the establishment of diplomatic relations between the United States and the Hashemite Kingdom of Jordan, the 10th anniversary of the accession to the throne of His Majesty King Abdullah II Ibn Al Hussein, and for other purposes, as amended.

The Clerk read the title of the resolution.

The text of the resolution is as follows:

##### H. RES. 833

Whereas the Hashemite Kingdom of Jordan achieved independence on May 25, 1946;

Whereas the United States recognized Jordan as an independent state in a White House announcement on January 31, 1949;

Whereas diplomatic relations and the American Legation in Jordan were established on February 18, 1949, when United States diplomat Wells Stabler presented his credentials as Chargé d'Affaires in Amman;

Whereas for 60 years, the United States and Jordan have enjoyed a close relationship, spanning a gamut of issues from the search for peace in the Middle East, the socioeconomic development of the Jordanian people, and the threat to both posed by al Qaeda and other foreign terrorist organizations;

Whereas King Hussein charted a moderate path for his country during his many years on the throne;

Whereas the United States has been Jordan's strongest international partner for over 50 years;

Whereas throughout his reign, King Hussein looked for opportunities to realize his dream of a more peaceful Middle East by working to solve intra-Arab disputes and engaging with successive Israeli Prime Ministers in the search for peace;

Whereas King Hussein and Israeli Prime Minister Yitzhak Rabin signed the historic Jordan-Israel peace treaty in 1994, ending nearly 50 years of a formal state of war between the neighboring countries;

Whereas the United States lost a close friend and a crucial partner when King Hussein passed away in 1999;

Whereas King Hussein was succeeded by his son, King Abdullah II, who has continued his father's work to improve the lives of the Jordanian people while also seeking to bring peace to the region;

Whereas in the aftermath of the September 11, 2001, terrorist attacks, Jordan has been

an instrumental partner in the fight against al Qaeda, has provided crucial assistance in Iraq, and has coped with the responsibility of hosting more than a half-million Iraqi refugees, a total equal to roughly 10 percent of Jordan's population;

Whereas King Abdullah II has been a leading Arab voice in trying to reaffirm that, as stated in his 2004 Amman Message, "True Islam forbids wanton aggression and terrorism, [and] enjoins freedom of religion, peace, justice and good-will to non-Muslims.";

Whereas in November 2005, al Qaeda terrorists struck three hotels in Amman, Jordan, killing 60 individuals—including four Americans—and wounding 115, and uniting the people of Jordan and the United States in grief; and

Whereas King Abdullah II begins his second decade on the Jordanian throne by redoubling his efforts for peace in the region as the Jordan-United States partnership enters its seventh decade: Now, therefore, be it

Resolved, That the House of Representatives—

(1) commemorates the 60th anniversary of the close relationship between the United States and the Hashemite Kingdom of Jordan;

(2) expresses its profound admiration and gratitude for the friendship of the Jordanian people;

(3) congratulates His Majesty King Abdullah II on 10 years of enlightened and progressive rule; and

(4) shares the hope of His Majesty King Abdullah II and the Jordanian people for a more peaceful and free Middle East.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New York (Mr. McMAHON) and the gentleman from Florida (Ms. ROSS-LEHTINEN) each will control 20 minutes.

The Chair recognizes the gentleman from New York.

##### GENERAL LEAVE

Mr. McMAHON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks and include extraneous material on the resolution under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. McMAHON. Mr. Speaker, I yield myself such time as I may consume.

I rise in support of H. Res. 833, which honors the 60th anniversary of the establishment of the diplomatic relations between the United States and the Hashemite Kingdom of Jordan, and the 10th anniversary of the accession to the throne of His Majesty King Abdullah II. I would like to thank my friend, the gentleman from California (Mr. SCHIFF), for introducing this important measure.

The Hashemite Kingdom of Jordan, Mr. Speaker, is a strong ally and a great friend of the United States. Although our two nations have never been linked by a formal treaty, we have cooperated for decades on a variety of regional and international issues. In particular, the United States and Jordan have worked together to

support our commitment to peace, stability, moderation, and modernization in the Middle East.

With economic and military assistance, a free trade agreement, and close political cooperation, the United States has helped Jordan overcome the vulnerabilities it naturally faces as a result of its small size and lack of natural resources.

Jordan's geographic position, wedged among Israel, Syria, Iraq and Saudi Arabia, has sometimes made it the object of the strategic designs of more powerful neighbors; but it has also given moderate Jordan a strategically critical role as a buffer among those states. And its 15-year-old peace treaty with Israel has proven to be durable and an important force for regional stability.

Jordan is a key partner in fighting international terrorism. Its security organizations are considered among the best informed and most adept in the region. For example, Jordanian intelligence reportedly played a role in assisting U.S. forces in killing Abu Musab al-Zarqawi, the fugitive Jordanian terrorist mastermind who headed the al Qaeda organization in Iraq until his death in 2006.

Jordan's moderate and pro-Western policies have made it at times a preferred target of regional terrorist groups. On November 9, 2005, bombings at three Western-owned hotels in Amman killed 58 people and seriously wounded approximately 100 others. The terrorist organization al Qaeda in Iraq claimed responsibility for this act. I am certain the United States will continue to stand with Jordan in its fight against terrorism.

Mr. Speaker, in August, Secretary of State Hillary Clinton hosted Jordanian Foreign Minister Nasser Judeh in Washington. In her remarks following their meeting, Secretary Clinton said that "after six decades of relations our partnership has proved both durable and dynamic. We will continue to work together in areas ranging from assistance with education, health care, water programs, to border security, good governance, and regional security." I am proud to say, Mr. Speaker, that the Congress is working alongside the Obama administration to achieve those goals.

King Abdullah has won the admiration of many of us for his energetic and hands-on style of governing and for his commonsense approach to regional relations. He is a true friend of the United States and a true voice of moderation in an increasingly treacherous region.

I have always found King Abdullah to be a sincere and insightful interlocutor as well as a strong spokesman for Jordan's interests. I congratulate him on the 10th anniversary of his accession to the Jordanian throne, and I wish him many successful years ahead.



Mr. Speaker, in closing, I would like to thank the author of this resolution, ADAM SCHIFF, along with Representatives CHARLES BOUSTANY, BRIAN BAIRD, and JEFF FORTENBERRY for their leadership in directing the Congressional Jordanian Caucus. Such bipartisan cooperation can only strengthen U.S.-Jordanian bilateral relations.

Therefore, Mr. Speaker, I strongly support H. Res. 833, and I encourage all my colleagues to do likewise.

Mr. Speaker, I reserve the balance of my time.

Ms. ROS-LEHTINEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, for the past six decades, Jordan has been a key U.S. ally in an unstable region where we have many vital interests and face many challenges. We have longstanding cooperation in a variety of fields, from security, to governance, to education, to health care, to water; and we hope that such cooperation will only increase in the years ahead.

In this regard, America has had true partners in Amman. Nothing illustrates this more than the strength of the 1994 peace treaty that the late King Hussein concluded with the Jewish democratic State of Israel. By condemning violent extremism and by making an open and true peace with Israel, King Hussein set a standard by which other Arab and Muslim leaders should follow. In the past 15 years of peace between Jordan and Israel, they might not have been perfect, but they have been slowly building upon a foundation in which much cooperation is possible in the future.

Jordan has also demonstrated to other nations the benefits of embracing democratic reforms and principles. Fortunately, King Hussein's son and successor, King Abdullah, has continued on a path for peace, cooperation, and reform during his past decade on the throne. Under an election law passed in February of 2007, the Jordanians went to the polls in late July of 2007 to elect for the first time the mayors and councils of every city and town in their country.

□ 1815

In November of 2007, Jordan held its fifth set of elections for Parliament since 1989. Jordan has also recognized that democracy is more than just elections. The Jordanian Government has taken steps to establish the rule of law, to build civil society, to build strong institutions, and to broaden political participation to meaningfully engage citizens from all walks of life.

One example of this commitment was the decision by the government to lower the voting age from 19 to 18 and to establish mechanisms to ensure adequate female representation to municipal councils. In the most recent parliamentary elections, seven females

won public office. I hope that these steps will lead to further reforms and to more political participation.

King Abdullah, himself, has courageously spoken out and has led the way for reform. As King Abdullah has stated, "We in Jordan, and many others throughout the Middle East, are working hard to create a civic environment in which our people will thrive."

"The basic requirement is an inclusive, democratic, civil society—one that guarantees rights, delegates responsibilities, honors merit, and rewards achievement."

Jordan has also demonstrated strong support for the fledgling democracy in Iraq. Last year, King Abdullah was the first Arab leader to visit Iraq since the establishment of democracy in that country. Jordan has also become the first country to appoint an Ambassador to Baghdad since 2005.

Mr. Speaker, Jordan does, indeed, serve as a model for other nations in the region. It deserves our friendship and our encouragement, and its people deserve continued progress in political and economic reforms. Therefore, I strongly support House Resolution 833, which commemorates 60 years of diplomatic relations between Jordan and the United States, as well as the 10th anniversary of the accession to the throne of King Abdullah. It also expresses our profound admiration and gratitude for the friendship of the people of Jordan and shares their hope, and that of King Abdullah's, for a more peaceful Middle East.

I urge my colleagues to support this important resolution, and I thank my dear friend, the distinguished colleague from California (Mr. SCHIFF) for introducing it.

With that, Mr. Speaker, I reserve the balance of my time.

Mr. MCMAHON. Mr. Speaker, I yield 6 minutes to the gentleman from California (Mr. SCHIFF).

Mr. SCHIFF. I thank the gentleman for yielding.

I want to thank my friend and colleague, the distinguished chairman from the Foreign Affairs Committee, for bringing this resolution to the floor. I am also grateful to the members of the committee and to others who have cosponsored it.

Today, we celebrate one of America's strongest alliances in one of the world's most unsettled regions. For decades, the United States and Jordan have been friends and allies. Today, that friendship finds renewed expression in this resolution which commemorates the 60th anniversary of the establishment of diplomatic relations between the United States and Jordan and the 10th anniversary of King Abdullah's accession to the throne.

The cornerstones of that friendship are a mutual desire for peace in the region and a belief that the Arab and Muslim world must resist extremism.

Jordan has been a key player in the peace process between Israel and the Palestinian people, a partner in the fight against al Qaeda, and an important part of the struggle for the soul of Islam. With its lengthy border with Israel and its majority Palestinian population, Jordan has long been a catalyst for peace in the region.

King Hussein, the current King's father, engaged in decades of quiet diplomacy with Israel—an effort that bore fruit in 1994 with the signing of the Jordan-Israel peace treaty. King Abdullah has continued his father's quest for peace and has been a tireless advocate for a better future for all the peoples of the region.

King Abdullah's 10 years on the throne have been shaped primarily by Jordan's response to the 9/11 attacks and the Iraq war, and the Jordanian-American partnership has been strengthened in the 8 years since the attacks on New York and Washington.

Jordan has been an important ally in the fight against al Qaeda, but the steadfastness has carried a heavy price. Four years ago this month, al Qaeda terrorists struck three hotels in Amman. While the intention of the bombers was to drive a wedge between the U.S. and Jordan, they succeeded only in uniting our peoples in grief and in hardening the resolve of the Jordanian people to resist extremism even in the face of terror.

In Iraq, Jordan has provided vital assistance to American forces serving there, and it has also been the host to thousands of Iraqi police recruits who have trained at a state-of-the-art facility outside Amman. As that program has wound down, Jordan has converted it for the training of Palestinian Authority security personnel as part of the security assistance program run by American General Keith Dayton. These Palestinian forces have been instrumental in helping to stabilize the West Bank and in keeping alive the hopes for a future two-state solution.

Over the past few years, Jordan has been burdened by hundreds of thousands of refugees from Iraq. A small, water-poor nation of only 6 million, Jordan's infrastructure and economy have been tested by the Iraqi refugees, with estimates of the total number generally ranging between 500,000 and 700,000. The influx of refugees has put enormous strain on the kingdom's education and health systems, and it has also caused widespread distortions in housing and energy prices.

Despite the enormous burdens that these refugees have placed on Jordan, the government has allowed them to remain in the country even as the situation in Iraq has become more stable. In recent months, a few of the refugees have begun to return home, but the vast majority remains, and most observers expect them to stay in Jordan for some time to come.



Especially vital has been the King's effort to reassert, on behalf of Muslims around the world, the true meaning and teachings of Islam. In 2004, he issued the Amman Message—an important step in combating al Qaeda's attempt to hijack one of the world's great religions in the name of hate. While America can work to eliminate the conditions that give rise to extremism, we must also rely on Muslim leaders to press the case that al Qaeda is a perversion of Islam and not a pure form of the religion that values human life and peace.

In a region roiled by conflict, characterized by poor governance and stifling economic mismanagement, Jordan has remained an island of stability and an example to its neighbors of a Middle Eastern nation that is seeking to create a peaceful and more prosperous life for its citizens even though it lacks the oil and natural gas that many of the other Arab States in the neighborhood enjoy.

Much work remains to be done, but King Abdullah and other senior government leaders are determined to build a better society for the Jordanian people. For that commitment and for six decades of friendship, I am proud to co-Chair the Congressional Friends of Jordan Caucus with my colleague from Louisiana (Mr. BOUSTANY) and with the assistance of our terrific vice-Chairs, Mr. BAIRD and Mr. FORTENBERRY.

I urge my colleagues to join me in supporting this resolution and in reaffirming the broad ties between the United States and Jordan and in congratulating King Abdullah on the progress that he has made in his 10 years on the throne.

Again, many thanks to Chairman BERMAN.

Ms. ROS-LEHTINEN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. MCMAHON. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York (Mr. MCMAHON) that the House suspend the rules and agree to the resolution, H. Res. 833, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the ayes have it.

Mr. MCMAHON. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

The point of no quorum is considered withdrawn.

## RECOGNIZING 30TH ANNIVERSARY OF IRANIAN HOSTAGE CRISIS

Mr. MCMAHON. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 209) recognizing the 30th anniversary of the Iranian hostage crisis, during which 52 United States citizens were held hostage for 444 days from November 4, 1979, to January 20, 1981, and for other purposes.

The Clerk read the title of the concurrent resolution.

The text of the concurrent resolution is as follows:

### H. CON. RES. 209

Whereas, in the face of internal political upheaval in Iran, the United States Government maintained a diplomatic presence in Tehran following the fall of Shah Mohammed Reza Pahlavi in January 1979, and sought to engage the new provisional government of Prime Minister Mehdi Bazargan;

Whereas, on November 4, 1979, Iranian militants scaled the walls of the United States Embassy in Tehran and took 63 United States citizens and diplomats hostage;

Whereas three more United States citizens were taken prisoner at the Iranian Foreign Ministry, for a total of 66 hostages;

Whereas the occupiers bound and blindfolded the embassy staff and military personnel and paraded them in front of photographers;

Whereas a total of 52 United States citizens were held hostage for 444 days until January 20, 1981, in isolated and under psychologically intimidating and onerous conditions;

Whereas Iranian militants violated the principle of diplomatic immunity and United States sovereignty;

Whereas Ayatollah Khomeini endorsed the seizure of the United States Embassy and detention of United States hostages and toppled the Bazargan government, instructing that no Iranian officials hold discussions with United States representatives;

Whereas the Soviet Union vetoed United States initiatives at the United Nations Security Council to impose collective economic sanctions on Iran;

Whereas the United States broke off diplomatic relations with Iran on April 7, 1980, following unsuccessful diplomatic efforts to free the hostages;

Whereas, on April 24, 1980, the United States launched Operation Eagle Claw, a high-risk rescue operation to free the hostages;

Whereas the rescue mission was aborted when three helicopters malfunctioned;

Whereas the following United States military personnel from the all-volunteer Joint Special Operations Group lost their lives and three more were injured in the Great Salt Desert near Tabas, Iran, on April 25, 1980, in the aborted attempt to rescue the United States hostages—

(1) Capt. Richard L. Bakke, 34, Long Beach, CA, Air Force;

(2) Sgt. John D. Harvey, 21, Roanoke, VA, Marine Corps;

(3) Cpl. George N. Holmes, Jr., 22 Pine Bluff, AR, Marine Corps;

(4) Staff Sgt. Dewey L. Johnson, 32, Jacksonville, NC, Marine Corps;

(5) Capt. Harold L. Lewis, 35, Mansfield, CT, Air Force;

(6) Tech. Sgt. Joel C. Mayo, 34, Bonifay, FL, Air Force;

(7) Capt. Lynn D. McIntosh, 33, Valdosta, GA, Air Force; and

(8) Capt. Charles T. McMillan II, 28, Corrytown, TN, Air Force;

Whereas the Algerian Government brokered a January 19, 1981, agreement between Iran and the United States, to which the United States agreed, under duress, resulting in the release of the hostages on January 20, 1981;

Whereas President Reagan asked former President Carter to welcome the released hostages at Rhein-Mein Air Base; and

Whereas the Iranian Government's commemoration of the 30th anniversary of the Iranian hostage crisis was met with street protests against the repressive Iranian regime: Now, therefore, be it

*Resolved by the House of Representatives (the Senate concurring), That Congress—*

(1) recognizes the 30th anniversary of the Iranian hostage crisis, during which 52 United States citizens were held hostage for 444 days;

(2) honors the sacrifice and service of the United States diplomats and military personnel held hostage and servicemen who lost their lives and were wounded in a valiant attempt to free the United States hostages;

(3) in recognition of this sacrifice, hopes that the people of the United States and Iran may embark on a new relationship that fully reflects their most noble aspirations for life and liberty;

(4) expresses its support for all Iranian citizens who embrace the values of freedom, human rights, civil liberties, and rule of law; and

(5) urges the Secretary of State to make every effort to assist United States citizens held hostage in Iran at any time during the period beginning on November 4, 1979, and ending on January 20, 1981, and their survivors in matters of compensation related to such citizens' detention.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New York (Mr. MCMAHON) and the gentlewoman from Florida (Ms. ROS-LEHTINEN) each will control 20 minutes.

The Chair recognizes the gentleman from New York.

### GENERAL LEAVE

Mr. MCMAHON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks and to include extraneous material on the resolution under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. MCMAHON. I yield myself as much time as I may consume.

Mr. Speaker, I rise in support of House Concurrent Resolution 209, which recognizes the 30th anniversary of the seizure of the United States Embassy in Tehran on November 4, 1979.

In February 1979, shortly after the collapse of the Shah's regime, exiled religious leader Ayatollah Khomeini returned to Tehran and whipped popular discontent into rabid anti-Americanism. When the Shah came to America for cancer treatment in October, the Ayatollah incited Iranian militants to attack the United States. Shortly thereafter, on November 4, the American Embassy in Tehran was overrun

and its employees taken captive. The hostage crisis had begun.

Sixty-six Americans were taken hostage by the Iranians. They were separated into small groups which were not allowed to communicate with one another. They were completely cut off from the outside world, even from their families. They were blindfolded whenever their captors took them outside their rooms. Meals were served irregularly and were often inadequate.

Particularly worrisome for the hostages was the lack of adequate medical care. Many of them were senior Embassy staff with serious health concerns. Above all, there was the psychological pressure of never knowing if they would be harmed or executed, if and when they would be released, or what, if anything, the American Government was doing to help them.

Mr. Speaker, our brave diplomats and servicemen were held for well over a year. The Iranians released a few of the hostages along the way, but 52 of the original 66 who were captured were held for the entire 444 days. All of the hostages made a heroic sacrifice for our Nation, and they deserve our eternal gratitude.

We also lost eight courageous soldiers when their helicopters crashed in the Iranian desert on April 25, 1980, in a failed attempt to rescue the hostages. We honor their bravery and we mourn their loss. Our thoughts and prayers continue to go out to their families, Mr. Speaker.

The Iranian regime's support for the holding of American hostages was a disgrace of the highest order, and it was far from the last time that the Iranian regime would show contempt for its international obligations, as we know. Iran continues to flout the will of the international community today with its nuclear weapons program and with its support for terrorism.

Annually—and outrageously—the Iranian regime continues to mark the anniversary of the Embassy takeover as a celebration rather than as the badge of shame they should acknowledge it to be. This year, thousands of Iranian demonstrators turned the tables on the regime, fittingly using the occasion to declare their contempt for the Iranian leadership.

Mr. Speaker, several of those who were taken hostage 30 years ago remain active in serving our Nation's interests today. One of them, Ambassador John W. Limbert, was a young political officer, already an accomplished Persian scholar, who was just finishing his third month at the Embassy when Iranian thugs took him and his colleagues hostage.

Today, 30 years later, he is starting an assignment as Deputy Assistant Secretary for Iranian Affairs at the State Department's Bureau of Near Eastern Affairs. For the past 3 years, he has been a professor at the United

States Naval Academy in Annapolis, which has granted him leave so he can assume his critically important position. He is not only a scholar but a first-rate diplomat. We honor him today, wish him well on his new assignment, and look forward to working with him.

I commend my friend, the gentleman from Nebraska (Mr. FORTENBERRY), for introducing this important resolution, and I urge my colleagues to join me in supporting it.

Mr. Speaker, I reserve the balance of my time.

Ms. ROS-LEHTINEN. I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of the resolution put forward by my good friend, the gentleman from Nebraska.

Mr. Speaker, September 11, 2001, will be forever engrained in our collective consciousness as one of the most vicious attacks against our Nation. However, we have been targeted by a global, violent, Islamic extremist network since November 4, 1979.

On this day, Iranian militants overran the United States Embassy in Tehran, and took innocent American hostages, with 52 of these brave Americans held for 444 days. U.S. diplomats, Embassy staff, and military personnel were bound and blindfolded, humiliated, and paraded in front of news cameras by their captors.

□ 1830

They endured unspeakable suffering and abuse for nearly 15 months in captivity. Since the capture of the United States embassy in Tehran 30 years ago and the ensuing hostage crisis, Iran has increasingly viewed terrorism as a tool to achieve its ideological and strategic aims.

These aims include exporting the revolution, supporting and arming militant Islamist extremist organizations and other groups worldwide, especially in the Middle East, attacking Israel, and destabilizing the governments of the more pragmatic and reformist Arab countries.

One of the chief instruments for the implementation of these policies has been the jihadist organization, Hezbollah, which, since its inception, has been trained, financed and supported by the Iranian Revolutionary Guard Corps. In return, Hezbollah has helped advance Iranian interests through a sustained campaign against the United States and our allies in the Middle East, including but not limited to the 1983 attacks on the United States marine barracks and embassy in Lebanon; the bombing of the United States embassy annex in Beirut in 1984; the 1985 hijacking of TWA Flight 847; the taking of American and other hostages in Beirut throughout the 1980's; the June 1996 truck bombing of the Khobar Towers United States military housing complex in Saudi Arabia.

Testifying at a subcommittee hearing that I chaired in February 2005, William Daugherty, a CIA veteran and one of the 52 Americans held hostage in Iran for 444 days 30 years ago, emphasized, "The undeniable truth is that the United States Government has utterly failed to hold Iran accountable in any sustained and effective manner for its role in the cumulative deaths of over 275 American citizens and the wounding of well over 600 more."

Mr. Daugherty continued, "Moreover, the United States Government has failed to undertake any action with the force or impact sufficient to deter the Iranian government from conducting terrorism against our interests."

"The absence of any credible response has served only to encourage the continuation of Iranian-sponsored terrorism, nor have those of us who are victims of Iranian terrorism received any justice from those acts."

Since Dr. Daugherty's testimony almost 5 years ago, Iran has been proactively involved in undermining United States and coalition interests in Iraq and Afghanistan, by providing material support and all types of weapons to extremists in both countries, so that they can kill and wound Americans. The number of U.S. victims of Iranian-sponsored or Iranian-supported attacks continues to increase.

The threat to our ally Israel has grown incredibly as well, with Iran increasing its involvement in the West Bank and Gaza in support of such Islamist extremist organizations as Hamas, the Palestinian Islamic Jihad and Lebanon through its proxy, Hezbollah. Yet successive U.S. administrations have failed to properly recognize and confront the totality of the Iranian threat, from its history of supporting violent Islamic extremists, to its nuclear weapons program, unconventional weapons and ballistic missile development.

In response, the United States must impose a cost so high on Tehran that it threatens the Iranian regime's survival unless it changes course. This approach will require applying immediate, comprehensive tough economic sanctions. Again, former hostage Dr. William Daugherty said it best, "It is time for Iran to be called to account, not by pronouncements, but by clear, sustained and overwhelming action for its past, as well as for any future violations of international law."

"And it is time for American victims of Iranian terrorism, like those of us who were held hostage by the Iranian government, to receive the justice that is decades delayed. The Congress can see that this happens."

Mr. Speaker, I urge my colleagues to strongly support this resolution.

I reserve the balance of my time.

Mr. McMAHON. Mr. Speaker, I reserve the balance of my time.

Ms. ROS-LEHTINEN. Mr. Speaker, at this time I am proud to yield as much time as he may consume to the author of the resolution, the gentleman from Nebraska (Mr. FORTENBERRY), an esteemed member of our Committee on Foreign Affairs.

Mr. FORTENBERRY. I thank the gentlewoman for yielding and thank her for her leadership and assistance in this important resolution as well.

Mr. Speaker, this week holds special significance for our Nation, especially for the courageous U.S. diplomats and military personnel who were captured when militant student activists stormed the U.S. embassy in Tehran 30 years ago on November 4, 1979.

Their 444-day hostage ordeal in Iran is forever etched in our Nation's memory. You cannot understand what is happening in the Middle East today without reference to this event. I introduced this resolution to remind us of the hostages' triumph in adversity, of the difficult lessons our policymakers learned during that grueling episode, to commemorate their service to our Nation and to honor those brave soldiers who were killed and wounded in a valiant rescue attempt.

Our diplomats took a difficult assignment at a difficult time in the Middle East. Their courageous witness to the principles that we hold dear, just civil order and recourse to the orderly address of grievances, stands as a reminder of what is at stake now in the ancient land of Iran, a choice for peace and cooperation or a choice for repression, fear, and isolation.

The quest for national prominence and prestige to which Iran understandably subscribes, absent the enduring values we have been fortunate to see enshrined in the U.S. Constitution, as well as the Universal Declaration of Human Rights, is an empty quest. In his oft cited work, "Democracy in America," Alexis de Tocqueville in essence concluded that America is great because America is good. We must constantly remind ourselves that the ongoing challenge to our Nation or any nation lies in the quest for what is good. This is the measure of greatness in a civilized world.

Greatness not to dominate, but to liberate. Greatness, not to rule and coerce, but to govern wisely and with the consent of the people who seek to determine their own destiny within the framework of the just rule of law.

This is the challenge before Iran today. To be a force for good in a region challenged to rise above longstanding grievances and injustices, to be a force for good in a world threatened by greed, terror and tyranny, or not.

When President Ronald Reagan welcomed the former hostages to the White House on January 27, 1981, he stated, "We hear it said that we live in an era of limit to our powers. Well, let

it also be understood, there are limits to our patience." It is my hope, Mr. Speaker, that by honoring these brave men and women, we may inspire people throughout the world to work tirelessly for the freedom and justice they deserve and settle for nothing less.

It is also my fervent hope that in recognition of this 30th anniversary, the people of the United States and Iran may embark on a new relationship that fully reflects the noblest aspirations for life and liberty.

Ms. ROS-LEHTINEN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. MCMAHON. Mr. Speaker, at this time it is my privilege and honor to recognize for 4 minutes my distinguished colleague, the gentlewoman from Texas, Ms. SHEILA JACKSON-LEE.

Ms. JACKSON-LEE of Texas. I thank the manager of this legislation, my dear friend from the Foreign Affairs Committee, for yielding.

It is interesting to have this day to commemorate the sacrifice of Americans some 30 years ago who were held as hostages. A few minutes ago I tried to depict and have people be reminded of the tragedy of lost children during the earthquake in China, just visually picture what happened to those children.

It is important as well to revisit visually what Americans had to go through who were held hostage in Iran for more than a year. I saw some old video where I saw soldiers doing push-ups and trying to keep themselves busy, Foreign Service personnel and others who were in that embassy that fateful day.

This is an important acknowledgment of a transition that has frozen time for the Iranian people, frozen their rights, their opportunity for freedom and freedom of speech, the understanding of the concept of democracy. As we commemorate, not celebrate, those 30 years, we thank those Americans, those brave Americans who withstood all of that pain of being a hostage, being away from their family members when at the same time we owe them a debt, more than a debt of gratitude.

We owe them the recognition that there are dissidents, Iranians, who are now on the ground fighting against, I believe, an illegally situated government that cannot document that that was a fair process and the brutality that occurred after that election when the Iranians stood up to be able to demand justice and a fair election.

We must push for human rights in Iran. We must push for nonproliferation. We must demand transparency. Of course, their chief executive will suggest that we are demons, that we have no right to interfere into their business.

Well, I would say the name of those brave Americans that lost a lot of their

life for a period of time in our history, we owe them our persistence in ensuring that there is an opportunity for freedom and democracy in Iran.

There were those, of course, who lost their lives in the attempt to rescue those individuals. I pay honor and tribute to them. In their name as well we must continue to fight for freedom.

An enormous tragedy occurred yesterday in Texas at Fort Hood, and we respect and acknowledge the loss of those brave men and women. We also say that freedom demands our attention, both in terms of national security but as well for those who sacrifice for us every day.

Mr. Speaker, I rise to recognize the 30th anniversary and thank the author of this legislation, of the Iranian hostage crisis, during which 52 United States citizens were held hostage for 444 days. I acknowledge their sacrifice, the days they stayed away from their family and, as well, the sacrifice of those who attempted to save their lives.

I express support for all of those Iranian citizens who now stand in the battle in the fight for human rights. I would argue that this legislation must be shown in action, and I ask my colleagues to support this initiative.

□ 1845

Mr. MCMAHON. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York (Mr. MCMAHON) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 209.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the ayes have it.

Mr. MCMAHON. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

The point of no quorum is considered withdrawn.

#### REAL HEALTH CARE REFORM

(Ms. ROS-LEHTINEN asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. ROS-LEHTINEN. Mr. Speaker, we all agree that real health care reform is a necessity, but in the hurry of Congress to pass the \$1 trillion Pelosi bill, we are not listening to our mother's often-given advice, look before you leap. In this case, read before you vote.

The Pelosi bill takes the wrong approach in fixing what is broken in our

health care system. Increased taxes do not translate into increased coverage. Eliminating seniors' health care choices and cutting their benefits do not translate into eliminating waste, fraud, and abuse. Cost shifting in the health care system does not translate into cost reduction.

Instead, what we need is true health care reform that helps bring down the high cost of care and the high insurance premiums. What we need is health care reform that will allow our families to keep the doctors and the coverage that they want.

Congress needs to end the search for complicated and convoluted ways that hide the actual cost of the Pelosi bill in taxes, mandates, and benefit cuts.

#### HEALTH CARE

(Mr. COLE asked and was given permission to address the House for 1 minute.)

Mr. COLE. Mr. Speaker, one of the impacts of the proposed health care legislation that has not received the attention it deserves is the huge unfunded mandate that it will place on our respective State governments.

As every Member of this body knows, each State in America is struggling to balance its budget, often cutting services to the bone. I asked my own State legislative leaders how the State of Oklahoma would be impacted by Speaker PELOSI's health care bill. They reported that in Oklahoma this legislation will result in at least \$128 million of additional annual cost to State government. That will require either draconian cuts to existing State services, such as education, transportation, and public safety, or substantial increases in State taxes.

Mr. Speaker, the Democratic effort to mask the true cost of this legislation is a scandal. If passed, the Pelosi health care bill will bankrupt State governments, destroy jobs, and further cripple the economy.

Our State governments can't afford this bill, and neither can the American taxpayer.

#### EXPRESSING ARKANSAS THIRD DISTRICT CONSTITUENTS' CONCERNS ABOUT A PUBLIC OPTION

(Mr. BOOZMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BOOZMAN. Mr. Speaker, residents in Arkansas' Third District don't want a government takeover of health care. In a tele-town hall on Tuesday, I asked my constituents, are you supportive of a public option in health care reform? The overwhelming majority, 76 percent, said that they don't favor that plan.

The reality is, this 1,990 page Pelosi health care bill includes a public op-

tion. My constituents don't want to federalize their health care. Like them, I believe this bill is a prescription for big government and an expense our country can't afford.

Three weeks ago, my constituent, Andy Jacobs of Pottsville, Arkansas, sent me a letter, and he makes a great suggestion. "Make a list of all the projects and programs the Federal Government operates and those that have seen the operating costs decrease."

I urge my colleagues to write that list. It doesn't take long to see there are few, if any, government-run programs that are cost-effective.

Arkansas' Third Congressional District sees this bill for what it is, a tax increase.

#### HEALTH CARE

(Mr. BARRETT of South Carolina asked and was given permission to address the House for 1 minute.)

Mr. BARRETT of South Carolina. Mr. Speaker, I strongly oppose this so-called Democrat reform package. I know and I believe that health care reform is necessary. However, the looming health care legislation will only hurt American families and have devastating effects on our Nation's small businesses, especially like the ones in South Carolina.

This massive government expansion will cost nearly \$1.3 trillion, which is offset by job-killing tax increases. Small businesses will be hardest hit by these tax increases, which will total a staggering \$730 billion. This is especially troubling in South Carolina, where small businesses make up 97 percent of the businesses there.

According to the Heritage Foundation, 8,700 South Carolina small businesses will be required to pay this new burdensome tax. This will surely result in more job losses in my State, where unemployment right now, Mr. Speaker, is 11.6 percent.

Please, colleagues, stand with me and fight this government takeover of our health care.

#### HEALTH CARE

(Mr. LUETKEMEYER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LUETKEMEYER. Mr. Speaker, the American people have spoken. Poll after poll now shows by overwhelming majorities that this health care proposal is being rejected by them.

What are their concerns? Seniors are concerned about their Medicare, Medicare Advantage, and their care in general, as this bill makes a \$500 billion cut in the Medicare program, which will lead to rationed care.

Small business owners are concerned about their businesses, as this bill will enact billions of new taxes, surcharges,

and places new mandates on them that may cause them to lose their businesses.

Young people are concerned about their futures. Will the \$1 trillion price tag of this bill indebt them and their children for the rest of their lives?

This bill does not lower the cost of health care. According to the Congressional Budget Office, it raises the cost of health care.

The American people don't see this bill as a solution to the health care problem. They see it as adding to the problem. They have spoken. We need to listen.

#### HEALTH CARE

(Mr. ROE of Tennessee asked and was given permission to address the House for 1 minute.)

Mr. ROE of Tennessee. Mr. Speaker, this week, Democrats released 42 additional pages of the health care bill in their manager's amendment, meaning the total package now stands at 2,032 pages.

As I see it, the manager's amendment makes it more likely that we will see everyone in the exchange on a government-run plan within a few years of its creation. The amendment calls for insurers to report annual premium increases to the government and gives the administrator the power to kick insurers out of the exchange for increases that he or she deem to be excessive, a term that is left entirely up to the discretion of the administrator.

What we have been saying all year is that a plan that doesn't pay the cost of care will shift higher costs to private insurers, as hospitals and providers have to make up their losses on payments from the government. As costs are shifted, private insurers are left with no choice but to increase premiums.

Independent studies have shown that millions of people will be dropped from their current coverage and put on the public plan. Now, with the manager's amendment, Democrats are simply quickening this transition by kicking insurers off their plan. It is a bad amendment, a bad bill, and it should be rejected.

#### HEALTH CARE

(Mr. SESTAK asked and was given permission to address the House for 1 minute.)

Mr. SESTAK. Mr. Speaker, I rise to encourage the House of Representatives to stay in session until this health care bill brought forward this weekend is passed. I do that because about 4 years ago I lived down the street in Children's Hospital with my daughter, struck with a brain tumor. Given just a few months to live, we began our chemotherapy after the brain operation.

There was a young boy, 2½ years old, diagnosed with acute leukemia next to her, where we heard social workers argue for six hours whether that youth, whose parents didn't have health insurance, could stay.

I have always thought in my 31 years in the military how well we invested here in Congress in our military's health care plan because of the dividends it gave to me, for example, when I went to an 11½ month war, and yet my family and my daughter were taken care of and I was focused on the mission.

We lose \$200 billion a year in lost productivity because of the under and uninsured. Our small businesses pay an 18 percent tax in higher health care costs because we have not taken action over the last 10 years.

I urge my colleagues to stay in session, because doing nothing is not who we are.

#### HEALTH CARE

(Mr. BROUN of Georgia asked and was given permission to address the House for 1 minute.)

Mr. BROUN of Georgia. Mr. Speaker, I am a physician. I practiced medicine in Georgia for almost four decades. In health care, us providers try to do no harm. But, Mr. Speaker, this Pelosi health care takeover is going to destroy the quality of health care.

It is going to actually destroy poor people, and particularly Medicare recipients, from even having a doctor, because the cuts in Medicare are going to mean that doctors just can't afford to continue to see them, even though they want to.

It is going to destroy State budgets because of the increase in the Medicaid recipients that are going to be forced on to the State budgets, which means that it is going to hurt teachers and all the goods and services within the State.

It is going to destroy every family's budget because of the increased cost for everybody in this country, because all goods and services are going to go up because of the increased taxes on all the business.

It is going to destroy jobs. It has been estimated that 5.5 million jobs are going to be lost. But, most of all, it is going to destroy our economy.

We need to destroy this bill.

#### HEALTH CARE

(Mr. PASCRELL asked and was given permission to address the House for 1 minute.)

Mr. PASCRELL. Mr. Speaker, I want to tell you about a friend of mine, Kelly Conklin, who owns a small business in New Jersey, since that is what we have been hearing from many of my friends on the other side. It is a small woodworking business.

Each year, Kelly has to determine the best set of benefits at the best price based on his employees and their needs. Unfortunately, the options dictated to him by an insurer leave him with very few choices. He has zero negotiating power. That is why the exchange is a great idea for small businesses to deal with the problems, because offering coverage is the right thing for him to do and the best way for him to attract the most skilled employees.

Kelly is literally at the whim of his insurer. For 2010, he faces a 35 percent increase in premiums. How in God's name can we justify this by a bill that the other side has presented that is cheap because it doesn't do anything?

#### HEALTH CARE

(Mr. WAMP asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WAMP. Yes, Mr. Speaker, Republicans are united against the Pelosi-Obama health care takeover, but it is not a partisan issue. This week, seven Democrat governors came out in strong opposition to the plan, including my Governor, Phil Bredesen, who called the plan "the mother of all unfunded mandates." Why? Because it adds millions of people to the State's Medicaid rolls, makes them cover them, without the money down the road to pay for it.

States have to balance their budget. They can't borrow \$1 trillion and just print the money and add it to the next generation. They have to balance their budget. The 10th Amendment gives rights to the States. The Federal Government is handing mandates to the States, and they have nowhere to turn except to raise taxes or dramatically cut their budgets. This is not fair to the States. It is the wrong thing to do.

Reject the Pelosi-Obama health care takeover.

#### HEALTH CARE

(Mr. HIGGINS asked and was given permission to address the House for 1 minute.)

Mr. HIGGINS. Mr. Speaker, today in America we spend \$2.5 trillion or 17 percent of our economy as measured by the gross domestic product on health care. Yet we are 37th in terms of quality out of 192 countries. We are 41st in infant mortality out of 192 countries. We are dead last among industrialized countries in preventable deaths.

Health care premiums have doubled in the past 10 years. They will double again in the next 10 years. Fourteen thousand people lose their coverage every day. They are not older people, because they qualify for Medicare. They are not poor people, because they qualify for Medicaid. It is individuals who get up every day and go to work,

but, because of the skyrocketing cost of health care, their employers are forced to cut coverage and, in some cases, close altogether.

This is a uniquely American problem with a uniquely American solution. We should support health care reform now.

□ 1900

#### HEALTH CARE REFORM

(Mr. MILLER of Florida asked and was given permission to address the House for 1 minute.)

Mr. MILLER of Florida. Mr. Speaker, with almost 16 million people unemployed and looking for work, with an unemployment rate of over 10 percent, something we haven't seen in 26 years, with countless Americans asking, Where are the jobs, why is the Democratic leadership ramming through a health care bill that will not add one net job to the American economy?

In fact, the majority's bill will do the exact opposite. It will impose \$729 billion in new taxes, crushing small business. For those small businesses that manage to survive the new taxes, their employees will be required to have insurance or face yet another tax. Mr. Speaker, this has got to stop. Americans do not want higher taxes. Americans do not want higher premiums, and Americans do not want this massive government health care takeover bill.

#### ARE YOU LISTENING?

(Mr. BONNER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BONNER. Mr. Speaker, the taxpayers of this country want to know if the people who work for them, who were hired last November to serve here the people's House are really listening to what they've been saying.

Appropriately enough, this started back on tax day, April 15. Tens of thousands, perhaps millions, began to speak with one voice about the spending, the borrowing, the rising unemployment as well as the ever-expanding role of the Federal Government into our daily lives.

In August, even yesterday they turned out en masse, speaking as loud as they could from the very steps of this grand old historic building, begging, pleading, please honor the freedoms and liberties that generations of Americans have fought and even died for. Republicans have heard that message, and we agree with you. We know you are right.

Mr. Speaker, your party is in control of this Congress, but the American people will have the final say. Are you listening?

## HEALTH CARE

(Mr. WITTMAN asked and was given permission to address the House for 1 minute.)

Mr. WITTMAN. Mr. Speaker, I rise today to share with you comments from my constituents in the First Congressional District of Virginia about H.R. 3962:

Elizabeth from Williamsburg says, My business ends up with an 8 percent margin so an 8 percent of payroll contribution rate would be significant.

Esther from Williamsburg says, Keep our government small. Bigger isn't better.

Sandra from Seaford says, I want to choose my own health insurance.

Beverly from Woodford says, I am happy with my health care right now and do not want to see it changed. I do not want the government involved in my health care.

Diana from Yorktown says, Don't vote for a bill that would unfairly burden many generations to come.

Bruce from Warrenton says, The health care legislation now pending will surely break the bank of this country in addition to destroying the finest health care system in the world.

Connie from Dumfries says, I am concerned that some legislation in Congress will create a new government-run health plan that will cause me to lose my current employer coverage. I want to be sure that I can keep my current coverage, and I urge you to oppose any new government-run health insurance plan.

Chester from Williamsburg says, I object to the government taking control of my private health care decision.

PELOSI BILL WILL FUND  
ABORTIONS

(Mr. FLEMING asked and was given permission to address the House for 1 minute.)

Mr. FLEMING. Mr. Speaker, health care reform should not be used as an opportunity to use Federal funds to pay for elective abortions. Health reform should be an opportunity to protect human life, not end it. House Speaker NANCY PELOSI is proposing a 2,032-page government takeover of health care that directs the new government-run plan to cover elective abortions. There is no getting around it. Under Speaker's PELOSI's government takeover of health care, Federal funds will be used to pay for abortions under the government-run plan and to subsidize individual plans that include abortion.

As an alternative to Speaker PELOSI's bill, House Republicans are offering a commonsense, responsible solution that would reduce health care costs and expand access while protecting the dignity of all human life. The Republican plan would codify the Hyde amendment and prohibit all au-

thorized and appropriated Federal funds from being used to pay for abortions.

Under the Republican plan, any health plan that includes abortion coverage may not receive Federal funds. As a doctor with more than 30 years' experience, I will be voting "no" on the Pelosi health care bill that will destroy life instead of protect it.

## HEALTH CARE

(Mr. SMITH of Nebraska asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of Nebraska. Mr. Speaker, I rise today in support of the Republican health care bill. The nonpartisan Congressional Budget Office estimates the Republican alternative will decrease health insurance premiums up to 10 percent. Compare that to Speaker PELOSI's government-controlled health insurance plan, which CBO estimates will have higher premiums than those currently available in the private health insurance market. Higher premiums than currently available.

The medical liability reform Republicans are offering will reduce health care costs for Americans by \$54 billion over 10 years by reducing junk lawsuits. This, again, according to the CBO. What's more, the Republican alternative will reduce the deficit by \$68 billion without increasing taxes by one red cent. We have a clear choice—\$700 billion in new taxes, 118 new bureaucracies and higher health care costs or the Republican bill which will take meaningful steps toward the true health care reform that we know we need.

## HEALTH CARE

(Mr. AUSTRIA asked and was given permission to address the House for 1 minute.)

Mr. AUSTRIA. Mr. Speaker, this week marks a defining moment for this Congress and our Nation. With an \$11.9 trillion debt that continues to grow as government encroaches into every aspect of our lives, we're being asked to vote on a 1,990-page health care reform bill that has a nearly \$1 trillion price tag, adding to the government's long-term deficit problem which will be passed on to our children and grandchildren.

It includes a government option in which bureaucrats in Washington will decide what health care Americans may receive. It would increase the health care costs for millions of Americans who are satisfied with their current health care coverage. It cuts Medicare and reduces benefits for seniors, such as Medicare Advantage, and will raise taxes on families and small businesses.

Mr. Speaker, we all agree that our health care system can be and should

be improved; but, unfortunately, Members of Congress are not listening to the American people, and that is, more government is not the answer.

HEALTH INSURANCE FROM THE  
NORTHERN MARIANA ISLANDS

(Mr. DEFAZIO asked and was given permission to address the House for 1 minute.)

Mr. DEFAZIO. Republicans are craven in their obeisance to their health industry patrons who are so generous at campaign time. They are saying that they're going to offer a new national policy; they're going to free up the insurance industries to offer new national policies with no antitrust law from the Federal Government, no regulation by the States. They've come up with a new loophole for abuses. They have defined on page 122 of their bill, the Northern Mariana Islands—that is Jack Abramoff's lobby client—with their sweat shops and sex shops as a State so insurance companies can go to the Northern Mariana Islands and the only consumer protections that will apply for a policy you buy—one of these new, great, cheap national policies—will be the laws of the Mariana Islands. Buy a policy in Oregon, call the Mariana Islands insurance commissioner, whoever that might be—maybe Jack Abramoff when he gets out of jail—and they'll help you out.

## HEALTH CARE

(Mr. NEUGEBAUER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. NEUGEBAUER. Mr. Speaker, yesterday the American people from across the country came to the people's House to oppose a government takeover of their health care. They said, Washington, no politician or bureaucrat should interfere with our choice. And I agree.

My colleagues and I have an answer for their calls by putting forward a commonsense reform, legislation that reduces the deficit, lowers the insurance premiums and improves coverage for those with preexisting conditions. As a result of the House Republican bill, the CBO now confirms that families will see their health care premium reduced by 10 percent. Hardworking taxpayers can expect deficits to decrease by \$68 billion in the next decade.

The American people deserve choice. One size fits all does not work for them. Speaker PELOSI, the American people have said one thing yesterday. I hope you were listening. They said, Kill this bill.

TORT REFORM WOULD PAY FOR  
UNINSURED

(Mr. SMITH of Texas asked and was given permission to address the House

for 1 minute and to revise and extend his remarks.)

Mr. SMITH of Texas. Mr. Speaker, the Congressional Budget Office has determined that tort reform would save Americans \$54 billion over the next decade. But reducing frivolous lawsuits against doctors and hospitals is not in the health care bill. That is because, according to former Democratic National Committee Chairman Howard Dean, White House officials "don't want to take on the trial lawyers." Tort reform eliminates the billions of dollars spent on meritless lawsuits and defensive medicine.

If Congress enacted tort reform, we could then provide catastrophic health care coverage to the long-term low-income uninsured. To reduce health care costs and help the uninsured, tort reform should be the first item in any health care bill.

#### HEALTH CARE

(Mr. SCALISE asked and was given permission to address the House for 1 minute.)

Mr. SCALISE. Mr. Speaker, Speaker PELOSI's latest attempt at a government takeover of health care adds an extra \$730 billion in new taxes onto the backs of American small businesses and families. It cuts \$500 billion out of Medicare, which our seniors know is only going to lead to rationed care for them, and it will take away another 5.5 million jobs out of our economy.

You wonder, today, on the day that we broke the 10 percent mark that President Obama set right here when the stimulus bill was passed, the bill that he said would stop unemployment from exceeding 8 percent, unemployment went to 10.2 percent. Now that we're over 10 percent, when are the liberals running Congress going to realize that it's their policies, it's their taxing, it's their spending, cap-and-trade, card check. It's policy after policy that puts a target on the backs of business, and it is running millions of jobs out of this economy. When will it stop and they actually go and work with us Republicans who want to put common-sense reforms in place to lower the cost of health care and avoid preexisting conditions?

#### PELOSI-CARE KILLS JOBS

(Mr. PITTS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PITTS. Mr. Speaker, this morning we received grim news. More Americans have lost their jobs, and we now see the unemployment rate at 10.2 percent, the highest in over 25 years. The stimulus bill has done little to prevent rising unemployment, only creating a handful of jobs in each of our congressional districts. Only 67 in mine, in the

16th Congressional District of Pennsylvania.

Now, instead of concentrating on how we can restart our economic engine, we start to consider a health care bill that could cost millions of more Americans their jobs in the next decade. Ways and Means Committee staff, working with the Congressional Budget Office and Joint Tax Committee figures, estimate that Speaker PELOSI's bill could cost 5.5 million American jobs over the next 10 years. It is inconceivable that this House will consider killing jobs during a recession.

A government takeover of health care will only employ more tax collectors and bureaucrats. We need real health care reform, the kind that focuses on reducing costs, improving quality of care and expanding access.

#### CLOSED HEALTH CARE RULE

(Mrs. BIGGERT asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. BIGGERT. Mr. Speaker, despite the fact that Republicans continue to offer constructive ideas to improve the health care bill, Democrats still insist that we are the party of "no." Earlier today I submitted an amendment to improve the Medicare waste, fraud and abuse enforcement provisions in H.R. 3962, and Democrats will say "no" to even allowing my amendment to get an up-or-down vote.

According to a recent report by "60 Minutes," Medicare loses over \$60 billion a year to fraud. My amendment would strengthen the Medicare enrollment process, expand certain standards of participation and reduce erroneous payments. There is no excuse for continuing to make payments to empty buildings and businesses that have never existed.

Mr. Speaker, this closed process has prevented me and many of my colleagues, both Republicans and Democrats, from offering intelligent and well-constructed amendments that would save taxpayers money and improve health care access for all Americans.

I urge my colleagues to join me in opposing this government takeover of health care.

#### HEALTH CARE

(Mr. TIM MURPHY of Pennsylvania asked and was given permission to address the House for 1 minute.)

Mr. TIM MURPHY of Pennsylvania. Our President said, "Our health care is too costly," and I agree. Yet before us in Washington are bills that tax wheelchairs, heart monitors, pacemakers and your insurance. These taxes make a family's health insurance cost \$4,000 more. The President said that defensive medicine may be contributing to

unnecessary costs, and I agree with the President. But the House bill coming up will block tort reform. As a candidate, the President said that we shouldn't underestimate the amount of money that can be saved in the current health care system. I agree. But these bills will cut Medicare by \$500 billion and eliminate disease management programs and other programs that could save money.

This bill doesn't fix our health care system. It finances it. It is not too late to reform Medicare, reform Medicaid, reform health care, cut the waste and improve quality. Let people buy across State lines. Let them join groups. Make insurance personal, portable and permanent. Millions are asking us to fix health care, but they want us to do it right. Millions of Americans can't all be wrong.

#### HEALTH CARE

(Mr. GINGREY of Georgia asked and was given permission to address the House for 1 minute.)

Mr. GINGREY of Georgia. Mr. Speaker, I oppose the government takeover of our Nation's health care system. The Democratic legislation, a 1,990-page \$1 trillion bill will raise taxes, it will increase our national debt, and it will put government bureaucrats between patients and their doctors. I agree it's important to reform our health care system, but this is not the way to do it.

I've spent the last 10 months trying to share my perspective as a physician with over 30 years' experience. My constituents and millions of Americans across this country have also spent the last 10 months trying to make their voices heard by the President and the Democratic majority. This legislation that the Democrats want us to vote on suggests that the Speaker just doesn't care what practicing physicians and the American public think.

This legislation is the wrong direction for America, and it's a death knell for quality care for American patients. Mr. Speaker, I reject any government takeover of our Nation's health care system.

□ 1915

#### HEALTH CARE

(Mr. THOMPSON of Pennsylvania asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. THOMPSON of Pennsylvania. Mr. Speaker, I would like to draw your attention to a letter from the Pennsylvania Farm Bureau. It concisely sums up many of the problems in the Pelosi health care bill for our small family farms.

According to the letter, "The employer mandate and 8 percent payroll tax will place an enormous burden on a



significant portion of agriculture and its related industry. Although some tax incentives are provided in the legislation, farmers are price-takers, not price-makers. They do not have the option of merely passing along those mandated costs."

The letter continues, "It is concerning that there are no allowances for seasonal workers. Requiring coverage for seasonal workers would have significantly adverse economic effects on many farmers across this country."

And finally, "Our Nation cannot afford the projected costs of H.R. 3962, especially considering the growing deficits and other fiscal calamities with entitlement programs that must be dealt with in the immediate future."

This legislation makes little sense when many farmers around the country are struggling with high feed costs, unsustainable energy prices, and a difficult national economy. I urge my colleagues to reject H.R. 3962.

#### HEALTH CARE

(Ms. JACKSON-LEE of Texas asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. JACKSON-LEE of Texas. Mr. Speaker, the Speaker of the House cares about all Americans. She cares about all Americans because we have worked together as a team. It's not the Pelosi bill; it's the bill that responds to America's needs. And I'm proud of our Speaker and this Congress and those who will make the right decision tomorrow.

I imagine if you were here in 1965 when President Johnson had the vision and the wisdom to formulate the strategy for Medicare in collaboration with that Congress, you could hear the sound, echoing sound of the naysayers, "no, no, no." But in none of our town hall meetings did one person stand up and say, "I'll give away our Medicare."

So tomorrow we will give seniors what they know and understand: saving a buck, closing the doughnut hole, providing no pay for preventative coverage, helping low-cost seniors. And one of the things that we will do is those States, like the State of Texas, who don't do their job as it relates to providing for the uninsured, because Texas stands at the number one State of uninsured and Houston is the number one city, we have got to fix it for those people who are in need.

Vote the right way tomorrow.

#### HEALTH CARE

(Mr. MCKEON asked and was given permission to address the House for 1 minute.)

Mr. MCKEON. Mr. Speaker, I rise today in strong opposition to Speaker PELOSI's 2,032, and growing, page health care bill.

Today we are at the highest unemployment level since 1983. The American people can't afford these massive new spending increases, and I refuse to pass them on to my children and grandchildren.

This legislation will immediately increase taxes on American families and small businesses by \$729 billion. The total bill will cost over a trillion dollars over the next decade, with money we don't have.

And what do the American people get for all this new spending? A bill that you pay for now but doesn't give coverage for 4 years.

Republicans have real solutions for improving access and affordability for American health care. We support tort reform to eliminate frivolous lawsuits. We support allowing negotiating across State lines and group purchasing power. We support choice of coverage without the government's forcing people into government-run health care.

Oppose the Pelosi health care bill.

#### HEALTH CARE

(Ms. FALLIN asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. FALLIN. Mr. Speaker, if we pass Speaker PELOSI's 1,990-page bill, which creates a massive new Federal bureaucracy to manage our health care system, States will face huge unfunded mandates.

The \$34 billion worth of unfunded mandates to the States in this bill might help hide the true cost of this \$1.3 trillion legislation, but the truth is the States will be picking up a lot of these costs. And the only way States could deal with the increased costs and the unfunded mandates would be to look at raising taxes on small businesses and on individuals, and that is unacceptable.

Speaker PELOSI may be all right with increasing the national debt and spending up to \$1.4 trillion on this legislation, but when the bill comes due, the children of America and their children will be the ones who will be paying a hefty price for reckless spending in this Congress.

It is estimated that this Pelosi health care bill will cost Oklahoma \$127 million a year in unfunded mandates. In our State of Oklahoma, we're required to balance our budget each year.

Let's kill this bill because it will be bad for the States and bad for unfunded State mandates.

#### THE GOP HEALTH CARE PLAN

(Mrs. LUMMIS asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. LUMMIS. Mr. Speaker, while earlier this week the Wall Street Jour-

nal called the Pelosi health care plan "the worst bill ever," the Chicago Tribune last week called the GOP plan a good plan and said, "We don't agree with everything in these bills but we do agree with ideas such as these:

"Let insurers sell policies across State lines. That would loosen the strangling State-by-State regulations and unleash competition to drive premium prices down." And, indeed, that is what happens under the Republican bill.

"Give people who buy insurance in the private market the same tax breaks as those who get it through employers." That only makes sense.

And, finally, "Expand the ability of small business, trade associations, and other groups to set up insurance pools to offer coverage at more attractive rates."

These are the advantages of the Republican plan. And to boot, ours cuts the deficit.

#### HEALTH CARE

(Mr. GARRETT of New Jersey asked and was given permission to address the House for 1 minute.)

Mr. GARRETT of New Jersey. Mr. Speaker, the truth has now come out, and the fact is that you can go to jail if you do not buy into the Speaker Pelosi health care bill.

One of the most onerous provisions of the Pelosi health care bill is the so-called "individual mandate." This is a provision that will force every single American to buy into their health care plans whether they want to or not.

Back when Bill Clinton was President back in 1994, the CBO said, "A mandate requiring all individuals to purchase insurance like this would be an unprecedented form of Federal action."

And how does the government force this mandate? If you don't buy their insurance plan, they will fine you 2.5 percent of your entire income. And what happens, you may ask, if you don't pay that fine to them? Now we know the answer: You could be sent to jail, literally. Section 201 of the code says that. That's right. The Joint Committee of Taxation has declared that you will be eligible to be fined up to \$250,000 and/or imprisonment of up to 5 years if you do not comply with this new plan.

Mr. Speaker, this is a bad bill. It will hurt consumers. It will hurt families. It will hurt everyone else. And it may send Americans to jail.

#### HEALTH CARE

(Mr. MARIO DIAZ-BALART of Florida asked and was given permission to address the House for 1 minute.)

Mr. MARIO DIAZ-BALART of Florida. Mr. Speaker, unemployment has reached 10.2 percent in our great country, and what is the response of this Congress and this administration?

Well, a bill that includes \$730 billion in tax increases on small businesses and on the middle class that will cause millions more of Americans to lose their jobs. And adding insult to injury, Mr. Speaker, the Pelosi bill would actually raise the cost of insurance premiums on American families.

Mr. Speaker, the American people are not stupid. They know what's in this bill. They know what effects this bill will have on themselves, on their families, and on their country. And that's why the American people have rejected it and are saying "no" to this bill.

Congress needs to do the right thing, the responsible thing, and also say "no" and reject this irresponsible piece of legislation.

#### SPECIAL ORDERS

The SPEAKER pro tempore (Mr. McMAHON). Under the Speaker's announced policy of January 6, 2009, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

#### NOW IS THE TIME FOR HEALTH CARE REFORM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Connecticut (Mr. HIMES) is recognized for 5 minutes.

Mr. HIMES. Mr. Speaker, after years of aspiration and planning, after too many families bankrupted and too many lives lost, this House stands ready to do something both great and necessary. We will soon join every other civilized nation on this planet in offering each and every citizen decent, affordable health care.

For me, a new Member of this body, it has been an incredible exercise in democracy. I participated in more than 60 town hall meetings, visits with doctors, nurses, patients, and listened to advocates with every conceivable point of view. Almost everyone agrees that we must do something and do something bold.

Too many Americans know the fear that losing a job means losing access to doctors and to lifesaving drugs. Too many Americans have watched as illness or injury has driven their family into bankruptcy. Too many small businesses, nonprofits, and small town mayors have seen their budgets wrecked by exploding costs of health care insurance.

Mr. Speaker, several weeks ago in the city of Bridgeport, I met Marta, who lost her job of 23 years and is currently relying on her COBRA coverage to pay for the management of her diabetes. She is terrified. Her COBRA will end soon, and she has been refused private coverage time and time again.

I've also gotten to know a young man named Eugene who makes his living

laying bricks. He can only work during the warm weather construction months when he has good coverage through his union, but in the wintertime when he can't work, he joins Marta in the ranks of the fearful. He prays that nothing happens. He asked me, "Even the phone company has rollover minutes. Why not our insurance plans?"

When this House passes the Affordable Health Care for America Act, no American will ever be denied coverage because they have a preexisting condition. When this bill passes, we will begin to close the Medicare doughnut hole so that no senior will have to choose between their prescription and buying food. When this bill passes, our small businesses, our nonprofits, and our mayors will no longer watch as exploding health care costs wreck their budgets.

Is the bill perfect? No. But in this of all things, we cannot let the perfect be the enemy of the good. There is too much at stake—the lives of those who die because they can't see a doctor, the peace of mind of millions of Americans who know that bankruptcy is one illness away, the moral standing of this great Nation that has fallen too short for too long in keeping its people healthy.

Mr. Speaker, now is the time. Mr. Speaker, "yes" is the answer. I join my colleagues in urging that tomorrow we make history.

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#### "NO" TO GOVERNMENT-RUN HEALTH CARE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. POE) is recognized for 5 minutes.

Mr. POE of Texas. Mr. Speaker, many years ago during the mid-eighties, I had the opportunity to travel to what is now the former Soviet Union when it was the Soviet Union. I had that experience based upon the fact that I was a judge in Texas and got to go see what it was like to live under that type of regime.

Of course, in those days, everything was controlled. Everything was controlled by the government. The lives of the people were totally controlled by the government because the government, as they say, knew better. It made all decisions for the people. It made the decision what town they lived in, what apartment they lived in, what job they had, where they worked, and gave them permission or not to even travel from town to town. And, of course, government made also the decision and the control over their health care.

I noticed as I went from clinic to clinic that the lines would be down the street. Four in the afternoon, they shut the door. The people disappeared. The

next day they would come back and stand in line again, hoping to get some of that government-controlled, rationed health care.

I also noticed something more important than all of that, that the spirit of those Russian people was broken. They had given up. They had given up on themselves and on their government.

Eventually, of course, they were defeated, as we say, when the wall came down. But they were not really defeated by the United States, by the West. They were defeated by their own government because of their oppression and subjugation to the government and government control of their lives. Yes, in those days, the evil empire, as we called it, was the ultimate example of total government control.

Now, of course, we are not the Soviet Union. I am not saying we are. But today we are engaged in the great debate of at least this century of health care. But it is a bigger issue than health care. The issue is about government control of our lives. Regardless of how you put the bill that is now over 2,000 pages, it changes the philosophy that the government now will control health care in this country, rather than us as citizens.

You know, the idea that government is going to save us all. We are going down that road of government, more government, more government, more government, and more government. You know, government is already the biggest employer in this country. It is the biggest consumer in this country. It is the biggest landowner in this country. It is the biggest spender in this country. It has most of the money. And when it runs out of money, it takes money from the people when they are alive and even when they are dead because of the death tax.

Just a few months ago, the government took control over the financial industry, the mortgage industry, the banking industry, and the automobile industry, just to name a few. But I don't believe the people in this country are broken, and they are not defeated. They showed it when they came to Washington, D.C., this week. They are concerned about government. It is a bigger issue than health care. They are concerned about government running roughshod over their lives. They exercised, even with all of the critics and cynics, they exercised their right to peacefully assemble and petition government for redress of grievances. It is in the First Amendment. It is first because the First Amendment is the most important.

But people are fearful of government, of government control over their lives. This health care bill is just one example of us moving down that road of government is going to take care of us all; it is going to save us all.

Mr. Speaker, this country has never been great and will never be great because we have government programs.

Government programs have not made this country what it is today. Individuals have made it. But, also, the individuals that had the right and have the right of liberty, to make decisions on their own rather than government taking care of them all. We are great because of the people here and who have not been defeated by the government of the United States.

So I hope we in this House would turn against the temptation of turning everything over to government. This is one place where we can put the brakes on and say no to government running the health of this Nation. Because government doesn't do it better. You know, this government-run health care plan has the confidence of FEMA, the efficiency of the Post Office, and the compassion of the IRS, and we should start over and fix the problems that we have rather than expecting government to take care of us all.

And that's just the way it is.

#### FIXING HEALTH CARE IN AMERICA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Oregon (Mr. DEFAZIO) is recognized for 5 minutes.

Mr. DEFAZIO. Mr. Speaker, the Democratic health care bill fixes a number of long-standing problems with health insurance and health care in America. The health insurance industry is exempt from antitrust law in the United States. That means they can and they do get together and collude. They collude to drive up your premiums, they collude to curtail your coverage, they divide up the world and determine where each of them might or might not sell policies so there isn't competition in any way. That is all legal. They are exempt.

The Democratic bill with my amendment repeals that privilege for this industry. They will have to play under the same rules as every other business in America. That will lower premiums between 10 and 25 percent, according to the Consumer Union. That is one step. That is in the Democratic bill. The Republicans wouldn't touch that with a hundred-foot pole. The insurance industry is so generous at campaign time, they want to actually give new loopholes to the industry, which I will get to in a moment.

The Democratic bill outlaws denying you coverage because you were once sick, preexisting condition. The Democratic plan denies canceling your policy when you have been paying your premiums for years because you got sick. That is called rescission by the industry. No more. No lifetime caps which are hidden in the small print. People find out about them when they get a serious illness. Outlawed by the Democratic bill.

And, also, the Democratic bill will put annual caps on people's spending.

No one will ever again lose their house in America because they lost their job and their health insurance and they got sick. Yes, the hospital still has to take them, but they will take your house. That won't happen if the Democratic bill is adopted. The Republicans will deal with none of those abuses, in their obeisance to the Republicans, their patrons in the insurance industry.

We are going to begin to fill in the doughnut hole which they created. We are going to help small businesses buy plans with health credits. It is a good start. It is not perfect. It can be improved as we go through the process. But it is a good start at reining in the costs of an out-of-control health care system.

Now the Republicans' alternative, as I said, they continue the anti-trust exemption and the price fixing by the insurance industry. They allow them to continue to deny you coverage because you were once sick. They allow the insurance industry to do rescissions and cancel your policy when you got sick, even though you have been paying your premiums. And, of course, individual coverage will not be limited, so they will still have bankruptcies and people losing their houses.

But wait. It gets better. They have something called the new national plan. That is the key to what they are doing here. You can buy a national policy, and it will be cheaper. And, oh, wait a minute. Here is the small print, page 122 of the Republican bill: Your national policy will only be subject to the rules in the State in which it is written. Not where you live. If you have a problem, you will have to file with the insurance commissioner in the State where it is written. That is probably not too good because we have some States that basically don't regulate the industry at all.

But it gets better. The Republicans are so creative. They have created a 51st State called the Northern Mariana Islands because of the convicted Republican lobbyist Jack Abramoff and the scandals around him, the sweat shops, the sex scandals, all that stuff. That is where your new national plan will be based, is the Northern Mariana Islands.

So if you buy a policy in my home State of Oregon and you want to file a complaint, you will be calling the insurance commissioner in the Northern Mariana Islands. And perhaps, when he gets out of jail, that might even be Jack Abramoff. What a great deal. It would be a joke if they weren't serious about it. This is something that the industry wanted. They wanted a new loophole to better abuse consumers, and the Republicans want to deliver it to them. They can't be serious.

So I would say to my colleagues, you can throw in with the insurance industry which they seem to think is totally benign and always there for the Amer-

ican people. Or you can throw in on the side of consumer protection, lower costs, and health care for all Americans. That's the choice tomorrow.

#### HEALTH CARE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana (Mr. BUYER) is recognized for 5 minutes.

Mr. BUYER. Mr. Speaker, the President and the Democrat leaders here in Congress are not listening to the American people. Today, our Nation's unemployment rate is 10.2 percent, the highest level in 26 years. This is an astounding level of unemployment. It tells only part of the story of the struggles Americans are experiencing and Washington is ignoring.

A deeper look at the unemployment numbers reveals the true costs of the Obama-Pelosi economic policies. The actual unemployment rate in America is 17.5 percent. When the currently unemployed, those who are unable to find work and those who have given up looking for jobs are included, it is 17.5 percent unemployment.

We must focus on the economy first. We should start by cutting government spending to shore up the U.S. dollar. We should encourage job creation in the private sector and increase private investment. We must rely on the proven methods to get our economy back on track such as an immediate tax relief, decreasing the capital gains tax rates, and reducing the tax burdens on small business.

We are living in an economy in despair as we face a two-front war. The President needs to address the economy first; and, as Commander in Chief, he needs to make a decision on Afghanistan.

Mr. President, you cannot vote "present" on Afghanistan. You need to make a decision.

Instead, he and the Democrat leadership are jamming legislation through Congress with massive spending increases, bailouts, greater government control of businesses, and job-destroying taxes and regulations, all while leaving our troops in limbo in Afghanistan.

Washington has it all wrong. Unfortunately, the President, Speaker PELOSI, and Senate Leader REID are proceeding with a 2,032-page bill that promotes the government takeover of health care; and most Republicans have been shut out of the process.

With little room for engagement, though, I have been successful to help improve a bill that I do not like. I have done this for a reason. It is because of our veterans. I have been able to provide important protections for our veterans and servicemembers who would have been significantly impacted by this health bill had the Democrats had their way at the beginning. I have been

able to ensure that the veterans enrolled in VA health care cannot be hit with a 2.5 percent tax. Also, I sought to ensure that the VA is reimbursed by the government-run health plan for nonservice-connected care it provides to the veterans. I appreciate them including these amendments.

After succeeding with an amendment to ensure veterans and servicemembers have the ability to obtain additional health care in the health insurance exchange created by H.R. 3962, my amendment was altered; and, under H.R. 3962, veterans' and servicemembers' choice of health insurance will be left to the administration to determine.

Again today I tried to fix this with an amendment, but it was denied in the Rules Committee. A number of veterans and military groups, including the VFW, share these concerns and support the amendment that I submitted to the Rules Committee today. I will include for the RECORD the letters from the AMVETS, Blinded Veterans Association and the Retired Enlisted Association.

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Our veterans and military organizations in support of the Buyer-McKeon amendments are the VFW, the Air Force Sergeants Association, MOAA, the Association of the United States Army, National Military Family Association, and the Enlisted Army National Guard, U.S.

Also, there are Members who are cosponsoring these amendments: JERRY MORAN of Kansas, HENRY BROWN of South Carolina, JEFF MILLER of Florida, BRIAN BILBRAY of California, DOUG LAMBORN of Colorado, GUS BILIRAKIS of Florida, Dr. PHIL ROE of Tennessee, VERN BUCHANAN of Florida, and RODNEY ALEXANDER of Louisiana.

Our veterans have earned the VA health care as well as the liberty to choose whatever other coverage they prefer. I find it outrageous that the government would attempt to dictate where and how these veterans and servicemembers would obtain health care.

Additionally, under H.R. 3962, the authorities of the VA and DOD Secretaries are jeopardized, and the health care systems that they oversee could be affected by the new health care czar created in all but one section of this bill. Again, the Democrat leadership has not addressed this issue that I sought to address, and these amendments have been denied today.

As the Blinded Veterans Association stated in their letter to me: "It is critical to ensure that the authority of the Secretary of the VA and the Secretary of DOD could never be challenged or obstructed by any provision in the bill or by a Secretary or a commissioner from another sector of government."

Finally, it is important to note that under H.R. 3962, veterans and service-

members enrolled in VA health care and TRICARE will not be eligible for the affordable tax credits . . . available to other Americans living under 400% of the federal poverty level. I submitted an amendment, which would have allowed individuals enrolled in VA health care and TRICARE to receive these tax credits, and this amendment was denied consideration by the Democrats.

I oppose H.R. 3962. This legislation restricts veterans' health care options and imposes a sweeping government takeover of our nation's health care system, and I support the Republican plan to improve our nation's health care and lower premiums, thereby increasing access to quality healthcare.

According to the non-partisan Congressional Budget Office (CBO), the Republican health care reform legislation would reduce health insurance premiums by up to 10 percent for employees working in small businesses, up to 8 percent for individuals who do not have access to employer-provided health insurance and up to 3 percent for employees who get coverage through large businesses.

All told, under the Republican plan, health insurance premiums would cost Americans nearly \$5,000 less than the least costly option under Speaker PELOSI's plan. All of this without a government takeover of our health care system and 1/6 of our nation's economy.

The Democrats' plan is not about insuring the uninsured or bringing down health care costs. In fact, under Democrat proposals in Congress, up to 114 million Americans could lose the private health insurance that they enjoy today, and CBO found that the House Democrats' bill will make health insurance more expensive than it is now, raising insurance premiums about 30 percent more than currently projected by the year 2016.

We must focus on the uninsured and the uninsurable. The Republican health care plan does just that by creating new health insurance options for small businesses—the economic engines of our economy—enacting real medical liability reform so that physicians can continue to focus on their patients and not junk lawsuits, guaranteeing affordable health insurance for individuals with preexisting conditions, protection seniors' Medicare benefits, and lowering health care premiums for all Americans.

Our nation's health care system can be improved without increasing taxes and jeopardizing the jobs we still have in America. The President and Democrat leadership in Congress must reorganize their priorities. They must stop focusing on job-killing policies. It is time to start listening to Americans and fix our economy first.

AMVETS,

Lanham, MD, November 6, 2009.

Congressman STEVE BUYER,  
Rayburn House Office Building,  
Washington, DC.

CONGRESSMAN BUYER: On behalf of AMVETS, one of the nation's largest and most inclusive veterans' service organizations, I want to express our support for your amendments to H.R. 3962, the Affordable Health Care for America Act.

Since health care reform legislation was first introduced, AMVETS has vocally called on leaders in Congress to ensure that any reform legislation would not have a negative impact on health care options for members

of our military, veterans, or their loved ones. AMVETS believes that your amendments help to ensure that those who have served our nation are cared for appropriately.

When the most recent version of health care reform was released, AMVETS raised concerns on the clarity of the language and whether or not veterans and their loved ones would still have access to the health care exchange, should VA and military health care prove insufficient for their needs.

AMVETS believes that the three amendments you have offered today help to clarify language in the bill that members of the military and veterans will still have access to the exchange without penalty.

AMVETS fully supports your amendments to ensure that our nation's heroes have access to the quality health care they have earned.

Sincerely,

RAYMOND C. KELLEY,  
National Legislative Director.

BLINDED VETERANS ASSOCIATION,  
Washington, DC, November 6, 2009.

Hon. STEVE BUYER,  
Ranking Member, Committee on Veterans Affairs,  
Cannon House Building, Washington, DC.

DEAR RANKING MEMBER BUYER: On behalf of the Blinded Veterans Association (BVA), the only congressionally chartered veterans' service organization exclusively dedicated to serving the needs of our nation's blinded veterans and their families for sixty-four years, BVA is writing to express strong concerns about H.R. 3962, America's Affordable Health Choices Act of 2009. As currently drafted, without your amendments BVA would consider this legislation inadequate because it could limit the health care choices for veterans, and threaten veterans who currently utilize the high quality of VA health care offered to veterans through the VA health care system by forcing them into private insurance plans. Earlier this year, BVA along with five other congressionally chartered veterans service organizations wrote to support your amendments and serious concerns about provisions contained in the previous House health care reform bill, H.R. 3200 that could have had negative effects on veterans, their families, and the Department of Veterans Affairs health care system. BVA and other VSO's had been assured that key amendments by you including protection of veterans enrolled in VA would be retained as the bill moved forward and this is not the case today.

The Veterans Health Administration (VHA) provides medical care services to its 8 million enrolled veterans at more than 1,400 medical centers, outpatient clinics and other points of service. With over 270,000 employees, the VHA runs the largest integrated health care system in the United States, and over the past decade the quality of care provided has risen to amongst the finest health care systems in the nation. Under H.R. 3962, VA health care and TRICARE would be deemed "qualified" coverage but we point to this section as now written as it is ambiguous and could be interpreted to disqualify individuals enrolled in VA health care or TRICARE from participating in the exchange. This amendment was accepted at the Energy and Commerce Committee, but it failed to be included H.R. 3962.

It is critical that congress ensure in the current health care reform effort to ensure that the authority of the Secretary of VA and Secretary of DOD could never be challenged or obstructed by any provision in the

bill or by a secretary or commissioner from another sector of government. As currently written, H.R. 3962, would provide for the Secretary of Defense and the Secretary of VA to retain sole authority over their respective health care systems only as it pertains to Subtitle A, the Health Insurance Exchange. The original Buyer Amendment adopted in Energy and Commerce Committee did this but the current legislation leaves this open and vague. Second key issue we support being amended is in section 342 of the bill to allow individuals enrolled in VA health care and TRICARE to be eligible for affordable tax credits. Currently, H.R. 3962 defines an "affordable credit eligible individual" as one who is not enrolled in acceptable coverage—which would exclude individuals enrolled in VA health care or TRICARE.

Unfortunately, as currently drafted, H.R. 3962 fails to adequately recognize, protect or preserve this invaluable system for our nation's 24 million veterans. BVA once again supports Ranking Member Buyer amendments to ensure that veterans are protected. Enrollment in VA health care, especially in the case of service-connected disabled veterans, should never become a bar or obstacle to the receipt of benefits that non-veteran citizens receive in this or any other health care reform bill. Any national health reform legislation must make certain that all veterans, including all of those enrolled in VA health care, remain eligible to enroll in any Exchange-participating health benefits plan offered under H.R. 3200 through the Health Insurance Exchange, or in any other public or cooperative health insurance program.

The VHA provides a uniform medical benefits package to all enrolled veterans, regardless of their enrollment priority group, that emphasizes preventive and primary care, and offers a full range of outpatient and inpatient services and prescription medications. Accordingly, enrollment in the VHA health care program must be considered acceptable coverage in the same manner as members of the uniformed services and their dependents, including Civilian Health and Medical Program of the VA (CHAMPVA) coverage furnished under section 1781 of title 38 United States Code, so that they will not be subject to any tax or penalty for lack of health care coverage.

Finally, BVA would stress again, that it is imperative that any other health care reform legislation considered in Congress, must make clear that the health care system of the Department of Veterans Affairs shall be run by the Secretary of Veterans Affairs to meet the health care needs of veterans, dependents and survivors, and that this authority shall not be infringed by any national health care organizations or any other departments, agencies or independent organizations of the federal government.

Ranking Member Buyer on behalf of the Blinded Veterans Association membership we represent, and for the benefit of the millions of veterans living today and future veterans, we support the amendments you are offering today with your colleagues to clarify the current language in H.R. 3962 to protect the health care system of our veterans. Unless the changes and clarifications discussed above are made in the legislation, we will oppose movement of H.R. 3962 or any other legislation that could negatively impact the current health care system for our nation's veterans.

Sincerely,

THOMAS ZAMPIERI,  
Director, Government Relations.

THE RETIRED ENLISTED ASSOCIATION,  
Alexandria, VA, November 6, 2009.

Hon. STEVE BUYER,  
Ranking Member, Committee on Veterans Affairs,  
House of Representatives, Washington, DC.

DEAR CONGRESSMAN BUYER: The Retired Enlisted Association (TREA) shares the concern that H.R. 3962 does not ensure that veterans and TRICARE beneficiaries would have access to the Health Care Exchange, and that the same beneficiaries would be excluded from eligibility for "affordability credits". Thus, we do support amendments to the bill that would address these concerns.

While it is no doubt true that most veterans and TRICARE beneficiaries would not have a problem if the legislation were enacted as it currently stands, those who live in remote areas could find themselves in dire straits with regard to their health care without the changes you seek. These are precisely the people who frequently have difficulty in accessing the health care benefits which they have earned and have just as much right to as every other veteran or TRICARE beneficiary.

Finally, we recommend that the language you propose to insert at the end of section 202 be changed from "EXCEPTION FOR VETERANS AND MEMBERS OF THE ARMED FORCES" to "EXCEPTION FOR VETERANS AND MEMBERS OF THE UNIFORMED SERVICES" NOAA and USPHS members are not considered to be members of the Armed Forces but are TRICARE beneficiaries.

Sincerely,

LARRY MADISON,  
Legislative Director.

#### HEALTH CARE

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from the Virgin Islands (Mrs. CHRISTENSEN) is recognized for 5 minutes.

Mrs. CHRISTENSEN. Mr. Speaker, this House and our Nation are poised for a historic vote tomorrow. That vote will determine whether tens of millions of people who are uninsured and underinsured will finally have access to health care. But beyond that, it will begin to transform the current sick care system which is draining this country, not just of its finances, but of some of its brightest and best who, because they are not able to access the fantastic health care this country has to offer, are not as productive as they would or should be.

It will enable many, those in our rural areas and our territories, those in blighted urban areas and racial and ethnic minorities who have been left out of the health care mainstream to finally have access to wellness and more productive and fulfilling lives.

Our vote tomorrow will also determine how successfully we will compete in the global community where everyone is in a race to the top, whether or not we will, through reducing the highest health care in the world, set our country on a more sustainable economic footing, and whether we can re-

gain our leadership in this world by raising our health indicators, like infant and maternal mortality, to levels that match or better the other industrialized nations we now lag behind.

To me, a vote against this bill is a vote against what is best for our country.

No one ever thought we would have had a perfect bill, but what we have in H.R. 3962, the Affordable Health Care for America Act, is as near a perfect bill as anyone could have conceived when we started out this process. I applaud the outstanding leadership of our Speaker, our leader, our whip, our caucus Chair and vice Chair, the chairmen of the respective committees, and Chairman Emeritus JOHN DINGELL for the bill which will be before us tomorrow.

H.R. 3962 covers at least 36 million of the now uninsured, expands and improves Medicaid, strengthens Medicare, begins to close the doughnut hole, and makes it, as well as other insurance, more affordable. It will provide a robust benefits package, new prevention and wellness programs, with no copayments for preventive care. It ends insurance abuses that have led many families to bankruptcy or near bankruptcy—no exclusions for preexisting diseases, no dropping your coverage or putting limits on how much insurance will pay for you when you get sick.

It expands the health care workforce and especially supports the training of primary care physicians, nurses and physician assistants, as well as that of now underrepresented minorities. It provides community health centers and community health workers as well as programs that help communities to better prepare to take advantage of the new health care system. And it will strengthen our public health infrastructure and workforce. The bill is fully paid for, and will reduce the deficit over the 10 years.

What is not to vote for? I know that some of the hesitation is over abortion issues. I don't understand it because H.R. 3962 keeps the Hyde amendment in tact. It prohibits Federal funds from being spent on abortion. It excludes abortion from the basic benefits package. It prohibits discrimination against providers who do not perform abortions by insurance plans. It does not require any insurance plan in the exchange to cover abortion, and it provides that the exchange would have an insurance option that does not cover abortion.

I, like every Member of this body, I am sure, am deeply committed to life—to protecting lives, to saving lives, and to improving the quality of lives. Without passage of this bill, many will suffer the unnecessary loss of life that happens every day in this country of plenty to those who are uninsured and in people of color, whether they're insured or not.

In this 21st century, every year 88,000 African Americans alone, not counting

American Indians, Latinos, Asians, or Pacific Islanders, 88,000 African Americans die who would not have if they were insured and if they had equal access to the services that this bill would now provide them, some of them for the very first time.

Have those who oppose this bill because of concerns of abortion considered that this bill would even reduce the need for abortion? Something everyone, no matter what side of the debate you are on, would want. It would do so by ensuring that everyone would have access to comprehensive health care and the kind of family-life counseling that is a part of it.

Tomorrow, we have the opportunity to save millions of lives. There is no more important reason to vote "yes" for the Affordable Health Care for America Act than that. Everyone should want to be on the right side of the historic vote that awaits us tomorrow. We need health care reform now.

#### HEALTH CARE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Kansas (Mr. MORAN) is recognized for 5 minutes.

Mr. MORAN of Kansas. This week, I had the honor of meeting 30 Kansas World War II veterans at the national World War II Memorial. These veterans, who are in their 80s and 90s, were part of Honor Flight, an organization that brings veterans to Washington, D.C. to see the memorial dedicated in their honor.

Welcoming these Honor Flight veterans is an incredible privilege and one of the most rewarding experiences of my time in Congress. As I visited with these veterans about the sacrifices they made, the friends they lost, and the love they have for their country, I was reminded about how serious my responsibility is as a Member of the United States House of Representatives to do right. It also caused me to reflect on the importance of this weekend's vote on health care reform.

As Chair of the House Rural Health Care Coalition, I know how important health care is to the survival of Kansans and their home towns. The vote we will take this weekend will affect all Kansans at every age, those proud aging veterans, the senior couple counting out their medications each morning, the young family just starting out, the children playing hide and seek in the yard, and the small business owner looking over the budget report.

The decision we make this weekend matters; it matters from coast to coast and across the sweeping plains of Kansas. Our State has unique health care needs, different from much of the country. We have an aging population that has spread widely across a large area. I consider these unique needs in each policy decision that I make.

Changes are truly needed in our current health care system, and I have written about my ideas for reform and have shared them with folks back home and anyone up here who will listen. After studying H.R. 3962, Speaker PELOSI's health care reform bill, listening to the concerns of Kansans and visiting with Kansas hospitals to speak with doctors and nurses, patients and administrators, I have concluded that the Speaker's 2,000-page bill will do great harm to Kansans, and I strongly oppose it.

The Pelosi bill is essentially the same version that the Speaker started out with months ago, except it's 1,000 pages longer. Instead of working to repair our current system, which a majority of Americans favor, the Pelosi bill will turn much of our system on its head by creating a new government-sponsored health care program financed by deficit spending and taxes.

This bill levies taxes on businesses, cuts Medicare benefits to seniors, eliminates jobs with employer mandates, and enables bureaucrats to define what form of health coverage is acceptable for Americans.

The bill would create 118 new boards, bureaucracies, commissions and programs to carry out its so-called "reforms." I am especially troubled how \$500 billion in Medicare cuts and proposed reimbursement rate changes contained in this bill will affect Kansans with our high population of seniors. Only in Washington does cutting billions of dollars from a near bankrupt Medicare program seem like a good idea. These cuts will reduce benefits and raise premiums for Kansas seniors and make it harder for us to find a doctor or nurse when we need one.

We strengthen our health care system by reducing cost. The Speaker's bill does nothing to reduce cost. In fact, Medicare and Medicaid's own actuaries have warned that the plan will dramatically increase Federal health care spending.

The veterans I met at the World War II Memorial fought for a country they love and that country's promise of liberty and opportunity. After the war, these men and women returned to their homes and ventured off in different directions, some rejoined families and jobs, some got married, some went to college, and some started a business. But one thing they all shared was the desire to continue fighting to make a better life for their children, a life better than the one they had for themselves. This is the desire that my mom and dad—my dad who turns 94 tomorrow—had for my sister and me, and the one that my wife, Robba, and I have for our daughters. This is what we do in America: we leave the next generation better off.

I have concluded this bill will not make health care more affordable or more accessible to Kansans. I have also

concluded that, coupled with all the other bad ideas of this Congress—stimulus packages, bailouts, Cash for Clunkers, cap-and-trade—we will be leaving our children with more debt, less freedom, diminished personal responsibility, and fewer economic opportunities. Worse, we will have failed to honor the dreams of those Kansas soldiers for a better life for another generation of Americans.

#### HEALTH CARE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Ms. JACKSON-LEE) is recognized for 5 minutes.

Ms. JACKSON-LEE of Texas. Mr. Speaker, this has been an engaging debate and discussion by my colleagues, and it is a momentous time in our history.

Earlier this evening, I reminded my colleagues of the imagined debate for those of us who were not here when Medicare was introduced to the American people. Medicare can document the number of lives that were saved. And we are privileged to have in the House Chairman JOHN DINGELL, who was here during that debate and who has crafted this legislation based upon decades of attempting to achieve universal access to health care for all Americans.

My friends are talking about how we rushed this legislation through. They obviously have not kept up with history's stories. For America has been working on providing access to health care for all Americans since the 1930s, the 1940s, the 1950s, the 1960s, 1970s, 1980s and the 1990s.

We must come to grips with the collapsed system that allows 18,000 people to die because of lack of insurance, that has a number of States with high uninsured rates, meaning that their population is uninsured.

It seems like an oxymoron to suggest that a city that can be called the energy capital of the world, with all of the attributes and wonderful neighborhoods that Houston has, the spirit of the people, NASA, so many things to call America, and yet our numbers are very high for those who are uninsured, hardworking Houstonians who desire to have access to health care.

This is not an indictment of the facilities in our community that work very hard to make this happen. The Harris County Hospital District, for example, the Texas Medical Center, the number of hospitals outside of that area, including St. Joseph's Hospital, the physicians and nurses and clinics that work in the area all work hard to provide access to health care.

But, Mr. Speaker, it's not enough. And our friends on the other side will introduce legislation tomorrow that they call "cost saving," that will merely insure 3 million people. Well, I wonder what decision would have been



made about Medicare if we had thought about penny-pinching, not cost containment, not being efficient, penny-pinching. And that is what's going on on the other side. There is no vision about what will happen if we wait one more decade without debating health insurance.

□ 2000

I have heard some of my friends say, "Kill the bill." Well, we're killing Americans, and I believe most of us would rather not engage in those kinds of theatrics.

I believe that small business owners, of whom we are very concerned, will have the ability to secure insurance for their employees. All the time when I listen to them, they are committed and dedicated to their employees. They are the backbone of America. This bill exempts 86 percent of small businesses from the requirement to offer or to contribute to coverage by increasing the thresholds for exemption from a \$250,000 payroll to a \$500,000. It decreases obligations for employers of payrolls between \$500,000 and \$750,000. It allows those employees to go into the exchange.

Small employers and the exchange: It increases the size of small employers automatically allowed to purchase coverage through the exchange, which will include the public option, of up to at least 100 employees within the first 3 years. It permits an additional expansion to even larger employers in future years. A small business tax credit modifies the policy to limit the tax credit to a 2-year period per firm to help firms transition to providing health care benefits to their employees.

Health insurance co-ops provide startup loans to establish not-for-profit, or cooperative, health plans that compete with private insurers and the public insurance option all in the vein of bringing down costs.

It provides veterans and members of the Armed Forces the assurance that members of the Armed Forces, veterans, and their families have access to the exchange, to obtain health insurance if they choose and that they fulfill their responsibilities to have qualified health insurance if they are enrolled in a VA health care or TRICARE.

Remember, this legislation will allow Americans to keep their insurance. I am proud of that. As well, there is a definitive decline in the percentage that Americans will have to pay of their income for health insurance coverage. That is not the case now, and that is why you find so many Americans without health insurance.

Mr. Speaker, I would only say it is time now to move on health care reform.

#### THE MOTHER OF ALL UNFUNDED MANDATES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Tennessee (Mr. ROE) is recognized for 5 minutes.

Mr. ROE of Tennessee. Mr. Speaker, I came to Congress to help enact health care reform. As a physician, I've seen firsthand the problems insurance companies have created for patients. I've seen firsthand how government programs have made beneficiaries worse consumers of health care. I've seen how the cost of health care has exploded so much so that many can't afford insurance. I've seen all of these problems, and I want to help fix them.

When I first heard that the Democrats were proposing to insert a government competitor into the insurance marketplace, I thought, surely, they can't be serious. When I realized they were, I thought I could change their opinions by telling them about the real-life failures I've seen under our State's program, known as TennCare, and how H.R. 3200—now H.R. 3962—is simply a bad extension of these mistakes.

For months, I've gone to the House floor with many of my physician colleagues to talk about the problems with this plan. The TennCare plan tried to provide universal coverage and to make health insurance affordable. In the end, it nearly bankrupted the State as the program's cost tripled. It created an incentive for beneficiaries to seek unnecessary care because it cost them nothing. It shifted costs to the private plans, which were forced to make up these underpayments of the government program by increasing everyone's premiums. In the end, 45 percent of those on the public plan previously had private insurance, and they either dropped their coverage or were dropped by their employers.

Our Democratic Governor, Phil Bredesen, saved our State's budget by doing something very hard. He cut the rolls. He controlled costs. He introduced an alternative plan called Cover Tennessee, which requires an equal contribution from employers, individuals, and the government. It is a model for shared responsibility. Incidentally, Governor Bredesen has called this bill on the floor the mother of all unfunded mandates.

Democrats continued to ignore this evidence. I have asked President Obama three separate times since July to sit down and talk about a health care bill and to talk about what I know the effects to be, yet I've received no call from the White House. It's one thing to disagree with evidence that undermines the premise of the reform you're pushing, but to not even consider it is unbelievable.

So here we are today with a health care bill that's over 2,000 pages. It's loaded up like a Christmas tree with

special interest provisions. Sanitation facilities for Indian tribes, biofuel tax credits, nutrition standards for chain restaurants, and references to pizza and doughnuts all made it into this bill, but somehow Democrats could not come up with a real solution for medical malpractice reform except to try to protect the trial lawyers' share of jury awards. Malpractice has proven to cost the health care system billions of dollars each year, but the reforms being proposed make the current system worse.

This bill taxes everyone and everything. It taxes medical devices. It taxes individuals who choose not to purchase insurance. It drives up premiums for individuals who do purchase insurance. It taxes employers who fail to offer health insurance. It then taxes them further if they try to increase their employees' wages. It taxes small business owners, who would be creating jobs and getting us out of this recession. Instead, it forces them to cut jobs or wages. It taxes health savings accounts, which reduces the use of catastrophic health insurance coverage.

It cuts Medicare. Home health care, skilled nursing facilities, and Medicare Advantage will all be cut. Seniors with prescription drug coverage will see their premiums increase. Seniors oppose this bill because they get it. Their care is going to be decreased, and costs are going up.

After the bill finishes up taxing everything and everyone, it spends all that money even faster. Despite the fact I've never heard anyone say they want access to this program, the bill dramatically expands Medicaid. It creates a huge, new Federal bureaucracy to navigate through, and it funds a government competitor to private insurance companies which will syphon people off of private insurance onto a Medicaid-like program, just like Tennessee did with TennCare.

After the Democrats finish spending \$1.5 trillion, they say the bill is "deficit neutral," but they ignore that every major government health care expansion before it—Medicare, Medicaid, SCHIP, which are just to name a few—have cost more than originally estimated. They completely ignore the fact that they use 10 years of revenue to pay for 7 years of new spending. In the second decade, this program will become an enormous unfunded mandate on State governments, on individuals, and on the Federal Government. Despite the largest deficit in our Nation's history, the Democrats are irresponsibly going forward to make it harder than ever to balance the budget.

Here is the bottom line: The bill costs too much. It taxes too much. It does little to improve health care. It will result in the majority of Americans being left with decreased access, decreased quality, and increased costs. It is, as *The Wall Street Journal* called



it, the worst bill ever, and it deserves to be rejected.

#### A GRIM ACCOUNTING

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. MCCLINTOCK) is recognized for 5 minutes.

Mr. MCCLINTOCK. Mr. Speaker, this week, the House passed H.R. 3548, which extends unemployment benefits in States with high unemployment rates, and it continues and expands the popular tax credit to encourage home buyers into the market.

Mr. Speaker, I know these are very popular programs, but I believe that they are taking us in exactly the wrong direction. By increasing taxes to finance these programs, the government is placing increasing burdens on the economy which I believe are actually making the recession worse.

I am concerned that, by raising taxes, we end up making more people unemployed, and I believe that, by paying people to buy homes, we are creating yet another housing bubble that will continue to drain the resources of our Nation until it bursts. Let me walk through both of those concerns.

Under this bill, unemployed workers in States like my home State of California can draw up to 99 weeks of unemployment benefits—almost 2 full years. Now, I realize the quiet panic that haunts every waking and sleeping moment of unemployed families as they wonder from one day to the next how they're going to get by. I've known that feeling myself.

Yet there is a reason that California suffers one of the highest unemployment rates in the Nation. It has one of the highest tax and regulatory burdens in the Nation. Business and investment and the jobs that they create flee such hostile environments and seek out less expensive and less burdensome places. One needs only to watch the domestic migration within our own Nation from high-tax, high-regulated States to low-tax, low-regulated States to see this happening right now before our very eyes.

According to the Congressional Budget Office, this bill imposes a net tax increase of \$2.5 billion on our economy at a time when we can least afford it. It contributes to a self-defeating paradox: higher unemployment in order to help the unemployed. Yet we all know that the only antidote to unemployment is a genuine job.

It's true. Family breadwinners can see the additional unemployment checks in their hands, and they feel the immediate relief. That's why this bill is so popular. What they don't see are the jobs that could have ended their agony but that have now disappeared in order to pay the higher taxes to support those unemployment checks. It is a vicious, downward spiral that the

supporters of this bill have already tacitly acknowledged when they admitted that they will have to return before the end of the year to extend the program yet again.

Simply stated, we cannot help the unemployed by creating more of them, yet that's exactly what programs like this are doing. We can see it in the steadily increasing unemployment figures despite record amounts of government spending and borrowing.

The second part of this bill is equally popular, and it is equally delusional. It extends and expands tax credits for home buyers to buy homes that they otherwise could not afford. Have we learned nothing from the past year of economic hardship? We all know that the catalyst for the current recession was a housing bubble that was created by government policies that encouraged lenders to make loans and borrowers to take loans to buy homes that everybody knew they couldn't afford.

What's our response now? We are going right back into that same market and are creating another bubble by, once again, encouraging home buyers to purchase homes that they otherwise couldn't afford. We're doing this just weeks after watching how the Cash for Clunkers program created the same artificial bubble in the automobile market, a bubble that came crashing down as soon as that program ended.

A society in which the government extracts billions of dollars from its economy in order to pay people to buy stuff they can't afford has a rendezvous with a grim accounting, and the longer these programs continue, the grimmer that accounting will be.

#### THE REPUBLICAN ALTERNATIVE FOR HEALTH CARE REFORM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Virginia (Mr. GOODLATTE) is recognized for 5 minutes.

Mr. GOODLATTE. Mr. Speaker, yesterday, I had the opportunity to speak about the Democratic plan that will encompass 2,000-plus pages, 400,000 words, more than \$1.3 trillion in costs, over \$800 billion in tax increases, and the likelihood that it will kill more than 5 million jobs. Today, I would like to talk about the Republican alternative that will be offered when this legislation comes up for a vote, and I would like to contrast it with what we are talking about.

The Republican alternative lowers health care premiums. According to the Congressional Budget Office, the alternative would reduce health insurance premiums by up to 10 percent for employees who get coverage through small businesses with 50 or fewer employees. According to the CBO estimates, all told, under the GOP plan, premiums for millions of families would be nearly \$5,000 lower than

Speaker PELOSI's cheapest insurance plan.

It guarantees affordable coverage for patients with preexisting conditions. The Republican alternative makes it illegal for an insurance company to deny coverage to someone with prior coverage on the basis of a preexisting condition. So, if you lose your health insurance because you lose your job, because you move or get divorced or just want to change plans, you are protected.

It protects seniors' Medicare benefits. Under the plan offered by Speaker PELOSI, there are more than \$500 billion in cuts in the Medicare program at a time when baby boomers—those born after World War II—are starting to retire. We're going to need to have reforms of the Medicare program to achieve savings, but those savings are going to have to be plowed back into the Medicare program to pay for the millions of Americans who are going to become eligible for that program.

□ 2015

The Republican alternative has no tax increases, none, nada, zip, period, no tax increases compared to more than \$800 billion in tax increases primarily focused on small businesses.

In fact, the Republican alternative encourages small businesses to offer health care coverage without taxing job creation. Unlike Speaker PELOSI's bill, which punishes small businesses with onerous mandates and exorbitant taxes that the CBO says will be passed on to the employees in the form of lower wages, the Republican alternative plan gives small businesses the power to pool together and offer health care at lower prices just as corporations and labor unions do.

It enacts real medical liability reform to cut down on the amount of defensive medicine, and the Congressional Budget Office says it will save the Medicare and Medicaid programs \$54 billion alone, much less additional savings that will come to private insurance companies and hospitals and doctors in terms of the reduction in defensive medicine that will be practiced. It prohibits abortion funding, a serious problem in the Democratic alternative that has caused a great deal of turmoil on their side of the aisle.

There's no entitlement expansions, forcing Americans on to a government-run plan, and it reduces the deficit. According to the CBO, the Republican alternative reduces the deficit by \$68 billion over the next 10 years and continues to reduce the deficit in the second budget window.

Compare this to the plan offered by Speaker PELOSI, which will raise premiums on health insurance for individuals. It will reduce health care choices. It will cause delays and denials of care. It will take \$500 billion in Medicare cuts and \$729.5 billion in new taxes.

Now, this new bill that has been offered by the Democrats is 2,000 pages long. You may recall that the last bill offered by them was only a thousand pages long and had 53 new government agencies and programs. In fact, many may be familiar with this diagram that shows what additional new programs were created under the 1,000 page bill. You might think this is pretty confusing and would cause a lot of difficulty for a lot of people. Well, guess what?

With a 2,000-page bill they added another more than 90 new programs and agencies to the 53 that are on the original chart. Here is the original chart. This is all of the bureaucracy and confusion and cost that has been added in this new bill. If anyone on either side of the aisle has any doubt about whether the simple proposals offered by the Republican alternative have broad-based public support, most of these proposals, 60, 70, 80 percent of the American people support. Certainly they do not support this kind of bureaucracy. Certainly they do not support the kinds of tax increases that could cost as many as 5.5 million jobs, according to one projection out today. And they certainly do not support this kind of government takeover of our American health care system.

#### HEALTH CARE

The SPEAKER pro tempore (Mr. MAFFEI). Under a previous order of the House, the gentleman from Georgia (Mr. GINGREY) is recognized for 5 minutes.

Mr. GINGREY of Georgia. Mr. Speaker, let me introduce you and my colleagues to someone. I would like to focus for just a moment on this first poster.

This is the Health Choices Czar. You may not know him today, but if Democrats have their way and they pass their government takeover health care, we will all know him soon enough.

In the fictional Hazzard County, Georgia, he was known as Boss Hogg from 1979 until 1985. Portrayed by the late actor Sorrell Booke, he was an infamous government corrupt official on "The Dukes of Hazzard," who every week tried to exert his will on the people he was supposed to be serving. On the show, if it wasn't for honest citizens like Bo and Luke Duke and Crazy Cooter, he might have been able to run Hazzard County into the ground.

Mr. Speaker, Boss Hogg is a fictional character. The Health Choices Czar created under the Democrats' health care bill, unfortunately, is not. This boss, created by President Obama and NANCY PELOSI, is very real. This boss will have the power to tell you what health products you can and cannot buy. This boss will be able to decide whether you need to pay him a tax. This boss will decide whether your

health coverage is legal or not. In its roughly 2,000 page manifesto, this boss will soon control every decision you and your doctor want to make.

Mr. Speaker, throughout the health care debate, I have heard a number of complaints from the majority that we are focused too much on the number of pages in their government takeover bill. In addition to the sheer number of pages of H.R. 3962, I think it's equally important to point out other numbers associated with the bill that are even more troubling.

\$1.2 trillion—the total cost of the bill for the American taxpayer.

\$2.5 million—the cost of each of the 400,000 words in this bill for the American taxpayer.

\$730 million—this is the amount of new taxes created in this bill for small business, individuals who cannot afford health care coverage and employers who cannot afford to provide coverage that meets the Boss Hogg's standard.

10.2 percent—the Nation's current unemployment level reported just yesterday by the Department of Labor.

190,000—the number of jobs lost in the month of October reported yesterday by the Department of Labor.

5.5 million—the estimated number of jobs that could be lost as a result of taxes on businesses that cannot afford to provide health care coverage. This is according to a model developed by one of the President's chief economic advisers, Christina Romer.

114 million—that's the number of people who could lose their current health care coverage—coverage, of course, that they like—under the proposed government-run health plan in H.R. 3962.

3,425—Mr. Speaker, the number of times the word "shall" appears in H.R. 3962 that results in new duties for bureaucrats and mandates on individuals' businesses and states.

118—the number of new bureaucracies created by H.R. 3962.

Mr. Speaker, when the Democratic majority says Republicans focus too much on the number of pages of H.R. 3962, they really avoid a deliberative debate, because this bill is bad legislation. In fact, the editorial on Monday's Wall Street Journal called H.R. 3962, "The Worst Bill Ever." That editorial said, "Epic new spending and taxes, pricier insurance, rationed care, dishonest accounting: The Pelosi health bill has it all," and I am quoting the Wall Street Journal.

According to this editorial, Speaker PELOSI and the Democrats in Congress are more like Boss Hogg looking to exert their will on the American people than they are responsible Members of Congress. It states, "Democrats have dumped any presence of genuine bipartisanship and moved into the realm of pure power politics."

Clearly, the Wall Street Journal understands the ramifications that this

legislation has for the American people. Quite frankly, I agree with that paper's characterization of H.R. 3962 that, "In a rational political world, this 1,990-page runaway train would have been derailed months ago."

Mr. Speaker, unfortunately, in the case of this legislation, it seems to me like we live in Boss Hogg's Hazzard County, instead of a rationally based society. I urge my colleagues to look beyond the rhetoric that Speaker PELOSI and the Democrats use to promote "The Worst Bill Ever" and look at the numbers associated with this legislation.

Mr. Speaker, Boss Hogg went off the air in 1985. Unfortunately, this legislation is real and poses a real threat to the foundation of our health care system. Tomorrow, or whenever we vote on H.R. 3962, I hope all of my colleagues have the sense to defeat this irrational legislation.

#### HEALTH CARE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. THOMPSON) is recognized for 5 minutes.

Mr. THOMPSON of Pennsylvania. Mr. Speaker, on Tuesday of this week I was here in this Chamber with my freshmen Republican colleagues, and we were preparing to do Special Orders about all the concerns we have with the 1,990-page Pelosi health care bill, and I had this bill with me, and it was in this bag. I was sitting in a chair and I was standing in the row next to it.

I was approached by one of the fine, dedicated public servants we have, employees here in this Chamber that are dedicated to our safety and security. They came up to me because somebody had observed this rather large unidentified object from the gallery and wanted to make sure that it wasn't something left there intentionally, a hazard. I assured him this was not a hazard to the Members here, that this was a 1,990-page Pelosi health care bill. Though, on second thought, it was a hazard, a hazard to anyone carrying it around, being as heavy as it is but a hazard to our health care system here in the country.

Mr. Speaker, my background is health care. Twenty-eight years I worked on rehabilitation services serving older adults, mostly, licensed as a nursing home administrator, dedicated to make a difference in the lives of individuals facing life-changing disease and disability. I am here with tremendous concerns on behalf of our seniors tonight on what this bill does to them.

Let me talk a little bit about Medicare. My Democratic colleagues must consider that Medicare is overfunded. I can tell you that it is not. Medicare today pays on the average of only 80 to 90 cents for every dollar of costs that a hospital or a doctor has, 80 to 90 cents.

From the time that entitlement program was created, it was systematically underfunded.

This is a primary reason, actually, that commercial insurance is so expensive because of the underfunding of Medicare. Yet my Democratic colleagues consider Medicare overfunded. Well, how do I know this? Because the bill, this bill in front of me, has over a half a trillion dollars in Medicare cuts.

It must be overfunded in their minds if they can make half a trillion dollars in Medicare cuts. Where do those cuts fall at and where will they impact seniors? Well, it is going to impact seniors that go into hospitals, Medicare part A, significant cuts there, \$175 billion, a minimum of that. That's cuts to those hospitals, and I know hospitals in my district are lucky to make a 1 to 3 percent margin annually. Out of that, they hopefully give cost-of-living increases and invest in new life-saving technology.

But they don't stop there. The Democrats go on to cut Medicare in terms of skilled nursing facilities. Now that's an area where I was licensed as a nursing home administrator. People who go into nursing homes today are the sickest of sick. That's the only alternative they have when they need that high level of skilled care. To cut services there, that's just unacceptable.

Let's move on to Medicare part B. Those are physician services. They are also outpatient services like rehabilitation. When an older adult, a senior citizen, has a disease or disability and they need rehabilitation, well, that's funded by Medicare part B. But Medicare part B, also, under the Democratic plan is scheduled and slated for significant cuts.

Another one that is under Medicare part B is hospice services. Mr. Speaker, hospice services, that's a service that reaches out and provides services to people that are in their end days, people who are in the process of dying. Hospice service allows people to die with compassion and surrounded by friends and pain management. Yet the Democrats feel that Medicare is so overfunded that we can actually make cuts to hospice services.

Medicare part D. Pharmaceuticals. Well, I never heard anybody say that our seniors actually have more than enough resources coming into pharmaceuticals, but that's one of the lines within this.

Then there are wheelchair taxes, medical devices, medical devices that are innovations that help people live with dignity, help people live with independence, to live outside of institutional settings, which are certainly more cost-effective places. Medical devices allow people an opportunity to be able to age in place for seniors.

Now, I assume my Democratic colleagues will assume that the people they tax, that will just come out of

their pockets, but we know how that works. Taxes get passed on. And this will be passed on to the people on fixed incomes in this country, and that's unacceptable.

I want to talk briefly about the flawed math that went into this. One of my Democratic freshman colleagues, a Democrat that's on the Rules Committee, I heard him make a statement about how this bill is so much less expensive than the previous version we saw back in July. I have to tell you that's flawed math.

This bill was based on the fact that the Medicare growth rate would be at 4 percent. The average growth rate is 7 to 8 percent. In 2008, Medicare grew at 9 percent.

The SPEAKER pro tempore. The time of the gentleman has expired.

□ 2030

#### A TANGLED WEB OF DECEIT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. GOHMERT) is recognized for 5 minutes.

Mr. GOHMERT. You know, I thought about a little limerick Sir Walter Scott wrote. He was around back during those years during and after the American Revolution. But he penned an interesting line that went, "Oh, what a tangled web we weave, when first we practice to deceive." I have heard that all my life, growing up as a kid. "Oh, what a tangled web we weave, when first we practice to deceive."

Now, we had the President of the United States come into this Chamber right here and speak from that podium there, and he made the statement that there would be no abortion funded in the health care bill.

Apparently, there are other ways that this will be done or can be done. On page 110 of the health care bill we are supposed to vote on tomorrow, Subsection B is entitled "Abortions for which public funding is allowed: The services described in this subparagraph are abortions for which the expenditure of Federal funds appropriated for the Department of Health and Human Services is permitted."

Now, we are hearing that tonight we are being held over here, which is fine. I don't mind going all weekend, going the rest of the week, the month, whatever. It is the job. It is fine by me. I think America is safer when we are not in session. But that is fine.

But we are hearing that supposedly we are in session because you have people browbeating Democratic Members who have taken the staunch position, and I think the wonderful position, a very moral position, that funds taken from the hands of law-abiding Americans who believe it is murder to kill a baby who is unborn should not go to fund abortion, and they are taking that

wonderful, principled position. Now they are being told that they need to buy into this bill and do the right thing and vote for it.

We have others who have taken the position that if funding is not in this bill for abortion, they are not going to vote for it. So those who are trying to twist arms and get people to vote for this massive, terrible thing for America, this health care monstrosity, this power grab, as it is, are saying that they need to do the right thing for America and vote for this bill.

You have got some who believe what the President said at that podium right there, that there would be no funding in here for illegal aliens to have health insurance. And yet anybody that knows anything about the law knows that if there is no requirement to check the identity of someone who is being furnished free health insurance, then illegal aliens will be provided free health insurance.

So there are those friends across the aisle, Democrats who are principled, saying we need language in here so the President will be able to keep his word and he won't look like a liar. We need the language in there so illegal aliens will not be getting free health care, just like the President promised.

We have also been told by the President repeatedly, if you make less than \$250,000, there will not be any tax of any kind levied on you. Yet we find Section 501, among many taxes in this bill that people are being forced and arms twisted to vote for, it is entitled "tax on individuals without acceptable health care coverage." It turns out the provision basically says if you make too much money to be given free health insurance but you don't make enough to be able to afford to buy health insurance, then this Obama-Pelosi plan will tax you.

Oh, what a tangled web we weave, when first we practice to deceive. And that is exactly what has happened. This monstrosity of a web has been woven, and now it is catching so many in it as we approach this monstrosity of a health care plan.

#### PROVIDING MEANINGFUL, STABLE AND SECURE HEALTH INSURANCE FOR ALL AMERICANS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 6, 2009, the gentlewoman from Florida (Ms. CASTOR) is recognized for 60 minutes as the designee of the majority leader.

Ms. CASTOR of Florida. Mr. Speaker, the House of Representatives is poised for a very historic milestone this evening. We are on the cusp of beginning debate on the Affordable Healthcare for America Act, and Democrats are going to deliver what American families and businesses have been asking for when it comes to their

health: one, meaningful, stable, and secure health insurance; two, improved Medicare for our seniors; and, three, vital consumer protections.

For families with health insurance, health reform will provide coverage you can count on. All Americans will have affordable options, even if they change their jobs or if their employer does not offer health insurance. We are going to get into a few of the important consumer protections tonight with a few of my colleagues.

Under this revised bill, families will not have to worry about insurance companies canceling their coverage because someone in the family gets sick or is diagnosed with cancer or another illness. Health insurance companies will no longer be able to bar you from health insurance just because you have cancer that is in remission or you have had a heart ailment. We are going to ensure that our neighbors are not forced to go bankrupt when a serious illness strikes.

What is insurance for, after all? It must be meaningful for American families. You have to admit, American families have been doing everything right. They have been paying their copayments, they have been paying their premiums, even as the cost has risen astronomically. What our health reform bill says is, in return, these American families must have coverage that is meaningful, stable, and secure.

Now, we reached this historic milestone reflecting back upon other important milestones in American history. It was January, 1935, when President Roosevelt sent his economic security bill to Capitol Hill. At that time, the Congress took that economic security bill and renamed it the Social Security Act; and, after many months of heated debate, in April of 1935 the Congress adopted the Social Security Act. President Roosevelt signed that bill into law at a ceremony in the White House Cabinet Room.

After President Roosevelt, it was President Truman who sought to build upon Social Security and provide that important stability and security to American families by launching the health care initiative. Unfortunately, it stalled under President Truman; and we have been in that stalling pattern for decades after, with the exception of 1965, with the adoption of Medicare.

In 1965, the House took up consideration of the Medicare bill; and President Johnson signed that bill into law at a special ceremony in Independence, Missouri, in 1965. President Johnson at that time, over the objections of some aides, insisted that the ceremony happen in Independence, Missouri, and that President Truman, who launched the national health care debate, be in attendance.

At that signing, President Johnson said, "No longer will older Americans be denied the healing miracle of mod-

ern medicine. No longer will illness crush and destroy savings that they have so carefully put away over a lifetime so that they may enjoy dignity in their later years."

Mr. Speaker, with our corresponding health reform act that follows upon Social Security and Medicare, no longer will illness crush and destroy American families. They are entitled to dignity as well.

Now, during those debates, Mr. Speaker, there was a lot of opposition, great opposition from the Republican Party. The Republicans' record on Social Security and Medicare in America is not outstanding. They opposed Medicare from the beginning.

In 1965, the GOP said that Medicare was "brazen socialism," and they have kept up that mantra year after year. They have tried to undermine Medicare. The Republicans have voted against protecting and strengthening Medicare since it was adopted. They have sought to privatize Social Security and Medicare. They have consistently wanted to move seniors into private markets. And, just this spring, House Republicans offered a budget that would eventually lead to the end of Medicare programs as they are presently known. If we had listened to Republicans, American seniors during the economic downturn would have seen their lifetime savings nearly disappear.

So here we stand again on the cusp of an historic milestone, to follow upon the legacy of Social Security and Medicare, the foundational values of the Democratic Party, popular initiatives that provide great security and stability to all American families; and we are going to deliver again for America's families.

We have some outstanding Americans here in the Chamber tonight. I would like to yield time to my good friend from Ohio, Mr. RYAN.

Mr. RYAN of Ohio. I thank the gentlelady, and I think that is a perfect articulation of what has happened and why that tomorrow and this weekend has become such a monumental day.

I know our friends on the other side have been trying their best to try to undermine and scare. I just was hanging in my office just answering the phone with people calling in with complete misinformation about what this bill is going to do.

This is very, very simple. When you look at what happened with Medicare, there was a gap in the capitalistic system. Insurance companies couldn't make money off of insuring our grandparents and older parents because there was no money to be made there. So the government had to come in and establish the Medicare program, which I am sure our friends on the other side of the aisle would not want to get rid of right now, and now they are actually sticking up for all the slowing of the growth and all the changes we are making.

But the bottom line is this: We have two issues here. We have an economic issue where health care will bankrupt our country if we do not start reining in the spending. In the next 10 years, one of every five dollars in our economy will be spent on health care. In 30 years, one of every three dollars will be spent.

If we do absolutely nothing, which up until two days ago our Republican friends wanted us to do, but now they know something is going to pass so they have to hurry up and hustle and get some plan together, but if we do absolutely nothing, the average family in our country will pay \$1,800 more a year next year in their health care costs. That is if we do nothing. And keep projecting that out, \$1,800 the following year, \$1,800 the following year. Compounding is a very powerful thing. So we must for economic reasons get our health care house in order, and this bill does it. It reins in the spending for Medicare and makes it stronger and more efficient by closing the doughnut hole.

In addition to that, we have human rights issues that we are dealing with in this country. American people who are sick, who go to the insurance company and get denied coverage, as we heard the other day at our press conference, because of infertility. You get denied coverage. Then the kicker was that spousal infertility was a reason to deny coverage and diabetes and cancer and all of these issues that insurance companies use to deny coverage.

□ 2045

To me, that's a human rights issue; and we cannot, as a country, look ourselves in the mirror anymore as of tomorrow, hopefully, and at the end of this year and not say, Health care is a right in the United States of America. If we all collectively, through investments in NIH and private investments and premiums and money, have come up with ways to make someone healthy, but we, as a society, say, You know what, sorry, you can't afford this one, and just those of us in the club are going to be able to afford it, you can't.

So, you know, you're going to have to get sicker faster, and you are going to have to die earlier than everyone else because you can't afford it. That is unacceptable. I yield to my friend who has been such an instrumental part—I just watched you in the Rules Committee—and continue to defend what we're trying to do here. To explain to the American people how important this is, I yield to my friend from New Jersey.

Mr. PALLONE. I want to thank my colleague from Ohio who is here almost every night, it seems, talking about how important this health reform legislation is and explaining it very well. I must say, in commonsense terms. Your comments made me think about,

actually, one of our Republican colleagues in the Rules Committee much earlier today—I was there for 6 hours—who basically talked about this bill in ideological terms and referred to it as socialism or a government takeover of health care. I explained in the Rules Committee, and I would like to explain now, how untrue that really is.

Basically, we're just building on the basic system and using a lot of the framework, if you will, that exists now in both the private and the public sectors. What I point out is that for people who get their health insurance through their employer, private health insurance, they keep it, and the majority of Americans will continue to get their health insurance through their employer. Nobody's changing anything in terms of the process for that. A lot of other Americans, if they're seniors or disabled, get their insurance through Medicare, which is a government program, and then those who are below a certain income get their health insurance through Medicaid, which is another government program.

And I could mention other government health programs. The Indian Health Service, the Veterans program, whatever. What's new here, really, is that for those Americans who have no health insurance because they can't access it, it's not affordable or they have all these discriminatory practices based on their preexisting health conditions or their gender or whatever, now we are establishing a health exchange. It is just basically an opportunity for to you go to your computer or to some office where the government will entertain, if you will, private health insurance companies to come in and say, Look, if you offer a certain benefit package that includes what we think should be included and you're willing to offer it through this exchange, you can.

The government will make this exchange available, and people can buy health insurance through the exchange. They would have a basic benefit package where they can pay for other things that are not in the package, you know, dental care or whatever.

But the advantage is now that this acts as a very large group plan. The reason that employers, you know, oftentimes are able to offer insurance is because they buy it through a large group plan that brings costs down, but for individuals or small businesses that try to buy health insurance privately right now, it's hard because if you buy it individually or you have a very small group of employees, it becomes much more expensive because insurance becomes cheaper the larger the pool is.

So if the government is now offering this exchange where all these private insurers come in and offer insurance, it's essentially like a group plan, and

the cost comes down considerably because it acts that way.

Now within this health exchange, we're also going to offer a public option, which you can compare to Medicare or Medicaid if you'd like, and that's going to compete with these private insurance companies. So in addition to costs coming down in this exchange because it's like a group plan, costs also come down because there is now not competition between a public option, like Medicare, and all these private insurance companies. But, again, there is no ideology here that the public option is like Medicare and Medicaid. The private insurers are the same private insurers that offer insurance now but, because it's a large group plan, the costs come down. So there is no radical change here in the way we're doing business.

We're not taking over health insurance. We're offering a public and private option. Now the third way that the costs come down is if you're below a certain income and you buy your insurance in this exchange, we offer you a major subsidy, and that can be 80 percent of the cost of your premiums if you're maybe making about \$25,000 or \$30,000 a year or maybe only 10 percent if you are making, say, \$80,000 a year. So we're bringing costs down using innovative methods but methods that don't really take away from the private sector.

And for anybody to say this is a government takeover, this is socialism, this is radical—you know, I don't know what you want to call it, it's just not true. This is just a different way of doing things that I believe works and that I think collectively will cover everyone and make it affordable so that you don't have to worry that if you lose your insurance, you don't have a place to go.

Within this context, we're eliminating all the discriminatory practices so that insurance companies can't charge more because of a preexisting health condition or because you are a woman versus a man. They can't say that in the course of a year they'll only pay out a certain amount of money or in the course of your lifetime they'll only pay a certain amount of money. They can't drop you because you get sick. All of these discriminatory practices are very difficult and make it difficult for a lot of my constituents, I know, to find insurance. Those practices will all go away.

I yield back to the gentlewoman from Florida.

Ms. CASTOR of Florida. I would like to yield to the gentlewoman from California (Ms. WATSON). She has been here for a while and has been listening closely to this debate.

Ms. WATSON. Mr. Speaker, I have been here for about an hour and a half. I have heard the Affordable Health Care for America Act denigrated, de-

monized. I heard the most disrespectful description of our Speaker, of our President, and I have heard them call this socialistic. But what I never heard from all of those who are opposed, including the medical doctors, was a sense and a feeling for protecting the health of Americans. All I heard was them describing the number of pages. They even gave us the number of times that "shall" was used. They talked about this heavy load that they would throw out and abandon. But I never heard them throw in "for the American people."

There was something very insensitive about what they were saying. I never felt the depth of concern about protecting Americans' health. I heard misstatements. I even heard lies. And let me explain to you where I was able to pick up on the misconceptions. They talked about taxing, increasing taxes. They talked about small businesses going out of business. They talked about the debt on their children, their grandchildren and those yet unborn. Let me try to clear up some of the mythical misstatements that were used while I sit here in the last hour and a half.

Will the bill raise taxes? Get this: for the average individual, the bill would not—would not—raise taxes. If you are an individual who makes more than \$500,000, that's a half a million dollars, or a couple who makes more than \$1 million, you would be taxed 2.5 percent. That's not the average family's income. The average family does not make \$500,000 or \$1 million. It will be taxed, yes, 2.5 percent. If you make more than \$250,000 and you do not purchase insurance, then you would have to pay a tax of 2.5 percent.

The Medicare part D prescription drug doughnut hole, this hole is created when a patient's prescription drug costs exceed a yearly limit. This includes those whose prescription drugs costs more than the initial benefit of \$2,700. Catastrophic coverage begins after the beneficiary has paid \$4,350 for medications. Over time, the bill creates a 50 percent discount for prescription drugs bought in the doughnut hole.

Will this bill increase health care costs? No. This bill is designed to reduce health care costs. The House bill is designed with a public option. Now what does the word "option" mean? It means, you have a choice. Option means your choice, your decision. So the House bill is designed with the public option which will compete with private insurers in the exchange and reduce health insurance premiums. Though the program is government run, it will be self-sufficient and not require tax dollars at the initial startup.

I have heard over and over again that the government will get between you and your provider. That is so untrue. People talk about government. These

are the people who work for government and who are paid by government. And how do they get their pay? Because some taxpayer paid their taxes, and that's how we all get paid. If you're so against government, why did you run to be part of it? Because every minute you're here, you're using taxpayers' money. That's your salary. So if you don't believe in government, you ought not to be part of it. It was so irrational. I was steamed while I was listening, but I held my cool. Private insurers are unhappy with the public option and are, therefore, attempting to disqualify its advantages.

Now, you cannot tell me that the 10,000 people who were out there yesterday demonstrating just woke up and said, We need to go to Washington, DC, and demonstrate. It was an organized effort, my friends. Some people were paid. There were buses that were paid for to bring people in town. And what I said before, I will say again. Why is there so much anger and hostility over providing health insurance for all Americans? What does that anger portray? Why are people so irrational? Why aren't they more reasonable about what government is trying to do?

This started out covering those who were uncovered, about 38 million, and it's grown into, as our opposition says, a socialistic program to cover ineligible people, to cover those most feared people that are here illegally. I never heard compassion for Americans. So there was an organization that put that group together to come and shout and show their anger. I'm saying, Well, what is it that they're so angry about? They have been told that benefits will be taken away from seniors. Nothing can be further from the truth. Will the House bill negatively affect small business? No. The House bill exempts most small businesses from the employee mandate. Small businesses with a payroll less than \$500,000 are exempt. Small employers with pay rolls between \$500,000 and \$750,000 will have contribution phases from zero percent to 8 percent required contribution. Businesses with payrolls above \$750,000 will be required to contribute the full 8 percent of average salary for their employer.

□ 2100

What is the public option? Now, remember "option" means choice. "Option" means decision. It's a government-run health insurance option. It's like going into a market and having all these plans laid out and you make the choice. If you like your insurance, you keep your insurance. If you don't like your insurance or you want to buy insurance, you come to the marketplace. Taxpayers will not have to pay for the public option. It is a mechanism with which the government can encourage healthy competition in the health insurance market. Also an option that

will be accepting of high-risk individuals. Now let me tell you what the immediate reforms will include:

There will be a ban on lifetime limits. There will be immediate sunshine or light against insurance price gouging. It will be transparent. We're creating a review-and-disclosure process for rate increases.

It will prohibit health insurance companies from rescinding existing health insurance policies when a person gets sick.

There will be limits on preexisting conditions. Insurance companies can only look back 30 days rather than the current 6 months.

Complete ban, existing conditions exclusive occurs in the exchange will begin in 2013.

It will prohibit domestic violence from being included as a preexisting condition.

It will immediately ensure the medical loss ratio of 85 percent of premium health care dollars.

Dependents can remain on their parents' insurance until the end of their 26th year.

It will extend COBRA coverage until the exchange is up and running.

Grants to States for immediate health reform initiatives will start immediately. And I want to say that again because I've heard people say that States will lose and be burdened. Grants to States for immediate health reform initiatives.

It improves benefits, reinsurance for early retirees.

It creates an immediate fund that will finance a temporary program for those who are uninsurable.

It creates a voluntary long-term care insurance program.

It increases funding for Community Health Centers.

It expands primary care, nursing, and public health workforce by increasing the size of the National Health Service Corps.

It increases Medicaid reimbursements to 100 percent Federal funding. And in 2013 the exchange will be up and running. Individual and employee mandates take effect.

Preexisting conditions cannot be used to refuse a health insurance policy.

It expands Medicaid to 150 percent of poverty.

It will be open to small employers with 25 or fewer employees.

Affordable credits issued to those below 400 percent of the Federal poverty level.

The public option then is operational, and the exchange expands to everyone over the next 5 years until 2018, when all employers will have to meet the essential benefits package.

So, Mr. Speaker, I conclude by saying this will be an historical movement for Americans. We are looking forward to a tremendous change in where we place

our emphasis. We plan to build a stronger, healthier America, and I would hope that all Members of this House will recognize that we are bringing a health care benefit to our Nation so it will stay the greatest Nation on Earth.

Ms. CASTOR of Florida. I thank my good friend from California.

I can't blame you, after listening to some of the debate, for having some consternation because here we are, we are poised to take this historic step on behalf of the American people that really is akin to what this great body has done in 1935 for Social Security, again in 1965 for Medicare. The vast majority of Americans would never think of turning back the clock to a time before we had those very important securities, that stability for American families. But that doesn't mean that they came easy. They didn't. And a lot of the arguments that were used then against Social Security and against Medicare have been used over the past year.

But you just have to stand up. You have to stand up and speak out for the families, the seniors, the older Americans that you represent and understand what this reform will mean to those families, finally giving them health insurance that is meaningful.

One of my very good friends that has been so involved in this debate for many years, I've had the privilege of serving with him on the Energy and Commerce Committee and the Health Subcommittee, and he's simply an outstanding voice on behalf of the families in Connecticut. So I feel very privileged tonight, as we're poised to take this historic next step, to yield to my good friend, Mr. MURPHY from Connecticut.

Mr. MURPHY of Connecticut. I'm glad to be here and I thank my friend from Florida for yielding.

This is an historic moment. It doesn't come around very often when you have the opportunity to make good on a promise that seemingly every President has tried to make good on, frankly, with a couple of Republicans thrown into the mix over the years, to bring health care out to the millions of people that don't have it. And as my friend Mr. RYAN said, we don't have a choice any longer. If we allow the status quo to continue, we're not just going to bankrupt every family and business out there, we're going to bankrupt our government.

The sad thing is that at this critical juncture in the history of American government, the history of the American health care system, you would like to think that the arguments that were happening on the floor of the House or in the Rules Committee where Mr. PALLONE was all day or on the airwaves is a debate about what's best for this country. Instead, it seems that some of the debate is about what's

best for one political party. This idea of the bill that we're debating being socialized medicine is laughable. It's laughable, but we have to talk about why we are hearing that phrase come up over and over again.

You have to go back to the spring of this year when the Republican Party's favorite pollster, Frank Luntz, came out with a memo, before the Democrats had even put their bill on the table, before there was a bill to critique, and the memo essentially said here's how you kill health care reform: You call it "socialized medicine." You call it "government-run health care." Before anybody had even looked to see what the bill was, the decision was made that for political purposes, a bunch of people are going to get behind killing this thing and they're going to call it these names no matter actually what's in the text.

Now, as it turns out, the bill that's presented before the House for a vote this weekend or early next week is so far from socialized medicine, from government-run medicine, to make that claim is absolutely outrageous. But if you make it over and over again and you get a few allies on talk radio and the cable news entertainment shows, the same people will start to internalize it.

The fact is that the Congressional Budget Office says pretty plainly that over the 10-year window of this bill's rollout, there will be more people, millions of more people, on private health care than there are today. Why? Because we fix the existing private health care market. We think that the salvation of our system can be the private market but not under the rules we're playing by today. Under those rules, the price of health care over the last 10 years has shot up by 120 percent for small businesses in my district. This year, our major insurer in Connecticut announced they were going to be raising rates by 30 percent in one single year for small businesses. The rules of this game have meant that millions of Americans are kicked off their health care just because they get sick and millions more can't get on health care because they were sick to begin with. The rules of this market don't work.

So all we say is let's set up some fair rules that aggregate the purchasing power of individuals, that don't deny health care to people that need it. Let's just fix the market. That's what this bill does. It fixes the market.

We are at the very last minute, Mr. RYAN, presented with an alternative bill from our friends. Now, you and I have been on this floor for a long time. We come down here and we talk about the differences between the Democrats' approach to health care and the Republicans' nonapproach to health care, but then over the last year we have talked about the places we agree on. And one of the places that we all thought we

agreed on was that if you have a pre-existing condition, you shouldn't be denied health care. I mean, I heard Republicans come down here night after night and say we should absolutely do that, and I listened to them on the talk shows and they said Democrats and Republicans should come together. We came down here on the floor and we wanted to lock arms and say you know what, let's do it. Let's stop sick people from being denied health care.

Then we see their proposal that they're apparently going to offer on the House floor as a substitute to the Democratic plan, and it does nothing for people that are sick and need health care. It doesn't even come close to banning the practice of insurance companies to deny coverage based on preexisting conditions.

So even the things that we thought we had agreement on we don't any longer, because when it comes down to it, the Republicans are more interested in preserving the profits of their friends in the health insurance industry, more concerned with stopping President Obama's quest to bring health care to Americans at a lower cost because it scores political points, Mr. RYAN.

Ms. CASTOR of Florida. I thank my good friend from Connecticut. What a great summary.

And I know my good friend from Ohio, just what you were saying when you kicked it off, we simply cannot stand still. We cannot wait a decade more to stand up for American families and provide them with some meaningful and stable insurance that they're paying. I mean, they have been doing everything right; isn't that right? Paying those copays, paying those premiums month after month after month, and then someone in their family gets sick. And the health insurance company oftentimes will say or find a way to say, We're sorry, your policy does not provide what you thought it provided.

I yield to the gentleman.

Mr. RYAN of Ohio. There are a lot of issues here.

Earlier in the evening, I was watching someone, one of our friends on the other side, in the Rules Committee explain the Republican plan. And one of the questions from one of the committee members was, Does your plan cover everybody? And after dodging that question for quite some time, the answer is no. And then he went on to say that, Well, our plan is incremental.

And that's the slow walk that our friends on the other side want to do here. They want to kill this and go back to the original political memo that was given: How do we kill health care reform? How do we not give Barack Obama a victory on health care? And that's all this is is playing the politics of it and to say, Well, our plan doesn't cover everybody. Our plan

doesn't bring down costs. Our plan is not going to reduce costs for small business by allowing them to go in and do all this negotiation.

I mean, think about what our friends on the other side of the aisle are going to vote against when we take this vote in the next couple of days. They're going to vote against everyone in America being protected from being denied insurance because of a preexisting condition. They're going to vote against that. They're going to vote against our saying that no one in America will ever go bankrupt again because of a health catastrophe in their family. Our friends are going to vote against that. Subsidies to help middle class families afford health care, they're going to vote against that. Extending COBRA until the exchange gets set up, they're going to vote against that. Increasing the age to 27 years old so that people can stay on their parents' insurance, they're going to vote against that. And giving small business people an opportunity, instead of swimming with the sharks in the current insurance market, to go in and negotiate with hundreds of thousands, if not millions, of other people to drive costs down, they're going to vote against it.

□ 2115

So we are sitting here telling you, Mr. MURPHY, here is what we are for: the exchange, competition, choice, the public option, eliminate preexisting conditions, no more bankruptcies, stay on your parents' insurance until you are 27, here are some subsidies, close the doughnut hole on Medicare part D so our seniors can have consistent prescription drug coverage. They are going to vote against it.

We are here saying, this is what we are for, this is what is going to pass, and this is what is going to help the American people. You can call it whatever you want. Our friends like the socialized transportation system we have here when they fly into Reagan Airport and back to their own airports. They like socialized Medicare for their parents. They like socialized public schools. They like socialized roads, socialized ports, and socialized defense. They like all that. But the one thing that is not socialized, they try to label it as being socialized. It doesn't make any sense.

Ms. CASTOR of Florida. I think you have summed it up well, Mr. RYAN. We are simply going to stand up for American families against the powerful interests that oftentimes and unfortunately the way health care has developed in America, it is take the money from well people. And the profits of these health insurance companies has been astronomical.

Why is it so difficult when somebody needs to call upon that policy, they have been diagnosed with cancer, they



high blood pressure, and it is a fight. It is not a fight when you have to send the premium or the co-payment in, but it is a fight when you need to call upon what you have been paying for month after month.

So our reform is going to give the consumer, these families that we have the privilege to represent, greater bargaining power when it comes to their health.

You have to hand it to President Obama. He has reached out. He reached out early on in a bipartisan way. I know each of us here on the floor tonight have done the same. Early on, I called a bipartisan meeting of the Members from the State of Florida to say, What are our Florida priorities? We came up with a number. We have a terrible doctor shortage. We want to improve Medicare. And I am glad some of those ideas are incorporated in our legislation.

We have been having bipartisan meetings. We have had committee meetings, hundreds of committee meetings over the past couple of years, and hundreds of amendments incorporated. Our families back home, this isn't something where we are only listening to one side of the aisle. I know all of us have been taking the ideas, no matter what your political persuasion, because this is a critical American issue and it demands a unique, American solution.

As we begin the debate, I know there will be a lot of partisan rhetoric, but I want folks at home to know that we are going to stand up for you and fight for your family to ensure that if you have a diagnosis in your family of a serious illness, we are not going to let that insurance company cancel you. And if you have to change your job and your cancer is in remission, our reform will ensure that you will have affordable options. These are our fundamental values.

I yield to Mr. PALLONE.

Mr. PALLONE. I want to thank all of you for what you have been contributing to this debate.

I was on C-SPAN this morning where they ask you questions. These are questions that I get from some of my constituents who initially at least were opposed to the bill. One question is from people who say, Well, why should I help contribute through subsidies, for example, to help pay for health insurance for people who don't have insurance? And another, I am young. I am healthy. This guy got on and said, Why should I have to have insurance at all if I don't want it?

The bottom line is, right now, a significant portion of your premium, whether you get it through your employer or you get it by buying it on the individual market, as well as a significant portion of Medicare and Medicaid, is paying for people that have no insurance. So when that person who has no

insurance goes to the emergency room and they rack up a bill of \$10,000 or \$20,000, you end up paying for it if you have insurance. It could be 2 or \$3,000 a year of your premium is actually paying for that uncompensated care.

The bottom line is, if everyone has insurance, even if you are subsidizing it in some way through your tax dollars, that brings your cost down because now that person, instead of going to the emergency room, they go to a doctor on a regular basis. They don't get sick and run up the costs of having to be hospitalized or put into a nursing home, and so the system saves money and you save money.

The next thing, what about the guy who was on C-SPAN this morning: I am 25 years old. I don't want to buy health insurance. Why should I buy it? I don't need it. I can probably stay around for another 10 years until I have any serious problem.

Again, it is the same thing that I mentioned before. The only way that insurance becomes cheaper is if more and more people are included in the insurance pool. So if you have this health exchange and you want to make insurance under this health exchange affordable, you have to have all of the people in it. Then you have the healthy and the young people, the older and the sick people, and you have a larger pool that essentially brings costs down because everyone is in it.

I think it is important to dispel some of these arguments about why should I help the other guy or why should I have to have insurance. The only way this works to bring costs down is if everyone is covered and everyone has access to a doctor on a regular basis and everyone pays into the system. Either their employer pays or they buy it through the health exchange. That is the beauty part of this. Everyone gets covered and everyone contributes and the cost goes down and we emphasize prevention, not having people get sick and not having to go to the hospital because they don't have enough preventive care.

We could go on and talk about the idea of prevention and wellness, which is an important part of this system, but I yield back.

Ms. CASTOR of Florida. Chairman PALLONE, you have hit upon another important underpinning of this bill, and that is personal responsibility. We are, through many initiatives in this bill, calling upon the American people to take personal responsibility for their health.

You are right. It is very expensive, very expensive, and American families know it. They know that one of the reasons that the costs have risen astronomically, and they are in the open enrollment period now, and families I hear from, they can't believe the rate of increase. But they understand, especially in a State like Florida where we

have the second highest percentage of uninsured out of the 50 States, that we are paying, the folks with insurance are paying for the uninsured that show up in our emergency rooms, the most expensive place to receive care, and those costs have to be paid for somehow. Most often, it will make its way onto the copayments, premiums, and policies of American families that have taken personal responsibility, and that is just not fair. We can do better, and through our Affordable Health Care for America Act, we try to shift this very expensive way we deliver health care and make a historic investment in wellness and prevention.

Communities all across the country are going to have new incentives to build their communities in a sustainable way. Our hospitals are going to partner with universities and communities and nonprofits all across the country to focus on the most effective way to reduce childhood obesity and encourage folks to refrain from smoking, the way we can really control costs over the long term.

I appreciate the leadership of Chairman WAXMAN and you, Chairman PALLONE. You encouraged me to offer an amendment in the Energy and Commerce Committee to encourage small businesses to do more in wellness initiatives. Big companies encourage employees to exercise and eat right and quit smoking. But, oftentimes, it is the small businesses that are left in the lurch. Certainly in this economy, they do not have the wherewithal to initiate those types of wellness programs. But in our health reform bill, we provide grants to those small businesses that are willing to cut their health care costs through new wellness initiatives. I know that it will pay great dividends for families and those businesses.

Mr. PALLONE. If I can talk about small businesses, a lot of people don't understand that the way that this bill is set up in the bill that we are going to vote on in the next few days, small businesses, when they try to buy health insurance, like individuals, because the individual is only buying for himself or the members of his immediate family, the cost is high because he is not part of a large insurance pool.

The same is true for small business. In other words, if you have only five or ten employees and you try to buy a health insurance policy on the open market, you have the same problem. You are only insuring two, three, four, five, maybe up to ten people, and you are not part of a large insurance pool and so your costs are very prohibitive.

What we do in this bill is say that not only can an individual go to this health exchange and be part of this large insurance pool, but also a small business can do it. If a small business can't afford a small group policy or has one but it is increasing, the costs of the premiums are going up, they can go

into the exchange. They don't have to have all of their individual employees and their family go into the exchange policy. They can go into the exchange and buy a small group policy, and it will probably be a better benefit package than they have now. So they are essentially buying a small group policy that is part of a larger pool that brings the cost down.

That hasn't really been brought up very much. What you mostly hear is, is my employer going to continue with his insurance or is he going to send me into this health exchange? The reality is that the business can buy a group policy for a lot less and with better benefits in the health exchange. I think you are going to find a lot of small businesses do that because they are going to get additional tax credits for it and it is just a better package.

So many people today complain not only about the cost of health insurance, but when they actually buy it, it doesn't cover anything, or it covers very few things and there are a lot of out-of-pocket expenses. So we are also trying to eliminate those problems, that you can buy a basic benefit package that has good coverage and that doesn't have a lot of deductibles and co-pays as well. That is an important part of the reform as well.

Ms. CASTOR of Florida. I thank you for that. Small businesses clearly are going to be big winners under this initiative.

Just a couple of months ago, I had a roundtable of small businesses from the Tampa Bay area, and there is one great business that has a lot of those retail shops in the airports. They do very well. She told me the story about trying to negotiate with health insurance companies. The problem, unfortunately, has grown over time where there is not much choice. There are so few options. As these small businesses attempt to go out and compete with their small numbers of employees, it is practically like sending a person out alone. It is just astronomical. I don't understand it because the profits of these health insurance companies are so high, but they don't offer affordable options to small businesses.

She told me this terrible story where, because they have a largely female and young workforce, it was very important to them that they have maternity care covered. And so they negotiated and had an agent, and maternity care was covered. The only problem was the health insurance company refused to pay for the baby's delivery of one of her employees.

□ 2130

These kinds of tricks have got to end. It's time that we stand up for families across America, make insurance meaningful, provide some stability, some security, just like Social Security did in 1935 and Medicare in 1965. These are the

types of commitments we are trying to make with the American people.

We have great support as we launch the debate. I mean, let's go over a few of these great endorsements from just this week. Coming from the State of Florida, the AARP endorsement will ring out loud and clear because the AARP advocates for older Americans and our seniors. And the American Medical Association, also, doctors across America believe in our health reform initiative.

Mr. PALLONE. If I could ask the gentlewoman to yield on that.

Ms. CASTOR of Florida. I will yield to my friend.

Mr. PALLONE. The major reason why the AMA, which is the major doctors association of this country, I believe supports the bill is two reasons: first of all, right now under Medicare the reimbursement rate for physicians as well as hospitals is rather low; it doesn't pay for the actual cost of their delivery services under Medicare. So we have a major increase in here for provider payments, in other words, both hospitals and physicians.

Part of the problem under Medicare is, I know in New Jersey it's not hard yet, but it's starting to get more difficult to find a doctor who will actually take Medicare. If you're on Medicaid, it's almost impossible because the reimbursement rate under Medicaid is about 30 percent of actual cost in New Jersey, and we increase that rate as well.

With regard to hospitals, by eliminating the uncompensated care, because now everybody is covered, they are getting more money for Medicare, more for Medicaid, and we have eliminated the people that don't have any insurance, which basically, you know, they have to sort of eat that, it goes into their balance sheet. So we're going to make it a lot easier for hospitals to stay open. I've had two close in my district in the last 10 years because they were too dependent on Medicare and Medicaid, and they had too many people who didn't have health insurance.

I yield back.

Ms. CASTOR of Florida. And that's highly important because our hospitals oftentimes are taking care of folks who do not have health insurance. So there is a great amount of uncompensated care, and it feeds that vicious cycle in America where someone has to pay that cost. And it is put on to the backs of families with insurance oftentimes having to pick up the tab for some people who have not taken personal responsibility for their health.

As we launch into the debate, it is very heartening that we have groups like the American Medical Association and AARP on our side, along with the American Cancer Society, the American Academy of Pediatrics, the American Academy of Ophthalmology, the Campaign for Tobacco-Free Kids. I

mean, these lists go on and on. These are Americans and interest groups from all across the country that have been involved for years in trying to get to this point to provide meaningful health care to American families, to ensure that that insurance, when you pay those premiums and copays, is really something you can count on. It's coverage that you can count on.

And then correspondingly, as we've gotten smarter and realize we need to do more in prevention and wellness, we're going to invest in a great new health care workforce. It means a lot to my home district in Tampa because we have a large research university, the University of South Florida, with a College of Medicine, College of Nursing, College of Public Health, Physical Therapy directly across the street from the busiest VA hospital in the country.

The new loan repayment scholarships that will be provided to young people, or anyone that wants to find a job in the health care workforce, this is a landmark investment in that new workforce. When you look at the unemployment numbers across America right now, the one sector where jobs are being created and there are opportunities is in health care. It might be in IT, in the electronic medical records, but we are going to need a modern health care workforce. Fortunately, that's what our initiative provides.

I yield to my friend.

Mr. PALLONE. Well, I will just say, I don't want to call it a jobs bill because that's not the major focus of it, but it essentially is.

This is an economic issue. We are creating jobs, and we are certainly making it a lot easier for businesses to function because they don't have all these additional costs that are associated with more expensive health insurance.

So this bill actually addresses a lot of economic problems in a significant way. I would characterize it as a jobs bill, and in some ways as an economic recovery package as well. And, again, I yield back. Thank you.

Ms. CASTOR of Florida. Well, I think as we begin to close our hour out, we are eagerly looking ahead to the debate. We've had many, many months—many years waiting for real health reform for American families and older Americans, and we are very close. I would really like to thank my colleague, Chairman PALLONE, for his years of service on behalf of New Jersey families and Americans when it comes to health care.

The Democratic bill that will soon be on the floor will finally deliver for American families, building upon those fundamental values and early initiatives that came under Social Security in 1935 and Medicare in 1965. It has taken us awhile to get to this point, but I think we will get home.

## REPUBLICAN PRINCIPLES

The SPEAKER pro tempore. Under the Speaker's announced policy of January 6, 2009, the gentleman from Arizona (Mr. FRANKS) is recognized for 60 minutes as the designee of the minority leader.

Mr. FRANKS of Arizona. Mr. Speaker, I have some prepared remarks tonight about the Pelosi health care reform bill, but you know what I would like to do here in the beginning is just to talk about some things that Republicans believe in.

I have plenty of criticism about Ms. PELOSI's bill, and I will definitely make that known in a few moments; but you know sometimes I think it is incumbent upon all of us in this place, rather than just saying what we're against, to say what we're really for.

Republicans have believed since the beginning of the party that no matter who one was, that they had the right to be free, the right to live, and the right to pursue their dreams. This is something that we have felt was the essence of America from the very beginning. In fact, the Republican Party was born out of a commitment on the part of a group of people that believed that African Americans were human beings deserving of the same protection that all other human beings had, even though the Supreme Court of the United States had said that, under Dred Scott, that Dred Scott, a slave, was not a human being or not a full person under the Constitution.

Of course, you know there was some unpleasantness about that debate, Mr. Speaker; we had a great Civil War in this country. But the commitment on the part of Republicans to restore equal protection to all people regardless of their station in life sustained them in that crucible of that horrible Civil War, and I hope that Republicans will maintain their commitment to that no matter what happens.

We have been debating a great deal on trying to make equal access to health care in this country, and Republicans believe in that with all of our hearts. I've often heard in this Chamber, What are the Republican ideas? They have challenged us and said that we really don't have anything that we believe in, that we are just the Party of No. That is such tragic injustice because there are about 40 bills that have been introduced into this House by Republicans saying what we wanted to do with health care reform, and we have not had the opportunity for any of those bills to be presented on this floor, and oftentimes even our amendments are not allowed.

Mr. Speaker, for a moment let's just ask ourselves, What has given America the most powerful economic engine and force of productivity in the face of human history? It has been that thing called freedom, that thing that allows each person to pursue, to the greatest

extent possible, what they believe to be true and good, whether it be in the area of their own self-interest or the area of trying to help other people or in the area of just trying to make a better world, that we believe freedom created innovation, it created a sense of almost dreaming about what could be. That innovation, I think, is probably the most important difference in the effect of the Republican's version and the Democrat version of health care reform.

Republicans believe that when health care is in private hands, that even the providers of health care—sometimes because they want to make money, sometimes because they want to help others—but the providers of health care are always seeking new ways and better ways to do things, new innovation, ways to come up with new, less expensive, but more effective procedures. I think that we all delude ourselves if we believe that we can accomplish making affordable health care available to everyone if we don't focus on this thing called innovation.

Let me, if I could, deviate and give an example, Mr. Speaker. There was a time in America where the government controlled our telephone company. It was true that our telephone company—at that time we called it Ma Bell—was a private company, but it was almost entirely controlled and regulated by government. Of course you know you had one old clunker telephone and you had to dial the number, and of course sometimes the operator would get smart with you if you asked her what time it was. It was a government-run system with all of the attending bureaucratic nightmares.

And the equivalent in today's dollars for long distance would be about \$3.10 a minute. It was a real disaster. Now, it was nice just to have a phone system, but the reality is we never really saw a great deal of innovation.

But then, when I was just a young man in the legislature, we decided that maybe it was time to break this thing up and give it to the private sector and see if they couldn't do something better with it. And what happened was profound; we created a system that would serve everyone. In other words, we told those companies that if you're going to provide telephone service, you've got to make sure you provide it to the senior citizens up in the mountains or something like that that wouldn't be able to compete in the regular process. We've got to make sure that they're taken care of, and they were.

But something else very wonderful happened, Mr. Speaker. When we turned the telephone company and broke it up and said now we're going to let the private sector come up with the innovations that they could and we're going to see if they can provide a better mousetrap for the country, if they

can provide better telephone service at a cheaper price, look what happened, Mr. Speaker, look what happened.

Today we have cell phones, almost everyone does. You can pull up the Library of Congress on your cell phone. It is astonishing. The BlackBerrys that we carry around here can send messages anywhere on Earth, and we can even pull up our Web site. Boy, I'll tell you, for those that are narcissistic, that is a great little item. And it is just an amazing thing what has happened.

And guess what else has happened, Mr. Speaker? Today, long distance is around 3 cents a minute; sometimes it's less than that. It's getting to the point where a lot of the companies are just offering a system that you can say, well, you've got unlimited dialing and phone and voice and text now that you can use all you want for \$50 a month. Isn't that amazing, Mr. Speaker? But that was because innovation occurred.

I truly believe that this country has shown a proclivity to create innovation that could absolutely revolutionize the health care industry in a way that almost none of us can imagine at this moment. Would we have imagined 25 or 30 years ago that the telephony, the telephone systems of this country, would be so amazingly transformed when we put it into private hands? Now, it was true that some of the people that were in that area were motivated by profit. Some of them made money, some of them lost money, some of them went broke. It was a typical free enterprise situation. All the chaos and the attending realities went along with that. People went broke; people made money. But the end result was the American people were served in a wonderful way and today we have the most magnificent communication systems in the world, and almost everyone takes part in that.

The poorest of the poor have a better life because we deregulated the telephone companies. And it had this magnificent effect on all of America. And now we are able to do things that we never could have done before.

□ 2145

Yet it seems like, when government has something, that innovation is stifled and that the things that would create a better system are somehow suppressed. Because, after all, what is the incentive for innovation in a government-owned system?

If you're a bureaucrat, you have a certain amount of money, and you are tasked with the job of delivering the service in your mission plan. It's not an evil or a bad thing. It's just a bad system. It just doesn't work very well, Mr. Speaker, because the bureaucrat kind of has two options. He is not in charge or she is not in charge of innovation. He is in charge of the delivery

system that government doesn't deliver very well.

He has to make kind of a calculation. Well, we've got so much money, and we want to make the services available, and sooner or later, he or she runs out of money from the budget—it always happens—and they have to make some very hard choices. When that occurs, there is rationing or somehow they will distribute it in ways that are more amenable to the budgets that they have. It's just a very difficult situation.

I'm sorry that bureaucrats have that difficulty. It's a difficult thing to be a bureaucrat, and I kind of feel sorry for them, but I don't want to make more of them, Mr. Speaker. I don't want us to lose sight of the greatness of America and forget that it is not too late to make a better world. We cannot give up our freedom and expect that somehow socialist policies will do the same thing for the family of man as this thing called "freedom" has done for America. It has never happened.

Any time you have ever turned over any major process to a socialist environment or to a socialist enterprise—that's really a bad word. "Enterprise" and "socialism" don't belong in the same sentence. Any time you turn it over to a socialist, bureaucratic system—again, "system" is probably being pretty charitable—what happens is that all of the ways to improve the system are diminished or are completely eradicated.

So, Mr. Speaker, I think it's important that we don't lose sight of what made us a productive country. In that sense, what Americans need to realize is that there are ways that we can improve the health care system. There are ways that we can fix what is broken without breaking what is working.

About 83 percent of Americans believe that the health care system is working for them. Now, there are many people who simply cannot afford health care insurance, and they need it and they want it. Republicans have come up with a very simple approach to that, and that is either through tax credits or through some type of drafts or vouchers or something along those lines that we can put in the hands of people who cannot afford health care insurance, and we let them then be empowered to go out and to buy health care policies from the private sector which best meet their needs.

Now, there is still a raging debate about how much we should do or how we should do it or if we should do that. I understand that because I think that can move us in a dangerous direction as well, but it is still the safest way that we can use the mechanism of government to somehow provide for those who are less fortunate.

In the final analysis, it is important that we empower the individuals and not empower government, but if we did

it the right way, if we could see innovation occur, Mr. Speaker, and if we could put this thing back the way that the Founding Fathers first envisioned it, health care would be one of those magnificent advanced systems in which everybody would be able to go to their own doctors and say, Well, you know, I've got this problem, and they say, Well, you know, we've got this new system that could really fix it.

I'll give you one example, Mr. Speaker. It is something that is completely untested yet, and it is something that isn't finished, and it is something that doesn't work yet, but there is an effort to try to treat cancer in a new way by injecting a substance into the body that disperses throughout all the cells in the body. It even passes the blood-brain barrier, and it literally is able to be disseminated into every cell. Now, that is the theory. I want to emphasize in the strongest possible terms that we don't have this kind of process or procedure yet, and it's too bad that we don't.

In any case, the dream—the hope—is that this substance would disperse throughout the entire body and that the person would be left in a dark environment and that within about 24 hours this substance would disperse out of the body or would be changed in nature to where it would be diminished or dispersed or eliminated and that the only cells which would retain it would be cancer cells and that, when this substance is exposed to very bright light, it would turn toxic and would kill only the cancer cells.

What an incredible idea. What an incredible dream. Now, I know it's a long ways away. I know there will be people who will like to pursue something like that. It's just not available yet, Mr. Speaker, but it could be, I believe. I believe, if we turn the minds of free people loose, that all kinds of wonderful things can happen. Something like that would cost a few thousand dollars, not the tens of thousands or the hundreds of thousands that are spent on advanced cancer surgeries and treatments today. It could change everything. Yet, if we don't allow the free market and free people to pursue those kinds of things, they will never occur, because one thing is very certain in a government-run plan: There are just no pursuits of those kinds of things. That is one of the great tragedies of forgetting that freedom still works.

Mr. Speaker, Republicans believe that there are ways that we can empower individuals to be able to go out and do things for themselves and that we can empower even those who cannot afford health insurance to buy it on their own and that we can still maintain this free market freedom that we talk about so often.

I truly believe in things like allowing us, as individuals in America, to be able to buy our insurance from any in-

surance company in America. We can't do that now. If you're in one State, you can only buy, in most cases, across the State that you're in. There are about 1,400 or 1,500 insurance companies in this Nation. If we could allow people to buy insurance from any of those, can you imagine the competition that would occur? Can you imagine the ways that they would work to try to be the ones to sell you your insurance? Can you imagine how much nicer they would be on the phone? Can you imagine that, when something would go wrong, they would try to work with you as much as possible because they would know, if they didn't, they would lose your business?

Unlike a private system like that, in a government system, if bureaucrats make you mad, tough luck. It doesn't really matter to them that much. There is no incentive for them to even be kind to you. You only have one place to go, and they know that. They have a monopoly as it were. I just think that that's one of the Republican ideas that could be very helpful.

Another one is just tort reform. You know, a lot of people don't know what that word "tort" means, and sometimes I wonder how they came up with that term. It simply means that we would try to have some sort of legal reform that would end these frivolous lawsuits which cause medical malpractice insurance to rise through the roof, and it would make all the difference in the world.

I mean the fact is that just what we could save on stopping frivolous lawsuits, Mr. Speaker, would buy every one of the 11 million people who we are projecting don't have health care insurance, who can't afford it but who would like to if they could, a Cadillac health care insurance policy. I just think that it is astonishing that we don't pursue things in that direction. There are so many things that we can do, and Republicans have some ideas to do that.

I told you, Mr. Speaker, that I have about 15 minutes of prepared remarks on Ms. PELOSI's bill, and I intend to give those, but first, if he would be inclined, I would like to yield to my friend, Congressman HOEKSTRA, if he is prepared to speak to the issue at all.

Mr. HOEKSTRA. I thank my colleague for yielding.

As we are moving forward now—and it looks like we are going to move forward on this debate and vote on the Pelosi health care bill, and we're going to have a massive government takeover—I would just like to have a dialogue with my friend to talk about some of the issues that the American people need to consider.

Before I came over, I think I heard my colleague talking about some of this, and I know what a fan you are of this document right here, called the Constitution.

You know, as you go through the Constitution and as you go through the first 10 amendments—the Bill of Rights—people wonder, now, if you can build a Nation off of 37 pages, why does it take more than 2,000 pages to build a health care system? It's very simple.

If you go through and take a look at the first 10 amendments to the Constitution, the first 10 amendments to the Constitution are all about enshrining freedoms: Congress shall make no law respecting an establishment of religion. The right to bear arms shall not be infringed. The right of the people to be secure in their persons, houses, papers, and effects shall not be violated. It's all about "the government shall not." "The government shall not." Again, it enshrines your freedoms and my freedoms.

The health care bill is 2,000 pages. What's in that bill? What's the difference between that document and this document?

Mr. FRANKS of Arizona. Reclaiming my time here, Congressman HOEKSTRA, the main difference is that that document that you hold in your hand primarily chains down government. It dictates to government, not to the individual. It empowers the individual.

You know, when George Washington and some of the other Founding Fathers put this together, they did something that was singular in history. They were in a position to arrogate all kinds of power under themselves. They had just thrown off the Crown. They had done some amazing things. The people of this Nation loved them, and they could have had any kind of power, any kind of government mechanism, really, that they had tried to put together, but they did something very amazing, and it has changed the world. They said, for once, we are going to empower the individual. We are going to give the individual the rights, and we are going to tell government what it can't do rather than tell the people what they can't do.

Mr. HOEKSTRA. If the gentleman would yield, I was having this discussion with a friend of mine.

He said, You know, you've got to get away from that term "empower."

Actually, that's exactly it. It's empowering the very foundation of American society and American Government. We made that decision more than 200 years ago that, in America, we would empower the individual, and the Constitution enshrined that, and it has worked phenomenally well.

This bill—I don't have it with me. I don't take it with me because you don't carry it too many places. It's 20 pounds. Tomorrow, we are going to unroll this bill. We rolled it up as a scroll. It's more than a third of a mile long, meaning that I could leave my district in West Michigan and go to Chicago. I could stand on top of the Sears Tower, and then I could put the Washington

Monument on top of it. I could drop it, and it would be from the top of the Washington Monument on top of the Sears Tower, and it would just about get to the ground. That's how long this bill is. It's more than a third of a mile if you lay the pages from end to end. The Constitution is just 37 simple pages.

Like you said, which is a great way of putting it, the Constitution chained government and put limits on government. This health care bill chains you and me and each and every one of our constituents because, in this bill—I've not counted them all, but I think someone has said that it has the word "shall" in it—what?—over 3,000 times.

Mr. FRANKS of Arizona. If the gentleman would yield, I will give you the exact number. The word "shall" appears in this bill 3,425 times.

Mr. HOEKSTRA. So, where the Constitution has in it the words "shall not," I would bet that those two words "shall not" do not appear together very often in this health care document, but over 3,400 times it says "shall." It's the Health and Human Services "shall," and most importantly, it is the commissioner "shall."

What we've done is we've taken the rights from this. We've taken them away. We've put them into this health care bill, and we've said the commissioner now shall make these decisions; shall make the decision as to what kind of insurance policies are available to you and to me and to our constituents and which ones are not; shall determine what benefits are going to be in a basic plan and which shall be available in a premium and in a premium plus plan.

The commissioner shall decide whether you and I can get health savings accounts. Actually, we've already made that decision. That's a decision that we in this House shall decide because health savings accounts will no longer be available.

So it is a great transfer of power from where the Founders wanted it to be to where now this House believes it should be, because this House now believes or may believe—I hope we stop this bill because, before I came here, you outlined some issues. They're not simple. They are complicated issues—tort reform, competition, availability, and those types of things.

□ 2200

But those are the types of things that we could do that would address the specific problems that we have in the health insurance market and that we have in the health care area today that would specifically fix those areas and make insurance more affordable and more available for the people who don't have it today, whereas this new massive bill says it's going to change for all of you. The commissioner shall decide.

For those of you that have a health care plan, you can keep it for 5 years maybe. But after 5 years you can be pretty well assured we all shall have a new plan that shall be determined by the commissioner, and we shall not be able to buy anything else.

Mr. FRANKS of Arizona. Mr. HOEKSTRA, the reality is that word "shall" should be pointed out as to what that means in this place. "Shall" is the pre-eminent word of law. In other words, that is, if there is any single word that makes law, it's that word "shall" in this place. You can say "may," that's permissive. But "shall" or "shall not," those are the key crux of all law in a sense.

It's astonishing to me that we forget that law is force. I had a wonderful friend many years ago that was in the State Senate. He said always remember, TRENT—I was a very young man—he said, remember that law is the gun.

He had big envelope on his desk. He had an old World War II pistol in it that was disarmed, and he always pulled it out and he said, The law is the gun. It is force. The word "shall" is what puts force to it. When you have this word "shall" 3,425 times in a bill, that's a lot of force. That's a lot of government arrogating great power unto itself and taking it away from the people.

Mr. HOEKSTRA. You and I have a tremendous amount of background in dealing with legislation that has a lot of "shall" in it. We can go back, you and I weren't here, but we can go back to a very novel and noble idea, the highway transportation bill back in 1956 under the administration of President Eisenhower. The goal was very, very good—build an interstate highway system, something that was very, very much needed, and we built it. That thing still exists.

Now what has it become? It has become this massive bill, this massive process where we take all of this money from the States, so a State like Michigan, and I don't know if you are a donor or a donee State.

Mr. FRANKS of Arizona. Arizona is a donor State.

Mr. HOEKSTRA. All right. Let's explain to our colleagues and our visitors in the gallery exactly what a donor State means. It means that Michigan, we send, on every gallon of gas, there is something like a 19-cent tax. For the 53 years that this program has been in existence, for every dollar that we have sent to Washington, Michigan has gotten back 83 cents. People wonder why roads in Michigan aren't in great shape.

I had a constituent a couple of weeks ago come to me and say, Congressman, why can't our roads be like West Virginia? We checked. For the average of 53 years, West Virginia has gotten \$1.74 back for every dollar that they put in. That's a pretty good deal. No wonder

their roads are better than our roads in Michigan, because they get \$1.74 back. Michigan gets 83. I don't know what happens in Arizona.

Mr. FRANKS of Arizona. It's in the low nineties, Mr. HOEKSTRA.

It seems like what happens every time you send something into the Federal Government for them to send back or disburse, they always whack a little piece of it off as it goes by, don't they?

Mr. HOEKSTRA. They whack a little piece off, it goes into this bureaucracy. Then they allocate it according to people who may be more powerful than others, that's why your State and my State, why we are donor States. At one point in time it was to build an interstate highway system. Today that money is used for all kinds of things. That money now comes back to Michigan, and we've got to put up matching funds. Two years ago the money came back and it had to go to highway enhancement. You kind of look at it and say, What's highway enhancement? Well, our Governor figured out, working with the Department of Transportation, that the "shall," you shall use this money for highway enhancement meant that rather than improving our interstate highway system by expanding capacity, perhaps putting on a new interchange, perhaps extending it into an area where we needed it extended, the "shall" meant you shall build a turtle fence.

And what's a turtle fence? Well, in Arizona, you probably don't have many turtles.

Mr. FRANKS of Arizona. We don't have many turtles.

Mr. HOEKSTRA. Well, in Michigan we have quite a few. It was \$400,000 for you shall build a turtle fence, you shall not use it for an interchange, you shall not use it to fill potholes, you shall build a turtle fence. I didn't really know what a turtle fence was. I had an idea, but I asked.

A turtle fence is exactly what it's intended to do, what you would think when you hear the term. A turtle fence is intended to keep turtles from crossing the highway.

Mr. FRANKS of Arizona. We need a rattlesnake fence in Arizona.

Mr. HOEKSTRA. I don't know if a snake can go over a fence or not. But in Michigan, they decided to make sure that this fence would be turtle-proof, to make sure that no turtle would go over the fence, they built it about 3-feet high and then they put one of these round things over the top of it, 3- or 4-inch diameter, to make sure that for those turtles that were climbing turtles, they couldn't climb and climb over the fence.

The irony of this whole thing is I still drive that road and I drive it quite often; and I still see turtles that have been hit by cars. You say, now, how can that be? We've spent all of this money. We spent \$400,000 to build this

turtle fence and to study it. Why are there still turtles being hit on that highway?

Then you think about it and it's like, I know why, because this protects the turtles that are outside of the fence, because they can't get to the highway. But it's really a bad deal for the turtles that were fenced in. They have nowhere to go. They can't get out. Most of their living area now is the median, and a little bit of land on each side of the highway before you get to the fence. But for the turtles that are in the fenced-in area, they can't get to the river anymore, because that's fenced in, and they can't get out anywhere else. The only place they can go is stay in the median, or if they want to move at all, they get on the road. It really didn't work that well. The Federal Government, in its infinite wisdom, saying you shall spend it on a turtle fence. And the people say, PETE, why do you bring this up in the context of health care? Why are you and TRENT talking about this?

We will see the same kinds of decisions in health care. The money will come here, and it will not be fairly distributed to the States, just like you are a donor State and we are a donor State, and there are other States that are getting an unfair share. The same thing is going to happen to health care.

One of these days a Congressman from Michigan is going to come back home and someone is going to say, I was traveling through West Virginia, we got sick, and why do they have such better medical care, and their facilities are so much better than Michigan?

And the answer will be, well, you know, over the last 30 years of this Pelosi health care, West Virginia got \$1.74 back for every dollar that they sent in taxes and Michigan and Arizona, they got 83 cents. There will be an inequity in health care.

Then the other thing it will be is we'll start spending it on foolish things because people here in Washington will all have their pet projects, whether it's rattlesnakes or whether it's turtles, they will start siphoning the money off and growing it to something it was never intended to be.

Mr. FRANKS of Arizona. I've heard a lot of strange stories about bureaucratic programs, but one that drives peace-loving turtles to suicide is just about too much, isn't it?

Mr. HOEKSTRA. Well, it is.

You and I have another program that I believe you and I fought together: No Child Left Behind. Congress in its infinite wisdom in 2001, again with the noblest of goals, just like building an interstate highway system, just like making sure we left no child behind, just like making sure we want everybody to have quality health care? What did we do in 2001? You and I voted against it, I believe.

Mr. FRANKS of Arizona. Yes, we did.

Mr. HOEKSTRA. We said taking power from parents, and you and I are working on this constitutional amendment together that enshrines in the Constitution that parents have the right to raise and educate their kids, protecting parental rights.

Again it says, Congress shall not, government shall not infringe on the right of parents to raise and educate their kids. We are enshrining rights. No Child Left Behind took rights away from parents and gave them to government.

Washington now forces States and local school districts to go through this paperwork and determine this process. Well, we'll determine whether your kid is making progress or not. We'll tell you who is a good teacher or a bad teacher, what school is a good school or bad school.

You know what? I don't need to send money to Washington and have them come put a bunch of paperwork and try to tell me that.

Mr. FRANKS of Arizona. You know that's right, Mr. HOEKSTRA. It's amazing to me the parallels that we see in these things. When we talk about education, I think it's pretty significant to remember one basic equation. That is, that one of two people will decide the academic, the spiritual, the philosophical nature or the substance of a child's education. One of two people will decide what that's going to be. It will either be a parent that would pour their last drop of blood out on the floor for that child that they love very much; or it will be a bureaucrat who doesn't even know their name.

I would suggest to you that that's the same thing with this health care bill, that the parallel is profound here. We are either going to have one of two people make decisions in health care. I mean, we might have a little bit more involvement by the doctors, but ultimately the ones that decide what treatment they have or don't have, it's either going to be the patient or some bureaucrat.

Because the patient, when they are talking to their own doctor, if the patient is empowered, they can always go to some other doctor. But when we have this Pelosi nightmare shoved down our throats, I am convinced that all of a sudden those decisions that were better made by the patients will be made by some bureaucrat.

Mr. HOEKSTRA. You and I in 2001, we didn't call it the Pelosi nightmare, we called it, in not so many words—maybe we're a little kinder—but we both genuinely felt it was the President Bush nightmare for education. What have we found out? There were 41 of us, 41 of us that I believe stood up for the Constitution, stood up for parents, stood up for local public schools, stood up for the States and voted "no" on No Child Left Behind.

Eight years later, there are a lot of people who now recognize that program

doesn't work, it's leaving more kids behind, it's wasting money. And the answer some people have now is, we've got to spend more. And it's kind of like, no, when you're sending a dollar to Washington and the thing that you highlighted, Washington skims off the top or bureaucracy skims off the top.

We now know that under K-12 education, when we send \$1 from Michigan, whether it's from Holland or Lansing or Detroit or Pontiac and it comes to Washington, before it ever gets back into a classroom, we are actually doing what education dollars should do, which is educating children. We figure that we lose about 35 cents of that dollar in wasted bureaucracy.

I tried to talk to the superintendent—he and I have not been able to connect yet—the superintendent of Pontiac public schools. I give him credit. They took the Federal Government to court and said this is unconstitutional; it is unfair and inappropriate for the Federal Government to have these kinds of mandates on our schools, because what's the other thing that they do? When they say in No Child Left Behind, you shall, they don't give them the money to do it.

He said, or the school district said, you can't put all of these unfunded mandates on us, because what you are forcing us to do is to spend money on programs that we don't think are a priority for our kids. We know our kids. We know their names. We know what their challenges are. We have got these sets of priorities that we think we need to spend on our kids. That superintendent and those teachers and those parents and that community, you are right. They know those kids' names. They know what those kids need, and they want to spend the dollars to get the most advancement for those kids.

□ 2215

The bureaucrats here in Washington, what do they know? They know the book of rules and regulations and say, sorry, it says right here, Congress says you shall do these things. All I can do is make sure that is what they do. That is, again, exactly what is going to happen in health care.

Mr. FRANKS of Arizona. I would suggest that one of the more frustrating things about all of this, like in education, what happens when government controls it is the wealthy can still do pretty much what they want. Wealthy families in this country can choose private schools for their children, because they have the extra money to do it. The poorest of families do not. They are stuck in a system that government controls and runs and almost always makes it substandard because of that reason.

The same thing will happen in health care. The wealthy will figure out some way to get around this. We have offered amendments, as you know, Congress-

man, in this body to say for those people who either voted for it, or at least Congress, if they are going to have to pass this thing, should have to live under it themselves. Those amendments get voted down overwhelmingly because there are not too many Members of this body who want to live under a government-run health care system. But they are willing to put it on those people who have no choice, and there is something fundamentally wrong about all of that.

Mr. HOEKSTRA. Yes. What we have seen in the highway system is where the money comes to Washington, it gets distributed unfairly, and it comes back to States with mandates on it as to where they will spend it.

It is hard to believe. You send the money to Washington, and to get it back you have to have matching funds. So now they are also starting to impose taxes on the citizens of each of our States so we can actually get our own money back. So there is the infringement and the intrusion of the Federal Government on the highway system.

The same thing on education. Michigan has now gone through a process and they are considering some spending bills. And part of the spending bill is, well, you know, if we do this, we can get more Federal education money back, or we can get more Medicaid money back.

It is kind of like, why do we have to put up our own money to get our money back in the first place? And think if we left it in the States.

I think this is where we as Republicans lay out our vision for the future. I think one of the parts we are going to see on health care, on transportation, it is going to be devolution. Leave the money in the States. Send a penny out of every dollar to Washington to let them maintain and, if necessary, expand the interstate highway system. But leave 98 or 99 percent of the money in the States.

We ought to do the same thing with education. Devolve education responsibilities to the States. I don't need to send a dollar here and only get 65 cents back for the classroom.

Do the same thing for Medicaid and health care. Don't take health care down the same failed road of moving all of this power away from individuals, away from communities, away from States, to bureaucrats in Washington who will distribute it unfairly. The powerful will take more to their States. They will give less to the other States. The powerful will then establish the mandates so that we will run health care the way they believe it should be run, not the way that markets or individuals who want to direct their health care want it to be run. And they will be inefficient.

The bottom line is, it won't work. You and I know it. And we have seen

the numbers. No Child Left Behind is not working. We are leaving more kids behind.

Mr. FRANKS of Arizona. It is always amazing to me, if we just happen to be a cursory student of history, that we can look back and see the highway of history is littered with the wreckage of socialist governments that thought they could manage productivity and that they could create a better distribution system than the private market. I don't want to join that litany, and I know you don't either.

You keep making the parallel in education. I think it is kind of interesting that, in Canada, they started this government-run system, and they ran into so many problems that people are now suing to get their freedom back. It is very difficult to get it back. It is the same thing with education.

Mr. HOEKSTRA. They also can opt out. They do two things in Canada. They cross the border and come across into Michigan to take advantage of our quality hospitals and our quality health care; and for those that have a little bit more money, they fly down to Arizona, especially in the winter, and take advantage of your quality health care. They have got an escape valve.

Mr. FRANKS of Arizona. If they have a cold, they call a doctor up there. If they have cancer or something serious, they call a travel agent.

Mr. HOEKSTRA. If they have the resources.

Mr. FRANKS of Arizona. Mr. Speaker, what I would like to do, I hope in the next hour I will be afforded the opportunity to give my written comments, but I would like, if I could now, to yield to the gentleman from New Jersey, Mr. GARRETT.

Mr. GARRETT of New Jersey. I appreciate the gentleman from Arizona yielding, and I will be listening on the edge of my seat to hear your written comments momentarily. But I wish to join in with the discussion.

I commend your work. I have been watching for the last 45 minutes your discussion, and I know you have begun to make the shift over in the comparison with regard to No Child Left Behind.

In reality, of course, maybe you have already said this, with the huge burden, intergenerational burden that this bill will create, of course, what we are really talking about is no child will be left a dime.

Mr. HOEKSTRA. We are not going to educate them, and we are going to put a huge debt on them. Yes. Thank you.

Mr. GARRETT of New Jersey. We are indeed going to be placing a huge debt. This is going to be an intergenerational travesty for the next generation, for our children and their children as well, and that is the interesting thing.

Just yesterday, Thursday, at noon, there were literally tens of thousands of people outside, just outside the steps



of this Capitol, people who are interested in freedom and liberty coming down here to have their voice heard. That despite the fact, I might add, I know there were some reports in the paper from Members of the other side of the aisle, the Democrat side of the aisle, that said, basically paraphrasing, I am not sure why people are coming to Washington and why people are calling, because they have made up their mind already, which is also a travesty.

Mr. HOEKSTRA. The amazing thing is they have made up their mind. The bill has been around for all of 8 days, and we have never had the opportunity now to take it home to any of our constituents or whatever.

But I was struck by reading the same comment. It was also laced I think with some profanity and saying, we don't care. We have made up our mind. The inference was, I think, we could have 100,000, we could have a million people out there. We don't care.

Unbelievable. Who do these people think they work for?

Mr. GARRETT of New Jersey. Right. I think you are being overly generous to the other side of the aisle when you said the bill has been out there 8 days. In reality, of course, as we sit here or stand here on the floor of the Chamber of the House of Representatives, the People's House, upstairs right now is the Rules Committee still debating, or not even debating, just listening to the Republicans make their arguments against the bill.

The final bill, as you are well aware, has not been created. The final bill, as you are well aware, has not been put to text. The final bill has not been presented to the American public, which is really strange when you think about it. Because back on September 24th, Speaker PELOSI said to the media and to the American public that she would give the American public 72 hours to be able to read the final version of the bill before it came to a vote.

Mr. HOEKSTRA. If the gentleman will yield one more time, I think maybe that is why we are doing this on Saturday, because they will finish the bill tonight, sometime tonight, and file it, I would guess, sometime through the night. And since most people have Saturdays off, maybe the Speaker is figuring that maybe everybody can have Saturday morning and Saturday afternoon to really study this bill, and if they have some input they want to give us, if they have some input they want to give us, they can maybe do it before 6 o'clock on Saturday night, when we are currently scheduled to vote.

That is actually brilliant on the Speaker's part, because I think most Americans are going to be just eagerly waiting to get this bill and go online and read it tomorrow.

Mr. FRANKS of Arizona. I think the gentleman is being entirely too cyn-

ical. I think the notion that any of the Americans are going to read a 2,000 page bill in the 6 hours that they will have, we have got maybe five speed readers in the country that can do that. So I think you are being too hard on them.

Mr. GARRETT of New Jersey. Cynical, or maybe overly generous to the other side of the aisle, that the majority and Speaker PELOSI would be so kind to allow the American public even that much time, when she specifically made the promise of 72 hours. Seventy-two hours, what is that? That is 3 days. And even at that, 3 days is a short period of time, I think we all would agree, to read 2,000 pages and get through it.

Remember back just several months ago, when was it that we had the cap-and-trade bill on this floor. That was the end of July, I believe, or August.

Mr. HOEKSTRA. Well, when they added 400 pages.

Mr. GARRETT of New Jersey. When they added the 300 or 400 pages to the bill, and you had Members on the other side of the aisle say, well, they had read the bill. There again, you have to remember the somewhat disingenuous statements, because there again, looking at a 1,000 page bill, and you indicated it was 3 o'clock at night, and the Rules Committee was doing what they are doing right now, and then slipping the bill basically in the dead of night to us, 300-some odd pages, and then having us vote on that bill, when you know that no one had actually read and understood the bill.

Just like that 1,000 page bill before, now we are looking at a 1,990 page bill. Even if you are one of those speed readers that can actually get through 1,990 pages, you know you will not understand the bill. And I will close on this and yield back, that that 2,000 pages also cross-references to a whole series of other pieces of standing legislation you have to understand as well.

So no one who is about to vote on this bill tomorrow, if we do vote on it tomorrow, will have read and understood the bill, and that is a travesty to the American public.

Mr. FRANKS of Arizona. I yield to the gentleman from Illinois.

Mr. ROSKAM. I thank the gentleman for yielding.

For those that are unfamiliar with the Capitol grounds here, it is really a thing to behold. Here we are, the four of us that have this great privilege of being in conversation, not just with one another, not with just the House of Representatives, but really with the American public, on this season of our life that we have really not seen before.

I was walking outside a couple of minutes ago, and I glanced up at the dome, and the light on the top of the dome was on. And those who have not been to Washington, D.C., before know that that is really a symbol of freedom.

When that light is on at the very top of the dome, that signals that freedom is under way, democracy is afoot.

And I just decided, I literally have my trench coat, it is a cold evening here in Washington. My trench coat is literally over there. I walked up the stairs and walked in, and I thought, who is on the House floor? And I wasn't surprised to find the gentleman from Arizona. I wasn't surprised to find the gentleman from Michigan. I wasn't surprised to find the gentleman from New Jersey. Because I think what the four of us have an understanding of is that this is a time of choosing.

We are all familiar with the book of Genesis and the story of Isaac. Isaac had two sons. One was Esau and one was Jacob. Esau was the oldest son; and, as the Bible tells that story and as we all know, in that culture at that time, the oldest son had the lion's share of the inheritance, right? Really, when the old man died, he had everything coming to him.

As the story goes, Esau is out in the field. He comes in. He is hungry. He says to his younger brother Jacob, "I am hungry." Jacob is making some stew. Esau says, "Give me some stew."

What does Jacob say? "Give me your birthright." And Esau, like a fool, gives his birthright away for what? For a pot of stew.

The political left in this country is coaxing the American people right now, who are very uncertain. We are in uncertain economic times. They see health care costs that are skyrocketing out of control. They have concerns about preexisting conditions and jobs and a whole host of other things. And the political left is saying, give us your birthright of freedom. Give us your birthright of opportunity. Entrust it to us, who can't balance a budget, who are spending your children's prosperity away, and trust us.

What I think I am sensing, and I think what all three of us are sensing, the American public is saying, whoa. Whoa. We are not going to trade a birthright away, for what? For nothing? To entrust the future to people that literally cannot balance a checkbook? People who have taken our national debt and will double that amount in 5 years and will triple that amount in 10 years? That is incredibly sobering.

So here we are on the brink of Speaker PELOSI grabbing control of one-sixth of the American economy, one-sixth of the American economy. As we speak, the Rules Committee is meeting. They have not had the opportunity to fully vet this bill.

It went from 1,000 pages that was fundamentally rejected by the American public over the August recess, fundamentally rejected by the thousands of Americans that showed up over the last couple of days, and yet now she has doubled down. With all due respect

to the Speaker, she has doubled down and taken 1,000 pages and turned it into 2,000 pages.

It takes away my breath. I think it takes away most Americans' breath, thinking about the amount of indebtedness being created and, ultimately, this generational theft.

□ 2230

Mr. HOEKSTRA. If the gentleman will yield, I think we also put this in the context of already what's happened in this year. Very early on this year, we spent \$800 billion to stimulate the economy. It hasn't worked. Today we saw the numbers. They came out, 10.2 percent unemployment. If you include those who have stopped looking for work or those who are maybe working part-time because they can't find a full-time job, that goes up to 17.5 percent. So 17.5 percent of the American people are either unemployed, stopped looking for work or underemployed. You know, that's the effect of our stimulus bill that was passed. I don't think any of us voted for it.

Then we put on top of that the cap-and-trade vote that my colleague was talking about, which is going to just hammer manufacturing and put a huge tax on every American again and every business out of this new carbon tax. Then you put the health care bill on top of it, \$1.2 trillion, and people are wondering, Why isn't the economy coming back? Because we put so much uncertainty into the business climate. We've loaded up the debt. People were talking about, you know, the debt under President Bush. In 1 year they've tripled the deficit from what, \$450 billion. And that was the deficit under the Democratic Congress. I think the last time Republicans had control, the deficit was around \$250 billion. It was going the other way. It was going down. Ever since the Democrats have been in charge of Congress, it's been going up, so that we are now at \$1.4 trillion in a single year deficit.

All of these new taxes and new spending out there—the deficit is projected to be what, \$1 trillion every year for as far as the eye can see, and people are wondering why there's not job creation? It's not hard to figure out. I yield back.

Mr. FRANKS of Arizona. I will just put this in my own perspective the best I can here. I have always believed, as I know the three of you have, that the true statesmanship was the effort to try to look to the next generation. Someone said that a politician looks to the next election, whereas a statesman looks to the next generation. Some of those issues have been my life. I was the director of what Arizona's version is of a children's department. We've always wanted to try to look to the future and look to next generations. That's why I was so intrigued by the gentleman from Illinois' comments

about our birthright, about freedom because I believe of all the tragedies in the Pelosi bill, that the loss in freedom is the big one.

This is not the first time that we have struggled in this country about that. There was a time when the colonists were here that they were oppressed so badly by the Crown of England that they said that we have to somehow break free. But there were those who were afraid, and I understand that. See, they didn't have freedom at that time. They were trying to gain it. They were trying to go against all odds to try to do what they could. But some were afraid.

I will never forget Samuel Adams' words because I think it should apply to all of us here tonight. I think it should apply especially to those on the other side of the aisle that are struggling tonight with how they're going to vote. He said to the colonists who were afraid to fight the King, he said, If you love wealth better than liberty, if you love the tranquility of servitude better than the animating contest of freedom, go from us in peace. We seek not your counsel or your arms. Crouch down, and lick the hands that feed you, and may your change sit lightly upon you, and may posterity forget that you were our countrymen.

And I would say today that we need that same call to liberty that they had back then that made them march with bloody feet in the frozen ground to find liberty for us. I have got two little babies at home that are just a little over a year old, and I don't want to throw away their birthright or the freedom that I hope that they will walk in someday. I want them to stand in the light of the freedom that we see on the top of this Capitol dome. May it be.

#### HEALTH CARE

The SPEAKER pro tempore (Mr. MURPHY of New York). Under the Speaker's announced policy of January 6, 2009, the gentleman from Iowa (Mr. KING) is recognized for 60 minutes.

Mr. KING of Iowa. Thank you, Mr. Speaker. I appreciate the privilege of being recognized by you, the Speaker and address on the floor of the House of Representatives in this seamless effort that we have to stand up and defend the freedom that this country needs. This has been for a long time about socialized medicine, socialized health care, the reason that so many people came to this Capitol and so many people have all across this country laid out and stood up and gone to congressional offices and joined in their groups, the tens of thousands of people who were here yesterday and so maybe people that are looking across the country, jamming the telephone lines, doing everything that they can. Mr. Speaker, the American people don't want this socialized medicine. I under-

stand that the gentleman from Arizona has a presentation that he would like to make in a window here for a few minutes, and I am happy to yield to the gentleman from Arizona for that period of time before we pick up the balance of this exchange.

Mr. FRANKS of Arizona. Well, I certainly thank the gentleman. In the last hour, I tried to talk about some of things that the Republicans were for, but I had made a commitment to give some remarks on the Pelosi health care plan. So I really appreciate everyone's indulgence here because I feel like I'm taking more than my share, but I will make these comments and then I will make myself scarce, if that will be all right.

Mr. Speaker, only 1 week ago, on Friday, October 29, Speaker PELOSI and her fellow liberal Democrats introduced H.R. 3962. But they grossly mislabeled the Affordable Health Care for America Act. The bill would more accurately be entitled, The Big Spending, Big Taxing, Big Entitlement Pelosi Plan for Big Government Takeover of America's Health Care Act.

Despite House Majority Leader STENY HOYER claiming during their press conference that the health care bill was part of an open and transparent process to reform our health care system, the American people were oddly prohibited from even attending the liberal Democrats' publicity rally on the steps of the Capitol. Mr. Speaker, this really isn't surprising considering the Democrats' habit of closing Republicans completely out of the legislative process and negotiating the provision of this current health care plan behind tightly closed and locked doors.

Mr. Speaker, the new Pelosi plan looks and sounds starkly similar to the Democrats' first attempt at a Big Government takeover of health care, H.R. 3200. That is because essentially it is the same Big Government socialist nonsense Speaker PELOSI introduced months ago, the same plan that caused literally millions of Americans to speak out against it through letters, petitions, protests, and by showing up to register their staunch disapproval at town hall meetings throughout the country all summer and fall.

Now it seems clear that the voice of Americans have fallen upon deaf ears in this House of Representatives, Mr. Speaker, and Ms. PELOSI and Mr. REID are determined to shove this partisan nightmare down the throats of the American people.

Now, buried within the contents of this 2,000-page bill as well as a separate 13-page bill that would increase the deficit by more than \$200 billion are details that will see a massive Federal intrusion in the health care of every American. For instance, Mr. Speaker, the Pelosi health care plan creates 111 new offices, bureaus, commissions, programs bureaucracies over and above

the entitlement expansions. This includes, Mr. Speaker, a government-run insurance program that could cause as many as 114 million people in America to lose their current coverage. The Pelosi health care plan also abolishes the private market for individual health insurance, forcing individuals to purchase coverage in a government-run exchange.

The Pelosi health care plan enacts insurance regulations that would raise premiums and encourage employers to drop coverage. The Pelosi health care plan enacts trillions of dollars in new Federal spending that would exacerbate the deficit and imperil the Nation's long-term fiscal viability. The Pelosi health care plan also taxes all Americans: individuals who purchase insurance, individuals who do not purchase insurance and millions of small businesses.

Mr. Speaker, this will absolutely kill millions of jobs and raise health care premiums across the board. Mr. Speaker, the Pelosi health care plan also cuts Medicare by \$500 billion, which will devastate the Medicare Advantage program and result in higher premiums and dropped coverage for more than 10 million seniors. And nearly 70,000 of those seniors, Mr. Speaker, live in my district alone.

The Pelosi health care plan would eliminate more than 5.5 million jobs as a result of taxes on businesses that cannot afford to provide health care insurance coverage, and this is according to the model developed by Christina Romer, the chairwoman of the President's own Council of Economic Advisers.

Mr. Speaker, in 2008 health care spending in the United States reached \$2.4 trillion, and it was projected to reach \$3.1 trillion in 2012 and \$4.3 trillion by 2016.

□ 2240

Health care spending is 4.3 times the amount that we spend on national defense. And now the Congressional Budget Office has testified before Congress that the Democrat health care plan will actually increase that already sky-high health care spending.

Only weeks ago, Mr. Speaker, President Obama stood on this very floor and promised a joint session of Congress and the American people that he would "not sign health care legislation if it adds one dime to the deficit now or in the future." But, unfortunately, Mr. Speaker, that is one of the many promises that will unequivocally be broken by the Pelosi health care plan. Adding in the more than \$200 billion cost of the unfunded companion "doc fix" bill, H.R. 3961, the health care "reform" agenda proposed by liberal Pelosi Democrats totals more than \$1.5 trillion, nearly double President Obama's stated figure.

Mr. Speaker, that unequivocally breaks the President's promise by in-

creasing the deficit to the tune of hundreds of billions of dollars. Add the \$1.5 trillion projected cost of this bill, and it's still a conservative estimate given the historic precedent of drastically underestimating the cost of government programs, Mr. Speaker.

When Medicare passed in 1965, the Congressional Budget Office predicted it would cost \$12 billion per year by 1990. In reality, the cost of Medicare in 1990 was \$110 billion, more than nine times greater than projected. Likewise, the Medicare expansion of it in 1987 was projected to cost \$1 billion annually. By 1992, the actual cost was \$17 billion, or 17 times the amount projected. What makes us think that a government takeover of more than one-sixth of our economy is going to be any different, Mr. Speaker?

Someone recently pointed out that a nearly 2,000-page bill of over 400,000 words that costs as much as this one does, that that plan amounts to over \$2.2 million per word, and there are a lot of words in this bill, Mr. Speaker.

Moreover, the Pelosi health care plan is a massive increase in the size and scope of government, creating, expanding, or extending at least 43 entitlement programs and 111 additional offices, bureaus, commissions, programs, and bureaucracies over and above the entitlement expansions.

During the worst economic recession since the Great Depression, this bill would impose numerous new taxes.

Number one, it would impose a 5.4 percent surtax that would primarily be shouldered by small businesses. It would impose a 2.5 percent penalty tax on those who do not acquire health care insurance. New and increased taxes on a wide variety of health plans, including HSAs and HRAs. An ironic, and this one kills me, an ironic 2.5 percent tax on medical devices. And an 8 percent tax on businesses that can't afford to provide health insurance for employees, just to name a few, Mr. Speaker, bringing the total to \$729.5 billion in new taxes on small businesses. Individuals who cannot afford health coverage and employers who cannot afford to provide coverage to meet the Federal bureaucrats' standards created under this bill will all pay the bill.

Now, our top marginal income tax rate right now is 35 percent. Mr. Obama wants to boost the top rate to nearly 40 percent in 2011 by allowing some of the tax cuts enacted under former President George W. Bush to expire. The new health care taxes imposed by this bill would come on top of that. This would mean that just the Federal tax rate alone would be 45 percent. And when you add in the State and local taxes, individuals and small businesses could see total tax rates of close to 60 percent, Mr. Speaker.

The cost of the Pelosi government takeover of health care and new taxes

it would impose alone are a disaster of the first magnitude for America. But the monstrosity of the Pelosi health care plan doesn't even end there.

On September 9, during his address to the joint session of Congress, President Obama stated verbatim the following quote: "One more misunderstanding I want to clear up—under our plan, no Federal dollars will be used to fund abortions."

But despite promises and statements made by the President to the contrary, Mr. Speaker, this bill explicitly allows Federal funding of abortion and permits Federal subsidies to go to private insurance plans that cover abortion, making this bill potentially the largest expansion of abortion on demand in America since *Roe v. Wade*.

White House health adviser Zeke Emanuel is a longtime proponent of rationing as a means for controlling and distributing the vital health care services Americans need. And for all the furor over the "death panels," a term that the Democrats so viciously mocked, H.R. 3962 would establish a new "Center for Comparative Effectiveness Research," perhaps more accurately labeled a "life and death panel," since the panel would be allowed to deny lifesaving treatments to patients on the grounds of cost savings, the same sort of rationing we see in Britain's national health care service which routinely denies costly patient treatments to those whose lives are deemed less worth saving.

This is the inescapable reality of government health care, Mr. Speaker. The scarcity of resources and the inevitable unresponsiveness of massive bureaucratic systems result in rationing of health care services, deciding on who may receive care and who is forced by the government to go without. And this should not happen in America.

These "decisions" would be in the hands of President Obama's new "health czar," or the "Health Choices Commissioner" created by this legislation. The "health czar," or the "Health Choices Commissioner," could forcibly enroll individuals in government-run insurance, and they would be required to conduct random compliance audits on health care benefits, allowing the Federal Government to intervene in the business practices of all employers who offer coverage to their workers. And that is unbelievable, Mr. Speaker.

The Pelosi bill also contains numerous so-called "sweet treats" for the notorious allies of liberal Democrats. The Pelosi plan makes groups like ACORN and Planned Parenthood eligible for Federal grants administered by the health czar. It refuses to address frivolous medical lawsuit reform while it actually creates new incentives for the trial lawyers to sue the doctors and medical industry into the stone age. Speaker PELOSI and her liberal colleagues are shamelessly sticking their

thumbs in the eyes of the American people.

Mr. Speaker, Republicans have offered more than 40 alternative health care plans that would implement true health care reform in this country, including empowering those who cannot afford insurance with the ability to purchase their own insurance policy from the private sector; allowing families and businesses to purchase health care insurance across State lines; allowing individuals, small businesses, and trade associations to pool together and acquire health care insurance at a lower price, the same way large corporations and labor unions do; giving States the tools to create their own innovative reforms that lower health care costs; and ending frivolous lawsuits that contribute to higher costs.

Unfortunately, Mr. Speaker, it is clear that instead of listening to the American people and embracing these real solutions, Speaker PELOSI and her liberal colleagues have chosen to placate their most liberal allies, from ACORN to Planned Parenthood to trial lawyers, and to forcibly shove this bill down the throats of the American people.

But, you know, Mr. Speaker, in closing, of all the egregious things that I have just told you about this bill, the worst of it is the way that it steals America's freedom with the word "shall." Mr. Speaker, the word "shall," as we all know in this Chamber, is the key word in all government mandates and control. The word "shall" is government force. Unbelievably, the word "shall" appears in the Pelosi health care plan more than 3,425 times. The Obama-Reid-Pelosi Federal Government is using the force of law with the word "shall" 3,425 times to steal the freedom of the American people and forcibly insert a bureaucrat between patients and their doctors. The Pelosi health care plan is nothing but 2,000 pages of Big Government, higher taxes, and literally thousands of government mandates.

Mr. Speaker, flying in the face of NANCY PELOSI's claim that the health care bill that she has would be posted online for 72 hours for review before final vote, it looks like tomorrow this body will be forced to vote on a bill that will completely overhaul one-sixth of the economy and potentially devastate our health care system all against the will of the vast majority of Americans. And I encourage every last one of them, Mr. Speaker, for the sake of their children and future generations, to stand up against this bureaucratic socialist monstrosity.

With that, Mr. Speaker, I thank the gentleman from Iowa for his kindness in allowing me to keep this commitment.

Mr. KING of Iowa. I really thank Congressman TRENT FRANKS. Mr. Speaker, that presentation that we

just heard over the last few minutes is something that I know he sat in his office in late hours and put this together and brought through and brought out some of the most significant components in this 1,990-page bill that has a 40-page amendment and makes it 2,030 pages altogether.

As we speak here tonight, the Rules Committee is off into something that started up at about 2 o'clock this afternoon, and it's 10 minutes to 11 tonight.

The real debate on this bill is us down here talking, Mr. Speaker, or the people up in the hole in the wall that finally has television cameras in it. For the first time, I think, in the history of the United States Congress, we see at least a significant bill that's being televised.

□ 2250

I have gone up there, and the Rules Committee by the way, Mr. Speaker, I don't disrespectfully refer to it as the hole in the wall. I am the person who thinks so much of the Rules Committee, up where they deny amendments to be offered here at the floor, at the direction I believe of the Speaker, up on the third floor of the Capitol, a little old room that doesn't even have room for all of the Members that want to engage in this, let alone staff, so the hallway is full of staff and Members. If there is information that needs to go in, they pass in papers like a bucket brigade to make an argument before a Rules Committee that is being asked to be an expert on everything that Congress, all of us, might want to know or vote on.

This is a piece of the process that for the first time the American people are learning about because they can now see on television what goes on. It has changed the dynamics in that room. I came down here 2½ years ago and called for television cameras in the Rules Committee. They weren't too impressed with that request, so I introduced a resolution to move the Rules Committee down to the floor of the House of Representatives because that is where the debate is taking place so the American people can see it.

Now we are on about maybe the third panel of the Rules Committee and the American people, some of them, and I have had people ask me would anybody go up and watch the debate in the Rules Committee. Well, people all over America are doing that. Some are watching this tonight. Some have keyed into the channel that is showing the Rules Committee. It is going on and on. There are people that seemed to be a little bored by that. Who is watching? Watch your e-mail account, Members, because they are sending messages in. The people who are watching the Rules Committee with eyes like an eagle are the ones who came to this Capitol yesterday by the tens of thousands and filled this place up and said,

Keep your hands off of my health care. They want to see how this system works. Some of them are becoming experts. They are going to be, some of them, the future leaders that come into this Congress because they are fed up.

Mr. Speaker, the American people are fed up with the assault on American freedom and the complete disregard for the very foundations of American exceptionalism. In fact, I don't know if some of these people who are supporting this bill couldn't actually say the word sincerely that American is an exceptional country. We have a whole lot of reasons why we are exceptional, and at the core of each of them are freedoms. So that, Mr. Speaker, is the backdrop of what all is going on here.

The schedule is to bring a rule down and have a vote about 9 tomorrow, and then start carrying out a debate, and a debate that will be limited. It has already been announced by the chair of the Rules Committee, LOUISE SLAUGHTER, that they are only going to accept two amendments to the bill. Now when the public has been told by the chair of a committee that there are only going to be two amendments that will be allowed to be debated on the floor of the House and voted on, and I presume one of them will be the Republican leader's amendment and the other one may be a motion to recommit, but only two, I think it tells everybody in America who is watching this show up here in the hole in the wall of the Rules Committee, what the deal is.

If you are going to go to a committee and offer amendments to perfect legislation and in all good seriousness engage in the debate, and debate for hours and hours and hours before a chair and a committee that has already announced to the world that all of those amendments that are being offered save two will be rejected and have no value, that, Mr. Speaker, is what is going on right now. The American people are figuring it out. They have a nose and a sense for this.

So what I would like to do as this evening unfolds is recognize the gentleman from New Jersey (Mr. GARRETT) who has been such a strong and articulate voice and a dynamic leader. Mr. Speaker, anybody who is here tonight loves this country and loves our freedom and is absolutely opposed to socialized medicine.

I yield to the gentleman from New Jersey (Mr. GARRETT).

Mr. GARRETT of New Jersey. I thank the gentleman from Iowa for leading off with this discussion this evening with regard to the legislation that is going to be coming down the road very quickly. How quickly we do don't know, but obviously more quickly than Speaker PELOSI promised.

Before you got here, on September 4, Madam Speaker said at that time she

would allow Members of this body, Republicans and Democrats alike, and she also promised the American public they would have 72 hours in order to look over the bill, read the bill, and understand the bill. She made that promise.

Now, as you point out as we speak here on Friday evening, almost 11 in the evening, we still don't know what the final bill is. That is somewhat ironic because a number of Members on the other side of the aisle, 190 or so, have already been out in the press saying that they will be supporting the bill when it comes up.

I have to ask, How are you saying you will be voting when the final version of the bill hasn't been printed yet, when you don't know what the amendments are or what the text is? But there are 190 who have said they will be voting "yes" on the bill at the first opportunity.

Speaker PELOSI said she would give us 72 hours for Members and the American public to look at it, but she has gone back on that promise. She said she didn't really mean with that period of time, so at 11 tonight or 1 in the morning, we may then see the final version of the bill out of the Rules Committee, whenever they decide to do it, in the dead of night, perhaps. And then the bill will come up as soon as they want it to. So, so much for that promise.

The other point, there is a much larger issue, and I think this issue was somewhat addressed at the rally yesterday on the steps of Capitol at noon Thursday, and that is the constitutional issue here. We discussed this a little, and other Members have come here with their Constitution, and it reminds Members of Congress and the public that we live under the rule of law in this country and the Constitution, and we can't go outside of those parameters. And the Constitution says there are certain rights and responsibilities and powers that the Federal Government has, and the 9th and 10th Amendment tells, the 10 Amendment specifically, all rights not specifically delegated to the States are retained by the States and the people respectively.

So you have to ask, How is it that this body believes, the Democratic majority and President Obama believes that we can impose a personal mandate on the American public? How can they begin under our Constitution to start telling people that they actually have to buy a certain product by private industry or through the public option, basically through the government, whether they like it or not?

I will just digress on that point for a moment. If you don't like it, if you don't purchase an insurance policy that the government tells you you have to, you will be fined. You will be fined upwards of 2½ percent of your income. The legislation also says if you

do not pay that fine for not buying that insurance, then what will happen? Well, of course, section 7201 of the code says you can be fined an additional \$250,000, a quarter of a million dollars, and you can be sent to jail for 5 years.

Mr. KING of Iowa. Would that be debtor's prison then in the bill? If you don't pay the fine, then you go to jail?

Mr. GARRETT of New Jersey. I would almost presume so. Think about it. Who is that language targeted for? Is it targeted for the Bill Gates of the world who probably can buy any sort of Cadillac insurance that they want? Or the people on Wall Street who have the expensive Cadillac coverage because their employers provide it for them? No, of course not.

Is that aimed at the poor, non-working American who can't afford insurance because they are disabled or whatever? No, because those people are protected currently under U.S. law, under Medicaid, and they get health care insurance through Medicaid.

□ 2300

So who is that language in the bill really targeting? That is basically the middle class, those people who are struggling right now, with around 10 percent unemployment we're looking at in this country. Actually, it's 10.2 percent, I think, is the last number, looking at 10.2 percent. Those people are struggling and they're saying, I'm paying all my other bills—my mortgage, my credit cards, my kids' college education, and right now I have to make the decision that I'm not going to be able to afford to buy insurance right now. Guess what? Too bad. Under their bill, you are going to be fined for not buying that insurance policy. And if you don't pay that fine, you could be subject to punishment.

One last point on this, if I may, and then I will yield back to the gentleman. The other person, the other group that this is targeted at is the young. Before you came to the floor, the previous gentlemen were talking about how this relates to No Child Left Behind and that sort of thing and how the Federal Government is intruding in our lives in so many other areas, and how No Child Left Behind just didn't work at all, that's why I didn't support it.

And I coined the phrase—or maybe somebody else coined it before me—that actually this health care legislation is "No Child is Left a Dime." And the reason that no child is left a dime is because this is a \$1.2 trillion expenditure, and where is that \$1 trillion coming from? Well, it's really not coming from you and I because we're already looking at, what is it, around \$1.6 trillion, \$1.7 trillion that we're in deficit right now? In other words, we don't have the money to pay for this bill. So who's going to pay for this bill? Your kids, my kids, America's kids, our grandkids.

So the benefits that are going to be paid to people today, you and me and the other people who are listening tonight here in the gallery and elsewhere, the people that are going to enjoy the benefits of this legislation today, such as they are, are going to be paid for by future generations. So there may be a lot of people who consider they're supporters of Obama, young people that in the past campaign said he's going to do great things for us. What is he really doing for the young people of today? Putting a tremendous burden on them as far as what they're going to have to pay for the people who are living today.

I will give you one example of that. There is something in the legislation called the "class provision" or the "class act." What that basically is—yes, the class act, treatment of class act as long-term care insurance. What that basically is is trying to set up a program—good idea in concept—of trying to get people to have long-term care insurance. This is one of those budgetary gimmicks that's in the bill that makes it look as though we're actually saving money today. It makes it look as though the budget deficit is going down so they can say, hey, we're actually saving money. What are you talking about, Republicans? We're actually helping the budget deficit. Well, it's really a budgetary trick, and I can explain it in 30 seconds.

What that does is this: it starts collecting taxes today basically on people who are working, what have you. So young people today will be paying taxes today, and over the next 10 years those young folks will be paying in, what, \$72 billion, a huge amount of money. But of course young people today will not be getting any advantage of that money. As a matter of fact, that money won't be going out the door to any large extent over the next 10 years because young people won't be needing long-term care coverage or insurance.

So basically you're putting in the bank all that money for the next 10 years. That makes the budget deficit look better, but in reality it's young people paying for benefits for people today. And their benefits—I'm not sure who's going to be around to pay for them and all of their needs and what have you. So it's a budgetary gimmick to make it look as though things are better than they really are to bring down the deficit. At the end of the day, after those 10 years, costs explode again and the next generation, our kids and grandkids, will be the ones who are not left a dime because it will all be right here in Washington paying for these benefits.

And with that—I see you have a chart to perhaps explain all of this to us—I yield back to the gentleman from Iowa.

Mr. KING of Iowa. I thank the gentleman for his relentless effort and, I

will say, a thorough understanding of what we know about these 1,990 pages-plus-40. And we do know that's 2,030 pages at least.

I have made the statement, Mr. Speaker, and I think it's important that the American people know this: yes, we should have an opportunity to evaluate all of the implications. There are going to be amendments that will come out that we have not seen that are likely to be approved by the Rules Committee because they will be giving direction, not because they will be doing a significant analysis.

The American people want to read this bill. We handed this bill out yesterday to the tens of thousands of people that came here to this United States Capitol, the 2,000-page bill. I don't think I will ever forget the image of JOHN CULBERSON standing on the wall tossing pages of the bill out to people who passed it around. They would each take one page and pass it to somebody else. And they went around this Hill and they began asking Members of Congress, tell me what this means, tell me what this page means. There were not enough pages of the bill to go around to all the people that came to oppose this bill yesterday, and there won't be enough pages to go around to all the people that come to oppose this bill tomorrow at 1 o'clock, east side steps of the Capitol. We've got another wave of American people that are coming in here to express their rejection for socialized medicine.

It is so important to understand this. When people say, well, I sat up and I read the bill, there are people out there, salt of the Earth, good regular people that took it upon themselves to read what's available for them to read, to work through those 1,990 pages, and they will do everything they can to understand it. If they don't understand it, they sometimes feel like they're inadequate because they're not a lawyer or they're not educated or they're not a legislator. Here is the statement that I think is important for the American people to know, Mr. Speaker, and that is, you can take the smartest person in the world and you can shut them up in a room with a desk or a table and a chair and give them 6 months in that room to read this bill and ask them to write up a summary of what the bill does, the effects, the costs, the implications, and the nuances that would be interpreted one way or another with the latitude and license that's in the bill.

You can ask the smartest person in the world to analyze the 3,425 "shalls" that are in the bill; you can ask that smartest person in the world to analyze what it means, this one—there is more than one "may," but one of the most important "mays" in the bill is, Members of Congress "may" utilize the newly formed government option. The government option for all this right

over here, this public health plan, Members of Congress "may."

There was an amendment offered in Energy and Commerce—or maybe it was Ways and Means, or both—that said anybody that votes for this bill would be compelled to live underneath the health insurance policy that they would create under the Federal Government, the government option.

If Congress thinks this is such a good deal, they've got 3,425 "shalls" in the bill, why not make it 3,426 "shalls" in the bill and make "Members of Congress shall live underneath this law." That would be the actual poison pill for this bill. If the people over here, the ones that have signed on to whatever document it is, the 190 or so that say they will vote for whatever bill NANCY PELOSI thinks should come to this floor, if they had to live underneath the law that they are imposing on the American people, all they have to do is do a little amendment that says, Members of Congress "shall" use the government option, not "may." Strike "may," put in "shall," kills the bill, or it makes it a policy good enough that we can all live with and the American people wouldn't have to come and storm this Capitol. They wouldn't have to take this hill; they wouldn't have to hold this hill until we kill the bill. But we're going to have to do that. We have to keep this up.

We fought a great battle yesterday. There is a good battle going on up in Rules right now. There is another battle tomorrow at 1 o'clock here at the Capitol on the east side of the steps, Mr. Speaker. And this has to go on and on and on until this bill is killed.

This idea was killed back in 1993 and 1994. A bill never came to the floor then. I will give President Clinton credit; he wrote a bill, but it never came to the floor because the American people took it apart and rejected it. And someplace over there against the wall I have a chart of the original "HillaryCare" that we took off of the archives of The New York Times. It is a scary thing. It is a very scary thing. And if we can find it over there I will put it up, Mr. Speaker, so everybody can see it. It's in black and white.

This is the real color version of the original House bill, which is H.R. 3200. This bill and this analysis comes from KEVIN BRADY in the Ways and Means Committee. He has done a fantastic job of educating the American people. The flow chart that was created in 1993 and 1994 is the one that scared the living daylights out of me and caused me to get engaged in the political world because I could not tolerate what government was doing to me.

The people that believe that they are intellectual elitists, that think that they know more than the American people know and want to take away our freedom had drafted a bill called HillaryCare that really did swallow up

at that time one-seventh of the U.S. economy. It didn't come to the floor because it was killed because the American people found out about it.

□ 2310

This is the flowchart that is now 15 years later.

This is the organizational chart of the House Democrats' original health care plan.

This is H.R. 3200. The new one is uglier, but I can tell you this is all pretty much in here. The colored boxes are new agencies. There are at least 32 colored here, and there are 53 in the bill. In the bill before, it was amended with a Ways and Means component of this thing, and it went from 1,000 pages to 2,000 pages. These 32 agencies colored and 53 all together now have grown to 111 new Federal agencies so that we can have a complete nanny state that will direct our lives from conception to natural death.

That sounds like a pro-life statement. Well, for me, it generally is, Mr. Speaker.

This bill of 2,000 pages that is before us does affect us from conception to natural death because it funds abortion and it has death panels and it regulates everything that has to do with our health care—the cost, the access—everything that has to do with it from conception to natural death.

On these charts with colors on it, I'd focus your attention to two things or, actually, to three things, Mr. Speaker. This one is the health choices administration, which we've heard the gentleman speak of. This is where they would regulate everything—all of the health insurance in America, all of the health care in America. This is the HCA commissioner, the health choices administration commissioner. He is the new czar. As I talk about the black-and-white version of HillaryCare, this is what we saw in 1994. This is the black-and-white flowchart that was created by the closed-door meetings that Hillary Clinton had when she was appointed the individual to write this all up.

Now, again, I give them credit. They wrote a bill. They met in secret. They met behind closed doors a lot of the time, and that caused them some problems.

Phil Gramm, who was down at the other end of that hallway—right out the center to the other end—stood on the floor of the United States Senate, and he said, This bill passes over my cold, dead, political body.

It was this scary flowchart that scared the living daylights out of me, and it scared me into the public service/political life to try to put the brakes on the overgrowth of government. The American people rejected this in 1994. They threw this out, and the bill never came up for a vote anywhere.

Now we have this full-color monstrosity of H.R. 3200, which is even scarier, but the focus down here is on the public health plan side which has to compete with the private sector side. These two boxes exist today—private insurers and traditional health plans.

Private insurers: 1,300 companies selling insurance, not policies. 1,300 companies, Mr. Speaker, right here. There are 100,000 policy varieties to choose from, which is a tremendous amount of competition. There are some States that don't have much because it's like 70 to 80 percent in a few States where a single provider has that market share.

So what we do is we open it up to sell insurance across State lines. That provides the competition. It's all the competition we need, and it's more competition than the Democrats in this Congress are willing to accept.

So, Mr. Speaker, this public health plan which will be run by the new health choices administration czar—commissioner, commissar-issioner—will write the rules to benefit the Federal plan that will be subsidized by taxpayers. Then it will make it difficult, if not impossible, for the private health plans to compete against the public. We've seen it in the school loan program. We've seen it in the flood insurance program. This bill must not pass or that's going to happen to everybody's private insurance.

By the way, this bill that's up there before Rules right now cancels every health insurance policy in America in either 2011 or at the end of 2013, depending on the definition.

I yield to the gentleman from Texas.

Mr. GOHMERT. I thank my friend from Iowa.

I thought it was a point worth making since we heard on Thursday that AARP has now endorsed the plan. They came out at first and endorsed the Obama-Pelosi plan earlier this year, and then they lost so many members that AARP said, Well, we were basically endorsing a concept but not this particular bill, because people were mad about it. They came out on Thursday, and they put their stamp of approval on it.

It turns out, apparently, that AARP makes more money from selling insurance than they do from their membership dues. They apparently got a heck of a sweetheart deal that was cut with the administration. So, yeah, they're willing to put their stamp of approval on it because there's money in it for them, not for their members. Now, their members are going to get screwed around pretty big. They're going to have a \$500 billion cut to Medicare. They're going to really get hurt badly, but the AARP people who run AARP are going to come out real good.

Then I noticed an article tonight that came out, which says: AMA mem-

bers revolt over ObamaCare endorsement.

It turns out the association, or the AMA's board of trustees, failed to obtain delegate approval before endorsing this new Pelosi-Obama monstrosity. Let's see.

The president of the Florida Medical Association said: The delegates are pretty upset with the board of trustees right now, and they were submitting an emergency resolution to revoke that endorsement. The trouble is it probably won't come to a vote until Monday.

This article says: Rescinding the AMA endorsement would be a significant blow to ObamaCare at a critical point in the debate as reflected in the Democrats' reaction Thursday when they won endorsements from the AMA and AARP.

Well, we know why AARP endorsed.

Anyway, this says: AMA sources confirm a resolution that would effectively revoke the AMA's endorsement will be introduced during the delegates' conference at the association's general meeting in Houston.

The article also points out that the AMA board issued a similar endorsement back in July without delegate approval when it declared the AMA support for the earlier House version of the bill.

Then this article points out that, after that endorsement, 10,000 physicians logged onto Sermo.com. Ten thousand physicians. It's an online physicians' community. They logged on to voice their opinions. According to the Sermo Web site, of the doctors who responded, 94 percent do not support the bill, and 95 percent state that the AMA does not speak for them with its endorsement.

Isn't that something? The AARP is not speaking, really, for retired people. It's speaking for the executives at AARP who are going to do really well. I understand there are some waivers and some neat stuff for them in there. The AMA board, apparently, is not speaking for the medical doctors in America.

I would be glad to yield back.

Mr. KING of Iowa. I reclaim my time, and I yield to the gentleman from New Jersey.

Mr. GARRETT of New Jersey. You raise a fascinating point, and I posit two questions to you.

If the Congress were to pass this bill, we know what some of the ramifications would be. It's going to be raising premiums. That is according to the CBO, the Congressional Budget Office. It's going to reduce health choices. It's going to cause delays and denials of care. Here is the one where I'll put a question to you:

\$500 billion in Medicare cuts. Why would it be in the best interest of senior citizens, which I presume are who AARP would supposedly be looking out

for—why would they suggest that they would be looking out for seniors when they're going to be cutting benefits to seniors for \$500 billion?

That's not my number that I came up with. That is language right out of the bill, and it can be verified with the CBO.

So it's counterintuitive that any organization would be doing something against their measures unless—and I just came in at the point when you were saying this—an organization is, maybe, making more money out of the deal for themselves than for the people whom they represent.

I'll yield.

Mr. KING of Iowa. Reclaiming my time, I would make this point.

I'm trying to run through the list of organizations in my mind that support this bill, and there are quite a lot of them. Then I'm trying to come up with a name of an organization that supports the bill that doesn't have a vested interest, and it seems as if it's a very broad approach to this from the perspective that—let's just say, as for the AMA, they get more dollars into the industry. They've done a calculation. It seems a little cynical. That's how it is. AARP, they're willing to take a \$500 billion cut in Medicare benefits because they can make it back—and then some—by selling insurance through the exchange.

□ 2320

I would pose this question to the gentlemen that are so knowledgeable on this subject that are here on the floor, or anyone that would care to come down here, and I would be glad to yield to a knowledge base, if it exists, on the other side of this aisle as to where are the unvested interest supporters for socialized medicine? Who are they? Where are they? Can you name one? Is there either one of you that could answer that question or anybody here in the Chamber tonight that I could yield to that could speak to that? I am completely flummoxed when I think about altruism behind socialized medicine. Where are they? I would like to know. I'm finding all kinds of patriots that are for killing this bill.

I saw altruism like I had never seen before yesterday, patriotism in its purest form, of people that dropped everything. I shook hands with people from San Francisco and Oregon and most of the States in the country. I am convinced that we had people here from every State in America yesterday. They just want to have their freedom to buy the health insurance policy that they choose; they want the freedom to succeed; and they want the government to stop growing and start shrinking and un-tax them and take the burden off of children and grandchildren. And I see that. I see those salt-of-the-Earth Americans that are there. Any one of them could have showed up at a church



picnic at my house or my place in my neighborhood. And the tears run down their cheeks because of what's happening in America. It's not just because of the song, it's not just because of the prayer. It's afterward, hours afterwards, and they're saying, What can I do? What can I do? I'm losing my county. And their faces are being washed with tears, and the cynicism that grows within me because of the vested interest, and nobody can answer me, where is the contingency of the people that just want to have what's best for America? I can't find them.

Mr. GOHMERT. Well, I can't name you one without a vested interest that supports this, but apparently just today the American Association of Neurological Surgeons and the Congress of Neurological Surgeons, two different groups, announced their opposition to the House bill.

I know from personal experience, when a brain tumor was killing my mother and eventually took her life, these neurologists and neurosurgeons are the ones that knew the most about what was best for my mother in those last years that the tumor was taking her; a brain tumor. Wow. An incredibly brilliant bunch of people, those doctors that work on the brain.

They apparently made no bones about it. They were not happy, apparently, that the AMA came out and endorsed it. They made it a matter of the minds on which they have, since they work on the mind, that this is not a bill that's going to be good for America, it's going to devastate America. In fact, the Congress of Neurological Surgeons' president stated, "Overall we believe this legislation will ultimately limit patient choice by putting the government between the doctor and the patient which will interfere with vital patient care decisions. As it stands, this House bill could amount to a complete government takeover of health care."

Mr. GARRETT of New Jersey. You raise another interesting point. Again, we have to start from the premise with what is in the bill right now, what the CBO has told us and what the bill will do, if they do pass it tomorrow or Monday, what it will do is raise our premiums for insurance, it will reduce our health choices, it will delay or deny care, it will take away half a trillion dollars from our seniors in Medicare, and it will raise taxes by \$729 billion.

We know those are the facts. That will happen if this bill passes. But you were saying with regard to the delegates, the doctors out there, the real doctors that you and I have are fighting back and saying that they may take back the endorsement from the AMA. But it may be too late; which raises this question, then: What is the rush? What is the rush to judgment? Why are we doing this on a Saturday or maybe a Sunday? We have only ever

voted on a weekend when it's an emergency situation, like for a war resolution or things dealing with the military or what have you.

Is there any reason why this bill could not lay over for a week while the Members go back to their districts for Veterans Day and meet with veterans, meet with seniors, meet with doctors, meet with the other real folks? I can't think of one reason why Speaker PELOSI would not allow us.

I would ask, I am sure she is up at this hour—and we have a few minutes left—I would appreciate it if Speaker PELOSI could come down here right now and explain to us why we can't have a week when the veterans and everybody else gets to comment on this.

Mr. KING of Iowa. Reclaiming my time, I would make this point, that the legislative strategy for them is this, that they were queued up to ram this bill through before the August break. That's what they wanted to do. They rammed cap-and-tax through before the August break, and no one read the bill. Mr. GOHMERT from Texas stood here on this floor and he posed a series of questions, and the one that stands out in my mind, it will be historically remembered, I think, forever, that there was no bill in the well. There was no real copy of the bill. And I know no one read the bill because the bill didn't exist.

Congressman GOHMERT finally said, after 35 minutes of holding up the debate, "Madam Speaker, if the House of Representatives passes a bill that doesn't exist, is it possible to message a bill that doesn't exist to the United States Senate?"

That was the question, Mr. Speaker. The result was, apparently, yes. Apparently in this Congress we can pass a bill that doesn't exist and message a bill that doesn't exist to the United States Senate. That's the subject matter that I think is important. And this 2,000-page bill that we have now, the reason that they are pushing on it is because we went home for August, and the town hall meetings were jam packed full all over the country. We saw real-time footage that came out, angry people, frustrated people, people that just want to be left to succeed and left to be free, filled up these buildings, filled up the community buildings, jammed these places. There were meetings held in Iowa outside because we didn't have buildings big enough for the town hall meetings. The tiny little down of Adel, over 600 people in a meeting just like that. What the message from that was, the American people don't want this bill. They don't want socialized medicine. They want to kill this bill. They made their opinions known loudly and clearly for the entire month of August and into September.

But now these Members of Congress have been in Speaker PELOSI's echo chamber since then, they haven't real-

ly been back home listening to their constituents the way they were in August; and now they have gone all wobbly again. She is afraid to let them go back home to be braced up by their constituents.

That's the calculation. It's a political calculation. It's not a logical one. I recognize the gentleman from New Jersey asked for a logical one. There is a difference between reasons and excuses. There isn't a reason. There are only excuses.

I yield to the gentleman from Texas.

Mr. GOHMERT. I think my friend from Iowa just made a great point about why there needs to be this rush to bad judgment by the Speaker and by the administration, and it answers the question of our friend from New Jersey about why this rush to bad judgment. That is exactly if the Democrats go home for the weekend, just when they think they are about to get the last vote by adding something that will get their vote, by twisting the arm—I don't know if we are threatening losses of committees, I understand that's gone on around here in the recent past, but they are so close, they think, to getting this vote done, this travesty against the American people, if they go home, they are going to hear about what's going on.

What I can't help but come back to, when my friend, Mr. GARRETT from New Jersey, asked about why rush? We have heard our President and all of those who seek to make excuses for him trying to make up his mind on what to do in Afghanistan say, He doesn't want to rush and make a bad decision. He wants to take his time.

Can you imagine the stress being heaped upon our soldiers who are either in harm's way in Afghanistan or get news, you are about to be sent into harm's way into Afghanistan, and you have a President that can't commit to whether he is going to give them what they need to win in Afghanistan?

I can't imagine anything more stressful and debilitating to hear, You are going to send me into harm's way? You've got a report that has been sitting on your desk since August that says if you don't give us the troops we need, we're going to lose this war. That means I am likely going to be killed while you are trying to make up your mind, and you are playing footsie with different groups and shows and doing all these fun things, and we are over here in harm's way; you can't make up your mind.

Okay. We will give him that he needs to take his time. We understand that he voted "present" probably more than anybody else in recent history in the Senate because he couldn't make up his mind down there, but how about giving us the same benefit of the huge doubt we have about his decision-making? Give it to the Congress.

□ 2330

Let us have time so a mistake, a huge mistake, is not made here. This is scary stuff, what is about to be heaped on us. Let us have the same amount of time that he has demanded.

Mr. KING of Iowa. Reclaiming my time, this is a destiny bill. This is a piece of legislation that changes the direction of the United States of America, Mr. Speaker, forever. There is no going back to a point. It isn't like we missed an exit on the interstate and we will just go to the next exit and get off and turn around and go back. This is taking the off ramp from freedom, and it is going into the abyss of socialism. It is the leap off into the abyss of socialism.

This bill, this is a socialized medicine bill that is the crown jewel of socialism. There is no other way to define it, when you take over 17.5 percent of the economy, one-sixth of the economy. This legislation cancels every single health insurance policy in the United States of America, a good chunk of them at the end of 2011 and all the rest of them by 2013.

The promise that the President of the United States made was that if you like your health insurance policy, you get to keep it. Well, you get to keep it until they cancel it. Can you keep it until 2011 and think the President kept his word? I will leave that out there as a rhetorical question, Mr. Speaker. But that is something that brings me great concern.

We aren't going to raise taxes on anybody that makes under \$250,000 a year. We know it raises the taxes on everybody.

We aren't going to hurt the little man. Here is a little, little man piece. It hurts them all. If they go with this rating that is in there, just in the individual market, a 25-year-old male in Indianapolis, we will pick that, that happens to be the state of our conference chair, he would be paying about \$84 a month for his premium. If this bill passes, it jumps to \$252. It is a 300 percent increase in the premium that he is paying.

Now, this is a young man that is trying to get into the workforce, that is trying to build an economic base. Usually when you start in, that is when you make the least, and you grow your income stream. You are young and healthy. You can't afford much insurance. You don't need much, because you are young and you are healthy. But this would triple the insurance premiums for a 25-year-old man and fine him or punish him if he doesn't buy the policy, and eventually put him in jail.

Then you have the family of four, roughly 40-years-old, a couple of kids. They would be paying today in Indianapolis about \$535 a month for insurance. They can probably afford that, if they have been raising their income up.

It is tough, I know, but usually they will find a way to maneuver. But this bill makes it so much worse. Now that \$535 premium would go to \$1,087. The premiums would be a 221 percent increase.

I can go on down the line, Mr. Speaker. I recognize the clock is ticking. I want to make sure if any of my colleagues have a last thing they have to say, they will let me know.

I yield quickly to the gentleman from New Jersey.

Mr. GARRETT of New Jersey. Just one last point, because I know the time is up here, is that going to the point of rushing through this, we are not in control. We are in the minority party. We cannot set the agenda. This bill could come up in an hour from now, or this bill could come up Saturday morning or Saturday afternoon.

We hope and wish the leadership on the other side, Speaker PELOSI, would give us the time they promised, at least 72 hours. We have the whole week to do so.

But there is still an opportunity, however, for the American public to come back here tomorrow at 1 o'clock and have their voice heard on the green here by the Capitol.

With that, I yield to the gentleman.

Mr. KING of Iowa. Reclaiming my time, I appreciate the gentleman from New Jersey bringing this up again.

Here is the message. We have had all kinds of battles in this country and people have paid a huge price. We had Lexington and Concord. We had patriots that marched through the snow with bloody feet to go to Trenton. We had Saratoga. We had Yorktown. We had Hamburger Hill. We had Pork Chop Hill.

We had the battle of Capitol Hill yesterday, and the American people took this hill. We have to come back to this hill tomorrow at 1 o'clock. We have to hold this hill until we kill this bill.

#### RECESS

The SPEAKER pro tempore. Pursuant to clause 12(a) of rule I, the Chair declares the House in recess subject to the call of the Chair.

Accordingly (at 11 o'clock and 34 minutes p.m.), the House stood in recess subject to the call of the Chair.

□ 0225

#### AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. ARCURI) at 2 o'clock and 25 minutes a.m.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 3962, AFFORDABLE HEALTH CARE FOR AMERICA ACT, AND PROVIDING FOR CONSIDERATION OF H.R. 3961, MEDICARE PHYSICIAN PAYMENT REFORM ACT OF 2009

Mr. POLIS, from the Committee on Rules, submitted a privileged report (Rept. No. 111-330) on the resolution (H. Res. 903) providing for consideration of the bill (H.R. 3962) to provide affordable, quality health care for all Americans and reduce the growth in health care spending, and for other purposes, and providing for consideration of the bill (H.R. 3961) to amend title XVIII of the Social Security Act to reform the Medicare SGR payment system for physicians, which was referred to the House Calendar and ordered to be printed.

#### LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. PATRICK J. MURPHY of Pennsylvania (at the request of Mr. HOYER) for today on account of the birth of a child.

Mr. CARTER (at the request of Mr. BOEHNER) for today on account of responding to the needs of his constituents regarding the tragedy at Fort Hood, Texas.

#### SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. HIMES) to revise and extend their remarks and include extraneous material:)

Mr. HIMES, for 5 minutes, today.

Mr. TOWNS, for 5 minutes, today.

Ms. WOOLSEY, for 5 minutes, today.

Mr. MCDERMOTT, for 5 minutes, today.

Ms. JACKSON-LEE of Texas, for 5 minutes, today.

Mr. SESTAK, for 5 minutes, today.

Mr. DEFAZIO, for 5 minutes, today.

Ms. KAPTUR, for 5 minutes, today.

Mr. PASCRELL, for 5 minutes, today.

Mr. HIGGINS, for 5 minutes, today.

Mrs. CHRISTENSEN, for 5 minutes, today.

(The following Members (at the request of Mr. POE of Texas) to revise and extend their remarks and include extraneous material:)

Mr. BURTON of Indiana, for 5 minutes, November 9 and 10.

Mr. WOLF, for 5 minutes, today, November 9 and 10.

Mr. PAUL, for 5 minutes, today.

Mr. MCCLINTOCK, for 5 minutes, today.

Mr. BARRETT of South Carolina, for 5 minutes, today.

Mr. FRELINGHUYSEN, for 5 minutes, today.

Mr. GOODLATTE, for 5 minutes, today.

Mr. WESTMORELAND, for 5 minutes, today.

Mr. GINGREY of Georgia, for 5 minutes, today.

Mr. WAMP, for 5 minutes, today.

Mr. BUYER, for 5 minutes, today.

Mr. THOMPSON of Pennsylvania, for 5 minutes, today.

(The following Member (at his request) to revise and extend his remarks and include extraneous material:)

Mr. GOHMERT, for 5 minutes, today.

#### ADJOURNMENT

Mr. POLIS. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 2 o'clock and 26 minutes a.m.), the House adjourned until today, Saturday, November 7, 2009, at 9 a.m.

#### OATH OF OFFICE—MEMBERS, RESIDENT COMMISSIONER, AND DELEGATES

The oath of office required by the sixth article of the Constitution of the United States, and as provided by section 2 of the act of May 13, 1884 (23 Stat. 22), to be administered to Members, Resident Commissioner, and Delegates of the House of Representatives, the text of which is carried in 5 U.S.C. 3331:

“I, AB, do solemnly swear (or affirm) that I will support and defend

the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties of the office on which I am about to enter. So help me God.”

has been subscribed to in person and filed in duplicate with the Clerk of the House of Representatives by the following Member of the 111th Congress, pursuant to the provisions of 2 U.S.C. 25:

WILLIAM L. OWENS, New York, Twenty-Third.

#### EXPENDITURE REPORTS CONCERNING OFFICIAL FOREIGN TRAVEL

Reports concerning the foreign currencies and U.S. dollar utilized for Speaker-authorized official travel during the third quarter of 2009 pursuant to Public Law 95-384 are as follows:

(AMENDED) REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, DELEGATION TO PERU, PARAGUAY, AND COLOMBIA, EXPENDED BETWEEN AUG. 15 AND AUG. 22, 2009

Name of Member or employee	Date		Country	Per diem <sup>1</sup>		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency <sup>2</sup>	Foreign currency	U.S. dollar equivalent or U.S. currency <sup>2</sup>	Foreign currency	U.S. dollar equivalent or U.S. currency <sup>2</sup>	Foreign currency	U.S. dollar equivalent or U.S. currency <sup>2</sup>
Hon. David Price .....	8/15	8/19	Peru .....		1,271.00		( <sup>3</sup> )		4 23,827.18		25,098.18
	8/19	8/20	Paraguay .....		250.00		( <sup>3</sup> )		4 5,035.56		5,035.56
	8/20	8/23	Colombia .....		1,234.00		( <sup>3</sup> )		4 31,063.00		32,297.00
Hon. David Dreier .....	8/15	8/19	Peru .....		1,271.00		( <sup>3</sup> )				1,271.00
	8/19	8/20	Paraguay .....		250.00		( <sup>3</sup> )				250.00
	8/20	8/23	Colombia .....		1,234.00		( <sup>3</sup> )				1,234.00
Hon. Lois Capps .....	8/15	8/19	Peru .....		1,271.00						1,271.00
	8/19	8/20	Paraguay .....		250.00						250.00
	8/20	8/23	Colombia .....		1,234.00						1,234.00
Hon. Sam Farr .....	8/15	8/19	Peru .....		1,271.00						1,271.00
	8/19	8/20	Paraguay .....		250.00						250.00
	8/20	8/23	Colombia .....		1,234.00						1,234.00
Hon. Lucille Roybal-Allard .....	8/15	8/19	Peru .....		1,271.00						1,271.00
	8/19	8/20	Paraguay .....		250.00						250.00
	8/20	8/23	Colombia .....		1,234.00						1,234.00
Hon. Jim McDermott .....	8/15	8/19	Peru .....		1,271.00						1,271.00
	8/19	8/20	Paraguay .....		250.00						250.00
	8/20	8/23	Colombia .....		1,234.00						1,234.00
Hon. Ed Whitfield .....	8/15	8/19	Peru .....		1,271.00						1,271.00
	8/19	8/20	Paraguay .....		250.00						250.00
	8/20	8/23	Colombia .....		1,266.00						1,266.00
Hon. Brian Bilbray .....	8/15	8/19	Peru .....		1,271.00						1,271.00
	8/19	8/20	Paraguay .....		250.00						250.00
	8/20	8/23	Colombia .....		1,266.00						1,266.00
John Lis .....	8/15	8/19	Peru .....		1,271.00						1,271.00
	8/19	8/20	Paraguay .....		250.00						250.00
	8/20	8/23	Colombia .....		1,184.00						1,184.00
Margarita Seminario .....	8/15	8/22	Peru .....		2,380.00						2,380.00
			Return Airfare .....				1,647.41				1,647.41
Asher Hildebrand .....	8/15	8/19	Peru .....		1,271.00						1,271.00
	8/19	8/20	Paraguay .....		235.00						235.00
	8/20	8/23	Colombia .....		1,266.00						1,266.00
Rachel Leman .....	8/15	8/19	Peru .....		1,271.00						1,271.00
	8/19	8/20	Paraguay .....		250.00						250.00
	8/20	8/23	Colombia .....		1,266.00						1,266.00
Bradley Smith .....	8/15	8/19	Peru .....		1,271.00						1,271.00
	8/19	8/20	Paraguay .....		250.00						250.00
	8/20	8/23	Colombia .....		1,266.00						1,266.00
Guillermina Garcia .....	8/15	8/19	Peru .....		1,271.00						1,271.00
	8/19	8/20	Paraguay .....		250.00						250.00
	8/20	8/23	Colombia .....		1,216.00						1,216.00
Total .....					38,254.00		1,647.41		59,675.74		99,577.15

<sup>1</sup> Per diem constitutes lodging and meals.

<sup>2</sup> If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

<sup>3</sup> Military air transportation.

<sup>4</sup> Indicates Delegation Costs.

HON. DAVID PRICE, Chairman, Oct. 28, 2009.

#### REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON EDUCATION AND LABOR, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JULY 1, AND SEPT. 30, 2009

Name of Member or employee	Date		Country	Per diem <sup>1</sup>		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency <sup>2</sup>	Foreign currency	U.S. dollar equivalent or U.S. currency <sup>2</sup>	Foreign currency	U.S. dollar equivalent or U.S. currency <sup>2</sup>	Foreign currency	U.S. dollar equivalent or U.S. currency <sup>2</sup>

CODEL—MEEKS:

Hon. Marcia L. Fudge—Aug. 27–Sept. 4, 2009 .....

8/27 8/30 Tunisia, Africa .....

432.00 .....

(<sup>3</sup>) .....

291.00 .....

## REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON EDUCATION AND LABOR, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JULY 1, AND SEPT. 30, 2009—Continued

Name of Member or employee	Date		Country	Per diem <sup>1</sup>		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency <sup>2</sup>	Foreign currency	U.S. dollar equivalent or U.S. currency <sup>2</sup>	Foreign currency	U.S. dollar equivalent or U.S. currency <sup>2</sup>	Foreign currency	U.S. dollar equivalent or U.S. currency <sup>2</sup>
	8/30	9/2	Rwanda .....		210.00		(?)		413.00		
	9/2	9/3	Zimbabwe .....		142.00		(?)		175.00		
	9/3	9/4	Senegal .....		393.00		(?)		146.00		
Committee total .....					1,177.00				1,025.00		2,202.00

<sup>1</sup> Per diem constitutes lodging and meals.<sup>2</sup> If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.<sup>3</sup> Military air transportation.

HON. GEORGE MILLER, Chairman, Oct. 28, 2009.

## REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON THE JUDICIARY, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JULY 1 AND SEPT. 30, 2009

Name of Member or employee	Date		Country	Per diem <sup>1</sup>		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency <sup>2</sup>	Foreign currency	U.S. dollar equivalent or U.S. currency <sup>2</sup>	Foreign currency	U.S. dollar equivalent or U.S. currency <sup>2</sup>	Foreign currency	U.S. dollar equivalent or U.S. currency <sup>2</sup>
Hon. Howard Coble .....	6/27	7/1	Russia .....		1,489.00		7,439.80				8,928.80
Hon. Steve Cohen .....	8/16	8/17	Liberia .....		536.40		(?)				
	8/17	8/19	Ghana .....		294.00		(?)				
	8/19	8/23	South Africa .....		1,806.07		(?)				
	8/23	8/24	Morocco .....		341.00		(?)				2,977.47
Committee total .....					4,466.47		7,439.80				11,906.27

<sup>1</sup> Per diem constitutes lodging and meals.<sup>2</sup> If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.<sup>3</sup> Military air transportation.

HON. JOHN CONYERS, Jr., Chairman, Oct. 28, 2009.

## REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON SECURITY AND COOPERATION IN EUROPE, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JULY 1 AND SEPT. 30, 2009

Name of Member or employee	Date		Country	Per diem <sup>1</sup>		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency <sup>2</sup>	Foreign currency	U.S. dollar equivalent or U.S. currency <sup>2</sup>	Foreign currency	U.S. dollar equivalent or U.S. currency <sup>2</sup>	Foreign currency	U.S. dollar equivalent or U.S. currency <sup>2</sup>
Winsome Packer .....	9/27	9/30	Poland .....		887.13		1,378.00				2,265.13
Committee total .....					887.13		1,378.00				2,265.13

<sup>1</sup> Per diem constitutes lodging and meals.<sup>2</sup> If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

HON. ALCEE L. HASTINGS, Co-Chairman, Oct. 28, 2009.

## EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of Rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

4576. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Special Local Regulation; Charleston Harbor Christmas Parade of Boats, Charleston, SC [CGD07-06-260] (RIN: 1625-AA08) received October 15, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4577. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Babylon Bayfest Fireworks, Great South Bay, NY [CGD01-07-088] (RIN: 1625-AA00) received October 15, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4578. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Cuyahoga River, Cleveland, Ohio. West Third Street Bridge Cable installment process [CGD09-06-092] (RIN: 1625-AA00) received October 15, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4579. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Bay City Fireworks Festival, Saginaw River, Bay City, MI [CGD09-06-093] (RIN: 1625-AA00) received October 15, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4580. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Gatzeros Fireworks, Lake St. Clair, Grosse Pointe Park, MI [CGD09-06-094] (RIN: 1625-AA00) received October 15, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4581. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Safety Zone, Coast Guard Live Fire Exercise, Gulf of Mexico, FL [COTF Sector St. Petersburg, FL 07-173] (RIN: 1625-AA00) received October 15, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4582. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Neches River, Sabine-Neches Canal, Port Arthur, TX [COTF Port Arthur-07-004] (RIN: 1625-AA00) received October 15, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4583. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Intracoastal Waterway, Treasure Island, Florida [COTF Sector St. Petersburg 07-100] (RIN: 1625-AA00) received October 15, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4584. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Ft. Myers Beach, FL [COTF Sector St. Petersburg 07-104] (RIN: 1625-AA00) received October 15, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4585. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Safety Zone, Coast Guard Live Fire Exercise, Gulf of Mexico, Clearwater, FL [COTF Sector St. Petersburg, FL 07-137] (RIN: 1625-AA00) received October 15, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4586. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Emergency cable repair for the Sarah Long Bridge, Piscataqua River, ME and NH [CGD01-06-143] (RIN: 1625-AA00) received October 15, 2009, pursuant to 5 U.S.C.

801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4587. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; July 4th Fireworks Displays within the Captain of the Port Sector St. Petersburg Zone [COTP Sector St. Petersburg 07-144] (RIN: 1625-AA00) received October 15, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4588. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Emergency cable repair for the Sarah Long Bridge, Piscataqua River, ME and NH [CGD01-06-137] (RIN: 1625-AA00) received October 15, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4589. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Safety and Security Zone; Waters River, Danvers, MA [CGD01-06-136] (RIN: 1625-AA00) received October 15, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4590. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Grucci and Associates Fireworks, Bay Shore, NY [CGD01-06-125] (RIN: 1625-AA00) received October 15, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4591. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Blau Wedding Fireworks Display, Atlantic Ocean, Water Mill, NY [CGD01-06-106] (RIN: 1625-AA00) received October 15, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4592. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Christmas Cove, South Bristol, ME [CGD01-06-101] (RIN: 1625-AA00) received October 15, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4593. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Master Sand Castle Festival Fireworks, Revere, MA [CGD01-06-094] (RIN: 1625-AA00) received October 15, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4594. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Ft. Myers Beach, FL [COTP Sector St. Petersburg 07-145] (RIN: 1625-AA00) received October 15, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4595. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Rhode Island Air National Guard Air Show, Quonset Point State Airport, North Kingstown, Rhode Island [CGD01-06-075] (RIN: 1625-AA00) received October 15, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4596. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Coast Guard Live Fire Exercise, Gulf

of Mexico, FL [COTP Sector St. Petersburg, FL 07-146] (RIN: 1625-AA00) received October 15, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4597. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Cape Neddick, Maine, Shore Road Bridge [CGD01-06-058] (RIN: 1625-AA00) received October 15, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4598. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Special Local Regulations; Dania Beach Super Boat Grand Prix Race, Dania Beach, Florida [CGD07-07-066] (RIN: 1625-AA08) received October 15, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4599. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Special Local Regulations; Dania Beach Super Boat Grand Prix Race, Dania Beach, Florida [CGD07-06-150] (RIN: 1625-AA08) received October 15, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4600. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Wachovia Securities Annual Nantucket Clambake, Jetties Beach, Nantucket Island, Massachusetts [CGD01-06-050] (RIN: 1625-AA00) received October 15, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4601. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — SPECIAL LOCAL REGULATION: Devon Yacht Club Fireworks, Amagansett, NY [CGD01-06-047] received October 15, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4602. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — SPECIAL LOCAL REGULATION: City of Stamford Fireworks, Stamford, CT [CGD01-06-048] received October 15, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4603. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Temporary Regulated Navigation Area and Security Zone; Miami Harbor, Florida [CGD07-06-162] (RIN: 1625-AA00, 1625-AA11) received October 15, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4604. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — SAFETY ZONE: North Kingstown 4th of July Fireworks, Town Beach, North Kingstown, Rhode Island [CGD01-06-039] (RIN: 1625-AA00) received October 15, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4605. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — SPECIAL LOCAL REGULATION: Barnum Festival Fireworks, Bridgeport, CT [CGD01-06-029] received October 15, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4606. A letter from the Attorney Advisor, Department of Homeland Security, transmit-

ting the Department's final rule — Special Local Regulation; Piana Cup Regatta, Biscayne Bay & Intracoastal Waterway, Miami, FL [CGD07-06-214] (RIN: 1625-AA08) received October 15, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4607. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; 17th Annual Music and Arts Festival Fireworks, Miller Place, NY [CGD01-07-134] (RIN: 1625-AA00) received October 15, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4608. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Special Local Regulation; Boca Raton Holiday Boat Parade, Intracoastal Waterway, Broward County, FL [CGD07-06-226] (RIN: 1625-AA08) received October 15, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4609. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Blynman Canal Bridge over the Blynman Canal, Gloucester, Massachusetts [CGD01-07-126] (RIN: 1625-AA09) received October 15, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4610. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Special Local Regulation; Vero Beach Evening Christmas Boat Parade, Intracoastal Waterway and Indian River, Vero Beach, FL [CGD07-06-242] (RIN: 1625-AA08) received October 15, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4611. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Patchogue Grand Prix, Patchogue Bay, Patchogue, NY [CGD01-07-108] (RIN: 1625-AA00) received October 15, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4612. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Special Local Regulation; Martin County Christmas Boat Parade, North and South Forks of the St Lucie River, Stuart, FL [CGD07-06-243] (RIN: 1625-AA08) received October 15, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4613. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Susan Mackenzie Fireworks, Westhampton, NY [CGD01-07-099] (RIN: 1625-AA00) received October 15, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4614. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Special Local Regulation; St Lucie County Christmas Boat Parade, Intracoastal Waterway and Taylor Creek, Fort Pierce, Florida [CGD07-06-259] (RIN: 1625-AA08) received October 15, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4615. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Fire Island Pride Fireworks, Great

South Bay, Cherry Grove, NY [CGS01-07-098] (RIN: 1625-AA00) received October 15, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4616. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Drawbridge Operation Regulation; Illinois Waterway, Joliet, Illinois [CGD08-07-008] (RIN: 1625-AA09) received October 15, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4617. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Portland Harbor, Maine, Peaks to Portland Swim [CGD01-07-097] (RIN: 1625-AA00) received October 15, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4618. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Drawbridge Operation Regulation; Illinois Waterway, Joliet, Illinois [CGD08-07-018] (RIN: 1625-AA09) received October 15, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4619. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Regulated Navigation Area; Cumberland River, Clarksville, TN [Docket No.: CGD08-07-027] (RIN: 1625-AA11) received October 15, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4620. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; International Docks, Toledo, OH Maumee River [CGD09-06-007] (RIN: 1625-AA00) received October 15, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4621. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; CT Field Aerial Fireworks, Jennings Beach, CT [CGD01-07-094] (RIN: 1625-AA00) received October 15, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4622. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Safety Zone, Coast Guard Live-Fire Exercise, Gulf of Mexico, FL [COTP Sector St. Petersburg, FL 07-149] (RIN: 1625-AA00) received October 15, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4623. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Safety Zone, Coast Guard Live-Fire Exercise, Gulf of Mexico, FL [COTP Sector St. Petersburg, FL 07-150] (RIN: 1625-AA00) received October 15, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4624. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Charles River One Mile Swim — Boston, Massachusetts [CGD01-07-085] (RIN: 1625-AA00) received October 15, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4625. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Safety Zone Regulations; Tampa Bay, FL [COTP

Sector St. Petersburg 07-151] (RIN: 1625-AA00) received October 15, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4626. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Asharoken Fireworks, Asharoken, NY [CGD01-07-084] (RIN: 1625-AA00) received October 15, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4627. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Salisbury Beach State Reservation Ordinance Detonation, Salisbury, MA [CGD01-07-039] (RIN: 1625-AA00) received October 15, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4628. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Tampa Bay, Florida [COTP Sector St. Petersburg, FL 07-152] (RIN: 1625-AA87) received October 15, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4629. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Security Zone; Tampa Bay, Florida [COTP Sector St. Petersburg, FL 07-153] (RIN: 1625-AA87) received October 15, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4630. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Regulated Navigation Areas, Anchorage Grounds, Safety Zones; Security Zones; Tall Ships Rhode Island 2007, Narragansett Bay, Rhode Island [CGD01-07-013] (RIN: 1625-AA87, 1625-AA00, 1625-AA01, 1625-AA08, 1625-AA11) received October 15, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4631. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Safety Zone, Freedom Swim, Peace River, FL [COTP Sector St. Petersburg, FL 07-154] (RIN: 1625-AA00) received October 15, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4632. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Hookers Point Dredge Removal, Tampa Bay, FL [COTP St. Petersburg 07-156] (RIN: 1625-A001) received October 15, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4633. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Safety Zone, Coast Guard Live Fire Exercise, Gulf of Mexico, FL [COTP Sector St. Petersburg, FL 07-158] (RIN: 1625-AA00) received October 15, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4634. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Gulf of Alaska, Narrow Cape, Kodiak Island, AK [COTP Western Alaska-07-001] (RIN: 1625-AA00) received October 15, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4635. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; San Carlos Bay, FL [COTP St. Petersburg 07-183] (RIN: 1625-AA00) received October 15, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4636. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; San Carlos Bay, FL [COTP St. Petersburg 07-177] (RIN: 1625-AA00) received October 15, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4637. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Safety Zone for Albert Whitted Air Show; Tampa Bay, FL [COTP Sector St. Petersburg 07-175] (RIN: 1625-AA00) received October 15, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

## REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

*[Filed on November 7 (legislative day of November 6), 2009]*

Ms. SLAUGHTER: Committee on Rules. House Resolution 903. Resolution providing for consideration of the bill (H.R. 3962) to provide affordable, quality health care for all Americans and reduce the growth in health care spending, and for other purposes, and providing for consideration of the bill (H.R. 3961) to amend title XVIII of the Social Security Act to reform the Medicare SGR payment system for physicians (Rept. 111-330).

Referred to the House Calendar.

## PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions of the following titles were introduced and severally referred, as follows:

By Mr. YARMUTH (for himself, Mr. POLIS, and Mr. GEORGE MILLER of California):

H.R. 4037. A bill to establish a comprehensive literacy program, and for other purposes; to the Committee on Education and Labor.

By Mr. CAMP (for himself, Mr. BOEHNER, Mr. CANTOR, Mr. PENCE, Mr. MCCOTTER, Mr. CARTER, Mr. SESSIONS, Mr. MCCARTHY of California, Mr. BLUNT, Mr. KLINE of Minnesota, Mr. BARTON of Texas, Mr. DREIER, Mr. HERGER, Mr. TIBERI, Mr. DAVIS of Kentucky, Mr. SAM JOHNSON of Texas, Mr. BOUSTANY, Mr. SCALISE, Mr. BRADY of Texas, Mr. REICHERT, Mr. ROSKAM, Mr. LINDER, Mr. STEARNS, and Mr. BUYER):

H.R. 4038. A bill to take meaningful steps to lower health care costs and increase access to health insurance coverage without raising taxes, cutting Medicare benefits for seniors, adding to the national deficit, intervening in the doctor-patient relationship, or

instituting a government takeover of health care; to the Committee on Energy and Commerce, and in addition to the Committees on Ways and Means, Education and Labor, and the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. DENT (for himself, Mr. LEE of New York, and Mr. TIBERI):

H.R. 4039. A bill to improve the medical justice system by encouraging the prompt and fair resolution of disputes, enhancing the quality of care, ensuring patient access to health care services, fostering alternatives to litigation, and combating defensive medicine, and for other purposes; to the Committee on Energy and Commerce, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. FARR:

H.R. 4040. A bill to redesignate the Monterey Ranger District of Los Padres National Forest in the State of California as the Big Sur Management Unit, to transfer certain Bureau of Land Management land for inclusion in the management unit, to adjust the boundaries of the Ventana and Silver Peak Wilderness Areas, to designate segments of Arroyo Seco River, Big Creek, Carmel River, San Antonio River, San Carpoforo Creek, and their tributaries as components of the National Wild and Scenic Rivers System, and for other purposes; to the Committee on Natural Resources.

By Mr. BARROW:

H.R. 4041. A bill to authorize certain improvements in the Federal Recovery Coordinator Program, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. KLEIN of Florida (for himself, Mr. CLAY, Mr. RODRIGUEZ, Mr. WELCH, Mr. SIREs, Mr. PETERS, Mr. BRALEY of Iowa, Mr. SCHAUER, Mr. BOCCIERI, Mr. HODES, Mr. SHULER, Mr. ALTMIRE, Ms. BEAN, Mr. SPACE, Mr. BOREN, Ms. SCHWARTZ, Mr. MAFFEI, Mr. ADLER of New Jersey, Mr. BARROW, Mr. COURTNEY, Mrs. DAHLKEMPER, Mr. DELAHUNT, Mr. HALL of New York, Mr. BISHOP of New York, Mr. MILLER of Florida, Mr. ROONEY, Mr. JONES, Mr. FRANKS of Arizona, Mr. GOHMERT, Mr. MANZULLO, Mr. GINGREY of Georgia, Mr. ELLSWORTH, Mr. MCCARTHY of California, Mr. DENT, Mr. BROUN of Georgia, Mrs. MCMORRIS RODGERS, and Mr. MCGOVERN):

H.R. 4042. A bill to amend the Internal Revenue Code of 1986 to extend the employer wage credit for employees who are active duty; to the Committee on Ways and Means.

By Ms. SHEA-PORTER (for herself and Mr. JONES):

H.R. 4043. A bill to amend title 10, United States Code, to recognize the spouses of members of the Armed Forces who are serving in combat or have served in combat through the presentation of an official lapel button; to the Committee on Armed Services.

By Ms. BERKLEY (for herself, Mr. FILER, Ms. CORRINE BROWN of Florida, Mr. HALL of New York, Mr. MICHAUD, Mr. COURTNEY, Mr. NYE, Mr. HARE, Mr. TEAGUE, Mr. RODRIGUEZ, Ms. SCHAKOWSKY, Mr. ELLSWORTH, Mr. MOORE of Kansas, Mr. CROWLEY, Mr. ENGEL, Mr. SPACE, Mr. GRAYSON, Mr.

WU, Mr. DRIEHAUS, Ms. TITUS, Ms. EDDIE BERNICE JOHNSON of Texas, Ms. WATSON, Mr. SERRANO, Mr. ADLER of New Jersey, Mr. SCHAUER, Mr. MURPHY of New York, Ms. LORETTA SANCHEZ of California, Ms. HERSETH SANDLIN, Mr. ALTMIRE, Mr. HIGGINS, Mr. MCNERNEY, Mr. CARDOZA, Mrs. KIRKPATRICK of Arizona, Ms. KILPATRICK of Michigan, and Mr. SARBANES):

H.R. 4044. A bill to amend title 38, United States Code, to direct the Secretary of Veterans Affairs to restore plot allowance eligibility for veterans of any war and to restore the headstone or marker allowance for eligible persons; to the Committee on Veterans' Affairs.

By Ms. BERKLEY (for herself, Mr. FILER, Ms. CORRINE BROWN of Florida, Mr. HALL of New York, Mr. MICHAUD, Mr. NYE, Mr. HARE, Mr. TEAGUE, Mr. SNYDER, Mr. RODRIGUEZ, Ms. SCHAKOWSKY, Mr. ELLSWORTH, Mr. MOORE of Kansas, Mr. CROWLEY, Mr. ENGEL, Mr. SPACE, Mr. GRAYSON, Mr. WU, Mr. DRIEHAUS, Ms. TITUS, Ms. EDDIE BERNICE JOHNSON of Texas, Ms. WATSON, Mr. SERRANO, Mr. ADLER of New Jersey, Mr. SCHAUER, Mr. MURPHY of New York, Ms. LORETTA SANCHEZ of California, Ms. HERSETH SANDLIN, Mr. ALTMIRE, Mr. HIGGINS, Mr. MCNERNEY, Mr. CARDOZA, Mrs. MALONEY, Mrs. KIRKPATRICK of Arizona, Ms. KILPATRICK of Michigan, and Mr. SARBANES):

H.R. 4045. A bill to amend title 38, United States Code, to increase burial benefits for veterans, and for other purposes; to the Committee on Veterans' Affairs.

By Ms. BERKLEY (for herself, Mr. WEINER, Mrs. MYRICK, and Ms. ROSELEHTINEN):

H.R. 4046. A bill to enhance the reporting requirements on the status of the Arab League trade boycott of Israel and other trade boycotts of Israel; to the Committee on Ways and Means.

By Mr. CAO (for himself, Mr. SCALISE, Mr. ALEXANDER, Mr. CASSIDY, Mr. SESSIONS, Mr. MICA, and Mr. BOUSTANY):

H.R. 4047. A bill to use historical averages to calculate the Federal Medical Assistance Percentage for disaster affected States for purposes of the Medicaid Program; to the Committee on Energy and Commerce.

By Mrs. CAPITO (for herself, Ms. SCHAKOWSKY, Mr. MASSA, Mr. THORNBERRY, Mr. RODRIGUEZ, Mr. SESSIONS, and Ms. NORTON):

H.R. 4048. A bill to direct the Secretary of Veterans Affairs to carry out a pilot program on the provision of traumatic brain injury care in rural areas; to the Committee on Veterans' Affairs.

By Mrs. CAPITO:

H.R. 4049. A bill to extend temporarily the duty suspension on 2-(Methoxycarbonyl)benzylsulfonamide; to the Committee on Ways and Means.

By Mrs. CAPITO:

H.R. 4050. A bill to extend temporarily the duty suspension on Diaminodecane; to the Committee on Ways and Means.

By Mr. ISRAEL:

H.R. 4051. A bill to amend title 10, United States Code, to provide for the award of a military service medal to members of the Armed Forces who served honorably during the Cold War, and for other purposes; to the Committee on Armed Services.

By Mr. KIND (for himself, Mr. CARNAHAN, Mr. DAVIS of Alabama, Mr. HER-

GER, Mr. MELANCON, Mr. PAUL, and Mr. TANNER):

H.R. 4052. A bill to amend the Internal Revenue Code of 1986 to make certain disaster relief provisions permanent; to the Committee on Ways and Means.

By Mr. MORAN of Virginia (for himself and Mr. PASCRELL):

H.R. 4053. A bill to establish the Office of Childhood Overweight and Obesity Prevention and Treatment within the Office of Public Health and Science of the Department of Health and Human Services, and for other purposes; to the Committee on Energy and Commerce, and in addition to the Committee on Education and Labor, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. SARBANES (for himself, Mr. COURTNEY, Mr. LOEBSACK, Mr. CUMMINGS, Mr. MCGOVERN, Mr. PETERSON, Ms. KILPATRICK of Michigan, Ms. LINDA T. SANCHEZ of California, Mr. PLATTS, Mr. MCINTYRE, Mr. KRATOVIL, Mr. BISHOP of New York, Mr. RUPPERSBERGER, Mr. NYE, Ms. BERKLEY, Mr. COHEN, Mr. SCHIFF, Mr. YOUNG of Florida, Ms. SCHAKOWSKY, Ms. SUTTON, Mr. BLUMENAUER, Ms. BORDALLO, Mr. JOHNSON of Georgia, Mr. KLEIN of Florida, Mr. FRANK of Massachusetts, Mr. RAHALL, Mr. KAGEN, Ms. SHEA-PORTER, Mr. MCCOTTER, Mr. WALZ, Mr. WILSON of Ohio, Mr. GEORGE MILLER of California, Mr. ARCURI, Mr. GORDON of Tennessee, Mr. HASTINGS of Washington, Mrs. CHRISTENSEN, Mr. SHULER, Mr. GRIJALVA, Mr. KIND, Mr. MCNERNEY, Mr. VAN HOLLEN, Mr. ELLISON, Mr. HALL of New York, Mr. BARTLETT, Mr. SCOTT of Virginia, Mr. PASCRELL, Mr. WELCH, Mr. PERLMUTTER, Mr. CARSON of Indiana, Mr. WEINER, and Mr. YARMUTH):

H.R. 4054. A bill to amend titles II and XVI of the Social Security Act to provide for treatment of disability rated and certified as total by the Secretary of Veterans Affairs as disability for purposes of such titles; to the Committee on Ways and Means.

By Mr. SCHIFF (for himself and Mr. POE of Texas):

H.R. 4055. A bill to authorize a national HOPE Program to reduce drug use, crime, and the costs of incarceration; to the Committee on the Judiciary.

By Mr. SESTAK:

H.R. 4056. A bill to amend the Internal Revenue Code of 1986 to allow small businesses a credit against income tax for increasing employment; to the Committee on Ways and Means.

By Ms. SLAUGHTER:

H.R. 4057. A bill to amend the Wool Suit and Textile Trade Extension Act of 2004 to provide for certain payments from the Wool Apparel Manufacturers Trust Fund, and for other purposes; to the Committee on Ways and Means.

By Mr. SMITH of Washington:

H.R. 4058. A bill to amend title 10, United States Code, to establish the Veterans to Work Program providing for the employment of individuals, especially veterans, who participate in apprenticeship programs on designated military construction projects, and for other purposes; to the Committee on Armed Services.

By Mr. STUPAK:

H.R. 4059. A bill to enhance Internet safety and security and to prevent exploitation of



children online through the use of technology; to the Committee on Financial Services, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. THOMPSON of California (for himself and Mr. HELLER):

H.R. 4060. A bill to amend the Department of the Interior, Environment, and Related Agencies Appropriations Act, 2010 to repeal a provision of that Act relating to geothermal energy receipts; to the Committee on Natural Resources.

By Mr. EDWARDS of Texas:

H. Con. Res. 210. Concurrent resolution providing for an adjournment or recess of the two Houses; considered and agreed to.

By Mr. GEORGE MILLER of California (for himself, Ms. LEE of California, Mr. MCNERNEY, Mr. STARK, and Mr. GARAMENDI):

H. Con. Res. 211. Concurrent resolution recognizing the 75th anniversary of the establishment of the East Bay Regional Park District in California, and for other purposes; to the Committee on Natural Resources.

By Mr. CARTER (for himself and Mr. EDWARDS of Texas):

H. Res. 895. A resolution honoring the lives of the brave soldiers and civilians of the United States Army who died or were wounded in the tragic attack of November 5, 2009, at Fort Hood, Texas; to the Committee on Armed Services.

By Mrs. DAVIS of California (for herself, Mr. BRADY of Pennsylvania, and Ms. CASTOR of Florida):

H. Res. 896. A resolution providing for the concurrence by the House in the Senate amendment to H.R. 1299, with an amendment; considered and agreed to.

By Mr. GUTHRIE:

H. Res. 897. A resolution recognizing the importance of teaching elementary and secondary school students about the sacrifices that veterans have made throughout the history of the Nation; to the Committee on Education and Labor.

By Mr. KING of New York (for himself, Mr. CROWLEY, Mr. MANZULLO, Mr. WOLF, Mr. ROHRBACHER, and Mr. PITTS):

H. Res. 898. A resolution expressing the sense of Congress regarding the immediate and unconditional release of Aung San Suu Kyi, a meaningful tripartite political dialogue toward national reconciliation, and the full restoration of democracy, freedom of assembly, freedom of movement, freedom of speech, freedom of the press, and internationally recognized human rights for all Burmese citizens; to the Committee on Foreign Affairs, and in addition to the Committees on Ways and Means, and the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. SHEA-PORTER (for herself and Mr. HODES):

H. Res. 899. A resolution honoring the members of the New Hampshire National Guard for their service to the State of New Hampshire and the contributions of the New Hampshire National Guard to the domestic and international missions of the Armed Forces through the patriotic service of its members and its innovative programs and dedication to military families; to the Committee on Armed Services.

By Mr. ISRAEL:

H. Res. 900. A resolution supporting the goals and ideals of a Cold War Veterans Rec-

ognition Day to honor the sacrifices and contributions made by members of the Armed Forces during the Cold War and encouraging the people of the United States to participate in local and national activities honoring the sacrifices and contributions of those individuals; to the Committee on Armed Services.

By Ms. MOORE of Wisconsin (for herself, Mr. KIND, Ms. BALDWIN, Mr. CAO, and Mr. MELANCON):

H. Res. 901. A resolution recognizing November 14, 2009, as the 49th anniversary of the first day of integrated schools in New Orleans, Louisiana; to the Committee on Education and Labor, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. STEARNS:

H. Res. 902. A resolution expressing support for the designation of January 28, 2010, as National Data Privacy Day; to the Committee on Energy and Commerce.

### ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 24: Mrs. LUMMIS, Mr. CHILDERS, Mr. HELLER, Ms. KOSMAS, Ms. PINGREE of Maine, Mr. FLAKE, Mr. CASTLE, Mr. EDWARDS of Texas, Mr. GRAYSON, Mr. GRAVES, Mr. GRIFFITH, Mr. BUCHANAN, Mr. PASTOR of Arizona, Ms. WATSON, and Mr. CLEAVER.

H.R. 108: Mr. RODRIGUEZ.

H.R. 147: Mr. SERRANO, Mr. BOUCHER, and Mr. CAO.

H.R. 235: Mr. MILLER of Florida.

H.R. 391: Mr. CHAFFETZ.

H.R. 500: Ms. KILPATRICK of Michigan.

H.R. 622: Mr. BUTTERFIELD.

H.R. 669: Ms. KILPATRICK of Michigan.

H.R. 745: Mr. FATTAH.

H.R. 789: Ms. BORDALLO.

H.R. 881: Mr. GUTHRIE and Mr. LUETKEMEYER.

H.R. 930: Mr. HOLDEN.

H.R. 932: Mr. QUIGLEY, and Ms. LINDA T. SANCHEZ of California.

H.R. 980: Mr. DINGELL, Mr. GORDON of Tennessee, and Mr. BRADY of Pennsylvania.

H.R. 1020: Mr. LEWIS of Georgia, Ms. WATERS, and Ms. RICHARDSON.

H.R. 1024: Mr. GRAYSON.

H.R. 1067: Mr. CHILDERS.

H.R. 1074: Mr. GRIFFITH.

H.R. 1086: Mr. CRENSHAW.

H.R. 1126: Mrs. NAPOLITANO.

H.R. 1175: Mr. SHULER.

H.R. 1203: Mr. MURPHY of Connecticut.

H.R. 1205: Mr. TOWNS and Mr. MEEKS of New York.

H.R. 1396: Mr. SMITH of Texas.

H.R. 1478: Mr. THOMPSON of California.

H.R. 1479: Mr. LYNCH.

H.R. 1521: Mr. CHILDERS and Mr. HARPER.

H.R. 1526: Mr. COURTNEY, Mrs. MALONEY, and Mr. FRANK of Massachusetts.

H.R. 1584: Mrs. CHRISTENSEN.

H.R. 1625: Mr. BACHUS.

H.R. 1677: Mrs. CAPITO.

H.R. 1766: Mr. JOHNSON of Georgia and Mr. QUIGLEY.

H.R. 1799: Ms. FALLIN.

H.R. 1835: Mr. ROONEY, Mr. TIAHRT, and Mr. BISHOP of Utah.

H.R. 1874: Ms. KAPTUR.

H.R. 1908: Mr. POLIS of Colorado.

H.R. 1924: Ms. RICHARDSON.

H.R. 1925: Mr. TONKO.

H.R. 1974: Mr. BOREN and Mr. DINGELL.

H.R. 1995: Mr. CONYERS.

H.R. 2000: Mr. VISCLOSKEY.

H.R. 2139: Mr. DAVIS of Illinois and Ms. HARMAN.

H.R. 2246: Mr. NEAL of Massachusetts.

H.R. 2377: Mr. FILNER.

H.R. 2378: Mr. MOLLOHAN.

H.R. 2414: Mr. POLIS of Colorado.

H.R. 2452: Mr. ROYCE, Mr. PAYNE, and Mr. LAMBORN.

H.R. 2480: Ms. SUTTON.

H.R. 2492: Mr. YARMUTH.

H.R. 2517: Mr. PIERLUISI.

H.R. 2519: Mr. DOGGETT.

H.R. 2520: Mr. BRADY of Texas.

H.R. 2531: Mr. LUJÁN, Mr. BERMAN, Mr. MORAN of Virginia, Mr. SALAZAR, Mr. GRIMALVA, Ms. KILPATRICK of Michigan, Mr. MARKEY of Massachusetts, and Mrs. LOWEY.

H.R. 2542: Ms. CASTOR of Florida, Mr. HERGER, Mr. MCCOTTER, and Mr. RYAN of Wisconsin.

H.R. 2562: Mr. PATRICK J. MURPHY of Pennsylvania.

H.R. 2567: Mr. GRAYSON.

H.R. 2573: Mr. THOMPSON of California.

H.R. 2625: Mr. ADLER of New Jersey, Mr. CONNOLLY of Virginia, Ms. LEE of California, and Mr. COURTNEY.

H.R. 2628: Mr. CARNAHAN.

H.R. 2642: Ms. ROS-LEHTINEN.

H.R. 2674: Mr. MCCOTTER.

H.R. 2733: Mr. SAM JOHNSON of Texas, Mr. THORNBERRY, Ms. BERKLEY, Mr. KING of Iowa, Mr. PETERS, Mr. BOOZMAN, Mr. TIBERI, and Mrs. MYRICK.

H.R. 2788: Mr. AL GREEN of Texas, Mr. CAO, Mr. DELAHUNT, Mr. PUTNAM, Ms. MARKEY of Colorado, Mr. FILNER, Mr. CAMPBELL, Mr. WITTMAN, Ms. FUDGE, Mr. HALL of New York, Mr. DAVIS of Tennessee, Mr. LANCE, Mr. DUNCAN, Mr. JOHNSON of Georgia, Mr. GALLEGLY, Ms. NORTON, and Mr. CARNAHAN.

H.R. 2842: Mr. GALLEGLY.

H.R. 2866: Mr. WILSON of South Carolina.

H.R. 2906: Ms. NORTON and Mr. RYAN of Ohio.

H.R. 2909: Ms. LEE of California.

H.R. 3012: Mr. SERRANO.

H.R. 3025: Mr. COHEN.

H.R. 3035: Mr. FATTAH.

H.R. 3116: Mr. TIM MURPHY of Pennsylvania.

H.R. 3126: Ms. CHU.

H.R. 3217: Mr. WITTMAN, Mr. HENSARLING, and Mr. CRENSHAW.

H.R. 3218: Mr. GOODLATTE and Mr. WITTMAN.

H.R. 3226: Mr. HALL of Texas.

H.R. 3227: Mr. MARSHALL.

H.R. 3240: Mr. TIERNEY and Mr. SHUSTER.

H.R. 3286: Mr. ROTHMAN of New Jersey.

H.R. 3312: Mr. BLUMENAUER.

H.R. 3321: Mr. BOYD and Mr. GRAYSON.

H.R. 3328: Mrs. CHRISTENSEN, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. CONYERS, Ms. BALDWIN, and Mr. FATTAH.

H.R. 3339: Mr. SIMPSON and Mr. COSTA.

H.R. 3367: Mr. BOREN.

H.R. 3408: Mr. STARK and Ms. SCHAKOWSKY.

H.R. 3427: Mr. LIPINSKI.

H.R. 3488: Mr. POLIS of Colorado.

H.R. 3502: Mr. BACHUS.

H.R. 3503: Mr. GUTIERREZ.

H.R. 3519: Mr. SCHAUER and Mr. YOUNG of Florida.

H.R. 3554: Mr. COHEN.

H.R. 3560: Mr. GRAYSON.

H.R. 3567: Mr. BAIRD.

H.R. 3609: Mr. KIND.

H.R. 3610: Mr. TURNER.

H.R. 3612: Mrs. BLACKBURN, Mr. SIMPSON, and Mr. COBLE.

H.R. 3613: Mr. TURNER.  
 H.R. 3641: Mr. COSTA, Mr. CUELLAR, and Ms. BERKLEY.  
 H.R. 3646: Ms. ESHOO.  
 H.R. 3650: Mr. YOUNG of Florida.  
 H.R. 3668: Ms. MCCOLLUM, Mr. GENE GREEN of Texas, Mrs. BONO MACK, Ms. SCHAKOWSKY, and Mrs. CAPPS.  
 H.R. 3709: Mr. DEFazio.  
 H.R. 3715: Mr. QUIGLEY.  
 H.R. 3731: Mr. PRICE of North Carolina and Mrs. HALVORSON.  
 H.R. 3737: Mr. HINOJOSA and Mr. WELCH.  
 H.R. 3758: Mr. PAUL and Mr. LOBIONDO.  
 H.R. 3766: Mr. HOLT and Mr. GUTIERREZ.  
 H.R. 3790: Mr. WILSON of South Carolina, Mr. ROTHMAN of New Jersey, and Mr. GRAYSON.  
 H.R. 3791: Mr. LATOURETTE, Mr. OLVER, Mr. FILNER, Mr. KRATOVIL, Mr. LARSON of Connecticut, Mr. JOHNSON of Georgia, Mr. BISHOP of Georgia, Mr. HEINRICH, Mr. HODES, Mr. CASTLE, Mr. BRADY of Pennsylvania, Mr. VAN HOLLEN, Mr. INSLEE, Mr. SCHIFF, Mr. LOBIONDO, Mr. MARIO DIAZ-BALART of Florida, and Mr. CAO.  
 H.R. 3821: Mr. CRENSHAW.  
 H.R. 3837: Mr. AL GREEN of Texas, Mr. LANDEVIN, and Mr. WELCH.  
 H.R. 3904: Ms. NORTON.  
 H.R. 3905: Mr. BOSWELL.  
 H.R. 3916: Mr. DENT.  
 H.R. 3922: Mr. NADLER of New York.  
 H.R. 3933: Ms. DELAURO, Mr. CROWLEY, and Mr. WELCH.  
 H.R. 3936: Mr. CROWLEY, Mr. KIND, Mr. DAVIS of Alabama, Ms. BEAN, Mr. MCCOTTER, and Mr. LATOURETTE.  
 H.R. 3940: Mrs. CHRISTENSEN.  
 H.R. 3942: Ms. ROS-LEHTINEN and Mrs. CHRISTENSEN.  
 H.R. 3943: Mr. SCHIFF, Mr. KLEIN of Florida, Mr. LEE of New York, and Mr. COHEN.  
 H.R. 3947: Mr. SHUSTER.  
 H.R. 4000: Ms. NORTON.  
 H.R. 4004: Mr. COHEN, Mr. DAVIS of Illinois, and Mr. PAYNE.  
 H.R. 4021: Mr. TEAGUE and Mr. CARNAHAN.  
 H.R. 4022: Mr. MELANCON, Mr. BONNER, and Mr. SCALISE.  
 H.R. 4034: Mr. MCINTYRE, Mr. LARSON of Connecticut, and Mr. INGLIS.

H.J. Res. 47: Mr. RAHALL.  
 H. Con. Res. 169: Mr. WAMP, Mr. CAO, and Mr. JONES.  
 H. Con. Res. 197: Mr. FORBES and Mr. SCOTT of Virginia.  
 H. Con. Res. 199: Ms. CHU and Mr. HASTINGS of Florida.  
 H. Res. 35: Mr. ORTIZ, Mrs. NAPOLITANO, Mr. BACA, Mr. CUELLAR, Ms. DEGETTE, Ms. MATSUI, Mrs. MCCARTHY of New York, Mr. SIRES, Ms. KAPTUR, Mr. SPACE, Mr. GUTIERREZ, Mr. LUJAN, Mr. REYES, Mr. DOGGETT, Mr. RODRIGUEZ, Mr. GONZALEZ, Mr. GRIJALVA, Mr. ENGEL, Mr. DAVIS of Tennessee, Mr. ETHERIDGE, Ms. LEE of California, Ms. WOOLSEY, Ms. ROYBAL-ALLARD, Mr. SERRANO, Mr. BRALEY of Iowa, Mr. HODES, Mr. YARMUTH, Ms. LORETTA SANCHEZ of California, Ms. SCHAKOWSKY, Mr. THOMPSON of California, Ms. EDDIE BERNICE JOHNSON of Texas, Ms. TITUS, Mr. WELCH, Mr. OWENS, Mr. HARE, Ms. SUTTON, Mr. COURTNEY, Mr. FATTAH, Mr. BUTTERFIELD, Mr. CARSON of Indiana, Mr. HOLT, Ms. CASTOR of Florida, Mr. AL GREEN of Texas, Mr. BARTON of Texas, and Mr. TERRY.  
 H. Res. 263: Mr. YOUNG of Florida, Mr. SMITH of New Jersey, Mr. MORAN of Kansas, and Mr. MCCLINTOCK.  
 H. Res. 664: Mr. RUSH, Mr. RAHALL, Mr. MOLLOHAN, Mr. LARSON of Connecticut, Mr. BOSWELL, Mr. COSTA, Ms. LORETTA SANCHEZ of California, Ms. DEGETTE, Mr. ELLISON, Mrs. NAPOLITANO, Mr. CLEAVER, Mr. BUTTERFIELD, Mr. THOMPSON of Mississippi, Mr. LANGEVIN, Ms. JACKSON-LEE of Texas, Mr. GRAYSON, Mr. SCOTT of Georgia, Mr. CUELLAR, Mr. MCHENRY, Mr. DAVIS of Illinois, Ms. CLARKE, Mr. STARK, Mr. GRIJALVA, Mr. CROWLEY, Ms. WASSERMAN SCHULTZ, Mr. BISHOP of Georgia, Mr. LEWIS of Georgia, Mr. JOHNSON of Georgia, Mr. CONYERS, Mr. PAYNE, Mr. MEEKS of New York, Mr. TOWNS, Ms. WATERS, Mr. HASTINGS of Florida, Mr. CLYBURN, Mrs. HALVORSON, Mr. KANJORSKI, Mr. MURTHA, Mr. JACKSON of Illinois, Ms. FUDGE, Mr. BURGESS, and Mr. INSLEE.  
 H. Res. 699: Ms. BORDALLO.  
 H. Res. 716: Ms. BALDWIN.  
 H. Res. 777: Ms. BERKLEY.  
 H. Res. 870: Mr. NUNES, Mr. JOHNSON of Illinois, Mr. KINGSTON, Mr. LEE of New York,

Mr. SHUSTER, Mr. BOUSTANY, Mrs. EMERSON, Mr. DENT, Mr. DANIEL E. LUNGREN of California, and Mr. SCALISE.  
 H. Res. 874: Mr. SOUDER.  
 H. Res. 877: Ms. SPEIER.  
 H. Res. 882: Ms. WATSON.  
 H. Res. 888: Mr. SHULER, Mr. WOLF, and Mr. MANZULLO.  
 H. Res. 890: Ms. ROS-LEHTINEN.  
 H. Res. 892: Mr. TANNER, Ms. SCHWARTZ, Mr. MCGOVERN, Mr. ENGEL, Mr. SHIMKUS, Mr. WOLF, Mr. CARNAHAN, Mrs. EMERSON, Mr. MCMAHON, Mr. SIRES, Mr. KLEIN of Florida, Mr. CROWLEY, Mr. HASTINGS of Florida, Mr. HOLDEN, Mr. GALLEGLY, Mr. SHUSTER, Mr. COBLE, Ms. SCHAKOWSKY, and Mr. BURTON of Indiana.

#### CONGRESSIONAL EARMARKS, LIMITED TAX BENEFITS, OR LIMITED TARIFF BENEFITS

Under clause 9 of rule XXI, lists or statements on congressional earmarks, limited tax benefits, or limited tariff benefits were submitted as follows:

##### OFFERED BY Mr. RANGEL

The provisions that warranted a referral to the Committee on Ways and Means in H.R. 3961, the Medicare Physician Payment Reform Act of 2009, do not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9 of rule XXI.

##### OFFERED BY Mr. WAXMAN

The provisions that warranted a referral to the Committee on Energy and Commerce in H.R. 3961, the Medicare Physician Payment Reform Act of 2009, do not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9 of rule XXI.

The amendment to be offered by Representative STUPAK, or a designee, to H.R. 3962, the Affordable Health Care for America Act, does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9 of rule XXI.

## EXTENSIONS OF REMARKS

RECOGNIZING THE CAREER AND ACCOMPLISHMENTS OF MR. JIM DURRETT

### HON. MARSHA BLACKBURN

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

*Friday, November 6, 2009*

Mrs. BLACKBURN. Madam Speaker, I ask my colleagues to join me in congratulating Mr. Jim Durrett of Clarksville, Tennessee, upon his retirement after 32 years of civil service to the City of Clarksville.

Jim's story is inspiring. A native son, he began his work for the city as a laborer in the Street Department. Jim worked diligently and continued to assume more and more responsibility. Eventually, he became the Superintendent of that department and served capably in that role for 20 years through many difficult times.

Jim's leadership over those years prepared him to be named as the Mayor's Chief of Staff in 2007. Since that time, Jim has overseen the city's involvement in some of Clarksville's most exciting developments—the recruitment of Hemlock Semiconductor, the extension of the RiverWalk, the beginning of construction on the long-awaited Marina, and many other important projects. Despite the heavy load of responsibility, Jim's strong work ethic, pleasant demeanor, and the continuing respect of his colleagues is remarkable.

Please join me in honoring Jim Durrett on his service to the City of Clarksville, and wishing him only the best in the years to come.

### DEMOCRAT HEALTHCARE BILL: ABORTION COVERAGE

### HON. MIKE PENCE

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

*Friday, November 6, 2009*

Mr. PENCE. Madam Speaker, for 30 years, the pro-life beliefs of millions of Americans have been protected by the federal government. Congress passed the Hyde Amendment in 1976 which bars federal funds from paying for elective abortions. This amendment must be renewed yearly in the annual Labor, Health and Human Services Appropriations bill.

However, the programs included in the Pelosi health care bill, including the government-run plan, are not funded by or beholden to this annual appropriations bill and are therefore not subject to the Hyde amendment.

Legislation of this magnitude must contain clear and decisive language that makes certain that federal funds are not used to pay for elective abortions. References to provisions in current law that are susceptible to being stripped in the annual appropriations process is not any kind of protection at all.

The Pelosi health care plan is also a clear departure from the long-standing federal policy against federal funding of health plans that cover abortions. The Pelosi bill explicitly permits federal funds to subsidize health plans that cover abortions.

The bill's proponents will claim that public dollars are separated from private insurance premiums, but this is nothing more than a slick accounting gimmick rejected by the pro-life community at-large.

According to the non-partisan Congressional Research Service, any outlay by a government run plan for abortions or health care services would by definition be federal funds. The Pelosi health care bill also includes a mandate requiring at least one insurance plan offered in the federal exchange to cover abortions.

The bill before us is a clear departure from the longstanding Hyde law and violates the beliefs of millions of pro-life Americans who find abortion morally unconscionable.

I urge Speaker Pelosi to allow an up-or-down vote on a truly pro-life amendment—the Stupak/Pitts amendment. The Stupak/Pitts amendment would prevent federal dollars from funding abortion and preserve the long-standing federal policy of protecting the unborn. In a last-ditch effort to garner votes, the Democrat majority plans to propose a rule for considering the legislation that claims to “fix” the pro-life concerns in the bill, but the new language still allows federal funding for abortions. This is little more than a political scheme, and the language has been rejected by every major pro-life group in the country.

I urge the Speaker to include genuinely pro-life language into one of the most important pieces of legislation we will likely consider in our lifetime. A vote on the Stupak/Pitts amendment must be allowed to ensure the protection and safety of America's future—our children.

### PERSONAL EXPLANATION

### HON. JIM GERLACH

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Friday, November 6, 2009*

Mr. GERLACH. Madam Speaker, unfortunately, on Monday, November 2, 2009, I missed three recorded votes on the House floor. Had I been present, I would have voted “yea” on Roll Call 832, “yea” on Roll Call 833, and “yea” on Roll Call 834.

Additionally, I missed three recorded votes on Tuesday, November 3, 2009. I ask that the RECORD reflect that had I been present, I would have voted “yea” on rollcall 835, “yea” on rollcall 836, and “yea” on rollcall 837.

### CONGRATULATIONS TO THE UNITED STATES MARINE CORPS

### HON. GREG WALDEN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

*Friday, November 6, 2009*

Mr. WALDEN. Madam Speaker, I rise today to honor the more than 100 members of the Marine Corps League Rogue Valley Detachment 386 of southern Oregon on the occasion of the Marine Corps' 234th birthday. Since 1921, all Marines—past and present—have heeded the order issued by Major General John A. Lejeune to come together each November to remember the history, honor, and traditions of their Corps.

Next week, on November 10, I will have the honor and the privilege of joining with the Rogue Valley detachment to celebrate and commemorate the founding of the United States Marine Corps when, in 1775, the Second Continental Congress resolved to raise two battalions of Continental Marines.

For the 234 years that have followed, the United States Marine Corps has stood as the epitome of America's military strength. From the Battle of Belleau Wood to the Battle of Khe Sanh, from the sands of Iwo Jima to the streets of Fallujah, from Grenada to Beirut, the Marine Corps has never failed in answering the call to defend this Nation and its interests around the world. Marines truly have served in every clime and place in defense of freedom.

It is this tradition of service and commitment to freedom that most impresses me whenever I meet a Marine or former Marine.

Proving that “Once a Marine, Always a Marine” is more than just a slogan, the members of the Marine Corps League Rogue Valley detachment are dedicated to the purpose of preserving these traditions and promoting the interests of the United States Marine Corps. They do this by promoting the ideals of freedom and democracy throughout their community and by volunteering aid and assistance to all current and former Marines and Fleet Marine Force Corpsman and their families.

In the past year, the Rogue Valley detachment, led by Commandant Loren Otto, organized its first annual “Tee It Up for Local Heroes” golf tournament and raised \$2,100 to support Toys for Tots, the Marines Helping Marines Wounded Warrior program, and to provide care packages for deployed service members. A portion of these funds also went to support the three local Young Marine units that the detachment sponsors in southern Oregon.

I am very pleased to note that the Rogue Valley detachment is the only Marine Corps League unit in the country that sponsors this many Young Marine units. The detachment's commitment to making a positive impact on America's future is without question and we are indeed fortunate to have members Dave

● This “bullet” symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

Dotterer and Anthony Guillory serve on the National Board of Directors for the Young Marines.

Other detachment members have sent out nearly 100 comfort packages to deployed Marines and soldiers. The detachment also recently volunteered to support their local community when the Cycle Oregon tour came through the Rogue Valley and in return raised over \$500 to put toward future fundraising efforts. In addition, the detachment regularly offers an Honor Guard detail to the Eagle Point National Cemetery to provide funeral honors for their fallen brethren. Finally, in probably their most fulfilling service to community, the Rogue Valley detachment collects and distributes toys for the yearly Marine Toys for Tots program throughout Jackson and Josephine counties.

By their actions and deeds, the men and women of the Marine Corps League Rogue Valley Detachment 386 have demonstrated the honor, commitment, and values that Marines have been renowned for since their inception. While our gathering next Tuesday to mark this auspicious occasion in the Corps' 234-year history may be small compared to others, I am extremely honored to share this time with such a dedicated group of veterans, constituents, and friends.

Madam Speaker, I encourage all Members of Congress seek out their local Marine Corps League detachments or active duty Marines on November 10 and raise a glass to celebrate the world's finest fighting force. Semper Fidelis, Marines, and Happy Birthday.

IN RECOGNITION OF ARKANSAS  
AVIATION HALL OF FAME IN-  
DUCTEE GREG ARNOLD

**HON. MIKE ROSS**

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

*Friday, November 6, 2009*

Mr. ROSS. Madam Speaker, I rise today to recognize Greg Arnold who will be the 94th individual inducted into the Arkansas Aviation Hall of Fame on Thursday, November 12, 2009, at the Aerospace Education Center in Little Rock, Arkansas.

Greg Arnold is president and chief executive officer (CEO) of Truman Arnold Companies (TAC), a Texarkana, Texas, based company founded by Truman Arnold in 1964 as a branded petroleum jobber. Today, TAC is a leading national petroleum marketing company, offering a variety of services through a network of petroleum terminals and aviation Fixed Base Operations (FBO) facilities. A rapidly growing company, TAC currently employs more than 500 highly trained people.

As president of TAC for more than 16 years and CEO for 6, Greg has served as president of the Arkansas Oil Marketers Association, president of the Texarkana Chamber of Commerce, vice president of the Independent Liquid Terminal Association, board and campaign member of the United Way of Texarkana, board member of CHRISTUS St. Michael Hospital and CHRISTUS St. Michael Health Care Center Foundation, chairman of the Governor's Task Force on Flooding on the Lower

Red River, board member of Century Bancshares and member of the Red River Redevelopment Authority. He recently completed a term as board chairman of the National Air Transportation Association, one of the aviation industry's leading advocacy organizations.

Greg and his wife, Ashley Arnold, have three children: Anthony, Regan and Carsen.

Established in 1980 by the Arkansas Aviation Historical Society, the Arkansas Aviation Hall of Fame inducts those who make a difference or play a significant role in the history of aviation on the national or state scenes. Greg Arnold has had a major impact on aviation in Arkansas and in this country and he deserves a place on this esteemed list. His commitment to community, to state, to country and to excellence in his field is what makes Greg the respected and admired leader he is today.

I applaud Greg's vision and leadership in the field of aviation. I offer my deepest gratitude and admiration for all that he has done to make our state a better place to live and I extend to him my congratulations on this prestigious accomplishment.

PERSONAL EXPLANATION

**HON. JIM GERLACH**

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Friday, November 6, 2009*

Mr. GERLACH. Madam Speaker, unfortunately, on Wednesday, November 4, 2009, I missed eleven recorded votes on the House floor. Had I been present, I would have voted "nay" on rollcall 841, "nay" on rollcall 842, "yea" on rollcall 843, "yea" on rollcall 844, "yea" on rollcall 845, "yea" on rollcall 846, "nay" on rollcall 847, "yea" on rollcall 848, "nay" on rollcall 849, "yea" on rollcall 850, and "yea" on rollcall 851.

HONORING MRS. MARGIE  
SULLIVAN

**HON. RODNEY ALEXANDER**

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

*Friday, November 6, 2009*

Mr. ALEXANDER. Madam Speaker, it is with great pride and pleasure that I rise today to pay tribute to Mrs. Margie Sullivan for her accomplishments and dedication to the bluegrass gospel music industry.

Sullivan, born in Baskin, LA, has devoted more than 60 years to the bluegrass gospel music ministry. Known as the "First Lady of Bluegrass Gospel Music," she is featured in the Bluegrass Music Hall of Fame located in Bean Blossom, Indiana. In addition, she is an International Bluegrass Music Association Living Legend recipient, member of the Alabama Country Music Hall of Fame in Tusculumbia, Alabama, and has been named as "Goodwill Ambassador" for bluegrass music in several European countries.

Earning these recognitions is a tremendous honor, and I commend Margie for her hard work and compassion.

I ask my colleagues to join me in saluting Mrs. Margie Sullivan. She is truly deserving of our appreciation.

REMEMBERING VICTIMS OF  
UKRAINIAN HOLODOMOR ON THE  
76TH ANNIVERSARY

**HON. SANDER M. LEVIN**

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Friday, November 6, 2009*

Mr. LEVIN. Madam Speaker, this year marks the 76th anniversary of the famine that was deliberately and systematically inflicted upon the Ukrainian people by Josef Stalin's brutal regime. I rise today in solemn memory of the Ukrainians who were killed between 1932 and 1933.

The Ukrainian famine, referred to as Holodomor or "Death by Starvation," remains one of the least known human tragedies. An estimated 7 to 10 million Ukrainians perished when the Soviet government, using food as a weapon to suppress the nationalism and identity of the Ukrainian people, seized the country's 1932 grain crop and executed thousands who resisted. The country's borders were sealed to prevent starving Ukrainians from fleeing and to prevent any outside relief efforts from reaching the people.

In its effort to suppress the Ukrainian nation, the Soviet Union perpetrated a famine so brutal that it ranks as one of the starkest examples of inhumanity in modern history.

For generations, the Soviet Union tried to ban discussion of the famine, deceptively portraying the millions of deaths as the result of drought, food shortages, or unavoidable circumstances. We know this is false. The recently opened Soviet archives show the premeditated, political nature of the famine. The commendable work of Ukrainian scholars and the Ukrainian-American community is helping to bring these horrors to light and to ensure our collective memory of this terrible act.

I am proud that Congress has supported efforts to recognize the Holodomor, particularly legislation allowing Ukraine to donate a memorial in the District of Columbia honoring the famine's victims. The Ukrainian Government, the Ukrainian-American Community, and the Department of the Interior have identified a site for this memorial and the Ukrainian Government is now working toward a design. This memorial is deeply significant to the 1.5 million Ukrainian-Americans, indeed to all of us, and will serve as a tangible reminder of the horror tyranny can inflict.

I urge all of my colleagues to join me in remembering the victims of the Ukrainian Holodomor on its 76th anniversary and in renewing our commitment to ensure events such as this are never repeated.

**SALUTING KATHLEEN HODGES OF  
GARLAND'S WALNUT GLEN  
ACADEMY**

**HON. SAM JOHNSON**

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Friday, November 6, 2009*

Mr. SAM JOHNSON of Texas. Madam Speaker, I'd like to recognize Kathleen Hodges for winning the Outstanding Teaching of the Humanities Award 2008–2009. She teaches at Walnut Glen Academy in Garland and lives in Rowlett. Kathleen stands head and shoulders above her peers for her role as an outstanding humanities teacher making a difference in the lives of young Texans.

The Outstanding Teaching of the Humanities Awards recognizes 11 exemplary K–12 humanities teachers. Humanities Texas, formerly the Texas Council for the Humanities, is the state affiliate of the National Endowment for the Humanities. Humanities Texas conducts and supports public programs in history, literature, philosophy, and other humanities disciplines. These programs strengthen Texas communities and ultimately help sustain representative democracy by cultivating informed, educated citizens.

After a 21-year career in education, Hodges has numerous teaching accolades to her name, including the Wal-Mart Teacher of the Year and the Walnut Glen Academy Teacher of the Year Award. She considers her proudest accomplishment the art program she has helped establish at Walnut Glen Academy.

I ask my colleagues to join me in recognizing Karen for her selfless contributions to make Texas and America a better place by pouring into our young people. Please join me in congratulating Karen on a magnificent achievement and wishing her all the best with her future endeavors.

**CONGRATULATING OLD NATIONAL  
BANK ON ITS 175TH ANNIVERSARY**

**HON. BRAD ELLSWORTH**

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

*Friday, November 6, 2009*

Mr. ELLSWORTH. Madam Speaker, I rise today to recognize the service of Old National Bank as a community leader and trusted financial institution. For 175 years, Old National Bank has been providing outstanding service and banking options to communities throughout the Ohio River Valley.

The bank was founded in 1834 in Evansville, Indiana. And since that time, Old National has grown to become one of the most trusted financial institutions in the country. By committing itself to a sound, conservative approach to banking, Old National has survived and thrived when others faltered.

Old National is more than just a bank; it is actively working to improve our communities, too. Through its foundation, the bank is giving back and supporting community initiatives through generous grants. And employees have added manpower to those initiatives, volunteering thousands of hours to the communities and causes they care about.

Without a doubt, Old National Bank has made Evansville and the other communities it serves a better place for our citizens.

Congratulations, Old National; here's to another 175 years of success and prosperity.

**CONGRATULATING MARGARET  
BEATTY**

**HON. RODNEY ALEXANDER**

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

*Friday, November 6, 2009*

Mr. ALEXANDER. Madam Speaker, it is with great pride that I rise today to congratulate Margaret Beatty for being selected Queen Evangeline of the 41st International Acadian Festival in Iberville Parish.

Margaret, a 17-year-old senior at St. John High School in Plaquemine, La., is the daughter of Donnie and Amy Beatty.

The International Acadian Festival is sponsored by the Knights of Columbus, Council #970 of Plaquemine, which is the oldest Knights of Columbus Council in Louisiana.

It is always outstanding to see the diligence with which the young students of Louisiana work to give back and better their communities. I have the highest confidence that Margaret will succeed in whatever endeavors she pursues.

I ask my colleagues to join me in passing good wishes to Margaret Beatty, her family, and the entire International Acadian Festival. Margaret is truly deserving of this recognition.

**HONORING THE DEDICATION OF  
THE VIETNAM MEMORIAL WALL  
OF TEXAS**

**HON. JEB HENSARLING**

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Friday, November 6, 2009*

Mr. HENSARLING. Madam Speaker, today I recognize Kaufman County Veterans for their tremendous work in procuring a replica of the Vietnam Veterans Memorial Wall.

The memorial wall, which will be permanently located at the Kaufman County Veterans Memorial Park, will be a lasting tribute to those who not only served in Vietnam, but to all the veterans of Kaufman County.

As we prepare for Veterans Day on November 11th, let us remember those throughout our nation's history who have sacrificed so much so that we may be free. Freedom is not free; it comes at an incredible cost. Veterans and their families, more than any other group of Americans, understand that cost.

President Coolidge once said, "A nation which forgets its defenders, will itself soon be forgotten." This park and wall in Kaufman, Texas, will forever be a reminder of the sacrifices our fellow Americans and their families endured so that we may enjoy the freedoms that have made our country so great.

As the Congressman of the Fifth District, I would like to thank everyone who played a role in building the Kaufman County Veterans Memorial Park and bringing the Vietnam Veterans Memorial Wall to Kaufman County.

**CONGRATULATIONS TO E.M.  
DAGGETT ELEMENTARY SCHOOL  
IN FORT WORTH**

**HON. KAY GRANGER**

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Friday, November 6, 2009*

Ms. GRANGER. Madam Speaker, I rise today to offer my congratulations to an elementary school in my District. E.M. Daggett Elementary in Fort Worth, Texas is celebrating its 100th anniversary. This is particularly noteworthy because Daggett Elementary is only the second elementary school in the country to reach this milestone.

Named after a pioneer settler of Fort Worth, E.M. Daggett Elementary opened in September of 1909. At that time, Fort Worth was experiencing a tremendous amount of growth and a new school was needed to serve the families moving into the southern parts of the city. As the city has continued to grow, so has E.M. Daggett Elementary. Buildings were added in 1914, 1926, and 1988 to increase the number of classrooms and the overall size of the school so it would be better equipped to serve the community.

E.M. Daggett Elementary has always been a site of innovation and progress for the Fort Worth Independent School District. In the 1940s, the regional day school for the deaf was established. This school served deaf students from all over Tarrant County and surrounding counties. In 1983, Daggett Montessori School became the first public Montessori school in the school district. E.M. Daggett Elementary recently began a Parents as Teachers Program.

As a former teacher, I know that quality education is the foundation of a successful future. E.M. Daggett Elementary has been able to provide that essential foundation to countless people from Fort Worth. It has been a vital part of Fort Worth for the past 100 years, and I hope it will continue to be an invaluable part of the community for many years to come.

Again, I congratulate E.M. Daggett Elementary on its 100th anniversary.

**EARMARK DECLARATION**

**HON. ROBERT J. WITTMAN**

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

*Friday, November 6, 2009*

Mr. WITTMAN. Madam Speaker, pursuant to the Republican Leadership standards on earmarks, I am submitting the following information regarding earmarks I received as part of H.R. 2996, the Department of Interior, Environment, and Related Agencies Appropriations Act of 2010.

Project Name: Caroline County for the Dawn Community Decentralized Wastewater System project

Amount: \$3,000,000

Account: STAG Water and Wastewater Infrastructure Project

Requested by: Caroline County

Intended Recipient of Funds: Caroline County, VA, 117 Ennis Street, P.O. Box 447, Bowling Green, VA 22427

Project description and explanation of the request: The project will expand the availability of safe county-owned and operated wastewater treatment to replace failing or problem septic systems in the community of Dawn. The Dawn area has experienced serious public health issues for years due to failing septic systems. Phase 1 of the project was successful in connecting over 180 households to the county owned and operated Dawn De-centralized Wastewater System. Phase 2 is estimated to connect another 180 homes and small businesses.

#### EARMARK DECLARATION

### HON. DOC HASTINGS

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

*Friday, November 6, 2009*

Mr. HASTINGS of Washington. Madam Speaker, pursuant to the Republican Leadership standards on earmarks, I am submitting the following information regarding an earmark I received as part of H.R. 2996, the Department of the Interior, Environment, and Related Agency Appropriations Act of 2010. This earmark in the Environmental Protection Agency's State and Tribal Assistance Grant Program is for \$500,000 to the City of Rock Island, P.O. Box 99, Rock Island, WA 98850.

This project would construct a wastewater collection and treatment system for the City of Rock Island and a portion of the unincorporated area of Douglas County. More than five years of technical study have demonstrated the need for a central sewer system to address the high risk of drinking water contamination that exists as a result of failing on-site septic systems, inadequate soils and a high water table. Design of the system is complete, and the project is ready for construction.

IN HONOR OF ACEL MOORE, DISTINGUISHED PHILADELPHIA JOURNALIST, EDUCATOR, MENTOR AND ROLE MODEL

### HON. CHAKA FATTAH

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Friday, November 6, 2009*

Mr. FATTAH. Madam Speaker, I rise today to recognize Acel Moore, a distinguished Philadelphia journalist and educator, mentor and role model, who is adding another significant honor to his already impressive career. Along the way, Acel Moore has been a pioneer in the promotion and showcasing of minority journalism and a star in the ranks of Philadelphia journalists.

Acel Moore has been called "the conscience of the community," a title and responsibility that he continues to earn every day.

His latest honor, the 2009 Star Alumnus EDDY from the Philadelphia Education Fund as a Star of Public Education, will be presented November 19, 2009 at the Philadelphia Education Fund awards ceremony on the campus of Drexel University in my district.

Acel's journalism career began at the Philadelphia Inquirer in 1962 as a copy book,

gained added prominence with the 1977 Pulitzer Prize and continues today as the Inquirer's Associate Editor Emeritus and columnist. Yet alongside his work in the newsroom, Acel has been the creator of programs, motivator and instructor for generations of public school youth in Philadelphia.

Most significantly, he has blended these dual passions. Acel Moore has not only opened the door for talented youth of color to launch journalism and communications careers in workplaces desperately in need of diversity. He has, time after time, built the doorway itself.

Acel—known throughout Philadelphia and in wider journalism circles simply by his distinctive first name—continues to lecture at several colleges and universities around the country. At the Inquirer, he writes and directs recruitment, training and staff development while still being consulted to help shape and balance the paper's editorial policies.

In 1979, he established the Art Peters Fellowship Program, a copy editor internship that has launched the careers of 50 journalists. In 1984, he created the Journalism Career Development Workshop that has trained dozens of Philadelphia high school students. The program is now named in his honor—the Acel Moore Minority Workshop. He also has developed writing and journalism programs for the School District of Philadelphia.

In 1970 he won the Pennsylvania Bar Association's Scale of Justice Award for his series on the juvenile court system. Then came the Public Service Award from the Society of Professional Journalism in 1971 and an award from the Pennsylvania Associated Press Managing Editors Association in 1974. That same year Moore joined Reggie Bryant to host an influential television show called Black Perspectives on the News on WHYY public television.

In 1975, Acel Moore and 43 other newsmen and women met in Washington to launch the National Association of Black Journalists. NABJ soon spawned a Philadelphia chapter, and many more local chapters.

A quarter century later, Acel Moore reflected, "If I had said in 1975 . . . that I thought NABJ would have the impact and import it has today, I'd be lying. There was a feeling among some people that signing their name on the list [to form NABJ] was a risk, that there would be a retaliation for doing that."

NABJ soon spawned a Philadelphia chapter, and many more local chapters. It was an advocacy group, an employment agency, a civil rights crusader. Now NABJ has 3,300 members. It has provided the example for minority journalism organizations of Hispanics, Native Americans, Asian Americans, lesbians and gays, significantly increasing the diversity of our newsrooms, networks and the communications executive ranks. This is no small feat, and it is a tremendous service to the profession that Acel Moore loves: A newsroom or newscast must reflect the audience and the community it serves or its credibility suffers.

Acel Moore had already achieved prominence and impact by the time he and Inquirer colleague Wendell Rawls began their investigation of abuse of inmates at Fairview State Hospital. Their series led to awarding of the

1977 Pulitzer Prize, journalism's most important award, for local investigative reporting—and to significant changes at the hospital itself. Typically, Acel Moore was digging hard, uncovering the truth and providing a voice for the voiceless.

I was honored to attend Acel Moore's "retirement" party in December 2005 with 250 colleagues, admirers, movers and shakers at the Moore College of Art. I put retirement in quotes because Acel wasn't truly retiring then, or in full retirement even today. He has taken up the hobby of painting. But he has never really stepped away from his day job—serving the Philadelphia community, its underprivileged and voiceless, coaxing and grooming the next generation of communicators to continue his life's work.

On the eve of this next great and greatly deserved honor, I urge my colleagues to join me in congratulating and thanking a great Philadelphian, Acel Moore.

#### PROFESSOR HARREL RECEIVES AWARD

### HON. TED POE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Friday, November 6, 2009*

Mr. POE of Texas. Madam Speaker, I would like to recognize Professor Richard Harrel of Lamar University. Professor Harrel is the recent recipient of the Maxine Johnston Distinguished Service Award. The biology professor received this award for more than four decades of research, field studies and publications that benefited the Big Thicket region. Harrel is also one of the founding members of Clean Air and Water Inc., a Beaumont-based environmental organization.

For all of his hard work, Harrel was rightfully awarded at the 35th anniversary of the Big Thicket National Preserve in October. The Second District of Texas commends Professor Harrel for his dedication to improving and preserving this dense wilderness area.

#### EARMARK DECLARATION

### HON. DON YOUNG

OF ALASKA

IN THE HOUSE OF REPRESENTATIVES

*Friday, November 6, 2009*

Mr. YOUNG of Alaska. Madam Speaker, pursuant to the Republican Leadership standards on earmarks, I am submitting the following information regarding earmarks I received as part of H.R. 2996, the Interior, Environment, and Related Agencies Appropriations bill.

Project Name: Water and Sewer Improvements, Kodiak, AK

Bill Number: H.R. 2996 Title II Environmental Protection Agency

Legal name and address of entity receiving earmark: City of Kodiak, P.O. Box 1397, 710 Mill Bay Rd., Kodiak, AK 99615

Description of how the money will be spent and why the use of federal taxpayer funding is justified: This project would replace aging

sewer and waterlines in a residential area of Kodiak, and enable the City to comply with the Clean Water Act.

# RECOGNIZING THE DALLAS-FORT WORTH INTERNATIONAL AIRPORT

**HON. EDDIE BERNICE JOHNSON**

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Friday, November 6, 2009*

Ms. EDDIE BERNICE JOHNSON of Texas. Madam Speaker, I am very privileged today to recognize the Dallas-Fort Worth International Airport as one of the country's leading green power purchasers. Recently, the Environmental Protection Agency released a list of the top twenty local government organizations that are green power purchasers in the United States. Both the City of Dallas and the Dallas-Fort Worth International Airport were included in this listing. Impressively, the DFW Airport receives 18 percent of its total electricity from green power purchases, and this is equivalent to removing 7,000 vehicles from the road or powering 5,000 homes annually.

Green power purchasing is important for a variety of reasons. The Dallas-Fort Worth International Airport uses large amounts of energy, and green power purchases ensure that this energy is generated from renewable resources like solar, wind, geothermal, biomass, and low-impact hydro. In turn, this leads to a reduction of green house gas emissions that will help to create a greener future for us all.

While this is a very prestigious honor, it is important to note that this is one of numerous distinctions that the airport has received in recent years. As the third busiest airport in the world, the Dallas-Fort Worth International Airport offers over 1,500 flights per day and serves roughly 57 million passengers in a year. Despite its busy nature, DFW was named the "Best Airport for Customer Service in North America" by an Airports Council International survey of passengers in 2006 and 2007.

Madam Speaker, I am incredibly proud of the accomplishments that the Dallas-Fort Worth International Airport has achieved, and I encourage my colleagues to join me in celebrating this airport as a leader among green power purchasing organizations.

# COMMEMORATING THE LIFE OF KATHRYN BROPHY

**HON. ROSA L. DeLAURO**

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

*Friday, November 6, 2009*

Ms. DeLAURO. Madam Speaker, I rise to commemorate the life and work of Kathryn Brophy, longtime Director of the School Lunch Program for Boston's public schools, who passed away at the age of 89 last month.

Kathryn Brophy's passionate commitment to the cause of fighting hunger and malnutrition was borne of personal experience. As the daughter of a single mother from the age of 10, Brophy, nee Kathryn Nagle, spent her

formative years during the Depression as one of the very same vulnerable and often hungry children she would spend her life's work aiding. But, in part thanks to her mother's strong emphasis on education—Mrs. Brophy would go on to graduate from Framingham State Teacher's College in 1941, and study dietetics for a year at Duke.

From her years as a dietician for the U.S. Army during World War II, where she achieved the rank of captain, to her retirement from the Boston school system in 1988, Mrs. Brophy subsequently spent a lifetime of service in the cause of bettering nutrition. In Boston, she ultimately oversaw a program that fed over 30,000 children, and she made sure fruits, vegetables, skim milk, and other healthy foods were made available to her charges.

Aside from nutrition, Mrs. Brophy's other great passion in life was her two daughters, Susan and Jane, whom she took years off to raise. She leaves them now, along with a sister, Jean Hannon, nine grandchildren, and two great-grandchildren, as she goes to join her husband of 47 years, William Brophy, who passed in 1995. She is missed not only by her family and the many nutrition advocates who share her cause, but also by the thousands of Boston schoolchildren who could learn better and live healthier thanks to her decades of public service.

# TEXAS HOUSE JOINT RESOLUTION 39

**HON. AL GREEN**

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Friday, November 6, 2009*

Mr. AL GREEN of Texas. Madam Speaker, at the request of the Secretary of State of the State of Texas, I submit House Joint Resolution 39, as passed by the 81st Legislature, Regular Session, 2009, of the State of Texas.

# A JOINT RESOLUTION

*Be it resolved by the Legislature of the State of Texas:*

SECTION 1. The 87th Congress of the United States, on August 27, 1962, in the form of Senate Joint Resolution No. 29, proposed to the legislatures of the several states an amendment to the Constitution of the United States, and by a proclamation dated February 4, 1964, published at 29 Federal Register 1715-16 and at 78 Statutes at Large 1117-18, the Administrator of General Services, Bernard L. Boutin—in the presence of native Texan, President Lyndon Baines Johnson—declared the amendment to have been ratified by the legislatures of 38 of the 50 states, thereby becoming Amendment XXIV to the United States Constitution, pursuant to Article V thereof, and reading as follows:

# "AMENDMENT XXIV

"SECTION 1. The right of citizens of the United States to vote in any primary or other election for President or Vice President, for electors for President or Vice President, or for Senator or Representative in Congress, shall not be denied or abridged by the United States or any State by reason of failure to pay any poll tax or other tax.

"SECTION 2. The Congress shall have power to enforce this article by appropriate legislation."

SECTION 2. While the congress was still deliberating on the poll tax amendment in Au-

gust of 1962, President John Fitzgerald Kennedy urged the United States House of Representatives to follow the lead of the Senate and propose the amendment for the consideration of the state legislatures "... to finally eliminate this outmoded and arbitrary bar to voting. American citizens should not have to pay to vote." And in witnessing the issuance of Amendment XXIV's certificate of validity 17 months later, Kennedy's successor, President Johnson, noted that abolishing the tax requirement "... reaffirmed the simple but unbreakable theme of this Republic. Nothing is so valuable as liberty, and nothing is so necessary to liberty as the freedom to vote without bans or barriers. ... A change in our Constitution is a serious event. ... There can now be no one too poor to vote."

SECTION 3. Although Amendment XXIV has been the law of the land since 1964, some 13 years following its effective date, it received symbolic post-ratification in 1977 from the General Assembly of the Commonwealth of Virginia, as reflected in the Congressional Record of March 28, 1977, which printed the full text of Virginia's post-ratification; 12 years after that, the amendment gained ceremonial post-ratification in 1989 from the General Assembly of the State of North Carolina, as reflected in the Congressional Record of June 6, 1989, which printed the full text of North Carolina's post-ratification; and nearly 13 years after that, the amendment acquired its most recent post-ratification in 2002 from the Legislature of the State of Alabama, as reflected in the Congressional Record of September 26, 2002, which printed the full text of Alabama's post-ratification.

SECTION 4. The Legislature of the State of Texas—one of only five states still levying a poll tax by 1964—has never approved Amendment XXIV to the Constitution of the United States, but precedent makes clear the opportunity of Texas to post-ratify the amendment in a manner similar to the actions of lawmakers in Alabama, North Carolina, and Virginia.

SECTION 5. The Legislature of the State of Texas, as a symbolic gesture, hereby post-ratifies Amendment XXIV to the Constitution of the United States.

SECTION 6. Pursuant to Public Law No. 98-497, the Texas secretary of state shall notify the archivist of the United States of the action of the 81st Legislature of the State of Texas, Regular Session, 2009, by forwarding to the archivist an official copy of this resolution.

SECTION 7. The Texas secretary of state shall also forward official copies of this resolution to both United States senators from Texas, to all United States representatives from Texas, to the vice president of the United States in his capacity as presiding officer of the United States Senate, and to the speaker of the United States House of Representatives, with the request that this resolution be printed in full in the Congressional Record.

# IN HONOR OF MARDI WORMHOUDT

**HON. SAM FARR**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Friday, November 6, 2009*

Mr. FARR. Madam Speaker, I rise today, with my colleague ANNA ESHOO to honor the memory of a great woman and model citizen, Mardi Wormhoudt. Mardi passed away October 21, 2009 in her Santa Cruz home at the



age of 72. Mardi was an influential politician, a loving mother and wife, and a dedicated friend.

Mardi was born October 1, 1937 in Wisconsin. She graduated with honors from California State University at Los Angeles in 1967. During the late 1960's and early 1970's, Mardi worked as a caseworker for the Los Angeles Department of Social Services, as well as a project director for the Martin Luther King Center in Pasadena. During this time, Mardi and her husband Ken, the love of her life, started a family with the birth of their children: Zachary, Jonathon, Jacob and Lisa.

In the mid 1970's, Mardi moved her family to Santa Cruz and by 1981 she was an elected official. She was soon Santa Cruz County's leading female official. She is best known for her time as Mayor when she helped lead Santa Cruz through the tragic Loma Prieta earthquake. We all remember the iconic image of her briefing President Bush, Representative Panetta, State Senator Mello, Assemblyman Farr against the backdrop of destruction along Pacific Avenue. Mardi helped keep the spirits of citizens high, and encouraged the city to unite in rebuilding efforts. In total, Mardi dedicated twenty-one years to public office. Mardi will also be forever remembered for her dedication to women's rights, environmental protection, and a firm belief in local economic growth. Mardi was also an advocate for those who were marginalized and overlooked.

Mardi was constantly active in the community as a member of a plethora of groups, including: The Santa Cruz City School District and the Santa Cruz AIDS project. She also received a vast stable of awards, including: The People's Democratic Club Woman of the Year 1988 and the 1991 nomination by then Assemblyman Sam Farr for The California State Assembly Woman of the Year. Those who were close friends of Mardi will especially remember her for her veracity, playful humor, hard-working personality, loyalty, and devotion to family.

Madam Speaker, we know as co-representatives of Santa Cruz County that we speak for the entire House when we extend our deepest sympathies to her family, and our deepest appreciation for the work she did to make her community and the world a better place.

#### RECOGNIZING 110TH ANNIVERSARY OF THE BRONX ZOO

**HON. ANNA G. ESHOO**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Friday, November 6, 2009*

Ms. ESHOO. Madam Speaker, I rise today to recognize the 110th anniversary of the Bronx Zoo, a milestone in the cultural history of New York City. The Bronx Zoo opened its doors on November 8, 1899 and is the largest metropolitan zoo in the country with approximately 4 million visitors annually and featuring 6,000 animals and 600 species.

The Bronx Zoo continues to win awards for its world class exhibits and is well known for creating naturalistic habitats. Chief among them is the Congo Gorilla Forest which is one of the zoo's most popular exhibits. Spanning

more than 6 and a half acres, the exhibit's main attraction is the western lowland gorillas, making up the species' largest breeding group in all of the Americas. The Gorilla Forest is the largest manmade rainforest in the world. The rain forest simulation gives visitors the chance to experience the Congo as if they were there. Along with the lowland gorillas, the exhibit is home to white bearded de Brazza monkeys, okapis and red river hogs. Since the opening of the exhibit, it has had 7 million visitors. The exhibit fees go to help conservation efforts in Africa which have helped 18 National Parks in such countries as Cameroon, The Democratic Republic of the Congo, Rwanda, and Gabon.

From the zoo grounds, hundreds of conservationists work every day hand-in-hand with more than 3,000 employees located in 65 developing countries around the world. The zoo's first conservation achievement was here in the United States of America, where, by 1905, uncontrolled hunting had reduced the great herds of bison to fewer than 1,000 animals. Theodore Roosevelt, along with William Hornaday, the Bronx Zoo's first director, were founding members of the American Bison Society (ABS), an organization formed at the Bronx Zoo to preserve this icon of the American prairies. In 1907, the Bronx Zoo sent a group of zoo-born bison to Oklahoma, South Dakota and Montana to help re-establish the species throughout the plains. Along with its broad conservation efforts, the Bronx Zoo's award-winning exhibits and pioneering research has garnered world recognition.

In the Bronx, the zoo's impact is felt in yet another way. In addition to being a cultural staple and headquarters for an international conservation organization, it is an economic cornerstone in the Bronx. On average, the Bronx Zoo employs more than 750 full-time staff per year and is the largest employer of youth in the borough, providing employment opportunities, job skills training, and scholarship opportunities for more than 700 teenagers each year. Two years ago, the Bronx Zoo opened the first New York City public school focused on wildlife conservation. At the school, children can learn math, sciences, history, and arts by interacting with the zoo's animals and experts.

Madam Speaker, it is my honor to recognize the Bronx Zoo on its 110th Anniversary and to applaud the institution for its efforts in leading the world in wildlife conservation as well as bringing joy to the millions of visitors who have walked through its gates.

#### HONORING FORMER IOWA FOOTBALL COACH FOREST EVASHEVSKI

**HON. DAVID LOESACK**

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

*Friday, November 6, 2009*

Mr. LOESACK. Madam Speaker, today I would like to honor the life of former Iowa Football Coach Forest Evashevski. Coach Evashevski served as the head coach for the Iowa Hawkeyes from 1952–1960 and coached the Hawkeyes to two Rose Bowl victories—the only Rose Bowl victories in the team's history.

Using his innovative wing-T offense, Coach Evashevski was able to compile a 52–27–4 record during his 9 years as Iowa's head coach. The team was also selected as the 1959 National Champions by the Football Writers Association of America.

After concluding his coaching career in 1960, Coach Evashevski accepted the position of Iowa's Athletic Director. He held this post until 1970. Coach Evashevski's no-nonsense work ethic and innovative play calling garnered him the National College Football Coach of the Year from 1956 through 1958 and again in 1960. He was accepted into the National Football Foundation College Football Hall of Fame in 2000.

Forest Evashevski passed away on October 30, 2009. The years of service as the Head Football Coach for the University of Iowa will not be forgotten by the "Hawkeye Nation."

#### HONORING ROBERT "BOB" WILLIAMS

**HON. KEVIN BRADY**

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Friday, November 6, 2009*

Mr. BRADY of Texas. Madam Speaker, I would like to honor Mr. Robert "Bob" Williams, a long-time resident of The Woodlands, Texas, and a dear friend. The Woodlands was lucky enough to gain Mr. Williams as a resident when he moved from Chicago after being director of the Chicago YMCA for 25 years. It wasn't long after Mr. Williams came to The Woodlands, that he helped establish the first YMCA.

Among Mr. Williams' firsts in The Woodlands are that he was a founding member of the Woodlands Community Presbyterian Church and one of the original Hometown Heroes of The Woodlands—he was awarded this honor because of his commitment to the community. Mr. Williams is an Eagle Scout, World War II veteran, and lifelong Kiwanis Club member.

Mr. Williams has been very active in the Kiwanis Club in The Woodlands from the beginning. He founded The Woodlands' first Kiwanis Club and has served the club and the community for 53 years as a highly distinguished member. Mr. Williams has directed The Woodlands' Kiwanis Prayer Breakfast for 18 years. He also helped charter the Kiwanis Key Clubs in four Woodlands High Schools to teach our young students how important it is to serve your community. His life was a direct example for those students because they saw him serving others tirelessly—and well past retirement.

Mr. Williams has a heart for youth and spent his life encouraging them—through Kiwanis Key Clubs, Special Olympics, and the YMCA. He is a great role model, mentor and undoubtedly has impacted countless lives, young and old.

At age 85, he traveled to Haiti to represent Kiwanis International to work on Iodine Deficiency. And on his 90th birthday, he even held a food drive for Interfaith of The Woodlands, turning his birthday celebration into a time to help others—now this is a man who never

stops serving others and is an example to us all.

As you can see, he has committed endless hours to teaching our youth, even after the age of 90. He recently celebrated his 91 birthday and after a lifetime of community service he is finally taking some time to slow down.

The Woodlands truly benefited from his relocation to our community, and as he gets ready to move, we regret that we will lose a great community servant and true friend.

Madam Speaker, it is an honor to recognize Mr. Williams and his countless contributions to the people of The Woodlands. I urge you to join me in recognizing Bob Williams for his many years of service, even after the age of 90.

#### PERSONAL EXPLANATION

### HON. BILL SHUSTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Friday, November 6, 2009*

Mr. SHUSTER. Madam Speaker, on rollcall No. 858, H. Res. 868, I was not present because the vote was called unexpectedly when myself and other Republican members were attending the House Call rally. Had I been present, I would have voted "yea" on No. 858.

#### HONORING THE TEXAS MARINES MEDAL OF HONOR MONUMENT IN THE WOODLANDS, TEXAS

### HON. KEVIN BRADY

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Friday, November 6, 2009*

Mr. BRADY of Texas. Madam Speaker, I rise today to honor the Texas Marines Medal of Honor Monument in The Woodlands, Texas. Marines Thomas R. Early, Burt Cabanas, Jim O'Connor and Bill Leigh were instrumental in bringing the monument to The Woodlands. It is truly inspirational to know that this monument is now in existence due to the determination of these local Marines who brainstormed this one of a kind monument as a fitting tribute to all Texas Marines.

The monument was dedicated on May 25, 2007, at Town Green Park to pay tribute to seventeen Texans awarded the Medal of Honor, the highest military decoration awarded by the United States government. It stands to pay reverence to these men including five Marines from World War II, four Marines and one Navy Corpsman from the Korean War, and seven Marines from the Vietnam War.

One can hardly pass the Texas Marines Medal of Honor Monument without feeling an overwhelming sense of appreciation for the sacrifice of these brave patriots as you stand before the monument and read the seventeen names engraved in gold.

The Marines honored are as follows:

SSGT William James Bordelon, 22, San Antonio; PFC Charles Howard Roan, 21, Claude; 1st LT Jack Lummus, 29, Ennis; SGT William George Harrell, 22, Rio Grande City; 1st LT William Deane Hawkins, 29, El Paso; 1st LT

Frank Nicias Mitchell, 29, Indian Gap; SSGT Ambrosio Guillen, 23, El Paso; PFC Whitt Lloyd Moreland, 21, Waco; 2nd LT George Herman O'Brien, Jr., 26, Fort Worth; Hospitalman John Edward Kilmer, 21, Houston; PFC Alfred Mac Wilson, 21, Abilene; LCPL Thomas Elbert Creek, 18, Amarillo; SGT Alfredo (Freddy) Gonzalez, 21, Edinburg; LCPL Richard Allen Anderson, 21, Houston; PFC Oscar Palmer Austin, 21, Nacogdoches; 2nd LT Terrence Collinson Graves, 22, Corpus Christi; LCPL Miguel Keith, 18, San Antonio

On top of this monument stands a sculpture of the Marine Corps official emblem—the eagle, globe and anchor. The eagle with spread wings resting on top of the world reminds us what our Marines do for us—they protect us at all costs.

I hope that as families use Town Green Park in the future, they look upon the monument with pride and honor these brave soldiers by reflecting on all those serving in our Armed Forces. Parents will impress upon their children the great honor bestowed on these great individuals from the Lone Star State and tell them how admirable it is that these men have sacrificed much to allow us all to freely walk, worship and live in America.

Madam Speaker, it is an honor to recognize the Texas Marines Medal of Honor Monument in the U.S. House of Representatives. I urge you to join me in remembering these seventeen Texans who received the Medal of Honor as well as all of our Marines and other servicemen and servicewomen for the sacrifices they have made for the people of the United States of America.

#### PERSONAL EXPLANATION

### HON. JOHN A. YARMUTH

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

*Friday, November 6, 2009*

Mr. YARMUTH. Madam Speaker, I was unable to cast the recorded vote for rollcall 848. Had I been present I would have voted "yes" for this measure.

Bill H.R. 3639, Sutton of Ohio Amendment No. 4, On Agreeing to the Amendment, rollcall No. 848, "yes."

#### PERSONAL EXPLANATION

### HON. LYNN C. WOOLSEY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Friday, November 6, 2009*

Ms. WOOLSEY. Madam Speaker, on November 5, 2009, I was unavoidably detained and was unable to record my vote for rollcall No. 864. Had I been present I would have voted:

Rollcall No. 864: "aye"—Expressing support for the goals and ideals of National Family Literacy Day.

CONGRATULATING LIEUTENANT GENERAL TERRY L. GABRESKI ON OCCASION OF HER RETIREMENT

### HON. STEVE AUSTRIA

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Friday, November 6, 2009*

Mr. AUSTRIA. Madam Speaker, I rise today to congratulate Lieutenant General Terry L. Gabreski, for her outstanding service to our Nation on the occasion of her retirement.

On behalf of the people of Ohio's Seventh Congressional District, I am honored to congratulate Lieutenant General Gabreski upon her retirement as Vice Commander of the Air Force Material Command at Wright Patterson Air Force Base.

Her dedicated service to the citizens of our Nation and our area is both admirable and commendable. Gabreski received her commission in 1974 upon her graduation from officer training school. Since that time, she has served as director of maintenance for the deputy chief of staff for installations and logistics at Headquarters, U.S. Air Force.

Over the course of her distinguished career, she has also directed two aircraft maintenance units, served as a squadron maintenance supervisor in three units, commanded three maintenance squadrons and a logistics group, and twice served as a major air command director of logistics. Lieutenant General Gabreski will be retiring effective January 1, 2010.

For her many years of service to our Nation, I join the people of Ohio's Seventh Congressional District in extending our best wishes upon her retirement and wish her ongoing success in all future endeavors.

#### TRIBUTE TO JANICE WILSON

### HON. SANDER M. LEVIN

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Friday, November 6, 2009*

Mr. LEVIN. Madam Speaker, I rise today to recognize my friend and colleague in public service, Janice Wilson of Fraser, Michigan, as she retires after 26 years of devoted and talented service on the City Council. I deeply enjoy working with Jan as she is a warm and passionate advocate for many important causes.

Jan Wilson earned a bachelor's degree from Ball State University and received a master's degree from Wayne State University, where she later went on to become an instructor. In 1958, Jan Wilson began working on behalf of children with disabilities and their families at the Macomb Intermediate School District and she continued in this capacity until 2000.

In 1962, Jan and her husband Bob moved to the City of Fraser, where they have become an important part of this wonderful community. She has served her community in many capacities including as a member of the Recreation Commission and the Zoning Board of Appeals. She was elected to the Fraser City Council in 1983, and during her tenure, served 4 terms as Mayor Pro-tem.

Advocacy and devotion to helping people are the cornerstones of Jan Wilson's career. She is involved in many local organizations, never hesitating to take on another responsibility or to wear another hat if she thought it would help. She is a founding member of the Macomb County Child Abuse and Neglect Information Council. She was asked to serve on the Community Mental Health Board, the advisory boards of the Community Assessment Referral Education (CARE) Agency and the Retired Senior Volunteer Program. She is also the past president of the Fraser Goodfellows.

Protecting the environment is one Jan Wilson's many civic passions. Governor Jennifer Granholm appointed her to Michigan's Air Pollution Control Commission and she also served on the Southeast Michigan Council of Government's (SEMCOG) Council on Environmental Quality. Governor Granholm also appointed her to the Michigan Commission on Services to the Aging. All of Jan Wilson's achievements have been recognized over the years as she has been recognized as the WWJ Citizen of the Week, the Handicapped Professional Woman of the Year, and Volunteer of the Year.

Madam Speaker, I ask my colleagues to join me in recognizing the dedicated public service of Jan Wilson and her numerous achievements on behalf of children, families and her community. I am so pleased to join with the entire community in paying tribute to her achievements, thanking her for years of talented service and for being such a good friend to so many of us. I am confident she will continue to play an important role in the community where she is highly thought of, in addition to enjoying a bit of retirement with her husband and their four grandchildren.

#### EARMARK DECLARATION

### HON. BILL SHUSTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Friday, November 6, 2009*

Mr. SHUSTER. Madam Speaker, consistent with the Republican Leadership's policy on earmarks, I submit this statement.

Requesting Member: Congressman BILL SHUSTER (PA-9)

Bill Number: H.R. 2997—Department of the Interior, Environment, and Related Agencies Appropriations Act, FY 2010

Interior, Environment, and Related Agencies Projects

Project Name: Flight 93 National Memorial  
Account: National Park Service, Construction

Legal Name of Requesting Entity: National Park Service

Address of Requesting Entity: 109 West Main Street, Suite 104, Somerset, PA 15501

Description of Request/Justification of Federal Funding: \$725,000 for Flight 93 National Memorial

It is my understanding that funding for this project would be used for infrastructure costs at the Flight 93 National Memorial in Somerset County, Pennsylvania.

This project is a valuable use of taxpayer funds because the Flight 93 National Memorial

honors the men and women who gave their lives in the first counterattack of the Global War on Terror to defend the Nation's Capitol on September 11, 2001.

#### SALUTING JANA FRY OF WILLIAMS HIGH SCHOOL OF PLANO

### HON. SAM JOHNSON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Friday, November 6, 2009*

Mr. SAM JOHNSON of Texas. Madam Speaker, I'd like to recognize Jana Fry for winning the Outstanding Teaching of the Humanities Award 2008–2009. She teaches at Williams High School in Plano, where she lives. Jana stands head and shoulders above her peers for her role as an outstanding humanities teacher making a difference in the lives of young Texans.

The Outstanding Teaching of the Humanities Awards recognize 11 exemplary K–12 humanities teachers. Humanities Texas, formerly the Texas Council for the Humanities, is the state affiliate of the National Endowment for the Humanities. Humanities Texas conducts and supports public programs in history, literature, philosophy, and other humanities disciplines. These programs strengthen Texas communities and ultimately help sustain representative democracy by cultivating informed, educated citizens.

During her 20 years of teaching, Jana has won many accolades and awards for her service both in and out of the classroom. She has taught sixth through tenth grades with classes ranging from sheltered/at-risk to gifted and talented and anything in between. She summarizes her teaching philosophy as such: Students should always be participants in their learning process, engaged in that process, reflecting and evaluating of that process, and emotionally attached to their learning. Teachers are the facilitators of learning who orchestrate varied learning experiences that attempt to meet each student where they are and then challenge them further.

I ask my colleagues to join me in recognizing Jana for her selfless contributions to make Texas and America a better place by pouring into our young people. Please join me in congratulating Jana on a magnificent achievement and wishing her all the best with her future endeavors.

#### PERSONAL EXPLANATION

### HON. LINDA T. SÁNCHEZ

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Friday, November 6, 2009*

Ms. LINDA T. SÁNCHEZ of California. Madam Speaker, due to illness, I was unable to be present in the Capitol for votes on Thursday, November 5, 2009. However, had I been present I would have voted "yea" on:

1. Motion on Ordering the Previous Question on the Rule for H.R. 2868—Chemical Facility Anti-Terrorism Act of 2009;

2. H. Res. 885—Rule providing for consideration of H.R. 2868—Chemical Facility Anti-Terrorism Act of 2009;

3. H. Res. 868—Honoring and recognizing the service and achievements of current and former female members of the Armed Forces;

4. Senate Amendments to H.R. 3548—Unemployment Compensation Extension Act of 2009;

5. H. Con. Res. 139—Congratulating the first graduating class of the United States Air Force Academy on their 50th graduation anniversary and recognizing their contributions to the Nation;

6. H.R. 1849—World War I Memorial and Centennial Act of 2009;

7. H.R. 3276—American Medical Isotopes Production Act of 2009;

8. H. Res. 878—Expressing support for the goals and ideals of National Family Literacy Day;

And I would have voted "aye" on H. Res. 880—Recognizing the efforts of career and technical colleges to educate and train workers for positions in high-demand industries.

#### HONORING THE MARIN WOMEN'S COMMISSION

### HON. LYNN C. WOOLSEY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Friday, November 6, 2009*

Ms. WOOLSEY. Madam Speaker, it is with great pleasure that I rise today to recognize the Marin Women's Commission for their tireless efforts to help Marin County's women and girls achieve parity. Congratulations to the Marin Women's Commission as it celebrates this milestone of more than three decades of service to Marin County.

Through its leadership, the Marin Women's Commission has raised awareness of the importance and prominence of issues facing women and girls in Marin County and beyond. As a result of their devoted efforts, the needs of women of all ages are being studied, heard, communicated and addressed.

The Marin Women's Commission was created in April 1974 in response to an investigation under the Kennedy Administration that revealed that a staggering number of laws, regulations and traditions actively discriminated against women. Notably, the Marin Women's Commission is the second County Commission established in the State of California in 1974.

In 2003–2004, the Marin Women's Commission established a strategic vision to address four target categories as they relate to women: equity, policy, leadership and access to resources.

The commission works with local government to develop more effective ways to address salary inequity concerns, supports CEDAW and other international violence against women legislation, facilitates annual "Women Leading Community Change" summits and develops needs assessments for women and girls. The 1983 Women's Needs Assessment helped establish the Family and Children's Law Center.

The 17 Marin Women's Commissioners represent all five Marin County Districts, and the Commission also boasts strong, strategic partnerships. Such partnerships, with Dominican

University, the Marin Chapter of National Organization for Women, the YWCA, the American Association of University Women, and Marin General Hospital's Breast Cancer Center, laid the foundation for an abused women's shelter, which later became Marin Abused Women's Services, the creation of the Marin Women's Hall of Fame, and other programs.

In the years since its inception, more than 300 commissioners have been appointed. The enthusiasm and passion exhibited by these experienced leaders is largely responsible for the Commissions' ability to leverage meaningful change.

Madam Speaker, over the course of 35 years, the Marin Women's Commission, through its strategic partnerships, dedicated advocacy and comprehensive research, has made indelible change. Congratulations on three decades of leadership toward enhancing the quality of life for all Marin County women and girls.

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INTRODUCTION OF THE "HONEST OPPORTUNITY PROBATION WITH ENFORCEMENT (HOPE) INITIATIVE ACT OF 2009"

**HON. ADAM B. SCHIFF**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Friday, November 6, 2009*

Mr. SCHIFF. Madam Speaker, I rise today to introduce the "Honest Opportunity Probation with Enforcement (HOPE) Initiative Act of 2009" with my colleague Representative TED POE of Texas. This bipartisan legislation would build upon an innovative and promising approach to reduce drug use and crime.

Offenders convicted of many drug, low-level property, and public-order offenses are rarely given straight jail time; in most jurisdictions they are placed on probation. Rather than consistently sanctioning probation violations—illegal drug use, missing probation appointments, treatment and drug tests—too often these actions are ignored. When punishment for repeated violations is finally meted out, it tends to come in the form of lengthy and costly terms of incarceration.

In 2004, Judge Steven Alm of Hawaii launched a pilot program to reduce probation violations by offenders at high risk of recidivism. This intensified supervision program, called Hawaii's Opportunity Probation with Enforcement, HOPE, uses the threat of short jail stays as an incentive for compliance. Defendants are clearly warned that if they violate the rules, they go to jail. Participants receive swift and immediate sanctions for each violation, such as testing dirty for drugs or missing appointments with a probation officer.

For example, under the Hawaii program, random drug testing occurs at least once a week for the first 2 months of supervision. If probationers test positive, they are arrested immediately. If they fail to appear for the test or violate other terms of probation, warrants for their arrest are issued immediately. Once arrested or apprehended, a probation modification hearing is held 2 days later, and violators typically receive a short jail term. Sanctions typically start at a few days of jail time,

served on weekends for employed probationers, for the first violation and increased thereafter, eventually escalating to periods of months. Offenders who cannot comply are required to attend high-quality, out-patient or residential treatment. Those who can comply are rewarded with less frequent testing and monitoring.

Preliminary evaluations show that HOPE probationers have significantly improved outcomes compared with probationers assigned to probation-as-usual in terms of drug use, missed probation appointments, new arrests, and probation revocations. The HOPE program has been cited by figures across the political spectrum and has been featured in scholarly articles as well as the Wall Street Journal, Forbes, the Los Angeles Times, and other periodicals.

The "Honest Opportunity Probation with Enforcement, HOPE, Initiative Act of 2009" would create a competitive grant demonstration program to award grants to state and local courts to establish probation programs to reduce drug use, crime, and recidivism by requiring swift, predictable, and graduated sanctions for noncompliance with the conditions of probation; \$25 million is authorized for up to 20 pilot sites. Stringent grantee requirements will ensure that the pilots are designed and evaluated in an appropriate manner. The key facets of each pilot program include the following:

Monitoring selected probationers for rules violations, particularly using regular and rapid-result drug tests.

Responding to violations of such rules with immediate arrest and swift and certain modification of the conditions of probation, including imposition of short jail stays, which may gradually become longer with each additional violation.

Partnering with an independent program advisor and evaluator and conduct a comparison of the outcomes between program participants and similarly-situated probationers not in the program, e.g. positive drug test rates, probation and substance abuse treatment appearance rates, probation term modifications, revocations, arrests, etc.

Calculating the amount of cost savings resulting from the reduced incarceration rates achieved through the program and determining how much can be reinvested for expansion of the program.

I urge my colleagues to support this innovative effort to address drug use and crime by cosponsoring this important legislation.

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HONORING THE LIFE AND SERVICE OF RONALD ALIANO

**HON. JOE COURTNEY**

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

*Friday, November 6, 2009*

Mr. COURTNEY. Madam Speaker, I rise today to celebrate the extraordinary life of Ronald Aliano of Norwich, Connecticut, who passed away on October 31, 2009.

Ron was an optimist who saw no barriers to achievement and believed that with hard work, anything was possible. He loved the city of

Norwich, and pursued his vision to revitalize the city by insisting on quality development and improvements. When Ron became a Norwich resident in 1972, he founded Professional Ambulance Service of Norwich, Inc., now known as American Ambulance Service, Inc., which provided excellent patient care for the residents of eastern Connecticut.

Fourteen years later, Ron formed the American Wharf Development Corporation. This organization was responsible for the development of Hollyhock Island, a parcel of land at the head of the Thames River, which is now a world-class boating facility. In 1996, he formed the American Professional Education Services, which has become the largest American Heart Association training center in New England and a well-respected medical training center.

Ron could have chosen to live comfortably with the revenue he generated from those endeavors. Instead, he committed his life to charitable contributions and civic involvement. Ron served in various capacities on the Norwich Community Development Corporation, Norwich Harbor Management Commission, Integrated Day Charter School Foundation, State of CT Harbor Management Association, Norwich Area Chamber of Commerce, and Eastern CT Chamber of Commerce. Additionally, Ron has been the recipient of numerous awards over the years including the 1988 Norwich Citizen of the Year, 1988 UCONN Alumni Distinguished Citizen, 2000 Connecticut Business Ethics Awards, and the 2001 Merit Award for Public Education Eastern Connecticut EMS Council. I am honored to pay tribute to Ronald Aliano, whose presence will always be felt in Norwich. His dedication to the community continues to be an inspiration to myself and the residents of eastern Connecticut. I offer my sympathy to his friends and family, and I ask my colleagues to join me in honoring the life and service of Ronald Aliano.

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ON THE OCCASION OF LIEUTENANT COMMANDER PIA S. WOODLEY'S RETIREMENT FROM THE UNITED STATES NAVY

**HON. KENDRICK B. MEEK**

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Friday, November 6, 2009*

Mr. MEEK of Florida. Madam Speaker, I would like to take this opportunity to recognize LCDR Pia Sermonia Woodley for her 20 years of service as a Medical Services Corps Officer as she retires on December 4. She has had a long and admirable career, worthy of distinction and worthy of our gratitude.

In the 20 years that Lieutenant Commander Woodley served as a Medical Services Officer, she deployed in support of Operation Iraqi Freedom, has been awarded numerous awards and citations, and served as the Special Assistant to the Director of Administration at the Naval Medical Center, Portsmouth.

LCDR Pia Sermonia Woodley is a native Floridian born in Miami to Otis L. (deceased) and Beatrice S. Boston. A product of the inner city of Miami, she graduated from Miami Central Senior High School in 1984. She then attended Florida A&M University in Tallahassee,

Florida where she obtained her bachelors of science degree in Healthcare Management which in time led her to seek commissioning in the U.S. Navy. She earned her direct commission as a Medical Services Corps Officer in 1989.

She was first assigned to the National Naval Medical Center in Bethesda, Maryland. As a Division Officer in the Staff Education and Training Department, she worked as an Instructor, a job she thoroughly enjoyed. Her next tour of duty took her to the Far East at the Naval Hospital in Okinawa, Japan. There she performed duties as a Division Officer in Materials Management and then in Manpower. Selected to attend graduate school, she earned a Masters of Science degree in Management from the Naval Postgraduate School in Monterey, California. She applied her graduate level skills to the Chief, Imaging and Medical Support Equipment Branch at the Department of Defense Medical Standardization Board in Frederick, Maryland. Following these tours she returned to Florida and served as the Head of the Materials Management Department at Naval Hospital Jacksonville in Jacksonville, Florida. Afterwards, she completed a third tour of duty in Maryland as the Program Manager of the Medical Support Directorate at the Naval Medical Logistics Command in Frederick, Maryland.

While serving as the Special Assistant to the Director of Administration, she earned a mid-tour assignment as the Logistics Officer for the Surgeon General of the Multi-National Forces-Iraq in Baghdad, Iraq. She culminated her last year of service as the Assistant Department Head of the Human Resources Management Department.

Her personal decorations include the Joint Meritorious Service Medal, Navy Commendation Medal with two gold stars, Navy and Marine Corps Achievement Medal, Joint Meritorious Unit Award, Meritorious Unit Commendation, National Defense Medal with Bronze Star, Iraqi Campaign Medal, Global War on Terrorism Service Medal, and the Overseas Service Ribbon.

Lieutenant Commander Woodley is honored to be the wife of Anthony Ray Woodley and the mother of Xavier Alan Woodley. She is the sister of Otis Alan Boston and Brandy Othea Sermon Boston and childhood friend of Sara Bellamy. And we thank her family for the strength and support they have provided here as she has provided the same for this Nation.

#### TRIBUTE TO LEONARD HAGGERTY

##### HON. SANDER M. LEVIN

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, November 6, 2009

Mr. LEVIN. Madam Speaker, I rise today to pay tribute to a true American hero, an exemplary human being, find yet another wonderful example of the "Greatest Generation" and the story of our Nation. The life of Leonard Haggerty is filled with heroic moments, major milestones, compelling stories and noteworthy achievements. Leonard Haggerty was a friend and colleague in public service and I am honored to pay tribute to him on the floor of the U.S. House of Representatives.

Leonard Haggerty was born June 23, 1920, in Quebec, Canada. As a young man with two children and another on the way, Leonard Haggerty was called into the service of his country during World War II. Throughout his life, Leonard was modestly quiet about his military accomplishments during World War II. When presented with a resolution of accomplishment upon his retirement in December 2008 at the age of 88, Leonard's co-workers on the county board were in awe to learn of his distinguished military career. Leonard Haggerty earned two Battle Stars in the European Theater as an Army infantryman; participated in intense fighting during the Battle of the Bulge; served with a detachment that liberated Dachau; and spent time as a personal bodyguard for General George S. Patton.

Leonard Haggerty began his long and successful career in public service in 1958, when he was appointed village commissioner of Roseville. Once Roseville became a city later that same year, he became a councilman. He served in that capacity until 1975, when he was elected mayor, a position he held until his retirement in 1981. In 1998, Mr. Haggerty came out of retirement in Florida and returned to Michigan to represent District 21 on the Macomb County Board of Commissioners, where he served until last year.

Leonard Haggerty was the heart and soul of the city of Roseville. He served his community with such active devotion and became a mentor to numerous individuals who followed in his footsteps. So many have come forward to highlight the impact Leonard had on their lives over the years, remembering his service, his graciousness to everyone around him and crediting him with getting them involved in public service or civic activity.

Leonard Haggerty was joyful, and anyone that has ever met him would comment about his smile, his dapper dress, and his truly kind and caring nature. He could tell a story and truly enjoyed the playful moments that made up his persona. For example, in 2003, he famously came to the assistance of an elderly constituent who called him saying that she was snowed in. Leonard, who described himself at the time as "83½ years old," arrived alone with a snow shovel in hand and cleared the 82-year-old woman's sidewalk and driveway, including a 2-foot snow drift, in about an hour. In 2004, Leonard made national news when he faced a Republican challenger in the fall election who was 92 years old. Leonard, jokingly ran on the slogan, "Vote for the kid."

These stories and so many other warm and inspirational memories were captured by family members, friends and the Homily of Father Michael Donovan.

Leonard Haggerty was the beloved husband of Jan, whom each and every one of us also calls a dear friend. Leonard and Jan were true partners in every sense of the word through their family, their community and their careers in public service. Leonard was the loving father of Patricia (Joseph) Boris, Shirlee (Robert) Kipp, James (Kathy) Haggerty, Kelly (Roger) Gaines and the late Michael Haggerty and grandfather of eight grandchildren and 11 great-grandchildren.

The awards have been numerous over the course of Leonard's career and in recent years his colleagues have joined together to

enshrine his name on major achievements like the Leonard Haggerty Beautification Awards.

It will be his personal charisma and the way in which he took time to make those around him feel good that will be remembered by most. He will serve in the personal Hall of Fame of so many of us. For this institution of Congress, it is important to recognize the achievements of a true American hero that fought for his country, served his community and made Roseville, Macomb County, the State of Michigan and the world a better place.

I am honored to have walked with Leonard during part of his incredible journey, and I ask my colleagues to join me in paying to tribute to the truly remarkable life of Leonard Haggerty.

#### A TRIBUTE TO JUDGE JOSEPH WAPNER

##### HON. HOWARD L. BERMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, November 6, 2009

Mr. BERMAN. Madam Speaker, I rise today to congratulate my good friend Judge Joseph Wapner on the occasion of his 90th birthday. Judge Wapner is being honored by his many colleagues, family, and friends in celebration of his outstanding accomplishments, both in his distinguished legal and television career and his tireless dedication to public service.

Judge Wapner is a lifelong resident of southern California. After graduating from Hollywood High School, he earned his bachelors degree from the University of Southern California and his law degree from USC Law School. He served in World War II and was awarded the Purple Heart and Bronze Star for his tremendously courageous acts in that conflict.

After being appointed by Governor Pat Brown to the LA Municipal Court where he served for 2 years, he was elevated to the Los Angeles Superior Court, where he served until his retirement. During those years, Judge Wapner starred in the nationally syndicated program, "The People's Court" which made him a bona fide celebrity. Judge Wapner has also recently appeared as a judge in a "Major League Baseball on Fox" pregame People's Court parody segment called "The Player's Court." He has starred, as well, in a number of influential political spots.

Judge Wapner also is the author of two well-received significant books, *A View from the Bench* and *Judge Wapner's Guide to Small Claims Court*. The latter tome is widely used as a helpful tool to navigate the intricacies of our legal system.

With an impressive list of civic organizations in which he takes an active interest, Judge Wapner is a highly respected member of the community. He is a member of the Board of Trustees of Alternative Living for the Aging, and serves as honorary chairman of the National Jewish Hospice. He is also the recipient of numerous honors and awards, including the Golden Glow Award from Senior Health and Peer Counseling and the Maimonides Award from the Legal Services Division of the Jewish Welfare Fund.

Judge Wapner and his wife, Mickey, have been longtime supporters of the Brandeis-Bardin Institute, and the construction of the Moelle Library and tennis and basketball courts at the institute stand as symbols of their generosity and leadership.

I ask my colleagues to join me in extending birthday greetings to my dear friend, Judge Joseph Wapner and in paying tribute to his dedication and outstanding contributions to our society.

#### TRIBUTE TO MICHAEL CHUPA

### HON. SANDER M. LEVIN

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Friday, November 6, 2009*

Mr. LEVIN. Madam Speaker, I rise today to pay tribute to the life of Michael Chupa, an educator, public servant, community leader, businessman, avid hunter and proud family man in Michigan, who passed away on October 5, 2009.

Mr. Chupa was born December 31, 1943, in the city of Detroit. He graduated from Lawrence Technological University and was a grade school teacher at Immaculate Conception. He owned and operated the North American Adjustment Bureau providing property damage adjustment, appraisal and estimation service for southeast Michigan. A leader within the Ukrainian American community he worked to create the St. Josaphat Parish in 1961 where he served as church council president. St. Josaphat continues to be a strong center of activity for the Ukrainian American community in southeast Michigan.

Mr. Chupa served on the Warren City Council for 16 years. His colleagues describe him as "fair and good-hearted" and even those who may have disagreed with him on a certain policy issue describe him as a "gentleman." Mr. Chupa cared about his community; he always made it a priority to help people and to advocate on behalf of local charities. I appreciated his friendship and always enjoyed working with him and attending alongside him numerous community events.

Mike Chupa was a proud and supportive parent. He and his wife Margaret have four children (Michael, Joseph, Jennifer and Jannen) who continue the tradition of involvement in their church and community.

I am pleased to rise today and pay tribute to the lifetime of service of Michael Chupa, and ask my colleagues to join me in recognizing his achievements. I extend my condolences to his wife and family and join with the entire community in celebrating his life.

#### REINTRODUCING THE BRAVE ACT

### HON. JOHN P. SARBANES

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

*Friday, November 6, 2009*

Mr. SARBANES. Madam Speaker, I rise today to reintroduce the Benefit Rating Acceleration for Veterans Entitlements Act of 2009 or BRAVE Act. The BRAVE Act will cut

through unnecessary red tape so that our most disabled veterans receive the benefits they deserve. It would make a common sense change to allow veterans receiving a rating of total disability from the Veterans Administration to also receive Social Security disability benefits without going through a separate and duplicative medical evaluation process, a process that can take years to navigate.

In early 2007, when I was first elected to Congress, a veteran-constituent contacted my staff to obtain assistance with his application for social security disability benefits. This veteran had already received a 100 percent disability rating from the Veterans Administration but had been waiting for more than a year to be approved for benefits at the Social Security Administration.

The Social Security Act states that disability means the "inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment." By regulation, the Veterans Administration defines total or 100 percent disability as "any impairment of mind or body which is sufficient to render it impossible for the average person to follow a substantially gainful occupation." Despite the fact that these definitions are virtually the same, many veterans including my constituent endure two complicated and time consuming processes to prove the same condition.

The Commission on Veteran's Disability Benefit found that only 61 percent of those granted Individual Unemployability and 54 percent of those rated totally disabled by the Veterans Administration are receiving Social Security Disability Insurance. The Commission further explained that "it is apparent that either these veterans do not know to apply for SSDI or are being denied the insurance." The Veterans Disability Benefits Commission concluded that "increased outreach should be made and better coordination between VA and Social Security should result in increased mutual acceptance of decisions."

It is for these reasons that I first introduced the BRAVE Act, with broad bipartisan support, in the 110th Congress. The legislation was supported by a range of veteran service organizations including the American Legion, the Iraq and Afghanistan Veterans of America, and the Paralyzed Veterans of America. The bill is all the more important at a time when we face significant increases in Social Security applications as a result of the aging baby boomer generation and as veterans of the wars in Iraq and Afghanistan come home.

Madam Speaker, our Nation's veterans don't deserve a bureaucratic runaround when they return home. I hope my colleagues will join me in support of the BRAVE Act.

#### RECOGNITION OF NATIONAL TRUCK DRIVER APPRECIATION WEEK

### HON. NICK J. RAHALL II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

*Friday, November 6, 2009*

Mr. RAHALL. Madam Speaker, I rise today to recognize the service, dedication, and sac-

rifices of America's professional truck drivers who serve our Nation daily by delivering the clothes we wear, the food we eat, and yes, even the medical prescriptions upon which many of us must rely.

This week, November 1-7, is designated National Truck Driver Appreciation Week and is set aside to honor the 3.5 million professional truck drivers in the United States. One out of every fifteen people across this country is employed in the trucking industry, which is one of our Nation's largest employers.

Truckers serve as the backbone of their industry, which is responsible for a large portion of the total U.S. freight tonnage. Estimates suggest that a majority of communities rely solely on the trucking industry for their goods and commodities. In turn, our economy not only relies, but thrives, on the good work of these men and women.

America's truck drivers work to help keep our highways safe. They follow stringent safety regulations, attend frequent training programs, and help educate the motoring public to make sharing the roadways with tractor-trailers safer.

Finally, Madam Speaker, America's truck drivers sacrifice precious time from their families, all the while, they deliver for ours. This week we pause to say thank you to them and to their families.

I salute these fine individuals along with their understanding families for their commitment to America's future stability, increased prosperity, and for delivering life's essentials safely and securely.

#### COMMEMORATING VETERANS DAY

### HON. BETTY MCCOLLUM

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

*Friday, November 6, 2009*

Ms. MCCOLLUM. Madam Speaker, I rise today to commemorate Veterans Day and applaud the commitment and work of this Congress and President Obama to meet the needs of America's 23.4 million military veterans. Nearly 400,000 veterans call the great state of Minnesota home and we are proud of them, our friends and neighbors. As a Member of Congress and the daughter of a World War II veteran, I believe I have a duty to honor the men and women who have so courageously served our country by investing in expanding educational opportunities, health care services, and access to good jobs for our nation's veterans.

Increasingly, I have become particularly concerned about the mental health issues, such as post traumatic stress disorder (PTSD) and traumatic brain injury (TBI), that afflict our warriors who are now home from Iraq and Afghanistan. PTSD and TBI have claimed too many lives and caused too much hardship among the families of veterans. According to the Department of Veterans Affairs, service members responding to mental health questions when they return from Iraq and Afghanistan show that about 19 percent of service members from Iraq have a mental health problem, while about 11 percent from Afghanistan have a mental health problem. Too often the

unseen wounds suffered by veterans, as a result of PTSD and TBI, remain untreated until a crisis or tragedy occurs for the veteran or their loved ones. Illnesses related to substance abuse, suicide prevention, and homelessness prevention for our veterans are often directly related to psychological trauma. I believe it is critical to support the expanded efforts by the Department of Defense and the Department of Veterans Affairs to ensure our soldiers understand clearly that mental health services and help are available if, and when, they need them.

On this Veterans Day, I am very proud to live in a country that so values its veterans. My commitment and my prayers are with the millions of veterans and their families who we owe a tremendous debt of gratitude.

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HONORING SONOMA TREASURE  
ARTIST OF THE YEAR LIN LIPETZ

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**HON. MIKE THOMPSON**

CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Friday, November 6, 2009*

Mr. THOMPSON of California. Madam Speaker, I rise today with my colleague, Representative LYNN WOOLSEY, to honor Lin Lipetz, the Sonoma Treasure Artist of the Year. Selected by the city's Cultural and Fine Arts Commission, Ms. Lipetz was chosen for her talents as a teacher and an artist as well as for her contributions to the community.

With an MFA from the University of Washington in ceramics, painting and textiles, a bachelor's degree in art from the University of Washington, and a bachelor's degree from San Jose State University in interior architecture, Lipetz has the academic credentials to back up her long experience as an artist. With drawings and beautifully colorful and joyous paintings ranging from abstract to landscape, she has exhibited frequently, both as a solo artist and with groups.

Her work is in numerous collections, and she has also won honors and grants including Friends of the Crafts in Seattle, Washington; National Endowments for the Arts High School Art Instruction in Missoula, Montana; and the Art Across the Valley Tour through the Sonoma Valley Museum of Art.

Her contributions to the City of Sonoma enrich the lives of its residents and add to the vibrancy of its arts community. She teaches painting and intuitive drawing at the Sonoma Community Center, is active with the Sonoma Valley Museum of Art and served as a commissioner on the Cultural Fine and Arts Commission.

Madam Speaker, it is a pleasure to celebrate Lin Lipetz's selection as Sonoma Treasure Artist of the year. We join the Sonoma community in our appreciation of her talents and her contributions.

EARMARK DECLARATION

**HON. J. GRESHAM BARRETT**

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

*Friday, November 6, 2009*

Mr. BARRETT of South Carolina. Madam Speaker, pursuant to the Republican Leadership standards on earmarks, I am submitting the following information regarding earmarks I received as part of the House passed version of the Conference Report 111-316, to accompany H.R. 2996.

Requesting Member: Congressman J. GRESHAM BARRETT

Bill Number: H.R. 2996

Provision: Division A, EPA, STAG Water and Wastewater Infrastructure Project

Legal Name of Requesting Entity: Laurens Commission of Public Works

Address of Requesting Entity: 212 Church Street, Laurens, SC 29630

Description of Request: The purpose of this appropriation is to provide \$300,000 to be used for the design and construction of a half million gallon water storage tank, and associated water distribution system upgrades. The construction will also include approximately 10 miles of 12 inch water main and a booster pump station. This water distribution system upgrade will provide additional potable, industrial and fire water supply to the surrounding areas. I certify that neither I nor my spouse has any financial interest in this project.

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TRIBUTE TO AN ALASKAN PIONEER AND FATHER OF MODERN-DAY ANCHORAGE

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**HON. DON YOUNG**

OF ALASKA

IN THE HOUSE OF REPRESENTATIVES

*Friday, November 6, 2009*

Mr. YOUNG of Alaska. Madam Speaker, I rise to pay tribute to an Alaskan Pioneer and father of modern-day Anchorage. Former long-term Anchorage Mayor George Murray Sullivan, 87, died September 23, 2009, surrounded by his family. A lifelong Alaskan, Sullivan was born on March 31, 1922, raised in Valdez, Alaska, where his father Harvey was the U.S. District Marshal and mother Viola was the first woman mayor in Alaska.

Sullivan's life and leadership spanned the territorial days of Alaska through statehood. In the 1920s, the Sullivans lived in Valdez, a busy town in the first two decades of the 20th century that supported a bowling alley, several breweries, a dam and hydroelectric plant, the seat of the Territory of Alaska's Third Judicial District, a public library, hospital, and public school system. George had a wonderful life as a kid in Valdez, playing many sports, engaging in school activities, and helping at the family store.

During World War II, Anchorage's population exploded from around 8,000 to more than 43,000. In July, 1944, George was drafted into the U.S. Army for two years and was stationed at Adak in the Aleutian Islands. He married the love of his life, Margaret Eagan Sullivan, on December 30, 1947, and moved

to Nenana. George was the U.S. deputy marshal and Margaret was the U.S. commissioner. Aptly, George would catch the criminals and Margaret would try them. In 1955, he was elected to the Fairbanks City Council. George took a job in management with Consolidated Freightways and in 1959 moved the family to Anchorage, where he lived for the next 50 years. From 1964 to 1965, George served in the Alaska Legislature, after being appointed by Governor Bill Egan to fill a vacancy, and soon after was elected to the Anchorage City Council. In 1967, he ran a successful race to become Anchorage mayor, a position he would hold for 15 years. In 1975, voters approved the unification of Anchorage's city and borough governments and elected George its mayor. The creation of the Municipality of Anchorage was an incredible undertaking. As mayor, George successfully merged the duplicative departments, boards, and utilities into one government.

Statehood in 1958 brought change but it was the oil boom that provided the resources for Anchorage to blossom into a modern day city. George and his administration had a vision of what Anchorage could become and were entrusted to direct the streaming State oil revenues toward improving and enhancing the city's quality of life for its residents. George helped secure State funding for the construction of the Egan Civic and Convention Center, Loussac Library, the Alaska Center for the Performing Arts, and the Sullivan Sports Arena. This moved Anchorage into being a modern and vibrant community.

George finished as Mayor of Anchorage in 1982. For the past many years since, George has remained active in the community and state boards up until his illness in 2008. Through the years he was active on the Enstar board, AWWU, state PERS board, Anchorage Senior Center Endowment, TOTE Advisory Board, Military Advisory Board, Anchorage Wellness Court Alumni Group, Alaska Heart Association, Boys and Girls Clubs, and many more. He was always willing to lend a helping hand to make Anchorage a little better for those less fortunate or in need. He had a strong faith in the Roman Catholic Church and often assisted at Mass and in the church's organizations. He was a member of the Elks Club, the Veterans of Foreign Wars, and the Pioneers of Alaska.

George had an incredible love for the community and worked on many projects to enhance the quality of life for all who called Anchorage home. He was a true public servant and visionary who strived to make Anchorage a better community for future generations while he was mayor and during his retirement.

George was a great Alaskan. George was my friend.

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PERSONAL EXPLANATION

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**HON. PAUL W. HODES**

OF NEW HAMPSHIRE

IN THE HOUSE OF REPRESENTATIVES

*Friday, November 6, 2009*

Mr. HODES. Madam Speaker, due to unforeseen circumstances, I missed one vote in a series of votes on Thursday, November 5,



2009. I would have voted "yea" on the following vote: H.R. 878, a resolution expressing support for the goals and ideals of National Family Literacy Day.

HONORING JOE LARSON FOR 30  
YEARS OF SERVING WASH-  
INGTON COUNTY VETERANS

**HON. MICHELE BACHMANN**

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

*Friday, November 6, 2009*

Mrs. BACHMANN. Madam Speaker, I rise today to honor Joe Larson of Washington County, for the more than 30 years he has served in the Washington County Veterans Service Office. As a veterans service officer over 3 decades, Joe has surely touched the lives of thousands of returning service men and women. It's a calling that requires perseverance, diligence and passion.

As a veteran and Purple Heart recipient himself, Joe was uniquely qualified for this position. The instant bond among veterans was nurtured by Joe's experience and dedication to both his job and his fellow vets. For over 30 years, it has been his duty to file paperwork, make follow up calls and contact agencies on behalf of Minnesota's veterans. But for 30 years, Joe's calling was much higher. He was an advocate, a listener and a friend to so many veterans readjusting to life at home. His concern was genuine and his passion was unparalleled.

And so I rise today, Madam Speaker, to give thanks to and honor Joe for the difference he has made to veterans scattered throughout Minnesota. And as he looks forward to his retirement, he can move forward knowing his was a job well done. He will be very truly missed by coworkers and veterans alike.

NANCY PILVER BREAST CANCER  
HEROINE AWARD

**HON. JOHN B. LARSON**

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

*Friday, November 6, 2009*

Mr. LARSON of Connecticut. Madam Speaker, I rise today to honor Margarita "Maggie" Gardner of Hartford, Connecticut, to whom I was honored to present the Nancy Pilver Breast Cancer Heroine Award.

Each year, I present the Nancy Pilver Breast Cancer Heroine Award to a resident of Connecticut's First Congressional District who has displayed extraordinary dedication to the issue of breast cancer through education, prevention, treatment, and awareness. The award is named in honor of Nancy Pilver, formerly of Manchester, Connecticut, and the first recipient of the award.

In 2006, Maggie contacted my office to request assistance with her Social Security Disability Claim. Her dire needs required that her claim be expedited. Thankfully, Social Security was receptive to our request and as a result, Maggie was able to win her fight against

breast cancer and carry on her life without difficult financial ramifications.

Maggie's successful fight against breast cancer has inspired her to help others battling various types of cancer. Maggie started the Gardner House, a non-profit organization with the goal of providing a one-stop center for cancer patients to receive guidance and assistance in their fight against the disease. Its mission statement is "to assist the cancer patient and their family to return to a normal, healthy and productive life in their community." Included among the Gardner House's many objectives are referrals to state and local agencies, medication expenses and general financial assistance, housing assistance, transportation to medical appointments, and counseling and emotional support groups.

Perhaps one of the Gardner House's most successful stories involved Elizabeth Hurd, Maggie's first referral. Elizabeth underwent a severe struggle with uterine cancer, and eventually overcame the disease.

During her fight she was unable to schedule a disability hearing, resulting in the loss of her apartment and rental assistance, and most of her belongings. After being placed in contact with Maggie, and through the assistance of the Gardner House and my office, she was able to schedule a disability hearing. Elizabeth, grateful for the help she received, aptly calls Maggie "her angel."

We in Connecticut's First Congressional District are extremely grateful for Maggie's extensive efforts, and she is very deserving of this year's Nancy Pilver Breast Cancer Heroine Award.

CHIEF WARRANT OFFICER LYONS  
REMEMBERED FOR SERVICE TO  
COUNTRY

**HON. CATHY McMORRIS RODGERS**

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

*Friday, November 6, 2009*

Mrs. McMORRIS RODGERS. Madam Speaker, I rise today to recognize U.S. Army CWO Niall D. Lyons for his bravery and heroism while serving to protect our country's freedoms.

Chief Warrant Officer Lyons deployed from the B Company, 3rd Battalion, 160th Special Operations Aviation Regiment at Hunter Army Airfield, Georgia to Afghanistan. On October 26th, 2009, Chief Warrant Officer Lyons gave the ultimate sacrifice for his country along with six special operations soldiers and three agents from the Drug Enforcement Administration when their MH-47 helicopter crashed in Badghis province in western Afghanistan. The crash happened when the soldiers and federal agents lifted off in the helicopter after an operation to disrupt arms smuggling and drug trafficking in the Darreh-ye Bum Village in Qadis District.

Being a native of Spokane, Washington, Chief Warrant Officer Lyons was an avid Seattle Seahawks football fan. He also loved the great outdoors. He enjoyed water skiing and fishing. But most of all, he loved spending time with his son, John.

Today, his family, friends, and country must say their final goodbye to Chief Warrant Offi-

cer Lyons. Although the journey will be tough for his family and friends, we know that Chief Warrant Officer Lyons will always be looking from above watching over those he loved most.

Madam Speaker, I rise today to acknowledge Chief Warrant Officer Lyons for fearlessly sacrificing his own life in order to protect our freedoms from the evils of terrorism. I invite my colleagues to join me in a moment of silence for Chief Warrant Officer Lyons as well as all of the men and women who lost their lives in the recent helicopter crash while serving in Afghanistan.

TRIBUTE TO FORT MYERS MAYOR  
JIM HUMPHREY

**HON. CONNIE MACK**

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Friday, November 6, 2009*

Mr. MACK. Madam Speaker, I rise today to honor one of southwest Florida's hardest-working public servants, Fort Myers Mayor Jim Humphrey, who is retiring after an exceptional career.

I've known Jim for a number of years now. He's been a great friend of the Mack Family, and he was one of my earliest supporters when I first decided to run for Congress. Jim's civility and demeanor have earned him the nickname "Gentleman Jim," and I can't think of a more fitting description for a great public servant, family man, and friend.

Jim has been a strong force for the people of southwest Florida. His enthusiasm and passion for serving the community is inspiring. Jim's the type of elected official that all of us strive to be: accessible, dedicated and effective.

But perhaps the most important job Jim has ever held is that of a father and grandfather. He is so proud of his daughters and beams when he speaks about his grandchildren. Jim's family bring him his greatest joy, and this joy shines through in everything he does.

Jim has worked tirelessly to make southwest Florida a great place to live, work and visit. Under his leadership, the city of Fort Myers was designated as the Healthiest City in the Southeast in 2003 and a Preserve America Community in 2004, among other accolades. In addition, Jim has worked to obtain vital funding to preserve our community's unique treasures, such as the Edison & Ford Winter Estates and the Langford-Kingston Home.

Of course, Jim's public service does not end with his stint in the Mayor's Office. Jim has held countless positions on numerous civic and charitable organizations throughout southwest Florida. He's the type of person who believes in giving back to his community tenfold and has done just that. From his service as the first full-time Lee County Attorney, to his time as a city judge in Fort Myers, Jim will have left a lasting mark on southwest Florida.

Madam Speaker, the city of Fort Myers, and indeed all of southwest Florida, are better off today because of Jim's service. It is truly an honor and a privilege to represent Jim in the U.S. House of Representatives, and I wish

Jim, his wife Nancy, and their beloved family all the best.

OUR UNCONSCIONABLE NATIONAL  
DEBT

**HON. MIKE COFFMAN**

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Friday, November 6, 2009*

Mr. COFFMAN of Colorado. Madam Speaker, this morning our national debt was \$11,990,561,444,829.48. We have added \$11,607,722,003.58 to the national debt since just yesterday.

On January 6, 2009, the start of the 111th Congress, the national debt was \$10,638,425,746,293.80.

The means the national debt has increased by \$1,352,135,698,535.68 so far this year.

According to the non-partisan Congressional Budget Office, the forecast deficit for this year is \$1.6 trillion. That means that so far this year, we borrowed and spent an average \$4.4 billion a day more than we have collected, passing that debt and its interest payments to our children and all future Americans.

JOHN FISHEL

**HON. HOWARD L. BERMAN**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Friday, November 6, 2009*

Mr. BERMAN. Madam Speaker, we are honored to pay tribute to our friend, John R. Fishel on the occasion of his retirement from the Jewish Federation, and honor him for his decades of invaluable service to our community.

John has spent decades of his life at work with non-profit organizations and charitable groups. He has earned high esteem and respect for his diligence and hard work as well as his many achievements and contributions to these causes.

During his time with the Jewish Federation, his attentive management style, vision, and dedication resulted in many innovative projects which transformed the organization. He created the Tel Aviv/Los Angeles partnership, a new way to nurture a close relationship with Israel and bring the people of these two cities together. In recent years, he launched efforts to engage young Jewish professionals in The New Leaders Project, a civic leadership training program for young adults. Under his leadership, many valuable programs were developed, such as KOREH L.A., a literacy program and Fed Up With Hunger, a community-wide movement to end hunger in Los Angeles. His effective leadership was especially evident following the Northridge earthquake and the 1999 shooting at the North Valley Jewish Community Center. His work to encourage increased support for Israel was on display during the second Intifada and Israel's war with Hezbollah. His resilience in these times of trouble was a calming source of inspiration to the community.

Prior to his service at the Federation, he worked tirelessly as the top professional exec-

utive at the Allied Jewish Community Services (the local Jewish Federation) in Montreal, Canada, at the Hebrew Immigrant Aid Society (HIAS) and the Council Migration Services in Philadelphia, as planning associate at the Federation of Jewish Agencies of Greater Philadelphia, and as a resource developer for the Ohio State Department of Health.

Mr. Fishel graduated with a Bachelors degree in anthropology and a master of social welfare administration and policy from the University of Michigan. He and his wife, Karen, have one daughter, Jessica. They live in Cheviot Hills.

Madam Speaker and distinguished colleagues, we ask you to join me in saluting John R. Fishel for his impressive career and dedication to the community and The Jewish Federation, and to congratulate him on the occasion of his retirement.

THE DEATH OF JOHN O'QUINN,  
PROMINENT HOUSTON ATTOR-  
NEY, PHILANTHROPIST, AND  
FRIEND

**HON. AL GREEN**

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Friday, November 6, 2009*

Mr. AL GREEN of Texas. Madam Speaker, I request that the House of Representatives take a moment to remember a fellow American and friend of mine, John O'Quinn, of Houston, Texas. Mr. O'Quinn died last Thursday, October 29, 2009 in a tragic car accident that also claimed the life of his longtime assistant, Johnny Lee Cutliff.

By all standards, Mr. O'Quinn was an extremely successful lawyer in Houston society, but to those of us who knew him well, John was a dedicated professional, a generous benefactor, and a loyal friend.

Publicly, John has been recognized as an icon and was named one of the "100 Legal Legends of the Law" by the Texas Lawyer. He was recognized by the National Law Journal and the Harvard Law Review as one of the "Best Lawyers in America." Mr. O'Quinn received four of the largest verdicts in Texas legal history, having won more than \$20 billion for his clients throughout his career, including a \$17.3 billion tobacco settlement for the State of Texas. He was an honors graduate of the University of Houston Law Center, served as a Regent for the University of Houston, and trustee of the University of Houston Law School Foundation.

The man behind these impressive achievements was also fiercely loyal to the town that raised him and brought him to statewide and national prominence. John was a philanthropist and gave generously to assist the University of Houston, which named a law library and stadium after him; the Children's Assessment Center; the Women's Center; Baylor College of Medicine; the End Hunger Network; St. Luke's Episcopal Hospital; the South Texas College of Law Advocacy Center and many more organizations and causes of equal importance.

Mr. O'Quinn was a passionate car collector. Before his passing, he planned to open a pub-

lic museum to display and share his love of cars and the histories accompanying each.

There are few Houstonians who have not been affected by Mr. O'Quinn's work, either through his role as attorney, benefactor or philanthropist. Mr. O'Quinn will be remembered as a dedicated legal professional, generous philanthropist, and dear friend. It will be hard to imagine Houston without one of its most dynamic personalities and legal giants. Mr. O'Quinn will be greatly missed.

HONORING SONOMA TREASURE  
ARTIST OF THE YEAR LIN LIPETZ

**HON. LYNN C. WOOLSEY**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Friday, November 6, 2009*

Ms. WOOLSEY. Madam Speaker, I rise today with my colleague, Representative MIKE THOMPSON, to honor Lin Lipetz, the Sonoma Treasure Artist of the Year. Selected by the city's Cultural and Fine Arts Commission, Ms. Lipetz was chosen for her talents as a teacher and an artist as well as for her contributions to the community.

With an MFA from the University of Washington in ceramics, painting and textiles, a bachelor's degree in art from the University of Washington, and a bachelor's degree from San Jose State University in interior architecture, Lipetz has the academic credentials to back up her long experience as an artist. With drawings and beautifully colorful and joyous paintings ranging from abstract to landscape, she has exhibited frequently, both as a solo artist and with groups.

Her work is in numerous collections, and she has also won honors and grants including Friends of the Crafts in Seattle, Washington; National Endowments for the Arts High School Art Instruction in Missoula, Montana; and the Art Across the Valley Tour through the Sonoma Valley Museum of Art.

Her contributions to the City of Sonoma enrich the lives of its residents and add to the vibrancy of its arts community. She teaches painting and intuitive drawing at the Sonoma Community Center, is active with the Sonoma Valley Museum of Art and served as a commissioner on the Cultural and Fine Arts Commission.

Madam Speaker, it is a pleasure to celebrate Lin Lipetz's selection as Sonoma Treasure Artist of the year. We join the Sonoma community in our appreciation of her talents and her contributions.

SALUTING JOHN HAMILTON FOR 29  
YEARS OF SERVICE

**HON. SAM JOHNSON**

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Friday, November 6, 2009*

Mr. SAM JOHNSON of Texas. Madam Speaker, I'd like to recognize a model patriot who has really made a difference in the young, rising leadership of our armed forces, Mr. John Hamilton. Next week Mr. Hamilton

will officially step down from the Third Congressional District Academy Candidate Selection Board after 29 years of service and volunteering his time, effort and talent to three different Members of Congress: former Congressman Steve Bartlett, former Congressman Jim Collins and me.

In this advisory capacity, John offered his wisdom and expertise to help identify and recommend hundreds of students from the Third Congressional District for nomination to a prestigious service academy, including one who went on to become a Rhodes Scholar.

The Third District of Texas is home to some of the best and the brightest young people. As a Member of Congress it is always an honor to recommend fine students to our nation's service academies. These students join the premiere military force of the world and become leaders of men and women in uniform. John Hamilton played an instrumental role in helping Third District young adults achieve their dream of military service.

My friend, John, was perfectly situated to play the role of advisor for the Third Congressional District Academy Candidate Selection Board. He graduated in 1968 from the prestigious United States Naval Academy with a B.S. in Engineering/Management.

He knows firsthand the rigors, discipline, and inner strength needed to thrive, not just survive, at a service academy. I know his experience in Annapolis helped him make many decisions.

John also graduated from SMU School of Law in 1976. He is a Lifetime Chapter Member of the North Texas Chapter of the U.S. Naval Academy Alumni Association and a member of the State Bar of Texas. Since 1994 he has served as President of Hamilton & Hartsfield, P.C., a law firm specializing in general corporate law, mergers and acquisitions, and business transactions. He is a shining example of a well-rounded patriot eager to give back to his country and his community. I am thankful for his service and I will miss his valued opinions and leadership.

Godspeed, John Hamilton. God bless you and God bless America.

#### PERSONAL EXPLANATION

### HON. BRAD ELLSWORTH

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

*Friday, November 6, 2009*

Mr. ELLSWORTH. Madam Speaker, on Thursday, November 5, 2009, I missed rollcall vote No. 857. Had I been present for rollcall vote No. 857, on agreeing to H. Res. 885, I would have voted "aye."

#### A TRIBUTE TO OUR ESTEEMED VETERANS AND FOUR LOCAL WASPS IN ACKNOWLEDGEMENT OF THEIR CONGRESSIONAL GOLD MEDAL AWARDS

### HON. DANIEL E. LUNGREN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Friday, November 6, 2009*

Mr. DANIEL E. LUNGREN of California. Madam Speaker, nearly 70 years ago a group of extraordinary young women answered the call of duty and accepted a mission that no generation had before them. Just over 1,100 women eagerly left the grounded existence of home and family, climbed into the cockpits of military aircraft and set about to do their part in the good fight of World War II. By 1943 they had come to be known as WASPs: Women Airforce Service Pilots. They had the verve of Amelia Earhart, the poise of their upbringing and a dutiful patriotic spirit to get them through. Some 38 perished during their 2-year tenure while fulfilling a variety of missions: testing aircraft and ferrying planes from coast to coast among them. Today we honor the service of four of these WASPs who reside in the Third Congressional District of California: Dorothy C. Goot and Captola Johnson, both of Fair Oaks; Barbara H. Kennedy and Doris K. Ohm, both of Sacramento. We thank you for your service. On Veterans Day, as we pay special tribute to men and women in the military, we especially thank you for your example and sacrifice. Women sustain the Armed Forces of these United States more today than at any other time in history. We thank you. We salute you all.

#### HEALTHY KIDS ACT

### HON. JAMES P. MORAN

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

*Friday, November 6, 2009*

Mr. MORAN of Virginia. Madam Speaker, today I am introducing the "Healthy Kids Act," legislation that will focus the resources of the federal government on ending the epidemic of obesity that threatens a generation of America's children.

Over the past three decades, the rate of childhood obesity has risen to crisis proportions. Current data from the Centers for Disease Control and Prevention show that rates of obesity have more than doubled for children aged 2 to 11 years and more than tripled for adolescents aged 12 to 19 years. According to the CDC, 32 percent of children are overweight, 16 percent are obese, and 11 percent are extremely obese. In some racial and ethnic groups, in low-income populations, and among recent immigrants, the rates of obesity among children and youth are alarmingly high.

The health consequences for these children are very serious. They are at much greater risk of developing diabetes, heart disease, high blood pressure, asthma, and other diseases than their non-obese peers. Many children are subjected to ridicule and bullying that damage their emotional well-being. Beyond

the tragic consequences for the children themselves are the effects on the American economy. Obese children are at risk of growing into obese adults who do not participate fully in the workforce because of employment discrimination, lost productivity due to illness and disability, and premature death. If the childhood obesity epidemic continues at its current rate, conditions related to type 2 diabetes, such as blindness, coronary artery disease, stroke, and kidney failure may become common conditions of middle age. Health care costs for this population are likely to rise to an extent we are only now beginning to appreciate.

Many factors contribute to the childhood obesity epidemic. Many children's diets are too high in fats and carbohydrates and do not include enough fruits and vegetables. At the same time, our children are less active than they were a generation ago. More time front of the television means that kids are exposed to over 20,000 commercials a year, very few of which are encouraging them to exercise and eat right. Residential communities often do not have safe sidewalks or recreation areas to draw children off the couch and outside to run and play. Underfunded schools have cut back on physical education programs and are resorting to revenues from vending machines full of junk food to supplement public funding.

The Healthy Kids Act will provide critical Federal leadership to address this crisis by establishing an Office of Childhood Overweight and Obesity Prevention and treatment within the Department of Health and Human Services. The Director of this office will be the Federal Government's champion on this issue. The Director is charged with evaluating the effectiveness of existing Federal policies, programs, and research efforts and identifying future needs; implementing Federal support measures for State, tribal, and territorial programs; and carrying out a comprehensive, long-term, national campaign to prevent weight gain and obesity among our children and youth. The Director will also have an important role in promoting and supporting school wellness policies that monitor students' body mass index, provide parents with information on health and nutrition, and implement age-appropriate physical activity programs.

In carrying out these responsibilities, the Director will consider the unique needs of racially and ethnically diverse groups and high-risk populations, including low-income populations and communities. The Director will also take advantage of the expertise of the Secretaries of the Departments of Agriculture, Education, Defense, Interior, Housing and Urban Development, and Transportation, as well as the Director of the Centers for Disease Control and Prevention and the Chairmen of the Federal Trade Commission and the Federal Communications Commission.

To make sure that our young people receive a consistent message that encourages them to adopt healthful eating patterns and helps them understand their nutritional needs, the Director will work with the Secretary of Agriculture to identify three categories of foods and beverages—Tier 1 foods and beverages, which are healthful for children and adolescents and the consumption of which is encouraged; Tier 2 foods and beverages, which do

not exceed levels of total, saturated, and trans fat, sugars, and sodium that are acceptable in a healthful diet for children and adolescents; and Tier 3 foods and beverages, which do not contribute to a healthful diet for children and adolescents and the consumption of which is discouraged. These categories will form the basis for regulations to be issued by the Secretary of Agriculture updating the current standards for foods and beverages available to schoolchildren outside the federally supported school meal programs. This approach to the problem of competitive foods would allow schools to retain the revenue stream from sales of competitive foods by offering healthful options, and would send the message that certain foods should be enjoyed as treats, not as part of the daily diet.

The same three categories of foods and beverages would form the basis for guidelines issued by the Director in consultation with the Chairman of the Federal Trade Commission to control the marketing, advertising, or promoting of foods and beverages to children and children and adolescents. Children's preferences for foods that lack sweet and salty tastes are learned and require repeated positive experiences, especially to accept fruits, vegetables, and other nutrient-rich foods later in life. There is evidence that parental ability to guide children's consumption of food and beverages has been compromised by an environment that exposes children to an array of advertising and marketing messages for junk food, many directed at children too young to understand the selling purpose of advertising. Most children ages 8 years and under do not effectively comprehend the persuasive intent of marketing messages, and most children ages 4 years and under cannot consistently discriminate between television advertising and programming. In short, a child is not possessed of the full capacity for individual choice that is the presupposition of First Amendment guarantees. The knowledge that parental control or guidance cannot always be provided and society's transcendent interest in protecting the welfare of children justify reasonable regulation of the sale of material to them. A provision in current federal law prohibiting the Chairman from issuing such regulations is repealed.

The bill also makes clear that counseling and treatment services for overweight and obese children are eligible for reimbursement under the Medicaid and SCHIP programs.

Madam Speaker, we can, and we simply must, make addressing childhood obesity a national priority. Not only must we help the children who are already affected, we must not fail to protect another generation. Health is more than the absence of physical or mental illness—it is also the extent to which children and youth have the capacity to reach their full potential. Childhood obesity is a public health crisis that will not be solved without the full support of the Federal Government. I urge my colleagues to support the Healthy Kids Act.

#### TRIBUTE TO WILLIAM LEROY HOLDEN

#### HON. JAMES E. CLYBURN

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

*Friday, November 6, 2009*

Mr. CLYBURN. Madam Speaker, I rise today to pay tribute to a trailblazing high school coach, athletics director and a great humanitarian. William Leroy Holden is being honored on November 14, 2009, for his tremendous 38-year career at North Mecklenburg High School in Huntersville, North Carolina. I want to commend him on his contributions to athletics and the students he coached and mentored over the years.

Leroy Holden first came to North Mecklenburg High School in 1971. He had spent 2 years at East Mecklenburg High School, but left to take a job in insurance to better support his growing family. However, his love of coaching drew him back, and he chose to take a pay cut to follow his heart and took a position at North Mecklenburg High School.

Over the next 28 years, he would serve as head coach of the baseball, softball and tennis teams. He also served as an assistant football and track coach. But where Coach Holden really made his mark was as the men's basketball coach from 1974–1999, compiling an impressive record of 464 wins and 267 losses. His teams made it to the playoffs 12 times during his career. In the 1986–87 season, the Viking men's basketball team went undefeated, winning 30 games before losing in the state championship.

His success at North Mecklenburg High School led to invitations to coach other young people. He served as an instructor at the International Basketball Clinic in London, England in 1993, coached the West All-Stars Coach in 1986, and the East-West All-Star Game in North Carolina. He served as a coach at the NBPA High School Basketball Camp at Princeton University from 1995–1999; and as a basketball camp instructor at the University of North Carolina-Chapel Hill from 1983–1999.

His success on the basketball court and in other athletic arenas made Leroy Holden the perfect choice to lead athletics at North Mecklenburg High School. In 1985, Coach Holden was promoted to athletics director at the school to which he had dedicated his career. He still maintained his coaching duties until 1999 in addition to overseeing all athletics at the growing high school.

Leroy Holden went to college on a football scholarship and earned a bachelor's degree in 1967 from Western Carolina in Cullowhee, North Carolina. He pursued an advanced degree at the University of North Carolina at Charlotte, earning a masters in education in 1978. Immediately upon earning that degree, he earned a masters in physical education from Winthrop University in Rock Hill, South Carolina. Coach Holden also became a certified athletic administrator through the State Coaches Conferences in Greensboro, North Carolina in 2000.

Coach Holden is an active member of the Sportsman Club of Charlotte, where he has served as the president, program vice presi-

dent, secretary and treasurer. In 1999, the organization named him the Sportsman of the Year. He is also the past president of the ME-CA Conference. He has served on both the Sectional Basketball Committee and as director of the Sectional Basketball Tournament. Coach Holden has also been a member of the Charlotte Sports Commission since 1998. He is the recipient of numerous awards including the 2008 Lifetime Achievement Award from the North Carolina Athletic Directors' Association, the 2001 Charlotte Observer Athletic Director of the Year, and the Conference Basketball Coach of the Year seven times between 1977 and 1994.

There is one of Coach Holden's accomplishments that will not appear in the record books, yet I believe it deserves recognition. Coach Holden came to North Mecklenburg High School shortly after the school had fully integrated. He truly was colorblind in his approach to athletics and had great success with his African-American athletes. He was the first coach at the school to secure college scholarships for black athletes, as he always believed that every talented student deserved the opportunity he had to go to school on an athletic scholarship. He worked hard toward that goal enabling many students to go to college that otherwise could not have afforded it. During his extensive career, he secured approximately 200 college scholarships for minority athletes and several of those students went on to become professionals. Many others followed in his footsteps and went on to become high school and college coaches. That is a tremendous record for any high school coach, and it says a lot about the kind of man Coach Holden is.

Coach Holden is married to the former Ginny Severs of Charlotte. They were high school sweethearts and have just celebrated 44 years of marriage. The couple has three children and three grandchildren. His passion for athletics and for inspiring young people has enriched the lives of countless student athletes.

Madam Speaker, I ask you and my colleagues to join me in applauding the tremendous career of Coach William Leroy Holden of North Mecklenburg High School. His dedication to his profession and his students is unparalleled.

#### IN HONOR OF THE 54TH COAST ARMY ARTILLERY REGIMENT

#### HON. SAM FARR

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Friday, November 6, 2009*

Mr. FARR. Madam Speaker, I rise today to honor the soldiers who served during World War II in the United States Army's 54th Coast Artillery Regiment. The 54th was an all-black regiment that shared the mission of guarding California's Central Coast from enemy attack. It was the U.S. Army's only all-black, heavy artillery unit during World War II.

The 54th was part of the network of forces that protected the entrance to San Francisco Harbor and the Golden Gate Bridge and the millions of tons of cargo and munitions coming

out of the port. This network included coastal fortifications, underwater minefields, anti-aircraft guns, radars, searchlights, patrol aircraft, and observation posts up and down the coast of California. Several such posts were located in my District, including one near the lighthouse in the city of Santa Cruz.

No enemy was ever seen, and in 1944 the Army began to phase out its California coast watch. Batteries of the 54th were deployed to other battlefronts, including Peru. After the fall of Germany in 1945, the 54th was restructured and sent to the Philippines to prepare to in-

vade Japan, but Japan surrendered before that happened.

Armed initially with old guns and wearing uniforms left over from World War I, the men of the 54th served with pride and dedication. Two members of the Santa Cruz unit still live on the Central Coast. Russell R. Dawson returned to Santa Cruz after his discharge in 1946 and became the first black postal worker in that city, a job he held for 33 years. William Edward Jackson Sr., who lives in nearby Menlo Park, is a past president of that city's chapter of the NAACP.

On this Veteran's Day these two men will represent the 54th Coast Artillery Regiment at the dedication of a memorial plaque erected on the site of their former post at Lighthouse Field. This project was spearheaded by the Santa Cruz Women's Club who, after Dawson spoke to their group about his experiences, decided to memorialize this special piece of Santa Cruz and American history. Madam Speaker, I know the whole House joins me in thanking the 54th Coast Army Artillery Regiment for their honorable and dedicated service to our nation.

## HOUSE OF REPRESENTATIVES—Saturday, November 7, 2009

The House met at 9 a.m. and was called to order by the Speaker pro tempore (Mr. JACKSON of Illinois).

### DESIGNATION OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,  
November 7, 2009.

I hereby appoint the Honorable JESSE L. JACKSON, Jr. to act as Speaker pro tempore on this day.

NANCY PELOSI,  
*Speaker of the House of Representatives.*

### PRAYER

The Chaplain, the Reverend Daniel P. Coughlin, offered the following prayer: Nothing genuinely human should ever fail to raise an echo in our hearts, Lord, if we are true believers in our common creation and disciples of the Supreme Master.

As members of a common humanity, our history, our origins of birth and even our different persuasions of religious belief will never dull our awareness that we are already one on a very deep level and quite interdependent upon one another.

Guide us to a greater understanding of one another. Bridge our differences with Your own powerful love for each of us.

Lift all blinders, Lord; that we may truly see one another as singular and unique yet we are able to come together, Lord, before You, with You and in You, now and forever. Amen.

### THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

### PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from Pennsylvania (Mr. TIM MURPHY) come forward and lead the House in the Pledge of Allegiance.

Mr. TIM MURPHY of Pennsylvania led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

### ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair will entertain up to 10 requests for 1-minute speeches from each side of the aisle.

### HEALTH CARE

(Ms. SCHWARTZ asked and was given permission to address the House for 1 minute.)

Ms. SCHWARTZ. Mr. Speaker, finding a uniquely American solution to ensure that all Americans have access to meaningful, affordable health coverage has been an unfulfilled goal for decades. Today, we have the opportunity to make this moral and economic imperative a reality.

The Affordable Health Care for America Act meets the goals of health care reform: enhanced consumer protections for those with health coverage; new, affordable choices for individuals and small businesses; strengthening Medicare for our seniors, with better prescription drug coverage and access to primary care; improved delivery of services with better health outcomes for all Americans; and the containment of rapidly rising costs of health coverage.

It builds on America's public-private system, and it is paid for now and into the future.

The status quo is unaffordable and unsustainable. Health care reform benefits all of us: families, seniors, businesses, and the Nation. I am honored to have been a part of bringing this bill to the floor, to this historic moment, and I look forward to voting for this landmark legislation and meeting the goals of health care reform for all Americans. Now is the time to act.

### HEALTH CARE

(Mr. TIM MURPHY of Pennsylvania asked and was given permission to address the House for 1 minute.)

Mr. TIM MURPHY of Pennsylvania. Mr. Speaker, as we are about to deal with this health care bill before Congress, many of us have still attempted to try to improve the bill. I offered three amendments to the Rules Committee last night, and they were rejected. One of them was to say: before we cut \$500 billion out of Medicare, maybe we ought to fix it first.

There is a great deal of savings that could come from Medicare if we used scientific, evidence-based medicine to help improve chronic care conditions

and deal with many other programs. That was rejected. Instead, we will cut the money from Medicare.

Another amendment I offered makes sure that if the Senate should move forward with their provision of allowing States to opt out, the States should also be able to opt out of paying the health care taxes. In other words, we should have no taxation without hospitalization. Instead, my fear is that high taxes will remain in the bill to the point where it is going to cost our economy more jobs and cost our small businesses more.

There still is much to do in this bill, and it is not yet ready. I still hope there is time in the coming weeks to improve these bills and work on real health care reform.

### HEALTH CARE

(Mr. BLUMENAUER asked and was given permission to address the House for 1 minute.)

Mr. BLUMENAUER. Mr. Speaker, one of the strangest sights, and now a symbol of the health care debate, was the red-faced protesters, egged on by my GOP colleagues to "keep government out of their Medicare". These people are not ignorant; they are uninformed, and unfortunately, purposely misled by some on the other side of the aisle, by Republican talking points that deny government can have a constructive role in health care, even as they rely on government for health care for seniors, veterans, emergency services and, of course, for themselves.

When most Americans are given the facts, they are pleased that it is now time to take the next steps beyond our seniors, beyond our veterans, beyond emergency services and, of course, beyond Members of Congress.

Today we can extend those benefits to more Americans while we protect those with insurance from abuse and reform a Medicare system that is in trouble. Americans await Congress to take these next critical steps to give Americans the health care they need and deserve.

### UNIVERSAL GOVERNMENT-RUN VACCINE PROGRAM DISASTER

(Mr. POE of Texas asked and was given permission to address the House for 1 minute.)

Mr. POE of Texas. Mr. Speaker, the Federal Government promised to save the country by providing 120 million H1N1 virus vaccines in 3 months. Of

course the government only made 20 percent of that number on time. So the government had to decide who would get medicine and who would not. Wall Street special interest groups got their shots, but vaccines didn't go down the street to hospitals for children and pregnant women, the most vulnerable.

The Feds are also giving criminals in prison and even the terrorists at Guantanamo Bay prison flu shots while Americans who have committed no crime must get to the back of the line.

This simple shot program administered by the government is a mess and has its priorities wrong. Why? Because the government is in charge. The government decides who gets flu shots and who doesn't. Patients don't decide; doctors don't decide. This is what a universal government-run and government-rationed health care program looks like. Welcome to the future. And get to the end of the line.

And that's just the way it is.

#### HEALTH CARE

(Mr. DEFAZIO asked and was given permission to address the House for 1 minute.)

Mr. DEFAZIO. Mr. Speaker, big insurance companies and their Republican allies are bitterly opposed to health care reform, and I understand their opposition. This bill will outlaw the worst and the most lucrative consumer abuses by the insurance industry. It repeals their unfair antitrust immunity. No more collusion and price-fixing to drive up your premiums. It outlaws the preexisting condition exclusion. It outlaws them from canceling your policy when you get sick, a common practice in the insurance industry. And no more small print lifetime caps that drive families to bankruptcy.

It improves Medicare coverage for all Americans and improves Medicare reimbursement for Oregon seniors and the disabled. The Republicans would have none of that. In fact, they opened new loopholes for abuses by the insurance industry by allowing them to base their national plans in the new state of the Northern Mariana Islands, which they have designated in their alternative. So when you have a complaint, you can call Jack Abramoff when he gets out of jail, and he will help you with your insurance problem. That's the Republican plan.

Our plan isn't perfect, but it is a good step toward providing affordable health care for all Americans.

#### HEALTH CARE

(Mr. BROUN of Georgia asked and was given permission to address the House for 1 minute.)

Mr. BROUN of Georgia. Mr. Speaker, the American people need to know what this debate is all about. On one

hand, it is a complete takeover of the health care system that the Democratic Party is proposing. On the other hand, Republicans have offered alternatives to let the patients make decisions. In fact, I offered H.R. 3889, which is totally private, doesn't raise taxes or anything else.

Their plan will destroy the economy. It will put 5.5 million people out of work. It is going to destroy the doctor-patient relationship. Government bureaucrats will be making decisions for every patient. The American people need to understand: This is about a government takeover of the whole health care system. They need to call their congressman and say "no" to the Nancy Pelosi steamroller of socialism.

#### HEALTH CARE

(Mr. INSLEE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. INSLEE. Mr. Speaker, health care is not a frivolity or a recreation; it is life itself. To a woman with early-onset breast cancer, health care is life itself. To a child with juvenile-onset diabetes, health care is life itself.

It is well that we reflect how we founded this Union. We believe that all men are endowed with certain unalienable rights, and among those are the right to life—life—liberty, and the pursuit of happiness.

We pass health care to honor life not just on parchment, but in practice. We pass health care because we cherish the lives of all Americans, not just our own. This is an American step in progress. It is an American right to life.

#### HEALTH CARE

(Mr. DANIEL E. LUNGREN of California asked and was given permission to address the House for 1 minute.)

Mr. DANIEL E. LUNGREN of California. Mr. Speaker, if you want to know the ultimate option, open up this bill and look. You are required as an American citizen to buy a health insurance policy that has been okayed and only okayed by the Federal Government. If you don't, you could pay a fine, and if you don't pay that fine, you could go to prison for up to 5 years. Where is the public option? Well, if you are in prison, you are going to get free medical care. I presume that is the ultimate tragedy in this bill.

We are changing the relationship of individuals to their government. Now, for the first time in history, as a condition of remaining in the United States, you must purchase something the Federal Government requires you to under the pain of a fine, up to \$250,000, and 5 years in prison. What kind of freedom is that? What kind of public option could that possibly be?

#### HEALTH CARE

(Ms. KILROY asked and was given permission to address the House for 1 minute.)

Ms. KILROY. Mr. Speaker, this is an historic day and a very exciting day as we move towards a vote on a bill to make health care affordable and accessible for all Americans. Like you, I have been listening to my constituents. I have been hearing their stories.

Even last night I got a call from a friend. Steve, after fighting off lymphoma, got a notice from his insurance company that the policy for his law office was now being canceled, giving him a lot of insecurity about what his future would be and the future of the people who work for him.

This bill would end that kind of discrimination, the discrimination against people with preexisting conditions, and provide security to millions of Americans, Americans like me with multiple sclerosis and many of us with other preexisting conditions.

This is a moral issue for people, people who will now be able to access our health care system. Mr. Speaker, it is a very proud day to be able to take this historic step and end this discrimination.

#### WE NEED JOBS

(Mr. WILSON of South Carolina asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WILSON of South Carolina. Mr. Speaker, Speaker PELOSI told the American people that the misnamed stimulus bill would immediately create jobs and keep unemployment under 8 percent. However, unemployment has now topped 10 percent, with 2.8 million jobs lost since the misidentified stimulus was signed into law.

Despite these staggering numbers, Speaker PELOSI continues to push a job-killing health care takeover. Clearly, Congress has a case of misplaced priorities.

Patricia Owen lives on Hilton Head Island and owns FACES DaySpa. She is just one of the many small business owners who would be negatively impacted if this takeover is passed. With 23 employees at FACES DaySpa, the Owen family appreciates its dedicated staff. The Owen's service-based company will face more punitive taxes in PELOSI's health care takeover.

In conclusion, God bless our troops, and we will never forget September the 11th in the global war on terrorism. Thank you, veterans, for victory in the Cold War 20 years ago Monday with the fall of the Berlin Wall.

□ 0915

#### HISTORIC DAY IN AMERICA

(Ms. SPEIER asked and was given permission to address the House for 1 minute.)



Ms. SPEIER. Mr. Speaker, today is indeed an historic day, a day we can all be proud that on behalf of the American people we are doing something.

So what is it the American people are going to get? Well, if you're a senior citizen in America, you're going to have \$500 more in your prescription drug benefit. You're going to be able to get your drugs that are brand name for 50 percent less if you're in the doughnut hole. And by 2019, that doughnut hole will be terminated.

What's in it for young people? Well, if you're good to your parents, you can stay on their health insurance until you're 27.

And how about for women? For women, you are no longer going to pay 140 percent more for your health insurance than a man of the same age. And by the way, you don't have to fear getting pregnant, because health insurance will cover your pregnancy.

And for everyone else in America, we are going to be paying \$1,400 less a year in uncompensated care.

There is nothing to fear. There is much to be jubilant about.

#### GOVERNMENT TAKEOVER OF AMERICAN LIVES

(Mr. FLEMING asked and was given permission to address the House for 1 minute.)

Mr. FLEMING. Mr. Speaker, indeed, this is an historic day. We have a choice today between two bills; one which will have a government takeover of one-sixth of our economy, which will involve the Federal Government into the day-to-day lives of each and every American, or the Republican alternative, which actually goes to the central theme of the problems that we deal with today.

Not only that, senior citizens will be the most hurt by this government takeover of health care; \$500 billion taken out of Medicare, and with not one scintilla of evidence as to where it's going to come from. It will come from access to care, of course. Furthermore, CBO says that part B will increase by \$25 billion, and part D premiums by 20 percent.

I would say, in closing, God help us as the government takes over your day-to-day life.

#### HEALTH CARE FOR AMERICA

(Mr. COHEN asked and was given permission to address the House for 1 minute.)

Mr. COHEN. Mr. Speaker, today is indeed an historic day. As the plaque over the Speaker's rostrum says, In our time and our generation, we should do something worthy to be remembered. Those were Daniel Webster's words, a man who served in this House.

We can fulfill the destiny of other people who have served with us in the

Federal Government, from Teddy Roosevelt to Franklin Roosevelt to Harry Truman to Hubert Humphrey and to the recently late Senator Ted Kennedy. This is an important date for America when we bring us into the 21st century. We should have been here 50 or 60 years ago.

It is wrong that our country has an infant mortality rate equal to third-world nations. This bill will set out a newborn program that will try to rectify that. It will see that private practice doctors go into the inner cities, with general practitioners having an incentive to go there. With community health centers in the inner cities and wellness and prevention programs not having a deductible, it will bring America into the 21st century.

Mr. Speaker, I am proud to be a Member of the United States Congress, and never prouder than this weekend.

#### AMERICANS WANT FREEDOM, NOT GOVERNMENT-RUN HEALTH CARE

(Mr. MILLER of Florida asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MILLER of Florida. Mr. Speaker, I come today to ask a question: Why do the Democrats come to the floor to belittle the hardworking people who protest this government takeover of health care? They paid their own money, they drove their own cars, they weren't bussed here by the DCCC or the unions. They came to say, Listen to us. Listen to us, Madam Speaker. We don't want a government takeover of our health care system.

They don't want their children's future mortgaged to foreign countries. They don't want people who are not here legally to receive free health care. They want what the Founding Fathers and the Constitution wanted and guaranteed—freedom. What a novel idea—freedom.

#### HEALTH CARE IS FREEDOM REDEFINED

(Mr. RYAN of Ohio asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RYAN of Ohio. Mr. Speaker, there has been a lot of talk about freedom and liberty over the last couple days in Washington, DC, but the question really is: The person who is sick and can't get health care, are they really free? If you keep getting sick because you can't access a doctor, you can't get better, so you can't go to work, so you can't make money, is that person really free?

In 2009, we need to redefine freedom. Freedom in America in 2009 means being healthy and having access to a health care system that isn't just for the elite, but it's for everybody.

Now, our people are going to get a 15, 20, 30 percent increase. Businesses are going to get a 30 percent increase right now. This is what we're trying to prevent, an \$1,800 increase for the average family of four if we do absolutely nothing.

We're going to wake up in a few weeks in America, no more denials because of preexisting conditions; no more people in America or families in America will go bankrupt. We're going to fix this health care crisis that we have in this country.

#### VOTE "YES" ON PRO-LIFE AMENDMENT

(Mr. PITTS asked and was given permission to address the House for 1 minute.)

Mr. PITTS. Mr. Speaker, I rise to inform the Members of the status of the pro-life amendment on the bill today.

Last night, there were lots of negotiations. There were a couple of compromises discussed. I went with my colleagues, BART STUPAK, CHRIS SMITH, MARCY KAPTUR, and KATHY DAHLKEMPER, before the Rules Committee after midnight. The final outcome is this: There will be only one pro-life amendment offered on the floor today. It will be the Stupak-Ellsworth-Pitts-Smith-Kaptur-Dahlkemper amendment that will prevent Federal funds from funding abortions in both the public plan or with affordability credits. It just codifies the Hyde Amendment for the two new programs.

This actually preserves the status quo of our law today. No Federal Government funding for abortions, just like SCHIP, Medicaid, DOD, FEHBP, Indian Health.

This is a bipartisan amendment. The pro-life groups National Right to Life, Catholic Bishops, and family groups all support this. I urge the Members to support this amendment when it comes to the floor today.

#### PASS HEALTH CARE TODAY

(Mr. MORAN of Virginia asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MORAN of Virginia. Mr. Speaker, we are a great Nation, a prosperous and compassionate one, but our health care system doesn't measure up to that greatness. In fact, we pay twice what every other industrialized nation pays, and yet 71 nations have enabled their people to live longer and healthier lives. The difference is that they have decided that the health of their people is a higher priority than the profit of their insurance companies.

Mr. Speaker, we, today, will have the opportunity to bring our health care system up to a standard deserving of the greatness of this Nation by controlling our costs, by covering all of our

people, and by improving the quality of the care that they receive.

This bill is deserving of the greatness of our Nation. It must pass today.

# REPUBLICANS HAVE THE RIGHT PRESCRIPTION FOR HEALTH CARE REFORM

(Ms. FOXX asked and was given permission to address the House for 1 minute.)

Ms. FOXX. Mr. Speaker, despite months of town hall meetings and after millions of Americans voiced their opposition to a government takeover of health care, Democrats in Congress are moving ahead anyway.

Not only does the Pelosi health care plan raise taxes and increase spending, it will vastly grow the size and power of the Federal Government, taking more and more of our freedoms away.

The Pelosi health care plan proposes the creation of more than 110 new bureaucratic, boards, commissions, or programs. More taxes, more spending, and more government is not the plan for reform the people support.

Republicans have a plan that allows us to keep our freedoms and not be dictated to by the Federal Government. It's the right prescription for health care reform.

# SAY "YES" TO HEALTH CARE FOR AMERICA

(Mr. PAYNE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PAYNE. Mr. Speaker, the American people are counting on us to reform this broken health care system. Health insurance premiums and out-of-pocket costs have risen steadily, and the number of families in trouble over health care continues to grow—48 million uninsured, 50 million underinsured. We simply cannot afford to maintain the status quo.

Those who continue to resist a much-needed change in our health care system are refusing to deal with the problems, and they won't go away if we ignore them.

The health care insurance reforms we are espousing will benefit Americans, including those who are already enrolled. No longer will coverage be denied or hikes go for preexisting conditions. Insurance companies will no longer be able to drop insurance when a policyholder becomes sick, just when a patient needs insurance the most.

There will be a positive emphasis on prevention, with vaccinations, mammograms, and colonoscopies that will be covered with no out-of-pocket expenses. In addition, there will be lower premiums for millions of older Americans who will see the doughnut hole go away.

I urge my colleagues to do the right thing and vote for this bill.

# FIX WHAT'S BROKEN IN HEALTH CARE

(Mr. SCALISE asked and was given permission to address the House for 1 minute.)

Mr. SCALISE. Mr. Speaker, today is the showdown on a government takeover of health care. And while there are still deals being cut to try to round up the last few votes in the dark of night behind these closed doors, what the American people have said is they want transparency, and they don't want a government takeover of health care.

The American people want to fix the problems that are broken like we do in the Republican alternative we will be presenting that actually lowers costs. The CBO score says 10 percent reduction in health care premium, addressing preexisting conditions, and, yes, we actually do real medical liability reform to lower the cost of health care and stop all of these tests that are run just for defensive medicine purposes.

Just a little while ago, one of my friends on the Democratic side said that he wants to redefine freedom. Well, with all due respect, I think the Founding Fathers got it right. We don't need to go and rewrite freedom and have a government takeover of health care.

Let's fix what's broken, but don't break all the things that make medical care work so well for many Americans in this country.

# ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, proceedings will resume on motions to suspend the rules previously postponed.

Votes will be taken in the following order:

H.R. 3737, H.R. 1838, H.R. 1845, H. Res. 700, H. Res. 877, in each case de novo.

The first electronic vote will be conducted as a 15-minute vote. Remaining electronic votes will be conducted as 5-minute votes.

# SMALL BUSINESS MICROLENDING EXPANSION ACT OF 2009

The SPEAKER pro tempore. The unfinished business is the question on suspending the rules and passing the bill, H.R. 3737, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from New York (Ms. VELÁZQUEZ) that the House suspend the rules and pass the bill, H.R. 3737, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the ayes have it.

Mr. TONKO. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 405, nays 23, not voting 6, as follows:

[Roll No. 876]

YEAS—405

Abercrombie	Cuellar	Issa
Ackerman	Dahlkemper	Jackson (IL)
Aderholt	Davis (AL)	Jackson-Lee
Adler (NJ)	Davis (CA)	(TX)
Akin	Davis (IL)	Jenkins
Alexander	Davis (KY)	Johnson (GA)
Altmire	Davis (TN)	Johnson (IL)
Andrews	Deal (GA)	Johnson, E. B.
Arcuri	DeFazio	Johnson, Sam
Austria	DeGette	Jones
Baca	Delahunt	Kagen
Bachus	DeLauro	Kanjorski
Baird	Dent	Kaptur
Baldwin	Diaz-Balart, L.	Kennedy
Barrett (SC)	Diaz-Balart, M.	Kildee
Barrow	Dicks	Kilpatrick (MI)
Bartlett	Dingell	Kilroy
Barton (TX)	Doggett	Kind
Bean	Donnelly (IN)	King (IA)
Becerra	Doyle	King (NY)
Berkley	Dreier	Kingston
Berman	Driehaus	Kirk
Berry	Edwards (MD)	Kirkpatrick (AZ)
Biggert	Edwards (TX)	Kissell
Bilbray	Ehlers	Klein (FL)
Bilirakis	Ellison	Kline (MN)
Bishop (GA)	Ellsworth	Kosmas
Bishop (NY)	Emerson	Kratovil
Bishop (UT)	Eshoo	Kucinich
Blackburn	Etheridge	Lance
Blumenauer	Fallin	Larsen (WA)
Blunt	Farr	Larson (CT)
Bocciari	Fattah	Latham
Boehner	Filner	LaTourette
Bonner	Fleming	Latta
Bono Mack	Forbes	Lee (CA)
Boozman	Fortenberry	Lee (NY)
Boren	Foster	Levin
Boswell	Frank (MA)	Lewis (CA)
Boucher	Frelinghuysen	Lewis (GA)
Boustany	Fudge	Linder
Boyd	Gallely	Lipinski
Brady (PA)	Garamendi	LoBiondo
Brady (TX)	Garrett (NJ)	Loebsock
Braley (IA)	Gerlach	Lofgren, Zoe
Bright	Giffords	Lowe
Brown (SC)	Gingrey (GA)	Lucas
Brown, Corrine	Gohmert	Luetkemeyer
Brown-Waite,	Gonzalez	Lujan
Ginny	Goodlatte	Lummis
Buchanan	Gordon (TN)	Lungren, Daniel
Burton (IN)	Granger	E.
Butterfield	Graves	Lynch
Buyer	Grayson	Mack
Calvert	Green, Al	Maffei
Camp	Green, Gene	Maloney
Cantor	Griffith	Manzullo
Cao	Grijalva	Marchant
Capito	Guthrie	Markey (CO)
Capps	Gutierrez	Markey (MA)
Capuano	Hall (NY)	Marshall
Cardoza	Hall (TX)	Massa
Carnahan	Halvorson	Matheson
Carney	Hare	Matsui
Carson (IN)	Harman	McCarthy (CA)
Carter	Harper	McCarthy (NY)
Cassidy	Hastings (FL)	McCaul
Castle	Hastings (WA)	McCollum
Castor (FL)	Heinrich	McCotter
Chandler	Heller	McDermott
Childers	Herger	McGovern
Chu	Hersteth Sandlin	McIntyre
Clarke	Higgins	McKeon
Clay	Hill	McMahon
Cleaver	Himes	McMorris
Clyburn	Hinojosa	Rodgers
Coble	Hirono	McNerney
Coffman (CO)	Hodes	Meek (FL)
Cohen	Hoekstra	Meeks (NY)
Cole	Holden	Melancon
Connolly (VA)	Holt	Mica
Cooper	Honda	Michaud
Costa	Hoyer	Miller (FL)
Costello	Hunter	Miller (MI)
Courtney	Inglis	Miller (NC)
Crenshaw	Inslee	Miller, Gary
Crowley	Israel	Miller, George

Minnick	Richardson	Space
Mitchell	Rodriguez	Speier
Mollohan	Roe (TN)	Spratt
Moore (KS)	Rogers (AL)	Stark
Moore (WI)	Rogers (KY)	Stearns
Moran (KS)	Rogers (MI)	Stupak
Moran (VA)	Rooney	Sullivan
Murphy (CT)	Ros-Lehtinen	Sutton
Murphy (NY)	Roskam	Tanner
Murphy, Patrick	Ross	Taylor
Murphy, Tim	Rothman (NJ)	Teague
Murtha	Roybal-Allard	Terry
Nadler (NY)	Ruppersberger	Thompson (CA)
Napolitano	Rush	Thompson (MS)
Neal (MA)	Ryan (OH)	Thompson (PA)
Nunes	Ryan (WI)	Thornberry
Nye	Salazar	Tiahrt
Oberstar	Sánchez, Linda	Tiberi
Obey	T.	Tierney
Olson	Sanchez, Loretta	Titus
Olver	Sarbanes	Tonko
Ortiz	Scalise	Towns
Owens	Schakowsky	Tsongas
Pallone	Schauer	Turner
Pascrell	Schiff	Upton
Pastor (AZ)	Schmidt	Van Hollen
Paulsen	Schock	Velázquez
Payne	Schrader	Visclosky
Pence	Schwartz	Walden
Perlmutter	Scott (GA)	Walz
Perriello	Scott (VA)	Wamp
Peters	Sensenbrenner	Wasserman
Peterson	Serrano	Schultz
Petri	Sessions	Waters
Pingree (ME)	Sestak	Watson
Pitts	Shea-Porter	Watt
Platts	Sherman	Waxman
Poe (TX)	Shimkus	Weiner
Polis (CO)	Shuler	Welch
Pomeroy	Shuster	Westmoreland
Posey	Simpson	Wexler
Price (NC)	Sires	Whitfield
Putnam	Skelton	Wilson (OH)
Quigley	Slaughter	Wilson (SC)
Radanovich	Smith (NE)	Wittman
Rahall	Smith (NJ)	Wolf
Rangel	Smith (TX)	Woolsey
Rehberg	Smith (WA)	Wu
Reichert	Snyder	Yarmuth
Reyes	Souder	Young (FL)

## NAYS—23

Bachmann	Flake	Myrick
Broun (GA)	Fox	Neugebauer
Burgess	Franks (AZ)	Paul
Campbell	Hensarling	Price (GA)
Chaffetz	Jordan (OH)	Rohrabacher
Conaway	Lamborn	Royce
Culberson	McClintock	Shadegg
Duncan	McHenry	

## NOT VOTING—6

Conyers	Engel	Langevin
Cummings	Hinchey	Young (AK)

## ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). There are 5 minutes remaining in this vote.

□ 0957

Messrs. HENSARLING, CONAWAY, Ms. FOXX, Messrs. JORDAN of Ohio, CHAFFETZ, ROYCE, LAMBORN and McHENRY changed their vote from “yea” to “nay.”

Ms. MCCOLLUM changed her vote from “nay” to “yea.”

So (two-thirds being in the affirmative) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

WOMEN'S BUSINESS CENTERS  
IMPROVEMENTS ACT

The SPEAKER pro tempore. The unfinished business is the question on suspending the rules and passing the bill, H.R. 1838, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from New York (Ms. VELÁZQUEZ) that the House suspend the rules and pass the bill, H.R. 1838, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the ayes have it.

## RECORDED VOTE

Mr. CLEAVER. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 428, noes 4, not voting 2, as follows:

[Roll No. 877]

AYES—428

Abercrombie	Campbell	Driehaus
Ackerman	Cantor	Duncan
Aderholt	Cao	Edwards (MD)
Adler (NJ)	Capito	Edwards (TX)
Akin	Capps	Ehlers
Alexander	Capuano	Ellison
Altmire	Cardoza	Ellsworth
Andrews	Carnahan	Emerson
Arcuri	Carney	Engel
Austria	Carson (IN)	Eshoo
Baca	Carter	Etheridge
Bachmann	Cassidy	Fallin
Bachus	Castle	Farr
Baird	Castor (FL)	Fattah
Baldwin	Chaffetz	Filmer
Barrett (SC)	Chandler	Fleming
Barrow	Childers	Forbes
Bartlett	Chu	Fortenberry
Barton (TX)	Clarke	Foster
Bean	Clay	Fox
Becerra	Cleaver	Frank (MA)
Berkley	Clyburn	Franks (AZ)
Berman	Coble	Frelinghuysen
Berry	Coffman (CO)	Fudge
Biggart	Cohen	Gallely
Bilbray	Cole	Garamendi
Bilirakis	Conaway	Garrett (NJ)
Bishop (GA)	Connolly (VA)	Gerlach
Bishop (NY)	Conyers	Giffords
Bishop (UT)	Cooper	Gingrey (GA)
Blackburn	Costa	Gohmert
Blumenauer	Costello	Gonzalez
Blunt	Courtney	Goodlatte
Boccieri	Crenshaw	Gordon (TN)
Boehner	Crowley	Granger
Bonner	Cuellar	Graves
Bono Mack	Culberson	Grayson
Boozman	Cummings	Green, Al
Boren	Dahlkemper	Green, Gene
Boswell	Davis (AL)	Griffith
Boucher	Davis (CA)	Grijalva
Boustany	Davis (IL)	Guthrie
Boyd	Davis (KY)	Gutierrez
Brady (PA)	Davis (TN)	Hall (NY)
Brady (TX)	Deal (GA)	Hall (TX)
Braley (IA)	DeFazio	Halvorson
Bright	DeGette	Hare
Brown (SC)	Delahunt	Harman
Brown, Corrine	DeLauro	Harper
Brown-Waite,	Dent	Hastings (FL)
Ginny	Diaz-Balart, L.	Hastings (WA)
Buchanan	Diaz-Balart, M.	Heinrich
Burgess	Dicks	Heller
Burton (IN)	Dingell	Hensarling
Butterfield	Doggett	Herger
Buyer	Donnelly (IN)	Herseth Sandlin
Calvert	Doyle	Higgins
Camp	Dreier	Hill

Himes	McHenry	Ryan (WI)
Hinojosa	McIntyre	Salazar
Hirono	McKeon	Sánchez, Linda
Hodes	McMahon	T.
Hoekstra	McMorris	Sanchez, Loretta
Holden	Rodgers	Sarbanes
Holt	McNerney	Scalise
Honda	Meek (FL)	Schakowsky
Hoyer	Meeks (NY)	Schauer
Hunter	Melancon	Schiff
Inglis	Mica	Schmidt
Inslee	Michaud	Schock
Israel	Miller (FL)	Schrader
Issa	Miller (MI)	Schwartz
Jackson (IL)	Miller (NC)	Scott (GA)
Jackson-Lee	Miller, Gary	Scott (VA)
(TX)	Miller, George	Sensenbrenner
Jenkins	Minnick	Serrano
Johnson (GA)	Mitchell	Sessions
Johnson (IL)	Mollohan	Sestak
Johnson, E. B.	Moore (KS)	Shadegg
Johnson, Sam	Moore (WI)	Shea-Porter
Jones	Moran (KS)	Sherman
Jordan (OH)	Moran (VA)	Shimkus
Kagen	Murphy (CT)	Shuler
Kanjorski	Murphy (NY)	Shuster
Kaptur	Murphy, Patrick	Simpson
Kennedy	Murphy, Tim	Sires
Kildee	Murtha	Skelton
Kilpatrick (MI)	Myrick	Slaughter
Kilroy	Nadler (NY)	Smith (NE)
Kind	Napolitano	Smith (NJ)
King (IA)	Neal (MA)	Smith (TX)
King (NY)	Neugebauer	Smith (WA)
Kingston	Nunes	Snyder
Kirk	Nye	Souder
Kirkpatrick (AZ)	Oberstar	Space
Kissell	Obey	Speier
Klein (FL)	Olson	Spratt
Kline (MN)	Olver	Stark
Kosmas	Ortiz	Stearns
Kratovil	Owens	Stupak
Kucinich	Pallone	Sullivan
Lamborn	Pascrell	Sutton
Lance	Pastor (AZ)	Tanner
Langevin	Paulsen	Taylor
Larsen (WA)	Payne	Teague
Larson (CT)	Pence	Terry
Latham	Perlmutter	Thompson (CA)
LaTourette	Perriello	Thompson (MS)
Latta	Peters	Thompson (PA)
Lee (CA)	Peterson	Thornberry
Lee (NY)	Petri	Tiahrt
Levin	Pingree (ME)	Tiberi
Lewis (CA)	Pitts	Tierney
Lewis (GA)	Platts	Titus
Linder	Poe (TX)	Tonko
Lipinski	Polis (CO)	Towns
LoBiondo	Pomeroy	Tsongas
Loebsack	Posey	Turner
Lofgren, Zoe	Price (GA)	Upton
Lowey	Price (NC)	Van Hollen
Lucas	Putnam	Velázquez
Luetkemeyer	Quigley	Visclosky
Luján	Radanovich	Walden
Lummis	Rahall	Walz
Lungren, Daniel	Rangel	Wamp
E.	Rehberg	Wasserman
Lynch	Reichert	Schultz
Mack	Reyes	Waters
Maffei	Richardson	Watson
Maloney	Rodriguez	Watt
Manzullo	Roe (TN)	Waxman
Marchant	Rogers (AL)	Weiner
Markey (CO)	Rogers (KY)	Welch
Markey (MA)	Rogers (MI)	Westmoreland
Marshall	Rohrabacher	Wexler
Massa	Rooney	Whitfield
Matheson	Ros-Lehtinen	Wilson (OH)
Matsui	Roskam	Wilson (SC)
McCarthy (CA)	Ross	Wittman
McCarthy (NY)	Rothman (NJ)	Wolf
McCauley	Roybal-Allard	Woolsey
McCollum	Royce	Wu
McCotter	Ruppersberger	Yarmuth
McDermott	Rush	Young (FL)
McGovern	Ryan (OH)	

## NOES—4

Broun (GA)	McClintock
Flake	Paul

## NOT VOTING—2

Young (AK)
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□ 1007

So (two-thirds being in the affirmative) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

#### SMALL BUSINESS DEVELOPMENT CENTERS MODERNIZATION ACT OF 2009

The SPEAKER pro tempore. The unfinished business is the question on suspending the rules and passing the bill, H.R. 1845, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from New York (Ms. VELÁZQUEZ) that the House suspend the rules and pass the bill, H.R. 1845, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the ayes have it.

#### RECORDED VOTE

Mr. CLEAVER. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 412, noes 20, not voting 2, as follows:

[Roll No. 878]

#### AYES—412

Abercrombie	Bright	Crowley
Ackerman	Brown (SC)	Cuellar
Aderholt	Brown, Corrine	Cummings
Adler (NJ)	Brown-Waite,	Dahlkemper
Alexander	Ginny	Davis (AL)
Altmire	Buchanan	Davis (CA)
Andrews	Burgess	Davis (IL)
Arcuri	Burton (IN)	Davis (KY)
Austria	Butterfield	Davis (TN)
Baca	Buyer	Deal (GA)
Bachus	Calvert	DeFazio
Baird	Camp	DeGette
Baldwin	Cantor	Delahunt
Barrett (SC)	Cao	DeLauro
Barrow	Capito	Dent
Bartlett	Capps	Diaz-Balart, L.
Barton (TX)	Capuano	Diaz-Balart, M.
Bean	Cardoza	Dicks
Becerra	Carnahan	Dingell
Berkley	Carney	Doggett
Berman	Carson (IN)	Donnelly (IN)
Berry	Carter	Doyle
Biggert	Cassidy	Dreier
Bilbray	Castle	Driehaus
Bilirakis	Castor (FL)	Edwards (MD)
Bishop (GA)	Chaffetz	Edwards (TX)
Bishop (NY)	Chandler	Ehlers
Bishop (UT)	Childers	Ellison
Blackburn	Chu	Ellsworth
Blumenauer	Clarke	Emerson
Blunt	Clay	Engel
Boccieri	Cleaver	Eshoo
Boehner	Clyburn	Etheridge
Bonner	Coble	Fallin
Bono Mack	Coffman (CO)	Farr
Boozman	Cohen	Fattah
Boren	Cole	Filner
Boswell	Connolly (VA)	Fleming
Boucher	Conyers	Forbes
Boustany	Cooper	Fortenberry
Boyd	Costa	Foster
Brady (PA)	Costello	Frank (MA)
Brady (TX)	Courtney	Frelinghuysen
Braley (IA)	Crenshaw	Fudge

Gallegly	Lujan	Rogers (MI)
Garamendi	Lungren, Daniel	Rooney
Gerlach	E.	Ros-Lehtinen
Giffords	Lynch	Roskam
Gingrey (GA)	Mack	Ross
Gohmert	Maffei	Rothman (NJ)
Gonzalez	Maloney	Roybal-Allard
Goodlatte	Manzullo	Ruppersberger
Gordon (TN)	Marchant	Rush
Granger	Markey (CO)	Ryan (OH)
Graves	Markey (MA)	Ryan (WI)
Grayson	Marshall	Salazar
Green, Al	Massa	Sánchez, Linda
Green, Gene	Matheson	T.
Griffith	Matsui	Sanchez, Loretta
Grijalva	McCarthy (CA)	Sarbanes
Guthrie	McCarthy (NY)	Scalise
Gutierrez	McCaul	Schakowsky
Hall (NY)	McCollum	Schauer
Hall (TX)	McCotter	Schiff
Halvorson	McDermott	Schmidt
Hare	McGovern	Schock
Harman	McHenry	Schrader
Harper	McIntyre	Schwartz
Hastings (FL)	McKeon	Scott (GA)
Hastings (WA)	McMahon	Scott (VA)
Heinrich	McMorris	Sensenbrenner
Heller	Rodgers	Serrano
Hерger	McNerney	Sessions
Herseeth Sandlin	Meek (FL)	Sestak
Higgins	Meeks (NY)	Shea-Porter
Hill	Melancon	Sherman
Himes	Mica	Shimkus
Hinchev	Michaud	Shuler
Hinojosa	Miller (FL)	Shuster
Hirono	Miller (MI)	Simpson
Hodes	Miller (NC)	Sires
Hoekstra	Miller, Gary	Skelton
Holden	Miller, George	Slaughter
Holt	Minnick	Smith (NE)
Honda	Mitchell	Smith (NJ)
Hoyer	Mollohan	Smith (TX)
Hunter	Moore (KS)	Smith (WA)
Inglis	Moore (WI)	Snyder
Inslee	Moran (KS)	Souder
Israel	Moran (VA)	Space
Issa	Murphy (CT)	Speier
Jackson (IL)	Murphy (NY)	Spratt
Jackson-Lee	Murphy, Patrick	Stearns
(TX)	Murphy, Tim	Stupak
Jenkins	Murtha	Sullivan
Johnson (GA)	Myrick	Sutton
Johnson (IL)	Nadler (NY)	Tanner
Johnson, E. B.	Napolitano	Taylor
Johnson, Sam	Neal (MA)	Teague
Jones	Nunes	Terry
Jordan (OH)	Nye	Thompson (CA)
Kagen	Oberstar	Thompson (MS)
Kanjorski	Obey	Thompson (PA)
Kaptur	Olson	Thornberry
Kennedy	Olver	Tiahrt
Kildee	Ortiz	Tiberi
Kilpatrick (MI)	Owens	Tierney
Kilroy	Pallone	Titus
Kind	Pascarell	Tonko
King (IA)	Pastor (AZ)	Towns
King (NY)	Paulsen	Tsongas
Kingston	Payne	Turner
Kirk	Pence	Upton
Kirkpatrick (AZ)	Perlmutter	Van Hollen
Kissell	Perriello	Velázquez
Klein (FL)	Peters	Visclosky
Kline (MN)	Peterson	Walden
Kosmas	Petri	Walz
Kratovil	Pingree (ME)	Wamp
Kucinich	Pitts	Wasserman
Lance	Platts	Schultz
Langevin	Poe (TX)	Waters
Larsen (WA)	Polis (CO)	Watson
Larson (CT)	Pomeroy	Watt
Latham	Posey	Waxman
LaTourette	Price (GA)	Weiner
Latta	Price (NC)	Welch
Lee (CA)	Putnam	Westmoreland
Lee (NY)	Quigley	Wexler
Levin	Radanovich	Whitfield
Lewis (CA)	Rahall	Wilson (OH)
Lewis (GA)	Rangel	Wilson (SC)
Lindner	Rehberg	Wittman
Lipinski	Reichert	Wolf
LoBiondo	Reyes	Woolsey
Loebsack	Richardson	Wu
Lofgren, Zoe	Rodriguez	Yarmuth
Lowe	Roe (TN)	Young (FL)
Lucas	Rogers (AL)	
Luetkemeyer	Rogers (KY)	

#### NOES—20

Akin	Flake	McClintock
Bachmann	Fox	Neugebauer
Broun (GA)	Franks (AZ)	Paul
Campbell	Garrett (NJ)	Rohrabacher
Conaway	Hensarling	Royce
Culberson	Lamborn	Shadegg
Duncan	Lummis	

#### NOT VOTING—2

Stark	Young (AK)
-------	------------

□ 1015

Mr. FRANKS of Arizona changed his vote from “aye” to “no.”

So (two-thirds being in the affirmative) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

#### NATIONAL SCHOOL PSYCHOLOGY WEEK

The SPEAKER pro tempore. The unfinished business is the question on suspending the rules and agreeing to the resolution, H. Res. 700, as amended.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Iowa (Mr. LOEBSACK) that the House suspend the rules and agree to the resolution, H. Res. 700, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the ayes have it.

#### RECORDED VOTE

Mr. CONNOLLY of Virginia. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 431, noes 1, not voting 2, as follows:

[Roll No. 879]

#### AYES—431

Abercrombie	Bishop (UT)	Campbell
Ackerman	Blackburn	Cantor
Aderholt	Blumenauer	Cao
Adler (NJ)	Blunt	Capito
Akin	Boccieri	Capps
Alexander	Boehner	Capuano
Altmire	Bonner	Cardoza
Andrews	Boozman	Carnahan
Arcuri	Boren	Carney
Austria	Boswell	Carson (IN)
Baca	Boucher	Carter
Bachmann	Boustany	Cassidy
Bachus	Boyd	Castle
Baird	Brady (PA)	Castor (FL)
Baldwin	Brady (TX)	Chaffetz
Barrett (SC)	Braley (IA)	Chandler
Barrow	Bright	Childers
Bartlett	Broun (GA)	Chu
Barton (TX)	Brown (SC)	Clarke
Bean	Brown, Corrine	Clay
Becerra	Brown-Waite,	Cleaver
Berkley	Ginny	Clyburn
Berman	Buchanan	Coble
Berry	Burgess	Coffman (CO)
Biggert	Burton (IN)	Cohen
Bilbray	Butterfield	Cole
Bilirakis	Buyer	Conaway
Bishop (GA)	Calvert	Connolly (VA)
Bishop (NY)	Camp	Conyers

Cooper  
Costa  
Costello  
Courtney  
Crenshaw  
Crowley  
Cuellar  
Culberson  
Cummings  
Dahlkemper  
Davis (AL)  
Davis (CA)  
Davis (IL)  
Davis (KY)  
Davis (TN)  
Deal (GA)  
DeFazio  
DeGette  
Delahunt  
DeLauro  
Dent  
Diaz-Balart, L.  
Diaz-Balart, M.  
Dicks  
Dingell  
Doggett  
Donnelly (IN)  
Doyle  
Dreier  
Driehaus  
Duncan  
Edwards (MD)  
Edwards (TX)  
Ehlers  
Ellison  
Ellsworth  
Emerson  
Engel  
Eshoo  
Etheridge  
Fallin  
Farr  
Fattah  
Filner  
Flake  
Fleming  
Forbes  
Fortenberry  
Foster  
Foxy  
Frank (MA)  
Franks (AZ)  
Frelinghuysen  
Fudge  
Gallegly  
Garamendi  
Garrett (NJ)  
Gerlach  
Giffords  
Gingrey (GA)  
Gohmert  
Gonzalez  
Goodlatte  
Gordon (TN)  
Granger  
Graves  
Grayson  
Green, Al  
Green, Gene  
Griffith  
Grijalva  
Guthrie  
Gutierrez  
Hall (NY)  
Hall (TX)  
Halvorson  
Hare  
Harman  
Harper  
Hastings (FL)  
Hastings (WA)  
Heinrich  
Heller  
Hensarling  
Herger  
Herseth Sandlin  
Higgins  
Hill  
Himes  
Hinchey  
Hinojosa  
Hirono  
Hodes  
Hoekstra  
Holden  
Holt

Honda  
Hoyer  
Hunter  
Inglis  
Inslee  
Israel  
Issa  
Jackson (IL)  
Jackson-Lee  
(TX)  
Jenkins  
Johnson (GA)  
Johnson (IL)  
Johnson, E. B.  
Johnson, Sam  
Jones  
Jordan (OH)  
Kagen  
Kanjorski  
Kaptur  
Kennedy  
Kildee  
Kilpatrick (MI)  
Kilroy  
Kind  
King (IA)  
King (NY)  
Kingston  
Kirk  
Kirkpatrick (AZ)  
Kissell  
Klein (FL)  
Kline (MN)  
Kosmas  
Kratovil  
Kucinich  
Lamborn  
Lance  
Langevin  
Larsen (WA)  
Larson (CT)  
Latham  
LaTourette  
Latta  
Lee (CA)  
Lee (NY)  
Levin  
Lewis (CA)  
Lewis (GA)  
Linder  
Lipinski  
LoBiondo  
Loebach  
Lofgren, Zoe  
Lowey  
Lucas  
Luetkemeyer  
Lujan  
Lummis  
Lungren, Daniel  
E.  
Lynch  
Mack  
Maffei  
Maloney  
Manzullo  
Markey (CO)  
Markey (MA)  
Marshall  
Massa  
Matheson  
Matsui  
McCarthy (CA)  
McCarthy (NY)  
McCaul  
McClintock  
McCollum  
McCotter  
McDermott  
McGovern  
McHenry  
McIntyre  
McKeon  
McMahon  
McMorris  
Rodgers  
McNerney  
Meek (FL)  
Meeks (NY)  
Melancon  
Mica  
Michaud  
Miller (FL)  
Miller (MI)  
Miller (NC)  
Miller (NC)

Miller, Gary  
Miller, George  
Minnick  
Mitchell  
Mollohan  
Moore (KS)  
Moore (WI)  
Moran (KS)  
Moran (VA)  
Murphy (CT)  
Murphy (NY)  
Murphy, Patrick  
Murphy, Tim  
Murtha  
Myrick  
Nadler (NY)  
Napolitano  
Neal (MA)  
Neugebauer  
Nunes  
Nye  
Oberstar  
Obey  
Olson  
Oliver  
Ortiz  
Owens  
Pallone  
Pascarell  
Pastor (AZ)  
Paulsen  
Payne  
Pence  
Perlmutter  
Perriello  
Peters  
Peterson  
Petri  
Pingree (ME)  
Pitts  
Platts  
Poe (TX)  
Polis (CO)  
Pomeroy  
Posey  
Price (GA)  
Price (NC)  
Putnam  
Radanovich  
Rahall  
Rangel  
Rehberg  
Reichert  
Reyes  
Richardson  
Rodriguez  
Roe (TN)  
Rogers (AL)  
Rogers (KY)  
Rogers (MI)  
Rohrabacher  
Rooney  
Ros-Lehtinen  
Roskam  
Ross  
Rothman (NJ)  
Roybal-Allard  
Royce  
Ruppersberger  
Rush  
Ryan (OH)  
Ryan (WI)  
Salazar  
Sánchez, Linda  
T.  
Sanchez, Loretta  
Sarbanes  
Scalise  
Schakowsky  
Schauer  
Schiff  
Schmidt  
Schock  
Schradler  
Schwartz  
Scott (GA)  
Scott (VA)  
Sensenbrenner  
Serrano  
Sessions  
Sestak  
Shadegg  
Shea-Porter  
Sherman  
Shimkus

Shuler  
Shuster  
Simpson  
Sires  
Skelton  
Slaughter  
Smith (NE)  
Smith (NJ)  
Smith (TX)  
Smith (WA)  
Snyder  
Souder  
Space  
Speier  
Spratt  
Stark  
Stearns  
Stupak  
Sullivan  
Sutton  
Tanner

Taylor  
Teague  
Terry  
Thompson (CA)  
Thompson (MS)  
Thompson (PA)  
Thornberry  
Tiahrt  
Tiberi  
Tierney  
Titus  
Tonko  
Towns  
Tsongas  
Turner  
Upton  
Van Hollen  
Velázquez  
Visclosky  
Walden  
Walz

Wamp  
Wasserman  
Schultz  
Waters  
Watson  
Watt  
Waxman  
Weiner  
Welch  
Westmoreland  
Wexler  
Whitfield  
Wilson (OH)  
Wilson (SC)  
Wittman  
Wolf  
Woolsey  
Wu  
Yarmuth  
Young (FL)

## NOES—1

## NOT VOTING—2

Bono Mack Young (AK)

□ 1023

So (two-thirds being in the affirmative) the rules were suspended and the resolution, as amended, was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

# EXPRESSING SUPPORT FOR CHINESE HUMAN RIGHTS ACTIVISTS HUANG QI AND TAN ZUOREN

The SPEAKER pro tempore. The unfinished business is the question on suspending the rules and agreeing to the resolution, H. Res. 877.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. BERMAN) that the House suspend the rules and agree to the resolution, H. Res. 877.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the ayes have it.

## RECORDED VOTE

Mr. CONNOLLY of Virginia. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 426, noes 1, not voting 7, as follows:

[Roll No. 880]

## AYES—426

Abercrombie  
Ackerman  
Aderholt  
Adler (NJ)  
Akin  
Alexander  
Altmire  
Andrews  
Arcuri  
Austria  
Baca  
Bachmann  
Bachus  
Baird  
Blundin  
Blumenauer  
Blunt  
Bocchieri  
Boehner

Bartlett  
Barton (TX)  
Bean  
Becerra  
Berkley  
Berman  
Berry  
Biggart  
Billbray  
Billirakis  
Bishop (GA)  
Bishop (NY)  
Bishop (UT)  
Brown (GA)  
Brown (SC)  
Brown, Corrine  
Brown-Waite,  
Ginny  
Buchanan

Bonner  
Bono Mack  
Boozman  
Boren  
Boswell  
Boucher  
Boustany  
Boyd  
Brady (PA)  
Brady (TX)  
Bright  
Broun (GA)  
Brown (SC)  
Brown, Corrine  
Brown-Waite,  
Ginny  
Buchanan

Burgess  
Burton (IN)  
Butterfield  
Buyer  
Calvert  
Camp  
Campbell  
Cantor  
Cao  
Capito  
Capps  
Capuano  
Cardoza  
Carnahan  
Carney  
Carson (IN)  
Carter  
Cassidy  
Castle  
Castor (FL)  
Chaffetz  
Chandler  
Childers  
Chu  
Clarke  
Clay  
Cleaver  
Clyburn  
Coble  
Coffman (CO)  
Cohen  
Cole  
Conaway  
Connolly (VA)  
Conyers  
Cooper  
Costa  
Costello  
Courtney  
Crenshaw  
Crowley  
Cuellar  
Culberson  
Cummings  
Dahlkemper  
Davis (AL)  
Davis (CA)  
Davis (IL)  
Davis (KY)  
Davis (TN)  
Deal (GA)  
DeFazio  
DeGette  
Delahunt  
DeLauro  
Dent  
Diaz-Balart, L.  
Diaz-Balart, M.  
Dicks  
Dingell  
Doggett  
Donnelly (IN)  
Doyle  
Dreier  
Driehaus  
Duncan  
Edwards (MD)  
Edwards (TX)  
Ehlers  
Ellison  
Ellsworth  
Emerson  
Engel  
Eshoo  
Etheridge  
Fallin  
Farr  
Fattah  
Filner  
Flake  
Fleming  
Forbes  
Fortenberry  
Foster  
Foxy  
Frank (MA)  
Franks (AZ)  
Frelinghuysen  
Fudge  
Gallegly  
Garamendi  
Garrett (NJ)  
Gerlach  
Giffords  
Gingrey (GA)  
Gohmert

Gonzalez  
Goodlatte  
Gordon (TN)  
Granger  
Graves  
Grayson  
Green, Al  
Griffith  
Grijalva  
Guthrie  
Gutierrez  
Hall (NY)  
Hall (TX)  
Halvorson  
Hare  
Harman  
Harper  
Hastings (FL)  
Hastings (WA)  
Heinrich  
Heller  
Hensarling  
Herger  
Herseth Sandlin  
Higgins  
Hill  
Himes  
Hinchey  
Hinojosa  
Hirono  
Hodes  
Hoekstra  
Holden  
Holt

Gonzalez  
Goodlatte  
Gordon (TN)  
Granger  
Graves  
Grayson  
Green, Al  
Griffith  
Grijalva  
Guthrie  
Gutierrez  
Hall (NY)  
Hall (TX)  
Halvorson  
Hare  
Harman  
Harper  
Hastings (FL)  
Hastings (WA)  
Heinrich  
Heller  
Hensarling  
Herger  
Herseth Sandlin  
Higgins  
Hill  
Himes  
Hinchey  
Hinojosa  
Hirono  
Hodes  
Hoekstra  
Holden  
Holt

Mack  
Maffei  
Maloney  
Manzullo  
Markey (CO)  
Markey (MA)  
Marshall  
Massa  
Matheson  
Matsui  
McCarthy (CA)  
McCarthy (NY)  
McCaul  
McClintock  
McCollum  
McCotter  
McDermott  
McGovern  
McHenry  
McIntyre  
McKeon  
McMahon  
McMorris  
Rodgers  
McNerney  
Meek (FL)  
Meeks (NY)  
Melancon  
Mica  
Michaud  
Miller (FL)  
Miller (MI)  
Miller (NC)

Roskam	Shuler	Titus
Ross	Shuster	Tonko
Rothman (NJ)	Simpson	Towns
Roybal-Allard	Sires	Tsongas
Royce	Skelton	Turner
Ruppersberger	Slaughter	Upton
Ryan (OH)	Smith (NE)	Van Hollen
Ryan (WI)	Smith (NJ)	Velázquez
Salazar	Smith (TX)	Visclosky
Sánchez, Linda T.	Smith (WA)	Walden
	Snyder	Walz
Sanchez, Loretta	Souder	Wamp
Sarbanes	Space	Wasserman
Scalise	Speier	Schultz
Schakowsky	Spratt	Waters
Schauer	Stark	Watson
Schiff	Stearns	Watt
Schmidt	Stupak	Waxman
Schock	Sullivan	Weiner
Schrader	Sutton	Welch
Schwartz	Tanner	Westmoreland
Scott (GA)	Taylor	Wexler
Scott (VA)	Teague	Whitfield
Sensenbrenner	Terry	Wilson (OH)
Serrano	Thompson (CA)	Wilson (SC)
Sessions	Thompson (MS)	Wittman
Sestak	Thompson (PA)	Wolf
Shadegg	Thornberry	Woolsey
Shea-Porter	Tiahrt	Wu
Sherman	Tiberi	Yarmuth
Shimkus	Tierney	Young (FL)

## NOES—1

Paul

## NOT VOTING—7

Blackburn	Marchant	Young (AK)
Braley (IA)	Moore (KS)	
Green, Gene	Rush	

## ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). There are 2 minutes remaining in this vote.

□ 1040

So (two-thirds being in the affirmative) the rules were suspended and the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

## RECOGNIZING THE HON. JOHN DINGELL

(Ms. SLAUGHTER asked and was given permission to address the House for 1 minute.)

Ms. SLAUGHTER. Mr. Speaker, I want to say that as the man in this House who has had reform of health care in his blood, who has worked longer than anyone in America alive today to see this day, I am so happy to see you in the chair. It is an historic day made even more wonderful for us by having you preside.

The SPEAKER pro tempore (Mr. DINGELL). The Chair thanks the gentlewoman but observes that there are many here who have worked long and hard to bring us to this day, and the Nation will be grateful to us all. I thank you.

# PROVIDING FOR CONSIDERATION OF H.R. 3962, AFFORDABLE HEALTH CARE FOR AMERICA ACT, AND PROVIDING FOR CONSIDERATION OF H.R. 3961, MEDICARE PHYSICIAN PAYMENT REFORM ACT OF 2009

Ms. SLAUGHTER. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 903 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

## H. RES. 903

*Resolved*, That upon the adoption of this resolution it shall be in order to consider in the House the bill (H.R. 3962) to provide affordable, quality health care for all Americans and reduce the growth in health care spending, and for other purposes. All points of order against consideration of the bill are waived except those arising under clause 9 or 10 of rule XXI. The amendment printed in part A of the report of the Committee on Rules accompanying this resolution, perfected by the modification printed in part B of such report, shall be considered as adopted. The bill, as amended, shall be considered as read. All points of order against provisions of the bill, as amended, are waived. The previous question shall be considered as ordered on the bill, as amended, and on any further amendment thereto, to final passage without intervening motion except: (1) four hours of debate equally divided among and controlled by the chair and ranking minority member of the Committee on Energy and Commerce, the chair and ranking minority member of the Committee on Ways and Means, and the chair and ranking minority member of the Committee on Education and Labor; (2) the further amendment printed in part C of the report of the Committee on Rules, if offered by Representative Stupak of Michigan or his designee, which shall be in order without intervention of any point of order except those arising under clause 9 of rule XXI, shall be considered as read, shall be separately debatable for 20 minutes equally divided and controlled by the proponent and an opponent, and shall not be subject to a demand for division of the question; (3) the further amendment in the nature of a substitute printed in part D of the report of the Committee on Rules, if offered by Representative Boehner of Ohio or his designee, which shall be in order without intervention of any point of order, shall be considered as read, and shall be separately debatable for one hour equally divided and controlled by the proponent and an opponent; and (4) one motion to recommit, with or without instructions, which shall be considered as read.

SEC. 2. During consideration of an amendment printed in the report of the Committee on Rules accompanying this resolution, the Chair may postpone the question of adoption as though under clause 8 of rule XX.

SEC. 3. Upon the adoption of this resolution it shall be in order to consider in the House the bill (H.R. 3961) to amend title XVIII of the Social Security Act to reform the Medicare SGR payment system for physicians. All points of order against consideration of the bill are waived except those arising under clause 9 or 10 of rule XXI. The bill shall be considered as read. All points of order against provisions in the bill are waived. The previous question shall be considered as ordered on the bill to final passage without intervening motion except: (1) one hour of debate equally divided and controlled

by the chair and ranking minority member of the Committee on Energy and Commerce; and (2) one motion to recommit.

SEC. 4. In the engrossment of H.R. 3961, the Clerk shall—

(a) add the text of H.R. 2920, as passed by the House, as new matter at the end of H.R. 3961;

(b) conform the title of H.R. 3961 to reflect the addition to the engrossment of the text of H.R. 2920;

(c) assign appropriate designations to provisions within the engrossment; and

(d) conform provisions for short titles within the engrossment.

The SPEAKER pro tempore. The gentlewoman from New York is recognized for 1 hour.

Ms. SLAUGHTER. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from Texas (Mr. SESSIONS). All time yielded during consideration of the rule is for debate only.

## GENERAL LEAVE

Ms. SLAUGHTER. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days within which to revise and extend their remarks and to insert extraneous materials into the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from New York?

There was no objection.

□ 1045

Ms. SLAUGHTER. Mr. Speaker, H. Res. 903 provides for consideration of H.R. 3962, the Affordable Health Care for America Act, under a structured rule. The rule waives all points of order against consideration of the bill except those arising under clause 9 or 10 of rule XXI and provides 4 hours of debate controlled by the Committees on Energy and Commerce, Ways and Means, and Education and Labor.

The rule makes in order the amendment in part C of the report if offered by Representative STUPAK or a designee. The rule makes in order the substitute amendment in part D of the report if offered by Mr. BOEHNER or his designee.

H. Res. 903 also provides for consideration of H.R. 3961, the Medicare Physician Reform Act, under a closed rule. The rule waives all points of order against consideration of the bill except those arising under clause 9 or 10 of rule XXI, and upon passage of the bill, the Clerk is directed to add at the end the text of H.R. 2920 as passed by the House.

I am pleased to yield to the gentlewoman from Illinois (Ms. SCHAKOWSKY) for a unanimous consent request.

Ms. SCHAKOWSKY. Mr. Speaker, I rise in support of reform that will allow millions of American women to get the health care they need.

Ms. SLAUGHTER. I yield for a unanimous consent request to the gentlewoman from New York (Mrs. LOWEY).

Mrs. LOWEY. Mr. Speaker, I support health care that helps senior women afford their medications through Medicare.

Ms. SLAUGHTER. Mr. Speaker, I am pleased to yield for a unanimous consent request to the gentlewoman from New York (Mrs. MALONEY).

Mrs. MALONEY. Mr. Speaker, I support ending gender discrimination in premium prices.

Ms. SLAUGHTER. Mr. Speaker, I am pleased to yield to the gentlewoman from Texas (Ms. EDDIE BERNICE JOHNSON).

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, I support the Democratic health care bill because it eliminates disparities that harm a woman's health.

Ms. SLAUGHTER. Mr. Speaker, I yield to the gentlewoman from California (Ms. LEE) for a unanimous consent request.

Ms. LEE of California. Mr. Speaker, I support affordable health care and this Democratic bill so that domestic violence may never be used ever again as a preexisting condition.

Ms. SLAUGHTER. Mr. Speaker, I yield to the gentlewoman from Michigan (Ms. KILPATRICK) for a unanimous consent request.

Ms. KILPATRICK of Michigan. Mr. Speaker, I support our House bill which will let women and doctors control their health decisions.

Ms. SLAUGHTER. Mr. Speaker, I yield for a unanimous consent request to the gentlewoman from California (Ms. ZOE LOFGREN).

Ms. ZOE LOFGREN of California. Mr. Speaker, I support the Democratic bill to let our kids in their 20s get insurance and keep healthy.

Ms. SLAUGHTER. Mr. Speaker, I yield for a unanimous consent request to the gentlewoman from Ohio (Ms. SUTTON).

Ms. SUTTON. Mr. Speaker, I support health care reform that improves the nursing workforce and is endorsed by the American Nursing Association.

Ms. SLAUGHTER. Mr. Speaker, I yield for a unanimous consent request to the gentlewoman from California (Mrs. DAVIS).

Mrs. DAVIS of California. Mr. Speaker, I ask unanimous consent to revise and extend my remarks in support of the Democratic bill because it will keep women and their families healthy, not just take care of them when they are sick.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from California?

Mr. PRICE of Georgia. Mr. Speaker, reserving the right to object I was just wondering if this was a stalling tactic by the majority party on delaying the vote on this important bill which will kill 5.5 million jobs today?

The SPEAKER pro tempore. The Chair will observe that is not a correct parliamentary inquiry. The Chair will observe, on this side of the aisle, I don't think anybody wants to stall the bill.

Mr. PRICE of Georgia. Mr. Speaker, continuing to reserve the right to object.

The SPEAKER pro tempore. The gentleman is recognized on his reservation.

Mr. PRICE of Georgia. I understand that this may be a train that is rolling, but it appears that the majority side is interested in stalling this bill. Would it be appropriate to ask unanimous consent that all extension and revision of remarks could be done en bloc.

The SPEAKER pro tempore. The Chair would observe that such unanimous consent has already been granted. The Chair would note that there are a lot of Members around here that want to ask unanimous consent. The Chair intends to recognize them and let their unanimous consents be judged by the Chair and the House as suitable.

Mr. PRICE of Georgia. Mr. Speaker, continuing to observe the right to object, how about increasing the debate time? It appears that the majority party is attempting to expand their debate time.

I would ask unanimous consent that each side be added 1 hour of debate time.

Ms. SLAUGHTER. I object.

The SPEAKER pro tempore. Objection is heard.

Mr. PRICE of Georgia. Mr. Speaker, I continue to reserve the right to object.

The SPEAKER pro tempore. The Chair would be delighted to hear the gentleman on his reservation.

Mr. PRICE of Georgia. Again, Mr. Speaker, it is my understanding that the majority party appears to be continuing to delay the process here. It would be appropriate, if the majority party is interested in fairness in this process, to provide for increasing debate time on both sides of the aisle.

The SPEAKER pro tempore. The Chair observes that regular order has been demanded. As such, the gentleman must either object, or withdraw his reservation.

Mr. PRICE of Georgia. Mr. Speaker, I object.

The SPEAKER pro tempore. The Chair hears objection. The Chair would hope the gentleman would not object, but if he does, it will be in the RECORD.

Mr. PRICE of Georgia. Mr. Speaker, continuing to reserve then, if you are not interested in obtaining my objection, continuing to reserve, again it appears that this is a process by which the majority party is interested once again in trying to subvert the rules and expand the debate time on the majority side.

#### PARLIAMENTARY INQUIRY

Mr. SESSIONS. Parliamentary inquiry.

The SPEAKER pro tempore. Objection was heard. The gentleman from Texas will state his parliamentary inquiry.

Mr. SESSIONS. The question is, could the Speaker please advise us of

the time that is being consumed. Does it come off the time that would be allowed in the rule for debate by the gentlewoman from New York?

The SPEAKER pro tempore. A Member asking to insert remarks into the RECORD may include a simple declaration of sentiment toward the question under debate but should not embellish the request with extended oratory.

The gentlewoman from New York is recognized.

Ms. SLAUGHTER. Mr. Speaker, I am pleased to yield to the gentlewoman from California (Ms. WOOLSEY) for a unanimous consent request.

Ms. WOOLSEY. Mr. Speaker, I ask unanimous consent to revise and extend my remarks in support of this bill because it will make health care affordable for women who still earn 77 percent less than men.

Mr. SESSIONS. Mr. Speaker, I reserve the right to object.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Texas on his reservation.

Mr. SESSIONS. Mr. Speaker, I believe that what is occurring is that the facts of the case are that this has gone beyond the rules of the House in the presentation, and I object and would ask for regular order.

The SPEAKER pro tempore. The gentleman from Texas has objected.

The gentlewoman from New York continues to be recognized.

Ms. SLAUGHTER. I am pleased to yield to the gentlewoman from Hawaii (Ms. HIRONO) for a unanimous consent request.

Ms. HIRONO. Mr. Speaker, I ask unanimous consent to revise and extend my remarks because the women in my district cannot wait any longer for meaningful health care reform.

Mr. SESSIONS. Mr. Speaker, I reserve the right to object.

The SPEAKER pro tempore. The gentleman from Texas is recognized on his reservation.

Mr. SESSIONS. Mr. Speaker, I believe what is occurring now is not only opposed to the House rules but is containing further comment, which was not allowed in the rule nor in the general provisions of the House.

The SPEAKER pro tempore. The Chair will restate the ruling that the Chair made earlier.

A Member asking to insert remarks may include a simple declaration of sentiment towards the question under debate but should not embellish the request with extended oratory.

The Chair has heard nothing which contravenes that, and the Chair makes the statement to my good friend that we will continue as we have in allowing each Member—

Mr. SESSIONS. Mr. Speaker, parliamentary inquiry.

The SPEAKER pro tempore. The gentleman is out of order. The Chair is busy ruling.



Mr. SESSIONS. Could the Speaker please advise me about the time that is presently being consumed?

The SPEAKER pro tempore. The gentleman will suspend.

The Chair recognizes the distinguished gentlewoman from New York.

Ms. SLAUGHTER. Mr. Speaker, I am pleased to yield for a unanimous consent request to the gentlewoman from California (Ms. ROYBAL-ALLARD).

□ 1100

Ms. ROYBAL-ALLARD. Mr. Speaker, I rise in support of the Democratic bill because it will help women with breast cancer pay for chemotherapy.

Mr. PRICE of Georgia. Mr. Speaker, reserving the right to object.

The SPEAKER pro tempore. The unanimous consent request has been entered. That is the business of the House.

Ms. SLAUGHTER. Mr. Speaker, regular order, please.

The SPEAKER pro tempore. The Chair has ruled.

#### PARLIAMENTARY INQUIRY

Mr. PRICE of Georgia. Parliamentary inquiry, Mr. Speaker.

The SPEAKER pro tempore. The gentleman will state his parliamentary inquiry.

Mr. PRICE of Georgia. Is it not appropriate for a Member of the House to be able to reserve a right to object on a unanimous consent request?

The SPEAKER pro tempore. The Chair is going to inform the gentleman that he has the right to make a timely reservation. The Chair is going to observe that such was not made.

Mr. PRICE of Georgia. Further inquiry, Mr. Speaker.

The SPEAKER pro tempore. The gentleman will state his inquiry.

Mr. PRICE of Georgia. I object.

The SPEAKER pro tempore. An objection is no longer timely.

The gentlewoman from New York continues to be recognized.

Ms. SLAUGHTER. Mr. Speaker, I yield to the gentlelady from California (Mrs. CAPPS) for a unanimous consent request.

Mrs. CAPPS. Mr. Speaker, I ask unanimous consent to revise and extend my remarks in support of reforms that ensure that no mother will ever have her child's care denied because of a preexisting condition.

Mr. PRICE of Georgia. I object.

The SPEAKER pro tempore. Objection is heard.

The Chair wants to remind my colleagues, we are going to try and have a fair and orderly debate.

The Chair is going to remind my colleagues that every Member has a right to place a unanimous consent before the House. The Chair is going to protect that right for the majority and the Chair is going to protect that right for the minority. And if delay occurs, at this moment it appears to the Chair

that the delay occurs less on the Chair's right than it does on the Chair's left.

The Chair will observe if the gentleman is concerned about speeding the business of the House, the business of the House can best be speeded by allowing the unanimous consent requests to be made.

#### PARLIAMENTARY INQUIRY

Mr. PRICE of Georgia. Parliamentary inquiry, Mr. Speaker.

The SPEAKER pro tempore. The gentleman will state his inquiry.

Mr. PRICE of Georgia. At the time that a unanimous consent request is made, the Speaker has apparently determined that the statement, as soon as it is completed, does not allow for a reservation. Is it not, under the rules of the House, appropriate for a Member of the House to reserve a right to object based upon a unanimous consent request?

The SPEAKER pro tempore. The Chair is going to instruct the gentleman lightly upon the rules of the House by observing that reservations must be made in a timely fashion.

The Chair will protect the rights of the gentleman to assert timely objections or to proceed in an appropriate manner under the rules.

The Chair now recognizes the gentlewoman from New York.

Ms. SLAUGHTER. Mr. Speaker, I yield to the gentlelady from California (Mrs. NAPOLITANO) for a unanimous consent request.

Mrs. NAPOLITANO. Mr. Speaker, I rise in support of health care reform that eliminates out-of-pocket costs for osteoporosis screenings.

Ms. SLAUGHTER. Mr. Speaker, I yield to the gentlelady from Ohio (Ms. KILROY) for a unanimous consent request.

Ms. KILROY. Mr. Speaker, I ask unanimous consent—

Mr. DREIER. Mr. Speaker, reserving the right to object.

The SPEAKER pro tempore. The gentleman is recognized on his reservation.

Mr. DREIER. Thank you very much, Mr. Speaker.

Ms. SLAUGHTER. Regular order, please.

The SPEAKER pro tempore. Regular order is demanded.

The Chair is going to make this observation for the benefit of my colleagues. After a demand for regular order, a reservation of objection may no longer be entertained. A Member must either object or withdraw the reservation.

Mr. DREIER. Mr. Speaker, I have reserved the right to object. Am I allowed to be heard under that reservation at this juncture?

Ms. SLAUGHTER. Regular order.

The SPEAKER pro tempore. That, the Chair regrets, cannot be done because the Chair has heard a demand for regular order, which precludes that.

Mr. DREIER. Mr. Speaker, I cannot reserve the right to object to the unanimous consent request?

The SPEAKER pro tempore. Not after a demand for the regular order has been heard.

What is happening, the Chair will inform my dear friends, is we are getting ourselves into an unnecessarily deep parliamentary morass. If my colleagues on the Chair's left would withhold these objections, we would not be in this snarl at this time.

Now, does the gentleman object?

Mr. DREIER. Mr. Speaker, I reserve the right to object and wish to be heard on my reservation.

The SPEAKER pro tempore. The Chair rules that out of order.

The Chair makes the observation that since a demand for the regular order has been made, reservations may no longer be raised. Perceiving that the gentleman from California has withdrawn his reservation, the Chair recognizes now, again, the gentlewoman from New York, who controls the time at this moment.

Ms. SLAUGHTER. Mr. Speaker, I have already yielded to the gentlelady from Ohio (Ms. KILROY).

Ms. KILROY. I thank the gentlelady from New York.

Mr. Speaker, I ask unanimous consent to revise and extend my remarks in support of the Democratic bill because—

Mr. SESSIONS. Mr. Speaker, I object.

#### PARLIAMENTARY INQUIRY

Ms. KILROY. Mr. Speaker, parliamentary inquiry.

Do I not have the right to be able to continue my sentence without objections that are trying to censure my remarks here on the floor that I have a right to make as a Member of Congress?

The SPEAKER pro tempore. Objection is heard. The gentlewoman will suspend.

The gentlewoman from New York again is recognized.

Ms. SLAUGHTER. Mr. Speaker, I would inquire of Ms. KILROY, have you had time to raise your objection?

Ms. KILROY. I ask unanimous consent again to revise and extend my remarks because this—

The SPEAKER pro tempore. Objection is heard.

Ms. KILROY. I rise in support of this Democratic bill because it won't force women into a bare bones policy, high deductible, and high-cost plan.

The SPEAKER pro tempore. Objection has been heard.

Mr. SESSIONS. Mr. Speaker, I would ask to be heard.

Mr. Speaker, the Republicans are asking for an extension of 1 hour on both sides under the rule that will equally allow both sides 30 additional minutes to be heard, because it's obvious that Members of Congress need to

be heard and this rule does not provide the amount of time necessary, and the people who are here is an example of why this is wrong.

The SPEAKER pro tempore. The gentleman from Texas has not yet been recognized for debate. The gentleman will resume his seat and we will proceed with the business of the House.

The Chair continues to recognize the gentlewoman from New York.

Ms. SLAUGHTER. Mr. Speaker, I yield to the gentlelady from the Virgin Islands for a unanimous consent request.

Mrs. CHRISTENSEN. Mr. Speaker, I ask unanimous consent to revise and extend my remarks in support of providing affordable coverage for the 39 percent of Latinos, 23 percent of African Americans, and 34 percent of Native Americans who are not insured.

Ms. FALLIN. Mr. Speaker, I object.

The SPEAKER pro tempore. Objection is heard.

The gentlewoman from New York is recognized.

Ms. SLAUGHTER. I yield to the gentlewoman from California (Ms. HARMAN) for a unanimous consent request.

Ms. HARMAN. Mr. Speaker, because it eliminates cost sharing and makes access to health care more affordable, as a mother of four and a grandmother of three, I ask unanimous consent to revise and extend my remarks in support of the Democratic bill.

Ms. FALLIN. Mr. Speaker, I object.

The SPEAKER pro tempore. The objection is heard.

The Chair requests the gentlemen and gentlewomen of the House to heed the gavel. The Chair will try to protect the rights of all and will see that the proceedings are conducted in accordance with the rules. And the Chair asks the Members not to make that any more difficult than they must.

The Chair continues to recognize the gentlewoman from New York.

Ms. SLAUGHTER. Mr. Speaker, I yield to the gentlewoman from Florida (Ms. CASTOR) for a unanimous consent request.

Ms. CASTOR. Mr. Speaker, because the Democratic bill gives women more opportunities and offers to modernize health care, I ask unanimous consent to revise and extend my remarks in support of the Democratic bill.

Ms. FALLIN. I object.

The SPEAKER pro tempore. Objection is heard.

The Chair continues to recognize the gentlewoman from New York.

Ms. SLAUGHTER. Mr. Speaker, I yield to the gentlewoman from Wisconsin (Ms. BALDWIN) for a unanimous consent request.

Ms. BALDWIN. Mr. Speaker, because it is time to protect older women by closing the doughnut hole, I ask unanimous consent to revise and extend my remarks in support of this bill.

Mrs. BACHMANN. I object.

The SPEAKER pro tempore. Objection is heard.

The Chair has a comment to make here. The Chair is going to request the Members on both sides of the aisle to respect the rights of other Members. Members have the right, under the rules, to ask unanimous consent. If Members on one side of the aisle want their right protected, the Chair observes that they should then respect the rights of Members on the other side of the aisle. It will be the purpose of the Chair to try and see that all Members are heard at the proper time and fashion and to see that the rules are carried out. The Chair will also try to see that the debate is conducted with a measure of comity and grace and decency, and the Chair would request my friends on both sides of the aisle to respect that.

#### PARLIAMENTARY INQUIRIES

Mr. CULBERSON. Parliamentary inquiry, Mr. Speaker.

The SPEAKER pro tempore. The gentleman will state it.

Mr. CULBERSON. Mr. Speaker, to fulfill your proper admonition of the House that we proceed with comity and respect and allow the voices on both sides to be heard, my parliamentary inquiry, Mr. Speaker, is to ask that we would—and we are prepared to do so with a unanimous consent—agree to expand the debate by 1 hour to allow other Members of the House on both sides—could we have a unanimous consent request, Mr. Speaker, to expand the debate?

The SPEAKER pro tempore. The Chair will observe that my friend has not stated a proper parliamentary inquiry.

The Chair simply wants to make this observation. We can spend a long time here on this particular wrangle or we can allow the proceedings to go forward. Everybody will have a chance to be heard as long as the House is presided over by this particular Member.

The Chair just requests my friends on the minority side, let's let the discussion go forward. It isn't hurting anything, and there is no advantage to be achieved by making all of this fuss.

Mr. CULBERSON. Parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state his parliamentary inquiry.

Mr. CULBERSON. Mr. Speaker, is it in order, I would like to make a unanimous consent to expand the debate by 1 hour.

The SPEAKER pro tempore. The Chair observes that that can only be done at this time by the gentlewoman from New York yielding for the purpose of that kind of unanimous consent request.

Mr. CULBERSON. Will the gentlelady from New York yield to expand the debate by 1 hour? I would like to make that unanimous consent request

to expand the debate by 1 hour so that everyone can speak.

Ms. SLAUGHTER. I am calling for regular order. I would like to really get on with this bill.

The SPEAKER pro tempore. The Chair observes that the gentlewoman from New York has not yielded for that purpose and that, therefore, the request is not in order.

The gentlewoman from New York continues to be recognized.

Ms. SLAUGHTER. Mr. Speaker, I yield to the gentlelady from California (Ms. ESHOO) for a unanimous consent request.

Ms. ESHOO. Mr. Speaker, I ask unanimous consent to revise and extend my remarks on this bill which will limit age ratings that make coverage unaffordable for older women.

Mrs. BACHMANN. I object, Mr. Speaker.

The SPEAKER pro tempore. Objection is heard.

The gentlewoman from New York continues to be recognized.

Ms. SLAUGHTER. Mr. Speaker, I yield to the gentlelady from Massachusetts (Ms. TSONGAS) for a unanimous consent request.

Ms. TSONGAS. Because women shouldn't have to buy a separate policy for maternity care, Mr. Speaker, I ask unanimous consent to revise and extend my remarks in support of the Democratic bill.

Mrs. BACHMANN. I object, Mr. Speaker.

The SPEAKER pro tempore. Objection is heard.

#### PARLIAMENTARY INQUIRIES

Mr. HASTINGS of Florida. Mr. Speaker, parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state the parliamentary inquiry.

Mr. HASTINGS of Florida. Mr. Speaker, is it not correct procedure in the House of Representatives for the purpose, when a Member offers a unanimous consent request, that the objection be heard after the conclusion of the unanimous consent request?

The SPEAKER pro tempore. The gentleman is correct in that the Chair has been trying to see to it, amidst a somewhat disorderly House, that the request for unanimous consent is uttered before the objection is heard.

Mr. PRICE of Georgia. Parliamentary inquiry, Mr. Speaker.

The SPEAKER pro tempore. The gentleman will state the parliamentary inquiry.

Mr. PRICE of Georgia. Does the rule not provide on a unanimous consent request that there be no significant embellishment of remarks, and in fact the majority party has continued to embellish their remarks upon their UC request?

□ 1115

The SPEAKER pro tempore. The Chair is kind of wearing out this ruling, but the Chair will respond again

for the benefit of my good friend by observing this:

A Member asking to insert remarks may include a simple declaration of sentiment toward the question under debate, but should not embellish the requests with extended oratory. The Chair is going to try and enforce that, and the Chair would suggest to all Members that we respect each other's rights and, on this side, that Members observe the rule and on that side that the Members permit the Members on this side to observe the rule and to make their necessary points. The Chair will try and enforce these rules in a fair and proper way.

The Chair observes that the proceedings will proceed more speedily if the Members will assist the Chair in this particular way.

Ms. SLAUGHTER. I am pleased to yield to the gentlewoman from Nevada (Ms. TITUS) for a unanimous consent request.

Ms. TITUS. Mr. Speaker, because the Democratic bill covers the preventative services that women need to stay healthy, I ask unanimous consent to revise and extend my remarks in support of such bill.

Mrs. BACHMANN. I object.

The SPEAKER pro tempore. Objection is heard.

Now the Chair would like to make an observation for the benefit of everybody.

The whole process will proceed more speedily if we, first of all, observe the rules and, second of all, if we afford reasonable courtesy to our colleagues on the other side of the aisle. The Chair calls on the Democrats to do that and the Republicans.

Now, the Chair simply wants to make this statement for the benefit of Members on the minority side who may not have understood the Chair's motives, but the Chair will hear each unanimous-consent request individually and will hear each objection individually, and the Chair will ask the Members to cooperate in that. The House should have an orderly process that will reflect well on it in historical perspective.

#### PARLIAMENTARY INQUIRY

Mr. CULBERSON. Mr. Speaker, a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. CULBERSON. Mr. Speaker, is there any other motion that the minority can make other than a unanimous consent to expand the debate and allow more Members of the House to be heard in an amicable way?

The SPEAKER pro tempore. The Chair just will adhere to the traditional practices of the House and not respond to hypothetical questions, and the Chair will rule on questions as they become ripe under the rules. The Chair regrets that the Chair can go no further than making that observation at this time.

The Chair continues to recognize the gentlewoman from New York, and hopes that the process will be speeded by a more gracious acquiescence of the House.

Ms. SLAUGHTER. Mr. Speaker, I am pleased to yield to the gentlewoman from California (Ms. SPEIER) for a unanimous consent request.

Ms. SPEIER. Mr. Speaker, I am in support of health care reform, as it will guarantee coverage for maternity and well-child care.

Ms. SLAUGHTER. Mr. Speaker, I am pleased to yield to the gentlewoman from California (Ms. LORETTA SANCHEZ) for a unanimous consent request.

Ms. LORETTA SANCHEZ of California. Mr. Speaker, I support health care reform that invests in a health care workforce dedicated to meeting the needs of all women.

#### PARLIAMENTARY INQUIRY

Mr. BURTON of Indiana. Mr. Speaker, a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman from Indiana.

Mr. BURTON of Indiana. Mr. Speaker, if there is a request for a unanimous consent, does that allow the person asking unanimous consent, if there is an objection, to continue on with hyperbole?

The SPEAKER pro tempore. The Chair is going to read the rule again to the House. I think it will probably be helpful. I think this is the fourth or fifth time the Chair has done it.

A Member asking to insert remarks may include a simple declaration of sentiment toward the question under debate, but should not embellish the requests with extended oratory; and with the assistance of the House, the Chair is going to do his very best to see to it that that is observed on both sides of the aisle.

Ms. SLAUGHTER. Mr. Speaker, I yield to the gentlewoman from California (Ms. RICHARDSON) for a unanimous-consent request.

Ms. RICHARDSON. Mr. Speaker, because I stand in support of health care reform that helps more than half of women who cannot afford health care today, I ask unanimous consent to revise and extend my remarks.

Mr. BURTON of Indiana. I object.

The SPEAKER pro tempore. Objection has been heard.

#### PARLIAMENTARY INQUIRY

Mr. BURTON of Indiana. Mr. Speaker, with great respect, I ask unanimous consent for a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman from Indiana will state his parliamentary inquiry.

Mr. BURTON of Indiana. Mr. Speaker, you have just ruled that you cannot embellish, if an objection has been heard, a unanimous-consent request, and yet the other side continues to embellish their remarks when an objection has been heard, and I wish you would restate what you just said, that

if an objection is heard they cannot embellish their remarks.

The SPEAKER pro tempore. The Chair has heard the gentleman's comments, and the Chair is going to make this observation. The decision as to whether the rules are being adhered to is the decision of the Chair. It is the right of Members to raise questions as they might choose, and this particular occupant in the chair is going to do his best to be fair to all parties.

The Chair is going to now make a further admonition to the House. The Chair will advise Members that, as indicated by previous occupants of the Chair going a long way back, although a unanimous consent request to insert remarks in debate may comprise a simple declaration of statement of the Member's attitude toward the pending measure, it is improper for a Member to embellish such requests with other oratory and that it can become an imposition on the time of the Member who yielded for that purpose.

The Chair will entertain as many requests to make insertions by unanimous consent as may be necessary to accommodate the Members, but the Chair also asks the Members to cooperate by confining such remarks to the proper form.

Ms. SLAUGHTER. Mr. Speaker, I am pleased to yield to the gentlewoman from Florida (Ms. WASSERMAN SCHULTZ) for a unanimous consent request.

Ms. WASSERMAN SCHULTZ. Mr. Speaker, being a breast cancer survivor shouldn't disqualify a woman from getting health care coverage. I rise in support of health care reform.

#### PARLIAMENTARY INQUIRY

Mr. GOHMERT. Mr. Speaker, a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. GOHMERT. Mr. Speaker, we are hearing the requests over and over for unanimous consent to speak outside the rule. You see that we have a lineup of people over here to do the same thing on our side. The majority has the power to extend debate either by UC, as I understand it, and so my inquiry is:

Would it be in order to go back and forth, making unanimous consents on each side to speak outside the rule and so we can do this in an equitable way, which appears to be what the Speaker is trying to do?

The SPEAKER pro tempore. The Chair understands the concerns of the gentleman. The Chair is going to make this observation:

Looking down from the Rostrum here, the Chair observes that the line on the Speaker's right is getting shorter and that the time of the gentlewoman from New York will shortly expire. That time will then move to the minority side, at which time Members of the minority may want to make the

same requests that Members of the majority have made. The Chair is going to do the level best to see to it all Members are protected in their rights.

The question of yielding for the purpose of the unanimous consent is up to the gentlewoman from New York. At a later time, perhaps the Member of the minority handling the rule will want to make a unanimous consent request along those lines. If that happens, then the House will deal with the matter, and the Chair will preside over the decision.

The Chair observes that the House is out of order. The Chair has tried to be considerate of the concerns of my friends on the minority side.

Ms. SLAUGHTER. Mr. Speaker, I am pleased to yield to the gentlewoman from Maryland (Ms. EDWARDS) for a unanimous consent request.

Ms. EDWARDS of Maryland. Mr. Speaker, I rise in support of the Democratic bill because it eliminates higher premiums for women who are more likely than men to have chronic diseases or to be disabled.

The SPEAKER pro tempore. Now the Chair is going to make this statement, and will ask Members on both sides of the aisle to listen.

The Chair is asking for a simple statement of unanimous consent at this time or the person controlling the time—in this instance, my dear friend, the gentlewoman from New York—will find that her time is charged.

So the Chair calls upon my colleagues on the majority side to listen to that, but the Chair reminds my colleagues on the minority side that the same rules and behavior will probably be applied when the minority is recognized.

Ms. SLAUGHTER. Mr. Speaker, I am pleased to yield to the gentlewoman from New Hampshire (Ms. SHEA-PORTER) for a unanimous-consent request.

Ms. SHEA-PORTER. Mr. Speaker, I support health care reform because more than 14 million women with incomes up to 400 percent of poverty are uninsured.

Ms. SLAUGHTER. Mr. Speaker, I am pleased to yield to the gentlewoman from California (Ms. WATSON) for a unanimous-consent request.

Ms. WATSON. Mr. Speaker, single women are twice as likely to be uninsured as married women, and they need coverage. I support the Democratic bill.

Ms. SLAUGHTER. Mr. Speaker, I am pleased to yield to my fellow New Yorker (Ms. VELÁZQUEZ) for a unanimous-consent request.

Ms. VELÁZQUEZ. Mr. Speaker, I rise in support of health care reform as it will empower millions of women, particularly of low income, with information they need to make wise decisions for themselves and their families.

Ms. SLAUGHTER. Mr. Speaker, I am pleased to yield to the gentlewoman

from Illinois (Mrs. HALVORSON) for a unanimous-consent request.

Mrs. HALVORSON. Mr. Speaker, we are in the middle of a health care crisis and doing nothing is not an option. I support health care reform.

Ms. SLAUGHTER. Mr. Speaker, I am pleased to yield to the Delegate from the District of Columbia (Ms. NORTON) for a unanimous-consent request.

Ms. NORTON. Mr. Speaker, I rise in support of the Democratic bill to bend the curve that has seen health care costs rise three times faster than wages.

Ms. SLAUGHTER. Mr. Speaker, I am pleased to yield to the gentlewoman from Florida (Ms. CORRINE BROWN) for a unanimous-consent request.

Ms. CORRINE BROWN of Florida. Mr. Speaker, I strongly support health care reform, which will benefit women who change jobs; and I want to add that health care insurance companies cannot deny people health care because of preexisting conditions.

□ 1130

Ms. SLAUGHTER. Mr. Speaker, I am pleased to yield to the gentlewoman from Wisconsin, Ms. GWEN MOORE, for a unanimous consent request.

Ms. MOORE of Wisconsin. Mr. Speaker, I rise in support of this bill because domestic violence costs as much as \$750 billion to our health care system.

Ms. SLAUGHTER. Mr. Speaker, because of the kind indulgence of our friends on the other side, we have no further speakers, but we would like to sit quietly and listen to the other side.

I reserve the balance of my time.

Mr. SESSIONS. Mr. Speaker, I would like to inquire of the time remaining on both sides.

The SPEAKER pro tempore. The gentlewoman from New York has 28 minutes remaining, and the gentleman from Texas has 30 minutes remaining.

Mr. SESSIONS. Mr. Speaker, I appreciate that.

Mr. Speaker, at this time, I would like to yield to the gentlewoman from Ohio (Mrs. SCHMIDT) for a unanimous consent request.

Mrs. SCHMIDT. Mr. Speaker, I rise in opposition to this job-killing bill before us.

Mr. SESSIONS. Mr. Speaker, I would like to yield to the gentlewoman from Oklahoma (Ms. FALLIN) for a unanimous consent request.

Ms. FALLIN. Mr. Speaker, I rise in opposition against this freedom-killing, constitutional affront, job-killing bill, health care bill.

Mr. SESSIONS. Mr. Speaker, I yield to the gentlewoman from Tennessee (Mrs. BLACKBURN) for a unanimous consent request.

Mrs. BLACKBURN. Mr. Speaker, I rise in opposition on this record-killing, job-killing bill that is going to cut Medicare and pile debt on our children, our precious grandchildren and raise

health care costs and taxes on the American people.

The SPEAKER pro tempore. The Chair is going to observe, the rules are going to be observed on both sides of the aisle.

For the benefit of my colleagues, the Chair will simply observe that Members asking to insert remarks may include a simple declaration of sentiment towards the question under debate but should not embellish the request with extended oratory.

The gentleman from Texas continues to be recognized.

Mr. SESSIONS. Mr. Speaker, I yield to the gentlewoman from California (Mrs. BONO MACK) for a unanimous consent request.

Mrs. BONO MACK. Mr. Speaker, I rise in opposition to this job-killing bill that raises taxes on the American people.

Mr. SESSIONS. Mr. Speaker, I yield to the gentlewoman from Florida (Ms. ROS-LEHTINEN) for a unanimous consent request.

Ms. ROS-LEHTINEN. Mr. Speaker, I rise in opposition to this job-killing bill because it piles on debt on my brand-new 3-month-old grandbaby.

We agree that real healthcare reform is a necessity.

We must provide uninsured Americans with meaningful healthcare reform.

But the trillion dollar Pelosi bill is not the answer.

The Pelosi bill will drive already hurting hardworking families and seniors further into debt.

My home state of Florida is suffering with 11.2% unemployment.

This is not the right time to burden families with increased taxes.

Also, with over 162 billion dollars in harmful cuts to Medicare Advantage, the Pelosi plan will force millions of seniors to lose their current health coverage.

And Medicare prescription drug premiums will likely rise by 20 percent.

The trillion dollar Pelosi bill makes it tougher on seniors to get the coverage and treatment they deserve after a lifetime of hard work and sacrifice.

There is a disconnect between Congress and reality when we think creating bureaucracies is the same as creating solutions.

Mr. SESSIONS. Mr. Speaker, I yield to the gentlewoman from Michigan (Mrs. MILLER) for a unanimous consent request.

Mrs. MILLER of Michigan. Mr. Speaker, I rise in opposition to this job-killing, deficit-exploding government takeover of our health care system.

Mr. SESSIONS. Mr. Speaker, I yield to the gentlewoman from the State of Washington (Mrs. MCMORRIS RODGERS) for a unanimous consent request.

Mrs. MCMORRIS RODGERS. Mr. Speaker, I rise in opposition because this bill will take away the ability of women, the chief health officer in 85 percent of American households, for

making the best decisions for their families.

Mr. SESSIONS. Mr. Speaker, I yield to the gentlewoman from West Virginia (Mrs. CAPITO) for a unanimous consent request.

Mrs. CAPITO. Mr. Speaker, I rise in opposition because this bill puts crushing debt on everyone and puts the government between a woman and her doctor.

Mr. SESSIONS. Mr. Speaker, I yield to the gentlewoman from Illinois (Mrs. BIGGERT) for a unanimous consent request.

Mrs. BIGGERT. Mr. Speaker, I rise in opposition to this bill which raises health care costs and taxes.

Mr. SESSIONS. Mr. Speaker, I yield to the gentlewoman from Minnesota (Mrs. BACHMANN) for a unanimous consent request.

Mrs. BACHMANN. Mr. Speaker, I rise in opposition to this job-killing bill that will cut \$500 million from Medicare and potentially collapse the economic economy.

Mr. SESSIONS. Mr. Speaker, I yield to the gentlewoman from Kansas (Ms. JENKINS) for a unanimous consent request.

Ms. JENKINS. Mr. Speaker, I rise in opposition because this bill kills jobs, cuts Medicare, piles on debt, increases costs and raises taxes.

While there are many reasons why I'm opposed to Speaker PELOSI's health care bill, there is one that has been highlighted in today's headlines.

#### JOBS

Americans from coast to coast are struggling to make ends meet and many are looking for work.

Yet on the day unemployment in our nation hit 10.2 percent, the highest level since 1983, the Democrat Party continues to move forward with yet another job-killing bill.

According to a model used by President Obama's own economic advisors, Speaker PELOSI's health care plan would kill another 5.5 million jobs.

That is downright criminal.

Before voting on Speaker PELOSI's plan later this weekend, I urge my colleagues to respond to the needs of the American people by supporting solutions to create jobs, not kill them.

The SPEAKER pro tempore. The Chair is going to announce again the rules of the House as they affect this part of our proceedings.

A Member asking to insert remarks may include a simple declaration of sentiment towards the question under debate but should not embellish their requests with extended oratory.

Mr. SESSIONS. Mr. Speaker, I yield to the gentlewoman from Wyoming (Mrs. LUMMIS) for a unanimous consent request.

Mrs. LUMMIS. Mr. Speaker, I rise in opposition to this job-killing bill at a time when our Nation has 10.2 percent unemployment that cuts Medicare, piles debt on our children, and raises health care costs.

Mr. SESSIONS. Mr. Speaker, I yield to the gentlewoman from Florida (Ms. GINNY BROWN-WAITE) for a unanimous consent request.

Ms. GINNY BROWN-WAITE of Florida. Mr. Speaker, I rise in opposition to this job-killing bill that's estimated to cut 5.5 million jobs in America. It's not going to help health care, and the bottom line is Medicare is imperiled as a result of it.

The SPEAKER pro tempore. The Chair will ask for a simple statement of unanimous consent, or the gentleman from Texas will be charged for time just like the gentlewoman from New York.

Mr. SESSIONS. Mr. Speaker, I yield to the gentlewoman from North Carolina (Ms. FOXX) for a unanimous consent request.

Ms. FOXX. Mr. Speaker, I rise in opposition to this exercise of tyranny of the majority that our Founders so feared on this job-killing bill that cuts Medicare, piles debt on our children, raises health care costs, and raises taxes on the American people.

The SPEAKER pro tempore. The Chair observes that the gentleman from Texas is being charged for the time now being used.

Mr. SESSIONS. Mr. Speaker, I yield to the gentleman from Kentucky (Mr. DAVIS) for a unanimous consent request.

Mr. DAVIS of Kentucky. Mr. Speaker, I rise in opposition because of the tyranny that is being exercised by the majority to step in between the American people and their freedom to make their own health decisions.

The SPEAKER pro tempore. The gentleman from Texas is charged for the time.

Mr. SESSIONS. Mr. Speaker, I yield to the gentleman from Louisiana (Mr. ALEXANDER) for a unanimous consent request.

Mr. ALEXANDER. Mr. Speaker, I rise in opposition against this government takeover of health care.

Mr. SESSIONS. Mr. Speaker, I yield to the gentleman from Texas (Mr. CULBERSON) for a unanimous consent request.

Mr. CULBERSON. Mr. Speaker, I rise in opposition on behalf of the people of District Seven to register my strenuous opposition to this government takeover of the health care system which will bankrupt our children.

The SPEAKER pro tempore. The gentleman from Texas is charged for the time.

Mr. SESSIONS. Mr. Speaker, I yield to the gentleman from Texas (Mr. GOHMERT) for a unanimous consent request.

Mr. GOHMERT. Mr. Speaker, I rise in opposition to the abuse of process in not allowing people to come to the people's House and just make statements over 18 percent takeover of the U.S. economy.

The SPEAKER pro tempore. The gentleman is charged for the time.

Mr. SESSIONS. Mr. Speaker, I yield to the gentleman from South Carolina (Mr. WILSON) for a unanimous consent request.

Mr. WILSON of South Carolina. Mr. Speaker, I rise in opposition to this job-killing bill that cuts Medicare, piles debt on our children and grandchildren, raises health care costs, and raises taxes on the American people.

Additionally, this bill cuts approximately \$150 billion from Medicare Advantage, leaving 4.6 million women without their choice of insurance.

The SPEAKER pro tempore. The gentleman from Texas is charged with the time.

Mr. SESSIONS. Mr. Speaker, I yield to the gentleman from Illinois (Mr. ROSKAM) for a unanimous consent request.

Mr. ROSKAM. Mr. Speaker, I rise in opposition to this bill that would lead to possible jail time if you don't comply.

Mr. SESSIONS. Mr. Speaker, I would like to yield to the gentleman from Colorado (Mr. COFFMAN) for a unanimous consent request.

Mr. COFFMAN of Colorado. Mr. Speaker, I rise in opposition as this bill is punitive to both small businesses and seniors.

Mr. SESSIONS. Mr. Speaker, I would yield to the gentleman from Illinois (Mr. SHIMKUS) for a unanimous consent request.

Mr. SHIMKUS. Mr. Speaker, I rise in opposition because this bill's main intent is government control of health care.

Mr. SESSIONS. Mr. Speaker, I yield to the gentleman from Arizona (Mr. FLAKE) for a unanimous consent request.

Mr. FLAKE. Mr. Speaker, I rise in opposition to this bill. When there is 10 percent unemployment, you stop digging.

Mr. SESSIONS. Mr. Speaker, I yield to the gentleman from Indiana (Mr. BURTON) for a unanimous consent request.

Mr. BURTON of Indiana. I hope I don't get a hernia, Mr. Speaker, and say to all my colleagues, if you haven't read this thing, it's going to cost billions and billions of dollars and hurt the economy. I would just like to say that I hope before we vote on this thing you will read it.

The SPEAKER pro tempore. The gentleman from Texas will be charged with the time.

Mr. SESSIONS. Mr. Speaker, at this time I would like to inquire upon the time that is left on both sides, please, sir.

The SPEAKER pro tempore. The gentlewoman from New York has 28 minutes remaining, and the gentleman from Texas has 28¼ minutes.

Mr. SESSIONS. Mr. Speaker, I reserve the balance of my time.

Ms. SLAUGHTER. Mr. Speaker, let me say, once again, to get to this great debate, we are greatly in your debt, Mr. Speaker, to find ourselves here this morning.

The legislation that we take up today is the culmination of a fight for health care reform that dates back at least a century and has been one of the greatest political struggles of our era. It shouldn't be this way. Many years ago, every other western nation enacted broad health care coverage for its citizens but not in the United States. Only in this country has there been such a visceral anti-government urge to resist something that benefits almost everyone. Only here do efforts to bring about improved health care for all Americans crash against entrenched interests and corporate resistance. And only here do arguments about reforming insurance spark ideological attacks from the far right.

One need only to have looked at the windows of the Capitol earlier this week to see the manifestation of that anger. Thousands of protesters showed up to threaten us into not voting in favor of this bill. If they expected us to run for cover or vote against this bill, they are going to be disappointed. Hearing those extreme views only made most of us more confident that we are doing the right thing here today by approving this bill.

Throughout the years, those same voices of opposition, whether it's Republicans or corporate interests, have rallied against reforms. It is worth pointing out for the record that Republicans who want to participate in this process did. We had more than 100 hearings, heard from 181 witnesses, Democrat and Republican, and considered hundreds of amendments. Fully 121 were approved in the committees, including 22 from Republicans. Their input has been heard when they wanted to participate.

In 1912, President Theodore Roosevelt split from the Republican Party to lead a more progressive effort and champion health care for all Americans, but he lost the next election to Woodrow Wilson and the effort failed. Later, President Franklin D. Roosevelt would lead another charge on this front as part of the New Deal platform. While Roosevelt was able to win passage of Social Security over great and extreme opposition, again by the same people who oppose this today, he was able to enact Social Security in 1935, but he was not able to extend that coverage to all Americans for health.

□ 1145

Still later, President Harry Truman made another try for health care, followed by President Lyndon Johnson, who was able to pass legislation in 1965 that implemented Medicare and Medicaid. Once again, it passed over Republican opposition that extends to this day.

President Richard Nixon followed up on President Johnson's Great Society by seeking to expand Federal programs and favoring broad health insurance. Sadly, those efforts were again derailed.

By the time President Clinton attempted to revisit the issue in 1993, the debate had become so polarized and fraught with special interests that the entire process collapsed almost before it started. I don't need to remind most of my colleagues here about the awful vilification of reform embodied by the "Harry and Louise" television ad campaign and by mail house threats to senior citizens that going to what they called the "wrong doctor" could result in a \$10,000 fine and perhaps prison time.

These ads and those mail-order ads were paid for by big contributions from insurance companies and were led by the Republicans. And the same forces are still fighting us. The insurance industry and the big drug companies have partnered with the extreme right fringe to try to stop this effort in its tracks. We saw a lot of that this past summer.

Let me say this loud and clear: Eliminating the stranglehold that big insurance companies have on health care is one of the best parts of this bill, and, for the first time, 85 percent of the premium dollars have to go for health care, not for outrageous salaries and compensation.

We are poised for victory. We stand here today on the brink of history, with the opportunity to make good on a promise that will forever improve the lives of nearly 36 million Americans who have no health insurance. This is the most important vote we will ever take, and I am proud to stand here today.

With this bill we can end the constant worry by people who don't have insurance to cover sudden illness or an accident, who are the parents of a child who had severe brain trauma before he reached his teenage years and within a year or two could reach his lifetime cap on insurance, and though he was not yet a teenager, would be forever uninsurable in the United States of America.

We will stop telling women, as we discussed last night in the Rules Committee, that they have to pay 48 percent more for health insurance because, as it was explained last night, it is all right to do that because women have different diseases. We want to have an end to that.

How many small businesses in little towns in America have had to close up or to end coverage for employees because they could not afford exorbitant insurance premiums? Small business has to compete with big business and gets no break on providing insurance for their employees.

And now this year we have literally thousands of organizations on our side

favoring the bill. From AARP, who would never go for any bill that in any way would hurt senior citizens because that is their life's work, the Consumers Union, the American Cancer Society and the American Medical Association, they have all joined in this cause.

The reason we are here at this moment is because of the leadership of our Speaker, Ms. PELOSI, who is a powerful leader, a compassionate woman, and an inclusive colleague who deserves all the credit for bringing us here to this momentous event that we face today, the most momentous in the history of America.

Before we vote, it is also fitting that we recall the words of the late Senator Kennedy, who spoke as far back as 1978 about the lack of health care coverage in this country. Senator Kennedy said, "One of the most shameful things about modern America is that in our unbelievably rich land, the quality of health care available to many of our people is unbelievably poor, and the cost is unbelievably high."

I agree with Senator Kennedy. We cannot afford not to pass this legislation.

Now is our chance to fix our health care system, improve the lives of millions of Americans, and make more corporations in America competitive in a global economy.

With great heartfelt thanks to our great Speaker pro tempore this morning, Mr. DINGELL, I reserve the balance of my time.

Mr. SESSIONS. Mr. Speaker, at this time I would like to yield to the gentlewoman from Texas (Ms. GRANGER) for a unanimous consent request.

Ms. GRANGER. Mr. Speaker, I rise in opposition on behalf of District 12 on this job-killing bill that cuts Medicare, piles debts on our children, raises health care costs, and raises taxes on the American people.

The SPEAKER pro tempore. The Chair observes that the Chair has asked for a simple statement of unanimous consent or the gentleman from Texas will be charged out of his time.

The Chair repeats that, and the Chair charges the gentleman for the time.

Mr. SESSIONS. Mr. Speaker, I yield to the gentleman from Utah (Mr. BISHOP) for a unanimous consent request.

Mr. BISHOP of Utah. Mr. Speaker, I rise to illustrate how this bill will stop health care reform already instituted by the States.

This may seem hard to believe, but over 200 years ago the Founding Fathers foresaw the health care problems we have today and they proposed a solution. We call it federalism. See, if something has to be done the same way, at the same time by everybody, only the federal government can do it. The feds are good at one-size-fits all solutions. But if you want creativity, innovation or justice, and consideration for unique circumstances, states are, as Louis Brandeis once called them, the true laboratories of democracy.

The Founding Fathers understood the Federal Government should be limited, not just for the fun of it, but the federal government has limitations to its effectiveness. In *Federalist* Number 45 James Madison said, "Powers delegated to the federal government are few and defined. Those to the State governments are numerous and indefinite." Why? Because states can be more effective than a large national government. The federal government can't and shouldn't try to solve all our problems, even when the intention may be good. A Supreme Court Justice wrote: "The Constitution protects us from our own best intentions. It divides power . . . precisely so that we may resist the temptation to concentrate power in one location as an expedient solution to the crises of the day."

He wasn't speaking about health reform specifically, but if there ever was a bill that sought to concentrate power as an expedient solution to the crisis of the day, it's Speaker PELOSI's health care bill.

If we were to pass it, we would be losing sight of the structure the Founders put in place to ensure reforms were done at the most appropriate and helpful level, and power wasn't concentrated.

Balance is key, and the Pelosi bill would be a permanent shift of power to the federal government to control our daily lives and our health care decisions. You see, that as why the Constitution was designed with this balance in mind. James Madison said, "Parchement barriers, a few luminous words on paper, would not keep ambitious men from exercising undue power—freedom can be preserved not by glowing statements but by the balance of real forces."

Our health care system needs reform and costs need to be lowered. Hey, in 2000, 54% of all firms (in Utah?) offered health benefits, today only about 44% of them do. But the reforms needed for the state of California are not the reforms needed for the state of Massachusetts or the state of Utah. Massachusetts has their program; it's expensive, but they appear to like it; but it won't work in Utah. What Utah is trying to do wouldn't fly in Boston. Like every state, Utah's demographics are unique.

We have a very young population that predominately works for smaller firms. In Utah, 32 percent of small businesses offer insurance, but that is 10 percent less than the national averages—a unique challenge to Utah. Utah needs reform that will take the burden off small business and give competitive, affordable pricing to consumers.

That is why I'm so encouraged about the reforms taking place in Utah. The changes taking place right now in our state are based on consumer choice and options, businesses have stable costs, workers have affordable, portable options, and it's tailored for our demographics. If the Pelosi bill were to pass, though, that state innovation is stopped. That would be the true health care tragedy.

You know, we can't solve every issue by getting all the experts in a room in DC. All the creativity and intelligence is not just here in this city. Creative solutions can happen throughout the country when the federal government gets off the backs of individuals and businesses with their mandates and regulations, and out of their pockets with their taxes

and then allows real people the ability to find real solutions.

The Pelosi bill seeks to dramatically alter the healthcare landscape for the U.S. and Utah forever. For example, prohibits the sale of private individual health insurance policies, beginning in 2013, forcing individuals and businesses to purchase coverage through the federal government.

PG 49—provides a huge liability loophole for (large) insurance companies, and I bet not more than 10 people know about it.

Small business will be hit with a mandate to provide insurance, with penalties for not providing insurance . . . and a surtax of 5.4% on small business owners. It is estimated that fifty five hundred (5,500) businesses in Utah will be hit with this additional tax. This is devastating for small business owners, already sick and tired of being nickel and dimed by the federal government.

Tort reform, allowing interstate insurance competition and block grants to states for high risk pooling are things the federal government can reform to drive down costs. These are common sense changes that won't damage the work states are doing to provide what their citizens need.

Individual merits of the bill notwithstanding, the biggest problem is the idea that health care decisions can be dictated by Washington, DC bureaucrats—a health care czar.

To paraphrase PJ O'Rourke, the Pelosi bill would have the same effect as giving alcohol and keys to the car to a teenage boy.

The federal government can play a role, but real health reform must happen on the state level. We . . . you and I, know what our unique healthcare needs are, and frankly what types of treatment or access we require to live the healthiest possible life. Despite the fanciful rhetoric coming from both sides of the aisle, our ability to choose will be lost if we fail to allow individual states to address their unique and diverse needs.

Mr. SESSIONS. I would like to yield to the gentleman from California (Mr. HERGER) for a unanimous consent request.

Mr. HERGER. Mr. Speaker, I rise to say this job-killing bill would cause as many as 112 million Americans to lose their current health care insurance.

The SPEAKER pro tempore. The gentleman from Texas is again charged time.

Mr. SESSIONS. Mr. Speaker, I yield to the gentleman from New York (Mr. LEE) for a unanimous consent request.

Mr. LEE of New York. I rise to say this job-killing bill cuts Medicare, piles debt on our children, and does nothing to address the issue of medical liability reform.

Medical liability reform would decrease the need for physicians to practice defensive medicine and could save \$54 billion, according to the CBO.

As we all know, the majority refused virtually all amendments to the underlying bill. An amendment that I proposed would play a meaningful role in reforming medical liability laws.

My amendment would administer a pilot program in five states in which a three-member

panel—a judge, a physician and a lawyer—would hold a hearing to determine if the facts of an alleged medical malpractice case are sufficient to raise a question of liability. This will lower costs and help eliminate defensive medicine.

Modeled after a Massachusetts program, all cases can proceed past this panel and go to trial regardless of whether the panel believes the defendant was at fault.

However if the panel believes that the case is frivolous, the person who files the case would have to file bond in an amount, determined by the judge, payable to the defendant for costs should the plaintiff not prevail in the final judgment.

The pilot program would look at the changes in the cost of malpractice insurance, the number of physicians practicing, number of liability carriers, and the amount of pay-outs from liability carriers with respect to lawsuits.

In more than 2,000 pages there is not one meaningful piece that will address the issue of medical liability reform.

This pilot program would show Congress and the American people how meaningful reforming medical liability will be, and that is the only reason I can assume the majority did not allow it to proceed.

The SPEAKER pro tempore. The gentleman from Texas is again charged time.

Mr. SESSIONS. I would like to yield to the gentleman from Florida (Mr. POSEY) for a unanimous consent request.

Mr. POSEY. Mr. Speaker, I rise in opposition to this job-killing bill that the overwhelming majority of Americans don't want and don't need.

Mr. Speaker, I rise to express my deep concerns not only about the specific provisions in the bill before us, but over the lack of transparency and openness throughout this process.

In just a few short hours, the U.S. House of Representatives will vote on the most sweeping changes ever in our nation's health care system. The final version of this bill, including last minute amendments, was made available to Members of Congress just a few short hours ago. The final text of this bill has not been made available to the public or Members of Congress for at least 72 hours.

I believe that when the Congress considers changes of this magnitude which will affect 17 percent of our entire economy, we should have more transparency and openness. I will be voting against H.R. 3962, not only because of the many provisions I find objectionable, but also because of the lack of transparency about what it is specifically that we are voting on.

The House should not be considering or passing this 2,000-page bill which has not even been subjected to a single committee hearing. Over 200 amendments were filed to this 2,000-page bill. Sadly, out of these 200 amendments, only 1 is allowed to be offered.

Now, let me turn to some specific concerns with the bill.

H.R. 3962 is the wrong prescription for our economy. Yesterday, the Department of Labor reported that the national unemployment rate hit a 26-year record high of 10.2 percent. Florida's unemployment rate is above 11 percent.



Furthermore, as reported in this morning's New York Times, the broadest measure of underemployment and unemployment reaches 17.5 percent, which is higher than the record 17.1 percent reached at the height of the 1982 recession.

This is the wrong time to be considering legislation that will cost us jobs. The hundreds of billions of dollars of higher taxes and the unfunded mandates that H.R. 3962 places on small businesses will result in the elimination of between 4 and 5 million American jobs. That is the estimated job loss as measured using a formula developed by President Obama's own Chief Economic Advisor, Kathleen Romer. This would be in addition to the estimated 2.5 million jobs that would be lost if the Cap and Trade National Energy Tax legislation is enacted into law. (Estimated job loss by the Heritage Foundation.)

Small businesses across America create nearly 65 percent of all new jobs and this bill's 8 percent employer health care tax is only going to make it that much harder for small business to create jobs. H.R. 3962's provision to impose a \$500,000 fine for inadvertent errors will only serve to bankrupt many small businesses.

America cannot afford this bill. They cannot afford more legislation that will lead to higher unemployment. The American people need legislation that promotes job creation, not legislation that will stifle the creation of American jobs.

H.R. 3962 is excessively costly and completely unaffordable. Washington just ended the year with a record \$1.4 trillion debt. The Congressional Budget Office, CBO, estimates trillion dollar deficits as far as the eye can see. Our Nation's debt is so serious that in May the Secretary of the U.S. Treasury had to fly to China to ensure that the Chinese would continue to purchase our U.S. Treasury notes and to assure them that Washington would get serious about getting its fiscal house in order.

Sadly, this health care bill creates a new unaffordable entitlement program that we cannot afford and will indebt future generations of Americans for decades to come. CBO says of H.R. 3962 that it "would put into effect (or leave in effect) a number of procedures that might be difficult to maintain over a long period of time." In other words, this bill creates serious long-term budget problems for our Nation.

The President said in his September address to Congress and the Nation that health care reform legislation would not exceed more than \$900 billion. Unfortunately, when you assemble all of the pieces of this health care agenda together, you come up with a price tag of nearly \$1.6 trillion for the first 10 years of this bill—56 percent above the \$900 billion cap. This includes CBO's \$1.05 trillion cost estimate for H.R. 3962 and the \$209 billion for the Medicare doctor fix. Further increasing the cost is the administration's \$70 billion Medicare adjustment, more than \$200 billion in discretionary spending required in the future as a result of H.R. 3962, and more than \$34 billion in unfunded Medicaid mandates on the States (\$1 billion for Florida as estimated by the State).

Furthermore, when you consider that the costs of H.R. 3962 begin to significantly in-

crease in 2014, thus a more accurate 10 year cost estimate for the bill (2014–2024) shows a cost of \$2.4 trillion. H.R. 3962 sets us up for serious budget challenges for 2020 and will indebt our children for decades to come.

H.R. 3962 will have an adverse impact on Medicare recipients. I am very concerned about the nearly \$500 billion in cuts that H.R. 3962 makes to Medicare. This, I believe will have a long-term negative impact on Medicare. Taking the money out of Medicare only makes the challenge of averting Medicare's projected 2017 insolvency more difficult. Furthermore, those hardest hit are likely to be seniors enrolled in Medicare Advantage, MA, plans, including over 42,000 seniors in my congressional district who are enrolled in MA plans. Many of these seniors would lose their current Medicare plan and be forced back into the traditional Medicare fee-for-service plan, which will cost them more money and less coordination of their care.

Failure to buy government approved plan can result in fines and jail time. A November 5, 2009, letter from the Joint Committee on Taxation affirmed that if an American citizen fails to purchase a government approved health care plan or pay the mandatory 2.5 percent national health care tax, they will be subject to Federal penalties which may include up to 5 years and a fine of up to \$25,000. It is simply unthinkable that Washington would enact legislation carrying such mandates and penalties, but that is what H.R. 3962 would do. Such coercion is wrong and quite frankly runs counter to the freedoms and liberties that have made this Nation what it is today.

The American people should be allowed to choose whatever health care plan they want. They should not be restricted to only buying health insurance that Congress or an unelected group of bureaucrats say you can buy.

The word "shall" is included more than 3,400 times throughout H.R. 3962. Shall is a term used in legislative language to mandate what can or cannot be done. With the use of the word "shall" more than 3,400 times, the choices and liberties of the American people to choose what they want are clearly undermined. Clearly, these mandates seriously undermine and change the health care that 80 percent of Americans have today and want to keep.

Illegal Immigrants Covered Under H.R. 3962. It is wrong to use taxpayer dollars to subsidize the enrollment of illegal immigrants into this new government plan. While H.R. 3962 includes language stating that funding in the bill cannot be used to enroll illegal immigrants in the national health care plan, the nonpartisan Congressional Research Service, CBO, and the Social Security Administration all agree that the provisions in H.R. 3962 are insufficient to actually prevent their enrollment in taxpayer subsidized health care. Millions of illegal immigrants will receive taxpayer subsidies for enrollment in subsidized health care plans.

Other Concerns. The American people were told earlier this year that health care reform legislation would lower their average health care costs by about \$2,500. H.R. 3962 does just the opposite. Estimates by the Joint Committee on Taxation, the CBO, and six other

studies show that imposing new taxes on insurance policies, as H.R. 3962 does, will drive up the cost of medical coverage.

We were told that health care reform was needed in order to lower the overall amount of spending on health care. However, according to the CBO, "On balance, during the decade following the 10-year budget window, the bill would increase both federal outlays for health care and the federal budgetary commitment to health care, relative to amounts under current law." So, H.R. 3962 will actually result in more spending on health care rather than less.

I oppose the provisions in H.R. 3962, which would use taxpayer dollars to pay for elective abortions and subsidize enrollment in health insurance plans that pay for elective abortions. H.R. 3962 would for the first time use taxpayer dollars to subsidize elective abortions and expand mandate that insurance coverage of elective abortion be expanded to every jurisdiction in the country. I oppose this mandate, but I am supportive of the Stupak/Smith amendment, which will remove from this bill any expansion of taxpayer funding for abortions.

Health Care Solutions. I was greatly disappointed that the debate in the House was so severely restricted as only 1 of more than 200 amendments was allowed. This is truly a sad day for the American people as constructive contributions to health care reform have been silenced.

We should focus on creating more choices for the American people, not less. Rather than move in the direction of more choices and increased competition, H.R. 3962 undermines choice in many ways. By creating a national Health Benefits Advisory Committee, HBAC, H.R. 3962 creates a one-size-fits-all set of benefits with which every health plan in America must conform. Estimates are that millions of Americans will be moved into this new government health care plan, losing the coverage that they currently have and want to keep.

There are steps that can be taken—without reducing these choices—to address the concerns of those who lack coverage or who have difficulties paying for the coverage they want. We should expand the deductibility of health insurance for all Americans. Refundable health care tax credits of \$2,500 for an individual or \$5,500 for a family will enable working Americans to secure affordable health care coverage and empower them to choose the type of coverage that meets their needs.

Enactment of Association Health Plan, AHP, legislation would make it easier for small businesses to pool together and negotiate with insurance providers for the purchase of more affordable insurance for their employees. Similarly, nonprofit civic groups should be empowered to create health plans and offer them to their members and the public. Sadly, liberals in the Congress have blocked these efforts for the past decade.

Health Savings Accounts, HSAs, should be expanded enabling more individuals to purchase a high deductible health plan while also putting money aside in an HSA to cover medical expenses below the catastrophic coverage cap. For many, this would be a more affordable alternative to traditional insurance and over 8 million Americans have chosen to enroll in HSAs in just the past 5 years. For those

with preexisting conditions or who otherwise have difficulty finding affordable coverage, we should expand high-risk insurance pools and other approaches to make sure that those with such challenges are able to find affordable coverage.

Community health centers, like the ones I recently visited throughout my district, can play an important role in serving those in need of affordable medical care. These centers provide cost-effective primary care and preventive care to millions of lower- and lower-middle-income Americans, and we should continue to encourage their development and expansion.

Expanding health care coverage also means taking steps to reduce waste in medical care expenditures. One of the main factors behind greatly increasing costs of health care premiums is the skyrocketing cost associated with medical malpractice. H.R. 3962 does nothing to move us in the direction of adopting medical malpractice solutions that have proven successful in many States.

The SPEAKER pro tempore. The gentleman from Texas is again charged time.

Mr. SESSIONS. Mr. Speaker, I would yield to the gentleman from New Jersey (Mr. LANCE) for a unanimous consent request.

Mr. LANCE. Mr. Speaker, this health care proposal would be harmful to New Jersey's taxpayers, senior citizens and businesses, and contains no malpractice insurance reform.

The SPEAKER pro tempore. The gentleman is again charged time.

Mr. SESSIONS. Mr. Speaker, I would like to yield to the gentleman from Texas (Mr. POE) for a unanimous consent request.

Mr. POE of Texas. Mr. Speaker, I rise in opposition to this tax-increasing, runaway-spending, government-controlled, rationed health care bill.

Mr. SESSIONS. Mr. Speaker, I would like to yield to the gentleman from South Carolina (Mr. BARRETT) for a unanimous consent request.

Mr. BARRETT of South Carolina. Mr. Speaker, this bill is a massive government takeover of our health care.

Mr. Speaker, today, I rise in strong opposition to this so-called Democrat health care reform package.

I do believe health care reform is necessary. However, what this looming health care legislation essentially amounts to is a Government takeover of the health care system, which will result in devastating consequences for families and small businesses across the country.

This massive Government expansion will cost nearly \$1.3 trillion, which is offset with job-killing tax increases. Small businesses will be hardest hit by these tax increases, which will total to a staggering \$729.5 billion. This will be especially devastating in my home State of South Carolina, where small businesses represent 97 percent of the State's employers. According to the Heritage Foundation, 8,700 of South Carolina's small businesses will be required to pay this new, burdensome tax.

Currently, my State is trying to recover from a recession that has swept the entire country.

South Carolina is struggling with double digit unemployment rates. This legislation will place unnecessary burdens on our small businesses, which will result in even more job losses. However, my State is not the only area that will be affected negatively by this legislation.

Today, it was announced that our Nation's current unemployment rate is 10.2 percent. With our national unemployment rate at a 26-year high, why are Democrats pushing for a Government takeover of health care which will only stifle job creation?

Furthermore, as a firm believer in the sanctity of life, I am appalled by provisions in this bill that allow for the Government funding of abortions. I adamantly oppose allowing any Government funding of abortions because it endangers the lives of unborn children across the nation.

Since I oppose this legislation, I tried to find ways to work with the majority to illustrate my concerns with what I believe is a reckless bill. However, when I tried offering amendments my efforts were declined by the Democrat-controlled House Rules Committee.

This is a broad sweeping bill that will have ramifications on our economy and Government solvency for years to come. Since health care is in need of reform, I would have liked to work with the Democrats so that we could approach health care reform in a bipartisan matter—so that we could create solutions that are in-line with most Americans' opinions.

Mr. Speaker, people across this Nation are scared and they are in need of leadership. Many are worried that they will not be able to keep their current coverage, and they should be. In South Carolina, some studies estimate that up to 178,889 individuals could lose their current coverage.

They are in need of comprehensive reform that does not harm the economy and actually facilitates a system that will keep our citizens healthy.

That is why I support the Republican alternative. This Republican plan fixes our country's health system in a creative way that requires less Government involvement and taxes. Furthermore, this plan results in zero job losses, zero medicare cuts, and zero tax increases.

We in Congress should be working together to achieve real reform—making health care more affordable and accessible for all Americans without dramatically expanding the Federal Government and imposing billions of dollars in taxes on American families and businesses.

Mr. SESSIONS. Mr. Speaker, I would like to yield to the gentleman from Alabama (Mr. BONNER) for a unanimous consent request.

Mr. BONNER. Mr. Speaker, this job-killing bill cuts Medicare, piles debt on our children, raises health care costs, and raises taxes on the American people.

The SPEAKER pro tempore. The gentleman from Texas is again charged time.

Mr. SESSIONS. Mr. Speaker, I appreciate the Speaker, who is forthrightly following the procedures which he spoke about.

Mr. Speaker, at this time I yield to the gentleman from Texas (Mr. CARTER) for a unanimous consent request.

Mr. CARTER. Mr. Speaker, I rise to say this record job-killing bill tyrannically forces government health care on the American people.

The SPEAKER pro tempore. The gentleman from Texas is again charged time.

Mr. SESSIONS. I yield to the gentleman from Maryland (Mr. BARTLETT) for a unanimous consent request.

Mr. BARTLETT. This bill would mortgage the future of my 10 kids, my 17 grandkids and my two great-grandkids.

Mr. SESSIONS. Mr. Speaker, at this time I would like to request the time that remains on both sides, please.

The SPEAKER pro tempore. The gentleman from Texas has 26¼ minutes remaining, and the gentlewoman from New York has 21 minutes remaining.

Mr. SESSIONS. Mr. Speaker, we reserve our time.

Ms. SLAUGHTER. Mr. Speaker, I am pleased to yield 2½ minutes to the gentleman from Massachusetts (Mr. MCGOVERN), a Member of the Rules Committee.

Mr. MCGOVERN. Mr. Speaker, this is a remarkable, historic moment. Passage of health insurance reform is a "Franklin Roosevelt" moment, right up there with the creation of Social Security.

We have debated this issue for almost 100 years, since Teddy Roosevelt ran on the Bull Moose Party. This year alone, House committees have spent nearly 100 hours in hearings on health reform. They have heard from 181 witnesses, spent 83 hours in committee markups, and considered 239 amendments. The Rules Committee spent almost 12 hours hearing testimony last night. This has been a very thorough and thoughtful process. The time for talk has come to an end. Now is the time for action.

The need for reform is clear. Since 2000, employer-sponsored health insurance premiums for American families have more than doubled. Because of crushing health care costs, small businesses are losing their ability to compete in the global marketplace.

If we do nothing, as my Republican friends want to do, family premiums will increase an average of \$1,800 every year and the number of uninsured will reach 61 million people by 2020. Not only that, but skyrocketing health care costs will bankrupt this country. By the time my kids retire, health care will take up 50 percent, half of our entire economy. We simply cannot leave that kind of debt for future generations.

My Republican friends see things differently. Their prescription for health care is "take two tax breaks and call me in the morning." It is the same-old same-old. For 12 years, Republicans had their chance to improve health

care in America, and for 12 years they let the number of uninsured skyrocket, while letting the insurance companies make money hand-over-fist.

Those who vote against this bill are on the wrong side of history. With the passage of this bill, we stand for the uninsured, for the underinsured, for those discriminated against by insurance companies because they have pre-existing conditions or because of their gender.

Mr. Speaker, this is an historic moment. I urge my colleagues to stand with the people of this great country; not with the insurance companies and not with the special interests, but with the real people. Vote "yes" on this rule. Vote "yes" on this bill. Let's deliver real health care insurance reform for the American people.

Mr. SESSIONS. Mr. Speaker, I yield to the gentleman from Oklahoma (Mr. COLE) for a unanimous consent request.

Mr. COLE. Mr. Speaker, because H.R. 3962 will bankrupt State governments across America through the imposition of unfunded mandates, I rise in opposition to the rule and its underlying legislation.

CONGRESS OF THE UNITED STATES,  
HOUSE OF REPRESENTATIVES,  
Washington, DC, October 30, 2009.

Hon. GLENN COFFEE,  
*President Pro Tempore, State Capitol, Oklahoma City, OK.*

DEAR SENATOR COFFEE: As you know, yesterday, Speaker Nancy Pelosi and Majority Leader Steny Hoyer, and Representative John Dingell introduced H.R. 3962, the "Affordable Health Care for America Act". This 1990 page bill is an attempt to reorganize the entire health care system in the United States to cover more Americans.

Unfortunately this comes with a price for state governments.

As your representative in the Fourth District of Oklahoma, I take very seriously your input when it comes to matters involving unfunded mandates and other policy shifts. Before I vote on this legislation, I would appreciate your insight on some important issues.

It would seem from the text of this bill and the CBO report that it creates an unfunded mandate in the amount of \$34 billion from 2015-2019 by increasing Medicaid costs to the States. I am concerned that this might present some budgetary challenges for the State of Oklahoma, and I am therefore turning to you to ask your assistance in answering the following questions:

Can Oklahoma afford these unfunded mandates in the current fiscally constrained environment?

Should the House version of health care reform pass, what are your plans for fully funding the unfunded mandate that will be transferred to Oklahoma?

Would new taxes on the citizens of Oklahoma be necessary to cover the increased costs of Medicaid?

What do you believe the actual cost would be to Oklahoma?

Before we begin final consideration of this legislation, your thoughts on these matters would be extremely helpful to me. Unfortunately, the scheduling of this legislation is dynamic, and a vote on it could come as early as Thursday. All indications lead me to

believe that we will have no opportunity to offer amendments to this legislation.

Therefore, before I vote on this legislation, I would ask for your insight on these matters.

Sincerely,

TOM COLE,  
*Member of Congress.*

OKLAHOMA STATE SENATE,  
*Oklahoma City, OK, November 3, 2009.*

Hon. TOM COLE,  
*House of Representatives, Washington, DC.*

DEAR CONGRESSMAN COLE: I am in receipt of your letter dated October 30, 2009, regarding HR 3962, the so-called "Affordable Health Care for America Act," and its fiscal impact on the State of Oklahoma.

You posed some very pertinent and legitimate questions as to the ability of the state to absorb the unfunded mandates which will be transferred to Oklahoma, particularly in terms of the increased costs of Medicaid which will result.

The state is experiencing major budget difficulties without having to fund additional federal mandates. The budget for the current fiscal year was reduced 7% from the FY'09 budget. A severe revenue shortfall has forced us to further reduce agency budgets for FY'10 by another 5%. If revenues continue to underperform, a larger cut may be required. We will have a better idea when October revenue data becomes available later this week. A larger cut may be called for in order to keep from overspending from the Rainy Day Fund as well. This proposal leaves a \$150 million budget gap in FY'11 from Rainy Day alone.

The state will most likely face a continued reduction in revenues in FY'11. The FY'11 budget assumptions most likely will include spending the last of the Education and Medicaid Stimulus funds as well as Rainy Day funds in order to maintain current levels of service.

The FY'12 outlook is even more dire as the absence of Stimulus and Rainy Day funds will have a significant impact on the budget. The absence of stimulus funds will be most apparent in the Medicaid program, where over \$400 million was used in FY'10 and over \$500 million will be used just to maintain current services in FY'11. Adding tens of thousands of adults to the Medicaid rolls when the state is struggling to cover children and the elderly is irresponsible at best.

The reality of this bill is that more low-income individuals (now up to 150% of the federal poverty level) will be pushed onto the rolls of Medicaid (Sec. 1701) leaving already overstretched State Governments, ours included, to pick up the tab.

You specifically asked if new taxes on the citizens of Oklahoma will be necessary to cover the increased costs of Medicaid. The simple answer is, without draconian cuts in state services, yes. As a proponent of a smaller, efficient government, and one who believes that the more of one's hard-earned money one can keep, the better, I find this option appalling. I'm confident there are ample inefficient or outdated services we could eliminate from the state budget, and we will be aggressively seeking such areas to cut, regardless. But I fear such cuts would not cover the costs imposed upon us by the Federal government.

Should President Obama, Speaker Pelosi and Senate Leader Reid prevail in pushing their plans for our health care delivery system through to becoming law, I fear for not just our state, but for every state in the na-

tion. Certainly, there will be no good answers for state leaders facing these unfunded mandates. As a former state senator yourself, you know as well as anyone the fiscal crisis facing the states in today's economy. No state in the nation can sustain the financial hit they are about to experience. Fortunately, thanks to the conservative budgeting practices we engage in here in Oklahoma, our situation, while dire, may not be as severe as many other states, but that's small comfort for us, with the realities we face today. Indeed, factoring in the added load of Federal legislation further burdening our economy, I fear for the long-term future for the hard-working taxpayers of our state.

We will be watching with great interest as you fight the good fight in Washington. Please, let's keep the lines of communication open as this process unfolds.

With best regards,

GLENN COFFEE,  
*President Pro Tempore, Oklahoma State Senate.*

CONGRESS OF THE UNITED STATES,  
HOUSE OF REPRESENTATIVES,  
Washington, DC, October 30, 2009.

Hon. CHRIS BENGGE,  
*Speaker of the House of Representatives, State Capitol, Oklahoma City, OK.*

DEAR SPEAKER BENGGE: As you know, yesterday, Speaker Nancy Pelosi and Majority Leader Steny Hoyer, and Representative John Dingell introduced H.R. 3962, the "Affordable Health Care for America Act". This 1990 page bill is an attempt to reorganize the entire health care system in the United States to cover more Americans.

Unfortunately this comes with a price for state governments.

As your representative in the Fourth District of Oklahoma, I take very seriously your input when it comes to matters involving unfunded mandates and other policy shifts. Before I vote on this legislation, I would appreciate your insight on some important issues.

It would seem from the text of this bill and the CBO report that it creates an unfunded mandate in the amount of \$34 billion from 2015-2019 by increasing Medicaid costs to the States. I am concerned that this might present some budgetary challenges for the State of Oklahoma, and I am therefore turning to you to ask your assistance in answering the following questions:

Can Oklahoma afford these unfunded mandates in the current fiscally constrained environment?

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Would new taxes on the citizens of Oklahoma be necessary to cover the increased costs of Medicaid?

What do you believe the actual cost would be to Oklahoma?

Before we begin final consideration of this legislation, your thoughts on these matters would be extremely helpful to me. Unfortunately, the scheduling of this legislation is dynamic, and a vote on it could come as early as Thursday. All indications lead me to believe that we will have no opportunity to offer amendments to this legislation.

Therefore, before I vote on this legislation, I would ask for your insight on these matters.

Sincerely,

TOM COLE,  
*Member of Congress.*

NOVEMBER 3, 2009.

Hon. TOM COLE,  
Member of Congress, Rayburn House Office  
Building, Washington, DC.

DEAR CONGRESSMAN COLE: Thank you for the opportunity to share my insights regarding the Medicaid expansions contained in the "Affordable Health Care for America Act" (AHCAA). As I am sure you are not surprised, these expansions would represent significant unfunded mandates on the state of Oklahoma.

The Oklahoma Health Care Authority, which is in charge of administering the state's Medicaid program, has estimated a preliminary annual state cost of \$128 million if the federal health care legislation becomes law. This estimate does not account for decreased federal support of the Medicaid expansions in later years, which inevitably will shift an increasing financial burden to this state as well as others.

Oklahoma already is experiencing difficulty funding its current Medicaid program due to revenue shortfalls as a result of the national recession and decreased natural gas prices. Revenue collections to the state in the first quarter of FY-10 trailed last year's collections by 29.5 percent. State agencies, on average, experienced an initial budget reduction of 7 percent when compared to FY-09. Agencies are also expected to see 5 percent cuts in their monthly allocations for the remainder of the fiscal year. Even deeper cuts may be necessary if future revenue streams continue to decline.

In the current economic environment, Oklahoma is struggling to maintain core services for its citizens. And that is before the ramifications of this federal health care policy and its unfunded mandates are even considered.

American Reinvestment and Recovery Act (ARRA) federal stimulus funds have been employed and are budgeted to offset declining revenue in FY-10 and FY-11. These funds will no longer be available for FY-12 and beyond. Though some economic indicators suggest that revenues may be stabilizing, no firm indicators signal that state revenue can be expected to improve in the near future. Without economic growth, Oklahoma is left with two options to replace current stimulus funds: raise revenue through tax increases or institute deeper budget cuts.

Like you, I find the idea of tax increases, even if they weren't incredibly difficult to pass under our state's Constitution, in an economic downturn a nonstarter. In tough economic times, increasing taxes on work and productivity is counterproductive and takes more money out of the hands of Oklahomans and Americans when they need it the most. So with tax increases off the table, we will have no choice but to drastically cut government services to free up funds to pay for the unfunded mandates passed onto us from the federal government.

Our state is already experiencing significant budget challenges and the added burden of AHCAA's \$128 million unfunded federal mandate would lead to further budget cuts, jeopardizing existing state programs and services developed for Oklahomans by Oklahomans.

In Oklahoma, we have put in place market and consumer driven reforms that are working to move our state's uninsured onto private insurance, all while improving access to affordable health care for all of our citizens. I would urge Washington to give states the maximum amount of flexibility possible to craft a health care plan that best meets individual state needs. A one-size-fits-all health

care policy is not the answer for Oklahoma, or our country as a whole.

I know we have an advocate in you and your fellow federal delegates, but I would like to urge you to vote 'no' not only on behalf of what this legislation may do to our country, but the disastrous financial burden it will also place on our state.

Sincerely,

CHRIS BENGE,

Speaker, Oklahoma House of  
Representatives.

The SPEAKER pro tempore. The gentleman from Texas is again charged with the time.

Mr. SESSIONS. I yield to the gentleman from Florida (Mr. MILLER) for a unanimous consent request.

Mr. MILLER of Florida. Mr. Speaker, this job-killing bill cuts Medicare, piles debt on our children, raises health care costs, and raises taxes on the American people.

The SPEAKER pro tempore. The gentleman from Texas is again charged with the time.

Mr. SESSIONS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we are here on the floor today to debate the government takeover of health care in America. We understand that this bill is about a massive tax increase, \$740 billion. We understand it is about deep Medicare cuts, some \$430 billion. We also understand that millions of jobs will be lost and that mandates for purchasing insurance will cost an incredible \$1.2 trillion, and there will be 118 new Federal bureaucracies created by this legislation.

The gentleman from Massachusetts came down and talked about the evil insurance companies. Well, the fact of the matter is that the largest six insurance companies in this country made about \$6 billion 2 years ago, but the Federal Government in their mismanagement lost \$90 billion. Mr. Speaker, we know who can best take care of the health care for our country.

□ 1200

For the past 5 months, the American people have called out, written and taken part in town hall meetings, calling the Capitol and their Members of Congress to express their outrage to the Democrat health care proposal. But here we are today. Month after month, this country has bled jobs. We are now at a record 10.2 percent unemployment rate, and over 15 million Americans are currently unemployed. And what do we do? We stick it to them again.

Mr. Speaker, last night I offered an amendment in the Rules Committee that would have prohibited any provisions of this bill to take place if the Office of Management and Budget, working with the Department of Labor, found that this bill would result in 4 million jobs or more being lost, but my Democrat opponents defeated that. That means that they really could care

less how many jobs are lost in America as a result of this legislation. They want a government-controlled and -run health care system.

Chairman RANGEL, the chairman of the Ways and Means Committee, was up before Rules last night. He admitted to the Rules Committee that he had not asked the CBO or any other independent source for employment implications of this bill. Yet Republicans, using the same economic forecasts and economic models that the White House uses, we find that there would be between 4 and 5 million free enterprise-system jobs that would be lost.

During a time of recession where every single American is trying to make ends meet, what do we find? We find \$730 billion in new taxes that are on this bill. Taxes on small businesses, taxes on health savings accounts, and the worst part is that this will surely lead to a double dip in the recession. This is a problem not only for employers, but it will be a problem for people who want to find jobs.

Mr. Speaker, this is a hard mandate on business, and it means that the free enterprise system will simply not employ more Americans. We're concerned about this. We Republicans are on the floor today, and we're going to stand and say "no" to what is happening.

Mr. Speaker, the bottom line is that this legislation for health care will do about for health care what the stimulus did for jobs, the diminishment of employment in America.

I reserve the balance of my time.

Ms. SLAUGHTER. Mr. Speaker, I yield 2 minutes to the gentleman from Florida (Mr. HASTINGS), a member of the Rules Committee.

Mr. HASTINGS of Florida. Distinguished chairwoman and distinguished Speaker, this is an extraordinary day for the two of you and the Members of the House of Representatives. I, too, am hopeful that our legacy is that we achieved health care for more citizens in our great country.

Achieving comprehensive health care reform in a way that is sustainable, fiscally responsible, and improves the overall health of the American people has proven to be no small task. The facts are clear. Despite being the richest country on Earth, the United States ranks 45th in life expectancy and has startlingly high rates of infant mortality, depression, and chronic disease. What's more, employer-sponsored health insurance premiums have grown six times faster than cumulative wages. This issue hits close to home.

My State of Florida has the sixth highest number of uninsured people in the country. There are millions that are uninsured and tens of millions who are underinsured, and they are the prime justification for moving forward with one of the most important health care reform agendas in modern history.

Some have sought to dominate the health care debate with fear-

mongering, misinformation, and blind opposition to key reform elements without offering substantive and high-quality alternatives. This perpetuation of fictions and misinterpretations is off base and has steered the health care discussion off course. Such claims as death care panels, rationed care, government monopoly, these are not true.

What is true is that the United States spends more on health care than any other country in the world, but yet the high cost of care has not brought a high standard of health for millions of Americans.

What's true is that Medicare, which is a Federal Government plan and one of the great health care successes that this gentleman in the Chair had something to do with in our Nation's history, was initially met with opposition, the same we get now.

I urge this measure to be adopted.

Mr. SESSIONS. Mr. Speaker, at this time I yield to the gentleman from Minnesota for a unanimous consent request.

Mr. PAULSEN. Mr. Speaker, I rise in opposition to this bill that increases taxes on small business.

Mr. SESSIONS. Mr. Speaker, at this time I yield to the gentleman from Texas for a unanimous consent request.

Mr. OLSON. Mr. Speaker, I rise in opposition to this job-killing bill that cuts Medicare, piles debt on our children, raises health care costs, and raises taxes on the American people.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair reminds the House that if a unanimous consent request includes debate, the gentleman yielding time may be charged.

Mr. SESSIONS. Mr. Speaker, at this time I yield to the gentleman from North Carolina for a unanimous consent agreement.

Mr. COBLE. Mr. Speaker, I rise in opposition to this bill which is a major overhaul of our delivery of health care. We need a fine tune-up, not a major overhaul.

Mr. SESSIONS. Mr. Speaker, I reserve the balance of my time.

Ms. SLAUGHTER. Mr. Speaker, I am pleased to yield 3 minutes to the gentlewoman from California (Ms. MATSUI), a member of the Rules Committee.

Ms. MATSUI. I thank the gentlewoman for yielding me this time.

Mr. Speaker, it is so appropriate that you are sitting in this Chair on this historic bill, considering that you have introduced a health care bill every Congress that you were here, so we really love having you in the Chair.

Mr. Speaker, I stand here on the House floor today, humbled by the fact that in the wealthiest country in the world that we have so many needs. The most pressing of these needs is for a reformed and strengthened health insurance system.

When I listen to my constituents, whether they are doctors, nurses, workers, business owners, or government employees, they are united in their support for health insurance reform. They know that costs are skyrocketing with no end in sight. They know that more people are losing their insurance as they lose their jobs, making the burden of uncompensated care even harder to bear for hospitals and doctors. They know that the doors of our community health centers are in constant motion because of overwhelming demand for their low-cost and high-quality services.

For my constituents, for all of us as Members of Congress, but most importantly, for the American people, the Affordable Health Care for America Act is a major victory. It achieves a long-held goal of reforming our health insurance system so that it works for all American families. In Sacramento, that means 2,000 families who will not have to file bankruptcy due to unaffordable health costs.

This legislation also strengthens Medicare so that our country's seniors can continue to rely on this bedrock program for their health care. In my district alone, this means nearly 8,000 Medicare beneficiaries who will not fall into the doughnut hole.

It makes health insurance affordable again for businesses who want to provide coverage to their employees and for those who are buying coverage for the first time on their own. In Sacramento, this means affordability credits to help pay for coverage for up to 181,000 households.

Finally, the bill invests in prevention and wellness and public health, which are some of my highest priorities. Unless we help people live healthier lives, we can never get health costs under control.

In short, the provisions of this legislation build on all that is good in our current health system to strengthen it for the future. This is why we come to Congress, Mr. Speaker. We come here to improve people's lives, to recognize and address the needs of the people we represent. I know that today's bill does this, which is why I support it so strongly. I look forward to today's debate and to our historic vote.

I urge my colleagues to support this legislation.

Mr. SESSIONS. Mr. Speaker, at this time I yield 3 minutes to the distinguished gentleman from Miami, Mr. DIAZ-BALART, a member of the Rules Committee.

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, it is clear that Congress needs to make reforms to expand health care coverage so that everyone in this great Nation has health insurance. The problem with the legislation the majority is bringing to the floor today is that it will seriously and unnecessarily hurt our economy. It

will cause severe job losses, and that's most unfortunate.

The Republican alternative has some very good aspects. It will expand health care coverage to millions who currently do not have it, and it does not include the fatal flaw in the Democrats' bill—massive tax increases on small businesses; tax increases and regulations that will kill jobs.

The Republican alternative allows small businesses to pool together, allows people to buy insurance across State lines. According to the Congressional Budget Office, it actually brings down the cost of health care premiums.

The Democrats' bill will raise taxes, according to the CBO by over \$700 billion and cut Medicare by approximately \$500 billion. It will make much worse our economic situation, increase unemployment, take the country in the wrong direction at a time when unemployment is already over 10 percent.

Especially, Mr. Speaker, when you consider that there is a bipartisan consensus in this Nation on the need to increase access to health insurance to those who do not have it today, it is sad that this destructive legislative product is being brought to the floor.

Ms. SLAUGHTER. Mr. Speaker, I yield 2 minutes to the gentlewoman from Maine (Ms. PINGREE), a member of the Rules Committee.

Ms. PINGREE of Maine. Mr. Speaker, I am honored to be here in your presence today and to be here with my colleagues. I thank the gentlewoman from New York for allowing me this time.

I am so proud to be here casting the vote that so many of my constituents have waited way too long for. There has been a lot of hard work, a lot of facts and figures that have gone into the discussion of this important piece of legislation before us, and certainly over the last 10 months that I've been here. I want to spend my time talking about the story that is always on my mind when I'm talking about health care and is certainly on my mind today.

As a young father, my brother was diagnosed with malignant melanoma, a disease that I hope no one else ever has to face or face in a loved one. He had recently left his job to stay home to take care of his 2-year-old son. His wife had better pay. His insurance, of course, was temporary and soon withdrawn, and he had no public option to choose. He did what so many young families did. They spent down their savings. They sold everything they had. They became poor so that they could qualify for Medicaid because no doctor would see him without insurance. The fact is, he passed away 14 months later, and I have often wondered would he have survived had he had the medical care that he needed.

That would be a very sad story if it had been 2 years ago, but in fact, my brother's death was 20 years ago, and

back then we talked about the importance of making sure that no one was ever denied insurance because they had a preexisting condition. We talked about the fact that no one should have to go into personal bankruptcy or be poor because they don't have health care insurance.

I am here today, looking forward to casting my "yes" vote on this rule, on this health care bill, in the memory of my brother and of so many of my constituents and their families who have suffered through exactly the same thing, because I believe that this bill moves us much closer to a time when no one can be denied health care coverage because of a preexisting condition; no one can be told you can't have health care coverage; no one will have to go into personal bankruptcy. I am here in the memory of my brother. There can be no more delay.

Mr. SESSIONS. Mr. Speaker, I appreciate the gentlewoman's story. The other side of the story is that it will be \$730 billion worth of taxes, that we will have a health care system where you will not be able to choose your own physician, where you will have to call someone to then find out which doctor you go to, and perhaps worst of all, the gentlewoman also needs to know—because we heard in the Rules Committee last night—if you willingly make the decision that you do not want to participate and you do not pay the tax to the IRS, there is a penalty and a fine that is a criminal penalty of up to 5 years in prison and up to a \$250,000 fine. That is not freedom.

Criminalizing this issue is a bad way. Mr. Speaker, the Democrats have it on the floor today. It is not in the Senate bill. It is in this bill. So to glorify this bill which has criminal felony penalties is a difficult way to have enforcement.

Mr. Speaker, at this time I would like to yield 1 minute to the gentlewoman from Miami Township, Mrs. SCHMIDT.

Mrs. SCHMIDT. Mr. Speaker, the American people are speaking, and we must listen. An overwhelming majority are against this bill. Americans know that health care costs won't be reduced because our Congressional Budget Office told all of us so. They fear their insurance premiums will rise, and they don't want their hard-earned tax dollars to go to pay for abortions. Our seniors do not want the \$500 billion cuts to Medicare or the cuts to Medicare Advantage, a program that 17,000 seniors in my district currently enjoy. Our youth do not want to spend the rest of their lives paying for the trillion-dollar costs embedded in this bill.

Mr. Speaker, the American people are speaking, and we must listen. We must say "no" to this trillion-dollar takeover of our health care. We can do better.

□ 1215

Ms. SLAUGHTER. Mr. Speaker, I am pleased to yield 2 minutes to the gentleman from Colorado (Mr. POLIS), a member of the Rules Committee.

Mr. POLIS. Mr. Speaker, today we make history. After months of hard work, my colleagues and I can make good on our promise to deliver meaningful health care reform.

Like most Members of Congress, I held over 50 town halls, tele-town halls, roundtables, and "Congress on Your Corners," and listened to my constituents about health care reform. Every town hall in America from Virginia to Vail and Northglenn to North Dakota shed light on our broken health care system. And many Members of this body heard the same thing: We need health care reform now and No government takeover of health care.

We took their concerns back with us to Washington. We echoed their voices in these Halls, and we created the bill we have before us today: a stronger bill, a better bill, a bill that avoids a government takeover of health care, a bill that costs less and reduces the budget deficit by \$100 billion. A bill that we can be proud of.

We fought to protect Medicare, and we're giving our seniors a bill that immediately closes the Medicare part D doughnut hole and strengthens Medicare.

We heard stories from honest, hard-working Americans who were denied or lost coverage because of preexisting conditions when they needed it the most. Our bill ends that discriminatory process. The Republican bill, by their own admission, leaves more uninsured people in 10 years than we have today.

I personally took on the cause of small businesses, the economic engine of the American economy and job growth, many of which can't afford to provide coverage today. These businesses are the entrepreneurs and innovators on which the future of our economy depends.

I'm happy to say this new bill raises the threshold for the surcharge to a million dollars in income for most small businesses, significantly reducing any impact while giving small businesses access to the exchange which provides them the same buying power previously only enjoyed by large corporations. I remain hopeful that through the conference process, we can further reduce or eliminate the small business surcharge while preserving the savings for individuals and small businesses.

My constituents said to include tort reform and interstate competition, and their voices have been heard. And I'm proud to say this bill provides for insurance companies competing across State lines through interstate compacts and includes reforms to reduce defensive medicine.

This summer Americans in every district in this country spoke out about

health care. We listened. We took their ideas to heart and brought them to Washington. This bill was written by patriots across our great Nation, and I urge my fellow Members to join me in proud support of this bill.

Mr. SESSIONS. Mr. Speaker, at this time I yield 1 minute to the distinguished gentleman from Fullerton, California (Mr. ROYCE).

Mr. ROYCE. Mr. Speaker, I think all in this Chamber agree that health care costs continue to weigh heavily on Americans. But, unfortunately, this trillion dollar government takeover will make matters worse.

Medicine will be rationed via politics under this act. The cost of private insurance for those not getting the government subsidy will undoubtedly skyrocket. It's going to potentially double for a lot of people.

Economists of all political affiliations will tell you that the greater government's thumb, the greater government's role in health care, the more the bureaucracy that's going to come out of it, the higher it's going to drive costs. And this bill would create a costly new entitlement.

It's going to centralize the decisions on what constitutes insurance. It's going to impose mandates on individuals, including up to 5 years' prison time for noncompliance if you're not in the scheme, and mandates on employers. And it adds hundreds of billions of dollars in new taxes all without regard to the fundamental problem.

We can take steps to bring greater choice and competition to health care. But, instead, this bill is about government dominating the market and it's about an unsustainable debt that's added to the future.

Ms. SLAUGHTER. Mr. Speaker, I yield 2 minutes to the gentleman from Virginia (Mr. CONNOLLY).

Mr. CONNOLLY of Virginia. I thank the distinguished chairwoman for yielding.

Mr. Speaker, I rise to address the issue of health care reform. H.R. 3962, this bill, has been a century in the making.

Teddy Roosevelt first called for comprehensive health care in the early 1900s. Some rush. A hundred years after that Republican's vision, T.R. has been vindicated. Americans need the reform he endeavored to achieve.

Today's vote will mark an epic turning point for our country for it enshrines national principles far more important than legislative pages: the principle of universal access and affordability; the principle of protection for American families against bankruptcy from the costs of catastrophic illness; the simple justice of shielding millions, including our children, from the caprice and devastation of health care benefits denied because of a pre-existing medical condition.

If we have common American values that include compassion and economic



common sense, if we have some sense of commonwealth in which your need is also mine, if we can rise above partisan advantage and understand our responsibilities to our fellow countrymen here in this place, then we will seize this moment, this one transformative moment, to make America a better place.

I will vote for this bill.

Mr. Speaker, after months of spirited debate in thousands of meetings, letters, phone calls, and e-mails with my constituents, I am proud to stand here today and pledge my support for meaningful health insurance reform that will improve the quality of care and quality of life for virtually every family in my district, while reducing the deficit by more than \$100 billion.

This bill will: eliminate the insurance company practice of denying coverage based on pre-existing conditions; close the prescription drug donut hole and save money for our seniors; cap out-of-pocket expenses; and make insurance more affordable and accessible.

I was an early critic of the draft bill because it placed too much of the financial burden on families and small businesses in my district. I also heard from my constituents that it did not do enough to contain costs.

I have appreciated the opportunity to weigh in with those concerns, and I am pleased to see them addressed in the bill we have before us today. The thresholds for the income surcharge have more than doubled, saving thousands of working families and small businesses in Northern Virginia and elsewhere from higher taxes.

The legislation before us today will provide insurance coverage to 96 percent of all Americans, reduce long-term premium costs for families and small businesses, and bring down the federal deficit by more than \$100 billion. I will support legislation that does those things.

Mr. Speaker, with this vote we will deliver on a generations-old promise for meaningful health care reform that will endure for generations to come.

Mr. SESSIONS. Mr. Speaker, at this time I yield 1 minute to the gentleman from Tarkio, Missouri, the senior Republican member of the Small Business Committee.

Mr. GRAVES. Mr. Speaker, I rise today in opposition to this rule and the underlying bill.

Small businesses have struggled for years to obtain affordable health insurance for their employees. However, rather than embrace solutions that enjoy the unanimous support of the small business community, this bill takes a government-heavy approach that fails in its goal to make health insurance more affordable. What is more unfortunate is that the bulk of the funding for the health care bill is balanced on the backs of small business owners and entrepreneurs.

I offered an amendment to the Rules Committee to provide relief to these job creators by striking the mandate and tax on employers, but my fight fell on deaf ears.

The tax increases included in this bill are job killers, plain and simple. At a

time when our Nation's unemployment rate exceeds 10 percent for the first time in 26 years, the first goal of this body should be improving the economy and creating jobs.

Real solutions exist to the problem of affordable health care. This bill is not that solution, and I would urge my colleagues to vote against the rule and this bill.

Ms. SLAUGHTER. Mr. Speaker, I yield 2 minutes to the gentlewoman from Ohio (Ms. KILROY).

Ms. KILROY. Mr. Speaker, I rise to address some of the claims made by the other side of the aisle that the Democratic health care bill will cost our country's economy jobs. In fact, as noted in the June 2009 Council of Economic Advisers' report, our legislation will most likely have a positive impact on job growth, economic efficiency, standards of living, and the budget deficit.

Our bill will provide assistance to small businesses. Small businesses in my district have asked over and over again for help with the crushing cost of health care insurance and for the problems that small groups have in obtaining insurance. Small businesses will see a great deal of help and support in this bill, and large businesses as well because they will be able to contain the costs of their health premiums, which over the years, as employers know, keep increasing at double-digit rates of inflation.

Our bill has features that will improve efficiency in the labor market, improve workplace productivity, and lower the rates of disability.

We've heard how long our country has waited to get a bill like this. We've heard that it's been since Teddy Roosevelt and other Presidents, other Congresses have tried and failed to bring America up to the standard of making health care affordable and accessible for all of us.

You know, we've waited a long time, and there is such a thing as waiting too long. It's been too long for the 14,000 Americans a day who lose their health care coverage. Too long for the millions of us who are deemed uninsurable because we have a preexisting condition. Too long for people without insurance who cannot obtain the lifesaving medication or life-improving medications that will help them live a better life.

It is time now to pass the Democratic health care bill, time to finally make coverage accessible, affordable. Give people a choice of doctors and plans and emphasize wellness, prevention, primary care in a bill that reduces the deficit and improves our economy.

Mr. SESSIONS. Mr. Speaker, at this time I would like to yield 1 minute to a favorite son from Sarasota, Florida (Mr. BUCHANAN).

Mr. BUCHANAN. Mr. Speaker, with unemployment over 10 percent, the

worst thing we could do is raise taxes and expand government, but that's precisely what we're doing here today if we pass this bill.

People are fed up with Federal spending coming out of Washington, and they don't want higher taxes like the 8 percent job-killing tax increase on small businesses included in this bill, which create 70 percent of the jobs. This \$1.2 trillion bill would also cut Medicare by \$500 billion and extend health insurance to illegal immigrants. That's just plain wrong.

There's a far better approach, an alternative, which we will vote on today that will reduce costs without raising taxes or cutting Medicare. Now, that's a better prescription. It makes sense for America and Americans and a plan that we can afford.

Ms. SLAUGHTER. Mr. Speaker, I yield 2 minutes to the gentleman from New Mexico (Mr. HEINRICH).

Mr. HEINRICH. Mr. Speaker, during the past few months, we have seen a vigorous and at times emotionally charged debate about how to fix our broken health care system. I spent the last several months conducting an aggressive and thorough health care listening tour across the First Congressional District of New Mexico. Just last week I held a telephone town hall with nearly 10,000 seniors in my district to discuss how reforming the health care system strengthens Medicare.

Six principles have guided my work and determined my vote on this legislation: health insurance reform must create stability, contain costs, guarantee choice, improve quality, cover everyone, and include a strong public option.

The Affordable Health Care for America Act delivers on each of these principles, and it does so without adding a penny to the deficit. This bill will provide greater competition for insurance companies, give Americans affordable coverage, choice, and stability that they can count on.

I urge my colleagues to vote in favor of H.R. 3962.

Mr. SESSIONS. Mr. Speaker, I know that Republicans in our districts are also telling seniors and other people that there will be a \$730 billion tax increase to pay for this massive government takeover of health care.

Mr. Speaker, at this time I yield 1 minute to the gentleman from Marietta, Georgia (Dr. GINGREY).

Mr. GINGREY of Georgia. I thank the gentleman for yielding.

Mr. Speaker, I rise in opposition to the rule and unequivocal opposition to the underlying government takeover of the American people's health care.

When I appeared before the Rules Committee last night, I heard the chairman designee say that the changes to bring us these 2,000 pages that were enacted in the middle of the



night were de minimis changing. Going from a thousand pages to 2,000 pages is hardly de minimis. And what I noted, of course, was of the 20 Republican amendments that had been approved in committee, only five remained and none of mine.

So, Mr. Speaker, I've brought forth amendments that the American public has told me that they want, such as that every Member of Congress, if the government option is so good, they ought to sign up for it; amendments such as medical liability reform, and the CBO has told us, Mr. Speaker, that it would save \$54 billion; amendments such as no cuts to Medicare unless you keep that money in the Medicare system, which has a \$35 trillion unfunded mandate; and finally no individual mandates on our young people who can ill afford it. It is unconstitutional.

Ms. SLAUGHTER. Mr. Speaker, I reserve the balance of my time.

Mr. SESSIONS. Mr. Speaker, at this time I would like to yield 1 minute to the star of the Texas delegation from Dallas, Texas (Mr. HENSARLING).

□ 1230

Mr. HENSARLING. Mr. Speaker, since the President and the Democrats took control of Congress, they have passed a \$1.1 trillion stimulus plan, a \$410 billion omnibus spending plan, they have passed appropriations bills that have increased spending 10, 20, 30 percent. They passed our first trillion-dollar deficit in our Nation's history. They passed a budget that will triple—triple—the national debt in the next 10 years. And now today, a \$1.3 trillion government takeover of our health care system.

Mr. Speaker, you cannot improve the health of a nation by bankrupting its children. There are a trillion reasons, a trillion reasons, to defeat this government takeover of our health care system. Let me give you one more: government control is the rationing of our health care.

Think about your loved ones. Think about your constituents. Think about your fellow countrymen. Reject this trillion-dollar takeover of our government health care.

Ms. SLAUGHTER. Mr. Speaker, may I inquire of my colleague how many speakers he has remaining?

Mr. SESSIONS. Mr. Speaker, I appreciate the chairman of the Rules Committee asking about our further speakers. We have several speakers left before I would close.

Ms. SLAUGHTER. Then I will continue to reserve.

Mr. SESSIONS. Mr. Speaker, if I may inquire upon the time that remains.

The SPEAKER pro tempore. The gentleman from Texas has 13¼ minutes remaining. And the gentleman from New York has 5¼ minutes remaining.

Mr. SESSIONS. Mr. Speaker, I yield 1 minute to the gentleman from Roanoke, Virginia (Mr. GOODLATTE).

Mr. GOODLATTE. Mr. Speaker, I rise in strong opposition to this unfair rule and the underlying bill, and in support of the Republican substitute.

This bill is a tragedy, and to be taking it up a day after the unemployment figures were released that showed 10.2 percent, 15.5 million Americans out of work, the highest number in American history, and when you add in those who are underemployed, one out of every six Americans is looking for more work.

That means that the average American can look out from their home, their neighbor to their left, their neighbor to their right, and in their own home, and they will see at least one person who is looking for more work or who is completely unemployed. And the same day a report came out showing that this legislation will cost up to 5.5 million more jobs. It is an outrage. That is why this legislation should be opposed.

Don't let this 2,000-page, 400,000-word, job-killing, tax-increasing, bureaucratic legislation fall on your job.

Ms. SLAUGHTER. Mr. Speaker, I continue to reserve.

Mr. SESSIONS. Mr. Speaker, at this time I would like to yield 1 minute to the gentleman from Savannah, Georgia (Mr. KINGSTON).

Mr. KINGSTON. Mr. Speaker, in January, with 8.5 percent unemployment rates, Speaker PELOSI passed an \$800 billion pork-laden stimulus bill. In May, unemployment goes to 9.5 percent, and we get an energy tax of \$1,500 per household. Now, November, unemployment is over 10 percent and we are about to pass a \$1 trillion government takeover of health care. It raises premiums, it raises taxes. It cuts Medicare.

Mr. Speaker, America does not need a government takeover of health care; we need jobs. If your kitchen sink is leaking, you fix the sink; you don't take a wrecking ball to the entire kitchen. This bill is a wrecking ball to the entire economy.

We need targeted, specific reforms to help people who have fallen through the health care cracks, and we have a lot of bipartisan support for that, and I am part of it. The only bipartisanship we have is against this monstrosity. Vote "no." Let's start all over and do it right.

Ms. SLAUGHTER. Mr. Speaker, I continue to reserve.

Mr. SESSIONS. Mr. Speaker, at this time I would like to yield 90 seconds to the gentleman from Mesa, Arizona (Mr. FLAKE).

Mr. FLAKE. Mr. Speaker, there is so much wrong with this bill it is impossible to cover in 90 seconds, so let me focus on one aspect.

Yesterday we learned that unemployment has reached 10 percent in this country. Can you imagine being a small businessman and deciding wheth-

er or not you are going to hire new employees when you face the prospect of an 8 percent tax if you are not providing the kind of health care coverage that this bill envisions. An 8 percent tax. And depending on the kind of business you have, if you file as a Sub S corporation, for example, you could face an additional 5.4 percent surtax on top of that. Are you going to hire more people? Not a chance. Unemployment will get worse.

We are in a deep economic hole, Mr. Speaker, and the first rule should be, stop digging. Yet here we have doubled down, and we are trading in our shovel for a backhoe, and we are saying we are going to dig faster and deeper. To what effect? What are we saying to people out there? That jobs aren't important? That we don't care because we just have to pass this legislation?

We ought to have more responsibility than that.

Ms. SLAUGHTER. I continue to reserve, Mr. Speaker.

Mr. SESSIONS. Mr. Speaker, the gentleman from Arizona is correct. This bill is as much about health care as the stimulus package was about jobs. It is to bust the free enterprise system and for all of the control of health care to go to the Federal Government. I get it, and I assure you, the American people get it, also. And we will give our friends, the Democrats, all of the credit for what they are doing.

Mr. Speaker, at this time I yield 1 minute to the distinguished gentleman from Florida (Mr. STEARNS).

Mr. STEARNS. Mr. Speaker, let me ask the Democrats, why did you do this in a health care bill: In section 340N, called Public Health Workforce Loan Repayment Program, it is going to cost the government taxpayers \$283 million over 5 years because you are forgiving loans for veterinarians. So the real question I have for you folks: Why are veterinarians part of this health care bill?

When you go to section 555, Second Generation Biofuel Producer Credit, you remove the eligibility for tax credits for biofuels. My question again: What do biofuels have to do with health care?

I would like the gentlelady from New York to answer why veterinarians are included in this bill in terms of loan forgiveness and why you are creating a brand new tax on biofuels when it is not necessary. In fact, this is a gift for trial lawyers as it lacks real tort reform, and also it establishes Health Czars to oversee all health plans and dictate coverage options.

If you are happy with the health care system today, then you won't be happy with the new Health Care Czar described in this bill. This is a bad bill for the American people. Vote against the rule.

Ms. SLAUGHTER. Mr. Speaker, I am going to yield myself 30 seconds because I need to answer Mr. STEARNS.

Mr. STEARNS asks why are the veterinarians covered. Have you ever heard of swine flu? Have you ever heard about food safety? Have you ever heard that 70 percent of all of the antibiotics produced in the United States are given to cattle and poultry even though they are not ill? But swine flu should make you worry a little bit, don't you think?

I want to spend the rest of my 30 seconds saying this morning we have heard all kinds of nonsense about the dire things that will happen from this bill. This bill does not add one cent to the deficit certified by the CBO. In fact, it reduces it.

Mr. SESSIONS. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Nashville, Tennessee (Mrs. BLACKBURN) a member of the Energy and Commerce Committee.

Mrs. BLACKBURN. Mr. Speaker, I thank the gentleman from Texas, and I rise in opposition to this rule, and I encourage my colleagues to stand in opposition to this rule.

The reason is this is not what the American people want to see in health care reform. It is not what my constituents want to see in health care reform. There are some very valid, tangible reasons. This is a wrong step for America. This bill costs too much. It is too expensive to afford.

Look at what happened to my home State of Tennessee with the test case for public option health care. The cost not only doubled, not only tripled—it quadrupled, and it nearly broke the State. Our State was on the verge of bankruptcy. We had a 4-year battle over a State income tax to pay for this.

Who do you think is going to pay for this bill? This is too expensive to afford. What you are doing is sacrificing the future of our children, our grandchildren, and our great-grandchildren to pay, to pay for federalizing, nationalizing government control of health care.

Let's oppose the rule and take it down.

Ms. SLAUGHTER. Mr. Speaker, 68 percent of Americans want this bill very seriously, and I am pleased to yield 1 minute to the gentleman from Wisconsin (Dr. KAGEN).

Mr. KAGEN. Mr. Speaker, I thank Chairwoman SLAUGHTER for this opportunity to speak on behalf of this rule, a rule that will guarantee that we will get an opportunity to pass legislation to help everyone in Wisconsin that I represent; a rule that will help everybody that I have cared for as a physician for the past 33 years.

What are we doing? We are fixing what is broken, we are improving on what we already have, and making certain it is at a price we can all afford to pay. We are putting patients first. We are putting patients first so no longer will a family lose their home and go bankrupt simply because their children

become sick and they can't afford their health care bills.

We are putting patients first by reforming the rules, reforming the rules by making sure that we are going to close the doughnut hole in Medicare part D, and making certain that we are going to reform the medical malpractice rules to guarantee that patients and their doctors can decide their decisions amongst themselves. We are putting people first because people are more important than corporate profits.

Mr. SESSIONS. Mr. Speaker, I would like to yield 1 minute to the distinguished gentleman from Beaumont, Texas (Mr. POE).

Mr. POE of Texas. Mr. Speaker, we debate this great legislation about health care, but we forget the obvious. This massive government takeover of our health care still allows the 20 million people in this country that are illegally here to get one of those fake Social Security cards without benefit of even a photo ID and get some of that free government health care that everybody else has to pay for.

We need to fix that problem, and we need to fix some other problems, but don't turn the Federal Government loose on the health care of America. This bill costs too much, \$700 billion in new taxes, and citizens and legal immigrants are going to get stuck with the bill with poor health quality and health care.

And that's the way it is.

Ms. SLAUGHTER. Mr. Speaker, that's not the way it is. There are no illegal aliens in this bill who get anything at all.

I am pleased to yield 30 seconds to the gentleman from Georgia (Mr. JOHNSON).

Mr. JOHNSON of Georgia. Mr. Speaker, I speak in support of the rule and the underlying legislation. I want everybody to look into their heart of hearts, their conscience, the loneliness of the recesses of their consciousness, and in that moment you know that all Americans deserve health care, not just the rich and wealthy. What we are doing today is giving that to the average American.

I support the rule and the underlying legislation.

Mr. Speaker, I rise today to support the rule and the underlying legislation, H.R. 3962, the Affordable Health Care for America Act. I would like to thank Chairman RANGEL and Chairman WAXMAN for their leadership and hardwork in bringing this important legislation swiftly to the floor. Your efforts are commendable and will benefit all Americans.

Mr. Speaker, today I and many of my colleagues will take a historic vote in favor of extending quality affordable health insurance to millions of Americans. This is a moral question as well as a financial question. When this bill becomes law, 96 percent of Americans will have access to primary care doctors, prescription drugs, and preventive health services.

When this bill becomes law 96 percent of Americans will no longer have to worry about choosing between their or their children's health and other essentials like food and shelter. If that were not enough then I remind my colleagues that the Congressional Budget Office says that this bill will reduce the national debt. The status quo is no longer acceptable.

I urge my colleagues to stand today on the right side of history as this Congress takes the first step in bringing the security of affordable health insurance to millions of people.

Congress and the public have had ample opportunity to review, comment on, and improve upon the health reform legislation that we will vote on today. During the month of August many Members of Congress, including myself, held town hall meetings. During my town hall meetings I heard testimony from constituents across the Fourth District and from across the political spectrum. I considered the views of everyone who wishes to share their opinion and I came to the consideration that the thousands of my constituents—and the millions of Americans—without health insurance could no longer wait. I ran for Congress on a pledge to take care of home and I believe that there is no better way to take care of home than to ensure that all of my constituents and all Americans have access to quality affordable health care.

I have advocated—consistently and strongly—for the inclusion of a public option in health reform legislation. While my preference remains the more robust version of the public option, I am proud that H.R. 3962 contains a public option that will create competition in the insurance market to drive down costs for everyone, including the Federal Government.

I worked hard to make this the best bill that it could be. In addition to advocating for the public option, I worked to ensure that the recommendations of specialty medical associations, patient advocacy groups, and scientific societies are considered as part of the minimum benefit package by the Task Force for Clinical Preventive Services. Currently, when the task force has insufficient evidence to recommend a service, it provides an "I" or insufficient evidence grade. Many valuable preventive interventions do not yet have the evidence base needed to obtain a positive recommendation. Others can never be evaluated using the gold standard of a randomized clinical trial because a trial would be too expensive, recruiting participants is not feasible, or investigator interest or funding is lacking. I am pleased to report that H.R. 3962 contains report language which clarifies that the benefits commission can look beyond Task Force recommendations to other sources of evidence and that the commission can consider the recommendations of specialty medical associations, patient advocacy groups, and scientific societies as part of the minimum benefits package.

Additionally, I worked with my colleague, Mr. GREEN of Texas, on sec. 2587 of the bill which requires a report to Congress on the current state of parasitic diseases that have been overlooked among the poorest Americans. A 2008 study identified high prevalence rates of parasitic infections in the poorest areas of the United States—potentially up to 100 million infections of Acariasis, Chagas Disease,

Cysticercosis, Echinococcosis, Toxocariasis, Toxoplasmosis, Trichomoniasis, or Strongyloidiasis. These diseases disproportionately affect minority and impoverished populations, producing effects ranging from asymptomatic infection to asthma-like symptoms, seizures, and death. These diseases receive less financial support than they deserve with a mere \$231,730 of research funding allocated by NIH since 1995. This discrepancy in funding is known as the "10/90 gap"; a mere 10 percent of global health research funding is directed towards diseases affecting 90 percent of the global population. For example, between 1995 and 2009, the National Institutes of Health funded a mere \$231,730 of Toxocariasis research. The report required by this section would provide an up-to-date evaluation of the current dearth of knowledge regarding the epidemiology of these diseases and the socioeconomic, health and development impact they have on our society. The Secretary of Health and Human Services will report to Congress on this as well as the appropriate funding required to address neglected diseases of poverty, including neglected parasitic diseases. I look forward to the completion of this report so that Congress can take appropriate action in the future to address these diseases.

Finally, the goal of health reform is to expand access to quality affordable health care. The underlying bill makes commendable strides to expand access but I believe that we must go further to ensure that Americans can afford the care they need. Many Americans—our friends and neighbors—suffer from debilitating and chronic illnesses such as multiple sclerosis or severe arthritis. The medications available to them are so expensive that insurers create so-called "specialty tiers" within their formularies for these medications. People living with chronic conditions incur heavy financial burdens for treatment and prescription drugs—and they are at the breaking point. High out of pocket costs limit access to care and ultimately reduce their chances of living healthy lives. In a recent study of medical bankruptcies, out-of-pocket medical costs averaged \$17,749 for the privately-insured, and \$26,971 for the uninsured. Patients with neurologic disorders such as multiple sclerosis faced the highest costs, at an average of \$34,167. I believe it is time to put a limit on these outrageous costs. Last night in the Rules Committee I waited over 4 hours to offer two amendments to do just that.

My first amendment would cap out-of-pocket prescription drug costs at \$200 per monthly prescription and \$500 per month, total. This would apply to all insurance plans, including Medicare Part D. My amendment would also amend the current Medicare Part D exemption process so low-income beneficiaries can request an exemption for specialty tier drugs that would lower their costs. The amendment would also request two MedPAC studies of discrimination and cost-sharing. This amendment is supported by the Arthritis Foundation and the Lupus Foundation of America.

My second amendment would build on the underlying legislation by reducing the cap on out of pocket medical expenses from \$5,000 annually to \$1,250 quarterly. People whose care results in high out of pocket costs could

easily reach the \$5,000 limit in a one or two month span. This is potentially unaffordable for people with chronic disease and dividing the cap quarterly would achieve the same policy outcome while increasing its affordability. This amendment is supported by the Arthritis Foundation and the Lupus Foundation of America.

According to a 2008 study by the Commonwealth Fund, more than half of chronically ill patients did not get recommended care, fill prescriptions, or see a doctor when sick because of costs. My amendments would have reduced out of pocket costs for the most expensive prescriptions, making health care affordable for some of our country's neediest citizens.

While my language was not ultimately included in this legislation, I support the underlying bill and I would urge my colleagues to do likewise for the benefit of all Americans.

Mr. Speaker, in my district, the Fourth Congressional District of Georgia, the Affordable Health Care for America Act will: improve employer-based coverage for 349,000 residents; provide credits to help pay for coverage for up to 166,000 households; improve Medicare for 65,000 beneficiaries, including closing the prescription drug donut hole for 5,400 seniors; allow 15,400 small businesses to obtain affordable health care coverage and provide tax credits to help reduce health insurance costs for up to 14,200 small businesses; provide coverage for 153,000 uninsured residents; protect up to 2,200 families from bankruptcy due to unaffordable health care costs; and reduce the cost of uncompensated care for hospitals and health care providers by \$98 million.

I urge my colleagues to support the rule and the underlying bill and I thank you for your consideration.

□ 1245

Mr. SESSIONS. Mr. Speaker, at this time, I yield 1 minute to the distinguished gentleman from Iowa (Mr. KING).

Mr. KING of Iowa. I thank the gentleman from Texas for yielding.

Mr. Speaker, I would first say, as the gentleman from Georgia stated, all Americans deserve health care, that all Americans have health care, every single one. Eighty-five percent of us are insured and 85 percent of us are happy with the policy that we have.

The President has made two arguments. One of them is that health care in America costs too much money. What's your solution? Spend another \$1.5 trillion. Too much money, throw another \$1.5 trillion at it. That's upside down. What is the simplest part of logic that you don't understand?

Second thing, too many people in America are uninsured, 47 million. Well, subtract from that 47 million illegal aliens which will be funded under this bill, immigrants, those that qualify for Medicaid and other government programs, employer programs that make over \$75,000 a year, now you're down to really only 12.1 million Americans who are without affordable options. That is less than 4 percent of

America. And for that you would throw out the liberty of America, throw out the baby with the bathwater of the best health insurance industry in the world, the best health care delivery system in the world, destroyed by a desire to create a dependency society to steal our freedom.

Ms. SLAUGHTER. Mr. Speaker, I yield to the gentleman from New York for a unanimous consent request.

Mr. ACKERMAN. Mr. Speaker, I rise in support of the rule and in strong support of the bill.

Mr. Speaker, I rise on this historic day in strong support of the Affordable Health Care for America Act, H.R. 3962.

Let me be absolutely clear: every single American should have access to affordable and quality health-care coverage. For too many years, drastically needed health-insurance reform has been delayed. I'm happy to say the long overdue reform of our health-care insurance system has finally begun. The status quo is unsustainable and costly: Without health insurance reform, the insurance premium for an average family is expected to rise from \$11,000 to \$24,000 in less than a decade. Americans want reduced costs and more choices.

Mr. Speaker, I support this landmark legislation because it changes the way that insurance companies ration medical care: The measure would require all plans to eliminate coverage denials because of a pre-existing condition, eliminate dropping coverage when individuals become sick, eliminate annual and lifetime caps on how much can be spent on care, and eliminate exorbitant out-of-pocket expenses. All Americans deserve these basic protections from their health-insurance plans, and these important guarantees will improve the coverage for nearly all those who already have insurance—even those Americans who are extremely satisfied with their current plans.

The act starts with what works well in today's health care system and fixes the parts that are broken. No one has to discard the health care they enjoy today—everyone can keep their current health plan, doctors and hospitals. A new marketplace will allow individuals to shop among a large number of private plans or choose a public insurance option. For the first time ever, American families—even those who keep their current health insurance—will benefit from no longer having to worry about losing health coverage because of a new or lost job. The bill finally brings the type of health insurance reform that Americans need and deserve.

I also strongly support this bill because the 47 million uninsured Americans, the 2.6 million uninsured New Yorkers and the 78,000 uninsured neighbors in my congressional district will have access to affordable, secure and quality health-care coverage instead of having to rely on the local hospital emergency room. Most recent administrations never acknowledged the moral or economic costs we pay every day for our failure to fix this problem. Fortunately, President Obama has made comprehensive health-insurance reform his top priority. I am proud to be voting today to make sure that health-care reform contains costs and is affordable; puts our country on a clear

path to universal coverage; provides portable coverage; ensures choice of physicians and health plans; promotes prevention and wellness; improves the quality of care, and is fiscally sustainable over the long-term. Putting these principles into action is not only doable; it is absolutely essential.

So, Mr. Speaker, I urge all my colleagues to support the Affordable Health Care for America Act so that all Americans will have access to health care.

Ms. SLAUGHTER. Mr. Speaker, I yield 1½ minutes to the gentleman from Oregon (Mr. DEFAZIO).

Mr. DEFAZIO. I thank the gentlelady.

The Republican record defies their rhetoric. Remember their so-called "prescription drug benefit" for seniors passed in the dark of the night, no one read the bill, didn't know what was in it? It cost \$700 billion because that was subsidizing the pharmaceutical and insurance industry. But now they're worried about costs that gave the seniors a doughnut hole. Now their concern is not about what they're stating; it's about their patrons in the insurance industry.

This bill has real reforms of the worst abuses of the insurance industry. It takes away their unfair antitrust community so they can no longer collude to drive up premium prices or restrict coverage. The Republicans would continue the antitrust exemption.

This bill outlaws the unfair pre-existing condition restriction. The Republicans would continue that for the insurance industry.

This bill would not allow the industry to cancel your policy even though you've been paying your premiums when you get sick. It's called rescission. The Republicans allow that abuse to continue.

This bill on our side outlaws the small print that limits your lifetime coverage which bankrupts families every day in America. The Republicans allow it to continue.

And that's not enough. They open up a new loophole, their so-called "national plan." A company would only be regulated by the laws of the State in which it was based when it sold you a policy. If you live in Oregon but you bought a policy that was written in—oh, and by the way, they expand the definition of States to include the territories and the Mariana Islands. So if you've got a problem, call the Mariana Islands insurance commissioner. That's the Republican plan: Profits for the insurance industry.

Mr. SESSIONS. Mr. Speaker, I yield to the gentleman from Texas (Mr. NEUGEBAUER) for a unanimous consent request.

Mr. NEUGEBAUER. Mr. Speaker, I rise in opposition to this job-killing bill that cuts Medicare, piles debt on our children, raises health care costs, and raises taxes on the American people.

Last week, Speaker PELOSI introduced the long-awaited final draft of her health care reform bill. H.R. 3962, combined with the 42-page manager's amendment, comes in at over 2,000 pages.

A preliminary analysis by the nonpartisan Congressional Budget Office estimates that the true cost of the bill is \$1.3 trillion. Buried within this bill are details that would add massive Federal involvement in the health care of every American, including the following: creation of a government-run insurance program that could cause as many as 114 million Americans to lose their current coverage; elimination of the private market for individual health insurance; taxes on all Americans who purchase insurance, individuals who don't purchase insurance, and millions of small businesses; and cuts to Medicare Advantage plans that will result in higher premiums. Yet with all these taxes, mandates and cuts, the majority party still maintain somehow this bill will lower the cost of health care to Americans.

For months, Americans have been telling Congress they want real solutions for the health care crisis in America but they are also telling us there is a big difference between the right and wrong way to reform health care. Republicans listened to the American people and have produced a commonsense, fiscally responsible health reform proposal—not Speaker NANCY PELOSI's 2,000+ page government takeover of one-sixth of our Nation's economy.

Republicans' alternative solution focuses on lowering health care premiums for families and small businesses, increasing access to affordable, high-quality care, and promoting healthier lifestyles—without adding to the crushing debt Washington has placed on our children and grandchildren. Even the nonpartisan Congressional Budget Office, CBO, confirmed that the Republican health care plan would lower health care premiums by up to 10 percent and reduce the deficit by \$68 billion over 10 years without imposing tax increases on families and small businesses. The Republican alternative contains no tax increases, no cuts to Medicare, no health care rationing, no deficit spending, and no huge intrusion of government into your personal health care choices. Instead, our plan recognizes that health care reform must be based on competition, preserving the relationship between doctors and patients, and reducing health care costs for American families without a massive government intrusion.

Health care solutions are badly needed in this country, but we need to get it done right. Republicans have listened to the American people and put forth commonsense health care legislation that reduces the deficit, lowers premiums, and improves coverage options for those with preexisting conditions.

The SPEAKER pro tempore. The time of the gentleman has expired.

The Chair will ask for a simple statement of unanimous consent or the gentleman from Texas will be charged.

Mr. SESSIONS. Mr. Speaker, the Rules Committee did a great job; they held a 12-hour meeting yesterday.

I would like to say to the American people that everybody understands what's in this bill, they have a chance.

No unintended consequences with this. Republicans have laid out what we believe will happen.

Mr. Speaker, lots of groups around the country also know what would happen, and I would like to insert into the RECORD the list of people who would say vote "no" on this bill. They are business organizations all across this country.

#### H.R. 3962—THE AFFORDABLE HEALTH CARE FOR AMERICA ACT

##### GROUPS KEY VOTING "NO"

American Bakers Association; American Conservative Union; American Council of Engineering Companies; American Hotel and Lodging Association; American Rental Association; Americans for Tax Reform (Double Rating); Associated Builders and Contractors, Inc. (ABC); Associated Equipment Distributors; Associated General Contractors of America; Automotive Recyclers Association; Brick Industry Association; Club for Growth; Concerned Women for America; Council for Citizens Against Government Waste; Family Research Council; FreedomWorks.

Independent Electrical Contractors; International Foodservice Distributors Association; International Franchise Association; National Association of Manufacturers; National Association of Wholesaler-Distributors; National Federation of Independent Business (NFIB); National Lumber and Building Material Dealers Association; National Ready Mix Concrete Association; National Retail Federation; National Taxpayers Union; North American Die Casting Association; Printing Industries of America; Small Business & Entrepreneurship Council; U.S. Chamber of Commerce.

##### GROUPS OPPOSING H.R. 3962

Aeronautical Repair Station Association; Air Conditioning Contractors of America; American Academy of Facial Plastic and Reconstructive Surgery; American Apparel & Footwear Association; American Architectural Manufacturers Association; American Association of Neurological Surgeons; American Benefits Council; American Center for Law and Justice; American Electric Power; American Family Insurance; American Farm Bureau Federation; American Foundry Society; American International Automobile Dealer Association (AIDA); American Petroleum Institute; American Society of General Surgeons; American Staffing Association; American Veterinary Medical Association; American Wire Producers Association; America's Health Insurance Plans (AHIP); AMT—The Association For Manufacturing Technology; Arizona-New Mexico Cable Communications Association; Arkansas Medical Society; Association of Ship Brokers and Agents.

Association of Washington Business; AT&T; Automotive Aftermarket Industry Association; Best Buy Co., Inc.; Blue Cross Blue Shield; Blue Cross Blue Shield of North Dakota; Bowling Proprietors' Association of America; Business Roundtable; Caterpillar, Inc.; CIGNA; Congress of Neurological Surgeons; Corporate Health Care Coalition; Deere & Company; Eastman Kodak Company; Electronic Security Association (ESA); Florida Chamber of Commerce; Florida Medical Association; Food Marketing Institute; Goodrich Corporation; Heating, Air-conditioning & Refrigeration Distributors International; HR Policy Association; HSBC North America; Illinois State Medical Society; Independent Insurance Agents & Brokers of America.

Independent Office Products & Furniture Dealers Association; Indiana Chamber of Commerce; Indiana Manufacturers Association; International Association of Refrigerated Warehouses; International Housewares Association; International Sleep Products Association; Kansas Medical Society; Land O'Lakes, Inc.; Maine Chamber of Commerce; Marathon Oil Corporation; Marine Retailers Association of America; MeadWestvaco Corporation; Medical Association of Georgia; Medical Society of Delaware; Medical Society of New Jersey; Medical Society of the District of Columbia; Minnesota Chamber of Commerce; Missouri Chamber of Commerce and Industry; Motor & Equipment Manufacturers Association; NAMM, International Music Products Association.

National Association of Convenience Stores (NACS); National Association of Health Underwriters; National Association of Mortgage Brokers; National Association of Theatre Owners; National Automobile Dealers Association; National Business Group on Health; National Club Association; National Coalition on Benefits (440 Associations and Companies); National Council of Chain Restaurants; National Funeral Directors Association; National Grocers Association; National Newspaper Association; National Roofing Contractors Association; National Rural Electric Cooperative Association; National Teachers Associates Life Insurance Company; National Tooling Machining Association; National Utility Contractors Association; North Carolina Chamber; North Dakota Chamber of Commerce; Northeastern Retail Lumber Association.

Nursery and Landscape Association; Ohio Chamber of Commerce; Ohio State Medical Association; Pennsylvania Chamber of Business and Industry; Pharmaceutical Research and Manufacturers of America (PhRMA); Plumbing-Heating-Cooling Contractors Association; Precision Machined Products Association; Precision Metalforming Association; Professional Golfers Association of America; Republican Jewish Coalition; Retail Industry Leaders Association (RILA); Self-Insurance Institute of America (SIIA); Small Business Coalition for Affordable Health Care; Society for Human Resource Management; Society of American Florists; Society of Chemical Manufacturers & Affiliates; South Carolina Chamber of Commerce; South Carolina Medical Association; Specialty Equipment Market Association (SEMA); SPI: The Plastics Industry Trade Association.

Tennessee Chamber of Commerce & Industry; Texas Association of Business; The Black & Decker Corporation; The Business Coalition for Fair Competition; The Business Council of New York State, Inc.; The Dow Chemical Company; The ERISA Industry Committee; The Louisiana State Medical Society; The Medical Association of the State of Alabama; Tire Industry Association; Triological Society; Tyco International; UAM Action Network; United Parcel Service, Inc.; United States Steel Corporation; Universal Health Network; Utah Manufacturers Association; Verizon Communications; Virginia Chamber of Commerce; Wedding & Event Videographers Association International; WellPoint, Inc.; Western Growers Association Wisconsin Manufacturers & Commerce; Wood Machinery Manufacturers of America (WMMA); Xerox Corporation.

Mr. Speaker, we understand \$732.5 billion worth of tax increases. Once again, let's get this right. No unintended consequences here. This is a job killer.

I will insert into the RECORD a list of the tax increases that are proposed in this bill.

#### TOP TEN TAX INCREASES INCLUDED IN H.R. 3962

(As scheduled for consideration on the House Floor on November 7, 2009)

1. Small business surtax (Sec. 551, p. 336): \$460.5 billion.
  2. Employer Mandate tax\* (Secs. 511–512, p. 308): \$135.0 billion.
  3. Individual Mandate tax\* (Sec. 501, p. 296): \$33.0 billion.
  4. Medical device tax\* (Sec. 552, p. 339): \$20.0 billion.
  5. \$2,500 Annual cap on FSAs\* (Sec. 532, p. 325): \$13.3 billion.
  6. Prohibition on pre-tax purchases of over-the-counter drugs through HSAs, FSAs, and HRAs\* (Sec. 531, p. 324): \$5.0 billion.
  7. Tax on health insurance policies to fund comparative effectiveness research trust fund\* (Sec. 1802, p. 1162): \$2.0 billion.
  8. 20% Penalty on certain HSA distributions\* (Sec. 533, p. 326): \$1.3 billion.
  9. Other tax hikes and increased compliance costs on U.S. job creators: \$60.2 billion.
- IRS reporting on payments to certain businesses (Sec. 553, p. 344): \$17.1 Billion.
- Repeal implementation of worldwide interest allocation rules (Sec. 554, p. 345): \$6.0 billion.
- Cellulosic Biofuel Credit/deny eligibility for "black liquor" (New Sec. 555, inserted on p. 346): \$23.9 billion.
- Override U.S. treaties on certain payments by "insourcing" businesses (Sec. 561, p. 346): \$7.5 billion.
- Codify economic substance doctrine and impose penalties (Sec. 562, p. 349): \$5.7 billion.
10. Other revenue-raising provisions: \$2.2 billion.

Total tax increases: \$732.5 billion.

\* = Violates President Obama's pledge to avoid tax increases on Americans earning less than \$250,000.

Mr. Speaker, also, last night at the Rules Committee we found out—which is very devastating and I believe unwise—the Senate does not have this provision. They removed it. But the House keeps in this bill the failure to comply with individual mandates in this bill could lead to a \$250,000 fine and 5 years in jail, criminal penalties that are a felony if you willingly choose not to participate, if you willingly choose then not to pay the fine in your taxes. Mr. Speaker, what we are going to do is criminalize Americans who choose not to join in this government-run health care system.

There are not unintended consequences. The Members need to know that this is going to raise premiums, it is going to raise taxes, and perhaps worst of all, we are going to criminalize with felony penalties non-compliance. Mr. Speaker, this is not a way to run a bill.

Mr. Speaker, I reserve the balance of my time.

Ms. SLAUGHTER. Mr. Speaker, I yield 1 minute to the gentleman from Michigan (Mr. STUPAK).

Mr. STUPAK. Mr. Speaker, the rule being debated makes in order the Stupak-Ellsworth-Pitts-Smith-Kaptur-

Dahlkemper pro-life amendment that would apply the longstanding Hyde amendment, which states no public funding for abortion.

I appreciate the willingness of Speaker PELOSI to work with all Democrats through the day and night Friday to reach an agreement on language. Ultimately, the agreement we reached fell apart, and the only appropriate consideration was to make our amendment in order.

The Speaker recognizes that Members deserve the chance to vote their conscience and have their voices heard on this most important matter.

There are a number of critical reforms in this bill, such as a repeal to the health insurance industry's anti-trust exemption to inject competition into the industry, a prohibition on insurance companies discriminating against people with preexisting conditions, elimination of the practice of recision, except in the cases of fraud, and a transition to a health care reimbursement system that addresses geographic disparities and rewards quality of care over quantity of procedures performed.

Now is the time to pass health care reform and provide quality, affordable health care for all Americans. I urge my colleagues to support the rule and to support the Stupak amendment later today.

I thank the gentlewoman for yielding.

Mr. SESSIONS. Mr. Speaker, I reserve the balance of my time.

Ms. SLAUGHTER. Mr. Speaker, I yield 30 seconds to the gentleman from Rhode Island (Mr. LANGEVIN).

Mr. LANGEVIN. Mr. Speaker, I rise today in strong support of this rule and the underlying bill which finally puts us on the path to solving our Nation's health care crisis.

Since coming to Congress, I have heard from countless constituents in Rhode Island struggling with the failures of our health care system. I have heard from constituents forced to make unconscionable choices between seeing a doctor or their next meal, paying their mortgage or losing their coverage, and families facing bankruptcy due to catastrophic medical costs.

The time for inaction is over. This bill represents an historic opportunity to enact reforms that will allow constituents who lose their jobs to keep their health care coverage, eliminates preexisting conditions, and protects people by abolishing lifetime insurance caps.

Every American deserves the promise of quality affordable health care, and this is our moment to fulfill that promise.

Mr. SESSIONS. Mr. Speaker, I spoke just a second ago about the mandates that would be criminal penalties. I would like to enter a letter from the gentleman, Mr. CAMP, that is from the

Joint Committee on Taxation that outlines this part of the law.

CONGRESS OF THE UNITED STATES,  
JOINT COMMITTEE ON TAXATION,  
Washington, DC, November 5, 2009.

Hon. DAVE CAMP,  
House of Representatives,  
Washington, DC.

DEAR MR. CAMP: This is in response to your request for information relating to enforcement through the Internal Revenue Code ("Code") of the individual mandate of H.R. 3962, as amended, the "Affordable Health Care for America Act." You specifically inquired about penalties for a willful failure to comply.

#### TAX ON INDIVIDUALS WITHOUT ACCEPTABLE HEALTH CARE COVERAGE

H.R. 3962 provides that an individual (or a husband and wife in the case of a joint return) who does not, at any time during the taxable year, maintain acceptable health insurance coverage for himself or herself and each of his or her qualifying children is subject to an additional tax. The tax is equal to the lesser of (a) the national average premium for single or family coverage, as applicable, as determined by the Secretary of Treasury in coordination with the Health Choices Commissioner, or (b) 2.5 percent of the excess of the taxpayer's modified adjusted gross income over the threshold amount of income required for the income tax return filing for that taxpayer. This tax is in addition to both regular income tax and the alternative minimum tax, and is prorated for periods in which the failure exists for only part of the year. In general, the additional tax applies only to United States citizens and resident aliens. The additional tax does not apply to those who are residents of the possessions or who are dependents, nor does it apply to those whose lapses in coverage are de minimis or those with religious conscience exemptions. The additional tax does not apply if the maintenance of acceptable coverage would result in a hardship to the individual or if the person's income is below the threshold for filing a Federal income tax return.

#### RANGE OF CIVIL AND CRIMINAL PENALTIES FOR NONCOMPLIANCE

You asked that I discuss the situation in which the taxpayer has chosen not to comply with individual mandate and not to pay the additional tax. The Code provides for both civil and criminal penalties to ensure complete and accurate reporting of tax liability and to discourage fraudulent attempts to defeat or evade tax. Civil and criminal penalties are applied separately. Thus, a taxpayer convicted of a criminal tax offense may be subject to both criminal and civil penalties, and a taxpayer acquitted of a criminal tax offense may nonetheless be subject to civil tax penalties. In cases involving both criminal and civil penalties, the IRS generally does not pursue both simultaneously, but delays pursuit of civil penalties until the criminal proceedings have concluded.

The majority of delinquent taxes and penalties are collected through the civil process. In determining whether a penalty applies along with an adjustment to a tax return, the examining agent is constrained not only by the applicable statutory provisions, but also by the written policy of the IRS not to treat penalties as bargaining points but instead to develop the facts sufficiently to support the decision to assert or not to assert a penalty. The goal is consistency, fairness and predictability in administration of penalties.

If the government determines that the taxpayer's unpaid tax liability results from willful behavior, the following penalties could apply.

#### CIVIL PENALTIES

Section 6662(a)—an accuracy related penalty of 20 percent of the underpayment attributable to health care tax, based on negligence or disregard (the former includes lack of a reasonable attempt to comply and the latter includes any intentional disregard of rules or regulations) or substantial understatement, if the understatement of tax is sufficiently large.

Section 6663—a fraud penalty of 75 percent of the underpayment, if the government can prove fraudulent intent to avoid taxes by clear and convincing evidence.

Section 6702—a \$5,000 penalty for taking a frivolous position on a tax return, if the underpayment is intended to delay or impede tax administration and the return on its face indicates that the self-assessment is substantially incorrect.

Section 6651—delinquency penalty of .5 percent of the underpayment, each month, up to a maximum of 25 percent of the underpayment.

#### CRIMINAL PENALTIES

Prosecution is authorized under the Code for a variety of offenses. Depending on the level of the noncompliance, the following penalties could apply to an individual:

Section 7203—misdemeanor willful failure to pay is punishable by a fine of up to \$25,000 and/or imprisonment of up to one year.

Section 7201—felony willful evasion is punishable by a fine of up to \$250,000 and/or imprisonment of up to five years.

#### APPLICATION OF PENALTIES UNDER CURRENT PRACTICE

The IRS attempts to collect most unpaid liabilities through the civil procedures described above. A number of factors distinguish civil from criminal penalties, in addition to the potential for incarceration if found guilty of a crime. Unlike the standard in civil cases, successful criminal prosecution requires that the government bear the burden of proof beyond a reasonable doubt of all elements of the offense. Most criminal offenses require proof that the offense was willful, which is a degree of culpability greater than that required in a civil penalty cases. For example, a prosecution for willful failure to pay under section 7203 requires proof beyond a reasonable doubt both that the taxpayer intentionally violated a known legal duty and that the taxpayer had the ability to pay. In contrast, in applying the civil penalty for failure to pay under section 6651, the burden is on the taxpayer: the penalty applies unless the taxpayer can establish reasonable cause and lack of willful neglect with respect to his failure to pay.

Criminal prosecution is not authorized without careful review by both the IRS and the Department of Justice. In practice the application of criminal penalties is infrequent. In fiscal year 2008, the total cases referred for prosecution of legal source tax crimes were as follows.

Investigations initiated: 1,531.

Indictments and informations: 757.

Convictions: 666.

Sentenced: 645.

Incarcerated: 498.

Percentage of those sentenced who were incarcerated: 77.2.

Of the 666 convictions reported above for fiscal year 2008, fewer than 100 were convictions for willful failure to file or pay taxes under section 7203. Civil penalties outnumber

criminal penalties imposed. For example, in fiscal year 2008, compared to the 666 convictions, approximately 392,000 accuracy related penalties were assessed on individual returns. Also in fiscal year 2008, the IRS assessed 5,502 penalties under section 6702 for frivolous positions taken on returns.

I hope this information is helpful for you. If I can be of further assistance, please contact me.

Sincerely,

THOMAS A. BARTHOLD.

Mr. Speaker, at this time, I would like to yield for the close for the Republican Party, the distinguished gentleman, the ranking member of the Rules Committee, the gentleman from San Dimas, California (Mr. DREIER).

Mr. DREIER. Mr. Speaker, I thank my friend for yielding.

The American people have spoken very loudly and clearly. They do not want the Federal Government to control one-sixth of our Nation's economy, and they believe that we should be able to scrutinize legislation. We have over 2,000 pages here. Many of the changes were made late last night, Mr. Speaker, and we have not had what the American people said we needed to have following the debate on the cap-and-trade bill when we had a 300-page amendment dropped on us at 3 o'clock in the morning; that is an adequate amount of time to look at this legislation.

My friend from Dallas has talked about unintended consequences. Obviously in those 2,000 pages there are things that none of us want to have happen that we don't know about now, but we've had reported here on the floor a wide range of things that we believe will happen.

Now, Mr. Speaker, it is very unfortunate that the debate on health care reform has been cast on those who are in favor of reform and those who are opposed to reform. We have continued to hear that over and over and over and over again, unfortunately. There is no Member of this House, Democrat or Republican, who does not want to ensure access to quality health insurance and quality health care for our seniors, for our veterans, for our families, for individuals across this country. So let's make it very clear, we all want that to happen.

We all want to do what we can, Mr. Speaker, to increase accessibility. We all want to increase accessibility. How do we do that? Well, I believe very fervently that increasing affordability will increase accessibility. If we can make health insurance more affordable, more people in this country will have access to quality health insurance. The substitute that we have offered does just that. It says that the opportunity to have access to the best quality product at the lowest possible price is a right that every American should have. They are denied that today by virtue of the fact that they can't buy insurance across State lines.



If you look at our goal of trying to bring about meaningful liability reform, doctors today engage in, as we all know, defensive medicine. They recommend a wide range of tests simply because of their fear of being sued. In my State of California, we have a very, very viable package that deals with that. If we were to take the California model and apply it here at the Federal level, the Congressional Budget Office has estimated that we will save \$54 billion. \$54 billion will be saved.

I believe that we need to do everything we can to allow small businesses to come together so that they can, in fact, as large entities do, get lower insurance rates. And, Mr. Speaker, I believe that we can also ensure that we address the challenge of preexisting conditions so that Americans with those preexisting conditions are not denied access to quality health insurance and health care. We can do that, and that is exactly what our substitute does.

Unfortunately, Mr. Speaker, we have continued to have this characterization that if we don't support this measure, if we don't support this measure which takes control of one-sixth of our Nation's economy, we are not committed to reform. That is outrageous. We believe that a step-by-step approach is the proper route for us to take.

I like very much what our friend from North Carolina earlier said: We don't need a complete overhaul. We need to fine-tune this system to ensure that every single American does have access to quality, affordable health care.

Vote "no" on this rule. We can do better.

It is truly unfortunate that the healthcare debate has come to be cast as a fight between those who favor and those who oppose reform. There is not a single Member of this House who does not support the idea of improving the accessibility and the quality of healthcare in America. We all want to expand access to coverage for the individuals, working families, seniors and veterans who are worried about their healthcare.

I am a strong proponent of reforming our healthcare system in a way that enhances the affordability and availability of quality healthcare options, without limiting patient choice. There are a number of steps we can take to reduce costs for working families without rationing care or raising taxes. Lowering costs is central to expanding coverage, because affordability enhances accessibility.

For example, we must implement medical malpractice reform and redirect resources from trial lawyers to patients. My state of California has been a leader in medical liability reform. We have realized substantial savings, simply by limiting exorbitant trial lawyers' fees, as well as speculative, noneconomic damages.

Without limiting economic damages, medical expenses or punitive damages, the state of California has been able to save consumers tens of billions of dollars. The limit on trial law-

yers' fees alone has saved nearly \$200 million over 7 years. As a result, we have some of the lowest medical malpractice rates in the country. The nonpartisan Congressional Budget Office determined that nationwide implementation of reforms similar to California's would result in savings of up to \$54 billion over 10 years.

This isn't just about companies' bottom lines or state budgets, these cost savings have a real impact on working families, especially during these difficult economic times. As I said at the outset, affordability and accessibility go hand in hand. One independent study showed that partially reversing the reforms that California has implemented would raise healthcare costs for families of four by over \$1,000 a year. That is a tremendous burden that families cannot bear. And it underscores the reality that excessive costs are the biggest impediment to access to healthcare.

Furthermore, medical liability reform has proven to not only reduce costs, but to increase quality as well. States with lower medical malpractice premiums tend to have more doctors per capita, including surgeons and specialists. For example, Texas implemented reform 6 years ago, and subsequently saw an increase in doctors of nearly 18 percent. Twenty-four counties that previously had no ER doctors now have emergency services.

We must also address the challenge of overlapping government programs. The cost of providing services for those who qualify for both Medicare and Medicaid is nearly \$250 billion every year. And yet, there is no comprehensive effort to coordinate these programs to ensure that overlap does not result in wasteful spending. As Governor Schwarzenegger proposed, states could be given the authority and flexibility to coordinate these programs, as well as the opportunity to share in the cost savings.

We also need to empower small businesses to provide more affordable healthcare options.

They should have the ability to band together, to achieve the economies of scale that large corporations and labor unions have. Small businesses and individuals should also be able to purchase insurance across state lines. And we can provide tax incentives to make coverage more accessible. Finally, we must eliminate the rampant waste, fraud and abuse that are dramatically and needlessly driving up costs.

Each of these proposals would significantly reduce costs for individuals and families without diminishing the quality of care. In fact, they would enhance the quality of healthcare in this country. Greater competition and greater accountability in the healthcare industry would provide Americans with more choices—and better choices.

Some have made the very dubious claim that expanding options for consumers would somehow diminish the quality of our healthcare. They have said that reforms, such as giving small businesses and individuals the flexibility to purchase insurance across state lines, would spark a race to the bottom.

But increasing competition and accountability would have precisely the opposite effect. When patients have more choices and more flexibility, the result will be higher-quality care. And by addressing the root issue of af-

fordability, we can effectively expand access for all, including those with pre-existing conditions.

The commonsense reform measures we are proposing would accomplish this without raising taxes or diminishing coverage for a single American. And we would expand access while allowing those who are happy with their current coverage to keep it. Perhaps most important of all, these straightforward yet significant reforms would keep patients and doctors at the center of healthcare decisions—without the interference of government bureaucrats.

This is a positive, workable, effective reform proposal, and it is the reform agenda that Republicans are pursuing.

If we'd had a collaborative, bipartisan process from the beginning, I believe this is the kind of reform proposal that could have gained widespread support from both parties here in Congress. Certainly these are solutions that are widely supported by the American people.

So it is extremely unfortunate that the Democratic Majority has chosen to put forward a divisive, unworkable, enormously expensive proposal that will improve neither accessibility nor the quality of healthcare. In fact, I believe this legislation would accomplish precisely the opposite of its stated goals. A dramatic expansion of the government role in our healthcare system is an utterly nonsensical way to try to enhance efficiency, cut costs or improve quality. Furthermore, government bureaucrats are the last people that Americans want to have making their healthcare decisions for them.

Our national unemployment rate sailed past 10 percent last month, as we just found out on Friday, while California's is at 12.2 percent.

As our economy continues to struggle on its road to recovery, now is the worst possible time to impose significant new taxes on the American people. And with the announcement of the Democratic Majority's \$1.4 trillion deficit, we simply cannot afford to enact more than a trillion dollars in new government spending—an estimated figure that would be sure to balloon if implemented.

The Democratic Majority's so-called reform bill is a fiscal disaster that will make our healthcare system—already in need of reform—substantially more inefficient, wasteful and costly, and make quality care even less accessible. Today's vote is not a vote to reject or support healthcare reform. Today's vote is about the path we will choose as a nation to pursue better and more affordable healthcare.

Republicans have put forth solutions that will cut costs while improving care, and we can achieve this without raising taxes or further crippling our nation with even more debt.

The Democrats have put forth a proposal that would take us in precisely the opposite direction—higher costs, lower-quality care, new taxes and a bigger deficit. I urge my colleagues to support real reform.

Ms. SLAUGHTER. Mr. Speaker, this is a wonderful, exciting day for us and the culmination of nearly 100 years of work that we will join the community of nations that believe that the people who live within them are deserving of decent health care, all of them, regardless of their financial situation.

□ 1300

This is such a step that I am proud that my life has brought me to this



moment today; and I am sure, Mr. Speaker, that you share with every fiber of your being the same idea that we have finally reached the day when we will all brace ourselves to meet the duty ahead and will say to the future that this was our finest hour.

I request a "yes" vote on the previous question.

Mr. ACKERMAN. Mr. Speaker, I rise on this historic day in strong support of H. Res. 903—the rule providing for consideration of H.R. 3962—the Affordable Health Care for America Act.

Let me be absolutely clear: every single American should have access to affordable and quality health-care coverage. For too many years, drastically needed health-insurance reform has been delayed. I'm happy to say the long overdue reform of our health-care insurance system has finally begun. The status quo is unsustainable and costly: Without health insurance reform, the insurance premium for an average family is expected to rise from \$11,000 to \$24,000 in less than a decade. Americans want reduced costs and more choices.

Mr. Speaker, I support this landmark legislation because it changes the way that insurance companies ration medical care: The measure would require all plans to eliminate coverage denials because of a pre-existing condition, eliminate dropping coverage when individuals become sick, eliminate annual and lifetime caps on how much can be spent on care, and eliminate exorbitant out-of-pocket expenses. All Americans deserve these basic protections from their health-insurance plans, and these important guarantees will improve the coverage for nearly all those who already have insurance—even those Americans who are extremely satisfied with their current plans.

The Act starts with what works well in today's health care system and fixes the parts that are broken. No one has to discard the health care they enjoy today—everyone can keep their current health plan, doctors and hospitals. A new marketplace will allow individuals to shop among a large number of private plans or choose a public insurance option. For the first time ever, American families—even those who keep their current health insurance—will benefit from no longer having to worry about losing health coverage because of a new or lost job. The bill finally brings the type of health insurance reform that Americans need and deserve.

I also strongly support this bill because the 47 million uninsured Americans, the 2.6 million uninsured New Yorkers and the 78,000 uninsured neighbors in my congressional district will have access to affordable, secure and quality health-care coverage instead of having to rely on the local hospital emergency room. Most recent administrations never acknowledged the moral or economic costs we pay every day for our failure to fix this problem. Fortunately, President Obama has made comprehensive health-insurance reform his top priority. I am proud to be voting today to make sure that health-care reform contains costs and is affordable; puts our country on a clear path to universal coverage; provides portable coverage; ensures choice of physicians and health plans; promotes prevention and

wellness; improves the quality of care, and is fiscally sustainable over the long-term. Putting these principles into action is not only doable; it is essential.

So, Mr. Speaker, I urge all my colleagues to support the rule for the Affordable Health Care for America Act, H. Res. 903, so that all Americans will have access to health care.

Mr. SENSENBRENNER. Mr. Speaker, this past weekend I held two town hall meetings in Wisconsin's Fifth District that had record turnout. The headline in the local paper summed up the meeting well: "Health Reform Bill Gets Thumbs Down in Elm Grove."

Very few people in Wisconsin's Fifth District believe a program costing more than a trillion dollars can be deficit neutral. My constituents were overwhelming opposed to any government takeover of health care.

I believe the right way to improve health care is to prioritize spending and be careful with taxpayer dollars.

The wrong way is to raise taxes even higher and dig our debt even deeper to pay for more wasteful programs that don't work.

This health care overhaul bill will likely make Cash for Clunkers look like a Black Friday door buster item!

Before we raise taxes to pay for yet another program, we owe it to our constituents to cut out the waste, fraud, and abuse of government programs.

One size does not fit all when it comes to health care. A patient and their physician should be in charge of their health care decisions, not politicians.

I too, give this bill a thumbs down.

Mrs. BIGGERT. Mr. Speaker, I rise in strong opposition to this rule and the underlying bill.

Over the month of August, I spoke with over 20,000 of my constituents about health care, and one subject in particular kept surfacing over and over—the skyrocketing cost of insurance premiums. In fact, a recent survey filled out by over six thousand residents of the 13th District showed that, at nearly 47 percent, rising costs were far and away the number one concern when it comes to health care. Families in my district simply cannot keep pace with ever-mounting health care bills. And it's no wonder when over the past year, health care costs rose at twice the rate of inflation.

Unfortunately, this bill would do absolutely nothing to address this pressing concern. Instead, it cuts seniors' Medicare benefits, taxes small businesses struggling to stay afloat, and places government bureaucracy between you and your doctor.

Fortunately, we're offering a better, commonsense alternative to increase competition, improve portability for those between jobs, and expand coverage for pre-existing conditions—without job-threatening tax increases.

That is why I am very pleased that according to experts at the nonpartisan Congressional Budget Office, or CBO, our Republican alternative will reduce your premiums by as much as 10 percent. In addition, the bill would save the government \$68 billion. You heard that right—it would save the government—your tax dollars—money.

And this bill doesn't have any complicated budgetary gimmicks that will inflate numbers or circumvent accurate analysis. This bill has real reforms like association health plans for

small businesses, allowing the purchase of health insurance across state lines, and medical malpractice reform.

In addition, the bill would change current law to ensure that insurance companies can't drop Americans who play by the rules just because they get sick. And no one can be denied treatment because of annual or lifetime benefit caps.

Mr. Speaker, we need reform, not revolution. I urge my colleagues to join me in supporting an alternative that will provide real help to struggling Americans.

Ms. SLAUGHTER. I yield back the balance of my time, and I move the previous question on the resolution.

The SPEAKER pro tempore. The question is on ordering the previous question.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

#### RECORDED VOTE

Ms. SLAUGHTER. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. Pursuant to clause 8 and clause 9 of rule XX, this 15-minute vote on ordering the previous question will be followed by a 15-minute vote on adoption of House Resolution 903, if ordered, and a 5-minute vote on the motion to suspend the rules on House Resolution 892, if ordered.

The vote was taken by electronic device, and there were—ayes 247, noes 187, not voting 0, as follows:

[Roll No. 881]

#### AYES—247

Abercrombie	Costa	Halvorson
Ackerman	Costello	Hare
Adler (NJ)	Courtney	Harman
Altmire	Crowley	Hastings (FL)
Andrews	Cuellar	Heinrich
Arcuri	Cummings	Herseth Sandlin
Baca	Dahlkemper	Higgins
Baird	Davis (CA)	Hill
Baldwin	Davis (IL)	Himes
Barrow	Davis (TN)	Hinchee
Bean	DeFazio	Hinojosa
Becerra	DeGette	Hironaka
Berkley	Delahunt	Hodes
Berman	DeLauro	Holden
Berry	Dicks	Holt
Bishop (GA)	Dingell	Honda
Bishop (NY)	Doggett	Hoyer
Blumenauer	Donnelly (IN)	Inlee
Bocchieri	Doyle	Israel
Boswell	Driehaus	Jackson (IL)
Boucher	Edwards (MD)	Jackson-Lee
Boyd	Edwards (TX)	(TX)
Brady (PA)	Ellison	Johnson (GA)
Braley (IA)	Ellsworth	Johnson, E. B.
Brown, Corrine	Engel	Kagen
Butterfield	Eshoo	Kanjorski
Capps	Etheridge	Kaptur
Capuano	Farr	Kennedy
Cardoza	Fattah	Kildee
Carnahan	Filner	Kilpatrick (MI)
Carney	Foster	Kilroy
Carson (IN)	Frank (MA)	Kind
Castor (FL)	Fudge	Kirkpatrick (AZ)
Chandler	Garamendi	Kissell
Chu	Giffords	Klein (FL)
Clarke	Gonzalez	Kosmas
Clay	Gordon (TN)	Kratovil
Cleaver	Grayson	Kucinich
Clyburn	Green, Al	Langevin
Cohen	Green, Gene	Larsen (WA)
Connolly (VA)	Grijalva	Larson (CT)
Conyers	Gutierrez	Lee (CA)
Cooper	Hall (NY)	Levin

Lewis (GA)  
Lipinski  
Loeb sack  
Lofgren, Zoe  
Lowey  
Luján  
Lynch  
Maffei  
Maloney  
Markey (CO)  
Markey (MA)  
Massa  
Matheson  
Matsui  
McCarthy (NY)  
McCollum  
McDermott  
McGovern  
McIntyre  
McMahon  
McNerney  
Meek (FL)  
Meeks (NY)  
Michaud  
Miller (NC)  
Miller, George  
Mitchell  
Mollohan  
Moore (KS)  
Moore (WI)  
Moran (VA)  
Murphy (CT)  
Murphy (NY)  
Murphy, Patrick  
Murtha  
Nadler (NY)  
Napolitano  
Neal (MA)  
Nye  
Oberstar  
Obey

## NOES—187

Aderholt  
Akin  
Alexander  
Austria  
Bachmann  
Bachus  
Barrett (SC)  
Bartlett  
Barton (TX)  
Biggert  
Bilbray  
Bilirakis  
Bishop (UT)  
Blackburn  
Blunt  
Boehner  
Bonner  
Bono Mack  
Boozman  
Boren  
Boustany  
Brady (TX)  
Bright  
Broun (GA)  
Brown (SC)  
Brown-Waite,  
Ginny  
Buchanan  
Burgess  
Burton (IN)  
Buyer  
Calvert  
Camp  
Campbell  
Cantor  
Cao  
Capito  
Carter  
Cassidy  
Castle  
Chaffetz  
Childers  
Coble  
Coffman (CO)  
Cole  
Conaway  
Crenshaw  
Culberson  
Davis (AL)  
Davis (KY)  
Deal (GA)  
Dent

Diaz-Balart, L.  
Diaz-Balart, M.  
Dreier  
Duncan  
Ehlers  
Emerson  
Fallin  
Flake  
Fleming  
Forbes  
Fortenberry  
Foxy  
Franks (AZ)  
Frelinghuysen  
Gallegly  
Garrett (NJ)  
Gerlach  
Gingrey (GA)  
Gohmert  
Goodlatte  
Granger  
Graves  
Griffith  
Guthrie  
Hall (TX)  
Harper  
Hastings (WA)  
Heller  
Hensarling  
Herger  
Hoekstra  
Hunter  
Ingalls  
Issa  
Jenkins  
Johnson (IL)  
Johnson, Sam  
Jones  
Jordan (OH)  
King (IA)  
King (NY)  
Kingston  
Kirk  
Kline (MN)  
Lamborn  
Lance  
Latham  
LaTourette  
Latta  
Lee (NY)  
Lewis (CA)  
Linder

Sherman  
Shuler  
Sires  
Skelton  
Slaughter  
Smith (WA)  
Snyder  
Space  
Speier  
Spratt  
Stark  
Stupak  
Sutton  
Tanner  
Teague  
Thompson (CA)  
Thompson (MS)  
Tierney  
Titus  
Richardson  
Rodriguez  
Ross  
Rothman (NJ)  
Roybal-Allard  
Ruppersberger  
Rush  
Ryan (OH)  
Salazar  
Sánchez, Linda  
T.  
Sarbanes  
Schakowsky  
Schauer  
Schiff  
Schrader  
Schwartz  
Scott (GA)  
Scott (VA)  
Serrano  
Sestak  
Shea-Porter

LoBiondo  
Lucas  
Luetkemeyer  
Lummis  
Lungren, Daniel  
E.  
Mack  
Manzullo  
Marchant  
Marshall  
McCarthy (CA)  
McCaul  
McClintock  
McCotter  
McHenry  
McKeon  
McMorris  
Rodgers  
Melancon  
Mica  
Miller (FL)  
Miller (MI)  
Miller, Gary  
Minnick  
Moran (KS)  
Murphy, Tim  
Myrick  
Neugebauer  
Nunes  
Olson  
Paul  
Paulsen  
Pence  
Petri  
Pitts  
Platts  
Poe (TX)  
Posey  
Price (GA)  
Putnam  
Radanovich  
Rehberg  
Reichert  
Roe (TN)  
Rogers (AL)  
Rogers (KY)  
Rogers (MI)  
Rohrabacher  
Rooney  
Ros-Lehtinen  
Roskam  
Royce

Ryan (WI)  
Sanchez, Loretta  
Scalise  
Schmidt  
Schock  
Sensenbrenner  
Sessions  
Shadegg  
Shimkus  
Shuster  
Simpson  
Smith (NE)

## □ 1327

Messrs. LUCAS and LAMBORN changed their vote from “aye” to “no.” So the previous question was ordered. The result of the vote was announced as above recorded.

The SPEAKER pro tempore. The question is on the resolution. The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

## RECORDED VOTE

Mr. SESSIONS. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 242, noes 192, not voting 0, as follows:

[Roll No. 882]

## AYES—242

Abercrombie  
Ackerman  
Adler (NJ)  
Andrews  
Arcuri  
Baca  
Baldwin  
Barrow  
Bean  
Becerra  
Berkley  
Berman  
Berry  
Bishop (GA)  
Bishop (NY)  
Blumenauer  
Bocieri  
Boswell  
Boucher  
Boyd  
Brady (PA)  
Braley (IA)  
Brown, Corrine  
Butterfield  
Capps  
Capuano  
Cardoza  
Carnahan  
Carney  
Carson (IN)  
Castor (FL)  
Chandler  
Chu  
Clarke  
Clay  
Cleaver  
Clyburn  
Cohen  
Connolly (VA)  
Conyers  
Cooper  
Costa  
Costello  
Courtney  
Crowley  
Cuellar  
Cummings  
Dahlkemper  
Davis (CA)  
Davis (IL)  
Davis (TN)  
DeFazio  
DeGette  
Delahunt  
DeLauro  
Dicks

Dingell  
Doggett  
Donnelly (IN)  
Doyle  
Driehaus  
Edwards (MD)  
Edwards (TX)  
Ellison  
Ellsworth  
Engel  
Eshoo  
Etheridge  
Farr  
Fattah  
Filner  
Foster  
Frank (MA)  
Fudge  
Garamendi  
Giffords  
Gonzalez  
Gordon (TN)  
Grayson  
Green, Al  
Green, Gene  
Grijalva  
Gutierrez  
Hall (NY)  
Halvorson  
Hare  
Harman  
Hastings (FL)  
Heinrich  
Herseth Sandlin  
Higgins  
Hill  
Himes  
Hinojosa  
Hirono  
Hodes  
Holden  
Holt  
Honda  
Hoyer  
Inslee  
Israel  
Jackson (IL)  
Jackson-Lee  
(TX)  
Johnson (GA)  
Johnson, E. B.  
Kagen  
Kanjorski  
Kaptur  
Kennedy

Smith (NJ)  
Smith (TX)  
Souders  
Stearns  
Sullivan  
Taylor  
Terry  
Thompson (PA)  
Thornberry  
Tiahrt  
Tiberi  
Turner

Upton  
Walden  
Wamp  
Westmoreland  
Whitfield  
Wilson (SC)  
Wittman  
Wolf  
Young (AK)  
Young (FL)

Ortiz  
Owens  
Pallone  
Pascarella  
Pastor (AZ)  
Payne  
Perlmutter  
Perriello  
Peters  
Peterson  
Pingree (ME)  
Polis (CO)  
Pomeroy  
Price (NC)  
Quigley  
Rahall  
Rangel  
Reyes  
Richardson  
Rodriguez  
Ross  
Rothman (NJ)  
Roybal-Allard  
Ruppersberger  
Rush  
Ryan (OH)

Salazar  
Sánchez, Linda  
T.  
Sarbanes  
Schakowsky  
Schauer  
Schiff  
Schrader  
Schwartz  
Scott (GA)  
Scott (VA)  
Serrano  
Sestak  
Shea-Porter  
Sherman  
Sires  
Slaughter  
Smith (WA)  
Snyder  
Space  
Speier  
Spratt  
Stark  
Stupak  
Sutton  
Tanner

## NOES—192

Aderholt  
Akin  
Alexander  
Altmire  
Austria  
Bachmann  
Bachus  
Baird  
Barrett (SC)  
Bartlett  
Barton (TX)  
Biggert  
Bilbray  
Bilirakis  
Bishop (UT)  
Blackburn  
Blunt  
Boehner  
Bonner  
Bono Mack  
Boozman  
Boren  
Boustany  
Brady (TX)  
Bright  
Broun (GA)  
Brown (SC)  
Brown-Waite,  
Ginny  
Buchanan  
Burgess  
Burton (IN)  
Buyer  
Calvert  
Camp  
Campbell  
Cantor  
Cao  
Capito  
Carter  
Cassidy  
Castle  
Chaffetz  
Childers  
Coble  
Coffman (CO)  
Cole  
Conaway  
Crenshaw  
Culberson  
Davis (AL)  
Davis (KY)  
Deal (GA)  
Dent  
Diaz-Balart, L.  
Diaz-Balart, M.  
Dreier  
Duncan  
Ehlers  
Emerson  
Fallin  
Flake  
Fleming  
Forbes  
Fortenberry

Foxy  
Franks (AZ)  
Frelinghuysen  
Gallegly  
Garrett (NJ)  
Gerlach  
Gingrey (GA)  
Gohmert  
Goodlatte  
Granger  
Graves  
Griffith  
Guthrie  
Hall (TX)  
Harper  
Hastings (WA)  
Heller  
Hensarling  
Herger  
Hoekstra  
Hunter  
Ingalls  
Issa  
Jenkins  
Johnson (IL)  
Johnson, Sam  
Jones  
Jordan (OH)  
King (IA)  
King (NY)  
Kingston  
Kirk  
Kline (MN)  
Kratovil  
Lamborn  
Lance  
Latham  
LaTourette  
Latta  
Lee (NY)  
Lewis (CA)  
Linder  
LoBiondo  
Lucas  
Luetkemeyer  
Lummis  
Lungren, Daniel  
E.  
Mack  
Manzullo  
Marchant  
Marshall  
McCarthy (CA)  
McCaul  
McClintock  
McCotter  
McHenry  
McKeon  
McMorris  
Rodgers  
Melancon  
Mica  
Miller (FL)  
Miller (MI)  
Miller, Gary

Teague  
Thompson (CA)  
Thompson (MS)  
Tierney  
Titus  
Tonko  
Towns  
Tsongas  
Van Hollen  
Velázquez  
Visclosky  
Walz  
Wasserman  
Schultz  
Waters  
Watson  
Watt  
Waxman  
Weiner  
Welch  
Wexler  
Wilson (OH)  
Woolsey  
Wu  
Yarmuth  
Minnick  
Moran (KS)  
Murphy, Tim  
Myrick  
Neugebauer  
Nunes  
Olson  
Paul  
Paulsen  
Pence  
Petri  
Pitts  
Platts  
Poe (TX)  
Posey  
Price (GA)  
Putnam  
Radanovich  
Rehberg  
Reichert  
Roe (TN)  
Rogers (AL)  
Rogers (KY)  
Rogers (MI)  
Rohrabacher  
Rooney  
Ros-Lehtinen  
Roskam  
Royce  
Ryan (WI)  
Sanchez, Loretta  
Scalise  
Schmidt  
Schock  
Sensenbrenner  
Sessions  
Shadegg  
Shimkus  
Shuler  
Shuster  
Simpson  
Skelton  
Smith (NE)  
Smith (NJ)  
Smith (TX)  
Souders  
Stearns  
Sullivan  
Taylor  
Terry  
Thompson (PA)  
Thornberry  
Tiahrt  
Tiberi  
Turner  
Upton  
Walden  
Wamp  
Westmoreland  
Whitfield  
Wilson (SC)  
Wittman  
Wolf  
Young (AK)  
Young (FL)

□ 1344

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

# RECOGNIZING CONGRESSMAN JOHN D. DINGELL FOR HIS LIFE-LONG CONTRIBUTIONS TO HEALTH CARE

(Mr. HOYER asked and was given permission to address the House for 1 minute.)

Mr. HOYER. Ladies and gentlemen of the House, this is obviously an historic rule. There were some of us who were for it and some of us who were against it, but I know that all of us, all 434 of his colleagues, are honored to serve with the longest-serving Member of this House, who has committed himself to health care throughout his life, as did his father. We honor him for the service he has given to our country.

Ladies and gentlemen, let us stand in honor of JOHN DINGELL.

# ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. SERRANO). Without objection, 5-minute voting will continue.

There was no objection.

# RECOGNIZING 20TH ANNIVERSARY OF THE ENDING OF THE COLD WAR

The SPEAKER pro tempore. The unfinished business is the question on suspending the rules and agreeing to the resolution, H. Res. 892.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. BERMAN) that the House suspend the rules and agree to the resolution, H. Res. 892.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the ayes have it.

# RECORDED VOTE

Mr. HASTINGS of Florida. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 431, noes 1, not voting 2, as follows:

[Roll No. 883]

AYES—431

Abercrombie	Altmire	Bachus
Ackerman	Andrews	Baird
Aderholt	Arcuri	Baldwin
Adler (NJ)	Austria	Barrett (SC)
Akin	Baca	Barrow
Alexander	Bachmann	Bartlett

Barton (TX)	Donnelly (IN)	Kingston
Bean	Doyle	Kirk
Becerra	Dreier	Kirkpatrick (AZ)
Berkley	Driehaus	Kissell
Berman	Duncan	Klein (FL)
Berry	Edwards (MD)	Kline (MN)
Biggert	Edwards (TX)	Kosmas
Bilbray	Ehlers	Kratovil
Bilirakis	Ellison	Kucinich
Bishop (GA)	Ellsworth	Lamborn
Bishop (NY)	Emerson	Lance
Bishop (UT)	Engel	Langevin
Blackburn	Eshoo	Larsen (WA)
Blumenauer	Etheridge	Larson (CT)
Blunt	Fallin	Latham
Boccieri	Farr	LaTourette
Boehner	Fattah	Latta
Bonner	Filner	Lee (CA)
Bono Mack	Flake	Lee (NY)
Boozman	Fleming	Levin
Boren	Forbes	Lewis (CA)
Boswell	Fortenberry	Lewis (GA)
Boucher	Foster	Linder
Boustany	Fox	Lipinski
Boyd	Frank (MA)	LoBiondo
Brady (PA)	Franks (AZ)	Loeb
Brady (TX)	Frelinghuysen	Loftgren, Zoe
Braley (IA)	Fudge	Lowey
Bright	Gallegly	Lucas
Broun (GA)	Garamendi	Luetkemeyer
Brown (SC)	Garrett (NJ)	Lujan
Brown, Corrine	Gerlach	Lummis
Brown-Waite,	Giffords	Lungren, Daniel
Ginny	Gohmert	E.
Buchanan	Gonzalez	Lynch
Burgess	Goodlatte	Mack
Burton (IN)	Gordon (TN)	Maffei
Butterfield	Granger	Maloney
Buyer	Graves	Manzullo
Calvert	Grayson	Marchant
Camp	Green, Al	Markey (CO)
Campbell	Green, Gene	Markey (MA)
Cantor	Griffith	Marshall
Cao	Grijalva	Massa
Capito	Guthrie	Matheson
Capps	Gutierrez	Matsui
Capuano	Hall (NY)	McCarthy (CA)
Cardoza	Hall (TX)	McCarthy (NY)
Carnahan	Halvorson	McCaul
Carney	Hare	McClintock
Carson (IN)	Harman	McCollum
Carter	Harper	McCotter
Cassidy	Hastings (FL)	McDermott
Castle	Hastings (WA)	McGovern
Castor (FL)	Heinrich	McHenry
Chaffetz	Heller	McIntyre
Chandler	Hensarling	McKeon
Childers	Herger	McMahon
Chu	Herseth Sandlin	McMorris
Clarke	Higgins	Rodgers
Clay	Hill	McNerney
Cleaver	Himes	Meek (FL)
Clyburn	Hinchey	Meeks (NY)
Coble	Hinojosa	Melancon
Coffman (CO)	Hirono	Mica
Cohen	Hodes	Michaud
Cole	Hoekstra	Miller (FL)
Conaway	Holden	Miller (MI)
Connolly (VA)	Holt	Miller (NC)
Conyers	Honda	Miller, Gary
Cooper	Hoyer	Miller, George
Costa	Hunter	Minnick
Costello	Inglis	Mitchell
Courtney	Inslee	Mollohan
Crenshaw	Israel	Moore (KS)
Crowley	Issa	Moore (WI)
Cuellar	Jackson (IL)	Moran (KS)
Culberson	Jackson-Lee	Murphy (CT)
Cummings	(TX)	Murphy (NY)
Dahlkemper	Jenkins	Murphy, Patrick
Davis (AL)	Johnson (GA)	Murphy, Tim
Davis (CA)	Johnson (IL)	Murtha
Davis (IL)	Johnson, E. B.	Myrick
Davis (KY)	Johnson, Sam	Nadler (NY)
Davis (TN)	Jones	Napolitano
Deal (GA)	Jordan (OH)	Neal (MA)
DeFazio	Kagen	Neugebauer
DeGette	Kanjorski	Nunes
Delahunt	Kaptur	Nye
DeLauro	Kennedy	Oberstar
Dent	Kildee	Obey
Diaz-Balart, L.	Kilpatrick (MI)	Olson
Diaz-Balart, M.	Kilroy	Oliver
Dicks	Kind	Ortiz
Dingell	King (IA)	Owens
Doggett	King (NY)	Pallone

Pascarell	Ryan (WI)	Tanner
Pastor (AZ)	Salazar	Taylor
Paulsen	Sánchez, Linda	Teague
Payne	T.	Terry
Pence	Sanchez, Loretta	Thompson (CA)
Perlmutter	Sarbanes	Thompson (MS)
Perriello	Scalise	Thompson (PA)
Peters	Schakowsky	Thornberry
Peterson	Schauer	Tiahrt
Petri	Schiff	Tiberi
Pingree (ME)	Schmidt	Tierney
Pitts	Schock	Titus
Platts	Schrader	Tonko
Poe (TX)	Schwartz	Towns
Polis (CO)	Scott (GA)	Tsongas
Pomeroy	Scott (VA)	Turner
Posey	Sensenbrenner	Upton
Price (GA)	Serrano	Van Hollen
Price (NC)	Sessions	Velázquez
Putnam	Sestak	Visclosky
Quigley	Shadegg	Walden
Radanovich	Shea-Porter	Walz
Rahall	Sherman	Wamp
Rangel	Shimkus	Wasserman
Rehberg	Shuler	Schultz
Reichert	Shuster	Waters
Reyes	Simpson	Watson
Richardson	Sires	Watt
Rodriguez	Skelton	Waxman
Roe (TN)	Slaughter	Weiner
Rogers (AL)	Smith (NE)	Welch
Rogers (KY)	Smith (NJ)	Westmoreland
Rogers (MI)	Smith (TX)	Wexler
Rohrabacher	Smith (WA)	Whitfield
Rooney	Snyder	Wilson (OH)
Ros-Lehtinen	Souder	Wilson (SC)
Roskam	Space	Wittman
Ross	Speier	Wolf
Rothman (NJ)	Spratt	Woolsey
Roybal-Allard	Stark	Wu
Royce	Stearns	Yarmuth
Ruppersberger	Stupak	Young (AK)
Rush	Sullivan	Young (FL)
Ryan (OH)	Sutton	

NOES—1

Paul

NOT VOTING—2

Gingrey (GA)

Moran (VA)

□ 1357

So (two-thirds being in the affirmative) the rules were suspended and the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

# AFFORDABLE HEALTH CARE FOR AMERICA ACT

Mr. WAXMAN. Mr. Speaker, pursuant to House Resolution 903, I call up the bill (H.R. 3962) to provide affordable, quality health care for all Americans and reduce the growth in health care spending, and for other purposes, and ask for its immediate consideration in the House.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Pursuant to House Resolution 903, the amendment printed in part A of House Report 111-330, perfected by the modification printed in part B of the report is adopted and the bill, as amended, is considered read.

The text of the bill, as amended, is as follows:

H.R. 3962

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE; TABLE OF DIVISIONS, TITLES, AND SUBTITLES.**

(a) **SHORT TITLE.**—This Act may be cited as the “Affordable Health Care for America Act”.

(b) **TABLE OF DIVISIONS, TITLES, AND SUBTITLES.**—This Act is divided into divisions, titles, and subtitles as follows:

**DIVISION A—AFFORDABLE HEALTH CARE CHOICES**

**TITLE I—IMMEDIATE REFORMS**

**TITLE II—PROTECTIONS AND STANDARDS FOR QUALIFIED HEALTH BENEFITS PLANS**

Subtitle A—General Standards

Subtitle B—Standards Guaranteeing Access to Affordable Coverage

Subtitle C—Standards Guaranteeing Access to Essential Benefits

Subtitle D—Additional Consumer Protections

Subtitle E—Governance

Subtitle F—Relation to Other Requirements; Miscellaneous

**TITLE III—HEALTH INSURANCE EXCHANGE AND RELATED PROVISIONS**

Subtitle A—Health Insurance Exchange

Subtitle B—Public Health Insurance Option

Subtitle C—Individual Affordability Credits

**TITLE IV—SHARED RESPONSIBILITY**

Subtitle A—Individual Responsibility

Subtitle B—Employer Responsibility

**TITLE V—AMENDMENTS TO INTERNAL REVENUE CODE OF 1986**

Subtitle A—Shared Responsibility

Subtitle B—Credit for Small Business Employee Health Coverage Expenses

Subtitle C—Disclosures To Carry Out Health Insurance Exchange Subsidies

Subtitle D—Other Revenue Provisions

**DIVISION B—MEDICARE AND MEDICAID IMPROVEMENTS**

**TITLE I—IMPROVING HEALTH CARE VALUE**

Subtitle A—Provisions related to Medicare part A

Subtitle B—Provisions Related to Part B

Subtitle C—Provisions Related to Medicare Parts A and B

Subtitle D—Medicare Advantage Reforms

Subtitle E—Improvements to Medicare Part D

Subtitle F—Medicare Rural Access Protections

**TITLE II—MEDICARE BENEFICIARY IMPROVEMENTS**

Subtitle A—Improving and Simplifying Financial Assistance for Low Income Medicare Beneficiaries

Subtitle B—Reducing Health Disparities

Subtitle C—Miscellaneous Improvements

**TITLE III—PROMOTING PRIMARY CARE, MENTAL HEALTH SERVICES, AND COORDINATED CARE**

**TITLE IV—QUALITY**

Subtitle A—Comparative Effectiveness Research

Subtitle B—Nursing Home Transparency

Subtitle C—Quality Measurements

Subtitle D—Physician Payments Sunshine Provision

Subtitle E—Public Reporting on Health Care-Associated Infections

**TITLE V—MEDICARE GRADUATE MEDICAL EDUCATION**

**TITLE VI—PROGRAM INTEGRITY**

Subtitle A—Increased funding to fight waste, fraud, and abuse

Subtitle B—Enhanced penalties for fraud and abuse

Subtitle C—Enhanced Program and Provider Protections

Subtitle D—Access to Information Needed to Prevent Fraud, Waste, and Abuse

**TITLE VII—MEDICAID AND CHIP**

Subtitle A—Medicaid and Health Reform

Subtitle B—Prevention

Subtitle C—Access

Subtitle D—Coverage

Subtitle E—Financing

Subtitle F—Waste, Fraud, and Abuse

Subtitle G—Puerto Rico and the Territories

Subtitle H—Miscellaneous

**TITLE VIII—REVENUE-RELATED PROVISIONS**

**TITLE IX—MISCELLANEOUS PROVISIONS**

**DIVISION C—PUBLIC HEALTH AND WORKFORCE DEVELOPMENT**

**TITLE I—COMMUNITY HEALTH CENTERS**

**TITLE II—WORKFORCE**

Subtitle A—Primary Care Workforce

Subtitle B—Nursing Workforce

Subtitle C—Public Health Workforce

Subtitle D—Adapting Workforce to Evolving Health System Needs

**TITLE III—PREVENTION AND WELLNESS**

**TITLE IV—QUALITY AND SURVEILLANCE**

**TITLE V—OTHER PROVISIONS**

Subtitle A—Drug Discount for Rural and Other Hospitals; 340B Program Integrity

Subtitle B—Programs

Subtitle C—Food and Drug Administration

Subtitle D—Community Living Assistance Services and Supports

Subtitle E—Miscellaneous

**DIVISION D—INDIAN HEALTH CARE IMPROVEMENT**

**TITLE I—AMENDMENTS TO INDIAN LAWS**

**TITLE II—IMPROVEMENT OF INDIAN HEALTH CARE PROVIDED UNDER THE SOCIAL SECURITY ACT**

**DIVISION A—AFFORDABLE HEALTH CARE CHOICES**

**SEC. 100. PURPOSE; TABLE OF CONTENTS OF DIVISION; GENERAL DEFINITIONS.**

(a) **PURPOSE.**—

(1) **IN GENERAL.**—The purpose of this division is to provide affordable, quality health care for all Americans and reduce the growth in health care spending.

(2) **BUILDING ON CURRENT SYSTEM.**—This division achieves this purpose by building on what works in today's health care system, while repairing the aspects that are broken.

(3) **INSURANCE REFORMS.**—This division—

(A) enacts strong insurance market reforms;

(B) creates a new Health Insurance Exchange, with a public health insurance option alongside private plans;

(C) includes sliding scale affordability credits; and

(D) initiates shared responsibility among workers, employers, and the Government; so that all Americans have coverage of essential health benefits.

(4) **HEALTH DELIVERY REFORM.**—This division institutes health delivery system reforms both to increase quality and to reduce growth in health spending so that health care becomes more affordable for businesses, families, and Government.

(b) **TABLE OF CONTENTS OF DIVISION.**—The table of contents of this division is as follows:

Sec. 100. Purpose; table of contents of division; general definitions.

**TITLE I—IMMEDIATE REFORMS**

Sec. 101. National high-risk pool program.

Sec. 102. Ensuring value and lower premiums.

Sec. 103. Ending health insurance rescission abuse.

Sec. 104. Sunshine on price gouging by health insurance issuers.

Sec. 105. Requiring the option of extension of dependent coverage for uninsured young adults.

Sec. 106. Limitations on preexisting condition exclusions in group health plans in advance of applicability of new prohibition of preexisting condition exclusions.

Sec. 107. Prohibiting acts of domestic violence from being treated as preexisting conditions.

Sec. 108. Ending health insurance denials and delays of necessary treatment for children with deformities.

Sec. 109. Elimination of lifetime limits.

Sec. 110. Prohibition against postretirement reductions of retiree health benefits by group health plans.

Sec. 111. Reinsurance program for retirees.

Sec. 112. Wellness program grants.

Sec. 113. Extension of COBRA continuation coverage.

Sec. 114. State Health Access Program grants.

Sec. 115. Administrative simplification.

**TITLE II—PROTECTIONS AND STANDARDS FOR QUALIFIED HEALTH BENEFITS PLANS**

Subtitle A—General Standards

Sec. 201. Requirements reforming health insurance marketplace.

Sec. 202. Protecting the choice to keep current coverage.

Subtitle B—Standards Guaranteeing Access to Affordable Coverage

Sec. 211. Prohibiting preexisting condition exclusions.

Sec. 212. Guaranteed issue and renewal for insured plans and prohibiting rescissions.

Sec. 213. Insurance rating rules.

Sec. 214. Nondiscrimination in benefits; parity in mental health and substance abuse disorder benefits.

Sec. 215. Ensuring adequacy of provider networks.

Sec. 216. Requiring the option of extension of dependent coverage for uninsured young adults.

Sec. 217. Consistency of costs and coverage under qualified health benefits plans during plan year.

Subtitle C—Standards Guaranteeing Access to Essential Benefits

Sec. 221. Coverage of essential benefits package.

Sec. 222. Essential benefits package defined.

Sec. 223. Health Benefits Advisory Committee.

Sec. 224. Process for adoption of recommendations; adoption of benefit standards.

Subtitle D—Additional Consumer Protections

Sec. 231. Requiring fair marketing practices by health insurers.

Sec. 232. Requiring fair grievance and appeals mechanisms.

Sec. 233. Requiring information transparency and plan disclosure.

Sec. 234. Application to qualified health benefits plans not offered through the Health Insurance Exchange.

Sec. 235. Timely payment of claims.

Sec. 236. Standardized rules for coordination and subrogation of benefits.

Sec. 237. Application of administrative simplification.

- Sec. 238. State prohibitions on discrimination against health care providers.
- Sec. 239. Protection of physician prescriber information.
- Sec. 240. Dissemination of advance care planning information.
- Subtitle E—Governance
- Sec. 241. Health Choices Administration; Health Choices Commissioner.
- Sec. 242. Duties and authority of Commissioner.
- Sec. 243. Consultation and coordination.
- Sec. 244. Health Insurance Ombudsman.
- Subtitle F—Relation to Other Requirements; Miscellaneous
- Sec. 251. Relation to other requirements.
- Sec. 252. Prohibiting discrimination in health care.
- Sec. 253. Whistleblower protection.
- Sec. 254. Construction regarding collective bargaining.
- Sec. 255. Severability.
- Sec. 256. Treatment of Hawaii Prepaid Health Care Act.
- Sec. 257. Actions by State attorneys general.
- Sec. 258. Application of State and Federal laws regarding abortion.
- Sec. 259. Nondiscrimination on abortion and respect for rights of conscience.
- Sec. 260. Authority of Federal Trade Commission.
- Sec. 261. Construction regarding standard of care.
- Sec. 262. Restoring application of antitrust laws to health sector insurers.
- Sec. 263. Study and report on methods to increase EHR use by small health care providers.
- Sec. 264. Performance Assessment and Accountability; Application of GPRA

### TITLE III—HEALTH INSURANCE EXCHANGE AND RELATED PROVISIONS

#### Subtitle A—Health Insurance Exchange

- Sec. 301. Establishment of Health Insurance Exchange; outline of duties; definitions.
- Sec. 302. Exchange-eligible individuals and employers.
- Sec. 303. Benefits package levels.
- Sec. 304. Contracts for the offering of Exchange-participating health benefits plans.
- Sec. 305. Outreach and enrollment of Exchange-eligible individuals and employers in Exchange-participating health benefits plan.
- Sec. 306. Other functions.
- Sec. 307. Health Insurance Exchange Trust Fund.
- Sec. 308. Optional operation of State-based health insurance exchanges.
- Sec. 309. Interstate health insurance compacts.
- Sec. 310. Health insurance cooperatives.
- Sec. 311. Retention of DOD and VA authority.

#### Subtitle B—Public Health Insurance Option

- Sec. 321. Establishment and administration of a public health insurance option as an Exchange-qualified health benefits plan.
- Sec. 322. Premiums and financing.
- Sec. 323. Payment rates for items and services.
- Sec. 324. Modernized payment initiatives and delivery system reform.
- Sec. 325. Provider participation.
- Sec. 326. Application of fraud and abuse provisions.
- Sec. 327. Application of HIPAA insurance requirements.

- Sec. 328. Application of health information privacy, security, and electronic transaction requirements.
- Sec. 329. Enrollment in public health insurance option is voluntary.
- Sec. 330. Enrollment in public health insurance option by Members of Congress.
- Sec. 331. Reimbursement of Secretary of Veterans Affairs.
- Subtitle C—Individual Affordability Credits
- Sec. 341. Availability through Health Insurance Exchange.
- Sec. 342. Affordable credit eligible individual.
- Sec. 343. Affordability premium credit.
- Sec. 344. Affordability cost-sharing credit.
- Sec. 345. Income determinations.
- Sec. 346. Special rules for application to territories.
- Sec. 347. No Federal payment for undocumented aliens.

### TITLE IV—SHARED RESPONSIBILITY

#### Subtitle A—Individual Responsibility

- Sec. 401. Individual responsibility.

#### Subtitle B—Employer Responsibility

#### PART 1—HEALTH COVERAGE PARTICIPATION REQUIREMENTS

- Sec. 411. Health coverage participation requirements.
- Sec. 412. Employer responsibility to contribute toward employee and dependent coverage.
- Sec. 413. Employer contributions in lieu of coverage.
- Sec. 414. Authority related to improper steering.
- Sec. 415. Impact study on employer responsibility requirements.
- Sec. 416. Study on employer hardship exemption.

#### PART 2—SATISFACTION OF HEALTH COVERAGE PARTICIPATION REQUIREMENTS

- Sec. 421. Satisfaction of health coverage participation requirements under the Employee Retirement Income Security Act of 1974.
- Sec. 422. Satisfaction of health coverage participation requirements under the Internal Revenue Code of 1986.
- Sec. 423. Satisfaction of health coverage participation requirements under the Public Health Service Act.
- Sec. 424. Additional rules relating to health coverage participation requirements.

### TITLE V—AMENDMENTS TO INTERNAL REVENUE CODE OF 1986

#### Subtitle A—Provisions Relating to Health Care Reform

##### PART 1—SHARED RESPONSIBILITY

##### SUBPART A—INDIVIDUAL RESPONSIBILITY

- Sec. 501. Tax on individuals without acceptable health care coverage.

##### SUBPART B—EMPLOYER RESPONSIBILITY

- Sec. 511. Election to satisfy health coverage participation requirements.
- Sec. 512. Health care contributions of non-electing employers.

##### PART 2—CREDIT FOR SMALL BUSINESS EMPLOYEE HEALTH COVERAGE EXPENSES

- Sec. 521. Credit for small business employee health coverage expenses.

##### PART 3—LIMITATIONS ON HEALTH CARE RELATED EXPENDITURES

- Sec. 531. Distributions for medicine qualified only if for prescribed drug or insulin.

- Sec. 532. Limitation on health flexible spending arrangements under cafeteria plans.
- Sec. 533. Increase in penalty for nonqualified distributions from health savings accounts.
- Sec. 534. Denial of deduction for federal subsidies for prescription drug plans which have been excluded from gross income.

#### PART 4—OTHER PROVISIONS TO CARRY OUT HEALTH INSURANCE REFORM

- Sec. 541. Disclosures to carry out health insurance exchange subsidies.
- Sec. 542. Offering of exchange-participating health benefits plans through cafeteria plans.
- Sec. 543. Exclusion from gross income of payments made under reinsurance program for retirees.
- Sec. 544. CLASS program treated in same manner as long-term care insurance.
- Sec. 545. Exclusion from gross income for medical care provided for Indians.

#### Subtitle B—Other Revenue Provisions

##### PART 1—GENERAL PROVISIONS

- Sec. 551. Surcharge on high income individuals.
- Sec. 552. Excise tax on medical devices.
- Sec. 553. Expansion of information reporting requirements.
- Sec. 554. Repeal of Worldwide Allocation of Interest.
- Sec. 555. Exclusion of Unprocessed fuel from the Cellulosic Biofuel Producer Credit.

##### PART 2—PREVENTION OF TAX AVOIDANCE

- Sec. 561. Limitation on treaty benefits for certain deductible payments.
- Sec. 562. Codification of economic substance doctrine; penalties.
- Sec. 563. Certain large or publicly traded persons made subject to a more likely than not standard for avoiding penalties on underpayments.

##### PART 3—PARITY IN HEALTH BENEFITS

- Sec. 571. Certain health related benefits applicable to spouses and dependents extended to eligible beneficiaries.

(c) GENERAL DEFINITIONS.—Except as otherwise provided, in this division:

(1) ACCEPTABLE COVERAGE.—The term “acceptable coverage” has the meaning given such term in section 302(d)(2).

(2) BASIC PLAN.—The term “basic plan” has the meaning given such term in section 303(c).

(3) COMMISSIONER.—The term “Commissioner” means the Health Choices Commissioner established under section 241.

(4) COST-SHARING.—The term “cost-sharing” includes deductibles, coinsurance, copayments, and similar charges, but does not include premiums, balance billing amounts for non-network providers, or spending for non-covered services.

(5) DEPENDENT.—The term “dependent” has the meaning given such term by the Commissioner and includes a spouse.

(6) EMPLOYMENT-BASED HEALTH PLAN.—The term “employment-based health plan”—

(A) means a group health plan (as defined in section 733(a)(1) of the Employee Retirement Income Security Act of 1974);

(B) includes such a plan that is the following:

(i) FEDERAL, STATE, AND TRIBAL GOVERNMENTAL PLANS.—A governmental plan (as defined in section 3(32) of the Employee Retirement Income Security Act of 1974), including

a health benefits plan offered under chapter 89 of title 5, United States Code.

(ii) CHURCH PLANS.—A church plan (as defined in section 3(33) of the Employee Retirement Income Security Act of 1974); and

(C) excludes coverage described in section 302(d)(2)(E) (relating to TRICARE).

(7) ENHANCED PLAN.—The term “enhanced plan” has the meaning given such term in section 303(c).

(8) ESSENTIAL BENEFITS PACKAGE.—The term “essential benefits package” is defined in section 222(a).

(9) EXCHANGE-PARTICIPATING HEALTH BENEFITS PLAN.—The term “Exchange-participating health benefits plan” means a qualified health benefits plan that is offered through the Health Insurance Exchange and may be purchased directly from the entity offering the plan or through enrollment agents and brokers.

(10) FAMILY.—The term “family” means an individual and includes the individual’s dependents.

(11) FEDERAL POVERTY LEVEL; FPL.—The terms “Federal poverty level” and “FPL” have the meaning given the term “poverty line” in section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)), including any revision required by such section.

(12) HEALTH BENEFITS PLAN.—The term “health benefits plan” means health insurance coverage and an employment-based health plan and includes the public health insurance option.

(13) HEALTH INSURANCE COVERAGE.—The term “health insurance coverage” has the meaning given such term in section 2791 of the Public Health Service Act, but does not include coverage in relation to its provision of excepted benefits—

(A) described in paragraph (1) of subsection (c) of such section; or

(B) described in paragraph (2), (3), or (4) of such subsection if the benefits are provided under a separate policy, certificate, or contract of insurance.

(14) HEALTH INSURANCE ISSUER.—The term “health insurance issuer” has the meaning given such term in section 2791(b)(2) of the Public Health Service Act.

(15) HEALTH INSURANCE EXCHANGE.—The term “Health Insurance Exchange” means the Health Insurance Exchange established under section 301.

(16) INDIAN.—The term “Indian” has the meaning given such term in section 4 of the Indian Health Care Improvement Act (24 U.S.C. 1603).

(17) INDIAN HEALTH CARE PROVIDER.—The term “Indian health care provider” means a health care program operated by the Indian Health Service, an Indian tribe, tribal organization, or urban Indian organization as such terms are defined in section 4 of the Indian Health Care Improvement Act (25 U.S.C. 1603).

(18) MEDICAID.—The term “Medicaid” means a State plan under title XIX of the Social Security Act (whether or not the plan is operating under a waiver under section 1115 of such Act).

(19) MEDICAID ELIGIBLE INDIVIDUAL.—The term “Medicaid eligible individual” means an individual who is eligible for medical assistance under Medicaid.

(20) MEDICARE.—The term “Medicare” means the health insurance programs under title XVIII of the Social Security Act.

(21) PLAN SPONSOR.—The term “plan sponsor” has the meaning given such term in section 3(16)(B) of the Employee Retirement Income Security Act of 1974.

(22) PLAN YEAR.—The term “plan year” means—

(A) with respect to an employment-based health plan, a plan year as specified under such plan; or

(B) with respect to a health benefits plan other than an employment-based health plan, a 12-month period as specified by the Commissioner.

(23) PREMIUM PLAN; PREMIUM-PLUS PLAN.—The terms “premium plan” and “premium-plus plan” have the meanings given such terms in section 303(c).

(24) QHBP OFFERING ENTITY.—The terms “QHBP offering entity” means, with respect to a health benefits plan that is—

(A) a group health plan (as defined, subject to subsection (d), in section 733(a)(1) of the Employee Retirement Income Security Act of 1974), the plan sponsor in relation to such group health plan, except that, in the case of a plan maintained jointly by 1 or more employers and 1 or more employee organizations and with respect to which an employer is the primary source of financing, such term means such employer;

(B) health insurance coverage, the health insurance issuer offering the coverage;

(C) the public health insurance option, the Secretary of Health and Human Services;

(D) a non-Federal governmental plan (as defined in section 2791(d) of the Public Health Service Act), the State or political subdivision of a State (or agency or instrumentality of such State or subdivision) which establishes or maintains such plan; or

(E) a Federal governmental plan (as defined in section 2791(d) of the Public Health Service Act), the appropriate Federal official.

(25) QUALIFIED HEALTH BENEFITS PLAN.—The term “qualified health benefits plan” means a health benefits plan that—

(A) meets the requirements for such a plan under title II and includes the public health insurance option; and

(B) is offered by a QHBP offering entity that meets the applicable requirements of such title with respect to such plan.

(26) PUBLIC HEALTH INSURANCE OPTION.—The term “public health insurance option” means the public health insurance option as provided under subtitle B of title III.

(27) SERVICE AREA; PREMIUM RATING AREA.—The terms “service area” and “premium rating area” mean with respect to health insurance coverage—

(A) offered other than through the Health Insurance Exchange, such an area as established by the QHBP offering entity of such coverage in accordance with applicable State law; and

(B) offered through the Health Insurance Exchange, such an area as established by such entity in accordance with applicable State law and applicable rules of the Commissioner for Exchange-participating health benefits plans.

(28) STATE.—The term “State” means the 50 States and the District of Columbia and includes—

(A) for purposes of title I, Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Northern Mariana Islands; and

(B) for purposes of titles II and III, as elected under and subject to section 346, Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Northern Mariana Islands.

(29) STATE MEDICAID AGENCY.—The term “State Medicaid agency” means, with respect to a Medicaid plan, the single State agency responsible for administering such plan under title XIX of the Social Security Act.

(30) Y1, Y2, ETC.—The terms “Y1”, “Y2”, “Y3”, “Y4”, “Y5”, and similar subsequently numbered terms, mean 2013 and subsequent years, respectively.

## TITLE I—IMMEDIATE REFORMS

### SEC. 101. NATIONAL HIGH-RISK POOL PROGRAM.

(a) IN GENERAL.—The Secretary of Health and Human Services (in this section referred to as the “Secretary”) shall establish a temporary national high-risk pool program (in this section referred to as the “program”) to provide health benefits to eligible individuals during the period beginning on January 1, 2010, and, subject to subsection (h)(3)(B), ending on the date on which the Health Insurance Exchange is established.

(b) ADMINISTRATION.—The Secretary may carry out this section directly or, pursuant to agreements, grants, or contracts with States, through State high-risk pool programs provided that the requirements of this section are met. “For a State without a high-risk pool program, the Secretary may work with the State to coordinate with other forms of coverage expansions, such as State public-private partnerships.”

(c) ELIGIBILITY.—For purposes of this section, the term “eligible individual” means an individual “who meets the requirements of subsection (i)(1)”.

(1) who—

(A) is not eligible for—

(i) benefits under title XVIII, XIX, or XXI of the Social Security Act; or

(ii) coverage under an employment-based health plan (not including coverage under a COBRA continuation provision, as defined in section 107(d)(1)); and

(B) who—

(i) is an eligible individual under section 2741(b) of the Public Health Service Act; or

(ii) is medically eligible for the program by virtue of being an individual described in subsection (d) at any time during the 6-month period ending on the date the individual applies for high-risk pool coverage under this section;

(2) who is the spouse or dependent of an individual who is described in paragraph (1);

(3) who has not had health insurance coverage or coverage under an employment-based health plan for at least the 6-month period immediately preceding the date of the individual’s application for high-risk pool coverage under this section; “or.”

(4) who on or after October 29, 2009, had employment-based retiree health coverage (as defined in subsection (i)) and the annual increase in premiums for such individual under such coverage (for any coverage period beginning on or after such date) exceeds such excessive percentage as the Secretary shall specify.

For purposes of paragraph (1)(A)(ii), a person who is in a waiting period as defined in section 2701(b)(4) of the Public Health Service Act shall not be considered to be eligible for coverage under an employment-based health plan.

(d) MEDICALLY ELIGIBLE REQUIREMENTS.—For purposes of subsection (c)(1)(B)(ii), an individual described in this subsection is an individual—

(1) who, during the 6-month period ending on the date the individual applies for high-risk pool coverage under this section applied for individual health insurance coverage and—

(A) was denied such coverage because of a preexisting condition or health status; or

(B) was offered such coverage—

(i) under terms that limit the coverage for such a preexisting condition; or

(ii) at a premium rate that is above the premium rate for high risk pool coverage under this section; or

(2) who has an eligible medical condition as defined by the Secretary.

In making a determination under paragraph (1) of whether an individual was offered individual coverage at a premium rate above the premium rate for high risk pool coverage, the Secretary shall make adjustments to offset differences in premium rating that are attributable solely to differences in age rating.

(e) **ENROLLMENT.**—To enroll in coverage in the program, an individual shall—

(1) submit to the Secretary an application for participation in the program, at such time, in such manner, and containing such information as the Secretary shall require;

(2) attest “, consistent with subsection (i)(2),” that the individual is an eligible individual and is a resident of one of the 50 States or the District of Columbia; and

(3) if the individual had other prior health insurance coverage or coverage under an employment-based health plan during the previous 6 months, provide information as to the nature and source of such coverage and reasons for its discontinuance.

(f) **PROTECTION AGAINST DUMPING RISKS BY INSURERS.**—

(1) **IN GENERAL.**—The Secretary shall establish criteria for determining whether health insurance issuers and employment-based health plans have discouraged an individual from remaining enrolled in prior coverage based on that individual's health status.

(2) **SANCTIONS.**—An issuer or employment-based health plan shall be responsible for reimbursing the program for the medical expenses incurred by the program for an individual who, based on criteria established by the Secretary, the Secretary finds was encouraged by the issuer to disenroll from health benefits coverage prior to enrolling in the program. The criteria shall include at least the following circumstances:

(A) In the case of prior coverage obtained through an employer, the provision by the employer, group health plan, or the issuer of money or other financial consideration for disenrolling from the coverage.

(B) In the case of prior coverage obtained directly from an issuer or under an employment-based health plan—

(i) the provision by the issuer or plan of money or other financial consideration for disenrolling from the coverage; or

(ii) in the case of an individual whose premium for the prior coverage exceeded the premium required by the program (adjusted based on the age factors applied to the prior coverage)—

(I) the prior coverage is a policy that is no longer being actively marketed (as defined by the Secretary) by the issuer; or

(II) the prior coverage is a policy for which duration of coverage form issue or health status are factors that can be considered in determining premiums at renewal.

(3) **CONSTRUCTION.**—Nothing in this subsection shall be construed as constituting exclusive remedies for violations of criteria established under paragraph (1) or as preventing States from applying or enforcing such paragraph or other provisions under law with respect to health insurance issuers.

(g) **COVERED BENEFITS, COST-SHARING, PREMIUMS, AND CONSUMER PROTECTIONS.**—

(1) **PREMIUM.**—The monthly premium charged to eligible individuals for coverage under the program—

(A) may vary by age so long as the ratio of the highest such premium to the lowest such premium does not exceed the ratio of 2 to 1;

(B) shall be set at a level that does not exceed 125 percent of the prevailing standard rate for comparable coverage in the individual market; and

(C) shall be adjusted for geographic variation in costs.

Health insurance issuers shall provide such information as the Secretary may require to determine prevailing standard rates under this paragraph. The Secretary shall establish standard rates in consultation with the National Association of Insurance Commissioners.

(2) **COVERED BENEFITS.**—Covered benefits under the program shall be determined by the Secretary and shall be consistent with the basic categories in the essential benefits package described in section 222. Under such benefits package—

(A) the annual deductible for such benefits may not be higher than \$1,500 for an individual or such higher amount for a family as determined by the Secretary;

(B) there may not be annual or lifetime limits; and

(C) the maximum cost-sharing with respect to an individual (or family) for a year shall not exceed \$5,000 for an individual (or \$10,000 for a family).

(3) **NO PREEXISTING CONDITION EXCLUSION PERIODS.**—No preexisting condition exclusion period shall be imposed on coverage under the program.

(4) **APEALS.**—The Secretary shall establish an appeals process for individuals to appeal a determination of the Secretary—

(A) with respect to claims submitted under this section; and

(B) with respect to eligibility determinations made by the Secretary under this section.

(5) **STATE CONTRIBUTION, MAINTENANCE OF EFFORT.**—As a condition of providing health benefits under this section to eligible individual residing in a State—

(A) in the case of a State in which a qualified high-risk pool (as defined under section 2744(c)(2) of the Public Health Service Act) was in effect as of July 1, 2009, the Secretary shall require the State make a maintenance of effort payment each year that the high-risk pool is in effect equal to an amount not less than the amount of all sources of funding for high-risk pool coverage made by that State in the year ending July 1, 2009; and

(B) in the case of a State which required health insurance issuers to contribute to a State high-risk pool or similar arrangement for the assessment against such issuers for pool losses, the State shall maintain such a contribution arrangement among such issuers.

(6) **LIMITING PROGRAM EXPENDITURES.**—The Secretary shall, with respect to the program—

(A) establish procedures to protect against fraud, waste, and abuse under the program; and

(B) provide for other program integrity methods.

(7) **TREATMENT AS CREDITABLE COVERAGE.**—Coverage under the program shall be treated, for purposes of applying the definition of “creditable coverage” under the provisions of title XXVII of the Public Health Service Act, part 6 of subtitle B of title I of Employee Retirement Income Security Act of 1974, and chapter 100 of the Internal Revenue Code of 1986 (and any other provision of law that references such provisions) in the same manner as if it were coverage under a State health benefits risk pool described in section 2701(c)(1)(G) of the Public Health Service Act.

(h) **FUNDING; TERMINATION OF AUTHORITY.**—

(1) **IN GENERAL.**—There is appropriated to the Secretary, out of any moneys in the Treasury not otherwise appropriated, \$5,000,000,000 to pay claims against (and administrative costs of) the high-risk pool under this section in excess of the premiums collected with respect to eligible individuals enrolled in the high-risk pool. Such funds shall be available without fiscal year limitation.

(2) **INSUFFICIENT FUNDS.**—If the Secretary estimates for any fiscal year that the aggregate amounts available for payment of expenses of the high-risk pool will be less than the amount of the expenses, the Secretary shall make such adjustments as are necessary to eliminate such deficit, including reducing benefits, increasing premiums, or establishing waiting lists.

(3) **TERMINATION OF AUTHORITY.**—

(A) **IN GENERAL.**—Except as provided in subparagraph (B), coverage of eligible individuals under a high-risk pool shall terminate as of the date on which the Health Insurance Exchange is established.

(B) **TRANSITION TO EXCHANGE.**—The Secretary shall develop procedures to provide for the transition of eligible individuals who are enrolled in health insurance coverage offered through a high-risk pool established under this section to be enrolled in acceptable coverage. Such procedures shall ensure that there is no lapse in coverage with respect to the individual and may extend coverage offered through such a high-risk pool beyond 2012 if the Secretary determines necessary to avoid such a lapse.

(i) **APPLICATION AND VERIFICATION OF REQUIREMENT OF CITIZENSHIP OR LAWFUL PRESENCE IN THE UNITED STATES.**—

(1) **REQUIREMENT.**—No individual shall be an eligible individual under this section unless the individual is a citizen or national of the United States or is lawfully present in a State in the United States (other than as a nonimmigrant described in a subparagraph (excluding subparagraphs (K), (T), (U), and (V)) of section 101(a)(15) of the Immigration and Nationality Act.)

(2) **APPLICATION OF VERIFICATION PROCESS FOR AFFORDABILITY CREDIT.**—The provisions of paragraphs (4) (other than subparagraphs (F) and (H)(i)) and (5)(A) of section 341(b), and of subsections (v) (other than paragraph (3)) and (x) of section 205 of the Social Security Act, shall apply to the verification of eligibility of an eligible individual by the Secretary (or by a State agency approved by the Secretary) for benefits under this section in the same manner as such provisions apply to the verification of eligibility of a affordable credit eligible individual for affordability credits by the Commissioner under section 341(b). The agreement referred to in section 205(v)(2)(A) of the Social Security Act (as applied under this paragraph) shall also provide for funding, to be payable for the amount made available under subsection (h)(1), to the Commissioner of Social Security in such amount as is agreed to by such Commissioner and the Secretary.

(j) **EMPLOYMENT-BASED RETIREE HEALTH COVERAGE.**—In this section, the term “employment-based retiree health coverage” means health insurance or other coverage of health care costs (whether provided by voluntary insurance or pursuant to statutory or contractual obligation) for individuals (or for such individuals and their spouses and dependents) under a group health plan based on their status as retired participants in such plan.



**SEC. 102. ENSURING VALUE AND LOWER PREMIUMS.**

(a) GROUP HEALTH INSURANCE COVERAGE.—Title XXVII of the Public Health Service Act is amended by inserting after section 2713 the following new section:

**“SEC. 2714. ENSURING VALUE AND LOWER PREMIUMS.**

“(a) IN GENERAL.—Each health insurance issuer that offers health insurance coverage in the small or large group market shall provide that for any plan year in which the coverage has a medical loss ratio below a level specified by the Secretary (but not less than 85 percent), the issuer shall provide in a manner specified by the Secretary for rebates to enrollees of the amount by which the issuer's medical loss ratio is less than the level so specified.

“(b) IMPLEMENTATION.—The Secretary shall establish a uniform definition of medical loss ratio and methodology for determining how to calculate it based on the average medical loss ratio in a health insurance issuer's book of business for the small and large group market. Such methodology shall be designed to take into account the special circumstances of smaller plans, different types of plans, and newer plans. In determining the medical loss ratio, the Secretary shall exclude State taxes and licensing or regulatory fees. Such methodology shall be designed and exceptions shall be established to ensure adequate participation by health insurance issuers, competition in the health insurance market, and value for consumers so that their premiums are used for services.

“(c) SUNSET.—Subsections (a) and (b) shall not apply to health insurance coverage on and after the first date that health insurance coverage is offered through the Health Insurance Exchange.”

(b) INDIVIDUAL HEALTH INSURANCE COVERAGE.—Such title is further amended by inserting after section 2753 the following new section:

**“SEC. 2754. ENSURING VALUE AND LOWER PREMIUMS.**

“The provisions of section 2714 shall apply to health insurance coverage offered in the individual market in the same manner as such provisions apply to health insurance coverage offered in the small or large group market except to the extent the Secretary determines that the application of such section may destabilize the existing individual market.”

(c) IMMEDIATE IMPLEMENTATION.—The amendments made by this section shall apply in the group and individual market for plan years beginning on or after January 1, 2010, or as soon as practicable after such date.

**SEC. 103. ENDING HEALTH INSURANCE RESCISSION ABUSE.**

(a) CLARIFICATION REGARDING APPLICATION OF GUARANTEED RENEWABILITY OF INDIVIDUAL AND GROUP HEALTH INSURANCE COVERAGE.—Sections 2712 and 2742 of the Public Health Service Act (42 U.S.C. 300gg–12, 300gg–42) are each amended—

(1) in its heading, by inserting “**AND CONTINUATION IN FORCE, INCLUDING PROHIBITION OF RESCISSION,**” after “**GUARANTEED RENEWABILITY**”; and

(2) in subsection (a), by inserting “, including without rescission,” after “continue in force”.

(b) SECRETARIAL GUIDANCE REGARDING RESCISSIONS.—

(1) GROUP HEALTH INSURANCE MARKET.—Section 2712 of such Act (42 U.S.C. 300gg–12) is amended by adding at the end the following:

“(f) RESCISSION.—A health insurance issuer may rescind group health insurance coverage only upon clear and convincing evidence of fraud described in subsection (b)(2), under procedures that provide for independent, external third-party review.”

(2) INDIVIDUAL HEALTH MARKET.—Section 2742 of such Act (42 U.S.C. 300gg–42) is amended by adding at the end the following:

“(f) RESCISSION.—A health insurance issuer may rescind individual health insurance coverage only upon clear and convincing evidence of fraud described in subsection (b)(2), under procedures that provide for independent, external third-party review.”

(3) GUIDANCE.—The Secretary of Health and Human Services, no later than 90 days after the date of the enactment of this Act, shall issue guidance implementing the amendments made by paragraphs (1) and (2), including procedures for independent, external third-party review.

(c) OPPORTUNITY FOR INDEPENDENT, EXTERNAL THIRD-PARTY REVIEW IN CERTAIN CASES.—

(1) INDIVIDUAL MARKET.—Subpart 1 of part B of title XXVII of such Act (42 U.S.C. 300gg–41 et seq.) is amended by adding at the end the following:

**“SEC. 2746. OPPORTUNITY FOR INDEPENDENT, EXTERNAL THIRD-PARTY REVIEW IN CASES OF RESCISSION.**

“(a) NOTICE AND REVIEW RIGHT.—If a health insurance issuer determines to rescind health insurance coverage for an individual in the individual market, before such rescission may take effect the issuer shall provide the individual with notice of such proposed rescission and an opportunity for a review of such determination by an independent, external third-party under procedures specified by the Secretary under section 2742(f).

“(b) INDEPENDENT DETERMINATION.—If the individual requests such review by an independent, external third-party of a rescission of health insurance coverage, the coverage shall remain in effect until such third party determines that the coverage may be rescinded under the guidance issued by the Secretary under section 2742(f).”

(2) APPLICATION TO GROUP HEALTH INSURANCE.—Such title is further amended by adding after section 2702 the following new section:

**“SEC. 2703. OPPORTUNITY FOR INDEPENDENT, EXTERNAL THIRD-PARTY REVIEW IN CASES OF RESCISSION.**

“The provisions of section 2746 shall apply to group health insurance coverage in the same manner as such provisions apply to individual health insurance coverage, except that any reference to section 2742(f) is deemed a reference to section 2712(f).”

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act and shall apply to rescissions occurring on and after July 1, 2010, with respect to health insurance coverage issued before, on, or after such date.

**SEC. 104. SUNSHINE ON PRICE GOUGING BY HEALTH INSURANCE ISSUERS.**

(a) INITIAL PREMIUM REVIEW PROCESS.—

(1) IN GENERAL.—The Secretary of Health and Human Services, in conjunction with States, shall establish a process for the annual review, beginning with 2010 and subject to subsection (c)(3)(A), of increases in premiums for health insurance coverage.

(2) JUSTIFICATION AND DISCLOSURE.—Such process shall require health insurance issuers to submit a justification for any premium increase prior to implementation of the increase. Such issuers shall prominently

post such information on their websites. The Secretary shall ensure the public disclosure of information on such increase and justifications for all health insurance issuers.

(b) CONTINUING PREMIUM REVIEW PROCESS.—

(1) INFORMING COMMISSIONER OF PREMIUM INCREASE PATTERNS.—As a condition of receiving a grant under subsection (c)(1), a State, through its Commissioner of Insurance, shall—

(A) provide the Health Choices commissioner with information about trends in premium increases in health insurance coverage in premium rating areas in the State; and

(B) make recommendations, as appropriate, to such Commissioner about whether particular health insurance issuers should be excluded from participation in the Health Insurance Exchange based on a pattern of excessive or unjustified premium increases.

(2) COMMISSIONER AUTHORITY REGARDING EXCHANGE PARTICIPATION.—In making determinations concerning entering into contracts with QHBP offering entities for the offering of Exchange-participating health plans under section 304, the Commissioner shall take into account the information and recommendations provided under paragraph (1).

(3) MONITORING BY COMMISSIONER OF PREMIUM INCREASES.—

(A) IN GENERAL.—Beginning in 2014, the Commissioner, in conjunction with the States and in place of the monitoring by the Secretary under subsection (a)(1) and consistent with the provisions of subsection (a)(2), shall monitor premium increases of health insurance coverage offered inside the Health Insurance Exchange under section 304 and outside of the Exchange.

(B) CONSIDERATION IN OPENING EXCHANGE.—In determining under section 302(e)(4) whether to make additional larger employers eligible to participate in the Health Insurance Exchange, the Commissioner shall take into account any excess of premium growth outside the Exchange as compared to the rate of such growth inside the Exchange, including information reported by the States.

(c) GRANTS IN SUPPORT OF PROCESS.—

(1) PREMIUM REVIEW GRANTS DURING 2010 THROUGH 2014.—The Secretary shall carry out a program of grants to States during the 5-year period beginning with 2010 to assist them in carrying out subsection (a), including—

(A) in reviewing and, if appropriate under State law, approving premium increases for health insurance coverage; and

(B) in providing information and recommendations to the Commissioner under subsection (b)(1).

(2) FUNDING.—

(A) IN GENERAL.—Out of any funds in the Treasury not otherwise appropriated, there are appropriated to the Secretary \$1,000,000,000, to be available for expenditure for grants under paragraph (1) and subparagraph (B).

(B) FURTHER AVAILABILITY FOR INSURANCE REFORM AND CONSUMER PROTECTION GRANTS.—If the amounts appropriated under subparagraph (A) are not fully obligated under grants under paragraph (1) by the end of 2014, any remaining funds shall remain available to the Secretary for grants to States for planning and implementing the insurance reforms and consumer protections under title II.

(C) ALLOCATION.—The Secretary shall establish a formula for determining the amount of any grant to a State under this subsection. Under such formula—

(i) the Secretary shall consider the number of plans of health insurance coverage offered in each State and the population of the State; and

(ii) no State qualifying for a grant under paragraph (1) shall receive less than \$1,000,000, or more than \$5,000,000 for a grant year.

**SEC. 105. REQUIRING THE OPTION OF EXTENSION OF DEPENDENT COVERAGE FOR UNINSURED YOUNG ADULTS.**

(a) UNDER GROUP HEALTH PLANS.—

(1) PHSA.—Title XXVII of the Public Health Service Act is amended by inserting after section 2702 the following new section:

**“SEC. 2703. REQUIRING THE OPTION OF EXTENSION OF DEPENDENT COVERAGE FOR UNINSURED YOUNG ADULTS.**

“(a) IN GENERAL.—A group health plan and a health insurance issuer offering health insurance coverage in connection with a group health plan that provides coverage for dependent children shall make available such coverage, at the option of the participant involved, for one or more qualified children (as defined in subsection (b)) of the participant.

“(b) QUALIFIED CHILD DEFINED.—In this section, the term ‘qualified child’ means, with respect to a participant in a group health plan or group health insurance coverage, an individual who (but for age) would be treated as a dependent child of the participant under such plan or coverage and who—

“(1) is under 27 years of age; and

“(2) is not enrolled as a participant, beneficiary, or enrollee (other than under this section, section 2746, or section 704 of the Employee Retirement Income Security Act of 1974) under any health insurance coverage or group health plan.

“(c) PREMIUMS.—Nothing in this section shall be construed as preventing a group health plan or health insurance issuer with respect to group health insurance coverage from increasing the premiums otherwise required for coverage provided under this section consistent with standards established by the Secretary based upon family size.”.

(2) EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.—

(A) IN GENERAL.—Part 7 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 is amended by inserting after section 703 the following new section:

**“SEC. 704. REQUIRING THE OPTION OF EXTENSION OF DEPENDENT COVERAGE FOR UNINSURED YOUNG ADULTS.**

“(a) IN GENERAL.—A group health plan and a health insurance issuer offering health insurance coverage in connection with a group health plan that provides coverage for dependent children shall make available such coverage, at the option of the participant involved, for one or more qualified children (as defined in subsection (b)) of the participant.

“(b) QUALIFIED CHILD DEFINED.—In this section, the term ‘qualified child’ means, with respect to a participant in a group health plan or group health insurance coverage, an individual who (but for age) would be treated as a dependent child of the participant under such plan or coverage and who—

“(1) is under 27 years of age; and

“(2) is not enrolled as a participant, beneficiary, or enrollee (other than under this section) under any health insurance coverage or group health plan.

“(c) PREMIUMS.—Nothing in this section shall be construed as preventing a group health plan or health insurance issuer with respect to group health insurance coverage from increasing the premiums otherwise required for coverage provided under this section consistent with standards established by the Secretary based upon family size.”.

(B) CLERICAL AMENDMENT.—The table of contents of such Act is amended by inserting after the item relating to section 703 the following new item:

“Sec. 704. Requiring the option of extension of dependent coverage for uninsured young adults.”.

(3) IRC.—

(A) IN GENERAL.—Subchapter A of chapter 100 of the Internal Revenue Code of 1986 is amended by adding at the end the following new section:

**“SEC. 9804. REQUIRING THE OPTION OF EXTENSION OF DEPENDENT COVERAGE FOR UNINSURED YOUNG ADULTS.**

“(a) IN GENERAL.—A group health plan that provides coverage for dependent children shall make available such coverage, at the option of the participant involved, for one or more qualified children (as defined in subsection (b)) of the participant.

“(b) QUALIFIED CHILD DEFINED.—In this section, the term ‘qualified child’ means, with respect to a participant in a group health plan, an individual who (but for age) would be treated as a dependent child of the participant under such plan and who—

“(1) is under 27 years of age; and

“(2) is not enrolled as a participant, beneficiary, or enrollee (other than under this section, section 704 of the Employee Retirement Income Security Act of 1974, or section 2704 or 2746 of the Public Health Service Act) under any health insurance coverage or group health plan.

“(c) PREMIUMS.—Nothing in this section shall be construed as preventing a group health plan from increasing the premiums otherwise required for coverage provided under this section consistent with standards established by the Secretary based upon family size.”.

(B) CLERICAL AMENDMENT.—The table of contents of such chapter is amended by inserting after the item relating to section 9803 the following:

“Sec. 9804. Requiring the option of extension of dependent coverage for uninsured young adults.”.

(b) INDIVIDUAL HEALTH INSURANCE COVERAGE.—Title XXVII of the Public Health Service Act is amended by inserting after section 2745 the following new section:

**“SEC. 2746. REQUIRING THE OPTION OF EXTENSION OF DEPENDENT COVERAGE FOR UNINSURED YOUNG ADULTS.**

“The provisions of section 2703 shall apply to health insurance coverage offered by a health insurance issuer in the individual market in the same manner as they apply to health insurance coverage offered by a health insurance issuer in connection with a group health plan in the small or large group market.”.

(c) EFFECTIVE DATES.—

(1) GROUP HEALTH PLANS.—The amendments made by subsection (a) shall apply to group health plans for plan years beginning on or after January 1, 2010.

(2) INDIVIDUAL HEALTH INSURANCE COVERAGE.—Section 2746 of the Public Health Service Act, as inserted by subsection (b), shall apply with respect to health insurance coverage offered, sold, issued, renewed, in effect, or operated in the individual market on or after January 1, 2010.

**SEC. 106. LIMITATIONS ON PREEXISTING CONDITION EXCLUSIONS IN GROUP HEALTH PLANS IN ADVANCE OF APPLICABILITY OF NEW PROHIBITION OF PREEXISTING CONDITION EXCLUSIONS.**

(a) AMENDMENTS TO THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.—

(1) REDUCTION IN LOOK-BACK PERIOD.—Section 701(a)(1) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1181(a)(1)) is amended by striking “6-month period” and inserting “30-day period”.

(2) REDUCTION IN PERMITTED PREEXISTING CONDITION LIMITATION PERIOD.—Section 701(a)(2) of such Act (29 U.S.C. 1181(a)(2)) is amended by striking “12 months” and inserting “3 months”, and by striking “18 months” and inserting “9 months”.

(3) SUNSET OF INTERIM LIMITATION.—Section 701 of such Act (29 U.S.C. 1181) is amended by adding at the end the following new subsection:

“(h) TERMINATION.—This section shall cease to apply to any group health plan as of the date that such plan becomes subject to the requirements of section 211 of the (relating to prohibiting preexisting condition exclusions).”.

(b) AMENDMENTS TO THE INTERNAL REVENUE CODE OF 1986.—

(1) REDUCTION IN LOOK-BACK PERIOD.—Section 9801(a)(1) of the Internal Revenue Code of 1986 is amended by striking “6-month period” and inserting “30-day period”.

(2) REDUCTION IN PERMITTED PREEXISTING CONDITION LIMITATION PERIOD.—Section 9801(a)(2) of such Code is amended by striking “12 months” and inserting “3 months”, and by striking “18 months” and inserting “9 months”.

(3) SUNSET OF INTERIM LIMITATION.—Section 9801 of such Code is amended by adding at the end the following new subsection:

“(g) TERMINATION.—This section shall cease to apply to any group health plan as of the date that such plan becomes subject to the requirements of section 211 of the “Affordable Health Care for America Act” (relating to prohibiting preexisting condition exclusions).”.

(c) AMENDMENTS TO PUBLIC HEALTH SERVICE ACT.—

(1) REDUCTION IN LOOK-BACK PERIOD.—Section 2701(a)(1) of the Public Health Service Act (42 U.S.C. 300gg(a)(1)) is amended by striking “6-month period” and inserting “30-day period”.

(2) REDUCTION IN PERMITTED PREEXISTING CONDITION LIMITATION PERIOD.—Section 2701(a)(2) of such Act (42 U.S.C. 300gg(a)(2)) is amended by striking “12 months” and inserting “3 months”, and by striking “18 months” and inserting “9 months”.

(3) SUNSET OF INTERIM LIMITATION.—Section 2701 of such Act (42 U.S.C. 300gg) is amended by adding at the end the following new subsection:

“(h) TERMINATION.—This section shall cease to apply to any group health plan as of the date that such plan becomes subject to the requirements of section 211 of the (relating to prohibiting preexisting condition exclusions).”.

(4) MISCELLANEOUS TECHNICAL AMENDMENT.—Section 2702(a)(2) of such Act (42 U.S.C. 300gg–1) is amended by striking “701” and inserting “2701”.

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply with respect to group health plans for plan years beginning on or after January 1, 2010.

(2) SPECIAL RULE FOR COLLECTIVE BARGAINING AGREEMENTS.—In the case of a group health plan maintained pursuant to 1 or more collective bargaining agreements between employee representatives and 1 or more employers ratified before the date of the enactment of this Act, the amendments made by this section shall not apply to plan years beginning before the earlier of—

(A) the date on which the last of the collective bargaining agreements relating to the plan terminates (determined without regard to any extension thereof agreed to after the date of the enactment of this Act);

(B) 3 years after the date of the enactment of this Act.

**SEC. 107. PROHIBITING ACTS OF DOMESTIC VIOLENCE FROM BEING TREATED AS PREEXISTING CONDITIONS.**

(a) ERISA.—Section 701(d)(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. ) is amended—

(1) in the heading, by inserting “OR DOMESTIC VIOLENCE” after “PREGNANCY”; and

(2) by inserting “or domestic violence” after “relating to pregnancy”.

(b) PHSA.—

(1) GROUP MARKET.—Section 2701(d)(3) of the Public Health Service Act (42 U.S.C. 300gg(d)(3)) is amended—

(A) in the heading, by inserting “OR DOMESTIC VIOLENCE” after “PREGNANCY”; and

(B) by inserting “or domestic violence” after “relating to pregnancy”.

(2) INDIVIDUAL MARKET.—Title XXVII of such Act is amended by inserting after section 2753 the following new section:

**“SEC. 2754. PROHIBITION ON DOMESTIC VIOLENCE AS PREEXISTING CONDITION.**

“A health insurance issuer offering health insurance coverage in the individual market may not, on the basis of domestic violence, impose any preexisting condition exclusion (as defined in section 2701(b)(1)(A)) with respect to such coverage.”.

(c) IRC.—Section 9801(d)(3) of the Internal Revenue Code of 1986 is amended—

(1) in the heading, by inserting “OR DOMESTIC VIOLENCE” after “PREGNANCY”; and

(2) by inserting “or domestic violence” after “relating to pregnancy”.

(d) EFFECTIVE DATES.—

(1) Except as otherwise provided in this subsection, the amendments made by this section shall apply with respect to group health plans (and health insurance issuers offering group health insurance coverage) for plan years beginning on or after January 1, 2010.

(2) The amendment made by subsection (b)(2) shall apply with respect to health insurance coverage offered, sold, issued, renewed, in effect, or operated in the individual market on or after such date.

**SEC. 108. ENDING HEALTH INSURANCE DENIALS AND DELAYS OF NECESSARY TREATMENT FOR CHILDREN WITH DEFORMITIES.**

(a) AMENDMENTS TO THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.—

(1) IN GENERAL.—Subpart B of part 7 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 is amended by adding at the end the following new section:

**“SEC. 715. STANDARDS RELATING TO BENEFITS FOR MINOR CHILD'S CONGENITAL OR DEVELOPMENTAL DEFORMITY OR DISORDER.**

“(a) REQUIREMENTS FOR TREATMENT FOR CHILDREN WITH DEFORMITIES.—

“(1) IN GENERAL.—A group health plan, and a health insurance issuer offering group health insurance coverage, that provides coverage for surgical benefits shall provide coverage for outpatient and inpatient diagnosis and treatment of a minor child's congenital or developmental deformity, disease, or injury. A minor child shall include any individual who is 21 years of age or younger.

“(2) TREATMENT DEFINED.—

“(A) IN GENERAL.—In this section, the term ‘treatment’ includes reconstructive surgical procedures (procedures that are generally performed to improve function, but may also

be performed to approximate a normal appearance) that are performed on abnormal structures of the body caused by congenital defects, developmental abnormalities, trauma, infection, tumors, or disease, including—

“(i) procedures that do not materially affect the function of the body part being treated; and

“(ii) procedures for secondary conditions and follow-up treatment.

“(B) EXCEPTION.—Such term does not include cosmetic surgery performed to reshape normal structures of the body to improve appearance or self-esteem.

“(b) NOTICE.—A group health plan under this part shall comply with the notice requirement under section 713(b) (other than paragraph (3)) with respect to the requirements of this section.”.

(2) CONFORMING AMENDMENT.—

(A) Subsection (c) of section 731 of such Act is amended by striking “section 711” and inserting “sections 711 and 715”.

(B) The table of contents in section 1 of such Act is amended by inserting after the item relating to section 714 the following new item:

“Sec. 715. Standards relating to benefits for minor child's congenital or developmental deformity or disorder.”.

(b) AMENDMENTS TO THE INTERNAL REVENUE CODE OF 1986.—

(1) IN GENERAL.—Subchapter B of chapter 100 of the Internal Revenue Code of 1986 is amended by adding at the end the following new section:

**“SEC. 9814. STANDARDS RELATING TO BENEFITS FOR MINOR CHILD'S CONGENITAL OR DEVELOPMENTAL DEFORMITY OR DISORDER.**

“(a) REQUIREMENTS FOR TREATMENT FOR CHILDREN WITH DEFORMITIES.—A group health plan that provides coverage for surgical benefits shall provide coverage for outpatient and inpatient diagnosis and treatment of a minor child's congenital or developmental deformity, disease, or injury. A minor child shall include any individual who is 21 years of age or younger.

“(b) TREATMENT DEFINED.—

“(1) IN GENERAL.—In this section, the term ‘treatment’ includes reconstructive surgical procedures (procedures that are generally performed to improve function, but may also be performed to approximate a normal appearance) that are performed on abnormal structures of the body caused by congenital defects, developmental abnormalities, trauma, infection, tumors, or disease, including—

“(A) procedures that do not materially affect the function of the body part being treated; and

“(B) procedures for secondary conditions and follow-up treatment.

“(2) EXCEPTION.—Such term does not include cosmetic surgery performed to reshape normal structures of the body to improve appearance or self-esteem.”.

(2) CLERICAL AMENDMENT.—The table of sections for subchapter B of chapter 100 of such Code is amended by adding at the end the following new item:

“Sec. 9814. Standards relating to benefits for minor child's congenital or developmental deformity or disorder.”.

(c) AMENDMENTS TO THE PUBLIC HEALTH SERVICE ACT.—

(1) IN GENERAL.—Subpart 2 of part A of title XXVII of the Public Health Service Act is amended by adding at the end the following new section:

**“SEC. 2708. STANDARDS RELATING TO BENEFITS FOR MINOR CHILD'S CONGENITAL OR DEVELOPMENTAL DEFORMITY OR DISORDER.**

“(a) REQUIREMENTS FOR TREATMENT FOR CHILDREN WITH DEFORMITIES.—

“(1) IN GENERAL.—A group health plan, and a health insurance issuer offering group health insurance coverage, that provides coverage for surgical benefits shall provide coverage for outpatient and inpatient diagnosis and treatment of a minor child's congenital or developmental deformity, disease, or injury. A minor child shall include any individual who is 21 years of age or younger.

“(2) TREATMENT DEFINED.—

“(A) IN GENERAL.—In this section, the term ‘treatment’ includes reconstructive surgical procedures (procedures that are generally performed to improve function, but may also be performed to approximate a normal appearance) that are performed on abnormal structures of the body caused by congenital defects, developmental abnormalities, trauma, infection, tumors, or disease, including—

“(i) procedures that do not materially affect the function of the body part being treated; and

“(ii) procedures for secondary conditions and follow-up treatment.

“(B) EXCEPTION.—Such term does not include cosmetic surgery performed to reshape normal structures of the body to improve appearance or self-esteem.

“(b) NOTICE.—A group health plan under this part shall comply with the notice requirement under section 715(b) of the Employee Retirement Income Security Act of 1974 with respect to the requirements of this section as if such section applied to such plan.”.

(2) INDIVIDUAL HEALTH INSURANCE.—Subpart 2 of part B of title XXVII of the Public Health Service Act, as amended by section 161(b), is further amended by adding at the end the following new section:

**“SEC. 2755. STANDARDS RELATING TO BENEFITS FOR MINOR CHILD'S CONGENITAL OR DEVELOPMENTAL DEFORMITY OR DISORDER.**

“The provisions of section 2708 shall apply to health insurance coverage offered by a health insurance issuer in the individual market in the same manner as such provisions apply to health insurance coverage offered by a health insurance issuer in connection with a group health plan in the small or large group market.”.

(3) CONFORMING AMENDMENTS.—

(A) Section 2723(c) of such Act (42 U.S.C. 300gg–23(c)) is amended by striking “section 2704” and inserting “sections 2704 and 2708”.

(B) Section 2762(b)(2) of such Act (42 U.S.C. 300gg–62(b)(2)) is amended by striking “section 2751” and inserting “sections 2751 and 2755”.

(d) EFFECTIVE DATES.—

(1) The amendments made by this section shall apply with respect to group health plans (and health insurance issuers offering group health insurance coverage) for plan years beginning on or after January 1, 2010.

(2) The amendment made by subsection (c)(2) shall apply with respect to health insurance coverage offered, sold, issued, renewed, in effect, or operated in the individual market on or after such date.

(e) COORDINATION.—Section 104(1) of the Health Insurance Portability and Accountability Act of 1996 is amended by striking “(and the amendments made by this subtitle and section 401)” and inserting “, part 7 of subtitle B of title I of the Employee Retirement Income Security Act of 1974, parts A and C of title XXVII of the Public Health

Service Act, and chapter 100 of the Internal Revenue Code of 1986”.

**SEC. 109. ELIMINATION OF LIFETIME LIMITS.**

(a) AMENDMENTS TO THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.—

(1) IN GENERAL.—Subpart B of part 7 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1185 et seq.), as amended by section 108, is amended by adding at the end the following:

**“SEC. 716. ELIMINATION OF LIFETIME AGGREGATE LIMITS.**

“(a) IN GENERAL.—A group health plan and a health insurance issuer providing health insurance coverage in connection with a group health plan, may not impose an aggregate dollar lifetime limit with respect to benefits payable under the plan or coverage.

“(b) DEFINITION.—In this section, the term ‘aggregate dollar lifetime limit’ means, with respect to benefits under a group health plan or health insurance coverage offered in connection with a group health plan, a dollar limitation on the total amount that may be paid with respect to such benefits under the plan or health insurance coverage with respect to an individual or other coverage unit on a lifetime basis.”.

(2) CLERICAL AMENDMENT.—The table of contents in section 1 of such Act, is amended by inserting after the item relating to section 715 the following new item:

“Sec. 716. Elimination of lifetime aggregate limits.”.

(b) AMENDMENTS TO THE INTERNAL REVENUE CODE OF 1986.—

(1) IN GENERAL.—Subchapter B of chapter 100 of the Internal Revenue Code of 1986, as amended by section 108(b), is amended by adding at the end the following new section:

**“SEC. 9815. ELIMINATION OF LIFETIME AGGREGATE LIMITS.**

“(a) IN GENERAL.—A group health plan may not impose an aggregate dollar lifetime limit with respect to benefits payable under the plan.

“(b) DEFINITION.—In this section, the term ‘aggregate dollar lifetime limit’ means, with respect to benefits under a group health plan a dollar limitation on the total amount that may be paid with respect to such benefits under the plan with respect to an individual or other coverage unit on a lifetime basis.”.

(2) CLERICAL AMENDMENT.—The table of contents for subchapter B of chapter 100 of such Code, as amended by section 108(b), is amended by adding at the end the following new item:

“Sec. 9815. Standards relating to benefits for minor child’s congenital or developmental deformity or disorder.”.

(c) AMENDMENT TO THE PUBLIC HEALTH SERVICE ACT RELATING TO THE GROUP MARKET.—

(1) IN GENERAL.—Subpart 2 of part A of title XXVII of the Public Health Service Act (42 U.S.C. 300gg–4 et seq.) as amended by section 108(c)(1), is amended by adding at the end the following:

**“SEC. 2709. ELIMINATION OF LIFETIME AGGREGATE LIMITS.**

“(a) IN GENERAL.—A group health plan and a health insurance issuer providing health insurance coverage in connection with a group health plan, may not impose an aggregate dollar lifetime limit with respect to benefits payable under the plan or coverage.

“(b) DEFINITION.—In this section, the term ‘aggregate dollar lifetime limit’ means, with respect to benefits under a group health plan or health insurance coverage, a dollar limitation on the total amount that may be paid

with respect to such benefits under the plan or health insurance coverage with respect to an individual or other coverage unit on a lifetime basis.”.

(2) INDIVIDUAL MARKET.—Subpart 2 of part B of title XXVII of the Public Health Service Act (42 U.S.C. 300gg–51 et seq.), as amended by section 108(c)(2), is amended by adding at the end the following:

**“SEC. 2756. ELIMINATION OF LIFETIME AGGREGATE LIMITS.**

“The provisions of section 2709 shall apply to health insurance coverage offered by a health insurance issuer in the individual market in the same manner as they apply to health insurance coverage offered by a health insurance issuer in connection with a group health plan in the small or large group market.”.

(d) EFFECTIVE DATES.—

(1) The amendments made by this section shall apply with respect to group health plans (and health insurance issuers offering group health insurance coverage) for plan years beginning on or after January 1, 2010.

(2) The amendment made by subsection (c)(2) shall apply with respect to health insurance coverage offered, sold, issued, renewed, in effect, or operated in the individual market on or after such date.

**SEC. 110. PROHIBITION AGAINST POSTRETIREMENT REDUCTIONS OF RETIREE HEALTH BENEFITS BY GROUP HEALTH PLANS.**

(a) IN GENERAL.—Part 7 of subtitle B of title I of the Employee Retirement Income Security Act of 1974, as amended by sections 108 and 109, is amended by inserting after section 716 the following new section:

**“SEC. 717. PROTECTION AGAINST POSTRETIREMENT REDUCTION OF RETIREE HEALTH BENEFITS.**

“(a) IN GENERAL.—Every group health plan shall contain a provision which expressly bars the plan, or any fiduciary of the plan, from reducing the benefits provided under the plan to a retired participant, or beneficiary of such participant, if such reduction affects the benefits provided to the participant or beneficiary as of the date the participant retired for purposes of the plan and such reduction occurs after the participant’s retirement unless such reduction is also made with respect to active participants. Nothing in this section shall prohibit a plan from enforcing a total aggregate cap on amounts paid for retiree health coverage that is part of the plan at the time of retirement.

“(b) NO REDUCTION.—Notwithstanding that a group health plan may contain a provision reserving the general power to amend or terminate the plan or a provision specifically authorizing the plan to make post-retirement reductions in retiree health benefits, it shall be prohibited for any group health plan, whether through amendment or otherwise, to reduce the benefits provided to a retired participant or the participant’s beneficiary under the terms of the plan if such reduction of benefits occurs after the date the participant retired for purposes of the plan and reduces benefits that were provided to the participant, or the participant’s beneficiary, as of the date the participant retired unless such reduction is also made with respect to active participants.

“(c) REDUCTION DESCRIBED.—For purposes of this section, a reduction in benefits—

“(1) with respect to premiums occurs under a group health plan when a participant’s (or beneficiary’s) share of the total premium (or, in the case of a self-insured plan, the costs of coverage) of the plan substantially increases; or

“(2) with respect to other cost-sharing and benefits under a group health plan occurs when there is a substantial decrease in the actuarial value of the benefit package under the plan.

For purposes of this section, the term ‘substantial’ means an increase in the total premium share or a decrease in the actuarial value of the benefit package that is greater than 5 percent.”.

(b) CONFORMING AMENDMENT.—The table of contents in section 1 of such Act, as amended by sections 108 and 109, is amended by inserting after the item relating to section 716 the following new item:

“Sec. 717. Protection against postretirement reduction of retiree health benefits.”.

(c) WAIVER.—An employer may, in a form and manner which shall be prescribed by the Secretary of Labor, apply for a waiver from this provision if the employer can reasonably demonstrate that meeting the requirements of this section would impose an undue hardship on the employer.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

**SEC. 111. REINSURANCE PROGRAM FOR RETIREES.**

(a) ESTABLISHMENT.—

(1) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Health and Human Services shall establish a temporary reinsurance program (in this section referred to as the “reinsurance program”) to provide reimbursement to assist participating employment-based plans with the cost of providing health benefits to retirees and to eligible spouses, surviving spouses and dependents of such retirees.

(2) DEFINITIONS.—For purposes of this section:

(A) The term “eligible employment-based plan” means a group health plan or employment-based health plan that—

(i) is —

(I) maintained by one or more employers (including without limitation any State or political subdivision thereof, or any agency or instrumentality of any of the foregoing), former employers or employee organizations or associations, or a voluntary employees’ beneficiary association, or a committee or board of individuals appointed to administer such plan; or

(II) a multiemployer plan (as defined in section 3(37) of the Employee Retirement Income Security Act of 1974); and

(ii) provides health benefits to retirees.

(B) The term “health benefits” means medical, surgical, hospital, prescription drug, and such other benefits as shall be determined by the Secretary, whether self-funded or delivered through the purchase of insurance or otherwise.

(C) The term “participating employment-based plan” means an eligible employment-based plan that is participating in the reinsurance program.

(D) The term “retiree” means, with respect to a participating employment-benefit plan, an individual who—

(i) is 55 years of age or older;

(ii) is not eligible for coverage under title XVIII of the Social Security Act; and

(iii) is not an active employee of an employer maintaining the plan or of any employer that makes or has made substantial contributions to fund such plan.

(E) The term “Secretary” means Secretary of Health and Human Services.

(b) **PARTICIPATION.**—To be eligible to participate in the reinsurance program, an eligible employment-based plan shall submit to the Secretary an application for participation in the program, at such time, in such manner, and containing such information as the Secretary shall require.

(c) **PAYMENT.**—

(1) **SUBMISSION OF CLAIMS.**—

(A) **IN GENERAL.**—Under the reinsurance program, a participating employment-based plan shall submit claims for reimbursement to the Secretary which shall contain documentation of the actual costs of the items and services for which each claim is being submitted.

(B) **BASIS FOR CLAIMS.**—Each claim submitted under subparagraph (A) shall be based on the actual amount expended by the participating employment-based plan involved within the plan year for the appropriate employment-based health benefits provided to a retiree or to the spouse, surviving spouse, or dependent of a retiree. In determining the amount of any claim for purposes of this subsection, the participating employment-based plan shall take into account any negotiated price concessions (such as discounts, direct or indirect subsidies, rebates, and direct or indirect remunerations) obtained by such plan with respect to such health benefits. For purposes of calculating the amount of any claim, the costs paid by the retiree or by the spouse, surviving spouse, or dependent of the retiree in the form of deductibles, copayments, and coinsurance shall be included along with the amounts paid by the participating employment-based plan.

(2) **PROGRAM PAYMENTS AND LIMIT.**—If the Secretary determines that a participating employment-based plan has submitted a valid claim under paragraph (1), the Secretary shall reimburse such plan for 80 percent of that portion of the costs attributable to such claim that exceeds \$15,000, but is less than \$90,000. Such amounts shall be adjusted each year based on the percentage increase in the medical care component of the Consumer Price Index (rounded to the nearest multiple of \$1,000) for the year involved.

(3) **USE OF PAYMENTS.**—Amounts paid to a participating employment-based plan under this subsection shall only be used to reduce the costs of health care provided by the plan by reducing premium costs for the employer or employee association maintaining the plan, and reducing premium contributions, deductibles, copayments, coinsurance, or other out-of-pocket costs for plan participants and beneficiaries. Where the benefits are provided by an employer to members of a represented bargaining unit, the allocation of payments among these purposes shall be subject to collective bargaining. Amounts paid to the plan under this subsection shall not be used as general revenues by the employer or employee association maintaining the plan or for any other purposes. The Secretary shall develop a mechanism to monitor the appropriate use of such payments by such plans.

(4) **APPEALS AND PROGRAM PROTECTIONS.**—The Secretary shall establish—

(A) an appeals process to permit participating employment-based plans to appeal a determination of the Secretary with respect to claims submitted under this section; and

(B) procedures to protect against fraud, waste, and abuse under the program.

(5) **AUDITS.**—The Secretary shall conduct annual audits of claims data submitted by participating employment-based plans under this section to ensure that they are in compliance with the requirements of this section.

(d) **RETIREE RESERVE TRUST FUND.**—

(1) **ESTABLISHMENT.**—

(A) **IN GENERAL.**—There is established in the Treasury of the United States a trust fund to be known as the “Retiree Reserve Trust Fund” (referred to in this section as the “Trust Fund”), that shall consist of such amounts as may be appropriated or credited to the Trust Fund as provided for in this subsection to enable the Secretary to carry out the reinsurance program. Such amounts shall remain available until expended.

(B) **FUNDING.**—There are hereby appropriated to the Trust Fund, out of any moneys in the Treasury not otherwise appropriated, an amount requested by the Secretary as necessary to carry out this section, except that the total of all such amounts requested shall not exceed \$10,000,000,000.

(C) **APPROPRIATIONS FROM THE TRUST FUND.**—

(i) **IN GENERAL.**—Amounts in the Trust Fund are appropriated to provide funding to carry out the reinsurance program and shall be used to carry out such program.

(ii) **LIMITATION TO AVAILABLE FUNDS.**—The Secretary has the authority to stop taking applications for participation in the program or take such other steps in reducing expenditures under the reinsurance program in order to ensure that expenditures under the reinsurance program do not exceed the funds available under this subsection.

#### **SEC. 112. WELLNESS PROGRAM GRANTS.**

(a) **ALLOWANCE OF GRANT.**—

(1) **IN GENERAL.**—For purposes of this section, the Secretaries of Health and Human Services and Labor shall jointly award wellness grants as determined under this section. Wellness program grants shall be awarded to small employers (as defined by the Secretary) for any plan year in an amount equal to 50 percent of the costs paid or incurred by such employers in connection with a qualified wellness program during the plan year. For purposes of the preceding sentence, in the case of any qualified wellness program offered as part of an employment-based health plan, only costs attributable to the qualified wellness program and not to the health plan, or health insurance coverage offered in connection with such a plan, may be taken into account.

(2) **LIMITATIONS.**—

(A) **PERIOD.**—A wellness grant awarded to an employer under this section shall be for up to 3 years.

(B) **AMOUNT.**—The amount of the grant under paragraph (1) for an employer shall not exceed—

(i) the product of \$150 and the number of employees of the employer for any plan year; and

(ii) \$50,000 for the entire period of the grant.

(b) **QUALIFIED WELLNESS PROGRAM.**—For purposes of this section:

(1) **QUALIFIED WELLNESS PROGRAM.**—The term “qualified wellness program” means a program that—

(A) includes any 3 wellness components described in subsection (c); and

(B) is to be certified jointly by the Secretary of Health and Human Services and the Secretary of Labor, in coordination with the Director of the Centers for Disease Control and Prevention, as a qualified wellness program under this section.

(2) **PROGRAMS MUST BE CONSISTENT WITH RESEARCH AND BEST PRACTICES.**—

(A) **IN GENERAL.**—The Secretary of Health and Human Services and the Secretary of Labor shall not certify a program as a qualified wellness program unless the program—

(i) is consistent with evidence-based research and best practices, as identified by persons with expertise in employer health promotion and wellness programs;

(ii) includes multiple, evidence-based strategies which are based on the existing and emerging research and careful scientific reviews, including the Guide to Community Preventative Services, the Guide to Clinical Preventative Services, and the National Registry for Effective Programs, and

(iii) includes strategies which focus on prevention and support for employee populations at risk of poor health outcomes.

(B) **PERIODIC UPDATING AND REVIEW.**—The Secretaries of Health and Human Services and Labor, in consultation with other appropriate agencies shall jointly establish procedures for periodic review, evaluation, and update of the programs under this subsection.

(3) **HEALTH LITERACY AND ACCESSIBILITY.**—The Secretaries of Health and Human Services and Labor shall jointly, as part of the certification process—

(A) ensure that employers make the programs culturally competent, physically and programmatically accessible (including for individuals with disabilities), and appropriate to the health literacy needs of the employees covered by the programs;

(B) require a health literacy component to provide special assistance and materials to employees with low literacy skills, limited English and from underserved populations; and

(C) require the Secretaries to compile and disseminate to employer health plans information on model health literacy curricula, instructional programs, and effective intervention strategies.

(c) **WELLNESS PROGRAM COMPONENTS.**—For purposes of this section, the wellness program components described in this subsection are the following:

(1) **HEALTH AWARENESS COMPONENT.**—A health awareness component which provides for the following:

(A) **HEALTH EDUCATION.**—The dissemination of health information which addresses the specific needs and health risks of employees.

(B) **HEALTH SCREENINGS.**—The opportunity for periodic screenings for health problems and referrals for appropriate follow-up measures.

(2) **EMPLOYEE ENGAGEMENT COMPONENT.**—An employee engagement component which provides for the active engagement of employees in worksite wellness programs through worksite assessments and program planning, onsite delivery, evaluation, and improvement efforts.

(3) **BEHAVIORAL CHANGE COMPONENT.**—A behavioral change component which encourages healthy living through counseling, seminars, on-line programs, self-help materials, or other programs which provide technical assistance and problem solving skills. Such component may include programs relating to—

- (A) tobacco use;
- (B) obesity;
- (C) stress management;
- (D) physical fitness;
- (E) nutrition;
- (F) substance abuse;
- (G) depression; and
- (H) mental health promotion.

(4) **SUPPORTIVE ENVIRONMENT COMPONENT.**—A supportive environment component which includes the following:

(A) **ON-SITE POLICIES.**—Policies and services at the worksite which promote a healthy lifestyle, including policies relating to—

- (i) tobacco use at the worksite;

(ii) the nutrition of food available at the worksite through cafeterias and vending options;

(iii) minimizing stress and promoting positive mental health in the workplace; and

(iv) the encouragement of physical activity before, during, and after work hours.

(d) **PARTICIPATION REQUIREMENT.**—No grant shall be allowed under subsection (a) unless the Secretaries of Health and Human Services and Labor, in consultation with other appropriate agencies, jointly certify, as a part of any certification described in subsection (b), that each wellness program component of the qualified wellness program—

(1) shall be available to all employees of the employer;

(2) shall not mandate participation by employees; and

(3) may provide a financial reward for participation of an individual in such program so long as such reward is not tied to the premium or cost-sharing of the individual under the health benefits plan.

(e) **PRIVACY PROTECTIONS.**—Data gathered for purposes of the employer wellness program may be used solely for the purposes of administering the program. The Secretaries of Health and Human Services and Labor shall develop standards to ensure such data remain confidential and are not used for purposes beyond those for administering the program.

(f) **CERTAIN COSTS NOT INCLUDED.**—For purposes of this section, costs paid or incurred by an employer for food or health insurance shall not be taken into account under subsection (a).

(g) **OUTREACH.**—The Secretaries of Health and Human Services and Labor, in conjunction with other appropriate agencies and members of the business community, shall jointly institute an outreach program to inform businesses about the availability of the wellness program grant as well as to educate businesses on how to develop programs according to recognized and promising practices and on how to measure the success of implemented programs.

(h) **EFFECTIVE DATE.**—This section shall take effect on July 1, 2010.

(i) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated such sums as are necessary to carry out this section.

#### **SEC. 113. EXTENSION OF COBRA CONTINUATION COVERAGE.**

(a) **EXTENSION OF CURRENT PERIODS OF CONTINUATION COVERAGE.**—

(1) **IN GENERAL.**—In the case of any individual who is, under a COBRA continuation coverage provision, covered under COBRA continuation coverage on or after the date of the enactment of this Act, the required period of any such coverage which has not subsequently terminated under the terms of such provision for any reason other than the expiration of a period of a specified number of months shall, notwithstanding such provision and subject to subsection (b), extend to the earlier of the date on which such individual becomes eligible for acceptable coverage or the date on which such individual becomes eligible for health insurance coverage through the Health Insurance Exchange (or a State-based Health Insurance Exchange operating in a State or group of States).

(2) **NOTICE.**—As soon as practicable after the date of the enactment of this Act, the Secretary of Labor, in consultation with the Secretary of the Treasury and the Secretary of Health and Human Services, shall, in consultation with administrators of the group

health plans (or other entities) that provide or administer the COBRA continuation coverage involved, provide rules setting forth the form and manner in which prompt notice to individuals of the continued availability of COBRA continuation coverage to such individuals under paragraph (1).

(b) **CONTINUED EFFECT OF OTHER TERMINATING EVENTS.**—Notwithstanding subsection (a), any required period of COBRA continuation coverage which is extended under such subsection shall terminate upon the occurrence, prior to the date of termination otherwise provided in such subsection, of any terminating event specified in the applicable continuation coverage provision other than the expiration of a period of a specified number of months.

(c) **ACCESS TO STATE HEALTH BENEFITS RISK POOLS.**—This section shall supersede any provision of the law of a State or political subdivision thereof to the extent that such provision has the effect of limiting or precluding access by a qualified beneficiary whose COBRA continuation coverage has been extended under this section to a State health benefits risk pool recognized by the Commissioner for purposes of this section solely by reason of the extension of such coverage beyond the date on which such coverage otherwise would have expired.

(d) **DEFINITIONS.**—For purposes of this section—

(1) **COBRA CONTINUATION COVERAGE.**—The term “COBRA continuation coverage” means continuation coverage provided pursuant to part 6 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 (other than under section 609), title XXII of the Public Health Service Act, section 4980B of the Internal Revenue Code of 1986 (other than subsection (f)(1) of such section insofar as it relates to pediatric vaccines), or section 905a of title 5, United States Code, or under a State program that provides comparable continuation coverage. Such term does not include coverage under a health flexible spending arrangement under a cafeteria plan within the meaning of section 125 of the Internal Revenue Code of 1986.

(2) **COBRA CONTINUATION PROVISION.**—The term “COBRA continuation provision” means the provisions of law described in paragraph (1).

#### **SEC. 114. STATE HEALTH ACCESS PROGRAM GRANTS.**

(a) **IN GENERAL.**—The Secretary of Health and Human Services (in this section referred to as the “Secretary”) shall provide grants to States (as defined for purposes of title XIX of the Social Security Act) to establish programs to expand access to affordable health care coverage for the uninsured populations in that State in a manner consistent with reforms to take effect under this division in Y1.

(b) **TYPES OF PROGRAMS.**—The types of programs for which grants are available under subsection (a) include the following:

(1) **STATE INSURANCE EXCHANGES.**—State insurance exchanges that develop new, less expensive, portable benefit packages for small employers and part-time and seasonal workers.

(2) **COMMUNITY COVERAGE PROGRAM.**—Community coverage with shared responsibility between employers, governmental or non-profit entity, and the individual.

(3) **REINSURANCE PLAN PROGRAM.**—Reinsurance plans that subsidize a certain share of carrier losses within a certain risk corridor health insurance premium assistance.

(4) **TRANSPARENT MARKETPLACE PROGRAM.**—Transparent marketplace that provides an

organized structure for the sale of insurance products such as a Web exchange or portal.

(5) **AUTOMATED ENROLLMENT PROGRAM.**—Statewide or automated enrollment systems for public assistance programs.

(6) **INNOVATIVE STRATEGIES.**—Innovative strategies to insure low-income childless adults.

(7) **PURCHASING COLLABORATIVES.**—Not-for-profit business, consumer collaborative that provides direct contract health care service purchasing options for group plan sponsors.

(c) **ELIGIBILITY AND ADMINISTRATION.**—

(1) **IMPLEMENTATION OF KEY STATUTORY OR REGULATORY CHANGES.**—In order to be awarded a grant under this section for a program, a State shall demonstrate that—

(A) it has achieved the key State and local statutory or regulatory changes required to begin implementing the new program within 1 year after the initiation of funding under the grant; and

(B) it will be able to sustain the program without Federal funding after the end of the period of the grant.

(2) **INELIGIBILITY.**—A State that has already developed a comprehensive health insurance access program is not eligible for a grant under this section.

(3) **APPLICATION REQUIRED.**—No State shall receive a grant under this section unless the State has approved by the Secretary such an application, in such form and manner as the Secretary specifies.

(4) **ADMINISTRATION BASED ON CURRENT PROGRAM.**—The program under this section is intended to build on the State Health Access Program funded under the Omnibus Appropriations Act, 2009 (Public Law 111-8).

(d) **FUNDING LIMITATIONS.**—

(1) **IN GENERAL.**—A grant under this section shall—

(A) only be available for expenditures before Y1; and

(B) only be used to supplement, and not supplant, funds otherwise provided.

(2) **MATCHING FUND REQUIREMENT.**—

(A) **IN GENERAL.**—Subject to subparagraph (B), no grant may be awarded to a State unless the State demonstrates the seriousness of its effort by matching at least 20 percent of the grant amount through non-Federal resources, which may be a combination of State, local, private dollars from insurers, providers, and other private organizations.

(B) **WAIVER.**—The Secretary may waive the requirement of subparagraph (A) if the State demonstrates to the Secretary financial hardship in complying with such requirement.

(e) **STUDY.**—The Secretary shall review, study, and benchmark the progress and results of the programs funded under this section.

(f) **REPORT.**—Each State receiving a grant under this section shall submit to the Secretary a report on best practices and lessons learned through the grant to inform the health reform coverage expansions under this division beginning in Y1.

(g) **FUNDING.**—There are authorized to be appropriated such sums as may be necessary to carry out this section.

#### **SEC. 115. ADMINISTRATIVE SIMPLIFICATION.**

(a) **STANDARDIZING ELECTRONIC ADMINISTRATIVE TRANSACTIONS.**—

(1) **IN GENERAL.**—Part C of title XI of the Social Security Act (42 U.S.C. 1320d et seq.) is amended by inserting after section 1173 the following new sections:

#### **“SEC. 1173A. STANDARDIZE ELECTRONIC ADMINISTRATIVE TRANSACTIONS.**

“(a) **STANDARDS FOR FINANCIAL AND ADMINISTRATIVE TRANSACTIONS.**—



“(1) IN GENERAL.—The Secretary shall adopt and regularly update standards consistent with the goals described in paragraph (2).

“(2) GOALS FOR FINANCIAL AND ADMINISTRATIVE TRANSACTIONS.—The goals for standards under paragraph (1) are that such standards shall, to the extent practicable—

“(A) be unique with no conflicting or redundant standards;

“(B) be authoritative, permitting no additions or constraints for electronic transactions, including companion guides;

“(C) be comprehensive, efficient and robust, requiring minimal augmentation by paper transactions or clarification by further communications;

“(D) enable the real-time (or near real-time) determination of an individual's financial responsibility at the point of service and, to the extent possible, prior to service, including whether the individual is eligible for a specific service with a specific physician at a specific facility, on a specific date or range of dates, include utilization of a machine-readable health plan beneficiary identification card or similar mechanism;

“(E) enable, where feasible, near real-time adjudication of claims;

“(F) provide for timely acknowledgment, response, and status reporting applicable to any electronic transaction deemed appropriate by the Secretary;

“(G) describe all data elements (such as reason and remark codes) in unambiguous terms, not permit optional fields, require that data elements be either required or conditioned upon set values in other fields, and prohibit additional conditions except where required by (or to implement) State or Federal law or to protect against fraud and abuse; and

“(H) harmonize all common data elements across administrative and clinical transaction standards.

“(3) TIME FOR ADOPTION.—Not later than 2 years after the date of the enactment of this section, the Secretary shall adopt standards under this section by interim, final rule.

“(4) REQUIREMENTS FOR SPECIFIC STANDARDS.—The standards under this section shall be developed, adopted, and enforced so as to—

“(A) clarify, refine, complete, and expand, as needed, the standards required under section 1173;

“(B) require paper versions of standardized transactions to comply with the same standards as to data content such that a fully compliant, equivalent electronic transaction can be populated from the data from a paper version;

“(C) enable electronic funds transfers, in order to allow automated reconciliation with the related health care payment and remittance advice;

“(D) require timely and transparent claim and denial management processes, including uniform claim edits, uniform reason and remark denial codes, tracking, adjudication, and appeal processing;

“(E) require the use of a standard electronic transaction with which health care providers may quickly and efficiently enroll with a health plan to conduct the other electronic transactions provided for in this part; and

“(F) provide for other requirements relating to administrative simplification as identified by the Secretary, in consultation with stakeholders.

“(5) BUILDING ON EXISTING STANDARDS.—In adopting the standards under this section, the Secretary shall consider existing and planned standards.

“(6) IMPLEMENTATION AND ENFORCEMENT.—Not later than 6 months after the date of the enactment of this section, the Secretary shall submit to the appropriate committees of Congress a plan for the implementation and enforcement, by not later than 5 years after such date of enactment, of the standards under this section. Such plan shall include—

“(A) a process and timeframe with milestones for developing the complete set of standards;

“(B) a proposal for accommodating necessary changes between version changes and a process for upgrading standards as often as annually by interim, final rulemaking;

“(C) programs to provide incentives for, and ease the burden of, implementation for certain health care providers, with special consideration given to such providers serving rural or underserved areas and ensure coordination with standards, implementation specifications, and certification criteria being adopted under the HITECH Act;

“(D) programs to provide incentives for, and ease the burden of, health care providers who volunteer to participate in the process of setting standards for electronic transactions;

“(E) an estimate of total funds needed to ensure timely completion of the implementation plan; and

“(F) an enforcement process that includes timely investigation of complaints, random audits to ensure compliance, civil monetary and programmatic penalties for noncompliance consistent with existing laws and regulations, and a fair and reasonable appeals process building off of enforcement provisions under this part, and concurrent State enforcement jurisdiction.

The Secretary may promulgate an annual audit and certification process to ensure that all health plans and clearinghouses are both syntactically and functionally compliant with all the standard transactions mandated pursuant to the administrative simplification provisions of this part and the Health Insurance Portability and Accountability Act of 1996.

“(b) LIMITATIONS ON USE OF DATA.—Nothing in this section shall be construed to permit the use of information collected under this section in a manner that would violate State or Federal law.

“(c) PROTECTION OF DATA.—The Secretary shall ensure (through the promulgation of regulations or otherwise) that all data collected pursuant to subsection (a) are used and disclosed in a manner that meets the HIPAA privacy and security law (as defined in section 3009(a)(2) of the Public Health Service Act), including any privacy or security standard adopted under section 3004 of such Act.

#### “SEC. 1173B. INTERIM COMPANION GUIDES, INCLUDING OPERATING RULES.

“(a) IN GENERAL.—The Secretary shall adopt a single, binding, comprehensive companion guide, that includes operating rules for each X12 Version 5010 transaction described in section 1173(a)(2), to be effective until the new version of these transactions which comply with section 1173A are adopted and implemented.

“(b) COMPANION GUIDE AND OPERATING RULES DEVELOPMENT.—In adopting such interim companion guide and rules, the Secretary shall comply with section 1172, except that a nonprofit entity that meets the following criteria shall also be consulted:

“(1) The entity focuses its mission on administrative simplification.

“(2) The entity uses a multistakeholder process that creates consensus-based com-

panion guides, including operating rules using a voting process that ensures balanced representation by the critical stakeholders (including health plans and health care providers) so that no one group dominates the entity and shall include others such as standards development organizations, and relevant Federal or State agencies.

“(3) The entity has in place a public set of guiding principles that ensure the companion guide and operating rules and process are open and transparent.

“(4) The entity coordinates its activities with the HIT Policy Committee, and the HIT Standards Committee (established under title XXX of the Public Health Service Act) and complements the efforts of the Office of the National Healthcare Coordinator and its related health information exchange goals.

“(5) The entity incorporates the standards issued under Health Insurance Portability and Accountability Act of 1996 and this part, and in developing the companion guide and operating rules does not change the definition, data condition or use of a data element or segment in a standard, add any elements or segments to the maximum defined data set, use any codes or data elements that are either marked ‘not used’ in the standard's implementation specifications or are not in the standard's implementation specifications, or change the meaning or intent of the standard's implementation specifications.

“(6) The entity uses existing market research and proven best practices.

“(7) The entity has a set of measures that allow for the evaluation of their market impact and public reporting of aggregate stakeholder impact.

“(8) The entity supports nondiscrimination and conflict of interest policies that demonstrate a commitment to open, fair, and nondiscriminatory practices.

“(9) The entity allows for public reviews and comment on updates of the companion guide, including the operating rules.

“(c) IMPLEMENTATION.—The Secretary shall adopt a single, binding companion guide, including operating rules under this section, for each transaction, to become effective with the X12 Version 5010 transaction implementation, or as soon thereafter as feasible. The companion guide, including operating rules for the transactions for eligibility for health plan and health claims status under this section shall be adopted not later than October 1, 2011, in a manner such that such set of rules is effective beginning not later than January 1, 2013. The companion guide, including operating rules for the remainder of the transactions described in section 1173(a)(2) shall be adopted not later than October 1, 2012, in a manner such that such set of rules is effective beginning not later than January 1, 2014.”

(2) DEFINITIONS.—Section 1171 of such Act (42 U.S.C. 1320d) is amended—

(A) in paragraph (1), by inserting “, and associated operational guidelines and instructions, as determined appropriate by the Secretary” after “medical procedure codes”; and

(B) by adding at the end the following new paragraph:

“(10) OPERATING RULES.—The term ‘operating rules’ means business rules for using and processing transactions, such as service level requirements, which do not impact the implementation specifications or other data content requirements.”

(3) CONFORMING AMENDMENT.—Section 1179(a) of such Act (42 U.S.C. 1320d–8(a)) is amended, in the matter before paragraph (1)—

(A) by inserting “on behalf of an individual” after “1978””; and



(B) by inserting “on behalf of an individual” after “for a financial institution” and

(b) STANDARDS FOR CLAIMS ATTACHMENTS AND COORDINATION OF BENEFITS.—

(1) STANDARD FOR HEALTH CLAIMS ATTACHMENTS.—Not later than 1 year after the date of the enactment of this Act, the Secretary of Health and Human Services shall promulgate an interim, final rule to establish a standard for health claims attachment transaction described in section 1173(a)(2)(B) of the Social Security Act (42 U.S.C. 1320d-2(a)(2)(B)) and coordination of benefits.

(2) REVISION IN PROCESSING PAYMENT TRANSACTIONS BY FINANCIAL INSTITUTIONS.—

(A) IN GENERAL.—Section 1179 of the Social Security Act (42 U.S.C. 1320d-8) is amended, in the matter before paragraph (1)—

(i) by striking “or is engaged” and inserting “and is engaged”; and

(ii) by inserting “(other than as a business associate for a covered entity)” after “for a financial institution”.

(B) COMPLIANCE DATE.—The amendments made by subparagraph (A) shall apply to transactions occurring on or after such date (not later than January 1, 2014) as the Secretary of Health and Human Services shall specify.

(C) STANDARDS FOR FIRST REPORT OF INJURY.—Not later than January 1, 2014, the Secretary of Health and Human Services shall promulgate an interim final rule to establish a standard for the first report of injury transaction described in section 1173(a)(2)(G) of the Social Security Act (42 U.S.C. 1320d-2(a)(2)(G)).

(d) UNIQUE HEALTH PLAN IDENTIFIER.—Not later October 1, 2012, the Secretary of Health and Human Services shall promulgate an interim final rule to establish a unique health plan identifier described in section 1173(b) of the Social Security Act (42 U.S.C. 1320d-2(b)) based on the input of the National Committee of Vital and Health Statistics and consultation with health plans, health care providers, and other interested parties.

(e) EXPANSION OF ELECTRONIC TRANSACTIONS IN MEDICARE.—Section 1862(a) of the Social Security Act (42 U.S.C. 1395y(a)) is amended—

(1) in paragraph (23), by striking “or” at the end;

(2) in paragraph (24), by striking the period and inserting “; or”; and

(3) by inserting after paragraph (24) the following new paragraph:

“(25) subject to subsection (h), not later than January 1, 2015, for which the payment is other than by electronic funds transfer (EFT) so long as the Secretary has adopted and implemented a standard for electronic funds transfer under section 1173A.”.

(f) EXPANSION OF PENALTIES.—Section 1176 of such Act (42 U.S.C. 1320d-5) is amended by adding at the end the following new subsection:

“(c) EXPANSION OF PENALTY AUTHORITY.—The Secretary may, in addition to the penalties provided under subsections (a) and (b), provide for the imposition of penalties for violations of this part that are comparable—

“(1) in the case of health plans, to the sanctions the Secretary is authorized to impose under part C or D of title XVIII in the case of a plan that violates a provision of such part; or

“(2) in the case of a health care provider, to the sanctions the Secretary is authorized to impose under part A, B, or D of title XVIII in the case of a health care provider that violates a provision of such part with respect to that provider.”.

## TITLE II—PROTECTIONS AND STANDARDS FOR QUALIFIED HEALTH BENEFITS PLANS

### Subtitle A—General Standards

#### SEC. 201. REQUIREMENTS REFORMING HEALTH INSURANCE MARKETPLACE.

(a) PURPOSE.—The purpose of this title is to establish standards to ensure that new health insurance coverage and employment-based health plans that are offered meet standards guaranteeing access to affordable coverage, essential benefits, and other consumer protections.

(b) REQUIREMENTS FOR QUALIFIED HEALTH BENEFITS PLANS.—On or after the first day of Y1, a health benefits plan shall not be a qualified health benefits plan under this division unless the plan meets the applicable requirements of the following subtitles for the type of plan and plan year involved:

(1) Subtitle B (relating to affordable coverage).

(2) Subtitle C (relating to essential benefits).

(3) Subtitle D (relating to consumer protection).

(c) TERMINOLOGY.—In this division:

(1) ENROLLMENT IN EMPLOYMENT-BASED HEALTH PLANS.—An individual shall be treated as being “enrolled” in an employment-based health plan if the individual is a participant or beneficiary (as such terms are defined in section 3(7) and 3(8), respectively, of the Employee Retirement Income Security Act of 1974) in such plan.

(2) INDIVIDUAL AND GROUP HEALTH INSURANCE COVERAGE.—The terms “individual health insurance coverage” and “group health insurance coverage” mean health insurance coverage offered in the individual market or large or small group market, respectively, as defined in section 2791 of the Public Health Service Act.

(d) TREATMENT OF QUALIFIED DIRECT PRIMARY CARE MEDICAL HOME PLANS.—The Commissioner may permit a qualified health benefits plan to provide coverage through a qualified direct primary care medical home plan so long as the qualified health benefits plan meets all requirements that are otherwise applicable and the services covered by the medical home plan are coordinated with the QHBP offering entity.

#### SEC. 202. PROTECTING THE CHOICE TO KEEP CURRENT COVERAGE.

(a) GRANDFATHERED HEALTH INSURANCE COVERAGE DEFINED.—Subject to the succeeding provisions of this section, for purposes of establishing acceptable coverage under this division, the term “grandfathered health insurance coverage” means individual health insurance coverage that is offered and in force and effect before the first day of Y1 if the following conditions are met:

(1) LIMITATION ON NEW ENROLLMENT.—

(A) IN GENERAL.—Except as provided in this paragraph, the individual health insurance issuer offering such coverage does not enroll any individual in such coverage if the first effective date of coverage is on or after the first day of Y1.

(B) DEPENDENT COVERAGE PERMITTED.—Subparagraph (A) shall not affect the subsequent enrollment of a dependent of an individual who is covered as of such first day.

(2) LIMITATION ON CHANGES IN TERMS OR CONDITIONS.—Subject to paragraph (3) and except as required by law, the issuer does not change any of its terms or conditions, including benefits and cost-sharing, from those in effect as of the day before the first day of Y1.

(3) RESTRICTIONS ON PREMIUM INCREASES.—The issuer cannot vary the percentage in-

crease in the premium for a risk group of enrollees in specific grandfathered health insurance coverage without changing the premium for all enrollees in the same risk group at the same rate, as specified by the Commissioner.

(b) GRACE PERIOD FOR CURRENT EMPLOYMENT-BASED HEALTH PLANS.—

(1) GRACE PERIOD.—

(A) IN GENERAL.—The Commissioner shall establish a grace period whereby, for plan years beginning after the end of the 5-year period beginning with Y1, an employment-based health plan in operation as of the day before the first day of Y1 must meet the same requirements as apply to a qualified health benefits plan under section 201, including the essential benefit package requirement under section 221.

(B) EXCEPTION FOR LIMITED BENEFITS PLANS.—Subparagraph (A) shall not apply to an employment-based health plan in which the coverage consists only of one or more of the following:

(i) Any coverage described in section 3001(a)(1)(B)(ii)(IV) of division B of the American Recovery and Reinvestment Act of 2009 (Public Law 111-5).

(ii) Excepted benefits (as defined in section 733(c) of the Employee Retirement Income Security Act of 1974), including coverage under a specified disease or illness policy described in paragraph (3)(A) of such section.

(iii) Such other limited benefits as the Commissioner may specify.

In no case shall an employment-based health plan in which the coverage consists only of one or more of the coverage or benefits described in clauses (i) through (iii) be treated as acceptable coverage under this division.

(2) TRANSITIONAL TREATMENT AS ACCEPTABLE COVERAGE.—During the grace period specified in paragraph (1)(A), an employment-based health plan (which may be a high deductible health plan, as defined in section 223(c)(2) of the Internal Revenue Code of 1986) that is described in such paragraph shall be treated as acceptable coverage under this division.

(c) LIMITATION ON INDIVIDUAL HEALTH INSURANCE COVERAGE.—

(1) IN GENERAL.—Individual health insurance coverage that is not grandfathered health insurance coverage under subsection (a) may only be offered on or after the first day of Y1 as an Exchange-participating health benefits plan.

(2) SEPARATE, EXCEPTED COVERAGE PERMITTED.—Nothing in—

(A) paragraph (1) shall prevent the offering of excepted benefits described in section 2791(c) of the Public Health Service Act so long as such benefits are offered outside the Health Insurance Exchange and are priced separately from health insurance coverage; and

(B) this division shall be construed—

(i) to prevent the offering of a stand-alone plan that offers coverage of excepted benefits described in section 2791(c)(2)(A) of the Public Health Service Act (relating to limited scope dental or vision benefits) for individuals and families from a State-licensed dental and vision carrier; or

(ii) as applying requirements for a qualified health benefits plan to such a stand-alone plan that is offered and priced separately from a qualified health benefits plan.

### Subtitle B—Standards Guaranteeing Access to Affordable Coverage

#### SEC. 211. PROHIBITING PREEXISTING CONDITION EXCLUSIONS.

A qualified health benefits plan may not impose any preexisting condition exclusion

(as defined in section 2701(b)(1)(A) of the Public Health Service Act) or otherwise impose any limit or condition on the coverage under the plan with respect to an individual or dependent based on any of the following: health status, medical condition, claims experience, receipt of health care, medical history, genetic information, evidence of insurability, disability, or source of injury (including conditions arising out of acts of domestic violence) or any similar factors.

**SEC. 212. GUARANTEED ISSUE AND RENEWAL FOR INSURED PLANS AND PROHIBITING RESCISSIONS.**

The requirements of sections 2711 (other than subsections (e) and (f)) and 2712 (other than paragraphs (3), and (6) of subsection (b) and subsection (e)) of the Public Health Service Act, relating to guaranteed availability and renewability of health insurance coverage, shall apply to individuals and employers in all individual and group health insurance coverage, whether offered to individuals or employers through the Health Insurance Exchange, through any employment-based health plan, or otherwise, in the same manner as such sections apply to employers and health insurance coverage offered in the small group market, except that such section 2712(b)(1) shall apply only if, before nonrenewal or discontinuation of coverage, the issuer has provided the enrollee with notice of nonpayment of premiums and there is a grace period during which the enrollee has an opportunity to correct such nonpayment. Rescissions of such coverage shall be prohibited except in cases of fraud as defined in section 2712(b)(2) of such Act.

**SEC. 213. INSURANCE RATING RULES.**

(a) **IN GENERAL.**—The premium rate charged for a qualified health benefits plan that is health insurance coverage may not vary except as follows:

(1) **LIMITED AGE VARIATION PERMITTED.**—By age (within such age categories as the Commissioner shall specify) so long as the ratio of the highest such premium to the lowest such premium does not exceed the ratio of 2 to 1.

(2) **BY AREA.**—By premium rating area (as permitted by State insurance regulators or, in the case of Exchange-participating health benefits plans, as specified by the Commissioner in consultation with such regulators).

(3) **BY FAMILY ENROLLMENT.**—By family enrollment (such as variations within categories and compositions of families) so long as the ratio of the premium for family enrollment (or enrollments) to the premium for individual enrollment is uniform, as specified under State law and consistent with rules of the Commissioner.

(b) **ACTUARIAL VALUE OF OPTIONAL SERVICE COVERAGE.**—

(1) **IN GENERAL.**—The Commissioner shall estimate the basic per enrollee, per month cost, determined on an average actuarial basis, for including coverage under a basic plan of the services described in section 222(e)(4)(A).

(2) **CONSIDERATIONS.**—In making such estimate the Commissioner—

(A) may take into account the impact on overall costs of the inclusion of such coverage, but may not take into account any cost reduction estimated to result from such services, including prenatal care, delivery, or postnatal care;

(B) shall estimate such costs as if such coverage were included for the entire population covered; and

(C) may not estimate such a cost at less than \$1 per enrollee, per month.

(c) **STUDY AND REPORTS.**—

(1) **STUDY.**—The Commissioner, in coordination with the Secretary of Health and Human Services and the Secretary of Labor, shall conduct a study of the large-group-insured and self-insured employer health care markets. Such study shall examine the following:

(A) The types of employers by key characteristics, including size, that purchase insured products versus those that self-insure.

(B) The similarities and differences between typical insured and self-insured health plans.

(C) The financial solvency and capital reserve levels of employers that self-insure by employer size.

(D) The risk of self-insured employers not being able to pay obligations or otherwise becoming financially insolvent.

(E) The extent to which rating rules are likely to cause adverse selection in the large group market or to encourage small and midsize employers to self-insure.

(2) **REPORTS.**—Not later than 18 months after the date of the enactment of this Act, the Commissioner shall submit to Congress and the applicable agencies a report on the study conducted under paragraph (1). Such report shall include any recommendations the Commissioner deems appropriate to ensure that the law does not provide incentives for small and midsize employers to self-insure or create adverse selection in the risk pools of large group insurers and self-insured employers. Not later than 18 months after the first day of Y1, the Commissioner shall submit to Congress and the applicable agencies an updated report on such study, including updates on such recommendations.

**SEC. 214. NONDISCRIMINATION IN BENEFITS; PARITY IN MENTAL HEALTH AND SUBSTANCE ABUSE DISORDER BENEFITS.**

(a) **NONDISCRIMINATION IN BENEFITS.**—A qualified health benefits plan shall comply with standards established by the Commissioner to prohibit discrimination in health benefits or benefit structures for qualifying health benefits plans, building from section 702 of the Employee Retirement Income Security Act of 1974, section 2702 of the Public Health Service Act, and section 9802 of the Internal Revenue Code of 1986.

(b) **PARITY IN MENTAL HEALTH AND SUBSTANCE ABUSE DISORDER BENEFITS.**—To the extent such provisions are not superceded by or inconsistent with subtitle C, the provisions of section 2705 (other than subsections (a)(1), (a)(2), and (c)) of the Public Health Service Act shall apply to a qualified health benefits plan, regardless of whether it is offered in the individual or group market, in the same manner as such provisions apply to health insurance coverage offered in the large group market.

**SEC. 215. ENSURING ADEQUACY OF PROVIDER NETWORKS.**

(a) **IN GENERAL.**—A qualified health benefits plan that uses a provider network for items and services shall meet such standards respecting provider networks as the Commissioner may establish to assure the adequacy of such networks in ensuring enrollee access to such items and services and transparency in the cost-sharing differentials among providers participating in the network and policies for accessing out-of-network providers.

(b) **INTERNET ACCESS TO INFORMATION.**—A qualified health benefits plan that uses a provider network shall provide a current listing of all providers in its network on its Website and such data shall be available on the Health Insurance Exchange Website as a part of the basic information on that plan.

The Commissioner shall also establish an online system whereby an individual may select by name any medical provider (as defined by the Commissioner) and be informed of the plan or plans with which that provider is contracting.

(c) **PROVIDER NETWORK DEFINED.**—In this division, the term “provider network” means the providers with respect to which covered benefits, treatments, and services are available under a health benefits plan.

**SEC. 216. REQUIRING THE OPTION OF EXTENSION OF DEPENDENT COVERAGE FOR UNINSURED YOUNG ADULTS.**

(a) **IN GENERAL.**—A qualified health benefits plan shall make available, at the option of the principal enrollee under the plan, coverage for one or more qualified children (as defined in subsection (b)) of the enrollee.

(b) **QUALIFIED CHILD DEFINED.**—In this section, the term “qualified child” means, with respect to a principal enrollee in a qualified health benefits plan, an individual who (but for age) would be treated as a dependent child of the enrollee under such plan and who—

(1) is under 27 years of age; and

(2) is not enrolled in a health benefits plan other than under this section.

(c) **PREMIUMS.**—Nothing in this section shall be construed as preventing a qualified health benefits plan from increasing the premiums otherwise required for coverage provided under this section consistent with standards established by the Commissioner based upon family size under section 213(a)(3).

**SEC. 217. CONSISTENCY OF COSTS AND COVERAGE UNDER QUALIFIED HEALTH BENEFITS PLANS DURING PLAN YEAR.**

In the case of health insurance coverage offered under a qualified health benefits plan, if the coverage decreases or the cost-sharing increases, the issuer of the coverage shall notify enrollees of the change at least 90 days before the change takes effect (or such shorter period of time in cases where the change is necessary to ensure the health and safety of enrollees).

**Subtitle C—Standards Guaranteeing Access to Essential Benefits**

**SEC. 221. COVERAGE OF ESSENTIAL BENEFITS PACKAGE.**

(a) **IN GENERAL.**—A qualified health benefits plan shall provide coverage that at least meets the benefit standards adopted under section 224 for the essential benefits package described in section 222 for the plan year involved.

(b) **CHOICE OF COVERAGE.**—

(1) **NON-EXCHANGE-PARTICIPATING HEALTH BENEFITS PLANS.**—In the case of a qualified health benefits plan that is not an Exchange-participating health benefits plan, such plan may offer such coverage in addition to the essential benefits package as the QHBP offering entity may specify.

(2) **EXCHANGE-PARTICIPATING HEALTH BENEFITS PLANS.**—In the case of an Exchange-participating health benefits plan, such plan is required under section 203 to provide specified levels of benefits and, in the case of a plan offering a premium-plus level of benefits, provide additional benefits.

(3) **CONTINUATION OF OFFERING OF SEPARATE EXCEPTED BENEFITS COVERAGE.**—Nothing in this division shall be construed as affecting the offering outside of the Health Insurance Exchange and under State law of health benefits in the form of excepted benefits (described in section 202(b)(1)(B)(ii)) if such benefits are offered under a separate policy, contract, or certificate of insurance.

(c) **CLINICAL APPROPRIATENESS.**—Nothing in this Act shall be construed to prohibit a group health plan or health insurance issuer from using medical management practices so long as such management practices are based on valid medical evidence and are relevant to the patient whose medical treatment is under review.

(d) **PROVISION OF BENEFITS.**—Nothing in this division shall be construed as prohibiting a qualified health benefits plan from subcontracting with stand-alone health insurance issuers or insurers for the provision of dental, vision, mental health, and other benefits and services.

#### **SEC. 222. ESSENTIAL BENEFITS PACKAGE DEFINED.**

(a) **IN GENERAL.**—In this division, the term “essential benefits package” means health benefits coverage, consistent with standards adopted under section 224, to ensure the provision of quality health care and financial security, that—

(1) provides payment for the items and services described in subsection (b) in accordance with generally accepted standards of medical or other appropriate clinical or professional practice;

(2) limits cost-sharing for such covered health care items and services in accordance with such benefit standards, consistent with subsection (c);

(3) does not impose any annual or lifetime limit on the coverage of covered health care items and services;

(4) complies with section 215(a) (relating to network adequacy); and

(5) is equivalent in its scope of benefits, as certified by Office of the Actuary of the Centers for Medicare & Medicaid Services, to the average prevailing employer-sponsored coverage in Y1.

In order to carry out paragraph (5), the Secretary of Labor shall conduct a survey of employer-sponsored coverage to determine the benefits typically covered by employers, including multiemployer plans, and provide a report on such survey to the Health Benefits Advisory Committee and to the Secretary of Health and Human Services.

(b) **MINIMUM SERVICES TO BE COVERED.**—Subject to subsection (d), the items and services described in this subsection are the following:

(1) Hospitalization.

(2) Outpatient hospital and outpatient clinic services, including emergency department services.

(3) Professional services of physicians and other health professionals.

(4) Such services, equipment, and supplies incident to the services of a physician's or a health professional's delivery of care in institutional settings, physician offices, patients' homes or place of residence, or other settings, as appropriate.

(5) Prescription drugs.

(6) Rehabilitative and habilitative services.

(7) Mental health and substance use disorder services, including behavioral health treatments.

(8) Preventive services, including those services recommended with a grade of A or B by the Task Force on Clinical Preventive Services and those vaccines recommended for use by the Director of the Centers for Disease Control and Prevention.

(9) Maternity care.

(10) Well-baby and well-child care and oral health, vision, and hearing services, equipment, and supplies for children under 21 years of age.

(11) Durable medical equipment, prosthetics, orthotics and related supplies.

(c) **REQUIREMENTS RELATING TO COST-SHARING AND MINIMUM ACTUARIAL VALUE.**—

(1) **NO COST-SHARING FOR PREVENTIVE SERVICES.**—There shall be no cost-sharing under the essential benefits package for—

(A) preventive items and services recommended with a grade of A or B by the Task Force on Clinical Preventive Services and those vaccines recommended for use by the Director of the Centers for Disease Control and Prevention; or

(B) well-baby and well-child care.

(2) **ANNUAL LIMITATION.**—

(A) **ANNUAL LIMITATION.**—The cost-sharing incurred under the essential benefits package with respect to an individual (or family) for a year does not exceed the applicable level specified in subparagraph (B).

(B) **APPLICABLE LEVEL.**—The applicable level specified in this subparagraph for Y1 is not to exceed \$5,000 for an individual and not to exceed \$10,000 for a family. Such levels shall be increased (rounded to the nearest \$100) for each subsequent year by the annual percentage increase in the enrollment-weighted average of premium increases for basic plans applicable to such year, except that Secretary shall adjust such increase to ensure that the applicable level specified in this subparagraph meets the minimum actuarial value required under paragraph (3).

(C) **USE OF COPAYMENTS.**—In establishing cost-sharing levels for basic, enhanced, and premium plans under this subsection, the Secretary shall, to the maximum extent possible, use only copayments and not coinsurance.

(3) **MINIMUM ACTUARIAL VALUE.**—

(A) **IN GENERAL.**—The cost-sharing under the essential benefits package shall be designed to provide a level of coverage that is designed to provide benefits that are actuarially equivalent to approximately 70 percent of the full actuarial value of the benefits provided under the reference benefits package described in subparagraph (B).

(B) **REFERENCE BENEFITS PACKAGE DESCRIBED.**—The reference benefits package described in this subparagraph is the essential benefits package if there were no cost-sharing imposed.

(d) **ASSESSMENT AND COUNSELING FOR DOMESTIC VIOLENCE.**—The Secretary shall support the need for an assessment and brief counseling for domestic violence as part of a behavioral health assessment or primary care visit and determine the appropriate coverage for such assessment and counseling.

(e) **ABORTION COVERAGE PROHIBITED AS PART OF MINIMUM BENEFITS PACKAGE.**—

(1) **PROHIBITION OF REQUIRED COVERAGE.**—The Health Benefits Advisory Committee may not recommend under section 223(b), and the Secretary may not adopt in standards under section 224(b), the services described in paragraph (4)(A) or (4)(B) as part of the essential benefits package and the Commissioner may not require such services for qualified health benefits plans to participate in the Health Insurance Exchange.

(2) **VOLUNTARY CHOICE OF COVERAGE BY PLAN.**—In the case of a qualified health benefits plan, the plan is not required (or prohibited) under this Act from providing coverage of services described in paragraph (4)(A) or (4)(B) and the QHBP offering entity shall determine whether such coverage is provided.

(3) **COVERAGE UNDER PUBLIC HEALTH INSURANCE OPTION.**—The public health insurance option shall provide coverage for services described in paragraph (4)(B). Nothing in this Act shall be construed as preventing the public health insurance option from providing for or prohibiting coverage of services described in paragraph (4)(A).

(4) **ABORTION SERVICES.**—

(A) **ABORTIONS FOR WHICH PUBLIC FUNDING IS PROHIBITED.**—The services described in this subparagraph are abortions for which the expenditure of Federal funds appropriated for the Department of Health and Human Services is not permitted, based on the law as in effect as of the date that is 6 months before the beginning of the plan year involved.

(B) **ABORTIONS FOR WHICH PUBLIC FUNDING IS ALLOWED.**—The services described in this subparagraph are abortions for which the expenditure of Federal funds appropriated for the Department of Health and Human Services is permitted, based on the law as in effect as of the date that is 6 months before the beginning of the plan year involved.

(f) **REPORT REGARDING INCLUSION OF ORAL HEALTH CARE IN ESSENTIAL BENEFITS PACKAGE.**—Not later than 1 year after the date of the enactment of this Act, the Secretary of Health and Human Services shall submit to Congress a report containing the results of a study determining the need and cost of providing accessible and affordable oral health care to adults as part of the essential benefits package.

#### **SEC. 223. HEALTH BENEFITS ADVISORY COMMITTEE.**

(a) **ESTABLISHMENT.**—

(1) **IN GENERAL.**—There is established a private-public advisory committee which shall be a panel of medical and other experts to be known as the Health Benefits Advisory Committee to recommend covered benefits and essential, enhanced, and premium plans.

(2) **CHAIR.**—The Surgeon General shall be a member and the chair of the Health Benefits Advisory Committee.

(3) **MEMBERSHIP.**—The Health Benefits Advisory Committee shall be composed of the following members, in addition to the Surgeon General:

(A) Nine members who are not Federal employees or officers and who are appointed by the President.

(B) Nine members who are not Federal employees or officers and who are appointed by the Comptroller General of the United States in a manner similar to the manner in which the Comptroller General appoints members to the Medicare Payment Advisory Commission under section 1805(c) of the Social Security Act.

(C) Such even number of members (not to exceed 8) who are Federal employees and officers, as the President may appoint.

Such initial appointments shall be made not later than 60 days after the date of the enactment of this Act.

(4) **TERMS.**—Each member of the Health Benefits Advisory Committee shall serve a 3-year term on the Committee, except that the terms of the initial members shall be adjusted in order to provide for a staggered term of appointment for all such members.

(5) **PARTICIPATION.**—The membership of the Health Benefits Advisory Committee shall at least reflect providers, patient representatives, employers (including small employers), labor, health insurance issuers, experts in health care financing and delivery, experts in oral health care, experts in racial and ethnic disparities, experts on health care needs and disparities of individuals with disabilities, representatives of relevant governmental agencies, and at least one practicing physician or other health professional and an expert in child and adolescent health and shall represent a balance among various sectors of the health care system so that no single sector unduly influences the recommendations of such Committee.

(b) **DUTIES.**—

(1) **RECOMMENDATIONS ON BENEFIT STANDARDS.**—The Health Benefits Advisory Committee shall recommend to the Secretary of Health and Human Services (in this subtitle referred to as the “Secretary”) benefit standards (as defined in paragraph (5)), and periodic updates to such standards. In developing such recommendations, the Committee shall take into account innovation in health care and consider how such standards could reduce health disparities.

(2) **DEADLINE.**—The Health Benefits Advisory Committee shall recommend initial benefit standards to the Secretary not later than 1 year after the date of the enactment of this Act.

(3) **STATE INPUT.**—The Health Benefits Advisory Committee shall examine the health coverage laws and benefits of each State in developing recommendations under this subsection and may incorporate such coverage and benefits as the Committee determines to be appropriate and consistent with this Act. The Health Benefits Advisory Committee shall also seek input from the States and consider recommendations on how to ensure quality of health coverage in all States.

(4) **PUBLIC INPUT.**—The Health Benefits Advisory Committee shall allow for public input as a part of developing recommendations under this subsection.

(5) **BENEFIT STANDARDS DEFINED.**—In this subtitle, the term “benefit standards” means standards respecting—

(A) the essential benefits package described in section 222, including categories of covered treatments, items and services within benefit classes, and cost-sharing consistent with subsection (e) of such section; and

(B) the cost-sharing levels for enhanced plans and premium plans (as provided under section 303(c)) consistent with paragraph (5).

(6) **LEVELS OF COST-SHARING FOR ENHANCED AND PREMIUM PLANS.**—

(A) **ENHANCED PLAN.**—The level of cost-sharing for enhanced plans shall be designed so that such plans have benefits that are actuarially equivalent to approximately 85 percent of the actuarial value of the benefits provided under the reference benefits package described in section 222(c)(3)(B).

(B) **PREMIUM PLAN.**—The level of cost-sharing for premium plans shall be designed so that such plans have benefits that are actuarially equivalent to approximately 95 percent of the actuarial value of the benefits provided under the reference benefits package described in section 222(c)(3)(B).

(c) **OPERATIONS.**—

(1) **PER DIEM PAY.**—Each member of the Health Benefits Advisory Committee shall receive travel expenses, including per diem in accordance with applicable provisions under subchapter I of chapter 57 of title 5, United States Code, and shall otherwise serve without additional pay.

(2) **MEMBERS NOT TREATED AS FEDERAL EMPLOYEES.**—Members of the Health Benefits Advisory Committee shall not be considered employees of the Federal Government solely by reason of any service on the Committee, except such members shall be considered to be within the meaning of section 202(a) of title 18, United States Code, for the purposes of disclosure and management of conflicts of interest.

(3) **APPLICATION OF FACA.**—The Federal Advisory Committee Act (5 U.S.C. App.), other than section 14, shall apply to the Health Benefits Advisory Committee.

(d) **PUBLICATION.**—The Secretary shall provide for publication in the Federal Register and the posting on the Internet Website of

the Department of Health and Human Services of all recommendations made by the Health Benefits Advisory Committee under this section.

#### **SEC. 224. PROCESS FOR ADOPTION OF RECOMMENDATIONS; ADOPTION OF BENEFIT STANDARDS.**

(a) **PROCESS FOR ADOPTION OF RECOMMENDATIONS.**—

(1) **REVIEW OF RECOMMENDED STANDARDS.**—Not later than 45 days after the date of receipt of benefit standards recommended under section 223 (including such standards as modified under paragraph (2)(B)), the Secretary shall review such standards and shall determine whether to propose adoption of such standards as a package.

(2) **DETERMINATION TO ADOPT STANDARDS.**—If the Secretary determines—

(A) to propose adoption of benefit standards so recommended as a package, the Secretary shall, by regulation under section 553 of title 5, United States Code, propose adoption of such standards; or

(B) not to propose adoption of such standards as a package, the Secretary shall notify the Health Benefits Advisory Committee in writing of such determination and the reasons for not proposing the adoption of such recommendation and provide the Committee with a further opportunity to modify its previous recommendations and submit new recommendations to the Secretary on a timely basis.

(3) **CONTINGENCY.**—If, because of the application of paragraph (2)(B), the Secretary would otherwise be unable to propose initial adoption of such recommended standards by the deadline specified in subsection (b)(1), the Secretary shall, by regulation under section 553 of title 5, United States Code, propose adoption of initial benefit standards by such deadline.

(4) **PUBLICATION.**—The Secretary shall provide for publication in the Federal Register of all determinations made by the Secretary under this subsection.

(b) **ADOPTION OF STANDARDS.**—

(1) **INITIAL STANDARDS.**—Not later than 18 months after the date of the enactment of this Act, the Secretary shall, through the rulemaking process consistent with subsection (a), adopt an initial set of benefit standards.

(2) **PERIODIC UPDATING STANDARDS.**—Under subsection (a), the Secretary shall provide for the periodic updating of the benefit standards previously adopted under this section.

(3) **REQUIREMENT.**—The Secretary may not adopt any benefit standards for an essential benefits package or for level of cost-sharing that are inconsistent with the requirements for such a package or level under sections 222 (including subsection (e)) and 223(b)(5).

#### **Subtitle D—Additional Consumer Protections** **SEC. 231. REQUIRING FAIR MARKETING PRACTICES BY HEALTH INSURERS.**

The Commissioner shall establish uniform marketing standards that all QHBP offering entities shall meet with respect to qualified health benefits plans that are health insurance coverage.

#### **SEC. 232. REQUIRING FAIR GRIEVANCE AND APPEALS MECHANISMS.**

(a) **IN GENERAL.**—A QHBP offering entity shall provide for timely grievance and appeals mechanisms with respect to qualified health benefits plans that the Commissioner shall establish consistent with this section. The Commissioner shall establish time limits for each of such mechanisms and implement them in a manner that is protective to the needs of patients.

(b) **INTERNAL CLAIMS AND APPEALS PROCESSES.**—Under a qualified health benefits plan the QHBP offering entity shall provide an internal claims and appeals process that initially incorporates the claims and appeals procedures (including urgent claims) set forth at section 2560.503-1 of title 29, Code of Federal Regulations, as published on November 21, 2000 (65 Fed. Reg. 70246) and shall update such process in accordance with any standards that the Commissioner may establish.

(c) **EXTERNAL REVIEW PROCESS.**—

(1) **IN GENERAL.**—The Commissioner shall establish an external review process (including procedures for expedited reviews of urgent claims) that provides for an impartial, independent, and de novo review of denied claims under this division.

(2) **REQUIRING FAIR GRIEVANCE AND APPEALS MECHANISMS.**—A determination made, with respect to a qualified health benefits plan offered by a QHBP offering entity, under the external review process established under this subsection shall be binding on the plan and the entity.

(d) **TIME LIMITS.**—The Commissioner shall establish time limits for each of these processes and implement them in a manner that is protective to the patient.

(e) **CONSTRUCTION.**—Nothing in this section shall be construed as affecting the availability of judicial review under State law for adverse decisions under subsection (b) or (c), subject to section 251.

#### **SEC. 233. REQUIRING INFORMATION TRANSPARENCY AND PLAN DISCLOSURE.**

(a) **ACCURATE AND TIMELY DISCLOSURE.**—

(1) **FOR EXCHANGE-PARTICIPATING HEALTH BENEFITS PLANS.**—A QHBP offering entity offering an Exchange-participating health benefits plan shall comply with standards established by the Commissioner for the accurate and timely disclosure to the Commissioner and the public of plan documents, plan terms and conditions, claims payment policies and practices, periodic financial disclosure, data on enrollment, data on disenrollment, data on the number of claims denials, data on rating practices, information on cost-sharing and payments with respect to any out-of-network coverage, and other information as determined appropriate by the Commissioner.

(2) **EMPLOYMENT-BASED HEALTH PLANS.**—The Secretary of Labor shall update and harmonize the Secretary's rules concerning the accurate and timely disclosure to participants by group health plans of plan disclosure, plan terms and conditions, and periodic financial disclosure with the standards established by the Commissioner under paragraph (1).

(3) **USE OF PLAIN LANGUAGE.**—

(A) **IN GENERAL.**—The disclosures under paragraphs (1) and (2) shall be provided in plain language.

(B) **DEFINITION.**—In this paragraph, the term “plain language” means language that the intended audience, including individuals with limited English proficiency, can readily understand and use because that language is concise, well-organized, and follows other best practices of plain language writing.

(C) **GUIDANCE.**—The Commissioner and the Secretary of Labor shall jointly develop and issue guidance on best practices of plain language writing.

(4) **INFORMATION ON RIGHTS.**—The information disclosed under this subsection shall include information on enrollee and participant rights under this division.

(5) **COST-SHARING TRANSPARENCY.**—A qualified health benefits plan shall allow individuals to learn the amount of cost-sharing (including deductibles, copayments, and coinsurance) under the individual's plan or coverage that the individual would be responsible for paying with respect to the furnishing of a specific item or service by a participating provider in a timely manner upon request. At a minimum, this information shall be made available to such individual via an Internet Website and other means for individuals without access to the Internet.

(b) **CONTRACTING REIMBURSEMENT.**—A qualified health benefits plan shall comply with standards established by the Commissioner to ensure transparency to each health care provider relating to reimbursement arrangements between such plan and such provider.

(c) **PHARMACY BENEFIT MANAGERS TRANSPARENCY REQUIREMENTS.**—

(1) **IN GENERAL.**—If a QHBP offering entity contracts with a pharmacy benefit manager or other entity (in this subsection referred to as a "PBM") to manage prescription drug coverage or otherwise control prescription drug costs under a qualified health benefits plan, the PBM shall provide at least annually to the Commissioner and to the QHBP offering entity offering such plan the following information, in a form and manner to be determined by the Commissioner:

(A) Information on the number and total cost of prescriptions under the contract that are filled via mail order and at retail pharmacies.

(B) An estimate of aggregate average payments under the contract, per prescription (weighted by prescription volume), made to mail order and retail pharmacies, and the average amount, per prescription, that the PBM was paid by the plan for prescriptions filled at mail order and retail pharmacists.

(C) An estimate of the aggregate average payment per prescription (weighted by prescription volume) under the contract received from pharmaceutical manufacturers, including all rebates, discounts, prices concessions, or administrative, and other payments from pharmaceutical manufacturers, and a description of the types of payments, and the amount of these payments that were shared with the plan, and a description of the percentage of prescriptions for which the PBM received such payments.

(D) Information on the overall percentage of generic drugs dispensed under the contract at retail and mail order pharmacies, and the percentage of cases in which a generic drug is dispensed when available.

(E) Information on the percentage and number of cases under the contract in which individuals were switched because of PBM policies or at the direct or indirect control of the PBM from a prescribed drug that had a lower cost for the QHBP offering entity to a drug that had a higher cost for the QHBP offering entity, the rationale for these switches, and a description of the PBM policies governing such switches.

(2) **CONFIDENTIALITY OF INFORMATION.**—Information disclosed by a PBM to the Commissioner or a QHBP offering entity under this subsection is confidential and shall not be disclosed by the Commissioner or the QHBP offering entity in a form which discloses the identity of a specific PBM or prices charged by such PBM or a specific retailer, manufacturer, or wholesaler, except only by the Commissioner—

(A) to permit State or Federal law enforcement authorities to use the information provided for program compliance purposes and

for the purpose of combating waste, fraud, and abuse;

(B) to permit the Comptroller General, the Medicare Payment Advisory Commission, or the Secretary of Health and Human Services to review the information provided; and

(C) to permit the Director of the Congressional Budget Office to review the information provided.

(3) **ANNUAL PUBLIC REPORT.**—On an annual basis, the Commissioner shall prepare a public report providing industrywide aggregate or average information to be used in assessing the overall impact of PBMs on prescription drug prices and spending. Such report shall not disclose the identity of a specific PBM, or prices charged by such PBM, or a specific retailer, manufacturer, or wholesaler, or any other confidential or trade secret information.

(4) **PENALTIES.**—The provisions of subsection (b)(3)(C) of section 1927 shall apply to a PBM that fails to provide information required under subsection (a) or that knowingly provides false information in the same manner as such provisions apply to a manufacturer with an agreement under such section that fails to provide information under subsection (b)(3)(A) of such section or knowingly provides false information under such section, respectively.

#### **SEC. 234. APPLICATION TO QUALIFIED HEALTH BENEFITS PLANS NOT OFFERED THROUGH THE HEALTH INSURANCE EXCHANGE.**

The requirements of the previous provisions of this subtitle shall apply to qualified health benefits plans that are not being offered through the Health Insurance Exchange only to the extent specified by the Commissioner.

#### **SEC. 235. TIMELY PAYMENT OF CLAIMS.**

A QHBP offering entity shall comply with the requirements of section 1857(f) of the Social Security Act with respect to a qualified health benefits plan it offers in the same manner as a Medicare Advantage organization is required to comply with such requirements with respect to a Medicare Advantage plan it offers under part C of Medicare.

#### **SEC. 236. STANDARDIZED RULES FOR COORDINATION AND SUBROGATION OF BENEFITS.**

The Commissioner shall establish standards for the coordination and subrogation of benefits and reimbursement of payments in cases of qualified health benefits plans involving individuals and multiple plan coverage.

#### **SEC. 237. APPLICATION OF ADMINISTRATIVE SIMPLIFICATION.**

A QHBP offering entity is required to comply with administrative simplification provisions under part C of title XI of the Social Security Act with respect to qualified health benefits plans it offers.

#### **SEC. 238. STATE PROHIBITIONS ON DISCRIMINATION AGAINST HEALTH CARE PROVIDERS.**

This Act (and the amendments made by this Act) shall not be construed as superseding laws, as they now or hereinafter exist, of any State or jurisdiction designed to prohibit a qualified health benefits plan from discriminating with respect to participation, reimbursement, covered services, indemnification, or related requirements under such plan against a health care provider that is acting within the scope of that provider's license or certification under applicable State law.

#### **SEC. 239. PROTECTION OF PHYSICIAN PRESCRIBER INFORMATION.**

(a) **STUDY.**—The Secretary of Health and Human Services shall conduct a study on the

use of physician prescriber information in sales and marketing practices of pharmaceutical manufacturers.

(b) **REPORT.**—Based on the study conducted under subsection (a), the Secretary shall submit to Congress a report on actions needed to be taken by the Congress or the Secretary to protect providers from biased marketing and sales practices.

#### **SEC. 240. DISSEMINATION OF ADVANCE CARE PLANNING INFORMATION.**

(a) **IN GENERAL.**—The QHBP offering entity

(1) shall provide for the dissemination of information related to end-of-life planning to individuals seeking enrollment in Exchange-participating health benefits plans offered through the Exchange;

(2) shall present such individuals with—

(A) the option to establish advanced directives and physician's orders for life sustaining treatment according to the laws of the State in which the individual resides; and

(B) information related to other planning tools; and

(3) shall not promote suicide, assisted suicide, euthanasia, or mercy killing.

The information presented under paragraph (2) shall not presume the withdrawal of treatment and shall include end-of-life planning information that includes options to maintain all or most medical interventions.

(b) **CONSTRUCTION.**—Nothing in this section shall be construed—

(1) to require an individual to complete an advanced directive or a physician's order for life sustaining treatment or other end-of-life planning document;

(2) to require an individual to consent to restrictions on the amount, duration, or scope of medical benefits otherwise covered under a qualified health benefits plan; or

(3) to promote suicide, assisted suicide, euthanasia, or mercy killing.

(c) **ADVANCED DIRECTIVE DEFINED.**—In this section, the term "advanced directive" includes a living will, a comfort care order, or a durable power of attorney for health care.

(d) **PROHIBITION ON THE PROMOTION OF ASSISTED SUICIDE.**—

(1) **IN GENERAL.**—Subject to paragraph (3), information provided to meet the requirements of subsection (a)(2) shall not include advanced directives or other planning tools that list or describe as an option suicide, assisted suicide, euthanasia, or mercy killing, regardless of legality.

(2) **CONSTRUCTION.**—Nothing in paragraph (1) shall be construed to apply to or affect any option to—

(A) withhold or withdraw of medical treatment or medical care;

(B) withhold or withdraw of nutrition or hydration; and

(C) provide palliative or hospice care or use an item, good, benefit, or service furnished for the purpose of alleviating pain or discomfort, even if such use may increase the risk of death, so long as such item, good, benefit, or service is not also furnished for the purpose of causing, or the purpose of assisting in causing, death, for any reason.

(3) **NO PREEMPTION OF STATE LAW.**—Nothing in this section shall be construed to preempt or otherwise have any effect on State laws regarding advance care planning, palliative care, or end-of-life decision-making.

#### **Subtitle E—Governance**

#### **SEC. 241. HEALTH CHOICES ADMINISTRATION; HEALTH CHOICES COMMISSIONER.**

(a) **IN GENERAL.**—There is hereby established, as an independent agency in the executive branch of the Government, a Health

Choices Administration (in this division referred to as the "Administration").

(b) COMMISSIONER.—

(1) IN GENERAL.—The Administration shall be headed by a Health Choices Commissioner (in this division referred to as the "Commissioner") who shall be appointed by the President, by and with the advice and consent of the Senate.

(2) COMPENSATION; ETC.—The provisions of paragraphs (2), (5), and (7) of subsection (a) (relating to compensation, terms, general powers, rulemaking, and delegation) of section 702 of the Social Security Act (42 U.S.C. 902) shall apply to the Commissioner and the Administration in the same manner as such provisions apply to the Commissioner of Social Security and the Social Security Administration.

(c) INSPECTOR GENERAL.—For provision establishing an Office of the Inspector General for the Health Choices Administration, see section 1647.

#### SEC. 242. DUTIES AND AUTHORITY OF COMMISSIONER.

(a) DUTIES.—The Commissioner is responsible for carrying out the following functions under this division:

(1) QUALIFIED PLAN STANDARDS.—The establishment of qualified health benefits plan standards under this title, including the enforcement of such standards in coordination with State insurance regulators and the Secretaries of Labor and the Treasury.

(2) HEALTH INSURANCE EXCHANGE.—The establishment and operation of a Health Insurance Exchange under subtitle A of title III.

(3) INDIVIDUAL AFFORDABILITY CREDITS.—The administration of individual affordability credits under subtitle C of title III, including determination of eligibility for such credits.

(4) ADDITIONAL FUNCTIONS.—Such additional functions as may be specified in this division.

(b) PROMOTING ACCOUNTABILITY.—

(1) IN GENERAL.—The Commissioner shall undertake activities in accordance with this subtitle to promote accountability of QHBP offering entities in meeting Federal health insurance requirements, regardless of whether such accountability is with respect to qualified health benefits plans offered through the Health Insurance Exchange or outside of such Exchange.

(2) COMPLIANCE EXAMINATION AND AUDITS.—

(A) IN GENERAL.—The Commissioner shall, in coordination with States, conduct audits of qualified health benefits plan compliance with Federal requirements. Such audits may include random compliance audits and targeted audits in response to complaints or other suspected noncompliance.

(B) RECOUPMENT OF COSTS IN CONNECTION WITH EXAMINATION AND AUDITS.—The Commissioner is authorized to recoup from qualified health benefits plans reimbursement for the costs of such examinations and audit of such QHBP offering entities.

(c) DATA COLLECTION.—The Commissioner shall collect data for purposes of carrying out the Commissioner's duties, including for purposes of promoting quality and value, protecting consumers, and addressing disparities in health and health care and may share such data with the Secretary of Health and Human Services.

(d) SANCTIONS AUTHORITY.—

(1) IN GENERAL.—In the case that the Commissioner determines that a QHBP offering entity violates a requirement of this title, the Commissioner may, in coordination with State insurance regulators and the Secretary of Labor, provide, in addition to any other

remedies authorized by law, for any of the remedies described in paragraph (2).

(2) REMEDIES.—The remedies described in this paragraph, with respect to a qualified health benefits plan offered by a QHBP offering entity, are—

(A) civil money penalties of not more than the amount that would be applicable under similar circumstances for similar violations under section 1857(g) of the Social Security Act;

(B) suspension of enrollment of individuals under such plan after the date the Commissioner notifies the entity of a determination under paragraph (1) and until the Commissioner is satisfied that the basis for such determination has been corrected and is not likely to recur;

(C) in the case of an Exchange-participating health benefits plan, suspension of payment to the entity under the Health Insurance Exchange for individuals enrolled in such plan after the date the Commissioner notifies the entity of a determination under paragraph (1) and until the Secretary is satisfied that the basis for such determination has been corrected and is not likely to recur; or

(D) working with State insurance regulators to terminate plans for repeated failure by the offering entity to meet the requirements of this title.

(e) STANDARD DEFINITIONS OF INSURANCE AND MEDICAL TERMS.—The Commissioner shall provide for the development of standards for the definitions of terms used in health insurance coverage, including insurance-related terms.

(f) EFFICIENCY IN ADMINISTRATION.—The Commissioner shall issue regulations for the effective and efficient administration of the Health Insurance Exchange and affordability credits under subtitle C, including, with respect to the determination of eligibility for affordability credits, the use of personnel who are employed in accordance with the requirements of title 5, United States Code, to carry out the duties of the Commissioner or, in the case of sections 308 and 341(b)(2), the use of State personnel who are employed in accordance with standards prescribed by the Office of Personnel Management pursuant to section 208 of the Intergovernmental Personnel Act of 1970 (42 U.S.C. 4728).

#### SEC. 243. CONSULTATION AND COORDINATION.

(a) CONSULTATION.—In carrying out the Commissioner's duties under this division, the Commissioner, as appropriate, shall consult at least with the following:

(1) State attorneys general and State insurance regulators, including concerning the standards for health insurance coverage that is a qualified health benefits plan under this title and enforcement of such standards.

(2) The National Association of Insurance Commissioners, including for purposes of using model guidelines established by such association for purposes of subtitles B and D.

(3) Appropriate State agencies, specifically concerning the administration of individual affordability credits under subtitle C of title III and the offering of Exchange-participating health benefits plans, to Medicaid eligible individuals under subtitle A of such title.

(4) The Federal Trade Commission, specifically concerning the development and issuance of guidance, rules, or standards regarding fair marketing practices under section 231 or otherwise, or any consumer disclosure requirements under section 233 or otherwise.

(5) Other appropriate Federal agencies.

(6) Indian tribes and tribal organizations.

(b) COORDINATION.—

(1) IN GENERAL.—In carrying out the functions of the Commissioner, including with respect to the enforcement of the provisions of this division, the Commissioner shall work in coordination with existing Federal and State entities to the maximum extent feasible consistent with this division and in a manner that prevents conflicts of interest in duties and ensures effective enforcement.

(2) UNIFORM STANDARDS.—The Commissioner, in coordination with such entities, shall seek to achieve uniform standards that adequately protect consumers in a manner that does not unreasonably affect employers and insurers.

#### SEC. 244. HEALTH INSURANCE OMBUDSMAN.

(a) IN GENERAL.—The Commissioner shall appoint within the Health Choices Administration a Qualified Health Benefits Plan Ombudsman who shall have expertise and experience in the fields of health care and education of (and assistance to) individuals.

(b) DUTIES.—The Qualified Health Benefits Plan Ombudsman shall, in a linguistically appropriate manner—

(1) receive complaints, grievances, and requests for information submitted by individuals through means such as the mail, by telephone, electronically, and in person;

(2) provide assistance with respect to complaints, grievances, and requests referred to in paragraph (1), including—

(A) helping individuals determine the relevant information needed to seek an appeal of a decision or determination;

(B) assistance to such individuals in choosing a qualified health benefits plan in which to enroll;

(C) assistance to such individuals with any problems arising from disenrollment from such a plan; and

(D) assistance to such individuals in presenting information under subtitle C (relating to affordability credits); and

(3) submit annual reports to Congress and the Commissioner that describe the activities of the Ombudsman and that include such recommendations for improvement in the administration of this division as the Ombudsman determines appropriate. The Ombudsman shall not serve as an advocate for any increases in payments or new coverage of services, but may identify issues and problems in payment or coverage policies.

#### Subtitle F—Relation to Other Requirements; Miscellaneous

#### SEC. 251. RELATION TO OTHER REQUIREMENTS.

(a) COVERAGE NOT OFFERED THROUGH EXCHANGE.—

(1) IN GENERAL.—In the case of health insurance coverage not offered through the Health Insurance Exchange (whether or not offered in connection with an employment-based health plan), and in the case of employment-based health plans, the requirements of this title do not supercede any requirements applicable under titles XXII and XXVII of the Public Health Service Act, parts 6 and 7 of subtitle B of title I of the Employee Retirement Income Security Act of 1974, or State law, except insofar as such requirements prevent the application of a requirement of this division, as determined by the Commissioner.

(2) CONSTRUCTION.—Nothing in paragraphs (1) or (2) shall be construed as affecting the application of section 514 of the Employee Retirement Income Security Act of 1974.

(b) COVERAGE OFFERED THROUGH EXCHANGE.—

(1) IN GENERAL.—In the case of health insurance coverage offered through the Health Insurance Exchange—



(A) the requirements of this title do not supercede any requirements (including requirements relating to genetic information nondiscrimination and mental health parity) applicable under title XXVII of the Public Health Service Act or under State law, except insofar as such requirements prevent the application of a requirement of this division, as determined by the Commissioner; and

(B) individual rights and remedies under State laws shall apply.

(2) **CONSTRUCTION.**—In the case of coverage described in paragraph (1), nothing in such paragraph shall be construed as preventing the application of rights and remedies under State laws to health insurance issuers generally with respect to any requirement referred to in paragraph (1)(A). The previous sentence shall not be construed as providing for the applicability of rights or remedies under State laws with respect to requirements applicable to employers or other plan sponsors in connection with arrangements which are treated as group health plans under section 802(a)(1) of the Employee Retirement Income Security Act of 1974.

**SEC. 252. PROHIBITING DISCRIMINATION IN HEALTH CARE.**

(a) **IN GENERAL.**—Except as otherwise explicitly permitted by this Act and by subsequent regulations consistent with this Act, all health care and related services (including insurance coverage and public health activities) covered by this Act shall be provided without regard to personal characteristics extraneous to the provision of high quality health care or related services.

(b) **IMPLEMENTATION.**—To implement the requirement set forth in subsection (a), the Secretary of Health and Human Services shall, not later than 18 months after the date of the enactment of this Act, promulgate such regulations as are necessary or appropriate to insure that all health care and related services (including insurance coverage and public health activities) covered by this Act are provided (whether directly or through contractual, licensing, or other arrangements) without regard to personal characteristics extraneous to the provision of high quality health care or related services.

**SEC. 253. WHISTLEBLOWER PROTECTION.**

(a) **RETALIATION PROHIBITED.**—No employer may discharge any employee or otherwise discriminate against any employee with respect to his compensation, terms, conditions, or other privileges of employment because the employee (or any person acting pursuant to a request of the employee)—

(1) provided, caused to be provided, or is about to provide or cause to be provided to the employer, the Federal Government, or the attorney general of a State information relating to any violation of, or any act or omission the employee reasonably believes to be a violation of any provision of this Act or any order, rule, or regulation promulgated under this Act;

(2) testified or is about to testify in a proceeding concerning such violation;

(3) assisted or participated or is about to assist or participate in such a proceeding; or

(4) objected to, or refused to participate in, any activity, policy, practice, or assigned task that the employee (or other such person) reasonably believed to be in violation of any provision of this Act or any order, rule, or regulation promulgated under this Act.

(b) **ENFORCEMENT ACTION.**—An employee covered by this section who alleges discrimination by an employer in violation of subsection (a) may bring an action governed by

the rules, procedures, legal burdens of proof, and remedies set forth in section 40(b) of the Consumer Product Safety Act (15 U.S.C. 2087(b)).

(c) **EMPLOYER DEFINED.**—As used in this section, the term “employer” means any person (including one or more individuals, partnerships, associations, corporations, trusts, professional membership organizations including a certification, disciplinary, or other professional body, unincorporated organizations, nongovernmental organizations, or trustees) engaged in profit or nonprofit business or industry whose activities are governed by this Act, and any agent, contractor, subcontractor, grantee, or consultant of such person.

(d) **RULE OF CONSTRUCTION.**—The rule of construction set forth in section 20109(h) of title 49, United States Code, shall also apply to this section.

**SEC. 254. CONSTRUCTION REGARDING COLLECTIVE BARGAINING.**

Nothing in this division shall be construed to alter or supersede any statutory or other obligation to engage in collective bargaining over the terms or conditions of employment related to health care. Any plan amendment made pursuant to a collective bargaining agreement relating to the plan which amends the plan solely to conform to any requirement added by this division shall not be treated as a termination of such collective bargaining agreement.

**SEC. 255. SEVERABILITY.**

If any provision of this Act, or any application of such provision to any person or circumstance, is held to be unconstitutional, the remainder of the provisions of this Act and the application of the provision to any other person or circumstance shall not be affected.

**SEC. 256. TREATMENT OF HAWAII PREPAID HEALTH CARE ACT.**

(a) **IN GENERAL.**—Subject to this section—

(1) nothing in this division (or an amendment made by this division) shall be construed to modify or limit the application of the exemption for the Hawaii Prepaid Health Care Act (Haw. Rev. Stat. §§ 393–1 et seq.) as provided for under section 514(b)(5) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1144(b)(5)), and such exemption shall also apply with respect to the provisions of this division; and

(2) for purposes of this division (and the amendments made by this division), coverage provided pursuant to the Hawaii Prepaid Health Care Act shall be treated as a qualified health benefits plan providing acceptable coverage so long as the Secretary of Labor determines that such coverage for employees (taking into account the benefits and the cost to employees for such benefits) is substantially equivalent to or greater than the coverage provided for employees pursuant to the essential benefits package.

(b) **COORDINATION WITH STATE LAW OF HAWAII.**—The Commissioner shall, based on ongoing consultation with the appropriate officials of the State of Hawaii, make adjustments to rules and regulations of the Commissioner under this division as may be necessary, as determined by the Commissioner, to most effectively coordinate the provisions of this division with the provisions of the Hawaii Prepaid Health Care Act, taking into account any changes made from time to time to the Hawaii Prepaid Health Care Act and related laws of such State.

**SEC. 257. ACTIONS BY STATE ATTORNEYS GENERAL.**

Any State attorney general may bring a civil action in the name of such State as

*parens patriae* on behalf of natural persons residing in such State, in any district court of the United States or State court having jurisdiction of the defendant to secure monetary or equitable relief for violation of any provisions of this title or regulations issued thereunder. Nothing in this section shall be construed as affecting the application of section 514 of the Employee Retirement Income Security Act of 1974.

**SEC. 258. APPLICATION OF STATE AND FEDERAL LAWS REGARDING ABORTION.**

(a) **NO PREEMPTION OF STATE LAWS REGARDING ABORTION.**—Nothing in this Act shall be construed to preempt or otherwise have any effect on State laws regarding the prohibition of (or requirement of) coverage, funding, or procedural requirements on abortions, including parental notification or consent for the performance of an abortion on a minor.

(b) **NO EFFECT ON FEDERAL LAWS REGARDING ABORTION.**—

(1) **IN GENERAL.**—Nothing in this Act shall be construed to have any effect on Federal laws regarding—

(A) conscience protection;

(B) willingness or refusal to provide abortion; and

(C) discrimination on the basis of the willingness or refusal to provide, pay for, cover, or refer for abortion or to provide or participate in training to provide abortion.

(c) **NO EFFECT ON FEDERAL CIVIL RIGHTS LAW.**—Nothing in this section shall alter the rights and obligations of employees and employers under title VII of the Civil Rights Act of 1964.

**SEC. 259. NONDISCRIMINATION ON ABORTION AND RESPECT FOR RIGHTS OF CONSCIENCE.**

(a) **NONDISCRIMINATION.**—A Federal agency or program, and any State or local government that receives Federal financial assistance under this Act (or an amendment made by this Act), may not—

(1) subject any individual or institutional health care entity to discrimination; or

(2) require any health plan created or regulated under this Act (or an amendment made by this Act) to subject any individual or institutional health care entity to discrimination,

on the basis that the health care entity does not provide, pay for, provide coverage of, or refer for abortions.

(b) **DEFINITION.**—In this section, the term “health care entity” includes an individual physician or other health care professional, a hospital, a provider-sponsored organization, a health maintenance organization, a health insurance plan, or any other kind of health care facility, organization, or plan.

(c) **ADMINISTRATION.**—The Office for Civil Rights of the Department of Health and Human Services is designated to receive complaints of discrimination based on this section, and coordinate the investigation of such complaints.

**SEC. 260. AUTHORITY OF FEDERAL TRADE COMMISSION.**

Section 6 of the Federal Trade Commission Act (15 U.S.C. 46) is amended by striking “and prepare reports” and all that follows and inserting the following: “and prepare reports, and to share information under clauses (f) and (k), relating to insurance. Notwithstanding section 4, the Commission’s authority shall include the authority to conduct studies and prepare reports, and to share information under clauses (f) and (k), relating to insurance, without regard to whether the subject of such studies, reports, or information is for-profit or not-for-profit entity.”.



**SEC. 261. CONSTRUCTION REGARDING STANDARD OF CARE.**

(a) IN GENERAL.—The development, recognition, or implementation of any guideline or other standard under a provision described in subsection (b) shall not be construed to establish the standard of care or duty of care owed by health care providers to their patients in any medical malpractice action or claim (as defined in section 431(7) of the Health Care Quality Improvement Act of 1986 (42 U.S.C. 11151(7))).

(b) PROVISIONS DESCRIBED.—The provisions described in this subsection are the following:

(1) Section 324 (relating to modernized payment initiatives and delivery system reform under the public health option).

(2) The amendments made by section 1151 (relating to reducing potentially preventable hospital readmissions).

(3) The amendments made by section 1751 (relating to health care acquired conditions).

(4) Section 3131 of the Public Health Service Act (relating to the Task Force on Clinical Preventive Services), added by section 2301.

(5) Part D of title IX of the Public Health Service Act (relating to implementation of best practices in the delivery of health care), added by section 2401.

(c) SAVINGS CLAUSE FOR STATE MEDICAL MALPRACTICE LAWS.—Nothing in this Act or the amendments made by this Act shall be construed to modify or impair State law governing legal standards or procedures used in medical malpractice cases, including the authority of a State to make or implement such laws.

**SEC. 262. RESTORING APPLICATION OF ANTITRUST LAWS TO HEALTH SECTOR INSURERS.**

(a) AMENDMENT TO MCCARRAN-FERGUSON ACT.—Section 3 of the Act of March 9, 1945 (15 U.S.C. 1013), commonly known as the McCarran-Ferguson Act, is amended by adding at the end the following:

“(c)(1) Except as provided in paragraph (2), nothing contained in this Act shall modify, impair, or supersede the operation of any of the antitrust laws with respect to the business of health insurance or the business of medical malpractice insurance.

“(2) Paragraph (1) shall not apply to—

“(A) collecting, compiling, classifying, or disseminating historical loss data;

“(B) determining a loss development factor applicable to historical loss data; or

“(C) performing actuarial services if doing so does not involve a restraint of trade.

“(3) For purposes of this subsection—

“(A) the term ‘antitrust laws’ has the meaning given it in subsection (a) of the first section of the Clayton Act, except that such term includes section 5 of the Federal Trade Commission Act to the extent that such section 5 applies to unfair methods of competition;

“(B) the term ‘historical loss data’ means information respecting claims paid, or reserves held for claims reported, by any person engaged in the business of insurance; and

“(C) the term ‘loss development factor’ means an adjustment to be made to the aggregate of losses incurred during a prior period of time that have been paid, or for which claims have been received and reserves are being held, in order to estimate the aggregate of the losses incurred during such period that will ultimately be paid.”.

(b) RELATED PROVISION.—For purposes of section 5 of the Federal Trade Commission Act (15 U.S.C. 45) to the extent such section applies to unfair methods of competition, section 3(c) of the McCarran-Ferguson Act

shall apply with respect to the business of health insurance, and with respect to the business of medical malpractice insurance, without regard to whether such business is carried on for profit, notwithstanding the definition of “Corporation” contained in section 4 of the Federal Trade Commission Act.

(c) RELATED PRESERVATION OF ANTITRUST LAWS.—Except as provided in subsections (a) and (b), nothing in this Act, or in the amendments made by this Act, shall be construed to modify, impair, or supersede the operation of any of the antitrust laws. For purposes of the preceding sentence, the term “antitrust laws” has the meaning given it in subsection (a) of the first section of the Clayton Act, except that it includes section 5 of the Federal Trade Commission Act to the extent that such section 5 applies to unfair methods of competition.

**SEC. 263. STUDY AND REPORT ON METHODS TO INCREASE EHR USE BY SMALL HEALTH CARE PROVIDERS.**

(a) STUDY.—The Secretary of Health and Human Services shall conduct a study of potential methods to increase the use of qualified electronic health records (as defined in section 3000(13) of the Public Health Service Act) by small health care providers. Such study shall consider at least the following methods:

(1) Providing for higher rates of reimbursement or other incentives for such health care providers to use electronic health records (taking into consideration initiatives by private health insurance companies and incentives provided under Medicare under title XVIII of the Social Security Act, Medicaid under title XIX of such Act, and other programs).

(2) Promoting low-cost electronic health record software packages that are available for use by such health care providers, including software packages that are available to health care providers through the Veterans Administration and other sources.

(3) Training and education of such health care providers on the use of electronic health records.

(4) Providing assistance to such health care providers on the implementation of electronic health records.

(b) REPORT.—Not later than December 31, 2013, the Secretary of Health and Human Services shall submit to Congress a report containing the results of the study conducted under subsection (a), including recommendations for legislation or administrative action to increase the use of electronic health records by small health care providers that include the use of both public and private funding sources.

**SEC. 264. PERFORMANCE ASSESSMENT AND ACCOUNTABILITY: APPLICATION OF GPRA.**

(a) APPLICATION OF GPRA.—Section 306 of title 5, United States Code, and sections 1115, 1116, 1117, and 9703 of title 31 of such Code (originally enacted by the Government Performance and Results Act of 1993, Public Law 103-62) apply to the executive agencies established by this Act, including the Health Choices Administration. Under such section 306, each such executive agency is required to provide for a strategic plan every 3 years.

(b) IMPROVING CONSUMER SERVICE AND STREAMLINING PROCEDURES.—Every 3 years each such executive agency shall—

(1)(A) assess the quality of customer service provided, (B) develop a strategy for improving such service, and (C) establish standards for high-quality customer service; and

(2)(A) identify redundant rules, regulations, and procedures, and (B) develop and

implement a plan for eliminating or streamlining such redundancies.

**TITLE III—HEALTH INSURANCE EXCHANGE AND RELATED PROVISIONS**  
**Subtitle A—Health Insurance Exchange****SEC. 301. ESTABLISHMENT OF HEALTH INSURANCE EXCHANGE; OUTLINE OF DUTIES; DEFINITIONS.**

(a) ESTABLISHMENT.—There is established within the Health Choices Administration and under the direction of the Commissioner a Health Insurance Exchange in order to facilitate access of individuals and employers, through a transparent process, to a variety of choices of affordable, quality health insurance coverage, including a public health insurance option.

(b) OUTLINE OF DUTIES OF COMMISSIONER.—In accordance with this subtitle and in coordination with appropriate Federal and State officials as provided under section 243(b), the Commissioner shall—

(1) under section 304 establish standards for, accept bids from, and negotiate and enter into contracts with, QHPB offering entities for the offering of health benefits plans through the Health Insurance Exchange, with different levels of benefits required under section 303, and including with respect to oversight and enforcement;

(2) under section 305 facilitate outreach and enrollment in such plans of Exchange-eligible individuals and employers described in section 302; and

(3) conduct such activities related to the Health Insurance Exchange as required, including establishment of a risk pooling mechanism under section 306 and consumer protections under subtitle D of title II.

**SEC. 302. EXCHANGE-ELIGIBLE INDIVIDUALS AND EMPLOYERS.**

(a) ACCESS TO COVERAGE.—In accordance with this section, all individuals are eligible to obtain coverage through enrollment in an Exchange-participating health benefits plan offered through the Health Insurance Exchange unless such individuals are enrolled in another qualified health benefits plan or certain other acceptable coverage.

(b) DEFINITIONS.—In this division:

(1) EXCHANGE-ELIGIBLE INDIVIDUAL.—The term “Exchange-eligible individual” means an individual who is eligible under this section to be enrolled through the Health Insurance Exchange in an Exchange-participating health benefits plan and, with respect to family coverage, includes dependents of such individual.

(2) EXCHANGE-ELIGIBLE EMPLOYER.—The term “Exchange-eligible employer” means an employer that is eligible under this section to enroll through the Health Insurance Exchange employees of the employer (and their dependents) in Exchange-eligible health benefits plans.

(3) EMPLOYMENT-RELATED DEFINITIONS.—The terms “employer”, “employee”, “full-time employee”, and “part-time employee” have the meanings given such terms by the Commissioner for purposes of this division.

(c) TRANSITION.—Individuals and employers shall only be eligible to enroll or participate in the Health Insurance Exchange in accordance with the following transition schedule:

(1) FIRST YEAR.—In Y1 (as defined in section 100(c))—

(A) individuals described in subsection (d)(1), including individuals described in subsection (d)(3); and

(B) smallest employers described in subsection (e)(1).

(2) SECOND YEAR.—In Y2—

(A) individuals and employers described in paragraph (1); and

(B) smaller employers described in subsection (e)(2).

(3) **THIRD AND SUBSEQUENT YEARS.**—In Y3—

(A) individuals and employers described in paragraph (2);

(B) small employers described in subsection (e)(3); and

(C) larger employers as permitted by the Commissioner under subsection (e)(4).

(d) **INDIVIDUALS.**—

(1) **INDIVIDUAL DESCRIBED.**—Subject to the succeeding provisions of this subsection, an individual described in this paragraph is an individual who—

(A) is not enrolled in coverage described in subparagraph (C) or (D) of paragraph (2); and

(B) is not enrolled in coverage as a full-time employee (or as a dependent of such an employee) under a group health plan if the coverage and an employer contribution under the plan meet the requirements of section 412.

For purposes of subparagraph (B), in the case of an individual who is self-employed, who has at least 1 employee, and who meets the requirements of section 412, such individual shall be deemed a full-time employee described in such subparagraph.

(2) **ACCEPTABLE COVERAGE.**—For purposes of this division, the term “acceptable coverage” means any of the following:

(A) **QUALIFIED HEALTH BENEFITS PLAN COVERAGE.**—Coverage under a qualified health benefits plan.

(B) **GRANDFATHERED HEALTH INSURANCE COVERAGE; COVERAGE UNDER CURRENT GROUP HEALTH PLAN.**—Coverage under a grandfathered health insurance coverage (as defined in subsection (a) of section 202) or under a current group health plan (described in subsection (b) of such section).

(C) **MEDICARE.**—Coverage under part A of title XVIII of the Social Security Act.

(D) **MEDICAID.**—Coverage for medical assistance under title XIX of the Social Security Act, excluding such coverage that is only available because of the application of subsection (u), (z), or (aa), or (hh) of section 1902 of such Act.

(E) **MEMBERS OF THE ARMED FORCES AND DEPENDENTS (INCLUDING TRICARE).**—Coverage under chapter 55 of title 10, United States Code, including similar coverage furnished under section 1781 of title 38 of such Code.

(F) **VA.**—Coverage under the veteran's health care program under chapter 17 of title 38, United States Code.

(G) **OTHER COVERAGE.**—Such other health benefits coverage, such as a State health benefits risk pool, as the Commissioner, in coordination with the Secretary of the Treasury, recognizes for purposes of this paragraph.

The Commissioner shall make determinations under this paragraph in coordination with the Secretary of the Treasury.

(3) **CONTINUING ELIGIBILITY PERMITTED.**—

(A) **IN GENERAL.**—Except as provided in subparagraph (B), once an individual qualifies as an Exchange-eligible individual under this subsection (including as an employee or dependent of an employee of an Exchange-eligible employer) and enrolls under an Exchange-participating health benefits plan through the Health Insurance Exchange, the individual shall continue to be treated as an Exchange-eligible individual until the individual is no longer enrolled with an Exchange-participating health benefits plan.

(B) **EXCEPTIONS.**—

(i) **IN GENERAL.**—Subparagraph (A) shall not apply to an individual once the individual becomes eligible for coverage—

(I) under part A of the Medicare program;

(II) under the Medicaid program as a Medicaid-eligible individual, except as permitted under clause (ii); or

(III) in such other circumstances as the Commissioner may provide.

(ii) **TRANSITION PERIOD.**—In the case described in clause (i)(II), the Commissioner shall permit the individual to continue treatment under subparagraph (A) until such limited time as the Commissioner determines it is administratively feasible, consistent with minimizing disruption in the individual's access to health care.

(4) **TRANSITION FOR CHIP ELIGIBLES.**—An individual who is eligible for child health assistance under title XXI of the Social Security Act for a period during Y1 shall not be an Exchange-eligible individual during such period.

(e) **EMPLOYERS.**—

(1) **SMALLEST EMPLOYER.**—Subject to paragraph (5), smallest employers described in this paragraph are employers with 25 or fewer employees.

(2) **SMALLER EMPLOYERS.**—Subject to paragraph (5), smaller employers described in this paragraph are employers that are not smallest employers described in paragraph (1) and have 50 or fewer employees.

(3) **SMALL EMPLOYERS.**—Subject to paragraph (5), small employers described in this paragraph are employers that are not described in paragraph (1) or (2) and have 100 or fewer employees.

(4) **LARGER EMPLOYERS.**—

(A) **IN GENERAL.**—Beginning with Y3, the Commissioner may permit employers not described in paragraph (1), (2), or (3) to be Exchange-eligible employers.

(B) **PHASE-IN.**—In applying subparagraph (A), the Commissioner may phase-in the application of such subparagraph based on the number of full-time employees of an employer and such other considerations as the Commissioner deems appropriate.

(5) **CONTINUING ELIGIBILITY.**—Once an employer is permitted to be an Exchange-eligible employer under this subsection and enrolls employees through the Health Insurance Exchange, the employer shall continue to be treated as an Exchange-eligible employer for each subsequent plan year regardless of the number of employees involved unless and until the employer meets the requirement of section 411(a) through paragraph (1) of such section by offering a group health plan and not through offering an Exchange-participating health benefits plan.

(6) **EMPLOYER PARTICIPATION AND CONTRIBUTIONS.**—

(A) **SATISFACTION OF EMPLOYER RESPONSIBILITY.**—For any year in which an employer is an Exchange-eligible employer, such employer may meet the requirements of section 412 with respect to employees of such employer by offering such employees the option of enrolling with Exchange-participating health benefits plans through the Health Insurance Exchange consistent with the provisions of subtitle B of title IV.

(B) **EMPLOYEE CHOICE.**—Any employee offered Exchange-participating health benefits plans by the employer of such employee under subparagraph (A) may choose coverage under any such plan. That choice includes, with respect to family coverage, coverage of the dependents of such employee.

(7) **AFFILIATED GROUPS.**—Any employer which is part of a group of employers who are treated as a single employer under subsection (b), (c), (m), or (o) of section 414 of the Internal Revenue Code of 1986 shall be treated, for purposes of this subtitle, as a single employer.

(8) **TREATMENT OF MULTI-EMPLOYER PLANS.**—The plan sponsor of a group health plan (as defined in section 773(a) of the Employee Retirement Income Security Act of 1974) that is a multi-employer plan (as defined in section 3(37) of such Act) may obtain health insurance coverage with respect to participants in the plan through the Exchange to the same extent that an employer not described in paragraph (1) or (2) is permitted by the Commissioner to obtain health insurance coverage through the Exchange as an Exchange-eligible employer.

(9) **OTHER COUNTING RULES.**—The Commissioner shall establish rules relating to how employees are counted for purposes of carrying out this subsection.

(f) **SPECIAL SITUATION AUTHORITY.**—The Commissioner shall have the authority to establish such rules as may be necessary to deal with special situations with regard to uninsured individuals and employers participating as Exchange-eligible individuals and employers, such as transition periods for individuals and employers who gain, or lose, Exchange-eligible participation status, and to establish grace periods for premium payment.

(g) **SURVEYS OF INDIVIDUALS AND EMPLOYERS.**—The Commissioner shall provide for periodic surveys of Exchange-eligible individuals and employers concerning satisfaction of such individuals and employers with the Health Insurance Exchange and Exchange-participating health benefits plans.

(h) **EXCHANGE ACCESS STUDY.**—

(1) **IN GENERAL.**—The Commissioner shall conduct a study of access to the Health Insurance Exchange for individuals and for employers, including individuals and employers who are not eligible and enrolled in Exchange-participating health benefits plans. The goal of the study is to determine if there are significant groups and types of individuals and employers who are not Exchange-eligible individuals or employers, but who would have improved benefits and affordability if made eligible for coverage in the Exchange.

(2) **ITEMS INCLUDED IN STUDY.**—Such study also shall examine—

(A) the terms, conditions, and affordability of group health coverage offered by employers and QHBP offering entities outside of the Exchange compared to Exchange-participating health benefits plans; and

(B) the affordability-test standard for access of certain employed individuals to coverage in the Health Insurance Exchange.

(3) **REPORT.**—Not later than January 1 of Y3, in Y6, and thereafter, the Commissioner shall submit to Congress a report on the study conducted under this subsection and shall include in such report recommendations regarding changes in standards for Exchange eligibility for individuals and employers.

#### SEC. 303. BENEFITS PACKAGE LEVELS.

(a) **IN GENERAL.**—The Commissioner shall specify the benefits to be made available under Exchange-participating health benefits plans during each plan year, consistent with subtitle C of title II and this section.

(b) **LIMITATION ON HEALTH BENEFITS PLANS OFFERED BY OFFERING ENTITIES.**—The Commissioner may not enter into a contract with a QHBP offering entity under section 304(c) for the offering of an Exchange-participating health benefits plan in a service area unless the following requirements are met:

(1) **REQUIRED OFFERING OF BASIC PLAN.**—The entity offers only one basic plan for such service area.

(2) **OPTIONAL OFFERING OF ENHANCED PLAN.**—If and only if the entity offers a basic

plan for such service area, the entity may offer one enhanced plan for such area.

(3) **OPTIONAL OFFERING OF PREMIUM PLAN.**—If and only if the entity offers an enhanced plan for such service area, the entity may offer one premium plan for such area.

(4) **OPTIONAL OFFERING OF PREMIUM-PLUS PLANS.**—If and only if the entity offers a premium plan for such service area, the entity may offer one or more premium-plus plans for such area.

All such plans may be offered under a single contract with the Commissioner.

(C) **SPECIFICATION OF BENEFIT LEVELS FOR PLANS.**—

(1) **IN GENERAL.**—The Commissioner shall establish the following standards consistent with this subsection and title II:

(A) **BASIC, ENHANCED, AND PREMIUM PLANS.**—Standards for 3 levels of Exchange-participating health benefits plans: basic, enhanced, and premium (in this division referred to as a “basic plan”, “enhanced plan”, and “premium plan”, respectively).

(B) **PREMIUM-PLUS PLAN BENEFITS.**—Standards for additional benefits that may be offered, consistent with this subsection and subtitle C of title II, under a premium plan (such a plan with additional benefits referred to in this division as a “premium-plus plan”).

(2) **BASIC PLAN.**—

(A) **IN GENERAL.**—A basic plan shall offer the essential benefits package required under title II for a qualified health benefits plan with an actuarial value of 70 percent of the full actuarial value of the benefits provided under the reference benefits package.

(B) **TIERED COST-SHARING FOR AFFORDABLE CREDIT ELIGIBLE INDIVIDUALS.**—In the case of an affordable credit eligible individual (as defined in section 342(a)(1)) enrolled in an Exchange-participating health benefits plan, the benefits under a basic plan are modified to provide for the reduced cost-sharing for the income tier applicable to the individual under section 324(c).

(3) **ENHANCED PLAN.**—An enhanced plan shall offer, in addition to the level of benefits under the basic plan, a lower level of cost-sharing as provided under title II consistent with section 223(b)(5)(A).

(4) **PREMIUM PLAN.**—A premium plan shall offer, in addition to the level of benefits under the basic plan, a lower level of cost-sharing as provided under title II consistent with section 223(b)(5)(B).

(5) **PREMIUM-PLUS PLAN.**—A premium-plus plan is a premium plan that also provides additional benefits, such as adult oral health and vision care, approved by the Commissioner. The portion of the premium that is attributable to such additional benefits shall be separately specified.

(6) **RANGE OF PERMISSIBLE VARIATION IN COST-SHARING.**—The Commissioner shall establish a permissible range of variation of cost-sharing for each basic, enhanced, and premium plan, except with respect to any benefit for which there is no cost-sharing permitted under the essential benefits package. Such variation shall permit a variation of not more than plus (or minus) 10 percent in cost-sharing with respect to each benefit category specified under section 222. Nothing in this subtitle shall be construed as prohibiting tiering in cost-sharing, including through preferred and participating providers and prescription drugs. In applying this paragraph, a health benefits plan may increase the cost-sharing by 10 percent within each category or tier, as applicable, and may decrease or eliminate cost-sharing in any category or tier as compared to the essential benefits package.

(D) **TREATMENT OF STATE BENEFIT MAN-DATES.**—Insofar as a State requires a health insurance issuer offering health insurance coverage to include benefits beyond the essential benefits package, such requirement shall continue to apply to an Exchange-participating health benefits plan, if the State has entered into an arrangement satisfactory to the Commissioner to reimburse the Commissioner for the amount of any net increase in affordability premium credits under subtitle C as a result of an increase in premium in basic plans as a result of application of such requirement.

(E) **RULES REGARDING COVERAGE OF AND AFFORDABILITY CREDITS FOR SPECIFIED SERVICES.**—

(1) **ASSURED AVAILABILITY OF VARIED COVERAGE THROUGH THE HEALTH INSURANCE EXCHANGE.**—The Commissioner shall assure that, of the Exchange participating health benefits plans offered in each premium rating area of the Health Insurance Exchange—

(A) there is at least one such plan that provides coverage of services described in subparagraphs (A) and (B) of section 222(e)(4); and

(B) there is at least one such plan that does not provide coverage of services described in section 222(e)(4)(A) which plan may also be one that does not provide coverage of services described in section 222(e)(4)(B).

(2) **SEGREGATION OF FUNDS.**—If a qualified health benefits plan provides coverage of services described in section 222(e)(4)(A), the plan shall provide assurances satisfactory to the Commissioner that—

(A) any affordability credits provided under subtitle C of title II are not used for purposes of paying for such services; and

(B) only premium amounts attributable to the actuarial value described in section 213(b) are used for such purpose.

#### **SEC. 304. CONTRACTS FOR THE OFFERING OF EXCHANGE-PARTICIPATING HEALTH BENEFITS PLANS.**

(A) **CONTRACTING DUTIES.**—In carrying out section 301(b)(1) and consistent with this subtitle:

(1) **OFFERING ENTITY AND PLAN STANDARDS.**—The Commissioner shall—

(A) establish standards necessary to implement the requirements of this title and title II for—

(i) QHBP offering entities for the offering of an Exchange-participating health benefits plan; and

(ii) Exchange-participating health benefits plans; and

(B) certify QHBP offering entities and qualified health benefits plans as meeting such standards and requirements of this title and title II for purposes of this subtitle.

(2) **SOLICITING AND NEGOTIATING BIDS; CONTRACTS.**—

(A) **BID SOLICITATION.**—The Commissioner shall solicit bids from QHBP offering entities for the offering of Exchange-participating health benefits plans. Such bids shall include justification for proposed premiums.

(B) **BID REVIEW AND NEGOTIATION.**—The Commissioner shall, based upon a review of such bids including the premiums and their affordability, negotiate with such entities for the offering of such plans.

(C) **DENIAL OF EXCESSIVE PREMIUMS.**—The Commissioner shall deny excessive premiums and premium increases.

(D) **CONTRACTS.**—The Commissioner shall enter into contracts with such entities for the offering of such plans through the Health Insurance Exchange under terms (consistent with this title) negotiated between the Commissioner and such entities.

(3) **FEDERAL ACQUISITION REGULATION.**—In carrying out this subtitle, the Commissioner may waive such provisions of the Federal Acquisition Regulation that the Commissioner determines to be inconsistent with the furtherance of this subtitle, other than provisions relating to confidentiality of information. Competitive procedures shall be used in awarding contracts under this subtitle to the extent that such procedures are consistent with this subtitle.

(b) **STANDARDS FOR QHBP OFFERING ENTITIES TO OFFER EXCHANGE-PARTICIPATING HEALTH BENEFITS PLANS.**—The standards established under subsection (a)(1)(A) shall require that, in order for a QHBP offering entity to offer an Exchange-participating health benefits plan, the entity must meet the following requirements:

(1) **LICENSED.**—The entity shall be licensed to offer health insurance coverage under State law for each State in which it is offering such coverage.

(2) **DATA REPORTING.**—The entity shall provide for the reporting of such information as the Commissioner may specify, including information necessary to administer the risk pooling mechanism described in section 306(b) and information to address disparities in health and health care.

(3) **AFFORDABILITY.**—The entity shall provide for affordable premiums.

(4) **IMPLEMENTING AFFORDABILITY CREDITS.**—The entity shall provide for implementation of the affordability credits provided for enrollees under subtitle C, including the reduction in cost-sharing under section 344(c).

(5) **ENROLLMENT.**—The entity shall accept all enrollments under this subtitle, subject to such exceptions (such as capacity limitations) in accordance with the requirements under title II for a qualified health benefits plan. The entity shall notify the Commissioner if the entity projects or anticipates reaching such a capacity limitation that would result in a limitation in enrollment.

(6) **RISK POOLING PARTICIPATION.**—The entity shall participate in such risk pooling mechanism as the Commissioner establishes under section 306(b).

(7) **ESSENTIAL COMMUNITY PROVIDERS.**—With respect to the basic plan offered by the entity, the entity shall include within the plan network those essential community providers, where available, that serve predominantly low-income, medically underserved individuals, such as health care providers defined in section 340B(a)(4) of the Public Health Service Act and providers described in section 1927(c)(1)(D)(i)(IV) of the Social Security Act (as amended by section 221 of Public Law 111–8). The Commissioner shall specify the extent to which and manner in which the previous sentence shall apply in the case of a basic plan with respect to which the Commissioner determines provides substantially all benefits through a health maintenance organization, as defined in section 2791(b)(3) of the Public Health Service Act. This paragraph shall not be construed to require a basic plan to contract with a provider if such provider refuses to accept the generally applicable payment rates of such plan.

(8) **CULTURALLY AND LINGUISTICALLY APPROPRIATE SERVICES AND COMMUNICATIONS.**—The entity shall provide for culturally and linguistically appropriate communication and health services.

(9) **SPECIAL RULES WITH RESPECT TO INDIAN ENROLLEES AND INDIAN HEALTH CARE PROVIDERS.**—

(A) **CHOICE OF PROVIDERS.**—The entity shall—

(i) demonstrate to the satisfaction of the Commissioner that it has contracted with a sufficient number of Indian health care providers to ensure timely access to covered services furnished by such providers to individual Indians through the entity's Exchange-participating health benefits plan; and

(ii) agree to pay Indian health care providers, whether such providers are participating or nonparticipating providers with respect to the entity, for covered services provided to those enrollees who are eligible to receive services from such providers at a rate that is not less than the level and amount of payment which the entity would make for the services of a participating provider which is not an Indian health care provider.

(B) SPECIAL RULE RELATING TO INDIAN HEALTH CARE PROVIDERS.—Provision of services by an Indian health care provider exclusively to Indians and their dependents shall not constitute discrimination under this Act.

(10) PROGRAM INTEGRITY STANDARDS.—The entity shall establish and operate a program to protect and promote the integrity of Exchange-participating health benefits plans it offers, in accordance with standards and functions established by the Commissioner.

(11) ADDITIONAL REQUIREMENTS.—The entity shall comply with other applicable requirements of this title, as specified by the Commissioner, which shall include standards regarding billing and collection practices for premiums and related grace periods and which may include standards to ensure that the entity does not use coercive practices to force providers not to contract with other entities offering coverage through the Health Insurance Exchange.

(C) CONTRACTS.—

(1) BID APPLICATION.—To be eligible to enter into a contract under this section, a QHBP offering entity shall submit to the Commissioner a bid at such time, in such manner, and containing such information as the Commissioner may require.

(2) TERM.—Each contract with a QHBP offering entity under this section shall be for a term of not less than one year, but may be made automatically renewable from term to term in the absence of notice of termination by either party.

(3) ENFORCEMENT OF NETWORK ADEQUACY.—In the case of a health benefits plan of a QHBP offering entity that uses a provider network, the contract under this section with the entity shall provide that if—

(A) the Commissioner determines that such provider network does not meet such standards as the Commissioner shall establish under section 215; and

(B) an individual enrolled in such plan receives an item or service from a provider that is not within such network; then any cost-sharing for such item or service shall be equal to the amount of such cost-sharing that would be imposed if such item or service was furnished by a provider within such network.

(4) OVERSIGHT AND ENFORCEMENT RESPONSIBILITIES.—The Commissioner shall establish processes, in coordination with State insurance regulators, to oversee, monitor, and enforce applicable requirements of this title with respect to QHBP offering entities offering Exchange-participating health benefits plans, including the marketing of such plans. Such processes shall include the following:

(A) GRIEVANCE AND COMPLAINT MECHANISMS.—The Commissioner shall establish, in coordination with State insurance regulators, a process under which Exchange-eligible

individuals and employers may file complaints concerning violations of such standards.

(B) ENFORCEMENT.—In carrying out authorities under this division relating to the Health Insurance Exchange, the Commissioner may impose one or more of the intermediate sanctions described in section 242(d).

(C) TERMINATION.—

(i) IN GENERAL.—The Commissioner may terminate a contract with a QHBP offering entity under this section for the offering of an Exchange-participating health benefits plan if such entity fails to comply with the applicable requirements of this title. Any determination by the Commissioner to terminate a contract shall be made in accordance with formal investigation and compliance procedures established by the Commissioner under which—

(I) the Commissioner provides the entity with the reasonable opportunity to develop and implement a corrective action plan to correct the deficiencies that were the basis of the Commissioner's determination; and

(II) the Commissioner provides the entity with reasonable notice and opportunity for hearing (including the right to appeal an initial decision) before terminating the contract.

(ii) EXCEPTION FOR IMMINENT AND SERIOUS RISK TO HEALTH.—Clause (i) shall not apply if the Commissioner determines that a delay in termination, resulting from compliance with the procedures specified in such clause prior to termination, would pose an imminent and serious risk to the health of individuals enrolled under the qualified health benefits plan of the QHBP offering entity.

(D) CONSTRUCTION.—Nothing in this subsection shall be construed as preventing the application of other sanctions under subtitle E of title II with respect to an entity for a violation of such a requirement.

(5) SPECIAL RULE RELATED TO COST-SHARING AND INDIAN HEALTH CARE PROVIDERS.—The contract under this section with a QHBP offering entity for a health benefits plan shall provide that if an individual who is an Indian is enrolled in such a plan and such individual receives a covered item or service from an Indian health care provider (regardless of whether such provider is in the plan's provider network), the cost-sharing for such item or service shall be equal to the amount of cost-sharing that would be imposed if such item or service—

(A) had been furnished by another provider in the plan's provider network; or

(B) in the case that the plan has no such network, was furnished by a non-Indian provider.

(6) NATIONAL PLAN.—Nothing in this section shall be construed as preventing the Commissioner from entering into a contract under this subsection with a QHBP offering entity for the offering of a health benefits plan with the same benefits in every State so long as such entity is licensed to offer such plan in each State and the benefits meet the applicable requirements in each such State.

(d) NO DISCRIMINATION ON THE BASIS OF PROVISION OF ABORTION.—No Exchange participating health benefits plan may discriminate against any individual health care provider or health care facility because of its willingness or unwillingness to provide, pay for, provide coverage of, or refer for abortions.

**SEC. 305. OUTREACH AND ENROLLMENT OF EXCHANGE-ELIGIBLE INDIVIDUALS AND EMPLOYERS IN EXCHANGE-PARTICIPATING HEALTH BENEFITS PLAN.**

(a) IN GENERAL.—

(1) OUTREACH.—The Commissioner shall conduct outreach activities consistent with subsection (c), including through use of appropriate entities as described in paragraph (3) of such subsection, to inform and educate individuals and employers about the Health Insurance Exchange and Exchange-participating health benefits plan options. Such outreach shall include outreach specific to vulnerable populations, such as children, individuals with disabilities, individuals with mental illness, and individuals with other cognitive impairments.

(2) ELIGIBILITY.—The Commissioner shall make timely determinations of whether individuals and employers are Exchange-eligible individuals and employers (as defined in section 302).

(3) ENROLLMENT.—The Commissioner shall establish and carry out an enrollment process for Exchange-eligible individuals and employers, including at community locations, in accordance with subsection (b).

(b) ENROLLMENT PROCESS.—

(1) IN GENERAL.—The Commissioner shall establish a process consistent with this title for enrollments in Exchange-participating health benefits plans. Such process shall provide for enrollment through means such as the mail, by telephone, electronically, and in person.

(2) ENROLLMENT PERIODS.—

(A) OPEN ENROLLMENT PERIOD.—The Commissioner shall establish an annual open enrollment period during which an Exchange-eligible individual or employer may elect to enroll in an Exchange-participating health benefits plan for the following plan year and an enrollment period for affordability credits under subtitle C. Such periods shall be during September through November of each year, or such other time that would maximize timeliness of income verification for purposes of such subtitle. The open enrollment period shall not be less than 30 days.

(B) SPECIAL ENROLLMENT.—The Commissioner shall also provide for special enrollment periods to take into account special circumstances of individuals and employers, such as an individual who—

(i) loses acceptable coverage;

(ii) experiences a change in marital or other dependent status;

(iii) moves outside the service area of the Exchange-participating health benefits plan in which the individual is enrolled; or

(iv) experiences a significant change in income.

(C) ENROLLMENT INFORMATION.—The Commissioner shall provide for the broad dissemination of information to prospective enrollees on the enrollment process, including before each open enrollment period. In carrying out the previous sentence, the Commissioner may work with other appropriate entities to facilitate such provision of information.

(3) AUTOMATIC ENROLLMENT FOR NON-MEDICAID ELIGIBLE INDIVIDUALS.—

(A) IN GENERAL.—The Commissioner shall provide for a process under which individuals who are Exchange-eligible individuals described in subparagraph (B) are automatically enrolled under an appropriate Exchange-participating health benefits plan. Such process may involve a random assignment or some other form of assignment that takes into account the health care providers used by the individual involved or such other relevant factors as the Commissioner may specify.

(B) SUBSIDIZED INDIVIDUALS DESCRIBED.—An individual described in this subparagraph is an Exchange-eligible individual who is either of the following:

(i) AFFORDABILITY CREDIT ELIGIBLE INDIVIDUALS.—The individual—

(I) has applied for, and been determined eligible for, affordability credits under subtitle C;

(II) has not opted out from receiving such affordability credit; and

(III) does not otherwise enroll in another Exchange-participating health benefits plan.

(ii) INDIVIDUALS ENROLLED IN A TERMINATED PLAN.—The individual who is enrolled in an Exchange-participating health benefits plan that is terminated (during or at the end of a plan year) and who does not otherwise enroll in another Exchange-participating health benefits plan.

(4) DIRECT PAYMENT OF PREMIUMS TO PLANS.—Under the enrollment process, individuals enrolled in an Exchange-participating health benefits plan shall pay such plans directly, and not through the Commissioner or the Health Insurance Exchange.

(c) COVERAGE INFORMATION AND ASSISTANCE.—

(1) COVERAGE INFORMATION.—The Commissioner shall provide for the broad dissemination of information on Exchange-participating health benefits plans offered under this title. Such information shall be provided in a comparative manner, and shall include information on benefits, premiums, cost-sharing, quality, provider networks, and consumer satisfaction.

(2) CONSUMER ASSISTANCE WITH CHOICE.—To provide assistance to Exchange-eligible individuals and employers, the Commissioner shall—

(A) provide for the operation of a toll-free telephone hotline to respond to requests for assistance and maintain an Internet Web site through which individuals may obtain information on coverage under Exchange-participating health benefits plans and file complaints;

(B) develop and disseminate information to Exchange-eligible enrollees on their rights and responsibilities;

(C) assist Exchange-eligible individuals in selecting Exchange-participating health benefits plans and obtaining benefits through such plans; and

(D) ensure that the Internet Web site described in subparagraph (A) and the information described in subparagraph (B) is developed using plain language (as defined in section 233(a)(2)).

(3) USE OF OTHER ENTITIES.—In carrying out this subsection, the Commissioner may work with other appropriate entities to facilitate the dissemination of information under this subsection and to provide assistance as described in paragraph (2).

(d) COVERAGE FOR CERTAIN NEWBORNS UNDER MEDICAID.—

(1) IN GENERAL.—In the case of a child born in the United States who at the time of birth is not otherwise covered under acceptable coverage, for the period of time beginning on the date of birth and ending on the date the child otherwise is covered under acceptable coverage (or, if earlier, the end of the month in which the 60-day period, beginning on the date of birth, ends), the child shall be deemed—

(A) to be a Medicaid eligible individual for purposes of this division and Medicaid; and

(B) to be automatically enrolled in Medicaid as a traditional Medicaid eligible individual (as defined in section 1943(c) of the Social Security Act).

(2) EXTENDED TREATMENT AS MEDICAID ELIGIBLE INDIVIDUAL.—In the case of a child described in paragraph (1) who at the end of the period referred to in such paragraph is not

otherwise covered under acceptable coverage, the child shall be deemed (until such time as the child obtains such coverage or the State otherwise makes a determination of the child's eligibility for medical assistance under its Medicaid plan pursuant to section 1943(b)(1) of the Social Security Act) to be a Medicaid eligible individual described in section 1902(1)(1)(B) of such Act.

(e) MEDICAID COVERAGE FOR MEDICAID ELIGIBLE INDIVIDUALS.—

(1) MEDICAID ENROLLMENT OBLIGATION.—An individual may apply, in the manner described in section 341(b)(1), for a determination of whether the individual is a Medicaid-eligible individual. If the individual is determined to be so eligible, the Commissioner, through the Medicaid memorandum of understanding under paragraph (2), shall provide for the enrollment of the individual under the State Medicaid plan in accordance with such memorandum of understanding. In the case of such an enrollment, the State shall provide for the same periodic redetermination of eligibility under Medicaid as would otherwise apply if the individual had directly applied for medical assistance to the State Medicaid agency.

(2) COORDINATED ENROLLMENT WITH STATE THROUGH MEMORANDUM OF UNDERSTANDING.—The Commissioner, in consultation with the Secretary of Health and Human Services, shall enter into a memorandum of understanding with each State with respect to coordinating enrollment of individuals in Exchange-participating health benefits plans and under the State's Medicaid program consistent with this section and to otherwise coordinate the implementation of the provisions of this division with respect to the Medicaid program. Such memorandum shall permit the exchange of information consistent with the limitations described in section 1902(a)(7) of the Social Security Act. Nothing in this section shall be construed as permitting such memorandum to modify or vitiate any requirement of a State Medicaid plan.

(f) EFFECTIVE CULTURALLY AND LINGUISTICALLY APPROPRIATE COMMUNICATION.—In carrying out this section, the Commissioner shall establish effective methods for communicating in plain language and a culturally and linguistically appropriate manner.

(g) ROLE FOR ENROLLMENT AGENTS AND BROKERS.—Nothing in this division shall be construed to affect the role of enrollment agents and brokers under State law, including with regard to the enrollment of individuals and employers in qualified health benefits plans including the public health insurance option.

(h) ASSISTANCE FOR SMALL EMPLOYERS.—

(1) IN GENERAL.—The Commissioner, in consultation with the Small Business Administration, shall establish and carry out a program to provide to small employers counseling and technical assistance with respect to the provision of health insurance to employees of such employers through the Health Insurance Exchange.

(2) DUTIES.—The program established under paragraph (1) shall include the following services:

(A) Educational activities to increase awareness of the Health Insurance Exchange and available small employer health plan options.

(B) Distribution of information to small employers with respect to the enrollment and selection process for health plans available under the Health Insurance Exchange, including standardized comparative information on the health plans available under the Health Insurance Exchange.

(C) Distribution of information to small employers with respect to available affordability credits or other financial assistance.

(D) Referrals to appropriate entities of complaints and questions relating to the Health Insurance Exchange.

(E) Enrollment and plan selection assistance for employers with respect to the Health Insurance Exchange.

(F) Responses to questions relating to the Health Insurance Exchange and the program established under paragraph (1).

(3) AUTHORITY TO PROVIDE SERVICES DIRECTLY OR BY CONTRACT.—The Commissioner may provide services under paragraph (2) directly or by contract with nonprofit entities that the Commissioner determines capable of carrying out such services.

(4) SMALL EMPLOYER DEFINED.—In this subsection, the term "small employer" means an employer with less than 100 employees.

(i) PARTICIPATION OF SMALL EMPLOYER BENEFIT ARRANGEMENTS.—

(1) IN GENERAL.—The Commissioner may enter into contracts with small employer benefit arrangements to provide consumer information, outreach, and assistance in the enrollment of small employers (and their employees) who are members of such an arrangement under Exchange participating health benefits plans.

(2) SMALL EMPLOYER BENEFIT ARRANGEMENT DEFINED.—In this subsection, the term "small employer benefit arrangement" means a not-for-profit agricultural or other cooperative that—

(A) consists solely of its members and is operated for the primary purpose of providing affordable employee benefits to its members;

(B) only has as members small employers in the same industry or line of business;

(C) has no member that has more than a 5 percent voting interest in the cooperative; and

(D) is governed by a board of directors elected by its members.

#### SEC. 306. OTHER FUNCTIONS.

(a) COORDINATION OF AFFORDABILITY CREDITS.—The Commissioner shall coordinate the distribution of affordability premium and cost-sharing credits under subtitle C to QHPB offering entities offering Exchange-participating health benefits plans.

(b) COORDINATION OF RISK POOLING.—The Commissioner shall establish a mechanism whereby there is an adjustment made of the premium amounts payable among QHPB offering entities offering Exchange-participating health benefits plans of premiums collected for such plans that takes into account (in a manner specified by the Commissioner) the differences in the risk characteristics of individuals and employees enrolled under the different Exchange-participating health benefits plans offered by such entities so as to minimize the impact of adverse selection of enrollees among the plans offered by such entities. For purposes of the previous sentence, the Commissioner may utilize data regarding enrollee demographics, inpatient and outpatient diagnoses (in a similar manner as such data are used under parts C and D of title XVIII of the Social Security Act), and such other information as the Secretary determines may be necessary, such as the actual medical costs of enrollees during the previous year.

#### SEC. 307. HEALTH INSURANCE EXCHANGE TRUST FUND.

(a) ESTABLISHMENT OF HEALTH INSURANCE EXCHANGE TRUST FUND.—There is created within the Treasury of the United States a trust fund to be known as the "Health Insurance Exchange Trust Fund" (in this section

referred to as the "Trust Fund"), consisting of such amounts as may be appropriated or credited to the Trust Fund under this section or any other provision of law.

(b) **PAYMENTS FROM TRUST FUND.**—The Commissioner shall pay from time to time from the Trust Fund such amounts as the Commissioner determines are necessary to make payments to operate the Health Insurance Exchange, including payments under subtitle C (relating to affordability credits).

(c) **TRANSFERS TO TRUST FUND.**—

(1) **DEDICATED PAYMENTS.**—There are hereby appropriated to the Trust Fund amounts equivalent to the following:

(A) **TAXES ON INDIVIDUALS NOT OBTAINING ACCEPTABLE COVERAGE.**—The amounts received in the Treasury under section 59B of the Internal Revenue Code of 1986 (relating to requirement of health insurance coverage for individuals).

(B) **EMPLOYMENT TAXES ON EMPLOYERS NOT PROVIDING ACCEPTABLE COVERAGE.**—The amounts received in the Treasury under sections 3111(c) and 3221(c) of the Internal Revenue Code of 1986 (relating to employers electing to not provide health benefits).

(C) **EXCISE TAX ON FAILURES TO MEET CERTAIN HEALTH COVERAGE REQUIREMENTS.**—The amounts received in the Treasury under section 4980H(b) (relating to excise tax with respect to failure to meet health coverage participation requirements).

(2) **APPROPRIATIONS TO COVER GOVERNMENT CONTRIBUTIONS.**—There are hereby appropriated, out of any moneys in the Treasury not otherwise appropriated, to the Trust Fund, an amount equivalent to the amount of payments made from the Trust Fund under subsection (b) plus such amounts as are necessary reduced by the amounts deposited under paragraph (1).

(d) **APPLICATION OF CERTAIN RULES.**—Rules similar to the rules of subchapter B of chapter 98 of the Internal Revenue Code of 1986 shall apply with respect to the Trust Fund.

**SEC. 308. OPTIONAL OPERATION OF STATE-BASED HEALTH INSURANCE EXCHANGES.**

(a) **IN GENERAL.**—If—

(1) a State (or group of States, subject to the approval of the Commissioner) applies to the Commissioner for approval of a State-based Health Insurance Exchange to operate in the State (or group of States); and

(2) the Commissioner approves such State-based Health Insurance Exchange, then, subject to subsections (c) and (d), the State-based Health Insurance Exchange shall operate, instead of the Health Insurance Exchange, with respect to such State (or group of States). The Commissioner shall approve a State-based Health Insurance Exchange if it meets the requirements for approval under subsection (b).

(b) **REQUIREMENTS FOR APPROVAL.**—

(1) **IN GENERAL.**—The Commissioner may not approve a State-based Health Insurance Exchange under this section unless the following requirements are met:

(A) The State-based Health Insurance Exchange must demonstrate the capacity to and provide assurances satisfactory to the Commissioner that the State-based Health Insurance Exchange will carry out the functions specified for the Health Insurance Exchange in the State (or States) involved, including—

(i) negotiating and contracting with QHBP offering entities for the offering of Exchange-participating health benefits plans, which satisfy the standards and requirements of this title and title II;

(ii) enrolling Exchange-eligible individuals and employers in such State in such plans;

(iii) the establishment of sufficient local offices to meet the needs of Exchange-eligible individuals and employers;

(iv) administering affordability credits under subtitle B using the same methodologies (and at least the same income verification methods) as would otherwise apply under such subtitle and at a cost to the Federal Government which does exceed the cost to the Federal Government if this section did not apply; and

(v) enforcement activities consistent with Federal requirements.

(B) There is no more than one Health Insurance Exchange operating with respect to any one State.

(C) The State provides assurances satisfactory to the Commissioner that approval of such an Exchange will not result in any net increase in expenditures to the Federal Government.

(D) The State provides for reporting of such information as the Commissioner determines and assurances satisfactory to the Commissioner that it will vigorously enforce violations of applicable requirements.

(E) Such other requirements as the Commissioner may specify.

(2) **PRESUMPTION FOR CERTAIN STATE-OPERATED EXCHANGES.**—

(A) **IN GENERAL.**—In the case of a State operating an Exchange prior to January 1, 2010, that seeks to operate the State-based Health Insurance Exchange under this section, the Commissioner shall presume that such Exchange meets the standards under this section unless the Commissioner determines, after completion of the process established under subparagraph (B), that the Exchange does not comply with such standards.

(B) **PROCESS.**—The Commissioner shall establish a process to work with a State described in subparagraph (A) to provide assistance necessary to assure that the State's Exchange comes into compliance with the standards for approval under this section.

(c) **CEASING OPERATION.**—

(1) **IN GENERAL.**—A State-based Health Insurance Exchange may, at the option of each State involved, and only after providing timely and reasonable notice to the Commissioner, cease operation as such an Exchange, in which case the Health Insurance Exchange shall operate, instead of such State-based Health Insurance Exchange, with respect to such State (or States).

(2) **TERMINATION; HEALTH INSURANCE EXCHANGE RESUMPTION OF FUNCTIONS.**—The Commissioner may terminate the approval (for some or all functions) of a State-based Health Insurance Exchange under this section if the Commissioner determines that such Exchange no longer meets the requirements of subsection (b) or is no longer capable of carrying out such functions in accordance with the requirements of this subtitle. In lieu of terminating such approval, the Commissioner may temporarily assume some or all functions of the State-based Health Insurance Exchange until such time as the Commissioner determines the State-based Health Insurance Exchange meets such requirements of subsection (b) and is capable of carrying out such functions in accordance with the requirements of this subtitle.

(3) **EFFECTIVENESS.**—The ceasing or termination of a State-based Health Insurance Exchange under this subsection shall be effective in such time and manner as the Commissioner shall specify.

(d) **RETENTION OF AUTHORITY.**—

(1) **AUTHORITY RETAINED.**—Enforcement authorities of the Commissioner shall be retained by the Commissioner.

(2) **DISCRETION TO RETAIN ADDITIONAL AUTHORITY.**—The Commissioner may specify functions of the Health Insurance Exchange that—

(A) may not be performed by a State-based Health Insurance Exchange under this section; or

(B) may be performed by the Commissioner and by such a State-based Health Insurance Exchange.

(e) **REFERENCES.**—In the case of a State-based Health Insurance Exchange, except as the Commissioner may otherwise specify under subsection (d), any references in this subtitle to the Health Insurance Exchange or to the Commissioner in the area in which the State-based Health Insurance Exchange operates shall be deemed a reference to the State-based Health Insurance Exchange and the head of such Exchange, respectively.

(f) **FUNDING.**—In the case of a State-based Health Insurance Exchange, there shall be assistance provided for the operation of such Exchange in the form of a matching grant with a State share of expenditures required.

**SEC. 309. INTERSTATE HEALTH INSURANCE COMPACTS.**

(a) **IN GENERAL.**—Effective January 1, 2015, 2 or more States may form Health Care Choice Compacts (in this section referred to as "compacts") to facilitate the purchase of individual health insurance coverage across State lines.

(b) **MODEL GUIDELINES.**—The Secretary of Health and Human Services (in this section referred to as the "Secretary") shall consult with the National Association of Insurance Commissioners (in this section referred to as "NAIC") to develop not later than January 1, 2014 model guidelines for the creation of compacts. In developing such guidelines, the Secretary shall consult with consumers, health insurance issuers, and other interested parties. Such guidelines shall—

(1) provide for the sale of health insurance coverage to residents of all compacting States subject to the laws and regulations of a primary State designated by the compacting States;

(2) require health insurance issuers issuing health insurance coverage in secondary States to maintain licensure in every such State;

(3) preserve the authority of the State of an individual's residence to enforce law relating to—

- (A) market conduct;
- (B) unfair trade practices;
- (C) network adequacy;
- (D) consumer protection standards;
- (E) grievance and appeals;
- (F) fair claims payment requirements;
- (G) prompt payment of claims;
- (H) rate review; and
- (I) fraud;

(4) permit State insurance commissioners and other State agencies in secondary States access to the records of a health insurance issuer to the same extent as if the policy were written in that State; and

(5) provide for clear and conspicuous disclosure to consumers that the policy may not be subject to all the laws and regulations of the State in which the purchaser resides.

(c) **NO REQUIREMENT TO COMPACT.**—Nothing in this section shall be construed to require a State to join a compact.

(d) **STATE AUTHORITY.**—A State may not enter into a compact under this subsection unless the State enacts a law after the date of enactment of this Act that specifically authorizes the State to enter into such compact.

(e) **CONSUMER PROTECTIONS.**—If a State enters into a compact it must retain responsibility for the consumer protections of its



residents and its residents retain the right to bring a claim in a State court in the State in which the resident resides.

(f) ASSISTANCE TO COMPACTING STATES.—

(1) IN GENERAL.—Beginning January 1, 2015, the Secretary shall make awards, from amounts appropriated under paragraph (5), to States in the amount specified in paragraph (2) for the uses described in paragraph (3).

(2) AMOUNT SPECIFIED.—

(A) IN GENERAL.—For each fiscal year, the Secretary shall determine the total amount that the Secretary will make available for grants under this subsection.

(B) STATE AMOUNT.—For each State that is awarded a grant under paragraph (1), the amount of such grants shall be based on a formula established by the Secretary, not to exceed \$1 million per State, under which States shall receive an award in the amount that is based on the following two components:

(i) A minimum amount for each State.

(ii) An additional amount based on population of the State.

(3) USE OF FUNDS.—A State shall use amounts awarded under this subsection for activities (including planning activities) related regulating health insurance coverage sold in secondary States.

(4) RENEWABILITY OF GRANT.—The Secretary may renew a grant award under paragraph (1) if the State receiving the grant continues to be a member of a compact.

(5) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this subsection in each of fiscal years 2015 through 2020.

**SEC. 310. HEALTH INSURANCE COOPERATIVES.**

(a) ESTABLISHMENT.—Not later than 6 months after the date of the enactment of this Act, the Commissioner, in consultation with the Secretary of the Treasury, shall establish a Consumer Operated and Oriented Plan program (in this section referred to as the “CO-OP program”) under which the Commissioner may make grants and loans for the establishment and initial operation of not-for-profit, member-run health insurance cooperatives (in this section individually referred to as a “cooperative”) that provide insurance through the Health Insurance Exchange or a State-based Health Insurance Exchange under section 308. Nothing in this section shall be construed as requiring a State to establish such a cooperative.

(b) START-UP AND SOLVENCY GRANTS AND LOANS.—

(1) IN GENERAL.—Not later than 36 months after the date of the enactment of this Act, the Commissioner, acting through the CO-OP program, may make—

(A) loans (of such period and with such terms as the Secretary may specify) to cooperatives to assist such cooperatives with start-up costs; and

(B) grants to cooperatives to assist such cooperatives in meeting State solvency requirements in the States in which such cooperative offers or issues insurance coverage.

(2) CONDITIONS.—A grant or loan may not be awarded under this subsection with respect to a cooperative unless the following conditions are met:

(A) The cooperative is structured as a not-for-profit, member organization under the law of each State in which such cooperative offers, intends to offer, or issues insurance coverage, with the membership of the cooperative being made up entirely of beneficiaries of the insurance coverage offered by such cooperative.

(B) The cooperative did not offer insurance on or before July 16, 2009, and the cooperative is not an affiliate or successor to an insurance company offering insurance on or before such date.

(C) The governing documents of the cooperative incorporate ethical and conflict of interest standards designed to protect against insurance industry involvement and interference in the governance of the cooperative.

(D) The cooperative is not sponsored by a State government.

(E) Substantially all of the activities of the cooperative consist of the issuance of qualified health benefits plans through the Health Insurance Exchange or a State-based health insurance exchange.

(F) The cooperative is licensed to offer insurance in each State in which it offers insurance.

(G) The governance of the cooperative must be subject to a majority vote of its members.

(H) As provided in guidance issued by the Secretary of Health and Human Services, the cooperative operates with a strong consumer focus, including timeliness, responsiveness, and accountability to members.

(I) Any profits made by the cooperative are used to lower premiums, improve benefits, or to otherwise improve the quality of health care delivered to members.

(3) PRIORITY.—The Commissioner, in making grants and loans under this subsection, shall give priority to cooperatives that—

(A) operate on a statewide basis;

(B) use an integrated delivery system; or

(C) have a significant level of financial support from nongovernmental sources.

(4) RULES OF CONSTRUCTION.—Nothing in this section shall be construed to prevent a cooperative established in one State from integrating with a cooperative established in another State the administration, issuance of coverage, or other activities related to acting as a QHPB offering entity. Nothing in this section shall be construed as preventing State governments from taking actions to permit such integration.

(5) AMORTIZATION OF GRANTS AND LOANS.—The Secretary shall provide for the repayment of grants or loans provided under this subsection to the Treasury in an amortized manner over a 10-year period.

(6) REPAYMENT FOR VIOLATIONS OF TERMS OF PROGRAM.—If a cooperative violates the terms of the CO-OP program and fails to correct the violation within a reasonable period of time, as determined by the Commissioner, the cooperative shall repay the total amount of any loan or grant received by such cooperative under this section, plus interest (at a rate determined by the Secretary).

(7) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated \$5,000,000,000 for the period of fiscal years 2010 through 2014 to provide for grants and loans under this subsection.

(c) DEFINITIONS.—For purposes of this section:

(1) STATE.—The term “State” means each of the 50 States and the District of Columbia.

(2) MEMBER.—The term “member”, with respect to a cooperative, means an individual who, after the cooperative offers health insurance coverage, is enrolled in such coverage.

**SEC. 311. RETENTION OF DOD AND VA AUTHORITY.**

Nothing in this subtitle shall be construed as affecting any authority under title 38, United States Code, or chapter 55 of title 10, United States Code.

**Subtitle B—Public Health Insurance Option**

**SEC. 321. ESTABLISHMENT AND ADMINISTRATION OF A PUBLIC HEALTH INSURANCE OPTION AS AN EXCHANGE-QUALIFIED HEALTH BENEFITS PLAN.**

(a) ESTABLISHMENT.—For years beginning with Y1, the Secretary of Health and Human Services (in this subtitle referred to as the “Secretary”) shall provide for the offering of an Exchange-participating health benefits plan (in this division referred to as the “public health insurance option”) that ensures choice, competition, and stability of affordable, high quality coverage throughout the United States in accordance with this subtitle. In designing the option, the Secretary’s primary responsibility is to create a low-cost plan without compromising quality or access to care.

(b) OFFERING AS AN EXCHANGE-PARTICIPATING HEALTH BENEFITS PLAN.—

(1) EXCLUSIVE TO THE EXCHANGE.—The public health insurance option shall only be made available through the Health Insurance Exchange.

(2) ENSURING A LEVEL PLAYING FIELD.—Consistent with this subtitle, the public health insurance option shall comply with requirements that are applicable under this title to an Exchange-participating health benefits plan, including requirements related to benefits, benefit levels, provider networks, notices, consumer protections, and cost-sharing.

(3) PROVISION OF BENEFIT LEVELS.—The public health insurance option—A) shall offer basic, enhanced, and premium plans; and

(B) may offer premium-plus plans.

(c) ADMINISTRATIVE CONTRACTING.—The Secretary may enter into contracts for the purpose of performing administrative functions (including functions described in subsection (a)(4) of section 1874A of the Social Security Act) with respect to the public health insurance option in the same manner as the Secretary may enter into contracts under subsection (a)(1) of such section. The Secretary has the same authority with respect to the public health insurance option as the Secretary has under subsections (a)(1) and (b) of section 1874A of the Social Security Act with respect to title XVIII of such Act. Contracts under this subsection shall not involve the transfer of insurance risk to such entity.

(d) OMBUDSMAN.—The Secretary shall establish an office of the ombudsman for the public health insurance option which shall have duties with respect to the public health insurance option similar to the duties of the Medicare Beneficiary Ombudsman under section 1808(c)(2) of the Social Security Act.

(e) DATA COLLECTION.—The Secretary shall collect such data as may be required to establish premiums and payment rates for the public health insurance option and for other purposes under this subtitle, including to improve quality and to reduce racial, ethnic, and other disparities in health and health care. Nothing in this subtitle may be construed as authorizing the Secretary (or any employee or contractor) to create or maintain lists of non-medical personal property.

(f) TREATMENT OF PUBLIC HEALTH INSURANCE OPTION.—With respect to the public health insurance option, the Secretary shall be treated as a QHPB offering entity offering an Exchange-participating health benefits plan.

(g) ACCESS TO FEDERAL COURTS.—The provisions of Medicare (and related provisions of title II of the Social Security Act) relating to access of Medicare beneficiaries to Federal courts for the enforcement of rights



under Medicare, including with respect to amounts in controversy, shall apply to the public health insurance option and individuals enrolled under such option under this title in the same manner as such provisions apply to Medicare and Medicare beneficiaries.

#### SEC. 322. PREMIUMS AND FINANCING.

##### (a) ESTABLISHMENT OF PREMIUMS.—

(1) IN GENERAL.—The Secretary shall establish geographically adjusted premium rates for the public health insurance option—

(A) in a manner that complies with the premium rules established by the Commissioner under section 213 for Exchange-participating health benefits plans; and

(B) at a level sufficient to fully finance the costs of—

(i) health benefits provided by the public health insurance option; and

(ii) administrative costs related to operating the public health insurance option.

(2) CONTINGENCY MARGIN.—In establishing premium rates under paragraph (1), the Secretary shall include an appropriate amount for a contingency margin (which shall be not less than 90 days of estimated claims). Before setting such appropriate amount for years starting with Y3, the Secretary shall solicit a recommendation on such amount from the American Academy of Actuaries.

##### (b) ACCOUNT.—

(1) ESTABLISHMENT.—There is established in the Treasury of the United States an Account for the receipts and disbursements attributable to the operation of the public health insurance option, including the start-up funding under paragraph (2). Section 1854(g) of the Social Security Act shall apply to receipts described in the previous sentence in the same manner as such section applies to payments or premiums described in such section.

##### (2) START-UP FUNDING.—

(A) IN GENERAL.—In order to provide for the establishment of the public health insurance option, there is hereby appropriated to the Secretary, out of any funds in the Treasury not otherwise appropriated, \$2,000,000,000. In order to provide for initial claims reserves before the collection of premiums, there are hereby appropriated to the Secretary, out of any funds in the Treasury not otherwise appropriated, such sums as necessary to cover 90 days worth of claims reserves based on projected enrollment.

(B) AMORTIZATION OF START-UP FUNDING.—The Secretary shall provide for the repayment of the startup funding provided under subparagraph (A) to the Treasury in an amortized manner over the 10-year period beginning with Y1.

(C) LIMITATION ON FUNDING.—Nothing in this section shall be construed as authorizing any additional appropriations to the Account, other than such amounts as are otherwise provided with respect to other Exchange-participating health benefits plans.

(3) NO BAILOUTS.—In no case shall the public health insurance option receive any Federal funds for purposes of insolvency in any manner similar to the manner in which entities receive Federal funding under the Troubled Assets Relief Program of the Secretary of the Treasury.

#### SEC. 323. PAYMENT RATES FOR ITEMS AND SERVICES.

##### (a) NEGOTIATION OF PAYMENT RATES.—

(1) IN GENERAL.—The Secretary shall negotiate payment for the public health insurance option for health care providers and items and services, including prescription drugs, consistent with this section and section 324.

(2) MANNER OF NEGOTIATION.—The Secretary shall negotiate such rates in a manner that results in payment rates that are not lower, in the aggregate, than rates under title XVIII of the Social Security Act, and not higher, in the aggregate, than the average rates paid by other QHBP offering entities for services and health care providers.

(3) INNOVATIVE PAYMENT METHODS.—Nothing in this subsection shall be construed as preventing the use of innovative payment methods such as those described in section 324 in connection with the negotiation of payment rates under this subsection.

(4) TREATMENT OF CERTAIN STATE WAIVERS.—In the case of any State operating a cost-containment waiver for health care providers in accordance with section 1814(b)(3) of the Social Security Act, the Secretary shall provide for payment to such providers under the public health insurance option consistent with the provisions and requirements of that waiver.

##### (b) ESTABLISHMENT OF A PROVIDER NETWORK.—

(1) IN GENERAL.—Health care providers (including physicians and hospitals) participating in Medicare are participating providers in the public health insurance option unless they opt out in a process established by the Secretary consistent with this subsection.

(2) REQUIREMENTS FOR OPT-OUT PROCESS.—Under the process established under paragraph (1)—

(A) providers described in such paragraph shall be provided at least a 1-year period prior to the first day of Y1 to opt out of participating in the public health insurance option;

(B) no provider shall be subject to a penalty for not participating in the public health insurance option;

(C) the Secretary shall include information on how providers participating in Medicare who chose to opt out of participating in the public health insurance option may opt back in; and

(D) there shall be an annual enrollment period in which providers may decide whether to participate in the public health insurance option.

(3) RULEMAKING.—Not later than 18 months before the first day of Y1, the Secretary shall promulgate rules (pursuant to notice and comment) for the process described in paragraph (1).

(c) LIMITATIONS ON REVIEW.—There shall be no administrative or judicial review of a payment rate or methodology established under this section or under section 324.

#### SEC. 324. MODERNIZED PAYMENT INITIATIVES AND DELIVERY SYSTEM REFORM.

(a) IN GENERAL.—For plan years beginning with Y1, the Secretary may utilize innovative payment mechanisms and policies to determine payments for items and services under the public health insurance option. The payment mechanisms and policies under this section may include patient-centered medical home and other care management payments, accountable care organizations, value-based purchasing, bundling of services, differential payment rates, performance or utilization based payments, partial capitation, and direct contracting with providers.

(b) REQUIREMENTS FOR INNOVATIVE PAYMENTS.—The Secretary shall design and implement the payment mechanisms and policies under this section in a manner that—

(1) seeks to—

(A) improve health outcomes;

(B) reduce health disparities (including racial, ethnic, and other disparities);

(C) provide efficient and affordable care;

(D) address geographic variation in the provision of health services; or

(E) prevent or manage chronic illness; and

(2) promotes care that is integrated, patient-centered, quality, and efficient.

(c) ENCOURAGING THE USE OF HIGH VALUE SERVICES.—To the extent allowed by the benefit standards applied to all Exchange-participating health benefits plans, the public health insurance option may modify cost-sharing and payment rates to encourage the use of services that promote health and value.

(d) PROMOTION OF DELIVERY SYSTEM REFORM.—The Secretary shall monitor and evaluate the progress of payment and delivery system reforms under this Act and shall seek to implement such reforms subject to the following:

(1) To the extent that the Secretary finds a payment and delivery system reform successful in improving quality and reducing costs, the Secretary shall implement such reform on as large a geographic scale as practical and economical.

(2) The Secretary may delay the implementation of such a reform in geographic areas in which such implementation would place the public health insurance option at a competitive disadvantage.

(3) The Secretary may prioritize implementation of such a reform in high cost geographic areas or otherwise in order to reduce total program costs or to promote high value care.

(e) NON-UNIFORMITY PERMITTED.—Nothing in this subtitle shall prevent the Secretary from varying payments based on different payment structure models (such as accountable care organizations and medical homes) under the public health insurance option for different geographic areas.

#### SEC. 325. PROVIDER PARTICIPATION.

(a) IN GENERAL.—The Secretary shall establish conditions of participation for health care providers under the public health insurance option.

##### (b) LICENSURE OR CERTIFICATION.—

(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary shall not allow a health care provider to participate in the public health insurance option unless such provider is appropriately licensed, certified, or otherwise permitted to practice under State law.

(2) SPECIAL RULE FOR IHS FACILITIES AND PROVIDERS.—The requirements under paragraph (1) shall not apply to—

(A) a facility that is operated by the Indian Health Service;

(B) a facility operated by an Indian Tribe or tribal organization under the Indian Self-Determination Act (Public Law 93-638);

(C) a health care professional employed by the Indian Health Service; or

(D) a health care professional—

(i) who is employed to provide health care services in a facility operated by an Indian Tribe or tribal organization under the Indian Self-Determination Act; and

(ii) who is licensed or certified in any State.

##### (c) PAYMENT TERMS FOR PROVIDERS.—

(1) PHYSICIANS.—The Secretary shall provide for the annual participation of physicians under the public health insurance option, for which payment may be made for services furnished during the year, in one of 2 classes:

(A) PREFERRED PHYSICIANS.—Those physicians who agree to accept the payment under section 323 (without regard to cost-sharing) as the payment in full.

(B) PARTICIPATING, NON-PREFERRED PHYSICIANS.—Those physicians who agree not to impose charges (in relation to the payment described in section 323 for such physicians) that exceed the sum of the in-network cost-sharing plus 15 percent of the total payment for each item and service. The Secretary shall reduce the payment described in section 323 for such physicians.

(2) OTHER PROVIDERS.—The Secretary shall provide for the participation (on an annual or other basis specified by the Secretary) of health care providers (other than physicians) under the public health insurance option under which payment shall only be available if the provider agrees to accept the payment under section 323 (without regard to cost-sharing) as the payment in full.

(d) EXCLUSION OF CERTAIN PROVIDERS.—The Secretary shall exclude from participation under the public health insurance option a health care provider that is excluded from participation in a Federal health care program (as defined in section 1128B(f) of the Social Security Act).

#### SEC. 326. APPLICATION OF FRAUD AND ABUSE PROVISIONS.

Provisions of civil law identified by the Secretary by regulation, in consultation with the Inspector General of the Department of Health and Human Services, that impose sanctions with respect to waste, fraud, and abuse under Medicare, such as sections 3729 through 3733 of title 31, United States Code (commonly known as the False Claims Act), shall also apply to the public health insurance option.

#### SEC. 327. APPLICATION OF HIPAA INSURANCE REQUIREMENTS.

The requirements of sections 2701 through 2792 of the Public Health Service Act shall apply to the public health insurance option in the same manner as they apply to health insurance coverage offered by a health insurance issuer in the individual market.

#### SEC. 328. APPLICATION OF HEALTH INFORMATION PRIVACY, SECURITY, AND ELECTRONIC TRANSACTION REQUIREMENTS.

Part C of title XI of the Social Security Act, relating to standards for protections against the wrongful disclosure of individually identifiable health information, health information security, and the electronic exchange of health care information, shall apply to the public health insurance option in the same manner as such part applies to other health plans (as defined in section 1171(5) of such Act).

#### SEC. 329. ENROLLMENT IN PUBLIC HEALTH INSURANCE OPTION IS VOLUNTARY.

Nothing in this division shall be construed as requiring anyone to enroll in the public health insurance option. Enrollment in such option is voluntary.

#### SEC. 330. ENROLLMENT IN PUBLIC HEALTH INSURANCE OPTION BY MEMBERS OF CONGRESS.

Notwithstanding any other provision of this Act, Members of Congress may enroll in the public health insurance option.

#### SEC. 331. REIMBURSEMENT OF SECRETARY OF VETERANS AFFAIRS.

The Secretary of Health and Human Services shall seek to enter into a memorandum of understanding with the Secretary of Veterans Affairs regarding the recovery of costs related to non-service-connected care or services provided by the Secretary of Veterans Affairs to an individual covered under the public health insurance option in a manner consistent with recovery of costs related to non-service-connected care from private health insurance plans.

#### Subtitle C—Individual Affordability Credits

#### SEC. 341. AVAILABILITY THROUGH HEALTH INSURANCE EXCHANGE.

(a) IN GENERAL.—Subject to the succeeding provisions of this subtitle, in the case of an affordable credit eligible individual enrolled in an Exchange-participating health benefits plan—

(1) the individual shall be eligible for, in accordance with this subtitle, affordability credits consisting of—

(A) an affordability premium credit under section 343 to be applied against the premium for the Exchange-participating health benefits plan in which the individual is enrolled; and

(B) an affordability cost-sharing credit under section 344 to be applied as a reduction of the cost-sharing otherwise applicable to such plan; and

(2) the Commissioner shall pay the QHBP offering entity that offers such plan from the Health Insurance Exchange Trust Fund the aggregate amount of affordability credits for all affordable credit eligible individuals enrolled in such plan.

(b) APPLICATION.—

(1) IN GENERAL.—An Exchange eligible individual may apply to the Commissioner through the Health Insurance Exchange or through another entity under an arrangement made with the Commissioner, in a form and manner specified by the Commissioner. The Commissioner through the Health Insurance Exchange or through another public entity under an arrangement made with the Commissioner shall make a determination as to eligibility of an individual for affordability credits under this subtitle. The Commissioner shall establish a process whereby, on the basis of information otherwise available, individuals may be deemed to be affordable credit eligible individuals. In carrying this subtitle, the Commissioner shall establish effective methods that ensure that individuals with limited English proficiency are able to apply for affordability credits.

(2) USE OF STATE MEDICAID AGENCIES.—If the Commissioner determines that a State Medicaid agency has the capacity to make a determination of eligibility for affordability credits under this subtitle and under the same standards as used by the Commissioner, under the Medicaid memorandum of understanding under section 305(e)(2)—

(A) the State Medicaid agency is authorized to conduct such determinations for any Exchange-eligible individual who requests such a determination; and

(B) the Commissioner shall reimburse the State Medicaid agency for the costs of conducting such determinations.

(3) MEDICAID SCREEN AND ENROLL OBLIGATION.—In the case of an application made under paragraph (1), there shall be a determination of whether the individual is a Medicaid-eligible individual. If the individual is determined to be so eligible, the Commissioner, through the Medicaid memorandum of understanding under section 305(e)(2), shall provide for the enrollment of the individual under the State Medicaid plan in accordance with such Medicaid memorandum of understanding. In the case of such an enrollment, the State shall provide for the same periodic redetermination of eligibility under Medicaid as would otherwise apply if the individual had directly applied for medical assistance to the State Medicaid agency.

(4) APPLICATION AND VERIFICATION OF REQUIREMENT OF CITIZENSHIP OR LAWFUL PRESENCE IN THE UNITED STATES.—

(A) REQUIREMENT.—No individual shall be an affordable credit eligible individual (as

defined in section 342(a)(1)) unless the individual is a citizen or national of the United States or is lawfully present in a State in the United States (other than as a non-immigrant described in a subparagraph (excluding subparagraphs (K), (T), (U), and (V)) of section 101(a)(15) of the Immigration and Nationality Act).

(B) DECLARATION OF CITIZENSHIP OR LAWFUL IMMIGRATION STATUS.—No individual shall be an affordable credit eligible individual unless there has been a declaration made, in a form and manner specified by the Health Choices Commissioner similar to the manner required under section 1137(d)(1) of the Social Security Act and under penalty of perjury, that the individual—

(i) is a citizen or national of the United States; or

(ii) is not such a citizen or national but is lawfully present in a State in the United States (other than as a nonimmigrant described in a subparagraph (excluding subparagraphs (K), (T), (U), and (V)) of section 101(a)(15) of the Immigration and Nationality Act).

Such declaration shall be verified in accordance with subparagraph (C) or (D), as the case may be.

(C) VERIFICATION PROCESS FOR CITIZENS.—

(i) IN GENERAL.—In the case of an individual making the declaration described in subparagraph (B)(i), subject to clause (ii), section 1902(ee) of the Social Security Act shall apply to such declaration in the same manner as such section applies to a declaration described in paragraph (1) of such section.

(ii) SPECIAL RULES.—In applying section 1902(ee) of such Act under clause (i)—

(I) any reference in such section to a State is deemed a reference to the Commissioner (or other public entity making the eligibility determination);

(II) any reference to medical assistance or enrollment under a State plan is deemed a reference to provision of affordability credits under this subtitle;

(III) a reference to a newly enrolled individual under paragraph (2)(A) of such section is deemed a reference to an individual newly in receipt of an affordability credit under this subtitle;

(IV) approval by the Secretary shall not be required in applying paragraph (2)(B)(ii) of such section;

(V) paragraph (3) of such section shall not apply; and

(VI) before the end of Y2, the Health Choices Commissioner, in consultation with the Commissioner of Social Security, may extend the periods specified in paragraph (1)(B)(ii) of such section.

(D) VERIFICATION PROCESS FOR NONCITIZENS.—

(i) IN GENERAL.—In the case of an individual making the declaration described in subparagraph (B)(ii), subject to clause (ii), the verification procedures of paragraphs (2) through (5) of section 1137(d) of the Social Security Act shall apply to such declaration in the same manner as such procedures apply to a declaration described in paragraph (1) of such section.

(ii) SPECIAL RULES.—In applying such paragraphs of section 1137(d) of such Act under clause (i)—

(I) any reference in such paragraphs to a State is deemed a reference to the Health Choices Commissioner; and

(II) any reference to benefits under a program is deemed a reference to affordability credits under this subtitle.

(iii) APPLICATION TO STATE-BASED EXCHANGES.—In the case of the application of the verification process under this subparagraph to a State-based Health Insurance Exchange approved under section 308, section 1137(e) of such Act shall apply to the Health Choices Commissioner in relation to the State.

(E) ANNUAL REPORTS.—The Health Choices Commissioner shall report to Congress annually on the number of applicants for affordability credits under this subtitle, their citizenship or immigration status, and the disposition of their applications. Such report shall be made publicly available and shall include information on—

(i) the number of applicants whose declaration of citizenship or immigration status, name, or social security account number was not consistent with records maintained by the Commissioner of Social Security or the Department of Homeland Security and, of such applicants, the number who contested the inconsistency and sought to document their citizenship or immigration status, name, or social security account number or to correct the information maintained in such records and, of those, the results of such contestations; and

(ii) the administrative costs of conducting the status verification under this paragraph.

(F) GAO REPORT.—Not later than the end of Y2, the Comptroller General of the United States shall submit to the Committee on Ways and Means, the Committee on Energy and Commerce, the Committee on Education and Labor, and the Committee on the Judiciary of the House of Representatives and the Committee on Finance, the Committee on Health, Education, Labor, and Pensions, and the Committee on the Judiciary of the Senate a report examining the effectiveness of the citizenship and immigration verification systems applied under this paragraph. Such report shall include an analysis of the following:

(i) The causes of erroneous determinations under such systems.

(ii) The effectiveness of the processes used in remedying such erroneous determinations.

(iii) The impact of such systems on individuals, health care providers, and Federal and State agencies, including the effect of erroneous determinations under such systems.

(iv) The effectiveness of such systems in preventing ineligible individuals from receiving for affordability credits.

(v) The characteristics of applicants described in subparagraph (E)(i).

(G) PROHIBITION OF DATABASE.—Nothing in this paragraph or the amendments made by paragraph (6) shall be construed as authorizing the Health Choices Commissioner or the Commissioner of Social Security to establish a database of information on citizenship or immigration status.

(H) INITIAL FUNDING.—

(i) IN GENERAL.—Out of any funds in the Treasury not otherwise appropriated, there is appropriated to the Commissioner of Social Security \$30,000,000, to be available without fiscal year limit to carry out this paragraph and section 205(v) of the Social Security Act.

(ii) FUNDING LIMITATION.—In no case shall funds from the Social Security Administration's Limitation on Administrative Expenses be used to carry out activities related to this paragraph or section 205(v) of the Social Security Act.

(5) AGREEMENT WITH SOCIAL SECURITY COMMISSIONER.—

(A) IN GENERAL.—The Health Choices Commissioner shall enter into and maintain an

agreement described in section 205(v)(2) of the Social Security Act with the Commissioner of Social Security.

(B) FUNDING.—The agreement entered into under subparagraph (A) shall, for each fiscal year (beginning with fiscal year 2013)—

(i) provide funds to the Commissioner of Social Security for the full costs of the responsibilities of the Commissioner of Social Security under paragraph (4), including—

(I) acquiring, installing, and maintaining technological equipment and systems necessary for the fulfillment of the responsibilities of the Commissioner of Social Security under paragraph (4), but only that portion of such costs that are attributable to such responsibilities; and

(II) responding to individuals who contest with the Commissioner of Social Security a reported inconsistency with records maintained by the Commissioner of Social Security or the Department of Homeland Security relating to citizenship or immigration status, name, or social security account number under paragraph (4);

(ii) based on an estimating methodology agreed to by the Commissioner of Social Security and the Health Choices Commissioner, provide such funds, within 10 calendar days of the beginning of the fiscal year for the first quarter and in advance for all subsequent quarters in that fiscal year; and

(iii) provide for an annual accounting and reconciliation of the actual costs incurred and the funds provided under the agreement.

(C) REVIEW OF ACCOUNTING.—The annual accounting and reconciliation conducted pursuant to subparagraph (B)(iii) shall be reviewed by the Inspectors General of the Social Security Administration and the Health Choices Administration, including an analysis of consistency with the requirements of paragraph (4).

(D) CONTINGENCY.—In any case in which agreement with respect to the provisions required under subparagraph (B) for any fiscal year has not been reached as of the first day of such fiscal year, the latest agreement with respect to such provisions shall be deemed in effect on an interim basis for such fiscal year until such time as an agreement relating to such provisions is subsequently reached. In any case in which an interim agreement applies for any fiscal year under this subparagraph, the Commissioner of Social Security shall, not later than the first day of such fiscal year, notify the appropriate Committees of the Congress of the failure to reach the agreement with respect to such provisions for such fiscal year. Until such time as the agreement with respect to such provisions has been reached for such fiscal year, the Commissioner of Social Security shall, not later than the end of each 90-day period after October 1 of such fiscal year, notify such Committees of the status of negotiations between such Commissioner and the Health Choices Commissioner in order to reach such an agreement.

(E) APPLICATION TO PUBLIC ENTITIES ADMINISTERING AFFORDABILITY CREDITS.—If the Health Choices Commissioner provides for the conduct of verifications under paragraph (4) through a public entity, the Health Choices Commissioner shall require the public entity to enter into an agreement with the Commissioner of Social Security which provides the same terms as the agreement described in this paragraph (and section 205(v) of the Social Security Act) between the Health Choices Commissioner and the Commissioner of Social Security, except that the Health Choices Commissioner shall be responsible for providing funds for the

Commissioner of Social Security in accordance with subparagraphs (B) through (D).

(6) AMENDMENTS TO SOCIAL SECURITY ACT.—  
(A) COORDINATION OF INFORMATION BETWEEN SOCIAL SECURITY ADMINISTRATION AND HEALTH CHOICES ADMINISTRATION.—

(i) IN GENERAL.—Section 205 of the Social Security Act (42 U.S.C. 405) is amended by adding at the end the following new subsection:

“Coordination of Information With Health Choices Administration

“(v)(1) The Health Choices Commissioner may collect and use the names and social security account numbers of individuals as required to provide for verification of citizenship under subsection (b)(4)(C) of section 341 of the Affordable Health Care for America Act in connection with determinations of eligibility for affordability credits under such section.

“(2)(A) The Commissioner of Social Security shall enter into and maintain an agreement with the Health Choices Commissioner for the purpose of establishing, in compliance with the requirements of section 1902(ee) as applied pursuant to section 341(b)(4)(C) of the Affordable Health Care for America Act, a program for verifying information required to be collected by the Health Choices Commissioner under such section 341(b)(4)(C).

“(B) The agreement entered into pursuant to subparagraph (A) shall include such safeguards as are necessary to ensure the maintenance of confidentiality of any information disclosed for purposes of verifying information described in subparagraph (A) and to provide procedures for permitting the Health Choices Commissioner to use the information for purposes of maintaining the records of the Health Choices Administration.

“(C) The agreement entered into pursuant to subparagraph (A) shall provide that information provided by the Commissioner of Social Security to the Health Choices Commissioner pursuant to the agreement shall be provided at such time, at such place, and in such manner as the Commissioner of Social Security determines appropriate.

“(D) Information provided by the Commissioner of Social Security to the Health Choices Commissioner pursuant to an agreement entered into pursuant to subparagraph (A) shall be considered as strictly confidential and shall be used only for the purposes described in this paragraph and for carrying out such agreement. Any officer or employee or former officer or employee of the Health Choices Commissioner, or any officer or employee or former officer or employee of a contractor of the Health Choices Commissioner, who, without the written authority of the Commissioner of Social Security, publishes or communicates any information in such individual's possession by reason of such employment or position as such an officer shall be guilty of a felony and, upon conviction thereof, shall be fined or imprisoned, or both, as described in section 208.

“(3) The agreement entered into under paragraph (2) shall provide for funding to the Commissioner of Social Security consistent with section 341(b)(5) of Affordable Health Care for America Act.

“(4) This subsection shall apply in the case of a public entity that conducts verifications under section 341(b)(4) of the Affordable Health Care for America Act and the obligations of this subsection shall apply to such an entity in the same manner as such obligations apply to the Health Choices Commissioner when such Commissioner is conducting such verifications.”

(ii) CONFORMING AMENDMENT.—Section 205(c)(2)(C) of such Act (42 U.S.C. 405(c)(2)(C)) is amended by adding at the end the following new clause:

“(x) For purposes of the administration of the verification procedures described in section 341(b)(4) of the Affordable Health Care for America Act, the Health Choices Commissioner may collect and use social security account numbers as provided for in section 205(v)(1).”

(B) IMPROVING THE INTEGRITY OF DATA AND EFFECTIVENESS OF SAVE PROGRAM.—Section 1137(d) of the Social Security Act (42 U.S.C. 1320b–7(d)) is amended by adding at the end the following new paragraphs:

“(6)(A) With respect to the use by any agency of the system described in subsection (b) by programs specified in subsection (b) or any other use of such system, the U.S. Citizenship and Immigration Services and any other agency charged with the management of the system shall establish appropriate safeguards necessary to protect and improve the integrity and accuracy of data relating to individuals by—

“(i) establishing a process through which such individuals are provided access to, and the ability to amend, correct, and update, their own personally identifiable information contained within the system;

“(ii) providing a written response, without undue delay, to any individual who has made such a request to amend, correct, or update such individual's own personally identifiable information contained within the system; and

“(iii) developing a written notice for user agencies to provide to individuals who are denied a benefit due to a determination of ineligibility based on a final verification determination under the system.

“(B) The notice described in subparagraph (A)(ii) shall include—

“(i) information about the reason for such notice;

“(ii) a description of the right of the recipient of the notice under subparagraph (A)(i) to contest such notice;

“(iii) a description of the right of the recipient under subparagraph (A)(i) to access and attempt to amend, correct, and update the recipient's own personally identifiable information contained within records of the system described in paragraph (3); and

“(iv) instructions on how to contest such notice and attempt to correct records of such system relating to the recipient, including contact information for relevant agencies.”

(C) STREAMLINING ADMINISTRATION OF VERIFICATION PROCESS FOR UNITED STATES CITIZENS.—Section 1902(ee)(2) of the Social Security Act (42 U.S.C. 1396a(ee)(2)) is amended by adding at the end the following:

“(D) In carrying out the verification procedures under this subsection with respect to a State, if the Commissioner of Social Security determines that the records maintained by such Commissioner are not consistent with an individual's allegation of United States citizenship, pursuant to procedures which shall be established by the State in coordination with the Commissioner of Social Security, the Secretary of Homeland Security, and the Secretary of Health and Human Services—

“(i) the Commissioner of Social Security shall inform the State of the inconsistency;

“(ii) upon being so informed of the inconsistency, the State shall submit the information on the individual to the Secretary of Homeland Security for a determination of whether the records of the Department of Homeland Security indicate that the individual is a citizen;

“(iii) upon making such determination, the Department of Homeland Security shall inform the State of such determination; and

“(iv) information provided by the Commissioner of Social Security shall be considered as strictly confidential and shall only be used by the State and the Secretary of Homeland Security for the purposes of such verification procedures.

“(E) Verification of status eligibility pursuant to the procedures established under this subsection shall be deemed a verification of status eligibility for purposes of this title, title XXI, and affordability credits under section 341(b)(4) of the Affordable Health Care for America Act, regardless of the program in which the individual is applying for benefits.”

(C) USE OF AFFORDABILITY CREDITS.—

(1) IN GENERAL.—In Y1 and Y2 an affordable credit eligible individual may use an affordability credit only with respect to a basic plan.

(2) FLEXIBILITY IN PLAN ENROLLMENT AUTHORIZED.—Beginning with Y3, the Commissioner shall establish a process to allow an affordability premium credit under section 343, but not the affordability cost-sharing credit under section 344, to be used for enrollees in enhanced or premium plans. In the case of an affordable credit eligible individual who enrolls in an enhanced or premium plan, the individual shall be responsible for any difference between the premium for such plan and the affordability credit amount otherwise applicable if the individual had enrolled in a basic plan.

(3) PROHIBITION OF USE OF PUBLIC FUNDS FOR ABORTION COVERAGE.—An affordability credit may not be used for payment for services described in section 222(e)(4)(A).

(4) ACCESS TO DATA.—In carrying out this subtitle, the Commissioner shall request from the Secretary of the Treasury consistent with section 6103 of the Internal Revenue Code of 1986 such information as may be required to carry out this subtitle.

(e) NO CASH REBATES.—In no case shall an affordable credit eligible individual receive any cash payment as a result of the application of this subtitle.

#### SEC. 342. AFFORDABLE CREDIT ELIGIBLE INDIVIDUAL.

(a) DEFINITION.—

(1) IN GENERAL.—For purposes of this division, the term “affordable credit eligible individual” means, subject to subsection (b) and section 346, an individual who is lawfully present in a State in the United States (other than as a nonimmigrant described in a subparagraph (excluding subparagraphs (K), (T), (U), and (V)) of section 101(a)(15) of the Immigration and Nationality Act)—

(A) who is enrolled under an Exchange-participating health benefits plan and is not enrolled under such plan as an employee (or dependent of an employee) through an employer qualified health benefits plan that meets the requirements of section 412;

(B) with modified adjusted gross income below 400 percent of the Federal poverty level for a family of the size involved;

(C) who is not a Medicaid eligible individual, other than an individual during a transition period under section 302(d)(3)(B)(ii); and

(D) subject to paragraph (3), who is not enrolled in acceptable coverage (other than an Exchange-participating health benefits plan).

(2) TREATMENT OF FAMILY.—Except as the Commissioner may otherwise provide, members of the same family who are affordable credit eligible individuals shall be treated as

a single affordable credit individual eligible for the applicable credit for such a family under this subtitle.

(3) SPECIAL RULE FOR INDIANS.—Subparagraph (D) of paragraph (1) shall not apply to an individual who has coverage that is treated as acceptable coverage for purposes of section 59B(d)(2) of the Internal Revenue Code of 1986 but is not treated as acceptable coverage for purposes of this division.

(b) LIMITATIONS ON EMPLOYEE AND DEPENDENT DISQUALIFICATION.—

(1) IN GENERAL.—Subject to paragraph (2), the term “affordable credit eligible individual” does not include a full-time employee of an employer if the employer offers the employee coverage (for the employee and dependents) as a full-time employee under a group health plan if the coverage and employer contribution under the plan meet the requirements of section 412.

(2) EXCEPTIONS.—

(A) FOR CERTAIN FAMILY CIRCUMSTANCES.—The Commissioner shall establish such exceptions and special rules in the case described in paragraph (1) as may be appropriate in the case of a divorced or separated individual or such a dependent of an employee who would otherwise be an affordable credit eligible individual.

(B) FOR UNAFFORDABLE EMPLOYER COVERAGE.—Beginning in Y2, in the case of full-time employees for which the cost of the employee premium for coverage under a group health plan would exceed 12 percent of current modified adjusted gross income (determined by the Commissioner on the basis of verifiable documentation), paragraph (1) shall not apply.

(c) INCOME DEFINED.—

(1) IN GENERAL.—In this title, the term “income” means modified adjusted gross income (as defined in section 59B of the Internal Revenue Code of 1986).

(2) STUDY OF INCOME DISREGARDS.—The Commissioner shall conduct a study that examines the application of income disregards for purposes of this subtitle. Not later than the first day of Y2, the Commissioner shall submit to Congress a report on such study and shall include such recommendations as the Commissioner determines appropriate.

(d) CLARIFICATION OF TREATMENT OF AFFORDABILITY CREDITS.—Affordability credits under this subtitle shall not be treated, for purposes of title IV of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, to be a benefit provided under section 403 of such title.

#### SEC. 343. AFFORDABLE PREMIUM CREDIT.

(a) IN GENERAL.—The affordability premium credit under this section for an affordable credit eligible individual enrolled in an Exchange-participating health benefits plan is in an amount equal to the amount (if any) by which the reference premium amount specified in subsection (c), exceeds the affordable premium amount specified in subsection (b) for the individual, except that in no case shall the affordable premium credit exceed the premium for the plan.

(b) AFFORDABLE PREMIUM AMOUNT.—

(1) IN GENERAL.—The affordable premium amount specified in this subsection for an individual for the annual premium in a plan year shall be equal to the product of—

(A) the premium percentage limit specified in paragraph (2) for the individual based upon the individual's modified adjusted gross income for the plan year; and

(B) the individual's modified adjusted gross income for such plan year.

(2) PREMIUM PERCENTAGE LIMITS BASED ON TABLE.—The Commissioner shall establish

premium percentage limits so that for individuals whose modified adjusted gross income is within an income tier specified in the table in subsection (d) such percentage limits shall increase, on a sliding scale in a linear manner, from the initial premium percentage to the final premium percentage specified in such table for such income tier.

(c) **REFERENCE PREMIUM AMOUNT.**—The reference premium amount specified in this subsection for a plan year for an individual in a premium rating area is equal to the average premium for the 3 basic plans in the area for the plan year with the lowest premium levels. In computing such amount the Commissioner may exclude plans with extremely limited enrollments.

(d) **TABLE OF PREMIUM PERCENTAGE LIMITS, ACTUARIAL VALUE PERCENTAGES, AND OUT-OF-POCKET LIMITS FOR Y1 BASED ON INCOME TIER.**—

(1) **IN GENERAL.**—For purposes of this subtitle, subject to paragraph (3) and section 346, the table specified in this subsection is as follows:

In the case of modified adjusted gross income (expressed as a percent of FPL) within the following income tier:	The initial premium percentage is—	The final premium percentage is—	The actuarial value percentage is—	The out-of-pocket limit for Y1 is—
133% through 150%	1.5%	3.0%	97%	\$500
150% through 200%	3.0%	5.5%	93%	\$1,000
200% through 250%	5.5%	8.0%	85%	\$2,000
250% through 300%	8.0%	10.0%	78%	\$4,000
300% through 350%	10.0%	11.0%	72%	\$4,500
350% through 400%	11.0%	12.0%	70%	\$5,000

(2) **SPECIAL RULES.**—For purposes of applying the table under paragraph (1):

(A) **FOR LOWEST LEVEL OF INCOME.**—In the case of an individual with income that does not exceed 133 percent of FPL, the individual shall be considered to have income that is 133 percent of FPL.

(B) **APPLICATION OF HIGHER ACTUARIAL VALUE PERCENTAGE AT TIER TRANSITION POINTS.**—If two actuarial value percentages may be determined with respect to an individual, the actuarial value percentage shall be the higher of such percentages.

(3) **INDEXING.**—For years after Y1, the Commissioner shall adjust the initial and final premium percentages to maintain the ratio of governmental to enrollee shares of premiums over time, for each income tier identified in the table in paragraph (1).

#### SEC. 344. AFFORDABILITY COST-SHARING CREDIT.

(a) **IN GENERAL.**—The affordability cost-sharing credit under this section for an affordable credit eligible individual enrolled in an Exchange-participating health benefits plan is in the form of the cost-sharing reduction described in subsection (b) provided under this section for the income tier in which the individual is classified based on the individual's modified adjusted gross income.

(b) **COST-SHARING REDUCTIONS.**—The Commissioner shall specify a reduction in cost-sharing amounts and the annual limitation on cost-sharing specified in section 222(c)(2)(B) under a basic plan for each income tier specified in the table under section 343(d), with respect to a year, in a manner so that, as estimated by the Commissioner—

(1) the actuarial value of the coverage with such reduced cost-sharing amounts (and the reduced annual cost-sharing limit) is equal to the actuarial value percentage (specified in the table under section 343(d) for the income tier involved) of the full actuarial value if there were no cost-sharing imposed under the plan; and

(2) the annual limitation on cost-sharing specified in section 222(c)(2)(B) is reduced to a level that does not exceed the maximum out-of-pocket limit specified in subsection (c).

(c) **MAXIMUM OUT-OF-POCKET LIMIT.**—

(1) **IN GENERAL.**—Subject to paragraph (2), the maximum out-of-pocket limit specified in this subsection for an individual within an income tier—

(A) for individual coverage—

(i) for Y1 is the out-of-pocket limit for Y1 specified in subsection (c) in the table under section 343(d) for the income tier involved; or

(ii) for a subsequent year is such out-of-pocket limit for the previous year under this subparagraph increased (rounded to the nearest \$10) for each subsequent year by the percentage increase in the enrollment-weighted

average of premium increases for basic plans applicable to such year; or

(B) for family coverage is twice the maximum out-of-pocket limit under subparagraph (A) for the year involved.

(2) **ADJUSTMENT.**—The Commissioner shall adjust the maximum out-of-pocket limits under paragraph (1) to ensure that such limits meet the actuarial value percentage specified in the table under section 343(d) for the income tier involved.

(d) **DETERMINATION AND PAYMENT OF COST-SHARING AFFORDABILITY CREDIT.**—In the case of an affordable credit eligible individual in a tier enrolled in an Exchange-participating health benefits plan offered by a QHBP offering entity, the Commissioner shall provide for payment to the offering entity of an amount equivalent to the increased actuarial value of the benefits under the plan provided under section 303(c)(2)(B) resulting from the reduction in cost-sharing described in subsections (b) and (c).

#### SEC. 345. INCOME DETERMINATIONS.

(a) **IN GENERAL.**—In applying this subtitle for an affordability credit for an individual for a plan year, the individual's income shall be the income (as defined in section 342(c)) for the individual for the most recent taxable year (as determined in accordance with rules of the Commissioner). The Federal poverty level applied shall be such level in effect as of the date of the application.

(b) **PROGRAM INTEGRITY; INCOME VERIFICATION PROCEDURES.**—

(1) **PROGRAM INTEGRITY.**—The Commissioner shall take such steps as may be appropriate to ensure the accuracy of determinations and redeterminations under this subtitle.

(2) **INCOME VERIFICATION.**—

(A) **IN GENERAL.**—Upon an initial application of an individual for an affordability credit under this subtitle (or in applying section 342(b)) or upon an application for a change in the affordability credit based upon a significant change in modified adjusted gross income described in subsection (c)(1)—

(i) the Commissioner shall request from the Secretary of the Treasury the disclosure to the Commissioner of such information as may be permitted to verify the information contained in such application; and

(ii) the Commissioner shall use the information so disclosed to verify such information.

(B) **ALTERNATIVE PROCEDURES.**—The Commissioner shall establish procedures for the verification of income for purposes of this subtitle if no income tax return is available for the most recent completed tax year.

(c) **SPECIAL RULES.**—

(1) **CHANGES IN INCOME AS A PERCENT OF FPL.**—In the case that an individual's income (expressed as a percentage of the Federal

poverty level for a family of the size involved) for a plan year is expected (in a manner specified by the Commissioner) to be significantly different from the income (as so expressed) used under subsection (a), the Commissioner shall establish rules requiring an individual to report, consistent with the mechanism established under paragraph (2), significant changes in such income (including a significant change in family composition) to the Commissioner and requiring the substitution of such income for the income otherwise applicable.

(2) **REPORTING OF SIGNIFICANT CHANGES IN INCOME.**—The Commissioner shall establish rules under which an individual determined to be an affordable credit eligible individual would be required to inform the Commissioner when there is a significant change in the modified adjusted gross income of the individual (expressed as a percentage of the FPL for a family of the size involved) and of the information regarding such change. Such mechanism shall provide for guidelines that specify the circumstances that qualify as a significant change, the verifiable information required to document such a change, and the process for submission of such information. If the Commissioner receives new information from an individual regarding the modified adjusted gross income of the individual, the Commissioner shall provide for a redetermination of the individual's eligibility to be an affordable credit eligible individual.

(3) **TRANSITION FOR CHIP.**—In the case of a child described in section 302(d)(4), the Commissioner shall establish rules under which the modified adjusted gross income of the child is deemed to be no greater than the family income of the child as most recently determined before Y1 by the State under title XXI of the Social Security Act.

(4) **STUDY OF GEOGRAPHIC VARIATION IN APPLICATION OF FPL.**—

(A) **IN GENERAL.**—The Secretary of Health and Human Services shall conduct a study to examine the feasibility and implication of adjusting the application of the Federal poverty level under this subtitle for different geographic areas so as to reflect the variations in cost-of-living among different areas within the United States. If the Secretary determines that an adjustment is feasible, the study should include a methodology to make such an adjustment. Not later than the first day of Y1, the Secretary shall submit to Congress a report on such study and shall include such recommendations as the Secretary determines appropriate.

(B) **INCLUSION OF TERRITORIES.**—

(1) **IN GENERAL.**—The Secretary shall ensure that the study under subparagraph (A) covers the territories of the United States and that special attention is paid to the disparity that exists among poverty levels and

the cost of living in such territories and to the impact of such disparity on efforts to expand health coverage and ensure health care.

(ii) **TERRITORIES DEFINED.**—In this subparagraph, the term “territories of the United States” includes the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, the Northern Mariana Islands, and any other territory or possession of the United States.

(d) **PENALTIES FOR MISREPRESENTATION.**—In the case of an individual who intentionally misrepresents modified adjusted gross income or the individual fails (without regard to intent) to disclose to the Commissioner a significant change in modified adjusted gross income under subsection (c) in a manner that results in the individual becoming an affordable credit eligible individual when the individual is not or in the amount of the affordability credit exceeding the correct amount—

(1) the individual is liable for repayment of the amount of the improper affordability credit; and

(2) in the case of such an intentional misrepresentation or other egregious circumstances specified by the Commissioner, the Commissioner may impose an additional penalty.

#### **SEC. 346. SPECIAL RULES FOR APPLICATION TO TERRITORIES.**

(a) **ONE-TIME ELECTION FOR TREATMENT AND APPLICATION OF FUNDING.**—

(1) **IN GENERAL.**—A territory may elect, in a form and manner specified by the Commissioner in consultation with the Secretary of Health and Human Services and the Secretary of the Treasury and not later than October 1, 2012, either—

(A) to be treated as a State for purposes of applying this title and title II; or

(B) not to be so treated but instead, to have the dollar limitation otherwise applicable to the territory under subsections (f) and (g) of section 1108 of the Social Security Act (42 U.S.C. 1308) for a fiscal year increased by a dollar amount equivalent to the cap amount determined under subsection (c)(2) for the territory as applied by the Secretary for the fiscal year involved.

(2) **CONDITIONS FOR ACCEPTANCE.**—The Commissioner has the nonreviewable authority to accept or reject an election described in paragraph (1)(A). Any such acceptance is—

(A) contingent upon entering into an agreement described in subsection (b) between the Commissioner and the territory and subsection (c); and

(B) subject to the approval of the Secretary of Health and Human Services and the Secretary of the Treasury and subject to such other terms and conditions as the Commissioner, in consultation with such Secretaries, may specify.

(3) **DEFAULT RULE.**—A territory failing to make such an election (or having an election under paragraph (1)(A) not accepted under paragraph (2)) shall be treated as having made the election described in paragraph (1)(B).

(b) **AGREEMENT FOR SUBSTITUTION OF PERCENTAGES FOR AFFORDABILITY CREDITS.**—

(1) **NEGOTIATION.**—In the case of a territory making an election under subsection (a)(1)(A) (in this section referred to as an “electing territory”), the Commissioner, in consultation with the Secretaries of Health and Human Services and the Treasury, shall enter into negotiations with the government of such territory so that, before Y1, there is an agreement reached between the parties on the percentages that shall be applied under paragraph (2) for that territory. The Com-

missioner shall not enter into such an agreement unless—

(A) payments made under this subtitle with respect to residents of the territory are consistent with the cap established under subsection (c) for such territory and with subsection (d); and

(B) the requirements of paragraphs (3) and (4) are met.

(2) **APPLICATION OF SUBSTITUTE PERCENTAGES AND DOLLAR AMOUNTS.**—In the case of an electing territory, there shall be substituted in section 342(a)(1)(B) and in the table in section 341(d)(1) for 400 percent, 133 percent, and other percentages and dollar amounts specified in such table, such respective percentages and dollar amounts as are established under the agreement under paragraph (1) consistent with the following:

(A) **NO INCOME GAP BETWEEN MEDICAID AND AFFORDABILITY CREDITS.**—The substituted percentages shall be specified in a manner so as to prevent any gap in coverage for individuals between income level at which medical assistance is available through Medicaid and the income level at which affordability credits are available.

(B) **ADJUSTMENT FOR OUT-OF-POCKET RESPONSIBILITY FOR PREMIUMS AND COST-SHARING IN RELATION TO INCOME.**—The substituted percentages of FPL for income tiers under such table shall be specified in a manner so that—

(i) affordable credit eligible individuals residing in the territory bear the same out-of-pocket responsibility for premiums and cost-sharing in relation to average income for residents in that territory; as

(ii) the out-of-pocket responsibility for premiums and cost-sharing for affordable credit eligible individuals residing in the 50 States or the District of Columbia in relation to average income for such residents.

(3) **SPECIAL RULES WITH RESPECT TO APPLICATION OF TAX AND PENALTY PROVISIONS.**—The electing territory shall enact one or more laws under which provisions similar to the following provisions apply with respect to such territory:

(A) Section 59B of the Internal Revenue Code of 1986, except that any resident of the territory who is not an affordable credit eligible individual but who would be an affordable credit eligible individual if such resident were a resident of one of the 50 States (and any qualifying child residing with such individual) may be treated as covered by acceptable coverage.

(B) Section 4980H of the Internal Revenue Code of 1986 and section 502(c)(11) of the Employee Retirement Income Security Act of 1974.

(C) Section 3121(c) of the Internal Revenue Code of 1986.

(4) **IMPLEMENTATION OF INSURANCE REFORM AND CONSUMER PROTECTION REQUIREMENTS.**—The electing territory shall enact and implement such laws and regulations as may be required to apply the requirements of title II with respect to health insurance coverage offered in the territory.

(c) **CAP ON ADDITIONAL EXPENDITURES.**—

(1) **IN GENERAL.**—In entering into an agreement with an electing territory under subsection (b), the Commissioner shall ensure that the aggregate expenditures under this subtitle with respect to residents of such territory during the period beginning with Y1 and ending with 2019 will not exceed the cap amount specified in paragraph (2) for such territory. The Commissioner shall adjust from time to time the percentages applicable under such agreement as needed in order to carry out the previous sentence.

(2) **CAP AMOUNT.**—

(A) **IN GENERAL.**—The cap amount specified in this paragraph—

(i) for Puerto Rico is \$3,700,000,000 increased by the amount (if any) elected under subparagraph (C); or

(ii) for another territory is the portion of \$300,000,000 negotiated for such territory under subparagraph (B).

(B) **NEGOTIATION FOR CERTAIN TERRITORIES.**—The Commissioner in consultation with the Secretary of Health and Human Services shall negotiate with the governments of the territories (other than Puerto Rico) to allocate the amount specified in subparagraph (A)(ii) among such territories.

(C) **OPTIONAL SUPPLEMENTATION FOR PUERTO RICO.**—

(i) **IN GENERAL.**—Puerto Rico may elect, in a form and manner specified by the Secretary of Health and Human Services in consultation with the Commissioner to increase the dollar amount specified in subparagraph (A)(i) by up to \$1,000,000,000.

(ii) **OFFSET IN MEDICAID CAP.**—If Puerto Rico makes the election described in clause (i), the Secretary shall decrease the dollar limitation otherwise applicable to Puerto Rico under subsections (f) and (g) of section 1108 of the Social Security Act (42 U.S.C. 1308) for a fiscal year by the additional aggregate payments the Secretary estimates will be payable under this section for the fiscal year because of such election.

(d) **LIMITATION ON FUNDING.**—In no case shall this section (including the agreement under subsection (b)) permit—

(1) the obligation of funds for expenditures under this subtitle for periods beginning on or after January 1, 2020; or

(2) any increase in the dollar limitation described in subsection (a)(1)(B) for any portion of any fiscal year occurring on or after such date.

#### **SEC. 347. NO FEDERAL PAYMENT FOR UNDOCUMENTED ALIENS.**

Nothing in this subtitle shall allow Federal payments for affordability credits on behalf of individuals who are not lawfully present in the United States.

### **TITLE IV—SHARED RESPONSIBILITY**

#### **Subtitle A—Individual Responsibility**

##### **SEC. 401. INDIVIDUAL RESPONSIBILITY.**

For an individual's responsibility to obtain acceptable coverage, see section 59B of the Internal Revenue Code of 1986 (as added by section 501 of this Act).

#### **Subtitle B—Employer Responsibility**

##### **PART 1—HEALTH COVERAGE**

##### **PARTICIPATION REQUIREMENTS**

##### **SEC. 411. HEALTH COVERAGE PARTICIPATION REQUIREMENTS.**

An employer meets the requirements of this section if such employer does all of the following:

(1) **OFFER OF COVERAGE.**—The employer offers each employee individual and family coverage under a qualified health benefits plan (or under a current employment-based health plan (within the meaning of section 202(b))) in accordance with section 412.

(2) **CONTRIBUTION TOWARDS COVERAGE.**—If an employee accepts such offer of coverage, the employer makes timely contributions towards such coverage in accordance with section 412.

(3) **CONTRIBUTION IN LIEU OF COVERAGE.**—Beginning with Y2, if an employee declines such offer but otherwise obtains coverage in an Exchange-participating health benefits plan (other than by reason of being covered by family coverage as a spouse or dependent of the primary insured), the employer shall

make a timely contribution to the Health Insurance Exchange with respect to each such employee in accordance with section 413.

**SEC. 412. EMPLOYER RESPONSIBILITY TO CONTRIBUTE TOWARD EMPLOYEE AND DEPENDENT COVERAGE.**

(a) **IN GENERAL.**—An employer meets the requirements of this section with respect to an employee if the following requirements are met:

(1) **OFFERING OF COVERAGE.**—The employer offers the coverage described in section 411(1). In the case of an Exchange-eligible employer, the employer may offer such coverage either through an Exchange-participating health benefits plan or other than through such a plan.

(2) **EMPLOYER REQUIRED CONTRIBUTION.**—The employer timely pays to the issuer of such coverage an amount not less than the employer required contribution specified in subsection (b) for such coverage.

(3) **PROVISION OF INFORMATION.**—The employer provides the Health Choices Commissioner, the Secretary of Labor, the Secretary of Health and Human Services, and the Secretary of the Treasury, as applicable, with such information as the Commissioner may require to ascertain compliance with the requirements of this section, including the following:

(A) The name, date, and employer identification number of the employer.

(B) A certification as to whether the employer offers to its full-time employees (and their dependents) the opportunity to enroll in a qualified health benefits plan or a current employment-based health plan (within the meaning of section 202(b)).

(C) If the employer certifies that the employer did offer to its full-time employees (and their dependents) the opportunity to so enroll—

(i) the months during the calendar year for which such coverage was available; and

(ii) the monthly premium for the lowest cost option in each of the enrollment categories under each such plan offered to employees.

(D) The name, address, and TIN of each full-time employee during the calendar year and the months (if any) during which such employee (and any dependents) were covered under any such plans.

(4) **AUTOENROLLMENT OF EMPLOYEES.**—The employer provides for autoenrollment of the employee in accordance with subsection (c). This subsection shall supersede any law of a State which would prevent automatic payroll deduction of employee contributions to an employment-based health plan.

(b) **REDUCTION OF EMPLOYEE PREMIUMS THROUGH MINIMUM EMPLOYER CONTRIBUTION.**—

(1) **FULL-TIME EMPLOYEES.**—The minimum employer contribution described in this sub-

section for coverage of a full-time employee (and, if any, the employee's spouse and qualifying children (as defined in section 152(c) of the Internal Revenue Code of 1986)) under a qualified health benefits plan (or current employment-based health plan) is equal to—

(A) in case of individual coverage, not less than 72.5 percent of the applicable premium (as defined in section 4980B(f)(4) of such Code, subject to paragraph (2)) of the lowest cost plan offered by the employer that is a qualified health benefits plan (or is such current employment-based health plan); and

(B) in the case of family coverage which includes coverage of such spouse and children, not less 65 percent of such applicable premium of such lowest cost plan.

(2) **APPLICABLE PREMIUM FOR EXCHANGE COVERAGE.**—In this subtitle, the amount of the applicable premium of the lowest cost plan with respect to coverage of an employee under an Exchange-participating health benefits plan is the reference premium amount under section 343(c) for individual coverage (or, if elected, family coverage) for the premium rating area in which the individual or family resides.

(3) **MINIMUM EMPLOYER CONTRIBUTION FOR EMPLOYEES OTHER THAN FULL-TIME EMPLOYEES.**—In the case of coverage for an employee who is not a full-time employee, the amount of the minimum employer contribution under this subsection shall be a proportion (as determined in accordance with rules of the Health Choices Commissioner, the Secretary of Labor, the Secretary of Health and Human Services, and the Secretary of the Treasury, as applicable) of the minimum employer contribution under this subsection with respect to a full-time employee that reflects the proportion of—

(A) the average weekly hours of employment of the employee by the employer, to

(B) the minimum weekly hours specified by the Commissioner for an employee to be a full-time employee.

(4) **SALARY REDUCTIONS NOT TREATED AS EMPLOYER CONTRIBUTIONS.**—For purposes of this section, any contribution on behalf of an employee with respect to which there is a corresponding reduction in the compensation of the employee shall not be treated as an amount paid by the employer.

(c) **AUTOMATIC ENROLLMENT FOR EMPLOYER SPONSORED HEALTH BENEFITS.**—

(1) **IN GENERAL.**—The requirement of this subsection with respect to an employer and an employee is that the employer automatically enroll such employee into the employment-based health benefits plan for individual coverage under the plan option with the lowest applicable employee premium.

(2) **OPT-OUT.**—In no case may an employer automatically enroll an employee in a plan under paragraph (1) if such employee makes an affirmative election to opt out of such

plan or to elect coverage under an employment-based health benefits plan offered by such employer. An employer shall provide an employee with a 30-day period to make such an affirmative election before the employer may automatically enroll the employee in such a plan.

(3) **NOTICE REQUIREMENTS.**—

(A) **IN GENERAL.**—Each employer described in paragraph (1) who automatically enrolls an employee into a plan as described in such paragraph shall provide the employees, within a reasonable period before the beginning of each plan year (or, in the case of new employees, within a reasonable period before the end of the enrollment period for such a new employee), written notice of the employees' rights and obligations relating to the automatic enrollment requirement under such paragraph. Such notice must be comprehensive and understood by the average employee to whom the automatic enrollment requirement applies.

(B) **INCLUSION OF SPECIFIC INFORMATION.**—The written notice under subparagraph (A) must explain an employee's right to opt out of being automatically enrolled in a plan and in the case that more than one level of benefits or employee premium level is offered by the employer involved, the notice must explain which level of benefits and employee premium level the employee will be automatically enrolled in the absence of an affirmative election by the employee.

**SEC. 413. EMPLOYER CONTRIBUTIONS IN LIEU OF COVERAGE.**

(a) **IN GENERAL.**—A contribution is made in accordance with this section with respect to an employee if such contribution is equal to an amount equal to 8 percent of the average wages paid by the employer during the period of enrollment (determined by taking into account all employees of the employer and in such manner as the Commissioner provides, including rules providing for the appropriate aggregation of related employers) but not to exceed the minimum employer contribution described in section 412(b)(1)(A). Any such contribution—

(1) shall be paid to the Health Choices Commissioner for deposit into the Health Insurance Exchange Trust Fund; and

(2) shall not be applied against the premium of the employee under the Exchange-participating health benefits plan in which the employee is enrolled.

(b) **SPECIAL RULES FOR SMALL EMPLOYERS.**—

(1) **IN GENERAL.**—In the case of any employer who is a small employer for any calendar year, subsection (a) shall be applied by substituting the applicable percentage determined in accordance with the following table for "8 percent":

**If the annual payroll of such employer for the preceding calendar year:**

	<b>The applicable percentage is:</b>
Does not exceed \$500,000 .....	0 percent
Exceeds \$500,000, but does not exceed \$585,000 .....	2 percent
Exceeds \$585,000, but does not exceed \$670,000 .....	4 percent
Exceeds \$670,000, but does not exceed \$750,000 .....	6 percent

(2) **SMALL EMPLOYER.**—For purposes of this subsection, the term "small employer" means any employer for any calendar year if the annual payroll of such employer for the preceding calendar year does not exceed \$750,000.

(3) **ANNUAL PAYROLL.**—For purposes of this paragraph, the term "annual payroll" means, with respect to any employer for any

calendar year, the aggregate wages paid by the employer during such calendar year.

(4) **AGGREGATION RULES.**—Related employers and predecessors shall be treated as a single employer for purposes of this subsection.

**SEC. 414. AUTHORITY RELATED TO IMPROPER STEERING.**

The Health Choices Commissioner (in coordination with the Secretary of Labor, the Secretary of Health and Human Services,

and the Secretary of the Treasury) shall have authority to set standards for determining whether employers or insurers are undertaking any actions to affect the risk pool within the Health Insurance Exchange by inducing individuals to decline coverage under a qualified health benefits plan (or current employment-based health plan (within the meaning of section 202(b)) offered by the employer and instead to enroll in an



Exchange-participating health benefits plan. An employer violating such standards shall be treated as not meeting the requirements of this section.

#### SEC. 415. IMPACT STUDY ON EMPLOYER RESPONSIBILITY REQUIREMENTS.

(a) IN GENERAL.—The Secretary of Labor shall conduct a study to examine the effect of the exemptions under section 512(a) and coverage thresholds under this division (in this section referred to collectively as “employer responsibility requirements” on employment-based health plan sponsorship, generally and within specific industries, and the effect of such requirements and thresholds on employers, employment-based health plans, and employees in each industry.

(b) ANNUAL REPORT.—The Secretary of Labor annually shall submit to Congress a report on findings on how employer responsibility requirements have impacted and are likely to impact employers, plans, and employees during the previous year and projected trends.

(c) LEGISLATIVE RECOMMENDATIONS.—No later than January 1, 2012 and on an annual basis thereafter, the Secretary of Labor shall submit legislative recommendations to Congress to modify the employer responsibility requirements if the Secretary determines that the requirements are detrimentally affecting or will detrimentally affect employer plan sponsorship or otherwise creating inequities among employers, health plans, and employees. The Secretary may also submit such recommendations as the Secretary determines necessary to improve and strengthen employment-based health plan sponsorship, employer responsibility, and related proposals that would enhance the delivery of health care benefits between employers and employees.

#### SEC. 416. STUDY ON EMPLOYER HARDSHIP EXEMPTION.

(a) IN GENERAL.—The Secretary of Labor together with the Secretary of Treasury, the Secretary of Health and Human Services, and the Commissioner, shall conduct a study to examine the impact of the employer responsibility requirements described in section 415(a) and make a recommendation to Congress about whether an employer hardship exemption would be appropriate.

(b) ITEMS INCLUDED IN STUDY.—Within such study the Secretaries and Commissioner shall examine cases where such employer responsibility requirements may pose a particular hardship, and specifically look at employers by industry, profit margin, length of time in business, and size. In this examination, the economic conditions shall be considered, including the rate of increase in business costs, the availability of short-term credit lines, and abilities to restructure debt. In addition, the study shall examine the impact an employer hardship waiver could have on employees.

(c) REPORT.—Not later than January 1, 2012, the Secretaries and Commissioner shall report to Congress on their findings and make a recommendation regarding the need or lack of need for a partial or complete employer hardship waiver. The Secretaries and Commissioner may also submit recommendations about the criteria Congress should include when developing eligibility requirements for the employer hardship waiver and what safeguards are necessary to protect the employees of that employer.

### PART 2—SATISFACTION OF HEALTH COVERAGE PARTICIPATION REQUIREMENTS

#### SEC. 421. SATISFACTION OF HEALTH COVERAGE PARTICIPATION REQUIREMENTS UNDER THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.

(a) IN GENERAL.—Subtitle B of title I of the Employee Retirement Income Security Act of 1974 is amended by adding at the end the following new part:

#### “PART 8—NATIONAL HEALTH COVERAGE PARTICIPATION REQUIREMENTS

##### “SEC. 801. ELECTION OF EMPLOYER TO BE SUBJECT TO NATIONAL HEALTH COVERAGE PARTICIPATION REQUIREMENTS.

“(a) IN GENERAL.—An employer may make an election with the Secretary to be subject to the health coverage participation requirements.

“(b) TIME AND MANNER.—An election under subsection (a) may be made at such time and in such form and manner as the Secretary may prescribe.

##### “SEC. 802. TREATMENT OF COVERAGE RESULTING FROM ELECTION.

“(a) IN GENERAL.—If an employer makes an election to the Secretary under section 801—

“(1) such election shall be treated as the establishment and maintenance of a group health plan (as defined in section 733(a)) for purposes of this title, subject to section 251 of the Affordable Health Care for America Act; and

“(2) the health coverage participation requirements shall be deemed to be included as terms and conditions of such plan.

“(b) PERIODIC INVESTIGATIONS TO DISCOVER NONCOMPLIANCE.—The Secretary shall regularly audit a representative sampling of employers and group health plans and conduct investigations and other activities under section 504 with respect to such sampling of plans so as to discover noncompliance with the health coverage participation requirements in connection with such plans. The Secretary shall communicate findings of noncompliance made by the Secretary under this subsection to the Secretary of the Treasury and the Health Choices Commissioner. The Secretary shall take such timely enforcement action as appropriate to achieve compliance.

“(c) RECORDKEEPING.—To facilitate the audits described in subsection (b), the Secretary shall promulgate recordkeeping requirements for employers to account for both employees of the employer and individuals whom the employer has not treated as employees of the employer but with whom the employer, in the course of its trade or business, has engaged for the performance of labor or services. The scope and content of such recordkeeping requirements shall be determined by the Secretary and shall be designed to ensure that employees who are not properly treated as such may be identified and properly treated.

##### “SEC. 803. HEALTH COVERAGE PARTICIPATION REQUIREMENTS.

“For purposes of this part, the term ‘health coverage participation requirements’ means the requirements of part 1 of subtitle B of title IV of division A of (as in effect on the date of the enactment of such Act).

##### “SEC. 804. RULES FOR APPLYING REQUIREMENTS.

“(a) AFFILIATED GROUPS.—In the case of any employer which is part of a group of employers who are treated as a single employer under subsection (b), (c), (m), or (o) of section 414 of the Internal Revenue Code of 1986, the election under section 801 shall be made

by such employer as the Secretary may provide. Any such election, once made, shall apply to all members of such group.

“(b) SEPARATE ELECTIONS.—Under regulations prescribed by the Secretary, separate elections may be made under section 801 with respect to—

“(1) separate lines of business, and

“(2) full-time employees and employees who are not full-time employees.

##### “SEC. 805. TERMINATION OF ELECTION IN CASES OF SUBSTANTIAL NONCOMPLIANCE.

“The Secretary may terminate the election of any employer under section 801 if the Secretary (in coordination with the Health Choices Commissioner) determines that such employer is in substantial noncompliance with the health coverage participation requirements and shall refer any such determination to the Secretary of the Treasury as appropriate.

##### “SEC. 806. REGULATIONS.

“The Secretary may promulgate such regulations as may be necessary or appropriate to carry out the provisions of this part, in accordance with section 424(a) of the . The Secretary may promulgate any interim final rules as the Secretary determines are appropriate to carry out this part.”

(b) ENFORCEMENT OF HEALTH COVERAGE PARTICIPATION REQUIREMENTS.—Section 502 of such Act (29 U.S.C. 1132) is amended—

(1) in subsection (a)(6), by striking “paragraph” and all that follows through “subsection (c)” and inserting “paragraph (2), (4), (5), (6), (7), (8), (9), (10), or (11) of subsection (c)”; and

(2) in subsection (c), by redesignating the second paragraph (10) as paragraph (12) and by inserting after the first paragraph (10) the following new paragraph:

“(11) HEALTH COVERAGE PARTICIPATION REQUIREMENTS.—

“(A) CIVIL PENALTIES.—In the case of any employer who fails (during any period with respect to which an election under section 801(a) is in effect) to satisfy the health coverage participation requirements with respect to any employee, the Secretary may assess a civil penalty against the employer of \$100 for each day in the period beginning on the date such failure first occurs and ending on the date such failure is corrected.

“(B) HEALTH COVERAGE PARTICIPATION REQUIREMENTS.—For purposes of this paragraph, the term ‘health coverage participation requirements’ has the meaning provided in section 803.

“(C) LIMITATIONS ON AMOUNT OF PENALTY.—

“(i) PENALTY NOT TO APPLY WHERE FAILURE NOT DISCOVERED EXERCISING REASONABLE DILIGENCE.—No penalty shall be assessed under subparagraph (A) with respect to any failure during any period for which it is established to the satisfaction of the Secretary that the employer did not know, or exercising reasonable diligence would not have known, that such failure existed.

“(ii) PENALTY NOT TO APPLY TO FAILURES CORRECTED WITHIN 30 DAYS.—No penalty shall be assessed under subparagraph (A) with respect to any failure if—

“(I) such failure was due to reasonable cause and not to willful neglect, and

“(II) such failure is corrected during the 30-day period beginning on the 1st date that the employer knew, or exercising reasonable diligence would have known, that such failure existed.

“(iii) OVERALL LIMITATION FOR UNINTENTIONAL FAILURES.—In the case of failures which are due to reasonable cause and not to willful neglect, the penalty assessed under subparagraph (A) for failures during any 1-

year period shall not exceed the amount equal to the lesser of—

“(I) 10 percent of the aggregate amount paid or incurred by the employer (or predecessor employer) during the preceding 1-year period for group health plans, or

“(II) \$500,000.

“(D) ADVANCE NOTIFICATION OF FAILURE PRIOR TO ASSESSMENT.—Before a reasonable time prior to the assessment of any penalty under this paragraph with respect to any failure by an employer, the Secretary shall inform the employer in writing of such failure and shall provide the employer information regarding efforts and procedures which may be undertaken by the employer to correct such failure.

“(E) COORDINATION WITH EXCISE TAX.—Under regulations prescribed in accordance with section 424 of the Affordable Health Care for America Act, the Secretary and the Secretary of the Treasury shall coordinate the assessment of penalties under this section in connection with failures to satisfy health coverage participation requirements with the imposition of excise taxes on such failures under section 4980H(b) of the Internal Revenue Code of 1986 so as to avoid duplication of penalties with respect to such failures.

“(F) DEPOSIT OF PENALTY COLLECTED.—Any amount of penalty collected under this paragraph shall be deposited as miscellaneous receipts in the Treasury of the United States.”.

(c) CLERICAL AMENDMENTS.—The table of contents in section 1 of such Act is amended by inserting after the item relating to section 734 the following new items:

“PART 8—NATIONAL HEALTH COVERAGE PARTICIPATION REQUIREMENTS

“Sec. 801. Election of employer to be subject to national health coverage participation requirements.

“Sec. 802. Treatment of coverage resulting from election.

“Sec. 803. Health coverage participation requirements.

“Sec. 804. Rules for applying requirements.

“Sec. 805. Termination of election in cases of substantial noncompliance.

“Sec. 806. Regulations.”.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to periods beginning after December 31, 2012.

**SEC. 422. SATISFACTION OF HEALTH COVERAGE PARTICIPATION REQUIREMENTS UNDER THE INTERNAL REVENUE CODE OF 1986.**

(a) FAILURE TO ELECT, OR SUBSTANTIALLY COMPLY WITH, HEALTH COVERAGE PARTICIPATION REQUIREMENTS.—For employment tax on employers who fail to elect, or substantially comply with, the health coverage participation requirements described in part 1, see section 3111(c) of the Internal Revenue Code of 1986 (as added by section 512 of this Act).

(b) OTHER FAILURES.—For excise tax on other failures of electing employers to comply with such requirements, see section 4980H of the Internal Revenue Code of 1986 (as added by section 511 of this Act).

**SEC. 423. SATISFACTION OF HEALTH COVERAGE PARTICIPATION REQUIREMENTS UNDER THE PUBLIC HEALTH SERVICE ACT.**

(a) IN GENERAL.—Part C of title XXVII of the Public Health Service Act is amended by adding at the end the following new section: “SEC. 2793. NATIONAL HEALTH COVERAGE PARTICIPATION REQUIREMENTS.

“(a) ELECTION OF EMPLOYER TO BE SUBJECT TO NATIONAL HEALTH COVERAGE PARTICIPATION REQUIREMENTS.—

“(1) IN GENERAL.—An employer may make an election with the Secretary to be subject to the health coverage participation requirements.

“(2) TIME AND MANNER.—An election under paragraph (1) may be made at such time and in such form and manner as the Secretary may prescribe.

“(b) TREATMENT OF COVERAGE RESULTING FROM ELECTION.—

“(1) IN GENERAL.—If an employer makes an election to the Secretary under subsection (a)—

“(A) such election shall be treated as the establishment and maintenance of a group health plan for purposes of this title, subject to section 251 of the Affordable Health Care for America Act; and

“(B) the health coverage participation requirements shall be deemed to be included as terms and conditions of such plan.

“(2) PERIODIC INVESTIGATIONS TO DETERMINE COMPLIANCE WITH HEALTH COVERAGE PARTICIPATION REQUIREMENTS.—The Secretary shall regularly audit a representative sampling of employers and conduct investigations and other activities with respect to such sampling of employers so as to discover noncompliance with the health coverage participation requirements in connection with such employers (during any period with respect to which an election under subsection (a) is in effect). The Secretary shall communicate findings of noncompliance made by the Secretary under this subsection to the Secretary of the Treasury and the Health Choices Commissioner. The Secretary shall take such timely enforcement action as appropriate to achieve compliance.

“(3) RECORDKEEPING.—To facilitate the audits described in subsection (b), the Secretary shall promulgate recordkeeping requirements for employers to account for both employees of the employer and individuals whom the employer has not treated as employees of the employer but with whom the employer, in the course of its trade or business, has engaged for the performance of labor or services. The scope and content of such recordkeeping requirements shall be determined by the Secretary and shall be designed to ensure that employees who are not properly treated as such may be identified and properly treated.

“(c) HEALTH COVERAGE PARTICIPATION REQUIREMENTS.—For purposes of this section, the term ‘health coverage participation requirements’ means the requirements of part 1 of subtitle B of title IV of division A of the (as in effect on the date of the enactment of this section).

“(d) SEPARATE ELECTIONS.—Under regulations prescribed by the Secretary, separate elections may be made under subsection (a) with respect to full-time employees and employees who are not full-time employees.

“(e) TERMINATION OF ELECTION IN CASES OF SUBSTANTIAL NONCOMPLIANCE.—The Secretary may terminate the election of any employer under subsection (a) if the Secretary (in coordination with the Health Choices Commissioner) determines that such employer is in substantial noncompliance with the health coverage participation requirements and shall refer any such determination to the Secretary of the Treasury as appropriate.

“(f) ENFORCEMENT OF HEALTH COVERAGE PARTICIPATION REQUIREMENTS.—

“(1) CIVIL PENALTIES.—In the case of any employer who fails (during any period with respect to which the election under subsection (a) is in effect) to satisfy the health coverage participation requirements with re-

spect to any employee, the Secretary may assess a civil penalty against the employer of \$100 for each day in the period beginning on the date such failure first occurs and ending on the date such failure is corrected.

“(2) LIMITATIONS ON AMOUNT OF PENALTY.—

“(A) PENALTY NOT TO APPLY WHERE FAILURE NOT DISCOVERED EXERCISING REASONABLE DILIGENCE.—No penalty shall be assessed under paragraph (1) with respect to any failure during any period for which it is established to the satisfaction of the Secretary that the employer did not know, or exercising reasonable diligence would not have known, that such failure existed.

“(B) PENALTY NOT TO APPLY TO FAILURES CORRECTED WITHIN 30 DAYS.—No penalty shall be assessed under paragraph (1) with respect to any failure if—

“(i) such failure was due to reasonable cause and not to willful neglect, and

“(ii) such failure is corrected during the 30-day period beginning on the 1st date that the employer knew, or exercising reasonable diligence would have known, that such failure existed.

“(C) OVERALL LIMITATION FOR UNINTENTIONAL FAILURES.—In the case of failures which are due to reasonable cause and not to willful neglect, the penalty assessed under paragraph (1) for failures during any 1-year period shall not exceed the amount equal to the lesser of—

“(i) 10 percent of the aggregate amount paid or incurred by the employer (or predecessor employer) during the preceding taxable year for group health plans, or

“(ii) \$500,000.

“(3) ADVANCE NOTIFICATION OF FAILURE PRIOR TO ASSESSMENT.—Before a reasonable time prior to the assessment of any penalty under paragraph (1) with respect to any failure by an employer, the Secretary shall inform the employer in writing of such failure and shall provide the employer information regarding efforts and procedures which may be undertaken by the employer to correct such failure.

“(4) ACTIONS TO ENFORCE ASSESSMENTS.—The Secretary may bring a civil action in any District Court of the United States to collect any civil penalty under this subsection.

“(5) COORDINATION WITH EXCISE TAX.—Under regulations prescribed in accordance with section 424 of the Affordable Health Care for America Act, the Secretary and the Secretary of the Treasury shall coordinate the assessment of penalties under paragraph (1) in connection with failures to satisfy health coverage participation requirements with the imposition of excise taxes on such failures under section 4980H(b) of the Internal Revenue Code of 1986 so as to avoid duplication of penalties with respect to such failures.

“(6) DEPOSIT OF PENALTY COLLECTED.—Any amount of penalty collected under this subsection shall be deposited as miscellaneous receipts in the Treasury of the United States.

“(g) REGULATIONS.—The Secretary may promulgate such regulations as may be necessary or appropriate to carry out the provisions of this section, in accordance with section 424(a) of the . The Secretary may promulgate any interim final rules as the Secretary determines are appropriate to carry out this section.”.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to periods beginning after December 31, 2012.

**SEC. 424. ADDITIONAL RULES RELATING TO HEALTH COVERAGE PARTICIPATION REQUIREMENTS.**

(a) **ASSURING COORDINATION.**—The officers consisting of the Secretary of Labor, the Secretary of the Treasury, the Secretary of Health and Human Services, and the Health Choices Commissioner shall ensure, through the execution of an interagency memorandum of understanding among such officers, that—

(1) regulations, rulings, and interpretations issued by such officers relating to the same matter over which two or more of such officers have responsibility under subpart B of part 8 of subtitle B of title I of the Employee Retirement Income Security Act of 1974, section 4980H of the Internal Revenue Code of 1986, and section 2793 of the Public Health Service Act are administered so as to have the same effect at all times; and

(2) coordination of policies relating to enforcing the same requirements through such officers in order to have a coordinated enforcement strategy that avoids duplication of enforcement efforts and assigns priorities in enforcement.

(b) **MULTIEMPLOYER PLANS.**—In the case of a group health plan that is a multiemployer plan (as defined in section 3(37) of the Employee Retirement Income Security Act of 1974), the regulations prescribed in accordance with subsection (a) by the officers referred to in subsection (a) shall provide for the application of the health coverage participation requirements to the plan sponsor and contributing employers of such plan. For purposes of this division, contributions made pursuant to a collective bargaining agreement or other agreement to such a group health plan shall be treated as amounts paid by the employer.

**TITLE V—AMENDMENTS TO INTERNAL REVENUE CODE OF 1986**

**Subtitle A—Provisions Relating to Health Care Reform**

**PART 1—SHARED RESPONSIBILITY**

**Subpart A—Individual Responsibility**

**SEC. 501. TAX ON INDIVIDUALS WITHOUT ACCEPTABLE HEALTH CARE COVERAGE.**

(a) **IN GENERAL.**—Subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by adding at the end the following new part:

**“PART VIII—HEALTH CARE RELATED TAXES**

**“SUBPART A. TAX ON INDIVIDUALS WITHOUT ACCEPTABLE HEALTH CARE COVERAGE.**

**“Subpart A—Tax on Individuals Without Acceptable Health Care Coverage**

“Sec. 59B. Tax on individuals without acceptable health care coverage.

**“SEC. 59B. TAX ON INDIVIDUALS WITHOUT ACCEPTABLE HEALTH CARE COVERAGE.**

“(a) **TAX IMPOSED.**—In the case of any individual who does not meet the requirements of subsection (d) at any time during the taxable year, there is hereby imposed a tax equal to 2.5 percent of the excess of—

“(1) the taxpayer's modified adjusted gross income for the taxable year, over

“(2) the amount of gross income specified in section 6012(a)(1) with respect to the taxpayer.

“(b) **LIMITATIONS.**—

“(1) **TAX LIMITED TO AVERAGE PREMIUM.**—

“(A) **IN GENERAL.**—The tax imposed under subsection (a) with respect to any taxpayer for any taxable year shall not exceed the applicable national average premium for such taxable year.

“(B) **APPLICABLE NATIONAL AVERAGE PREMIUM.**—

“(i) **IN GENERAL.**—For purposes of subparagraph (A), the ‘applicable national average premium’ means, with respect to any taxable year, the average premium (as determined by the Secretary, in coordination with the Health Choices Commissioner) for self-only coverage under a basic plan which is offered in a Health Insurance Exchange for the calendar year in which such taxable year begins.

“(ii) **FAILURE TO PROVIDE COVERAGE FOR MORE THAN ONE INDIVIDUAL.**—In the case of any taxpayer who fails to meet the requirements of subsection (d) with respect to more than one individual during the taxable year, clause (1) shall be applied by substituting ‘family coverage’ for ‘self-only coverage’.

“(2) **PRORATION FOR PART YEAR FAILURES.**—The tax imposed under subsection (a) with respect to any taxpayer for any taxable year shall not exceed the amount which bears the same ratio to the amount of tax so imposed (determined without regard to this paragraph and after application of paragraph (1)) as—

“(A) the aggregate periods during such taxable year for which such individual failed to meet the requirements of subsection (d), bears to

“(B) the entire taxable year.

“(c) **EXCEPTIONS.**—

“(1) **DEPENDENTS.**—Subsection (a) shall not apply to any individual for any taxable year if a deduction is allowable under section 151 with respect to such individual to another taxpayer for any taxable year beginning in the same calendar year as such taxable year.

“(2) **NONRESIDENT ALIENS.**—Subsection (a) shall not apply to any individual who is a nonresident alien.

“(3) **INDIVIDUALS RESIDING OUTSIDE UNITED STATES.**—Any qualified individual (as defined in section 911(d)) (and any qualifying child residing with such individual) shall be treated for purposes of this section as covered by acceptable coverage during the period described in subparagraph (A) or (B) of section 911(d)(1), whichever is applicable.

“(4) **INDIVIDUALS RESIDING IN POSSESSIONS OF THE UNITED STATES.**—Any individual who is a bona fide resident of any possession of the United States (as determined under section 937(a)) for any taxable year (and any qualifying child residing with such individual) shall be treated for purposes of this section as covered by acceptable coverage during such taxable year.

“(5) **RELIGIOUS CONSCIENCE EXEMPTION.**—

“(A) **IN GENERAL.**—Subsection (a) shall not apply to any individual (and any qualifying child residing with such individual) for any period if such individual has in effect an exemption which certifies that such individual is a member of a recognized religious sect or division thereof described in section 1402(g)(1) and an adherent of established tenets or teachings of such sect or division as described in such section.

“(B) **EXEMPTION.**—An application for the exemption described in subparagraph (A) shall be filed with the Secretary at such time and in such form and manner as the Secretary may prescribe. The Secretary may treat an application for exemption under section 1402(g)(1) as an application for exemption under this section, or may otherwise coordinate applications under such sections, as the Secretary determines appropriate. Any such exemption granted by the Secretary shall be effective for such period as the Secretary determines appropriate.

“(d) **ACCEPTABLE COVERAGE REQUIREMENT.**—

“(1) **IN GENERAL.**—The requirements of this subsection are met with respect to any individual for any period if such individual (and each qualifying child of such individual) is covered by acceptable coverage at all times during such period.

“(2) **ACCEPTABLE COVERAGE.**—For purposes of this section, the term ‘acceptable coverage’ means any of the following:

“(A) **QUALIFIED HEALTH BENEFITS PLAN COVERAGE.**—Coverage under a qualified health benefits plan (as defined in section 100(c) of the ).

“(B) **GRANDFATHERED HEALTH INSURANCE COVERAGE; COVERAGE UNDER GRANDFATHERED EMPLOYMENT-BASED HEALTH PLAN.**—Coverage under a grandfathered health insurance coverage (as defined in subsection (a) of section 202 of the Affordable Health Care for America Act) or under a current employment-based health plan (within the meaning of subsection (b) of such section).

“(C) **MEDICARE.**—Coverage under part A of title XVIII of the Social Security Act.

“(D) **MEDICAID.**—Coverage for medical assistance under title XIX of the Social Security Act.

“(E) **MEMBERS OF THE ARMED FORCES AND DEPENDENTS (INCLUDING TRICARE).**—Coverage under chapter 55 of title 10, United States Code, including similar coverage furnished under section 1781 of title 38 of such Code.

“(F) **VA.**—Coverage under the veteran's health care program under chapter 17 of title 38, United States Code.

“(G) **MEMBERS OF INDIAN TRIBES.**—Health care services made available through the Indian Health Service, a tribal organization (as defined in section 4 of the Indian Health Care Improvement Act), or an urban Indian organization (as defined in such section) to members of an Indian tribe (as defined in such section).

“(H) **OTHER COVERAGE.**—Such other health benefits coverage as the Secretary, in coordination with the Health Choices Commissioner, recognizes for purposes of this subsection.

“(e) **OTHER DEFINITIONS AND SPECIAL RULES.**—

“(1) **QUALIFYING CHILD.**—For purposes of this section, the term ‘qualifying child’ has the meaning given such term by section 152(c). With respect to any period during which health coverage for a child must be provided by an individual pursuant to a child support order, such child shall be treated as a qualifying child of such individual (and not as a qualifying child of any other individual).

“(2) **BASIC PLAN.**—For purposes of this section, the term ‘basic plan’ has the meaning given such term under section 100(c) of the Affordable Health Care for America Act.

“(3) **HEALTH INSURANCE EXCHANGE.**—For purposes of this section, the term ‘Health Insurance Exchange’ has the meaning given such term under section 100(c) of the Affordable Health Care for America Act, including any State-based health insurance exchange approved for operation under section 308 of such Act.

“(4) **FAMILY COVERAGE.**—For purposes of this section, the term ‘family coverage’ means any coverage other than self-only coverage.

“(5) **MODIFIED ADJUSTED GROSS INCOME.**—For purposes of this section, the term ‘modified adjusted gross income’ means adjusted gross income increased by—

“(A) any amount excluded from gross income under section 911, and

“(B) any amount of interest received or accrued by the taxpayer during the taxable year which is exempt from tax.

“(6) NOT TREATED AS TAX IMPOSED BY THIS CHAPTER FOR CERTAIN PURPOSES.—The tax imposed under this section shall not be treated as tax imposed by this chapter for purposes of determining the amount of any credit under this chapter or for purposes of section 55.

“(f) REGULATIONS.—The Secretary shall prescribe such regulations or other guidance as may be necessary or appropriate to carry out the purposes of this section, including regulations or other guidance (developed in coordination with the Health Choices Commissioner) which provide—

“(1) exemption from the tax imposed under subsection (a) in cases of de minimis lapses of acceptable coverage, and

“(2) a waiver of the application of subsection (a) in cases of hardship, including a process for applying for such a waiver.”.

(b) INFORMATION REPORTING.—

(1) IN GENERAL.—Subpart B of part III of subchapter A of chapter 61 of such Code is amended by inserting after section 6050W the following new section:

**“SEC. 6050X. RETURNS RELATING TO HEALTH INSURANCE COVERAGE.**

“(a) REQUIREMENT OF REPORTING.—Every person who provides acceptable coverage (as defined in section 59B(d)) to any individual during any calendar year shall, at such time as the Secretary may prescribe, make the return described in subsection (b) with respect to such individual.

“(b) FORM AND MANNER OF RETURNS.—A return is described in this subsection if such return—

“(1) is in such form as the Secretary may prescribe, and

“(2) contains—

“(A) the name, address, and TIN of the primary insured and the name of each other individual obtaining coverage under the policy,

“(B) the period for which each such individual was provided with the coverage referred to in subsection (a), and

“(C) such other information as the Secretary may require.

“(c) STATEMENTS TO BE FURNISHED TO INDIVIDUALS WITH RESPECT TO WHOM INFORMATION IS REQUIRED.—Every person required to make a return under subsection (a) shall furnish to each primary insured whose name is required to be set forth in such return a written statement showing—

“(1) the name and address of the person required to make such return and the phone number of the information contact for such person, and

“(2) the information required to be shown on the return with respect to such individual.

The written statement required under the preceding sentence shall be furnished on or before January 31 of the year following the calendar year for which the return under subsection (a) is required to be made.

“(d) COVERAGE PROVIDED BY GOVERNMENTAL UNITS.—In the case of coverage provided by any governmental unit or any agency or instrumentality thereof, the officer or employee who enters into the agreement to provide such coverage (or the person appropriately designated for purposes of this section) shall make the returns and statements required by this section.”.

(2) PENALTY FOR FAILURE TO FILE.—

(A) RETURN.—Subparagraph (B) of section 6724(d)(1) of such Code is amended by striking “or” at the end of clause (xxii), by striking “and” at the end of clause (xxiii) and inserting “or”, and by adding at the end the following new clause:

“(xxiv) section 6050X (relating to returns relating to health insurance coverage), and”.

(B) STATEMENT.—Paragraph (2) of section 6724(d) of such Code is amended by striking “or” at the end of subparagraph (EE), by striking the period at the end of subparagraph (FF) and inserting “, or”, and by inserting after subparagraph (FF) the following new subparagraph:

“(GG) section 6050X (relating to returns relating to health insurance coverage).”.

(c) RETURN REQUIREMENT.—Subsection (a) of section 6012 of such Code is amended by inserting after paragraph (9) the following new paragraph:

“(10) Every individual to whom section 59B(a) applies and who fails to meet the requirements of section 59B(d) with respect to such individual or any qualifying child (as defined in section 152(c)) of such individual.”.

(d) CLERICAL AMENDMENTS.—

(1) The table of parts for subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by adding at the end the following new item:

“PART VIII. HEALTH CARE RELATED TAXES.”.

(2) The table of sections for subpart B of part III of subchapter A of chapter 61 is amended by adding at the end the following new item:

“Sec. 6050X. Returns relating to health insurance coverage.”.

(e) SECTION 15 NOT TO APPLY.—The amendment made by subsection (a) shall not be treated as a change in a rate of tax for purposes of section 15 of the Internal Revenue Code of 1986.

(f) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxable years beginning after December 31, 2012.

(2) RETURNS.—The amendments made by subsection (b) shall apply to calendar years beginning after December 31, 2012.

**Subpart B—Employer Responsibility**

**SEC. 511. ELECTION TO SATISFY HEALTH COVERAGE PARTICIPATION REQUIREMENTS.**

(a) IN GENERAL.—Chapter 43 of the Internal Revenue Code of 1986 is amended by adding at the end the following new section:

**“SEC. 4980H. ELECTION WITH RESPECT TO HEALTH COVERAGE PARTICIPATION REQUIREMENTS.**

“(a) ELECTION OF EMPLOYER RESPONSIBILITY TO PROVIDE HEALTH COVERAGE.—

“(1) IN GENERAL.—Subsection (b) shall apply to any employer with respect to whom an election under paragraph (2) is in effect.

“(2) TIME AND MANNER.—An employer may make an election under this paragraph at such time and in such form and manner as the Secretary may prescribe.

“(3) AFFILIATED GROUPS.—In the case of any employer which is part of a group of employers who are treated as a single employer under subsection (b), (c), (m), or (o) of section 414, the election under paragraph (2) shall be made by such person as the Secretary may provide. Any such election, once made, shall apply to all members of such group.

“(4) SEPARATE ELECTIONS.—Under regulations prescribed by the Secretary, separate elections may be made under paragraph (2) with respect to—

“(A) separate lines of business, and

“(B) full-time employees and employees who are not full-time employees.

“(5) TERMINATION OF ELECTION IN CASES OF SUBSTANTIAL NONCOMPLIANCE.—The Secretary may terminate the election of any

employer under paragraph (2) if the Secretary (in coordination with the Health Choices Commissioner) determines that such employer is in substantial noncompliance with the health coverage participation requirements.

“(b) EXCISE TAX WITH RESPECT TO FAILURE TO MEET HEALTH COVERAGE PARTICIPATION REQUIREMENTS.—

“(1) IN GENERAL.—In the case of any employer who fails (during any period with respect to which the election under subsection (a) is in effect) to satisfy the health coverage participation requirements with respect to any employee to whom such election applies, there is hereby imposed on each such failure with respect to each such employee a tax of \$100 for each day in the period beginning on the date such failure first occurs and ending on the date such failure is corrected.

“(2) LIMITATIONS ON AMOUNT OF TAX.—

“(A) TAX NOT TO APPLY WHERE FAILURE NOT DISCOVERED EXERCISING REASONABLE DILIGENCE.—No tax shall be imposed by paragraph (1) on any failure during any period for which it is established to the satisfaction of the Secretary that the employer neither knew, nor exercising reasonable diligence would have known, that such failure existed.

“(B) TAX NOT TO APPLY TO FAILURES CORRECTED WITHIN 30 DAYS.—No tax shall be imposed by paragraph (1) on any failure if—

“(i) such failure was due to reasonable cause and not to willful neglect, and

“(ii) such failure is corrected during the 30-day period beginning on the 1st date that the employer knew, or exercising reasonable diligence would have known, that such failure existed.

“(C) OVERALL LIMITATION FOR UNINTENTIONAL FAILURES.—In the case of failures which are due to reasonable cause and not to willful neglect, the tax imposed by subsection (a) for failures during the taxable year of the employer shall not exceed the amount equal to the lesser of—

“(i) 10 percent of the aggregate amount paid or incurred by the employer (or predecessor employer) during the preceding taxable year for employment-based health plans, or

“(ii) \$500,000.

“(D) COORDINATION WITH OTHER ENFORCEMENT PROVISIONS.—The tax imposed under paragraph (1) with respect to any failure shall be reduced (but not below zero) by the amount of any civil penalty collected under section 502(c)(11) of the Employee Retirement Income Security Act of 1974 or section 2793(g) of the Public Health Service Act with respect to such failure.

“(c) HEALTH COVERAGE PARTICIPATION REQUIREMENTS.—For purposes of this section, the term ‘health coverage participation requirements’ means the requirements of part I of subtitle B of title IV of the (as in effect on the date of the enactment of this section).”.

(b) CLERICAL AMENDMENT.—The table of sections for chapter 43 of such Code is amended by adding at the end the following new item:

“Sec. 4980H. Election with respect to health coverage participation requirements.”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to periods beginning after December 31, 2012.

**SEC. 512. HEALTH CARE CONTRIBUTIONS OF NONELECTING EMPLOYERS.**

(a) IN GENERAL.—Section 3111 of the Internal Revenue Code of 1986 is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

“(c) EMPLOYERS ELECTING NOT TO PROVIDE HEALTH BENEFITS.—

“(1) IN GENERAL.—In addition to other taxes, there is hereby imposed on every non-electing employer an excise tax, with respect to having individuals in his employ, equal to

8 percent of the wages (as defined in section 3121(a)) paid by him with respect to employment (as defined in section 3121(b)).

“(2) SPECIAL RULES FOR SMALL EMPLOYERS.—

“(A) IN GENERAL.—In the case of any employer who is small employer for any calendar year, paragraph (1) shall be applied by substituting the applicable percentage determined in accordance with the following table for ‘8 percent’:

**“If the annual payroll of such employer for the preceding calendar year:**

	<b>The applicable percentage is:</b>
Does not exceed \$500,000 .....	0 percent
Exceeds \$500,000, but does not exceed \$585,000 .....	2 percent
Exceeds \$585,000, but does not exceed \$670,000 .....	4 percent
Exceeds \$670,000, but does not exceed \$750,000 .....	6 percent

“(B) SMALL EMPLOYER.—For purposes of this paragraph, the term ‘small employer’ means any employer for any calendar year if the annual payroll of such employer for the preceding calendar year does not exceed \$750,000.

“(C) ANNUAL PAYROLL.—For purposes of this paragraph, the term ‘annual payroll’ means, with respect to any employer for any calendar year, the aggregate wages (as defined in section 3121(a)) paid by him with respect to employment (as defined in section 3121(b)) during such calendar year.

“(3) NONELECTING EMPLOYER.—For purposes of paragraph (1), the term ‘nonelecting employer’ means any employer for any period with respect to which such employer does not have an election under section 4980H(a) in effect.

“(4) SPECIAL RULE FOR SEPARATE ELECTIONS.—In the case of an employer who makes a separate election described in section 4980H(a)(4) for any period, paragraph (1) shall be applied for such period by taking into account only the wages paid to employees who are not subject to such election.

“(5) AGGREGATION; PREDECESSORS.—For purposes of this subsection—

“(A) all persons treated as a single employer under subsection (b), (c), (m), or (o) of section 414 shall be treated as 1 employer, and

“(B) any reference to any person shall be treated as including a reference to any predecessor of such person.”.

(b) DEFINITIONS.—Section 3121 of such Code is amended by adding at the end the following new subsection:

“(aa) SPECIAL RULES FOR TAX ON EMPLOYERS ELECTING NOT TO PROVIDE HEALTH BENEFITS.—For purposes of section 3111(c)—

“(1) Paragraphs (1), (5), and (19) of subsection (b) shall not apply.

“(2) Paragraph (7) of subsection (b) shall apply by treating all services as not covered by the retirement systems referred to in subparagraphs (C) and (F) thereof.

“(3) Subsection (e) shall not apply and the term ‘State’ shall include the District of Columbia.”.

(c) CONFORMING AMENDMENT.—Subsection (d) of section 3111 of such Code, as redesignated by this section, is amended by striking “this section” and inserting “subsections (a) and (b)”.

(d) APPLICATION TO RAILROADS.—

(1) IN GENERAL.—Section 3221 of such Code is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

“(c) EMPLOYERS ELECTING NOT TO PROVIDE HEALTH BENEFITS.—

“(1) IN GENERAL.—In addition to other taxes, there is hereby imposed on every non-electing employer an excise tax, with respect to having individuals in his employ, equal to 8 percent of the compensation paid during any calendar year by such employer for services rendered to such employer.

“(2) EXCEPTION FOR SMALL EMPLOYERS.—Rules similar to the rules of section 3111(c)(2) shall apply for purposes of this subsection.

“(3) NONELECTING EMPLOYER.—For purposes of paragraph (1), the term ‘nonelecting employer’ means any employer for any period with respect to which such employer does not have an election under section 4980H(a) in effect.

“(4) SPECIAL RULE FOR SEPARATE ELECTIONS.—In the case of an employer who makes a separate election described in section 4980H(a)(4) for any period, subsection (a) shall be applied for such period by taking into account only the compensation paid to employees who are not subject to such election.”.

(2) DEFINITIONS.—Subsection (e) of section 3231 of such Code is amended by adding at the end the following new paragraph:

“(13) SPECIAL RULES FOR TAX ON EMPLOYERS ELECTING NOT TO PROVIDE HEALTH BENEFITS.—For purposes of section 3221(c)—

“(A) Paragraph (1) shall be applied without regard to the third sentence thereof.

“(B) Paragraph (2) shall not apply.”.

(3) CONFORMING AMENDMENT.—Subsection (d) of section 3221 of such Code, as redesignated by this section, is amended by striking “subsections (a) and (b), see section 3231(e)(2)” and inserting “this section, see paragraphs (2) and (13)(B) of section 3231(e)”.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to periods beginning after December 31, 2012.

**PART 2—CREDIT FOR SMALL BUSINESS EMPLOYEE HEALTH COVERAGE EXPENSES**

**SEC. 521. CREDIT FOR SMALL BUSINESS EMPLOYEE HEALTH COVERAGE EXPENSES.**

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to business-related credits) is amended by adding at the end the following new section:

**“SEC. 45R. SMALL BUSINESS EMPLOYEE HEALTH COVERAGE CREDIT.**

“(a) IN GENERAL.—For purposes of section 38, in the case of a qualified small employer, the small business employee health coverage credit determined under this section for the taxable year is an amount equal to the applicable percentage of the qualified employee health coverage expenses of such employer for such taxable year.

“(b) APPLICABLE PERCENTAGE.—

“(1) IN GENERAL.—For purposes of this section, the applicable percentage is 50 percent.

“(2) PHASEOUT BASED ON AVERAGE COMPENSATION OF EMPLOYEES.—In the case of an employer whose average annual employee compensation for the taxable year exceeds \$20,000, the percentage specified in paragraph (1) shall be reduced by a number of percentage points which bears the same ratio to 50 as such excess bears to \$20,000.

“(c) LIMITATIONS.—

“(1) PHASEOUT BASED ON EMPLOYER SIZE.—In the case of an employer who employs

more than 10 qualified employees during the taxable year, the credit determined under subsection (a) shall be reduced by an amount which bears the same ratio to the amount of such credit (determined without regard to this paragraph and after the application of the other provisions of this section) as—

“(A) the excess of—

“(i) the number of qualified employees employed by the employer during the taxable year, over

“(ii) 10, bears to

“(B) 15.

“(2) CREDIT NOT ALLOWED WITH RESPECT TO CERTAIN HIGHLY COMPENSATED EMPLOYEES.—No credit shall be determined under subsection (a) with respect to qualified employee health coverage expenses paid or incurred with respect to any employee for any taxable year if the aggregate compensation paid by the employer to such employee during such taxable year exceeds \$80,000.

“(3) CREDIT ALLOWED FOR ONLY 2 TAXABLE YEARS.—No credit shall be determined under subsection (a) with respect to any employer for any taxable year unless the employer elects to have this section apply for such taxable year. An employer may elect the application of this section with respect to not more than 2 taxable years.

“(d) QUALIFIED EMPLOYEE HEALTH COVERAGE EXPENSES.—For purposes of this section—

“(1) IN GENERAL.—The term ‘qualified employee health coverage expenses’ means, with respect to any employer for any taxable year, the aggregate amount paid or incurred by such employer during such taxable year for coverage of any qualified employee of the employer (including any family coverage which covers such employee) under qualified health coverage.

“(2) QUALIFIED HEALTH COVERAGE.—The term ‘qualified health coverage’ means acceptable coverage (as defined in section 59B(d)) which—

“(A) is provided pursuant to an election under section 4980H(a), and

“(B) satisfies the requirements referred to in section 4980H(c).

“(e) OTHER DEFINITIONS.—For purposes of this section—

“(1) QUALIFIED SMALL EMPLOYER.—For purposes of this section, the term ‘qualified small employer’ means any employer for any taxable year if—

“(A) the number of qualified employees employed by such employer during the taxable year does not exceed 25, and

“(B) the average annual employee compensation of such employer for such taxable year does not exceed the sum of the dollar amounts in effect under subsection (b)(2).

“(2) QUALIFIED EMPLOYEE.—The term ‘qualified employee’ means any employee of an employer for any taxable year of the employer if such employee received at least \$5,000 of compensation from such employer

for services performed in the trade or business of such employer during such taxable year.

“(3) AVERAGE ANNUAL EMPLOYEE COMPENSATION.—The term ‘average annual employee compensation’ means, with respect to any employer for any taxable year, the average amount of compensation paid by such employer to qualified employees of such employer during such taxable year.

“(4) COMPENSATION.—The term ‘compensation’ has the meaning given such term in section 408(p)(6)(A).

“(5) FAMILY COVERAGE.—The term ‘family coverage’ means any coverage other than self-only coverage.

“(f) SPECIAL RULES.—For purposes of this section—

“(1) SPECIAL RULE FOR PARTNERSHIPS AND SELF-EMPLOYED.—In the case of a partnership (or a trade or business carried on by an individual) which has one or more qualified employees (determined without regard to this paragraph) with respect to whom the election under section 4980H(a) applies, each partner (or, in the case of a trade or business carried on by an individual, such individual) shall be treated as an employee.

“(2) AGGREGATION RULE.—All persons treated as a single employer under subsection (b), (c), (m), or (o) of section 414 shall be treated as 1 employer.

“(3) PREDECESSORS.—Any reference in this section to an employer shall include a reference to any predecessor of such employer.

“(4) DENIAL OF DOUBLE BENEFIT.—Any deduction otherwise allowable with respect to amounts paid or incurred for health insurance coverage to which subsection (a) applies shall be reduced by the amount of the credit determined under this section.

“(5) INFLATION ADJUSTMENT.—In the case of any taxable year beginning after 2013, each of the dollar amounts in subsections (b)(2), (c)(2), and (e)(2) shall be increased by an amount equal to—

“(A) such dollar amount, multiplied by

“(B) the cost of living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins determined by substituting ‘calendar year 2012’ for ‘calendar year 1992’ in subparagraph (B) thereof.

If any increase determined under this paragraph is not a multiple of \$50, such increase shall be rounded to the next lowest multiple of \$50.”.

(b) CREDIT TO BE PART OF GENERAL BUSINESS CREDIT.—Subsection (b) of section 38 of such Code (relating to general business credit) is amended by striking “plus” at the end of paragraph (34), by striking the period at the end of paragraph (35) and inserting “, plus” , and by adding at the end the following new paragraph:

“(36) in the case of a qualified small employer (as defined in section 45R(e)), the small business employee health coverage credit determined under section 45R(a).”.

(c) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1 of such Code is amended by inserting after the item relating to section 45Q the following new item:

“Sec. 45R. Small business employee health coverage credit.”.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2012.

### PART 3—LIMITATIONS ON HEALTH CARE RELATED EXPENDITURES

#### SEC. 531. DISTRIBUTIONS FOR MEDICINE QUALIFIED ONLY IF FOR PRESCRIBED DRUG OR INSULIN.

(a) HSAs.—Subparagraph (A) of section 223(d)(2) of the Internal Revenue Code of 1986 is amended by adding at the end the following: “Such term shall include an amount paid for medicine or a drug only if such medicine or drug is a prescribed drug or is insulin.”.

(b) ARCHER MSAs.—Subparagraph (A) of section 220(d)(2) of such Code is amended by adding at the end the following: “Such term shall include an amount paid for medicine or a drug only if such medicine or drug is a prescribed drug or is insulin.”.

(c) HEALTH FLEXIBLE SPENDING ARRANGEMENTS AND HEALTH REIMBURSEMENT ARRANGEMENTS.—Section 106 of such Code is amended by adding at the end the following new subsection:

“(f) REIMBURSEMENTS FOR MEDICINE RESTRICTED TO PRESCRIBED DRUGS AND INSULIN.—For purposes of this section and section 105, reimbursement for expenses incurred for a medicine or a drug shall be treated as a reimbursement for medical expenses only if such medicine or drug is a prescribed drug or is insulin.”.

(d) EFFECTIVE DATES.—The amendment made by this section shall apply to expenses incurred after December 31, 2010.

#### SEC. 532. LIMITATION ON HEALTH FLEXIBLE SPENDING ARRANGEMENTS UNDER CAFETERIA PLANS.

(a) IN GENERAL.—Section 125 of the Internal Revenue Code of 1986 is amended—

(1) by redesignating subsections (i) and (j) as subsections (j) and (k), respectively, and

(2) by inserting after subsection (h) the following new subsection:

“(i) LIMITATION ON HEALTH FLEXIBLE SPENDING ARRANGEMENTS.—

“(1) IN GENERAL.—For purposes of this section, if a benefit is provided under a cafeteria plan through employer contributions to a health flexible spending arrangement, such benefit shall not be treated as a qualified benefit unless the cafeteria plan provides that an employee may not elect for any taxable year to have salary reduction contributions in excess of \$2,500 made to such arrangement.

“(2) INFLATION ADJUSTMENT.—In the case of any taxable year beginning after 2013, the dollar amount in paragraph (1) shall be increased by an amount equal to—

“(A) such dollar amount, multiplied by

“(B) the cost of living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins determined by substituting ‘calendar year 2012’ for ‘calendar year 1992’ in subparagraph (B) thereof.

If any increase determined under this paragraph is not a multiple of \$50, such increase shall be rounded to the next lowest multiple of \$50.”.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2012.

#### SEC. 533. INCREASE IN PENALTY FOR NON-QUALIFIED DISTRIBUTIONS FROM HEALTH SAVINGS ACCOUNTS.

(a) IN GENERAL.—Subparagraph (A) of section 223(f)(4) of the Internal Revenue Code of 1986 is amended by striking “10 percent” and inserting “20 percent”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2010.

#### SEC. 534. DENIAL OF DEDUCTION FOR FEDERAL SUBSIDIES FOR PRESCRIPTION DRUG PLANS WHICH HAVE BEEN EXCLUDED FROM GROSS INCOME.

(a) IN GENERAL.—Section 139A of the Internal Revenue Code of 1986 is amended by striking the second sentence.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2012.

### PART 4—OTHER PROVISIONS TO CARRY OUT HEALTH INSURANCE REFORM

#### SEC. 541. DISCLOSURES TO CARRY OUT HEALTH INSURANCE EXCHANGE SUBSIDIES.

(a) IN GENERAL.—Subsection (l) of section 6103 of the Internal Revenue Code of 1986 is amended by adding at the end the following new paragraph:

“(21) DISCLOSURE OF RETURN INFORMATION TO CARRY OUT HEALTH INSURANCE EXCHANGE SUBSIDIES.—

“(A) IN GENERAL.—The Secretary, upon written request from the Health Choices Commissioner or the head of a State-based health insurance exchange approved for operation under section 308 of the Affordable Health Care for America Act, shall disclose to officers and employees of the Health Choices Administration or such State-based health insurance exchange, as the case may be, return information of any taxpayer whose income is relevant in determining any affordability credit described in subtitle C of title III of the Affordable Health Care for America Act. Such return information shall be limited to—

“(i) taxpayer identity information with respect to such taxpayer,

“(ii) the filing status of such taxpayer,

“(iii) the modified adjusted gross income of such taxpayer (as defined in section 59B(e)(5)),

“(iv) the number of dependents of the taxpayer,

“(v) such other information as is prescribed by the Secretary by regulation as might indicate whether the taxpayer is eligible for such affordability credits (and the amount thereof), and

“(vi) the taxable year with respect to which the preceding information relates or, if applicable, the fact that such information is not available.

“(B) RESTRICTION ON USE OF DISCLOSED INFORMATION.—Return information disclosed under subparagraph (A) may be used by officers and employees of the Health Choices Administration or such State-based health insurance exchange, as the case may be, only for the purposes of, and to the extent necessary in, establishing and verifying the appropriate amount of any affordability credit described in subtitle C of title III of the Affordable Health Care for America Act and providing for the repayment of any such credit which was in excess of such appropriate amount.”.

(b) PROCEDURES AND RECORDKEEPING RELATED TO DISCLOSURES.—Paragraph (4) of section 6103(p) of such Code is amended—

(1) by inserting “, or any entity described in subsection (l)(21),” after “or (20)” in the matter preceding subparagraph (A),

(2) by inserting “or any entity described in subsection (l)(21),” after “or (o)(1)(A),” in subparagraph (F)(ii), and

(3) by inserting “or any entity described in subsection (l)(21),” after “or (20),” both places it appears in the matter after subparagraph (F).

(c) UNAUTHORIZED DISCLOSURE OR INSPECTION.—Paragraph (2) of section 7213(a) of such Code is amended by striking “or (20)” and inserting “(20), or (21)”.



**SEC. 542. OFFERING OF EXCHANGE-PARTICIPATING HEALTH BENEFITS PLANS THROUGH CAFETERIA PLANS.**

(a) IN GENERAL.—Subsection (f) of section 125 of the Internal Revenue Code of 1986 is amended by adding at the end the following new paragraph:

“(3) CERTAIN EXCHANGE-PARTICIPATING HEALTH BENEFITS PLANS NOT QUALIFIED.—

“(A) IN GENERAL.—The term ‘qualified benefit’ shall not include any exchange-participating health benefits plan (as defined in section 101(c) of the Affordable Health Care for America Act).

“(B) EXCEPTION FOR EXCHANGE-ELIGIBLE EMPLOYERS.—Subparagraph (A) shall not apply with respect to any employee if such employee’s employer is an exchange-eligible employer (as defined in section 302 of the Affordable Health Care for America Act).”.

(b) CONFORMING AMENDMENTS.—Subsection (f) of section 125 of such Code is amended—

(1) by striking “For purposes of this section, the term” and inserting “For purposes of this section—

“(1) IN GENERAL.—The term”, and

(2) by striking “Such term shall not include” and inserting the following:

“(2) LONG-TERM CARE INSURANCE NOT QUALIFIED.—The term ‘qualified benefit’ shall not include”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2012.

**SEC. 543. EXCLUSION FROM GROSS INCOME OF PAYMENTS MADE UNDER REINSURANCE PROGRAM FOR RETIREES.**

(a) IN GENERAL.—Section 139A of the Internal Revenue Code of 1986 is amended—

(1) by striking “Gross income” and inserting the following:

“(a) FEDERAL SUBSIDIES FOR PRESCRIPTION DRUG PLANS.—Gross income”, and

(2) by adding at the end the following new subsection:

“(b) FEDERAL REINSURANCE PROGRAM FOR RETIREES.—A rule similar to the rule of subsection (a) shall apply with respect to payments made under section 111 of the Affordable Health Care for America Act.”.

(b) CONFORMING AMENDMENT.—The heading of section 139A of such Code (and the item relating to such section in the table of sections for part III of subchapter B of chapter 1 of such Code) is amended by inserting “**AND RETIREE HEALTH PLANS**” after “**PRESCRIPTION DRUG PLANS**”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after the date of the enactment of this Act.

**SEC. 544. CLASS PROGRAM TREATED IN SAME MANNER AS LONG-TERM CARE INSURANCE.**

(a) IN GENERAL.—Subsection (f) of section 7702B of the Internal Revenue Code of 1986 is amended—

(1) by striking “State long-term care plan” in paragraph (1)(A) and inserting “government long-term care plan”.

(2) by redesignating paragraph (2) as paragraph (3), and

(3) by inserting after paragraph (2) the following new paragraph:

“(2) GOVERNMENT LONG-TERM CARE PLAN.—For purposes of this subsection, the term ‘government long-term care plan’ means—

“(A) the CLASS program established under title XXXII of the Public Health Service Act, and

“(B) any State long-term care plan.”.

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (3) of section 7702B(f) of such Code, as redesignated by subsection (a), is amended by striking “paragraph (1)” and inserting “this subsection”.

(2) Subsection (f) of section 7702(B) of such Code is amended by striking “STATE-MAINTAINED” in the heading thereof and inserting “GOVERNMENT”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after December 31, 2010.

**SEC. 545. EXCLUSION FROM GROSS INCOME FOR MEDICAL CARE PROVIDED FOR INDIANS.**

(a) IN GENERAL.—Part III of subchapter B of chapter 1 of the Internal Revenue Code of 1986 (relating to items specifically excluded from gross income) is amended by inserting after section 139C the following new section:

**“SEC. 139D. MEDICAL CARE PROVIDED FOR INDIANS.**

“(a) IN GENERAL.—Gross income does not include—

“(1) health services or benefits provided or purchased by the Indian Health Service, either directly or indirectly, through a grant to or a contract or compact with an Indian tribe or tribal organization or through programs of third parties funded by the Indian Health Service,

“(2) medical care provided by an Indian tribe or tribal organization to a member of an Indian tribe (including for this purpose, to the member’s spouse or dependents) through any one of the following: provided or purchased medical care services; accident or health insurance (or an arrangement having the effect of accident or health insurance); or amounts paid, directly or indirectly, to reimburse the member for expenses incurred for medical care,

“(3) the value of accident or health plan coverage provided by an Indian tribe or tribal organization for medical care to a member of an Indian tribe (including for this purpose, coverage that extends to such member’s spouse or dependents) under an accident or health plan (or through an arrangement having the effect of accident or health insurance), and

“(4) any other medical care provided by an Indian tribe that supplements, replaces, or substitutes for the programs and services provided by the Federal Government to Indian tribes or Indians.

“(b) DEFINITIONS.—For purposes of this section—

“(1) IN GENERAL.—The terms ‘accident or health insurance’ and ‘accident or health plan’ have the same meaning as when used in sections 104 and 106.

“(2) MEDICAL CARE.—The term ‘medical care’ has the meaning given such term in section 213.

“(3) DEPENDENT.—The term ‘dependent’ has the meaning given such term in section 152, determined without regard to subsections (b)(1), (b)(2), and (d)(1)(B).

“(4) INDIAN TRIBE.—The term ‘Indian tribe’ means any Indian tribe, band, nation, pueblo, or other organized group or community, including any Alaska Native village, or regional or village corporation, as defined in, or established pursuant to, the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.), which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

“(5) TRIBAL ORGANIZATION.—The term ‘tribal organization’ has the meaning given such term in section 4(l) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(1)).”.

(b) CLERICAL AMENDMENT.—The table of sections for such part III is amended by inserting after the item relating to section 139C the following new item:

“Sec. 139D. Medical care provided for Indians.”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to health benefits and coverage provided after the date of enactment of this Act.

(d) NO INFERENCE.—Nothing in the amendments made by this section shall be construed to create an inference with respect to the exclusion from gross income of—

(1) benefits provided by Indian tribes that are not within the scope of this section, and

(2) health benefits or coverage provided by Indian tribes prior to the effective date of this section.

**Subtitle B—Other Revenue Provisions**

**PART 1—GENERAL PROVISIONS**

**SEC. 551. SURCHARGE ON HIGH INCOME INDIVIDUALS.**

(a) IN GENERAL.—Part VIII of subchapter A of chapter 1 of the Internal Revenue Code of 1986, as added by this title, is amended by adding at the end the following new subpart:

**“Subpart B—Surcharge on High Income Individuals**

“Sec. 59C. Surcharge on high income individuals.

**“SEC. 59C. SURCHARGE ON HIGH INCOME INDIVIDUALS.**

“(a) GENERAL RULE.—In the case of a taxpayer other than a corporation, there is hereby imposed (in addition to any other tax imposed by this subtitle) a tax equal to 5.4 percent of so much of the modified adjusted gross income of the taxpayer as exceeds \$1,000,000.

“(b) TAXPAYERS NOT MAKING A JOINT RETURN.—In the case of any taxpayer other than a taxpayer making a joint return under section 6013 or a surviving spouse (as defined in section 2(a)), subsection (a) shall be applied by substituting ‘\$500,000’ for ‘\$1,000,000’.

“(c) MODIFIED ADJUSTED GROSS INCOME.—For purposes of this section, the term ‘modified adjusted gross income’ means adjusted gross income reduced by any deduction (not taken into account in determining adjusted gross income) allowed for investment interest (as defined in section 163(d)). In the case of an estate or trust, adjusted gross income shall be determined as provided in section 67(e).

“(d) SPECIAL RULES.—

“(1) NONRESIDENT ALIEN.—In the case of a nonresident alien individual, only amounts taken into account in connection with the tax imposed under section 871(b) shall be taken into account under this section.

“(2) CITIZENS AND RESIDENTS LIVING ABROAD.—The dollar amount in effect under subsection (a) (after the application of subsection (b)) shall be decreased by the excess of—

“(A) the amounts excluded from the taxpayer’s gross income under section 911, over

“(B) the amounts of any deductions or exclusions disallowed under section 911(d)(6) with respect to the amounts described in subparagraph (A).

“(3) CHARITABLE TRUSTS.—Subsection (a) shall not apply to a trust all the unexpired interests in which are devoted to one or more of the purposes described in section 170(c)(2)(B).

“(4) NOT TREATED AS TAX IMPOSED BY THIS CHAPTER FOR CERTAIN PURPOSES.—The tax imposed under this section shall not be treated as tax imposed by this chapter for purposes of determining the amount of any credit under this chapter or for purposes of section 55.”.

(b) CLERICAL AMENDMENT.—The table of subparts for part VIII of subchapter A of



chapter 1 of such Code, as added by this title, is amended by inserting after the item relating to subpart A the following new item:

**"SUBPART B. SURCHARGE ON HIGH INCOME INDIVIDUALS."**

(c) **SECTION 15 NOT TO APPLY.**—The amendment made by subsection (a) shall not be treated as a change in a rate of tax for purposes of section 15 of the Internal Revenue Code of 1986.

(d) **EFFECTIVE DATE.**—The amendments made by this section shall apply to taxable years beginning after December 31, 2010.

**SEC. 552. EXCISE TAX ON MEDICAL DEVICES.**

(a) **IN GENERAL.**—Chapter 31 of the Internal Revenue Code of 1986 is amended by adding at the end the following new subchapter:

**"Subchapter D—Medical Devices**

**"Sec. 4061. Medical devices.**

**"SEC. 4061. MEDICAL DEVICES.**

"(a) **IN GENERAL.**—There is hereby imposed on the first taxable sale of any medical device a tax equal to 2.5 percent of the price for which so sold.

"(b) **FIRST TAXABLE SALE.**—For purposes of this section—

"(1) **IN GENERAL.**—The term 'first taxable sale' means the first sale, for a purpose other than for resale, after production, manufacture, or importation.

"(2) **EXCEPTION FOR SALES AT RETAIL ESTABLISHMENTS.**—Such term shall not include the sale of any medical device if—

"(A) such sale is made at a retail establishment on terms which are available to the general public, and

"(B) such medical device is of a type (and purchased in a quantity) which is purchased by the general public.

"(3) **EXCEPTION FOR EXPORTS, ETC.**—Rules similar to the rules of sections 4221 (other than paragraphs (3), (4), (5), and (6) of subsection (a) thereof) and 4222 shall apply for purposes of this section. To the extent provided by the Secretary, section 4222 may be extended to, and made applicable with respect to, the exemption provided by paragraph (2).

"(4) **SALES TO PATIENTS NOT TREATED AS RE-SALES.**—If a medical device is sold for use in connection with providing any health care service to an individual, such sale shall not be treated as being for the purpose of resale (even if such device is sold to such individual).

"(c) **OTHER DEFINITIONS AND SPECIAL RULES.**—For purposes of this section—

"(1) **MEDICAL DEVICE.**—The term 'medical device' means any device (as defined in section 201(h) of the Federal Food, Drug, and Cosmetic Act) intended for humans.

"(2) **LEASE TREATED AS SALE.**—Rules similar to the rules of section 4217 shall apply.

"(3) **USE TREATED AS SALE.**—

"(A) **IN GENERAL.**—If any person uses a medical device before the first taxable sale of such device, then such person shall be liable for tax under such subsection in the same manner as if such use were the first taxable sale of such device.

"(B) **EXCEPTIONS.**—The preceding sentence shall not apply to—

"(i) use of a medical device as material in the manufacture or production of, or as a component part of, another medical device to be manufactured or produced by such person, or

"(ii) use of a medical device after a sale described in subsection (b)(2).

"(4) **DETERMINATION OF PRICE.**—

"(A) **IN GENERAL.**—Rules similar to the rules of subsections (a), (c), and (d) of section 4216 shall apply for purposes of this section.

"(B) **CONSTRUCTIVE SALE PRICE.**—If—

"(i) a medical device is sold (otherwise than through an arm's length transaction) at less than the fair market price, or

"(ii) a person is liable for tax for a use described in paragraph (3), the tax under this section shall be computed on the price for which such or similar devices are sold in the ordinary course of trade as determined by the Secretary.

"(5) **RESALES PURSUANT TO CERTAIN CONTRACT ARRANGEMENTS.**—

"(A) **IN GENERAL.**—In the case of a specified contract sale of a medical device, the seller referred to in subparagraph (B)(i) shall be entitled to recover from the producer, manufacturer, or importer referred to in subparagraph (B)(ii) the amount of the tax paid by such seller under this section with respect to such sale.

"(B) **SPECIFIED CONTRACT SALE.**—For purposes of this paragraph, the term 'specified contract sale' means, with respect to any medical device, the first taxable sale of such device if—

"(i) the seller is not the producer, manufacturer, or importer of such device, and

"(ii) the price at which such device is so sold is determined in accordance with a contract between the producer, manufacturer, or importer of such device and the person to whom such device is so sold.

"(C) **SPECIAL RULES RELATED TO CREDITS AND REFUNDS.**—In the case of any credit or refund under section 6416 of the tax imposed under this section on a specified contract sale of a medical device—

"(i) such credit or refund shall be allowed or made only if the seller has filed with the Secretary the written consent of the producer, manufacturer, or importer referred to in subparagraph (B)(ii) to the allowance of such credit or the making of such refund, and

"(ii) the amount of tax taken into account under subparagraph (A) shall be reduced by the amount of such credit or refund."

(b) **CONFORMING AMENDMENTS.**—

(1) Paragraph (2) of section 6416(b) of such Code is amended—

(A) by inserting "or 4061" after "under section 4051", and

(B) by adding at the end the following: "In the case of the tax imposed by section 4061, subparagraphs (B), (C), (D), and (E) shall not apply."

(2) The table of subchapters for chapter 31 of such Code is amended by adding at the end the following new item:

**"SUBCHAPTER D. MEDICAL DEVICES."**

(c) **EFFECTIVE DATE.**—The amendments made by this section shall apply to sales (and leases and uses treated as sales) after December 31, 2012.

**SEC. 553. EXPANSION OF INFORMATION REPORTING REQUIREMENTS.**

(a) **IN GENERAL.**—Section 6041 of the Internal Revenue Code of 1986 is amended by adding at the end the following new subsections:

"(h) **APPLICATION TO CORPORATIONS.**—Notwithstanding any regulation prescribed by the Secretary before the date of the enactment of this subsection, for purposes of this section the term 'person' includes any corporation that is not an organization exempt from tax under section 501(a).

"(i) **REGULATIONS.**—The Secretary may prescribe such regulations and other guidance as may be appropriate or necessary to carry out the purposes of this section, including rules to prevent duplicative reporting of transactions."

(b) **PAYMENTS FOR PROPERTY AND OTHER GROSS PROCEEDS.**—Subsection (a) of section

6041 of the Internal Revenue Code of 1986 is amended—

(1) by inserting "amounts in consideration for property," after "wages,"

(2) by inserting "gross proceeds," after "emoluments, or other", and

(3) by inserting "gross proceeds," after "setting forth the amount of such".

(c) **EFFECTIVE DATE.**—The amendments made by this section shall apply to payments made after December 31, 2011.

**SEC. 554. REPEAL OF WORLDWIDE ALLOCATION OF INTEREST.**

(a) **IN GENERAL.**—Section 864 of the Internal Revenue Code of 1986 is amended by striking subsection (f) and by redesignating subsection (g) as subsection (f).

(b) **EFFECTIVE DATE.**—The amendments made by this section shall apply to taxable years beginning after December 31, 2010.

**SEC. 555. EXCLUSION OF UNPROCESSED FUELS FROM THE CELLULOSIC BIOFUEL PRODUCER CREDIT.**

(a) **IN GENERAL.**—Subparagraph (E) of section 40(b)(6) of the Internal Revenue Code of 1986 is amended by adding at the end the following new clause:

"(iii) **EXCLUSION OF UNPROCESSED FUELS.**—The term 'cellulosic biofuel' shall not include any fuel if—

"(I) more than 4 percent of such fuel (determined by weight) is any combination of water and sediment, or

"(II) the ash content of such fuel is more than 1 percent (determined by weight)."

(b) **EFFECTIVE DATE.**—The amendment made by this section shall apply to fuels sold or used after the date of the enactment of this Act.

**PART 2—PREVENTION OF TAX AVOIDANCE**

**SEC. 561. LIMITATION ON TREATY BENEFITS FOR CERTAIN DEDUCTIBLE PAYMENTS.**

(a) **IN GENERAL.**—Section 894 of the Internal Revenue Code of 1986 (relating to income affected by treaty) is amended by adding at the end the following new subsection:

"(d) **LIMITATION ON TREATY BENEFITS FOR CERTAIN DEDUCTIBLE PAYMENTS.**—

"(1) **IN GENERAL.**—In the case of any deductible related-party payment, any withholding tax imposed under chapter 3 (and any tax imposed under subpart A or B of this part) with respect to such payment may not be reduced under any treaty of the United States unless any such withholding tax would be reduced under a treaty of the United States if such payment were made directly to the foreign parent corporation.

"(2) **DEDUCTIBLE RELATED-PARTY PAYMENT.**—For purposes of this subsection, the term 'deductible related-party payment' means any payment made, directly or indirectly, by any person to any other person if the payment is allowable as a deduction under this chapter and both persons are members of the same foreign controlled group of entities.

"(3) **FOREIGN CONTROLLED GROUP OF ENTITIES.**—For purposes of this subsection—

"(A) **IN GENERAL.**—The term 'foreign controlled group of entities' means a controlled group of entities the common parent of which is a foreign corporation.

"(B) **CONTROLLED GROUP OF ENTITIES.**—The term 'controlled group of entities' means a controlled group of corporations as defined in section 1563(a)(1), except that—

"(i) 'more than 50 percent' shall be substituted for 'at least 80 percent' each place it appears therein, and

"(ii) the determination shall be made without regard to subsections (a)(4) and (b)(2) of section 1563.

A partnership or any other entity (other than a corporation) shall be treated as a

member of a controlled group of entities if such entity is controlled (within the meaning of section 954(d)(3)) by members of such group (including any entity treated as a member of such group by reason of this sentence).

“(4) FOREIGN PARENT CORPORATION.—For purposes of this subsection, the term ‘foreign parent corporation’ means, with respect to any deductible related-party payment, the common parent of the foreign controlled group of entities referred to in paragraph (3)(A).

“(5) REGULATIONS.—The Secretary may prescribe such regulations or other guidance as are necessary or appropriate to carry out the purposes of this subsection, including regulations or other guidance which provide for—

“(A) the treatment of two or more persons as members of a foreign controlled group of entities if such persons would be the common parent of such group if treated as one corporation, and

“(B) the treatment of any member of a foreign controlled group of entities as the common parent of such group if such treatment is appropriate taking into account the economic relationships among such entities.”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to payments made after the date of the enactment of this Act.

#### SEC. 562. CODIFICATION OF ECONOMIC SUBSTANCE DOCTRINE; PENALTIES.

(a) IN GENERAL.—Section 7701 of the Internal Revenue Code of 1986 is amended by redesignating subsection (o) as subsection (p) and by inserting after subsection (n) the following new subsection:

“(o) CLARIFICATION OF ECONOMIC SUBSTANCE DOCTRINE.—

“(1) APPLICATION OF DOCTRINE.—In the case of any transaction to which the economic substance doctrine is relevant, such transaction shall be treated as having economic substance only if—

“(A) the transaction changes in a meaningful way (apart from Federal income tax effects) the taxpayer's economic position, and

“(B) the taxpayer has a substantial purpose (apart from Federal income tax effects) for entering into such transaction.

“(2) SPECIAL RULE WHERE TAXPAYER RELIES ON PROFIT POTENTIAL.—

“(A) IN GENERAL.—The potential for profit of a transaction shall be taken into account in determining whether the requirements of subparagraphs (A) and (B) of paragraph (1) are met with respect to the transaction only if the present value of the reasonably expected pre-tax profit from the transaction is substantial in relation to the present value of the expected net tax benefits that would be allowed if the transaction were respected.

“(B) TREATMENT OF FEES AND FOREIGN TAXES.—Fees and other transaction expenses and foreign taxes shall be taken into account as expenses in determining pre-tax profit under subparagraph (A).

“(3) STATE AND LOCAL TAX BENEFITS.—For purposes of paragraph (1), any State or local income tax effect which is related to a Federal income tax effect shall be treated in the same manner as a Federal income tax effect.

“(4) FINANCIAL ACCOUNTING BENEFITS.—For purposes of paragraph (1)(B), achieving a financial accounting benefit shall not be taken into account as a purpose for entering into a transaction if the origin of such financial accounting benefit is a reduction of Federal income tax.

“(5) DEFINITIONS AND SPECIAL RULES.—For purposes of this subsection—

“(A) ECONOMIC SUBSTANCE DOCTRINE.—The term ‘economic substance doctrine’ means the common law doctrine under which tax benefits under subtitle A with respect to a transaction are not allowable if the transaction does not have economic substance or lacks a business purpose.

“(B) EXCEPTION FOR PERSONAL TRANSACTIONS OF INDIVIDUALS.—In the case of an individual, paragraph (1) shall apply only to transactions entered into in connection with a trade or business or an activity engaged in for the production of income.

“(C) OTHER COMMON LAW DOCTRINES NOT AFFECTED.—Except as specifically provided in this subsection, the provisions of this subsection shall not be construed as altering or supplanting any other rule of law, and the requirements of this subsection shall be construed as being in addition to any such other rule of law.

“(D) DETERMINATION OF APPLICATION OF DOCTRINE NOT AFFECTED.—The determination of whether the economic substance doctrine is relevant to a transaction (or series of transactions) shall be made in the same manner as if this subsection had never been enacted.

“(6) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this subsection.”.

(b) PENALTY FOR UNDERPAYMENTS ATTRIBUTABLE TO TRANSACTIONS LACKING ECONOMIC SUBSTANCE.—

(1) IN GENERAL.—Subsection (b) of section 6662 of such Code is amended by inserting after paragraph (5) the following new paragraph:

“(6) Any disallowance of claimed tax benefits by reason of a transaction lacking economic substance (within the meaning of section 7701(o)) or failing to meet the requirements of any similar rule of law.”.

(2) INCREASED PENALTY FOR NONDISCLOSED TRANSACTIONS.—Section 6662 of such Code is amended by adding at the end the following new subsection:

“(i) INCREASE IN PENALTY IN CASE OF NONDISCLOSED NONECONOMIC SUBSTANCE TRANSACTIONS.—

“(1) IN GENERAL.—In the case of any portion of an underpayment which is attributable to one or more nondisclosed noneconomic substance transactions, subsection (a) shall be applied with respect to such portion by substituting ‘40 percent’ for ‘20 percent’.

“(2) NONDISCLOSED NONECONOMIC SUBSTANCE TRANSACTIONS.—For purposes of this subsection, the term ‘nondisclosed noneconomic substance transaction’ means any portion of a transaction described in subsection (b)(6) with respect to which the relevant facts affecting the tax treatment are not adequately disclosed in the return nor in a statement attached to the return.

“(3) SPECIAL RULE FOR AMENDED RETURNS.—Except as provided in regulations, in no event shall any amendment or supplement to a return of tax be taken into account for purposes of this subsection if the amendment or supplement is filed after the earlier of the date the taxpayer is first contacted by the Secretary regarding the examination of the return or such other date as is specified by the Secretary.”.

(3) CONFORMING AMENDMENT.—Subparagraph (B) of section 6662A(e)(2) of such Code is amended—

(A) by striking “section 6662(h)” and inserting “subsections (h) or (i) of section 6662”; and

(B) by striking “GROSS VALUATION MISSTATEMENT PENALTY” in the heading and

inserting “CERTAIN INCREASED UNDERPAYMENT PENALTIES”.

(c) REASONABLE CAUSE EXCEPTION NOT APPLICABLE TO NONECONOMIC SUBSTANCE TRANSACTIONS AND TAX SHELTERS.—

(1) REASONABLE CAUSE EXCEPTION FOR UNDERPAYMENTS.—Subsection (c) of section 6664 of such Code is amended—

(A) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively,

(B) by striking “paragraph (2)” in paragraph (4)(A), as so redesignated, and inserting “paragraph (3)”, and

(C) by inserting after paragraph (1) the following new paragraph:

“(2) EXCEPTION.—Paragraph (1) shall not apply to any portion of an underpayment which is attributable to one or more tax shelters (as defined in section 6662(d)(2)(C)) or transactions described in section 6662(b)(6).”.

(2) REASONABLE CAUSE EXCEPTION FOR REPORTABLE TRANSACTION UNDERSTATEMENTS.—Subsection (d) of section 6664 of such Code is amended—

(A) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively,

(B) by striking “paragraph (2)(C)” in paragraph (4), as so redesignated, and inserting “paragraph (3)(C)”, and

(C) by inserting after paragraph (1) the following new paragraph:

“(2) EXCEPTION.—Paragraph (1) shall not apply to any portion of a reportable transaction understatement which is attributable to one or more tax shelters (as defined in section 6662(d)(2)(C)) or transactions described in section 6662(b)(6).”.

(d) APPLICATION OF PENALTY FOR ERRONEOUS CLAIM FOR REFUND OR CREDIT TO NONECONOMIC SUBSTANCE TRANSACTIONS.—Section 6676 of such Code is amended by redesignating subsection (c) as subsection (d) and inserting after subsection (b) the following new subsection:

“(c) NONECONOMIC SUBSTANCE TRANSACTIONS TREATED AS LACKING REASONABLE BASIS.—For purposes of this section, any excessive amount which is attributable to any transaction described in section 6662(b)(6) shall not be treated as having a reasonable basis.”.

(e) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to transactions entered into after the date of the enactment of this Act.

(2) UNDERPAYMENTS.—The amendments made by subsections (b) and (c)(1) shall apply to underpayments attributable to transactions entered into after the date of the enactment of this Act.

(3) UNDERSTATEMENTS.—The amendments made by subsection (c)(2) shall apply to understatements attributable to transactions entered into after the date of the enactment of this Act.

(4) REFUNDS AND CREDITS.—The amendment made by subsection (d) shall apply to refunds and credits attributable to transactions entered into after the date of the enactment of this Act.

#### SEC. 563. CERTAIN LARGE OR PUBLICLY TRADED PERSONS MADE SUBJECT TO A MORE LIKELY THAN NOT STANDARD FOR AVOIDING PENALTIES ON UNDERPAYMENTS.

(a) IN GENERAL.—Subsection (c) of section 6664 of the Internal Revenue Code of 1986, as amended by section 562, is amended—

(1) by redesignating paragraphs (3) and (4) as paragraphs (4) and (5), respectively,

(2) by striking “paragraph (3)” in paragraph (4)(A), as so redesignated, and inserting “paragraph (4)”, and

(3) by inserting after paragraph (2) the following new paragraph:

“(3) SPECIAL RULE FOR CERTAIN LARGE OR PUBLICLY TRADED PERSONS.—

“(A) IN GENERAL.—In the case of any specified person, paragraph (1) shall apply to the portion of an underpayment which is attributable to any item only if such person has a reasonable belief that the tax treatment of such item by such person is more likely than not the proper tax treatment of such item.

“(B) SPECIFIED PERSON.—For purposes of this paragraph, the term ‘specified person’ means—

“(i) any person required to file periodic or other reports under section 13 of the Securities Exchange Act of 1934, and

“(ii) any corporation with gross receipts in excess of \$100,000,000 for the taxable year involved.

All persons treated as a single employer under section 52(a) shall be treated as one person for purposes of clause (ii).”

(b) NONAPPLICATION OF SUBSTANTIAL AUTHORITY AND REASONABLE BASIS STANDARDS FOR REDUCING UNDERSTATEMENTS.—Paragraph (2) of section 6662(d) of such Code is amended by adding at the end the following new subparagraph:

“(D) REDUCTION NOT TO APPLY TO CERTAIN LARGE OR PUBLICLY TRADED PERSONS.—Subparagraph (B) shall not apply to any specified person (as defined in section 6664(c)(3)(B)).”

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to underpayments attributable to transactions entered into after the date of the enactment of this Act.

(2) NONAPPLICATION OF UNDERSTATEMENT REDUCTION.—The amendment made by subsection (b) shall apply to understatements attributable to transactions entered into after the date of the enactment of this Act.

### PART 3—PARITY IN HEALTH BENEFITS

#### SEC. 571. CERTAIN HEALTH RELATED BENEFITS APPLICABLE TO SPOUSES AND DEPENDENTS EXTENDED TO ELIGIBLE BENEFICIARIES.

(a) APPLICATION OF ACCIDENT AND HEALTH PLANS TO ELIGIBLE BENEFICIARIES.—

(1) EXCLUSION OF CONTRIBUTIONS.—Section 106 of the Internal Revenue Code of 1986 (relating to contributions by employer to accident and health plans), as amended by section 531, is amended by adding at the end the following new subsection:

“(g) COVERAGE PROVIDED FOR ELIGIBLE BENEFICIARIES OF EMPLOYEES.—

“(1) IN GENERAL.—Subsection (a) shall apply with respect to any eligible beneficiary of the employee.

“(2) ELIGIBLE BENEFICIARY.—For purposes of this subsection, the term ‘eligible beneficiary’ means any individual who is eligible to receive benefits or coverage under an accident or health plan.”

(2) EXCLUSION OF AMOUNTS EXPENDED FOR MEDICAL CARE.—The first sentence of section 105(b) of such Code (relating to amounts expended for medical care) is amended—

(A) by striking “and his dependents” and inserting “his dependents”, and

(B) by inserting before the period the following: “and any eligible beneficiary (within the meaning of section 106(g)) with respect to the taxpayer”.

(3) PAYROLL TAXES.—

(A) Section 3121(a)(2) of such Code is amended—

(i) by striking “or any of his dependents” in the matter preceding subparagraph (A) and inserting “, any of his dependents, or

any eligible beneficiary (within the meaning of section 106(g)) with respect to the employee”;

(ii) by striking “or any of his dependents,” in subparagraph (A) and inserting “, any of his dependents, or any eligible beneficiary (within the meaning of section 106(g)) with respect to the employee.”; and

(iii) by striking “and their dependents” both places it appears and inserting “and such employees’ dependents and eligible beneficiaries (within the meaning of section 106(g))”.

(B) Section 3231(e)(1) of such Code is amended—

(i) by striking “or any of his dependents” and inserting “, any of his dependents, or any eligible beneficiary (within the meaning of section 106(g)) with respect to the employee.”; and

(ii) by striking “and their dependents” both places it appears and inserting “and such employees’ dependents and eligible beneficiaries (within the meaning of section 106(g))”.

(C) Section 3306(b)(2) of such Code is amended—

(i) by striking “or any of his dependents” in the matter preceding subparagraph (A) and inserting “, any of his dependents, or any eligible beneficiary (within the meaning of section 106(g)) with respect to the employee.”;

(ii) by striking “or any of his dependents” in subparagraph (A) and inserting “, any of his dependents, or any eligible beneficiary (within the meaning of section 106(g)) with respect to the employee.”; and

(iii) by striking “and their dependents” both places it appears and inserting “and such employees’ dependents and eligible beneficiaries (within the meaning of section 106(g))”.

(D) Section 3401(a) of such Code is amended by striking “or” at the end of paragraph (22), by striking the period at the end of paragraph (23) and inserting “; or”, and by inserting after paragraph (23) the following new paragraph:

“(24) for any payment made to or for the benefit of an employee or any eligible beneficiary (within the meaning of section 106(g)) if at the time of such payment it is reasonable to believe that the employee will be able to exclude such payment from income under section 106 or under section 105 by reference in section 105(b) to section 106(g).”

(b) EXPANSION OF DEPENDENCY FOR PURPOSES OF DEDUCTION FOR HEALTH INSURANCE COSTS OF SELF-EMPLOYED INDIVIDUALS.—

(1) IN GENERAL.—Paragraph (1) of section 162(l) of the Internal Revenue Code of 1986 (relating to special rules for health insurance costs of self-employed individuals) is amended to read as follows:

“(1) ALLOWANCE OF DEDUCTION.—In the case of a taxpayer who is an employee within the meaning of section 401(c)(1), there shall be allowed as a deduction under this section an amount equal to the amount paid during the taxable year for insurance which constitutes medical care for—

“(A) the taxpayer,

“(B) the taxpayer’s spouse,

“(C) the taxpayer’s dependents,

“(D) any individual who—

“(i) satisfies the age requirements of section 152(c)(3)(A),

“(ii) bears a relationship to the taxpayer described in section 152(d)(2)(H), and

“(iii) meets the requirements of section 152(d)(1)(C), and

“(E) one individual who—

“(i) does not satisfy the age requirements of section 152(c)(3)(A),

“(ii) bears a relationship to the taxpayer described in section 152(d)(2)(H),

“(iii) meets the requirements of section 152(d)(1)(D), and

“(iv) is not the spouse of the taxpayer and does not bear any relationship to the taxpayer described in subparagraphs (A) through (G) of section 152(d)(2).”

(2) CONFORMING AMENDMENT.—Subparagraph (B) of section 162(l)(2) of such Code is amended by inserting “, any dependent, or individual described in subparagraph (D) or (E) of paragraph (1) with respect to” after “spouse”.

(c) EXTENSION TO ELIGIBLE BENEFICIARIES OF SICK AND ACCIDENT BENEFITS PROVIDED TO MEMBERS OF A VOLUNTARY EMPLOYEES’ BENEFICIARY ASSOCIATION AND THEIR DEPENDENTS.—Section 501(c)(9) of the Internal Revenue Code of 1986 (relating to list of exempt organizations) is amended by adding at the end the following new sentence: “For purposes of providing for the payment of sick and accident benefits to members of such an association and their dependents, the term ‘dependents’ shall include any individual who is an eligible beneficiary (within the meaning of section 106(g)), as determined under the terms of a medical benefit, health insurance, or other program under which members and their dependents are entitled to sick and accident benefits.”

(d) FLEXIBLE SPENDING ARRANGEMENTS AND HEALTH REIMBURSEMENT ARRANGEMENTS.—The Secretary of Treasury shall issue guidance of general applicability providing that medical expenses that otherwise qualify—

(1) for reimbursement from a flexible spending arrangement under regulations in effect on the date of the enactment of this Act may be reimbursed from an employee’s flexible spending arrangement, notwithstanding the fact that such expenses are attributable to any individual who is not the employee’s spouse or dependent (within the meaning of section 105(b) of the Internal Revenue Code of 1986) but is an eligible beneficiary (within the meaning of section 106(g) of such Code) under the flexible spending arrangement with respect to the employee, and

(2) for reimbursement from a health reimbursement arrangement under regulations in effect on the date of the enactment of this Act may be reimbursed from an employee’s health reimbursement arrangement, notwithstanding the fact that such expenses are attributable to an individual who is not a spouse or dependent (within the meaning of section 105(b) of such Code) but is an eligible beneficiary (within the meaning of section 106(g) of such Code) under the health reimbursement arrangement with respect to the employee.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2009.

### DIVISION B—MEDICARE AND MEDICAID IMPROVEMENTS

#### SEC. 1001. TABLE OF CONTENTS OF DIVISION.

The table of contents of this division is as follows:

Sec. 1001. Table of contents of division.

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Sec. 1101. Skilled nursing facility payment update.

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Sec. 1103. Incorporating productivity improvements into market basket updates that do not already incorporate such improvements.

#### PART 2—OTHER MEDICARE PART A PROVISIONS

Sec. 1111. Payments to skilled nursing facilities.

Sec. 1112. Medicare DSH report and payment adjustments in response to coverage expansion.

Sec. 1113. Extension of hospice regulation moratorium.

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#### Subtitle B—Provisions Related to Part B

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Sec. 1131. Incorporating productivity improvements into market basket updates that do not already incorporate such improvements.

##### PART 3—OTHER PROVISIONS

Sec. 1141. Rental and purchase of power-driven wheelchairs.

Sec. 1141A. Election to take ownership, or to decline ownership, of a certain item of complex durable medical equipment after the 13-month capped rental period ends.

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Sec. 1143. Home infusion therapy report to Congress.

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Sec. 1145. Treatment of certain cancer hospitals.

Sec. 1146. Payment for imaging services.

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Sec. 1148. MedPAC study and report on bone mass measurement.

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Sec. 1149A. Payment for biosimilar biological products.

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#### Subtitle C—Provisions Related to Medicare Parts A and B

Sec. 1151. Reducing potentially preventable hospital readmissions.

Sec. 1152. Post acute care services payment reform plan and bundling pilot program.

Sec. 1153. Home health payment update for 2010.

Sec. 1154. Payment adjustments for home health care.

Sec. 1155. Incorporating productivity improvements into market basket update for home health services.

Sec. 1155A. MedPAC study on variation in home health margins.

Sec. 1155B. Permitting home health agencies to assign the most appropriate skilled service to make the initial assessment visit under a Medicare home health plan of care for rehabilitation cases.

Sec. 1156. Limitation on Medicare exceptions to the prohibition on certain physician referrals made to hospitals.

Sec. 1157. Institute of Medicine study of geographic adjustment factors under Medicare.

Sec. 1158. Revision of medicare payment systems to address geographic inequities.

Sec. 1159. Institute of Medicine study of geographic variation in health care spending and promoting high-value health care.

Sec. 1160. Implementation, and Congressional review, of proposal to revise Medicare payments to promote high value health care.

#### Subtitle D—Medicare Advantage Reforms

##### PART 1—PAYMENT AND ADMINISTRATION

Sec. 1161. Phase-in of payment based on fee-for-service costs; quality bonus payments.

Sec. 1162. Authority for Secretarial coding intensity adjustment authority.

Sec. 1163. Simplification of annual beneficiary election periods.

Sec. 1164. Extension of reasonable cost contracts.

Sec. 1165. Limitation of waiver authority for employer group plans.

Sec. 1166. Improving risk adjustment for payments.

Sec. 1167. Elimination of MA Regional Plan Stabilization Fund.

Sec. 1168. Study regarding the effects of calculating Medicare Advantage payment rates on a regional average of Medicare fee for service rates.

##### PART 2—BENEFICIARY PROTECTIONS AND ANTI-FRAUD

Sec. 1171. Limitation on cost-sharing for individual health services.

Sec. 1172. Continuous open enrollment for enrollees in plans with enrollment suspension.

Sec. 1173. Information for beneficiaries on MA plan administrative costs.

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##### PART 3—TREATMENT OF SPECIAL NEEDS PLANS

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Sec. 1177. Extension of authority of special needs plans to restrict enrollment; service area moratorium for certain SNPs.

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#### Subtitle E—Improvements to Medicare Part D

Sec. 1181. Elimination of coverage gap.

Sec. 1182. Discounts for certain part D drugs in original coverage gap.

Sec. 1183. Repeal of provision relating to submission of claims by pharmacies located in or contracting with long-term care facilities.

Sec. 1184. Including costs incurred by AIDS drug assistance programs and Indian Health Service in providing prescription drugs toward the annual out-of-pocket threshold under part D.

Sec. 1185. No mid-year formulary changes permitted.

Sec. 1186. Negotiation of lower covered part D drug prices on behalf of Medicare beneficiaries.

Sec. 1187. Accurate dispensing in long-term care facilities.

Sec. 1188. Free generic fill.

Sec. 1189. State certification prior to waiver of licensure requirements under Medicare prescription drug program.

#### Subtitle F—Medicare Rural Access Protections

Sec. 1191. Telehealth expansion and enhancements.

Sec. 1192. Extension of outpatient hold harmless provision.

Sec. 1193. Extension of section 508 hospital reclassifications.

Sec. 1194. Extension of geographic floor for work.

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#### TITLE II—MEDICARE BENEFICIARY IMPROVEMENTS

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Sec. 1201. Improving assets tests for Medicare Savings Program and low-income subsidy program.

Sec. 1202. Elimination of part D cost-sharing for certain non-institutionalized full-benefit dual eligible individuals.

Sec. 1203. Eliminating barriers to enrollment.

Sec. 1204. Enhanced oversight relating to reimbursements for retroactive low income subsidy enrollment.

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Sec. 1754. Overpayments.

Sec. 1755. Managed care organizations.

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TITLE VIII—REVENUE-RELATED PROVISIONS

Sec. 1801. Disclosures to facilitate identification of individuals likely to be ineligible for the low-income assistance under the Medicare prescription drug program to assist Social Security Administration's outreach to eligible individuals.

Sec. 1802. Comparative Effectiveness Research Trust Fund; financing for Trust Fund.

TITLE IX—MISCELLANEOUS PROVISIONS

Sec. 1901. Repeal of trigger provision.

Sec. 1902. Repeal of comparative cost adjustment (CCA) program.

Sec. 1903. Extension of gainsharing demonstration.

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Sec. 1905. Improved coordination and protection for dual eligibles.

Sec. 1906. Assessment of Medicare cost-intensive diseases and conditions.

Sec. 1907. Establishment of Center for Medicare and Medicaid Innovation within CMS.

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TITLE I—IMPROVING HEALTH CARE VALUE

Subtitle A—Provisions Related to Medicare Part A

PART 1—MARKET BASKET UPDATES

SEC. 1101. SKILLED NURSING FACILITY PAYMENT UPDATE.

(a) IN GENERAL.—Section 1888(e)(4)(E)(ii) of the Social Security Act (42 U.S.C. 1395yy(e)(4)(E)(ii)) is amended—

(1) in subclause (III), by striking “and” at the end;

(2) by redesignating subclause (IV) as subclause (VI); and

(3) by inserting after subclause (III) the following new subclauses:

“(IV) for each of fiscal years 2004 through 2009, the rate computed for the previous fiscal year increased by the skilled nursing facility market basket percentage change for the fiscal year involved;

“(V) for fiscal year 2010, the rate computed for the previous fiscal year; and”.

(b) DELAYED EFFECTIVE DATE.—Section 1888(e)(4)(E)(ii)(V) of the Social Security Act, as inserted by subsection (a)(3), shall not apply to payment for days before January 1, 2010.

SEC. 1102. INPATIENT REHABILITATION FACILITY PAYMENT UPDATE.

(a) IN GENERAL.—Section 1886(j)(3)(C) of the Social Security Act (42 U.S.C. 1395ww(j)(3)(C)) is amended by striking “and 2009” and inserting “through 2010”.

(b) DELAYED EFFECTIVE DATE.—The amendment made by subsection (a) shall not apply to payment units occurring before January 1, 2010.

SEC. 1103. INCORPORATING PRODUCTIVITY IMPROVEMENTS INTO MARKET BASKET UPDATES THAT DO NOT ALREADY INCORPORATE SUCH IMPROVEMENTS.

(a) INPATIENT ACUTE HOSPITALS.—Section 1886(b)(3)(B) of the Social Security Act (42 U.S.C. 1395ww(b)(3)(B)) is amended—

(1) in clause (iii)—

(A) by striking “(iii) For purposes of this subparagraph,” and inserting “(iii)(I) For purposes of this subparagraph, subject to the productivity adjustment described in subclause (II),”; and

(B) by adding at the end the following new subclause:

“(II) The productivity adjustment described in this subclause, with respect to an increase or change for a fiscal year or year or cost reporting period, or other annual period, is a productivity offset in the form of a reduction in such increase or change equal to the percentage change in the 10-year moving average of annual economy-wide private nonfarm business multi-factor productivity (as recently published in final form before the promulgation or publication of such increase for the year or period involved). Except as otherwise provided, any reference to the increase described in this clause shall be a reference to the percentage increase described in subclause (I) minus the percentage change under this subclause.”;

(2) in the first sentence of clause (viii)(I), by inserting “(but not below zero)” after “shall be reduced”; and

(3) in the first sentence of clause (ix)(I)—

(A) by inserting “(determined without regard to clause (iii)(II))” after “clause (i)” the second time it appears; and

(B) by inserting “(but not below zero)” after “reduced”.

(b) **SKILLED NURSING FACILITIES.**—Section 1888(e)(5)(B) of such Act (42 U.S.C. 1395yy(e)(5)(B)) is amended by inserting “subject to the productivity adjustment described in section 1886(b)(3)(B)(iii)(II)” after “as calculated by the Secretary”.

(c) **LONG TERM CARE HOSPITALS.**—Section 1886(m) of the Social Security Act (42 U.S.C. 1395ww(m)) is amended by adding at the end the following new paragraph:

“(3) **PRODUCTIVITY ADJUSTMENT.**—In implementing the system described in paragraph (1) for discharges occurring on or after January 1, 2010, during the rate year ending in 2010 or any subsequent rate year for a hospital, to the extent that an annual percentage increase factor applies to a standard Federal rate for such discharges for the hospital, such factor shall be subject to the productivity adjustment described in subsection (b)(3)(B)(iii)(II).”.

(d) **INPATIENT REHABILITATION FACILITIES.**—The second sentence of section 1886(j)(3)(C) of the Social Security Act (42 U.S.C. 1395ww(j)(3)(C)) is amended by inserting “(subject to the productivity adjustment described in subsection (b)(3)(B)(iii)(II))” after “appropriate percentage increase”.

(e) **PSYCHIATRIC HOSPITALS.**—Section 1886 of the Social Security Act (42 U.S.C. 1395ww) is amended by adding at the end the following new subsection:

“(o) **PROSPECTIVE PAYMENT FOR PSYCHIATRIC HOSPITALS.**—

“(1) **REFERENCE TO ESTABLISHMENT AND IMPLEMENTATION OF SYSTEM.**—For provisions related to the establishment and implementation of a prospective payment system for payments under this title for inpatient hospital services furnished by psychiatric hospitals (as described in clause (i) of subsection (d)(1)(B) and psychiatric units (as described in the matter following clause (v) of such subsection), see section 124 of the Medicare, Medicaid, and SCHIP Balanced Budget Refinement Act of 1999.

“(2) **PRODUCTIVITY ADJUSTMENT.**—In implementing the system described in paragraph (1) for days occurring during the rate year ending in 2011 or any subsequent rate year for a psychiatric hospital or unit described in such paragraph, to the extent that an annual percentage increase factor applies to a base rate for such days for the hospital or unit, respectively, such factor shall be subject to the productivity adjustment described in subsection (b)(3)(B)(iii)(II).”.

(f) **HOSPICE CARE.**—Subclause (VII) of section 1814(i)(1)(C)(ii) of the Social Security Act (42 U.S.C. 1395f(i)(1)(C)(ii)) is amended by inserting after “the market basket percentage increase” the following: “(which is subject to the productivity adjustment described in section 1886(b)(3)(B)(iii)(II))”.

(g) **EFFECTIVE DATES.**—

(1) **IPPS.**—The amendments made by subsection (a) shall apply to annual increases effected for fiscal years beginning with fiscal year 2010, but only with respect to discharges occurring on or after January 1, 2010.

(2) **SNF AND IRF.**—The amendments made by subsections (b) and (d) shall apply to annual increases effected for fiscal years beginning with fiscal year 2011.

(3) **HOSPICE CARE.**—The amendment made by subsection (f) shall apply to annual in-

creases effected for fiscal years beginning with fiscal year 2010, but only with respect to days of care occurring on or after January 1, 2010.

## PART 2—OTHER MEDICARE PART A PROVISIONS

### SEC. 1111. PAYMENTS TO SKILLED NURSING FACILITIES.

(a) **CHANGE IN RECALIBRATION FACTOR.**—

(1) **ANALYSIS.**—The Secretary of Health and Human Services shall conduct, using calendar year 2006 claims data, an initial analysis comparing total payments under title XVIII of the Social Security Act for skilled nursing facility services under the RUG-53 and under the RUG-44 classification systems.

(2) **ADJUSTMENT IN RECALIBRATION FACTOR.**—Based on the initial analysis under paragraph (1), the Secretary shall adjust the case mix indexes under section 1888(e)(4)(G)(i) of the Social Security Act (42 U.S.C. 1395yy(e)(4)(G)(i)) for fiscal year 2010 by the appropriate recalibration factor as proposed in the final rule for Medicare skilled nursing facilities issued by such Secretary on August 11, 2009 (74 Federal Register 40287 et seq.).

(b) **CHANGE IN PAYMENT FOR NONTHERAPY ANCILLARY (NTA) SERVICES AND THERAPY SERVICES.**—

(1) **CHANGES UNDER CURRENT SNF CLASSIFICATION SYSTEM.**—

(A) **IN GENERAL.**—Subject to subparagraph (B), the Secretary of Health and Human Services shall, under the system for payment of skilled nursing facility services under section 1888(e) of the Social Security Act (42 U.S.C. 1395yy(e)), increase payment by 10 percent for non-therapy ancillary services (as specified by the Secretary in the notice issued on November 27, 1998 (63 Federal Register 65561 et seq.)) and shall decrease payment for the therapy case mix component of such rates by 5.5 percent.

(B) **EFFECTIVE DATE.**—The changes in payment described in subparagraph (A) shall apply for days on or after April 1, 2010, and until the Secretary implements an alternative case mix classification system for payment of skilled nursing facility services under section 1888(e) of the Social Security Act (42 U.S.C. 1395yy(e)).

(C) **IMPLEMENTATION.**—Notwithstanding any other provision of law, the Secretary may implement by program instruction or otherwise the provisions of this paragraph.

(2) **CHANGES UNDER A FUTURE SNF CASE MIX CLASSIFICATION SYSTEM.**—

(A) **ANALYSIS.**—

(i) **IN GENERAL.**—The Secretary of Health and Human Services shall analyze payments for non-therapy ancillary services under a future skilled nursing facility classification system to ensure the accuracy of payment for non-therapy ancillary services. Such analysis shall consider use of appropriate predictors which may include age, physical and mental status, ability to perform activities of daily living, prior nursing home stay, diagnoses, broad RUG category, and a proxy for length of stay.

(ii) **APPLICATION.**—Such analysis shall be conducted in a manner such that the future skilled nursing facility classification system is implemented to apply to services furnished during a fiscal year beginning with fiscal year 2011.

(B) **CONSULTATION.**—In conducting the analysis under subparagraph (A), the Secretary shall consult with interested parties, including the Medicare Payment Advisory Commission and other interested stakeholders, to identify appropriate predictors of nontherapy ancillary costs.

(C) **RULEMAKING.**—The Secretary shall include the result of the analysis under subparagraph (A) in the fiscal year 2011 rule-making cycle for purposes of implementation beginning for such fiscal year.

(D) **IMPLEMENTATION.**—Subject to subparagraph (E) and consistent with subparagraph (A)(ii), the Secretary shall implement changes to payments for non-therapy ancillary services (which shall include a separate rate component for non-therapy ancillary services and may include use of a model that predicts payment amounts applicable for non-therapy ancillary services) under such future skilled nursing facility services classification system as the Secretary determines appropriate based on the analysis conducted pursuant to subparagraph (A).

(E) **BUDGET NEUTRALITY.**—The Secretary shall implement changes described in subparagraph (D) in a manner such that the estimated expenditures under such future skilled nursing facility services classification system for a fiscal year beginning with fiscal year 2011 with such changes would be equal to the estimated expenditures that would otherwise occur under title XVIII of the Social Security Act under such future skilled nursing facility services classification system for such year without such changes.

(c) **OUTLIER POLICY FOR NTA AND THERAPY.**—Section 1888(e) of the Social Security Act (42 U.S.C. 1395yy(e)) is amended by adding at the end the following new paragraph:

“(13) **OUTLIERS FOR NTA AND THERAPY.**—

“(A) **IN GENERAL.**—With respect to outliers because of unusual variations in the type or amount of medically necessary care, beginning with October 1, 2010, the Secretary—

“(i) shall provide for an addition or adjustment to the payment amount otherwise made under this section with respect to non-therapy ancillary services in the case of such outliers; and

“(ii) may provide for such an addition or adjustment to the payment amount otherwise made under this section with respect to therapy services in the case of such outliers.

“(B) **OUTLIERS BASED ON AGGREGATE COSTS.**—Outlier adjustments or additional payments described in subparagraph (A) shall be based on aggregate costs during a stay in a skilled nursing facility and not on the number of days in such stay.

“(C) **BUDGET NEUTRALITY.**—The Secretary shall reduce estimated payments that would otherwise be made under the prospective payment system under this subsection with respect to a fiscal year by 2 percent. The total amount of the additional payments or payment adjustments for outliers made under this paragraph with respect to a fiscal year may not exceed 2 percent of the total payments projected or estimated to be made based on the prospective payment system under this subsection for the fiscal year.”.

(d) **CONFORMING AMENDMENTS.**—Section 1888(e)(8) of such Act (42 U.S.C. 1395yy(e)(8)) is amended—

(1) in subparagraph (A)—

(A) by striking “and” before “adjustments”; and

(B) by inserting “, and adjustment under section 1111(b) of the Affordable Health Care for America Act” before the semicolon at the end;

(2) in subparagraph (B), by striking “and”; and

(3) in subparagraph (C), by striking the period and inserting “; and”; and

(4) by adding at the end the following new subparagraph:

“(D) the establishment of outliers under paragraph (13).”.



**SEC. 1112. MEDICARE DSH REPORT AND PAYMENT ADJUSTMENTS IN RESPONSE TO COVERAGE EXPANSION.**

**(a) DSH REPORT.—**

(1) IN GENERAL.—Not later than January 1, 2016, the Secretary of Health and Human Services shall submit to Congress a report on Medicare DSH taking into account the impact of the health care reforms carried out under division A in reducing the number of uninsured individuals. The report shall include recommendations relating to the following:

(A) The appropriate amount, targeting, and distribution of Medicare DSH to compensate for higher Medicare costs associated with serving low-income beneficiaries (taking into account variations in the empirical justification for Medicare DSH attributable to hospital characteristics, including bed size), consistent with the original intent of Medicare DSH.

(B) The appropriate amount, targeting, and distribution of Medicare DSH to hospitals given their continued uncompensated care costs, to the extent such costs remain.

(2) COORDINATION WITH MEDICAID DSH REPORT.—The Secretary shall coordinate the report under this subsection with the report on Medicaid DSH under section 1704(a).

**(b) PAYMENT ADJUSTMENTS IN RESPONSE TO COVERAGE EXPANSION.—**

(1) IN GENERAL.—If there is a significant decrease in the national rate of uninsurance as a result of this Act (as determined under paragraph (2)(A)), then the Secretary of Health and Human Services shall, beginning in fiscal year 2017, implement the following adjustments to Medicare DSH:

(A) In lieu of the amount of Medicare DSH payment that would otherwise be made under section 1886(d)(5)(F) of the Social Security Act, the amount of Medicare DSH payment shall be an amount based on the recommendations of the report under subsection (a)(1)(A) and shall take into account variations in the empirical justification for Medicare DSH attributable to hospital characteristics, including bed size.

(B) Subject to paragraph (3), make an additional payment to a hospital by an amount that is estimated based on the amount of uncompensated care provided by the hospital based on criteria for uncompensated care as determined by the Secretary, which shall exclude bad debt.

(2) SIGNIFICANT DECREASE IN NATIONAL RATE OF UNINSURANCE AS A RESULT OF THIS ACT.—For purposes of this subsection—

(A) IN GENERAL.—There is a “significant decrease in the national rate of uninsurance as a result of this Act” if there is a decrease in the national rate of uninsurance (as defined in subparagraph (B)) from 2012 to 2014 that exceeds 8 percentage points.

(B) NATIONAL RATE OF UNINSURANCE DEFINED.—The term “national rate of uninsurance” means, for a year, such rate for the under-65 population for the year as determined and published by the Bureau of the Census in its Current Population Survey in or about September of the succeeding year.

**(3) UNCOMPENSATED CARE INCREASE.—**

(A) COMPUTATION OF DSH SAVINGS.—For each fiscal year (beginning with fiscal year 2017), the Secretary shall estimate the aggregate reduction in the amount of Medicare DSH payment that would be expected to result from the adjustment under paragraph (1)(A).

(B) STRUCTURE OF PAYMENT INCREASE.—The Secretary shall compute the additional payment to a hospital as described in paragraph (1)(B) for a fiscal year in accordance with a

formula established by the Secretary that provides that—

(i) the estimated aggregate amount of such increase for the fiscal year does not exceed 50 percent of the aggregate reduction in Medicare DSH estimated by the Secretary for such fiscal year; and

(ii) hospitals with higher levels of uncompensated care receive a greater increase.

(c) MEDICARE DSH.—In this section, the term “Medicare DSH” means adjustments in payments under section 1886(d)(5)(F) of the Social Security Act (42 U.S.C. 1395ww(d)(5)(F)) for inpatient hospital services furnished by disproportionate share hospitals.

**SEC. 1113. EXTENSION OF HOSPICE REGULATION MORATORIUM.**

Section 4301(a) of division B of the American Recovery and Reinvestment Act of 2009 (Public Law 111–5) is amended—

(1) by striking “October 1, 2009” and inserting “October 1, 2010”; and

(2) by striking “for fiscal year 2009” and inserting “for fiscal years 2009 and 2010”.

**SEC. 1114. PERMITTING PHYSICIAN ASSISTANTS TO ORDER POST-HOSPITAL EXTENDED CARE SERVICES AND TO PROVIDE FOR RECOGNITION OF ATTENDING PHYSICIAN ASSISTANTS AS ATTENDING PHYSICIANS TO SERVE HOSPICE PATIENTS.**

(a) ORDERING POST-HOSPITAL EXTENDED CARE SERVICES.—Section 1814(a) of the Social Security Act (42 U.S.C. 1395f(a)) is amended—

(1) in paragraph (2) in the matter preceding subparagraph (A), is amended by striking “nurse practitioner or clinical nurse specialist” and inserting “nurse practitioner, a clinical nurse specialist, or a physician assistant”;

(2) in the second sentence, by striking “or clinical nurse specialist” and inserting “clinical nurse specialist, or physician assistant”.

(b) RECOGNITION OF ATTENDING PHYSICIAN ASSISTANTS AS ATTENDING PHYSICIANS TO SERVE HOSPICE PATIENTS.—

(1) IN GENERAL.—Section 1861(dd)(3)(B) of such Act (42 U.S.C. 1395x(dd)(3)(B)) is amended—

(A) by striking “or nurse” and inserting “, the nurse”; and

(B) by inserting “or the physician assistant (as defined in such subsection),” after “subsection (aa)(5),”.

(2) CONFORMING AMENDMENT.—Section 1814(a)(7)(A)(i)(I) of such Act (42 U.S.C. 1395f(a)(7)(A)(i)(I)) is amended by inserting “or a physician assistant” after “a nurse practitioner”.

(3) CONSTRUCTION.—Nothing in the amendments made by this subsection shall be construed as changing the requirements of section 1842(b)(6)(C) of the Social Security Act (42 U.S.C. 1395u(b)(6)(C)) with respect to payment for services of physician assistants under part B of title XVIII of such Act.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to items and services furnished on or after January 1, 2010.

**Subtitle B—Provisions Related to Part B**

**PART 1—PHYSICIANS’ SERVICES**

**SEC. 1121. RESOURCE-BASED FEEDBACK PROGRAM FOR PHYSICIANS IN MEDICARE.**

Section 1848(n) of the Social Security Act (42 U.S.C. 1395w–4(n)) is amended by adding at the end the following new paragraph:

“(9) FEEDBACK IMPLEMENTATION PLAN.—

“(A) TIMELINE FOR FEEDBACK PROGRAM.—

“(i) EVALUATION.—During 2011 the Secretary shall conduct the evaluation specified in subparagraph (E)(i).

“(ii) EXPANSION.—The Secretary shall expand the Program under this subsection as specified in subparagraph (E)(ii).

“(B) ESTABLISHMENT OF NATURE OF REPORTS.—

“(i) IN GENERAL.—The Secretary shall develop and specify the nature of the reports that will be disseminated under this subsection, based on results and findings from the Program under this subsection as in existence before the date of the enactment of this paragraph. Such reports may be based on a per capita basis, an episode basis that combines separate but clinically related physicians’ services and other items and services furnished or ordered by a physician into an episode of care, as appropriate, or both.

“(ii) TIMELINE FOR DEVELOPMENT.—The nature of the reports described in clause (i) shall be developed by not later than January 1, 2012.

“(iii) PUBLIC AVAILABILITY.—The Secretary shall make the details of the nature of the reports developed under clause (i) available to the public.

“(C) ANALYSIS OF DATA.—The Secretary shall, for purposes of preparing reports under this subsection, establish methodologies as appropriate such as to—

“(i) attribute items and services, in whole or in part, to physicians;

“(ii) identify appropriate physicians for purposes of comparison under subparagraph (B)(i); and

“(iii) aggregate items and services attributed to a physician under clause (i) into a composite measure per individual.

“(D) FEEDBACK PROGRAM.—The Secretary shall engage in efforts to disseminate reports under this subsection. In disseminating such reports, the Secretary shall consider the following:

“(i) Direct meetings between contracted physicians, facilitated by the Secretary, to discuss the contents of reports under this subsection, including any reasons for divergence from local or national averages.

“(ii) Contract with local, non-profit entities engaged in quality improvement efforts at the community level. Such entities shall use the reports under this subsection, or such equivalent tool as specified by the Secretary. Any exchange of data under this paragraph shall be protected by appropriate privacy safeguards.

“(iii) Mailings or other methods of communication that facilitate large-scale dissemination.

“(iv) Other methods specified by the Secretary.

“(E) EVALUATION AND EXPANSION.—

“(i) EVALUATION.—The Secretary shall evaluate the methods specified in subparagraph (D) with regard to their efficacy in changing practice patterns to improve quality and decrease costs.

“(ii) EXPANSION.—Taking into account the cost of each method specified in subparagraph (D), the Secretary shall develop a plan to disseminate reports under this subsection in a significant manner in the regions and cities of the country with the highest utilization of services under this title. To the extent practicable, reports under this subsection shall be disseminated to increasing numbers of physicians each year, such that during 2014 and subsequent years, reports are disseminated at least to physicians with utilization rates among the highest 5 percent of the nation, subject the authority to focus under paragraph (4).

“(F) ADMINISTRATION.—

“(i) Chapter 35 of title 44, United States Code shall not apply to this paragraph.

“(ii) Notwithstanding any other provision of law, the Secretary may implement the provisions of this paragraph by program instruction or otherwise.”.

**SEC. 1122. MISVALUED CODES UNDER THE PHYSICIAN FEE SCHEDULE.**

(a) IN GENERAL.—Section 1848(c)(2) of the Social Security Act (42 U.S.C. 1395w-4(c)(2)) is amended by adding at the end the following new subparagraphs:

“(K) POTENTIALLY MISVALUED CODES.—

“(i) IN GENERAL.—The Secretary shall—

“(I) periodically identify services as being potentially misvalued using criteria specified in clause (ii); and

“(II) review and make appropriate adjustments to the relative values established under this paragraph for services identified as being potentially misvalued under subparagraph (I).

“(ii) IDENTIFICATION OF POTENTIALLY MISVALUED CODES.—For purposes of identifying potentially misvalued services pursuant to clause (i)(I), the Secretary shall examine (as the Secretary determines to be appropriate) codes (and families of codes as appropriate) for which there has been the fastest growth; codes (and families of codes as appropriate) that have experienced substantial changes in practice expenses; codes for new technologies or services within an appropriate period (such as three years) after the relative values are initially established for such codes; multiple codes that are frequently billed in conjunction with furnishing a single service; codes with low relative values, particularly those that are often billed multiple times for a single treatment; codes which have not been subject to review since the implementation of the RBRVS (the so-called ‘Harvard-valued codes’); and such other codes determined to be appropriate by the Secretary.

“(iii) REVIEW AND ADJUSTMENTS.—

“(I) The Secretary may use existing processes to receive recommendations on the review and appropriate adjustment of potentially misvalued services described clause (i)(II).

“(II) The Secretary may conduct surveys, other data collection activities, studies, or other analyses as the Secretary determines to be appropriate to facilitate the review and appropriate adjustment described in clause (i)(II).

“(III) The Secretary may use analytic contractors to identify and analyze services identified under clause (i)(I), conduct surveys or collect data, and make recommendations on the review and appropriate adjustment of services described in clause (i)(II).

“(IV) The Secretary may coordinate the review and appropriate adjustment described in clause (i)(II) with the periodic review described in subparagraph (B).

“(V) As part of the review and adjustment described in clause (i)(II), including with respect to codes with low relative values described in clause (ii), the Secretary may make appropriate coding revisions (including using existing processes for consideration of coding changes) which may include consolidation of individual services into bundled codes for payment under the fee schedule under subsection (b).

“(VI) The provisions of subparagraph (B)(ii)(II) shall apply to adjustments to relative value units made pursuant to this subparagraph in the same manner as such provisions apply to adjustments under subparagraph (B)(ii)(II).

“(L) VALIDATING RELATIVE VALUE UNITS.—

“(i) IN GENERAL.—The Secretary shall establish a process to validate relative value

units under the fee schedule under subsection (b).

“(ii) COMPONENTS AND ELEMENTS OF WORK.—The process described in clause (i) may include validation of work elements (such as time, mental effort and professional judgment, technical skill and physical effort, and stress due to risk) involved with furnishing a service and may include validation of the pre, post, and intra-service components of work.

“(iii) SCOPE OF CODES.—The validation of work relative value units shall include a sampling of codes for services that is the same as the codes listed under subparagraph (K)(ii)

“(iv) METHODS.—The Secretary may conduct the validation under this subparagraph using methods described in subclauses (I) through (V) of subparagraph (K)(iii) as the Secretary determines to be appropriate.

“(v) ADJUSTMENTS.—The Secretary shall make appropriate adjustments to the work relative value units under the fee schedule under subsection (b). The provisions of subparagraph (B)(ii)(II) shall apply to adjustments to relative value units made pursuant to this subparagraph in the same manner as such provisions apply to adjustments under subparagraph (B)(ii)(II).”.

(b) IMPLEMENTATION.—

(1) FUNDING.—For purposes of carrying out the provisions of subparagraphs (K) and (L) of 1848(c)(2) of the Social Security Act, as added by subsection (a), in addition to funds otherwise available, out of any funds in the Treasury not otherwise appropriated, there are appropriated to the Secretary of Health and Human Services for the Center for Medicare & Medicaid Services Program Management Account \$20,000,000 for fiscal year 2010 and each subsequent fiscal year. Amounts appropriated under this paragraph for a fiscal year shall be available until expended.

(2) ADMINISTRATION.—

(A) Chapter 35 of title 44, United States Code and the provisions of the Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to this section or the amendment made by this section.

(B) Notwithstanding any other provision of law, the Secretary may implement subparagraphs (K) and (L) of 1848(c)(2) of the Social Security Act, as added by subsection (a), by program instruction or otherwise.

(C) Section 4505(d) of the Balanced Budget Act of 1997 is repealed.

(D) Except for provisions related to confidentiality of information, the provisions of the Federal Acquisition Regulation shall not apply to this section or the amendment made by this section.

(3) FOCUSING CMS RESOURCES ON POTENTIALLY OVERVALUED CODES.—Section 1868(a) of the Social Security Act (42 U.S.C. 1395ee(a)) is repealed.

**SEC. 1123. PAYMENTS FOR EFFICIENT AREAS.**

Section 1833 of the Social Security Act (42 U.S.C. 1395l) is amended by adding at the end the following new subsection:

“(x) INCENTIVE PAYMENTS FOR EFFICIENT AREAS.—

“(1) IN GENERAL.—In the case of services furnished under the physician fee schedule under section 1848 on or after January 1, 2011, and before January 1, 2013, by a supplier that is paid under such fee schedule in an efficient area (as identified under paragraph (2)), in addition to the amount of payment that would otherwise be made for such services under this part, there also shall be paid (on a monthly or quarterly basis) an amount equal to 5 percent of the payment amount for the services under this part.

“(2) IDENTIFICATION OF EFFICIENT AREAS.—

“(A) IN GENERAL.—Based upon available data, the Secretary shall identify those counties or equivalent areas in the United States in the lowest fifth percentile of utilization based on per capita spending under this part and part A for services provided in the most recent year for which data are available as of the date of the enactment of this subsection, as standardized to eliminate the effect of geographic adjustments in payment rates.

“(B) IDENTIFICATION OF COUNTIES WHERE SERVICE IS FURNISHED.—For purposes of paying the additional amount specified in paragraph (1), if the Secretary uses the 5-digit postal ZIP Code where the service is furnished, the dominant county of the postal ZIP Code (as determined by the United States Postal Service, or otherwise) shall be used to determine whether the postal ZIP Code is in a county described in subparagraph (A).

“(C) LIMITATION ON REVIEW.—There shall be no administrative or judicial review under section 1869, 1878, or otherwise, respecting—

“(i) the identification of a county or other area under subparagraph (A); or

“(ii) the assignment of a postal ZIP Code to a county or other area under subparagraph (B).

“(D) PUBLICATION OF LIST OF COUNTIES; POSTING ON WEBSITE.—With respect to a year for which a county or area is identified under this paragraph, the Secretary shall identify such counties or areas as part of the proposed and final rule to implement the physician fee schedule under section 1848 for the applicable year. The Secretary shall post the list of counties identified under this paragraph on the Internet website of the Centers for Medicare & Medicaid Services.”.

**SEC. 1124. MODIFICATIONS TO THE PHYSICIAN QUALITY REPORTING INITIATIVE (PQRI).**

(a) FEEDBACK.—Section 1848(m)(5) of the Social Security Act (42 U.S.C. 1395w-4(m)(5)) is amended by adding at the end the following new subparagraph:

“(H) FEEDBACK.—The Secretary shall provide timely feedback to eligible professionals on the performance of the eligible professional with respect to satisfactorily submitting data on quality measures under this subsection.”.

(b) APPEALS.—Such section is further amended—

(1) in subparagraph (E), by striking “There shall be” and inserting “Except as provided in subparagraph (I), there shall be”; and

(2) by adding at the end the following new subparagraph:

“(I) INFORMAL APPEALS PROCESS.—By not later than January 1, 2011, the Secretary shall establish and have in place an informal process for eligible professionals to seek a review of the determination that an eligible professional did not satisfactorily submit data on quality measures under this subsection.”.

(c) INTEGRATION OF PHYSICIAN QUALITY REPORTING AND EHR REPORTING.—Section 1848(m) of such Act is amended by adding at the end the following new paragraph:

“(7) INTEGRATION OF PHYSICIAN QUALITY REPORTING AND EHR REPORTING.—Not later than January 1, 2012, the Secretary shall develop a plan to integrate clinical reporting on quality measures under this subsection with reporting requirements under subsection (o) relating to the meaningful use of electronic health records. Such integration shall consist of the following:

“(A) The development of measures, the reporting of which would both demonstrate—

“(i) meaningful use of an electronic health record for purposes of subsection (o); and  
 “(ii) clinical quality of care furnished to an individual.

“(B) The collection of health data to identify deficiencies in the quality and coordination of care for individuals eligible for benefits under this part.

“(C) Such other activities as specified by the Secretary.”.

(d) EXTENSION OF INCENTIVE PAYMENTS.—Section 1848(m)(1) of such Act (42 U.S.C. 1395w-4(m)(1)) is amended—

(1) in subparagraph (A), by striking “2010” and inserting “2012”; and

(2) in subparagraph (B)(ii), by striking “2009 and 2010” and inserting “for each of the years 2009 through 2012”.

#### SEC. 1125. ADJUSTMENT TO MEDICARE PAYMENT LOCALITIES.

(a) IN GENERAL.—Section 1848(e) of the Social Security Act (42 U.S.C. 1395w-4(e)) is amended by adding at the end the following new paragraph:

“(6) TRANSITION TO USE OF MSAS AS FEE SCHEDULE AREAS IN CALIFORNIA.—

“(A) IN GENERAL.—

“(i) REVISION.—Subject to clause (ii) and notwithstanding the previous provisions of this subsection, for services furnished on or after January 1, 2011, the Secretary shall revise the fee schedule areas used for payment under this section applicable to the State of California using the Metropolitan Statistical Area (MSA) iterative Geographic Adjustment Factor methodology as follows:

“(I) The Secretary shall configure the physician fee schedule areas using the Metropolitan Statistical Areas (each in this paragraph referred to as an ‘MSA’), as defined by the Director of the Office of Management and Budget and published in the Federal Register, using the most recent available decennial population data as of the date of the enactment of the Affordable Health Care for America Act, as the basis for the fee schedule areas.

“(II) For purposes of this clause, the Secretary shall treat all areas not included in an MSA as a single rest of the State MSA.

“(III) The Secretary shall list all MSAs within the State by Geographic Adjustment Factor described in paragraph (2) (in this paragraph referred to as a ‘GAF’) in descending order.

“(IV) In the first iteration, the Secretary shall compare the GAF of the highest cost MSA in the State to the weighted-average GAF of all the remaining MSAs in the State (including the rest of State MSA described in subclause (II)). If the ratio of the GAF of the highest cost MSA to the weighted-average of the GAF of remaining lower cost MSAs is 1.05 or greater, the highest cost MSA shall be a separate fee schedule area.

“(V) In the next iteration, the Secretary shall compare the GAF of the MSA with the second-highest GAF to the weighted-average GAF of all the remaining MSAs (excluding MSAs that become separate fee schedule areas). If the ratio of the second-highest MSA’s GAF to the weighted-average of the remaining lower cost MSAs is 1.05 or greater, the second-highest MSA shall be a separate fee schedule area. “(VI) The iterative process shall continue until the ratio of the GAF of the MSA with highest remaining GAF to the weighted-average of the remaining MSAs with lower GAFs is less than 1.05, and the remaining group of MSAs with lower GAFs shall be treated as a single fee schedule area.

“(VI) For purposes of the iterative process described in this clause, if two MSAs have identical GAFs, they shall be combined.

“(ii) TRANSITION.—For services furnished on or after January 1, 2011, and before January 1, 2016, in the State of California, after calculating the work, practice expense, and malpractice geographic indices that would otherwise be determined under clauses (i), (ii), and (iii) of paragraph (1)(A) for a fee schedule area determined under clause (i), if the index for a county within a fee schedule area is less than the index in effect for such county on December 31, 2010, the Secretary shall instead apply the index in effect for such county on such date.

“(B) SUBSEQUENT REVISIONS.—After the transition described in subparagraph (A)(ii), not less than every 3 years the Secretary shall review and update the fee schedule areas using the methodology described in subparagraph (A)(i) and any updated MSAs as defined by the Director of the Office of Management and Budget and published in the Federal Register. The Secretary shall review and make any changes pursuant to such reviews concurrent with the application of the periodic review of the adjustment factors required under paragraph (1)(C) for California.

“(C) REFERENCES TO FEE SCHEDULE AREAS.—Effective for services furnished on or after January 1, 2011, for the State of California, any reference in this section to a fee schedule area shall be deemed a reference to an MSA in the State (including the single rest of state MSA described in subparagraph (A)(i)(II)).”.

(b) CONFORMING AMENDMENT TO DEFINITION OF FEE SCHEDULE AREA.—Section 1848(j)(2) of the Social Security Act (42 U.S.C. 1395w(j)(2)) is amended by striking “The term” and inserting “Except as provided in subsection (e)(6)(C), the term”.

#### PART 2—MARKET BASKET UPDATES

##### SEC. 1131. INCORPORATING PRODUCTIVITY IMPROVEMENTS INTO MARKET BASKET UPDATES THAT DO NOT ALREADY INCORPORATE SUCH IMPROVEMENTS.

(a) OUTPATIENT HOSPITALS.—

(1) IN GENERAL.—Section 1833(t)(3)(C)(iv) of the Social Security Act (42 U.S.C. 1395l(t)(3)(C)(iv)) is amended—

(A) in the first sentence—

(i) by inserting “(which is subject to the productivity adjustment described in subclause (II) of such section)” after “1886(b)(3)(B)(iii)”; and

(ii) by inserting “(but not below 0)” after “reduced”; and

(B) in the second sentence, by inserting “and which is subject, beginning with 2010, to the productivity adjustment described in section 1886(b)(3)(B)(iii)(II)”.

(2) EFFECTIVE DATE.—The amendments made by this subsection shall apply to increase factors for services furnished in years beginning with 2010.

(b) AMBULANCE SERVICES.—Section 1834(l)(3)(B) of such Act (42 U.S.C. 1395m(l)(3)(B)) is amended by inserting before the period at the end the following: “and, in the case of years beginning with 2010, subject to the productivity adjustment described in section 1886(b)(3)(B)(iii)(II)”.

(c) AMBULATORY SURGICAL CENTER SERVICES.—Section 1833(i)(2)(D) of such Act (42 U.S.C. 1395l(i)(2)(D)) is amended—

(1) by redesignating clause (v) as clause (vi); and

(2) by inserting after clause (iv) the following new clause:

“(v) In implementing the system described in clause (i), for services furnished during 2010 or any subsequent year, to the extent that an annual percentage change factor ap-

plies, such factor shall be subject to the productivity adjustment described in section 1886(b)(3)(B)(iii)(II).”.

(d) LABORATORY SERVICES.—Section 1833(h)(2)(A) of such Act (42 U.S.C. 1395l(h)(2)(A)) is amended—

(1) in clause (i), by striking “for each of the years 2009 through 2013” and inserting “for 2009”; and

(2) clause (ii)—

(A) by striking “and” at the end of subclause (III);

(B) by striking the period at the end of subclause (IV) and inserting “; and”; and

(C) by adding at the end the following new subclause:

“(V) the annual adjustment in the fee schedules determined under clause (i) for years beginning with 2010 shall be subject to the productivity adjustment described in section 1886(b)(3)(B)(iii)(II).”.

(e) CERTAIN DURABLE MEDICAL EQUIPMENT.—Section 1834(a)(14) of such Act (42 U.S.C. 1395m(a)(14)) is amended—

(1) in subparagraph (K), by inserting before the semicolon at the end the following: “, subject to the productivity adjustment described in section 1886(b)(3)(B)(iii)(II)”;

(2) in subparagraph (L)(i), by inserting after “June 2013,” the following: “subject to the productivity adjustment described in section 1886(b)(3)(B)(iii)(II).”;

(3) in subparagraph (L)(ii), by inserting after “June 2013” the following: “, subject to the productivity adjustment described in section 1886(b)(3)(B)(iii)(II).”;

(4) in subparagraph (M), by inserting before the period at the end the following: “, subject to the productivity adjustment described in section 1886(b)(3)(B)(iii)(II).”.

#### PART 3—OTHER PROVISIONS

##### SEC. 1141. RENTAL AND PURCHASE OF POWER-DRIVEN WHEELCHAIRS.

(a) IN GENERAL.—Section 1834(a)(7)(A)(iii) of the Social Security Act (42 U.S.C. 1395m(a)(7)(A)(iii)) is amended—

(1) in the heading, by inserting “CERTAIN COMPLEX REHABILITATIVE” after “OPTION FOR”; and

(2) by striking “power-driven wheelchair” and inserting “complex rehabilitative power-driven wheelchair recognized by the Secretary as classified within group 3 or higher”.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on January 1, 2011, and shall apply to power-driven wheelchairs furnished on or after such date. Such amendments shall not apply to contracts entered into under section 1847 of the Social Security Act (42 U.S.C. 1395w-3) pursuant to a bid submitted under such section before October 1, 2010, under subsection (a)(1)(B)(i)(I) of such section.

##### SEC. 1141A. ELECTION TO TAKE OWNERSHIP, OR TO DECLINE OWNERSHIP, OF A CERTAIN ITEM OF COMPLEX DURABLE MEDICAL EQUIPMENT AFTER THE 13-MONTH CAPPED RENTAL PERIOD ENDS.

(a) IN GENERAL.—Section 1834(a)(7)(A) of the Social Security Act (42 U.S.C. 1395m(a)(7)(A)) is amended—

(1) in clause (ii)—

(A) by striking “RENTAL.—On” and inserting “RENTAL.—

“(I) IN GENERAL.—Except as provided in subclause (II), on”; and

(B) by adding at the end the following new subclause:

“(II) OPTION TO ACCEPT OR REJECT TRANSFER OF TITLE TO GROUP 3 SUPPORT SURFACE.—

“(aa) IN GENERAL.—During the 10th continuous month during which payment is made

for the rental of a Group 3 Support Surface under clause (i), the supplier of such item shall offer the individual the option to accept or reject transfer of title to a Group 3 Support Surface after the 13th continuous month during which payment is made for the rental of the Group 3 Support Surface under clause (i). Such title shall be transferred to the individual only if the individual notifies the supplier not later than 1 month after the supplier makes such offer that the individual agrees to accept transfer of the title to the Group 3 Support Surface. Unless the individual accepts transfer of title to the Group 3 Support Surface in the manner set forth in this subclause, the individual shall be deemed to have rejected transfer of title. If the individual agrees to accept the transfer of the title to the Group 3 Support Surface, the supplier shall transfer such title to the individual on the first day that begins after the 13th continuous month during which payment is made for the rental of the Group 3 Support Surface under clause (i).

“(bb) SPECIAL RULE.—If, on the effective date of this subclause, an individual’s rental period for a Group 3 Support Surface has exceeded 10 continuous months, but the first day that begins after the 13th continuous month during which payment is made for the rental under clause (i) has not been reached, the supplier shall, within 1 month following such effective date, offer the individual the option to accept or reject transfer of title to a Group 3 Support Surface. Such title shall be transferred to the individual only if the individual notifies the supplier not later than 1 month after the supplier makes such offer that the individual agrees to accept transfer of title to the Group 3 Support Surface. Unless the individual accepts transfer of title to the Group 3 Support Surface in the manner set forth in this subclause, the individual shall be deemed to have rejected transfer of title. If the individual agrees to accept the transfer of the title to the Group 3 Support Surface, the supplier shall transfer such title to the individual on the first day that begins after the 13th continuous month during which payment is made for the rental of the Group 3 Support Surface under clause (i) unless that day has passed, in which case the supplier shall transfer such title to the individual not later than 1 month after notification that the individual accepts transfer of title.

“(cc) TREATMENT OF SUBSEQUENT RESUPPLY WITHIN PERIOD OF REASONABLE USEFUL LIFETIME OF GROUP 3 SUPPORT SURFACE IN CASE OF NEED.—If an individual rejects transfer of title to a Group 3 Support Surface under this subclause and the individual requires such Support Surface at any subsequent time during the period of the reasonable useful lifetime of such equipment (as defined by the Secretary) beginning with the first month for which payment is made for the rental of such equipment under clause (i), the supplier shall supply the equipment without charge to the individual or the program under this title during the remainder of such period, other than payment for maintenance and servicing during such period which would otherwise have been paid if the individual had accepted title to such equipment. The previous sentence shall not affect the payment of amounts under this part for such equipment after the end of such period of the reasonable useful lifetime of the equipment.

“(dd) PAYMENTS.—Maintenance and servicing payments shall be made in accordance with clause (iv), in the case of a supplier that transfers title to the Group 3 Support Surface under this subclause, after such transfer

and, in the case of an individual who rejects transfer of title under this subclause, after the end of the period of medical need during which payment is made under clause (i).”; and

(2) in clause (iv), by inserting “or, in the case of an individual who rejects transfer of title to a Group 3 Support Surface under clause (ii), after the end of the period of medical need during which payment is made under clause (i),” after “under clause (ii)”.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to durable medical equipment not later than January 1, 2011.

#### SEC. 1142. EXTENSION OF PAYMENT RULE FOR BRACHYTHERAPY.

Section 1833(t)(16)(C) of the Social Security Act (42 U.S.C. 1395l(t)(16)(C)), as amended by section 142 of the Medicare Improvements for Patients and Providers Act of 2008 (Public Law 110-275), is amended by striking, the first place it appears, “January 1, 2010” and inserting “January 1, 2012”.

#### SEC. 1143. HOME INFUSION THERAPY REPORT TO CONGRESS.

Not later than July 1, 2011, the Medicare Payment Advisory Commission shall submit to Congress a report on the following:

(1) The scope of coverage for home infusion therapy in the fee-for-service Medicare program under title XVIII of the Social Security Act, Medicare Advantage under part C of such title, the veteran’s health care program under chapter 17 of title 38, United States Code, and among private payers, including an analysis of the scope of services provided by home infusion therapy providers to their patients in such programs.

(2) The benefits and costs of providing such coverage under the Medicare program, including a calculation of the potential savings achieved through avoided or shortened hospital and nursing home stays as a result of Medicare coverage of home infusion therapy.

(3) An assessment of sources of data on the costs of home infusion therapy that might be used to construct payment mechanisms in the Medicare program.

(4) Recommendations, if any, on the structure of a payment system under the Medicare program for home infusion therapy, including an analysis of the payment methodologies used under Medicare Advantage plans and private health plans for the provision of home infusion therapy and their applicability to the Medicare program.

#### SEC. 1144. REQUIRE AMBULATORY SURGICAL CENTERS (ASCs) TO SUBMIT COST DATA AND OTHER DATA.

(a) COST REPORTING.—

(1) IN GENERAL.—Section 1833(i) of the Social Security Act (42 U.S.C. 1395l(i)) is amended by adding at the end the following new paragraph:

“(8) The Secretary shall require, as a condition of the agreement described in section 1832(a)(2)(F)(i), the submission of such cost report as the Secretary may specify, taking into account the requirements for such reports under section 1815 in the case of a hospital.”.

(2) DEVELOPMENT OF COST REPORT.—Not later than 3 years after the date of the enactment of this Act, the Secretary of Health and Human Services shall develop a cost report form for use under section 1833(i)(8) of the Social Security Act, as added by paragraph (1).

(3) AUDIT REQUIREMENT.—The Secretary shall provide for periodic auditing of cost reports submitted under section 1833(i)(8) of the Social Security Act, as added by paragraph (1).

(4) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to agreements applicable to cost reporting periods beginning 18 months after the date the Secretary develops the cost report form under paragraph (2).

(b) ADDITIONAL DATA ON QUALITY.—

(1) IN GENERAL.—Section 1833(i)(7) of such Act (42 U.S.C. 1395l(i)(7)) is amended—

(A) in subparagraph (B), by inserting “subject to subparagraph (C),” after “may otherwise provide,”; and

(B) by adding at the end the following new subparagraph:

“(C) Under subparagraph (B) the Secretary shall require the reporting of such additional data relating to quality of services furnished in an ambulatory surgical facility, including data on health care associated infections, as the Secretary may specify.”.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall to reporting for years beginning with 2012.

#### SEC. 1145. TREATMENT OF CERTAIN CANCER HOSPITALS.

Section 1833(t) of the Social Security Act (42 U.S.C. 1395l(t)) is amended by adding at the end the following new paragraph:

“(18) AUTHORIZATION OF ADJUSTMENT FOR CANCER HOSPITALS.—

“(A) STUDY.—The Secretary shall conduct a study to determine if, under the system under this subsection, costs incurred by hospitals described in section 1886(d)(1)(B)(v) with respect to ambulatory payment classification groups exceed those costs incurred by other hospitals furnishing services under this subsection (as determined appropriate by the Secretary).

“(B) AUTHORIZATION OF ADJUSTMENT.—Insofar as the Secretary determines under subparagraph (A) that costs incurred by hospitals described in section 1886(d)(1)(B)(v) exceed those costs incurred by other hospitals furnishing services under this subsection, the Secretary shall provide for an appropriate adjustment under paragraph (2)(E) to reflect those higher costs effective for services furnished on or after January 1, 2011.”.

#### SEC. 1146. PAYMENT FOR IMAGING SERVICES.

(a) ADJUSTMENT IN PRACTICE EXPENSE TO REFLECT A PRESUMED LEVEL OF UTILIZATION.—Section 1848 of the Social Security Act (42 U.S.C. 1395w-4) is amended—

(1) in subsection (b)(4)—

(A) in subparagraph (B), by striking “subparagraph (A)” and inserting “this paragraph”; and

(B) by adding at the end the following new subparagraph:

“(C) ADJUSTMENT IN PRACTICE EXPENSE TO REFLECT A PRESUMED LEVEL OF UTILIZATION.—Consistent with the methodology for computing the number of practice expense relative value units under subsection (c)(2)(C)(ii) with respect to advanced diagnostic imaging services (as defined in section 1834(e)(1)(B)) furnished on or after January 1, 2011, the Secretary shall adjust such number of units so it reflects a presumed rate of utilization of imaging equipment of 75 percent.”; and

(2) in subsection (c)(2)(B)(v), by adding at the end the following new subclause:

“(III) CHANGE IN PRESUMED UTILIZATION LEVEL OF CERTAIN ADVANCED DIAGNOSTIC IMAGING SERVICES.—Effective for fee schedules established beginning with 2011, reduced expenditures attributable to the presumed utilization of 75 percent under subsection (b)(4)(C) instead of a presumed utilization of imaging equipment of 50 percent.”.

(b) ADJUSTMENT IN TECHNICAL COMPONENT “DISCOUNT” ON SINGLE-SESSION IMAGING TO

CONSECUTIVE BODY PARTS.—Section 1848 of such Act (42 U.S.C. 1395w-4) is further amended—

(1) in subsection (b)(4), by adding at the end the following new subparagraph:

“(D) ADJUSTMENT IN TECHNICAL COMPONENT DISCOUNT ON SINGLE-SESSION IMAGING INVOLVING CONSECUTIVE BODY PARTS.—For services furnished on or after January 1, 2011, the Secretary shall increase the reduction in expenditures attributable to the multiple procedure payment reduction applicable to the technical component for imaging under the final rule published by the Secretary in the Federal Register on November 21, 2005 (part 405 of title 42, Code of Federal Regulations) from 25 percent to 50 percent.”; and

(2) in subsection (c)(2)(B)(v), by adding at the end the following new subclause:

“(III) ADDITIONAL REDUCED PAYMENT FOR MULTIPLE IMAGING PROCEDURES.—Effective for fee schedules established beginning with 2011, reduced expenditures attributable to the increase in the multiple procedure payment reduction from 25 percent to 50 percent as described in subsection (b)(4)(D).”.

#### SEC. 1147. DURABLE MEDICAL EQUIPMENT PROGRAM IMPROVEMENTS.

(a) WAIVER OF SURETY BOND REQUIREMENT.—Section 1834(a)(16) of the Social Security Act (42 U.S.C. 1395m(a)(16)) is amended by adding at the end the following sentence: “The requirement for a surety bond described in subparagraph (B) shall not apply in the case of a pharmacy or supplier that exclusively furnishes eyeglasses or contact lenses described in section 1861(s)(8) if the pharmacy or supply has been enrolled under section 1866(j) as a supplier of durable medical equipment, prosthetics, orthotics, and supplies and has been issued (which may include renewal of) a supplier number (as described in the first sentence of this paragraph) for at least 5 years, and if a final adverse action (as defined in section 424.57(a) of title 42, Code of Federal Regulations) has never been imposed for such pharmacy or supplier.”.

(b) ENSURING SUPPLY OF OXYGEN EQUIPMENT.—

(1) IN GENERAL.—Section 1834(a)(5)(F) of the Social Security Act (42 U.S.C. 1395m(a)(5)(F)) is amended—

(A) in clause (ii), by striking “After the” and inserting “Except as provided in clause (iii), after the”; and

(B) by adding at the end the following new clause:

“(iii) CONTINUATION OF SUPPLY.—In the case of a supplier furnishing such equipment to an individual under this subsection as of the 27th month of the 36 months described in clause (i), the supplier furnishing such equipment as of such month shall continue to furnish such equipment to such individual (either directly or through arrangements with other suppliers of such equipment) during any subsequent period of medical need for the remainder of the reasonable useful lifetime of the equipment, as determined by the Secretary, regardless of the location of the individual, unless another supplier has accepted responsibility for continuing to furnish such equipment during the remainder of such period.”.

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall take effect as of the date of the enactment of this Act and shall apply to the furnishing of equipment to individuals for whom the 27th month of a continuous period of use of oxygen equipment described in section 1834(a)(5)(F) of the Social Security Act occurs on or after July 1, 2010.

(c) TREATMENT OF CURRENT ACCREDITATION APPLICATIONS.—Section 1834(a)(20)(F) of such Act (42 U.S.C. 1395m(a)(20)(F)) is amended—

(1) in clause (i)—

(A) by striking “clause (ii)” and inserting “clauses (ii) and (iii)”; and

(B) by striking “and” at the end;

(2) by striking the period at the end of clause (ii)(II) and by inserting a semicolon;

(3) by inserting after clause (ii) the following new clauses:

“(iii) the requirement for accreditation described in clause (i) shall not apply for purposes of supplying diabetic testing supplies, canes, and crutches in the case of a pharmacy that is enrolled under section 1866(j) as a supplier of durable medical equipment, prosthetics, orthotics, and supplies; and

“(iv) a supplier that has submitted an application for accreditation before August 1, 2009, shall retain the supplier’s provider or supplier number until an independent accreditation organization determines if such supplier complies with requirements under this paragraph.”; and

(4) by adding at the end the following new sentence: “Nothing in clauses (iii) and (iv) shall be construed as affecting the application of an accreditation requirement for suppliers to qualify for bidding in a competitive acquisition area under section 1847.”.

(d) RESTORING 36-MONTH OXYGEN RENTAL PERIOD IN CASE OF SUPPLIER BANKRUPTCY FOR CERTAIN INDIVIDUALS.—Section 1834(a)(5)(F) of such Act (42 U.S.C. 1395m(a)(5)(F)), as amended by subsection (b), is further amended by adding at the end the following new clause:

“(iv) EXCEPTION FOR BANKRUPTCY.—If a supplier who furnishes oxygen and oxygen equipment to an individual is declared bankrupt and its assets are liquidated and at the time of such declaration and liquidation more than 24 months of rental payments have been made, such individual may begin a new 36-month rental period under this subparagraph with another supplier of oxygen.”.

#### SEC. 1148. MEDPAC STUDY AND REPORT ON BONE MASS MEASUREMENT.

(a) IN GENERAL.—The Medicare Payment Advisory Commission shall conduct a study regarding bone mass measurement, including computed tomography, dual-energy x-ray absorptiometry, and vertebral fracture assessment. The study shall focus on the following:

(1) An assessment of the adequacy of Medicare payment rates for such services, taking into account costs of acquiring the necessary equipment, professional work time, and practice expense costs.

(2) The impact of Medicare payment changes since 2006 on beneficiary access to bone mass measurement benefits in general and in rural and minority communities specifically.

(3) A review of the clinically appropriate and recommended use among Medicare beneficiaries and how usage rates among such beneficiaries compares to such recommendations.

(4) In conjunction with the findings under (3), recommendations, if necessary, regarding methods for reaching appropriate use of bone mass measurement studies among Medicare beneficiaries.

(b) REPORT.—The Commission shall submit a report to the Congress, not later than 9 months after the date of the enactment of this Act, containing a description of the results of the study conducted under subsection (a) and the conclusions and recommendations, if any, regarding each of the issues described in paragraphs (1), (2) (3) and (4) of such subsection.

#### SEC. 1149. TIMELY ACCESS TO POST-MASTECTOMY ITEMS.

(a) IN GENERAL.—Section 1834(h)(1) of the Social Security Act (42 U.S.C. 1395m) is amended—

(1) by redesignating subparagraph (H) as subparagraph (I); and

(2) by inserting after subparagraph (G) the following new subparagraph:

“(H) SPECIAL PAYMENT RULE FOR POST-MASTECTOMY EXTERNAL BREAST PROSTHESES GARMENTS.—Payment for post-mastectomy external breast prosthesis garments shall be made regardless of whether such items are supplied to the beneficiary prior to or after the mastectomy procedure or other breast cancer surgical procedure. The Secretary shall develop policies to ensure appropriate beneficiary access and utilization safeguards for such items supplied to a beneficiary prior to the mastectomy or other breast cancer surgical procedure.”

(b) EFFECTIVE DATE.—This amendment shall apply not later than January 1, 2011.

#### SEC. 1149A. PAYMENT FOR BIOSIMILAR BIOLOGICAL PRODUCTS.

(a) IN GENERAL.—Section 1847A of the Social Security Act (42 U.S.C. 1395w-3a) is amended—

(1) in subsection (b)(1)—

(A) in subparagraph (A), by striking “or” at the end;

(B) in subparagraph (B), by striking the period at the end and inserting “; or”; and

(C) by adding at the end the following new subparagraph:

“(C) in the case of one or more interchangeable biological products (as defined in subsection (c)(6)(I)) and their reference biological product (as defined in subsection (c)(6)(J)), which shall be included in the same billing and payment code, the sum of—

“(i) the average sales price as determined using the methodology described in paragraph (6) applied to such interchangeable and reference products for all National Drug Codes assigned to such products in the same manner as such paragraph (6) is applied to multiple source drugs; and

“(ii) 6 percent of the amount determined under clause (i);

“(D) in the case of a biosimilar biological product (as defined in subsection (c)(6)(H)), the sum of—

“(i) the average sales price as determined using the methodology described in paragraph (4) applied to such biosimilar biological product for all National Drug Codes assigned to such product in the same manner as such paragraph (4) is applied to a single source drug; and

“(ii) 6 percent of the amount determined under paragraph (4) or the amount determined under subparagraph (C)(ii), as the case may be, for the reference biological product (as defined in subsection (c)(6)(J)); or

“(E) in the case of a reference biological product for both an interchangeable biological product and a biosimilar product, the amount determined in subparagraph (C).”; and

(2) in subsection (c)(6)—

(A) by amending subparagraph (D)(i) to read as follows:

“(i) a biological, including a reference biological product for a biosimilar product, but excluding—

“(I) a biosimilar biological product;

“(II) an interchangeable biological product;

“(III) a reference biological product for an interchangeable biological product; and

“(IV) a reference biological product for both an interchangeable biological product and a biosimilar product; or”; and

(B) by adding at the end the following new subparagraphs:

“(H) BIOSIMILAR BIOLOGICAL PRODUCT.—The term ‘biosimilar biological product’ means a biological product licensed as a biosimilar biological product under section 351(k) of the Public Health Service Act.

“(I) INTERCHANGEABLE BIOLOGICAL PRODUCT.—The term ‘interchangeable biological product’ means a biological product licensed as an interchangeable biological product under section 351(k) of the Public Health Service Act.

“(J) REFERENCE BIOLOGICAL PRODUCT.—The term ‘reference biological product’ means the biological product that is referred to in the application for a biosimilar or interchangeable biological product licensed under section 351(k) of the Public Health Service Act.”.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to payments for biosimilar biological products, interchangeable biological products, and reference biological products beginning with the first day of the second calendar quarter after the date of the enactment of this Act.

**SEC. 1149B. STUDY AND REPORT ON DME COMPETITIVE BIDDING PROCESS.**

(a) STUDY.—The Comptroller General of the United States shall conduct a study to evaluate the potential establishment of a program under Medicare under title XVIII of the Social Security Act to acquire durable medical equipment and supplies through a competitive bidding process among manufacturers of such equipment and supplies. Such study shall address the following:

(1) Identification of types of durable medical equipment and supplies that would be appropriate for bidding under such a program.

(2) Recommendations on how to structure such an acquisition program in order to promote fiscal responsibility while also ensuring beneficiary access to high quality equipment and supplies.

(3) Recommendations on how such a program could be phased-in and on what geographic level would bidding be most appropriate.

(4) In addition to price, recommendations on criteria that could be factored into the bidding process.

(5) Recommendations on how suppliers could be compensated for furnishing and servicing equipment and supplies acquired under such a program.

(6) Comparison of such a program to the current competitive bidding program under Medicare for durable medical equipment, as well as any other similar Federal acquisition programs, such as the General Services Administration's vehicle purchasing program.

(7) Any other consideration relevant to the acquisition, supply, and service of durable medical equipment and supplies that is deemed appropriate by the Comptroller General.

(b) REPORT.—Not later than 12 months after the date of the enactment of this Act, the Comptroller General of the United States shall submit to Congress a report on the findings of the study under subsection (a).

**Subtitle C—Provisions Related to Medicare Parts A and B**

**SEC. 1151. REDUCING POTENTIALLY PREVENTABLE HOSPITAL READMISSIONS.**

(a) HOSPITALS.—

(1) IN GENERAL.—Section 1886 of the Social Security Act (42 U.S.C. 1395ww), as amended by section 1103(a), is amended by adding at the end the following new subsection:

“(p) ADJUSTMENT TO HOSPITAL PAYMENTS FOR EXCESS READMISSIONS.—

“(1) IN GENERAL.—With respect to payment for discharges from an applicable hospital (as defined in paragraph (5)(C)) occurring during a fiscal year beginning on or after October 1, 2011, in order to account for excess readmissions in the hospital, the Secretary shall reduce the payments that would otherwise be made to such hospital under subsection (d) (or section 1814(b)(3), as the case may be) for such a discharge by an amount equal to the product of—

“(A) the base operating DRG payment amount (as defined in paragraph (2)) for the discharge; and

“(B) the adjustment factor (described in paragraph (3)(A)) for the hospital for the fiscal year.

“(2) BASE OPERATING DRG PAYMENT AMOUNT.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), for purposes of this subsection, the term ‘base operating DRG payment amount’ means, with respect to a hospital for a fiscal year, the payment amount that would otherwise be made under subsection (d) for a discharge if this subsection did not apply, reduced by any portion of such amount that is attributable to payments under subparagraphs (B) and (F) of paragraph (5).

“(B) ADJUSTMENTS.—For purposes of subparagraph (A), in the case of a hospital that is paid under section 1814(b)(3), the term ‘base operating DRG payment amount’ means the payment amount under such section.

“(3) ADJUSTMENT FACTOR.—

“(A) IN GENERAL.—For purposes of paragraph (1), the adjustment factor under this paragraph for an applicable hospital for a fiscal year is equal to the greater of—

“(i) the ratio described in subparagraph (B) for the hospital for the applicable period (as defined in paragraph (5)(D)) for such fiscal year; or

“(ii) the floor adjustment factor specified in subparagraph (C).

“(B) RATIO.—The ratio described in this subparagraph for a hospital for an applicable period is equal to 1 minus the ratio of—

“(i) the aggregate payments for excess readmissions (as defined in paragraph (4)(A)) with respect to an applicable hospital for the applicable period; and

“(ii) the aggregate payments for all discharges (as defined in paragraph (4)(B)) with respect to such applicable hospital for such applicable period.

“(C) FLOOR ADJUSTMENT FACTOR.—For purposes of subparagraph (A), the floor adjustment factor specified in this subparagraph for—

“(i) fiscal year 2012 is 0.99;

“(ii) fiscal year 2013 is 0.98;

“(iii) fiscal year 2014 is 0.97; or

“(iv) a subsequent fiscal year is 0.95.

“(4) AGGREGATE PAYMENTS, EXCESS READMISSION RATIO DEFINED.—For purposes of this subsection:

“(A) AGGREGATE PAYMENTS FOR EXCESS READMISSIONS.—The term ‘aggregate payments for excess readmissions’ means, for a hospital for a fiscal year, the sum, for applicable conditions (as defined in paragraph (5)(A)), of the product, for each applicable condition, of—

“(i) the base operating DRG payment amount for such hospital for such fiscal year for such condition;

“(ii) the number of admissions for such condition for such hospital for such fiscal year; and

“(iii) the excess readmissions ratio (as defined in subparagraph (C)) for such hospital

for the applicable period for such fiscal year minus 1.

“(B) AGGREGATE PAYMENTS FOR ALL DISCHARGES.—The term ‘aggregate payments for all discharges’ means, for a hospital for a fiscal year, the sum of the base operating DRG payment amounts for all discharges for all conditions from such hospital for such fiscal year.

“(C) EXCESS READMISSION RATIO.—

“(i) IN GENERAL.—Subject to clauses (ii) and (iii), the term ‘excess readmissions ratio’ means, with respect to an applicable condition for a hospital for an applicable period, the ratio (but not less than 1.0) of—

“(I) the risk adjusted readmissions based on actual readmissions, as determined consistent with a readmission measure methodology that has been endorsed under paragraph (5)(A)(ii)(I), for an applicable hospital for such condition with respect to the applicable period; to

“(II) the risk adjusted expected readmissions (as determined consistent with such a methodology) for such hospital for such condition with respect to such applicable period.

“(ii) EXCLUSION OF CERTAIN READMISSIONS.—For purposes of clause (i), with respect to a hospital, excess readmissions shall not include readmissions for an applicable condition for which there are fewer than a minimum number (as determined by the Secretary) of discharges for such applicable condition for the applicable period and such hospital.

“(iii) ADJUSTMENT.—In order to promote a reduction over time in the overall rate of readmissions for applicable conditions, the Secretary may provide, beginning with discharges for fiscal year 2014, for the determination of the excess readmissions ratio under subparagraph (C) to be based on a ranking of hospitals by readmission ratios (from lower to higher readmission ratios) normalized to a benchmark that is lower than the 50th percentile.

“(5) DEFINITIONS.—For purposes of this subsection:

“(A) APPLICABLE CONDITION.—The term ‘applicable condition’ means, subject to subparagraph (B), a condition or procedure selected by the Secretary among conditions and procedures for which—

“(i) readmissions (as defined in subparagraph (E)) that represent conditions or procedures that are high volume or high expenditures under this title (or other criteria specified by the Secretary); and

“(ii) measures of such readmissions—

“(I) have been endorsed by the entity with a contract under section 1890(a); and

“(II) such endorsed measures have appropriate exclusions for readmissions that are unrelated to the prior discharge (such as a planned readmission or transfer to another applicable hospital).

“(B) EXPANSION OF APPLICABLE CONDITIONS.—Beginning with fiscal year 2013, the Secretary shall expand the applicable conditions beyond the 3 conditions for which measures have been endorsed as described in subparagraph (A)(ii)(I) as of the date of the enactment of this subsection to the additional 4 conditions that have been so identified by the Medicare Payment Advisory Commission in its report to Congress in June 2007 and to other conditions and procedures which may include an all-condition measure of readmissions, as determined appropriate by the Secretary. In expanding such applicable conditions, the Secretary shall seek the endorsement described in subparagraph (A)(ii)(I) but may apply such measures without such an endorsement.



“(C) APPLICABLE HOSPITAL.—The term ‘applicable hospital’ means a subsection (d) hospital or a hospital that is paid under section 1814(b)(3).

“(D) APPLICABLE PERIOD.—The term ‘applicable period’ means, with respect to a fiscal year, such period as the Secretary shall specify for purposes of determining excess readmissions.

“(E) READMISSION.—The term ‘readmission’ means, in the case of an individual who is discharged from an applicable hospital, the admission of the individual to the same or another applicable hospital within a time period specified by the Secretary from the date of such discharge. Insofar as the discharge relates to an applicable condition for which there is an endorsed measure described in subparagraph (A)(ii)(I), such time period (such as 30 days) shall be consistent with the time period specified for such measure.

“(6) LIMITATIONS ON REVIEW.—There shall be no administrative or judicial review under section 1869, section 1878, or otherwise—

“(A) the determination of base operating DRG payment amounts;

“(B) the methodology for determining the adjustment factor under paragraph (3), including excess readmissions ratio under paragraph (4)(C), aggregate payments for excess readmissions under paragraph (4)(A), and aggregate payments for all discharges under paragraph (4)(B), and applicable periods and applicable conditions under paragraph (5);

“(C) the measures of readmissions as described in paragraph (5)(A)(ii); and

“(D) the determination of a targeted hospital under paragraph (8)(B)(i), the increase in payment under paragraph (8)(B)(ii), the aggregate cap under paragraph (8)(C)(i), the hospital-specific limit under paragraph (8)(C)(ii), and the form of payment made by the Secretary under paragraph (8)(D).

“(7) MONITORING INAPPROPRIATE CHANGES IN ADMISSIONS PRACTICES.—The Secretary shall monitor the activities of applicable hospitals to determine if such hospitals have taken steps to avoid patients at risk in order to reduce the likelihood of increasing readmissions for applicable conditions or taken other inappropriate steps involving readmissions or transfers. If the Secretary determines that such a hospital has taken such a step, after notice to the hospital and opportunity for the hospital to undertake action to alleviate such steps, the Secretary may impose an appropriate sanction.

“(8) ASSISTANCE TO CERTAIN HOSPITALS.—

“(A) IN GENERAL.—For purposes of providing funds to applicable hospitals to take steps described in subparagraph (E) to address factors that may impact readmissions of individuals who are discharged from such a hospital, for fiscal years beginning on or after October 1, 2011, the Secretary shall make a payment adjustment for a hospital described in subparagraph (B), with respect to each such fiscal year, by a percent estimated by the Secretary to be consistent with subparagraph (C). The Secretary shall provide priority to hospitals that serve Medicare beneficiaries at highest risk for readmission or for a poor transition from such a hospital to a post-hospital site of care.

“(B) TARGETED HOSPITALS.—Subparagraph (A) shall apply to an applicable hospital that—

“(i) had (or, in the case of an 1814(b)(3) hospital, otherwise would have had) a disproportionate patient percentage (as defined in section 1886(d)(5)(F)) of at least 30 percent, using the latest available data as estimated by the Secretary; and

“(ii) provides assurances satisfactory to the Secretary that the increase in payment under this paragraph shall be used for purposes described in subparagraph (E).

“(C) CAPS.—

“(i) AGGREGATE CAP.—The aggregate amount of the payment adjustment under this paragraph for a fiscal year shall not exceed 5 percent of the estimated difference in the spending that would occur for such fiscal year with and without application of the adjustment factor described in paragraph (3) and applied pursuant to paragraph (1).

“(ii) HOSPITAL-SPECIFIC LIMIT.—The aggregate amount of the payment adjustment for a hospital under this paragraph shall not exceed the estimated difference in spending that would occur for such fiscal year for such hospital with and without application of the adjustment factor described in paragraph (3) and applied pursuant to paragraph (1).

“(D) FORM OF PAYMENT.—The Secretary may make the additional payments under this paragraph on a lump sum basis, a periodic basis, a claim by claim basis, or otherwise.

“(E) USE OF ADDITIONAL PAYMENT.—

“(i) IN GENERAL.—Funding under this paragraph shall be used by targeted hospitals for activities designed to address the patient noncompliance issues that result in higher than normal readmission rates, including transitional care services described in clause (ii) and any or all of the other activities described in clause (iii).

“(ii) TRANSITIONAL CARE SERVICES.—The transitional care services described in this clause are transitional care services furnished by a qualified transitional care provider, such as a nurse or other health professional, who meets relevant experience and training requirements as specified by the Secretary that support a beneficiary under this section beginning on the date of an individual’s admission to a hospital for inpatient hospital services and ending at the latest on the last day of the 90-day period beginning on the date of the individual’s discharge from the applicable hospital. The Secretary shall determine and update services to be included in transitional care services under this clause as appropriate, based on evidence of their effectiveness in reducing hospital readmissions and improving health outcomes. Such services shall include the following:

“(I) Conduct of an assessment prior to discharge, which assessment may include an assessment of the individual’s physical and mental condition, cognitive and functional capacities, medication regimen and adherence, social and environmental needs, and primary caregiver needs and resources.

“(II) Development of a evidence-based plan of transitional care for the individual developed after consultation with the individual and the individual’s primary caregiver and other health team members, as appropriate. Such plan shall include a list of current therapies prescribed, treatment goals and may include other items or elements as determined by the Secretary, such as identifying list of potential health risks and future services for both the individual and any primary caregiver.

“(iii) OTHER ACTIVITIES.—The other activities described in this clause are the following:

“(I) Providing other care coordination services not described under clause (ii).

“(II) Hiring translators and interpreters.

“(III) Increasing services offered by discharge planners.

“(IV) Ensuring that individuals receive a summary of care and medication orders upon discharge.

“(V) Developing a quality improvement plan to assess and remedy preventable readmission rates.

“(VI) Assigning appropriate follow-up care for discharged individuals.

“(VII) Doing other activities as determined appropriate by the Secretary.

“(F) GAO REPORT ON USE OF FUNDS.—Not later than 3 years after the date on which funds are first made available under this paragraph, the Comptroller General of the United States shall submit to Congress a report on the use of such funds. Such report shall consider information on the effective uses of such funds, how the uses of such funds affected hospital readmission rates (including at 6 months post-discharge), health outcomes and quality, reductions in expenditures under this title and the experiences of beneficiaries, primary caregivers, and providers, as well as any appropriate recommendations.”.

(b) APPLICATION TO CRITICAL ACCESS HOSPITALS.—Section 1814(l) of the Social Security Act (42 U.S.C. 1395f(l)) is amended—

(1) in paragraph (5)—

(A) by striking “and” at the end of subparagraph (C);

(B) by striking the period at the end of subparagraph (D) and inserting “; and”;

(C) by inserting at the end the following new subparagraph:

“(E) the methodology for determining the adjustment factor under paragraph (5), including the determination of aggregate payments for actual and expected readmissions, applicable periods, applicable conditions and measures of readmissions.”; and

(D) by redesignating such paragraph as paragraph (6); and

(2) by inserting after paragraph (4) the following new paragraph:

“(5) The adjustment factor described in section 1886(p)(3) shall apply to payments with respect to a critical access hospital with respect to a cost reporting period beginning in fiscal year 2012 and each subsequent fiscal year (after application of paragraph (4) of this subsection) in a manner similar to the manner in which such section applies with respect to a fiscal year to an applicable hospital as described in section 1886(p)(2).”.

(c) POST ACUTE CARE PROVIDERS.—

(1) INTERIM POLICY.—

(A) IN GENERAL.—With respect to a readmission to an applicable hospital or a critical access hospital (as described in section 1814(l) of the Social Security Act) from a post acute care provider (as defined in paragraph (3)) and such a readmission is not governed by section 412.531 of title 42, Code of Federal Regulations, if the claim submitted by such a post-acute care provider under title XVIII of the Social Security Act indicates that the individual was readmitted to a hospital from such a post-acute care provider or admitted from home and under the care of a home health agency within 30 days of an initial discharge from an applicable hospital or critical access hospital, the payment under such title on such claim shall be the applicable percent specified in subparagraph (B) of the payment that would otherwise be made under the respective payment system under such title for such post-acute care provider if this subsection did not apply. In applying the previous sentence, the Secretary shall exclude a period of 1 day from the date the individual is first admitted to or under the care of the post-acute care provider.

(B) APPLICABLE PERCENT DEFINED.—For purposes of subparagraph (A), the applicable percent is—



- (i) for fiscal or rate year 2012 is 0.996;
- (ii) for fiscal or rate year 2013 is 0.993; and
- (iii) for fiscal or rate year 2014 is 0.99.

(C) **EFFECTIVE DATE.**—Subparagraph (1) shall apply to discharges or services furnished (as the case may be with respect to the applicable post acute care provider) on or after the first day of the fiscal year or rate year, beginning on or after October 1, 2011, with respect to the applicable post acute care provider.

(2) **DEVELOPMENT AND APPLICATION OF PERFORMANCE MEASURES.**—

(A) **IN GENERAL.**—The Secretary of Health and Human Services shall develop appropriate measures of readmission rates for post acute care providers. The Secretary shall seek endorsement of such measures by the entity with a contract under section 1890(a) of the Social Security Act but may adopt and apply such measures under this paragraph without such an endorsement. The Secretary shall expand such measures in a manner similar to the manner in which applicable conditions are expanded under paragraph (5)(B) of section 1886(p) of the Social Security Act, as added by subsection (a).

(B) **IMPLEMENTATION.**—The Secretary shall apply, on or after October 1, 2014, with respect to post acute care providers, policies similar to the policies applied with respect to applicable hospitals and critical access hospitals under the amendments made by subsection (a). The provisions of paragraph (1) shall apply with respect to any period on or after October 1, 2014, and before such application date described in the previous sentence in the same manner as such provisions apply with respect to fiscal or rate year 2014.

(C) **MONITORING AND PENALTIES.**—The provisions of paragraph (7) of such section 1886(p) shall apply to providers under this paragraph in the same manner as they apply to hospitals under such section.

(3) **DEFINITIONS.**—For purposes of this subsection:

(A) **POST ACUTE CARE PROVIDER.**—The term “post acute care provider” means—

- (i) a skilled nursing facility (as defined in section 1819(a) of the Social Security Act);
- (ii) an inpatient rehabilitation facility (described in section 1886(h)(1)(A) of such Act);
- (iii) a home health agency (as defined in section 1861(o) of such Act); and
- (iv) a long term care hospital (as defined in section 1861(ccc) of such Act).

(B) **OTHER TERMS.**—The terms “applicable condition”, “applicable hospital”, and “readmission” have the meanings given such terms in section 1886(p)(5) of the Social Security Act, as added by subsection (a)(1).

(d) **PHYSICIANS.**—

(1) **STUDY.**—The Secretary of Health and Human Services shall conduct a study to determine how the readmissions policy described in the previous subsections could be applied to physicians.

(2) **CONSIDERATIONS.**—In conducting the study, the Secretary shall consider approaches such as—

(A) creating a new code (or codes) and payment amount (or amounts) under the fee schedule in section 1848 of the Social Security Act (in a budget neutral manner) for services furnished by an appropriate physician who sees an individual within the first week after discharge from a hospital or critical access hospital;

(B) developing measures of rates of readmission for individuals treated by physicians;

(C) applying a payment reduction for physicians who treat the patient during the initial admission that results in a readmission; and

(D) methods for attributing payments or payment reductions to the appropriate physician or physicians.

(3) **REPORT.**—The Secretary shall issue a public report on such study not later than the date that is one year after the date of the enactment of this Act.

(e) **FUNDING.**—For purposes of carrying out the provisions of this section, in addition to funds otherwise available, out of any funds in the Treasury not otherwise appropriated, there are appropriated to the Secretary of Health and Human Services for the Center for Medicare & Medicaid Services Program Management Account \$25,000,000 for each fiscal year beginning with 2010. Amounts appropriated under this subsection for a fiscal year shall be available until expended.

**SEC. 1152. POST ACUTE CARE SERVICES PAYMENT REFORM PLAN AND BUNDLING PILOT PROGRAM.**

(a) **PLAN.**—

(1) **IN GENERAL.**—The Secretary of Health and Human Services (in this section referred to as the “Secretary”) shall develop a detailed plan to reform payment for post acute care (PAC) services under the Medicare program under title XVIII of the Social Security Act (in this section referred to as the “Medicare program”). The goals of such payment reform are to—

(A) improve the coordination, quality, and efficiency of such services; and

(B) improve outcomes for individuals such as reducing the need for readmission to hospitals from providers of such services.

(2) **BUNDLING POST ACUTE SERVICES.**—The plan described in paragraph (1) shall include detailed specifications for a bundled payment for post acute services (in this section referred to as the “post acute care bundle”), and may include other approaches determined appropriate by the Secretary.

(3) **POST ACUTE SERVICES.**—For purposes of this section, the term “post acute services” means services for which payment may be made under the Medicare program that are furnished by skilled nursing facilities, inpatient rehabilitation facilities, long term care hospitals, hospital based outpatient rehabilitation facilities and home health agencies to an individual after discharge of such individual from a hospital, and such other services determined appropriate by the Secretary.

(b) **DETAILS.**—The plan described in subsection (a)(1) shall include consideration of the following issues:

(1) The nature of payments under a post acute care bundle, including the type of provider or entity to whom payment should be made, the scope of activities and services included in the bundle, whether payment for physicians’ services should be included in the bundle, and the period covered by the bundle.

(2) Whether the payment should be consolidated with the payment under the inpatient prospective system under section 1886 of the Social Security Act (in this section referred to as MS-DRGs) or a separate payment should be established for such bundle, and if a separate payment is established, whether it should be made only upon use of post acute care services or for every discharge.

(3) Whether the bundle should be applied across all categories of providers of inpatient services (including critical access hospitals) and post acute care services or whether it should be limited to certain categories of providers, services, or discharges, such as high volume or high cost MS-DRGs.

(4) The extent to which payment rates could be established to achieve offsets for efficiencies that could be expected to be

achieved with a bundle payment, whether such rates should be established on a national basis or for different geographic areas, should vary according to discharge, case mix, outliers, and geographic differences in wages or other appropriate adjustments, and how to update such rates.

(5) The nature of protections needed for individuals under a system of bundled payments to ensure that individuals receive quality care, are furnished the level and amount of services needed as determined by an appropriate assessment instrument, are offered choice of provider, and the extent to which transitional care services would improve quality of care for individuals and the functioning of a bundled post-acute system.

(6) The nature of relationships that may be required between hospitals and providers of post acute care services to facilitate bundled payments, including the application of gainsharing, anti-referral, anti-kickback, and anti-trust laws.

(7) Quality measures that would be appropriate for reporting by hospitals and post acute providers (such as measures that assess changes in functional status and quality measures appropriate for each type of post acute services provider including how the reporting of such quality measures could be coordinated with other reporting of such quality measures by such providers otherwise required).

(8) How cost-sharing for a post acute care bundle should be treated relative to current rules for cost-sharing for inpatient hospital, home health, skilled nursing facility, and other services.

(9) How other programmatic issues should be treated in a post acute care bundle, including rules specific to various types of post-acute providers such as the post-acute transfer policy, three-day hospital stay to qualify for services furnished by skilled nursing facilities, and the coordination of payments and care under the Medicare program and the Medicaid program.

(10) Such other issues as the Secretary deems appropriate.

(c) **CONSULTATIONS AND ANALYSIS.**—

(1) **CONSULTATION WITH STAKEHOLDERS.**—In developing the plan under subsection (a)(1), the Secretary shall consult with relevant stakeholders and shall consider experience with such research studies and demonstrations that the Secretary determines appropriate.

(2) **ANALYSIS AND DATA COLLECTION.**—In developing such plan, the Secretary shall—

(A) analyze the issues described in subsection (b) and other issues that the Secretary determines appropriate;

(B) analyze the impacts (including geographic impacts) of post acute service reform approaches, including bundling of such services on individuals, hospitals, post acute care providers, and physicians;

(C) use existing data (such as data submitted on claims) and collect such data as the Secretary determines are appropriate to develop such plan required in this section; and

(D) if patient functional status measures are appropriate for the analysis, to the extent practical, build upon the CARE tool being developed pursuant to section 5008 of the Deficit Reduction Act of 2005.

(d) **ADMINISTRATION.**—

(1) **FUNDING.**—For purposes of carrying out the provisions of this section, in addition to funds otherwise available, out of any funds in the Treasury not otherwise appropriated, there are appropriated to the Secretary for the Center for Medicare & Medicaid Services

Program Management Account \$15,000,000 for each of the fiscal years 2010 through 2012. Amounts appropriated under this paragraph for a fiscal year shall be available until expended.

(2) EXPEDITED DATA COLLECTION.—Chapter 35 of title 44, United States Code shall not apply to this section.

(e) PUBLIC REPORTS.—

(1) INTERIM REPORTS.—The Secretary shall issue interim public reports on a periodic basis on the plan described in subsection (a)(1), the issues described in subsection (b), and impact analyses as the Secretary determines appropriate.

(2) FINAL REPORT.—Not later than the date that is 3 years after the date of the enactment of this Act, the Secretary shall issue a final public report on such plan, including analysis of issues described in subsection (b) and impact analyses.

(f) CONVERSION OF ACUTE CARE EPISODE DEMONSTRATION TO PILOT PROGRAM AND EXPANSION TO INCLUDE POST ACUTE SERVICES.—

(1) IN GENERAL.—Part E of title XVIII of the Social Security Act is amended by inserting after section 1866C the following new section:

“CONVERSION OF ACUTE CARE EPISODE DEMONSTRATION TO PILOT PROGRAM AND EXPANSION TO INCLUDE POST ACUTE SERVICES

“SEC. 1866D. (a) CONVERSION AND EXPANSION.—

“(1) IN GENERAL.—By not later than January 1, 2011, the Secretary shall, for the purpose of promoting the use of bundled payments to promote efficient, coordinated, and high quality delivery of care—

“(A) convert the acute care episode demonstration program conducted under section 1866C to a pilot program; and

“(B) subject to subsection (c), expand such program as so converted to include post acute services and such other services the Secretary determines to be appropriate, which may include transitional services.

“(2) BUNDLED PAYMENT STRUCTURES.—

“(A) IN GENERAL.—In carrying out paragraph (1), the Secretary may apply bundled payments with respect to—

“(i) hospitals and physicians;

“(ii) hospitals and post-acute care providers;

“(iii) hospitals, physicians, and post-acute care providers; or

“(iv) combinations of post-acute providers.

“(B) FURTHER APPLICATION.—

“(i) IN GENERAL.—In carrying out paragraph (1), the Secretary shall apply bundled payments in a manner so as to include collaborative care networks and continuing care hospitals.

“(ii) COLLABORATIVE CARE NETWORK DEFINED.—For purposes of this subparagraph, the term ‘collaborative care network’ means a consortium of health care providers that provides a comprehensive range of coordinated and integrated health care services to low-income patient populations (including the uninsured) which may include coordinated and comprehensive care by safety net providers to reduce any unnecessary use of items and services furnished in emergency departments, manage chronic conditions, improve quality and efficiency of care, increase preventive services, and promote adherence to post-acute and follow-up care plans.

“(iii) CONTINUING CARE HOSPITAL DEFINED.—For purposes of this subparagraph, the term ‘continuing care hospital’ means an entity that has demonstrated the ability to meet patient care and patient safety standards and that provides under common manage-

ment the medical and rehabilitation services provided in inpatient rehabilitation hospitals and units (as defined in section 1886(d)(1)(B)(ii)), long-term care hospitals (as defined in section 1886(d)(1)(B)(iv)(I)), and skilled nursing facilities (as defined in section 1819(a)) that are located in a hospital described in section 1886(d).

“(b) SCOPE.—The Secretary shall set specific goals for the number of acute and post-acute bundling test sites under the pilot program to ensure that over time the pilot program is of sufficient size and scope to—

“(1) test the approaches under the pilot program in a variety of settings, including urban, rural, and underserved areas;

“(2) include geographic areas and additional conditions that account for significant program spending, as defined by the Secretary; and

“(3) subject to subsection (d), disseminate the pilot program rapidly on a national basis.

To the extent that the Secretary finds inpatient and post acute care bundling to be successful in improving quality and reducing costs, the Secretary shall implement such mechanisms and reforms under the pilot program on as large a geographic scale as practical and economical, consistent with subsection (e). Nothing in this subsection shall be construed as limiting the number of hospital and physician groups or the number of hospital and post-acute provider groups that may participate in the pilot program.

“(c) LIMITATION.—The Secretary shall only expand the pilot program under subsection (a) if the Secretary finds that—

“(1) the demonstration program under section 1866C and pilot program under this section maintain or increase the quality of care received by individuals enrolled under this title; and

“(2) such demonstration program and pilot program reduce program expenditures and, based on the certification under subsection (d), that the expansion of such pilot program would result in estimated spending that would be less than what spending would otherwise be in the absence of this section.

“(d) CERTIFICATION.—For purposes of subsection (c), the Chief Actuary of the Centers for Medicare & Medicaid Services shall certify whether expansion of the pilot program under this section would result in estimated spending that would be less than what spending would otherwise be in the absence of this section.

“(e) VOLUNTARY PARTICIPATION.—Nothing in this paragraph shall be construed as requiring the participation of an entity in the pilot program under this section.

“(f) EVALUATION ON COST AND QUALITY OF CARE.—The Secretary shall conduct an evaluation of the pilot program under subsection (a) to study the effect of such program on costs and quality of care. The findings of such evaluation shall be included in the final report required under section 1152(e)(2) of the Affordable Health Care for America Act.

“(g) STUDY OF ADDITIONAL BUNDLING AND EPISODE-BASED PAYMENT FOR PHYSICIANS’ SERVICES.—

“(1) IN GENERAL.—The Secretary shall provide for a study of and development of a plan for testing additional ways to increase bundling of payments for physicians in connection with an episode of care, such as in connection with outpatient hospital services or services rendered in physicians’ offices, other than those provided under the pilot program.

“(2) APPLICATION.—The Secretary may implement such a plan through a demonstration program.”.

(2) CONFORMING AMENDMENT.—Section 1866C(b) of the Social Security Act (42 U.S.C. 1395cc-3(b)) is amended by striking “The Secretary” and inserting “Subject to section 1866D, the Secretary”.

#### SEC. 1153. HOME HEALTH PAYMENT UPDATE FOR 2010.

Section 1895(b)(3)(B)(ii) of the Social Security Act (42 U.S.C. 1395fff(b)(3)(B)(ii)) is amended—

(1) in subclause (IV), by striking “and”;

(2) by redesignating subclause (V) as subclause (VII); and

(3) by inserting after subclause (IV) the following new subclauses:

“(V) 2007, 2008, and 2009, subject to clause (v), the home health market basket percentage increase;

“(VI) 2010, subject to clause (v), 0 percent; and”.

#### SEC. 1154. PAYMENT ADJUSTMENTS FOR HOME HEALTH CARE.

(a) ACCELERATION OF ADJUSTMENT FOR CASE MIX CHANGES.—Section 1895(b)(3)(B) of the Social Security Act (42 U.S.C. 1395fff(b)(3)(B)) is amended—

(1) in clause (iv), by striking “Insofar as” and inserting “Subject to clause (vi), insofar as”; and

(2) by adding at the end the following new clause:

“(vi) SPECIAL RULE FOR CASE MIX CHANGES FOR 2011.—

“(I) IN GENERAL.—With respect to the case mix adjustments established in section 484.220(a) of title 42, Code of Federal Regulations, the Secretary shall apply, in 2010, the adjustment established in paragraph (3) of such section for 2011, in addition to applying the adjustment established in paragraph (2) for 2010.

“(II) CONSTRUCTION.—Nothing in this clause shall be construed as limiting the amount of adjustment for case mix for 2010 or 2011 if more recent data indicate an appropriate adjustment that is greater than the amount established in the section described in subclause (I).”.

(b) REBASING HOME HEALTH PROSPECTIVE PAYMENT AMOUNT.—Section 1895(b)(3)(A) of the Social Security Act (42 U.S.C. 1395fff(b)(3)(A)) is amended—

(1) in clause (i)—

(A) in subclause (III), by inserting “and before 2011” after “after the period described in subclause (II)”; and

(B) by inserting after subclause (III) the following new subclauses:

“(IV) Subject to clause (iii)(I), for 2011, such amount (or amounts) shall be adjusted by a uniform percentage determined to be appropriate by the Secretary based on analysis of factors such as changes in the average number and types of visits in an episode, the change in intensity of visits in an episode, growth in cost per episode, and other factors that the Secretary considers to be relevant.

“(V) Subject to clause (iii)(II), for a year after 2011, such a amount (or amounts) shall be equal to the amount (or amounts) determined under this clause for the previous year, updated under subparagraph (B).”; and

(2) by adding at the end the following new clause:

“(iii) SPECIAL RULE IN CASE OF INABILITY TO EFFECT TIMELY REBASING.—

“(I) APPLICATION OF PROXY AMOUNT FOR 2011.—If the Secretary is not able to compute the amount (or amounts) under clause (i)(IV) so as to permit, on a timely basis, the application of such clause for 2011, the Secretary shall substitute for such amount (or amounts) 95 percent of the amount (or amounts) that would otherwise be specified under clause (i)(III) if it applied for 2011.

“(II) ADJUSTMENT FOR SUBSEQUENT YEARS BASED ON DATA.—If the Secretary applies subclause (I), the Secretary before July 1, 2011, shall compare the amount (or amounts) applied under such subclause with the amount (or amounts) that should have been applied under clause (i)(IV). The Secretary shall decrease or increase the prospective payment amount (or amounts) under clause (i)(V) for 2012 (or, at the Secretary’s discretion, over a period of several years beginning with 2012) by the amount (if any) by which the amount (or amounts) applied under subclause (I) is greater or less, respectively, than the amount (or amounts) that should have been applied under clause (i)(IV).”.

**SEC. 1155. INCORPORATING PRODUCTIVITY IMPROVEMENTS INTO MARKET BASKET UPDATE FOR HOME HEALTH SERVICES.**

(a) IN GENERAL.—Section 1895(b)(3)(B) of the Social Security Act (42 U.S.C. 1395fff(b)(3)(B)) is amended—

(1) in clause (iii), by inserting “(including being subject to the productivity adjustment described in section 1886(b)(3)(B)(iii)(II))” after “in the same manner”; and

(2) in clause (v)(I), by inserting “(but not below 0)” after “reduced”.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to home health market basket percentage increases for years beginning with 2011.

**SEC. 1155A. MEDPAC STUDY ON VARIATION IN HOME HEALTH MARGINS.**

(a) IN GENERAL.—The Medicare Payment Advisory Commission shall conduct a study regarding variation in performance of home health agencies in an effort to explain variation in Medicare margins for such agencies. Such study shall include an examination of at least the following issues:

(1) The demographic characteristics of individuals served and the geographic distribution associated with transportation costs.

(2) The characteristics of such agencies, such as whether such agencies operate 24 hours each day, provide charity care, or are part of an integrated health system.

(3) The socio-economic status of individuals served, such as the proportion of such individuals who are dually eligible for Medicare and Medicaid benefits.

(4) The presence of severe and or chronic disease or disability in individuals served, as evidenced by multiple discontinuous home health episodes with a high number of visits per episode.

(5) The differences in services provided, such as therapy and non-therapy services.

(b) REPORT.—Not later than June 1, 2011, the Commission shall submit a report to the Congress on the results of the study conducted under subsection (a) and shall include in the report the Commission’s conclusions and recommendations, if appropriate, regarding each of the issues described in paragraphs (1), (2) and (3) of such subsection.

**SEC. 1155B. PERMITTING HOME HEALTH AGENCIES TO ASSIGN THE MOST APPROPRIATE SKILLED SERVICE TO MAKE THE INITIAL ASSESSMENT VISIT UNDER A MEDICARE HOME HEALTH PLAN OF CARE FOR REHABILITATION CASES.**

(a) IN GENERAL.—Notwithstanding section 484.55(a)(2) of title 42 of the Code of Federal Regulations or any other provision of law, a home health agency may determine the most appropriate skilled therapist to make the initial assessment visit for an individual who is referred (and may be eligible) for home health services under title XVIII of the Social Security Act but who does not require skilled nursing care as long as the skilled

service (for which that therapist is qualified to provide the service) is included as part of the plan of care for home health services for such individual.

(b) RULE OF CONSTRUCTION.—Nothing in subsection (a) shall be construed to provide for initial eligibility for coverage of home health services under title XVIII of the Social Security Act on the basis of a need for occupational therapy.

**SEC. 1156. LIMITATION ON MEDICARE EXCEPTIONS TO THE PROHIBITION ON CERTAIN PHYSICIAN REFERRALS MADE TO HOSPITALS.**

(a) IN GENERAL.—Section 1877 of the Social Security Act (42 U.S.C. 1395nn) is amended—

(1) in subsection (d)(2)—

(A) in subparagraph (A), by striking “and” at the end;

(B) in subparagraph (B), by striking the period at the end and inserting “; and”; and

(C) by adding at the end the following new subparagraph:

“(C) in the case where the entity is a hospital, the hospital meets the requirements of paragraph (3)(D).”;

(2) in subsection (d)(3)—

(A) in subparagraph (B), by striking “and” at the end;

(B) in subparagraph (C), by striking the period at the end and inserting “; and”; and

(C) by adding at the end the following new subparagraph:

“(D) the hospital meets the requirements described in subsection (i)(1).”;

(3) by amending subsection (f) to read as follows:

“(f) REPORTING AND DISCLOSURE REQUIREMENTS.—

“(1) IN GENERAL.—Each entity providing covered items or services for which payment may be made under this title shall provide the Secretary with the information concerning the entity’s ownership, investment, and compensation arrangements, including—

“(A) the covered items and services provided by the entity, and

“(B) the names and unique physician identification numbers of all physicians with an ownership or investment interest (as described in subsection (a)(2)(A)), or with a compensation arrangement (as described in subsection (a)(2)(B)), in the entity, or whose immediate relatives have such an ownership or investment interest or who have such a compensation relationship with the entity. Such information shall be provided in such form, manner, and at such times as the Secretary shall specify. The requirement of this subsection shall not apply to designated health services provided outside the United States or to entities which the Secretary determines provide services for which payment may be made under this title very infrequently.

“(2) REQUIREMENTS FOR HOSPITALS WITH PHYSICIAN OWNERSHIP OR INVESTMENT.—In the case of a hospital that meets the requirements described in subsection (i)(1), the hospital shall—

“(A) submit to the Secretary an initial report, and periodic updates at a frequency determined by the Secretary, containing a detailed description of the identity of each physician owner and physician investor and any other owners or investors of the hospital;

“(B) require that any referring physician owner or investor discloses to the individual being referred, by a time that permits the individual to make a meaningful decision regarding the receipt of services, as determined by the Secretary, the ownership or investment interest, as applicable, of such referring physician in the hospital; and

“(C) disclose the fact that the hospital is partially or wholly owned by one or more physicians or has one or more physician investors—

“(i) on any public website for the hospital; and

“(ii) in any public advertising for the hospital.

The information to be reported or disclosed under this paragraph shall be provided in such form, manner, and at such times as the Secretary shall specify. The requirements of this paragraph shall not apply to designated health services furnished outside the United States or to entities which the Secretary determines provide services for which payment may be made under this title very infrequently.

“(3) PUBLICATION OF INFORMATION.—The Secretary shall publish, and periodically update, the information submitted by hospitals under paragraph (2)(A) on the public Internet website of the Centers for Medicare & Medicaid Services.”;

(4) by amending subsection (g)(5) to read as follows:

“(5) FAILURE TO REPORT OR DISCLOSE INFORMATION.—

“(A) REPORTING.—Any person who is required, but fails, to meet a reporting requirement of paragraphs (1) and (2)(A) of subsection (f) is subject to a civil money penalty of not more than \$10,000 for each day for which reporting is required to have been made.

“(B) DISCLOSURE.—Any physician who is required, but fails, to meet a disclosure requirement of subsection (f)(2)(B) or a hospital that is required, but fails, to meet a disclosure requirement of subsection (f)(2)(C) is subject to a civil money penalty of not more than \$10,000 for each case in which disclosure is required to have been made.

“(C) APPLICATION.—The provisions of section 1128A (other than the first sentence of subsection (a) and other than subsection (b)) shall apply to a civil money penalty under subparagraphs (A) and (B) in the same manner as such provisions apply to a penalty or proceeding under section 1128A(a).”; and

(5) by adding at the end the following new subsection:

“(i) REQUIREMENTS TO QUALIFY FOR RURAL PROVIDER AND HOSPITAL OWNERSHIP EXCEPTIONS TO SELF-REFERRAL PROHIBITION.—

“(1) REQUIREMENTS DESCRIBED.—For purposes of subsection (d)(3)(D), the requirements described in this paragraph are as follows:

“(A) PROVIDER AGREEMENT.—The hospital had—

“(i) physician ownership or investment on January 1, 2009; and

“(ii) a provider agreement under section 1866 in effect on such date.

“(B) PROHIBITION ON PHYSICIAN OWNERSHIP OR INVESTMENT.—The percentage of the total value of the ownership or investment interests held in the hospital, or in an entity whose assets include the hospital, by physician owners or investors in the aggregate does not exceed such percentage as of the date of enactment of this subsection.

“(C) PROHIBITION ON EXPANSION OF FACILITY CAPACITY.—Except as provided in paragraph (2), the number of operating rooms, procedure rooms, or beds of the hospital at any time on or after the date of the enactment of this subsection are no greater than the number of operating rooms, procedure rooms, or beds, respectively, as of such date.

“(D) ENSURING BONA FIDE OWNERSHIP AND INVESTMENT.—

“(i) Any ownership or investment interests that the hospital offers to a physician are

not offered on more favorable terms than the terms offered to a person who is not in a position to refer patients or otherwise generate business for the hospital.

“(ii) The hospital (or any investors in the hospital) does not directly or indirectly provide loans or financing for any physician owner or investor in the hospital.

“(iii) The hospital (or any investors in the hospital) does not directly or indirectly guarantee a loan, make a payment toward a loan, or otherwise subsidize a loan, for any physician owner or investor or group of physician owners or investors that is related to acquiring any ownership or investment interest in the hospital.

“(iv) Ownership or investment returns are distributed to each owner or investor in the hospital in an amount that is directly proportional to the ownership or investment interest of such owner or investor in the hospital.

“(v) The investment interest of the owner or investor is directly proportional to the owner's or investor's capital contributions made at the time the ownership or investment interest is obtained.

“(vi) Physician owners and investors do not receive, directly or indirectly, any guaranteed receipt of or right to purchase other business interests related to the hospital, including the purchase or lease of any property under the control of other owners or investors in the hospital or located near the premises of the hospital.

“(vii) The hospital does not offer a physician owner or investor the opportunity to purchase or lease any property under the control of the hospital or any other owner or investor in the hospital on more favorable terms than the terms offered to a person that is not a physician owner or investor.

“(viii) The hospital does not condition any physician ownership or investment interests either directly or indirectly on the physician owner or investor making or influencing referrals to the hospital or otherwise generating business for the hospital.

“(E) PATIENT SAFETY.—In the case of a hospital that does not offer emergency services, the hospital has the capacity to—

“(i) provide assessment and initial treatment for medical emergencies; and

“(ii) if the hospital lacks additional capabilities required to treat the emergency involved, refer and transfer the patient with the medical emergency to a hospital with the required capability.

“(F) LIMITATION ON APPLICATION TO CERTAIN CONVERTED FACILITIES.—The hospital was not converted from an ambulatory surgical center to a hospital on or after the date of enactment of this subsection.

“(2) EXCEPTION TO PROHIBITION ON EXPANSION OF FACILITY CAPACITY.—

“(A) PROCESS.—

“(i) ESTABLISHMENT.—The Secretary shall establish and implement a process under which a hospital may apply for an exception from the requirement under paragraph (1)(C).

“(ii) OPPORTUNITY FOR COMMUNITY INPUT.—The process under clause (i) shall provide persons and entities in the community in which the hospital applying for an exception is located with the opportunity to provide input with respect to the application.

“(iii) TIMING FOR IMPLEMENTATION.—The Secretary shall implement the process under clause (i) on the date that is one month after the promulgation of regulations described in clause (iv).

“(iv) REGULATIONS.—Not later than the first day of the month beginning 18 months after the date of the enactment of this sub-

section, the Secretary shall promulgate regulations to carry out the process under clause (i). The Secretary may issue such regulations as interim final regulations.

“(B) FREQUENCY.—The process described in subparagraph (A) shall permit a hospital to apply for an exception up to once every 2 years.

“(C) PERMITTED INCREASE.—

“(i) IN GENERAL.—Subject to clause (ii) and subparagraph (D), a hospital granted an exception under the process described in subparagraph (A) may increase the number of operating rooms, procedure rooms, or beds of the hospital above the baseline number of operating rooms, procedure rooms, or beds, respectively, of the hospital (or, if the hospital has been granted a previous exception under this paragraph, above the number of operating rooms, procedure rooms, or beds, respectively, of the hospital after the application of the most recent increase under such an exception).

“(ii) 100 PERCENT INCREASE LIMITATION.—The Secretary shall not permit an increase in the number of operating rooms, procedure rooms, or beds of a hospital under clause (i) to the extent such increase would result in the number of operating rooms, procedure rooms, or beds of the hospital exceeding 200 percent of the baseline number of operating rooms, procedure rooms, or beds of the hospital.

“(iii) BASELINE NUMBER OF OPERATING ROOMS, PROCEDURE ROOMS, OR BEDS.—In this paragraph, the term ‘baseline number of operating rooms, procedure rooms, or beds’ means the number of operating rooms, procedure rooms, or beds of a hospital as of the date of enactment of this subsection.

“(D) INCREASE LIMITED TO FACILITIES ON THE MAIN CAMPUS OF THE HOSPITAL.—Any increase in the number of operating rooms, procedure rooms, or beds of a hospital pursuant to this paragraph may only occur in facilities on the main campus of the hospital.

“(E) CONDITIONS FOR APPROVAL OF AN INCREASE IN FACILITY CAPACITY.—The Secretary may grant an exception under the process described in subparagraph (A) only to a hospital described in subparagraph (F) or a hospital—

“(i) that is located in a county in which the percentage increase in the population during the most recent 5-year period for which data are available is estimated to be at least 150 percent of the percentage increase in the population growth of the State in which the hospital is located during that period, as estimated by Bureau of the Census and available to the Secretary;

“(ii) whose annual percent of total inpatient admissions that represent inpatient admissions under the program under title XIX is estimated to be equal to or greater than the average percent with respect to such admissions for all hospitals located in the county in which the hospital is located;

“(iii) that does not discriminate against beneficiaries of Federal health care programs and does not permit physicians practicing at the hospital to discriminate against such beneficiaries;

“(iv) that is located in a State in which the average bed capacity in the State is estimated to be less than the national average bed capacity;

“(v) that has an average bed occupancy rate that is estimated to be greater than the average bed occupancy rate in the State in which the hospital is located; and

“(vi) that meets other conditions as determined by the Secretary.

“(F) SPECIAL RULE FOR A HIGH MEDICAID FACILITY.—A hospital described in this subparagraph is a hospital that—

“(i) with respect to each of the 3 most recent cost reporting periods for which data are available, has an annual percent of total inpatient admissions that represent inpatient admissions under the program under title XIX that is determined by the Secretary to be greater than such percent with respect to such admissions for any other hospital located in the county in which the hospital is located; and

“(ii) meets the conditions described in clauses (iii) and (vi) of subparagraph (E).

“(G) PROCEDURE ROOMS.—In this subsection, the term ‘procedure rooms’ includes rooms in which catheterizations, angiographies, angiograms, and endoscopies are furnished, but such term shall not include emergency rooms or departments (except for rooms in which catheterizations, angiographies, angiograms, and endoscopies are furnished).

“(H) PUBLICATION OF FINAL DECISIONS.—Not later than 120 days after receiving a complete application under this paragraph, the Secretary shall publish on the public Internet website of the Centers for Medicare & Medicaid Services the final decision with respect to such application.

“(I) LIMITATION ON REVIEW.—There shall be no administrative or judicial review under section 1869, section 1878, or otherwise of the exception process under this paragraph, including the establishment of such process, and any determination made under such process.

“(3) PHYSICIAN OWNER OR INVESTOR DEFINED.—For purposes of this subsection and subsection (f)(2), the term ‘physician owner or investor’ means a physician (or an immediate family member of such physician) with a direct or an indirect ownership or investment interest in the hospital.

“(4) PATIENT SAFETY REQUIREMENT.—In the case of a hospital to which the requirements of paragraph (1) apply, insofar as the hospital admits a patient and does not have any physician available on the premises 24 hours per day, 7 days per week, before admitting the patient—

“(A) the hospital shall disclose such fact to the patient; and

“(B) following such disclosure, the hospital shall receive from the patient a signed acknowledgment that the patient understands such fact.

“(5) CLARIFICATION.—Nothing in this subsection shall be construed as preventing the Secretary from terminating a hospital's provider agreement if the hospital is not in compliance with regulations pursuant to section 1866.”

(b) VERIFYING COMPLIANCE.—The Secretary of Health and Human Services shall establish policies and procedures to verify compliance with the requirements described in subsections (i)(1) and (i)(4) of section 1877 of the Social Security Act, as added by subsection (a)(5). The Secretary may use unannounced site reviews of hospitals and audits to verify compliance with such requirements.

(c) IMPLEMENTATION.—

(1) FUNDING.—For purposes of carrying out the amendments made by subsection (a) and the provisions of subsection (b), in addition to funds otherwise available, out of any funds in the Treasury not otherwise appropriated there are appropriated to the Secretary of Health and Human Services for the Centers for Medicare & Medicaid Services Program Management Account \$5,000,000 for each fiscal year beginning with fiscal year

2010. Amounts appropriated under this paragraph for a fiscal year shall be available until expended.

(2) **ADMINISTRATION.**—Chapter 35 of title 44, United States Code, shall not apply to the amendments made by subsection (a) and the provisions of subsection (b).

**SEC. 1157. INSTITUTE OF MEDICINE STUDY OF GEOGRAPHIC ADJUSTMENT FACTORS UNDER MEDICARE.**

(a) **IN GENERAL.**—The Secretary of Health and Human Services shall enter into a contract with the Institute of Medicine of the National Academy of Science to conduct a comprehensive empirical study, and provide recommendations as appropriate, on the accuracy of the geographic adjustment factors established under sections 1848(e) and 1886(d)(3)(E) of the Social Security Act (42 U.S.C. 1395w-4(e), 1395ww(d)(3)(E)).

(b) **MATTERS INCLUDED.**—Such study shall include an evaluation and assessment of the following with respect to such adjustment factors:

(1) Empirical validity of the adjustment factors.

(2) Methodology used to determine the adjustment factors.

(3) Measures used for the adjustment factors, taking into account—

(A) timeliness of data and frequency of revisions to such data;

(B) sources of data and the degree to which such data are representative of costs; and

(C) operational costs of providers who participate in Medicare.

(c) **EVALUATION.**—Such study shall, within the context of the United States health care marketplace, evaluate and consider the following:

(1) The effect of the adjustment factors on the level and distribution of the health care workforce and resources, including—

(A) recruitment and retention that takes into account workforce mobility between urban and rural areas;

(B) ability of hospitals and other facilities to maintain an adequate and skilled workforce; and

(C) patient access to providers and needed medical technologies.

(2) The effect of the adjustment factors on population health and quality of care.

(3) The effect of the adjustment factors on the ability of providers to furnish efficient, high value care.

(d) **REPORT.**—The contract under subsection (a) shall provide for the Institute of Medicine to submit, not later than 1 year after the date of the enactment of this Act, to the Secretary and the Congress a report containing results and recommendations of the study conducted under this section.

(e) **FUNDING.**—There are authorized to be appropriated to carry out this section such sums as may be necessary.

**SEC. 1158. REVISION OF MEDICARE PAYMENT SYSTEMS TO ADDRESS GEOGRAPHIC INEQUITIES.**

(a) **REVISION OF MEDICARE PAYMENT SYSTEMS.**—Taking into account the recommendations described in the report under section 1157, and notwithstanding the geographic adjustments that would otherwise apply under section 1848(e) and section 1886(d)(3)(E) of the Social Security Act (42 U.S.C. 1395w-4(e), 1395ww(d)(3)(E)), the Secretary of Health and Human Services shall include in proposed rules applicable to the rulemaking cycle for payment systems for physicians' services and inpatient hospital services under sections 1848 and section 1886(d) of such Act, respectively, proposals (as the Secretary determines to be appro-

priate) to revise the geographic adjustment factors used in such systems. Such proposals' rules shall be contained in the next rule-making cycle following the submission to the Secretary of the report described in section 1157.

(b) **PAYMENT ADJUSTMENTS.**—

(1) **FUNDING FOR IMPROVEMENTS.**—For years before 2014, the Secretary shall ensure that the additional expenditures resulting from the implementation of the provisions of this section, as estimated by the Secretary, do not exceed \$8,000,000,000, and do not exceed half of such amount in any payment year.

(2) **HOLD HARMLESS.**—In carrying out this subsection—

(A) for payment years before 2014, the Secretary shall not reduce the geographic adjustment below the factor that applied for such payment system in the payment year before such changes; and

(B) for payment years beginning with 2014, the Secretary shall implement the geographic adjustment in a manner that does not result in any net change in aggregate expenditures under title XVIII of the Social Security Act from the amount of such expenditures that the Secretary estimates would have occurred if no geographic adjustment had occurred under this section.

(c) **MEDICARE IMPROVEMENT FUND.**—

(1) Amounts in the Medicare Improvement Fund under section 1898 of the Social Security Act, as amended by paragraph (2), shall be available to the Secretary to make changes to the geographic adjustments factors as described in subsections (a) and (b) with respect to services furnished before January 1, 2014. No more than one-half of such amounts shall be available with respect to services furnished in any one payment year.

(2) Section 1898(b) of the Social Security Act (42 U.S.C. 1395iii(b)) is amended—

(A) by amending paragraph (1)(A) to read as follows:

“(A) the period beginning with fiscal year 2011 and ending with fiscal year 2019, \$8,000,000,000; and”;

(B) by adding at the end the following new paragraph:

“(5) **ADJUSTMENT FOR UNDERFUNDING.**—For fiscal year 2014 or a subsequent fiscal year specified by the Secretary, the amount available to the fund under subsection (a) shall be increased by the Secretary's estimate of the amount (based on data on actual expenditures) by which—

“(A) the additional expenditures resulting from the implementation of subsection (a) of section 1158 of the Affordable Health Care for America Act for the period before fiscal year 2014, is less than

“(B) the maximum amount of funds available under subsection (a) of such section for funding for such expenditures.”.

**SEC. 1159. INSTITUTE OF MEDICINE STUDY OF GEOGRAPHIC VARIATION IN HEALTH CARE SPENDING AND PROMOTING HIGH-VALUE HEALTH CARE.**

(a) **IN GENERAL.**—The Secretary of Health and Human Services (in this section and the succeeding section referred to as the “Secretary”) shall enter into an agreement with the Institute of Medicine of the National Academies (referred to in this section as the “Institute”) to conduct a study on geographic variation and growth in volume and intensity of services in per capita health care spending among the Medicare, Medicaid, privately insured and uninsured populations. Such study may draw on recent relevant reports of the Institute and shall include each of the following:

(1) An evaluation of the extent and range of such variation using various units of geographic measurement, including micro areas within larger areas.

(2) An evaluation of the extent to which geographic variation can be attributed to differences in input prices; health status; practice patterns; access to medical services; supply of medical services; socio-economic factors, including race, ethnicity, gender, age, income and educational status; and provider and payer organizational models.

(3) An evaluation of the extent to which variations in spending are correlated with patient access to care, insurance status, distribution of health care resources, health care outcomes, and consensus-based measures of health care quality.

(4) An evaluation of the extent to which variation can be attributed to physician and practitioner discretion in making treatment decisions, and the degree to which discretionary treatment decisions are made that could be characterized as different from the best available medical evidence.

(5) An evaluation of the extent to which variation can be attributed to patient preferences and patient compliance with treatment protocols.

(6) An assessment of the degree to which variation cannot be explained by empirical evidence.

(7) For Medicare beneficiaries, An evaluation of the extent to which variations in spending are correlated with insurance status prior to enrollment in the Medicare program under title XVIII of the Social Security Act, and institutionalization status; whether beneficiaries are dually eligible for the Medicare program and Medicaid under title XIX of such Act; and whether beneficiaries are enrolled in fee-for-service Medicare or Medicare Advantage.

(8) An evaluation of such other factors as the Institute deems appropriate.

The Institute shall conduct public hearings and provide an opportunity for comments prior to completion of the reports under subsection (e).

(b) **RECOMMENDATIONS.**—Taking into account the findings under subsection (a) and the changes to the payment systems made by this Act, the Institute shall recommend changes to payment for items and services under parts A and B of title XVIII of the Social Security Act, for addressing variation in Medicare per capita spending for items and services (not including add-ons for graduate medical education, disproportionate share payments, and health information technology, as specified in sections 1886(d)(5)(F), 1886(d)(5)(B), 1886(h), 1848(o), and 1886(n), respectively, of such Act) by promoting high-value care (as defined in subsection (f)), with particular attention to high-volume, high-cost conditions. In making such recommendations, the Institute shall consider each of the following:

(1) Measurement and reporting on quality and population health.

(2) Reducing fragmented and duplicative care.

(3) Promoting the practice of evidence-based medicine.

(4) Empowering patients to make value-based care decisions.

(5) Leveraging the use of health information technology.

(6) The role of financial and other incentives affecting provision of care.

(7) Variation in input costs.

(8) The characteristics of the patient population, including socio-economic factors (including race, ethnicity, gender, age, income

and educational status), and whether the beneficiaries are dually eligible for the Medicare program under title XVIII of the Social Security Act and Medicaid under title XIX of such Act.

(9) Other topics the Institute deems appropriate.

In making such recommendations, the Institute shall consider an appropriate phase-in that takes into account the impact of payment changes on providers and facilities and preserves access to care for Medicare beneficiaries.

(c) **SPECIFIC CONSIDERATIONS.**—In making the recommendations under subsection (b), the Institute shall specifically address whether payment systems under title XVIII of the Social Security Act for physicians and hospitals should be further modified to incentivize high-value care. In so doing, the Institute shall consider the adoption of a value index based on a composite of appropriate measures of quality and cost that would adjust provider payments on a regional or provider-level basis. If the Institute finds that application of such a value index would significantly incentivize providers to furnish high-value care, it shall make specific recommendations on how such an index would be designed and implemented. In so doing, it should identify specific measures of quality and cost appropriate for use in such an index, and include a thorough analysis (including on a geographic basis) of how payments and spending under such title would be affected by such an index.

(d) **ADDITIONAL CONSIDERATIONS.**—The Institute shall consider the experience of governmental and community-based programs that promote high-value care.

(e) **REPORTS.**—

(1) Not later than April 15, 2011, the Institute shall submit to the Secretary and each House of Congress a report containing findings and recommendations of the study conducted under this section.

(2) Following submission of the report under paragraph (1), the Institute shall use the data collected and analyzed in this section to issue a subsequent report, or series of reports, on how best to address geographic variation or efforts to promote high-value care for items and services reimbursed by private insurance or other programs. Such reports shall include a comparison to the Institute's findings and recommendations regarding the Medicare program. Such reports, and any recommendations, would not be subject to the procedures outlined in section 1160.

(f) **HIGH-VALUE CARE DEFINED.**—For purposes of this section, the term “high-value care” means the efficient delivery of high quality, evidence-based, patient-centered care.

(g) **APPROPRIATIONS.**—There is appropriated from amounts in the general fund of the Treasury not otherwise appropriated \$10,000,000 to carry out this section. Such sums are authorized to remain available until expended.

**SEC. 1160. IMPLEMENTATION, AND CONGRESSIONAL REVIEW, OF PROPOSAL TO REVISE MEDICARE PAYMENTS TO PROMOTE HIGH VALUE HEALTH CARE.**

(a) **PREPARATION AND SUBMISSION OF IMPLEMENTATION PLANS.**—

(1) **FINAL IMPLEMENTATION PLAN.**—Not later than 240 days after the date of receipt by the Secretary and each House of Congress of the report under section 1159(e)(1), the Secretary shall submit to each House of Congress a final implementation plan describing pro-

posed changes to payment for items and services under parts A and B of title XVIII of the Social Security Act (which may include payment for inpatient and outpatient hospital services for services furnished in PPS and PPS-exempt hospitals, physicians' services, dialysis facility services, skilled nursing facility services, home health services, hospice care, clinical laboratory services, durable medical equipment, and other items and services, but which shall exclude add-on payments for graduate medical education, disproportionate share payments, and health information technology, as specified in sections 1886(d)(5)(F), 1886(d)(5)(B), 1886(h), 1848(o), and 1886(n), respectively, of the Social Security Act) taking into consideration, as appropriate, the recommendations of the report submitted under section 1159(e)(1) and the changes to the payment systems made by this Act. To the extent such implementation plan requires a substantial change to the payment system, it shall include a transition phase-in that takes into consideration possible disruption to provider participation in the Medicare program under title XVIII of the Social Security Act and preserves access to care for Medicare beneficiaries.

(2) **PRELIMINARY IMPLEMENTATION PLAN.**—Not later than 90 days after the date the Institute of Medicine submits to each House of Congress the report under section 1159(e)(1), the Secretary shall submit to each House of Congress a preliminary version of the implementation plan provided for under paragraph (1)(A).

(3) **NO INCREASE IN BUDGET EXPENDITURES.**—The Secretary shall include with the submission of the final implementation plan under paragraph (1) a certification by the Chief Actuary of the Centers for Medicare & Medicaid Services that over the initial 10-year period in which the plan is implemented, the aggregate level of net expenditures under the Medicare program under title XVIII of the Social Security Act will not exceed the aggregate level of such expenditures that would have occurred if the plan were not implemented.

(4) **WAIVERS REQUIRED.**—To the extent the final implementation plan under paragraph (1) proposes changes that are not otherwise permitted under title XVIII of the Social Security Act, the Secretary shall specify in the plan the specific waivers required under such title to implement such changes. Except as provided in subsection (c), the Secretary is authorized to waive the requirements so specified in order to implement such changes.

(5) **ASSESSMENT OF IMPACT.**—In addition, both the preliminary and final implementation plans under this subsection shall include a detailed assessment of the effects of the proposed payment changes by provider or supplier type and State relative to the payments that would otherwise apply.

(b) **REVIEW BY MEDPAC AND GAO.**—Not later than 45 days after the date the preliminary implementation plan is received by each House of Congress under subsection (a)(2), the Medicare Payment Advisory Committee and the Comptroller General of the United States shall each evaluate such plan and submit to each House of Congress a report containing its analysis and recommendations regarding implementation of the plan, including an analysis of the effects of the proposed changes in the plan on payments and projected spending.

(c) **IMPLEMENTATION.**—

(1) **IN GENERAL.**—The Secretary shall include, in applicable proposed rules for the next rulemaking cycle beginning after the

Congressional action deadline, appropriate proposals to revise payments under title XVIII of the Social Security Act in accordance with the final implementation plan submitted under subsection (a)(1), and the waivers specified in subsection (a)(4) to the extent required to carry out such plan are effective, unless a joint resolution (described in subsection (d)(5)(A)) with respect to such plan is enacted by not later than such deadline. If such a joint resolution is enacted, the Secretary is not authorized to implement such plan and the waiver authority provided under subsection (a)(4) shall no longer be effective.

(2) **CONGRESSIONAL ACTION DEADLINE.**—For purposes of this section, the term “Congressional action deadline” means, with respect to a final implementation plan under subsection (a)(1), May 31, 2012, or, if later, the date that is 145 days after the date of receipt of such plan by each House of Congress under subsection (a).

(d) **CONGRESSIONAL PROCEDURES.**—

(1) **INTRODUCTION.**—On the day on which the final implementation plan is received by the House of Representatives and the Senate under subsection (a), a joint resolution specified in paragraph (5)(A) shall be introduced in the House of Representatives by the majority leader and minority leader of the House of Representatives and in the Senate by the majority leader and minority leader of the Senate. If either House is not in session on the day on which such a plan is received, the joint resolution with respect to such plan shall be introduced in that House, as provided in the preceding sentence, on the first day thereafter on which that House is in session.

(2) **CONSIDERATION IN THE HOUSE OF REPRESENTATIVES.**—

(A) **REPORTING AND DISCHARGE.**—Any committee of the House of Representatives to which a joint resolution introduced under paragraph (1) is referred shall report such joint resolution to the House not later than 50 legislative days after the applicable date of introduction of the joint resolution. If a committee fails to report such joint resolution within that period, a motion to discharge the committee from further consideration of the joint resolution shall be in order. Such a motion shall be in order only at a time designated by the Speaker in the legislative schedule within two legislative days after the day on which the proponent announces an intention to offer the motion. Notice may not be given on an anticipatory basis. Such a motion shall not be in order after the last committee authorized to consider the joint resolution reports it to the House or after the House has disposed of a motion to discharge the joint resolution. The previous question shall be considered as ordered on the motion to its adoption without intervening motion except 20 minutes of debate equally divided and controlled by the proponent and an opponent. A motion to reconsider the vote by which the motion is disposed of shall not be in order.

(B) **PROCEEDING TO CONSIDERATION.**—After each committee authorized to consider a joint resolution reports such joint resolution to the House of Representatives or has been discharged from its consideration, a motion to proceed to consider such joint resolution shall be in order. Such a motion shall be in order only at a time designated by the Speaker in the legislative schedule within two legislative days after the day on which the proponent announces an intention to offer the motion. Notice may not be given on an anticipatory basis. Such a motion shall

not be in order after the House of Representatives has disposed of a motion to proceed on the joint resolution. The previous question shall be considered as ordered on the motion to its adoption without intervening motion. A motion to reconsider the vote by which the motion is disposed of shall not be in order.

(C) CONSIDERATION.—The joint resolution shall be considered in the House and shall be considered as read. All points of order against a joint resolution and against its consideration are waived. The previous question shall be considered as ordered on the joint resolution to its passage without intervening motion except two hours of debate equally divided and controlled by the proponent and an opponent. A motion to reconsider the vote on passage of a joint resolution shall not be in order.

(3) CONSIDERATION IN THE SENATE.—

(A) REPORTING AND DISCHARGE.—Any committee of the Senate to which a joint resolution introduced under paragraph (1) is referred shall report such joint resolution to the Senate within 50 legislative days. If a committee fails to report such joint resolution at the close of the 15th legislative day after its receipt by the Senate, such committee shall be automatically discharged from further consideration of such joint resolution and such joint resolution or joint resolutions shall be placed on the calendar. A vote on final passage of such joint resolution shall be taken in the Senate on or before the close of the second legislative day after such joint resolution is reported by the committee or committees of the Senate to which it was referred, or after such committee or committees have been discharged from further consideration of such joint resolution.

(B) PROCEEDING TO CONSIDERATION.—A motion in the Senate to proceed to the consideration of a joint resolution shall be privileged and not debatable. An amendment to such a motion shall not be in order, nor shall it be in order to move to reconsider the vote by which such a motion is agreed to or disagreed to.

(C) CONSIDERATION.—

(i) Debate in the Senate on a joint resolution, and all debatable motions and appeals in connection therewith, shall be limited to not more than 20 hours. The time shall be equally divided between, and controlled by, the majority leader and the minority leader or their designees.

(ii) Debate in the Senate on any debatable motion or appeal in connection with a joint resolution shall be limited to not more than 1 hour, to be equally divided between, and controlled by, the mover and the manager of the resolution, except that in the event the manager of the joint resolution is in favor of any such motion or appeal, the time in opposition thereto shall be controlled by the minority leader or a designee. Such leaders, or either of them, may, from time under their control on the passage of a joint resolution, allot additional time to any Senator during the consideration of any debatable motion or appeal.

(iii) A motion in the Senate to further limit debate is not debatable. A motion to recommit a joint resolution is not in order.

(4) RULES RELATING TO SENATE AND HOUSE OF REPRESENTATIVES.—

(A) COORDINATION WITH ACTION BY OTHER HOUSE.—If, before the passage by one House of a joint resolution of that House, that House receives from the other House a joint resolution, then the following procedures shall apply:

(i) The joint resolution of the other House shall not be referred to a committee.

(ii) With respect to the joint resolution of the House receiving the resolution, the procedure in that House shall be the same as if no such joint resolution had been received from the other House; but the vote on passage shall be on the joint resolution of the other House.

(B) TREATMENT OF COMPANION MEASURES.—If, following passage of a joint resolution in the Senate, the Senate then receives the companion measure from the House of Representatives, the companion measure shall not be debatable.

(C) RULES OF HOUSE OF REPRESENTATIVES AND SENATE.—This paragraph and the preceding paragraphs are enacted by Congress—

(i) as an exercise of the rulemaking power of the Senate and House of Representatives, respectively, and as such it is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of a joint resolution, and it supersedes other rules only to the extent that it is inconsistent with such rules; and

(ii) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner, and to the same extent as in the case of any other rule of that House.

(5) DEFINITIONS.—In this section:

(A) JOINT RESOLUTION.—The term “joint resolution” means only a joint resolution—

(i) which does not have a preamble;

(ii) the title of which is as follows: “Joint resolution disapproving a Medicare final implementation plan of the Secretary of Health and Human Services submitted under section 1160(a) of the Affordable Health Care for America Act”; and

(iii) the sole matter after the resolving clause of which is as follows: “That the Congress disapproves the final implementation plan of the Secretary of Health and Human Services transmitted to the Congress on———”, the blank space being filled with the appropriate date.

(B) LEGISLATIVE DAY.—The term “legislative day” means any calendar day excluding any day on which that House was not in session.

(6) BUDGETARY TREATMENT.—For the purposes of consideration of a joint resolution, the Chairmen of the House of Representatives and Senate Committees on the Budget shall exclude from the evaluation of the budgetary effects of the measure, any such effects that are directly attributable to disapproving a Medicare final implementation plan of the Secretary submitted under subsection (a).

**Subtitle D—Medicare Advantage Reforms**

**PART 1—PAYMENT AND ADMINISTRATION**

**SEC. 1161. PHASE-IN OF PAYMENT BASED ON FEE-FOR-SERVICE COSTS; QUALITY BONUS PAYMENTS.**

(a) PHASE-IN OF PAYMENT BASED ON FEE-FOR-SERVICE COSTS.—Section 1853 of the Social Security Act (42 U.S.C. 1395w-23) is amended—

(1) in subsection (j)(1)(A)—

(A) by striking “beginning with 2007” and inserting “for 2007, 2008, 2009, and 2010”; and

(B) by inserting after “(k)(1)” the following: “, or, beginning with 2011, ½ of the blended benchmark amount determined under subsection (n)(1)”; and

(2) by adding at the end the following new subsection:

“(n) DETERMINATION OF BLENDED BENCHMARK AMOUNT.—

“(1) IN GENERAL.—For purposes of subsection (j), subject to paragraphs (3) and (4), the term ‘blended benchmark amount’ means for an area—

“(A) for 2011 the sum of—

“(i) ¾ of the applicable amount (as defined in subsection (k)) for the area and year; and

“(ii) ¼ of the amount specified in paragraph (2) for the area and year;

“(B) for 2012 the sum of—

“(i) ⅓ of the applicable amount for the area and year; and

“(ii) ⅔ of the amount specified in paragraph (2) for the area and year; and

“(C) for a subsequent year the amount specified in paragraph (2) for the area and year.

“(2) SPECIFIED AMOUNT.—The amount specified in this paragraph for an area and year is the amount specified in subsection (c)(1)(D)(i) for the area and year adjusted (in a manner specified by the Secretary) to take into account the phase-out in the indirect costs of medical education from capitation rates described in subsection (k)(4).

“(3) FEE-FOR-SERVICE PAYMENT FLOOR.—In no case shall the blended benchmark amount for an area and year be less than the amount specified in paragraph (2).

“(4) EXCEPTION FOR PACE PLANS.—This subsection shall not apply to payments to a PACE program under section 1894.”.

(b) QUALITY BONUS PAYMENTS.—Section 1853 of the Social Security Act (42 U.S.C. 1395w-23), as amended by subsection (a), is amended—

(1) in subsection (j), by inserting “subject to subsection (o),” after “For purposes of this part.”; and

(2) by adding at the end the following new subsection:

“(o) QUALITY BASED PAYMENT ADJUSTMENT.—

“(1) IN GENERAL.—In the case of a qualifying plan in a qualifying county with respect to a year beginning with 2011, the blended benchmark amount under subsection (n)(1) shall be increased—

“(A) for 2011, by 1.5 percent;

“(B) for 2012, by 3.0 percent; and

“(C) for a subsequent year, by 5.0 percent.

“(2) QUALIFYING PLAN AND QUALIFYING COUNTY DEFINED.—For purposes of this subsection:

“(A) QUALIFYING PLAN.—The term ‘qualifying plan’ means, for a year and subject to paragraph (4), a plan that, in a preceding year specified by the Secretary, had a quality ranking (based on the quality ranking system established by the Centers for Medicare & Medicaid Services for Medicare Advantage plans) of 4 stars or higher.

“(B) QUALIFYING COUNTY.—The term ‘qualifying county’ means, for a year, a county—

“(i) that ranked within the lowest third of counties in the amount specified in subsection (n)(2) for a year specified by the Secretary; and

“(ii) for which, as of June of a year specified by the Secretary, of the Medicare Advantage eligible individuals residing in the county at least 20 percent of such individuals were enrolled in Medicare Advantage plans.

“(3) DETERMINATIONS OF QUALITY.—

“(A) QUALITY PERFORMANCE.—The Secretary shall provide for the computation of a quality performance score for each Medicare Advantage plan to be applied for each year.

“(B) COMPUTATION OF SCORE.—

“(i) QUALITY PERFORMANCE SCORE.—For years before a year specified by the Secretary, the quality performance score for a Medicare Advantage plan shall be computed based on a blend (as designated by the Secretary) of the plan’s performance on—



“(I) HEDIS effectiveness of care quality measures;

“(II) CAHPS quality measures; and

“(III) such other measures of clinical quality as the Secretary may specify.

Such measures shall be risk-adjusted as the Secretary deems appropriate.

“(ii) ESTABLISHMENT OF OUTCOME-BASED MEASURES.—By not later than for a year specified by the Secretary, the Secretary shall implement reporting requirements for quality under this section on measures selected under clause (iii) that reflect the outcomes of care experienced by individuals enrolled in Medicare Advantage plans (in addition to measures described in clause (i)). Such measures may include—

“(I) measures of rates of admission and readmission to a hospital;

“(II) measures of prevention quality, such as those established by the Agency for Healthcare Research and Quality (that include hospital admission rates for specified conditions);

“(III) measures of patient mortality and morbidity following surgery;

“(IV) measures of health functioning (such as limitations on activities of daily living) and survival for patients with chronic diseases;

“(V) measures of patient safety; and

“(VI) other measure of outcomes and patient quality of life as determined by the Secretary.

Such measures shall be risk-adjusted as the Secretary deems appropriate. In determining the quality measures to be used under this clause, the Secretary shall take into consideration the recommendations of the Medicare Payment Advisory Commission in its report to Congress under section 168 of the Medicare Improvements for Patients and Providers Act of 2008 (Public Law 110-275) and shall provide preference to measures collected on and comparable to measures used in measuring quality under parts A and B.

“(iii) RULES FOR SELECTION OF MEASURES.—The Secretary shall select measures for purposes of clause (ii) consistent with the following:

“(I) The Secretary shall provide preference to clinical quality measures that have been endorsed by the entity with a contract with the Secretary under section 1890(a).

“(II) Prior to any measure being selected under this clause, the Secretary shall publish in the Federal Register such measure and provide for a period of public comment on such measure.

“(iv) TRANSITIONAL USE OF BLEND.—For payments for years specified by the Secretary, the Secretary may compute the quality performance score for a Medicare Advantage plan based on a blend of the measures specified in clause (i) and the measures described in clause (ii) and selected under clause (iii).

“(v) USE OF QUALITY OUTCOMES MEASURES.—For payments beginning with a year specified by the Secretary (beginning after the years specified for section (iv)), the preponderance of measures used under this paragraph shall be quality outcomes measures described in clause (ii) and selected under clause (iii).

“(C) REPORTING OF DATA.—Each Medicare Advantage organization shall provide for the reporting to the Secretary of quality performance data described in this paragraph (in order to determine a quality performance score under this paragraph) in such time and manner as the Secretary shall specify.

“(4) NOTIFICATION.—The Secretary, in the annual announcement required under sub-

section (b)(1)(B) in 2010 and each succeeding year, shall notify the Medicare Advantage organization that is offering a qualifying plan in a qualifying county of such identification for the year. The Secretary shall provide for publication on the website for the Medicare program of the information described in the previous sentence.

“(5) AUTHORITY TO DISQUALIFY DEFICIENT PLANS.—The Secretary may determine that a Medicare Advantage plan is not a qualifying plan if the Secretary has identified deficiencies in the plan's compliance with rules for Medicare Advantage plans under this part.”.

#### SEC. 1162. AUTHORITY FOR SECRETARIAL CODING INTENSITY ADJUSTMENT AUTHORITY.

Section 1853(a)(1)(C)(ii) of the Social Security Act (42 U.S.C. 1395w-23(a)(1)(C)(ii)) is amended—

(1) in the matter before subclause (I), by striking “through 2010” and inserting “and each subsequent year”; and

(2) in subclause (II)—

(A) by inserting “periodically” before “conduct an analysis”; and

(B) by inserting “on a timely basis” after “are incorporated”; and

(C) by striking “only for 2008, 2009, and 2010” and inserting “for 2008 and subsequent years”.

#### SEC. 1163. SIMPLIFICATION OF ANNUAL BENEFICIARY ELECTION PERIODS.

(a) 2-WEEK PROCESSING PERIOD FOR ANNUAL ENROLLMENT PERIOD (AEP).—Paragraph (3)(B) of section 1851(e) of the Social Security Act (42 U.S.C. 1395w-21(e)) is amended—

(1) by striking “and” at the end of clause (iii);

(2) in clause (iv)—

(A) by striking “and succeeding years” and inserting “, 2008, 2009, and 2010”; and

(B) by striking the period at the end and inserting “; and”; and

(3) by adding at the end the following new clause:

“(v) with respect to 2011 and succeeding years, the period beginning on November 1 and ending on December 15 of the year before such year.”.

(b) ELIMINATION OF 3-MONTH ADDITIONAL OPEN ENROLLMENT PERIOD (OEP).—Effective for plan years beginning with 2011, paragraph (2) of such section is amended by striking subparagraph (C).

#### SEC. 1164. EXTENSION OF REASONABLE COST CONTRACTS.

Section 1876(h)(5)(C) of the Social Security Act (42 U.S.C. 1395mm(h)(5)(C)) is amended—

(1) in clause (ii), by striking “January 1, 2010” and inserting “January 1, 2012”; and

(2) in clause (iii), by striking “the service area for the year” and inserting “the portion of the plan's service area for the year that is within the service area of a reasonable cost reimbursement contract”.

#### SEC. 1165. LIMITATION OF WAIVER AUTHORITY FOR EMPLOYER GROUP PLANS.

(a) IN GENERAL.—The first sentence of each of paragraphs (1) and (2) of section 1857(i) of the Social Security Act (42 U.S.C. 1395w-27(i)) is amended by inserting before the period at the end the following: “, but only if 90 percent of the Medicare Advantage eligible individuals enrolled under such plan reside in a county in which the MA organization offers an MA local plan”.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply for plan years beginning on or after January 1, 2011, and shall not apply to plans which were in effect as of December 31, 2010.

#### SEC. 1166. IMPROVING RISK ADJUSTMENT FOR PAYMENTS.

(a) REPORT TO CONGRESS.—Not later than 1 year after the date of the enactment of this Act, the Secretary of Health and Human Services shall submit to Congress a report that evaluates the adequacy of the risk adjustment system under section 1853(a)(1)(C) of the Social Security Act (42 U.S.C. 1395-23(a)(1)(C)) in predicting costs for beneficiaries with chronic or co-morbid conditions, beneficiaries dually-eligible for Medicare and Medicaid, and non-Medicaid eligible low-income beneficiaries; and the need and feasibility of including further gradations of diseases or conditions and multiple years of beneficiary data.

(b) IMPROVEMENTS TO RISK ADJUSTMENT.—Not later than January 1, 2012, the Secretary shall implement necessary improvements to the risk adjustment system under section 1853(a)(1)(C) of the Social Security Act (42 U.S.C. 1395-23(a)(1)(C)), taking into account the evaluation under subsection (a).

#### SEC. 1167. ELIMINATION OF MA REGIONAL PLAN STABILIZATION FUND.

(a) IN GENERAL.—Section 1858 of the Social Security Act (42 U.S.C. 1395w-27a) is amended by striking subsection (e).

(b) TRANSITION.—Any amount contained in the MA Regional Plan Stabilization Fund as of the date of the enactment of this Act shall be transferred to the Federal Supplementary Medical Insurance Trust Fund.

#### SEC. 1168. STUDY REGARDING THE EFFECTS OF CALCULATING MEDICARE ADVANTAGE PAYMENT RATES ON A REGIONAL AVERAGE OF MEDICARE FEE FOR SERVICE RATES.

(a) IN GENERAL.—The Administrator of the Centers for Medicare and Medicaid Services shall conduct a study to determine the potential effects of calculating Medicare Advantage payment rates on a more aggregated geographic basis (such as metropolitan statistical areas or other regional delineations) rather than using county boundaries. In conducting such study, the Administrator shall consider the effect of such alternative geographic basis on the following:

(1) The quality of care received by Medicare Advantage enrollees.

(2) The networks of Medicare Advantage plans, including any implications for providers contracting with Medicare Advantage plans.

(3) The predictability of benchmark amounts for Medicare advantage plans.

(b) CONSULTATIONS.—In conducting the study, the Administrator shall consult with the following:

(1) Experts in health care financing.

(2) Representatives of foundations and other nonprofit entities that have conducted or supported research on Medicare financing issues.

(3) Representatives from Medicare Advantage plans.

(4) Such other entities or people as determined by the Secretary.

(c) REPORT.—Not later than one year after the date of the enactment of this Act, the Administrator shall transmit a report to the Congress on the study conducted under this section. The report shall contain a detailed statement of findings and conclusions of the study, together with its recommendations for such legislation and administrative actions as the Administrator considers appropriate.

## PART 2—BENEFICIARY PROTECTIONS AND ANTI-FRAUD

### SEC. 1171. LIMITATION ON COST-SHARING FOR INDIVIDUAL HEALTH SERVICES.

(a) IN GENERAL.—Section 1852(a)(1) of the Social Security Act (42 U.S.C. 1395w-22(a)(1)) is amended—

(1) in subparagraph (A), by inserting before the period at the end the following: “with cost-sharing that is no greater (and may be less) than the cost-sharing that would otherwise be imposed under such program option”;

(2) in subparagraph (B)(i), by striking “or an actuarially equivalent level of cost-sharing as determined in this part”; and

(3) by amending clause (ii) of subparagraph (B) to read as follows:

“(ii) PERMITTING USE OF FLAT COPAYMENT OR PER DIEM RATE.—Nothing in clause (i) shall be construed as prohibiting a Medicare Advantage plan from using a flat copayment or per diem rate, in lieu of the cost-sharing that would be imposed under part A or B, so long as the amount of the cost-sharing imposed does not exceed the amount of the cost-sharing that would be imposed under the respective part if the individual were not enrolled in a plan under this part.”.

(b) LIMITATION FOR DUAL ELIGIBLES AND QUALIFIED MEDICARE BENEFICIARIES.—Section 1852(a)(7) of such Act is amended to read as follows:

“(7) LIMITATION ON COST-SHARING FOR DUAL ELIGIBLES AND QUALIFIED MEDICARE BENEFICIARIES.—In the case of a individual who is a full-benefit dual eligible individual (as defined in section 1935(c)(6)) or a qualified medicare beneficiary (as defined in section 1905(p)(1)) who is enrolled in a Medicare Advantage plan, the plan may not impose cost-sharing that exceeds the amount of cost-sharing that would be permitted with respect to the individual under this title and title XIX if the individual were not enrolled with such plan.”.

(c) EFFECTIVE DATES.—

(1) The amendments made by subsection (a) shall apply to plan years beginning on or after January 1, 2011.

(2) The amendments made by subsection (b) shall apply to plan years beginning on or after January 1, 2011.

### SEC. 1172. CONTINUOUS OPEN ENROLLMENT FOR ENROLLEES IN PLANS WITH ENROLLMENT SUSPENSION.

Section 1851(e)(4) of the Social Security Act (42 U.S.C. 1395w(e)(4)) is amended—

(1) in subparagraph (C), by striking at the end “or”;

(2) in subparagraph (D)—

(A) by inserting “, taking into account the health or well-being of the individual” before the period; and

(B) by redesignating such subparagraph as subparagraph (E); and

(3) by inserting after subparagraph (C) the following new subparagraph:

“(D) the individual is enrolled in an MA plan and enrollment in the plan is suspended under paragraph (2)(B) or (3)(C) of section 1857(g) because of a failure of the plan to meet applicable requirements; or”.

### SEC. 1173. INFORMATION FOR BENEFICIARIES ON MA PLAN ADMINISTRATIVE COSTS.

(a) DISCLOSURE OF MEDICAL LOSS RATIOS AND OTHER EXPENSE DATA.—Section 1851 of the Social Security Act (42 U.S.C. 1395w-21), as previously amended by this subtitle, is amended by adding at the end the following new subsection:

“(p) PUBLICATION OF MEDICAL LOSS RATIOS AND OTHER COST-RELATED INFORMATION.—

“(1) IN GENERAL.—The Secretary shall publish, not later than November 1 of each year

(beginning with 2011), for each MA plan contract, the medical loss ratio of the plan in the previous year.

“(2) SUBMISSION OF DATA.—

“(A) IN GENERAL.—Each MA organization shall submit to the Secretary, in a form and manner specified by the Secretary, data necessary for the Secretary to publish the medical loss ratio on a timely basis.

“(B) DATA FOR 2010 AND 2011.—The data submitted under subparagraph (A) for 2010 and for 2011 shall be consistent in content with the data reported as part of the MA plan bid in June 2009 for 2010.

“(C) USE OF STANDARDIZED ELEMENTS AND DEFINITIONS.—The data to be submitted under subparagraph (A) relating to medical loss ratio for a year, beginning with 2012, shall be submitted based on the standardized elements and definitions developed under paragraph (3).

“(3) DEVELOPMENT OF DATA REPORTING STANDARDS.—

“(A) IN GENERAL.—The Secretary shall develop and implement standardized data elements and definitions for reporting under this subsection, for contract years beginning with 2012, of data necessary for the calculation of the medical loss ratio for MA plans. Not later than December 31, 2010, the Secretary shall publish a report describing the elements and definitions so developed.

“(B) CONSULTATION.—The Secretary shall consult with the Health Choices Commissioner, representatives of MA organizations, experts on health plan accounting systems, and representatives of the National Association of Insurance Commissioners, in the development of such data elements and definitions.

“(4) MEDICAL LOSS RATIO TO BE DEFINED.—For purposes of this part, the term ‘medical loss ratio’ has the meaning given such term by the Secretary, taking into account the meaning given such term by the Health Choices Commissioner under section 116 of the Affordable Health Care for America Act.”.

(b) MINIMUM MEDICAL LOSS RATIO.—Section 1857(e) of the Social Security Act (42 U.S.C. 1395w-27(e)) is amended by adding at the end the following new paragraph:

“(4) REQUIREMENT FOR MINIMUM MEDICAL LOSS RATIO.—If the Secretary determines for a contract year (beginning with 2014) that an MA plan has failed to have a medical loss ratio (as defined in section 1851(p)(4)) of at least .85—

(A) the Secretary shall require the Medicare Advantage organization offering the plan to give enrollees a rebate (in the second succeeding contract year) of premiums under this part (or part B or part D, if applicable) by such amount as would provide for a benefits ratio of at least .85;

(B) for 3 consecutive contract years, the Secretary shall not permit the enrollment of new enrollees under the plan for coverage during the second succeeding contract year; and

(C) the Secretary shall terminate the plan contract if the plan fails to have such a medical loss ratio for 5 consecutive contract years.”.

### SEC. 1174. STRENGTHENING AUDIT AUTHORITY.

(a) FOR PART C PAYMENTS RISK ADJUSTMENT.—Section 1857(d)(1) of the Social Security Act (42 U.S.C. 1395w-27(d)(1)) is amended by inserting after “section 1858(c)” the following: “, and data submitted with respect to risk adjustment under section 1853(a)(3)”.

(b) ENFORCEMENT OF AUDITS AND DEFICIENCIES.—

(1) IN GENERAL.—Section 1857(e) of such Act, as amended by section 1173, is amended

by adding at the end the following new paragraph:

“(5) ENFORCEMENT OF AUDITS AND DEFICIENCIES.—

“(A) INFORMATION IN CONTRACT.—The Secretary shall require that each contract with an MA organization under this section shall include terms that inform the organization of the provisions in subsection (d).

“(B) ENFORCEMENT AUTHORITY.—The Secretary is authorized, in connection with conducting audits and other activities under subsection (d), to take such actions, including pursuit of financial recoveries, necessary to address deficiencies identified in such audits or other activities.”.

(2) APPLICATION UNDER PART D.—For provision applying the amendment made by paragraph (1) to prescription drug plans under part D, see section 1860D-12(b)(3)(D) of the Social Security Act.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act and shall apply to audits and activities conducted for contract years beginning on or after January 1, 2011.

### SEC. 1175. AUTHORITY TO DENY PLAN BIDS.

(a) IN GENERAL.—Section 1854(a)(5) of the Social Security Act (42 U.S.C. 1395w-24(a)(5)) is amended by adding at the end the following new subparagraph:

“(C) REJECTION OF BIDS.—Nothing in this section shall be construed as requiring the Secretary to accept any or every bid by an MA organization under this subsection.”.

(b) APPLICATION UNDER PART D.—Section 1860D-11(d) of such Act (42 U.S.C. 1395w-11(d)) is amended by adding at the end the following new paragraph:

“(3) REJECTION OF BIDS.—Paragraph (5)(C) of section 1854(a) shall apply with respect to bids under this section in the same manner as it applies to bids by an MA organization under such section.”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to bids for contract years beginning on or after January 1, 2011.

### SEC. 1175A. STATE AUTHORITY TO ENFORCE STANDARDIZED MARKETING REQUIREMENTS.

Section 1856(b)(3) of the Social Security Act (42 U.S.C. 1395w-26(b)(3)) is amended—

(1) by striking “The standards” and inserting “(A) IN GENERAL.—The standards” with appropriate indentation that is the same as for the subparagraph (B) added by paragraph (2); and

(2) by adding at the end the following new subparagraph:

“(B) ENFORCEMENT OF FEDERAL STANDARDS PERMITTED.—

“(i) IN GENERAL.—Subject to the subsequent provision of this subparagraph, nothing in this title shall be construed to prohibit a State from conducting a market conduct examination or from imposing civil monetary penalties, in accordance with laws and procedures of the State, against Medicare Advantage organizations, PDP sponsors, or agents or brokers of such organizations or sponsors for violations of the marketing requirements under subsections (h)(4), (h)(6), and (j) of section 1851 and section 1857(g)(1)(E).

“(ii) ADDITIONAL REMEDIES RESULTING FROM FEDERAL-STATE COOPERATION.—

“(I) STATE RECOMMENDATION.—A State may recommend to the Secretary the imposition of an intermediate sanction not described in clause (i) (such as those available under section 1857(g)) against a Medicare Advantage organization, PDP sponsor, or agent or

broker of such an organization or sponsor for a violation described in such clause.

“(II) RESPONSE TO RECOMMENDATION.—Not later than 30 days after receipt of a recommendation under subclause (I) from a State, with respect to a violation described in clause (i), the Secretary shall respond in writing to the State indicating the progress of any investigation involving such violation, whether the Secretary intends to pursue the recommendation from the State, and in the case the Secretary does not intend to pursue such recommendation, the reason for such decision.

“(iii) NON-DUPLICATION OF PENALTIES.—In the case that an action has been initiated against a Medicare Advantage organization, PDP sponsor, or agent or broker of such an organization or sponsor for a violation of a marketing requirement under subsection (h)(4), (h)(6), or (j) of section 1851 or section 1857(g)(1)(E)—

“(I) in the case such action has been initiated by the Secretary, no State may bring an action under such applicable subsection or section against such organization, sponsor, agent, or broker with respect to such violation during the pendency period of the action initiated by the Secretary and, if a penalty is imposed pursuant to such action, after such period; and

“(II) in the case such action has been initiated by a State, the Secretary may not bring an action under such applicable subsection or section against such organization, sponsor, agent, or broker with respect to such violation during the pendency period of the action initiated by the Secretary and, if a penalty is imposed pursuant to such action, after such period.

Nothing in this clause shall be construed as limiting the ability of the Secretary to impose any sanction other than a civil monetary penalty under section 1857 against a Medicare Advantage organization, PDP sponsor, or agent or broker of such an organization or sponsor for a violation described in clause (i).

“(iv) CONSTRUCTION.—Nothing in this subparagraph shall be construed as affecting any State authority to regulate brokers described in this paragraph or any other conduct of a Medicare Advantage organization or PDP sponsor.”.

### PART 3—TREATMENT OF SPECIAL NEEDS PLANS

#### SEC. 1176. LIMITATION ON ENROLLMENT OUTSIDE OPEN ENROLLMENT PERIOD OF INDIVIDUALS INTO CHRONIC CARE SPECIALIZED MA PLANS FOR SPECIAL NEEDS INDIVIDUALS.

Section 1859(f)(4) of the Social Security Act (42 U.S.C. 1395w–28(f)(4)) is amended by adding at the end the following new subparagraph:

“(C) The plan does not enroll an individual on or after January 1, 2011, other than—

“(i) during an annual, coordinated open enrollment period; or

“(ii) during a special election period consisting of the period for which the individual has a chronic condition that qualifies the individual as an individual described in subsection (b)(6)(B)(iii) for such plan and ending on the date on which the individual enrolls in such a plan on the basis of such condition.

If an individual is enrolled in such a plan on the basis of a chronic condition and becomes eligible for another such plan on the basis of another chronic condition, the other plan may enroll the individual on the basis of such other chronic condition during a special enrollment period described in clause (ii). An individual is eligible to apply such clause

only once on the basis of any specific chronic condition.”.

#### SEC. 1177. EXTENSION OF AUTHORITY OF SPECIAL NEEDS PLANS TO RESTRICT ENROLLMENT; SERVICE AREA MORATORIUM FOR CERTAIN SNPs.

(a) IN GENERAL.—Section 1859(f)(1) of the Social Security Act (42 U.S.C. 1395w–28(f)(1)) is amended by striking “January 1, 2011” and inserting “January 1, 2013 (or January 1, 2016, in the case of a plan described in section 1177(b)(1) of the Affordable Health Care for America Act)”.

(b) EXTENSION OF CERTAIN PLANS.—

(1) PLANS DESCRIBED.—For purposes of Section 1859(f)(1) of the Social Security Act (42 U.S.C. 1395w–28(f)(1)), a plan described in this paragraph is a Medicare Advantage dual eligible special needs plan that—

(A) whose sponsoring Medicare Advantage organization, as of the date enactment of the Affordable Health Care for America Act, has a contract with a State Medicaid Agency that participated in the “Demonstrations Serving Those Dually-Eligible for Medicare and Medicaid” under the Medicare program; and

(B) that has been approved by the Centers for Medicare & Medicaid Services as a dual eligible special needs plan and that offers integrated Medicare and Medicaid services under a contract with the State Medicaid agency.

(2) ANALYSIS; REPORT.—

(A) ANALYSIS.—The Secretary of Health and Human Services shall provide, through a contract with an independent health services evaluation organization, for an analysis of the plans described in paragraph (1) with regard to the impact of such plans on cost, quality of care, patient satisfaction, and other subjects specified by the Secretary. Such report also will identify statutory changes needed to simplify access to needed services, improve coordination of benefits and services and ensure protection for dual eligibles as appropriate.

(B) REPORT.—Not later than December 31, 2011, the Secretary shall submit to the Congress a report on the analysis under subparagraph (A) and shall include in such report such recommendations with regard to the treatment of such plans as the Secretary deems appropriate.

(c) EXTENSION OF SERVICE AREA MORATORIUM FOR CERTAIN SNPs.—Section 164(c)(2) of the Medicare Improvements for Patients and Providers Act of 2008 is amended by striking “December 31, 2010” and inserting “December 31, 2012”.

#### SEC. 1178. EXTENSION OF MEDICARE SENIOR HOUSING PLANS.

Section 1859 of the Social Security Act (42 U.S.C. 1395w–28) is amended by adding at the end the following new subsection:

“(g) SPECIAL RULES FOR SENIOR HOUSING FACILITY PLANS.—

“(1) IN GENERAL.—Notwithstanding any other provision of this part, in the case of a Medicare Advantage senior housing facility plan described in paragraph (2) and for periods before January 1, 2013—

“(A) the service area of such plan may be limited to a senior housing facility in a geographic area;

“(B) the service area of such plan may not be expanded; and

“(C) additional senior housing facilities may not be serviced by such plan.

“(2) MEDICARE ADVANTAGE SENIOR HOUSING FACILITY PLAN DESCRIBED.—For purposes of this subsection, a Medicare Advantage senior housing facility plan is a Medicare Advantage plan that—

“(A)(i) restricts enrollment of individuals under this part to individuals who reside in a continuing care retirement community (as defined in section 1852(1)(4)(B));

“(ii) provides primary care services onsite and has a ratio of accessible providers to beneficiaries that the Secretary determines is adequate, taking into consideration the number of residents onsite, the health needs of those residents, and the accessibility of providers offsite; and

“(iii) provides transportation services for beneficiaries to providers outside of the facility; and

“(B) is offered by a Medicare Advantage organization that has offered at least 1 plan described in subparagraph (A) for at least 1 year prior to January 1, 2010, under a demonstration project established by the Secretary.”.

### Subtitle E—Improvements to Medicare Part D

#### SEC. 1181. ELIMINATION OF COVERAGE GAP.

(a) IMMEDIATE REDUCTION IN COVERAGE GAP IN 2010.—Section 1860D–2(b) of the Social Security Act (42 U.S.C. 1395w–102(b)) is amended—

(1) in paragraph (3)(A), by striking “paragraph (4)” and inserting “paragraphs (4) and (7)”; and

(2) by adding at the end the following new paragraph:

“(7) INCREASE IN INITIAL COVERAGE LIMIT IN 2010.—

“(A) IN GENERAL.—For plan years beginning during 2010, the initial coverage limit described in paragraph (3)(B) otherwise applicable shall be increased by \$500.

“(B) APPLICATION.—In applying subparagraph (A)—

“(i) except as otherwise provided in this subparagraph, there shall be no change in the premiums, bids, or any other parameters under this part or part C;

“(ii) costs that would be treated as incurred costs for purposes of applying paragraph (4) but for the application of subparagraph (A) shall continue to be treated as incurred costs;

“(iii) the Secretary shall establish procedures, which may include a reconciliation process, to fully reimburse PDP sponsors with respect to prescription drug plans and MA organizations with respect to MA–PD plans for the reduction in beneficiary cost sharing associated with the application of subparagraph (A);

“(iv) the Secretary shall develop an estimate of the additional increased costs attributable to the application of this paragraph for increased drug utilization and financing and administrative costs and shall use such estimate to adjust payments to PDP sponsors with respect to prescription drug plans under this part and MA organizations with respect to MA–PD plans under part C; and

“(v) the Secretary shall establish procedures for retroactive reimbursement of part D eligible individuals who are covered under such a plan for costs which are incurred before the date of initial implementation of subparagraph (A) and which would be reimbursed under such a plan if such implementation occurred as of January 1, 2010.”.

(b) ADDITIONAL CLOSURE IN GAP BEGINNING IN 2011.—Section 1860D–2(b) of such Act (42 U.S.C. 1395w–102(b)) as amended by subsection (a), is further amended—

(1) in paragraph (3)(A), by striking “and (7)” and inserting “(7), and (8)”; and

(2) in paragraph (4)(B)(i), by inserting “subject to paragraph (8)” after “purposes of this part”; and

(3) by adding at the end the following new paragraph:

“(8) PHASED-IN ELIMINATION OF COVERAGE GAP.—

“(A) IN GENERAL.—For each year beginning with 2011, the Secretary shall consistent with this paragraph progressively increase the initial coverage limit (described in subsection (b)(3)) and decrease the annual out-of-pocket threshold from the amounts otherwise computed until, beginning in 2019, there is a continuation of coverage from the initial coverage limit for expenditures incurred through the total amount of expenditures at which benefits are available under paragraph (4).

“(B) INCREASE IN INITIAL COVERAGE LIMIT.—

“(i) IN GENERAL.—For a year beginning with 2011, subject to clause (ii), the initial coverage limit otherwise computed without regard to this paragraph shall be increased by the cumulative ICL phase-in percentage (as defined in clause (iii) for the year) times the out-of-pocket gap amount (as defined in subparagraph (D)) for the year.

“(ii) MAINTENANCE OF 2010 INITIAL COVERAGE LIMIT LEVEL.—If for a year the initial coverage limit otherwise computed under this paragraph would be less than the initial coverage limit applied during 2010, taking into account paragraph (7), the initial coverage limit for that year shall be such initial coverage limit as so applied during 2010.

“(iii) CUMULATIVE PHASE-IN PERCENTAGE.—

“(I) IN GENERAL.—For purposes of this paragraph, subject to subclause (II), the term ‘cumulative ICL phase-in percentage’ means for a year the sum of the annual ICL phase-in percentage (as defined in clause (iv)) for the year and the annual ICL phase-in percentages for each previous year beginning with 2011.

“(II) LIMITATION.—If the sum of the cumulative ICL phase-in percentage and the cumulative OPT phase-in percentage (as defined in subparagraph (C)(iii)) for a year would otherwise exceed 100 percent, each such percentage shall be reduced in a proportional amount so the sum does not exceed 100 percent.

“(iv) ANNUAL ICL PHASE-IN PERCENTAGE.—For purposes of this paragraph, the term ‘annual ICL phase-in percentage’ means—

“(I) for 2011, 8.25 percent;

“(II) for 2012, 2013, and 2014, 4.5 percent;

“(III) for 2015 and 2016, 6 percent;

“(IV) for 2017, 7.5 percent;

“(V) for 2018, 8 percent; and

“(VI) for 2019, 8 percent, or such other percent as may be necessary to provide for a full continuation of coverage as described in subparagraph (A) in that year.

“(C) DECREASE IN ANNUAL OUT-OF-POCKET THRESHOLD.—

“(i) IN GENERAL.—For a year beginning with 2011, subject to clause (ii), the annual out-of-pocket threshold otherwise computed without regard to this paragraph shall be decreased by the cumulative OPT phase-in percentage (as defined in clause (iii) for the year) of the out-of-pocket gap amount for the year multiplied by 1.75.

“(ii) MAINTENANCE.—The Secretary shall adjust the annual out-of-pocket threshold for a year to the extent necessary to ensure that the sum of the initial coverage limit described in subparagraph (A) and the out-of-pocket gap amount (defined in subparagraph (D)), as determined for the year pursuant to the provisions of this paragraph for such year, does not exceed such sum that would have applied if this paragraph did not apply.

“(iii) CUMULATIVE OPT PHASE-IN PERCENTAGE.—For purposes of this paragraph, subject

to subparagraph (B)(iii)(II), the term ‘cumulative OPT phase-in percentage’ means for a year the sum of the annual OPT phase-in percentage (as defined in clause (iv)) for the year and the annual OPT phase-in percentages for each previous year beginning with 2011.

“(iv) ANNUAL OPT PHASE-IN PERCENTAGE.—For purposes of this paragraph, the term ‘annual OPT phase-in percentage’ means—

“(I) for 2011, 0 percent;

“(II) for 2012, 2013, and 2014, 4.5 percent;

“(III) for 2015 and 2016, 6 percent;

“(IV) for 2017, 7.5 percent; and

“(V) for 2018 and 2019, 8 percent.

“(D) OUT-OF-POCKET GAP AMOUNT.—For purposes of this paragraph, the term ‘out-of-pocket gap amount’ means for a year the amount by which—

“(i) the annual out-of-pocket threshold specified in paragraph (4)(B) for the year (as determined as if this paragraph did not apply), exceeds

“(ii) the sum of—

“(I) the annual deductible under paragraph (1) for the year; and

“(II)  $\frac{1}{4}$  of the amount by which the initial coverage limit under paragraph (3) for the year (as determined as if this paragraph did not apply) exceeds such annual deductible.

“(E) RELATION TO AAHCA TRANSITIONAL INCREASE.—Except as otherwise specifically provided, this paragraph shall be applied as if no increase had been made in the initial coverage limit under paragraph (7).”

(c) REQUIRING DRUG MANUFACTURERS TO PROVIDE DRUG REBATES FOR REBATE ELIGIBLE INDIVIDUALS.—

(1) IN GENERAL.—Section 1860D-2 of the Social Security Act (42 U.S.C. 1395w-102) is amended—

(A) in subsection (e)(1), in the matter before subparagraph (A), by inserting “and subsection (f)” after “this subsection”; and

(B) by adding at the end the following new subsection:

“(f) PRESCRIPTION DRUG REBATE AGREEMENT FOR REBATE ELIGIBLE INDIVIDUALS.—

“(1) REQUIREMENT.—

“(A) IN GENERAL.—For plan years beginning on or after January 1, 2011, in this part, the term ‘covered part D drug’ does not include any drug or biological product that is manufactured by a manufacturer that has not entered into and have in effect a rebate agreement described in paragraph (2).

“(B) 2010 PLAN YEAR REQUIREMENT.—Any drug or biological product manufactured by a manufacturer that declines to enter into a rebate agreement described in paragraph (2) for the period beginning on January 1, 2010, and ending on December 31, 2010, shall not be included as a ‘covered part D drug’ for the subsequent plan year.

“(2) REBATE AGREEMENT.—A rebate agreement under this subsection shall require the manufacturer to provide to the Secretary a rebate for each rebate period (as defined in paragraph (6)(B)) ending after December 31, 2009, in the amount specified in paragraph (3) for any covered part D drug of the manufacturer dispensed after December 31, 2009, to any rebate eligible individual (as defined in paragraph (6)(A)) for which payment was made by a PDP sponsor under part D or a MA organization under part C for such period, including payments passed through the low-income and reinsurance subsidies under sections 1860D-14 and 1860D-15(b), respectively. Such rebate shall be paid by the manufacturer to the Secretary not later than 30 days after the date of receipt of the information described in section 1860D-12(b)(7), including as such section is applied under sec-

tion 1857(f)(3), or 30 days after the receipt of information under subparagraph (D) of paragraph (3), as determined by the Secretary. Insofar as not inconsistent with this subsection, the Secretary shall establish terms and conditions of such agreement relating to compliance, penalties, and program evaluations, investigations, and audits that are similar to the terms and conditions for rebate agreements under paragraphs (3) and (4) of section 1927(b).

“(3) REBATE FOR REBATE ELIGIBLE MEDICARE DRUG PLAN ENROLLEES.—

“(A) IN GENERAL.—The amount of the rebate specified under this paragraph for a manufacturer for a rebate period, with respect to each dosage form and strength of any covered part D drug provided by such manufacturer and dispensed to a rebate eligible individual, shall be equal to the product of—

“(i) the total number of units of such dosage form and strength of the drug so provided and dispensed for which payment was made by a PDP sponsor under part D or a MA organization under part C for the rebate period, including payments passed through the low-income and reinsurance subsidies under sections 1860D-14 and 1860D-15(b), respectively; and

“(ii) the amount (if any) by which—

“(I) the Medicaid rebate amount (as defined in subparagraph (B)) for such form, strength, and period, exceeds

“(II) the average Medicare drug program rebate eligible rebate amount (as defined in subparagraph (C)) for such form, strength, and period.

“(B) MEDICAID REBATE AMOUNT.—For purposes of this paragraph, the term ‘Medicaid rebate amount’ means, with respect to each dosage form and strength of a covered part D drug provided by the manufacturer for a rebate period—

“(i) in the case of a single source drug or an innovator multiple source drug, the amount specified in paragraph (1)(A)(ii) of section 1927(c) plus the amount, if any, specified in paragraph (2)(A)(ii) of such section, for such form, strength, and period; or

“(ii) in the case of any other covered outpatient drug, the amount specified in paragraph (3)(A)(i) of such section for such form, strength, and period.

“(C) AVERAGE MEDICARE DRUG PROGRAM REBATE ELIGIBLE REBATE AMOUNT.—For purposes of this subsection, the term ‘average Medicare drug program rebate eligible rebate amount’ means, with respect to each dosage form and strength of a covered part D drug provided by a manufacturer for a rebate period, the sum, for all PDP sponsors under part D and MA organizations administering a MA-PD plan under part C, of—

“(i) the product, for each such sponsor or organization, of—

“(I) the sum of all rebates, discounts, or other price concessions (not taking into account any rebate provided under paragraph (2) for such dosage form and strength of the drug dispensed, calculated on a per-unit basis, but only to the extent that any such rebate, discount, or other price concession applies equally to drugs dispensed to rebate eligible Medicare drug plan enrollees and drugs dispensed to PDP and MA-PD enrollees who are not rebate eligible individuals; and

“(II) the number of the units of such dosage and strength of the drug dispensed during the rebate period to rebate eligible individuals enrolled in the prescription drug plans administered by the PDP sponsor or the MA-PD plans administered by the MA organization; divided by

“(ii) the total number of units of such dosage and strength of the drug dispensed during the rebate period to rebate eligible individuals enrolled in all prescription drug plans administered by PDP sponsors and all MA-PD plans administered by MA organizations.

“(D) USE OF ESTIMATES.—The Secretary may establish a methodology for estimating the average Medicare drug program rebate eligible rebate amounts for each rebate period based on bid and utilization information under this part and may use these estimates as the basis for determining the rebates under this section. If the Secretary elects to estimate the average Medicare drug program rebate eligible rebate amounts, the Secretary shall establish a reconciliation process for adjusting manufacturer rebate payments not later than 3 months after the date that manufacturers receive the information collected under section 1860D-12(b)(7)(B).

“(4) LENGTH OF AGREEMENT.—The provisions of paragraph (4) of section 1927(b) (other than clauses (iv) and (v) of subparagraph (B)) shall apply to rebate agreements under this subsection in the same manner as such paragraph applies to a rebate agreement under such section.

“(5) OTHER TERMS AND CONDITIONS.—The Secretary shall establish other terms and conditions of the rebate agreement under this subsection, including terms and conditions related to compliance, that are consistent with this subsection.

“(6) DEFINITIONS.—In this subsection and section 1860D-12(b)(7):

“(A) REBATE ELIGIBLE INDIVIDUAL.—The term ‘rebate eligible individual’—

“(i) means a full-benefit dual eligible individual (as defined in section 1935(c)(6)); and

“(ii) includes, for drugs dispensed after December 31, 2014, a subsidy eligible individual (as defined in section 1860D-14(a)(3)(A)).

“(B) REBATE PERIOD.—The term ‘rebate period’ has the meaning given such term in section 1927(k)(8).

“(7) WAIVER.—Chapter 35 of title 44, United States Code, shall not apply to the requirements under this subsection for the period beginning on January 1, 2010, and ending on December 31, 2010.”.

(2) REPORTING REQUIREMENT FOR THE DETERMINATION AND PAYMENT OF REBATES BY MANUFACTURERS RELATED TO REBATE FOR REBATE ELIGIBLE MEDICARE DRUG PLAN ENROLLEES.—

(A) REQUIREMENTS FOR PDP SPONSORS.—Section 1860D-12(b) of the Social Security Act (42 U.S.C. 1395w-112(b)) is amended by adding at the end the following new paragraph:

“(7) REPORTING REQUIREMENT FOR THE DETERMINATION AND PAYMENT OF REBATES BY MANUFACTURERS RELATED TO REBATE FOR REBATE ELIGIBLE MEDICARE DRUG PLAN ENROLLEES.—

“(A) IN GENERAL.—For purposes of the rebate under section 1860D-2(f) for contract years beginning on or after January 1, 2011, each contract entered into with a PDP sponsor under this part with respect to a prescription drug plan shall require that the sponsor comply with subparagraphs (B) and (C).

“(B) REPORT FORM AND CONTENTS.—Not later than a date specified by the Secretary, a PDP sponsor of a prescription drug plan under this part shall report to each manufacturer—

“(i) information (by National Drug Code number) on the total number of units of each dosage, form, and strength of each drug of such manufacturer dispensed to rebate eligible Medicare drug plan enrollees under any

prescription drug plan operated by the PDP sponsor during the rebate period;

“(ii) information on the price discounts, price concessions, and rebates for such drugs for such form, strength, and period;

“(iii) information on the extent to which such price discounts, price concessions, and rebates apply equally to rebate eligible Medicare drug plan enrollees and PDP enrollees who are not rebate eligible Medicare drug plan enrollees; and

“(iv) any additional information that the Secretary determines is necessary to enable the Secretary to calculate the average Medicare drug program rebate eligible rebate amount (as defined in paragraph (3)(C) of such section), and to determine the amount of the rebate required under this section, for such form, strength, and period.

Such report shall be in a form consistent with a standard reporting format established by the Secretary.

“(C) SUBMISSION TO SECRETARY.—Each PDP sponsor shall promptly transmit a copy of the information reported under subparagraph (B) to the Secretary for the purpose of audit oversight and evaluation.

“(D) CONFIDENTIALITY OF INFORMATION.—The provisions of subparagraph (D) of section 1927(b)(3), relating to confidentiality of information, shall apply to information reported by PDP sponsors under this paragraph in the same manner that such provisions apply to information disclosed by manufacturers or wholesalers under such section, except—

“(i) that any reference to ‘this section’ in clause (i) of such subparagraph shall be treated as being a reference to this section;

“(ii) the reference to the Director of the Congressional Budget Office in clause (iii) of such subparagraph shall be treated as including a reference to the Medicare Payment Advisory Commission; and

“(iii) clause (iv) of such subparagraph shall not apply.

“(E) OVERSIGHT.—Information reported under this paragraph may be used by the Inspector General of the Department of Health and Human Services for the statutorily authorized purposes of audit, investigation, and evaluations.

“(F) PENALTIES FOR FAILURE TO PROVIDE TIMELY INFORMATION AND PROVISION OF FALSE INFORMATION.—In the case of a PDP sponsor—

“(i) that fails to provide information required under subparagraph (B) on a timely basis, the sponsor is subject to a civil money penalty in the amount of \$10,000 for each day in which such information has not been provided; or

“(ii) that knowingly (as defined in section 1128A(i)) provides false information under such subparagraph, the sponsor is subject to a civil money penalty in an amount not to exceed \$100,000 for each item of false information.

Such civil money penalties are in addition to other penalties as may be prescribed by law. The provisions of section 1128A (other than subsections (a) and (b)) shall apply to a civil money penalty under this subparagraph in the same manner as such provisions apply to a penalty or proceeding under section 1128A(a).”.

(B) APPLICATION TO MA ORGANIZATIONS.—Section 1857(f)(3) of the Social Security Act (42 U.S.C. 1395w-27(f)(3)) is amended by adding at the end the following:

“(D) REPORTING REQUIREMENT RELATED TO REBATE FOR REBATE ELIGIBLE MEDICARE DRUG PLAN ENROLLEES.—Section 1860D-12(b)(7).”.

(3) DEPOSIT OF REBATES INTO MEDICARE PRESCRIPTION DRUG ACCOUNT.—Section 1860D-

16(c) of such Act (42 U.S.C. 1395w-116(c)) is amended by adding at the end the following new paragraph:

“(6) REBATE FOR REBATE ELIGIBLE MEDICARE DRUG PLAN ENROLLEES.—Amounts paid under a rebate agreement under section 1860D-2(f) shall be deposited into the Account and shall be used to pay for all or part of the gradual elimination of the coverage gap under section 1860D-2(b)(7).”.

#### SEC. 1182. DISCOUNTS FOR CERTAIN PART D DRUGS IN ORIGINAL COVERAGE GAP.

Section 1860D-2 of the Social Security Act (42 U.S.C. 1395w-102), as amended by section 1181, is amended—

(1) in subsection (b)(4)(C)(ii), by inserting “subject to subsection (g)(2)(C),” after “(ii);”

(2) in subsection (e)(1), in the matter before subparagraph (A), by striking “subsection (f)” and inserting “subsections (f) and (g)” after “this subsection”; and

(3) by adding at the end the following new subsection:

“(g) REQUIREMENT FOR MANUFACTURER DISCOUNT AGREEMENT FOR CERTAIN QUALIFYING DRUGS.—

“(1) IN GENERAL.—In this part, the term ‘covered part D drug’ does not include any drug or biological product that is manufactured by a manufacturer that has not entered into and have in effect for all qualifying drugs (as defined in paragraph (5)(A)) a discount agreement described in paragraph (2).

“(2) DISCOUNT AGREEMENT.—

“(A) PERIODIC DISCOUNTS.—A discount agreement under this paragraph shall require the manufacturer involved to provide, to each PDP sponsor with respect to a prescription drug plan or each MA organization with respect to each MA-PD plan, a discount in an amount specified in paragraph (3) for qualifying drugs (as defined in paragraph (5)(A)) of the manufacturer dispensed to a qualifying enrollee after January 1, 2010, insofar as the individual is in the original gap in coverage (as defined in paragraph (5)(E)).

“(B) DISCOUNT AGREEMENT.—Insofar as not inconsistent with this subsection, the Secretary shall establish terms and conditions of such agreement, including terms and conditions relating to compliance, similar to the terms and conditions for rebate agreements under paragraphs (2), (3), and (4) of section 1927(b), except that—

“(i) discounts shall be applied under this subsection to prescription drug plans and MA-PD plans instead of State plans under title XIX;

“(ii) PDP sponsors and MA organizations shall be responsible, instead of States, for provision of necessary utilization information to drug manufacturers; and

“(iii) sponsors and MA organizations shall be responsible for reporting information on drug-component negotiated price.

“(C) COUNTING DISCOUNT TOWARD TRUE OUT-OF-POCKET COSTS.—Under the discount agreement, in applying subsection (b)(4), with regard to subparagraph (C)(i) of such subsection, if a qualified enrollee purchases the qualified drug insofar as the enrollee is in an actual gap of coverage (as defined in paragraph (5)(D)), the amount of the discount under the agreement shall be treated and counted as costs incurred by the plan enrollee.

“(3) DISCOUNT AMOUNT.—The amount of the discount specified in this paragraph for a discount period for a plan is equal to 50 percent of the amount of the drug-component negotiated price (as defined in paragraph (5)(C)) for qualifying drugs for the period involved.

“(4) **ADDITIONAL TERMS.**—In the case of a discount provided under this subsection with respect to a prescription drug plan offered by a PDP sponsor or an MA-PD plan offered by an MA organization, if a qualified enrollee purchases the qualified drug—

“(A) insofar as the enrollee is in an actual gap of coverage (as defined in paragraph (5)(D)), the sponsor or plan shall provide the discount to the enrollee at the time the enrollee pays for the drug; and

“(B) insofar as the enrollee is in the portion of the original gap in coverage (as defined in paragraph (5)(E)) that is not in the actual gap in coverage, the discount shall not be applied against the negotiated price (as defined in subsection (d)(1)(B)) for the purpose of calculating the beneficiary payment.

“(5) **DEFINITIONS.**—In this subsection:

“(A) **QUALIFYING DRUG.**—The term ‘qualifying drug’ means, with respect to a prescription drug plan or MA-PD plan, a drug or biological product that—

“(i) (I) is a drug produced or distributed under an original new drug application approved by the Food and Drug Administration, including a drug product marketed by any cross-licensed producers or distributors operating under the new drug application;

“(II) is a drug that was originally marketed under an original new drug application approved by the Food and Drug Administration; or

“(III) is a biological product as approved under Section 351(a) of the Public Health Services Act;

“(ii) is covered under the formulary of the plan or is treated as covered under the formulary of the plan as a result of a coverage determination or appeal under subsection (g) or (h) of section 1860D-4; and

“(iii) is dispensed to an individual who is in the original gap in coverage.

“(B) **QUALIFYING ENROLLEE.**—The term ‘qualifying enrollee’ means an individual enrolled in a prescription drug plan or MA-PD plan other than such an individual who is a subsidy-eligible individual (as defined in section 1860D-14(a)(3)).

“(C) **DRUG-COMPONENT NEGOTIATED PRICE.**—The term ‘drug-component negotiated price’ means, with respect to a qualifying drug, the negotiated price (as defined in section 423.100 of title 42, Code of Federal Regulations, as in effect on the date of enactment of this subsection), as determined without regard to any dispensing fee, of the drug under the prescription drug plan or MA-PD plan involved.

“(D) **ACTUAL GAP IN COVERAGE.**—The term ‘actual gap in coverage’ means the gap in prescription drug coverage that occurs between the initial coverage limit (as modified under paragraph (7) and subparagraph (B) of paragraph (8) of subsection (b)) and the annual out-of-pocket threshold (as modified under subparagraph (C) of such subsection).

“(E) **ORIGINAL GAP IN COVERAGE.**—The term ‘original in gap coverage’ means the gap in prescription drug coverage that would occur between the initial coverage limit (described in subsection (b)(3)) and the out-of-pocket threshold (as defined in subsection (b)(4)(B)) if subsections (b)(7) and (b)(8) did not apply.

“(6) **SPECIAL RULE FOR 2010.**—For the period beginning January 1, 2010, and ending December 31, 2010, the Secretary may—

“(A) enter into agreements with manufacturers to directly receive the discount amount described in paragraph (3);

“(B) collect the necessary information from prescription drug plans and MA-PD plans to calculate the discount amount described in such paragraph; and

“(C) provide the discount described in such paragraph to beneficiaries as close as practicable after the point of sale.

“(7) **WAIVER.**—Chapter 35 of title 44, United States Code, shall not apply to the requirements under this subsection for the period beginning on January 1, 2010, and ending on December 31, 2010.”

**SEC. 1183. REPEAL OF PROVISION RELATING TO SUBMISSION OF CLAIMS BY PHARMACIES LOCATED IN OR CONTRACTING WITH LONG-TERM CARE FACILITIES.**

(a) **PART D SUBMISSION.**—Section 1860D-12(b) of the Social Security Act (42 U.S.C. 1395w-112(b)), as amended by section 172(a)(1) of Public Law 110-275, is amended by striking paragraph (5) and redesignating paragraph (6) and paragraph (7), as added by section 1181(c)(2)(A), as paragraph (5) and paragraph (6), respectively.

(b) **SUBMISSION TO MA-PD PLANS.**—Section 1857(f)(3) of the Social Security Act (42 U.S.C. 1395w-27(f)(3)), as added by section 171(b) of Public Law 110-275 and amended by section 172(a)(2) of such Public Law and section 1181 of this Act, is amended by striking subparagraph (B) and redesignating subparagraphs (C) and (D) as subparagraphs (B) and (C) respectively.

(c) **EFFECTIVE DATE.**—The amendments made by this section shall apply for contract years beginning with 2010.

**SEC. 1184. INCLUDING COSTS INCURRED BY AIDS DRUG ASSISTANCE PROGRAMS AND INDIAN HEALTH SERVICE IN PROVIDING PRESCRIPTION DRUGS TOWARD THE ANNUAL OUT-OF-POCKET THRESHOLD UNDER PART D.**

(a) **IN GENERAL.**—Section 1860D-2(b)(4)(C) of the Social Security Act (42 U.S.C. 1395w-102(b)(4)(C)) is amended—

(1) in clause (i), by striking “and” at the end;

(2) in clause (ii)—

(A) by striking “such costs shall be treated as incurred only if” and inserting “and subject to clause (iii), such costs shall be treated as incurred only if”;

(B) by striking “, under section 1860D-14, or under a State Pharmaceutical Assistance Program”;

(C) by striking the period at the end and inserting “; and”;

(3) by inserting after clause (ii) the following new clause:

“(iii) such costs shall be treated as incurred and shall not be considered to be reimbursed under clause (ii) if such costs are borne or paid—

“(I) under section 1860D-14;

“(II) under a State Pharmaceutical Assistance Program;

“(III) by the Indian Health Service, an Indian tribe or tribal organization, or an urban Indian organization (as defined in section 4 of the Indian Health Care Improvement Act); or

“(IV) under an AIDS Drug Assistance Program under part B of title XXVI of the Public Health Service Act.”

(b) **EFFECTIVE DATE.**—The amendments made by subsection (a) shall apply to costs incurred on or after January 1, 2011.

**SEC. 1185. NO MID-YEAR FORMULARY CHANGES PERMITTED.**

(a) **IN GENERAL.**—Section 1860D-4(b)(3)(E) of the Social Security Act (42 U.S.C. 1395w-104(b)(3)(E)) is amended—

(1) in the heading, by inserting “; CERTAIN FORMULARY CHANGES ONLY BEFORE INITIATING MARKETING FOR A PLAN YEAR” after “STATUS OF DRUG”;

(2) by striking “Any removal” and inserting “(i) NOTICE.—Any removal” with the

same indentation as the clause added by paragraph (2);

(3) by adding at the end the following new clause:

“(ii) **CERTAIN CHANGES IN FORMULARY ONLY BEFORE INITIATING MARKETING FOR A PLAN YEAR.**—Any removal of a covered part D drug from a formulary used by a PDP sponsor of a prescription drug plan (or MA organization of a MA-PD plan) or any other material change to the formulary so as to reduce the coverage (or increase the cost-sharing) of the drug under the plan for a plan year shall take effect by a date specified by the Secretary but no later than the start of plan marketing activities for the plan year. In addition to any exceptions to the previous sentence specified by the Secretary, the previous sentence shall not apply in the case that a drug is removed from the formulary of a plan because of a recall or withdrawal of the drug issued by the Food and Drug Administration, because the drug is replaced with a generic drug that is a therapeutic equivalent, or because of utilization management applied to—

“(I) a drug whose labeling includes a boxed warning required by the Food and Drug Administration under section 201.57(c)(1) of title 21, Code of Federal Regulations (or a successor regulation); or

“(II) a drug required under subsection (c)(2) of section 505-1 of the Federal Food, Drug, and Cosmetic Act to have a Risk Evaluation and Management Strategy that includes elements under subsection (f) of such section.”

(b) **EFFECTIVE DATE.**—The amendments made by subsection (a) shall apply to contract years beginning on or after January 1, 2011.

**SEC. 1186. NEGOTIATION OF LOWER COVERED PART D DRUG PRICES ON BEHALF OF MEDICARE BENEFICIARIES.**

(a) **NEGOTIATION BY SECRETARY.**—Section 1860D-11 of the Social Security Act (42 U.S.C. 1395w-111) is amended by striking subsection (i) (relating to noninterference) and inserting the following:

“(i) **NEGOTIATION OF LOWER DRUG PRICES.**—

“(1) **IN GENERAL.**—Notwithstanding any other provision of law, the Secretary shall negotiate with pharmaceutical manufacturers the prices (including discounts, rebates, and other price concessions) that may be charged to PDP sponsors and MA organizations for covered part D drugs for part D eligible individuals who are enrolled under a prescription drug plan or under an MA-PD plan.

“(2) **NO CHANGE IN RULES FOR FORMULARIES.**—

“(A) **IN GENERAL.**—Nothing in paragraph (1) shall be construed to authorize the Secretary to establish or require a particular formulary.

“(B) **CONSTRUCTION.**—Subparagraph (A) shall not be construed as affecting the Secretary’s authority to ensure appropriate and adequate access to covered part D drugs under prescription drug plans and under MA-PD plans, including compliance of such plans with formulary requirements under section 1860D-4(b)(3).

“(3) **CONSTRUCTION.**—Nothing in this subsection shall be construed as preventing the sponsor of a prescription drug plan, or an organization offering an MA-PD plan, from obtaining a discount or reduction of the price for a covered part D drug below the price negotiated under paragraph (1).

“(4) **ANNUAL REPORTS TO CONGRESS.**—Not later than June 1, 2011, and annually thereafter, the Secretary shall submit to the Committees on Ways and Means, Energy and



Commerce, and Oversight and Government Reform of the House of Representatives and the Committee on Finance of the Senate a report on negotiations conducted by the Secretary to achieve lower prices for Medicare beneficiaries, and the prices and price discounts achieved by the Secretary as a result of such negotiations.”.

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act and shall first apply to negotiations and prices for plan years beginning on January 1, 2011.

**SEC. 1187. ACCURATE DISPENSING IN LONG-TERM CARE FACILITIES.**

Section 1860D-4(c) of the Social Security Act (42 U.S.C. 1395w-104(c)) is amended by adding at the end the following new paragraph:

“(3) **REDUCTION OF WASTEFUL DISPENSING.**—

“(A) **IN GENERAL.**—For plan years beginning on or after January 1, 2012, a PDP sponsor offering a prescription drug plan and MA organization offering a MA-PD plan under part C shall have in place the utilization management techniques established under subparagraph (B).

“(B) **REQUIREMENTS.**—The Secretary shall establish utilization management techniques, such as daily, weekly, or automated dose dispensing, to apply to PDP sponsors and MA organizations to reduce the quantities of covered part D drugs dispensed to enrollees who are residing in long-term care facilities in order to reduce waste associated with unused medications.

“(C) **CONSULTATION.**—In establishing the requirements under subparagraph (A), the Secretary shall consult with the Administrator of the Environmental Protection Agency, Administrator of the Food and Drug Administration, Administrator of the Drug Enforcement Administration, State Boards of Pharmacy, pharmacy and physician organizations, and other appropriate stakeholders to study and determine additional methods for prescription drug plans to reduce waste associated with unused prescription drugs.”.

**SEC. 1188. FREE GENERIC FILL.**

(a) **IN GENERAL.**—Section 1128A(i)(6) of the Social Security Act (42 U.S.C. 1320a-7a(i)(6)) is amended—

(1) in subparagraph (C), by striking “of 1996” and all that follows and inserting “of 1996;”;

(2) in the first subparagraph (D), by striking “promulgated” and all that follows and inserting “promulgated;”;

(3) by redesignating the second subparagraph (D) as a subparagraph (E) and by striking the period at the end of such subparagraph and inserting “; and”; and

(4) by adding at the end the following new subparagraph:

“(F) with regard to a prescription drug plan offered by a PDP sponsor or an MA-PD plan offered by an MA organization, a reduction in or waiver of the copayment amount under the plan given to an individual to induce the individual to switch to a generic, bioequivalent drug, or biosimilar.”.

(b) **EFFECTIVE DATE.**—The amendments made by this subsection shall take effect on the date of the enactment of this Act and shall first apply with respect to remuneration offered, paid, solicited, or received on or after January 1, 2011.

**SEC. 1189. STATE CERTIFICATION PRIOR TO WAIVER OF LICENSURE REQUIREMENTS UNDER MEDICARE PRESCRIPTION DRUG PROGRAM.**

(a) **IN GENERAL.**—Section 1860D-12(c) of the Social Security Act (42 U.S.C. 1395w-112(c)) is amended—

(1) in paragraph (1)(A), by striking “In the case” and inserting “Subject to paragraph (5), in the case”; and

(2) by adding at the end the following new paragraph:

“(5) **STATE CERTIFICATION REQUIRED.**—

“(A) **IN GENERAL.**—Except as provided in section 1860D-21(f)(4), the Secretary may only grant a waiver under paragraph (1)(A) if the Secretary has received a certification from the State insurance commissioner that the prescription drug plan has a substantially complete application pending in the State.

“(B) **REVOCATION OF WAIVER UPON FINDING OF FRAUD AND ABUSE.**—The Secretary shall revoke a waiver granted under paragraph (1)(A) if the State insurance commissioner submits a certification to the Secretary that the recipient of such a waiver—

“(i) has committed fraud or abuse with respect to such waiver;

“(ii) has failed to make a good faith effort to satisfy State licensing requirements; or

“(iii) was determined ineligible for licensure by the State.”.

(b) **EXCEPTION FOR PACE PROGRAMS.**—Section 1860D-21(f) of such Act (42 U.S.C. 1395w-131(f)) is amended—

(1) in paragraph (1), by striking “paragraphs (2) and (3)” and inserting “the succeeding paragraphs”; and

(2) by adding at the end the following new paragraph:

“(4) **INAPPLICABILITY OF CERTAIN LICENSURE WAIVER REQUIREMENTS.**—The provisions of paragraph (1) of section 1860D-12(c) (relating to waiver of licensure under certain circumstances) shall apply without regard to paragraph (5) of such section in the case of a PACE program that elects to provide qualified prescription drug coverage to a part D eligible individual who is enrolled under such program.”.

(b) **EFFECTIVE DATE.**—The amendments made by this section shall apply with respect to plan years beginning on or after January 1, 2010.

**Subtitle F—Medicare Rural Access Protections**

**SEC. 1191. TELEHEALTH EXPANSION AND ENHANCEMENTS.**

(a) **ADDITIONAL TELEHEALTH SITE.**—

(1) **IN GENERAL.**—Paragraph (4)(ii) of section 1834(m) of the Social Security Act (42 U.S.C. 1395m(m)) is amended by adding at the end the following new subclause:

“(IX) A renal dialysis facility.”

(2) **EFFECTIVE DATE.**—The amendment made by paragraph (1) shall apply to services furnished on or after January 1, 2011.

(b) **TELEHEALTH ADVISORY COMMITTEE.**—

(1) **ESTABLISHMENT.**—Section 1868 of the Social Security Act (42 U.S.C. 1395ee) is amended—

(A) in the heading, by adding at the end the following: “TELEHEALTH ADVISORY COMMITTEE”; and

(B) by adding at the end the following new subsection:

“(c) **TELEHEALTH ADVISORY COMMITTEE.**—

“(1) **IN GENERAL.**—The Secretary shall appoint a Telehealth Advisory Committee (in this subsection referred to as the ‘Advisory Committee’) to make recommendations to the Secretary on policies of the Centers for Medicare & Medicaid Services regarding telehealth services as established under section 1834(m), including the appropriate addition or deletion of services (and HCPCS codes) to those specified in paragraphs (4)(F)(i) and (4)(F)(ii) of such section and for authorized payment under paragraph (1) of such section.

“(2) **MEMBERSHIP; TERMS.**—

“(A) **MEMBERSHIP.**—

“(i) **IN GENERAL.**—The Advisory Committee shall be composed of 9 members, to be appointed by the Secretary, of whom—

“(I) 5 shall be practicing physicians;

“(II) 2 shall be practicing non-physician health care practitioners; and

“(III) 2 shall be administrators of telehealth programs.

“(ii) **REQUIREMENTS FOR APPOINTING MEMBERS.**—In appointing members of the Advisory Committee, the Secretary shall—

“(I) ensure that each member has prior experience with the practice of telemedicine or telehealth;

“(II) give preference to individuals who are currently providing telemedicine or telehealth services or who are involved in telemedicine or telehealth programs;

“(III) ensure that the membership of the Advisory Committee represents a balance of specialties and geographic regions; and

“(IV) take into account the recommendations of stakeholders.

“(B) **TERMS.**—The members of the Advisory Committee shall serve for such term as the Secretary may specify.

“(C) **CONFLICTS OF INTEREST.**—An advisory committee member may not participate with respect to a particular matter considered in an advisory committee meeting if such member (or an immediate family member of such member) has a financial interest that could be affected by the advice given to the Secretary with respect to such matter.

“(3) **MEETINGS.**—The Advisory Committee shall meet twice each calendar year and at such other times as the Secretary may provide.

“(4) **PERMANENT COMMITTEE.**—Section 14 of the Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Advisory Committee.”

(2) **FOLLOWING RECOMMENDATIONS.**—Section 1834(m)(4)(F) of such Act (42 U.S.C. 1395m(m)(4)(F)) is amended by adding at the end the following new clause:

“(iii) **RECOMMENDATIONS OF THE TELEHEALTH ADVISORY COMMITTEE.**—In making determinations under clauses (i) and (ii), the Secretary shall take into account the recommendations of the Telehealth Advisory Committee (established under section 1868(c)) when adding or deleting services (and HCPCS codes) and in establishing policies of the Centers for Medicare & Medicaid Services regarding the delivery of telehealth services. If the Secretary does not implement such a recommendation, the Secretary shall publish in the Federal Register a statement regarding the reason such recommendation was not implemented.”

(3) **WAIVER OF ADMINISTRATIVE LIMITATION.**—The Secretary of Health and Human Services shall establish the Telehealth Advisory Committee under the amendment made by paragraph (1) notwithstanding any limitation that may apply to the number of advisory committees that may be established (within the Department of Health and Human Services or otherwise).

(c) **HOSPITAL CREDENTIALING OF TELEMEDICINE PHYSICIANS AND PRACTITIONERS.**—

(1) **IN GENERAL.**—Not later than 60 days after the date of the enactment of this Act, the Secretary of Health and Human Services shall issue guidance for hospitals (as defined in paragraph (4)) to simplify requirements regarding compiling practitioner credentials for the purpose of rendering a medical staff privileging decision (under bylaws of the



type described in section 1861(e)(3) of the Social Security Act) for physicians and practitioners (as defined in paragraph (4)) delivering telehealth services that are furnished via a telecommunications system.

(2) FLEXIBILITY IN ACCEPTING CREDENTIALING BY ANOTHER MEDICARE PARTICIPATING HOSPITAL.—

(A) IN GENERAL.—Such guidance shall permit a hospital to accept credentialing packages compiled by another hospital participating under Medicare with regard to physicians and practitioners who seek medical staff privileges in the hospital to provide telehealth services via a telecommunications system from a site other than the hospital where the patient is located.

(B) CONSTRUCTION.—Nothing in this subsection shall be construed to require a hospital to accept the credentialing package compiled by another facility.

(C) NO OVERSIGHT REQUIRED.—If a hospital does accept the credentialing materials prepared by another hospital, the hospital shall not be required to exercise oversight over the other hospital's process for compiling and verifying credentials.

(D) PRIVILEGING.—This paragraph shall only apply to credentialing and does not relieve a hospital from any applicable privileging requirements.

(3) CONSTRUCTION.—This subsection shall not be construed as limiting the ability of the Secretary to issue additional guidance regarding the requirements for the compilation of credentials for physicians and practitioners not described in paragraph (1).

(4) DEFINITIONS.—In this subsection:

(A) The term “hospital” has the meaning given such term in subsection (e) of section 1861 of the Social Security Act (42 U.S.C. 1395x) and includes a critical access hospital (as defined in subsection (mm)(1) of such section).

(B) The term “physician” has the meaning given such term in subsection (r) of such section.

(C) The term “practitioner” means a practitioner described in section 1842(b)(18)(C) of the Social Security Act (42 U.S.C. 1395u(b)(18)(C)).

#### SEC. 1192. EXTENSION OF OUTPATIENT HOLD HARMLESS PROVISION.

Section 1833(t)(7)(D)(i) of the Social Security Act (42 U.S.C. 1395l(t)(7)(D)(i)) is amended—

(1) in subclause (II)—

(A) in the first sentence, by striking “2010” and inserting “2012”; and

(B) in the second sentence, by striking “or 2009” and inserting “, 2009, 2010, or 2011”; and

(2) in subclause (III), by striking “January 1, 2010” and inserting “January 1, 2012”.

#### SEC. 1193. EXTENSION OF SECTION 508 HOSPITAL RECLASSIFICATIONS.

(a) IN GENERAL.—Subsection (a) of section 106 of division B of the Tax Relief and Health Care Act of 2006 (42 U.S.C. 1395 note), as amended by section 117 of the Medicare, Medicaid, and SCHIP Extension Act of 2007 (Public Law 110-173) and section 124 of the Medicare Improvements for Patients and Providers Act of 2008 (Public Law 110-275), is amended by striking “September 30, 2009” and inserting “September 30, 2011”.

(b) USE OF PARTICULAR WAGE INDEX FOR FISCAL YEAR 2010.—For purposes of implementation of the amendment made by subsection (a) for fiscal year 2010, the Secretary shall use the hospital wage index that was promulgated by the Secretary in the Federal Register on August 27, 2009 (74 Fed. Reg. 43754), and any subsequent corrections.

#### SEC. 1194. EXTENSION OF GEOGRAPHIC FLOOR FOR WORK.

Section 1848(e)(1)(E) of the Social Security Act (42 U.S.C. 1395w-4(e)(1)(E)) is amended by striking “before January 1, 2010” and inserting “before January 1, 2012”.

#### SEC. 1195. EXTENSION OF PAYMENT FOR TECHNICAL COMPONENT OF CERTAIN PHYSICIAN PATHOLOGY SERVICES.

Section 542(c) of the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000 (as enacted into law by section 1(a)(6) of Public Law 106-554), as amended by section 732 of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (42 U.S.C. 1395w-4 note), section 104 of division B of the Tax Relief and Health Care Act of 2006 (42 U.S.C. 1395w-4 note), section 104 of the Medicare, Medicaid, and SCHIP Extension Act of 2007 (Public Law 110-173), and section 136 of the Medicare Improvements for Patients and Providers Act of 2008 (Public Law 110-275), is amended by striking “and 2009” and inserting “2009, 2010, and 2011”.

#### SEC. 1196. EXTENSION OF AMBULANCE ADD-ONS.

(a) IN GENERAL.—Section 1834(l)(13) of the Social Security Act (42 U.S.C. 1395m(l)(13)) is amended—

(1) in subparagraph (A)—

(A) in the matter preceding clause (i), by striking “before January 1, 2010” and inserting “before January 1, 2012”; and

(B) in each of clauses (i) and (ii), by striking “before January 1, 2010” and inserting “before January 1, 2012”.

(b) AIR AMBULANCE IMPROVEMENTS.—Section 146(b)(1) of the Medicare Improvements for Patients and Providers Act of 2008 (Public Law 110-275) is amended by striking “ending on December 31, 2009” and inserting “ending on December 31, 2011”.

### TITLE II—MEDICARE BENEFICIARY IMPROVEMENTS

#### Subtitle A—Improving and Simplifying Financial Assistance for Low Income Medicare Beneficiaries

##### SEC. 1201. IMPROVING ASSETS TESTS FOR MEDICARE SAVINGS PROGRAM AND LOW-INCOME SUBSIDY PROGRAM.

(a) APPLICATION OF HIGHEST LEVEL PERMITTED UNDER LIS TO ALL SUBSIDY ELIGIBLE INDIVIDUALS.—

(1) IN GENERAL.—Section 1860D-14(a)(1) of the Social Security Act (42 U.S.C. 1395w-114(a)(1)) is amended in the matter before subparagraph (A), by inserting “(or, beginning with 2012, paragraph (3)(E))” after “paragraph (3)(D)”.

(2) ANNUAL INCREASE IN LIS RESOURCE TEST.—Section 1860D-14(a)(3)(E)(i) of such Act (42 U.S.C. 1395w-114(a)(3)(E)(i)) is amended—

(A) by striking “and” at the end of subclause (I);

(B) in subclause (II), by inserting “(before 2012)” after “subsequent year”; and

(C) by striking the period at the end of subclause (II) and inserting a semicolon;

(D) by inserting after subclause (II) the following new subclauses:

“(III) for 2012, \$17,000 (or \$34,000 in the case of the combined value of the individual's assets or resources and the assets or resources of the individual's spouse); and

“(IV) for a subsequent year, the dollar amounts specified in this subclause (or subclause (III)) for the previous year increased by the annual percentage increase in the consumer price index (all items; U.S. city average) as of September of such previous year.”; and

(E) in the last sentence, by inserting “(or (IV))” after “subclause (II)”.

(3) APPLICATION OF LIS TEST UNDER MEDICARE SAVINGS PROGRAM.—Section 1905(p)(1)(C) of such Act (42 U.S.C. 1396d(p)(1)(C)) is amended—

(A) by striking “effective beginning with January 1, 2010” and inserting “effective for the period beginning with January 1, 2010, and ending with December 31, 2011”; and

(B) by inserting before the period at the end the following: “or, effective beginning with January 1, 2012, whose resources (as so determined) do not exceed the maximum resource level applied for the year under subparagraph (E) of section 1860D-14(a)(3) (determined without regard to the life insurance policy exclusion provided under subparagraph (G) of such section) applicable to an individual or to the individual and the individual's spouse (as the case may be)”.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to eligibility determinations for income-related subsidies and medicare cost-sharing furnished for periods beginning on or after January 1, 2012.

##### SEC. 1202. ELIMINATION OF PART D COST-SHARING FOR CERTAIN NON-INSTITUTIONALIZED FULL-BENEFIT DUAL ELIGIBLE INDIVIDUALS.

(a) IN GENERAL.—Section 1860D-14(a)(1)(D)(i) of the Social Security Act (42 U.S.C. 1395w-114(a)(1)(D)(i)) is amended—

(1) by striking “INSTITUTIONALIZED INDIVIDUALS.—In” and inserting “ELIMINATION OF COST-SHARING FOR CERTAIN FULL-BENEFIT DUAL ELIGIBLE INDIVIDUALS.—

“(I) INSTITUTIONALIZED INDIVIDUALS.—In”; and

(2) by adding at the end the following new subclause:

“(II) CERTAIN OTHER INDIVIDUALS.—In the case of an individual who is a full-benefit dual eligible individual and with respect to whom there has been a determination that but for the provision of home and community based care (whether under section 1915, 1932, or under a waiver under section 1115) the individual would require the level of care provided in a hospital or a nursing facility or intermediate care facility for the mentally retarded the cost of which could be reimbursed under the State plan under title XIX, the elimination of any beneficiary coinsurance described in section 1860D-2(b)(2) (for all amounts through the total amount of expenditures at which benefits are available under section 1860D-2(b)(4)).”.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to drugs dispensed on or after January 1, 2011.

##### SEC. 1203. ELIMINATING BARRIERS TO ENROLLMENT.

(a) ADMINISTRATIVE VERIFICATION OF INCOME AND RESOURCES UNDER THE LOW-INCOME SUBSIDY PROGRAM.—

(1) IN GENERAL.—Clause (iii) of section 1860D-14(a)(3)(E) of the Social Security Act (42 U.S.C. 1395w-114(a)(3)(E)) is amended to read as follows:

“(iii) CERTIFICATION OF INCOME AND RESOURCES.—For purposes of applying this section—

“(I) an individual shall be permitted to apply on the basis of self-certification of income and resources; and

“(II) matters attested to in the application shall be subject to appropriate methods of verification without the need of the individual to provide additional documentation, except in extraordinary situations as determined by the Commissioner.”.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply beginning January 1, 2010.

(b) DISCLOSURES TO FACILITATE IDENTIFICATION OF INDIVIDUALS LIKELY TO BE INELIGIBLE FOR THE LOW-INCOME ASSISTANCE UNDER THE MEDICARE PRESCRIPTION DRUG PROGRAM TO ASSIST SOCIAL SECURITY ADMINISTRATION'S OUTREACH TO ELIGIBLE INDIVIDUALS.—For provision authorizing disclosure of return information to facilitate identification of individuals likely to be ineligible for low-income subsidies under Medicare prescription drug program, see section 1801.

**SEC. 1204. ENHANCED OVERSIGHT RELATING TO REIMBURSEMENTS FOR RETROACTIVE LOW INCOME SUBSIDY ENROLLMENT.**

(a) IN GENERAL.—In the case of a retroactive LIS enrollment beneficiary who is enrolled under a prescription drug plan under part D of title XVIII of the Social Security Act (or an MA-PD plan under part C of such title), the beneficiary (or any eligible third party) is entitled to reimbursement by the plan for covered drug costs incurred by the beneficiary during the retroactive coverage period of the beneficiary in accordance with subsection (b) and in the case of such a beneficiary described in subsection (c)(4)(A)(i), such reimbursement shall be made automatically by the plan upon receipt of appropriate notice the beneficiary is eligible for assistance described in such subsection (c)(4)(A)(i) without further information required to be filed with the plan by the beneficiary.

(b) ADMINISTRATIVE REQUIREMENTS RELATING TO REIMBURSEMENTS.—

(1) LINE-ITEM DESCRIPTION.—Each reimbursement made by a prescription drug plan or MA-PD plan under subsection (a) shall include a line-item description of the items for which the reimbursement is made.

(2) TIMING OF REIMBURSEMENTS.—A prescription drug plan or MA-PD plan must make a reimbursement under subsection (a) to a retroactive LIS enrollment beneficiary, with respect to a claim, not later than 45 days after—

(A) in the case of a beneficiary described in subsection (c)(4)(A)(i), the date on which the plan receives notice from the Secretary that the beneficiary is eligible for assistance described in such subsection; or

(B) in the case of a beneficiary described in subsection (c)(4)(A)(ii), the date on which the beneficiary files the claim with the plan.

(3) REPORTING REQUIREMENT.—For each month beginning with January 2011, each prescription drug plan and each MA-PD plan shall report to the Secretary the following:

(A) The number of claims the plan has readjudicated during the month due to a beneficiary becoming retroactively eligible for subsidies available under section 1860D-14 of the Social Security Act.

(B) The total value of the readjudicated claim amount for the month.

(C) The Medicare Health Insurance Claims Number of beneficiaries for whom claims were readjudicated.

(D) For the claims described in subparagraphs (A) and (B), an attestation to the Administrator of the Centers for Medicare & Medicaid Services of the total amount of reimbursement the plan has provided to beneficiaries for premiums and cost-sharing that the beneficiary overpaid for which the plan received payment from the Centers for Medicare & Medicaid Services.

(c) DEFINITIONS.—For purposes of this section:

(1) COVERED DRUG COSTS.—The term “covered drug costs” means, with respect to a retroactive LIS enrollment beneficiary enrolled under a prescription drug plan under part D of title XVIII of the Social Security

Act (or an MA-PD plan under part C of such title), the amount by which—

(A) the costs incurred by such beneficiary during the retroactive coverage period of the beneficiary for covered part D drugs, premiums, and cost-sharing under such title; exceeds

(B) such costs that would have been incurred by such beneficiary during such period if the beneficiary had been both enrolled in the plan and recognized by such plan as qualified during such period for the low income subsidy under section 1860D-14 of the Social Security Act to which the individual is entitled.

(2) ELIGIBLE THIRD PARTY.—The term “eligible third party” means, with respect to a retroactive LIS enrollment beneficiary, an organization or other third party that is owed payment on behalf of such beneficiary for covered drug costs incurred by such beneficiary during the retroactive coverage period of such beneficiary.

(3) RETROACTIVE COVERAGE PERIOD.—The term “retroactive coverage period” means—

(A) with respect to a retroactive LIS enrollment beneficiary described in paragraph (4)(A)(i), the period—

(i) beginning on the effective date of the assistance described in such paragraph for which the individual is eligible; and

(ii) ending on the date the plan effectuates the status of such individual as so eligible; and

(B) with respect to a retroactive LIS enrollment beneficiary described in paragraph (4)(A)(ii), the period—

(i) beginning on the date the individual is both entitled to benefits under part A, or enrolled under part B, of title XVIII of the Social Security Act and eligible for medical assistance under a State plan under title XIX of such Act; and

(ii) ending on the date the plan effectuates the status of such individual as a full-benefit dual eligible individual (as defined in section 1935(c)(6) of such Act).

(4) RETROACTIVE LIS ENROLLMENT BENEFICIARY.—

(A) IN GENERAL.—The term “retroactive LIS enrollment beneficiary” means an individual who—

(i) is enrolled in a prescription drug plan under part D of title XVIII of the Social Security Act (or an MA-PD plan under part C of such title) and subsequently becomes eligible as a full-benefit dual eligible individual (as defined in section 1935(c)(6) of such Act), an individual receiving a low-income subsidy under section 1860D-14 of such Act, an individual receiving assistance under the Medicare Savings Program implemented under clauses (i), (iii), and (iv) of section 1902(a)(10)(E) of such Act, or an individual receiving assistance under the supplemental security income program under section 1611 of such Act; or

(ii) subject to subparagraph (B)(i), is a full-benefit dual eligible individual (as defined in section 1935(c)(6) of such Act) who is automatically enrolled in such a plan under section 1860D-1(b)(1)(C) of such Act.

(B) EXCEPTION FOR BENEFICIARIES ENROLLED IN RFP PLAN.—

(i) IN GENERAL.—In no case shall an individual described in subparagraph (A)(ii) include an individual who is enrolled, pursuant to a RFP contract described in clause (ii), in a prescription drug plan offered by the sponsor of such plan awarded such contract.

(ii) RFP CONTRACT DESCRIBED.—The RFP contract described in this section is a contract entered into between the Secretary and a sponsor of a prescription drug plan pursu-

ant to the Centers for Medicare & Medicaid Services' request for proposals issued on February 17, 2009, relating to Medicare part D retroactive coverage for certain low income beneficiaries, or a similar subsequent request for proposals.

**SEC. 1205. INTELLIGENT ASSIGNMENT IN ENROLLMENT.**

(a) IN GENERAL.—Section 1860D-1(b)(1)(C) of the Social Security Act (42 U.S.C. 1395w-101(b)(1)(C)) is amended by adding after “PDP region” the following: “or through use of an intelligent assignment process that is designed to maximize the access of such individual to necessary prescription drugs while minimizing costs to such individual and to the program under this part to the greatest extent possible. In the case the Secretary enrolls such individuals through use of an intelligent assignment process, such process shall take into account the extent to which prescription drugs necessary for the individual are covered in the case of a PDP sponsor of a prescription drug plan that uses a formulary, the use of prior authorization or other restrictions on access to coverage of such prescription drugs by such a sponsor, and the overall quality of a prescription drug plan as measured by quality ratings established by the Secretary”

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect for contract years beginning with 2012.

**SEC. 1206. SPECIAL ENROLLMENT PERIOD AND AUTOMATIC ENROLLMENT PROCESS FOR CERTAIN SUBSIDY ELIGIBLE INDIVIDUALS.**

(a) SPECIAL ENROLLMENT PERIOD.—Section 1860D-1(b)(3)(D) of the Social Security Act (42 U.S.C. 1395w-101(b)(3)(D)) is amended to read as follows:

“(D) SUBSIDY ELIGIBLE INDIVIDUALS.—In the case of an individual (as determined by the Secretary) who is determined under subparagraph (B) of section 1860D-14(a)(3) to be a subsidy eligible individual.”

(b) AUTOMATIC ENROLLMENT.—Section 1860D-1(b)(1) of the Social Security Act (42 U.S.C. 1395w-101(b)(1)) is amended by adding at the end the following new subparagraph:

“(D) SPECIAL RULE FOR SUBSIDY ELIGIBLE INDIVIDUALS.—The process established under subparagraph (A) shall include, in the case of an individual described in section 1860D-1(b)(3)(D) who fails to enroll in a prescription drug plan or an MA-PD plan during the special enrollment established under such section applicable to such individual, the application of the assignment process described in subparagraph (C) to such individual in the same manner as such assignment process applies to a part D eligible individual described in such subparagraph (C). Nothing in the previous sentence shall prevent an individual described in such sentence from declining enrollment in a plan determined appropriate by the Secretary (or in the program under this part) or from changing such enrollment.”

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to subsidy determinations made for months beginning with January 2011.

**SEC. 1207. APPLICATION OF MA PREMIUMS PRIOR TO REBATE AND QUALITY BONUS PAYMENTS IN CALCULATION OF LOW INCOME SUBSIDY BENCHMARK.**

(a) IN GENERAL.—Section 1860D-14(b)(2)(B)(iii) of the Social Security Act (42 U.S.C. 1395w-114(b)(2)(B)(iii)) is amended by inserting before the period the following: “before the application of the monthly rebate computed under section 1854(b)(1)(C)(i) for that plan and year involved and, in the

case of a qualifying plan in a qualifying county, before the application of the increase under section 1853(o) for that plan and year involved”.

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall apply to subsidy determinations made for months beginning with January 2011.

#### **Subtitle B—Reducing Health Disparities**

#### **SEC. 1221. ENSURING EFFECTIVE COMMUNICATION IN MEDICARE.**

(a) **ENSURING EFFECTIVE COMMUNICATION BY THE CENTERS FOR MEDICARE & MEDICAID SERVICES.**—

(1) **STUDY ON MEDICARE PAYMENTS FOR LANGUAGE SERVICES.**—The Secretary of Health and Human Services shall conduct a study that examines the extent to which Medicare service providers utilize, offer, or make available language services for beneficiaries who are limited English proficient and ways that Medicare should develop payment systems for language services.

(2) **ANALYSES.**—The study shall include an analysis of each of the following:

(A) How to develop and structure appropriate payment systems for language services for all Medicare service providers.

(B) The feasibility of adopting a payment methodology for on-site interpreters, including interpreters who work as independent contractors and interpreters who work for agencies that provide on-site interpretation, pursuant to which such interpreters could directly bill Medicare for services provided in support of physician office services for an LEP Medicare patient.

(C) The feasibility of Medicare contracting directly with agencies that provide off-site interpretation including telephonic and video interpretation pursuant to which such contractors could directly bill Medicare for the services provided in support of physician office services for an LEP Medicare patient.

(D) The feasibility of modifying the existing Medicare resource-based relative value scale (RBRVS) by using adjustments (such as multipliers or add-ons) when a patient is LEP.

(E) How each of options described in a previous paragraph would be funded and how such funding would affect physician payments, a physician's practice, and beneficiary cost-sharing.

(F) The extent to which providers under parts A and B of title XVIII of the Social Security Act, MA organizations offering Medicare Advantage plans under part C of such title and PDP sponsors of a prescription drug plan under part D of such title utilize, offer, or make available language services for beneficiaries with limited English proficiency.

(G) The nature and type of language services provided by States under title XIX of the Social Security Act and the extent to which such services could be utilized by beneficiaries and providers under title XVIII of such Act.

(H) The extent to which interpreters and translators providing services to Medicare beneficiaries under title XVIII of such Act are trained or accredited.

(3) **VARIATION IN PAYMENT SYSTEM DESCRIBED.**—The payment systems described in paragraph (2)(A) may allow variations based upon types of service providers, available delivery methods, and costs for providing language services including such factors as—

(A) the type of language services provided (such as provision of health care or health care related services directly in a non-English language by a bilingual provider or use of an interpreter);

(B) type of interpretation services provided (such as in-person, telephonic, video interpretation);

(C) the methods and costs of providing language services (including the costs of providing language services with internal staff or through contract with external independent contractors or agencies, or both);

(D) providing services for languages not frequently encountered in the United States; and

(E) providing services in rural areas.

(4) **REPORT.**—The Secretary shall submit a report on the study conducted under subsection (a) to appropriate committees of Congress not later than 12 months after the date of the enactment of this Act.

(5) **EXEMPTION FROM PAPERWORK REDUCTION ACT.**—Chapter 35 of title 44, United States Code (commonly known as the “Paperwork Reduction Act”), shall not apply for purposes of carrying out this subsection.

(6) **AUTHORIZATION OF APPROPRIATIONS.**—The Secretary shall provide for the transfer, from the Federal Supplementary Medical Insurance Trust Fund under section 1841 of the Social Security Act (42 U.S.C. 1395t) of \$2,000,000 for purposes of carrying out this subsection.

(b) **HEALTH PLANS.**—Section 1857(g)(1) of the Social Security Act (42 U.S.C. 1395w-27(g)(1)) is amended—

(1) by striking “or” at the end of subparagraph (F);

(2) by adding “or” at the end of subparagraph (G); and

(3) by inserting after subparagraph (G) the following new subparagraph:

“(H) fails substantially to provide language services to limited English proficient beneficiaries enrolled in the plan that are required under law;”.

#### **SEC. 1222. DEMONSTRATION TO PROMOTE ACCESS FOR MEDICARE BENEFICIARIES WITH LIMITED ENGLISH PROFICIENCY BY PROVIDING REIMBURSEMENT FOR CULTURALLY AND LINGUISTICALLY APPROPRIATE SERVICES.**

(a) **IN GENERAL.**—Not later than 6 months after the date of the completion of the study described in section 1221(a) of this Act, the Secretary, acting through the Centers for Medicare & Medicaid Services and the Center for Medicare and Medicaid Innovation established under section 1115A of the Social Security Act (as added by section 1907) and consistent with the applicable provisions of such section, shall carry out a demonstration program under which the Secretary shall award not fewer than 24 3-year grants to eligible Medicare service providers (as described in subsection (b)(1)) to improve effective communication between such providers and Medicare beneficiaries who are living in communities where racial and ethnic minorities, including populations that face language barriers, are underserved with respect to such services. In designing and carrying out the demonstration the Secretary shall take into consideration the results of the study conducted under section 1221(a) of this Act and adjust, as appropriate, the distribution of grants so as to better target Medicare beneficiaries who are in the greatest need of language services. The Secretary shall not authorize a grant larger than \$500,000 over three years for any grantee.

(b) **ELIGIBILITY; PRIORITY.**—

(1) **ELIGIBILITY.**—To be eligible to receive a grant under subsection (a) an entity shall—

(A) be—

(i) a provider of services under part A of title XVIII of the Social Security Act;

(ii) a service provider under part B of such title;

(iii) a part C organization offering a Medicare part C plan under part C of such title; or

(iv) a PDP sponsor of a prescription drug plan under part D of such title; and

(B) prepare and submit to the Secretary an application, at such time, in such manner, and accompanied by such additional information as the Secretary may require.

(2) **PRIORITY.**—

(A) **DISTRIBUTION.**—To the extent feasible, in awarding grants under this section, the Secretary shall award—

(i) at least 6 grants to providers of services described in paragraph (1)(A)(i);

(ii) at least 6 grants to service providers described in paragraph (1)(A)(ii);

(iii) at least 6 grants to organizations described in paragraph (1)(A)(iii); and

(iv) at least 6 grants to sponsors described in paragraph (1)(A)(iv).

(B) **FOR COMMUNITY ORGANIZATIONS.**—The Secretary shall give priority to applicants that have developed partnerships with community organizations or with agencies with experience in language access.

(C) **VARIATION IN GRANTEEES.**—The Secretary shall also ensure that the grantees under this section represent, among other factors—

(i) different types of language services provided and of service providers and organizations under parts A through D of title XVIII of the Social Security Act;

(ii) variations in languages needed and their frequency of use;

(iii) urban and rural settings;

(iv) at least two geographic regions, as defined by the Secretary; and

(v) at least two large metropolitan statistical areas with diverse populations.

(c) **USE OF FUNDS.**—

(1) **IN GENERAL.**—A grantee shall use grant funds received under this section to pay for the provision of competent language services to Medicare beneficiaries who are limited English proficient. Competent interpreter services may be provided through on-site interpretation, telephonic interpretation, or video interpretation or direct provision of health care or health care related services by a bilingual health care provider. A grantee may use bilingual providers, staff, or contract interpreters. A grantee may use grant funds to pay for competent translation services. A grantee may use up to 10 percent of the grant funds to pay for administrative costs associated with the provision of competent language services and for reporting required under subsection (e).

(2) **ORGANIZATIONS.**—Grantees that are part C organizations or PDP sponsors must ensure that their network providers receive at least 50 percent of the grant funds to pay for the provision of competent language services to Medicare beneficiaries who are limited English proficient, including physicians and pharmacies.

(3) **DETERMINATION OF PAYMENTS FOR LANGUAGE SERVICES.**—Payments to grantees shall be calculated based on the estimated numbers of limited English proficient Medicare beneficiaries in a grantee's service area utilizing—

(A) data on the numbers of limited English proficient individuals who speak English less than “very well” from the most recently available data from the Bureau of the Census or other State-based study the Secretary determines likely to yield accurate data regarding the number of such individuals served by the grantee; or

(B) the grantee's own data if the grantee routinely collects data on Medicare beneficiaries' primary language in a manner determined by the Secretary to yield accurate

data and such data shows greater numbers of limited English proficient individuals than the data listed in subparagraph (A).

(4) LIMITATIONS.—

(A) REPORTING.—Payments shall only be provided under this section to grantees that report their costs of providing language services as required under subsection (e) and may be modified annually at the discretion of the Secretary. If a grantee fails to provide the reports under this section for the first year of a grant, the Secretary may terminate the grant and solicit applications from new grantees to participate in the subsequent two years of the demonstration program.

(B) TYPE OF SERVICES.—

(i) IN GENERAL.—Subject to clause (ii), payments shall be provided under this section only to grantees that utilize competent bilingual staff or competent interpreter or translation services which—

(I) if the grantee operates in a State that has statewide health care interpreter standards, meet the State standards currently in effect; or

(II) if the grantee operates in a State that does not have statewide health care interpreter standards, utilizes competent interpreters who follow the National Council on Interpreting in Health Care's Code of Ethics and Standards of Practice.

(ii) EXEMPTIONS.—The requirements of clause (i) shall not apply—

(I) in the case of a Medicare beneficiary who is limited English proficient (who has been informed in the beneficiary's primary language of the availability of free interpreter and translation services) and who requests the use of family, friends, or other persons untrained in interpretation or translation and the grantee documents the request in the beneficiary's record; and

(II) in the case of a medical emergency where the delay directly associated with obtaining a competent interpreter or translation services would jeopardize the health of the patient.

Nothing in clause (ii)(II) shall be construed to exempt emergency rooms or similar entities that regularly provide health care services in medical emergencies from having in place systems to provide competent interpreter and translation services without undue delay.

(d) ASSURANCES.—Grantees under this section shall—

(1) ensure that appropriate clinical and support staff receive ongoing education and training in linguistically appropriate service delivery;

(2) ensure the linguistic competence of bilingual providers;

(3) offer and provide appropriate language services at no additional charge to each patient with limited English proficiency at all points of contact, in a timely manner during all hours of operation;

(4) notify Medicare beneficiaries of their right to receive language services in their primary language;

(5) post signage in the languages of the commonly encountered group or groups present in the service area of the organization; and

(6) ensure that—

(A) primary language data are collected for recipients of language services and are consistent with standards developed under section 1709(b)(3)(B)(iv) of the Public Health Service Act, as added by section 2402 of this Act, to the extent such standards are available upon the initiation of the demonstration; and

(B) consistent with the privacy protections provided under the regulations promulgated pursuant to section 264(c) of the Health Insurance Portability and Accountability Act of 1996 (42 U.S.C. 1320d–2 note), if the recipient of language services is a minor or is incapacitated, the primary language of the parent or legal guardian is collected and utilized.

(e) REPORTING REQUIREMENTS.—Grantees under this section shall provide the Secretary with reports at the conclusion of the each year of a grant under this section. Each report shall include at least the following information:

(1) The number of Medicare beneficiaries to whom language services are provided.

(2) The languages of those Medicare beneficiaries.

(3) The types of language services provided (such as provision of services directly in non-English language by a bilingual health care provider or use of an interpreter).

(4) Type of interpretation (such as in-person, telephonic, or video interpretation).

(5) The methods of providing language services (such as staff or contract with external independent contractors or agencies).

(6) The length of time for each interpretation encounter.

(7) The costs of providing language services (which may be actual or estimated, as determined by the Secretary).

(8) An account of the training or accreditation of bilingual staff, interpreters, or translators providing services under this demonstration.

(f) NO COST SHARING.—Limited English proficient Medicare beneficiaries shall not have to pay cost-sharing or co-pays for language services provided through this demonstration program.

(g) EVALUATION AND REPORT.—The Secretary shall conduct an evaluation of the demonstration program under this section and shall submit to the appropriate committees of Congress a report not later than 1 year after the completion of the program. The report shall include the following:

(1) An analysis of the patient outcomes and costs of furnishing care to the limited English proficient Medicare beneficiaries participating in the project as compared to such outcomes and costs for limited English proficient Medicare beneficiaries not participating.

(2) The effect of delivering culturally and linguistically appropriate services on beneficiary access to care, utilization of services, efficiency and cost-effectiveness of health care delivery, patient satisfaction, and select health outcomes.

(3) The extent to which bilingual staff, interpreters, and translators providing services under such demonstration were trained or accredited and the nature of accreditation or training needed by type of provider, service, or other category as determined by the Secretary to ensure the provision of high-quality interpretation, translation, or other language services to Medicare beneficiaries if such services are expanded pursuant to subsection (c) of section 1907 of this Act.

(4) Recommendations, if any, regarding the extension of such project to the entire Medicare program.

(h) ACCREDITATION OR TRAINING FOR PROVIDERS OF INTERPRETATION, TRANSLATION OR LANGUAGE SERVICES IN MEDICARE.—

(1) IN GENERAL.—

(A) DESIGNATION OF STANDARDS.—If the Secretary, pursuant to section 1907(c) of this Act, expands the model initially developed through the demonstration program under

this section, the Secretary shall use the results of the study under section 1221 and the demonstration under this section to designate standards for training or accreditation. The Secretary may designate one or more training or accreditation organizations, as appropriate for the nature and type of interpretation and translation services provided to Medicare beneficiaries to ensure that payments are made only for approved services by trained or accredited language services providers.

(B) ALTERNATIVES TO TRAINING OR ACCREDITATION.—If the Secretary designates one or more training or accreditation organizations but determines that accreditation is not available in all languages for which payments may be initiated, the Secretary shall provide payments for and accept alternatives to training or accreditation for certain languages, including languages of lesser diffusion. The Secretary must ensure that the alternatives to training or accreditation provide, at a minimum—

(i) a determination that the interpreter is proficient and able to communicate information accurately in both English and in the language for which interpreting is needed;

(ii) an attestation from the interpreter to comply with and adhere to the role of an interpreter as defined by the National Code of Ethics and National Standards of Practice as published by the National Council on Interpreting in Health Care; and

(iii) an attestation to adhere to HIPAA privacy and security law, as defined in section 3009(a)(2) of the Public Health Service Act, to the same extent as the healthcare provider for whom interpreting is provided.

(C) MODIFIERS, ADD-ONS, AND OTHER FORMS OF PAYMENT.—If the Secretary decides that modifiers, add-ons, or other forms of payment may be made for the provision of services directly by bilingual providers, the Secretary shall designate standards to ensure the competency of such providers delivering such services in a non-English language.

(2) CONSULTATION WITH STAKEHOLDERS AND CONSIDERATIONS FOR ACCREDITATION OR TRAINING.—

(A) CONSULTATION.—In designating accreditation or training requirements under this subsection, the Secretary shall consult with patients, providers, organizations that advocate on behalf of limited English proficient individuals, and other individuals or entities determined appropriate by the Secretary.

(B) CONSIDERATIONS.—In designating accreditation or training requirements under this section, the Secretary shall consider, as appropriate—

(i) standards for qualifications of health care interpreters who interpret infrequently encountered languages;

(ii) standards for qualifications of health care interpreters who interpret in languages of lesser diffusion;

(iii) standards for training of interpreters; and

(iv) standards for continuing education of interpreters.

(i) GENERAL PROVISIONS.—Nothing in this section shall be construed to limit otherwise existing obligations of recipients of Federal financial assistance under title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000(d) et seq.) or any other statute.

(j) APPROPRIATIONS.—There are appropriated to carry out this section, in equal parts from the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund, \$16,000,000 for each fiscal year of the demonstration program.

**SEC. 1223. IOM REPORT ON IMPACT OF LANGUAGE ACCESS SERVICES.**

(a) IN GENERAL.—The Secretary of Health and Human Services shall enter into an arrangement with the Institute of Medicine under which the Institute will prepare and publish, not later than 3 years after the date of the enactment of this Act, a report on the impact of language access services on the health and health care of limited English proficient populations.

(b) CONTENTS.—Such report shall include—

(1) recommendations on the development and implementation of policies and practices by health care organizations and providers for limited English proficient patient populations;

(2) a description of the effect of providing language access services on quality of health care and access to care and reduced medical error; and

(3) a description of the costs associated with or savings related to provision of language access services.

**SEC. 1224. DEFINITIONS.**

In this subtitle:

(1) BILINGUAL.—The term “bilingual” with respect to an individual means a person who has sufficient degree of proficiency in two languages and can ensure effective communication can occur in both languages.

(2) COMPETENT INTERPRETER SERVICES.—The term “competent interpreter services” means a trans-language rendition of a spoken message in which the interpreter comprehends the source language and can speak comprehensively in the target language to convey the meaning intended in the source language. The interpreter knows health and health-related terminology and provides accurate interpretations by choosing equivalent expressions that convey the best matching and meaning to the source language and captures, to the greatest possible extent, all nuances intended in the source message.

(3) COMPETENT TRANSLATION SERVICES.—The term “competent translation services” means a trans-language rendition of a written document in which the translator comprehends the source language and can write comprehensively in the target language to convey the meaning intended in the source language. The translator knows health and health-related terminology and provides accurate translations by choosing equivalent expressions that convey the best matching and meaning to the source language and captures, to the greatest possible extent, all nuances intended in the source document.

(4) EFFECTIVE COMMUNICATION.—The term “effective communication” means an exchange of information between the provider of health care or health care-related services and the limited English proficient recipient of such services that enables limited English proficient individuals to access, understand, and benefit from health care or health care-related services.

(5) INTERPRETING/INTERPRETATION.—The terms “interpreting” and “interpretation” mean the transmission of a spoken message from one language into another, faithfully, accurately, and objectively.

(6) HEALTH CARE SERVICES.—The term “health care services” means services that address physical as well as mental health conditions in all care settings.

(7) HEALTH CARE-RELATED SERVICES.—The term “health care-related services” means human or social services programs or activities that provide access, referrals or links to health care.

(8) LANGUAGE ACCESS.—The term “language access” means the provision of language

services to an LEP individual designed to enhance that individual's access to, understanding of or benefit from health care or health care-related services.

(9) LANGUAGE SERVICES.—The term “language services” means provision of health care services directly in a non-English language, interpretation, translation, and non-English signage.

(10) LIMITED ENGLISH PROFICIENT.—The term “limited English proficient” or “LEP” with respect to an individual means an individual who speaks a primary language other than English and who cannot speak, read, write or understand the English language at a level that permits the individual to effectively communicate with clinical or nonclinical staff at an entity providing health care or health care related services.

(11) MEDICARE BENEFICIARY.—The term “Medicare beneficiary” means an individual entitled to benefits under part A of title XVIII of the Social Security Act or enrolled under part B of such title.

(12) MEDICARE PROGRAM.—The term “Medicare program” means the programs under parts A through D of title XVIII of the Social Security Act.

(13) SERVICE PROVIDER.—The term “service provider” includes all suppliers, providers of services, or entities under contract to provide coverage, items or services under any part of title XVIII of the Social Security Act.

**Subtitle C—Miscellaneous Improvements****SEC. 1231. EXTENSION OF THERAPY CAPS EXCEPTIONS PROCESS.**

Section 1833(g)(5) of the Social Security Act (42 U.S.C. 1395l(g)(5)), as amended by section 141 of the Medicare Improvements for Patients and Providers Act of 2008 (Public Law 110-275), is amended by striking “December 31, 2009” and inserting “December 31, 2011”.

**SEC. 1232. EXTENDED MONTHS OF COVERAGE OF IMMUNOSUPPRESSIVE DRUGS FOR KIDNEY TRANSPLANT PATIENTS AND OTHER RENAL DIALYSIS PROVIDERS.**

(a) PROVISION OF APPROPRIATE COVERAGE OF IMMUNOSUPPRESSIVE DRUGS UNDER THE MEDICARE PROGRAM FOR KIDNEY TRANSPLANT RECIPIENTS.—

(1) CONTINUED ENTITLEMENT TO IMMUNOSUPPRESSIVE DRUGS.—

(A) KIDNEY TRANSPLANT RECIPIENTS.—Section 226A(b)(2) of the Social Security Act (42 U.S.C. 426-1(b)(2)) is amended by inserting “(except for coverage of immunosuppressive drugs under section 1861(s)(2)(J))” before “, with the thirty-sixth month”.

(B) APPLICATION.—Section 1836 of such Act (42 U.S.C. 1395o) is amended—

(i) by striking “Every individual who” and inserting “(a) IN GENERAL.—Every individual who”; and

(ii) by adding at the end the following new subsection:

“(b) SPECIAL RULES APPLICABLE TO INDIVIDUALS ONLY ELIGIBLE FOR COVERAGE OF IMMUNOSUPPRESSIVE DRUGS.—

“(1) IN GENERAL.—In the case of an individual whose eligibility for benefits under this title has ended on or after January 1, 2012, except for the coverage of immunosuppressive drugs by reason of section 226A(b)(2), the following rules shall apply:

“(A) The individual shall be deemed to be enrolled under this part for purposes of receiving coverage of such drugs.

“(B) The individual shall be responsible for providing for payment of the portion of the premium under section 1839 which is not covered under the Medicare savings program (as

defined in section 1144(c)(7)) in order to receive such coverage.

“(C) The provision of such drugs shall be subject to the application of—

“(i) the deductible under section 1833(b); and

“(ii) the coinsurance amount applicable for such drugs (as determined under this part).

“(D) If the individual is an inpatient of a hospital or other entity, the individual is entitled to receive coverage of such drugs under this part.

“(2) ESTABLISHMENT OF PROCEDURES IN ORDER TO IMPLEMENT COVERAGE.—The Secretary shall establish procedures for—

“(A) identifying individuals that are entitled to coverage of immunosuppressive drugs by reason of section 226A(b)(2); and

“(B) distinguishing such individuals from individuals that are enrolled under this part for the complete package of benefits under this part.”.

(C) TECHNICAL AMENDMENT TO CORRECT DUPLICATE SUBSECTION DESIGNATION.—Subsection (c) of section 226A of such Act (42 U.S.C. 426-1), as added by section 201(a)(3)(D)(ii) of the Social Security Independence and Program Improvements Act of 1994 (Public Law 103-296; 108 Stat. 1497), is redesignated as subsection (d).

(2) EXTENSION OF SECONDARY PAYER REQUIREMENTS FOR ESRD BENEFICIARIES.—Section 1862(b)(1)(C) of such Act (42 U.S.C. 1395y(b)(1)(C)) is amended by adding at the end the following new sentence: “With regard to immunosuppressive drugs furnished on or after the date of the enactment of the Affordable Health Care for America Act, this subparagraph shall be applied without regard to any time limitation.”.

(b) MEDICARE COVERAGE FOR ESRD PATIENTS.—Section 1881 of such Act is further amended—

(1) in subsection (b)(14)(B)(iii), by inserting “, including oral drugs that are not the oral equivalent of an intravenous drug (such as oral phosphate binders and calcimimetics),” after “other drugs and biologicals”;;

(2) in subsection (b)(14)(E)(ii)—

(A) in the first sentence—

(i) by striking “a one-time election to be excluded from the phase-in” and inserting “an election, with respect to 2011, 2012, or 2013, to be excluded from the phase-in (or the remainder of the phase-in)”; and

(ii) by adding before the period at the end the following: “for such year and for each subsequent year during the phase-in described in clause (i)”; and

(B) in the second sentence—

(i) by striking “January 1, 2011” and inserting “the first date of such year”; and

(ii) by inserting “and at a time” after “form and manner”; and

(3) in subsection (h)(4)(E), by striking “lesser” and inserting “greater”.

**SEC. 1233. VOLUNTARY ADVANCE CARE PLANNING CONSULTATION.**

(a) IN GENERAL.—Section 1861 of the Social Security Act (42 U.S.C. 1395x) is amended—

(1) in subsection (s)(2)—

(A) by striking “and” at the end of subparagraph (DD);

(B) by adding “and” at the end of subparagraph (EE); and

(C) by adding at the end the following new subparagraph:

“(FF) voluntary advance care planning consultation (as defined in subsection (hhh)(1));”;

(2) by adding at the end the following new subsection:

**“Voluntary Advance Care Planning Consultation**

“(hhh)(1) Subject to paragraphs (3) and (4), the term ‘voluntary advance care planning consultation’ means an optional consultation between the individual and a practitioner described in paragraph (2) regarding advance care planning. Such consultation may include the following, as specified by the Secretary:

“(A) An explanation by the practitioner of advance care planning, including a review of key questions and considerations, advance directives (including living wills and durable powers of attorney) and their uses.

“(B) An explanation by the practitioner of the role and responsibilities of a health care proxy and of the continuum of end-of-life services and supports available, including palliative care and hospice, and benefits for such services and supports that are available under this title.

“(C) An explanation by the practitioner of physician orders regarding life sustaining treatment or similar orders, in States where such orders or similar orders exist.

“(2) A practitioner described in this paragraph is—

“(A) a physician (as defined in subsection (r)(1)); and

“(B) another health care professional (as specified by the Secretary and who has the authority under State law to sign orders for life sustaining treatments, such as a nurse practitioner or physician assistant).

“(3) An individual may receive the voluntary advance care planning consultation provided for under this subsection no more than once every 5 years unless there is a significant change in the health or health-related condition of the individual.

“(4) For purposes of this section, the term ‘order regarding life sustaining treatment’ means, with respect to an individual, an actionable medical order relating to the treatment of that individual that effectively communicates the individual’s preferences regarding life sustaining treatment, is signed and dated by a practitioner, and is in a form that permits it to be followed by health care professionals across the continuum of care.”.

(b) **CONSTRUCTION.**—The voluntary advance care planning consultation described in section 1861(hhh) of the Social Security Act, as added by subsection (a), shall be completely optional. Nothing in this section shall—

(1) require an individual to complete an advance directive, an order for life sustaining treatment, or other advance care planning document;

(2) require an individual to consent to restrictions on the amount, duration, or scope of medical benefits an individual is entitled to receive under this title; or

(3) encourage the promotion of suicide or assisted suicide.

(c) **PAYMENT.**—Section 1848(j)(3) of such Act (42 U.S.C. 1395w-4(j)(3)) is amended by inserting “(2)(FF)” after “(2)(EE)”.

(d) **FREQUENCY LIMITATION.**—Section 1862(a) of such Act (42 U.S.C. 1395y(a)) is amended—

(1) in paragraph (1)—

(A) in subparagraph (N), by striking “and” at the end;

(B) in subparagraph (O) by striking the semicolon at the end and inserting “, and”; and

(C) by adding at the end the following new subparagraph:

“(P) in the case of voluntary advance care planning consultations (as defined in paragraph (1) of section 1861(hhh)), which are performed more frequently than is covered under such section;”;

(2) in paragraph (7), by striking “or (K)” and inserting “(K), or (P)”.

(e) **EFFECTIVE DATE.**—The amendments made by this section shall apply to consultations furnished on or after January 1, 2011.

**SEC. 1234. PART B SPECIAL ENROLLMENT PERIOD AND WAIVER OF LIMITED ENROLLMENT PENALTY FOR TRICARE BENEFICIARIES.**

(a) **PART B SPECIAL ENROLLMENT PERIOD.**—

(1) **IN GENERAL.**—Section 1837 of the Social Security Act (42 U.S.C. 1395p) is amended by adding at the end the following new subsection:

“(1)(1) In the case of any individual who is a covered beneficiary (as defined in section 1072(5) of title 10, United States Code) at the time the individual is entitled to hospital insurance benefits under part A under section 226(b) or section 226A and who is eligible to enroll but who has elected not to enroll (or to be deemed enrolled) during the individual’s initial enrollment period, there shall be a special enrollment period described in paragraph (2).

“(2) The special enrollment period described in this paragraph, with respect to an individual, is the 12-month period beginning on the day after the last day of the initial enrollment period of the individual or, if later, the 12-month period beginning with the month the individual is notified of enrollment under this section.

“(3) In the case of an individual who enrolls during the special enrollment period provided under paragraph (1), the coverage period under this part shall begin on the first day of the month in which the individual enrolls or, at the option of the individual, on the first day of the second month following the last month of the individual’s initial enrollment period.

“(4) The Secretary of Defense shall establish a method for identifying individuals described in paragraph (1) and providing notice to them of their eligibility for enrollment during the special enrollment period described in paragraph (2).”.

(2) **EFFECTIVE DATE.**—The amendment made by paragraph (1) shall apply to elections made on or after the date of the enactment of this Act.

(b) **WAIVER OF INCREASE OF PREMIUM.**—

(1) **IN GENERAL.**—Section 1839(b) of the Social Security Act (42 U.S.C. 1395r(b)) is amended by striking “section 1837(i)(4)” and inserting “subsection (i)(4) or (l) of section 1837”.

(2) **EFFECTIVE DATE.**—

(A) **IN GENERAL.**—The amendment made by paragraph (1) shall apply with respect to elections made on or after the date of the enactment of this Act.

(B) **REBATES FOR CERTAIN DISABLED AND ESRD BENEFICIARIES.**—

(1) **IN GENERAL.**—With respect to premiums for months on or after January 2005 and before the month of the enactment of this Act, no increase in the premium shall be effected for a month in the case of any individual who is a covered beneficiary (as defined in section 1072(5) of title 10, United States Code) at the time the individual is entitled to hospital insurance benefits under part A of title XVIII of the Social Security Act under section 226(b) or 226A of such Act, and who is eligible to enroll, but who has elected not to enroll (or to be deemed enrolled), during the individual’s initial enrollment period, and who enrolls under this part within the 12-month period that begins on the first day of the month after the month of notification of entitlement under this part.

(ii) **CONSULTATION WITH DEPARTMENT OF DEFENSE.**—The Secretary of Health and Human

Services shall consult with the Secretary of Defense in identifying individuals described in this paragraph.

(iii) **REBATES.**—The Secretary of Health and Human Services shall establish a method for providing rebates of premium increases paid for months on or after January 1, 2005, and before the month of the enactment of this Act for which a penalty was applied and collected.

**SEC. 1235. EXCEPTION FOR USE OF MORE RECENT TAX YEAR IN CASE OF GAINS FROM SALE OF PRIMARY RESIDENCE IN COMPUTING PART B INCOME-RELATED PREMIUM.**

(a) **IN GENERAL.**—Section 1839(i)(4)(C)(ii)(II) of the Social Security Act (42 U.S.C. 1395r(i)(4)(C)(ii)(II)) is amended by inserting “sale of primary residence,” after “divorce of such individual.”.

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall apply to premiums and payments for years beginning with 2011.

**SEC. 1236. DEMONSTRATION PROGRAM ON USE OF PATIENT DECISION AIDS.**

(a) **IN GENERAL.**—The Secretary of Health and Human Services, acting through the Center for Medicare and Medicaid Innovation established under section 1115A of the Social Security Act (as added by section 1907) and consistent with the applicable provisions of such section, shall establish a shared decision making demonstration program (in this subsection referred to as the “program”) under the Medicare program using patient decision aids to meet the objective of improving the understanding by Medicare beneficiaries of their medical treatment options, as compared to comparable Medicare beneficiaries who do not participate in a shared decision making process using patient decision aids.

(b) **SITES.**—

(1) **ENROLLMENT.**—The Secretary shall enroll in the program not more than 30 eligible providers who have experience in implementing, and have invested in the necessary infrastructure to implement, shared decision making using patient decision aids.

(2) **APPLICATION.**—An eligible provider seeking to participate in the program shall submit to the Secretary an application at such time and containing such information as the Secretary may require.

(3) **PREFERENCE.**—In enrolling eligible providers in the program, the Secretary shall give preference to eligible providers that—

(A) have documented experience in using patient decision aids for the conditions identified by the Secretary and in using shared decision making;

(B) have the necessary information technology infrastructure to collect the information required by the Secretary for reporting purposes; and

(C) are trained in how to use patient decision aids and shared decision making.

(c) **FOLLOW-UP COUNSELING VISIT.**—

(1) **IN GENERAL.**—An eligible provider participating in the program shall routinely schedule Medicare beneficiaries for a counseling visit after the viewing of such a patient decision aid to answer any questions the beneficiary may have with respect to the medical care of the condition involved and to assist the beneficiary in thinking through how their preferences and concerns relate to their medical care.

(2) **PAYMENT FOR FOLLOW-UP COUNSELING VISIT.**—The Secretary shall establish procedures for making payments for such counseling visits provided to Medicare beneficiaries under the program. Such procedures shall provide for the establishment—



(A) of a code (or codes) to represent such services; and

(B) of a single payment amount for such service that includes the professional time of the health care provider and a portion of the reasonable costs of the infrastructure of the eligible provider such as would be made under the applicable payment systems to that provider for similar covered services.

(d) COSTS OF AIDS.—An eligible provider participating in the program shall be responsible for the costs of selecting, purchasing, and incorporating such patient decision aids into the provider's practice, and reporting data on quality and outcome measures under the program.

(e) FUNDING.—The Secretary shall provide for the transfer from the Federal Supplementary Medical Insurance Trust Fund established under section 1841 of the Social Security Act (42 U.S.C. 1395t) of such funds as are necessary for the costs of carrying out the program.

(f) WAIVER AUTHORITY.—The Secretary may waive such requirements of titles XI and XVIII of the Social Security Act (42 U.S.C. 1301 et seq. and 1395 et seq.) as may be necessary for the purpose of carrying out the program.

(g) REPORT.—Not later than 12 months after the date of completion of the program, the Secretary shall submit to Congress a report on such program, together with recommendations for such legislation and administrative action as the Secretary determines to be appropriate. The final report shall include an evaluation of the impact of the use of the program on health quality, utilization of health care services, and on improving the quality of life of such beneficiaries.

(h) DEFINITIONS.—In this section:

(1) ELIGIBLE PROVIDER.—The term “eligible provider” means the following:

(A) A primary care practice.

(B) A specialty practice.

(C) A multispecialty group practice.

(D) A hospital.

(E) A rural health clinic.

(F) A Federally qualified health center (as defined in section 1861(aa)(4) of the Social Security Act (42 U.S.C. 1395x(aa)(4)).

(G) An integrated delivery system.

(H) A State cooperative entity that includes the State government and at least one other health care provider which is set up for the purpose of testing shared decision making and patient decision aids.

(2) PATIENT DECISION AID.—The term “patient decision aid” means an educational tool (such as the Internet, a video, or a pamphlet) that helps patients (or, if appropriate, the family caregiver of the patient) understand and communicate their beliefs and preferences related to their treatment options, and to decide with their health care provider what treatments are best for them based on their treatment options, scientific evidence, circumstances, beliefs, and preferences.

(3) SHARED DECISION MAKING.—The term “shared decision making” means a collaborative process between patient and clinician that engages the patient in decision making, provides patients with information about trade-offs among treatment options, and facilitates the incorporation of patient preferences and values into the medical plan.

### TITLE III—PROMOTING PRIMARY CARE, MENTAL HEALTH SERVICES, AND CO-ORDINATED CARE

#### SEC. 1301. ACCOUNTABLE CARE ORGANIZATION PILOT PROGRAM.

Title XVIII of the Social Security Act is amended by inserting after section 1866D, as

added by section 1152(f), the following new section:

#### “ACCOUNTABLE CARE ORGANIZATION PILOT PROGRAM

“SEC. 1866E. (a) ESTABLISHMENT.—

“(1) IN GENERAL.—The Secretary shall conduct a pilot program (in this section referred to as the ‘pilot program’) to test different payment incentive models, including (to the extent practicable) the specific payment incentive models described in subsection (c), designed to reduce the growth of expenditures and improve health outcomes in the provision of items and services under this title to applicable beneficiaries (as defined in subsection (e)) by qualifying accountable care organizations (as defined in subsection (b)(1)) in order to—

“(A) promote accountability for a patient population and coordinate items and services under parts A and B (and may include Part D, if the Secretary determines appropriate);

“(B) encourage investment in infrastructure and redesigned care processes for high quality and efficient service delivery; and

“(C) reward physician practices and other physician organizational models for the provision of high quality and efficient health care services.

“(2) SCOPE.—The Secretary shall set specific goals for the number of accountable care organizations, participating practitioners, and patients served in the initial tests under the pilot program to ensure that the pilot program is of sufficient size and scope to—

“(A) test the approach involved in a variety of settings, including urban, rural, and underserved areas; and

“(B) subject to subsection (g)(1), disseminate such approach rapidly on a national basis.

To the extent that the Secretary finds a qualifying accountable care organization model to be successful in improving quality and reducing costs, the Secretary shall seek to implement such models on as large a geographic scale as practical and economical.

“(b) QUALIFYING ACCOUNTABLE CARE ORGANIZATIONS (ACOs).—

“(1) QUALIFYING ACO DEFINED.—In this section:

“(A) IN GENERAL.—The terms ‘qualifying accountable care organization’ and ‘qualifying ACO’ mean a group of physicians or other physician organizational model (as defined in subparagraph (D)) that—

“(i) is organized at least in part for the purpose of providing physicians’ services; and

“(ii) meets such criteria as the Secretary determines to be appropriate to participate in the pilot program, including the criteria specified in paragraph (2).

“(B) INCLUSION OF OTHER PROVIDERS OF SERVICES AND SUPPLIERS.—Nothing in this subsection shall be construed as preventing a qualifying ACO from including a hospital or any other provider of services or supplier furnishing items or services for which payment may be made under this title that is affiliated with the ACO under an arrangement structured so that such provider or supplier participates in the pilot program and shares in any incentive payments under the pilot program.

“(C) PHYSICIAN.—The term ‘physician’ includes, except as the Secretary may otherwise provide, any individual who furnishes services for which payment may be made as physicians’ services under this title.

“(D) OTHER PHYSICIAN ORGANIZATIONAL MODEL.—The term ‘other physician organizational model’ means, with respect to a quali-

fying ACO any model of organization under which physicians enter into agreements with other providers of services for the purposes of participation in the pilot program in order to provide high quality and efficient health care services and share in any incentive payments under such program

“(E) OTHER SERVICES.—Nothing in this paragraph shall be construed as preventing a qualifying ACO from furnishing items or services, for which payment may not be made under this title, for purposes of achieving performance goals under the pilot program.

“(2) QUALIFYING CRITERIA.—The following are criteria described in this paragraph for an organized group of physicians to be a qualifying ACO:

“(A) The group has a legal structure that would allow the group to receive and distribute incentive payments under this section.

“(B) The group includes a sufficient number of primary care physicians (regardless of specialty) for the applicable beneficiaries for whose care the group is accountable (as determined by the Secretary).

“(C) The group reports on quality measures in such form, manner, and frequency as specified by the Secretary (which may be for the group, for providers of services and suppliers, or both).

“(D) The group reports to the Secretary (in a form, manner and frequency as specified by the Secretary) such data as the Secretary determines appropriate to monitor and evaluate the pilot program.

“(E) The group provides notice to applicable beneficiaries regarding the pilot program (as determined appropriate by the Secretary).

“(F) The group contributes to a best practices network or website, that shall be maintained by the Secretary for the purpose of sharing strategies on quality improvement, care coordination, and efficiency that the groups believe are effective.

“(G) The group utilizes patient-centered processes of care, including those that emphasize patient and caregiver involvement in planning and monitoring of ongoing care management plan.

“(H) The group meets other criteria determined to be appropriate by the Secretary.

“(c) SPECIFIC PAYMENT INCENTIVE MODELS.—The specific payment incentive models described in this subsection are the following:

“(1) PERFORMANCE TARGET MODEL.—Under the performance target model under this paragraph (in this paragraph referred to as the ‘performance target model’):

“(A) IN GENERAL.—A qualifying ACO qualifies to receive an incentive payment if expenditures for items and services for applicable beneficiaries are less than a target spending level or a target rate of growth. The incentive payment shall be made only if savings are greater than would result from normal variation in expenditures for items and services covered under parts A and B (and may include Part D, if the Secretary determines appropriate).

“(B) COMPUTATION OF PERFORMANCE TARGET.—

“(i) IN GENERAL.—The Secretary shall establish a performance target for each qualifying ACO comprised of a base amount (described in clause (ii)) increased to the current year by an adjustment factor (described in clause (iii)). Such a target may be established on a per capita basis or adjusted for risk, as the Secretary determines to be appropriate.



“(ii) **BASE AMOUNT.**—For purposes of clause (i), the base amount in this subparagraph is equal to the average total payments (or allowed charges) under parts A and B (and may include part D, if the Secretary determines appropriate) for applicable beneficiaries for whom the qualifying ACO furnishes items and services in a base period determined by the Secretary. Such base amount may be determined on a per capita basis or adjusted for risk.

“(iii) **ADJUSTMENT FACTOR.**—For purposes of clause (i), the adjustment factor in this clause may equal an annual per capita amount that reflects changes in expenditures from the period of the base amount to the current year that would represent an appropriate performance target for applicable beneficiaries (as determined by the Secretary).

“(iv) **REBASING.**—Under this model the Secretary shall periodically rebase the base expenditure amount described in clause (ii).

“(C) **MEETING TARGET.**—

“(i) **IN GENERAL.**—Subject to clause (ii), a qualifying ACO that meets or exceeds annual quality and performance targets for a year shall receive an incentive payment for such year equal to a portion (as determined appropriate by the Secretary) of the amount by which payments under this title for such year are estimated to be below the performance target for such year, as determined by the Secretary. The Secretary may establish a cap on incentive payments for a year for a qualifying ACO.

“(ii) **LIMITATION.**—The Secretary shall limit incentive payments to each qualifying ACO under this paragraph as necessary to ensure that the aggregate expenditures with respect to applicable beneficiaries for such ACOs under this title (inclusive of incentive payments described in this subparagraph) do not exceed the amount that the Secretary estimates would be expended for such ACO for such beneficiaries if the pilot program under this section were not implemented.

“(D) **REPORTING AND OTHER REQUIREMENTS.**—In carrying out such model, the Secretary may (as the Secretary determines to be appropriate) incorporate reporting requirements, incentive payments, and penalties related to the physician quality reporting initiative (PQRI), electronic prescribing, electronic health records, and other similar initiatives under section 1848, and may use alternative criteria than would otherwise apply under such section for determining whether to make such payments. The incentive payments described in this subparagraph shall not be included in the limit described in subparagraph (C)(ii) or in the performance target model described in this paragraph.

“(2) **PARTIAL CAPITATION MODEL.**—

“(A) **IN GENERAL.**—Subject to subparagraph (B), a partial capitation model described in this paragraph (in this paragraph referred to as a ‘partial capitation model’) is a model in which a qualifying ACO would be at financial risk for some, but not all, of the items and services covered under parts A and B (and may include part D, if the Secretary determines appropriate), such as at risk for some or all physicians’ services or all items and services under part B. The Secretary may limit a partial capitation model to ACOs that are highly integrated systems of care and to ACOs capable of bearing risk, as determined to be appropriate by the Secretary.

“(B) **NO ADDITIONAL PROGRAM EXPENDITURES.**—Payments to a qualifying ACO for items and services under this title for applicable beneficiaries for a year under the par-

tial capitation model shall be established in a manner that does not result in spending more for such ACO for such beneficiaries than would otherwise be expended for such ACO for such beneficiaries for such year if the pilot program were not implemented, as estimated by the Secretary.

“(3) **OTHER PAYMENT MODELS.**—

“(A) **IN GENERAL.**—Subject to subparagraph (B), the Secretary may develop other payment models that meet the goals of this pilot program to improve quality and efficiency.

“(B) **NO ADDITIONAL PROGRAM EXPENDITURES.**—Subparagraph (B) of paragraph (2) shall apply to a payment model under subparagraph (A) in a similar manner as such subparagraph (B) applies to the payment model under paragraph (2).

“(d) **ANNUAL QUALITY TARGETS.**—

“(1) **IN GENERAL.**—The Secretary shall establish annual quality targets that qualifying ACOs must meet to receive incentive payments, operate at financial risk, or otherwise participate in alternative financing models under this section. The Secretary shall establish a process for developing annual targets based on ACO reporting of multiple quality measures. In selecting measures the Secretary shall—

“(A) for years one and two of each ACOs participation in the pilot program established by this section, require reporting of a starter set of measures focused on clinical care, care coordination and patient experience of care; and

“(B) for each subsequent year, require reporting of a more comprehensive set of clinical outcomes measures, care coordination measures and patient experience of care measures.

“(2) **MEASURE SELECTION.**—To the extent feasible, the Secretary shall select measures that reflect national priorities for quality improvement and patient-centered care consistent with the measures developed under section 1192(c)(1).

“(e) **APPLICABLE BENEFICIARIES.**—

“(1) **IN GENERAL.**—In this section, the term ‘applicable beneficiary’ means, with respect to a qualifying ACO, an individual who—

“(A) is enrolled under part B and entitled to benefits under part A;

“(B) is not enrolled in a Medicare Advantage plan under part C or a PACE program under section 1894; and

“(C) meets such other criteria as the Secretary determines appropriate, which may include criteria relating to frequency of contact with physicians in the ACO

“(2) **FOLLOWING APPLICABLE BENEFICIARIES.**—The Secretary may monitor data on expenditures and quality of services under this title after an applicable beneficiary discontinues receiving services under this title through a qualifying ACO.

“(f) **IMPLEMENTATION.**—

“(1) **STARTING DATE.**—The pilot program shall begin no later than January 1, 2012. An agreement with a qualifying ACO under the pilot program may cover a multi-year period of between 3 and 5 years.

“(2) **WAIVER.**—The Secretary may waive such provisions of this title (including section 1877) and title XI in the manner the Secretary determines necessary in order implement the pilot program.

“(3) **PERFORMANCE RESULTS REPORTS.**—The Secretary shall report performance results to qualifying ACOs under the pilot program at least annually.

“(4) **LIMITATIONS ON REVIEW.**—There shall be no administrative or judicial review under section 1869, section 1878, or otherwise of—

“(A) the elements, parameters, scope, and duration of the pilot program;

“(B) the selection of qualifying ACOs for the pilot program;

“(C) the establishment of targets, measurement of performance, determinations with respect to whether savings have been achieved and the amount of savings;

“(D) determinations regarding whether, to whom, and in what amounts incentive payments are paid; and

“(E) decisions about the extension of the program under subsection (h), expansion of the program under subsection (i) or extensions under subsections (j) or (k).

“(5) **ADMINISTRATION.**—Chapter 35 of title 44, United States Code shall not apply to this section.

“(g) **EVALUATION; MONITORING.**—

“(1) **IN GENERAL.**—The Secretary shall evaluate the payment incentive model for each qualifying ACO under the pilot program to assess impacts on beneficiaries, providers of services, suppliers and the program under this title. The Secretary shall make such evaluation publicly available within 60 days of the date of completion of such report.

“(2) **MONITORING.**—The Inspector General of the Department of Health and Human Services shall provide for monitoring of the operation of ACOs under the pilot program with regard to violations of section 1877 (popularly known as the ‘Stark law’).

“(h) **EXTENSION OF PILOT AGREEMENT WITH SUCCESSFUL ORGANIZATIONS.**—

“(1) **REPORTS TO CONGRESS.**—Not later than 2 years after the date the first agreement is entered into under this section, and biennially thereafter for six years, the Secretary shall submit to Congress and make publicly available a report on the use of ACO payment models under the pilot program. Each report shall address the impact of the use of those models on expenditures, access, and quality under this title.

“(2) **EXTENSION.**—Subject to the report provided under paragraph (1), with respect to a qualifying ACO, the Secretary may extend the duration of the agreement for such ACO under the pilot program as the Secretary determines appropriate if—

“(A) the ACO receives incentive payments with respect to any of the first 4 years of the pilot agreement and is consistently meeting quality standards or

“(B) the ACO is consistently exceeding quality standards and is not increasing spending under the program.

“(3) **TERMINATION.**—The Secretary may terminate an agreement with a qualifying ACO under the pilot program if such ACO did not receive incentive payments or consistently failed to meet quality standards in any of the first 3 years under the program.

“(i) **EXPANSION TO ADDITIONAL ACOs.**—

“(1) **TESTING AND REFINEMENT OF PAYMENT INCENTIVE MODELS.**—Subject to the evaluation described in subsection (g), the Secretary may enter into agreements under the pilot program with additional qualifying ACOs to further test and refine payment incentive models with respect to qualifying ACOs.

“(2) **EXPANDING USE OF SUCCESSFUL MODELS TO PROGRAM IMPLEMENTATION.**—

“(A) **IN GENERAL.**—Subject to subparagraph (B), the Secretary may issue regulations to implement, on a permanent basis, 1 or more models if, and to the extent that, such models are beneficial to the program under this title, as determined by the Secretary.

“(B) CERTIFICATION.—The Chief Actuary of the Centers for Medicare & Medicaid Services shall certify that 1 or more of such models described in subparagraph (A) would result in estimated spending that would be less than what spending would otherwise be estimated to be in the absence of such expansion.

“(j) TREATMENT OF PHYSICIAN GROUP PRACTICE DEMONSTRATION.—

“(1) EXTENSION.—The Secretary may enter in to an agreement with a qualifying ACO under the demonstration under section 1866A, subject to rebasing and other modifications deemed appropriate by the Secretary, until the pilot program under this section is operational.

“(2) TRANSITION.—For purposes of extension of an agreement with a qualifying ACO under subsection (h)(2), the Secretary shall treat receipt of an incentive payment for a year by an organization under the physician group practice demonstration pursuant to section 1866A as a year for which an incentive payment is made under such subsection, as long as such practice group practice organization meets the criteria under subsection (b)(2).

“(k) ADDITIONAL PROVISIONS.—

“(1) AUTHORITY FOR SEPARATE INCENTIVE ARRANGEMENTS.—The Secretary may create separate incentive arrangements (including using multiple years of data, varying thresholds, varying shared savings amounts, and varying shared savings limits) for different categories of qualifying ACOs to reflect variation in average annual attributable expenditures and other matters the Secretary deems appropriate.

“(2) ENCOURAGEMENT OF PARTICIPATION OF SMALLER ORGANIZATIONS.—In order to encourage the participation of smaller accountable care organizations under the pilot program, the Secretary may limit a qualifying ACO's exposure to high cost patients under the program.

“(3) INVOLVEMENT IN PRIVATE PAYER AND OTHER THIRD PARTY ARRANGEMENTS.—The Secretary may give preference to ACOs who are participating in similar arrangements with other payers.

“(4) ANTIDISCRIMINATION LIMITATION.—The Secretary shall not enter into an agreement with an entity to provide health care items or services under the pilot program, or with an entity to administer the program, unless such entity guarantees that it will not deny, limit, or condition the coverage or provision of benefits under the program, for individuals eligible to be enrolled under such program, based on any health status-related factor described in section 2702(a)(1) of the Public Health Service Act.

“(5) FUNDING.—For purposes of administering and carrying out the pilot program, other than for payments for items and services furnished under this title and incentive payments under subsection (c)(1), in addition to funds otherwise appropriated, there are appropriated to the Secretary for the Center for Medicare & Medicaid Services Program Management Account \$25,000,000 for each of fiscal years 2010 through 2014 and \$20,000,000 for fiscal year 2015. Amounts appropriated under this paragraph for a fiscal year shall be available until expended.

“(6) NO DUPLICATION IN PAYMENTS TO PHYSICIANS IN MULTIPLE PILOTS.—The Secretary shall not make payments under this section to any physician group that is paid under section 1866F (relating to medical homes) or section 1866G (relating to independence at home).”.

#### SEC. 1302. MEDICAL HOME PILOT PROGRAM.

(a) IN GENERAL.—Title XVIII of the Social Security Act is amended by inserting after section 1866E, as inserted by section 1301, the following new section:

##### “MEDICAL HOME PILOT PROGRAM

“SEC. 1866F. (a) ESTABLISHMENT AND MEDICAL HOME MODELS.—

“(1) ESTABLISHMENT OF PILOT PROGRAM.—The Secretary shall establish a medical home pilot program (in this section referred to as the ‘pilot program’) for the purpose of evaluating the feasibility and advisability of reimbursing qualified patient-centered medical homes for furnishing medical home services (as defined under subsection (b)(1)) to beneficiaries (as defined in subsection (b)(4)) and to targeted high need beneficiaries (as defined in subsection (c)(1)(C)).

“(2) SCOPE.—Subject to subsection (g), the Secretary shall set specific goals for the number of practices and communities, and the number of patients served, under the pilot program in the initial tests to ensure that the pilot program is of sufficient size and scope to—

“(A) test the approach involved in a variety of settings, including urban, rural, and underserved areas; and

“(B) subject to subsection (e)(1), disseminate such approach rapidly on a national basis.

To the extent that the Secretary finds a medical home model to be successful in improving quality and reducing costs, the Secretary shall implement such model on as large a geographic scale as practical and economical.

“(3) MODELS OF MEDICAL HOMES IN THE PILOT PROGRAM.—The pilot program shall evaluate each of the following medical home models:

“(A) INDEPENDENT PATIENT-CENTERED MEDICAL HOME MODEL.—Independent patient-centered medical home model under subsection (c).

“(B) COMMUNITY-BASED MEDICAL HOME MODEL.—Community-based medical home model under subsection (d).

“(4) PARTICIPATION OF NURSE PRACTITIONERS AND PHYSICIAN ASSISTANTS.—

“(A) Nothing in this section shall be construed as preventing a nurse practitioner from leading a patient centered medical home so long as—

“(i) all the requirements of this section are met; and

“(ii) the nurse practitioner is acting in a manner that is consistent with State law.

“(B) Nothing in this section shall be construed as preventing a physician assistant from participating in a patient centered medical home so long as—

“(i) all the requirements of this section are met; and

“(ii) the physician assistant is acting in a manner that is consistent with State law.

“(b) DEFINITIONS.—For purposes of this section:

“(1) PATIENT-CENTERED MEDICAL HOME SERVICES.—The term ‘patient-centered medical home services’ means services that—

“(A) provide beneficiaries with direct and ongoing access to a primary care or principal care physician or nurse practitioner who accepts responsibility for providing first contact, continuous and comprehensive care to such beneficiary;

“(B) coordinate the care provided to a beneficiary by a team of individuals at the practice level across office, provider of services, and home settings led by a primary care or principal care physician or nurse practitioner, as needed and appropriate;

“(C) provide for all the patient's health care needs or take responsibility for appropriately arranging care with other qualified physicians or providers for all stages of life;

“(D) provide continuous access to care and communication with participating beneficiaries;

“(E) provide support for patient self-management, proactive and regular patient monitoring, support for family caregivers, use patient-centered processes, and coordination with community resources;

“(F) integrate readily accessible, clinically useful information on participating patients that enables the practice to treat such patients comprehensively and systematically; and

“(G) implement evidence-based guidelines and apply such guidelines to the identified needs of beneficiaries over time and with the intensity needed by such beneficiaries.

“(2) PRIMARY CARE.—The term ‘primary care’ means health care that is provided by a physician, nurse practitioner, or physician assistant who practices in the field of family medicine, general internal medicine, geriatric medicine, or pediatric medicine.

“(3) PRINCIPAL CARE.—The term ‘principal care’ means integrated, accessible health care that is provided by a physician who is a medical specialist or subspecialist that addresses the majority of the personal health care needs of patients with chronic conditions requiring the specialist's or subspecialist's expertise, and for whom the specialist or subspecialist assumes care management.

“(4) BENEFICIARIES.—The term ‘beneficiaries’ means, with respect to a qualifying medical home, an individual who—

“(A) is enrolled under part B and entitled to benefits under part A;

“(B) is not enrolled in a Medicare Advantage plan under part C or a PACE program under section 1894; and

“(C) meets such other criteria as the Secretary determines appropriate.

“(c) INDEPENDENT PATIENT-CENTERED MEDICAL HOME MODEL.—

“(1) IN GENERAL.—

“(A) PAYMENT AUTHORITY.—Under the independent patient-centered medical home model under this subsection, the Secretary shall make payments for medical home services furnished by an independent patient-centered medical home (as defined in subparagraph (B)) pursuant to paragraph (3) for targeted high need beneficiaries (as defined in subparagraph (C)).

“(B) INDEPENDENT PATIENT-CENTERED MEDICAL HOME DEFINED.—In this section, the term ‘independent patient-centered medical home’ means a physician-directed or nurse-practitioner-directed practice that is qualified under paragraph (2) as—

“(i) providing beneficiaries with patient-centered medical home services; and

“(ii) meets such other requirements as the Secretary may specify.

“(C) TARGETED HIGH NEED BENEFICIARY DEFINED.—For purposes of this subsection, the term ‘targeted high need beneficiary’ means a beneficiary who, based on a risk score as specified by the Secretary, is generally within the upper 50th percentile of Medicare beneficiaries.

“(D) BENEFICIARY ELECTION TO PARTICIPATE.—The Secretary shall determine an appropriate method of ensuring that beneficiaries have agreed to participate in the pilot program.

“(E) IMPLEMENTATION.—The pilot program under this subsection shall begin no later than 12 months after the date of the enactment of this section and shall operate for 5 years.

“(2) QUALIFICATION PROCESS FOR PATIENT-CENTERED MEDICAL HOMES.—The Secretary shall establish a process for practices to qualify as medical homes.

“(3) PAYMENT.—

“(A) ESTABLISHMENT OF METHODOLOGY.—The Secretary shall establish a methodology for the payment for medical home services furnished by independent patient-centered medical homes. Under such methodology, the Secretary shall adjust payments to medical homes based on beneficiary risk scores to ensure that higher payments are made for higher risk beneficiaries.

“(B) PER BENEFICIARY PER MONTH PAYMENTS.—Under such payment methodology, the Secretary shall pay independent patient-centered medical homes a monthly fee for each targeted high need beneficiary who consents to receive medical home services through such medical home.

“(C) PROSPECTIVE PAYMENT.—The fee under subparagraph (B) shall be paid on a prospective basis.

“(D) AMOUNT OF PAYMENT.—In determining the amount of such fee, the Secretary shall consider the following:

“(i) The clinical work and practice expenses involved in providing the medical home services provided by the independent patient-centered medical home (such as providing increased access, care coordination, population disease management, and teaching self-care skills for managing chronic illnesses) for which payment is not made under this title as of the date of the enactment of this section.

“(ii) Allow for differential payments based on capabilities of the independent patient-centered medical home.

“(iii) Use appropriate risk-adjustment in determining the amount of the per beneficiary per month payment under this paragraph in a manner that ensures that higher payments are made for higher risk beneficiaries.

“(4) ENCOURAGING PARTICIPATION OF VARIETY OF PRACTICES.—The pilot program under this subsection shall be designed to include the participation of physicians in practices with fewer than 10 full-time equivalent physicians, as well as physicians in larger practices, particularly in underserved and rural areas, as well as federally qualified health centers, and rural health centers.

“(d) COMMUNITY-BASED MEDICAL HOME MODEL.—

“(1) IN GENERAL.—

“(A) AUTHORITY FOR PAYMENTS.—Under the community-based medical home model under this subsection (in this section referred to as the ‘CBMH model’), the Secretary shall make payments for the furnishing of medical home services by a community-based medical home (as defined in subparagraph (B)) pursuant to paragraph (5)(B) for beneficiaries.

“(B) COMMUNITY-BASED MEDICAL HOME DEFINED.—In this section, the term ‘community-based medical home’ means a nonprofit community-based or State-based organization or a State that is certified under paragraph (2) as meeting the following requirements:

“(i) The organization provides beneficiaries with medical home services.

“(ii) The organization provides medical home services under the supervision of and in close collaboration with the primary care or principal care physician, nurse practitioner, or physician assistant designated by the beneficiary as his or her community-based medical home provider.

“(iii) The organization employs community health workers, including nurses or

other non-physician practitioners, lay health workers, or other persons as determined appropriate by the Secretary, that assist the primary or principal care physician, nurse practitioner, or physician assistant in chronic care management activities such as teaching self-care skills for managing chronic illnesses, transitional care services, care plan setting, nutritional counseling, medication therapy management services for patients with multiple chronic diseases, or help beneficiaries access the health care and community-based resources in their local geographic area.

“(iv) The organization meets such other requirements as the Secretary may specify.

“(2) QUALIFICATION PROCESS FOR COMMUNITY-BASED MEDICAL HOMES.—The Secretary shall establish a process to provide for the review and qualification of community-based medical homes pursuant to criteria established by the Secretary.

“(3) DURATION.—The pilot program for community-based medical homes under this subsection shall start no later than 2 years after the date of the enactment of this section. Each demonstration site under the pilot program shall operate for a period of up to 5 years after the initial implementation phase, without regard to the receipt of a initial implementation funding under paragraph (6).

“(4) PREFERENCE.—In selecting sites for the CBMH model, the Secretary shall give preference to applications which seek to eliminate health disparities, as defined in section 3171 of the Public Health Service Act and may give preference to any of the following:

“(A) Applications that propose to coordinate health care items and services under this title for chronically ill beneficiaries who rely, for primary care, on small physician or nurse practitioner practices, federally qualified health centers, rural health clinics, or other settings with limited resources and scope of services.

“(B) Applications that include other third-party payors that furnish medical home services for chronically ill patients covered by such third-party payors.

“(C) Applications from States that propose to use the medical home model to coordinate health care services for—

“(i) individuals enrolled under this title;

“(ii) individuals enrolled under title XIX; and

“(iii) full-benefit dual eligible individuals (as defined in section 1935(c)(6)), with chronic diseases across a variety of health care settings.

“(5) PAYMENTS.—

“(A) ESTABLISHMENT OF METHODOLOGY.—The Secretary shall establish a methodology for the payment for medical home services furnished under the CBMH model.

“(B) PER BENEFICIARY PER MONTH PAYMENTS.—Under such payment methodology, the Secretary shall make two separate monthly payments for each beneficiary who consents to receive medical home services through such medical home, as follows:

“(i) PAYMENT TO COMMUNITY-BASED ORGANIZATION.—One monthly payment to a community-based or State-based organization or State.

“(ii) PAYMENT TO PRIMARY OR PRINCIPAL CARE PRACTICE.—One monthly payment to the primary or principal care practice for such beneficiary.

“(C) PROSPECTIVE PAYMENT.—The payments under subparagraph (B) shall be paid on a prospective basis.

“(D) AMOUNT OF PAYMENT.—In determining the amount of such payment under subpara-

graph (B), the Secretary shall consider the following:

“(i) The clinical work and practice expenses involved in providing the medical home services provided by the primary or principal care practice (such as providing increased access, care coordination, care planning, population disease management, and teaching self-care skills for managing chronic illnesses) for which payment is not made under this title as of the date of the enactment of this section.

“(ii) Use appropriate risk-adjustment in determining the amount of the per beneficiary per month payment under this paragraph.

“(iii) In the case of the models described in subparagraphs (B) and (C) of paragraph (4), the Secretary may determine an appropriate payment amount.

“(6) INITIAL IMPLEMENTATION FUNDING.—The Secretary may make available initial implementation funding to a non-profit community based or State-based organization or a State that is participating in the pilot program under this subsection. Such organization shall provide the Secretary with a detailed implementation plan that includes how such funds will be used. The Secretary shall select a territory of the United States as one of the locations in which to implement the pilot program under this subsection, unless no organization in a territory is able to comply with the requirements under paragraph (1)(B).

“(e) EXPANSION OF PROGRAM.—

“(1) EVALUATION OF COST AND QUALITY.—The Secretary shall evaluate the pilot program to determine—

“(A) the extent to which medical homes result in—

“(i) improvement in the quality and coordination of items and services under this title, particularly with regard to the care of complex patients;

“(ii) improvement in reducing health disparities;

“(iii) reductions in preventable hospitalizations;

“(iv) prevention of readmissions;

“(v) reductions in emergency room visits;

“(vi) improvement in health outcomes, including patient functional status where applicable;

“(vii) improvement in patient satisfaction;

“(viii) improved efficiency of care such as reducing duplicative diagnostic tests and laboratory tests; and

“(ix) reductions in health care expenditures; and

“(B) the feasibility and advisability of reimbursing medical homes for medical home services under this title on a permanent basis.

“(2) REPORT.—Not later than 60 days after the date of completion of the evaluation under paragraph (1), the Secretary shall submit to Congress and make available to the public a report on the findings of the evaluation under paragraph (1) and the extent to which standards for the certification of medical homes need to be periodically updated.

“(3) EXPANSION OF PROGRAM.—

“(A) IN GENERAL.—Subject to the results of the evaluation under paragraph (1) and subparagraph (B), the Secretary may issue regulations to implement, on a permanent basis, one or more models, if, and to the extent that such model or models, are beneficial to the program under this title, including that such implementation will improve quality of care, as determined by the Secretary.

“(B) CERTIFICATION REQUIREMENT.—The Secretary may not issue such regulations

unless the Chief Actuary of the Centers for Medicare & Medicaid Services certifies that the expansion of the components of the pilot program described in subparagraph (A) would result in estimated spending under this title that would be no more than the level of spending that the Secretary estimates would otherwise be spent under this title in the absence of such expansion.

“(C) UPDATED STANDARDS.—The Secretary shall periodically review and update the standards for qualification as an independent patient centered medical home and as a community based medical home and shall establish a process for ensuring that medical homes meet such updated standards, as applicable

“(f) ADMINISTRATIVE PROVISIONS.—

“(1) NO DUPLICATION IN PAYMENTS FOR INDIVIDUALS IN MEDICAL HOMES.—During any month, the Secretary may not make payments under this section under more than one model or through more than one medical home under any model for the furnishing of medical home services to an individual.

“(2) NO EFFECT ON PAYMENT FOR MEDICAL VISITS.—Payments made under this section are in addition to, and have no effect on the amount of, payment for medical visits made under this title

“(3) ADMINISTRATION.—Chapter 35 of title 44, United States Code shall not apply to this section.

“(4) NO DUPLICATION IN PHYSICIAN PILOT PARTICIPATION.—The Secretary shall not make payments to an independent or community based medical home both under this section and section 1866E or 1866C, unless the pilot program under this section has been implemented on a permanent basis under subsection (e)(3).

“(5) WAIVER.—The Secretary may waive such provisions of this title and title XI in the manner the Secretary determines necessary in order to implement this section.

“(g) FUNDING.—

“(1) OPERATIONAL COSTS.—For purposes of administering and carrying out the pilot program (including the design, implementation, technical assistance for and evaluation of such program), in addition to funds otherwise available, there shall be transferred from the Federal Supplementary Medical Insurance Trust Fund under section 1841 to the Secretary for the Centers for Medicare & Medicaid Services Program Management Account \$6,000,000 for each of fiscal years 2010 through 2014. Amounts appropriated under this paragraph for a fiscal year shall be available until expended.

“(2) PATIENT-CENTERED MEDICAL HOME SERVICES.—In addition to funds otherwise available, there shall be available to the Secretary for the Centers for Medicare & Medicaid Services, from the Federal Supplementary Medical Insurance Trust Fund under section 1841—

“(A) \$200,000,000 for each of fiscal years 2010 through 2014 for payments for medical home services under subsection (c)(3); and

“(B) \$125,000,000 for each of fiscal years 2012 through 2016, for payments under subsection (d)(5).

Amounts available under this paragraph for a fiscal year shall be available until expended.

“(3) INITIAL IMPLEMENTATION.—In addition to funds otherwise available, there shall be available to the Secretary for the Centers for Medicare & Medicaid Services, from the Federal Supplementary Medical Insurance Trust Fund under section 1841, \$2,500,000 for each of fiscal years 2010 through 2012, under subsection (d)(6). Amounts available under this

paragraph for a fiscal year shall be available until expended.

“(h) TREATMENT OF TRHCA MEDICARE MEDICAL HOME DEMONSTRATION FUNDING.—

“(1) In addition to funds otherwise available for payment of medical home services under subsection (c)(3), there shall also be available the amount provided in subsection (g) of section 204 of division B of the Tax Relief and Health Care Act of 2006 (42 U.S.C. 1395b–1 note), as added by section 133 of the Medicare Improvements for Patients and Providers Act of 2008 (Public Law 110–275).

“(2) Notwithstanding section 1302(c) of the Affordable Health Care for America Act, in addition to funds provided in paragraph (1) and subsection (g)(2)(A), the funding for medical home services that would otherwise have been available if such section 204 medical home demonstration had been implemented (without regard to subsection (g) of such section) shall be available to the independent patient-centered medical home model described in subsection (c).”

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to services furnished on or after the date of the enactment of this Act.

(c) CONFORMING REPEAL.—Section 204 of division B of the Tax Relief and Health Care Act of 2006 (42 U.S.C. 1395b–1 note), as amended by section 133(a)(2) of the Medicare Improvements for Patients and Providers Act of 2008 (Public Law 110–275), is repealed.

#### SEC. 1303. PAYMENT INCENTIVE FOR SELECTED PRIMARY CARE SERVICES.

(a) IN GENERAL.—Section 1833 of the Social Security Act is amended by inserting after subsection (o) the following new subsection:

“(p) PRIMARY CARE PAYMENT INCENTIVES.—

“(1) IN GENERAL.—In the case of primary care services (as defined in paragraph (2)) furnished on or after January 1, 2011, by a primary care practitioner (as defined in paragraph (3)) for which amounts are payable under section 1848, in addition to the amount otherwise paid under this part there shall also be paid to the practitioner (or to an employer or facility in the cases described in clause (A) of section 1842(b)(6)) (on a monthly or quarterly basis) from the Federal Supplementary Medical Insurance Trust Fund an amount equal 5 percent (or 10 percent if the practitioner predominately furnishes such services in an area that is designated (under section 332(a)(1)(A) of the Public Health Service Act) as a primary care health professional shortage area.

“(2) PRIMARY CARE SERVICES DEFINED.—In this subsection, the term ‘primary care services’—

“(A) mean evaluation and management services, without regard to the specialty of the physician furnishing the services, that are procedure codes (for services covered under this title) for—

“(i) services in the category designated Evaluation and Management in the Health Care Common Procedure Coding System (established by the Secretary under section 1848(c)(5) as of December 31, 2009, and as subsequently modified by the Secretary); and

“(ii) preventive services (as defined in section 1861(iii) for which payment is made under this section; and

“(B) includes services furnished by another health care professional that would be described in subparagraph (A) if furnished by a physician.

“(3) PRIMARY CARE PRACTITIONER DEFINED.—In this subsection, the term ‘primary care practitioner’—

“(A) means a physician or other health care practitioner (including a nurse practitioner) who—

“(i) specializes in family medicine, general internal medicine, general pediatrics, geriatrics, or obstetrics and gynecology; and

“(ii) has allowed charges for primary care services that account for at least 50 percent of the physician's or practitioner's total allowed charges under section 1848, as determined by the Secretary for the most recent period for which data are available; and

“(B) includes a physician assistant who is under the supervision of a physician described in subparagraph (A).

“(4) LIMITATION ON REVIEW.—There shall be no administrative or judicial review under section 1869, section 1878, or otherwise, respecting—

“(A) any determination or designation under this subsection;

“(B) the identification of services as primary care services under this subsection; and

“(C) the identification of a practitioner as a primary care practitioner under this subsection.

“(5) COORDINATION WITH OTHER PAYMENTS.—

“(A) WITH OTHER PRIMARY CARE INCENTIVES.—The provisions of this subsection shall not be taken into account in applying subsections (m) and (u) and any payment under such subsections shall not be taken into account in computing payments under this subsection.

“(B) WITH QUALITY INCENTIVES.—Payments under this subsection shall not be taken into account in determining the amounts that would otherwise be paid under this part for purposes of section 1834(g)(2)(B).”

(b) CONFORMING AMENDMENTS.—

(1) Section 1833(m) of such Act (42 U.S.C. 1395l(m)) is amended by redesignating paragraph (4) as paragraph (5) and by inserting after paragraph (3) the following new paragraph:

“(4) The provisions of this subsection shall not be taken into account in applying subsections (m) or (u) and any payment under such subsections shall not be taken into account in computing payments under this subsection.”

(2) Section 1848(m)(5)(B) of such Act (42 U.S.C. 1395w–4(m)(5)(B)) is amended by inserting “, (p),” after “(m)”.

(3) Section 1848(o)(1)(B)(iv) of such Act (42 U.S.C. 1395w–4(o)(1)(B)(iv)) is amended by inserting “primary care” before “health professional shortage area”.

#### SEC. 1304. INCREASED REIMBURSEMENT RATE FOR CERTIFIED NURSE-MIDWIVES.

(a) IN GENERAL.—Section 1833(a)(1)(K) of the Social Security Act (42 U.S.C. 1395l(a)(1)(K)) is amended by striking “(but in no event” and all that follows through “performed by a physician)”.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to services furnished on or after January 1, 2011.

#### SEC. 1305. COVERAGE AND WAIVER OF COST-SHARING FOR PREVENTIVE SERVICES.

(a) MEDICARE COVERED PREVENTIVE SERVICES DEFINED.—Section 1861 of the Social Security Act (42 U.S.C. 1395x), as amended by section 1233(a)(1)(B), is amended by adding at the end the following new subsection:

“Medicare Covered Preventive Services

“(iii)(1) Subject to the succeeding provisions of this subsection, the term ‘Medicare covered preventive services’ means the following:

“(A) Prostate cancer screening tests (as defined in subsection (oo)).

“(B) Colorectal cancer screening tests (as defined in subsection (pp)).

“(C) Diabetes outpatient self-management training services (as defined in subsection (qq)).

“(D) Screening for glaucoma for certain individuals (as described in subsection (s)(2)(U)).

“(E) Medical nutrition therapy services for certain individuals (as described in subsection (s)(2)(V)).

“(F) An initial preventive physical examination (as defined in subsection (ww)).

“(G) Cardiovascular screening blood tests (as defined in subsection (xx)(1)).

“(H) Diabetes screening tests (as defined in subsection (yy)).

“(I) Ultrasound screening for abdominal aortic aneurysm for certain individuals (as described in subsection (s)(2)(AA)).

“(J) Federally approved and recommended vaccines and their administration as described in subsection (s)(10).

“(K) Screening mammography (as defined in subsection (jj)).

“(L) Screening pap smear and screening pelvic exam (as defined in subsection (nn)).

“(M) Bone mass measurement (as defined in subsection (rr)).

“(N) Kidney disease education services (as defined in subsection (ggg)).

“(O) Additional preventive services (as defined in subsection (ddd)).

“(2) With respect to specific Medicare covered preventive services, the limitations and conditions described in the provisions referenced in paragraph (1) with respect to such services shall apply.”

(b) PAYMENT AND ELIMINATION OF COST-SHARING.—

(1) IN GENERAL.—

(A) IN GENERAL.—Section 1833(a) of the Social Security Act (42 U.S.C. 1395l(a)) is amended by adding after and below paragraph (9) the following:

“With respect to Medicare covered preventive services, in any case in which the payment rate otherwise provided under this part is computed as a percent of less than 100 percent of an actual charge, fee schedule rate, or other rate, such percentage shall be increased to 100 percent.”

(B) APPLICATION TO SIGMOIDOSCOPIES AND COLONOSCOPIES.—Section 1834(d) of such Act (42 U.S.C. 1395m(d)) is amended—

(i) in paragraph (2)(C), by amending clause (i) to read as follows:

“(ii) NO COINSURANCE.—In the case of a beneficiary who receives services described in clause (i), there shall be no coinsurance applied.”; and

(ii) in paragraph (3)(C), by amending clause (i) to read as follows:

“(ii) NO COINSURANCE.—In the case of a beneficiary who receives services described in clause (i), there shall be no coinsurance applied.”

(2) ELIMINATION OF COINSURANCE IN OUTPATIENT HOSPITAL SETTINGS.—

(A) EXCLUSION FROM OPD FEE SCHEDULE.—Section 1833(t)(1)(B)(iv) of the Social Security Act (42 U.S.C. 1395l(t)(1)(B)(iv)) is amended by striking “screening mammography (as defined in section 1861(jj)) and diagnostic mammography” and inserting “diagnostic mammograms and Medicare covered preventive services (as defined in section 1861(iii)(1))”.

(B) CONFORMING AMENDMENTS.—Section 1833(a)(2) of the Social Security Act (42 U.S.C. 1395l(a)(2)) is amended—

(i) in subparagraph (F), by striking “and” after the semicolon at the end;

(ii) in subparagraph (G), by adding “and” at the end; and

(iii) by adding at the end the following new subparagraph:

“(H) with respect to additional preventive services (as defined in section 1861(ddd)) furnished by an outpatient department of a hospital, the amount determined under paragraph (1)(W);”.

(3) WAIVER OF APPLICATION OF DEDUCTIBLE FOR ALL PREVENTIVE SERVICES.—The first sentence of section 1833(b) of the Social Security Act (42 U.S.C. 1395l(b)) is amended—

(A) in clause (1), by striking “items and services described in section 1861(s)(10)(A)” and inserting “Medicare covered preventive services (as defined in section 1861(iii))”; and

(B) by inserting “and” before “(4)”; and

(C) by striking clauses (5) through (8).

(4) APPLICATION TO PROVIDERS OF SERVICES.—Section 1866(a)(2)(A)(ii) of such Act (42 U.S.C. 1395cc(a)(2)(A)(ii)) is amended by inserting “other than for Medicare covered preventive services and” after “for such items and services (“

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to services furnished on or after January 1, 2011.

(d) PREVENTIVE SERVICES.—

(1) REPORT TO CONGRESS ON BARRIERS TO PREVENTIVE SERVICES.—Not later than 12 months after the date of the enactment of this Act, the Secretary of Health and Human Services shall report to Congress on barriers, if any, facing Medicare beneficiaries in accessing the benefit to abdominal aortic aneurysm screening and other preventative services through the Welcome to Medicare Physical Exam.

(2) ABDOMINAL AORTIC ANEURYSM SCREEN ACCESS.—The Secretary shall, to the extent practical, identify and implement policies promoting proper use of abdominal aortic aneurysm screening among Medicare beneficiaries at risk for such aneurysms.

#### SEC. 1306. WAIVER OF DEDUCTIBLE FOR COLORECTAL CANCER SCREENING TESTS REGARDLESS OF CODING, SUBSEQUENT DIAGNOSIS, OR ANCILLARY TISSUE REMOVAL.

(a) IN GENERAL.—Section 1833 of the Social Security Act (42 U.S.C. 1395l(b)), as amended by section 1305(b), is further amended—

(1) in subsection (a), in the sentence added by section 1305(b)(1)(A), by inserting “(including services described in the last sentence of section 1833(b))” after “preventive services”; and

(2) in subsection (b), by adding at the end the following new sentence: “Clause (1) of the first sentence of this subsection shall apply with respect to a colorectal cancer screening test regardless of the code that is billed for the establishment of a diagnosis as a result of the test, or for the removal of tissue or other matter or other procedure that is furnished in connection with, as a result of, and in the same clinical encounter as, the screening test.”

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to items and services furnished on or after January 1, 2011.

#### SEC. 1307. EXCLUDING CLINICAL SOCIAL WORKER SERVICES FROM COVERAGE UNDER THE MEDICARE SKILLED NURSING FACILITY PROSPECTIVE PAYMENT SYSTEM AND CONSOLIDATED PAYMENT.

(a) IN GENERAL.—Section 1888(e)(2)(A)(ii) of the Social Security Act (42 U.S.C. 1395yy(e)(2)(A)(ii)) is amended by inserting “clinical social worker services,” after “qualified psychologist services.”

(b) CONFORMING AMENDMENT.—Section 1861(hh)(2) of the Social Security Act (42 U.S.C. 1395x(hh)(2)) is amended by striking “and other than services furnished to an inpatient of a skilled nursing facility which

the facility is required to provide as a requirement for participation”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to items and services furnished on or after October 1, 2010.

#### SEC. 1308. COVERAGE OF MARRIAGE AND FAMILY THERAPIST SERVICES AND MENTAL HEALTH COUNSELOR SERVICES.

(a) COVERAGE OF MARRIAGE AND FAMILY THERAPIST SERVICES.—

(1) COVERAGE OF SERVICES.—Section 1861(s)(2) of the Social Security Act (42 U.S.C. 1395x(s)(2)), as amended by section 1235, is amended—

(A) in subparagraph (EE), by striking “and” at the end;

(B) in subparagraph (FF), by adding “and” at the end; and

(C) by adding at the end the following new subparagraph:

“(GG) marriage and family therapist services (as defined in subsection (jjj));”.

(2) DEFINITION.—Section 1861 of the Social Security Act (42 U.S.C. 1395x), as amended by sections 1233 and 1305, is amended by adding at the end the following new subsection:

“Marriage and Family Therapist Services

“(jjj)(1) The term ‘marriage and family therapist services’ means services performed by a marriage and family therapist (as defined in paragraph (2)) for the diagnosis and treatment of mental illnesses, which the marriage and family therapist is legally authorized to perform under State law (or the State regulatory mechanism provided by State law) of the State in which such services are performed, as would otherwise be covered if furnished by a physician or as incident to a physician’s professional service, but only if no facility or other provider charges or is paid any amounts with respect to the furnishing of such services.

“(2) The term ‘marriage and family therapist’ means an individual who—

“(A) possesses a master’s or doctoral degree which qualifies for licensure or certification as a marriage and family therapist pursuant to State law;

“(B) after obtaining such degree has performed at least 2 years of clinical supervised experience in marriage and family therapy; and

“(C) is licensed or certified as a marriage and family therapist in the State in which marriage and family therapist services are performed.”

(3) PROVISION FOR PAYMENT UNDER PART B.—Section 1832(a)(2)(B) of the Social Security Act (42 U.S.C. 1395k(a)(2)(B)) is amended by adding at the end the following new clause:

“(v) marriage and family therapist services;”

(4) AMOUNT OF PAYMENT.—

(A) IN GENERAL.—Section 1833(a)(1) of the Social Security Act (42 U.S.C. 1395l(a)(1)) is amended—

(i) by striking “and” before “(W)”; and

(ii) by inserting before the semicolon at the end the following: “, and (X) with respect to marriage and family therapist services under section 1861(s)(2)(GG), the amounts paid shall be 80 percent of the lesser of the actual charge for the services or 75 percent of the amount determined for payment of a psychologist under clause (L)”.

(B) DEVELOPMENT OF CRITERIA WITH RESPECT TO CONSULTATION WITH A HEALTH CARE PROFESSIONAL.—The Secretary of Health and Human Services shall, taking into consideration concerns for patient confidentiality, develop criteria with respect to payment for marriage and family therapist services for

which payment may be made directly to the marriage and family therapist under part B of title XVIII of the Social Security Act (42 U.S.C. 1395j et seq.) under which such a therapist must agree to consult with a patient's attending or primary care physician or nurse practitioner in accordance with such criteria.

(5) EXCLUSION OF MARRIAGE AND FAMILY THERAPIST SERVICES FROM SKILLED NURSING FACILITY PROSPECTIVE PAYMENT SYSTEM.—Section 1888(e)(2)(A)(ii) of the Social Security Act (42 U.S.C. 1395yy(e)(2)(A)(ii)), as amended by section 1307(a), is amended by inserting “marriage and family therapist services (as defined in subsection (jjj)(1)),” after “clinical social worker services.”

(6) COVERAGE OF MARRIAGE AND FAMILY THERAPIST SERVICES PROVIDED IN RURAL HEALTH CLINICS AND FEDERALLY QUALIFIED HEALTH CENTERS.—Section 1861(aa)(1)(B) of the Social Security Act (42 U.S.C. 1395x(aa)(1)(B)) is amended by striking “or by a clinical social worker (as defined in subsection (hh)(1)),” and inserting “, by a clinical social worker (as defined in subsection (hh)(1)), or by a marriage and family therapist (as defined in subsection (jjj)(2)).”

(7) INCLUSION OF MARRIAGE AND FAMILY THERAPISTS AS PRACTITIONERS FOR ASSIGNMENT OF CLAIMS.—Section 1842(b)(18)(C) of the Social Security Act (42 U.S.C. 1395u(b)(18)(C)) is amended by adding at the end the following new clause:

“(vi) A marriage and family therapist (as defined in section 1861(jjj)(2)).”

(b) COVERAGE OF MENTAL HEALTH COUNSELOR SERVICES.—

(1) COVERAGE OF SERVICES.—Section 1861(s)(2) of the Social Security Act (42 U.S.C. 1395x(s)(2)), as previously amended, is further amended—

(A) in subparagraph (FF), by striking “and” at the end;

(B) in subparagraph (GG), by inserting “and” at the end; and

(C) by adding at the end the following new subparagraph:

“(HH) mental health counselor services (as defined in subsection (kkk)(1)).”

(2) DEFINITION.—Section 1861 of the Social Security Act (42 U.S.C. 1395x), as previously amended, is amended by adding at the end the following new subsection:

#### “Mental Health Counselor Services

“(kkk)(1) The term ‘mental health counselor services’ means services performed by a mental health counselor (as defined in paragraph (2)) for the diagnosis and treatment of mental illnesses which the mental health counselor is legally authorized to perform under State law (or the State regulatory mechanism provided by the State law) of the State in which such services are performed, as would otherwise be covered if furnished by a physician or as incident to a physician's professional service, but only if no facility or other provider charges or is paid any amounts with respect to the furnishing of such services.

“(2) The term ‘mental health counselor’ means an individual who—

“(A) possesses a master's or doctor's degree which qualifies the individual for licensure or certification for the practice of mental health counseling in the State in which the services are performed;

“(B) after obtaining such a degree has performed at least 2 years of supervised mental health counselor practice; and

“(C) is licensed or certified as a mental health counselor or professional counselor by the State in which the services are performed.”

(3) PROVISION FOR PAYMENT UNDER PART B.—Section 1832(a)(2)(B) of the Social Security Act (42 U.S.C. 1395k(a)(2)(B)), as amended by subsection (a)(3), is further amended—

(A) by striking “and” at the end of clause (iv);

(B) by adding “and” at the end of clause (v); and

(C) by adding at the end the following new clause:

“(vi) mental health counselor services.”

(4) AMOUNT OF PAYMENT.—

(A) IN GENERAL.—Section 1833(a)(1) of the Social Security Act (42 U.S.C. 1395l(a)(1)), as amended by subsection (a), is further amended—

(i) by striking “and” before “(X)”; and

(ii) by inserting before the semicolon at the end the following: “, and (Y), with respect to mental health counselor services under section 1861(s)(2)(HH), the amounts paid shall be 80 percent of the lesser of the actual charge for the services or 75 percent of the amount determined for payment of a psychologist under clause (L)).”

(B) DEVELOPMENT OF CRITERIA WITH RESPECT TO CONSULTATION WITH A PHYSICIAN.—The Secretary of Health and Human Services shall, taking into consideration concerns for patient confidentiality, develop criteria with respect to payment for mental health counselor services for which payment may be made directly to the mental health counselor under part B of title XVIII of the Social Security Act (42 U.S.C. 1395j et seq.) under which such a counselor must agree to consult with a patient's attending or primary care physician in accordance with such criteria.

(5) EXCLUSION OF MENTAL HEALTH COUNSELOR SERVICES FROM SKILLED NURSING FACILITY PROSPECTIVE PAYMENT SYSTEM.—Section 1888(e)(2)(A)(ii) of the Social Security Act (42 U.S.C. 1395yy(e)(2)(A)(ii)), as amended by section 1307(a) and subsection (a), is amended by inserting “mental health counselor services (as defined in section 1861(kkk)(1)),” after “marriage and family therapist services (as defined in subsection (jjj)(1)).”

(6) COVERAGE OF MENTAL HEALTH COUNSELOR SERVICES PROVIDED IN RURAL HEALTH CLINICS AND FEDERALLY QUALIFIED HEALTH CENTERS.—Section 1861(aa)(1)(B) of the Social Security Act (42 U.S.C. 1395x(aa)(1)(B)), as amended by subsection (a), is amended by striking “or by a marriage and family therapist (as defined in subsection (jjj)(2)),” and inserting “by a marriage and family therapist (as defined in subsection (jjj)(2)), or a mental health counselor (as defined in subsection (kkk)(2)).”

(7) INCLUSION OF MENTAL HEALTH COUNSELORS AS PRACTITIONERS FOR ASSIGNMENT OF CLAIMS.—Section 1842(b)(18)(C) of the Social Security Act (42 U.S.C. 1395u(b)(18)(C)), as amended by subsection (a)(7), is amended by adding at the end the following new clause:

“(viii) A mental health counselor (as defined in section 1861(kkk)(2)).”

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to items and services furnished on or after January 1, 2011.

#### SEC. 1309. EXTENSION OF PHYSICIAN FEE SCHEDULE MENTAL HEALTH ADD-ON.

Section 138(a)(1) of the Medicare Improvements for Patients and Providers Act of 2008 (Public Law 110-275) is amended by striking “December 31, 2009” and inserting “December 31, 2011”.

#### SEC. 1310. EXPANDING ACCESS TO VACCINES.

(a) IN GENERAL.—Paragraph (10) of section 1861(s) of the Social Security Act (42 U.S.C. 1395w(s)) is amended to read as follows:

“(10) federally approved and recommended vaccines (as defined in subsection (lll)) and their respective administration;”

(b) FEDERALLY APPROVED AND RECOMMENDED VACCINES DEFINED.—Section 1861 of such Act is further amended by adding at the end the following new subsection:

#### “Federally Approved and Recommended Vaccines

“(lll) The term ‘federally approved and recommended vaccine’ means a vaccine that—

“(1) is licensed under section 351 of the Public Health Service Act, approved under the Federal Food, Drug, and Cosmetic Act, or authorized for emergency use under section 564 of the Federal, Food, Drug, and Cosmetic Act; and

“(2) is recommended by the Director of the Centers for Disease Control and Prevention.”

(c) CONFORMING AMENDMENTS.—

(1) Section 1833 of such Act (42 U.S.C. 1395l) is amended, in each of subsections (a)(1)(B), (a)(2)(G), and (a)(3)(A), by striking “1861(s)(10)(A)” and inserting “1861(s)(10)” each place it appears.

(2) Section 1842(o)(1)(A)(iv) of such Act (42 U.S.C. 1395u(o)(1)(A)(iv)) is amended—

(A) by striking “subparagraph (A) or (B) of”; and

(B) by inserting before the period the following: “and before January 1, 2011, and influenza vaccines furnished on or after January 1, 2011”.

(3) Section 1847A(c)(6) of such Act (42 U.S.C. 1395w-3a(c)(6)) is amended—

(A) in subparagraph (D)(i), by inserting “, including a vaccine furnished on or after January 1, 2010”; and

(B) by the following new paragraph:

“(H) IMPLEMENTATION.—Chapter 35 of title 44, United States Code shall not apply to manufacturer provision of information pursuant to section 1927(b)(3)(A)(iii) or subsection (f)(2) for purposes of implementation of this section.”

(4) Section 1860D-2(e)(1) of such Act (42 U.S.C. 1395w-102(e)(1)) is amended by striking “such term includes a vaccine” and all that follows through “its administration) and”.

(5) Section 1861(ww)(2)(A) of such Act (42 U.S.C. 1395x(ww)(2)(A)) is amended by striking “Pneumococcal, influenza, and hepatitis B vaccine and administration” and inserting “federally approved or authorized vaccines (as defined in subsection (lll)) and their respective administration”.

(6) Section 1927(b)(3)(A)(iii) of such Act (42 U.S.C. 1396r-8(b)(3)(A)(iii)) is amended, in the matter following subclause (III), by inserting “(A)(iv) (including influenza vaccines furnished on or after January 1, 2011),” after “described in subparagraph”.

(7) Section 1847A(f) of such Act (42 U.S.C. 1395w-3a(f)) is amended—

(A) by striking “For” and inserting “(1) IN GENERAL.—For”; and

(B) by indenting paragraph (1), as redesignated in subparagraph (A), 2 ems to the left; and

(C) by adding at the end the following new paragraph:

“(2) TREATMENT OF CERTAIN MANUFACTURERS.—In the case of a manufacturer of a drug or biological described in subparagraphs (A)(iv), (C), (D), (E), or (G) of section 1842(o)(1) that does not have a rebate agreement under section 1927(a), no payment may be made under this part for such drug or biological if such manufacturer does not submit the information described in section 1927(b)(3)(A)(iii) in the same manner as if the manufacturer had such a rebate agreement



in effect. Subparagraphs (C) and (D) of section 1927(b)(3) shall apply to information reported pursuant to the previous sentence in the same manner as such subparagraphs apply with respect to information reported pursuant to such section.”.

(d) **EFFECTIVE DATES.**—The amendments made—

(1) by this section (other than by subsection (c)(6)) shall apply to vaccines administered on or after January 1, 2011; and

(2) by subsection (c)(6) shall apply to calendar quarters beginning on or after January 1, 2010.

**SEC. 1311. EXPANSION OF MEDICARE-COVERED PREVENTIVE SERVICES AT FEDERALLY QUALIFIED HEALTH CENTERS.**

(a) **IN GENERAL.**—Section 1861(aa)(3)(A) of the Social Security Act (42 U.S.C. 1395w(aa)(3)(A)) is amended to read as follows:

“(A) services of the type described in subparagraphs (A) through (C) of paragraph (1) and services described in section 1861(iii); and”.

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall apply not later than January 1, 2011.

**SEC. 1312. INDEPENDENCE AT HOME DEMONSTRATION PROGRAM.**

Title XVIII of the Social Security Act is amended by inserting after section 1866F, as inserted by section 1302, the following new section:

**“INDEPENDENCE AT HOME MEDICAL PRACTICE DEMONSTRATION PROGRAM**

**“SEC. 1866G. (a) ESTABLISHMENT.—**

“(1) **IN GENERAL.**—The Secretary shall conduct a demonstration program (in this section referred to as the ‘demonstration program’) to test a payment incentive and service delivery model that utilizes physician and nurse practitioner directed home-based primary care teams designed to reduce expenditures and improve health outcomes in the provision of items and services under this title to applicable beneficiaries (as defined in subsection (d)).

“(2) **REQUIREMENT.**—The demonstration program shall test whether a model described in paragraph (1), which is accountable for providing comprehensive, coordinated, continuous, and accessible care to high-need populations at home and coordinating health care across all treatment settings, results in—

“(A) reducing preventable hospitalizations;

“(B) preventing hospital readmissions;

“(C) reducing emergency room visits;

“(D) improving health outcomes commensurate with the beneficiaries’ stage of chronic illness;

“(E) improving the efficiency of care, such as by reducing duplicative diagnostic and laboratory tests;

“(F) reducing the cost of health care services covered under this title; and

“(G) achieving beneficiary and family caregiver satisfaction.

“(b) **INDEPENDENCE AT HOME MEDICAL PRACTICE.**—

“(1) **INDEPENDENCE AT HOME MEDICAL PRACTICE DEFINED.**—In this section:

“(A) **IN GENERAL.**—The term ‘independence at home medical practice’ means a legal entity that—

“(i) is comprised of an individual physician or nurse practitioner or group of physicians and nurse practitioners that provides care as part of a team that includes physicians, nurses, physician assistants, pharmacists, and other health and social services staff as appropriate who have experience providing home-based primary care to applicable beneficiaries, make in-home visits, and are available 24 hours per day, 7 days per week to

carry out plans of care that are tailored to the individual beneficiary’s chronic conditions and designed to achieve the results in subsection (a);

“(ii) is organized at least in part for the purpose of providing physicians’ services;

“(iii) has documented experience in providing home-based primary care services to high cost chronically ill beneficiaries, as determined appropriate by the Secretary;

“(iv) includes at least 200 applicable beneficiaries as defined in subsection (d);

“(v) has entered into an agreement with the Secretary;

“(vi) uses electronic health information systems, remote monitoring, and mobile diagnostic technology; and

“(vii) meets such other criteria as the Secretary determines to be appropriate to participate in the demonstration program.

“(B) **PHYSICIAN.**—The term ‘physician’ includes, except as the Secretary may otherwise provide, any individual who furnishes services for which payment may be made as physicians’ services and has the medical training or experience to fulfill the physician’s role described in subparagraph (A)(i).

“(2) **PARTICIPATION OF NURSE PRACTITIONERS AND PHYSICIAN ASSISTANTS.**—Nothing in this section shall be construed to prevent a nurse practitioner or physician assistant from participating in, or leading, a home-based primary care team as part of an independence at home medical practice if—

“(A) all the requirements of this section are met;

“(B) the nurse practitioner or physician assistant, as the case may be, is acting consistent with State law; and

“(C) the nurse practitioner or physician assistant has the medical training or experience to fulfill the nurse practitioner or physician assistant role described in paragraph (1)(A)(i).

“(3) **INCLUSION OF PROVIDERS AND PRACTITIONERS.**—Nothing in this subsection shall be construed as preventing an independence at home medical practice from including a provider of services or a participating practitioner described in section 1842(b)(18)(C) that is affiliated with the practice under an arrangement structured so that such provider of services or practitioner participates in the demonstration program and shares in any savings under the demonstration program.

“(4) **QUALITY AND PERFORMANCE STANDARDS.**—

“(A) **IN GENERAL.**—An independence at home medical practice participating in the demonstration program shall report on quality measures (in such form, manner, and frequency as specified by the Secretary, which may be for the group, for providers of services and suppliers, or both) and report to the Secretary (in a form, manner, and frequency as specified by the Secretary) such data as the Secretary determines appropriate to monitor and evaluate the demonstration program.

“(B) **DEVELOPMENT OF QUALITY PERFORMANCE STANDARDS.**—The Secretary shall develop quality performance standards for independence at home medical practices participating in the demonstration program.

“(c) **SHARED SAVINGS PAYMENT METHODOLOGY.**—

“(1) **ESTABLISHMENT OF TARGET SPENDING LEVEL.**—The Secretary shall establish annual target spending levels for items and services covered under parts A and B furnished to applicable beneficiaries by qualifying independence at home medical practices under this section. The Secretary may set an aggregate target spending level for all quali-

fying practices, or may set different target spending levels for groups of practices or a single practice. Such target spending levels may be determined on a per capita basis and shall take into account normal variation in expenditures for items and services covered under parts A and B furnished to such beneficiaries. The target shall also be adjusted for the size of the practice, number of practices included in the target spending level, characteristics of applicable beneficiaries and such other factors as the Secretary determines appropriate. The Secretary may periodically adjust or rebase the target spending level under this paragraph.

“(2) **SHARED SAVINGS AMOUNTS.**—

“(A) **IN GENERAL.**—Subject to subparagraph (B), qualifying independence at home medical practices are eligible to receive an incentive payment under this section if aggregate expenditures for a year for applicable beneficiaries are less than the target spending level for qualifying independence at home medical practices for such year. An incentive payment for such year shall be equal to a portion (as determined by the Secretary) of the amount by which total payments for applicable beneficiaries under parts A and B for such year are estimated to be less than 5 percent less than the target spending level for such year, as determined by the Secretary.

“(B) **APPORTIONMENT OF SAVINGS.**—The Secretary shall designate how, and to what extent, an incentive payment under this section is to be apportioned among qualifying independence at home medical practices, taking into account the size of the practice, characteristics of the individuals enrolled in each practice, performance on quality performance measures, and such other factors as the Secretary determines appropriate.

“(3) **SAVINGS TO THE MEDICARE PROGRAM.**—The Secretary shall limit incentive payments to each qualifying independence at home medical practice under this paragraph, with respect to a year, as necessary to ensure that the aggregate expenditures for items and services under parts A and B with respect to applicable beneficiaries for such independence at home medical practice (inclusive of shared savings payments) do not exceed the amount that the Secretary estimates would be expended for such items and services for such beneficiaries during such year (taking into account normal variation in expenditures and other factors the Secretary deems appropriate) if the demonstration program under this section were not implemented, minus 5 percent.

“(d) **APPLICABLE BENEFICIARIES.**—

“(1) **DEFINITION.**—In this section, the term ‘applicable beneficiary’ means, with respect to a qualifying independence at home medical practice, an individual who the practice has determined—

“(A) is entitled to benefits under part A and enrolled for benefits under part B;

“(B) is not enrolled in a Medicare Advantage plan under part C or a PACE program under section 1894;

“(C) has 2 or more chronic illnesses, such as congestive heart failure, diabetes, other dementias designated by the Secretary, chronic obstructive pulmonary disease, ischemic heart disease, stroke, Alzheimer’s Disease and neurodegenerative diseases, and other diseases and conditions designated by the Secretary which result in high costs under this title;

“(D) within the past 12 months has had a nonelective hospital admission;

“(E) within the past 12 months has received acute or subacute rehabilitation services;



“(F) has 2 or more functional dependencies requiring the assistance of another person (such as bathing, dressing, toileting, walking, or feeding); and

“(G) meets such other criteria as the Secretary determines appropriate.

“(2) PATIENT ELECTION TO PARTICIPATE.—The Secretary shall determine an appropriate method of ensuring that applicable beneficiaries have agreed to enroll in an independence at home medical practice under the demonstration program. Enrollment in the demonstration program shall be voluntary.

“(3) BENEFICIARY ACCESS TO SERVICES.—Nothing in this section shall be construed as encouraging physicians or nurse practitioners to limit applicable beneficiary access to services covered under this title and applicable beneficiaries shall not be required to relinquish access to any benefit under this title as a condition of receiving services from an independence at home medical practice.

“(e) IMPLEMENTATION.—

“(1) STARTING DATE.—The demonstration program shall begin not later than January 1, 2012. An agreement with an independence at home medical practice under the demonstration program may cover not more than a 3-year period.

“(2) NO PHYSICIAN DUPLICATION IN DEMONSTRATION PARTICIPATION.—The Secretary shall not pay an independence at home medical practice under this section that participates in section 1866D or section 1866E.

“(3) NO BENEFICIARY DUPLICATION IN DEMONSTRATION PARTICIPATION.—The Secretary shall ensure that no applicable beneficiary enrolled in an independence at home medical practice under this section is participating in the programs under section 1866D or section 1866E.

“(4) PREFERENCE.—In approving an independence at home medical practice, the Secretary shall give preference to practices that are—

“(A) located in high-cost areas of the country;

“(B) have experience in furnishing health care services to applicable beneficiaries in the home; and

“(C) use electronic medical records, health information technology, and individualized plans of care.

“(5) NUMBER OF PRACTICES.—

“(A) IN GENERAL.—Subject to subparagraph (B), the Secretary shall enter into agreements with as many independence at home medical practices as practicable and consistent with this subsection to test the potential of the independence at home medical practice model under this section in order to achieve the results described in subsection (a) across practices serving varying numbers of applicable beneficiaries.

“(B) LIMITATION.—In selecting qualified independence at home medical practices to participate under the demonstration program, the Secretary shall limit the number of applicable beneficiaries that may participate in the demonstration program to 10,000.

“(6) WAIVER.—The Secretary may waive such provisions of this title and title XI as the Secretary determines necessary in order to implement the demonstration program.

“(7) ADMINISTRATION.—Chapter 35 of title 44, United States Code, shall not apply to this section.

“(f) EVALUATION AND MONITORING.—

“(1) IN GENERAL.—The Secretary shall evaluate each independence at home medical practice under the demonstration program to assess whether the practice achieved the results described in subsection (a).

“(2) FOLLOWING APPLICABLE BENEFICIARIES.—The Secretary may monitor data on expenditures and quality of services under this title after an applicable beneficiary discontinues receiving services under this title through a qualifying independence at home medical practice.

“(g) REPORTS TO CONGRESS.—The Secretary shall conduct an independent evaluation of the demonstration program and submit to Congress a final report, including best practices under the demonstration program. Such report shall include an analysis of the demonstration program on coordination of care, expenditures under this title, applicable beneficiary access to services, and the quality of health care services provided to applicable beneficiaries.

“(h) FUNDING.—For purposes of administering and carrying out the demonstration program, other than for payments for items and services furnished under this title and shared savings under subsection (c), in addition to funds otherwise appropriated, there shall be transferred to the Secretary for the Center for Medicare & Medicaid Services Program Management Account from the Federal Hospital Insurance Trust Fund under section 1817 and the Federal Supplementary Medical Insurance Trust Fund under section 1841 \$5,000,000 for each of fiscal years 2010 through 2015. Amounts transferred under this subsection for a fiscal year shall be available until expended.

“(i) ANTIDISCRIMINATION LIMITATION.—The Secretary shall not enter into an agreement with an entity to provide health care items or services under the demonstration program unless such entity guarantees that for individuals eligible to be enrolled in such program, the entity will not deny, limit, or condition the coverage or provision of benefits to which the individual would have otherwise been entitled to on the basis of health status if not included in this program.

“(j) TERMINATION.—The Secretary may terminate an agreement with an independence at home medical practice if such practice does not receive incentive payments under subsection (c)(2) or consistently fails to meet quality standards.”.

#### **SEC. 1313. RECOGNITION OF CERTIFIED DIABETES EDUCATORS AS CERTIFIED PROVIDERS FOR PURPOSES OF MEDICARE DIABETES OUTPATIENT SELF-MANAGEMENT TRAINING SERVICES.**

(a) IN GENERAL.—Section 1861(qq) of the Social Security Act (42 U.S.C. 1395x(qq)) is amended—

(1) in paragraph (1), by inserting “or by a certified diabetes educator (as defined in paragraph (3))” after “paragraph (2)(B)”; and

(2) by adding at the end the following new paragraphs:

“(3) For purposes of paragraph (1), the term ‘certified diabetes educator’ means an individual who—

“(A) is licensed or registered by the State in which the services are performed as a health care professional;

“(B) specializes in teaching individuals with diabetes to develop the necessary skills and knowledge to manage the individual’s diabetic condition; and

“(C) is certified as a diabetes educator by a recognized certifying body (as defined in paragraph (4)).

“(4)(A) For purposes of paragraph (3)(C), the term ‘recognized certifying body’ means—

“(i) the National Certification Board for Diabetes Educators; or

“(ii) a certifying body for diabetes educators, which is recognized by the Secretary as authorized to grant certification of diabe-

tes educators for purposes of this subsection pursuant to standards established by the Secretary, if the Secretary determines such Board or body, respectively, meets the requirement of subparagraph (B).

“(B) The National Certification Board for Diabetes Educators or a certifying body for diabetes educators meets the requirement of this subparagraph, with respect to the certification of an individual, if the Board or body, respectively, is incorporated and registered to do business in the United States and requires as a condition of such certification each of the following:

“(i) The individual has a qualifying credential in a specified health care profession.

“(ii) The individual has professional practice experience in diabetes self-management training that includes a minimum number of hours and years of experience in such training.

“(iii) The individual has successfully completed a national certification examination offered by such entity.

“(iv) The individual periodically renews certification status following initial certification.”.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to diabetes outpatient self-management training services furnished on or after the first day of the first calendar year that is at least 6 months after the date of the enactment of this Act.

### **TITLE IV—QUALITY**

#### **Subtitle A—Comparative Effectiveness Research**

#### **SEC. 1401. COMPARATIVE EFFECTIVENESS RESEARCH.**

(a) IN GENERAL.—Title XI of the Social Security Act is amended by adding at the end the following new part:

#### **“PART D—COMPARATIVE EFFECTIVENESS RESEARCH**

##### **“COMPARATIVE EFFECTIVENESS RESEARCH**

“SEC. 1181. (a) CENTER FOR COMPARATIVE EFFECTIVENESS RESEARCH ESTABLISHED.—

“(1) IN GENERAL.—The Secretary shall establish within the Agency for Healthcare Research and Quality a Center for Comparative Effectiveness Research (in this section referred to as the ‘Center’) to conduct, support, and synthesize research (including research conducted or supported under section 1013 of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003) with respect to the outcomes, effectiveness, and appropriateness of health care services and procedures in order to identify the manner in which diseases, disorders, and other health conditions can most effectively and appropriately be prevented, diagnosed, treated, and managed clinically.

“(2) DUTIES.—The Center shall—

“(A) conduct, support, and synthesize research relevant to the comparative effectiveness of the full spectrum of health care items, services and systems, including pharmaceuticals, medical devices, medical and surgical procedures, and other medical interventions;

“(B) conduct and support systematic reviews of clinical research, including original research conducted subsequent to the date of the enactment of this section;

“(C) continuously develop rigorous scientific methodologies for conducting comparative effectiveness studies, and use such methodologies appropriately;

“(D) submit to the Comparative Effectiveness Research Commission, the Secretary, and Congress appropriate relevant reports described in subsection (d)(2);

“(E) not later than one year after the date of the enactment of this section, enter into an arrangement under which the Institute of Medicine of the National Academy of Sciences shall conduct an evaluation and report on standards of evidence for highly credible research;

“(F) encourage, as appropriate, the development and use of clinical registries and the development of clinical effectiveness research data networks from electronic health records, post marketing drug and medical device surveillance efforts, and other forms of electronic health data; and

“(G) appoint clinical perspective advisory panels for research priorities under this section, which shall consult with patients and other stakeholders and advise the Center on research questions, methods, and evidence gaps in terms of clinical outcomes for the specific research inquiry to be examined with respect to such priority to ensure that the information produced from such research is clinically relevant to decisions made by clinicians and patients at the point of care.

“(3) POWERS.—

“(A) OBTAINING OFFICIAL DATA.—The Center may secure directly from any department or agency of the United States information necessary to enable it to carry out this section. Upon request of the Center, the head of such department or agency shall furnish that information to the Center on an agreed upon schedule.

“(B) DATA COLLECTION.—In order to carry out its functions, the Center shall—

“(i) utilize existing information, both published and unpublished, where possible, collected and assessed either by its own staff or under other arrangements made in accordance with this section;

“(ii) carry out, or award grants or contracts for, original research and experimentation, where existing information is inadequate; and

“(iii) adopt procedures allowing any interested party to submit information for the use by the Center in making reports and recommendations.

In carrying out clause (ii), the Center may award grants or contracts (or provide for intergovernmental transfers, as applicable) to private entities and governmental agencies with experience in conducting comparative effectiveness research, such as the National Institutes of Health and other relevant Federal health agencies.

“(C) ACCESS OF GAO TO INFORMATION.—The Comptroller General shall have unrestricted access to all deliberations, records, and non-proprietary data of the Center and Commission under subsection (b), immediately upon request.

“(D) PERIODIC AUDIT.—The Center and Commission under subsection (b) shall be subject to periodic audit by the Comptroller General.

“(b) COMPARATIVE EFFECTIVENESS RESEARCH COMMISSION.—

“(1) IN GENERAL.—There is established an independent Comparative Effectiveness Research Commission (in this section referred to as the ‘Commission’) to advise the Center and evaluate the activities carried out by the Center under subsection (a) to ensure such activities result in highly credible research and information resulting from such research.

“(2) DUTIES.—The Commission shall—

“(A)(i) recommend to the Center national priorities for research described in subsection (a) which shall take into account—

“(I) disease incidence, prevalence, and burden in the United States;

“(II) evidence gaps in terms of clinical outcomes;

“(III) variations in practice, delivery, and outcomes by geography, treatment site, provider type, disability, variation in age group (including children, adolescents, adults, and seniors), racial and ethnic background, gender, genetic and molecular subtypes, and other appropriate populations or subpopulations; and

“(IV) the potential for new evidence concerning certain categories, health care services, or treatments to improve patient health and well-being, and the quality of care; and

“(ii) in making such recommendations consult with a broad array of public and private stakeholders, including patients and health care providers and payers;

“(B) monitor the appropriateness of use of the CERTF described in subsection (g) with respect to the timely production of comparative effectiveness research recommended to be a national priority under subparagraph (A);

“(C) identify highly credible research methods and standards of evidence for such research to be considered by the Center;

“(D) review the methodologies developed by the center under subsection (a)(2)(C);

“(E) support forums to increase stakeholder awareness and permit stakeholder feedback on the efforts of the Center to advance methods and standards that promote highly credible research;

“(F) make recommendations to the Center for policies that would allow for public access of data produced under this section, in accordance with appropriate privacy and proprietary practices, while ensuring that the information produced through such data is timely and credible;

“(G) make recommendations to the Center for the priority for periodic reviews of previous comparative effectiveness research and studies conducted by the Center under subsection (a);

“(H) at least annually review the processes of the Center and make reports to Congress and the President regarding research conducted, supported, or synthesized by the Center to confirm that the information produced by such research is objective, credible, consistent with standards of evidence developed under this section, and developed through a transparent process that includes consultations with appropriate stakeholders;

“(I) make recommendations to the Center for the broad dissemination, consistent with subsection (e), of the findings of research conducted and supported under this section that enables clinicians, patients, consumers, and payers to make more informed health care decisions that improve quality and value; and

“(J) at least twice each year, hold a public meeting with an opportunity for stakeholder input.

The reports under subparagraph (H) shall not be submitted to the Office of Management and Budget or to any other Federal agency or executive department for any purpose prior to transmittal to Congress and the President. Such reports shall be published on the public internet website of the Commission after the date of such transmittal.

“(3) COMPOSITION OF COMMISSION.—

“(A) IN GENERAL.—The members of the Commission shall consist of—

“(i) the Director of the Agency for Healthcare Research and Quality or their designee;

“(ii) the Chief Medical Officer of the Centers for Medicare & Medicaid Services or their designee;

“(iii) the Director of the National Institutes of Health or their designee; and

“(iv) 16 additional members who shall represent broad constituencies of stakeholders including clinicians, patients, researchers, third-party payers, and consumers of Federal and State beneficiary programs.

Of such members, at least 10 shall be practicing physicians, health care practitioners, consumers, or patients.

“(B) QUALIFICATIONS.—

“(i) DIVERSE REPRESENTATION OF PERSPECTIVES.—The members of the Commission shall represent a broad range of perspectives and shall collectively have experience in the following areas:

“(I) Epidemiology.

“(II) Health services research.

“(III) Bioethics.

“(IV) Decision sciences.

“(V) Health disparities.

“(VI) Health economics.

“(ii) DIVERSE REPRESENTATION OF HEALTH CARE COMMUNITY.—At least one member shall represent each of the following health care communities:

“(I) Patients.

“(II) Health care consumers.

“(III) Practicing Physicians, including surgeons.

“(IV) Other health care practitioners engaged in clinical care.

“(V) Organizations with proven expertise in racial and ethnic minority health research.

“(VI) Employers.

“(VII) Public payers.

“(VIII) Insurance plans.

“(IX) Clinical researchers who conduct research on behalf of pharmaceutical or device manufacturers.

“(C) LIMITATION.—No more than 3 of the Members of the Commission may be representatives of pharmaceutical or device manufacturers and such representatives shall be clinical researchers described under subparagraph (B)(ii)(IX).

“(4) APPOINTMENT.—The Comptroller General shall appoint the members of the Commission.

“(5) CHAIRMAN; VICE CHAIRMAN.—The Comptroller General shall designate a member of the Commission, at the time of appointment of the member, as Chairman and a member as Vice Chairman for that term of appointment, except that in the case of vacancy of the Chairmanship or Vice Chairmanship, the Comptroller General may designate another member for the remainder of that member's term. The Chairman shall serve as an ex officio member of the National Advisory Council of the Agency for Health Care Research and Quality under section 931(c)(3)(B) of the Public Health Service Act.

“(6) TERMS.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), each member of the Commission shall be appointed for a term of 4 years.

“(B) TERMS OF INITIAL APPOINTEES.—Of the members first appointed—

“(i) 8 shall be appointed for a term of 4 years; and

“(ii) 8 shall be appointed for a term of 3 years.

“(7) COMPENSATION.—While serving on the business of the Commission (including travel time), a member of the Commission shall be entitled to compensation at the per diem equivalent of the rate provided for level IV of the Executive Schedule under section 5315 of title 5, United States Code; and while so serving away from home and the member's regular place of business, a member may be

allowed travel expenses, as authorized by the Director of the Commission.

“(8) DIRECTOR AND STAFF; EXPERTS AND CONSULTANTS.—Subject to such review as the Comptroller General deems necessary to assure the efficient administration of the Commission, the Commission may—

“(A) appoint and set the compensation for an Executive Director (subject to the approval of the Comptroller General) and such other personnel as Federal employees under section 2105 of title 5, United States Code, as may be necessary to carry out its duties (without regard to the provisions of title 5, United States Code, governing appointments in the competitive service);

“(B) seek such assistance and support as may be required in the performance of its duties from appropriate Federal departments and agencies;

“(C) enter into contracts or make other arrangements, as may be necessary for the conduct of the work of the Commission (without regard to section 3709 of the Revised Statutes (41 U.S.C. 5));

“(D) make advance, progress, and other payments which relate to the work of the Commission;

“(E) provide transportation and subsistence for persons serving without compensation; and

“(F) prescribe such rules and regulations as it deems necessary with respect to the internal organization and operation of the Commission.

“(9) OBTAINING OFFICIAL DATA.—The Commission may secure directly from any department or agency of the United States information necessary to enable the Commission to carry out this section. Upon request of the Chairman of the Commission, the head of such department or agency shall furnish the information to the Commission on an agreed upon schedule.

“(10) AVAILABILITY OF REPORTS.—The Commission shall transmit to the Secretary a copy of each report submitted under this subsection and shall make such reports available to the public.

“(11) COORDINATION.—To enhance effectiveness and coordination, the Secretary is encouraged, to the greatest extent possible, to seek coordination between the Commission and the National Advisory Council of the Agency for Healthcare Research and Quality.

“(12) CONFLICTS OF INTEREST.—

“(A) IN GENERAL.—In appointing the members of the Commission or a clinical perspective advisory panel described in subsection (a)(2)(G), the Comptroller General or the Secretary, respectively, shall take into consideration any financial interest (as defined in subparagraph (D)), consistent with this paragraph, and develop a plan for managing any identified conflicts.

“(B) EVALUATION AND CRITERIA.—When considering an appointment to the Commission or a clinical perspective advisory panel described in subsection (a)(2)(G), the Comptroller General or the Secretary, respectively, shall review the expertise of the individual and the financial disclosure report filed by the individual pursuant to the Ethics in Government Act of 1978 for each individual under consideration for the appointment, so as to reduce the likelihood that an appointed individual will later require a written determination as referred to in section 208(b)(1) of title 18, United States Code, a written certification as referred to in section 208(b)(3) of title 18, United States Code, or a waiver as referred to in subparagraph (D)(iii) for service on the Commission at a meeting of the Commission.

“(C) DISCLOSURES; PROHIBITIONS ON PARTICIPATION; WAIVERS.—

“(i) DISCLOSURE OF FINANCIAL INTEREST.—Prior to a meeting of the Commission or a clinical perspective advisory panel described in subsection (a)(2)(G) regarding a ‘particular matter’ (as that term is used in section 208 of title 18, United States Code), each member of the Commission or the clinical perspective advisory panel who is a full-time Government employee or special Government employee shall disclose to the Comptroller General or Secretary, respectively, financial interests in accordance with requiring a waiver under section 208(b) of title 18, United States Code, or other interests as deemed relevant by the Secretary.

“(ii) PROHIBITIONS ON PARTICIPATION.—Except as provided under clause (iii), a member of the Commission or a clinical perspective advisory panel described in subsection (a)(2)(G) may not participate with respect to a particular matter considered in meeting of the Commission or the clinical perspective advisory panel if such member has a financial interest that could be affected by the advice given to the Secretary with respect to such matter, excluding interests exempted in regulations issued by the Director of the Office of Government Ethics as too remote or inconsequential to affect the integrity of the services of the Government officers or employees to which such regulations apply.

“(iii) WAIVER.—If the Comptroller General or Secretary, as applicable, determines it necessary to afford the Commission or a clinical perspective advisory panel described in subsection (a)(2)(G) essential expertise, the Comptroller General or Secretary, respectively, may grant a waiver of the prohibition in clause (ii) to permit a member described in such subparagraph to—

“(I) participate as a non-voting member with respect to a particular matter considered in a meeting of the Commission or a clinical perspective advisory panel, respectively; or

“(II) participate as a voting member with respect to a particular matter considered in a meeting of the Commission.

“(iv) LIMITATION ON WAIVERS AND OTHER EXCEPTIONS.—

“(I) DETERMINATION OF ALLOWABLE EXCEPTIONS FOR THE COMMISSION.—The number of waivers granted to members of the Commission cannot exceed one-half of the total number of members for the Commission.

“(II) PROHIBITION ON VOTING STATUS ON CLINICAL PERSPECTIVE ADVISORY PANELS.—No voting member of any clinical perspective advisory panel shall be in receipt of a waiver. No more than two nonvoting members of any clinical perspective advisory panel shall receive a waiver.

“(D) FINANCIAL INTEREST DEFINED.—For purposes of this paragraph, the term ‘financial interest’ means a financial interest under section 208(a) of title 18, United States Code.

“(13) APPLICATION OF FACIA.—The Federal Advisory Committee Act (other than section 14 of such Act) shall apply to the Commission to the extent that the provisions of such Act do not conflict with the requirements of this subsection.

“(c) RESEARCH REQUIREMENTS.—Any research conducted, supported, or synthesized under this section shall meet the following requirements:

“(1) ENSURING TRANSPARENCY, CREDIBILITY, AND ACCESS.—

“(A) The establishment of a research agenda by the Center shall be informed by the national priorities for research recommended under subsection (b)(2)(A).

“(B) The establishment of the agenda and conduct of the research shall be insulated from inappropriate political or stakeholder influence.

“(C) Methods of conducting such research shall be scientifically based.

“(D) Consistent with applicable law, all aspects of the prioritization of research, conduct of the research, and development of conclusions based on the research shall be transparent to all stakeholders.

“(E) Consistent with applicable law, the process and methods for conducting such research shall be publicly documented and available to all stakeholders.

“(F) Throughout the process of such research, the Center shall provide opportunities for all stakeholders involved to review and provide public comment on the methods and findings of such research.

“(G) Such research shall consider advice given to the Center by the clinical perspective advisory panel for the particular national research priority.

“(2) STAKEHOLDER INPUT.—

“(A) IN GENERAL.—The Commission shall consult with patients, health care providers, health care consumer representatives, and other appropriate stakeholders with an interest in the research through a transparent process recommended by the Commission.

“(B) SPECIFIC AREAS OF CONSULTATION.—Consultation shall include where deemed appropriate by the Commission—

“(i) recommending research priorities and questions;

“(ii) recommending research methodologies; and

“(iii) advising on and assisting with efforts to disseminate research findings.

“(C) OMBUDSMAN.—The Secretary shall designate a patient ombudsman. The ombudsman shall—

“(i) serve as an available point of contact for any patients with an interest in proposed comparative effectiveness studies by the Center; and

“(ii) ensure that any comments from patients regarding proposed comparative effectiveness studies are reviewed by the Center.

“(3) TAKING INTO ACCOUNT POTENTIAL DIFFERENCES.—Research shall—

“(A) be designed, as appropriate, to take into account the potential for differences in the effectiveness of health care items, services, and systems used with various subpopulations such as racial and ethnic minorities, women, different age groups (including children, adolescents, adults, and seniors), individuals with disabilities, and individuals with different comorbidities and genetic and molecular subtypes; and—

“(B) seek, as feasible and appropriate, to include members of such subpopulations as subjects in the research.

“(d) PUBLIC ACCESS TO COMPARATIVE EFFECTIVENESS INFORMATION.—

“(1) IN GENERAL.—Not later than 90 days after receipt by the Center or Commission, as applicable, of a relevant report described in paragraph (2) made by the Center, Commission, or clinical perspective advisory panel under this section, appropriate information contained in such report shall be posted on the official public Internet site of the Center and of the Commission, as applicable.

“(2) RELEVANT REPORTS DESCRIBED.—For purposes of this section, a relevant report is each of the following submitted by the Center or a grantee or contractor of the Center:

“(A) Any interim or progress reports as deemed appropriate by the Secretary.

“(B) Stakeholder comments.

“(C) A final report.

“(e) DISSEMINATION AND INCORPORATION OF COMPARATIVE EFFECTIVENESS INFORMATION.—

“(1) DISSEMINATION.—The Center shall provide for the dissemination of appropriate findings produced by research supported, conducted, or synthesized under this section to health care providers, patients, vendors of health information technology focused on clinical decision support, relevant expert organizations (as defined in subsection (i)(3)(A)), and Federal and private health plans, and other relevant stakeholders. In disseminating such findings the Center shall—

“(A) convey findings of research so that they are comprehensible and useful to patients and providers in making health care decisions;

“(B) discuss findings and other considerations specific to certain sub-populations, risk factors, and comorbidities as appropriate;

“(C) include considerations such as limitations of research and what further research may be needed, as appropriate;

“(D) not include any data that the dissemination of which would violate the privacy of research participants or violate any confidentiality agreements made with respect to the use of data under this section; and

“(E) assist the users of health information technology focused on clinical decision support to promote the timely incorporation of such findings into clinical practices and promote the ease of use of such incorporation.

“(2) DISSEMINATION PROTOCOLS AND STRATEGIES.—The Center shall develop protocols and strategies for the appropriate dissemination of research findings in order to ensure effective communication of findings and the use and incorporation of such findings into relevant activities for the purpose of informing higher quality and more effective and efficient decisions regarding medical items and services. In developing and adopting such protocols and strategies, the Center shall consult with stakeholders concerning the types of dissemination that will be most useful to the end users of information and may provide for the utilization of multiple formats for conveying findings to different audiences, including dissemination to individuals with limited English proficiency.

“(f) REPORTS TO CONGRESS.—

“(1) ANNUAL REPORTS.—Beginning not later than one year after the date of the enactment of this section, the Director of the Agency of Healthcare Research and Quality shall submit to Congress an annual report on the activities of the Center, as well as the research, conducted under this section. Each such report shall include a discussion of the Center's compliance with subsection (c)(3)(B), including any reasons for lack of compliance with such subsection.

“(2) RECOMMENDATION FOR FAIR SHARE PER CAPITA AMOUNT FOR ALL-PAYER FINANCING.—Beginning not later than December 31, 2011, the Secretary shall submit to Congress an annual recommendation for a fair share per capita amount described in subsection (c)(1) of section 9511 of the Internal Revenue Code of 1986 for purposes of funding the CERTF under such section.

“(3) ANALYSIS AND REVIEW.—Not later than December 31, 2013, the Secretary, in consultation with the Commission, shall submit to Congress a report on all activities conducted or supported under this section as of such date. Such report shall include an evaluation of the overall costs of such activities and an analysis of the backlog of any research proposals approved by the Center but not funded.

“(g) FUNDING OF COMPARATIVE EFFECTIVENESS RESEARCH.—For fiscal year 2010 and each subsequent fiscal year, amounts in the Comparative Effectiveness Research Trust Fund (referred to in this section as the ‘CERTF’) under section 9511 of the Internal Revenue Code of 1986 shall be available in accordance with such section, without the need for further appropriations and without fiscal year limitation, to carry out this section.

“(h) CONSTRUCTION.—

“(1) COVERAGE.—Nothing in this section shall be construed—

“(A) to permit the Center or Commission to mandate coverage, reimbursement, or other policies for any public or private payer; or

“(B) as preventing the Secretary from covering the routine costs of clinical care received by an individual entitled to, or enrolled for, benefits under title XVIII, XIX, or XXI in the case where such individual is participating in a clinical trial and such costs would otherwise be covered under such title with respect to the beneficiary.

“(2) REPORTS AND FINDINGS.—None of the reports submitted under this section or research findings disseminated by the Center or Commission shall be construed as mandates, for payment, coverage, or treatment.

“(3) PROTECTING THE PHYSICIAN-PATIENT RELATIONSHIP.—Nothing in this section shall be construed to authorize any Federal officer or employee to exercise any supervision or control over the practice of medicine.

“(i) CONSULTATION WITH RELEVANT EXPERT ORGANIZATIONS.—

“(1) CONSULTATION PRIOR TO INITIATION OF RESEARCH.—Prior to recommending priorities or initiating research described in this section, the Commission or the Center shall consult with the relevant expert organizations responsible for standards and protocols of clinical excellence. Such consultation shall be consistent with the processes established under subsection (c)(2).

“(2) CONSULTATION IN DISSEMINATION OF RESEARCH.—Any dissemination of research from the Commission or the Center and findings made by the Commission or the Center shall be consistent with processes established under subsection (e) and shall—

“(A) be based upon evidence-based medicine; and

“(B) take into consideration standards and protocols of clinical excellence developed by relevant expert organizations.

“(3) DEFINITIONS.—For purposes of this subsection:

“(A) RELEVANT EXPERT ORGANIZATIONS.—The term ‘relevant expert organization’ means an organization with expertise in the rigorous application of evidence-based scientific methods for the design of clinical studies, the interpretation of clinical data, and the development of national clinical practice guidelines, including a voluntary health organization, clinical specialty, or other professional organization that represents physicians based on the field of medicine in which each such physician practices or is board certified.

“(B) STANDARDS AND PROTOCOLS OF CLINICAL EXCELLENCE.—The term ‘standards and protocols of clinical excellence’ means clinical or practice guidelines that consist of a set of directions or principles that is based on evidence and is designed to assist a health care practitioner with decisions about appropriate diagnostic, therapeutic, or other clinical procedures for specific clinical circumstances.

“(j) RESEARCH MAY NOT BE USED TO DENY OR RATION CARE.—Nothing in this section

shall be construed to make more stringent or otherwise change the standards or requirements for coverage of items and services under this Act.”.

(b) COMPARATIVE EFFECTIVENESS RESEARCH TRUST FUND; FINANCING FOR THE TRUST FUND.—For the provision establishing a Comparative Effectiveness Research Trust Fund and financing such Trust Fund, see section 1802.

#### Subtitle B—Nursing Home Transparency

### PART 1—IMPROVING TRANSPARENCY OF INFORMATION ON SKILLED NURSING FACILITIES, NURSING FACILITIES, AND OTHER LONG-TERM CARE FACILITIES

#### SEC. 1411. REQUIRED DISCLOSURE OF OWNERSHIP AND ADDITIONAL DISCLOSABLE PARTIES INFORMATION.

(a) IN GENERAL.—Section 1124 of the Social Security Act (42 U.S.C. 1320a-3) is amended by adding at the end the following new subsection:

“(c) REQUIRED DISCLOSURE OF OWNERSHIP AND ADDITIONAL DISCLOSABLE PARTIES INFORMATION.—

“(1) DISCLOSURE.—A facility (as defined in paragraph (6)(B)) shall have the information described in paragraph (3) available—

“(A) during the period beginning on the date of the enactment of this subsection and ending on the date such information is made available to the public under section 1411(b) of the Affordable Health Care for America Act, for submission to the Secretary, the Inspector General of the Department of Health and Human Services, the State in which the facility is located, and the State long-term care ombudsman in the case where the Secretary, the Inspector General, the State, or the State long-term care ombudsman requests such information; and

“(B) beginning on the effective date of the final regulations promulgated under paragraph (4)(A), for reporting such information in accordance with such final regulations. Nothing in subparagraph (A) shall be construed as authorizing a facility to dispose of or delete information described in such subparagraph after the effective date of the final regulations promulgated under paragraph (4)(A).

“(2) PUBLIC AVAILABILITY OF INFORMATION.—During the period described in paragraph (1)(A), a facility shall—

“(A) make the information described in paragraph (3) available to the public upon request and update such information as may be necessary to reflect changes in such information; and

“(B) post a notice of the availability of such information in the lobby of the facility in a prominent manner.

“(3) INFORMATION DESCRIBED.—

“(A) IN GENERAL.—The following information is described in this paragraph:

“(i) The information described in subsections (a) and (b), subject to subparagraph (C).

“(ii) The identity of and information on—

“(I) each member of the governing body of the facility, including the name, title, and period of service of each such member;

“(II) each person or entity who is an officer, director, member, partner, trustee, or managing employee of the facility, including the name, title, and date of start of service of each such person or entity; and

“(III) each person or entity who is an additional disclosable party of the facility.

“(iii) A description of the organizational structure and the relationship of each person and entity described in subclauses (II) and (III) of clause (ii) to the facility and to one another.

“(B) SPECIAL RULE WHERE INFORMATION IS ALREADY REPORTED OR SUBMITTED.—To the extent that information reported by a facility to the Internal Revenue Service on Form 990, information submitted by a facility to the Securities and Exchange Commission, or information otherwise submitted to the Secretary or any other Federal agency contains the information described in clauses (i), (ii), or (iii) of subparagraph (A), the Secretary may allow, to the extent practicable, such Form or such information to meet the requirements of paragraph (1) and to be submitted in a manner specified by the Secretary.

“(C) SPECIAL RULE.—In applying subparagraph (A)(i)—

“(i) with respect to subsections (a) and (b), ‘ownership or control interest’ shall include direct or indirect interests, including such interests in intermediate entities; and

“(ii) subsection (a)(3)(A)(ii) shall include the owner of a whole or part interest in any mortgage, deed of trust, note, or other obligation secured, in whole or in part, by the entity or any of the property or assets thereof, if the interest is equal to or exceeds 5 percent of the total property or assets of the entirety.

“(4) REPORTING.—

“(A) IN GENERAL.—Not later than the date that is 2 years after the date of the enactment of this subsection, the Secretary shall promulgate regulations requiring a facility to report the information described in paragraph (3) to the Secretary in a standardized format, and such other regulations as are necessary to carry out this subsection. Such regulations shall specify the frequency of reporting, as determined by the Secretary. Such final regulations shall also require—

“(i) the reporting of such information on or after the first day of the first calendar quarter beginning after the date that is 90 days after the date on which such final regulations are published in the Federal Register; and

“(ii) the certification, as a condition of participation under the program under title XVIII or XIX, that such information is accurate and current.

“(B) GUIDANCE.—The Secretary shall provide guidance and technical assistance to States on how to adopt the standardized format under subparagraph (A).

“(5) NO EFFECT ON EXISTING REPORTING REQUIREMENTS.—Nothing in this subsection shall reduce, diminish, or alter any reporting requirement for a facility that is in effect as of the date of the enactment of this subsection.

“(6) DEFINITIONS.—In this subsection:

“(A) ADDITIONAL DISCLOSABLE PARTY.—The term ‘additional disclosable party’ means, with respect to a facility, any person or entity who, through ownership interest, partnership interest, contract, or otherwise—

“(i) directly or indirectly exercises operational, financial, administrative, or managerial control or direction over the facility or a part thereof, or provides policies or procedures for any of the operations of the facility, or provides financial or cash management services to the facility;

“(ii) leases or subleases real property to the facility, or owns a whole or part interest equal to or exceeding 5 percent of the total value of such real property;

“(iii) lends funds or provides a financial guarantee to the facility in an amount which is equal to or exceeds \$50,000; or

“(iv) provides management or administrative services, clinical consulting services, or accounting or financial services to the facility.

“(B) FACILITY.—The term ‘facility’ means a disclosing entity which is—

“(i) a skilled nursing facility (as defined in section 1819(a)); or

“(ii) a nursing facility (as defined in section 1919(a)).

“(C) MANAGING EMPLOYEE.—The term ‘managing employee’ means, with respect to a facility, an individual (including a general manager, business manager, administrator, director, or consultant) who directly or indirectly manages, advises, or supervises any element of the practices, finances, or operations of the facility.

“(D) ORGANIZATIONAL STRUCTURE.—The term ‘organizational structure’ means, in the case of—

“(i) a corporation, the officers, directors, and shareholders of the corporation who have an ownership interest in the corporation which is equal to or exceeds 5 percent;

“(ii) a limited liability company, the members and managers of the limited liability company (including, as applicable, what percentage each member and manager has of the ownership interest in the limited liability company);

“(iii) a general partnership, the partners of the general partnership;

“(iv) a limited partnership, the general partners and any limited partners of the limited partnership who have an ownership interest in the limited partnership which is equal to or exceeds 10 percent;

“(v) a trust, the trustees of the trust;

“(vi) an individual, contact information for the individual; and

“(vii) any other person or entity, such information as the Secretary determines appropriate.”

(b) PUBLIC AVAILABILITY OF INFORMATION.—Not later than the date that is 1 year after the date on which the final regulations promulgated under section 1124(c)(4)(A) of the Social Security Act, as added by subsection (a), are published in the Federal Register, the information reported in accordance with such final regulations shall be made available to the public in accordance with procedures established by the Secretary of Health and Human Services.

(c) CONFORMING AMENDMENTS.—

(1) SKILLED NURSING FACILITIES.—Section 1819(d)(1) of the Social Security Act (42 U.S.C. 1395i-3(d)(1)) is amended by striking subparagraph (B) and redesignating subparagraph (C) as subparagraph (B).

(2) NURSING FACILITIES.—Section 1919(d)(1) of the Social Security Act (42 U.S.C. 1396r(d)(1)) is amended by striking subparagraph (B) and redesignating subparagraph (C) as subparagraph (B).

#### SEC. 1412. ACCOUNTABILITY REQUIREMENTS.

(a) EFFECTIVE COMPLIANCE AND ETHICS PROGRAMS.—

(1) SKILLED NURSING FACILITIES.—Section 1819(d)(1) of the Social Security Act (42 U.S.C. 1395i-3(d)(1)), as amended by section 1411(c)(1), is amended by adding at the end the following new subparagraph:

“(C) COMPLIANCE AND ETHICS PROGRAMS.—

“(i) REQUIREMENT.—On or after the first day of the first calendar quarter beginning after the date that is 1 year after the date on which regulations developed under clause (ii) are published in the Federal Register, a skilled nursing facility shall, with respect to the entity that operates or controls the facility (in this subparagraph referred to as the ‘operating organization’ or ‘organization’), have in operation a compliance and ethics program that is effective in preventing and detecting criminal, civil, and administrative violations under this Act and in

promoting quality of care consistent with such regulations.

“(ii) DEVELOPMENT OF REGULATIONS.—

“(I) IN GENERAL.—Not later than the date that is 2 years after the date of the enactment of this subparagraph, the Secretary, in consultation with the Inspector General of the Department of Health and Human Services, shall promulgate regulations for an effective compliance and ethics program for operating organizations, which may include a model compliance program.

“(II) DESIGN OF REGULATIONS.—Such regulations with respect to specific elements or formality of a program may vary with the size of the organization, such that larger organizations should have a more formal and rigorous program and include established written policies defining the standards and procedures to be followed by its employees. Such requirements shall specifically apply to the corporate level management of multi-unit nursing home chains.

“(III) EVALUATION.—Not later than 3 years after the date on which compliance and ethics programs established under this subparagraph are in operation pursuant to clause (i), the Secretary shall complete an evaluation of such programs. Such evaluation shall determine if such programs led to changes in deficiency citations, changes in quality performance, or changes in other metrics of resident quality of care. The Secretary shall submit to Congress a report on such evaluation and shall include in such report such recommendations regarding changes in the requirements for such programs as the Secretary determines appropriate.

“(iii) REQUIREMENTS FOR COMPLIANCE AND ETHICS PROGRAMS.—In this subparagraph, the term ‘compliance and ethics program’ means, with respect to a skilled nursing facility, a program of the operating organization that—

“(I) has been reasonably designed, implemented, and enforced so that it generally will be effective in preventing and detecting criminal, civil, and administrative violations under this Act and in promoting quality of care; and

“(II) includes at least the required components specified in clause (iv).

“(iv) REQUIRED COMPONENTS OF PROGRAM.—The required components of a compliance and ethics program of an organization are the following:

“(I) The organization must have established compliance standards and procedures to be followed by its employees, contractors, and other agents that are reasonably capable of reducing the prospect of criminal, civil, and administrative violations under this Act.

“(II) Specific individuals within high-level personnel of the organization must have been assigned overall responsibility to oversee compliance with such standards and procedures and have sufficient resources and authority to assure such compliance.

“(III) The organization must have used due care not to delegate substantial discretionary authority to individuals whom the organization knew, or should have known through the exercise of due diligence, had a propensity to engage in criminal, civil, and administrative violations under this Act.

“(IV) The organization must have taken steps to communicate effectively its standards and procedures to all employees and other agents, such as by requiring participation in training programs or by disseminating publications that explain in a practical manner what is required.

“(V) The organization must have taken reasonable steps to achieve compliance with

its standards, such as by utilizing monitoring and auditing systems reasonably designed to detect criminal, civil, and administrative violations under this Act by its employees and other agents and by having in place and publicizing a reporting system whereby employees and other agents could report violations by others within the organization without fear of retribution.

“(VI) The standards must have been consistently enforced through appropriate disciplinary mechanisms, including, as appropriate, discipline of individuals responsible for the failure to detect an offense.

“(VII) After an offense has been detected, the organization must have taken all reasonable steps to respond appropriately to the offense and to prevent further similar offenses, including repayment of any funds to which it was not entitled and any necessary modification to its program to prevent and detect criminal, civil, and administrative violations under this Act.

“(VIII) The organization must periodically undertake reassessment of its compliance program to identify changes necessary to reflect changes within the organization and its facilities.

“(v) COORDINATION.—The provisions of this subparagraph shall apply with respect to a skilled nursing facility in lieu of section 1874(d).”

(2) NURSING FACILITIES.—Section 1919(d)(1) of the Social Security Act (42 U.S.C. 1396r(d)(1)), as amended by section 1411(c)(2), is amended by adding at the end the following new subparagraph:

“(C) COMPLIANCE AND ETHICS PROGRAM.—

“(i) REQUIREMENT.—On or after the first day of the first calendar quarter beginning after the date that is 1 year after the date on which regulations developed under clause (ii) are published in the Federal Register, a skilled nursing facility shall, with respect to the entity that operates or controls the facility (in this subparagraph referred to as the ‘operating organization’ or ‘organization’), have in operation a compliance and ethics program that is effective in preventing and detecting criminal, civil, and administrative violations under this Act and in promoting quality of care consistent with such regulations.

“(iii) DEVELOPMENT OF REGULATIONS.—

“(I) IN GENERAL.—Not later than the date that is 2 years after the date of the enactment of this subparagraph, the Secretary, in consultation with the Inspector General of the Department of Health and Human Services, shall promulgate regulations for an effective compliance and ethics program for operating organizations, which may include a model compliance program.

“(II) DESIGN OF REGULATIONS.—Such regulations with respect to specific elements or formality of a program may vary with the size of the organization, such that larger organizations should have a more formal and rigorous program and include established written policies defining the standards and procedures to be followed by its employees. Such requirements shall specifically apply to the corporate level management of multi-unit nursing home chains.

“(III) EVALUATION.—Not later than 3 years after the date on which compliance and ethics programs established under this subparagraph are in operation pursuant to clause (i), the Secretary shall complete an evaluation of such programs. Such evaluation shall determine if such programs led to changes in deficiency citations, changes in quality performance, or changes in other metrics of resident quality of care. The Secretary shall

submit to Congress a report on such evaluation and shall include in such report such recommendations regarding changes in the requirements for such programs as the Secretary determines appropriate.

“(v) REQUIREMENTS FOR COMPLIANCE AND ETHICS PROGRAMS.—In this subparagraph, the term ‘compliance and ethics program’ means, with respect to a nursing facility, a program of the operating organization that—

“(I) has been reasonably designed, implemented, and enforced so that it generally will be effective in preventing and detecting criminal, civil, and administrative violations under this Act and in promoting quality of care; and

“(II) includes at least the required components specified in clause (iv).

“(vi) REQUIRED COMPONENTS OF PROGRAM.—The required components of a compliance and ethics program of an organization are the following:

“(I) The organization must have established compliance standards and procedures to be followed by its employees and other agents that are reasonably capable of reducing the prospect of criminal, civil, and administrative violations under this Act.

“(II) Specific individuals within high-level personnel of the organization must have been assigned overall responsibility to oversee compliance with such standards and procedures and has sufficient resources and authority to assure such compliance.

“(III) The organization must have used due care not to delegate substantial discretionary authority to individuals whom the organization knew, or should have known through the exercise of due diligence, had a propensity to engage in criminal, civil, and administrative violations under this Act.

“(IV) The organization must have taken steps to communicate effectively its standards and procedures to all employees and other agents, such as by requiring participation in training programs or by disseminating publications that explain in a practical manner what is required.

“(V) The organization must have taken reasonable steps to achieve compliance with its standards, such as by utilizing monitoring and auditing systems reasonably designed to detect criminal, civil, and administrative violations under this Act by its employees and other agents and by having in place and publicizing a reporting system whereby employees and other agents could report violations by others within the organization without fear of retribution.

“(VI) The standards must have been consistently enforced through appropriate disciplinary mechanisms, including, as appropriate, discipline of individuals responsible for the failure to detect an offense.

“(VII) After an offense has been detected, the organization must have taken all reasonable steps to respond appropriately to the offense and to prevent further similar offenses, including repayment of any funds to which it was not entitled and any necessary modification to its program to prevent and detect criminal, civil, and administrative violations under this Act.

“(VIII) The organization must periodically undertake reassessment of its compliance program to identify changes necessary to reflect changes within the organization and its facilities.

“(vii) COORDINATION.—The provisions of this subparagraph shall apply with respect to a nursing facility in lieu of section 1902(a)(77).”

(b) QUALITY ASSURANCE AND PERFORMANCE IMPROVEMENT PROGRAM.—

(1) SKILLED NURSING FACILITIES.—Section 1819(b)(1)(B) of the Social Security Act (42 U.S.C. 1396r(b)(1)(B)) is amended—

(A) by striking “ASSURANCE” and inserting “ASSURANCE AND QUALITY ASSURANCE AND PERFORMANCE IMPROVEMENT PROGRAM”;

(B) by designating the matter beginning with “A skilled nursing facility” as a clause (i) with the heading “IN GENERAL.—” and the appropriate indentation;

(C) in clause (i) (as so designated by subparagraph (B)), by redesignating clauses (i) and (ii) as subclauses (I) and (II), respectively; and

(D) by adding at the end the following new clause:

“(ii) QUALITY ASSURANCE AND PERFORMANCE IMPROVEMENT PROGRAM.—

“(I) IN GENERAL.—Not later than December 31, 2011, the Secretary shall establish and implement a quality assurance and performance improvement program (in this clause referred to as the ‘QAPI program’) for skilled nursing facilities, including multi-unit chains of such facilities. Under the QAPI program, the Secretary shall establish standards relating to such facilities and provide technical assistance to such facilities on the development of best practices in order to meet such standards. Not later than 1 year after the date on which the regulations are promulgated under subclause (II), a skilled nursing facility must submit to the Secretary a plan for the facility to meet such standards and implement such best practices, including how to coordinate the implementation of such plan with quality assessment and assurance activities conducted under clause (i).

“(II) REGULATIONS.—The Secretary shall promulgate regulations to carry out this clause.”

(2) NURSING FACILITIES.—Section 1919(b)(1)(B) of the Social Security Act (42 U.S.C. 1396r(b)(1)(B)) is amended—

(A) by striking “ASSURANCE” and inserting “ASSURANCE AND QUALITY ASSURANCE AND PERFORMANCE IMPROVEMENT PROGRAM”;

(B) by designating the matter beginning with “A nursing facility” as a clause (i) with the heading “IN GENERAL.—” and the appropriate indentation; and

(C) by adding at the end the following new clause:

“(ii) QUALITY ASSURANCE AND PERFORMANCE IMPROVEMENT PROGRAM.—

“(I) IN GENERAL.—Not later than December 31, 2011, the Secretary shall establish and implement a quality assurance and performance improvement program (in this clause referred to as the ‘QAPI program’) for nursing facilities, including multi-unit chains of such facilities. Under the QAPI program, the Secretary shall establish standards relating to such facilities and provide technical assistance to such facilities on the development of best practices in order to meet such standards. Not later than 1 year after the date on which the regulations are promulgated under subclause (II), a nursing facility must submit to the Secretary a plan for the facility to meet such standards and implement such best practices, including how to coordinate the implementation of such plan with quality assessment and assurance activities conducted under clause (i).

“(II) REGULATIONS.—The Secretary shall promulgate regulations to carry out this clause.”

(3) PROPOSAL TO REVISE QUALITY ASSURANCE AND PERFORMANCE IMPROVEMENT PROGRAMS.—The Secretary shall implement policies that modify and strengthen quality assurance and performance improvement programs in

skilled nursing facilities and nursing facilities on a periodic basis, as determined by the Secretary.

(4) **FACILITY PLAN.**—Not later than 1 year after the date on which the regulations are promulgated under subclause (II) of clause (ii) of sections 1819(b)(1)(B) and 1919(b)(1)(B) of the Social Security Act, as added by paragraphs (1) and (2), a skilled nursing facility and a nursing facility must submit to the Secretary a plan for the facility to meet the standards under such regulations and implement such best practices, including how to coordinate the implementation of such plan with quality assessment and assurance activities conducted under clause (i) of such sections.

(c) **GAO STUDY ON NURSING FACILITY UNDERCAPITALIZATION.**—

(1) **IN GENERAL.**—The Comptroller General of the United States shall conduct a study that examines the following:

(A) The extent to which corporations that own or operate large numbers of nursing facilities, taking into account ownership type (including private equity and control interests), are undercapitalizing such facilities.

(B) The effects of such undercapitalization on quality of care, including staffing and food costs, at such facilities.

(C) Options to address such undercapitalization, such as requirements relating to surety bonds, liability insurance, or minimum capitalization.

(2) **REPORT.**—Not later than 18 months after the date of the enactment of this Act, the Comptroller General shall submit to Congress a report on the study conducted under paragraph (1).

(3) **NURSING FACILITY.**—In this subsection, the term “nursing facility” includes a skilled nursing facility.

#### **SEC. 1413. NURSING HOME COMPARE MEDICARE WEBSITE.**

(a) **SKILLED NURSING FACILITIES.**—

(1) **IN GENERAL.**—Section 1819 of the Social Security Act (42 U.S.C. 1395i-3) is amended—

(A) by redesignating subsection (i) as subsection (j); and

(B) by inserting after subsection (h) the following new subsection:

“(i) **NURSING HOME COMPARE WEBSITE.**—

“(1) **INCLUSION OF ADDITIONAL INFORMATION.**—

“(A) **IN GENERAL.**—The Secretary shall ensure that the Department of Health and Human Services includes, as part of the information provided for comparison of nursing homes on the official Internet website of the Federal Government for Medicare beneficiaries (commonly referred to as the ‘Nursing Home Compare’ Medicare website) (or a successor website), the following information in a manner that is prominent, easily accessible, readily understandable to consumers of long-term care services, and searchable:

“(i) Information that is reported to the Secretary under section 1124(c)(4).

“(ii) Information on the ‘Special Focus Facility program’ (or a successor program) established by the Centers for Medicare and Medicaid Services, according to procedures established by the Secretary. Such procedures shall provide for the inclusion of information with respect to, and the names and locations of, those facilities that, since the previous quarter—

“(I) were newly enrolled in the program;

“(II) are enrolled in the program and have failed to significantly improve;

“(III) are enrolled in the program and have significantly improved;

“(IV) have graduated from the program; and

“(V) have closed voluntarily or no longer participate under this title.

“(iii) Staffing data for each facility (including resident census data and data on the hours of care provided per resident per day) based on data submitted under subsection (b)(8)(C), including information on staffing turnover and tenure, in a format that is clearly understandable to consumers of long-term care services and allows such consumers to compare differences in staffing between facilities and State and national averages for the facilities. Such format shall include—

“(I) concise explanations of how to interpret the data (such as a plain English explanation of data reflecting ‘nursing home staff hours per resident day’);

“(II) differences in types of staff (such as training associated with different categories of staff);

“(III) the relationship between nurse staffing levels and quality of care; and

“(IV) an explanation that appropriate staffing levels vary based on patient case mix.

“(iv) Links to State internet websites with information regarding State survey and certification programs, links to Form 2567 State inspection reports (or a successor form) on such websites, information to guide consumers in how to interpret and understand such reports, and the facility plan of correction or other response to such report.

“(v) The standardized complaint form developed under subsection (f)(8), including explanatory material on what complaint forms are, how they are used, and how to file a complaint with the State survey and certification program and the State long-term care ombudsman program.

“(vi) Summary information on the number, type, severity, and outcome of substantiated complaints.

“(vii) The number of adjudicated instances of criminal violations by employees of a nursing facility—

“(I) that were committed inside the facility;

“(II) with respect to such instances of violations or crimes committed inside of the facility that were the violations or crimes of abuse, neglect, and exploitation, criminal sexual abuse, or other violations or crimes that resulted in serious bodily injury; and

“(viii) The number of civil monetary penalties levied against the facility, employees, contractors, and other agents.

“(ix) Any other information that the Secretary determines appropriate.

The facility shall not make available under clause (iv) identifying information on complainants or residents.

(B) **DEADLINE FOR PROVISION OF INFORMATION.**—

“(i) **IN GENERAL.**—Except as provided in clause (ii), the Secretary shall ensure that the information described in subparagraph (A) is included on such website (or a successor website) not later than 1 year after the date of the enactment of this subsection.

“(ii) **EXCEPTION.**—The Secretary shall ensure that the information described in subparagraph (A)(i) and (A)(iii) is included on such website (or a successor website) not later than 1 year after the dates on which the data are submitted to the Secretary pursuant to section 1124(c)(4) and subsection (b)(8)(C), respectively.

(2) **REVIEW AND MODIFICATION OF WEBSITE.**—

“(A) **IN GENERAL.**—The Secretary shall establish a process—

“(i) to review the accuracy, clarity of presentation, timeliness, and comprehensiveness of information reported on such website as of the day before the date of the enactment of this subsection; and

“(ii) not later than 1 year after the date of the enactment of this subsection, to modify or revamp such website in accordance with the review conducted under clause (i).

(B) **CONSULTATION.**—In conducting the review under subparagraph (A)(i), the Secretary shall consult with—

“(i) State long-term care ombudsman programs;

“(ii) consumer advocacy groups;

“(iii) provider stakeholder groups; and

“(iv) any other representatives of programs or groups the Secretary determines appropriate.”.

(2) **TIMELINESS OF SUBMISSION OF SURVEY AND CERTIFICATION INFORMATION.**—

(A) **IN GENERAL.**—Section 1819(g)(5) of the Social Security Act (42 U.S.C. 1395i-3(g)(5)) is amended by adding at the end the following new subparagraph:

“(E) **SUBMISSION OF SURVEY AND CERTIFICATION INFORMATION TO THE SECRETARY.**—In order to improve the timeliness of information made available to the public under subparagraph (A) and provided on the Nursing Home Compare Medicare website under subsection (i), each State shall submit information respecting any survey or certification recommendation made respecting a skilled nursing facility (including any enforcement actions taken by the State or any Federal enforcement action recommended by the State) to the Secretary not later than the date on which the State sends such information to the facility. The Secretary shall use the information submitted under the preceding sentence to update the information provided on the Nursing Home Compare Medicare website as expeditiously as practicable but not less frequently than quarterly.”.

(B) **EFFECTIVE DATE.**—The amendment made by this paragraph shall take effect 1 year after the date of the enactment of this Act.

(3) **SPECIAL FOCUS FACILITY PROGRAM.**—Section 1819(f) of such Act is amended by adding at the end the following new paragraph:

“(8) **SPECIAL FOCUS FACILITY PROGRAM.**—

“(A) **IN GENERAL.**—The Secretary shall conduct a special focus facility program for enforcement of requirements for skilled nursing facilities that the Secretary has identified as having a poor compliance history or that substantially failed to meet applicable requirements of this Act.

“(B) **PERIODIC SURVEYS.**—Under such program the Secretary shall conduct surveys of each facility in the program not less than once every 6 months.”.

(b) **NURSING FACILITIES.**—

(1) **IN GENERAL.**—Section 1919 of the Social Security Act (42 U.S.C. 1396r) is amended—

(A) by redesignating subsection (i) as subsection (j); and

(B) by inserting after subsection (h) the following new subsection:

“(i) **NURSING HOME COMPARE WEBSITE.**—

“(1) **INCLUSION OF ADDITIONAL INFORMATION.**—

“(A) **IN GENERAL.**—The Secretary shall ensure that the Department of Health and Human Services includes, as part of the information provided for comparison of nursing homes on the official internet website of the Federal Government for Medicare beneficiaries (commonly referred to as the ‘Nursing Home Compare’ Medicare website) (or a successor website), the following information in a manner that is prominent, easily



accessible, readily understandable to consumers of long-term care services, and searchable:

“(i) Information that is reported to the Secretary under section 1124(c)(4)

“(ii) Information on the ‘Special Focus Facility program’ (or a successor program) established by the Centers for Medicare & Medicaid Services, according to procedures established by the Secretary. Such procedures shall provide for the inclusion of information with respect to, and the names and locations of, those facilities that, since the previous quarter—

“(I) were newly enrolled in the program;

“(II) are enrolled in the program and have failed to significantly improve;

“(III) are enrolled in the program and have significantly improved;

“(IV) have graduated from the program; and

“(V) have closed voluntarily or no longer participate under this title.

“(iii) Staffing data for each facility (including resident census data and data on the hours of care provided per resident per day) based on data submitted under subsection (b)(8)(C)(ii), including information on staffing turnover and tenure, in a format that is clearly understandable to consumers of long-term care services and allows such consumers to compare differences in staffing between facilities and State and national averages for the facilities. Such format shall include—

“(I) concise explanations of how to interpret the data (such as plain English explanation of data reflecting ‘nursing home staff hours per resident day’);

“(II) differences in types of staff (such as training associated with different categories of staff);

“(III) the relationship between nurse staffing levels and quality of care; and

“(IV) an explanation that appropriate staffing levels vary based on patient case mix.

“(iv) Links to State internet websites with information regarding State survey and certification programs, links to Form 2567 State inspection reports (or a successor form) on such websites, information to guide consumers in how to interpret and understand such reports, and the facility plan of correction or other response to such report.

“(v) The standardized complaint form developed under subsection (f)(10), including explanatory material on what complaint forms are, how they are used, and how to file a complaint with the State survey and certification program and the State long-term care ombudsman program.

“(vi) Summary information on the number, type, severity, and outcome of substantiated complaints.

“(vii) The number of adjudicated instances of criminal violations by employees of a nursing facility—

“(I) that were committed inside of the facility; and

“(II) with respect to such instances of violations or crimes committed inside of the facility that were the violations or crimes of abuse, neglect, and exploitation, criminal sexual abuse, or other violations or crimes that resulted in serious bodily injury.

“(viii) the number of civil monetary penalties levied against the facility, employees, contractors, and other agents.

“(ix) Any other information that the Secretary determines appropriate.

The facility shall not make available under clause (ii) identifying information about complainants or residents.

“(B) DEADLINE FOR PROVISION OF INFORMATION.—

“(i) IN GENERAL.—Except as provided in clause (ii), the Secretary shall ensure that the information described in subparagraph (A) is included on such website (or a successor website) not later than 1 year after the date of the enactment of this subsection.

“(ii) EXCEPTION.—The Secretary shall ensure that the information described in subparagraph (A)(i) and (A)(iii) is included on such website (or a successor website) not later than 1 year after the dates on which the data are submitted to the Secretary pursuant to section 1124(c)(4) and subsection (b)(8)(C), respectively.

“(2) REVIEW AND MODIFICATION OF WEBSITE.—

“(A) IN GENERAL.—The Secretary shall establish a process—

“(i) to review the accuracy, clarity of presentation, timeliness, and comprehensiveness of information reported on such website as of the day before the date of the enactment of this subsection; and

“(ii) not later than 1 year after the date of the enactment of this subsection, to modify or revamp such website in accordance with the review conducted under clause (i).

“(B) CONSULTATION.—In conducting the review under subparagraph (A)(i), the Secretary shall consult with—

“(i) State long-term care ombudsman programs;

“(ii) consumer advocacy groups;

“(iii) provider stakeholder groups;

“(iv) skilled nursing facility employees and their representatives; and

“(v) any other representatives of programs or groups the Secretary determines appropriate.”

(2) TIMELINESS OF SUBMISSION OF SURVEY AND CERTIFICATION INFORMATION.—

(A) IN GENERAL.—Section 1919(g)(5) of the Social Security Act (42 U.S.C. 1396r(g)(5)) is amended by adding at the end the following new subparagraph:

“(E) SUBMISSION OF SURVEY AND CERTIFICATION INFORMATION TO THE SECRETARY.—In order to improve the timeliness of information made available to the public under subparagraph (A) and provided on the Nursing Home Compare Medicare website under subsection (i), each State shall submit information respecting any survey or certification recommendation made respecting a nursing facility (including any enforcement actions taken by the State or any Federal enforcement action recommended by the State) to the Secretary not later than the date on which the State sends such information to the facility. The Secretary shall use the information submitted under the preceding sentence to update the information provided on the Nursing Home Compare Medicare website as expeditiously as practicable but not less frequently than quarterly.”

(B) EFFECTIVE DATE.—The amendment made by this paragraph shall take effect 1 year after the date of the enactment of this Act.

(3) SPECIAL FOCUS FACILITY PROGRAM.—Section 1919(f) of such Act is amended by adding at the end of the following new paragraph:

“(10) SPECIAL FOCUS FACILITY PROGRAM.—

“(A) IN GENERAL.—The Secretary shall conduct a special focus facility program for enforcement of requirements for nursing facilities that the Secretary has identified as having a poor compliance history or that substantially failed to meet applicable requirements of this Act.

“(B) PERIODIC SURVEYS.—Under such program the Secretary shall conduct surveys of

each facility in the program not less often than once every 6 months.”

(C) AVAILABILITY OF REPORTS ON SURVEYS, CERTIFICATIONS, AND COMPLAINT INVESTIGATIONS.—

(1) SKILLED NURSING FACILITIES.—Section 1819(d)(1) of the Social Security Act (42 U.S.C. 1395i-3(d)(1)), as amended by sections 1411 and 1412, is amended by adding at the end the following new subparagraph:

“(D) AVAILABILITY OF SURVEY, CERTIFICATION, AND COMPLAINT INVESTIGATION REPORTS.—A skilled nursing facility must—

“(i) have reports with respect to any surveys, certifications, and complaint investigations made respecting the facility during the 3 preceding years available for any individual to review upon request; and

“(ii) post notice of the availability of such reports in areas of the facility that are prominent and accessible to the public.

The facility shall not make available under clause (i) identifying information about complainants or residents.”

(2) NURSING FACILITIES.—Section 1919(d)(1) of the Social Security Act (42 U.S.C. 1396r(d)(1)), as amended by sections 1411 and 1412, is amended by adding at the end the following new subparagraph:

“(D) AVAILABILITY OF SURVEY, CERTIFICATION, AND COMPLAINT INVESTIGATION REPORTS.—A nursing facility must—

“(i) have reports with respect to any surveys, certifications, and complaint investigations made respecting the facility during the 3 preceding years available for any individual to review upon request; and

“(ii) post notice of the availability of such reports in areas of the facility that are prominent and accessible to the public.

The facility shall not make available under clause (i) identifying information about complainants or residents.”

(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect 1 year after the date of the enactment of this Act.

(d) GUIDANCE TO STATES ON FORM 2567 STATE INSPECTION REPORTS AND COMPLAINT INVESTIGATION REPORTS.—

(1) GUIDANCE.—The Secretary of Health and Human Services (in this subtitle referred to as the “Secretary”) shall provide guidance to States on how States can establish electronic links to Form 2567 State inspection reports (or a successor form), complaint investigation reports, and a facility’s plan of correction or other response to such Form 2567 State inspection reports (or a successor form) on the Internet website of the State that provides information on skilled nursing facilities and nursing facilities and the Secretary shall, if possible, include such information on Nursing Home Compare.

(2) REQUIREMENT.—Section 1902(a)(9) of the Social Security Act (42 U.S.C. 1396a(a)(9)) is amended—

(A) by striking “and” at the end of subparagraph (B);

(B) by striking the semicolon at the end of subparagraph (C) and inserting “, and”; and

(C) by adding at the end the following new subparagraph:

“(D) that the State maintain a consumer-oriented website providing useful information to consumers regarding all skilled nursing facilities and all nursing facilities in the State, including for each facility, Form 2567 State inspection reports (or a successor form), complaint investigation reports, the facility’s plan of correction, and such other information that the State or the Secretary considers useful in assisting the public to assess the quality of long term care options

and the quality of care provided by individual facilities.”.

(3) DEFINITIONS.—In this subsection:

(A) NURSING FACILITY.—The term “nursing facility” has the meaning given such term in section 1919(a) of the Social Security Act (42 U.S.C. 1396r(a)).

(B) SECRETARY.—The term “Secretary” means the Secretary of Health and Human Services.

(C) SKILLED NURSING FACILITY.—The term “skilled nursing facility” has the meaning given such term in section 1819(a) of the Social Security Act (42 U.S.C. 1395i-3(a)).

#### SEC. 1414. REPORTING OF EXPENDITURES.

Section 1888 of the Social Security Act (42 U.S.C. 1395yy) is amended by adding at the end the following new subsection:

“(f) REPORTING OF DIRECT CARE EXPENDITURES.—

“(1) IN GENERAL.—For cost reports submitted under this title for cost reporting periods beginning on or after the date that is no more than two years after the redesign of the report specified in subparagraph (2), skilled nursing facilities shall—

“(A) separately report expenditures for wages and benefits for direct care staff (breaking out (at a minimum) registered nurses, licensed professional nurses, certified nurse assistants, and other medical and therapy staff); and

“(B) take into account agency and contract staff in a manner to be determined by the Administrator.

“(2) MODIFICATION OF FORM.—The Secretary, in consultation with private sector accountants experienced with skilled nursing facility cost reports, shall redesign such reports to meet the requirement of paragraph (1) not later than 2 years after the date of the enactment of this subsection.

“(3) CATEGORIZATION BY FUNCTIONAL ACCOUNTS.—Beginning with cost reports submitted under paragraph (1), the Secretary, working in consultation with the Medicare Payment Advisory Commission, the Inspector General of the Department of Health and Human Services, and other expert parties the Secretary determines appropriate, shall categorize the expenditures listed on cost reports, as modified under paragraph (1), submitted by skilled nursing facilities, regardless of any source of payment for such expenditures, for each skilled nursing facility into the following functional accounts on an annual basis:

“(A) Spending on direct care services (including nursing, therapy, and medical services).

“(B) Spending on indirect care (including housekeeping and dietary services).

“(C) Capital assets (including building and land costs).

“(D) Administrative services costs.

“(4) AVAILABILITY OF INFORMATION SUBMITTED.—The Secretary shall establish procedures to make information on expenditures submitted under this subsection readily available to interested parties upon request, subject to such requirements as the Secretary may specify under the procedures established under this paragraph.”.

#### SEC. 1415. STANDARDIZED COMPLAINT FORM.

(a) SKILLED NURSING FACILITIES.—

(1) DEVELOPMENT BY THE SECRETARY.—Section 1819(f) of the Social Security Act (42 U.S.C. 1395i-3(f)), as amended by section 1413(a)(3), is amended by adding at the end the following new paragraph:

“(9) STANDARDIZED COMPLAINT FORM.—The Secretary shall develop a standardized complaint form for use by a resident (or a person acting on the resident’s behalf) in filing a

complaint with a State survey and certification agency and a State long-term care ombudsman program with respect to a skilled nursing facility.”.

(2) STATE REQUIREMENTS.—Section 1819(e) of the Social Security Act (42 U.S.C. 1395i-3(e)) is amended by adding at the end the following new paragraph:

“(6) COMPLAINT PROCESSES AND WHISTLEBLOWER PROTECTION.—

“(A) COMPLAINT FORMS.—The State must make the standardized complaint form developed under subsection (f)(9) available upon request to—

“(i) a resident of a skilled nursing facility;

“(ii) any person acting on the resident’s behalf; and

“(iii) any person who works at a skilled nursing facility or is a representative of such a worker.

“(B) COMPLAINT RESOLUTION PROCESS.—The State must establish a complaint resolution process in order to ensure that a resident, the legal representative of a resident of a skilled nursing facility, or other responsible party is not retaliated against if the resident, legal representative, or responsible party has complained, in good faith, about the quality of care or other issues relating to the skilled nursing facility, that the legal representative of a resident of a skilled nursing facility or other responsible party is not denied access to such resident or otherwise retaliated against if such representative party has complained, in good faith, about the quality of care provided by the facility or other issues relating to the facility, and that a person who works at a skilled nursing facility is not retaliated against if the worker has complained, in good faith, about quality of care or services or an issue relating to the quality of care or services provided at the facility, whether the resident, legal representative, other responsible party, or worker used the form developed under subsection (f)(9) or some other method for submitting the complaint. Such complaint resolution process shall include—

“(i) procedures to assure accurate tracking of complaints received, including notification to the complainant that a complaint has been received;

“(ii) procedures to determine the likely severity of a complaint and for the investigation of the complaint;

“(iii) deadlines for responding to a complaint and for notifying the complainant of the outcome of the investigation; and

“(iv) procedures to ensure that the identity of the complainant will be kept confidential.

“(C) WHISTLEBLOWER PROTECTION.—

“(i) PROHIBITION AGAINST RETALIATION.—No person who works at a skilled nursing facility may be penalized, discriminated, or retaliated against with respect to any aspect of employment, including discharge, promotion, compensation, terms, conditions, or privileges of employment, or have a contract for services terminated, because the person (or anyone acting at the person’s request) complained, in good faith, about the quality of care or services provided by a skilled nursing facility or about other issues relating to quality of care or services, whether using the form developed under subsection (f)(9) or some other method for submitting the complaint.

“(ii) RETALIATORY REPORTING.—A skilled nursing facility may not file a complaint or a report against a person who works (or has worked at the facility) with the appropriate State professional disciplinary agency because the person (or anyone acting at the

person’s request) complained in good faith, as described in clause (i).

“(iii) RELIEF.—Any person aggrieved by a violation of clause (i) or clause (ii) may, in a civil action, obtain all appropriate relief, including reinstatement, reimbursement of lost wages, compensation, and benefits, and exemplary damages where warranted, and such other relief as the court deems appropriate, as well as costs of suit and reasonable attorney and expert witness fees.

“(iv) RIGHTS NOT WAIVABLE.—The rights protected by this paragraph may not be diminished by contract or other agreement, and nothing in this paragraph shall be construed to diminish any greater or additional protection provided by Federal or State law or by contract or other agreement.

“(v) REQUIREMENT TO POST NOTICE OF EMPLOYEE RIGHTS.—Each skilled nursing facility shall post conspicuously in an appropriate location a sign (in a form specified by the Secretary) specifying the rights of persons under this paragraph and including a statement that an employee may file a complaint with the Secretary against a skilled nursing facility that violates the provisions of this paragraph and information with respect to the manner of filing such a complaint.

“(D) RULE OF CONSTRUCTION.—Nothing in this paragraph shall be construed as preventing a resident of a skilled nursing facility (or a person acting on the resident’s behalf) from submitting a complaint in a manner or format other than by using the standardized complaint form developed under subsection (f)(9) (including submitting a complaint orally).

“(E) GOOD FAITH DEFINED.—For purposes of this paragraph, an individual shall be deemed to be acting in good faith with respect to the filing of a complaint if the individual reasonably believes—

“(i) the information reported or disclosed in the complaint is true; and

“(ii) the violation of this title has occurred or may occur in relation to such information.”.

(b) NURSING FACILITIES.—

(1) DEVELOPMENT BY THE SECRETARY.—Section 1919(f) of the Social Security Act (42 U.S.C. 1395i-3(f)), as amended by section 1413(b), is amended by adding at the end the following new paragraph:

“(11) STANDARDIZED COMPLAINT FORM.—The Secretary shall develop a standardized complaint form for use by a resident (or a person acting on the resident’s behalf) in filing a complaint with a State survey and certification agency and a State long-term care ombudsman program with respect to a nursing facility.”.

(2) STATE REQUIREMENTS.—Section 1919(e) of the Social Security Act (42 U.S.C. 1395i-3(e)) is amended by adding at the end the following new paragraph:

“(8) COMPLAINT PROCESSES AND WHISTLEBLOWER PROTECTION.—

“(A) COMPLAINT FORMS.—The State must make the standardized complaint form developed under subsection (f)(11) available upon request to—

“(i) a resident of a nursing facility;

“(ii) any person acting on the resident’s behalf; and

“(iii) any person who works at a nursing facility or a representative of such a worker.

“(B) COMPLAINT RESOLUTION PROCESS.—The State must establish a complaint resolution process in order to ensure that a resident, the legal representative of a resident of a nursing facility, or other responsible party is not retaliated against if the resident, legal

representative, or responsible party has complained, in good faith, about the quality of care or other issues relating to the nursing facility, that the legal representative of a resident of a nursing facility or other responsible party is not denied access to such resident or otherwise retaliated against if such representative party has complained, in good faith, about the quality of care provided by the facility or other issues relating to the facility, and that a person who works at a nursing facility is not retaliated against if the worker has complained, in good faith, about quality of care or services or an issue relating to the quality of care or services provided at the facility, whether the resident, legal representative, other responsible party, or worker used the form developed under subsection (f)(11) or some other method for submitting the complaint. Such complaint resolution process shall include—

“(i) procedures to assure accurate tracking of complaints received, including notification to the complainant that a complaint has been received;

“(ii) procedures to determine the likely severity of a complaint and for the investigation of the complaint;

“(iii) deadlines for responding to a complaint and for notifying the complainant of the outcome of the investigation; and

“(iv) procedures to ensure that the identity of the complainant will be kept confidential.

“(C) WHISTLEBLOWER PROTECTION.—

“(i) PROHIBITION AGAINST RETALIATION.—No person who works at a nursing facility may be penalized, discriminated, or retaliated against with respect to any aspect of employment, including discharge, promotion, compensation, terms, conditions, or privileges of employment, or have a contract for services terminated, because the person (or anyone acting at the person's request) complained, in good faith, about the quality of care or services provided by a nursing facility or about other issues relating to quality of care or services, whether using the form developed under subsection (f)(11) or some other method for submitting the complaint.

“(ii) RETALIATORY REPORTING.—A nursing facility may not file a complaint or a report against a person who works (or has worked at the facility with the appropriate State professional disciplinary agency because the person (or anyone acting at the person's request) complained in good faith, as described in clause (i).

“(iii) RELIEF.—Any person aggrieved by a violation of clause (i) or clause (ii) may, in a civil action, obtain all appropriate relief, including reinstatement, reimbursement of lost wages, compensation, and benefits, and exemplary damages where warranted, and such other relief as the court deems appropriate, as well as costs of suit and reasonable attorney and expert witness fees.

“(iv) RIGHTS NOT WAIVABLE.—The rights protected by this paragraph may not be diminished by contract or other agreement, and nothing in this paragraph shall be construed to diminish any greater or additional protection provided by Federal or State law or by contract or other agreement.

“(v) REQUIREMENT TO POST NOTICE OF EMPLOYEE RIGHTS.—Each nursing facility shall post conspicuously in an appropriate location a sign (in a form specified by the Secretary) specifying the rights of persons under this paragraph and including a statement that an employee may file a complaint with the Secretary against a nursing facility that violates the provisions of this paragraph and information with respect to the manner of filing such a complaint.

“(D) RULE OF CONSTRUCTION.—Nothing in this paragraph shall be construed as preventing a resident of a nursing facility (or a person acting on the resident's behalf) from submitting a complaint in a manner or format other than by using the standardized complaint form developed under subsection (f)(11) (including submitting a complaint orally).

“(E) GOOD FAITH DEFINED.—For purposes of this paragraph, an individual shall be deemed to be acting in good faith with respect to the filing of a complaint if the individual reasonably believes—

“(i) the information reported or disclosed in the complaint is true; and

“(ii) the violation of this title has occurred or may occur in relation to such information.”.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect 1 year after the date of the enactment of this Act.

#### SEC. 1416. ENSURING STAFFING ACCOUNTABILITY.

(a) SKILLED NURSING FACILITIES.—Section 1819(b)(8) of the Social Security Act (42 U.S.C. 1395i-3(b)(8)) is amended by adding at the end the following new subparagraph:

“(C) SUBMISSION OF STAFFING INFORMATION BASED ON PAYROLL DATA IN A UNIFORM FORMAT.—On and after the first day of the first calendar quarter beginning after the date that is 2 years after the date of enactment of this subparagraph, and after consulting with State long-term care ombudsman programs, consumer advocacy groups, provider stakeholder groups, employees and their representatives, and other parties the Secretary deems appropriate, the Secretary shall require a skilled nursing facility to electronically submit to the Secretary direct care staffing information (including information with respect to agency and contract staff) based on payroll and other verifiable and auditable data in a uniform format (according to specifications established by the Secretary in consultation with such programs, groups, and parties). Such specifications shall require that the information submitted under the preceding sentence—

“(i) specify the category of work a certified employee performs (such as whether the employee is a registered nurse, licensed practical nurse, licensed vocational nurse, certified nursing assistant, therapist, or other medical personnel);

“(ii) include resident census data and information on resident case mix;

“(iii) include a regular reporting schedule; and

“(iv) include information on employee turnover and tenure and on the hours of care provided by each category of certified employees referenced in clause (i) per resident per day.

Nothing in this subparagraph shall be construed as preventing the Secretary from requiring submission of such information with respect to specific categories, such as nursing staff, before other categories of certified employees. Information under this subparagraph with respect to agency and contract staff shall be kept separate from information on employee staffing.”.

(b) NURSING FACILITIES.—Section 1919(b)(8) of the Social Security Act (42 U.S.C. 1396r(b)(8)) is amended by adding at the end the following new subparagraph:

“(C) SUBMISSION OF STAFFING INFORMATION BASED ON PAYROLL DATA IN A UNIFORM FORMAT.—On and after the first day of the first calendar quarter beginning after the date that is 2 years after the date of enactment of this subparagraph, and after consulting with

State long-term care ombudsman programs, consumer advocacy groups, provider stakeholder groups, employees and their representatives, and other parties the Secretary deems appropriate, the Secretary shall require a nursing facility to electronically submit to the Secretary direct care staffing information (including information with respect to agency and contract staff) based on payroll and other verifiable and auditable data in a uniform format (according to specifications established by the Secretary in consultation with such programs, groups, and parties). Such specifications shall require that the information submitted under the preceding sentence—

“(i) specify the category of work a certified employee performs (such as whether the employee is a registered nurse, licensed practical nurse, licensed vocational nurse, certified nursing assistant, therapist, or other medical personnel);

“(ii) include resident census data and information on resident case mix;

“(iii) include a regular reporting schedule; and

“(iv) include information on employee turnover and tenure and on the hours of care provided by each category of certified employees referenced in clause (i) per resident per day.

Nothing in this subparagraph shall be construed as preventing the Secretary from requiring submission of such information with respect to specific categories, such as nursing staff, before other categories of certified employees. Information under this subparagraph with respect to agency and contract staff shall be kept separate from information on employee staffing.”.

#### SEC. 1417. NATIONWIDE PROGRAM FOR NATIONAL AND STATE BACKGROUND CHECKS ON DIRECT PATIENT ACCESS EMPLOYEES OF LONG-TERM CARE FACILITIES AND PROVIDERS.

(a) IN GENERAL.—The Secretary of Health and Human Services (in this section referred to as the “Secretary”), shall establish a program to identify efficient, effective, and economical procedures for long term care facilities or providers to conduct background checks on prospective direct patient access employees on a nationwide basis (in this subsection, such program shall be referred to as the “nationwide program”). The Secretary shall carry out the nationwide program under similar terms and conditions as the pilot program under section 307 of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (Public Law 108-173; 117 Stat. 2257), including the prohibition on hiring abusive workers and the authorization of the imposition of penalties by a participating State under subsections (b)(3)(A) and (b)(6), respectively, of such section 307. The program under this subsection shall contain the following modifications to such pilot program:

(1) AGREEMENTS.—

(A) NEWLY PARTICIPATING STATES.—The Secretary shall enter into agreements with each State—

(i) that the Secretary has not entered into an agreement with under subsection (c)(1) of such section 307;

(ii) that agrees to conduct background checks under the nationwide program on a Statewide basis; and

(iii) that submits an application to the Secretary containing such information and at such time as the Secretary may specify.

Under such an agreement a State may agree to cover and reimburse each long-term care facility or provider for all costs attributable

to conducting background checks and screening described in this subsection that were not otherwise required to be conducted by such long-term care facility or provider before the enactment of this subsection, except that Federal funding with respect to such reimbursement shall be limited to the amount made available to the State from funds under subsection (b)(1).

(B) CERTAIN PREVIOUSLY PARTICIPATING STATES.—The Secretary shall enter into agreements with each State—

(i) that the Secretary has entered into an agreement with under such subsection (c)(1);

(ii) that agrees to conduct background checks under the nationwide program on a Statewide basis; and

(iii) that submits an application to the Secretary containing such information and at such time as the Secretary may specify.

Under such an agreement a State may agree to cover and reimburse each long-term care facility or provider for all costs attributable to conducting background checks and screening described in this subsection that were not otherwise required to be conducted by such long-term care facility or provider before the enactment of this subsection, except that Federal funding with respect to such reimbursement shall be limited to the amount made available to the State from funds under subsection (b)(1).

(2) NONAPPLICATION OF SELECTION CRITERIA.—The selection criteria required under subsection (c)(3)(B) of such section 307 shall not apply.

(3) REQUIRED FINGERPRINT CHECK AS PART OF CRIMINAL BACKGROUND CHECK.—The procedures established under subsection (b)(1) of such section 307 shall—

(A) require that the long-term care facility or provider (or the designated agent of the long-term care facility or provider) obtain State and national criminal or other background checks on the prospective employee through such means as the Secretary determines appropriate that utilize a search of State-based abuse and neglect registries and databases, including the abuse and neglect registries of another State in the case where a prospective employee previously resided in that State, State criminal history records, the records of any proceedings in the State that may contain disqualifying information about prospective employees (such as proceedings conducted by State professional licensing and disciplinary boards and State Medicaid Fraud Control Units), and Federal criminal history records, including a fingerprint check using the Integrated Automated Fingerprint Identification System of the Federal Bureau of Investigation; and

(B) require States to describe and test methods that reduce duplicative fingerprinting, including providing for the development of “rap back” capability by the State such that, if a direct patient access employee of a long-term care facility or provider is convicted of a crime following the initial criminal history background check conducted with respect to such employee, and the employee’s fingerprints match the prints on file with the State law enforcement department, the department will immediately inform the State and the State will immediately inform the long-term care facility or provider which employs the direct patient access employee of such conviction.

(4) STATE REQUIREMENTS.—An agreement entered into under paragraph (1) shall require that a participating State—

(A) be responsible for monitoring compliance with the requirements of the nationwide program;

(B) have procedures in place to—

(i) conduct screening and criminal or other background checks under the nationwide program in accordance with the requirements of this section;

(ii) monitor compliance by long-term care facilities and providers with the procedures and requirements of the nationwide program;

(iii) as appropriate, provide for a provisional period of employment by a long-term care facility or provider of a direct patient access employee, not to exceed 60 days, pending completion of the required criminal history background check and, in the case where the employee has appealed the results of such background check, pending completion of the appeals process, during which the employee shall be subject to direct on-site supervision (in accordance with procedures established by the State to ensure that a long-term care facility or provider furnishes such direct on-site supervision);

(iv) provide an independent process by which a provisional employee or an employee may appeal or dispute the accuracy of the information obtained in a background check performed under the nationwide program, including the specification of criteria for appeals for direct patient access employees found to have disqualifying information which shall include consideration of the passage of time, extenuating circumstances, demonstration of rehabilitation, and relevancy of the particular disqualifying information with respect to the current employment of the individual;

(v) provide for the designation of a single State agency as responsible for—

(I) overseeing the coordination of any State and national criminal history background checks requested by a long-term care facility or provider (or the designated agent of the long-term care facility or provider) utilizing a search of State and Federal criminal history records, including a fingerprint check of such records;

(II) overseeing the design of appropriate privacy and security safeguards for use in the review of the results of any State or national criminal history background checks conducted regarding a prospective direct patient access employee to determine whether the employee has any conviction for a relevant crime;

(III) immediately reporting to the long-term care facility or provider that requested the criminal history background check the results of such review; and

(IV) in the case of an employee with a conviction for a relevant crime that is subject to reporting under section 1128E of the Social Security Act (42 U.S.C. 1320a–7e), reporting the existence of such conviction to the database established under that section;

(vi) determine which individuals are direct patient access employees (as defined in paragraph (6)(B)) for purposes of the nationwide program;

(vii) as appropriate, specify offenses, including convictions for violent crimes, for purposes of the nationwide program; and

(viii) describe and test methods that reduce duplicative fingerprinting, including providing for the development of “rap back” capability such that, if a direct patient access employee of a long-term care facility or provider is convicted of a crime following the initial criminal history background check conducted with respect to such employee, and the employee’s fingerprints match the prints on file with the State law enforcement department—

(I) the department will immediately inform the State agency designated under

clause (v) and such agency will immediately inform the facility or provider which employs the direct patient access employee of such conviction; and

(II) the State will provide, or will require the facility to provide, to the employee a copy of the results of the criminal history background check conducted with respect to the employee at no charge in the case where the individual requests such a copy.

Background checks and screenings under this subsection shall be valid for a period of no longer than 2 years, as determined by the State and approved by the Secretary.

(5) PAYMENTS.—

(A) NEWLY PARTICIPATING STATES.—

(i) IN GENERAL.—As part of the application submitted by a State under paragraph (1)(A)(iii), the State shall guarantee, with respect to the costs to be incurred by the State in carrying out the nationwide program, that the State will make available (directly or through donations from public or private entities) a particular amount of non-Federal contributions, as a condition of receiving the Federal match under clause (ii).

(ii) FEDERAL MATCH.—The payment amount to each State that the Secretary enters into an agreement with under paragraph (1)(A) shall be 3 times the amount that the State guarantees to make available under clause (i).

(B) PREVIOUSLY PARTICIPATING STATES.—

(i) IN GENERAL.—As part of the application submitted by a State under paragraph (1)(B)(iii), the State shall guarantee, with respect to the costs to be incurred by the State in carrying out the nationwide program, that the State will make available (directly or through donations from public or private entities) a particular amount of non-Federal contributions, as a condition of receiving the Federal match under clause (ii).

(ii) FEDERAL MATCH.—The payment amount to each State that the Secretary enters into an agreement with under paragraph (1)(B) shall be 3 times the amount that the State guarantees to make available under clause (i).

(6) DEFINITIONS.—Under the nationwide program:

(A) LONG-TERM CARE FACILITY OR PROVIDER.—The term “long-term care facility or provider” means the following facilities or providers which receive payment for services under title XVIII or XIX of the Social Security Act:

(i) A skilled nursing facility (as defined in section 1819(a) of the Social Security Act (42 U.S.C. 1395i–3(a))).

(ii) A nursing facility (as defined in section 1919(a) of such Act (42 U.S.C. 1396(a))).

(iii) A home health agency.

(iv) A provider of hospice care (as defined in section 1861(dd)(1) of such Act (42 U.S.C. 1395x(dd)(1))).

(v) A long-term care hospital (as described in section 1886(d)(1)(B)(iv) of such Act (42 U.S.C. 1395ww(d)(1)(B)(iv))).

(vi) A provider of personal care services.

(vii) A provider of adult day care.

(viii) A residential care provider that arranges for, or directly provides, long-term care services, including an assisted living facility that provides a nursing home level of care conveyed by State licensure or State definition.

(ix) An intermediate care facility for the mentally retarded (as defined in section 1905(d) of such Act (42 U.S.C. 1396d(d))).

(x) Any other facility or provider of long-term care services under such titles as the participating State determines appropriate.

(B) DIRECT PATIENT ACCESS EMPLOYEE.—The term “direct patient access employee”

means any individual who has access to a patient or resident of a long-term care facility or provider through employment or through a contract with such facility or provider and has duties that involve (or may involve) one-on-one contact with a patient or resident of the facility or provider, as determined by the State for purposes of the nationwide program. Such term does not include a volunteer unless the volunteer has duties that are equivalent to the duties of a direct patient access employee and those duties involve (or may involve) one-on-one contact with a patient or resident of the long-term care facility or provider.

(7) EVALUATION AND REPORT.—

(A) EVALUATION.—The Inspector General of the Department of Health and Human Services shall conduct an evaluation of the nationwide program. Such evaluation shall include—

(i) a review of the various procedures implemented by participating States for long-term care facilities or providers, including staffing agencies, to conduct background checks of direct patient access employees and identify the most efficient, effective, and economical procedures for conducting such background checks;

(ii) an assessment of the costs of conducting such background checks (including start-up and administrative costs);

(iii) a determination of the extent to which conducting such background checks leads to any unintended consequences, including a reduction in the available workforce for such facilities or providers;

(iv) an assessment of the impact of the program on reducing the number of incidents of neglect, abuse, and misappropriation of resident property to the extent practicable; and

(v) an evaluation of other aspects of the program, as determined appropriate by the Secretary.

(B) REPORT.—Not later than 180 days after the completion of the nationwide program, the Inspector General of the Department of Health and Human Services shall submit a report to Congress containing the results of the evaluation conducted under subparagraph (A).

(b) FUNDING.—

(1) NOTIFICATION.—The Secretary of Health and Human Services shall notify the Secretary of the Treasury of the amount necessary to carry out the nationwide program under this section, including costs for the Department of Health and Human Services to administer and evaluate the program, for the period of fiscal years 2010 through 2012, except that in no case shall such amount exceed \$160,000,000.

(2) TRANSFER OF FUNDS.—Out of any funds in the Treasury not otherwise appropriated, the Secretary of the Treasury shall provide for the transfer to the Secretary of Health and Human Services of the amount specified as necessary to carry out the nationwide program under paragraph (1). Such amount shall remain available until expended.

## PART 2—TARGETING ENFORCEMENT

### SEC. 1421. CIVIL MONEY PENALTIES.

(a) SKILLED NURSING FACILITIES.—

(1) IN GENERAL.—Section 1819(h)(2)(B)(ii) of the Social Security Act (42 U.S.C. 1395i-3(h)(2)(B)(ii)) is amended to read as follows:

“(i) AUTHORITY WITH RESPECT TO CIVIL MONEY PENALTIES.—

“(I) AMOUNT.—The Secretary may impose a civil money penalty in the applicable per instance or per day amount (as defined in subclause (II) and (III)) for each day or instance, respectively, of noncompliance (as determined appropriate by the Secretary).

“(II) APPLICABLE PER INSTANCE AMOUNT.—In this clause, the term ‘applicable per instance amount’ means—

“(aa) in the case where the deficiency is found to be a direct proximate cause of death of a resident of the facility, an amount not to exceed \$100,000.

“(bb) in each case of a deficiency where the facility is cited for actual harm or immediate jeopardy, an amount not less than \$3,050 and not more than \$25,000; and

“(cc) in each case of any other deficiency, an amount not less than \$250 and not to exceed \$3050.

“(III) APPLICABLE PER DAY AMOUNT.—In this clause, the term ‘applicable per day amount’ means—

“(aa) in each case of a deficiency where the facility is cited for actual harm or immediate jeopardy, an amount not less than \$3,050 and not more than \$25,000 and

“(bb) in each case of any other deficiency, an amount not less than \$250 and not to exceed \$3,050.

“(IV) REDUCTION OF CIVIL MONEY PENALTIES IN CERTAIN CIRCUMSTANCES.—Subject to subclauses (V) and (VI), in the case where a facility self-reports and promptly corrects a deficiency for which a penalty was imposed under this clause not later than 10 calendar days after the date of such imposition, the Secretary may reduce the amount of the penalty imposed by not more than 50 percent.

“(V) PROHIBITION ON REDUCTION FOR CERTAIN DEFICIENCIES.—

“(aa) REPEAT DEFICIENCIES.—The Secretary may not reduce under subclause (IV) the amount of a penalty if the deficiency is a repeat deficiency.

“(bb) CERTAIN OTHER DEFICIENCIES.—The Secretary may not reduce under subclause (IV) the amount of a penalty if the penalty is imposed for a deficiency described in subclause (II)(aa) or (III)(aa) and the actual harm or widespread harm immediately jeopardizes the health or safety of a resident or residents of the facility, or if the penalty is imposed for a deficiency described in subclause (II)(bb).

“(VI) LIMITATION ON AGGREGATE REDUCTIONS.—The aggregate reduction in a penalty under subclause (IV) may not exceed 35 percent on the basis of self-reporting, on the basis of a waiver of an appeal (as provided for under regulations under section 488.436 of title 42, Code of Federal Regulations), or on the basis of both.

“(VII) COLLECTION OF CIVIL MONEY PENALTIES.—In the case of a civil money penalty imposed under this clause, the Secretary—

“(aa) subject to item (cc), shall, not later than 30 days after the date of imposition of the penalty, provide the opportunity for the facility to participate in an independent informal dispute resolution process, established by the State survey agency, which generates a written record prior to the collection of such penalty, but such opportunity shall not affect the responsibility of the State survey agency for making final recommendations for such penalties;

“(bb) in the case where the penalty is imposed for each day of noncompliance, shall not impose a penalty for any day during the period beginning on the initial day of the imposition of the penalty and ending on the day on which the informal dispute resolution process under item (aa) is completed;

“(cc) may provide for the collection of such civil money penalty and the placement of such amounts collected in an escrow account under the direction of the Secretary on the earlier of the date on which the infor-

mal dispute resolution process under item (aa) is completed or the date that is 90 days after the date of the imposition of the penalty;

“(dd) may provide that such amounts collected are kept in such account pending the resolution of any subsequent appeals;

“(ee) in the case where the facility successfully appeals the penalty, may provide for the return of such amounts collected (plus interest) to the facility; and

“(ff) in the case where all such appeals are unsuccessful, may provide that some portion of such amounts collected may be used to support activities that benefit residents, including assistance to support and protect residents of a facility that closes (voluntarily or involuntarily) or is decertified (including offsetting costs of relocating residents to home and community-based settings or another facility), projects that support resident and family councils and other consumer involvement in assuring quality care in facilities, and facility improvement initiatives approved by the Secretary (including joint training of facility staff and surveyors, technical assistance for facilities under quality assurance programs, the appointment of temporary management, and other activities approved by the Secretary).

“(VIII) PROCEDURE.—The provisions of section 1128A (other than subsections (a) and (b) and except to the extent that such provisions require a hearing prior to the imposition of a civil money penalty) shall apply to a civil money penalty under this clause in the same manner as such provisions apply to a penalty or proceeding under section 1128A(a).”

(2) CONFORMING AMENDMENT.—The second sentence of section 1819(h)(5) of the Social Security Act (42 U.S.C. 1395i-3(h)(5)) is amended by inserting “(ii),” after “(i).”

(b) NURSING FACILITIES.—

(1) PENALTIES IMPOSED BY THE STATE.—

(A) IN GENERAL.—Section 1919(h)(2) of the Social Security Act (42 U.S.C. 1396r(h)(2)) is amended—

(i) in subparagraph (A)(ii), by striking the first sentence and inserting the following: “A civil money penalty in accordance with subparagraph (G).”; and

(ii) by adding at the end the following new subparagraph:

“(G) CIVIL MONEY PENALTIES.—

“(i) IN GENERAL.—The State may impose a civil money penalty under subparagraph (A)(ii) in the applicable per instance or per day amount (as defined in subclause (II) and (III)) for each day or instance, respectively, of noncompliance (as determined appropriate by the Secretary).

“(ii) APPLICABLE PER INSTANCE AMOUNT.—In this subparagraph, the term ‘applicable per instance amount’ means—

“(I) in the case where the deficiency is found to be a direct proximate cause of death of a resident of the facility, an amount not to exceed \$100,000.

“(II) in each case of a deficiency where the facility is cited for actual harm or immediate jeopardy, an amount not less than \$3,050 and not more than \$25,000; and

“(III) in each case of any other deficiency, an amount not less than \$250 and not to exceed \$3050.

“(iii) APPLICABLE PER DAY AMOUNT.—In this subparagraph, the term ‘applicable per day amount’ means—

“(I) in each case of a deficiency where the facility is cited for actual harm or immediate jeopardy, an amount not less than \$3,050 and not more than \$25,000 and

“(II) in each case of any other deficiency, an amount not less than \$250 and not to exceed \$3,050.

“(iv) REDUCTION OF CIVIL MONEY PENALTIES IN CERTAIN CIRCUMSTANCES.—Subject to clauses (v) and (vi), in the case where a facility self-reports and promptly corrects a deficiency for which a penalty was imposed under subparagraph (A)(ii) not later than 10 calendar days after the date of such imposition, the State may reduce the amount of the penalty imposed by not more than 50 percent.

“(v) PROHIBITION ON REDUCTION FOR CERTAIN DEFICIENCIES.—

“(I) REPEAT DEFICIENCIES.—The State may not reduce under clause (iv) the amount of a penalty if the State had reduced a penalty imposed on the facility in the preceding year under such clause with respect to a repeat deficiency.

“(II) CERTAIN OTHER DEFICIENCIES.—The State may not reduce under clause (iv) the amount of a penalty if the penalty is imposed for a deficiency described in clause (ii)(I) or (iii)(I) and the actual harm or widespread harm that immediately jeopardizes the health or safety of a resident or residents of the facility, or if the penalty is imposed for a deficiency described in clause (ii)(I).

“(III) LIMITATION ON AGGREGATE REDUCTIONS.—The aggregate reduction in a penalty under clause (iv) may not exceed 35 percent on the basis of self-reporting, on the basis of a waiver of an appeal (as provided for under regulations under section 488.436 of title 42, Code of Federal Regulations), or on the basis of both.

“(vi) COLLECTION OF CIVIL MONEY PENALTIES.—In the case of a civil money penalty imposed under subparagraph (A)(ii), the State—

“(I) subject to subclause (III), shall, not later than 30 days after the date of imposition of the penalty, provide the opportunity for the facility to participate in an independent informal dispute resolution process, established by the State survey agency, which generates a written record prior to the collection of such penalty, but such opportunity shall not affect the responsibility of the State survey agency for making final recommendations for such penalties;

“(II) in the case where the penalty is imposed for each day of noncompliance, shall not impose a penalty for any day during the period beginning on the initial day of the imposition of the penalty and ending on the day on which the informal dispute resolution process under subclause (I) is completed;

“(III) may provide for the collection of such civil money penalty and the placement of such amounts collected in an escrow account under the direction of the State on the earlier of the date on which the informal dispute resolution process under subclause (I) is completed or the date that is 90 days after the date of the imposition of the penalty;

“(IV) may provide that such amounts collected are kept in such account pending the resolution of any subsequent appeals;

“(V) in the case where the facility successfully appeals the penalty, may provide for the return of such amounts collected (plus interest) to the facility; and

“(VI) in the case where all such appeals are unsuccessful, may provide that such funds collected shall be used for the purposes described in the second sentence of subparagraph (A)(ii).”

(B) CONFORMING AMENDMENT.—The second sentence of section 1919(h)(2)(A)(ii) of the Social Security Act (42 U.S.C. 1396r(h)(2)(A)(ii)) is amended by inserting before the period at the end the following: “, and some portion of such funds may be used to support activities that benefit residents, including assistance

to support and protect residents of a facility that closes (voluntarily or involuntarily) or is decertified (including offsetting costs of relocating residents to home and community-based settings or another facility), projects that support resident and family councils and other consumer involvement in assuring quality care in facilities, and facility improvement initiatives approved by the Secretary (including joint training of facility staff and surveyors, providing technical assistance to facilities under quality assurance programs, the appointment of temporary management, and other activities approved by the Secretary)”.

(2) PENALTIES IMPOSED BY THE SECRETARY.—

(A) IN GENERAL.—Section 1919(h)(3)(C)(ii) of the Social Security Act (42 U.S.C. 1396r(h)(3)(C)) is amended to read as follows:

“(ii) AUTHORITY WITH RESPECT TO CIVIL MONEY PENALTIES.—

“(I) AMOUNT.—Subject to subclause (II), the Secretary may impose a civil money penalty in an amount not to exceed \$10,000 for each day or each instance of noncompliance (as determined appropriate by the Secretary).

“(II) REDUCTION OF CIVIL MONEY PENALTIES IN CERTAIN CIRCUMSTANCES.—Subject to subclause (III), in the case where a facility self-reports and promptly corrects a deficiency for which a penalty was imposed under this clause not later than 10 calendar days after the date of such imposition, the Secretary may reduce the amount of the penalty imposed by not more than 50 percent.

“(III) PROHIBITION ON REDUCTION FOR REPEAT DEFICIENCIES.—The Secretary may not reduce the amount of a penalty under subclause (II) if the Secretary had reduced a penalty imposed on the facility in the preceding year under such subclause with respect to a repeat deficiency.

“(IV) COLLECTION OF CIVIL MONEY PENALTIES.—In the case of a civil money penalty imposed under this clause, the Secretary—

“(aa) subject to item (bb), shall, not later than 30 days after the date of imposition of the penalty, provide the opportunity for the facility to participate in an independent informal dispute resolution process which generates a written record prior to the collection of such penalty;

“(bb) in the case where the penalty is imposed for each day of noncompliance, shall not impose a penalty for any day during the period beginning on the initial day of the imposition of the penalty and ending on the day on which the informal dispute resolution process under item (aa) is completed;

“(cc) may provide for the collection of such civil money penalty and the placement of such amounts collected in an escrow account under the direction of the Secretary on the earlier of the date on which the informal dispute resolution process under item (aa) is completed or the date that is 90 days after the date of the imposition of the penalty;

“(dd) may provide that such amounts collected are kept in such account pending the resolution of any subsequent appeals;

“(ee) in the case where the facility successfully appeals the penalty, may provide for the return of such amounts collected (plus interest) to the facility; and

“(ff) in the case where all such appeals are unsuccessful, may provide that some portion of such amounts collected may be used to support activities that benefit residents, including assistance to support and protect residents of a facility that closes (voluntarily or involuntarily) or is decertified (in-

cluding offsetting costs of relocating residents to home and community-based settings or another facility), projects that support resident and family councils and other consumer involvement in assuring quality care in facilities, and facility improvement initiatives approved by the Secretary (including joint training of facility staff and surveyors, technical assistance for facilities under quality assurance programs, the appointment of temporary management, and other activities approved by the Secretary).

“(V) PROCEDURE.—The provisions of section 1128A (other than subsections (a) and (b) and except to the extent that such provisions require a hearing prior to the imposition of a civil money penalty) shall apply to a civil money penalty under this clause in the same manner as such provisions apply to a penalty or proceeding under section 1128A(a).”

(B) CONFORMING AMENDMENT.—Section 1919(h)(8) of the Social Security Act (42 U.S.C. 1396r(h)(5)(8)) is amended by inserting “and in paragraph (3)(C)(ii)” after “paragraph (2)(A)”.

(C) EFFECTIVE DATE.—The amendments made by this section shall take effect 1 year after the date of the enactment of this Act.

#### SEC. 1422. NATIONAL INDEPENDENT MONITOR PILOT PROGRAM.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—The Secretary, in consultation with the Inspector General of the Department of Health and Human Services, shall establish a pilot program (in this section referred to as the “pilot program”) to develop, test, and implement use of an independent monitor to oversee interstate and large intrastate chains of skilled nursing facilities and nursing facilities.

(2) SELECTION.—The Secretary shall select chains of skilled nursing facilities and nursing facilities described in paragraph (1) to participate in the pilot program from among those chains that submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

(3) DURATION.—The Secretary shall conduct the pilot program for a two-year period.

(4) IMPLEMENTATION.—The Secretary shall implement the pilot program not later than one year after the date of the enactment of this Act.

(b) REQUIREMENTS.—The Secretary shall evaluate chains selected to participate in the pilot program based on criteria selected by the Secretary, including where evidence suggests that one or more facilities of the chain are experiencing serious safety and quality of care problems. Such criteria may include the evaluation of a chain that includes one or more facilities participating in the “Special Focus Facility” program (or a successor program) or one or more facilities with a record of repeated serious safety and quality of care deficiencies.

(c) RESPONSIBILITIES OF THE INDEPENDENT MONITOR.—An independent monitor that enters into a contract with the Secretary to participate in the conduct of such program shall—

(1) conduct periodic reviews and prepare root-cause quality and deficiency analyses of a chain to assess if facilities of the chain are in compliance with State and Federal laws and regulations applicable to the facilities;

(2) undertake sustained oversight of the chain, whether publicly or privately held, to involve the owners of the chain and the principal business partners of such owners in facilitating compliance by facilities of the chain with State and Federal laws and regulations applicable to the facilities;



(3) analyze the management structure, distribution of expenditures, and nurse staffing levels of facilities of the chain in relation to resident census, staff turnover rates, and tenure;

(4) report findings and recommendations with respect to such reviews, analyses, and oversight to the chain and facilities of the chain, to the Secretary and to relevant States; and

(5) publish the results of such reviews, analyses, and oversight.

(d) IMPLEMENTATION OF RECOMMENDATIONS.—

(1) RECEIPT OF FINDING BY CHAIN.—Not later than 10 days after receipt of a finding of an independent monitor under subsection (c)(4), a chain participating in the pilot program shall submit to the independent monitor a report—

(A) outlining corrective actions the chain will take to implement the recommendations in such report; or

(B) indicating that the chain will not implement such recommendations and why it will not do so.

(2) RECEIPT OF REPORT BY INDEPENDENT MONITOR.—Not later than 10 days after the date of receipt of a report submitted by a chain under paragraph (1), an independent monitor shall finalize its recommendations and submit a report to the chain and facilities of the chain, the Secretary, and the State (or States) involved, as appropriate, containing such final recommendations.

(e) COST OF APPOINTMENT.—A chain shall be responsible for a portion of the costs associated with the appointment of independent monitors under the pilot program. The chain shall pay such portion to the Secretary (in an amount and in accordance with procedures established by the Secretary).

(f) WAIVER AUTHORITY.—The Secretary may waive such requirements of titles XVIII and XIX of the Social Security Act (42 U.S.C. 1395 et seq.; 1396 et seq.) as may be necessary for the purpose of carrying out the pilot program.

(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section.

(h) DEFINITIONS.—In this section:

(1) FACILITY.—The term “facility” means a skilled nursing facility or a nursing facility.

(2) NURSING FACILITY.—The term “nursing facility” has the meaning given such term in section 1919(a) of the Social Security Act (42 U.S.C. 1396r(a)).

(3) SECRETARY.—The term “Secretary” means the Secretary of Health and Human Services, acting through the Assistant Secretary for Planning and Evaluation.

(4) SKILLED NURSING FACILITY.—The term “skilled nursing facility” has the meaning given such term in section 1819(a) of the Social Security Act (42 U.S.C. 1395(a)).

(i) EVALUATION AND REPORT.—

(1) EVALUATION.—The Inspector General of the Department of Health and Human Services shall evaluate the pilot program. Such evaluation shall—

(A) determine whether the independent monitor program should be established on a permanent basis; and

(B) if the Inspector General determines that the independent monitor program should be established on a permanent basis, recommend appropriate procedures and mechanisms for such establishment.

(2) REPORT.—Not later than 180 days after the completion of the pilot program, the Inspector General shall submit to Congress and the Secretary a report containing the results

of the evaluation conducted under paragraph (1), together with recommendations for such legislation and administrative action as the Inspector General determines appropriate.

#### SEC. 1423. NOTIFICATION OF FACILITY CLOSURE.

(a) SKILLED NURSING FACILITIES.—

(1) IN GENERAL.—Section 1819(c) of the Social Security Act (42 U.S.C. 1395i-3(c)) is amended by adding at the end the following new paragraph:

“(7) NOTIFICATION OF FACILITY CLOSURE.—

“(A) IN GENERAL.—Any individual who is the administrator of a skilled nursing facility must—

“(i) submit to the Secretary, the State long-term care ombudsman, residents of the facility, and the legal representatives of such residents or other responsible parties, written notification of an impending closure—

“(I) subject to subclause (II), not later than the date that is 60 days prior to the date of such closure; and

“(II) in the case of a facility where the Secretary terminates the facility’s participation under this title, not later than the date that the Secretary determines appropriate;

“(ii) ensure that the facility does not admit any new residents on or after the date on which such written notification is submitted; and

“(iii) include in the notice a plan for the transfer and adequate relocation of the residents of the facility by a specified date prior to closure that has been approved by the State, including assurances that the residents will be transferred to the most appropriate facility or other setting in terms of quality, services, and location, taking into consideration the needs and best interests of each resident.

“(B) RELOCATION.—

“(i) IN GENERAL.—The State shall ensure that, before a facility closes, all residents of the facility have been successfully relocated to another facility or an alternative home and community-based setting.

“(ii) CONTINUATION OF PAYMENTS UNTIL RESIDENTS RELOCATED.—The Secretary may, as the Secretary determines appropriate, continue to make payments under this title with respect to residents of a facility that has submitted a notification under subparagraph (A) during the period beginning on the date such notification is submitted and ending on the date on which the resident is successfully relocated.”.

(2) CONFORMING AMENDMENTS.—Section 1819(h)(4) of the Social Security Act (42 U.S.C. 1395i-3(h)(4)) is amended—

(A) in the first sentence, by striking “the Secretary shall terminate” and inserting “the Secretary, subject to subsection (c)(7), shall terminate”; and

(B) in the second sentence, by striking “subsection (c)(2)” and inserting “paragraphs (2) and (7) of subsection (c)”.

(b) NURSING FACILITIES.—

(1) IN GENERAL.—Section 1919(c) of the Social Security Act (42 U.S.C. 1396r(c)) is amended by adding at the end the following new paragraph:

“(9) NOTIFICATION OF FACILITY CLOSURE.—

“(A) IN GENERAL.—Any individual who is an administrator of a nursing facility must—

“(i) submit to the Secretary, the State long-term care ombudsman, residents of the facility, and the legal representatives of such residents or other responsible parties, written notification of an impending closure—

“(I) subject to subclause (II), not later than the date that is 60 days prior to the date of such closure; and

“(II) in the case of a facility where the Secretary terminates the facility’s participation

under this title, not later than the date that the Secretary determines appropriate;

“(ii) ensure that the facility does not admit any new residents on or after the date on which such written notification is submitted; and

“(iii) include in the notice a plan for the transfer and adequate relocation of the residents of the facility by a specified date prior to closure that has been approved by the State, including assurances that the residents will be transferred to the most appropriate facility or other setting in terms of quality, services, and location, taking into consideration the needs and best interests of each resident.

“(B) RELOCATION.—

“(i) IN GENERAL.—The State shall ensure that, before a facility closes, all residents of the facility have been successfully relocated to another facility or an alternative home and community-based setting.

“(ii) CONTINUATION OF PAYMENTS UNTIL RESIDENTS RELOCATED.—The Secretary may, as the Secretary determines appropriate, continue to make payments under this title with respect to residents of a facility that has submitted a notification under subparagraph (A) during the period beginning on the date such notification is submitted and ending on the date on which the resident is successfully relocated.”.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect 1 year after the date of the enactment of this Act.

#### PART 3—IMPROVING STAFF TRAINING

#### SEC. 1431. DEMENTIA AND ABUSE PREVENTION TRAINING.

(a) SKILLED NURSING FACILITIES.—Section 1819(f)(2)(A)(i)(I) of the Social Security Act (42 U.S.C. 1395i-3(f)(2)(A)(i)(I)) is amended by inserting “(including, in the case of initial training and, if the Secretary determines appropriate, in the case of ongoing training, dementia management training and resident abuse prevention training)” after “curriculum”.

(b) NURSING FACILITIES.—Section 1919(f)(2)(A)(i)(I) of the Social Security Act (42 U.S.C. 1396r(f)(2)(A)(i)(I)) is amended by inserting “(including, in the case of initial training and, if the Secretary determines appropriate, in the case of ongoing training, dementia management training and resident abuse prevention training)” after “curriculum”.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect 1 year after the date of the enactment of this Act.

#### SEC. 1432. STUDY AND REPORT ON TRAINING REQUIRED FOR CERTIFIED NURSE AIDES AND SUPERVISORY STAFF.

(a) STUDY.—

(1) IN GENERAL.—The Secretary shall conduct a study on the content of training for certified nurse aides and supervisory staff of skilled nursing facilities and nursing facilities. The study shall include an analysis of the following:

(A) Whether the number of initial training hours for certified nurse aides required under sections 1819(f)(2)(A)(i)(II) and 1919(f)(2)(A)(i)(II) of the Social Security Act (42 U.S.C. 1395i-3(f)(2)(A)(i)(II); 1396r(f)(2)(A)(i)(II)) should be increased from 75 and, if so, what the required number of initial training hours should be, including any recommendations for the content of such training (including training related to dementia).

(B) Whether requirements for ongoing training under such sections 1819(f)(2)(A)(i)(II) and 1919(f)(2)(A)(i)(II) should be increased from 12 hours per year,



including any recommendations for the content of such training.

(2) CONSULTATION.—In conducting the analysis under paragraph (1)(A), the Secretary shall consult with States that, as of the date of the enactment of this Act, require more than 75 hours of training for certified nurse aides.

(3) DEFINITIONS.—In this section:

(A) NURSING FACILITY.—The term “nursing facility” has the meaning given such term in section 1919(a) of the Social Security Act (42 U.S.C. 1396r(a)).

(B) SECRETARY.—The term “Secretary” means the Secretary of Health and Human Services, acting through the Assistant Secretary for Planning and Evaluation.

(C) SKILLED NURSING FACILITY.—The term “skilled nursing facility” has the meaning given such term in section 1819(a) of the Social Security Act (42 U.S.C. 1395(a)).

(b) REPORT.—Not later than 2 years after the date of the enactment of this Act, the Secretary shall submit to Congress a report containing the results of the study conducted under subsection (a), together with recommendations for such legislation and administrative action as the Secretary determines appropriate.

#### SEC. 1433. QUALIFICATION OF DIRECTOR OF FOOD SERVICES OF A SKILLED NURSING FACILITY OR NURSING FACILITY.

(a) MEDICARE.—Section 1819(b)(4)(A) of the Social Security Act (42 U.S.C. 1395i-3(b)(4)(A)) is amended by adding at the end the following: “With respect to meeting the staffing requirement imposed by the Secretary to carry out clause (iv), the full-time director of food services of the facility, if not a qualified dietitian (as defined in section 483.35(a)(2) of title 42, Code of Federal Regulations, as in effect as of the date of the enactment of this sentence), shall be a Certified Dietary Manager meeting the requirements of the Certifying Board for Dietary Managers, or a Dietetic Technician, Registered meeting the requirements of the Commission on Dietetic Registration or have equivalent military, academic, or other qualifications (as specified by the Secretary).”.

(b) MEDICAID.—Section 1919(b)(4)(A) of the Social Security Act (42 U.S.C. 1396r(b)(4)(A)) is amended by adding at the end the following: “With respect to meeting the staffing requirement imposed by the Secretary to carry out clause (iv), the full-time director of food services of the facility, if not a qualified dietitian (as defined in section 483.35(a)(2) of title 42, Code of Federal Regulations, as in effect as of the date of the enactment of this sentence), shall be a Certified Dietary Manager meeting the requirements of the Certifying Board for Dietary Managers, or a Dietetic Technician, Registered meeting the requirements of the Commission on Dietetic Registration or have equivalent military, academic, or other qualifications (as specified by the Secretary).”.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date that is 180 days after the date of enactment of this Act.

#### Subtitle C—Quality Measurements

#### SEC. 1441. ESTABLISHMENT OF NATIONAL PRIORITIES FOR QUALITY IMPROVEMENT.

Title XI of the Social Security Act, as amended by section 1401(a), is further amended by adding at the end the following new part:

#### “PART E—QUALITY IMPROVEMENT

##### “ESTABLISHMENT OF NATIONAL PRIORITIES FOR PERFORMANCE IMPROVEMENT

“SEC. 1191. (a) ESTABLISHMENT OF NATIONAL PRIORITIES BY THE SECRETARY.—The Secretary shall establish and periodically update, not less frequently than triennially, national priorities for performance improvement.

“(b) RECOMMENDATIONS FOR NATIONAL PRIORITIES.—In establishing and updating national priorities under subsection (a), the Secretary shall solicit and consider recommendations from multiple outside stakeholders.

“(c) CONSIDERATIONS IN SETTING NATIONAL PRIORITIES.—With respect to such priorities, the Secretary shall ensure that priority is given to areas in the delivery of health care services in the United States that—

“(1) contribute to a large burden of disease, including those that address the health care provided to patients with prevalent, high-cost chronic diseases;

“(2) have the greatest potential to decrease morbidity and mortality in this country, including those that are designed to eliminate harm to patients;

“(3) have the greatest potential for improving the performance, affordability, and patient-centeredness of health care, including those due to variations in care;

“(4) address health disparities across groups and areas; and

“(5) have the potential for rapid improvement due to existing evidence, standards of care or other reasons.

“(d) DEFINITIONS.—In this part:

“(1) CONSENSUS-BASED ENTITY.—The term ‘consensus-based entity’ means an entity with a contract with the Secretary under section 1890.

“(2) QUALITY MEASURE.—The term ‘quality measure’ means a national consensus standard for measuring the performance and improvement of population health, or of institutional providers of services, physicians, and other health care practitioners in the delivery of health care services.

“(e) FUNDING.—

“(1) IN GENERAL.—The Secretary shall provide for the transfer, from the Federal Hospital Insurance Trust Fund under section 1817 and the Federal Supplementary Medical Insurance Trust Fund under section 1841 (in such proportion as the Secretary determines appropriate), of \$2,000,000, for the activities under this section for each of the fiscal years 2010 through 2014.

“(2) AUTHORIZATION OF APPROPRIATIONS.—For purposes of carrying out the provisions of this section, in addition to funds otherwise available, out of any funds in the Treasury not otherwise appropriated, there are appropriated to the Secretary of Health and Human Services \$2,000,000 for each of the fiscal years 2010 through 2014.”.

#### SEC. 1442. DEVELOPMENT OF NEW QUALITY MEASURES; GAO EVALUATION OF DATA COLLECTION PROCESS FOR QUALITY MEASUREMENT.

Part E of title XI of the Social Security Act, as added by section 1441, is amended by adding at the end the following new sections:

##### “SEC. 1192. DEVELOPMENT OF NEW QUALITY MEASURES.

“(a) AGREEMENTS WITH QUALIFIED ENTITIES.—

“(1) IN GENERAL.—The Secretary shall enter into agreements with qualified entities to develop quality measures for the delivery of health care services in the United States.

“(2) FORM OF AGREEMENTS.—The Secretary may carry out paragraph (1) by contract, grant, or otherwise.

“(3) RECOMMENDATIONS OF CONSENSUS-BASED ENTITY.—In carrying out this section, the Secretary shall—

“(A) seek public input; and

“(B) take into consideration recommendations of the consensus-based entity with a contract with the Secretary under section 1890(a).

“(b) DETERMINATION OF AREAS WHERE QUALITY MEASURES ARE REQUIRED.—Consistent with the national priorities established under this part and with the programs administered by the Centers for Medicare & Medicaid Services and in consultation with other relevant Federal agencies, the Secretary shall determine areas in which quality measures for assessing health care services in the United States are needed.

“(c) DEVELOPMENT OF QUALITY MEASURES.—

“(1) PATIENT-CENTERED AND POPULATION-BASED MEASURES.—In entering into agreements under subsection (a), the Secretary shall give priority to the development of quality measures that allow the assessment of—

“(A) health outcomes, presence of impairment, and functional status of patients;

“(B) the continuity and coordination of care and care transitions for patients across providers and health care settings, including end of life care;

“(C) patient experience and patient engagement;

“(D) the safety, effectiveness, and timeliness of care;

“(E) health disparities including those associated with individual race, ethnicity, age, gender, place of residence or language; and

“(F) the efficiency and resource use in the provision of care.

“(2) USE OF FUNDS.—An entity that enters into an agreement under subsection (a) shall develop quality measures that—

“(A) to the extent feasible, have the ability to be collected through the use of health information technologies supporting better delivery of health care services; and

“(B) are available free of charge to users for the use of such measures.

“(3) AVAILABILITY OF MEASURES.—The Secretary shall make quality measures developed under this section available to the public.

“(4) TESTING OF PROPOSED MEASURES.—The Secretary may use amounts made available under subsection (f) to fund the testing of proposed quality measures by qualified entities. Testing funded under this paragraph shall include testing of the feasibility and usability of proposed measures.

“(5) UPDATING OF ENDORSED MEASURES.—The Secretary may use amounts made available under subsection (f) to fund the updating (and testing, if applicable) by consensus-based entities of quality measures that have been previously endorsed by such an entity as new evidence is developed, in a manner consistent with section 1890(b)(3).

“(d) QUALIFIED ENTITIES.—Before entering into agreements with a qualified entity, the Secretary shall ensure that the entity is a public, private, or academic institution with technical expertise in the area of health quality measurement.

“(e) APPLICATION FOR GRANT.—A grant may be made under this section only if an application for the grant is submitted to the Secretary and the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this section.

“(f) FUNDING.—

“(1) IN GENERAL.—The Secretary shall provide for the transfer, from the Federal Hospital Insurance Trust Fund under section 1817 and the Federal Supplementary Medical Insurance Trust Fund under section 1841 (in such proportion as the Secretary determines appropriate), of \$25,000,000, to the Secretary for purposes of carrying out this section for each of the fiscal years 2010 through 2014.

“(2) AUTHORIZATION OF APPROPRIATIONS.—For purposes of carrying out the provisions of this section, in addition to funds otherwise available, out of any funds in the Treasury not otherwise appropriated, there are appropriated to the Secretary of Health and Human Services \$25,000,000 for each of the fiscal years 2010 through 2014.

**“SEC. 1193. GAO EVALUATION OF DATA COLLECTION PROCESS FOR QUALITY MEASUREMENT.**

“(a) GAO EVALUATIONS.—The Comptroller General of the United States shall conduct periodic evaluations of the implementation of the data collection processes for quality measures used by the Secretary.

“(b) CONSIDERATIONS.—In carrying out the evaluation under subsection (a), the Comptroller General shall determine—

“(1) whether the system for the collection of data for quality measures provides for validation of data as relevant and scientifically credible;

“(2) whether data collection efforts under the system use the most efficient and cost-effective means in a manner that minimizes administrative burden on persons required to collect data and that adequately protects the privacy of patients' personal health information and provides data security;

“(3) whether standards under the system provide for an appropriate opportunity for physicians and other clinicians and institutional providers of services to review and correct findings; and

“(4) the extent to which quality measures are consistent with section 1192(c)(1) or result in direct or indirect costs to users of such measures.

“(c) REPORT.—The Comptroller General shall submit reports to Congress and to the Secretary containing a description of the findings and conclusions of the results of each such evaluation.”.

**SEC. 1443. MULTI-STAKEHOLDER PRE-RULE-MAKING INPUT INTO SELECTION OF QUALITY MEASURES.**

Section 1808 of the Social Security Act (42 U.S.C. 1395b-9) is amended by adding at the end the following new subsection:

“(d) MULTI-STAKEHOLDER PRE-RULEMAKING INPUT INTO SELECTION OF QUALITY MEASURES.—

“(1) LIST OF MEASURES.—Not later than December 1 before each year (beginning with 2011), the Secretary shall make public a list of measures being considered for selection for quality measurement by the Secretary in rulemaking with respect to payment systems under this title beginning in the payment year beginning in such year and for payment systems beginning in the calendar year following such year, as the case may be.

“(2) CONSULTATION ON SELECTION OF ENDORSED QUALITY MEASURES.—A consensus-based entity that has entered into a contract under section 1890 shall, as part of such contract, convene multi-stakeholder groups to provide recommendations on the selection of individual or composite quality measures, for use in reporting performance information to the public or for use in public health care programs.

“(3) MULTI-STAKEHOLDER INPUT.—Not later than February 1 of each year (beginning with

2011), the consensus-based entity described in paragraph (2) shall transmit to the Secretary the recommendations of multi-stakeholder groups provided under paragraph (2). Such recommendations shall be included in the transmissions the consensus-based entity makes to the Secretary under the contract provided for under section 1890.

“(4) REQUIREMENT FOR TRANSPARENCY IN PROCESS.—

“(A) IN GENERAL.—In convening multi-stakeholder groups under paragraph (2) with respect to the selection of quality measures, the consensus-based entity described in such paragraph shall provide for an open and transparent process for the activities conducted pursuant to such convening.

“(B) SELECTION OF ORGANIZATIONS PARTICIPATING IN MULTI-STAKEHOLDER GROUPS.—The process under paragraph (2) shall ensure that the selection of representatives of multi-stakeholder groups includes provision for public nominations for, and the opportunity for public comment on, such selection.

“(5) USE OF INPUT.—The respective proposed rule shall contain a summary of the recommendations made by the multi-stakeholder groups under paragraph (2), as well as other comments received regarding the proposed measures, and the extent to which such proposed rule follows such recommendations and the rationale for not following such recommendations.

“(6) MULTI-STAKEHOLDER GROUPS.—For purposes of this subsection, the term ‘multi-stakeholder groups’ means, with respect to a quality measure, a voluntary collaborative of organizations representing persons interested in or affected by the use of such quality measure, such as the following:

“(A) Hospitals and other institutional providers.

“(B) Physicians.

“(C) Health care quality alliances.

“(D) Nurses and other health care practitioners.

“(E) Health plans.

“(F) Patient advocates and consumer groups.

“(G) Employers.

“(H) Public and private purchasers of health care items and services.

“(I) Labor organizations.

“(J) Relevant departments or agencies of the United States.

“(K) Biopharmaceutical companies and manufacturers of medical devices.

“(L) Licensing, credentialing, and accrediting bodies.

“(7) FUNDING.—

“(A) IN GENERAL.—The Secretary shall provide for the transfer, from the Federal Hospital Insurance Trust Fund under section 1817 and the Federal Supplementary Medical Insurance Trust Fund under section 1841 (in such proportion as the Secretary determines appropriate), of \$1,000,000, to the Secretary for purposes of carrying out this subsection for each of the fiscal years 2010 through 2014.

“(B) AUTHORIZATION OF APPROPRIATIONS.—For purposes of carrying out the provisions of this subsection, in addition to funds otherwise available, out of any funds in the Treasury not otherwise appropriated, there are appropriated to the Secretary of Health and Human Services \$1,000,000 for each of the fiscal years 2010 through 2014.”.

**SEC. 1444. APPLICATION OF QUALITY MEASURES.**

(a) INPATIENT HOSPITAL SERVICES.—Section 1886(b)(3)(B) of such Act (42 U.S.C. 1395ww(b)(3)(B)) is amended by adding at the end the following new clause:

“(x)(I) Subject to subclause (II), for purposes of reporting data on quality measures

for inpatient hospital services furnished during fiscal year 2012 and each subsequent fiscal year, the quality measures specified under clause (viii) shall be measures selected by the Secretary from measures that have been endorsed by the entity with a contract with the Secretary under section 1890(a).

“(II) In the case of a specified area or medical topic determined appropriate by the Secretary for which a feasible and practical quality measure has not been endorsed by the entity with a contract under section 1890(a), the Secretary may specify a measure that is not so endorsed as long as due consideration is given to measures that have been endorsed or adopted by a consensus organization identified by the Secretary. The Secretary shall submit such a non-endorsed measure to the entity for consideration for endorsement. If the entity considers but does not endorse such a measure and if the Secretary does not phase-out use of such measure, the Secretary shall include the rationale for continued use of such a measure in rulemaking.”.

(b) OUTPATIENT HOSPITAL SERVICES.—Section 1833(t)(17) of such Act (42 U.S.C. 1395l(t)(17)) is amended by adding at the end the following new subparagraph:

“(F) USE OF ENDORSED QUALITY MEASURES.—The provisions of clause (x) of section 1886(b)(3)(C) shall apply to quality measures for covered OPD services under this paragraph in the same manner as such provisions apply to quality measures for inpatient hospital services.”.

(c) PHYSICIANS' SERVICES.—Section 1848(k)(2)(C)(ii) of such Act (42 U.S.C. 1395w-4(k)(2)(C)(ii)) is amended by adding at the end the following: “The Secretary shall submit such a non-endorsed measure to the entity for consideration for endorsement. If the entity considers but does not endorse such a measure and if the Secretary does not phase-out use of such measure, the Secretary shall include the rationale for continued use of such a measure in rulemaking.”.

(d) RENAL DIALYSIS SERVICES.—Section 1881(h)(2)(B)(ii) of such Act (42 U.S.C. 1395rr(h)(2)(B)(ii)) is amended by adding at the end the following: “The Secretary shall submit such a non-endorsed measure to the entity for consideration for endorsement. If the entity considers but does not endorse such a measure and if the Secretary does not phase-out use of such measure, the Secretary shall include the rationale for continued use of such a measure in rulemaking.”.

(e) ENDORSEMENT OF STANDARDS.—Section 1890(b)(2) of the Social Security Act (42 U.S.C. 1395aaa(b)(2)) is amended by adding after and below subparagraph (B) the following:

“If the entity does not endorse a measure, such entity shall explain the reasons and provide suggestions about changes to such measure that might make it a potentially endorable measure.”.

(f) EFFECTIVE DATE.—Except as otherwise provided, the amendments made by this section shall apply to quality measures applied for payment years beginning with 2012 or fiscal year 2012, as the case may be.

**SEC. 1445. CONSENSUS-BASED ENTITY FUNDING.**

Section 1890(d) of the Social Security Act (42 U.S.C. 1395aaa(d)) is amended by striking “for each of fiscal years 2009 through 2012” and inserting “for fiscal year 2009, and \$12,000,000 for each of the fiscal years 2010 through 2012”.

**SEC. 1446. QUALITY INDICATORS FOR CARE OF PEOPLE WITH ALZHEIMER'S DISEASE.**

(a) QUALITY INDICATORS.—The Secretary of Health and Human Services shall develop

quality indicators for the provision of medical services to people with Alzheimer's disease and other dementias and a plan for implementing the indicators to measure the quality of care provided for people with these conditions by physicians, hospitals, and other appropriate providers of services and suppliers.

(b) **REPORT.**—The Secretary shall submit a report to the Committees on Energy and Commerce and Ways and Means of the United States House of Representatives and to the Committees on Finance and Health, Education, Labor, and Pensions of the United States Senate not later than 24 months after the date of the enactment of this Act setting forth the status of their efforts to implement the requirements of subsection (a).

#### **Subtitle D—Physician Payments Sunshine Provision**

#### **SEC. 1451. REPORTS ON FINANCIAL RELATIONSHIPS BETWEEN MANUFACTURERS AND DISTRIBUTORS OF COVERED DRUGS, DEVICES, BIOLOGICALS, OR MEDICAL SUPPLIES UNDER MEDICARE, MEDICAID, OR CHIP AND PHYSICIANS AND OTHER HEALTH CARE ENTITIES AND BETWEEN PHYSICIANS AND OTHER HEALTH CARE ENTITIES.**

(a) **IN GENERAL.**—Part A of title XI of the Social Security Act (42 U.S.C. 1301 et seq.), as amended by section 1631(a), is further amended by inserting after section 1128G the following new section:

#### **“SEC. 1128H. FINANCIAL REPORTS ON PHYSICIANS’ FINANCIAL RELATIONSHIPS WITH MANUFACTURERS AND DISTRIBUTORS OF COVERED DRUGS, DEVICES, BIOLOGICALS, OR MEDICAL SUPPLIES UNDER MEDICARE, MEDICAID, OR CHIP AND WITH ENTITIES THAT BILL FOR SERVICES UNDER MEDICARE.**

“(a) **REPORTING OF PAYMENTS OR OTHER TRANSFERS OF VALUE.**—

“(1) **IN GENERAL.**—Except as provided in this subsection, not later than March 31, 2011, and annually thereafter, each applicable manufacturer or distributor that provides a payment or other transfer of value to a covered recipient, or to an entity or individual at the request of or designated on behalf of a covered recipient, shall submit to the Secretary, in such electronic form as the Secretary shall require, the following information with respect to the preceding calendar year:

“(A) With respect to the covered recipient, the recipient's name, business address, physician specialty, and national provider identifier.

“(B) With respect to the payment or other transfer of value, other than a drug sample—

“(i) its value and date;

“(ii) the name of the related drug, device, or supply, if available, to the level of specificity available; and

“(iii) a description of its form, indicated (as appropriate for all that apply) as—

“(I) cash or a cash equivalent;

“(II) in-kind items or services;

“(III) stock, a stock option, or any other ownership interest, dividend, profit, or other return on investment; or

“(IV) any other form (as defined by the Secretary).

“(C) With respect to a drug sample, the name, number, date, and dosage units of the sample.

“(2) **AGGREGATE REPORTING.**—Information submitted by an applicable manufacturer or distributor under paragraph (1) shall include the aggregate amount of all payments or other transfers of value provided by the man-

ufacturer or distributor to covered recipients (and to entities or individuals at the request of or designated on behalf of a covered recipient) during the year involved, including all payments and transfers of value regardless of whether such payments or transfer of value were individually disclosed.

“(3) **SPECIAL RULE FOR CERTAIN PAYMENTS OR OTHER TRANSFERS OF VALUE.**—In the case where an applicable manufacturer or distributor provides a payment or other transfer of value to an entity or individual at the request of or designated on behalf of a covered recipient, the manufacturer or distributor shall disclose that payment or other transfer of value under the name of the covered recipient.

“(4) **DELAYED REPORTING FOR PAYMENTS MADE PURSUANT TO PRODUCT DEVELOPMENT AGREEMENTS.**—In the case of a payment or other transfer of value made to a covered recipient by an applicable manufacturer or distributor pursuant to a product development agreement for services furnished in connection with the development of a new drug, device, biological, or medical supply, the applicable manufacturer or distributor may report the value and recipient of such payment or other transfer of value in the first reporting period under this subsection in the next reporting deadline after the earlier of the following:

“(A) The date of the approval or clearance of the covered drug, device, biological, or medical supply by the Food and Drug Administration.

“(B) Two calendar years after the date such payment or other transfer of value was made.

“(5) **DELAYED REPORTING FOR PAYMENTS MADE PURSUANT TO CLINICAL INVESTIGATIONS.**—In the case of a payment or other transfer of value made to a covered recipient by an applicable manufacturer or distributor in connection with a clinical investigation regarding a new drug, device, biological, or medical supply, the applicable manufacturer or distributor may report as required under this section in the next reporting period under this subsection after the earlier of the following:

“(A) The date that the clinical investigation is registered on the website maintained by the National Institutes of Health pursuant to section 671 of the Food and Drug Administration Amendments Act of 2007.

“(B) Two calendar years after the date such payment or other transfer of value was made.

“(6) **CONFIDENTIALITY.**—Information described in paragraph (4) or (5) shall be considered confidential and shall not be subject to disclosure under section 552 of title 5, United States Code, or any other similar Federal, State, or local law, until or after the date on which the information is made available to the public under such paragraph.

“(7) **PHYSICIANS IN SELF-INSURED HEALTH PLANS.**—Nothing in this subsection shall be construed to require the disclosure of a payment or other transfer of value to a physician by a self-insured health plan.

“(b) **REPORTING OF OWNERSHIP INTEREST BY PHYSICIANS.**—

“(1) **HOSPITALS AND OTHER ENTITIES THAT BILL MEDICARE.**—Not later than March 31 of each year (beginning with 2011), each hospital or other health care entity (not including a Medicare Advantage organization) that bills the Secretary under part A or part B of title XVIII for services shall report on the ownership shares (other than ownership shares described in section 1877(c)) of each physician who, directly or indirectly, owns an interest in the entity.

“(2) **ADDITIONAL PHYSICIAN OWNERSHIP.**—Not later than March 31 of each year (beginning with 2011), in addition to the requirement under subsection (a)(1), any applicable manufacturer, applicable group purchasing organization, or applicable distributor shall submit to the Secretary, in such electronic form as the Secretary shall require, the following information regarding any ownership or investment interest (other than an ownership or investment interest in a publicly traded security and mutual fund, as described in section 1877(c)) held by a physician (or an immediate family member of such physician (as defined for purposes of section 1877(a))) in the applicable manufacturer, applicable group purchasing organization or applicable distributor during the preceding year:

“(A) The dollar amount invested by each physician holding such an ownership or investment interest.

“(B) The value and terms of each such ownership or investment interest.

“(C) Any payment or other transfer of value provided to a physician holding such an ownership or investment interest (or to an entity or individual at the request of or designated on behalf of a physician holding such an ownership or investment interest), including the information described in clauses (i) through (iii) of paragraph (a)(1)(B), and information described in subsection (f)(8)(A) and (f)(8)(B).

“(D) Any other information regarding the ownership or investment interest the Secretary determines appropriate.

“(3) **DEFINITIONS.**—In this subsection:

“(A) **PHYSICIAN.**—The term ‘physician’ includes a physician's immediate family members (as defined for purposes of section 1877(a)).

“(B) **APPLICABLE GROUP PURCHASING ORGANIZATION.**—The term ‘applicable group purchasing organization’ means any organization or other entity (as defined by the Secretary) that purchases, arranges for, or negotiates the purchase of a covered drug, device, biological, or medical supply.

“(4) **STUDY OF PRACTICE PATTERNS IN ADVANCED DIAGNOSTIC IMAGING AND RADIATION ONCOLOGY SERVICES.**—The Comptroller General of the United States shall conduct a study to evaluate the extent of use of physician self-referral arrangements and the effects of such arrangements on the cost of providing advanced diagnostic imaging and radiation oncology services to Medicare beneficiaries under title XVIII. The study shall be completed and submitted to Congress not later than July 1, 2011.

“(c) **PUBLIC AVAILABILITY.**—

“(1) **IN GENERAL.**—The Secretary shall establish procedures to ensure that, not later than September 30, 2011, and on June 30 of each year beginning thereafter, the information submitted under subsections (a) and (b), other than information regard drug samples, with respect to the preceding calendar year is made available through an Internet website that—

“(A) is searchable and is in a format that is clear and understandable;

“(B) contains information that is presented by the name of the applicable manufacturer or distributor, the name of the covered recipient, the business address of the covered recipient, the specialty (if applicable) of the covered recipient, the value of the payment or other transfer of value, the date on which the payment or other transfer of value was provided to the covered recipient, the form of the payment or other transfer of

value, indicated (as appropriate) under subsection (a)(1)(B)(ii), the nature of the payment or other transfer of value, indicated (as appropriate) under subsection (a)(1)(B)(iii), and the name of the covered drug, device, biological, or medical supply, as applicable;

“(C) contains information that is able to be easily aggregated and downloaded;

“(D) contains a description of any enforcement actions taken to carry out this section, including any penalties imposed under subsection (d), during the preceding year;

“(E) contains background information on industry-physician relationships;

“(F) in the case of information submitted with respect to a payment or other transfer of value described in subsection (a)(5), lists such information separately from the other information submitted under subsection (a) and designates such separately listed information as funding for clinical research;

“(G) contains any other information the Secretary determines would be helpful to the average consumer; and

“(H) provides the covered recipient an opportunity to submit corrections to the information made available to the public with respect to the covered recipient.

“(2) ACCURACY OF REPORTING.—The accuracy of the information that is submitted under subsections (a) and (b) and made available under paragraph (1) shall be the responsibility of the reporting entity reporting under subsection (a) or (b), as applicable. The Secretary shall establish procedures to ensure that the covered recipient is provided with an opportunity to submit corrections to the applicable reporting entity with regard to information made public with respect to the covered recipient and, under such procedures, the corrections shall be transmitted to the Secretary.

“(3) SPECIAL RULE FOR DRUG SAMPLES.—Information relating to drug samples provided under subsection (a) shall not be made available to the public by the Secretary but may be made available outside the Department of Health and Human Services by the Secretary for research or legitimate business purposes pursuant to data use agreements.

“(4) SPECIAL RULE FOR NATIONAL PROVIDER IDENTIFIERS.—Information relating to national provider identifiers provided under subsection (a) shall not be made available to the public by the Secretary but may be made available outside the Department of Health and Human Services by the Secretary for research or legitimate business purposes pursuant to data use agreements.

“(d) PENALTIES FOR NONCOMPLIANCE.—

“(1) FAILURE TO REPORT.—

“(A) IN GENERAL.—Subject to subparagraph (B), except as provided in paragraph (2), any reporting entity that fails to submit information required under subsection (a) or (b), as applicable, in a timely manner in accordance with regulations promulgated to carry out such applicable subsection shall be subject to a civil money penalty of not less than \$1,000, but not more than \$10,000, for each payment or other transfer of value or ownership or investment interest not reported as required under such subsection. Such penalty shall be imposed and collected in the same manner as civil money penalties under subsection (a) of section 1128A are imposed and collected under that section.

“(B) LIMITATION.—The total amount of civil money penalties imposed under subparagraph (A), with respect to each annual submission of information under subsection (a) by a reporting entity, shall not exceed \$150,000.

“(2) KNOWING FAILURE TO REPORT.—

“(A) IN GENERAL.—Subject to subparagraph (B), any reporting entity that knowingly fails to submit information required under subsection (a) or (b), as applicable, in a timely manner in accordance with regulations promulgated to carry out such applicable subsection, shall be subject to a civil money penalty of not less than \$10,000, but not more than \$100,000, for each payment or other transfer of value or ownership or investment interest not reported as required under such subsection. Such penalty shall be imposed and collected in the same manner as civil money penalties under subsection (a) of section 1128A are imposed and collected under that section.

“(B) LIMITATION.—The total amount of civil money penalties imposed under subparagraph (A) with respect to each annual submission of information under subsection (a) or (b) by an applicable reporting entity shall not exceed \$1,000,000, or, if greater, 0.1 percentage of the total annual revenues of the reporting entity.

“(3) USE OF FUNDS.—Funds collected by the Secretary as a result of the imposition of a civil money penalty under this subsection shall be used to carry out this section.

“(4) ENFORCEMENT THROUGH STATE ATTORNEYS GENERAL.—The attorney general of a State, after providing notice to the Secretary of an intent to proceed under this paragraph in a specific case and providing the Secretary with an opportunity to bring an action under this subsection and the Secretary declining such opportunity, may proceed under this subsection against an applicable manufacturer or distributor in the State.

“(e) ANNUAL REPORT TO CONGRESS.—Not later than April 1 of each year beginning with 2011, the Secretary shall submit to Congress a report that includes the following:

“(1) The information submitted under this section during the preceding year, aggregated for each applicable reporting entity that submitted such information during such year.

“(2) A description of any enforcement actions taken to carry out this section, including any penalties imposed under subsection (d), during the preceding year.

“(f) DEFINITIONS.—In this section:

“(1) APPLICABLE DISTRIBUTOR.—The term ‘applicable distributor’ means—

“(A) any entity, other than an applicable group purchasing organization, that buys and resells, or receives a commission or other similar form of payment, from another seller, for selling or arranging for the sale of a covered drug, device, biological, or medical supply; or

“(B) any entity under common ownership with such an entity described in subparagraph (A) and which provides assistance or support to such entity so described with respect to the production, preparation, propagation, compounding, conversion, processing, marketing, or distribution of a covered drug, device, biological, or medical supply.

Such term does not include a wholesale pharmaceutical distributor.

“(2) APPLICABLE MANUFACTURER.—The term ‘applicable manufacturer’ means any entity which is engaged in the production, preparation, propagation, compounding, conversion, processing, marketing, or manufacturer-direct distribution of a covered drug, device, biological, or medical supply (or any entity under common ownership with such entity and which provides assistance or support to such entity with respect to the production, preparation, propagation, compounding, conversion, processing, marketing, or distribu-

tion or a covered drug, device, biological, or medical supply). For purposes of this section only, such term does not include a retail pharmacy licensed under State law.

“(3) CLINICAL INVESTIGATION.—The term ‘clinical investigation’ means any experiment involving one or more human subjects, or materials derived from human subjects, in which a drug or device is administered, dispensed, or used.

“(4) COVERED DRUG, DEVICE, BIOLOGICAL, OR MEDICAL SUPPLY.—The term ‘covered’ means, with respect to a drug, device, biological, or medical supply, such a drug, device, biological, or medical supply for which payment is available under title XVIII or a State plan under title XIX or XXI (or a waiver of such a plan).

“(5) COVERED RECIPIENT.—The term ‘covered recipient’ means the following:

“(A) A physician.

“(B) A physician group practice.

“(C) Any other prescriber of a covered drug, device, biological, or medical supply.

“(D) A pharmacy or pharmacist.

“(E) A health insurance issuer, group health plan, or other entity offering a health benefits plan, including any employee of such an issuer, plan, or entity.

“(F) A pharmacy benefit manager, including any employee of such a manager.

“(G) A hospital.

“(H) A medical school.

“(I) A sponsor of a continuing medical education program.

“(J) A patient advocacy or disease specific group.

“(K) A organization of health care professionals.

“(L) A biomedical researcher.

“(M) A group purchasing organization.

“(6) EMPLOYEE.—The term ‘employee’ has the meaning given such term in section 1877(h)(2).

“(7) KNOWINGLY.—The term ‘knowingly’ has the meaning given such term in section 3729(b) of title 31, United States Code.

“(8) PAYMENT OR OTHER TRANSFER OF VALUE.—

“(A) IN GENERAL.—The term ‘payment or other transfer of value’ means a transfer of anything of value for or of any of the following:

“(i) Gift, food, or entertainment.

“(ii) Travel or trip.

“(iii) Honoraria.

“(iv) Research funding or grant.

“(v) Education or conference funding.

“(vi) Consulting fees.

“(vii) Ownership or investment interest and royalties or license fee.

“(B) INCLUSIONS.—Subject to subparagraph (C), the term ‘payment or other transfer of value’ includes any compensation, gift, honorarium, speaking fee, consulting fee, travel, services, dividend, profit distribution, stock or stock option grant, or any ownership or investment interest held by a physician in a manufacturer (excluding a dividend or other profit distribution from, or ownership or investment interest in, a publicly traded security or mutual fund (as described in section 1877(c))).

“(C) EXCLUSIONS.—The term ‘payment or other transfer of value’ does not include the following:

“(i) Any payment or other transfer of value provided by an applicable manufacturer or distributor to a covered recipient where the amount transferred to, requested by, or designated on behalf of the covered recipient does not exceed \$5.

“(ii) The loan of a covered device for a short-term trial period, not to exceed 90

days, to permit evaluation of the covered device by the covered recipient.

“(iii) Items or services provided under a contractual warranty, including the replacement of a covered device, where the terms of the warranty are set forth in the purchase or lease agreement for the covered device.

“(iv) A transfer of anything of value to a covered recipient when the covered recipient is a patient and not acting in the professional capacity of a covered recipient.

“(v) In-kind items used for the provision of charity care.

“(vi) A dividend or other profit distribution from, or ownership or investment interest in, a publicly traded security and mutual fund (as described in section 1877(c)).

“(vii) Compensation paid by an applicable manufacturer or distributor to a covered recipient who is directly employed by and works solely for such manufacturer or distributor.

“(viii) Payments made to a covered recipient by an applicable manufacturer or by a health plan affiliated with an applicable manufacturer for medical care provided to employees of such manufacturer or their dependents.

“(ix) Any discount (including a rebate).

“(x) Any payment or other transfer of value that is made to a covered recipient indirectly through an entity other than the applicable manufacturer in connection with an activity or service—

“(I) in which the applicable manufacturer is unaware of the identity of the covered recipient and is not using such activity or service to market its product to the covered recipient; and

“(II) that is not designed to market or promote the product to the covered recipient.

“(xi) In the case of an applicable manufacturer who offers a self-insured plan, payments for the provision of health care to employees under the plan.

“(9) **PHYSICIAN.**—The term ‘physician’ has the meaning given that term in section 1861(r). For purposes of this section, such term does not include a physician who is an employee of the applicable manufacturer that is required to submit information under subsection (a).

“(10) **REPORTING ENTITY.**—The term ‘reporting entity’ means—

“(A) with respect to the reporting requirement under subsection (a), an applicable manufacturer or distributor of a covered drug, device, biological, or medical supply required to report under such subsection; and

“(B) with respect to the reporting requirement under subsection (b), a hospital, other health care entity, applicable manufacturer, applicable distributor, or applicable group purchasing organization required to report physician ownership under such subsection.

“(g) **ANNUAL REPORTS TO STATES.**—Not later than April 1 of each year beginning with 2011, the Secretary shall submit to States a report that includes a summary of the information submitted under subsections (a), (b), and (e) during the preceding year with respect to covered recipients or other hospitals and entities in the State.

“(h) **RELATION TO STATE LAWS.**—

“(1) **IN GENERAL.**—Effective on January 1, 2011, subject to paragraph (2), the provisions of this section shall preempt any law or regulation of a State or of a political subdivision of a State that requires an applicable manufacturer and applicable distributor (as such terms are defined in subsection (f)) to disclose or report, in any format, the type of information (described in subsection (a)) re-

garding a payment or other transfer of value provided by the manufacturer to a covered recipient (as so defined).

“(2) **NO PREEMPTION OF ADDITIONAL REQUIREMENTS.**—Paragraph (1) shall not preempt any statute or regulation of a State or political subdivision of a State that requires any of the following:

“(A) The disclosure or reporting of information not of the type required to be disclosed or reported under this section.

“(B) The disclosure or reporting, in any format, of information described in subsection (f)(8)(C), except in the case of information described in clause (i) of subsection (f)(8)(C).

“(C) The disclosure or reporting, in any format, of the type of information by any person or entity other than an applicable manufacturer (as so defined) or a covered recipient (as defined in subsection (f)).

“(D) The disclosure or reporting, in any format, of the type of information required to be disclosed or reported under this section to a Federal, State, or local governmental agency for public health surveillance, investigation, or other public health purposes or health oversight purposes.

Nothing in paragraph (1) shall be construed to limit the discovery or admissibility of information described in this paragraph in a criminal, civil, or administrative proceeding.”

(b) **AVAILABILITY OF INFORMATION FROM THE DISCLOSURE OF FINANCIAL RELATIONSHIP REPORT (DFRR).**—The Secretary of Health and Human Services shall submit to Congress a report on the full results of the Disclosure of Physician Financial Relationships surveys required pursuant to section 5006 of the Deficit Reduction Act of 2005. Such report shall be submitted to Congress not later than the date that is 6 months after the date such surveys are collected and shall be made publicly available on an Internet website of the Department of Health and Human Services.

(c) **GAO REPORT.**—Not later than December 31, 2012, the Comptroller General of the United States shall submit to Congress a report on section 1128H of the Social Security Act, as added by subsection (a). Such report shall address the extent to which important transfers of value are being adequately reported under such section (including unreported transfers required by such section as well as transfers not required to be reported by such section), the impact on States of the federal preemption provision under subsection (h) of such section, whether changes have occurred in the pattern of payments as a result of efforts to evade reporting requirements, a description of the financial relationships subject to delayed reporting under subsection (a) of such section, and any recommended improvements to the collection or the analysis of data reported under such section.

#### **Subtitle E—Public Reporting on Health Care-Associated Infections**

##### **SEC. 1461. REQUIREMENT FOR PUBLIC REPORTING BY HOSPITALS AND AMBULATORY SURGICAL CENTERS ON HEALTH CARE-ASSOCIATED INFECTIONS.**

(a) **IN GENERAL.**—Title XI of the Social Security Act is amended by inserting after section 1138 the following section:

##### **“SEC. 1138A. REQUIREMENT FOR PUBLIC REPORTING BY HOSPITALS AND AMBULATORY SURGICAL CENTERS ON HEALTH CARE-ASSOCIATED INFECTIONS.**

“(a) **REPORTING REQUIREMENT.**—

“(1) **IN GENERAL.**—The Secretary shall provide that a hospital (as defined in subsection

(g)) or ambulatory surgical center meeting the requirements of titles XVIII or XIX may participate in the programs established under such titles only if, in accordance with this section, the hospital or center reports such information on health care-associated infections that develop in the hospital or center (and such demographic information associated with such infections) as the Secretary specifies.

“(2) **REPORTING PROTOCOLS.**—Such information shall be reported in accordance with reporting protocols established by the Secretary through the Director of the Centers for Disease Control and Prevention (in this section referred to as the ‘CDC’) and to the National Healthcare Safety Network of the CDC or under such another reporting system of such Centers as determined appropriate by the Secretary in consultation with such Director.

“(3) **COORDINATION WITH HIT.**—The Secretary, through the Director of the CDC and the Office of the National Coordinator for Health Information Technology, shall ensure that the transmission of information under this subsection is coordinated with systems established under the HITECH Act, where appropriate.

“(4) **PROCEDURES TO ENSURE THE VALIDITY OF INFORMATION.**—The Secretary shall establish procedures regarding the validity of the information submitted under this subsection in order to ensure that such information is appropriately compared across hospitals and centers. Such procedures shall address failures to report as well as errors in reporting.

“(5) **IMPLEMENTATION.**—Not later than 1 year after the date of enactment of this section, the Secretary, through the Director of CDC, shall promulgate regulations to carry out this section.

“(b) **PUBLIC POSTING OF INFORMATION.**—The Secretary shall promptly post, on the official public Internet site of the Department of Health and Human Services, the information reported under subsection (a). Such information shall be set forth in a manner that allows for the comparison of information on health care-associated infections—

“(1) among hospitals and ambulatory surgical centers; and

“(2) by demographic information.

“(c) **ANNUAL REPORT TO CONGRESS.**—On an annual basis the Secretary shall submit to the Congress a report that summarizes each of the following:

“(1) The number and types of health care-associated infections reported under subsection (a) in hospitals and ambulatory surgical centers during such year.

“(2) Factors that contribute to the occurrence of such infections, including health care worker immunization rates.

“(3) Based on the most recent information available to the Secretary on the composition of the professional staff of hospitals and ambulatory surgical centers, the number of certified infection control professionals on the staff of hospitals and ambulatory surgical centers.

“(4) The total increases or decreases in health care costs that resulted from increases or decreases in the rates of occurrence of each such type of infection during such year.

“(5) Recommendations, in coordination with the Center for Quality Improvement established under section 931 of the Public Health Service Act, for best practices to eliminate the rates of occurrence of each such type of infection in hospitals and ambulatory surgical centers.

“(d) **NON-PREEMPTION OF STATE LAWS.**—Nothing in this section shall be construed as

preempting or otherwise affecting any provision of State law relating to the disclosure of information on health care-associated infections or patient safety procedures for a hospital or ambulatory surgical center.

“(e) HEALTH CARE-ASSOCIATED INFECTION.—For purposes of this section:

“(1) IN GENERAL.—The term ‘health care-associated infection’ means an infection that develops in a patient who has received care in any institutional setting where health care is delivered and is related to receiving health care.

“(2) RELATED TO RECEIVING HEALTH CARE.—The term ‘related to receiving health care’, with respect to an infection, means that the infection was not incubating or present at the time health care was provided.

“(f) APPLICATION TO CRITICAL ACCESS HOSPITALS.—For purposes of this section, the term ‘hospital’ includes a critical access hospital, as defined in section 1861(mm)(1).”.

(b) EFFECTIVE DATE.—With respect to section 1138A of the Social Security Act (as inserted by subsection (a) of this section), the requirement under such section that hospitals and ambulatory surgical centers submit reports takes effect on such date (not later than 2 years after the date of the enactment of this Act) as the Secretary of Health and Human Services shall specify. In order to meet such deadline, the Secretary may implement such section through guidance or other instructions.

(c) GAO REPORT.—Not later than 18 months after the date of the enactment of this Act, the Comptroller General of the United States shall submit to Congress a report on the program established under section 1138A of the Social Security Act, as inserted by subsection (a). Such report shall include an analysis of the appropriateness of the types of information required for submission, compliance with reporting requirements, the success of the validity procedures established, and any conflict or overlap between the reporting required under such section and any other reporting systems mandated by either the States or the Federal Government.

(d) REPORT ON ADDITIONAL DATA.—Not later than 18 months after the date of the enactment of this Act, the Secretary of Health and Human Services shall submit to the Congress a report on the appropriateness of expanding the requirements under such section to include additional information (such as health care worker immunization rates), in order to improve health care quality and patient safety.

## **TITLE V—MEDICARE GRADUATE MEDICAL EDUCATION**

### **SEC. 1501. DISTRIBUTION OF UNUSED RESIDENCY POSITIONS.**

(a) IN GENERAL.—Section 1886(h) of the Social Security Act (42 U.S.C. 1395ww(h)) is amended—

(1) in paragraph (4)(F)(i), by striking “paragraph (7)” and inserting “paragraphs (7) and (8)”;

(2) in paragraph (4)(H)(i), by striking “paragraph (7)” and inserting “paragraphs (7) and (8)”;

(3) in paragraph (7)(E), by inserting “and paragraph (8)” after “this paragraph”; and

(4) by adding at the end the following new paragraph:

“(8) ADDITIONAL REDISTRIBUTION OF UNUSED RESIDENCY POSITIONS.—

“(A) REDUCTIONS IN LIMIT BASED ON UNUSED POSITIONS.—

“(i) PROGRAMS SUBJECT TO REDUCTION.—If a hospital’s reference resident level (specified in clause (ii)) is less than the otherwise ap-

plicable resident limit (as defined in subparagraph (C)(ii)), effective for portions of cost reporting periods occurring on or after July 1, 2011, the otherwise applicable resident limit shall be reduced by 90 percent of the difference between such otherwise applicable resident limit and such reference resident level.

“(ii) REFERENCE RESIDENT LEVEL.—

“(I) IN GENERAL.—Except as otherwise provided in a subsequent subclause, the reference resident level specified in this clause for a hospital is the highest resident level for any of the 3 most recent cost reporting periods (ending before the date of the enactment of this paragraph) of the hospital for which a cost report has been settled (or, if not, submitted (subject to audit)), as determined by the Secretary.

“(II) USE OF MOST RECENT ACCOUNTING PERIOD TO RECOGNIZE EXPANSION OF EXISTING PROGRAMS.—If a hospital submits a timely request to increase its resident level due to an expansion, or planned expansion, of an existing residency training program that is not reflected on the most recent settled or submitted cost report, after audit and subject to the discretion of the Secretary, subject to subclause (IV), the reference resident level for such hospital is the resident level that includes the additional residents attributable to such expansion or establishment, as determined by the Secretary. The Secretary is authorized to determine an alternative reference resident level for a hospital that submitted to the Secretary a timely request, before the start of the 2009–2010 academic year, for an increase in its reference resident level due to a planned expansion.

“(III) SPECIAL PROVIDER AGREEMENT.—In the case of a hospital described in paragraph (4)(H)(v), the reference resident level specified in this clause is the limitation applicable under subclause (I) of such paragraph.

“(IV) PREVIOUS REDISTRIBUTION.—The reference resident level specified in this clause for a hospital shall be increased to the extent required to take into account an increase in resident positions made available to the hospital under paragraph (7)(B) that are not otherwise taken into account under a previous subclause.

“(iii) AFFILIATION.—The provisions of clause (i) shall be applied to hospitals which are members of the same affiliated group (as defined by the Secretary under paragraph (4)(H)(ii)) and to the extent the hospitals can demonstrate that they are filling any additional resident slots allocated to other hospitals through an affiliation agreement, the Secretary shall adjust the determination of available slots accordingly, or which the Secretary otherwise has permitted the resident positions (under section 402 of the Social Security Amendments of 1967) to be aggregated for purposes of applying the resident position limitations under this subsection.

“(B) REDISTRIBUTION.—

“(i) IN GENERAL.—The Secretary shall increase the otherwise applicable resident limit for each qualifying hospital that submits an application under this subparagraph by such number as the Secretary may approve for portions of cost reporting periods occurring on or after July 1, 2011. The estimated aggregate number of increases in the otherwise applicable resident limit under this subparagraph may not exceed the Secretary’s estimate of the aggregate reduction in such limits attributable to subparagraph (A).

“(ii) REQUIREMENTS FOR QUALIFYING HOSPITALS.—A hospital is not a qualifying hos-

pital for purposes of this paragraph unless the following requirements are met:

“(I) MAINTENANCE OF PRIMARY CARE RESIDENT LEVEL.—The hospital maintains the number of primary care residents at a level that is not less than the base level of primary care residents increased by the number of additional primary care resident positions provided to the hospital under this subparagraph. For purposes of this subparagraph, the ‘base level of primary care residents’ for a hospital is the level of such residents as of a base period (specified by the Secretary), determined without regard to whether such positions were in excess of the otherwise applicable resident limit for such period but taking into account the application of subclauses (II) and (III) of subparagraph (A)(ii).

“(II) DEDICATED ASSIGNMENT OF ADDITIONAL RESIDENT POSITIONS TO PRIMARY CARE.—The hospital assigns all such additional resident positions for primary care residents.

“(III) ACCREDITATION.—The hospital’s residency programs in primary care are fully accredited or, in the case of a residency training program not in operation as of the base year, the hospital is actively applying for such accreditation for the program for such additional resident positions (as determined by the Secretary).

“(iii) CONSIDERATIONS IN REDISTRIBUTION.—In determining for which qualifying hospitals the increase in the otherwise applicable resident limit is provided under this subparagraph, the Secretary shall take into account the demonstrated likelihood of the hospital filling the positions within the first 3 cost reporting periods beginning on or after July 1, 2011, made available under this subparagraph, as determined by the Secretary.

“(iv) PRIORITY FOR CERTAIN HOSPITALS.—In determining for which qualifying hospitals the increase in the otherwise applicable resident limit is provided under this subparagraph, the Secretary shall distribute the increase to qualifying hospitals based on the following criteria:

“(I) The Secretary shall give preference to hospitals that had a reduction in resident training positions under subparagraph (A).

“(II) The Secretary shall give preference to hospitals with 3-year primary care residency training programs, such as family practice and general internal medicine.

“(III) The Secretary shall give preference to hospitals insofar as they have in effect formal arrangements (as determined by the Secretary) that place greater emphasis upon training in Federally qualified health centers, rural health clinics, and other nonprovider settings, and to hospitals that receive additional payments under subsection (d)(5)(F) and emphasize training in an outpatient department.

“(IV) The Secretary shall give preference to hospitals with a number of positions (as of July 1, 2009) in excess of the otherwise applicable resident limit for such period.

“(V) The Secretary shall give preference to hospitals that place greater emphasis upon training in a health professional shortage area (designated under section 332 of the Public Health Service Act) or a health professional needs area (designated under section 221 of such Act).

“(VI) The Secretary shall give preference to hospitals in States that have low resident-to-population ratios (including a greater preference for those States with lower resident-to-population ratios).

“(v) LIMITATION.—In no case shall more than 20 full-time equivalent additional residency positions be made available under this subparagraph with respect to any hospital.



“(vi) APPLICATION OF PER RESIDENT AMOUNTS FOR PRIMARY CARE.—With respect to additional residency positions in a hospital attributable to the increase provided under this subparagraph, the approved FTE resident amounts are deemed to be equal to the hospital per resident amounts for primary care and nonprimary care computed under paragraph (2)(D) for that hospital.

“(vii) DISTRIBUTION.—The Secretary shall distribute the increase in resident training positions to qualifying hospitals under this subparagraph not later than July 1, 2011.

“(C) RESIDENT LEVEL AND LIMIT DEFINED.—In this paragraph:

“(i) The term ‘resident level’ has the meaning given such term in paragraph (7)(C)(i).

“(ii) The term ‘otherwise applicable resident limit’ means, with respect to a hospital, the limit otherwise applicable under subparagraphs (F)(i) and (H) of paragraph (4) on the resident level for the hospital determined without regard to this paragraph but taking into account paragraph (7)(A).

“(D) MAINTENANCE OF PRIMARY CARE RESIDENT LEVEL.—In carrying out this paragraph, the Secretary shall require hospitals that receive additional resident positions under subparagraph (B)—

“(i) to maintain records, and periodically report to the Secretary, on the number of primary care residents in its residency training programs; and

“(ii) as a condition of payment for a cost reporting period under this subsection for such positions, to maintain the level of such positions at not less than the sum of—

“(I) the base level of primary care resident positions (as determined under subparagraph (B)(ii)(I)) before receiving such additional positions; and

“(II) the number of such additional positions.”.

(b) IME.—

(1) IN GENERAL.—Section 1886(d)(5)(B)(v) of the Social Security Act (42 U.S.C. 1395ww(d)(5)(B)(v)), in the third sentence, is amended—

(A) by striking “subsection (h)(7)” and inserting “subsections (h)(7) and (h)(8)”; and

(B) by striking “it applies” and inserting “they apply”.

(2) CONFORMING PROVISION.—Section 1886(d)(5)(B) of the Social Security Act (42 U.S.C. 1395ww(d)(5)(B)) is amended by adding at the end the following clause:

“(x) For discharges occurring on or after July 1, 2011, insofar as an additional payment amount under this subparagraph is attributable to resident positions distributed to a hospital under subsection (h)(8)(B), the indirect teaching adjustment factor shall be computed in the same manner as provided under clause (ii) with respect to such resident positions.”.

(c) CONFORMING AMENDMENT.—Section 422(b)(2) of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (Public Law 108-173) is amended by striking “section 1886(h)(7)” and all that follows and inserting “paragraphs (7) and (8) of subsection (h) of section 1886 of the Social Security Act.”.

#### SEC. 1502. INCREASING TRAINING IN NONPROVIDER SETTINGS.

(a) DIRECT GME.—Section 1886(h)(4)(E) of the Social Security Act (42 U.S.C. 1395ww(h)) is amended—

(1) by designating the first sentence as a clause (i) with the heading “IN GENERAL.—” and appropriate indentation;

(2) by striking “shall be counted and that all the time” and inserting “shall be counted and that—

“(I) effective for cost reporting periods beginning before July 1, 2009, all the time”;

(3) in subclause (I), as inserted by paragraph (1), by striking the period at the end and inserting “; and”;

(A) by inserting after subclause (I), as so inserted, the following:

“(II) effective for cost reporting periods beginning on or after July 1, 2009, all the time so spent by a resident shall be counted towards the determination of full-time equivalency, without regard to the setting in which the activities are performed, if the hospital incurs the costs of the stipends and fringe benefits of the resident during the time the resident spends in that setting.

Any hospital claiming under this subparagraph for time spent in a nonprovider setting shall maintain and make available to the Secretary records regarding the amount of such time and such amount in comparison with amounts of such time in such base year as the Secretary shall specify.”.

(b) IME.—Section 1886(d)(5)(B)(iv) of the Social Security Act (42 U.S.C. 1395ww(d)(5)(B)(iv)) is amended—

(1) by striking “(iv) Effective for discharges occurring on or after October 1, 1997” and inserting “(iv)(I) Effective for discharges occurring on or after October 1, 1997, and before July 1, 2009”; and

(2) by inserting after subclause (I), as inserted by paragraph (1), the following new subclause:

“(II) Effective for discharges occurring on or after July 1, 2009, all the time spent by an intern or resident in patient care activities at an entity in a nonprovider setting shall be counted towards the determination of full-time equivalency if the hospital incurs the costs of the stipends and fringe benefits of the intern or resident during the time the intern or resident spends in that setting.”.

(c) OIG STUDY ON IMPACT ON TRAINING.—The Inspector General of the Department of Health and Human Services shall analyze the data collected by the Secretary of Health and Human Services from the records made available to the Secretary under section 1886(h)(4)(E) of the Social Security Act, as amended by subsection (a), in order to assess the extent to which there is an increase in time spent by medical residents in training in nonprovider settings as a result of the amendments made by this section. Not later than 4 years after the date of the enactment of this Act, the Inspector General shall submit a report to Congress on such analysis and assessment.

(d) DEMONSTRATION PROJECT FOR APPROVED TEACHING HEALTH CENTERS.—

(1) IN GENERAL.—The Secretary of Health and Human Services shall conduct a demonstration project under which an approved teaching health center (as defined in paragraph (3)) would be eligible for payment under subsections (h) and (k) of section 1886 of the Social Security Act (42 U.S.C. 1395ww) of amounts for its own direct costs of graduate medical education activities for primary care residents, as well as for the direct costs of graduate medical education activities of its contracting hospital for such residents, in a manner similar to the manner in which such payments would be made to a hospital if the hospital were to operate such a program.

(2) CONDITIONS.—Under the demonstration project—

(A) an approved teaching health center shall contract with an accredited teaching hospital to carry out the inpatient responsibilities of the primary care residency program of the hospital involved and is respon-

sible for payment to the hospital for the hospital's costs of the salary and fringe benefits for residents in the program;

(B) the number of primary care residents of the center shall not count against the contracting hospital's resident limit; and

(C) the contracting hospital shall agree not to diminish the number of residents in its primary care residency training program.

(3) APPROVED TEACHING HEALTH CENTER DEFINED.—In this subsection, the term “approved teaching health center” means a nonprovider setting, such as a Federally qualified health center or rural health clinic (as defined in section 1861(aa) of the Social Security Act), that develops and operates an accredited primary care residency program for which funding would be available if it were operated by a hospital.

#### SEC. 1503. RULES FOR COUNTING RESIDENT TIME FOR DIDACTIC AND SCHOLARLY ACTIVITIES AND OTHER ACTIVITIES.

(a) DIRECT GME.—Section 1886(h) of the Social Security Act (42 U.S.C. 1395ww(h)) is amended—

(1) in paragraph (4)(E), as amended by section 1502(a)—

(A) in clause (i), by striking “Such rules” and inserting “Subject to clause (ii), such rules”; and

(B) by adding at the end the following new clause:

“(ii) TREATMENT OF CERTAIN NONPROVIDER AND DIDACTIC ACTIVITIES.—Such rules shall provide that all time spent by an intern or resident in an approved medical residency training program in a nonprovider setting that is primarily engaged in furnishing patient care (as defined in paragraph (5)(K)) in nonpatient care activities, such as didactic conferences and seminars, but not including research not associated with the treatment or diagnosis of a particular patient, as such time and activities are defined by the Secretary, shall be counted toward the determination of full-time equivalency.”.

(2) in paragraph (4), by adding at the end the following new subparagraph:

“(I) TREATMENT OF CERTAIN TIME IN APPROVED MEDICAL RESIDENCY TRAINING PROGRAMING.—In determining the hospital's number of full-time equivalent residents for purposes of this subsection, all the time that is spent by an intern or resident in an approved medical residency training program on vacation, sick leave, or other approved leave, as such time is defined by the Secretary, and that does not prolong the total time the resident is participating in the approved program beyond the normal duration of the program shall be counted toward the determination of full-time equivalency.”; and

(3) in paragraph (5), by adding at the end the following new subparagraph:

“(K) NONPROVIDER SETTING THAT IS PRIMARILY ENGAGED IN FURNISHING PATIENT CARE.—The term ‘nonprovider setting that is primarily engaged in furnishing patient care’ means a nonprovider setting in which the primary activity is the care and treatment of patients, as defined by the Secretary.”.

(b) IME DETERMINATIONS.—Section 1886(d)(5)(B) of such Act (42 U.S.C. 1395ww(d)(5)(B)), as amended by section 1501(b), is amended by adding at the end the following new clause:

“(xi)(I) The provisions of subparagraph (I) of subsection (h)(4) shall apply under this subparagraph in the same manner as they apply under such subsection.

“(II) In determining the hospital's number of full-time equivalent residents for purposes of this subparagraph, all the time spent by



an intern or resident in an approved medical residency training program in nonpatient care activities, such as didactic conferences and seminars, as such time and activities are defined by the Secretary, that occurs in the hospital shall be counted toward the determination of full-time equivalency if the hospital—

“(aa) is recognized as a subsection (d) hospital;

“(bb) is recognized as a subsection (d) Puerto Rico hospital;

“(cc) is reimbursed under a reimbursement system authorized under section 1814(b)(3); or

“(dd) is a provider-based hospital outpatient department.

“(III) In determining the hospital’s number of full-time equivalent residents for purposes of this subparagraph, all the time spent by an intern or resident in an approved medical residency training program in research activities that are not associated with the treatment or diagnosis of a particular patient, as such time and activities are defined by the Secretary, shall not be counted toward the determination of full-time equivalency.”

(c) EFFECTIVE DATES; APPLICATION.—

(1) IN GENERAL.—Except as otherwise provided, the Secretary of Health and Human Services shall implement the amendments made by this section in a manner so as to apply to cost reporting periods beginning on or after January 1, 1983.

(2) DIRECT GME.—Section 1886(h)(4)(E)(ii) of the Social Security Act, as added by subsection (a)(1)(B), shall apply to cost reporting periods beginning on or after July 1, 2008.

(3) IME.—Section 1886(d)(5)(B)(x)(III) of the Social Security Act, as added by subsection (b), shall apply to cost reporting periods beginning on or after October 1, 2001. Such section, as so added, shall not give rise to any inference on how the law in effect prior to such date should be interpreted.

(4) APPLICATION.—The amendments made by this section shall not be applied in a manner that requires reopening of any settled hospital cost reports as to which there is not a jurisdictionally proper appeal pending as of the date of the enactment of this Act on the issue of payment for indirect costs of medical education under section 1886(d)(5)(B) of the Social Security Act or for direct graduate medical education costs under section 1886(h) of such Act.

**SEC. 1504. PRESERVATION OF RESIDENT CAP POSITIONS FROM CLOSED HOSPITALS.**

(a) DIRECT GME.—Section 1886(h)(4)(H) of the Social Security Act (42 U.S.C. Section 1395ww(h)(4)(H)) is amended by adding at the end the following new clause:

“(vi) REDISTRIBUTION OF RESIDENCY SLOTS AFTER A HOSPITAL CLOSURES.—

“(I) IN GENERAL.—The Secretary shall, by regulation, establish a process consistent with subclauses (II) and (III) under which, in the case where a hospital (other than a hospital described in clause (v)) with an approved medical residency program in a State closes on or after the date that is 2 years before the date of the enactment of this clause, the Secretary shall increase the otherwise applicable resident limit under this paragraph for other hospitals in the State in accordance with this clause.

“(II) PROCESS FOR HOSPITALS IN CERTAIN AREAS.—In determining for which hospitals the increase in the otherwise applicable resident limit described in subclause (I) is provided, the Secretary shall establish a process to provide for such increase to one or more hospitals located in the State. Such process shall take into consideration the rec-

ommendations submitted to the Secretary by the senior health official (as designated by the chief executive officer of such State) if such recommendations are submitted not later than 180 days after the date of the hospital closure involved (or, in the case of a hospital that closed after the date that is 2 years before the date of the enactment of this clause, 180 days after such date of enactment).

“(III) LIMITATION.—The estimated aggregate number of increases in the otherwise applicable resident limits for hospitals under this clause shall be equal to the estimated number of resident positions in the approved medical residency programs that closed on or after the date described in subclause (I).”

(b) NO EFFECT ON TEMPORARY FTE CAP ADJUSTMENTS.—The amendments made by this section shall not effect any temporary adjustment to a hospital’s FTE cap under section 413.79(h) of title 42, Code of Federal Regulations (as in effect on the date of enactment of this Act) and shall not affect the application of section 1886(h)(4)(H)(v) of the Social Security Act.

(c) CONFORMING AMENDMENTS.—

(1) Section 422(b)(2) of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (Public Law 108–173), as amended by section 1501(c), is amended by striking “(7) and” and inserting “(4)(H)(vi), (7), and”.

(2) Section 1886(h)(7)(E) of the Social Security Act (42 U.S.C. 1395ww(h)(7)(E)) is amended by inserting “or under paragraph (4)(H)(vi)” after “under this paragraph”.

**SEC. 1505. IMPROVING ACCOUNTABILITY FOR APPROVED MEDICAL RESIDENCY TRAINING.**

(a) SPECIFICATION OF GOALS FOR APPROVED MEDICAL RESIDENCY TRAINING PROGRAMS.—Section 1886(h)(1) of the Social Security Act (42 U.S.C. 1395ww(h)(1)) is amended—

(1) by designating the matter beginning with “Notwithstanding” as a subparagraph (A) with the heading “IN GENERAL.—” and with appropriate indentation; and

(2) by adding at the end the following new subparagraph:

“(B) GOALS AND ACCOUNTABILITY FOR APPROVED MEDICAL RESIDENCY TRAINING PROGRAMS.—The goals of medical residency training programs are to foster a physician workforce so that physicians are trained to be able to do the following:

“(i) Work effectively in various health care delivery settings, such as nonprovider settings.

“(ii) Coordinate patient care within and across settings relevant to their specialties.

“(iii) Understand the relevant cost and value of various diagnostic and treatment options.

“(iv) Work in inter-professional teams and multi-disciplinary team-based models in provider and nonprovider settings to enhance safety and improve quality of patient care.

“(v) Be knowledgeable in methods of identifying systematic errors in health care delivery and in implementing systematic solutions in case of such errors, including experience and participation in continuous quality improvement projects to improve health outcomes of the population the physicians serve.

“(vi) Be meaningful EHR users (as determined under section 1848(o)(2)) in the delivery of care and in improving the quality of the health of the community and the individuals that the hospital serves.”

(b) GAO STUDY ON EVALUATION OF TRAINING PROGRAMS.—

(1) IN GENERAL.—The Comptroller General of the United States shall conduct a study to

evaluate the extent to which medical residency training programs—

(A) are meeting the goals described in section 1886(h)(1)(B) of the Social Security Act, as added by subsection (a), in a range of residency programs, including primary care and other specialties; and

(B) have the appropriate faculty expertise to teach the topics required to achieve such goals.

(2) REPORT.—Not later than 18 months after the date of the enactment of this Act, the Comptroller General shall submit to Congress a report on such study and shall include in such report recommendations as to how medical residency training programs could be further encouraged to meet such goals through means such as—

(A) development of curriculum requirements; and

(B) assessment of the accreditation processes of the Accreditation Council for Graduate Medical Education and the American Osteopathic Association and effectiveness of those processes in accrediting medical residency programs that meet the goals referred to in paragraph (1)(A).

**TITLE VI—PROGRAM INTEGRITY**

**Subtitle A—Increased Funding to Fight Waste, Fraud, and Abuse**

**SEC. 1601. INCREASED FUNDING AND FLEXIBILITY TO FIGHT FRAUD AND ABUSE.**

(a) IN GENERAL.—Section 1817(k) of the Social Security Act (42 U.S.C. 1395i(k)) is amended—

(1) by adding at the end the following new paragraph:

“(7) ADDITIONAL FUNDING.—In addition to the funds otherwise appropriated to the Account from the Trust Fund under paragraphs (3) and (4) and for purposes described in paragraphs (3)(C) and (4)(A), there are hereby appropriated an additional \$100,000,000 to such Account from such Trust Fund for each fiscal year beginning with 2011. The funds appropriated under this paragraph shall be allocated in the same proportion as the total funding appropriated with respect to paragraphs (3)(A) and (4)(A) was allocated with respect to fiscal year 2010, and shall be available without further appropriation until expended.”

(2) in paragraph (4)(A)—

(A) by inserting “for activities described in paragraph (3)(C) and” after “necessary”; and

(B) by inserting “until expended” after “appropriation”.

(b) FLEXIBILITY IN PURSUING FRAUD AND ABUSE.—Section 1893(a) of the Social Security Act (42 U.S.C. 1395ddd(a)) is amended by inserting “, or otherwise,” after “entities”.

**Subtitle B—Enhanced Penalties for Fraud and Abuse**

**SEC. 1611. ENHANCED PENALTIES FOR FALSE STATEMENTS ON PROVIDER OR SUPPLIER ENROLLMENT APPLICATIONS.**

(a) IN GENERAL.—Section 1128A(a) of the Social Security Act (42 U.S.C. 1320a–7a(a)) is amended—

(1) in paragraph (1)(D), by striking all that follows “in which the person was excluded” and inserting “under Federal law from the Federal health care program under which the claim was made, or”;

(2) by striking “or” at the end of paragraph (6);

(3) in paragraph (7), by inserting at the end “or”;

(4) by inserting after paragraph (7) the following new paragraph:

“(8) knowingly makes or causes to be made any false statement, omission, or misrepresentation of a material fact in any application, agreement, bid, or contract to participate or enroll as a provider of services or supplier under a Federal health care program, including managed care organizations under title XIX, Medicare Advantage organizations under part C of title XVIII, prescription drug plan sponsors under part D of title XVIII, and entities that apply to participate as providers of services or suppliers in such managed care organizations and such plans;”;

(5) in the matter following paragraph (8), as inserted by paragraph (4), by striking “or in cases under paragraph (7), \$50,000 for each such act)” and inserting “in cases under paragraph (7), \$50,000 for each such act, or in cases under paragraph (8), \$50,000 for each false statement, omission, or misrepresentation of a material fact)”;

(6) in the second sentence, by striking “for a lawful purpose)” and inserting “for a lawful purpose, or in cases under paragraph (8), an assessment of not more than 3 times the amount claimed as the result of the false statement, omission, or misrepresentation of material fact claimed by a provider of services or supplier whose application to participate contained such false statement, omission, or misrepresentation)”;

(b) **EFFECTIVE DATE.**—The amendments made by subsection (a) shall apply to acts committed on or after January 1, 2010.

**SEC. 1612. ENHANCED PENALTIES FOR SUBMISSION OF FALSE STATEMENTS MATERIAL TO A FALSE CLAIM.**

(a) **IN GENERAL.**—Section 1128A(a) of the Social Security Act (42 U.S.C. 1320a-7a(a)), as amended by section 1611, is further amended—

(1) in paragraph (7), by striking “or” at the end;

(2) in paragraph (8), by inserting “or” at the end; and

(3) by inserting after paragraph (8), the following new paragraph:

“(9) knowingly makes, uses, or causes to be made or used, a false record or statement material to a false or fraudulent claim for payment for items and services furnished under a Federal health care program;”;

(4) in the matter following paragraph (9), as inserted by paragraph (3)—

(A) by striking “or in cases under paragraph (8)” and inserting “in cases under paragraph (8)”;

(B) by striking “a material fact)” and inserting “a material fact, in cases under paragraph (9), \$50,000 for each false record or statement)”;

(b) **EFFECTIVE DATE.**—The amendments made by subsection (a) shall apply to acts committed on or after January 1, 2010.

**SEC. 1613. ENHANCED PENALTIES FOR DELAYING INSPECTIONS.**

(a) **IN GENERAL.**—Section 1128A(a) of the Social Security Act (42 U.S.C. 1320a-7a(a)), as amended by sections 1611 and 1612, is further amended—

(1) in paragraph (8), by striking “or” at the end;

(2) in paragraph (9), by inserting “or” at the end;

(3) by inserting after paragraph (9) the following new paragraph:

“(10) fails to grant timely access, upon reasonable request (as defined by the Secretary in regulations), to the Inspector General of the Department of Health and Human Services, for the purpose of audits, investigations, evaluations, or other statutory functions of the Inspector General of the Department of Health and Human Services;”;

(4) in the matter following paragraph (10), as inserted by paragraph (3), by inserting “, or in cases under paragraph (10), \$15,000 for each day of the failure described in such paragraph” after “false record or statement”;

(b) **ENSURING TIMELY INSPECTIONS RELATING TO CONTRACTS WITH MA ORGANIZATIONS.**—Section 1857(d)(2) of such Act (42 U.S.C. 1395w-27(d)(2)) is amended—

(1) in subparagraph (A), by inserting “timely” before “inspect”; and

(2) in subparagraph (B), by inserting “timely” before “audit and inspect”.

(c) **EFFECTIVE DATE.**—The amendments made by subsection (a) shall apply to violations committed on or after January 1, 2010.

**SEC. 1614. ENHANCED HOSPICE PROGRAM SAFEGUARDS.**

(a) **MEDICARE.**—Part A of title XVIII of the Social Security Act is amended by inserting after section 1819 the following new section:

**“SEC. 1819A. ASSURING QUALITY OF CARE IN HOSPICE CARE.**

“(a) **IN GENERAL.**—If the Secretary determines on the basis of a survey or otherwise, that a hospice program that is certified for participation under this title has demonstrated a substandard quality of care and failed to meet such other requirements as the Secretary may find necessary in the interest of the health and safety of the individuals who are provided care and services by the agency or organization involved and determines—

“(1) that the deficiencies involved immediately jeopardize the health and safety of the individuals to whom the program furnishes items and services, the Secretary shall take immediate action to remove the jeopardy and correct the deficiencies through the remedy specified in subsection (b)(2)(A)(iii) or terminate the certification of the program, and may provide, in addition, for 1 or more of the other remedies described in subsection (b)(2)(A); or

“(2) that the deficiencies involved do not immediately jeopardize the health and safety of the individuals to whom the program furnishes items and services, the Secretary may—

“(A) impose intermediate sanctions developed pursuant to subsection (b), in lieu of terminating the certification of the program; and

“(B) if, after such a period of intermediate sanctions, the program is still not in compliance with such requirements, the Secretary shall terminate the certification of the program.

If the Secretary determines that a hospice program that is certified for participation under this title is in compliance with such requirements but, as of a previous period, was not in compliance with such requirements, the Secretary may provide for a civil money penalty under subsection (b)(2)(A)(i) for the days in which it finds that the program was not in compliance with such requirements.

“(b) **INTERMEDIATE SANCTIONS.**—

“(1) **DEVELOPMENT AND IMPLEMENTATION.**—The Secretary shall develop and implement, by not later than July 1, 2012—

“(A) a range of intermediate sanctions to apply to hospice programs under the conditions described in subsection (a), and

“(B) appropriate procedures for appealing determinations relating to the imposition of such sanctions.

“(2) **SPECIFIED SANCTIONS.**—

“(A) **IN GENERAL.**—The intermediate sanctions developed under paragraph (1) may include—

“(i) civil money penalties in an amount not to exceed \$10,000 for each day of non-compliance or, in the case of a per instance penalty applied by the Secretary, not to exceed \$25,000,

“(ii) denial of all or part of the payments to which a hospice program would otherwise be entitled under this title with respect to items and services furnished by a hospice program on or after the date on which the Secretary determines that intermediate sanctions should be imposed pursuant to subsection (a)(2),

“(iii) the appointment of temporary management to oversee the operation of the hospice program and to protect and assure the health and safety of the individuals under the care of the program while improvements are made,

“(iv) corrective action plans, and

“(v) in-service training for staff.

The provisions of section 1128A (other than subsections (a) and (b)) shall apply to a civil money penalty under clause (i) in the same manner as such provisions apply to a penalty or proceeding under section 1128A(a). The temporary management under clause (iii) shall not be terminated until the Secretary has determined that the program has the management capability to ensure continued compliance with all requirements referred to in that clause.

“(B) **CLARIFICATION.**—The sanctions specified in subparagraph (A) are in addition to sanctions otherwise available under State or Federal law and shall not be construed as limiting other remedies, including any remedy available to an individual at common law.

“(C) **COMMENCEMENT OF PAYMENT.**—A denial of payment under subparagraph (A)(ii) shall terminate when the Secretary determines that the hospice program no longer demonstrates a substandard quality of care and meets such other requirements as the Secretary may find necessary in the interest of the health and safety of the individuals who are provided care and services by the agency or organization involved.

“(3) **SECRETARIAL AUTHORITY.**—The Secretary shall develop and implement, by not later than July 1, 2011, specific procedures with respect to the conditions under which each of the intermediate sanctions developed under paragraph (1) is to be applied, including the amount of any fines and the severity of each of these sanctions. Such procedures shall be designed so as to minimize the time between identification of deficiencies and imposition of these sanctions and shall provide for the imposition of incrementally more severe fines for repeated or uncorrected deficiencies.”

(b) **APPLICATION TO MEDICAID.**—Section 1905(o) of the Social Security Act (42 U.S.C. 1396d(o)) is amended by adding at the end the following new paragraph:

“(4) The provisions of section 1819A shall apply to a hospice program providing hospice care under this title in the same manner as such provisions apply to a hospice program providing hospice care under title XVIII.”

(c) **APPLICATION TO CHIP.**—Title XXI of the Social Security Act is amended by adding at the end the following new section:

**“SEC. 2114. ASSURING QUALITY OF CARE IN HOSPICE CARE.**

“The provisions of section 1819A shall apply to a hospice program providing hospice care under this title in the same manner as such provisions apply to a hospice program providing hospice care under title XVIII.”

**SEC. 1615. ENHANCED PENALTIES FOR INDIVIDUALS EXCLUDED FROM PROGRAM PARTICIPATION.**

(a) IN GENERAL.—Section 1128A(a) of the Social Security Act (42 U.S.C. 1320a-7a(a)), as amended by the previous sections, is further amended—

(1) by striking “or” at the end of paragraph (9);

(2) by inserting “or” at the end of paragraph (10);

(3) by inserting after paragraph (10) the following new paragraph:

“(11) orders or prescribes an item or service, including without limitation home health care, diagnostic and clinical lab tests, prescription drugs, durable medical equipment, ambulance services, physical or occupational therapy, or any other item or service, during a period when the person has been excluded from participation in a Federal health care program, and the person knows or should know that a claim for such item or service will be presented to such a program;” and

(4) in the matter following paragraph (11), as inserted by paragraph (2), by striking “\$15,000 for each day of the failure described in such paragraph” and inserting “\$15,000 for each day of the failure described in such paragraph, or in cases under paragraph (11), \$50,000 for each order or prescription for an item or service by an excluded individual”.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to violations committed on or after January 1, 2010.

**SEC. 1616. ENHANCED PENALTIES FOR PROVISION OF FALSE INFORMATION BY MEDICARE ADVANTAGE AND PART D PLANS.**

(a) IN GENERAL.—Section 1857(g)(2)(A) of the Social Security Act (42 U.S.C. 1395w-27(g)(2)(A)) is amended by inserting “except with respect to a determination under subparagraph (E), an assessment of not more than 3 times the amount claimed by such plan or plan sponsor based upon the misrepresentation or falsified information involved,” after “for each such determination.”

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to violations committed on or after January 1, 2010.

**SEC. 1617. ENHANCED PENALTIES FOR MEDICARE ADVANTAGE AND PART D MARKETING VIOLATIONS.**

(a) IN GENERAL.—Section 1857(g)(1) of the Social Security Act (42 U.S.C. 1395w-27(g)(1)), as amended by section 1221(b), is amended—

(1) in subparagraph (G), by striking “or” at the end;

(2) by inserting after subparagraph (H) the following new subparagraphs:

“(I) except as provided under subparagraph (C) or (D) of section 1860D-1(b)(1), enrolls an individual in any plan under this part without the prior consent of the individual or the designee of the individual;

“(J) transfers an individual enrolled under this part from one plan to another without the prior consent of the individual or the designee of the individual or solely for the purpose of earning a commission;

“(K) fails to comply with marketing restrictions described in subsections (h) and (j) of section 1851 or applicable implementing regulations or guidance; or

“(L) employs or contracts with any individual or entity who engages in the conduct described in subparagraphs (A) through (K) of this paragraph;” and

(3) by adding at the end the following new sentence: “The Secretary may provide, in addition to any other remedies authorized by

law, for any of the remedies described in paragraph (2), if the Secretary determines that any employee or agent of such organization, or any provider or supplier who contracts with such organization, has engaged in any conduct described in subparagraphs (A) through (L) of this paragraph.”

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to violations committed on or after January 1, 2010.

**SEC. 1618. ENHANCED PENALTIES FOR OBSTRUCTION OF PROGRAM AUDITS.**

(a) IN GENERAL.—Section 1128(b)(2) of the Social Security Act (42 U.S.C. 1320a-7(b)(2)) is amended—

(1) in the heading, by inserting “OR AUDIT” after “INVESTIGATION”; and

(2) by striking “investigation into” and all that follows through the period and inserting “investigation or audit related to—”

“(i) any offense described in paragraph (1) or in subsection (a); or

“(ii) the use of funds received, directly or indirectly, from any Federal health care program (as defined in section 1128B(f)).”

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to violations committed on or after January 1, 2010.

**SEC. 1619. EXCLUSION OF CERTAIN INDIVIDUALS AND ENTITIES FROM PARTICIPATION IN MEDICARE AND STATE HEALTH CARE PROGRAMS.**

(a) IN GENERAL.—Section 1128(c) of the Social Security Act, as previously amended by this division, is further amended—

(1) in the heading, by striking “AND PERIOD” and inserting “PERIOD, AND EFFECT”; and

(2) by adding at the end the following new paragraph:

“(4)(A) For purposes of this Act, subject to subparagraph (C), the effect of exclusion is that no payment may be made by any Federal health care program (as defined in section 1128B(f)) with respect to any item or service furnished—

“(i) by an excluded individual or entity; or

“(ii) at the medical direction or on the prescription of a physician or other authorized individual when the person submitting a claim for such item or service knew or had reason to know of the exclusion of such individual.

“(B) For purposes of this section and sections 1128A and 1128B, subject to subparagraph (C), an item or service has been furnished by an individual or entity if the individual or entity directly or indirectly provided, ordered, manufactured, distributed, prescribed, or otherwise supplied the item or service regardless of how the item or service was paid for by a Federal health care program or to whom such payment was made.

“(C)(i) Payment may be made under a Federal health care program for emergency items or services (not including items or services furnished in an emergency room of a hospital) furnished by an excluded individual or entity, or at the medical direction or on the prescription of an excluded physician or other authorized individual during the period of such individual’s exclusion.

“(ii) In the case that an individual eligible for benefits under title XVIII or XIX submits a claim for payment for items or services furnished by an excluded individual or entity, and such individual eligible for such benefits did not know or have reason to know that such excluded individual or entity was so excluded, then, notwithstanding such exclusion, payment shall be made for such items or services. In such case the Secretary shall notify such individual eligible for such benefits of the exclusion of the individual or

entity furnishing the items or services. Payment shall not be made for items or services furnished by an excluded individual or entity to an individual eligible for such benefits after a reasonable time (as determined by the Secretary in regulations) after the Secretary has notified the individual eligible for such benefits of the exclusion of the individual or entity furnishing the items or services.

“(iii) In the case that a claim for payment for items or services furnished by an excluded individual or entity is submitted by an individual or entity other than an individual eligible for benefits under title XVIII or XIX or the excluded individual or entity, and the Secretary determines that the individual or entity that submitted the claim took reasonable steps to learn of the exclusion and reasonably relied upon inaccurate or misleading information from the relevant Federal health care program or its contractor, the Secretary may waive repayment of the amount paid in violation of the exclusion to the individual or entity that submitted the claim for the items or services furnished by the excluded individual or entity. If a Federal health care program contractor provided inaccurate or misleading information that resulted in the waiver of an overpayment under this clause, the Secretary shall take appropriate action to recover the improperly paid amount from the contractor.”

**SEC. 1620. OIG AUTHORITY TO EXCLUDE FROM FEDERAL HEALTH CARE PROGRAMS OFFICERS AND OWNERS OF ENTITIES CONVICTED OF FRAUD.**

Section 1128(b)(15)(A) of the Social Security Act (42 U.S.C. 1320a-7(b)(15)(A)) is amended—

(1) in clause (i)—

(A) by striking “has” and inserting “had”; and

(B) by striking “sanctioned entity and who knows or should know (as defined in section 1128A(i)(6)) of” and inserting “sanctioned entity at the time of, and who knew or should have known (as defined in section 1128A(i)(6)) of,”; and

(2) in clause (ii)—

(A) by striking “is an officer” and inserting “was an officer”; and

(B) by inserting before the period the following: “at the time of the action constituting the basis for the conviction or exclusion described in subparagraph (B)”.

**SEC. 1621. SELF-REFERRAL DISCLOSURE PROTOCOL.**

(a) DEVELOPMENT OF SELF-REFERRAL DISCLOSURE PROTOCOL.—

(1) IN GENERAL.—The Secretary of Health and Human Services, in cooperation with the Inspector General of the Department of Health and Human Services, shall establish, not later than 6 months after the date of the enactment of this Act, a protocol to enable health care providers of services and suppliers to disclose an actual or potential violation of section 1877 of the Social Security Act (42 U.S.C. 1395nn) pursuant to a self-referral disclosure protocol (in this section referred to as an “SRDP”). The SRDP shall include direction to health care providers of services and suppliers on—

(A) a specific person, official, or office to whom such disclosures shall be made; and

(B) instruction on the implication of the SRDP on corporate integrity agreements and corporate compliance agreements.

(2) PUBLICATION ON INTERNET WEBSITE OF SRDP INFORMATION.—The Secretary shall post information on the public Internet website of the Centers for Medicare & Medicaid Services to inform relevant stakeholders of how

to disclose actual or potential violations pursuant to an SRDP.

(3) **RELATION TO ADVISORY OPINIONS.**—The SRDP shall be separate from the advisory opinion process set forth in regulations implementing section 1877(g) of the Social Security Act.

(b) **REDUCTION IN AMOUNTS OWED.**—The Secretary is authorized to reduce the amount due and owing for all violations under section 1877 of the Social Security Act to an amount less than that specified in subsection (g) of such section. In establishing such amount for a violation, the Secretary may consider the following factors:

(1) The nature and extent of the improper or illegal practice.

(2) The timeliness of such self-disclosure.

(3) The cooperation in providing additional information related to the disclosure.

(4) Such other factors as the Secretary considers appropriate.

(c) **REPORT.**—Not later than 18 months after the date on which the SRDP protocol is established under subsection (a)(1), the Secretary shall submit to Congress a report on the implementation of this section. Such report shall include—

(1) the number of health care providers of services and suppliers making disclosures pursuant to an SRDP;

(2) the amounts collected pursuant to the SRDP;

(3) the types of violations reported under the SRDP; and

(4) such other information as may be necessary to evaluate the impact of this section.

(d) **RELATION TO OTHER LAW AND REGULATION.**—Nothing in this section shall affect the application of section 1128G(c) of the Social Security Act, as added by section 1641, except, in the case of a health care provider of services or supplier who is a person (as defined in paragraph (4) of such section 1128G(c)) who discloses an overpayment (as defined in such paragraph) to the Secretary of Health and Human Services pursuant to a SRDP established under this section, the 60-day period described in paragraph (2) of such section 1128G(c) shall be extended with respect to the return of an overpayment to the extent necessary for the Secretary to determine pursuant to the SRDP the amount due and owing.

#### **Subtitle C—Enhanced Program and Provider Protections**

#### **SEC. 1631. ENHANCED CMS PROGRAM PROTECTION AUTHORITY.**

(a) **IN GENERAL.**—Title XI of the Social Security Act (42 U.S.C. 1301 et seq.) is amended by inserting after section 1128F the following new section:

#### **“SEC. 1128G. ENHANCED PROGRAM AND PROVIDER PROTECTIONS IN THE MEDICARE, MEDICAID, AND CHIP PROGRAMS.**

“(a) **CERTAIN AUTHORIZED SCREENING, ENHANCED OVERSIGHT PERIODS, AND ENROLLMENT MORATORIA.**—

“(1) **IN GENERAL.**—For periods beginning after January 1, 2011, in the case that the Secretary determines there is a significant risk of fraudulent activity (as determined by the Secretary based on relevant complaints, reports, referrals by law enforcement or other sources, data analysis, trending information, or claims submissions by providers of services and suppliers) with respect to a category of provider of services or supplier of items or services, including a category within a geographic area, under title XVIII, XIX, or XXI, the Secretary may impose any of the following requirements with respect to a provider of services or a supplier (whether such

provider or supplier is initially enrolling in the program or is renewing such enrollment):

“(A) Screening under paragraph (2).

“(B) Enhanced oversight periods under paragraph (3).

“(C) Enrollment moratoria under paragraph (4).

In applying this subsection for purposes of title XIX and XXI the Secretary may require a State to carry out the provisions of this subsection as a requirement of the State plan under title XIX or the child health plan under title XXI. Actions taken and determinations made under this subsection shall not be subject to review by a judicial tribunal.

“(2) **SCREENING.**—For purposes of paragraph (1), the Secretary shall establish procedures under which screening is conducted with respect to providers of services and suppliers described in such paragraph. Such screening may include—

“(A) licensing board checks;

“(B) screening against the list of individuals and entities excluded from the program under title XVIII, XIX, or XXI;

“(C) the excluded provider list system;

“(D) background checks; and

“(E) unannounced pre-enrollment or other site visits.

“(3) **ENHANCED OVERSIGHT PERIOD.**—For purposes of paragraph (1), the Secretary shall establish procedures to provide for a period of not less than 30 days and not more than 365 days during which providers of services and suppliers described in such paragraph, as the Secretary determines appropriate, would be subject to enhanced oversight, such as required or unannounced (or required and unannounced) site visits or inspections, prepayment review, enhanced review of claims, and such other actions as specified by the Secretary, under the programs under titles XVIII, XIX, and XXI. Under such procedures, the Secretary may extend such period for more than 365 days if the Secretary determines that after the initial period such additional period of oversight is necessary.

“(4) **MORATORIUM ON ENROLLMENT OF PROVIDERS AND SUPPLIERS.**—For purposes of paragraph (1), the Secretary, based upon a finding of a risk of serious ongoing fraud within a program under title XVIII, XIX, or XXI, may impose a moratorium on the enrollment of providers of services and suppliers within a category of providers of services and suppliers (including a category within a specific geographic area) under such title. Such a moratorium may only be imposed if the Secretary makes a determination that the moratorium would not adversely impact access of individuals to care under such program.

“(5) **90-DAY PERIOD OF ENHANCED OVERSIGHT FOR INITIAL CLAIMS OF DME SUPPLIERS.**—For periods beginning after January 1, 2011, if the Secretary determines under paragraph (1) that there is a significant risk of fraudulent activity among suppliers of durable medical equipment, in the case of a supplier of durable medical equipment who is within a category or geographic area under title XVIII identified pursuant to such determination and who is initially enrolling under such title, the Secretary shall, notwithstanding section 1842(c)(2), withhold payment under such title with respect to durable medical equipment furnished by such supplier during the 90-day period beginning on the date of the first submission of a claim under such title for durable medical equipment furnished by such supplier.

“(6) **CLARIFICATION.**—Nothing in this subsection shall be interpreted to preclude or

limit the ability of a State to engage in provider screening or enhanced provider oversight activities beyond those required by the Secretary.”

(b) **CONFORMING AMENDMENTS.**—

(1) **MEDICAID.**—Section 1902(a) of the Social Security Act (42 U.S.C. 1396a(a)) is amended—

(A) in paragraph (23), by inserting before the semicolon at the end the following: “or by a person to whom or entity to which a moratorium under section 1128G(a)(4) is applied during the period of such moratorium”;

(B) in paragraph (72); by striking at the end “and”;

(C) in paragraph (73), by striking the period at the end and inserting “; and”; and

(D) by adding after paragraph (73) the following new paragraph:

“(74) provide that the State will enforce any determination made by the Secretary under subsection (a) of section 1128G (relating to a significant risk of fraudulent activity with respect to a category of provider or supplier described in such subsection (a)) through use of the appropriate procedures described in such subsection (a)), and that the State will carry out any activities as required by the Secretary for purposes of such subsection (a).”

(2) **CHIP.**—Section 2102 of such Act (42 U.S.C. 1397bb) is amended by adding at the end the following new subsection:

“(d) **PROGRAM INTEGRITY.**—A State child health plan shall include a description of the procedures to be used by the State—

“(1) to enforce any determination made by the Secretary under subsection (a) of section 1128G (relating to a significant risk of fraudulent activity with respect to a category of provider or supplier described in such subsection through use of the appropriate procedures described in such subsection); and

“(2) to carry out any activities as required by the Secretary for purposes of such subsection.”

(3) **MEDICARE.**—Section 1866(j) of such Act (42 U.S.C. 1395cc(j)) is amended by adding at the end the following new paragraph:

“(3) **PROGRAM INTEGRITY.**—The provisions of section 1128G(a) apply to enrollments and renewals of enrollments of providers of services and suppliers under this title.”

#### **SEC. 1632. ENHANCED MEDICARE, MEDICAID, AND CHIP PROGRAM DISCLOSURE REQUIREMENTS RELATING TO PREVIOUS AFFILIATIONS.**

(a) **IN GENERAL.**—Section 1128G of the Social Security Act, as inserted by section 1631, is amended by adding at the end the following new subsection:

“(b) **ENHANCED PROGRAM DISCLOSURE REQUIREMENTS.**—

“(1) **DISCLOSURE.**—A provider of services or supplier who submits on or after July 1, 2011, an application for enrollment and renewing enrollment in a program under title XVIII, XIX, or XXI shall disclose (in a form and manner determined by the Secretary) any current affiliation or affiliation within the previous 10-year period with a provider of services or supplier that has uncollected debt or with a person or entity that has been suspended or excluded under such program, subject to a payment suspension, or has had its billing privileges revoked.

“(2) **ENHANCED SAFEGUARDS.**—If the Secretary determines that such previous affiliation of such provider or supplier poses a risk of fraud, waste, or abuse, the Secretary may apply such enhanced safeguards as the Secretary determines necessary to reduce such risk associated with such provider or supplier enrolling or participating in the program under title XVIII, XIX, or XXI.

Such safeguards may include enhanced oversight, such as enhanced screening of claims, required or unannounced (or required and unannounced) site visits or inspections, additional information reporting requirements, and conditioning such enrollment on the provision of a surety bond.

“(3) **AUTHORITY TO DENY PARTICIPATION.**—If the Secretary determines that there has been at least one such affiliation and that such affiliation or affiliations, as applicable, of such provider or supplier poses a serious risk of fraud, waste, or abuse, the Secretary may deny the application of such provider or supplier.”.

(b) **CONFORMING AMENDMENTS.**—

(1) **MEDICAID.**—Paragraph (74) of section 1902(a) of such Act (42 U.S.C. 1396a(a)), as added by section 1631(b)(1), is amended—

(A) by inserting “or subsection (b) of such section (relating to disclosure requirements)” before “, and that the State”; and

(B) by inserting before the period the following: “and apply any enhanced safeguards, with respect to a provider or supplier described in such subsection (b), as the Secretary determines necessary under such subsection (b)”.

(2) **CHIP.**—Subsection (d) of section 2102 of such Act (42 U.S.C. 1397bb), as added by section 1631(b)(2), is amended—

(A) in paragraph (1), by striking at the end “and”;

(B) in paragraph (2) by striking the period at the end and inserting “; and” and

(C) by adding at the end the following new paragraph:

“(3) to enforce any determination made by the Secretary under subsection (b) of section 1128G (relating to disclosure requirements) and to apply any enhanced safeguards, with respect to a provider or supplier described in such subsection, as the Secretary determines necessary under such subsection.”.

**SEC. 1633. REQUIRED INCLUSION OF PAYMENT MODIFIER FOR CERTAIN EVALUATION AND MANAGEMENT SERVICES.**

Section 1848 of the Social Security Act (42 U.S.C. 1395w-4), as amended by section 4101 of the HITECH Act (Public Law 111-5), is amended by adding at the end the following new subsection:

“(p) **PAYMENT MODIFIER FOR CERTAIN EVALUATION AND MANAGEMENT SERVICES.**—The Secretary shall establish a payment modifier under the fee schedule under this section for evaluation and management services (as specified in section 1842(b)(16)(B)(ii)) that result in the ordering of additional services (such as lab tests), the prescription of drugs, the furnishing or ordering of durable medical equipment in order to enable better monitoring of claims for payment for such additional services under this title, or the ordering, furnishing, or prescribing of other items and services determined by the Secretary to pose a high risk of waste, fraud, and abuse. The Secretary may require providers of services or suppliers to report such modifier in claims submitted for payment.”.

**SEC. 1634. EVALUATIONS AND REPORTS REQUIRED UNDER MEDICARE INTEGRITY PROGRAM.**

(a) **IN GENERAL.**—Section 1893(c) of the Social Security Act (42 U.S.C. 1395ddd(c)) is amended—

(1) in paragraph (3), by striking at the end “and”;

(2) by redesignating paragraph (4) as paragraph (5); and

(3) by inserting after paragraph (3) the following new paragraph:

“(4) for the contract year beginning in 2011 and each subsequent contract year, the enti-

ty provides assurances to the satisfaction of the Secretary that the entity will conduct periodic evaluations of the effectiveness of the activities carried out by such entity under the Program and will submit to the Secretary an annual report on such activities; and”.

(b) **REFERENCE TO MEDICAID INTEGRITY PROGRAM.**—For a similar provision with respect to the Medicaid Integrity Program, see section 1752.

**SEC. 1635. REQUIRE PROVIDERS AND SUPPLIERS TO ADOPT PROGRAMS TO REDUCE WASTE, FRAUD, AND ABUSE.**

(a) **IN GENERAL.**—Section 1866(j) of the Social Security Act (42 U.S.C. 42 U.S.C. 1395cc(j)), as amended by section 1631(d)(3), is further amended by adding at the end the following new paragraph:

“(4) **COMPLIANCE PROGRAMS FOR PROVIDERS OF SERVICES AND SUPPLIERS.**—

“(A) **IN GENERAL.**—The Secretary may not enroll (or renew the enrollment of) a provider of services or a supplier (other than a physician or a skilled nursing facility) under this title if such provider of services or supplier fails to, subject to subparagraph (E), establish a compliance program that contains the core elements established under subparagraph (B) and certify in a manner determined by the Secretary, that the provider or supplier has established such a program.

“(B) **ESTABLISHMENT OF CORE ELEMENTS.**—The Secretary, in consultation with the Inspector General of the Department of Health and Human Services, shall establish core elements for a compliance program under subparagraph (A). Such elements may include written policies, procedures, and standards of conduct, a designated compliance officer and a compliance committee; effective training and education pertaining to fraud, waste, and abuse for the organization’s employees, and contractors; a confidential or anonymous mechanism, such as a hotline, to receive compliance questions and reports of fraud, waste, or abuse; disciplinary guidelines for enforcement of standards; internal monitoring and auditing procedures, including monitoring and auditing of contractors; procedures for ensuring prompt responses to detected offenses and development of corrective action initiatives, including responses to potential offenses; and procedures to return all identified overpayments to the programs under this title, title XIX, and title XXI.

“(C) **TIMELINE FOR IMPLEMENTATION.**—The Secretary shall determine a timeline for the establishment of the core elements under subparagraph (B) and the date on which a provider of services and suppliers (other than physicians and skilled nursing facilities) shall be required to have established such a program for purposes of this subsection.

“(D) **PILOT PROGRAM.**—The Secretary may conduct a pilot program on the application of this subsection with respect to a category of providers of services or suppliers (other than physicians and skilled nursing facilities) that the Secretary determines to be a category which is at high risk for waste, fraud, and abuse before implementing the requirements of this subsection to all providers of services and suppliers described in subparagraph (C).

“(E) **TREATMENT OF SKILLED NURSING FACILITIES.**—For the requirement for skilled nursing facilities to establish compliance and ethics programs see section 1819(d)(1)(C).

“(F) **CONSTRUCTION.**—Nothing in this subsection exempts a physician from participating in a compliance program established by a health care provider or other entity

with which the physician is employed, under contract, or affiliated if such compliance is required by such provider or entity.”.

(b) **REFERENCE TO SIMILAR MEDICAID PROVISION.**—For a similar provision with respect to the Medicaid program under title XIX of the Social Security Act, see section 1753.

**SEC. 1636. MAXIMUM PERIOD FOR SUBMISSION OF MEDICARE CLAIMS REDUCED TO NOT MORE THAN 12 MONTHS.**

(a) **PURPOSE.**—In general, the 36-month period currently allowed for claims filing under parts A, B, C, and, D of title XVIII of the Social Security Act presents opportunities for fraud schemes in which processing patterns of the Centers for Medicare & Medicaid Services can be observed and exploited. Narrowing the window for claims processing will not overburden providers and will reduce fraud and abuse.

(b) **REDUCING MAXIMUM PERIOD FOR SUBMISSION.**—

(1) **PART A.**—Section 1814(a) of the Social Security Act (42 U.S.C. 1395f(a)) is amended—

(A) in paragraph (1), by striking “period of 3 calendar years” and all that follows and inserting “period of 1 calendar year from which such services are furnished; and”; and

(B) by adding at the end the following new sentence: “In applying paragraph (1), the Secretary may specify exceptions to the 1 calendar year period specified in such paragraph.”.

(2) **PART B.**—Section 1835(a) of such Act (42 U.S.C. 1395n(a)) is amended—

(A) in paragraph (1), by striking “period of 3 calendar years” and all that follows and inserting “period of 1 calendar year from which such services are furnished; and”; and

(B) by adding at the end the following new sentence: “In applying paragraph (1), the Secretary may specify exceptions to the 1 calendar year period specified in such paragraph.”.

(3) **PARTS C AND D.**—Section 1857(d) of such Act is amended by adding at the end the following new paragraph:

“(7) **PERIOD FOR SUBMISSION OF CLAIMS.**—The contract shall require an MA organization or PDP sponsor to require any provider of services under contract with, in partnership with, or affiliated with such organization or sponsor to ensure that, with respect to items and services furnished by such provider to an enrollee of such organization, written request, signed by enrollee, except in cases in which the Secretary finds it impracticable for the enrollee to do so, is filed for payment for such items and services in such form, in such manner, and by such person or persons as the Secretary may by regulation prescribe, no later than the close of the 1 calendar year period after such items and services are furnished. In applying the previous sentence, the Secretary may specify exceptions to the 1 calendar year period specified.”.

(c) **EFFECTIVE DATE.**—The amendments made by subsection (b) shall be effective for items and services furnished on or after January 1, 2011.

**SEC. 1637. PHYSICIANS WHO ORDER DURABLE MEDICAL EQUIPMENT OR HOME HEALTH SERVICES REQUIRED TO BE MEDICARE ENROLLED PHYSICIANS OR ELIGIBLE PROFESSIONALS.**

(a) **DME.**—Section 1834(a)(11)(B) of the Social Security Act (42 U.S.C. 1395m(a)(11)(B)) is amended by striking “physician” and inserting “physician enrolled under section 1866(j) or other professional, as determined by the Secretary”.

(b) **HOME HEALTH SERVICES.**—

(1) **PART A.**—Section 1814(a)(2) of such Act (42 U.S.C. 1395(a)(2)) is amended in the matter preceding subparagraph (A) by inserting

"in the case of services described in subparagraph (C), a physician enrolled under section 1866(j) or other professional, as determined by the Secretary," before "or, in the case of services".

(2) PART B.—Section 1835(a)(2) of such Act (42 U.S.C. 1395n(a)(2)) is amended in the matter preceding subparagraph (A) by inserting "or, in the case of services described in subparagraph (A), a physician enrolled under section 1866(j) or other professional, as determined by the Secretary," after "a physician".

(c) DISCRETION TO EXPAND APPLICATION.—The Secretary may extend the requirement applied by the amendments made by subsections (a) and (b) to durable medical equipment and home health services (relating to requiring certifications and written orders to be made by enrolled physicians and health professions) to other categories of items or services under this title, including covered part D drugs as defined in section 1860D-2(e), if the Secretary determines that such application would help to reduce the risk of waste, fraud, and abuse with respect to such other categories under title XVIII of the Social Security Act.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to written orders and certifications made on or after July 1, 2010.

**SEC. 1638. REQUIREMENT FOR PHYSICIANS TO PROVIDE DOCUMENTATION ON REFERRALS TO PROGRAMS AT HIGH RISK OF WASTE AND ABUSE.**

(a) PHYSICIANS AND OTHER SUPPLIERS.—Section 1842(h) of the Social Security Act is further amended by adding at the end the following new paragraph:

"(9) The Secretary may disenroll, for a period of not more than one year for each act, a physician or supplier under section 1866(j) if such physician or supplier fails to maintain and, upon request of the Secretary, provide access to documentation relating to written orders or requests for payment for durable medical equipment, certifications for home health services, or referrals for other items or services written or ordered by such physician or supplier under this title, as specified by the Secretary."

(b) PROVIDERS OF SERVICES.—Section 1866(a)(1) of such Act (42 U.S.C. 1395cc), is amended—

(1) in subparagraph (U), by striking at the end "and";

(2) in subparagraph (V), by striking the period at the end and adding "and"; and

(3) by adding at the end the following new subparagraph:

"(W) maintain and, upon request of the Secretary, provide access to documentation relating to written orders or requests for payment for durable medical equipment, certifications for home health services, or referrals for other items or services written or ordered by the provider under this title, as specified by the Secretary."

(c) OIG PERMISSIVE EXCLUSION AUTHORITY.—Section 1128(b)(11) of the Social Security Act (42 U.S.C. 1320a-7(b)(11)) is amended by inserting "ordering, referring for furnishing, or certifying the need for" after "furnishing".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to orders, certifications, and referrals made on or after January 1, 2010.

**SEC. 1639. FACE-TO-FACE ENCOUNTER WITH PATIENT REQUIRED BEFORE ELIGIBILITY CERTIFICATIONS FOR HOME HEALTH SERVICES OR DURABLE MEDICAL EQUIPMENT.**

(a) CONDITION OF PAYMENT FOR HOME HEALTH SERVICES.—

(1) PART A.—Section 1814(a)(2)(C) of such Act is amended—

(A) by striking "and such services" and inserting "such services"; and

(B) by inserting after "care of a physician" the following: "and, in the case of a certification or recertification made by a physician after January 1, 2010, prior to making such certification the physician must document that the physician has had a face-to-face encounter (including through use of telehealth and other than with respect to encounters that are incident to services involved) with the individual during the 6-month period preceding such certification, or other reasonable timeframe as determined by the Secretary".

(2) PART B.—Section 1835(a)(2)(A) of the Social Security Act is amended—

(A) by striking "and" before "(iii)"; and

(B) by inserting after "care of a physician" the following: "and (iv) in the case of a certification or recertification after January 1, 2010, prior to making such certification the physician must document that the physician has had a face-to-face encounter (including through use of telehealth and other than with respect to encounters that are incident to services involved) with the individual during the 6-month period preceding such certification or recertification, or other reasonable timeframe as determined by the Secretary".

(b) CONDITION OF PAYMENT FOR DURABLE MEDICAL EQUIPMENT.—Section 1834(a)(11)(B) of the Social Security Act (42 U.S.C. 1395m(a)(11)(B)) is amended by adding before the period at the end the following: "and shall require that any written order required for payment under this subsection be written only pursuant to the eligible health care professional authorized to make such written order documenting that such professional has had a face-to-face encounter (including through use of telehealth and other than with respect to encounters that are incident to services involved) with the individual involved during the 6-month period preceding such written order, or other reasonable timeframe as determined by the Secretary".

(c) APPLICATION TO OTHER AREAS UNDER MEDICARE.—The Secretary may apply a face-to-face encounter requirement similar to the requirement described in the amendments made by subsections (a) and (b) to other items and services for which payment is provided under title XVIII of the Social Security Act based upon a finding that such a decision would reduce the risk of waste, fraud, or abuse.

(d) APPLICATION TO MEDICAID AND CHIP.—The face-to-face encounter requirements described in the amendments made by subsections (a) and (b) and any expanded application of similar requirements pursuant to subsection (c) shall apply with respect to a certification or recertification for home health services under title XIX or XXI of the Social Security Act, a written order for durable medical equipment under such title, and any other applicable item or service identified pursuant to subsection (c) for which payment is made under such title, respectively, in the same manner and to the same extent as such requirements apply in the case of such a certification or recertification, written order, or other applicable item or service so identified, respectively, under title XVIII of such Act.

**SEC. 1640. EXTENSION OF TESTIMONIAL SUBPOENA AUTHORITY TO PROGRAM EXCLUSION INVESTIGATIONS.**

(a) IN GENERAL.—Section 1128(f) of the Social Security Act (42 U.S.C. 1320a-7(f)) is

amended by adding at the end the following new paragraph:

"(4) The provisions of subsections (d) and (e) of section 205 shall apply with respect to this section to the same extent as they are applicable with respect to title II. The Secretary may delegate the authority granted by section 205(d) (as made applicable to this section) to the Inspector General of the Department of Health and Human Services or the Administrator of the Centers for Medicare & Medicaid Services for purposes of any investigation under this section."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to investigations beginning on or after January 1, 2010.

**SEC. 1641. REQUIRED REPAYMENTS OF MEDICARE AND MEDICAID OVERPAYMENTS.**

Section 1128G of the Social Security Act, as inserted by section 1631 and amended by section 1632, is further amended by adding at the end the following new subsection:

"(c) REPORTS ON AND REPAYMENT OF OVERPAYMENTS IDENTIFIED THROUGH INTERNAL AUDITS AND REVIEWS.—

"(1) REPORTING AND RETURNING OVERPAYMENTS.—If a person knows of an overpayment, the person must—

"(A) report and return the overpayment to the Secretary, the State, an intermediary, a carrier, or a contractor, as appropriate, at the correct address, and

"(B) notify the Secretary, the State, intermediary, carrier, or contractor to whom the overpayment was returned in writing of the reason for the overpayment.

"(2) TIMING.—Subject to section 1620(d) of the Affordable Health Care for America Act, an overpayment must be reported and returned under paragraph (1)(A) by not later than the date that is 60 days after the date the person knows of the overpayment. Any known overpayment retained later than the applicable date specified in this paragraph creates an obligation as defined in section 3729(b)(3) of title 31 of the United States Code.

"(3) CLARIFICATION.—Repayment of any overpayments (or refunding by withholding of future payments) by a provider of services or supplier does not otherwise limit the provider or supplier's potential liability for administrative obligations such as applicable interests, fines, and penalties or civil or criminal sanctions involving the same claim if it is determined later that the reason for the overpayment was related to fraud or other intentional conduct by the provider or supplier or the employees or agents of such provider or supplier.

"(4) DEFINITIONS.—In this subsection:

"(A) KNOWS.—The term 'knows' has the meaning given the terms 'knowing' and 'knowingly' in section 3729(b) of title 31 of the United States Code.

"(B) OVERPAYMENT.—The term 'overpayment' means any funds that a person receives or retains under title XVIII, XIX, or XXI to which the person, after applicable reconciliation (pursuant to the applicable existing process under the respective title), is not entitled under such title.

"(C) PERSON.—The term 'person' means a provider of services, supplier, Medicaid managed care organization (as defined in section 1903(m)(1)(A)), Medicare Advantage organization (as defined in section 1859(a)(1)), or PDP sponsor (as defined in section 1860D-41(a)(13)), but excluding a beneficiary."



**SEC. 1642. EXPANDED APPLICATION OF HARD-SHIP WAIVERS FOR OIG EXCLUSIONS TO BENEFICIARIES OF ANY FEDERAL HEALTH CARE PROGRAM.**

Section 1128(c)(3)(B) of the Social Security Act (42 U.S.C. 1320a-7(c)(3)(B)) is amended by striking “individuals entitled to benefits under part A of title XVIII or enrolled under part B of such title, or both” and inserting “beneficiaries (as defined in section 1128A(i)(5) of that program”.

**SEC. 1643. ACCESS TO CERTAIN INFORMATION ON RENAL DIALYSIS FACILITIES.**

Section 1881(b) of the Social Security Act (42 U.S.C. 1395rr(b)) is amended by adding at the end the following new paragraph:

“(15) For purposes of evaluating or auditing payments made to renal dialysis facilities for items and services under this section under paragraph (1), each such renal dialysis facility, upon the request of the Secretary, shall provide to the Secretary access to information relating to any ownership or compensation arrangement between such facility and the medical director of such facility or between such facility and any physician.”.

**SEC. 1644. BILLING AGENTS, CLEARINGHOUSES, OR OTHER ALTERNATE PAYEEES REQUIRED TO REGISTER UNDER MEDICARE.**

(a) **MEDICARE.**—Section 1866(j)(1) of the Social Security Act (42 U.S.C. 1395cc(j)(1)) is amended by adding at the end the following new subparagraph:

“(D) **BILLING AGENTS AND CLEARINGHOUSES REQUIRED TO BE REGISTERED UNDER MEDICARE.**—Any agent, clearinghouse, or other alternate payee that submits claims on behalf of a health care provider must be registered with the Secretary in a form and manner specified by the Secretary.”.

(b) **MEDICAID.**—For a similar provision with respect to the Medicaid program under title XIX of the Social Security Act, see section 1759.

(c) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall apply to claims submitted on or after January 1, 2012.

**SEC. 1645. CONFORMING CIVIL MONETARY PENALTIES TO FALSE CLAIMS ACT AMENDMENTS.**

Section 1128A of the Social Security Act, as amended by sections 1611, 1612, 1613, and 1615, is further amended—

(1) in subsection (a)—

(A) in paragraph (1), by striking “to an officer, employee, or agent of the United States, or of any department or agency thereof, or of any State agency (as defined in subsection (i)(1))”;

(B) in paragraph (4)—

(i) in the matter preceding subparagraph (A), by striking “participating in a program under title XVIII or a State health care program” and inserting “participating in a Federal health care program (as defined in section 1128B(f))”; and

(ii) in subparagraph (A), by striking “title XVIII or a State health care program” and inserting “a Federal health care program (as defined in section 1128B(f))”;

(C) by striking “or” at the end of paragraph (10);

(D) by inserting after paragraph (11) the following new paragraphs:

“(12) conspires to commit a violation of this section; or

“(13) knowingly makes, uses, or causes to be made or used, a false record or statement material to an obligation to pay or transmit money or property to a Federal health care program, or knowingly conceals or knowingly and improperly avoids or decreases an obligation to pay or transmit money or property to a Federal health care program;”;

(E) in the matter following paragraph (13), as inserted by subparagraph (D)—

(i) by striking “or” before “in cases under paragraph (11)”;

(ii) by inserting “, in cases under paragraph (12), \$50,000 for any violation described in this section committed in furtherance of the conspiracy involved; or in cases under paragraph (13), \$50,000 for each false record or statement, or concealment, avoidance, or decrease” after “by an excluded individual”; and

(F) in the second sentence, by striking “such false statement, omission, or misrepresentation)” and inserting “such false statement or misrepresentation, in cases under paragraph (12), an assessment of not more than 3 times the total amount that would otherwise apply for any violation described in this section committed in furtherance of the conspiracy involved, or in cases under paragraph (13), an assessment of not more than 3 times the total amount of the obligation to which the false record or statement was material or that was avoided or decreased”.

(2) in subsection (c)(1), by striking “six years” and inserting “10 years”; and

(3) in subsection (i)—

(A) by amending paragraph (2) to read as follows:

“(2) The term ‘claim’ means any application, request, or demand, whether under contract, or otherwise, for money or property for items and services under a Federal health care program (as defined in section 1128B(f)), whether or not the United States or a State agency has title to the money or property, that—

“(A) is presented or caused to be presented to an officer, employee, or agent of the United States, or of any department or agency thereof, or of any State agency (as defined in subsection (i)(1)); or

“(B) is made to a contractor, grantee, or other recipient if the money or property is to be spent or used on the Federal health care program’s behalf or to advance a Federal health care program interest, and if the Federal health care program—

“(i) provides or has provided any portion of the money or property requested or demanded; or

“(ii) will reimburse such contractor, grantee, or other recipient for any portion of the money or property which is requested or demanded.”;

(B) by amending paragraph (3) to read as follows:

“(3) The term ‘item or service’ means, without limitation, any medical, social, management, administrative, or other item or service used in connection with or directly or indirectly related to a Federal health care program.”;

(C) in paragraph (6)—

(i) in subparagraph (C), by striking at the end “or”;

(ii) in the first subparagraph (D), by striking at the end the period and inserting “; or”; and

(iii) by redesignating the second subparagraph (D) as a subparagraph (E);

(D) by amending paragraph (7) to read as follows:

“(7) The terms ‘knowing’, ‘knowingly’, and ‘should know’ mean that a person, with respect to information—

“(A) has actual knowledge of the information;

“(B) acts in deliberate ignorance of the truth or falsity of the information; or

“(C) acts in reckless disregard of the truth or falsity of the information;

and require no proof of specific intent to defraud.”; and

(E) by adding at the end the following new paragraphs:

“(8) The term ‘obligation’ means an established duty, whether or not fixed, arising from an express or implied contractual, grantor-grantee, or licensor-licensee relationship, from a fee-based or similar relationship, from statute or regulation, or from the retention of any overpayment.

“(9) The term ‘material’ means having a natural tendency to influence, or be capable of influencing, the payment or receipt of money or property.”.

**SEC. 1646. REQUIRING PROVIDER AND SUPPLIER PAYMENTS UNDER MEDICARE TO BE MADE THROUGH DIRECT DEPOSIT OR ELECTRONIC FUNDS TRANSFER (EFT) AT INSURED DEPOSITORY INSTITUTIONS.**

(a) **MEDICARE.**—Section 1874 of the Social Security Act (42 U.S.C. 1395kk) is amended by adding at the end the following new subsection:

“(e) **LIMITATION ON PAYMENT TO PROVIDERS OF SERVICES AND SUPPLIERS.**—No payment shall be made under this title for items and services furnished by a provider of services or supplier unless each payment to the provider of services or supplier is in the form of direct deposit or electronic funds transfer to the provider of services’ or supplier’s account, as applicable, at a depository institution (as defined in section 19(b)(1)(A) of the Federal Reserve Act.”.

(b) **EFFECTIVE DATE.**—The amendments made by this section shall apply to each payment made to a provider of services, provider, or supplier on or after such date (not later than July 1, 2012) as the Secretary of Health and Human Services shall specify, regardless of when the items and services for which such payment is made were furnished.

**SEC. 1647. INSPECTOR GENERAL FOR THE HEALTH CHOICES ADMINISTRATION.**

(a) **ESTABLISHMENT; APPOINTMENT.**—There is hereby established an Office of Inspector General for the Health Choices Administration, to be headed by the Inspector General for the Health Choices Administration to be appointed by the President, by and with the advice and consent of the Senate.

(b) **AMENDMENTS TO THE INSPECTOR GENERAL ACT OF 1978.**—

(1) **APPLICATION TO HEALTH CHOICES ADMINISTRATION.**—Section 12 of the Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(A) in paragraph (1), by striking “or the Federal Cochairpersons of the Commissions established under section 15301 of title 40, United States Code” and inserting “the Federal Cochairpersons of the Commissions established under section 15301 of title 40, United States Code; or the Commissioner of the Health Choices Administration established under section 241 of the Affordable Health Care for America Act”; and

(B) in paragraph (2), by striking “or the Commissions established under section 15301 of title 40, United States Code” and inserting “the Commissions established under section 15301 of title 40, United States Code, or the Health Choices Administration established under section 241 of the Affordable Health Care for America Act”.

(2) **SPECIAL PROVISIONS RELATING TO HEALTH CHOICES ADMINISTRATION AND HHS.**—The Inspector General Act of 1978 (5 U.S.C. App.) is further amended by inserting after section 8L the following new section:



**“SEC. 8M SPECIAL PROVISIONS RELATING TO THE HEALTH CHOICES ADMINISTRATION AND THE DEPARTMENT OF HEALTH AND HUMAN SERVICES.**

“(a) The Inspector General of the Health Choices Administration shall—

“(1) have the authority to conduct, supervise, and coordinate audits, evaluations, and investigations of the programs and operations of the Health Choices Administration established under section 241 of the Affordable Health Care for America Act, including matters relating to fraud, abuse, and misconduct in connection with the admission and continued participation of any health benefits plan participating in the Health Insurance Exchange established under section 301 of such Act;

“(2) have the authority to conduct audits, evaluations, and investigations relating to any private Exchange-participating health benefits plan, as defined in section 201(c) of such Act;

“(3) have the authority, in consultation with the Office of Inspector General for the Department of Health and Human Services and subject to subsection (b), to conduct audits, evaluations, and investigations relating to the public health insurance option established under section 321 of such Act; and

“(4) have access to all relevant records necessary to carry out this section, including records relating to claims paid by Exchange-participating health benefits plans.

“(b) Authority granted to the Health Choices Administration and the Inspector General of the Health Choices Administration by the Affordable Health Care for America Act does not limit the duties, authorities, and responsibilities of the Office of Inspector General for the Department of Health and Human Services, as in existence as of the date of the enactment of the Affordable Health Care for America Act, to oversee programs and operations of such department. The Office of Inspector General for the Department of Health and Human Services retains primary jurisdiction over fraud and abuse in connection with payments made under the public health insurance option established under section 321 of such Act and administered by the Department of Health and Human Services.”.

(3) APPLICATION OF RULE OF CONSTRUCTION.—Section 8J of the Inspector General Act of 1978 (5 U.S.C. App.) is amended by striking “or 8H” and inserting “, 8H, or 8M”.

(c) EFFECTIVE DATE.—The provisions of and amendments made by this section shall take effect on the date of the enactment of this Act.

**Subtitle D—Access to Information Needed to Prevent Fraud, Waste, and Abuse**

**SEC. 1651. ACCESS TO INFORMATION NECESSARY TO IDENTIFY FRAUD, WASTE, AND ABUSE.**

(a) GAO ACCESS.—Subchapter II of chapter 7 of title 31, United States Code, is amended by adding at the end the following:

**“§ 721. Access to certain information**

“No provision of the Social Security Act shall be construed to limit, amend, or supersede the authority of the Comptroller General to obtain any information, to inspect any record, or to interview any officer or employee under section 716 of this title, including with respect to any information disclosed to or obtained by the Secretary of Health and Human Services under part C or D of title XVIII of the Social Security Act.”.

(b) ACCESS TO MEDICARE PART D DATA PROGRAM INTEGRITY PURPOSES.—

(1) PROVISION OF INFORMATION AS CONDITION OF PAYMENT.—Section 1860D-15(d)(2)(B) of the

Social Security Act (42 U.S.C. 1395w-115(d)(2)(B)) is amended—

(A) by striking “may be used by officers” and all that follows through the period and inserting “may be used by—”; and

(B) by adding at the end the following clauses:

“(i) officers, employees, and contractors of the Department of Health and Human Services only for the purposes of, and to the extent necessary in, carrying out this section; and

“(ii) the Inspector General of the Department of Health and Human Services, the Administrator of the Centers for Medicare & Medicaid Services, and the Attorney General only for the purposes of protecting the integrity of the programs under this title and title XIX; conducting the activities described in section 1893 and subparagraphs (A) through (E) of section 1128C(a)(1); and for investigation, audit, evaluation, oversight, and law enforcement purposes to the extent consistent with applicable law.”.

(2) GENERAL DISCLOSURE OF INFORMATION.—Section 1860D-15(f)(2) of the Social Security Act (42 U.S.C. 1395w-115(f)(2)) is amended—

(A) by striking “may be used by officers” and all that follows through the period and inserting “may be used by—”; and

(B) by adding at the end the following subparagraphs:

“(A) officers, employees, and contractors of the Department of Health and Human Services only for the purposes of, and to the extent necessary in, carrying out this section; and

“(B) the Inspector General of the Department of Health and Human Services, the Administrator of the Centers for Medicare & Medicaid Services, and the Attorney General only for the purposes of protecting the integrity of the programs under this title and title XIX; conducting the activities described in section 1893 and subparagraphs (A) through (E) of section 1128C(a)(1); and for investigation, audit, evaluation, oversight, and law enforcement purposes to the extent consistent with applicable law.”.

**SEC. 1652. ELIMINATION OF DUPLICATION BETWEEN THE HEALTHCARE INTEGRITY AND PROTECTION DATA BANK AND THE NATIONAL PRACTITIONER DATA BANK.**

(a) IN GENERAL.—To eliminate duplication between the Healthcare Integrity and Protection Data Bank (HIPDB) established under section 1128E of the Social Security Act and the National Practitioner Data Bank (NPDB) established under the Health Care Quality Improvement Act of 1986, section 1128E of the Social Security Act (42 U.S.C. 1320a-7e) is amended—

(1) in subsection (a), by striking “Not later than” and inserting “Subject to subsection (h), not later than”; and

(2) in the first sentence of subsection (d)(2), by striking “(other than with respect to requests by Federal agencies)”; and

(3) by adding at the end the following new subsection:

“(h) SUNSET OF THE HEALTHCARE INTEGRITY AND PROTECTION DATA BANK; TRANSITION PROCESS.—Effective upon the enactment of this subsection, the Secretary shall implement a process to eliminate duplication between the Healthcare Integrity and Protection Data Bank (in this subsection referred to as the ‘HIPDB’ established pursuant to subsection (a) and the National Practitioner Data Bank (in this subsection referred to as the ‘NPDB’) as implemented under the Health Care Quality Improvement Act of 1986 and section 1921 of this Act, including systems testing necessary to ensure that infor-

mation formerly collected in the HIPDB will be accessible through the NPDB, and other activities necessary to eliminate duplication between the two data banks. Upon the completion of such process, notwithstanding any other provision of law, the Secretary shall cease the operation of the HIPDB and shall collect information required to be reported under the preceding provisions of this section in the NPDB. Except as otherwise provided in this subsection, the provisions of subsections (a) through (g) shall continue to apply with respect to the reporting of (or failure to report), access to, and other treatment of the information specified in this section.”.

(b) ELIMINATION OF THE RESPONSIBILITY OF THE HHS OFFICE OF THE INSPECTOR GENERAL.—Section 1128C(a)(1) of the Social Security Act (42 U.S.C. 1320a-7c(a)(1)) is amended—

(1) in subparagraph (C), by adding at the end “and”; and

(2) in subparagraph (D), by striking at the end “, and” and inserting a period; and

(3) by striking subparagraph (E).

(c) SPECIAL PROVISION FOR ACCESS TO THE NATIONAL PRACTITIONER DATA BANK BY THE DEPARTMENT OF VETERANS AFFAIRS.—

(1) IN GENERAL.—Notwithstanding any other provision of law, during the one year period that begins on the effective date specified in subsection (e)(1), the information described in paragraph (2) shall be available from the National Practitioner Data Bank (described in section 1921 of the Social Security Act) to the Secretary of Veterans Affairs without charge.

(2) INFORMATION DESCRIBED.—For purposes of paragraph (1), the information described in this paragraph is the information that would, but for the amendments made by this section, have been available to the Secretary of Veterans Affairs from the Healthcare Integrity and Protection Data Bank.

(d) FUNDING.—Notwithstanding any provisions of this Act, sections 1128E(d)(2) and 1817(k)(3) of the Social Security Act, or any other provision of law, there shall be available for carrying out the transition process under section 1128E(h) of the Social Security Act over the period required to complete such process, and for operation of the National Practitioner Data Bank until such process is completed, without fiscal year limitation—

(1) any fees collected pursuant to section 1128E(d)(2) of such Act; and

(2) such additional amounts as necessary, from appropriations available to the Secretary and to the Office of the Inspector General of the Department of Health and Human Services under clauses (i) and (ii), respectively, of section 1817(k)(3)(A) of such Act, for costs of such activities during the first 12 months following the date of the enactment of this Act.

(e) EFFECTIVE DATE.—The amendments made—

(1) by subsection (a)(2) shall take effect on the first day after the Secretary of Health and Human Services certifies that the process implemented pursuant to section 1128E(h) of the Social Security Act (as added by subsection (a)(3)) is complete; and

(2) by subsection (b) shall take effect on the earlier of the date specified in paragraph (1) or the first day of the second succeeding fiscal year after the fiscal year during which this Act is enacted.

**SEC. 1653. COMPLIANCE WITH HIPAA PRIVACY AND SECURITY STANDARDS.**

The provisions of sections 262(a) and 264 of the Health Insurance Portability and Accountability Act of 1996 (and standards promulgated pursuant to such sections) and the Privacy Act of 1974 shall apply with respect to the provisions of this subtitle and amendments made by this subtitle.

**SEC. 1654. DISCLOSURE OF MEDICARE FRAUD AND ABUSE HOTLINE NUMBER ON EXPLANATION OF BENEFITS.**

(a) IN GENERAL.—Section 1804 of the Social Security Act (42 U.S.C. 1395b-2) is amended by adding at the end the following new subsection:

“(d) Any statement or notice containing an explanation of the benefits available under this title, including the notice required by subsection (a), distributed for periods after July 1, 2011, shall prominently display in a manner prescribed by the Secretary a separate toll-free telephone number maintained by the Secretary for the receipt of complaints and information about waste, fraud, and abuse in the provision or billing of services under this title.”.

(b) CONFORMING AMENDMENTS.—Section 1804(c) of the Social Security Act (42 U.S.C. 1395b-2(c)) is amended—

(1) in paragraph (2), by adding “and” at the end;

(2) in paragraph (3), by striking “; and” and inserting a period; and

(3) by striking paragraph (4).

**TITLE VII—MEDICAID AND CHIP****Subtitle A—Medicaid and Health Reform****SEC. 1701. ELIGIBILITY FOR INDIVIDUALS WITH INCOME BELOW 150 PERCENT OF THE FEDERAL POVERTY LEVEL.**

(a) ELIGIBILITY FOR NON-TRADITIONAL INDIVIDUALS WITH INCOME BELOW 150 PERCENT OF THE FEDERAL POVERTY LEVEL.—

(1) FULL MEDICAID BENEFITS FOR NON-MEDICARE ELIGIBLE INDIVIDUALS.—Section 1902(a)(10)(A)(i) of the Social Security Act (42 U.S.C. 1396b(a)(10)(A)(i)) is amended—

(A) by striking “or” at the end of subclause (VI);

(B) by adding “or” at the end of subclause (VII); and

(C) by adding at the end the following new subclause:

“(VIII) who are under 65 years of age, who are not described in a previous subclause of this clause, who are not entitled to hospital insurance benefits under part A of title XVIII, and whose family income (determined using methodologies and procedures specified by the Secretary in consultation with the Health Choices Commissioner) does not exceed 150 percent of the income official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981) applicable to a family of the size involved;”.

(2) MEDICARE COST SHARING ASSISTANCE FOR MEDICARE-ELIGIBLE INDIVIDUALS.—Section 1902(a)(10)(E) of such Act (42 U.S.C. 1396b(a)(10)(E)) is amended—

(A) in clause (iii), by striking “and” at the end;

(B) in clause (iv), by adding “and” at the end; and

(C) by adding at the end the following new clause:

“(v) for making medical assistance available for medicare cost-sharing described in subparagraphs (B) and (C) of section 1905(p)(3), for individuals under 65 years of age who would be qualified medicare beneficiaries described in section 1905(p)(1) but for the fact that their income exceeds the in-

come level established by the State under section 1905(p)(2) but is less than 150 percent of the official poverty line (referred to in such section) for a family of the size involved; and”.

(3) INCREASED FMAP FOR NON-TRADITIONAL FULL MEDICAID ELIGIBLE INDIVIDUALS.—Section 1905 of such Act (42 U.S.C. 1396d) is amended—

(A) in the first sentence of subsection (b), by striking “and” before “(4)” and by inserting before the period at the end the following: “, and (5) 100 percent (for periods before 2015 and 91 percent for periods beginning with 2015) with respect to amounts described in subsection (y)”;

(B) by adding at the end the following new subsection:

“(y) ADDITIONAL EXPENDITURES SUBJECT TO INCREASED FMAP.—For purposes of section 1905(b)(5), the amounts described in this subsection are the following:

“(1) Amounts expended for medical assistance for individuals described in subclause (VIII) of section 1902(a)(10)(A)(i).”.

(4) CONSTRUCTION.—Nothing in this subsection shall be construed as not providing for coverage under subparagraph (A)(i)(VIII) or (E)(v) of section 1902(a)(10) of the Social Security Act, as added by paragraphs (1) and (2), or an increased FMAP under the amendments made by paragraph (3), for an individual who has been provided medical assistance under title XIX of the Act under a demonstration waiver approved under section 1115 of such Act or with State funds.

(5) CONFORMING AMENDMENTS.—

(A) Section 1903(f)(4) of the Social Security Act (42 U.S.C. 1396b(f)(4)) is amended—

(i) by inserting “1902(a)(10)(A)(i)(VIII),” after “1902(a)(10)(A)(i)(VII),”; and

(ii) by inserting “1902(a)(10)(E)(v),” before “1905(p)(1)”.

(B) Section 1905(a) of such Act (42 U.S.C. 1396d(a)), as amended by sections 1714(a)(4) and 1731(c), is further amended, in the matter preceding paragraph (1)—

(i) by striking “or” at the end of clause (xiv);

(ii) by adding “or” at the end of clause (xv); and

(iii) by inserting after clause (xv) the following:

“(xvi) individuals described in section 1902(a)(10)(A)(i)(VIII).”.

(b) ELIGIBILITY FOR TRADITIONAL MEDICAID ELIGIBLE INDIVIDUALS WITH INCOME NOT EXCEEDING 150 PERCENT OF THE FEDERAL POVERTY LEVEL.—

(1) IN GENERAL.—Section 1902(a)(10)(A)(i) of the Social Security Act (42 U.S.C. 1396b(a)(10)(A)(i)), as amended by subsection (a), is amended—

(A) by striking “or” at the end of subclause (VII); and

(B) by adding at the end the following new subclauses:

“(IX) who are over 18, and under 65 years of age, who would be eligible for medical assistance under the State plan under subclause (I) or section 1931 (based on the income standards, methodologies, and procedures in effect as of June 16, 2009) but for income, who are in families whose income does not exceed 150 percent of the income official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981) applicable to a family of the size involved; or

“(X) beginning with 2014, who are under 19, years of age, who would be eligible for medical assistance under the State plan under subclause (I), (IV) (insofar as it relates to

subsection (1)(1)(B)), (VI), or (VII) (based on the income standards, methodologies, and procedures in effect as of June 16, 2009) but for income, who are in families whose income does not exceed 150 percent of the income official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981) applicable to a family of the size involved; or

“(XI) beginning with 2014, who are under 19 years of age, who are not described in subclause (X), and who would be eligible for child health assistance under a State child health plan insofar as such plan provides benefits under this title (as described in section 2101(a)(2)) based on such plan as in effect as of June 16, 2009; or”.

(2) INCREASED FMAP FOR CERTAIN TRADITIONAL MEDICAID ELIGIBLE INDIVIDUALS.—

(A) INCREASED FMAP FOR ADULTS.—Section 1905(y) of such Act (42 U.S.C. 1396d(y)), as added by subsection (a)(2)(B), is amended by inserting “or (IX)” after “(VIII)”.

(B) ENHANCED FMAP FOR CHILDREN.—Section 1905(b)(4) of such Act is amended by inserting “1902(a)(10)(A)(i)(X), 1902(a)(10)(A)(i)(XI), or” after “on the basis of section”.

(3) CONSTRUCTION.—Nothing in this subsection shall be construed as not providing for coverage under subclause (IX), (X), or (XI) of section 1902(a)(10)(A)(i) of the Social Security Act, as added by paragraph (1), or an increased or enhanced FMAP under the amendments made by paragraph (2), for an individual who has been provided medical assistance under title XIX of the Act under a demonstration waiver approved under section 1115 of such Act or with State funds.

(4) CONFORMING AMENDMENT.—Section 1903(f)(4) of the Social Security Act (42 U.S.C. 1396b(f)(4)), as amended by subsection (a)(4), is amended by inserting “1902(a)(10)(A)(i)(IX), 1902(a)(10)(A)(i)(X), 1902(a)(10)(A)(i)(XI),” after “1902(a)(10)(A)(i)(VIII).”.

(c) INCREASED MATCHING RATE FOR TEMPORARY COVERAGE OF CERTAIN NEWBORNS.—Section 1905(y) of such Act, as added by subsection (a)(3)(B), is amended by adding at the end the following:

“(2) Amounts expended for medical assistance for children described in section 305(d)(1) of the Affordable Health Care for America Act during the time period specified in such section.”.

(d) NETWORK ADEQUACY.—Section 1932(a)(2) of the Social Security Act (42 U.S.C. 1396u-2(a)(2)) is amended by adding at the end the following new subparagraph:

“(D) ENROLLMENT OF NON-TRADITIONAL MEDICAID ELIGIBLES.—A State may not require under paragraph (1) the enrollment in a managed care entity of an individual described in section 1902(a)(10)(A)(i)(VIII) unless the State demonstrates, to the satisfaction of the Secretary, that the entity, through its provider network and other arrangements, has the capacity to meet the health, mental health, and substance abuse needs of such individuals.”.

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect on the first day of Y1, and shall apply with respect to items and services furnished on or after such date.

**SEC. 1702. REQUIREMENTS AND SPECIAL RULES FOR CERTAIN MEDICAID ELIGIBLE INDIVIDUALS.**

(a) IN GENERAL.—Title XIX of the Social Security Act is amended by adding at the end the following new section:

“REQUIREMENTS AND SPECIAL RULES FOR CERTAIN MEDICAID ELIGIBLE INDIVIDUALS

“SEC. 1943. (a) COORDINATION WITH NHI EXCHANGE THROUGH MEMORANDUM OF UNDERSTANDING.—

“(1) IN GENERAL.—The State shall enter into a Medicaid memorandum of understanding described in section 305(e)(2) of the Affordable Health Care for America Act with the Health Choices Commissioner, acting in consultation with the Secretary, with respect to coordinating the implementation of the provisions of division A of such Act with the State plan under this title in order to ensure the enrollment of Medicaid eligible individuals in acceptable coverage. Nothing in this section shall be construed as permitting such memorandum to modify or vitiate any requirement of a State plan under this title.

“(2) ENROLLMENT OF EXCHANGE-REFERRED INDIVIDUALS.—

“(A) NON-TRADITIONAL INDIVIDUALS.—Pursuant to such memorandum the State shall accept without further determination the enrollment under this title of an individual determined by the Commissioner to be a non-traditional Medicaid eligible individual. The State shall not do any redeterminations of eligibility for such individuals unless the periodicity of such redeterminations is consistent with the periodicity for redeterminations by the Commissioner of eligibility for affordability credits under subtitle C of title II of division A of the Affordable Health Care for America Act, as specified under such memorandum.

“(B) TRADITIONAL INDIVIDUALS.—Pursuant to such memorandum, the State shall accept without further determination the enrollment under this title of an individual determined by the Commissioner to be a traditional Medicaid eligible individual. The State may do redeterminations of eligibility of such individual consistent with such section and the memorandum.

“(3) DETERMINATIONS OF ELIGIBILITY FOR AFFORDABILITY CREDITS.—If the Commissioner determines that a State Medicaid agency has the capacity to make determinations of eligibility for affordability credits under subtitle C of title II of division A of the Affordable Health Care for America Act, under such memorandum—

“(A) the State Medicaid agency shall conduct such determinations for any Exchange-eligible individual who requests such a determination;

“(B) in the case that a State Medicaid agency determines that an Exchange-eligible individual is not eligible for affordability credits, the agency shall forward the information on the basis of which such determination was made to the Commissioner; and

“(C) the Commissioner shall reimburse the State Medicaid agency for the costs of conducting such determinations.

“(4) REFERRALS UNDER MEMORANDUM.—Pursuant to such memorandum, if an individual applies to the State for assistance in obtaining health coverage and the State determines that the individual is not eligible for medical assistance under this title and is not authorized under such memorandum to make an determination with respect to eligibility for coverage and affordability credits through the Health Insurance Exchange, the State shall refer the individual to the Commissioner for a determination of such eligibility and, with the individual's authorization, provide to the Commissioner information obtained by the State as part of the application process.

“(5) ADDITIONAL TERMS.—Such memorandum shall include such additional provisions as are necessary to implement efficiently the provisions of this section and title II of division A of the Affordable Health Care for America Act.

“(b) TREATMENT OF CERTAIN NEWBORNS.—

“(1) IN GENERAL.—In the case of a child who is deemed under section 305(d) of the Affordable Health Care for America Act to be a Medicaid eligible individual and enrolled under this title pursuant to such section, the State shall provide for a determination, by not later than the end of the period referred to in paragraph (2) of such section, of the child's eligibility for medical assistance under this title.

“(2) EXTENDED TREATMENT AS TRADITIONAL MEDICAID ELIGIBLE INDIVIDUAL.—In accordance with paragraph (2) of section 305(d) of the Affordable Health Care for America Act, in the case of a child described in paragraph (1) of such section who at the end of the period referred to in such paragraph is not otherwise covered under acceptable coverage, the child shall be deemed (until such time as the child obtains such coverage or the State otherwise makes a determination of the child's eligibility for medical assistance under its plan under this title pursuant to paragraph (1)) to be a Medicaid eligible individual described in section 1902(l)(1)(B).

“(c) DEFINITIONS.—In this section:

“(1) MEDICAID ELIGIBLE INDIVIDUAL.—The term ‘Medicaid eligible individual’ means an individual who is eligible for medical assistance under Medicaid.

“(2) TRADITIONAL MEDICAID ELIGIBLE INDIVIDUAL.—The term ‘traditional Medicaid eligible individual’ means a Medicaid eligible individual other than an individual who is—

“(A) a Medicaid eligible individual by reason of the application of subclause (VIII) of section 1902(a)(10)(A)(i) of the Social Security Act; or

“(B) a childless adult not described in section 1902(a)(10)(A) or (C) of such Act (as in effect as of the day before the date of the enactment of this Act).

“(3) NON-TRADITIONAL MEDICAID ELIGIBLE INDIVIDUAL.—The term ‘non-traditional Medicaid eligible individual’ means a Medicaid eligible individual who is not a traditional Medicaid eligible individual.

“(4) MEMORANDUM.—The term ‘memorandum’ means a Medicaid memorandum of understanding under section 305(e)(2) of the Affordable Health Care for America Act.

“(5) Y1.—The term ‘Y1’ has the meaning given such term in section 100(c) of the Affordable Health Care for America Act.”

(b) CONFORMING AMENDMENTS TO ERROR RATE.—

(1) Section 1903(u)(1)(D) of the Social Security Act (42 U.S.C. 1396b(u)(1)(D)) is amended by adding at the end the following new clause:

“(vi) In determining the amount of erroneous excess payments, there shall not be included any erroneous payments made that are attributable to an error in an eligibility determination under subtitle C of title II of division A of the Affordable Health Care for America Act.”

(2) Section 2105(c)(11) of such Act (42 U.S.C. 1397ee(c)(11)) is amended by adding at the end the following new sentence: “Clause (vi) of section 1903(u)(1)(D) shall apply with respect to the application of such requirements under this title and title XIX.”

**SEC. 1703. CHIP AND MEDICAID MAINTENANCE OF ELIGIBILITY.**

(a) CHIP MAINTENANCE OF ELIGIBILITY.—Section 1902 of the Social Security Act (42 U.S.C. 1396a) is amended—

(1) in subsection (a), as amended by section 1631(b)(1)(D)—

(A) by striking “and” at the end of paragraph (73);

(B) by striking the period at the end of paragraph (74) and inserting “; and”; and

(C) by inserting after paragraph (74) the following new paragraph:

“(75) provide for maintenance of effort under the State child health plan under title XXI in accordance with subsection (gg).”; and

(2) by adding at the end the following new subsection:

“(gg) CHIP MAINTENANCE OF ELIGIBILITY REQUIREMENT.—

“(1) IN GENERAL.—Subject to paragraph (2), as a condition of its State plan under this title under subsection (a)(75) and receipt of any Federal financial assistance under section 1903(a) for calendar quarters beginning after the date of the enactment of this subsection and before CHIP MOE termination date specified in paragraph (3), a State shall not have in effect eligibility standards, methodologies, or procedures under its State child health plan under title XXI (including any waiver under such title or demonstration project under section 1115) that are more restrictive than the eligibility standards, methodologies, or procedures, respectively, under such plan (or waiver) as in effect on June 16, 2009.

“(2) LIMITATION.—Paragraph (1) shall not be construed as preventing a State from imposing a limitation described in section 2110(b)(5)(C)(i)(II) for a fiscal year in order to limit expenditures under its State child health plan under title XXI to those for which Federal financial participation is available under section 2105 for the fiscal year.

“(3) CHIP MOE TERMINATION DATE.—In paragraph (1), the ‘CHIP MOE termination date’ for a State is the date that is the last day of Y1 (as defined in section 100(c) of the Affordable Health Care for America Act).

“(4) CHIP TRANSITION REPORT.—Not later than December 31, 2011, the Secretary shall submit to Congress a report—

“(A) that compares the benefits packages offered under an average State child health plan under title XXI in 2011 and to the benefit standards initially adopted under section 224(b) of the Affordable Health Care for America Act and for affordability credits under subtitle C of title II of division C of such Act; and

“(B) that includes such recommendations as may be necessary to ensure that—

“(i) such coverage is at least comparable to the coverage provided to children under such an average State child health plan; and

“(ii) there are procedures in effect for the enrollment of CHIP enrollees (including CHIP-eligible pregnant women) at the end of Y1 under this title, into a qualified health benefits plan offered through the Health Insurance Exchange, or into other acceptable coverage (as defined for purposes of such Act) without interruption of coverage or a written plan of treatment.”

(b) MEDICAID MAINTENANCE OF EFFORT; SIMPLIFYING AND COORDINATING ELIGIBILITY RULES BETWEEN EXCHANGE AND MEDICAID.—

(1) IN GENERAL.—Section 1903 of such Act (42 U.S.C. 1396b) is amended by adding at the end the following new subsection:

“(aa) MAINTENANCE OF MEDICAID EFFORT; SIMPLIFYING AND COORDINATING ELIGIBILITY RULES BETWEEN HEALTH INSURANCE EXCHANGE AND MEDICAID.—

“(1) MAINTENANCE OF EFFORT.—

“(A) IN GENERAL.—Subject to subparagraph (B), a State is not eligible for payment under

subsection (a) for a calendar quarter beginning after the date of the enactment of this subsection if eligibility standards, methodologies, or procedures under its plan under this title (including any waiver under this title or demonstration project under section 1115) that are more restrictive than the eligibility standards, methodologies, or procedures, respectively, under such plan (or waiver) as in effect on June 16, 2009. The Secretary shall extend such a waiver (including the availability of Federal financial participation under such waiver) for such period as may be required for a State to meet the requirement of the previous sentence.

“(B) EXCEPTION FOR CERTAIN DEMONSTRATION PROJECTS.—In the case of a State demonstration project under section 1115 in effect on June 16, 2009, that permits individuals to be eligible solely to receive a premium or cost-sharing subsidy for individual or group health insurance coverage, effective for coverage provided in Y1—

“(i) the Secretary shall permit the State to amend such waiver to apply more restrictive eligibility standards, methodologies, or procedures with respect to such individuals under such waiver; and

“(ii) the application of such more restrictive standards, methodologies, or procedures under such an amendment shall not be considered in violation of the requirement of subparagraph (A).

“(2) REMOVAL OF ASSET TEST FOR CERTAIN ELIGIBILITY CATEGORIES.—

“(A) IN GENERAL.—A State is not eligible for payment under subsection (a) for a calendar quarter beginning on or after the first day of Y1 (as defined in section 100(c) of the Affordable Health Care for America Act), if the State applies any asset or resource test in determining (or redetermining) eligibility of any individual on or after such first day under any of the following:

“(i) Subclause (I), (III), (IV), (VI), (VIII), (IX), (X), or (XI) of section 1902(a)(10)(A)(i).

“(ii) Subclause (II), (IX), (XIV) or (XVII) of section 1902(a)(10)(A)(ii).

“(iii) Section 1931(b).

“(B) OVERRIDING CONTRARY PROVISIONS; REFERENCES.—The provisions of this title that prevent the waiver of an asset or resource test described in subparagraph (A) are hereby waived.

“(C) REFERENCES.—Any reference to a provision described in a provision in subparagraph (A) shall be deemed to be a reference to such provision as modified through the application of subparagraphs (A) and (B).”

(2) CONFORMING AMENDMENTS.—(A) Section 1902(a)(10)(A) of such Act (42 U.S.C. 1396a(a)(10)(A)) is amended, in the matter before clause (i), by inserting “subject to section 1903(aa)(2),” after “(A)”.

(B) Section 1931(b)(1) of such Act (42 U.S.C. 1396u-1(b)(1)) is amended by inserting “and section 1903(aa)(2)” after “and (3)”.

(C) STANDARDS FOR BENCHMARK PACKAGES.—Section 1937(b) of such Act (42 U.S.C. 1396u-7(b)) is amended—

(1) in each of paragraphs (1) and (2), by inserting “subject to paragraph (5),” after “subsection (a)(1),”; and

(2) by adding at the end the following new paragraph:

“(5) MINIMUM STANDARDS.—Effective January 1, 2013, any benchmark benefit package (or benchmark equivalent coverage under paragraph (2)) must meet the minimum benefits and cost-sharing standards of a basic plan offered through the Health Insurance Exchange.”

(d) REPEAL OF CHIP.—Section 2104(a) of the Social Security Act is amended by inserting at the end the following:

“No funds shall be appropriated or authorized to be appropriated under this section for fiscal year 2014 and subsequent years.”.

#### SEC. 1704. REDUCTION IN MEDICAID DSH.

(A) REPORT.—

(1) IN GENERAL.—Not later than January 1, 2016, the Secretary of Health and Human Services (in this title referred to as the “Secretary”) shall submit to Congress a report concerning the extent to which, based upon the impact of the health care reforms carried out under division A in reducing the number of uninsured individuals, there is a continued role for Medicaid DSH. In preparing the report, the Secretary shall consult with community-based health care networks serving low-income beneficiaries.

(2) MATTERS TO BE INCLUDED.—The report shall include the following:

(A) RECOMMENDATIONS.—Recommendations regarding—

(i) the appropriate targeting of Medicaid DSH within States; and

(ii) the distribution of Medicaid DSH among the States, taking into account the ratio of the amount of DSH funds allocated to a State to the number of uninsured individuals in such State.

(B) SPECIFICATION OF DSH HEALTH REFORM METHODOLOGY.—The DSH Health Reform methodology described in paragraph (2) of subsection (b) for purposes of implementing the requirements of such subsection.

(3) COORDINATION WITH MEDICARE DSH REPORT.—The Secretary shall coordinate the report under this subsection with the report on Medicare DSH under section 1112.

(4) MEDICAID DSH.—In this section, the term “Medicaid DSH” means adjustments in payments under section 1923 of the Social Security Act for inpatient hospital services furnished by disproportionate share hospitals.

(b) MEDICAID DSH REDUCTIONS.—

(1) REDUCTIONS.—

(A) IN GENERAL.—For each of fiscal years 2017 through 2019 the Secretary shall effect the following reductions:

(i) REDUCTION DSH ALLOTMENTS.—The Secretary shall reduce DSH allotments to States in the amount specified under the DSH health reform methodology under paragraph (2) for the State for the fiscal year.

(ii) REDUCTIONS IN PAYMENTS.—The Secretary shall reduce payments to States under section 1903(a) of the Social Security Act (42 U.S.C. 1396b(a)) for each calendar quarter in the fiscal year, in the manner specified in subparagraph (C), in an amount equal to ¼ of the DSH allotment reduction under clause (i) for the State for the fiscal year.

(B) AGGREGATE REDUCTIONS.—The aggregate reductions in DSH allotments for all States under subparagraph (A)(i) shall be equal to—

(i) \$1,500,000,000 for fiscal year 2017;

(ii) \$2,500,000,000 for fiscal year 2018; and

(iii) \$6,000,000,000 for fiscal year 2019.

The Secretary shall distribute such aggregate reduction among States in accordance with paragraph (2).

(C) MANNER OF PAYMENT REDUCTION.—The amount of the payment reduction under subparagraph (A)(ii) for a State for a quarter shall be deemed an overpayment to the State under title XIX of the Social Security Act to be disallowed against the State’s regular quarterly draw for all Medicaid spending under section 1903(d)(2) of such Act (42 U.S.C. 1396b(d)(2)). Such a disallowance is not subject to a reconsideration under 1116(d) of such Act (42 U.S.C. 1316(d)).

(D) DEFINITIONS.—In this section:

(i) STATE.—The term “State” means the 50 States and the District of Columbia.

(ii) DSH ALLOTMENT.—The term “DSH allotment” means, with respect to a State for a fiscal year, the allotment made under section 1923(f) of the Social Security Act (42 U.S.C. 1396r-4(f)) to the State for the fiscal year.

(2) DSH HEALTH REFORM METHODOLOGY.—The Secretary shall carry out paragraph (1) through use of a DSH Health Reform methodology issued by the Secretary that imposes the largest percentage reductions on the States that—

(A) have the lowest percentages of uninsured individuals (determined on the basis of audited hospital cost reports) during the most recent year for which such data are available; or

(B) do not target their DSH payments on—

(i) hospitals with high volumes of Medicaid inpatients (as defined in section 1923(b)(1)(A) of the Social Security Act (42 U.S.C. 1396r-4(b)(1)(A)); and

(ii) hospitals that have high levels of uncompensated care (excluding bad debt).

(3) DSH ALLOTMENT PUBLICATIONS.—

(A) IN GENERAL.—Not later than the publication deadline specified in subparagraph (B), the Secretary shall publish in the Federal Register a notice specifying the DSH allotment to each State under 1923(f) of the Social Security Act for the respective fiscal year specified in such subparagraph, consistent with the application of the DSH Health Reform methodology described in paragraph (2).

(B) PUBLICATION DEADLINE.—The publication deadline specified in this subparagraph is—

(i) January 1, 2016, with respect to DSH allotments described in subparagraph (A) for fiscal year 2017;

(ii) January 1, 2017, with respect to DSH allotments described in subparagraph (A) for fiscal year 2018; and

(iii) January 1, 2018, with respect to DSH allotments described in subparagraph (A) for fiscal year 2019.

(c) CONFORMING AMENDMENTS.—

(1) Section 1923(f) of the Social Security Act (42 U.S.C. 1396r-4(f)) is amended—

(A) by redesignating paragraph (7) as paragraph (8); and

(B) by inserting after paragraph (6) the following new paragraph:

“(7) SPECIAL RULE FOR FISCAL YEARS 2017, 2018, AND 2019.—For each of fiscal years 2017, 2018, and 2019, the DSH allotments under this subsection are subject to reduction under section 1704(b) of the Affordable Health Care for America Act.”.

(2) The second sentence of section 1923(b)(4) of such Act (42 U.S.C. 1396r-4(b)(4)) is amended by inserting before the period the following: “or to affect the authority of the Secretary to issue and implement the DSH Health Reform methodology under section 1704(b)(2) of the Affordable Health Care for America Act”.

(d) DISPROPORTIONATE SHARE HOSPITALS (DSH) AND ESSENTIAL ACCESS HOSPITAL (EAH) NON-DISCRIMINATION.—

(1) IN GENERAL.—Section 1923(d) of the Social Security Act (42 U.S.C. 1396r-4) is amended by adding at the end the following new paragraph:

“(4) No hospital may be defined or deemed as a disproportionate share hospital, or as an essential access hospital (for purposes of subsection (f)(6)(A)(iv)), under a State plan under this title or subsection (b) of this section (including any demonstration project under section 1115) unless the hospital—

“(A) provides services to beneficiaries under this title without discrimination on the ground of race, color, national origin, creed, source of payment, status as a beneficiary under this title, or any other ground unrelated to such beneficiary’s need for the services or the availability of the needed services in the hospital; and

“(B) makes arrangements for, and accepts, reimbursement under this title for services provided to eligible beneficiaries under this title.”.

(2) **EFFECTIVE DATE.**—The amendment made by paragraph (1) shall apply to expenditures made on or after July 1, 2010.

#### **SEC. 1705. EXPANDED OUTSTATIONING.**

(a) **IN GENERAL.**—Section 1902(a)(55) of the Social Security Act (42 U.S.C. 1396a(a)(55)) is amended by striking “under subsection (a)(10)(A)(i)(IV), (a)(10)(A)(i)(VI), (a)(10)(A)(i)(VII), or (a)(10)(A)(i)(IX)” and inserting “(including receipt and processing of applications of individuals for affordability credits under subtitle C of title II of division A of the Affordable Health Care for America Act pursuant to a Medicaid memorandum of understanding under section 1943(a)(1)).”.

(b) **EFFECTIVE DATE.**—Except as provided in section 1790, the amendment made by subsection (a) shall apply to services furnished on or after July 1, 2010, without regard to whether or not final regulations to carry out such amendment have been promulgated by such date.

#### **Subtitle B—Prevention**

#### **SEC. 1711. REQUIRED COVERAGE OF PREVENTIVE SERVICES.**

(a) **COVERAGE.**—Section 1905 of the Social Security Act (42 U.S.C. 1396d), as amended by section 1701(a)(3)(B), is amended—

(1) in subsection (a)(4)—

(A) by striking “and” before “(C)”;

(B) by inserting before the semicolon at the end the following: “; and (D) preventive services described in subsection (z)”;

(2) by adding at the end the following new subsection:

“(z) **PREVENTIVE SERVICES.**—The preventive services described in this subsection are services not otherwise described in subsection (a) or (r) that the Secretary determines are—

“(1)(A) recommended with a grade of A or B by the Task Force for Clinical Preventive Services; or

“(B) vaccines recommended for use as appropriate by the Director of the Centers for Disease Control and Prevention; and

“(2) appropriate for individuals entitled to medical assistance under this title.”.

(b) **ELIMINATION OF COST-SHARING.**—

(1) Subsections (a)(2)(D) and (b)(2)(D) of section 1916 of such Act (42 U.S.C. 1396o) are each amended by inserting “preventive services described in section 1905(z),” after “emergency services (as defined by the Secretary).”.

(2) Section 1916A(a)(1) of such Act (42 U.S.C. 1396o-1 (a)(1)) is amended by inserting “, preventive services described in section 1905(z),” after “subsection (c)”.

(c) **CONFORMING AMENDMENT.**—Section 1928 of such Act (42 U.S.C. 1396s) is amended—

(1) in subsection (c)(2)(B)(i), by striking “the advisory committee referred to in subsection (e)” and inserting “the Director of the Centers for Disease Control and Prevention”;

(2) in subsection (e), by striking “Advisory Committee” and all that follows and inserting “Director of the Centers for Disease Control and Prevention.”; and

(3) by striking subsection (g).

(d) **EFFECTIVE DATE.**—Except as provided in section 1790, the amendments made by this

section shall apply to services furnished on or after July 1, 2010, without regard to whether or not final regulations to carry out such amendments have been promulgated by such date.

#### **SEC. 1712. TOBACCO CESSATION.**

(a) **DROPPING TOBACCO CESSATION EXCLUSION FROM COVERED OUTPATIENT DRUGS.**—Section 1927(d)(2) of the Social Security Act (42 U.S.C. 1396r-8(d)(2)) is amended—

(1) by striking subparagraph (E);

(2) in subparagraph (G), by inserting before the period at the end the following: “, except agents approved by the Food and Drug Administration for purposes of promoting, and when used to promote, tobacco cessation”; and

(3) by redesignating subparagraphs (F) through (K) as subparagraphs (E) through (J), respectively.

(b) **EFFECTIVE DATE.**—The amendments made by this section shall apply to drugs and services furnished on or after January 1, 2010.

#### **SEC. 1713. OPTIONAL COVERAGE OF NURSE HOME VISITATION SERVICES.**

(a) **IN GENERAL.**—Section 1905 of the Social Security Act (42 U.S.C. 1396d), as amended by sections 1701(a)(3)(B) and 1711(a), is amended—

(1) in subsection (a)—

(A) in paragraph (27), by striking “and” at the end;

(B) by redesignating paragraph (28) as paragraph (29); and

(C) by inserting after paragraph (27) the following new paragraph:

“(28) nurse home visitation services (as defined in subsection (aa)); and”;

(2) by adding at the end the following new subsection:

“(aa) The term ‘nurse home visitation services’ means home visits by trained nurses to families with a first-time pregnant woman, or a child (under 2 years of age), who is eligible for medical assistance under this title, but only, to the extent determined by the Secretary based upon evidence, that such services are effective in one or more of the following:

“(1) Improving maternal or child health and pregnancy outcomes or increasing birth intervals between pregnancies.

“(2) Reducing the incidence of child abuse, neglect, and injury, improving family stability (including reduction in the incidence of intimate partner violence), or reducing maternal and child involvement in the criminal justice system.

“(3) Increasing economic self-sufficiency, employment advancement, school-readiness, and educational achievement, or reducing dependence on public assistance.”.

(b) **EFFECTIVE DATE.**—The amendments made by this section shall apply to services furnished on or after January 1, 2010.

(c) **CONSTRUCTION.**—Nothing in the amendments made by this section shall be construed as affecting the ability of a State under title XIX or XXI of the Social Security Act to provide nurse home visitation services as part of another class of items and services falling within the definition of medical assistance or child health assistance under the respective title, or as an administrative expenditure for which payment is made under section 1903(a) or 2105(a) of such Act, respectively, on or after the date of the enactment of this Act.

#### **SEC. 1714. STATE ELIGIBILITY OPTION FOR FAMILY PLANNING SERVICES.**

(a) **COVERAGE AS OPTIONAL CATEGORICALLY NEEDY GROUP.**—

(1) **IN GENERAL.**—Section 1902(a)(10)(A)(ii) of the Social Security Act (42 U.S.C. 1396a(a)(10)(A)(ii)) is amended—

(A) in subclause (XVIII), by striking “or” at the end;

(B) in subclause (XIX), by adding “or” at the end; and

(C) by adding at the end the following new subclause:

“(XX) who are described in subsection (hh) (relating to individuals who meet certain income standards);”.

(2) **GROUP DESCRIBED.**—Section 1902 of such Act (42 U.S.C. 1396a), as amended by section 1703, is amended by adding at the end the following new subsection:

“(hh)(1) Individuals described in this subsection are individuals—

“(A) whose income does not exceed an income eligibility level established by the State that does not exceed the highest income eligibility level established under the State plan under this title (or under its State child health plan under title XXI) for pregnant women; and

“(B) who are not pregnant.

“(2) At the option of a State, individuals described in this subsection may include individuals who, had individuals applied on or before January 1, 2007, would have been made eligible pursuant to the standards and processes imposed by that State for benefits described in clause (XV) of the matter following subparagraph (G) of subsection (a)(10) pursuant to a demonstration project waiver granted under section 1115.

“(3) At the option of a State, for purposes of subsection (a)(17)(B), in determining eligibility for services under this subsection, the State may consider only the income of the applicant or recipient.”.

(3) **LIMITATION ON BENEFITS.**—Section 1902(a)(10) of such Act (42 U.S.C. 1396a(a)(10)) is amended in the matter following subparagraph (G)—

(A) by striking “and (XIV)” and inserting “(XIV)”;

(B) by inserting “, and (XV) the medical assistance made available to an individual described in subsection (hh) shall be limited to family planning services and supplies described in section 1905(a)(4)(C) including medical diagnosis and treatment services that are provided pursuant to a family planning service in a family planning setting” after “cervical cancer”.

(4) **CONFORMING AMENDMENTS.**—Section 1905(a) of such Act (42 U.S.C. 1396d(a)), as amended by section 1731(c), is amended in the matter preceding paragraph (1)—

(A) in clause (xiii), by striking “or” at the end;

(B) in clause (xiv), by adding “or” at the end; and

(C) by inserting after clause (xiv) the following:

“(xv) individuals described in section 1902(hh).”.

(b) **PRESUMPTIVE ELIGIBILITY.**—

(1) **IN GENERAL.**—Title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) is amended by inserting after section 1920B the following:

#### **“PRESUMPTIVE ELIGIBILITY FOR FAMILY PLANNING SERVICES**

“SEC. 1920C. (a) **STATE OPTION.**—State plan approved under section 1902 may provide for making medical assistance available to an individual described in section 1902(hh) (relating to individuals who meet certain income eligibility standard) during a presumptive eligibility period. In the case of an individual described in section 1902(hh), such medical assistance shall be limited to family planning services and supplies described in 1905(a)(4)(C) and, at the State’s option, medical diagnosis and treatment services that

are provided in conjunction with a family planning service in a family planning setting.

“(b) DEFINITIONS.—For purposes of this section:

“(1) PRESUMPTIVE ELIGIBILITY PERIOD.—The term ‘presumptive eligibility period’ means, with respect to an individual described in subsection (a), the period that—

“(A) begins with the date on which a qualified entity determines, on the basis of preliminary information, that the individual is described in section 1902(hh); and

“(B) ends with (and includes) the earlier of—

“(i) the day on which a determination is made with respect to the eligibility of such individual for services under the State plan; or

“(ii) in the case of such an individual who does not file an application by the last day of the month following the month during which the entity makes the determination referred to in subparagraph (A), such last day.

“(2) QUALIFIED ENTITY.—

“(A) IN GENERAL.—Subject to subparagraph (B), the term ‘qualified entity’ means any entity that—

“(i) is eligible for payments under a State plan approved under this title; and

“(ii) is determined by the State agency to be capable of making determinations of the type described in paragraph (1)(A).

“(B) RULE OF CONSTRUCTION.—Nothing in this paragraph shall be construed as preventing a State from limiting the classes of entities that may become qualified entities in order to prevent fraud and abuse.

“(c) ADMINISTRATION.—

“(1) IN GENERAL.—The State agency shall provide qualified entities with—

“(A) such forms as are necessary for an application to be made by an individual described in subsection (a) for medical assistance under the State plan; and

“(B) information on how to assist such individuals in completing and filing such forms.

“(2) NOTIFICATION REQUIREMENTS.—A qualified entity that determines under subsection (b)(1)(A) that an individual described in subsection (a) is presumptively eligible for medical assistance under a State plan shall—

“(A) notify the State agency of the determination within 5 working days after the date on which determination is made; and

“(B) inform such individual at the time the determination is made that an application for medical assistance is required to be made by not later than the last day of the month following the month during which the determination is made.

“(3) APPLICATION FOR MEDICAL ASSISTANCE.—In the case of an individual described in subsection (a) who is determined by a qualified entity to be presumptively eligible for medical assistance under a State plan, the individual shall apply for medical assistance by not later than the last day of the month following the month during which the determination is made.

“(d) PAYMENT.—Notwithstanding any other provision of law, medical assistance that—

“(1) is furnished to an individual described in subsection (a)—

“(A) during a presumptive eligibility period;

“(B) by a entity that is eligible for payments under the State plan; and

“(2) is included in the care and services covered by the State plan,

shall be treated as medical assistance provided by such plan for purposes of clause (4) of the first sentence of section 1905(b).”

(2) CONFORMING AMENDMENTS.—

(A) Section 1902(a)(47) of the Social Security Act (42 U.S.C. 1396a(a)(47)) is amended by inserting before the semicolon at the end the following: “and provide for making medical assistance available to individuals described in subsection (a) of section 1920C during a presumptive eligibility period in accordance with such section”.

(B) Section 1903(u)(1)(D)(v) of such Act (42 U.S.C. 1396b(u)(1)(D)(v)) is amended—

(i) by striking “or for” and inserting “for”; and

(ii) by inserting before the period the following: “, or for medical assistance provided to an individual described in subsection (a) of section 1920C during a presumptive eligibility period under such section”.

(c) CLARIFICATION OF COVERAGE OF FAMILY PLANNING SERVICES AND SUPPLIES.—Section 1937(b) of the Social Security Act (42 U.S.C. 1396u-7(b)), as amended by section 1703(c)(2), is amended by adding at the end the following:

“(6) COVERAGE OF FAMILY PLANNING SERVICES AND SUPPLIES.—Notwithstanding the previous provisions of this section, a State may not provide for medical assistance through enrollment of an individual with benchmark coverage or benchmark-equivalent coverage under this section unless such coverage includes for any individual described in section 1905(a)(4)(C), medical assistance for family planning services and supplies in accordance with such section.”

(d) EFFECTIVE DATE.—The amendments made by this section take effect on the date of the enactment of this Act and shall apply to items and services furnished on or after such date.

#### Subtitle C—Access

### SEC. 1721. PAYMENTS TO PRIMARY CARE PRACTITIONERS.

(a) IN GENERAL.—

(1) FEE-FOR-SERVICE PAYMENTS.—Section 1902 of the Social Security Act (42 U.S.C. 1396b) as amended by sections 1703(a), 1714(a), 1731(a), and 1746, is amended—

(A) in subsection (a)(13)—

(i) by striking “and” at the end of subparagraph (A);

(ii) by adding “and” at the end of subparagraph (B); and

(iii) by adding at the end the following new subparagraph:

“(C) payment for primary care services (as defined in subsection (kk)(1)) furnished by physicians (or for services furnished by other health care professionals that would be primary care services under such section if furnished by a physician) at a rate not less than 80 percent of the payment rate that would be applicable if the adjustment described in subsection (kk)(2) were to apply to such services and physicians or professionals (as the case may be) under part B of title XVIII for services furnished in 2010, 90 percent of such adjusted payment rate for services and physicians (or professionals) furnished in 2011, or 100 percent of such adjusted payment rate for services and physicians (or professionals) furnished in 2012 and each subsequent year;”;

(B) by adding at the end the following new subsection:

“(kk) INCREASED PAYMENT FOR PRIMARY CARE SERVICES.—For purposes of subsection (a)(13)(C):

“(1) PRIMARY CARE SERVICES DEFINED.—The term ‘primary care services’ means evaluation and management services, without regard to the specialty of the physician furnishing the services, that are procedure codes (for services covered under title XVIII)

for services in the category designated Evaluation and Management in the Health Care Common Procedure Coding System (established by the Secretary under section 1848(c)(5) as of December 31, 2009, and as subsequently modified by the Secretary).

“(2) ADJUSTMENT.—The adjustment described in this paragraph is the substitution of 1.25 percent for the update otherwise provided under section 1848(d)(4) for each year beginning with 2010.”

(2) UNDER MEDICAID MANAGED CARE PLANS.—Section 1932(f) of such Act (42 U.S.C. 1396u-2(f)) is amended—

(A) in the heading, by adding at the end the following: “; ADEQUACY OF PAYMENT FOR PRIMARY CARE SERVICES”; and

(B) by inserting before the period at the end the following: “and, in the case of primary care services described in section 1902(a)(13)(C), consistent with the minimum payment rates specified in such section (regardless of the manner in which such payments are made, including in the form of capitation or partial capitation)”.

(b) INCREASE IN PAYMENT USING INCREASED FMAP.—Section 1905(y) of the Social Security Act, as added by section 1701(a)(3)(B) and as amended by section 1701(c)(2), is amended by adding at the end the following:

“(3)(A) The portion of the amounts expended for medical assistance for services described in section 1902(a)(13)(C) furnished on or after January 1, 2010, that is attributable to the amount by which the minimum payment rate required under such section (or, by application, section 1932(f)) exceeds the payment rate applicable to such services under the State plan as of June 16, 2009.

“(B) Subparagraph (A) shall not be construed as preventing the payment of Federal financial participation based on the Federal medical assistance percentage for amounts in excess of those specified under such subparagraph.”

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to services furnished on or after January 1, 2010.

### SEC. 1722. MEDICAL HOME PILOT PROGRAM.

(a) IN GENERAL.—The Secretary of Health and Human Services shall establish under this section a medical home pilot program under which a State may apply to the Secretary for approval of a medical home pilot project described in subsection (b) (in this section referred to as a “pilot project”) for the application of the medical home concept under title XIX of the Social Security Act. The pilot program shall operate for a period of up to 5 years.

(b) PILOT PROJECT DESCRIBED.—

(1) IN GENERAL.—A pilot project is a project that applies one or more of the medical home models described in section 1866F(a)(3) of the Social Security Act (as inserted by section 1302(a)) or such other model as the Secretary may approve, to individuals (including medically fragile children and high-risk pregnant women) who are eligible for medical assistance under title XIX of the Social Security Act. The Secretary shall provide for appropriate coordination of the pilot program under this section with the medical home pilot program under section 1866F of such Act.

(2) LIMITATION.—A pilot project shall be for a duration of not more than 5 years.

(3) CONSIDERATION FOR CERTAIN TECHNOLOGIES.—In considering applications for pilots projects under this section, the Secretary may approve a project which tests the effectiveness of applications and devices, such as wireless patient management technologies, that are approved by the Food and



Drug Administration and enable providers and practitioners to communicate directly with their patients in managing chronic illness.

(c) **ADDITIONAL INCENTIVES.**—In the case of a pilot project, the Secretary may—

(1) waive the requirements of section 1902(a)(1) of the Social Security Act (relating to statewideness) and section 1902(a)(10)(B) of such Act (relating to comparability); and

(2) increase to up to 90 percent (for the first 2 years of the pilot program) or 75 percent (for the next 3 years) the matching percentage for administrative expenditures (such as those for community care workers).

(d) **MEDICALLY FRAGILE CHILDREN.**—In the case of a model involving medically fragile children, the model shall ensure that the patient-centered medical home services received by each child, in addition to fulfilling the requirements under 1866F(b)(1) of the Social Security Act, provide for continuous involvement and education of the parent or caregiver and for assistance to the child in obtaining necessary transitional care if a child's enrollment ceases for any reason.

(e) **EVALUATION; REPORT.**—

(1) **EVALUATION.**—The Secretary, using the criteria described in section 1866F(e)(1) of the Social Security Act (as inserted by section 1123), shall conduct an evaluation of the pilot program under this section.

(2) **REPORT.**—Not later than 60 days after the date of completion of the evaluation under paragraph (1), the Secretary shall submit to Congress and make available to the public a report on the findings of the evaluation under such paragraph.

(f) **FUNDING.**—The additional Federal financial participation resulting from the implementation of the pilot program under this section may not exceed in the aggregate \$1,235,000,000 over the 5-year period of the program.

**SEC. 1723. TRANSLATION OR INTERPRETATION SERVICES.**

(a) **IN GENERAL.**—Section 1903(a)(2)(E) of the Social Security Act (42 U.S.C. 1396b(a)(2)), as added by section 201(b)(2)(A) of the Children's Health Insurance Program Reauthorization Act of 2009 (Public Law 111-3), is amended by inserting "and other individuals" after "children of families".

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall apply to payment for translation or interpretation services furnished on or after January 1, 2010.

**SEC. 1724. OPTIONAL COVERAGE FOR FREESTANDING BIRTH CENTER SERVICES.**

(a) **IN GENERAL.**—Section 1905 of the Social Security Act (42 U.S.C. 1396d), as amended by section 1713(a), is amended—

(1) in subsection (a)—

(A) by redesignating paragraph (29) as paragraph (30);

(B) in paragraph (28), by striking at the end "and"; and

(C) by inserting after paragraph (28) the following new paragraph:

"(29) freestanding birth center services (as defined in subsection (1)(3)(A)) and other ambulatory services that are offered by a freestanding birth center (as defined in subsection (1)(3)(B)) and that are otherwise included in the plan; and"; and

(2) in subsection (1), by adding at the end the following new paragraph:

"(3)(A) The term 'freestanding birth center services' means services furnished to an individual at a freestanding birth center (as defined in subparagraph (B)), including by a licensed birth attendant (as defined in subparagraph (C)) at such center.

"(B) The term 'freestanding birth center' means a health facility—

"(i) that is not a hospital; and

"(ii) where childbirth is planned to occur away from the pregnant woman's residence.

"(C) The term 'licensed birth attendant' means an individual who is licensed or registered by the State involved to provide health care at childbirth and who provides such care within the scope of practice under which the individual is legally authorized to perform such care under State law (or the State regulatory mechanism provided by State law), regardless of whether the individual is under the supervision of, or associated with, a physician or other health care provider. Nothing in this subparagraph shall be construed as changing State law requirements applicable to a licensed birth attendant."

(b) **EFFECTIVE DATE.**—The amendments made by this section shall apply to items and services furnished on or after the date of the enactment of this Act.

**SEC. 1725. INCLUSION OF PUBLIC HEALTH CLINICS UNDER THE VACCINES FOR CHILDREN PROGRAM.**

Section 1928(b)(2)(A)(iii)(I) of the Social Security Act (42 U.S.C. 1396s(b)(2)(A)(iii)(I)) is amended—

(1) by striking "or a rural health clinic" and inserting "a rural health clinic"; and

(2) by inserting "or a public health clinic," after "1905(1)(1)".

**SEC. 1726. REQUIREMENT COVERAGE OF SERVICES OF PODIATRISTS.**

(a) **IN GENERAL.**—Section 1905(a)(5)(A) of the Social Security Act (42 U.S.C. 1396d(a)(5)(A)) is amended by striking "section 1861(r)(1)" and inserting "paragraphs (1) and (3) of section 1861(r)".

(b) **EFFECTIVE DATE.**—Except as provided in section 1790, the amendment made by subsection (a) shall apply to services furnished on or after January 1, 2010.

**SEC. 1726A. REQUIREMENT COVERAGE OF SERVICES OF OPTOMETRISTS.**

(a) **IN GENERAL.**—Section 1905(a)(5) of the Social Security Act (42 U.S.C. 1396d(a)(5)) is amended—

(1) by striking "and" before "(B)"; and

(2) by inserting before the semicolon at the end the following: "and (C) medical and other health services (as defined in section 1861(s)) as authorized by State law, furnished by an optometrist (described in section 1861(r)(4)) to the extent such services may be performed under State law".

(b) **EFFECTIVE DATE.**—Except as provided in section 1790, the amendments made by subsection (a) shall take effect 90 days after the date of the enactment of this Act and shall apply to services furnished or other actions required on or after such date.

**SEC. 1727. THERAPEUTIC FOSTER CARE.**

(a) **RULE OF CONSTRUCTION.**—Nothing in this title shall prevent or limit a State from covering therapeutic foster care for eligible children in out-of-home placements under section 1905(a) of the Social Security Act (42 U.S.C. 1396d(a)).

(b) **THERAPEUTIC FOSTER CARE DEFINED.**—For purposes of this section, the term "therapeutic foster care" means a foster care program that provides—

(1) to the child—

(A) structured daily activities that develop, improve, monitor, and reinforce age-appropriate social, communications, and behavioral skills;

(B) crisis intervention and crisis support services;

(C) medication monitoring;

(D) counseling; and

(E) case management services; and

(2) specialized training for the foster parent and consultation with the foster parent on the management of children with mental illnesses and related health and developmental conditions.

**SEC. 1728. ASSURING ADEQUATE PAYMENT LEVELS FOR SERVICES.**

(a) **IN GENERAL.**—Title XIX of the Social Security Act is amended by inserting after section 1925 the following new section:

**"ASSURING ADEQUATE PAYMENT LEVELS FOR SERVICES**

**"SEC. 1926. (a) IN GENERAL.**—A State plan under this title shall not be considered to meet the requirement of section 1902(a)(30)(A) for a year (beginning with 2011) unless, by not later than April 1 before the beginning of such year, the State submits to the Secretary an amendment to the plan that specifies the payment rates to be used for such services under the plan in such year and includes in such submission such additional data as will assist the Secretary in evaluating the State's compliance with such requirement, including data relating to how rates established for payments to medicaid managed care organizations under sections 1903(m) and 1932 take into account such payment rates.

**"(b) SECRETARIAL REVIEW.**—The Secretary, by not later than 90 days after the date of submission of a plan amendment under subsection (a), shall—

**"(1)** review each such amendment for compliance with the requirement of section 1902(a)(30)(A); and

**"(2)** approve or disapprove each such amendment.

If the Secretary disapproves such an amendment, the State shall immediately submit a revised amendment that meets such requirement."

**"(b) EFFECTIVE DATE.**—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

**SEC. 1729. PRESERVING MEDICAID COVERAGE FOR YOUTHS UPON RELEASE FROM PUBLIC INSTITUTIONS.**

Section 1902(a) of the Social Security Act (42 U.S.C. 1396a), as amended by section 1631(b) and 1703(a), is amended—

(1) by striking "and" at the end of paragraph (74);

(2) by striking the period at the end of paragraph (75) and inserting "; and"; and

(3) by inserting after paragraph (75) the following new paragraph:

**"(76)** provide that in the case of any youth who is 18 years of age or younger, was enrolled for medical assistance under the State plan immediately before becoming an inmate of a public institution, is 18 years of age or younger upon release from such institution, and is eligible for such medical assistance under the State plan at the time of release from such institution—

**"(A)** during the period such youth is incarcerated in a public institution, the State shall not terminate eligibility for medical assistance under the State plan for such youth;

**"(B)** during the period such youth is incarcerated in a public institution, the State shall establish a process that ensures—

**"(i)** that the State does not claim federal financial participation for services that are provided to such youth and that are excluded under subsection 1905(a)(28)(A); and

**"(ii)** that the youth receives medical assistance for which federal participation is available under this title;

**"(C)** on or before the date such youth is released from such institution, the State shall



ensure that such youth is enrolled for medical assistance under this title, unless and until there is a determination that the individual is no longer eligible to be so enrolled; and

“(D) the State shall ensure that enrollment under subparagraph (C) will be completed before such date so that the youth can access medical assistance under this title immediately upon leaving the institution.”

**SEC. 1730. QUALITY MEASURES FOR MATERNITY AND ADULT HEALTH SERVICES UNDER MEDICAID AND CHIP.**

Title XI of the Social Security Act (42 U.S.C. 1301 et seq.) is amended by inserting after section 1139A the following new section:

**“SEC. 1139B. QUALITY MEASURES FOR MATERNITY AND ADULT HEALTH SERVICES UNDER MEDICAID AND CHIP.**

“(a) MATERNITY CARE QUALITY MEASURES UNDER MEDICAID AND CHIP.—

“(1) DEVELOPMENT OF MEASURES.—No later than January 1, 2011, the Secretary shall develop and publish for comment a proposed set of measures that accurately describe the quality of maternity care provided under State plans under titles XIX and XXI. The Secretary shall publish a final recommended set of such measures no later than July 1, 2011.

“(2) STANDARDIZED REPORTING FORMAT.—No later than January 1, 2012, the Secretary shall develop and publish a standardized reporting format for maternity care quality measures for use by State programs under titles XIX and XXI to collect data from managed care entities and providers and practitioners that participate in such programs and to report maternity care quality measures to the Secretary.

“(b) OTHER ADULT HEALTH QUALITY MEASURES UNDER MEDICAID.—

“(1) DEVELOPMENT OF MEASURES.—The Secretary shall develop quality measures that are not otherwise developed under section 1192 for services received under State plans under title XIX by individuals who are 21 years of age or older but have not attained age 65. The Secretary shall publish such quality measures through notice and comment rulemaking.

“(2) STANDARDIZED REPORTING FORMAT.—The Secretary shall develop and publish a standardized reporting format for quality measures developed under paragraph (1) and section 1192 for services furnished under State plans under title XIX to individuals who are 21 years of age or older but have not attained age 65 for use under such plans and State plans under title XXI. The format shall enable State agencies administering such plans to collect data from managed care entities and providers and practitioners that participate in such plans and to report quality measures to the Secretary.

“(c) DEVELOPMENT PROCESS.—With respect to the development of quality measures under subsections (a) and (b)—

“(1) USE OF QUALIFIED ENTITIES.—The Secretary may enter into agreements with public, nonprofit, or academic institutions with technical expertise in the area of health quality measurement to assist in such development. The Secretary may carry out these agreements by contract, grant, or otherwise.

“(2) MULTI-STAKEHOLDER PRE-RULEMAKING INPUT.—The Secretary shall obtain the input of stakeholders with respect to such quality measures using a process similar to that described in section 1808(d).

“(3) COORDINATION.—The Secretary shall coordinate the development of such measures under such subsections and with the de-

velopment of child health quality measures under section 1139A.

“(d) ANNUAL REPORT TO CONGRESS.—No later than January 1, 2013, and annually thereafter, the Secretary shall report to the Committee on Energy and Commerce of the House of Representatives the Committee on Finance of the Senate regarding—

“(1) the availability of reliable data relating to the quality of maternity care furnished under State plans under titles XIX and XXI;

“(2) the availability of reliable data relating to the quality of services furnished under State plans under title XIX to adults who are 21 years of age or older but have not attained age 65; and

“(3) recommendations for improving the quality of such care and services furnished under such State plans.

“(e) RULE OF CONSTRUCTION.—Notwithstanding any other provision in this section, no quality measure developed, published, or used as a basis of measurement or reporting under this section may be used to establish an irrebuttable presumption regarding either the medical necessity of care or the maximum permissible coverage for any individual who receives medical assistance under title XIX or child health assistance under title XXI.

“(f) APPROPRIATION.—For purposes of carrying out this section, in addition to funds otherwise available, out of any funds in the Treasury not otherwise appropriated, there are appropriated \$40,000,000 for the 5-fiscal-year period beginning with fiscal year 2010. Funds appropriated under this subsection shall remain available until expended.”

**SEC. 1730A. ACCOUNTABLE CARE ORGANIZATION PILOT PROGRAM.**

(a) IN GENERAL.—The Secretary of Health and Human Services shall establish under this section an accountable care program under which a State may apply to the Secretary for approval of an accountable care organization pilot program described in subsection (b) (in this section referred to as a “pilot program”) for the application of the accountable care organization concept under title XIX of the Social Security Act.

(b) PILOT PROGRAM DESCRIBED.—

(1) IN GENERAL.—The pilot program described in this subsection is a program that applies one or more of the accountable care organization models described in section 1866E of the Social Security Act, as added by section 1301 of this Act.

(2) LIMITATION.—The pilot program shall operate for a period of not more than 5 years.

(c) ADDITIONAL INCENTIVES.—In the case of the pilot program under this section, the Secretary may—

(1) waive the requirements of—

(A) section 1902(a)(1) of the Social Security Act (relating to statewide);

(B) section 1902(a)(10)(B) of such Act (relating to comparability); and

(2) increase the matching percentage for administrative expenditures up to—

(A) 90 percent (for the first 2 years of the pilot program); and

(B) 75 percent (for the next 3 years).

(d) EVALUATION; REPORT.—

(1) EVALUATION.—The Secretary shall conduct an evaluation of the pilot program under this section. In conducting such evaluation, the Secretary shall use the criteria used under subsection (g)(1) of section 1866E of the Social Security Act (as inserted by section 1301 of this Act) to evaluate pilot programs under such section.

(2) REPORT.—Not later than 60 days after the date of completion of the evaluation

under paragraph (1), the Secretary shall submit to Congress and make available to the public a report on the findings of the evaluation under such paragraph.

**SEC. 1730B. FQHC COVERAGE.**

Section 1905(l)(2)(B) of the Social Security Act (42 U.S.C. 1396d(l)(2)(B)) is amended—

(1) by striking “or” at the end of clause (iii);

(2) by striking the semicolon at the end of clause (iv) and inserting “, and”; and

(3) by inserting after clause (iv) the following new clause:

“(v) is receiving a grant under section 399Z-1 of the Public Health Service Act;”.

**Subtitle D—Coverage**

**SEC. 1731. OPTIONAL MEDICAID COVERAGE OF LOW-INCOME HIV-INFECTED INDIVIDUALS.**

(a) IN GENERAL.—Section 1902 of the Social Security Act (42 U.S.C. 1396a), as amended by section 1714(a)(1), is amended—

(1) in subsection (a)(10)(A)(ii)—

(A) by striking “or” at the end of subclause (XIX);

(B) by adding “or” at the end of subclause (XX); and

(C) by adding at the end the following:

“(XXI) who are described in subsection (ii) (relating to HIV-infected individuals);”;

(2) by adding at the end, as amended by sections 1703 and 1714(a), the following:

“(ii) Individuals described in this subsection are individuals not described in subsection (a)(10)(A)(i)—

“(1) who have HIV infection;

“(2) whose income (as determined under the State plan under this title with respect to disabled individuals) does not exceed the maximum amount of income a disabled individual described in subsection (a)(10)(A)(i) may have and obtain medical assistance under the plan; and

“(3) whose resources (as determined under the State plan under this title with respect to disabled individuals) do not exceed the maximum amount of resources a disabled individual described in subsection (a)(10)(A)(i) may have and obtain medical assistance under the plan.”.

(b) ENHANCED MATCH.—The first sentence of section 1905(b) of such Act (42 U.S.C. 1396d(b)) is amended by striking “section 1902(a)(10)(A)(ii)(XVIII)” and inserting “subclause (XVIII) or (XXI) of section 1902(a)(10)(A)(ii)”.

(c) CONFORMING AMENDMENTS.—Section 1905(a) of such Act (42 U.S.C. 1396d(a)) is amended, in the matter preceding paragraph (1)—

(1) by striking “or” at the end of clause (xii);

(2) by adding “or” at the end of clause (xiii); and

(3) by inserting after clause (xiii) the following:

“(xiv) individuals described in section 1902(ii).”.

(d) EXEMPTION FROM FUNDING LIMITATION FOR TERRITORIES.—Section 1108(g) of the Social Security Act (42 U.S.C. 1308(g)) is amended by adding at the end the following:

“(5) DISREGARDING MEDICAL ASSISTANCE FOR OPTIONAL LOW-INCOME HIV-INFECTED INDIVIDUALS.—The limitations under subsection (f) and the previous provisions of this subsection shall not apply to amounts expended for medical assistance for individuals described in section 1902(ii) who are only eligible for such assistance on the basis of section 1902(a)(10)(A)(ii)(XXI).”.

(e) EFFECTIVE DATE; SUNSET.—The amendments made by this section shall apply to expenditures for calendar quarters beginning

on or after the date of the enactment of this Act, and before January 1, 2013, without regard to whether or not final regulations to carry out such amendments have been promulgated by such date.

**SEC. 1732. EXTENDING TRANSITIONAL MEDICAID ASSISTANCE (TMA).**

Sections 1902(e)(1)(B) and 1925(f) of the Social Security Act (42 U.S.C. 1396a(e)(1)(B), 1396r-6(f)), as amended by section 5004(a)(1) of the American Recovery and Reinvestment Act of 2009 (Public Law 111-5), are each amended by striking “December 31, 2010” and inserting “December 31, 2012”.

**SEC. 1733. REQUIREMENT OF 12-MONTH CONTINUOUS COVERAGE UNDER CERTAIN CHIP PROGRAMS.**

(a) IN GENERAL.—Section 2102(b) of the Social Security Act (42 U.S.C. 1397bb(b)) is amended by adding at the end the following new paragraph:

“(6) REQUIREMENT FOR 12-MONTH CONTINUOUS ELIGIBILITY.—In the case of a State child health plan that provides child health assistance under this title through a means other than described in section 2101(a)(2), the plan shall provide for implementation under this title of the 12-month continuous eligibility option described in section 1902(e)(12) for targeted low-income children whose family income is below 200 percent of the poverty line.”.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to determinations (and redeterminations) of eligibility made on or after January 1, 2010.

**SEC. 1734. PREVENTING THE APPLICATION UNDER CHIP OF COVERAGE WAITING PERIODS FOR CERTAIN CHILDREN.**

(a) IN GENERAL.—Section 2102(b)(1) of the Social Security Act (42 U.S.C. 1397bb(b)(1)) is amended—

(1) in subparagraph (B)—

(A) in clause (iii), by striking “and” at the end;

(B) in clause (iv), by striking the period at the end and inserting “; and”; and

(C) by adding at the end the following new clause:

“(v) may not apply a waiting period (including a waiting period to carry out paragraph (3)(C)) in the case of a child described in subparagraph (C).”; and

(2) by adding at the end the following new subparagraph:

“(C) DESCRIPTION OF CHILDREN NOT SUBJECT TO WAITING PERIOD.—For purposes of this paragraph, a child described in this subparagraph is a child who, on the date an application is submitted for such child for child health assistance under this title, meets any of the following requirements:

“(i) INFANTS AND TODDLERS.—The child is under two years of age.

“(ii) LOSS OF GROUP HEALTH PLAN COVERAGE.—The child previously had private health insurance coverage through a group health plan or health insurance coverage offered through an employer and lost such coverage due to—

“(I) termination of an individual’s employment;

“(II) a reduction in hours that an individual works for an employer;

“(III) elimination of an individual’s retiree health benefits; or

“(IV) termination of an individual’s group health plan or health insurance coverage offered through an employer.

“(iii) UNAFFORDABLE PRIVATE COVERAGE.—

“(I) IN GENERAL.—The family of the child demonstrates that the cost of health insurance coverage (including the cost of pre-

miums, co-payments, deductibles, and other cost sharing) for such family exceeds 10 percent of the income of such family.

“(II) DETERMINATION OF FAMILY INCOME.—For purposes of subclause (I), family income shall be determined in the same manner specified by the State for purposes of determining a child’s eligibility for child health assistance under this title.”.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect as of the date that is 90 days after the date of the enactment of this Act.

**SEC. 1735. ADULT DAY HEALTH CARE SERVICES.**

(a) IN GENERAL.—The Secretary of Health and Human Services shall not—

(1) withhold, suspend, disallow, or otherwise deny Federal financial participation under section 1903(a) of the Social Security Act (42 U.S.C. 1396b(a)) for the provision of adult day health care services, day activity and health services, or adult medical day care services, as defined under a State Medicaid plan approved during or before 1994, during such period if such services are provided consistent with such definition and the requirements of such plan; or

(2) withdraw Federal approval of any such State plan or part thereof regarding the provision of such services (by regulation or otherwise).

(b) EFFECTIVE DATE.—Subsection (a) shall apply with respect to services provided on or after October 1, 2008.

**SEC. 1736. MEDICAID COVERAGE FOR CITIZENS OF FREELY ASSOCIATED STATES.**

(a) IN GENERAL.—Section 402(b)(2) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1612(b)(2)) is amended by adding at the end the following:

“(G) MEDICAID EXCEPTION FOR CITIZENS OF FREELY ASSOCIATED STATES.—With respect to eligibility for benefits for the designated Federal program defined in paragraph (3)(C) (relating to the Medicaid program), section 401(a) and paragraph (1) shall not apply to any individual who lawfully resides in 1 of the 50 States or the District of Columbia in accordance with the Compacts of Free Association between the Government of the United States and the Governments of the Federated States of Micronesia, the Republic of the Marshall Islands, and the Republic of Palau and shall not apply, at the option of the Governor of Puerto Rico, the Virgin Islands, Guam, the Northern Mariana Islands, or American Samoa as communicated to the Secretary of Health and Human Services in writing, to any individual who lawfully resides in the respective territory in accordance with such Compacts.”.

(b) EXCEPTION TO 5-YEAR LIMITED ELIGIBILITY.—Section 403(d) of such Act (8 U.S.C. 1613(d)) is amended—

(1) in paragraph (1), by striking “or” at the end;

(2) in paragraph (2), by striking the period at the end and inserting “; or”; and

(3) by adding at the end the following:

“(3) an individual described in section 402(b)(2)(G), but only with respect to the designated Federal program defined in section 402(b)(3)(C).”.

(c) DEFINITION OF QUALIFIED ALIEN.—Section 431(b) of such Act (8 U.S.C. 1641(b)) is amended—

(1) in paragraph (6), by striking “; or” at the end and inserting a comma;

(2) in paragraph (7), by striking the period at the end and inserting “; or”; and

(3) by adding at the end the following:

“(8) an individual who lawfully resides in the United States in accordance with a Com-

pact of Free Association referred to in section 402(b)(2)(G), but only with respect to the designated Federal program defined in section 402(b)(3)(C) (relating to the Medicaid program).”.

**SEC. 1737. CONTINUING REQUIREMENT OF MEDICAID COVERAGE OF NON-EMERGENCY TRANSPORTATION TO MEDICALLY NECESSARY SERVICES.**

(a) REQUIREMENT.—Section 1902(a)(10) of the Social Security Act (42 U.S.C. 1396a(a)(10)) is amended—

(1) in subparagraph (A), in the matter preceding clause (i), by striking “and (21)” and inserting “; (21), and (30)”; and

(2) in subparagraph (C)(iv), by striking “and (17)” and inserting “; (17), and (30)”.

(b) DESCRIPTION OF SERVICES.—Section 1905(a) of such Act (42 U.S.C. 1395d(a)), as amended by sections 1713(a)(1) and 1724(a)(1), is amended—

(1) in paragraph (29), by striking “and” at the end;

(2) by redesignating paragraph (30) as paragraph (31) and by striking the comma at the end and inserting a semicolon; and

(3) by inserting after paragraph (29) the following new paragraph:

“(30) nonemergency transportation to medically necessary services, consistent with the requirement of section 431.53 of title 42, Code of Federal Regulations, as in effect as of June 1, 2008; and”.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act and shall apply to transportation on or after such date.

**SEC. 1738. STATE OPTION TO DISREGARD CERTAIN INCOME IN PROVIDING CONTINUED MEDICAID COVERAGE FOR CERTAIN INDIVIDUALS WITH EXTREMELY HIGH PRESCRIPTION COSTS.**

Section 1902(e) of the Social Security Act (42 U.S.C. 1396b(e)), as amended by section 203(a) of the Children’s Health Insurance Program Reauthorization Act of 2009 (Public Law 111-3), is amended by adding at the end the following new paragraph:

“(14)(A) At the option of the State, in the case of an individual with extremely high prescription drug costs described in subparagraph (B) who has been determined (without the application of this paragraph) to be eligible for medical assistance under this title, the State may, in redetermining the individual’s eligibility for medical assistance under this title, disregard any family income of the individual to the extent such income is less than an amount that is specified by the State and does not exceed the amount specified in subparagraph (C), or, if greater, income equal to the cost of the orphan drugs described in subparagraph (B)(iii).

“(B) An individual with extremely high prescription drug costs described in this subparagraph for a 12-month period is an individual—

“(i) who is covered under health insurance or a health benefits plan that has a maximum lifetime limit of not less than \$1,000,000 which includes all prescription drug coverage;

“(ii) who has exhausted all available prescription drug coverage under the plan as of the beginning of such period;

“(iii) who incurs (or is reasonably expected to incur) on an annual basis during the period costs for orphan drugs in excess of the amount specified in subparagraph (C) for the period; and

“(iv) whose annual family income (determined without regard to this paragraph) as

of the beginning of the period does not exceed 75 percent of the amount incurred for such drugs (as described in clause (iii)).

“(C) The amount specified in this subparagraph for a 12-month period beginning in—

“(i) 2009 or 2010, is \$200,000; or

“(ii) a subsequent year, is the amount specified in clause (i) (or this subparagraph) for the previous year increased by the annual rate of increase in the medical care component of the consumer price index (U.S. city average) for the 12-month period ending in August of the previous year.

Any amount computed under clause (ii) that is not a multiple of \$1,000 shall be rounded to the nearest multiple of \$1,000.

“(D) In applying this paragraph, amounts incurred for prescription drugs for cosmetic purposes shall not be taken into account.

“(E) With respect to an individual described in subparagraph (A), notwithstanding section 1916, the State plan—

“(i) shall provide for the application of cost-sharing that is at least nominal as determined under section 1916; and

“(ii) may provide, consistent with section 1916A, for such additional cost-sharing as does not exceed a maximum level of cost-sharing that is specified by the Secretary and is adjusted by the Secretary on an annual basis.

“(F) A State electing the option under this paragraph shall provide for a determination on an individual's application for continued medical assistance under this title within 30 days of the date the application is filed with the State.

“(G) In this paragraph:

“(i) The term ‘orphan drugs’ means prescription drugs designated under section 526 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360bb) as a drug for a rare disease or condition.

“(ii) The term ‘health benefits plan’ includes coverage under a plan offered under a State high risk pool.”

#### **SEC. 1739. PROVISIONS RELATING TO COMMUNITY LIVING ASSISTANCE SERVICES AND SUPPORTS (CLASS).**

(a) **COORDINATION WITH CLASS PROVISIONS.**—Section 1902(a) of the Social Security Act (42 U.S.C. 1396a(a)), as amended by sections 1631(b), 1703(a), 1729, 1753, 1757(a), 1759(a), 1783(a), and 1907(b), is amended—

(1) in paragraph (80), by striking “and” at the end;

(2) in paragraph (81), by striking the period and inserting “; and”; and

(3) by inserting after paragraph (81) the following:

“(82) provide that the State will comply with such regulations regarding the application of primary and secondary payor rules with respect to individuals who are eligible for medical assistance under this title and are eligible beneficiaries under the CLASS program established under title XXXII of the Public Health Service Act as the Secretary shall establish.”.

(b) **ASSURANCE OF ADEQUATE INFRASTRUCTURE FOR THE PROVISION OF PERSONAL CARE ATTENDANT WORKERS.**—Section 1902(a) of such Act (42 U.S.C. 1396a(a)), as amended by subsection (a), is amended—

(1) in paragraph (81), by striking “and” at the end;

(2) in paragraph (82), by striking the period at the end and inserting “; and”; and

(3) by inserting after paragraph (82), the following:

“(83) provide that, not later than 2 years after the date of enactment of this paragraph, each State shall—

“(A) assess the extent to which entities such as providers of home care, home health

services, home and community service providers, public authorities created to provide personal care services to individuals eligible for medical assistance under the State plan, and nonprofit organizations, are serving or have the capacity to serve as fiscal agents for, employers of, and providers of employment-related benefits for, personal care attendant workers who provide personal care services to individuals receiving benefits under the CLASS program established under title XXXII of the Public Health Service Act, including in rural and underserved areas;

“(B) designate or create such entities to serve as fiscal agents for, employers of, and providers of employment-related benefits for, such workers to ensure an adequate supply of the workers for individuals receiving benefits under the CLASS program, including in rural and underserved areas; and

“(C) ensure that the designation or creation of such entities will not negatively alter or impede existing programs, models, methods, or administration of service delivery that provide for consumer controlled or self-directed home and community services and further ensure that such entities will not impede the ability of individuals to direct and control their home and community services, including the ability to select, manage, dismiss, co-employ, or employ such workers or inhibit such individuals from relying on family members for the provision of personal care services.”.

(c) **INCLUSION OF INFORMATION ON SUPPLEMENTAL COVERAGE IN THE NATIONAL CLEARINGHOUSE FOR LONG-TERM CARE INFORMATION; EXTENSION OF FUNDING.**—Section 6021(d) of the Deficit Reduction Act of 2005 (42 U.S.C. 1396p note) is amended—

(1) in paragraph (2)(A)—

(A) in clause (ii), by striking “and” at the end;

(B) in clause (iii), by striking the period at the end and inserting “; and”; and

(C) by adding at the end the following:

“(iv) include information regarding the CLASS program established under title XXXII of the Public Health Service Act.”; and

(2) in paragraph (3)—

(A) by striking “2010” and inserting “2015”; and

(B) by adding at the end the following: “In addition to the amount appropriated under the previous sentence, there are authorized to be appropriated to carry out this subsection, \$7,000,000 for each of fiscal years 2011, 2012, and 2013.”.

(d) **EFFECTIVE DATE.**—The amendments made by this section take effect on January 1, 2011.

#### **SEC. 1739A. SENSE OF CONGRESS REGARDING COMMUNITY FIRST CHOICE OPTION TO PROVIDE MEDICAID COVERAGE OF COMMUNITY-BASED ATTENDANT SERVICES AND SUPPORTS.**

It is the sense of Congress that States should be allowed to elect under their Medicaid State plans under title XIX of the Social Security Act to implement a Community First Choice Option under which—

(1) coverage of community-based attendant services and supports furnished in homes and communities is available, at an individual's option, to individuals who would otherwise qualify for Medicaid institutional coverage under the respective State plan;

(2) such supports and services include assistance to individuals with disabilities in accomplishing activities of daily living, instrumental activities of daily living, and health-related tasks;

(3) the Federal matching assistance percentage (FMAP) under such title for medical

assistance for such supports and services is enhanced;

(4) States, consistent with minimum federal standards, ensure quality of such supports and services; and

(5) States collect and provide data to the Secretary of Health and Human Services on the cost and effectiveness and quality of supports and services provided through such option.

#### **Subtitle E—Financing**

##### **SEC. 1741. PAYMENTS TO PHARMACISTS.**

(a) **PHARMACY REIMBURSEMENT LIMITS.**—

(1) **IN GENERAL.**—Section 1927(e) of the Social Security Act (42 U.S.C. 1396r-8(e)) is amended—

(A) by striking paragraph (5) and inserting the following:

“(5) **USE OF AMP IN UPPER PAYMENT LIMITS.**—The Secretary shall calculate the Federal upper reimbursement limit established under paragraph (4) as 130 percent of the weighted average (determined on the basis of manufacturer utilization) of monthly average manufacturer prices. Nothing in the previous sentence shall be construed as preventing the Secretary from performing such calculation using a smoothing process in order to reduce significant variations from month to month as a result of rebates, discounts, and other pricing practices, such as in the manner such a process is used by the Secretary in determining the average sales price of a drug or biological under section 1847A.”

(2) **DEFINITION OF AMP.**—Section 1927(k)(1)(B) of such Act (42 U.S.C. 1396r-8(k)(1)(B)) is amended—

(B) in the heading, by striking “EXTENDED TO WHOLESALERS” and inserting “AND OTHER PAYMENTS”; and

(C) by striking “regard to” and all that follows through the period and inserting the following: “regard to—

“(i) customary prompt pay discounts extended to wholesalers;

“(ii) bona fide service fees paid by manufacturers;

“(iii) reimbursement by manufacturers for recalled, damaged, expired, or otherwise unsalable returned goods, including reimbursement for the cost of the goods and any reimbursement of costs associated with return goods handling and processing, reverse logistics, and drug destruction;

“(iv) sales directly to, or rebates, discounts, or other price concessions provided to, pharmacy benefit managers, managed care organizations, health maintenance organizations, insurers, mail order pharmacies that are not open to all members of the public, or long term care providers, provided that these rebates, discounts, or price concessions are not passed through to retail pharmacies;

“(v) sales directly to, or rebates, discounts, or other price concessions provided to, hospitals, clinics, and physicians, unless the drug is an inhalation, infusion, or injectable drug, or unless the Secretary determines, as allowed for in Agency administrative procedures, that it is necessary to include such sales, rebates, discounts, and price concessions in order to obtain an accurate AMP for the drug. Such a determination shall not be subject to judicial review; or

“(vi) rebates, discounts, and other price concessions required to be provided under agreements under subsections (f) and (g) of section 1860D-2(f).”.

(3) **MANUFACTURER REPORTING REQUIREMENTS.**—Section 1927(b)(3)(A) of such Act (42 U.S.C. 1396r-8(b)(3)(A)) is amended—

(A) in clause (ii), by striking “and” at the end;

(B) by striking the period at the end of clause (iii) and inserting “; and”; and

(C) by inserting after clause (iii) the following new clause:

“(iv) not later than 30 days after the last day of each month of a rebate period under the agreement, on the manufacturer’s total number of units that are used to calculate the monthly average manufacturer price for each covered outpatient drug.”.

(4) **AUTHORITY TO PROMULGATE REGULATION.**—The Secretary of Health and Human Services may promulgate regulations to clarify the requirements for upper payment limits and for the determination of the average manufacturer price in an expedited manner. Such regulations may become effective on an interim final basis, pending opportunity for public comment.

(5) **PHARMACY REIMBURSEMENTS THROUGH DECEMBER 31, 2010.**—The specific upper limit under section 447.332 of title 42, Code of Federal Regulations (as in effect on December 31, 2006) applicable to payments made by a State for multiple source drugs under a State Medicaid plan shall continue to apply through December 31, 2010, for purposes of the availability of Federal financial participation for such payments.

(b) **DISCLOSURE OF PRICE INFORMATION TO THE PUBLIC.**—Section 1927(b)(3) of such Act (42 U.S.C. 1396r-8(b)(3)) is amended—

(1) in subparagraph (A)—

(A) in clause (i), in the matter preceding subclause (I), by inserting “month of a” after “each”; and

(B) in the last sentence, by striking “and shall,” and all that follows up to the period; and

(2) in subparagraph (D)(v), by inserting “weighted” before “average manufacturer prices”.

#### **SEC. 1742. PRESCRIPTION DRUG REBATES.**

(a) **ADDITIONAL REBATE FOR NEW FORMULATIONS OF EXISTING DRUGS.**—

(1) **IN GENERAL.**—Section 1927(c)(2) of the Social Security Act (42 U.S.C. 1396r-8(c)(2)) is amended by adding at the end the following new subparagraph:

“(C) **TREATMENT OF NEW FORMULATIONS.**—In the case of a drug that is a line extension of a single source drug or an innovator multiple source drug that is an oral solid dosage form, the rebate obligation with respect to such drug under this section shall be the amount computed under this section for such new drug or, if greater, the product of—

“(i) the average manufacturer price of the line extension of a single source drug or an innovator multiple source drug that is an oral solid dosage form;

“(ii) the highest additional rebate (calculated as a percentage of average manufacturer price) under this section for any strength of the original single source drug or innovator multiple source drug; and

“(iii) the total number of units of each dosage form and strength of the line extension product paid for under the State plan in the rebate period (as reported by the State). In this subparagraph, the term ‘line extension’ means, with respect to a drug, a new formulation of the drug, such as an extended release formulation.”.

(2) **EFFECTIVE DATE.**—The amendment made by paragraph (1) shall apply to drugs dispensed after December 31, 2009.

(b) **INCREASE MINIMUM REBATE PERCENTAGE FOR SINGLE SOURCE DRUGS.**—

(1) **IN GENERAL.**—Section 1927(c)(1)(B)(i) of the Social Security Act (42 U.S.C. 1396r-8(c)(1)(B)(i)) is amended—

(A) in subclause (IV), by striking “and” at the end;

(B) in subclause (V)—

(i) by inserting “and before January 1, 2010” after “December 31, 1995”; and

(ii) by striking the period at the end and inserting “; and”; and

(C) by adding at the end the following new subclause:

“(VI) after December 31, 2009, is 23.1 percent.”.

(2) **RECAPTURE OF TOTAL SAVINGS DUE TO INCREASE.**—Section 1927(b)(1) of such Act is amended by adding at the end the following new subparagraph:

“(C) **SPECIAL RULE FOR INCREASED MINIMUM REBATE PERCENTAGE.**—

“(i) **IN GENERAL.**—In addition to the amounts applied as a reduction under subparagraph (B), for rebate periods beginning on or after January 1, 2010, during a fiscal year, the Secretary shall reduce payments to a State under section 1903(a) in the manner specified in clause (ii), in an amount equal to the product of—

“(I) 100 percent minus the Federal medical assistance percentage applicable to the rebate period for the State; and

“(II) the amounts received by the State under such subparagraph that are attributable (as estimated by the Secretary based on utilization and other data) to the increase in the minimum rebate percentage effected by the amendments made by section 1742(b)(1) of the Affordable Health Care for America Act, taking into account the additional drugs included under the amendments made by section 1743 of such Act.

The Secretary shall adjust such payment reduction for a calendar quarter to the extent the Secretary determines, based upon subsequent utilization and other data, that the reduction for such quarter was greater or less than the amount of payment reduction that should have been made.

“(ii) **MANNER OF PAYMENT REDUCTION.**—The amount of the payment reduction under clause (i) for a State for a quarter shall be deemed an overpayment to the State under this title to be disallowed against the State’s regular quarterly draw for all Medicaid spending under section 1903(d)(2). Such a disallowance is not subject to a reconsideration under 1116(d).”.

#### **SEC. 1743. EXTENSION OF PRESCRIPTION DRUG DISCOUNTS TO ENROLLEES OF MEDICAID MANAGED CARE ORGANIZATIONS.**

(a) **IN GENERAL.**—Section 1903(m)(2)(A) of the Social Security Act (42 U.S.C. 1396b(m)(2)(A)) is amended—

(1) in clause (xi), by striking “and” at the end;

(2) in clause (xii), by striking the period at the end and inserting “; and”; and

(3) by adding at the end the following:

“(xiii) such contract provides that the entity shall report to the State such information, on such timely and periodic basis as specified by the Secretary, as the State may require in order to include, in the information submitted by the State to a manufacturer under section 1927(b)(2)(A) and to the Secretary under section 1927(b)(2)(C), information on covered outpatient drugs dispensed to individuals eligible for medical assistance who are enrolled with the entity and for which the entity is responsible for coverage of such drugs under this subsection.”.

(b) **CONFORMING AMENDMENTS.**—Section 1927 of such Act (42 U.S.C. 1396r-8) is amended—

(1) in the first sentence of subsection (b)(1)(A), by inserting before the period at

the end the following: “, including such drugs dispensed to individuals enrolled with a medicaid managed care organization if the organization is responsible for coverage of such drugs”;

(2) in subsection (b)(2), by adding at the end the following new subparagraph:

“(C) **REPORTING ON MMCO DRUGS.**—On a quarterly basis, each State shall report to the Secretary the total amount of rebates in dollars received from pharmacy manufacturers for drugs provided to individuals enrolled with Medicaid managed care organizations that contract under section 1903(m) and such other information as the Secretary may require to carry out paragraph (1)(C) with respect to such rebates.”; and

(3) in subsection (j)—

(A) in the heading by striking “EXEMPTION” and inserting “SPECIAL RULES”; and

(B) in paragraph (1), by striking “are not subject to the requirements of this section” and inserting “are subject to the requirements of this section unless such drugs are subject to discounts under section 340B of the Public Health Service Act”.

(c) **EFFECTIVE DATE.**—The amendments made by this section take effect on January 1, 2010, and shall apply to drugs dispensed on or after such date, without regard to whether or not final regulations to carry out such amendments have been promulgated by such date.

#### **SEC. 1744. PAYMENTS FOR GRADUATE MEDICAL EDUCATION.**

(a) **IN GENERAL.**—Section 1905 of the Social Security Act (42 U.S.C. 1396d), as amended by sections 1701(a)(3)(B), 1711(a), and 1713(a), is amended by adding at the end the following new subsection:

“(bb) **PAYMENT FOR GRADUATE MEDICAL EDUCATION.**—

“(1) **IN GENERAL.**—The term ‘medical assistance’ includes payment for costs of graduate medical education consistent with this subsection, whether provided in or outside of a hospital.

“(2) **SUBMISSION OF INFORMATION.**—For purposes of paragraph (1) and section 1902(a)(13)(A)(v), payment for such costs is not consistent with this subsection unless—

“(A) the State submits to the Secretary, in a timely manner and on an annual basis specified by the Secretary, information on total payments for graduate medical education and how such payments are being used for graduate medical education, including—

“(i) the institutions and programs eligible for receiving the funding;

“(ii) the manner in which such payments are calculated;

“(iii) the types and fields of education being supported;

“(iv) the workforce or other goals to which the funding is being applied;

“(v) State progress in meeting such goals; and

“(vi) such other information as the Secretary determines will assist in carrying out paragraphs (3) and (4); and

“(B) such expenditures are made consistent with such goals and requirements as are established under paragraph (4).

“(3) **REVIEW OF INFORMATION.**—The Secretary shall make the information submitted under paragraph (2) available to the Advisory Committee on Health Workforce Evaluation and Assessment (established under section 2261 of the Public Health Service Act). The Secretary and the Advisory Committee shall independently review the information submitted under paragraph (2), taking into account State and local workforce needs.

“(4) SPECIFICATION OF GOALS AND REQUIREMENTS.—The Secretary shall specify by rule, initially published by not later than December 31, 2011—

“(A) program goals for the use of funds described in paragraph (1), taking into account recommendations of the such Advisory Committee and the goals for approved medical residency training programs described in section 1886(h)(1)(B); and

“(B) requirements for use of such funds consistent with such goals. Such rule may be effective on an interim basis pending revision after an opportunity for public comment.”.

(b) CONFORMING AMENDMENT.—Section 1902(a)(13)(A) of such Act (42 U.S.C. 1396a(a)(13)(A)), as amended by section 1721(a)(1)(A), is amended—

(1) by striking “and” at the end of clause (iii);

(2) by striking the semicolon in clause (iv) and inserting “, and”; and

(3) by adding at the end the following new clause:

“(v) in the case of hospitals and at the option of a State, such rates may include, to the extent consistent with section 1905(bb), payment for graduate medical education; and”.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act. Nothing in this section shall be construed as affecting payments made before such date under a State plan under title XIX of the Social Security Act for graduate medical education.

#### SEC. 1745. NURSING FACILITY SUPPLEMENTAL PAYMENT PROGRAM.

(a) TOTAL AMOUNT AVAILABLE FOR PAYMENTS.—

(1) IN GENERAL.—Out of any funds in the Treasury not otherwise appropriated, there are appropriated to the Secretary of Health and Human Services (in this section referred to as the “Secretary”) to carry out this section \$6,000,000,000, of which the following amounts shall be available for obligation in the following years:

(A) \$1,500,000,000 shall be available beginning in 2010.

(B) \$1,500,000,000 shall be available beginning in 2011.

(C) \$1,500,000,000 shall be available beginning in 2012.

(D) \$1,500,000,000 shall be available beginning in 2013.

(2) AVAILABILITY.—Funds appropriated under paragraph (1) shall remain available until all eligible dually-certified facilities (as defined in subsection (b)(3)) have been reimbursed for underpayments under this section during cost reporting periods ending during calendar years 2010 through 2013.

(3) LIMITATION OF AUTHORITY.—The Secretary may not make payments under this section that exceed the funds appropriated under paragraph (1).

(4) DISPOSITION OF REMAINING FUNDS INTO MIF.—Any funds appropriated under paragraph (1) which remain available after the application of paragraph (2) shall be deposited into the Medicaid Improvement Fund under section 1941 of the Social Security Act.

(b) USE OF FUNDS.—

(1) AUTHORITY TO MAKE PAYMENTS.—From the amounts available for obligation in a year under subsection (a), the Secretary, acting through the Administrator of the Centers for Medicare & Medicaid Services, shall pay the amount determined under paragraph (2) directly to an eligible dually-certified facility for the purpose of providing funding to reimburse such facility for furnishing quality care to Medicaid-eligible individuals.

(2) DETERMINATION OF PAYMENT AMOUNTS.—

(A) IN GENERAL.—Subject to subparagraphs (B) and (C), the payment amount determined under this paragraph for a year for an eligible dually-certified facility shall be an amount determined by the Secretary as reported on the facility's latest available Medicare cost report.

(B) LIMITATION ON PAYMENT AMOUNT.—In no case shall the payment amount for an eligible dually-certified facility for a year under subparagraph (A) be more than the payment deficit described in paragraph (3)(D) for such facility as reported on the facility's latest available Medicare cost report.

(C) PRO-RATA REDUCTION.—If the amount available for obligation under subsection (a) for a year (as reduced by allowable administrative costs under this section) is insufficient to ensure that each eligible dually-certified facility receives the amount of payment calculated under subparagraph (A), the Secretary shall reduce that amount of payment with respect to each such facility in a pro-rata manner to ensure that the entire amount available for such payments for the year be paid.

(D) NO REQUIRED MATCH.—The Secretary may not require that a State provide matching funds for any payment made under this subsection.

(3) ELIGIBLE DUALLY-CERTIFIED FACILITY DEFINED.—For purposes of this section, the term “eligible dually-certified facility” means, for a cost reporting period ending during a year (beginning no earlier than 2010) that is covered by the latest available Medicare cost report, a nursing facility that meets all of the following requirements:

(A) The facility is participating as a nursing facility under title XIX of the Social Security Act and as a skilled nursing facility under title XVIII of such Act during the entire year.

(B) The base Medicaid payment rate (excluding any supplemental payments) to the facility is not less than the base Medicaid payment rate (excluding any supplemental payments) to such facility as of June 16, 2009.

(C) As reported on the facility's latest Medicare cost report—

(i) the Medicaid share of patient days for such facility is not less than 60 percent of the combined Medicare and Medicaid share of resident days for such facility; and

(ii) the combined Medicare and Medicaid share of resident days for such facility, as reported on the facility's latest available Medicare cost report, is not less than 75 percent of the total resident days for such facility.

(D) The facility has received Medicaid reimbursement (including any supplemental payments) for the provision of covered services to Medicaid eligible individuals, as reported on the facility's latest available Medicare cost report, that is significantly less (as determined by the Secretary) than the allowable costs (as determined by the Secretary) incurred by the facility in providing such services.

(E) The facility is not in the highest quartile of costs costs per day, as determined by the Secretary and as adjusted for case mix, wages, and type of facility.

(F) The facility provides quality care, as determined by the Secretary, to—

(i) Medicaid eligible individuals; and

(ii) individuals who are entitled to items and services under part A of title XVIII of the Social Security Act.

(G) In the most recent standard survey available, the facility was not cited for any immediate jeopardy deficiencies as defined by the Secretary.

(H) In the most recent standard survey available, the facility maintains an appropriate staffing level to attain or maintain the highest practicable well-being of each resident as defined by the Secretary.

(I) The facility complies with all the requirements, as determined by the Secretary, contained in sections 1411 through 1416 and the amendments made by such sections.

(J) The facility was not listed as a Centers for Medicare & Medicaid Services Special Focus Facility (SFF) nor as a SFF on a State-based list.

(4) FREQUENCY OF PAYMENT.—Payment of an amount under this subsection to an eligible dually-certified facility shall be made for a year in a lump sum or in such periodic payments in such frequency as the Secretary determines appropriate.

(5) DIRECT PAYMENTS.—Such payment—

(A) shall be made directly by the Secretary to an eligible dually-certified facility or a contractor designated by such facility; and

(B) shall not be made through a State.

(c) ADMINISTRATION.—

(1) ANNUAL APPLICATIONS; DEADLINES.—The Secretary shall establish a process, including deadlines, under which facilities may apply on an annual basis to qualify as eligible dually-certified facilities for payment under subsection (b).

(2) CONTRACTING AUTHORITY.—The Secretary may enter into one or more contracts with entities for the purpose of implementation of this section.

(3) LIMITATION.—The Secretary may not spend more than 0.75 percent of the amount made available under subsection (a) in any year on the costs of administering the program of payments under this section for the year.

(4) IMPLEMENTATION.—Notwithstanding any other provision of law, the Secretary may implement, by program instruction or otherwise, the provisions of this section.

(5) LIMITATIONS ON REVIEW.—There shall be no administrative or judicial review of—

(A) the determination of the eligibility of a facility for payments under subsection (b); or

(B) the determination of the amount of any payment made to a facility under such subsection.

(d) ANNUAL REPORTS.—The Secretary shall submit an annual report to the committees with jurisdiction in the Congress on payments made under subsection (b). Each such report shall include information on—

(1) the facilities receiving such payments;

(2) the amount of such payments to such facilities; and

(3) the basis for selecting such facilities and the amount of such payments.

(e) REFERENCE TO REPORT.—For report by the Medicaid and CHIP Payment and Access Commission on the adequacy of payments to nursing facilities under the Medicaid program, see section 1900(b)(2)(B) of the Social Security Act, as amended by section 1784.

(f) DEFINITIONS.—For purposes of this section:

(1) DUALLY-CERTIFIED FACILITY.—The term “dually-certified facility” means a facility that is participating as a nursing facility under title XIX of the Social Security Act and as a skilled nursing facility under title XVIII of such Act.

(2) MEDICAID ELIGIBLE INDIVIDUAL.—The term “Medicaid eligible individual” means an individual who is eligible for medical assistance, with respect to nursing facility services (as defined in section 1905(f) of the Social Security Act), under title XIX of the such Act.

(3) STATE.—The term “State” means the 50 States and the District of Columbia.

#### SEC. 1746. REPORT ON MEDICAID PAYMENTS.

Section 1902 of the Social Security Act (42 U.S.C. 1396), as amended by sections 1703(a), 1714(a), and 1731(a), is amended by adding at the end the following new subsection:

“(jj) REPORT ON MEDICAID PAYMENTS.—Each year, on or before a date determined by the Secretary, a State participating in the Medicaid program under this title shall submit to the Administrator of the Centers for Medicare & Medicaid Services—

“(1) information on the determination of rates of payment to providers for covered services under the State plan, including—

“(A) the final rates;

“(B) the methodologies used to determine such rates; and

“(C) justifications for the rates; and

“(2) an explanation of the process used by the State to allow providers, beneficiaries and their representatives, and other concerned State residents a reasonable opportunity to review and comment on such rates, methodologies, and justifications before the State made such rates final.”.

#### SEC. 1747. REVIEWS OF MEDICAID.

(a) GAO STUDY ON FMAP.—

(1) STUDY.—The Comptroller General of the United States shall conduct a study regarding federal payments made to the State Medicaid programs under title XIX of the Social Security Act for the purposes of making recommendations to Congress.

(2) REPORT.—Not later than February 15, 2011, the Comptroller General shall submit to the appropriate committees of Congress a report on the study conducted under paragraph (1) and the effect on the federal government, States, providers, and beneficiaries of—

(A) removing the 50 percent floor, or 83 percent ceiling, or both, in the Federal medical assistance percentage under section 1905(b)(1) of the Social Security Act; and

(B) revising the current formula for such Federal medical assistance percentage to better reflect State fiscal capacity and State effort to pay for health and long-term care services and to better adjust for national or regional economic downturns.

(b) GAO STUDY ON MEDICAID ADMINISTRATIVE COSTS.—

(1) STUDY.—The Comptroller General of the United States shall conduct a study of the administration of the Medicaid program by the Department of Health and Human Services, State Medicaid agencies, and local government agencies. The report shall address the following issues:

(A) The extent to which federal funds for each administrative function, such as survey and certification and claims processing, are being used effectively and efficiently.

(B) The administrative functions on which federal Medicaid funds are expended and the amounts of such expenditures (whether spent directly or by contract).

(2) REPORT.—Not later than February 15, 2011, the Comptroller General shall submit to the appropriate committees of Congress a report on the study conducted under paragraph (1).

#### SEC. 1748. EXTENSION OF DELAY IN MANAGED CARE ORGANIZATION PROVIDER TAX ELIMINATION.

Effective as if included in the enactment of section 6051 of the Deficit Reduction Act of 2005 (Public Law 109–171), subsection (b)(2)(A) of such section is amended by striking “October 1, 2009” and inserting “October 1, 2010”.

#### SEC. 1749. EXTENSION OF ARRA INCREASE IN FMAP.

Section 5001 of the American Recovery and Reinvestment Act of 2009 (Public Law 111–5) is amended—

(1) in subsection (a)(3), by striking “first calendar quarter” and inserting “first 3 calendar quarters”;

(2) in subsection (b)(2), by inserting before the period at the end the following: “and such paragraph shall not apply to calendar quarters beginning on or after October 1, 2010”;

(3) in subsection (c)(4)(C)(ii), by striking “December 2009” and “January 2010” and inserting “June 2010” and “July 2010”, respectively;

(4) in subsection (d), by inserting “ending before October 1, 2010” after “entire fiscal years” and after “with respect to fiscal years”;

(5) in subsection (g)(1), by striking “September 30, 2011” and inserting “December 31, 2011”; and

(6) in subsection (h)(3), by striking “December 31, 2010” and inserting “June 30, 2011”.

#### Subtitle F—Waste, Fraud, and Abuse

#### SEC. 1751. HEALTH CARE ACQUIRED CONDITIONS.

(a) MEDICAID NON-PAYMENT FOR CERTAIN HEALTH CARE-ACQUIRED CONDITIONS.—Section 1903(i) of the Social Security Act (42 U.S.C. 1396b(i)) is amended—

(1) by striking “or” at the end of paragraph (23);

(2) by striking the period at the end of paragraph (24) and inserting “; or”;

(3) by inserting after paragraph (24) the following new paragraph:

“(25) with respect to amounts expended for services related to the presence of a condition that could be identified by a secondary diagnostic code described in section 1886(d)(4)(D)(iv) and for any health care acquired condition determined as a non-covered service under title XVIII.”.

(b) APPLICATION TO CHIP.—Section 2107(e)(1)(G) of such Act (42 U.S.C. 1397gg(e)(1)(G)) is amended by striking “and (17)” and inserting “(17), and (25)”.

(c) PERMISSION TO INCLUDE ADDITIONAL HEALTH CARE-ACQUIRED CONDITIONS.—Nothing in this section shall prevent a State from including additional health care-acquired conditions for non-payment in its Medicaid program under title XIX of the Social Security Act.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to discharges occurring on or after January 1, 2010.

#### SEC. 1752. EVALUATIONS AND REPORTS REQUIRED UNDER MEDICAID INTEGRITY PROGRAM.

Section 1936(c)(2) of the Social Security Act (42 U.S.C. 1396u–7(c)(2)) is amended—

(1) by redesignating subparagraph (D) as subparagraph (E); and

(2) by inserting after subparagraph (C) the following new subparagraph:

“(D) For the contract year beginning in 2011 and each subsequent contract year, the entity provides assurances to the satisfaction of the Secretary that the entity will conduct periodic evaluations of the effectiveness of the activities carried out by such entity under the Program and will submit to the Secretary an annual report on such activities.”.

#### SEC. 1753. REQUIRE PROVIDERS AND SUPPLIERS TO ADOPT PROGRAMS TO REDUCE WASTE, FRAUD, AND ABUSE.

Section 1902(a) of such Act (42 U.S.C. 42 U.S.C. 1396a(a)), as amended by sections 1631(b)(1), 1703, and 1729, is further amended—

(1) in paragraph (75), by striking at the end “and”;

(2) in paragraph (76), by striking at the end the period and inserting “; and”;

(3) by inserting after paragraph (76) the following new paragraph:

“(77) provide that any provider or supplier (other than a physician or nursing facility) providing services under such plan shall, subject to paragraph (5) of section 1874(d), establish a compliance program described in paragraph (1) of such section in accordance with such section.”.

#### SEC. 1754. OVERPAYMENTS.

(a) IN GENERAL.—Section 1903(d)(2)(C) of the Social Security Act (42 U.S.C. 1396b(d)(2)(C)) is amended—

(1) in the first sentence, by inserting “(or of 1 year in the case of overpayments due to fraud)” after “60 days”; and

(2) in the second sentence, by striking “the 60 days” and inserting “such period”.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply in the case of overpayments discovered on or after the date of the enactment of this Act.

#### SEC. 1755. MANAGED CARE ORGANIZATIONS.

(a) MINIMUM MEDICAL LOSS RATIO.—

(1) MEDICAID.—Section 1903(m)(2)(A) of the Social Security Act (42 U.S.C. 1396b(m)(2)(A)), as amended by section 1743(a)(3), is amended—

(A) by striking “and” at the end of clause (xii);

(B) by striking the period at the end of clause (xiii) and inserting “; and”;

(C) by adding at the end the following new clause:

“(xiv) such contract has a medical loss ratio, as determined in accordance with a methodology specified by the Secretary that is a percentage (not less than 85 percent) as specified by the Secretary.”.

(2) CHIP.—Section 2107(e)(1) of such Act (42 U.S.C. 1397gg(e)(1)) is amended—

(A) by redesignating subparagraphs (H) through (L) as subparagraphs (I) through (M); and

(B) by inserting after subparagraph (G) the following new subparagraph:

“(H) Section 1903(m)(2)(A)(xiv) (relating to application of minimum loss ratios), with respect to comparable contracts under this title.”.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to contracts entered into or renewed on or after July 1, 2010.

(b) PATIENT ENCOUNTER DATA.—

(1) IN GENERAL.—Section 1903(m)(2)(A)(xi) of the Social Security Act (42 U.S.C. 1396b(m)(2)(A)(xi)) is amended by inserting “and for the provision of such data to the State at a frequency and level of detail to be specified by the Secretary” after “patients”.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply with respect to contract years beginning on or after January 1, 2010.

#### SEC. 1756. TERMINATION OF PROVIDER PARTICIPATION UNDER MEDICAID AND CHIP IF TERMINATED UNDER MEDICARE OR OTHER STATE PLAN OR CHILD HEALTH PLAN.

(a) STATE PLAN REQUIREMENT.—Section 1902(a)(39) of the Social Security Act (42 U.S.C. 42 U.S.C. 1396a(a)) is amended by inserting after “1128A,” the following: “terminate the participation of any individual or entity in such program if (subject to such exceptions are permitted with respect to exclusion under sections 1128(b)(3)(C) and 1128(d)(3)(B)) participation of such individual or entity is terminated under title XVIII,



any other State plan under this title, or any child health plan under title XXI.”

(b) APPLICATION TO CHIP.—Section 2107(e)(1)(A) of such Act (42 U.S.C. 1397gg(e)(1)(A)) is amended by inserting before the period at the end the following: “and section 1902(a)(39) (relating to exclusion and termination of participation)”.

(c) EFFECTIVE DATE.—Except as provided in section 1790, the amendments made by this section shall apply to services furnished on or after January 1, 2011, without regard to whether or not final regulations to carry out such amendments have been promulgated by such date.

**SEC. 1757. MEDICAID AND CHIP EXCLUSION FROM PARTICIPATION RELATING TO CERTAIN OWNERSHIP, CONTROL, AND MANAGEMENT AFFILIATIONS.**

(a) STATE PLAN REQUIREMENT.—Section 1902(a) of the Social Security Act (42 U.S.C. 1396a(a)), as amended by sections 1631(b)(1), 1703(a), 1729, and 1753, is further amended—

(1) in paragraph (76), by striking at the end “and”;

(2) in paragraph (77), by striking at the end the period and inserting “; and”; and

(3) by inserting after paragraph (77) the following new paragraph:

“(78) provide that the State agency described in paragraph (9) exclude, with respect to a period, any individual or entity from participation in the program under the State plan if such individual or entity owns, controls, or manages an entity that (or if such entity is owned, controlled, or managed by an individual or entity that)—

“(A) has unpaid overpayments under this title during such period determined by the Secretary or the State agency to be delinquent;

“(B) is suspended or excluded from participation under or whose participation is terminated under this title during such period; or

“(C) is affiliated with an individual or entity that has been suspended or excluded from participation under this title or whose participation is terminated under this title during such period.”.

(b) CHILD HEALTH PLAN REQUIREMENT.—Section 2107(e)(1)(A) of such Act (42 U.S.C. 1397gg(e)(1)(A)), as amended by section 1756(b), is amended by striking “section 1902(a)(39)” and inserting “sections 1902(a)(39) and 1902(a)(78)”.

(c) EFFECTIVE DATE.—Except as provided in section 1790, the amendments made by this section shall apply to services furnished on or after January 1, 2011, without regard to whether or not final regulations to carry out such amendments have been promulgated by such date.

**SEC. 1758. REQUIREMENT TO REPORT EXPANDED SET OF DATA ELEMENTS UNDER MMIS TO DETECT FRAUD AND ABUSE.**

Section 1903(r)(1)(F) of the Social Security Act (42 U.S.C. 1396b(r)(1)(F)) is amended by inserting after “necessary” the following: “and including, for data submitted to the Secretary on or after July 1, 2010, data elements from the automated data system that the Secretary determines to be necessary for detection of waste, fraud, and abuse”.

**SEC. 1759. BILLING AGENTS, CLEARINGHOUSES, OR OTHER ALTERNATE PAYEES REQUIRED TO REGISTER UNDER MEDICAID.**

(a) IN GENERAL.—Section 1902(a) of the Social Security Act (42 U.S.C. 1396a(a)), as amended by sections 1631(b), 1703(a), 1729, 1753, and 1757(a), is further amended—

(1) in paragraph (77); by striking at the end “and”;

(2) in paragraph (78), by striking the period at the end and inserting “and”; and

(3) by inserting after paragraph (78) the following new paragraph:

“(79) provide that any agent, clearinghouse, or other alternate payee that submits claims on behalf of a health care provider must register with the State and the Secretary in a form and manner specified by the Secretary under section 1866(j)(1)(D).”.

(b) DENIAL OF PAYMENT.—Section 1903(i) of such Act (42 U.S.C. 1396b(i)), as amended by section 1751, is amended—

(1) by striking “or” at the end of paragraph (24);

(2) by striking the period at the end of paragraph (25) and inserting “; or”; and

(3) by inserting after paragraph (25) the following new paragraph:

“(26) with respect to any amount paid to a billing agent, clearinghouse, or other alternate payee that is not registered with the State and the Secretary as required under section 1902(a)(79).”.

(c) EFFECTIVE DATE.—Except as provided in section 1790, the amendments made by this section shall apply to claims submitted on or after January 1, 2012, without regard to whether or not final regulations to carry out such amendments have been promulgated by such date.

**SEC. 1760. DENIAL OF PAYMENTS FOR LITIGATION-RELATED MISCONDUCT.**

(a) IN GENERAL.—Section 1903(i) of the Social Security Act (42 U.S.C. 1396b(i)), as amended by sections 1751(a) and 1759(b), is amended—

(1) by striking “or” at the end of paragraph (25);

(2) by striking the period at the end of paragraph (26) and inserting “; or”; and

(3) by inserting after paragraph (26) the following new paragraph:

“(27) with respect to any amount expended—

“(A) on litigation in which a court imposes sanctions on the State, its employees, or its counsel for litigation-related misconduct; or

“(B) to reimburse (or otherwise compensate) a managed care entity for payment of legal expenses associated with any action in which a court imposes sanctions on the managed care entity for litigation-related misconduct.”.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to amounts expended on or after January 1, 2010.

**SEC. 1761. MANDATORY STATE USE OF NATIONAL CORRECT CODING INITIATIVE.**

Section 1903(r) of the Social Security Act (42 U.S.C. 1396b(r)) is amended—

(1) in paragraph (1)(B)—

(A) in clause (ii), by striking “and” at the end;

(B) in clause (iii), by adding “and” at the end; and

(C) by adding at the end the following new clause:

“(iv) effective for claims filed on or after October 1, 2010, incorporate compatible methodologies of the National Correct Coding Initiative administered by the Secretary (or any successor initiative to promote correct coding and to control improper coding leading to inappropriate payment) and such other methodologies of that Initiative (or such other national correct coding methodologies) as the Secretary identifies in accordance with paragraph (4);”;

(2) by adding at the end the following new paragraph:

“(4) Not later than September 1, 2010, the Secretary shall do the following:

“(A) Identify those methodologies of the National Correct Coding Initiative administered by the Secretary (or any successor initiative to promote correct coding and to control improper coding leading to inappropriate payment) which are compatible to claims filed under this title.

“(B) Identify those methodologies of such Initiative (or such other national correct coding methodologies) that should be incorporated into claims filed under this title with respect to items or services for which States provide medical assistance under this title and no national correct coding methodologies have been established under such Initiative with respect to title XVIII.

“(C) Notify States of—

“(i) the methodologies identified under subparagraphs (A) and (B) (and of any other national correct coding methodologies identified under subparagraph (B)); and

“(ii) how States are to incorporate such methodologies into claims filed under this title.

“(D) Submit a report to Congress that includes the notice to States under subparagraph (C) and an analysis supporting the identification of the methodologies made under subparagraphs (A) and (B).”.

**Subtitle G—Payments to the Territories**

**SEC. 1771. PAYMENT TO TERRITORIES.**

(a) INCREASE IN CAP.—Section 1108 of the Social Security Act (42 U.S.C. 1308) is amended—

(1) in subsection (f), by striking “subsection (g)” and inserting “subsections (g) and (h)”;

(2) in subsection (g)(1), by striking “With respect to” and inserting “Subject to subsection (h), with respect to”; and

(3) by adding at the end the following new subsection:

“(h) ADDITIONAL INCREASE FOR FISCAL YEARS 2011 THROUGH 2019.—Subject to section 347(b)(1) of the Affordable Health Care for America Act, with respect to fiscal years 2011 through 2019, the amounts otherwise determined under subsections (f) and (g) for Puerto Rico, the Virgin Islands, Guam, the Northern Mariana Islands and American Samoa shall be increased by the following amounts:

“(1) For Puerto Rico, for fiscal year 2011, \$727,600,000; for fiscal year 2012, \$775,000,000; for fiscal year 2013, \$850,000,000; for fiscal year 2014, \$925,000,000; for fiscal year 2015, \$1,000,000,000; for fiscal year 2016, \$1,075,000,000; for fiscal year 2017, \$1,150,000,000; for fiscal year 2018, \$1,225,000,000; and for fiscal year 2019, \$1,396,400,000.

“(2) For the Virgin Islands, for fiscal year 2011, \$34,000,000; for fiscal year 2012, \$37,000,000; for fiscal year 2013, \$40,000,000; for fiscal year 2014, \$43,000,000; for fiscal year 2015, \$46,000,000; for fiscal year 2016, \$49,000,000; for fiscal year 2017, \$52,000,000; for fiscal year 2018, \$55,000,000; and for fiscal year 2019, \$58,000,000.

“(3) For Guam, for fiscal year 2011, \$34,000,000; for fiscal year 2012, \$37,000,000; for fiscal year 2013, \$40,000,000; for fiscal year 2014, \$43,000,000; for fiscal year 2015, \$46,000,000; for fiscal year 2016, \$49,000,000; for fiscal year 2017, \$52,000,000; for fiscal year 2018, \$55,000,000; and for fiscal year 2019, \$58,000,000.

“(4) For the Northern Mariana Islands, for fiscal year 2011, \$13,500,000; for fiscal year 2012, \$14,500,000; for fiscal year 2013, \$15,500,000; for fiscal year 2014, \$16,500,000; for fiscal year 2015, \$17,500,000; for fiscal year 2016, \$18,500,000; for fiscal year 2017, \$19,500,000; for



fiscal year 2018, \$21,000,000; and for fiscal year 2019, \$22,000,000.

“(5) For American Samoa, fiscal year 2011, \$22,000,000; fiscal year 2012, \$23,687,500; for fiscal year 2013, \$24,687,500; for fiscal year 2014, \$25,687,500; for fiscal year 2015, \$26,687,500; for fiscal year 2016, \$27,687,500; for fiscal year 2017, \$28,687,500; for fiscal year 2018, \$29,687,500; and for fiscal year 2019, \$30,687,500.”.

(b) REPORT ON ACHIEVING MEDICAID PARITY PAYMENTS BEGINNING WITH FISCAL YEAR 2020.—

(1) IN GENERAL.—Not later than October 1, 2013, the Secretary of Health and Human Services shall submit to Congress a report that details a plan for the transition of each territory to full parity in Medicaid with the 50 States and the District of Columbia in fiscal year 2020 by modifying their existing Medicaid programs and outlining actions the Secretary and the governments of each territory must take by fiscal year 2020 to ensure parity in financing. Such report shall include what the Federal medical assistance percentages would be for each territory if the formula applicable to the 50 States were applied. Such report shall also include any recommendations that the Secretary may have as to whether the mandatory ceiling amounts for each territory provided for in section 1108 of the Social Security Act (42 U.S.C. 1308) should be increased any time before fiscal year 2020 due to any factors that the Secretary deems relevant.

(2) PER CAPITA DATA.—As part of such report the Secretary shall include information about per capita income data that could be used to calculate Federal medical assistance percentages under section 1905(b) of the Social Security Act, under section 1108(a)(8)(B) of such Act, for each territory on how such data differ from the per capita income data used to promulgate Federal medical assistance percentages for the 50 States. The report under this subsection shall include recommendations on how the Federal medical assistance percentages can be calculated for the territories beginning in fiscal year 2020 to ensure parity with the 50 States.

(3) SUBSEQUENT REPORTS.—The Secretary shall submit subsequent reports to Congress in 2015, 2017, and 2019 detailing the progress that the Secretary and the governments of each territory have made in fulfilling the actions outlined in the plan submitted under paragraph (1).

(c) APPLICATION OF FMAP FOR ADDITIONAL FUNDS.—Section 1905(b) of such Act (42 U.S.C. 1396d(b)) is amended by adding at the end the following sentence: “Notwithstanding the first sentence of this subsection and any other provision of law, for fiscal years 2011 through 2019, the Federal medical assistance percentage for Puerto Rico, the Virgin Islands, Guam, the Northern Mariana Islands, and American Samoa shall be the highest Federal medical assistance percentage applicable to any of the 50 States or the District of Columbia for the fiscal year involved, taking into account the application of subsections (a) and (b)(1) of section 5001 of division B of the American Recovery and Reinvestment Act of 2009 (Public Law 111-5) to such States and the District for calendar quarters during such fiscal years for which such subsections apply.”.

(d) WAIVERS.—

(1) IN GENERAL.—Section 1902(j) of the Social Security Act (42 U.S.C. 1396a(j)) is amended—

(A) by striking “American Samoa and the Northern Mariana Islands” and inserting “Puerto Rico, the Virgin Islands, Guam, the

Northern Mariana Islands, and American Samoa”; and

(B) by striking “American Samoa or the Northern Mariana Islands” and inserting “Puerto Rico, the Virgin Islands, Guam, the Northern Mariana Islands, or American Samoa”.

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply beginning with fiscal year 2011.

(e) TECHNICAL ASSISTANCE.—The Secretary shall provide nonmonetary technical assistance to the governments of Puerto Rico, the Virgin Islands, Guam, the Northern Mariana Islands, and American Samoa in upgrading their existing computer systems in order to anticipate meeting reporting requirements necessary to implement the plan contained in the report under subsection (b)(1).

#### Subtitle H—Miscellaneous

#### SEC. 1781. TECHNICAL CORRECTIONS.

(a) TECHNICAL CORRECTION TO SECTION 1144 OF THE SOCIAL SECURITY ACT.—The first sentence of section 1144(c)(3) of the Social Security Act (42 U.S.C. 1320b-14(c)(3)) is amended—

(1) by striking “transmittal”; and

(2) by inserting before the period the following: “as specified in section 1935(a)(4)”.

(b) CLARIFYING AMENDMENT TO SECTION 1935 OF THE SOCIAL SECURITY ACT.—Section 1935(a)(4) of the Social Security Act (42 U.S.C. 1396u-5(a)(4)), as amended by section 113(b) of Public Law 110-275, is amended—

(1) by striking the second sentence;

(2) by redesignating the first sentence as a subparagraph (A) with appropriate indentation and with the following heading: “IN GENERAL.—”; and

(3) by adding at the end the following subparagraphs:

“(B) FURNISHING MEDICAL ASSISTANCE WITH REASONABLE PROMPTNESS.—For the purpose of a State’s obligation under section 1902(a)(8) to furnish medical assistance with reasonable promptness, the date of the electronic transmission of low-income subsidy program data, as described in section 1144(c), from the Commissioner of Social Security to the State Medicaid Agency, shall constitute the date of filing of such application for benefits under the Medicare Savings Program.

“(C) DETERMINING AVAILABILITY OF MEDICAL ASSISTANCE.—For the purpose of determining when medical assistance will be made available, the State shall consider the date of the individual’s application for the low income subsidy program to constitute the date of filing for benefits under the Medicare Savings Program.”.

(c) EFFECTIVE DATE RELATING TO MEDICAID AGENCY CONSIDERATION OF LOW-INCOME SUBSIDY APPLICATION AND DATA TRANSMITTAL.—The amendments made by subsections (a) and (b) shall be effective as if included in the enactment of section 113(b) of Public Law 110-275.

(d) TECHNICAL CORRECTION TO SECTION 605 OF CHIPRA.—Section 605 of the Children’s Health Insurance Program Reauthorization Act of 2009 (Public Law 111-3) is amended by striking “legal residents” and inserting “lawfully residing in the United States”.

(e) TECHNICAL CORRECTION TO SECTION 1905 OF THE SOCIAL SECURITY ACT.—Section 1905(a) of the Social Security Act (42 U.S.C. 1396d(a)) is amended by inserting “or the care and services themselves, or both” before “(if provided in or after”.

(f) CLARIFYING AMENDMENT TO SECTION 1115 OF THE SOCIAL SECURITY ACT.—Section 1115(a) of the Social Security Act (42 U.S.C. 1315(a)) is amended by adding at the end the following: “If an experimental, pilot, or dem-

onstration project that relates to title XIX is approved pursuant to any part of this subsection, such project shall be treated as part of the State plan, all medical assistance provided on behalf of any individuals affected by such project shall be medical assistance provided under the State plan, and all provisions of this Act not explicitly waived in approving such project shall remain fully applicable to all individuals receiving benefits under the State plan.”.

#### SEC. 1782. EXTENSION OF QI PROGRAM.

(a) IN GENERAL.—Section 1902(a)(10)(E)(iv) of the Social Security Act (42 U.S.C. 1396b(a)(10)(E)(iv)) is amended—

(1) by striking “sections 1933 and” and by inserting “section”; and

(2) by striking “December 2010” and inserting “December 2012”.

(b) ELIMINATION OF FUNDING LIMITATION.—

(1) IN GENERAL.—Section 1933 of such Act (42 U.S.C. 1396u-3) is amended—

(A) in subsection (a), by striking “who are selected to receive such assistance under subsection (b)”;

(B) by striking subsections (b), (c), (e), and (g);

(C) in subsection (d), by striking “furnished in a State” and all that follows and inserting “the Federal medical assistance percentage shall be equal to 100 percent.”; and

(D) by redesignating subsections (d) and (f) as subsections (b) and (c), respectively.

(2) CONFORMING AMENDMENT.—Section 1905(b) of such Act (42 U.S.C. 1396d(b)) is amended by striking “1933(d)” and inserting “1933(b)”.

(3) EFFECTIVE DATE.—The amendments made by paragraph (1) shall take effect on January 1, 2011.

#### SEC. 1783. ASSURING TRANSPARENCY OF INFORMATION.

(a) IN GENERAL.—Section 1902(a) of the Social Security Act (42 U.S.C. 1396a(a)), as amended by sections 1631(b), 1703(a), 1729, 1753, 1757(a), 1759(a), and 1907(b), is amended—

(1) by striking “and” at the end of paragraph (79);

(2) by striking the period at the end of paragraph (80) and inserting “; and”; and

(3) by inserting after paragraph (80) the following new paragraph:

“(81) provide that the State will establish and maintain laws, in accordance with the requirements of section 1921A, to require disclosure of information on hospital charges and quality and to make such information available to the public and the Secretary.”; and

(4) by inserting after section 1921 the following new section:

#### “HOSPITAL PRICE TRANSPARENCY

“SEC. 1921A. (a) IN GENERAL.—The requirements referred to in section 1902(a)(81) are that the laws of a State must—

“(1) require reporting to the State (or its agent) by each hospital located therein, of information on,—

“(A) the charges for the most common inpatient and outpatient hospital services;

“(B) the Medicare and Medicaid reimbursement amount for such services; and

“(C) if the hospitals allows for or provides reduced charges for individuals based on financial need, the factors considered in making determinations for reductions in charges, including any formula for such determination and the contact information for the specific department of a hospital that responds to such inquiries;

“(2) provide for notice to individuals seeking or requiring such services of the availability of information on charges described in paragraph (1);

“(3) provide for timely access to such information, including at least through an Internet website, by individuals seeking or requiring such services; and

“(4) provide for timely access to information regarding the quality of care at each hospital made publicly available in accordance with section 501 of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (Public Law 108-173), section 1139A, or section 1139B.

The Secretary shall consult with stakeholders (including those entities in section 1808(d)(6) and the National Governors Association) through a formal process to obtain guidance prior to issuing implementing policies under this section.

“(b) HOSPITAL DEFINED.—For purposes of this section, the term ‘hospital’ means an institution that meets the requirements of paragraphs (1) and (7) of section 1861(e) and includes those to which section 1820(c) applies.”.

(b) EFFECTIVE DATE; ADMINISTRATION.—

(1) IN GENERAL.—Except as provided in paragraphs (2)(B) and section 1790, the amendments made by subsection (a) shall take effect on October 1, 2010.

(2) EXISTING PROGRAMS.—

(A) IN GENERAL.—The Secretary of Health and Human Services shall establish a process by which a State with an existing program may certify to the Secretary that its program satisfies the requirements of section 1921A of the Social Security Act, as inserted by subsection (a).

(B) 2-YEAR PERIOD TO BECOME IN COMPLIANCE.—States that, as of the date of the enactment of this Act, administer hospital price transparency policies that do not meet such requirements shall have 2 years from such date to make necessary modifications to come into compliance and shall not be regarded as failing to comply with such requirements during such 2-year period.

#### SEC. 1784. MEDICAID AND CHIP PAYMENT AND ACCESS COMMISSION.

(a) REPORT ON NURSING FACILITY PAYMENT POLICIES.—Section 1900(b) of the Social Security Act (42 U.S.C. 1396(b)) is amended by adding at the end the following new paragraph:

“(10) REPORTS ON SPECIAL TOPICS ON PAYMENT POLICIES.—

“(A) NURSING FACILITY PAYMENT POLICIES.—Not later than January 1, 2012, the Commission shall submit to Congress a report on nursing facility payment policies under Medicaid that includes—

“(i) information on the difference between the amount paid by each State to nursing facilities in such State under the Medicaid program under this title and the cost to such facilities of providing efficient quality care to Medicaid eligible individuals;

“(ii) an evaluation of patient outcomes and quality as a result of the supplemental payments under section 1745(b) of the Affordable Health Care for America Act; and

“(iii) whether adjustments should be made under the Medicaid program to the rates that States pay skilled nursing facilities to ensure that such rates are sufficient to provide efficient quality care to Medicaid eligible individuals.”.

(b) PEDIATRIC SUBSPECIALIST PAYMENT POLICIES.—Section 1900(b)(10) of the Social Security Act, as added by subsection (a) is amended by adding at the end the following new subparagraph:

“(B) PEDIATRIC SUBSPECIALIST PAYMENT POLICIES.—Not later than January 1, 2011, the Commission shall submit to Congress a report on payment policies for pediatric sub-

specialist services under Medicaid that includes—

“(i) a comprehensive review of each State’s Medicaid payment rates for inpatient and outpatient pediatric specialty services;

“(ii) a comparison, on a State-by-State basis, of the rates under clause (i) to Medicare payments for similar services;

“(iii) information on any limitations in patient access to pediatric specialty care, such as delays in receiving care or wait times for receiving care;

“(iv) an analysis of the extent to which low Medicaid payment rates in any State contribute to limits in access to pediatric subspecialty services in such State; and

“(v) recommendations to ameliorate any problems found with such payment rates or with access to such services.”.

(c) ADDITIONAL AMENDMENTS.—

(1) COMMISSION STATUS.—Section 1900(a) of the Social Security Act is amended by inserting “an agency of Congress” after “established”.

(2) EXPANSION OF SCOPE.—Section 1900(b)(1)(A) of the Social Security Act is amended by striking “children’s access” and inserting “access by low-income children and other eligible individuals”.

(3) CHANGE IN REPORT DEADLINES.—Subparagraphs (C) and (D) of section 1900(b)(1) of such Act are amended by striking “2010” and inserting “2011” each place it appears.

(4) REPORT IN HEALTH REFORM.—Section 1900(b)(2) of such Act is amended—

(A) in subparagraph (A)(i), by striking “skilled”;

(B) by striking subparagraph (B);

(C) by redesignating subparagraph (C) as subparagraph (B); and

(D) by adding at the end the following new subparagraph:

“(C) IMPLEMENTATION OF HEALTH REFORM.—The implementation of the provisions of the Affordable Health Care for America Act that relate to Medicaid or CHIP by the Secretary, the Health Choices Commissioner, and the States, including the effect of such implementation on the access to needed health care items and services by low-income individuals and families.”.

(5) CLARIFICATION OF MEMBERSHIP.—Section 1900(c)(2)(B) of such Act is amended by striking “consumers” and inserting “individuals”.

(6) AUTHORIZATION OF APPROPRIATIONS.—

(A) CURRENT AUTHORIZATION.—Section 1900(f)(2) of such Act is amended—

(i) in the heading, by inserting “OF APPROPRIATIONS PRIOR TO 2010” after “AUTHORIZATION”; and

(ii) by striking “There are” and inserting “Prior to January 1, 2010, there are”

(B) FUTURE AUTHORIZATION.—Section 1900(f) of such Act is further amended by adding at the end the following new paragraph: after the period the following:

“(3) AUTHORIZATION OF APPROPRIATIONS FOR 2010.—Beginning on January 1, 2010, there is authorized to be appropriated \$11,800,000 to carry out the provisions of this section. Such funds shall remain available until expended.”.

#### SEC. 1785. OUTREACH AND ENROLLMENT OF MEDICAID AND CHIP ELIGIBLE INDIVIDUALS.

(a) IN GENERAL.—Not later than 12 months after date of enactment of this Act, the Secretary of Health and Human Services shall issue guidance regarding standards and best practices for conducting outreach to inform eligible individuals about healthcare coverage under Medicaid under title XIX of the Social Security Act or for child health as-

sistance under CHIP under title XXI of such Act, providing assistance to such individuals for enrollment in applicable programs, and establishing methods or procedures for eliminating application and enrollment barriers. Such guidance shall include provisions to ensure that outreach, enrollment assistance, and administrative simplification efforts are targeted specifically to vulnerable populations such as children, unaccompanied homeless youth, victims of abuse or trauma, individuals with mental health or substance related disorders, and individuals with HIV/AIDS. Guidance issued pursuant to this section relating to methods to increase outreach and enrollment provided for under titles XIX and XXI of the Social Security Act shall specifically target such vulnerable and underserved populations and shall include, but not be limited to, guidance on outstationing of eligibility workers, express lane eligibility, residence requirements, documentation of income and assets, presumptive eligibility, continuous eligibility, and automatic renewal.

(b) IMPLEMENTATION.—In implementing the requirements under subsection (a), the Secretary may use such authorities as are available under law and may work with such entities as the Secretary deems appropriate to facilitate effective implementation of such programs. Not later than 2 years after the enactment of this Act and annually thereafter, the Secretary shall review and report to Congress on progress in implementing targeted outreach, application and enrollment assistance, and administrative simplification methods for such vulnerable and underserved populations as are specified in subsection (a).

#### SEC. 1786. PROHIBITIONS ON FEDERAL MEDICAID AND CHIP PAYMENT FOR UNDOCUMENTED ALIENS.

Nothing in this title shall change current prohibitions against Federal Medicaid and CHIP payments under titles XIX and XXI of the Social Security Act on behalf of individuals who are not lawfully present in the United States.

#### SEC. 1787. DEMONSTRATION PROJECT FOR STABILIZATION OF EMERGENCY MEDICAL CONDITIONS BY INSTITUTIONS FOR MENTAL DISEASES.

(a) AUTHORITY TO CONDUCT DEMONSTRATION PROJECT.—The Secretary of Health and Human Services (in this section referred to as the “Secretary”) shall establish a demonstration project under which an eligible State (as described in subsection (c)) shall provide reimbursement under the State Medicaid plan under title XIX of the Social Security Act to an institution for mental diseases that is subject to the requirements of section 1867 of the Social Security Act (42 U.S.C. 1395dd) for the provision of medical assistance available under such plan to an individual who—

(1) has attained age 21, but has not attained age 65;

(2) is eligible for medical assistance under such plan; and

(3) requires such medical assistance to stabilize an emergency medical condition.

(b) IN-STAY REVIEW.—The Secretary shall establish a mechanism for in-stay review to determine whether or not the patient has been stabilized (as defined in subsection (h)(5)). This mechanism shall commence before the third day of the inpatient stay. States participating in the demonstration project may manage the provision of these benefits under the project through utilization review, authorization, or management practices, or the application of medical necessity and appropriateness criteria applicable to behavioral health.

## (c) ELIGIBLE STATE DEFINED.—

(1) APPLICATION.—Upon approval of an application submitted by a State described in paragraph (2), the State shall be an eligible State for purposes of conducting a demonstration project under this section.

(2) STATE DESCRIBED.—States shall be selected by the Secretary in a manner so as to provide geographic diversity on the basis of the application to conduct a demonstration project under this section submitted by such States.

(d) LENGTH OF DEMONSTRATION PROJECT.—The demonstration project established under this section shall be conducted for a period of 3 consecutive years.

## (e) LIMITATIONS ON FEDERAL FUNDING.—

## (1) APPROPRIATION.—

(A) IN GENERAL.—Out of any funds in the Treasury not otherwise appropriated, there is appropriated to carry out this section, \$75,000,000 for fiscal year 2010.

(B) BUDGET AUTHORITY.—Subparagraph (A) constitutes budget authority in advance of appropriations Act and represents the obligation of the Federal Government to provide for the payment of the amounts appropriated under that subparagraph.

(2) 3-YEAR AVAILABILITY.—Funds appropriated under paragraph (1) shall remain available for obligation through December 31, 2012.

(3) LIMITATION ON PAYMENTS.—In no case may—

(A) the aggregate amount of payments made by the Secretary to eligible States under this section exceed \$75,000,000; or

(B) payments be provided by the Secretary under this section after December 31, 2012.

(4) FUNDS ALLOCATED TO STATES.—The Secretary shall allocate funds to eligible States based on their applications and the availability of funds.

(5) PAYMENTS TO STATES.—The Secretary shall pay to each eligible State, from its allocation under paragraph (4), an amount each quarter equal to the Federal medical assistance percentage of expenditures in the quarter for medical assistance described in subsection (a).

## (f) REPORTS.—

(1) ANNUAL PROGRESS REPORTS.—The Secretary shall submit annual reports to Congress on the progress of the demonstration project conducted under this section.

(2) FINAL REPORT AND RECOMMENDATION.—An evaluation shall be conducted of the demonstration project's impact on the functioning of the health and mental health service system and on individuals enrolled in the Medicaid program. This evaluation shall include collection of baseline data for one-year prior to the initiation of the demonstration project as well as collection of data from matched comparison states not participating in the demonstration. The evaluation measures shall include the following:

(A) A determination, by State, as to whether the demonstration project resulted in increased access to inpatient mental health services under the Medicaid program and whether average length of stays were longer (or shorter) for individuals admitted under the demonstration project compared with individuals otherwise admitted in comparison sites.

(B) An analysis, by State, regarding whether the demonstration project produced a significant reduction in emergency room visits for individuals eligible for assistance under the Medicaid program or in the duration of emergency room lengths of stay.

(C) An assessment of discharge planning by participating hospitals that ensures access

to further (non-emergency) inpatient or residential care as well as continuity of care for those discharged to outpatient care.

(D) An assessment of the impact of the demonstration project on the costs of the full range of mental health services (including inpatient, emergency and ambulatory care) under the plan as contrasted with the comparison areas.

(E) Data on the percentage of consumers with Medicaid coverage who are admitted to inpatient facilities as a result of the demonstration project as compared to those admitted to these same facilities through other means.

(F) A recommendation regarding whether the demonstration project should be continued after December 31, 2012, and expanded on a national basis.

## (g) WAIVER AUTHORITY.—

(1) IN GENERAL.—The Secretary shall waive the limitation of subdivision (B) following paragraph (28) of section 1905(a) of the Social Security Act (42 U.S.C. 1396d(a)) (relating to limitations on payments for care or services for individuals under 65 years of age who are patients in an institution for mental diseases) for purposes of carrying out the demonstration project under this section.

(2) LIMITED OTHER WAIVER AUTHORITY.—The Secretary may waive other requirements of title XIX of the Social Security Act (including the requirements of sections 1902(a)(1) (relating to statewideness) and 1902(1)(10)(B) (relating to comparability)) only to extent necessary to carry out the demonstration project under this section.

## (h) DEFINITIONS.—In this section:

(1) EMERGENCY MEDICAL CONDITION.—The term “emergency medical condition” means, with respect to an individual, an individual who expresses suicidal or homicidal thoughts or gestures, if determined dangerous to self or others.

(2) FEDERAL MEDICAL ASSISTANCE PERCENTAGE.—The term “Federal medical assistance percentage” has the meaning given that term with respect to a State under section 1905(b) of the Social Security Act (42 U.S.C. 1396d(b)).

(3) INSTITUTION FOR MENTAL DISEASES.—The term “institution for mental diseases” has the meaning given to that term in section 1905(i) of the Social Security Act (42 U.S.C. 1396d(i)).

(4) MEDICAL ASSISTANCE.—The term “medical assistance” has the meaning given to that term in section 1905(a) of the Social Security Act (42 U.S.C. 1396d(a)).

(5) STABILIZED.—The term “stabilized” means, with respect to an individual, that the emergency medical condition no longer exists with respect to the individual and the individual is no longer dangerous to self or others.

(6) STATE.—The term “State” has the meaning given that term for purposes of title XIX of the Social Security Act (42 U.S.C. 1396 et seq.).

**SEC. 1788. APPLICATION OF MEDICAID IMPROVEMENT FUND.**

Section 1941(b)(1) of the Social Security Act (42 U.S.C. 1396w-1(b)(1)) is amended by striking “from the Fund” and all that follows and inserting “from the Fund, only such amounts as may be appropriated or otherwise made available by law.”.

**SEC. 1789. TREATMENT OF CERTAIN MEDICAID BROKERS.**

Section 1903(b)(4) of the Social Security Act (42 U.S.C. 1396b(b)(4)) is amended—

(1) in the matter before subparagraph (A), by inserting after “respect to the broker” the following: “(or, in the case of subpara-

graph (A) and subparagraph (B)(i), if the Inspector General of Department of Health and Human Services finds that the broker has established and maintains procedures to ensure the independence of its enrollment activities from the interests of any managed care entity or provider)”; and

(2) in subparagraph (B)—

(A) by inserting “(i)” after “either”; and

(B) by inserting “(ii)” after “health care provider or”.

**SEC. 1790. RULE FOR CHANGES REQUIRING STATE LEGISLATION.**

In the case of a State plan for medical assistance under title XIX of the Social Security Act which the Secretary of Health and Human Services determines requires State legislation (other than legislation appropriating funds) in order for the plan to meet an additional requirement imposed by an amendment made by this title, the State plan shall not be regarded as failing to comply with the requirements of such title XIX solely on the basis of its failure to meet this additional requirement before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of the enactment of this Act. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.

**TITLE VIII—REVENUE-RELATED PROVISIONS****SEC. 1801. DISCLOSURES TO FACILITATE IDENTIFICATION OF INDIVIDUALS LIKELY TO BE INELIGIBLE FOR THE LOW-INCOME ASSISTANCE UNDER THE MEDICARE PRESCRIPTION DRUG PROGRAM TO ASSIST SOCIAL SECURITY ADMINISTRATION'S OUTREACH TO ELIGIBLE INDIVIDUALS.**

(a) IN GENERAL.—Paragraph (19) of section 6103(1) of the Internal Revenue Code of 1986 is amended to read as follows:

“(19) DISCLOSURES TO FACILITATE IDENTIFICATION OF INDIVIDUALS LIKELY TO BE INELIGIBLE FOR LOW-INCOME SUBSIDIES UNDER MEDICARE PRESCRIPTION DRUG PROGRAM TO ASSIST SOCIAL SECURITY ADMINISTRATION'S OUTREACH TO ELIGIBLE INDIVIDUALS.—

“(A) IN GENERAL.—Upon written request from the Commissioner of Social Security, the following return information (including such information disclosed to the Social Security Administration under paragraph (1) or (5)) shall be disclosed to officers and employees of the Social Security Administration, with respect to any taxpayer identified by the Commissioner of Social Security—

“(i) return information for the applicable year from returns with respect to wages (as defined in section 3121(a) or 3401(a)) and payments of retirement income (as described in paragraph (1) of this subsection),

“(ii) unearned income information and income information of the taxpayer from partnerships, trusts, estates, and subchapter S corporations for the applicable year,

“(iii) if the individual filed an income tax return for the applicable year, the filing status, number of dependents, income from farming, and income from self-employment, on such return,

“(iv) if the individual is a married individual filing a separate return for the applicable year, the social security number (if reasonably available) of the spouse on such return,

“(v) if the individual files a joint return for the applicable year, the social security number, unearned income information, and income information from partnerships, trusts,

estates, and subchapter S corporations of the individual's spouse on such return, and

“(vi) such other return information relating to the individual (or the individual's spouse in the case of a joint return) as is prescribed by the Secretary by regulation as might indicate that the individual is likely to be ineligible for a low-income prescription drug subsidy under section 1860D-14 of the Social Security Act.

“(B) APPLICABLE YEAR.—For the purposes of this paragraph, the term ‘applicable year’ means the most recent taxable year for which information is available in the Internal Revenue Service's taxpayer information records.

“(C) RESTRICTION ON INDIVIDUALS FOR WHOM DISCLOSURE MAY BE REQUESTED.—The Commissioner of Social Security shall request information under this paragraph only with respect to—

“(i) individuals the Social Security Administration has identified, using all other reasonably available information, as likely to be eligible for a low-income prescription drug subsidy under section 1860D-14 of the Social Security Act and who have not applied for such subsidy, and

“(ii) any individual the Social Security Administration has identified as a spouse of an individual described in clause (i).

“(D) RESTRICTION ON USE OF DISCLOSED INFORMATION.—Return information disclosed under this paragraph may be used only by officers and employees of the Social Security Administration solely for purposes of identifying individuals likely to be ineligible for a low-income prescription drug subsidy under section 1860D-14 of the Social Security Act for use in outreach efforts under section 1144 of the Social Security Act.”

(b) SAFEGUARDS.—Paragraph (4) of section 6103(p) of such Code is amended—

(1) by striking “(19),” each place it appears, and

(2) by striking “or (17)” each place it appears and inserting “(17), or (19)”.

(c) CONFORMING AMENDMENT.—Paragraph (3) of section 6103(a) of such Code is amended by striking “(19).”

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to disclosures made after the date which is 12 months after the date of the enactment of this Act.

#### **SEC. 1802. COMPARATIVE EFFECTIVENESS RESEARCH TRUST FUND; FINANCING FOR TRUST FUND.**

(a) ESTABLISHMENT OF TRUST FUND.—

(1) IN GENERAL.—Subchapter A of chapter 98 of the Internal Revenue Code of 1986 (relating to trust fund code) is amended by adding at the end the following new section:

##### **“SEC. 9511. HEALTH CARE COMPARATIVE EFFECTIVENESS RESEARCH TRUST FUND.**

“(a) CREATION OF TRUST FUND.—There is established in the Treasury of the United States a trust fund to be known as the ‘Health Care Comparative Effectiveness Research Trust Fund’ (hereinafter in this section referred to as the ‘CERTF’), consisting of such amounts as may be appropriated or credited to such Trust Fund as provided in this section and section 9602(b).

“(b) TRANSFERS TO FUND.—

“(1) IN GENERAL.—There are hereby appropriated to the Trust Fund the following:

“(A) For fiscal year 2010, \$90,000,000.

“(B) For fiscal year 2011, \$100,000,000.

“(C) For fiscal year 2012, \$110,000,000.

“(D) For each fiscal year beginning with fiscal year 2013—

“(i) an amount equivalent to the net revenues received in the Treasury from the fees imposed under subchapter B of chapter 34

(relating to fees on health insurance and self-insured plans) for such fiscal year; and

“(ii) subject to subsection (c)(2), amounts determined by the Secretary of Health and Human Services to be equivalent to the fair share per capita amount computed under subsection (c)(1) for the fiscal year multiplied by the average number of individuals entitled to benefits under part A, or enrolled under part B, of title XVIII of the Social Security Act during such fiscal year.

“(2) ADMINISTRATIVE PROVISIONS.—

“(A) TRANSFERS FROM OTHER TRUST FUNDS.—The amounts appropriated by subparagraphs (A), (B), (C), and (D)(ii) of paragraph (1) shall be transferred from the Federal Hospital Insurance Trust Fund and from the Federal Supplementary Medical Insurance Trust Fund (established under section 1841 of such Act), and from the Medicare Prescription Drug Account within such Trust Fund, in proportion (as estimated by the Secretary) to the total expenditures during such fiscal year that are made under title XVIII of such Act from the respective trust fund or account.

“(B) APPROPRIATIONS NOT SUBJECT TO FISCAL YEAR LIMITATION.—The amounts appropriated by paragraph (1) shall not be subject to any fiscal year limitation.

“(C) PERIODIC TRANSFERS, ESTIMATES, AND ADJUSTMENTS.—Except as provided in subparagraph (A), the provisions of section 9601 shall apply to the amounts appropriated by paragraph (1).

“(c) FAIR SHARE PER CAPITA AMOUNT.—

“(1) COMPUTATION.—

“(A) IN GENERAL.—Subject to subparagraph (B), the fair share per capita amount under this paragraph for a fiscal year (beginning with fiscal year 2013) is an amount computed by the Secretary of Health and Human Services for such fiscal year that, when applied under this section and subchapter B of chapter 34 of the Internal Revenue Code of 1986, will result in revenues to the CERTF of \$375,000,000 for the fiscal year.

“(B) ALTERNATIVE COMPUTATION.—

“(i) IN GENERAL.—If the Secretary is unable to compute the fair share per capita amount under subparagraph (A) for a fiscal year, the fair share per capita amount under this paragraph for the fiscal year shall be the default amount determined under clause (ii) for the fiscal year.

“(ii) DEFAULT AMOUNT.—The default amount under this clause for—

“(I) fiscal year 2013 is equal to \$2; or

“(II) a subsequent year is equal to the default amount under this clause for the preceding fiscal year increased by the annual percentage increase in the medical care component of the consumer price index (United States city average) for the 12-month period ending with April of the preceding fiscal year.

Any amount determined under subclause (II) shall be rounded to the nearest penny.

“(2) LIMITATION ON MEDICARE FUNDING.—In no case shall the amount transferred under subsection (b)(4)(B) for any fiscal year exceed \$90,000,000.

“(d) EXPENDITURES FROM FUND.—

“(1) IN GENERAL.—Subject to paragraph (2), amounts in the CERTF are available, without the need for further appropriations and without fiscal year limitation, to the Secretary of Health and Human Services to carry out section 1181 of the Social Security Act.

“(2) ALLOCATION FOR COMMISSION.—The following amounts in the CERTF shall be available, without the need for further appropriations and without fiscal year limitation, to

the Commission to carry out the activities of the Comparative Effectiveness Research Commission established under section 1181(b) of the Social Security Act:

“(A) For fiscal year 2010, \$7,000,000.

“(B) For fiscal year 2011, \$9,000,000.

“(C) For each fiscal year beginning with 2012, 2.6 percent of the total amount appropriated to the CERTF under subsection (b) for the fiscal year.

“(e) NET REVENUES.—For purposes of this section, the term ‘net revenues’ means the amount estimated by the Secretary based on the excess of—

“(1) the fees received in the Treasury under subchapter B of chapter 34, over

“(2) the decrease in the tax imposed by chapter 1 resulting from the fees imposed by such subchapter.”

(2) CLERICAL AMENDMENT.—The table of sections for such subchapter A is amended by adding at the end thereof the following new item:

“Sec. 9511. Health Care Comparative Effectiveness Research Trust Fund.”

(b) FINANCING FOR FUND FROM FEES ON INSURED AND SELF-INSURED HEALTH PLANS.—

(1) GENERAL RULE.—Chapter 34 of the Internal Revenue Code of 1986 is amended by adding at the end the following new subchapter:

##### **“Subchapter B—Insured and Self-Insured Health Plans**

“Sec. 4375. Health insurance.

“Sec. 4376. Self-insured health plans.

“Sec. 4377. Definitions and special rules.

##### **“SEC. 4375. HEALTH INSURANCE.**

“(a) IMPOSITION OF FEE.—There is hereby imposed on each specified health insurance policy for each policy year a fee equal to the fair share per capita amount determined under section 9511(c)(1) multiplied by the average number of lives covered under the policy.

“(b) LIABILITY FOR FEE.—The fee imposed by subsection (a) shall be paid by the issuer of the policy.

“(c) SPECIFIED HEALTH INSURANCE POLICY.—For purposes of this section:

“(1) IN GENERAL.—Except as otherwise provided in this section, the term ‘specified health insurance policy’ means any accident or health insurance policy issued with respect to individuals residing in the United States.

“(2) EXEMPTION FOR CERTAIN POLICIES.—The term ‘specified health insurance policy’ does not include any insurance if substantially all of its coverage is of excepted benefits described in section 9832(c).

“(3) TREATMENT OF PREPAID HEALTH COVERAGE ARRANGEMENTS.—

“(A) IN GENERAL.—In the case of any arrangement described in subparagraph (B)—

“(i) such arrangement shall be treated as a specified health insurance policy, and

“(ii) the person referred to in such subparagraph shall be treated as the issuer.

“(B) DESCRIPTION OF ARRANGEMENTS.—An arrangement is described in this subparagraph if under such arrangement fixed payments or premiums are received as consideration for any person's agreement to provide or arrange for the provision of accident or health coverage to residents of the United States, regardless of how such coverage is provided or arranged to be provided.

##### **“SEC. 4376. SELF-INSURED HEALTH PLANS.**

“(a) IMPOSITION OF FEE.—In the case of any applicable self-insured health plan for each plan year, there is hereby imposed a fee equal to the fair share per capita amount determined under section 9511(c)(1) multiplied

by the average number of lives covered under the plan.

“(b) **LIABILITY FOR FEE.**—

“(1) **IN GENERAL.**—The fee imposed by subsection (a) shall be paid by the plan sponsor.

“(2) **PLAN SPONSOR.**—For purposes of paragraph (1) the term ‘plan sponsor’ means—

“(A) the employer in the case of a plan established or maintained by a single employer,

“(B) the employee organization in the case of a plan established or maintained by an employee organization,

“(C) in the case of—

“(i) a plan established or maintained by 2 or more employers or jointly by 1 or more employers and 1 or more employee organizations,

“(ii) a multiple employer welfare arrangement, or

“(iii) a voluntary employees’ beneficiary association described in section 501(c)(9),

the association, committee, joint board of trustees, or other similar group of representatives of the parties who establish or maintain the plan, or

“(D) the cooperative or association described in subsection (c)(2)(F) in the case of a plan established or maintained by such a cooperative or association.

“(c) **APPLICABLE SELF-INSURED HEALTH PLAN.**—For purposes of this section, the term ‘applicable self-insured health plan’ means any plan for providing accident or health coverage if—

“(1) any portion of such coverage is provided other than through an insurance policy, and

“(2) such plan is established or maintained—

“(A) by one or more employers for the benefit of their employees or former employees,

“(B) by one or more employee organizations for the benefit of their members or former members,

“(C) jointly by 1 or more employers and 1 or more employee organizations for the benefit of employees or former employees,

“(D) by a voluntary employees’ beneficiary association described in section 501(c)(9),

“(E) by any organization described in section 501(c)(6), or

“(F) in the case of a plan not described in the preceding subparagraphs, by a multiple employer welfare arrangement (as defined in section 3(40) of Employee Retirement Income Security Act of 1974), a rural electric cooperative (as defined in section 3(40)(B)(iv) of such Act), or a rural telephone cooperative association (as defined in section 3(40)(B)(v) of such Act).

#### **“SEC. 4377. DEFINITIONS AND SPECIAL RULES.**

“(a) **DEFINITIONS.**—For purposes of this subchapter—

“(1) **ACCIDENT AND HEALTH COVERAGE.**—The term ‘accident and health coverage’ means any coverage which, if provided by an insurance policy, would cause such policy to be a specified health insurance policy (as defined in section 4375(c)).

“(2) **INSURANCE POLICY.**—The term ‘insurance policy’ means any policy or other instrument whereby a contract of insurance is issued, renewed, or extended.

“(3) **UNITED STATES.**—The term ‘United States’ includes any possession of the United States.

“(b) **TREATMENT OF GOVERNMENTAL ENTITIES.**—

“(1) **IN GENERAL.**—For purposes of this subchapter—

“(A) the term ‘person’ includes any governmental entity, and

“(B) notwithstanding any other law or rule of law, governmental entities shall not be ex-

empt from the fees imposed by this subchapter except as provided in paragraph (2).

“(2) **TREATMENT OF EXEMPT GOVERNMENTAL PROGRAMS.**—In the case of an exempt governmental program, no fee shall be imposed under section 4375 or section 4376 on any covered life under such program.

“(3) **EXEMPT GOVERNMENTAL PROGRAM DEFINED.**—For purposes of this subchapter, the term ‘exempt governmental program’ means—

“(A) any insurance program established under title XVIII of the Social Security Act,

“(B) the medical assistance program established by title XIX or XXI of the Social Security Act,

“(C) any program established by Federal law for providing medical care (other than through insurance policies) to individuals (or the spouses and dependents thereof) by reason of such individuals being—

“(i) members of the Armed Forces of the United States, or

“(ii) veterans, and

“(D) any program established by Federal law for providing medical care (other than through insurance policies) to members of Indian tribes (as defined in section 4(d) of the Indian Health Care Improvement Act).

“(c) **TREATMENT AS TAX.**—For purposes of subtitle F, the fees imposed by this subchapter shall be treated as if they were taxes.

“(d) **NO COVER OVER TO POSSESSIONS.**—Notwithstanding any other provision of law, no amount collected under this subchapter shall be covered over to any possession of the United States.”.

(2) **CLERICAL AMENDMENTS.**—

(A) Chapter 34 of such Code is amended by striking the chapter heading and inserting the following:

#### **“CHAPTER 34—TAXES ON CERTAIN INSURANCE POLICIES**

“SUBCHAPTER A. POLICIES ISSUED BY FOREIGN INSURERS

“SUBCHAPTER B. INSURED AND SELF-INSURED HEALTH PLANS

“Subchapter A—Policies Issued By Foreign Insurers”.

(B) The table of chapters for subtitle D of such Code is amended by striking the item relating to chapter 34 and inserting the following new item:

“CHAPTER 34—TAXES ON CERTAIN INSURANCE POLICIES”.

(3) **EFFECTIVE DATE.**—The amendments made by this subsection shall apply with respect to policies and plans for portions of policy or plan years beginning on or after October 1, 2012.

#### **TITLE IX—MISCELLANEOUS PROVISIONS**

##### **SEC. 1901. REPEAL OF TRIGGER PROVISION.**

Subtitle A of title VIII of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (Public Law 108–173) is repealed and the provisions of law amended by such subtitle are restored as if such subtitle had never been enacted.

##### **SEC. 1902. REPEAL OF COMPARATIVE COST ADJUSTMENT (CCA) PROGRAM.**

Section 1860C–1 of the Social Security Act (42 U.S.C. 1395w–29), as added by section 241(a) of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (Public Law 108–173), is repealed.

##### **SEC. 1903. EXTENSION OF GAINSHARING DEMONSTRATION.**

(a) **IN GENERAL.**—Subsection (d)(3) of section 5007 of the Deficit Reduction Act of 2005 (Public Law 109–171) is amended by inserting “(or September 30, 2011, in the case of a dem-

onstration project in operation as of October 1, 2008)” after “December 31, 2009”.

(b) **FUNDING.**—

(1) **IN GENERAL.**—Subsection (f)(1) of such section is amended by inserting “and for fiscal year 2010, \$1,600,000,” after “\$6,000,000.”.

(2) **AVAILABILITY.**—Subsection (f)(2) of such section is amended by striking “2010” and inserting “2014 or until expended”.

(c) **REPORTS.**—

(1) **QUALITY IMPROVEMENT AND SAVINGS.**—Subsection (e)(3) of such section is amended by striking “December 1, 2008” and inserting “March 31, 2011”.

(2) **FINAL REPORT.**—Subsection (e)(4) of such section is amended by striking “May 1, 2010” and inserting “March 31, 2013”.

#### **SEC. 1904. GRANTS TO STATES FOR QUALITY HOME VISITATION PROGRAMS FOR FAMILIES WITH YOUNG CHILDREN AND FAMILIES EXPECTING CHILDREN.**

Part B of title IV of the Social Security Act (42 U.S.C. 621–629i) is amended by adding at the end the following:

##### **“Subpart 3—Support for Quality Home Visitation Programs**

##### **“SEC. 440. HOME VISITATION PROGRAMS FOR FAMILIES WITH YOUNG CHILDREN AND FAMILIES EXPECTING CHILDREN.**

“(a) **PURPOSE.**—The purpose of this section is to improve the well-being, health, and development of children by enabling the establishment and expansion of high quality programs providing voluntary home visitation for families with young children and families expecting children.

“(b) **GRANT APPLICATION.**—A State that desires to receive a grant under this section shall submit to the Secretary for approval, at such time and in such manner as the Secretary may require, an application for the grant that includes the following:

“(1) **DESCRIPTION OF HOME VISITATION PROGRAMS.**—A description of the high quality programs of home visitation for families with young children and families expecting children that will be supported by a grant made to the State under this section, the outcomes the programs are intended to achieve, and the evidence supporting the effectiveness of the programs.

“(2) **RESULTS OF NEEDS ASSESSMENT.**—The results of a statewide needs assessment that describes—

“(A) the number, quality, and capacity of home visitation programs for families with young children and families expecting children in the State;

“(B) the number and types of families who are receiving services under the programs;

“(C) the sources and amount of funding provided to the programs;

“(D) the gaps in home visitation in the State, including identification of communities that are in high need of the services; and

“(E) training and technical assistance activities designed to achieve or support the goals of the programs.

“(3) **ASSURANCES.**—Assurances from the State that—

“(A) in supporting home visitation programs using funds provided under this section, the State shall identify and prioritize serving communities that are in high need of such services, especially communities with a high proportion of low-income families or a high incidence of child maltreatment;

“(B) the State will reserve 5 percent of the grant funds for training and technical assistance to the home visitation programs using such funds;

“(C) in supporting home visitation programs using funds provided under this section, the State will promote coordination and collaboration with other home visitation programs (including programs funded under title XIX) and with other child and family services, health services, income supports, and other related assistance;

“(D) home visitation programs supported using such funds will, when appropriate, provide referrals to other programs serving children and families; and

“(E) the State will comply with subsection (i), and cooperate with any evaluation conducted under subsection (j).

“(4) OTHER INFORMATION.—Such other information as the Secretary may require.

“(c) ALLOTMENTS.—

“(1) INDIAN TRIBES.—From the amount reserved under subsection (1)(2) for a fiscal year, the Secretary shall allot to each Indian tribe that meets the requirement of subsection (d), if applicable, for the fiscal year the amount that bears the same ratio to the amount so reserved as the number of children in the Indian tribe whose families have income that does not exceed 200 percent of the poverty line bears to the total number of children in such Indian tribes whose families have income that does not exceed 200 percent of the poverty line.

“(2) STATES AND TERRITORIES.—From the amount appropriated under subsection (m) for a fiscal year that remains after making the reservations required by subsection (1), the Secretary shall allot to each State that is not an Indian tribe and that meets the requirement of subsection (d), if applicable, for the fiscal year the amount that bears the same ratio to the remainder of the amount so appropriated as the number of children in the State whose families have income that does not exceed 200 percent of the poverty line bears to the total number of children in such States whose families have income that does not exceed 200 percent of the poverty line.

“(3) REALLOTMENTS.—The amount of any allotment to a State under a paragraph of this subsection for any fiscal year that the State certifies to the Secretary will not be expended by the State pursuant to this section shall be available for reallocation using the allotment methodology specified in that paragraph. Any amount so reallocated to a State is deemed part of the allotment of the State under this subsection.

“(d) MAINTENANCE OF EFFORT.—Beginning with fiscal year 2011, a State meets the requirement of this subsection for a fiscal year if the Secretary finds that the aggregate expenditures by the State from State and local sources for programs of home visitation for families with young children and families expecting children for the then preceding fiscal year was not less than 100 percent of such aggregate expenditures for the then 2nd preceding fiscal year.

“(e) PAYMENT OF GRANT.—

“(1) IN GENERAL.—The Secretary shall make a grant to each State that meets the requirements of subsections (b) and (d), if applicable, for a fiscal year for which funds are appropriated under subsection (m), in an amount equal to the reimbursable percentage of the eligible expenditures of the State for the fiscal year, but not more than the amount allotted to the State under subsection (c) for the fiscal year.

“(2) REIMBURSABLE PERCENTAGE DEFINED.—In paragraph (1), the term ‘reimbursable percentage’ means, with respect to a fiscal year—

“(A) 85 percent, in the case of fiscal year 2010;

“(B) 80 percent, in the case of fiscal year 2011; or

“(C) 75 percent, in the case of fiscal year 2012 and any succeeding fiscal year.

“(f) ELIGIBLE EXPENDITURES.—

“(1) IN GENERAL.—In this section, the term ‘eligible expenditures’—

“(A) means expenditures to provide voluntary home visitation for as many families with young children (under the age of school entry) and families expecting children as practicable, through the implementation or expansion of high quality home visitation programs that—

“(i) adhere to clear evidence-based models of home visitation that have demonstrated positive effects on important program-determined child and parenting outcomes, such as reducing abuse and neglect and improving child health and development;

“(ii) employ well-trained and competent staff, maintain high quality supervision, provide for ongoing training and professional development, and show strong organizational capacity to implement such a program;

“(iii) establish appropriate linkages and referrals to other community resources and supports;

“(iv) monitor fidelity of program implementation to ensure that services are delivered according to the specified model; and

“(v) provide parents with—

“(I) knowledge of age-appropriate child development in cognitive, language, social, emotional, and motor domains (including knowledge of second language acquisition, in the case of English language learners);

“(II) knowledge of realistic expectations of age-appropriate child behaviors;

“(III) knowledge of health and wellness issues for children and parents;

“(IV) modeling, consulting, and coaching on parenting practices;

“(V) skills to interact with their child to enhance age-appropriate development;

“(VI) skills to recognize and seek help for issues related to health, developmental delays, and social, emotional, and behavioral skills; and

“(VII) activities designed to help parents become full partners in the education of their children;

“(B) includes expenditures for training, technical assistance, and evaluations related to the programs; and

“(C) does not include any expenditure with respect to which a State has submitted a claim for payment under any other provision of Federal law.

“(2) PRIORITY FUNDING FOR PROGRAMS WITH STRONGEST EVIDENCE.—

“(A) IN GENERAL.—The expenditures, described in paragraph (1), of a State for a fiscal year that are attributable to the cost of programs that do not adhere to a model of home visitation with the strongest evidence of effectiveness shall not be considered eligible expenditures for the fiscal year to the extent that the total of the expenditures exceeds the applicable percentage for the fiscal year of the allotment of the State under subsection (c) for the fiscal year.

“(B) APPLICABLE PERCENTAGE DEFINED.—In subparagraph (A), the term ‘applicable percentage’ means, with respect to a fiscal year—

“(i) 60 percent for fiscal year 2010;

“(ii) 55 percent for fiscal year 2011;

“(iii) 50 percent for fiscal year 2012;

“(iv) 45 percent for fiscal year 2013; or

“(v) 40 percent for fiscal year 2014.

“(g) NO USE OF OTHER FEDERAL FUNDS FOR STATE MATCH.—A State to which a grant is made under this section may not expend any

Federal funds to meet the State share of the cost of an eligible expenditure for which the State receives a payment under this section.

“(h) WAIVER AUTHORITY.—

“(1) IN GENERAL.—The Secretary may waive or modify the application of any provision of this section, other than subsection (b) or (f), to an Indian tribe if the failure to do so would impose an undue burden on the Indian tribe.

“(2) SPECIAL RULE.—An Indian tribe is deemed to meet the requirement of subsection (d) for purposes of subsections (c) and (e) if—

“(A) the Secretary waives the requirement; or

“(B) the Secretary modifies the requirement, and the Indian tribe meets the modified requirement.

“(i) STATE REPORTS.—Each State to which a grant is made under this section shall submit to the Secretary an annual report on the progress made by the State in addressing the purposes of this section. Each such report shall include a description of—

“(1) the services delivered by the programs that received funds from the grant;

“(2) the characteristics of each such program, including information on the service model used by the program and the performance of the program;

“(3) the characteristics of the providers of services through the program, including staff qualifications, work experience, and demographic characteristics;

“(4) the characteristics of the recipients of services provided through the program, including the number of the recipients, the demographic characteristics of the recipients, and family retention;

“(5) the annual cost of implementing the program, including the cost per family served under the program;

“(6) the outcomes experienced by recipients of services through the program;

“(7) the training and technical assistance provided to aid implementation of the program, and how the training and technical assistance contributed to the outcomes achieved through the program;

“(8) the indicators and methods used to monitor whether the program is being implemented as designed; and

“(9) other information as determined necessary by the Secretary.

“(j) EVALUATION.—

“(1) IN GENERAL.—The Secretary shall, by grant or contract, provide for the conduct of an independent evaluation of the effectiveness of home visitation programs receiving funds provided under this section, which shall examine the following:

“(A) The effect of home visitation programs on child and parent outcomes, including child maltreatment, child health and development, school readiness, and links to community services.

“(B) The effectiveness of home visitation programs on different populations, including the extent to which the ability of programs to improve outcomes varies across programs and populations.

“(2) REPORTS TO THE CONGRESS.—

“(A) INTERIM REPORT.—Within 3 years after the date of the enactment of this section, the Secretary shall submit to the Congress an interim report on the evaluation conducted pursuant to paragraph (1).

“(B) FINAL REPORT.—Within 5 years after the date of the enactment of this section, the Secretary shall submit to the Congress a final report on the evaluation conducted pursuant to paragraph (1).

“(k) ANNUAL REPORTS TO THE CONGRESS.—The Secretary shall submit annually to the



Congress a report on the activities carried out using funds made available under this section, which shall include a description of the following:

“(1) The high need communities targeted by States for programs carried out under this section.

“(2) The service delivery models used in the programs receiving funds provided under this section.

“(3) The characteristics of the programs, including—

“(A) the qualifications and demographic characteristics of program staff; and

“(B) recipient characteristics including the number of families served, the demographic characteristics of the families served, and family retention and duration of services.

“(4) The outcomes reported by the programs.

“(5) The research-based instruction, materials, and activities being used in the activities funded under the grant.

“(6) The training and technical activities, including on-going professional development, provided to the programs.

“(7) The annual costs of implementing the programs, including the cost per family served under the programs.

“(8) The indicators and methods used by States to monitor whether the programs are being implemented as designed.

“(1) RESERVATIONS OF FUNDS.—From the amounts appropriated for a fiscal year under subsection (m), the Secretary shall reserve—

“(1) an amount equal to 5 percent of the amounts to pay the cost of the evaluation provided for in subsection (j), and the provision to States of training and technical assistance, including the dissemination of best practices in early childhood home visitation; and

“(2) after making the reservation required by paragraph (1), an amount equal to 3 percent of the amount so appropriated, to pay for grants to Indian tribes under this section.

“(m) APPROPRIATIONS.—Out of any money in the Treasury of the United States not otherwise appropriated, there is appropriated to the Secretary to carry out this section—

“(1) \$50,000,000 for fiscal year 2010;

“(2) \$100,000,000 for fiscal year 2011;

“(3) \$150,000,000 for fiscal year 2012;

“(4) \$200,000,000 for fiscal year 2013; and

“(5) \$250,000,000 for fiscal year 2014.

“(n) INDIAN TRIBES TREATED AS STATES.—In this section, paragraphs (4), (5), and (6) of section 431(a) shall apply.”

#### SEC. 1905. IMPROVED COORDINATION AND PROTECTION FOR DUAL ELIGIBLES.

Title XI of the Social Security Act is amended by inserting after section 1150 the following new section:

##### “IMPROVED COORDINATION AND PROTECTION FOR DUAL ELIGIBLES

“SEC. 1150A. (a) IN GENERAL.—The Secretary shall provide, through an identifiable office or program within the Centers for Medicare & Medicaid Services, for a focused effort to provide for improved coordination between Medicare and Medicaid and protection in the case of dual eligibles (as defined in subsection (g)). The office or program shall—

“(1) review Medicare and Medicaid policies related to enrollment, benefits, service delivery, payment, and grievance and appeals processes under parts A and B of title XVIII, under the Medicare Advantage program under part C of such title, and under title XIX;

“(2) identify areas of such policies where better coordination and protection could improve care and costs; and

“(3) issue guidance to States regarding improving such coordination and protection.

“(b) ELEMENTS.—The improved coordination and protection under this section shall include efforts—

“(1) to simplify access of dual eligibles to benefits and services under Medicare and Medicaid;

“(2) to improve care continuity for dual eligibles and ensure safe and effective care transitions;

“(3) to harmonize regulatory conflicts between Medicare and Medicaid rules with regard to dual eligibles; and

“(4) to improve total cost and quality performance under Medicare and Medicaid for dual eligibles.

“(c) RESPONSIBILITIES.—In carrying out this section, the Secretary shall provide for the following:

“(1) An examination of Medicare and Medicaid payment systems to develop strategies to foster more integrated and higher quality care.

“(2) Development of methods to facilitate access to post-acute and community-based services and to identify actions that could lead to better coordination of community-based care.

“(3) A study of enrollment of dual eligibles in the Medicare Savings Program (as defined in section 1144(c)(7)), under Medicaid, and in the low-income subsidy program under section 1860D-14 to identify methods to more efficiently and effectively reach and enroll dual eligibles.

“(4) An assessment of communication strategies for dual eligibles to determine whether additional informational materials or outreach is needed, including an assessment of the Medicare website, 1-800-MEDICARE, and the Medicare handbook.

“(5) Research and evaluation of areas where service utilization, quality, and access to cost sharing protection could be improved and an assessment of factors related to enrollee satisfaction with services and care delivery.

“(6) Collection (and making available to the public) of data and a database that describe the eligibility, benefit and cost-sharing assistance available to dual eligibles by State.

“(7) Support for coordination of State and Federal contracting and oversight for dual coordination programs supportive of the goals described in subsection (b).

“(8) Support for State Medicaid agencies through the provision of technical assistance for Medicare and Medicaid coordination initiatives designed to improve acute and long-term care for dual eligibles.

“(9) Monitoring total combined Medicare and Medicaid program costs in serving dual eligibles and making recommendations for optimizing total quality and cost performance across both programs.

“(10) Coordination of activities relating to Medicare Advantage plans under 1859(b)(6)(B)(ii) and Medicaid.

“(d) REPORTING.—The Office or program shall work with relevant State agencies and any appropriate quality measurement entities to improve and coordinate reporting requirements for Medicare and Medicaid. In addition, the Office or program shall seek to minimize duplication in reporting requirements, where appropriate, and to identify opportunities to combine assessment requirements, where appropriate. The Office or program shall seek to identify quality metrics and assessment requirements that facilitate comparisons of the quality of care received by beneficiaries enrolled in or entitled to

benefits under fee-for-service Medicare, the Medicare Advantage program, fee-for-service Medicaid, and Medicaid managed care, and combinations thereof (including integrated Medicare-Medicaid programs for dual eligibles).

“(e) ENDORSEMENT.—The Secretary shall seek endorsement by the entity with a contract under section 1890(a) of quality measures and benchmarks developed under this section.

“(f) CONSULTATION WITH STAKEHOLDERS.—The Office or program shall consult with relevant stakeholders, including dual eligible beneficiaries representatives for dual eligible beneficiaries, health plans, providers, and relevant State agencies, in the development of policies related to integrated Medicare-Medicaid programs for dual eligibles.

“(g) PERIODIC REPORTS.—Not later than 1 year after the date of the enactment of this section and every 3 years thereafter the Secretary shall submit to Congress a report on progress in activities conducted under this section.

“(h) DEFINITIONS.—In this section:

“(1) DUAL ELIGIBLE.—The term ‘dual eligible’ means an individual who is dually eligible for benefits under title XVIII, and medical assistance under title XIX, including such individuals who are eligible for benefits under the Medicare Savings Program (as defined in section 1144(c)(7)).

“(2) MEDICARE; MEDICAID.—The terms ‘Medicare’ and ‘Medicaid’ mean the programs under titles XVIII and XIX, respectively.”

#### SEC. 1906. ASSESSMENT OF MEDICARE COST-INTENSIVE DISEASES AND CONDITIONS.

(a) INITIAL ASSESSMENT.—

(1) IN GENERAL.—The Secretary of Health and Human Services shall conduct an assessment of the diseases and conditions that are the most cost-intensive for the Medicare program and, to the extent possible, assess the diseases and conditions that could become cost-intensive for Medicare in the future. In conducting the assessment, the Secretary shall include the input of relevant research agencies, including the National Institutes of Health, the Agency for Healthcare Research and Quality, the Food and Drug Administration, and the Centers for Medicare & Medicaid Services.

(2) REPORT.—Not later than January 1, 2011, the Secretary shall transmit a report to the Committees on Energy and Commerce, Ways and Means, and Appropriations of the House of Representatives and the Committees on Health, Education, Labor and Pensions, Finance, and Appropriations of the Senate on the assessment conducted under paragraph (1). Such report shall—

(A) include the assessment of current and future trends of cost-intensive diseases and conditions described in such paragraph;

(B) address whether current research priorities are appropriately addressing current and future cost-intensive conditions so identified; and

(C) include recommendations concerning research in the Department of Health and Human Services that should be funded to improve the prevention, treatment, or cure of such cost-intensive diseases and conditions.

(b) UPDATES OF ASSESSMENT.—Not later than January 1, 2013, and biennially thereafter, the Secretary shall—

(1) review and update the assessment and recommendations described in subsection (a)(1); and



(2) submit a report described in subsection (a)(2) to the Committees specified in subsection (a)(2) on such updated assessment and recommendations.

**SEC. 1907. ESTABLISHMENT OF CENTER FOR MEDICARE AND MEDICAID INNOVATION WITHIN CMS.**

(a) IN GENERAL.—Title XI of the Social Security Act is amended by inserting after section 1115 the following new section:

**“CENTER FOR MEDICARE AND MEDICAID INNOVATION**

**“SEC. 1115A. (a) CENTER FOR MEDICARE AND MEDICAID INNOVATION ESTABLISHED.—**

**“(1) IN GENERAL.—**There is created within the Centers for Medicare & Medicaid Services a Center for Medicare and Medicaid Innovation (in this section referred to as the ‘CMI’) to carry out the duties described in this section. The purpose of the CMI is to test innovative payment and service delivery models to improve the coordination, quality, and efficiency of health care services provided to applicable individuals defined in paragraph (4)(A).

**“(2) DEADLINE.—**The Secretary shall ensure that the CMI is carrying out the duties described in this section by not later than January 1, 2011.

**“(3) CONSULTATION.—**In carrying out the duties under this section, the CMI shall consult representatives of relevant Federal agencies, clinical and analytical experts with expertise in medicine and health care management, and States. The CMI shall use open door forums or other mechanisms to seek input from interested parties.

**“(4) DEFINITIONS.—**In this section:

**“(A) APPLICABLE INDIVIDUAL.—**The term ‘applicable individual’ means—

**“(i)** an individual who is enrolled under part B and entitled to benefits under part A of title XVIII;

**“(ii)** an individual who is eligible for medical assistance under title XIX; or

**“(iii)** an individual who meets the criteria of both clauses (i) and (ii).

**“(B) APPLICABLE TITLE.—**The term ‘applicable title’ means title XVIII, title XIX, or both.

**“(b) TESTING OF MODELS (PHASE I).—**

**“(1) IN GENERAL.—**The CMI shall test payment and service delivery models in accordance with selection criteria under paragraph (2) to determine the effect of applying such models under the applicable title (as defined in subsection (a)(4)(B)) on program expenditures under such titles and the quality of care received by individuals receiving benefits under such title.

**“(2) SELECTION OF MODELS TO BE TESTED.—**

**“(A) IN GENERAL.—**The Secretary shall give preference to testing models for which, as determined by the Administrator of the Centers for Medicare & Medicaid Services and using such input from outside the Centers as the Administrator determines appropriate, there is evidence that the model addresses a defined population for which there are deficits in care leading to poor clinical outcomes or potentially avoidable expenditures. The Administrator shall focus on models expected to reduce program costs under the applicable title while preserving or enhancing the quality of care received by individuals receiving benefits under such title.

**“(B) APPLICATION TO OTHER DEMONSTRATIONS.—**The Secretary shall operate the demonstration programs under sections 1222 and 1236 of the Affordable Health Care for America Act through the CMI in accordance with the rules applicable under this section, including those relating to evaluations, terminations, and expansions.

**“(3) BUDGET NEUTRALITY.—**

**“(A) INITIAL PERIOD.—**The Secretary shall not require, as a condition for testing a model under paragraph (1), that the design of such model ensure that such model is budget neutral initially with respect to expenditures under the applicable title.

**“(B) TERMINATION.—**The Secretary shall terminate or modify the design and implementation of a model unless the Secretary determines (and the Chief Actuary of the Centers for Medicare & Medicaid Services, with respect to spending under the applicable title, certifies), after testing has begun, that the model is expected to—

**“(i)** improve the quality of care (as determined by the Administrator of the Centers for Medicare & Medicaid Services) without increasing spending under such title;

**“(ii)** reduce spending under such titles without reducing the quality of care; or

**“(iii)** do both.

Such termination may occur at any time after such testing has begun and before completion of the testing.

**“(4) EVALUATION.—**

**“(A) IN GENERAL.—**The Secretary shall conduct an evaluation of each model tested under this subsection. Such evaluation shall include an analysis of—

**“(i)** the quality of care furnished under the model, including through the use of patient-level outcomes measures; and

**“(ii)** the changes in spending under the applicable titles by reason of the model.

The Secretary shall make the results of each evaluation under this paragraph available to the public in a timely fashion.

**“(B) MEASURE SELECTION.—**To the extent feasible, the Secretary shall select measures under this paragraph that reflect national priorities for quality improvement and patient-centered care consistent with the measures developed under section 1192(c)(1).

**“(5) TESTING PERIOD.—**In no case shall a model be tested under this subsection for more than a 7-year period.

**“(c) EXPANSION OF MODELS (PHASE II).—**The Secretary may expand the duration and the scope of a model that is being tested under subsection (b) (including implementation on a nationwide basis), to the extent determined appropriate by the Secretary, if—

**“(1)** the Secretary determines that such expansion is expected—

**“(A)** to improve the quality of patient care without increasing spending under the applicable titles;

**“(B)** to reduce spending under applicable titles without reducing the quality of care; or

**“(C)** to do both;

**“(2)** the Chief Actuary of the Centers for Medicare & Medicaid Services certifies that such expansion would reduce (or not result in any increase in) net program spending under applicable titles; and

**“(3)** the Secretary determines that such expansion would not deny or limit the coverage or provision of benefits under the applicable title for applicable individuals.

**“(d) IMPLEMENTATION.—**

**“(1) WAIVER AUTHORITY.—**The Secretary may waive such requirements of titles XI and XVIII and of sections 1902 and 1903(m) as may be necessary solely for purposes of carrying out this section with respect to testing models described in subsection (b).

**“(2) LIMITATIONS ON REVIEW.—**There shall be no administrative or judicial review under section 1869, section 1878, or otherwise of—

**“(A)** the selection of models for testing or expansion under this section;

**“(B)** the elements, parameters, scope, and duration of such models for testing or dissemination;

**“(C)** the termination or modification of the design and implementation of a model under subsection (b)(3)(B); and

**“(D)** determinations about expansion of the duration and scope of a model under subsection (c) including the determination that a model is not expected to meet criteria described in paragraphs (1) or (2) of such subsection.

**“(3) ADMINISTRATION.—**Chapter 35 of title 44, United States Code shall not apply to the testing and evaluation of models or expansion of such models under this section.

**“(4) FUNDING FOR TESTING ITEMS AND SERVICES AND ADMINISTRATIVE COSTS.—**

**“(A) ADDITIONAL BENEFITS.—**There shall be available until expended, equally divided from the Federal Supplementary Hospital Insurance Trust Fund and Federal Supplementary Medical Insurance Trust Fund for payments for additional benefits for items and services under models tested under subsection (b) not otherwise covered under this title and applicable to benefits under this title, and for researching, designing, implementing, and evaluating such models, \$350,000,000 for fiscal year 2010, \$440,000,000 for fiscal year 2011, \$550,000,000 for fiscal year 2012, and, for a subsequent fiscal year, the amount determined under this subparagraph for the preceding fiscal year increased by the annual percentage rate of increase in total expenditures under this title for the subsequent fiscal year as estimated in the latest available Annual Report of the Board of Trustees as described in section 1841(b)(2).

**“(B) MEDICAID.—**For administrative costs of the Centers for Medicare & Medicaid Services for administering this section with respect to title XIX, from any amounts in the Treasury not otherwise appropriated there are appropriated to the Secretary for the Centers for Medicare & Medicaid Services Program Management Account \$25,000,000 for each fiscal year beginning with fiscal year 2010. Amounts appropriated under this subparagraph for a fiscal year shall be available until expended.

**“(e) REPORT TO CONGRESS.—**Beginning in 2012, and not less than once every other year thereafter, the Secretary shall submit to Congress a report on activities under this section. Each such report shall describe the payment models tested under subsection (b), including the number of individuals described in subsection (a)(4)(A)(i) and of individuals described in subsection (a)(4)(A)(ii) participating in such models and payments made under applicable titles for services on behalf of such individuals, any models chosen for expansion under subsection (c), and the results from evaluations under subsection (b)(4). In addition, each such report shall provide such recommendations as the Secretary believes are appropriate for legislative action to facilitate the development and expansion of successful payment models.”

**(b) MEDICAID CONFORMING AMENDMENT.—**Section 1902(a) of the Social Security Act (42 U.S.C. 1396a(a)), as amended by sections 1631(b), 1703(a), 1729, 1753, 1757(a), and 1759(a), is amended—

(1) in paragraph (78), by striking “and” at the end;

(2) in paragraph (79), by striking the period at the end and inserting “; and”; and

(3) by inserting after paragraph (79) the following new paragraph:

**“(80)** provide for implementation of the payment models specified by the Secretary

under section 1115A(c) for implementation on a nationwide basis unless the State demonstrates to the satisfaction of the Secretary that implementation would not be administratively feasible or appropriate to the health care delivery system of the State.”.

**SEC. 1908. APPLICATION OF EMERGENCY SERVICES LAWS.**

Nothing in this Act shall be construed to relieve any health care provider from providing emergency services as required by State or Federal law, including section 1867 of the Social Security Act (popularly known as “EMTALA”).

**SEC. 1909. DISREGARD UNDER THE SUPPLEMENTAL SECURITY INCOME PROGRAM OF COMPENSATION FOR PARTICIPATION IN CLINICAL TRIALS FOR RARE DISEASES OR CONDITIONS.**

(a) INCOME DISREGARD.—Section 1612(b) of the Social Security Act (42 U.S.C. 1382a(b)) is amended—

(1) by striking “and” at the end of paragraph (24);

(2) by striking the period at the end of paragraph (25) and inserting “; and”; and

(3) by adding at the end the following:

“(26) The first \$2,000 per year received by such individual (or such spouse) for participation in a clinical trial to test a treatment for a rare disease or condition (within the meaning of section 5(b)(2) of the Orphan Drug Act (Public Law 97-414)), that—

“(A) has been reviewed and approved by an institutional review board that—

“(i) is established to protect the rights and welfare of human subjects participating in research; and

“(ii) meet the standards for such bodies set forth in part 46 of title 45, Code of Federal Regulations; and

“(B) meets the standards for protection of human subjects for clinical research (as set forth in such part).”.

(b) RESOURCE DISREGARD.—Section 1613(a) of such Act (42 U.S.C. 1382b(a)) is amended—

(1) by striking “and” at the end of paragraph (15);

(2) by striking the period at the end of paragraph (16) and inserting “; and”; and

(3) by inserting after paragraph (16) the following:

“(17) the first \$2,000 per year received by such individual (or such spouse) for participation in a clinical trial, as described in section 1612(b)(26).”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to benefits payable for calendar months beginning after the earlier of—

(1) the date the Commissioner of Social Security promulgates regulations to carry out the amendments; or

(2) the 180-day period that begins with the date of the enactment of this Act.

**DIVISION C—PUBLIC HEALTH AND WORKFORCE DEVELOPMENT**

**SEC. 2001. TABLE OF CONTENTS; REFERENCES.**

(a) TABLE OF CONTENTS.—The table of contents of this division is as follows:

Sec. 2001. Table of contents; references.  
Sec. 2002. Public Health Investment Fund.  
Sec. 2003. Deficit neutrality.

**TITLE I—COMMUNITY HEALTH CENTERS**

Sec. 2101. Increased funding.

**TITLE II—WORKFORCE**

**Subtitle A—Primary Care Workforce**

**PART 1—NATIONAL HEALTH SERVICE CORPS**

Sec. 2201. National Health Service Corps.  
Sec. 2202. Authorizations of appropriations.

**PART 2—PROMOTION OF PRIMARY CARE AND DENTISTRY**

Sec. 2211. Frontline health providers.

**“SUBPART XI—HEALTH PROFESSIONAL NEEDS AREAS**

“Sec. 340H. In general.

“Sec. 340I. Loan repayments.

“Sec. 340J. Report.

“Sec. 340K. Allocation.

Sec. 2212. Primary care student loan funds.

Sec. 2213. Training in family medicine, general internal medicine, general pediatrics, geriatrics, and physician assistants.

Sec. 2214. Training of medical residents in community-based settings.

Sec. 2215. Training for general, pediatric, and public health dentists and dental hygienists.

Sec. 2216. Authorization of appropriations.

Sec. 2217. Study on effectiveness of scholarships and loan repayments.

**Subtitle B—Nursing Workforce**

Sec. 2221. Amendments to Public Health Service Act.

**Subtitle C—Public Health Workforce**

Sec. 2231. Public Health Workforce Corps.

**“SUBPART XII—PUBLIC HEALTH WORKFORCE**

“Sec. 340L. Public Health Workforce Corps.

“Sec. 340M. Public Health Workforce Scholarship Program.

“Sec. 340N. Public Health Workforce Loan Repayment Program.

Sec. 2232. Enhancing the public health workforce.

Sec. 2233. Public health training centers.

Sec. 2234. Preventive medicine and public health training grant program.

Sec. 2235. Authorization of appropriations.

**Subtitle D—Adapting Workforce to Evolving Health System Needs**

**PART 1—HEALTH PROFESSIONS TRAINING FOR DIVERSITY**

Sec. 2241. Scholarships for disadvantaged students, loan repayments and fellowships regarding faculty positions, and educational assistance in the health professions regarding individuals from disadvantaged backgrounds.

Sec. 2242. Nursing workforce diversity grants.

Sec. 2243. Coordination of diversity and cultural competency programs.

**PART 2—INTERDISCIPLINARY TRAINING PROGRAMS**

Sec. 2251. Cultural and linguistic competency training for health professionals.

Sec. 2252. Innovations in interdisciplinary care training.

**PART 3—ADVISORY COMMITTEE ON HEALTH WORKFORCE EVALUATION AND ASSESSMENT**

Sec. 2261. Health workforce evaluation and assessment.

**PART 4—HEALTH WORKFORCE ASSESSMENT**

Sec. 2271. Health workforce assessment.

**PART 5—AUTHORIZATION OF APPROPRIATIONS**

Sec. 2281. Authorization of appropriations.

**TITLE III—PREVENTION AND WELLNESS**

Sec. 2301. Prevention and wellness.

**“TITLE XXXI—PREVENTION AND WELLNESS**

“Subtitle A—Prevention and Wellness Trust  
“Sec. 3111. Prevention and Wellness Trust.

**“Subtitle B—National Prevention and Wellness Strategy**

“Sec. 3121. National Prevention and Wellness Strategy.

**“Subtitle C—Prevention Task Forces**

“Sec. 3131. Task Force on Clinical Preventive Services.

“Sec. 3132. Task Force on Community Preventive Services.

**“Subtitle D—Prevention and Wellness Research**

“Sec. 3141. Prevention and wellness research activity coordination.

“Sec. 3142. Community prevention and wellness research grants.

“Sec. 3143. Research on subsidies and rewards to encourage wellness and healthy behaviors.

**“Subtitle E—Delivery of Community Prevention and Wellness Services**

“Sec. 3151. Community prevention and wellness services grants.

**“Subtitle F—Core Public Health Infrastructure**

“Sec. 3161. Core public health infrastructure for State, local, and tribal health departments.

“Sec. 3162. Core public health infrastructure and activities for CDC.

**“Subtitle G—General Provisions**

“Sec. 3171. Definitions.

**TITLE IV—QUALITY AND SURVEILLANCE**

Sec. 2401. Implementation of best practices in the delivery of health care.

Sec. 2402. Assistant Secretary for Health Information.

Sec. 2403. Authorization of appropriations.

**TITLE V—OTHER PROVISIONS**

Subtitle A—Drug Discount for Rural and Other Hospitals; 340B Program Integrity

Sec. 2501. Expanded participation in 340B program.

Sec. 2502. Improvements to 340B program integrity.

Sec. 2503. Effective date.

**Subtitle B—Programs**

**PART 1—GRANTS FOR CLINICS AND CENTERS**

Sec. 2511. School-based health clinics.

Sec. 2512. Nurse-Managed health centers.

Sec. 2513. Federally qualified behavioral health centers.

**PART 2—OTHER GRANT PROGRAMS**

Sec. 2521. Comprehensive programs to provide education to nurses and create a pipeline to nursing.

Sec. 2522. Mental and behavioral health training.

Sec. 2523. Reauthorization of telehealth and telemedicine grant programs.

Sec. 2524. No child left unimmunized against influenza: demonstration program using elementary and secondary schools as influenza vaccination centers.

Sec. 2525. Extension of Wisewoman Program.

Sec. 2526. Healthy teen initiative to prevent teen pregnancy.

Sec. 2527. National training initiatives on autism spectrum disorders.

Sec. 2528. Implementation of medication management services in treatment of chronic diseases.

Sec. 2529. Postpartum depression.

Sec. 2530. Grants to promote positive health behaviors and outcomes.

Sec. 2531. Medical liability alternatives.

Sec. 2532. Infant mortality pilot programs.

Sec. 2533. Secondary school health sciences training program.

Sec. 2534. Community-based collaborative care networks.

Sec. 2535. Community-based overweight and obesity prevention program.

Sec. 2536. Reducing student-to-school nurse ratios.

Sec. 2537. Medical-legal partnerships.  
 Sec. 2538. Screening, Brief Intervention, referral, and treatment for mental health and substance abuse disorders.

Sec. 2539. Grants to assist in developing medical schools in federally-designated health professional shortage areas.

#### PART 3—EMERGENCY CARE-RELATED PROGRAMS

Sec. 2551. Trauma care centers.  
 Sec. 2552. Emergency care coordination.  
 Sec. 2553. Pilot programs to improve emergency medical care.  
 Sec. 2554. Assisting veterans with military emergency medical training to become State-licensed or certified emergency medical technicians (EMTs).  
 Sec. 2555. Dental emergency responders: public health and medical response.  
 Sec. 2556. Dental emergency responders: homeland security.

#### PART 4—PAIN CARE AND MANAGEMENT PROGRAMS

Sec. 2561. Institute of Medicine Conference on Pain.  
 Sec. 2562. Pain research at National Institutes of Health.  
 Sec. 2563. Public awareness campaign on pain management.

#### Subtitle C—Food and Drug Administration PART 1—IN GENERAL

Sec. 2571. National medical device registry.  
 Sec. 2572. Nutrition labeling of standard menu items at chain restaurants and of articles of food sold from vending machines.  
 Sec. 2573. Protecting consumer access to generic drugs.

#### PART 2—BIOSIMILARS

Sec. 2575. Licensure pathway for biosimilar biological products.  
 Sec. 2576. Fees relating to biosimilar biological products.  
 Sec. 2577. Amendments to certain patent provisions.

#### Subtitle D—Community Living Assistance Services and Supports

Sec. 2581. Establishment of national voluntary insurance program for purchasing community living assistance services and support (CLASS program).

#### “TITLE XXXII—COMMUNITY LIVING ASSISTANCE SERVICES AND SUPPORTS

“Sec. 3201. Purpose.  
 “Sec. 3202. Definitions.  
 “Sec. 3203. CLASS Independence Benefit Plan.  
 “Sec. 3204. Enrollment and disenrollment requirements.  
 “Sec. 3205. Benefits.  
 “Sec. 3206. CLASS Independence Fund.  
 “Sec. 3207. CLASS Independence Advisory Council.  
 “Sec. 3208. Regulations; annual report.  
 “Sec. 3209. Inspector General’s report.

#### Subtitle E—Miscellaneous

Sec. 2585. States failing to adhere to certain employment obligations.  
 Sec. 2586. Health centers under Public Health Service Act; liability protections for volunteer practitioners.  
 Sec. 2587. Report to Congress on the current state of parasitic diseases that have been overlooked among the poorest Americans.

Sec. 2588. Office of Women’s Health.  
 Sec. 2588A. Offices of Minority Health.  
 Sec. 2589. Long-Term Care and Family Care-giver Support.

Sec. 2590. Web site on health care labor market and related educational and training opportunities.

Sec. 2591. Online health workforce training programs.

Sec. 2592. Access for individuals with disabilities.

Sec. 2593. Duplicative Grant programs.

Sec. 2594. Diabetes screening collaboration and outreach program.

Sec. 2595. Improvement of vital statistics collection.

Sec. 2596. National health service corps demonstration on incentive payments.

(b) REFERENCES.—Except as otherwise specified, whenever in this division an amendment is expressed in terms of an amendment to a section or other provision, the reference shall be considered to be made to a section or other provision of the Public Health Service Act (42 U.S.C. 201 et seq.).

#### SEC. 2002. PUBLIC HEALTH INVESTMENT FUND.

(a) ESTABLISHMENT OF FUNDS.—

(1) IN GENERAL.—Subject to section 2003, there is hereby established in the Treasury a separate account to be known as the “Public Health Investment Fund” (referred to in this section and section 2003 as the “Fund”).

(2) FUNDING.—

(A) There shall be deposited into the Fund—

- (i) for fiscal year 2011, \$4,600,000,000;
- (ii) for fiscal year 2012, \$5,600,000,000;
- (iii) for fiscal year 2013, \$6,900,000,000;
- (iv) for fiscal year 2014, \$7,800,000,000; and
- (v) for fiscal year 2015, \$9,000,000,000.

(B) Amounts deposited into the Fund shall be derived from general revenues of the Treasury only for the fiscal years set forth in this section, and amounts appropriated from the Fund shall remain available until expended.

(b) AUTHORIZATION OF APPROPRIATIONS FROM THE FUND.—

(1) NEW FUNDING.—

(A) IN GENERAL.—Subject to section 2003, amounts in the Fund are authorized to be appropriated for carrying out activities under designated public health provisions.

(B) DESIGNATED PROVISIONS.—For purposes of this paragraph, the term “designated public health provisions” means the provisions for which amounts are authorized to be appropriated under section 330(s), 338(c), 338H-1, 799C, 872, or 3111 of the Public Health Service Act, as added by this division.

(2) BASELINE FUNDING.—

(A) IN GENERAL.—Amounts in the Fund are authorized to be appropriated (as described in paragraph (1)) for a fiscal year only if (excluding any amounts in or appropriated from the Fund) the amounts specified in subparagraph (B) for the fiscal year involved are equal to or greater than the amounts specified in subparagraph (B) for fiscal year 2008.

(B) AMOUNTS SPECIFIED.—The amounts specified in this subparagraph, with respect to a fiscal year are the amounts appropriated (excluding any amounts in or appropriated from the Fund) for the following:

(i) Community health centers (including funds appropriated under the authority of section 330 of the Public Health Service Act (42 U.S.C. 254b)).

(ii) The National Health Service Corps Program (including funds appropriated under the authority of section 338 of such Act (42 U.S.C. 254k)).

(iii) The National Health Service Corps Scholarship and Loan Repayment Programs

(including funds appropriated under the authority of section 338H of such Act (42 U.S.C. 254q)).

(iv) Primary care education programs (including funds appropriated under the authority of sections 736, 740, 741, and 747 of such Act (42 U.S.C. 293, 293d, and 293k)).

(v) Sections 761 and 770 of such Act (42 U.S.C. 294n and 295e).

(vi) Nursing workforce development (including funds appropriated under the authority of title VIII of such Act (42 U.S.C. 296 et seq.)).

(vii) The National Center for Health Statistics (including funds appropriated under the authority of sections 304, 306, 307, and 308 of such Act (42 U.S.C. 242b, 242k, 242l, and 242m)).

(viii) The Agency for Healthcare Research and Quality (including funds made available under the authority of title IX of such Act (42 U.S.C. 299 et seq.)).

#### SEC. 2003. DEFICIT NEUTRALITY.

(a) AVAILABILITY.—Funds appropriated or made available pursuant to sections 330(s), 338(c), 338H-1, 799C, 872, or 3111 of the Public Health Service Act, as added by this division, are only available for the purposes set forth in this Act. Appropriations shall not be available and are precluded from obligation for any other purpose.

(b) ESTIMATION OF BUDGETARY IMPACT.—For the purposes of estimating the spending effects of this Act, the authorization of appropriations from the Fund, to the extent amounts in the Fund are derived from the general revenues of the Treasury, shall be treated as new direct spending and attributed to this Act.

(c) BUDGETARY TREATMENT.—For the purposes of section 257 of the Balanced Budget and Emergency Deficit Control Act of 1985, the Fund, to the extent amounts in the Fund are derived from the general revenues of the Treasury, and not in excess of amounts subsequently appropriated from the Fund, shall be deemed to be included on the list of appropriations referenced under section 250(c)(17) of that Act.

#### TITLE I—COMMUNITY HEALTH CENTERS

##### SEC. 2101. INCREASED FUNDING.

Section 330 of the Public Health Service Act (42 U.S.C. 254b) is amended—

(1) in subsection (r)(1)—

(A) in subparagraph (D), by striking “and” at the end;

(B) in subparagraph (E), by striking the period at the end and inserting “; and”; and

(C) by inserting at the end the following:

“(F) such sums as may be necessary for each of fiscal years 2013 through 2015.”; and

(2) by inserting after subsection (r) the following:

“(s) ADDITIONAL FUNDING.—For the purpose of carrying out this section, in addition to any other amounts authorized to be appropriated for such purpose, there are authorized to be appropriated, out of any monies in the Public Health Investment Fund, the following:

“(1) For fiscal year 2011, \$1,000,000,000.

“(2) For fiscal year 2012, \$1,500,000,000.

“(3) For fiscal year 2013, \$2,500,000,000.

“(4) For fiscal year 2014, \$3,000,000,000.

“(5) For fiscal year 2015, \$4,000,000,000.”.

#### TITLE II—WORKFORCE

##### Subtitle A—Primary Care Workforce

##### PART 1—NATIONAL HEALTH SERVICE CORPS

##### SEC. 2201. NATIONAL HEALTH SERVICE CORPS.

(a) FULFILLMENT OF OBLIGATED SERVICE REQUIREMENT THROUGH HALF-TIME SERVICE.—

(1) WAIVERS.—Subsection (i) of section 331 (42 U.S.C. 254d) is amended—

(A) in paragraph (1), by striking “In carrying out subpart III” and all that follows through the period and inserting “In carrying out subpart III, the Secretary may, in accordance with this subsection, issue waivers to individuals who have entered into a contract for obligated service under the Scholarship Program or the Loan Repayment Program under which the individuals are authorized to satisfy the requirement of obligated service through providing clinical practice that is half-time.”;

(B) in paragraph (2)—

(i) in subparagraphs (A)(ii) and (B), by striking “less than full time” each place it appears and inserting “half time”;

(ii) in subparagraphs (C) and (F), by striking “less than full-time service” each place it appears and inserting “half-time service”;

(iii) by amending subparagraphs (D) and (E) to read as follows:

“(D) the entity and the Corps member agree in writing that the Corps member will perform half-time clinical practice;

“(E) the Corps member agrees in writing to fulfill all of the service obligations under section 338C through half-time clinical practice and either—

“(i) double the period of obligated service that would otherwise be required; or

“(ii) in the case of contracts entered into under section 338B, accept a minimum service obligation of 2 years with an award amount equal to 50 percent of the amount that would otherwise be payable for full-time service; and”;

(C) in paragraph (3), by striking “In evaluating a demonstration project described in paragraph (1)” and inserting “In evaluating waivers issued under paragraph (1)”.

(2) DEFINITIONS.—Subsection (j) of section 331 (42 U.S.C. 254d) is amended by adding at the end the following:

“(5) The terms ‘full time’ and ‘full-time’ mean a minimum of 40 hours per week in a clinical practice, for a minimum of 45 weeks per year.

“(6) The terms ‘half time’ and ‘half-time’ mean a minimum of 20 hours per week (not to exceed 39 hours per week) in a clinical practice, for a minimum of 45 weeks per year.”.

(b) REAPPOINTMENT TO NATIONAL ADVISORY COUNCIL.—Section 337(b)(1) (42 U.S.C. 254j(b)(1)) is amended by striking “Members may not be reappointed to the Council.”.

(c) LOAN REPAYMENT AMOUNT.—Section 338B(g)(2)(A) (42 U.S.C. 254i-1(g)(2)(A)) is amended by striking “\$35,000” and inserting “\$50,000, plus, beginning with fiscal year 2012, an amount determined by the Secretary on an annual basis to reflect inflation.”.

(d) TREATMENT OF TEACHING AS OBLIGATED SERVICE.—Subsection (a) of section 338C (42 U.S.C. 254m) is amended by adding at the end the following: “The Secretary may treat teaching as clinical practice for up to 20 percent of such period of obligated service.”.

## SEC. 2202. AUTHORIZATIONS OF APPROPRIATIONS.

(a) NATIONAL HEALTH SERVICE CORPS PROGRAM.—Section 338 (42 U.S.C. 254k) is amended—

(1) in subsection (a), by striking “2012” and inserting “2015”; and

(2) by adding at the end the following:

“(c) For the purpose of carrying out this subpart, in addition to any other amounts authorized to be appropriated for such purpose, there are authorized to be appropriated, out of any monies in the Public Health Investment Fund, the following:

“(1) \$63,000,000 for fiscal year 2011.

“(2) \$66,000,000 for fiscal year 2012.

“(3) \$70,000,000 for fiscal year 2013.

“(4) \$73,000,000 for fiscal year 2014.

“(5) \$77,000,000 for fiscal year 2015.”.

(b) SCHOLARSHIP AND LOAN REPAYMENT PROGRAMS.—Subpart III of part D of title III of the Public Health Service Act (42 U.S.C. 254i et seq.) is amended—

(1) in section 338H(a)—

(A) in paragraph (4), by striking “and” at the end;

(B) in paragraph (5), by striking the period at the end and inserting “; and”; and

(C) by adding at the end the following:

“(6) for each of fiscal years 2013 through 2015, such sums as may be necessary.”; and

(2) by inserting after section 338H the following:

### “SEC. 338H-1. ADDITIONAL FUNDING.

“For the purpose of carrying out this subpart, in addition to any other amounts authorized to be appropriated for such purpose, there are authorized to be appropriated, out of any monies in the Public Health Investment Fund, the following:

“(1) \$254,000,000 for fiscal year 2011.

“(2) \$266,000,000 for fiscal year 2012.

“(3) \$278,000,000 for fiscal year 2013.

“(4) \$292,000,000 for fiscal year 2014.

“(5) \$306,000,000 for fiscal year 2015.”.

## PART 2—PROMOTION OF PRIMARY CARE AND DENTISTRY

### SEC. 2211. FRONTLINE HEALTH PROVIDERS.

Part D of title III (42 U.S.C. 254b et seq.) is amended by adding at the end the following:

#### “Subpart XI—Health Professional Needs Areas

### “SEC. 340H. IN GENERAL.

“(a) PROGRAM.—The Secretary, acting through the Administrator of the Health Resources and Services Administration, shall establish a program, to be known as the Frontline Health Providers Loan Repayment Program, to address unmet health care needs in health professional needs areas through loan repayments under section 340I.

“(b) DESIGNATION OF HEALTH PROFESSIONAL NEEDS AREAS.—

“(1) IN GENERAL.—In this subpart, the term ‘health professional needs area’ means an area, population, or facility that is designated by the Secretary in accordance with paragraph (2).

“(2) DESIGNATION.—To be designated by the Secretary as a health professional needs area under this subpart:

“(A) In the case of an area, the area must be a rational area for the delivery of health services.

“(B) The area, population, or facility must have, in one or more health disciplines, specialties, or subspecialties for the population served, as determined by the Secretary—

“(i) insufficient capacity of health professionals; or

“(ii) high needs for health services, including services to address health disparities.

“(C) With respect to the delivery of primary health services, the area, population, or facility must not include a health professional shortage area (as designated under section 332), except that the area, population, or facility may include such a health professional shortage area in which there is an unmet need for such services.

“(c) ELIGIBILITY.—To be eligible to participate in the Program, an individual shall—

“(1) hold a degree in a course of study or program (approved by the Secretary) from a school defined in section 799B(1)(A) (other than a school of public health);

“(2) hold a degree in a course of study or program (approved by the Secretary) from a

school or program defined in subparagraph (C), (D), or (E)(4) of section 799B(1), as designated by the Secretary;

“(3) be enrolled as a full-time student—

“(A) in a school or program defined in subparagraph (C), (D), or (E)(4) of section 799B(1), as designated by the Secretary, or a school described in paragraph (1); and

“(B) in the final year of a course of study or program, offered by such school or program and approved by the Secretary, leading to a degree in a discipline referred to in subparagraph (A) (other than a graduate degree in public health), (C), (D), or (E)(4) of section 799B(1);

“(4) be a practitioner described in section 1842(b)(18)(C) or 1848(k)(3)(B)(iii) or (iv) of the Social Security Act; or

“(5) be a practitioner in the field of respiratory therapy, medical technology, or radiologic technology.

“(d) DEFINITIONS.—In this subpart:

“(1) The term ‘health disparities’ has the meaning given to the term in section 3171.

“(2) The term ‘primary health services’ has the meaning given to such term in section 331(a)(3)(D).

### “SEC. 340I. LOAN REPAYMENTS.

“(a) LOAN REPAYMENTS.—The Secretary, acting through the Administrator of the Health Resources and Services Administration, shall enter into contracts with individuals under which—

“(1) the individual agrees—

“(A) to serve as a full-time primary health services provider or as a full-time or part-time provider of other health services for a period of time equal to 2 years or such longer period as the individual may agree to;

“(B) to serve in a health professional needs area in a health discipline, specialty, or a subspecialty for which the area, population, or facility is designated as a health professional needs area under section 340H; and

“(C) in the case of an individual described in section 340H(c)(3) who is in the final year of study and who has accepted employment as a primary health services provider or provider of other health services in accordance with subparagraphs (A) and (B), to complete the education or training and maintain an acceptable level of academic standing (as determined by the educational institution offering the course of study or training); and

“(2) the Secretary agrees to pay, for each year of such service, an amount on the principal and interest of the undergraduate or graduate educational loans (or both) of the individual that is not more than 50 percent of the average award made under the National Health Service Corps Loan Repayment Program under subpart III in that year.

“(b) PRACTICE SETTING.—A contract entered into under this section shall allow the individual receiving the loan repayment to satisfy the service requirement described in subsection (a)(1) through employment in a solo or group practice, a clinic, an accredited public or private nonprofit hospital, or any other health care entity, as deemed appropriate by the Secretary.

“(c) APPLICATION OF CERTAIN PROVISIONS.—The provisions of subpart III of part D shall, except as inconsistent with this section, apply to the loan repayment program under this subpart in the same manner and to the same extent as such provisions apply to the National Health Service Corps Loan Repayment Program established under section 338B.

“(d) INSUFFICIENT NUMBER OF APPLICANTS.—If there are an insufficient number of applicants for loan repayments under this section to obligate all appropriated funds,

the Secretary shall transfer the unobligated funds to the National Health Service Corps for the purpose of recruiting applicants and entering into contracts with individuals so as to ensure a sufficient number of participants in the National Health Service Corps for the following year.

**“SEC. 340J. REPORT.”**

“The Secretary shall submit to the Congress an annual report on the program carried out under this subpart.

**“SEC. 340K. ALLOCATION.”**

“Of the amount of funds obligated under this subpart each fiscal year for loan repayments—

“(1) 90 percent shall be for physicians and other health professionals providing primary health services; and

“(2) 10 percent shall be for health professionals not described in paragraph (1).”.

**SEC. 2212. PRIMARY CARE STUDENT LOAN FUNDS.**

(a) IN GENERAL.—Section 735 (42 U.S.C. 292y) is amended—

(1) by redesignating subsection (f) as subsection (g); and

(2) by inserting after subsection (e) the following:

“(f) DETERMINATION OF FINANCIAL NEED.—The Secretary—

“(1) may require, or authorize a school or other entity to require, the submission of financial information to determine the financial resources available to any individual seeking assistance under this subpart; and

“(2) shall take into account the extent to which such individual is financially independent in determining whether to require or authorize the submission of such information regarding such individual’s family members.”.

(b) REVISED GUIDELINES.—The Secretary of Health and Human Services shall—

(1) strike the second sentence of section 57.206(b)(1) of title 42, Code of Federal Regulations; and

(2) make such other revisions to guidelines and regulations in effect as of the date of the enactment of this Act as may be necessary for consistency with the amendments made by paragraph (1).

**SEC. 2213. TRAINING IN FAMILY MEDICINE, GENERAL INTERNAL MEDICINE, GENERAL PEDIATRICS, GERIATRICS, AND PHYSICIAN ASSISTANTS.**

Section 747 (42 U.S.C. 293k) is amended—

(1) by amending the section heading to read as follows: **“PRIMARY CARE TRAINING AND ENHANCEMENT”**;

(2) by redesignating subsection (e) as subsection (g); and

(3) by striking subsections (a) through (d) and inserting the following:

“(a) PROGRAM.—The Secretary shall establish a primary care training and capacity building program consisting of awarding grants and contracts under subsections (b) and (c).

“(b) SUPPORT AND DEVELOPMENT OF PRIMARY CARE TRAINING PROGRAMS.—

“(1) IN GENERAL.—The Secretary shall make grants to, or enter into contracts with, eligible entities—

“(A) to plan, develop, operate, or participate in an accredited professional training program, including an accredited residency or internship program, in the field of family medicine, general internal medicine, general pediatrics, or geriatrics for medical students, interns, residents, or practicing physicians;

“(B) to provide financial assistance in the form of traineeships and fellowships to medical students, interns, residents, or prac-

ticing physicians, who are participants in any such program, and who plan to specialize or work in family medicine, general internal medicine, general pediatrics, or geriatrics;

“(C) to plan, develop, operate, or participate in an accredited program for the training of physicians who plan to teach in family medicine, general internal medicine, general pediatrics, or geriatrics training programs including in community-based settings;

“(D) to provide financial assistance in the form of traineeships and fellowships to practicing physicians who are participants in any such programs and who plan to teach in a family medicine, general internal medicine, general pediatrics, or geriatrics training program; and

“(E) to plan, develop, operate, or participate in an accredited program for physician assistant education, and for the training of individuals who plan to teach in programs to provide such training.

“(2) ELIGIBILITY.—To be eligible for a grant or contract under paragraph (1), an entity shall be—

“(A) an accredited school of medicine or osteopathic medicine, public or nonprofit private hospital, or physician assistant training program;

“(B) a public or private nonprofit entity; or

“(C) a consortium of 2 or more entities described in subparagraphs (A) and (B).

“(c) CAPACITY BUILDING IN PRIMARY CARE.—

“(1) IN GENERAL.—The Secretary shall make grants to or enter into contracts with eligible entities to establish, maintain, or improve—

“(A) academic administrative units (including departments, divisions, or other appropriate units) in the specialties of family medicine, general internal medicine, general pediatrics, or geriatrics; or

“(B) programs that improve clinical teaching in such specialties.

“(2) ELIGIBILITY.—To be eligible for a grant or contract under paragraph (1), an entity shall be an accredited school of medicine or osteopathic medicine.

“(d) PREFERENCE.—In awarding grants or contracts under this section, the Secretary shall give preference to entities that have a demonstrated record of at least one of the following:

“(1) Training a high or significantly improved percentage of health professionals who provide primary care.

“(2) Training individuals who are from disadvantaged backgrounds (including racial and ethnic minorities underrepresented among primary care professionals).

“(3) A high rate of placing graduates in practice settings having the principal focus of serving in underserved areas or populations experiencing health disparities (including serving patients eligible for medical assistance under title XIX of the Social Security Act or for child health assistance under title XXI of such Act or those with special health care needs).

“(4) Supporting teaching programs that address the health care needs of vulnerable populations.

“(e) REPORT.—The Secretary shall submit to the Congress an annual report on the program carried out under this section.

“(f) DEFINITION.—In this section, the term ‘health disparities’ has the meaning given the term in section 3171.”.

**SEC. 2214. TRAINING OF MEDICAL RESIDENTS IN COMMUNITY-BASED SETTINGS.**

Title VII (42 U.S.C. 292 et seq.) is amended—

(1) by redesignating section 748 as 749A; and

(2) by inserting after section 747 the following:

**“SEC. 748. TRAINING OF MEDICAL RESIDENTS IN COMMUNITY-BASED SETTINGS.”**

“(a) PROGRAM.—The Secretary shall establish a program for the training of medical residents in community-based settings consisting of awarding grants and contracts under this section.

“(b) DEVELOPMENT AND OPERATION OF COMMUNITY-BASED PROGRAMS.—The Secretary shall make grants to, or enter into contracts with, eligible entities—

“(1) to plan and develop a new primary care residency training program, which may include—

“(A) planning and developing curricula;

“(B) recruiting and training residents and faculty; and

“(C) other activities designated to result in accreditation of such a program; or

“(2) to operate or participate in an established primary care residency training program, which may include—

“(A) planning and developing curricula;

“(B) recruitment and training of residents; and

“(C) retention of faculty.

“(c) ELIGIBLE ENTITY.—To be eligible to receive a grant or contract under subsection (b), an entity shall—

“(1) be designated as a recipient of payment for the direct costs of medical education under section 1886(k) of the Social Security Act;

“(2) be designated as an approved teaching health center under section 1502(d) of the Affordable Health Care for America Act and continuing to participate in the demonstration project under such section;

“(3) be an applicant for designation described in paragraph (1) or (2) and have demonstrated to the Secretary appropriate involvement of an accredited teaching hospital to carry out the inpatient responsibilities associated with a primary care residency training program; or

“(4) be eligible to be designated as described in paragraph (1) or (2), not be an applicant as described in paragraph (3), and have demonstrated appropriate involvement of an accredited teaching hospital to carry out the inpatient responsibilities associated with a primary care residency training program.

“(d) PREFERENCES.—In awarding grants and contracts under paragraph (1) or (2) of subsection (b), the Secretary shall give preference to entities that—

“(1) support teaching programs that address the health care needs of vulnerable populations; or

“(2) are a Federally qualified health center (as defined in section 1861(aa)(4) of the Social Security Act) or a rural health clinic (as defined in section 1861(aa)(2) of such Act).

“(e) ADDITIONAL PREFERENCES FOR ESTABLISHED PROGRAMS.—In awarding grants and contracts under subsection (b)(2), the Secretary shall give preference to entities that have a demonstrated record of training—

“(1) a high or significantly improved percentage of health professionals who provide primary care;

“(2) individuals who are from disadvantaged backgrounds (including racial and ethnic minorities underrepresented among primary care professionals); or

“(3) individuals who practice in settings having the principal focus of serving underserved areas or populations experiencing health disparities (including serving patients

eligible for medical assistance under title XIX of the Social Security Act or for child health assistance under title XXI of such Act or those with special health care needs).

“(f) PERIOD OF AWARDS.—

“(1) IN GENERAL.—The period of a grant or contract under this section—

“(A) shall not exceed 3 years for awards under subsection (b)(1); and

“(B) shall not exceed 5 years for awards under subsection (b)(2).

“(2) SPECIAL RULES.—

“(A) An award of a grant or contract under subsection (b)(1) shall not be renewed.

“(B) The period of a grant or contract awarded to an entity under subsection (b)(2) shall not overlap with the period of any grant or contract awarded to the same entity under subsection (b)(1).

“(g) REPORT.—The Secretary shall submit to the Congress an annual report on the program carried out under this section.

“(h) DEFINITIONS.—In this section:

“(1) HEALTH DISPARITIES.—The term ‘health disparities’ has the meaning given the term in section 3171.

“(2) PRIMARY CARE RESIDENT.—The term ‘primary care resident’ has the meaning given the term in section 1886(h)(5)(H) of the Social Security Act.

“(3) PRIMARY CARE RESIDENCY TRAINING PROGRAM.—The term ‘primary care residency training program’ means an approved medical residency training program described in section 1886(h)(5)(A) of the Social Security Act for primary care residents that is—

“(A) in the case of entities seeking awards under subsection (b)(1), actively applying to be accredited by the Accreditation Council for Graduate Medical Education or the American Osteopathic Association; or

“(B) in the case of entities seeking awards under subsection (b)(2), so accredited.

“(i) ALLOCATION OF FUNDS.—Of the amount appropriated pursuant to section 799C(a) for a fiscal year, not more than 17 percent of such amount shall be made available to carry out this section.”.

#### **SEC. 2215. TRAINING FOR GENERAL, PEDIATRIC, AND PUBLIC HEALTH DENTISTS AND DENTAL HYGIENISTS.**

Title VII (42 U.S.C. 292 et seq.) is amended—

(1) in section 791(a)(1), by striking “747 and 750” and inserting “747, 749, and 750”; and

(2) by inserting after section 748, as added, the following:

#### **“SEC. 749. TRAINING FOR GENERAL, PEDIATRIC, AND PUBLIC HEALTH DENTISTS AND DENTAL HYGIENISTS.**

“(a) PROGRAM.—The Secretary shall establish a training program for oral health professionals consisting of awarding grants and contracts under this section.

“(b) SUPPORT AND DEVELOPMENT OF ORAL HEALTH TRAINING PROGRAMS.—The Secretary shall make grants to, or enter into contracts with, eligible entities—

“(1) to plan, develop, operate, or participate in an accredited professional training program for oral health professionals;

“(2) to provide financial assistance to oral health professionals who are in need thereof, who are participants in any such program, and who plan to work in general, pediatric, or public health dentistry, or dental hygiene;

“(3) to plan, develop, operate, or participate in a program for the training of oral health professionals who plan to teach in general, pediatric, or public health dentistry, or dental hygiene;

“(4) to provide financial assistance in the form of traineeships and fellowships to oral health professionals who plan to teach in

general, pediatric, or public health dentistry or dental hygiene;

“(5) to establish, maintain, or improve—

“(A) academic administrative units (including departments, divisions, or other appropriate units) in the specialties of general, pediatric, or public health dentistry; or

“(B) programs that improve clinical teaching in such specialties;

“(6) to plan, develop, operate, or participate in predoctoral and postdoctoral training in general, pediatric, or public health dentistry programs;

“(7) to plan, develop, operate, or participate in a loan repayment program for full-time faculty in a program of general, pediatric, or public health dentistry; and

“(8) to provide technical assistance to pediatric dental training programs in developing and implementing instruction regarding the oral health status, dental care needs, and risk-based clinical disease management of all pediatric populations with an emphasis on underserved children.

“(c) ELIGIBILITY.—To be eligible for a grant or contract under this section, an entity shall be—

“(1) an accredited school of dentistry, training program in dental hygiene, or public or nonprofit private hospital;

“(2) a training program in dental hygiene at an accredited institution of higher education;

“(3) a public or private nonprofit entity; or

“(4) a consortium of—

“(A) 1 or more of the entities described in paragraphs (1) through (3); and

“(B) an accredited school of public health.

“(d) PREFERENCE.—In awarding grants or contracts under this section, the Secretary shall give preference to entities that have a demonstrated record of at least one of the following:

“(1) Training a high or significantly improved percentage of oral health professionals who practice general, pediatric, or public health dentistry.

“(2) Training individuals who are from disadvantaged backgrounds (including racial and ethnic minorities underrepresented among oral health professionals).

“(3) A high rate of placing graduates in practice settings having the principal focus of serving in underserved areas or populations experiencing health disparities (including serving patients eligible for medical assistance under title XIX of the Social Security Act or for child health assistance under title XXI of such Act or those with special health care needs).

“(4) Supporting teaching programs that address the oral health needs of vulnerable populations.

“(5) Providing instruction regarding the oral health status, oral health care needs, and risk-based clinical disease management of all pediatric populations with an emphasis on underserved children.

“(e) REPORT.—The Secretary shall submit to the Congress an annual report on the program carried out under this section.

“(f) DEFINITIONS.—In this section:

“(1) The term ‘health disparities’ has the meaning given the term in section 3171.

“(2) The term ‘oral health professional’ means an individual training or practicing—

“(A) in general dentistry, pediatric dentistry, public health dentistry, or dental hygiene; or

“(B) another oral health specialty, as deemed appropriate by the Secretary.”.

#### **SEC. 2216. AUTHORIZATION OF APPROPRIATIONS.**

(a) IN GENERAL.—Part F of title VII (42 U.S.C. 295j et seq.) is amended by adding at the end the following:

#### **“SEC. 799C. FUNDING THROUGH PUBLIC HEALTH INVESTMENT FUND.**

“(a) PROMOTION OF PRIMARY CARE AND DENTISTRY.—For the purpose of carrying out subpart XI of part D of title III and sections 747, 748, and 749, in addition to any other amounts authorized to be appropriated for such purpose, there are authorized to be appropriated, out of any monies in the Public Health Investment Fund, the following:

“(1) \$240,000,000 for fiscal year 2011.

“(2) \$253,000,000 for fiscal year 2012.

“(3) \$265,000,000 for fiscal year 2013.

“(4) \$278,000,000 for fiscal year 2014.

“(5) \$292,000,000 for fiscal year 2015.”.

(b) EXISTING AUTHORIZATION OF APPROPRIATIONS.—Subsection (g)(1), as so redesignated, of section 747 (42 U.S.C. 293k) is amended by striking “2002” and inserting “2015”.

#### **SEC. 2217. STUDY ON EFFECTIVENESS OF SCHOLARSHIPS AND LOAN REPAYMENTS.**

(a) STUDY.—The Comptroller General of the United States shall conduct a study to determine the effectiveness of scholarship and loan repayment programs under subparts III and XI of part D of title III of the Public Health Service Act, as amended or added by sections 2201 and 2211, including whether scholarships or loan repayments are more effective in—

(1) incentivizing physicians, and other providers, to pursue careers in primary care specialties;

(2) retaining such primary care providers; and

(3) encouraging such primary care providers to practice in underserved areas.

(b) REPORT.—Not later than 12 months after the date of the enactment of this Act, the Comptroller General shall submit to the Congress a report on the results of the study under subsection (a).

#### **Subtitle B—Nursing Workforce**

#### **SEC. 2221. AMENDMENTS TO PUBLIC HEALTH SERVICE ACT.**

(a) DEFINITIONS.—Section 801 (42 U.S.C. 296 et seq.) is amended—

(1) in paragraph (1), by inserting “nurse-managed health centers,” after “nursing centers.”; and

(2) by adding at the end the following:

“(16) NURSE-MANAGED HEALTH CENTER.—The term ‘nurse-managed health center’—

“(A) means a nurse-practice arrangement, managed by one or more advanced practice nurses, that provides primary care or wellness services to underserved or vulnerable populations and is associated with an accredited school of nursing, Federally qualified health center, or independent nonprofit health or social services agency; and

“(B) shall not be construed as changing State law requirements applicable to an advanced practice nurse or the authorized scope of practice of such a nurse.”.

(b) GRANTS FOR HEALTH PROFESSIONS EDUCATION.—Title VIII (42 U.S.C. 296 et seq.) is amended by striking section 807.

(c) REPORTS.—Part A of title VIII (42 U.S.C. 296 et seq.) is amended by adding at the end the following:

#### **“SEC. 809. REPORTS.**

“The Secretary shall submit to the Congress a separate annual report on the activities carried out under each of sections 811, 821, 836, 846A, and 861.”.

(d) ADVANCED EDUCATION NURSING GRANTS.—Section 811(f) (42 U.S.C. 296j(f)) is amended—

(1) by striking paragraph (2);

(2) by redesignating paragraph (3) as paragraph (2); and

(3) in paragraph (2), as so redesignated, by striking “that agrees” and all that follows

through the end and inserting: “that agrees to expend the award—

“(A) to train advanced education nurses who will practice in health professional shortage areas designated under section 332; or

“(B) to increase diversity among advanced education nurses.”.

(e) NURSE EDUCATION, PRACTICE, AND RETENTION GRANTS.—Section 831 (42 U.S.C. 296p) is amended—

(1) in subsection (b), by amending paragraph (3) to read as follows:

“(3) providing coordinated care, quality care, and other skills needed to practice nursing; or”; and

(2) by striking subsection (e) and redesignating subsections (f) through (h) as subsections (e) through (g), respectively.

(f) STUDENT LOANS.—Subsection (a) of section 836 (42 U.S.C. 297b) is amended—

(1) by striking “\$2,500” and inserting “\$3,300”;;

(2) by striking “\$4,000” and inserting “\$5,200”;;

(3) by striking “\$13,000” and inserting “\$17,000”; and

(4) by adding at the end the following: “Beginning with fiscal year 2012, the dollar amounts specified in this subsection shall be adjusted by an amount determined by the Secretary on an annual basis to reflect inflation.”.

(g) LOAN REPAYMENT.—Section 846 (42 U.S.C. 297n) is amended—

(1) in subsection (a), by amending paragraph (3) to read as follows:

“(3) who enters into an agreement with the Secretary to serve for a period of not less than 2 years—

“(A) as a nurse at a health care facility with a critical shortage of nurses; or

“(B) as a faculty member at an accredited school of nursing;”; and

(2) in subsection (g)(1), by striking “to provide health services” each place it appears and inserting “to provide health services or serve as a faculty member”.

(h) NURSE FACULTY LOAN PROGRAM.—Paragraph (2) of section 846A(c) (42 U.S.C. 297n-1(c)) is amended by striking “\$30,000” and all that follows through the semicolon and inserting “\$35,000, plus, beginning with fiscal year 2012, an amount determined by the Secretary on an annual basis to reflect inflation.”.

(i) PUBLIC SERVICE ANNOUNCEMENTS.—Title VIII (42 U.S.C. 296 et seq.) is amended by striking part H.

(j) TECHNICAL AND CONFORMING AMENDMENTS.—Title VIII (42 U.S.C. 296 et seq.) is amended—

(1) by moving section 810 (relating to prohibition against discrimination by schools on the basis of sex) so that it follows section 809, as added by subsection (c);

(2) in sections 835, 836, 838, 840, and 842, by striking the term “this subpart” each place it appears and inserting “this part”;;

(3) in section 836(h), by striking the last sentence;

(4) in section 836, by redesignating subsection (l) as subsection (k);

(5) in section 839, by striking “839” and all that follows through “(a)” and inserting “839. (a)”;;

(6) in section 835(b), by striking “841” each place it appears and inserting “871”;;

(7) by redesignating section 841 as section 871, moving part F to the end of the title, and redesignating such part as part H;

(8) in part G—

(A) by redesignating section 845 as section 851; and

(B) by redesignating part G as part F; and

(9) in part I—

(A) by redesignating section 855 as section 861; and

(B) by redesignating part I as part G.

(k) FUNDING.—

(1) IN GENERAL.—Part H, as redesignated, of title VIII is amended by adding at the end the following:

“SEC. 872. FUNDING THROUGH PUBLIC HEALTH INVESTMENT FUND.

“For the purpose of carrying out this title, in addition to any other amounts authorized to be appropriated for such purpose, there are authorized to be appropriated, out of any monies in the Public Health Investment Fund, the following:

“(1) \$115,000,000 for fiscal year 2011.

“(2) \$122,000,000 for fiscal year 2012.

“(3) \$127,000,000 for fiscal year 2013.

“(4) \$134,000,000 for fiscal year 2014.

“(5) \$140,000,000 for fiscal year 2015.”.

(2) EXISTING AUTHORIZATIONS OF APPROPRIATIONS.—

(A) SECTIONS 831, 846, 846A, AND 861.—Sections 831(g) (as so redesignated), 846(i)(1) (42 U.S.C. 297n(i)(1)), 846A(f) (42 U.S.C. 297n-1(f)), and 861(e) (as so redesignated) are amended by striking “2007” each place it appears and inserting “2015”.

(B) SECTION 871.—Section 871, as so redesignated by subsection (j), is amended to read as follows:

“SEC. 871. FUNDING.

“For the purpose of carrying out parts B, C, and D (subject to section 851(g)), there are authorized to be appropriated such sums as may be necessary for each fiscal year through fiscal year 2015.”.

#### Subtitle C—Public Health Workforce

#### SEC. 2231. PUBLIC HEALTH WORKFORCE CORPS.

Part D of title III (42 U.S.C. 254b et seq.), as amended by section 2211, is amended by adding at the end the following:

##### “Subpart XII—Public Health Workforce

#### “SEC. 340L. PUBLIC HEALTH WORKFORCE CORPS.

“(a) ESTABLISHMENT.—There is established, within the Service, the Public Health Workforce Corps (in this subpart referred to as the ‘Corps’), for the purpose of ensuring an adequate supply of public health professionals throughout the Nation. The Corps shall consist of—

“(1) such officers of the Regular and Reserve Corps of the Service as the Secretary may designate;

“(2) such civilian employees of the United States as the Secretary may appoint; and

“(3) such other individuals who are not employees of the United States.

“(b) ADMINISTRATION.—Except as provided in subsection (c), the Secretary shall carry out this subpart acting through the Administrator of the Health Resources and Services Administration.

“(c) PLACEMENT AND ASSIGNMENT.—The Secretary, acting through the Director of the Centers for Disease Control and Prevention, shall develop a methodology for placing and assigning Corps participants as public health professionals. Such methodology may allow for placing and assigning such participants in State, local, and tribal health departments and Federally qualified health centers (as defined in section 1861(aa)(4) of the Social Security Act).

“(d) APPLICATION OF CERTAIN PROVISIONS.—The provisions of subpart II shall, except as inconsistent with this subpart, apply to the Public Health Workforce Corps in the same manner and to the same extent as such provisions apply to the National Health Service Corps established under section 331.

“(e) REPORT.—The Secretary shall submit to the Congress an annual report on the programs carried out under this subpart.

#### “SEC. 340M. PUBLIC HEALTH WORKFORCE SCHOLARSHIP PROGRAM.

“(a) ESTABLISHMENT.—The Secretary shall establish the Public Health Workforce Scholarship Program (referred to in this section as the ‘Program’) for the purpose described in section 340L(a).

“(b) ELIGIBILITY.—To be eligible to participate in the Program, an individual shall—

“(1)(A) be accepted for enrollment, or be enrolled, as a full-time or part-time student in a course of study or program (approved by the Secretary) at an accredited graduate school or program of public health; or

“(B) have demonstrated expertise in public health and be accepted for enrollment, or be enrolled, as a full-time or part-time student in a course of study or program (approved by the Secretary) at—

“(i) an accredited graduate school or program of nursing; health administration, management, or policy; preventive medicine; laboratory science; veterinary medicine; or dental medicine; or

“(ii) another accredited graduate school or program, as deemed appropriate by the Secretary;

“(2) be eligible for, or hold, an appointment as a commissioned officer in the Regular or Reserve Corps of the Service or be eligible for selection for civilian service in the Corps; and

“(3) sign and submit to the Secretary a written contract (described in subsection (c)) to serve full-time as a public health professional, upon the completion of the course of study or program involved, for the period of obligated service described in subsection (c)(2)(E).

“(c) CONTRACT.—The written contract between the Secretary and an individual under subsection (b)(3) shall contain—

“(1) an agreement on the part of the Secretary that the Secretary will—

“(A) provide the individual with a scholarship for a period of years (not to exceed 4 academic years) during which the individual shall pursue an approved course of study or program to prepare the individual to serve in the public health workforce; and

“(B) accept (subject to the availability of appropriated funds) the individual into the Corps;

“(2) an agreement on the part of the individual that the individual will—

“(A) accept provision of such scholarship to the individual;

“(B) maintain full-time or part-time enrollment in the approved course of study or program described in subsection (b)(1) until the individual completes that course of study or program;

“(C) while enrolled in the approved course of study or program, maintain an acceptable level of academic standing (as determined by the educational institution offering such course of study or program);

“(D) if applicable, complete a residency or internship; and

“(E) serve full-time as a public health professional for a period of time equal to the greater of—

“(i) 1 year for each academic year for which the individual was provided a scholarship under the Program; or

“(ii) 2 years; and

“(3) an agreement by both parties as to the nature and extent of the scholarship assistance, which may include—

“(A) payment of reasonable educational expenses of the individual, including tuition,



fees, books, equipment, and laboratory expenses; and

“(B) payment of a stipend of not more than \$1,269 (plus, beginning with fiscal year 2012, an amount determined by the Secretary on an annual basis to reflect inflation) per month for each month of the academic year involved, with the dollar amount of such a stipend determined by the Secretary taking into consideration whether the individual is enrolled full-time or part-time.

“(d) APPLICATION OF CERTAIN PROVISIONS.—The provisions of subpart III shall, except as inconsistent with this subpart, apply to the scholarship program under this section in the same manner and to the same extent as such provisions apply to the National Health Service Corps Scholarship Program established under section 338A.

**“SEC. 340N. PUBLIC HEALTH WORKFORCE LOAN REPAYMENT PROGRAM.**

“(a) ESTABLISHMENT.—The Secretary shall establish the Public Health Workforce Loan Repayment Program (referred to in this section as the ‘Program’) for the purpose described in section 340L(a).

“(b) ELIGIBILITY.—To be eligible to participate in the Program, an individual shall—

“(1)(A) have a graduate degree from an accredited school or program of public health; (B) have demonstrated expertise in public health and have a graduate degree in a course of study or program (approved by the Secretary) from—

“(i) an accredited school or program of nursing; health administration, management, or policy; preventive medicine; laboratory science; veterinary medicine; or dental medicine; or

“(ii) another accredited school or program approved by the Secretary; or

“(C) be enrolled as a full-time or part-time student in the final year of a course of study or program (approved by the Secretary) offered by a school or program described in subparagraph (A) or (B), leading to a graduate degree;

“(2) be eligible for, or hold, an appointment as a commissioned officer in the Regular or Reserve Corps of the Service or be eligible for selection for civilian service in the Corps;

“(3) if applicable, complete a residency or internship; and

“(4) sign and submit to the Secretary a written contract (described in subsection (c)) to serve full-time as a public health professional for the period of obligated service described in subsection (c)(2).

“(c) CONTRACT.—The written contract between the Secretary and an individual under subsection (b)(4) shall contain—

“(1) an agreement by the Secretary to repay on behalf of the individual loans incurred by the individual in the pursuit of the relevant public health workforce educational degree in accordance with the terms of the contract;

“(2) an agreement by the individual to serve full-time as a public health professional for a period of time equal to 2 years or such longer period as the individual may agree to; and

“(3) in the case of an individual described in subsection (b)(1)(C) who is in the final year of study and who has accepted employment as a public health professional, in accordance with section 340L(c), an agreement on the part of the individual to complete the education or training, maintain an acceptable level of academic standing (as determined by the educational institution offering the course of study or training), and serve the period of obligated service described in paragraph (2).

“(d) PAYMENTS.—

“(1) IN GENERAL.—A loan repayment provided for an individual under a written contract under the Program shall consist of payment, in accordance with paragraph (2), on behalf of the individual of the principal, interest, and related expenses on government and commercial loans received by the individual regarding the undergraduate or graduate education of the individual (or both), which loans were made for reasonable educational expenses, including tuition, fees, books, equipment, and laboratory expenses, incurred by the individual.

“(2) PAYMENTS FOR YEARS SERVED.—

“(A) IN GENERAL.—For each year of obligated service that an individual contracts to serve under subsection (c), the Secretary may pay up to \$35,000 (plus, beginning with fiscal year 2012, an amount determined by the Secretary on an annual basis to reflect inflation) on behalf of the individual for loans described in paragraph (1).

“(B) REPAYMENT SCHEDULE.—Any arrangement made by the Secretary for the making of loan repayments in accordance with this subsection shall provide that any repayments for a year of obligated service shall be made no later than the end of the fiscal year in which the individual completes such year of service.

“(e) APPLICATION OF CERTAIN PROVISIONS.—The provisions of subpart III shall, except as inconsistent with this subpart, apply to the loan repayment program under this section in the same manner and to the same extent as such provisions apply to the National Health Service Corps Loan Repayment Program established under section 338B.”.

**SEC. 2232. ENHANCING THE PUBLIC HEALTH WORKFORCE.**

Section 765 (42 U.S.C. 295) is amended to read as follows:

**“SEC. 765. ENHANCING THE PUBLIC HEALTH WORKFORCE.**

“(a) PROGRAM.—The Secretary, acting through the Administrator of the Health Resources and Services Administration and in consultation with the Director of the Centers for Disease Control and Prevention, shall establish a public health workforce training and enhancement program consisting of awarding grants and contracts under subsection (b).

“(b) GRANTS AND CONTRACTS.—The Secretary shall award grants to, or enter into contracts with, eligible entities—

“(1) to plan, develop, operate, or participate in, an accredited professional training program in the field of public health (including such a program in nursing; health administration, management, or policy; preventive medicine; laboratory science; veterinary medicine; or dental medicine) for members of the public health workforce, including midcareer professionals;

“(2) to provide financial assistance in the form of traineeships and fellowships to students who are participants in any such program and who plan to specialize or work in the field of public health;

“(3) to plan, develop, operate, or participate in a program for the training of public health professionals who plan to teach in any program described in paragraph (1); and

“(4) to provide financial assistance in the form of traineeships and fellowships to public health professionals who are participants in any program described in paragraph (1) and who plan to teach in the field of public health, including nursing; health administration, management, or policy; preventive medicine; laboratory science; veterinary medicine; or dental medicine.

“(c) ELIGIBILITY.—To be eligible for a grant or contract under this section, an entity shall be—

“(1) an accredited health professions school, including an accredited school or program of public health; nursing; health administration, management, or policy; preventive medicine; laboratory science; veterinary medicine; or dental medicine;

“(2) a State, local, or tribal health department;

“(3) a public or private nonprofit entity; or

“(4) a consortium of 2 or more entities described in paragraphs (1) through (3).

“(d) PREFERENCE.—In awarding grants or contracts under this section, the Secretary shall give preference to entities that have a demonstrated record of at least one of the following:

“(1) Training a high or significantly improved percentage of public health professionals who serve in underserved communities.

“(2) Training individuals who are from disadvantaged backgrounds (including racial and ethnic minorities underrepresented among public health professionals).

“(3) Training individuals in public health specialties experiencing a significant shortage of public health professionals (as determined by the Secretary).

“(4) Training a high or significantly improved percentage of public health professionals serving in the Federal Government or a State, local, or tribal government.

“(e) REPORT.—The Secretary shall submit to the Congress an annual report on the program carried out under this section.”.

**SEC. 2233. PUBLIC HEALTH TRAINING CENTERS.**

Section 766 (42 U.S.C. 295a) is amended—

(1) in subsection (b)(1), by striking “in furtherance of the goals established by the Secretary for the year 2000” and inserting “in furtherance of the goals established by the Secretary in the national prevention and wellness strategy under section 3121”; and

(2) by adding at the end the following:

“(d) REPORT.—The Secretary shall submit to the Congress an annual report on the program carried out under this section.”.

**SEC. 2234. PREVENTIVE MEDICINE AND PUBLIC HEALTH TRAINING GRANT PROGRAM.**

Section 768 (42 U.S.C. 295c) is amended to read as follows:

**“SEC. 768. PREVENTIVE MEDICINE AND PUBLIC HEALTH TRAINING GRANT PROGRAM.**

“(a) GRANTS.—The Secretary, acting through the Administrator of the Health Resources and Services Administration and in consultation with the Director of the Centers for Disease Control and Prevention, shall award grants to, or enter into contracts with, eligible entities to provide training to graduate medical residents in preventive medicine specialties.

“(b) ELIGIBILITY.—To be eligible for a grant or contract under subsection (a), an entity shall be—

“(1) an accredited school of public health or school of medicine or osteopathic medicine;

“(2) an accredited public or private nonprofit hospital;

“(3) a State, local, or tribal health department; or

“(4) a consortium of 2 or more entities described in paragraphs (1) through (3).

“(c) USE OF FUNDS.—Amounts received under a grant or contract under this section shall be used to—

“(1) plan, develop (including the development of curricula), operate, or participate in

an accredited residency or internship program in preventive medicine or public health;

“(2) defray the costs of practicum experiences, as required in such a program; and

“(3) establish, maintain, or improve—

“(A) academic administrative units (including departments, divisions, or other appropriate units) in preventive medicine and public health; or

“(B) programs that improve clinical teaching in preventive medicine and public health.

“(d) REPORT.—The Secretary shall submit to the Congress an annual report on the program carried out under this section.”.

#### SEC. 2235. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—Section 799C, as added by section 2216 of this Act, is amended by adding at the end the following:

“(b) PUBLIC HEALTH WORKFORCE.—For the purpose of carrying out subpart XII of part D of title III and sections 765, 766, and 768, in addition to any other amounts authorized to be appropriated for such purpose, there are authorized to be appropriated, out of any monies in the Public Health Investment Fund, the following:

“(1) \$51,000,000 for fiscal year 2011.

“(2) \$54,000,000 for fiscal year 2012.

“(3) \$57,000,000 for fiscal year 2013.

“(4) \$59,000,000 for fiscal year 2014.

“(5) \$62,000,000 for fiscal year 2015.”.

(b) EXISTING AUTHORIZATION OF APPROPRIATIONS.—Subsection (a) of section 770 (42 U.S.C. 295e) is amended by striking “2002” and inserting “2015”.

#### Subtitle D—Adapting Workforce to Evolving Health System Needs

#### PART 1—HEALTH PROFESSIONS TRAINING FOR DIVERSITY

#### SEC. 2241. SCHOLARSHIPS FOR DISADVANTAGED STUDENTS, LOAN REPAYMENTS AND FELLOWSHIPS REGARDING FACULTY POSITIONS, AND EDUCATIONAL ASSISTANCE IN THE HEALTH PROFESSIONS REGARDING INDIVIDUALS FROM DISADVANTAGED BACKGROUNDS.

Paragraph (1) of section 738(a) (42 U.S.C. 293b(a)) is amended by striking “not more than \$20,000” and all that follows through the end of the paragraph and inserting: “not more than \$35,000 (plus, beginning with fiscal year 2012, an amount determined by the Secretary on an annual basis to reflect inflation) of the principal and interest of the educational loans of such individuals.”.

#### SEC. 2242. NURSING WORKFORCE DIVERSITY GRANTS.

Subsection (b) of section 821 (42 U.S.C. 296m) is amended—

(1) in the heading, by striking “GUIDANCE” and inserting “CONSULTATION”; and

(2) by striking “shall take into consideration” and all that follows through “consult with nursing associations” and inserting “shall, as appropriate, consult with nursing associations”.

#### SEC. 2243. COORDINATION OF DIVERSITY AND CULTURAL COMPETENCY PROGRAMS.

(a) IN GENERAL.—Title VII (42 U.S.C. 292 et seq.) is amended by inserting after section 739 the following:

#### “SEC. 739A. COORDINATION OF DIVERSITY AND CULTURAL COMPETENCY PROGRAMS.

“The Secretary shall, to the extent practicable, coordinate the activities carried out under this part and section 821 in order to enhance the effectiveness of such activities and avoid duplication of effort.”.

(b) REPORT.—Section 736 (42 U.S.C. 293) is amended—

(1) by redesignating subsection (h) as subsection (i); and

(2) by inserting after subsection (g) the following:

“(h) REPORT.—The Secretary shall submit to the Congress an annual report on the activities carried out under this section.”.

#### PART 2—INTERDISCIPLINARY TRAINING PROGRAMS

#### SEC. 2251. CULTURAL AND LINGUISTIC COMPETENCY TRAINING FOR HEALTH PROFESSIONALS.

Section 741 (42 U.S.C. 293e) is amended—

(1) in the section heading, by striking “GRANTS FOR HEALTH PROFESSIONS EDUCATION” and inserting “CULTURAL AND LINGUISTIC COMPETENCY TRAINING FOR HEALTH PROFESSIONALS”; and

(2) by redesignating subsection (b) as subsection (h); and

(3) by striking subsection (a) and inserting the following:

“(a) PROGRAM.—The Secretary shall establish a cultural and linguistic competency training program for health professionals, including nurse professionals, consisting of awarding grants and contracts under subsection (b).

“(b) CULTURAL AND LINGUISTIC COMPETENCY TRAINING.—The Secretary shall award grants to, or enter into contracts with, eligible entities—

“(1) to test, develop, and evaluate models of cultural and linguistic competency training (including continuing education) for health professionals; and

“(2) to implement cultural and linguistic competency training programs for health professionals developed under paragraph (1) or otherwise.

“(c) ELIGIBILITY.—To be eligible for a grant or contract under subsection (b), an entity shall be—

“(1) an accredited health professions school or program;

“(2) an academic health center;

“(3) a public or private nonprofit entity; or

“(4) a consortium of 2 or more entities described in paragraphs (1) through (3).

“(d) PREFERENCE.—In awarding grants and contracts under this section, the Secretary shall give preference to entities that have a demonstrated record of at least one of the following:

“(1) Addressing, or partnering with an entity with experience addressing, the cultural and linguistic competency needs of the population to be served through the grant or contract.

“(2) Addressing health disparities.

“(3) Placing health professionals in regions experiencing significant changes in the cultural and linguistic demographics of populations, including communities along the United States-Mexico border.

“(4) Carrying out activities described in subsection (b) with respect to more than one health profession discipline, specialty, or subspecialty.

“(e) CONSULTATION.—The Secretary shall carry out this section in consultation with the heads of appropriate health agencies and offices in the Department of Health and Human Services, including the Office of Minority Health and the National Center on Minority Health and Health Disparities.

“(f) DEFINITION.—In this section, the term ‘health disparities’ has the meaning given to the term in section 3171.

“(g) REPORT.—The Secretary shall submit to the Congress an annual report on the program carried out under this section.”.

#### SEC. 2252. INNOVATIONS IN INTERDISCIPLINARY CARE TRAINING.

Part D of title VII (42 U.S.C. 294 et seq.) is amended by adding at the end the following:

#### “SEC. 759. INNOVATIONS IN INTERDISCIPLINARY CARE TRAINING.

“(a) PROGRAM.—The Secretary shall establish an innovations in interdisciplinary care training program consisting of awarding grants and contracts under subsection (b).

“(b) TRAINING PROGRAMS.—The Secretary shall award grants to, or enter into contracts with, eligible entities—

“(1) to test, develop, and evaluate health professional training programs (including continuing education) designed to promote—

“(A) the delivery of health services through interdisciplinary and team-based models, which may include patient-centered medical home models, medication therapy management models, and models integrating physical, mental, or oral health services; and

“(B) coordination of the delivery of health care within and across settings, including health care institutions, community-based settings, and the patient’s home; and

“(2) to implement such training programs developed under paragraph (1) or otherwise.

“(c) ELIGIBILITY.—To be eligible for a grant or contract under subsection (b), an entity shall be—

“(1) an accredited health professions school or program;

“(2) an academic health center;

“(3) a public or private nonprofit entity (including an area health education center or a geriatric education center); or

“(4) a consortium of 2 or more entities described in paragraphs (1) through (3).

“(d) PREFERENCES.—In awarding grants and contracts under this section, the Secretary shall give preference to entities that have a demonstrated record of at least one of the following:

“(1) Training a high or significantly improved percentage of health professionals who serve in underserved communities.

“(2) Broad interdisciplinary team-based collaborations.

“(3) Addressing health disparities.

“(e) REPORT.—The Secretary shall submit to the Congress an annual report on the program carried out under this section.

“(f) DEFINITIONS.—In this section:

“(1) The term ‘health disparities’ has the meaning given the term in section 3171.

“(2) The term ‘interdisciplinary’ means collaboration across health professions and specialties, which may include public health, nursing, allied health, dietetics or nutrition, and appropriate health specialties.”.

#### PART 3—ADVISORY COMMITTEE ON HEALTH WORKFORCE EVALUATION AND ASSESSMENT

#### SEC. 2261. HEALTH WORKFORCE EVALUATION AND ASSESSMENT.

Subpart 1 of part E of title VII (42 U.S.C. 294n et seq.) is amended by adding at the end the following:

#### “SEC. 764. HEALTH WORKFORCE EVALUATION AND ASSESSMENT.

“(a) ADVISORY COMMITTEE.—The Secretary, acting through the Assistant Secretary for Health, shall establish a permanent advisory committee to be known as the Advisory Committee on Health Workforce Evaluation and Assessment (referred to in this section as the ‘Advisory Committee’) to develop and implement an integrated, coordinated, and strategic national health workforce policy reflective of current and evolving health workforce needs.

“(b) RESPONSIBILITIES.—The Advisory Committee shall—

“(1) not later than 1 year after the date of the establishment of the Advisory Committee, submit recommendations to the Secretary on—

“(A) classifications of the health workforce to ensure consistency of data collection on the health workforce; and

“(B) based on such classifications, standardized methodologies and procedures to enumerate the health workforce;

“(2) not later than 2 years after the date of the establishment of the Advisory Committee, submit recommendations to the Secretary on—

“(A) the supply, diversity, and geographic distribution of the health workforce;

“(B) the retention and expansion of the health workforce (on a short- and long-term basis) to ensure quality and adequacy of such workforce; and

“(C) policies to carry out the recommendations made pursuant to subparagraphs (A) and (B); and

“(3) not later than 4 years after the date of the establishment of the Advisory Committee, and every 2 years thereafter, submit updated recommendations to the Secretary under paragraphs (1) and (2).

“(c) **ROLE OF AGENCY.**—The Secretary shall provide ongoing administrative, research, and technical support for the operations of the Advisory Committee, including coordinating and supporting the dissemination of the recommendations of the Advisory Committee.

“(d) **MEMBERSHIP.**—

“(1) **NUMBER; APPOINTMENT.**—The Secretary shall appoint 15 members to serve on the Advisory Committee.

“(2) **TERMS.**—

“(A) **IN GENERAL.**—The Secretary shall appoint members of the Advisory Committee for a term of 3 years and may reappoint such members, but the Secretary may not appoint any member to serve more than a total of 6 years.

“(B) **STAGGERED TERMS.**—Notwithstanding subparagraph (A), of the members first appointed to the Advisory Committee under paragraph (1)—

“(i) 5 shall be appointed for a term of 1 year;

“(ii) 5 shall be appointed for a term of 2 years; and

“(iii) 5 shall be appointed for a term of 3 years.

“(3) **QUALIFICATIONS.**—Members of the Advisory Committee shall be appointed from among individuals who possess expertise in at least one of the following areas:

“(A) Conducting and interpreting health workforce market analysis, including health care labor workforce analysis.

“(B) Conducting and interpreting health finance and economics research.

“(C) Delivering and administering health care services.

“(D) Delivering and administering health workforce education and training.

“(4) **REPRESENTATION.**—In appointing members of the Advisory Committee, the Secretary shall—

“(A) include no less than one representative of each of—

“(i) health professionals within the health workforce;

“(ii) health care patients and consumers;

“(iii) employers;

“(iv) labor unions; and

“(v) third-party health payors; and

“(B) ensure that—

“(i) all areas of expertise described in paragraph (3) are represented;

“(ii) the members of the Advisory Committee include members who, collectively, have significant experience working with—

“(I) populations in urban and federally designated rural and nonmetropolitan areas; and

“(II) populations who are underrepresented in the health professions, including underrepresented minority groups; and

“(iii) individuals who are directly involved in health professions education or practice do not constitute a majority of the members of the Advisory Committee.

“(5) **DISCLOSURE AND CONFLICTS OF INTEREST.**—Members of the Advisory Committee shall not be considered employees of the Federal Government by reason of service on the Advisory Committee, except members of the Advisory Committee shall be considered to be special Government employees within the meaning of section 107 of the Ethics in Government Act of 1978 (5 U.S.C. App.) and section 208 of title 18, United States Code, for the purposes of disclosure and management of conflicts of interest under those sections.

“(6) **NO PAY; RECEIPT OF TRAVEL EXPENSES.**—Members of the Advisory Committee shall not receive any pay for service on the Committee, but may receive travel expenses, including a per diem, in accordance with applicable provisions of subchapter I of chapter 57 of title 5, United States Code.

“(e) **CONSULTATION.**—In carrying out this section, the Secretary shall consult with the Secretary of Education and the Secretary of Labor.

“(f) **COLLABORATION.**—The Advisory Committee shall collaborate with the advisory bodies at the Health Resources and Services Administration, the National Advisory Council (as authorized in section 337), the Advisory Committee on Training in Primary Care Medicine and Dentistry (as authorized in section 749A), the Advisory Committee on Interdisciplinary, Community-Based Linkages (as authorized in section 756), the Advisory Council on Graduate Medical Education (as authorized in section 762), and the National Advisory Council on Nurse Education and Practice (as authorized in section 851).

“(g) **FACA.**—The Federal Advisory Committee Act (5 U.S.C. App.) except for section 14 of such Act shall apply to the Advisory Committee under this section only to the extent that the provisions of such Act do not conflict with the requirements of this section.

“(h) **REPORT.**—The Secretary shall submit to the Congress an annual report on the activities of the Advisory Committee.

“(i) **DEFINITION.**—In this section, the term ‘health workforce’ includes all health care providers with direct patient care and support responsibilities, including physicians, nurses, physician assistants, pharmacists, oral health professionals (as defined in section 749(f)(2)), allied health professionals, mental and behavioral health professionals (as defined in section 775(f)(2)), and public health professionals (including veterinarians engaged in public health practice).”

#### **PART 4—HEALTH WORKFORCE ASSESSMENT**

##### **SEC. 2271. HEALTH WORKFORCE ASSESSMENT.**

(a) **IN GENERAL.**—Section 761 (42 U.S.C. 294n) is amended—

(1) by redesignating subsection (c) as subsection (e); and

(2) by striking subsections (a) and (b) and inserting the following:

“(a) **IN GENERAL.**—The Secretary shall, based upon the classifications and standardized methodologies and procedures developed by the Advisory Committee on Health Workforce Evaluation and Assessment under section 764(b)—

“(1) collect data on the health workforce (as defined in section 764(i)), disaggregated by field, discipline, and specialty, with respect to—

“(A) the supply (including retention) of health professionals relative to the demand for such professionals;

“(B) the diversity of health professionals (including with respect to race, ethnic background, and sex); and

“(C) the geographic distribution of health professionals; and

“(2) collect such data on individuals participating in the programs authorized by subtitles A, B, and C and part 1 of subtitle D of title II of division C of the Affordable Health Care for America Act.

“(b) **GRANTS AND CONTRACTS FOR HEALTH WORKFORCE ANALYSIS.**—

“(1) **IN GENERAL.**—The Secretary may award grants to, or enter into contracts with, eligible entities to carry out subsection (a).

“(2) **ELIGIBILITY.**—To be eligible for a grant or contract under this subsection, an entity shall be—

“(A) an accredited health professions school or program;

“(B) an academic health center;

“(C) a State, local, or tribal government;

“(D) a public or private entity; or

“(E) a consortium of 2 or more entities described in subparagraphs (A) through (D).

“(c) **COLLABORATION AND DATA SHARING.**—The Secretary shall collaborate with Federal departments and agencies, health professions organizations (including health professions education organizations), and professional medical societies for the purpose of carrying out subsection (a).

“(d) **REPORT.**—The Secretary shall submit to the Congress an annual report on the data collected under subsection (a).”

(b) **PERIOD BEFORE COMPLETION OF NATIONAL STRATEGY.**—Pending completion of the classifications and standardized methodologies and procedures developed by the Advisory Committee on Health Workforce Evaluation and Assessment under section 764(b) of the Public Health Service Act, as added by section 2261, the Secretary of Health and Human Services, acting through the Administrator of the Health Resources and Services Administration and in consultation with such Advisory Committee, may make a judgment about the classifications, methodologies, and procedures to be used for collection of data under section 761(a) of the Public Health Service Act, as amended by this section.

#### **PART 5—AUTHORIZATION OF APPROPRIATIONS**

##### **SEC. 2281. AUTHORIZATION OF APPROPRIATIONS.**

(a) **IN GENERAL.**—Section 799C, as added and amended, is further amended by adding at the end the following:

“(c) **HEALTH PROFESSIONS TRAINING FOR DIVERSITY.**—For the purpose of carrying out sections 736, 737, 738, 739, and 739A, in addition to any other amounts authorized to be appropriated for such purpose, there are authorized to be appropriated, out of any monies in the Public Health Investment Fund, the following:

“(1) \$90,000,000 for fiscal year 2011.

“(2) \$97,000,000 for fiscal year 2012.

“(3) \$100,000,000 for fiscal year 2013.

“(4) \$104,000,000 for fiscal year 2014.

“(5) \$110,000,000 for fiscal year 2015.

“(d) **INTERDISCIPLINARY TRAINING PROGRAMS, ADVISORY COMMITTEE ON HEALTH WORKFORCE EVALUATION AND ASSESSMENT, AND HEALTH WORKFORCE ASSESSMENT.**—For the purpose of carrying out sections 741, 759, 761, and 764, in addition to any other amounts authorized to be appropriated for such purpose, there are authorized to be appropriated, out of any monies in the Public Health Investment Fund, the following:

- “(1) \$87,000,000 for fiscal year 2011.
- “(2) \$97,000,000 for fiscal year 2012.
- “(3) \$103,000,000 for fiscal year 2013.
- “(4) \$105,000,000 for fiscal year 2014.
- “(5) \$113,000,000 for fiscal year 2015.”.

(b) EXISTING AUTHORIZATIONS OF APPROPRIATIONS.—

(1) SECTION 736.—Paragraph (1) of section 736(i) (42 U.S.C. 293(h)), as redesignated, is amended by striking “2002” and inserting “2015”.

(2) SECTIONS 737, 738, AND 739.—Subsections (a), (b), and (c) of section 740 are amended by striking “2002” each place it appears and inserting “2015”.

(3) SECTION 741.—Subsection (h), as so redesignated, of section 741 is amended—

(A) by striking “and” after “fiscal year 2003,”; and

(B) by inserting “, and such sums as may be necessary for each subsequent fiscal year through the end of fiscal year 2015” before the period at the end.

(4) SECTION 761.—Subsection (e)(1), as so redesignated, of section 761 is amended by striking “2002” and inserting “2015”.

### **TITLE III—PREVENTION AND WELLNESS**

#### **SEC. 2301. PREVENTION AND WELLNESS.**

(a) IN GENERAL.—The Public Health Service Act (42 U.S.C. 201 et seq.) is amended by inserting after title XXX the following:

#### **“TITLE XXXI—PREVENTION AND WELLNESS**

##### **“Subtitle A—Prevention and Wellness Trust**

#### **“SEC. 3111. PREVENTION AND WELLNESS TRUST.**

(a) “DEPOSITS INTO TRUST.—There is established a Prevention and Wellness Trust. There are authorized to be appropriated to the Trust, out of any monies in the Public Health Investment Fund—

- “(1) for fiscal year 2011, \$2,400,000,000;
- “(2) for fiscal year 2012, \$2,845,000,000;
- “(3) for fiscal year 2013, \$3,100,000,000;
- “(4) for fiscal year 2014, \$3,455,000,000; and
- “(5) for fiscal year 2015, \$3,600,000,000.

“(b) AVAILABILITY OF FUNDS.—Amounts in the Prevention and Wellness Trust shall be available, as provided in advance in appropriation Acts, for carrying out this title.

“(c) ALLOCATION.—Of the amounts authorized to be appropriated in subsection (a), there are authorized to be appropriated—

“(1) for carrying out subtitle C (Prevention Task Forces), \$30,000,000 for each of fiscal years 2011 through 2015;

“(2) for carrying out subtitle D (Prevention and Wellness Research)—

- “(A) for fiscal year 2011, \$155,000,000;
- “(B) for fiscal year 2012, \$205,000,000;
- “(C) for fiscal year 2013, \$255,000,000;
- “(D) for fiscal year 2014, \$305,000,000; and
- “(E) for fiscal year 2015, \$355,000,000;

“(3) for carrying out subtitle E (Delivery of Community Preventive and Wellness Services)—

- “(A) for fiscal year 2011, \$1,065,000,000;
- “(B) for fiscal year 2012, \$1,260,000,000;
- “(C) for fiscal year 2013, \$1,365,000,000;
- “(D) for fiscal year 2014, \$1,570,000,000; and
- “(E) for fiscal year 2015, \$1,600,000,000;

“(4) for carrying out section 3161 (Core Public Health Infrastructure for State, Local, and Tribal Health Departments)—

- “(A) for fiscal year 2011, \$800,000,000;
- “(B) for fiscal year 2012, \$1,000,000,000;
- “(C) for fiscal year 2013, \$1,100,000,000;
- “(D) for fiscal year 2014, \$1,200,000,000; and
- “(E) for fiscal year 2015, \$1,265,000,000; and

“(5) for carrying out section 3162 (Core Public Health Infrastructure and Activities for CDC), \$350,000,000 for each of fiscal years 2011 through 2015.

#### **“Subtitle B—National Prevention and Wellness Strategy**

#### **“SEC. 3121. NATIONAL PREVENTION AND WELLNESS STRATEGY.**

“(a) IN GENERAL.—The Secretary shall submit to the Congress within one year after the date of the enactment of this section, and at least every 2 years thereafter, a national strategy that is designed to improve the Nation’s health through evidence-based clinical and community prevention and wellness activities (in this section referred to as ‘prevention and wellness activities’), including core public health infrastructure improvement activities.

“(b) CONTENTS.—The strategy under subsection (a) shall include each of the following:

“(1) Identification of specific national goals and objectives in prevention and wellness activities that take into account appropriate public health measures and standards, including departmental measures and standards (including Healthy People and National Public Health Performance Standards).

“(2) Establishment of national priorities for prevention and wellness, taking into account unmet prevention and wellness needs.

“(3) Establishment of national priorities for research on prevention and wellness, taking into account unanswered research questions on prevention and wellness.

“(4) Identification of health disparities in prevention and wellness.

“(5) Review of prevention payment incentives, the prevention workforce, and prevention delivery system capacity.

“(6) A plan for addressing and implementing paragraphs (1) through (5).

“(c) CONSULTATION.—In developing or revising the strategy under subsection (a), the Secretary shall consult with the following:

“(1) The heads of appropriate health agencies and offices in the Department, including the Office of the Surgeon General of the Public Health Service, the Office of Minority Health, the Office on Women’s Health, and the Substance Abuse and Mental Health Services Administration.

“(2) As appropriate, the heads of other Federal departments and agencies whose programs have a significant impact upon health (as determined by the Secretary).

“(3) As appropriate, nonprofit and for-profit entities.

“(4) The Association of State and Territorial Health Officials and the National Association of County and City Health Officials.

“(5) The Task Force on Community Preventive Services and the Task Force on Clinical Preventive Services.

#### **“Subtitle C—Prevention Task Forces**

#### **“SEC. 3131. TASK FORCE ON CLINICAL PREVENTIVE SERVICES.**

“(a) IN GENERAL.—The Secretary, acting through the Director of the Agency for Healthcare Research and Quality, shall establish a permanent task force to be known as the Task Force on Clinical Preventive Services (in this section referred to as the ‘Task Force’).

“(b) RESPONSIBILITIES.—The Task Force shall—

“(1) identify clinical preventive services for review;

“(2) review the scientific evidence related to the benefits, effectiveness, appropriateness, and costs of clinical preventive services identified under paragraph (1) for the purpose of developing, updating, publishing, and disseminating evidence-based recommendations on the use of such services;

“(3) as appropriate, take into account health disparities in developing, updating, publishing, and disseminating evidence-based recommendations on the use of such services;

“(4) identify gaps in clinical preventive services research and evaluation and recommend priority areas for such research and evaluation;

“(5) pursuant to section 3143(c), determine whether subsidies and rewards meet the Task Force’s standards for a grade of A or B;

“(6) as appropriate, consult with the clinical prevention stakeholders board in accordance with subsection (f);

“(7) consult with the Task Force on Community Preventive Services established under section 3132; and

“(8) as appropriate, in carrying out this section, consider the national strategy under section 3121.

“(c) ROLE OF AGENCY.—The Secretary shall provide ongoing administrative, research, and technical support for the operations of the Task Force, including coordinating and supporting the dissemination of the recommendations of the Task Force.

“(d) MEMBERSHIP.—

“(1) NUMBER; APPOINTMENT.—The Task Force shall be composed of 30 members, appointed by the Secretary.

“(2) TERMS.—

“(A) IN GENERAL.—The Secretary shall appoint members of the Task Force for a term of 6 years and may reappoint such members, but the Secretary may not appoint any member to serve more than a total of 12 years.

“(B) STAGGERED TERMS.—Notwithstanding subparagraph (A), of the members first appointed to serve on the Task Force after the enactment of this title—

“(i) 10 shall be appointed for a term of 2 years;

“(ii) 10 shall be appointed for a term of 4 years; and

“(iii) 10 shall be appointed for a term of 6 years.

“(3) QUALIFICATIONS.—Members of the Task Force shall be appointed from among individuals who possess expertise in at least one of the following areas:

“(A) Health promotion and disease prevention.

“(B) Evaluation of research and systematic evidence reviews.

“(C) Application of systematic evidence reviews to clinical decisionmaking or health policy.

“(D) Clinical primary care in child and adolescent health.

“(E) Clinical primary care in adult health, including women’s health.

“(F) Clinical primary care in geriatrics.

“(G) Clinical counseling and behavioral services for primary care patients.

“(4) REPRESENTATION.—In appointing members of the Task Force, the Secretary shall ensure that—

“(A) all areas of expertise described in paragraph (3) are represented; and

“(B) the members of the Task Force include individuals with expertise in health disparities.

“(e) SUBGROUPS.—As appropriate to maximize efficiency, the Task Force may delegate authority for conducting reviews and making recommendations to subgroups consisting of Task Force members, subject to final approval by the Task Force.

“(f) CLINICAL PREVENTION STAKEHOLDERS BOARD.—

“(1) IN GENERAL.—The Task Force shall convene a clinical prevention stakeholders

board composed of representatives of appropriate public and private entities with an interest in clinical preventive services to advise the Task Force on developing, updating, publishing, and disseminating evidence-based recommendations on the use of clinical preventive services.

“(2) MEMBERSHIP.—The members of the clinical prevention stakeholders board shall include representatives of the following:

“(A) Health care consumers and patient groups.

“(B) Providers of clinical preventive services, including community-based providers.

“(C) Federal departments and agencies, including—

“(i) appropriate health agencies and offices in the Department, including the Office of the Surgeon General of the Public Health Service, the Office of Minority Health, the National Center on Minority Health and Health Disparities, and the Office on Women's Health; and

“(ii) as appropriate, other Federal departments and agencies whose programs have a significant impact upon health (as determined by the Secretary).

“(D) Private health care payors.

“(3) RESPONSIBILITIES.—In accordance with subsection (b)(6), the clinical prevention stakeholders board shall—

“(A) recommend clinical preventive services for review by the Task Force;

“(B) suggest scientific evidence for consideration by the Task Force related to reviews undertaken by the Task Force;

“(C) provide feedback regarding draft recommendations by the Task Force; and

“(D) assist with efforts regarding dissemination of recommendations by the Director of the Agency for Healthcare Research and Quality.

“(g) DISCLOSURE AND CONFLICTS OF INTEREST.—Members of the Task Force or the clinical prevention stakeholders board shall not be considered employees of the Federal Government by reason of service on the Task Force or the clinical prevention stakeholders board, except members of the Task Force or the clinical prevention stakeholders board shall be considered to be special Government employees within the meaning of section 107 of the Ethics in Government Act of 1978 (5 U.S.C. App.) and section 208 of title 18, United States Code, for the purposes of disclosure and management of conflicts of interest under those sections.

“(h) NO PAY; RECEIPT OF TRAVEL EXPENSES.—Members of the Task Force or the clinical prevention stakeholders board shall not receive any pay for service on the Task Force, but may receive travel expenses, including a per diem, in accordance with applicable provisions of subchapter I of chapter 57 of title 5, United States Code.

“(i) APPLICATION OF FACA.—The Federal Advisory Committee Act (5 U.S.C. App.) except for section 14 of such Act shall apply to the Task Force to the extent that the provisions of such Act do not conflict with the provisions of this title.

“(j) REPORT.—The Secretary shall submit to the Congress an annual report on the Task Force, including with respect to gaps identified and recommendations made under subsection (b)(4).

#### “SEC. 3132. TASK FORCE ON COMMUNITY PREVENTIVE SERVICES.

“(a) IN GENERAL.—The Secretary, acting through the Director of the Centers for Disease Control and Prevention, shall establish a permanent task force to be known as the Task Force on Community Preventive Services (in this section referred to as the ‘Task Force’).

“(b) RESPONSIBILITIES.—The Task Force shall—

“(1) identify community preventive services for review;

“(2) review the scientific evidence related to the benefits, effectiveness, appropriateness, and costs of community preventive services identified under paragraph (1) for the purpose of developing, updating, publishing, and disseminating evidence-based recommendations on the use of such services;

“(3) as appropriate, take into account health disparities in developing, updating, publishing, and disseminating evidence-based recommendations on the use of such services;

“(4) identify gaps in community preventive services research and evaluation and recommend priority areas for such research and evaluation;

“(5) pursuant to section 3143(d), determine whether subsidies and rewards are effective;

“(6) as appropriate, consult with the community prevention stakeholders board in accordance with subsection (f);

“(7) consult with the Task Force on Clinical Preventive Services established under section 3131; and

“(8) as appropriate, in carrying out this section, consider the national strategy under section 3121.

“(c) ROLE OF AGENCY.—The Secretary shall provide ongoing administrative, research, and technical support for the operations of the Task Force, including coordinating and supporting the dissemination of the recommendations of the Task Force.

“(d) MEMBERSHIP.—

“(1) NUMBER; APPOINTMENT.—The Task Force shall be composed of 30 members, appointed by the Secretary.

“(2) TERMS.—

“(A) IN GENERAL.—The Secretary shall appoint members of the Task Force for a term of 6 years and may reappoint such members, but the Secretary may not appoint any member to serve more than a total of 12 years.

“(B) STAGGERED TERMS.—Notwithstanding subparagraph (A), of the members first appointed to serve on the Task Force after the enactment of this section—

“(i) 10 shall be appointed for a term of 2 years;

“(ii) 10 shall be appointed for a term of 4 years; and

“(iii) 10 shall be appointed for a term of 6 years.

“(3) QUALIFICATIONS.—Members of the Task Force shall be appointed from among individuals who possess expertise in at least one of the following areas:

“(A) Public health.

“(B) Evaluation of research and systematic evidence reviews.

“(C) Disciplines relevant to community preventive services, including health promotion; disease prevention; chronic disease; worksite health; school-site health; qualitative and quantitative analysis; and health economics, policy, law, and statistics.

“(4) REPRESENTATION.—In appointing members of the Task Force, the Secretary—

“(A) shall ensure that all areas of expertise described in paragraph (3) are represented;

“(B) shall ensure that such members include sufficient representatives of each of—

“(i) State health officers;

“(ii) local health officers;

“(iii) health care practitioners; and

“(iv) public health practitioners; and

“(C) shall appoint individuals who have expertise in health disparities.

“(e) SUBGROUPS.—As appropriate to maximize efficiency, the Task Force may delegate authority for conducting reviews and making recommendations to subgroups consisting of Task Force members, subject to final approval by the Task Force.

“(f) COMMUNITY PREVENTION STAKEHOLDERS BOARD.—

“(1) IN GENERAL.—The Task Force shall convene a community prevention stakeholders board composed of representatives of appropriate public and private entities with an interest in community preventive services to advise the Task Force on developing, updating, publishing, and disseminating evidence-based recommendations on the use of community preventive services.

“(2) MEMBERSHIP.—The members of the community prevention stakeholders board shall include representatives of the following:

“(A) Health care consumers and patient groups.

“(B) Providers of community preventive services, including community-based providers.

“(C) Federal departments and agencies, including—

“(i) appropriate health agencies and offices in the Department, including the Office of the Surgeon General of the Public Health Service, the Office of Minority Health, the National Center on Minority Health and Health Disparities, and the Office on Women's Health; and

“(ii) as appropriate, other Federal departments and agencies whose programs have a significant impact upon health (as determined by the Secretary).

“(D) Private health care payors.

“(3) RESPONSIBILITIES.—In accordance with subsection (b)(6), the community prevention stakeholders board shall—

“(A) recommend community preventive services for review by the Task Force;

“(B) suggest scientific evidence for consideration by the Task Force related to reviews undertaken by the Task Force;

“(C) provide feedback regarding draft recommendations by the Task Force; and

“(D) assist with efforts regarding dissemination of recommendations by the Director of the Centers for Disease Control and Prevention.

“(g) DISCLOSURE AND CONFLICTS OF INTEREST.—Members of the Task Force or the community prevention stakeholders board shall not be considered employees of the Federal Government by reason of service on the Task Force or the community prevention stakeholders board, except members of the Task Force or the community prevention stakeholders board shall be considered to be special Government employees within the meaning of section 107 of the Ethics in Government Act of 1978 (5 U.S.C. App.) and section 208 of title 18, United States Code, for the purposes of disclosure and management of conflicts of interest under those sections.

“(h) NO PAY; RECEIPT OF TRAVEL EXPENSES.—Members of the Task Force or the community prevention stakeholders board shall not receive any pay for service on the Task Force, but may receive travel expenses, including a per diem, in accordance with applicable provisions of subchapter I of chapter 57 of title 5, United States Code.

“(i) APPLICATION OF FACA.—The Federal Advisory Committee Act (5 U.S.C. App.) except for section 14 of such Act shall apply to the Task Force to the extent that the provisions of such Act do not conflict with the provisions of this title.

“(j) REPORT.—The Secretary shall submit to the Congress an annual report on the Task

Force, including with respect to gaps identified and recommendations made under subsection (b)(4).

**“Subtitle D—Prevention and Wellness Research**

**“SEC. 3141. PREVENTION AND WELLNESS RESEARCH ACTIVITY COORDINATION.**

“In conducting or supporting research on prevention and wellness, the Director of the Centers for Disease Control and Prevention, the Director of the National Institutes of Health, and the heads of other agencies within the Department of Health and Human Services conducting or supporting such research, shall take into consideration the national strategy under section 3121 and the recommendations of the Task Force on Clinical Preventive Services under section 3131 and the Task Force on Community Preventive Services under section 3132.

**“SEC. 3142. COMMUNITY PREVENTION AND WELLNESS RESEARCH GRANTS.**

“(a) IN GENERAL.—The Secretary, acting through the Director of the Centers for Disease Control and Prevention, shall conduct, or award grants to eligible entities to conduct, research in priority areas identified by the Secretary in the national strategy under section 3121 or by the Task Force on Community Preventive Services as required by section 3132.

“(b) ELIGIBILITY.—To be eligible for a grant under this section, an entity shall be—

“(1) a State, local, or tribal department of health;

“(2) a public or private nonprofit entity; or

“(3) a consortium of 2 or more entities described in paragraphs (1) and (2).

“(c) REPORT.—The Secretary shall submit to the Congress an annual report on the program of research under this section.

**“SEC. 3143. RESEARCH ON SUBSIDIES AND REWARDS TO ENCOURAGE WELLNESS AND HEALTHY BEHAVIORS.**

**“(a) RESEARCH AND DEMONSTRATION PROJECTS.—**

“(1) IN GENERAL.—The Secretary shall conduct, or award grants to public or nonprofit private entities to conduct, research and demonstration projects on the use of financial and in-kind subsidies and rewards to encourage individuals and communities to promote wellness, adopt healthy behaviors, and use evidence-based preventive health services.

“(2) FOCUS.—Research and demonstration projects under paragraph (1) shall focus on—

“(A) tobacco use, obesity, and other prevention and wellness priorities identified by the Secretary in the national strategy under section 3121;

“(B) the initiation, maintenance, and long-term sustainability of wellness promotion; adoption of healthy behaviors; and use of evidence-based preventive health services; and

“(C) populations at high risk of preventable diseases and conditions.

“(b) FINDINGS; REPORT.—

“(1) SUBMISSION OF FINDINGS.—The Secretary shall submit the findings of research and demonstration projects under subsection (a) to—

“(A) the Task Force on Clinical Preventive Services established under section 3131 or the Task Force on Community Preventive Services established under section 3132, as appropriate; and

“(B) the Health Benefits Advisory Committee established by section 223 of the Affordable Health Care for America Act.

“(2) REPORT TO CONGRESS.—Not later than 18 months after the initiation of research and demonstration projects under subsection

(a), the Secretary shall submit a report to the Congress on the progress of such research and projects, including any preliminary findings.

“(c) INCLUSION IN ESSENTIAL BENEFITS PACKAGE.—If, on the basis of the findings of research and demonstration projects under subsection (a) or other sources consistent with section 3131, the Task Force on Clinical Preventive Services determines that a subsidy or reward meets the Task Force's standards for a grade A or B, the Secretary shall ensure that the subsidy or reward is included in the essential benefits package under section 222.

“(d) INCLUSION AS ALLOWABLE USE OF COMMUNITY PREVENTION AND WELLNESS SERVICES GRANTS.—If, on the basis of the findings of research and demonstration projects under subsection (a) or other sources consistent with section 3132, the Task Force on Community Preventive Services determines that a subsidy or reward is effective, the Secretary shall ensure that the subsidy or reward becomes an allowable use of grant funds under section 3151.

“(e) NONDISCRIMINATION; NO TIE TO PREMIUM OR COST SHARING.—In carrying out this section, the Secretary shall ensure that any subsidy or reward—

“(1) does not have a discriminatory effect on the basis of any personal characteristic extraneous to the provision of high-quality health care or related services; and

“(2) is not tied to the premium or cost sharing of an individual under any qualified health benefits plan (as defined in section 100(c)).

**“Subtitle E—Delivery of Community Prevention and Wellness Services**

**“SEC. 3151. COMMUNITY PREVENTION AND WELLNESS SERVICES GRANTS.**

“(a) IN GENERAL.—The Secretary, acting through the Director of the Centers for Disease Control and Prevention, shall establish a program for the delivery of community prevention and wellness services consisting of awarding grants to eligible entities—

“(1) to provide evidence-based, community prevention and wellness services in priority areas identified by the Secretary in the national strategy under section 3121; or

“(2) to plan such services.

“(b) ELIGIBILITY.—

“(1) DEFINITION.—To be eligible for a grant under this section, an entity shall be—

“(A) a State, local, or tribal department of health;

“(B) a public or private entity; or

“(C) a consortium that—

“(i) consists of 2 or more entities described in subparagraph (A) or (B); and

“(ii) may be a community partnership representing a Health Empowerment Zone.

“(2) HEALTH EMPOWERMENT ZONE.—In this subsection, the term ‘Health Empowerment Zone’ means an area—

“(A) in which multiple community prevention and wellness services are implemented in order to address one or more health disparities, including those identified by the Secretary in the national strategy under section 3121; and

“(B) which is represented by a community partnership that demonstrates community support and coordination with State, local, or tribal health departments and includes—

“(i) a broad cross section of stakeholders;

“(ii) residents of the community; and

“(iii) representatives of entities that have a history of working within and serving the community.

“(c) PREFERENCES.—In awarding grants under this section, the Secretary shall give preference to entities that—

“(1) will address one or more goals or objectives identified by the Secretary in the national strategy under section 3121;

“(2) will address significant health disparities, including those identified by the Secretary in the national strategy under section 3121;

“(3) will address unmet community prevention and wellness needs and avoid duplication of effort;

“(4) have been demonstrated to be effective in communities comparable to the proposed target community;

“(5) will contribute to the evidence base for community prevention and wellness services;

“(6) demonstrate that the community prevention and wellness services to be funded will be sustainable; and

“(7) demonstrate coordination or collaboration across governmental and nongovernmental partners.

“(d) HEALTH DISPARITIES.—Of the funds awarded under this section for a fiscal year, the Secretary shall award not less than 50 percent for planning or implementing community prevention and wellness services whose primary purpose is to achieve a measurable reduction in one or more health disparities, including those identified by the Secretary in the national strategy under section 3121.

“(e) EMPHASIS ON RECOMMENDED SERVICES.—For fiscal year 2014 and subsequent fiscal years, the Secretary shall award grants under this section only for planning or implementing services recommended by the Task Force on Community Preventive Services under section 3132 or deemed effective based on a review of comparable rigor (as determined by the Director of the Centers for Disease Control and Prevention).

“(f) PROHIBITED USES OF FUNDS.—An entity that receives a grant under this section may not use funds provided through the grant—

“(1) to build or acquire real property or for construction; or

“(2) for services or planning to the extent that payment has been made, or can reasonably be expected to be made—

“(A) under any insurance policy;

“(B) under any Federal or State health benefits program (including titles XIX and XXI of the Social Security Act); or

“(C) by an entity which provides health services on a prepaid basis.

“(g) REPORT.—The Secretary shall submit to the Congress an annual report on the program of grants awarded under this section.

“(h) DEFINITIONS.—In this section, the term ‘evidence-based’ means that methodologically sound research has demonstrated a beneficial health effect, in the judgment of the Director of the Centers for Disease Control and Prevention.

**“Subtitle F—Core Public Health Infrastructure**

**“SEC. 3161. CORE PUBLIC HEALTH INFRASTRUCTURE FOR STATE, LOCAL, AND TRIBAL HEALTH DEPARTMENTS.**

“(a) PROGRAM.—The Secretary, acting through the Director of the Centers for Disease Control and Prevention, shall establish a core public health infrastructure program consisting of awarding grants under subsection (b).

“(b) GRANTS.—

“(1) AWARD.—For the purpose of addressing core public health infrastructure needs, the Secretary—

“(A) shall award a grant to each State health department; and

“(B) may award grants on a competitive basis to State, local, or tribal health departments.



“(2) ALLOCATION.—Of the total amount of funds awarded as grants under this subsection for a fiscal year—

“(A) not less than 50 percent shall be for grants to State health departments under paragraph (1)(A); and

“(B) not less than 30 percent shall be for grants to State, local, or tribal health departments under paragraph (1)(B).

“(C) USE OF FUNDS.—The Secretary may award a grant to an entity under subsection (b)(1) only if the entity agrees to use the grant to address core public health infrastructure needs, including those identified in the accreditation process under subsection (g).

“(d) FORMULA GRANTS TO STATE HEALTH DEPARTMENTS.—In making grants under subsection (b)(1)(A), the Secretary shall award funds to each State health department in accordance with—

“(1) a formula based on population size; burden of preventable disease and disability; and core public health infrastructure gaps, including those identified in the accreditation process under subsection (g); and

“(2) application requirements established by the Secretary, including a requirement that the State submit a plan that demonstrates to the satisfaction of the Secretary that the State's health department will—

“(A) address its highest priority core public health infrastructure needs; and

“(B) as appropriate, allocate funds to local health departments within the State.

“(e) COMPETITIVE GRANTS TO STATE, LOCAL, AND TRIBAL HEALTH DEPARTMENTS.—In making grants under subsection (b)(1)(B), the Secretary shall give priority to applicants demonstrating core public health infrastructure needs identified in the accreditation process under subsection (g).

“(f) MAINTENANCE OF EFFORT.—The Secretary may award a grant to an entity under subsection (b) only if the entity demonstrates to the satisfaction of the Secretary that—

“(1) funds received through the grant will be expended only to supplement, and not supplant, non-Federal and Federal funds otherwise available to the entity for the purpose of addressing core public health infrastructure needs; and

“(2) with respect to activities for which the grant is awarded, the entity will maintain expenditures of non-Federal amounts for such activities at a level not less than the level of such expenditures maintained by the entity for the fiscal year preceding the fiscal year for which the entity receives the grant.

“(g) ESTABLISHMENT OF A PUBLIC HEALTH ACCREDITATION PROGRAM.—

“(1) IN GENERAL.—The Secretary, acting through the Director of the Centers for Disease Control and Prevention, shall—

“(A) develop, and periodically review and update, standards for voluntary accreditation of State, local, or tribal health departments and public health laboratories for the purpose of advancing the quality and performance of such departments and laboratories; and

“(B) implement a program to accredit such health departments and laboratories in accordance with such standards.

“(2) COOPERATIVE AGREEMENT.—The Secretary may enter into a cooperative agreement with a private nonprofit entity to carry out paragraph (1).

“(h) REPORT.—The Secretary shall submit to the Congress an annual report on progress being made to accredit entities under subsection (g), including—

“(1) a strategy, including goals and objectives, for accrediting entities under sub-

section (g) and achieving the purpose described in subsection (g)(1); and

“(2) identification of gaps in research related to core public health infrastructure and recommendations of priority areas for such research.

#### “SEC. 3162. CORE PUBLIC HEALTH INFRASTRUCTURE AND ACTIVITIES FOR CDC.

“(a) IN GENERAL.—The Secretary, acting through the Director of the Centers for Disease Control and Prevention, shall expand and improve the core public health infrastructure and activities of the Centers for Disease Control and Prevention to address unmet and emerging public health needs.

“(b) REPORT.—The Secretary shall submit to the Congress an annual report on the activities funded through this section.

#### “Subtitle G—General Provisions

##### “SEC. 3171. DEFINITIONS.

“In this title:

“(1) The term ‘core public health infrastructure’ includes workforce capacity and competency; laboratory systems; health information, health information systems, and health information analysis; communications; financing; other relevant components of organizational capacity; and other related activities.

“(2) The terms ‘Department’ and ‘departmental’ refer to the Department of Health and Human Services.

“(3) The term ‘health disparities’ includes health and health care disparities and means population-specific differences in the presence of disease, health outcomes, or access to health care. For purposes of the preceding sentence, a population may be delineated by race, ethnicity, primary language, sex, sexual orientation, gender identity, disability, socioeconomic status, or rural, urban, or other geographic setting, and any other population or subpopulation determined by the Secretary to experience significant gaps in disease, health outcomes, or access to health care.

“(4) The term ‘tribal’ refers to an Indian tribe, a Tribal organization, or an Urban Indian organization, as such terms are defined in section 4 of the Indian Health Care Improvement Act.”.

##### (b) TRANSITION PROVISIONS APPLICABLE TO TASK FORCES.—

(1) FUNCTIONS, PERSONNEL, ASSETS, LIABILITIES, AND ADMINISTRATIVE ACTIONS.—All functions, personnel, assets, and liabilities of, and administrative actions applicable to, the Preventive Services Task Force convened under section 915(a) of the Public Health Service Act and the Task Force on Community Preventive Services (as such section and Task Forces were in existence on the day before the date of the enactment of this Act) shall be transferred to the Task Force on Clinical Preventive Services and the Task Force on Community Preventive Services, respectively, established under sections 3131 and 3132 of the Public Health Service Act, as added by subsection (a).

(2) RECOMMENDATIONS.—All recommendations of the Preventive Services Task Force and the Task Force on Community Preventive Services, as in existence on the day before the date of the enactment of this Act, shall be considered to be recommendations of the Task Force on Clinical Preventive Services and the Task Force on Community Preventive Services, respectively, established under sections 3131 and 3132 of the Public Health Service Act, as added by subsection (a).

##### (3) MEMBERS ALREADY SERVING.—

(A) INITIAL MEMBERS.—The Secretary of Health and Human Services may select those

individuals already serving on the Preventive Services Task Force and the Task Force on Community Preventive Services, as in existence on the day before the date of the enactment of this Act, to be among the first members appointed to the Task Force on Clinical Preventive Services and the Task Force on Community Preventive Services, respectively, under sections 3131 and 3132 of the Public Health Service Act, as added by subsection (a).

(B) CALCULATION OF TOTAL SERVICE.—In calculating the total years of service of a member of a task force for purposes of section 3131(d)(2)(A) or 3132(d)(2)(A) of the Public Health Service Act, as added by subsection (a), the Secretary of Health and Human Services shall not include any period of service by the member on the Preventive Services Task Force or the Task Force on Community Preventive Services, respectively, as in existence on the day before the date of the enactment of this Act.

(C) PERIOD BEFORE COMPLETION OF NATIONAL STRATEGY.—Pending completion of the national strategy under section 3121 of the Public Health Service Act, as added by subsection (a), the Secretary of Health and Human Services, acting through the relevant agency head, may make a judgment about how the strategy will address an issue and rely on such judgment in carrying out any provision of subtitle C, D, E, or F of title XXXI of such Act, as added by subsection (a), that requires the Secretary—

(1) to take into consideration such strategy;

(2) to conduct or support research or provide services in priority areas identified in such strategy; or

(3) to take any other action in reliance on such strategy.

##### (d) CONFORMING AMENDMENTS.—

(1) Paragraph (61) of section 3(b) of the Indian Health Care Improvement Act (25 U.S.C. 1602) is amended by striking “United States Preventive Services Task Force” and inserting “Task Force on Clinical Preventive Services”.

(2) Section 126 of the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000 (Appendix F of Public Law 106-554) is amended by striking “United States Preventive Services Task Force” each place it appears and inserting “Task Force on Clinical Preventive Services”.

(3) Paragraph (7) of section 317D(a) of the Public Health Service Act (42 U.S.C. 247b-5(a)) is amended by striking “United States Preventive Services Task Force” and inserting “Task Force on Clinical Preventive Services”.

(4) Section 915 of the Public Health Service Act (42 U.S.C. 299b-4) is amended by striking subsection (a).

(5) Subsections (s)(2)(AA)(iii)(II), (xx)(1), and (ddd)(1)(B) of section 1861 of the Social Security Act (42 U.S.C. 1395x) are amended by striking “United States Preventive Services Task Force” each place it appears and inserting “Task Force on Clinical Preventive Services”.

#### TITLE IV—QUALITY AND SURVEILLANCE

##### SEC. 2401. IMPLEMENTATION OF BEST PRACTICES IN THE DELIVERY OF HEALTH CARE.

(a) IN GENERAL.—Title IX of the Public Health Service Act (42 U.S.C. 299 et seq.) is amended—

(1) by redesignating part D as part E;

(2) by redesignating sections 931 through 938 as sections 941 through 948, respectively;

(3) in section 948(1), as redesignated, by striking “931” and inserting “941”; and



(4) by inserting after part C the following:  
**"PART D—IMPLEMENTATION OF BEST PRACTICES IN THE DELIVERY OF HEALTH CARE"**

**"SEC. 931. CENTER FOR QUALITY IMPROVEMENT."**

"(a) IN GENERAL.—There is established the Center for Quality Improvement (referred to in this part as the 'Center'), to be headed by the Director.

"(b) PRIORITIZATION.—

"(1) IN GENERAL.—The Director shall prioritize areas for the identification, development, evaluation, and implementation of best practices (including innovative methodologies and strategies) for quality improvement activities in the delivery of health care services (in this section referred to as 'best practices').

"(2) PRIORITIZATIONS.—In prioritizing areas under paragraph (1), the Director shall consider—

"(A) the priorities established under section 1191 of the Social Security Act; and

"(B) the key health indicators identified by the Assistant Secretary for Health Information under section 1709.

"(3) LIMITATIONS.—In conducting its duties under this subsection, the Center for Quality Improvement shall not develop quality-adjusted life year measures or any other methodologies that can be used to deny benefits to a beneficiary against the beneficiary's wishes on the basis of the beneficiary's age, life expectancy, present or predicted disability, or expected quality of life.

"(c) OTHER RESPONSIBILITIES.—The Director, acting directly or by awarding a grant or contract to an eligible entity, shall—

"(1) identify existing best practices under subsection (e);

"(2) develop new best practices under subsection (f);

"(3) evaluate best practices under subsection (g);

"(4) implement best practices under subsection (h);

"(5) ensure that best practices are identified, developed, evaluated, and implemented under this section consistent with standards adopted by the Secretary under section 3004 for health information technology used in the collection and reporting of quality information (including for purposes of the demonstration of meaningful use of certified electronic health record (EHR) technology by physicians and hospitals under the Medicare program (under sections 1848(o)(2) and 1886(n)(3), respectively, of the Social Security Act)); and

"(6) provide for dissemination of information and reporting under subsections (i) and (j).

"(d) ELIGIBILITY.—To be eligible for a grant or contract under subsection (c), an entity shall—

"(1) be a nonprofit entity;

"(2) agree to work with a variety of institutional health care providers, physicians, nurses, and other health care practitioners; and

"(3) if the entity is not the organization holding a contract under section 1153 of the Social Security Act for the area to be served, agree to cooperate with and avoid duplication of the activities of such organization.

"(e) IDENTIFYING EXISTING BEST PRACTICES.—The Director shall identify best practices that are—

"(1) currently utilized by health care providers (including hospitals, physician and other clinician practices, community co-operatives, and other health care entities) that deliver consistently high-quality, efficient health care services; and

"(2) easily adapted for use by other health care providers and for use across a variety of health care settings.

"(f) DEVELOPING NEW BEST PRACTICES.—The Director shall develop best practices that are—

"(1) based on a review of existing scientific evidence;

"(2) sufficiently detailed for implementation and incorporation into the workflow of health care providers; and

"(3) designed to be easily adapted for use by health care providers across a variety of health care settings.

"(g) EVALUATION OF BEST PRACTICES.—The Director shall evaluate best practices identified or developed under this section. Such evaluation—

"(1) shall include determinations of which best practices—

"(A) most reliably and effectively achieve significant progress in improving the quality of patient care; and

"(B) are easily adapted for use by health care providers across a variety of health care settings;

"(2) shall include regular review, updating, and improvement of such best practices; and

"(3) may include in-depth case studies or empirical assessments of health care providers (including hospitals, physician and other clinician practices, community co-operatives, and other health care entities) and simulations of such best practices for determinations under paragraph (1).

"(h) IMPLEMENTATION OF BEST PRACTICES.—

"(1) IN GENERAL.—The Director shall enter into arrangements with entities in a State or region to implement best practices identified or developed under this section. Such implementation—

"(A) may include forming collaborative multi-institutional teams; and

"(B) shall include an evaluation of the best practices being implemented, including the measurement of patient outcomes before, during, and after implementation of such best practices.

"(2) PREFERENCES.—In carrying out this subsection, the Director shall give priority to health care providers implementing best practices that—

"(A) have the greatest impact on patient outcomes and satisfaction;

"(B) are the most easily adapted for use by health care providers across a variety of health care settings;

"(C) promote coordination of health care practitioners across the continuum of care; and

"(D) engage patients and their families in improving patient care and outcomes.

"(i) PUBLIC DISSEMINATION OF INFORMATION.—The Director shall provide for the public dissemination of information with respect to best practices and activities under this section. Such information shall be made available in appropriate formats and languages to reflect the varying needs of consumers and diverse levels of health literacy.

"(j) REPORT.—

"(1) IN GENERAL.—The Director shall submit an annual report to the Congress and the Secretary on activities under this section.

"(2) CONTENT.—Each report under paragraph (1) shall include—

"(A) information on activities conducted pursuant to grants and contracts awarded;

"(B) summary data on patient outcomes before, during, and after implementation of best practices; and

"(C) recommendations on the adaptability of best practices for use by health providers."

(b) INITIAL QUALITY IMPROVEMENT ACTIVITIES AND INITIATIVES TO BE IMPLEMENTED.—Until the Director of the Agency for Healthcare Research and Quality has established initial priorities under section 931(b) of the Public Health Service Act, as added by subsection (a), the Director shall, for purposes of such section, prioritize the following:

(1) HEALTH CARE-ASSOCIATED INFECTIONS.—Reducing health care-associated infections, including infections in nursing homes and outpatient settings.

(2) SURGERY.—Increasing hospital and outpatient perioperative patient safety, including reducing surgical-site infections and surgical errors (such as wrong-site surgery and retained foreign bodies).

(3) EMERGENCY ROOM.—Improving care in hospital emergency rooms, including through the use of principles of efficiency of design and delivery to improve patient flow.

(4) OBSTETRICS.—Improving the provision of obstetrical and neonatal care, including the identification of interventions that are effective in reducing the risk of preterm and premature labor and the implementation of best practices for labor and delivery care.

(5) PEDIATRICS.—Improving the provision of preventive and developmental child health services, including interventions that can reduce child health disparities (as defined in section 3171 of the Public Health Service Act, as added by section 2301) and reduce the risk of developing chronic health-threatening conditions that affect an individual's life course development.

(c) REPORT.—Not later than 18 months after the date of the enactment of this Act, the Director of the Agency for Healthcare Research and Quality shall submit a report to the Congress on the impact of the nurse-to-patient ratio on the quality of care and patient outcomes, including recommendations for further integration into quality measurement and quality improvement activities.

**SEC. 2402. ASSISTANT SECRETARY FOR HEALTH INFORMATION.**

(a) ESTABLISHMENT.—Title XVII (42 U.S.C. 300u et seq.) is amended—

(1) by redesignating sections 1709 and 1710 as sections 1710 and 1711, respectively; and

(2) by inserting after section 1708 the following:

**"SEC. 1709. ASSISTANT SECRETARY FOR HEALTH INFORMATION."**

"(a) IN GENERAL.—There is established within the Department an Assistant Secretary for Health Information (in this section referred to as the 'Assistant Secretary'), to be appointed by the Secretary.

"(b) RESPONSIBILITIES.—The Assistant Secretary shall—

"(1) ensure the collection, collation, reporting, and publishing of information (including full and complete statistics) on key health indicators regarding the Nation's health and the performance of the Nation's health care;

"(2) facilitate and coordinate the collection, collation, reporting, and publishing of information regarding the Nation's health and the performance of the Nation's health care (other than information described in paragraph (1));

"(3)(A) develop standards for the collection of data regarding the Nation's health and the performance of the Nation's health care; and

"(B) in carrying out subparagraph (A)—

"(i) ensure appropriate specificity and standardization for data collection at the national, regional, State, and local levels;

“(ii) include standards, as appropriate, for the collection of accurate data on health disparities; and

“(iii) ensure, with respect to data on race and ethnicity, consistency with the 1997 Office of Management and Budget Standards for Maintaining, Collecting and Presenting Federal Data on Race and Ethnicity (or any successor standards); and

“(iv) in consultation with the Director of the Office of Minority Health, and the Director of the Office of Civil Rights of the Department, develop standards for the collection of data on health and health care with respect to primary language;

“(4) provide support to Federal departments and agencies whose programs have a significant impact upon health (as determined by the Secretary) for the collection and collation of information described in paragraphs (1) and (2);

“(5) ensure the sharing of information described in paragraphs (1) and (2) among the agencies of the Department;

“(6) facilitate the sharing of information described in paragraphs (1) and (2) by Federal departments and agencies whose programs have a significant impact upon health (as determined by the Secretary);

“(7) identify gaps in information described in paragraphs (1) and (2) and the appropriate agency or entity to address such gaps;

“(8) facilitate and coordinate identification and monitoring of health disparities by the agencies of the Department to inform program and policy efforts to reduce such disparities, including facilitating and funding analyses conducted in cooperation with the Social Security Administration, the Bureau of the Census, and other appropriate agencies and entities;

“(9) consistent with privacy, proprietary, and other appropriate safeguards, facilitate public accessibility of datasets (such as de-identified Medicare datasets or publicly available data on key health indicators) by means of the Internet; and

“(10) award grants or contracts for the collection and collation of information described in paragraphs (1) and (2) (including through statewide surveys that provide standardized information).

“(c) KEY HEALTH INDICATORS.—

“(1) IN GENERAL.—In carrying out subsection (b)(1), the Assistant Secretary shall—

“(A) identify, and reassess at least once every 3 years, key health indicators described in such subsection;

“(B) publish statistics on such key health indicators for the public—

“(i) not less than annually; and

“(ii) on a supplemental basis whenever warranted by—

“(I) the rate of change for a key health indicator; or

“(II) the need to inform policy regarding the Nation's health and the performance of the Nation's health care; and

“(C) ensure consistency with the national strategy developed by the Secretary under section 3121 and consideration of the indicators specified in the reports under sections 308, 903(a)(6), and 913(b)(2).

“(2) RELEASE OF KEY HEALTH INDICATORS.—The regulations, rules, processes, and procedures of the Office of Management and Budget governing the review, release, and dissemination of key health indicators shall be the same as the regulations, rules, processes, and procedures of the Office of Management and Budget governing the review, release, and dissemination of Principal Federal Economic Indicators (or equivalent statistical data) by the Bureau of Labor Statistics.

“(d) COORDINATION.—In carrying out this section, the Assistant Secretary shall coordinate with—

“(1) public and private entities that collect and disseminate information on health and health care, including foundations; and

“(2) the head of the Office of the National Coordinator for Health Information Technology to ensure optimal use of health information technology.

“(e) REQUEST FOR INFORMATION FROM DEPARTMENTS AND AGENCIES.—Consistent with applicable law, the Assistant Secretary may secure directly from any Federal department or agency information necessary to enable the Assistant Secretary to carry out this section.

“(f) REPORT.—

“(1) SUBMISSION.—The Assistant Secretary shall submit to the Secretary and the Congress an annual report containing—

“(A) a description of national, regional, or State changes in health or health care, as reflected by the key health indicators identified under subsection (c)(1);

“(B) a description of gaps in the collection, collation, reporting, and publishing of information regarding the Nation's health and the performance of the Nation's health care;

“(C) recommendations for addressing such gaps and identification of the appropriate agency within the Department or other entity to address such gaps;

“(D) a description of analyses of health disparities, including the results of completed analyses, the status of ongoing longitudinal studies, and proposed or planned research; and

“(E) a plan for actions to be taken by the Assistant Secretary to address gaps described in subparagraph (B).

“(2) CONSIDERATION.—In preparing a report under paragraph (1), the Assistant Secretary shall take into consideration the findings and conclusions in the reports under sections 308, 903(a)(6), and 913(b)(2).

“(g) PROPRIETARY AND PRIVACY PROTECTIONS.—Nothing in this section shall be construed to affect applicable proprietary or privacy protections.

“(h) CONSULTATION.—In carrying out this section, the Assistant Secretary shall consult with—

“(1) the heads of appropriate health agencies and offices in the Department, including the Office of the Surgeon General of the Public Health Service, the Office of Minority Health, and the Office on Women's Health; and

“(2) as appropriate, the heads of other Federal departments and agencies whose programs have a significant impact upon health (as determined by the Secretary).

“(i) DEFINITION.—In this section:

“(1) The terms ‘agency’ and ‘agencies’ include an epidemiology center established under section 214 of the Indian Health Care Improvement Act.

“(2) The term ‘Department’ means the Department of Health and Human Services.

“(3) The term ‘health disparities’ has the meaning given to such term in section 3171.”.

(b) OTHER COORDINATION RESPONSIBILITIES.—Title III (42 U.S.C. 241 et seq.) is amended—

(1) in paragraphs (1) and (2) of section 304(c) (42 U.S.C. 242b(c)), by inserting “, acting through the Assistant Secretary for Health Information,” after “The Secretary” each place it appears; and

(2) in section 306(j) (42 U.S.C. 242k(j)), by inserting “, acting through the Assistant Secretary for Health Information,” after “of this section, the Secretary”.

## SEC. 2403. AUTHORIZATION OF APPROPRIATIONS.

Section 799C, as added and amended, is further amended by adding at the end the following:

“(e) QUALITY AND SURVEILLANCE.—For the purpose of carrying out part D of title IX and section 1709, in addition to any other amounts authorized to be appropriated for such purpose, there are authorized to be appropriated, out of any monies in the Public Health Investment Fund, \$300,000,000 for each of fiscal years 2011 through 2015.”.

## TITLE V—OTHER PROVISIONS

### Subtitle A—Drug Discount for Rural and Other Hospitals; 340B Program Integrity

## SEC. 2501. EXPANDED PARTICIPATION IN 340B PROGRAM.

(a) EXPANSION OF COVERED ENTITIES RECEIVING DISCOUNTED PRICES.—Section 340B(a)(4) (42 U.S.C. 256b(a)(4)) is amended by adding at the end the following:

“(M) A children's hospital excluded from the Medicare prospective payment system pursuant to section 1886(d)(1)(B)(iii) of the Social Security Act, or a free-standing cancer hospital excluded from the Medicare prospective payment system pursuant to section 1886(d)(1)(B)(v) of the Social Security Act that would meet the requirements of subparagraph (L), including the disproportionate share adjustment percentage requirement under clause (ii) of such subparagraph, if the hospital were a subsection (d) hospital as defined by section 1886(d)(1)(B) of the Social Security Act.

“(N) An entity that is a critical access hospital (as determined under section 1820(c)(2) of the Social Security Act).

“(O) An entity receiving funds under title V of the Social Security Act (relating to maternal and child health) for the provision of health services.

“(P) An entity receiving funds under subpart I of part B of title XIX of the Public Health Service Act (relating to comprehensive mental health services) for the provision of community mental health services.

“(Q) An entity receiving funds under subpart II of such part B (relating to the prevention and treatment of substance abuse) for the provision of treatment services for substance abuse.

“(R) An entity that is a Medicare-dependent, small rural hospital (as defined in section 1886(d)(5)(G)(iv) of the Social Security Act).

“(S) An entity that is a sole community hospital (as defined in section 1886(d)(5)(D)(iii) of the Social Security Act).

“(T) An entity that is classified as a rural referral center under section 1886(d)(5)(C) of the Social Security Act.”.

(b) PROHIBITION ON GROUP PURCHASING ARRANGEMENTS.—Section 340B(a) (42 U.S.C. 256b(a)) is amended—

(1) in paragraph (4)(L)—

(A) by adding “and” at the end of clause (i);

(B) by striking “; and” at the end of clause (ii) and inserting a period; and

(C) by striking clause (iii); and

(2) in paragraph (5), by redesignating subparagraphs (C) and (D) as subparagraphs (D) and (E), respectively, and by inserting after subparagraph (B) the following:

“(C) PROHIBITING USE OF GROUP PURCHASING ARRANGEMENTS.—A hospital described in subparagraph (L), (M), (N), (R), (S), or (T) of paragraph (4) shall not obtain covered outpatient drugs through a group purchasing organization or other group purchasing arrangement.”.

**SEC. 2502. IMPROVEMENTS TO 340B PROGRAM INTEGRITY.**

(a) **INTEGRITY IMPROVEMENTS.**—Section 340B (42 U.S.C. 256b) is amended—

(1) by striking subsections (c) and (d); and  
(2) by inserting after subsection (b) the following:

“(C) **IMPROVEMENTS IN PROGRAM INTEGRITY.**—

“(1) **MANUFACTURER COMPLIANCE.**—

“(A) **IN GENERAL.**—From amounts appropriated under paragraph (4), the Secretary shall provide for improvements in compliance by manufacturers with the requirements of this section in order to prevent overcharges and other violations of the discounted pricing requirements specified in this section.

“(B) **IMPROVEMENTS.**—The improvements described in subparagraph (A) shall include the following:

“(i) The establishment of a process to enable the Secretary to verify the accuracy of ceiling prices calculated by manufacturers under subsection (a)(1) and charged to covered entities, which shall include the following:

“(I) Developing and publishing, through an appropriate policy or regulatory issuance, standards and methodology for the calculation of ceiling prices under such subsection.

“(II) Comparing regularly the ceiling prices calculated by the Secretary with the quarterly pricing data that is reported by manufacturers to the Secretary.

“(III) Conducting periodic monitoring of sales transactions to covered entities.

“(IV) Inquiring into any discrepancies between ceiling prices and manufacturer pricing data that may be identified and taking, or requiring manufacturers to take, corrective action in response to such discrepancies, including the issuance of refunds pursuant to the procedures set forth in clause (ii).

“(ii) The establishment of procedures for the issuance of refunds to covered entities by manufacturers in the event that the Secretary finds there has been an overcharge, including the following:

“(I) Submission to the Secretary by manufacturers of an explanation of why and how the overcharge occurred, how the refunds will be calculated, and to whom the refunds will be issued.

“(II) Oversight by the Secretary to ensure that the refunds are issued accurately and within a reasonable period of time.

“(iii) Notwithstanding any other provision of law prohibiting the disclosure of ceiling prices or data used to calculate the ceiling price, the provision of access to covered entities and State Medicaid agencies through an Internet website of the Department of Health and Human Services or contractor to the applicable ceiling prices for covered drugs as calculated and verified by the Secretary in a manner that ensures protection of privileged pricing data from unauthorized disclosure.

“(iv) The development of a mechanism by which—

“(I) rebates, discounts, or other price concessions provided by manufacturers to other purchasers subsequent to the sale of covered drugs to covered entities are reported to the Secretary; and

“(II) appropriate credits and refunds are issued to covered entities if such rebates, discounts, or other price concessions have the effect of lowering the applicable ceiling price for the relevant quarter for the drugs involved.

“(v) In addition to authorities under section 1927(b)(3) of the Social Security Act, the Secretary may conduct audits of manufac-

turers and wholesalers to ensure the integrity of the program under this section, including audits on the market price of covered drugs.

“(vi) The establishment of a requirement that manufacturers and wholesalers use the identification system developed by the Secretary for purposes of facilitating the ordering, purchasing, and delivery of covered drugs under this section, including the processing of chargebacks for such drugs.

“(vii) The imposition of sanctions in the form of civil monetary penalties, which—

“(I) shall be assessed according to standards and procedures established in regulations to be promulgated by the Secretary within one year of the date of the enactment of the Affordable Health Care for America Act; and

“(II) shall apply to any manufacturer with an agreement under this section and shall not exceed \$100,000 for each instance where a manufacturer knowingly charges a covered entity a price for purchase of a drug that exceeds the maximum applicable price under subsection (a)(1) or that knowingly violates any other provision of this section, or withholds or provides false information to the Secretary or to covered entities under this section.

“(2) **COVERED ENTITY COMPLIANCE.**—

“(A) **IN GENERAL.**—From amounts appropriated under paragraph (4), the Secretary shall provide for improvements in compliance by covered entities with the requirements of this section in order to prevent diversion and violations of the duplicate discount provision and other requirements under subsection (a)(5).

“(B) **IMPROVEMENTS.**—The improvements described in subparagraph (A) shall include the following:

“(i) The development of procedures to enable and require covered entities to update at least annually the information on the Internet Web site of the Department of Health and Human Services relating to this section.

“(ii) The development of procedures for the Secretary to verify the accuracy of information regarding covered entities that is listed on the Web site described in clause (i).

“(iii) The development of more detailed guidance describing methodologies and options available to covered entities for billing covered drugs to State Medicaid agencies in a manner that avoids duplicate discounts pursuant to subsection (a)(5)(A).

“(iv) The establishment of a single, universal, and standardized identification system by which each covered entity site can be identified by manufacturers, distributors, covered entities, and the Secretary for purposes of facilitating the ordering, purchasing, and delivery of covered drugs under this section, including the processing of chargebacks for such drugs.

“(v) The imposition of sanctions in the form of civil monetary penalties, which—

“(I) shall be assessed according to standards and procedures established in regulations promulgated by the Secretary;

“(II) shall not exceed \$5,000 for each violation; and

“(III) shall apply to any covered entity that knowingly violates subparagraph (a)(5)(B) or knowingly violates any other provision of this section.

“(vi) The exclusion of a covered entity from participation in the program under this section, for a period of time to be determined by the Secretary, in cases in which the Secretary determines, in accordance with standards and procedures established in regulations, that—

“(I) a violation of a requirement of this section was repeated and knowing; and

“(II) imposition of a monetary penalty would be insufficient to reasonably ensure compliance.

“(vii) The referral of matters as appropriate to the Food and Drug Administration, the Office of Inspector General of Department of Health and Human Services, or other Federal agencies.

“(3) **ADMINISTRATIVE DISPUTE RESOLUTION PROCESS.**—From amounts appropriated under paragraph (4), the Secretary may establish and implement an administrative process for the resolution of the following:

“(A) Claims by covered entities that manufacturers have violated the terms of their agreement with the Secretary under subsection (a)(1).

“(B) Claims by manufacturers that covered entities have violated subsection (a)(5)(A) or (a)(5)(B).

“(4) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated to carry out this subsection, such sums as may be necessary for fiscal year 2011 and each succeeding fiscal year.”.

(b) **CONFORMING AMENDMENTS.**—

(1) Section 340B(a) (42 U.S.C. 256b(a)) is amended—

(A) by adding at the end of paragraph (1) the following: “Such agreement shall require that the manufacturer offer each covered entity covered drugs for purchase at or below the applicable ceiling price if such drug is made available to any other purchaser at any price. Such agreement shall require that, if the supply of a covered drug is insufficient to meet demand, then the manufacturer may utilize an allocation method that is reported in writing to the Secretary and does not discriminate on the basis of the price paid by covered entities or on any other basis related to an entity’s participation in the program under this section. Notwithstanding any other provision of law, if the Secretary requests a manufacturer to enter into a new or amended agreement under this section that complies with current law and if the manufacturer opts not to sign the new or amended agreement, then any existing agreement between the manufacturer and the Secretary under this section is deemed to no longer meet the requirements of this section for purposes of this section and section 1927 of the Social Security Act.”; and

(B) by adding at the end the following paragraph:

“(11) **QUARTERLY REPORTS.**—An agreement described in paragraph (1) shall require that the manufacturer furnish the Secretary with reports on a quarterly basis that include the following information:

“(A) The price for each covered drug subject to the agreement that, according to the manufacturer, represents the maximum price that covered entities may permissibly be required to pay for the drug (referred to in this section as the ‘ceiling price’).

“(B) The component information used to calculate the ceiling price as determined necessary to administer the requirements of the program under this section.

“(C) Rebates, discounts, and other price concessions provided by manufacturers to other purchasers subsequent to the sale of covered drugs to covered entities.”.

(2) Section 1927(a)(5) of the Social Security Act (42 U.S.C. 1396r-8(a)(5)) is amended by striking subparagraph (D).

**SEC. 2503. EFFECTIVE DATE.**

(a) **IN GENERAL.**—The amendments made by this subtitle shall take effect on the date of

the enactment of this Act, and sections 2501, 2502(a)(1), and 2502(b)(2) shall apply to drugs dispensed on or after such date.

(b) **EFFECTIVENESS.**—The amendments made by this subtitle shall be effective, and shall be taken into account in determining whether a manufacturer is deemed to meet the requirements of section 340B(a) of the Public Health Service Act (42 U.S.C. 256b(a)), and of section 1927(a)(5) of the Social Security Act (42 U.S.C. 1396r-8(a)(5)), notwithstanding any other provision of law.

#### Subtitle B—Programs

### PART 1—GRANTS FOR CLINICS AND CENTERS

#### SEC. 2511. SCHOOL-BASED HEALTH CLINICS.

(a) **IN GENERAL.**—Part Q of title III (42 U.S.C. 280h et seq.) is amended by adding at the end the following:

##### “SEC. 399Z-1. SCHOOL-BASED HEALTH CLINICS.

“(a) **PROGRAM.**—The Secretary shall establish a school-based health clinic program consisting of awarding grants to eligible entities to support the operation of school-based health clinics (referred to in this section as ‘SBHCs’).

“(b) **ELIGIBILITY.**—To be eligible for a grant under this section, an entity shall—

“(1) be an SBHC (as defined in subsection (1)(3)); and

“(2) submit an application at such time, in such manner, and containing such information as the Secretary may require, including at a minimum—

“(A) evidence that the applicant meets all criteria necessary to be designated as an SBHC;

“(B) evidence of local need for the services to be provided by the SBHC;

“(C) an assurance that—

“(i) SBHC services will be provided in accordance with Federal, State, and local laws;

“(ii) the SBHC has established and maintains collaborative relationships with other health care providers in the catchment area of the SBHC;

“(iii) the SBHC will provide onsite access during the academic day when school is in session and has an established network of support and access to services with backup health providers when the school or SBHC is closed;

“(iv) the SBHC will be integrated into the school environment and will coordinate health services with appropriate school personnel and other community providers co-located at the school; and

“(v) the SBHC sponsoring facility assumes all responsibility for the SBHC administration, operations, and oversight; and

“(D) such other information as the Secretary may require.

“(C) **USE OF FUNDS.**—Funds awarded under a grant under this section—

“(1) may be used for—

“(A) providing training related to the provision of comprehensive primary health services and additional health services;

“(B) the management and operation of SBHC programs, including through subcontracts; and

“(C) the payment of salaries for health professionals and other appropriate SBHC personnel; and

“(2) may not be used to provide abortions.

“(d) **CONSIDERATION OF NEED.**—In determining the amount of a grant under this section, the Secretary shall take into consideration—

“(1) the financial need of the SBHC;

“(2) State, local, or other sources of funding provided to the SBHC; and

“(3) other factors as determined appropriate by the Secretary.

“(e) **PREFERENCES.**—In awarding grants under this section, the Secretary shall give preference to SBHCs that have a demonstrated record of service to at least one of the following:

“(1) A high percentage of medically underserved children and adolescents.

“(2) Communities or populations in which children and adolescents have difficulty accessing health and mental health services.

“(3) Communities with high percentages of children and adolescents who are uninsured, underinsured, or eligible for medical assistance under Federal or State health benefits programs (including titles XIX and XXI of the Social Security Act).

“(f) **MATCHING REQUIREMENT.**—The Secretary may award a grant to an SBHC under this section only if the SBHC agrees to provide, from non-Federal sources, an amount equal to 20 percent of the amount of the grant (which may be provided in cash or in kind) to carry out the activities supported by the grant.

“(g) **SUPPLEMENT, NOT SUPPLANT.**—The Secretary may award a grant to an SBHC under this section only if the SBHC demonstrates to the satisfaction of the Secretary that funds received through the grant will be expended only to supplement, and not supplant, non-Federal and Federal funds otherwise available to the SBHC for operation of the SBHC (including each activity described in paragraph (1) or (2) of subsection (c)).

“(h) **PAYOR OF LAST RESORT.**—The Secretary may award a grant to an SBHC under this section only if the SBHC demonstrates to the satisfaction of the Secretary that funds received through the grant will not be expended for any activity to the extent that payment has been made, or can reasonably be expected to be made—

“(1) under any insurance policy;

“(2) under any Federal or State health benefits program (including titles XIX and XXI of the Social Security Act); or

“(3) by an entity which provides health services on a prepaid basis.

“(i) **REGULATIONS REGARDING REIMBURSEMENT FOR HEALTH SERVICES.**—The Secretary shall issue regulations regarding the reimbursement for health services provided by SBHCs to individuals eligible to receive such services through the program under this section, including reimbursement under any insurance policy or any Federal or State health benefits program (including titles XIX and XXI of the Social Security Act).

“(j) **TECHNICAL ASSISTANCE.**—The Secretary shall provide (either directly or by grant or contract) technical and other assistance to SBHCs to assist such SBHCs to meet the requirements of this section. Such assistance may include fiscal and program management assistance, training in fiscal and program management, operational and administrative support, and the provision of information to the SBHCs of the variety of resources available under this title and how those resources can be best used to meet the health needs of the communities served by the SBHCs.

“(k) **EVALUATION; REPORT.**—The Secretary shall—

“(1) develop and implement a plan for evaluating SBHCs and monitoring quality performances under the awards made under this section; and

“(2) submit to the Congress on an annual basis a report on the program under this section.

“(l) **DEFINITIONS.**—In this section:

“(1) **COMPREHENSIVE PRIMARY HEALTH SERVICES.**—The term ‘comprehensive primary

health services’ means the core services offered by SBHCs, which—

“(A) shall include—

“(i) comprehensive health assessments, diagnosis, and treatment of minor, acute, and chronic medical conditions and referrals to, and followup for, specialty care; and

“(ii) mental health assessments, crisis intervention, counseling, treatment, and referral to a continuum of services including emergency psychiatric care, community support programs, inpatient care, and outpatient programs; and

“(B) may include additional services, such as oral health, social, and age-appropriate health education services, including nutritional counseling.

“(2) **MEDICALLY UNDERSERVED CHILDREN AND ADOLESCENTS.**—The term ‘medically underserved children and adolescents’ means a population of children and adolescents who are residents of an area designated by the Secretary as an area with a shortage of personal health services and health infrastructure for such children and adolescents.

“(3) **SCHOOL-BASED HEALTH CLINIC.**—The term ‘school-based health clinic’ means a health clinic that—

“(A) is located in, or is adjacent to, a school facility of a local educational agency;

“(B) is organized through school, community, and health provider relationships;

“(C) is administered by a sponsoring facility;

“(D) provides comprehensive primary health services during school hours to children and adolescents by health professionals in accordance with State and local laws and regulations, established standards, and community practice; and

“(E) does not perform abortion services.

“(4) **SPONSORING FACILITY.**—The term ‘sponsoring facility’ is—

“(A) a hospital;

“(B) a public health department;

“(C) a community health center;

“(D) a nonprofit health care entity whose mission is to provide access to comprehensive primary health care services;

“(E) a local educational agency; or

“(F) a program administered by the Indian Health Service or the Bureau of Indian Affairs or operated by an Indian tribe or a tribal organization under the Indian Self-Determination and Education Assistance Act, a Native Hawaiian entity, or an urban Indian program under title V of the Indian Health Care Improvement Act.

“(m) **AUTHORIZATION OF APPROPRIATIONS.**—For purposes of carrying out this section, there are authorized to be appropriated \$50,000,000 for fiscal year 2011 and such sums as may be necessary for each of fiscal years 2012 through 2015.”

(b) **EFFECTIVE DATE.**—The Secretary of Health and Human Services shall begin awarding grants under section 399Z-1 of the Public Health Service Act, as added by subsection (a), not later than July 1, 2010, without regard to whether or not final regulations have been issued under section 399Z-1(i) of such Act.

(c) **TERMINATION OF STUDY.**—Section 2(b) of the Health Care Safety Net Act of 2008 (42 U.S.C. 254b note) is amended by striking paragraph (2) (relating to a school-based health center study).

#### SEC. 2512. NURSE-MANAGED HEALTH CENTERS.

Title III (42 U.S.C. 241 et seq.) is amended by adding at the end the following:

# **"PART S—NURSE-MANAGED HEALTH CENTERS**

## **"SEC. 399FF. NURSE-MANAGED HEALTH CENTERS.**

"(a) PROGRAM.—The Secretary, acting through the Administrator of the Health Resources and Services Administration, shall establish a nurse-managed health center program consisting of awarding grants to entities under subsection (b).

"(b) GRANT.—The Secretary shall award grants to entities—

"(1) to plan and develop a nurse-managed health center; or

"(2) to operate a nurse-managed health center.

"(c) USE OF FUNDS.—Amounts received as a grant under subsection (b) may be used for activities including the following:

"(1) Purchasing or leasing equipment.

"(2) Training and technical assistance related to the provision of comprehensive primary care services and wellness services.

"(3) Other activities for planning, developing, or operating, as applicable, a nurse-managed health center.

"(d) ASSURANCES APPLICABLE TO BOTH PLANNING AND OPERATION GRANTS.—

"(1) IN GENERAL.—The Secretary may award a grant under this section to an entity only if the entity demonstrates to the Secretary's satisfaction that—

"(A) nurses, in addition to managing the center, will be adequately represented as providers at the center; and

"(B) not later than 90 days after receiving the grant, the entity will establish a community advisory committee composed of individuals, a majority of whom are being served by the center, to provide input into the nurse-managed health center's operations.

"(2) MATCHING REQUIREMENT.—The Secretary may award a grant under this section to an entity only if the entity agrees to provide, from non-Federal sources, an amount equal to 20 percent of the amount of the grant (which may be provided in cash or in kind) to carry out the activities supported by the grant.

"(3) PAYOR OF LAST RESORT.—The Secretary may award a grant under this section to an entity only if the entity demonstrates to the satisfaction of the Secretary that funds received through the grant will not be expended for any activity to the extent that payment has been made, or can reasonably be expected to be made—

"(A) under any insurance policy;

"(B) under any Federal or State health benefits program (including titles XIX and XXI of the Social Security Act); or

"(C) by an entity which provides health services on a prepaid basis.

"(4) MAINTENANCE OF EFFORT.—The Secretary may award a grant under this section to an entity only if the entity demonstrates to the satisfaction of the Secretary that—

"(A) funds received through the grant will be expended only to supplement, and not supplant, non-Federal and Federal funds otherwise available to the entity for the activities to be funded through the grant; and

"(B) with respect to such activities, the entity will maintain expenditures of non-Federal amounts for such activities at a level not less than the lesser of such expenditures maintained by the entity for the fiscal year preceding the fiscal year for which the entity receives the grant.

"(e) ADDITIONAL ASSURANCE FOR PLANNING GRANTS.—The Secretary may award a grant under subsection (b)(1) to an entity only if the entity agrees—

"(1) to assess the needs of the medically underserved populations proposed to be

served by the nurse-managed health center; and

"(2) to design services and operations of the nurse-managed health center for such populations based on such assessment.

"(f) ADDITIONAL ASSURANCE FOR OPERATION GRANTS.—The Secretary may award a grant under subsection (b)(2) to an entity only if the entity assures that the nurse-managed health center will provide—

"(1) comprehensive primary care services, wellness services, and other health care services deemed appropriate by the Secretary;

"(2) care without respect to insurance status or income of the patient; and

"(3) direct access to client-centered services offered by advanced practice nurses, other nurses, physicians, physician assistants, or other qualified health professionals.

"(g) TECHNICAL ASSISTANCE.—The Secretary shall provide (either directly or by grant or contract) technical and other assistance to nurse-managed health centers to assist such centers in meeting the requirements of this section. Such assistance may include fiscal and program management assistance, training in fiscal and program management, operational and administrative support, and the provision of information to nurse-managed health centers regarding the various resources available under this section and how those resources can best be used to meet the health needs of the communities served by nurse-managed health centers.

"(h) REPORT.—The Secretary shall submit to the Congress an annual report on the program under this section.

"(i) DEFINITIONS.—In this section:

"(1) COMPREHENSIVE PRIMARY CARE SERVICES.—The term 'comprehensive primary care services' has the meaning given to the term 'required primary health services' in section 330(b)(1).

"(2) MEDICALLY UNDERSERVED POPULATION.—The term 'medically underserved population' has the meaning given to such term in section 330(b)(3).

"(3) NURSE-MANAGED HEALTH CENTER.—The term 'nurse-managed health center' has the meaning given to such term in section 801.

"(4) WELLNESS SERVICES.—The term 'wellness services' means any health-related service or intervention, not including primary care, which is designed to reduce identifiable health risks and increase healthy behaviors intended to prevent the onset of disease or lessen the impact of existing chronic conditions by teaching more effective management techniques that focus on individual self-care and patient-driven decisionmaking.

"(j) AUTHORIZATION OF APPROPRIATIONS.—To carry out this section, there are authorized to be appropriated such sums as may be necessary for each of fiscal years 2011 through 2015."

## **SEC. 2513. FEDERALLY QUALIFIED BEHAVIORAL HEALTH CENTERS.**

Section 1913 (42 U.S.C. 300x-3) is amended—

(1) in subsection (a)(2)(A), by striking "community mental health services" and inserting "behavioral health services (of the type offered by federally qualified behavioral health centers consistent with subsection (c)(3))";

(2) in subsection (b)—

(A) by striking paragraph (1) and inserting the following:

"(1) services under the plan will be provided only through appropriate, qualified community programs (which may include federally qualified behavioral health centers, child mental health programs, psychosocial rehabilitation programs, mental health peer-

support programs, and mental health primary consumer-directed programs); and"; and

(B) in paragraph (2), by striking "community mental health centers" and inserting "federally qualified behavioral health centers"; and

(3) by striking subsection (c) and inserting the following:

"(c) CRITERIA FOR FEDERALLY QUALIFIED BEHAVIORAL HEALTH CENTERS.—

"(1) IN GENERAL.—The Administrator shall certify, and recertify at least every 5 years, federally qualified behavioral health centers as meeting the criteria specified in this subsection.

"(2) REGULATIONS.—Not later than 18 months after the date of the enactment of the Affordable Health Care for America Act, the Administrator shall issue final regulations for certifying centers under paragraph (1).

"(3) CRITERIA.—The criteria referred to in subsection (b)(2) are that the center performs each of the following:

"(A) Provide services in locations that ensure services will be available and accessible promptly and in a manner which preserves human dignity and assures continuity of care.

"(B) Provide services in a mode of service delivery appropriate for the target population.

"(C) Provide individuals with a choice of service options where there is more than one efficacious treatment.

"(D) Employ a core staff of clinical staff that is multidisciplinary and culturally and linguistically competent.

"(E) Provide services, within the limits of the capacities of the center, to any individual residing or employed in the service area of the center.

"(F) Provide, directly or through contract, to the extent covered for adults in the State Medicaid plan and for children in accordance with section 1905(r) of the Social Security Act regarding early and periodic screening, diagnosis, and treatment, each of the following services:

"(i) Screening, assessment, and diagnosis, including risk assessment.

"(ii) Person-centered treatment planning or similar processes, including risk assessment and crisis planning.

"(iii) Outpatient clinic mental health services, including screening, assessment, diagnosis, psychotherapy, substance abuse counseling, medication management, and integrated treatment for mental illness and substance abuse which shall be evidence-based (including cognitive behavioral therapy, dialectical behavioral therapy, motivational interviewing, and other such therapies which are evidence-based).

"(iv) Outpatient clinic primary care services, including screening and monitoring of key health indicators and health risk (including screening for diabetes, hypertension, and cardiovascular disease and monitoring of weight, height, body mass index (BMI), blood pressure, blood glucose or HbA1C, and lipid profile).

"(v) Crisis mental health services, including 24-hour mobile crisis teams, emergency crisis intervention services, and crisis stabilization.

"(vi) Targeted case management (services to assist individuals gaining access to needed medical, social, educational, and other services and applying for income security and other benefits to which they may be entitled).

“(vii) Psychiatric rehabilitation services including skills training, assertive community treatment, family psychoeducation, disability self-management, supported employment, supported housing services, therapeutic foster care services, multisystemic therapy, and such other evidence-based practices as the Secretary may require.

“(viii) Peer support and counselor services and family supports.

“(G) Maintain linkages, and where possible enter into formal contracts with, inpatient psychiatric facilities and substance abuse detoxification and residential programs.

“(H) Make available to individuals served by the center, directly, through contract, or through linkages with other programs, each of the following:

“(i) Adult and youth peer support and counselor services.

“(ii) Family support services for families of children with serious mental disorders.

“(iii) Other community or regional services, supports, and providers, including schools, child welfare agencies, juvenile and criminal justice agencies and facilities, housing agencies and programs, employers, and other social services.

“(iv) Onsite or offsite access to primary care services.

“(v) Enabling services, including outreach, transportation, and translation.

“(vi) Health and wellness services, including services for tobacco cessation.”.

## PART 2—OTHER GRANT PROGRAMS

### SEC. 2521. COMPREHENSIVE PROGRAMS TO PROVIDE EDUCATION TO NURSES AND CREATE A PIPELINE TO NURSING.

(a) PURPOSES.—It is the purpose of this section to authorize grants to—

(1) address the projected shortage of nurses by funding comprehensive programs to create a career ladder to nursing (including certified nurse assistants, licensed practical nurses, licensed vocational nurses, and registered nurses) for incumbent ancillary health care workers;

(2) increase the capacity for educating nurses by increasing both nurse faculty and clinical opportunities through collaborative programs between staff nurse organizations, health care providers, and accredited schools of nursing; and

(3) provide training programs through education and training organizations jointly administered by health care providers and health care labor organizations or other organizations representing staff nurses and frontline health care workers, working in collaboration with accredited schools of nursing and academic institutions.

(b) GRANTS.—Not later than 6 months after the date of the enactment of this Act, the Secretary of Labor (referred to in this section as the “Secretary”) shall establish a partnership grant program to award grants to eligible entities to carry out comprehensive programs to provide education to nurses and create a pipeline to nursing for incumbent ancillary health care workers who wish to advance their careers, and to otherwise carry out the purposes of this section.

(c) ELIGIBILITY.—To be eligible for a grant under this section, an entity shall be—

(1) a health care entity that is jointly administered by a health care employer and a labor union representing the health care employees of the employer and that carries out activities using labor-management training funds as provided for under section 302(c)(6) of the Labor Management Relations Act, 1947 (29 U.S.C. 186(c)(6));

(2) an entity that operates a training program that is jointly administered by—

(A) one or more health care providers or facilities, or a trade association of health care providers; and

(B) one or more organizations which represent the interests of direct care health care workers or staff nurses and in which the direct care health care workers or staff nurses have direct input as to the leadership of the organization;

(3) a State training partnership program that consists of nonprofit organizations that include equal participation from industry, including public or private employers, and labor organizations including joint labor-management training programs, and which may include representatives from local governments, worker investment agency one-stop career centers, community-based organizations, community colleges, and accredited schools of nursing; or

(4) a school of nursing (as defined in section 801 of the Public Health Service Act (42 U.S.C. 296)).

(d) ADDITIONAL REQUIREMENTS FOR HEALTH CARE EMPLOYER DESCRIBED IN SUBSECTION (c).—To be eligible for a grant under this section, a health care employer described in subsection (c) shall demonstrate that it—

(1) has an established program within its facility to encourage the retention of existing nurses;

(2) provides wages and benefits to its nurses that are competitive for its market or that have been collectively bargained with a labor organization; and

(3) supports programs funded under this section through 1 or more of the following:

(A) The provision of paid leave time and continued health coverage to incumbent health care workers to allow their participation in nursing career ladder programs, including certified nurse assistants, licensed practical nurses, licensed vocational nurses, and registered nurses.

(B) Contributions to a joint labor-management training fund which administers the program involved.

(C) The provision of paid release time, incentive compensation, or continued health coverage to staff nurses who desire to work full- or part-time in a faculty position.

(D) The provision of paid release time for staff nurses to enable them to obtain a bachelor of science in nursing degree, other advanced nursing degrees, specialty training, or certification program.

(E) The payment of tuition assistance which is managed by a joint labor-management training fund or other jointly administered program.

(e) OTHER REQUIREMENTS.—

(1) MATCHING REQUIREMENT.—

(A) IN GENERAL.—The Secretary may not make a grant under this section unless the applicant involved agrees, with respect to the costs to be incurred by the applicant in carrying out the program under the grant, to make available non-Federal contributions (in cash or in kind under subparagraph (B)) toward such costs in an amount equal to not less than \$1 for each \$1 of Federal funds provided in the grant. Such contributions may be made directly or through donations from public or private entities, or may be provided through the cash equivalent of paid release time provided to incumbent worker students.

(B) DETERMINATION OF AMOUNT OF NON-FEDERAL CONTRIBUTION.—Non-Federal contributions required in subparagraph (A) may be in cash or in kind (including paid release time), fairly evaluated, including equipment or services (and excluding indirect or overhead costs). Amounts provided by the Federal Government, or services assisted or sub-

sidized to any significant extent by the Federal Government, may not be included in determining the amount of such non-Federal contributions.

(2) REQUIRED COLLABORATION.—Entities carrying out or overseeing programs carried out with assistance provided under this section shall demonstrate collaboration with accredited schools of nursing which may include community colleges and other academic institutions providing associate's, bachelor's, or advanced nursing degree programs or specialty training or certification programs.

(f) USE OF FUNDS.—Amounts awarded to an entity under a grant under this section shall be used for the following:

(1) To carry out programs that provide education and training to establish nursing career ladders to educate incumbent health care workers to become nurses (including certified nurse assistants, licensed practical nurses, licensed vocational nurses, and registered nurses). Such programs shall include one or more of the following:

(A) Preparing incumbent workers to return to the classroom through English-as-a-second-language education, GED education, precollege counseling, college preparation classes, and support with entry level college classes that are a prerequisite to nursing.

(B) Providing tuition assistance with preference for dedicated cohort classes in community colleges, universities, and accredited schools of nursing with supportive services including tutoring and counseling.

(C) Providing assistance in preparing for and meeting all nursing licensure tests and requirements.

(D) Carrying out orientation and mentorship programs that assist newly graduated nurses in adjusting to working at the bedside to ensure their retention postgraduation, and ongoing programs to support nurse retention.

(E) Providing stipends for release time and continued health care coverage to enable incumbent health care workers to participate in these programs.

(2) To carry out programs that assist nurses in obtaining advanced degrees and completing specialty training or certification programs and to establish incentives for nurses to assume nurse faculty positions on a part-time or full-time basis. Such programs shall include one or more of the following:

(A) Increasing the pool of nurses with advanced degrees who are interested in teaching by funding programs that enable incumbent nurses to return to school.

(B) Establishing incentives for advanced degree bedside nurses who wish to teach in nursing programs so they can obtain a leave from their bedside position to assume a full- or part-time position as adjunct or full-time faculty without the loss of salary or benefits.

(C) Collaboration with accredited schools of nursing which may include community colleges and other academic institutions providing associate's, bachelor's, or advanced nursing degree programs, or specialty training or certification programs, for nurses to carry out innovative nursing programs which meet the needs of bedside nursing and health care providers.

(g) PREFERENCE.—In awarding grants under this section the Secretary shall give preference to programs that—

(1) provide for improving nurse retention;

(2) provide for improving the diversity of the new nurse graduates to reflect changes in the demographics of the patient population;

(3) provide for improving the quality of nursing education to improve patient care and safety;

(4) have demonstrated success in upgrading incumbent health care workers to become nurses or which have established effective programs or pilots to increase nurse faculty; or

(5) are modeled after or affiliated with such programs described in paragraph (4).

(h) EVALUATION.—

(1) PROGRAM EVALUATIONS.—An entity that receives a grant under this section shall annually evaluate, and submit to the Secretary a report on, the activities carried out under the grant and the outcomes of such activities. Such outcomes may include—

(A) an increased number of incumbent workers entering an accredited school of nursing and in the pipeline for nursing programs;

(B) an increasing number of graduating nurses and improved nurse graduation and licensure rates;

(C) improved nurse retention;

(D) an increase in the number of staff nurses at the health care facility involved;

(E) an increase in the number of nurses with advanced degrees in nursing;

(F) an increase in the number of nurse faculty;

(G) improved measures of patient quality (which may include staffing ratios of nurses, patient satisfaction rates, and patient safety measures); and

(H) an increase in the diversity of new nurse graduates relative to the patient population.

(2) GENERAL REPORT.—Not later than 2 years after the date of the enactment of this Act, and annually thereafter, the Secretary of Labor shall, using data and information from the reports received under paragraph (1), submit to the Congress a report concerning the overall effectiveness of the grant program carried out under this section.

(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for each of fiscal years 2011 through 2015.

#### SEC. 2522. MENTAL AND BEHAVIORAL HEALTH TRAINING.

Part E of title VII (42 U.S.C. 294n et seq.) is amended by adding at the end the following:

##### “Subpart 3—Mental and Behavioral Health Training

#### “SEC. 775. MENTAL AND BEHAVIORAL HEALTH TRAINING PROGRAM.

“(a) PROGRAM.—The Secretary, acting through the Administrator of the Health Resources and Services Administration and in consultation with the Administrator of the Substance Abuse and Mental Health Services Administration, shall establish an interdisciplinary mental and behavioral health training program consisting of awarding grants and contracts under subsection (b).

“(b) SUPPORT AND DEVELOPMENT OF MENTAL AND BEHAVIORAL HEALTH TRAINING PROGRAMS.—The Secretary shall make grants to, or enter into contracts with, eligible entities—

“(1) to plan, develop, operate, or participate in an accredited professional training program for mental and behavioral health professionals to promote—

“(A) interdisciplinary training; and

“(B) coordination of the delivery of health care within and across settings, including health care institutions, community-based settings, and the patient's home;

“(2) to provide financial assistance to mental and behavioral health professionals, who

are participants in any such program, and who plan to work in the field of mental and behavioral health;

“(3) to plan, develop, operate, or participate in an accredited program for the training of mental and behavioral health professionals who plan to teach in the field of mental and behavioral health; and

“(4) to provide financial assistance in the form of traineeships and fellowships to mental and behavioral health professionals who are participants in any such program and who plan to teach in the field of mental and behavioral health.

“(c) ELIGIBILITY.—To be eligible for a grant or contract under subsection (b), an entity shall be—

“(1) an accredited health professions school, including an accredited school or program of psychology, psychiatry, social work, marriage and family therapy, professional mental health or substance abuse counseling, or addiction medicine;

“(2) an accredited public or nonprofit private hospital;

“(3) a public or private nonprofit entity; or

“(4) a consortium of 2 or more entities described in paragraphs (1) through (3).

“(d) PREFERENCE.—In awarding grants or contracts under this section, the Secretary shall give preference to entities that have a demonstrated record of at least one of the following:

“(1) Training a high or significantly improved percentage of health professionals who serve in underserved communities.

“(2) Supporting teaching programs that address the health care needs of vulnerable populations.

“(3) Training individuals who are from disadvantaged backgrounds (including racial and ethnic minorities underrepresented among mental and behavioral health professionals).

“(4) Training individuals who serve geriatric populations with an emphasis on underserved elderly.

“(5) Training individuals who serve pediatric populations with an emphasis on underserved children.

“(e) REPORT.—The Secretary shall submit to the Congress an annual report on the program under this section.

“(f) DEFINITION.—In this section:

“(1) The term ‘interdisciplinary’ means collaboration across health professions, specialties, and subspecialties, which may include public health, nursing, allied health, dietetics or nutrition, and appropriate health specialties.

“(2) The term ‘mental and behavioral health professional’ means an individual training or practicing—

“(A) in psychology; general, geriatric, child or adolescent psychiatry; social work; marriage and family therapy; professional mental health or substance abuse counseling; or addiction medicine; or

“(B) another mental and behavioral health specialty, as deemed appropriate by the Secretary.

“(g) AUTHORIZATION OF APPROPRIATIONS.—To carry out this section, there is authorized to be appropriated \$60,000,000 for each of fiscal years 2011 through 2015. Of the amounts appropriated to carry out this section for a fiscal year, not less than 15 percent shall be used for training programs in psychology.”

#### SEC. 2523. REAUTHORIZATION OF TELEHEALTH AND TELEMEDICINE GRANT PROGRAMS.

(a) TELEHEALTH NETWORK AND TELEHEALTH RESOURCE CENTERS GRANT PROGRAMS.—Section 3301 (42 U.S.C. 254c-14) is amended—

(1) in subsection (a)—

(A) by striking paragraph (3) (relating to frontier communities); and

(B) by inserting after paragraph (2) the following:

“(3) HEALTH DISPARITIES.—The term ‘health disparities’ has the meaning given such term in section 3171.”

(2) in subsection (d)(1)—

(A) in subparagraph (B), by striking “and” at the end;

(B) in subparagraph (C), by striking the period at the end and inserting “; and”; and

(C) by adding at the end the following:

“(D) reduce health disparities.”

(3) in subsection (f)(1)(B)(iii)—

(A) in subclause (VII), by inserting “, including skilled nursing facilities” before the period at the end;

(B) in subclause (IX), by inserting “, including county mental health and public mental health facilities” before the period at the end; and

(C) by adding at the end the following:

“(XIII) Renal dialysis facilities.”

(4) by amending subsection (i) to read as follows:

“(i) PREFERENCES.—

“(1) TELEHEALTH NETWORKS.—In awarding grants under subsection (d)(1) for projects involving telehealth networks, the Secretary shall give preference to eligible entities meeting at least one of the following:

“(A) NETWORK.—The eligible entity is a health care provider in, or proposing to form, a health care network that furnishes services in a medically underserved area or a health professional shortage area.

“(B) BROAD GEOGRAPHIC COVERAGE.—The eligible entity demonstrates broad geographic coverage in the rural or medically underserved areas of the State or States in which the entity is located.

“(C) HEALTH DISPARITIES.—The eligible entity demonstrates how the project to be funded through the grant will address health disparities.

“(D) LINKAGES.—The eligible entity agrees to use the grant to establish or develop plans for telehealth systems that will link rural hospitals and rural health care providers to other hospitals, health care providers, and patients.

“(E) EFFICIENCY.—The eligible entity agrees to use the grant to promote greater efficiency in the use of health care resources.

“(F) VIABILITY.—The eligible entity demonstrates the long-term viability of projects through—

“(i) availability of non-Federal funding sources; or

“(ii) institutional and community support for the telehealth network.

“(G) SERVICES.—The eligible entity provides a plan for coordinating system use by eligible entities and prioritizes use of grant funds for health care services over nonclinical uses.

“(2) TELEHEALTH RESOURCE CENTERS.—In awarding grants under subsection (d)(2) for projects involving telehealth resource centers, the Secretary shall give preference to eligible entities meeting at least one of the following:

“(A) PROVISION OF A BROAD RANGE OF SERVICES.—The eligible entity has a record of success in the provision of a broad range of telehealth services to medically underserved areas or populations.

“(B) PROVISION OF TELEHEALTH TECHNICAL ASSISTANCE.—The eligible entity has a record of success in the provision of technical assistance to providers serving medically underserved communities or populations in the



establishment and implementation of telehealth services.

“(C) COLLABORATION AND SHARING OF EXPERTISE.—The eligible entity has a demonstrated record of collaborating and sharing expertise with providers of telehealth services at the national, regional, State, and local levels.”;

(5) in subsection (j)(2)(B), by striking “such projects for fiscal year 2001” and all that follows through the period and inserting “such projects for fiscal year 2010.”;

(6) in subsection (k)(1)—

(A) in subparagraph (E)(i), by striking “transmission of medical data” and inserting “transmission and electronic archival of medical data”;

(B) by amending subparagraph (F) to read as follows:

“(F) developing projects to use telehealth technology to—

“(i) facilitate collaboration between health care providers;

“(ii) promote telenursing services; or

“(iii) promote patient understanding and adherence to national guidelines for chronic disease and self-management of such conditions.”;

(7) in subsection (q), by striking “Not later than September 30, 2005” and inserting “Not later than 1 year after the date of the enactment of the Affordable Health Care for America Act, and annually thereafter”;

(8) by striking subsection (r);

(9) by redesignating subsection (s) as subsection (r); and

(10) in subsection (r) (as so redesignated)—

(A) in paragraph (1)—

(i) by striking “and” before “such sums”; and

(ii) by inserting “, \$10,000,000 for fiscal year 2011, and such sums as may be necessary for each of fiscal years 2012 through 2015” before the semicolon; and

(B) in paragraph (2)—

(i) by striking “and” before “such sums”; and

(ii) by inserting “, \$10,000,000 for fiscal year 2011, and such sums as may be necessary for each of fiscal years 2012 through 2015” before the period.

(b) **TELEMEDICINE; INCENTIVE GRANTS REGARDING COORDINATION AMONG STATES.**—Subsection (b) of section 330L (42 U.S.C. 254c-18) is amended by inserting “, \$10,000,000 for fiscal year 2011, and such sums as may be necessary for each of fiscal years 2012 through 2015” before the period at the end.

**SEC. 2524. NO CHILD LEFT UNIMMUNIZED AGAINST INFLUENZA: DEMONSTRATION PROGRAM USING ELEMENTARY AND SECONDARY SCHOOLS AS INFLUENZA VACCINATION CENTERS.**

(a) **PURPOSE.**—The Secretary of Health and Human Services in consultation with the Secretary of Education, shall award grants to eligible partnerships to carry out demonstration programs designed to test the feasibility of using the Nation’s elementary schools and secondary schools as influenza vaccination centers.

(b) **IN GENERAL.**—The Secretary shall coordinate with the Secretary of Labor, the Secretary of Education, State Medicaid agencies, State insurance agencies, and private insurers to carry out a program consisting of awarding grants under subsection (c) to ensure that children have coverage for all reasonable and customary expenses related to influenza vaccinations, including the costs of purchasing and administering the vaccine incurred when influenza vaccine is administered outside of the physician’s office in a school or other related setting.

(c) **PROGRAM DESCRIPTION.**—

(1) **GRANTS.**—From amounts appropriated pursuant to subsection (1), the Secretary shall award grants to eligible partnerships to be used to provide influenza vaccinations to children in elementary and secondary schools, in coordination with school nurses, school health care programs, community health care providers, State insurance agencies, or private insurers.

(2) **ACIP RECOMMENDATIONS.**—The program under this section shall be designed to administer vaccines consistent with the recommendations of the Centers for Disease Control and Prevention’s Advisory Committee on Immunization Practices (ACIP) for the annual vaccination of all children 5 through 19 years of age.

(3) **PARTICIPATION VOLUNTARY.**—Participation by a school or an individual shall be voluntary.

(4) **USE OF FUNDS.**—Eligible partnerships receiving a grant under this section shall ensure the maximum number of children access influenza vaccinations as follows:

(1) **COVERED CHILDREN.**—To the extent to which payment of the costs of purchasing or administering the influenza vaccine for children is not covered through other federally funded programs or through private insurance, eligible partnerships receiving a grant shall use funds to purchase and administer influenza vaccinations.

(2) **CHILDREN COVERED BY OTHER FEDERAL PROGRAMS.**—For children who are eligible under other federally funded programs for payment of the costs of purchasing or administering the influenza vaccine, eligible partnerships receiving a grant shall not use funds provided under this section for such costs.

(3) **CHILDREN COVERED BY PRIVATE HEALTH INSURANCE.**—For children who have private insurance, eligible partnerships receiving a grant shall offer assistance in accessing coverage for vaccinations administered through the program under this section.

(e) **PRIVACY.**—The Secretary shall ensure that the program under this section adheres to confidentiality and privacy requirements of section 264 of the Health Insurance Portability and Accountability Act of 1996 (42 U.S.C. 1320d-2 note) and section 444 of the General Education Provisions Act (20 U.S.C. 1232g; commonly referred to as the “Family Educational Rights and Privacy Act of 1974”).

(f) **APPLICATION.**—An eligible partnership desiring a grant under this section shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

(g) **DURATION.**—Eligible partnerships receiving a grant shall administer a demonstration program funded through this section over a period of 2 consecutive school years.

(h) **CHOICE OF VACCINE.**—The program under this section shall not restrict the discretion of a health care provider to administer any influenza vaccine approved by the Food and Drug Administration for use in pediatric populations.

(i) **AWARDS.**—The Secretary shall award—

(1) a minimum of 10 grants in 10 different States to eligible partnerships that each include one or more public schools serving primarily low-income students; and

(2) a minimum of 5 grants in 5 different States to eligible partnerships that each include one or more public schools located in a rural local educational agency.

(j) **REPORT.**—Not later than 90 days following the completion of the program under this section, the Secretary shall submit to

the Committees on Education and Labor, Energy and Commerce, and Appropriations of the House of Representatives and to the Committees on Health, Education, Labor, and Pensions and Appropriations of the Senate a report on the results of the program. The report shall include—

(1) an assessment of the influenza vaccination rates of school-age children in localities where the program is implemented, compared to the national average influenza vaccination rates for school-aged children, including whether school-based vaccination assists in achieving the recommendations of the Advisory Committee on Immunization Practices;

(2) an assessment of the utility of employing elementary schools and secondary schools as a part of a multistate, community-based pandemic response program that is consistent with existing Federal and State pandemic response plans;

(3) an assessment of the feasibility of using existing Federal and private insurance funding in establishing a multistate, school-based vaccination program for seasonal influenza vaccination;

(4) an assessment of the number of education days gained by students as a result of seasonal vaccinations based on absenteeism rates;

(5) a determination of whether the program under this section—

(A) increased vaccination rates in the participating localities; and

(B) was implemented for sufficient time for gathering enough valid data; and

(6) a recommendation on whether the program should be continued, expanded, or terminated.

(k) **DEFINITIONS.**—In this section:

(1) **ELIGIBLE PARTNERSHIP.**—The term “eligible partnership” means a local public health department, or another health organization defined by the Secretary as eligible to submit an application, and one or more elementary and secondary schools.

(2) **ELEMENTARY SCHOOL.**—The terms “elementary school” and “secondary school” have the meanings given such terms in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801).

(3) **LOW-INCOME.**—The term “low-income” means a student, age 5 through 19, eligible for free or reduced-price lunch under the National School Lunch Act (42 U.S.C. 1751 et seq.).

(4) **RURAL LOCAL EDUCATIONAL AGENCY.**—The term “rural local educational agency” means an eligible local educational agency described in section 6211(b)(1) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7345(b)(1)).

(5) **SECRETARY.**—Except as otherwise specified, the term “Secretary” means the Secretary of Health and Human Services.

(1) **AUTHORIZATION OF APPROPRIATIONS.**—To carry out this section, there are authorized to be appropriated such sums as may be necessary for each of fiscal years 2011 through 2015.

**SEC. 2525. EXTENSION OF WISEWOMAN PROGRAM.**

Section 1509 of the Public Health Service Act (42 U.S.C. 300n-4a) is amended—

(1) in subsection (a)—

(A) by striking the heading and inserting “IN GENERAL.—”; and

(B) in the matter preceding paragraph (1), by striking “may make grants” and all that follows through “purpose” and inserting the following: “may make grants to such States for the purpose”; and

(2) in subsection (d)(1), by striking “there are authorized” and all that follows through

the period and inserting “there are authorized to be appropriated \$70,000,000 for fiscal year 2011, \$73,500,000 for fiscal year 2012, \$77,000,000 for fiscal year 2013, \$81,000,000 for fiscal year 2014, and \$85,000,000 for fiscal year 2015.”

**SEC. 2526. HEALTHY TEEN INITIATIVE TO PREVENT TEEN PREGNANCY.**

Part B of title III (42 U.S.C. 243 et seq.) is amended by inserting after section 317T the following:

**“SEC. 317U. HEALTHY TEEN INITIATIVE TO PREVENT TEEN PREGNANCY.**

“(a) PROGRAM.—To the extent and in the amount of appropriations made in advance in appropriations Acts, the Secretary, acting through the Director of the Centers for Disease Control and Prevention, shall establish a program consisting of making grants, in amounts determined under subsection (c), to each State that submits an application in accordance with subsection (d) for an evidence-based education program described in subsection (b).

“(b) USE OF FUNDS.—Amounts received by a State under this section shall be used to conduct or support evidence-based education programs (directly or through grants or contracts to public or private nonprofit entities, including schools and community-based and faith-based organizations) to reduce teen pregnancy or sexually transmitted diseases.

“(c) DISTRIBUTION OF FUNDS.—The Director shall, for fiscal year 2011 and each subsequent fiscal year, make a grant to each State described in subsection (a) in an amount equal to the product of—

“(1) the amount appropriated to carry out this section for the fiscal year; and

“(2) the percentage determined for the State under section 502(c)(1)(B)(ii) of the Social Security Act.

“(d) APPLICATION.—To seek a grant under this section, a State shall submit an application at such time, in such manner, and containing such information and assurance of compliance with this section as the Secretary may require. At a minimum, an application shall to the satisfaction of the Secretary—

“(1) describe how the State’s proposal will address the needs of at-risk teens in the State;

“(2) identify the evidence-based education program or programs selected from the registry developed under subsection (g) that will be used to address risks in priority populations;

“(3) describe how the program or programs will be implemented and any adaptations to the evidence-based model that will be made;

“(4) list any private and public entities with whom the State proposes to work, including schools and community-based and faith-based organizations, and demonstrate their capacity to implement the proposed program or programs; and

“(5) identify an independent entity that will evaluate the impact of the program or programs.

“(e) EVALUATION.—

“(1) REQUIREMENT.—As a condition on receipt of a grant under this section, a State shall agree—

“(A) to arrange for an independent evaluation of the impact of the programs to be conducted or supported through the grant; and

“(B) submit reports to the Secretary on such programs and the results of evaluation of such programs.

“(2) FUNDING LIMITATION.—Of the amounts made available to a State through a grant under this section for any fiscal year, not more than 10 percent may be used for such evaluation.

“(f) RULE OF CONSTRUCTION.—This section shall not be construed to preempt or limit any State law regarding parental involvement and decisionmaking in children’s education.

“(g) REGISTRY OF ELIGIBLE PROGRAMS.—The Secretary shall develop not later than 180 days after the date of the enactment of the Affordable Health Care for America Act, and periodically update thereafter, a publicly available registry of programs described in subsection (b) that, as determined by the Secretary—

“(1) meet the definition of the term ‘evidence-based’ in subsection (i);

“(2) are medically and scientifically accurate; and

“(3) provide age-appropriate information.

“(h) MATCHING FUNDS.—The Secretary may award a grant to a State under this section for a fiscal year only if the State agrees to provide, from non-Federal sources, an amount equal to \$1 (in cash or in kind) for each \$4 provided through the grant to carry out the activities supported by the grant.

“(i) DEFINITION.—In this section, the term ‘evidence-based’ means based on a model that has been found, in methodologically sound research—

“(1) to delay initiation of sex;

“(2) to decrease number of partners;

“(3) to reduce teen pregnancy;

“(4) to reduce sexually transmitted infection rates; or

“(5) to improve rates of contraceptive use.

“(j) AUTHORIZATION OF APPROPRIATIONS.—To carry out this section, there is authorized to be appropriated \$50,000,000 for each of fiscal years 2011 through 2015.”

**SEC. 2527. NATIONAL TRAINING INITIATIVES ON AUTISM SPECTRUM DISORDERS.**

Title I of the Developmental Disabilities Assistance and Bill of Rights Act of 2000 (42 U.S.C. 15001 et seq.) is amended by adding at the end the following:

**“Subtitle F—National Training Initiative on Autism Spectrum Disorders**

**“SEC. 171. NATIONAL TRAINING INITIATIVE.**

“(a) GRANTS AND TECHNICAL ASSISTANCE.—

“(1) GRANTS.—

“(A) IN GENERAL.—The Secretary, in consultation with the Interagency Autism Coordinating Committee, shall award multiyear grants to eligible entities to provide individuals (including parents and health, allied health, vocational, and educational professionals) with interdisciplinary training, continuing education, technical assistance, and information for the purpose of improving services rendered to children and adults with autism, and their families, to address unmet needs related to autism.

“(B) ELIGIBLE ENTITY.—To be eligible to receive a grant under this subsection, an entity shall be—

“(i) a University Center for Excellence in Developmental Disabilities Education, Research, and Service; or

“(ii) a comparable interdisciplinary education, research, and service entity.

“(C) APPLICATION REQUIREMENTS.—An entity that desires to receive a grant for a program under this paragraph shall submit to the Secretary an application—

“(i) demonstrating that the entity has capacity to—

“(I) provide training and technical assistance in evidence-based practices to evaluate, and provide effective interventions, services, treatments, and supports to, children and adults with autism and their families;

“(II) include individuals with autism and their families as part of the program to ensure that an individual- and family-centered approach is used;

“(III) share and disseminate materials and practices that are developed for, and evaluated to be effective in, the provision of training and technical assistance; and

“(IV) provide training, technical assistance, interventions, services, treatments, and supports under this subsection statewide.

“(ii) providing assurances that the entity will—

“(I) provide trainees under this subsection with an appropriate balance of interdisciplinary academic and community-based experiences; and

“(II) provide to the Secretary, in the manner prescribed by the Secretary, data regarding the number of individuals who have benefited from, and outcomes of, the provision of training and technical assistance under this subsection;

“(iii) providing assurances that training, technical assistance, dissemination of information, and services under this subsection will be—

“(I) consistent with the goals of this Act, the Americans with Disabilities Act of 1990, the Individuals with Disabilities Education Act, and the Elementary and Secondary Education Act of 1965; and

“(II) conducted in coordination with relevant State agencies, institutions of higher education, and service providers; and

“(iv) containing such other information and assurances as the Secretary may require.

“(D) USE OF FUNDS.—A grant received under this subsection shall be used to provide individuals (including parents and health, allied health, vocational, and educational professionals) with interdisciplinary training, continuing education, technical assistance, and information for the purpose of improving services rendered to children and adults with autism, and their families, to address unmet needs related to autism. Such training, education, assistance, and information shall include each of the following:

“(i) Training health, allied health, vocational, and educational professionals to identify, evaluate the needs of, and develop interventions, services, treatments, and supports for, children and adults with autism.

“(ii) Developing model services and supports that demonstrate evidence-based practices.

“(iii) Developing systems and products that allow for the interventions, services, treatments, and supports to be evaluated for fidelity of implementation.

“(iv) Working to expand the availability of evidence-based, lifelong interventions; educational, employment, and transition services; and community supports.

“(v) Providing statewide technical assistance in collaboration with relevant State agencies, institutions of higher education, autism advocacy groups, and community-based service providers.

“(vi) Working to develop comprehensive systems of supports and services for individuals with autism and their families, including seamless transitions between education and health systems across the lifespan.

“(vii) Promoting training, technical assistance, dissemination of information, supports, and services.

“(viii) Developing mechanisms to provide training and technical assistance, including for-credit courses, intensive summer institutes, continuing education programs, distance based programs, and Web-based information dissemination strategies.

“(ix) Promoting activities that support community-based family and individual

services and enable individuals with autism and related developmental disabilities to fully participate in society and achieve good quality-of-life outcomes.

“(x) Collecting data on the outcomes of training and technical assistance programs to meet statewide needs for the expansion of services to children and adults with autism.

“(E) AMOUNT OF GRANTS.—The amount of a grant to any entity for a fiscal year under this section shall be not less than \$250,000.

“(2) TECHNICAL ASSISTANCE.—The Secretary shall reserve 2 percent of the amount appropriated to carry out this subsection for a fiscal year to make a grant to a national organization with demonstrated capacity for providing training and technical assistance to—

“(A) assist in national dissemination of specific information, including evidence-based best practices, from interdisciplinary training programs, and when appropriate, other entities whose findings would inform the work performed by entities awarded grants;

“(B) compile and disseminate strategies and materials that prove to be effective in the provision of training and technical assistance so that the entire network can benefit from the models, materials, and practices developed in individual centers;

“(C) assist in the coordination of activities of grantees under this subsection;

“(D) develop a Web portal that will provide linkages to each of the individual training initiatives and provide access to training modules, promising training, and technical assistance practices and other materials developed by grantees;

“(E) serve as a research-based resource for Federal and State policymakers on information concerning the provision of training and technical assistance for the assessment, and provision of supports and services for, children and adults with autism;

“(F) convene experts from multiple interdisciplinary training programs, individuals with autism, and the families of such individuals to discuss and make recommendations with regard to training issues related to assessment, interventions, services, treatment, and supports for children and adults with autism; and

“(G) undertake any other functions that the Secretary determines to be appropriate.

“(3) AUTHORIZATION OF APPROPRIATIONS.—To carry out this subsection, there are authorized to be appropriated \$17,000,000 for fiscal year 2011 and such sums as may be necessary for each of fiscal years 2012 through 2015.

“(b) EXPANSION OF THE NUMBER OF UNIVERSITY CENTERS FOR EXCELLENCE IN DEVELOPMENTAL DISABILITIES EDUCATION, RESEARCH, AND SERVICE.—

“(1) GRANTS.—To provide for the establishment of up to 4 new University Centers for Excellence in Developmental Disabilities Education, Research, and Service, the Secretary shall award up to 4 grants to institutions of higher education.

“(2) APPLICABLE PROVISIONS.—Except for subsection (a)(3), the provisions of subsection (a) shall apply with respect to grants under this subsection to the same extent and in the same manner as such provisions apply with respect to grants under subsection (a).

“(3) PRIORITY.—In awarding grants under this subsection, the Secretary shall give priority to applicants that—

“(A) are minority institutions that have demonstrated capacity to meet the requirements of this section and provide services to individuals with autism and their families; or

“(B) are located in a State with one or more underserved populations.

“(4) AUTHORIZATION OF APPROPRIATIONS.—To carry out this subsection, there is authorized to be appropriated \$2,000,000 for each of fiscal years 2011 through 2015.

“(c) DEFINITIONS.—In this section:

“(1) The term ‘autism’ means an autism spectrum disorder or a related developmental disability.

“(2) The term ‘interventions’ means educational methods and positive behavioral support strategies designed to improve or ameliorate symptoms associated with autism.

“(3) The term ‘minority institution’ has the meaning given to such term in section 365 of the Higher Education Act of 1965.

“(4) The term ‘services’ means services to assist individuals with autism to live more independently in their communities.

“(5) The term ‘treatments’ means health services, including mental health services, designed to improve or ameliorate symptoms associated with autism.

“(6) The term ‘University Center for Excellence in Developmental Disabilities Education, Research, and Service’ means a University Center for Excellence in Developmental Disabilities Education, Research, and Service that has been or is funded through subtitle D or subsection (b).”

#### SEC. 2528. IMPLEMENTATION OF MEDICATION MANAGEMENT SERVICES IN TREATMENT OF CHRONIC DISEASES.

(a) IN GENERAL.—The Secretary of Health and Human Services (referred to in this section as the “Secretary”), acting through the Director of the Agency for Health Care Research and Quality, shall establish a program to provide grants to eligible entities to implement medication management services (referred to in this section as “MTM services”) provided by licensed pharmacists, as a part of a collaborative, multidisciplinary, interprofessional approach to the treatment of chronic diseases for targeted individuals, to improve the quality of care and reduce overall cost in the treatment of such diseases. The Secretary shall commence the grant program not later than May 1, 2011.

(b) ELIGIBLE ENTITIES.—To be eligible to receive a grant under subsection (a), an entity shall—

(1) provide a setting appropriate for MTM services, as recommended by the experts described in subsection (e);

(2) submit to the Secretary a plan for achieving long-term financial sustainability;

(3) where applicable, submit a plan for coordinating MTM services with other local providers and where applicable, through or in collaboration with the Medicare Medical Home Pilot program as established by section 1866F of the Social Security Act, as added by section 1302(a) of this Act;

(4) submit a plan for meeting the requirements under subsection (c); and

(5) submit to the Secretary such other information as the Secretary may require.

(c) MTM SERVICES TO TARGETED INDIVIDUALS.—The MTM services provided with the assistance of a grant awarded under subsection (a) shall, as allowed by State law (including applicable collaborative pharmacy practice agreements), include—

(1) performing or obtaining necessary assessments of the health and functional status of each patient receiving such MTM services;

(2) formulating a medication treatment plan according to therapeutic goals agreed upon by the prescriber and the patient or caregiver or authorized representative of the patient;

(3) selecting, initiating, modifying, recommending changes to, or administering medication therapy;

(4) monitoring, which may include access to, ordering, or performing laboratory assessments, and evaluating the response of the patient to therapy, including safety and effectiveness;

(5) performing an initial comprehensive medication review to identify, resolve, and prevent medication-related problems, including adverse drug events, quarterly targeted medication reviews for ongoing monitoring, and additional followup interventions on a schedule developed collaboratively with the prescriber;

(6) documenting the care delivered and communicating essential information about such care (including a summary of the medication review) and the recommendations of the pharmacist to other appropriate health care providers of the patient in a timely fashion;

(7) providing education and training designed to enhance the understanding and appropriate use of the medications by the patient, caregiver, and other authorized representative;

(8) providing information, support services, and resources and strategies designed to enhance patient adherence with therapeutic regimens;

(9) coordinating and integrating MTM services within the broader health care management services provided to the patient; and

(10) such other patient care services as are allowed under the scopes of practice for pharmacists for purposes of other Federal programs.

(d) TARGETED INDIVIDUALS.—MTM services provided by licensed pharmacists under a grant awarded under subsection (a) shall be offered to targeted individuals who—

(1) take 4 or more prescribed medications (including over-the-counter and dietary supplements);

(2) take any high-risk medications;

(3) have 2 or more chronic diseases, as identified by the Secretary; or

(4) have undergone a transition of care, or other factors, as determined by the Secretary, that are likely to create a high risk of medication-related problems.

(e) CONSULTATION WITH EXPERTS.—In designing and implementing MTM services provided under grants awarded under subsection (a), the Secretary shall consult with Federal, State, private, public-private, and academic entities, pharmacy and pharmacist organizations, health care organizations, consumer advocates, chronic disease groups, and other stakeholders involved with the research, dissemination, and implementation of pharmacist-delivered MTM services, as the Secretary determines appropriate. The Secretary, in collaboration with this group, shall determine whether it is possible to incorporate rapid cycle process improvement concepts in use in other Federal programs that have implemented MTM services.

(f) REPORTING TO THE SECRETARY.—An entity that receives a grant under subsection (a) shall submit to the Secretary a report that describes and evaluates, as requested by the Secretary, the activities carried out under subsection (c), including quality measures, as determined by the Secretary.

(g) EVALUATION AND REPORT.—The Secretary shall submit to the relevant committees of Congress a report which shall—

(1) assess the clinical effectiveness of pharmacist-provided services under the MTM services program, as compared to usual care, including an evaluation of whether enrollees

maintained better health with fewer hospitalizations and emergency room visits than similar patients not enrolled in the program;

(2) assess changes in overall health care resource of targeted individuals;

(3) assess patient and prescriber satisfaction with MTM services;

(4) assess the impact of patient-cost-sharing requirements on medication adherence and recommendations for modifications;

(5) identify and evaluate other factors that may impact clinical and economic outcomes, including demographic characteristics, clinical characteristics, and health services use of the patient, as well as characteristics of the regimen, pharmacy benefit, and MTM services provided; and

(6) evaluate the extent to which participating pharmacists who maintain a dispensing role have a conflict of interest in the provision of MTM services, and if such conflict is found, provide recommendations on how such a conflict might be appropriately addressed.

(h) **GRANT TO FUND DEVELOPMENT OF PERFORMANCE MEASURES.**—The Secretary may award grants or contracts to eligible entities for the purpose of funding the development of performance measures that assess the use and effectiveness of medication therapy management services.

#### SEC. 2529. POSTPARTUM DEPRESSION.

(a) **EXPANSION AND INTENSIFICATION OF ACTIVITIES.**—

(1) **CONTINUATION OF ACTIVITIES.**—The Secretary is encouraged to expand and intensify activities on postpartum conditions.

(2) **PROGRAMS FOR POSTPARTUM CONDITIONS.**—In carrying out paragraph (1), the Secretary is encouraged to continue research to expand the understanding of the causes of, and treatments for, postpartum conditions, including conducting and supporting the following:

(A) Basic research concerning the etiology and causes of the conditions.

(B) Epidemiological studies to address the frequency and natural history of the conditions and the differences among racial and ethnic groups with respect to the conditions.

(C) The development of improved screening and diagnostic techniques.

(D) Clinical research for the development and evaluation of new treatments.

(E) Information and education programs for health professionals and the public, which may include a coordinated national campaign that—

(i) is designed to increase the awareness and knowledge of postpartum conditions;

(ii) may include public service announcements through television, radio, and other means; and

(iii) may focus on—

(I) raising awareness about screening;

(II) educating new mothers and their families about postpartum conditions to promote earlier diagnosis and treatment; and

(III) ensuring that such education includes complete information concerning postpartum conditions, including its symptoms, methods of coping with the illness, and treatment resources.

(b) **REPORT BY THE SECRETARY.**—

(1) **STUDY.**—The Secretary shall conduct a study on the benefits of screening for postpartum conditions.

(2) **REPORT.**—Not later than 2 years after the date of the enactment of this Act, the Secretary shall complete the study required by paragraph (1) and submit a report to the Congress on the results of such study.

(c) **SENSE OF CONGRESS REGARDING LONGITUDINAL STUDY OF RELATIVE MENTAL HEALTH**

**CONSEQUENCES FOR WOMEN OF RESOLVING A PREGNANCY.**—

(1) **SENSE OF CONGRESS.**—It is the sense of the Congress that the Director of the National Institute of Mental Health may conduct a nationally representative longitudinal study (during the period of fiscal years 2011 through 2020) on the relative mental health consequences for women of resolving a pregnancy (intended and unintended) in various ways, including carrying the pregnancy to term and parenting the child, carrying the pregnancy to term and placing the child for adoption, miscarriage, and having an abortion. This study may assess the incidence, timing, magnitude, and duration of the immediate and long-term mental health consequences (positive or negative) of these pregnancy outcomes.

(2) **REPORT.**—Beginning not later than 3 years after the date of the enactment of this Act, and periodically thereafter for the duration of the study, such Director may prepare and submit to the Congress reports on the findings of the study.

(d) **DEFINITIONS.**—In this section:

(1) The term “postpartum condition” means postpartum depression or postpartum psychosis.

(2) The term “Secretary” means the Secretary of Health and Human Services.

(e) **AUTHORIZATION OF APPROPRIATIONS.**—For the purpose of carrying out this section, in addition to any other amounts authorized to be appropriated for such purpose, there are authorized to be appropriated such sums as may be necessary for each of fiscal years 2011 through 2013.

#### SEC. 2530. GRANTS TO PROMOTE POSITIVE HEALTH BEHAVIORS AND OUTCOMES.

Part P of title III (42 U.S.C. 280g et seq.) is amended by adding at the end the following:

#### “SEC. 399V. GRANTS TO PROMOTE POSITIVE HEALTH BEHAVIORS AND OUTCOMES.

“(a) **GRANTS AUTHORIZED.**—The Secretary, in collaboration with the Director of the Centers for Disease Control and Prevention and other Federal officials determined appropriate by the Secretary, is authorized to award grants to eligible entities to promote positive health behaviors for populations in medically underserved communities through the use of community health workers.

“(b) **USE OF FUNDS.**—Grants awarded under subsection (a) shall be used to support community health workers—

“(1) to educate, guide, and provide outreach in a community setting regarding health problems prevalent in medically underserved communities, especially racial and ethnic minority populations;

“(2) to educate, guide, and provide experiential learning opportunities that target behavioral risk factors including—

“(A) poor nutrition;

“(B) physical inactivity;

“(C) being overweight or obese;

“(D) tobacco use;

“(E) alcohol and substance use;

“(F) injury and violence;

“(G) risky sexual behavior;

“(H) untreated mental health problems;

“(I) untreated dental and oral health problems; and

“(J) understanding informed consent;

“(3) to educate and provide guidance regarding effective strategies to promote positive health behaviors within the family;

“(4) to educate and provide outreach regarding enrollment in health insurance including the State Children’s Health Insurance Program under title XXI of the Social

Security Act, Medicare under title XVIII of such Act, and Medicaid under title XIX of such Act;

“(5) to educate and refer underserved populations to appropriate health care agencies and community-based programs and organizations in order to increase access to quality health care services, including preventive health services, and to eliminate duplicative care; or

“(6) to educate, guide, and provide home visitation services regarding maternal health and prenatal care.

“(c) **APPLICATION.**—

“(1) **IN GENERAL.**—Each eligible entity that desires to receive a grant under subsection (a) shall submit an application to the Secretary, at such time, in such manner, and accompanied by such information as the Secretary may require.

“(2) **CONTENTS.**—Each application submitted pursuant to paragraph (1) shall—

“(A) describe the activities for which assistance is sought under this section;

“(B) contain an assurance that, with respect to each community health worker program receiving funds under the grant, such program will provide training and supervision to community health workers to enable such workers to provide authorized program services;

“(C) contain an assurance that the applicant will evaluate the effectiveness of community health worker programs receiving funds under the grant;

“(D) contain an assurance that each community health worker program receiving funds under the grant will provide services in the cultural context most appropriate for the individuals served by the program;

“(E) contain a plan to document and disseminate project descriptions and results to other States and organizations as identified by the Secretary; and

“(F) describe plans to enhance the capacity of individuals to utilize health services and health-related social services under Federal, State, and local programs by—

“(i) assisting individuals in establishing eligibility under the programs and in receiving the services or other benefits of the programs; and

“(ii) providing other services as the Secretary determines to be appropriate, that may include transportation and translation services.

“(d) **PRIORITY.**—In awarding grants under subsection (a), the Secretary shall give priority to applicants that—

“(1) propose to target geographic areas—

“(A) with a high percentage of residents who are eligible for health insurance but are uninsured or underinsured;

“(B) with a high percentage of residents who suffer from chronic diseases including pulmonary conditions, hypertension, heart disease, mental disorders, diabetes, and asthma; and

“(C) with a high infant mortality rate;

“(2) have experience in providing health or health-related social services to individuals who are underserved with respect to such services; and

“(3) have documented community activity and experience with community health workers.

“(e) **COLLABORATION WITH ACADEMIC INSTITUTIONS.**—The Secretary shall encourage community health worker programs receiving funds under this section to collaborate with academic institutions, especially those that graduate a disproportionate number of

health and health care students from under-represented racial and ethnic minority backgrounds. Nothing in this section shall be construed to require such collaboration.

“(f) EVIDENCE-BASED INTERVENTIONS.—The Secretary shall encourage community health worker programs receiving funding under this section to implement an outcome-based payment system that rewards community health workers for connecting underserved populations with the most appropriate services at the most appropriate time. Nothing in this section shall be construed to require such payment.

“(g) QUALITY ASSURANCE AND COST EFFECTIVENESS.—The Secretary shall establish guidelines for assuring the quality of the training and supervision of community health workers under the programs funded under this section and for assuring the cost-effectiveness of such programs.

“(h) MONITORING.—The Secretary shall monitor community health worker programs identified in approved applications under this section and shall determine whether such programs are in compliance with the guidelines established under subsection (g).

“(i) TECHNICAL ASSISTANCE.—The Secretary may provide technical assistance to community health worker programs identified in approved applications under this section with respect to planning, developing, and operating programs under the grant.

“(j) REPORT TO CONGRESS.—

“(1) IN GENERAL.—Not later than 4 years after the date on which the Secretary first awards grants under subsection (a), the Secretary shall submit to Congress a report regarding the grant project.

“(2) CONTENTS.—The report required under paragraph (1) shall include the following:

“(A) A description of the programs for which grant funds were used.

“(B) The number of individuals served under such programs.

“(C) An evaluation of—

“(i) the effectiveness of such programs;

“(ii) the cost of such programs; and

“(iii) the impact of the programs on the health outcomes of the community residents.

“(D) Recommendations for sustaining the community health worker programs developed or assisted under this section.

“(E) Recommendations regarding training to enhance career opportunities for community health workers.

“(k) DEFINITIONS.—In this section:

“(1) COMMUNITY HEALTH WORKER.—The term ‘community health worker’ means an individual who promotes health or nutrition within the community in which the individual resides—

“(A) by serving as a liaison between communities and health care agencies;

“(B) by providing guidance and social assistance to community residents;

“(C) by enhancing community residents’ ability to effectively communicate with health care providers;

“(D) by providing culturally and linguistically appropriate health or nutrition education;

“(E) by advocating for individual and community health, including oral and mental, or nutrition needs; and

“(F) by providing referral and followup services or otherwise coordinating care.

“(2) COMMUNITY SETTING.—The term ‘community setting’ means a home or a community organization located in the neighborhood in which a participant resides.

“(3) MEDICALLY UNDERSERVED COMMUNITY.—The term ‘medically underserved

community’ means a community identified by a State, United States territory or possession, or federally recognized Indian tribe—

“(A) that has a substantial number of individuals who are members of a medically underserved population, as defined by section 330(b)(3); and

“(B) a significant portion of which is a health professional shortage area as designated under section 332.

“(4) SUPPORT.—The term ‘support’ means the provision of training, supervision, and materials needed to effectively deliver the services described in subsection (b), reimbursement for services, and other benefits.

“(5) ELIGIBLE ENTITY.—The term ‘eligible entity’ means a public or private nonprofit entity (including a State or public subdivision of a State, a public health department, or a federally qualified health center), or a consortium of any of such entities, located in the United States or territory thereof.

“(1) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section \$30,000,000 for each of fiscal years 2011 through 2015.”

#### SEC. 2531. MEDICAL LIABILITY ALTERNATIVES.

(a) INCENTIVE PAYMENTS FOR MEDICAL LIABILITY REFORM.—

(1) IN GENERAL.—To the extent and in the amounts made available in advance in appropriations Acts, the Secretary shall make an incentive payment, in an amount determined by the Secretary, to each State that has an alternative medical liability law in compliance with this section.

(2) DETERMINATION BY SECRETARY.—The Secretary shall determine that a State has an alternative medical liability law in compliance with this section if the Secretary is satisfied that—

(A) the State enacted the law after the date of the enactment of this Act and is implementing the law;

(B) the law is effective; and

(C) the contents of the law are in accordance with paragraph (4).

(3) CONSIDERATIONS FOR DETERMINING EFFECTIVENESS.—In determining whether an alternative medical liability law is effective under paragraph (2)(B), the Secretary shall consider whether the law—

(A) makes the medical liability system more reliable through prevention of, or prompt and fair resolution of, disputes;

(B) encourages the disclosure of health care errors; and

(C) maintains access to affordable liability insurance.

(4) CONTENTS OF ALTERNATIVE MEDICAL LIABILITY LAW.—The contents of an alternative liability law are in accordance with this paragraph if—

(A) the litigation alternatives contained in the law consist of certificate of merit, early offer, or both; and

(B) the law does not limit attorneys’ fees or impose caps on damages.

(5) NO LIMITATION ON OTHER STATE LAWS.—Nothing in this section shall be construed to—

(A) preempt or modify the application of any existing State law that limits attorneys’ fees or imposes caps on damages;

(B) impair the authority of a State to establish or implement a law limiting attorneys’ fees or imposing caps on damages; or

(C) restrict the eligibility of a State for an incentive payment under this section on the basis of a law described in subparagraph (A) or (B) so long as any such law is not established or implemented as part of the law described in paragraph (4), as determined by the Secretary.

(b) USE OF INCENTIVE PAYMENTS.—Amounts received by a State as an incentive payment under this section shall be used to improve health care in that State.

(c) TECHNICAL ASSISTANCE.—The Secretary may provide technical assistance to the States applying for or receiving an incentive payment under this section.

(d) REPORTS.—Beginning not later than one year after the date of the enactment of this Act, the Secretary shall submit to the Congress an annual report on the progress States have made in enacting and implementing alternative medical liability laws in compliance with this section. Such reports shall contain sufficient documentation regarding the effectiveness of such laws to enable an objective comparative analysis of such laws.

(e) DEFINITION.—In this section—

(1) the term “Secretary” means the Secretary of Health and Human Services; and

(2) the term “State” includes the several States, District of Columbia, the Commonwealth of Puerto Rico, and each other territory or possession of the United States.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary, to remain available until expended.

#### SEC. 2532. INFANT MORTALITY PILOT PROGRAMS.

(a) IN GENERAL.—The Secretary of Health and Human Services (in this section referred to as the “Secretary”), acting through the Director, shall award grants to eligible entities to create, implement, and oversee infant mortality pilot programs.

(b) PERIOD OF A GRANT.—The period of a grant under this section shall be 5 consecutive fiscal years.

(c) PREFERENCE.—In awarding grants under this section, the Secretary shall give preference to eligible entities proposing to serve any of the 15 counties or groups of counties with the highest rates of infant mortality in the United States in the past 3 years.

(d) USE OF FUNDS.—Any infant mortality pilot program funded under this section may—

(1) include the development of a plan that identifies the individual needs of each community to be served and strategies to address those needs;

(2) provide outreach to at-risk mothers through programs deemed appropriate by the Director;

(3) develop and implement standardized systems for improved access, utilization, and quality of social, educational, and clinical services to promote healthy pregnancies, full term births, and healthy infancies delivered to women and their infants, such as—

(A) counseling on infant care, feeding, and parenting;

(B) postpartum care;

(C) prevention of premature delivery; and

(D) additional counseling for at-risk mothers, including smoking cessation programs, drug treatment programs, alcohol treatment programs, nutrition and physical activity programs, postpartum depression and domestic violence programs, social and psychological services, dental care, and parenting programs;

(4) establish a rural outreach program to provide care to at-risk mothers in rural areas;

(5) establish a regional public education campaign, including a campaign to—

(A) prevent preterm births; and

(B) educate the public about infant mortality; and

(6) provide for any other activities, programs, or strategies as identified by the community plan.

(e) **LIMITATION.**—Of the funds received through a grant under this section for a fiscal year, an eligible entity shall not use more than 10 percent for program evaluation.

(f) **REPORTS ON PILOT PROGRAMS.**—

(1) **IN GENERAL.**—Not later than 1 year after receiving a grant, and annually thereafter for the duration of the grant period, each entity that receives a grant under subsection (a) shall submit a report to the Secretary detailing its infant mortality pilot program.

(2) **CONTENTS OF REPORT.**—The reports required under paragraph (1) shall include information such as the methodology of, and outcomes and statistics from, the grantee's infant mortality pilot program.

(3) **EVALUATION.**—The Secretary shall use the reports required under paragraph (1) to evaluate, and conduct statistical research on, infant mortality pilot programs funded through this section.

(g) **DEFINITIONS.**—For the purposes of this section:

(1) **DIRECTOR.**—The term “Director” means the Director of the Centers for Disease Control and Prevention.

(2) **ELIGIBLE ENTITY.**—The term “eligible entity” means a State, county, city, territorial, or tribal health department that has submitted a proposal to the Secretary that the Secretary deems likely to reduce infant mortality rates within the standard metropolitan statistical area involved.

(3) **TRIBAL.**—The term “tribal” refers to an Indian tribe, a Tribal organization, or an Urban Indian organization, as such terms are defined in section 4 of the Indian Health Care Improvement Act.

(h) **AUTHORIZATION OF APPROPRIATIONS.**—To carry out this section, there are authorized to be appropriated \$10,000,000 for each of fiscal years 2011 through 2015.

#### **SEC. 2533. SECONDARY SCHOOL HEALTH SCIENCES TRAINING PROGRAM.**

(a) **PROGRAM.**—The Secretary of Health and Human Services, acting through the Administrator of the Health Resources and Services Administration, and in consultation with the Secretary of Education, may establish a health sciences training program consisting of awarding grants and contracts under subsection (b) to prepare secondary school students for careers in health professions.

(b) **DEVELOPMENT AND IMPLEMENTATION OF HEALTH SCIENCES CURRICULA.**—The Secretary may make grants to, or enter into contracts with, eligible entities—

(1) to plan, develop, or implement secondary school health sciences curricula, including curricula in biology, chemistry, physiology, mathematics, nutrition, and other courses deemed appropriate by the Secretary to prepare students for associate's or bachelor's degree programs in health professions or bachelor's degree programs in health professions-related majors; and

(2) to increase the interest of secondary school students in applying to, and enrolling in, accredited associate's or bachelor's degree programs in health professions or bachelor's degree programs in health professions-related majors, including through—

(A) work-study programs;

(B) programs to increase awareness of careers in health professions; and

(C) other activities to increase such interest.

(c) **ELIGIBILITY.**—To be eligible for a grant or contract under subsection (b), an entity shall—

(1) be a local educational agency; and

(2) provide assurances that activities under the grant or contract will be carried out in

partnership with an accredited health professions school or program, public or private nonprofit hospital, or public or private nonprofit entity.

(d) **PREFERENCE.**—In awarding grants and contracts under subsection (b), the Secretary shall give preference to entities that have a demonstrated record of at least one of the following:

(1) Graduating a high or significantly improved percentage of students who have exhibited mastery in secondary school State science standards.

(2) Graduating students from disadvantaged backgrounds, including racial and ethnic minorities who are underrepresented in—

(A) associate's or bachelor's degree programs in health professions or bachelor's degree programs in health professions-related majors; or

(B) health professions.

(e) **REPORT.**—The Secretary shall submit to the Congress an annual report on the program carried out under this section.

(f) **DEFINITIONS.**—In this section:

(1) The term “health profession” means the profession of any member of the health workforce, as defined in section 764(i) of the Public Health Service Act, as added by section 2261.

(2) The term “local educational agency” has the meaning given to the term in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801).

(3) The term “secondary school”—

(A) means a secondary school, as defined in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801); and

(B) includes any such school that is a middle school.

(4) The term “Secretary” means the Secretary of Health and Human Services except as otherwise specified.

(g) **AUTHORIZATION OF APPROPRIATIONS.**—To carry out this section, there are authorized to be appropriated such sums as may be necessary for each of fiscal years 2011 through 2015.

#### **SEC. 2534. COMMUNITY-BASED COLLABORATIVE CARE NETWORKS.**

(a) **PURPOSE.**—The purpose of this subtitle is to establish and provide assistance to community-based collaborative care networks—

(1) to develop or strengthen coordination of services to allow all individuals, including the uninsured and low-income, to receive efficient and higher quality care and to gain entry into and receive services from a comprehensive system of care;

(2) to develop efficient and sustainable infrastructure for a health care delivery system characterized by effective collaboration, information sharing, and clinical and financial coordination among providers of care in the community;

(3) to develop or strengthen activities related to providing coordinated care for individuals with chronic conditions; and

(4) to reduce the use of emergency departments, inpatient and other expensive resources of hospitals and other providers.

(b) **CREATION OF THE COMMUNITY-BASED COLLABORATIVE CARE NETWORK PROGRAM.**—Part D of title III (42 U.S.C. 254b et seq.), as amended, is further amended by inserting after subpart XII the following new subpart:

##### **“Subpart XIII.—Community-Based Collaborative Care Network Program**

##### **“SEC. 3400. COMMUNITY-BASED COLLABORATIVE CARE NETWORK PROGRAM.**

“(a) **IN GENERAL.**—The Secretary may award grants to eligible entities for the purpose of establishing model projects to accomplish the following goals:

“(1) To reduce unnecessary use of items and services furnished in emergency departments of hospitals (especially to ensure that individuals without health insurance coverage or with inadequate health insurance coverage do not use the services of such department instead of the services of a primary care provider) through methods such as—

“(A) screening individuals who seek emergency department services for possible eligibility under relevant governmental health programs or for subsidies under such programs; and

“(B) providing such individuals referrals for followup care and chronic condition care.

“(2) To manage chronic conditions to reduce their severity, negative health outcomes, and expense.

“(3) To encourage health care providers to coordinate their efforts so that the most vulnerable patient populations seek and obtain primary care.

“(4) To provide more comprehensive and coordinated care to vulnerable low-income individuals and individuals without health insurance coverage or with inadequate coverage.

“(5) To provide mechanisms for improving both quality and efficiency of care for low-income individuals and families, with an emphasis on those most likely to remain uninsured despite the existence of government programs to make health insurance more affordable.

“(6) To increase preventive services, including screening and counseling, to those who would otherwise not receive such screening, in order to improve health status and reduce long-term complications and costs.

“(7) To ensure the availability of community-wide safety net services, including emergency and trauma care.

“(b) **ELIGIBILITY AND GRANTEE SELECTION.**—

“(1) **APPLICATION.**—A community-based collaborative care network described in subsection (d) shall submit to the Secretary an application in such form and manner and containing such information as specified by the Secretary. Such information shall at least—

“(A) identify the health care providers participating in the community-based collaborative care network proposed by the applicant and, if a provider designated in paragraph (d)(1)(B) is not included, the reason such provider is not so included;

“(B) include a description of how the providers plan to collaborate to provide comprehensive and integrated care for low-income individuals, including uninsured and underinsured individuals;

“(C) include a description of the organizational and joint governance structure of the community-based collaborative care network in a manner so that it is clear how decisions will be made, and how the decision-making process of the network will include appropriate representation of the participating entities;

“(D) define the geographic areas and populations that the network intends to serve;

“(E) define the scope of services that the network intends to provide and identify any reasons why such services would not include a suggested core service identified by the Secretary under paragraph (3);

“(F) demonstrate the network's ability to meet the requirements of this section; and

“(G) provide assurances that grant funds received shall be used to support the entire community-based collaborative care network.

“(2) **SELECTION OF GRANTEES.**—

“(A) IN GENERAL.—The Secretary shall select community-based collaborative care networks to receive grants from applications submitted under paragraph (1) on the basis of quality of the proposal involved, geographic diversity (including different States and regions served and urban and rural diversity), and the number of low-income and uninsured individuals that the proposal intends to serve.

“(B) PRIORITY.—The Secretary shall give priority to proposals from community-based collaborative care networks that—

“(i) include the capability to provide the broadest range of services to low-income individuals; and

“(ii) include providers that currently serve a high volume of low-income individuals.

“(C) RENEWAL.—In subsequent years, based on the performance of grantees, the Secretary may provide renewal grants to prior year grant recipients.

“(3) SUGGESTED CORE SERVICES.—For purposes of paragraph (1)(E), the Secretary shall develop a list of suggested core patient and core network services to be provided by a community-based collaborative care network. The Secretary may select a community-based collaborative care network under paragraph (2), the application of which does not include all such services, if such application provides a reasonable explanation why such services are not proposed to be included, and the Secretary determines that the application is otherwise high quality.

“(4) TERMINATION AUTHORITY.—The Secretary may terminate selection of a community-based collaborative care network under this section for good cause. Such good cause shall include a determination that the network—

“(A) has failed to provide a comprehensive range of coordinated and integrated health care services as required under subsection (d)(2);

“(B) has failed to meet reasonable quality standards;

“(C) has misappropriated funds provided under this section; or

“(D) has failed to make progress toward accomplishing goals set out in subsection (a).

“(c) USE OF FUNDS.—

“(1) USE BY GRANTEES.—Grant funds are provided to community-based collaborative care networks to carry out the following activities:

“(A) Assist low-income individuals without adequate health care coverage to—

“(i) access and appropriately use health services;

“(ii) enroll in applicable public or private health insurance programs;

“(iii) obtain referrals to and see a primary care provider in case such an individual does not have a primary care provider; and

“(iv) obtain appropriate care for chronic conditions.

“(B) Improve health care by providing case management, application assistance, and appropriate referrals such as through methods to—

“(i) create and meaningfully use a health information technology network to track patients across collaborative providers;

“(ii) perform health outreach, such as by using neighborhood health workers who may inform individuals about the availability of safety net and primary care providers available through the community-based collaborative care network;

“(iii) provide for followup outreach to remind patients of appointments or follow-up care instructions;

“(iv) provide transportation to individuals to and from the site of care;

“(v) expand the capacity to provide care at any provider participating in the community-based collaborative care network, including telehealth, hiring new clinical or administrative staff, providing access to services after-hours, on weekends, or otherwise providing an urgent care alternative to an emergency department; and

“(vi) provide a primary care provider or medical home for each network patient.

“(C) Provide direct patient care services as described in their application and approved by the Secretary.

“(2) GRANT FUNDS TO HRSA GRANTEES.—The Secretary may limit the percent of grant funding that may be spent on direct care services provided by grantees of programs administered by the Health Resources and Services Administration (in this section referred to as ‘HRSA’) or impose other requirements on HRSA grantees participating in a community-based collaborative care network as may be necessary for consistency with the requirements of such programs.

“(3) RESERVATION OF FUNDS FOR NATIONAL PROGRAM PURPOSES.—The Secretary may use not more than 7 percent of funds appropriated to carry out this section for providing technical assistance to grantees, obtaining assistance of experts and consultants, holding meetings, developing of tools, disseminating of information, and evaluation.

“(d) COMMUNITY-BASED COLLABORATIVE CARE NETWORKS.—

“(1) IN GENERAL.—

“(A) DESCRIPTION.—A community-based collaborative care network described in this subsection is a consortium of health care providers with a joint governance structure that provides a comprehensive range of coordinated and integrated health care services for low-income patient populations or medically underserved communities (whether or not such individuals receive benefits under title XVIII, XIX, or XXI of the Social Security Act, private or other health insurance or are uninsured or underinsured) and that complies with any applicable minimum eligibility requirements that the Secretary may determine appropriate.

“(B) REQUIRED INCLUSION.—Each such network shall include the following providers that serve the community (unless such provider does not exist within the community, declines or refuses to participate, or places unreasonable conditions on their participation)—

“(i) A safety net hospital that provides services to a high volume of low-income patients, as demonstrated by meeting the criteria in section 1923(b)(1) of the Social Security Act, or other similar criteria determined by the Secretary; and

“(ii) All Federally qualified health centers (as defined in section 1861(aa) of the Social Security Act (42 U.S.C. 1395x(aa))) located in the geographic area served by the Coordinated Care Network;

“(C) ADDITIONAL INCLUSIONS.—Each such network may include any of the following additional providers:

“(i) A hospital, including a critical access hospital (as defined in section 1820(c)(2) of the Social Security Act (42 U.S.C. 1395i-4(c)(2)));

“(ii) A county or municipal department of health.

“(iii) A rural health clinic or a rural health network (as defined in sections 1861(aa) and 1820(d) of the Social Security Act, respectively (42 U.S.C. 1395x(aa), 1395i-4(d))).

“(iv) A community clinic, including a mental health clinic, substance abuse clinic, or a reproductive health clinic.

“(v) A health center controlled network as defined by section 330(e)(1)(C) of the Public Health Service Act

“(vi) A private practice physician or group practice.

“(vii) A nurse or physician assistant or group practice.

“(viii) An adult day care center.

“(ix) A home health provider.

“(x) Any other type of provider specified by the Secretary, which has a desire to serve low-income and uninsured patients.

“(D) CONSTRUCTION.—

“(i) Nothing in this section shall prohibit a single entity from qualifying as community-based collaborative care network so long as such single entity meets the criteria of a community-based collaborative care network. If the network does not include the providers referenced in clauses (i) and (ii) of subparagraph (B) of this paragraph, the application must explain the reason pursuant to subsection (b)(1)(A).

“(ii) Participation in a community-based collaborative care network shall not affect Federally qualified health centers’ obligation to comply with the governance requirements under section 330 of the Public Health Service Act (42 U.S.C. 254b).

“(iii) Federally qualified health centers participating in a community-based collaborative care network may not be required to provide services beyond their Federal Health Center scope of project approved by HRSA.

“(iv) Nothing in this section shall be construed to expand medical malpractice liability protection under the Federal Tort Claims Act for Section 330-funded Federally qualified health centers.

“(2) COMPREHENSIVE RANGE OF COORDINATED AND INTEGRATED HEALTH CARE SERVICES.—The Secretary shall define criteria for evaluating whether the services offered by a community-based collaborative care network qualify as a comprehensive range of coordinated and integrated health care services. Such criteria may vary based on the needs of the geographic areas and populations to be served by the network and may include the following:

“(A) Requiring community-based collaborative care networks to include at least the suggested core services identified under subsection (b)(3), or whichever subset of the suggested core services is applicable to a particular network.

“(B) Requiring such networks to assign each patient of the network to a primary care provider responsible for managing that patient’s care.

“(C) Requiring the services provided by a community-based collaborative care network to include support services appropriate to meet the health needs of low-income populations in the network’s community, which may include chronic care management, nutritional counseling, transportation, language services, enrollment counselors, social services and other services as proposed by the network.

“(D) Providing that the services provided by a community-based collaborative care network may also include long-term care services and other services not specified in this subsection.

“(E) Providing for the approval by the Secretary of a scope of community-based collaborative care network services for each



network that addresses an appropriate minimum scope of work consistent with the setting of the network and the health professionals available in the community the network serves.

“(3) CLARIFICATION.—Participation in a community-based collaborative care network shall not disqualify a health care provider from reimbursement under title XVIII, XIX, or XXI of the Social Security Act with respect to services otherwise reimbursable under such title. Nothing in this section shall prevent a community-based collaborative care network that is otherwise eligible to contract with Medicare, a private health insurer, or any other appropriate entity to provide care under Medicare, under health insurance coverage offered by the insurer, or otherwise.

“(e) EVALUATIONS.—

“(1) GRANTEE REPORTS.—Beginning in the third year following an initial grant, each community-based collaborative care network shall submit to the Secretary, with respect to each year the grantee has received a grant, an evaluation on the activities carried out by the community-based collaborative care network under the community-based collaborative care network program and shall include—

“(A) the number of people served;

“(B) the most common health problems treated;

“(C) any reductions in emergency department use;

“(D) any improvements in access to primary care;

“(E) an accounting of how amounts received were used, including identification of amounts used for patient care services as may be required for HRSA grantees; and

“(F) to the extent requested by the Secretary, any quality measures or any other measures specified by the Secretary.

“(2) PROGRAM REPORTS.—The Secretary shall submit to Congress an annual evaluation (beginning not later than 6 months after the first reports under paragraph (1) are submitted) on the extent to which emergency department use was reduced as a result of the activities carried out by the community-based collaborative care network under the program. Each such evaluation shall also include information on—

“(A) the prevalence of certain chronic conditions in various populations, including a comparison of such prevalence in the general population versus in the population of individuals with inadequate health insurance coverage;

“(B) demographic characteristics of the population of uninsured and underinsured individuals served by the community-based collaborative care network involved; and

“(C) the conditions of such individuals for whom services were requested at such emergency departments of participating hospitals.

“(3) AUDIT AUTHORITY.—The Secretary may conduct periodic audits and request periodic spending reports of community-based collaborative care networks under the community-based collaborative care network program.

“(f) CLARIFICATION.—Nothing in this section requires a provider to report individually identifiable information of an individual to government agencies, unless the individual consents, consistent with HIPAA privacy and security law, as defined in section 3009(a)(2).

“(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be

necessary for each of fiscal years 2011 through 2015.”.

#### SEC. 2535. COMMUNITY-BASED OVERWEIGHT AND OBESITY PREVENTION PROGRAM.

Part Q of title III (42 U.S.C. 280h et seq.) is amended by inserting after section 399W the following:

#### “SEC. 399W-1. COMMUNITY-BASED OVERWEIGHT AND OBESITY PREVENTION PROGRAM.

“(a) PROGRAM.—The Secretary shall establish a community-based overweight and obesity prevention program consisting of awarding grants and contracts under subsection (b).

“(b) GRANTS.—The Secretary shall award grants to, or enter into contracts with, eligible entities—

“(1) to plan evidence-based programs for the prevention of overweight and obesity among children and their families through improved nutrition and increased physical activity; or

“(2) to implement such programs.

“(c) ELIGIBILITY.—To be eligible for a grant or contract under subsection (b), an entity shall be a community partnership that demonstrates community support and includes—

“(1) a broad cross section of stakeholders, such as—

“(A) hospitals, health care systems, community health centers, or other health care providers;

“(B) universities, local educational agencies, or childcare providers;

“(C) State, local, and tribal health departments;

“(D) State, local, and tribal park and recreation departments;

“(E) employers; and

“(F) health insurance companies;

“(2) residents of the community; and

“(3) representatives of public and private entities that have a history of working within and serving the community.

“(d) PERIOD OF AWARDS.—

“(1) IN GENERAL.—The period of a grant or contract under this section shall be 5 years, subject to renewal under paragraph (2).

“(2) RENEWAL.—At the end of each fiscal year, the Secretary may renew a grant or contract award under this section only if the grant or contract recipient demonstrates to the Secretary's satisfaction that the recipient has made appropriate, measurable progress in preventing overweight and obesity.

“(e) REQUIREMENTS.—

“(1) IN GENERAL.—The Secretary may award a grant or contract under this section to an entity only if the entity demonstrates to the Secretary's satisfaction that—

“(A) not later than 90 days after receiving the grant or contract, the entity will establish a steering committee to provide input on the assessment of, and recommendations on improvements to, the entity's program funded through the grant or contract; and

“(B) the entity has conducted or will conduct an assessment of the overweight and obesity problem in its community, including the extent of the problem and factors contributing to the problem.

“(2) MATCHING REQUIREMENT.—The Secretary may award a grant or contract to an eligible entity under this section only if the entity agrees to provide, from non-Federal sources, an amount equal to \$1 (in cash or in kind) for each \$9 provided through the grant or contract to carry out the activities supported by the grant or contract.

“(3) PAYOR OF LAST RESORT.—The Secretary may award a grant or contract under this section to an entity only if the entity

demonstrates to the satisfaction of the Secretary that funds received through the grant or contract will not be expended for any activity to the extent that payment has been made, or can reasonably be expected to be made—

“(A) under any insurance policy;

“(B) under any Federal or State health benefits program (including titles XIX and XXI of the Social Security Act); or

“(C) by an entity which provides health services on a prepaid basis.

“(4) MAINTENANCE OF EFFORT.—The Secretary may award a grant or contract under this section to an entity only if the entity demonstrates to the satisfaction of the Secretary that—

“(A) funds received through the grant or contract will be expended only to supplement, and not supplant, non-Federal and Federal funds otherwise available to the entity for the activities to be funded through the grant or contract; and

“(B) with respect to such activities, the entity will maintain expenditures of non-Federal amounts for such activities at a level not less than the lesser of such expenditures maintained by the entity for the fiscal year preceding the fiscal year for which the entity receives the grant or contract.

“(f) PREFERENCES.—In awarding grants and contracts under this section, the Secretary shall give preference to eligible entities that—

“(1) will serve communities with high levels of overweight and obesity and related chronic diseases; or

“(2) will plan or implement activities for the prevention of overweight and obesity in school or workplace settings.

“(g) REPORT.—The Secretary shall submit to the Congress an annual report on the program of grants and contracts awarded under this section.

“(h) DEFINITIONS.—In this section:

“(1) The term ‘evidence-based’ means that methodologically sound research has demonstrated a beneficial health effect in the judgment of the Secretary and includes the Ways to Enhance Children's Activity and Nutrition (We Can) program and curriculum of the National Institutes of Health.

“(2) The term ‘local educational agency’ has the meaning given to the term in section 9101 of the Elementary and Secondary Education Act of 1965.

“(i) AUTHORIZATION OF APPROPRIATIONS.—To carry out this section, there are authorized to be appropriated \$10,000,000 for fiscal year 2011 and such sums as may be necessary for each of fiscal years 2012 through 2015.”.

#### SEC. 2536. REDUCING STUDENT-TO-SCHOOL NURSE RATIOS.

(a) DEMONSTRATION GRANTS.—

(1) IN GENERAL.—The Secretary of Education, in consultation with the Secretary of Health and Human Services and the Director of the Centers for Disease Control and Prevention, may make demonstration grants to eligible local educational agencies for the purpose of reducing the student-to-school nurse ratio in public elementary and secondary schools.

(2) SPECIAL CONSIDERATION.—In awarding grants under this section, the Secretary of Education shall give special consideration to applications submitted by high-need local educational agencies that demonstrate the greatest need for new or additional nursing services among children in the public elementary and secondary schools served by the agency, in part by providing information on current ratios of students to school nurses.

(3) MATCHING FUNDS.—The Secretary of Education may require recipients of grants

under this subsection to provide matching funds from non-Federal sources, and shall permit the recipients to match funds in whole or in part with in-kind contributions.

(b) **REPORT.**—Not later than 24 months after the date on which assistance is first made available to local educational agencies under this section, the Secretary of Education shall submit to the Congress a report on the results of the demonstration grant program carried out under this section, including an evaluation of the effectiveness of the program in improving the student-to-school nurse ratios described in subsection (a) and an evaluation of the impact of any resulting enhanced health of students on learning.

(c) **DEFINITIONS.**—For purposes of this section:

(1) The terms “elementary school”, “local educational agency”, and “secondary school” have the meanings given to those terms in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801).

(2) The term “eligible local educational agency” means a local educational agency in which the student-to-school nurse ratio in the public elementary and secondary schools served by the agency is 750 or more students to every school nurse.

(3) The term “high-need local educational agency” means a local educational agency—

(A) that serves not fewer than 10,000 children from families with incomes below the poverty line; or

(B) for which not less than 20 percent of the children served by the agency are from families with incomes below the poverty line.

(4) The term “nurse” means a licensed nurse, as defined under State law.

(d) **AUTHORIZATION OF APPROPRIATIONS.**—To carry out this section, there are authorized to be appropriated such sums as may be necessary for each of fiscal years 2011 through 2015.

#### **SEC. 2537. MEDICAL-LEGAL PARTNERSHIPS.**

(a) **IN GENERAL.**—The Secretary shall establish a nationwide demonstration project consisting of—

(1) awarding grants to, and entering into contracts with, medical-legal partnerships to assist patients and their families to navigate health-related programs and activities; and

(2) evaluating the effectiveness of such partnerships.

(b) **USE OF FUNDS.**—Amounts received as a grant or contract under this section shall be used to assist patients and their families to navigate health care-related programs and activities and thereby achieve one or more of the following goals:

(1) Enhancing access to health care services.

(2) Improving health outcomes for low-income individuals.

(3) Reducing health disparities.

(4) Enhancing wellness and prevention of chronic conditions.

(c) **PROHIBITION.**—No funds under this section may be used—

(1) for any medical malpractice or other civil action or proceeding; or

(2) to assist individuals who are not lawfully present in the United States.

(d) **REPORT.**—Not later than 5 years after the date of the enactment of this Act, the Secretary shall submit a report to the Congress on the results of the demonstration project under this section. Such report shall include the following:

(1) A description of the extent to which medical-legal partnerships funded through

this section achieved the goals described in subsection (b).

(2) Recommendations on the possibility of extending or expanding the demonstration project.

(e) **DEFINITIONS.**—In this section:

(1) The term “health disparities” has the meaning given to the term in section 3171 of the Public Health Service Act, as added by section 2301.

(2) The term “medical-legal partnership” means an entity—

(A) that is a collaboration between—

(i) a community health center, public hospital, children’s hospital, or other provider of health care services to a significant number of low-income beneficiaries; and

(ii) one or more attorneys; and

(B) whose primary mission is to assist patients and their families navigate health care-related programs and activities.

(3) The term “Secretary” means the Secretary of Health and Human Services.

(f) **AUTHORIZATION OF APPROPRIATIONS.**—To carry out this section, there are authorized to be appropriated such sums as may be necessary for each of fiscal years 2011 through 2015.

#### **SEC. 2538. SCREENING, BRIEF INTERVENTION, REFERRAL, AND TREATMENT FOR MENTAL HEALTH AND SUBSTANCE ABUSE DISORDERS.**

Part D of title V (42 U.S.C. 290dd et seq.) is amended by adding at the end the following:

#### **“SEC. 544. SCREENING, BRIEF INTERVENTION, REFERRAL, AND TREATMENT FOR MENTAL HEALTH AND SUBSTANCE ABUSE DISORDERS.**

“(a) **PROGRAM.**—The Secretary, acting through the Administrator, shall establish a program (consisting of awarding grants, contracts, and cooperative agreements under subsection (b)) on mental health and substance abuse screening, brief intervention, referral, and recovery services for individuals in primary health care settings.

“(b) **USE OF FUNDS.**—The Secretary may award grants to, or enter into contracts or cooperative agreements with, entities—

“(1) to provide mental health and substance abuse screening, brief interventions, referral, and recovery services;

“(2) to coordinate these services with primary health care services in the same program and setting;

“(3) to develop a network of facilities to which patients may be referred if needed;

“(4) to purchase needed screening and other tools that are—

“(A) necessary for providing these services; and

“(B) supported by evidence-based research; and

“(5) to maintain communication with appropriate State mental health and substance abuse agencies.

“(c) **ELIGIBILITY.**—To be eligible for a grant, contract, or cooperative agreement under this section, an entity shall be a public or private nonprofit entity that—

“(1) provides primary health services;

“(2) seeks to integrate mental health and substance abuse services into its service system;

“(3) has developed a working relationship with providers of mental health and substance abuse services;

“(4) demonstrates a need for the inclusion of mental health and substance abuse services in its service system; and

“(5) agrees—

“(A) to prepare and submit to the Secretary at the end of the grant, contract, or cooperative agreement period an evaluation of all activities funded through the grant, contract, or cooperative agreement; and

“(B) to use such performance measures as may be stipulated by the Secretary for purposes of such evaluation.

“(d) **PREFERENCE.**—In awarding grants, contracts, and cooperative agreements under this section, the Secretary shall give preference to entities that—

“(1) provide services in rural or frontier areas of the Nation;

“(2) provide services to special needs populations, including American Indian or Alaska Native populations; or

“(3) provide services in school-based health clinics or on university and college campuses.

“(e) **DURATION.**—The period of a grant, contract, or cooperative agreement under this section may not exceed 5 years.

“(f) **REPORT.**—Not later than 4 years after the first appropriation of funds to carry out this section, the Secretary shall submit a report to the Congress on the program under this section—

“(1) including an evaluation of the benefits of integrating mental health and substance abuse care within primary health care; and

“(2) focusing on the performance measures stipulated by the Secretary under subsection (c)(5).

“(g) **AUTHORIZATION OF APPROPRIATIONS.**—

“(1) **IN GENERAL.**—To carry out this section, there are authorized to be appropriated \$30,000,000 for fiscal year 2011 and such sums as may be necessary for each of fiscal years 2012 through 2015.

“(2) **PROGRAM MANAGEMENT.**—Of the funds appropriated to carry out this section for a fiscal year, the Secretary may use not more than 5 percent to manage the program under this section.”

#### **SEC. 2539. GRANTS TO ASSIST IN DEVELOPING MEDICAL SCHOOLS IN FEDERALLY-DESIGNATED HEALTH PROFESSIONAL SHORTAGE AREAS.**

(a) **GRANTS AUTHORIZED.**—The Secretary of Health and Human Services may make grants to nonprofit organizations or institutions of higher education for the purpose of assisting the organization or institution involved to develop a medical school if—

(1) the medical school will be located in an area that is designated (under section 332 of the Public Health Service Act (42 U.S.C. 254(e)) as a health professional shortage area;

(2) the organization or institution provides assurances satisfactory to the Secretary of substantial private or public funding from non-Federal sources for the development of the medical school; and

(3) the organization or institution provides assurances satisfactory to the Secretary that accreditation will be achieved for the medical school.

(b) **USE OF GRANT FUNDS.**—Grants awarded under this section may be used for the acquisition and building of the medical school campus in a health professional shortage area and the purchase of equipment, curriculum and faculty development, and general operations related to the development and establishment of the medical school.

(c) **AUTHORIZATION OF APPROPRIATIONS.**—For the purpose of carrying out this section, there is authorized to be appropriated \$100,000,000 for each of fiscal years 2011 through 2015.

Page 1523, strike lines 5 through 17 and insert the following:

“(i) **IN GENERAL.**—A violation of subparagraph (A) shall be subject to enforcement by the Federal Trade Commission in the same manner, by the same means, and with the same jurisdiction as would an unfair and deceptive act or practice in or affecting interstate commerce or an unfair method of competition in or affecting interstate commerce

prohibited under section 5 of the Federal Trade Commission Act, as though all applicable terms and provisions of the Federal Trade Commission Act were incorporated into and made a part of this subsection.

### **PART 3—EMERGENCY CARE-RELATED PROGRAMS**

#### **SEC. 2551. TRAUMA CARE CENTERS.**

(a) GRANTS FOR TRAUMA CARE CENTERS.—Section 1241 (42 U.S.C. 300d-41) is amended to read as follows:

#### **“SEC. 1241. GRANTS FOR CERTAIN TRAUMA CENTERS.**

“(a) IN GENERAL.—The Secretary shall establish a trauma center program consisting of awarding grants under section (b).

“(b) GRANTS.—The Secretary shall award grants as follows:

“(1) EXISTING CENTERS.—Grants to public, private nonprofit, Indian Health Service, Indian tribal, and urban Indian trauma centers—

“(A) to further the core missions of such centers; or

“(B) to provide emergency relief to ensure the continued and future availability of trauma services by trauma centers—

“(i) at risk of closing or operating in an area where a closing has occurred within their primary service area; or

“(ii) in need of financial assistance following a natural disaster or other catastrophic event, such as a terrorist attack.

“(2) NEW CENTERS.—Grants to local governments and public or private nonprofit entities to establish new trauma centers in urban areas with a substantial degree of trauma resulting from violent crimes.

“(c) MINIMUM QUALIFICATIONS OF TRAUMA CENTERS.—

“(1) PARTICIPATION IN TRAUMA CARE SYSTEM OPERATING UNDER CERTAIN PROFESSIONAL GUIDELINES.—

“(A) LIMITATION.—Subject to subparagraph (B), the Secretary may not award a grant to an existing trauma center under this section unless the center is a participant in a trauma care system that substantially complies with section 1213.

“(B) EXEMPTION.—Subparagraph (A) shall not apply to trauma centers that are located in States with no existing trauma care system.

“(2) DESIGNATION.—The Secretary may not award a grant under this section to an existing trauma center unless the center is—

“(A) verified as a trauma center by the American College of Surgeons; or

“(B) designated as a trauma center by the applicable State health or emergency medical services authority.”.

(b) CONSIDERATIONS IN MAKING GRANTS.—Section 1242 (42 U.S.C. 300d-42) is amended to read as follows:

#### **“SEC. 1242. CONSIDERATIONS IN MAKING GRANTS.**

“(a) CORE MISSION AWARDS.—

“(1) IN GENERAL.—In awarding grants under section 1241(b)(1)(A), the Secretary shall—

“(A) reserve a minimum of 25 percent of the amount allocated for such grants for level III and level IV trauma centers in rural or underserved areas;

“(B) reserve a minimum of 25 percent of the amount allocated for such grants for level I and level II trauma centers in urban areas; and

“(C) give preference to any application made by a trauma center—

“(i) in a geographic area where growth in demand for trauma services exceeds capacity;

“(ii) that demonstrates the financial support of the State or political subdivision involved;

“(iii) that has at least 1 graduate medical education fellowship in trauma or trauma-related specialties, including neurological surgery, surgical critical care, vascular surgery, and spinal cord injury, for which demand is exceeding supply; or

“(iv) that demonstrates a substantial commitment to serving vulnerable populations.

“(2) FINANCIAL SUPPORT.—For purposes of paragraph (1)(C)(ii), financial support may be demonstrated by State or political subdivision funding for the trauma center’s capital or operating expenses (including through State trauma regional advisory coordination activities, Medicaid funding designated for trauma services, or other governmental funding). State funding derived from Federal support shall not constitute State or local financial support for purposes of preferential treatment under this subsection.

“(3) USE OF FUNDS.—The recipient of a grant under section 1241(b)(1)(A) shall carry out, consistent with furthering the core missions of the center, one or more of the following activities:

“(A) Providing 24-hour-a-day, 7-day-a-week trauma care availability.

“(B) Reducing overcrowding related to throughput of trauma patients.

“(C) Enhancing trauma surge capacity.

“(D) Ensuring physician and essential personnel availability.

“(E) Trauma education and outreach.

“(F) Coordination with local and regional trauma care systems.

“(G) Such other activities as the Secretary may deem appropriate.

“(b) EMERGENCY AWARDS; NEW CENTERS.—In awarding grants under paragraphs (1)(B) and (2) of section 1241(b), the Secretary shall—

“(1) give preference to any application submitted by an applicant that demonstrates the financial support (in accordance with subsection (a)(2)) of the State or political subdivision involved for the activities to be funded through the grant for each fiscal year during which payments are made to the center under the grant; and

“(2) give preference to any application submitted for a trauma center that—

“(A) is providing or will provide trauma care in a geographic area in which the availability of trauma care has either significantly decreased as a result of a trauma center in the area permanently ceasing participation in a system described in section 1241(c)(1) as of a date occurring during the 2-year period preceding the fiscal year for which the trauma center is applying to receive a grant, or in geographic areas where growth in demand for trauma services exceeds capacity;

“(B) will, in providing trauma care during the 1-year period beginning on the date on which the application for the grant is submitted, incur substantial uncompensated care costs in an amount that renders the center unable to continue participation in such system and results in a significant decrease in the availability of trauma care in the geographic area;

“(C) operates or will operate in rural areas where trauma care availability will significantly decrease if the center is forced to close or downgrade service and substantial costs are contributing to a likelihood of such closure or downgradation;

“(D) is in a geographic location substantially affected by a natural disaster or other catastrophic event such as a terrorist attack; or

“(E) will establish a new trauma service in an urban area with a substantial degree of trauma resulting from violent crimes.

“(c) DESIGNATIONS OF LEVELS OF TRAUMA CENTERS IN CERTAIN STATES.—In the case of a State which has not designated 4 levels of trauma centers, any reference in this section to—

“(1) a level I or level II trauma center is deemed to be a reference to a trauma center within the highest 2 levels of trauma centers designated under State guidelines; and

“(2) a level III or IV trauma center is deemed to be a reference to a trauma center not within such highest 2 levels.”.

(c) CERTAIN AGREEMENTS.—Section 1243 (42 U.S.C. 300d-43) is amended to read as follows:

#### **“SEC. 1243. CERTAIN AGREEMENTS.**

“(a) COMMITMENT REGARDING CONTINUED PARTICIPATION IN TRAUMA CARE SYSTEM.—The Secretary may not award a grant to an applicant under section 1241(b) unless the applicant agrees that—

“(1) the trauma center involved will continue participation, or in the case of a new center will participate, in the system described in section 1241(c)(1), except as provided in section 1241(c)(1)(B), throughout the grant period beginning on the date that the center first receives payments under the grant; and

“(2) if the agreement made pursuant to paragraph (1) is violated by the center, the center will be liable to the United States for an amount equal to the sum of—

“(A) the amount of assistance provided to the center under section 1241; and

“(B) an amount representing interest on the amount specified in subparagraph (A).

“(b) MAINTENANCE OF FINANCIAL SUPPORT.—With respect to activities for which funds awarded through a grant under section 1241 are authorized to be expended, the Secretary may not award such a grant unless the applicant agrees that, during the period in which the trauma center involved is receiving payments under the grant, the center will maintain access to trauma services at levels not less than the levels for the prior year, taking into account—

“(1) reasonable volume fluctuation that is not caused by intentional trauma boundary reduction;

“(2) downgrading of the level of services; and

“(3) whether such center diverts its incoming patients away from such center 5 percent or more of the time during which the center is in operation over the course of the year.

“(c) TRAUMA CARE REGISTRY.—The Secretary may not award a grant to a trauma center under section 1241(b)(1) unless the center agrees that—

“(1) not later than 6 months after the date on which the center submits a grant application to the Secretary, the center will establish and operate a registry of trauma cases in accordance with guidelines developed by the American College of Surgeons; and

“(2) in carrying out paragraph (1), the center will maintain information on the number of trauma cases treated by the center and, for each such case, the extent to which the center incurs uncompensated costs in providing trauma care.”.

(d) GENERAL PROVISIONS.—Section 1244 (42 U.S.C. 300d-44) is amended to read as follows:

#### **“SEC. 1244. GENERAL PROVISIONS.**

“(a) LIMITATION ON DURATION OF SUPPORT.—The period during which a trauma center receives payments under a grant under section 1241(b)(1) shall be for 3 fiscal years, except that the Secretary may waive such requirement for the center and authorize the center to receive such payments for 1 additional fiscal year.

“(b) ELIGIBILITY.—The acquisition of, or eligibility for, a grant under section 1241(b)

shall not preclude a trauma center's eligibility for another grant described in such section.

“(C) FUNDING DISTRIBUTION.—Of the total amount appropriated for a fiscal year under section 1245—

“(1) 90 percent shall be used for grants under paragraph (1)(A) of section 1241(b); and

“(2) 10 percent shall be used for grants under paragraphs (1)(B) and (2) of section 1241(b).

“(d) REPORT.—Beginning 2 years after the date of the enactment of the Affordable Health Care for America Act, and every 2 years thereafter, the Secretary shall biennially—

“(1) report to Congress on the status of the grants made pursuant to section 1241;

“(2) evaluate and report to Congress on the overall financial stability of trauma centers in the United States;

“(3) report on the populations using trauma care centers and include aggregate patient data on income, race, ethnicity, and geography; and

“(4) evaluate the effectiveness and efficiency of trauma care center activities using standard public health measures and evaluation methodologies.”.

(e) AUTHORIZATION OF APPROPRIATIONS.—Section 1245 (42 U.S.C. 300d-45) is amended to read as follows:

**“SEC. 1245. AUTHORIZATION OF APPROPRIATIONS.**

“(a) IN GENERAL.—For the purpose of carrying out this part, there are authorized to be appropriated \$100,000,000 for fiscal year 2011, and such sums as may be necessary for each of fiscal years 2012 through 2015. Such authorization of appropriations is in addition to any other authorization of appropriations or amounts that are available for such purpose.

“(b) REALLOCATION.—The Secretary shall reallocate for grants under section 1241(b)(1)(A) any funds appropriated for grants under paragraph (1)(B) or (2) of section 1241(b), but not obligated due to insufficient applications eligible for funding.”.

**SEC. 2552. EMERGENCY CARE COORDINATION.**

(a) IN GENERAL.—Subtitle B of title XXVIII (42 U.S.C. 300hh-10 et seq.) is amended by adding at the end the following:

**“SEC. 2816. EMERGENCY CARE COORDINATION.**

“(a) EMERGENCY CARE COORDINATION CENTER.—

“(1) ESTABLISHMENT.—The Secretary shall establish, within the Office of the Assistant Secretary for Preparedness and Response, an Emergency Care Coordination Center (in this section referred to as the ‘Center’), to be headed by a director.

“(2) DUTIES.—The Secretary, acting through the Director of the Center, in coordination with the Federal Interagency Committee on Emergency Medical Services, shall—

“(A) promote and fund research in emergency medicine and trauma health care;

“(B) promote regional partnerships and more effective emergency medical systems in order to enhance appropriate triage, distribution, and care of routine community patients; and

“(C) promote local, regional, and State emergency medical systems’ preparedness for and response to public health events.

“(b) COUNCIL OF EMERGENCY CARE.—

“(1) ESTABLISHMENT.—The Secretary, acting through the Director of the Center, shall establish a Council of Emergency Care to provide advice and recommendations to the Director on carrying out this section.

“(2) COMPOSITION.—The Council shall be comprised of employees of the departments

and agencies of the Federal Government who are experts in emergency care and management.

“(c) REPORT.—

“(1) SUBMISSION.—Not later than 12 months after the date of the enactment of the Affordable Health Care for America Act, the Secretary shall submit to the Congress an annual report on the activities carried out under this section.

“(2) CONSIDERATIONS.—In preparing a report under paragraph (1), the Secretary shall consider factors including—

“(A) emergency department crowding and boarding; and

“(B) delays in care following presentation.

“(d) AUTHORIZATION OF APPROPRIATIONS.—To carry out this section, there are authorized to be appropriated such sums as may be necessary for each of fiscal years 2011 through 2015.”.

(b) FUNCTIONS, PERSONNEL, ASSETS, LIABILITIES, AND ADMINISTRATIVE ACTIONS.—All functions, personnel, assets, and liabilities of, and administrative actions applicable to, the Emergency Care Coordination Center, as in existence on the day before the date of the enactment of this Act, shall be transferred to the Emergency Care Coordination Center established under section 2816(a) of the Public Health Service Act, as added by subsection (a).

**SEC. 2553. PILOT PROGRAMS TO IMPROVE EMERGENCY MEDICAL CARE.**

Part B of title III (42 U.S.C. 243 et seq.) is amended by inserting after section 314 the following:

**“SEC. 315. REGIONALIZED COMMUNICATION SYSTEMS FOR EMERGENCY CARE RESPONSE.**

“(a) IN GENERAL.—The Secretary, acting through the Assistant Secretary for Preparedness and Response, shall award not fewer than 4 multiyear contracts or competitive grants to eligible entities to support demonstration programs that design, implement, and evaluate innovative models of regionalized, comprehensive, and accountable emergency care systems.

“(b) ELIGIBLE ENTITY; REGION.—

“(1) ELIGIBLE ENTITY.—In this section, the term ‘eligible entity’ means a State or a partnership of 1 or more States and 1 or more local governments.

“(2) REGION.—In this section, the term ‘region’ means an area within a State, an area that lies within multiple States, or a similar area (such as a multicounty area), as determined by the Secretary.

“(c) DEMONSTRATION PROGRAM.—The Secretary shall award a contract or grant under subsection (a) to an eligible entity that proposes a demonstration program to design, implement, and evaluate an emergency medical system that—

“(1) coordinates with public safety services, public health services, emergency medical services, medical facilities, and other entities within a region;

“(2) coordinates an approach to emergency medical system access throughout the region, including 9-1-1 public safety answering points and emergency medical dispatch;

“(3) includes a mechanism, such as a regional medical direction or transport communications system, that operates throughout the region to ensure that the correct patient is taken to the medically appropriate facility (whether an initial facility or a higher-level facility) in a timely fashion;

“(4) allows for the tracking of prehospital and hospital resources, including inpatient bed capacity, emergency department capacity, on-call specialist coverage, ambulance

diversion status, and the coordination of such tracking with regional communications and hospital destination decisions; and

“(5) includes a consistent regionwide prehospital, hospital, and interfacility data management system that—

“(A) complies with the National EMS Information System, the National Trauma Data Bank, and others;

“(B) reports data to appropriate Federal and State databanks and registries; and

“(C) contains information sufficient to evaluate key elements of prehospital care, hospital destination decisions, including initial hospital and interfacility decisions, and relevant outcomes of hospital care.

“(d) APPLICATION.—

“(1) IN GENERAL.—An eligible entity that seeks a contract or grant described in subsection (a) shall submit to the Secretary an application at such time and in such manner as the Secretary may require.

“(2) APPLICATION INFORMATION.—Each application shall include—

“(A) an assurance from the eligible entity that the proposed system—

“(i) has been coordinated with the applicable State office of emergency medical services (or equivalent State office);

“(ii) is compatible with the applicable State emergency medical services system;

“(iii) includes consistent indirect and direct medical oversight of prehospital, hospital, and interfacility transport throughout the region;

“(iv) coordinates prehospital treatment and triage, hospital destination, and interfacility transport throughout the region;

“(v) includes a categorization or designation system for special medical facilities throughout the region that is—

“(I) consistent with State laws and regulations; and

“(II) integrated with the protocols for transport and destination throughout the region; and

“(vi) includes a regional medical direction system, a patient tracking system, and a resource allocation system that—

“(I) support day-to-day emergency care system operation;

“(II) can manage surge capacity during a major event or disaster; and

“(III) are integrated with other components of the national and State emergency preparedness system;

“(B) an agreement to make available non-Federal contributions in accordance with subsection (e); and

“(C) such other information as the Secretary may require.

“(e) MATCHING FUNDS.—

“(1) IN GENERAL.—With respect to the costs of the activities to be carried out each year with a contract or grant under subsection (a), a condition for the receipt of the contract or grant is that the eligible entity involved agrees to make available (directly or through donations from public or private entities) non-Federal contributions toward such costs in an amount that is not less than 25 percent of such costs.

“(2) DETERMINATION OF AMOUNT CONTRIBUTED.—Non-Federal contributions required in paragraph (1) may be in cash or in kind, fairly evaluated, including plant, equipment, or services. Amounts provided by the Federal Government, or services assisted or subsidized to any significant extent by the Federal Government, may not be included in determining the amount of such non-Federal contributions.

“(f) PRIORITY.—The Secretary shall give priority for the award of the contracts or

grants described in subsection (a) to any eligible entity that serves a medically underserved population (as defined in section 330(b)(3)).

“(g) **REPORT.**—Not later than 90 days after the completion of a demonstration program under subsection (a), the recipient of such contract or grant described in such subsection shall submit to the Secretary a report containing the results of an evaluation of the program, including an identification of—

“(1) the impact of the regional, accountable emergency care system on patient outcomes for various critical care categories, such as trauma, stroke, cardiac emergencies, and pediatric emergencies;

“(2) the system characteristics that contribute to the effectiveness and efficiency of the program (or lack thereof);

“(3) methods of assuring the long-term financial sustainability of the emergency care system;

“(4) the State and local legislation necessary to implement and to maintain the system; and

“(5) the barriers to developing regionalized, accountable emergency care systems, as well as the methods to overcome such barriers.

“(h) **EVALUATION.**—The Secretary, acting through the Assistant Secretary for Preparedness and Response, shall enter into a contract with an academic institution or other entity to conduct an independent evaluation of the demonstration programs funded under subsection (a), including an evaluation of—

“(1) the performance of the eligible entities receiving the funds; and

“(2) the impact of the demonstration programs.

“(i) **DISSEMINATION OF FINDINGS.**—The Secretary shall, as appropriate, disseminate to the public and to the appropriate committees of the Congress, the information contained in a report made under subsection (h).

“(j) **AUTHORIZATION OF APPROPRIATIONS.**—

“(1) **IN GENERAL.**—There is authorized to be appropriated to carry out this section \$12,000,000 for each of fiscal years 2011 through 2015.

“(2) **RESERVATION.**—Of the amount appropriated to carry out this section for a fiscal year, the Secretary shall reserve 3 percent of such amount to carry out subsection (h) (relating to an independent evaluation).”

**SEC. 2554. ASSISTING VETERANS WITH MILITARY EMERGENCY MEDICAL TRAINING TO BECOME STATE-LICENSED OR CERTIFIED EMERGENCY MEDICAL TECHNICIANS (EMTS).**

(a) **IN GENERAL.**—Part B of title III (42 U.S.C. 243 et seq.), as amended, is amended by inserting after section 315 the following:

**“SEC. 315A. ASSISTING VETERANS WITH MILITARY EMERGENCY MEDICAL TRAINING TO BECOME STATE-LICENSED OR CERTIFIED EMERGENCY MEDICAL TECHNICIANS (EMTS).**

“(a) **PROGRAM.**—The Secretary shall establish a program consisting of awarding grants to States to assist veterans who received and completed military emergency medical training while serving in the Armed Forces of the United States to become, upon their discharge or release from active duty service, State-licensed or certified emergency medical technicians.

“(b) **USE OF FUNDS.**—Amounts received as a grant under this section may be used to assist veterans described in subsection (a) to become State-licensed or certified emergency medical technicians as follows:

“(1) Providing training.

“(2) Providing reimbursement for costs associated with—

“(A) training; or

“(B) applying for licensure or certification.

“(3) Expediting the licensing or certification process.

“(c) **ELIGIBILITY.**—To be eligible for a grant under this section, a State shall demonstrate to the Secretary's satisfaction that the State has a shortage of emergency medical technicians.

“(d) **REPORT.**—The Secretary shall submit to the Congress an annual report on the program under this section.

“(e) **AUTHORIZATION OF APPROPRIATIONS.**—To carry out this section, there are authorized to be appropriated such sums as may be necessary for each of fiscal years 2011 through 2015.”

(b) **GAO STUDY AND REPORT.**—The Comptroller General of the United States shall—

(1) conduct a study on the barriers experienced by veterans who received training as medical personnel while serving in the Armed Forces of the United States and, upon their discharge or release from active duty service, seek to become licensed or certified in a State as civilian health professionals; and

(2) not later than 2 years after the date of the enactment of this Act, submit to the Congress a report on the results of such study, including recommendations on whether the program established under section 315A of the Public Health Service Act, as added by subsection (a), should be expanded to assist veterans seeking to become licensed or certified in a State as health providers other than emergency medical technicians.

**SEC. 2555. DENTAL EMERGENCY RESPONDERS: PUBLIC HEALTH AND MEDICAL RESPONSE.**

(a) **NATIONAL HEALTH SECURITY STRATEGY.**—Section 2802(b)(3) (42 U.S.C. 300hh-1(b)(3)) is amended—

(1) in the matter preceding subparagraph (A), by inserting “dental and” before “mental health facilities”; and

(2) in subparagraph (D), by inserting “and dental” after “medical”.

(b) **ALL-HAZARDS PUBLIC HEALTH AND MEDICAL RESPONSE CURRICULA AND TRAINING.**—Section 319F(a)(5)(B) (42 U.S.C. 247d-6(a)(5)(B)) is amended by striking “public health or medical” and inserting “public health, medical, or dental”.

**SEC. 2556. DENTAL EMERGENCY RESPONDERS: HOMELAND SECURITY.**

(a) **NATIONAL RESPONSE FRAMEWORK.**—Paragraph (6) of section 2 of the Homeland Security Act of 2002 (6 U.S.C. 101) is amended by inserting “and dental” after “emergency medical”.

(b) **NATIONAL PREPAREDNESS SYSTEM.**—Subparagraph (B) of section 653(b)(4) of the Post-Katrina Emergency Management Reform Act of 2006 (6 U.S.C. 753(b)(4)) is amended by striking “public health and medical” and inserting “public health, medical, and dental”.

(c) **CHIEF MEDICAL OFFICER.**—Paragraph (5) of section 516(c) of the Homeland Security Act of 2002 (6 U.S.C. 321e(c)) is amended by striking “medical community” and inserting “medical and dental communities”.

**PART 4—PAIN CARE AND MANAGEMENT PROGRAMS**

**SEC. 2561. INSTITUTE OF MEDICINE CONFERENCE ON PAIN.**

(a) **CONVENING.**—Not later than June 30, 2011, the Secretary of Health and Human Services shall seek to enter into an agreement with the Institute of Medicine of the National Academies to convene a Conference

on Pain (in this section referred to as “the Conference”).

(b) **PURPOSES.**—The purposes of the Conference shall be to—

(1) increase the recognition of pain as a significant public health problem in the United States;

(2) evaluate the adequacy of assessment, diagnosis, treatment, and management of acute and chronic pain in the general population, and in identified racial, ethnic, gender, age, and other demographic groups that may be disproportionately affected by inadequacies in the assessment, diagnosis, treatment, and management of pain;

(3) identify barriers to appropriate pain care, including—

(A) lack of understanding and education among employers, patients, health care providers, regulators, and third-party payors;

(B) barriers to access to care at the primary, specialty, and tertiary care levels, including barriers—

(i) specific to those populations that are disproportionately undertreated for pain;

(ii) related to physician concerns over regulatory and law enforcement policies applicable to some pain therapies; and

(iii) attributable to benefit, coverage, and payment policies in both the public and private sectors; and

(C) gaps in basic and clinical research on the symptoms and causes of pain, and potential assessment methods and new treatments to improve pain care; and

(4) establish an agenda for action in both the public and private sectors that will reduce such barriers and significantly improve the state of pain care research, education, and clinical care in the United States.

(c) **OTHER APPROPRIATE ENTITY.**—If the Institute of Medicine declines to enter into an agreement under subsection (a), the Secretary of Health and Human Services may enter into such agreement with another appropriate entity.

(d) **REPORT.**—A report summarizing the Conference's findings and recommendations shall be submitted to the Congress not later than June 30, 2012.

(e) **AUTHORIZATION OF APPROPRIATIONS.**—For the purpose of carrying out this section, there is authorized to be appropriated \$500,000 for each of fiscal years 2011 and 2012.

**SEC. 2562. PAIN RESEARCH AT NATIONAL INSTITUTES OF HEALTH.**

Part B of title IV (42 U.S.C. 284 et seq.) is amended by adding at the end the following:

**“SEC. 409J. PAIN RESEARCH.**

“(a) **RESEARCH INITIATIVES.**—

“(1) **IN GENERAL.**—The Director of NIH is encouraged to continue and expand, through the Pain Consortium, an aggressive program of basic and clinical research on the causes of and potential treatments for pain.

“(2) **ANNUAL RECOMMENDATIONS.**—Not less than annually, the Pain Consortium, in consultation with the Division of Program Coordination, Planning, and Strategic Initiatives, shall develop and submit to the Director of NIH recommendations on appropriate pain research initiatives that could be undertaken with funds reserved under section 402A(c)(1) for the Common Fund or otherwise available for such initiatives.

“(3) **DEFINITION.**—In this subsection, the term ‘Pain Consortium’ means the Pain Consortium of the National Institutes of Health or a similar trans-National Institutes of Health coordinating entity designated by the Secretary for purposes of this subsection.

“(b) **INTERAGENCY PAIN RESEARCH COORDINATING COMMITTEE.**—

“(1) **ESTABLISHMENT.**—The Secretary shall establish not later than 1 year after the date

of the enactment of this section and as necessary maintain a committee, to be known as the Interagency Pain Research Coordinating Committee (in this section referred to as the 'Committee'), to coordinate all efforts within the Department of Health and Human Services and other Federal agencies that relate to pain research.

“(2) MEMBERSHIP.—

“(A) IN GENERAL.—The Committee shall be composed of the following voting members:

“(i) Not more than 7 voting Federal representatives as follows:

“(I) The Director of the Centers for Disease Control and Prevention.

“(II) The Director of the National Institutes of Health and the directors of such national research institutes and national centers as the Secretary determines appropriate.

“(III) The heads of such other agencies of the Department of Health and Human Services as the Secretary determines appropriate.

“(IV) Representatives of other Federal agencies that conduct or support pain care research and treatment, including the Department of Defense and the Department of Veterans Affairs.

“(ii) Twelve additional voting members appointed under subparagraph (B).

“(B) ADDITIONAL MEMBERS.—The Committee shall include additional voting members appointed by the Secretary as follows:

“(i) Six members shall be appointed from among scientists, physicians, and other health professionals, who—

“(I) are not officers or employees of the United States;

“(II) represent multiple disciplines, including clinical, basic, and public health sciences;

“(III) represent different geographical regions of the United States; and

“(IV) are from practice settings, academia, manufacturers, or other research settings.

“(ii) Six members shall be appointed from members of the general public, who are representatives of leading research, advocacy, and service organizations for individuals with pain-related conditions.

“(C) NONVOTING MEMBERS.—The Committee shall include such nonvoting members as the Secretary determines to be appropriate.

“(3) CHAIRPERSON.—The voting members of the Committee shall select a chairperson from among such members. The selection of a chairperson shall be subject to the approval of the Director of NIH.

“(4) MEETINGS.—The Committee shall meet at the call of the chairperson of the Committee or upon the request of the Director of NIH, but in no case less often than once each year.

“(5) DUTIES.—The Committee shall—

“(A) develop a summary of advances in pain care research supported or conducted by the Federal agencies relevant to the diagnosis, prevention, and treatment of pain and diseases and disorders associated with pain;

“(B) identify critical gaps in basic and clinical research on the symptoms and causes of pain;

“(C) make recommendations to ensure that the activities of the National Institutes of Health and other Federal agencies, including the Department of Defense and the Department of Veteran Affairs, are free of unnecessary duplication of effort;

“(D) make recommendations on how best to disseminate information on pain care; and

“(E) make recommendations on how to expand partnerships between public entities, including Federal agencies, and private enti-

ties to expand collaborative, crosscutting research.

“(6) REVIEW.—The Secretary shall review the necessity of the Committee at least once every 2 years.”

#### SEC. 2563. PUBLIC AWARENESS CAMPAIGN ON PAIN MANAGEMENT.

Part B of title II (42 U.S.C. 238 et seq.) is amended by adding at the end the following:

#### “SEC. 249. NATIONAL EDUCATION OUTREACH AND AWARENESS CAMPAIGN ON PAIN MANAGEMENT.

“(a) ESTABLISHMENT.—Not later than 12 months after the date of the enactment of this section, the Secretary shall establish and implement a national pain care education outreach and awareness campaign described in subsection (b).

“(b) REQUIREMENTS.—The Secretary shall design the public awareness campaign under this section to educate consumers, patients, their families, and other caregivers with respect to—

“(1) the incidence and importance of pain as a national public health problem;

“(2) the adverse physical, psychological, emotional, societal, and financial consequences that can result if pain is not appropriately assessed, diagnosed, treated, or managed;

“(3) the availability, benefits, and risks of all pain treatment and management options;

“(4) having pain promptly assessed, appropriately diagnosed, treated, and managed, and regularly reassessed with treatment adjusted as needed;

“(5) the role of credentialed pain management specialists and subspecialists, and of comprehensive interdisciplinary centers of treatment expertise;

“(6) the availability in the public, non-profit, and private sectors of pain management-related information, services, and resources for consumers, employers, third-party payors, patients, their families, and caregivers, including information on—

“(A) appropriate assessment, diagnosis, treatment, and management options for all types of pain and pain-related symptoms; and

“(B) conditions for which no treatment options are yet recognized; and

“(7) other issues the Secretary deems appropriate.

“(c) CONSULTATION.—In designing and implementing the public awareness campaign required by this section, the Secretary shall consult with organizations representing patients in pain and other consumers, employers, physicians including physicians specializing in pain care, other pain management professionals, medical device manufacturers, and pharmaceutical companies.

“(d) COORDINATION.—

“(1) LEAD OFFICIAL.—The Secretary shall designate one official in the Department of Health and Human Services to oversee the campaign established under this section.

“(2) AGENCY COORDINATION.—The Secretary shall ensure the involvement in the public awareness campaign under this section of the Surgeon General of the Public Health Service, the Director of the Centers for Disease Control and Prevention, and such other representatives of offices and agencies of the Department of Health and Human Services as the Secretary determines appropriate.

“(e) UNDERSERVED AREAS AND POPULATIONS.—In designing the public awareness campaign under this section, the Secretary shall—

“(1) take into account the special needs of geographic areas and racial, ethnic, gender, age, and other demographic groups that are currently underserved; and

“(2) provide resources that will reduce disparities in access to appropriate diagnosis, assessment, and treatment.

“(f) GRANTS AND CONTRACTS.—The Secretary may make awards of grants, cooperative agreements, and contracts to public agencies and private nonprofit organizations to assist with the development and implementation of the public awareness campaign under this section.

“(g) EVALUATION AND REPORT.—Not later than the end of fiscal year 2012, the Secretary shall prepare and submit to the Congress a report evaluating the effectiveness of the public awareness campaign under this section in educating the general public with respect to the matters described in subsection (b).

“(h) AUTHORIZATION OF APPROPRIATIONS.—For purposes of carrying out this section, there are authorized to be appropriated \$2,000,000 for fiscal year 2011 and \$4,000,000 for each of fiscal years 2012 and 2015.”

#### Subtitle C—Food and Drug Administration

#### PART 1—IN GENERAL

#### SEC. 2571. NATIONAL MEDICAL DEVICE REGISTRY.

(a) REGISTRY.—

(1) IN GENERAL.—Section 519 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360i) is amended—

(A) by redesignating subsection (g) as subsection (h); and

(B) by inserting after subsection (f) the following:

“National Medical Device Registry

“(g)(1)(A) The Secretary shall establish a national medical device registry (in this subsection referred to as the ‘registry’) to facilitate analysis of postmarket safety and outcomes data on each covered device.

“(B) In this subsection, the term ‘covered device’—

“(i) shall include each class III device; and

“(ii) may include, as the Secretary determines appropriate and specifies in regulation, a class II device that is life-supporting or life-sustaining.

“(C) Notwithstanding subparagraph (B)(i), the Secretary may by order exempt a class III device from the provisions of this subsection if the Secretary concludes that inclusion of information on the device in the registry will not provide useful information on safety or effectiveness.

“(2) In developing the registry, the Secretary shall, in consultation with the Commissioner of Food and Drugs, the Administrator of the Centers for Medicare & Medicaid Services, the Administrator of the Agency for Healthcare Research and Quality, the head of the Office of the National Coordinator for Health Information Technology, and the Secretary of Veterans Affairs, determine the best methods for—

“(A) including in the registry, in a manner consistent with subsection (f), appropriate information to identify each covered device by type, model, and serial number or other unique identifier;

“(B) validating methods for analyzing patient safety and outcomes data from multiple sources and for linking such data with the information included in the registry as described in subparagraph (A), including, to the extent feasible, use of—

“(i) data provided to the Secretary under other provisions of this chapter; and

“(ii) information from public and private sources identified under paragraph (3);

“(C) integrating the activities described in this subsection (so as to avoid duplication) with—

“(i) activities under paragraph (3) of section 505(k) (relating to active postmarket risk identification);

“(ii) activities under paragraph (4) of section 505(k) (relating to advanced analysis of drug safety data);

“(iii) other postmarket device surveillance activities of the Secretary authorized by this chapter; and

“(iv) registries carried out by or for the Agency for Healthcare Research and Quality; and

“(D) providing public access to the data and analysis collected or developed through the registry in a manner and form that protects patient privacy and proprietary information and is comprehensive, useful, and not misleading to patients, physicians, and scientists.

“(3)(A) To facilitate analyses of postmarket safety and patient outcomes for covered devices, the Secretary shall, in collaboration with public, academic, and private entities, develop methods to—

“(i) obtain access to disparate sources of patient safety and outcomes data, including—

“(I) Federal health-related electronic data (such as data from the Medicare program under title XVIII of the Social Security Act or from the health systems of the Department of Veterans Affairs);

“(II) private sector health-related electronic data (such as pharmaceutical purchase data and health insurance claims data); and

“(III) other data as the Secretary deems necessary to permit postmarket assessment of device safety and effectiveness; and

“(ii) link data obtained under clause (i) with information in the registry.

“(B) In this paragraph, the term ‘data’ refers to information respecting a covered device, including claims data, patient survey data, standardized analytic files that allow for the pooling and analysis of data from disparate data environments, electronic health records, and any other data deemed appropriate by the Secretary.

“(4) The Secretary shall promulgate regulations for establishment and operation of the registry under paragraph (1). Such regulations—

“(A)(i) in the case of covered devices that are sold on or after the date of the enactment of this subsection, shall require manufacturers of such devices to submit information to the registry, including, for each such device, the type, model, and serial number or, if required under subsection (f), other unique device identifier; and

“(ii) in the case of covered devices that are sold before such date, may require manufacturers of such devices to submit such information to the registry, if deemed necessary by the Secretary to protect the public health;

“(B) shall establish procedures—

“(i) to permit linkage of information submitted pursuant to subparagraph (A) with patient safety and outcomes data obtained under paragraph (3); and

“(ii) to permit analyses of linked data;

“(C) may require covered device manufacturers to submit such other information as is necessary to facilitate postmarket assessments of device safety and effectiveness and notification of device risks;

“(D) shall establish requirements for regular and timely reports to the Secretary, which shall be included in the registry, concerning adverse event trends, adverse event patterns, incidence and prevalence of adverse events, and other information the Secretary

determines appropriate, which may include data on comparative safety and outcomes trends; and

“(E) shall establish procedures to permit public access to the information in the registry in a manner and form that protects patient privacy and proprietary information and is comprehensive, useful, and not misleading to patients, physicians, and scientists.

“(5)(A) The Secretary shall promulgate final regulations under paragraph (4) not later than 36 months after the date of the enactment of this subsection.

“(B) Before issuing the notice of proposed rulemaking preceding the final regulations described in subparagraph (A), the Secretary shall hold a public hearing before an advisory committee on the issue of which class II devices to include in the definition of covered devices.

“(C) The Secretary shall include in any regulation under this subsection an explanation demonstrating that the requirements of such regulation—

“(i) do not duplicate other Federal requirements; and

“(ii) do not impose an undue burden on device manufacturers.

“(6) With respect to any entity that submits or is required to submit a safety report or other information in connection with the safety of a device under this section (and any release by the Secretary of that report or information), such report or information shall not be construed to reflect necessarily a conclusion by the entity or the Secretary that the report or information constitutes an admission that the product involved malfunctioned, caused or contributed to an adverse experience, or otherwise caused or contributed to a death, serious injury, or serious illness. Such an entity need not admit, and may deny, that the report or information submitted by the entity constitutes an admission that the product involved malfunctioned, caused or contributed to an adverse experience, or caused or contributed to a death, serious injury, or serious illness.

“(7) To carry out this subsection, there are authorized to be appropriated such sums as may be necessary for each of fiscal years 2011 and 2012.”

(2) **EFFECTIVE DATE.**—The Secretary of Health and Human Services shall establish and begin implementation of the registry under section 519(g) of the Federal Food, Drug, and Cosmetic Act, as added by paragraph (1), by not later than the date that is 36 months after the date of the enactment of this Act, without regard to whether or not final regulations to establish and operate the registry have been promulgated by such date.

(3) **CONFORMING AMENDMENT.**—Section 303(f)(1)(B)(ii) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 333(f)(1)(B)(ii)) is amended by striking “519(g)” and inserting “519(h)”.

(b) **ELECTRONIC EXCHANGE AND USE IN CERTIFIED ELECTRONIC HEALTH RECORDS OF UNIQUE DEVICE IDENTIFIERS.**—

(1) **RECOMMENDATIONS.**—The HIT Policy Committee established under section 3002 of the Public Health Service Act (42 U.S.C. 300jj-12) shall recommend to the head of the Office of the National Coordinator for Health Information Technology standards, implementation specifications, and certification criteria for the electronic exchange and use in certified electronic health records of a unique device identifier for each covered device (as defined under section 519(g)(1)(B) of the Federal Food, Drug, and Cosmetic Act, as added by subsection (a)).

(2) **STANDARDS, IMPLEMENTATION CRITERIA, AND CERTIFICATION CRITERIA.**—The Secretary of Health and Human Services, acting through the head of the Office of the National Coordinator for Health Information Technology, shall adopt standards, implementation specifications, and certification criteria for the electronic exchange and use in certified electronic health records of a unique device identifier for each covered device referred to in paragraph (1), if such an identifier is required by section 519(f) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360i(f)) for the device.

(c) **UNIQUE DEVICE IDENTIFICATION SYSTEM.**—The Secretary of Health and Human Services, acting through the Commissioner of Food and Drugs, shall issue proposed regulations to implement section 519(f) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360i(f)) not later than 6 months after the date of the enactment of this Act.

**SEC. 2572. NUTRITION LABELING OF STANDARD MENU ITEMS AT CHAIN RESTAURANTS AND OF ARTICLES OF FOOD SOLD FROM VENDING MACHINES.**

(a) **TECHNICAL AMENDMENTS.**—Section 403(q)(5)(A) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 343(q)(5)(A)) is amended—

(1) in subclause (i), by inserting “except as provided in clause (H)(ii)(III),” after “(i)” ; and

(2) in subclause (ii), by inserting “except as provided in clause (H)(ii)(III),” after “(ii)”.

(b) **LABELING REQUIREMENTS.**—Section 403(q)(5) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 343(q)(5)) is amended by adding at the end the following:

“(H) **RESTAURANTS, RETAIL FOOD ESTABLISHMENTS, AND VENDING MACHINES.**—

“(i) **GENERAL REQUIREMENTS FOR RESTAURANTS AND SIMILAR RETAIL FOOD ESTABLISHMENTS.**—Except for food described in subclause (vii), in the case of food that is a standard menu item that is offered for sale in a restaurant or similar retail food establishment that is part of a chain with 20 or more locations doing business under the same name (regardless of the type of ownership of the locations) and offering for sale substantially the same menu items, the restaurant or similar retail food establishment shall disclose the information described in subclauses (ii) and (iii).

“(ii) **INFORMATION REQUIRED TO BE DISCLOSED BY RESTAURANTS AND RETAIL FOOD ESTABLISHMENTS.**—Except as provided in subclause (vii), the restaurant or similar retail food establishment shall disclose in a clear and conspicuous manner—

“(I)(aa) in a nutrient content disclosure statement adjacent to the name of the standard menu item, so as to be clearly associated with the standard menu item, on the menu listing the item for sale, the number of calories contained in the standard menu item, as usually prepared and offered for sale; and

“(bb) a succinct statement concerning suggested daily caloric intake, as specified by the Secretary by regulation and posted prominently on the menu and designed to enable the public to understand, in the context of a total daily diet, the significance of the caloric information that is provided on the menu;

“(II)(aa) in a nutrient content disclosure statement adjacent to the name of the standard menu item, so as to be clearly associated with the standard menu item, on the menu board, including a drive-through menu board, the number of calories contained in the standard menu item, as usually prepared and offered for sale; and



“(bb) a succinct statement concerning suggested daily caloric intake, as specified by the Secretary by regulation and posted prominently on the menu board, designed to enable the public to understand, in the context of a total daily diet, the significance of the nutrition information that is provided on the menu board;

“(III) in a written form, available on the premises of the restaurant or similar retail establishment and to the consumer upon request, the nutrition information required under clauses (C) and (D) of subparagraph (1); and

“(IV) on the menu or menu board, a prominent, clear, and conspicuous statement regarding the availability of the information described in item (III).

“(iii) SELF-SERVICE FOOD AND FOOD ON DISPLAY.—Except as provided in subclause (vii), in the case of food sold at a salad bar, buffet line, cafeteria line, or similar self-service facility, and for self-service beverages or food that is on display and that is visible to customers, a restaurant or similar retail food establishment shall place adjacent to each food offered a sign that lists calories per displayed food item or per serving.

“(iv) REASONABLE BASIS.—For the purposes of this clause, a restaurant or similar retail food establishment shall have a reasonable basis for its nutrient content disclosures, including nutrient databases, cookbooks, laboratory analyses, and other reasonable means, as described in section 101.10 of title 21, Code of Federal Regulations (or any successor regulation) or in a related guidance of the Food and Drug Administration.

“(v) MENU VARIABILITY AND COMBINATION MEALS.—The Secretary shall establish by regulation standards for determining and disclosing the nutrient content for standard menu items that come in different flavors, varieties, or combinations, but which are listed as a single menu item, such as soft drinks, ice cream, pizza, doughnuts, or children’s combination meals, through means determined by the Secretary, including ranges, averages, or other methods.

“(vi) ADDITIONAL INFORMATION.—If the Secretary determines that a nutrient, other than a nutrient required under subclause (ii)(III), should be disclosed for the purpose of providing information to assist consumers in maintaining healthy dietary practices, the Secretary may require, by regulation, disclosure of such nutrient in the written form required under subclause (ii)(III).

“(vii) NONAPPLICABILITY TO CERTAIN FOOD.—

“(I) IN GENERAL.—Subclauses (i) through (vi) do not apply to—

“(aa) items that are not listed on a menu or menu board (such as condiments and other items placed on the table or counter for general use);

“(bb) daily specials, temporary menu items appearing on the menu for less than 60 days per calendar year, or custom orders; or

“(cc) such other food that is part of a customary market test appearing on the menu for less than 90 days, under terms and conditions established by the Secretary.

“(II) WRITTEN FORMS.—Clause (C) shall apply to any regulations promulgated under subclauses (ii)(III) and (vi).

“(viii) VENDING MACHINES.—In the case of an article of food sold from a vending machine that—

“(I) does not permit a prospective purchaser to examine the Nutrition Facts Panel before purchasing the article or does not otherwise provide visible nutrition information at the point of purchase; and

“(II) is operated by a person who is engaged in the business of owning or operating 20 or more vending machines,

the vending machine operator shall provide a sign in close proximity to each article of food or the selection button that includes a clear and conspicuous statement disclosing the number of calories contained in the article.

“(ix) VOLUNTARY PROVISION OF NUTRITION INFORMATION.—

“(I) IN GENERAL.—An authorized official of any restaurant or similar retail food establishment or vending machine operator not subject to the requirements of this clause may elect to be subject to the requirements of such clause, by registering biannually the name and address of such restaurant or similar retail food establishment or vending machine operator with the Secretary, as specified by the Secretary by regulation.

“(II) REGISTRATION.—Within 120 days of the enactment of this clause, the Secretary shall publish a notice in the Federal Register specifying the terms and conditions for implementation of item (I), pending promulgation of regulations.

“(III) RULE OF CONSTRUCTION.—Nothing in this subclause shall be construed to authorize the Secretary to require an application, review, or licensing process for any entity to register with the Secretary, as described in such item.

“(x) REGULATIONS.—

“(I) PROPOSED REGULATION.—Not later than 1 year after the date of the enactment of this clause, the Secretary shall promulgate proposed regulations to carry out this clause.

“(II) CONTENTS.—In promulgating regulations, the Secretary shall—

“(aa) consider standardization of recipes and methods of preparation, reasonable variation in serving size and formulation of menu items, space on menus and menu boards, inadvertent human error, training of food service workers, variations in ingredients, and other factors, as the Secretary determines; and

“(bb) specify the format and manner of the nutrient content disclosure requirements under this subclause.

“(III) REPORTING.—The Secretary shall submit to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Energy and Commerce of the House of Representatives a quarterly report that describes the Secretary’s progress toward promulgating final regulations under this subparagraph.

“(xi) DEFINITION.—In this clause, the term ‘menu’ or ‘menu board’ means the primary writing of the restaurant or other similar retail food establishment from which a consumer makes an order selection.”

(c) NATIONAL UNIFORMITY.—Section 403A(a)(4) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 343-1(a)(4)) is amended by striking “except a requirement for nutrition labeling of food which is exempt under subclause (i) or (ii) of section 403(q)(5)(A)” and inserting “except that this paragraph does not apply to food that is offered for sale in a restaurant or similar retail food establishment that is not part of a chain with 20 or more locations doing business under the same name (regardless of the type of ownership of the locations) and offering for sale substantially the same menu items unless such restaurant or similar retail food establishment complies with the voluntary provision of nutrition information requirements under section 403(q)(5)(H)(ix)”.  
(d) RULE OF CONSTRUCTION.—Nothing in the amendments made by this section shall be construed—

(1) to preempt any provision of State or local law, unless such provision establishes or continues into effect nutrient content disclosures of the type required under section 403(q)(5)(H) of the Federal Food, Drug, and Cosmetic Act (as added by subsection (b)) and is expressly preempted under section 403A(a)(4) of such Act;

(2) to apply to any State or local requirement respecting a statement in the labeling of food that provides for a warning concerning the safety of the food or component of the food; or

(3) except as provided in section 403(q)(5)(H)(ix) of the Federal Food, Drug, and Cosmetic Act (as added by subsection (b)), to apply to any restaurant or similar retail food establishment other than a restaurant or similar retail food establishment described in section 403(q)(5)(H)(i) of such Act.

## SEC. 2573. PROTECTING CONSUMER ACCESS TO GENERIC DRUGS.

(a) FINDINGS; PURPOSE.—

(1) FINDINGS.—The Congress finds the following:

(A) In 1984, the Drug Price Competition and Patent Term Restoration Act (Pub. L. 98-417; in this subsection referred to as the “1984 Act”) was enacted with the intent of facilitating the early entry of generic drugs while preserving incentives for innovation.

(B) Prescription drugs make up 10 percent of national health care spending, but for the past decade have been one of the fastest growing segments of health care expenditures.

(C) Until recently, the 1984 Act was successful in facilitating generic competition to the benefit of consumers and health care payers—although 67 percent of all prescriptions dispensed in the United States are generic drugs, they account for only 20 percent of all expenditures.

(D) In recent years, the intent of the 1984 Act has been subverted by certain settlement agreements between brand companies and their potential generic competitors that make reverse payments, i.e., payments by the brand company to the generic company.

(E) These settlement agreements have unduly delayed the marketing of low-cost generic drugs contrary to free competition and the interests of consumers.

(F) The state of antitrust law relating to such settlement agreements is unsettled.

(2) PURPOSE.—The purpose of this section is to provide an additional means to effectuate the intent of the 1984 Act by enhancing competition in the pharmaceutical market by stopping agreements between brand name and generic drug manufacturers that limit, delay, or otherwise prevent competition from generic drugs.

(b) IN GENERAL.—Section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355) is amended by adding at the end the following:

“(w) PROTECTING CONSUMER ACCESS TO GENERIC DRUGS.—

“(1) UNFAIR AND DECEPTIVE ACTS AND PRACTICES RELATED TO NEW DRUG APPLICATIONS.—

“(A) CONDUCT PROHIBITED.—It shall be unlawful for any person to directly or indirectly be a party to any agreement resolving or settling a patent infringement claim in which—

“(i) an ANDA filer receives anything of value; and

“(ii) the ANDA filer agrees to limit or forego research, development, manufacturing, marketing, or sales, for any period of time, of the drug that is to be manufactured under the ANDA involved and is the subject of the patent infringement claim.

“(B) EXCEPTIONS.—Notwithstanding subparagraph (A)(i), subparagraph (A) does not prohibit a resolution or settlement of a patent infringement claim in which the value received by the ANDA filer includes no more than—

“(i) the right to market the drug that is to be manufactured under the ANDA involved and is the subject of the patent infringement claim, before the expiration of—

“(I) the patent that is the basis for the patent infringement claim; or

“(II) any other statutory exclusivity that would prevent the marketing of such drug; and

“(ii) the waiver of a patent infringement claim for damages based on prior marketing of such drug.

“(C) ENFORCEMENT.—

“(i) IN GENERAL.—A violation of subparagraph (A) shall be treated as an unfair and deceptive act or practice and an unfair method of competition in or affecting interstate commerce prohibited under section 5 of the Federal Trade Commission Act and shall be enforced by the Federal Trade Commission in the same manner, by the same means, and with the same jurisdiction as though all applicable terms and provisions of the Federal Trade Commission Act were incorporated into and made a part of this subsection.

“(ii) INAPPLICABILITY.—Subchapter A of chapter VII shall not apply with respect to this subsection.

“(D) DEFINITIONS.—In this subsection:

“(i) AGREEMENT.—The term ‘agreement’ means anything that would constitute an agreement under section 5 of the Federal Trade Commission Act.

“(ii) AGREEMENT RESOLVING OR SETTLING.—The term ‘agreement resolving or settling’, in reference to a patent infringement claim, includes any agreement that is contingent upon, provides a contingent condition for, or is otherwise related to the resolution or settlement of the claim.

“(iii) ANDA.—The term ‘ANDA’ means an abbreviated new drug application for the approval of a new drug under section (j).

“(iv) ANDA FILER.—The term ‘ANDA filer’ means a party that has filed an ANDA with the Food and Drug Administration.

“(v) PATENT INFRINGEMENT.—The term ‘patent infringement’ means infringement of any patent or of any filed patent application, extension, reissuance, renewal, division, continuation, continuation in part, reexamination, patent term restoration, patent of addition, or extension thereof.

“(vi) PATENT INFRINGEMENT CLAIM.—The term ‘patent infringement claim’ means any allegation made to an ANDA filer, whether or not included in a complaint filed with a court of law, that its ANDA or drug to be manufactured under such ANDA may infringe any patent.

“(2) FTC RULEMAKING.—The Federal Trade Commission may, by rule promulgated under section 553 of title 5, United States Code, exempt certain agreements described in paragraph (1) from the requirements of this subsection if the Commission finds such agreements to be in furtherance of market competition and for the benefit of consumers. Consistent with the authority of the Commission, such rules may include interpretive rules and general statements of policy with respect to the practices prohibited under paragraph (1).”.

(C) NOTICE AND CERTIFICATION OF AGREEMENTS.—

(1) NOTICE OF ALL AGREEMENTS.—Section 1112(c)(2) of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (21 U.S.C. 3155 note) is amended by—

(A) striking “the Commission the” and inserting the following: “the Commission—

“(A) the”;

(B) striking the period at the end and inserting “; and”; and

(C) adding at the end the following:

“(B) any other agreement the parties enter into within 30 days of entering into an agreement covered by subsection (a) or (b).”.

(2) CERTIFICATION OF AGREEMENTS.—Section 1112 of such Act is amended by adding at the end the following:

“(d) CERTIFICATION.—The chief executive officer or the company official responsible for negotiating any agreement required to be filed under subsection (a), (b), or (c) shall execute and file with the Assistant Attorney General and the Commission a certification as follows: ‘I declare under penalty of perjury that the following is true and correct: The materials filed with the Federal Trade Commission and the Department of Justice under section 1112 of subtitle B of title XI of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003, with respect to the agreement referenced in this certification: (1) represent the complete, final, and exclusive agreement between the parties; (2) include any ancillary agreements that are contingent upon, provide a contingent condition for, or are otherwise related to, the referenced agreement; and (3) include written descriptions of any oral agreements, representations, commitments, or promises between the parties that are responsive to subsection (a) or (b) of such section 1112 and have not been reduced to writing.’.”.

(d) GAO STUDY.—

(1) STUDY.—Beginning 2 years after the date of enactment of this Act, and each year for a period of 4 years thereafter, the Comptroller General shall conduct a study on the litigation in United States courts during the period beginning 5 years prior to the date of enactment of this Act relating to patent infringement claims involving generic drugs, the number of patent challenges initiated by manufacturers of generic drugs, and the number of settlements of such litigation. The Comptroller General shall transmit to Congress a report of the findings of such a study and an analysis of the effect of the amendments made by subsections (b) and (c) on such litigation, whether such amendments have had an effect on the number and frequency of claims settled, and whether such amendments resulted in earlier or delayed entry of generic drugs to market, including whether any harm or benefit to consumers has resulted.

(2) DISCLOSURE OF AGREEMENTS.—Notwithstanding any other law, agreements filed under section 1112 of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (21 U.S.C. 355 note), or unaggregated information from such agreements, shall be disclosed to the Comptroller General for purposes of the study under paragraph (1) within 30 days of a request by the Comptroller General.

## PART 2—BIOSIMILARS

### SEC. 2575. LICENSURE PATHWAY FOR BIOSIMILAR BIOLOGICAL PRODUCTS.

(a) LICENSURE OF BIOLOGICAL PRODUCTS AS BIOSIMILAR OR INTERCHANGEABLE.—Section 351 of the Public Health Service Act (42 U.S.C. 262) is amended—

(1) in subsection (a)(1)(A), by inserting “under this subsection or subsection (k)” after “biologics license”; and

(2) by adding at the end the following:

“(k) LICENSURE OF BIOLOGICAL PRODUCTS AS BIOSIMILAR OR INTERCHANGEABLE.—

“(1) IN GENERAL.—Any person may submit an application for licensure of a biological product under this subsection.

“(2) CONTENT.—

“(A) IN GENERAL.—

“(i) REQUIRED INFORMATION.—An application submitted under this subsection shall include information demonstrating that—

“(I) the biological product is biosimilar to a reference product based upon data derived from—

“(aa) analytical studies that demonstrate that the biological product is highly similar to the reference product notwithstanding minor differences in clinically inactive components;

“(bb) animal studies (including the assessment of toxicity); and

“(cc) a clinical study or studies (including the assessment of immunogenicity and pharmacokinetics or pharmacodynamics) that are sufficient to demonstrate safety, purity, and potency in 1 or more appropriate conditions of use for which the reference product is licensed and intended to be used and for which licensure is sought for the biological product;

“(II) the biological product and reference product utilize the same mechanism or mechanisms of action for the condition or conditions of use prescribed, recommended, or suggested in the proposed labeling, but only to the extent the mechanism or mechanisms of action are known for the reference product;

“(III) the condition or conditions of use prescribed, recommended, or suggested in the labeling proposed for the biological product have been previously approved for the reference product;

“(IV) the route of administration, the dosage form, and the strength of the biological product are the same as those of the reference product; and

“(V) the facility in which the biological product is manufactured, processed, packed, or held meets standards designed to assure that the biological product continues to be safe, pure, and potent.

“(ii) DETERMINATION BY SECRETARY.—The Secretary may determine, in the Secretary’s discretion, that an element described in clause (i)(I) is unnecessary in an application submitted under this subsection.

“(iii) ADDITIONAL INFORMATION.—An application submitted under this subsection—

“(I) shall include publicly available information regarding the Secretary’s previous determination that the reference product is safe, pure, and potent; and

“(II) may include any additional information in support of the application, including publicly available information with respect to the reference product or another biological product.

“(B) INTERCHANGEABILITY.—An application (or a supplement to an application) submitted under this subsection may include information demonstrating that the biological product meets the standards described in paragraph (4).

“(3) EVALUATION BY SECRETARY.—Upon review of an application (or a supplement to an application) submitted under this subsection, the Secretary shall license the biological product under this subsection if—

“(A) the Secretary determines that the information submitted in the application (or the supplement) is sufficient to show that the biological product—

“(i) is biosimilar to the reference product; or

“(ii) meets the standards described in paragraph (4), and therefore is interchangeable with the reference product; and

“(B) the applicant (or other appropriate person) consents to the inspection of the facility that is the subject of the application, in accordance with subsection (c).

“(4) SAFETY STANDARDS FOR DETERMINING INTERCHANGEABILITY.—Upon review of an application submitted under this subsection or any supplement to such application, the Secretary shall determine the biological product to be interchangeable with the reference product if the Secretary determines that the information submitted in the application (or a supplement to such application) is sufficient to show that—

“(A) the biological product—

“(i) is biosimilar to the reference product; and

“(ii) can be expected to produce the same clinical result as the reference product in any given patient; and

“(B) for a biological product that is administered more than once to an individual, the risk in terms of safety or diminished efficacy of alternating or switching between use of the biological product and the reference product is not greater than the risk of using the reference product without such alternation or switch.

“(5) GENERAL RULES.—

“(A) ONE REFERENCE PRODUCT PER APPLICATION.—A biological product, in an application submitted under this subsection, may not be evaluated against more than 1 reference product.

“(B) REVIEW.—An application submitted under this subsection shall be reviewed by the division within the Food and Drug Administration that is responsible for the review and approval of the application under which the reference product is licensed.

“(C) RISK EVALUATION AND MITIGATION STRATEGIES.—The authority of the Secretary with respect to risk evaluation and mitigation strategies under the Federal Food, Drug, and Cosmetic Act shall apply to biological products licensed under this subsection in the same manner as such authority applies to biological products licensed under subsection (a).

“(D) RESTRICTIONS ON BIOLOGICAL PRODUCTS CONTAINING DANGEROUS INGREDIENTS.—If information in an application submitted under this subsection, in a supplement to such an application, or otherwise available to the Secretary shows that a biological product—

“(i) is, bears, or contains a select agent or toxin listed in section 73.3 or 73.4 of title 42, section 121.3 or 121.4 of title 9, or section 331.3 of title 7, Code of Federal Regulations (or any successor regulations); or

“(ii) is, bears, or contains a controlled substance in schedule I or II of section 202 of the Controlled Substances Act, as listed in part 1308 of title 21, Code of Federal Regulations (or any successor regulations); the Secretary shall not license the biological product under this subsection unless the Secretary determines, after consultation with appropriate national security and drug enforcement agencies, that there would be no increased risk to the security or health of the public from licensing such biological product under this subsection.

“(6) EXCLUSIVITY FOR FIRST INTERCHANGEABLE BIOLOGICAL PRODUCT.—Upon review of an application submitted under this subsection relying on the same reference product for which a prior biological product has received a determination of interchangeability for any condition of use, the Secretary shall not make a determination under paragraph (4) that the second or subsequent biological product is interchangeable for any condition of use until the earlier of—

“(A) 1 year after the first commercial marketing of the first interchangeable biosimilar biological product to be approved as interchangeable for that reference product;

“(B) 18 months after—

“(i) a final court decision on all patents in suit in an action instituted under subsection (1)(5) against the applicant that submitted the application for the first approved interchangeable biosimilar biological product; or

“(ii) the dismissal with or without prejudice of an action instituted under subsection (1)(5) against the applicant that submitted the application for the first approved interchangeable biosimilar biological product; or

“(C)(i) 42 months after approval of the first interchangeable biosimilar biological product if the applicant that submitted such application has been sued under subsection (1)(5) and such litigation is still ongoing within such 42-month period; or

“(ii) 18 months after approval of the first interchangeable biosimilar biological product if the applicant that submitted such application has not been sued under subsection (1)(5).

For purposes of this paragraph, the term ‘final court decision’ means a final decision of a court from which no appeal (other than a petition to the United States Supreme Court for a writ of certiorari) has been or can be taken.

“(7) EXCLUSIVITY FOR REFERENCE PRODUCT.—

“(A) EFFECTIVE DATE OF BIOSIMILAR APPLICATION APPROVAL.—Approval of an application under this subsection may not be made effective by the Secretary until the date that is 12 years after the date on which the reference product was first licensed under subsection (a).

“(B) FILING PERIOD.—An application under this subsection may not be submitted to the Secretary until the date that is 4 years after the date on which the reference product was first licensed under subsection (a).

“(C) FIRST LICENSURE.—Subparagraphs (A) and (B) shall not apply to a license for or approval of—

“(i) a supplement for the biological product that is the reference product; or

“(ii) a subsequent application filed by the same sponsor or manufacturer of the biological product that is the reference product (or a licensor, predecessor in interest, or other related entity) for—

“(I) a change (not including a modification to the structure of the biological product) that results in a new indication, route of administration, dosing schedule, dosage form, delivery system, delivery device, or strength; or

“(II) a modification to the structure of the biological product that does not result in a change in safety, purity, or potency.

“(8) PEDIATRIC STUDIES.—

“(A) EXCLUSIVITY.—If, before or after licensure of the reference product under subsection (a) of this section, the Secretary determines that information relating to the use of such product in the pediatric population may produce health benefits in that population, the Secretary makes a written request for pediatric studies (which shall include a timeframe for completing such studies), the applicant or holder of the approved application agrees to the request, such studies are completed using appropriate formulations for each age group for which the study is requested within any such timeframe, and the reports thereof are submitted and accepted in accordance with section 505A(d)(3) of the Federal Food, Drug, and Cosmetic Act the period referred to in paragraph (7)(A) of

this subsection is deemed to be 12 years and 6 months rather than 12 years.

“(B) EXCEPTION.—The Secretary shall not extend the period referred to in subparagraph (A) of this paragraph if the determination under section 505A(d)(3) of the Federal Food, Drug, and Cosmetic Act is made later than 9 months prior to the expiration of such period.

“(C) APPLICATION OF CERTAIN PROVISIONS.—

The provisions of subsections (a), (d), (e), (f), (h), (j), (k), and (l) of section 505A of the Federal Food, Drug, and Cosmetic Act shall apply with respect to the extension of a period under subparagraph (A) of this paragraph to the same extent and in the same manner as such provisions apply with respect to the extension of a period under subsection (b) or (c) of section 505A of the Federal Food, Drug, and Cosmetic Act.

“(9) GUIDANCE DOCUMENTS.—

“(A) IN GENERAL.—The Secretary may, after opportunity for public comment, issue guidance in accordance, except as provided in subparagraph (B)(i), with section 701(h) of the Federal Food, Drug, and Cosmetic Act with respect to the licensure of a biological product under this subsection. Any such guidance may be general or specific.

“(B) PUBLIC COMMENT.—

“(i) IN GENERAL.—The Secretary shall provide the public an opportunity to comment on any proposed guidance issued under subparagraph (A) before issuing final guidance.

“(ii) INPUT REGARDING MOST VALUABLE GUIDANCE.—The Secretary shall establish a process through which the public may provide the Secretary with input regarding priorities for issuing guidance.

“(C) NO REQUIREMENT FOR APPLICATION CONSIDERATION.—The issuance (or non-issuance) of guidance under subparagraph (A) shall not preclude the review of, or action on, an application submitted under this subsection.

“(D) REQUIREMENT FOR PRODUCT CLASS-SPECIFIC GUIDANCE.—If the Secretary issues product class-specific guidance under subparagraph (A), such guidance shall include a description of—

“(i) the criteria that the Secretary will use to determine whether a biological product is highly similar to a reference product in such product class; and

“(ii) the criteria, if available, that the Secretary will use to determine whether a biological product meets the standards described in paragraph (4).

“(E) CERTAIN PRODUCT CLASSES.—

“(i) GUIDANCE.—The Secretary may indicate in a guidance document that the science and experience, as of the date of such guidance, with respect to a product or product class (not including any recombinant protein) does not allow approval of an application for a license as provided under this subsection for such product or product class.

“(ii) MODIFICATION OR REVERSAL.—The Secretary may issue a subsequent guidance document under subparagraph (A) to modify or reverse a guidance document under clause (i).

“(iii) NO EFFECT ON ABILITY TO DENY LICENSE.—Clause (i) shall not be construed to require the Secretary to approve a product with respect to which the Secretary has not indicated in a guidance document that the science and experience, as described in clause (i), does not allow approval of such an application.

“(10) NAMING.—The Secretary shall ensure that the labeling and packaging of each biological product licensed under this subsection bears a name that uniquely identifies the biological product and distinguishes it

from the reference product and any other biological products licensed under this subsection following evaluation against such reference product.

“(1) PATENT NOTICES; RELATIONSHIP TO FINAL APPROVAL.—

“(1) DEFINITIONS.—For the purposes of this subsection, the term—

“(A) ‘biosimilar product’ means the biological product that is the subject of the application under subsection (k);

“(B) ‘relevant patent’ means a patent that—

“(i) expires after the date specified in subsection (k)(7)(A) that applies to the reference product; and

“(ii) could reasonably be asserted against the applicant due to the unauthorized making, use, sale, or offer for sale within the United States, or the importation into the United States of the biosimilar product, or materials used in the manufacture of the biosimilar product, or due to a use of the biosimilar product in a method of treatment that is indicated in the application;

“(C) ‘reference product sponsor’ means the holder of an approved application or license for the reference product; and

“(D) ‘interested third party’ means a person other than the reference product sponsor that owns a relevant patent, or has the right to commence or participate in an action for infringement of a relevant patent.

“(2) HANDLING OF CONFIDENTIAL INFORMATION.—Any entity receiving confidential information pursuant to this subsection shall designate one or more individuals to receive such information. Each individual so designated shall execute an agreement in accordance with regulations promulgated by the Secretary. The regulations shall require each such individual to take reasonable steps to maintain the confidentiality of information received pursuant to this subsection and use the information solely for purposes authorized by this subsection. The obligations imposed on an individual who has received confidential information pursuant to this subsection shall continue until the individual returns or destroys the confidential information, a court imposes a protective order that governs the use or handling of the confidential information, or the party providing the confidential information agrees to other terms or conditions regarding the handling or use of the confidential information.

“(3) PUBLIC NOTICE BY SECRETARY.—Within 30 days of acceptance by the Secretary of an application filed under subsection (k), the Secretary shall publish a notice identifying—

“(A) the reference product identified in the application; and

“(B) the name and address of an agent designated by the applicant to receive notices pursuant to paragraph (4)(B).

“(4) EXCHANGES CONCERNING PATENTS.—

“(A) EXCHANGES WITH REFERENCE PRODUCT SPONSOR.—

“(i) Within 30 days of the date of acceptance of the application by the Secretary, the applicant shall provide the reference product sponsor with a copy of the application and information concerning the biosimilar product and its production. This information shall include a detailed description of the biosimilar product, its method of manufacture, and the materials used in the manufacture of the product.

“(ii) Within 60 days of the date of receipt of the information required to be provided under clause (i), the reference product sponsor shall provide to the applicant a list of relevant patents owned by the reference

product sponsor, or in respect of which the reference product sponsor has the right to commence an action of infringement or otherwise has an interest in the patent as such patent concerns the biosimilar product.

“(iii) If the reference product sponsor is issued or acquires an interest in a relevant patent after the date on which the reference product sponsor provides the list required by clause (ii) to the applicant, the reference product sponsor shall identify that patent to the applicant within 30 days of the date of issue of the patent, or the date of acquisition of the interest in the patent, as applicable.

“(B) EXCHANGES WITH INTERESTED THIRD PARTIES.—

“(i) At any time after the date on which the Secretary publishes a notice for an application under paragraph (3), any interested third party may provide notice to the designated agent of the applicant that the interested third party owns or has rights under 1 or more patents that may be relevant patents. The notice shall identify at least 1 patent and shall designate an individual who has executed an agreement in accordance with paragraph (2) to receive confidential information from the applicant.

“(ii) Within 30 days of the date of receiving notice pursuant to clause (i), the applicant shall send to the individual designated by the interested third party the information specified in subparagraph (A)(i), unless the applicant and interested third party otherwise agree.

“(iii) Within 90 days of the date of receiving information pursuant to clause (ii), the interested third party shall provide to the applicant a list of relevant patents which the interested third party owns, or in respect of which the interested third party has the right to commence or participate in an action for infringement.

“(iv) If the interested third party is issued or acquires an interest in a relevant patent after the date on which the interested third party provides the list required by clause (iii), the interested third party shall identify that patent within 30 days of the date of issue of the patent, or the date of acquisition of the interest in the patent, as applicable.

“(C) IDENTIFICATION OF BASIS FOR INFRINGEMENT.—For any patent identified under clause (ii) or (iii) of subparagraph (A) or under clause (iii) or (iv) of subparagraph (B), the reference product sponsor or the interested third party, as applicable—

“(i) shall explain in writing why the sponsor or the interested third party believes the relevant patent would be infringed by the making, use, sale, or offer for sale within the United States, or importation into the United States, of the biosimilar product or by a use of the biosimilar product in treatment that is indicated in the application;

“(ii) may specify whether the relevant patent is available for licensing; and

“(iii) shall specify the number and date of expiration of the relevant patent.

“(D) CERTIFICATION BY APPLICANT CONCERNING IDENTIFIED RELEVANT PATENTS.—Not later than 45 days after the date on which a patent is identified under clause (ii) or (iii) of subparagraph (A) or under clause (iii) or (iv) of subparagraph (B), the applicant shall send a written statement regarding each identified patent to the party that identified the patent. Such statement shall either—

“(i) state that the applicant will not commence marketing of the biosimilar product and has requested the Secretary to not grant final approval of the application before the date of expiration of the noticed patent; or

“(ii) provide a detailed written explanation setting forth the reasons why the applicant believes—

“(I) the making, use, sale, or offer for sale within the United States, or the importation into the United States, of the biosimilar product, or the use of the biosimilar product in a treatment indicated in the application, would not infringe the patent; or

“(II) the patent is invalid or unenforceable.

“(5) ACTION FOR INFRINGEMENT INVOLVING REFERENCE PRODUCT SPONSOR.—If an action for infringement concerning a relevant patent identified by the reference product sponsor under clause (ii) or (iii) of paragraph (4)(A), or by an interested third party under clause (iii) or (iv) of paragraph (4)(B), is brought within 60 days of the date of receipt of a statement under paragraph (4)(D)(ii), and the court in which such action has been commenced determines the patent is infringed prior to the date applicable under subsection (k)(7)(A) or (k)(8), the Secretary shall make approval of the application effective on the day after the date of expiration of the patent that has been found to be infringed. If more than one such patent is found to be infringed by the court, the approval of the application shall be made effective on the day after the date that the last such patent expires.

“(6) NOTIFICATION OF AGREEMENTS.—

“(A) REQUIREMENTS.—

“(i) AGREEMENT BETWEEN BIOSIMILAR PRODUCT APPLICANT AND REFERENCE PRODUCT SPONSOR.—If a biosimilar product applicant under subsection (k) and the reference product sponsor enter into an agreement described in subparagraph (B), the applicant and sponsor shall each file the agreement in accordance with subparagraph (C).

“(ii) AGREEMENT BETWEEN BIOSIMILAR PRODUCT APPLICANTS.—If 2 or more biosimilar product applicants submit an application under subsection (k) for biosimilar products with the same reference product and enter into an agreement described in subparagraph (B), the applicants shall each file the agreement in accordance with subparagraph (C).

“(B) SUBJECT MATTER OF AGREEMENT.—An agreement described in this subparagraph—

“(i) is an agreement between the biosimilar product applicant under subsection (k) and the reference product sponsor or between 2 or more biosimilar product applicants under subsection (k) regarding the manufacture, marketing, or sale of—

“(I) the biosimilar product (or biosimilar products) for which an application was submitted; or

“(II) the reference product;

“(ii) includes any agreement between the biosimilar product applicant under subsection (k) and the reference product sponsor or between 2 or more biosimilar product applicants under subsection (k) that is contingent upon, provides a contingent condition for, or otherwise relates to an agreement described in clause (i); and

“(iii) excludes any agreement that solely concerns—

“(I) purchase orders for raw material supplies;

“(II) equipment and facility contracts;

“(III) employment or consulting contracts; or

“(IV) packaging and labeling contracts.

“(C) FILING.—

“(i) IN GENERAL.—The text of an agreement required to be filed by subparagraph (A) shall be filed with the Assistant Attorney General and the Federal Trade Commission not later than—

“(I) 10 business days after the date on which the agreement is executed; and

“(II) prior to the date of the first commercial marketing of, for agreements described in subparagraph (A)(i), the biosimilar product that is the subject of the application or, for agreements described in subparagraph (A)(ii), any biosimilar product that is the subject of an application described in such subparagraph.

“(ii) IF AGREEMENT NOT REDUCED TO TEXT.—If an agreement required to be filed by subparagraph (A) has not been reduced to text, the persons required to file the agreement shall each file written descriptions of the agreement that are sufficient to disclose all the terms and conditions of the agreement.

“(iii) CERTIFICATION.—The chief executive officer or the company official responsible for negotiating any agreement required to be filed by subparagraph (A) shall include in any filing under this paragraph a certification as follows: ‘I declare under penalty of perjury that the following is true and correct: The materials filed with the Federal Trade Commission and the Department of Justice under section 351(l)(6) of the Public Health Service Act, with respect to the agreement referenced in this certification: (1) represent the complete, final, and exclusive agreement between the parties; (2) include any ancillary agreements that are contingent upon, provide a contingent condition for, or are otherwise related to, the referenced agreement; and (3) include written descriptions of any oral agreements, representations, commitments, or promises between the parties that are responsive to such section and have not been reduced to writing.’.

“(D) DISCLOSURE EXEMPTION.—Any information or documentary material filed with the Assistant Attorney General or the Federal Trade Commission pursuant to this paragraph shall be exempt from disclosure under section 552 of title 5, United States Code, and no such information or documentary material may be made public, except as may be relevant to any administrative or judicial action or proceeding. Nothing in this subparagraph prevents disclosure of information or documentary material to either body of the Congress or to any duly authorized committee or subcommittee of the Congress.

“(E) ENFORCEMENT.—

“(i) CIVIL PENALTY.—Any person that violates a provision of this paragraph shall be liable for a civil penalty of not more than \$11,000 for each day on which the violation occurs. Such penalty may be recovered in a civil action—

“(I) brought by the United States; or

“(II) brought by the Federal Trade Commission in accordance with the procedures established in section 16(a)(1) of the Federal Trade Commission Act.

“(ii) COMPLIANCE AND EQUITABLE RELIEF.—If any person violates any provision of this paragraph, the United States district court may order compliance, and may grant such other equitable relief as the court in its discretion determines necessary or appropriate, upon application of the Assistant Attorney General or the Federal Trade Commission.

“(F) RULEMAKING.—The Federal Trade Commission, with the concurrence of the Assistant Attorney General and by rule in accordance with section 553 of title 5, United States Code, consistent with the purposes of this paragraph—

“(i) may define the terms used in this paragraph;

“(ii) may exempt classes of persons or agreements from the requirements of this paragraph; and

“(iii) may prescribe such other rules as may be necessary and appropriate to carry out the purposes of this paragraph.

“(G) SAVINGS CLAUSE.—Any action taken by the Assistant Attorney General or the Federal Trade Commission, or any failure of the Assistant Attorney General or the Commission to take action, under this paragraph shall not at any time bar any proceeding or any action with respect to any agreement between a biosimilar product applicant under subsection (k) and the reference product sponsor, or any agreement between biosimilar product applicants under subsection (k), under any other provision of law, nor shall any filing under this paragraph constitute or create a presumption of any violation of any competition laws.”.

(b) DEFINITIONS.—Section 351(i) of the Public Health Service Act (42 U.S.C. 262(i)) is amended—

(1) by striking “In this section, the term ‘biological product’ means” and inserting the following: “In this section:

“(1) The term ‘biological product’ means”;

(2) in paragraph (1), as so designated, by inserting “protein (except any chemically synthesized polypeptide),” after “allergenic product,”; and

(3) by adding at the end the following:

“(2) The term ‘biosimilar’ or ‘biosimilarity’, in reference to a biological product that is the subject of an application under subsection (k), means—

“(A) that the biological product is highly similar to the reference product notwithstanding minor differences in clinically inactive components; and

“(B) there are no clinically meaningful differences between the biological product and the reference product in terms of the safety, purity, and potency of the product.

“(3) The term ‘interchangeable’ or ‘interchangeability’, in reference to a biological product that is shown to meet the standards described in subsection (k)(4), means that the biological product may be substituted for the reference product without the intervention of the health care provider who prescribed the reference product.

“(4) The term ‘reference product’ means the single biological product licensed under subsection (a) against which a biological product is evaluated in an application submitted under subsection (k).”.

(c) PRODUCTS PREVIOUSLY APPROVED UNDER SECTION 505.—

(1) REQUIREMENT TO FOLLOW SECTION 351.—Except as provided in paragraph (2), an application for a biological product shall be submitted under section 351 of the Public Health Service Act (42 U.S.C. 262) (as amended by this Act).

(2) EXCEPTION.—An application for a biological product may be submitted under section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355) if—

(A) such biological product is in a product class for which a biological product in such product class is the subject of an application approved under such section 505 not later than the date of enactment of this Act; and

(B) such application—

(i) has been submitted to the Secretary of Health and Human Services (referred to in this Act as the “Secretary”) before the date of enactment of this Act; or

(ii) is submitted to the Secretary not later than the date that is 10 years after the date of enactment of this Act.

(3) LIMITATION.—Notwithstanding paragraph (2), an application for a biological product may not be submitted under section 505 of the Federal Food, Drug, and Cosmetic

Act (21 U.S.C. 355) if there is another biological product approved under subsection (a) of section 351 of the Public Health Service Act that could be a reference product with respect to such application (within the meaning of such section 351) if such application were submitted under subsection (k) of such section 351.

(4) DEEMED APPROVED UNDER SECTION 351.—An approved application for a biological product under section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355) shall be deemed to be a license for the biological product under such section 351 on the date that is 10 years after the date of enactment of this Act.

(5) DEFINITIONS.—For purposes of this subsection, the term “biological product” has the meaning given such term under section 351 of the Public Health Service Act (42 U.S.C. 262) (as amended by this Act).

#### SEC. 2576. FEES RELATING TO BIOSIMILAR BIOLOGICAL PRODUCTS.

Subparagraph (B) of section 735(1) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 379g(1)) is amended by inserting “, including licensure of a biological product under section 351(k) of such Act” before the period at the end.

#### SEC. 2577. AMENDMENTS TO CERTAIN PATENT PROVISIONS.

(a) Section 271(e)(2) of title 35, United States Code is amended—

(1) in subparagraph (A), by striking “or” after “patent,”;

(2) in subparagraph (B), by adding “or” after the comma at the end;

(3) by inserting the following after subparagraph (B):

“(C) a statement under section 351(l)(4)(D)(ii) of the Public Health Service Act,”; and

(4) in the matter following subparagraph (C) (as added by paragraph (3)), by inserting before the period the following: “, or if the statement described in subparagraph (C) is provided in connection with an application to obtain a license to engage in the commercial manufacture, use, or sale of a biological product claimed in a patent or the use of which is claimed in a patent before the expiration of such patent”.

(b) Section 271(e)(4) of title 35, United States Code, is amended by striking “in paragraph (2)” in both places it appears and inserting “in paragraph (2)(A) or (2)(B)”.

#### Subtitle D—Community Living Assistance Services and Supports

#### SEC. 2581. ESTABLISHMENT OF NATIONAL VOLUNTARY INSURANCE PROGRAM FOR PURCHASING COMMUNITY LIVING ASSISTANCE SERVICES AND SUPPORT (CLASS PROGRAM).

(a) ESTABLISHMENT OF CLASS PROGRAM.—The Public Health Service Act (42 U.S.C. 201 et seq.), as amended by section 2301, is amended by adding at the end the following:

#### “TITLE XXXII—COMMUNITY LIVING ASSISTANCE SERVICES AND SUPPORTS

##### “SEC. 3201. PURPOSE.

“The purpose of this title is to establish a national voluntary insurance program for purchasing community living assistance services and supports in order to—

“(1) provide individuals with functional limitations with tools that will allow them to maintain their personal and financial independence and live in the community through a new financing strategy for community living assistance services and supports;

“(2) establish an infrastructure that will help address the Nation’s community living assistance services and supports needs;

“(3) alleviate burdens on family caregivers; and

“(4) address institutional bias by providing a financing mechanism that supports personal choice and independence to live in the community.

#### “SEC. 3202. DEFINITIONS.

“In this title:

“(1) **ACTIVE ENROLLEE.**—The term ‘active enrollee’ means an individual who is enrolled in the CLASS program in accordance with section 3204 and who has paid any premiums due to maintain such enrollment.

“(2) **ACTIVELY EMPLOYED.**—The term ‘actively employed’ means an individual who—

“(A) is reporting for work at the individual’s usual place of employment or at another location to which the individual is required to travel because of the individual’s employment (or in the case of an individual who is a member of the uniformed services, is on active duty and is physically able to perform the duties of the individual’s position); and

“(B) is able to perform all the usual and customary duties of the individual’s employment on the individual’s regular work schedule.

“(3) **ACTIVITIES OF DAILY LIVING.**—The term ‘activities of daily living’ has the meaning given the term in section 7702B(c)(2)(B) of the Internal Revenue Code of 1986.

“(4) **CLASS PROGRAM.**—The term ‘CLASS program’ means the program established under this title.

“(5) **ELIGIBILITY ASSESSMENT SYSTEM.**—The term ‘Eligibility Assessment System’ means the entity designated by the Secretary under section 3205(a)(2)(A)(i).

“(6) **ELIGIBLE BENEFICIARY.**—

“(A) **IN GENERAL.**—The term ‘eligible beneficiary’ means any individual who is an active enrollee in the CLASS program and, as of the date described in subparagraph (B)—

“(i) has paid premiums for enrollment in such program for at least 60 months;

“(ii) has earned, for each calendar year that occurs during the first 60 months for which the individual has paid premiums for enrollment in the program, at least an amount equal to the amount of wages and self-employment income which an individual must have in order to be credited with a quarter of coverage under section 213(d) of the Social Security Act for that year; and

“(iii) has paid premiums for enrollment in such program for at least 24 consecutive months, if a lapse in premium payments of more than 3 months has occurred during the period that begins on the date of the individual’s enrollment and ends on the date of such determination.

“(B) **DATE DESCRIBED.**—For purposes of subparagraph (A), the date described in this subparagraph is the date on which the individual is determined to have a functional limitation described in section 3203(a)(1)(C) that is expected to last for a continuous period of more than 90 days.

“(C) **REGULATIONS.**—The Secretary shall promulgate regulations specifying exceptions to the minimum earnings requirements under subparagraph (A)(ii) for purposes of being considered an eligible beneficiary for certain populations.

“(7) **HOSPITAL; NURSING FACILITY; INTERMEDIATE CARE FACILITY FOR THE MENTALLY RETARDED; INSTITUTION FOR MENTAL DISEASES.**—The terms ‘hospital’, ‘nursing facility’, ‘intermediate care facility for the mentally retarded’, and ‘institution for mental diseases’ have the meanings given such terms for purposes of Medicaid.

“(8) **CLASS INDEPENDENCE ADVISORY COUNCIL.**—The term ‘CLASS Independence Advisory Council’ or ‘Council’ means the Advisory Council established under section 3207 to advise the Secretary.

“(9) **CLASS INDEPENDENCE BENEFIT PLAN.**—The term ‘CLASS Independence Benefit Plan’ means the benefit plan developed and designated by the Secretary in accordance with section 3203.

“(10) **CLASS INDEPENDENCE FUND.**—The term ‘CLASS Independence Fund’ or ‘Fund’ means the fund established under section 3206.

“(11) **MEDICAID.**—The term ‘Medicaid’ means the program established under title XIX of the Social Security Act.

“(12) **PROTECTION AND ADVOCACY SYSTEM.**—The term ‘Protection and Advocacy System’ means the system for each State established under section 143 of the Developmental Disabilities Assistance and Bill of Rights Act of 2000.

#### “SEC. 3203. CLASS INDEPENDENCE BENEFIT PLAN.

“(a) **PROCESS FOR DEVELOPMENT.**—

“(1) **IN GENERAL.**—The Secretary, in consultation with appropriate actuaries and other experts, shall develop at least 3 actuarially sound benefit plans as alternatives for consideration for designation by the Secretary as the CLASS Independence Benefit Plan under which eligible beneficiaries shall receive benefits under this title. Each of the plan alternatives developed shall be designed to provide eligible beneficiaries with the benefits described in section 3205 consistent with the following requirements:

“(A) **PREMIUMS.**—Beginning with the first year of the CLASS program, and for each year thereafter, the Secretary shall establish all premiums to be paid by enrollees for the year based on an actuarial analysis of the 75-year costs of the program that ensures solvency throughout such 75-year period.

“(B) **VESTING PERIOD.**—A 5-year vesting period for eligibility for benefits.

“(C) **BENEFIT TRIGGERS.**—A benefit trigger for provision of benefits that requires a determination that an individual has a functional limitation, as certified by a licensed health care practitioner, described in any of the following clauses that is expected to last for a continuous period of more than 90 days:

“(i) The individual is determined to be unable to perform at least the minimum number (which may be 2 or 3) of activities of daily living as are required under the plan for the provision of benefits without substantial assistance (as defined by the Secretary) from another individual.

“(ii) The individual requires substantial supervision to protect the individual from threats to health and safety due to substantial cognitive impairment.

“(iii) The individual has a level of functional limitation similar (as determined under regulations prescribed by the Secretary) to the level of functional limitation described in clause (i) or (ii).

“(D) **CASH BENEFIT.**—Payment of a cash benefit that satisfies the following requirements:

“(i) **MINIMUM REQUIRED AMOUNT.**—The benefit amount provides an eligible beneficiary with not less than an average of \$50 per day (as determined based on the reasonably expected distribution of beneficiaries receiving benefits at various benefit levels).

“(ii) **AMOUNT SCALED TO FUNCTIONAL ABILITY.**—The benefit amount is varied based on a scale of functional ability, with not less than 2, and not more than 6, benefit level amounts.

“(iii) **DAILY OR WEEKLY.**—The benefit is paid on a daily or weekly basis.

“(iv) **NO LIFETIME OR AGGREGATE LIMIT.**—The benefit is not subject to any lifetime or aggregate limit.

“(2) **REVIEW AND RECOMMENDATION BY THE CLASS INDEPENDENCE ADVISORY COUNCIL.**—The CLASS Independence Advisory Council shall—

“(A) evaluate the alternative benefit plans developed under paragraph (1); and

“(B) recommend for designation as the CLASS Independence Benefit Plan for offering to the public the plan that the Council determines best balances price and benefits to meet enrollees’ needs in an actuarially sound manner, while optimizing the probability of the long-term sustainability of the CLASS program.

“(3) **DESIGNATION BY THE SECRETARY.**—Not later than October 1, 2012, the Secretary, taking into consideration the recommendation of the CLASS Independence Advisory Council under paragraph (2)(B), shall designate a benefit plan as the CLASS Independence Benefit Plan. The Secretary shall publish such designation, along with details of the plan and the reasons for the selection by the Secretary, in a final rule that allows for a period of public comment.

“(b) **ADDITIONAL PREMIUM REQUIREMENTS.**—

“(1) **ADJUSTMENT OF PREMIUMS.**—

“(A) **IN GENERAL.**—Except as provided in subparagraphs (B), (C), (D), and (E), the amount of the monthly premium determined for an individual upon such individual’s enrollment in the CLASS program shall remain the same for as long as the individual is an active enrollee in the program.

“(B) **RECALCULATED PREMIUM IF REQUIRED FOR PROGRAM SOLVENCY.**—

“(i) **IN GENERAL.**—Subject to clause (ii), if the Secretary determines, based on the most recent report of the Board of Trustees of the CLASS Independence Fund, the advice of the CLASS Independence Advisory Council, and the annual report of the Inspector General of the Department of Health and Human Services, and waste, fraud, and abuse, or such other information as the Secretary determines appropriate, that the monthly premiums and income to the CLASS Independence Fund for a year are projected to be insufficient with respect to the 20-year period that begins with that year, the Secretary shall adjust the monthly premiums for individuals enrolled in the CLASS program as necessary.

“(ii) **EXEMPTION FROM INCREASE.**—Any increase in a monthly premium imposed as result of a determination described in clause (i) shall not apply with respect to the monthly premium of any active enrollee who—

“(I) has attained age 65;

“(II) has paid premiums for enrollment in the program for at least 20 years; and

“(III) is not actively employed.

“(C) **RECALCULATED PREMIUM IF REENROLLMENT AFTER MORE THAN A 3-MONTH LAPSE.**—

“(i) **IN GENERAL.**—The reenrollment of an individual after a 90-day period during which the individual failed to pay the monthly premium required to maintain the individual’s enrollment in the CLASS program shall be treated as an initial enrollment for purposes of age-adjusting the premium for enrollment in the program.

“(ii) **CREDIT FOR PRIOR MONTHS IF REENROLLED WITHIN 5 YEARS.**—An individual who reenrolls in the CLASS program after such a 90-day period and before the end of the 5-year period that begins with the first month for which the individual failed to pay the monthly premium required to maintain

the individual's enrollment in the program shall be—

“(I) credited with any months of paid premiums that accrued prior to the individual's lapse in enrollment; and

“(II) notwithstanding the total amount of any such credited months, required to satisfy section 3202(6)(A)(ii) before being eligible to receive benefits.

“(D) PENALTY FOR REENROLLMENT AFTER 5-YEAR LAPSE.—In the case of an individual who reenrolls in the CLASS program after the end of the 5-year period described in subparagraph (C)(ii), the monthly premium required for the individual shall be the age-adjusted premium that would be applicable to an initially enrolling individual who is the same age as the reenrolling individual, increased by the greater of—

“(i) an amount that the Secretary determines is actuarially sound for each month that occurs during the period that begins with the first month for which the individual failed to pay the monthly premium required to maintain the individual's enrollment in the CLASS program and ends with the month preceding the month in which the reenrollment is effective; or

“(ii) 1 percent of the applicable age-adjusted premium for each such month occurring in such period.

“(2) ADMINISTRATIVE EXPENSES.—In determining the monthly premiums for the CLASS program, the Secretary may factor in costs for administering the program, not to exceed—

“(A) in the case of the first 5 years in which the program is in effect under this title, an amount equal to 3 percent of all premiums paid during each such year; and

“(B) in the case of subsequent years, an amount equal to 5 percent of the total amount of all expenditures (including benefits paid) under this title with respect to that year.

“(3) NO UNDERWRITING REQUIREMENTS.—No underwriting (other than on the basis of age in accordance with paragraph (2)) shall be used to—

“(A) determine the monthly premium for enrollment in the CLASS program; or

“(B) prevent an individual from enrolling in the program.

#### “SEC. 3204. ENROLLMENT AND DISENROLLMENT REQUIREMENTS.

“(A) AUTOMATIC ENROLLMENT.—

“(1) IN GENERAL.—Subject to paragraph (2), the Secretary shall establish procedures under which each individual described in subsection (c) shall be automatically enrolled in the CLASS program by an employer of such individual under rules similar to the rules of sections 401(k)(13) and 414(w) of the Internal Revenue Code of 1986.

“(2) ALTERNATIVE ENROLLMENT PROCEDURES.—The procedures established under paragraph (1) shall provide for an alternative enrollment process for an individual described in subsection (c) in the case of such an individual—

“(A) who is self-employed;

“(B) who has more than 1 employer;

“(C) whose employer does not elect to participate in the automatic enrollment process established by the Secretary; or

“(D) who is a spouse described in subsection (c)(2) of who is not subject to automatic enrollment.

“(3) ADMINISTRATION.—

“(A) IN GENERAL.—The Secretary shall, by regulation, establish procedures to—

“(i) ensure that an individual is not automatically enrolled in the CLASS program by more than 1 employer; and

“(ii) allow for an individual's employer to deduct a premium for a spouse described in subsection (c)(1)(B) who is not subject to automatic enrollment.

“(B) FORM.—Enrollment in the CLASS program shall be made in such manner as the Secretary may prescribe in order to ensure ease of administration.

“(b) ELECTION TO OPT-OUT.—An individual described in subsection (c) may elect to waive enrollment in the CLASS program at any time in such form and manner as the Secretary shall prescribe.

“(c) INDIVIDUAL DESCRIBED.—For purposes of enrolling in the CLASS program, an individual described in this paragraph is—

“(1) an individual—

“(A) who has attained age 18;

“(B) who receives wages on which there is imposed a tax under section 3101(a) or 3201(a) of the Internal Revenue Code of 1986;

“(C) who is actively employed; and

“(D) who is not—

“(i) a patient in a hospital or nursing facility, an intermediate care facility for the mentally retarded, or an institution for mental diseases and receiving medical assistance under Medicaid; or

“(ii) confined in a jail, prison, other penal institution or correctional facility, or by court order pursuant to conviction of a criminal offense or in connection with a verdict or finding described in section 202(x)(1)(A)(ii) of the Social Security Act; or

“(2) the spouse of an individual described in paragraph (1) and who would be an individual so described but for subparagraph (B) or (C) of that paragraph.

“(d) RULE OF CONSTRUCTION.—Nothing in this title shall be construed as requiring an active enrollee to continue to satisfy subparagraph (B) or (C) of subsection (c)(1) in order to maintain enrollment in the CLASS program.

“(e) PAYMENT.—

“(1) PAYROLL DEDUCTION.—An amount equal to the monthly premium for the enrollment in the CLASS program of an individual shall be deducted from the wages of such individual in accordance with such procedures as the Secretary shall establish for employers who elect to deduct and withhold such premiums on behalf of enrolled employees.

“(2) ALTERNATIVE PAYMENT MECHANISM.—The Secretary shall establish alternative procedures for the payment of monthly premiums by an individual enrolled in the CLASS program who does not have an employer who elects to deduct and withhold premiums in accordance with subparagraph (A).

“(f) TRANSFER OF PREMIUMS COLLECTED.—

“(1) IN GENERAL.—During each calendar year the Secretary of the Treasury shall deposit into the CLASS Independence Fund a total amount equal, in the aggregate, to 100 percent of the premiums collected during that year.

“(2) TRANSFERS BASED ON ESTIMATES.—The amount deposited pursuant to paragraph (1) shall be transferred in at least monthly payments to the CLASS Independence Fund on the basis of estimates by the Secretary and certified to the Secretary of the Treasury of the amounts collected in accordance with this section. Proper adjustments shall be made in amounts subsequently transferred to the Fund to the extent prior estimates were in excess of, or were less than, actual amounts collected.

“(g) OTHER ENROLLMENT AND DISENROLLMENT OPPORTUNITIES.—The Secretary shall establish procedures under which—

“(1) an individual who, in the year of the individual's initial eligibility to enroll in the CLASS program, has elected to waive enrollment in the program, is eligible to elect to enroll in the program, in such form and manner as the Secretary shall establish, only during an open enrollment period established by the Secretary that is specific to the individual and that may not occur more frequently than biennially after the date on which the individual first elected to waive enrollment in the program; and

“(2) an individual shall only be permitted to disenroll from the program during an annual disenrollment period established by the Secretary and in such form and manner as the Secretary shall establish.

#### “SEC. 3205. BENEFITS.

“(a) DETERMINATION OF ELIGIBILITY.—

“(1) APPLICATION FOR RECEIPT OF BENEFITS.—The Secretary shall establish procedures under which an active enrollee shall apply for receipt of benefits under the CLASS Independence Benefit Plan.

“(2) ELIGIBILITY ASSESSMENTS.—

“(A) IN GENERAL.—Not later than January 1, 2012, the Secretary shall—

“(i) designate an entity (other than a service with which the Commissioner of Social Security has entered into an agreement, with respect to any State, to make disability determinations for purposes of title II or XVI of the Social Security Act) to serve as an Eligibility Assessment System by providing for eligibility assessments of active enrollees who apply for receipt of benefits;

“(ii) enter into an agreement with the Protection and Advocacy System for each State to provide advocacy services in accordance with subsection (d); and

“(iii) enter into an agreement with public and private entities to provide advice and assistance counseling in accordance with subsection (e).

“(B) REGULATIONS.—The Secretary shall promulgate regulations to develop an expedited nationally equitable eligibility determination process, as certified by a licensed health care practitioner, an appeals process, and a redetermination process, as certified by a licensed health care practitioner, including whether an applicant is eligible for a cash benefit under the program and if so, the amount of the cash benefit (in accordance with the sliding scale established under the plan).

“(C) PRESUMPTIVE ELIGIBILITY FOR CERTAIN INSTITUTIONALIZED ENROLLEES PLANNING TO DISCHARGE.—An active enrollee shall be deemed presumptively eligible if the enrollee—

“(i) has applied for, and attests is eligible for, the maximum cash benefit available under the sliding scale established under the CLASS Independence Benefit Plan;

“(ii) is a patient in a hospital (but only if the hospitalization is for long-term care), nursing facility, intermediate care facility for the mentally retarded, or an institution for mental diseases; and

“(iii) is in the process of, or about to being the process of, planning to discharge from the hospital, facility, or institution, or within 60 days from the date of discharge from the hospital, facility, or institution.

“(D) APPEALS.—The Secretary shall establish procedures under which an applicant for benefits under the CLASS Independence Benefit Plan shall be guaranteed the right to appeal an adverse determination.

“(b) BENEFITS.—An eligible beneficiary shall receive the following benefits under the CLASS Independence Benefit Plan:

“(1) CASH BENEFIT.—A cash benefit established by the Secretary in accordance with



the requirements of section 3203(a)(1)(D) that—

“(A) the first year in which beneficiaries receive the benefits under the plan, is not less than the average dollar amount specified in clause (i) of such section; and

“(B) for any subsequent year, is not less than the average per day dollar limit applicable under this subparagraph for the preceding year, increased by the percentage increase in the consumer price index for all urban consumers (U.S. city average) over the previous year.

“(2) ADVOCACY SERVICES.—Advocacy services in accordance with subsection (d).

“(3) ADVICE AND ASSISTANCE COUNSELING.—Advice and assistance counseling in accordance with subsection (e).

“(4) ADMINISTRATIVE EXPENSES.—Advocacy services and advice and assistance counseling services under paragraphs (2) and (3) of this subsection shall be included as administrative expenses under section 3203(b)(2).

“(c) PAYMENT OF BENEFITS.—

“(1) LIFE INDEPENDENCE ACCOUNT.—

“(A) IN GENERAL.—The Secretary shall establish procedures for administering the provision of benefits to eligible beneficiaries under the CLASS Independence Benefit Plan, including the payment of the cash benefit for the beneficiary into a Life Independence Account established by the Secretary on behalf of each eligible beneficiary.

“(B) USE OF CASH BENEFITS.—Cash benefits paid into a Life Independence Account of an eligible beneficiary shall be used to purchase nonmedical services and supports that the beneficiary needs to maintain his or her independence at home or in another residential setting of their choice in the community, including (but not limited to) home modifications, assistive technology, accessible transportation, homemaker services, respite care, personal assistance services, home care aides, and nursing support. Nothing in the preceding sentence shall prevent an eligible beneficiary from using cash benefits paid into a Life Independence Account for obtaining assistance with decision-making concerning medical care, including the right to accept or refuse medical or surgical treatment and the right to formulate advance directives or other written instructions recognized under State law, such as a living will or durable power of attorney for health care, in the case that an injury or illness causes the individual to be unable to make health care decisions.

“(C) ELECTRONIC MANAGEMENT OF FUNDS.—The Secretary shall establish procedures for—

“(i) crediting an account established on behalf of a beneficiary with the beneficiary's cash daily benefit;

“(ii) allowing the beneficiary to access such account through debit cards; and

“(iii) accounting for withdrawals by the beneficiary from such account.

“(D) PRIMARY PAYOR RULES FOR BENEFICIARIES WHO ARE ENROLLED IN MEDICAID.—In the case of an eligible beneficiary who is enrolled in Medicaid, the following payment rules shall apply:

“(i) INSTITUTIONALIZED BENEFICIARY.—If the beneficiary is a patient in a hospital, nursing facility, intermediate care facility for the mentally retarded, or an institution for mental diseases, the beneficiary shall retain an amount equal to 5 percent of the beneficiary's daily or weekly cash benefit (as applicable) (which shall be in addition to the amount of the beneficiary's personal needs allowance provided under Medicaid), and the remainder of such benefit shall be applied to-

ward the facility's cost of providing the beneficiary's care, and Medicaid shall provide secondary coverage for such care.

“(ii) BENEFICIARIES RECEIVING HOME AND COMMUNITY-BASED SERVICES.—

“(I) 50 PERCENT OF BENEFIT RETAINED BY BENEFICIARY.—Subject to subclause (II), if a beneficiary is receiving medical assistance under Medicaid for home and community-based services, the beneficiary shall retain an amount equal to 50 percent of the beneficiary's daily or weekly cash benefit (as applicable), and the remainder of the daily or weekly cash benefit shall be applied toward the cost to the State of providing such assistance (and shall not be used to claim Federal matching funds under Medicaid), and Medicaid shall provide secondary coverage for the remainder of any costs incurred in providing such assistance.

“(II) REQUIREMENT FOR STATE OFFSET.—A State shall be paid the remainder of a beneficiary's daily or weekly cash benefit under subclause (I) only if the State home and community-based waiver under section 1115 of the Social Security Act or subsection (c) or (d) of section 1915 of such Act, or the State plan amendment under subsection (i) of such section does not include a waiver of the requirements of section 1902(a)(1) of the Social Security Act (relating to statewideness) or of section 1902(a)(10)(B) of such Act (relating to comparability) and the State offers at a minimum case management services, personal care services, habilitation services, and respite care under such a waiver or State plan amendment.

“(III) DEFINITION OF HOME AND COMMUNITY-BASED SERVICES.—In this clause, the term ‘home and community-based services’ means any services which may be offered under a home and community-based waiver authorized for a State under section 1115 of the Social Security Act or subsection (c) or (d) of section 1915 of such Act or under a State plan amendment under subsection (i) of such section.

“(iii) BENEFICIARIES ENROLLED IN PROGRAMS OF ALL-INCLUSIVE CARE FOR THE ELDERLY (PACE).—

“(I) IN GENERAL.—Subject to subclause (II), if a beneficiary is receiving medical assistance under Medicaid for PACE program services under section 1934 of the Social Security Act, the beneficiary shall retain an amount equal to 50 percent of the beneficiary's daily or weekly cash benefit (as applicable), and the remainder of the daily or weekly cash benefit shall be applied toward the cost to the State of providing such assistance (and shall not be used to claim Federal matching funds under Medicaid), and Medicaid shall provide secondary coverage for the remainder of any costs incurred in providing such assistance.

“(II) INSTITUTIONALIZED RECIPIENTS OF PACE PROGRAM SERVICES.—If a beneficiary receiving assistance under Medicaid for PACE program services is a patient in a hospital, nursing facility, intermediate care facility for the mentally retarded, or an institution for mental diseases, the beneficiary shall be treated as in institutionalized beneficiary under clause (i).

“(2) AUTHORIZED REPRESENTATIVES.—

“(A) IN GENERAL.—The Secretary shall establish procedures to allow access to a beneficiary's cash benefits by an authorized representative of the eligible beneficiary on whose behalf such benefits are paid.

“(B) QUALITY ASSURANCE AND PROTECTION AGAINST FRAUD AND ABUSE.—The procedures established under subparagraph (A) shall ensure that authorized representatives of eligi-

ble beneficiaries comply with standards of conduct established by the Secretary, including standards requiring that such representatives provide quality services on behalf of such beneficiaries, do not have conflicts of interest, and do not misuse benefits paid on behalf of such beneficiaries or otherwise engage in fraud or abuse.

“(3) COMMENCEMENT OF BENEFITS.—Benefits shall be paid to, or on behalf of, an eligible beneficiary beginning with the first month in which an application for such benefits is approved.

“(4) ROLLOVER OPTION FOR LUMP-SUM PAYMENT.—An eligible beneficiary may elect to—

“(A) defer payment of their daily or weekly benefit and to rollover any such deferred benefits from month-to-month, but not from year-to-year; and

“(B) receive a lump-sum payment of such deferred benefits in an amount that may not exceed the lesser of—

“(i) the total amount of the accrued deferred benefits; or

“(ii) the applicable annual benefit.

“(5) PERIOD FOR DETERMINATION OF ANNUAL BENEFITS.—

“(A) IN GENERAL.—The applicable period for determining with respect to an eligible beneficiary the applicable annual benefit and the amount of any accrued deferred benefits is the 12-month period that commences with the first month in which the beneficiary began to receive such benefits, and each 12-month period thereafter.

“(B) INCLUSION OF INCREASED BENEFITS.—The Secretary shall establish procedures under which cash benefits paid to an eligible beneficiary that increase or decrease as a result of a change in the functional status of the beneficiary before the end of a 12-month benefit period shall be included in the determination of the applicable annual benefit paid to the eligible beneficiary.

“(C) RECOUPMENT OF UNPAID, ACCRUED BENEFITS.—

“(i) IN GENERAL.—The Secretary, in coordination with the Secretary of the Treasury, shall recoup any accrued benefits in the event of—

“(I) the death of a beneficiary; or

“(II) the failure of a beneficiary to elect under paragraph (4)(B) to receive such benefits as a lump-sum payment before the end of the 12-month period in which such benefits accrued.

“(ii) PAYMENT INTO CLASS INDEPENDENCE FUND.—Any benefits recouped in accordance with clause (i) shall be paid into the CLASS Independence Fund and used in accordance with section 3206.

“(6) REQUIREMENT TO RECERTIFY ELIGIBILITY FOR RECEIPT OF BENEFITS.—An eligible beneficiary shall periodically, as determined by the Secretary—

“(A) recertify by submission of medical evidence the beneficiary's continued eligibility for receipt of benefits; and

“(B) submit records of expenditures attributable to the aggregate cash benefit received by the beneficiary during the preceding year.

“(7) SUPPLEMENT, NOT SUPPLANT OTHER HEALTH CARE BENEFITS.—Subject to the Medicaid payment rules under paragraph (1)(D), benefits received by an eligible beneficiary shall supplement, but not supplant, other health care benefits for which the beneficiary is eligible under Medicaid or any other Federally funded program that provides health care benefits or assistance.

“(d) ADVOCACY SERVICES.—An agreement entered into under subsection (a)(2)(A)(ii) shall require the Protection and Advocacy System for the State to—

“(1) assign, as needed, an advocacy counselor to each eligible beneficiary that is covered by such agreement and who shall provide an eligible beneficiary with—

“(A) information regarding how to access the appeals process established for the program;

“(B) assistance with respect to the annual recertification and notification required under subsection (c)(6); and

“(C) such other assistance with obtaining services as the Secretary, by regulation, shall require; and

“(2) ensure that the System and such counselors comply with the requirements of subsection (h).

“(e) **ADVICE AND ASSISTANCE COUNSELING.**—An agreement entered into under subsection (a)(2)(A)(iii) shall require the entity to assign, as requested by an eligible beneficiary that is covered by such agreement, an advice and assistance counselor who shall provide an eligible beneficiary with information regarding—

“(1) accessing and coordinating long-term services and supports in the most integrated setting;

“(2) possible eligibility for other benefits and services;

“(3) development of a service and support plan;

“(4) information about programs established under the Assistive Technology Act of 1998 and the services offered under such programs;

“(5) available assistance with decision-making concerning medical care, including the right to accept or refuse medical or surgical treatment and the right to formulate advance directives or other written instructions recognized under State law, such as a living will or durable power of attorney for health care, in the case that an injury or illness causes the individual to be unable to make health care decisions; and

“(6) such other services as the Secretary, by regulation, may require.

“(f) **NO EFFECT ON ELIGIBILITY FOR OTHER BENEFITS.**—Benefits paid to an eligible beneficiary under the CLASS program shall be disregarded for purposes of determining or continuing the beneficiary's eligibility for receipt of benefits under any other Federal, State, or locally funded assistance program, including benefits paid under titles II, XVI, XVIII, XIX, or XXI of the Social Security Act, under the laws administered by the Secretary of Veterans Affairs, under low-income housing assistance programs, or under the supplemental nutrition assistance program established under the Food and Nutrition Act of 2008.

“(g) **RULE OF CONSTRUCTION.**—Nothing in this title shall be construed as prohibiting benefits paid under the CLASS Independence Benefit Plan from being used to compensate a family caregiver for providing community living assistance services and supports to an eligible beneficiary.

“(h) **PROTECTION AGAINST CONFLICTS OF INTEREST.**—The Secretary shall establish procedures to ensure that the Eligibility Assessment System, the Protection and Advocacy System for a State, advocacy counselors for eligible beneficiaries, and any other entities that provide services to active enrollees and eligible beneficiaries under the CLASS program comply with the following:

“(1) If the entity provides counseling or planning services, such services are provided in a manner that fosters the best interests of the active enrollee or beneficiary.

“(2) The entity has established operating procedures that are designed to avoid or

minimize conflicts of interest between the entity and an active enrollee or beneficiary.

“(3) The entity provides information about all services and options available to the active enrollee or beneficiary, to the best of its knowledge, including services available through other entities or providers.

“(4) The entity assists the active enrollee or beneficiary to access desired services, regardless of the provider.

“(5) The entity reports the number of active enrollees and beneficiaries provided with assistance by age, disability, and whether such enrollees and beneficiaries received services from the entity or another entity.

“(6) If the entity provides counseling or planning services, the entity ensures that an active enrollee or beneficiary is informed of any financial interest that the entity has in a service provider.

“(7) The entity provides an active enrollee or beneficiary with a list of available service providers that can meet the needs of the active enrollee or beneficiary.

#### **“SEC. 3206. CLASS INDEPENDENCE FUND.**

“(a) **ESTABLISHMENT OF CLASS INDEPENDENCE FUND.**—There is established in the Treasury of the United States a trust fund to be known as the ‘CLASS Independence Fund’. The Secretary of the Treasury shall serve as Managing Trustee of such Fund. The Fund shall consist of all amounts derived from payments into the Fund under sections 3204(f) and 3205(c)(5)(C)(ii), and remaining after investment of such amounts under subsection (b), including additional amounts derived as income from such investments. The amounts held in the Fund are appropriated and shall remain available without fiscal year limitation—

“(1) to be held for investment on behalf of individuals enrolled in the CLASS program;

“(2) to pay the administrative expenses related to the Fund and to investment under subsection (b); and

“(3) to pay cash benefits to eligible beneficiaries under the CLASS Independence Benefit Plan.

“(b) **INVESTMENT OF FUND BALANCE.**—The Secretary of the Treasury shall invest and manage the CLASS Independence Fund in the same manner, and to the same extent, as the Federal Supplementary Medical Insurance Trust Fund may be invested and managed under subsections (c), (d), and (e) of section 1841(d) of the Social Security Act.

“(c) **BOARD OF TRUSTEES.**—

“(1) **IN GENERAL.**—With respect to the CLASS Independence Fund, there is hereby created a body to be known as the Board of Trustees of the CLASS Independence Fund (hereinafter in this section referred to as the ‘Board of Trustees’) composed of the Secretary of the Treasury, the Secretary of Labor, and the Secretary of Health and Human Services, all ex officio, and of two members of the public (both of whom may not be from the same political party), who shall be nominated by the President for a term of 4 years and subject to confirmation by the Senate. A member of the Board of Trustees serving as a member of the public and nominated and confirmed to fill a vacancy occurring during a term shall be nominated and confirmed only for the remainder of such term. An individual nominated and confirmed as a member of the public may serve in such position after the expiration of such member's term until the earlier of the time at which the member's successor takes office or the time at which a report of the Board is first issued under paragraph (2) after the expiration of the member's term.

The Secretary of the Treasury shall be the Managing Trustee of the Board of Trustees. The Board of Trustees shall meet not less frequently than once each calendar year. A person serving on the Board of Trustees shall not be considered to be a fiduciary and shall not be personally liable for actions taken in such capacity with respect to the Trust Fund.

“(2) **DUTIES.**—

“(A) **IN GENERAL.**—It shall be the duty of the Board of Trustees to do the following:

“(i) Hold the CLASS Independence Fund.

“(ii) Report to the Congress not later than the first day of April of each year on the operation and status of the CLASS Independence Fund during the preceding fiscal year and on its expected operation and status during the current fiscal year and the next 2 fiscal years.

“(iii) Report immediately to the Congress whenever the Board is of the opinion that the amount of the CLASS Independence Fund is not actuarially sound in regards to the projections under section 3203(b)(1)(B)(i).

“(iv) Review the general policies followed in managing the CLASS Independence Fund, and recommend changes in such policies, including necessary changes in the provisions of law which govern the way in which the CLASS Independence Fund is to be managed.

“(B) **REPORT.**—The report provided for in subparagraph (A)(ii) shall—

“(i) include—

“(I) a statement of the assets of, and the disbursements made from, the CLASS Independence Fund during the preceding fiscal year;

“(II) an estimate of the expected income to, and disbursements to be made from, the CLASS Independence Fund during the current fiscal year and each of the next 2 fiscal years;

“(III) a statement of the actuarial status of the CLASS Independence Fund for the current fiscal year, each of the next 2 fiscal years, and as projected over the 75-year period beginning with the current fiscal year; and

“(IV) an actuarial opinion certifying that the techniques and methodologies used are generally accepted within the actuarial profession and that the assumptions and cost estimates used are reasonable; and

“(ii) be printed as a House document of the session of the Congress to which the report is made.

“(C) **RECOMMENDATIONS.**—If the Board of Trustees determines that enrollment trends and expected future benefit claims on the CLASS Independence Fund are not actuarially sound in regards to the projections under section 3203(b)(1)(B)(i) and are unlikely to be resolved with reasonable premium increases or through other means, the Board of Trustees shall include in the report provided for in subparagraph (A)(ii) recommendations for such legislative action as the Board of Trustees determine to be appropriate, including whether to adjust monthly premiums or impose a temporary moratorium on new enrollments.

#### **“SEC. 3207. CLASS INDEPENDENCE ADVISORY COUNCIL.**

“(a) **ESTABLISHMENT.**—There is hereby created an Advisory Committee to be known as the ‘CLASS Independence Advisory Council’.

“(b) **MEMBERSHIP.**—

“(1) **IN GENERAL.**—The CLASS Independence Advisory Council shall be composed of not more than 15 individuals, not otherwise in the employ of the United States—

“(A) who shall be appointed by the President without regard to the civil service laws and regulations; and

“(B) a majority of whom shall be representatives of individuals who participate or are likely to participate in the CLASS program, and shall include representatives of older and younger workers, individuals with disabilities, family caregivers of individuals who require services and supports to maintain their independence at home or in another residential setting of their choice in the community, individuals with expertise in long-term care or disability insurance, actuarial science, economics, and other relevant disciplines, as determined by the Secretary.

“(2) TERMS.—

“(A) IN GENERAL.—The members of the CLASS Independence Advisory Council shall serve overlapping terms of 3 years (unless appointed to fill a vacancy occurring prior to the expiration of a term, in which case the individual shall serve for the remainder of the term).

“(B) LIMITATION.—A member shall not be eligible to serve for more than 2 consecutive terms.

“(3) CHAIR.—The President shall, from time to time, appoint one of the members of the CLASS Independence Advisory Council to serve as the Chair.

“(c) DUTIES.—The CLASS Independence Advisory Council shall advise the Secretary on matters of general policy in the administration of the CLASS program established under this title and in the formulation of regulations under this title including with respect to—

“(1) the development of the CLASS Independence Benefit Plan under section 3203; and

“(2) the determination of monthly premiums under such plan.

“(d) APPLICATION OF FACA.—The Federal Advisory Committee Act, other than section 14 of that Act, shall apply to the CLASS Independence Advisory Council.

“(e) AUTHORIZATION OF APPROPRIATIONS.—

“(1) IN GENERAL.—There are authorized to be appropriated to the CLASS Independence Advisory Council to carry out its duties under this section, such sums as may be necessary for fiscal year 2011 and for each fiscal year thereafter.

“(2) AVAILABILITY.—Any sums appropriated under the authorization contained in this section shall remain available, without fiscal year limitation, until expended.

“SEC. 3208. REGULATIONS; ANNUAL REPORT.

“(a) REGULATIONS.—The Secretary shall promulgate such regulations as are necessary to carry out the CLASS program in accordance with this title. Such regulations shall include provisions to prevent fraud and abuse under the program.

“(b) ANNUAL REPORT.—Beginning January 1, 2014, the Secretary shall submit an annual report to Congress on the CLASS program. Each report shall include the following:

“(1) The total number of enrollees in the program.

“(2) The total number of eligible beneficiaries during the fiscal year.

“(3) The total amount of cash benefits provided during the fiscal year.

“(4) A description of instances of fraud or abuse identified during the fiscal year.

“(5) Recommendations for such administrative or legislative action as the Secretary determines is necessary to improve the program or to prevent the occurrence of fraud or abuse.

“SEC. 3209. INSPECTOR GENERAL'S REPORT.

“The Inspector General of the Department of Health and Human Services shall submit an annual report to the Secretary and Congress relating to the overall progress of the

CLASS program and of the existence of waste, fraud, and abuse in the CLASS program. Each such report shall include findings in the following areas:

“(1) The eligibility determination process.

“(2) The provision of cash benefits.

“(3) Quality assurance and protection against waste, fraud, and abuse.

“(4) Recouping of unpaid and accrued benefits.”

(b) CONFORMING AMENDMENTS TO MEDICAID.—For conforming provisions amending the Medicaid program, see section 1739.

**Subtitle E—Miscellaneous**

**SEC. 2585. STATES FAILING TO ADHERE TO CERTAIN EMPLOYMENT OBLIGATIONS.**

A State is eligible for Federal funds under the provisions of the Public Health Service Act (42 U.S.C. 201 et seq.) only if the State—

(1) agrees to be subject in its capacity as an employer to each obligation under division A of this Act and the amendments made by such division applicable to persons in their capacity as an employer; and

(2) assures that all political subdivisions in the State will do the same.

**SEC. 2586. HEALTH CENTERS UNDER PUBLIC HEALTH SERVICE ACT; LIABILITY PROTECTIONS FOR VOLUNTEER PRACTITIONERS.**

(a) IN GENERAL.—Section 224 (42 U.S.C. 233) is amended—

(1) in subsection (g)(1)(A)—

(A) in the first sentence, by striking “or employee” and inserting “employee, or (subject to subsection (k)(4)) volunteer practitioner”; and

(B) in the second sentence, by inserting “and subsection (k)(4)” after “subject to paragraph (5)”; and

(2) in each of subsections (g), (i), (j), (l), and (m), by striking the term “employee, or contractor” each place such term appears and inserting “employee, volunteer practitioner, or contractor”;

(3) in subsection (g)(1)(H), by striking the term “employee, and contractor” each place such term appears and inserting “employee, volunteer practitioner, and contractor”;

(4) in subsection (l), by striking the term “employee, or any contractor” and inserting “employee, volunteer practitioner, or contractor”; and

(5) in subsections (h)(3) and (k), by striking the term “employees, or contractors” each place such term appears and inserting “employees, volunteer practitioners, or contractors”.

(b) APPLICABILITY; DEFINITION.—Section 224(k) (42 U.S.C. 233(k)) is amended by adding at the end the following paragraph:

“(4)(A) Subsections (g) through (m) apply with respect to volunteer practitioners beginning with the first fiscal year for which an appropriations Act provides that amounts in the fund under paragraph (2) are available with respect to such practitioners.

“(B) For purposes of subsections (g) through (m), the term ‘volunteer practitioner’ means a practitioner who, with respect to an entity described in subsection (g)(4), meets the following conditions:

“(i) The practitioner is a licensed physician, a licensed clinical psychologist, or other licensed or certified health care practitioner.

“(ii) At the request of such entity, the practitioner provides services to patients of the entity, at a site at which the entity operates or at a site designated by the entity. The weekly number of hours of services provided to the patients by the practitioner is not a factor with respect to meeting conditions under this subparagraph.

“(iii) The practitioner does not for the provision of such services receive any compensation from such patients, from the entity, or from third-party payors (including reimbursement under any insurance policy or health plan, or under any Federal or State health benefits program).”

**SEC. 2587. REPORT TO CONGRESS ON THE CURRENT STATE OF PARASITIC DISEASES THAT HAVE BEEN OVERLOOKED AMONG THE POOREST AMERICANS.**

Not later than 12 months after the date of the enactment of this Act, the Secretary of Health and Human Services shall report to Congress on the epidemiology of, impact of, and appropriate funding required to address neglected diseases of poverty, including neglected parasitic diseases identified as Chagas disease, cysticercosis, toxocariasis, toxoplasmosis, trichomoniasis, the soil-transmitted helminths, and others. The report should provide the information necessary to enhance health policy to accurately evaluate and address the threat of these diseases.

**SEC. 2588. OFFICE OF WOMEN'S HEALTH.**

(a) HEALTH AND HUMAN SERVICES OFFICE ON WOMEN'S HEALTH.—

(1) ESTABLISHMENT.—Part A of title II (42 U.S.C. 202 et seq.) is amended by adding at the end the following:

**“SEC. 229. HEALTH AND HUMAN SERVICES OFFICE ON WOMEN'S HEALTH.**

“(a) ESTABLISHMENT OF OFFICE.—There is established within the Office of the Secretary, an Office on Women's Health (referred to in this section as the ‘Office’). The Office shall be headed by a Deputy Assistant Secretary for Women's Health who may report to the Secretary.

“(b) DUTIES.—The Secretary, acting through the Office, with respect to the health concerns of women, shall—

“(1) establish short-range and long-range goals and objectives within the Department of Health and Human Services and, as relevant and appropriate, coordinate with other appropriate offices on activities within the Department that relate to disease prevention, health promotion, service delivery, research, and public and health care professional education, for issues of particular concern to women throughout their lifespan;

“(2) provide expert advice and consultation to the Secretary concerning scientific, legal, ethical, and policy issues relating to women's health;

“(3) monitor the Department of Health and Human Services' offices, agencies, and regional activities regarding women's health and identify needs regarding the coordination of activities, including intramural and extramural multidisciplinary activities;

“(4) establish a Department of Health and Human Services Coordinating Committee on Women's Health, which shall be chaired by the Deputy Assistant Secretary for Women's Health and composed of senior level representatives from each of the agencies and offices of the Department of Health and Human Services;

“(5) establish a National Women's Health Information Center to—

“(A) facilitate the exchange of information regarding matters relating to health information, health promotion, preventive health services, research advances, and education in the appropriate use of health care;

“(B) facilitate access to such information;

“(C) assist in the analysis of issues and problems relating to the matters described in this paragraph; and

“(D) provide technical assistance with respect to the exchange of information (including facilitating the development of materials for such technical assistance);

“(6) coordinate efforts to promote women’s health programs and policies with the private sector; and

“(7) through publications and any other means appropriate, provide for the exchange of information between the Office and recipients of grants, contracts, and agreements under subsection (c), and between the Office and health professionals and the general public.

“(c) GRANTS AND CONTRACTS REGARDING DUTIES.—

“(1) AUTHORITY.—In carrying out subsection (b), the Secretary may make grants to, and enter into cooperative agreements, contracts, and interagency agreements with, public and private entities, agencies, and organizations.

“(2) EVALUATION AND DISSEMINATION.—The Secretary shall directly or through contracts with public and private entities, agencies, and organizations, provide for evaluations of projects carried out with financial assistance provided under paragraph (1) and for the dissemination of information developed as a result of such projects.

“(d) REPORTS.—Not later than 1 year after the date of enactment of this section, and every second year thereafter, the Secretary shall prepare and submit to the appropriate committees of Congress a report describing the activities carried out under this section during the period for which the report is being prepared.”

“(e) REFERENCES.—Except as otherwise specified, any reference in Federal law to an Office on Women’s Health (in the Department of Health and Human Services) is deemed to be a reference to the Office on Women’s Health in the Office of the Secretary.”

(2) TRANSFER OF FUNCTIONS.—There are transferred to the Office on Women’s Health (established under section 229 of the Public Health Service Act, as added by this section), all functions exercised by the Office on Women’s Health of the Public Health Service prior to the date of enactment of this section, including all personnel and compensation authority, all delegation and assignment authority, and all remaining appropriations. All orders, determinations, rules, regulations, permits, agreements, grants, contracts, certificates, licenses, registrations, privileges, and other administrative actions that—

(A) have been issued, made, granted, or allowed to become effective by the President, any Federal agency or official thereof, or by a court of competent jurisdiction, in the performance of functions transferred under this paragraph; and

(B) are in effect at the time this section takes effect, or were final before the date of enactment of this section and are to become effective on or after such date;

shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law by the President, the Secretary, or other authorized official, a court of competent jurisdiction, or by operation of law.

(b) CENTERS FOR DISEASE CONTROL AND PREVENTION OFFICE OF WOMEN’S HEALTH.—Part A of title III (42 U.S.C. 241 et seq.) is amended by adding at the end the following:

**“SEC. 310A. CENTERS FOR DISEASE CONTROL AND PREVENTION OFFICE OF WOMEN’S HEALTH.**

“(a) ESTABLISHMENT.—There is established within the Office of the Director of the Cen-

ters for Disease Control and Prevention, an office to be known as the Office of Women’s Health (referred to in this section as the ‘Office’). The Office shall be headed by a director who shall be appointed by the Director of such Centers.

“(b) PURPOSE.—The Director of the Office shall—

“(1) report to the Director of the Centers for Disease Control and Prevention on the current level of the Centers’ activity regarding women’s health conditions across, where appropriate, age, biological, and sociocultural contexts, in all aspects of the Centers’ work, including prevention programs, public and professional education, services, and treatment;

“(2) establish short-range and long-range goals and objectives within the Centers for women’s health and, as relevant and appropriate, coordinate with other appropriate offices on activities within the Centers that relate to prevention, research, education and training, service delivery, and policy development, for issues of particular concern to women;

“(3) identify projects in women’s health that should be conducted or supported by the Centers;

“(4) consult with health professionals, nongovernmental organizations, consumer organizations, women’s health professionals, and other individuals and groups, as appropriate, on the policy of the Centers with regard to women; and

“(5) serve as a member of the Department of Health and Human Services Coordinating Committee on Women’s Health (established under section 229(b)(4)).”

“(c) DEFINITION.—As used in this section, the term ‘women’s health conditions’, with respect to women of all age, ethnic, and racial groups, means diseases, disorders, and conditions—

“(1) unique to, significantly more serious for, or significantly more prevalent in women; and

“(2) for which the factors of medical risk or type of medical intervention are different for women, or for which there is reasonable evidence that indicates that such factors or types may be different for women.”

(c) OFFICE OF WOMEN’S HEALTH RESEARCH.—Section 486(a) (42 U.S.C. 287d(a)) is amended by inserting “and who shall report directly to the Director” before the period at the end thereof.

(d) SUBSTANCE ABUSE AND MENTAL HEALTH SERVICES ADMINISTRATION.—Section 501(f) (42 U.S.C. 290aa(f)) is amended—

(1) in paragraph (1), by inserting “who shall report directly to the Administrator” before the period;

(2) by redesignating paragraph (4) as paragraph (5); and

(3) by inserting after paragraph (3), the following:

“(4) OFFICE.—Nothing in this subsection shall be construed to preclude the Secretary from establishing within the Substance Abuse and Mental Health Administration an Office of Women’s Health.”

(e) AGENCY FOR HEALTHCARE RESEARCH AND QUALITY ACTIVITIES REGARDING WOMEN’S HEALTH.—Part C of title IX (42 U.S.C. 299c et seq.) is amended—

(1) by redesignating sections 927 and 928 as sections 928 and 929, respectively;

(2) by inserting after section 926 the following:

**“SEC. 927. ACTIVITIES REGARDING WOMEN’S HEALTH.**

“(a) ESTABLISHMENT.—There is established within the Office of the Director, an Office of

Women’s Health and Gender-Based Research (referred to in this section as the ‘Office’). The Office shall be headed by a director who shall be appointed by the Director of Healthcare and Research Quality.

“(b) PURPOSE.—The official designated under subsection (a) shall—

“(1) report to the Director on the current Agency level of activity regarding women’s health, across, where appropriate, age, biological, and sociocultural contexts, in all aspects of Agency work, including the development of evidence reports and clinical practice protocols and the conduct of research into patient outcomes, delivery of health care services, quality of care, and access to health care;

“(2) establish short-range and long-range goals and objectives within the Agency for research important to women’s health and, as relevant and appropriate, coordinate with other appropriate offices on activities within the Agency that relate to health services and medical effectiveness research, for issues of particular concern to women;

“(3) identify projects in women’s health that should be conducted or supported by the Agency;

“(4) consult with health professionals, nongovernmental organizations, consumer organizations, women’s health professionals, and other individuals and groups, as appropriate, on Agency policy with regard to women; and

“(5) serve as a member of the Department of Health and Human Services Coordinating Committee on Women’s Health (established under section 229(b)(4)).”

(3) by adding at the end of section 928 (as redesignated by paragraph (1)) the following:

“(e) WOMEN’S HEALTH.—For the purpose of carrying out section 927 regarding women’s health, there are authorized to be appropriated such sums as may be necessary for each of fiscal years 2011 through 2015.”

(f) HEALTH RESOURCES AND SERVICES ADMINISTRATION OFFICE OF WOMEN’S HEALTH.—Title VII of the Social Security Act (42 U.S.C. 901 et seq.) is amended by adding at the end the following:

**“SEC. 713. OFFICE OF WOMEN’S HEALTH.**

“(a) ESTABLISHMENT.—The Secretary shall establish within the Office of the Administrator of the Health Resources and Services Administration, an office to be known as the Office of Women’s Health. The Office shall be headed by a director who shall be appointed by the Administrator.

“(b) PURPOSE.—The Director of the Office shall—

“(1) report to the Administrator on the current Administration level of activity regarding women’s health across, where appropriate, age, biological, and sociocultural contexts;

“(2) establish short-range and long-range goals and objectives within the Health Resources and Services Administration for women’s health and, as relevant and appropriate, coordinate with other appropriate offices on activities within the Administration that relate to health care provider training, health service delivery, research, and demonstration projects, for issues of particular concern to women;

“(3) identify projects in women’s health that should be conducted or supported by the bureaus of the Administration;

“(4) consult with health professionals, nongovernmental organizations, consumer organizations, women’s health professionals, and other individuals and groups, as appropriate, on Administration policy with regard to women; and

“(5) serve as a member of the Department of Health and Human Services Coordinating

Committee on Women's Health (established under section 229(b)(4) of the Public Health Service Act).

“(c) CONTINUED ADMINISTRATION OF EXISTING PROGRAMS.—The Director of the Office shall assume the authority for the development, implementation, administration, and evaluation of any projects carried out through the Health Resources and Services Administration relating to women's health on the date of enactment of this section.

“(d) DEFINITIONS.—For purposes of this section:

“(1) ADMINISTRATION.—The term ‘Administration’ means the Health Resources and Services Administration.

“(2) ADMINISTRATOR.—The term ‘Administrator’ means the Administrator of the Health Resources and Services Administration.

“(3) OFFICE.—The term ‘Office’ means the Office of Women's Health established under this section in the Administration.”.

(g) FOOD AND DRUG ADMINISTRATION OFFICE OF WOMEN'S HEALTH.—Chapter IX of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 391 et seq.) is amended by adding at the end the following:

**“SEC. 911. OFFICE OF WOMEN'S HEALTH.**

“(a) ESTABLISHMENT.—There is established within the Office of the Commissioner, an office to be known as the Office of Women's Health (referred to in this section as the ‘Office’). The Office shall be headed by a director who shall be appointed by the Commissioner of Food and Drugs.

“(b) PURPOSE.—The Director of the Office shall—

“(1) report to the Commissioner of Food and Drugs on current Food and Drug Administration (referred to in this section as the ‘Administration’) levels of activity regarding women's participation in clinical trials and the analysis of data by sex in the testing of drugs, medical devices, and biological products across, where appropriate, age, biological, and sociocultural contexts;

“(2) establish short-range and long-range goals and objectives within the Administration for issues of particular concern to women's health within the jurisdiction of the Administration, including, where relevant and appropriate, adequate inclusion of women and analysis of data by sex in Administration protocols and policies;

“(3) provide information to women and health care providers on those areas in which differences between men and women exist;

“(4) consult with pharmaceutical, biological, and device manufacturers, health professionals with expertise in women's issues, consumer organizations, and women's health professionals on Administration policy with regard to women;

“(5) make annual estimates of funds needed to monitor clinical trials and analysis of data by sex in accordance with needs that are identified; and

“(6) serve as a member of the Department of Health and Human Services Coordinating Committee on Women's Health (established under section 229(b)(4) of the Public Health Service Act).”.

(h) NO NEW REGULATORY AUTHORITY.—Nothing in this section and the amendments made by this section may be construed as establishing regulatory authority or modifying any existing regulatory authority.

(i) LIMITATION ON TERMINATION.—Notwithstanding any other provision of law, a Federal office of women's health (including the Office of Research on Women's Health of the National Institutes of Health) or Federal appointive position with primary responsibility

over women's health issues (including the Associate Administrator for Women's Services under the Substance Abuse and Mental Health Services Administration) that is in existence on the date of enactment of this section shall not be terminated, reorganized, or have any of its powers or duties transferred unless such termination, reorganization, or transfer is approved by an Act of Congress.

(j) RULE OF CONSTRUCTION.—Nothing in this section (or the amendments made by this section) shall be construed to limit the authority of the Secretary of Health and Human Services with respect to women's health, or with respect to activities carried out through the Department of Health and Human Services on the date of enactment of this section.

**SEC. 2588A. OFFICES OF MINORITY HEALTH**

(a) EXISTING OFFICE.—Section 1707(a) (42 U.S.C. 300u-6(a)) is amended by striking “within the Office of Public Health and Science” and inserting “within the Office of the Secretary”.

(b) ADDITIONAL OFFICES.—Title XVII (42 U.S.C. 300u et seq.) is amended by inserting after section 1707 the following:

**“SEC. 1707A. ADDITIONAL OFFICES OF MINORITY HEALTH.**

“(a) ESTABLISHMENT.—In addition to the Office of Minority Health established within the Office of the Secretary under section 1707, the Secretary shall establish an Office of Minority Health in each of the following agencies:

“(1) The Centers for Disease Control and Prevention.

“(2) The Substance Abuse and Mental Health Services Administration.

“(3) The Agency for Healthcare Research and Quality.

“(4) The Health Resources and Services Administration.

“(5) The Food and Drug Administration.

“(b) DIRECTOR; APPOINTMENT.—Each Office of Minority Health established in an agency listed in subsection (a) shall be headed by a director, who shall be appointed by and report directly to the head of such agency.

“(c) REFERENCES.—Except as otherwise specified, any reference in Federal law to an Office of Minority Health (in the Department of Health and Human Services) is deemed to be a reference to the Office of Minority Health in the Office of the Secretary.”.

(c) NO NEW REGULATORY AUTHORITY.—Nothing in this section and the amendments made by this section may be construed as establishing regulatory authority or modifying any existing regulatory authority.

(d) LIMITATION ON TERMINATION.—Notwithstanding any other provision of law, a Federal office of minority health or Federal appointive position with primary responsibility over minority health issues that is in existence in a office or agency of the Department of Health and Human Services on the date of enactment of this section shall not be terminated, reorganized, or have any of its powers or duties transferred unless such termination, reorganization, or transfer is approved by an Act of Congress.

**SEC. 2589. LONG-TERM CARE AND FAMILY CAREGIVER SUPPORT.**

(a) AMENDMENTS TO THE OLDER AMERICANS ACT OF 1965.—

(1) PROMOTION OF DIRECT CARE WORKFORCE.—Section 202(b)(1) of the Older Americans Act of 1965 (42 U.S.C. 3012(b)(1)) is amended by inserting before the semicolon the following: “, and, in carrying out the purposes of this paragraph, shall make recommendations to other Federal entities re-

garding appropriate and effective means of identifying, promoting, and implementing investments in the direct care workforce necessary to meet the growing demand for long-term health services and supports and of assisting States in developing a comprehensive State workforce development plan with respect to such workforce, including assisting efforts to systematically assess, track, and report on workforce adequacy and capacity”.

(2) PERSONAL CARE ATTENDANT WORKFORCE ADVISORY PANEL.—Section 202 of such Act (42 U.S.C. 3012) is amended by adding at the end the following:

“(g)(1) Not later than 90 days after the date of the enactment of this subsection, the Assistant Secretary shall establish a Personal Care Attendant Workforce Advisory Panel to examine and formulate recommendations on—

“(A) working conditions and training for workers providing long-term services and supports, including home health aides, certified nurse aides, and personal care attendants; and

“(B) other workforce issues related to such workers, including with respect to the adequacy of the number of such workers; the salaries, wages, and benefits of such workers; and access to the services provided by such workers.

“(2) The Panel shall include representatives of—

“(A) relevant home- and community-based service providers, health care agencies, and facilities (including personal or home care agencies, home health care agencies, nursing homes, assisted living facilities, and residential care facilities);

“(B) the disability community, including individuals with disabilities and family caregivers;

“(C) the nursing community;

“(D) direct care workers (which may include unions and national organizations);

“(E) older individuals, including senior individuals and family caregivers;

“(F) State and Federal health care entities; and

“(G) experts in workforce development and adult learning.

“(3) Within one year after the establishment of the Panel, the Panel shall submit a report to the Assistant Secretary and the Congress on workforce issues related to providing long-term services and supports, including information on core competencies for eligible personal or home care aides necessary to successfully provide long-term services and supports to eligible consumers, as well as recommended training curricula and resources.

“(4) Within 180 days after receipt by the Assistant Secretary of the report under paragraph (3), the Assistant Secretary shall establish a 3-year demonstration program in 4 States to pilot and evaluate the effectiveness of the competencies articulated by the Panel and the training curricula and training methods recommended by the Panel.

“(5) Not later than 1 year after the completion of the demonstration program under paragraph (4), the Assistant Secretary shall submit to the Congress a report containing the results of the evaluations by the Assistant Secretary pursuant to paragraph (4), together with such recommendations for legislation or administrative action as the Assistant Secretary determines appropriate.”.

(b) AUTHORIZATION OF ADDITIONAL APPROPRIATIONS FOR THE FAMILY CAREGIVER SUPPORT PROGRAM UNDER THE OLDER AMERICANS ACT OF 1965.—Section 303(e)(2) of the Older

Americans Act of 1965 (42 U.S.C. 3023(e)(2)) is amended by striking “, \$173,000,000” and all that follows through “2011”, and inserting “and \$250,000,000 for each of fiscal years 2011, 2012, and 2013”.

**SEC. 2590. WEB SITE ON HEALTH CARE LABOR MARKET AND RELATED EDUCATIONAL AND TRAINING OPPORTUNITIES.**

(a) **IN GENERAL.**—The Secretary of Labor, in consultation with the National Center for Health Workforce Analysis, shall establish and maintain a Web site to serve as a comprehensive source of information, searchable by workforce region, on the health care labor market and related educational and training opportunities.

(b) **CONTENTS.**—The Web site maintained under this section shall include the following:

(1) Information on the types of jobs that are currently or are projected to be in high demand in the health care field, including—

(A) salary information; and

(B) training requirements, such as requirements for educational credentials, licensure, or certification.

(2) Information on training and educational opportunities within each region for the type of jobs described in paragraph (1), including by—

(A) type of provider or program (such as public, private nonprofit, or private for-profit);

(B) duration;

(C) cost (such as tuition, fees, books, laboratory expenses, and other mandatory costs);

(D) performance outcomes (such as graduation rates, job placement, average salary, job retention, and wage progression);

(E) Federal financial aid participation;

(F) average graduate loan debt;

(G) student loan default rates;

(H) average institutional grant aid provided;

(I) Federal and State accreditation information; and

(J) other information determined by the Secretary.

(3) A mechanism for searching and comparing training and educational options for specific health care occupations to facilitate informed career and education choices.

(4) Financial aid information, including with respect to loan forgiveness, loan cancellation, loan repayment, stipends, scholarships, and grants or other assistance authorized by this Act or other Federal or State programs.

(c) **PUBLIC ACCESSIBILITY.**—The Web site maintained under this section shall—

(1) be publicly accessible;

(2) be user friendly and convey information in a manner that is easily understandable; and

(3) be in English and the second most prevalent language spoken based on the latest Census information.

**SEC. 2591. ONLINE HEALTH WORKFORCE TRAINING PROGRAMS.**

Section 171 of the Workforce Investment Act of 1998 (29 U.S.C. 2916) is amended by adding at the end the following:

“(f) **ONLINE HEALTH WORKFORCE TRAINING PROGRAM.**—

“(1) **GRANT PROGRAM.**—

“(A) **IN GENERAL.**—The Secretary in consultation with the Secretary of Health and Human Services, shall award National Health Workforce Online Training Grants on a competitive basis to eligible entities to enable such entities to carry out training for individuals to attain or advance in health

care occupations. An entity may leverage such grant with other Federal, State, local, and private resources, in order to expand the participation of businesses, employees, and individuals in such training programs.

“(B) **ELIGIBILITY.**—In order to receive a grant under the program established under this paragraph—

“(i) an entity shall be an educational institution, community-based organization, nonprofit organization, workforce investment board, or local or county government; and

“(ii) an entity shall provide online workforce training for individuals seeking to attain or advance in health care occupations, including nursing, nursing assistants, dentistry, pharmacy, health care management and administration, public health, health information systems analysis, medical assistants, and other health care practitioner and support occupations.

“(C) **PRIORITY.**—Priority in awarding grants under this paragraph shall be given to entities that—

“(i) have demonstrated experience in implementing and operating online worker skills training and education programs;

“(ii) have demonstrated experience coordinating activities, where appropriate, with the workforce investment system; and

“(iii) conduct training for occupations with national or local shortages.

“(D) **DATA COLLECTION.**—Grantees under this paragraph shall collect and report information on—

“(i) the number of participants;

“(ii) the services received by the participants;

“(iii) program completion rates;

“(iv) factors determined as significantly interfering with program participation or completion;

“(v) the rate of job placement; and

“(vi) other information as determined as needed by the Secretary.

“(E) **OUTREACH.**—Grantees under this paragraph shall conduct outreach activities to disseminate information about their program and results to workforce investment boards, local governments, educational institutions, and other workforce training organizations.

“(F) **PERFORMANCE LEVELS.**—The Secretary shall establish indicators of performance that will be used to evaluate the performance of grantees under this paragraph in carrying out the activities described in this paragraph. The Secretary shall negotiate and reach agreement with each grantee regarding the levels of performance expected to be achieved by the grantee on the indicators of performance.

“(G) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated to the Secretary to carry out this subsection \$50,000,000 for fiscal years 2011 through 2020.

“(2) **ONLINE HEALTH PROFESSIONS TRAINING PROGRAM CLEARINGHOUSE.**—

“(A) **DESCRIPTION OF GRANT.**—The Secretary may award one or more grants to eligible postsecondary educational institutions to provide the services described in this paragraph.

“(B) **ELIGIBILITY.**—To be eligible to receive a grant under this paragraph, a postsecondary educational institution shall—

“(i) have demonstrated the ability to disseminate research on best practices for implementing workforce investment programs; and

“(ii) be a national leader in producing cutting-edge research on technology related to workforce investment systems under subtitle B.

“(C) **SERVICES.**—The postsecondary educational institution that receives a grant under this paragraph shall use such grant—

“(i) to provide technical assistance to entities that receive grants under paragraph (1);

“(ii) to collect and nationally disseminate the data gathered by entities that receive grants under paragraph (1); and

“(iii) to disseminate the best practices identified by the National Health Workforce Online Training Grant Program to other workforce training organizations.

“(D) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated to the Secretary to carry out this subsection \$1,000,000 for fiscal years 2011 through 2020.”.

**SEC. 2592. ACCESS FOR INDIVIDUALS WITH DISABILITIES.**

Title V of the Rehabilitation Act of 1973 (29 U.S.C. 791 et seq.) is amended by adding at the end of the following:

**“SEC. 510. STANDARDS FOR ACCESSIBILITY OF MEDICAL DIAGNOSTIC EQUIPMENT.**

“(a) **STANDARDS.**—Not later than 9 months after the date of enactment of the Affordable Health Care for America Act, the Architectural and Transportation Barriers Compliance Board (Access Board) shall issue guidelines setting forth the minimum technical criteria for new medical diagnostic equipment to be purchased for use in (or in conjunction with) physician’s offices, clinics, emergency rooms, hospitals, and other medical settings. The guidelines shall ensure that such equipment is accessible to, and usable by, individuals with disabilities, including provisions to ensure independent entry to, use of, and exit from the equipment by such individuals to the maximum extent possible.

“(b) **MEDICAL DIAGNOSTIC EQUIPMENT COVERED.**—The guidelines issued under subsection (a) for medical diagnostic equipment shall apply to new purchases of equipment that includes examination tables, examination chairs (including chairs used for eye examinations or procedures, and dental examinations or procedures), weight scales, mammography equipment, x-ray machines, and other equipment commonly used for diagnostic or examination purposes by health professionals.

“(c) **REGULATIONS.**—Not later than 6 months after the date of the issuance of the guidelines under subsection (a), each appropriate Federal agency authorized to promulgate regulations under this Act or under the Americans with Disabilities Act shall—

“(1) prescribe regulations in an accessible format as necessary to carry out the provisions of such Act and section 504 of this Act that include accessibility standards that are consistent with the guidelines issued under subsection (a); and

“(2) ensure that health care providers and health care plans covered by the Affordable Health Care for America Act meet the requirements of the Americans with Disabilities Act and section 504, including provisions ensuring that individuals with disabilities receive equal access to all aspects of the health care delivery system.

“(d) **REVIEW AND AMEND.**—The Architectural and Transportation Barriers Compliance Board (Access Board) shall periodically review and, as appropriate, amend the guidelines as prescribed under subsection (a). Not later than 6 months after the date of the issuance of such revised guidelines, revised regulations consistent with such guidelines shall be promulgated in an accessible format by the appropriate Federal agencies described in subsection (c).”.

**SEC. 2593. DUPLICATIVE GRANT PROGRAMS.**

(a) **STUDY.**—The Secretary of Health and Human Services (in this section referred to as the “Secretary”) shall conduct a study to determine if any new division C grant program is duplicative of one or more other grant programs of the Department of Health and Human Services that—

(1) are specifically authorized in the Public Health Service Act (42 U.S.C. 201 et seq.); or

(2) are receiving appropriations.

(b) **DUPLICATIVE PROGRAMS.**—If the Secretary determines under subsection (a) that a new division C grant program is duplicative of one or more other grant programs described in such subsection, the Secretary shall—

(1) attempt to integrate the new division C grant program with the duplicative programs; and

(2) if the Secretary determines that such integration is not appropriate or has not been successful, promulgate a rule eliminating the duplication, including, if appropriate, by terminating one or more programs.

(c) **CONTINUED AVAILABILITY OF FUNDS.**—Any funds appropriated to carry out a program that is terminated under subsection (b)(2) shall remain available for obligation for the one or more programs that—

(1) were determined under subsection (a) to be duplicative of such program; and

(2) remain in effect.

(d) **REPORT.**—Not later than 1 year after the date of the enactment of this Act, the Secretary shall submit to the Congress and make available to the public a report that contains the results of the study required under subsection (a).

(e) **CONGRESSIONAL REVIEW.**—Any rule under subsection (b)(2) terminating a program is deemed to be a major rule for purposes of chapter 8 of title 5, United States Code.

(f) **DEFINITION.**—In this section, the term “new division C grant program”—

(1) means a grant program first established by this division; and

(2) excludes any program whose statutory authorization was in existence before the enactment of this division.

**SEC. 2594. DIABETES SCREENING COLLABORATION AND OUTREACH PROGRAM.**

(a) **ESTABLISHMENT.**—With respect to diabetes screening tests and for the purposes of reducing the number of undiagnosed seniors with diabetes or prediabetes, the Secretary of Health and Human Services (referred to in this section as the “Secretary”), in collaboration with the Director of the Centers for Disease Control and Prevention (referred to in this section as the “Director”), shall—

(1) review uptake and utilization of diabetes screening benefits, consistent with recommendations of the Task Force on Clinical Preventive Services (established under section 3131 of the Public Health Service Act, as added by section 2301 of this Act), to identify and address any existing problems, with regard to uptake and utilization and related data collection mechanisms; and

(2) establish an outreach program to identify existing efforts by agencies of the Department of Health and Human Services and by the private and nonprofit sectors to increase awareness among seniors and providers of diabetes screening benefits.

(b) **CONSULTATION.**—The Secretary shall carry out this section in consultation with—

(1) the heads of appropriate health agencies and offices in the Department of Health and Human Services, including the Office of Minority Health; and

(2) entities with an interest in diabetes, including industry, voluntary health organizations, trade associations, and professional societies.

(c) **REPORT.**—The Secretary shall submit an annual report to the Congress on the activities carried out under this section.

**SEC. 2595. IMPROVEMENT OF VITAL STATISTICS COLLECTION.**

(a) **IN GENERAL.**—The Secretary of Health and Human Services (in this section referred to as the “Secretary”), acting through the Director of the Centers for Disease Control and Prevention and in collaboration with appropriate agencies and States, shall—

(1) promote the education and training of physicians on the importance of birth and death certification data and how to properly complete these documents in accordance with State law, including the collection of such data for diabetes and other chronic diseases as appropriate;

(2) encourage State adoption of the latest standard revisions of birth and death certificates; and

(3) work with States to re-engineer their vital statistics systems in order to provide cost-effective, timely, and accurate vital systems data.

(b) **DEATH CERTIFICATE ADDITIONAL LANGUAGE.**—In carrying out this section, the Secretary may promote improvements to the collection of diabetes mortality data, including, as appropriate, the addition by States of a question for the individual certifying the cause of death regarding whether the deceased had diabetes.

**SEC. 2596. NATIONAL HEALTH SERVICES CORPS DEMONSTRATION ON INCENTIVE PAYMENTS.**

(a) **IN GENERAL.**—The Secretary of Health and Human Services may establish a demonstration program under which, in addition to the salary and benefits otherwise owed to a member of the National Health Services Corps, incentive payments are awarded to any such member who is assigned to a health professional shortage area with extreme need.

(b) **REPORT.**—The Secretary shall submit to the Congress an annual report on the demonstration program under subsection (a).

(c) **DEFINITIONS.**—In this section:

(1) The term “health professional shortage area with extreme need” means a health professional shortage area that—

(A) is described in section 333A(a)(1)(A) of the Public Health Service Act (42 U.S.C. 254f-1(a)(1)(A));

(B) is described in section 333(a)(1)(D)(ii)(IV) of such Act (42 U.S.C. 254f(a)(1)(D)(ii)(IV)); and

(C) has high rates of untreated disease, including chronic conditions.

(3) The term “Secretary” means the Secretary of Health and Human Services.

(d) **AUTHORIZATION OF APPROPRIATIONS.**—To carry out this section, there are authorized to be appropriated such sums as may be necessary for each of fiscal years 2011 through 2015.

**DIVISION D—INDIAN HEALTH CARE IMPROVEMENT****SEC. 3001. SHORT TITLE; TABLE OF CONTENTS.**

(a) **SHORT TITLE.**—This division may be cited as the “Indian Health Care Improvement Act Amendments of 2009”.

(b) **TABLE OF CONTENTS.**—The table of contents of this division is as follows:

Sec. 3001. Short title; table of contents.

**TITLE I—AMENDMENTS TO INDIAN LAWS**

Sec. 3101. Indian Health Care Improvement Act amended.

Sec. 3102. Native American Health and Wellness Foundation.

Sec. 3103. GAO study and report on payments for contract health services.

**TITLE II—IMPROVEMENT OF INDIAN HEALTH CARE PROVIDED UNDER THE SOCIAL SECURITY ACT**

Sec. 3201. Expansion of payments under Medicare, Medicaid, and SCHIP for all covered services furnished by Indian Health Programs.

Sec. 3202. Additional provisions to increase outreach to, and enrollment of, Indians in SCHIP and Medicaid.

Sec. 3203. Solicitation of proposals for safe harbors under the Social Security Act for facilities of Indian Health Programs and urban Indian organizations.

Sec. 3204. Annual report on Indians served by Social Security Act health benefit programs.

Sec. 3205. Development of recommendations to improve interstate coordination of Medicaid and SCHIP coverage of Indian children and other children who are outside of their State of residency because of educational or other needs.

**TITLE I—AMENDMENTS TO INDIAN LAWS****SEC. 3101. INDIAN HEALTH CARE IMPROVEMENT ACT AMENDED.**

(a) **IN GENERAL.**—The Indian Health Care Improvement Act (25 U.S.C. 1601 et seq.) is amended to read as follows:

**“SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

“(a) **SHORT TITLE.**—This Act may be cited as the ‘Indian Health Care Improvement Act’.

“(b) **TABLE OF CONTENTS.**—The table of contents for this Act is as follows:

“Sec. 1. Short title; table of contents.

“Sec. 2. Findings.

“Sec. 3. Declaration of national Indian health policy.

“Sec. 4. Definitions.

**“TITLE I—INDIAN HEALTH, HUMAN RESOURCES, AND DEVELOPMENT**

“Sec. 101. Purpose.

“Sec. 102. Health professions recruitment program for Indians.

“Sec. 103. Health professions preparatory scholarship program for Indians.

“Sec. 104. Indian health professions scholarships.

“Sec. 105. American Indians Into Psychology Program.

“Sec. 106. Scholarship programs for Indian Tribes.

“Sec. 107. Indian Health Service extern programs.

“Sec. 108. Continuing education allowances.

“Sec. 109. Community Health Representative Program.

“Sec. 110. Indian Health Service Loan Repayment Program.

“Sec. 111. Scholarship and Loan Repayment Recovery Fund.

“Sec. 112. Recruitment activities.

“Sec. 113. Indian recruitment and retention program.

“Sec. 114. Advanced training and research.

“Sec. 115. Quentin N. Burdick American Indians Into Nursing Program.

“Sec. 116. Tribal cultural orientation.

“Sec. 117. INMED Program.

“Sec. 118. Health training programs of community colleges.



- “Sec. 119. Retention bonus.  
 “Sec. 120. Nursing residency program.  
 “Sec. 121. Community Health Aide Program.  
 “Sec. 122. Tribal Health Program administration.  
 “Sec. 123. Health professional chronic shortage demonstration programs.  
 “Sec. 124. National Health Service Corps.  
 “Sec. 125. Substance abuse counselor educational curricula demonstration programs.  
 “Sec. 126. Behavioral health training and community education programs.  
 “Sec. 127. Exemption from payment of certain fees.  
 “Sec. 128. Authorization of appropriations.  
**“TITLE II—HEALTH SERVICES**  
 “Sec. 201. Indian Health Care Improvement Fund.  
 “Sec. 202. Health promotion and disease prevention services.  
 “Sec. 203. Diabetes prevention, treatment, and control.  
 “Sec. 204. Shared services for long-term care.  
 “Sec. 205. Health services research.  
 “Sec. 206. Mammography and other cancer screening.  
 “Sec. 207. Patient travel costs.  
 “Sec. 208. Epidemiology centers.  
 “Sec. 209. Comprehensive school health education programs.  
 “Sec. 210. Indian youth program.  
 “Sec. 211. Prevention, control, and elimination of communicable and infectious diseases.  
 “Sec. 212. Other authority for provision of services.  
 “Sec. 213. Indian women’s health care.  
 “Sec. 214. Environmental and nuclear health hazards.  
 “Sec. 215. Arizona as a contract health service delivery area.  
 “Sec. 216. North Dakota and South Dakota as contract health service delivery area.  
 “Sec. 217. California contract health services program.  
 “Sec. 218. California as a contract health service delivery area.  
 “Sec. 219. Contract health services for the Trenton Service Area.  
 “Sec. 220. Programs operated by Indian Tribes and tribal organizations.  
 “Sec. 221. Licensing.  
 “Sec. 222. Notification of provision of emergency contract health services.  
 “Sec. 223. Prompt action on payment of claims.  
 “Sec. 224. Liability for payment.  
 “Sec. 225. Office of Indian Men’s Health.  
 “Sec. 226. Catastrophic health emergency fund.  
 “Sec. 227. Authorization of appropriations.  
**“TITLE III—FACILITIES**  
 “Sec. 301. Consultation; construction and renovation of facilities; reports.  
 “Sec. 302. Sanitation facilities.  
 “Sec. 303. Preference to Indians and Indian firms.  
 “Sec. 304. Expenditure of non-Service funds for renovation.  
 “Sec. 305. Funding for the construction, expansion, and modernization of small ambulatory care facilities.  
 “Sec. 306. Indian health care delivery demonstration project.  
 “Sec. 307. Land transfer.  
 “Sec. 308. Leases, contracts, and other agreements.  
 “Sec. 309. Study on loans, loan guarantees, and loan repayment.  
 “Sec. 310. Tribal leasing.  
 “Sec. 311. Indian Health Service/tribal facilities joint venture program.  
 “Sec. 312. Location of facilities.  
 “Sec. 313. Maintenance and improvement of health care facilities.  
 “Sec. 314. Tribal management of federally owned quarters.  
 “Sec. 315. Applicability of Buy American Act requirement.  
 “Sec. 316. Other funding for facilities.  
 “Sec. 317. Authorization of appropriations.  
**“TITLE IV—ACCESS TO HEALTH SERVICES**  
 “Sec. 401. Treatment of payments under Social Security Act health benefits programs.  
 “Sec. 402. Grants to and contracts with the Service, Indian Tribes, Tribal Organizations, and urban Indian organizations to facilitate outreach, enrollment, and coverage of Indians under Social Security Act health benefit programs.  
 “Sec. 403. Reimbursement from certain third parties of costs of health services.  
 “Sec. 404. Crediting of reimbursements.  
 “Sec. 405. Purchasing health care coverage.  
 “Sec. 406. Sharing arrangements with Federal agencies.  
 “Sec. 407. Eligible Indian veteran services.  
 “Sec. 408. Payor of last resort.  
 “Sec. 409. Consultation.  
 “Sec. 410. State Children’s Health Insurance Program (SCHIP).  
 “Sec. 411. Premium and cost sharing protections and eligibility determinations under Medicaid and SCHIP and protection of certain Indian property from Medicaid estate recovery.  
 “Sec. 412. Treatment under Medicaid and SCHIP managed care.  
 “Sec. 413. Navajo Nation Medicaid Agency feasibility study.  
 “Sec. 414. Exception for excepted benefits.  
 “Sec. 415. Authorization of appropriations.  
**“TITLE V—HEALTH SERVICES FOR URBAN INDIANS**  
 “Sec. 501. Purpose.  
 “Sec. 502. Contracts with, and grants to, urban Indian organizations.  
 “Sec. 503. Contracts and grants for the provision of health care and referral services.  
 “Sec. 504. Use of Federal Government Facilities and Sources of Supply.  
 “Sec. 505. Contracts and grants for the determination of unmet health care needs.  
 “Sec. 506. Evaluations; renewals.  
 “Sec. 507. Other contract and grant requirements.  
 “Sec. 508. Reports and records.  
 “Sec. 509. Limitation on contract authority.  
 “Sec. 510. Facilities.  
 “Sec. 511. Division of Urban Indian Health.  
 “Sec. 512. Grants for alcohol and substance abuse-related services.  
 “Sec. 513. Treatment of certain demonstration projects.  
 “Sec. 514. Urban NIAAA transferred programs.  
 “Sec. 515. Conferring with urban Indian organizations.  
 “Sec. 516. Urban youth treatment center demonstration.  
 “Sec. 517. Grants for diabetes prevention, treatment, and control.  
 “Sec. 518. Community health representatives.  
 “Sec. 519. Effective date.  
 “Sec. 520. Eligibility for services.  
 “Sec. 521. Authorization of appropriations.  
 “Sec. 522. Health information technology.  
**“TITLE VI—ORGANIZATIONAL IMPROVEMENTS**  
 “Sec. 601. Establishment of the Indian Health Service as an agency of the Public Health Service.  
 “Sec. 602. Automated management information system.  
 “Sec. 603. Authorization of appropriations.  
**“TITLE VII—BEHAVIORAL HEALTH PROGRAMS**  
 “Sec. 701. Behavioral health prevention and treatment services.  
 “Sec. 702. Memoranda of agreement with the Department of the Interior.  
 “Sec. 703. Comprehensive behavioral health prevention and treatment program.  
 “Sec. 704. Mental health technician program.  
 “Sec. 705. Licensing requirement for mental health care workers.  
 “Sec. 706. Indian women treatment programs.  
 “Sec. 707. Indian youth program.  
 “Sec. 708. Indian youth telemental health demonstration project.  
 “Sec. 709. Inpatient and community-based mental health facilities design, construction, and staffing.  
 “Sec. 710. Training and community education.  
 “Sec. 711. Behavioral health program.  
 “Sec. 712. Fetal alcohol disorder programs.  
 “Sec. 713. Child sexual abuse and prevention treatment programs.  
 “Sec. 714. Domestic and sexual violence prevention and treatment.  
 “Sec. 715. Behavioral health research.  
 “Sec. 716. Definitions.  
 “Sec. 717. Authorization of appropriations.  
**“TITLE VIII—MISCELLANEOUS**  
 “Sec. 801. Reports.  
 “Sec. 802. Regulations.  
 “Sec. 803. Plan of implementation.  
 “Sec. 804. Limitation on use of funds appropriated to Indian Health Service.  
 “Sec. 805. Eligibility of California Indians.  
 “Sec. 806. Health services for ineligible persons.  
 “Sec. 807. Reallocation of base resources.  
 “Sec. 808. Results of demonstration projects.  
 “Sec. 809. Moratorium.  
 “Sec. 810. Severability provisions.  
 “Sec. 811. Use of patient safety organizations.  
 “Sec. 812. Confidentiality of medical quality assurance records; qualified immunity for participants.  
 “Sec. 813. Claremore Indian Hospital.  
 “Sec. 814. Sense of Congress regarding law enforcement and methamphetamine issues in Indian country.  
 “Sec. 815. Permitting implementation through contracts with Tribal Health Programs.  
 “Sec. 816. Authorization of appropriations; availability.  
**“SEC. 2. FINDINGS.**  
 “Congress makes the following findings:  
 “(1) Federal health services to maintain and improve the health of the Indians are consonant with and required by the Federal Government’s historical and unique legal relationship with, and resulting responsibility to, the American Indian people.  
 “(2) A major national goal of the United States is to provide the resources, processes, and structure that will enable Indian tribes

and tribal members to obtain the quantity and quality of health care services and opportunities that will eradicate the health disparities between Indians the general population.

“(3) A major national goal of the United States is to provide the quantity and quality of health services which will permit the health status of Indians to be raised to the highest possible level and to encourage the maximum participation of Indians in the planning and management of those services.

“(4) Federal health services to Indians have resulted in a reduction in the prevalence and incidence of preventable illnesses among, and unnecessary and premature deaths of, Indians.

“(5) Despite such services, the unmet health needs of the American Indian people are severe and the health status of the Indians is far below that of the general population of the United States.

### **“SEC. 3. DECLARATION OF NATIONAL INDIAN HEALTH POLICY.**

“Congress declares that it is the policy of this Nation, in fulfillment of its special trust responsibilities and legal obligations to Indians—

“(1) to assure the highest possible health status for Indians and Urban Indians and to provide all resources necessary to effect that policy;

“(2) to raise the health status of Indians and Urban Indians to at least the levels set forth in the goals contained within the Health People 2010 or successor objectives;

“(3) to the greatest extent possible, to allow Indians to set their own health care priorities and establish goals that reflect their unmet needs;

“(4) to increase the proportion of all degrees in the health professions and allied and associated health professions awarded to Indians so that the proportion of Indian health professionals in each Service Area is raised to at least the level of that of the general population;

“(5) to require meaningful consultation with Indian Tribes, Tribal Organizations, and urban Indian organizations to implement this Act and the national policy of Indian self-determination; and

“(6) to provide funding for programs and facilities operated by Indian Tribes, Tribal Organizations, and Urban Indian Organizations in amounts that are not less than the amounts provided to programs and facilities operated directly by the Service.

### **“SEC. 4. DEFINITIONS.**

“For purposes of this Act:

“(1) The term ‘accredited and accessible’ means on or near a reservation and accredited by a national or regional organization with accrediting authority.

“(2) The term ‘Area Office’ means an administrative entity, including a program office, within the Service through which services and funds are provided to the Service Units within a defined geographic area.

“(3) The term ‘Assistant Secretary’ means the Assistant Secretary of Indian Health.

“(4)(A) The term ‘behavioral health’ means the blending of substance (including alcohol, drugs, inhalants, and tobacco) abuse and mental health prevention and treatment, for the purpose of providing comprehensive services.

“(B) The term ‘behavioral health’ includes the joint development of substance abuse and mental health treatment planning and coordinated case management using a multidisciplinary approach.

“(5) The term ‘California Indians’ means those Indians who are eligible for health

services of the Service pursuant to section 805.

“(6) The term ‘community college’ means—

“(A) a tribal college or university, or

“(B) a junior or community college.

“(7) The term ‘contract health service’ means health services provided at the expense of the Service or a Tribal Health Program by public or private medical providers or hospitals, other than the Service Unit or the Tribal Health Program at whose expense the services are provided.

“(8) The term ‘Department’ means, unless otherwise designated, the Department of Health and Human Services.

“(9) The term ‘disease prevention’ means the reduction, limitation, and prevention of disease and its complications and reduction in the consequences of disease, including—

“(A) controlling—

“(i) the development of diabetes;

“(ii) high blood pressure;

“(iii) infectious agents;

“(iv) injuries;

“(v) occupational hazards and disabilities;

“(vi) sexually transmittable diseases; and

“(vii) toxic agents; and

“(B) providing—

“(i) fluoridation of water; and

“(ii) immunizations.

“(10) The term ‘health profession’ means allopathic medicine, family medicine, internal medicine, pediatrics, geriatric medicine, obstetrics and gynecology, podiatric medicine, nursing, public health nursing, dentistry, psychiatry, osteopathy, optometry, pharmacy, psychology, public health, social work, marriage and family therapy, chiropractic medicine, environmental health and engineering, allied health professions, naturopathic medicine, and any other health profession.

“(11) The term ‘health promotion’ means—

“(A) fostering social, economic, environmental, and personal factors conducive to health, including raising public awareness about health matters and enabling the people to cope with health problems by increasing their knowledge and providing them with valid information;

“(B) encouraging adequate and appropriate diet, exercise, and sleep;

“(C) promoting education and work in conformity with physical and mental capacity;

“(D) making available safe water and sanitary facilities;

“(E) improving the physical, economic, cultural, psychological, and social environment;

“(F) promoting culturally competent care; and

“(G) providing adequate and appropriate programs, which may include—

“(i) abuse prevention (mental and physical);

“(ii) community health;

“(iii) community safety;

“(iv) consumer health education;

“(v) diet and nutrition;

“(vi) immunization and other prevention of communicable diseases, including HIV/AIDS;

“(vii) environmental health;

“(viii) exercise and physical fitness;

“(ix) avoidance of fetal alcohol disorders;

“(x) first aid and CPR education;

“(xi) human growth and development;

“(xii) injury prevention and personal safety;

“(xiii) behavioral health;

“(xiv) monitoring of disease indicators between health care provider visits, through appropriate means, including Internet-based health care management systems;

“(xv) personal health and wellness practices;

“(xvi) personal capacity building;

“(xvii) prenatal, pregnancy, and infant care;

“(xviii) psychological well-being;

“(xix) reproductive health and family planning;

“(xx) safe and adequate water;

“(xxi) healthy work environments;

“(xxii) elimination, reduction, and prevention of contaminants that create unhealthy household conditions (including mold and other allergens);

“(xxiii) stress control;

“(xxiv) substance abuse;

“(xxv) sanitary facilities;

“(xxvi) sudden infant death syndrome prevention;

“(xxvii) tobacco use cessation and reduction;

“(xxviii) violence prevention; and

“(xxix) activities to promote achievement of any of the objectives described in section 3(2).

“(12) The term ‘Indian’, unless otherwise designated, means any person who is a member of an Indian Tribe or is eligible for health services under section 805, except that, for the purpose of sections 102 and 103, the term also means any individual who—

“(A)(i) irrespective of whether the individual lives on or near a reservation, is a member of a tribe, band, or other organized group of Indians, including those tribes, bands, or groups terminated since 1940 and those recognized now or in the future by the State in which they reside; or

“(ii) is a descendant, in the first or second degree, of any such member;

“(B) is an Eskimo or Aleut or other Alaska Native;

“(C) is considered by the Secretary of the Interior to be an Indian for any purpose; or

“(D) is determined to be an Indian under regulations promulgated by the Secretary.

“(13) The term ‘Indian Health Program’ means—

“(A) any health program administered directly by the Service;

“(B) any Tribal Health Program; or

“(C) any Indian Tribe or Tribal Organization to which the Secretary provides funding pursuant to section 23 of the Act of June 25, 1910 (25 U.S.C. 47) (commonly known as the ‘Buy Indian Act’).

“(14) The term ‘Indian Tribe’ has the meaning given the term in the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.).

“(15) The term ‘junior or community college’ has the meaning given the term by section 312(f) of the Higher Education Act of 1965 (20 U.S.C. 1058(f)).

“(16) The term ‘reservation’ means any federally recognized Indian Tribe’s reservation, Pueblo, or colony, including former reservations in Oklahoma, Indian allotments, and Alaska Native Regions established pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.).

“(17) The term ‘Secretary’, unless otherwise designated, means the Secretary of Health and Human Services.

“(18) The term ‘Service’ means the Indian Health Service.

“(19) The term ‘Service Area’ means the geographical area served by each Area Office.

“(20) The term ‘Service Unit’ means an administrative entity of the Service, or a Tribal Health Program through which services are provided, directly or by contract, to eligible Indians within a defined geographic area.

“(21) The term ‘telehealth’ has the meaning given the term in section 330K(a) of the

Public Health Service Act (42 U.S.C. 254c-16(a)).

“(22) The term ‘telemedicine’ means a telecommunications link to an end user through the use of eligible equipment that electronically links health professionals or patients and health professionals at separate sites in order to exchange health care information in audio, video, graphic, or other format for the purpose of providing improved health care services.

“(23) The term ‘tribal college or university’ has the meaning given the term in section 316(b)(3) of the Higher Education Act (20 U.S.C. 1059c(b)(3)).

“(24) The term ‘Tribal Health Program’ means an Indian Tribe or Tribal Organization that operates any health program, service, function, activity, or facility funded, in whole or part, by the Service through, or provided for in, a contract or compact with the Service under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.).

“(25) The term ‘Tribal Organization’ has the meaning given the term in the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.).

“(26) The term ‘Urban Center’ means any community which has a sufficient Urban Indian population with unmet health needs to warrant assistance under title V of this Act, as determined by the Secretary.

“(27) The term ‘Urban Indian’ means any individual who resides in an Urban Center and who meets 1 or more of the following criteria:

“(A) Irrespective of whether the individual lives on or near a reservation, the individual is a member of a tribe, band, or other organized group of Indians, including those tribes, bands, or groups terminated since 1940 and those tribes, bands, or groups that are recognized by the States in which they reside, or who is a descendant in the first or second degree of any such member.

“(B) The individual is an Eskimo, Aleut, or other Alaska Native.

“(C) The individual is considered by the Secretary of the Interior to be an Indian for any purpose.

“(D) The individual is determined to be an Indian under regulations promulgated by the Secretary.

“(28) The term ‘urban Indian organization’ means a nonprofit corporate body that (A) is situated in an Urban Center; (B) is governed by an Urban Indian-controlled board of directors; (C) provides for the participation of all interested Indian groups and individuals; and (D) is capable of legally cooperating with other public and private entities for the purpose of performing the activities described in section 503(a).

#### **“TITLE I—INDIAN HEALTH, HUMAN RESOURCES, AND DEVELOPMENT**

##### **“SEC. 101. PURPOSE.**

“The purpose of this title is to increase, to the maximum extent feasible, the number of Indians entering the health professions and providing health services, and to assure an optimum supply of health professionals to the Indian Health Programs and urban Indian organizations involved in the provision of health services to Indians.

##### **“SEC. 102. HEALTH PROFESSIONS RECRUITMENT PROGRAM FOR INDIANS.**

“(a) IN GENERAL.—The Secretary, acting through the Service, shall make grants to public or nonprofit private health or educational entities, Tribal Health Programs, or urban Indian organizations to assist such entities in meeting the costs of—

“(1) identifying Indians with a potential for education or training in the health professions and encouraging and assisting them—

“(A) to enroll in courses of study in such health professions; or

“(B) if they are not qualified to enroll in any such courses of study, to undertake such postsecondary education or training as may be required to qualify them for enrollment;

“(2) publicizing existing sources of financial aid available to Indians enrolled in any course of study referred to in paragraph (1) or who are undertaking training necessary to qualify them to enroll in any such course of study; or

“(3) establishing other programs which the Secretary determines will enhance and facilitate the enrollment of Indians in, and the subsequent pursuit and completion by them of, courses of study referred to in paragraph (1).

“(b) GRANTS.—

“(1) APPLICATION.—No grant may be made under this section unless an application has been submitted to, and approved by, the Secretary. Such application shall be in such form, submitted in such manner, and contain such information, as the Secretary shall by regulation prescribe pursuant to this Act. The Secretary shall give a preference to applications submitted by Tribal Health Programs or urban Indian organizations.

“(2) AMOUNT OF GRANTS; PAYMENT.—The amount of a grant under this section shall be determined by the Secretary. Payments pursuant to this section may be made in advance or by way of reimbursement, and at such intervals and on such conditions as provided for in regulations issued pursuant to this Act. To the extent not otherwise prohibited by law, grants shall be for 3 years, as provided in regulations issued pursuant to this Act.

##### **“SEC. 103. HEALTH PROFESSIONS PREPARATORY SCHOLARSHIP PROGRAM FOR INDIANS.**

“(a) SCHOLARSHIPS AUTHORIZED.—The Secretary, acting through the Service, shall provide scholarship grants to Indians who—

“(1) have successfully completed their high school education or high school equivalency; and

“(2) have demonstrated the potential to successfully complete courses of study in the health professions.

“(b) PURPOSES.—Scholarship grants provided pursuant to this section shall be for the following purposes:

“(1) Compensatory preprofessional education of any recipient, such scholarship not to exceed 2 years on a full-time basis (or the part-time equivalent thereof, as determined by the Secretary pursuant to regulations issued under this Act).

“(2) Pregraduate education of any recipient leading to a baccalaureate degree in an approved course of study preparatory to a field of study in a health profession, such scholarship not to exceed 4 years. An extension of up to 2 years (or the part-time equivalent thereof, as determined by the Secretary pursuant to regulations issued pursuant to this Act) may be approved.

“(c) OTHER CONDITIONS.—Scholarships under this section—

“(1) may cover costs of tuition, books, transportation, board, and other necessary related expenses of a recipient while attending school;

“(2) shall not be denied solely on the basis of the applicant's scholastic achievement if such applicant has been admitted to, or maintained good standing at, an accredited institution; and

“(3) shall not be denied solely by reason of such applicant's eligibility for assistance or benefits under any other Federal program.

##### **“SEC. 104. INDIAN HEALTH PROFESSIONS SCHOLARSHIPS.**

“(a) IN GENERAL.—

“(1) AUTHORITY.—The Secretary, acting through the Service, shall make scholarship grants to Indians who are enrolled full or part time in accredited schools pursuing courses of study in the health professions. Such scholarships shall be designated Indian Health Scholarships and shall be made in accordance with section 338A of the Public Health Services Act (42 U.S.C. 254f), except as provided in subsection (b) of this section.

“(2) DETERMINATIONS BY SECRETARY.—The Secretary, acting through the Service, shall determine—

“(A) who shall receive scholarship grants under subsection (a); and

“(B) the distribution of the scholarships among health professions on the basis of the relative needs of Indians for additional service in the health professions.

“(3) CERTAIN DELEGATION NOT ALLOWED.—The administration of this section shall be a responsibility of the Assistant Secretary and shall not be delegated in a contract or compact under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.).

“(b) ACTIVE DUTY SERVICE OBLIGATION.—

“(1) OBLIGATION MET.—The active duty service obligation under a written contract with the Secretary under this section that an Indian has entered into shall, if that individual is a recipient of an Indian Health Scholarship, be met in full-time practice equal to 1 year for each school year for which the participant receives a scholarship award under this part, or 2 years, whichever is greater, by service in 1 or more of the following:

“(A) In an Indian Health Program.

“(B) In a program assisted under title V of this Act.

“(C) In the private practice of the applicable profession if, as determined by the Secretary, in accordance with guidelines promulgated by the Secretary, such practice is situated in a physician or other health professional shortage area and addresses the health care needs of a substantial number of Indians.

“(D) In a teaching capacity in a tribal college or university nursing program (or a related health profession program) if, as determined by the Secretary, the health service provided to Indians would not decrease.

“(2) OBLIGATION DEFERRED.—At the request of any individual who has entered into a contract referred to in paragraph (1) and who receives a health professions degree requiring postgraduate training for licensure or to improve clinical skills, the Secretary shall defer the active duty service obligation of that individual under that contract, in order that such individual may complete any internship, residency, or other advanced clinical training that is required for the practice of that health profession, for an appropriate period (in years, as determined by the Secretary), subject to the following conditions:

“(A) No period of internship, residency, or other advanced clinical training shall be counted as satisfying any period of obligated service under this subsection.

“(B) The active duty service obligation of that individual shall commence not later than 90 days after the completion of that advanced clinical training (or by a date specified by the Secretary).

“(C) The active duty service obligation will be served in the health profession of

that individual in a manner consistent with paragraph (1).

“(D) A recipient of a scholarship under this section may, at the election of the recipient, meet the active duty service obligation described in paragraph (1) by service in a program specified under that paragraph that—

“(i) is located on the reservation of the Indian Tribe in which the recipient is enrolled; or

“(ii) serves the Indian Tribe in which the recipient is enrolled.

“(3) PRIORITY WHEN MAKING ASSIGNMENTS.—Subject to paragraph (2), the Secretary, in making assignments of Indian Health Scholarship recipients required to meet the active duty service obligation described in paragraph (1), shall give priority to assigning individuals to service in those programs specified in paragraph (1) that have a need for health professionals to provide health care services as a result of individuals having breached contracts entered into under this section.

“(c) PART-TIME STUDENTS.—In the case of an individual receiving a scholarship under this section who is enrolled part time in an approved course of study—

“(1) such scholarship shall be for a period of years not to exceed the part-time equivalent of 4 years, as determined by the Secretary;

“(2) the period of obligated service described in subsection (b)(1) shall be equal to the greater of—

“(A) the part-time equivalent of 1 year for each year for which the individual was provided a scholarship (as determined by the Secretary); or

“(B) 2 years; and

“(3) the amount of the monthly stipend specified in section 338A(g)(1)(B) of the Public Health Service Act (42 U.S.C. 254(g)(1)(B)) shall be reduced pro rata (as determined by the Secretary) based on the number of hours such student is enrolled.

“(d) BREACH OF CONTRACT.—

“(1) SPECIFIED BREACHES.—An individual shall be liable to the United States for the amount which has been paid to the individual, or on behalf of the individual, under a contract entered into with the Secretary under this section on or after the date of enactment of the Indian Health Care Improvement Act Amendments of 2009 if that individual—

“(A) fails to maintain an acceptable level of academic standing in the educational institution in which he or she is enrolled (such level determined by the educational institution under regulations of the Secretary);

“(B) is dismissed from such educational institution for disciplinary reasons;

“(C) voluntarily terminates the training in such an educational institution for which he or she is provided a scholarship under such contract before the completion of such training; or

“(D) fails to accept payment, or instructs the educational institution in which he or she is enrolled not to accept payment, in whole or in part, of a scholarship under such contract, in lieu of any service obligation arising under such contract.

“(2) OTHER BREACHES.—If for any reason not specified in paragraph (1) an individual breaches a written contract by failing either to begin such individual's service obligation required under such contract or to complete such service obligation, the United States shall be entitled to recover from the individual an amount determined in accordance with the formula specified in subsection (1) of section 110 in the manner provided for in such subsection.

“(3) CANCELLATION UPON DEATH OF RECIPIENT.—Upon the death of an individual who receives an Indian Health Scholarship, any outstanding obligation of that individual for service or payment that relates to that scholarship shall be canceled.

“(4) WAIVERS AND SUSPENSIONS.—The Secretary shall provide for the partial or total waiver or suspension of any obligation of service or payment of a recipient of an Indian Health Scholarship if the Secretary determines that—

“(A) it is not possible for the recipient to meet that obligation or make that payment;

“(B) requiring that recipient to meet that obligation or make that payment would result in extreme hardship to the recipient; or

“(C) the enforcement of the requirement to meet the obligation or make the payment would be unconscionable.

“(5) EXTREME HARDSHIP.—Notwithstanding any other provision of law, in any case of extreme hardship or for other good cause shown, the Secretary may waive, in whole or in part, the right of the United States to recover funds made available under this section.

“(6) BANKRUPTCY.—Notwithstanding any other provision of law, with respect to a recipient of an Indian Health Scholarship, no obligation for payment may be released by a discharge in bankruptcy under title 11, United States Code, unless that discharge is granted after the expiration of the 5-year period beginning on the initial date on which that payment is due, and only if the bankruptcy court finds that the nondischarge of the obligation would be unconscionable.

#### “SEC. 105. AMERICAN INDIANS INTO PSYCHOLOGY PROGRAM.

“(a) GRANTS AUTHORIZED.—The Secretary, acting through the Service, shall make grants of not more than \$300,000 to each of 9 colleges and universities for the purpose of developing and maintaining Indian psychology career recruitment programs as a means of encouraging Indians to enter the behavioral health field. These programs shall be located at various locations throughout the country to maximize their availability to Indian students and new programs shall be established in different locations from time to time.

“(b) QUENTIN N. BURDICK PROGRAM GRANT.—The Secretary shall provide a grant authorized under subsection (a) to develop and maintain a program at the University of North Dakota to be known as the ‘Quentin N. Burdick American Indians Into Psychology Program’. Such program shall, to the maximum extent feasible, coordinate with the Quentin N. Burdick Indian Health Programs authorized under section 117(b), the Quentin N. Burdick American Indians Into Nursing Program authorized under section 115(e), and existing university research and communications networks.

“(c) REGULATIONS.—The Secretary shall issue regulations pursuant to this Act for the competitive awarding of grants provided under this section.

“(d) CONDITIONS OF GRANT.—Applicants under this section shall agree to provide a program which, at a minimum—

“(1) provides outreach and recruitment for health professions to Indian communities including elementary, secondary, and accredited and accessible community colleges that will be served by the program;

“(2) incorporates a program advisory board comprised of representatives from the tribes and communities that will be served by the program;

“(3) provides summer enrichment programs to expose Indian students to the various

fields of psychology through research, clinical, and experimental activities;

“(4) provides stipends to undergraduate and graduate students to pursue a career in psychology;

“(5) develops affiliation agreements with tribal colleges and universities, the Service, university affiliated programs, and other appropriate accredited and accessible entities to enhance the education of Indian students;

“(6) to the maximum extent feasible, uses existing university tutoring, counseling, and student support services; and

“(7) to the maximum extent feasible, employs qualified Indians in the program.

“(e) ACTIVE DUTY SERVICE REQUIREMENT.—The active duty service obligation prescribed under section 338C of the Public Health Service Act (42 U.S.C. 254m) shall be met by each graduate who receives a stipend described in subsection (d)(4) that is funded under this section. Such obligation shall be met by service—

“(1) in an Indian Health Program;

“(2) in a program assisted under title V of this Act; or

“(3) in the private practice of psychology if, as determined by the Secretary, in accordance with guidelines promulgated by the Secretary, such practice is situated in a physician or other health professional shortage area and addresses the health care needs of a substantial number of Indians.

“(f) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated such sums as may be necessary to carry out this section.

#### “SEC. 106. SCHOLARSHIP PROGRAMS FOR INDIAN TRIBES.

“(a) IN GENERAL.—

“(1) GRANTS AUTHORIZED.—The Secretary, acting through the Service, shall make grants to Tribal Health Programs for the purpose of providing scholarships for Indians to serve as health professionals in Indian communities.

“(2) AMOUNT.—Amounts available under paragraph (1) for any fiscal year shall not exceed 5 percent of the amounts available for each fiscal year for Indian Health Scholarships under section 104.

“(3) APPLICATION.—An application for a grant under paragraph (1) shall be in such form and contain such agreements, assurances, and information as consistent with this section.

“(b) REQUIREMENTS.—

“(1) IN GENERAL.—A Tribal Health Program receiving a grant under subsection (a) shall provide scholarships to Indians in accordance with the requirements of this section.

“(2) COSTS.—With respect to costs of providing any scholarship pursuant to subsection (a)—

“(A) 80 percent of the costs of the scholarship shall be paid from the funds made available pursuant to subsection (a)(1) provided to the Tribal Health Program; and

“(B) 20 percent of such costs may be paid from any other source of funds.

“(c) COURSE OF STUDY.—A Tribal Health Program shall provide scholarships under this section only to Indians enrolled or accepted for enrollment in a course of study (approved by the Secretary) in 1 of the health professions contemplated by this Act.

“(d) CONTRACT.—

“(1) IN GENERAL.—In providing scholarships under subsection (b), the Secretary and the Tribal Health Program shall enter into a written contract with each recipient of such scholarship.

“(2) REQUIREMENTS.—Such contract shall—

“(A) obligate such recipient to provide service in an Indian Health Program or

urban Indian organization, in the same Service Area where the Tribal Health Program providing the scholarship is located, for—

“(i) a number of years for which the scholarship is provided (or the part-time equivalent thereof, as determined by the Secretary), or for a period of 2 years, whichever period is greater; or

“(ii) such greater period of time as the recipient and the Tribal Health Program may agree;

“(B) provide that the amount of the scholarship—

“(i) may only be expended for—

“(I) tuition expenses, other reasonable educational expenses, and reasonable living expenses incurred in attendance at the educational institution; and

“(II) payment to the recipient of a monthly stipend of not more than the amount authorized by section 338(g)(1)(B) of the Public Health Service Act (42 U.S.C. 254m(g)(1)(B)), with such amount to be reduced pro rata (as determined by the Secretary) based on the number of hours such student is enrolled, and not to exceed, for any year of attendance for which the scholarship is provided, the total amount required for the year for the purposes authorized in this clause; and

“(ii) may not exceed, for any year of attendance for which the scholarship is provided, the total amount required for the year for the purposes authorized in clause (i);

“(C) require the recipient of such scholarship to maintain an acceptable level of academic standing as determined by the educational institution in accordance with regulations issued pursuant to this Act; and

“(D) require the recipient of such scholarship to meet the educational and licensure requirements appropriate to each health profession.

“(3) SERVICE IN OTHER SERVICE AREAS.—The contract may allow the recipient to serve in another Service Area, provided the Tribal Health Program and Secretary approve and services are not diminished to Indians in the Service Area where the Tribal Health Program providing the scholarship is located.

“(e) BREACH OF CONTRACT.—

“(1) SPECIFIC BREACHES.—An individual who has entered into a written contract with the Secretary and a Tribal Health Program under subsection (d) shall be liable to the United States for the Federal share of the amount which has been paid to him or her, or on his or her behalf, under the contract if that individual—

“(A) fails to maintain an acceptable level of academic standing in the educational institution in which he or she is enrolled (such level as determined by the educational institution under regulations of the Secretary);

“(B) is dismissed from such educational institution for disciplinary reasons;

“(C) voluntarily terminates the training in such an educational institution for which he or she is provided a scholarship under such contract before the completion of such training; or

“(D) fails to accept payment, or instructs the educational institution in which he or she is enrolled not to accept payment, in whole or in part, of a scholarship under such contract, in lieu of any service obligation arising under such contract.

“(2) OTHER BREACHES.—If for any reason not specified in paragraph (1), an individual breaches a written contract by failing to either begin such individual's service obligation required under such contract or to complete such service obligation, the United States shall be entitled to recover from the individual an amount determined in accord-

ance with the formula specified in subsection (1) of section 110 in the manner provided for in such subsection.

“(3) CANCELLATION UPON DEATH OF RECIPIENT.—Upon the death of an individual who receives an Indian Health Scholarship, any outstanding obligation of that individual for service or payment that relates to that scholarship shall be canceled.

“(4) INFORMATION.—The Secretary may carry out this subsection on the basis of information received from Tribal Health Programs involved or on the basis of information collected through such other means as the Secretary deems appropriate.

“(f) RELATION TO SOCIAL SECURITY ACT.—The recipient of a scholarship under this section shall agree, in providing health care pursuant to the requirements herein—

“(1) not to discriminate against an individual seeking care on the basis of the ability of the individual to pay for such care or on the basis that payment for such care will be made pursuant to a program established in title XVIII of the Social Security Act or pursuant to the programs established in title XIX or title XXI of such Act; and

“(2) to accept assignment under section 1842(b)(3)(B)(ii) of the Social Security Act for all services for which payment may be made under part B of title XVIII of such Act, and to enter into an appropriate agreement with the State agency that administers the State plan for medical assistance under title XIX, or the State child health plan under title XXI, of such Act to provide service to individuals entitled to medical assistance or child health assistance, respectively, under the plan.

“(g) CONTINUANCE OF FUNDING.—The Secretary shall make payments under this section to a Tribal Health Program for any fiscal year subsequent to the first fiscal year of such payments unless the Secretary determines that, for the immediately preceding fiscal year, the Tribal Health Program has not complied with the requirements of this section.

#### “SEC. 107. INDIAN HEALTH SERVICE EXTERNAL PROGRAMS.

“(a) EMPLOYMENT PREFERENCE.—Any individual who receives a scholarship pursuant to section 104 or 106 shall be given preference for employment in the Service, or may be employed by a Tribal Health Program or an urban Indian organization, or other agencies of the Department as available, during any nonacademic period of the year.

“(b) NOT COUNTED TOWARD ACTIVE DUTY SERVICE OBLIGATION.—Periods of employment pursuant to this subsection shall not be counted in determining fulfillment of the service obligation incurred as a condition of the scholarship.

“(c) TIMING; LENGTH OF EMPLOYMENT.—Any individual enrolled in a program, including a high school program, authorized under section 102(a) may be employed by the Service or by a Tribal Health Program or an urban Indian organization during any nonacademic period of the year. Any such employment shall not exceed 120 days during any calendar year.

“(d) NONAPPLICABILITY OF COMPETITIVE PERSONNEL SYSTEM.—Any employment pursuant to this section shall be made without regard to any competitive personnel system or agency personnel limitation and to a position which will enable the individual so employed to receive practical experience in the health profession in which he or she is engaged in study. Any individual so employed shall receive payment for his or her services comparable to the salary he or she would re-

ceive if he or she were employed in the competitive system. Any individual so employed shall not be counted against any employment ceiling affecting the Service or the Department.

#### “SEC. 108. CONTINUING EDUCATION ALLOWANCES.

“In order to encourage scholarship and stipend recipients under sections 104, 105, 106, and 115 and health professionals, including community health representatives and emergency medical technicians, to join or continue in an Indian Health Program and to provide their services in the rural and remote areas where a significant portion of Indians reside, the Secretary, acting through the Service, may—

“(1) provide programs or allowances to transition into an Indian Health Program, including licensing, board or certification examination assistance, and technical assistance in fulfilling service obligations under sections 104, 105, 106, and 115; and

“(2) provide programs or allowances to health professionals employed in an Indian Health Program to enable them for a period of time each year prescribed by regulation of the Secretary to take leave of their duty stations for professional consultation, management, leadership, and refresher training courses.

#### “SEC. 109. COMMUNITY HEALTH REPRESENTATIVE PROGRAM.

“(a) IN GENERAL.—Under the authority of the Act of November 2, 1921 (25 U.S.C. 13) (commonly known as the ‘Snyder Act’), the Secretary, acting through the Service, shall maintain a Community Health Representative Program under which Indian Health Programs—

“(1) provide for the training of Indians as community health representatives; and

“(2) use such community health representatives in the provision of health care, health promotion, and disease prevention services to Indian communities.

“(b) DUTIES.—The Community Health Representative Program of the Service, shall—

“(1) provide a high standard of training for community health representatives to ensure that the community health representatives provide quality health care, health promotion, and disease prevention services to the Indian communities served by the Program;

“(2) in order to provide such training, develop and maintain a curriculum that—

“(A) combines education in the theory of health care with supervised practical experience in the provision of health care; and

“(B) provides instruction and practical experience in health promotion and disease prevention activities, with appropriate consideration given to lifestyle factors that have an impact on Indian health status, such as alcoholism, family dysfunction, and poverty;

“(3) maintain a system which identifies the needs of community health representatives for continuing education in health care, health promotion, and disease prevention and develop programs that meet the needs for continuing education;

“(4) maintain a system that provides close supervision of Community Health Representatives;

“(5) maintain a system under which the work of Community Health Representatives is reviewed and evaluated; and

“(6) promote traditional health care practices of the Indian Tribes served consistent with the Service standards for the provision of health care, health promotion, and disease prevention.

**“SEC. 110. INDIAN HEALTH SERVICE LOAN REPAYMENT PROGRAM.**

“(a) **ESTABLISHMENT.**—The Secretary, acting through the Service, shall establish and administer a program to be known as the Service Loan Repayment Program (hereinafter referred to as the ‘Loan Repayment Program’) in order to ensure an adequate supply of trained health professionals necessary to maintain accreditation of, and provide health care services to Indians through, Indian Health Programs and urban Indian organizations.

“(b) **ELIGIBLE INDIVIDUALS.**—To be eligible to participate in the Loan Repayment Program, an individual must—

“(1)(A) be enrolled—

“(i) in a course of study or program in an accredited educational institution (as determined by the Secretary under section 338B(b)(1)(c)(i) of the Public Health Service Act (42 U.S.C. 2541–1(b)(1)(c)(i))) and be scheduled to complete such course of study in the same year such individual applies to participate in such program; or

“(ii) in an approved graduate training program in a health profession; or

“(B) have—

“(i) a degree in a health profession; and

“(ii) a license to practice a health profession;

“(2)(A) be eligible for, or hold, an appointment as a commissioned officer in the Regular or Reserve Corps of the Public Health Service;

“(B) meet the professional standards for civil service employment in the Service; or

“(C) be employed in an Indian Health Program or urban Indian organization without a service obligation; and

“(3) submit to the Secretary an application for a contract described in subsection (e).

“(c) **APPLICATION.**—

“(1) **INFORMATION TO BE INCLUDED WITH FORMS.**—In disseminating application forms and contract forms to individuals desiring to participate in the Loan Repayment Program, the Secretary shall include with such forms a fair summary of the rights and liabilities of an individual whose application is approved (and whose contract is accepted) by the Secretary, including in the summary a clear explanation of the damages to which the United States is entitled under subsection (l) in the case of the individual's breach of contract. The Secretary shall provide such individuals with sufficient information regarding the advantages and disadvantages of service as a commissioned officer in the Regular or Reserve Corps of the Public Health Service or a civilian employee of the Service to enable the individual to make a decision on an informed basis.

“(2) **CLEAR LANGUAGE.**—The application form, contract form, and all other information furnished by the Secretary under this section shall be written in a manner calculated to be understood by the average individual applying to participate in the Loan Repayment Program.

“(3) **TIMELY AVAILABILITY OF FORMS.**—The Secretary shall make such application forms, contract forms, and other information available to individuals desiring to participate in the Loan Repayment Program on a date sufficiently early to ensure that such individuals have adequate time to carefully review and evaluate such forms and information.

“(d) **PRIORITIES.**—

“(1) **LIST.**—Consistent with subsection (j), the Secretary shall annually—

“(A) identify the positions in each Indian Health Program or urban Indian organiza-

tion for which there is a need or a vacancy; and

“(B) rank those positions in order of priority.

“(2) **APPROVALS.**—Consistent with the priority determined under paragraph (1), the Secretary, in determining which applications under the Loan Repayment Program to approve (and which contracts to accept), shall—

“(A) give first priority to applications made by individual Indians; and

“(B) after making determinations on all applications submitted by individual Indians as required under subparagraph (A), give priority to—

“(i) individuals recruited through the efforts of an Indian Health Program or urban Indian organization; and

“(ii) other individuals based on the priority rankings under paragraph (1).

“(e) **RECIPIENT CONTRACTS.**—

“(1) **CONTRACT REQUIRED.**—An individual becomes a participant in the Loan Repayment Program only upon the Secretary and the individual entering into a written contract described in paragraph (2).

“(2) **CONTENTS OF CONTRACT.**—The written contract referred to in this section between the Secretary and an individual shall contain—

“(A) an agreement under which—

“(i) subject to subparagraph (C), the Secretary agrees—

“(I) to pay loans on behalf of the individual in accordance with the provisions of this section; and

“(II) to accept (subject to the availability of appropriated funds for carrying out this section) the individual into the Service or place the individual with a Tribal Health Program or urban Indian organization as provided in clause (ii)(III); and

“(ii) subject to subparagraph (C), the individual agrees—

“(I) to accept loan payments on behalf of the individual;

“(II) in the case of an individual described in subsection (b)(1)—

“(aa) to maintain enrollment in a course of study or training described in subsection (b)(1)(A) until the individual completes the course of study or training; and

“(bb) while enrolled in such course of study or training, to maintain an acceptable level of academic standing (as determined under regulations of the Secretary by the educational institution offering such course of study or training); and

“(III) to serve for a time period (in this section referred to as the ‘period of obligated service’) equal to 2 years or such longer period as the individual may agree to serve in the full-time clinical practice of such individual's profession in an Indian Health Program or urban Indian organization to which the individual may be assigned by the Secretary;

“(B) a provision permitting the Secretary to extend for such longer additional periods, as the individual may agree to, the period of obligated service agreed to by the individual under subparagraph (A)(ii)(III);

“(C) a provision that any financial obligation of the United States arising out of a contract entered into under this section and any obligation of the individual which is conditioned thereon is contingent upon funds being appropriated for loan repayments under this section;

“(D) a statement of the damages to which the United States is entitled under subsection (k) for the individual's breach of the contract; and

“(E) such other statements of the rights and liabilities of the Secretary and of the individual, not inconsistent with this section.

“(f) **DEADLINE FOR DECISION ON APPLICATION.**—The Secretary shall provide written notice to an individual within 21 days on—

“(1) the Secretary's approving, under subsection (e)(1), of the individual's participation in the Loan Repayment Program, including extensions resulting in an aggregate period of obligated service in excess of 4 years; or

“(2) the Secretary's disapproving an individual's participation in such Program.

“(g) **PAYMENTS.**—

“(1) **IN GENERAL.**—A loan repayment provided for an individual under a written contract under the Loan Repayment Program shall consist of payment, in accordance with paragraph (2), on behalf of the individual of the principal, interest, and related expenses on government and commercial loans received by the individual regarding the undergraduate or graduate education of the individual (or both), which loans were made for—

“(A) tuition expenses;

“(B) all other reasonable educational expenses, including fees, books, and laboratory expenses, incurred by the individual; and

“(C) reasonable living expenses as determined by the Secretary.

“(2) **AMOUNT.**—For each year of obligated service that an individual contracts to serve under subsection (e), the Secretary may pay up to \$35,000 or an amount equal to the amount specified in section 338B(g)(2)(A) of the Public Health Service Act, whichever is more, on behalf of the individual for loans described in paragraph (1). In making a determination of the amount to pay for a year of such service by an individual, the Secretary shall consider the extent to which each such determination—

“(A) affects the ability of the Secretary to maximize the number of contracts that can be provided under the Loan Repayment Program from the amounts appropriated for such contracts;

“(B) provides an incentive to serve in Indian Health Programs and urban Indian organizations with the greatest shortages of health professionals; and

“(C) provides an incentive with respect to the health professional involved remaining in an Indian Health Program or urban Indian organization with such a health professional shortage, and continuing to provide primary health services, after the completion of the period of obligated service under the Loan Repayment Program.

“(3) **TIMING.**—Any arrangement made by the Secretary for the making of loan repayments in accordance with this subsection shall provide that any repayments for a year of obligated service shall be made no later than the end of the fiscal year in which the individual completes such year of service.

“(4) **REIMBURSEMENTS FOR TAX LIABILITY.**—For the purpose of providing reimbursements for tax liability resulting from a payment under paragraph (2) on behalf of an individual, the Secretary—

“(A) in addition to such payments, may make payments to the individual in an amount equal to not less than 20 percent and not more than 39 percent of the total amount of loan repayments made for the taxable year involved; and

“(B) may make such additional payments as the Secretary determines to be appropriate with respect to such purpose.

“(5) **PAYMENT SCHEDULE.**—The Secretary may enter into an agreement with the holder of any loan for which payments are made

under the Loan Repayment Program to establish a schedule for the making of such payments.

“(h) **EMPLOYMENT CEILING.**—Notwithstanding any other provision of law, individuals who have entered into written contracts with the Secretary under this section shall not be counted against any employment ceiling affecting the Department while those individuals are undergoing academic training.

“(i) **RECRUITMENT.**—The Secretary shall conduct recruiting programs for the Loan Repayment Program and other manpower programs of the Service at educational institutions training health professionals or specialists identified in subsection (a).

“(j) **APPLICABILITY OF LAW.**—Section 214 of the Public Health Service Act (42 U.S.C. 215) shall not apply to individuals during their period of obligated service under the Loan Repayment Program.

“(k) **ASSIGNMENT OF INDIVIDUALS.**—The Secretary, in assigning individuals to serve in Indian Health Programs or urban Indian organizations pursuant to contracts entered into under this section, shall—

“(1) ensure that the staffing needs of Tribal Health Programs and urban Indian organizations receive consideration on an equal basis with programs that are administered directly by the Service; and

“(2) give priority to assigning individuals to Indian Health Programs and urban Indian organizations that have a need for health professionals to provide health care services as a result of individuals having breached contracts entered into under this section.

“(l) **BREACH OF CONTRACT.**—

“(1) **SPECIFIC BREACHES.**—An individual who has entered into a written contract with the Secretary under this section and has not received a waiver under subsection (m) shall be liable, in lieu of any service obligation arising under such contract, to the United States for the amount which has been paid on such individual's behalf under the contract if that individual—

“(A) is enrolled in the final year of a course of study and—

“(i) fails to maintain an acceptable level of academic standing in the educational institution in which he or she is enrolled (such level determined by the educational institution under regulations of the Secretary);

“(ii) voluntarily terminates such enrollment; or

“(iii) is dismissed from such educational institution before completion of such course of study; or

“(B) is enrolled in a graduate training program and fails to complete such training program.

“(2) **OTHER BREACHES; FORMULA FOR AMOUNT OWED.**—If, for any reason not specified in paragraph (1), an individual breaches his or her written contract under this section by failing either to begin, or complete, such individual's period of obligated service in accordance with subsection (e)(2), the United States shall be entitled to recover from such individual an amount to be determined in accordance with the following formula:  $A = 3Z(t - s/t)$  in which—

“(A) ‘A’ is the amount the United States is entitled to recover;

“(B) ‘Z’ is the sum of the amounts paid under this section to, or on behalf of, the individual and the interest on such amounts which would be payable if, at the time the amounts were paid, they were loans bearing interest at the maximum legal prevailing rate, as determined by the Secretary of the Treasury;

“(C) ‘t’ is the total number of months in the individual's period of obligated service; and

“(D) ‘s’ is the number of months of such period served by such individual in accordance with this section.

“(3) **TIME PERIOD FOR REPAYMENT.**—Any amount of damages which the United States is entitled to recover under this subsection shall be paid to the United States within the 1-year period beginning on the date of the breach or such longer period beginning on such date as shall be specified by the Secretary.

“(4) **DEDUCTIONS IN MEDICARE PAYMENTS.**—Amounts not paid within such period shall be subject to collection through deductions in Medicare payments pursuant to section 1892 of the Social Security Act.

“(5) **RECOVERY OF DELINQUENCY.**—

“(A) **IN GENERAL.**—If damages described in paragraph (4) are delinquent for 3 months, the Secretary shall, for the purpose of recovering such damages—

“(i) use collection agencies contracted with by the Administrator of General Services; or

“(ii) enter into contracts for the recovery of such damages with collection agencies selected by the Secretary.

“(B) **REPORT.**—Each contract for recovering damages pursuant to this subsection shall provide that the contractor will, not less than once each 6 months, submit to the Secretary a status report on the success of the contractor in collecting such damages. Section 3718 of title 31, United States Code, shall apply to any such contract to the extent not inconsistent with this subsection.

“(m) **WAIVER OR SUSPENSION OF OBLIGATION.**—

“(1) **IN GENERAL.**—The Secretary shall by regulation provide for the partial or total waiver or suspension of any obligation of service or payment by an individual under the Loan Repayment Program whenever compliance by the individual is impossible or would involve extreme hardship to the individual and if enforcement of such obligation with respect to any individual would be unconscionable.

“(2) **CANCELED UPON DEATH.**—Any obligation of an individual under the Loan Repayment Program for service or payment of damages shall be canceled upon the death of the individual.

“(3) **HARDSHIP WAIVER.**—The Secretary may waive, in whole or in part, the rights of the United States to recover amounts under this section in any case of extreme hardship or other good cause shown, as determined by the Secretary.

“(4) **BANKRUPTCY.**—Any obligation of an individual under the Loan Repayment Program for payment of damages may be released by a discharge in bankruptcy under title 11 of the United States Code only if such discharge is granted after the expiration of the 5-year period beginning on the first date that payment of such damages is required, and only if the bankruptcy court finds that nondischarge of the obligation would be unconscionable.

“(n) **REPORT.**—The Secretary shall submit to the President, for inclusion in the report required to be submitted to Congress under section 801, a report concerning the previous fiscal year which sets forth by Service Area the following:

“(1) A list of the health professional positions maintained by Indian Health Programs and urban Indian organizations for which recruitment or retention is difficult.

“(2) The number of Loan Repayment Program applications filed with respect to each type of health profession.

“(3) The number of contracts described in subsection (e) that are entered into with respect to each health profession.

“(4) The amount of loan payments made under this section, in total and by health profession.

“(5) The number of scholarships that are provided under sections 104 and 106 with respect to each health profession.

“(6) The amount of scholarship grants provided under sections 104 and 106, in total and by health profession.

“(7) The number of providers of health care that will be needed by Indian Health Programs and urban Indian organizations, by location and profession, during the 3 fiscal years beginning after the date the report is filed.

“(8) The measures the Secretary plans to take to fill the health professional positions maintained by Indian Health Programs or urban Indian organizations for which recruitment or retention is difficult.

#### “SEC. 111. SCHOLARSHIP AND LOAN REPAYMENT RECOVERY FUND.

“(a) **ESTABLISHMENT.**—There is established in the Treasury of the United States a fund to be known as the Indian Health Scholarship and Loan Repayment Recovery Fund (hereafter in this section referred to as the ‘LRRF’). The LRRF shall consist of such amounts as may be collected from individuals under section 104(d), section 106(e), and section 110(1) for breach of contract, such funds as may be appropriated to the LRRF, and interest earned on amounts in the LRRF. All amounts collected, appropriated, or earned relative to the LRRF shall remain available until expended.

“(b) **USE OF FUNDS.**—

“(1) **BY SECRETARY.**—Amounts in the LRRF may be expended by the Secretary, acting through the Service, to make payments to an Indian Health Program—

“(A) to which a scholarship recipient under section 104 and 106 or a loan repayment program participant under section 110 has been assigned to meet the obligated service requirements pursuant to such sections; and

“(B) that has a need for a health professional to provide health care services as a result of such recipient or participant having breached the contract entered into under section 104, 106, or 110.

“(2) **BY TRIBAL HEALTH PROGRAMS.**—A Tribal Health Program receiving payments pursuant to paragraph (1) may expend the payments to provide scholarships or recruit and employ, directly or by contract, health professionals to provide health care services.

“(c) **INVESTMENT OF FUNDS.**—The Secretary of the Treasury shall invest such amounts of the LRRF as the Secretary of Health and Human Services determines are not required to meet current withdrawals from the LRRF. Such investments may be made only in interest bearing obligations of the United States. For such purpose, such obligations may be acquired on original issue at the issue price, or by purchase of outstanding obligations at the market price.

“(d) **SALE OF OBLIGATIONS.**—Any obligation acquired by the LRRF may be sold by the Secretary of the Treasury at the market price.

#### “SEC. 112. RECRUITMENT ACTIVITIES.

“(a) **REIMBURSEMENT FOR TRAVEL.**—The Secretary, acting through the Service, may reimburse health professionals seeking positions with Indian Health Programs or urban Indian organizations, including individuals



considering entering into a contract under section 110 and their spouses, for actual and reasonable expenses incurred in traveling to and from their places of residence to an area in which they may be assigned for the purpose of evaluating such area with respect to such assignment.

“(b) **RECRUITMENT PERSONNEL.**—The Secretary, acting through the Service, shall assign 1 individual in each Area Office to be responsible on a full-time basis for recruitment activities.

**“SEC. 113. INDIAN RECRUITMENT AND RETENTION PROGRAM.**

“(a) **IN GENERAL.**—The Secretary, acting through the Service, shall fund, on a competitive basis, innovative demonstration projects for a period not to exceed 3 years to enable Indian Health Programs and urban Indian organizations to recruit, place, and retain health professionals to meet their staffing needs.

“(b) **ELIGIBLE ENTITIES; APPLICATION.**—Any Indian Health Program or Urban Indian organization may submit an application for funding of a project pursuant to this section.

**“SEC. 114. ADVANCED TRAINING AND RESEARCH.**

“(a) **DEMONSTRATION PROGRAM.**—The Secretary, acting through the Service, shall establish a demonstration project to enable health professionals who have worked in an Indian Health Program or urban Indian organization for a substantial period of time to pursue advanced training or research areas of study for which the Secretary determines a need exists.

“(b) **SERVICE OBLIGATION.**—An individual who participates in a program under subsection (a), where the educational costs are borne by the Service, shall incur an obligation to serve in an Indian Health Program or urban Indian organization for a period of obligated service equal to at least the period of time during which the individual participates in such program. In the event that the individual fails to complete such obligated service, the individual shall be liable to the United States for the period of service remaining. In such event, with respect to individuals entering the program after the date of enactment of the Indian Health Care Improvement Act Amendments of 2009, the United States shall be entitled to recover from such individual an amount to be determined in accordance with the formula specified in subsection (1) of section 110 in the manner provided for in such subsection.

“(c) **EQUAL OPPORTUNITY FOR PARTICIPATION.**—Health professionals from Tribal Health Programs and urban Indian organizations shall be given an equal opportunity to participate in the program under subsection (a).

**“SEC. 115. QUENTIN N. BURDICK AMERICAN INDIANS INTO NURSING PROGRAM.**

“(a) **GRANTS AUTHORIZED.**—For the purpose of increasing the number of nurses, nurse midwives, and nurse practitioners who deliver health care services to Indians, the Secretary, acting through the Service, shall provide grants to the following:

“(1) Public or private schools of nursing.

“(2) Tribal colleges or universities.

“(3) Nurse midwife programs and advanced practice nurse programs that are provided by any tribal college or university accredited nursing program, or in the absence of such, any other public or private institutions.

“(b) **USE OF GRANTS.**—Grants provided under subsection (a) may be used for 1 or more of the following:

“(1) To recruit individuals for programs which train individuals to be nurses, nurse midwives, or advanced practice nurses.

“(2) To provide scholarships to Indians enrolled in such programs that may pay the tuition charged for such program and other expenses incurred in connection with such program, including books, fees, room and board, and stipends for living expenses.

“(3) To provide a program that encourages nurses, nurse midwives, and advanced practice nurses to provide, or continue to provide, health care services to Indians.

“(4) To provide a program that increases the skills of, and provides continuing education to, nurses, nurse midwives, and advanced practice nurses.

“(5) To provide any program that is designed to achieve the purpose described in subsection (a).

“(c) **APPLICATIONS.**—Each application for a grant under subsection (a) shall include such information as the Secretary may require to establish the connection between the program of the applicant and a health care facility that primarily serves Indians.

“(d) **PREFERENCES FOR GRANT RECIPIENTS.**—In providing grants under subsection (a), the Secretary shall extend a preference to the following:

“(1) Programs that provide a preference to Indians.

“(2) Programs that train nurse midwives or advanced practice nurses.

“(3) Programs that are interdisciplinary.

“(4) Programs that are conducted in cooperation with a program for gifted and talented Indian students.

“(5) Programs conducted by tribal colleges and universities.

“(e) **QUENTIN N. BURDICK PROGRAM GRANT.**—The Secretary shall provide 1 of the grants authorized under subsection (a) to establish and maintain a program at the University of North Dakota to be known as the ‘Quentin N. Burdick American Indians Into Nursing Program’. Such program shall, to the maximum extent feasible, coordinate with the Quentin N. Burdick Indian Health Programs established under section 117(b) and the Quentin N. Burdick American Indians Into Psychology Program established under section 105(b).

“(f) **ACTIVE DUTY SERVICE OBLIGATION.**—The active duty service obligation prescribed under section 338C of the Public Health Service Act (42 U.S.C. 254m) shall be met by each individual who receives training or assistance described in paragraph (1) or (2) of subsection (b) that is funded by a grant provided under subsection (a). Such obligation shall be met by service—

“(1) in the Service;

“(2) in a program of an Indian Tribe or Tribal Organization conducted under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.) (including programs under agreements with the Bureau of Indian Affairs);

“(3) in a program assisted under title V of this Act;

“(4) in the private practice of nursing if, as determined by the Secretary, in accordance with guidelines promulgated by the Secretary, such practice is situated in a physician or other health shortage area and addresses the health care needs of a substantial number of Indians; or

“(5) in a teaching capacity in a tribal college or university nursing program (or a related health profession program) if, as determined by the Secretary, health services provided to Indians would not decrease.

**“SEC. 116. TRIBAL CULTURAL ORIENTATION.**

“(a) **CULTURAL EDUCATION OF EMPLOYEES.**—The Secretary, acting through the Service, shall require that appropriate employees of

the Service who serve Indian Tribes in each Service Area receive educational instruction in the history and culture of such Indian Tribes and their relationship to the Service.

“(b) **PROGRAM.**—In carrying out subsection (a), the Secretary shall establish a program which shall, to the extent feasible—

“(1) be developed in consultation with the affected Indian Tribes, Tribal Organizations, and urban Indian organizations;

“(2) be carried out through tribal colleges or universities;

“(3) include instruction in American Indian studies; and

“(4) describe the use and place of traditional health care practices of the Indian Tribes in the Service Area.

**“SEC. 117. INMED PROGRAM.**

“(a) **GRANTS AUTHORIZED.**—The Secretary, acting through the Service, is authorized to provide grants to colleges and universities for the purpose of maintaining and expanding the Indian health careers recruitment program known as the ‘Indians Into Medicine Program’ (hereinafter in this section referred to as ‘INMED’) as a means of encouraging Indians to enter the health professions.

“(b) **QUENTIN N. BURDICK GRANT.**—The Secretary shall provide 1 of the grants authorized under subsection (a) to maintain the INMED program at the University of North Dakota, to be known as the ‘Quentin N. Burdick Indian Health Programs’, unless the Secretary makes a determination, based upon program reviews, that the program is not meeting the purposes of this section. Such program shall, to the maximum extent feasible, coordinate with the Quentin N. Burdick American Indians Into Psychology Program established under section 105(b) and the Quentin N. Burdick American Indians Into Nursing Program established under section 115.

“(c) **REGULATIONS.**—The Secretary, pursuant to this Act, shall develop regulations to govern grants pursuant to this section.

“(d) **REQUIREMENTS.**—Applicants for grants provided under this section shall agree to provide a program which—

“(1) provides outreach and recruitment for health professions to Indian communities including elementary and secondary schools and community colleges located on reservations which will be served by the program;

“(2) incorporates a program advisory board comprised of representatives from the Indian Tribes and Indian communities which will be served by the program;

“(3) provides summer preparatory programs for Indian students who need enrichment in the subjects of math and science in order to pursue training in the health professions;

“(4) provides tutoring, counseling, and support to students who are enrolled in a health career program of study at the respective college or university; and

“(5) to the maximum extent feasible, employs qualified Indians in the program.

**“SEC. 118. HEALTH TRAINING PROGRAMS OF COMMUNITY COLLEGES.**

“(a) **GRANTS TO ESTABLISH PROGRAMS.**—

“(1) **IN GENERAL.**—The Secretary, acting through the Service, shall award grants to accredited and accessible community colleges for the purpose of assisting such community colleges in the establishment of programs which provide education in a health profession leading to a degree or diploma in a health profession for individuals who desire to practice such profession on or near a reservation or in an Indian Health Program.

“(2) **AMOUNT OF GRANTS.**—The amount of any grant awarded to a community college

under paragraph (1) for the first year in which such a grant is provided to the community college shall not exceed \$250,000.

**“(b) GRANTS FOR MAINTENANCE AND RECRUITING.—**

“(1) **IN GENERAL.**—The Secretary, acting through the Service, shall award grants to accredited and accessible community colleges that have established a program described in subsection (a)(1) for the purpose of maintaining the program and recruiting students for the program.

“(2) **REQUIREMENTS.**—Grants may only be made under this section to a community college which—

“(A) is accredited;

“(B) has a relationship with a hospital facility, Service facility, or hospital that could provide training of nurses or health professionals;

“(C) has entered into an agreement with an accredited college or university medical school, the terms of which—

“(i) provide a program that enhances the transition and recruitment of students into advanced baccalaureate or graduate programs that train health professionals; and

“(ii) stipulate certifications necessary to approve internship and field placement opportunities at Indian Health Programs;

“(D) has a qualified staff which has the appropriate certifications;

“(E) is capable of obtaining State or regional accreditation of the program described in subsection (a)(1); and

“(F) agrees to provide for Indian preference for applicants for programs under this section.

“(c) **TECHNICAL ASSISTANCE.**—The Secretary shall encourage community colleges described in subsection (b)(2) to establish and maintain programs described in subsection (a)(1) by—

“(1) entering into agreements with such colleges for the provision of qualified personnel of the Service to teach courses of study in such programs; and

“(2) providing technical assistance and support to such colleges.

**“(d) ADVANCED TRAINING.—**

“(1) **REQUIRED.**—Any program receiving assistance under this section that is conducted with respect to a health profession shall also offer courses of study which provide advanced training for any health professional who—

“(A) has already received a degree or diploma in such health profession; and

“(B) provides clinical services on or near a reservation or for an Indian Health Program.

“(2) **MAY BE OFFERED AT ALTERNATE SITE.**—Such courses of study may be offered in conjunction with the college or university with which the community college has entered into the agreement required under subsection (b)(2)(C).

“(e) **PRIORITY.**—Where the requirements of subsection (b) are met, grant award priority shall be provided to tribal colleges and universities in Service Areas where they exist.

**“SEC. 119. RETENTION BONUS.**

“(a) **BONUS AUTHORIZED.**—The Secretary may pay a retention bonus to any health professional employed by, or assigned to, and serving in, an Indian Health Program or urban Indian organization either as a civilian employee or as a commissioned officer in the Regular or Reserve Corps of the Public Health Service who—

“(1) is assigned to, and serving in, a position for which recruitment or retention of personnel is difficult;

“(2) the Secretary determines is needed by Indian Health Programs and urban Indian organizations;

“(3) has—

“(A) completed 2 years of employment with an Indian Health Program or urban Indian organization; or

“(B) completed any service obligations incurred as a requirement of—

“(i) any Federal scholarship program; or

“(ii) any Federal education loan repayment program; and

“(4) enters into an agreement with an Indian Health Program or urban Indian organization for continued employment for a period of not less than 1 year.

“(b) **RATES.**—The Secretary may establish rates for the retention bonus which shall provide for a higher annual rate for multiyear agreements than for single year agreements referred to in subsection (a)(4), but in no event shall the annual rate be more than \$25,000 per annum.

“(c) **DEFAULT OF RETENTION AGREEMENT.**—Any health professional failing to complete the agreed upon term of service, except where such failure is through no fault of the individual, shall be obligated to refund to the Government the full amount of the retention bonus for the period covered by the agreement, plus interest as determined by the Secretary in accordance with section 110(1)(2)(B).

“(d) **OTHER RETENTION BONUS.**—The Secretary may pay a retention bonus to any health professional employed by a Tribal Health Program if such health professional is serving in a position which the Secretary determines is—

“(1) a position for which recruitment or retention is difficult; and

“(2) necessary for providing health care services to Indians.

**“SEC. 120. NURSING RESIDENCY PROGRAM.**

“(a) **ESTABLISHMENT OF PROGRAM.**—The Secretary, acting through the Service, shall establish a program to enable Indians who are licensed practical nurses, licensed vocational nurses, and registered nurses who are working in an Indian Health Program or urban Indian organization, and have done so for a period of not less than 1 year, to pursue advanced training. Such program shall include a combination of education and work study in an Indian Health Program or urban Indian organization leading to an associate or bachelor's degree (in the case of a licensed practical nurse or licensed vocational nurse), a bachelor's degree (in the case of a registered nurse), or advanced degrees or certifications in nursing and public health.

“(b) **SERVICE OBLIGATION.**—An individual who participates in a program under subsection (a), where the educational costs are paid by the Service, shall incur an obligation to serve in an Indian Health Program or urban Indian organization for a period of obligated service equal to 1 year for every year that nonprofessional employee (licensed practical nurses, licensed vocational nurses, nursing assistants, and various health care technicians), or 2 years for every year that professional nurse (associate degree and bachelor-prepared registered nurses), participates in such program. In the event that the individual fails to complete such obligated service, the United States shall be entitled to recover from such individual an amount determined in accordance with the formula specified subsection (d)(1) of Section 104 for individuals failing to graduate from their degree program and subsection (l) of Section 110 for individuals failing to start or complete the obligated service.

**“SEC. 121. COMMUNITY HEALTH AIDE PROGRAM.**

“(a) **GENERAL PURPOSES OF PROGRAM.**—Under the authority of the Act of November

2, 1921 (25 U.S.C. 13) (commonly known as the ‘Snyder Act’), the Secretary, acting through the Service, shall develop and operate a Community Health Aide Program in Alaska under which the Service—

“(1) provides for the training of Alaska Natives as health aides or community health practitioners;

“(2) uses such aides or practitioners in the provision of health care, health promotion, and disease prevention services to Alaska Natives living in villages in rural Alaska; and

“(3) provides for the establishment of teleconferencing capacity in health clinics located in or near such villages for use by community health aides or community health practitioners.

“(b) **SPECIFIC PROGRAM REQUIREMENTS.**—The Secretary, acting through the Community Health Aide Program of the Service, shall—

“(1) using trainers accredited by the Program, provide a high standard of training to community health aides and community health practitioners to ensure that such aides and practitioners provide quality health care, health promotion, and disease prevention services to the villages served by the Program;

“(2) in order to provide such training, develop a curriculum that—

“(A) combines education in the theory of health care with supervised practical experience in the provision of health care;

“(B) provides instruction and practical experience in the provision of acute care, emergency care, health promotion, disease prevention, and the efficient and effective management of clinic pharmacies, supplies, equipment, and facilities; and

“(C) promotes the achievement of the health status objectives specified in section 3(2);

“(3) establish and maintain a Community Health Aide Certification Board to certify as community health aides or community health practitioners individuals who have successfully completed the training described in paragraph (1) or can demonstrate equivalent experience;

“(4) develop and maintain a system which identifies the needs of community health aides and community health practitioners for continuing education in the provision of health care, including the areas described in paragraph (2)(B), and develop programs that meet the needs for such continuing education;

“(5) develop and maintain a system that provides close supervision of community health aides and community health practitioners;

“(6) develop a system under which the work of community health aides and community health practitioners is reviewed and evaluated to assure the provision of quality health care, health promotion, and disease prevention services; and

“(7) ensure that pulpal therapy (not including pulpotomies on deciduous teeth) or extraction of adult teeth can be performed by a dental health aide therapist only after consultation with a licensed dentist who determines that the procedure is a medical emergency that cannot be resolved with palliative treatment, and further that dental health aide therapists are strictly prohibited from performing all other oral or jaw surgeries, provided that uncomplicated extractions shall not be considered oral surgery under this section.

“(c) **PROGRAM REVIEW.**—

“(1) **NEUTRAL PANEL.**—

“(A) ESTABLISHMENT.—The Secretary, acting through the Service, shall establish a neutral panel to carry out the study under paragraph (2).

“(B) MEMBERSHIP.—Members of the neutral panel shall be appointed by the Secretary from among clinicians, economists, community practitioners, oral epidemiologists, and Alaska Natives.

“(2) STUDY.—

“(A) IN GENERAL.—The neutral panel established under paragraph (1) shall conduct a study of the dental health aide therapist services provided by the Community Health Aide Program under this section to ensure that the quality of care provided through those services is adequate and appropriate.

“(B) PARAMETERS OF STUDY.—The Secretary, in consultation with interested parties, including professional dental organizations, shall develop the parameters of the study.

“(C) INCLUSIONS.—The study shall include a determination by the neutral panel with respect to—

“(i) the ability of the dental health aide therapist services under this section to address the dental care needs of Alaska Natives;

“(ii) the quality of care provided through those services, including any training, improvement, or additional oversight required to improve the quality of care; and

“(iii) whether safer and less costly alternatives to the dental health aide therapist services exist.

“(D) CONSULTATION.—In carrying out the study under this paragraph, the neutral panel shall consult with Alaska Tribal Organizations with respect to the adequacy and accuracy of the study.

“(3) REPORT.—The neutral panel shall submit to the Secretary, the Committee on Indian Affairs of the Senate, and the Committee on Natural Resources of the House of Representatives a report describing the results of the study under paragraph (2), including a description of—

“(A) any determination of the neutral panel under paragraph (2)(C); and

“(B) any comments received from an Alaska Tribal Organization under paragraph (2)(D).

“(d) NATIONALIZATION OF PROGRAM.—

“(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary, acting through the Service, may establish a national Community Health Aide Program in accordance with the program under this section, as the Secretary determines to be appropriate.

“(2) EXCEPTION.—The national Community Health Aide Program under paragraph (1) shall not include dental health aide therapist services.

“(3) REQUIREMENT.—In establishing a national program under paragraph (1), the Secretary shall not reduce the amount of funds provided for the Community Health Aide Program described in subsections (a) and (b).

#### “SEC. 122. TRIBAL HEALTH PROGRAM ADMINISTRATION.

“The Secretary shall, by contract or otherwise, provide training for individuals in the administration and planning of Tribal Health Programs, with priority to Indians.

#### “SEC. 123. HEALTH PROFESSIONAL CHRONIC SHORTAGE DEMONSTRATION PROGRAMS.

“(a) DEMONSTRATION PROGRAMS AUTHORIZED.—The Secretary, acting through the Service, may fund demonstration programs for Tribal Health Programs to address the chronic shortages of health professionals.

“(b) PURPOSES OF PROGRAMS.—The purposes of demonstration programs funded under subsection (a) shall be—

“(1) to provide direct clinical and practical experience at a Service Unit to health profession students and residents from medical schools;

“(2) to improve the quality of health care for Indians by assuring access to qualified health care professionals; and

“(3) to provide academic and scholarly opportunities for health professionals serving Indians by identifying all academic and scholarly resources of the region.

“(c) ADVISORY BOARD.—The demonstration programs established pursuant to subsection (a) shall incorporate a program advisory board composed of representatives from the Indian Tribes and Indian communities in the area which will be served by the program.

#### “SEC. 124. NATIONAL HEALTH SERVICE CORPS.

“(a) NO REDUCTION IN SERVICES.—The Secretary shall not—

“(1) remove a member of the National Health Service Corps from an Indian Health Program or urban Indian organization; or

“(2) withdraw funding used to support such member, unless the Secretary, acting through the Service, has ensured that the Indians receiving services from such member will experience no reduction in services.

“(b) TREATMENT OF INDIAN HEALTH PROGRAMS.—At the request of an Indian Health Program, the services of a member of the National Health Service Corps assigned to an Indian Health Program may be limited to the persons who are eligible for services from such Program.

#### “SEC. 125. SUBSTANCE ABUSE COUNSELOR EDUCATIONAL CURRICULA DEMONSTRATION PROGRAMS.

“(a) CONTRACTS AND GRANTS.—The Secretary, acting through the Service, may enter into contracts with, or make grants to, accredited tribal colleges and universities and eligible accredited and accessible community colleges to establish demonstration programs to develop educational curricula for substance abuse counseling.

“(b) USE OF FUNDS.—Funds provided under this section shall be used only for developing and providing educational curriculum for substance abuse counseling (including paying salaries for instructors). Such curricula may be provided through satellite campus programs.

“(c) TIME PERIOD OF ASSISTANCE; RENEWAL.—A contract entered into or a grant provided under this section shall be for a period of 3 years. Such contract or grant may be renewed for an additional 2-year period upon the approval of the Secretary.

“(d) CRITERIA FOR REVIEW AND APPROVAL OF APPLICATIONS.—Not later than 180 days after the date of enactment of the Indian Health Care Improvement Act Amendments of 2009, the Secretary, after consultation with Indian Tribes and administrators of tribal colleges and universities and eligible accredited and accessible community colleges, shall develop and issue criteria for the review and approval of applications for funding (including applications for renewals of funding) under this section. Such criteria shall ensure that demonstration programs established under this section promote the development of the capacity of such entities to educate substance abuse counselors.

“(e) ASSISTANCE.—The Secretary shall provide such technical and other assistance as may be necessary to enable grant recipients to comply with the provisions of this section.

“(f) REPORT.—Each fiscal year, the Secretary shall submit to the President, for in-

clusion in the report which is required to be submitted under section 801 for that fiscal year, a report on the findings and conclusions derived from the demonstration programs conducted under this section during that fiscal year.

“(g) DEFINITION.—For the purposes of this section, the term ‘educational curriculum’ means 1 or more of the following:

“(1) Classroom education.

“(2) Clinical work experience.

“(3) Continuing education workshops.

#### “SEC. 126. BEHAVIORAL HEALTH TRAINING AND COMMUNITY EDUCATION PROGRAMS.

“(a) STUDY; LIST.—The Secretary, acting through the Service, and the Secretary of the Interior, in consultation with Indian Tribes and Tribal Organizations, shall conduct a study and compile a list of the types of staff positions specified in subsection (b) whose qualifications include, or should include, training in the identification, prevention, education, referral, or treatment of mental illness, or dysfunctional and self-destructive behavior.

“(b) POSITIONS.—The positions referred to in subsection (a) are—

“(1) staff positions within the Bureau of Indian Affairs, including existing positions, in the fields of—

“(A) elementary and secondary education;

“(B) social services and family and child welfare;

“(C) law enforcement and judicial services; and

“(D) alcohol and substance abuse;

“(2) staff positions within the Service; and

“(3) staff positions similar to those identified in paragraphs (1) and (2) established and maintained by Indian Tribes, Tribal Organizations (without regard to the funding source), and urban Indian organizations.

“(c) TRAINING CRITERIA.—

“(1) IN GENERAL.—The appropriate Secretary shall provide training criteria appropriate to each type of position identified in subsection (b)(1) and (b)(2) and ensure that appropriate training has been, or shall be provided to any individual in any such position. With respect to any such individual in a position identified pursuant to subsection (b)(3), the respective Secretaries shall provide appropriate training to, or provide funds to, an Indian Tribe, Tribal Organization, or urban Indian organization for training of appropriate individuals. In the case of positions funded under a contract or compact under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.), the appropriate Secretary shall ensure that such training costs are included in the contract or compact, as the Secretary determines necessary.

“(2) POSITION SPECIFIC TRAINING CRITERIA.—Position specific training criteria shall be culturally relevant to Indians and Indian Tribes and shall ensure that appropriate information regarding traditional health care practices is provided.

“(d) COMMUNITY EDUCATION ON MENTAL ILLNESS.—The Service shall develop and implement, on request of an Indian Tribe, Tribal Organization, or urban Indian organization, or assist the Indian Tribe, Tribal Organization, or urban Indian organization to develop and implement, a program of community education on mental illness. In carrying out this subsection, the Service shall, upon request of an Indian Tribe, Tribal Organization, or urban Indian organization, provide technical assistance to the Indian Tribe, Tribal Organization, or urban Indian organization to obtain and develop community educational materials on the identification, prevention, referral, and treatment of mental

illness and dysfunctional and self-destructive behavior.

“(e) PLAN.—Not later than 90 days after the date of enactment of the Indian Health Care Improvement Act Amendments of 2009, the Secretary shall develop a plan under which the Service will increase the health care staff providing behavioral health services by at least 500 positions within 5 years after the date of enactment of this section, with at least 200 of such positions devoted to child, adolescent, and family services. The plan developed under this subsection shall be implemented under the Act of November 2, 1921 (25 U.S.C. 13) (commonly known as the ‘Snyder Act’).

**“SEC. 127. EXEMPTION FROM PAYMENT OF CERTAIN FEES.**

“Employees of a Tribal Health Program or an Urban Indian Organization shall be exempt from payment of licensing, registration, and other fees imposed by a Federal agency to the same extent that Commissioned Corps Officers or other employees of the Indian Health Service are exempt from such fees.

**“SEC. 128. AUTHORIZATION OF APPROPRIATIONS.**

“There are authorized to be appropriated such sums as may be necessary to carry out this title.

**“TITLE II—HEALTH SERVICES**

**“SEC. 201. INDIAN HEALTH CARE IMPROVEMENT FUND.**

“(a) USE OF FUNDS.—The Secretary, acting through the Service, is authorized to expend funds, directly or under the authority of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.), which are appropriated under the authority of this section, for the purposes of—

“(1) eliminating the deficiencies in health status and health resources of all Indian Tribes;

“(2) eliminating backlogs in the provision of health care services to Indians;

“(3) meeting the health needs of Indians in an efficient and equitable manner, including the use of telehealth and telemedicine when appropriate;

“(4) eliminating inequities in funding for both direct care and contract health service programs; and

“(5) augmenting the ability of the Service to meet the following health service responsibilities with respect to those Indian Tribes with the highest levels of health status deficiencies and resource deficiencies:

“(A) Clinical care, including inpatient care, outpatient care (including audiology, clinical eye, and vision care), primary care, secondary and tertiary care, and long-term care.

“(B) Preventive health, including mammography and other cancer screening in accordance with section 207.

“(C) Dental care.

“(D) Mental health, including community mental health services, inpatient mental health services, dormitory mental health services, therapeutic and residential treatment centers, and training of traditional health care practitioners.

“(E) Emergency medical services.

“(F) Treatment and control of, and rehabilitative care related to, alcoholism and drug abuse (including fetal alcohol syndrome) among Indians.

“(G) Injury prevention programs, including data collection and evaluation, demonstration projects, training, and capacity building.

“(H) Home health care.

“(I) Community health representatives.

“(J) Maintenance and improvement.

“(b) NO OFFSET OR LIMITATION.—Any funds appropriated under the authority of this section shall not be used to offset or limit any other appropriations made to the Service under this Act or the Act of November 2, 1921 (25 U.S.C. 13) (commonly known as the ‘Snyder Act’), or any other provision of law.

“(c) ALLOCATION; USE.—

“(1) IN GENERAL.—Funds appropriated under the authority of this section shall be allocated to Service Units, Indian Tribes, or Tribal Organizations. The funds allocated to each Indian Tribe, Tribal Organization, or Service Unit under this paragraph shall be used by the Indian Tribe, Tribal Organization, or Service Unit under this paragraph to improve the health status and reduce the resource deficiency of each Indian Tribe served by such Service Unit, Indian Tribe, or Tribal Organization.

“(2) APPORTIONMENT OF ALLOCATED FUNDS.—The apportionment of funds allocated to a Service Unit, Indian Tribe, or Tribal Organization under paragraph (1) among the health service responsibilities described in subsection (a)(5) shall be determined by the Service in consultation with, and with the active participation of, the affected Indian Tribes and Tribal Organizations.

“(d) PROVISIONS RELATING TO HEALTH STATUS AND RESOURCE DEFICIENCIES.—For the purposes of this section, the following definitions apply:

“(1) DEFINITION.—The term ‘health status and resource deficiency’ means the extent to which—

“(A) the health status objectives set forth in section 3(2) are not being achieved; and

“(B) the Indian Tribe or Tribal Organization does not have available to it the health resources it needs, taking into account the actual cost of providing health care services given local geographic, climatic, rural, or other circumstances.

“(2) AVAILABLE RESOURCES.—The health resources available to an Indian Tribe or Tribal Organization include health resources provided by the Service as well as health resources used by the Indian Tribe or Tribal Organization, including services and financing systems provided by any Federal programs, private insurance, and programs of State or local governments.

“(3) PROCESS FOR REVIEW OF DETERMINATIONS.—The Secretary shall establish procedures which allow any Indian Tribe or Tribal Organization to petition the Secretary for a review of any determination of the extent of the health status and resource deficiency of such Indian Tribe or Tribal Organization.

“(e) ELIGIBILITY FOR FUNDS.—Tribal Health Programs shall be eligible for funds appropriated under the authority of this section on an equal basis with programs that are administered directly by the Service.

“(f) REPORT.—By no later than the date that is 3 years after the date of enactment of the Indian Health Care Improvement Act Amendments of 2009, the Secretary shall submit to Congress the current health status and resource deficiency report of the Service for each Service Unit, including newly recognized or acknowledged Indian Tribes. Such report shall set out—

“(1) the methodology then in use by the Service for determining Tribal health status and resource deficiencies, as well as the most recent application of that methodology;

“(2) the extent of the health status and resource deficiency of each Indian Tribe served by the Service or a Tribal Health Program;

“(3) the amount of funds necessary to eliminate the health status and resource de-

ficiencies of all Indian Tribes served by the Service or a Tribal Health Program; and

“(4) an estimate of—

“(A) the amount of health service funds appropriated under the authority of this Act, or any other Act, including the amount of any funds transferred to the Service for the preceding fiscal year which is allocated to each Service Unit, Indian Tribe, or Tribal Organization;

“(B) the number of Indians eligible for health services in each Service Unit or Indian Tribe or Tribal Organization; and

“(C) the number of Indians using the Service resources made available to each Service Unit, Indian Tribe or Tribal Organization, and, to the extent available, information on the waiting lists and number of Indians turned away for services due to lack of resources.

“(g) INCLUSION IN BASE BUDGET.—Funds appropriated under this section for any fiscal year shall be included in the base budget of the Service for the purpose of determining appropriations under this section in subsequent fiscal years.

“(h) CLARIFICATION.—Nothing in this section is intended to diminish the primary responsibility of the Service to eliminate existing backlogs in unmet health care needs, nor are the provisions of this section intended to discourage the Service from undertaking additional efforts to achieve equity among Indian Tribes and Tribal Organizations.

“(i) FUNDING DESIGNATION.—Any funds appropriated under the authority of this section shall be designated as the ‘Indian Health Care Improvement Fund’.

**“SEC. 202. HEALTH PROMOTION AND DISEASE PREVENTION SERVICES.**

“(a) FINDINGS.—Congress finds that health promotion and disease prevention activities—

“(1) improve the health and well-being of Indians; and

“(2) reduce the expenses for health care of Indians.

“(b) PROVISION OF SERVICES.—The Secretary, acting through the Service, shall provide health promotion and disease prevention services to Indians to achieve the health status objectives set forth in section 3(2).

“(c) EVALUATION.—The Secretary, after obtaining input from the affected Tribal Health Programs, shall submit to the President for inclusion in the report which is required to be submitted to Congress under section 801 an evaluation of—

“(1) the health promotion and disease prevention needs of Indians;

“(2) the health promotion and disease prevention activities which would best meet such needs;

“(3) the internal capacity of the Service and Tribal Health Programs to meet such needs; and

“(4) the resources which would be required to enable the Service and Tribal Health Programs to undertake the health promotion and disease prevention activities necessary to meet such needs.

**“SEC. 203. DIABETES PREVENTION, TREATMENT, AND CONTROL.**

“(a) DETERMINATIONS REGARDING DIABETES.—The Secretary, acting through the Service, and in consultation with Indian Tribes and Tribal Organizations, shall determine—

“(1) by Indian Tribe and by Service Unit, the incidence of, and the types of complications resulting from, diabetes among Indians; and

“(2) based on the determinations made pursuant to paragraph (1), the measures (including patient education and effective ongoing monitoring of disease indicators) each Service Unit should take to reduce the incidence of, and prevent, treat, and control the complications resulting from, diabetes among Indian Tribes within that Service Unit.

“(b) **DIABETES SCREENING.**—To the extent medically indicated and with informed consent, the Secretary shall screen each Indian who receives services from the Service for diabetes and for conditions which indicate a high risk that the individual will become diabetic and establish a cost-effective approach to ensure ongoing monitoring of disease indicators. Such screening and monitoring may be conducted by a Tribal Health Program and may be conducted through appropriate Internet-based health care management programs.

“(c) **DIABETES PROJECTS.**—The Secretary shall continue to maintain each model diabetes project in existence on the date of enactment of the Indian Health Care Improvement Act Amendments of 2009.

“(d) **DIALYSIS PROGRAMS.**—The Secretary is authorized to provide, through the Service, Indian Tribes, and Tribal Organizations, dialysis programs, including the purchase of dialysis equipment and the provision of necessary staffing.

“(e) **OTHER DUTIES OF THE SECRETARY.**—

“(1) **IN GENERAL.**—The Secretary shall, to the extent funding is available—

“(A) in each Area Office, consult with Indian Tribes and Tribal Organizations regarding programs for the prevention, treatment, and control of diabetes;

“(B) establish in each Area Office a registry of patients with diabetes to track the incidence of diabetes and the complications from diabetes in that area; and

“(C) ensure that data collected in each Area Office regarding diabetes and related complications among Indians are disseminated to all other Area Offices, subject to applicable patient privacy laws.

“(2) **DIABETES CONTROL OFFICERS.**—

“(A) **IN GENERAL.**—The Secretary may establish and maintain in each Area Office a position of diabetes control officer to coordinate and manage any activity of that Area Office relating to the prevention, treatment, or control of diabetes to assist the Secretary in carrying out a program under this section or section 330C of the Public Health Service Act (42 U.S.C. 254c-3).

“(B) **CERTAIN ACTIVITIES.**—Any activity carried out by a diabetes control officer under subparagraph (A) that is the subject of a contract or compact under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.), and any funds made available to carry out such an activity, shall not be divisible for purposes of that Act.

#### “SEC. 204. SHARED SERVICES FOR LONG-TERM CARE.

“(a) **LONG-TERM CARE.**—Notwithstanding any other provision of law, the Secretary, acting through the Service, is authorized to provide directly, or enter into contracts or compacts under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.) with Indian Tribes or Tribal Organizations for, the delivery of long-term care (including health care services associated with long-term care) provided in a facility to Indians. Such agreements shall provide for the sharing of staff or other services between the Service or a Tribal Health Program and a long-term care or related facility owned and operated (directly or through a contract or compact under the Indian Self-

Determination and Education Assistance Act (25 U.S.C. 450 et seq.)) by such Indian Tribe or Tribal Organization.

“(b) **CONTENTS OF AGREEMENTS.**—An agreement entered into pursuant to subsection (a)—

“(1) may, at the request of the Indian Tribe or Tribal Organization, delegate to such Indian Tribe or Tribal Organization such powers of supervision and control over Service employees as the Secretary deems necessary to carry out the purposes of this section;

“(2) shall provide that expenses (including salaries) relating to services that are shared between the Service and the Tribal Health Program be allocated proportionately between the Service and the Indian Tribe or Tribal Organization; and

“(3) may authorize such Indian Tribe or Tribal Organization to construct, renovate, or expand a long-term care or other similar facility (including the construction of a facility attached to a Service facility).

“(c) **MINIMUM REQUIREMENT.**—Any nursing facility provided for under this section shall meet the requirements for nursing facilities under section 1919 of the Social Security Act.

“(d) **OTHER ASSISTANCE.**—The Secretary shall provide such technical and other assistance as may be necessary to enable applicants to comply with the provisions of this section.

“(e) **USE OF EXISTING OR UNDERUSED FACILITIES.**—The Secretary shall encourage the use of existing facilities that are underused or allow the use of swing beds for long-term or similar care.

#### “SEC. 205. HEALTH SERVICES RESEARCH.

“(a) **IN GENERAL.**—The Secretary, acting through the Service, shall make funding available for research to further the performance of the health service responsibilities of Indian Health Programs.

“(b) **COORDINATION OF RESOURCES AND ACTIVITIES.**—The Secretary shall also, to the maximum extent practicable, coordinate departmental research resources and activities to address relevant Indian Health Program research needs.

“(c) **AVAILABILITY.**—Tribal Health Programs shall be given an equal opportunity to compete for, and receive, research funds under this section.

“(d) **USE OF FUNDS.**—This funding may be used for both clinical and nonclinical research.

“(e) **EVALUATION AND DISSEMINATION.**—The Secretary shall periodically—

“(1) evaluate the impact of research conducted under this section; and

“(2) disseminate to Tribal Health Programs information regarding that research as the Secretary determines to be appropriate.

#### “SEC. 206. MAMMOGRAPHY AND OTHER CANCER SCREENING.

“The Secretary, acting through the Service, shall provide for screening as follows:

“(1) Screening mammography (as defined in section 1861(jj) of the Social Security Act) for Indian women at a frequency appropriate to such women under accepted and appropriate national standards, and under such terms and conditions as are consistent with standards established by the Secretary to ensure the safety and accuracy of screening mammography under part B of title XVIII of such Act.

“(2) Other cancer screening that receives an A or B rating as recommended by the United States Preventive Services Task Force established under section 915(a)(1) of the Public Health Service Act (42 U.S.C. 299b-4(a)(1)). The Secretary shall ensure that

screening provided for under this paragraph complies with the recommendations of the Task Force with respect to—

“(A) frequency;

“(B) the population to be served;

“(C) the procedure or technology to be used;

“(D) evidence of effectiveness; and

“(E) other matters that the Secretary determines appropriate.

#### “SEC. 207. PATIENT TRAVEL COSTS.

“(a) **DEFINITION OF QUALIFIED ESCORT.**—In this section, the term ‘qualified escort’ means—

“(1) an adult escort (including a parent, guardian, or other family member) who is required because of the physical or mental condition, or age, of the applicable patient;

“(2) a health professional for the purpose of providing necessary medical care during travel by the applicable patient; or

“(3) other escorts, as the Secretary or applicable Indian Health Program determines to be appropriate.

“(b) **PROVISION OF FUNDS.**—The Secretary, acting through the Service, is authorized to provide funds for the following patient travel costs, including qualified escorts, associated with receiving health care services provided (either through direct or contract care or through a contract or compact under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.)) under this Act—

“(1) emergency air transportation and non-emergency air transportation where ground transportation is infeasible;

“(2) transportation by private vehicle (where no other means of transportation is available), specially equipped vehicle, and ambulance; and

“(3) transportation by such other means as may be available and required when air or motor vehicle transportation is not available.

#### “SEC. 208. EPIDEMIOLOGY CENTERS.

“(a) **ESTABLISHMENT OF CENTERS.**—The Secretary shall establish an epidemiology center in each Service Area to carry out the functions described in subsection (b). Any new center established after the date of enactment of the Indian Health Care Improvement Act Amendments of 2008 may be operated under a grant authorized by subsection (d), but funding under such a grant shall not be divisible.

“(b) **FUNCTIONS OF CENTERS.**—In consultation with and upon the request of Indian Tribes, Tribal Organizations, and Urban Indian communities, each Service Area epidemiology center established under this section shall, with respect to such Service Area—

“(1) collect data relating to, and monitor progress made toward meeting, each of the health status objectives of the Service, the Indian Tribes, Tribal Organizations, and Urban Indian communities in the Service Area;

“(2) evaluate existing delivery systems, data systems, and other systems that impact the improvement of Indian health;

“(3) assist Indian Tribes, Tribal Organizations, and Urban Indian Organizations in identifying their highest priority health status objectives and the services needed to achieve such objectives, based on epidemiological data;

“(4) make recommendations for the targeting of services needed by the populations served;

“(5) make recommendations to improve health care delivery systems for Indians and Urban Indians;

“(6) provide requested technical assistance to Indian Tribes, Tribal Organizations, and Urban Indian Organizations in the development of local health service priorities and incidence and prevalence rates of disease and other illness in the community; and

“(7) provide disease surveillance and assist Indian Tribes, Tribal Organizations, and Urban Indian communities to promote public health.

“(c) TECHNICAL ASSISTANCE.—The Director of the Centers for Disease Control and Prevention shall provide technical assistance to the centers in carrying out the requirements of this section.

“(d) GRANTS FOR STUDIES.—

“(1) IN GENERAL.—The Secretary may make grants to Indian Tribes, Tribal Organizations, Indian organizations, and eligible intertribal consortia to conduct epidemiological studies of Indian communities.

“(2) ELIGIBLE INTERTRIBAL CONSORTIA.—An intertribal consortium or Indian organization is eligible to receive a grant under this subsection if—

“(A) the intertribal consortium is incorporated for the primary purpose of improving Indian health; and

“(B) the intertribal consortium is representative of the Indian Tribes or urban Indian communities in which the intertribal consortium is located.

“(3) APPLICATIONS.—An application for a grant under this subsection shall be submitted in such manner and at such time as the Secretary shall prescribe.

“(4) REQUIREMENTS.—An applicant for a grant under this subsection shall—

“(A) demonstrate the technical, administrative, and financial expertise necessary to carry out the functions described in paragraph (5);

“(B) consult and cooperate with providers of related health and social services in order to avoid duplication of existing services; and

“(C) demonstrate cooperation from Indian Tribes or Urban Indian Organizations in the area to be served.

“(5) USE OF FUNDS.—A grant awarded under paragraph (1) may be used—

“(A) to carry out the functions described in subsection (b);

“(B) to provide information to and consult with tribal leaders, urban Indian community leaders, and related health staff on health care and health service management issues; and

“(C) in collaboration with Indian Tribes, Tribal Organizations, and urban Indian communities, to provide the Service with information regarding ways to improve the health status of Indians.

“(e) ACCESS TO INFORMATION.—

“(1) An epidemiology center operated by a grantee pursuant to a grant awarded under subsection (d) shall be treated as a public health authority for purposes of the Health Insurance Portability and Accountability Act of 1996, as such entities are defined in part 164.501 of title 45, Code of Federal Regulations.

“(2) The Secretary shall grant to such epidemiology center access to use of the data, data sets, monitoring systems, delivery systems, and other protected health information in the possession of the Secretary.

“(3) The activities of such an epidemiology center shall be for the purposes of research and for preventing and controlling disease, injury, or disability for purposes of the Health Insurance Portability and Accountability Act of 1996 (Public Law 104-191; 110 Stat. 2033), as such activities are described in part 164.512 of title 45, Code of Federal Regulations (or a successor regulation).

“(f) FUNDS NOT DIVISIBLE.—An epidemiology center established under this section shall be subject to the provisions of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.), but the funds for such center shall not be divisible.

#### “SEC. 209. COMPREHENSIVE SCHOOL HEALTH EDUCATION PROGRAMS.

“(a) FUNDING FOR DEVELOPMENT OF PROGRAMS.—In addition to carrying out any other program for health promotion or disease prevention, the Secretary, acting through the Service, is authorized to award grants to Indian Tribes and Tribal Organizations to develop comprehensive school health education programs for children from pre-school through grade 12 in schools for the benefit of Indian children.

“(b) USE OF GRANT FUNDS.—A grant awarded under this section may be used for purposes which may include, but are not limited to, the following:

“(1) Developing health education materials both for regular school programs and after-school programs.

“(2) Training teachers in comprehensive school health education materials.

“(3) Integrating school-based, community-based, and other public and private health promotion efforts.

“(4) Encouraging healthy, tobacco-free school environments.

“(5) Coordinating school-based health programs with existing services and programs available in the community.

“(6) Developing school programs on nutrition education, personal health, oral health, and fitness.

“(7) Developing behavioral health wellness programs.

“(8) Developing chronic disease prevention programs.

“(9) Developing substance abuse prevention programs.

“(10) Developing injury prevention and safety education programs.

“(11) Developing activities for the prevention and control of communicable diseases.

“(12) Developing community and environmental health education programs that include traditional health care practitioners.

“(13) Violence prevention.

“(14) Such other health issues as are appropriate.

“(c) TECHNICAL ASSISTANCE.—Upon request, the Secretary, acting through the Service, shall provide technical assistance to Indian Tribes and Tribal Organizations in the development of comprehensive health education plans and the dissemination of comprehensive health education materials and information on existing health programs and resources.

“(d) CRITERIA FOR REVIEW AND APPROVAL OF APPLICATIONS.—The Secretary, acting through the Service, and in consultation with Indian Tribes and Tribal Organizations, shall establish criteria for the review and approval of applications for grants awarded under this section.

“(e) DEVELOPMENT OF PROGRAM FOR BIA-FUNDED SCHOOLS.—

“(1) IN GENERAL.—The Secretary of the Interior, acting through the Bureau of Indian Affairs and in cooperation with the Secretary, acting through the Service, shall develop a comprehensive school health education program for children from preschool through grade 12 in schools for which support is provided by the Bureau of Indian Affairs.

“(2) REQUIREMENTS FOR PROGRAMS.—Such programs shall include—

“(A) school programs on nutrition education, personal health, oral health, and fitness;

“(B) behavioral health wellness programs;

“(C) chronic disease prevention programs;

“(D) substance abuse prevention programs;

“(E) injury prevention and safety education programs; and

“(F) activities for the prevention and control of communicable diseases.

“(3) DUTIES OF THE SECRETARY.—The Secretary of the Interior shall—

“(A) provide training to teachers in comprehensive school health education materials;

“(B) ensure the integration and coordination of school-based programs with existing services and health programs available in the community; and

“(C) encourage healthy, tobacco-free school environments.

#### “SEC. 210. INDIAN YOUTH PROGRAM.

“(a) PROGRAM AUTHORIZED.—The Secretary, acting through the Service, is authorized to establish and administer a program to provide grants to Indian Tribes, Tribal Organizations, and urban Indian organizations for innovative mental and physical disease prevention and health promotion and treatment programs for Indian and urban Indian preadolescent and adolescent youths.

“(b) USE OF FUNDS.—

“(1) ALLOWABLE USES.—Funds made available under this section may be used to—

“(A) develop prevention and treatment programs for Indian youth which promote mental and physical health and incorporate cultural values, community and family involvement, and traditional health care practitioners; and

“(B) develop and provide community training and education.

“(2) PROHIBITED USE.—Funds made available under this section may not be used to provide services described in section 707(c).

“(c) DUTIES OF THE SECRETARY.—The Secretary shall—

“(1) disseminate to Indian Tribes, Tribal Organizations, and urban Indian organizations information regarding models for the delivery of comprehensive health care services to Indian and urban Indian adolescents;

“(2) encourage the implementation of such models; and

“(3) at the request of an Indian Tribe, Tribal Organization, or urban Indian organization, provide technical assistance in the implementation of such models.

“(d) CRITERIA FOR REVIEW AND APPROVAL OF APPLICATIONS.—The Secretary, in consultation with Indian Tribes, Tribal Organizations, and urban Indian organizations, shall establish criteria for the review and approval of applications or proposals under this section.

#### “SEC. 211. PREVENTION, CONTROL, AND ELIMINATION OF COMMUNICABLE AND INFECTIOUS DISEASES.

“(a) GRANTS AUTHORIZED.—The Secretary, acting through the Service, and after consultation with the Centers for Disease Control and Prevention, may make grants available to Indian Tribes, Tribal Organizations, and urban Indian organizations for the following:

“(1) Projects for the prevention, control, and elimination of communicable and infectious diseases, including tuberculosis, hepatitis, HIV, respiratory syncytial virus, hanta virus, sexually transmitted diseases, and H. Pylori.

“(2) Public information and education programs for the prevention, control, and elimination of communicable and infectious diseases.

“(3) Education, training, and clinical skills improvement activities in the prevention,

control, and elimination of communicable and infectious diseases for health professionals, including allied health professionals.

“(4) Demonstration projects for the screening, treatment, and prevention of hepatitis C virus (HCV).

“(b) APPLICATION REQUIRED.—The Secretary may provide funding under subsection (a) only if an application or proposal for funding is submitted to the Secretary.

“(c) COORDINATION WITH HEALTH AGENCIES.—Indian Tribes, Tribal Organizations, and urban Indian organizations receiving funding under this section are encouraged to coordinate their activities with the Centers for Disease Control and Prevention and State and local health agencies.

“(d) TECHNICAL ASSISTANCE; REPORT.—In carrying out this section, the Secretary—

“(1) may, at the request of an Indian Tribe, Tribal Organization, or urban Indian organization, provide technical assistance; and

“(2) shall prepare and submit a report to Congress biennially on the use of funds under this section and on the progress made toward the prevention, control, and elimination of communicable and infectious diseases among Indians and Urban Indians.

**“SEC. 212. OTHER AUTHORITY FOR PROVISION OF SERVICES.**

“(a) FUNDING AUTHORIZED.—The Secretary may provide funding under this Act to meet the objectives set forth in section 3 of this Act through health care-related services and programs of the Service, Indian Tribes, and Tribal Organizations not otherwise described in this Act for the following services:

“(1) Hospice care.

“(2) Assisted living services.

“(3) Long-term care services.

“(4) Home- and community-based services.

“(b) ELIGIBILITY.—The following individuals shall be eligible to receive long-term care under this section:

“(1) Individuals who are unable to perform a certain number of activities of daily living without assistance.

“(2) Individuals with a mental impairment, such as dementia, Alzheimer's disease, or another disabling mental illness, who may be able to perform activities of daily living under supervision.

“(3) Such other individuals as an applicable Indian Health Program determines to be appropriate.

“(c) DEFINITIONS.—For the purposes of this section, the following definitions shall apply:

“(1) The term ‘assisted living services’ means any service provided by an assisted living facility (as defined in section 232(b) of the National Housing Act (12 U.S.C. 1715w(b))), except that such an assisted living facility—

“(A) shall not be required to obtain a license; but

“(B) shall meet all applicable standards for licensure.

“(2) The term ‘home- and community-based services’ means 1 or more of the services specified in paragraphs (1) through (9) of section 1929(a) of the Social Security Act (42 U.S.C. 1396t(a)) (whether provided by the Service or by an Indian Tribe or Tribal Organization pursuant to the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.)) that are or will be provided in accordance with applicable standards.

“(3) The term ‘hospice care’ means the items and services specified in subparagraphs (A) through (H) of section 1861(dd)(1) of the Social Security Act (42 U.S.C. 1395x(dd)(1)), and such other services which an Indian Tribe or Tribal Organization deter-

mines are necessary and appropriate to provide in furtherance of this care.

“(4) The term ‘long-term care services’ has the meaning given the term ‘qualified long-term care services’ in section 7702B(c) of the Internal Revenue Code of 1986.

“(d) AUTHORIZATION OF CONVENIENT CARE SERVICES.—The Secretary, acting through the Service, Indian Tribes, and Tribal Organizations, may also provide funding under this Act to meet the objectives set forth in section 3 of this Act for convenient care services programs pursuant to section 306(c)(2)(A).

**“SEC. 213. INDIAN WOMEN'S HEALTH CARE.**

“The Secretary, acting through the Service and Indian Tribes, Tribal Organizations, and Urban Indian Organizations, shall monitor and improve the quality of health care for Indian women of all ages through the planning and delivery of programs administered by the Service, in order to improve and enhance the treatment models of care for Indian women.

**“SEC. 214. ENVIRONMENTAL AND NUCLEAR HEALTH HAZARDS.**

“(a) STUDIES AND MONITORING.—The Secretary and the Service shall conduct, in conjunction with other appropriate Federal agencies and in consultation with concerned Indian Tribes and Tribal Organizations, studies and ongoing monitoring programs to determine trends in the health hazards to Indian miners and to Indians on or near reservations and Indian communities as a result of environmental hazards which may result in chronic or life threatening health problems, such as nuclear resource development, petroleum contamination, and contamination of water source and of the food chain. Such studies shall include—

“(1) an evaluation of the nature and extent of health problems caused by environmental hazards currently exhibited among Indians and the causes of such health problems;

“(2) an analysis of the potential effect of ongoing and future environmental resource development on or near reservations and Indian communities, including the cumulative effect over time on health;

“(3) an evaluation of the types and nature of activities, practices, and conditions causing or affecting such health problems, including uranium mining and milling, uranium mine tailing deposits, nuclear power plant operation and construction, and nuclear waste disposal; oil and gas production or transportation on or near reservations or Indian communities; and other development that could affect the health of Indians and their water supply and food chain;

“(4) a summary of any findings and recommendations provided in Federal and State studies, reports, investigations, and inspections during the 5 years prior to the date of enactment of the Indian Health Care Improvement Act Amendments of 2009 that directly or indirectly relate to the activities, practices, and conditions affecting the health or safety of such Indians; and

“(5) the efforts that have been made by Federal and State agencies and resource and economic development companies to effectively carry out an education program for such Indians regarding the health and safety hazards of such development.

“(b) HEALTH CARE PLANS.—Upon completion of such studies, the Secretary and the Service shall take into account the results of such studies and develop health care plans to address the health problems studied under subsection (a). The plans shall include—

“(1) methods for diagnosing and treating Indians currently exhibiting such health problems;

“(2) preventive care and testing for Indians who may be exposed to such health hazards, including the monitoring of the health of individuals who have or may have been exposed to excessive amounts of radiation or affected by other activities that have had or could have a serious impact upon the health of such individuals; and

“(3) a program of education for Indians who, by reason of their work or geographic proximity to such nuclear or other development activities, may experience health problems.

“(c) SUBMISSION OF REPORT AND PLAN TO CONGRESS.—The Secretary and the Service shall submit to Congress the study prepared under subsection (a) no later than 18 months after the date of enactment of the Indian Health Care Improvement Act Amendments of 2009. The health care plan prepared under subsection (b) shall be submitted in a report no later than 1 year after the study prepared under subsection (a) is submitted to Congress. Such report shall include recommended activities for the implementation of the plan, as well as an evaluation of any activities previously undertaken by the Service to address such health problems.

“(d) INTERGOVERNMENTAL TASK FORCE.—

“(1) ESTABLISHMENT; MEMBERS.—There is established an Intergovernmental Task Force to be composed of the following individuals (or their designees):

“(A) The Secretary of Energy.

“(B) The Secretary of the Environmental Protection Agency.

“(C) The Director of the Bureau of Mines.

“(D) The Assistant Secretary for Occupational Safety and Health.

“(E) The Secretary of the Interior.

“(F) The Secretary of Health and Human Services.

“(G) The Director of the Indian Health Service.

“(2) DUTIES.—The Task Force shall—

“(A) identify existing and potential operations related to nuclear resource development or other environmental hazards that affect or may affect the health of Indians on or near a reservation or in an Indian community; and

“(B) enter into activities to correct existing health hazards and ensure that current and future health problems resulting from nuclear resource or other development activities are minimized or reduced.

“(3) CHAIRMAN; MEETINGS.—The Secretary of Health and Human Services shall be the Chairman of the Task Force. The Task Force shall meet at least twice each year.

“(e) HEALTH SERVICES TO CERTAIN EMPLOYEES.—In the case of any Indian who—

“(1) as a result of employment in or near a uranium mine or mill or near any other environmental hazard, suffers from a work-related illness or condition;

“(2) is eligible to receive diagnosis and treatment services from an Indian Health Program; and

“(3) by reason of such Indian's employment, is entitled to medical care at the expense of such mine or mill operator or entity responsible for the environmental hazard, the Indian Health Program shall, at the request of such Indian, render appropriate medical care to such Indian for such illness or condition and may be reimbursed for any medical care so rendered to which such Indian is entitled at the expense of such operator or entity from such operator or entity. Nothing in this subsection shall affect the rights of such Indian to recover damages other than such amounts paid to the Indian



Health Program from the employer for providing medical care for such illness or condition.

**"SEC. 215. ARIZONA AS A CONTRACT HEALTH SERVICE DELIVERY AREA.**

"(a) IN GENERAL.—For fiscal years beginning with the fiscal year ending September 30, 1983, and ending with the fiscal year ending September 30, 2025, the State of Arizona shall be designated as a contract health service delivery area by the Service for the purpose of providing contract health care services to members of federally recognized Indian Tribes of Arizona.

"(b) MAINTENANCE OF SERVICES.—The Service shall not curtail any health care services provided to Indians residing on reservations in the State of Arizona if such curtailment is due to the provision of contract services in such State pursuant to the designation of such State as a contract health service delivery area pursuant to subsection (a).

**"SEC. 216. NORTH DAKOTA AND SOUTH DAKOTA AS CONTRACT HEALTH SERVICE DELIVERY AREA.**

"(a) IN GENERAL.—Beginning in fiscal year 2003, the States of North Dakota and South Dakota shall be designated as a contract health service delivery area by the Service for the purpose of providing contract health care services to members of federally recognized Indian Tribes of North Dakota and South Dakota.

"(b) LIMITATION.—The Service shall not curtail any health care services provided to Indians residing on any reservation, or in any county that has a common boundary with any reservation, in the State of North Dakota or South Dakota if such curtailment is due to the provision of contract services in such States pursuant to the designation of such States as a contract health service delivery area pursuant to subsection (a).

**"SEC. 217. CALIFORNIA CONTRACT HEALTH SERVICES PROGRAM.**

"(a) FUNDING AUTHORIZED.—The Secretary is authorized to fund a program using an intertribal consortium as a contract care intermediary to improve the accessibility of health services to California Indians.

"(b) REIMBURSEMENT CONTRACT.—The Secretary shall enter into an agreement with the intertribal consortium to reimburse the intertribal consortium for costs (including reasonable administrative costs) incurred pursuant to this section, in providing medical treatment under contract to California Indians described in section 805(a) throughout the California contract health services delivery area described in section 219 with respect to high cost contract care cases.

"(c) ADMINISTRATIVE EXPENSES.—Not more than 5 percent of the amounts provided to the intertribal consortium under this section for any fiscal year may be for reimbursement for administrative expenses incurred by the intertribal consortium during such fiscal year.

"(d) LIMITATION ON PAYMENT.—No payment may be made for treatment provided hereunder to the extent payment may be made for such treatment under the Indian Catastrophic Health Emergency Fund described in section 202 or from amounts appropriated or otherwise made available to the California contract health service delivery area for a fiscal year.

"(e) ADVISORY BOARD.—There is established an advisory board which shall advise the intertribal consortium in carrying out this section. The advisory board shall be composed of representatives, selected by the intertribal consortium, from not less than 8 Tribal Health Programs serving California

Indians covered under this section at least 1/2 of whom are not affiliated with the intertribal consortium.

**"SEC. 218. CALIFORNIA AS A CONTRACT HEALTH SERVICE DELIVERY AREA.**

"The State of California, excluding the counties of Alameda, Contra Costa, Los Angeles, Marin, Orange, Sacramento, San Francisco, San Mateo, Santa Clara, Kern, Merced, Monterey, Napa, San Benito, San Joaquin, San Luis Obispo, Santa Cruz, Solano, Stanislaus, and Ventura, shall be designated as a contract health service delivery area by the Service for the purpose of providing contract health services to California Indians. However, any of the counties listed herein may only be included in the contract health services delivery area if funding is specifically provided by the Service for such services in those counties.

**"SEC. 219. CONTRACT HEALTH SERVICES FOR THE TRENTON SERVICE AREA.**

"(a) AUTHORIZATION FOR SERVICES.—The Secretary, acting through the Service, is directed to provide contract health services to members of the Turtle Mountain Band of Chippewa Indians that reside in the Trenton Service Area of Divide, McKenzie, and Williams counties in the State of North Dakota and the adjoining counties of Richland, Roosevelt, and Sheridan in the State of Montana.

"(b) NO EXPANSION OF ELIGIBILITY.—Nothing in this section may be construed as expanding the eligibility of members of the Turtle Mountain Band of Chippewa Indians for health services provided by the Service beyond the scope of eligibility for such health services that applied on May 1, 1986.

**"SEC. 220. PROGRAMS OPERATED BY INDIAN TRIBES AND TRIBAL ORGANIZATIONS.**

"The Service shall provide funds for health care programs, functions, services, activities, information technology, and facilities operated by Tribal Health Programs on the same basis as such funds are provided to programs, functions, services, activities, information technology, and facilities operated directly by the Service.

**"SEC. 221. LICENSING.**

"Licensed health care professionals employed by a Tribal Health Program shall, if licensed in any State, be exempt from the licensing requirements of the State in which the Tribal Health Program performs the services described in its contract or compact under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.) while performing such services.

**"SEC. 222. NOTIFICATION OF PROVISION OF EMERGENCY CONTRACT HEALTH SERVICES.**

"With respect to an elderly Indian or an Indian with a disability receiving emergency medical care or services from a non-Service provider or in a non-Service facility under the authority of this Act, the time limitation (as a condition of payment) for notifying the Service of such treatment or admission shall be 30 days.

**"SEC. 223. PROMPT ACTION ON PAYMENT OF CLAIMS.**

"(a) DEADLINE FOR RESPONSE.—The Service shall respond to a notification of a claim by a provider of a contract care service with either an individual purchase order or a denial of the claim within 5 working days after the receipt of such notification.

"(b) EFFECT OF UNTIMELY RESPONSE.—If the Service fails to respond to a notification of a claim in accordance with subsection (a), the Service shall accept as valid the claim submitted by the provider of a contract care service.

"(c) DEADLINE FOR PAYMENT OF VALID CLAIM.—The Service shall pay a valid contract care service claim within 30 days after the completion of the claim.

**"SEC. 224. LIABILITY FOR PAYMENT.**

"(a) NO PATIENT LIABILITY.—A patient who receives contract health care services that are authorized by the Service shall not be liable for the payment of any charges or costs associated with the provision of such services.

"(b) NOTIFICATION.—The Secretary shall notify a contract care provider and any patient who receives contract health care services authorized by the Service that such patient is not liable for the payment of any charges or costs associated with the provision of such services not later than 5 business days after receipt of a notification of a claim by a provider of contract care services.

"(c) NO RECOURSE.—Following receipt of the notice provided under subsection (b), or, if a claim has been deemed accepted under section 224(b), the provider shall have no further recourse against the patient who received the services.

**"SEC. 225. OFFICE OF INDIAN MEN'S HEALTH.**

"(a) ESTABLISHMENT.—The Secretary may establish within the Service an office to be known as the 'Office of Indian Men's Health' (referred to in this section as the 'Office').

"(b) DIRECTOR.—

"(1) IN GENERAL.—The Office shall be headed by a director, to be appointed by the Secretary.

"(2) DUTIES.—The director shall coordinate and promote the status of the health of Indian men in the United States.

"(c) REPORT.—Not later than 2 years after the date of enactment of the Indian Health Care Improvement Act Amendments of 2009, the Secretary, acting through the director of the Office, shall submit to Congress a report describing—

"(1) any activity carried out by the director as of the date on which the report is prepared; and

"(2) any finding of the director with respect to the health of Indian men.

**"SEC. 226. CATASTROPHIC HEALTH EMERGENCY FUND.**

"(a) ESTABLISHMENT.—There is established an Indian Catastrophic Health Emergency Fund (hereafter in this section referred to as the 'CHEF') consisting of—

"(1) the amounts deposited under subsection (f); and

"(2) the amounts appropriated to CHEF under this section.

"(b) ADMINISTRATION.—CHEF shall be administered by the Secretary, acting through the headquarters of the Service, solely for the purpose of meeting the extraordinary medical costs associated with the treatment of victims of disasters or catastrophic illnesses who are within the responsibility of the Service.

"(c) CONDITIONS ON USE OF FUND.—No part of CHEF or its administration shall be subject to contract or grant under any law, including the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.), nor shall CHEF funds be allocated, apportioned, or delegated on an Area Office, Service Unit, or other similar basis.

"(d) REGULATIONS.—The Secretary shall promulgate regulations consistent with the provisions of this section to—

"(1) establish a definition of disasters and catastrophic illnesses for which the cost of the treatment provided under contract would qualify for payment from CHEF;

"(2) provide that a Service Unit shall not be eligible for reimbursement for the cost of

treatment from CHEF until its cost of treating any victim of such catastrophic illness or disaster has reached a certain threshold cost which the Secretary shall establish at—

“(A) the 2000 level of \$19,000; and

“(B) for any subsequent year, not less than the threshold cost of the previous year increased by the percentage increase in the medical care expenditure category of the consumer price index for all urban consumers (United States city average) for the 12-month period ending with December of the previous year;

“(3) establish a procedure for the reimbursement of the portion of the costs that exceeds such threshold cost incurred by—

“(A) Service Units; or

“(B) whenever otherwise authorized by the Service, non-Service facilities or providers;

“(4) establish a procedure for payment from CHEF in cases in which the exigencies of the medical circumstances warrant treatment prior to the authorization of such treatment by the Service; and

“(5) establish a procedure that will ensure that no payment shall be made from CHEF to any provider of treatment to the extent that such provider is eligible to receive payment for the treatment from any other Federal, State, local, or private source of reimbursement for which the patient is eligible.

“(e) NO OFFSET OR LIMITATION.—Amounts appropriated to CHEF under this section shall not be used to offset or limit appropriations made to the Service under the authority of the Act of November 2, 1921 (25 U.S.C. 13) (commonly known as the ‘Snyder Act’), or any other law.

“(f) DEPOSIT OF REIMBURSEMENT FUNDS.—There shall be deposited into CHEF all reimbursements to which the Service is entitled from any Federal, State, local, or private source (including third party insurance) by reason of treatment rendered to any victim of a disaster or catastrophic illness the cost of which was paid from CHEF.

#### “SEC. 227. AUTHORIZATION OF APPROPRIATIONS.

“There are authorized to be appropriated such sums as may be necessary to carry out this title.

### “TITLE III—FACILITIES

#### “SEC. 301. CONSULTATION; CONSTRUCTION AND RENOVATION OF FACILITIES; REPORTS.

“(a) PREREQUISITES FOR EXPENDITURE OF FUNDS.—Prior to the expenditure of, or the making of any binding commitment to expend, any funds appropriated for the planning, design, construction, or renovation of facilities pursuant to the Act of November 2, 1921 (25 U.S.C. 13) (commonly known as the ‘Snyder Act’), the Secretary, acting through the Service, shall—

“(1) consult with any Indian Tribe that would be significantly affected by such expenditure for the purpose of determining and, whenever practicable, honoring tribal preferences concerning size, location, type, and other characteristics of any facility on which such expenditure is to be made; and

“(2) ensure, whenever practicable and applicable, that such facility meets the construction standards of any accrediting body recognized by the Secretary for the purposes of the Medicare, Medicaid, and SCHIP programs under titles XVIII, XIX, and XXI of the Social Security Act by not later than 1 year after the date on which the construction or renovation of such facility is completed.

“(b) CLOSURES.—

“(1) EVALUATION REQUIRED.—Notwithstanding any other provision of law, no facility operated by the Service may be closed if

the Secretary has not submitted to Congress, not less than 1 year and not more than 2 years before the date of the proposed closure, an evaluation, completed not more than 2 years before such submission, of the impact of the proposed closure that specifies, in addition to other considerations—

“(A) the accessibility of alternative health care resources for the population served by such facility;

“(B) the cost-effectiveness of such closure;

“(C) the quality of health care to be provided to the population served by such facility after such closure;

“(D) the availability of contract health care funds to maintain existing levels of service;

“(E) the views of the Indian Tribes served by such facility concerning such closure;

“(F) the level of use of such facility by all eligible Indians; and

“(G) the distance between such facility and the nearest operating Service hospital.

“(2) EXCEPTION FOR CERTAIN TEMPORARY CLOSURES.—Paragraph (1) shall not apply to any temporary closure of a facility or any portion of a facility if such closure is necessary for medical, environmental, or construction safety reasons.

“(c) HEALTH CARE FACILITY PRIORITY SYSTEM.—

“(1) IN GENERAL.—

“(A) PRIORITY SYSTEM.—The Secretary, acting through the Service, shall maintain a health care facility priority system, which—

“(i) shall be developed in consultation with Indian Tribes and Tribal Organizations;

“(ii) shall give Indian Tribes’ needs the highest priority;

“(iii)(I) may include the lists required in paragraph (2)(B)(ii); and

“(II) shall include the methodology required in paragraph (2)(B)(v); and

“(III) may include such other facilities, and such renovation or expansion needs of any health care facility, as the Service, Indian Tribes, and Tribal Organizations may identify; and

“(iv) shall provide an opportunity for the nomination of planning, design, and construction projects by the Service, Indian Tribes, and Tribal Organizations for consideration under the priority system at least once every 3 years, or more frequently as the Secretary determines to be appropriate.

“(B) NEEDS OF FACILITIES UNDER IDEEA AGREEMENTS.—The Secretary shall ensure that the planning, design, construction, renovation, and expansion needs of Service and non-Service facilities operated under contracts or compacts in accordance with the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.) are fully and equitably integrated into the health care facility priority system.

“(C) CRITERIA FOR EVALUATING NEEDS.—For purposes of this subsection, the Secretary, in evaluating the needs of facilities operated under a contract or compact under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.), shall use the criteria used by the Secretary in evaluating the needs of facilities operated directly by the Service.

“(D) PRIORITY OF CERTAIN PROJECTS PROTECTED.—The priority of any project established under the construction priority system in effect on the date of enactment of the Indian Health Care Improvement Act Amendments of 2009 shall not be affected by any change in the construction priority system taking place after that date if the project—

“(i) was identified in the fiscal year 2008 Service budget justification as—

“(I) 1 of the 10 top-priority inpatient projects;

“(II) 1 of the 10 top-priority outpatient projects;

“(III) 1 of the 10 top-priority staff quarters developments; or

“(IV) 1 of the 10 top-priority Youth Residential Treatment Centers;

“(ii) had completed both Phase I and Phase II of the construction priority system in effect on the date of enactment of such Act; or

“(iii) is not included in clause (i) or (ii) and is selected, as determined by the Secretary—

“(I) on the initiative of the Secretary; or

“(II) pursuant to a request of an Indian Tribe or Tribal Organization.

“(2) REPORT; CONTENTS.—

“(A) INITIAL COMPREHENSIVE REPORT.—

“(i) DEFINITIONS.—In this subparagraph:

“(I) FACILITIES APPROPRIATION ADVISORY BOARD.—The term ‘Facilities Appropriation Advisory Board’ means the advisory board, comprised of 12 members representing Indian tribes and 2 members representing the Service, established at the discretion of the Assistant Secretary—

“(aa) to provide advice and recommendations for policies and procedures of the programs funded pursuant to facilities appropriations; and

“(bb) to address other facilities issues.

“(II) FACILITIES NEEDS ASSESSMENT WORKGROUP.—The term ‘Facilities Needs Assessment Workgroup’ means the workgroup established at the discretion of the Assistant Secretary—

“(aa) to review the health care facilities construction priority system; and

“(bb) to make recommendations to the Facilities Appropriation Advisory Board for revising the priority system.

“(ii) INITIAL REPORT.—

“(I) IN GENERAL.—Not later than 1 year after the date of enactment of the Indian Health Care Improvement Act Amendments of 2009, the Secretary shall submit to the Committee on Indian Affairs of the Senate and the Committee on Natural Resources of the House of Representatives a report that describes the comprehensive, national, ranked list of all health care facilities needs for the Service, Indian Tribes, and Tribal Organizations (including inpatient health care facilities, outpatient health care facilities, specialized health care facilities (such as for long-term care and alcohol and drug abuse treatment), wellness centers, staff quarters and hostels associated with health care facilities, and the renovation and expansion needs, if any, of such facilities) developed by the Service, Indian Tribes, and Tribal Organizations for the Facilities Needs Assessment Workgroup and the Facilities Appropriation Advisory Board.

“(II) INCLUSIONS.—The initial report shall include—

“(aa) the methodology and criteria used by the Service in determining the needs and establishing the ranking of the facilities needs; and

“(bb) such other information as the Secretary determines to be appropriate.

“(iii) UPDATES OF REPORT.—Beginning in calendar year 2011, the Secretary shall—

“(I) update the report under clause (ii) not less frequently than once every 5 years; and

“(II) include the updated report in the appropriate annual report under subparagraph (B) for submission to Congress under section 801.

“(B) ANNUAL REPORTS.—The Secretary shall submit to the President, for inclusion in the report required to be transmitted to Congress under section 801, a report which sets forth the following:

“(i) A description of the health care facility priority system of the Service established under paragraph (1).

“(ii) Health care facilities lists, which may include—

“(I) the 10 top-priority inpatient health care facilities;

“(II) the 10 top-priority outpatient health care facilities;

“(III) the 10 top-priority specialized health care facilities (such as long-term care and alcohol and drug abuse treatment);

“(IV) the 10 top-priority staff quarters developments associated with health care facilities; and

“(V) the 10 top-priority hostels associated with health care facilities.

“(iii) The justification for such order of priority.

“(iv) The projected cost of such projects.

“(v) The methodology adopted by the Service in establishing priorities under its health care facility priority system.

“(3) REQUIREMENTS FOR PREPARATION OF REPORTS.—In preparing the report required under paragraph (2), the Secretary shall—

“(A) consult with and obtain information on all health care facilities needs from Indian Tribes, Tribal Organizations, and urban Indian organizations; and

“(B) review the total unmet needs of all Indian Tribes, Tribal Organizations, and urban Indian organizations for health care facilities (including hostels and staff quarters), including needs for renovation and expansion of existing facilities.

“(d) REVIEW OF METHODOLOGY USED FOR HEALTH FACILITIES CONSTRUCTION PRIORITY SYSTEM.—

“(1) IN GENERAL.—Not later than 1 year after the establishment of the priority system under subsection (c)(1)(A), the Comptroller General of the United States shall prepare and finalize a report reviewing the methodologies applied, and the processes followed, by the Service in making each assessment of needs for the list under subsection (c)(2)(A)(ii) and developing the priority system under subsection (c)(1), including a review of—

“(A) the recommendations of the Facilities Appropriation Advisory Board and the Facilities Needs Assessment Workgroup (as those terms are defined in subsection (c)(2)(A)(i)); and

“(B) the relevant criteria used in ranking or prioritizing facilities other than hospitals or clinics.

“(2) SUBMISSION TO CONGRESS.—The Comptroller General of the United States shall submit the report under paragraph (1) to—

“(A) the Committees on Indian Affairs and Appropriations of the Senate;

“(B) the Committees on Natural Resources and Appropriations of the House of Representatives; and

“(C) the Secretary.

“(e) FUNDING CONDITION.—All funds appropriated under the Act of November 2, 1921 (25 U.S.C. 13) (commonly known as the ‘Snyder Act’), for the planning, design, construction, or renovation of health facilities for the benefit of 1 or more Indian Tribes shall be subject to the provisions of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.).

“(f) DEVELOPMENT OF INNOVATIVE APPROACHES.—The Secretary shall consult and cooperate with Indian Tribes, Tribal Organizations, and urban Indian organizations in developing innovative approaches to address all or part of the total unmet need for construction of health facilities, including those provided for in other sections of this title and other approaches.

#### “SEC. 302. SANITATION FACILITIES.

“(a) FINDINGS.—Congress finds the following:

“(1) The provision of sanitation facilities is primarily a health consideration and function.

“(2) Indian people suffer an inordinately high incidence of disease, injury, and illness directly attributable to the absence or inadequacy of sanitation facilities.

“(3) The long-term cost to the United States of treating and curing such disease, injury, and illness is substantially greater than the short-term cost of providing sanitation facilities and other preventive health measures.

“(4) Many Indian homes and Indian communities still lack sanitation facilities.

“(5) It is in the interest of the United States, and it is the policy of the United States, that all Indian communities and Indian homes, new and existing, be provided with sanitation facilities.

“(b) FACILITIES AND SERVICES.—In furtherance of the findings made in subsection (a), Congress reaffirms the primary responsibility and authority of the Service to provide the necessary sanitation facilities and services as provided in section 7 of the Act of August 5, 1954 (42 U.S.C. 2004a). Under such authority, the Secretary, acting through the Service, is authorized to provide the following:

“(1) Financial and technical assistance to Indian Tribes, Tribal Organizations, and Indian communities in the establishment, training, and equipping of utility organizations to operate and maintain sanitation facilities, including the provision of existing plans, standard details, and specifications available in the Department, to be used at the option of the Indian Tribe, Tribal Organization, or Indian community.

“(2) Ongoing technical assistance and training to Indian Tribes, Tribal Organizations, and Indian communities in the management of utility organizations which operate and maintain sanitation facilities.

“(3) Priority funding for operation and maintenance assistance for, and emergency repairs to, sanitation facilities operated by an Indian Tribe, Tribal Organization or Indian community when necessary to avoid an imminent health threat or to protect the investment in sanitation facilities and the investment in the health benefits gained through the provision of sanitation facilities.

“(c) FUNDING.—Notwithstanding any other provision of law—

“(1) the Secretary of Housing and Urban Development is authorized to transfer funds appropriated under the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4101 et seq.) to the Secretary of Health and Human Services;

“(2) the Secretary of Health and Human Services is authorized to accept and use such funds for the purpose of providing sanitation facilities and services for Indians under section 7 of the Act of August 5, 1954 (42 U.S.C. 2004a);

“(3) unless specifically authorized when funds are appropriated, the Secretary shall not use funds appropriated under section 7 of the Act of August 5, 1954 (42 U.S.C. 2004a), to provide sanitation facilities to new homes constructed using funds provided by the Department of Housing and Urban Development;

“(4) the Secretary of Health and Human Services is authorized to accept from any source, including Federal and State agencies, funds for the purpose of providing sani-

tation facilities and services and place these funds into contracts or compacts under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.);

“(5) except as otherwise prohibited by this section, the Secretary may use funds appropriated under the authority of section 7 of the Act of August 5, 1954 (42 U.S.C. 2004a), to fund up to 100 percent of the amount of an Indian Tribe's loan obtained under any Federal program for new projects to construct eligible sanitation facilities to serve Indian homes;

“(6) except as otherwise prohibited by this section, the Secretary may use funds appropriated under the authority of section 7 of the Act of August 5, 1954 (42 U.S.C. 2004a), to meet matching or cost participation requirements under other Federal and non-Federal programs for new projects to construct eligible sanitation facilities;

“(7) all Federal agencies are authorized to transfer to the Secretary funds identified, granted, loaned, or appropriated whereby the Department's applicable policies, rules, and regulations shall apply in the implementation of such projects;

“(8) the Secretary of Health and Human Services shall enter into interagency agreements with Federal and State agencies for the purpose of providing financial assistance for sanitation facilities and services under this Act;

“(9) the Secretary of Health and Human Services shall, by regulation, establish standards applicable to the planning, design, and construction of sanitation facilities funded under this Act; and

“(10) the Secretary of Health and Human Services is authorized to accept payments for goods and services furnished by the Service from appropriate public authorities, non-profit organizations or agencies, or Indian Tribes, as contributions by that authority, organization, agency, or tribe to agreements made under section 7 of the Act of August 5, 1954 (42 U.S.C. 2004a), and such payments shall be credited to the same or subsequent appropriation account as funds appropriated under the authority of section 7 of the Act of August 5, 1954 (42 U.S.C. 2004a).

“(d) CERTAIN CAPABILITIES NOT PRE-REQUISITE.—The financial and technical capability of an Indian Tribe, Tribal Organization, or Indian community to safely operate, manage, and maintain a sanitation facility shall not be a prerequisite to the provision or construction of sanitation facilities by the Secretary.

“(e) FINANCIAL ASSISTANCE.—The Secretary is authorized to provide financial assistance to Indian Tribes, Tribal Organizations, and Indian communities in an amount equal to the Federal share of the costs of operating, managing, and maintaining the facilities provided under the plan described in subsection (h)(1)(F).

“(f) OPERATION, MANAGEMENT, AND MAINTENANCE OF FACILITIES.—The Indian Tribe has the primary responsibility to establish, collect, and use reasonable user fees, or otherwise set aside funding, for the purpose of operating, managing, and maintaining sanitation facilities. If a sanitation facility serving a community that is operated by an Indian Tribe or Tribal Organization is threatened with imminent failure and such operator lacks capacity to maintain the integrity or the health benefits of the sanitation facility, then the Secretary is authorized to assist the Indian Tribe, Tribal Organization, or Indian community in the resolution of the problem on a short-term basis through cooperation with the emergency coordinator or

by providing operation, management, and maintenance service.

“(g) ISDEAA PROGRAM FUNDED ON EQUAL BASIS.—Tribal Health Programs shall be eligible (on an equal basis with programs that are administered directly by the Service) for—

“(1) any funds appropriated pursuant to this section; and

“(2) any funds appropriated for the purpose of providing sanitation facilities.

“(h) REPORT.—

“(1) REQUIRED; CONTENTS.—The Secretary, in consultation with the Secretary of Housing and Urban Development, Indian Tribes, Tribal Organizations, and tribally designated housing entities (as defined in section 4 of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4103)) shall submit to the President, for inclusion in the report required to be transmitted to Congress under section 801, a report which sets forth—

“(A) the current Indian sanitation facility priority system of the Service;

“(B) the methodology for determining sanitation deficiencies and needs;

“(C) the criteria on which the deficiencies and needs will be evaluated;

“(D) the level of initial and final sanitation facility for each type of sanitation facility for each project of each Indian Tribe or Indian community;

“(E) the amount and most effective use of funds, derived from whatever source, necessary to accommodate the sanitation facilities needs of new homes assisted with funds under the Native American Housing Assistance and Self-Determination Act (25 U.S.C. 4101 et seq.), and to reduce the identified sanitation deficiency levels of all Indian Tribes and Indian communities to level I sanitation deficiency as defined in paragraph (3)(A); and

“(F) a 10-year plan to provide sanitation facilities to serve existing Indian homes and Indian communities and new and renovated Indian homes.

“(2) UNIFORM METHODOLOGY.—The methodology used by the Secretary in determining, preparing cost estimates for, and reporting sanitation deficiencies for purposes of paragraph (1) shall be applied uniformly to all Indian Tribes and Indian communities.

“(3) SANITATION DEFICIENCY LEVELS.—For purposes of this subsection, the sanitation deficiency levels for an individual, Indian Tribe, or Indian community sanitation facility to serve Indian homes are determined as follows:

“(A) A level I deficiency exists if a sanitation facility serving an individual, Indian Tribe, or Indian community—

“(i) complies with all applicable water supply, pollution control, and solid waste disposal laws; and

“(ii) deficiencies relate to routine replacement, repair, or maintenance needs.

“(B) A level II deficiency exists if a sanitation facility serving an individual, Indian Tribe, or Indian community substantially or recently complied with all applicable water supply, pollution control, and solid waste laws and any deficiencies relate to—

“(i) small or minor capital improvements needed to bring the facility back into compliance;

“(ii) capital improvements that are necessary to enlarge or improve the facilities in order to meet the current needs for domestic sanitation facilities; or

“(iii) the lack of equipment or training by an Indian Tribe, Tribal Organization, or an Indian community to properly operate and maintain the sanitation facilities.

“(C) A level III deficiency exists if a sanitation facility serving an individual, Indian Tribe or Indian community meets 1 or more of the following conditions—

“(i) water or sewer service in the home is provided by a haul system with holding tanks and interior plumbing;

“(ii) major significant interruptions to water supply or sewage disposal occur frequently, requiring major capital improvements to correct the deficiencies; or

“(iii) there is no access to or no approved or permitted solid waste facility available.

“(D) A level IV deficiency exists—

“(i) if a sanitation facility for an individual home, an Indian Tribe, or an Indian community exists but—

“(I) lacks—

“(aa) a safe water supply system; or

“(bb) a waste disposal system;

“(II) contains no piped water or sewer facilities; or

“(III) has become inoperable due to a major component failure; or

“(ii) if only a washeteria or central facility exists in the community.

“(E) A level V deficiency exists in the absence of a sanitation facility, where individual homes do not have access to safe drinking water or adequate wastewater (including sewage) disposal.

“(1) DEFINITIONS.—For purposes of this section, the following terms apply:

“(1) INDIAN COMMUNITY.—The term ‘Indian community’ means a geographic area, a significant proportion of whose inhabitants are Indians and which is served by or capable of being served by a facility described in this section.

“(2) SANITATION FACILITIES.—The terms ‘sanitation facility’ and ‘sanitation facilities’ mean safe and adequate water supply systems, sanitary sewage disposal systems, and sanitary solid waste systems (and all related equipment and support infrastructure).

#### “SEC. 303. PREFERENCE TO INDIANS AND INDIAN FIRMS.

“(a) BUY INDIAN ACT.—The Secretary, acting through the Service, may use the negotiating authority of section 23 of the Act of June 25, 1910 (25 U.S.C. 47, commonly known as the ‘Buy Indian Act’), to give preference to any Indian or any enterprise, partnership, corporation, or other type of business organization owned and controlled by an Indian or Indians including former or currently federally recognized Indian Tribes in the State of New York (hereinafter referred to as an ‘Indian firm’) in the construction and renovation of Service facilities pursuant to section 301 and in the construction of sanitation facilities pursuant to section 302. Such preference may be accorded by the Secretary unless the Secretary finds, pursuant to regulations, that the project or function to be contracted for will not be satisfactory or such project or function cannot be properly completed or maintained under the proposed contract. The Secretary, in arriving at such a finding, shall consider whether the Indian or Indian firm will be deficient with respect to—

“(1) ownership and control by Indians;

“(2) equipment;

“(3) bookkeeping and accounting procedures;

“(4) substantive knowledge of the project or function to be contracted for;

“(5) adequately trained personnel; or

“(6) other necessary components of contract performance.

“(b) PAY RATES.—For the purposes of implementing the provisions of this title, the Secretary shall assure that the rates of pay

for personnel engaged in the construction or renovation of facilities constructed or renovated in whole or in part by funds made available pursuant to this title are not less than the prevailing local wage rates for similar work as determined in accordance with the Act of March 3, 1931 (40 U.S.C. 276a–276a–5, known as the Davis-Bacon Act).

“(c) LABOR STANDARDS.—For the purposes of implementing the provisions of this title, contracts for the construction or renovation of health care facilities, staff quarters, and sanitation facilities, and related support infrastructure, funded in whole or in part with funds made available pursuant to this title, shall contain a provision requiring compliance with subchapter IV of chapter 31 of title 40, United States Code (commonly known as the ‘Davis-Bacon Act’).

#### “SEC. 304. EXPENDITURE OF NON-SERVICE FUNDS FOR RENOVATION.

“(a) IN GENERAL.—Notwithstanding any other provision of law, if the requirements of subsection (c) are met, the Secretary, acting through the Service, is authorized to accept any major expansion, renovation, or modernization by any Indian Tribe or Tribal Organization of any Service facility or of any other Indian health facility operated pursuant to a contract or compact under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.), including—

“(1) any plans or designs for such expansion, renovation, or modernization; and

“(2) any expansion, renovation, or modernization for which funds appropriated under any Federal law were lawfully expended.

“(b) PRIORITY LIST.—

“(1) IN GENERAL.—The Secretary shall maintain a separate priority list to address the needs for increased operating expenses, personnel, or equipment for such facilities. The methodology for establishing priorities shall be developed through regulations. The list of priority facilities will be revised annually in consultation with Indian Tribes and Tribal Organizations.

“(2) REPORT.—The Secretary shall submit to the President, for inclusion in the report required to be transmitted to Congress under section 801, the priority list maintained pursuant to paragraph (1).

“(c) REQUIREMENTS.—The requirements of this subsection are met with respect to any expansion, renovation, or modernization if—

“(1) the Indian Tribe or Tribal Organization—

“(A) provides notice to the Secretary of its intent to expand, renovate, or modernize; and

“(B) applies to the Secretary to be placed on a separate priority list to address the needs of such new facilities for increased operating expenses, personnel, or equipment; and

“(2) the expansion, renovation, or modernization—

“(A) is approved by the appropriate area director of the Service for Federal facilities; and

“(B) is administered by the Indian Tribe or Tribal Organization in accordance with any applicable regulations prescribed by the Secretary with respect to construction or renovation of Service facilities.

“(d) ADDITIONAL REQUIREMENT FOR EXPANSION.—In addition to the requirements under subsection (c), for any expansion, the Indian Tribe or Tribal Organization shall provide to the Secretary additional information pursuant to regulations, including additional staffing, equipment, and other costs associated with the expansion.

“(e) CLOSURE OR CONVERSION OF FACILITIES.—If any Service facility which has been expanded, renovated, or modernized by an Indian Tribe or Tribal Organization under this section ceases to be used as a Service facility during the 20-year period beginning on the date such expansion, renovation, or modernization is completed, such Indian Tribe or Tribal Organization shall be entitled to recover from the United States an amount which bears the same ratio to the value of such facility at the time of such cessation as the value of such expansion, renovation, or modernization (less the total amount of any funds provided specifically for such facility under any Federal program that were expended for such expansion, renovation, or modernization) bore to the value of such facility at the time of the completion of such expansion, renovation, or modernization.

**“SEC. 305. FUNDING FOR THE CONSTRUCTION, EXPANSION, AND MODERNIZATION OF SMALL AMBULATORY CARE FACILITIES.**

**“(a) GRANTS.—**

“(1) IN GENERAL.—The Secretary, acting through the Service, shall make grants to Indian Tribes and Tribal Organizations for the construction, expansion, or modernization of facilities for the provision of ambulatory care services to eligible Indians (and noneligible persons pursuant to subsections (b)(2) and (c)(1)(C)). A grant made under this section may cover up to 100 percent of the costs of such construction, expansion, or modernization. For the purposes of this section, the term ‘construction’ includes the replacement of an existing facility.

“(2) GRANT AGREEMENT REQUIRED.—A grant under paragraph (1) may only be made available to a Tribal Health Program operating an Indian health facility (other than a facility owned or constructed by the Service, including a facility originally owned or constructed by the Service and transferred to an Indian Tribe or Tribal Organization).

**“(b) USE OF GRANT FUNDS.—**

“(1) ALLOWABLE USES.—A grant awarded under this section may be used for the construction, expansion, or modernization (including the planning and design of such construction, expansion, or modernization) of an ambulatory care facility—

“(A) located apart from a hospital;

“(B) not funded under section 301 or section 306; and

“(C) which, upon completion of such construction or modernization will—

“(i) have a total capacity appropriate to its projected service population;

“(ii) provide annually no fewer than 150 patient visits by eligible Indians and other users who are eligible for services in such facility in accordance with section 806(c)(2); and

“(iii) provide ambulatory care in a Service Area (specified in the contract or compact under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.)) with a population of no fewer than 1,500 eligible Indians and other users who are eligible for services in such facility in accordance with section 806(c)(2).

“(2) ADDITIONAL ALLOWABLE USE.—The Secretary may also reserve a portion of the funding provided under this section and use those reserved funds to reduce an outstanding debt incurred by Indian Tribes or Tribal Organizations for the construction, expansion, or modernization of an ambulatory care facility that meets the requirements under paragraph (1). The provisions of this section shall apply, except that such applications for funding under this paragraph

shall be considered separately from applications for funding under paragraph (1).

“(3) USE ONLY FOR CERTAIN PORTION OF COSTS.—A grant provided under this section may be used only for the cost of that portion of a construction, expansion, or modernization project that benefits the Service population identified above in subsection (b)(1)(C) (ii) and (iii). The requirements of clauses (ii) and (iii) of paragraph (1)(C) shall not apply to an Indian Tribe or Tribal Organization applying for a grant under this section for a health care facility located or to be constructed on an island or when such facility is not located on a road system providing direct access to an inpatient hospital where care is available to the Service population.

**“(c) GRANTS.—**

“(1) APPLICATION.—No grant may be made under this section unless an application or proposal for the grant has been approved by the Secretary in accordance with applicable regulations and has set forth reasonable assurance by the applicant that, at all times after the construction, expansion, or modernization of a facility carried out using a grant received under this section—

“(A) adequate financial support will be available for the provision of services at such facility;

“(B) such facility will be available to eligible Indians without regard to ability to pay or source of payment; and

“(C) such facility will, as feasible without diminishing the quality or quantity of services provided to eligible Indians, serve non-eligible persons on a cost basis.

“(2) PRIORITY.—In awarding grants under this section, the Secretary shall give priority to Indian Tribes and Tribal Organizations that demonstrate—

“(A) a need for increased ambulatory care services; and

“(B) insufficient capacity to deliver such services.

“(3) PEER REVIEW PANELS.—The Secretary may provide for the establishment of peer review panels, as necessary, to review and evaluate applications and proposals and to advise the Secretary regarding such applications using the criteria developed pursuant to subsection (a)(1).

“(d) REVERSION OF FACILITIES.—If any facility (or portion thereof) with respect to which funds have been paid under this section, ceases, at any time after completion of the construction, expansion, or modernization carried out with such funds, to be used for the purposes of providing health care services to eligible Indians, all of the right, title, and interest in and to such facility (or portion thereof) shall transfer to the United States unless otherwise negotiated by the Service and the Indian Tribe or Tribal Organization.

“(e) FUNDING NONRECURRING.—Funding provided under this section shall be non-recurring and shall not be available for inclusion in any individual Indian Tribe’s tribal share for an award under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.) or for reallocation or redesign thereunder.

**“SEC. 306. INDIAN HEALTH CARE DELIVERY DEMONSTRATION PROJECT.**

“(a) HEALTH CARE DEMONSTRATION PROJECTS.—The Secretary, acting through the Service, is authorized to make grants to, and enter into construction contracts or construction project agreements with, Indian Tribes or Tribal Organizations under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.) for the purpose of carrying out a health care deliv-

ery demonstration project to test alternative means of delivering health care and services to Indians through facilities.

“(b) USE OF FUNDS.—The Secretary, in approving projects pursuant to this section, may authorize such contracts for the construction and renovation of hospitals, health centers, health stations, and other facilities to deliver health care services and is authorized to—

“(1) waive any leasing prohibition;

“(2) permit carryover of funds appropriated for the provision of health care services;

“(3) permit the use of other available funds;

“(4) permit the use of funds or property donated from any source for project purposes;

“(5) provide for the reversion of donated real or personal property to the donor; and

“(6) permit the use of Service funds to match other funds, including Federal funds.

“(c) REGULATIONS.—The Secretary shall develop and promulgate regulations, not later than 1 year after the date of enactment of the Indian Health Care Improvement Act Amendments of 2009, for the review and approval of applications submitted under this section.

“(d) CRITERIA.—The Secretary may approve projects that meet the following criteria:

“(1) There is a need for a new facility or program or the reorientation of an existing facility or program.

“(2) A significant number of Indians, including those with low health status, will be served by the project.

“(3) The project has the potential to deliver services in an efficient and effective manner.

“(4) The project is economically viable.

“(5) The Indian Tribe or Tribal Organization has the administrative and financial capability to administer the project.

“(6) The project is integrated with providers of related health and social services and is coordinated with, and avoids duplication of, existing services.

“(e) PEER REVIEW PANELS.—The Secretary may provide for the establishment of peer review panels, as necessary, to review and evaluate applications using the criteria developed pursuant to subsection (d).

“(f) PRIORITY.—The Secretary shall give priority to applications for demonstration projects in each of the following Service Units to the extent that such applications are timely filed and meet the criteria specified in subsection (d):

“(1) Cass Lake, Minnesota.

“(2) Mescalero, New Mexico.

“(3) Owyhee, Nevada.

“(4) Schurz, Nevada.

“(5) Ft. Yuma, California.

“(g) TECHNICAL ASSISTANCE.—The Secretary shall provide such technical and other assistance as may be necessary to enable applicants to comply with the provisions of this section.

“(h) SERVICE TO INELIGIBLE PERSONS.—Subject to section 806, the authority to provide services to persons otherwise ineligible for the health care benefits of the Service and the authority to extend hospital privileges in Service facilities to non-Service health practitioners as provided in section 806 may be included, subject to the terms of such section, in any demonstration project approved pursuant to this section.

“(i) EQUITABLE TREATMENT.—For purposes of subsection (d)(1), the Secretary shall, in evaluating facilities operated under any contract or compact under the Indian Self-Determination and Education Assistance Act

(25 U.S.C. 450 et seq.), use the same criteria that the Secretary uses in evaluating facilities operated directly by the Service.

“(j) **EQUITABLE INTEGRATION OF FACILITIES.**—The Secretary shall ensure that the planning, design, construction, renovation, and expansion needs of Service and non-Service facilities which are the subject of a contract or compact under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.) for health services are fully and equitably integrated into the implementation of the health care delivery demonstration projects under this section.

**“SEC. 307. LAND TRANSFER.**

“Notwithstanding any other provision of law, the Bureau of Indian Affairs and all other agencies and departments of the United States are authorized to transfer, at no cost, land and improvements to the Service for the provision of health care services. The Secretary is authorized to accept such land and improvements for such purposes.

**“SEC. 308. LEASES, CONTRACTS, AND OTHER AGREEMENTS.**

“The Secretary, acting through the Service, may enter into leases, contracts, and other agreements with Indian Tribes and Tribal Organizations which hold (1) title to, (2) a leasehold interest in, or (3) a beneficial interest in (when title is held by the United States in trust for the benefit of an Indian Tribe) facilities used or to be used for the administration and delivery of health services by an Indian Health Program. Such leases, contracts, or agreements may include provisions for construction or renovation and provide for compensation to the Indian Tribe or Tribal Organization of rental and other costs consistent with section 105(l) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450j(1)) and regulations thereunder.

**“SEC. 309. STUDY ON LOANS, LOAN GUARANTEES, AND LOAN REPAYMENT.**

“(a) **IN GENERAL.**—The Secretary, in consultation with the Secretary of the Treasury, Indian Tribes, and Tribal Organizations, shall carry out a study to determine the feasibility of establishing a loan fund to provide to Indian Tribes and Tribal Organizations direct loans or guarantees for loans for the construction of health care facilities, including—

- “(1) inpatient facilities;
- “(2) outpatient facilities;
- “(3) staff quarters;
- “(4) hostels; and
- “(5) specialized care facilities, such as behavioral health and elder care facilities.

“(b) **DETERMINATIONS.**—In carrying out the study under subsection (a), the Secretary shall determine—

- “(1) the maximum principal amount of a loan or loan guarantee that should be offered to a recipient from the loan fund;
- “(2) the percentage of eligible costs, not to exceed 100 percent, that may be covered by a loan or loan guarantee from the loan fund (including costs relating to planning, design, financing, site land development, construction, rehabilitation, renovation, conversion, improvements, medical equipment and furnishings, and other facility-related costs and capital purchase (but excluding staffing));
- “(3) the cumulative total of the principal of direct loans and loan guarantees, respectively, that may be outstanding at any 1 time;
- “(4) the maximum term of a loan or loan guarantee that may be made for a facility from the loan fund;
- “(5) the maximum percentage of funds from the loan fund that should be allocated

for payment of costs associated with planning and applying for a loan or loan guarantee;

“(6) whether acceptance by the Secretary of an assignment of the revenue of an Indian Tribe or Tribal Organization as security for any direct loan or loan guarantee from the loan fund would be appropriate;

“(7) whether, in the planning and design of health facilities under this section, users eligible under section 806(c) may be included in any projection of patient population;

“(8) whether funds of the Service provided through loans or loan guarantees from the loan fund should be eligible for use in matching other Federal funds under other programs;

“(9) the appropriateness of, and best methods for, coordinating the loan fund with the health care priority system of the Service under section 301; and

“(10) any legislative or regulatory changes required to implement recommendations of the Secretary based on results of the study.

“(c) **REPORT.**—Not later than September 30, 2010, the Secretary shall submit to the Committee on Indian Affairs of the Senate and the Committee on Natural Resources and the Committee on Energy and Commerce of the House of Representatives a report that describes—

- “(1) the manner of consultation made as required by subsection (a); and
- “(2) the results of the study, including any recommendations of the Secretary based on results of the study.

**“SEC. 310. TRIBAL LEASING.**

“A Tribal Health Program may lease permanent structures for the purpose of providing health care services without obtaining advance approval in appropriation Acts.

**“SEC. 311. INDIAN HEALTH SERVICE/TRIBAL FACILITIES JOINT VENTURE PROGRAM.**

“(a) **IN GENERAL.**—The Secretary, acting through the Service, shall make arrangements with Indian Tribes and Tribal Organizations to establish joint venture demonstration projects under which an Indian Tribe or Tribal Organization shall expend tribal, private, or other available funds, for the acquisition or construction of a health facility for a minimum of 10 years, under a no-cost lease, in exchange for agreement by the Service to provide the equipment, supplies, and staffing for the operation and maintenance of such a health facility. An Indian Tribe or Tribal Organization may use tribal funds, private sector, or other available resources, including loan guarantees, to fulfill its commitment under a joint venture entered into under this subsection. An Indian Tribe or Tribal Organization shall be eligible to establish a joint venture project if, when it submits a letter of intent, it—

- “(1) has begun but not completed the process of acquisition or construction of a health facility to be used in the joint venture project;
- “(2) has not begun the process of acquisition or construction of a health facility for use in the joint venture project; or
- “(3) in its application for a joint venture agreement, agrees—
  - “(A) to construct a facility for the joint venture which complies with the size and space criteria established by the Service; or
  - “(B) if the facility it proposes for the joint venture is already in existence or under construction, that only the portion of such facility which complies with the size and space criteria of the Service will be eligible for the joint venture agreement.
- “(b) **REQUIREMENTS.**—The Secretary shall make such an arrangement with an Indian Tribe or Tribal Organization only if—

“(1) the Secretary first determines that the Indian Tribe or Tribal Organization has the administrative and financial capabilities necessary to complete the timely acquisition or construction of the relevant health facility; and

“(2) the Indian Tribe or Tribal Organization meets the need criteria determined using the criteria developed under the health care facility priority system under section 301, unless the Secretary determines, pursuant to regulations, that other criteria will result in a more cost-effective and efficient method of facilitating and completing construction of health care facilities.

“(c) **CONTINUED OPERATION.**—The Secretary shall negotiate an agreement with the Indian Tribe or Tribal Organization regarding the continued operation of the facility at the end of the initial 10 year no-cost lease period.

“(d) **BREACH OF AGREEMENT.**—An Indian Tribe or Tribal Organization that has entered into a written agreement with the Secretary under this section, and that breaches or terminates without cause such agreement, shall be liable to the United States for the amount that has been paid to the Indian Tribe or Tribal Organization, or paid to a third party on the Indian Tribe's or Tribal Organization's behalf, under the agreement. The Secretary has the right to recover tangible property (including supplies) and equipment, less depreciation, and any funds expended for operations and maintenance under this section. The preceding sentence does not apply to any funds expended for the delivery of health care services, personnel, or staffing.

“(e) **RECOVERY FOR NONUSE.**—An Indian Tribe or Tribal Organization that has entered into a written agreement with the Secretary under this subsection shall be entitled to recover from the United States an amount that is proportional to the value of such facility if, at any time within the 10-year term of the agreement, the Service ceases to use the facility or otherwise breaches the agreement.

“(f) **DEFINITION.**—For the purposes of this section, the term ‘health facility’ or ‘health facilities’ includes quarters needed to provide housing for staff of the relevant Tribal Health Program.

**“SEC. 312. LOCATION OF FACILITIES.**

“(a) **IN GENERAL.**—In all matters involving the reorganization or development of Service facilities or in the establishment of related employment projects to address unemployment conditions in economically depressed areas, the Bureau of Indian Affairs and the Service shall give priority to locating such facilities and projects on Indian lands, or lands in Alaska owned by any Alaska Native village, or village or regional corporation under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.), or any land allotted to any Alaska Native, if requested by the Indian owner and the Indian Tribe with jurisdiction over such lands or other lands owned or leased by the Indian Tribe or Tribal Organization. Top priority shall be given to Indian land owned by 1 or more Indian Tribes.

“(b) **DEFINITION.**—For purposes of this section, the term ‘Indian lands’ means—

- “(1) all lands within the exterior boundaries of any reservation; and
- “(2) any lands title to which is held in trust by the United States for the benefit of any Indian Tribe or individual Indian or held by any Indian Tribe or individual Indian subject to restriction by the United States against alienation.

**"SEC. 313. MAINTENANCE AND IMPROVEMENT OF HEALTH CARE FACILITIES.**

"(a) REPORT.—The Secretary shall submit to the President, for inclusion in the report required to be transmitted to Congress under section 801, a report which identifies the backlog of maintenance and repair work required at both Service and tribal health care facilities, including new health care facilities expected to be in operation in the next fiscal year. The report shall also identify the need for renovation and expansion of existing facilities to support the growth of health care programs.

"(b) MAINTENANCE OF NEWLY CONSTRUCTED SPACE.—The Secretary, acting through the Service, is authorized to expend maintenance and improvement funds to support maintenance of newly constructed space only if such space falls within the approved supportable space allocation for the Indian Tribe or Tribal Organization. Supportable space allocation shall be defined through the health care facility priority system under section 301(c).

"(c) REPLACEMENT FACILITIES.—In addition to using maintenance and improvement funds for renovation, modernization, and expansion of facilities, an Indian Tribe or Tribal Organization may use maintenance and improvement funds for construction of a replacement facility if the costs of renovation of such facility would exceed a maximum renovation cost threshold. The Secretary shall consult with Indian Tribes and Tribal Organizations in determining the maximum renovation cost threshold.

**"SEC. 314. TRIBAL MANAGEMENT OF FEDERALLY OWNED QUARTERS.**

"(a) RENTAL RATES.—

"(1) ESTABLISHMENT.—Notwithstanding any other provision of law, a Tribal Health Program which operates a hospital or other health facility and the federally owned quarters associated therewith pursuant to a contract or compact under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.) shall have the authority to establish the rental rates charged to the occupants of such quarters by providing notice to the Secretary of its election to exercise such authority.

"(2) OBJECTIVES.—In establishing rental rates pursuant to authority of this subsection, a Tribal Health Program shall endeavor to achieve the following objectives:

"(A) To base such rental rates on the reasonable value of the quarters to the occupants thereof.

"(B) To generate sufficient funds to prudently provide for the operation and maintenance of the quarters, and subject to the discretion of the Tribal Health Program, to supply reserve funds for capital repairs and replacement of the quarters.

"(3) EQUITABLE FUNDING.—Any quarters whose rental rates are established by a Tribal Health Program pursuant to this subsection shall remain eligible for quarters improvement and repair funds to the same extent as all federally owned quarters used to house personnel in Services-supported programs.

"(4) NOTICE OF RATE CHANGE.—A Tribal Health Program which exercises the authority provided under this subsection shall provide occupants with no less than 60 days notice of any change in rental rates.

"(b) DIRECT COLLECTION OF RENT.—

"(1) IN GENERAL.—Notwithstanding any other provision of law, and subject to paragraph (2), a Tribal Health Program shall have the authority to collect rents directly from Federal employees who occupy such quarters in accordance with the following:

"(A) The Tribal Health Program shall notify the Secretary and the subject Federal employees of its election to exercise its authority to collect rents directly from such Federal employees.

"(B) Upon receipt of a notice described in subparagraph (A), the Federal employees shall pay rents for occupancy of such quarters directly to the Tribal Health Program and the Secretary shall have no further authority to collect rents from such employees through payroll deduction or otherwise.

"(C) Such rent payments shall be retained by the Tribal Health Program and shall not be made payable to or otherwise be deposited with the United States.

"(D) Such rent payments shall be deposited into a separate account which shall be used by the Tribal Health Program for the maintenance (including capital repairs and replacement) and operation of the quarters and facilities as the Tribal Health Program shall determine.

"(2) RETROCESSION OF AUTHORITY.—If a Tribal Health Program which has made an election under paragraph (1) requests retrocession of its authority to directly collect rents from Federal employees occupying federally owned quarters, such retrocession shall become effective on the earlier of—

"(A) the first day of the month that begins no less than 180 days after the Tribal Health Program notifies the Secretary of its desire to retrocede; or

"(B) such other date as may be mutually agreed by the Secretary and the Tribal Health Program.

"(c) RATES IN ALASKA.—To the extent that a Tribal Health Program, pursuant to authority granted in subsection (a), establishes rental rates for federally owned quarters provided to a Federal employee in Alaska, such rents may be based on the cost of comparable private rental housing in the nearest established community with a year-round population of 1,500 or more individuals.

**"SEC. 315. APPLICABILITY OF BUY AMERICAN ACT REQUIREMENT.**

"(a) APPLICABILITY.—The Secretary shall ensure that the requirements of the Buy American Act apply to all procurements made with funds provided pursuant to section 317. Indian Tribes and Tribal Organizations shall be exempt from these requirements.

"(b) EFFECT OF VIOLATION.—If it has been finally determined by a court or Federal agency that any person intentionally affixed a label bearing a 'Made in America' inscription or any inscription with the same meaning, to any product sold in or shipped to the United States that is not made in the United States, such person shall be ineligible to receive any contract or subcontract made with funds provided pursuant to section 317, pursuant to the debarment, suspension, and ineligibility procedures described in sections 9.400 through 9.409 of title 48, Code of Federal Regulations.

"(c) DEFINITIONS.—For purposes of this section, the term 'Buy American Act' means title III of the Act entitled 'An Act making appropriations for the Treasury and Post Office Departments for the fiscal year ending June 30, 1934, and for other purposes', approved March 3, 1933 (41 U.S.C. 10a et seq.).

**"SEC. 316. OTHER FUNDING FOR FACILITIES.**

"(a) AUTHORITY TO ACCEPT FUNDS.—The Secretary is authorized to accept from any source, including Federal and State agencies, funds that are available for the construction of health care facilities and use such funds to plan, design, and construct health care facilities for Indians and to place

such funds into a contract or compact under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.). Receipt of such funds shall have no effect on the priorities established pursuant to section 301.

"(b) INTERAGENCY AGREEMENTS.—The Secretary is authorized to enter into interagency agreements with other Federal agencies or State agencies and other entities and to accept funds from such Federal or State agencies or other sources to provide for the planning, design, and construction of health care facilities to be administered by Indian Health Programs in order to carry out the purposes of this Act and the purposes for which the funds were appropriated or for which the funds were otherwise provided.

"(c) TRANSFERRED FUNDS.—Any Federal agency to which funds for the construction of health care facilities are appropriated is authorized to transfer such funds to the Secretary for the construction of health care facilities to carry out the purposes of this Act as well as the purposes for which such funds are appropriated to such other Federal agency.

"(d) ESTABLISHMENT OF STANDARDS.—The Secretary, through the Service, shall establish standards by regulation for the planning, design, and construction of health care facilities serving Indians under this Act.

**"SEC. 317. AUTHORIZATION OF APPROPRIATIONS.**

"There are authorized to be appropriated such sums as may be necessary to carry out this title.

**"TITLE IV—ACCESS TO HEALTH SERVICES****"SEC. 401. TREATMENT OF PAYMENTS UNDER SOCIAL SECURITY ACT HEALTH BENEFITS PROGRAMS.**

"(a) DISREGARD OF MEDICARE, MEDICAID, AND SCHIP PAYMENTS IN DETERMINING APPROPRIATIONS.—Any payments received by an Indian Health Program or by an urban Indian organization under title XVIII, XIX, or XXI of the Social Security Act for services provided to Indians eligible for benefits under such respective titles shall not be considered in determining appropriations for the provision of health care and services to Indians.

"(b) NONPREFERENTIAL TREATMENT.—Nothing in this Act authorizes the Secretary to provide services to an Indian with coverage under title XVIII, XIX, or XXI of the Social Security Act in preference to an Indian without such coverage.

"(c) USE OF FUNDS.—

"(1) SPECIAL FUND.—

"(A) 100 PERCENT PASS-THROUGH OF PAYMENTS DUE TO FACILITIES.—Notwithstanding any other provision of law, but subject to paragraph (2), payments to which a facility of the Service is entitled by reason of a provision of title XVIII or XIX of the Social Security Act shall be placed in a special fund to be held by the Secretary. In making payments from such fund, the Secretary shall ensure that each Service Unit of the Service receives 100 percent of the amount to which the facilities of the Service, for which such Service Unit makes collections, are entitled by reason of a provision of either such title.

"(B) USE OF FUNDS.—Amounts received by a facility of the Service under subparagraph (A) by reason of a provision of title XVIII or XIX of the Social Security Act shall first be used (to such extent or in such amounts as are provided in appropriation Acts) for the purpose of making any improvements in the programs of the Service operated by or through such facility which may be necessary to achieve or maintain compliance with the applicable conditions and requirements of such respective title. Any amounts



so received that are in excess of the amount necessary to achieve or maintain such conditions and requirements shall, subject to consultation with the Indian Tribes being served by the Service Unit, be used for increasing the facility's capacity to provide, or improving the quality or accessibility of, services.

“(2) **DIRECT PAYMENT OPTION.**—Paragraph (1) shall not apply to a Tribal Health Program upon the election of such Program under subsection (d) to receive payments directly. No payment may be made out of the special fund described in such paragraph with respect to reimbursement made for services provided by such Program during the period of such election.

“(d) **DIRECT BILLING.**—

“(1) **IN GENERAL.**—Subject to complying with the requirements of paragraph (2), a Tribal Health Program may elect to directly bill for, and receive payment for, health care items and services provided by such Program for which payment is made under title XVIII, XIX, or XXI of the Social Security Act.

“(2) **DIRECT REIMBURSEMENT.**—

“(A) **USE OF FUNDS.**—Each Tribal Health Program making the election described in paragraph (1) with respect to a program under title XVIII, XIX, or XXI of the Social Security Act shall be reimbursed directly by that program for items and services furnished without regard to subsection (c)(1), but all amounts so reimbursed shall be used by the Tribal Health Program for the same purposes with respect to such Program for which payment under subparagraph (A) of subsection (c)(1) to a facility of the Service may be used pursuant to subparagraph (B) of such subsection with respect to the Service.

“(B) **AUDITS.**—The amounts paid to a Tribal Health Program making the election described in paragraph (1) with respect to a program under title XVIII, XIX, or XXI of the Social Security Act shall be subject to all auditing requirements applicable to the program under such title, as well as all auditing requirements applicable to programs administered by an Indian Health Program. Nothing in the preceding sentence shall be construed as limiting the application of auditing requirements applicable to amounts paid under title XVIII, XIX, or XXI of the Social Security Act.

“(C) **IDENTIFICATION OF SOURCE OF PAYMENTS.**—Any Tribal Health Program that receives reimbursements or payments under title XVIII, XIX, or XXI of the Social Security Act shall provide to the Service a list of each provider enrollment number (or other identifier) under which such Program receives such reimbursements or payments.

“(3) **EXAMINATION AND IMPLEMENTATION OF CHANGES.**—

“(A) **IN GENERAL.**—The Secretary, acting through the Service and with the assistance of the Administrator of the Centers for Medicare & Medicaid Services, shall examine on an ongoing basis and implement any administrative changes that may be necessary to facilitate direct billing and reimbursement under the program established under this subsection, including any agreements with States that may be necessary to provide for direct billing under a program under title XIX or XXI of the Social Security Act.

“(B) **COORDINATION OF INFORMATION.**—The Service shall provide the Administrator of the Centers for Medicare & Medicaid Services with copies of the lists submitted to the Service under paragraph (2)(C), enrollment data regarding patients served by the Service (and by Tribal Health Programs, to the extent such data is available to the Service), and such other information as the Adminis-

trator may require for purposes of administering title XVIII, XIX, or XXI of the Social Security Act.

“(4) **WITHDRAWAL FROM PROGRAM.**—A Tribal Health Program that bills directly under the program established under this subsection may withdraw from participation in the same manner and under the same conditions that an Indian Tribe or Tribal Organization may retrocede a contracted program to the Secretary under the authority of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.). All cost accounting and billing authority under the program established under this subsection shall be returned to the Secretary upon the Secretary's acceptance of the withdrawal of participation in this program.

“(5) **TERMINATION FOR FAILURE TO COMPLY WITH REQUIREMENTS.**—The Secretary may terminate the participation of a Tribal Health Program or in the direct billing program established under this subsection if the Secretary determines that the Program has failed to comply with the requirements of paragraph (2). The Secretary shall provide a Tribal Health Program with notice of a determination that the Program has failed to comply with any such requirement and a reasonable opportunity to correct such non-compliance prior to terminating the Program's participation in the direct billing program established under this subsection.

“(e) **RELATED PROVISIONS UNDER THE SOCIAL SECURITY ACT.**—For provisions related to subsections (c) and (d), see sections 1880, 1911, and 2107(e)(1)(D) of the Social Security Act.

**“SEC. 402. GRANTS TO AND CONTRACTS WITH THE SERVICE, INDIAN TRIBES, TRIBAL ORGANIZATIONS, AND URBAN INDIAN ORGANIZATIONS TO FACILITATE OUTREACH, ENROLLMENT, AND COVERAGE OF INDIANS UNDER SOCIAL SECURITY ACT HEALTH BENEFIT PROGRAMS.**

“(a) **INDIAN TRIBES AND TRIBAL ORGANIZATIONS.**—The Secretary, acting through the Service, shall make grants to or enter into contracts with Indian Tribes and Tribal Organizations to assist such Tribes and Tribal Organizations in establishing and administering programs on or near reservations, trust lands, and Alaska Native Villages, including programs to provide outreach and enrollment through video, electronic delivery methods, or telecommunication devices that allow real-time or time-delayed communication between individual Indians and the benefit program, to assist individual Indians—

“(1) to enroll for benefits under a program established under title XVIII, XIX, or XXI of the Social Security Act; and

“(2) with respect to such programs for which the charging of premiums and cost sharing is not prohibited under such programs, to pay premiums or cost sharing for coverage for such benefits, which may be based on financial need (as determined by the Indian Tribe or Tribes or Tribal Organizations being served based on a schedule of income levels developed or implemented by such Tribe, Tribes, or Tribal Organizations).

“(b) **CONDITIONS.**—The Secretary, acting through the Service, shall place conditions as deemed necessary to effect the purpose of this section in any grant or contract which the Secretary makes with any Indian Tribe or Tribal Organization pursuant to this section. Such conditions shall include requirements that the Indian Tribe or Tribal Organization successfully undertake—

“(1) to determine the population of Indians eligible for the benefits described in subsection (a);

“(2) to educate Indians with respect to the benefits available under the respective programs;

“(3) to provide transportation for such individual Indians to the appropriate offices for enrollment or applications for such benefits; and

“(4) to develop and implement methods of improving the participation of Indians in receiving benefits under such programs.

“(c) **APPLICATION TO URBAN INDIAN ORGANIZATIONS.**—

“(1) **IN GENERAL.**—The provisions of subsection (a) shall apply with respect to grants and other funding to urban Indian organizations with respect to populations served by such organizations in the same manner they apply to grants and contracts with Indian Tribes and Tribal Organizations with respect to programs on or near reservations.

“(2) **REQUIREMENTS.**—The Secretary shall include in the grants or contracts made or provided under paragraph (1) requirements that are—

“(A) consistent with the requirements imposed by the Secretary under subsection (b);

“(B) appropriate to urban Indian organizations and urban Indians; and

“(C) necessary to effect the purposes of this section.

“(d) **FACILITATING COOPERATION IN ENROLLMENT AND RETENTION.**—The Secretary, acting through the Centers for Medicare & Medicaid Services, shall consult with States, the Service, Indian Tribes, Tribal Organizations, and urban Indian organizations to develop and disseminate best practices with respect to facilitating agreements between the States and Indian Tribes, Tribal Organizations, and urban Indian organizations relating to enrollment and retention of Indians in programs established under titles XVIII, XIX, and XXI of the Social Security Act.

“(e) **AGREEMENTS TO IMPROVE ENROLLMENT OF INDIANS UNDER SOCIAL SECURITY ACT HEALTH BENEFITS PROGRAMS.**—For provisions relating to agreements between the Secretary and the Service, Indian Tribes, Tribal Organizations, and urban Indian organizations for the collection, preparation, and submission of applications by Indians for assistance under the Medicaid and children's health insurance programs established under titles XIX and XXI of the Social Security Act, and benefits under the Medicare program established under title XVIII of such Act, see subsections (a) and (b) of section 1139 of the Social Security Act.

“(f) **DEFINITIONS.**—In this section:

“(1) **PREMIUM.**—The term ‘premium’ includes any enrollment fee or similar charge.

“(2) **COST SHARING.**—The term ‘cost sharing’ includes any deduction, deductible, copayment, coinsurance, or similar charge.

“(3) **BENEFITS.**—The term ‘benefits’ means, with respect to—

“(A) title XVIII of the Social Security Act, benefits under such title;

“(B) title XIX of such Act, medical assistance under such title; and

“(C) title XXI of such Act, assistance under such title.

**“SEC. 403. REIMBURSEMENT FROM CERTAIN THIRD PARTIES OF COSTS OF HEALTH SERVICES.**

“(a) **RIGHT OF RECOVERY.**—Except as provided in subsection (f), the United States, an Indian Tribe, or Tribal Organization shall have the right to recover from an insurance company, health maintenance organization, employee benefit plan, third-party tortfeasor, or any other responsible or liable third party (including a political subdivision or local governmental entity of a State) the

reasonable charges incurred by the Secretary, an Indian Tribe, or Tribal Organization, or, if higher, the highest amount the third party would pay for care and services furnished by providers other than governmental entities, in providing health services through the Service, an Indian Tribe, or Tribal Organization to any individual to the same extent that such individual, or any nongovernmental provider of such services, would be eligible to receive damages, reimbursement, or indemnification for such charges if—

“(1) such services had been provided by a nongovernmental provider; and

“(2) such individual had been required to pay such charges or expenses and did pay such charges or expenses.

“(b) LIMITATIONS ON RECOVERIES FROM STATES.—Subsection (a) shall provide a right of recovery against any State, only if the injury, illness, or disability for which health services were provided is covered under—

“(1) workers' compensation laws; or

“(2) a no-fault automobile accident insurance plan or program.

“(c) NONAPPLICATION OF OTHER LAWS.—No law of any State, or of any political subdivision of a State and no provision of any contract, insurance or health maintenance organization policy, employee benefit plan, self-insurance plan, managed care plan, or other health care plan or program entered into or renewed after the date of the enactment of the Indian Health Care Amendments of 1988, shall prevent or hinder the right of recovery of the United States, an Indian Tribe, or Tribal Organization under subsection (a).

“(d) NO EFFECT ON PRIVATE RIGHTS OF ACTION.—No action taken by the United States, an Indian Tribe, or Tribal Organization to enforce the right of recovery provided under this section shall operate to deny to the injured person the recovery for that portion of the person's damage not covered hereunder.

“(e) ENFORCEMENT.—

“(1) IN GENERAL.—The United States, an Indian Tribe, or Tribal Organization may enforce the right of recovery provided under subsection (a) by—

“(A) intervening or joining in any civil action or proceeding brought—

“(i) by the individual for whom health services were provided by the Secretary, an Indian Tribe, or Tribal Organization; or

“(ii) by any representative or heirs of such individual, or

“(B) instituting a civil action, including a civil action for injunctive relief and other relief and including, with respect to a political subdivision or local governmental entity of a State, such an action against an official thereof.

“(2) NOTICE.—All reasonable efforts shall be made to provide notice of action instituted under paragraph (1)(B) to the individual to whom health services were provided, either before or during the pendency of such action.

“(3) RECOVERY FROM TORTFEASORS.—

“(A) IN GENERAL.—In any case in which an Indian Tribe or Tribal Organization that is authorized or required under a compact or contract issued pursuant to the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.) to furnish or pay for health services to a person who is injured or suffers a disease on or after the date of enactment of the Indian Health Care Improvement Act Amendments of 2009 under circumstances that establish grounds for a claim of liability against the tortfeasor with respect to the injury or disease, the Indian Tribe or Tribal Organization shall have a

right to recover from the tortfeasor (or an insurer of the tortfeasor) the reasonable value of the health services so furnished, paid for, or to be paid for, in accordance with the Federal Medical Care Recovery Act (42 U.S.C. 2651 et seq.), to the same extent and under the same circumstances as the United States may recover under that Act.

“(B) TREATMENT.—The right of an Indian Tribe or Tribal Organization to recover under subparagraph (A) shall be independent of the rights of the injured or diseased person served by the Indian Tribe or Tribal Organization.

“(f) LIMITATION.—Absent specific written authorization by the governing body of an Indian Tribe for the period of such authorization (which may not be for a period of more than 1 year and which may be revoked at any time upon written notice by the governing body to the Service), the United States shall not have a right of recovery under this section if the injury, illness, or disability for which health services were provided is covered under a self-insurance plan funded by an Indian Tribe, Tribal Organization, or urban Indian organization. Where such authorization is provided, the Service may receive and expend such amounts for the provision of additional health services consistent with such authorization.

“(g) COSTS AND ATTORNEYS' FEES.—In any action brought to enforce the provisions of this section, a prevailing plaintiff shall be awarded its reasonable attorneys' fees and costs of litigation.

“(h) NONAPPLICATION OF CLAIMS FILING REQUIREMENTS.—An insurance company, health maintenance organization, self-insurance plan, managed care plan, or other health care plan or program (under the Social Security Act or otherwise) may not deny a claim for benefits submitted by the Service or by an Indian Tribe or Tribal Organization based on the format in which the claim is submitted if such format complies with the format required for submission of claims under title XVIII of the Social Security Act or recognized under section 1175 of such Act.

“(i) APPLICATION TO URBAN INDIAN ORGANIZATIONS.—The previous provisions of this section shall apply to urban Indian organizations with respect to populations served by such Organizations in the same manner they apply to Indian Tribes and Tribal Organizations with respect to populations served by such Indian Tribes and Tribal Organizations.

“(j) STATUTE OF LIMITATIONS.—The provisions of section 2415 of title 28, United States Code, shall apply to all actions commenced under this section, and the references therein to the United States are deemed to include Indian Tribes, Tribal Organizations, and urban Indian organizations.

“(k) SAVINGS.—Nothing in this section shall be construed to limit any right of recovery available to the United States, an Indian Tribe, or Tribal Organization under the provisions of any applicable, Federal, State, or Tribal law, including medical lien laws.

#### “SEC. 404. CREDITING OF REIMBURSEMENTS.

“(a) RETENTION OF AMOUNTS FOR USE BY PROGRAM.—Except as provided in section 202(f) (relating to the Catastrophic Health Emergency Fund) and section 806 (relating to health services for ineligible persons), all reimbursements received or recovered, including under section 806, by reason of the provision of health services by the Service, by an Indian Tribe or Tribal Organization, or by an urban Indian organization, shall be credited to the Service, such Indian Tribe or Tribal Organization, or such urban Indian organization, respectively, and may be used as pro-

vided in section 401. In the case of such a service provided by or through a Service Unit, such amounts shall be credited to such unit and used for such purposes.

“(b) NO OFFSET OF AMOUNTS.—The Service may not offset or limit any amount obligated to any Service Unit or entity receiving funding from the Service because of the receipt of reimbursements under subsection (a).

#### “SEC. 405. PURCHASING HEALTH CARE COVERAGE.

“(a) PURCHASING COVERAGE.—

“(1) IN GENERAL.—Insofar as amounts are made available under law (including a provision of the Social Security Act, the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.), or other law, other than under section 402) to Indian Tribes, Tribal Organizations, and urban Indian organizations for health benefits for Service beneficiaries, Indian Tribes, Tribal Organizations, and urban Indian organizations may use such amounts to purchase health benefits coverage that qualifies as creditable coverage under section 2701(c)(1) of the Public Health Service Act for such beneficiaries, including, subject to paragraph (2), through—

“(A) a tribally owned and operated health care plan;

“(B) a State or locally authorized or licensed health care plan;

“(C) a health insurance provider or managed care organization; or

“(D) a self-insured plan.

“(2) EXCEPTION.—The coverage provided under paragraph (1) may not include coverage consisting of—

“(A) benefits provided under a health flexible spending arrangement (as defined in section 106(c)(2) of the Internal Revenue Code of 1986); or

“(B) a high deductible health plan (as defined in section 223(c)(2) of such Code), without regard to whether the plan is purchased in conjunction with a health savings account (as defined under section 223(d) of such Code).

“(3) PERMITTING PURCHASE OF COVERAGE BASED ON FINANCIAL NEED.—The purchase of coverage by an Indian Tribe, Tribal Organization, or urban Indian organization under this subsection may be based on the financial needs of beneficiaries (as determined by the Indian Tribe or Tribes being served based on a schedule of income levels developed or implemented by such Indian Tribe or Tribes).

“(b) EXPENSES FOR SELF-INSURED PLAN.—In the case of a self-insured plan under subsection (a)(4), the amounts may be used for expenses of operating the plan, including administration and insurance to limit the financial risks to the entity offering the plan.

“(c) CONSTRUCTION.—Nothing in this section shall be construed as affecting the use of any amounts not referred to in subsection (a).

#### “SEC. 406. SHARING ARRANGEMENTS WITH FEDERAL AGENCIES.

“(a) AUTHORITY.—

“(1) IN GENERAL.—The Secretary may enter into (or expand) arrangements for the sharing of medical facilities and services between the Service, Indian Tribes, and Tribal Organizations and the Department of Veterans Affairs and the Department of Defense.

“(2) CONSULTATION BY SECRETARY REQUIRED.—The Secretary may not finalize any arrangement between the Service and a Department described in paragraph (1) without first consulting with the Indian Tribes which will be significantly affected by the arrangement.

“(b) LIMITATIONS.—The Secretary shall not take any action under this section or under

subchapter IV of chapter 81 of title 38, United States Code, which would impair—

“(1) the priority access of any Indian to health care services provided through the Service and the eligibility of any Indian to receive health services through the Service;

“(2) the quality of health care services provided to any Indian through the Service;

“(3) the priority access of any veteran to health care services provided by the Department of Veterans Affairs;

“(4) the quality of health care services provided by the Department of Veterans Affairs or the Department of Defense; or

“(5) the eligibility of any Indian who is a veteran to receive health services through the Department of Veterans Affairs.

“(c) **REIMBURSEMENT.**—The Service, Indian Tribe, or Tribal Organization shall be reimbursed by the Department of Veterans Affairs or the Department of Defense (as the case may be) where services are provided through the Service, an Indian Tribe, or a Tribal Organization to beneficiaries eligible for services from either such Department, notwithstanding any other provision of law.

“(d) **CONSTRUCTION.**—Nothing in this section may be construed as creating any right of a non-Indian veteran to obtain health services from the Service.

**“SEC. 407. ELIGIBLE INDIAN VETERAN SERVICES.**

“(a) **FINDINGS; PURPOSE.**—

“(1) **FINDINGS.**—Congress finds that—

“(A) collaborations between the Secretary and the Secretary of Veterans Affairs regarding the treatment of Indian veterans at facilities of the Service should be encouraged to the maximum extent practicable; and

“(B) increased enrollment for services of the Department of Veterans Affairs by veterans who are members of Indian tribes should be encouraged to the maximum extent practicable.

“(2) **PURPOSE.**—The purpose of this section is to reaffirm the goals stated in the document entitled ‘Memorandum of Understanding Between the VA/Veterans Health Administration And HHS/Indian Health Service’ and dated February 25, 2003 (relating to cooperation and resource sharing between the Veterans Health Administration and Service).

“(b) **DEFINITIONS.**—In this section:

“(1) **ELIGIBLE INDIAN VETERAN.**—The term ‘eligible Indian veteran’ means an Indian or Alaska Native veteran who receives any medical service that is—

“(A) authorized under the laws administered by the Secretary of Veterans Affairs; and

“(B) administered at a facility of the Service (including a facility operated by an Indian tribe or tribal organization through a contract or compact with the Service under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.)) pursuant to a local memorandum of understanding.

“(2) **LOCAL MEMORANDUM OF UNDERSTANDING.**—The term ‘local memorandum of understanding’ means a memorandum of understanding between the Secretary (or a designee, including the director of any Area Office of the Service) and the Secretary of Veterans Affairs (or a designee) to implement the document entitled ‘Memorandum of Understanding Between the VA/Veterans Health Administration And HHS/Indian Health Service’ and dated February 25, 2003 (relating to cooperation and resource sharing between the Veterans Health Administration and Indian Health Service).

“(c) **ELIGIBLE INDIAN VETERANS’ EXPENSES.**—

“(1) **IN GENERAL.**—Notwithstanding any other provision of law, the Secretary shall provide for veteran-related expenses incurred by eligible Indian veterans as described in subsection (b)(1)(B).

“(2) **METHOD OF PAYMENT.**—The Secretary shall establish such guidelines as the Secretary determines to be appropriate regarding the method of payments to the Secretary of Veterans Affairs under paragraph (1).

“(d) **TRIBAL APPROVAL OF MEMORANDA.**—In negotiating a local memorandum of understanding with the Secretary of Veterans Affairs regarding the provision of services to eligible Indian veterans, the Secretary shall consult with each Indian tribe that would be affected by the local memorandum of understanding.

“(e) **FUNDING.**—

“(1) **TREATMENT.**—Expenses incurred by the Secretary in carrying out subsection (c)(1) shall not be considered to be Contract Health Service expenses.

“(2) **USE OF FUNDS.**—Of funds made available to the Secretary in appropriations Acts for the Service (excluding funds made available for facilities, Contract Health Services, or contract support costs), the Secretary shall use such sums as are necessary to carry out this section.

**“SEC. 408. PAYOR OF LAST RESORT.**

“Indian Health Programs and health care programs operated by Urban Indian Organizations shall be the payor of last resort for services provided to persons eligible for services from Indian Health Programs and Urban Indian Organizations, notwithstanding any Federal, State, or local law to the contrary.

**“SEC. 409. CONSULTATION.**

“For provisions relating to consultation with representatives of Indian Health Programs and urban Indian organizations with respect to the health care programs established under titles XVIII, XIX, and XXI of the Social Security Act, see section 1139(d) of the Social Security Act (42 U.S.C. 1320b–9(d)).

**“SEC. 410. STATE CHILDREN’S HEALTH INSURANCE PROGRAM (CHIP).**

“For provisions relating to—

“(1) outreach to families of Indian children likely to be eligible for child health assistance under the State children’s health insurance program established under title XXI of the Social Security Act, see sections 2105(c)(2)(C) and 1139(a) of such Act (42 U.S.C. 1397ee(c)(2), 1320b–9); and

“(2) ensuring that child health assistance is provided under such program to targeted low-income children who are Indians and that payments are made under such program to Indian Health Programs and urban Indian organizations operating in the State that provide such assistance, see sections 2102(b)(3)(D) and 2105(c)(6)(B) of such Act (42 U.S.C. 1397bb(b)(3)(D), 1397ee(c)(6)(B)).

**“SEC. 411. PREMIUM AND COST SHARING PROTECTIONS AND ELIGIBILITY DETERMINATIONS UNDER MEDICAID AND SCHIP AND PROTECTION OF CERTAIN INDIAN PROPERTY FROM MEDICAID ESTATE RECOVERY.**

“For provisions relating to—

“(1) premiums or cost sharing protections for Indians furnished items or services directly by Indian Health Programs or through referral under the contract health service under the Medicaid program established under title XIX of the Social Security Act, see sections 1916(j) and 1916A(a)(1) of the Social Security Act (42 U.S.C. 1396o(j), 1396o–1(a)(1));

“(2) rules regarding the treatment of certain property for purposes of determining eligibility under such programs, see sections

1902(e)(13) and 2107(e)(1)(B) of such Act (42 U.S.C. 1396a(e)(13), 1397gg(e)(1)(B)); and

“(3) the protection of certain property from estate recovery provisions under the Medicaid program, see section 1917(b)(3)(B) of such Act (42 U.S.C. 1396p(b)(3)(B)).

**“SEC. 412. TREATMENT UNDER MEDICAID AND SCHIP MANAGED CARE.**

“For provisions relating to the treatment of Indians enrolled in a managed care entity under the Medicaid program under title XIX of the Social Security Act and Indian Health Programs and urban Indian organizations that are providers of items or services to such Indian enrollees, see sections 1932(h) and 2107(e)(1)(H) of the Social Security Act (42 U.S.C. 1396u–2(h), 1397gg(e)(1)(H)).

**“SEC. 413. NAVAJO NATION MEDICAID AGENCY FEASIBILITY STUDY.**

“(a) **STUDY.**—The Secretary shall conduct a study to determine the feasibility of treating the Navajo Nation as a State for the purposes of title XIX of the Social Security Act, to provide services to Indians living within the boundaries of the Navajo Nation through an entity established having the same authority and performing the same functions as single-State Medicaid agencies responsible for the administration of the State plan under title XIX of the Social Security Act.

“(b) **CONSIDERATIONS.**—In conducting the study, the Secretary shall consider the feasibility of—

“(1) assigning and paying all expenditures for the provision of services and related administration funds, under title XIX of the Social Security Act, to Indians living within the boundaries of the Navajo Nation that are currently paid to or would otherwise be paid to the State of Arizona, New Mexico, or Utah;

“(2) providing assistance to the Navajo Nation in the development and implementation of such entity for the administration, eligibility, payment, and delivery of medical assistance under title XIX of the Social Security Act;

“(3) providing an appropriate level of matching funds for Federal medical assistance with respect to amounts such entity expends for medical assistance for services and related administrative costs; and

“(4) authorizing the Secretary, at the option of the Navajo Nation, to treat the Navajo Nation as a State for the purposes of title XIX of the Social Security Act (relating to the State children’s health insurance program) under terms equivalent to those described in paragraphs (2) through (4).

“(c) **REPORT.**—Not later than 3 years after the date of enactment of the Indian Health Care Improvement Act Amendments of 2009, the Secretary shall submit to the Committee on Indian Affairs and Committee on Finance of the Senate and the Committee on Natural Resources and Committee on Energy and Commerce of the House of Representatives a report that includes—

“(1) the results of the study under this section;

“(2) a summary of any consultation that occurred between the Secretary and the Navajo Nation, other Indian Tribes, the States of Arizona, New Mexico, and Utah, counties which include Navajo Lands, and other interested parties, in conducting this study;

“(3) projected costs or savings associated with establishment of such entity, and any estimated impact on services provided as described in this section in relation to probable costs or savings; and

“(4) legislative actions that would be required to authorize the establishment of such entity if such entity is determined by the Secretary to be feasible.

**“SEC. 414. EXCEPTION FOR EXCEPTED BENEFITS.**

“The previous provisions of this title shall not apply to the provision of excepted benefits described in paragraph (1)(A) or (3) of section 2791(c) of the Public Health Service Act (42 U.S.C. 300gg–91(c)).

**“SEC. 415. AUTHORIZATION OF APPROPRIATIONS.**

“There are authorized to be appropriated such sums as may be necessary to carry out this title.

**“TITLE V—HEALTH SERVICES FOR URBAN INDIANS****“SEC. 501. PURPOSE.**

“The purpose of this title is to establish and maintain programs in Urban Centers to make health services more accessible and available to Urban Indians.

**“SEC. 502. CONTRACTS WITH, AND GRANTS TO, URBAN INDIAN ORGANIZATIONS.**

“Under authority of the Act of November 2, 1921 (25 U.S.C. 13) (commonly known as the ‘Snyder Act’), the Secretary, acting through the Service, shall enter into contracts with, or make grants to, urban Indian organizations to assist such organizations in the establishment and administration, within Urban Centers, of programs which meet the requirements set forth in this title. Subject to section 506, the Secretary, acting through the Service, shall include such conditions as the Secretary considers necessary to effect the purpose of this title in any contract into which the Secretary enters with, or in any grant the Secretary makes to, any urban Indian organization pursuant to this title.

**“SEC. 503. CONTRACTS AND GRANTS FOR THE PROVISION OF HEALTH CARE AND REFERRAL SERVICES.**

“(a) **REQUIREMENTS FOR GRANTS AND CONTRACTS.**—Under authority of the Act of November 2, 1921 (25 U.S.C. 13) (commonly known as the ‘Snyder Act’), the Secretary, acting through the Service, shall enter into contracts with, and make grants to, urban Indian organizations for the provision of health care and referral services for Urban Indians. Any such contract or grant shall include requirements that the urban Indian organization successfully undertake to—

“(1) estimate the population of Urban Indians residing in the Urban Center or centers that the organization proposes to serve who are or could be recipients of health care or referral services;

“(2) estimate the current health status of Urban Indians residing in such Urban Center or centers;

“(3) estimate the current health care needs of Urban Indians residing in such Urban Center or centers;

“(4) provide basic health education, including health promotion and disease prevention education, to Urban Indians;

“(5) make recommendations to the Secretary and Federal, State, local, and other resource agencies on methods of improving health service programs to meet the needs of Urban Indians; and

“(6) where necessary, provide, or enter into contracts for the provision of, health care services for Urban Indians.

“(b) **CRITERIA.**—The Secretary, acting through the Service, shall, by regulation, prescribe the criteria for selecting urban Indian organizations to enter into contracts or receive grants under this section. Such criteria shall, among other factors, include—

“(1) the extent of unmet health care needs of Urban Indians in the Urban Center or centers involved;

“(2) the size of the urban Indian population in the Urban Center or centers involved;

“(3) the extent, if any, to which the activities set forth in subsection (a) would dupli-

cate any project funded under this title, or under any current public health service project funded in a manner other than pursuant to this title;

“(4) the capability of an urban Indian organization to perform the activities set forth in subsection (a) and to enter into a contract with the Secretary or to meet the requirements for receiving a grant under this section;

“(5) the satisfactory performance and successful completion by an urban Indian organization of other contracts with the Secretary under this title;

“(6) the appropriateness and likely effectiveness of conducting the activities set forth in subsection (a) in an Urban Center or centers; and

“(7) the extent of existing or likely future participation in the activities set forth in subsection (a) by appropriate health and health-related Federal, State, local, and other agencies.

“(c) **ACCESS TO HEALTH PROMOTION AND DISEASE PREVENTION PROGRAMS.**—The Secretary, acting through the Service, shall facilitate access to or provide health promotion and disease prevention services for Urban Indians through grants made to urban Indian organizations administering contracts entered into or receiving grants under subsection (a).

“(d) **IMMUNIZATION SERVICES.**—

“(1) **ACCESS OR SERVICES PROVIDED.**—The Secretary, acting through the Service, shall facilitate access to, or provide, immunization services for Urban Indians through grants made to urban Indian organizations administering contracts entered into or receiving grants under this section.

“(2) **DEFINITION.**—For purposes of this subsection, the term ‘immunization services’ means services to provide without charge immunizations against vaccine-preventable diseases.

“(e) **BEHAVIORAL HEALTH SERVICES.**—

“(1) **ACCESS OR SERVICES PROVIDED.**—The Secretary, acting through the Service, shall facilitate access to, or provide, behavioral health services for Urban Indians through grants made to urban Indian organizations administering contracts entered into or receiving grants under subsection (a).

“(2) **ASSESSMENT REQUIRED.**—Except as provided by paragraph (3)(A), a grant may not be made under this subsection to an urban Indian organization until that organization has prepared, and the Service has approved, an assessment of the following:

“(A) The behavioral health needs of the urban Indian population concerned.

“(B) The behavioral health services and other related resources available to that population.

“(C) The barriers to obtaining those services and resources.

“(D) The needs that are unmet by such services and resources.

“(3) **PURPOSES OF GRANTS.**—Grants may be made under this subsection for the following:

“(A) To prepare assessments required under paragraph (2).

“(B) To provide outreach, educational, and referral services to Urban Indians regarding the availability of direct behavioral health services, to educate Urban Indians about behavioral health issues and services, and effect coordination with existing behavioral health providers in order to improve services to Urban Indians.

“(C) To provide outpatient behavioral health services to Urban Indians, including the identification and assessment of illness, therapeutic treatments, case management,

support groups, family treatment, and other treatment.

“(D) To develop innovative behavioral health service delivery models which incorporate Indian cultural support systems and resources.

“(f) **PREVENTION OF CHILD ABUSE.**—

“(1) **ACCESS OR SERVICES PROVIDED.**—The Secretary, acting through the Service, shall facilitate access to or provide services for Urban Indians through grants to urban Indian organizations administering contracts entered into or receiving grants under subsection (a) to prevent and treat child abuse (including sexual abuse) among Urban Indians.

“(2) **EVALUATION REQUIRED.**—Except as provided by paragraph (3)(A), a grant may not be made under this subsection to an urban Indian organization until that organization has prepared, and the Service has approved, an assessment that documents the prevalence of child abuse in the urban Indian population concerned and specifies the services and programs (which may not duplicate existing services and programs) for which the grant is requested.

“(3) **PURPOSES OF GRANTS.**—Grants may be made under this subsection for the following:

“(A) To prepare assessments required under paragraph (2).

“(B) For the development of prevention, training, and education programs for Urban Indians, including child education, parent education, provider training on identification and intervention, education on reporting requirements, prevention campaigns, and establishing service networks of all those involved in Indian child protection.

“(C) To provide direct outpatient treatment services (including individual treatment, family treatment, group therapy, and support groups) to Urban Indians who are child victims of abuse (including sexual abuse) or adult survivors of child sexual abuse, to the families of such child victims, and to urban Indian perpetrators of child abuse (including sexual abuse).

“(4) **CONSIDERATIONS WHEN MAKING GRANTS.**—In making grants to carry out this subsection, the Secretary shall take into consideration—

“(A) the support for the urban Indian organization demonstrated by the child protection authorities in the area, including committees or other services funded under the Indian Child Welfare Act of 1978 (25 U.S.C. 1901 et seq.), if any;

“(B) the capability and expertise demonstrated by the urban Indian organization to address the complex problem of child sexual abuse in the community; and

“(C) the assessment required under paragraph (2).

“(g) **OTHER GRANTS.**—The Secretary, acting through the Service, may enter into a contract with or make grants to an urban Indian organization that provides or arranges for the provision of health care services (through satellite facilities, provider networks, or otherwise) to Urban Indians in more than 1 Urban Center.

**“SEC. 504. USE OF FEDERAL GOVERNMENT FACILITIES AND SOURCES OF SUPPLY.**

“(a) **IN GENERAL.**—The Secretary may permit an urban Indian organization that has entered into a contract or received a grant pursuant to this title, in carrying out such contract or grant, to use existing facilities and all equipment therein or pertaining thereto and other personal property owned by the Federal Government within the Secretary’s jurisdiction under such terms and conditions as may be agreed upon for their use and maintenance.

“(b) DONATIONS.—Subject to subsection (d), the Secretary may donate to an urban Indian organization that has entered into a contract or received a grant pursuant to this title any personal or real property determined to be excess to the needs of the Indian Health Service or the General Services Administration for the purposes of carrying out the contract or grant.

“(c) ACQUISITION OF PROPERTY.—The Secretary may acquire excess or surplus government personal or real property for donation, subject to subsection (d) to an urban Indian organization that has entered into a contract or received a grant pursuant to this title if the Secretary determines that the property is appropriate for use by the urban Indian organization for a purpose for which a contract or grant is authorized under this title.

“(d) PRIORITY.—In the event that the Secretary receives a request for a specific item of personal or real property described in subsections (b) or (c) from an urban Indian organization and from an Indian Tribe or Tribal Organization, the Secretary shall give priority to the request for donation to the Indian Tribe or Tribal Organization if the Secretary receives the request from the Indian Tribe or Tribal Organization before the date the Secretary transfers title to the property or, if earlier, the date the Secretary transfers the property physically, to the urban Indian organization.

“(e) EXECUTIVE AGENCY STATUS.—For purposes of section 201(a) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 481(a)) (relating to Federal sources of supply), an urban Indian organization that has entered into a contract or received a grant pursuant to this title may be deemed to be an executive agency when carrying out such contract or grant.

**“SEC. 505. CONTRACTS AND GRANTS FOR THE DETERMINATION OF UNMET HEALTH CARE NEEDS.**

“(a) GRANTS AND CONTRACTS AUTHORIZED.—Under authority of the Act of November 2, 1921 (25 U.S.C. 13) (commonly known as the ‘Snyder Act’), the Secretary, acting through the Service, may enter into contracts with or make grants to urban Indian organizations situated in Urban Centers for which contracts have not been entered into or grants have not been made under section 503.

“(b) PURPOSE.—The purpose of a contract or grant made under this section shall be the determination of the matters described in subsection (c)(1) in order to assist the Secretary in assessing the health status and health care needs of Urban Indians in the Urban Center involved and determining whether the Secretary should enter into a contract or make a grant under section 503 with respect to the urban Indian organization which the Secretary has entered into a contract with, or made a grant to, under this section.

“(c) GRANT AND CONTRACT REQUIREMENTS.—Any contract entered into, or grant made, by the Secretary under this section shall include requirements that—

“(1) the urban Indian organization successfully undertakes to—

“(A) document the health care status and unmet health care needs of urban Indians in the Urban Center involved; and

“(B) with respect to urban Indians in the Urban Center involved, determine the matters described in paragraphs (2), (3), (4), and (7) of section 503(b); and

“(2) the urban Indian organization complete performance of the contract, or carry out the requirements of the grant, within 1

year after the date on which the Secretary and such organization enter into such contract, or within 1 year after such organization receives such grant, whichever is applicable.

“(d) NO RENEWALS.—The Secretary may not renew any contract entered into or grant made under this section.

**“SEC. 506. EVALUATIONS; RENEWALS.**

“(a) PROCEDURES FOR EVALUATIONS.—The Secretary, acting through the Service, shall develop procedures to evaluate compliance with grant requirements and compliance with and performance of contracts entered into by urban Indian organizations under this title. Such procedures shall include provisions for carrying out the requirements of this section.

“(b) EVALUATIONS.—The Secretary, acting through the Service, shall evaluate the compliance of each Urban Indian Organization which has entered into a contract or received a grant under section 503 with the terms of such contract or grant. For purposes of this evaluation, the Secretary shall—

“(1) acting through the Service, conduct an annual onsite evaluation of the organization; or

“(2) accept in lieu of such onsite evaluation evidence of the organization’s provisional or full accreditation by a private independent entity recognized by the Secretary for purposes of conducting quality reviews of providers participating in the Medicare program under title XVIII of the Social Security Act.

“(c) NONCOMPLIANCE; UNSATISFACTORY PERFORMANCE.—If, as a result of the evaluations conducted under this section, the Secretary determines that an urban Indian organization has not complied with the requirements of a grant or complied with or satisfactorily performed a contract under section 503, the Secretary shall, prior to renewing such contract or grant, attempt to resolve with the organization the areas of noncompliance or unsatisfactory performance and modify the contract or grant to prevent future occurrences of noncompliance or unsatisfactory performance. If the Secretary determines that the noncompliance or unsatisfactory performance cannot be resolved and prevented in the future, the Secretary shall not renew the contract or grant with the organization and is authorized to enter into a contract or make a grant under section 503 with another urban Indian organization which is situated in the same Urban Center as the urban Indian organization whose contract or grant is not renewed under this section.

“(d) CONSIDERATIONS FOR RENEWALS.—In determining whether to renew a contract or grant with an urban Indian organization under section 503 which has completed performance of a contract or grant under section 504, the Secretary shall review the records of the urban Indian organization, the reports submitted under section 507, and shall consider the results of the onsite evaluations or accreditations under subsection (b).

**“SEC. 507. OTHER CONTRACT AND GRANT REQUIREMENTS.**

“(a) PROCUREMENT.—Contracts with urban Indian organizations entered into pursuant to this title shall be in accordance with all Federal contracting laws and regulations relating to procurement except that in the discretion of the Secretary, such contracts may be negotiated without advertising and need not conform to the provisions of sections 1304 and 3131 through 3133 of title 40, United States Code.

“(b) PAYMENTS UNDER CONTRACTS OR GRANTS.—

“(1) IN GENERAL.—Payments under any contracts or grants pursuant to this title, notwithstanding any term or condition of such contract or grant—

“(A) may be made in a single advance payment by the Secretary to the urban Indian organization by no later than the end of the first 30 days of the funding period with respect to which the payments apply, unless the Secretary determines through an evaluation under section 505 that the organization is not capable of administering such a single advance payment; and

“(B) if any portion thereof is unexpended by the urban Indian organization during the funding period with respect to which the payments initially apply, shall be carried forward for expenditure with respect to allowable or reimbursable costs incurred by the organization during 1 or more subsequent funding periods without additional justification or documentation by the organization as a condition of carrying forward the availability for expenditure of such funds.

“(2) SEMIANNUAL AND QUARTERLY PAYMENTS AND REIMBURSEMENTS.—If the Secretary determines under paragraph (1)(A) that an urban Indian organization is not capable of administering an entire single advance payment, on request of the urban Indian organization, the payments may be made—

“(A) in semiannual or quarterly payments by not later than 30 days after the date on which the funding period with respect to which the payments apply begins; or

“(B) by way of reimbursement.

“(c) REVISION OR AMENDMENT OF CONTRACTS.—Notwithstanding any provision of law to the contrary, the Secretary may, at the request and consent of an urban Indian organization, revise or amend any contract entered into by the Secretary with such organization under this title as necessary to carry out the purposes of this title.

“(d) FAIR AND UNIFORM SERVICES AND ASSISTANCE.—Contracts with or grants to urban Indian organizations and regulations adopted pursuant to this title shall include provisions to assure the fair and uniform provision to urban Indians of services and assistance under such contracts or grants by such organizations.

**“SEC. 508. REPORTS AND RECORDS.**

“(a) REPORTS.—

“(1) IN GENERAL.—For each fiscal year during which an urban Indian organization receives or expends funds pursuant to a contract entered into or a grant received pursuant to this title, such urban Indian organization shall submit to the Secretary not more frequently than every 6 months, a report that includes the following:

“(A) In the case of a contract or grant under section 503, recommendations pursuant to section 503(a)(5).

“(B) Information on activities conducted by the organization pursuant to the contract or grant.

“(C) An accounting of the amounts and purpose for which Federal funds were expended.

“(D) A minimum set of data, using uniformly defined elements, as specified by the Secretary after consultation with urban Indian organizations.

“(2) HEALTH STATUS AND SERVICES.—

“(A) IN GENERAL.—Not later than 18 months after the date of enactment of the Indian Health Care Improvement Act Amendments of 2009, the Secretary, acting through the Service, shall submit to Congress a report evaluating—

“(i) the health status of urban Indians;

“(ii) the services provided to Indians pursuant to this title; and

“(iii) areas of unmet needs in the delivery of health services to urban Indians.

“(B) CONSULTATION AND CONTRACTS.—In preparing the report under paragraph (1), the Secretary—

“(i) shall consult with urban Indian organizations; and

“(ii) may enter into a contract with a national organization representing urban Indian organizations to conduct any aspect of the report.

“(b) AUDIT.—The reports and records of the urban Indian organization with respect to a contract or grant under this title shall be subject to audit by the Secretary and the Comptroller General of the United States.

“(c) COSTS OF AUDITS.—The Secretary shall allow as a cost of any contract or grant entered into or awarded under section 502 or 503 the cost of an annual independent financial audit conducted by—

“(1) a certified public accountant; or

“(2) a certified public accounting firm qualified to conduct Federal compliance audits.

#### **“SEC. 509. LIMITATION ON CONTRACT AUTHORITY.**

“The authority of the Secretary to enter into contracts or to award grants under this title shall be to the extent, and in an amount, provided for in appropriation Acts.

#### **“SEC. 510. FACILITIES.**

“(a) GRANTS.—The Secretary, acting through the Service, may make grants to contractors or grant recipients under this title for the lease, purchase, renovation, construction, or expansion of facilities, including leased facilities, in order to assist such contractors or grant recipients in complying with applicable licensure or certification requirements.

“(b) LOAN FUND STUDY.—The Secretary, acting through the Service, may carry out a study to determine the feasibility of establishing a loan fund to provide to urban Indian organizations direct loans or guarantees for loans for the construction of health care facilities in a manner consistent with section 309, including by submitting a report in accordance with subsection (c) of that section.

#### **“SEC. 511. DIVISION OF URBAN INDIAN HEALTH.**

“There is established within the Service a Division of Urban Indian Health, which shall be responsible for—

“(1) carrying out the provisions of this title;

“(2) providing central oversight of the programs and services authorized under this title; and

“(3) providing technical assistance to urban Indian organizations.

#### **“SEC. 512. GRANTS FOR ALCOHOL AND SUBSTANCE ABUSE-RELATED SERVICES.**

“(a) GRANTS AUTHORIZED.—The Secretary, acting through the Service, may make grants for the provision of health-related services in prevention of, treatment of, rehabilitation of, or school- and community-based education regarding, alcohol and substance abuse in Urban Centers to those urban Indian organizations with which the Secretary has entered into a contract under this title or under section 201.

“(b) GOALS.—Each grant made pursuant to subsection (a) shall set forth the goals to be accomplished pursuant to the grant. The goals shall be specific to each grant as agreed to between the Secretary and the grantee.

“(c) CRITERIA.—The Secretary shall establish criteria for the grants made under sub-

section (a), including criteria relating to the following:

“(1) The size of the urban Indian population.

“(2) Capability of the organization to adequately perform the activities required under the grant.

“(3) Satisfactory performance standards for the organization in meeting the goals set forth in such grant. The standards shall be negotiated and agreed to between the Secretary and the grantee on a grant-by-grant basis.

“(4) Identification of the need for services.

“(d) ALLOCATION OF GRANTS.—The Secretary shall develop a methodology for allocating grants made pursuant to this section based on the criteria established pursuant to subsection (c).

“(e) GRANTS SUBJECT TO CRITERIA.—Any grant received by an urban Indian organization under this Act for substance abuse prevention, treatment, and rehabilitation shall be subject to the criteria set forth in subsection (c).

#### **“SEC. 513. TREATMENT OF CERTAIN DEMONSTRATION PROJECTS.**

“Notwithstanding any other provision of law, the Tulsa Clinic and Oklahoma City Clinic demonstration projects shall—

“(1) be permanent programs within the Service's direct care program;

“(2) continue to be treated as Service Units and Operating Units in the allocation of resources and coordination of care; and

“(3) continue to meet the requirements and definitions of an urban Indian organization in this Act, and shall not be subject to the provisions of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.).

#### **“SEC. 514. URBAN NIAAA TRANSFERRED PROGRAMS.**

“(a) GRANTS AND CONTRACTS.—The Secretary, through the Division of Urban Indian Health, shall make grants or enter into contracts with urban Indian organizations, to take effect not later than September 30, 2010, for the administration of urban Indian alcohol programs that were originally established under the National Institute on Alcoholism and Alcohol Abuse (hereafter in this section referred to as ‘NIAAA’) and transferred to the Service.

“(b) USE OF FUNDS.—Grants provided or contracts entered into under this section shall be used to provide support for the continuation of alcohol prevention and treatment services for urban Indian populations and such other objectives as are agreed upon between the Service and a recipient of a grant or contract under this section.

“(c) ELIGIBILITY.—Urban Indian organizations that operate Indian alcohol programs originally funded under the NIAAA and subsequently transferred to the Service are eligible for grants or contracts under this section.

“(d) REPORT.—The Secretary shall evaluate and report to Congress on the activities of programs funded under this section not less than every 5 years.

#### **“SEC. 515. CONFERRING WITH URBAN INDIAN ORGANIZATIONS.**

“(a) IN GENERAL.—The Secretary shall ensure that the Service confers or conferences, to the greatest extent practicable, with Urban Indian Organizations.

“(b) DEFINITION OF CONFER; CONFERENCE.—In this section, the terms ‘confer’ and ‘conference’ mean an open and free exchange of information and opinions that—

“(1) leads to mutual understanding and comprehension; and

“(2) emphasizes trust, respect, and shared responsibility.

#### **“SEC. 516. URBAN YOUTH TREATMENT CENTER DEMONSTRATION.**

“(a) CONSTRUCTION AND OPERATION.—

“(1) IN GENERAL.—The Secretary, acting through the Service, through grant or contract, shall fund the construction and operation of at least 1 residential treatment center in each Service Area that meets the eligibility requirements set forth in subsection (b) to demonstrate the provision of alcohol and substance abuse treatment services to Urban Indian youth in a culturally competent residential setting.

“(2) TREATMENT.—Each residential treatment center described in paragraph (1) shall be in addition to any facilities constructed under section 707(b).

“(b) ELIGIBILITY REQUIREMENTS.—To be eligible to obtain a facility under subsection (a)(1), a Service Area shall meet the following requirements:

“(1) There is an Urban Indian Organization in the Service Area.

“(2) There reside in the Service Area Urban Indian youth with need for alcohol and substance abuse treatment services in a residential setting.

“(3) There is a significant shortage of culturally competent residential treatment services for Urban Indian youth in the Service Area.

#### **“SEC. 517. GRANTS FOR DIABETES PREVENTION, TREATMENT, AND CONTROL.**

“(a) GRANTS AUTHORIZED.—The Secretary may make grants to those urban Indian organizations that have entered into a contract or have received a grant under this title for the provision of services for the prevention and treatment of, and control of the complications resulting from, diabetes among urban Indians.

“(b) GOALS.—Each grant made pursuant to subsection (a) shall set forth the goals to be accomplished under the grant. The goals shall be specific to each grant as agreed to between the Secretary and the grantee.

“(c) ESTABLISHMENT OF CRITERIA.—The Secretary shall establish criteria for the grants made under subsection (a) relating to—

“(1) the size and location of the urban Indian population to be served;

“(2) the need for prevention of and treatment of, and control of the complications resulting from, diabetes among the urban Indian population to be served;

“(3) performance standards for the organization in meeting the goals set forth in such grant that are negotiated and agreed to by the Secretary and the grantee;

“(4) the capability of the organization to adequately perform the activities required under the grant; and

“(5) the willingness of the organization to collaborate with the registry, if any, established by the Secretary under section 203(e)(1)(B) in the Area Office of the Service in which the organization is located.

“(d) FUNDS SUBJECT TO CRITERIA.—Any funds received by an urban Indian organization under this Act for the prevention, treatment, and control of diabetes among urban Indians shall be subject to the criteria developed by the Secretary under subsection (c).

#### **“SEC. 518. COMMUNITY HEALTH REPRESENTATIVES.**

“The Secretary, acting through the Service, may enter into contracts with, and make grants to, urban Indian organizations for the employment of Indians trained as health service providers through the Community Health Representatives Program under section 109 in the provision of health care,



health promotion, and disease prevention services to urban Indians.

**“SEC. 519. EFFECTIVE DATE.**

“The amendments made by the Indian Health Care Improvement Act Amendments of 2009 to this title shall take effect beginning on the date of enactment of that Act, regardless of whether the Secretary has promulgated regulations implementing such amendments.

**“SEC. 520. ELIGIBILITY FOR SERVICES.**

“Urban Indians shall be eligible for, and the ultimate beneficiaries of, health care or referral services provided pursuant to this title.

**“SEC. 521. AUTHORIZATION OF APPROPRIATIONS.**

“(a) IN GENERAL.—There are authorized to be appropriated such sums as may be necessary to carry out this title.

“(b) URBAN INDIAN ORGANIZATIONS.—The Secretary, acting through the Service, is authorized to establish programs, including programs for the awarding of grants, for urban Indian organizations that are identical to any programs established pursuant to section 126 (behavioral health training), section 209 (school health education), section 211 (prevention of communicable diseases), section 701 (behavioral health prevention and treatment services), and section 707(g) (multidrug abuse program).

**“SEC. 522. HEALTH INFORMATION TECHNOLOGY.**

“The Secretary, acting through the Service, may make grants to urban Indian organizations under this title for the development, adoption, and implementation of health information technology (as defined in section 3000(5) of the American Recovery and Reinvestment Act), telemedicine services development, and related infrastructure.

**“TITLE VI—ORGANIZATIONAL IMPROVEMENTS**

**“SEC. 601. ESTABLISHMENT OF THE INDIAN HEALTH SERVICE AS AN AGENCY OF THE PUBLIC HEALTH SERVICE.**

“(a) ESTABLISHMENT.—

“(1) IN GENERAL.—In order to more effectively and efficiently carry out the responsibilities, authorities, and functions of the United States to provide health care services to Indians and Indian Tribes, as are or may be hereafter provided by Federal statute or treaties, there is established within the Public Health Service of the Department the Indian Health Service.

“(2) ASSISTANT SECRETARY OF INDIAN HEALTH.—The Service shall be administered by an Assistant Secretary of Indian Health, who shall be appointed by the President, by and with the advice and consent of the Senate. The Assistant Secretary shall report to the Secretary. Effective with respect to an individual appointed by the President, by and with the advice and consent of the Senate, after January 1, 2010, the term of service of the Assistant Secretary shall be 4 years. An Assistant Secretary may serve more than 1 term.

“(3) INCUMBENT.—The individual serving in the position of Director of the Service on the day before the date of enactment of the Indian Health Care Improvement Act Amendments of 2009 shall serve as Assistant Secretary.

“(4) ADVOCACY AND CONSULTATION.—The position of Assistant Secretary is established to, in a manner consistent with the government-to-government relationship between the United States and Indian Tribes—

“(A) facilitate advocacy for the development of appropriate Indian health policy; and

“(B) promote consultation on matters relating to Indian health.

“(b) AGENCY.—The Service shall be an agency within the Public Health Service of the Department, and shall not be an office, component, or unit of any other agency of the Department.

“(c) DUTIES.—The Assistant Secretary shall—

“(1) perform all functions that were, on the day before the date of enactment of the Indian Health Care Improvement Act Amendments of 2009, carried out by or under the direction of the individual serving as Director of the Service on that day;

“(2) perform all functions of the Secretary relating to the maintenance and operation of hospital and health facilities for Indians and the planning for, and provision and utilization of, health services for Indians;

“(3) administer all health programs under which health care is provided to Indians based upon their status as Indians which are administered by the Secretary, including programs under—

“(A) this Act;

“(B) the Act of November 2, 1921 (25 U.S.C. 13);

“(C) the Act of August 5, 1954 (42 U.S.C. 2001 et seq.);

“(D) the Act of August 16, 1957 (42 U.S.C. 2005 et seq.); and

“(E) the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.);

“(4) administer all scholarship and loan functions carried out under title I;

“(5) report directly to the Secretary concerning all policy- and budget-related matters affecting Indian health;

“(6) collaborate with the Assistant Secretary for Health concerning appropriate matters of Indian health that affect the agencies of the Public Health Service;

“(7) advise each Assistant Secretary of the Department concerning matters of Indian health with respect to which that Assistant Secretary has authority and responsibility;

“(8) advise the heads of other agencies and programs of the Department concerning matters of Indian health with respect to which those heads have authority and responsibility;

“(9) coordinate the activities of the Department concerning matters of Indian health; and

“(10) perform such other functions as the Secretary may designate.

“(d) AUTHORITY.—

“(1) IN GENERAL.—The Secretary, acting through the Assistant Secretary, shall have the authority—

“(A) except to the extent provided for in paragraph (2), to appoint and compensate employees for the Service in accordance with title 5, United States Code;

“(B) to enter into contracts for the procurement of goods and services to carry out the functions of the Service; and

“(C) to manage, expend, and obligate all funds appropriated for the Service.

“(2) PERSONNEL ACTIONS.—Notwithstanding any other provision of law, the provisions of section 12 of the Act of June 18, 1934 (48 Stat. 986; 25 U.S.C. 472), shall apply to all personnel actions taken with respect to new positions created within the Service as a result of its establishment under subsection (a).

“(e) REFERENCES.—Any reference to the Director of the Indian Health Service in any other Federal law, Executive order, rule, regulation, or delegation of authority, or in any document of or relating to the Director of the Indian Health Service, shall be deemed to refer to the Assistant Secretary.

**“SEC. 602. AUTOMATED MANAGEMENT INFORMATION SYSTEM.**

“(a) ESTABLISHMENT.—

“(1) IN GENERAL.—The Secretary shall establish an automated management information system for the Service.

“(2) REQUIREMENTS OF SYSTEM.—The information system established under paragraph (1) shall include—

“(A) a financial management system;

“(B) a patient care information system for each area served by the Service;

“(C) privacy protections consistent with the regulations promulgated under section 264(c) of the Health Insurance Portability and Accountability Act of 1996 or, to the extent consistent with such regulations, other Federal rules applicable to privacy of automated management information systems of a Federal agency;

“(D) a services-based cost accounting component that provides estimates of the costs associated with the provision of specific medical treatments or services in each Area office of the Service;

“(E) an interface mechanism for patient billing and accounts receivable system; and

“(F) a training component.

“(b) PROVISION OF SYSTEMS TO TRIBES AND ORGANIZATIONS.—The Secretary shall provide each Tribal Health Program automated management information systems which—

“(1) meet the management information needs of such Tribal Health Program with respect to the treatment by the Tribal Health Program of patients of the Service; and

“(2) meet the management information needs of the Service.

“(c) ACCESS TO RECORDS.—The Service shall provide access of patients to their medical or health records which are held by, or on behalf of, the Service in accordance with the regulations promulgated under section 264(c) of the Health Insurance Portability and Accountability Act of 1996 or, to the extent consistent with such regulations, other Federal rules applicable to access to health care records.

“(d) AUTHORITY TO ENHANCE INFORMATION TECHNOLOGY.—The Secretary, acting through the Assistant Secretary, shall have the authority to enter into contracts, agreements, or joint ventures with other Federal agencies, States, private and nonprofit organizations, for the purpose of enhancing information technology in Indian Health Programs and facilities.

**“SEC. 603. AUTHORIZATION OF APPROPRIATIONS.**

“There is authorized to be appropriated such sums as may be necessary to carry out this title.

**“TITLE VII—BEHAVIORAL HEALTH PROGRAMS**

**“SEC. 701. BEHAVIORAL HEALTH PREVENTION AND TREATMENT SERVICES.**

“(a) PURPOSES.—The purposes of this section are as follows:

“(1) To authorize and direct the Secretary, acting through the Service, to develop a comprehensive behavioral health prevention and treatment program which emphasizes collaboration among alcohol and substance abuse, social services, and mental health programs.

“(2) To provide information, direction, and guidance relating to mental illness and dysfunction and self-destructive behavior, including child abuse and family violence, to those Federal, tribal, State, and local agencies responsible for programs in Indian communities in areas of health care, education, social services, child and family welfare, alcohol and substance abuse, law enforcement, and judicial services.



“(3) To assist Indian Tribes to identify services and resources available to address mental illness and dysfunctional and self-destructive behavior.

“(4) To provide authority and opportunities for Indian Tribes and Tribal Organizations to develop, implement, and coordinate with community-based programs which include identification, prevention, education, referral, and treatment services, including through multidisciplinary resource teams.

“(5) To ensure that Indians, as citizens of the United States and of the States in which they reside, have the same access to behavioral health services to which all citizens have access.

“(6) To modify or supplement existing programs and authorities in the areas identified in paragraph (2).

“(b) PLANS.—

“(1) DEVELOPMENT.—The Secretary, acting through the Service, shall encourage Indian Tribes and Tribal Organizations to develop tribal plans, and urban Indian organizations to develop local plans, and for all such groups to participate in developing areawide plans for Indian Behavioral Health Services. The plans shall include, to the extent feasible, the following components:

“(A) An assessment of the scope of alcohol or other substance abuse, mental illness, and dysfunctional and self-destructive behavior, including suicide, child abuse, and family violence, among Indians, including—

“(i) the number of Indians served who are directly or indirectly affected by such illness or behavior; or

“(ii) an estimate of the financial and human cost attributable to such illness or behavior.

“(B) An assessment of the existing and additional resources necessary for the prevention and treatment of such illness and behavior, including an assessment of the progress toward achieving the availability of the full continuum of care described in subsection (c).

“(C) An estimate of the additional funding needed by the Service, Indian Tribes, Tribal Organizations, and urban Indian organizations to meet their responsibilities under the plans.

“(2) NATIONAL CLEARINGHOUSE.—The Secretary, acting through the Service, shall coordinate with existing national clearinghouses and information centers to include at the clearinghouses and centers plans and reports on the outcomes of such plans developed by Indian Tribes, Tribal Organizations, urban Indian organizations, and Service Areas relating to behavioral health. The Secretary shall ensure access to these plans and outcomes by any Indian Tribe, Tribal Organization, urban Indian organization, or the Service.

“(3) TECHNICAL ASSISTANCE.—The Secretary shall provide technical assistance to Indian Tribes, Tribal Organizations, and urban Indian organizations in preparation of plans under this section and in developing standards of care that may be used and adopted locally.

“(c) PROGRAMS.—The Secretary, acting through the Service, shall provide, to the extent feasible and if funding is available, programs including the following:

“(1) COMPREHENSIVE CARE.—A comprehensive continuum of behavioral health care which provides—

“(A) community-based prevention, intervention, outpatient, and behavioral health aftercare;

“(B) detoxification (social and medical);

“(C) acute hospitalization;

“(D) intensive outpatient/day treatment;

“(E) residential treatment;

“(F) transitional living for those needing a temporary, stable living environment that is supportive of treatment and recovery goals;

“(G) emergency shelter;

“(H) intensive case management; and

“(I) diagnostic services.

“(2) CHILD CARE.—Behavioral health services for Indians from birth through age 17, including—

“(A) preschool and school age fetal alcohol disorder services, including assessment and behavioral intervention;

“(B) mental health and substance abuse services (emotional, organic, alcohol, drug, inhalant, and tobacco);

“(C) identification and treatment of co-occurring disorders and comorbidity;

“(D) prevention of alcohol, drug, inhalant, and tobacco use;

“(E) early intervention, treatment, and aftercare;

“(F) promotion of healthy approaches to risk and safety issues; and

“(G) identification and treatment of neglect and physical, mental, and sexual abuse.

“(3) ADULT CARE.—Behavioral health services for Indians from age 18 through 55, including—

“(A) early intervention, treatment, and aftercare;

“(B) mental health and substance abuse services (emotional, alcohol, drug, inhalant, and tobacco), including sex specific services;

“(C) identification and treatment of co-occurring disorders (dual diagnosis) and comorbidity;

“(D) promotion of healthy approaches for risk-related behavior;

“(E) treatment services for women at risk of giving birth to a child with a fetal alcohol disorder; and

“(F) sex specific treatment for sexual assault and domestic violence.

“(4) FAMILY CARE.—Behavioral health services for families, including—

“(A) early intervention, treatment, and aftercare for affected families;

“(B) treatment for sexual assault and domestic violence; and

“(C) promotion of healthy approaches relating to parenting, domestic violence, and other abuse issues.

“(5) ELDER CARE.—Behavioral health services for Indians 56 years of age and older, including—

“(A) early intervention, treatment, and aftercare;

“(B) mental health and substance abuse services (emotional, alcohol, drug, inhalant, and tobacco), including sex specific services;

“(C) identification and treatment of co-occurring disorders (dual diagnosis) and comorbidity;

“(D) promotion of healthy approaches to managing conditions related to aging;

“(E) sex specific treatment for sexual assault, domestic violence, neglect, physical and mental abuse and exploitation; and

“(F) identification and treatment of dementia regardless of cause.

“(d) COMMUNITY BEHAVIORAL HEALTH PLAN.—

“(1) ESTABLISHMENT.—The governing body of any Indian Tribe, Tribal Organization, or urban Indian organization may adopt a resolution for the establishment of a community behavioral health plan providing for the identification and coordination of available resources and programs to identify, prevent, or treat substance abuse, mental illness, or dysfunctional and self-destructive behavior, including child abuse and family violence,

among its members or its service population. This plan should include behavioral health services, social services, intensive outpatient services, and continuing aftercare.

“(2) TECHNICAL ASSISTANCE.—At the request of an Indian Tribe, Tribal Organization, or urban Indian organization, the Bureau of Indian Affairs and the Service shall cooperate with and provide technical assistance to the Indian Tribe, Tribal Organization, or urban Indian organization in the development and implementation of such plan.

“(3) FUNDING.—The Secretary, acting through the Service, may make funding available to Indian Tribes and Tribal Organizations which adopt a resolution pursuant to paragraph (1) to obtain technical assistance for the development of a community behavioral health plan and to provide administrative support in the implementation of such plan.

“(e) COORDINATION FOR AVAILABILITY OF SERVICES.—The Secretary, acting through the Service, shall coordinate behavioral health planning, to the extent feasible, with other Federal agencies and with State agencies, to encourage comprehensive behavioral health services for Indians regardless of their place of residence.

“(f) MENTAL HEALTH CARE NEED ASSESSMENT.—Not later than 1 year after the date of enactment of the Indian Health Care Improvement Act Amendments of 2009, the Secretary, acting through the Service, shall make an assessment of the need for inpatient mental health care among Indians and the availability and cost of inpatient mental health facilities which can meet such need. In making such assessment, the Secretary shall consider the possible conversion of existing, underused Service hospital beds into psychiatric units to meet such need.

#### “SEC. 702. MEMORANDA OF AGREEMENT WITH THE DEPARTMENT OF THE INTERIOR.

“(a) CONTENTS.—Not later than 12 months after the date of enactment of the Indian Health Care Improvement Act Amendments of 2009, the Secretary, acting through the Service, and the Secretary of the Interior shall develop and enter into a memorandum of agreement, or review and update any existing memorandum of agreement, as required by section 4205 of the Indian Alcohol and Substance Abuse Prevention and Treatment Act of 1986 (25 U.S.C. 2411) under which the Secretaries address the following:

“(1) The scope and nature of mental illness and dysfunctional and self-destructive behavior, including child abuse and family violence, among Indians.

“(2) The existing Federal, tribal, State, local, and private services, resources, and programs available to provide behavioral health services for Indians.

“(3) The unmet need for additional services, resources, and programs necessary to meet the needs identified pursuant to paragraph (1).

“(4)(A) The right of Indians, as citizens of the United States and of the States in which they reside, to have access to behavioral health services to which all citizens have access.

“(B) The right of Indians to participate in, and receive the benefit of, such services.

“(C) The actions necessary to protect the exercise of such right.

“(5) The responsibilities of the Bureau of Indian Affairs and the Service, including mental illness identification, prevention, education, referral, and treatment services (including services through multidisciplinary resource teams), at the central, area,

and agency and Service Unit, Service Area, and headquarters levels to address the problems identified in paragraph (1).

“(6) A strategy for the comprehensive coordination of the behavioral health services provided by the Bureau of Indian Affairs and the Service to meet the problems identified pursuant to paragraph (1), including—

“(A) the coordination of alcohol and substance abuse programs of the Service, the Bureau of Indian Affairs, and Indian Tribes and Tribal Organizations (developed under the Indian Alcohol and Substance Abuse Prevention and Treatment Act of 1986 (25 U.S.C. 2401 et seq.)) with behavioral health initiatives pursuant to this Act, particularly with respect to the referral and treatment of dually diagnosed individuals requiring behavioral health and substance abuse treatment; and

“(B) ensuring that the Bureau of Indian Affairs and Service programs and services (including multidisciplinary resource teams) addressing child abuse and family violence are coordinated with such non-Federal programs and services.

“(7) Directing appropriate officials of the Bureau of Indian Affairs and the Service, particularly at the agency and Service Unit levels, to cooperate fully with tribal requests made pursuant to community behavioral health plans adopted under section 701(c) and section 4206 of the Indian Alcohol and Substance Abuse Prevention and Treatment Act of 1986 (25 U.S.C. 2412).

“(8) Providing for an annual review of such agreement by the Secretaries which shall be provided to Congress and Indian Tribes and Tribal Organizations.

“(b) SPECIFIC PROVISIONS REQUIRED.—The memoranda of agreement updated or entered into pursuant to subsection (a) shall include specific provisions pursuant to which the Service shall assume responsibility for—

“(1) the determination of the scope of the problem of alcohol and substance abuse among Indians, including the number of Indians within the jurisdiction of the Service who are directly or indirectly affected by alcohol and substance abuse and the financial and human cost;

“(2) an assessment of the existing and needed resources necessary for the prevention of alcohol and substance abuse and the treatment of Indians affected by alcohol and substance abuse; and

“(3) an estimate of the funding necessary to adequately support a program of prevention of alcohol and substance abuse and treatment of Indians affected by alcohol and substance abuse.

“(c) PUBLICATION.—Each memorandum of agreement entered into or renewed (and amendments or modifications thereto) under subsection (a) shall be published in the Federal Register. At the same time as publication in the Federal Register, the Secretary shall provide a copy of such memorandum, amendment, or modification to each Indian Tribe, Tribal Organization, and urban Indian organization.

**“SEC. 703. COMPREHENSIVE BEHAVIORAL HEALTH PREVENTION AND TREATMENT PROGRAM.**

“(a) ESTABLISHMENT.—

“(1) IN GENERAL.—The Secretary, acting through the Service, shall provide a program of comprehensive behavioral health, prevention, treatment, and aftercare, including Systems of Care, which shall include—

“(A) prevention, through educational intervention, in Indian communities;

“(B) acute detoxification, psychiatric hospitalization, residential, and intensive outpatient treatment;

“(C) community-based rehabilitation and aftercare;

“(D) community education and involvement, including extensive training of health care, educational, and community-based personnel;

“(E) specialized residential treatment programs for high-risk populations, including pregnant and postpartum women and their children; and

“(F) diagnostic services.

“(2) TARGET POPULATIONS.—The target population of such programs shall be members of Indian Tribes. Efforts to train and educate key members of the Indian community shall also target employees of health, education, judicial, law enforcement, legal, and social service programs.

“(b) CONTRACT HEALTH SERVICES.—

“(1) IN GENERAL.—The Secretary, acting through the Service, may enter into contracts with public or private providers of behavioral health treatment services for the purpose of carrying out the program required under subsection (a).

“(2) PROVISION OF ASSISTANCE.—In carrying out this subsection, the Secretary shall provide assistance to Indian Tribes and Tribal Organizations to develop criteria for the certification of behavioral health service providers and accreditation of service facilities which meet minimum standards for such services and facilities.

**“SEC. 704. MENTAL HEALTH TECHNICIAN PROGRAM.**

“(a) IN GENERAL.—Under the authority of the Act of November 2, 1921 (25 U.S.C. 13) (commonly known as the ‘Snyder Act’), the Secretary shall establish and maintain a mental health technician program within the Service which—

“(1) provides for the training of Indians as mental health technicians; and

“(2) employs such technicians in the provision of community-based mental health care that includes identification, prevention, education, referral, and treatment services.

“(b) PARAPROFESSIONAL TRAINING.—In carrying out subsection (a), the Secretary, acting through the Service, shall provide high-standard paraprofessional training in mental health care necessary to provide quality care to the Indian communities to be served. Such training shall be based upon a curriculum developed or approved by the Secretary which combines education in the theory of mental health care with supervised practical experience in the provision of such care.

“(c) SUPERVISION AND EVALUATION OF TECHNICIANS.—The Secretary, acting through the Service, shall supervise and evaluate the mental health technicians in the training program.

“(d) TRADITIONAL HEALTH CARE PRACTICES.—The Secretary, acting through the Service, shall ensure that the program established pursuant to this subsection involves the use and promotion of the traditional health care practices of the Indian Tribes to be served.

**“SEC. 705. LICENSING REQUIREMENT FOR MENTAL HEALTH CARE WORKERS.**

“(a) IN GENERAL.—Subject to the provisions of section 221, and except as provided in subsection (b), any individual employed as a psychologist, social worker, or marriage and family therapist for the purpose of providing mental health care services to Indians in a clinical setting under this Act is required to be licensed as a psychologist, social worker, or marriage and family therapist, respectively.

“(b) TRAINEES.—An individual may be employed as a trainee in psychology, social

work, or marriage and family therapy to provide mental health care services described in subsection (a) if such individual—

“(1) works under the direct supervision of a licensed psychologist, social worker, or marriage and family therapist, respectively;

“(2) is enrolled in or has completed at least 2 years of course work at a post-secondary, accredited education program for psychology, social work, marriage and family therapy, or counseling; and

“(3) meets such other training, supervision, and quality review requirements as the Secretary may establish.

**“SEC. 706. INDIAN WOMEN TREATMENT PROGRAMS.**

“(a) GRANTS.—The Secretary, consistent with section 701, may make grants to Indian Tribes, Tribal Organizations, and urban Indian organizations to develop and implement a comprehensive behavioral health program of prevention, intervention, treatment, and relapse prevention services that specifically addresses the cultural, historical, social, and child care needs of Indian women, regardless of age.

“(b) USE OF GRANT FUNDS.—A grant made pursuant to this section may be used to—

“(1) develop and provide community training, education, and prevention programs for Indian women relating to behavioral health issues, including fetal alcohol disorders;

“(2) identify and provide psychological services, counseling, advocacy, support, and relapse prevention to Indian women and their families; and

“(3) develop prevention and intervention models for Indian women which incorporate traditional health care practices, cultural values, and community and family involvement.

“(c) CRITERIA.—The Secretary, in consultation with Indian Tribes and Tribal Organizations, shall establish criteria for the review and approval of applications and proposals for funding under this section.

“(d) ALLOCATION OF FUNDS FOR URBAN INDIAN ORGANIZATIONS.—Twenty percent of the funds appropriated pursuant to this section shall be used to make grants to urban Indian organizations.

**“SEC. 707. INDIAN YOUTH PROGRAM.**

“(a) DETOXIFICATION AND REHABILITATION.—The Secretary, acting through the Service, consistent with section 701, shall develop and implement a program for acute detoxification and treatment for Indian youths, including behavioral health services. The program shall include regional treatment centers designed to include detoxification and rehabilitation for both sexes on a referral basis and programs developed and implemented by Indian Tribes or Tribal Organizations at the local level under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.). Regional centers shall be integrated with the intake and rehabilitation programs based in the referring Indian community.

“(b) ALCOHOL AND SUBSTANCE ABUSE TREATMENT CENTERS OR FACILITIES.—

“(1) ESTABLISHMENT.—

“(A) IN GENERAL.—The Secretary, acting through the Service, shall construct, renovate, or, as necessary, purchase, and appropriately staff and operate, at least 1 youth regional treatment center or treatment network in each area under the jurisdiction of an Area Office.

“(B) AREA OFFICE IN CALIFORNIA.—For the purposes of this subsection, the Area Office in California shall be considered to be 2 Area Offices, 1 office whose jurisdiction shall be considered to encompass the northern area

of the State of California, and 1 office whose jurisdiction shall be considered to encompass the remainder of the State of California for the purpose of implementing California treatment networks.

“(2) FUNDING.—For the purpose of staffing and operating such centers or facilities, funding shall be pursuant to the Act of November 2, 1921 (25 U.S.C. 13).

“(3) LOCATION.—A youth treatment center constructed or purchased under this subsection shall be constructed or purchased at a location within the area described in paragraph (1) agreed upon (by appropriate tribal resolution) by a majority of the Indian Tribes to be served by such center.

“(4) SPECIFIC PROVISION OF FUNDS.—

“(A) IN GENERAL.—Notwithstanding any other provision of this title, the Secretary may, from amounts authorized to be appropriated for the purposes of carrying out this section, make funds available to—

“(i) the Tanana Chiefs Conference, Incorporated, for the purpose of leasing, constructing, renovating, operating, and maintaining a residential youth treatment facility in Fairbanks, Alaska; and

“(ii) the Southeast Alaska Regional Health Corporation to staff and operate a residential youth treatment facility without regard to the proviso set forth in section 4(1) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(1)).

“(B) PROVISION OF SERVICES TO ELIGIBLE YOUTHS.—Until additional residential youth treatment facilities are established in Alaska pursuant to this section, the facilities specified in subparagraph (A) shall make every effort to provide services to all eligible Indian youths residing in Alaska.

“(C) INTERMEDIATE ADOLESCENT BEHAVIORAL HEALTH SERVICES.—

“(1) IN GENERAL.—The Secretary, acting through the Service, may provide intermediate behavioral health services, which may incorporate Systems of Care, to Indian children and adolescents, including—

“(A) pretreatment assistance;

“(B) inpatient, outpatient, and aftercare services;

“(C) emergency care;

“(D) suicide prevention and crisis intervention; and

“(E) prevention and treatment of mental illness and dysfunctional and self-destructive behavior, including child abuse and family violence.

“(2) USE OF FUNDS.—Funds provided under this subsection may be used—

“(A) to construct or renovate an existing health facility to provide intermediate behavioral health services;

“(B) to hire behavioral health professionals;

“(C) to staff, operate, and maintain an intermediate mental health facility, group home, sober housing, transitional housing or similar facilities, or youth shelter where intermediate behavioral health services are being provided;

“(D) to make renovations and hire appropriate staff to convert existing hospital beds into adolescent psychiatric units; and

“(E) for intensive home- and community-based services.

“(3) CRITERIA.—The Secretary, acting through the Service, shall, in consultation with Indian Tribes and Tribal Organizations, establish criteria for the review and approval of applications or proposals for funding made available pursuant to this subsection.

“(d) FEDERALLY OWNED STRUCTURES.—

“(1) IN GENERAL.—The Secretary, in consultation with Indian Tribes and Tribal Organizations, shall—

“(A) identify and use, where appropriate, federally owned structures suitable for local residential or regional behavioral health treatment for Indian youths; and

“(B) establish guidelines for determining the suitability of any such federally owned structure to be used for local residential or regional behavioral health treatment for Indian youths.

“(2) TERMS AND CONDITIONS FOR USE OF STRUCTURE.—Any structure described in paragraph (1) may be used under such terms and conditions as may be agreed upon by the Secretary and the agency having responsibility for the structure and any Indian Tribe or Tribal Organization operating the program.

“(e) REHABILITATION AND AFTERCARE SERVICES.—

“(1) IN GENERAL.—The Secretary, Indian Tribes, or Tribal Organizations, in cooperation with the Secretary of the Interior, shall develop and implement within each Service Unit, community-based rehabilitation and follow-up services for Indian youths who are having significant behavioral health problems, and require long-term treatment, community reintegration, and monitoring to support the Indian youths after their return to their home community.

“(2) ADMINISTRATION.—Services under paragraph (1) shall be provided by trained staff within the community who can assist the Indian youths in their continuing development of self-image, positive problem-solving skills, and nonalcohol or substance abusing behaviors. Such staff may include alcohol and substance abuse counselors, mental health professionals, and other health professionals and paraprofessionals, including community health representatives.

“(f) INCLUSION OF FAMILY IN YOUTH TREATMENT PROGRAM.—In providing the treatment and other services to Indian youths authorized by this section, the Secretary, acting through the Service, shall provide for the inclusion of family members of such youths in the treatment programs or other services as may be appropriate. Not less than 10 percent of the funds appropriated for the purposes of carrying out subsection (e) shall be used for outpatient care of adult family members related to the treatment of an Indian youth under that subsection.

“(g) MULTIDRUG ABUSE PROGRAM.—The Secretary, acting through the Service, shall provide, consistent with section 701, programs and services to prevent and treat the abuse of multiple forms of substances, including alcohol, drugs, inhalants, and tobacco, among Indian youths residing in Indian communities, on or near reservations, and in urban areas and provide appropriate mental health services to address the incidence of mental illness among such youths.

“(h) INDIAN YOUTH MENTAL HEALTH.—The Secretary, acting through the Service, shall collect data for the report under section 801 with respect to—

“(1) the number of Indian youth who are being provided mental health services through the Service and Tribal Health Programs;

“(2) a description of, and costs associated with, the mental health services provided for Indian youth through the Service and Tribal Health Programs;

“(3) the number of youth referred to the Service or Tribal Health Programs for mental health services;

“(4) the number of Indian youth provided residential treatment for mental health and behavioral problems through the Service and Tribal Health Programs, reported separately for on- and off-reservation facilities; and

“(5) the costs of the services described in paragraph (4).

#### “SEC. 708. INDIAN YOUTH TELEMENTAL HEALTH DEMONSTRATION PROJECT.

“(a) PURPOSE.—The purpose of this section is to authorize the Secretary to carry out a demonstration project to test the use of telemental health services in suicide prevention, intervention and treatment of Indian youth, including through—

“(1) the use of psychotherapy, psychiatric assessments, diagnostic interviews, therapies for mental health conditions predisposing to suicide, and alcohol and substance abuse treatment;

“(2) the provision of clinical expertise to, consultation services with, and medical advice and training for frontline health care providers working with Indian youth;

“(3) training and related support for community leaders, family members and health and education workers who work with Indian youth;

“(4) the development of culturally relevant educational materials on suicide; and

“(5) data collection and reporting.

“(b) DEFINITIONS.—For the purpose of this section, the following definitions shall apply:

“(1) DEMONSTRATION PROJECT.—The term ‘demonstration project’ means the Indian youth telemental health demonstration project authorized under subsection (c).

“(2) TELEMENTAL HEALTH.—The term ‘telemental health’ means the use of electronic information and telecommunications technologies to support long distance mental health care, patient and professional-related education, public health, and health administration.

“(c) AUTHORIZATION.—

“(1) IN GENERAL.—The Secretary is authorized to award grants under the demonstration project for the provision of telemental health services to Indian youth who—

“(A) have expressed suicidal ideas;

“(B) have attempted suicide; or

“(C) have mental health conditions that increase or could increase the risk of suicide.

“(2) ELIGIBILITY FOR GRANTS.—Such grants shall be awarded to Indian Tribes and Tribal Organizations that operate 1 or more facilities—

“(A) located in Alaska and part of the Alaska Federal Health Care Access Network;

“(B) reporting active clinical telehealth capabilities; or

“(C) offering school-based telemental health services relating to psychiatry to Indian youth.

“(3) GRANT PERIOD.—The Secretary shall award grants under this section for a period of up to 4 years.

“(4) AWARDING OF GRANTS.—Not more than 5 grants shall be provided under paragraph (1), with priority consideration given to Indian Tribes and Tribal Organizations that—

“(A) serve a particular community or geographic area where there is a demonstrated need to address Indian youth suicide;

“(B) enter in to collaborative partnerships with Indian Health Service or Tribal Health Programs or facilities to provide services under this demonstration project;

“(C) serve an isolated community or geographic area which has limited or no access to behavioral health services; or

“(D) operate a detention facility at which Indian youth are detained.

“(d) USE OF FUNDS.—

“(1) IN GENERAL.—An Indian Tribe or Tribal Organization shall use a grant received under subsection (c) for the following purposes:

“(A) To provide telemental health services to Indian youth, including the provision of—

“(i) psychotherapy;  
 “(ii) psychiatric assessments and diagnostic interviews, therapies for mental health conditions predisposing to suicide, and treatment; and  
 “(iii) alcohol and substance abuse treatment.

“(B) To provide clinician-interactive medical advice, guidance and training, assistance in diagnosis and interpretation, crisis counseling and intervention, and related assistance to Service, tribal, or urban clinicians and health services providers working with youth being served under this demonstration project.

“(C) To assist, educate and train community leaders, health education professionals and paraprofessionals, tribal outreach workers, and family members who work with the youth receiving telemental health services under this demonstration project, including with identification of suicidal tendencies, crisis intervention and suicide prevention, emergency skill development, and building and expanding networks among these individuals and with State and local health services providers.

“(D) To develop and distribute culturally appropriate community educational materials on—

“(i) suicide prevention;  
 “(ii) suicide education;  
 “(iii) suicide screening;  
 “(iv) suicide intervention; and  
 “(v) ways to mobilize communities with respect to the identification of risk factors for suicide.

“(E) For data collection and reporting related to Indian youth suicide prevention efforts.

“(2) **TRADITIONAL HEALTH CARE PRACTICES.**—In carrying out the purposes described in paragraph (1), an Indian Tribe or Tribal Organization may use and promote the traditional health care practices of the Indian Tribes of the youth to be served.

“(e) **APPLICATIONS.**—To be eligible to receive a grant under subsection (c), an Indian Tribe or Tribal Organization shall prepare and submit to the Secretary an application, at such time, in such manner, and containing such information as the Secretary may require, including—

“(1) a description of the project that the Indian Tribe or Tribal Organization will carry out using the funds provided under the grant;

“(2) a description of the manner in which the project funded under the grant would—

“(A) meet the telemental health care needs of the Indian youth population to be served by the project; or

“(B) improve the access of the Indian youth population to be served to suicide prevention and treatment services;

“(3) evidence of support for the project from the local community to be served by the project;

“(4) a description of how the families and leadership of the communities or populations to be served by the project would be involved in the development and ongoing operations of the project;

“(5) a plan to involve the tribal community of the youth who are provided services by the project in planning and evaluating the mental health care and suicide prevention efforts provided, in order to ensure the integration of community, clinical, environmental, and cultural components of the treatment; and

“(6) a plan for sustaining the project after Federal assistance for the demonstration project has terminated.

“(f) **COLLABORATION; REPORTING TO NATIONAL CLEARINGHOUSE.**—

“(1) **COLLABORATION.**—The Secretary, acting through the Service, shall encourage Indian Tribes and Tribal Organizations receiving grants under this section to collaborate to enable comparisons about best practices across projects.

“(2) **REPORTING TO NATIONAL CLEARINGHOUSE.**—The Secretary, acting through the Service, shall also encourage Indian Tribes and Tribal Organizations receiving grants under this section to submit relevant, declassified project information to the national clearinghouse authorized under section 701(b)(2) in order to better facilitate program performance and improve suicide prevention, intervention, and treatment services.

“(g) **ANNUAL REPORT.**—Each grant recipient shall submit to the Secretary an annual report that—

“(1) describes the number of telemental health services provided; and

“(2) includes any other information that the Secretary may require.

“(h) **REPORT TO CONGRESS.**—Not later than 270 days after the termination of the demonstration project, the Secretary shall submit to the Committee on Indian Affairs of the Senate and the Committee on Natural Resources and Committee on Energy and Commerce of the House of Representatives a final report, based on the annual reports provided by grant recipients under subsection (h), that—

“(1) describes the results of the projects funded by grants awarded under this section, including any data available which indicates the number of attempted suicides;

“(2) evaluates the impact of the telemental health services funded by the grants in reducing the number of completed suicides among Indian youth;

“(3) evaluates whether the demonstration project should be—

“(A) expanded to provide more than 5 grants; and

“(B) designated a permanent program; and

“(4) evaluates the benefits of expanding the demonstration project to include urban Indian organizations.

“(i) **AUTHORIZATION OF APPROPRIATIONS.**—There is authorized to be appropriated such sums as may be necessary to carry out this section.

**“SEC. 709. INPATIENT AND COMMUNITY-BASED MENTAL HEALTH FACILITIES DESIGN, CONSTRUCTION, AND STAFFING.**

“Not later than 1 year after the date of enactment of the Indian Health Care Improvement Act Amendments of 2009, the Secretary, acting through the Service, may provide, in each area of the Service, not less than 1 inpatient mental health care facility, or the equivalent, for Indians with behavioral health problems. For the purposes of this subsection, California shall be considered to be 2 Area Offices, 1 office whose location shall be considered to encompass the northern area of the State of California and 1 office whose jurisdiction shall be considered to encompass the remainder of the State of California. The Secretary shall consider the possible conversion of existing, underused Service hospital beds into psychiatric units to meet such need.

**“SEC. 710. TRAINING AND COMMUNITY EDUCATION.**

“(a) **PROGRAM.**—The Secretary, in cooperation with the Secretary of the Interior, shall develop and implement or assist Indian Tribes and Tribal Organizations to develop

and implement, within each Service Unit or tribal program, a program of community education and involvement which shall be designed to provide concise and timely information to the community leadership of each tribal community. Such program shall include education about behavioral health issues to political leaders, Tribal judges, law enforcement personnel, members of tribal health and education boards, health care providers including traditional practitioners, and other critical members of each tribal community. Such program may also include community-based training to develop local capacity and tribal community provider training for prevention, intervention, treatment, and aftercare.

“(b) **INSTRUCTION.**—The Secretary, acting through the Service, shall provide instruction in the area of behavioral health issues, including instruction in crisis intervention and family relations in the context of alcohol and substance abuse, child sexual abuse, youth alcohol and substance abuse, and the causes and effects of fetal alcohol disorders to appropriate employees of the Bureau of Indian Affairs and the Service, and to personnel in schools or programs operated under any contract with the Bureau of Indian Affairs or the Service, including supervisors of emergency shelters and halfway houses described in section 4213 of the Indian Alcohol and Substance Abuse Prevention and Treatment Act of 1986 (25 U.S.C. 2433).

“(c) **TRAINING MODELS.**—In carrying out the education and training programs required by this section, the Secretary, in consultation with Indian Tribes, Tribal Organizations, Indian behavioral health experts, and Indian alcohol and substance abuse prevention experts, shall develop and provide community-based training models. Such models shall address—

“(1) the elevated risk of alcohol and behavioral health problems faced by children of alcoholics;

“(2) the cultural, spiritual, and multigenerational aspects of behavioral health problem prevention and recovery; and

“(3) community-based and multidisciplinary strategies, including Systems of Care, for preventing and treating behavioral health problems.

**“SEC. 711. BEHAVIORAL HEALTH PROGRAM.**

“(a) **INNOVATIVE PROGRAMS.**—The Secretary, acting through the Service, consistent with section 701, may plan, develop, implement, and carry out programs to deliver innovative community-based behavioral health services to Indians.

“(b) **AWARDS; CRITERIA.**—The Secretary may award a grant for a project under subsection (a) to an Indian Tribe or Tribal Organization and may consider the following criteria:

“(1) The project will address significant unmet behavioral health needs among Indians.

“(2) The project will serve a significant number of Indians.

“(3) The project has the potential to deliver services in an efficient and effective manner.

“(4) The Indian Tribe or Tribal Organization has the administrative and financial capability to administer the project.

“(5) The project may deliver services in a manner consistent with traditional health care practices.

“(6) The project is coordinated with, and avoids duplication of, existing services.

“(c) **EQUITABLE TREATMENT.**—For purposes of this subsection, the Secretary shall, in evaluating project applications or proposals,

use the same criteria that the Secretary uses in evaluating any other application or proposal for such funding.

**“SEC. 712. FETAL ALCOHOL DISORDER PROGRAMS.**

**“(a) PROGRAMS.—**

“(1) **ESTABLISHMENT.**—The Secretary, consistent with section 701 and acting through the Service, is authorized to establish and operate fetal alcohol disorder programs as provided in this section for the purposes of meeting the health status objectives specified in section 3.

**“(2) USE OF FUNDS.—**

“(A) **IN GENERAL.**—Funding provided pursuant to this section shall be used for the following:

“(i) To develop and provide for Indians community and in-school training, education, and prevention programs relating to fetal alcohol disorders.

“(ii) To identify and provide behavioral health treatment to high-risk Indian women and high-risk women pregnant with an Indian's child.

“(iii) To identify and provide appropriate psychological services, educational and vocational support, counseling, advocacy, and information to fetal alcohol disorder affected Indians and their families or caretakers.

“(iv) To develop and implement counseling and support programs in schools for fetal alcohol disorder affected Indian children.

“(v) To develop prevention and intervention models which incorporate practitioners of traditional health care practices, cultural values, and community involvement.

“(vi) To develop, print, and disseminate education and prevention materials on fetal alcohol disorder.

“(vii) To develop and implement, in consultation with Indian Tribes, Tribal Organizations, and urban Indian organizations, culturally sensitive assessment and diagnostic tools including dysmorphology clinics and multidisciplinary fetal alcohol disorder clinics for use in Indian communities and Urban Centers.

“(B) **ADDITIONAL USES.**—In addition to any purpose under subparagraph (A), funding provided pursuant to this section may be used for 1 or more of the following:

“(i) Early childhood intervention projects from birth on to mitigate the effects of fetal alcohol disorder among Indians.

“(ii) Community-based support services for Indians and women pregnant with Indian children.

“(iii) Community-based housing for adult Indians with fetal alcohol disorder.

“(3) **CRITERIA FOR APPLICATIONS.**—The Secretary shall establish criteria for the review and approval of applications for funding under this section.

“(b) **SERVICES.**—The Secretary, acting through the Service, shall—

“(1) develop and provide services for the prevention, intervention, treatment, and aftercare for those affected by fetal alcohol disorder in Indian communities; and

“(2) provide supportive services, including services to meet the special educational, vocational, school-to-work transition, and independent living needs of adolescent and adult Indians with fetal alcohol disorder.

“(c) **TASK FORCE.**—The Secretary shall establish a task force to be known as the Fetal Alcohol Disorder Task Force to advise the Secretary in carrying out subsection (b). Such task force shall be composed of representatives from the following:

“(1) The National Institute on Drug Abuse.

“(2) The National Institute on Alcohol and Alcoholism.

“(3) The Office of Substance Abuse Prevention.

“(4) The National Institute of Mental Health.

“(5) The Service.

“(6) The Office of Minority Health of the Department of Health and Human Services.

“(7) The Administration for Native Americans.

“(8) The National Institute of Child Health and Human Development (NICHD).

“(9) The Centers for Disease Control and Prevention.

“(10) The Bureau of Indian Affairs.

“(11) Indian Tribes.

“(12) Tribal Organizations.

“(13) urban Indian organizations.

“(14) Indian fetal alcohol spectrum disorders experts.

“(d) **APPLIED RESEARCH PROJECTS.**—The Secretary, acting through the Substance Abuse and Mental Health Services Administration, shall make grants to Indian Tribes, Tribal Organizations, and urban Indian organizations for applied research projects which propose to elevate the understanding of methods to prevent, intervene, treat, or provide rehabilitation and behavioral health aftercare for Indians and urban Indians affected by fetal alcohol spectrum disorders.

“(e) **FUNDING FOR URBAN INDIAN ORGANIZATIONS.**—Ten percent of the funds appropriated pursuant to this section shall be used to make grants to urban Indian organizations funded under title V.

**“SEC. 713. CHILD SEXUAL ABUSE AND PREVENTION TREATMENT PROGRAMS.**

“(a) **ESTABLISHMENT.**—The Secretary, acting through the Service, shall establish, consistent with section 701, in every Service Area, programs involving treatment for—

“(1) victims of sexual abuse who are Indian children or children in an Indian household; and

“(2) perpetrators of child sexual abuse who are Indian or members of an Indian household.

“(b) **USE OF FUNDS.**—Funding provided pursuant to this section shall be used for the following:

“(1) To develop and provide community education and prevention programs related to sexual abuse of Indian children or children in an Indian household.

“(2) To identify and provide behavioral health treatment to victims of sexual abuse who are Indian children or children in an Indian household, and to their family members who are affected by sexual abuse.

“(3) To develop prevention and intervention models which incorporate traditional health care practices, cultural values, and community involvement.

“(4) To develop and implement culturally sensitive assessment and diagnostic tools for use in Indian communities and Urban Centers.

“(5) To identify and provide behavioral health treatment to Indian perpetrators and perpetrators who are members of an Indian household—

“(A) making efforts to begin offender and behavioral health treatment while the perpetrator is incarcerated or at the earliest possible date if the perpetrator is not incarcerated; and

“(B) providing treatment after the perpetrator is released, until it is determined that the perpetrator is not a threat to children.

“(c) **COORDINATION.**—The programs established under subsection (a) shall be carried out in coordination with programs and services authorized under the Indian Child Protection and Family Violence Prevention Act (25 U.S.C. 3201 et seq.).

**“SEC. 714. DOMESTIC AND SEXUAL VIOLENCE PREVENTION AND TREATMENT.**

“(a) **IN GENERAL.**—The Secretary, in accordance with section 701, is authorized to establish in each Service Area programs involving the prevention and treatment of—

“(1) Indian victims of domestic violence or sexual abuse; and

“(2) perpetrators of domestic violence or sexual abuse who are Indian or members of an Indian household.

“(b) **USE OF FUNDS.**—Funds made available to carry out this section shall be used—

“(1) to develop and implement prevention programs and community education programs relating to domestic violence and sexual abuse;

“(2) to provide behavioral health services, including victim support services, and medical treatment (including examinations performed by sexual assault nurse examiners) to Indian victims of domestic violence or sexual abuse;

“(3) to purchase rape kits;

“(4) to develop prevention and intervention models, which may incorporate traditional health care practices; and

“(5) to identify and provide behavioral health treatment to perpetrators who are Indian or members of an Indian household.

**“(c) TRAINING AND CERTIFICATION.—**

“(1) **IN GENERAL.**—Not later than 1 year after the date of enactment of the Indian Health Care Improvement Act Amendments of 2009, the Secretary shall establish appropriate protocols, policies, procedures, standards of practice, and, if not available elsewhere, training curricula and training and certification requirements for services for victims of domestic violence and sexual abuse.

“(2) **REPORT.**—Not later than 18 months after the date of enactment of the Indian Health Care Improvement Act Amendments of 2008, the Secretary shall submit to the Committee on Indian Affairs of the Senate and the Committee on Natural Resources of the House of Representatives a report that describes the means and extent to which the Secretary has carried out paragraph (1).

**“(d) COORDINATION.—**

“(1) **IN GENERAL.**—The Secretary, in coordination with the Attorney General, Federal and tribal law enforcement agencies, Indian Health Programs, and domestic violence or sexual assault victim organizations, shall develop appropriate victim services and victim advocate training programs—

“(A) to improve domestic violence or sexual abuse responses;

“(B) to improve forensic examinations and collection;

“(C) to identify problems or obstacles in the prosecution of domestic violence or sexual abuse; and

“(D) to meet other needs or carry out other activities required to prevent, treat, and improve prosecutions of domestic violence and sexual abuse.

“(2) **REPORT.**—Not later than 2 years after the date of enactment of the Indian Health Care Improvement Act Amendments of 2008, the Secretary shall submit to the Committee on Indian Affairs of the Senate and the Committee on Natural Resources of the House of Representatives a report that describes, with respect to the matters described in paragraph (1), the improvements made and needed, problems or obstacles identified, and costs necessary to address the problems or obstacles, and any other recommendations that the Secretary determines to be appropriate.

**“SEC. 715. BEHAVIORAL HEALTH RESEARCH.**

“The Secretary, in consultation with appropriate Federal agencies, shall make grants to, or enter into contracts with, Indian Tribes, Tribal Organizations, and urban Indian organizations or enter into contracts with, or make grants to appropriate institutions for, the conduct of research on the incidence and prevalence of behavioral health problems among Indians served by the Service, Indian Tribes, or Tribal Organizations and among Indians in urban areas. Research priorities under this section shall include—

“(1) the multifactorial causes of Indian youth suicide, including—

“(A) protective and risk factors and scientific data that identifies those factors; and

“(B) the effects of loss of cultural identity and the development of scientific data on those effects;

“(2) the interrelationship and interdependence of behavioral health problems with alcoholism and other substance abuse, suicide, homicides, other injuries, and the incidence of family violence; and

“(3) the development of models of prevention techniques.

The effect of the interrelationships and interdependencies referred to in paragraph (2) on children, and the development of prevention techniques under paragraph (3) applicable to children, shall be emphasized.

**“SEC. 716. DEFINITIONS.**

“For the purpose of this title, the following definitions shall apply:

“(1) **ASSESSMENT.**—The term ‘assessment’ means the systematic collection, analysis, and dissemination of information on health status, health needs, and health problems.

“(2) **ALCOHOL-RELATED NEURODEVELOPMENTAL DISORDERS OR ARND.**—The term ‘alcohol-related neurodevelopmental disorders’ or ‘ARND’ means, with a history of maternal alcohol consumption during pregnancy, central nervous system involvement such as developmental delay, intellectual deficit, or neurologic abnormalities. Behaviorally, there can be problems with irritability, and failure to thrive as infants. As children become older there will likely be hyperactivity, attention deficit, language dysfunction, and perceptual and judgment problems.

“(3) **BEHAVIORAL HEALTH AFTERCARE.**—The term ‘behavioral health aftercare’ includes those activities and resources used to support recovery following inpatient, residential, intensive substance abuse, or mental health outpatient or outpatient treatment. The purpose is to help prevent or deal with relapse by ensuring that by the time a client or patient is discharged from a level of care, such as outpatient treatment, an aftercare plan has been developed with the client. An aftercare plan may use such resources as a community-based therapeutic group, transitional living facilities, a 12-step sponsor, a local 12-step or other related support group, and other community-based providers.

“(4) **DUAL DIAGNOSIS.**—The term ‘dual diagnosis’ means coexisting substance abuse and mental illness conditions or diagnosis. Such clients are sometimes referred to as mentally ill chemical abusers (MICAs).

“(5) **FETAL ALCOHOL SPECTRUM DISORDERS.**—

“(A) **IN GENERAL.**—The term ‘fetal alcohol spectrum disorders’ includes a range of effects that can occur in an individual whose mother drank alcohol during pregnancy, including physical, mental, behavioral, and/or learning disabilities with possible lifelong implications.

“(B) **INCLUSIONS.**—The term ‘fetal alcohol spectrum disorders’ may include—

“(i) fetal alcohol syndrome (FAS);

“(ii) fetal alcohol effect (FAE);

“(iii) alcohol-related birth defects; and

“(iv) alcohol-related neurodevelopmental disorders (ARND).

“(6) **FETAL ALCOHOL SYNDROME OR FAS.**—The term ‘fetal alcohol syndrome’ or ‘FAS’ means any 1 of a spectrum of effects that may occur when a woman drinks alcohol during pregnancy, the diagnosis of which involves the confirmed presence of the following 3 criteria:

“(A) Craniofacial abnormalities.

“(B) Growth deficits.

“(C) Central nervous system abnormalities.

“(7) **REHABILITATION.**—The term ‘rehabilitation’ means medical and health care services that—

“(A) are recommended by a physician or licensed practitioner of the healing arts within the scope of their practice under applicable law;

“(B) are furnished in a facility, home, or other setting in accordance with applicable standards; and

“(C) have as their purpose any of the following:

“(i) The maximum attainment of physical, mental, and developmental functioning.

“(ii) Averting deterioration in physical or mental functional status.

“(iii) The maintenance of physical or mental health functional status.

“(8) **SUBSTANCE ABUSE.**—The term ‘substance abuse’ includes inhalant abuse.

“(9) **SYSTEMS OF CARE.**—The term ‘Systems of Care’ means a system for delivering services to children and their families that is child-centered, family-focused and family-driven, community-based, and culturally competent and responsive to the needs of the children and families being served. The systems of care approach values prevention and early identification, smooth transitions for children and families, child and family participation and advocacy, comprehensive array of services, individualized service planning, services in the least restrictive environment, and integrated services with coordinated planning across the child-serving systems.

**“SEC. 717. AUTHORIZATION OF APPROPRIATIONS.**

“There is authorized to be appropriated such sums as may be necessary to carry out the provisions of this title.

**“TITLE VIII—MISCELLANEOUS****“SEC. 801. REPORTS.**

“For each fiscal year following the date of enactment of the Indian Health Care Improvement Act Amendments of 2009, the Secretary shall transmit to Congress a report containing the following:

“(1) A report on the progress made in meeting the objectives of this Act, including a review of programs established or assisted pursuant to this Act and assessments and recommendations of additional programs or additional assistance necessary to, at a minimum, provide health services to Indians and ensure a health status for Indians, which are at a parity with the health services available to and the health status of the general population.

“(2) A report on whether, and to what extent, new national health care programs, benefits, initiatives, or financing systems have had an impact on the purposes of this Act and any steps that the Secretary may have taken to consult with Indian Tribes, Tribal Organizations, and urban Indian organizations to address such impact, including a report on proposed changes in allocation of funding pursuant to section 807.

“(3) A report on the use of health services by Indians—

“(A) on a national and area or other relevant geographical basis;

“(B) by gender and age;

“(C) by source of payment and type of service;

“(D) comparing such rates of use with rates of use among comparable non-Indian populations; and

“(E) provided under contracts.

“(4) A report of contractors to the Secretary on Health Care Educational Loan Repayments every 6 months required by section 110.

“(5) A general audit report of the Secretary on the Health Care Educational Loan Repayment Program as required by section 110(m).

“(6) A report of the findings and conclusions of demonstration programs on development of educational curricula for substance abuse counseling as required in section 125(f).

“(7) A separate statement which specifies the amount of funds requested to carry out the provisions of section 201.

“(8) A report of the evaluations of health promotion and disease prevention as required in section 203(c).

“(9) A biennial report to Congress on infectious diseases as required by section 212.

“(10) A report on environmental and nuclear health hazards as required by section 215.

“(11) An annual report on the status of all health care facilities needs as required by section 301(c)(2)(B) and 301(d).

“(12) Reports on safe water and sanitary waste disposal facilities as required by section 302(h).

“(13) An annual report on the expenditure of non-Service funds for renovation as required by sections 304(b)(2).

“(14) A report identifying the backlog of maintenance and repair required at Service and tribal facilities required by section 313(a).

“(15) A report providing an accounting of reimbursement funds made available to the Secretary under titles XVIII, XIX, and XXI of the Social Security Act.

“(16) A report on any arrangements for the sharing of medical facilities or services, as authorized by section 406.

“(17) A report on evaluation and renewal of urban Indian programs under section 505.

“(18) A report on the evaluation of programs as required by section 513(d).

“(19) A report on alcohol and substance abuse as required by section 701(f).

“(20) A report on Indian youth mental health services as required by section 707(h).

“(21) A report on the reallocation of base resources if required by section 807.

“(22) A report on the movement of patients between Service Units, including—

“(A) a list of those Service Units that have a net increase and those that have a net decrease of patients due to patients assigned to one Service Unit voluntarily choosing to receive service at another Service Unit;

“(B) an analysis of the effect of patient movement on the quality of services for those Service Units experiencing an increase in the number of patients served; and

“(C) what funding changes are necessary to maintain a consistent quality of service at Service Units that have an increase in the number of patients served.

“(23) A report on the extent to which health care facilities of the Service, Indian Tribes, Tribal Organizations, and urban Indian organizations comply with credentialing requirements of the Service or licensure requirements of States.

**"SEC. 802. REGULATIONS.****"(a) DEADLINES.—**

"(1) PROCEDURES.—Not later than 90 days after the date of enactment of the Indian Health Care Improvement Act Amendments of 2009, the Secretary shall initiate procedures under subchapter III of chapter 5 of title 5, United States Code, to negotiate and promulgate such regulations or amendments thereto that are necessary to carry out this Act, except sections 105, 115, 117, 202, and 409 through 414. The Secretary may promulgate regulations to carry out such sections using the procedures required by chapter 5 of title 5, United States Code (commonly known as the 'Administrative Procedure Act').

"(2) PROPOSED REGULATIONS.—Proposed regulations to implement this Act shall be published in the Federal Register by the Secretary no later than 2 years after the date of enactment of the Indian Health Care Improvement Act Amendments of 2009 and shall have no less than a 120-day comment period.

"(3) FINAL REGULATIONS.—The Secretary shall publish in the Federal Register final regulations to implement this Act by not later than 3 years after the date of enactment of the Indian Health Care Improvement Act Amendments of 2009.

"(b) COMMITTEE.—A negotiated rulemaking committee established pursuant to section 565 of title 5, United States Code, to carry out this section shall have as its members only representatives of the Federal Government and representatives of Indian Tribes, and Tribal Organizations, a majority of whom shall be nominated by and be representatives of Indian Tribes and Tribal Organizations from each Service Area.

"(c) ADAPTATION OF PROCEDURES.—The Secretary shall adapt the negotiated rulemaking procedures to the unique context of self-governance and the government-to-government relationship between the United States and Indian Tribes.

"(d) LACK OF REGULATIONS.—The lack of promulgated regulations shall not limit the effect of this Act.

**"SEC. 803. PLAN OF IMPLEMENTATION.**

"(a) IN GENERAL.—Not later than 1 year after the date of enactment of the Indian Health Care Improvement Act Amendments of 2009, the Secretary, in consultation with Indian Tribes, Tribal Organizations, and urban Indian organizations, shall submit to Congress a plan explaining the manner and schedule, by title and section, by which the Secretary will implement the provisions of this Act. This consultation may be conducted jointly with the annual budget consultation pursuant to the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.).

"(b) LACK OF PLAN.—The lack of (or failure to submit) such a plan shall not limit the effect, or prevent the implementation, of this Act.

**"SEC. 804. LIMITATION ON USE OF FUNDS APPROPRIATED TO INDIAN HEALTH SERVICE.**

"Any limitation on the use of funds contained in an Act providing appropriations for the Department for a period with respect to the performance of abortions shall apply for that period with respect to the performance of abortions using funds contained in an Act providing appropriations for the Service.

**"SEC. 805. ELIGIBILITY OF CALIFORNIA INDIANS.**

"(a) IN GENERAL.—The following California Indians shall be eligible for health services provided by the Service:

"(1) Any member of a federally recognized Indian Tribe.

"(2) Any descendant of an Indian who was residing in California on June 1, 1852, if such descendant—

"(A) is a member of the Indian community served by a local program of the Service; and

"(B) is regarded as an Indian by the community in which such descendant lives.

"(3) Any Indian who holds trust interests in public domain, national forest, or reservation allotments in California.

"(4) Any Indian in California who is listed on the plans for distribution of the assets of rancherias and reservations located within the State of California under the Act of August 18, 1958 (72 Stat. 619), and any descendant of such an Indian.

"(b) CLARIFICATION.—Nothing in this section may be construed as expanding the eligibility of California Indians for health services provided by the Service beyond the scope of eligibility for such health services that applied on May 1, 1986.

**"SEC. 806. HEALTH SERVICES FOR INELIGIBLE PERSONS.**

"(a) CHILDREN.—Any individual who—

"(1) has not attained 19 years of age;

"(2) is the natural or adopted child, stepchild, foster child, legal ward, or orphan of an eligible Indian; and

"(3) is not otherwise eligible for health services provided by the Service, shall be eligible for all health services provided by the Service on the same basis and subject to the same rules that apply to eligible Indians until such individual attains 19 years of age. The existing and potential health needs of all such individuals shall be taken into consideration by the Service in determining the need for, or the allocation of, the health resources of the Service. If such an individual has been determined to be legally incompetent prior to attaining 19 years of age, such individual shall remain eligible for such services until 1 year after the date of a determination of competency.

"(b) SPOUSES.—Any spouse of an eligible Indian who is not an Indian, or who is of Indian descent but is not otherwise eligible for the health services provided by the Service, shall be eligible for such health services if all such spouses or spouses who are married to members of each Indian Tribe being served are made eligible, as a class, by an appropriate resolution of the governing body of the Indian Tribe or Tribal Organization providing such services. The health needs of persons made eligible under this paragraph shall not be taken into consideration by the Service in determining the need for, or allocation of, its health resources.

"(c) PROVISION OF SERVICES TO OTHER INDIVIDUALS.—

"(1) IN GENERAL.—The Secretary is authorized to provide health services under this subsection through health programs operated directly by the Service to individuals who reside within the Service area of the Service Unit and who are not otherwise eligible for such health services if—

"(A) the Indian Tribes served by such Service Unit request such provision of health services to such individuals; and

"(B) the Secretary and the served Indian Tribes have jointly determined that—

"(i) the provision of such health services will not result in a denial or diminution of health services to eligible Indians; and

"(ii) there is no reasonable alternative health facilities or services, within or without the Service Unit, available to meet the health needs of such individuals.

"(2) ISDEAA PROGRAMS.—In the case of health programs and facilities operated under a contract or compact entered into under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.), the governing body of the Indian Tribe

or Tribal Organization providing health services under such contract or compact is authorized to determine whether health services should be provided under such contract to individuals who are not eligible for such health services under any other subsection of this section or under any other provision of law. In making such determinations, the governing body of the Indian Tribe or Tribal Organization shall take into account the considerations described in paragraph (1)(B).

**"(3) PAYMENT FOR SERVICES.—**

"(A) IN GENERAL.—Persons receiving health services provided by the Service under this subsection shall be liable for payment of such health services under a schedule of charges prescribed by the Secretary which, in the judgment of the Secretary, results in reimbursement in an amount not less than the actual cost of providing the health services. Notwithstanding section 404 of this Act or any other provision of law, amounts collected under this subsection, including Medicare, Medicaid, or SCHIP reimbursements under titles XVIII, XIX, and XXI of the Social Security Act, shall be credited to the account of the program providing the service and shall be used for the purposes listed in section 401(d)(2) and amounts collected under this subsection shall be available for expenditure within such program.

"(B) INDIGENT PEOPLE.—Health services may be provided by the Secretary through the Service under this subsection to an indigent individual who would not be otherwise eligible for such health services but for the provisions of paragraph (1) only if an agreement has been entered into with a State or local government under which the State or local government agrees to reimburse the Service for the expenses incurred by the Service in providing such health services to such indigent individual.

**"(4) REVOCATION OF CONSENT FOR SERVICES.—**

"(A) SINGLE TRIBE SERVICE AREA.—In the case of a Service Area which serves only 1 Indian Tribe, the authority of the Secretary to provide health services under paragraph (1) shall terminate at the end of the fiscal year succeeding the fiscal year in which the governing body of the Indian Tribe revokes its concurrence to the provision of such health services.

"(B) MULTITRIBAL SERVICE AREA.—In the case of a multitribal Service Area, the authority of the Secretary to provide health services under paragraph (1) shall terminate at the end of the fiscal year succeeding the fiscal year in which at least 51 percent of the number of Indian Tribes in the Service Area revoke their concurrence to the provisions of such health services.

"(d) OTHER SERVICES.—The Service may provide health services under this subsection to individuals who are not eligible for health services provided by the Service under any other provision of law in order to—

"(1) achieve stability in a medical emergency;

"(2) prevent the spread of a communicable disease or otherwise deal with a public health hazard;

"(3) provide care to non-Indian women pregnant with an eligible Indian's child for the duration of the pregnancy through postpartum; or

"(4) provide care to immediate family members of an eligible individual if such care is directly related to the treatment of the eligible individual.

**"(e) HOSPITAL PRIVILEGES FOR PRACTITIONERS.—**

"(1) IN GENERAL.—Hospital privileges in health facilities operated and maintained by



the Service or operated under a contract or compact pursuant to the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.) may be extended to non-Service health care practitioners who provide services to individuals described in subsection (a), (b), (c), or (d). Such non-Service health care practitioners may, as part of the privileging process, be designated as employees of the Federal Government for purposes of section 1346(b) and chapter 171 of title 28, United States Code (relating to Federal tort claims) only with respect to acts or omissions which occur in the course of providing services to eligible individuals as a part of the conditions under which such hospital privileges are extended.

“(2) DEFINITION.—For purposes of this subsection, the term ‘non-Service health care practitioner’ means a practitioner who is not—

“(A) an employee of the Service; or

“(B) an employee of an Indian tribe or tribal organization operating a contract or compact under the Indian Self-Determination and Education Assistance Act or an individual who provides health care services pursuant to a personal services contract with such Indian tribe or tribal organization.

“(f) ELIGIBLE INDIAN.—For purposes of this section, the term ‘eligible Indian’ means any Indian who is eligible for health services provided by the Service without regard to the provisions of this section.

#### “SEC. 807. REALLOCATION OF BASE RESOURCES.

“(a) REPORT REQUIRED.—Notwithstanding any other provision of law, any allocation of Service funds for a fiscal year that reduces by 5 percent or more from the previous fiscal year the funding for any recurring program, project, or activity of a Service Unit may be implemented only after the Secretary has submitted to Congress, under section 801, a report on the proposed change in allocation of funding, including the reasons for the change and its likely effects.

“(b) EXCEPTION.—Subsection (a) shall not apply if the total amount appropriated to the Service for a fiscal year is at least 5 percent less than the amount appropriated to the Service for the previous fiscal year.

#### “SEC. 808. RESULTS OF DEMONSTRATION PROJECTS.

“The Secretary shall provide for the dissemination to Indian Tribes, Tribal Organizations, and urban Indian organizations of the findings and results of demonstration projects conducted under this Act.

#### “SEC. 809. MORATORIUM.

“During the period of the moratorium imposed on implementation of the final rule published in the Federal Register on September 16, 1987, by the Department of Health and Human Services, relating to eligibility for the health care services of the Indian Health Service, the Indian Health Service shall provide services pursuant to the criteria for eligibility for such services that were in effect on September 15, 1987, subject to the provisions of sections 805 and 806, until the Service has submitted to the Committees on Appropriations of the Senate and the House of Representatives a budget request reflecting the increased costs associated with the proposed final rule, and the request has been included in an appropriations Act and enacted into law.

#### “SEC. 810. SEVERABILITY PROVISIONS.

“If any provision of this Act, any amendment made by the Act, or the application of such provision or amendment to any person or circumstances is held to be invalid, the remainder of this Act, the remaining amendments made by this Act, and the application

of such provisions to persons or circumstances other than those to which it is held invalid, shall not be affected thereby.

#### “SEC. 811. USE OF PATIENT SAFETY ORGANIZATIONS.

“The Service, an Indian Tribe, Tribal Organization, or urban Indian organization may provide for quality assurance activities through the use of a patient safety organization in accordance with title IX of the Public Health Service Act.

#### “SEC. 812. CONFIDENTIALITY OF MEDICAL QUALITY ASSURANCE RECORDS; QUALIFIED IMMUNITY FOR PARTICIPANTS.

“(a) CONFIDENTIALITY OF RECORDS.—Medical quality assurance records created by or for any Indian Health Program or a health program of an Urban Indian Organization as part of a medical quality assurance program are confidential and privileged. Such records may not be disclosed to any person or entity, except as provided in subsection (c).

“(b) PROHIBITION ON DISCLOSURE AND TESTIMONY.—

“(1) IN GENERAL.—No part of any medical quality assurance record described in subsection (a) may be subject to discovery or admitted into evidence in any judicial or administrative proceeding, except as provided in subsection (c).

“(2) TESTIMONY.—A person who reviews or creates medical quality assurance records for any Indian Health Program or Urban Indian Organization who participates in any proceeding that reviews or creates such records may not be permitted or required to testify in any judicial or administrative proceeding with respect to such records or with respect to any finding, recommendation, evaluation, opinion, or action taken by such person or body in connection with such records except as provided in this section.

“(c) AUTHORIZED DISCLOSURE AND TESTIMONY.—

“(1) IN GENERAL.—Subject to paragraph (2), a medical quality assurance record described in subsection (a) may be disclosed, and a person referred to in subsection (b) may give testimony in connection with such a record, only as follows:

“(A) To a Federal executive agency or private organization, if such medical quality assurance record or testimony is needed by such agency or organization to perform licensing or accreditation functions related to any Indian Health Program or to a health program of an Urban Indian Organization to perform monitoring, required by law, of such program or organization.

“(B) To an administrative or judicial proceeding commenced by a present or former Indian Health Program or Urban Indian Organization provider concerning the termination, suspension, or limitation of clinical privileges of such health care provider.

“(C) To a governmental board or agency or to a professional health care society or organization, if such medical quality assurance record or testimony is needed by such board, agency, society, or organization to perform licensing, credentialing, or the monitoring of professional standards with respect to any health care provider who is or was an employee of any Indian Health Program or Urban Indian Organization.

“(D) To a hospital, medical center, or other institution that provides health care services, if such medical quality assurance record or testimony is needed by such institution to assess the professional qualifications of any health care provider who is or was an employee of any Indian Health Program or Urban Indian Organization and who has applied for or been granted authority or

employment to provide health care services in or on behalf of such program or organization.

“(E) To an officer, employee, or contractor of the Indian Health Program or Urban Indian Organization that created the records or for which the records were created. If that officer, employee, or contractor has a need for such record or testimony to perform official duties.

“(F) To a criminal or civil law enforcement agency or instrumentality charged under applicable law with the protection of the public health or safety, if a qualified representative of such agency or instrumentality makes a written request that such record or testimony be provided for a purpose authorized by law.

“(G) In an administrative or judicial proceeding commenced by a criminal or civil law enforcement agency or instrumentality referred to in subparagraph (F), but only with respect to the subject of such proceeding.

“(2) IDENTITY OF PARTICIPANTS.—With the exception of the subject of a quality assurance action, the identity of any person receiving health care services from any Indian Health Program or Urban Indian Organization or the identity of any other person associated with such program or organization for purposes of a medical quality assurance program that is disclosed in a medical quality assurance record described in subsection (a) shall be deleted from that record or document before any disclosure of such record is made outside such program or organization.

“(d) DISCLOSURE FOR CERTAIN PURPOSES.—

“(1) IN GENERAL.—Nothing in this section shall be construed as authorizing or requiring the withholding from any person or entity aggregate statistical information regarding the results of any Indian Health Program or Urban Indian Organizations's medical quality assurance programs.

“(2) WITHHOLDING FROM CONGRESS.—Nothing in this section shall be construed as authority to withhold any medical quality assurance record from a committee of either House of Congress, any joint committee of Congress, or the Government Accountability Office if such record pertains to any matter within their respective jurisdictions.

“(e) PROHIBITION ON DISCLOSURE OF RECORD OR TESTIMONY.—A person or entity having possession of or access to a record or testimony described by this section may not disclose the contents of such record or testimony in any manner or for any purpose except as provided in this section.

“(f) EXEMPTION FROM FREEDOM OF INFORMATION ACT.—Medical quality assurance records described in subsection (a) may not be made available to any person under section 552 of title 5, United States Code.

“(g) LIMITATION ON CIVIL LIABILITY.—A person who participates in or provides information to a person or body that reviews or creates medical quality assurance records described in subsection (a) shall not be civilly liable for such participation or for providing such information if the participation or provision of information was in good faith based on prevailing professional standards at the time the medical quality assurance program activity took place.

“(h) APPLICATION TO INFORMATION IN CERTAIN OTHER RECORDS.—Nothing in this section shall be construed as limiting access to the information in a record created and maintained outside a medical quality assurance program, including a patient's medical records, on the grounds that the information was presented during meetings of a review

body that are part of a medical quality assurance program.

“(i) REGULATIONS.—The Secretary, acting through the Service, shall promulgate regulations pursuant to section 802.

“(j) DEFINITIONS.—In this section:

“(1) The term ‘health care provider’ means any health care professional, including community health aides and practitioners certified under section 121, who are granted clinical practice privileges or employed to provide health care services in an Indian Health Program or health program of an Urban Indian Organization, who is licensed or certified to perform health care services by a governmental board or agency or professional health care society or organization.

“(2) The term ‘medical quality assurance program’ means any activity carried out before, on, or after the date of enactment of this Act by or for any Indian Health Program or Urban Indian Organization to assess the quality of medical care, including activities conducted by or on behalf of individuals, Indian Health Program or Urban Indian Organization medical or dental treatment review committees, or other review bodies responsible for quality assurance, credentials, infection control, patient safety, patient care assessment (including treatment procedures, blood, drugs, and therapeutics), medical records, health resources management review and identification and prevention of medical or dental incidents and risks.

“(3) The term ‘medical quality assurance record’ means the proceedings, records, minutes, and reports that emanate from quality assurance program activities described in paragraph (2) and are produced or compiled by or for an Indian Health Program or Urban Indian Organization as part of a medical quality assurance program.

“(k) CONTINUED PROTECTION.—Disclosure under subsection (c) does not permit redisclosure except to the extent such further disclosure is authorized under subsection (c) or is otherwise authorized to be disclosed under this section.

“(l) INCONSISTENCIES.—To the extent that the protections under the Patient Safety and Quality Improvement Act of 2005 and this section are inconsistent, the provisions of whichever is more protective shall control.

“(m) RELATIONSHIP TO OTHER LAW.—This section shall continue in force and effect, except as otherwise specifically provided in any Federal law enacted after the date of enactment of the Indian Health Care Improvement Act Amendments of 2009.

#### “SEC. 813. CLAREMORE INDIAN HOSPITAL.

“The Claremore Indian Hospital shall be deemed to be a dependant Indian community for the purposes of section 1151 of title 18, United States Code.

#### “SEC. 814. SENSE OF CONGRESS REGARDING LAW ENFORCEMENT AND METHAMPHETAMINE ISSUES IN INDIAN COUNTRY.

“It is the sense of Congress that Congress encourages State, local, and Indian tribal law enforcement agencies to enter into memoranda of agreement between and among those agencies for purposes of streamlining law enforcement activities and maximizing the use of limited resources—

“(1) to improve law enforcement services provided to Indian tribal communities; and

“(2) to increase the effectiveness of measures to address problems relating to methamphetamine use in Indian country (as defined in section 1151 of title 18, United States Code).

#### “SEC. 815. PERMITTING IMPLEMENTATION THROUGH CONTRACTS WITH TRIBAL HEALTH PROGRAMS.

“Nothing in this Act shall be construed as preventing the Secretary from—

“(1) carrying out any section of this Act through contracts with Tribal Health Programs; and

“(2) carrying out sections through 214, 701(a)(1), 701(b)(1), 701(c), 707(g), and 712(b), through contracts with urban Indian organizations.

The previous sentence shall not affect the authority the Secretary may otherwise have to carry out other provisions of this Act through such contracts.

#### “SEC. 816. AUTHORIZATION OF APPROPRIATIONS; AVAILABILITY.

“(a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this title.

“(b) LIMITATION ON NEW SPENDING AUTHORITY.—Any new spending authority (described in subparagraph (A) or (B) of section 401(c)(2) of the Congressional Budget Act of 1974 (Public Law 93-344; 88 Stat. 317)) which is provided under this Act shall be effective for any fiscal year only to such extent or in such amounts as are provided in appropriation Acts.

“(c) AVAILABILITY.—The funds appropriated pursuant to this Act shall remain available until expended.”.

(b) RATE OF PAY.—

(1) POSITIONS AT LEVEL IV.—Section 5315 of title 5, United States Code, is amended by striking “Assistant Secretaries of Health and Human Services (6).” and inserting “Assistant Secretaries of Health and Human Services (7)”.

(2) POSITIONS AT LEVEL V.—Section 5316 of title 5, United States Code, is amended by striking “Director, Indian Health Service, Department of Health and Human Services”.

(c) AMENDMENTS TO OTHER PROVISIONS OF LAW.—

(1) Section 3307(b)(1)(C) of the Children’s Health Act of 2000 (25 U.S.C. 1671 note; Public Law 106-310) is amended by striking “Director of the Indian Health Service” and inserting “Assistant Secretary for Indian Health”.

(2) The Indian Lands Open Dump Cleanup Act of 1994 is amended—

(A) in section 3 (25 U.S.C. 3902)—

(i) by striking paragraph (2);

(ii) by redesignating paragraphs (1), (3), (4), (5), and (6) as paragraphs (4), (5), (2), (6), and (1), respectively, and moving those paragraphs so as to appear in numerical order; and

(iii) by inserting before paragraph (4) (as redesignated by subclause (II)) the following:

“(3) ASSISTANT SECRETARY.—The term ‘Assistant Secretary’ means the Assistant Secretary for Indian Health.”;

(B) in section 5 (25 U.S.C. 3904), by striking the section designation and heading and inserting the following:

#### “SEC. 5. AUTHORITY OF ASSISTANT SECRETARY FOR INDIAN HEALTH.”;

(C) in section 6(a) (25 U.S.C. 3905(a)), in the subsection heading, by striking “DIRECTOR” and inserting “ASSISTANT SECRETARY”;

(D) in section 9(a) (25 U.S.C. 3908(a)), in the subsection heading, by striking “DIRECTOR” and inserting “ASSISTANT SECRETARY”; and

(E) by striking “Director” each place it appears and inserting “Assistant Secretary”.

(3) Section 5504(d)(2) of the Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988 (25 U.S.C. 2001 note; Public Law 100-297) is amended by striking “Director of the Indian Health Service” and inserting “Assistant Secretary for Indian Health”.

(4) Section 203(a)(1) of the Rehabilitation Act of 1973 (29 U.S.C. 763(a)(1)) is amended by striking “Director of the Indian Health Serv-

ice” and inserting “Assistant Secretary for Indian Health”.

(5) Subsections (b) and (e) of section 518 of the Federal Water Pollution Control Act (33 U.S.C. 1377) are amended by striking “Director of the Indian Health Service” each place it appears and inserting “Assistant Secretary for Indian Health”.

(6) Section 317M(b) of the Public Health Service Act (42 U.S.C. 247b-14(b)) is amended—

(A) by striking “Director of the Indian Health Service” each place it appears and inserting “Assistant Secretary for Indian Health”; and

(B) in paragraph (2)(A), by striking “the Directors referred to in such paragraph” and inserting “the Director of the Centers for Disease Control and Prevention and the Assistant Secretary for Indian Health”.

(7) Section 417C(b) of the Public Health Service Act (42 U.S.C. 285-9(b)) is amended by striking “Director of the Indian Health Service” and inserting “Assistant Secretary for Indian Health”.

(8) Section 1452(i) of the Safe Drinking Water Act (42 U.S.C. 300j-12(i)) is amended by striking “Director of the Indian Health Service” each place it appears and inserting “Assistant Secretary for Indian Health”.

(9) Section 803B(d)(1) of the Native American Programs Act of 1974 (42 U.S.C. 2991b-2(d)(1)) is amended in the last sentence by striking “Director of the Indian Health Service” and inserting “Assistant Secretary for Indian Health”.

(10) Section 203(b) of the Michigan Indian Land Claims Settlement Act (Public Law 105-143; 111 Stat. 2666) is amended by striking “Director of the Indian Health Service” and inserting “Assistant Secretary for Indian Health”.

#### SEC. 3102. NATIVE AMERICAN HEALTH AND WELLNESS FOUNDATION.

(a) IN GENERAL.—The Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.) is amended by adding at the end the following:

#### “TITLE VIII—NATIVE AMERICAN HEALTH AND WELLNESS FOUNDATION

##### “SEC. 801. DEFINITIONS.

“In this title:

“(1) BOARD.—The term ‘Board’ means the Board of Directors of the Foundation.

“(2) COMMITTEE.—The term ‘Committee’ means the Committee for the Establishment of Native American Health and Wellness Foundation established under section 802(f).

“(3) FOUNDATION.—The term ‘Foundation’ means the Native American Health and Wellness Foundation established under section 802.

“(4) SECRETARY.—The term ‘Secretary’ means the Secretary of Health and Human Services.

“(5) SERVICE.—The term ‘Service’ means the Indian Health Service of the Department of Health and Human Services.

##### “SEC. 802. NATIVE AMERICAN HEALTH AND WELLNESS FOUNDATION.

“(a) ESTABLISHMENT.—

“(1) IN GENERAL.—As soon as practicable after the date of enactment of this title, the Secretary shall establish, under the laws of the District of Columbia and in accordance with this title, the Native American Health and Wellness Foundation.

“(2) FUNDING DETERMINATIONS.—No funds, gift, property, or other item of value (including any interest accrued on such an item) acquired by the Foundation shall—

“(A) be taken into consideration for purposes of determining Federal appropriations

relating to the provision of health care and services to Indians; or

“(B) otherwise limit, diminish, or affect the Federal responsibility for the provision of health care and services to Indians.

“(b) PERPETUAL EXISTENCE.—The Foundation shall have perpetual existence.

“(c) NATURE OF CORPORATION.—The Foundation—

“(1) shall be a charitable and nonprofit federally chartered corporation; and

“(2) shall not be an agency or instrumentality of the United States.

“(d) PLACE OF INCORPORATION AND DOMICILE.—The Foundation shall be incorporated and domiciled in the District of Columbia.

“(e) DUTIES.—The Foundation shall—

“(1) encourage, accept, and administer private gifts of real and personal property, and any income from or interest in such gifts, for the benefit of, or in support of, the mission of the Service;

“(2) undertake and conduct such other activities as will further the health and wellness activities and opportunities of Native Americans; and

“(3) participate with and assist Federal, State, and tribal governments, agencies, entities, and individuals in undertaking and conducting activities that will further the health and wellness activities and opportunities of Native Americans.

“(f) COMMITTEE FOR THE ESTABLISHMENT OF NATIVE AMERICAN HEALTH AND WELLNESS FOUNDATION.—

“(1) IN GENERAL.—The Secretary shall establish the Committee for the Establishment of Native American Health and Wellness Foundation to assist the Secretary in establishing the Foundation.

“(2) DUTIES.—Not later than 180 days after the date of enactment of this section, the Committee shall—

“(A) carry out such activities as are necessary to incorporate the Foundation under the laws of the District of Columbia, including acting as incorporators of the Foundation;

“(B) ensure that the Foundation qualifies for and maintains the status required to carry out this section, until the Board is established;

“(C) establish the constitution and initial bylaws of the Foundation;

“(D) provide for the initial operation of the Foundation, including providing for temporary or interim quarters, equipment, and staff; and

“(E) appoint the initial members of the Board in accordance with the constitution and initial bylaws of the Foundation.

“(g) BOARD OF DIRECTORS.—

“(1) IN GENERAL.—The Board of Directors shall be the governing body of the Foundation.

“(2) POWERS.—The Board may exercise, or provide for the exercise of, the powers of the Foundation.

“(3) SELECTION.—

“(A) IN GENERAL.—Subject to subparagraph (B), the number of members of the Board, the manner of selection of the members (including the filling of vacancies), and the terms of office of the members shall be as provided in the constitution and bylaws of the Foundation.

“(B) REQUIREMENTS.—

“(i) NUMBER OF MEMBERS.—The Board shall have at least 11 members, who shall have staggered terms.

“(ii) INITIAL VOTING MEMBERS.—The initial voting members of the Board—

“(I) shall be appointed by the Committee not later than 180 days after the date on which the Foundation is established; and

“(II) shall have staggered terms.

“(iii) QUALIFICATION.—The members of the Board shall be United States citizens who are knowledgeable or experienced in Native American health care and related matters.

“(C) COMPENSATION.—A member of the Board shall not receive compensation for service as a member, but shall be reimbursed for actual and necessary travel and subsistence expenses incurred in the performance of the duties of the Foundation.

“(h) OFFICERS.—

“(1) IN GENERAL.—The officers of the Foundation shall be—

“(A) a secretary, elected from among the members of the Board; and

“(B) any other officers provided for in the constitution and bylaws of the Foundation.

“(2) CHIEF OPERATING OFFICER.—The secretary of the Foundation may serve, at the direction of the Board, as the chief operating officer of the Foundation, or the Board may appoint a chief operating officer, who shall serve at the direction of the Board.

“(3) ELECTION.—The manner of election, term of office, and duties of the officers of the Foundation shall be as provided in the constitution and bylaws of the Foundation.

“(i) POWERS.—The Foundation—

“(1) shall adopt a constitution and bylaws for the management of the property of the Foundation and the regulation of the affairs of the Foundation;

“(2) may adopt and alter a corporate seal;

“(3) may enter into contracts;

“(4) may acquire (through a gift or otherwise), own, lease, encumber, and transfer real or personal property as necessary or convenient to carry out the purposes of the Foundation;

“(5) may sue and be sued; and

“(6) may perform any other act necessary and proper to carry out the purposes of the Foundation.

“(j) PRINCIPAL OFFICE.—

“(1) IN GENERAL.—The principal office of the Foundation shall be in the District of Columbia.

“(2) ACTIVITIES; OFFICES.—The activities of the Foundation may be conducted, and offices may be maintained, throughout the United States in accordance with the constitution and bylaws of the Foundation.

“(k) SERVICE OF PROCESS.—The Foundation shall comply with the law on service of process of each State in which the Foundation is incorporated and of each State in which the Foundation carries on activities.

“(l) LIABILITY OF OFFICERS, EMPLOYEES, AND AGENTS.—

“(1) IN GENERAL.—The Foundation shall be liable for the acts of the officers, employees, and agents of the Foundation acting within the scope of their authority.

“(2) PERSONAL LIABILITY.—A member of the Board shall be personally liable only for gross negligence in the performance of the duties of the member.

“(m) RESTRICTIONS.—

“(1) LIMITATION ON SPENDING.—Beginning with the fiscal year following the first full fiscal year during which the Foundation is in operation, the administrative costs of the Foundation shall not exceed the percentage described in paragraph (2) of the sum of—

“(A) the amounts transferred to the Foundation under subsection (o) during the preceding fiscal year; and

“(B) donations received from private sources during the preceding fiscal year.

“(2) PERCENTAGES.—The percentages referred to in paragraph (1) are—

“(A) for the first fiscal year described in that paragraph, 20 percent;

“(B) for the following fiscal year, 15 percent; and

“(C) for each fiscal year thereafter, 10 percent.

“(3) APPOINTMENT AND HIRING.—The appointment of officers and employees of the Foundation shall be subject to the availability of funds.

“(4) STATUS.—A member of the Board or officer, employee, or agent of the Foundation shall not by reason of association with the Foundation be considered to be an officer, employee, or agent of the United States.

“(n) AUDITS.—The Foundation shall comply with section 10101 of title 36, United States Code, as if the Foundation were a corporation under part B of subtitle II of that title.

“(o) FUNDING.—

“(1) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out subsection (e)(1) \$500,000 for each fiscal year, as adjusted to reflect changes in the Consumer Price Index for all-urban consumers published by the Department of Labor.

“(2) TRANSFER OF DONATED FUNDS.—The Secretary shall transfer to the Foundation funds held by the Department of Health and Human Services under the Act of August 5, 1954 (42 U.S.C. 2001 et seq.), if the transfer or use of the funds is not prohibited by any term under which the funds were donated.

#### “SEC. 803. ADMINISTRATIVE SERVICES AND SUPPORT.

“(a) PROVISION OF SUPPORT BY SECRETARY.—Subject to subsection (b), during the 5-year period beginning on the date on which the Foundation is established, the Secretary—

“(1) may provide personnel, facilities, and other administrative support services to the Foundation;

“(2) may provide funds for initial operating costs and to reimburse the travel expenses of the members of the Board; and

“(3) shall require and accept reimbursements from the Foundation for—

“(A) services provided under paragraph (1); and

“(B) funds provided under paragraph (2).

“(b) REIMBURSEMENT.—Reimbursements accepted under subsection (a)(3)—

“(1) shall be deposited in the Treasury of the United States to the credit of the applicable appropriations account; and

“(2) shall be chargeable for the cost of providing services described in subsection (a)(1) and travel expenses described in subsection (a)(2).

“(c) CONTINUATION OF CERTAIN SERVICES.—The Secretary may continue to provide facilities and necessary support services to the Foundation after the termination of the 5-year period specified in subsection (a) if the facilities and services—

“(1) are available; and

“(2) are provided on reimbursable cost basis.”

(b) TECHNICAL AMENDMENTS.—The Indian Self-Determination and Education Assistance Act is amended—

(1) by redesignating title V (25 U.S.C. 458bbb et seq.) as title VII;

(2) by redesignating sections 501, 502, and 503 (25 U.S.C. 458bbb, 458bbb-1, 458bbb-2) as sections 701, 702, and 703, respectively; and

(3) in subsection (a)(2) of section 702 and paragraph (2) of section 703 (as redesignated by paragraph (2)), by striking “section 501” and inserting “section 701”.

#### SEC. 3103. GAO STUDY AND REPORT ON PAYMENTS FOR CONTRACT HEALTH SERVICES.

(a) STUDY.—

(1) IN GENERAL.—The Comptroller General of the United States (in this section referred to as the “Comptroller General”) shall conduct a study on the utilization of health care furnished by health care providers under the contract health services program funded by the Indian Health Service and operated by the Indian Health Service, an Indian Tribe, or a Tribal Organization (as those terms are defined in section 4 of the Indian Health Care Improvement Act).

(2) ANALYSIS.—The study conducted under paragraph (1) shall include an analysis of—

(A) the amounts reimbursed under the contract health services program described in paragraph (1) for health care furnished by entities, individual providers, and suppliers, including a comparison of reimbursement for such health care through other public programs and in the private sector;

(B) barriers to accessing care under such contract health services program, including, but not limited to, barriers relating to travel distances, cultural differences, and public and private sector reluctance to furnish care to patients under such program;

(C) the adequacy of existing Federal funding for health care under such contract health services program; and

(D) any other items determined appropriate by the Comptroller General.

(b) REPORT.—Not later than 18 months after the date of enactment of this Act, the Comptroller General shall submit to Congress a report on the study conducted under subsection (a), together with recommendations regarding—

(1) the appropriate level of Federal funding that should be established for health care under the contract health services program described in subsection (a)(1); and

(2) how to most efficiently utilize such funding.

(c) CONSULTATION.—In conducting the study under subsection (a) and preparing the report under subsection (b), the Comptroller General shall consult with the Indian Health Service, Indian Tribes, and Tribal Organizations.

## **TITLE II—IMPROVEMENT OF INDIAN HEALTH CARE PROVIDED UNDER THE SOCIAL SECURITY ACT**

### **SEC. 3201. EXPANSION OF PAYMENTS UNDER MEDICARE, MEDICAID, AND SCHIP FOR ALL COVERED SERVICES FURNISHED BY INDIAN HEALTH PROGRAMS.**

(a) MEDICAID.—

(1) EXPANSION TO ALL COVERED SERVICES.—Section 1911 of the Social Security Act (42 U.S.C. 1396j) is amended—

(A) by amending the heading to read as follows:

**“SEC. 1911. INDIAN HEALTH PROGRAMS.”;**

and

(B) by amending subsection (a) to read as follows:

“(a) ELIGIBILITY FOR PAYMENT FOR MEDICAL ASSISTANCE.—An Indian Health Program shall be eligible for payment for medical assistance provided under a State plan or under waiver authority with respect to items and services furnished by the Program if the furnishing of such services meets all the conditions and requirements which are applicable generally to the furnishing of items and services under this title and under such plan or waiver authority.”

(2) REPEAL OF OBSOLETE PROVISION.—Subsection (b) of such section is repealed.

(3) REVISION OF AUTHORITY TO ENTER INTO AGREEMENTS.—Subsection (c) of such section is amended to read as follows:

“(c) AUTHORITY TO ENTER INTO AGREEMENTS.—The Secretary may enter into an

agreement with a State for the purpose of reimbursing the State for medical assistance provided by the Indian Health Service, an Indian Tribe, Tribal Organization, or an Urban Indian Organization (as so defined), directly, through referral, or under contracts or other arrangements between the Indian Health Service, an Indian Tribe, Tribal Organization, or an Urban Indian Organization and another health care provider to Indians who are eligible for medical assistance under the State plan or under waiver authority. This subsection shall not be construed to impair the entitlement of a State to reimbursement for such medical assistance under this title.”

(4) CROSS-REFERENCES TO SPECIAL FUND FOR IMPROVEMENT OF IHS FACILITIES; DIRECT BILLING OPTION; DEFINITIONS.—Such section is further amended by striking subsection (d) and adding at the end the following new subsections:

“(c) SPECIAL FUND FOR IMPROVEMENT OF IHS FACILITIES.—For provisions relating to the authority of the Secretary to place payments to which a facility of the Indian Health Service is eligible for payment under this title into a special fund established under section 401(c)(1) of the Indian Health Care Improvement Act, see subparagraphs (A) and (B) of section 401(c)(1) of such Act.

“(d) DIRECT BILLING.—For provisions relating to the authority of an Tribal Health Program to elect to directly bill for, and receive payment for, health care items and services provided by such Program for which payment is made under this title, see section 401(d) of the Indian Health Care Improvement Act.”

(5) DEFINITIONS.—Section 1101(a) of such Act (42 U.S.C. 1301(a)) is amended by adding at the end the following new paragraph:

“(11) For purposes of this title and titles XVIII, XIX, and XXI, the terms ‘Indian Health Program’, ‘Indian Tribe’ (and ‘Indian tribe’), ‘Tribal Health Program’, ‘Tribal Organization’ (and ‘tribal organization’), and ‘urban Indian organization’ (and ‘urban Indian organization’) have the meanings given those terms in section 4 of the Indian Health Care Improvement Act.”

(b) MEDICARE.—

(1) EXPANSION TO ALL COVERED SERVICES.—Section 1880 of such Act (42 U.S.C. 1395qq) is amended—

(A) by amending the heading to read as follows:

**“SEC. 1880. INDIAN HEALTH PROGRAMS.”;**

and

(B) by amending subsection (a) to read as follows:

“(a) ELIGIBILITY FOR PAYMENTS.—Subject to subsection (e), an Indian Health Program shall be eligible for payments under this title with respect to items and services furnished by the Program if the furnishing of such services meets all the conditions and requirements which are applicable generally to the furnishing of items and services under this title.”

(2) REPEAL OF OBSOLETE PROVISION.—Subsection (b) of such section is repealed.

(3) CROSS-REFERENCES TO SPECIAL FUND FOR IMPROVEMENT OF IHS FACILITIES; DIRECT BILLING OPTION; DEFINITIONS.—

(A) IN GENERAL.—Such section is further amended by striking subsections (c) and (d) and inserting the following new subsections:

“(b) SPECIAL FUND FOR IMPROVEMENT OF IHS FACILITIES.—For provisions relating to the authority of the Secretary to place payments to which a facility of the Indian Health Service is eligible for payment under this title into a special fund established

under section 401(c)(1) of the Indian Health Care Improvement Act, and the requirement to use amounts paid from such fund for making improvements in accordance with subsection (b), see subparagraphs (A) and (B) of section 401(c)(1) of such Act.

“(c) DIRECT BILLING.—For provisions relating to the authority of a Tribal Health Program to elect to directly bill for, and receive payment for, health care items and services provided by such Program for which payment is made under this title, see section 401(d) of the Indian Health Care Improvement Act.”

(B) CONFORMING AMENDMENTS.—Such section is further amended—

(i) in subsection (e)(3), by striking “Subsection (c)” and inserting “Subsection (b) and section 401(b)(1) of the Indian Health Care Improvement Act”;

(ii) by redesignating subsection (e) as subsection (d); and

(iii) by striking subsection (f).

(4) DEFINITIONS.—Such section is further amended by amending adding at the end the following new subsection:

“(e) DEFINITIONS.—In this section, the terms ‘Indian Health Program’, ‘Indian Tribe’, ‘Service Unit’, ‘Tribal Health Program’, ‘Tribal Organization’, and ‘Urban Indian Organization’ have the meanings given those terms in section 4 of the Indian Health Care Improvement Act.”

(c) APPLICATION TO SCHIP.—Section 2107(e)(1) of the Social Security Act (42 U.S.C. 1397gg(e)(1)) is amended—

(1) by redesignating subparagraphs (K) through (M) as subparagraphs (L) through (N), respectively; and

(2) by inserting after subparagraph (J), the following new subparagraph:

“(K) Section 1911 (relating to Indian Health Programs, other than subsection (c) of such section).”

### **SEC. 3202. ADDITIONAL PROVISIONS TO INCREASE OUTREACH TO, AND ENROLLMENT OF, INDIANS IN SCHIP AND MEDICAID.**

(a) ASSURANCE OF PAYMENTS TO INDIAN HEALTH CARE PROVIDERS FOR CHILD HEALTH ASSISTANCE.—Section 2102(b)(3)(D) of the Social Security Act (42 U.S.C. 1397bb(b)(3)(D)) is amended by striking “(as defined in section 4(c) of the Indian Health Care Improvement Act, 25 U.S.C. 1603(c))” and inserting “, including how the State will ensure that payments are made to Indian Health Programs and urban Indian organizations operating in the State for the provision of such assistance”.

(b) INCLUSION OF OTHER INDIAN FINANCED HEALTH CARE PROGRAMS IN EXEMPTION FROM PROHIBITION ON CERTAIN PAYMENTS.—Section 2105(c)(6)(B) of such Act (42 U.S.C. 1397ee(c)(6)(B)) is amended by striking “insurance program, other than an insurance program operated or financed by the Indian Health Service” and inserting “program, other than a health care program operated or financed by the Indian Health Service or by an Indian Tribe, Tribal Organization, or urban Indian organization”.

(c) DEFINITIONS.—Section 2110(c) of such Act (42 U.S.C. 1397jj(c)) is amended by adding at the end the following new paragraph:

“(9) INDIAN; INDIAN HEALTH PROGRAM; INDIAN TRIBE; ETC.—The terms ‘Indian’, ‘Indian Health Program’, ‘Indian Tribe’, ‘Tribal Organization’, and ‘Urban Indian Organization’ have the meanings given those terms in section 4 of the Indian Health Care Improvement Act.”

**SEC. 3203. SOLICITATION OF PROPOSALS FOR SAFE HARBORS UNDER THE SOCIAL SECURITY ACT FOR FACILITIES OF INDIAN HEALTH PROGRAMS AND URBAN INDIAN ORGANIZATIONS.**

The Secretary of Health and Human Services, acting through the Office of the Inspector General of the Department of Health and Human Services, shall publish a notice, described in section 1128D(a)(1)(A) of the Social Security Act (42 U.S.C. 1320a-7d(a)(1)(A)), soliciting a proposal, not later than July 1, 2010, on the development of safe harbors described in such section relating to health care items and services provided by facilities of Indian Health Programs or an urban Indian organization (as such terms are defined in section 4 of the Indian Health Care Improvement Act). Such a safe harbor may relate to areas such as transportation, housing, or cost-sharing, assistance provided through such facilities or contract health services for Indians.

**SEC. 3204. ANNUAL REPORT ON INDIANS SERVED BY SOCIAL SECURITY ACT HEALTH BENEFIT PROGRAMS.**

Section 1139 of the Social Security Act (42 U.S.C. 1320b-9), as amended by the sections 3203 and 3204, is amended by redesignating subsection (e) as subsection (f), and inserting after subsection (d) the following new subsection:

“(e) ANNUAL REPORT ON INDIANS SERVED BY HEALTH BENEFIT PROGRAMS FUNDED UNDER THIS ACT.—Beginning January 1, 2011, and annually thereafter, the Secretary, acting through the Administrator of the Centers for Medicare & Medicaid Services and the Director of the Indian Health Service, shall submit a report to Congress regarding the enrollment and health status of Indians receiving items or services under health benefit programs funded under this Act during the preceding year. Each such report shall include the following:

“(1) The total number of Indians enrolled in, or receiving items or services under, such programs, disaggregated with respect to each such program.

“(2) The number of Indians described in paragraph (1) that also received health benefits under programs funded by the Indian Health Service.

“(3) General information regarding the health status of the Indians described in paragraph (1), disaggregated with respect to specific diseases or conditions and presented in a manner that is consistent with protections for privacy of individually identifiable health information under section 264(c) of the Health Insurance Portability and Accountability Act of 1996.

“(4) A detailed statement of the status of facilities of the Indian Health Service or an Indian Tribe, Tribal Organization, or an Urban Indian Organization with respect to such facilities’ compliance with the applicable conditions and requirements of titles XVIII, XIX, and XXI, and, in the case of title XIX or XXI, under a State plan under such title or under waiver authority, and of the progress being made by such facilities (under plans submitted under 1911(b) or otherwise) toward the achievement and maintenance of such compliance.

“(5) Such other information as the Secretary determines is appropriate.”

**SEC. 3205. DEVELOPMENT OF RECOMMENDATIONS TO IMPROVE INTERSTATE COORDINATION OF MEDICAID AND SCHIP COVERAGE OF INDIAN CHILDREN AND OTHER CHILDREN WHO ARE OUTSIDE OF THEIR STATE OF RESIDENCY BECAUSE OF EDUCATIONAL OR OTHER NEEDS.**

(a) STUDY.—The Secretary shall conduct a study to identify barriers to interstate co-

ordination of enrollment and coverage under the Medicaid program under title XIX of the Social Security Act and the State Children’s Health Insurance Program under title XXI of such Act of children who are eligible for medical assistance or child health assistance under such programs and who, because of educational needs, migration of families, emergency evacuations, or otherwise, frequently change their State of residency or otherwise are temporarily present outside of the State of their residency. Such study shall include an examination of the enrollment and coverage coordination issues faced by Indian children who are eligible for medical assistance or child health assistance under such programs in their State of residence and who temporarily reside in an out-of-State boarding school or peripheral dormitory funded by the Bureau of Indian Affairs.

(b) REPORT.—Not later than 18 months after the date of enactment of this Act, the Secretary, in consultation with directors of State Medicaid programs under title XIX of the Social Security Act and directors of State Children’s Health Insurance Programs under title XXI of such Act, shall submit a report to Congress that contains recommendations for such legislative and administrative actions as the Secretary determines appropriate to address the enrollment and coverage coordination barriers identified through the study required under subsection (a).

The SPEAKER pro tempore. After 4 hours of debate on the bill, as amended, equally divided among and controlled by the Chair and ranking minority member of the Committee on Energy and Commerce, the Chair and ranking minority member of the Committee on Ways and Means, and the Chair and ranking minority member of the Committee on Education and Labor, the further amendment printed in part C of the report, if offered by the gentleman from Michigan (Mr. STUPAK) or his designee, shall be considered read, and shall be debatable for 20 minutes, equally divided and controlled by the proponent and an opponent. The further amendment in the nature of a substitute printed in part D of the report, if offered by the gentleman from Ohio (Mr. BOEHNER) or his designee, shall be considered as read, and shall be debatable for 1 hour equally divided and controlled by the proponent and an opponent.

The gentleman from California (Mr. WAXMAN), the gentleman from Texas (Mr. BARTON), the gentleman from New York (Mr. RANGEL), the gentleman from Michigan (Mr. CAMP), the gentleman from California (Mr. GEORGE MILLER), and the gentleman from Minnesota (Mr. KLINE) each will control 40 minutes.

The Chair now recognizes the gentleman from California (Mr. WAXMAN).

□ 1400

Mr. WAXMAN. Mr. Speaker, I am pleased to start off the debate by recognizing our very distinguished majority leader, STENY HOYER from the State of Maryland, for 1 minute.

Mr. HOYER. I thank Mr. WAXMAN for yielding.

Our rule was chaired by JOHN DINGELL, himself a historic figure on a historic day.

I want to congratulate all of those who have participated in the accomplishment of the product that we consider this day: Mr. WAXMAN, one of our senior Members in the House; Mr. RANGEL, one of our senior Members in the House; and Mr. MILLER.

I want to thank too the Republicans who engaged in this discussion, in this debate, because it is historic, and all of us who sit in this Chamber know that it will have a great effect on our people. Some perceive that effect as not positive. More, I believe, think it is positive. In any event, none of us believe that it is not extraordinarily important.

Soon each one of us is going to look into his or her conscience and vote on this bill. And when the time comes, I don’t know if any words of mine will sway any of you. But I know that the most powerful arguments for the bill won’t be spoken on this floor. They are being lived right now in our country in every one of our districts, in every one of our towns and counties and municipalities.

In the anxiety of the family that finds itself paying more and more each year for health insurance that grows weaker and weaker.

In the frustration of the small business owner weighing the choices of dropping her employees’ coverage against the threat of being driven out of business by her competitors.

And in the fury of the patient who learns that an insurance company bureaucrat has deemed him too sick for the coverage he paid for.

They are our families, our neighbors, our fellow citizens. They are waiting for health insurance reform that is more affordable, more secure, more just. Their stories will be with me and I know with each of us when we cast our vote.

Because I want to say to every American facing down illness: never again, never again will you be denied coverage because you have diabetes or asthma or some other disease or because you’re pregnant or because you have anything else your insurer decides is a preexisting condition. Never again will your coverage run out. Nor will you find the coverage you thought you had paid for was actually not there at all. And never again can insurance companies drive out competition and set premiums as high as they like, because there will be a public insurance option and a transparent marketplace to keep them honest, to keep them competitive, to bring prices down.

I want to say to our middle class families, the backbone of our country: you will have coverage that you can depend upon. Even if you change your job or lose your job or decide to start a business, you will be able to find affordable coverage in a competitive

marketplace, an insurance exchange that offers you a choice of good policies at fair rates. In fact, according to an MIT analysis, buying coverage on the exchange will bring your premiums down by a great deal, even without the affordability credits.

If your family makes \$90,000 or more, you'll save more than 1,200 bucks. If your family makes \$60,000, you'll save more than \$5,000. And if your family is making \$38,000, you'll save more than \$9,000. That's the kind of tax cut that America needs to secure its medical future.

I want to say to our seniors: you can count on Medicare, on a Federal program, for dignity and peace of mind in your golden years. And that will not change. Today we will vote to protect your access to your doctor, to encourage Medicare physicians to cooperate on higher quality care, to keep your Medicare solvent for longer, and to bring an end to the doughnut hole that leaves prescription drugs unaffordable for so many.

I want to say to our small businessmen and women: I know your premiums keep going up and that each year they make it harder to stay in business, to compete with Big Business and with foreign firms. You deserve a fair playing field; and in the insurance exchange marketplace, you'll be able to buy coverage at the low group rates you're now being denied.

I want to say to the 35 million Americans without insurance, who are forced to skip checkups and preventative care, who are forced to turn to the ER as the first and only line of defense, who live sicker and shorter lives: you will have what every man, woman, and child has in every other industrialized country in the world: health coverage you can afford and that you can count on.

And every American who is rightly worried about our mounting deficits and debt, I can tell you this: this bill does not add to the deficit over the next 10 years or the 10 years thereafter. This bill means health care that is more fiscally sustainable for years to come.

That is what this bill, the Affordable Health Care for America Act, can achieve for our country and for our people. It isn't a simple bill. It isn't a perfect bill, but it is the product of months and months of careful debate, sometimes animated debate, yes, even angry debate, careful scrutiny, hard work, and citizen input. And it's the right response to this time of economic insecurity in which we have been called to lead.

If we miss this chance, or if we vote for a Republican plan that does very little to expand coverage, weakens insurance, frankly, for millions who have it, and continues to allow millions of Americans to be denied affordable coverage, we'll find ourselves back here again.

But by then, premiums will eat up even more of our families' budgets; health care will consume even more of our economy; and even more Americans will have died for the lack of health care.

If we miss this chance, if we miss this challenge of nearly a century's duration, when Teddy Roosevelt, one of the great Presidents of this country, a Republican President of this country, said a hundred years ago we need to have health care coverage for all Americans—this is not a new idea, but it is an idea whose time has surely come—the years between this chance and our next one will be filled with stories that are unworthy of America at its best.

Stories like Linda's, who wrote to *The New York Times* of the anguish she felt suffering from abdominal cancer and standing in the hospital just feet away from the drugs that could help save her life, drugs her insurance company was denying her.

Stories like Deamonte Driver's from Prince George's County, just a few miles down the road, who died at the age of 12 from a toothache, a toothache that was not treated by a dentist; and, as a result, it became infected. That infection went into his brain. He was in the hospital for 30 days at a cost of \$250,000. Why? Because he didn't have \$80 to get that tooth filled.

This bill will change that. We can be better than that. America is better than that. We must be.

Americans rightly want to know what's in this bill for them and for their families, but there's also something important in this bill for us as a people: a system worthy of the values we profess and the principles we hold dear. We will vote for a healthier America. We will vote to give our fellow citizens a greater sense of security. We will vote to make Medicare stronger for our seniors. We will vote for a healthier economy, for affordable coverage for individuals and small business. We will vote to begin containing costs, which will otherwise be unsustainable for our children and for our grandchildren.

We will, in sum, my colleagues, on this historic day, vote for a more perfect Union of which our Founders dreamed.

Mr. WAXMAN. Mr. Speaker, I reserve the balance of my time.

Mr. BARTON of Texas. Mr. Speaker, I yield myself 2 minutes.

Mr. Speaker, I first want to apologize to my wife, Terry. Back in September for my 60th birthday, she gave me a birthday present of a weekend in Las Vegas today. I obviously can't be there because I have to be here doing my duty for the 6th District of Texas. But like many of us, we wear two hats. So to my wife and all the families that had things planned this weekend, I do want to apologize.

I would also point out that my wife works for a public hospital in Fort

Worth, Texas; and this is something that's very, very dear to her heart.

Mr. Speaker, there are many reasons to oppose the bill before us, H.R. 3962. There are numerous policy reasons. It's going to cost over \$1.2 trillion over 10 years if you include the physician reimbursement fix in the separate bill. When fully implemented, it's my opinion that two-thirds to three-fourths of every dollar spent on health care in America is going to be spent by the Federal Government in some shape, form, or fashion. It's going to create, in my opinion, Mr. Speaker, a two-tiered health care system: the public system for most of us and then a private system for the elites of the country that can afford to go outside the public system.

It's a bad deal for average Americans. The average person today who works and has a health care plan through their employer, the average plan costs about \$10,000 a year. The employee pays \$3,500; the employer pays \$6,500. Since there's an 8 percent payroll tax, on the average of \$40,000, that would be about \$3,200. Most employers, when this plan is implemented, can pay the 8 percent tax, which is \$3,200, or the \$6,500 premium that they pay for their employees.

They're going to stop providing health care through the employment and they're just going to put them in the public option. The employee is going to take that \$3,500 that he or she was paying for their premium for a \$10,000 plan and they're going to find out that when they go into the health care exchange, their \$3,500 doesn't buy a \$10,000 policy. It buys a \$3,500 policy. It's a bad deal.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. BARTON of Texas. Mr. Speaker, I yield myself 1 more minute.

So there are lots of policy reasons.

But the real reason, Mr. Speaker, is that I just don't think it's right, in the guise of helping Americans, to mandate what they have to do. I don't think it's right to mandate that you have to have health insurance or you might go to jail. I don't think it's right that you mandate an employer to provide health care insurance or they're going to pay all these penalties. I don't think it's right that we set up a health choice administration that sets what the health care plans have to be. I don't think it's right that you say that 70 to 90 percent of those premiums of the benefit package that is mandated has to be paid by the employer.

I just don't think mandating to Americans is a good idea, except in a few cases. To protect the country in times of war, we have on occasion had to mandate our young men, and now our young women, to have to serve. We mandate we have to pay our taxes. But we don't have to mandate that you need health insurance.



Vote “no” on the bill and “yes” on the Republican substitute.

Mr. WAXMAN. Mr. Speaker, I am pleased at this time to yield 3 minutes to the majority whip of the House of Representatives, Mr. CLYBURN.

Mr. CLYBURN. I thank Chairman WAXMAN for yielding me the time.

Mr. Speaker, today I’m thinking about a woman from South Carolina. A few months ago during the August break, I participated in a talk radio program on health reform, and a gentleman called in to tell me that his health care was great, and he didn’t want me or the government to mess with it.

□ 1415

I explained to him that our plan was about choice, bringing down costs, and providing quality care.

But the next caller got right to the heart of the matter. She said, Of course he likes his health insurance; it is probably because he has never tried to use it. She explained that she had recently been diagnosed with cancer and thought she liked her coverage until she tried to use it. She said that when she began to get treatment she was dropped from her insurance coverage.

Mr. Speaker, that is why we are here today, to respond to that caller and others who have asked, What’s in this plan for me?

When this bill is signed into law, 15 reforms will immediately occur. Among them are: beginning to close the doughnut hole by increasing Medicare part D coverage by \$500; increased funding for community health centers, doubling the number of patients seen over 5 years; extending coverage for young people to stay on their parents’ insurance plans up to their 27th birthday; access for the uninsured with pre-existing conditions to a temporary insurance plan that we are calling a high-risk pool; from the date of enactment, and until the exchange is available, insurers will be prohibited from dropping your coverage if you get sick; from the date of enactment, COBRA health insurance coverage will be extended until the exchange is available and displaced workers can have affordable coverage; and from the date of enactment, we will hinder price-gouging with sunshine requirements on insurance companies to disclose insurance rate increases.

Now, after 2013, when the mandate for coverage and exchange are in place, you will see three additional protections: no more copays for routine checkups and preventive care; no lifetime or yearly caps on what insurance companies will cover; there will be yearly caps on your out-of-pocket expenses; and, as has been said so often, there will be an end to discrimination because of preexisting conditions like diabetes, heart disease or cancer.

Mr. Speaker, these are just 11 reasons to support this bill. My colleagues will share with you many others.

Mr. BARTON of Texas. Mr. Speaker, I yield 1 minute to a member of the committee, the gentleman from Illinois (Mr. SHIMKUS).

Mr. SHIMKUS. Mr. Speaker, I think it spoke volumes that my friend, JOHN DINGELL, chaired the rule. JOHN DINGELL has always been a single-payer advocate. That speaks volumes to what the real intent of this bill is.

The goal of this legislation has been clear: to pass a public option that will serve as a gateway to a single-payer, government-controlled system. Don’t trust me; ask my friend, JAN SCHAKOWSKY, or ask Chairman BARNEY FRANK. Or believe President Obama who said, “I happen to be a proponent of a single-payer health care program. But I don’t think we’re going to be able to eliminate employer coverage immediately.”

Make no mistake, this bill will achieve the single-payer goal. And along with it, it will raise premiums, increase taxes, cuts billions of dollars from Medicare, and cost millions of working Americans their job. And at the end, a single-payer system will force every American into a one-size-fits-all system that rations care. A government that rations care is anti-life.

Mr. WAXMAN. Mr. Speaker, at this time I am very pleased to recognize and to yield 1 minute to the gentleman from Connecticut (Ms. DELAURO).

Ms. DELAURO. Mr. Speaker, I rise at this historic moment in support of the Affordable Health Care for America Act. None of us will again have such an opportunity in our time serving in the United States Congress to do something so enduring and fulfilling, to make sure that every American shall have access to quality, affordable health insurance.

For more than a century, the special interests have won this moment. Presidents Theodore and Franklin Roosevelt, Truman, Kennedy, Nixon, and Clinton have spoken of our country’s aspiration, but only now have we come so far.

When the Democrats and the Congress passed Medicare, we lifted seniors out of poverty forever, and now we get to say to working Americans, You can no longer be broken by a health insurance system that drops you when you are sick or lose a job.

It says to women, You will no longer be denied coverage on account of a C-section or domestic violence. No longer will maternity or preventive care be ignored.

I urge my colleagues to vote for history and for America today. This is why we are here.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair will remind all persons in the gallery that they are here as guests of the House and that any manifestation

of approval or disapproval of proceedings or other audible conversation is in violation of the rules of the House.

Mr. BARTON of Texas. Mr. Speaker, I would like to yield 1 minute to the gentlewoman from California (Mrs. BONO MACK), a member of the committee.

Mrs. BONO MACK. Mr. Speaker, I rise today to express my strong opposition to this bill. It is a bill that flies in the face of the Hippocratic oath which both my father and grandfather took as young doctors, which says, “Do no harm.”

In fact, this bill does a tremendous amount of harm and would inflict an enormous burden on current and future generations of Americans. It would raise insurance premiums, raise taxes, and create huge new government bureaucracies to stand squarely between patients and doctors.

This bill does not offer real health care reform. Rather than reduce costs and make health care more affordable and accessible, this bill will increase costs to consumers and put the government in charge of deciding what treatment and care Americans are entitled to.

Millions of Americans have resoundingly rejected this shell game masquerading as reform. The very least we can do is listen to the American people and reject this flawed bill.

Mr. WAXMAN. Mr. Speaker, I am pleased now to yield 2 minutes to the gentleman from Connecticut (Mr. LARSON), the chairman of the Democratic Caucus.

Mr. LARSON of Connecticut. Mr. Speaker, I thank Mr. WAXMAN and Mr. RANGEL and Mr. MILLER for their help.

The growth of this great Nation cannot be achieved without caring for the health of all of its citizens. Thirty-six million Americans await our action on the House floor today. Thirty-six million Americans watched as the fearmongers stood on the steps of the Capitol this week telling them to be afraid.

The same fear was spread during the debate on Social Security and Medicare. Today, we will put a stop to the fear and address the real threat, the real danger the American people face. The woman next to you on the train spreading the flu because she couldn’t afford to see a doctor. The little boy in the sandbox with your child whose parents couldn’t afford the vaccinations. And if we have learned anything from the H1N1 epidemic, the billions of dollars these public health emergencies cost all of us, and that disease has no boundaries or borders; it affects all of us.

On this historic day, this Congress will pass what will improve both the fiscal and physical health of the entire Nation by improving health care for all of our citizens. It is a statement of our



values. It is testimony to how we care for our fellow citizens. It is at the very core of all that America stands for and why we came here to serve. Thirty-six million Americans deserve nothing less.

Mr. BARTON of Texas. Mr. Speaker, I yield 2 minutes to the gentleman from Georgia (Mr. DEAL), a subcommittee ranking member.

Mr. DEAL of Georgia. Mr. Speaker, I rise in opposition to this bill, and I express three major concerns.

First of all, I raise a question. The question is: what authority in the United States Constitution gives this Congress the right to mandate that every citizen must purchase a health insurance policy, and upon failing to do so, shall be fined and possibly imprisoned? I think the answer to that question is, there is no such congressional authority.

Secondly, make no mistake about it, illegal aliens will receive government-funded health care under this because all they are required to show is a Social Security number and a name. There is no way to prevent the same Social Security number from being used by numerous individuals, and there is no requirement that a picture ID be produced in order to prove that the person is in fact the name that appears on the Social Security card. If you think identity theft is a problem now, just wait until this bill passes.

Thirdly, this bill requires States to increase their Medicaid rolls to 150 percent of the Federal poverty level. In an ever-increasing fashion, States will have to absorb the cost of this burden. I offered an amendment which would have allowed States to opt out from under this mandate, but it has been rejected. In States like mine, where we have to balance our budget, right now schoolteachers and law enforcement officers are having to take unfunded furlough days. If this bill passes, it will get even worse. We should not be passing a bill that takes days and money out of the paychecks of teachers and law enforcement officers to pay for this piece of legislation.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair will remind all persons in the gallery that they are here as guests of the House and that any manifestation of approval or disapproval of proceedings or other audible conversation is in violation of the rules of the House.

Mr. WAXMAN. Mr. Speaker, I am pleased at this time to yield 2 minutes to the gentleman from the State of Maryland, Mr. CHRIS VAN HOLLEN.

Mr. VAN HOLLEN. Mr. Speaker, today our Nation stands at an historic crossroads. We can choose the road that dead-ends in the status quo where the health industry will continue to call the shots and ration our health care or we can pass this bill and take

the path that will provide every American citizen access to quality, affordable health care.

What we do in this bill is preserve what is best and fix what is broken. We currently face unsustainable skyrocketing health care costs that are breaking our family's budget, forcing businesses to drop health insurance, and will eventually bankrupt our Nation. We saw health insurance premiums more than double between 2000 and 2008; and during that period of time, health insurance profits soared by 500 percent. How did they do it? Essentially by saying "no" to people who had preexisting conditions and using the fine print in insurance policies to deny people promised benefits when they needed help the most.

This bill will end those abuses. It ends the antitrust exemption that shielded the health insurance industry from price-fixing. It establishes a health insurance exchange like a shopping supermarket for health policies that provides more choice, including a public option.

Mr. Speaker, that's why the Consumers Union and Consumer Reports support this legislation. That's why the AARP, the largest organization protecting the rights of seniors, has endorsed this. And that's why the doctors of America have endorsed this.

□ 1430

I understand why the insurance industry opposes this bill, but our job is not to protect the special interests of the insurance industry; our job is to do what's right by the American people.

Let's move this country forward. Let's vote "yes" for America.

Mr. BARTON of Texas. Mr. Speaker, I would like to yield 1 minute to another member of the committee, Congresswoman MARSHA BLACKBURN of Nashville, Tennessee.

Mrs. BLACKBURN. Mr. Speaker, I find it so interesting that some are so excited about voting for this bill. Quite frankly, I find it to be a very sad day that this body would take a step moving toward a single-payer system in health care.

We have all heard the horror stories of what happens in Europe and in Canada as women seek to get care for breast cancer and die before that care can be found, because care delayed is care denied. We've heard about heart surgeries that never came to pass because they were waiting in the queue. We have talked to mothers who sought desperately to have children treated for chronic illnesses and could not get that help. We have heard about our seniors, and we know what this bill will do to Medicare, making one-half trillion dollars worth of cuts. We have talked to mothers who have said, My goodness, you cannot even get H1N1 vaccine out there and you think you're going to handle the health care for my children?

And today, recorded in the Wall Street Journal, Betsy McCaughy, former Lieutenant Governor of New York, cites some of the provisions and what it will do to the seniors in this Nation as it cuts into their access.

This is not the action we should take.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The time of the gentlewoman has expired.

The Chair would ask all Members to adhere to the time limits and to heed the gavel.

Mr. WAXMAN. Mr. Speaker, I yield myself 3 minutes.

Today, we have a historic opportunity. Sixty-five years after Franklin Roosevelt and Social Security and 35 years after Medicare, we have an opportunity, under the leadership of President Obama and Speaker PELOSI, to reform our health care system and at last provide coverage to all Americans.

We know that health insurance today is failing our families and our economy. If we do nothing, the system will go bankrupt, premiums will keep skyrocketing, benefits will be slashed, what you get will cost more, and the deficit will increase by billions of dollars.

Today, Americans with health insurance know that they are one serious illness away from debt and bankruptcy, and millions of Americans have no insurance at all. With this legislation, we can fix these problems.

First and foremost, this bill provides health insurance security for all Americans. If you have health insurance today, you can keep it; you keep your doctor and your other health providers. But if you lose your job, you will not lose your health insurance. If you have a preexisting medical condition, you cannot be denied health insurance. If you have a serious illness, we remove the cap insurance companies have imposed on paying for treatments over your lifetime. Effective immediately, it will be illegal for insurance companies to put lifetime caps on your coverage. And children all the way up to age 27 can continue on their parents' policies.

Our bill has historic reforms. It expands coverage and reduces costs. It trains doctors and supports community health centers. It provides a public health insurance option that will give Americans more choice and competition.

Our legislation strengthens Medicare. We will eliminate copayments for preventive services. We close and then eliminate the doughnut hole that makes prescription drugs unaffordable for so many of our seniors.

And this legislation is affordable. The only thing not affordable is to do nothing. The legislation is fully paid for. It will not add to the deficit over the next two decades.

Today, we have the chance of a lifetime to do something great and momentous for the American people. By passing this bill, we can reform health insurance in America and provide all Americans with the security of knowing that when they get sick, care will be available and affordable.

I urge all my colleagues to support this bill.

Mr. Speaker, I reserve the balance of my time.

Mr. BARTON of Texas. Mr. Speaker, I yield for a unanimous consent request to the former chairman of the Appropriations Committee, Mr. BILL YOUNG of Florida.

Mr. YOUNG of Florida. Mr. Speaker, I rise in opposition to the bill.

Mr. Speaker, this bill, H.R. 3962, does not represent good public policy. I rise to express my concerns about H.R. 3962, the Affordable Health Care for America Act.

This legislation is misnamed, as even the nonpartisan Congressional Budget Office says it will not be affordable for the American people and our nation as a whole.

The Congressional Budget Office says this legislation will cost \$1.055 trillion over the next 10 years, raising taxes on American taxpayers and businesses by \$729.5 billion. Of great concern to me, and the 138,647 Medicare beneficiaries I represent, is that it will also cut Medicare payments by \$500 billion. There is no possible way you can cut such a significant amount of funding out of a program that is so vital to senior citizens without compromising the availability or quality of their care and without disrupting the relationship they have with their current doctors and medical providers.

Within the Medicare program, H.R. 3962 also cuts the reimbursement rate for seniors enrolled in Medicare Advantage programs. In the 10th Congressional District of Florida which I represent, more than one-third of the Medicare beneficiaries, or 47,729 seniors, are currently enrolled in Medicare Advantage plans. The Chief Actuary of the Centers for Medicare and Medicaid Services estimates that if enacted, the legislation we consider today would cut enrollment in Medicare Advantage by 64 percent over 4 years. This means that more than 30,500 of the seniors I represent will lose or have to give up the health care coverage they currently have and like. This violates the number one promise made by the sponsors of this legislation, who say that if you like your current health care coverage, you can keep it.

The Congressional Budget Office also notes that changes in this legislation to the Medicare Part D program will, in the end, drive up Part D premiums by as much as 20 percent. These are additional premiums that seniors living on fixed incomes will have to pay to keep their prescription drug coverage.

Finally, with regard to Medicare, this legislation does nothing to correct a 21 percent cut in physician reimbursement rates that is scheduled to take effect January 1st for doctors who provide care to our seniors. Having met with doctors I represent throughout the past year, I know that one of their major concerns about health care reform is that they will be asked to take larger and larger cuts in

Medicare reimbursement rates. These cuts, they say, will make it more and more difficult for them to care for Medicare patients. In the end, many seniors could be forced to find new doctors.

In addition to the impact this legislation would have on senior citizens, I am concerned about the economic impact this legislation will have on those seniors, their children, their grandchildren, and their great grandchildren. H.R. 3962 creates a brand new federal entitlement program at a time when our nation is struggling to sustain those entitlement programs already on the books. While the Congressional Budget Office says that under a best case scenario the \$500 billion in Medicare cuts and \$729.5 billion in tax increases will pay for this legislation over its first 10 years if there are no unexpected costs, it is doubtful that this will keep the program from running up federal deficits after that and leaves no margin for error.

In fact, despite one of the goals of this legislation to make health insurance more available and affordable for uninsured Americans, we simply move an estimated 18 million people into the government Medicaid program. This is more than half of the 34 million uninsured Americans who the Chief Actuary of the Centers for Medicare and Medicaid Services says will receive coverage under this legislation.

Of the 13 million uninsured Americans who will receive coverage under the Health Insurance Exchange program created in this legislation, the Chief Actuary estimates that 40 percent, or 5.2 million, will take advantage of the government subsidized public option created by H.R. 3962.

The creation of a government subsidized public option is another major concern of the large majority of my constituents who have called and written me in opposition to this legislation. We are concerned about the insertion of the federal government into the precious patient-doctor relationship. At last count, this 1,990 page bill creates more than 100 new boards, bureaucracies, commissions and programs. Among those created by the bill is the "Health Benefits Advisory Committee," that would be chaired by the U.S. Surgeon General, to make recommendations on cost and coverage issues.

This 27-member government committee of unelected administrators will be in charge of advising other bureaucrats, who will then decide what procedures American citizens are allowed to have and what doctors you are allowed to see under your healthcare plan. This places another layer of bureaucracy between you and your doctor.

This committee is in addition to another newly created federal organization called the "Health Choices Administration," which will be governed by a new Commissioner who will distribute billions of dollars of taxpayer-funded subsidies. Additionally, the Commissioner will have complete control over all insurance plans offered through the newly created Health Insurance Exchange.

Perhaps the toughest of the mandates handed down by the federal government under this legislation is that businesses must provide health care for their employees or pay an 8 percent payroll tax and that individuals must purchase health insurance or pay a 2.5

percent tax on their adjusted gross income. This is not the federal government providing incentives to individuals or employers. This is the federal government imposing its will on individuals and businesses, and penalizing those who do not comply.

This legislation further penalizes small businesses by imposing a 5.4 percent surtax on individuals earning more than \$500,000. Half of these so-called "high earners" are small business owners. Just imagine how small business owners all across our nation will react to this \$544 billion in new federal taxes they will pay over the next 10 years. With the unemployment rate nationally at 10.2 percent and 11.4 percent in Florida, Congress should not be making it harder for business owners to create new jobs.

Finally, at a time when we are trying to lower health care costs, this legislation imposes a new 2.5 percent excise tax on the cost of wheelchairs, portable oxygen systems, diabetes testing equipment, and a whole range of other medical devices. This tax will be paid by our constituents who have no choice but to purchase this medical equipment and who may already be stretched thin by other medical costs.

Mr. Speaker, I have discussed here some of my concerns about provisions in this bill; however there are glaring omissions to this legislation as well. The most significant provision that has been left out is medical liability reform. This is a top issue for doctors, hospitals and all medical providers, as it is one of the major drivers increasing the cost of health care. Tort reform would help reduce the filing of unwarranted lawsuits, decrease the number of duplicative tests that are a part of defensive medicine, and lower the cost of medical malpractice insurance rates, which would translate in lower medical costs.

Tort reform is one of the many areas that we can and should be able to agree upon to increase the availability and decrease the cost of health care. There are others I support, some in this bill, including requiring coverage for individuals with pre-existing conditions, preventing insurance companies from cancelling the policies of individuals when they become sick, providing for the availability of health insurance across state lines, ensuring that employees can retain access to health insurance when they change or lose their jobs, creating health insurance pools that small business owners and self-employed individuals can join to provide lower cost health insurance for their employees and themselves, and closing the so-called doughnut hole in the Medicare Part D prescription drug program.

Mr. Speaker, there is no doubt that our nation can and should do better to provide quality and affordable health care for the American people. Throughout my service in Congress, I have done all I could to expand health care opportunities nationally and throughout the 10th Congressional District, which I represent.

By establishing the National Marrow Donor Program in 1986, I sought to provide life-saving medical options to terminally ill patients suffering from leukemia and more than 60 otherwise fatal blood disorders. Today the national registry has more than 7 million volunteers available to donate the life-saving bone marrow.

During the time that I worked to establish the national registry and as we began to find matched marrow donors for patients, I met with family after family who needed help convincing health insurance companies to cover the marrow transplant procedure. From this experience, I witnessed first-hand the tragedy of families losing their health insurance coverage at their time of greatest need and of being denied coverage for a life-saving procedure.

In a similar manner, I have identified other national and local health care needs and have done something to solve the problems that include increasing the vaccination rates for our nation's children; ensuring the availability of specialized services, facilities and equipment at our nation's hospital emergency rooms to meet the needs of children; expanding the funding for graduate medical education programs to increase the number of doctors who receive the next step of their training; increasing the Inspector General force at federal agencies to uncover waste, fraud and abuse which threaten the safety of seniors and veterans, and divert limited federal health care resources; improving the quality of health care through our investment in biomedical research by doubling the budget for the National Institutes of Health during my 6 years as Chairman of the Appropriations Committee; expanding other research opportunities through the Department of Defense in the areas of breast cancer, prostate cancer, Parkinson's Disease, ALS, multiple sclerosis and diabetes; and expanding the number of community health centers throughout Florida and Pinellas County.

Mr. Speaker, I take a back seat to no one when it comes to my work to improve and expand the quality and availability of health care for the American people and the people I represent. I supported the creation and expansion of the State Children's Insurance Program, which increases access to health care for our nation's youth, and likewise the Family and Medical Leave Act, allowing employees to take time off from work to care for a sick and recovering family member.

However, I cannot support legislation that would threaten the sanctity of the patient-doctor relationship, that would establish new federal bureaucracies that would insert themselves into the health care programs of individuals and employers, that creates a new and financially unsustainable federal entitlement program, that threatens the availability of health care for our nation's seniors, that raises taxes substantially and threatens the viability of many small businesses at a time when we are trying to get our nation's economy back on track, and that ultimately will not make health care insurance more affordable for the American people.

We have all heard from the American people we represent over the past few months that this legislation has been under consideration. We have heard that they are closely following its progress. We have heard that they have many concerns about this legislation before us. And we have heard that they want us to work together in a bipartisan manner to bring down the cost and expand the availability of health care coverage.

Today, we have a historic opportunity to tell the American people we hear their voices. We

can commit to them that, on this issue which will affect every single household and business in our nation, we will go back to our respective committees and work together—as Republicans and Democrats; conservatives, moderates and liberals; Blue Dogs and Progressives—to come up with a solution that the American people can support and, most importantly, have confidence knowing it will do the job without bankrupting our nation, jeopardizing our economic recovery and violating the free market principles upon which our nation was founded.

Mr. BARTON of Texas. Mr. Speaker, I yield a clock 3 minutes to the minority leader, Mr. BOEHNER. This is not his leadership imperial minute. It is the clock 3 minutes.

Mr. BOEHNER. Let me thank my colleague for yielding.

It will be no surprise to any of you that I rise in opposition to this bill.

One of the issues in this bill that is of concern to Members on both sides of the aisle has to do with the sanctity of life. The Rules Committee made in order an amendment by our colleague from Michigan (Mr. STUPAK) that would continue existing law that no Federal funds will be used for abortion.

While I am grateful that we're going to have this vote in the House, I want to ask the chairman of the Energy and Commerce Committee, Mr. WAXMAN, if the House does vote, in fact, for Mr. STUPAK's amendment, if the gentleman will guarantee me that when this bill comes back from conference, that that language will remain in the bill.

Mr. WAXMAN. If the gentleman would yield.

Mr. BOEHNER. I would be happy to yield.

Mr. WAXMAN. As the gentleman well knows, the decision is not up to one person; it will be up to the conferees. The conferees will have to be meeting with the Senate conferees and going over a number of positions.

If this amendment is adopted by the House, it will be the House position as we go into conference. We will have to discuss it further, and then we will see what will be the result. But no guarantee can be made by me or any other Member at this time.

There will be an opportunity, as you know, to instruct the conferees, which reinforces, of course, a particular part of the House bill.

Mr. BOEHNER. Reclaiming my time, the reason that I rise at this point in the debate is that, while we are grateful to have this amendment and this chance to vote to make sure that taxpayer funding is not used for abortion—which has been the policy of the land for the last 30 years—as the gentleman pointed out, there is no guarantee that at the end of the day this language will be in the bill.

Now, I've been a chairman of a committee. I understand that there are no guarantees, but that's the whole point here. The only reason this amendment

is allowed to be offered is in order to secure enough votes to try to move this bill through the floor today. I have my doubts about whether this language, if it passes, has any chance of ever being in the final version of this bill.

Mr. WAXMAN. Mr. Speaker, at this time, I am honored to yield 2 minutes to the gentleman from New Jersey (Mr. PALLONE), the chairman of the Health Subcommittee of the Energy and Commerce Committee.

Mr. PALLONE. Mr. Speaker, I want to thank my chairman, Mr. WAXMAN, for all his hard work on this bill.

For far too long, our Nation has endured a health care system that is chaotic, costly, and crippling American families. In casting our votes today, each of us must make a simple choice: Do we want to maintain the broken system we currently have or do we want to make it better?

And you should ask yourself, first, are you in favor of allowing health care premiums for American families to continue to spiral out of control, forcing them to delay care or drop coverage altogether, or are you in favor of providing every American with access to affordable and quality health insurance?

Second, are you in favor of more American families falling into bankruptcy under the weight of medical bills, or are you in favor of providing every American with the security of knowing that they won't go broke if they get sick?

Third, are you in favor of more American businesses delaying investments, closing their doors or laying off workers because of increasing health care costs, or are you in favor of making it more affordable for those businesses to provide health care coverage for their workers?

And finally, are you in favor of allowing health insurance companies to be able to discriminate against people because they are sick, women, or older, or are you in favor of putting an end to this explicit and immoral form of discrimination that insurance companies get away with today?

Mr. Speaker, there are many reasons to vote for this bill, but there is really only one reason to vote against it, and that is to maintain the broken health care system we currently have.

If you want to change the system, vote "yes"; vote for affordable and quality health care for every American.

Mr. BARTON of Texas. I yield 2 minutes to a member of the Republican leadership, Mr. MCCARTHY of California.

Mr. MCCARTHY of California. I thank my friend for yielding.

Mr. Speaker, this is my second term. Since being elected by the people of California's 22nd District, I am reminded about how much things have changed.

Three years ago on this date, unemployment was 4.5 percent. Today, the unemployment rate has more than doubled to a 26-year high of 10.2. Three years ago on this date, the stock market was over 12,000. Today, the stock market has dropped by 2,000 points. Three years ago on this date the current House majority promised to drain the swamp. Today, the swamp in Washington isn't drained; it's overflowing. And 3 years ago on this date, November 7, 2006, the Democratic Party was victorious in winning control of this House.

Today, we are here on the floor to vote on a \$1 trillion government takeover that can replace the health insurance that millions of Americans have. This is a defining vote for this Congress. We can reject tax increases on small business at a time when 2.8 million jobs have been lost since the stimulus was signed into law and say yes to helping small businesses access more affordable health insurance for their employees. We can reject the government takeover of our health care that will increase health insurance costs and say yes to saving American families up to \$5,000 off their current health care premiums.

I know that over the last 3 years there have been many disappointments, when the voices of Americans have been overruled by government bailouts and now a government takeover of health care, but I urge my colleagues to reject the politics of the past and fight for a better direction for our country, for our children, and for our grandchildren.

I urge a "no" vote on H.R. 3962 and a "yes" vote for the Republican bill.

Mr. WAXMAN. Mr. Speaker, this bill reflects the input and the inspiration of two Kennedys in the Congress of the United States, certainly Senator Ted Kennedy, but also PATRICK KENNEDY, who has been such a leader in the areas of mental health and addiction.

I yield to the gentleman from Rhode Island for a unanimous consent request.

Mr. KENNEDY. I rise in support of mental health benefits in this bill to support suicide, addiction, and depression coverage in this legislation for whole health coverage.

#### GENERAL LEAVE

Mr. WAXMAN. Mr. Speaker, I ask unanimous consent that Members have 5 legislative days in which to revise and extend their remarks on H.R. 3962 and include extraneous material in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. WAXMAN. Mr. Speaker, at this point, I am greatly honored to yield 3 minutes to the chairman of the Ways and Means Committee, one of the crafters of this bill and one of the great

leaders in health care as well as other policy areas, the gentleman from New York (Mr. RANGEL).

Mr. RANGEL. We have an expression in my community, "God is good," and basically it means that it gives us all an opportunity in our lives to do some of the things that we had hoped and dreamed would be possible. Since God has been good to our country and to this Congress, it means that we have a responsibility to extend our power to make certain that people have access to health care.

It's really surprising that the other side would believe that, as a party, their answer to this crisis that we face as a Nation in providing health care to so many millions of people that don't have it, that their answer is "no" and their vote will reflect "no." But a short visit to history would see that every time we're talking about compassion—Social Security, Medicaid, and Medicare—their answer is going to be "no."

I want to thank our President for recognizing that even though we have to carry this load alone, it is an honor to be working under the leadership of Speaker NANCY PELOSI, our chairmen, Chairman WAXMAN and Chairman MILLER, and all of the wonderful people that have worked together under the caucus chair of Mr. LARSON so that we all would understand that we only have this one chance to get it right; Mr. CLYBURN, who brought our votes together so that we are able to be here on this Saturday to pass this. But to me, most of all, it would be the hard-working members of my committee, men and women who worked day and night to make certain that we got out our initial bill and we also found a way to pay for it. And not only to make certain that this great Nation of ours would not have a deficit but, indeed, would decrease the deficit of this country by \$100 billion over 10 years. And the staff, of course, of the Ways and Means Committee that serviced not just our committee, but all of the committees in the House and every Member who needed to know just how can we get this thing right and to do the right thing.

How proud we are that nobody is going to be denied health care because they had a preexisting condition before that. How proud we are that we don't have to select our jobs based on the health insurance that we have. And how proud we are that people who lose their jobs will not be losing their health coverage.

It is a small thing for some people like Members of Congress that already have their insurance, but for those of us that have the compassion to understand what it's like not to be able to take care of your family or your dear friends, not to be able to have health insurance, and for a Nation to be able to say that we are competing with in-

dustrial countries all over the world and they provide education and health care for their children, and this great country of ours, with all of the wealth, have to shamefully say that we can't afford to take care of our own people.

□ 1445

So, to those who don't understand what we're doing, this is going to be a historic day for you as well. Unfortunately, it won't be like it would be for us, because we can now have our names under Roosevelt's and under Obama's and under the right thing.

God is certainly good.

Mr. BARTON of Texas. Mr. Speaker, I yield 1 minute to the distinguished ranking member of the Science Committee and a member of the Energy and Commerce Committee, the gentleman from Rockwall, Texas, Congressman RALPH HALL.

Mr. HALL of Texas. Mr. Speaker, I rise today to urge, of course, a "no" vote on the Democratic health care proposal.

I have five grandchildren, and already they will spend their entire lives paying the debts that we are accumulating. They will be in their late sixties before they are even paid. This bill is a generation killer, and the targets are your grandchildren and mine. My Fourth District of Texas is 100-1 against this bill, and I believe it's a good composite of other districts around the country.

I urge you all to please listen and to vote with your constituents, and I say to Members on both sides of this aisle: remember who sent you here, and vote their wishes. The American people have memories that will survive the actions of today's vote. They will not forget. I ask you to vote "no."

Mr. WAXMAN. Mr. Speaker, I yield 1 minute to the gentlewoman from California, ANNA ESHOO.

Ms. ESHOO. Mr. Speaker, I come to the floor today to cast one of the most important votes of my congressional career, a vote for the Affordable Health Care for America Act. This effort is historic, almost a century in the making.

For many of us, this long battle has had a singular, courageous champion who fought like a lion for the sick, the elderly, the left behind, and the left out, Senator Edward Kennedy, and this bill is a fitting memorial to him.

Most uninsured Americans want to purchase health insurance, but they simply can't afford it. They are priced out. The middle class is priced out. Millions more live under the crushing weight of medical bills that bankrupt households or that shutter small businesses. This bill provides access to affordable health care for every American.

The abhorrent insurance practices of dropping sick patients to avoid paying expensive medical bills and discriminating against those with preexisting

conditions will end with this legislation.

Very importantly, seniors, your Medicare will be strengthened; and it will provide you with better care.

I am proud to be part of making history. I think it is a privilege to do so. I urge all of my colleagues to vote for this legislation.

The SPEAKER pro tempore. The Chair will note that the gentleman from Texas has 28 minutes remaining, and the gentleman from California has 22½ minutes remaining.

Mr. BARTON of Texas. Mr. Speaker, I yield 1 minute to a distinguished member of the Energy and Commerce Committee, one of our ranking members of the subcommittee, the gentleman from Michigan (Mr. UPTON).

Mr. UPTON. Mr. Speaker, I rise against this bill. I don't know if you saw the headline today in *The Wall Street Journal*: "Grim Milestone as Jobless Rate Tops 10 percent." *The New York Times*: "Jobless rate hits 10.2 percent with more unemployed. Official figure is highest since 1980. Broader measure stands at 17.5 percent."

Mr. Speaker, I am from Michigan where our unemployment rate exceeds 15 percent. People want to work and pay taxes. They don't want to be laid off and receive benefits.

This 1,990-page bill is almost 20 pounds. Does anyone actually believe that spending another \$1 trillion is going to reduce our unemployment? We add employer mandates. The Joint Committee on Taxation says that one-third of the \$460 billion in taxes is going to be paid for by small businesses. How does that decrease our unemployment? It doesn't.

In closing, Mr. Speaker, let me say this: one of our colleagues today is quoted as saying: Health care costs are rising faster than wages and inflation, and this bill does not change that trend.

That was a Democrat and not a Republican who said it.

Mr. WAXMAN. Mr. Speaker, I yield 1 minute to a member of our committee, the gentleman from New York, ELIOT ENGEL.

Mr. ENGEL. Mr. Speaker, I rise in strong support of the Affordable Health Care for Americans Act.

As a senior New Yorker on the Energy and Commerce Committee and on the Health Subcommittee, I am proud of the role I played in helping to make this bill a reality.

On this historic day, our Congress honors our country; it honors our citizens; and it honors a moral imperative to provide all Americans with comprehensive, affordable access to quality health care.

This is the reason why so many of us sought public office, and it is the reason why our constituents sent us to Congress, to right the wrongs of our

broken health care system and to steer our country back in the right direction.

Never again will families worry late into the night over whether their pre-existing medical conditions will prevent their loved ones from getting access to the health care coverage they so desperately need. Never again will insurance companies be allowed to drop coverage for those who have paid their premiums diligently only to have their policies canceled when they get sick and need it the most. Never again will families have to worry that, if they lose their jobs, they will also lose their health care coverage.

Don't believe the scare tactics you are hearing from the other side. This bill is good for seniors, good for young adults, and good for all Americans. I urge my colleagues to support the bill.

Mr. BARTON of Texas. Mr. Speaker, I yield 1 minute to the distinguished former mayor of Fort Worth, Texas, the Honorable KAY GRANGER.

Ms. GRANGER. Mr. Speaker, unemployment is over 10 percent in this Nation. Our debt is nearly \$12 trillion. Our deficit is \$1.4 trillion.

Families are sitting at their kitchen tables trying to figure out how to pay their bills. Businesses have cut everything they can cut just to keep their doors open. Grandparents are taking in their kids and their grandkids.

We are going to vote another \$1 trillion so government can take over our health care, cost those families more money, throw more mandates on our States, add 118 new departments and agencies to this already bloated Federal Government, take Medicare Advantage away from our seniors, let the health choices commissioner take the place of our family doctors, mandate health insurance with jail for not complying with or for paying a tax, and ignore the voices of thousands of people who came here and who said, Listen to us. Don't pass this bill.

Mr. Speaker, what are people in this Chamber thinking of?

Mr. WAXMAN. Mr. Speaker, I yield 1 minute to a member of our committee, the gentleman from Texas, GENE GREEN.

Mr. GENE GREEN of Texas. Mr. Speaker, I rise in strong support of H.R. 3962, the Affordable Health Care for America Act. This is a momentous day like that day in 1935 when Social Security was created and also like that day in 1965 when Medicare was passed.

We are in desperate need of health care reform. Health insurance premiums are growing three times as fast as wages; and, last year, more than half of Americans postponed medical care or skipped their medications because they couldn't afford them.

The 29th District in Texas, which I represent, has the highest number of uninsured individuals in the country as 40 percent of the residents are unin-

sured. If enacted, H.R. 3962 will provide coverage to 96 percent of all Americans and to 230,000 currently uninsured residents in our district. It will also improve the employer-based coverage for 217,000 residents in our district.

H.R. 3962 will give individuals the ability to access quality, affordable health insurance. They will no longer be denied coverage for preexisting conditions, and their coverage will not be capped or dropped when they are sick. The bill ensures no more co-pays for preventative care, no more yearly caps for what insurance companies will cover, and it provides premium subsidies for those who need it.

This is not government controlled medicine—individuals will be able to choose their own insurance plan and their physician.

This bill ensures individuals will be able to have access to primary and preventive care services so they will be able to see a doctor before they are sick, and be able to access quality medical services.

H.R. 3962 will rein in rising health costs for American families and small businesses—introducing competition that will drive premiums down, capping out-of-pocket spending.

The time for health reform has come and I urge my colleagues to vote in favor of H.R. 3962 not only for my constituents, but for all Americans.

Mr. BARTON of Texas. Mr. Speaker, I yield 1 minute to one of the distinguished ranking members of the Energy and Commerce Committee, the gentleman from Florida (Mr. CLIFF STEARNS).

Mr. STEARNS. I thank my colleague.

Mr. Speaker, I rise against this bill. The Congressional Budget Office has said that tort reform will save the Federal Government \$54 billion. Instead, we get a bill today that makes a mockery of tort reform.

The Democrats add a provision that will clearly increase costs for health care and that will make it harder to recruit doctors. The new language explicitly prevents States who accept these grant funds from capping noneconomic damages or attorneys' fees even if it is current law.

Said another way, the Secretary of Health and Human Services can give such sums as he deems necessary to any States that do not cap attorneys' fees, or said another way, the bill undoes all States' tort reform.

This bill violates States' rights. It undermines their efforts at real tort reform. It allows trial lawyers to begin open season on our doctors and medical providers.

Mr. WAXMAN. Mr. Speaker, I yield 1 minute to a very active and important member of the Health Subcommittee and of the full Energy and Commerce Committee, my colleague from California, LOIS CAPPS.

Mrs. CAPPS. Mr. Speaker, I am honored to rise in emphatic support of H.R. 3962. As we pass this historic legislation today which improves health

care for all Americans, I want to focus on the benefits for women's health.

When this bill becomes law, a woman will no longer be discriminated against by an insurance company simply for being a woman. Women will no longer be discriminated against by insurance companies for being victims of domestic violence. Women will automatically be covered for maternity care. Women will not have to pay co-pays for important preventative screenings, like mammograms and cervical cancer. Most importantly, women who make the bulk of the health care decisions for their families will have access to quality, affordable health care for their families.

This is an excellent bill, and I am humbled by the fact that, as a Representative of the 23rd Congressional District in California—a nurse, a mother and a grandmother—I am privileged to vote today in favor of this bill. I urge all of my colleagues to do the same.

Mr. BARTON of Texas. I yield 1 minute to another of my distinguished ranking members on the Energy and Commerce Committee, the gentleman from the Bluegrass State of Kentucky (Mr. WHITFIELD).

Mr. WHITFIELD. Mr. Speaker, there are many provisions of this 2,000-page Affordable Health Care for America Act that we can support on this side.

Yet we do not support the establishment of a Federal health care board to control health care in America. We do not support establishing civil penalties of up to \$10,000 a day for violating health regulations. We do not support reducing Medicare funding by \$500 billion. We do not support cutting funding for hospitals by \$155 billion and rural hospitals by \$6 billion between 2017–2019. We do not support increasing taxes on small business owners, particularly at a time when we have an unemployment rate of 10.2 percent.

If we had a surplus, we could support spending billions of dollars for the sovereign states of Micronesia, the Marshall Islands and Pulau. Since we have a \$11 trillion debt, why should we be spending money for health care in those countries? We are also increasing by \$10 billion health care for Puerto Rico, the Virgin Islands, Guam, the Northern Mariana Islands, and American Samoa in this bill.

Mr. WAXMAN. Mr. Speaker, I yield 1 minute to the gentleman from Pennsylvania (Mr. DOYLE).

□ 1500

Mr. DOYLE. Mr. Speaker, my colleagues on the other side of the aisle are trying to scare our seniors. They are telling tall tales, saying that passing health care reform will destroy Medicare.

For Americans watching this debate, I want to make this clear: This bill will strengthen Medicare. My good friend

from Michigan, JOHN DINGELL, helped write the law that created Medicare, and he authored this health care reform bill we will vote on today.

This bill protects seniors and gives all Americans access to quality, affordable health insurance. This bill will start to close the Medicare prescription drug doughnut hole and ban insurance companies from dropping people for having the audacity to get sick. This bill makes sure that preventive services are free to seniors in Medicare and all Americans with insurance.

This bill extends the Medicare's solvency by at least 5 years, it pays for itself and it will reduce the national debt. Finally, this bill is endorsed by doctors, nurses, patients, the Autism Society of America and the AARP.

Mr. BARTON of Texas. I would like to yield 1 minute to the gentlelady who has the privilege of representing Key West, Florida, the Honorable ILEANA ROS-LEHTINEN.

Ms. ROS-LEHTINEN. Mr. Speaker, I am blessed that even though my elderly mother has Alzheimer's, we are able to provide her with high quality health care, but I am worried.

I am worried about the families who, like mine, have an elderly parent who needs care and assistance. It's not easy for any family to support a loved one through hard times, and there is no doubt that these are hard times.

Unemployment in my area of south Florida is over 11 percent. In the midst of this, the Pelosi bill takes away from seniors. Yes, it does. The Pelosi bill makes \$170 billion in cuts to Medicare Advantage, causing 3 million seniors to lose their current coverage. The Pelosi bill will increase Medicare prescription drug premiums by over 20 percent, a rate unaffordable to most seniors.

When I see my mother, I know that health care reform should not occur at the expense of America's seniors. Reject the Pelosi sock-it-to-the-seniors plan.

Mr. WAXMAN. Mr. Speaker, I yield 1 minute to the gentleman from the State of Washington, a very important member of the Energy and Commerce Committee, Mr. INSLEE.

Mr. INSLEE. Mr. Speaker, I just want to relate one call from a small businessman who told me we needed health care reform so that his wife can finally start a small business of her own and be freed from the insurance industry that stopped her from getting insurance.

I would like to enter into a colloquy with Mr. WAXMAN.

Mr. Chairman, I would like to clarify section 1188, the generic fill provision in the bill. This section allows Medicare part D plans to waive patient's copays for generic, bioequivalent and biosimilar drugs. I believe that absent explicit approval from the patient's doctor, this inducement should only apply to those biosimilars that have

been rated "interchangeable" by the FDA, meaning that they can be expected to produce the same clinical result in any given patient and switching medicines poses no greater risk than not switching. With respect to biosimilars that have not been rated as interchangeable, is it your intent that under this provision patients could not be switched to a non-interchangeable biosimilar drug without an explicit request by a patient and approval by their doctor?

Mr. WAXMAN. Congressman INSLEE, you are correct. It's our intent that the patient would not be switched from a referenced product to a non-interchangeable biosimilar without approval from the doctor.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. WAXMAN. I yield the gentleman an additional 30 seconds.

Our intent is also that a patient could not be financially induced by their plan to switch to a non-interchangeable biosimilar without the consent of their doctor, and I am happy to work with the gentleman to clarify the language in conference.

Mr. INSLEE. Today we should pass this bill.

Mr. BARTON of Texas. Mr. Speaker, I would like to yield 2 minutes now to the leader of the Republican Health Care Task Force and a member of our committee, the deputy ranking member, Mr. ROY BLUNT.

Mr. BLUNT. Thank you, Mr. BARTON.

Mr. Speaker, there are so many things that I am for in health care. In our Health Care Solutions Group, I am sponsoring a dozen bills. The core of those bills we will talk about later when we get to the Republican substitute.

But if those bills cost \$1.1 trillion, the bills I am for, I would be against those bills. We can't afford this bill. It cuts Medicare \$505 billion. It raises taxes.

There is no estimate I see of people who have estimated the job impact who don't say that it cuts jobs. Instead, it's a 2,000-page roadmap to a government takeover of health care.

We could be here today talking about real reforms, medical liability reform, access for everybody regardless of pre-existing conditions. We think you can do that by expanding a risk pool concept. It costs a little money, but it doesn't cost billions and billions and billions of dollars.

If we could find Medicare savings, Mr. Speaker, we should use those Medicare savings to save Medicare. Only the government would have made a commitment to a program like Medicare, know that program is in huge trouble beginning in about 2017, and be here today saying we should make savings from that program to fund a new program. If there are savings in Medicare, we should be using them to save Medicare, Mr. Speaker.



I hope we reject this bill. Even if this bill passes today and doesn't go further than this, I hope we can work together to do the things we really need to do to reform the system.

Mr. WAXMAN. Mr. Speaker, at this time I yield 1 minute to the gentleman from the State of North Carolina, an important member of our committee, Mr. BUTTERFIELD.

Mr. BUTTERFIELD. I thank the gentleman for yielding the time.

Mr. Speaker, later today we will have an opportunity to fix a broken health care system. I have listened to both sides of this debate, I have read everything available, and I have prayed for guidance.

We have an obligation, constitutional and moral, to provide for the general welfare of every American citizen. Allowing a broken health care system to continue to bankrupt families, businesses and hospitals and deny coverage to millions is a failure of duty.

We must act now. Reject the false rhetoric surrounding this debate. Reject the false claims about Medicare coverage reductions. The bill strengthens Medicare. Reject the false rhetoric about government-run health care. The bill provides healthy and needed competition.

Reject the claim that this legislation will increase the debt. Doing nothing will increase the debt by billions. We should not delay any longer.

I urge my colleagues to vote "yes" on this legislation.

Mr. BARTON of Texas. Mr. Speaker, I see that we have changed from the Jets and the Giants to the Green Bay Packers in the chair.

I would like to yield 1 minute to a Ramblin' Wreck from Georgia Tech, a member of the Committee on Energy and Commerce, Dr. GINGREY.

Mr. GINGREY of Georgia. Mr. Speaker, having spent most of my life in medicine and healing the sick, I rise in strong opposition to this bill. With double-digit unemployment at 10.2 percent, this so-called reform, which will destroy an additional 5.5 million jobs, is not what the American people want. Yet their opposition and protests have fallen on deaf ears as this majority simply does not seem to care.

One can perhaps see why. Democrats have the White House, 60 votes in the Senate and an 81-seat majority in this House. They have all the power. They can pass government-run health care without one single Republican vote. Mr. Speaker, just because they can does not mean they should. Might does not make it right. With \$750 billion in tax increases, \$500 billion cuts in Medicare, Mr. Speaker, if the House proceeds down this precarious path, I have no doubt that though the American people may forget what was said here, they will never forget what was done here and who did it to them.

Mr. WAXMAN. Mr. Speaker, I yield for the purpose of a colloquy to the

chairman of the subcommittee, Mr. PALLONE, 1 minute.

Mr. PALLONE. Thank you, Chairman WAXMAN.

The bill we are debating today includes the CLASS Act, a bill I sponsored, along with Representative DINGELL, which would encourage individuals to plan ahead for future long-term care needs. But there are other things we can do to help increase the availability of home and community-based services. The Empowered at Home Act, H.R. 2688, which I sponsored with Representative DEGETTE, helps encourage States to improve and increase access to home and community-based services under their Medicaid programs.

While we were not able to include these other provisions from the Empowered at Home Act in H.R. 3962, I hope that we can consider their inclusion in the final health reform bill that emerges from the conference with our Senate colleagues.

Mr. WAXMAN. I want to thank the gentleman from New Jersey for his leadership on the bill before us today and for his tireless efforts on behalf of low-income Americans who need long-term care. I support the elimination of barriers to the provision of home and community-based services under Medicaid, a result that the gentleman's Empowered at Home Act would achieve.

The SPEAKER pro tempore (Mr. OBEY). The time of the gentleman has expired.

Mr. WAXMAN. I yield the gentleman an additional 30 seconds.

I will continue to work with you and other Members to enact legislation that gives State Medicaid programs a robust option for offering low-income Americans the choice of receiving long-term care services in the community rather than in a nursing home.

Mr. BARTON of Texas. Mr. Speaker, I yield 1 minute to the gentlewoman from Missouri, who represents the hometown of Rush Limbaugh, Cape Girardeau, Missouri, Congresswoman JO ANN EMERSON.

Mrs. EMERSON. Mr. Speaker, this could have been a great day in the House of Representatives, but we have missed an opportunity for consensus, to improve access and save money for taxpayers and patients alike. Americans pay the highest prices for prescription drugs in the world and this bill binds us to that fate.

For every Member of Congress, there are two and a half pharmaceutical lobbyists. In the first half of 2009, drug companies spent \$609,000 every day on lobbying. We have missed an opportunity to tell the drug companies that they no longer set the agenda in Congress.

We have missed an opportunity to put the interests of Americans ahead of special interests. We have missed an opportunity to end the pill-splitting,

skipped doses and unfilled prescriptions that plague Americans who can't afford the medicine their doctor prescribes.

This bill shifts those costs from patients to taxpayers, from this generation to the next. It trades affordable generics for pricey name-brand name drugs. It intentionally makes quality care more expensive for our Nation, and it is wrong to leave hundreds of billions in savings on the table.

Mr. WAXMAN. Mr. Speaker, I am pleased to yield 1 minute to a very important member of our committee, the gentlewoman from the Virgin Islands (Mrs. CHRISTENSEN).

Mrs. CHRISTENSEN. Thank you, Mr. Chairman.

Mr. Speaker, as a family physician who practiced for more than 20 years, a mother, a grandmother and an American, I am proud to stand here in support of the Affordable Health Care for America Act. This bill is for the many patients I know who put off health care until it was too late because they couldn't afford it and the tens of millions like them who will now have access to full health care.

This year and every year past, over 80,000 African Americans died, whose deaths were preventable, because they were unable to get health care. This bill is for all people of color, those in our rural areas, the territories and the poor, because beyond insurance, this bill will provide the services some of them never had.

H.R. 3962 will give young people for whom a health care professional is out of the reach the opportunity to help heal their communities. It will cover 36 million uninsured people, making insurance secure and affordable, strengthen prevention and public health, improve Medicare and Medicaid, help poor communities, create an environment that supports good health, and finally begin to eliminate health disparities.

Today we have the opportunity to vote for health and a better life for everyone in this country and for a better country where life, liberty and the pursuit of happiness is truly a right for all.

Let's make history together. Vote "yes" for affordable health care for America.

Mr. BARTON of Texas. Mr. Speaker, I recognize one of my ranking subcommittee members, Mr. RADANOVICH, who represents Fresno, California, for 1 minute.

Mr. RADANOVICH. Mr. Speaker, we are standing on the precipice of a major shift in this country's history. In less than a year, the Obama administration, working with the Pelosi Congress, has recklessly spent taxpayer funds to expand government to a level never before seen in history.

The government is now more involved in our lives than I think any of



us could have imagined. The result has been double-digit unemployment for the first time since the early 1980s. And now we are going to vote on whether the government should take over the Nation's health care system at a cost of \$1.3 trillion and up to 5.5 million jobs.

Despite all this, the leadership of this Congress has chosen to ignore the will of the people and say, America, you are wrong. We know what's best for you.

Well, this bill is not what the American people want, and it certainly is not what the doctor ordered for health care improvement.

□ 1515

Mr. WAXMAN. Mr. Speaker, I yield 1 minute to the gentlewoman from Illinois (Ms. SCHAKOWSKY), a senior member of the Energy and Commerce Committee.

Ms. SCHAKOWSKY. This is a great moment in history because today we act to guarantee affordable health care for this and future generations. It is a great day for women. Our bill stops gender rating, preventing insurance companies from charging women 48 percent more than men for the same coverage.

We eliminate preexisting conditions. Being a breast cancer survivor or domestic violence victim will no longer prevent access to care. We require coverage of maternity and well-baby care. We ensure that older women not yet eligible for Medicare can buy affordable coverage.

We improve Medicare. Senior women will be able to afford preventive services like cancer screenings because we eliminate cost-sharing. We close the doughnut hole, so they can afford their medications.

Women need health care reform. They need H.R. 3962.

Mr. BARTON of Texas. Mr. Speaker, I am proud to yield 1 minute to the honorable gentlewoman from North Carolina (Mrs. MYRICK), a cancer survivor.

Mrs. MYRICK. Mr. Speaker, Americans are struggling with health care costs. We all know that. Too many families can't afford coverage, and small businesses are struggling to find coverage for their employees.

However, this bill does not fix the underlying problem, the cost of health insurance. It is an unprecedented expansion of Federal Government spending that will only dig a deeper hole of debt for generations to come.

Margaret Thatcher once said, "We want a society in which we are free to make choices, to make mistakes, to be generous and compassionate. Not a society in which the State is responsible for everything, and no one is responsible for the State."

The majority's bill creates a society that resembles the latter, and it is a mistake. I urge my colleagues to vote "no."

Mr. WAXMAN. Mr. Speaker, can I inquire how much time is available on each side?

The SPEAKER pro tempore. The gentleman from California has 13½ minutes remaining. The gentleman from Texas has 17½ minutes remaining.

Mr. WAXMAN. Mr. Speaker, I yield 1 minute to the gentlewoman from Wisconsin (Ms. BALDWIN).

Ms. BALDWIN. Mr. Speaker, I rise in support of this bill, which will provide affordable health coverage to 36 million people who lack it today. This has been an aspiration for our Nation and our people for decades.

I first ran for office motivated by my belief that every American should have access to quality health care, and I will not stop fighting until every American is covered. There are far too many daily reminders of the failures and injustices of our current system, the countless stories of bankruptcy, care delayed and premature death. And yet we have let years go by while people suffer.

Today, we convene to debate and advance legislation that delivers meaningful insurance reform, outlawing outrageous insurance abuses, lowering costs, and extending coverage to all. I will cast my vote today on behalf of the people in Wisconsin and millions throughout America who have said enough is enough.

Today, we declare with conviction: every American deserves health care, and every American shall have it.

Mr. BARTON of Texas. Mr. Speaker, I am proud to yield 1 minute to the sixth Frelinghuysen to represent a district from the Garden State of New Jersey, the Honorable RODNEY FRELINGHUYSEN.

Mr. FRELINGHUYSEN. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I rise in opposition to this legislation because I have been listening to my constituents. Over the past several months, I have received over 13,000 letters, emails, faxes and calls from New Jersey families and employers. Unprecedented. I have listened to hundreds of residents in town hall meetings, retirement communities, nursing homes and senior clubs.

I have visited areas hospitals and businesses, large and small. I have met with medical societies, health providers, doctors, nurses, anesthesiologists, home health aides, chiropractors, surgeons, all of them.

In each of these meetings, these men and women have expressed deep concern about the so-called health care reforms that have been sponsored by the House majority, the Pelosi bill, and most are opposed. They are worried about how this massive bill, over 1,900 pages long, will affect their doctor-patient relationship, their personal care, and their ability to afford their health insurance. And they are worried with good reason.

H.R. 3962 is a toxic-mixture of job-killing higher taxes, rampant new mandates on businesses and individuals of all ages and damaging Medicare cuts, combined with a government takeover of health care.

It demands opposition on so many grounds: First, according to the Congressional Budget Office, H.R. 3962 will cost at least \$1.2 trillion over the next ten years! This is mind-boggling, on top of earlier borrowing and deficits!

To pay for this massive new spending, Speaker PELOSI wants to raise taxes and cut Medicare that older Americans depend on each and every day.

My colleagues, we heard the grim news yesterday that unemployment currently is at a 26-year high—10.2 percent. (And we know it's actually higher.) And yet, this bill contains \$735 billion in new taxes!

Using the formula developed by the chief White House economic advisor, 5.5 million Americans could lose their jobs as a result of enactment of the Pelosi Health Care bill.

\$735 billion in new taxes.

Among the new taxes is a new "surtax" on high-income filers—many of whom are small business men and women.

While this tax is intended to target "high-income" individuals and couples, it is not indexed for inflation, meaning it will reach millions more New Jersey residents over time just like the Alternative Minimum Tax.

H.R. 3962 also includes taxes on individuals who do not purchase government-mandated health insurance.

Think about this! You do not make enough money to afford health insurance and this bill actually fines you! The end result: you still don't have coverage and you've been fined as well!

Young people will be particularly surprised that they will be subject to such a fine!

Mr. WAXMAN. Mr. Speaker, at this time I yield 1 minute to the gentleman from Massachusetts (Mr. FRANK) for the purpose of a colloquy.

Mr. FRANK of Massachusetts. I thank the chairman, and I congratulate him for the excellent work he and others have done on this bill.

I want to discuss the importance of the bill in addressing hard-to-reach communities, including commercial fishermen, who are a very important part of my constituency, but also farmers and ranchers. Ranchers tend to be a less important part of my constituency.

We are creating a new health insurance marketplace and requiring everyone to have coverage, which I support. This makes it particularly important to educate those that haven't had reliable, continuous access to quality, affordable health care.

Under the bill, will the commissioner be able to contract with entities such as commercial fishing organizations or others to facilitate the dissemination of information?

Mr. WAXMAN. The answer is yes.

Mr. FRANK of Massachusetts. I thank the gentleman. I assume this means also the commissioner can work with the Small Business Administration on this sort of outreach and education?

Mr. WAXMAN. Yes. The bill ensures the commissioner will work with the Small Business Administration.

Mr. FRANK of Massachusetts. I thank the chairman for clarifying these points.

Section 2229 of the Senate bill recognizes the unique health care educational outreach needs of commercial fishermen, farmers and ranchers, and I hope that that will be accepted in the final bill.

Mr. BARTON of Texas. Mr. Speaker, I am proud to yield 1 minute to the honorable gentleman from Pennsylvania (Mr. PITTS), one of the strong pro-life leaders in the U.S. Congress, a combat veteran of Vietnam, and a member of the Energy and Commerce Committee.

Mr. PITTS. Mr. Speaker, there has been some recent confusion surrounding the inclusion of abortion coverage in H.R. 3962, but the issue is actually quite clear. The Capps amendment in the bill, which some have argued is neutral on abortion, explicitly authorizes the Federal Government to directly fund elective abortions using Federal funds drawn from a Federal Treasury account. The provision has been billed as a so-called compromise amendment. But this bill will radically expand current and longstanding Federal policy with respect to abortion.

Currently, there is not a single government health care program that provides coverage for elective abortion; not SCHIP, not Medicaid, not DOD, Indian Health or the Federal Employee Health Benefit Program, all because of congressional action to explicitly prohibit coverage of abortion under each of these programs. But such an explicit exclusion is missing from this bill.

Therefore, I urge my colleagues to support, when it comes up later, the Stupak-Pitts-Chris Smith-Ellsworth-Dahlkemper-Kaptur amendment that would prevent Federal funding of abortion in this bill.

Mr. WAXMAN. Mr. Speaker, I yield 1 minute to the gentlewoman from Florida (Ms. CASTOR), a member of our committee.

Ms. CASTOR of Florida. Mr. Speaker, Democrats will now deliver on what American families and businesses have been asking for when it comes to their health: one, meaningful, secure and stable insurance; two, improved Medicare for seniors; and, three, vital consumer protections.

For families with health insurance, health reform will provide you with coverage you can count on. Families will no longer have to worry about insurance companies canceling their coverage because someone in their family gets sick. Health insurance companies will no longer be able to bar you from insurance just because you have diabetes or cancer or some other chronic condition.

American families have been doing everything right. They have been pay-

ing their copays and paying their premiums, even as those costs have risen dramatically. Our health bill says that in return, that coverage must be meaningful, stable and secure. And for our family members who rely on Medicare, you will see immediate improvements, in your prescriptions, your checkups, and a provision I worked on, to penalize unscrupulous practices of private Medicare insurance sales agents.

The meaningful health reform that will pass the House today builds on the great legacies of Social Security and Medicare, and I am proud to represent Florida families in this historic vote.

Mr. BARTON of Texas. Mr. Speaker, I yield 1 minute to the gentlewoman from Wyoming (Mrs. LUMMIS), who represents the entire State.

Mrs. LUMMIS. Mr. Speaker, I stand before you today on behalf of the people of Wyoming, where individual freedom and personal responsibility are hallmark values.

This \$1 trillion tax-everybody-right-down-to-the-wheelchair debacle will impact every person in Wyoming. This bill will force my constituents to buy insurance, whether it makes sense for them or not. This bill will dump some of my constituents into a government-run health care program to which Members of Congress will not even subject themselves.

I sought an amendment that would allow States to shield their citizens from government-forced insurance, from taxes and possible fines or imprisonment, from government policies that come between themselves and their doctors, from unfunded mandates on States. But my amendment and dozens of others were swept away by the majority, and American freedoms right along with it.

Our Constitution was designed to empower the American people and shackle the Federal Government. This bill will shackle the American people while empowering the Federal Government. It is a sad day for Wyoming, Mr. Speaker.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair will remind all persons in the gallery that they are here as guests of the House and that any manifestation of approval or disapproval of proceedings or other audible conversation is in violation of the rules of the House.

Mr. WAXMAN. Mr. Speaker, I am pleased to yield 1 minute to the gentleman from Pennsylvania (Mr. PATRICK J. MURPHY), who has been a leader in our efforts to lower growth in premiums through measures such as immediate review and justification of insurance rate increases.

Mr. PATRICK J. MURPHY of Pennsylvania. Colleagues, voting "yes" today means tax incentives for Joe Frederick, a small business owner in Bucks County, Pennsylvania, who struggles with skyrocketing health

care costs for his employees. It is a vote for Mrs. St. Clair, whose niece died because she couldn't get insurance. It is a vote for Jay Doroshov, who was kicked off his plan after being diagnosed with Lou Gehrig's disease.

I urge a "yes" vote for our fellow Americans who want to secure affordable health insurance which can't be taken away from them when they need it most.

Sixteen years have passed since we last tried to reform health care. Premiums have more than doubled. Every day in the State of Pennsylvania, 510 families are kicked off their coverage. That is every single day.

Mr. Speaker, as I said, I am a proud Blue Dog Democrat, and there is universal agreement that to get our country's fiscal house back in order, we must first get our health care spending under control. And this bill does just that. It actually reduces our deficit by \$129 billion, taking important steps to rein in health care costs.

But there is more work to be done, and I look forward to working with you and our leadership to accomplish this goal.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. WAXMAN. Mr. Speaker, I yield the gentleman an additional 10 seconds.

If the gentleman would permit, I want to thank you for your leadership, and assure you we are going to continue to work in conference to do everything we can to make coverage affordable for the American people.

Mr. PATRICK J. MURPHY of Pennsylvania. Thank you, and I urge my colleagues to vote "yes" today.

Mr. BARTON of Texas. Mr. Speaker, I yield 1 minute to the gentleman from Nebraska (Mr. TERRY), who represents Omaha, Nebraska, the home of the College World Series.

Mr. TERRY. Mr. Speaker, it is clear that skyrocketing health care costs do exist, causing a number of Americans to become uninsured. But instead of addressing these issues, the Speaker has offered us a bill that dramatically overhauls the present health care system.

It injects government into every corner of health care decision-making, from arming the Health Choices Commissioner with unprecedented power to dictate coverage and influence costs, to imposing crushing taxes on small businesses. It transfers \$600 billion from Medicare and Medicaid and imposes mandates on States by expanding Medicaid, which will then trickle down and force the States and the localities to increase taxes, really masking the true cost of this massive \$1.2 trillion bill.

There is a better way that we can accomplish providing Americans with affordable health care.

□ 1530

Mr. WAXMAN. Mr. Speaker, I yield 1 minute to the gentleman from Connecticut (Mr. MURPHY).

Mr. MURPHY of Connecticut. Mr. Speaker, every night in my State, thousands of kids go to sleep sick in their beds just because their mothers can't afford to get them to doctors. This is the most affluent, most compassionate Nation in the world, and it makes absolutely no sense that our health care system is the most inefficient, most unfair in the world. But to change this, we don't need to throw out what we've got.

Despite all this nonsense political speak from the Republicans about government takeovers, this bill simply seeks to reset the rules of the private health care marketplace so that it starts working again like it should, so that small businesses can band together to negotiate for lower prices, so that individuals will have access to tax credits to help them pay for private insurance, insurance that's fair and doesn't discriminate against them because they're sick. We'll fix this crisis in our health care system all on the shoulders of a reformed private system so that never again does a child fall asleep sick in his bed because his country, the most powerful in the world, didn't have the coverage to make him well.

Mr. BARTON of Texas. I would like to recognize the gentleman from Virginia, Congressman FRANK WOLF, for a unanimous consent request.

Mr. WOLF. I rise in strong opposition to the bill because our Nation is going broke.

I rise in opposition to this bill.

We must carefully weigh the implications of a costly new government spending program at a time when the country already owes more than \$56 trillion in entitlement obligations.

I am also deeply concerned about the national debt, which has doubled since 2000 and is nearing \$12 trillion for the first time in our history.

Any plan put forward must control costs, not add billions of dollars to an already ballooning deficit.

America is going broke. Is this the legacy this Congress wants to leave our children and grandchildren?

#### NEWS RELEASE

"Health care is a very personal issue and there are very real consequences to what Congress does on this issue. Congress must be committed to offering affordable, accessible, and portable health care choices with the goal of fixing what's broken and keeping what works. I know there are good and reasonable people with deeply held views on every side of the health care reform issue. That's why I believe all sides need an opportunity to be heard and offer ideas so that a bipartisan consensus can be reached.

"I believe every fair-minded person would agree that Congress needs to find a way for the millions of Americans without health insurance to be assured of quality, affordable health care when they need it and to address

the concerns of those who are paying for a plan they believe falls short of the coverage they need. Part and parcel of that discussion, I believe, also must be the recognition that there are many folks are paying for a health insurance plan that they like and want to keep and they don't want the government involved in their health care decisions.

"I am very concerned, however, about the health care reform process under way in Congress. House Democrats on October 29 unveiled a 1,990-page health reform bill—H.R. 3962—which is estimated to cost just under \$900 billion over 10 years. Especially troubling is the majority leadership's intention to fast track the legislation for House consideration within days of its introduction.

"Congress needs to listen to the American people, take its time and get health care reform legislation right. This is too important an issue to rush through under some artificial timeline. It is for this reason that I am cosponsoring a resolution calling for any health care reform legislation considered by Congress to be made available online in its final form 30 days prior to being voted on in the House. I believe that every American must have the opportunity to read and understand what Congress is considering. Now with the latest bill covering nearly 2,000 pages, that is more important than ever. A copy of H.R. 3962 is available on my Web page, [www.wolf.house.gov](http://www.wolf.house.gov).

"I opposed the first version of the Democrats' health reform legislation (H.R. 3200) that was introduced this summer, and nothing that I have read so far in the newest version introduced on October 29 changes my view. This legislation would set up a government insurance option with rates to be negotiated between providers and federal health officials. It has mandates for every American to have insurance and for employers to provide insurance. It would expand Medicaid to historic levels adding new mandates on states. The revenue sources identified include a surcharge on wealthy taxpayers and changes to Medicaid and Medicare which would translate to about \$500 billion in cost savings over 10 years, according to the Congressional Budget Office.

"When President Obama earlier this year directed Congress to come up with a health reform plan, I had hoped that both Republicans and Democrats could work together on this issue of such complexity in a bipartisan way and reach consensus on a plan to address the needs of uninsured Americans, protect those with insurance plans they like, and keep a lid on deficit spending at a time when our economy is reeling from recession and spiking unemployment. What we have seen, however, is the opposite. The speaker and House majority worked alone on H.R. 3200 that initially was to be voted on by the House in early August. They have continued to work behind closed doors to refine that plan, and the latest bill, H.R. 3962, was drafted solely by the majority.

"I don't believe that is the right way to develop public policy on an issue of such importance and far-reaching consequence to every American. This is a complex issue to legislate, and there are legitimate questions that Congress must answer. Among the many questions to be resolved are how to make sure health care decisions are patient-centered and remain between physicians and patients and not prescribed by some government formula; how to provide for Americans who don't have health insurance and ensure those with pre-existing conditions can get insurance; how to protect those who have

health insurance and don't want to be forced to give up their plans or pay more for them; how to control health care costs and pay for health care reform without increasing the deficit; how to ensure that U.S. taxpayers are not subsidizing health insurance for those illegally in our country; how to ensure that the self-employed and small business owners can afford insurance, and how to ensure that young adults can continue to be carried under their parents' health plan until they reach age 25.

"I have concerns about a government-run insurance option and what that will mean in the way of costly mandates for small businesses and other employers during a time when unemployment is teetering near 10 percent. I am also concerned about how Americans will pay for a \$900 billion plan as our country tries to work its way out of an economic recession and faces trillions of dollars in debt and a growing annual deficit that could be near \$2 trillion. I also have questions about finding a half trillion dollars in savings in Medicare and Medicaid costs. What will that mean for senior citizens today?

"We must carefully weigh the implications of a costly new government spending program at a time when the country already owes more than \$56 trillion in promised entitlement obligations through Medicare and Social Security. I'm also concerned about the national debt, which has doubled since 2000 and is nearing \$12 trillion for the first time in our history, and unprecedented federal deficits, which could result in increased interest rates for consumers if we continue to finance government by borrowing from foreign lenders. I have the leading bill in the House to establish a bipartisan commission to review entitlement spending with tax policy on the table to ensure that Congress addresses these spending issues, which if left unchecked, will be disastrous for future generations. (For more information about the SAFE commission, go to [www.wolf.house.gov/SAFE](http://www.wolf.house.gov/SAFE).)

"I again want to emphasize: it is important for Congress to fix what's broken with our nation's health insurance system. But we have to do it the right way without changing what is working. We need a plan that controls costs without adding billions of dollars to an already ballooning deficit; ensures competition and choice; provides that patients and their doctors make the decisions on medical care rather than a government-run agency, and addresses skyrocketing medical liability costs and tort reform.

"I believe that the legislation in the House falls short of those goals and that Congress has a lot more work to do to provide the kind of health reforms Americans want and need."

Mr. BARTON of Texas. Mr. Speaker, I yield 1 minute to the former FBI man from the great State of Michigan (Mr. ROGERS), a member of the committee.

Mr. ROGERS of Michigan. Mr. Speaker, there are huge consequences to the 85 percent of Americans who have earned their health care in this bill. Not only will they get longer wait times and more expensive premiums, but at the end of that, with new debts, some \$1.5 trillion in new spending, 18 million Americans won't have coverage. But more importantly, there will be another victim.

There is nothing more sacred than the bond between a mother and a child,

that trust, that love, that nurturing when that child is sick. And when a mother goes to the doctor under that 2,000-page bill, that relationship that they enjoy between their patient and their doctor and what that mother wants for that child is no longer sacred, because now, through the 118 different boards and commissions, their comparative effectiveness research allows the Federal Government, through forced government insurance, to ration and deny care. You have violated the most important trust, the most important thing that we have in the building block and the foundation of the values of this country. That mother, that doctor knows what's best for that child. You will find no compassion in a Federal bureaucracy.

Mr. Speaker, I would urge the strong rejection and the protection of that bond between doctor and patient and mother and child.

Mr. WAXMAN. Mr. Speaker, I yield 1 minute to the gentleman from Colorado (Mr. SALAZAR).

Mr. SALAZAR. Mr. Speaker, I am especially pleased that this bill will help rural America. Currently, physicians in rural areas are reimbursed less from Medicare than their urban counterparts. H.R. 3962 will reimburse primary care physicians in rural areas 10 percent more than the urban physicians not only to equalize the disparity, but to make rural communities more attractive to physicians.

Most of my district is considered a health professional shortage area. In my district in Colorado, we have three counties with only one practicing physician. We have one county with none at all. This bill will increase the number of physicians in all of my counties and improve access for 106,000 Medicare beneficiaries.

This bill will expand insurance coverage to 111,000 currently uninsured residents in my district. In my district, it will protect 900 families from going bankrupt due to excessive health care costs. It will help 184,000 low-income families pay for their insurance.

Our current system is broken, and it is time to fix it now.

Mr. BARTON of Texas. Mr. Speaker, I yield 1 minute to the gentleman from the Pelican State, Congressman SCALISE from New Orleans, a member of the committee.

Mr. SCALISE. I want to thank the ranking member from Texas for yielding.

I rise in opposition to Speaker PELOSI's 1,990-page government takeover of health care. Weighing in at nearly 20 pounds, this bill comes out to over \$530 million of spending per page. And where does this bill spend that money? Well, first of all, it fails the American people. It fails those small businesses and families that are going to have to pay the \$730 billion in new taxes in this bill. It fails our seniors

who have to deal with over \$500 billion in cuts to Medicare. And it fails many of President Obama's own pledges and promises he made right here on this floor, like when he said, If you make less than \$250,000 a year, you won't pay any new taxes, "not a dime."

In this bill, there is over \$20 billion of new taxes just on people who have no insurance. The President has said multiple times, If you like what you have, you can keep it. Unfortunately, this bill fails the President's promise because it allows the health care czar to take away your insurance even if you like it. It's so bad, that even when we brought our amendment to say all Members of Congress have to abide by this bill, they actually refused to allow a vote on that amendment.

We need to defeat this legislation and do real reform.

The SPEAKER pro tempore. The Chair would announce that the gentleman from Texas has 11½ minutes remaining, and the gentleman from California has 6¼ minutes.

Mr. WAXMAN. Mr. Speaker, I yield 1 minute to the gentlewoman from Ohio, BETTY SUTTON, a member of our committee.

Ms. SUTTON. Mr. Speaker, the American people have been waiting for this day, a day that we will finally pass a health care bill that will work for and with them, that will provide them with access to more affordable quality care, care that they can count on.

Mr. Speaker, they have been waiting for us to put an end to the egregious discriminatory practices of insurance companies who deny coverage based on preexisting conditions and place caps on coverage to prevent people from accessing the care they need just when they need it the most.

Today we act to improve the employer-based coverage for 420,000 residents in my district, to improve Medicare for 107,000 beneficiaries, and to move to close the prescription drug doughnut hole for seniors across this country.

Yes, Mr. Speaker, the American people have been waiting, and today we act for a health care system that will work for and with them.

Mr. BARTON of Texas. Mr. Speaker, could I ask how much time. You said it a minute ago, but I was not listening.

The SPEAKER pro tempore. The gentleman from Texas has 11½ minutes remaining. The gentleman from California has 5¼ minutes remaining.

Mr. BARTON of Texas. Thank you, Mr. Speaker. I was listening to my distinguished friends on the majority raptly.

I now yield 1 minute to one of our doctors, physicians, the gentleman from Lewisville, Texas, the Honorable MICHAEL BURGESS, also a member of the committee.

Mr. BURGESS. I thank the gentleman for yielding.

Last spring and summer, as we got into this debate, America's doctors were pretty clear of what they wanted to see if Congress was going to undertake health care reform. They wanted to see some relief in the medical justice system. They wanted to see some medical liability reform. They desperately needed a fix to the payment formula in Medicare that shows reductions in Medicare reimbursement rates every year for as far as the eye could see, and they wanted a little help with antitrust relief. After all, if we're going to ask our doctors to be our partners in this brave new world of health care reform, the least we could do is let them talk amongst themselves about the best way to deliver high-quality care at low cost.

Well, what happened? Antitrust; not in this bill. SGR; we'll take that up at some point in the future. Medical liability; a smidgeon of medical liability reform in this bill, but nothing compared to what doctors actually need.

In the last 6 years, Texas has done what this country needs to realize would be the way forward in medical liability reform. Caps on noneconomic damages have worked in the State of Texas. You don't have to take my word for it. There are almost 15,000 new physicians that have come to the State of Texas since 2003 when this was enacted. There are 82 counties that now have doctors which did not have them before. Emergency room services and OB services particularly have seen significant increases since Texas passed their sensible liability reform.

Mr. WAXMAN. Mr. Speaker, for a unanimous consent request, I yield to the gentleman from Iowa (Mr. BOSWELL).

Mr. BOSWELL. I rise in support of this bill. The people in my area are waiting and so is my State and our country.

Mr. Speaker, I rise today in support of H.R. 3962, the Affordable Health Care for America Act.

Today, I am pleased to vote for the most transformative piece of legislation that I have considered during my 13 years in Congress.

I am voting to grant access to health care coverage for 18,000 uninsured constituents in my district and to make it more affordable for another 440,000 insured.

I am voting to guarantee that 6,400 of my constituents with preexisting conditions could never be denied coverage and to reduce insurance costs for 14,800 small businesses.

I am voting to finally address how Iowa's hospitals and providers are reimbursed for the care they provide.

Under this legislation, the Government will not force individuals and families with employer-based coverage to give up their insurance plans. However, as a result of the insurance reforms in this bill, they will no longer be required to pay co-pays or deductibles for preventive care; no more rate increases or coverage denials for preexisting conditions, gender, or occupation; and guaranteed oral, vision, and hearing benefits for children. The

public option offered in the health insurance exchange would drive down costs across the board by fostering competition and expanding insurance choices.

Iowa's hospitals and providers have shouldered the burden of unfair Medicare reimbursements for the high-quality care they provide for too long. This bill will require studies on the reimbursement formula and move toward a payment system based on quality, not quantity. Providers who participate in the public option would be reimbursed through negotiated rates that balance what private insurance companies pay for services with the current Medicare rates.

Mr. WAXMAN. Mr. Speaker, I yield 1 minute to the gentleman from Virginia (Mr. PERRIELLO) for the purpose of a colloquy.

Mr. PERRIELLO. Mr. Chairman, I recognize the good things this bill does to make health care more affordable for families and expand access to preventive and wellness care. I just want to clarify for the record that maternity care is a required benefit in the essential benefits package for all individual insurance and employer insurance across the country.

Mr. WAXMAN. If the gentleman will yield, yes, it is. That is a correct statement.

Mr. PERRIELLO. And it is my understanding that prenatal and postnatal care is generally considered to be part of maternity care, as recognized by organizations such as the American College of Obstetricians and Gynecologists.

Mr. WAXMAN. The gentleman is correct in that statement.

Mr. PERRIELLO. Thank you, Mr. Chairman, for this clarification.

Mr. BARTON of Texas. Mr. Speaker, I yield 1 minute to the gentleman from Phoenix, Arizona, Congressman JOHN SHADEGG, a member of the committee.

Mr. SHADEGG. I thank the gentleman for yielding.

This is Maddie. Maddie believes in freedom. Maddie likes America because we have freedom here, and Maddie believes in patient-choice health care. She asked to come here today to say that she doesn't want the government to take over health care. She wants to be able to keep her plan.

You see, Maddie knows that if this bill passes, it says that her mom's health care goes away and won't be around in 5 years. As a matter of fact, the bill says, if the bill passes, then no more health care for her mom because it has to change.

Maddie wants patient choice. Maddie doesn't want her mom's premiums to go up. She doesn't want her mom's taxes to go up by \$730 billion, do you, Maddie? That's too much money. She doesn't want a health care bill that will cost \$1.5 trillion. She wants America's health insurance companies to have to compete with each other.

She believes in choice, but most of all, Maddie says, Don't tax me to pay

for health care that you guys want. If you want health care, pay for it yourselves, because it's not fair to pass your health care bills on to me and my grandchildren.

Thank you, Maddie.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The gentleman is reminded not to refer to guests of the House as props.

Mr. WAXMAN. Mr. Speaker, that was a remarkable child and a great ventriloquist.

I would like to yield for a unanimous consent request to the gentleman from Virginia (Mr. BOUCHER).

Mr. BOUCHER. Mr. Speaker, I rise in opposition to the bill.

Health care reform is needed. More than 36 million American citizens do not have health insurance, and millions more are underinsured and cannot afford to pay for the medical care they need. As those without insurance are treated in emergency rooms, the high cost of that care is borne by those who have insurance, driving up health insurance costs for everyone. The typical family pays an extra \$1,100 each year in health insurance premiums as a cost of treating the uninsured. Health insurance premiums are increasing 3.5 times as fast as the rate of increase in family incomes.

This status quo is unsustainable, and finding a way for everyone to afford health insurance is necessary to benefit both the uninsured and those who have insurance. I hope that following a House-Senate conference on the legislation, we will be able to send to the White House the needed reform measure.

But reform legislation must ensure that Southwest Virginia residents continue to have access to the high quality health care services now delivered locally.

I oppose the health care reform legislation now before the House for several reasons including the continued existence of disparities in Medicare reimbursements between urban and rural areas under the House bill. Rural areas have traditionally received less under Medicare than urban areas, and while the bill makes some improvements in this regard, I would like to see more done to increase the payments to rural health care providers. Higher Medicare reimbursements would enable the attraction of more doctors to serve our medically underserved region.

I also oppose the bill because of my concern that a government operated health insurance plan could place at risk the survival of our region's hospitals. Most of our hospitals are operated on a non-profit basis for the benefit of the community. While most of their receipts are from Medicare and Medicaid payments, they lose money on each Medicare or Medicaid patient they treat. These programs reimburse hospitals at rates below the actual cost of providing patient care.

The financial viability of our hospitals comes from the payments they receive from privately insured patients. A government operated health insurance plan competing with private insurance will attract patients who are privately insured today, with the result that the hospitals would treat less privately insured patients and lose the critical revenues that are essential to their survival.

A government operated plan would reimburse health care providers at rates approximating Medicare rates, and hospitals would lose money on each of their patients insured under the government plan.

I am concerned that for these reasons the creation of a government operated insurance plan as envisioned in the House bill could result in the closure of hospitals in our region. Families depend on our community hospitals for health care services, and financially healthy hospitals are essential to the health of Southwest Virginians.

Many of our hospitals are financially stressed in normal times, and two hospitals in the district I represent closed for periods of time in recent years for financial reasons. The government owned insurance plan as outlined in the House bill could push many more over the edge. I cannot support legislation that could lead to that result.

I also believe that bipartisan participation is needed on a measure of this scope which affects every American. The best ideas of Democrats and Republicans alike should be drawn upon to fashion the final legislation. That did not happen as the House bill was constructed.

In July, I opposed the health care reform measure when it was considered by the House Energy and Commerce Committee and expressed my concerns at that time. The bill passed by the House did not address those concerns.

Passage of the House bill is but a first step in a long legislative process to final enactment of a reform. I look forward to future steps in that process offering an opportunity for my concerns to be resolved.

Reform is needed, and I hope to support the final passage of legislation that emerges from a House-Senate conference that creates affordable access to health care for all Americans and does so in a way that enables the continued delivery of the excellent care now offered in our region.

Mr. WAXMAN. At this time, I yield 1 minute to the gentleman from the State of Maryland (Mr. SARBANES), a member of our committee.

Mr. SARBANES. Mr. Speaker, every day millions of people wake up with a knot in their stomach because they have anxiety and fear that they may lose their health care coverage or they don't have it to begin with. They need this health care bill. We in this Chamber are conscious of the sweep of history, but the people in my district and millions more across the country have a much less ambitious perspective. They just want to know is this a good bill, does it make sense, and will it help them and their families.

Well, if you are a senior, the answer is yes. We're going to begin closing the doughnut hole. If you are a young person, the answer is yes. You can now stay on your parents' policy through age 26. If you are a working adult, the answer is yes, because we're going to curb the abusive practices of the health insurance industry.

So what I want to say to people in my district and to others is this is a

good bill, it makes sense, and it will help millions of Americans across this country.

I urge its passage.

Mr. BARTON of Texas. Mr. Speaker, I am proud to yield 1 minute to the gentleman from the Hoosier State of Indiana, Mr. STEVE BUYER, another member of the Energy and Commerce Committee, and the ranking member on the Veterans' Affairs Committee.

Mr. BUYER. Mr. Speaker, in a few days, all of us are going to be going back to our districts. We are going to be celebrating Veterans Day. Many of you are going to be giving speeches. You are going to be throwing your arms around the soldier, the marine, the sailor, the airman, the coast-guardsmen. Do you throw your arm around them in this bill? You don't.

And when you go home and you give that speech, you can tap into the American character and you can say, Americans go to a land where they've never been to fight for a people that they've never met. They do so at no bounty of their own, and they leave freedom in their footsteps. Yet when they get to come home, how does our Congress right now treat them? In this 2,000-page bill, we deny them their rights of choice with regard to the health system which they can go to. Can you imagine that?

Now, I received a pledge not only from the Speaker, but also from the leadership, that veterans would be taken care of in this bill. My amendments were denied last night in the Rules Committee. How do you deny veterans their choice in this bill?

Shame on this institution.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair would again remind all persons in the gallery that they are here as guests of the House and that any manifestation of approval or disapproval of proceedings or other audible conversation is in violation of the Rules of the House, and are asked to respect those rules.

□ 1545

Mr. WAXMAN. Mr. Speaker, I yield myself 1 minute.

Before I yield to another very important member of our committee, I just want to set the record straight. We keep faith with the veterans in this bill. We allow them to keep their veterans benefits. We allow them to keep their benefits. They may, if they choose to, go into the exchange; but if they don't, they keep their benefits.

Mr. BUYER. Will the gentleman yield?

Mr. WAXMAN. I yield 1 minute to the gentleman from Iowa (Mr. BRALEY), a member of the Energy and Commerce Committee.

Mr. BUYER. We do not. Mr. Speaker, we don't protect veterans' rights.

The SPEAKER pro tempore. The gentleman from California controls the

time and has yielded to the gentleman from Iowa.

Mr. BUYER. \* \* \*

The SPEAKER pro tempore. The gentleman does not have the time. The gentleman from Iowa has the floor.

Mr. BUYER. I ask that—

The SPEAKER pro tempore. The gentleman is asked to respect the rules of the House.

Mr. BUYER. I will.

Mr. BARTON of Texas. Mr. Speaker, I will yield 1 minute to the gentleman, if that's allowed.

The SPEAKER pro tempore. The gentleman from California has already yielded time to another Member.

Mr. BUYER. Just protect veterans and I'll go sit down.

The SPEAKER pro tempore. The Chair would ask that the gentleman abide by the rules of the House.

The gentleman from Iowa is recognized.

Mr. BRALEY of Iowa. I thank the chairman for his extraordinary leadership on this bill.

Mr. Speaker, I rise today on the third anniversary of my election to Congress to urge my colleagues to speak truth to fear and vote for the Affordable Choices for America Health Care Act.

We were elected, my class, to come and change the direction of this country. That's exactly what this bill does.

We just saw a beautiful young child. I want to tell you about another beautiful young child, Tucker Wright, my nephew's son, who at age 18 months was diagnosed with liver cancer, had two-thirds of his liver removed, and faces a lifetime of expensive medical care. Tucker was lucky because both of his parents work full time. Both of them have health care. And yet he still has tens of thousands of uninsured medical costs that his parents have to pay for.

That is what's wrong with health care delivery in this country. That's why we need to reform health care. And that's why this bill will do for America what we should have done 100 years ago: provide health care for all Americans as a matter of right, not as a matter of privilege. And that's why I support this bill.

Mr. BARTON of Texas. Mr. Speaker, I yield 1 minute to the distinguished ranking member of the Financial Services Committee from the great State of Alabama, Mr. SPENCER BACHUS.

Mr. BACHUS. Mr. Speaker, when I joined the Army, they sent me to Fort Lewis, Washington; and one of the first things we did there was get in line to get our hair cut.

We noticed on the wall there were pictures of four different haircuts, and they told us to choose one of those haircuts, get a number, and give it to the barber.

We thought this was going to be pretty good. So we all gave him that number for the longest haircut. We all gave

our numbers to the barber, and he cut all our hair off, every one of us. The numbers meant absolutely nothing.

When we got back to the barracks, we knew who was in charge. We knew who was making the decisions, and it wasn't us. The Army was making all the decisions.

Just like thinking you're going to get the haircut you choose, we're promised the right to choose under this bill. But the reality is, just like the Army, when the government's in charge, you're not. This bill is about a new government bureaucracy making all the choices for us.

We're Americans. America is about freedom. Freedom is about making choices. And given the choice, I'll always put my faith in the individual, not the government.

Mr. WAXMAN. Mr. Speaker, I yield 1 minute to the gentlewoman from the State of California (Mrs. DAVIS) for the purposes of a colloquy.

Mrs. DAVIS of California. Mr. Speaker, I appreciate the opportunity to raise this issue also on behalf of my colleague from California, Congresswoman SPEIER.

Unfortunately, the provisions in section 309 allowing States to enter health insurance compacts may bring unintended consequences that could threaten long-established patient protections, and I know that that is not the intention.

I certainly plan on supporting this legislation today; but I would ask you for the commitment, Mr. Chairman, to continue working on the language in section 309 to ensure it does not impact strong State consumer safeguards such as we have in California.

Mr. WAXMAN. If the gentlewoman would yield, I thank you and I'm encouraged you and your staff have committed to further working on these provisions and not allowing health insurers to find loopholes in State laws.

Mrs. DAVIS of California. Thank you, Mr. Chairman. I look forward to that.

Mr. BARTON of Texas. Mr. Speaker, it is my privilege to yield 1 minute to Congressman FORTENBERRY of Lincoln, Nebraska, which today, since Oklahoma is playing Nebraska at Lincoln, is the largest city in Nebraska.

Mr. FORTENBERRY. I thank the gentleman for the insight.

Mr. Speaker, our health care system must be strengthened. No one disputes the diagnosis. We need to improve health care outcomes for all Americans and reduce costs, especially for small businesses and families, while we protect vulnerable persons.

But this bill is a massive, risky restructuring of our health care system. Why could there not be agreement on reasonable reforms such as portability of insurance, buying insurance across State lines, and creating new insurance association models for farmers and



families, providing affordable options just like corporations have?

I agree we should promote a health care culture that focuses on wellness and prevention, removes lifetime caps, and expands high-risk pools to help those with preexisting conditions. However, I fear that this 2,000-page bill at \$1.3 trillion will fail to reduce costs, would simply shift the costs to more government-run health care and reduce health care liberties.

Mr. Speaker, what is at issue now is winning and power, not effective, reasonable reforms. We've missed an opportunity. I cannot support this bill.

Mr. WAXMAN. Mr. Speaker, I reserve the balance of my time.

Mr. BARTON of Texas. Mr. Speaker, I yield 1 minute to the gentleman from Lubbock, Texas, a recent beneficiary of the best health care system in the world, Congressman RANDY NEUGEBAUER.

Mr. NEUGEBAUER. Mr. Speaker, I rise today as a proud cancer survivor.

August 1 of this year, I was diagnosed with the early stages of prostate cancer. And thank goodness I live in America and I was able to sit down with my doctor and work out a treatment plan that would help me be cancer free and stand before you today. Thank goodness that I live in a country where I could go and see my doctor and make choices. And thank goodness I live in America where I didn't have to get on a list to determine when I was going to be able to have the surgery so that I could get rid of this cancer. Thank goodness I'm not living in Canada or Europe, the very system that our colleagues on the other side of the aisle are trying to model America's health care system on.

I thought about during August a young lady named Candy Menville that was crying in her wheelchair and begging me to make sure that we didn't turn our health care system in America into the same system that's in Canada and Europe. She said, Congressman, with tears running down her eyes, don't take away my options.

Mr. Speaker, don't take away Cindy's option and don't take away my options and others like me. Vote down this terrible bill.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. SALAZAR). The Chair will remind all persons in the gallery that they are guests of the House and that any manifestation of approval or disapproval of proceedings or other audible conversation is in violation of the rules of the House.

PARLIAMENTARY INQUIRY

Mr. BARTON of Texas. Parliamentary inquiry, Mr. Speaker.

The SPEAKER pro tempore. The gentleman is recognized for a parliamentary inquiry.

Mr. BARTON of Texas. We respect the ruling and the admonition about

members of the gallery, but is it acceptable under the rules for the Members of Congress to show approval or disapproval of a speech on the floor?

The SPEAKER pro tempore. It is acceptable unless interrupting another in debate.

Mr. BARTON of Texas. Thank you, Mr. Speaker. We approve the Speaker's ruling.

Mr. Speaker, it is now my privilege to yield 1 minute to the gentleman from the State of Oklahoma (Mr. COLE), and it is with great pleasure that I announce that the entire Oklahoma and Nebraskan delegation who disagree on the outcome of the football game are all in agreement in opposing this bill.

Mr. COLE. I thank the gentleman for yielding.

Mr. Speaker, the Oklahomans I represent oppose this bill because they know what it does and what it does not do.

They know that this bill will raise taxes, not lower them. They know that this bill will grow government, not shrink it. They know that this bill weakens Medicare, not strengthens it. They know that this bill destroys jobs, that it doesn't create any. They know that this bill will force State governments to cut services and raise taxes, and it will put government bureaucrats rather than health care professionals in charge of their health care system.

Oklahomans know this bill does nothing to reform our tort system. They know it does nothing to give individual purchasers individual tax deductions. They know it does nothing to establish national insurance markets and association health plans that would allow small business to provide affordable insurance to their employees.

Oklahomans know the Pelosi health care bill is a giant step backward. And every Oklahoman in Congress will vote against this bill.

Mr. WAXMAN. Mr. Speaker, I yield 1 minute to the gentleman from Maryland (Mr. CUMMINGS).

Mr. CUMMINGS. Mr. Speaker, this afternoon we've heard a lot of people saying we should do what our constituents say that we should do.

I ask them what do I say to the gentleman in my district who is suffering from cancer and who is now trying to choose between eating and paying a high copayment for chemotherapy?

What am I to say to the young writer who for years paid her premiums and then, when she got pregnant and had her baby, they gave her a present on the way out the door that she could not afford: a \$22,000 bill?

What do I say to a lady who suffered from breast cancer in my district and when she lost her job, lost her insurance, could not get insurance, could not get it because of something called preexisting conditions?

I would say to all those folks who are saying that we do not need this and

must not do this, we have a moral authority to our fellow citizens. A moral authority.

Mr. BARTON of Texas. Mr. Speaker, I yield 1 minute to one of our pro-life leaders, the Honorable CHRIS SMITH of New Jersey.

Mr. SMITH of New Jersey. Mr. Speaker, today the House has an opportunity to significantly limit public funding of abortion in a manner that replicates the Hyde amendment and applies it to the two new massive government health care programs created in the pending bill: the public option and affordability credit program.

The Stupak-Pitts amendment ensures that pro-life Americans will not be forced to fund, enable, or facilitate the killing of unborn children and the wounding of their mothers.

Supermajorities, more than 67 percent, oppose public funding of abortion. Protecting vulnerable unborn children and women from the insidious violence of abortion is the human rights cause of our time.

So please let's not gloss over or trivialize the fact that abortion dismembers, decapitates, starves to death, or chemically poisons innocent babies, and that the abortion act itself, euphemistically called "choice," can in no way be construed to be compassionate, benign, nurturing, or health care. Abortion is violence against women and children. It is neither health care nor reform.

Support the Stupak-Pitts amendment

Mr. WAXMAN. Mr. Speaker, I continue to reserve the balance of my time.

PARLIAMENTARY INQUIRY

Mr. BARTON of Texas. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state his inquiry.

Mr. BARTON of Texas. Who has the right to close this part of the debate? Does Chairman WAXMAN have the right to close or does the ranking minority member have the right to close?

The SPEAKER pro tempore. There is only one overall right to close, and that will be the majority manager.

Mr. BARTON of Texas. Mr. Speaker, I yield 1 minute to Congressman JEB HENSARLING from the great State of Texas for 1 minute.

□ 1600

Mr. HENSARLING. Mr. Speaker, government-run health care is government-rationed health care. Today in America when our loved ones need health care, they wait hours, maybe days; but in Britain and Canada, they wait weeks, months, perhaps even a year.

Mr. Speaker, since I have been age 5, I have gone fishing with my father. Those are moments I treasure. But 15 years ago he went to see his doctor about a chest pain; 48 hours later, he



had triple bypass surgery. And guess what? At age 81, we are still fishing. But had he been in Britain, had he been in Canada, there might never have been another fishing trip. My children might have never known their grandfather because health care delayed is health care denied.

Government-rationed health care will mean our loved ones will suffer. They will languish, and perhaps even perish. We should never support a children-bankrupting, health care-rationing, freedom-crushing \$1 trillion government takeover of our health care system.

Let's support the Republican plan to give the American people the health care they need, when they need it, at a price they can afford.

Mr. BARTON of Texas. Mr. Speaker, I would like to recognize a Member from the great State of Georgia (Mr. KINGSTON) for 1 minute.

Mr. KINGSTON. Mr. Speaker, in January, with unemployment at 8.5 percent, Speaker PELOSI passed an \$800 billion pork-laden stimulus bill that was supposed to create jobs. In May, with unemployment up to 9.5 percent, Speaker PELOSI passed an energy tax of \$1,500 on every household in America that was supposed to create green jobs. Now in November, unemployment is up to 10.5 percent, we have the highest deficit in the history of the country, a \$12 trillion national debt, and Speaker PELOSI wants to spend \$1 trillion on a government takeover of insurance.

This bill raises premiums. It raises taxes. It cuts Medicare, and it forces you to surrender your current health care coverage and puts a thousand bureaucrats in between you and your doctor.

The government couldn't even run Cash for Clunkers, and now it wants to take over 17 percent of the economy.

Let's vote "no" on the Pelosi plan and support the bipartisan alternative.

The SPEAKER pro tempore. The gentleman from Texas has 1½ minutes. The gentleman from California has 30 seconds.

Mr. BARTON of Texas. Mr. Speaker, I yield myself the balance of the Energy and Commerce time.

Mr. Speaker, first of all, let me tell you how proud I am of the members of the Energy and Commerce Committee on both sides of the aisle who have participated in this debate since January, and who have participated on the floor debate today. It makes me proud to be a member of that committee.

Mr. Speaker, we have heard all of the policy arguments pro and con for this bill. I am going to end the Republican side of the Energy and Commerce debate simply by saying that I think this bill should be defeated because it is an imposition on personal freedom here in America. I just simply don't think that it is right to tell people that they have to have insurance, tells employers they

have to provide insurance, to set up a bureaucracy that advises a bureaucracy what that insurance should be, that then determines what the insurance itself should be, what the minimum premium should be, what has to be covered, what shouldn't be covered, and then over time almost guarantees that everybody, except the richest people in America, are in some version of the public option.

I just think that is wrong in America, Mr. Speaker, and for that reason alone I am against this bill.

There is an alternative. The Republican alternative covers many of the things that my friends on the majority side say they are for. We simply do it without mandating and imposing government will on the American people. Please vote "no" on the majority bill, and vote "yes" on the minority substitute.

Mr. WAXMAN. Mr. Speaker, 37 million Americans do not have health insurance because they can't afford it, their employers do not offer it to them, or they have a preexisting condition and the insurance companies deny it to them. We want them to buy the same policies that our Republican Members have talked about in such glowing terms, available to them and their families. Don't say "no" to 37 million Americans and tell them they have freedom. They don't have freedom to go without. In a country where people should not be forced into bankruptcy when they get sick, let's let people buy private insurance or a public option and get coverage.

The SPEAKER pro tempore. The gentleman from New York (Mr. RANGEL) has 40 minutes and the gentleman from Michigan (Mr. CAMP) has 40 minutes.

The Chair recognizes the gentleman from New York.

Mr. RANGEL. Mr. Speaker, I would like to take this time to recognize the gentlewoman from Florida (Ms. WASSERMAN SCHULTZ) for 1 minute.

Ms. WASSERMAN SCHULTZ. Mr. Speaker, we have heard a lot of discussion in this debate about the uninsured and the uninsurable. Often it is easiest to think about people with preexisting conditions who are uninsurable as the poor, the sick, or the jobless.

Mr. Speaker, the face of the uninsurable stands before this House today in this well. As a breast cancer survivor, the sad reality of today's health care system is if I lost this job tomorrow, I could not buy health insurance coverage because I have a preexisting condition.

This bill will end all that. The Affordable Health Care for America Act will make it possible to rid our country of the angst of facing illness without coverage. Passage will mean that Carol from south Florida won't face the dual tragedy of a cancer diagnosis and the loss of her job and, thus, the loss of her health care coverage. So instead of put-

ting all of her energy into fighting cancer, like I could, Carol had to fight for her health care coverage, too.

It is time to deliver on the American promise not just of liberty, but justice for all.

Mr. CAMP. Mr. Speaker, I yield myself 2 minutes.

Republicans have listened to the American people. It is clear from the Speaker's health care bill the Democrats have not. The Speaker crafted this bill behind closed doors and added 1,000 pages that have never been before a committee or had any input from the American people.

Just yesterday we confirmed that Americans could face 5 years in jail if they don't comply with the bill's demands to buy approved health insurance, and who knows what else we will discover over time. Simply put, the health care of the American people is too important and too complex to risk on this gigantic gamble. This bill will do lasting damage to our economy and force millions of Americans to give up their current health care coverage.

With the national unemployment rate spiking to 10.2 percent, it should be unthinkable to pass this bill which contains more than \$730 billion in taxes that will destroy millions more American jobs. The Democrats' bill cuts Medicare by one-half trillion dollars, slashing health care benefits for seniors, a direct violation of the President's pledge that Americans could keep what they have if they like it.

The Democrats' bill, when paired with an unpaid-for SGR fix, increases the deficit, a violation of the President's pledge that health care reform would not add one dime to the debt. The Democrats' bill drives up the cost of health care and increases Federal spending on health care by \$600 billion, a violation of the President's pledge that health care reform would bend down the cost curve.

So you can't keep what you like if you like it. The bill spends over \$1 trillion while raising taxes, cutting Medicare and increasing the deficit, and it drives up the cost of health care. The Democrat majority has not listened to the American people. Vote "no" on this bill.

Mr. RANGEL. Mr. Speaker, I would like to recognize the distinguished gentleman from Georgia (Mr. SCOTT) for 1 minute.

Mr. SCOTT of Georgia. Mr. Speaker, today the arc of history will hover over this House of Representatives, and the question facing each and every one of us today as 14,600 of our American citizens are losing their insurance every day is: where are we going to stand on this arc of history today? I ask you, are you going to stand with the negative forces of "no" or "kill the bill" or "I object"? Or are we going to stand with the hope of America that has been expressed all of the way down from Teddy

Roosevelt to Franklin Delano Roosevelt to Harry Truman to Lyndon Baines Johnson to Teddy Kennedy, and to JOHN DINGELL?

I say to you today, this House of Representatives, stand up and say I am not afraid of the future because the key to our future is to make sure that all Americans have access and have affordable health care insurance. That's what the American people are expecting us to do, to stand up for America.

Mr. CAMP. I yield to the gentleman from California for a unanimous consent request.

Mr. ROHRBACHER. Mr. Speaker, I oppose this bill that will take hundreds of billions of dollars out of Medicare and give billions of dollars of health care to illegal immigrants.

Mr. Speaker, this attempt at sliding Americans into dependence on a government-controlled health care system brings bait and switch to a new low.

We have heard about the flaws of our current healthcare system, high costs, lack of portability, lose a job—lose health insurance, discrimination of those with preexisting conditions. Yes, many of the heart-wrenching stories we are hearing to justify this legislation are real. But correcting those maladies requires specific reform, not transforming healthcare in America into a bureaucratically-managed system that will cost hundreds of billions, including billions to provide healthcare for illegal aliens, while at the same time cutting Medicare by hundreds of billions of dollars. This so-called reform will destroy the freedom of the American people to make health decisions with a doctor of their choice. It will transform our system, rather than reform it. And what we will end up with is a system that is massively more expensive, less effective, and will be based on government controls and rationing, rather than the patient-doctor relationship.

You can touch our hearts with the stories of suffering brought about by defects in our current system, but it doesn't follow that we have to buy into this monstrous federal power grab. It is too benign to call this scheme bait and switch.

Wake up America!!

This bill cuts healthcare for our seniors by hundreds of billions of dollars while providing subsidized health care of illegal immigrants, which will draw more illegals into our country.

Wake up America!!

This bill is structured so that private companies will find it profitable to dump employees into the government-run option, rather than continuing to offer private health insurance.

Wake up America!!

This ill-conceived power grab will bankrupt our country as it destroys our freedom.

Mr. CAMP. Mr. Speaker, I yield 2 minutes to a distinguished member of the Ways and Means Committee, a true American hero, the gentleman from Texas (Mr. SAM JOHNSON).

Mr. SAM JOHNSON of Texas. Mr. Speaker, today we are voting on Speaker PELOSI's \$1 trillion Washington takeover of health care. This bill bulldozes individual liberty and

puts the government just where it doesn't belong, right smack dab in the middle of your personal health care decisions. This bill forces every single person in this country to purchase government-approved health care or go to jail. Businesses must also offer government-approved health care or face hundreds of billions of dollars in job-killing taxes.

Unfortunately, government-approved health care will be defined by a handful of bureaucrats around a conference table in Washington. This unprecedented Washington power grab eliminates an individual's right to choose what kind of health care is best for them and their families.

Speaker PELOSI's 20-pound, 2,000-page bill costs \$2.2 million per word. The American public have made their voices heard. They are sick and tired of the government sticking its nose where it doesn't belong. They are fed up with Washington's trillion-dollar bailouts, free handouts and special interest pay-backs.

The Democrats in Congress need to listen and come up with a bipartisan, patient-centered plan. We can do better with a targeted, fiscally responsible approach that makes health insurance more affordable, more accessible, and available. Real health reform protects a patient's right to choose their own care. Real health reform gives doctors the freedom to do what is best for their patients. We can do all of this without piling trillions of dollars of debt onto our children and grandchildren.

Vote down this deficit-ballooning, job-killing, Washington takeover of health care today.

Mr. RANGEL. Mr. Speaker, I would like to recognize my friend and colleague, the outspoken Member from New York, Mr. NADLER, for 1 minute.

Mr. NADLER of New York. Mr. Speaker, I have spent much of my adult life fighting for greater health care rights and for universal health coverage. This historic bill goes a long way toward achieving those goals.

Around the country, we see millions of people with inadequate or no coverage. Families go to sleep at night knowing that they are one serious illness away from bankruptcy. And the unemployed are people who face going it alone in the prohibitively expensive individual coverage market or, worse, going without insurance at all.

□ 1615

While I would have preferred a single-payer system, I am happy to support a bill that contains a public health insurance option that will provide competition to the private insurance companies and will drive down rates.

This bill will end discrimination against people with preexisting health conditions, will end the practice of dropping patients when they are sick,

and will strengthen and enhance Medicare by ending the doughnut hole and extending the solvency of the Medicare Trust Fund.

Mr. Speaker, the status quo is not an option. We have an opportunity to get universal health care coverage in this country to implement the competitive public health insurance option that puts the patient before the quarterly financial report, and to ensure that just because you lose your job, you won't lose your health insurance.

This is monumental and historic, and I am proud to support the Affordable Health Care for America Act.

Mr. Speaker, I have spent much of my adult life fighting for greater health care rights and universal health coverage. This historic bill, H.R. 3962, makes great strides toward achieving those goals.

Around the country, we see millions of people with inadequate or no coverage, with another 14,000 Americans joining the ranks of the uninsured each day. We see families who go to sleep at night knowing they are one serious illness away from bankruptcy, the reason for 55 percent of all bankruptcies filed last year. We see the rising ranks of the unemployed who face going it alone in the prohibitively expensive individual coverage market—or worse, going without insurance at all. And we see 20,000 people die every year because they have no health insurance.

At the same time that this stark reality hits hardworking Americans, insurance companies have conspired to keep costs high. These costs, upward of 15–35 percent squandered on outrageously high administrative costs, do nothing to make people healthier but do much to line the pockets of insurance companies and help their corporate bottom line.

This is unacceptable. We must take action. That's why I support the Affordable Health Care for America Act.

As with any legislation, there have been some compromises made along the way. I would have preferred a single payer system, the most effective and least costly way to implement a health delivery system. But I, like so many of my colleagues, have come to see a competitive public option as the best available way to refocus our misguided health care approach. A public option will put patients and doctors, not corporate bottom lines, at the forefront. This public option will add much needed competition into an insurance market that must be kept honest, and it will work to drive down rates.

Mr. Speaker, this past August, political pundits and TV-talking heads had the public option dead on arrival. Yet, because of the efforts of progressive Members in Congress, in which I was proud to join, we succeeded in keeping the public option in this bill and ensured that the American people would be given an alternative to corporate health insurance. And make no mistake about it—the public option weathered the storms of misinformation, slander, and downright lies because the American people saw through the political game playing and saw the public option for what it is—an option, not a mandate, that will help stem the cost of ever-rising health care costs.

In addition to the public option, this national health reform bill implements key insurance industry reforms, strengthens Medicare, and immediately gives hope to the millions of Americans currently living without health insurance.

It will end discrimination against pre-existing conditions, and end the cruel practice of rescission, which allows insurance companies to drop people from coverage if their illness is considered too expensive. This bill also guarantees that people with insurance will not face devastating costs when they get sick by placing limits on out-of-pocket medical expenses, and creating, for the first time ever, a voluntary long-term care program. And H.R. 3962 would end the blanket exemption insurance companies currently enjoy from anti-trust laws. With this change, we can now bring anti-trust enforcement against the egregious practices of price-fixing and market allocation.

H.R. 3962 contains numerous provisions that help our seniors by strengthening and enhancing the Medicare program. This bill reduces the donut hole to \$500 immediately and eliminates it entirely by 2019. It allows the HHS secretary to negotiate prescription drug costs, which I have long advocated for, eliminates out-of-pocket expenses for preventive care for seniors, and extends the solvency of the Medicare trust fund for at least five years.

Small businesses also receive desperately needed assistance from this bill. Initially, businesses with up to 25 employees, then growing to businesses with up to 100 employees by 2015, will be able to join the health exchange, which will allow small business employees to take advantage of group rates and a broader range of insurance options—a key change that will go a long way toward helping small businesses keep down their number one expense, which is the cost of providing health care coverage.

For America's young people, who make up 29 percent of the uninsured in America, H.R. 3962 will permit parents to extend coverage to their children until their 27th birthday.

To help American families defray the costs of health coverage, this bill extends assistance on a sliding scale to families earning up to \$88,000 per year. This will go a long way toward ending the cruel choice between health care coverage and other necessities.

Mr. Speaker, there are some who have said that health care reform is too hard. There are those who have allowed misinformation and politics to push them to root against helping their fellow Americans to have access to quality, affordable health care. There are even those who, for reasons I fail to grasp, want to continue with the status quo.

To those people, Mr. Speaker, I say—the status quo is not an option. We have a remarkable opportunity in front of us. We have an opportunity to make fundamental changes to the way we view health care and deliver services, to implement a competitive public health insurance option that puts the patient before the quarterly financial report. And, with passage of this bill, we will be able to say for the first time in this country that just because you lose your job, you won't lose your health insurance.

Mr. Speaker, this is monumental. This is historic. And I am proud to cast my vote in favor of the Affordable Health Care for America Act.

Mr. CAMP. At this time, I yield 2 minutes to the distinguished gentleman from the Ways and Means Committee, the gentleman from Texas (Mr. BRADY).

Mr. BRADY of Texas. Mr. Speaker, this is the Pelosi health care plan, and it's wrong for America. Over 100 new Federal agencies, commissions, and mandates standing between you and your doctor.

This huge, inefficient new bureaucracy makes your health care insurance more expensive, forces millions of Americans into a government-run plan, raises taxes on workers and small businesses, increases Medicare drug costs for seniors, adds billions to our frightening deficit, and after throwing \$1 trillion at the problem, still leaves 18 million Americans uninsured. Big government doesn't mean better health care.

To pay for this massive new bureaucracy, Democrats slash Medicare for our elderly by a half-trillion dollars. That means 660,000 Texas seniors are going to lose their plan. It shuts 40 doctor-owned hospitals in Texas, costing us 15,000 jobs. And 1.5 million Texans will have their plans disappear.

This is not the reform families need. Instead, this is all about taking the giant first step toward a single-payer national health care system. If the Pelosi plan passes, Washington will ultimately decide which doctors you can see, what treatments you deserve, and what medicines you receive, and when you're sick, will you be worth their cost?

House Republicans have a different vision. We listened. Ours is a careful, step-by-step solution to the complex issue of health care, focusing first on lowering your health care costs so more can afford it. We have no tax increases, no Medicare cuts, no rationing, no mandates, no huge intrusion of government into the most intimate parts of your health care, just more choices, more fairness, less lawyers. Best of all, our Republican plan is the only reform that actually lowers your health care premiums and lowers the deficit.

We need to get health care reform right the first time. The Pelosi plan is wrong.

Mr. RANGEL. Mr. Speaker, for another view of health care in Texas, I yield 1 minute to Ms. JACKSON-LEE.

Ms. JACKSON-LEE of Texas. Mr. Speaker, today I am holding up a concise, efficient, and effective health care plan for America, H.R. 3962, and I plan to stand with America and those who don't have health insurance today as we cast our vote for affordable health care for America.

Eighteen thousand people die every year because they do not have health insurance. The State of Texas has 6 million people who don't have health insurance. Several Republican Mem-

bers from Texas, have in their districts, some 29 percent, and 18 percent of individuals who don't have health insurance.

So today I rise to say that the plan we have will immediately close the doughnut hole for Seniors. It will provide the uninsured with a bridge to the exchange program. It will extend the coverage for our young people until the age of 27, and, yes, I'm proud of the language on pages 22 and 23 that will begin to help save hospital beds in physician-owned hospitals in the State of Texas and around the Nation. This language is in the bill and we now can continue to work competent quality hospitals in rural and urban areas.

We are ready to fight. We are ready to make sure that those who need health insurance will have us on their side. I am standing with America and voting for America for the first time in which a health care reform bill passes the House with a Public Option to give more access to Americans and lowers the costs of health care insurance. Vote for the health care bill now.

I rise before you today in support of H.R. 3962, the Affordable Health Care for America Act. On July 5, 1965, President Lyndon Johnson said the following about the passage of Medicare, "This bill is sweeping in its intent and impact. It will help pay for care in hospitals. If hospitalization is unnecessary, it will help pay for care in nursing homes or in the home. And wherever illness is treated—in home or hospital—it will also help all Americans." My friends we can all say that about this sweeping legislation. Madam Speaker, while some say that patients and physicians oppose this bill I know otherwise. Today, I met with dozens including physicians, medical students, patients, and advocates. This group included representatives from Doctors for America, National Physicians Alliance, American Medical Student Association, US PIRG, Disciples of Christ, Episcopal Church, NETWORK—A Catholic Social Justice Lobby, United Church of Christ, and United Methodist Church along with a nationally renowned cardiac surgeon Dr. Salim Aziz of the George Washington University Medical Center.

The health providers with whom I met are on the front lines of the health care debate every day. As such, it is no surprise that they enthusiastically endorse this bill, while holding out hope for progressive changes to health reform legislation before it becomes law. These health professionals see the pain and frustration of hardworking Americans who face financial collapse, physical suffering, and sometimes the loss of their life simply because they do not have decent health care coverage.

Allow me to share with you some of the stories that I've heard from these care givers. One story was that of Dr. "Alex", a Pediatrician and Health and Evidence Policy Fellow at Mt. Sinai School of Medicine. Dr. Alex told me of an illness he suffered himself while still a medical student at Howard University College of Medicine here in Washington, DC. One summer, during an internship at the Centers for Disease Control in Atlanta, Dr. Alex became very sick, and was examined at an

emergency room. The examination revealed that Dr. Alex's ailment arose from acute kidney failure.

Dr. Alex thankfully had health coverage through Howard University's student health insurance plan. Yet he was faced a conundrum since the university's plan only covered health services required by their students in Washington, DC. It didn't cover him in Atlanta, thus Dr. Alex qualified as under-insured. Aware that he could not afford out-of-pocket payment for a renal dialysis unit as was being recommended, by his physician, his father drove him through the night from Atlanta, waking him every few minutes to make sure he was responsive, until they finally reached Washington, DC, the next morning, where he could get the treatment needed. This story is proof of the fact that even those who chose to enter the profession of caring for others are not immune to the dysfunction of our health care system. Dr. Alex also related another interesting paradox that I'll share with you. He trained in pediatric medicine at a county hospital outside of Los Angeles. At this county hospital I cared for uninsured children, and those enrolled in SCHIP and Medicaid. What he most enjoyed about working within that system was that they provided high quality care to those who needed it the most. His patients on Medicaid and SCHIP were able to easily see sub specialists: Dermatologist, Ophthalmologist, and Gastro-intestinal physicians. His patients who had private insurance often faced health care barriers which his patients on SCHIP and Medicaid never had to navigate. When children who had private medical insurance visited his county hospital pediatric clinic, staff there had to seek preapproval from the private insurance company so that patients' parents were not billed and required to pay the cost of care out-of-pocket. In this county pediatric clinic he once cared for a 9-month-old boy who had a swollen face covered in a rash on his forehead and cheeks, and raw in his neck folds. He sat before him and scratched his arms, trunk, and face uncontrollably to the point of bleeding. Because of his constant scratching his skin had started to harden. He had uncontrolled eczema and his mother told him in tears how she had not been able to obtain a referral to a dermatologist. The county pediatric dermatologist's one afternoon a month clinic time was that same day. To prevent the patient's mother from receiving a large medical bill, Dr. Alex did what he normally did; he got on the phone to her private insurance company and asked the insurance bureaucrat to agree to pay for the visit. As his other patients had to wait for him, he wasted time on the phone trying to solicit preapproval from her insurance company. But he could not sway the insurance gatekeeper. He tried his hardest to make this bureaucrat understand the child's bloody scabs, the mother's tears. But to no avail. The dermatologist took pity on the child and did what we physicians often do, he saw the patient for free.

Why have we allowed insurance bureaucrats to come between Dr. Alex and his patients? We can do better than allow profit driven bureaucrats decide what medicines my patients receive. He wants a health care system where when he writes a prescription his patient does not have to worry whether their in-

surance company will pay for it. An insurance bureaucrat sitting in their cubicle should play no part in the relationship between me and my patient. We need to reform our system.

Today is a historic day not only for the 39 million uninsured Americans, but also for our great Nation. As Speaker PELOSI remarked earlier today, we, Members of Congress, are "humbled to stand here at a time when we can associate ourselves with the work of those who passed Social Security, those who passed Medicare, and now we will pass health care reform." Many parallels exist between that history and today. Today, we listened to a parade of Republicans warn that this bill will bring the downfall of American society, of the American way of life. This is not the first time that the Republicans have been on the wrong side of history. In an interview in 1975, David L. Kopelman, who played a prominent role in the early administration of the Medicare Program, remarked that his colleagues were often criticized by Republicans. "Communist," he recalled, "was the designation all too liberally applied to anyone with a progressive idea. Well, after all, when we went around making contact with employers in those early years that was the designation not delicately applied by many, if not most of them, to the social security program. It must be some communist scheme foisted on the American people." Alf Landon, the Republican candidate for President in 1936, even campaigned on the fact that not a dollar in social security benefits would ever be paid.

Mr. Speaker, unfortunately, such ad hominem attacks are as prevalent as ever. The Republicans want you to believe that our country is descending into an abyss of socialism, but nothing could be further from the truth. Today, I am proud to support a bill that is distinctly American. We the people, Thomas Jefferson wrote in the Declaration of Independence are endowed "with certain unalienable Rights that among these are Life, Liberty and the pursuit of Happiness.—That to secure these rights, Governments are instituted among Men, deriving their just powers from the consent of the governed . . ." I believe that it is no coincidence that life is listed first—for without it, the Founders realized, no other rights can be realized. Over years, the millions of Americans who could not access medical services were denied their most basic right. The value of life is echoed in the Universal Declaration of Human Rights as well as in the Hippocratic Oath taken by every physician.

True, health insurance is not a human right by itself, but consider the following: according to the National Academy of Sciences, Institute of Medicine, there is a "consistent and statistically significant relationship between health insurance coverage and health outcomes for adults. These factors, in turn, improve the likelihood of disease screening and early detection, the management of chronic illness, and the treatment of acute conditions . . ." This year, a study published in the American Journal of Public Health by researchers at Harvard University Medical School concluded that nearly 45,000 excess deaths of Americans can be linked each year to lack of health insurance. Forty-five thousand is fifteen times the death toll at the World Trade Center;

45,000 people are approximately equal to the population of Texas A&M University; 45,000 is almost thirty times the number of American soldiers killed in Iraq since 2001. The lives lost at the World Trade Center and in Iraq will never be forgotten. Why then, do we pretend that a far greater loss of life every year does not exist? Make no mistake about it, health insurance can be a direct determinant of whether somebody lives or dies.

According to the U.S. Census Bureau, 27 million American live without health insurance, and an additional 1.1 million part-time workers lost their health insurance in 2008. Implementing this legislation will instantly improve the life expectancy of millions of Americans of all ages. It is impossible to put a price on that. When we talk about the right to healthcare, we are actually talking about the right to access healthcare. In our current system people do not choose to be uninsured but, instead, are priced out of insurance. These people cannot, as free market proponents often argue, "Pull themselves up by their bootstraps." Instead, they and their families are too often cyclically and systemically trapped in their economic situation. Texas, in particular, with 6 million uninsured persons and 26 percent in the 18th Congressional—H.R. 3962 must pass.

I am committed to working with the Speaker's office and Senatorial leadership now that we are taking the first step in stemming the rising tide of the many uninsured. The protection of physician-owned hospitals is an issue of national interest. We have a lot of work to do as we move toward the Senate and to the conference. I was gratified to meet with the Speaker today to discuss the continued protection of the very viable physician-owned hospitals.

I will continue to work to save physician-owned hospitals that are currently treating patients or under significant development, to ensure that Americans can continue to receive healthcare at the local hospitals they have come to depend upon. Physician-owned hospitals take care of patients covered by Medicare and Medicaid, as well as patients who are uninsured or cannot pay for their care. They also provide emergency departments access for their communities. At a time when we are concerned about the shortage of hospital beds in the face of epidemics like the swine flu, my amendment to this landmark bill will make sure no hospital is forced to shut its doors or turn away Medicare or Medicaid patients. The benefits that will come from our efforts to protect physician owned hospitals are far reaching and will prevent any further losses to local economies. Not only do physician hospitals deliver high quality medical care to the patients they serve, they also provide much needed jobs, pay taxes, and generate significant economic activity for local businesses and communities. Existing physician-owned hospitals employ approximately 51,700 individuals, have over 27,000 physicians on staff, pay approximately \$2,421,579,312 in payroll taxes and \$512,889,516 in other federal taxes, and have approximately \$1.9 billion in trade payables. Hospitals currently under development would employ approximately 21,700 more individuals. With approximately 50 physician-owned hospitals, Texas leads the

nation in the number of physician-owned hospitals. The Texas economy could lose more than \$2.3 billion and more than 22,000 jobs.

In my district, the 18th Congressional District of Houston, Texas, St. Joseph Medical Center is a general acute care hospital that treats all patients. In fact, its 40 percent Medicaid patient population is double the average hospital's patient population in the entire State of Texas and is one of the highest in the country. St. Joseph's was operated by the Sisters of Charity for many years until it was scheduled to be closed because the order could no longer support it. The hospital was offered to for-profit and not-for-profit hospital systems but no one would accept responsibility for operating St. Joseph's. A plan was developed to convert the hospital into condominiums. I refused to allow that to happen. It was only at that point that the physicians who had practiced there for many years came together to buy the hospital to save it from closing.

St. Joseph's takes care of patients covered by Medicare and Medicaid, as well as patients who are uninsured or cannot pay for their care. The emergency departments of many physician-owned "specialty hospitals" have been criticized for not having a true emergency department. St. Joseph's has a department which is open 24 hours per day, 7 days per week, providing an access point for patients in need of emergency services. In fact, St. Joseph's admissions through the emergency department are double the State average;

St. Luke's hospital in Houston, which is church-owned, has three new facilities under development; the nonprofit religious mission has the controlling interest. One full-service hospital has one phase already operating, but would be under the growth restrictions; the hospital cannot be completed if the new restrictions apply. The hospital brought approximately 300 new jobs to the community; and

Baylor Health Care System, based in Dallas, has found that their partnership with physicians has increased measurable quality, increased patient satisfaction, and decreased the cost in the delivery of their excellent care. This joint venture model has produced a heart hospital that has the lowest readmission rate in the entire United States. And yet this bill would deny Baylor Health Care System the right to add a single operating room or procedure room to meet its community's need. During the moratorium on physician-owned hospitals some years ago, Baylor wanted to add a badly needed OB/GYN service at its Frisco, Texas, hospital. This service is a money losing service, but there was no such service within many miles for those people—Baylor fulfilled the need. It was prohibited from adding this service simply because the hospital had physicians holding a minority of the ownership of the hospital. After the moratorium was lifted, the service was added and is currently working at its capacity.

Mr. Speaker, can we imagine witnessing an impact, of no patient beds, 6- to 8-hour waiting times, to extend even to 10-hour waiting times, turning emergency patients away at the door? Can we imagine the dramatic case, when patients are not able to have access to quality care? This is true of the most serious

trauma, of the most serious medical cases. Physician owned hospitals serve in many cases at least 40 percent of the city's population. I don't just mean the city's population. We are discussing a population that is between 500,000, which is the indigenous population, and the population of 1.5 million that's in the city every day.

When a hospital downsizes in a particular city, it extends beyond the boundaries of that city, and in doing so, with this hospital being downsized, it's impacting all of the hospitals, not only in the city, but those hospitals in nearby jurisdictions. We're seeing the epicenter of a catastrophic event, and unless we realize the importance of this one medical facility, but look at it not from the perspective that it serves this city, but we have to realize that it serves the world. It serves the Nation. At the very least, it serves the Nation; at the very most, it most serves the world. So when you start looking at it from those perspectives, then it becomes more than just a problem of Houston, Texas, but a problem of this Nation. And it should be addressed in that manner.

If we do not work closely together to look deeper at this issue, we will face a number of medical facility closures that is a disservice to the American people. So, we see that there seems to be a phasing-back or cutback in all of the major services, but the most important of those services, which directly affect the health and well-being of the citizens, or again, those 1.5 million people who visit and work in the city every day. So, we hear the same thing time and time again, even though individuals are saying that the patient caseload can be handled by the surrounding hospitals. You need but step into any emergency room on any day, at any time, and just see the impact of this one hospital being downsized. The impact will reach out throughout the city of Houston.

Again, a true indication of the success of any city government, or any country, is its ability to care for its weak, its injured, its sick, its young, and its old. The ability to care—compassion. Let us be honest—we see the faces of those individuals who we cannot help, because the system has failed them, and they ask us for help. What do we tell them? You never want to lie to a patient. You want to be honest and up-front with this patient. But you reach a point where, in some cases, it's best that you say nothing.

How can we tell a family member sitting across from me, in the back of my ambulance, with their loved one lying on the cot as we do CPR, cardiopulmonary resuscitation, on them, "Ma'am, I'm sorry, we're going to have to go on the other side of the city because St. Joseph's Hospital is closed"? Then, when we get there, the doctors come to the family member and say, "I'm sorry, your husband, your son, your daughter, your child, has died."

How do we explain that to them: We passed the hospital that may have made the difference in this case. The ability to care, to show compassion: It's just apparent to me that that just doesn't exist now. To sign off on anything less is to simply say, we turn our back on the community; we turn our back on the Nation. To do that, is to give away what makes us human. I think now is the time that we make that decision: Whether we are unwill-

ing to turn away from what makes us human, or give in to those individuals who seek to benefit from others' miseries. Those individuals know who they are. I think now is the calling time. Now the horn is being blown, and we've got to answer. But first, the failure of every part of civilization is first, the inability to care for its population. From there, it tends to go downhill.

This is a national problem, but we should be setting the trend, we should set the example for the entire Nation that hospitals like St. Joseph's Hospital do more than just care for our sick and injured. They represent our capacity to care. There is a duty to act and a passion to care.

H.R. 3962 is a bill that will change the health dynamics positively for all Americans—but it is a work in progress. In the manager's amendment after weeks of meeting with the leadership our efforts to seek some relief for physician-owned hospitals was achieved. It is not a winning formula, however on pages 22–23 of the manager's amendment we secured language that says that all physician-owned hospitals should not be treated alike. I have introduced two amendments to cover extending the grandfathering in of physician-owned hospitals and on criteria for other physician-owned hospitals. However, our work is not finished—we must work with the Senate and in conference to keep quality health care.

For the RECORD, I have attached a chart on Texas uninsured, benefits for the 18th Congressional District, and physician-owned hospitals.

This is a vital issue which must be corrected or the bill moves through Congress and for physician-owned hospitals to survive and grow. Martin Luther King, Jr. often told the story of the priest, the Levite and the good Samaritan. "The first question that the priest and Levite asked was "If I stop to help this man, what will happen to me?" But, the Good Samaritan reversed the question "If I do not stop to help this man, what will happen to him?" Today, we can be the Good Samaritan—to help all Americans access good health care. Finally a special thanks to Chairmen RANGEL, WAXMAN, and MILLER and a very, very thank you to Congressman JOHN DINGELL and the late Senator Edward M. Kennedy.

No insurance. Texas has the highest rate of uninsured with about 6 million uninsured.

Texas Districts with the highest percentage of uninsured constituents. Rank shows district ranking out of 435 nationally.

Rank, Representative, district No., and percent uninsured:

1. Ruben Hinojosa, District 15—46.4 percent.
  5. Gene Green, District 29—36.4 percent.
  6. Henry Cuellar, District 28—34.1 percent.
  8. Silvestre Reyes, District 16—33.3 percent.
  12. Eddie Bernice Johnson, District 30—32.3 percent.
  19. Sheila Jackson Lee, District 18—29.7 percent.
  22. Solomon Ortiz, District 27—28.6 percent.
  23. Louie Gohmert, District 1—26.9 percent.
  24. Jeb Hensarling, District 5—26.8 percent.
  27. Ciro Rodriguez, District 23—26.4 percent.
- Other South Texas Districts:
37. Lloyd Dogget, District 25—25.0 percent.
  40. Charlie Gonzalez, District 20—24.7 percent.

48. Ron Paul, District 14—23.7 percent.  
124. Lamar Smith, District 21—18.3 percent.  
**BENEFITS OF THE AFFORDABLE HEALTH CARE FOR AMERICA ACT IN THE 18TH CONGRESSIONAL DISTRICT OF TEXAS**

The Affordable Health Care for America Act will make health care affordable for the middle class, provide security for seniors, and guarantee access to health insurance coverage for the uninsured—while responsibly reducing the federal deficit over the next decade and beyond. This analysis examines the benefits of the legislation in the 18th Congressional District of Texas. Congresswoman Sheila Jackson-Lee represents the district.

In Congresswoman Jackson-Lee's district, the Affordable Health Care for America Act will:

Improve employer-based coverage for 279,000 residents.

Provide credits to help pay for coverage for up to 186,000 households.

Improve Medicare for 70,000 beneficiaries, including closing the prescription drug donut hole for 5,300 seniors.

Allow 16,600 small businesses to obtain affordable health care coverage and provide tax credits to help reduce health insurance costs for up to 14,600 small businesses.

Provide coverage for 187,000 uninsured residents.

Protect up to 500 families from bankruptcy due to unaffordable health care costs.

Reduce the cost of uncompensated care for hospitals and health care providers by \$49 million.

#### AFFORDABLE AND IMPROVED HEALTH CARE COVERAGE FOR THE MIDDLE CLASS

Better health care coverage for the insured. Approximately 41% of the district's population, 279,000 residents, receive health care coverage from their employer. Under the legislation, individuals and families with employer-based coverage can keep the health insurance coverage they have now, and it will get better. As a result of the insurance reforms in the bill, there will be no co-pays or deductibles for preventive care; no more rate increases or coverage denials for pre-existing conditions, gender, or occupation; and guaranteed oral, vision, and hearing benefits for children.

Affordable health care for the uninsured. Those who do not receive health care coverage through their employer will be able to purchase coverage at group rates through a health insurance exchange. Individuals and families with an income of up to four times the federal poverty level—an income of up to \$88,000 for a family of four—will receive affordability credits to help cover the cost of coverage. There are 186,000 households in the district that could qualify for these affordability credits if they need to purchase their own coverage.

Coverage for individuals with pre-existing conditions. There are 27,600 individuals in the district who have pre-existing medical conditions that could prevent them from buying insurance. Under the bill's insurance reforms, they will now be able to purchase affordable coverage.

Health care and financial security. There were 500 health care-related bankruptcies in the district in 2008, caused primarily by the health care costs not covered by insurance. The bill caps annual out-of- \* \* \*.

Mr. CAMP. Mr. Speaker, at this time, I yield 2 minutes to the distinguished ranking member of the Budget Committee and distinguished member of the Ways and Means Committee, the gentleman from Wisconsin (Mr. RYAN).

Mr. RYAN of Wisconsin. Mr. Speaker, I would like to place in the RECORD a statement commending the people at CBO for their long hours and hard work.

Mr. Speaker, I firmly believe that this is probably the most consequential vote each of us will take in our service here, whether you've been here for 40 years or for 1 year.

When you expose this bill's budget gimmicks, does it increase the debt and deficit? Yes. Will it take coverage away from seniors, raise premiums for families, and decrease health care innovation? Yes. Will it raise taxes on small businesses and workers and cost us nearly 5.5 million jobs when our unemployment rate is 10.2 percent? Yes. Does this bill mean the government will take over running our health care system? Yes.

But what is worse is this bill replaces the American idea with a European-style social welfare state. This bill, more than any other decision we are going to make in this body, will do more to put millions of Americans as dependents of a state rather than being dependent upon themselves.

This is not about health care policy. If it were, we could pass a bipartisan bill to fix what's broken in health care without breaking what's working in health care. This is about ideology.

My friends, the choice is not whether you're going to stick with your party leaders. The choice here is what side of history do you want to be on? Will you be on the side of history where you stick with the people and the principles that built this exceptional Nation? That is the choice we are going to make with this bill, and I encourage you to think it through.

It is unusual for the House to be in session working on a Saturday. That has not been the case for the Congressional Budget Office's staff that has been working on health care legislation. For the past several months, CBO has worked non-stop to analyze health care legislation. This legislation is enormously complex and far-reaching and CBO is doing their best to fulfill their mission to provide objective non-partisan analysis to the Congress. That analysis is critically important to us and I want to acknowledge the hard work of Director Doug Elmendorf and the following CBO staff in that endeavor:

Alexandra Minicozzi, Allison Percy, Andrea Noda, Anna Cook, April Grady, Athiphat Muthitacharoen, Ben Page, Bruce Vavrich, Assistant Director for Health and Human Resources.

Carla Tighe Murray, Chapin White, Christi Hawley Anthony, Colin Baker, Daniel Kao, David Auerbach, David Austin, David Weiner, Doug Elmendorf, Director.

Elizabeth Bass, Ellen Werble, Heidi Golding, Holly Harvey, Deputy Assistant Director for Budget Analysis, Jamease Kowalczyk, James Baumgardner, Deputy Assistant Director for Health, Janet Holtzblatt, Jean Hearne.

Jodi Capps, Joyce Manchester, Unit Chief, Long Term Modeling Group, Julia Christensen, Julie Lee, Julie Somers, Julie

Topoleski, Kate Massey, Unit Chief, Low-Income Health Programs and Prescription Drugs Cost Estimates.

Keisuke Nakagawa, Kirstin Nelson, Kurt Seibert, Lara Robillard, Leo Lex, Unit Chief, State and Local Government Cost Estimates, Lisa Ramirez-Branum, Lori Housman, Lyle Nelson, Matt Schmit, Matthew Goldberg, Assistant Director for National Security.

Mike Carpenter, Mindy Cohen, Noah Meyerson, Noelia Duchovny, Patrick Bernhardt, Paul Burnham, Paul Jacobs, Pete Fontaine, Assistant Director for Budget Analysis.

Phil Ellis, Unit Chief, Health Policy Analysis, Rebecca Yip, Robert Stewart, Sarah Jennings, Sean Dunbar, Sheila Campbell, Stephanie Cameron, Stuart Hagen, Sunita D'Monte, Susan Labovich, Tom Bradley, Unit Chief, Health Systems and Medicare Cost Estimates.

Mr. RANGEL. Mr. Speaker, I couldn't agree with the last speaker more. This is an historic moment, and I certainly hope you, your friends, and colleagues think this through for the American people.

At this time, I have the pleasure to present to the body Mr. LACY CLAY, the gentleman from Missouri, and yield him 1 minute.

Mr. CLAY. I thank the distinguished chairman for yielding.

Mr. Speaker, I rise today to support a monumental piece of legislation that will expand health care coverage and reduce cost.

Currently, 46 million Americans are uninsured, and by 2019 the number could reach over 65 million. Too many are denied access to care, often when they need it most. No one should be denied coverage because of a preexisting condition, and no one should have to fear losing their coverage after they get sick. Even individuals who have health insurance suffer. Millions of underinsured Americans pay exorbitant fees for procedures and treatments that their insurance plan should cover.

The status quo is not working for Americans. It is time to take action. Each Member in this body should ask themselves one question before they vote, and that is: Am I my brother's keeper? And my answer is: Yes, I am.

Mr. CAMP. I yield 2 minutes, Mr. Speaker, to the distinguished member of the Ways and Means, the gentleman from California (Mr. HERGER).

Mr. HERGER. Mr. Speaker, today I rise not only on behalf of my constituents in northern California, but on behalf of all Americans. They have made their opposition to government-run health care known. They have come out by the thousands to town halls, called our offices, and held peaceful rallies, but, unfortunately, congressional Democrats have refused to listen.

The legislation being considered today is one of the most damaging, destructive bills ever to come before this Chamber. A government takeover of health care won't bring down cost, but it will bring down quality of care. It



will explode the national debt at the expense of future generations. It raises taxes by \$750 billion and guarantees middle class tax increases down the road.

We all agree that we need health care reform, but we don't need to put the government in charge. Mr. Speaker, I believe in the free market, I believe in choice and competition, and I believe in freedom to choose your doctor and to get the treatments you need. America was built on these principles, and the Pelosi health care plan will take us in the opposite direction.

I urge every Member of the House to live up to our obligation, listen to the people and say "no" to government-run health care.

Mr. RANGEL. I yield myself 30 seconds, Mr. Speaker, because the gentleman who just spoke said that the Democrats didn't listen to the Republicans. Having had the honor to serve with outstanding Republicans on the Ways and Means Committee and having, as chairman, had hearings last year and throughout, quite frankly, there wasn't much to listen to until last Tuesday when, for the first time, you presented a bill. In any event, I appreciate the gentleman's contribution.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. RANGEL. I yield myself such time as I may consume.

We have been designated as one of the three committees to work on this bill for the President and for the House of Representatives. And we were privileged to work with Chairman WAXMAN as well as Chairman MILLER. I don't think in the history of the Congress we have found three separate committees working in such cooperation. But as I said earlier, we had such hardworking, dedicated members and such a strong support staff that it's almost embarrassing that they are so limited in sharing with you the work and the time and support that they've given to this important issue for the Congress and for our country.

In any event, I have to admit, as Chair, there was one member that I relied on so much. He is the gentleman from California who since 1984 served and continues to serve as the chairman of the Health Committee. And so it is with a great deal of pride that I yield 3 minutes to the gentleman from California (Mr. PETER STARK).

Mr. STARK. Mr. Speaker, today's vote will be the most important of our careers. History will mark which side we're on: providing quality, affordable coverage for all Americans, or the status quo.

I would remind my friend from Wisconsin that former Senator Bob Dole voted against Medicare, and that vote has haunted him ever since. It probably prevented him from becoming President.

Since my first election, I have worked to see that government serves

our people. My top priority for 37 years has been to provide quality, affordable health care for all. I wish we had done it sooner, but at my age, you learn to take what you can when you can get it.

The bill is not the bill that many of us would have created on our own. That is the legislative process. The compromise before us today is the right thing to do for the American people.

The bill guarantees health coverage to 96 percent of Americans. It's fully paid for. People who like their coverage indeed can keep it. It reforms health insurance regulation and requires shared responsibility by individuals, businesses, and government. It assures that health care is affordable for lower- and middle-income families. It fills the Medicare prescription drug doughnut hole, and it provides free preventive services in Medicare.

It has the support of consumers, doctors, nurses, senior citizens, children, people with disabilities, farmers, and small business owners—organizations that represent virtually every segment.

In my district, like every other district, Republican or Democrat, I've got 67,000 uninsured people who will be helped; 8,000 people with preexisting conditions; 14,000 businesses will get tax credits; 8,300 seniors will have the doughnut holes filled. And every district in the country has similar numbers. I defy you to go home and tell those people you voted to deny them quality, affordable health care.

I am proud to have helped author this legislation. I encourage each of my colleagues to join me in voting "yes." I can assure you, these guys aren't going to have to pay for it in the future.

□ 1630

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Members on both sides of the aisle are reminded not to use guests of the House as props.

Mr. CAMP. Mr. Speaker, I yield 2 minutes to the distinguished member of the Ways and Means Committee, the gentleman from Georgia (Mr. LINDER).

Mr. LINDER. I thank the gentleman for yielding.

Mr. Speaker, we have been listening ad nauseam for months from the Democrats, who have been saying that anybody who doesn't support a government takeover of health care is supporting their insurance friends or their friends in the pharmaceutical industry.

Guess who contributes to political campaigns? Lawyers contribute more than all the rest together. To whom do they give their money? Surprise. Surprise. Ninety-six percent was given to Democrats in this year. Is that why they are left out of the health care reform bill?

Everyone who has looked at this issue for years has said to start with

tort reform. Start with tort reform. The three most recent studies all this year said that Americans are spending \$200 billion a year on tests and procedures that are unnecessary, defensive medicine, because, if they are not done, the doctors will be sued. That's \$2 trillion over 10 years. That would pay for this \$1.5 trillion behemoth.

It is ignored except in one fashion: there is mention in this bill that, if your State has already reduced jury awards and has gotten control over tort reform, you will be punished.

Ladies and gentlemen, this is not about health care. This is about rewarding your friends and about punishing your enemies. It has been going on all year, and it is a huge mistake.

Mr. RANGEL. Mr. Speaker, it is my pleasure to yield 1½ minutes to the gentleman from Michigan (Mr. LEVIN). If there is a moral issue, I would like to be on his side.

Mr. LEVIN. Mr. Speaker, most Americans—and I emphasize that—most Americans want to keep the insurance they have and do not want to lose it because of skyrocketing costs; to be sure they are not denied coverage because of preexisting conditions; and to be sure if they have major illnesses, they are not bankrupted by unaffordable costs. Most Americans also want other citizens to have their health care needs covered by insurance.

Democratic health care reform responds to these concerns, and like Social Security and Medicare, it is as American as apple pie.

Consider this letter from a constituent of mine from Fraser, Michigan: "I am ashamed to let my family and friends know that I have no health insurance. I have refused hospital treatment I know I needed because I could not afford to pay for any type of medical procedure."

She closes her letter with this simple message: "Please don't let anything or anyone stop you from reforming health care. I hope you will think of me. I need you to do the right thing. Health care for all Americans now."

That's what we are doing: health care for all Americans now.

Mr. CAMP. Mr. Speaker, I yield 2 minutes to a distinguished member of the Ways and Means Committee, the gentleman from California (Mr. NUNES).

Mr. NUNES. Mr. Speaker, as we consider this massive government-run health care bill currently before the House, I would like to remind my colleagues of a few things that have happened over the last year.

We spent \$1 trillion to bail out banks, investment companies and car companies. We spent another \$1 trillion on a stimulus bill that has yet to produce any jobs as promised. This record spending doesn't count the omnibus spending bill that we had and the fact that we grew our budget to \$3.6 trillion all in one year.



If this weren't enough, we are being asked now to create a new trillion-dollar, government-run health care program despite the fact that we can't pay for the two existing government programs that we have today—Medicare and Medicaid. These two programs have at least \$62 trillion in debt that this Congress refuses to recognize. Let me repeat that again: \$62 trillion in debt that we face with our two existing government-run health care programs. Mr. Speaker, with \$1 trillion here and \$1 trillion there, pretty soon, you are talking about real money.

What is worse is that, despite all of this spending during record times of high unemployment, this bill will kill American jobs, exporting them overseas. In the meantime, our government leaders continue to run over and grovel to the Chinese to borrow more money to finance the spending.

Mr. Speaker, Rome is burning while this Congress fiddles. This Congress is so irresponsible, so reckless, it's like watching a broke, drunk gambler continuing to double down, just trying to break even.

Vote "no."

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair will remind persons in the gallery that they are here as guests of the House and that any manifestation of approval or disapproval thereof of proceedings or other audible conversations is in violation of the rules of the House.

Furthermore, occupants of the gallery are guests of the House. Those in violation of these rules of the House may be removed.

Mr. RANGEL. Mr. Speaker, I yield 90 seconds to the gentleman from the sovereign State of Georgia (Mr. LEWIS), the true voice of justice in this Congress.

Mr. LEWIS of Georgia. Mr. Speaker, I want to thank my chairman, Chairman RANGEL, for yielding.

Mr. Speaker, this is a historic day. As President Kennedy said in his book "Profiles in Courage," there comes a time when men must act according to the dictates of their conscience and not according to political expediency.

We have a mission. We have a mandate. We have a moral obligation to lead this Nation into a new era where health care is a right and not a privilege. Now is the time. Be on the right side of history, the right side of the sick, the right side of the vulnerable. We have been tracked down by the spirit of history. If we fail to act on health care, if we fail to do what we must do, history will not be kind to any of us.

So I say to you, my colleagues: be not afraid. Be not afraid. Be of the courage. The time is always right to do what is right. On this day, at this moment, answer the call of history, and pass health care reform, and pass it today. Pass it now for the people of this country.

Mr. CAMP. Mr. Speaker, I yield 2 minutes to the gentleman from Texas (Mr. CARTER).

Mr. CARTER. Mr. Speaker, a couple of weeks ago, I was doing a town hall meeting, and I got an email from a friend. He said, There's an old saying: control a man's purse, and you control half the man. Control a man's health, and you control all the man.

We are talking about a massive change in the lives of every human being in America today. That massive change is because we've already turned over to the Federal Government most of our financial system for them to manage it, so they control our purse. This government controls the purse of America, and we have done that this year. It's there. We bailed people out. We are now voting members of financial organizations and businesses, like automobile firms. Now we want to control the American people's purse.

Now we have to ask ourselves: Well, what's going to happen when we do? When we create this great system, how do we know what it's going to look like?

Maybe there's a lot of talk here. I think we've got a fairly independent vision. I want to use this vision, quite frankly, but it's not fair because it's one-sided, and this document is two-sided, but this document printed in smaller font is two-sided. So here is what we have in the way of what the government needs to create for a health care plan.

These are government ideas.

This is the substitute: the people's ideas.

It's the difference, ladies and gentlemen, between liberty and government. You know, this week, a whole lot of people came an awful long way so that they could express their opinions, and they were called radicals.

Vote against this bill.

Mr. RANGEL. Mr. Speaker, I yield 90 seconds to a true expert on our country's law system and tax system, the gentleman from Massachusetts (Mr. NEAL).

Mr. NEAL of Massachusetts. Thank you, Chairman RANGEL.

Mr. Speaker, let me stand in support of this health care bill today. Reforming this health care system has not been easy, but we come here today after deliberating for countless years, weeks, months—and as recently as this morning more hours added—because we are building a baseline of health care for the American family.

We've worked hard to reform this health care system because, if we do nothing, family premiums will increase \$1,800 a year; and by 2020, 61 million Americans will be uninsured. We have analyzed, and we have debated the details of the bill line by line and section by section.

To the critics, yes, we've read the bill.

For all of the misinformation that has surrounded this legislation, there is a great deal that we all here today agree upon: this bill ends discrimination based on preexisting medical conditions; it limits out-of-pocket expenses for families; it bans lifetime limits on health care coverage that a family with a critically ill child can bump up against in no time at all.

Limiting out-of-pocket expenses is something we do all agree on. Half the bankruptcies in America are health care-related. This bill removes the uncertainties of our health care system for families and for businesses, for young adults who are no longer eligible for their parents' insurance coverage, and for senior citizens in the Medicare part D doughnut hole. This is a solid piece of legislation.

As I close, remember the party that stood with Social Security, and remember the party that stood with Medicare as we proceed to this vote this evening.

Mr. CAMP. Mr. Speaker, I yield 3 minutes to the distinguished minority leader, the gentleman from Ohio (Mr. BOEHNER).

Mr. BOEHNER. I thank my colleague for yielding.

Mr. Speaker, one of the issues in the underlying bill allows for the taxpayer funding of abortion, and the leadership of the majority party did see fit to allow Mr. STUPAK of Michigan and others to offer an amendment that would restore what has been a 30-year effort, that no taxpayer funds should be used for abortion.

If that amendment were to pass, Mr. RANGEL, and when this bill comes back from committee and if the House does, in fact, pass the Stupak language of outlawing taxpayer funding for abortion, will you guarantee me, when it comes back, it will be in the bill?

I would be happy to yield.

Mr. RANGEL. Mr. Leader, you've been here long enough to truly understand how this system works.

As soon as we pass this bill, then we would expect the Democratic-controlled Senate to pass their bill. Then we will go into conference, and we will work the will of the majority in the House.

We had no idea that you would expect that a Member, especially one that you spoke in such glowing terms of as you have about me—that you would expect me on this floor, in front of all of my friends and colleagues, to guarantee you anything. I think any Member who gives a guarantee might be in violation of our ethics laws, so I wish you would kind of take a look at this before you would ask these questions.

Mr. BOEHNER. In reclaiming my time, Mr. RANGEL, if the House does, in fact, vote for the Stupak language, in conference, do I have your guarantee that your vote will be in favor of the Stupak language?

Mr. RANGEL. Well, I haven't normally cut any deals with you as a Republican, but why don't you talk to someone on your level in the House leadership as you have in the past?

Mr. BOEHNER. Reclaiming my time, Mr. Speaker.

Mr. RANGEL. You asked me a question.

Mr. BOEHNER. This is exactly the point I've been trying to make.

While the House is expected to take up the Stupak language later on this evening, language which would outlaw the taxpayer funding of abortion, it's pretty clear that this could be a shell game that's underway, that it gets to pass here in the House, helping to ensure that this bill passes; but we have no guarantees that when it comes back from conference that that language stopping the taxpayer funding of abortion will be in the bill.

□ 1645

Mr. RANGEL. All I am asking, as long as you have been here, have you ever had any Member—

Mr. CAMP. Regular order, Mr. Speaker. Regular order. No time has been yielded.

The SPEAKER pro tempore. The Chair recognizes the gentleman from New York.

Mr. RANGEL. Have you ever gotten a guarantee like that from anybody since you have been here? No.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Members will please direct their remarks to the Chair.

Mr. RANGEL. Mr. Speaker, it is my pleasure to yield 1½ minutes to Mr. THOMPSON of California. I thank him for the great contribution he has made to this bill that we present.

Mr. THOMPSON of California. Thank you, Mr. Chairman, for yielding.

Mr. Speaker and Members, for far too long too many Americans have not had access to quality, affordable health care. Because of this legislation, the millions of Americans who don't have health care or who are struggling to pay their health care bills will be able to get the care they need when they need it. Families, small businesses, and individuals will save money.

There will be no copays or deductibles for preventive care services. If you change jobs, you can take your coverage with you. You will not be denied coverage for preexisting conditions and families won't be bankrupted by high medical bills.

The bill will also help inject competition into the marketplace to help bring down the rising costs of health care insurance. The Medicare doughnut hole will be closed and the bill reduces the deficit by at least \$30 billion over the next 10 years.

There is still a lot more work to be done, and we are going to fix the doctor reimbursement to ensure the best ac-

cess for our seniors in regard to getting health care. Today is a historic day for all Americans. It moves us one step closer to quality, affordable health care for all Americans.

Mr. CAMP. Mr. Speaker, I yield 2 minutes to a distinguished member of the Ways and Means Committee, the gentleman from Ohio (Mr. TIBERI).

Mr. TIBERI. Mr. Speaker, the American people do not want their health care replaced by government-run health care.

This bill is flawed in many ways. It cuts benefits to seniors. It increases taxes. It's the largest expansion of Medicaid ever at a time when State governments across our land are cutting services. It creates and extends 43 entitlement programs and 111 new offices, bureaus, commissions.

The Ohio State Medical Association that represents doctors in my district is opposed to the bill. They write, "Medicaid eligibility expansion is a troubling trend for the physician community as payment for these services often fails to cover the cost of providing care."

They go on to say, the legislation "lacks many of the critical elements necessary for successfully reforming Americans' health care delivery system and strengthening the physician-patient relationship."

The bill does not address medical liability reform, which causes defensive medicine to be practiced. Medicare is cut by over \$500 billion. Five million seniors could lose the coverage they have today. It turns out that you can't keep what you have if you like it. In fact, one of three seniors in my district could lose the benefits they enjoy today.

I am also concerned about the negative impacts on small businesses and employers. Under the "pay or play" mandate in this bill, Mr. Speaker, \$135 billion in new taxes will be thrust upon those businesses. This could cause over 5.5 million Americans to lose their jobs.

Mr. Speaker, we have a better way, a better alternative that will lower health care premiums, guarantee health care to affordable health care for those with preexisting conditions, allow States flexibility to provide more coverage, and protect the benefits of our seniors.

Americans deserve better, Mr. Speaker. There is a better way. Let's reject this bill and start over.

Mr. RANGEL. Mr. Speaker, I yield 1½ minutes to the gentlewoman from Nevada (Ms. BERKLEY) and thank her publicly for the great contribution she has made to this bill.

Ms. BERKLEY. I thank the chairman for his kind words and his leadership on this issue.

Mr. Speaker, I rise today in support of this historic piece of legislation that will expand health care coverage to millions of my fellow Americans.

The way we provide health care in this country is unsustainable. In Nevada, the cost of a private family health insurance plan is expected to grow from over \$11,000 in 2009 to more than \$19,000 10 years from now. If we do nothing, we will reach a point in this country where hardly anyone will be able to afford health insurance.

This bill is good for Nevada. Over 400,000 uninsured Nevadans will be able to get health insurance because of this bill. This bill is good for Nevada's seniors. It closes the doughnut hole, eliminates copays for preventive services and extends the life of Medicare over 5 years.

The bill isn't perfect. It doesn't contain a provision to protect bone density tests that I fought for, and it doesn't fix the Medicare physician payment system, and we must do both. But I support this bill today for the needed reforms that are included. They are very important. It's a great first step.

Faye Schwartzter in Las Vegas, Nevada, this vote is for you.

Mr. CAMP. At this time I yield 2 minutes to a distinguished member of the Ways and Means Committee, the gentlewoman from Florida (Ms. GINNY BROWN-WAITE).

Ms. GINNY BROWN-WAITE of Florida. I thank the gentleman.

Mr. Speaker, the bill before us creates 111 different offices, bureaus, commissions, programs and entitlements, but it only cuts one—Medicare. This bill steals more than \$500 billion from our Nation's seniors to fund new entitlement programs for the young, the healthy and the wealthy.

My colleagues in the majority have boldly decided that cutting \$500 billion from Medicare is a good idea. They actually are telling seniors that these cuts will improve Medicare in the future.

Well, Grandpa and Grandma might be old, but they are not stupid. You are not going to cut Medicare and tell them that it's a good thing.

The bottom line is that this bill is not real reform. Congress should be strengthening Medicare, not weakening the program. Just look at how bad the Federal Government has been historically in predicting health care costs. This bill will increase health care costs for all Americans and cut Medicare funding. Americans don't believe that yet another trillion-dollar program will cost them nothing.

Mr. Speaker, we all hear Speaker PELOSI say that she is a mother and a grandmother. Like Speaker PELOSI, I too am a mother and a grandmother. I can tell you that my constituents believe that this bill is bad for the middle class, bad for parents and grandparents and, even worse, for future generations.

I cannot support this bill. I urge my colleagues to reject it as well so that we can work together truly on a bipartisan solution. The President's own

economic advisors have said that this bill will kill 5.5 million jobs. Americans back home are watching this and saying, What is Congress thinking? Why would they want to further sabotage our economy? This bill clearly is not what America wants. They want an incremental approach. Nobody is defending health care as we know it. We are saying, let's fix what's broken.

I urge my colleagues to vote against this bill. It is dangerous for our economy. It is not something that every American needs, wants or can afford at this time.

Mr. RANGEL. I yield 1½ minutes to the gentlewoman from Pennsylvania (Ms. SCHWARTZ) and I would like to publicly thank her for the many hours that she put in on H.R. 3200.

Ms. SCHWARTZ. Thank you, Mr. Chairman.

Finding a uniquely American solution to ensure that all Americans have access to meaningful, affordable health coverage has been an unfulfilled goal for decades.

Today we have the opportunity to make this moral and economic imperative a reality. I want to acknowledge the extraordinary leadership of our chairman and of the cooperation of three committees in the House and all of the Members who were so engaged in developing the bill before us today.

The Affordable Health Care for America Act meets the goals of health care reform: enhanced consumer protection for those with health coverage, eliminating preexisting condition exclusions; new, affordable choices for individuals and small business; strengthened Medicare for our seniors with better prescription drug coverage and greater access to primary care; improved delivery of care with better health outcomes for all Americans; and the containment of rapidly rising costs of health care.

It builds on America's public-private system and is paid for, now and into the future. The status quo is unaffordable, unsustainable and unacceptable.

Now is the time to act on behalf of the millions of Americans without insurance and the millions more who are underinsured, on behalf of small and large businesses who struggle every day to pay the rising cost of insurance for their employees, on behalf of seniors. In fact, on behalf of all Americans who worry about our families getting the health care they need and then being able to pay for it, today is a great day for America.

Mr. CAMP. Mr. Speaker, I yield 2 minutes to a distinguished member of the Ways and Means Committee, the gentleman from Kentucky (Mr. DAVIS).

Mr. DAVIS of Kentucky. Mr. Speaker, we all agree we need to improve health care quality and increase access, but this bill fails to do so. Republicans know health care reform can be

accomplished without raising taxes for families and small businesses, without increasing the size of government, without cutting Medicare benefits.

This week, tens of thousands of Americans traveled to Washington, D.C., to demand a health bill that would increase access, reduce cost, save jobs and keep the government out of our health decisions.

Instead of listening, Democrats squelched over 45 health care bills in favor of a tyrannical bill that cuts senior benefits, creates 118 new agencies, boards and programs, kills jobs and raises taxes by \$730 billion.

Unemployment has reached a staggering 26-year high and Speaker PELOSI's health care bill will cost another 5.5 million jobs. Americans don't want reform that comes with higher cost and unemployment.

This is a misguided effort by the majority, making it more complicated and expensive to create jobs. The Northern Kentucky Medical Society and thousands of doctors nationwide are opposed to this bill, H.R. 3962. They know that government takeover of health care will put bureaucrats between doctors and patients.

We can craft responsible health care legislation, and that's exactly what my Republican colleagues have done in H.R. 4038, the Common Sense Health Care Reform and Affordability Act. Our substitute reduces premium costs for every American to make health insurance more affordable and accessible, without raising taxes and without cutting Medicare benefits on our seniors.

Under our bill, insurance premiums are \$5,000 cheaper per family than the cheapest Democratic bill. This bill takes waste and costs out of the system instead of adding to it. The Republican bill heeds the pleas of the people without spending \$1.3 trillion, without killing jobs and without hurting seniors.

Madam Speaker, H.R. 3962 is not reform; it is tyranny. Give the people health reform, health freedom, and kill this bill.

Mr. RANGEL. Mr. Speaker, I yield 1½ minutes to my friend and leader from the great State of New York (Mr. CROWLEY).

Mr. CROWLEY. I thank my good friend, the gentleman from New York, for yielding me this time.

I rise today in support of the Affordable Health Care for America Act, which will provide millions of hard-working American families the quality, affordable health care they deserve. In the past decade, the cost of health care for American families has skyrocketed. Premiums have doubled, yet wages remain stagnant at best.

Last year, more than half of Americans postponed care or skipped their medications because they simply could not afford them. The status quo is no longer acceptable nor affordable, and

the status quo is changing today. Today Democrats are taking action and delivering to the American people real change, a better, safer, more affordable way of life.

The Affordable Health Care for America Act will give American families peace of mind, peace of mind that health care is not just a luxury for some but an affordable, accessible benefit for all of us.

I urge all of my colleagues to make history today and vote "yes" on this bill to make health insurance affordable and accessible for each and every American.

□ 1700

Mr. CAMP. Mr. Speaker, at this time I yield 2 minutes to a distinguished member of the Ways and Means Committee, the gentleman from Washington State (Mr. REICHERT).

Mr. REICHERT. I thank the gentleman for yielding.

Mr. Speaker, we have heard yesterday's announcement: unemployment eclipses 10 percent. Yet today we are considering a health care bill that will cost even more jobs and will raise taxes on families, on small businesses, on seniors, and takes away freedom.

This bill especially hurts our seniors, our greatest generation, by cutting their benefits, raising their premiums, and, on top of that, taxing wheelchairs, taxing pacemakers, taxing hearing aids.

This bill is not right for America, it is not right for families, it is not right for small businesses, and it is not right for seniors. We need real solutions.

Let's focus on reducing the costs maybe, offer tax incentives, enact medical liability reform, allow people to buy insurance across State lines. These solutions bring lower costs and bring health care to those who really need it.

Mr. Speaker, the most troubling aspect, though, of this bill is that it takes away freedom, and this freedom came through great sacrifice, the sacrifice of men and women throughout the history of this great Nation so that we could choose and live a free life.

This bill takes away that freedom, the freedom to choose the health care that is right for you and your family. This bill takes away that freedom, requiring every American to purchase a government-approved health plan, pay a tax, or even go to jail. This bill takes away the freedom of patients to consult with their doctors without government interference. And this bill takes away that freedom, the freedom of our seniors to choose their own health care plan.

So, Mr. Speaker, this is not only a job-killing bill. Mr. Speaker, sad to say, this is a freedom-killing bill.

Mr. RANGEL. Mr. Speaker, I yield 90 seconds to the gentleman from New Jersey (Mr. PASCRELL), and thank him for the great job he has done for the committee.

Mr. PASCRELL. Mr. Speaker, no one believes the loyal opposition that Democrats don't care about seniors. Need I provide a history lesson 101 here?

Today is when we must ask ourselves the real reason we came to Congress. Was it to fulfill the hopes of the people, or to take the path of least resistance? The easy thing would be to say the problem is too big, the interests are too aligned, and then maintain the status quo. The hard thing is to bring everybody together, make the compromises that need to be made, and give the American people true health care reform that will carry our country through for generations.

This is the same choice that was laid before the Members of the 89th Congress when they voted on the creation of Medicare and Medicaid. And where would we be today as a nation had those Members simply succumbed to the difficulty of making real change? Where would we be today? Where would we be in mortality? Where would we be with the seniors who were sick and poor at that time without those two programs?

We are now 40th among the industrial nations in infant mortality. When will we wait to have our consensus? We need this reform. Let us not leave another generation to wonder what we could have been.

Let's pass historic legislation that provides the promise of affordable health care for every American today and the generations to come.

Mr. CAMP. Mr. Speaker, I yield 2 minutes to a distinguished member of the Ways and Means Committee, the gentleman from Louisiana (Dr. BOUSTANY).

Mr. BOUSTANY. Mr. Speaker, today we will have a vote on a flawed, massive, and irresponsible health care takeover by government, pushed by Speaker PELOSI and House Democrats, that will cost more than \$1 trillion. This bill will increase health care costs for most Americans, increase taxes while Americans struggle to find work, and hurt seniors' quality care.

Mr. Speaker, as a heart surgeon, I saw the amazing innovation in my 20 years in practice in our system. In fact, in the early 1950s, an American surgeon, hopelessly observing the death of a patient from blood clots to the lungs, was inspired and invented the first heart-lung machine that made open heart surgery possible. Many thousands of patients worldwide have benefited from this innovation, this innovation right here in the United States, innovation that will be stifled by the Pelosi health care bill.

There is another way. We can do better. House Republicans have solutions that will lower costs by creating real choice and competition. We will help those with preexisting conditions to get meaningful health care coverage,

we will preserve U.S. leadership in medical innovation and education, and we will reduce frivolous lawsuits in medicine that needlessly drive up the costs for families.

As a heart surgeon, I know that we can achieve real health care reforms to bring down costs. But the Democrats' current bill will only lead to higher costs for millions of Americans and destroy what is currently working in our system.

There is a better way. There is a different way. There is a way to lower health care costs, help more people achieve a high quality doctor-patient relationship in this country and improve health care for all Americans.

Vote down this bill and support the Republican plan.

Mr. RANGEL. Mr. Speaker, I now yield 1½ minutes to the gentleman from Illinois (Mr. DAVIS).

Mr. DAVIS of Illinois. Mr. Speaker, passage of this bill will move us closer to the realization that all men, women, and children in this country can have access to quality health care. It will reduce the waiting time in emergency rooms and shorten the length of time you have to wait to see a doctor. It makes it possible for people to have health insurance who have never had any before in their lifetime and to see a doctor on a regular basis. It recognizes the needs of people with disabilities. It seriously increases the number of community health centers, protects disproportionate share and teaching hospitals, and promotes health awareness and education. But, most importantly, it prolongs and enhances life, as well as its quality.

This is the most significant health legislation passed in this country since Medicare and Medicaid. Residents of my district have been calling all day asking that I would vote for them, that I would vote for Illinois, that I would vote for America. I tell them, yes, I will, because I believe that health care ought to be a right and not a privilege.

I wanted a single-payer system, but I will vote for H.R. 3962 because it is good for Illinois, it is good for me, it is good for you, and it is good for America.

Mr. CAMP. Mr. Speaker, I yield 2 minutes to the distinguished member of the Ways and Means Committee, the gentleman from Nevada (Mr. HELLER).

Mr. HELLER. Mr. Speaker, I thank the ranking member for his exceptional hard work in producing a Republican alternative that does not raise taxes, raise premiums, increase our debt or increase health care costs.

In a recent article, the Democratic leadership stated that getting votes today will be easier because Democrats want to go home.

Mr. Speaker, the Pelosi health care bill will cost Americans more than 5 million jobs. Despite national unemployment at 10.3 percent, and in my

home State of Nevada, over 13 percent unemployment, we are moving forward with this bill. For the majority, this is fine, if Members of Congress get to go home.

This legislation raises billions in new taxes on small businesses and increases health care premiums by \$15,000 per family on average. But, as I said, as long as the majority gets to go home, this doesn't matter.

This bill cuts \$500 billion from Medicare, affecting more than 20,000 seniors in my district and over 100,000 State-wide, and also avoids meaningful medical liability reform. But the majority will support it, because they get to go home.

This bill's individual mandates will result in 9 million Americans paying a new tax or facing criminal penalties. These penalties include \$250,000 fines and/or 5 years in jail for failure to pay the tax. However, this doesn't matter, as long as the majority gets to go home today.

Mr. Speaker, this bill lacks enforceable citizenship verification provisions. As many as 8.5 million illegal immigrants will be eligible for taxpayer-subsidized health care under this legislation. But, of course, if the majority gets to go home, it simply doesn't matter.

Yet the height of hypocrisy is that Members are not required to participate in this government-run health care program.

Unfortunately, the strategy to pass this massive bill hinges upon Members of Congress wanting to go home, instead of passing legislation that will help the American people.

Mr. RANGEL. Mr. Speaker, I yield 90 seconds to a hardworking member of the Ways and Means Committee from the sovereign State of New York (Mr. HIGGINS).

Mr. HIGGINS. Mr. Speaker, the American health care industry is a \$2.5 trillion industry. It represents 17 percent of the American economy, as measured by the gross domestic product. Yet our outcomes, according to the World Health Organization, are pathetically falling behind. We are 37th in overall quality. Unacceptable in America. We are 41st in infant mortality. That means in 40 other countries, from birth to 1 year of age, kids live by a higher percentage than they do in the United States. Unacceptable in America. We are dead last of any industrialized country in preventable deaths. Unacceptable in a good and generous Nation.

This is a uniquely American problem with a uniquely American solution. We look to not-for-profit plans, like the Cleveland Clinic, the Mayo Clinic and Johns Hopkins. They are early adapters of new innovation, and they are providing the highest quality health care, not only in the Nation, but throughout the world, at the lowest

possible cost. That is the health care that I want for my family, that is the health care that I want for my community, and that is the health care I want for my Nation.

We have been debating this issue not for seven months, but for seven decades. It is time for change. I understand that reform is tough. The reformer, said Machiavelli, has enemies in all those who profit by the older order, and only lukewarm defenders in all those who would profit in the new order. On health care, most Americans are rooting for the reformer.

Mr. CAMP. Mr. Speaker, at this time I yield 2 minutes to a distinguished Member of the Ways and Means Committee, the gentleman from Illinois (Mr. ROSKAM).

Mr. ROSKAM. I thank the gentleman for yielding.

Mr. Speaker, if you are at home and you are sort of flipping channels between the football games and C-SPAN, and you flipped on and only heard the majority party, you would think, wow, what a great plan. I mean, really, you would think people are just going to fall all over themselves, and all these adjectives and declarative statements just sound wonderful. Until you look inside that bill and you find handcuffs.

Now, I am not talking about figurative handcuffs. I am talking about criminal penalties; criminal penalties that have been mentioned by the gentleman from Texas, criminal penalties that have been mentioned time and again on this floor. We have heard from the best and the brightest all afternoon, and not a one of them have answered why it is you have to criminalize people to coax them into a plan that is fabulous. It makes no sense.

And these aren't my words. This is actually coming from the Joint Committee on Taxation, in a letter that was written, ironically, with Chairman CHARLIE RANGEL as the chairman of that committee, released 48 hours ago, that says in fact if you don't comply with the individual mandate, what happens to you? You can be subject to 5 years in prison and you can be subject to a quarter of a million dollars in fines.

□ 1715

And the other side, with all due respect, with all the adjectives and all the flourishing speech, has failed to answer that question.

I submit to you, if we listen today, if we listen to the remainder of this debate, they will be silent in terms of a good answer as to why it is you need to criminalize people to coax them into a plan. It's a failure, and we ought not stand for it.

The small businesses, the entrepreneurs, and the self-employed that this would have an impact on, they say, "Look, don't criminalize us. Give us relief. Let us purchase across State

lines." Not in the Democrats' bill. "Give us real tort reform, real liability reform." Not in the Democrat bill in any substantive way. "Let us purchase and work together to pool to lower costs down." The right to remain silent shouldn't be the word from the government.

Mr. RANGEL. At this time, I yield 90 seconds to the gentleman from Kentucky (Mr. YARMUTH).

Mr. YARMUTH. Mr. Speaker, 3 years ago today, the citizens of Louisville, Kentucky, sent me to this body. They sent me here largely to help bring us to this moment.

I was sent by a recent college graduate who had to give up her coverage under her parents' health insurance policy and couldn't get her own coverage to cover her lifelong allergic condition.

I was sent by the family of a 10-year-old little boy who wrote me, begging for help to help pay for the \$50,000 they have to pay annually to care for their autistic brother.

I was sent by the Louisville woman whose insurance was dropped in the middle of her cancer treatment.

I was sent by thousands of seniors, struggling to pay their prescription drug costs.

I was sent by people like the local realtor who is trying to figure out right now how to pay his next year's insurance bill he just received with a 32 percent increase.

Today is the day those Americans get the help they have been praying for. It is the day we take a giant step toward that more perfect Union that we all seek. I am very proud to be a part of this historic day, and I am also very proud for the all-too-patient citizens of America who sent me here, along with many of my colleagues, in 2006 to cast votes for the Affordable Health Care for Americans Act.

Mr. CAMP. Mr. Speaker, at this time, I yield 1 minute to the gentlewoman from Michigan (Mrs. MILLER).

Mrs. MILLER of Michigan. Mr. Speaker, during the past year, the Democratic majority has passed so many bills that have done absolutely nothing to help our economy. Instead, they've raised taxes, they've exploded the deficit, and they actually have killed off jobs. Then, yesterday, the national unemployment rate went up past 10 percent—actually, to 10.2 percent, with no end in sight.

So it is incredible that today this House may pass a job-killing, tax-hiking, deficit-exploding government takeover of our health care. And one of the most disingenuous things that has been said is that if you like your current health care, that you can keep it. Well, not so fast.

In my county, Macomb County, Michigan, the Chamber of Commerce just did a survey of all of their members. They asked them that if, rather

than continuing to provide good health care plans for their employees, they would instead take the 8 percent penalty that is included in this bill, and guess what? No surprise. The overwhelming majority said they would of course dump their employees out into the public plan.

Mr. Speaker, we are going to have a complete government takeover of our health care system faster than you can say, "This is making me sick." Vote "no."

The SPEAKER pro tempore (Mr. JACKSON of Illinois). The gentleman from Michigan has 8 minutes remaining. The gentleman from New York has 14½ minutes remaining.

Mr. RANGEL. Mr. Speaker, I would like to yield 1 minute to the Congresswoman from California (Ms. LEE), who is the chairperson of the Congressional Black Caucus and has done such a great job on the question of diversity as well as other parts of the bill for women.

Ms. LEE of California. Mr. Speaker, on behalf of the Congressional Black Caucus, I rise in strong support of this bill. Known historically as the conscience of the Congress, we recognize that it is our moral responsibility to pass this today.

I want to thank the gentleman and commend him and the other Chairs of the tri-committees as well as our leadership and our Speaker for bringing us to this point today.

The strong public option in this bill will provide our constituents with the choice and competition they want. It will help improve health equity and help eliminate health disparities, and this bill recognizes that an ounce of prevention is worth a pound of cure. It will help people who choose to keep their private plans by limiting annual rate increases by insurance companies.

Today's historic vote is another step forward in our quest for social justice. It really is about life and death, but it's not the end of the process. The Congressional Black Caucus will keep fighting until a final bill is on the President's desk.

Today, finally, health care will become a basic human right for all, rather than a privilege for the few. We all have been called today for such as this. Let us rise to the occasion and vote "yes" on affordable health care for all.

Mr. CAMP. At this time, Mr. Speaker, I yield 1 minute to the gentlewoman from Oklahoma (Ms. FALLIN).

Ms. FALLIN. Mr. Speaker, the American people understand the need for health care reform. They just don't want socialized medicine. They don't want the Federal Government taking over our health care decisions, taking away our freedoms of choice about health care. They don't want more Federal deficit spending on the backs of our children and future generations of our children, and they don't want

more taxes upon small business, especially in this recession.

They don't like the Federal Government taking away our freedoms guaranteed under this Constitution, and they don't want the Federal Government interfering in our States' rights. They don't want unfunded mandates upon the States, and they don't want government-funded taxpayer abortions upon our families.

Mr. Speaker, men and women have fought for our freedoms for this Nation for generations, but this health care bill will change the face of our Nation and put our Nation on a trajectory of a Federal Government takeover in so many areas of our freedoms and our lives.

Let's reject this health care bill, and let's start all over and pass real, meaningful health care reform.

Mr. RANGEL. I yield 1 minute to the gentlewoman from New York, Congresswoman VELZQUEZ.

Ms. VELAZQUEZ. For too long, millions of Americans have suffered without access to the medical treatment they need. Right now, as we debate this measure, too many Americans are worrying about how they will find health care coverage if they lose their jobs. On this day alone, 14,000 Americans will lose their coverage, and millions of other citizens, including one in every three Hispanics, lack health insurance coverage.

Today all of that changes. This is the moment. No longer will insurance companies abandon Americans when they most need help. This bill will end the practice of denying Americans coverage because of preexisting conditions. The 36 million uninsured Americans will finally have coverage. Choice, competition, and transparency will be brought to the insurance market, meaning better care at lowered costs.

I say this to my colleagues: It has been too long. Let us pass this bill.

Mr. CAMP. Mr. Speaker, I yield 1 minute to the gentleman from Florida (Mr. CRENSHAW).

Mr. CRENSHAW. Mr. Speaker, a lot of the men and women that I represent in northeast Florida are members of the military, and we've been working for 15 years to make sure they have adequate health care. They deserve it. They defend us every day.

They asked me, How is this new Democratic plan going to affect my TRICARE and my TRICARE for life? The answer is nobody really knows what this slippery slope with the public option is going to do to existing coverage. If you take this Democratic plan, you will see it's complicated, 2,000 pages long. It's unproven. It's untested. It's filled with uncertainty.

At the end of the day, this Democratic plan is a dangerous experiment on the backs of the American people without their consent. If this were the medical field, that would be unethical.

It would be malpractice. There is a better way, Mr. Speaker. There is a better way.

Mr. RANGEL. I yield 1 minute to the gentlewoman from Michigan, Congresswoman KILPATRICK.

Ms. KILPATRICK of Michigan. I thank the gentleman for yielding.

Mr. Speaker, this is a historic day. Choice, competition, quality, and peace of mind. I want to commend the Speaker for her leadership and our chairman in our caucus for putting together a bill that will help American families.

The 36 million Americans who do not now have insurance will be insured. Your premium costs will go down. The quality of all insurance will be increased. No longer will insurance companies be able to examine and cut you off when you get ill. Prescription drugs will be cheaper. The AARP supports this bill. Medical doctors and nurses support this bill. The Consumers Union supports this bill. The UAW supports this bill.

It's a great historical day for our country. I predict it will be, as we go forward, as strong and as popular as Social Security, Medicare, and now our new national health care program.

Thank you. Thank you, Madam Speaker. Thank you, Democrats, for standing strong.

Mr. CAMP. Mr. Speaker, at this time, I yield 1 minute to the gentlewoman from West Virginia (Mrs. CAPITO).

Mrs. CAPITO. Mr. Speaker, I rise today to voice the concerns of my constituents who believe the Speaker's trillion-dollar 1,990-page bill is simply the wrong solution for West Virginia's families. We were told that under the President's plans, those who like their health care would be able to keep it. Well, we now know that is simply not true. It is certainly not true for the 72,000 West Virginians on Medicare Advantage who will see the program slashed by \$170 billion under this plan.

Consider one of my elderly constituents from Dunbar, West Virginia, who called just today. She relies on the enhanced benefits of Medicare Advantage to cover her rheumatoid arthritis and her diabetes. She suffered a stroke, a brain aneurysm, and she is on more than a dozen prescriptions. She relies on these services, and she fears that this bill will put them at risk. Sadly, she is right, because this bill will change her health care.

Mr. Speaker, we need health care reform, but we can do better than this.

The SPEAKER pro tempore. The gentleman from Michigan has 5 minutes remaining. The gentleman from New York has 11½ minutes remaining.

Mr. RANGEL. Thank you. I yield 1 minute of that to the gentleman from the great State of New York, GREGORY MEEKS.

Mr. MEEKS of New York. The camera of history is rolling, and I am so happy to play a part in it, because just

as we created history in the thirties with Social Security and in the sixties with Medicare, we will create history tonight in passing H.R. 3962.

Dr. King once asked the question, How long? Well, because of H.R. 3962, how long before all Americans have access to affordable and quality health care? Not long. How long before we end discrimination for preexisting conditions? Not long. How long before we ensure that no Americans fear bankruptcy or financial ruin due to illness? Not long. How long before we close the doughnut hole, helping all of our senior citizens? Not long. How long before we begin to control the escalating prices of insurance and health care? Not long. How long before all Americans, all of us, can have access to quality health care? Not long.

Mr. CAMP. At this time, Mr. Speaker, I yield 1 minute to the gentleman from Virginia (Mr. GOODLATTE).

Mr. GOODLATTE. Mr. Speaker, what's in this 2,000-page monstrosity that's costing the taxpayers over \$1 trillion in costs? Well, we're going to see tax increases of \$800 billion, and \$500 billion in cuts from Medicare.

Well, take a look on page 94. Section 202(c) prohibits the sale of private health insurance policies beginning in 2013, forcing individuals to purchase coverage through the Federal Government.

On page 225, however, section 330 permits, but does not require, Members of Congress to enroll in government-run health care.

Page 122, section 233(a)(3) requires the commissioner, a new health insurance czar, to issue guidance on best practices of plain language writing. This from the same people who wrote this 2,000-page health care bill.

Page 183, section 305(a) gives the commissioner the power to enlist appropriate entities, like Planned Parenthood and ACORN, to engage in outreach to specific vulnerable populations about the bill's new programs.

Oppose this bill.

Mr. RANGEL. Mr. Speaker, at this time, I yield 1 minute to Congressman CONYERS, the distinguished dean of the Congressional Black Caucus, senior Member of this great House of Representatives, and someone that had indicated his concern about health care from many, many years ago.

□ 1730

Mr. CONYERS. Thank you, Chairman RANGEL, and all of our colleagues that have supported single-payer health care. Eighty-six other Members are now working to make sure that we get this bill passed. I single out my colleagues DENNIS KUCINICH and ANTHONY WEINER for their particularly effective work.

But I want to say that this is the same battle that some people went through when we passed Social Security. We had the same naysayers. The

same people when we passed Medicare, the same naysayers. The same people when we passed Medicaid, the same naysayers. And now we try to reform health care today, and what do we get? The same people saying "no" again.

So I'm proud to bring all of the support that I can to make sure that this bill becomes law, that more people are covered, and that preexisting conditions no longer will be an excuse to get rid of people.

Mr. CAMP. Madam Speaker, at this time I yield 1 minute to the gentleman from Georgia (Mr. KINGSTON).

Mr. KINGSTON. I thank the gentleman for yielding.

Madam Speaker, what we have today is another Pelosi plan for America.

But let's remember the Pelosi plan for jobs: an \$800 billion stimulus plan that caused unemployment to go from 8.5 percent to over 10 percent.

Let's remember the Pelosi plan for automobiles: Cash for Clunkers, a \$3 billion program that even the Democrats agreed did not work and was killed after 3 weeks.

The Pelosi plan for fiscal discipline: a \$1.4 trillion debt this year, the highest in history.

And let's don't forget the Pelosi plan for national security: dithering in Afghanistan.

Now we have the Pelosi plan for health care: it kills small businesses and jobs. It raises taxes. It raises premiums. It cuts Medicare. It takes away your current health care coverage and spends \$1 trillion.

Vote "no" on the Pelosi plan for a government takeover of health care and join the bipartisan Members of this Congress who plan to promote an alternative which is far better.

Mr. RANGEL. Madam Speaker, I yield for the purpose of making a unanimous consent request to Mr. FALEOMAVAEGA, my friend from Samoa.

Mr. FALEOMAVAEGA. Madam Speaker, God is good. I rise in full support of the health care needs of all our fellow Americans. God bless America.

Madam Speaker, I rise in strong support of H.R. 3962, legislation to provide affordable, quality health care for all Americans and reduce the growth in health care spending, and for other purposes. This bill will control rising medical costs and also extend health care coverage to uninsured American citizens throughout the United States and its Territories.

I want to thank Speaker NANCY PELOSI for her leadership and my colleagues in Congress for their support on this important bill. Especially, I extend my gratitude to the Chairmen of the House Committee on Energy and Commerce, Congressman HENRY WAXMAN; and the House Committee on Ways and Means, Congressman CHARLES RANGEL for listening to the concerns of the Territories and for their willingness to work with the Territorial delegates on resolving their concerns.

I also want to commend my fellow Territorial delegates for their hard work and efforts, in

working hand-in-hand to reduce health disparity facing the Territories. I especially want to recognize Congresswoman DONNA CHRISTENSEN for her work in the House Committee on Energy and Commerce, Congressman PEDRO PIERLUISI and Congressman GREGORIO SABLAN for their advocacy in the House Committee on Education and Labor and to Congresswoman MADELEINE BORDALLO for her leadership as the Chairwoman of the Congressional Asian Pacific American Caucus Healthcare Task Force.

Madam Speaker, the Affordable Health Care for America Act, or H.R. 3962, will improve health care for Americans living in the insular areas. Under the provisions of this legislation, from FY2011 through FY2019, American Samoa will receive additional Medicaid funding in the amount of \$239.5 million. Moreover, its Federal Medical Assistance Percentage (FMAP) will be raised to the highest FMAP applicable to any of the 50 States and District of Columbia. As a result American Samoa will assume an FMAP no less than 75 percent, the FMAP for Mississippi which has the highest among the 50 States.

American Samoa will also work together with the Secretary of Health and Human Services on a plan to transition the Territory to full parity by 2020. And to make this transition, the Secretary will also assist to make appropriate modifications to the Territory's existing Medicaid programs. This will require comprehensive assessment of the existing Medicaid program and health care services in American Samoa.

I am pleased that American Samoa and the insular areas will have the opportunity to become part of the Exchange program, the centerpiece of the Health Care Reform legislation. Again I thank my Territorial delegates for their hard work to ensure that Congress continues to recognize the need and unique set of circumstances we have in the Territories. To help carry out the Exchange program, \$300 million is to be allocated among American Samoa, the CNMI, Guam, and the USVI, based on consultation with the Secretary of Health and Human Services. If American Samoa or any Territorial government chooses not to join the Exchange, its allocation will be added instead to that Territory's Medicaid funding.

Madam Speaker, H.R. 3962 will bring much needed improvement to the health care system in American Samoa. The fact of the matter is rising medical costs and limited health care coverage, exacerbated by American Samoa's remote location and exponential rate of chronic diseases, have led to a high number of people in the Territory with minimal or no access to quality health services. Indeed, findings from the American Samoa Health Survey conducted in 2005 estimated only 25 percent of the population have insurance. Subsequently, there is a tremendous need to address these concerns in a viable health care policy for the Territory.

For this reason, in a letter sent June 22, 2009, I wrote members of the Fono (American Samoa Legislature) to address the need to improve the health care system in the Territory. I specifically requested that the Fono should take advantage of the report from the Coverage for All in American Samoa (CAAS)

project, which includes policy recommendations on ways to improve the Territory's health care system.

I commend the American Samoa Government especially the Office of the Lieutenant Governor and staff for their dedication and commitment to the CAAS project that was completed in 2007. I also want to commend the Health Resources and Services Administration (HRSA) of the U.S. Department of Health and Human Services (DHHS) for committing total funding of \$1.2 million from 2004 to 2007 to complete the CAAS project. My hope is for the American Samoa Government to follow through on the policy recommendations in the CAAS report and adopt the framework for health care reform that is now in place and supported by H.R. 3962.

The Affordable Health Care for America Act, H.R. 3962, carries with it our expectations and hopes for quality and affordable health care for our people and with it a commitment; a commitment to ensure that every American is provided quality health care that they are entitled to and to receive health services that they so critically need.

I urge my friends and colleagues to support H.R. 3962 and pass this historical health care reform legislation.

Mr. RANGEL. I yield myself 2 minutes.

This is it for the members on the Ways and Means Committee and others that have demonstrated such outstanding leadership to be a part of history.

It's unfortunate that we were unable to create an atmosphere of bipartisanship because, certainly, the 40 million people that are without health insurance, we can't distinguish between those who are Republicans and those who are Democrats. Clearly, we had enough information of the number of people that were in the congressional district, all of our congressional districts, that had no insurance at all.

I am more than certain that my colleagues on the other side of the aisle have heard the very same stories we have: people who thought they were insured and they were not; people who wanted insurance and they would not insure them because they had some condition; other people who worked hard every day of their lives, but were not given insurance and they can't afford to buy it.

No, this isn't the Pelosi plan. This is a plan for all America, a plan to make us proud to know that our country is concerned about us and our children and our grandchildren. And, yes, the American Medical Association, AARP, and everyone is throwing papers around. But these are the groups, the national groups, that have asked America and this Congress to step up and fulfill our responsibility.

And it's not just for our constituents. It's for our great country, to have her as strong as she can be, to be able to know that we can compete with any other nation no matter what part of the world that we're in; and that our



workforce will not only be educated and talented in order to compete, but we will be healthy.

Every industrialized country takes care of their people. It's not a political thing. Certainly here it's not a Republican or Democratic thing. It's, Are we going to be healthy? Are we going to be strong? Are we going to be certain that when you count America, count her among the healthy.

Madam Speaker, I want to bring to the floor an outstanding Member of Congress who is the subcommittee Chair on the Education and Labor Committee. As you know, three committees had jurisdiction and Education and Labor had jurisdiction. We had three chairmen. But we had one subcommittee chairman who has just been outstanding. He's been a friend of those without insurance, a friend of those who look forward to this bill's being passed.

So it is with great distinction that I yield the balance of my time to Mr. ROBERT ANDREWS from New Jersey, and I ask unanimous consent that he be allowed to control that time.

The SPEAKER pro tempore (Ms. EDWARDS of Maryland). Without objection, the gentleman from New Jersey will control the balance of the time.

There was no objection.

Mr. CAMP. Madam Speaker, at this time I yield 1 minute to the gentleman from Texas (Mr. GOHMERT).

Mr. GOHMERT. Madam Speaker, this is well intended. But you read section 501, and it basically says if you make too much to get free health care but you make too little to be able to buy it, you're going to get taxed under this bill. It means well. But it does damage.

For those who have paid into Medicare for 40 years or so, who expected to have it, they get cut hundreds of billions of dollars, but illegals are going to get covered. Come on now.

In the 1960s they meant well with the Great Society, but they offered a check for every child a woman could have out of wedlock. Meaning well, wanting to help them, but they lured them into a rut with no way out, and they came to my court to be sentenced.

We hurt people when we do the wrong things. For the Declaration of Independence, our Founders pledged their lives, their fortunes, their sacred honor. This is a "declaration of dependence" that pledges Americans' lives, Americans' fortunes, and there is no honor in that.

Mr. ANDREWS. Madam Speaker, I yield myself 3 minutes.

Madam Speaker, the people of the country and Members of the House deserve a vigorous debate. They also deserve an accurate record. And I think the time has come to begin to clarify and correct some of the series of assertions that have been made here that are simply not correct.

There was an assertion made from the minority side a few minutes ago

that no one knows what will happen to those who are on TRICARE or veterans health benefits. The gentleman may not know, but we do. Nothing will change for a person under TRICARE or veterans benefits if they do not wish to have it changed.

There was a statement made on the other side that the bill will "cover illegal aliens." That is incorrect. There is no subsidy and there is no coverage for an undocumented person.

There have been numerous statements made on the other side that there will be massive tax increases on the American people. Here is the fact: the fact is that there is a surtax in this bill that helps to pay for coverage of uninsured people and for better quality care. It affects the top .3 percent of households in this country. If you're an individual and you make more than \$500,000 a year adjusted gross income, if you're a couple and you make more than \$1 million a year adjusted gross income, it affects you.

The statement has been made repeatedly the bill will add to the deficit. That's not the truth. That's not what the Congressional Budget Office says. They say the contrary. They say that the net effect of this bill is it will reduce the deficit in the first 10 years by in excess of \$100 billion and that in the second 10 years, the bill will reduce the deficit by somewhere in the neighborhood of one-quarter of 1 percent of GDP.

The statement has been repeatedly made that it is a crime not to have health insurance. Here's the accurate statement: because there is a penalty imposed on individuals who don't meet the individual mandate, and, by the way, that individual mandate has within it very generous subsidies and it has a hardship exemption, but it has been said it is a crime not to have health care. That is not accurate. It is a crime to willfully and intentionally evade taxation, just as it is with every other tax.

It has been said this is a government takeover of health care. That is false. This is a consumer takeover of health care. And those who would be apologists for the insurance industry don't like that. The American people do and will.

Madam Speaker, I reserve the balance of my time.

Mr. CAMP. Madam Speaker, at this time I will place in the RECORD a letter from the Joint Committee on Taxation, which on page 3 indicates that both misdemeanor and felony penalties with imprisonment of up to 5 years will be imposed.

CONGRESS OF THE UNITED STATES,  
JOINT COMMITTEE ON TAXATION,  
Washington, DC, November 5, 2009.

Hon. DAVE CAMP,  
House of Representatives,  
Washington, DC.

DEAR MR. CAMP: This is in response to your request for information relating to enforce-

ment through the Internal Revenue Code ("Code") of the individual mandate of H.R. 3962, as amended, the "Affordable Health Care for America Act." You specifically inquired about penalties for a willful failure to comply.

#### TAX ON INDIVIDUALS WITHOUT ACCEPTABLE HEALTH CARE COVERAGE

H.R. 3962 provides that an individual (or a husband and wife in the case of a joint return) who does not, at any time during the taxable year, maintain acceptable health insurance coverage for himself or herself and each of his or her qualifying children is subject to an additional tax. The tax is equal to the lesser of (a) the national average premium for single or family coverage, as applicable, as determined by the Secretary of Treasury in coordination with the Health Choices Commissioner, or (b) 2.5 percent of the excess of the taxpayer's modified adjusted gross income over the threshold amount of income required for the income tax return filing for that taxpayer. This tax is in addition to both regular income tax and the alternative minimum tax, and is prorated for periods in which the failure exists for only part of the year. In general, the additional tax applies only to United States citizens and resident aliens. The additional tax does not apply to those who are residents of the possessions or who are dependents, nor does it apply to those whose lapses in coverage are de minimis or those with religious conscience exemptions. The additional tax does not apply if the maintenance of acceptable coverage would result in a hardship to the individual or if the person's income is below the threshold for filing a Federal income tax return.

#### RANGE OF CIVIL AND CRIMINAL PENALTIES FOR NONCOMPLIANCE

You asked that I discuss the situation in which the taxpayer has chosen not to comply with individual mandate and not to pay the additional tax. The Code provides for both civil and criminal penalties to ensure complete and accurate reporting of tax liability and to discourage fraudulent attempts to defeat or evade tax. Civil and criminal penalties are applied separately. Thus, a taxpayer convicted of a criminal tax offense may be subject to both criminal and civil penalties, and a taxpayer acquitted of a criminal tax offense may nonetheless be subject to civil tax penalties. In cases involving both criminal and civil penalties, the IRS generally does not pursue both simultaneously, but delays pursuit of civil penalties until the criminal proceedings have concluded.

The majority of delinquent taxes and penalties are collected through the civil process. In determining whether a penalty applies along with an adjustment to a tax return, the examining agent is constrained not only by the applicable statutory provisions, but also by the written policy of the IRS not to treat penalties as bargaining points but instead to develop the facts sufficiently to support the decision to assert or not to assert a penalty. The goal is consistency, fairness and predictability in administration of penalties.

If the government determines that the taxpayer's unpaid tax liability results from willful behavior, the following penalties could apply.

#### CIVIL PENALTIES

Section 6662(a)—an accuracy related penalty of 20 percent of the underpayment attributable to the health care tax, based on negligence or disregard (the former includes

lack of a reasonable attempt to comply and the latter includes any intentional disregard of rules or regulations) or substantial understatement, if the understatement of tax is sufficiently large.

Section 6663—a fraud penalty of 75 percent of the underpayment, if the government can prove fraudulent intent to avoid taxes by clear and convincing evidence.

Section 6702—a \$5,000 penalty for taking a frivolous position on a tax return, if the underpayment is intended to delay or impede tax administration and the return on its face indicates that the self-assessment is substantially incorrect.

Section 6651—delinquency penalty of .5 percent of the underpayment, each month, up to a maximum of 25 percent of the underpayment.

#### CRIMINAL PENALTIES

Prosecution is authorized under the Code for a variety of offenses. Depending on the level of the noncompliance, the following penalties could apply to an individual:

Section 7203—misdemeanor willful failure to pay is punishable by a fine of up to \$25,000 and/or imprisonment of up to one year.

Section 7201—felony willful evasion is punishable by a fine of up to \$250,000 and/or imprisonment of up to five years.

#### APPLICATION OF PENALTIES UNDER CURRENT PRACTICE

The IRS attempts to collect most unpaid liabilities through the civil procedures described above. A number of factors distinguish civil from criminal penalties, in addition to the potential for incarceration if found guilty of a crime. Unlike the standard in civil cases, successful criminal prosecution requires that the government bear the burden of proof beyond a reasonable doubt of all elements of the offense. Most criminal offenses require proof that the offense was willful, which is a degree of culpability greater than that required in a civil penalty cases. For example, a prosecution for willful failure to pay under section 7203 requires proof beyond a reasonable doubt both that the taxpayer intentionally violated a known legal duty and that the taxpayer had the ability to pay. In contrast, in applying the civil penalty for failure to pay under section 6651, the burden is on the taxpayer: the penalty applies unless the taxpayer can establish reasonable cause and lack of willful neglect with respect to his failure to pay.

Criminal prosecution is not authorized without careful review by both the IRS and the Department of Justice. In practice the application of criminal penalties is infrequent. In fiscal year 2008, the total cases referred for prosecution of legal source tax crimes were as follows.

Investigations initiated—1,531.

Indictments and informations—757.

Convictions—666.

Sentenced—645.

Incarcerated—498.

Percentage of those sentenced who were incarcerated—77.2.

Of the 666 convictions reported above for fiscal year 2008, fewer than 100 were convictions for willful failure to file or pay taxes under section 7203. Civil penalties outnumber criminal penalties imposed. For example, in fiscal year 2008, compared to the 666 convictions, approximately 392,000 accuracy related penalties were assessed on individual returns. Also in fiscal year 2008, the IRS assessed 5,502 penalties under section 6702 for frivolous positions taken on returns.

I hope this information is helpful for you. If I can be of further assistance, please contact me.

Sincerely,

THOMAS A. BARTHOLD.

Madam Speaker, at this time I yield 1 minute to the gentleman from Texas (Mr. POE).

Mr. POE of Texas. Madam Speaker, in my prior life I was a judge for 22 years. I tried only criminal cases.

This bill forces everyone that can to buy insurance whether they want to or not. If they don't, they're taxed. But that tax is really a fine. Be that as it may, if they don't pay the fine, they're in violation of the IRS Code and they can pay another \$250,000 fine and go to a Federal penitentiary for 5 years.

That is government oppression of the people, forcing them to buy insurance whether they want to or not. That is repressive government control, and that's the way that I see it. If they don't submit, they are forced to go to jail.

You know, this bill is about government control. It's not about choice. It's oppression. It's not about liberty. The Constitution starts out with "We the people." If this bill passes, especially that section, let's scratch out "We the people" and write in the phrase "We the subjects of Big Government."

And that's just the way it is.

Mr. ANDREWS. Madam Speaker, I'm pleased at this time to yield 1½ minutes to the gentlewoman from Ohio (Ms. FUDGE), who's one of the authors of the small business provisions in the bill.

Ms. FUDGE. There comes a time, Madam Speaker, when we must choose that which benefits the greater good or look for selfish reasons to support the status quo. Now is that time and I choose the greater good.

When I go home, Madam Speaker, I will be able to say that I was asked to make health care more affordable and I said "yes." This bill makes health care affordable for 36 million more Americans by ensuring that working-class citizens will never have to pay more than 12 percent of their income on health care premiums and that people whose incomes are 400 percent of poverty or less will receive their premiums in the form of subsidies. More than 163,000 households in my district alone will benefit from these subsidies.

When asked to increase access to care, I said "yes." "Yes" to the people of America who will no longer worry about being denied coverage because of preexisting conditions. "Yes" to the people of America whose families can now have regular checkups and free preventative care. Madam Speaker, I said "yes" to those who for the first time will have a family doctor instead of using the emergency room for routine matters.

When asked to help the laid-off worker, the small business owner, the working poor, and those who can't make ends meet in this very struggling economy, I said "yes." When asked to ensure that those who have health care today but may be dropped tomorrow

are taken care of, I said "yes." When asked to exhibit the courage needed to fight for change, I said "yes."

When the history of the 111th Congress is written, I choose to be in that number that said "yes" to the people of America.

□ 1745

Mr. CAMP. Madam Speaker, I yield 1 minute to the gentleman from California (Mr. ROHRBACHER).

Mr. ROHRBACHER. Madam Speaker, this attempt at sliding Americans into dependence on a government-controlled health care system brings bait-and-switch to a new low. We have heard about the flaws of our current health care system: high cost; lack of portability; lose a job, lose insurance; and discrimination against those with preexisting conditions. Yes, many of the heart-wrenching stories we are hearing to justify this legislation are real. But correcting those maladies only requires specific reform. It doesn't require transforming health care in America into a bureaucratically managed health care system that will cost hundreds of billions of dollars more, including billions to provide health care for illegal aliens while at the same time cutting Medicare by hundreds of billions of dollars.

This so-called reform will destroy the freedom of the American people to make health decisions with their doctor and the doctor of their choice. It will transform our system rather than reform it, and what we will end up with is a system that is massively more expensive, less effective, and will be based on government controls and rationing, rather than the patient-doctor relationship.

Mr. ANDREWS. Madam Speaker, nurses make a great contribution to our health care system, and a gentlewoman who is a nurse has made a great contribution to this bill. I yield 2 minutes to the gentlewoman from New York (Mrs. MCCARTHY).

Mrs. MCCARTHY of New York. I thank my colleagues, Mr. ANDREWS, and I also thank GEORGE MILLER for also working with us.

We have known for years that we have a shortage of doctors, especially primary care doctors, and we have had a shortage of nurses. This bill is going to help that.

You know, when we talk and I hear some of the charges coming from the other side, I am wondering where have I been all of these months when I sat through the committee hearings and heard what we are doing.

I want to say with the Education and Labor Committee, the Nurse Training and Retention Act and the Student-to-School Nurse Ratio Improvement Act is in this bill, H.R. 3962. The Nurse Training and Retention Act will provide grants so we can have more new nurses, but to have more new nurses,

we have to have those who are educated to teach those nurses. We have that in this bill, too.

I also want to say that for years I have been fighting with the insurance companies to make sure that children who are born with disfigurements on their face can have corrections so long term they won't have those scars, physically and mentally, and to help those families adjust to the child. In this bill, we will be able to say that the plastic surgeons can work on these children.

Think about a child who is born without an ear. The insurance companies say that is cosmetic. That is not cosmetic. The ear is actually part of the body so you can actually hear better. But the emotional scars that happen to the children that are born with these deformities, that is wrong.

If we can't take care of our children in this country, if we can't make sure our seniors on Medicare get the kind of care that they need—I will tell you, I just went through surgery. I went to get my prescriptions filled, and my pharmacist said to me, How lucky, you don't have to pay anymore for your prescriptions until January 1. Why? Because I have coverage, because I have health care from the Federal Government. We can do better, and we should.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Minnesota (Mr. KLINE) for 40 minutes.

Mr. KLINE of Minnesota. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, we have before us today more than 2,000 pages of legislative text that will give us public policy that costs more than \$1 trillion and creates a huge morass of government bureaucracies. Over a hundred new offices, bureaus, commissions, and programs. Let's look briefly at just one of these new offices.

The Democrats empower a new super bureaucrat with unprecedented authority over personal health care decisions, the health choices commissioner, heading up the Orwellian health choices administration.

In the short time we have had since this legislation was made public, we have combed these pages—in the first part of these 2,000 pages—to see if we could get a picture of the responsibilities, authorities, and powers that were granted to this individual. As you can see, Madam Speaker, we actually had to go back to the supply store to get enough of these tabs.

This super bureaucrat, this health choices commissioner, it turns out will have powers to define, deny, deem, determine, assess, administer, and establish our health care benefits for all Americans.

It is no wonder that millions of Americans are afraid of a government takeover of our health care. How can

they not fear such a thing? This is unprecedented, this amount of power granted to one bureaucrat. And, of course, there are other bureaucrats in this bill.

I don't believe that this bill should see the light of day. It certainly should not pass. It is a recipe for job losses. It is a clear power grab by Washington bureaucrats. It is a power grab. We ought to discard it altogether. Press the reset button, start over. We can do better. The American people deserve better. Let's vote "no" on this power grab by Washington bureaucrats.

I reserve the balance of my time.

The SPEAKER pro tempore. The gentleman from New Jersey has 1½ minutes remaining.

Mr. ANDREWS. Madam Speaker, at this time I would like to yield to a gentleman who authored a very key provision about saving money through medical records technology, the gentleman from Oregon (Mr. WU) for 1½ minutes.

Mr. WU. Madam Speaker, I rise today in strong support of health insurance reform. In 20, 40, 60 years, this legislation will stand beside Social Security, the GI bill, and Medicare as a pillar of American health care and humane values. The bill creates a new health insurance exchange or marketplace to expand access and provide people with a menu of quality health insurance options so they can choose the plan that best meets their own needs.

The bill would create affordability credits to ensure that all Americans have more affordable health care coverage.

The bill will set a yearly limit on how much you can be charged for out-of-pocket expenses because no one should go broke because you get sick.

In short, what health insurance reform means for Americans is more security and stability. Americans should not have to wait any longer for these reforms. We have been waiting since Theodore Roosevelt. We have been waiting since Franklin Roosevelt. We have been waiting since Harry Truman. We have been waiting since Lyndon Johnson. We have been waiting since Jimmy Carter. We have been waiting since Bill Clinton. It is time to stop the waiting and it is time to act.

The SPEAKER pro tempore. The time of the gentleman from New Jersey has expired.

Mr. KLINE of Minnesota. Madam Speaker, I yield for the purpose of a unanimous consent request to the gentleman from California (Mr. LEWIS).

Mr. LEWIS of California. Madam Speaker, I rise to oppose H.R. 3962.

Madam Speaker, our health care system is the envy of much of the world. That does not mean it is perfect.

Major challenges such as pre-existing conditions and portability can be dealt with by breaking down barriers between states and through nationwide underwriting.

California-style liability reform provides a model to reduce the cost of defensive medi-

cine and can significantly reduce the cost of health care.

Tax incentives can be used to encourage broader participation by families, without federal mandates.

The Speaker and her congressional advisors are committed to government-run health care. We can solve existing problems without adding a trillion dollars on the backs of average American taxpayers.

Vote "no" H.R. 3962. Help save us from single payer healthcare.

Mr. KLINE of Minnesota. I reserve the balance of my time.

The SPEAKER pro tempore. The gentleman from New Jersey (Mr. ANDREWS) is recognized for 40 minutes.

Mr. ANDREWS. Madam Speaker, at this time it is my honor to yield 4 minutes to a person who has spent a distinguished career in this House fighting for this day, who is one of the principal authors of this bill, the leader of our committee, the chairman of the Committee on Education and Labor, the gentleman from California (Mr. GEORGE MILLER).

Mr. GEORGE MILLER of California. Madam Speaker, I thank the gentleman so much for his contribution to this legislation, to the debate in this House, and to the role he has played in informing our Members and the public about this bill.

I want to begin by giving thanks, Madam Speaker, particularly on my committee, I want to thank the staff that have worked so terribly hard, Michele Varnhagen, Megan O'Reilly, Jody Calemine, Aaron Albright, Meredith Regine, and Rachel Racusen, who have all supported this tremendous team and the professional staff of the Committees on Ways and Means and Energy and Commerce, and certainly to my colleagues, Chairman RANGEL and Chairman WAXMAN, and to our subcommittee chairmen, Mr. ANDREWS, Mr. PALLONE and Mr. STARK. It has truly been an honor to have been involved in this debate and sit in the same room with the dean of our House, JOHN DINGELL, and to be able to craft this legislation. It is an honor I will remember the rest of my life, and I thank the Democratic leadership for giving us the space to bring President Obama's bill to this House so we can pass it and change America. And I want to thank Speaker PELOSI. Without her leadership, her tenacity and her passion, we would simply not be here today.

We are about to make history, and the reason we are about to make history is because many of us have so much confidence in the great things that America is capable of achieving. America has been challenged throughout its history to achieve great things on behalf of Americans, on behalf of the world community. We have risen to that challenge. But throughout that history, one challenge has eluded us: the challenge to come and to finally provide access to affordable health care

for all of our citizens, for all Americans, to provide them the kind of security that they would know with this legislation, to provide them the understanding that never again will they live in fear that they will be without health care, for whatever circumstances take place in their lives.

And every Member in this Chamber on both sides of the aisle have encountered our constituents over our public careers as they have told us terrible stories, dramatic stories, painful stories, sad stories, about how their family has been crushed, or their friends or their neighbors that they care about or work with, by circumstances beyond their control. How, when one circumstance leads to another, how in America today when the layoff notice comes, you are also on notice that you will lose your insurance. Your world is turned upside down immediately. You struggle to find employment or retraining. You struggle to refigure your family's finances. And you know if your children are sick, they won't be able to go to the doctor—you won't be able to afford it. If your spouse is in the middle of treatment, that treatment can be curtailed, no matter what the illness, no matter how important the treatment is. It can go in a flash.

We cannot continue to ask American families to continue to live on that edge of uncertainty, of insecurity, of the possibility of fiscal ruin. A small event, because of the lack of health care, can explode into the life of a family, into the life of a community when it happens over and over and over again.

But this legislation says that's not going to happen again in our future. We are going to become the architects and the builders of a system that will provide care to these people, will provide services to these people, will provide security for these people so that these American families can go to work with confidence. They can buy a home with confidence. They can think about their kids' education with confidence, and know it will not be all wiped out in a flash because their insurance was canceled.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. ANDREWS. I yield the gentleman an additional 1 minute.

Mr. GEORGE MILLER of California. That is what this legislation is about. We can talk about all of the internal merits and the back and forth. But at the end of the day, for the first time in our history, we deliver to all Americans the security that their family will have an opportunity to continue on a stable financial track and that they can make the kinds of plans that we want to make for our children, our grandchildren, that their neighbors might be able to make.

But in America today, because of the absence of this policy, because of the

absence of a comprehensive health care bill that provides universal access, because of the failure of a bill that will help families that are struggling to meet the demand to pay the premiums, because of that failure, as *The Wall Street Journal* said, we pay a huge price in innovation because people know they will be penalized if they start a new business, if they take an idea and try to take it to fruition, if they switch jobs for a better opportunity maybe career-wise but that doesn't have insurance, if they want to go to work for a start-up where they can't provide insurance.

Let's give America for the first time health care security for their families, their friends, their kids, and their neighbors.

Madam Speaker, I rise in support of this historic legislation to fix our broken health insurance system and finally bring affordable health coverage to every American.

We are truly on the verge of making history.

Never before has the House or Senate approved a bill to guarantee every American access to affordable health care.

Never.

Not that we haven't tried.

The fight to reform this Nation's health care system has spanned nearly 100 years, across generations and many great leaders, from Teddy Roosevelt to Franklin Roosevelt to John F. Kennedy to President Clinton to my own personal hero, Ted Kennedy.

But time and again these efforts were stymied by special interests.

The need for reform is dire.

Hundreds of thousands of people are losing insurance each month.

At least 36 million Americans have no coverage at all—including nearly 50,000 people in my district in Northern California.

Over half of all personal bankruptcies are due to a medical incident.

Businesses are choking on bloated health care costs.

Innovation is being stifled. Our competitiveness is undermined.

But this year is different. This time is different.

The American people literally cannot afford to wait any longer, and today we will cast a history-making vote to guarantee all Americans access to quality, affordable health insurance.

We must not fail again.

An unprecedented effort by the House led us to this milestone.

Three committees and our diverse Caucus worked together in an extensive and coordinated fashion, with one purpose—to fulfill a decades-old and yet still urgent promise.

We engaged the public in one of the most transparent debates of federal legislation in history, including over 2,000 events across the U.S. since July alone.

The result is a bill that reflects what we have heard from workers and families, from small business owners and economists, from seniors and college students, from doctors and nurses.

The Affordable Health Care for America Act will directly meet the needs of Americans and the goals that President Obama set for reform:

It lowers costs for families and businesses, Protects people's choices of doctors and health plans, reduces the deficit, and

Ensures access to quality, affordable health insurance for all Americans.

For the first time in U.S. history, all uninsured Americans will be able to purchase quality, affordable coverage through a new Health Insurance Exchange, where they will be able to choose from a menu of options: a public health insurance option or several private plans.

And for those that already have insurance, our bill will grant them the security of knowing that their coverage will always be there.

Never again will Americans worry about losing their health care if they change or lose their job.

Never again will someone be denied health care coverage because of a pre-existing condition.

Never again will a patient have to worry about their insurance company rescinding their policy when they need coverage the most.

Never again will a small business owner have to worry about unpredictable and unaffordable premiums.

Our bill, H.R. 3962, will end the many injustices that workers, families, and businesses face in today's system.

It will finally make health insurance work for consumers—not insurance CEOs.

Let me be specific about what our reforms will mean for the American people:

No more co-pays or deductibles for preventive care;

No more rates increases because of a pre-existing condition, gender, or occupation;

An annual cap on out-of-pocket expenses;

Guaranteed affordable dental, hearing and vision care for children;

Lower prescription drug costs for seniors;

Young people will be able to stay on their parents' insurance through their 27th birthday; and

A ban on lifetime caps on what insurance companies will pay, so patients will never again be one treatment away from medical bankruptcy.

As I mentioned earlier, this legislation meets our commitment to fiscal responsibility.

Every piece of this bill is fully paid for through a combination of revenue raised by placing a surcharge on the wealthiest Americans and savings generated by making Medicare and Medicaid more efficient.

These reforms will strengthen Medicare for seniors and shift our system's focus from quantity of health procedures to quality of care and producing healthier outcomes for patients.

The Congressional Budget Office reports that our bill will reduce the deficit by more than \$100 billion over the next decade and slow the growth of health spending, leading 11 chief health care economists to declare our legislation "vital to the Nation's fiscal and economic future."

As with previous efforts to reform health care, this bill received an enormous amount of public scrutiny.

In the last few months, opponents of health reform have conjured up every falsehood imaginable about this bill in an effort to scare the American people and once again try to stymie reform.

But as I said, I believe that this year is different. Our legislation has been tested in public and the momentum continues to grow in support of the bill.

The American people have seen through the lies and distortions.

And they are not fooled by the hoax of an 11th hour Republican bill that is nothing more than a cruel rebuke to the needs of the American people.

Their bill would do nothing but maintain the status quo and guarantee insurance profits at the expense of tens of millions of hard working Americans.

The public understands the true meaning of our bill.

They know it will cover 96 percent of Americans.

They know that, under our bill, if they lose their job they will continue to have health coverage for their children, spouses and families.

They know that this bill means that if they have cancer, the insurance company can no longer pull the rug out from under them while they're in the middle of treatment.

They know that this bill will protect them, through any economic cycle.

Nearly 50 years ago, as he was fighting to expand health care benefits, President Kennedy said,

All of the great revolutionary movements of the Franklin Roosevelt Administration we now take for granted. But I refuse to see us live on the accomplishments of another generation. I refuse to see this country and all of us shrink from the struggles which are our responsibility in our times.

We must not shrink from the struggle for health reform, which is our responsibility in our time. This is our moment to revolutionize health care in this country.

We have arrived at this historic moment thanks to the hard work of so many people.

I would like to thank my good friends and colleagues, Chairman RANGEL and Chairman WAXMAN, and our three subcommittee chairs, ROB ANDREWS, FRANK PALLONE and PETE STARK, and especially DEAN DINGELL. We could not have had better teammates in this journey.

I would also like to thank the Democratic Leadership, our Speaker, Ms. PELOSI, the Majority Leader, Mr. HOYER, our Whip, Mr. CLYBURN, and all the members of leadership for the countless hours they spent working with the committee chairs to arrive at this point today.

And of course we could not have completed the work on this bill without the work of our incredibly talented staff, who worked long nights and weekends for months on end. They are the unsung heroes of this process, and I know all our colleagues join me in thanking them for their extraordinary work.

From my staff I would like to thank Mark Zuckerman, Alex Nock, Danny Weiss, Michele Varnhagen, Megan O'Reilly, Jody Calamine, Tico Almeida, Meredith Regine, James Schroll, Rachel Racusen, Aaron Albright, Amy Peake, Courtney Rochelle, and Mike Kruger.

Finally, I'd like to pay tribute to my mentor and friend, Sen. Edward M. Kennedy.

Health care was the cause of Ted's lifetime. Our effort would have been impossible had he not carried the torch of justice and equality for all those years.

I know I am not alone when I say that I sincerely wish Ted Kennedy could be with us today to see his dream of quality, affordable health care for all become a reality.

Madam Speaker, this is the most important bill I have ever worked on during my many years of service in Congress.

I could not be prouder to have helped to write this bill, to encourage each of my colleagues to support it, and to cast my vote in favor of the Affordable Health Care for America Act.

We stand at the doorstep of history.

Let us go in.

□ 1800

Mr. KLINE of Minnesota. Madam Speaker, at this time, I yield 3 minutes to the ranking member of the Health Subcommittee, certainly a member of the committee, the gentleman from Georgia (Dr. PRICE).

Mr. PRICE of Georgia. Madam Speaker, health care at its very core is a compassionate and a moral human endeavor. As a physician, I can tell you that I never saw a Democrat or a Republican disease. The medical decisions that each American makes for themselves and for their families are some of the most important and personal decisions ever made, and there are principles of health care that we should follow. Think about those principles of accessibility and affordability and quality and responsiveness and innovation and choices. Think about those principles. None of those principles are improved by the further intervention of the Federal Government, which is why we should adopt and concentrate on positive, patient-centered health care reform.

It is so very important that principles be in place that will ensure that patients and their families and their doctors are able to make those personal medical decisions unencumbered by a stifling and oppressive Federal Government. But sadly, this bill will not allow those independent decisions and is wrong in so many ways.

This bill, on page 94, will make it illegal for any American to obtain health care not approved by Washington. This bill, on page 301, will force Americans to purchase health coverage that Washington picks, not that you select for yourselves. This bill, on pages 297 and 313, places job-killing taxes on virtually every single business. This bill, on page 211, will force millions of Americans to lose their current personal private health coverage.

This bill comes with a price tag of \$1.3 trillion, which will be borne by our children and our grandchildren. This bill, on page 520, slashes billions of dollars from Medicare that will necessitate health care rationing for seniors. And this bill, on page 733, empowers the Washington bureaucracy to deny lifesaving patient care if it costs too much.

This bill is not a health care bill. This bill is an affront on the morality

of the provision of American health care.

As a physician, when patients and their families and their doctors are not allowed to independently decide what care should be provided, we lose more than our health care system; we lose our morality and we lose our freedom.

This bill, whether known or not, is an oppressive affront to every single American. The positive vote, the bipartisan vote on this bill is "no."

Mr. ANDREWS. Madam Speaker, I am pleased to yield to a Member who understands the immorality of 47 million uninsured. The gentleman from Michigan (Mr. KILDEE) is recognized for 1 minute.

Mr. KILDEE. I thank the gentleman. Madam Speaker, I rise today in strong support of H.R. 3962, the Affordable Health Care for America Act.

Choices regarding health care are some of the most personal decisions we make. The ability to choose one's doctor and decide on a course of treatment with one's physician is an undeniable American right, and so is access to quality affordable health care.

Most of us can agree that our current health insurance system is broken. The cost of health insurance has skyrocketed in recent years, leaving many families struggling to afford coverage or forcing them to go without. Others are denied insurance due to preexisting conditions, saddling them with terrible medical debt when they need treatment.

These treatments, along with other factors, Madam Speaker, have led to nearly 50 million Americans without any health insurance; 71,000 live in my district.

I urge the passage of this bill.

Lack of adequate health coverage leads many people to wait until an emergency to seek medical treatment, turning what could have been a simple doctor's visit into a costly trip to the E.R. What many people do not realize is that when patients cannot pay their bills, the American taxpayer is charged for a portion of that cost. Medical providers also absorb some of the costs, forcing them to raise the prices of services and thereby increasing costs for everyone and driving up health insurance premiums. This problem will only get worse over time, and health care will continue to become more and more expensive.

The House health insurance reform legislation addresses this issue by increasing competition between insurers, thereby lowering costs. It also prevents insurers from denying or dropping coverage due to pre-existing conditions. By treating conditions earlier at a doctor's office, instead of at the emergency room, it will save money for the patient, the taxpayer and the medical providers, ultimately bringing down health care costs for everyone.

This is an issue that Congress has been tackling since the days of Harry Truman and even before and I am proud to stand with my colleagues in passing this long awaited bill.

Mr. KLINE of Minnesota. At this time, I am very pleased to yield 1

minute to the gentlelady from North Carolina, a former member of this committee and now a member of the Rules Committee, Dr. FOXX.

Ms. FOXX. I thank my colleague from Minnesota.

The people of America are struggling with 70 percent effective unemployment brought on by actions of this Democratically controlled government. And what do the Democrats want to do? Give us more government. They expect us to believe that more government control of our lives is good. More government control is not good.

We've been successful as a Nation because of our freedom. Taking away freedom will weaken us as a people and a country. The American people know that and have told us that. They're opposed to this bill.

Medicare, the kind of treatment they want us to have, denies treatment more than twice as often as most private insurance. That will be our future: rationed health care and destruction of freedom.

My colleagues should say no to the Pelosi-Obama freedom-killing, job-killing H.R. 3962.

Mr. ANDREWS. Madam Speaker, when people were about to be deprived the freedom to choose a public option, the Progressive Caucus stood up. The leader of the Progressive Caucus that led that effort will now be our next speaker.

The gentlewoman from California (Ms. WOOLSEY) is recognized for 2 minutes.

Ms. WOOLSEY. Thank you to Congressman ROB ANDREWS, who kept this clear and made it understandable for every single person in this country. Thank you, Congressman.

Well, let's put aside all the numbers and fuzzy terminology and let's talk about what this bill really means to average Americans.

Madam Speaker, I will never forget 40 years ago waking up in the middle of the night with a start night after night after night because I did not have health insurance for my three small children, and it was not anything that had to do with anything that we had caused. I would wonder what would happen, what if my children got ill or one of them was injured because of no health insurance? Well, this bill that we're talking about today, with it, our family would have been secure. We would have been much healthier because we would have known that we had health insurance.

So, Madam Speaker, let's take a family of two, two working parents, two children. With this bill, if one of the children gets sick, the parents won't have to worry about arguing with the health insurance company for treatment. If the mother gets breast cancer, the family won't have to worry that their health insurance company will cancel their coverage because it

doesn't want to pay for her treatment. If one of the parents loses his or her job, and along with it the family's health insurance, they will be able to go into the health exchange and choose between private and public plans. If the family can't afford to pay the premiums, there will be affordability credits to help them.

That security would have meant a better life for me. It would have meant a better life for my children that year. We want to make sure that every child has that security.

Mr. KLINE of Minnesota. At this time, I am very pleased to yield 1 minute to a very important member of the committee, the gentleman from Wisconsin (Mr. PETRI).

Mr. PETRI. I thank my colleague from Minnesota.

Madam Speaker, unemployment is 10.2 percent, the highest in 26 years, yet here we are being asked to vote on a bill which will radically alter and disrupt one-sixth of our economy, hit businesses with costly new regulations, ratchet up monstrous Medicaid mandates on the 50 States, raise taxes on job creators, impose skyrocketing insurance premiums on individuals and families, and destroy popular Medicare Advantage plans, all this while failing to bend the cost curve down and providing no real liability reform.

At a time of record deficits, this bill spends over \$1 trillion to provide health insurance to less than 15 percent of Americans. To pay for this budgetary train wreck, it imposes \$730 billion in new taxes and relies on a series of budget gimmicks in a slippery attempt to claim it won't contribute to our deficit tsunami.

This legislation will bring about a radical intrusion of government into every sector of health care. It puts bureaucrats between patients and their doctors. It doesn't make sense, isn't very smart.

Let's not pass this monstrosity.

I certainly agree that it is time to fix the health care system in the United States so that all Americans have access to quality, affordable health care. In order to achieve this goal, I strongly believe that any bill that is approved by Congress must institute reforms that will address the rising cost of health care.

The majority of Americans have some kind of health insurance they are generally satisfied with. What they really care about is rising costs. Spending on health care services already accounts for about 17 percent of gross domestic product (GDP)—an expected total of about \$2.6 trillion in 2009. Health care inflation has outpaced general inflation by approximately 2.5 percent a year. Government spending on health care continues to grow exponentially and without action, spending on Medicare and Medicaid will rise from 4 percent to 19 percent of GDP in 2082.

However, the bill we are considering today takes us in the entirely wrong direction by instituting reforms that will increase health care spending while doing little to bend the cost

curve. This legislation is best categorized as an entitlement expansion rather than health care reform. At a time of record deficits, H.R. 3962 spends \$1.055 trillion to provide health insurance to less than 15 percent of Americans. Furthermore, almost 15 million of these individuals will receive insurance coverage by expanding the eligibility of Medicaid. This results in the largest expansion of Medicaid since its inception almost forty years ago. In fact, according to the Congressional Budget Office, the bill will increase the federal budgetary commitment to health care by \$598 billion in the first ten years alone!

To pay for this budgetary train wreck, H.R. 3962 imposes \$729.5 billion in new taxes on small businesses, individuals who cannot afford health insurance, and employers who cannot afford to provide coverage that meets new insurance standards. In Wisconsin, the "surtax" that provides the largest source of funding for the bill will hit 11,900 small businesses—at a time when unemployment is hovering around nine percent. Individuals who are dependent on medical equipment such as wheelchairs and hearing aids will also face increased costs because of additional taxes in this bill—at a time when many families are struggling to pay their monthly bills.

Furthermore, H.R. 3962 relies on a series of budget gimmicks to make it appear that the bill would not increase the federal deficit. First, the legislation fails to account for this year's projected 21 percent cut to Medicare physician reimbursements, which if allowed to go through would severely threaten seniors' access to physicians. However, preventing this and future cuts will cost over \$200 billion. Instead of making this fix in H.R. 3962 and accounting for its cost, the Democratic House leadership introduced it as a stand-alone bill without offsets—despite the fact that the Senate already rejected this approach. H.R. 3962 also proposes over \$400 billion in cuts to Medicare. However, as many acknowledge, Congress has a history of reversing itself on unpopular cuts to Medicare, so it is very questionable as to whether these savings will be realized. The legislation also authorizes a new long-term care program which is funded through a voluntary payroll tax. H.R. 3962 uses these pay roll contributions for other spending priorities in the bill, instead of the benefits that will eventually have to be paid out under the new program. Even the Democratic Chairman of the Senate Budget Committee, KENT CONRAD, called the inclusion of this program a "Ponzi scheme." Finally, only 7/10th of a percent of new spending occurs in the first three years, while most of the tax increases begin at enactment, representing a debt and "tax" time bomb.

Besides increasing taxes and adding to the exploding deficit, this legislation represents a radical intrusion of government into every sector of health care. H.R. 3962 gives the government unprecedented authority over the regulation of health insurance. The top-down bureaucratic model of mandating extensive cost sharing and coverage requirements will do very little to ensure high quality care and will certainly lead to increased costs.

We should be doing the exact opposite and giving consumers, rather than government bureaucrats or insurance companies, more responsibility for decisions regarding their health



care. This bill does nothing to incentivize consumer driven health plans which encourage individuals to take care of themselves, save for future medical expenses and comparison shop to find the best health care at the most reasonable cost. Most importantly, consumer driven plans put into motion the incentive structure throughout the health care delivery system that will slow the rising cost of health care.

In fact, many of the reforms and new mandates in H.R. 3962 will actually raise the cost of health insurance for those that are now covered. Multiple studies have demonstrated that younger and healthier Americans could see their health care premiums triple, and a family of four could see its health care premiums more than double. While H.R. 3962 mandates that all citizens purchase "acceptable coverage," in reality many young and healthy individuals may find it more economical to forego coverage and pay the penalty which is less expensive than the cost of buying health insurance. Should younger and healthy people forego coverage, premiums for everyone else will increase. In fact, because of the bill's ban on insurance companies discriminating against pre-existing conditions, younger healthier people will have even more of an incentive to wait until they are sick to purchase health insurance.

The legislation also breaks the President's promise that if you like your health insurance you will be able to keep it. The legislation makes significant cuts to Medicare Advantage Plans which will surely eliminate or reduce benefits to the 216,000 beneficiaries in Wisconsin.

Furthermore, the legislation places an 8 percent tax on businesses that don't offer acceptable coverage, as defined by federal bureaucrats. According to the Galen Institute, a non-profit think tank, "data from a 2009 Kaiser Family Foundation survey suggest that at least 30 percent of firms with fewer than 200 employees that now offer insurance would fail the test for family coverage, and about 20 percent would fail individual coverage." However, instead of complying with the new mandates, many employers will likely stop offering health insurance to their employees because the 8 percent payroll tax penalty is less than the cost to provide coverage. Furthermore, the extensive new federal record keeping and audit requirements provide further incentives to stop offering coverage. In fact, a study by Blue Cross and Blue Shield demonstrated that "complying with the new actuarial standards in the bill would increase average costs by 17 percent for individuals and almost 10 percent for small employers."

Over 80 percent of the money spent on health care in the United States today is spent on the delivery of health care. Yet, what we see in today's bill is just "more of the same" in the delivery of care instead of making fundamental changes to reward high quality, low cost care. The bill authorizes hundreds of Medicare pilot programs to test different ways to pay doctors and hospitals for quality of care. But once again, these pilots are governed from the top-down and typically take years to initiate and rarely result in reforms applied throughout the system. Instead, we should be supporting efforts that are coming

out of both the states and multi-collaborative projects between networks of hospitals, businesses and physicians. Wisconsin hospitals such as ThedaCare, Marshfield Clinic, Gunderson Lutheran, and Aurora Health Care have long been engaged in transforming the delivery of care to get rid of the inefficiencies and provide low cost, high quality care. We should be supporting these reforms from the bottom-up, instead of repeating the work that has already been done.

And finally, I have grave concerns that the legislation will allow for government funding of abortions and threaten current conscience protections for health care providers. I strongly believe that the Hyde Amendment should be codified in this legislation.

Today, I will vote in support of Congressman BOEHNER's substitute amendment which is a good step forward in lowering health care premiums for families and small businesses, increasing access to affordable high quality care, and promoting healthier life styles—without adding to the deficit.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Members are reminded to heed the gavel.

Mr. ANDREWS. Madam Speaker, I yield myself 30 seconds before the next introduction.

There is a credibility issue here. The minority says the bill doesn't have enough prevention, but the American Cancer Society supports the bill. The minority says it destroys the doctor-patient relationship, but the American Medical Association supports the bill. The minority says it's bad for America's seniors and for Medicare, but the AARP supports the bill. I think there is a credibility issue, and it doesn't work for the minority.

At this time, I would be happy to yield 1¼ minutes to the gentleman from Pennsylvania (Mr. SESTAK).

Mr. SESTAK. Madam Speaker, a little shy of 3 years ago, I came to this Congress to pay back a debt. After three decades in the U.S. military, my young 4-year-old was struck with the same brain tumor Senator Ed Kennedy had. Because of the wonderful health care plan that this Congress provides our families in the military, she was given a chance.

I was taken in the U.S. military by how and why we do that. It's not because we're generous. It's because we reap great dividends for this Nation. This Congress sent me off for 11½ months to a war, and while I was gone, my daughter and my wife were taken care of and my mind was on the mission. In the military, we reap the benefit of healthy, focused warriors.

I am taken with this bill. It gives us healthy, productive workers. It actually combines, in my mind, the best of America's character—rugged individualism allied with the common enterprise of this Nation. It gives us the quality of life that in the military reaps such great dividends. This bill, to me, is no different, and it's time.

Mr. KLINE of Minnesota. Madam Speaker, at this time, I yield 2 minutes

to the ranking member of the Armed Services Committee and the former ranking member of the Education and Labor Committee, the gentleman from California (Mr. McKEON).

Mr. McKEON. Madam Speaker, I thank the ranking member for yielding.

It's been said that Abraham Lincoln said, "You cannot bring about prosperity by discouraging thrift. You cannot strengthen the weak by weakening the strong. You cannot help the wage earner by pulling down the wage payer. You cannot further the brotherhood of man by encouraging class hatred. You cannot help the poor by destroying the rich. You cannot keep out of trouble by spending more than you earn. You cannot build character and courage by taking away man's initiative and independence. You cannot help men permanently by doing for them what they could and should do for themselves." Madam Speaker, what we're doing here violates all of these principles that Abraham Lincoln spoke so eloquently about.

I rise today in strong opposition to this Pelosi bill of over 2,000 pages. At a time when we are suffering the highest unemployment in this country since 1983, the American people can't afford these massive new spending increases, and I refuse to pass this great burden on to my children and grandchildren.

I offered two amendments to try to improve this bill: one to require Members of Congress to enroll in the public option like we're going to require all of you to do, and one that said that illegal immigrants would not receive new benefits under this new bill; common-sense provisions that were voted down by the Democrats in the Rules Committee. In fact, Democrats voted down every single Republican amendment but one. How is that for bipartisanship?

This legislation increases taxes, kills jobs, and costs over \$1 trillion in money we don't have. The Republican plan will cut costs through tort reform, negotiating across State lines, and through purchasing power.

Support the Republican alternative and oppose the Pelosi plan. This is an absolute disaster.

□ 1815

Mr. ANDREWS. Madam Speaker, before I yield to my next speaker, I yield myself 30 seconds.

With all due respect, what is an absolute disaster are the repeated misrepresentations of certain things that are in this bill, and we just heard one. No one is forced to join the public option. No one. It is not in the bill; and I would, frankly, invite the minority to show us where it is.

Secondly, Members of Congress are positioned exactly the way everyone else is with the public option. When and if the time comes that the Federal Government is a participating employer in the exchange, we can either



choose the public option or not. The House deserves an accurate record.

I yield 1½ minutes to a woman who stood for fiscal soundness not only here in Washington but in New Hampshire for her State budget, the gentlewoman from New Hampshire, CAROL SHEA-PORTER.

Ms. SHEA-PORTER. Madam Speaker, I rise today to support the Affordable Health Care for America Act. This is a historic moment for our Nation.

In my district, this bill will provide coverage for 37,000 uninsured residents; 128,000 households will qualify for credits to help them afford the coverage of their choice. We will invest more in community health centers. We make Medicare stronger, which is why AARP has endorsed this bill. We start to close the Medicare part D doughnut hole in 2010, and it will be completely closed by 2019. We will provide a 50 percent discount for name-brand drugs for those in the doughnut hole, and we eliminate copayments for preventative care.

Today, we make history for our seniors, for our children, for the middle class—for all Americans. Today, we vote for an America where discrimination based on preexisting conditions is a thing of the past. Today, we vote for an America where getting sick doesn't mean losing your home. Today, after decades of debate, we finally vote for a healthier America.

Mr. KLINE of Minnesota. Madam Speaker, before I yield to the gentlewoman from Washington, I yield for a unanimous consent request to the gentleman from Kentucky (Mr. ROGERS).

Mr. ROGERS of Kentucky. Madam Speaker, I rise in opposition to this freedom-taking bill.

We can all agree that health care costs are too high and that we need to open up access for more Americans. That being said, we need to pass a bill that actually cuts costs and increases access rather than a government-run takeover of health care. I cannot support Speaker PELOSI's monstrosity of a bill because it puts a Washington bureaucrat between individuals and their doctor, it adds to our enormous debt in Washington, and, even more frightening, it will limit health care availability in rural regions like southern and eastern Kentucky.

In these challenging economic times, with double digit unemployment, out of control government spending sprees, and bailout after bailout, we should not pass a bill that will kill jobs and raise taxes. Speaker PELOSI's government-run health care bill not only imposes new penalties and taxes on small businesses, it raises taxes on already struggling individuals and families. Whether someone wants health insurance or not, they'll be forced to purchase it, and the federal government will garnish wages or send them to jail if they don't comply. Even more troubling, the more vulnerable and ailing one is, the more they'll pay, as this bill imposes new taxes on critical medical supplies, like wheelchairs, oxygen tanks, hospital beds, and prosthetic limbs. As if that wasn't

enough, the bill opens the floodgates of taxpayer money for illegal immigrants to abuse the system and obtain free government health insurance—all on the backs of law-abiding Americans. Lastly, I am scared for our seniors as this bill makes devastating cuts to the Medicare program to the tune of \$500 billion, and puts the popular Medicare Advantage program on life support, virtually eliminating its existence.

I support the Republican alternative health care bill that focuses on lowering health care premiums for families and small businesses, increases access to affordable high-quality health care, and promotes healthier lifestyles without adding to Washington's crushing debt. The plan I support guarantees access to affordable care for those with pre-existing conditions, ends junk lawsuits against our doctors, allows small businesses to band together to purchase insurance for their employees and allows individuals to shop for insurance across state lines. Simple and less costly initiatives such as these will lower insurance premiums by at least 10 percent, and provide health insurance to millions more Americans.

This bill reflects a fundamental and drastic change in our way of life, and is the largest government intrusion into the private lives of our citizens ever. I, for one, am truly frightened by the potential consequences.

Mr. KLINE of Minnesota. I am now pleased, Madam Speaker, to yield 2 minutes to a member of the committee, the ranking member on a subcommittee, the gentlewoman from Washington, CATHY MCMORRIS RODGERS.

Mrs. MCMORRIS RODGERS. I thank the gentleman for yielding.

Madam Speaker, we just need to slow down. The American public has made it clear that they want the right health care reform bill enacted, not just any bill.

Look at the stimulus bill that was rushed through Congress. Look at what has happened. They said, Oh, unemployment won't go over 8 percent. We are now at 10.2 percent. We have lost 3 million jobs, and we have a \$1.4 trillion deficit.

Like my mom used to say, You rush, you make mistakes.

This health care reform bill will be no different. It spends \$1.3 trillion. It taxes employers \$750 billion, many of whom are small business owners, at the very time that we need these small business owners to be creating jobs. We need jobs. Isn't it interesting that even the administration's own economic adviser has estimated that this bill will cost America an additional 5.5 million jobs.

Other reforms in the bill all but eliminate Medicare Advantage, hurting 20,000 seniors in eastern Washington and millions across the country. For rural communities, the bill calls on the Institute of Medicine to study payment disparities in rural regions. So we are spending \$1.5 trillion, and the only relief we get is another study? My list of concerns goes on and on.

The Republicans have a better way, one that lowers premiums for families by as much as 10 percent; one that saves billions in medical liability reform, allowing people to purchase health insurance across State lines; one that continues the continuity and coverage; and it's a solution that doesn't indebt our children and our grandchildren.

Madam Speaker, just this week, thousands of people stood on the Capitol steps. They called on Congress to oppose this legislation. I urge us to heed their warning. Vote "no." Let's slow down the process, and let's get the right kind of reform, not just any kind of reform.

Mr. ANDREWS. Madam Speaker, I yield myself 15 seconds.

The gentlewoman just quoted an unnamed phantom Obama administration adviser. Christina Romer, the CEA chairperson for the Obama administration, says this bill will increase the GDP between 1-2 percent and will add several million jobs.

I am pleased to yield 1½ minutes to a strong voice for working families in this country, the gentleman from Illinois (Mr. HARE).

Mr. HARE. Thank you, Congressman ANDREWS.

Madam Speaker, when I was growing up as a young boy, my parents lost their home. My father was ill. He couldn't make the payments. I remember coming home the day of my older sister's wedding to see a process server with a notice to evict and 30 days to leave.

Two days before my father died, I sat by his bed, and he told me, There are two promises I want you to make to me: take care of the girls and your mother, and no matter what you do, please see that this will not happen to another family.

Tonight, in a few hours, I will have the opportunity to keep that promise to my dad and to the tens of thousands of other people who have lost their homes and everything they had simply because they were sick. All the fear-mongering. All the misstatements of facts and figures. Health care in this country, my friends and fellow citizens, is a right. It is not a privilege.

So, tonight, for my father and for the people who came after him, I will stand proud for this bill no matter the amount of shouting, of tearing this down and of calling the bill whatever you want to call it. I call it getting people exactly what this country promises them: life, liberty, and the pursuit of happiness.

Mr. KLINE of Minnesota. Madam Speaker, I am pleased to yield 1 minute to a member of the committee, the gentleman from Michigan (Mr. HOEKSTRA).

Mr. HOEKSTRA. I thank my colleague for yielding.

Madam Speaker, today, I met Theresa. Theresa had a sign that read: I

love my country. On the other side, it read: My future. Her brother, Xavier, had a sign that read: Give me liberty, not debt.

If we pass Pelosi health care tonight, tomorrow morning, we will still all love our country; but we will have jeopardized Theresa's future. A bailout, a stimulus, cap-and-trade, and Pelosi health care have jeopardized her future. For Xavier, we will have given him debt: another \$1.2 trillion on top of the \$1.4 trillion we gave him last year.

I will vote "no" because I believe that that's the vote that says: I love my country. I will vote "no" because I believe that that is the vote that preserves our future. I will vote "no" because I know that that will preserve Xavier's liberty and not give him more debt.

With that, I urge my colleagues to vote "no" on this bill.

Mr. ANDREWS. Madam Speaker, I am pleased to yield 1½ minutes to a member who fought tirelessly for equality in Medicare reimbursement for the State of Iowa, the gentleman from Iowa (Mr. LOEBSACK).

Mr. LOEBSACK. Thank you, Mr. ANDREWS.

Madam Speaker, I am proud to be a part of this effort to improve health care in America, and I will support the bill before us because I have heard from countless Iowans about the desperate need to change the current system, and I believe this legislation before us today will provide true and comprehensive reform.

However, since coming to Congress, I have told just about everyone I could and everyone who would listen to me that comprehensive reform could not be achieved without addressing geographic disparities in the Medicare payment system. Many other Members agreed, and we formed the Quality Care Coalition, and we brought about that change.

There is much needed language in this bill to fix a broken Medicare payment system. By focusing now on the quality of services provided to patients instead of the quantity of services, this provision will provide a significant cost savings to Medicare, and it will benefit patients in Iowa and all across America.

In particular, I want to thank my leadership; my chairman on the committee, GEORGE MILLER; my friend ROB ANDREWS; Chairman WAXMAN; and Chairman RANGEL for their work on this issue.

I urge everyone to vote for this bill before us.

Mr. KLINE of Minnesota. Madam Speaker, I yield 1 minute to a member of the committee, the gentleman from South Carolina (Mr. WILSON).

Mr. WILSON of South Carolina. Madam Speaker, America's leading voice for small business, the National Federation of Independent Business,

the NFIB, opposes H.R. 3962, the Pelosi takeover bill. The NFIB has sounded the alarm about the employer mandate, payroll tax penalty and unnecessary paperwork mandate crippling small businesses.

The opposition letter from the NFIB warns that the Pelosi takeover includes multiple mandates. Economic research shows mandates are ultimately borne by the worker through job loss and lower wages. The NFIB also warns how the payroll tax penalty is a tax on jobs and job creation. Additionally, the unnecessary paperwork mandate will place a new paperwork burden on all small businesses at a time when they are struggling to stay afloat. The NFIB has estimated the takeover effort will kill 1.6 million jobs at a time of record unemployment.

We should support health insurance reform, not a government takeover.

NOVEMBER 5, 2009.

#### LETTER TO HOUSE OPPOSING H.R. 3962

DEAR REPRESENTATIVE: On behalf of the National Federation of Independent Business (NFIB), the nation's leading small business advocacy group, I am writing in opposition to the Affordable Health Care for America Act (H.R. 3962). The Affordable Health Care for America Act does not reflect the access or affordability needs of NFIB's small businesses, and a vote against H.R. 3962 will be considered an NFIB Key Vote for the 111th Congress.

NFIB has been a constructive participant in the healthcare debate and has spent more than a decade voicing our need for reform. With healthcare costs ranking as the No. 1 issue facing small business, our employers must carefully weigh the potential benefits of reform against the new costs imposed on business owners in the legislation. NFIB members have identified specific areas in H.R. 3962 that will raise those costs:

**Employer Mandate:** H.R. 3962 includes an employer mandate that will require employers to pay for healthcare for full-time and part-time employees. An employer mandate does not address the No. 1 issue facing small businesses: unsustainable costs. This mandate affects those who do not offer coverage today as well as those who already do provide insurance, but aren't making contributions at contribution levels outlined in the bill (72.5% for individual plans and 65% for family plans). Rather than help, this will penalize employers already offering healthcare and force them to make hard choices about how to afford the new government requirements. Economic research has shown time and again that mandates such as these are a "one-two punch" where the cost is first borne by the employer, but is ultimately borne by the employee—through job loss and lower wages.

**Payroll Tax Penalty:** A payroll tax penalty is a tax on jobs and job creation because they tax labor. The legislation requires that all employers with a payroll of \$500,000 or more pay a payroll tax of up to 8 percent if they do not provide "qualified" health insurance to their employees. No matter how profitable or unprofitable a business might be, they are forced to pay this tax. In addition, because the exemption thresholds in H.R. 3962 are not indexed for inflation, the exemption will become a healthcare equivalent of the alternative minimum tax, hitting more and more employers until there is no one exempted at all.

**Paperwork Mandate:** H.R. 3962 places a new tax-compliance paperwork burden on all small businesses. The "corporate reporting" provision is an expansion on reporting requirements (for transactions of more than \$600), which increases the cost of operating a small business and diverts resources away from growing and creating jobs.

**Big Benefit Package and More Mandates:** Small employers need a guarantee that plans offered in an exchange will be less costly, not more expensive, than what they are paying today. Today, small businesses pay an average of 18 percent more for their healthcare, leaving them continuously searching for more affordable choices.

H.R. 3962 gives a political board the power to define "coverage" and will determine whether an employer plan is "acceptable." However, the bill does nothing to ensure that the new plans will be less costly than what small employers are paying today. In some cases, the legislation will also require some small employers to cover benefits that are not currently mandated under federal law.

**Takes Away Small Business Solutions:** Small employers need more, not fewer, affordable health insurance options. However, the prohibition of HSA, FSA and MSA funds to purchase over-the-counter medications, along with the \$2,500 limit on FSA contributions, threatens to further limit the ever-shrinking options employers have to provide meaningful healthcare to their employees.

**Public Option:** A government-run plan cannot compete fairly with the private market, and threatens to destroy the marketplace, further limiting choices. We believe that with proper reforms the private market can be held accountable to provide greater competition and lower-cost solutions where insurers compete based on their ability to manage, rather than shed risk. Instead, the excessively prescriptive insurance reforms in H.R. 3962 will drive up costs.

**Surtax:** Seventy-five (75) percent of small businesses are structured as pass through entities and pay their business taxes at the individual level. More than one-third of small businesses employing 20 to 250 employees could face the tax. Finally, since the tax is not indexed for inflation, the effect of the tax will creep downward, making more and more businesses vulnerable to a tax increase.

**Poorly-Structured Tax Credit:** There are two reasons the credit in H.R. 3962 is of limited value. First, the availability of the credit is too short. A credit that is only available for two years means that every small business owner that claims the credit will see a large spike in their out-of-pocket costs for health care in year three. Second, the wage limits are too restrictive. Phasing the credit out based on average wages of \$20,000 or less severely reduces the amount of a tax credit available for most small businesses.

NFIB will continue to advocate for reform because, as both democratic and republican lawmakers have said, the status quo is not acceptable. Our small business owners agree, but reform must make the problem better, not worse. Because H.R. 3962 will not lower healthcare costs and threatens our economic recovery, NFIB will consider a NO vote a vote in support of small business. This will be an NFIB KEY VOTE FOR THE 111TH CONGRESS.

Sincerely,

SUSAN ECKERLY,  
Senior Vice President,  
Federal Public Policy.

Mr. ANDREWS. Madam Speaker, I yield 2 minutes to a gentlewoman who authored a provision to expand small

business opportunities for affordable health insurance, the gentlewoman from Nevada (Ms. TITUS).

Ms. TITUS. Thank you, Mr. ANDREWS.

Madam Speaker, for more than 6 months, I've discussed the need for health care reform with my constituents; and time and again I've heard from small business owners who are struggling to afford health care coverage.

Over the last decade, the average health insurance premium has more than doubled for Nevada's small businesses. Without comprehensive reform, Nevada's small business health premiums are projected to again double over the next decade. In this year alone, small businesses across the country are being hit with a 15 percent average increase in premiums. It is clear that the status quo is unacceptable and unsustainable.

I had concerns about earlier versions of this bill, but I am pleased that H.R. 3962 before us today is significantly improved and takes important steps to help make health insurance more affordable.

I worked to raise the income level at which people are assessed a health care surcharge. The new threshold is significantly higher, up from \$350,000 for couples to \$1 million. This means that 98.8 percent of all small businesses will be exempt from paying any surcharge.

The bill also now exempts small businesses with payrolls below \$500,000 from the employer mandate. That means that 86 percent of all employers are exempt, and many small businesses which choose to offer insurance to their employees will be eligible for a tax credit to help offset those costs.

I am especially proud that the provision I championed, which was to expand the health insurance exchange so that more businesses could participate, was included and strengthened in this bill. This will ensure that small businesses have additional options for purchasing health insurance at a lower cost.

All of these improvements combined will strengthen small businesses so they will be critical engines of growth in our communities. It is time small businesses knew who really stood up for them and cared about them and their employees.

I urge my colleagues to support this bill and to stand up for small business.

Mr. KLINE of Minnesota. Madam Speaker, I yield 1 minute to a member of the committee, the gentlewoman from Illinois (Mrs. BIGGERT).

Mrs. BIGGERT. I thank the gentleman for yielding.

Madam Speaker, I rise in strong opposition to this \$1.3 trillion government takeover of health care.

Time and again, the President promised the American people that, if they like the health insurance they have,

they can keep it. So I introduced an amendment in the Education Committee that said what he said: if you like the health insurance you have, you can keep it.

The Democrats defeated this amendment with a unanimous vote.

This bill does not keep the President's promise. Instead, it would allow a group of unelected government bureaucrats to determine if the health insurance you have is up to government standards. If they say it's not and if you don't buy what they say you should buy, you will be fined. If you don't pay the fine, it's jail time.

I urge my colleagues to defeat the bill and to, instead, vote for the GOP alternative. Not only does it expand access to those who lack it and not only does it lower costs for everyone, but it cuts the deficit, preserves the doctor-patient relationship, and ensures that you can keep the coverage you have.

□ 1830

Mr. ANDREWS. Madam Speaker, a number of great and visionary men have stood at the podium where you stand now as Speaker of the House. Many of them tried to achieve significant health care reform; each of them failed. A lot of strong visionary men failed, so we will succeed with a strong, visionary woman.

It is my privilege to yield 1 minute to the Speaker of the House of Representatives, Congresswoman NANCY PELOSI.

Ms. PELOSI. I thank the gentleman for yielding, for his kind remarks and for his tremendous leadership on bringing this legislation to the floor. Thank you, Congressman ROB ANDREWS.

Madam Speaker, today as we all know is an historic moment for our Nation and for America's families. For nearly a century, leaders of every party and political philosophy have, as far back as Teddy Roosevelt, called for health care for the American people.

For generations, the American people have called for affordable, quality health care for their families. Today, the call will be answered. Today, we will pass the Affordable Health Care for America Act.

This legislation is founded on key principles for a healthier America: innovation, competition and prevention. It improves quality, lowers cost, expands coverage to 36 million more people, and retains choices.

Our innovation began in the recovery package in January with \$19 billion for health IT, the first step in lowering cost and improving quality, and \$8 billion in investments for biomedical research. This legislation will mean affordability for the middle class, security for our seniors and honors our responsibility to our children, adding not one dime to the deficit.

For all Americans, this legislation makes a big difference: no discrimination for preexisting medical conditions;

no dropped coverage if you are sick; no copays for preventive care. There is a cap on what you pay in, but there is no cap on the benefit that you receive.

It works for seniors, closing the doughnut hole, offering better primary care and strengthening Medicare for years to come. It works for women, preventing insurance companies from charging women more than men for the same coverage. No longer will being a woman be a preexisting medical condition.

It works for young people, offers affordable choices and copays for preventive care to stop problems before they start, and allows young people to stay on their parents' insurance until their 27th birthday. It works for small business owners, providing access to affordable group rates and creating a tax credit to help them insure their employees. It works for consumers, keeping insurance companies honest and encouraging competition with a public option.

This legislation puts you and your doctor in charge. No longer will the insurance companies come between you and your doctor.

President Obama has said that health care reform is entitlement reform, and this legislation proves that point. It is fiscally sound, it is paid for, and it reduces the deficit by tens of billions of dollars over the next 10 years.

This legislation is the result of extensive deliberation here in the Congress, where we have held more than 100 hearings and is the product of extensive input from the American people. Members of Congress have held over 3,000 town meetings. It has resulted in a better bill than H.R. 3200. However good or excellent that was, this bill is a better one with significant differences, and my colleagues have pointed them out, as did Congresswoman DINA TITUS, who just spoke before me at the podium.

We are brought to this historic moment in our Nation for our families because of the work of our chairmen: Chairman HENRY WAXMAN of the Energy and Commerce Committee, Chairman CHARLIE RANGEL of the Ways and Means Committee, Chairman GEORGE MILLER of the Education and Labor Committee, and Chairwoman LOUISE SLAUGHTER of the Rules Committee. I thank all of those committees, including the Rules Committee, for being in so late so that we could have this legislation on the floor today and for their ongoing service to the Congress.

More than 300 groups representing tens of millions of Americans have expressed their support for the bill: the AARP, American Medical Association, the American Nurses Association; the list of medical groups goes on and on. The American Cancer Society Cancer Action Network, American Heart Association, American Diabetes Association. And I am particularly proud the

Consumers Union has endorsed the legislation. My colleagues, this morning we were part of history, and we are this evening as well.

But a particularly poignant moment occurred when Chairman DINGELL took the Chair to preside over the debate, the beginning of the debate for health care. When he was a young man as a Member of Congress, he gaveled Medicare into law. It had been, as one of our colleagues said, in his DNA, this pursuit of health care for all Americans. His father had introduced the bill over and over again when he was in Congress and, as his successor, he continued that great legacy. Today he will see a lifelong dream of generations in his family come true as we begin the process of making this a reality.

It's impossible to talk about health care reform in America without talking about Senator Edward Kennedy. His leadership and his contribution to this debate is boundless. Health insurance reform was the cause of his life. He called it "the great unfinished business of our society." On this issue he said what is at stake "is the character of our country." When the President came to address the joint session, he quoted those comments by Senator Kennedy from a letter that the Senator had sent to him. What the Senator also said in the letter that was sent to President Obama before he died was this:

"I entered public life with a young President who inspired a generation and the world. It gives me great hope that as I leave, another young President inspires another generation and, once more on America's behalf, inspires the entire world."

He acknowledged President Obama's "unwavering commitment and understanding that health care is a decisive issue for our future prosperity."

President Obama's leadership gives our Nation hope. Today, with this legislation, we will give them health. President Obama has said, "We will measure our success in the progress that is made by America's working families."

Today, with the passage of the Affordable Health Care for America Act, we will make history. We will also make progress for America's working families.

I urge my colleagues to support this important legislation.

Mr. KLINE of Minnesota. Madam Speaker, at this time I am pleased to yield 1 minute to someone who tells me that he is, in fact, very proud he doesn't have a section in this bill, a member of the committee, the gentleman from Indiana (Mr. SOUDER).

Mr. SOUDER. This is indeed a historic day. It's a crossroads in America. What you just heard from our distinguished Speaker was we, the government, will do this. We, the government, will

do this. We, the government, will do that. Instead of having the private sector do this, instead of having competition, instead of having capitalism do this, we, the government, will fix everything. We, the government, will provide everything.

We are in an economic crisis in this country. Just yesterday, for the first time, an over 10 percent unemployment. In my eight counties, over half are over 15 percent unemployment.

So what are we doing today? Taxing small business, the number one producer of jobs, adding regulations to those businesses, adding expenses to those businesses, taxing medical technology, which will reduce R&D, reduce jobs, reduce quality of health care.

What are we doing today? We are not going to require identification for illegal immigrants. We are going to hope that they self-report. With 1,990 pages of ignoring the voices of American people, you get higher taxes, fewer jobs, an unconstitutional takeover of 17 percent of our economy, a trillion dollars of debt, and free health care for the illegals who took your jobs.

Mr. ANDREWS. Madam Speaker, I am pleased to yield 2 minutes to the gentleman who made sure that the ban on discrimination based on preexisting conditions will take effect as soon as this bill does, the gentleman from Connecticut (Mr. COURTNEY).

Mr. COURTNEY. Madam Speaker, 45 percent of Americans suffer from some form of chronic disease, leaving them exposed to preexisting condition discrimination. The Commonwealth Fund found that 12.6 million non-elderly adults were, in fact, discriminated against by insurance companies because of preexisting conditions in the last 3 years.

This health care reform bill will abolish the barbaric discriminatory practice of denying insurance and charging more for insurance to Americans based on medical underwriting. Like Jim Crow laws, like separate but equal laws, like laws denying women the right to vote or own property, the practice of denying coverage because of a person's internal biology, high blood pressure, diabetes or cancer will be forever abolished.

Section 211 of this bill ends this practice permanently in 2013; and section 106, which I wrote with Mr. ANDREWS' help, immediately provides relief by amending existing law to shorten the look-back period for group health plans from 6 months to 30 days and reduces the exclusion of coverage for preexisting conditions from 18 months to 90 days.

This balanced, well-thought-out reform of the Health Insurance Portability and Accountability Act of 1996 will provide tangible, real change for Americans terrified of losing their coverage because of a layoff or a job change.

What does the Republican plan do? Does it adopt section 106 or 211? No. On page 145 of the Republican bill, they call for—are you ready—a GAO study of the issue of preexisting conditions. The time for delay and dilatory studies is over. It is time to act.

As U.S. President Abraham Lincoln once said, it is time to make a more perfect union, and pass the Affordable Health Care for America Act.

Mr. KLINE of Minnesota. Mr. Speaker, at this time I yield 1½ minutes to a distinguished member of the committee, the gentleman from Delaware (Mr. CASTLE).

Mr. CASTLE. Mr. Speaker, I rise in opposition to the legislation but in strong belief that the vast majority of us in Congress are committed to reducing the skyrocketing costs of health care today and expanding access to insurance coverage for those in need.

Additionally, I am certain that if we focused on the on the many shared bipartisan goals, we could pass a health reform package that took common-sense steps without making financial commitments that this country is unable to afford. Such items include insurance market reforms such as preventing denial of care for preexisting conditions, purchasing insurance across State lines, encouraging regional exchanges between States and portability, small business pooling and tax credits, negotiating drug prices, eliminating the \$60 billion in Medicare fraud each year, rewarding efforts to prevent common disease and illness, enrolling those who qualify into existing programs like Medicaid and SCHIP, tax benefits for needy individuals for help purchasing insurance, and limiting abusive lawsuits.

Instead, we are confronted with a bill that overreaches by creating new government programs costing over \$1 trillion paid for from tax increases and cuts to Medicare which are more gimmicks than real entitlement reform. Independent analysis of H.R. 3962 continues to show that reforms will result in higher costs for too many patients in addition to increasing the Federal debt which continues to rise dramatically under this Democratic administration and Congress.

Universal health care will not happen overnight. An incremental approach that expands access to health care coverage, contains costs and limits government involvement should be at the forefront of lasting and meaningful program. The process to date has been driven by politics. It is not too late to enact policies that enjoy broad bipartisan support.

Mr. ANDREWS. Mr. Speaker, our next speaker fought hard to make sure the vast majority of entrepreneurs in small businesses were exempt from any taxes under this bill. I am pleased to yield 1 minute to the gentleman from Colorado (Mr. POLIS).

□ 1845

Mr. POLIS. Mr. Speaker, I would like to thank Mr. ANDREWS, the committee staff, and Chairman MILLER for their hard work on this bill.

Where are we today? Our country spends more and gets less from health care. We spend more and get less. Many small businesses and individuals are unable to afford insurance. Americans are fed up with 15 to 20 percent increases in costs every year, and that is for those of us lucky enough to have insurance. People with preexisting conditions often can't get coverage, or the very condition they need coverage for is excluded.

Where does this bill take us? It encourages competition among insurance companies, giving us more choices and more stability so we can choose from hundreds of different policies, including shopping across State lines.

It covers most of the uninsured by empowering them to choose the provider of their choice. It prevents pricing discrimination based on preexisting conditions. It allows small businesses to have the same purchasing power as large corporations and saves them money. It reforms our legal system to reduce the cost of frivolous lawsuits. It supports doctor and nurse training, reduces the deficit by over \$10 billion, and applies free market principles to establish a playing field for health care that is good for practitioners and consumers.

I encourage my colleagues to support health care.

Mr. KLINE of Minnesota. Mr. Speaker, I yield 1 minute to a member of the committee and the ranking member of the subcommittee, the gentleman from Kentucky (Mr. GUTHRIE).

Mr. GUTHRIE. Mr. Speaker, I have heard from many of my constituents who are worried and anxious about Speaker PELOSI's health care bill.

Speaker PELOSI's bill spends \$1.2 trillion, cuts Medicare benefits, includes a \$34 billion unfunded Medicaid mandate and increases premiums for those already struggling to pay for health insurance. On top of all of that, the bill raises taxes for just about everyone. The bill taxes individuals who choose not to purchase health insurance, taxes small businesses, taxes medical devices, and taxes health savings plans. The bill is the exact opposite of what the American people said they wanted.

The Republican alternative addresses Americans' number one priority for health care reform: lowering the cost for premiums they pay now. The Congressional Budget Office has confirmed that our plan will lower health care premiums and reduce the deficit without taxing families and small businesses.

I am voting "no" on Speaker PELOSI's bill because of the devastating consequences it will have on Kentucky's families, seniors, and small businesses.

Mr. ANDREWS. Mr. Speaker, I am pleased to yield 1 minute to a gentleman who has led the fight to help small businesses in this bill, the gentleman from New York (Mr. BISHOP).

Mr. BISHOP of New York. Mr. Speaker, we all know that our fiscal future presents enormous challenges. The skyrocketing costs of our health care system puts constraints on our Federal budget, on our family budgets, and it prevents necessary investments in our future and the future of our children.

The key to fiscal stability is entitlement reform. The key to entitlement reform is health care reform, and the first step in health care reform is the legislation before us. With nearly one-fifth of our national spending going towards health care, reducing the rate of increases in health care costs is an absolute necessity.

Let's be honest with our constituents. Reducing corporate welfare and promoting efficiencies in Medicare spending is not equivalent to cutting benefits or covering fewer services. Rather, the Affordable Health Care for America Act is a thoughtful approach to ensuring Medicare works better for seniors and for those who provide care.

Most importantly, the Affordable Health Care for America Act promotes stability and peace of mind for the family who just learned their child has diabetes or the husband whose wife has just been diagnosed with breast cancer. No longer will such devastating news be followed by the fear of impending bankruptcy.

Vote "yes" on H.R. 3962.

Mr. KLINE of Minnesota. Mr. Speaker, I yield 1 minute to the gentlewoman from Kansas (Ms. JENKINS).

Ms. JENKINS. Mr. Speaker, the health care system in America needs reform, but the Pelosi plan is the wrong prescription. Unlike the Republican plan, this bill does nothing to reduce health care costs.

While there are many reasons I am opposed to this bill, the most glaring is we can't afford it. Unemployment has hit 10.2 percent, the highest level since 1983; yet Democrats are forcing through yet another job-killing bill that, according to modeling created by the President's own economic advisers, will kill an additional 5.5 million jobs.

Kansas just announced it is facing a \$460 million budget shortfall; yet this body is set to send my State another unfunded mandate estimated to cost \$230 million.

And the deficit just exceeded \$1.4 trillion; yet the majority wants to pass this \$1.3 trillion government takeover of health care.

Let's reject this fiscally irresponsible legislation.

Mr. ANDREWS. Mr. Speaker, may I inquire as to how much time each side has left?

The SPEAKER pro tempore (Mr. PASTOR of Arizona). The gentleman from

New Jersey has 18 minutes remaining, and the gentleman from Minnesota has 21 minutes remaining.

Mr. ANDREWS. Mr. Speaker, I am very pleased to yield 1 minute to the newest member of our committee, who has made a tremendous contribution to this bill already, the gentlelady from California (Ms. CHU).

Ms. CHU. Mr. Speaker, I rise in strong support of the Affordable Health Care for America Act. The clock is ticking for Americans and the children of my district. Families have been suffering, waiting for changes in our health care system so they can care for their children. They have been waiting for Congress to act.

They are mothers like Maria, whose child has leukemia and worries that excessive copays will make her go bankrupt.

They are children like Stacey, who has been waiting to get glasses and can't see the chalkboard at school, but she can't get them because her parents' insurance doesn't provide vision care.

They are parents like Barbara and Jim, whose 20-year-old has diabetes and is no longer eligible for health insurance since he graduated from college.

With the passage of this bill, out-of-pocket expenses will be capped at \$10,000, vision care for children will be covered, and older children will be covered up until age 26. Maria will not go bankrupt, Stacey will get glasses, and a son with diabetes can get treated. Children and families will get the quality health care they deserve.

Let's pass this health care bill now.

Mr. KLINE of Minnesota. Mr. Speaker, at this time I am pleased to yield 1 minute to a member of the committee, a practicing physician himself, the gentleman from Louisiana (Dr. CASSIDY).

Mr. CASSIDY. Mr. Speaker, as a practicing physician, I know that this bill has tremendous consequences for patients and for the economy. It is estimated that the \$730 billion in new taxes in this bill will kill 5.5 million jobs. The CBO estimates that this will have an annual inflation rate of 8 percent, an annual inflation rate that more than doubles costs in 10 years.

The Republican bill expands access by lowering premiums 10 percent. This bill expands access by forcing businesses and individuals to purchase, and if they do not, the long arm of the State reaches out and grabs them and shakes out fees and penalties.

Now, it was said this morning by a Democratic colleague that we need to redefine freedom. We are going to need all kinds of new definitions. We are going to redefine freedom as the ability to do what the government tells you to do. We are going to redefine helping the economy as higher taxes and destroying jobs. We are going to redefine bending the cost curve as more than doubling costs in 10 years.

Consider not the rhetoric, but the facts. Please reject this bill.

Mr. ANDREWS. Mr. Speaker, I am pleased to yield 1½ minutes to the gentleman from New Jersey, my neighbor and friend, Mr. HOLT.

Mr. HOLT. Mr. Speaker, the question so many are asking is, Can we afford this health care reform? I would say not only can we afford it, we can't afford not to pass it.

Consider where we are today: Businesses, large and small, feel a heavy weight around their necks trying to afford health care for their employees. It hurts our economy. It costs jobs. Businesses and families are paying a hidden tax of over \$1,000 each per year for the care of the uninsured. Costs continue to go up because our procedure-based system rewards the ordering of unnecessary and expensive tests that not only don't help the patient, they can be detrimental. Any family, even well-off families who think they have good health coverage, can find themselves in bankruptcy from a bad accident or arbitrary actions of the insurers.

All of this would change under this bill. This bill would reduce costs in a number of ways: By reducing the ranks of the uninsured, whose more expensive care we all pay for; by increasing the insurance competition through the new marketplace with a large interstate risk pool; by removing the antitrust exemption; and by moving toward more efficient record-keeping and by moving toward outcome-based, health outcome-based, patient-centered care.

In addition to all this, the revenues raised by this bill exceed the expenditures, so passing this will reduce the deficit by billions of dollars below what it would be if we do not pass this tonight.

We can't afford not to pass this health care reform. The bill will reduce the costs individuals, families and businesses face and reduce the government deficit.

Mr. Speaker, I rise today in strong support of the Affordable Health Care for America Act, H.R. 3962, legislation that would provide secure and stable health coverage regardless of whether one changes jobs or is between jobs, ensure Americans will never be denied care if they get sick, and extend coverage to those Americans not well served by the current health care system.

This is a historic debate we are having. For the past century, since Teddy Roosevelt ran for President in 1912, our nation has been debating how to ensure that sick Americans can access the care they need. As a U.S. Representative and the husband of a primary care physician, I have heard many stories from hard-working New Jerseyans about the need for reform. Some Americans have access to excellent care, often thanks to the advanced biotechnology and pharmaceutical products created in New Jersey, while others lack even basic care. One of the goals of the health care reform is to help all Americans gain stable access to medical care and life-saving medicines.

At a July roundtable in Trenton, a spouse of a cancer patient told me that when she and her husband came home from the hospital after one extensive treatment, they returned to foot-high stacks of insurance paperwork and \$150,000 of out-of-pocket charges for her husband's needed care. A self-employed woman from East Brunswick wrote to me recently to let me know she pays \$2,000 a month for her family's coverage and still has to pay out-of-pocket to see many of her physicians. These stories are a reminder that health care reform is about real people who are disserved by the broken health insurance system.

These are not isolated stories. While in the U.S., we will spend over \$8,000 per person this year for health care, 16 percent of New Jerseyans lacked insurance in 2007 and family insurance premiums are projected to rise from \$14,000 in 2009 to \$24,000 in 2019. In a country where we are projected to spend 18 percent of our Gross Domestic Product (\$2.6 trillion) this year on health care, we can do better.

The Affordable Health Care for America Act would improve the American health care system for all Americans, regardless of how they currently receive their health coverage. First, the legislation would lead to stable health costs that do not threaten family finances by establishing consumer protections for those purchasing private insurance. The bill would eliminate insurance benefit caps to ensure families do not have to worry about leaving the hospital with bills too big to pay because their benefits have run out. The bill would set an annual cap on out-of-pocket health expenses to eliminate cases where one disease forces a family into bankruptcy.

Second, the bill would provide stable coverage for those between jobs or the self-employed by creating an insurance marketplace, where they could get insurance at group rates. Most of the policies in this insurance marketplace would be private insurance, while one of the plans would be a non-profit public plan. This public plan would be subject to the same requirements and regulations as the for-profit plans in the marketplace. The public option would be just that—an option in which no one would be forced to enroll. The bill also would eliminate the practice where patients with a pre-existing condition like diabetes or cancer or pregnancy cannot purchase insurance. According to a Congressional committee report, the bill would help 10,000 uninsured individuals in Central New Jersey gain access to affordable health insurance.

Third, the bill would strengthen Medicare by starting to pay physicians for treating the whole patient and by encouraging doctors to coordinate a patient's medical care instead of paying for each test or procedure. The legislation would strengthen the long-term health of the Medicare trust fund by increasing the efficiency of the program, expanding its ability to fight waste, fraud, and abuse, and eliminating wasteful subsidies to private insurance companies.

It is worth repeating: not only would Medicare remain intact under this legislation, it would become better. The legislation would strengthen the Medicare trust fund by increasing the efficiency of the program, expanding its ability to fight waste, fraud, and abuse, and

eliminating wasteful subsidies to private insurance companies. No standard Medicare benefits would be cut. In fact, Medicare would be improved by eliminating the "doughnut hole" in the prescription drug benefit. Each year in Central New Jersey, 8,300 seniors face the Medicare "doughnut hole" and are forced to pay their full drug costs, despite paying for Part D drug coverage every month. H.R. 3962 would provide these seniors with immediate relief by cutting brand name drug costs in the "doughnut hole" by 50 percent and ultimately eliminating the "doughnut hole" altogether. Further, the legislation would help seniors by eliminating co-payments and deductibles in Medicare for preventative services to ensure that diseases would be treated at their earliest stages and to keep seniors well. The legislation creates new Medicare incentives to encourage physicians and hospitals to coordinate medical care and seek to reduce duplicate tests, x-rays, and labs. These and other provisions are why AARP, among several others, has endorsed this health care reform legislation.

This bill was created from one of the most open and deliberative processes in recent memory. During the past few years, Congressional committees held more than 53 committee hearings, debated and voted on almost 240 amendments, and considered health reform for 167 hours. Many of the amendments reflected concerns raised by constituents and have improved this bill further.

While there are strong humane and moral reasons to pass this health reform bill, the economic reasons are equally strong. Businesses, large and small, feel a heavy weight in trying to afford health care for their employees—hurting the economy and costing jobs. Any family, regardless of their income, can find themselves in bankruptcy from one accident or expensive illness. All of this would change under this reform bill. The bill would lower health costs for families by increasing competition across all states through a new marketplace and eliminating the antitrust exemption. It would reduce costs by promoting coordinated medical care to eliminate duplicative tests, by simplifying insurance paperwork and electronic records. The bill would decrease costs by expanding research on which treatments work best for different patients, helping physicians and nurses provide effective medical care. Long term, the legislation would limit costs by shifting to a focus on health outcomes and rewarding physicians for treating the whole patient.

It would do all this without adding one penny to the debt. Instead, it will lower the debt and, according to the Congressional Budget Office (CBO), produce a \$109 billion surplus over a decade. We cannot afford not to pass health care reform and reduce the crippling health costs facing our nation, our businesses, and our families.

Sadly, there is a great deal of misinformation about the proposed health reform bill. I have heard from some the myth that Members of Congress would be exempt from health care reform. It is worth noting that Members of Congress receive their health insurance like any other of the eight million federal employees and we pay premiums just like any other



worker. The health insurance reform bill includes several improvements to the overall insurance marketplace, all of which would apply to the federal employee health insurance plans. I welcome the fact that the reform legislation would apply to Members of Congress, just like employees of other large companies.

Opponents of reform also claim that the House health reform bill would encourage euthanasia or insert the government into end-of-life conversations between patients and their physician. This claim is false. The truth is that the legislation would provide doctors with better payment for talking with their patients. This bi-partisan provision would provide payment for a doctor's time if a patient chooses to have a conversation about the care that the patient prefers if he or she becomes very ill, but it does not require anyone to use this benefit. These conversations would not involve any government employee, but would be solely between the patient and his or her physician. As noted by the AARP, "[t]his measure would not only help people make the best decisions for themselves but also better ensure that their wishes are followed."

There is no reasonable basis for concern that seniors' conversations with their doctors on personal requests for end-of-life care would do anything to promote assisted suicide, which is illegal in New Jersey and 47 other states, or euthanasia, which is illegal in all states.

Discussions between the sick or the elderly and their doctors about end-of-life care have long been an accepted part of modern patient care as a way to ensure that the patient's wishes are carried out. In 2003, under the Bush administration, the Agency for Healthcare Research and Quality issued a report outlining a five-part process for physicians to discuss end-of-life care with their patients. Unfortunately, doctors are not paid for such discussions and thus are not encouraged to have them. According to the National Hospice and Palliative Care Organization, which supports this provision, the bill simply would allow for counseling on decisions that require time and consideration.

Another myth is that health reform would provide federal benefits for undocumented aliens. Undocumented immigrants currently may not receive any federal benefits except in specific emergency medical situations. There are no provisions in the House health reform bill that would change this policy. In fact, the legislation explicitly states that federal funds for insurance would not be available to any individual who is not lawfully present in the United States.

I have heard from many constituents concerned about the inclusion or exclusion of family planning services in health insurance reform. The legislation would exclude federal funding of abortion, and maintain existing federal laws protecting conscience rights in health care. In fact, the amendment adopted tonight, which I believe is in error, would go further than existing law and even prevent women from using their personal funds from purchasing coverage for family planning services. I hope the conferees will revisit this issue to ensure women have the freedom to purchase the policy that best serves their needs and conscience.

I am pleased that health reform will help small businesses. According to a report issued

from the Council of Economic Advisors in July 2009, the current health care system places a heavy burden on small businesses through high premiums, fixed administrative costs, adverse selection, and comparative disadvantage with larger businesses in America and with businesses in other countries. This is why small businesses pay up to 18 percent more per worker for the same health insurance plan than a large firm. The House legislation would help small business employees purchase insurance at group rates through an insurance marketplace, and by providing a tax credit to help small businesses that purchase insurance. Almost 18,000 small businesses in Central New Jersey would receive this tax credit.

The bill further recognizes the constraints facing small businesses and exempts many small employers from the shared responsibility requirement to provide insurance for their employees. The Congressional Budget Office and respected Massachusetts Institute of Technology health care economist Jonathan Gruber have pointed out that for the large majority of small businesses, the reform legislation would be a great improvement and would provide real savings.

For years, small businesses have asked me and other Members of Congress to allow them to get better rates by pooling their employees in large numbers, which is currently available to only larger companies. The newly-created marketplace would allow insurance plans to pool the health risks of millions of people and thus get lower rates. In addition to the marketplace for small businesses created by the House health reform bill, I worked with my colleagues Rep. PHIL HARE (D-IL) and Rep. ROB ANDREWS (D-NJ) to include language in this legislation that would allow affiliated small businesses to join together to purchase insurance. This proposal for helping small businesses was brought to me by a small businessman in my district.

I also was pleased to write a section of the bill that would create an online job training programs for health care workers, modeled after a successful program originating at Rutgers University. This program is needed to help meet the increasing need for health care workers, which was indicated by a July report by the Council on Economic Advisors. The demand for health workers soon will exceed the supply with 48 percent growth in health support occupations such as medical record, clinical laboratory, and health information technicians. My amendment, included in H.R. 3962, would provide new training opportunities to meet this additional demand for health professionals.

While I support the Affordable Health Care for America Act, I look forward to working with my colleagues to improve this bill as the legislative process moves forward. I have heard from home care and hospice providers in my district and across New Jersey who are concerned about the reductions in Medicare home health payments. I have spent time with home care organizations and with individual patients at home and have gained a deep understanding of the challenges and successes that occur each day. I fear that additional cuts to home health would make it harder to do the essential job that home care and hospice workers perform each day. I also am con-

cerned that several provisions of the bill may impede biomedical research and innovation, as this research has improved patient care and fostered a successful life sciences industry in New Jersey.

While the bill we are considering is strong, I know this bill will continue to improve as we move through the legislative process. Today's vote in the House of Representatives marks an important step in this process and is the furthest we have come toward providing affordable and quality health coverage to all Americans. I look forward to working to the completion of meaningful health care reform legislation and sending it to the President for his signature.

I urge my colleagues to vote in favor of this bill to reform our nation's health insurance system.

Mr. KLINE of Minnesota. Mr. Speaker, before I recognize the gentleman from California, I yield myself such time as I may consume.

There has been quite a bit of discussion here about how this bill is going to help small businesses and reduce their taxes. I think it is no accident that business group after business group, small business after small business, large business after large business across this country is opposing this legislation. It is the businesses who are going to bear the first brunt of the taxes, bear the costs, and that is going to be relayed to lost jobs.

For example, I have a whole list of organizations: the Associated Builders and Contractors; the Associated General Contractors; the International Franchise Association; the National Association of Manufacturers; the National Federation of Independent Businesses; the U.S. Chamber of Commerce; and on and on, oppose this bill because it does not help business. It puts a burden on them.

Now I am pleased to yield 1 minute to the gentleman from California (Mr. MCCLINTOCK).

Mr. MCCLINTOCK. Mr. Speaker, the question before us comes to this: Will Congress force American families to surrender control of their health care to the Federal bureaucracy? There is nothing optional about this law. The word "shall" appears 3,400 times in it, each time backed with the full force of the government.

You shall only get your health care through the government exchange.

You shall only select among the health care plans that the government czar has approved for you, whether they fit your family's needs or not.

You shall buy a government-approved plan and pay for every government-imposed mandate in it through higher premiums, lower wages or higher taxes, and you will face steep fines and even Federal prison if you decline to do so.

You "shall" 3,400 times.

Whenever such a system is imposed, the result is always the same: massive cost overruns, followed by a brutal rationing of care.



Instead of destroying everything that is good about American health, shouldn't we first repair what is wrong? Primum non nocere—first, do no harm.

Mr. ANDREWS. I am honored to yield 1 minute to a gentleman who has done an extraordinarily effective job of representing his constituents, the gentleman from the Commonwealth of the Northern Mariana Islands (Mr. SABLAN).

Mr. SABLAN. Mr. Speaker, I rise today in support of H.R. 3962, the Affordable Health Care for America Act. The need for health care reform has never been greater nor more urgent. This is true for my district, as it is for our Nation. We cannot wait another day. We must seize the moment and pass a law that will go a long way toward providing quality, accessible, and affordable health care for all Americans.

I urge my colleagues to support the bill.

Mr. KLINE of Minnesota. Mr. Speaker, I would like to yield 2 minutes to another physician, a member of the committee who is not only a doctor, but a small businessman, the gentleman from Tennessee (Dr. ROE).

Mr. ROE of Tennessee. Mr. Speaker, I thank the gentleman for yielding.

I rise in opposition to this bill before us. I came to Congress to enact health care reform. As a physician, I have seen firsthand the problems insurance companies created for my patients. I have seen firsthand how the government programs have made beneficiaries worse consumers of health care, and I have seen how the cost of health care has exploded and made insurance unaffordable. I want to fix these problems. But this bill will not fix these problems; it will make them worse.

The Democrats have ignored evidence that this program won't work. I asked President Obama three separate times since July to sit down and talk about the health care bill and what I know its effects will be, and I have yet to receive a call from the White House. It is one thing to disagree with the evidence that undermines the premise of reform you are pushing, but to not even consider it is unbelievable.

So here we are today with a health care bill that is over 2,000 pages. It is a Christmas tree of special interests. Sewer systems for Indian tribes, biofuel tax credits, nutrition standards for chain restaurants, and references to pizza and donuts all made it into this bill. But somehow the Democrats could not come up with a real solution for medical malpractice reform.

This bill taxes everyone and everything. It taxes medical devices, it taxes individuals, it taxes employers. It taxes small business owners who could be creating jobs and getting us out of this recession, instead forcing them to

cut wages for jobs. It taxes medical savings accounts. It cuts Medicare. Home health care, skilled nursing facilities and Medicare Advantage would all be cut. And seniors with prescription drug coverage will have their premiums increased. Seniors oppose this bill because they get it. Their care is going to decrease and their costs are going up.

The bill spends all that money even faster. The bill dramatically expands Medicaid, despite the fact that I haven't heard anyone who had an option say they want to be on Medicaid. It creates a huge new Federal bureaucracy to navigate through. And it funds a government competitor to private insurance companies that will siphon people off the private insurance market onto a Medicaid-like program, just like Tennessee did with TennCare.

Mr. Speaker, I came to Congress to enact health care reform. As a physician, I've seen firsthand the problems insurance companies created for patients. I've seen firsthand how government programs have made beneficiaries worse consumers of health care. I've seen how the cost of health care has exploded, so much so that many can't afford insurance. I've seen all these problems and I want to fix them.

When I first heard that the Democrats were proposing to insert a government competitor in the insurance marketplace, I thought, surely they can't be serious. When I realized they were, I thought I could change their opinions by telling them about the real-life failures I've seen under our state's program known as TennCare and how H.R. 3200 and now 3962 is simply a bad extension of these mistakes.

For months I've gone to the House floor with many of my physician colleagues to talk about the problems with this plan. The TennCare plan tried to provide universal coverage and make health insurance affordable, and in the end it nearly bankrupted the state as the program tripled in cost. It created an incentive for beneficiaries to seek unnecessary care because it cost them nothing. It shifted costs to the private plans, who were forced to make up the underpayments of the government program, increasing everyone's premiums. In the end, 45 percent of those on the public plan previously had private insurance and either dropped their coverage or were dropped by their employer.

Our Democratic Governor, Phil Bredesen, saved our state's budget by doing something hard—he cut the rolls. He controlled costs and he introduced an alternative plan called Cover Tennessee, which requires an equal contribution from employers, individuals and the government, which is a model for shared responsibility. Incidentally, Governor Bredesen has called this bill on the floor the mother of all unfunded mandates.

Democrats continued to ignore this evidence. I asked President Obama three separate times since July to sit down and talk about the health care bill and what I know its effects will be, and I have yet to receive a call from the White House. It's one thing to disagree with evidence that undermines the premise of the reform you're pushing, but to not even consider it is unbelievable.

So here we are today with a health care bill that is over two thousand pages. It's loaded up like a Christmas tree of special interest provisions. Sanitation facilities for Indian tribes, biofuel tax credits, nutrition standards for chain restaurants, and references to pizza and doughnuts all made it into this bill, but somehow, Democrats could not come up with a real solution for medical malpractice reform except to try to protect trial lawyers' share of jury awards. Malpractice is proven to cost the health care system billions of dollars every year, but the reforms being proposed make the current system worse.

This bill taxes everyone and everything. It taxes medical devices. It taxes individuals who choose not to purchase insurance, and drives up premiums for individuals who do purchase insurance. It taxes employers who fail to offer health insurance, then taxes them further if they try to increase their employees' wages. It taxes small business owners, who could be creating jobs and getting us out of the recession, and instead forces them to cut jobs or wages. It taxes health savings accounts, which reduces the use of catastrophic health insurance coverage.

It cuts Medicare. Home health care, skilled nursing facilities and Medicare Advantage would all be cut, and seniors with prescription drug coverage will have their premiums increased. Seniors oppose this bill because they get it—their care is going to be decreased and costs are going up.

After the bill finishes up taxing everything and everyone, it spends all that money even faster. The bill dramatically expands Medicaid, despite the fact that I've never heard of anyone saying they want access to the program. It creates a huge new federal bureaucracy to navigate through. And it funds a government competitor to private insurance companies that will siphon people off of private insurance onto a Medicaid-like program, just like Tennessee did with TennCare.

After the Democrats finish spending \$1.5 trillion, they say the bill is quote unquote deficit neutral. But they ignore that every major government health care expansion before it—Medicare, Medicaid, SCHIP to name a few—have cost more than originally estimated. And they completely ignore the fact that they use 10 years of revenue to pay for 7 years of new spending. In the second decade, this program will become an enormous unfunded mandate on state governments, on individuals and on the federal government. Despite the largest deficit in our nation's history, the Democrats are irresponsibly going to make it harder to ever balance the budget.

Here's the bottom line: this bill costs too much. It taxes too much. It does nothing to improve health care, and will result in the majority of Americans left with decreased access, decreased quality and increased costs. It is, as the Wall Street Journal called it, the worst bill ever and deserves to be rejected.

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Mr. ANDREWS. Mr. Speaker, I am pleased to yield 1 minute to the gentlewoman from New York (Ms. Clarke), one of the leading voices for senior citizens, resulting in the AARP endorsing our bill.

Ms. CLARKE. I thank the gentleman from New Jersey very much.

Mr. Speaker, today I rise to support H.R. 3962, the Affordable Health Care for America Act. As we approach the dawning of the second decade of the new millennium, this evening we will usher in a new assurance of the health and well-being of all Americans. Our children will have the health and peace of mind to exceed the productivity of our generation. Our willingness to do what it takes to transition into the 21st century health care delivery system will guarantee future generations the advancement of a productive civil society.

Every American has a right to adequate physical and mental health care, and I believe that we, as a national government, have a responsibility to assist our citizenry in securing quality health care. It is unfortunate that there are those amongst us who just couldn't care less; those who were satisfied with the status quo of rising premiums, satisfied with individuals being denied coverage because of preexisting conditions, satisfied with ignoring the pain and suffering of the 47 million Americans who are uninsured.

Mr. Speaker, I urge all of my colleagues to vote for this measure.

Mr. Speaker, today, I rise in support of H.R. 3962, Affordable Healthcare for America Act. This evening, as we approach the dawning of the second decade of the new millennium, we will usher in a new assurance of the health and well being of all Americans. Our children will have the health and peace of mind to exceed the productivity of our generation. Our willingness to do what it takes to transition to a 21st century healthcare delivery system will guarantee future generations the advancement of a productive civil society.

In the United States, one of the richest countries in the world, nearly 47 million Americans lack health insurance, 13.5 percent of whom are New Yorkers. Last year alone, New York City's hospitals spent \$1.2 billion in charity costs. Tragically, people who are either uninsured or underinsured often have to go without vital healthcare simply because they cannot afford it.

Every American has a human right to adequate physical and mental healthcare, and I believe that we as a national government have a responsibility to assist our citizens in securing quality healthcare.

Unfortunately, my Republican colleagues don't seem to fully grasp the dire situation our healthcare system is in. Maybe they would have come up with a bill that actually addressed the deficiency in our broken healthcare.

It is unfortunate that there are those amongst us who just could care less—those who are satisfied with the status quo of rising premiums, satisfied with individuals being denied coverage because of pre-existing conditions, satisfied with ignoring the pain and suffering of the 47 million Americans who are uninsured.

Instead of working with us to fix the problem, they capitalize on people's fears and

doubts. It is meant to distract, delay, confuse, and engender fear among our citizens. Today we will not allow the voices of fear to dominate the healthcare reform debate.

This bill provides healthcare coverage to 96 percent of Americans and includes a strong public option that will provide the needed competition to lower premium costs. That is why I support H.R. 3962, Affordable Healthcare for America Act.

With preventative care as the cornerstone of the 21st century healthcare delivery system, eliminating the disparate treatment of women, eliminating discrimination based on pre-existing conditions, creates a new health exchange for access to quality affordable health insurance and turns medical visits from a broken volume based system to a 21st century value based system. I will cast my vote this evening in memory of a distinguished New Yorker, Brooklynite and friend Jackie Ward, who died of heart failure as a young woman in her early 50s.

In my district, the 11th Congressional District of Brooklyn, the Affordable Healthcare for America Act will: First, improve employer-based coverage for 367,000 residents. As a result of the insurance reforms in the bill, there will be no co-pays or deductibles for preventative care; no more rate increases or coverage denials for pre-existing conditions, gender, or occupation; and guaranteed oral, vision, and hearing benefits for children. Second, it will provide credits to help pay for coverage for up to 160,000 households, if they need to purchase their own coverage. Third, under the bill's insurance reforms, 11,900 individuals in the district who have pre-existing medical conditions will now be able to purchase affordable coverage. Finally, this bill will allow 11,300 small businesses to obtain affordable healthcare coverage and provide tax credits to help reduce health insurance costs for up to 11,400 small businesses.

Healthcare is a fundamental human right, rather than a commodity. A year ago, Americans cast a historic vote to change the course of this Nation. Today, we cast this historic vote, to finally manifest the change they demanded: Access to Affordable Healthcare. I am proud to cast my vote in favor of this bill.

Mr. KLINE of Minnesota. Mr. Speaker, may I inquire as to the time remaining on each side?

The SPEAKER pro tempore. The gentleman from Minnesota has 16 minutes. The gentleman from New Jersey has 14 minutes.

Mr. KLINE of Minnesota. Thank you, Mr. Speaker.

At this time I am pleased to yield 1 minute to the gentleman from Pennsylvania (Mr. THOMPSON), a member of the committee.

Mr. THOMPSON of Pennsylvania. Mr. Speaker, I rise today in opposition to H.R. 3962. I came to Congress this past January following 28 years in non-profit health care. In January, the Democratic majority quickly moved the SCHIP reauthorization. I supported the final passage of the bill. SCHIP was modeled after Pennsylvania's CHIP program, a bipartisan public-private partnership to offer private insurance

to my State's most vulnerable population. CHIP works in Pennsylvania.

Mr. Speaker, I am dismayed to learn that this bill will scrap the SCHIP program. This will jeopardize coverage and increase costs for scores of Pennsylvania's needy children. Families who rely on Pennsylvania's CHIP program will face higher costs when their children are forced into plans offered through the exchange. We have heard from my colleagues about cuts to our seniors, small businesses, family farms, and agriculture. Now you are hearing about the cost to our children.

As a health professional, I urge my colleagues to vote "no" on this measure, and I would like to submit a letter from five of my Republican colleagues from Pennsylvania on this issue.

CONGRESS OF THE UNITED STATES

Washington, DC, November 7, 2009.

Hon. NANCY PELOSI,  
Speaker, House of Representatives, The Capitol,  
Washington, DC.

DEAR SPEAKER PELOSI: We are writing to express our grave concerns with provisions included in H.R. 3962, the Affordable Health Care for America Act, that would eliminate the Children's Health Insurance Program (CHIP) and require all children above 150 percent of the federal poverty level (FPL) who are not covered under a Medicaid CHIP (M-CHIP) expansion program to be moved into the new health insurance exchange. These extremely troubling provisions will add an undue cost burden on children and families in Pennsylvania as well as delays in care and coverage gaps when CHIP plans are terminated.

Members of the Pennsylvania General Assembly strongly advocated for the creation of Pennsylvania's CHIP law in 1992, and improvements to the program in 1997. Our program served as a model for the federal CHIP law, and it has been an overwhelming success in our state. There is no better example of a public-private health partnership that has contributed to the lives of Pennsylvania families. We often hear from our constituents that their children are healthy and active because of CHIP.

Now, only months after you championed for the reauthorization of CHIP, it is surprising that the bill you are ushering through the House is proposing to eliminate this successful program. These provisions would jeopardize coverage and increase costs for scores of Pennsylvania's children since Pennsylvania operates CHIP as a separate program and makes coverage available to children beyond 150 percent of FPL.

A recent actuarial analysis demonstrates that CHIP benefits are superior for low-income families than the House health care legislation. Families who rely on Pennsylvania's CHIP program will face higher costs when their children are forced into the plans offered through the exchange. For instance, for children living in families earning 175 percent of FPL, the study finds that the median CHIP plan covers 100 percent of medical expenses covered by CHIP. Under the House bill, that family will pay nearly 400 dollars. For children in families earning 225 percent of FPL the median CHIP plan covers 98 percent of medical expenses, exposing children to only 2 percent of costs. Comparable exchange plans would expose families to 5 percent to 35 percent of out-of-pocket costs.

We have witnessed first hand that CHIP is an efficient program that provides Pennsylvania children with affordable, quality care.

H.R. 3962 is a step in the wrong direction for our children—imposing higher costs and delivering fewer benefits to our most vulnerable population.

For several additional reasons, we will vote against H.R. 3962. Protecting children, especially those most in need, should be one of Congress's top priorities in the context of health care reform. We urge you to reconsider the direction H.R. 3962 will lead this country and the consequences of eliminating CHIP for Pennsylvania's children.

Sincerely,

CHARLES W. DENT,  
*Member of Congress.*  
TODD RUSSELL PLATTS,  
*Member of Congress.*  
BILL SHUSTER,  
*Member of Congress.*  
JIM GERLACH,  
*Member of Congress.*  
GLENN THOMPSON,  
*Member of Congress.*

Mr. ANDREWS. Mr. Speaker, I yield myself 3 minutes.

I would like to thank my friends on both sides of the aisle. This has been a stressful time for Americans, and today may have been a very stressful day for Americans.

This might have been the day that someone thought they were going to get a job but found out that they won't get the job because they had breast cancer 5 years ago and can't get health insurance because of their preexisting condition. It has not been their day.

Or it might be the day that a senior citizen decides that they don't have the money this week to renew their prescription because they're in the doughnut hole under Medicare. So they're going to pay their rent instead of their prescription bill, and they're going to get very sick. It's just not their day.

Or it might be the day that someone is lying awake in bed, churning about the fact that their child seems a little sicker than usual. But if they take them to the doctor, they might get sent to the hospital, and they can't pay the hospital bill because they have no health insurance, and it might mean bankruptcy or foreclosure or losing their home. It's just not their day.

If we pass this bill and it gets to the President's desk, a new day will come to this country, because no person with a preexisting condition will ever suffer discrimination again; because effective next year, eventually no senior will run out of drug coverage at any time during the year because they work for it and they deserve it. The new day will come to that uninsured person because no hardworking American will ever go without health insurance in this country.

You know, the special interests and the lobbyists and the health insurance industry, they have all had their day. They have been around here for a very long time. And I hate to disappoint them, but today is not their day. It is the day for uninsured Americans. It is the day for hardworking Americans. This is the day when we will begin the

change, and every American will get the health care they so richly deserve.

Stand up for those who cannot be heard, and vote "yes" for this bill.

Mr. KLINE of Minnesota. Mr. Speaker, I yield 2 minutes to the gentleman from Michigan (Mr. EHLERS), a member of the committee.

Mr. EHLERS. Mr. Speaker, I certainly support making health care more affordable and accessible for all Americans. Perhaps I'm naive, but I had hoped that we would have been able to produce a bipartisan bill that I could gladly vote for. Such is not the case. We were not even given the courtesy by the other party of taking part in writing this bill and presenting ideas which could be included in the bill.

The status quo in the health care system is unacceptable. We must make health care more affordable and accessible than it is. But this bill is even less acceptable than the current health care system. This bill will result in large tax increases, as we've heard, which is absolutely the last thing that my State of Michigan needs because we are struggling so hard with the economy the way it is. This proposed bill is basically a government takeover.

What am I looking for? I'm looking for health care quality. That, to me, means getting the treatment you need, when you need it, from the doctor you choose. This bill does nothing to provide that.

Time is a great health care killer among governments. We looked at other countries. They may have very good plans, but if you need an MRI today and you have to wait for 6 months, you are not getting good health care. We want to make sure that the plan we develop provides the health care you need, when you need it, from the doctor you choose.

I truly hope that, in the future, as we go through the conference process with the Senate, that our Republican ideas will be incorporated as well as the Democratic ideas, and that we really produce the best bill we can. We did that with Medicare. We tried to do it with Medicare part D, and I would hope that the Democratic Party, instead of just glorying in their bill, and doing their own thing, and ignoring the Republicans, would, in fact, work with us and try to produce a bill that is good for the country, for the people, and especially for those who need medical care.

The SPEAKER pro tempore. Without objection, the gentleman from California (Mr. GEORGE MILLER) will control the remainder of the time.

There was no objection.

Mr. GEORGE MILLER of California. I yield 1 minute to the gentleman from Ohio (Mr. WILSON).

Mr. WILSON of Ohio. Mr. Speaker, as we wind down the clock on the health care debate, I have thought long and hard about what's best for my district

back in Ohio, and I have concluded that the Affordable Health Care for America Act is an important step forward in fixing our broken health care system.

While this legislation is not perfect, there are benefits that are simply too hard to ignore. For example, in my district, 13,000 small businesses will have the opportunity to provide their employees better health care. We will close the drug doughnut hole for over 9,000 seniors just in my district alone, and it will help 174,000 households in the Sixth Congressional District afford better coverage.

I have always promised the people that I work for back home that I will vote in their best interest and that I will stand up for what is right. I am proud to be here this evening on this issue, and I believe that this bill is the right thing to do to provide stability and security for the families in Ohio in my district.

Mr. KLINE of Minnesota. Mr. Speaker, I am pleased to yield 1 minute to my colleague, the gentlewoman from my home State of Minnesota (Mrs. BACHMANN).

Mrs. BACHMANN. Mr. Speaker, the American people overwhelmingly reject the government takeover of our health care. Last Friday, a couple from Hawaii decided the time is so short they needed to get on a plane, come to Washington to beg their Representative to vote "no" from Hawaii. What sacrifices freedom-loving Americans are making to get their government's attention and how big our government has gotten.

They brought me this beautiful, precious lei, and I am reminded that the one who created this lei also created our freedom. Are we so insensible to the high cost our forebears paid to purchase our freedom? Tonight, would we foolishly bargain those freedoms away? The American people, our forebears, generations yet unborn, are crying out to us tonight for us to preserve their freedoms.

Vote "no" on the government takeover of health care.

Mr. GEORGE MILLER of California. I yield 1 minute to the gentlewoman from Pennsylvania (Mrs. DAHLKEMPER).

Mrs. DAHLKEMPER. Mr. Speaker, the American people overwhelmingly have called on us, their Representatives, to enact real change in our country and in their lives. The Affordable Health Care for America Act embodies the positive change the American people have demanded.

This bill creates effective, affordable, and quality reform for all Americans. Seniors will benefit from a stronger Medicare system, no longer subject to the prescription drug doughnut hole or have to pay out of pocket for their primary care needs. Small businesses will no longer be burdened by skyrocketing health care costs. Tax credits and

greater competition in the health care market will make coverage affordable for these small businesses, and no individual will ever again be denied health insurance because of preexisting or chronic conditions.

My colleagues, the need for reform is clear, and the time for reform is now. I urge Members on both sides of the aisle to vote for the Affordable Health Care for America Act for our seniors, for all women, for small businesses, and mostly for our precious children and grandchildren.

Mr. KLINE of Minnesota. Mr. Speaker, at this time, I yield 1 minute to the gentleman from Texas (Mr. SMITH), the ranking member of the Judiciary Committee.

Mr. SMITH of Texas. Mr. Speaker, I thank the gentleman from Minnesota, the ranking member of the committee, for yielding me time.

According to CBO estimates, this bill will cost \$1.3 trillion and includes \$750 billion in new taxes and \$500 billion in Medicare cuts. It increases premiums, increases taxes, cuts benefits, and leads to health care rationing. The government, rather than patients and doctors, will make many health care decisions. The bill represents a loss of freedom and more government control for the American people.

I support health care reform to help the long-term, low-income uninsured, but it can be achieved without a government takeover of health care. The House Republicans have a better health care bill that lowers premiums for families and small business owners, cuts the deficit by \$68 billion, and includes tort reform.

Mr. GEORGE MILLER of California. If I could inquire of the Chair as to how much time is remaining on both sides.

The SPEAKER pro tempore. The gentleman from California has 10 minutes. The gentleman from Minnesota has 11 minutes.

Mr. GEORGE MILLER of California. I yield 1 minute to the gentleman from Missouri (Mr. CARNAHAN).

Mr. CARNAHAN. Mr. Speaker, "millions do not now have protection or security against the economic effects of sickness. The time has arrived for action to help them attain that opportunity and that protection." President Truman delivered these words in a special message to Congress in 1945, calling for comprehensive health care in America.

Health care in America has been broken far too long, unavailable and unfair for too many, becoming more unaffordable every year. Health care premiums have doubled in 10 years. Health care bills are the number one reason for personal bankruptcies in our country. Health care costs are the number one contributor to our deficit. We spend more on health care than any other country, yet we rank near the bottom in terms of health care results.

This bill builds upon the best parts of our private employer-based system and fixes what's broken to lower costs, increase competition, promote preventive medicine, and protect seniors. Many ideas and concerns from Missourians I represent have been included in this bill to make it even better. History and the American people are calling us to action. The time is now to fix health care in America.

Mr. KLINE of Minnesota. Mr. Speaker, now I yield 1 minute to the gentleman from Alabama (Mr. ADERHOLT).

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Mr. ADERHOLT. Mr. Speaker, there is no question we need to address health care problems in this Nation. That is something both Democrats and Republicans both agree on.

However, the government takeover of health care that we are debating tonight adds up to way too much spending, too much government bureaucracy, too many unfair mandates, too much government control in an area with where government just doesn't belong.

The Republican substitute is about to be debated tonight, and it will attempt to fix the broken aspects of health care in the United States. There will be many of us tonight in this Chamber who will vote "yes" on that Republican substitute because there needs to be changes. However, we will vote "no" on final passage because we don't want to throw the baby out with the bath water in order to fix the problems.

Mr. GEORGE MILLER of California. Mr. Speaker, I yield 1 minute to the gentleman from Michigan (Mr. SCHAUER).

Mr. SCHAUER. Mr. Speaker, because of rising medical costs, families in America are literally going broke. Yes, broke. The American Journal of Medicine reported that 62 percent of American bankruptcies are linked to medical bills. These medical bankruptcies have increased by 50 percent in just 6 years. The shocking fact is that 78 percent of these people actually had health insurance, but gaps and inadequacies in the current system left them unprotected when they were hit by devastating bills.

Important insurance reforms in this bill will fix this, and as a result of this bill, 36,000 of my constituents will finally be able to afford quality health coverage and peace of mind for their families.

Perhaps more than in any other State, people in Michigan know that the current system is broken. It's time for us to fix it. It's time for us to pass H.R. 3962.

Mr. KLINE of Minnesota. Mr. Speaker, at this time I yield 1 minute to the gentleman from Indiana (Mr. BURTON).

Mr. BURTON of Indiana. I thank the gentleman for yielding.

Government can't give until it takes. There is no such thing as a free lunch.

You know, we have 10.2 percent unemployment right now. This bill is going to cost about 5.5 million jobs. It's going to cost \$730 billion in new taxes and \$1.2 trillion for the program over the next decade. We can't afford that at this time with unemployment being at the rate that it is.

We face a \$1.4 trillion deficit this year alone, and you're going to add \$1.2 trillion to that and a \$730 billion tax increase with 10.2 percent unemployment?

You're going to cost jobs. And the American people want jobs right now, first and foremost. Jobs. Jobs. Jobs. And then deal with some of these things in a more responsible way.

Mr. GEORGE MILLER of California. Mr. Speaker, I yield 1 minute to our new Member from New York (Mr. OWENS).

Mr. OWENS. Mr. Speaker, my district needs one thing: jobs.

In Upstate New York small businesses are the jobs engine. Over the past 15 years, they have been responsible for nearly two-thirds of all jobs created in America. But the cost of health care is grinding the engine down. Over the last decade, small business insurance premiums are up 129 percent. That means much higher expenses, more businesses dropping coverage, a sicker, more financially strapped workforce, and enormous pressure on small business owners from competitors overseas and big businesses at home.

The bill can change that. It creates a competitive marketplace where individuals and small businesses can shop for policies at fair rates. It guarantees free preventative care for a healthier, more productive workforce. And it encourages Americans to start businesses of their own because the cost of health care will no longer tie them to the same job.

The people of my district need jobs. They need me to vote "yes." I came to Congress to move America forward. This will do that.

Mr. KLINE of Minnesota. Mr. Speaker, at this time I yield 3 minutes to the distinguished Republican leader, the gentleman from Ohio (Mr. BOEHNER).

Mr. BOEHNER. I thank my colleague for yielding.

For many of us on both sides of the aisle who believe in the sanctity of human life, the underlying bill allows for taxpayer funding of abortion. The Speaker has allowed Mr. STUPAK and others to offer an amendment tonight.

And, Mr. MILLER, if that amendment were to pass and this bill were to get to conference and there were a vote in the conference on this, would you guarantee me that you would support the House-passed version?

Mr. GEORGE MILLER of California. Will the gentleman yield?

Mr. BOEHNER. I'm happy to yield.

Mr. GEORGE MILLER of California. As he has already acknowledged, when he was Chair and he went to conference many times, he could not guarantee anything. You will take into this House, if that amendment should pass, that will be an expression of this House on that subject, on that amendment. We will take that with the full dignity of that vote into that conference committee.

Mr. BOEHNER, if you can speak for the Senate—nobody else has been able to.

Mr. BOEHNER. Reclaiming my time, the question was this: If the House is to pass the Stupak amendment and this bill is to pass tonight and there is a vote in the conference on this issue, would you guarantee me that you will support the House-passed version?

Mr. GEORGE MILLER of California. I will not guarantee that. You know the nature of the conference committee.

Mr. BOEHNER. Reclaiming my time, this is the third chairman tonight who will provide no guarantees that if the House were to pass the Stupak amendment that they would vote in committee to support the House-passed version.

This is the point of why I've been down here making this an issue: just because we pass an amendment to help facilitate the passage of what I think is a bad bill does not mean that the language that this House votes on is committed to by the Democrat leaders in this House.

Mr. GEORGE MILLER of California. Mr. Speaker, I yield 1 minute to our new Member to the Congress from California, Congressman GARAMENDI.

Mr. GARAMENDI. Mr. Speaker, 3 days ago I had the great honor of joining this august body, which for more than a century has debated health care.

Two hours ago a dear friend Chic Dambach and his adult son came to my office. At the age of 2, Kai's kidneys failed. Chic and his family had health insurance. Their insurance company refused to cover transplants. Chic and his wife, Kay, were faced with a choice: enormous personal debt or their son's life. They chose life.

A decade of battles with their insurance company together with crushing debt, Kai, when he becomes 23, will be uninsurable. He has a preexisting condition.

H.R. 3962 is America's opportunity to end this despicable situation. The bill has strong comprehensive insurance reform and creates the penultimate enforcement mechanism: the public option. Americans should not be at risk any longer. The bill deserves our support.

Mr. Speaker, three days ago I had the great honor of joining this august body that for 220 years has debated the momentous issues of the day, wars, industrial and labor policy, civil

rights, environmental protection, and social security, and for more than a century—health care policy.

Today we are faced with a choice. Do we vote no health insurance reform and continue the current situation that has placed in jeopardy every person in America who is not yet 65 years of age? Or do we vote today to provide every American with a comprehensive, affordable, and available health care policy?

One example of why we must vote yes on H.R. 3962 and end the health care crisis that millions of Americans face each year is Chic Dambach and his son Kai.

Some of you may know Chic as the former President of the Returned Peace Corps Association. Chic and his family had a comprehensive family health insurance policy. At the age of two, Kai's kidneys failed.

Their insurance company refused coverage for kidney transplants. Chic and his wife Kay were faced with a choice, more than a hundred thousand dollars of personal debt or their son's life. They chose life.

Today, Kai is a freshman at the University of Maryland. More than a decade of battles with their insurance company has ensued together with a crushing burden of debt. When Kai becomes 23 he will be uninsurable. Like millions of other American's he has a pre-existing condition.

H.R. 3962 is America's opportunity to end this despicable situation. The bill has strong comprehensive insurance reform and creates the penultimate enforcement mechanism—The public option—that in its fullness would allow all of us to walk away from the clutches of the profit before people private insurance companies whose first operating commandment is "Pay as little as late as possible."

This must end. Americans should not be at risk any longer. H.R. 3962 is the solution. It deserves our support.

Mr. KLINE of Minnesota. Mr. Speaker, I yield for the purpose of making a unanimous consent request to the gentleman from Pennsylvania (Mr. DENT).

Mr. DENT. Mr. Speaker, I rise in opposition to this government takeover bill.

I have spent the past week reviewing the 1,990 page health-care bill—H.R. 3962—that was introduced last Thursday and the manager's amendment that was filed late Tuesday night. I oppose this legislation which will exacerbate rather than solve the problems in our health care system and take our Nation in the wrong direction.

Although I believe health care reform is needed, diminishing Americans' control over their health care decisions, cutting Medicare benefits for seniors, eliminating SCHIP coverage for low-income children, imposing punitive taxes on small businesses and increasing health care costs for all Americans in order to create an unsustainable entitlement program that will bury our Nation in debt is not the way to do it. Fundamentally, this bill moves the United States in the direction of a European style welfare state which is accompanied by much higher European style tax rates, slower economic growth and structurally higher unemployment rates. The bottom line is that this legislation will lead to fewer opportunities for our children and grandchildren.

H.R. 3962 is bad for Americans because it won't reduce health care costs—in fact many will see increased costs—and it will cause millions of working Americans to lose their current coverage.

It's bad for seniors. The bill includes nearly a half-trillion dollars in cuts to Medicare benefits. It will mean less choices, as well as increased premiums and prescription drugs costs for thousands of seniors in the 15th District.

It's bad for Pennsylvania's children, who will be forced out of the State's successful CHIP program into plans offered through the health insurance exchange where families will face higher costs.

It's bad for Pennsylvania's already struggling budget, forcing an unfunded Medicaid mandate of at least \$2.2 billion on our cash-strapped Commonwealth.

It's bad for small businesses. It will stifle innovation and job creation by imposing punitive surtaxes. It's bad for the Pennsylvania economy in particular, with a \$20 billion tax on the makers of medical devices, an industry that employs thousands in my district and the surrounding region.

And above all it's bad for America, spending more than \$1 trillion in taxpayer dollars to create an unsustainable new Federal program and saddling our children and grandchildren with debt. Only in Washington can someone say with a straight face that by creating a new trillion dollar program that we will not add a dime to the deficit now or in the future.

If we are serious about enacting meaningful health care reform that will ensure that all Americans have access to quality care, we must address the issue of cost. American families are struggling to afford increasing health care costs and health care spending is taking up a larger and larger portion of Federal, State, and local governments' budgets.

Regrettably, H.R. 3962 fails to address one of the key reforms that will save billions of dollars and reduce health care costs—medical liability reform. In fact, the provisions in H.R. 3962 will actually heighten the medical liability crisis facing our Nation.

The medical justice system is one of the major drivers of cost in our health care system. Doctors practice defensive medicine—ordering tests and treatments that are not truly needed but prescribed to ward off frivolous lawsuits. We have all been in our doctor's office and thought, "Do I really need this?" This defensive medicine doesn't mean better care; it just means more expensive care. The litigious environment has caused medical liability insurance premiums to skyrocket. In turn, patients pay more for health care because the costs are passed down.

The practice of defensive medicine costs the United States more than \$100 billion per year—some studies have estimated the cost may be as high as \$151 billion to \$210 billion annually. In Pennsylvania, not only are medical liability insurance rates increasing costs for patients, they are driving qualified doctors out of the Commonwealth.

Recently, the Congressional Budget Office, CBO, released an analysis indicating that medical liability reforms would save the government \$54 billion over 10 years and cut national healthcare spending by 0.5 percent a

year. These savings would be the result of direct savings from lower premiums for medical liability insurance and also indirect savings from reduced utilization of health care services.

The original House health care bill, H.R. 3200, was silent on medical liability reform. Just 3 of the 1,990 pages of H.R. 3962 address the issue. Tragically, the language in H.R. 3962 actually discourages States from making the medical liability reforms that CBO has said will save \$54 billion. This is politics at its worst—protecting trial lawyers at the expense of patients.

Yesterday, I offered an amendment to the Rules Committee that would have inserted significant medical liability reform provisions into H.R. 3962. My amendment would enact nationwide reforms aimed at ending the costly practice of defensive medicine and encourage States to adopt effective alternative medical liability laws that will reduce the number of health care lawsuits initiated, reduce the average amount of time taken to resolve lawsuits and reduce the cost of malpractice insurance. Specifically, I believe we must stabilize compensation for injured patients, hold parties responsible for their degree of fault, ensure that meritorious claims are swiftly resolved, encourage compliance with accepted clinical practice guidelines, and guarantee that medical care is available to those who need it the most by providing protections to safety-net providers.

Unfortunately the leadership in the U.S. House of Representatives made the choice to prohibit meaningful reform from being debated on the House floor today. I sincerely regret that the majority decided to bulldoze ahead without considering practical policy that will reduce costs and produce significant savings in our health care system.

With common sense, bipartisan discussion, we can make straightforward reforms to our health care system that will address the most pressing problems. We can enact strong insurance market reforms that provide consumer protections and promote transparency. We can ensure that those with chronic conditions and preexisting conditions have coverage through high-risk pools and reinsurance models. We can actually lower the cost of health care and increase access to affordable coverage by removing restrictive barriers on competition across state lines, allowing businesses to pool together and get the same buying power as their larger competitors, equalizing tax treatment for individuals buying health insurance, and enacting meaningful medical liability reform. We can put our Nation on the path to a healthier future by focusing on prevention and wellness.

Today, the House majority has failed the American people. Now the Senate has an opportunity to prevent this ill-conceived measure from moving forward, and embrace the calls of the American people to unite behind meaningful reforms that will reduce cost and increase access without fundamentally altering the American economy.

Mr. KLINE of Minnesota. Mr. Speaker, at this time I yield 1 minute to the gentleman from Florida (Mr. BILIRAKIS).

Mr. BILIRAKIS. Mr. Speaker, I rise today to oppose the Democrats' government takeover of health care.

This bill will raise taxes on individuals and small businesses, cut Medicare for seniors, and raise health care premiums. The bill raises taxes by \$730 billion and costs nearly \$1.3 trillion. We literally cannot afford this plan.

There is a better way, however. The Republican health care plan is a responsible, targeted approach to reform. It doesn't raise taxes during a recession or cut Medicare. It will lower premiums, making coverage more affordable for families and employers while reducing the deficit by \$68 billion. Commonsense ideas like medical liability reform, strengthening association health plans, and allowing people to purchase health insurance across State lines will make health care more affordable without breaking the bank.

The choice is simple. Mr. Speaker, I urge my colleagues to oppose Speaker PELOSI's health care bill and support the Republican alternative.

Mr. GEORGE MILLER of California. Mr. Speaker, I yield 1 minute to the gentlewoman from Maryland (Ms. EDWARDS).

Ms. EDWARDS of Maryland. I thank the gentleman for yielding.

Mr. Speaker, I rise today in support of this historic legislation. It is the most historic in a generation. H.R. 3962 will indeed change the face of health care in this country. This bill really is not about partisanship and it's not about politics, but it is about the American people; and it's time for us to deliver on our promise to them.

As I've listened to my colleagues today talk about why this bill is good for their districts for the uninsured, for men, for women, for our seniors, I'm reminded that I was indeed once one of those uninsured. As a young mother, I became so sick that I collapsed in a grocery store, and I was taken to an emergency room. Without health care insurance, I was treated. I was one of those uncompensated. Now it's time for me to pay the American people back with a vote for comprehensive health care reform.

This bill will take the burden off providers and Americans for paying the cost of uncompensated care and safeguards for the health of all Americans. It lowers costs and ends discriminatory insurance industry practices such as denying women coverage for pregnancies or a history of domestic violence.

Mr. Speaker, it's time for us to have the courage to rise above our pecuniary interests.

Mr. KLINE of Minnesota. Mr. Speaker, at this time I'm very pleased to yield 1 minute to my friend and colleague, the gentleman from Ohio (Mr. JORDAN).

Mr. JORDAN of Ohio. I thank the gentleman for yielding.

Mr. Speaker, how bad does it have to get? How bad does it have to get before we stop the out-of-control spending? A \$1.4 trillion deficit, a \$12 trillion national debt, a trillion dollars in bailouts and stimulus, and now here we come again with \$1.3 trillion takeover of our health care system.

One of the things that makes this country so special, one of the things that makes this country the greatest Nation in history is this simple concept, that parents make sacrifices for their children so that when they grow up, they can have life a little better than we did, and then they in turn do it for the next generation, and each generation in this country has done it for the one that succeeds them.

And now, unfortunately, what we are doing is borrowing and spending and living for the moment and passing the bill on to our kids. It's wrong and it should stop here.

Vote this bill down. Support the Republican alternative.

Mr. KLINE of Minnesota. Mr. Speaker, can I inquire as to exactly the time remaining for each side.

The SPEAKER pro tempore. The gentleman from Minnesota has 5 minutes remaining, and the gentleman from California has 5 minutes remaining.

Mr. KLINE of Minnesota. Mr. Speaker, I am pleased at this time to yield 1 minute to the gentleman from Kansas (Mr. MORAN).

Mr. MORAN of Kansas. Mr. Speaker, the Pelosi health care bill creates 111 new bureaucracies and it only cuts one program: Medicare.

I chair the Rural Health Care Coalition. I care about health care especially as it affects rural States, rural Americans like Kansans. And I have concluded that this bill will not make health care more affordable or more accessible for rural America. The standard by which I judge this is not a Republican plan or a Democrat plan, but what is good and right for America.

I've concluded that coupled with all the other bad ideas of this Congress—stimulus packages, bailouts, Cash for Clunkers, cap-and-trade—we will be leaving our children with more debt, less freedom, diminished personal responsibilities, and fewer economic opportunities. Worse, we will have failed to honor the dreams for a better life for another generation of Americans. This I will not, cannot support.

Mr. GEORGE MILLER of California. Mr. Speaker, I yield 1 minute to the gentlewoman from Texas (Ms. EDDIE BERNICE JOHNSON).

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Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, I rise in strong support of this bill, H.R. 3962, the Affordable Health Care for America Act. It is a long time we should have been here. We have been trying this for so very long.



You know, if this bill said anything as bad as what I have heard from the Republicans, I wouldn't support it. But it does not do that. I don't know what bill they are reading.

I want to share, though, that I know this will bring relief to my constituents. In my district, there are 35.6 percent of the residents uninsured, and the adjoining district, District 32 of Texas, has about the same number, but we are on different sides for bringing that relief.

The American people have heard so many untruths, they must be confused. Having access, though, to better coverage will show them what the truth is. This bill is a win for all Americans. I stand in strong support of this legislation and urge my colleagues to vote in favor of this bill.

Mr. KLINE of Minnesota. Mr. Speaker, I am pleased to yield 1 minute to another physician, the gentleman from Louisiana (Dr. FLEMING).

Mr. FLEMING. It has been mentioned many times during this debate that the AMA and the AARP have endorsed this. However, the polls show that the majority of physicians oppose this. And the polls say that the majority of seniors oppose this bill, the Pelosi health care takeover.

Who is going to be hurt in this? Individuals will be required to pay 2.5 percent taxes or go to jail; 5.5 million of them will be unemployed. Businesses will be required to pay 8 percent payroll tax, and then an additional excise tax of 5.4 percent, bringing the marginal rate to 45 percent. States will have an increase in unfunded Medicaid mandate. Who is going to pay for that?

Mr. Speaker, seniors will see \$500 billion, half a trillion dollars, removed from their access to care.

I urge my colleagues to vote "no" on Pelosi health care.

Mr. GEORGE MILLER of California. Mr. Speaker, I yield 1 minute to the gentlewoman from California (Mrs. DAVIS).

Mrs. DAVIS of California. Mr. Speaker, as chair of the Consumer Protection Committee in the California State Assembly, I worked hard to maintain and improve the protections and the rights that Americans deserve.

In the health care industry, which is really the most important of all sectors that deal with people's basic needs, millions of consumers are being taken advantage of on a daily basis and have few rights.

This bill changes that. It changes that and it puts us on the track of giving Americans and their families the peace of mind that they will never lose their health coverage.

I look forward to voting on this historic bill which puts consumers and puts Americans first.

Mr. KLINE of Minnesota. Mr. Speaker, I am very pleased to yield 1 minute to the distinguished gentleman from Oklahoma (Mr. COLE).

Mr. COLE. Mr. Speaker, I respect, like all Members do, everybody in this House, from the Speaker and the minority leader right down to the most junior Member. But the reality is, this isn't our House; this is the people's House. As I have listened to my friends on the other side, I have wondered, frankly, did you listen to what the people had to say in August in meeting after meeting after meeting? Have you taken the time to look at what they say in poll after poll after poll?

This is not an issue that has come on us suddenly. It is not a crisis. The American people have had a chance to study the issue, read the bill, and listen to the debate, and quite frankly, register an opinion. If we listen to them today, Mr. Speaker, we will follow their loud and insistent voice and vote "no."

Mr. GEORGE MILLER of California. Mr. Speaker, I yield 1 minute to the gentleman from California (Mr. FARR).

Mr. FARR. Mr. Speaker, I am ashamed on this great day of hope to hear so much fear, fear outside and fear inside. And I don't think they know fear. I know the fear of a woman carrying a baby dying because she has no access to health care. I saw that over and over again as a Peace Corps volunteer in Latin America.

Without health care, you can't start the day. You can't get up. You can't cope. You can't go to work. You need health care.

Combat that fear. Combat those fearmongers out there. Stand up for hope. Say "yes" to health care for all Americans. Vote "yes" for compassion. Vote "yes" for care. Vote "yes" for healing and health. Vote "yes" for my grandchildren.

My first exposure to real poverty was as a Peace Corps volunteer in Medellin, Colombia. People there lived hard-scrabble existences, barely eking out subsistence-level lives.

My role as a Peace Corps volunteer was to help the community organize and petition its government for basic resources to improve the lives of the people. What I learned in that barrio is that unless people have shelter, unless they have food, and unless they have health care,—yes—health care, there can be no stability in the community and no confidence in the future. People need to have their health in order to cope and to be productive.

The lesson I learned in Colombia 45 years ago is still true today in the U.S.A., people in health care limbo can't focus on the future. They are too busy worrying about today.

History teaches us that America was built on neighbor helping neighbor. Colonists clung together in the New World and protected each other. Settlers out West never turned away a traveler. I am ashamed and amazed at the tone of debate today that would deny our fellow Americans access to health care coverage. That is not the American way. When did we become so selfish? At a time of historical hope why are we hearing so much about fear?

There is nothing to fear—tomorrow or a year from tomorrow you will still have your insurance policy, hospitals and doctors will be doing their jobs of caring and healing and for the first time the hope for health care for all will come true.

Tonight we are asked to make history—leadership is about getting results. To make just law we have to vote yes. I am proud to say "yes" to health care for all in America. "Yes" to compassion and care. "Yes" to healing and health. "Yes" to my grandchildren's future.

Mr. KLINE of Minnesota. Mr. Speaker, at this time I yield 1 minute to the gentleman from South Carolina (Mr. INGLIS).

Mr. INGLIS. Mr. Speaker, I identify with the sentiments of the gentleman who just spoke. The only problem is if you look at Martin Feldstein's article yesterday in *The Washington Post*, what you see is that we are going to have another problem with the cost of this, that as folks have a problem with the cost shift continuing, we are actually going to make insurance more expensive, and actually people are going to lose coverage because they are going to decide to go bare until they get sick, then access the guaranteed issue, then cause premiums to rise, which will actually cause more people to be uninsured.

So the mandate here doesn't work because the penalties aren't high enough in the mandate to keep people from deciding to go bare until they are diagnosed with a problem.

The result will be that we actually end up with more people uninsured and higher premiums. The bill needs to be rethought. That is the kind of thing that we could develop in a collaborative process. That's not the process here. That's why we have this problem.

Mr. GEORGE MILLER of California. I yield to the gentleman from Massachusetts (Mr. OLVER) for the purpose of making a unanimous consent request.

Mr. OLVER. Mr. Speaker, I rise in favor of H.R. 3962.

Mr. Speaker, we often hear that America has the best health care system in the world.

But, our health care system largely takes care of those who are lucky enough to be able to afford it.

In the past decade, the premiums charged by private health insurance companies have risen more than 75 percent while workers' wages have risen less than 25 percent.

To add insult to injury, the profits of the 10 largest health insurers have risen by 400 percent, and the salaries of their CEO's have tripled.

America now has 50 percent higher health care costs than the highest of the next 20 most industrialized nations.

Yet, Americans suffer the highest infant mortality rate among the G-7 countries. Our infant mortality rate is 50 percent above the average for the other 6 countries.

American life expectancies are more than 2 years lower than the average for the other 6 countries.



Clearly, we have the most expensive health care system in the world, but, equally clearly we don't have the best.

We can and must do better. We must reverse these trends.

This is our chance to fix a broken system.

I am proud to vote in favor of H.R. 3962, the Affordable Care for America Act.

For the 50 million Americans who still do not have health insurance, this historic legislation guarantees you will have good insurance—insurance that you can afford—which provides a sliding scale of credits available to families that earn up to 400 percent of the federal poverty standard, or \$88,200 for a family of 4.

For those of us that are lucky enough to have health insurance, this legislation LL provides added stability by immediately banning lifetime caps and by 2013 eliminating pre-existing condition exclusions and annual caps on insurance coverage. You cannot be denied coverage.

For those who are concerned about losing or having to switch jobs—especially important in our current economy—this bill brings you added stability. You will always have access to affordable, quality health insurance.

For senior citizens on Medicare, H.R. 3962 protects your benefits. We know that seniors live on largely fixed incomes. As such, this bill puts money back into your pockets by reducing the donut hole immediately by \$500 and immediately cuts the cost of brand name drugs in half for those who still find themselves in the hole. Furthermore, the donut hole is completely closed by 2019. The bill provides free Prevention and Wellness care and saves seniors money by reducing copayments and cost-sharing.

Finally, H.R. 3962 makes major investments in primary care so that we will have the critical infrastructure in place to efficiently combat the steady rise of deaths from preventable illness in this country. Between 1997 and 2002, when researchers compared preventable deaths—from diabetes, cancer, and heart disease amongst others—in 19 industrialized countries, the United States placed last. During those years alone, at least 75,000 men, women and children died because they lacked access to quality preventive care. Furthermore, H.R. 3962 makes new critical investments in training primary care providers, helping them with overwhelming student loan debt and paying them well for their service.

This is a historic time in our country's history. This bill makes the critical investments that are needed to turn our health care system around and provide the health care that our citizens deserve.

I am proud to cast my vote in favor of this monumental legislation.

Mr. GEORGE MILLER of California. Mr. Speaker, I yield 1 minute to the gentleman from Tennessee (Mr. COHEN).

Mr. COHEN. Mr. Speaker, this debate in the House is part of a 97-year-old debate in America. It started with a Republican, Teddy Roosevelt, and continued with Democrats Harry Truman and Lyndon Johnson, then a Republican, Richard Nixon, who, while short on veracity, was great on policy and government. It continued through Bill Clin-

ton, and now we are in a day when we have a chance to accomplish something worthwhile, something Daniel Webster tells us we should do while we are here in our generation and our time, to do something worthy of being remembered.

Theodore Roosevelt said, In this world the only thing supremely worth having is the opportunity, coupled with the capacity, to do well and worthily a piece of work, the doing of which is of vital consequence to the welfare of mankind.

I plan to take my voting card, along with hopefully at least 218 others, and do something that Teddy Roosevelt would see as proper, and provide health care for Americans.

The SPEAKER pro tempore. The gentleman from Minnesota and the gentleman from California each have 1 minute remaining.

Mr. KLINE of Minnesota. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, let me just say that what we have before us here is a true loss for American families seeking quality health care and American workers seeking quality jobs. It is remarkable that our colleagues believe 2,000-plus pages of more red tape, more power in the hands of the super bureaucrat, more taxes will do anything other than make health care more costly and more complicated and kill more jobs in this country.

Why, when we have a 10.2 percent unemployment rate, the highest in a quarter century, would we ever want to pass legislation that will destroy millions of jobs? It defies logic. Why would we want to strip Medicare from the seniors who depend upon it? Why would we want to pile debt on our children and grandchildren? Why would we want to raise health care costs? Why would we want to raise taxes? I have yet to hear an answer to these questions.

This bill is not health care reform. The American people deserve better than this. We can do better than this. Let's make the right decision. Stop this Big Government takeover of health care and return to the table for real reform.

I yield back the balance of my time.

Mr. GEORGE MILLER of California. Mr. Speaker, I yield to the gentleman from Pennsylvania for the purpose of a unanimous consent request.

Mr. FATTAH. Mr. Speaker, I support this bill, and I thank the chairman for yielding me the time.

Mr. GEORGE MILLER of California. Mr. Speaker, I yield 1 minute to the gentleman from Minnesota (Mr. OBERSTAR).

Mr. OBERSTAR. Mr. Speaker, I have advocated a national health care system as long as I have served in Congress. Today we take a decisive step toward that goal.

This is not a perfect bill but a good bill. The three committees have

worked hard to address the needs of the people of my district, and my own concerns, regional disparities in Medicare reimbursement that penalize Minnesota health care providers, and ensuring taxpayer dollars are not used to fund abortion services.

Last summer I met with the Skare family in Cloquet. Their son, born with a congenital liver disease, required a liver transplant as a child. Today he is 20 years old. The family is buried under mountains of medical bills, despite having health insurance. They constantly have to fight the insurance providers to make them live up to their commitments. This bill will ensure that families like the Skares will not be held hostage to insurance companies. It will protect all Americans from being denied coverage due to pre-existing conditions.

Today, we keep faith with the American people. Today we ensure that quality, affordable health care is available to everyone. Support this bill.

Mr. Speaker, throughout my service in the House of Representatives, I have been a strong proponent for a national health care system to ensure that all Americans have access to affordable health care. Our current health care system is paradoxical. While our nation can take credit for having the best trained health care professionals and the most advanced medical devices, far too many Americans do not have access to essential health care. Our current health care system has failed this fundamental fairness principle, and as a result, health care has been rationed in this country with more than 46 million Americans without health insurance.

Long before the November 2008 elections and the beginning of this Congress, there has been near universal agreement that health care reform is necessary, and that the cost of inaction is unacceptable. Today represents an important opportunity to make health care more affordable and more accessible to more Americans.

Comprehensive health care reform involves more than just extending access to the uninsured. The explosion of health care costs has created tremendous challenges for the private sector that has hindered our ability to compete in the global marketplace. Additionally, it is imperative to constrain health care spending that consumes an unsustainable percentage of our federal budget. Health care reform is vital to the nation's economic recovery and fiscal responsibility.

I commend the leadership of the three committee chairman who have worked tirelessly to craft legislation to repair what is not working well and preserve what is working in our health care system. Thank you, CHARLIE RANGEL, HENRY WAXMAN, and GEORGE MILLER for your dedicated efforts to seize this historic opportunity and produce a sensible health care bill that builds upon and improves the employer-provided and private health insurance market.

I am very pleased that the House health care bill (H.R. 3962) includes many essential reforms that will improve health care. The health insurance provisions to ensure that

Americans will not be denied coverage due to a pre-existing condition, the requirement for guaranteed issue and renewal, and the limit on out-of-pocket spending are much needed reforms that will make health insurance more available and affordable. For seniors, I strongly support the funding to close the donut hole in the Medicare Part D prescription drug program.

I am also delighted that H.R. 3962 contains provisions to address the historic disparities in Medicare reimbursement that have long penalized Minnesota and other high-quality, low-cost states. I greatly appreciate the dedicated work of my colleagues in the Quality Care Coalition (BETTY MCCOLLUM, RON KIND, BRUCE BRALEY, JAY INSLEE) to include language that will promote Medicare geographic equity. I believe that the requirement for the Secretary of Health and Human Services to implement the recommendations of an Institute of Medicine study will lead to Medicare payment reform that will reward value, not volume. This payment reform is one of my biggest priorities because in 2007, Medicare paid Minnesota hospitals \$1 billion below the actual cost of care.

While I am very pleased that the House will have the opportunity to vote on amendment to ensure that taxpayer dollars are not spent for abortion, I am disappointed that several important amendments were not made in order. It was expected that the House would consider an amendment that would create a single-payer system for health care. While I continue to have great concerns about a single-payer system based on Medicare rates, I would have supported the single-payer amendment. I am disappointed that the Kucinich amendment which was supported in the committee mark-up to enable states to develop their own innovative state programs was stricken from the bill, and we do not have the opportunity to restore this language.

I am also disappointed, however, that the House health care bill does not contain a number of important policy reforms recommended by the National Rural Health Association (NRHA). The NRHA made more than ten specific recommendations regarding long-standing payment inequities that were unfortunately not addressed in this bill. I am especially troubled that several rural health improvements that were accepted in committee mark-up were not included in the updated House bill. It is essential that provisions to ensure rural representation on MedPac, and improvements in the 340B Drug Pricing program and the super rural ambulance reimbursement are restored in conference. I am also hopeful that the final conference report will include legislation that Minnesota's Senators and I have authored to provide Critical Access Hospital designation for a hospital in Cass County, Minnesota which I hope the Senate will include in their bill.

I strongly believe that Minnesota's leadership in health care reform should serve as a model for national reform. Minnesota is unique in requiring all health maintenance organizations (HMOs) to be nonprofit as a condition of licensure. Minnesota extended health care coverage to lower-income children long before the enactment of the federal SCHIP program, and Minnesota has done a better job in expanding access to care through its

MinnesotaCare program than the rest of the nation. Minnesota has led the nation on integrated health systems to coordinate care, and a new partnership between Fairview Health and the Medica health insurance company that provides payment incentives to invest in health care rather than paying for "sick care" demonstrates Minnesota's continued leadership that is far ahead of national policymakers.

Even with the expected improvement in Medicare reimbursement that will benefit Minnesota, I am concerned in many respects that Minnesota is picking up the tab to pay for national health reform. While I understand and support the need to reduce the excessive payments in the Medicare Advantage program, it is far easier for high-cost states to absorb a 14 percent cut than for Minnesota which receives significantly less in Medicare Advantage payments. I am also concerned with the addition of a tax on medical devices that will negatively impact Minnesota's important medical device industry, as well as changes in the second generation biofuel producer credit that will preclude "black liquor" from eligibility for this biofuel credit that will impact the wood product industry in Minnesota. I will strongly encourage modifications in the financing in the final version to ensure fairness for Minnesota.

During the thorough discussion and debate regarding health care this year, I have greatly appreciated the opportunity to visit with constituents in Minnesota and in Washington. From seniors and health care providers to organized labor, the small business community and the faith community, I have gained valuable insights and recommendations to improve this legislation.

While I recognize and understand there are still many issues that need to be addressed, I am prepared to support this legislation today to move this necessary process forward.

Mrs. LOWEY. Mr. Speaker, I rise in support of the Affordable Healthcare for America Act.

Over the last eight months, I have communicated with tens of thousands of my constituents in Westchester and Rockland Counties in meetings, conference calls, round-tables, telephone town halls, and neighborhood office hours.

Among people from all walks of life—small business owners, doctors, patient advocates, and seniors—one constant is the passion which most agree on the need for health care reform despite different opinions on how best to achieve reform.

Since 2000, personal premiums have more than doubled.

Since 1987, the cost of the average family health insurance policy has risen from 7 percent of the median family income to 17 percent.

In 2007, 60 percent of all U.S. bankruptcies were due to medical costs.

The U.S. is on track to spend nearly \$33 trillion on health care over the next decade.

The financial security of our families, businesses, and our overall economy depends on meaningful health care reform.

That's why I will support this bill today to:

Provide health coverage to approximately 36 million Americans, including 39,000 residents in my congressional district.

Help small businesses who are struggling to provide coverage to their employees while ex-

empting 86 percent of the smallest businesses from the requirement to do so.

Ensure that reform is fully paid for while exempting 99.7 percent of all American households from paying a health care surcharge.

Guarantee additional protections to those who have insurance, including ending discrimination for pre-existing conditions; limiting annual out-of-pocket costs; and preventing health insurance companies from dropping your coverage if you become sick.

Improve and strengthen Medicare.

Now, this bill is not perfect. I am deeply disappointed that the House approved language which puts new restrictions on women's access to abortion coverage in the private health insurance market even when they would pay premiums with their own money.

If we want to reduce abortions we should give millions of women health coverage so they can get regular reproductive care, contraceptives to prevent unintended pregnancies, and prenatal care to ensure healthy pregnancies.

Despite this damaging provision, we must move forward in improving health coverage for those who have it, providing coverage for those who don't, and controlling costs throughout the system.

I urge my colleagues to support this legislation.

Mr. LOEBSACK Mr. Speaker, this August and September I held 16 town halls across the 2nd District of Iowa. I heard from countless Iowans about the need to change the current health care system. Though some disagreed with provisions in the original House proposal, almost everyone agreed that the fact that a family in Iowa pays an extra \$1,100 per year in premiums to support a broken system was unacceptable. So I am proud to be a part of a Congress that decided the status quo is no longer acceptable. Iowa families want stable health care coverage that can't be taken away, they want greater choices, and they want to know that if they get sick they won't be forced into bankruptcy. The Affordable Health Care for America Act answers these calls to action and I'm proud to support a bill that is good for Iowans.

This legislation keeps what works in the current system and fixes what doesn't. If you like your current health insurance and you like your doctors you can keep them. If you don't have health insurance, you will be able to acquire it. In fact, some of the greatest changes from the original House proposal to the bill we are considering today are the immediate reforms. We aren't saying wait for coverage, we are saying the status quo is not fair and we will no longer tolerate it starting right now.

There will be help for hardworking families now. The revised bill immediately creates an insurance program with financial assistance for those who have been uninsured or denied coverage because of pre-existing conditions, and fills the gap until the Health Insurance Exchange is up and running. The bill immediately prohibits health insurance companies from rescinding coverage. If you find out you are sick one day, you don't have to worry that your health insurance will be taken away the next.

The revised legislation also immediately prohibits health insurers from utilizing lifetime limits on benefits, and extends COBRA eligibility

to permit individuals to remain in their COBRA policy until the Health Insurance Exchange is up and running. America's Affordable Health Care for America Act also makes immediate changes to improve the health and well being of our seniors. The legislation begins closing the Medicare Part D Donut Hole in January. There will also be an immediate 50 percent discount for brand name drugs in the donut hole.

In addition to the immediate benefits, this legislation takes a comprehensive approach to long-term reform. I am a native Iowan, and since I came to Congress I have been committed to fixing the broken Medicare payment system. The geographic disparities in the system have caused problems not only for providers in my District, but also for the patients.

I have always been proud of how hospitals in my District have achieved so much under the constraints of the current Medicare payment system. With some of the lowest reimbursement rates in the country, they provide some of the highest quality care. However, the current system is broken and now I'm proud to say that the Affordable Health Care for America Act reforms Medicare payments so that they are based on the quality of services rather than the quantity of services. This fix benefits not just Iowa, but all of America.

I also want to mention another provision with direct benefit to Iowa in this legislation. According to a 2008 Institute of Medicine report, *Retooling for an Aging America: Building the Health Care Workforce*, in the near future, the nation will be aging dramatically, leading to an increase of older adults from 12 percent of the U.S. population in 2005 to almost 20 percent by 2030.

As the population ages, their health care needs will increase, and they will need additional supports. In the same report, it's stated that meeting the demand that is expected in coming years will require expansion of the roles of many members of the health care workforce, including technicians, direct-care workers and informal caregivers, all of whom already play significant roles in the care of older adults.

I was very pleased to have language included in this bill that takes much needed steps towards meeting these workforce demands, as well as other projected long-term health needs. The provision encourages the identification, promotion, and implementation of investments in the long-term care workforce and assists States in developing comprehensive state workforce development plans.

It also creates a Workforce Advisory Panel which will identify core competencies for long-term care workers and recommends training curricula and resources for these workers. The bill also creates a demonstration project to evaluate the Panel's recommendations. In addition, this legislation improves assistance to family and informal caregivers, and improves the dissemination of information to seniors regarding their long-term care health insurance options.

In a recent guest column in the Des Moines Register, John Hale from the Iowa Caregivers Association, highlighted the efforts that Iowa has already undertaken on long-term care workforce shortages and spoke about the national need to address these issues. Mr. Hale

stated that, "Access to coverage does not equal access to care." I could not agree more.

Federal support is essential in helping all states continue to look at both workforce shortages and the core competencies that should be required of those in the field. I have said many times in the past weeks and months that quality health care is the key to patient outcomes. I am glad this legislation takes much needed steps to support our long-term care workforce.

There are many more important provisions in this legislation and in the coming days, weeks, and months I look forward to discussing this bill, and what it does for Iowans, with my constituents. I look forward to voting for the Affordable Health Care for America Act, and abolishing the status quo.

Mr. WESTMORELAND. Mr. Speaker, on this bill the Congress is scheduled to vote on today will cost more than \$1.3 trillion over the life of the bill.

It'll expand entitlement spending, it'll raise taxes on small business payrolls, it'll cost jobs by mandating coverage that some businesses can't afford, it'll put government in between the doctor and the patient, and it'll cut Medicare funding. By expanding Medicaid eligibility, the legislation puts new burdens on states that already are struggling to pay their bills. The states share the cost of the Medicaid program, and this could cost my home state \$2 billion to \$4 billion over the next 10 years. That's a huge share of Georgia's state budget, and it's a cost we simply can't bear.

But, luckily, there is a better way. Republicans are providing that alternative, although the Democrats continue to insist we're not offering ideas. We are. They just don't want Americans to know it.

Ms. SPEIER. Mr. Speaker, today, I look forward to keeping my promise to the voters and taxpayers who sent me to Congress by casting a vote for a historic health care reform bill that has been sixty years in the making.

Still, with any effort as far-reaching as reforming health care, Americans are right to ask: "What's in it for me?"

Well, I'll tell you.

If you are a woman, this bill has plenty for you. You know, far too well, that our fight for equality is not limited to the board room. We must fight for our rights in every line of fine print in every insurance contract. The fact is that women's health care premiums cost, on average, more than 145 percent of the price of a similar man's policy. Even then, women are more likely to be denied coverage for a pre-existing condition, including for things as common as getting pregnant (or the inability to get pregnant) having a c-section, even being a survivor of domestic violence. With the passage of this health care reform bill, these practices will be tossed on the ash-heap of history atop corsets, chastity belts and other limitation on women's rights and equality. In fact, with this bill, America's mothers, wives and sisters will finally enjoy the same health care coverage that their fathers, sons and brothers have.

If you are an American of retirement age, this health care reform legislation contains provisions that ensure high quality, effective health care throughout your retirement years. We have heard your frustrated calls to end the

ill-conceived Medicare Part D donut hole and responded by immediately reducing the hole by \$500 and, by 2019, getting rid of it once and for all. The bill also cuts in half the cost of name-brand drugs. No older American should ever have to decide between purchasing food or the life-saving medicine prescribed by their doctor.

When Congress voted for Medicare nearly 45 years ago, this House promised seniors quality, affordable health care in their retirement. They did this despite a future president, Ronald Reagan, decrying Medicare as socialism—sound familiar?

Well, by cutting waste, fraud and abuse, eliminating the out-of-pocket payments for preventative care and banning overpayments, this Congress is making good on that promise and extending the Medicare trust for future generations.

If you are one of the 14,000 Americans who lose their health insurance coverage every day, this bill offers comfort and hope when you are most in need. Just last night during a telephone town hall a constituent told me how, at 55 years old, she lost her job and her health coverage. She wonders if, even after the economy recovers, she will be able to get a job—at her age—that provides health care. Today, when workers like her lose their job and their coverage, they are forced into the snake pit that is the individual insurance market where insurance company practices like denying coverage because of a preexisting condition are common. Fortunately this practice, along with dropping customers once they fall ill, has been outlawed in this bill. Also, while the health care exchange—which will provide access to affordable, quality health care—is being set up, a high-risk insurance pool will be available so that you have coverage in the meantime.

For the majority of Americans who have health insurance through their employer, you get the best news of all. I don't have to tell you that, since 2000, employer-sponsored health insurance premiums have more than doubled. Your employer's real health care costs have risen at a rate that is three times faster than wage increases and business profits. This is, quite simply, unsustainable. If we took a page from the opposition party and did nothing, the cost of employer-sponsored family health insurance plans would reach \$24,000 in less than ten years. This same price spike would result in families spending 45% of their income on health insurance. Also, the insurance exchange will allow you or your employer to purchase coverage from health plans that meet guaranteed benefit levels, cap annual out-of-pocket spending and end annual and lifetime benefit limits. There will also be a public option that is completely self-supported by premiums.

This is not a decision that has been made in haste. No issue has been studied, scrutinized and debated more than health care reform. And, like every time in our nation's history when sweeping changes are proposed—whether it be Social Security, Medicare, civil rights, women's suffrage or the creation of the Veterans Administration—emotions have run high in this debate and there has been no shortage of opinions on every side.

The bill we are set to vote on is a compromise between many different points of

view. It is the result of the most exhaustive and transparent review process of any bill in our nation's history, with hundreds of hours of bipartisan committee meetings being devoted to it and the final text being posted on-line more than three days prior to a vote being taken. Compare that to the Republicans Medicare Part D bill in 2003 which was forced to a vote just hours after the bill was printed.

It will be a proud day for this Congresswoman—and for America—when Congress finally sets our nation on a path toward greater access, greater equality and greater accountability and competition in our health care system.

This is what my constituents sent me here to do. And I am happy to oblige.

Mr. LATHAM. Mr. Speaker, everyone agrees that health care costs too much in this country, but we can fix the problem without a trillion-dollar government takeover of health care. The bill before us now takes us in the wrong direction. It slashes Medicare and pins small businesses with job-killing taxes and mandates, at a time when our economy is struggling and unemployment is over 10 percent.

More federal controls on the content of insurance policies have nothing to do with covering the uninsured and will increase costs for most families rather than decrease them. If you have coverage through an employer, your premiums will go up. If you have an individual policy, you will have to switch to a federal exchange plan in 2013 or face a fine or, possibly, jail time for not having federally qualifying coverage that you may not be able to afford. Younger people in particular could see their premiums increase by more than 70 percent.

Instead of taking the approach we are taking today, we should implement common-sense reforms that focus on covering the uninsured and lowering health care costs. We must ensure those with pre-existing conditions get quality coverage. We can lower costs by requiring insurance companies to compete nationwide, and we can clamp down on frivolous malpractice lawsuits. Most of the uninsured work for small businesses that cannot afford health insurance for their employees, and we should allow small businesses to pool together for lower premiums. Such reforms have bipartisan support and could be enacted immediately to provide relief for millions of Americans struggling with health insurance costs.

On another note, this bill contains no guarantee that Iowa's Medicare reimbursement rates—which are among the lowest in the country—will see any sort of increase. At the same time, this bill specifically increases Medicare payments in 14 counties in California, the home state of Rep. HENRY WAXMAN, one of this bill's main authors. This may be viewed as reform by some, but it is certainly uneven reform for those counties in our districts that do not benefit from such increases.

Throughout the summer and early fall, more than 12,400 residents of Iowa's 4th Congressional District responded to my health care survey. A majority were unsatisfied with the state of health care in America, and rightly so. More than 70 percent of respondents ranked cost as the most pressing concern regarding health care in the United States, followed by

access at 14.6 percent and quality at 8.4 percent. However, 86 percent described the quality of their personal health care as either "excellent" or "good" and they do not want to be forced to give up coverage they are satisfied with. Some 65 percent said the government should play "no role" or a "minor role" in determining health insurance options for Americans. My constituents support common sense solutions. Approximately 64 percent support doing away with exclusions for preexisting conditions, 75 percent thought people should be allowed to purchase health insurance across state lines, and 69 percent support small business health plans.

To sum it all up, this bill is clearly not what is advertised by its supporters and it is not what my constituents want. We need to go back to the drawing board and produce a bill with common-sense solutions that the vast majority of Americans support.

Mr. CASSIDY. Mr. Speaker, I have spent 20 years caring for the uninsured in Louisiana's public hospital system.

Skyrocketing costs put quality care out of reach for too many Americans, and I appreciate that everyone agrees the status quo is unacceptable.

All agree on the goals of reform: lower costs and expand access to quality care.

Unfortunately, this bill does not achieve our goals.

The Congressional Budget Office says it raises costs.

Without lowering costs, access or quality will suffer.

Its effects will be radical, but this is not a radical bill.

It turns insurance bureaucrats into federal bureaucrats.

There's no innovation, just nationalization.

Real reform would revolutionize health care.

Real reform would give patients, not bureaucrats, the power.

Unless patients are empowered with control over health care dollars and decisions, costs will not be lowered and access will not be expanded without sacrificing quality.

The road to real health reform begins with stopping this bill today.

I urge my colleagues to join me in this effort.

Mr. PRICE of North Carolina. Mr. Speaker, as the House of Representatives approaches this historic vote, my mind travels back to the formative years when I first became engaged in politics, and also to hundreds of meetings I have had with constituents since the citizens of North Carolina's Fourth district first sent me to Congress.

I came of age as the civil rights movement of the late '50s and early '60s swept across the country. It shaped and transformed my social, religious, and political views. I remember the culminating moment in 1964 when, as a Senate staff member, I crowded into the gallery and witnessed the dramatic passage of the Civil Rights Act of 1964.

That momentous bill marked an expansion of democracy and of access to opportunity for millions of Americans. Today's vote is also momentous, and it also marks an expansion of democracy's promise. Today we resolve that never again will American citizens be denied access to health insurance, and that one

of life's most basic needs—health care—will be available to all of our people.

As I think back on my years of congressional service, I remember meetings with parents terrified at the prospect that their children with serious illnesses would not be able to obtain coverage when they reach adulthood. I remember maddening stories of families coping with illness while simultaneously fighting with insurance companies. I remember young adults unable to buy affordable insurance, often because of allergies or other minor conditions. I remember retirees not yet eligible for Medicare being quoted rates of thousands per month because of their health history.

Mr. Speaker, we have all heard these stories. They are unworthy of our country. And today we have the opportunity to bring such hardship and heartache to an end. The American people deserve a health care system that works for them—one that provides access to stable coverage, quality care, and affordable premiums and copayments. The legislation before us today will correct the failures of the American health care system without compromising its many strengths or adding to the budget deficit.

If you have coverage at work, you'll be able to keep it—but the loss of a job will no longer mean the loss of affordable coverage. And your insurance company will no longer be able to impose lifetime benefit limits; discriminate on the basis of age, gender, or pre-existing conditions; or cancel your policy if you get sick.

If you have coverage through Medicare, you'll have more benefits and lower out-of-pocket costs, including no more copayments for preventive and many diagnostic services, and a 50 percent discount on your brand-name prescriptions, and a progressive closing of the gap in coverage known as the "doughnut hole."

If you don't have coverage at all, you'll be able to buy it on the National Health Exchange at the same affordable group rates that big companies have always been able to negotiate for their employees. And you'll have more than one choice, so that companies will have to compete for your business instead of the other way around.

Landmark reforms—Social Security, Medicare, Medicaid—these things do not come easily. We were sent to Congress this year to do what is difficult. Despite the efforts of some shrill voices, we are on the verge of overcoming the special interests that halted reform more than a decade ago, to deliver on landmark legislation that will make a positive difference in the life of every American. It is an historical moment, an essential investment in our nation's long-term fiscal and economic well-being, and it's long overdue. I urge my colleagues to vote yes on the Affordable Health Care for America Act.

Mr. BACA. Mr. Speaker, today is a historic day for all of us.

As Members of Congress, it is our duty to pass real healthcare reform this year.

The American people are suffering.

47 million people lack even the most basic care, and for those lucky to have insurance—their premiums have more than doubled over the last 10 years.

Perhaps no state is in greater need of this reform than my home state of California.

217 thousand people in my Congressional District go everyday without insurance.

And for California as a whole—we have 13 million uninsured residents.

The people of California, and people across the United States need health care reform that: ends discrimination based on pre-existing conditions; ends dropped healthcare coverage because you get sick; ends co-pays for preventative care; and ends skyrocketing costs for individuals and families.

The Republican alternative does none of these things.

It simply keeps the status quo! It does nothing to provide quality, affordable health care to the American people.

The 217,000 people living in my District without insurance cannot afford inaction any longer.

The 13 million people in California without insurance cannot live with the status quo.

The 15 hundred families in my District who went bankrupt because of health costs cannot afford the status quo.

Now is our opportunity to make history—and to move America forward.

We must not be short-sighted and focus only on politics and polls.

As a Christian—my faith teaches me we must love and care for our fellow man, as if they were our brother or sister.

I know that fixing our broken health care system is not just an economic issue—it is also a humanitarian and a moral issue.

I am especially pleased that today's bill includes the Indian Health Care Improvement Act.

As a Member of the House Native American Caucus and the Natural Resources Committee—I have been a strong supporter of ending the health disparities that exist on our reservations.

I will close my statement by again stressing the importance of this historic moment.

We passed Social Security in 1935. We passed Medicare in 1965.

I urge my colleagues to stand with the American people and pass legislation in 2009 that will make quality, affordable health care a right for all Americans.

Mr. LANCE. Mr. Speaker, this evening members of the U.S. House of Representatives are being asked to vote on legislation that dramatically revamps our Nation's health care system.

This 2,000-plus page, \$1.3 trillion Democratic health care proposal is a measure that raises individual and business taxes and reduces funding for Medicare.

H.R. 3962 increases spending by more than \$1 trillion at a time when our levels of debt and deficits are at all-time highs.

The bill imposes a 5.4 percent "surtax" on thousands of individuals and families in my congressional district during an economic recession and when New Jerseyans are paying some of the highest federal, state and local property taxes in the country.

The health care bill levies at 2.5 percent tax on the Garden State's medical device industry that employs more than 300,000 in New Jersey alone at a time when New Jersey's unemployment rate is nearly 10 percent.

The measure ignores common-sense malpractice reforms while cutting Medicare by

nearly \$500 billion leading the Medical Society of New Jersey and its doctors and medical professionals to come out in opposition to H.R. 3962.

In short, this bill, If signed into law, will be harmful to New Jersey's taxpayers, seniors and businesses. As such, I rise in strong opposition to this measure.

But make no mistake—I support health care reform.

Like the majority of my colleagues I strongly support health care reform. But not the reform we will be voting on this evening.

I stand in support of common sense steps to broaden health care access and responsible solutions that address the rising cost of health care.

I believe reform ought to include portability—allowing people to keep their health insurance whether they change jobs or move to a different state. And no one should be denied coverage for preexisting conditions.

Yet the call for common sense health care reform should be one that our Nation can afford.

The Republican substitute offered by House Republican Leader JOHN BOEHNER is a fiscally responsible alternative health care reform measure that reduces costs and expands insurance coverage without raising taxes, rationing care or putting the government between patient and doctor.

The Republican reform bill includes medical liability reform that will seek to end junk lawsuits that force doctors to practice defensive medicine driving up health care costs.

The GOP alternative will allow families and businesses buy health insurance across state lines while also allowing individuals, small businesses and trade associations to pool together and purchase health insurance at lower prices.

It levies no taxes on New Jersey's medical device industry and includes important safety provisions concerning innovative biologic drugs by requiring research and clinical trials before the Food and Drug Administration can approve generic biologics.

To maximize safety, I believe that research and those clinical trials should be conducted within the United States. By creating this process for approval of innovative biologic drugs we protect the health and safety of patients, lower health care costs and provide adequate incentives for innovation to ensure that New Jersey continues to be the "Medicine Chest of the World."

These are ideas that have strong, bipartisan support but most are absent from the Democrats' new reform legislation.

Instead of focusing on fiscally responsible reforms that have bipartisan support, the Democratic Leadership has chosen a path that ignores good ideas from the Republican side of the aisle.

The Republican substitute is the only health care reform measure that improves what is working in our health care system and fixes what is broken in a fiscally responsible manner without raising taxes or increasing our ever-growing debt and deficit.

Mr. WILSON of South Carolina. Mr. Speaker, I have criticized many of the provisions of this bill (H.R. 3962) and rightfully so. But in fairness, I do believe the sections relating to

the creation of a market for biosimilar products is one area of the bill that strikes the appropriate balance in providing lower cost options to consumers without destroying a healthy and functioning industry in this country. These provisions were one of the few areas in the bill adopted on an overwhelming bi-partisan vote for the Eshoo-Inslee-Barton (EIB) amendment in the Energy and Commerce Committee.

Creating a pathway for new products that doesn't destroy the ability or the incentives for innovator companies to develop breakthrough technologies and at the same time providing a safe and effective way to bring competition to benefit patients is a laudable achievement. I wish we could remove this provision from this fatally flawed piece of legislation and consider it separately because it would pass with the kind of overwhelming bi-partisan support that Americans across the country wish to see.

However, these provisions are only the first step in a long path to the marketing of these new products. New research and clinical testing will have to occur and the FDA will write rules that will ensure this research is done safely and effectively. One of the reasons I have long supported the U.S. biotechnology industry is that it is a homegrown success story that has been an engine of job creation in this country. Unfortunately, many of the largest companies that would seek to enter the biosimilar market have made their money by outsourcing their research to foreign countries like India. With this weeks devastating news that unemployment has reached 10.2 percent it is critical that we preserve jobs in the United States. While the innovator's have created jobs here, these generic companies have shipped them overseas, so they can turn around and sell cheap knockoffs of innovative American products.

As this new market launches in the U.S., we need to ensure that we foster innovative products in this country for the creation of jobs and research that will go into proving whether these products are interchangeable with the innovators products. I have my doubts that these companies can create such interchangeable products, but I am certain that the research and testing of whether or not they can should occur in this country and not somewhere across the globe. Testing and research on these interchangeable biosimilars should occur in this country to ensure that it is done properly and safely and to benefit our economy.

Mr. SMITH of Texas. Mr. Speaker, although the Democratic Leadership has had several months to address the concerns voiced by countless Americans, the latest health care reform bill is no better than the last.

I support health care reform; however, this bill goes far beyond fixing the problems we all know need to be addressed and it fails to enact true health care reform.

Skyrocketing costs have crept into our health care system, creating uncertainty about the future of health care for employers, working Americans, and the uninsured. Americans need more, not fewer, choices for something as important and personal as health care.

Americans are concerned with cost, choice, quality and access of health care and Congress should work to address these concerns. Any legislation considered should attempt to

make our health care system more accountable and accessible to patients.

This legislation expands coverage with a government takeover of the health care industry funded by new taxes and massive cuts to Medicare.

The nonpartisan Congressional Budget Office and Joint Committee on Taxation estimate that H.R. 3962 would require over \$550 billion in new taxes on individuals and small businesses.

CBO also estimates that this legislation will lead to \$33 billion in penalties for uninsured individuals and \$135 billion in penalties for employers under the government mandate or "pay or play" requirements.

Raising income taxes on hard-working Americans and threatening small businesses with penalties to fund a government takeover of health care is a terrible prescription for a troubled economy.

In order to pay for this government takeover of health care, Democrats also have proposed cutting more than \$500 billion in Medicare spending. The plan also includes an expansion of Medicaid that will cost cash-strapped States \$34 billion over the next 10 years.

I believe Congress should pursue reform in terms of costs and access, but the legislation advanced by Democratic leaders is equal parts faulty premise and flawed logic. Their legislation will increase health care spending, limit choice, and cut Medicare benefits.

The current health care proposal being considered by Congress will lead to higher costs, rationing of care, higher taxes on families and small businesses, elimination of jobs through punitive taxes on small businesses, granting of unchecked power to a new "health care choices commissioner," elimination of choices for patients, tax-payer funded abortions and a government panel placed between doctors and patients.

Americans deserve the freedom to choose the type of health care that is best for them and their families.

During his campaign, then-Senator Obama promised that he would "have all the negotiations around a big table" and "televised on C-SPAN" to "allow people to stay involved in this process." Yet the negotiations and decisionmaking process have taken place behind closed doors with the media and American people shut out.

That is why the bill lacks bipartisan support. In fact, there is bipartisan opposition to the House Democrats' government take-over.

Rather than increasing taxes and rationing care, the President needs to address medical liability reform, which is one of the biggest sources of waste and added cost.

Frivolous lawsuits force physicians to practice defensive medicine and carry expensive malpractice insurance, the cost of which is passed on to patients. Uncapped lawsuit awards paid by insurance companies also get passed on to patients as higher premiums.

It is a disservice to the American people that this legislation fails to include the legal reforms that are necessary to make any expansion of health care coverage financially sound.

Unlimited lawsuits enrich trial lawyers while increasing the cost of health care for everyone. Unfortunately, we now know that opposition by trial lawyers is the reason tort reform

has been excluded from all the Democrats' health care proposals, including the one we will be voting on today. Former Democratic National Committee Chairman Howard Dean said the following publicly at a recent town hall meeting: "[T]he reason why tort reform is not in the bill is because the people who wrote it did not want to take on the trial lawyers . . . and that is the plain and simple truth."

That political opposition, which Governor Dean admitted is not based on the merits but on raw self-interest, flies in the face of the facts.

The CBO estimates that enacting tort reforms nationwide would result in a reduction of medical malpractice insurance rates by 25 percent to 30 percent. And according to the Government Accountability Office, rising litigation awards are responsible for skyrocketing medical professional liability premiums.

Lower premiums mean Americans will pay less to have better health care.

The President of the American Medical Association said "If the [health care] bill doesn't have medical liability reform in it, then we don't see how it is going to be successful in controlling costs."

And the President's own doctor of over two decades supports tort reform. He said regretfully that "I once briefly talked to [the President] about malpractice, and he took the lawyers' position."

In the handful of States that have enacted tort reform, health care costs have fallen, and the availability of medical care has expanded. In my home State of Texas, premiums fell by 30 percent, and more than 14,000 doctors returned or set up new practices in the state.

To give just one example, a charitable hospital group in Texas that serves the poor and underserved reported that since Texas enacted tort reform, its legal costs have gone from \$153 million per year to just \$2.3 million last year.

Doctors are so concerned about frivolous lawsuits that they order unnecessary—and expensive—tests and procedures that are of no benefit to the patient.

HHS estimates the national cost of defensive medicine is more than \$60 billion. The Congressional Budget Office just issued a report that concludes it costs \$54 billion. The costs of litigation and defensive medicine are then passed off to the patient in the price of health care.

If tort reform were enacted, trial lawyers would stand to lose one of their primary sources of income: medical malpractice suits, which are often just a form of legalized extortion. But all Americans would gain, and tens of billions of dollars would suddenly be freed up and could be used to help provide health insurance to the uninsured.

Regrettably, the Democrats' health care bill not only fails to contain any of the tort reforms the CBO concluded would save at least \$54 billion in health care costs, but also contains a provision that bribes States with Federal taxpayer dollars not to enact such reforms in the future. It explicitly prohibits tort reform "demonstration project" funds from going to States that put limits on damages or attorneys' fees.

Section 2531 of the Democrats' bill states that "the Secretary [of HHS] shall make an incentive payment . . . to each State that has

an alternative medical liability law in compliance with this section," but then goes on to say a state can take advantage of such funds only if "the law does not limit attorneys' fees or impose caps on damages," which are exactly the tort reforms the CBO concluded yield real health care costs savings.

That is not only a blow to State reform efforts. It is a federally funded bribe discouraging states from enacting real reform and a giant bailout for trial lawyers.

H.R. 3962 also contains two antitrust provisions that are within the House Judiciary Committee's jurisdiction: Sec. 262, which repeals the McCarran-Ferguson Act for health and medical malpractice insurers, and Sec. 2573, which codifies a ban on settlements between name brand and generic pharmaceutical manufacturers in the context of Hatch-Waxman litigation. Neither provision was given due consideration in the Judiciary Committee, and their unintended consequences could have significant negative impacts on the cost and availability of both insurance and medications.

My basic concerns with Sec. 262 are its breadth, the possible unintended consequences, and the fact that the provision will do no good and may do much harm. For more than 60 years, the States have regulated the business of insurance and built a record that provides guidance about permissible activity. By inviting Federal intervention, this bill creates a dual regulatory system that only confuses the health insurance and medical malpractice industry.

The bill presents a wholesale repeal of McCarran-Ferguson for health insurers and medical malpractice insurers. Further, the protections for information gathering by a State insurance commission or other State regulatory entity that were included in the similar bill (H.R. 3596) reported by the Judiciary Committee over my opposition have been completely eliminated from the legislation.

The uncertainty caused by this provision threatens small and large insurers alike, but the smaller ones that depend on sharing information, under oversight by State regulators, are most at risk. Thus the bill threatens to reduce competition among health and medical malpractice insurers. With no demonstrable benefits and many potential adverse effects, Sec. 262 should not have been included in the bill.

Section 2573 raises different concerns. When a generic drug manufacturer files an Abbreviated New Drug Application under the Hatch-Waxman Act with the Food and Drug Administration, it indicates its intention to infringe on a brand manufacturer's patent. This means that the generic company is trying to enter into the brand manufacturer's drug market before the branded pharmaceutical's existing patent has expired. This notice usually results in a lawsuit by the brand company that leads to a settlement about the date on which the generic manufacturer can begin selling a generic version of the branded company's drug. This is nothing new. Most cases in the United States, whether civil or criminal, antitrust or patent, settle. The reasons for this are simple: litigation is expensive and its outcomes are uncertain.

The supposed problem is when a settlement in the Hatch-Waxman context involves a payment in lieu of or in addition to an agreement

on the date of entry into the market by the generic manufacturer. Such payments are said to frustrate the intent of Hatch-Waxman by allowing the brand company to "pay to delay" entry of the generic competitor.

The proposed solution to this problem, incorporated in Sec. 2573, goes too far. The bill calls for a ban on all Hatch-Waxman settlements that feature any consideration, such as cash or an exchange of patents, in addition to the date of entry. Such a ban dramatically reduces the ability of companies to settle these cases. After all, if the parties could not agree on date of entry, then they would effectively be forced to litigate the case to the bitter end. This means that, in some cases, a settlement would have resulted in generic entry into that particular drug market much earlier than if the brand company wins its patent suit.

I fear this ban will itself frustrate the intent of Hatch-Waxman by limiting the incentives for generics to challenge these patents and for brand companies to innovate.

The best way to reach the appropriate balance is through a case-by-case analysis by a neutral third party of the competitive effects of these settlements using the rule of reason. This, in essence, is the conclusion that the majority of the Courts of Appeals, including the Second, Eleventh, and DC Circuits, have reached in these cases, and we should uphold the judgment of these courts.

The only saving grace of Sec. 2573 is that it creates a cause of action separate and apart from the antitrust laws and will not affect how those laws are interpreted in the future. This also means that the provision, as written, did not come before the Judiciary Committee, even though it remains, at heart, a competition issue. By keeping the Judiciary Committee from considering this legislation, we are eliminating the incentives for drug invention and generic competition that have served American consumers so well. Innovative new drugs, after all, are created in the laboratory, not the courtroom.

Sec. 1640 of the bill also contains a provision that allows the Department of Health and Human Services to issue administrative subpoenas to insurance companies during investigations of decisions to exclude benefits. The standard for issuing an administrative subpoena under the bill is extremely low. The information sought must simply "relate to" the matter under investigation.

It is highly ironic that we are considering this bill with this administrative subpoena language during the same week the Judiciary Committee approved the Democrats' revision of the FBI's authority to issue National Security Letters, which are the functional equivalent of administrative subpoenas used in foreign intelligence and terrorism investigations.

The Democrats' bill reported this week by the Judiciary Committee replaces the current "relevance" standard for issuing a National Security Letter with a heightened standard, requiring the FBI to show "specific and articulable facts" in order to seek particular information using a National Security Letter. House Democrats want to make it easier for the government to investigate insurance companies than to investigate terrorists plotting to kill Americans.

In the end, this 1,990-page bill will raise premiums and health care costs on all Ameri-

cans. It imposes mandates and new taxes on the middle class and small businesses. It fails to address tort reform and it dumps a huge unfunded expansion of Medicaid on the states. Combined with budget gimmicks to hide \$245 billion in costs and massive cuts to senior benefits, this is simply bad medicine.

Mr. MORAN of Kansas. Mr. Speaker, after reviewing H.R. 3962, the Affordable Health Care for America Act, listening to the concerns of Kansans, and visiting Kansas hospitals to speak with doctors, nurses, patients, and administrators, I have concluded that this bill will be harmful to Kansas and I strongly oppose it. However, I do believe the sections relating to the creation of a market for biosimilar products is one area of the bill that strikes the appropriate balance in providing lower cost options to patients without destroying a healthy and functioning industry in this country. These provisions were one of the few areas in the bill adopted on an overwhelming bipartisan vote for the Eshoo-Inslee-Barton, EIB amendment in the House Energy and Commerce Committee.

Creating a pathway for new products that does not destroy the ability or the incentives for innovator companies to develop breakthrough technologies and, at the same time providing a safe and effective way to bring competition to benefit patients and encourage treatments, is a necessary objective. New biosimilars have the potential to fundamentally change the course of many diseases. We need to promote patient safety and ensure incentives to encourage the continued development of a critical weapon to fight diseases such as Alzheimer's, Parkinson's and cancer. I wish we could remove these specific provisions from H.R. 3962 and consider them separately because it would most likely pass with the kind of overwhelming bipartisan support.

However, these provisions are only the first step in a long path to the marketing of these new biosimilar products. New research and clinical testing will have to occur and the FDA will implement regulations that will ensure this research is done safely and effectively. Biopharmaceuticals represent a tremendous growth opportunity for our burgeoning bioscience industry in Kansas, and we need to work to see that new biotechnology products continue to reach patients and medical professionals.

As this new biosimilar market develops in the United States, we need to ensure that we foster innovative products in this country for the creation of jobs and research that will go into determining whether these products are interchangeable with the innovator's products. Testing and research on these interchangeable biosimilar products should occur in this country to ensure that it is done properly and safely and to benefit our patients and our economy.

Ms. GRANGER. Mr. Speaker, I have criticized the majority of the provisions in H.R. 3962, the Affordable Health Care for America Act, and I will vote against it. However, I am pleased that H.R. 3962, as well as the Republican Substitute Amendment that I support, both include language relating to biosimilar products.

The provisions related to the creation of a market for biosimilar products is one area of

the bill that strikes the appropriate balance in providing lower cost options to consumers without destroying a healthy and functioning industry in this country. These provisions were one of the few areas in the bill adopted in a bipartisan vote for the Eshoo-Inslee-Barton amendment in the Energy and Commerce Committee.

Creating a pathway for new products that doesn't destroy the ability or the incentives for innovator companies to develop breakthrough technologies and at the same time providing a safe and effective way to bring competition to benefit patients is a laudable achievement. I wish we could remove this provision from this bill so that I could vote for it on its own. I believe that if this provision was considered on its own it would pass the House of Representatives with bipartisan support.

The biosimilar provisions in this bill are only the first step in a long path to the marketing of these new products. New research and clinical testing will have to occur and the FDA will write rules that will ensure this research is done safely and effectively.

One of the reasons I have long supported the U.S. biotechnology industry is that it is a homegrown success story that has been an engine of job creation in this country. With this week's news that unemployment has reached 10.2 percent, it is critical that we preserve jobs in the United States. Testing and research on these generic biosimilars should take place in the United States to ensure that it is done properly and safely while benefitting our economy.

Innovative biotechnology companies have created jobs here in the United States and we must continue to support them.

Mr. PAYNE. Mr. Speaker, I and others have spoken at length on the ways that this bill will improve health care for all of our constituents. Another significant benefit of this legislation which has not received as much attention will be the creation of new high-paying jobs in this country. Let me repeat that for some of my friends on the other side of the aisle, this bill will create high-paying, high-quality jobs in healthcare delivery, technology and research in the United States.

First, this bill will create enormous demand for healthcare workers, especially in the area of primary care. Insuring the millions of Americans in this country who currently have no insurance will allow them to see primary care providers and receive the wellness and preventive care they have been denied for too long. This influx of new patients will need doctors, nurses and technicians for their care, while reducing overall healthcare costs because they will not need much more expensive hospitalizations. I support channeling resources that for too long have been used to treat people once they become sick into jobs and services that will prevent people from getting sick in the first place.

Second, this bill will continue the efforts we began in the stimulus package to deploy new health information technologies that better manage both the quality of care people receive and the cost at which they receive it. New health care exchanges and new demands on the health system to provide high-quality and cost-effective health care will create new opportunities and markets for our



brightest technology minds. They will be incentivized to create and develop products that will be a win/win for Americans: high quality health care at an affordable price.

Third, this bill will create high quality research opportunities in this country. The Energy and Commerce Committee enacted a framework for allowing biosimilar competition in this country. This new class of medicines will help lower costs and bring competition to one area that is key to the future of our healthcare system. Biotechnology is on the cutting edge of efforts to reducing costly invasive procedures and allowing our constituents to live healthier and more productive lives. The creation of this new class of medicines comes with requirements for new clinical research and testing, especially in the area of whether a new biosimilar can be interchangeable with an innovator's product. This research will create high quality and high paying jobs and it is imperative that we keep this research and these jobs in this country.

We cannot allow these research opportunities to leave this country, and I intend to work with the Secretary of HHS and the Commissioner of the FDA to ensure they stay in the United States.

I do not look at this bill as one of cost or drain on the economy of our country like so many of its opponents on the other side of the aisle. I see this bill as an exciting opportunity to create the kind of jobs we so desperately need in this country while at the same time improving the lives of ALL Americans. This bill will improve health care, create jobs and grow our economy.

Mr. TERRY. Mr. Speaker, I have criticized many of the provisions of this bill and rightfully so. But in fairness, I do believe the sections relating to the creation of a market for biosimilar products is one area of the bill that strikes the appropriate balance in providing lower cost options to consumers without destroying a healthy and functioning industry in this country. These provisions were one of the few areas in the bill adopted on an overwhelming bi-partisan vote for the Eshoo-Inslee-Barton (EIB) amendment in the Energy and Commerce Committee.

Creating a pathway for new products that doesn't destroy the ability or the incentives for innovator companies to develop breakthrough technologies and at the same time providing a safe and effective way to bring competition to benefit patients is a laudable achievement. I wish we could remove this provision from this fatally flawed piece of legislation and consider it separately because it would pass with the kind of overwhelming bi-partisan support that Americans across the country wish to see.

However, these provisions are only the first step in a long path to the marketing of these new products. New research and clinical testing will have to occur and the FDA will write rules that will ensure this research is done safely and effectively. One of the reasons I have long supported the U.S. biotechnology industry is that it is a homegrown success story that has been an engine of job creation in this country.

As this new market launches in the United States, we need to ensure that we foster innovation and ensure the safety of any new product brought to the market.

Ms. CLARKE. Mr. Speaker, I support this legislation because it eliminates gender rating that allows young women to be charged 45% more than men for identical coverage.

Mr. POE of Texas. Mr. Speaker, H.R. 3962 forces businesses and individuals to purchase health insurance. It raises at least two constitutional issues. Congress should never pass an unconstitutional bill, and I will vote against H.R. 3962.

The Constitution doesn't give the Federal Government direct authority to compel the purchase of health insurance. The Supreme Court would once again have to come in and by judicial edict give the government the intrusive power to do what it obviously cannot do now: stretch the meaning of the Commerce Clause.

Can the Federal Government force people to buy health insurance whether they can afford it or not? Can the Federal Government then impose a criminal fine on them under the guise of calling it a tax if they fail to buy the insurance?

What happens if the citizen doesn't pay the fine? Do they go to jail without the benefit of trial by jury? Do they lose their right to confront witnesses and have a lawyer?

Congress forcing mandatory health insurance on Americans and then imposing criminal sanctions without due process is a violation of the Constitution. This action would shock the Framers of our Constitution.

These serious constitutional issues cannot be ignored and I strongly oppose H.R. 3962 and any other bill that violates our Constitution.

Mr. Speaker, I am strongly against H.R. 3962, and I will vote against it should it come to a vote on the House floor. However, I do believe the sections relating to the creation of a market for biosimilar products is one area of the bill that strikes the appropriate balance in providing lower cost options to consumers without destroying a healthy and functioning industry in this country. These provisions were one of the few areas in the bill adopted on an overwhelming bipartisan vote for the Eshoo-Inslee-Barton (EIB) amendment in the Energy and Commerce Committee.

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news that unemployment has reached 10.2% it is critical that we preserve jobs in the United States. While the innovators, have created jobs here, these generic companies have shipped them overseas, so they can turn around and sell cheap knockoffs of innovative American products.

As this new market launches in the U.S., we need to ensure that we foster innovative products in this country for the creation of jobs and research that will go into proving whether these products are interchangeable with the innovators products. I have my doubts that these companies can create such interchangeable products, but I am certain that the research and testing of whether or not they can should occur in this country and not somewhere across the globe. Testing and research on these interchangeable biosimilars should occur in this country to ensure that it is done properly and safely and to benefit our economy.

Mr. KIRK. Mr. Speaker, our goal in health care reform should be to lower the cost of health care, making it more affordable for Americans to purchase coverage. Many young adults from Illinois and elsewhere will be hit very hard under this legislation if they do not have coverage provided by their employers. We should not force young Americans to purchase coverage that costs them more because of reform. This is a new expensive tax targeted to young workers—and I oppose it.

According to the Department of Health and Human Services, 29 percent of individuals between the ages of 18 and 24 are uninsured and 27 percent of individuals between the ages of 25 and 34 are uninsured. Prices in the individual insurance market are already so high they do not think it is worth it. The misnamed "Affordable Health Care Act" that we are debating now will make this coverage even more expensive.

The reason is that this bill requires that insurers may not charge 64-year-olds more than twice what they charge healthy 19-year-olds. This mandate will raise premiums on young adults tremendously. Young, healthy people who lack coverage, mostly because they find it too expensive at a current cost of \$1,700 to \$2,000 for it, will be forced to buy policies that cost \$3,000, even after federal subsidies. The House bill's "age rating" of 2 to 1 is far below the 5 to 1 ratio currently prevalent in the insurance market. Why does this ratio exist? Simply because the medical bills of healthy young people are a fraction of what older Americans spend. Comparisons of the House bill with an estimate of what is available on the individual market now using data provided by the Kaiser Family Foundation demonstrate that a 25-year-old single individual making \$30,000 will pay a premium of \$3,169 under the House bill after subsidies, while similar standards with a 4:1 age rating cost \$2,258. It is almost a \$1,000+ leap. This is a big deal for those earning only \$30,000.

The Kaiser Family Foundation provides a way to estimate how insurance premiums will rise for young workers and their families:

	Salary	House bill	Current market	Higher premium
Single Policy:				
21 .....	\$30,000	\$2,724	\$2,258	\$466
25 .....	\$35,000	\$3,169	\$2,258	\$911

	Salary	House bill	Current market	Higher premium
28 .....	\$40,000	\$3,169	\$2,435	\$734
30 .....	\$42,000	\$3,169	\$2,676	\$493
Family of Four:				
28 .....	\$75,000	\$8,102	\$7,402	\$700
30 .....	\$90,000	\$8,543	\$7,862	\$681

I proposed an amendment to this bill that would ensure that anyone purchasing insurance coverage after January 1, 2013 is exempt from the individual mandate if a less expensive insurance plan than those available under today's bill Act was available six months prior to its enactment. Unfortunately, this amendment was not made in order by the Rules Committee.

In health care reform, we should do no harm. We must enact reforms that will actually lower the costs of insurance premiums so Americans can afford to purchase coverage. Enacting a bill that makes it more expensive for young workers to buy insurance coverage and then forcing them to buy such coverage is wrong.

In closing, I want to commend Shauna McCarthy of my staff for the many months she has committed to health reform, contributing to this amendment as well as the Medical Rights and Reform Act, which seeks to prevent government intervention in the important relationship between patients and their doctors.

Mrs. MALONEY. Mr. Speaker, Sunday, 42,000 people gathered in my hometown of New York City to run the NYC marathon while 2 million more people watched, cheered, and marveled at those who accepted the challenge of running 26.2 miles. It is likely that each participant had a different reason for running, but the ultimate goal was the same: to finish, to succeed, and to accomplish a goal. As Greek legend explains, the concept of the marathon comes from the long distance a messenger ran to deliver the important news that the battle had been won. Mr. Speaker, as we stand here today to debate a historical bill that will substantially improve the delivery of health care in America, we are the runners at mile 25. The cheers are the loudest, the anticipation is the greatest, and the end, while near, seems very far away. Despite all of the noise, the message is clear: now is the time for health care reform, now is the time to take care of all Americans, now is the time to make sure that families are not forced to see loved ones die because they did not get the care they need and deserve.

I'd like to thank and commend the leadership of Speaker PELOSI, Majority Leader HOYER, Chairmen WAXMAN, MILLER and RANGEL and of course, Chairman EMERITUS DINGELL who has been working on health care reform since he first came to Congress. H.R. 3962, the Affordable Health Care for America Act, is a significant and important step toward securing affordable, accessible, and quality health care for all Americans. Our current health care system is broken. Costs continue to increase at unsustainable rates and too many families and businesses are feeling the debilitating burdens brought on by these expenses. Too many Americans have inadequate coverage or lack coverage entirely and are suffering or dying as a result.

H.R. 3962 is critical to the health of our families, to the health of our economy and to the health of our nation;

H.R. 3962 lowers costs for every patient, reins in premiums, co-pays, and deductibles, limits out of pocket costs, and lifts the cap on the amount that insurance companies cover each year;

H.R. 3962 strengthens Medicare, securing the financial stability and solvency of Medicare for years to come, and provides seniors with better benefits and guaranteed access to their doctors;

H.R. 3962 reduces the deficit by over \$100 billion in the first 10 years, and likely by even more in the following decade, according to the Congressional Budget Office;

H.R. 3962 provides affordable coverage to those who cannot get health insurance because of pre-existing conditions, including domestic violence and pregnancy, and protects consumers from higher rates due to gender or other factors;

And, very importantly, I am proud that H.R. 3962 includes a public health insurance option that will increase competition and reform our current system. I am grateful to Speaker PELOSI for her steadfast support of this important provision and am confident that it will expand access to care to the many people in need. When 14,000 Americans are losing their health care coverage each day, it is clear that a public option is needed. It will bring down costs, increase access, and improve care for all Americans. The richest country in the world should not have people who go without the basic necessity of health care. The public option will hold health insurance companies accountable for the practices that price people out of the health care they need and deserve.

Health care is the most important public policy issue of our generation that will affect generations to come. I am grateful for the opportunity to be a part of this momentous reform and would like to take the time to highlight some areas of the bill that specifically impact my Congressional district.

H.R. 3962 will improve employer-based coverage for 440,000 residents in my district and will provide credits to help pay for coverage for up to 120,000 households. It will also improve Medicare for 88,000 beneficiaries, including closing the prescription drug donut hole for 8,100 seniors. H.R. 3962 will allow 33,300 small businesses to obtain affordable health care coverage and provide tax credits to help reduce health insurance costs for up to 31,300 small businesses and will cover 26,000 uninsured residents. In short, H.R. 3962 will make health care affordable for the middle class, provide security for seniors, and will guarantee access to health insurance coverage for the uninsured while reducing the federal deficit over the next ten years and beyond.

In addition to representing the residents of the 14th Congressional District of New York, I am proud to represent 14 hospitals. Many of these are the jewels of American medicine, training our nations' doctors, and facilitating cutting edge research that identifies cures and gives hope to millions of Americans and their families. I am pleased that H.R. 3962 recognizes the importance of teaching hospitals and preserves Graduate Medical Education. New York's teaching hospitals, while training our future physicians, are treating the sickest of the sick and poorest of the poor. These payments,

including Direct Medical Education and Indirect Medical Education are critical to the survival of these hospitals and to the greater good of medicine.

H.R. 3962 takes into account diverse patient populations, the cost of goods and services, and the higher costs incurred by teaching hospitals. Teaching hospitals tend to treat the most complex cases and are the first to adopt innovative technologies and techniques that advance patient outcomes, so their costs are often higher than average. A policy that reduces spending arbitrarily runs the risk of stifling innovation which is why I am pleased that the bill is sensible on how it addresses geographic variation. This bill recognizes the pitfalls of a blanket overhaul. It requires the Secretary of HHS to contract with the Institute of Medicine to conduct two studies. The first is a study of wage levels which will look at the hospital wage index and the physician geographic practice cost index and will recommend changes to the methodologies, if necessary. The second study looks at the geographic variation associated with volume and intensity of services in Medicare, Medicaid, and private sector spending per capita. The IOM is encouraged to understand and separate out higher-than-average spending due to unavoidable or desirable factors (e.g., patient demographic and clinical risk factors and wage levels) from higher-than average spending due to avoidable or undesirable factors (e.g., excessive medical errors, and practice patterns differing from best practices). The bill wisely includes specific prohibitions against recommendations to reduce graduate medical education, disproportionate share, and health information technology payments.

While I am pleased with the bulk of the bill, I am concerned that H.R. 3962 does not extend the 340B discounts to drugs purchased for inpatient use, a provision that was included in an earlier version of the bill. Currently, the 340B Drug Pricing Program requires pharmaceutical manufacturers that participate in Medicaid to sell outpatient drugs at discounted prices to disproportionate share hospitals (DSH) that serve a high threshold of low-income, uninsured and underinsured patients. Under current law, DSH hospitals participating in the 340B Drug Pricing Program pay approximately thirty percent more for their inpatient drugs than their outpatient drugs, although the drugs are frequently the same. The inpatient and outpatient settings serve the same low-income population that the 340B Drug Pricing Program was designed to assist. These discounts lower costs for patients and taxpayers. At a minimum, extending the 340B Drug Pricing Program to inpatient drugs would reduce inpatient drug costs by fifteen percent. These new resources could be better used to provide direct patient care. I am hopeful that during Conference, the House will cede to the Senate language and extend the 340B drug pricing to inpatient drugs. After all, now is not the time to deprive safety net hospitals from millions of dollars in savings needed to treat the most vulnerable in our communities.

Mr. Speaker, the task is huge and the rewards even bigger. Today we will vote to cover 96 percent of Americans without adding a dime to the deficit. We will be doing what's right for our families, what's right for our economy, and what's right for our future. I urge my

colleagues to look at the larger picture and remember that today we will make a lasting difference in people's lives.

Mr. TERRY. Mr. Speaker, I rise today to make the House aware of a seemingly silent crisis facing millions of Americans and to offer a potential solution. I am talking about the problem of personal medical debt, and the critical need for medical debt counseling. As a result, thousands of Americans in my state of Nebraska and throughout our nation are facing extremely difficult choices that severely impact their quality of life, and sometimes life itself.

Mr. Speaker, I am sure my colleagues are aware that medical debt is the number one cause of personal bankruptcy in this country. Let me say that again: 60 percent of all personal bankruptcies are the result of crushing medical debt. I know that my colleagues would agree that this is an astonishing, and indeed, an embarrassing statistic for our country.

In most cases, those who suffer from serious medical debt are people with chronic diseases who have just enough insurance to be considered insured. While they may technically be insured, the fact of the matter is that in reality they are severely underinsured. Simply put, they are faced with some extremely difficult choices between whether to pay their medical bills or pay for their basic needs. For example, someone with a chronic disease who is saddled with extremely high medical debt may have to choose between paying their mortgage or putting food on the table and paying the bill for life-saving treatments for their disease.

It is not hard to understand that when faced with these kinds of options more than half the time people chose to declare bankruptcy. That means that hospitals take a loss, individuals who have declared bankruptcy ruin their credit, and the American people in the end typically pay for it all.

Mr. Speaker and my colleagues, we can help fix this crisis with medical debt counseling.

The idea behind medical debt counseling is simple: Create a network of non-profit organizations that provide counseling services specifically for medical debt. The nonprofit counselors will provide the participants with a number of options long before the idea of bankruptcy is even considered. This is a win-win for everyone. A person can avoid bankruptcy, and a health care provider such as a hospital or doctor, can receive payment for their services.

Nonprofit organizations with expertise in helping under-insured people with chronic diseases manage their burden, such as the Chronic Disease Fund which assists people in my state, should be put on the front lines of providing effective medical debt counseling. They are the experts which are best equipped to provide effective counseling so that individuals will not be forced into declaring bankruptcy because of their medical debt.

To my knowledge, there is nothing in the pending health care reform legislation that would help encourage medical debt counseling. This brings me to an important point. Because we have moved so fast on health care reform legislation, good ideas like medical debt counseling are not part of this bill. We need options like this for health care re-

form because it will work to save the American taxpayer money. Medical debt counseling will reduce the cost burden on the health care system, not increase it. And medical debt counseling is innovative. It is innovation like this that made America's health care the best in the world.

Mr. Speaker, my constituents, like yours, provide for their families but they live on a tight budget. When faced with the reality of making a huge medical bill payment or putting food on the table, what do you think they are going to do? We can help them avoid this terrible scenario. Again, 60 percent of bankruptcies in this country are because of crushing medical debt. We can help lower the number of personal bankruptcies across this great nation, but to do so we need to encourage a system of medical debt counseling.

Ms. KILPATRICK of Michigan. Mr. Speaker, I rise today in support of H.R. 3962, Affordable Health Care for America Act, offered by Rep. JOHN DINGELL of Michigan and ask all of my colleagues to support this historic bill before us that will expand coverage to 36 million uninsured Americans, ensure that patients and physicians make their own health care choices, reduces administrative costs, invests in wellness and prevention, reforms the insurance industry by ending discriminatory practices, especially pre-existing conditions and health disparities, and allows young adults to remain on their parents' insurance policy until the age of 27.

I have held numerous town hall meetings in my district to listen to the views of my constituents. My office has received numerous calls, emails, and letters on this subject, with an overwhelming majority asking me to vote YES on the bill because America cannot wait any longer for health care insurance reform. More than 300 groups, representing millions of Americans, have expressed their support for the bill, including the American Association of Retired Persons, the American Cancer Society, the United Auto Workers, the AFL-CIO, the SEIU, Families USA and the National Committee to Preserve Social Security and Medicare. The groups expressing their support include a broad range, including groups representing doctors, seniors, small business, youth, women, persons with disabilities, consumers and patients.

Health care insurance reform is not a Republican or Democratic issue, it is an American issue. Under a Democratic President, we witnessed the beginnings of health care reform with Medicaid and Medicare in the 1960s. Under another Democratic President, we will witness the second coming of true health care reform.

Today's vote will mark a change in our country where every American will know that health care is a top priority for this country. When I was a newly elected Member to the U.S. House of Representatives, Congress was in the throes of reforming health maintenance organizations or HMOs. While this was well intended, at the time, I asked, "what about those millions of people who go to work each and every day, who care for our senior citizens in nursing homes, who clean our bathrooms, cook our food, clean our streets, and send their children to college, but whose employers do not provide health care?" What

happened is that those individuals did not have health care coverage, period. Now is the time to help those janitors, street sweepers, short-order cooks, child care workers, home health care providers, and small businesses so that those workers, too, will be able to have health care.

The 111th Congress has taken bold steps to provide more access to health care for Americans. While we have expanded health coverage to more than five million uninsured children through the passage of the State Comprehensive Health Improvement Plan or SCHIP, we must complete what we started. Access to health care is vital to the health of not only individual Americans but to the American economy.

Even before our recent economic crisis, health care was getting more expensive, what few benefits were offered were eroding, and even more people were losing coverage. In 2007, according to various sources, 45 million Americans were uninsured; this number is an increase over 2000's 38.7 uninsured Americans. And this is the uninsured; we are not even discussing the millions more senior citizens, working poor and families who are underinsured. I am talking about seniors who have to choose between eating or their prescriptions. I am talking about those families who have to choose between taking their child to the doctor or food for the week. The economic crisis has only made this situation worse.

The bankruptcy of the automobile industry, the closing of auto dealerships, and the crisis faced by automobile suppliers have caused thousands more in our Nation and in particular the state of Michigan to lose their employee health benefits.

Our version of health care reform, the Affordable Healthcare for All Americans Act, has four key highlights for Americans and American businesses: lower costs; greater choice; higher quality and peace of mind. As Health and Human Services Secretary Sebelius said earlier, if we do nothing to reform health care, we will continue to live sicker, die faster and pay twice as much.

Health care reform legislation should require coverage of the full range of women's reproductive health services. H.R. 3962 protects these rights and ensures that all women have access to a health care plan that meets their needs while respecting current law. The Stupak amendment would limit access to reproductive care in the private and public options, and does not allow citizens to pay for the procedure out of their own pockets. I voted against the Stupak amendment.

#### HEALTH CARE REFORM WILL PROVIDE LOWER HEALTH CARE COSTS

Under the America's Affordable Health Care Act, there will be no more co-pays or deductibles for preventive care. No more rate increases or exclusions for pre-existing conditions, gender or occupation. There will be an annual cap on the out of pocket expenses for individuals and businesses. Finally, for the first time, there will be guaranteed and affordable oral, hearing, and vision care for children.

By having a public health care plan, the bill will ensure competition for Americans to have the best health care at the most affordable cost. Also, since everyone will have health

care, no one industry or business will be at an advantage over another one.

HEALTH CARE REFORM WILL PROVIDE GREATER CHOICE  
FOR ALL AMERICANS

Americans will be able to keep their doctor, and their current plan, if you like what you have. With a high quality public health insurance option competing with private insurers, there will be more choice of providers and more benefits. The important aspect is this—every American will have a choice of providers, versus today's choice, for the uninsured, of the emergency room or no care at all. No one will be forced into a public option. This will just be one of many choices.

HEALTH CARE REFORM WILL PROVIDE HIGHER QUALITY  
HEALTH CARE FOR ALL AMERICANS AND BUSINESSES

You and your doctor—not insurance companies—will make health care decisions. As more primary care, family doctors, and nurses enter the workforce, even more access is guaranteed for all Americans. Also, the bill mandates coverage for mental health care, a key issue that will affect, in particular, the families of our service members who are returning from the wars in Iraq and Afghanistan.

HEALTH CARE REFORM WILL PROVIDE PEACE OF MIND

The bill provides a cap on catastrophic coverage—coverage for traumatic injuries such as spinal cord injuries and long-term health care. There will be no more denial of coverage for preexisting conditions, and no reason to make a life or job decision based on whether or not you or your family will have health care coverage.

We need health insurance reform now. Access to quality, affordable health care is critical to the well-being of all Michiganders and all Americans, today and tomorrow. Central to all of this is addressing the needs of uninsured Americans, strengthening our Medicare system, providing health insurance to low-income children and families, funding research into diseases like diabetes and cancer, and giving patients the ability to make decisions with their doctors, not health insurance companies. An estimated 1,400 families lose health insurance every day that we do not pass health insurance reform.

One aspect of this legislation of which I am most proud is its fiscal responsibility. According to a letter dated November 5, 2009 from the non-partisan, objective Congressional Budget Office, this bill adds not one dime to the deficit. Furthermore, this bill reduces the deficit by an estimated \$109 billion. This is not only fiscally responsible, it allows us to provide health care to the least of our sisters and brothers.

When this bill is signed into law, ten provisions of the bill will take effect immediately:

It will begin to close the Medicare Part D “Donut” Hole. The bill reduces the donut hole by \$500 per Medicare recipient and also institutes a 50-percent discount on brand-name drugs.

It gets health insurance to the uninsured. By creating a temporary insurance program, health care will be available for people who have been denied a policy due to preexisting conditions or who have not had health care for several months.

It bans lifetime limits on health care coverage. The bill prohibits health insurance companies from placing lifetime caps on cov-

erage—traditional coverage or catastrophic care coverage.

It provides health insurance for young people. It requires health insurance plans to allow young people through age 26 to remain on their parents' insurance policy at their parent's choice.

It eliminates cost-sharing for preventive services in Medicare. It eliminates co-payments for preventive services and exempts preventive services from deductibles under the Medicare program.

It ends health care rescissions. It prohibits insurers from nullifying or “rescinding” a patient's policy when they file a claim for benefits, except in cases of fraud.

It bans copayments and deductibles. It eliminates copayments for preventive services and also exempts preventive services from deductibles under the Medicare program.

It increases funding for community health centers. It increases funding for Community Health Centers to allow twice the number of patients seen by Community Health Centers for the next 5 years.

It increases the number of primary care doctors. It increases the investment by the Federal Government in training programs to increase the number of primary care doctors, nurses, and public health professionals.

Creates long-term health care for disabled adults. The bill creates a longterm care insurance program to be financed by voluntary payroll deductions to provide benefits to adults who become functionally disabled.

As with Medicare and Medicaid, the Federal Government has the Constitutional power to reform our health care system. The 10th amendment to the U.S. Constitution states that the powers not delegated to the federal government by the Constitution, nor prohibited by it to the states, are reserved to the states . . . or to the people. Article One, Section Three, also known as the Commerce Clause, says the same thing. The Constitution gives Congress broad power to regulate activities that have an effect on interstate commerce. Congress has used this authority to regulate many aspects, from labor relations to education to health care to agricultural production. Since virtually every aspect of the health care system has an effect on interstate commerce, the power of Congress to regulate health care is essentially unlimited.

The Affordable Health Care for America Act is good for small businesses. Under this legislation, many small businesses will be eligible for a new tax credit to help them provide coverage for their workers and their families—and they or their workers will get access to a new comparison shopping marketplace with low rates and good benefits like large groups get. Without health insurance reform, small businesses would pay nearly \$2.4 trillion over the next 10 years in health care costs for their workers. According to the nonpartisan Joint Committee on Taxation—only 1.2 percent of the wealthiest Americans will be subject to the surcharge and it would only apply to dollars earned over \$1 million for a couple and \$500,000 for an individual. Furthermore, 86 percent of all businesses are exempt from the requirement to provide health insurance coverage to their workers.

Nothing in the House bill will cut basic Medicare benefits. The Affordable Health Care for

America Act strengthens and improves Medicare benefits for older Americans and helps eliminate waste, fraud and inefficiency from Medicare—including gross overpayments to insurance companies providing Medicare Advantage plans which do nothing to improve care for Medicare Advantage beneficiaries.

The Affordable Health Care for America Act is comprehensive health insurance reform that covers 96 percent of Americans, ensures affordability for the middle class, provides security for our seniors, ends discrimination by insurance companies against the sick, caps what Americans pay out-of-pocket and protects our children's future by not adding to our deficit.

Finally, health care reform will allow the United States to catch up to the rest of the industrialized world. We are the only nation that does not provide universal health care coverage to its citizens. This puts the health of not only individual Americans at jeopardy, it puts the health of our economy in jeopardy. Businesses that have to compete with China, India, Europe and other countries are doing so on an uneven, unfair playing field, because while China, India and European businesses do not have to pay for health care, American businesses do. Health care reform will allow these businesses to truly compete on a global plane.

I applaud my colleagues in the House of Representatives for supporting this legislation in ensuring that health care reform is accessible, available, and affordable for all Americans and American businesses. Two generations is long enough for the American people to wait for comprehensive health care reform. Health care is the key moral and economic imperative for our Nation and this Congress. We must reform health care now.

Ms. CLARKE. Mr. Speaker, today, I rise in support of H.R. 3962, Affordable Healthcare for America Act. In the United States, one of the richest countries in the world, nearly 47 million Americans lack health insurance, 13.5 percent of which are New Yorkers. Last year alone, New York City's hospitals spent 1.2 billion dollars in charity costs. Tragically, people who are either uninsured or underinsured often have to go without vital healthcare simply because they cannot afford it.

Every American has a human right to adequate physical and mental healthcare, and I believe that government has a responsibility to assist its citizens in securing quality healthcare. Unfortunately, my Republican colleagues don't seem to fully grasp the dire situation our healthcare system is in. Maybe they would have come up with a bill that actually addressed the deficiency in our broken healthcare.

It is unfortunate that there are those who just don't care. Those who are satisfied with the status quo of rising premiums, satisfied with individuals being denied coverage because of preexisting conditions, satisfied with ignoring the pain and suffering of the 47 million Americans who are uninsured. Instead of working to fix the problem, they capitalize on people's fears and doubts. It is meant to distract, delay, confuse, and engender fear among our citizens. Today we will not allow the voices of fear to dominate the health care reform debate. This bill provides healthcare

coverage to 96 percent of Americans and includes a strong public option that will provide the needed competition to lower premium costs. That is why I support H.R. 3962, Affordable Health Care for America Act.

In my district, the 11th Congressional District of Brooklyn, the Affordable Health Care for America Act will:

First, improve employer-based coverage for 367,000 residents. As a result of the insurance reforms in the bill, there will be no co-pays or deductibles for preventive care; no more rate increases or coverage denials for pre-existing conditions, gender, or occupation; and guaranteed oral, vision, and hearing benefits for children.

Second, it will provide credits to help pay for coverage for up to 160,000 households, if they need to purchase their own coverage.

Third, under the bill's insurance reforms, 11,900 individuals in the district who have pre-existing medical conditions will now be able to purchase affordable coverage.

Finally, this bill will allow 11,300 small businesses to obtain affordable health care coverage and provide tax credits to help reduce health insurance costs for up to 11,400 small businesses.

Healthcare is a fundamental human right, rather than a commodity. A year ago, Americans cast a historic vote to change the course of this Nation. Today, we cast this historic vote, to finally manifest the change they demanded. Access to Affordable Healthcare. I am proud to cast my vote in favor of this bill.

Mr. Speaker, I believe that H.R. 3962, the Affordable Health Care for America Act, will improve health care for all of our constituents. Another significant benefit of this legislation, which has not received as much attention, will be the creation of new high paying jobs, high quality jobs in healthcare delivery, technology and research in the United States.

First, this bill will create enormous demand for healthcare workers, especially in the area of primary care. Insuring that the millions of Americans, who currently have no insurance, will have access to primary care providers so that they can receive the preventive care they have been denied for too long. This influx of new patients will create a need for doctors, nurses and technicians, while reducing overall healthcare costs because of the new focus on preventative medicine. I support channeling resources, that for too long have been used to treat people once they become sick, into jobs and services that will prevent people from getting sick in the first place.

Second, this bill will continue the efforts we began in the stimulus package to deploy new health information technologies that better manage both the quality of care and the cost of it. New health care exchanges and new demands on the health system to provide high quality and cost-effective health care will create new opportunities and markets for our brightest technological minds. They will be incentivized to develop high quality healthcare products at an affordable price.

Third, this bill will create new research opportunities in this country. The Energy and Commerce Committee enacted a framework for allowing biosimilar competition in this country. This new class of medicines will help lower costs and bring competition to one area

that is key to the future of our healthcare system. Biotechnology is on the cutting edge of efforts to reduce costly invasive procedures, thereby allowing our constituents to live healthier and more productive lives. The creation of this new class of medicines comes with requirements for new clinical research and testing. This research will create high quality, high paying jobs. It is imperative that we keep this research, and these jobs in this country. We cannot allow these research opportunities to leave this country, and I intend to work with the Secretary of HHS and the Commissioner of the FDA to ensure they stay in the United States.

I do not look at this bill as a drain on our economy, like so many of its opponents on the other side of the aisle. I see this bill as an exciting opportunity to create the kind of jobs we so desperately need in this country, while at the same time improving the lives of all Americans. This bill will improve health care, create jobs and grow our economy.

Mr. FATAH. Mr. Speaker, in my fourteen years representing the people of Philadelphia and Montgomery County, Pennsylvania, I have had few opportunities as significant as this one to stand up for my constituents, their families, the future of our city and the destiny of our nation. This healthcare bill is the result of months of legislative negotiation and collaboration and answers the calls made for decades by mothers who could not alleviate the suffering of their children, conscience-minded small business owners who could not provide the healthcare coverage they knew their employees deserved and doctors and nurses who fought creatively to provide treatments they knew their patients needed and could never afford. I am proud that today we will take the most significant step in a century towards joining the rest of the industrialized world in assuring every American has access to the healthcare they need.

It is the nature of democracy that this bill contains some provisions which I do not support. I believe women deserve access to the full range of legally assured health services on equal footing with men. I believe it is our responsibility to vigorously address the pernicious health disparities which disadvantage Americans of color and linguistic minorities. I believe overzealous efforts to deny some people healthcare on the basis of their immigration status will inadvertently limit care for native-born and legal residents as well. I believe a stow public option is the only way to ensure competition, choice and affordability in the American private insurance market. At the end of the day, we, as the Representatives of the people are called to speak for them. Rarely do we have the opportunity to so directly improve their standard of living. It is with the people of the Second District in mind, and the generations to come, that I enthusiastically vote yes for the Affordable Health Care for America Act.

Ms. WOOLSEY. Mr. Speaker, at least 46 million Americans are uninsured right now. More than 85% of the uninsured are in working families. Even if you have health insurance now, without reform, the cost of health care for the average family of four is projected to increase by almost \$2,000 a year. The need for health reform is urgent and that's why I rise in strong support of this historic bill.

Many Members of Congress, myself included, continue to believe that the best way to provide high quality, affordable healthcare to everyone is to create a single payer health insurance system. However, while we would prefer single payer, we united behind a health reform bill with a robust public option.

We believed, and still believe, that the robust public option, a public option based on medicare plus 5% rates is the best way to increase competition, bring down the costs of premiums, and provide everyone with a real choice between a private and public health insurance plan.

In August, many thought the public option was dead. But the Progressive Caucus, Tri Caucus, and many in our leadership, made sure that the robust public option was very much a part of the debate in September and October.

Because of the work of so many Members, we have a public option in the bill we are considering today. While it's not the plan I would have preferred, this public option will increase competition with private plans and provide a real choice in health insurance plans.

In addition, there is language in the manager's amendment that will ensure that any increase in health insurance premiums must be justified, which will help make premiums more affordable for our Nation's working families.

As we move into conference with the Senate, I look forward to continuing to work with my colleagues to ensure that we have the best possible bill. Therefore, Mr. Speaker, to increase competition and provide choice, any bill reported out of conference must retain a strong national public option that goes into effect when the health exchange begins, and, is not based on any triggers. I urge my colleagues to support this bill.

Mr. HARE. Mr. Speaker, I wish to strongly voice my support for the Affordable Health Care for America Act on behalf of all hard working men and women across this great country and certainly in the State of Illinois.

For decades, our government has debated the issue of extending healthcare to all, yet too many Americans still lack it and the security and peace of mind that comes with it. For those fortunate enough to be insured, rising costs are making it harder and harder to stay afloat. We, as members of this body, have the opportunity today to take a historic step toward passing the Affordable Health Care for America Act, so that quality health care can be more affordable and accessible to all Americans and their families. This bill will drastically reduce the number of uninsured, increase competition and lower costs through a public option, reform the insurance industry so Americans don't see their coverage unfairly denied or dropped, and put more money in our seniors' pockets by closing the Medicare Part D doughnut hole, all while reducing the deficit by \$104 billion over 10 years.

With unemployment at its highest level since 1983, another significant benefit of this legislation that should be highlighted is the creation of new high-paying jobs in this country. Let me repeat that for some of my friends on the other side of the aisle, this bill will create high-paying, high-quality jobs in healthcare delivery, technology and research in the United States. This bill creates a framework for allowing biosimilar competition in this country, which has

the potential to lead to a new class of generic biologic medicines that will help lower costs and bring competition to one of the areas that will be key to the future of our healthcare system. The development of generic biologics or biosimilars has the potential to create much needed jobs here at home in clinical research and testing. I intend to work with the Secretary of HHS and the Commissioner of the Food and Drug Administration to ensure that this new work is conducted here at home, in places like my home state of Illinois.

This bill will additionally create enormous demand for healthcare workers, especially in the area of primary care. Insuring the millions of Americans in this country who currently have no coverage will allow them to see primary care providers and receive the wellness and preventive care they have been denied for too long. This influx of new patients will need doctors, nurses and technicians for their care, while reducing overall healthcare costs because they will receive care based around prevention as opposed to hospitalization. I support channeling resources, that for too long have been used to treat people once they become sick, into jobs and services that will prevent people from getting sick in the first place.

The Affordable Health Care for America Act will continue the efforts this Congress first undertook in the Recovery Act that deployed new health information technologies throughout our healthcare system. These technologies help to better manage both the quality of care people receive and the cost at which they receive it. New health care exchanges and new demands on the health system to provide high-quality and cost-effective health care will create new opportunities and markets for our economy. Workers and industry together will be incentivized to create and develop products that will be a win/win for Americans: high quality health care at an affordable price.

I was proud to work with my colleagues on the Education and Labor Committee to help shape this bill. I was pleased to have had the opportunity to add two critical pieces to this bill that are of great importance to my constituents: allowing for Small Employer Benefit Arrangements (SEBA), which facilitate the participation of small businesses and the self-employed in the Health Insurance Exchange; and protecting the ability of our nation's veterans to be able to enter into the Health Insurance Exchange to attain additional insurance for their dependents while retaining their VA health coverage. These provisions were common-sense improvements that make this great bill even better.

I have cited many, but not all, of the reasons why I think this historic bill is worthy of my vote. I now ask that my colleagues join me in protecting American families from coast to coast in supporting this historic legislation. Mr. Speaker, thank you for your strong leadership on this issue and I look forward to proudly voting in favor of this bill in honor of the 39,000 uninsured residents of my District who would finally have the ability to receive the quality health care they deserve.

Mr. PASCRELL. Mr. Speaker, I and others have spoken at length on the ways that the Affordable Health Care for America Act will improve health care for all of our constituents. Another significant benefit of this legislation

which has not received as much attention will be the creation of new high-paying jobs in this country. Let me repeat that for some of my friends on the other side of the aisle: this bill will create high-paying, high-quality jobs in health care delivery, technology, and research in the United States.

First, H.R. 3962 will create enormous demand for health care workers, especially in the area of primary care. Expanding meaningful health insurance coverage to the millions of Americans in this country who are currently uninsured or underinsured will allow them to see the primary care providers and receive the wellness and preventive care they have been denied for too long. This influx of new patients will need the doctors, nurses, and technicians necessary to deliver the care they need—while reducing overall health care costs as we prevent more expensive emergency care and hospitalizations. I support channeling resources that for too long have been used to treat people once they become sick into jobs and services that will prevent people from getting sick in the first place.

Second, the Affordable Health Care for America Act will continue the efforts we began in the stimulus package to deploy new health information technologies that better manage both the quality of care people receive and the cost at which they receive it. New health care exchanges and new demands on the health system to provide high-quality and cost-effective care will create new opportunities and markets for our brightest minds in technology. They will be incentivized to create and develop products that will be a win-win for Americans—high quality health care at an affordable price.

Third, H.R. 3962 will create high quality research opportunities for America. The legislation under consideration establishes a framework for allowing biosimilar competition in this country. This new class of medicines will help lower costs and bring competition to an area that is a key to the future of our health care system. Biotechnology is on the cutting edge of efforts to reduce costly invasive procedures and allow our constituents to live healthier and more productive lives. The creation of this new class of medicines comes with requirements for new clinical research and testing, especially in the area of new biosimilars' interchangeability with innovator products. This research will create high quality and high paying jobs, and it is imperative that we keep this research and these jobs in this country. The Inspector General of Health and Human Services is currently investigating the amount of data received from overseas clinical trials. We cannot allow these research opportunities to leave this country, and I intend to work with the Secretary of HHS and the Commissioner of the Food and Drug Administration to ensure that the clinical studies to support the safety and interchangeability for this new class of follow-on biologics is conducted in the United States.

Mr. Speaker, I do not view this legislation as a cost or drain on the economy of our country like so many of its opponents on the other side of the aisle. Instead, the Affordable Health Care for America Act is an exciting opportunity to create the kinds of jobs we so desperately need in this country while improv-

ing the lives of ALL Americans. H.R. 3962 will improve health care, create jobs, and grow our economy.

Mr. Speaker, I am pleased to support the Affordable Health Care for America Act. I could not be prouder that H.R. 3962 expands coverage to 96 percent of Americans in a fiscally responsible manner. I strongly believe that all interested parties should indeed have a stake in this necessary effort, but I would like to recognize the contribution asked of the biopharmaceutical industry.

New Jersey has often been called the Medicine Chest for the World and for good reason. Last year, the biopharmaceutical and medical technology industries employed nearly 60,000 individuals in the state of New Jersey—with another 88,000 "spin-off" jobs through the purchase of goods and services, capital construction projects, and other industry activity.

H.R. 3962 extends Medicaid rebates to Medicare dual-eligible and low-income subsidy beneficiaries while instituting a new 50 percent discount for Part D beneficiaries who find themselves in the prescription drug benefit coverage gap—the so-called "donut hole." Pharmaceutical sales represent about 10 percent of national medical expenditures, but the savings generated from these provisions represent a disproportionately larger share of the legislation's savings and revenues.

There is little doubt that these industries are sure to see increased sales both as millions of previously uninsured Americans and millions more who were underinsured are given access to meaningful health insurance that covers prescription medications and as seniors with expanded Part D coverage better adhere to the prescription regimens prescribed by their doctors. However, I have lingering concerns that a single industry may be paying more than their fair share and that this may have unfortunate consequences in New Jersey. The biopharmaceutical manufacturers in my state have estimated that as many as 12,300 jobs could be lost in New Jersey.

I believe that H.R. 3962 is an effort that will indeed create new jobs in the health care sector both as the demand for health care providers increases and as the result of a new pathway for the development of follow-on biologics, and I applaud the legislation for taking steps to close the Medicare Part D donut hole. However, we must recognize there will be consequences for New Jersey's biopharmaceutical industry, and I express my hope that these consequences will be minimized as the House and Senate come together to formulate a compromise health reform package.

Mr. Speaker, in my capacity as co-chair of the Congressional Brain Injury Task Force, I would like to share my understanding of the intent of the provisions of H.R. 3962—the Affordable Health Care for America Act—regarding the coverage of the treatment continuum for persons with brain injury.

News reports of returning veterans and recent high profile brain injury stories indicate what researchers have been reporting for years: brain injury is a leading public health problem in U.S. military and civilian populations. I believe that any health care reform initiative must recognize that brain injury is not an event or an outcome but is the beginning of a lifelong disease process that impacts

brain and body functions. These impacts of brain injury can result in difficulties in physical, communication, cognitive, emotional, and psychological performance, undermining health, function, community integration, and productive living. Brain injury is also disease causative and disease accelerative because it predisposes individuals to re-injury and the onset of other conditions.

The Brain Injury Association of America (BIAA) has developed a series of guiding principles for assessing any health care reform bill from a brain injury perspective. I believe, consistent with policy statements by the BIAA, that health care reform must address the unique health care needs of individuals with brain injury by recognizing that brain injury is the start of a lifelong disease process. As such, individuals with brain injury require access to a full continuum of medically necessary treatment—including rehabilitation furnished by accredited programs in the most appropriate treatment setting as determined in accordance with the choices and aspirations of the patient and family in concert with an interdisciplinary team of qualified and specialized clinicians.

I am pleased to conclude that the Affordable Health Care for America Act reflects and is consistent with these principles.

Principle 1: An individual with a brain injury should have an individualized medical treatment plan that documents specific diagnosis-related goals for individuals with a reasonable expectation of achieving measurable functional improvements through the provision of sufficient treatment.

Under the bill, payment for items and services included in the essential benefits package should be made in accordance with generally accepted standards of medical and other appropriate clinical or professional practice. In addition under the bill, a qualified health benefits plan may not impose any restriction (other than cost-sharing) unrelated to clinical appropriateness on the coverage of the health items and services included in the essential benefits package. Consistent with medical, clinical, and professional practice, appropriateness should be determined based on the unique needs of the individual with brain injury and treatment should be of sufficient scope, duration, and intensity.

Principle 2: An individual with brain injury should have access to the full treatment continuum to manage the disease. This continuum includes (1) early, acute treatment to stabilize the condition and (2) acute and specialized post-acute brain injury treatment and rehabilitation to minimize and/or prevent medical complication, recover function and cope with remaining physical or mental disabilities, and achieve long-term outcomes that maintain an optimal level of health, function, and independence following brain injury. These post-acute services include inpatient, outpatient, day treatment, and home health programs. I believe that for individuals with disabilities such as brain injury, rehabilitation and habilitation is equivalent to the provision of antibiotics to a person with an infection—both are essential medical interventions.

I am pleased to report that under the bill, the essential benefit package includes, among other things, hospitalization, outpatient hospital

and outpatient clinic services, professional services of physicians and other health professionals, prescription drugs, mental health and substance use disorder services (including behavioral health treatments), rehabilitative and habilitative services, and durable medical equipment, prosthetics, orthotics, and related supplies. The term “rehabilitative and habilitative services” includes items and services used to restore functional capacity, minimize limitations on physical and cognitive functions, and maintain or prevent deterioration of functioning as a result of an illness, injury, disorder, or other health condition. Such services also include training of individuals with mental and physical disabilities to enhance functional development.

Principle 3: Individuals with brain injury should receive treatment in the most appropriate treatment setting by accredited programs—including acute care hospitals, inpatient rehabilitation facilities, residential rehabilitation facilities, day treatment programs, outpatient clinics and home health agencies. The treatment and treatment setting should be determined in accordance with the choice and aspirations of the patient and family in concert with an interdisciplinary team of qualified and specialized clinicians.

I am pleased to report that under the bill payment for items and services included in the essential benefits package should be made in accordance with generally accepted standards of medical or other appropriate clinical or professional practice. The bill also requires adequacy of provider networks in order to ensure enrollee access to covered benefits, treatments, and services under a qualified health benefits plan. Rehabilitative and habilitative services should be available from a full continuum of accredited programs and treatment settings at a level of intensity that is consistent with the needs of the patient.

Principle 4: The bill should prevent private insurance systems from delaying or denying treatment as a means of transferring the burden of brain injury care to taxpayers at federal, state and local levels; ensure that both public and private health insurance systems meet the health care needs of people with brain injury; and avoid using Medicaid and Medicare as the first option for the coverage of people with brain injury.

I am pleased to report that the bill includes numerous requirements reforming the health insurance marketplace that should prevent private insurance systems from delaying or denying treatment for individuals with brain injury. These reforms include (1) prohibiting pre-existing condition exclusions, (2) requiring guaranteed issue and renewal, (3) requiring non-discrimination in health benefits or benefit structure, (4) requiring adequacy of provider networks, (5) limiting cost-sharing, and (6) prohibiting the imposition of annual or lifetime limits on coverage. I believe that these provisions will help prevent private insurance from delaying or denying treatment to persons with brain injury.

Finally, the bill includes provisions regarding modernized payment initiatives and delivery system reform under which the Secretary may use innovative payment mechanisms and policies to determine payment for items and services under the public health insurance option,

including bundling of services. Separate provisions are included in the bill regarding post-acute care bundling under Medicare. BIAA, in a recent submission to the chairs of the Education & Labor, Ways & Means, and Energy & Commerce Committees, commented that post-acute payment systems must facilitate, not impede, improvements in functional status of individuals with brain injury and their ability to return to their homes and communities. BIAA supports a deliberative planning process and rigorous pilot testing. According to BIAA's comments, the deliberative process should determine whether post-acute care bundling should exempt diagnoses such as brain injury, that are of low predictability and highly complicated; establish certain minimum requirements for any bundling proposal such as “any willing provider” in the bundled payment system; and test innovative payment methods that make payments directly to non-hospital-based treatment centers, including residential rehabilitation facilities specializing in the treatment of brain injury.

I believe that the deliberative process should address each of these issues. I also believe that the adoption of alternative innovative payment mechanisms and policies must be guided by the goals included in the bill—improving health outcomes, reducing health disparities, providing efficient and affordable care, addressing geographic variation in the provision of health services, preventing or managing chronic illness, and promoting care that is integrated, patient-centered, quality, and efficient.

I remain wary of mechanisms that bundle post-acute care to acute care hospitals for patients with complex and highly unpredictable diagnosis and health outcomes, like brain injury and other catastrophic conditions. Such payment systems should not impede, rather than facilitate, improvements in functional status and should not result in premature return to homes and undue levels of preventable disability without adequate facilitation of progression through necessary step down levels of treatment.

Mr. LUETKEMEYER. Mr. Speaker, I have criticized many of the provisions of this bill and rightfully so.

However, one bi-partisan area that strikes the appropriate balance in providing lower-cost options to consumers without destroying a healthy and functioning industry in this country that is included in both the underlying bill, which I strongly oppose, and the Republican substitute, which I intend to support, are the sections relating to the creation of a market for biosimilar products. These provisions were one of the few areas in the bill adopted on an overwhelming bipartisan vote for the Eshoo-Inslee-Barton (EIB) amendment in the Energy and Commerce Committee.

Creating a pathway for new products that doesn't destroy the ability or the incentives for innovator companies to develop breakthrough technologies and, at the same time, providing a safe and effective way to bring competition to benefit patients is a laudable achievement. I wish we could remove this provision from this fatally flawed piece of legislation and consider it separately because it would pass with the kind of overwhelming bi-partisan support that Americans across the country wish to see.



However, these provisions are only the first step in a long path to the marketing of these new products. New research and clinical testing will have to occur, and the FDA will write rules that will ensure this research is done safely and effectively. One of the reasons I have long supported the U.S. biotechnology industry is that it is a homegrown success story that has been an engine of job creation in this country. Unfortunately, many of the largest companies that would seek to enter the biosimilar market have made their money by outsourcing their research to foreign countries like India. With this week's devastating news that unemployment has reached 10.2%, it is critical that we preserve jobs in the United States. While the innovators have created jobs here, these generic companies have shipped them overseas, so they can turn around and sell cheap knockoffs of innovative American products.

As this new market launches in the U.S., we need to ensure that we foster innovative products in this country for the creation of jobs and research that will go into proving whether these products are interchangeable with the innovators' products. I have my doubts that these companies can create such interchangeable products, but I am certain that the research and testing of whether or not they can should occur in this country and not somewhere across the globe. Testing and research on these interchangeable biosimilars should be occurring in this country to ensure that it is done properly and safely and to benefit our economy.

Mr. EDWARDS of Texas. Mr. Speaker, after listening to thousands of my constituents and carefully reviewing the legislation, I have made a decision to vote "no" on the House health care reform bill.

Given the huge federal deficits facing our nation, I believe there is too much new spending in this bill.

I am especially disappointed that the bill does not have a fiscal trigger in it to cut spending if actual costs of new programs turn out to be higher than projected.

While the Congressional Budget Office predicts this bill is paid for over 10 years, there is no mechanism in the bill to force spending cuts if those complicated projections turn out to be wrong.

I also have concerns about a government-run "public option" insurance company and question whether this bill goes far enough in actually reducing health care costs for working families and businesses.

Throughout this debate I have heard two extremes. Some on the far left would like to see the federal government run a socialized health care system. Some on the far right would get the government completely out of health care, which would mean the elimination of Medicare and Medicaid. I think both extremes are wrong.

I believe most people in our district recognize that health care reform is needed to hold down costs and to make health care more affordable and dependable, but they want any reform bill to be fiscally responsible. I agree.

Mr. SHUSTER. Mr. Speaker, after weeks of closed-door meetings, Speaker NANCY PELOSI has brought her healthcare reform to the floor for a vote today on Saturday while the atten-

tion of the majority of Americans is diverted. The Pelosi plan clocks in at over 1,900 pages, which is 648 pages longer than Hillary-care and it costs over a trillion dollars, or about \$2 million per word.

The sheer size and scope of the Pelosi plan is enormous. As we enter a time of 10.2 percent unemployment, the American people will not accept a government takeover of healthcare that will kill even more jobs, hurt small businesses, increase the deficit now and drown future generations in stifling debt.

While the sheer size and scope of the Democrats' takeover of healthcare prevents me from pointing out every egregious part of the proposal, I would like to point out four areas that should give all Americans pause.

Taxes: The Pelosi plan would impose \$730 billion in new taxes on businesses that can't afford to pay for their employees' health coverage. According to President Obama's own economic advisor, Christina Romer, these new taxes would put 5.5 million workers at serious risk of losing their jobs. Close to 32,500 small businesses in Pennsylvania would be at risk from this new healthcare surcharge.

Deficit Spending: The Pelosi plan contains \$1.055 trillion in new federal spending over the next ten years. All of this spending will be used to take healthcare decisions out of the doctor's office and centralize them in Washington, DC, requiring the creation of over 100 new federal panels, commissions and unelected civil servants who will be charged with making decisions on your care.

Senior's Coverage: Earlier this year, President Obama pledged that "the government is not going to make you change plans under health reform." Today, he and NANCY PELOSI are proposing \$170 billion in cuts to Medicare Advantage. These cuts would force close to 38,000 enrollees in the 9th district out of Medicare Advantage and into regular Medicare.

Personal Freedom: The Pelosi plan will bring the nationalization of one-sixth of our economy and the elimination of choice for a majority of Americans to extend coverage to a few.

Republicans have an alternative focused on simple principles that will lower the cost of quality healthcare for all Americans. Our plan would let families and businesses buy health insurance across state lines and pool together and buy health insurance at lower prices. We would give states the tools to create their own innovative reforms that lower health care costs. Finally our plan would end excessive and unnecessary tests doctors perform that contribute to higher health care costs to protect against junk lawsuits.

Real health care reform should foster a system where competition and patient choice drive quality care and success. I believe we can accomplish this and fix what is broken in our health care system without forcing another trillion-dollar government takeover on taxpayers. I urge all of the members of this House to vote no on this reckless reform package. Vote no on a government takeover of healthcare.

Mr. PUTNAM. Mr. Speaker, America is at a crossroads and we, as Members of Congress have the duty and responsibility to ensure our great country remains vibrant and competitive in the 21st Century. For that reason, I cannot

figure out why the Democratic leadership and the administration want to rush to pass this monstrosity of a bill, with its \$1 trillion price tag and \$730 billion in taxes. I can confidently say that passing this health care reform bill will unwind private health care in America and at the same time do very little to bring down its cost.

I rise today to speak in strong opposition to the legislation before us, H.R. 3962. This measure is indeed historic—an historic expansion of the role of government in the lives of every American. Your choice of physician . . . your choice of medical facility . . . your choice of the kind of care and treatment you receive . . . these are some of the most personal decisions you can ever make. The prospect of placing those decisions into the hands of a new federal bureaucracy that would combine the efficiencies of FEMA with the compassion of the Department of Motor Vehicles ought to alarm every American.

So we are gathered here, to vote on legislation that is nearly twice the length of the original bill, H.R. 3200, that was introduced this summer. Mr. Speaker, I doubt that there are many people in this great hall who can honestly tell you they are fully conversant with every provision in this bill. But after doing our best to read, study and understand the nearly two-thousand pages of H.R. 3962 we know certain things this bill will do. For example, we know it will cost taxpayers more than a trillion dollars. We know it will impose \$730 billion in new taxes on small businesses and individuals. We know it will cost five-and-a-half million Americans their jobs. We know it will create over 100 new bureaus, commissions, and programs. And we know it will burden our states with tens of billions of dollars in new unfunded federal mandates. In Florida alone, the additional costs associated with the Medicaid mandates will be in the billions of dollars.

Mr. Speaker, we are told by the President and by the majority party in Congress that we need all this in order to make health care more affordable for the American people. How are we making health care more affordable if we are driving the American people into bankruptcy by taking historic steps toward a federal takeover of the entire health care system?

The Democrat Majority seeks to pay for their health care reform bill in part through 8 percent payroll penalty taxes on employers who cannot afford to provide insurance coverage, and through a 5.4 percent surtax on individuals making \$500,000 a year or more. These provisions are estimated to bring in more than \$595 billion.

You don't have to be an economist to know that these new taxes will have a direct and adverse affect on small businesses across America. An overwhelming majority of small businesses—approximately 75 percent of them—pay their business taxes through the owner at the individual level. Essentially, one in every three small businesses would be subject to the new surtax and just in the State of Florida as many as 57,000 small businesses would be affected. These provisions are effectively a tax on jobs that will stifle job creation and depress wages. In light of the latest unemployment numbers of 10.2 percent for the U.S. and 11 percent for Florida, this is hardly the time to raise costs on small businesses and employers.

If the taxes on America's small businesses were not enough, this bill also imposes a 2.5 percent tax on medical devices. At a time when our country spends about 17 percent of its GDP on health care, and we are tasked with developing policies to bring down the overall cost of care, it is irrational that we should tax an industry that is such an integral part of health care. This tax, on everything from syringes to artificial hips, will undoubtedly be passed along to the consumer.

Mr. Speaker, America has the best health care system in the world. Why should we destroy the economic backbone of America to create a government-run health care plan that the majority of Americans oppose? It does not have to be this way.

We can take significant steps to address health care—steps guided by principles based on the freedom of choice, transparency and openness, and a competitive free market.

We can lower health care premiums for American families and small businesses, addressing Americans' number-one priority for health care reform.

We can establish a universal access program to guarantee access to affordable health care for people with pre-existing conditions. The Republican alternative plan creates Universal Access Programs that expand and reform high-risk pools and reinsurance programs to guarantee that all Americans, regardless of pre-existing conditions or past illnesses, have access to affordable care.

We can curb the cost of defensive medicine in this country by putting an end to "junk lawsuits." The fear of lawsuits drives doctors to order expensive tests and procedures for patients, and not necessarily because they think they are in the best interest of the patients. Some doctors have even had to close their doors because they cannot afford the malpractice insurance premiums. It is evident that meaningful medical malpractice reform should be a component of any health care reform proposal. The Republican plan would help save \$54 billion in the health care sector by including measures that have been successfully demonstrated in California and Texas.

Just as we all want to reduce the cost of care, we should seek innovative ways to provide coverage without breaking the bank. We can do this by empowering small businesses with the opportunity to pool together and negotiate lower health care premiums—just as corporations and labor unions do—through association health plans. Another common sense reform would allow Americans to shop for coverage from coast to coast across state lines.

We can promote prevention and wellness by giving employers greater flexibility to financially reward employees who adopt healthier lifestyles. Incidentally, about 75 percent of medical spending goes toward the treatment of chronic diseases. Research shows that the number of individuals suffering from chronic diseases like diabetes and heart disease could be reduced through proper wellness, prevention, and disease management programs. The Republican alternative would allow for employers to offer flexible coverage options to reward and encourage healthy behaviors in an effort to reduce overall spending on costly chronic diseases.

We can do all of these things and more, Mr. Speaker. And we can do these things with leg-

islation that the Congressional Budget Office says will lower premiums by up to 10 percent and reduce the deficit by \$68 billion over the next ten years, without imposing tax increases on families and small businesses.

This alternative will give Americans access to health care, it will free up our medical system to become more innovative and efficient, and it is what Americans expect from their country.

Mr. Speaker, this alternative is what this Congress should be sending to the President's desk—not the mammoth, unwise, and extraordinary expansion of government embodied in H.R. 3962.

I urge my colleagues to vote "no" on this bill.

Ms. JENKINS. Mr. Speaker, I have criticized many of the provisions of this bill and rightfully so. However, I do believe the sections relating to the creation of a market for biosimilar products is one area of the bill that strikes the appropriate balance in providing lower cost options to consumers without destroying a healthy and functioning industry in this country. These provisions were one of the few areas in the bill adopted on an overwhelming bipartisan vote for the Eshoo-Inslee-Barton (EIB) amendment in the Energy and Commerce Committee.

Creating a pathway for new products that doesn't destroy the ability or the incentives for innovator companies to develop breakthrough technologies and at the same time providing a safe and effective way to bring competition to benefit patients is a laudable achievement. I wish we could remove this provision from this fatally flawed piece of legislation and consider it separately because it would pass with the kind of overwhelming bipartisan support that Americans across the country wish to see.

However, these provisions are only the first step in a long path to the marketing of these new products. New research and clinical testing will have to occur and the FDA will write rules that will ensure this research is done safely and effectively. One of the reasons I have long supported the U.S. biotechnology industry is that it is a homegrown success story that has been an engine of job creation in this country. Unfortunately, many of the largest companies that would seek to enter the biosimilar market have made their money by outsourcing their research to foreign countries like India. While the innovator's have created jobs here, these generic companies have shipped them overseas, so they can turn around and sell cheap knockoffs of innovative American products.

As this new market launches in the U.S., we need to ensure that we foster innovative products in this country for the creation of jobs and research that will go into proving whether these products are interchangeable with the innovators' products. I have my doubts that these companies can create such interchangeable products, but I am certain that the research and testing of whether or not they can should occur in this country and not somewhere across the globe. Testing and research on these interchangeable biosimilars should be occurring in this country to ensure that it is done properly and safely and to benefit our economy.

Mr. CONAWAY. Mr. Speaker, I have criticized many of the provisions of H.R. 3962, the

Affordable Health Care for America Act, and with good reason. However, I believe that the creation of a market for biosimilar products is one area of the bill that strikes the appropriate balance in providing lower cost options to consumers without destroying a healthy and functioning industry in this country. These provisions were adopted on an overwhelming bipartisan vote for the Eshoo-Inslee-Barton (EIB) amendment in the Energy and Commerce Committee.

Creating a pathway for new products that does not destroy the ability or the incentives for innovator companies to develop breakthrough technology and at the same time provide a safe and effective way to bring competition to benefit patients is a creditable achievement. Ideally, this provision would be removed from this fatally flawed piece of legislation and considered separately, as it would pass with overwhelming bipartisan support.

These provisions are the first step on the long path to the marketing of these new products. New research and clinical testing will have to occur, and the FDA must write rules that will ensure that research is done safely and effectively. I have long supported the U.S. biotechnology industry as it has been a strong engine of job creation in this country. Unfortunately, many larger companies that seek to enter the biosimilar market have outsourced research to foreign countries. With this week's devastating news that unemployment has reached 10.2 percent, it is critical that we preserve jobs in the United States.

As this new market launches in the United States, we must foster innovative products at home to create jobs, and conduct research that will prove whether products are interchangeable with innovators' products. It is unlikely that these companies can create such interchangeable products; however research and testing will prove if it can be conducted within our borders without being outsourced.

Mr. HONDA. Mr. Speaker, in our lives as public servants, Members of Congress are rarely presented with opportunities to support the passage of truly historic legislation. Today is such a day, and this health care vote such an opportunity. Over the past ten months that I have participated in the creation of this health reform bill, I have been thinking about the words of Hubert Humphrey: "It was once said that the moral test of government is how that government treats those who are in the dawn of life, the children; those who are in the twilight of life, the elderly; and those who are in the shadows of life, the sick, the needy and the handicapped."

Today I rise in strong support of H.R. 3962, the Affordable Health Care for America Act. For 70 years Americans have been waiting for this moment. I would like to particularly thank Speaker PELOSI for her deft leadership and management of a complex policy debate, Majority Leader HOYER, Majority Whip CLYBURN, the Chairs of the Committees on Energy and Commerce, Education and Labor, and Ways and Means, along with my fellow progressive and colleagues in the Congressional Asian Pacific American Caucus, Congressional Black Caucus, and Congressional Hispanic Caucus (collectively known as the TriCaucus) for their public and private commitments to preserve the public option. Finally, I commend staff of

all the committees for their hard work and commitment to this issue.

Against an organized, scorched earth campaign of misinformation and fear mongering, we are emerging with a strong bill, and an even stronger sense of unity and purpose in our fight to bring access, affordability, and high quality health care to every person in America. If the best of our reforms prevail, insurance companies will no longer be able to subject people to complex, confusing policy details, lifetime and annual limits, or denials based on pre-existing conditions. American taxpayers will save over \$100 billion in the first decade and will experience significant improvements in our health care system.

Although I have strenuously supported a stronger public option, I recognize that the balance of improvements made to the health care system as a whole through the reforms in this bill is substantial. When some thought the public option was dead, I and my other colleagues rallied to bring it back into the discussion and succeeded in keeping the public option in the final bill. The public option is a cornerstone of the effort to bend the cost curve in health care and must be preserved.

In my district alone, H.R. 2692 will improve employer based coverage for 500,000 residents, allow 16,700 small businesses to obtain affordable health care coverage and provide coverage for 28,000 uninsured residents. Finally, in a time of increasing pressure on local governments, it will reduce the cost of uncompensated care for hospitals and health care providers by \$205 million. It will protect the seniors in my district from the doughnut hole and improve the quality of their Medicare coverage.

As Chairman of the Congressional Asian Pacific American Caucus, I am particularly encouraged by the inclusion of legislative language addressing racial and ethnic health disparities. As members of the TriCaucus, we have long been advocating on the issue of health disparities and I am proud of the impact we have had in making changes that will directly help the poorest and most disadvantaged communities across this nation. As a long-time supporter of Native Americans in their struggle to survive and thrive after hundreds of years of oppression and genocide, I am particularly pleased by the inclusion of the Indian Comprehensive Health Insurance Act in health care reform. Native American communities worked for over a decade to come together and write policy that would help their communities begin to address the terrible and tragic health disparities they experience and the inclusion of ICHIA is a step in the right direction by the Federal Government to rectify some of the imbalances and abuses that they have caused in Native communities.

Despite the many extraordinary improvements to many aspects of our healthcare system, including an unprecedented expansion of access to Medicaid for many poor families, I am dismayed that we were not able to lift the 5 year bar on legal immigrant participation in Medicaid. Legal immigrants are tax paying citizens in waiting who work hard and contribute. It is only fair that we afford them equal access to the benefits of Medicaid. I will continue to advocate on this issue in the future and I know that I am joined in my concern by many of my colleagues.

Americans live in the wealthiest, most powerful nation in the world and spend \$2 trillion a year on health care every year—more than the national budget of China—and yet we don't have the best health care in the world. Thousands suffer and many die because of a lack of access to health care. Passing this bill and preserving its structure is a critical investment in the health of future generations.

Mr. CALVERT. Mr. Speaker, I rise today in objection to the Pelosi Health Care Bill which creates over \$1 trillion in new government spending. It is funded with the "Hope" that our children will figure out how to pay the bill tomorrow and with a "Change" in the Medicare program that cuts \$500 billion from the over 45 million beneficiaries currently covered.

Provisions within the Pelosi Health Reform Bill will raise premiums and lower access to care for America's seniors. Although Democrats try to present these changes to Medicare as improvements and savings, the White House's own actuaries have stated that these changes will increase Medicare spending at a greater rate than if we had done nothing at all. With the Centers for Medicare and Medicaid Services reporting earlier this year that the Medicare trust fund will be exhausted by 2017, I do not believe this Congress should take any action that hastens the jeopardy already faced by America's seniors.

The Pelosi Health Care Bill cuts \$170 billion from the Medicare Advantage Program, which covers almost 50 percent of the Medicare beneficiaries in the 44th Congressional District of California—36,124 senior citizens who rely on this highly successful program for their health care needs. The cuts undermine a program that currently gives seniors the choice to enroll in a private option and that provides the same benefits as traditional Medicare, prescription drug and other additional health benefits, usually with lower copayments.

The proposed changes also will result in reduced benefits for Medicare Advantage beneficiaries or result in higher premiums and copayments for fixed income seniors. But let me be clear—not for an improvement in service, but for the same or reduced level of service. For the workforce paying into the Medicare program, higher taxes are ahead.

In addition to the increased tax burden working Americans will face to keep Medicare afloat, this bill levies a 2.5 percent tax on the incomes of hardworking working Americans who cannot afford insurance. This breaks a fundamental promise of President Obama's campaign that he would not raise taxes on the middle class.

And even as the national unemployment climbs above 10 percent nationwide—over 20 percent in some parts of my district—Speaker PELOSI seeks to place an 8 percent tax on small businesses who cannot afford to provide government mandated "acceptable insurance" to their employees. In this economic climate, Congress should be working to enact real reform across the United States that creates jobs and stimulates the economy, not enacting a government expansion and tax regime that will put the jobs of at least 5.5 million largely low wage earners, minorities and young people at risk.

Finally, while Americans struggle to pay their bills and put food on the table, Speaker

PELOSI wants even more of their tax dollars to be spent to provide federal health benefits to the 12 million illegal immigrants currently in the United States. As I understand the bill before us today, a person would only need to "declare" that they are a citizen, provide a name and Social Security number and they would be eligible to receive health insurance benefits. There is no requirement for the verification of identification documentation. It is absolutely unacceptable that this bill would not, at a minimum, require even one verified identification document in order to receive taxpayer funded health care benefits. The bill should include clear processes and require documentation to confirm that an individual applying for health care benefits is a citizen or legal resident of the United States like the E-Verify program I created in 1996 for employers to verify the legal status of new employees.

The crafting of the bill before us today spent American liberties to purchase House Democrat votes in order to secure a political victory. The resulting legislation has put freedom and American ingenuity under the knife. For the sake of American jobs, American families and future generations, we must kill this bill and resume our work to create jobs, rein in government spending, increase healthcare freedom and choice and getting the U.S. government's financial house back in order.

However, I look forward to voting in favor of the Stupak-Pitts Amendment, which maintains the current federal government policy of preventing federal funding for abortion and for benefits packages that include abortion. This amendment ensures that federal taxpayers will not be coerced into funding elective abortions and is supported by U.S. Conference of Catholic Bishops, Democrats for Life, National Right to Life, Americans United for Life, Family Research Council, Concerned Women for America and many other pro-life groups. I look forward to continuing to work to ensure taxpayer funds are not used to fund abortions and to provide the broadest possible conscience protections for physicians, health professionals, hospitals, insurers, and all those in the business of caring for the health of Americans.

Mr. DICKS. Mr. Speaker, we have reached a pivotal moment in the House of Representatives today as we are about to approve the most significant expansion of access to health care in America in at least a generation. And the bill we are about to approve also represents the most substantial improvement of the quality of health care in our country that has been passed in the entire time I have been in Congress. I am proud to support this long-overdue and aptly-named legislation, the Affordable Health Care for America Act.

I am particularly pleased that we have come to an agreement within this bill on a provision that I believe will lead to a dramatic improvement in the way we pay for health care for America's seniors under Medicare. Under the current Medicare payment system, providers are reimbursed on a "fee-for-service" system that encourages more procedures and office visits. One of the most encouraging aspects of H.R. 3962 is language that will help shift Medicare to a system that is more efficient and that encourages better coordination of health care for seniors.

Medicare's complex reimbursement formula has long punished doctors for providing more cost effective, quality health care. It is truly unfair under our current system that Medicare spends \$7,363 per enrollee in a city in my district—Tacoma, Washington—while it spends twice that amount, \$14,946, in the small Texas town of McAllen. These differences are largely due to discretionary decisions by physicians that are influenced by the local availability of hospital beds, imaging centers and other resources—and a payment system that rewards growth and more intense use of medical facilities and testing. But this focus on utilization is not only inherently more costly, it tends to ignore the health care outcomes, which should really be the goal of any system of care. And it exacerbates the problem we are already facing with Medicare: out-of-control growth rates. At current trajectory, Medicare will be \$660 billion in the red by 2023, highlighting the urgent need to find ways to trim this growth rate. If we could reduce the annual growth in per capita Medicare spending from the national average—3.5 percent—to 2.4 percent, the rate in San Francisco, Medicare could save \$1.42 trillion over that period and turn the deficit into a healthy surplus.

So in order to help move us toward this goal and produce a more equitable system of reimbursement, I was pleased to work with a number of concerned Members here in Congress on language in this bill that will enlist the resources of the independent, non-profit Institute of Medicine to examine the existing Medicare geographic payment inequities for both physician and hospital payments and to address the inequities that are clearly contained in our current system. We are also investing \$4 billion per year in 2012 and 2013 to make payment rate adjustments so that no geographic area will be disadvantaged during 2012 and 2013.

I am also pleased that a related provision of this bill calls for an additional study by the Institute of Medicine to conceptualize a system of Medicare payments based on quality outcomes versus the current system of "fee-for-service." This "High-Value Study" will be completed by April 15, 2011 and the Institute's recommendations will be submitted to the Secretary of Health and Human Services, who will then have 240 days to submit a final implementation plan to Congress. This plan will take effect unless Congress passes a resolution of disapproval by the end of May 2012.

These are very important reforms that I believe will help ensure the solvency of Medicare and promote a more equitable system of health care for seniors that stresses results over process. They are among the many aspects of this overall health care reform package that deserve our support, and I am proud to be speaking today to recognize these provisions and to urge all my colleagues to pass the Affordable Health Care for America Act.

Mr. WALZ. Mr. Speaker, over the past three years, I've discussed health care reform with thousands of my constituents. I've heard from doctors and nurses, health care policy experts and small business owners. Most importantly, I've heard from middle-class Minnesotans who are fed up with the status quo.

Take Kristy, who is a Rochester mother and breast cancer survivor. Access to affordable

health insurance is a life or death matter for her and millions of other Americans.

Last year, Kristy's health insurance premium increased 17 percent. Hard-working Americans every year see premiums rise faster than their take-home pay. This is a financial disaster in progress. If ignored, this will result in an explosion in the number of uninsured individuals, reaching far into the ranks of the gainfully employed and middle class.

Kristy's employer laid-off workers this year, in part because of rapidly rising health care costs. Small businesses across America are shedding good workers to cover sky-rocketing health care expenses, stifling entrepreneurship and innovation.

And then, recently, Kristy lost her job. She worries about whether she'll be able to get health insurance given her pre-existing medical condition, once her temporary COBRA coverage expires.

Last year, more than 700 of our neighbors in southern Minnesota went bankrupt because of medical bills. It is unconscionable for anyone to go broke solely because they get sick. Now, Kristy wonders if she's next.

Kristy's story has become all too common in America today.

It doesn't have to be this way.

I rise today in strong support of H.R. 3962, the Affordable Health Care for America Act, because of people like Kristy. This bill, which includes important fixes from Democrats and Republicans, will tear down the status quo, rein in costs and bring stability and peace of mind to regular people like Kristy.

The House health care bill has four important pillars of reform:

The first pillar stops run-away costs and rewards quality care. A patient-centered initiative spearheaded by Mayo Clinic is at the heart of rewarding quality. The current fee-for-service payment model in Medicare perversely encourages health care providers to perform unnecessary procedures and tests. This is backwards. Hospitals and doctors should instead be rewarded for innovation, results, and quality care. The Mayo-backed solution in this bill asks experts at the independent Institute of Medicine to come up with and help implement new pay-for-results policy in Medicare. This will help deliver better care for our seniors.

The second pillar reforms the insurance industry to benefit ordinary folks. It provides overdue transparency and accountability by ending health insurance companies' blanket exemption from anti-trust laws. Firms will no longer be shielded from liability for price-fixing or monopolizing. We've seen what happened on Wall Street when corporations got too big to fail and their books too confusing to understand.

It goes further to protect consumers by making it illegal to deny coverage for pre-existing conditions like Kristy's or charging more based on gender, occupation, or health status. It also caps annual out-of-pocket expenses and prohibits unfair limits on benefits to ensure no American goes bankrupt because of illness. And, it allows individuals up to the age of 27 to stay on their parents' insurance plan.

The third pillar promotes competition and choice for people who don't have insurance today or lose it in the future. Under the bill, Americans will be required to obtain health in-

surance, just like drivers are mandated by state law to purchase auto insurance.

People who don't have health insurance today or lose it in the future can participate in the Health Insurance Exchange where they can compare and purchase insurance products that best meets their needs. An analysis by MIT Economist Jonathan Gruber found that premiums for folks in the Exchange will be lower than they would be if those same people were buying individual insurance in today's market.

Privately-owned insurance companies, member-owned cooperatives, and a government-backed public option will compete for business in the Exchange. Low-income workers will get financial credits to help them afford to buy insurance.

Another solution brought up at my town hall meetings and championed by Minnesota's Republican Governor Tim Pawlenty is fostering competition and lower costs through interstate insurance sales. The House health care bill allows states to work together to do just that.

Finally, the fourth pillar will improve seniors' access to quality, affordable health care and protect the doctor-patient relationship. It addresses one of seniors' top concerns by immediately beginning to fill in the Medicare Part D donut hole which will make prescription drugs more affordable.

I joined the President and Republicans in demanding that health care reform be fiscally responsible. The bill before us now is paid for and does not add to the national debt, according to the nonpartisan Congressional Budget Office.

To the defenders of the status quo who are opposing health insurance reform, I have one question for you: How does your plan help people like Kristy?

I encourage my colleagues to stop playing political games and come together across party lines to solve the problem. Vote yes on H.R. 3962, the Affordable Health Care for America Act.

Mr. MANZULLO. Mr. Speaker, America's health care system is in need of reform. The families in the congressional district I represent have seen their health premiums consume more and more of their salary. Employers are faced with the difficult decision regarding whether or not they can continue to afford to offer their employees the health coverage they know they need. Many more wish they could offer their employees coverage but the orders just aren't there, not in this economy. Doctors and other health providers have seen their reimbursements decline while their practice costs have risen and their liability insurance premiums have skyrocketed due to those who abuse our lawsuit system. Some doctors have reached the conclusion that they can no longer accept Medicare or Medicaid patients.

I have spent my entire tenure in Congress working to reform our health care system to help these families, employers, and health providers. I have worked to pass association health plans so that small businesses can join together with other small businesses from across the country to grow their purchasing power on behalf their employees. I have also supported allowing Americans to obtain health insurance through other larger purchasing pools such as their church denomination,

alumni association or other memberships. The Republican Congress twice passed association health plans only to come up short as a result of Democrat opposition in the Senate.

I have worked to pass health care options that meet the unique needs of families, such as medical savings accounts, health savings accounts, and flexible spending arrangements. These important initiatives allow families to save for future health needs and have been an important tool for small businesses. However, I have also had to defend these successful plans from assault by those who seek sources of revenue to fund tried-and-failed big government programs.

I have worked to pass medical liability reform to reduce the high premiums that are driving doctors and other health providers from practice. Doctors in the district I represent face medical liability premiums three to four times as high as their colleagues just north of the border in Wisconsin as a result of Wisconsin's sensible cap on the third-layer non-economic, punitive awards. The Republican Congress twice passed medical liability reform only to have the reform die in the Senate as a result of Democrat opposition.

I have worked to revise the flawed payment formula for doctors who treat Medicare patients to ensure that our seniors continue to have timely access to the most talented medical professionals in our community. I have worked to make sure that none of our health providers are targeted unfairly by government policies or agencies.

And I have spent over 75 percent of my time trying to improve the economic climate for the manufacturers and other small businesses back home so that they can not only remain competitive world-wide, but also be able to offer competitive health care benefits for their employees.

Today, I support a Republican plan that continues to pursue these important reforms. Rather than punish small businesses with onerous mandates and tax penalties for not offering health coverage, the Republican plan will provide tools for small businesses to pool together, just as larger corporations or labor unions do, to offer health care to their employees at lower prices.

The Republican plan would save \$54 billion by helping to restore common sense to the legal system and curb defensive medicine by enacting medical liability reforms modeled after the successful state laws of California and Texas. This will dramatically reduce health costs for doctors and patients and will reduce the need for expensive additional tests or procedures that do nothing to improve health status but simply are ordered because of the threats of lawsuits.

The Republican plan will lower health insurance premiums for all Americans. The non-partisan Congressional Budget Office estimated that premiums would be reduced by 10 percent for employees who receive their coverage through their small business employer; 8 percent for those who do not have access to employer-provided coverage; and 3 percent for employees who receive their coverage through a larger business. Families will see their premiums \$5,000 lower than the cheapest government run health insurance plan offered by the Democrats.

The Republican plan provides options for those with pre-existing conditions or those otherwise unable to afford health insurance through state high risk pool options designed to meet the unique regional needs of local citizens. The Republican plan provides options for young adults to remain on their parents' health plans.

The Republican plan promotes innovation in the areas of coverage, technology, and wellness, and prevents government bureaucrats from coming between a doctor and patient. It preserves existing law preventing federal funding from paying for elective abortions. It doesn't raise taxes; it doesn't cut Medicare benefits; it doesn't force anyone into a new government-run health program; and rather than increasing the debt burden on our children and grandchildren, the CBO estimates that the Republican plan will save \$68 billion over the next ten years.

Unfortunately, the bill offered by House Speaker NANCY PELOSI (D-CA) takes a very different approach. The Pelosi bill is a \$1.3 trillion dollar federal government takeover of the entire health care sector. It increases taxes by \$766 billion, taken from badly needed capital for operations and loans for small businesses and is estimated to kill 5.5 million jobs. It penalizes employers for not offering and employees for not purchasing the health coverage that a new all-powerful Health Choices Commissioner deems acceptable. It increases the cost of health care for patients and other health consumers through a new 2.5 percent tax on medical equipment, such as wheel chairs. The Pelosi plan cuts \$500 billion from Medicare, which will hurt 18,425 seniors from the Congressional district I represent. District hospitals will see their Medicare payments cut by \$244.7 million and local skilled nursing facilities will lose \$113.4 million.

Despite claiming the goal of decreasing health costs, the Democrat bill creates 111 new bureaucracies, commissions, agencies, or offices, necessitating the hiring of thousands of new bureaucrats. These new czars and commissars will micromanage all aspects of Americans' health, including the following from page 1514: "The Secretary shall establish by regulation standards for determining and disclosing the nutrient content for standard menu items that come in different flavors, varieties, or combinations, but which are listed as a single menu item, such as soft drinks, ice cream, pizza, doughnuts, or children's combination meals, through means determined by the Secretary, including ranges, averages, or other methods."

This Pelosi bill irresponsibly shifts significant costs to the states by hiking their Medicaid expenses. Most states already face significant existing Medicaid shortfalls as demonstrated by the Medicaid bailout for states contained in the Democrat stimulus bill.

The creation of a new government health insurance exchange through which all insurance must be approved and through which all individual insurance must be sold will jeopardize the insurance choices currently enjoyed by over 85 percent of Americans. The creation of a government run health insurance plan coupled with a heavy-fisted regulatory scheme tipped significantly in its favor will further erode the Americans choice of coverage and

eventually result in most Americans being forced into a full-blown government run insurance scheme. Further troubling is the inclusion of comparative effectiveness research panels that are utilized in European single-payer systems to ration health care based on cost factors.

And despite the CBO's estimate on the significant savings that could be achieved, the Democrat bill not only contains no medical liability reform, but it actually incentivizes states to repeal their existing medical liability laws in exchange for money.

In sum, the Pelosi bill will kill jobs, cut Medicare, pile debt on our children, increase health care costs, ration care, and raise taxes. As a result of these and hundreds of other disturbing provisions, I cannot in good conscience vote for the Pelosi government takeover of health care.

Ms. KAPTUR. Mr. Speaker, the Affordable Health Care for America Act will strengthen America and offer greater security to our workers, families, seniors and businesses. It will enhance our Nation's health care system, placing American healthcare consumers where they belong: at the heart of it. H.R. 3962 will improve quality, choice and competition, while cutting down fraud, waste and abuse, and lowering costs over the long term. It will strengthen Medicare, eliminate the Part D "donut hole," improve access for lower income citizens so that Medicare is affordable for ALL seniors, and create new consumer protections for Medicare Advantage Plans. Discrimination for pre-existing conditions, dropped coverage, and yearly or lifetime caps will no longer be tolerated. Co-pays and other cost-sharing for preventative services will be eliminated and annual caps on what an individual or a family pays out-of-pocket will be established.

Since 1987, the cost of the average family health insurance policy has risen from 7 percent of median family income to 17 percent. Family premiums are projected to increase an average of \$1,800 each year and in 2007, 60 percent of bankruptcies were reported to be related to medical costs. With this bill, no American family will go bankrupt because they get sick.

Sixty percent of our Nation's entire uninsured population are small business owners and their employees and families. This equals at least 28 million uninsured Americans. Small business premiums have risen 129 percent since 2000. In 2008, 38 percent of small companies offered health coverage, compared with 41 percent in 2007 and 61 percent in 1993.

For too long, the health of our Nation has dwindled while the pockets of the insurance giants have thickened. Our seniors have compromised prescription drugs for necessary groceries, while the pharmaceutical industry has made record profits. Hard working families have watched their savings plummet and their homes foreclosed after unexpected illnesses. Women with breast cancer, men with heart disease and children with leukemia or childhood diabetes have been flat-out denied health insurance coverage for pre-existing conditions or reaching insurance policy caps.

Under the House Plan, the Ninth Congressional District of Ohio, the region I represent, will benefit immensely and in very specific ways:

386,000 residents will see improved employer-based coverage

167,000 households would be eligible for credits to help pay for coverage

38,000 uninsured citizens just in our region would be eligible for insurance under a reformed system

14,500 small businesses will be allowed to obtain affordable health care coverage and 12,400 among them will receive tax credits to help reduce the costs of health insurance

102,000 beneficiaries will benefit from an improved Medicare program

7,600 seniors will benefit from closing the prescription drug donut hole, starting with \$500 of cost forgiveness in 2010

1,700 families will be protected from bankruptcy due to unaffordable health care costs

\$120 million in savings will be seen by hospitals and health care providers as a result of reductions in uncompensated care.

Under this bill, immediately, the uninsured and seniors will receive relief through a temporary insurance program. Individuals receiving COBRA will be allowed to keep their coverage until a more customer friendly, one-stop marketplace for health insurance, known as the Exchange, is created. The Exchange will offer affordability credits and tax credits for individuals and businesses that need them. Health plans will be required to allow young people until their 27th birthday to remain on their parents' health insurance policy. Moreover, insurance companies will be subject to public review and disclosure of insurance excessive rate increases.

Much needed investments will be made right away in training programs designed to increase the number of primary care doctors, nurses, and public health professionals. Not-for-Profit purchasing collaboratives, such as the FrontPath Health Coalition from Northwest Ohio, will be strengthened to achieve careful plan management and cost-savings, and encouraged as a central provision of Title I. Community Health Centers will see an increase in funding to allow for a doubling of patients over the next 5 years. A \$10 billion fund will be created to finance a temporary reinsurance program to help offset the costs of expensive health claims for employers that provide health benefits for retirees age 55–64.

The well being of individuals and our nation will benefit from these reforms. From an economic standpoint, healthcare costs have stifled the vitality of American businesses and their ability to compete in the global marketplace. The 129 percent increase since 2000 in small business premiums alone have smothered their potential and destroyed their ability to cover employees, resulting in an astounding 60 percent of our Nation's entire uninsured population.

Affordable health insurance reform is necessary to cut the costs of doing business, reduce the share of government expenditures spent on health care, help our companies to be more competitive in the world market, unleash the entrepreneurial talents of the American people, and give peace of mind to the middle class and our seniors and others that everything they have worked for will not be taken away if they get sick.

As someone who grew up in a small business family, I watched our father forced to sell

our small family grocery when he became ill. He needed health insurance for our family and took a job at a local auto assembly plant to obtain it for his wife and children. I promised myself when I was elected to Congress that passing legislation to cover small business would be one of my top priorities. Finally, it has become possible to vote on a bill that will do this for millions of our fellow citizens.

With the mounting economic strain on American families and the rising costs of health insurance to workers, businesses and federal budget, the status quo has proven itself unsustainable, fiscally irresponsible and morally unacceptable. The time has come for this historical change. I stand in support of its promise to the American people.

Mr. KUCINICH. Mr. Speaker, we have been led to believe that we must make our health care choices only within the current structure of a predatory, for-profit insurance system which makes money not providing health care. We cannot fault the insurance companies for being what they are. But we can fault legislation in which the government incentivizes the perpetuation, indeed the strengthening, of the for-profit health insurance industry, the very source of the problem. When health insurance companies deny care or raise premiums, copays and deductibles they are simply trying to make a profit. That is our system.

Clearly, the insurance companies are the problem, not the solution. They are driving up the cost of health care. Because their massive bureaucracy avoids paying bills so effectively, they force hospitals and doctors to hire their own bureaucracy to fight the insurance companies to avoid getting stuck with an unfair share of the bills. The result is that since 1970, the number of physicians has increased by less than 200% while the number of administrators has increased by 3000%. It is no wonder that 31 cents of every health care dollar goes to administrative costs, not toward providing care. Even those with insurance are at risk. The single biggest cause of bankruptcies in the U.S. is health insurance policies that do not cover you when you get sick.

But instead of working toward the elimination of for-profit insurance, H.R. 3962 would put the government in the role of accelerating the privatization of health care. In H.R. 3962, the government is requiring at least 21 million Americans to buy private health insurance from the very industry that causes costs to be so high, which will result in at least \$70 billion in new annual revenue, much of which is coming from taxpayers. This inevitably will lead to even more cost, more subsidies, and higher profits for insurance companies—a bailout under a blue cross.

By incurring only a new requirement to cover pre-existing conditions, a weakened public option, and a few other important but limited concessions, the health insurance companies are getting quite a deal. The Center for American Progress' blog, Think Progress, states "since the President signaled that he is backing away from the public option, health insurance stocks have been on the rise." Similarly, healthcare stocks rallied when Senator MAX BAUCUS introduced a bill without a public option. Bloomberg reports that Curtis Lane, a prominent health industry investor, predicted a few weeks ago that "money will start flowing

in again" to health insurance stocks after passage of the legislation. Investors.com last month reported that pharmacy benefit managers share prices are hitting all-time highs, with the only industry worry that the Administration would reverse its decision not to negotiate Medicare Part D drug prices, leaving in place a Bush Administration policy.

During the debate, when the interests of insurance companies would have been effectively challenged, that challenge was turned back. The "robust public option" which would have offered a modicum of competition to a monopolistic industry was whittled down from an initial potential enrollment of 129 million Americans to 6 million. An amendment which would have protected the rights of states to pursue single-payer health care was stripped from the bill at the request of the Administration. Looking ahead, we cringe at the prospect of even greater favors for insurance companies.

Recent rises in unemployment indicate a widening separation between the finance economy and the real economy. The finance economy considers the health of Wall Street, rising corporate profits, and banks' hoarding of cash, much of it from taxpayers, as sign of an economic recovery. However in the real economy—in which most Americans live—the recession is not over. Rising unemployment, business failures, bankruptcies and foreclosures are still hammering Main Street.

This health care bill continues the redistribution of wealth to Wall Street at the expense of America's manufacturing and service economies which suffer from costs other countries do not have to bear, especially the cost of health care. America continues to stand out among all industrialized nations for its privatized health care system. As a result, we are less competitive in steel, automotive, aerospace and shipping while other countries subsidize their exports in these areas through socializing the cost of health care.

Notwithstanding the fate of H.R. 3962, America will someday come to recognize the broad social and economic benefits of a not-for-profit, single-payer health care system, which is good for the American people and good for America's businesses, with of course the notable exceptions being insurance and pharmaceuticals.

Mr. AL GREEN of Texas. Mr. Speaker, I rise in support of H.R. 3962, the Affordable Healthcare for America Act. I would like to thank the Democratic Leadership and the Chairmen of the committees of jurisdiction for their unwavering commitment to this important cause.

Today, we are faced with a historic opportunity to accomplish meaningful change in the lives of millions of Americans. I am in support of this bill because I believe in improving the quality of care, the accessibility of care, and the affordability of care. The status quo is unsustainable and the cost of inaction is simply too high.

If we pass this legislation, we will reduce the federal deficit by an estimated \$129 billion over the next ten years. If we fail to do so, we will ensure that our country continues to spend \$79,274 a second on healthcare. We will continue to dedicate 17.6 percent of our gross domestic product, or \$2.5 trillion a year towards healthcare expenditures.

To pass this legislation would mean that an estimated 36 million Americans would gain access to health insurance; failing to do so, would mean that the 45.7 million Americans who cannot afford, or cannot gain access to healthcare, would remain without coverage. Among the 45.7 million uninsured, 1.4 million are children in my home state of Texas—this is simply unacceptable.

Finally, passing this legislation would mean an end to the discriminatory practices of the health insurance industry that have devastated so many Americans. No longer will people fear having a pre-existing condition will prevent them from receiving health insurance coverage. No longer will families fear the uncertainty of a catastrophic health event, or fear being driven into bankruptcy in trying to pay for the cost of care. No longer will people have to fear losing their health coverage simply for getting sick. In passing this legislation, we put an end to the days when 14,000 Americans lose their coverage every day.

The time has come when we, in Congress, are faced with a decision to either change the course of this country, to shift its direction towards accessible and affordable healthcare, or continue down an unsustainable path, one wrought with uncertainty. With so many American families struggling to support themselves, I am proud to support this legislation.

Mr. MARKEY of Massachusetts. Mr. Speaker, thank you Speaker PELOSI, Chairman WAXMAN, Chairman Emeritus DINGELL, Chairman RANGEL and Chairman MILLER for your leadership in bringing us to this historic day.

For almost a century, we have been laying the groundwork for comprehensive health care reform in our country—ever since Theodore Roosevelt's Progressive Party included health insurance coverage in its platform for the 1912 elections.

Since then, there has been some progress—Medicare for seniors, Medicaid for the poor, CHIP for children,—as well as successful efforts in some states, including the landmark health reform law enacted in my home state of Massachusetts three years ago. But we have continued to come up short. And now the 46 million Americans without health care are paying the price.

Our health care system has been ailing for decades, and now it's in intensive care. The consequences of this broken health care system are severe—the number one cause of personal bankruptcies today is medical bills—Americans going broke when they get sick. And 80 percent of these medical bankruptcies strike Americans who actually have insurance. It is unconscionable that so many Americans have to fight their insurance companies while they fight for their very lives. Their insurance policies fail to cover all of the astronomical costs associated with their treatment. They are insured, but not covered.

I recently received a letter from a constituent that illustrates one of the reasons why we need health care reform now. Peter returned home from the hospital to find a bill informing him that his insurance company denied coverage for the anesthesia used during his operation. The insurance company deemed the anesthesia “medically unnecessary” and billed him \$10,000.

He had open heart surgery, Mr. Chairman. So he asked me, did the insurance company

expect him to “take a swig of whiskey and bite a bullet” while the surgeon cut open his chest? Unbelievable, Mr. Chairman, but true. Like too many Americans, he was insured, but not covered. We desperately need health care reform because there are too many stories like Pete's all across the country.

My Republican colleagues want to put a Band-Aid on our badly broken system, but what it really needs is CPR—Coverage, Prevention and Research. That's exactly what our health bill delivers for the American people.

We expand COVERAGE to ensure that all Americans have access to affordable care.

We invest in PREVENTION to transform our system from a “sick care” system into a true health care system.

We support RESEARCH, building on the \$10.4 billion down payment in the recovery and reinvestment act for NIH. In this bill, we will invest in comparative effectiveness research to help improve the quality of care and reduce costs.

The Republicans' plan is really quite simple: You're On Your Own. The Republican plan tells Americans—“If you get sick and don't have insurance, you're on your own.” The Republican plan tells Americans if you are denied coverage because of a pre-existing condition “You're on your own.” Republican Leaders in Washington seem to be suffering from a pre-existing condition of their own—a heart of stone. If you kicked their heart, you'd break your toe! And under the Republican plan, they could be denied coverage.

The Republicans say the Democratic Plan will put the government between you and your doctor, but the doctors who make up the American Medical Association support the Democratic bill, not the Republican Plan. They say it will hurt small businesses but the Main Street Alliance, representing thousands of small businesses around the country, support the Democratic bill, not the Republican Plan. The Republicans claim the Democratic bill will hurt seniors, but the AARP has endorsed the Democratic bill, not the Republican Plan.

There are reasons why the AARP supports the Democratic bill. The Democratic bill will close the Medicare part D donut hole, the Republican bill does not. We provide support for low-income seniors, they do not. We will extend the solvency of Medicare, they do not.

You know, GOP used to stand for Grand Old Party. Now it stands for Grandstand, Oppose, and Pretend. They grandstand with phony claims about non-existent death panels. They oppose any real reform. And with this Substitute they pretend to offer a solution while really doing nothing. GOP—Grandstand, Oppose, and Pretend.

Make no mistake about it; the Republican substitute is not real reform. It does nothing to curb skyrocketing health care costs. It does nothing to provide real insurance coverage to millions who are now uninsured. It does nothing to stop the unfair practices of insurance companies.

Mr. Speaker, there are too many Americans living in fear of a terrorist attack, but not the kind that comes from a gunshot, bomb or box cutter. It's the kind that may strike during a phone call from the doctor's office or during a check-up when the doctor delivers devastating news: “You have cancer”; “Your memory loss

is early onset Alzheimer's”; “The numbness is Parkinson's”; “The Lou Gehrig's Disease that claimed your grandfather will strike you one day.”

We can fight against the terror of disease by reforming our health care system with better coordination, focusing on prevention, and ensuring that all Americans have access to quality, affordable care. And that's exactly what our bill will do.

I am pleased that this historic bill includes provisions that I authored, including:

A Medicare program to provide coordinated care to severely ill patients by a team of doctors and other health care professionals right in the beneficiaries' own homes, allowing these frail Americans to remain independent as long as possible.

A provision to allow patients with rare diseases, like cystic fibrosis, to participate in clinical trial research to find a cure for their devastating disease without losing eligibility for the Social Security benefits they depend on.

A safeguard to ensure that insurance companies don't game the new health care exchange by cherry-picking only healthy individuals.

Today, we are here to write a new chapter in our century-long effort to provide every American with the health care coverage they need and deserve.

Today we can vote for a bill that uses the American values of choice, innovation, and competition to address some of our nation's greatest challenges—skyrocketing health care costs, millions without health insurance, and millions more who are under-insured and struggling to pay their medical bills.

Today we can pass legislation that gives all Americans access to quality, affordable health care. I urge my colleagues to vote “aye” on this bill.

Ms. HERSETH SANDLIN. Mr. Speaker, I believe it's critical that we control rising health care costs, increase quality and value within our health care system, and that we improve access to health care and affordable health care insurance coverage.

H.R. 3962, the Affordable Health Care for America Act, represents one of the most important votes of the year, on an issue that has been a priority for me since I first was given the honor of representing South Dakotans in Congress. I have long believed that the strength of our communities in South Dakota depends on the health of our people and that, unfortunately, quality, affordable care remains out of reach for far too many South Dakotans.

I am convinced this Congress and the President will achieve fundamental reform because our country must fix what's broken in our health care system. The status quo is unsustainable. There is simply too much at stake for South Dakota's families and businesses, who have either seen their premiums rise sharply year after year, or who still have no access to an affordable plan.

Done right, health care reform will both ensure that more people have access to quality health care, and, just as critically, make the common-sense reforms that are necessary to fix an unsustainable system that threatens our fiscal future. These twin goals of addressing access, quality and costs on the one hand, and solidifying our fiscal future on the other



are not mutually exclusive. In fact, they are complementary.

Unfortunately, the House bill misses this critical opportunity. While it does include many good provisions, it is not the right answer for South Dakota, it could threaten existing access to health care in our state, and it does not include nearly enough cost-containment and deficit reduction measures.

I am concerned by the projected impact of the bill's Medicaid provisions on South Dakota's state budget, and the reductions in payments for long-term care under Medicare. I have recently discussed the state's budgetary situation with Governor Rounds, along with a number of community leaders, business people and others across South Dakota, and we must take this situation very seriously. The growth in the state Medicaid program due to the recession will produce a projected 25 to 30 million dollar deficit in the state Medicaid program in 2010, and, after the expiration of the Recovery Act enhancement in the FMAP rate, a 50 to 60 million dollar deficit in FY2011.

Early analysis suggests that the House bill Medicaid provisions would impose at least \$87.6 million more in new Medicaid costs on the state than the Senate Finance Committee bill. Given that budgetary impact, we have to consider the likelihood that dramatic service cuts would be the end result in South Dakota if the House bill were implemented, and that is a source of serious concern for me. It should be for every South Dakotan.

I have discussed the long-term care provisions of the House bill with a number of long-term care providers in South Dakota and have serious concerns about how the House bill would affect the future of care in our state for our seniors. While the original House legislation again has been improved in this respect by the addition of some incentive payments under Medicaid, overall, I am concerned that the cuts under Medicare to long-term care are unsustainable, and put undue financial pressure on this essential part of the health care infrastructure of South Dakota. Nursing homes will not derive the same benefit from universal coverage that hospitals will, so this is another issue that needs to be addressed as the process continues.

Another of my top priorities is the Indian Health Care Improvement Act reauthorization that has been incorporated into the broader bill. Together with the nine sovereign Native Tribes I represent, I have worked hard to advance the Indian Health Care reauthorization in the House of Representatives. I share the concerns of the Great Plains Tribal Chairman's Association (GPTCA) regarding aspects of the current version of that legislation. The GPTCA is comprised by the elected leaders of the sovereign Indian Tribes and Nations of the Great Plains, including South Dakota. I have consulted closely with the Tribes I represent. For years, the Tribes and the GPTCA have supported the Indian Health reauthorization and have been disappointed at the great length of time it has taken to bring the legislation to this point in the House. The GPTCA has reviewed the current version of the Indian Health reauthorization contained in the broader health reform bill and has serious concerns about certain provisions in the bill, principally

the fact that urban Indian non-profit organizations are, in various sections outside of Title V of the reauthorization, treated on a par with federally-recognized tribes.

The federal government has a unique relationship with the 562 federally-recognized American Indian and Alaska Native tribes. This government-to-government relationship is established by our founders in the U.S. Constitution, recognized through, hundreds of treaties, and reaffirmed through executive orders, judicial decisions, and congressional action. Fundamentally, this relationship establishes the responsibilities to be carried out by one sovereign to the other. That is why these requests by nine sovereign Sioux tribes located in South Dakota are essential. I will continue to provide my full support to GPTCA's requests to improve the reauthorization in conference with the Senate, and to properly fund Indian health services.

Turning again to the broader House health care reform bill, underlying my concerns relating to Medicaid and long-term care and other issues is a fundamental concern about the effect of broader House health care reform bill on the nation's long-term deficit, and more specifically, my view that it doesn't do enough to start bringing down the deficit and health care costs in the long term. As President Obama noted earlier this year: "If we do nothing to slow these skyrocketing costs, we will eventually be spending more on Medicare and Medicaid than every other government program combined. Put simply, our health care problem is our deficit problem. Nothing else even comes close." He's right. Skyrocketing long-term costs will bankrupt the Medicare trust fund by 2017—and that's just part of the problem we need to fix.

But when it comes to the net change in the federal budgetary commitment to health care, the House bill is seven times greater in budgetary commitment of dollars than the Senate Finance Committee bill, while falling far short of the long-term cost containment in the Senate bill. In my view, any bill with such a significant increase should have a similar commitment to cost containment. Otherwise, we'll find ourselves in the same situation we find ourselves in with Medicare—an essential program for South Dakotans that is going broke because we can't make the tough choices now and are putting those choices off until we face an immediate crisis. That's not reform—that's a recipe for fiscal disaster.

Now, the House bill does include a number of good provisions on which the vast majority of South Dakotans I have talked to agree. For instance, I strongly support provisions in this bill to require insurance companies to cover people with preexisting conditions, and to end the insurance companies' ability to cancel coverage when someone becomes sick. These practices must end. I was surprised and dismayed to see that the House Republican proposal that we also will vote on refuses to end the unconscionable practice of denying coverage for preexisting conditions. The Congress will ultimately agree on a bill that ends this practice. In addition, I support establishing health insurance exchanges to provide a transparent and competitive marketplace for individuals and businesses to buy more affordable health care plans.

Unfortunately, in my view the House bill has not come far enough from where it started, and the bill does not yet represent the right formula for South Dakota. Nonetheless, I am very optimistic that, with the House and Senate working together with the President, we will achieve a good bill for South Dakota during this Congress, because the time has come for fundamental reform.

Again—I believe the Congress has a responsibility to pass health care reform legislation that is deficit neutral, that ensures access, fairness and affordability of coverage for South Dakotans, and that takes a responsible approach to long-term costs with a focus on achieving higher quality health care outcomes. This bill meets some of these goals but not all, and I can't support it. I remain steadfastly committed to improving this legislation and I am optimistic that through the legislative process we will achieve what South Dakotans deserve, which is a fiscally responsible and sustainable reform of the health care system that will dramatically improve coverage and quality for all.

Mr. JORDAN of Ohio. Mr. Speaker, many of my colleagues from across the aisle have called this an historic day.

I wish it was an historic day!

I wish this was the day that the majority in Congress sat up and listened to the American people . . . not just the tens of thousands that stood at the steps of our Capitol to speak out in defense of protecting their health care . . . but the millions from around the country who called our offices, wrote letters to their newspapers, spoke at town hall meetings . . . or marched on Washington.

If they did, they would hear their deep and abiding concern for what will happen to their health care if this bill passes.

What will happen to the relationship between them and their family and their doctor when the heavy hand of government gets involved in medical decisions?

What will happen to seniors, and everyone taking care of their elderly parents or in-laws, when the overpromise of "free health care" meets the economic reality of "rationed care" when the federal government runs short on money?

What happens to Medicare Advantage customers whose services will be cut?

What happens to those using Health Savings Accounts whose health freedoms will be infringed upon?

What happens to the small business owner who desperately wants to hire back some employees or expand his business to provide more economic opportunities in his community? What happens when these individuals, upon whose success our nation will rise from this recession, have to pay the hundreds of billions in new taxes to pay for the massive government expansion in this bill?

Mr. Speaker, how bad does it have to get? How bad does it have to get before this Congress starts acting in a way that will help families, create jobs, and leave a better America for our children and grandchildren?

How bad does unemployment have to get? Earlier this week, it was announced that our nation has reached an unemployment rate of

10.2 percent, which is the highest unemployment rate in almost 30 years. Yet studies suggest that the taxes, mandates, and federal expansion in this bill will cost our nation another 5.5 million jobs in the private sector.

How bad does the deficit have to get? This year's deficit of over 1 trillion dollars was the highest in history. Yet this multi-trillion-dollar expenditure to take over the nation's health care system will explode the deficit, despite the fuzzy math that we've heard from the other side of the aisle.

The debt . . . it has reached a nearly insurmountable level of 12 trillion dollars. How bad does it have to get? Even without the massive uncontrolled expenditures involved with this health care bill, the national debt is projected to surpass the size of our economy in the next few years. Since when has the answer to an exploding national debt been an explosive expansion of federal government spending in areas that have always been a part of the private sector economy?

The one positive thing I can say about this bill is the pro-life victory we won with the amendment offered by my fellow pro-life colleagues, led by Mr. STUPAK and Mr. PITTS. I was proud to support that amendment because it honored the fundamental truths that life is sacred, life should be protected, and taxpayer money should never be used to take the life of an unborn child.

But Mr. Speaker, the bottom line is this: H.R. 3962 is the wrong answer to what ails America's health care system.

It is too expensive. It raises taxes. It expands the reach of the federal government into the personal health care decisions that should be left between patients and their doctors. It is a job killer. It will cause millions of Americans to lose their coverage, while expanding coverage to millions of illegal aliens.

Despite the newly-enacted pro-life protections that I fought so hard to enact both in this bill and every relevant piece of legislation before this House, it is a bad bill.

Let me close here. We are blessed to live in the greatest country in history. Our country is great, in part, because of something called the American Dream. We're a country where people, through their own hard work, can pull themselves up and reach for their goals and dreams.

Mr. Speaker, the American Dream happens because generations of parents have worked hard and sacrificed so their children can have life a little better than they did. When their children become parents, they sacrifice for their children, and the dream lives on.

This bill is just another example in the recent years of our country of borrowing for now and sending the bill to the next generation.

If we want the American Dream to live on, we must reject this bill and return to the American principles that made our nation that shining city on a hill.

Ms. ROYBAL-ALLARD. Mr. Speaker, I rise in support of H.R. 3962, the Affordable Health Care for America Act, a bill that is undoubtedly the most important single piece of legislation being considered by this 111th Congress, and possibly by any Congress in the last decade.

I commend Chairman WAXMAN from the Energy and Commerce Committee, Chairman MILLER from the Education and Labor Com-

mittee, and Chairman RANGEL from the Ways and Means Committee, and all of their dedicated staff who have invested so much time and energy into crafting a bill that addresses the complex and vast failures of our current health care system.

This has been without a doubt the most transparent and inclusive legislative effort that I have seen in my seventeen years in Congress, and I commend Speaker PELOSI for her tenacious leadership in bringing this bill to the floor.

The Affordable Health Care for America Act is not a perfect bill. With an issue that impacts so many stakeholders, and involves so many competing interests, it is doubtful any single legislative effort could ever satisfy everyone and address all the problems.

But the fact of the matter is that we cannot afford to do nothing. Study after study has shown that under our current system things will get worse unless we act now. If we are not successful in passing this health reform bill, Americans face a 50–50 chance of losing their insurance in the next 10 years, the average family will have their already prohibitive health costs increase an average of \$1,800 each year, and the rising price of medications may become unaffordable even for those with insurance.

H.R. 3962 will help end this cycle of skyrocketing health care costs and represents a milestone in our nation's history by finally framing healthcare as a universal right for all Americans. With the passage of this bill we will improve the quality and affordability of health services, prioritize prevention and the reduction of health disparities, and take the necessary albeit difficult steps to rein in the escalating costs of health care in this country.

I will vote for H.R. 3962 for many reasons. The most important is that it will provide access to affordable health care to the millions of uninsured individuals in this country. In my 34th Congressional District of California, where the average annual household income is less than \$36,000, and where forty per cent of my constituents are currently uninsured, this bill will provide access to health care for 240,000 more people.

The bill also helps families in our country who have health insurance, but are struggling with high premiums and uncovered health care costs. Last year 1,120 families in my district were forced to file health care-related bankruptcies. H.R. 3962 will protect individuals like them from catastrophic out of pocket costs through an annual allowable personal expense cap.

This bill will protect our seniors from the Medicare Part D donut hole by reducing 5 percent of the cost for brand name drugs and gradually eliminating the donut hole altogether. This will be extremely beneficial for the 4,100 seniors in my district who each year hit the Medicare Part D donut hole requiring them to pay the full cost of medications they can't afford.

H.R. 3962 will help make small businesses more competitive in providing health insurance to their employees by providing tax credits up to 50 percent of the cost of the insurance. In my district approximately 15,000 small businesses would qualify for these credits.

As chair of the Congressional Hispanic Caucus Health Task Force, I commend the Afford-

able Health Care for America Act for its efforts to reduce health disparities and improve minority access to culturally and linguistically competent health care. The bill expands Community Health Centers which have been a cornerstone of primary care services in communities of color, and incorporates critical health disparities language guided by the Health Equity and Accountability Act of 2009. In addition, the Manager's Amendment strengthens the focus of eliminating health disparities by codifying the Office of Minority Health and establishing Minority Health Offices across all Department of Health and Human Services agencies.

As co-chair of the Congressional Study Group on Public Health, I am particularly pleased that the Affordable Health Care for America Act finally prioritizes prevention and public health in this country. The bill ensures full coverage of evidence based preventive health services, and establishes a Public Health Investment Fund that will support core public health infrastructure, help finance the delivery of community-based prevention and wellness services, and provide grants to train the next generation of Public Health workforce professionals.

Mr. Speaker, I fully believe that the Affordable Health Care for America Act is a bill that will transform our healthcare system and will play a determining role in the collective health and fiscal viability of our region, our state, and our nation.

I urge my colleagues to join me in voting yes for this bill today, to ensure that our families and communities will have the promise of a healthier tomorrow.

Mr. VAN HOLLEN. Mr. Speaker, we are taking a historic and very important step today to lower health care costs for American families and small businesses, and fix a broken health care system.

In considering the Affordable Health Care for America Act, this has been one of the most open and transparent debates in Congress. There have been countless hours of hearings and mark-ups and more than 3,000 public health care events around the country.

The Affordable Health Care for America Act contains significant protections that will provide health care consumers greater stability, lower costs, and improved quality—while all at the same time paying down the deficit. According to independent analysis conducted by the non-partisan Congressional Budget Office, the bill reduces the deficit by \$109 billion over the first 10 years. And it will continue to reduce the deficit over the second 10 years.

This legislation will help the middle class by providing stable, affordable health insurance that people can count on. It will rein in health care costs for families, businesses and the government. It will ensure that if you lose your job, you won't lose your access to health care. No one should have to worry about whether they can see a doctor when they're sick because they don't have health insurance.

I have heard from countless constituents who have been victims of discrimination by insurance companies, like the family who recently shared their experience with me about their inability to obtain health insurance coverage. The father started his own company and applied for health insurance for his family,

but three out of the four family members could not be fully covered due to pre-existing conditions. It turns out that he was rejected for coverage because he had two chest colds in the last 6 years and scar tissue in his lungs. For his daughter, the insurance company would only issue a policy that precludes coverage for any injury to any part of her back at any time in the future because of a previous injury of her back. And the same company refused to cover any injury to his son's knee at any time in the future from any cause due to a previous injury. It is unconscionable that the insurance company's policies precluded everyone in his family from being fully covered.

There are a number of provisions that would help this family, my constituents, and millions of Americans. Among them, the bill would end the practice of discriminating against those with pre-existing conditions, such as diabetes, cancer, a heart condition, or previous injuries. It would prohibit insurance companies from dropping health care coverage because you became sick. The bill eliminates co-pays for preventive and wellness care, and it places annual caps on what Americans pay out-of-pocket for health care services. And there would be no yearly or lifetime cost caps on what insurance companies cover.

A critical piece of this legislation is the creation of a new Health Insurance Exchange that will allow individuals and small business to comparison shop for affordable and quality health insurance coverage. The Exchange will help reduce the growth in health care spending by encouraging competition on price, quality, and transparency among a number of private health insurance companies and a public health insurance option. The public option will add choice to the health insurance market and participation is completely voluntary. That is why Consumers Union and Consumer Reports endorsed this bill. With this health care reform bill, Americans will have the freedom to keep their doctor or select another one. The choice is theirs. It preserves and strengthens the doctor-patient relationship. That's why the doctors of America under the umbrella of the American Medical Association have endorsed this bill.

The legislation takes steps to preserve and strengthen Medicare for today's seniors and future generations of retirees. For over 40 years, Medicare has been a stable, reliable program for senior citizens and people with disabilities. It provides health care coverage to approximately 45 million Americans. This bill will ensure that seniors can see their doctor of choice or find a doctor by improving Medicare reimbursement to doctors. It lowers drug costs for seniors by closing the Medicare Part D "doughnut hole" and allowing the government to negotiate with pharmaceutical companies for lower drug prices. And it takes steps to reduce waste, fraud, abuse, and inefficiency in the Medicare program. For all these reasons, AARP has endorsed this bill.

Thousands of small businesses in America will benefit from this bill because it will provide them greater affordability. Small businesses will gain access to the new Health Insurance Exchange that will allow them to obtain rates normally enjoyed by larger employers, lower administrative costs, greater transparency, and greater choice of plans for their employees.

They will benefit from increased competition for better prices as well as tax credits for those who choose to provide health insurance for their employees.

I am pleased that this bill contains several provisions I helped author. The first, the Assessment of Medicare Cost-Intensive Diseases and Conditions, directs the Department of Health and Human Services to conduct an assessment of the diseases and conditions that are the most cost-intensive for the Medicare program. Part of our effort to reform the health care system is to develop cures and treatments for those conditions and diseases that have a high cost, and this will go a long way in that endeavor.

The second, which I worked on with Representative KATHY DAHLKEMPER and others, requires health insurance plans to allow young people through age 26 to remain on their parents' insurance policy, at the parent's choice. Young adults between the ages of 19 and 29 are one of the largest segments of the American population without health insurance, comprising 29 percent of the total number of uninsured Americans.

I am also pleased that we were able to include a provision that ends the special advantages for health insurance companies. For far too long, the health insurance industry has been exempt from the antitrust laws that govern most other businesses. They have abused that benefit. I believe it is long past time to repeal this exemption. By ending this antitrust exemption, we are increasing competition and preventing unfair business practices that allow health insurers to drive up the cost of health care.

Lastly, I worked with Representatives HIMES, BEAN, and others to include in the bill a provision that would allow the creation of state health insurance compacts. This would permit states to enter into agreements to allow for the sale of health insurance across state lines. The creation of state health insurance compacts is another element of the health reform bill that will allow consumers to shop for insurance across state lines, promote choice and competition, and ensure strong consumer protections.

On the question of whether any of the insurance plans offered in the Health Insurance Exchange could cover an abortion, I support the provisions in the Rule that created a mechanism for ensuring that no public subsidies would go to pay for abortions. The non-partisan Congressional Research Service analyzed that provision and found that it prevented taxpayer dollars from going to pay for any coverage of abortions. The amendment offered by Representative STUPAK goes much further. It would effectively prevent Americans from using their own money to purchase an insurance plan in the Health Insurance Exchange that includes coverage of abortions. That would be a dramatic break with the current practice where most insurance plans provide for such coverage for individuals who choose such plans. Because the Stupak amendment would effectively prohibit individuals from using their own money to purchase such plans in the Exchange, I oppose it.

Mr. Speaker, today we stand at a historic crossroads. We can choose the road that dead-ends in the status quo—where the

health insurance industry continues to call the shots and ration our health care—or we can pass this legislation and take the path that leads to a future where every American has access to affordable, quality health care.

Now I understand why the health industry is opposed. But our job is not to protect the profits of the insurance companies. Let's not protect special interests and the status quo. Let's move America forward. Let's vote yes for America.

Ms. CORRINE BROWN of Florida. Mr. Speaker, like the majority of Americans, I am well aware of the desperate need in our country for comprehensive health care reform. In fact, the immediate need for reform became crystal clear to me when, over the August district period, I went to a hospital in Jacksonville to visit a friend. This friend, who had worked in the Duval County school system for over 25 years, had lost his job, was without health insurance, was struggling to support himself, and had no idea how he was going to be able to pay the hospital bill. For the many, many Americans who find themselves in similar situations: for the woman who cannot get insurance coverage because she is diabetic and has a pre-existing condition, to the one in nine children in America without health care, to the millions of middle class American citizens who skip necessary treatments because they cannot afford it, it is for them that the Affordable Healthcare for America Act, which will ensure that all Americans are covered and have access to affordable care, is necessary.

Unfortunately, the bill passed the House without any Republican support. Although many pieces of legislation this session have advanced in a bipartisan manner, particularly in my committees of specialization, Veterans Affairs and Transportation, health care has not been an issue of biparty agreement. In 2003, the Republican Party pushed through a horrible Medicare Prescription drug law that was voted along party lines, in which the Republicans included a "donut hole" provision, in which there is a wide gap in coverage that forces the co-payer to pay for much of their own prescription drug costs. Fortunately, the bill on the Floor today will begin to close this loophole. Similarly, today's bill in the House as well as the Senate health care bill, are advancing without any Republican support. Social Security was created in 1935 by Franklin D. Roosevelt as part of the New Deal, Medicare, in 1965, and Medicaid, in 1965, through Title XIX of the Social Security Act. All of these programs were created by Democrats without the votes of the majority of Republicans.

One aspect of health care reform of utmost importance to me is maintaining proper funding for Disproportionate Share Hospitals (DSH), like Shands Jacksonville (and Gainesville), who provide healthcare to uninsured and/or individuals with limited incomes. Disproportionate Share Hospitals are invaluable, as they are the one true safety net for the working poor nationwide. I fought hard to keep DSH funding in the Budget Reconciliation negotiations during the Clinton years, and have been working throughout the entire process to ensure that their funding was not stripped in the health care bill before us today.

Another extremely important issue addressed in this bill is that it prevents insurance

companies from denying people coverage based on pre-existing medical conditions. Indisputably, denying a health insurance plan to someone merely because they're likely to need a particular form of medical care runs contrary to the underlying reason for providing medical insurance and medical care in the first place. So the bill before the House today opens doors to quality medical care to those who were shut out of the system for much too long, and also makes prevention a key piece of this legislation's goal, since it puts a renewed emphasis on preventive care, expands access to screenings and other treatments, and even promotes wellness in the workplace.

Indeed, for nearly a century leaders from all over the political spectrum, beginning with President Theodore Roosevelt, have called and fought for health care and health insurance reform. Finally today, the House of Representatives, the People's House, is about to deliver on the promise of making affordable, quality health care available for all Americans.

The Affordable Health Care for America Act is founded on key principles of American success: opportunity, choice, competition, and innovation. Among the many positive things this bill does, a few items that stand out is that it will provide coverage to nearly all our nation's citizens, while at the same time reducing the deficit by \$32 billion over the first 10 years. It will also require the Secretary of Health and Human Services to negotiate drug prices for Medicare beneficiaries; begin to close the prescription drug "donut hole" immediately; create a new, voluntary insurance program to make long-term care more affordable; and repeal the anti-trust exemption for health insurance companies.

For Floridians in particular, where more than one in five residents do not have health insurance, and for my constituents in Florida's third congressional district and minority communities nationwide, the need for health care reform is obvious. For the African American community and Hispanics, groups who make up nearly half of the estimated 50 million Americans who lack insurance, this is imperative. In addition, health care costs have become outright unsustainable, and experts predict that in the near future, one-fifth of our nation's GDP will go towards health care spending.

The benefits for my district, Florida's third, are numerous. In fact, the Affordable Health Care Act will: Improve employer-based coverage for 300,000 residents; provide credits to help pay for coverage for up to 192,000 households; improve Medicare for 93,000 beneficiaries, including closing the prescription drug donut hole for 6,600 seniors; allow 20,100 small businesses to obtain affordable health care coverage and provide tax credits to help reduce health insurance costs for up to 18,400 small businesses; provide coverage for 138,000 uninsured residents; protect up to 1,400 families from bankruptcy due to unaffordable health care costs; reduce the cost of uncompensated care for hospitals and health care providers by \$145 million. For too long, health care has been a privilege, not a right in America. And for years our nation's leaders have fought to bring the promise of quality, affordable health care to every American.

Today is a groundbreaking moment in this historic effort. Indeed, we are now closer than ever to guaranteeing every American access to quality, affordable health insurance and giving middle-class families and businesses relief from crushing costs, while simultaneously reducing our nation's deficit.

Ms. McCOLLUM. Mr. Speaker, today we are making history. Today the U.S. House of Representatives is making health care in the United States of America more affordable and more accessible for millions of our citizens. This legislation may not be perfect, but it is very good. It will make our country stronger, our economy more productive, and every American family healthier.

Our goal is to achieve universal coverage so that every Minnesotan and every American has the ability to access quality, affordable health care. The Affordable Health Care for America Act (H.R. 3962) comes closer than ever before to realizing that goal by extending health insurance coverage to 96 percent of Americans.

This bill will have immediate and lasting benefits for millions of Americans. It will give families the confidence and security that comes with knowing they will be able to access quality, affordable health care when they or a family member is sick. And it places affordable health care coverage within reach for millions of American families who are asking for our help.

As I have often said, I believe that health care should be a right for all Americans. Critics of making health care a right often say we already have universal health care since people can go to the emergency room and access care if they really need it. This flawed logic is the best example of why I believe health care in America is broken and must be fixed.

Our health care system is broken when we live in the wealthiest, most powerful country in the world, but health care is a privilege available to only those with enough money to afford insurance and for those of us fortunate enough to have a job that provides health insurance.

Our health care system is broken when 60 million people in this country have no health insurance coverage or are under-insured—more than 85 percent of whom are from working families.

Our health care system is broken when families are forced to postpone or skip necessary care because premiums have increased more than 90 percent in the last nine years for Minnesota families.

Our health care system is broken when our country spends \$2.4 trillion a year for health care—almost twice as much per person as any other country—but we rank 37th in the world in health care outcomes.

Our health care system is broken when you can be denied coverage for being sick, for having a baby, or for suffering from domestic violence.

Our health care system is broken when 45,000 people die in the United States each year because they lack health insurance and cannot access needed care.

We can and must do better. Today we have an opportunity to save these lives and make affordable health care insurance a reality for every American.

My constituents and all citizens across this country need to know what is in this bill to help American families and workers. This legislation will make quality health care more affordable and more accessible for every patient. It will protect families from falling into bankruptcy due to unaffordable costs by limiting out-of-pocket costs, lifting lifetime limits on coverage, and lowering premiums.

First and foremost, if you love your doctor and like your current insurance, you are free to keep what you have. This legislation does not require you to make any changes. Yet, the ranks of the insured are shrinking more every year and the numbers of satisfied citizens are falling. Millions of Americans have too little insurance, too few choices, and no options left. For those Americans—for most Americans—this legislation is a lifeline to the security they have longed for and long-deserved.

This bill will give every American the peace of mind that insurance companies can no longer deny coverage for pre-existing conditions, or cancel your coverage when you are sick and need it the most.

It includes a competitive public insurance option to guarantee that Americans will have an affordable choice among insurance providers and keep private insurers honest.

It improves health care for patients and their families by making investments to increase the number of providers, improve access to primary care, and support a patient-centered approach that focuses on quality and emphasizes prevention.

For our seniors, this legislation will strengthen Medicare by eliminating the waste, fraud and abuse that diverts health care dollars away from care and into the pockets of crooked companies. It will immediately begin closing the "donut hole" in the Medicare prescription drug benefit to make prescriptions more affordable. And it will ensure the financial stability and solvency of Medicare for 45 million seniors.

For our children, it will help expand coverage and ensure that the youngest Americans receive quality coverage that includes essential benefits such as vision and oral services. And it will extend coverage for young people by allowing them to remain on their parent's insurance until their 27th birthday.

The Affordable Health Care for America Act does all these things while meeting President Obama's call for new costs to be covered. In fact, the bill goes much farther by reducing the deficit by \$109 billion over the next 10 years.

This comprehensive health care legislation is ambitious by necessity. I have confidence every one of these reforms will be implemented successfully because of what my state of Minnesota has accomplished. Through a combination of smart investments and an enduring commitment to care for all of our friends and neighbors, my state proved a high-quality, low-cost health care system is possible. Minnesota is consistently ranked among the highest in the nation for quality of care and rates of insured citizens—almost 92 percent. And Minnesota attains these high standards with some of the lowest costs in the country.

Unfortunately, our state is forced to work with fewer resources than most other states because of the Medicare geographic payment disparity. Medicare's outdated and unfair reimbursement system pays Minnesota doctors

and hospitals at some of the country's lowest rates, despite the fact they produce some of the country's best patient outcomes. The current system rewards the amount of services provided rather than the quality of care patients receive.

Patients, providers, health plans, hospitals, and unions have all told me that ending this disparity and reversing this flawed incentive structure is the most important issue for Minnesota in the national debate on health care reform. While Minnesota's health care system is excellent today, the broken Medicare payment system threatens to undermine it in years to come.

This health care reform legislation is our last best chance to fix this problem, achieve fairness for Minnesotans, and make evidence-based, quality care the standard wherever you live in the United States. That is why I worked to unite 40 of my House colleagues who represent 17 different states in a new Quality Care Coalition. Together with my coalition co-chairs Representatives BRUCE BRALEY, RON KIND and JAY INSLEE, we created the political will we have always needed but never had to address this problem. After more than 20 coalition meetings over the course of 6 months and a series of intensive negotiations with House Leadership, our coalition secured an agreement to end the unfair treatment of high quality, low-cost states such as Minnesota. And by securing fairness for our states, we will be helping to deliver better quality for all patients in every state.

This agreement places America on a path to reward high quality, evidence based, cost-effective health care by making fundamental improvements in the delivery system. H.R. 3962 directs the highly-regarded Institute of Medicine to develop recommendations on how to modernize the Medicare payment system so it rewards value and quality. This will transform the Medicare payment system to ensure better care for patients and reduce health care costs over the long-term, and will help secure a better future for our patients, families, and seniors.

While the legislation we vote on today would make unprecedented reforms, I will continue working to improve the bill before it returns to the House for a final vote. To be truly comprehensive, health care reform legislation must reach all Americans, including the 15 million citizens employed in the nonprofit sector. Achieving parity between small nonprofit and for-profit employers in this legislation is one item of unfinished business. I am also concerned with the burden this bill places on the medical device industry to generate revenue and potentially negative impact such a tax would have on patients, workers, and small businesses. I look forward to working with House Leadership and the conference committee to help address these issues and strengthen this legislation.

Still, H.R. 3962 remains a historic achievement. This legislation addresses the needs of Minnesota's families and families across this country. It modernizes Medicare and covers the uninsured. It invests in prevention instead of paying for disease. For these reasons and many more, the Affordable Health Care for America Act has the support of over 300 state and national organizations. These supporters

include the American Nurses Association, American Medical Association, SEIU, AFL-CIO, and AARP. Organizations representing millions of Americans back this legislation because they know our health care system is broken and change cannot wait another year.

Still, there are critics of health care reform that are fighting desperately to maintain the status quo. It is disappointing to see Republicans choose health care profiteers and insurance companies over reforms that Americans need and want. My Republican colleagues have offered politics and posturing but no real solutions. They have no serious alternative to H.R. 3962 to control costs, expand access and improve quality. They have made killing health reform and killing America's chance at achieving health reform their only goal. The American people deserve better.

I would like to thank Speaker PELOSI, Majority Leader HOYER, Majority Whip CLYBURN and Caucus Chair LARSON for their extraordinary leadership to bring affordable, quality health care to all Americans. Thanks are owed to the three committee chairmen—Chairman WAXMAN, Chairman RANGEL, and Chairman MILLER—who held dozens of hearings throughout the year and crafted a historic bill. I would also like to thank Chairman DINGELL for his dedicated service in introducing health care legislation for over 50 years to bring health care coverage for all Americans.

I would especially like to thank Speaker PELOSI for her attention to the concerns of the Quality Care Coalition and all of the diverse interests of the Caucus. Vice Chairman BECERRA also has my gratitude for the vital role he played in negotiating this agreement to move health care reform toward high quality, cost-effective care.

Today is a historic step toward making health care reform a reality, but it is not the end. I urge the Senate to stay focused and committed so an equally strong bill meets H.R. 3962 in conference committee. I am committed to sending a health care bill to the President's desk that will bring meaningful reform for American families, seniors and businesses. With passage of this legislation, health care will no longer be a privilege for those who can afford it.

I urge my colleagues to support H.R. 3962 and guarantee that affordable, quality health care will be accessible for every Minnesota family.

Mr. MCCAUL. Mr. Speaker, in the 72 hours we were allowed, Republicans weeded through thousands of pages of bureaucratic provisions, mandates, programs and spending. Despite its monstrous size, this health care takeover has come down to a few clear, evident points: it raises taxes, raises premiums, increases health care costs, and dumps trillions of dollars of debt on our children and grandchildren. Small businesses and families will bear the weight of this bill for generations.

We all agree that health care reform is urgently needed, but this bill destroys the American health care system as opposed to improving it. Instead of incentivizing the private market to offer more affordable health care coverage options, it punishes small businesses and their employees. It threatens jail time for individuals who do not purchase insurance and could soon lead to the rationing of

care, depriving Americans of life-saving treatments that are not deemed "cost-effective." Even doctors, the most experienced in this health care debate, oppose this proposal and have shared concerns of the many clinics and hospitals that will be forced to reduce or deny services.

The over 2,000 page spending plan imposes nearly \$800 billion in new taxes on individuals, families and small businesses. It places mandates on both individuals and employers which, according to the President's Economic Advisor, will result in the loss of up to 5.5 million jobs. These mandates will also discourage the hiring of low-wage and minority workers. In the face of both a recession and a 10.2% unemployment rate, Speaker PELOSI's unprecedented tax-and-spend approach will come at the expense of American citizens.

Moreover, while the majority of Americans are happy with their health care coverage, an estimated 114 million Americans will lose their insurance under Speaker PELOSI's plan and be dumped into the government-run option. The plan also cuts more than \$170 billion from Medicare Advantage plans, jeopardizing millions of seniors' existing coverage. The bill puts the government in the middle of Americans' personal health care decisions, as opposed to reform based on improving the quality and affordability of health care.

While Democrats have continually touted the benefits of a public option, they themselves voted against an amendment to require enrollment for Members of Congress. This speaks volumes to the true quality of a government plan, as what I view as adequate coverage for the American public would also be adequate for my family. Furthermore, the bill also abolishes the private health insurance market, forcing all individuals to purchase coverage through a government-controlled Exchange and eliminating choices from the health care system. While this bill takes care of Members of Congress, it eliminates the freedom of choice for the American public.

Republicans have introduced numerous bills to provide improvements in the cost and delivery of health care, but we have been denied a seat at the table. Behind closed doors, the Democrats crafted a monstrosity of a bill to take over one sixth of the economy, and then limited floor debate to four or five hours on one of the most sweeping pieces of legislation we have ever seen.

The Republican alternative provides a common-sense approach to the main problems in our health care system. It would lower premiums, decrease health care costs, reign in federal spending, and allow for more options, choice, and innovation in the health care system.

The non-partisan Congressional Budget Office has estimated that average premiums under the Republican alternative would be almost \$5,000 less than under the Democratic plan in 2016. It would provide incentive grants for states to further lower premiums, and allow businesses to innovate ways to promote health and wellness and curb health care spending. The alternative would also expand high risk pools, prohibit insurance companies from denying individuals with pre-existing conditions, and ensure inter-state purchasing of

health insurance. These reforms would drive down the costs of health care to make it more affordable for Americans while also protecting the choice and numerous options that citizens need.

I have spoken to many health care professionals in my District as well as held town halls with my constituents, and both have expressed not only their opposition, but their fear, of this government takeover of health care. We are not listening to Americans, and we are missing the opportunity to use insight from the experts in the field to enact meaningful reform. This bill is not what Americans have asked for.

Mr. PLATTS. Mr. Speaker, I rise today in opposition to Speaker NANCY PELOSI's health care bill (H.R. 3962). I plan to vote against this legislation for numerous substantive reasons, including my concerns about its trillion dollar plus cost to taxpayers, its mandates on individuals and employers, its deep cuts to Medicare, and the strong likelihood that H.R. 3962's provisions will cost millions of Americans their jobs. H.R. 3962 is a health care bill that fails to abide by the physician's guiding principle: "First, do no harm."

H.R. 3962 consists of approximately 2,000 pages and costs more than \$1 trillion over ten years. If adopted, this legislation will destroy millions of jobs by raising taxes on small businesses and other employers. H.R. 3962 also imposes new taxes on certain employer-provided health benefits and on medical devices such as wheelchairs and walkers. In total, H.R. 3962 includes more than \$700 billion in new taxes.

Unbelievably, in the name of health care reform, H.R. 3962 cuts Medicare benefits by more than \$400 billion and raises Medicare premiums, making access to comprehensive health care more difficult for our Nation's senior citizens. Additionally, over time, H.R. 3962 will move countless Americans involuntarily from private health insurance to government-run health care.

I have long maintained that there is no "silver bullet" for health care reform. We should aim to build upon the current health care system in a variety of ways, making health insurance more affordable and more accessible. In other words, Congress should fix what is broken in our nation's health care system and be certain not to break what is not.

Congress should adopt insurance reforms to end the practice of denying coverage due to pre-existing conditions and ensure the portability of one's health insurance. Additionally, Congress should allow small businesses to band together to negotiate insurance coverage for their employees, just as large corporations and labor unions are already allowed to do. Congress should also allow individuals to purchase health insurance across state lines from a competitive, nation-wide market and should enact responsible medical malpractice reform to lower health care costs. I plan to join with my fellow Republicans in voting for an alternative legislative proposal that includes such reforms.

The full Senate has yet to act on a health care bill of its own. Hopefully, when it does so, the Senate will adhere to the principle of: "First, do no harm."

Ms. LINDA T. SÁNCHEZ of California. Mr. Speaker, I rise on behalf of the nearly 50 mil-

lion Americans who don't have health insurance.

On behalf of parents who have to choose between taking their sick child to the doctor and paying the electric bill on time.

On behalf of adult children who are slowly losing their parents to Alzheimer's, and yet can't afford the quality care their parents need.

In a Nation as prosperous as ours, it is a shame and a tragedy that so many families suffer, watching their loved ones die, when timely tests or early care could have prevented it.

American families have waited too long for the freedom and security that universal healthcare can provide.

I strongly support H.R. 3962, the Affordable Health Care for America Act because this legislation tells families yes.

Yes, they can afford high quality health care.

Yes, they can get health insurance even if they have a pre-existing condition.

Yes, they can expect to be treated fairly by insurance companies, regardless of their gender or age. Yes, they can keep their health insurance, even if they get sick.

And yes, we can pass health reform that protects and strengthens our economy by encouraging development and use of health information technology, generic drugs, and advanced medical devices.

It's well past time for Congress to make sure that an unforeseen illness or accident doesn't mean economic ruin for American families. To stop the abuses of health insurance companies, who play games instead of paying for health care. To ensure that Americans have the freedom to change jobs or to become entrepreneurs, instead of being locked into a job they hate because it is the only way they can afford healthcare.

I worked to make sure this bill bars insurance companies from charging women more just because they are women.

I worked to make sure that this bill creates Collaborative Care Networks, to ensure that doctors, hospitals, and other health care providers work together to provide working families, lower income Americans, and those with chronic conditions the high quality coordinated care they need to stay healthy and out of emergency rooms.

I worked to make sure this bill includes, among the choices it offers consumers, a public option that will focus on health care, not profits.

I'm proud of my work on this bill, because it means American families and businesses will have the peace of mind that comes with knowing they can access affordable, quality care when they need it.

It means that my son Joaquin can grow up in a country that is a little fairer, a little more humane, and a little more secure than the one I grew up in.

I urge my colleagues on both sides of the aisle to vote for children and families by supporting this bill.

Mr. KANJORSKI. Mr. Speaker, I rise today in support of H.R. 3962, the Affordable Health Care for America Act.

The House has taken an important first step today to improve the affordability and accessibility of health care. While today's health care

legislation is not perfect, action to address this important issue is absolutely necessary. If we do nothing to reform health care, health care costs are expected to double over the next ten years, just as they have over the last ten years.

Insured Americans pay on average \$500 per year just to administer health insurance, more than double the administrative costs paid in any other country which has a government-run health care system. The McKinsey Global Institute estimates that \$91 billion a year is wasted on excessive insurance administrative costs.

Because about 60 percent of all Americans under the age of 65 receive insurance through their employers, much of this waste is burdening American companies. American companies competing in the global economy cannot afford this economic disadvantage. The bill we voted on today attempts to reduce the costs of insurance to employers and employees by providing greater competition among insurers. According to a study by the Massachusetts Institute of Technology, a family of four would save \$1,260 in annual health insurance premiums once this bill is enacted.

It is estimated that 96 percent of all Americans will have access to affordable health insurance under this bill. While I believe that caring for our fellow citizens is a moral imperative, it also makes economic sense to have as many people covered by insurance as possible. Families USA estimates that every insured American family pays over \$1000 per year in premiums just to cover the medical expenses of the uninsured, who obtain urgently needed health care through inefficient means such as visits to hospital emergency rooms. As we face the threat of pandemics such as the current swine flu, it is in the best interest of all of our health to make sure that sick people are treated quickly and affordably so that infectious diseases are not spread.

While there are many detailed provisions in this complex legislation, it is important to note what the bill does not do. The only effect it will have on senior citizens who rely on Medicare is it will reduce their out-of-pocket costs for prescription drugs, as noted by AARP in its recent endorsement of the bill. The bill does not use tax dollars to pay for abortions. It does not require our smallest businesses to pay for insurance coverage for their employees. It will not result in the federal government controlling the delivery of health care; in fact, the non-partisan Congressional Budget Office (CBO) estimates that only six million Americans will choose to enroll in the government-sponsored insurance plan, the so-called "public option." It does not add to the federal deficit. CBO estimates that the bill will reduce the deficit by \$109 billion over the first ten years.

Finally, I want to praise the House leadership for including in this bill a provision which will help to fund the education of the next generation of doctors, some of whom I hope will be educated by our region's own medical college.

We all share the goal of keeping American citizens healthy in the most humane and efficient means possible. I believe this bill is a reasonable first step toward reaching this goal.

In closing, I appreciate the opportunity to share my thoughts about this important legislation.

Mr. TIAHRT. Mr. Speaker, I rise in strong opposition to H.R. 3962. I cannot and will not support this government takeover of our health care system that will restrict choice, ration care, increase the cost of health care, greatly increase government spending, and lead to the destruction of the world's best medical care.

Americans are fed up with Washington's out of control spending, with more and more power over their daily lives being put in the hands of nameless, unaccountable bureaucrats, and with the systematic shift of the United States Government from a government OF the people to a government FOR the people. The growing discontent began with the bloated stimulus bill that did nothing but grow a bigger Washington and create more bureaucratic jobs. It increased with the government takeover of General Motors, the cap and tax bill, the placement of power in the hands of unconfirmed and unconstitutional czars, and the grossly inflated spending bills passed for fiscal year 2010. With the Democrat attempt to takeover health care, the discontent has now come to a full boil.

This spring, summer and fall the American people have spoken loudly and clearly about what they do and do not want in health care reform. The Democrats ignored these sentiments and introduced H.R. 3200 and the two Senate bills. This led to the most lively, spirited town halls in my 15 years in Congress, followed by an unprecedented number of phone calls, emails and letters sent to my office by concerned Kansans.

The American people told us what they do and do not want: they do not want a government takeover of health care, the American people do not want higher taxes, the American people do very much want to keep their health insurance and increase their choices and access for those who do not have insurance.

What was the Democrat response to their constituents? A new, bigger bill that again ignores the input of the American people and is even worse than H.R. 3200.

The new bill is a government takeover of health care. H.R. 3962 is double the original H.R. 3200 at 1990 pages long and loaded with new mandates. The word "shall" appears 3,425 times—in other words—this is the government telling you to do something. The bill creates 118 new bureaucracies. The Congressional Budget Office (CBO) calculated the cost of the bill at \$1.2 trillion but this does not include 28 instances of hidden costs indicated by the ominous words indicating that certain programs be appropriated "such sums as may be necessary." The bill raises taxes, on individuals and job creators, including a \$461 billion surtax on small businesses according to the U.S. Chamber of Congress. The Pelosi bill will result in 5.5 million job losses at a time when unemployment is already over 10 percent. And to top all of that off—this bill completely rewrites 16th of our nation's economy.

H.R. 3962 cuts benefits to seniors, does not ensure that Americans can keep their health insurance, limits choice, covers even more illegal immigrants than H.R. 3200 (2.5 million more according to CRS), and allows for taxpayer funded abortions.

If H.R. 3962 is enacted into law, even the Democrats acknowledge that health care costs

will increase. As PJ O'Rourke said, "If you think health care is expensive now, wait until you see what it costs when it's free."

My biggest concern with the Democrat proposals is the intended rationing of health care. The Obama administration has already begun to set the framework for rationed care with comparative effectiveness research. This is a very dangerous road to travel down.

In addition to all the other concerns I am also opposed to the BAUCUS and PELOSI attempt to destroy Health Savings Accounts (HSAs). HSAs are what we should be promoting as a way to expand choice, give patients more control over their medical spending, and reduce health care costs.

I want health care reform and am saddened that this process has become so political that we won't see the much needed modernization that will ensure Americans have access to the best health care for decades to come. I am saddened that states like my home state of Kansas are forced to take drastic action to try to protect their citizens from being affected by Washington's takeover of health care.

Republicans have offered better solutions and principles that should be included in any health care reform. Those principles should: let Americans who like their health coverage keep it, give all Americans the freedom to choose the health plan that best meets their needs; ensure that medical decisions are made by patients and their doctors, not government bureaucrats; and improve Americans' lives through effective prevention, wellness, and disease management programs, while developing new treatments and cures for life-threatening diseases.

The Republican 219 page bill is a plan that will lower cost and improve health care access. This bill includes: tax incentives; Association Healthcare Options to let Americans group together for greater purchasing power; limitations on defensive medicine and implementing comprehensive medical liability reform; tackling waste, fraud and abuse (a \$10 Billion annual cost to taxpayers generated from Medicare alone); and incentives for savings and increased use of personal Health Savings Accounts (HSAs). In addition, the Republican plan will ensure that Americans are not prevented from health coverage due to pre-existing conditions and are not subject to lifetime caps on treatment. Unlike the PELOSI and Obama plans, the Republican plan protects Medicare for seniors. Finally, the Republican plan protects taxpayers from funding abortions or health insurance for illegal immigrants. The Congressional Budget Office has confirmed that the Republican bill will lower premiums for the American people by up to 10 percent. Under our plan, premiums for families and small businesses would be nearly \$5,000 per year lower.

I strongly encourage my colleagues to vote for the Republican substitute that will provide real solutions that will meet the needs of the American people. Our constituents have spoken loudly and clearly and it is our duty as their representatives to listen to them, not ignore them and use the sacred Speaker's gavel to impose personal political goals upon them.

Mr. FILNER. Mr. Speaker, many Members of the House of Representatives have spoken

at length on the ways that the Affordable Health Care for America Act will improve health care for all of our constituents. I wanted to draw attention to another significant benefit of this legislation: the creation of new high-paying jobs in this country. Let me repeat that for some of my friends on the other side of the aisle, this bill will create high-paying, high-quality jobs in healthcare delivery, technology and research in the United States.

First, this bill will create enormous demand for healthcare workers, especially in the area of primary care. Insuring the millions of Americans in this country who currently have no insurance will allow them to see primary care providers and receive the wellness and preventive care they have been denied for too long. This influx of new patients will need doctors, nurses and technicians for their care, while reducing overall healthcare costs because they will not need much more expensive hospitalizations. I support channeling resources that for too long have been used to treat people once they become sick into jobs and services that will prevent people from getting sick in the first place.

Second, this bill will continue the efforts we began in the stimulus package to deploy new health information technologies that better manage both the quality of care people receive and the cost at which they receive it. New health care exchanges and new demands on the health system to provide high-quality and cost-effective health care will create new opportunities and markets for our brightest technology minds. They will be incentivized to create and develop products that will be a win/win for Americans: high quality health care at an affordable price.

Third, this bill will create high quality research opportunities in this country. The Energy and Commerce Committee enacted a framework for allowing biosimilar competition in this country. This new class of medicines will help lower costs and bring competition to one area that is key to the future of our healthcare system. Biotechnology is on the cutting edge of efforts to reducing costly invasive procedures and allowing our constituents to live healthier and more productive lives. The creation of this new class of medicines comes with requirements for new clinical research and testing, especially in the area of whether a new biosimilar can be interchangeable with an innovator's product. This research will create high quality and high paying jobs and it is imperative that we keep this research and these jobs in this country. We cannot allow these research opportunities to leave this country, and I intend to work with the Secretary of HHS and the Commissioner of the FDA to ensure they stay in the United States.

Mr. Speaker, I do not look at this bill as one of cost or drain on the economy of our country like so many of its opponents on the other side of the aisle. I see this bill as an exciting opportunity to create the kind of jobs we so desperately need in this country while at the same time improving the lives of ALL Americans. This bill will improve health care, create jobs and grow our economy.

Mr. COSTELLO. Mr. Speaker, today is a historic day in the House of Representatives, and will be one of a handful of votes that can be deemed the most important of our careers.



We are considering today how to improve the provision of health care in America. Spiraling costs, insurance limitations and a lack of insurance coverage continue to impact families, our economy, and ultimately our way of life. It is for this reason that after careful consideration, I will vote in favor of H.R. 3962.

As the health care debate has developed this year, I have held meetings with individuals, families, health care providers, business owners and other groups. What everyone can agree on is that our health care system is broken and needs attention. At the simplest level, we need to put an emphasis on preventive medicine. As the old saying goes, an ounce of prevention is worth a pound of cure. We treat too many people in emergency rooms instead of doctors' offices, and often when they are sickest and care is the most expensive. H.R. 3962 moves us toward preventive care in a variety of ways, but chiefly through providing health insurance to 36 million more Americans. Having insurance will allow them to see a doctor on a regular basis and detect health problems earlier.

Most importantly today, passing H.R. 3962 keeps the process of health care reform moving forward. Today is a very important step, but there is still a long way to go. As we all know, the Senate is working on its version of health care reform legislation, and that bill is likely to be very different from this one, but I am confident we can craft a final product that incorporates these goals and makes our health care system better.

Mr. Speaker, I am glad that we slowed our process down and took some additional time before bringing it the floor. This is not a perfect bill, but I think it will make a positive difference for the entire country. Over 300 organizations have endorsed it, including AARP, the American Heart Association and the American Medical Association. I urge my colleagues to vote for H.R. 3962, and keep us moving toward a healthier America.

Ms. LINDA T. SANCHEZ of California. Mr. Speaker, I strongly support H.R. 3962, the Affordable Health Care for America Act, which delivers on a promise Americans have been waiting for since the New Deal, a promise that families can get the health care they need, when they need it, without facing economic ruin.

I have previously spoken about the ways that this bill will help ensure access to affordable, high quality health care for American families. But another significant benefit of this legislation which has not received much attention is its promotion of high-paying research, high tech, and manufacturing jobs.

Contrary to the claims that this is a "job killing bill," in fact, this bill will create thousands of jobs here in the United States.

First, this bill will increase demand for healthcare workers, including doctors, nurses, nurse practitioners, physician assistants, home health workers, and more. More affordable insurance means more families getting the primary and chronic care they need instead of waiting until they need an emergency room. And it means more middle class American jobs that can't be exported.

Second, this bill will continue the investments begun in the American Recovery and Reinvestment Act, also known as the stimulus

bill, to expand the use of health information technology.

Health IT will help better manage the quality and cost of care patients receive by eliminating duplicative tests and ensuring that patients don't receive the wrong medicine or the wrong dose. And investment in health IT creates jobs—jobs in hardware production, software design, and computer training. When we invest in quality health care for all Americans, we are investing in jobs.

Finally, this bill will promote more of what America already does so well: medical research. By allowing more Americans access to health insurance, this bill will increase the demand for advanced medical technologies that are manufactured right here in America.

And by creating a process for the Food and Drug Administration to approve so-called "biosimilar" drugs, this bill will encourage competition in the cutting edge field of biologic drugs.

This new class of medicines will help cure and treat more Americans at lower costs. And the promise of protection for intellectual property and an FDA structure to approve biosimilars will result in increased investment in this industry, which already provides thousands of well-paying jobs in California and across the country.

I hope to work with the Secretary of Health and Human Services, the Commissioner of the FDA, and like-minded colleagues in Congress to ensure that these important research and manufacturing jobs stay right here in the United States.

In sum, this bill preserves and promotes the strength of the American health care system: innovation. And it fixes the shortcomings: spending too much while caring for too few.

If we fail to pass this bill, we fail American families, and we fail the American economy. As a champion of both, I strongly support this bill.

Mr. ALEXANDER. Mr. Speaker, after months of meeting with constituents and business leaders, as well as hosting town halls and roundtable discussions, I can say that American public has clearly stated their opposition to this government takeover of health care.

H.R. 3962, the Affordable Health Care for America Act, states in section one that this legislation "builds on what works in today's health care system, while repairing what's broken." I agree that improvements need to be made to drive down medical costs, but placing individuals under one bureaucrat-run umbrella does not build on what works or make any repairs. The bill includes the government-run public option, cuts Medicare and Medicare Advantage programs, and raises taxes on middle class families. In addition, the bill does not protect the interests of small businesses nor does it adequately address defensive medicine. And, in the midst of states struggling with fiscal constraints, it will burden them with more unfunded mandates from the federal government.

In the President's address to Congress on Sept. 9, President Obama said, "Nothing in our plan requires you to change what you have." A study by the Lewin Group shows that two out of every three people would lose their current coverage, including up to 114 million people who receive health benefits through

their employer or other current coverage if a government-run plan "competes" with private companies. I don't see the choice in this.

Medicare cuts total \$162 billion. As a result, Medicare Advantage plans will drop out of the program, limiting seniors' choices and causing many to lose their current health care coverage. Medicare Advantage has been successful in providing seniors with choice, selection and value. This is especially true for residents of rural America, where seniors have previously not had sufficient private alternatives. Currently, over 600,000 seniors are Medicare beneficiaries in Louisiana, while over 10,694 seniors in the 5th District are enrolled in the Medicare Advantage program.

The bill includes taxes on individuals who do not purchase government-forced health insurance. It also imposes new taxes on businesses who cannot afford to fund government-forced health coverage for their workers, therefore violating the bill's new employer mandate and triggering an additional 8 percent payroll tax.

The bill also prohibits the reimbursement of over-the-counter pharmaceuticals from Health Savings Accounts (HSAs), Medical Savings Accounts, Flexible Spending Arrangements (FSAs), and Health Reimbursement Arrangements (HRAs), increases the penalties for non-qualified HSA withdrawals from 10 percent to 20 percent, and places a cap on FSA contributions. Because at least 8 million individuals hold insurance policies eligible for HSAs, and millions more participate in FSAs, all these individuals would not be able to keep the coverage they have without facing tax increases.

The grand total amount of tax increases included in this legislation equals approximately \$729.5 billion over ten years. Imposing these new tax increases in the middle of a recession—with unemployment numbers we haven't seen since 1983—will only harm the economy and kill jobs.

This bill intends to ensure that generic biologic companies will have to do some research and clinical trials before the FDA will approve them for use in the United States. This dramatically increases patient safety as generics come to market. Likewise, keeping research and trials in the country means more jobs at home. I hope this is included in discussions as the health care debate continues in the coming months.

The CBO has also said that this bill will increase seniors' Medicare prescription drug premiums by 20 percent over the next decade. While the cost of living continues to rise during these tough economic times, I know that many cannot afford this increase. Medicare finances are rapidly deteriorating and we should be working on real solutions that ensure the long-term financial stability of Medicare.

Choice is not option in this government takeover of our health care system. I am genuinely concerned for the well-being and options that the people of this great nation have. I do not believe H.R. 3962 best represents what the American people are asking for.

I agree that improvements need to be made to our system currently in place. However, a solution should be built upon the principle that when individuals—not the government, insurance companies, or employers—are given

control and ownership, we will achieve full access to coverage and see the entire system move in a more positive, patient-centered direction. America needs economic relief in the form of tax breaks for working families and small businesses, and fiscal discipline in Washington. Instead, our federal government keeps pushing policies that will impose harmful taxes and increase our national debt, saddling Americans who are already hurting with even more financial burdens. We must work to find real solutions that will help create jobs and lower health care costs.

Everyone can agree that affordability, accessibility, portability, and quality should be the outcome of any overhaul of the health care delivery system. More specifically, it should be guaranteed that medical decisions are kept in the hands of patients and their doctors; the cost of insurance is lowered, and in turn the number of Americans who have insurance is increased. The American people deserve a plan that allows them to keep their health care coverage if they like it, and have the freedom to choose the plan that best meets their needs. As I have said before, and as I will say again, I will not support any type of health reform plan that raises taxes, rations health care, eliminates employer-sponsored health benefits for working families, or allows government bureaucrats to make decisions that should be made by families and their doctors.

Mr. VISCLOSKY. Mr. Speaker, I am proud to support the Affordable Health Care for America Act, a bill that will significantly improve our healthcare system.

For too long, our healthcare system has allowed millions of Americans to go uninsured, tolerated egregious and abusive business practices by big insurance and pharmaceutical companies, and ignored skyrocketing costs. It has diminished our nation's collective health and drained our economy. The Affordable Health Care for America Act represents a significant effort to address the inequities of our current healthcare system.

Specifically, the Affordable Health Care for America Act strengthens the healthcare market for all Americans. For those with insurance, the measure would establish benefits to be included in all health insurance options, including preventative care, mental health services, and dental and vision services for children. Additionally, the measure would establish annual and lifetime out-of-pocket spending caps to ensure that no family faces bankruptcy due to medical expenses. And the Affordable Health Care for America Act would eliminate the decades-long exemption of health insurance companies from federal anti-trust laws, enabling the regulation of abusive business practices.

For those without insurance, the Affordable Health Care for America Act would establish a public health insurance option to compete with—not replace—private insurance plans. The public health insurance option would aim to provide more Americans with healthcare coverage and would be financed through its premiums. The measure would allow the Secretary of Health and Human Services to negotiate physician and hospital rates for the public option and would prohibit insurance companies from denying coverage based on a pre-existing condition.

Importantly, the measure would repeal the prohibition on negotiating with pharmaceutical companies and would require the Secretary of Health and Human Services to negotiate the prices of prescription medications for Medicare beneficiaries. It is my sincere hope that these negotiations will ameliorate the high out-of-pocket costs for prescription medications faced by our seniors. Additionally, the Affordable Health Care for America Act would provide savings to the Medicare programs by improving payment accuracy to Medicare Advantage.

The Affordable Health Care for America Act would reduce the costs to small businesses, America's economic engine, by establishing a Health Insurance Exchange where these businesses will benefit from large group rates and a greater choice of insurance options for their employees. Further, the measure would provide tax credits to eligible small businesses for assistance with the costs of providing health insurance to their employees.

Finally, the Affordable Health Care for America Act is not only fully paid for, but according to the non-partisan Congressional Budget Office it would reduce the deficit by \$104 billion over the next ten years and would continue to reduce the deficit in the following decade.

Through these provisions and others I believe that the Affordable Health Care for America Act will accomplish my goals for healthcare reform, namely to give more security and stability to those who have health insurance, to provide affordable, quality options to those who do not have health insurance, and to lower the cost of healthcare for families, businesses, and society.

Although this bill may not be perfect, it will improve our healthcare system. It is the result of a lengthy, transparent process that has helped the bill evolve and improve at each step of the way. I will continue to closely monitor the legislation's progress.

Voting for comprehensive healthcare reform at long last was a gratifying experience. I believe that a generation from now people will ask the question, what took us so long?

Mr. REYES. Mr. Speaker, this is a momentous occasion for the American people, particularly for the hundreds of thousands of El Pasoans who have unjustly struggled without health insurance in the world's wealthiest nation. The Affordable Health Care for America Act, as passed by the House, will dramatically improve the quality of life for so many families in our community, who will finally have access to quality affordable health coverage.

I am particularly pleased this legislation incorporates a provision that I, along with Majority Leader STENY HOYER, and others worked to include that will support the development of our medical school. The measure will allocate \$100 million each year through fiscal year 2015 to the Department of Health and Human Services to help develop medical schools in federally-designated health professional shortage areas for construction, equipment, curriculum and faculty development. This is an exciting opportunity for our community.

The House passage of the Affordable Health Care for America Act is one of the most significant legislative victories for the people of El Paso. Our community has one of

the highest concentrations of America's uninsured population, with over 230,000 residents without health coverage, one in three people. Texas has the highest rate of children and adults without health insurance in the entire nation. The status quo is unacceptable, and we can no longer afford to pass this growing problem to future generations.

While our community is spending a greater share of property taxes to pay for individuals without health coverage, insurance companies have continued to engage in practices that protect their bottom lines. For too long, insurers have been the gatekeepers to our health care system, with the power to dictate who receives health coverage and who does not. Americans with pre-existing conditions and serious illnesses are too often denied coverage or are dropped from their existing insurance plans for developing a serious illness or reaching their cap on coverage, and are denied access to the medical care they need.

When people lack access to quality affordable preventative care, they end up in our emergency rooms for ailments that could have been treated by a family doctor or seek treatment for conditions that should have been diagnosed earlier. When these patients fail to pay their medical bills from publicly-financed hospitals such as University Medical Center, local property taxes are used to cover these expenses. Since 1998, El Paso property tax payers have spent over \$400 million to pay for treatment and services for those patients who could not afford to pay their medical bills.

The Affordable Health Care for America Act will dramatically reduce the number of people without insurance in El Paso. First, it prohibits insurance companies from denying coverage due to "pre-existing conditions." It requires that every American obtain health coverage, and provides "affordability credits" to individuals and families with incomes up to 400 percent of the federal poverty level (currently \$43,430 for individuals and \$88,200 for a family of four).

The legislation also requires that most employers provide coverage. It includes exemptions for small businesses with payrolls of less than \$500,000 and offers generous tax credits for those small businesses that elect to provide coverage for their employees. The bill creates an "insurance exchange," that will offer affordable health insurance plans for individuals without employer-provided or government-provided insurance (such as Medicaid and Medicare). This exchange will include a public option to encourage competition with private insurers to keep prices low for consumers.

This bill also brings much needed relief and peace of mind for those who do have insurance coverage, as all Americans will no longer have to worry about the possibility of financial ruin due to a serious illness. It caps annual out-of-pocket expenses at \$10,000 for families and \$5,000 for individuals, and prohibits insurance companies from imposing lifetime limits on an individual's coverage.

Our local community leaders have expressed their support for health insurance reform, and both the city and the county have passed unanimous resolutions in support of reform. The Affordable Health Care for America Act is endorsed by over 300 national organizations and associations, including the

AARP, the American Medical Association, the American Cancer Society, the American Heart Association, and many other medical professional organizations.

The passage of this landmark legislation by the House of Representatives is an historic achievement and reflects the commitment and determined leadership of President Obama and the Democratic Congress to follow through on a key promise to help middle class families, who have endured years of rising medical costs. I commend my colleagues for their determination to pass this truly historic legislation that will lower health care costs for all Americans, and strengthen our country's financial future.

Ms. LINDA T. SÁNCHEZ of California. Mr. Speaker, I rise today to oppose language in the Republican substitute that threatens the well-being of patients in hospitals across the country.

The goal of the underlying legislation is to provide affordable, quality healthcare to every American. According to The Institute of Medicine, nearly 100,000 people die every year because of medical errors in America's hospitals. I cannot understand how reducing the accountability of our healthcare practitioners would lower that number or improve the quality of healthcare in this country.

The facts are clear. Those states that restrict damage awards and limit access to courts for patients injured by negligent doctors have seen limited or no reduction in healthcare costs. Instead, many have seen an increase in the cost of malpractice insurance. In fact, for every malpractice damage award, 3 to 7 people die due to medical errors.

While we all share a goal that doctors practice medicine with confidence and avoid needless tests, we should not limit access to justice where reckless action permanently alters the lives of patients and their families. Make no mistake, that's what the Republican substitute would do.

If we want to lower healthcare costs, let us instead cut down on medical error by encouraging adoption of best practices, standardizing safety procedures that are proven to reduce infection, and lowering malpractice premiums by creating more competition in the insurance industry. I listened to the Americans who visited Washington this week. Many spoke about a fear of monopolies and in favor of increased competition. I agree. Let's make the insurance companies comply with antitrust laws and operate on the same competitive playing field as other American businesses.

One of the great guarantees the founders provided in our Constitution was the ability to address grievances in a court of law. Our courts remain a great equalizer that allows every American the opportunity to seek justice when wronged. Limiting this guarantee goes against that spirit and leaves grieving and injured families without access to justice. I ask my colleagues to join me in opposing this substitute.

Ms. CORRINE BROWN of Florida. Mr. Speaker, tonight, I'm thinking about my grandmother, and all the grandmothers out there—back in November of 2003 when the Republicans passed their Medicare Prescription Drug bill, they put a provision in there known as the donut hole. And that's why I voted against that

bill because I knew that my Grandma needed her prescriptions yet couldn't afford them because of this gap in coverage. And they made it illegal for the Secretary of HHS to negotiate the prices of drugs, even though we in Congress allow the VA and DOD to negotiate drug prices.

Yet this bill closes that prescription drug loophole. It makes it impossible for insurance companies to deny people health care because of a pre-existing condition, and it allows the Secretary of HHS to negotiate drug prices, which WILL help to bring down cost.

Secondly, one of the most family friendly provisions in this bill: families can keep their children on their health care insurance policy until age 27! This will be a great assistance to young adults studying in graduate school, or those just starting out in their career and barely making enough to get by.

To whom God has given much, much is expected. I strongly urge my colleagues to vote in favor of this bill to reform health care in our country and make sure access to health care is a right for every American, not a privilege.

Mr. ETHERIDGE. Mr. Speaker, I rise today in support of H.R. 3962, the Affordable Health Care for America Act. This bill is essential to improving North Carolina's economy and will lower health care costs for millions of Americans. I am committed to enacting comprehensive health care reform that contains costs, protects patient choice, and assures quality, affordable care for all Americans. As the only North Carolina Member on the House Ways and Means Committee, a Member of the Budget Committee, and a supporter of fiscal responsibility, I am pleased that this legislation is fully paid for and according to the Congressional Budget Office will reduce the deficit both in the short and long term.

Working families and small businesses are facing crushing health care costs that threaten their lives and livelihoods. Health care costs will reach \$2.5 trillion in 2009, more than we are expected to spend on the wars in Iraq and Afghanistan this decade. Families already have experienced health care costs doubling in the past 10 years. Without reform, health care costs will skyrocket in the next decade. Independent analysis has predicted that family premiums will be \$1,000 to \$9,000 lower in 2016 under this legislation compared to what they would be without reform.

H.R. 3962 will improve health care for seniors in Medicare by reducing costs and extending Medicare's solvency. This bill brings an end to the prescription drug "donut hole" which has unfairly burdened the pocketbooks of seniors, decreasing out-of-pocket costs by \$500 immediately, cutting copayments in half in the short term, and fully closing it over the next 10 years. H.R. 3962 also provides better and more timely payments to doctors who accept Medicare and attacks waste, fraud and abuse in Medicare ensuring more money goes to benefits and improving senior health and quality of life.

Too many people have their choices limited by insurance companies and financial decisions, rather than by patients and doctors. H.R. 3962 will expand individual choice and prevent insurers from denying benefits that doctors recommend. This bill will place caps on out-of-pocket health expenses, and remove

the ability of insurance companies to place annual or lifetime limits on coverage. Choice will be reinforced with one-stop comparison insurance shopping through a health insurance exchange.

During this economic downturn, H.R. 3962 will help small businesses address the crushing costs of health care. In particular, this legislation will curb skyrocketing health care costs and provides greater access to health care for small businesses. Companies that offer their employees health insurance coverage will get a tax credit for two years to help them transition to, or continue, providing health benefits to their employees—paying up to 50 percent of their costs.

Mr. Speaker, as this bill moves to the Senate and then to conference, I am hopeful that we can make sure that H.R. 3962 does not unintentionally burden small businesses who employ seasonal workers. While tax incentives in the bill are designed to help small employers cover health care expenses, there are no allowances for seasonal workers common to the agricultural industry. Workers who are only employed for a short time by an employer should be able to get health insurance, but there must be provisions to ensure that this is affordable and not burdensome to their temporary employer. As we work through the process of passing a final bill to be sent to the President, I hope leadership will work with me to resolve this issue.

H.R. 3962 is fiscally responsible and will improve the health and health care of people across my district, North Carolina, and the country. I am pleased to be able to vote in favor of this historic legislation.

Ms. FOXX. Mr. Speaker, small business owners and employees need more choices of health insurance plans, not fewer. This bill will drive out the private health insurance market and permit the government to determine if the health insurance options a small business offers are "acceptable."

The bill places a new tax-compliance paperwork burden on all small business owners.

This bill will kill jobs. It does nothing to lower the cost or increase choice in the marketplace for America's small business. It will harm small business owners with costly employer mandates and punitive payroll taxes.

The Joint Committee on Taxation and the NFIB agree that more than one-third of the \$460.5 billion raised by this bill's surtax will come from small business income.

Small business owners have shared their concerns about H.R. 3962 with me. One small business owner in Statesville N.C. summed it up:

"If this bill is passed the way it is written, my business will be unable to afford to comply with the legislation. My business has drastically cut expenses, delayed capital investments and decreased our work force to stay competitive. If H.R. 3962 is passed by Congress it will force us to close down our business and end the paychecks for the 56 employees who depend on our company to feed their families."

Mr. LUJAN. Mr. Speaker, as I came to the floor tonight I was reminded of a constituent, Aunt Adrian, who we lost to cancer this last year and who couldn't afford insurance, she spent her last few months worrying about bills,

rather than get better. This story didn't have to end this way.

We reached this point today because people have had enough.

People who have been ignored and shunned, because they are sick;

People who have lost their homes and all they have because a health insurance company slammed a door on them and denied them coverage they thought they had.

People who deserve to be treated fairly and with dignity.

We are here today not to frighten and scare the American people with things that are untrue.

But to act, to make a difference, to have the courage and will to put the people first.

And I now know that we do have the courage and the will to get this done, Aunt Adrian and the American people deserve no less.

Ms. RICHARDSON. Mr. Speaker, I rise today in strong support of H.R. 3962, the Affordable Health Care for America Act of 2009, because this bill is good for seniors, good for women, good for small businesses, and good for all Americans.

I would like to thank Speaker PELOSI, House Majority Leader HOYER, Congressman DINGELL, Congressman RANGEL, and Congressman WAXMAN for their skill and leadership in bringing this historic bill to the floor. I would also like to thank my colleagues who have worked so hard to bring about a workable solution to one of the most critical challenges in the history of our nation.

President Theodore Roosevelt proposed national health insurance in 1908 because he could not stand by and watch American families go bankrupt when their children fell ill. Forty years later in 1948, President Truman proposed it again. Under the leadership of Lyndon B. Johnson and a Democratic Congress, Medicare was enacted in 1965 which provided health care for senior citizens. Thirty years later, Congress passed the State Children's Health Insurance Plan which expanded affordable coverage to millions of poor children.

Today, this seventh day of November in the year 2009, we write another great chapter in the remarkable history of this country. Today, we extend to tens of millions of our fellow citizens the security that comes from knowing that they will have health care that is there when they need it and won't bankrupt their families. Today, we keep faith with those who came before us and those who will come after us. Today, we will pass the Affordable Health Care for Americans Act of 2009 and change America for the better.

The health care system we have now is not working for middle and working class families, not working for businesses trying to compete in a global economy, not working for taxpayers or for the uninsured. There are 54 million Americans who are uninsured who need us to reform this broken system. 1 in 5 Californians are uninsured or underinsured. These numbers are staggering and if we do nothing, they will only grow worse.

Mr. Speaker, House Republicans have offered a bill that they claim solves the broken health care system, but the reality is quite different from what their rhetoric makes it out to be. The fact is the Republican substitute

leaves affordable health insurance out of reach for millions of Americans. It will allow discrimination based on gender, age, and pre-existing conditions to prevail in the insurance industry. It will do nothing to protect consumers. It is not the answer.

Mr. Speaker, the Affordable Health Care for Americans Act is a better bill. It is the answer to the broken health care system. This bill provides American families with stability and peace of mind. Never again will they have to choose between their health and their livelihood. This bill provides American families with higher quality health care. It leaves important health decisions up to patients and doctors, not to insurance companies. This bill provides American families with greater choice. It creates a high-quality, robust, public health insurance option for families to choose from. Finally, this bill lowers costs for American families. It eliminates co-pays and deductibles for preventive care while putting an annual cap on out-of-pocket expenses for American families.

Mr. Speaker, this bill is the answer to the problems faced by real American families today. The Republican bill is fantasy. It is not grounded in reality. Now, we need to stop playing politics and focus on actually improving people's lives. H.R. 3962 will reform the health care system so that it provides quality, affordable coverage that cannot be taken away. This bill eliminates discrimination based on gender and pre-existing condition. It eliminates the prescription drug donut hole for seniors. It ends the era of no and begins the era of yes for millions of Americans seeking coverage.

As FDR once said, the test of our progress is not whether we add more to the abundance of those who have much, it is whether we provide enough for those who have little. It is time for us to move forward. It is time for us to take this great nation in a new direction. It is time for us to look out for all Americans in their time of sickness and need. The hour is late, and the need is great. I urge my colleagues to vote "aye" on H.R. 3962.

Mr. SHULER. Mr. Speaker, as you know I am opposed to the bill we are considering today for many reasons that I have articulated previously. I am pleased, however, that the bill strikes the appropriate balance on the issue of follow on biologics. This bipartisan compromise language will provide lower cost options to consumers and my constituents without destroying a healthy and functioning biotech industry in this country. The Barton-Eshoo biosimilar amendment in the Energy and Commerce Committee was one of the few issues that was addressed on a truly bipartisan basis and ought to serve as model on how things should get done in Congress.

I believe it is critical that the creation of a pathway for new products does not destroy the ability or the incentives of innovator companies to develop breakthrough technologies. We have a moral obligation to provide a safe and effective pathway of bringing competition that will benefit patients. I wish we could consider this as a stand-alone bill because it would pass with the kind of overwhelming bipartisan support that Americans across the country wish to see.

However, these provisions are only the first step in a long path to the marketing of these

new products. New research and clinical testing will have to occur and the FDA will write rules that will ensure this research is done safely and effectively. One of the reasons I have long supported the U.S. biotechnology industry is that it is a homegrown success story that has been an engine of job creation in this country and in my home state of North Carolina. Unfortunately, many of the largest companies that would seek to enter the biosimilar market have made their money by outsourcing their research to foreign countries that don't have the same safety and efficacy standards that we have in the United States. With this week's devastating news that unemployment has reached 10.2 percent it is critical that we preserve jobs in America. While the innovators have created jobs here, these generic companies have shipped them overseas, so they can turn around and sell cheap knockoffs of innovative American products.

As this new market launches in the U.S., we need to ensure that we foster innovative products in this country for the creation of jobs and research that will go into proving whether these products are interchangeable with the innovator's products. I don't know whether these companies can create such interchangeable products, but I am certain that the research and testing of whether or not they should occur in this country and not somewhere across the globe. Testing and research on these interchangeable biosimilars should be required to occur in this country to ensure that it is done properly and safely.

Mr. BOOZMAN. Mr. Speaker, the Pelosi Health Care Bill is a bad bill disguised as health care reform. I have heard my constituents and the American people and they say they don't want this government takeover. They want the right to make their own health care choices. I agree that we need health care reform because the costs are too high. There is nothing more frustrating as a medical professional than when my patients can't afford the prescriptions I write for them. The Majority plan will put Washington between me and my patients and this is unacceptable.

We all deserve access to quality and affordable health care. Unfortunately, a public option doesn't guarantee that we will accomplish this. This government takeover will increase taxes, take away health care choices Americans deserve to make and create more bureaucratic red tape. We don't want reforms that come with higher costs while the quality and access to health care suffers.

The cost is a staggering \$1.2 trillion and to think that won't impact our national deficit and state budgets is unrealistic. The increased price for greatly expanding Medicaid will be an unfunded mandate to Arkansas taxpayers that at the bare minimum will cost \$205 million and could be as high as \$596 million. This is an unfunded mandate that we cannot force Arkansians to pay. Health reform should not end up costing hardworking Americans. Our citizens deserve better.

Mr. ISSA. Mr. Speaker, today I will vote in strong opposition to H.R. 3962, the "Affordable Health Care for America Act."

This government takeover of health care is filled with tax increases, job killing mandates, Medicare cuts, bureaucrat additions, and entitlement expansions. This bill will lead to higher

health care premiums and a growth in long-term health care costs.

Despite this bill's many faults, I support the bill's language establishing a market for biosimilars which balances the desire to provide cheaper biologics with the need to continue incentivizing investment in research and development. The bipartisan language approved by the House Energy and Commerce Committee earlier this year would create an FDA approval process that allows for the continued development of biosimilar products.

This language appropriately protects intellectual property rights by encouraging the creation of new technologies and helps protect patients from possibly dangerous, insufficiently tested biosimilars. Because biologics are more complex and susceptible to change during formulation, it is of the utmost importance that we only support a process that provides for a safe biosimilar market.

It is critical at this time of 10.2 percent nationwide unemployment that the federal government allow job creating industries, like biotechnology, to continue to invest and create jobs. It is unfortunate that the Majority wrapped up a good biosimilar bill in a bad health care bill, but I hope that we have the opportunity to support the Eshoo-Inslee-Barton biosimilar provisions in a separate legislative vote.

Mr. MCCARTHY of California. Mr. Speaker, I rise today to express my strong opposition to H.R. 3962. Specifically, I am very concerned about how the House Democratic Leadership's government takeover of health care legislation will affect the biotech industry, which has been a source of innovation and job creation in California.

Californians know very well how the burden of heavy taxes and regulations can harm small businesses and innovation, as our state economy continues to lag and continues to have an unemployment rate much higher than the national average. On top of state taxes and regulatory burdens, H.R. 3962 would only add on to the devastating burdens facing our biotech industry, through its \$20 billion excise tax on medical devices and by establishing a pathway for follow-on biologics that could harm innovation and American jobs.

As one of the biotech leaders in our country, California boasts more than 2,000 biomedical companies and has created more than 271,000 jobs. The proposed excise tax, whose purpose seems to be solely to raise revenue, is a job killer and would stifle innovation. It will ultimately result in making it more difficult for millions of Americans to have access to life-saving medical devices that they need for their health and well-being.

Further, H.R. 3962 would establish a new pathway for follow-on biologics that could slow advances to new life-saving therapies, and ultimately reduce the number of American jobs. The bill does not expressly require clinical trials for follow-on biologics to be completed in the United States, which could allow for these studies to be conducted overseas. Over the past decades, many innovator biologics have demonstrated to be safe, reliable and life-changing—the product of strong clinical trials and research done by dedicated researchers here in America. As unemployment has now crossed 10 percent nationally, and is over 12

percent in California, I hope that we could continue to foster the creation of jobs and research in America.

These are some of the many concerns I have with H.R. 3962, which is why I instead support the Republican health care alternative. The alternative excludes the unnecessary and burdensome excise tax in H.R. 3962, and also includes a responsible pathway for follow-on biologics by including provisions from the Pathways for Biosimilars Act, which I am a proud cosponsor of. By passing the Republican alternative, we can ensure that the American biotech industry can continue to lead the world in innovative therapies and that the necessary research and clinical testing in the field can continue to be done domestically so we can continue to create good-paying American jobs.

Californians, and all Americans, need Washington to pass strong common-sense health care solutions. But we need solutions that strike a balance in reducing health care costs, strengthening health care access, and allowing health innovators, like our biotech industry, to continue to research and improve therapies for patients. That is why I support the Republican health care alternative—it addresses the needs of patients and ensures that we keep good-paying jobs in America.

Mr. BONNER. Mr. Speaker, I rise today to state my objection—in the strongest way I know how—to Speaker PELOSI's health care bill.

This bill represents everything I have fought against during my years in public service . . . it raises taxes by hundreds of billions of dollars, it hides deficit spending with dubious accounting gimmicks, and it will vastly expand the federal government's scope and size in every aspect of our daily lives and take even greater control over one sixth of our nation's economy.

Among other things, this bill piles crushing mandates on small businesses, it wrings hundreds of billions of Medicare dollars out of our doctors, hospitals, and other providers. It decimates the popular Medicare Advantage program, which millions of seniors depend on. Moreover, it will be the mother of all unfunded mandates on state budgets which—like my home state of Alabama—are already stretched thin because unlike the federal government, most states actually balance their budgets.

Mr. Speaker, over the past several months I have heard from thousands of Alabamans who have called, written, and e-mailed my office. In August, my staff and I held 19 town meetings throughout Alabama's First District where more than 5,000 people came out to voice their opposition to this massive takeover of our health care system.

My friends and colleagues, the vast majority of the people I work for—and have heard from—are unambiguous—they do not want this bill.

In fact, most Alabamians—and, I believe, most Americans—want to preserve what's best about our health care while lowering costs and improving access. That's why I will not only be opposing H.R. 3962, but I am proud to support the Republican substitute. My Republican colleagues and I believe this bill would lower costs in both the short term and the long term, honoring our pledge for fiscal

responsibility while broadening access to quality health care through lower costs and more competition.

Mr. Speaker, I only have one vote but I will cast that vote against this legislation that The Wall Street Journal correctly dubbed, "the worst bill ever," and I humbly urge my colleagues to do the same.

Ms. HIRONO. Mr. Speaker, the U.S. Congress has been grappling with how to provide all our citizens with access to affordable, quality health care since the time of President Harry Truman. H.R. 3962 represents a critical milestone in the effort to reform our health care system.

For those who have it, health insurance is not something you can take for granted. Every day 14,000 Americans lose their health insurance coverage. A recent U.S. Treasury Department report noted that approximately half of all Americans under the age of 65 will lose their health insurance coverage at some point over the next ten years. Thousands are denied coverage because of pre-existing conditions like asthma, pregnancy, arthritis, or diabetes. Millions more have no health insurance at all, including 54,000 people who live in Hawaii's Second Congressional District.

In his health care speech before Congress and the nation, President Obama appealed to the best part of us—to act unselfishly, and to put ourselves in the shoes of others. He asked us to imagine what it must be like for those who don't have insurance—to live in a State of helplessness should illness strike you or the ones you love.

H.R. 3962 is a bill that will provide for comprehensive health care reform that will protect consumers, hold insurance companies accountable, rein in health care costs, reduce the deficit, and cover 36 million uninsured Americans. In supporting this bill, I want to highlight three key points. First, for Hawaii the bill includes the Hirono Amendment that provides an exemption for Hawaii's Prepaid Health Care Act of 1974, which is our nation's first and only employer mandate law of its kind. Second, the bill will provide health insurance coverage for an unprecedented number of Americans while still reducing our deficit. And third, the bill strengthens and improves the Medicare program for our seniors.

First, there is a mistaken perception that everything and everyone in Hawaii is exempted under H.R. 3962. That is not so. The Hirono Amendment only exempts Hawaii's Prepaid Health Care Act (PHCA) and those who come under it (certain full-time employees and their employers). PHCA does not apply to part-time employees, seniors on Medicare, those without health insurance, government employees, or those covered by collective bargaining agreements.

Therefore, H.R. 3962 would apply to them. I know it is easier to talk in terms of the State of Hawaii being exempt from the bill, but that is wrong. The distinction between PHCA being exempt and the whole State being exempt is a critical distinction to make.

PHCA requires employers to contribute at least 50 percent of the premium cost for single health care coverage, and the employee must contribute the balance, provided the employee's share does not exceed 1.5 percent of his or her wages. Because of rising health care

costs, Hawaii employers on average cover 94 percent of the premium cost because of the second part of Hawaii's law limiting employees' share. Hawaii employers may cover the full cost of the health insurance premium and many do cover 100 percent of the cost of single coverage. H.R. 3962 would require employers to cover 72.5 percent of premium costs for single health care coverage.

Hawaii consistently ranks among the highest nationally in terms of insurance coverage and lowest in regard to the number of uninsured. This is largely due to PHCA. Private and public health insurance cover an estimated 92 percent of our population of 1.3 million people. Of those with private insurance, 93 percent are covered through employment-based plans.

Lawrence Boyd, an economist at the University of Hawaii, estimates that per capita health expenditures in Hawaii are seven percent lower than the national average. Dr. Boyd believes that wider health insurance coverage and support for preventive health care lead to this outcome. The Hirono Amendment will provide maximum flexibility for Hawaii once a federal health care reform bill becomes law. Hawaii will be able to decide for itself to retain PHCA or come completely under the new federal law.

Second, H.R. 3962 will ensure that 96 percent of Americans will have health insurance coverage. The non-partisan Congressional Budget Office (CBO) estimates that the cost of enacting H.R. 3962 will be \$894 billion, consistent with the \$900 billion limit established by President Obama. The bill is fully paid for. About half of the cost of H.R. 3962 is paid for by targeting waste, fraud, and inefficiency in the federal Medicaid and Medicare programs. The other roughly half of the cost of the bill is paid for through a surcharge on the wealthiest Americans—those with incomes above \$1 million for couples and \$500,000 for singles; therefore, 99.7 percent of Americans will not be touched by this surtax.

While H.R. 3962 will be paid for, CBO also estimates that the bill reduces the deficit by over \$100 billion in the first 10 years, and continues to reduce the deficit in subsequent years. Leading economists from educational institutions across our nation have concurred with CBO's findings and support the idea that health care reform promotes our country's economic health.

Finally, I want to address the importance of health care reform to seniors. Some of the most damaging misinformation that has circulated over the past several months on health care reform is the use of scare tactics targeted at seniors. The cynical irony is that the misinformation targeting seniors is largely perpetuated by the same people who fought the establishment of Medicare and wanted to privatize Social Security.

The truth is that H.R. 3962 will lower prescription drug costs for people in the doughnut hole; give the Secretary of Health and Human Services the authority to negotiate lower drug prices on behalf of Medicare beneficiaries; and extend the solvency of the Medicare Trust fund by five years.

Closing the doughnut hole is an especially critical issue for Hawaii, as we have the nation's largest percentage—36 percent compared with 26 percent—of Medicare bene-

ficiaries who fall into this gap of prescription drug coverage. In its first year, H.R. 3962 will reduce the doughnut hole by \$500 per beneficiary, provide a 50 percent discount on brand-name prescription drugs, and phase out the doughnut hole by 2019.

It is remarkable that in just the past two days, over 300 groups representing Americans from all walks of life—doctors, farmers, seniors, consumers, cancer and diabetes patients—have rejected the unsustainable status quo and have endorsed H.R. 3962. In its endorsement of the bill, Consumers Union—publisher of the independent, non-partisan Consumer Reports—called the health care status quo a “consumer crisis with its crippling costs, its unreliability, and lack of access,” and strongly endorsed the House of Representatives health care bill because it will create “a more secure, affordable health care system.” Other groups endorsing the House bill include the: American Medical Association, American Nurses Association, AARP, AFL–CIO, AFSCME, Americans for Democratic Action, American Cancer Society, American Diabetes Association, Asian & Pacific Islander American Health Forum, Association of Asian Pacific Community Health Organizations, National Association of Community Health Centers, National Education Association, Campaign for Tobacco-Free Kids, and from my district, Lana'i Community Health Center.

Now is the time to end insurance discrimination based on pre-existing conditions or gender. Now is the time to begin to close the Medicare doughnut hole for America's seniors. Now is the time to bring change to a broken system.

I urge my colleagues to vote in support of H.R. 3962.

Aloha and mahalo.

Mr. THORNBERRY. Mr. Speaker, most of us agree that improvements are needed in our health care system, especially in the way we pay for health care. Health insurance costs have been increasing faster than many people can pay, and too many of us do not have health insurance.

At the same time, many aspects of our health care system are the best in the world. We need to work step-by-step to make needed improvements while we protect those parts that are improving the quality and length of our lives.

The bill before us, H.R. 3962, takes a very different course. It cuts over \$400 billion from Medicare and Medicaid, increases various taxes, and fines individuals and businesses that do not sign up for the government-approved insurance, all to pay for massive new programs, including a government-run health insurance plan.

I believe that this bill will not only fail to stem the growing cost of health insurance; it will make health insurance significantly more expensive for the 85 percent of Americans who are currently insured. And it will severely affect those on Medicare and Medicaid. It will also present the largest, most intrusive growth of government into our lives in many years.

The alternative bill is a better approach. It focuses on lowering health insurance costs, and CBO agrees that it will do so by up to 10 percent. At the same time, it makes it easier for those with pre-existing conditions to obtain

coverage. CBO judges that the alternative would reduce the federal deficit by \$68 billion over the next ten years.

Unfortunately, other ideas have never been allowed to be considered. This bill has been railroaded through this House from the beginning. That is not the way to deal with an issue as important as health care. H.R. 3962 must be stopped so common sense health insurance reform can begin.

Mr. TIAHRT. Mr. Speaker, I rise today to express my opposition to both the rule and to the massive government takeover of health care that is before us today. There are a large number of issues that I could raise, but right now I would like to focus on one of the most blatant examples of disregard for the will of the American people found within this bill. The bill includes abortions paid for by federal dollars.

For more than 30 years, the United States federal government has not been in the business of providing funding for abortion. Since 1976 the Hyde amendment has struck a delicate, but respectful balance between those who support abortion and those who do not. While it does not make abortion illegal, it protects those who oppose abortion from being forced to support it with their taxpayer dollars. This is a fair compromise that should be included in the H.R. 3962.

Public opinion is clear on this issue. A number of polls have been conducted in the last couple of months confirming that Americans do not support federal funding of abortion. A Rasmussen Reports poll from September found that only 13 percent of Americans support abortion coverage by government-backed health insurance. A Public Option Strategies poll from September found that only 8 percent of Americans would be more likely to support a health care bill if it included federal funding for abortions. A whopping two-thirds of Americans oppose using federal dollars to pay for abortions, according to the September International Communications Research poll. This is like every other aspect of this health care bill—the American people do not want it, but Democrat leadership is attempting to ram it down our throats anyway.

This is why I support the Stupak-Pitts amendment. Their amendment would extend the same restrictions found in the Hyde amendment to cover this bill as well. It does not outlaw or prohibit abortion, or restrict those who wish to have an abortion from seeking one. But it does prevent federal dollars from being used to pay for those abortions.

I am pleased that we will be allowed to debate the Stupak-Pitts amendment, even without assurance that should it pass, the House would retain the language in conference, and I hope that my colleagues vote in favor of the amendment. The Republican bill clearly states that abortions will not be paid for with taxpayer dollars. I urge my colleagues to vote for the Republican bill and against H.R. 3962.

Mr. ENGEL. Mr. Speaker, I rise in strong support of the Affordable Health Care for All Americans Act. In my 21 year career, this is by far one of the most important votes I will take. I have spent the past ten months meeting with the people of Bronx, Rockland and Westchester Counties and have had heart-breaking stories shared with me about the inadequacies of healthcare.

On this historic day, our Congress honors our country, honors our citizens, and honors our moral imperative to provide all Americans with comprehensive, affordable access to quality health care.

This is the reason so many of us get up day after day after day. It is the reason why so many of us sought public office, and it is the reason why our constituents sent us to Congress—to right the wrongs of our broken healthcare system and steer our country back in the right direction.

Never again will families worry late into the night over whether their pre-existing medical conditions will prevent their loved ones from getting access to health care coverage they so desperately need.

Never again will insurance companies be allowed to drop coverage for those who have paid their premiums diligently, only to lose it when they get sick and need it most.

Never again will families have to worry that if they lose their jobs, they will also lose their healthcare coverage.

The underlying bill provides comprehensive reform to our nation's healthcare system and puts our nation back on the road to fiscal responsibility by reducing the deficit by \$30 billion in the first 10 years.

Regardless of who you are, or where you live, this bill provides significant benefits to all citizens.

If you have health insurance, you can keep your doctor and your health plan. You like it, you keep it. It's that simple.

But for those that don't have health insurance, we will change that today. Of the 46 million Americans that are uninsured, 85 percent of them are in working families. Millions of Americans desperately want to purchase health insurance and can't. They've been priced out of the system. They have been priced out of a basic desire to keep them and their families healthy. 53 percent of Americans postpone care or medication because of cost. 60 percent of bankruptcies were related to medical debt. It's unfair, unsustainable and un-American to allow this failed health care system to continue.

Insurance companies have a chokehold on the market and we are breaking through that today. If you don't have health insurance, or lose your health insurance, the new health insurance exchange will provide a one stop comparison shopping market place for you of private insurance options or a new public health insurance option.

While in my heart of hearts I believe a single payer system would be the best reform of our nation's health care, I have worked tirelessly over the last year to enact a strong public option. The public option included in the bill will undoubtedly inject competition into the market for better prices and coverage of quality health insurance.

No longer will women be considered second class citizens when it comes to healthcare coverage. H.R. 3962 supports women's health care by ending the designation of pregnancy, domestic violence and caesarean sections as pre-existing conditions, and eliminating out-of-pocket expenses for preventive services including mammograms, well baby and well-child care visits. It also prohibits plans from charging women more for health coverage

than men, and guarantees coverage for maternity care.

H.R. 3962 invests in Medicare. Our seniors will see improved benefits, free preventive care, better primary care and lower drug costs. The donut hole, in which seniors pay monthly premiums for drug coverage without a drug benefit, will finally be closed. I have been fighting for this since the day we enacted the Medicare Prescription drug benefit.

Young adults will have more access to affordable healthcare than ever before. Our bill allows adults to stay on their parents' healthcare plans until their 27th birthday. This measure alone will cover one out of three uninsured young adults.

Additionally, small business owners will be granted access to affordable large group rates in the new insurance exchange and tax credits to help businesses insure employees across the 17th district and our nation. I met with the Rockland Small Business Association this summer and fought to make health insurance reform workable for small businesses. 98.8 percent of small business owners will pay no surcharge and 86 percent of America's businesses are exempt from the shared responsibility requirement to provide insurance. In fact, businesses with payrolls of \$500,000 or below are completely exempt from provisions in H.R. 3962.

Throughout this year, and in my role as the Senior New Yorker on the Energy & Commerce health subcommittee, I have worked hand and hand with Chairmen WAXMAN, RANGEL, MILLER, Majority Leader HOYER and Speaker PELOSI to improve the underlying bill for New York State and people nationwide.

Here are just a few of the provisions I was successful in inserting in the underlying bill.

I am proud to have reformed the Medicaid program to serve people with HIV. Under current Medicaid rules, low-income people with HIV must wait until they are disabled by AIDS before they can get covered by Medicaid. In the House bill, states could cover all people with HIV infection under state disability income and resource levels until January 1, 2013, when the new health insurance exchange is operational, at an enhanced federal match.

I worked to protect the ability of eight states, including NY to preserve Adult Day Health care programs in Medicaid. These community-based long term care programs provide comprehensive health care services in day settings.

Beneficiaries are given nursing, case management, clinical management, medical, diagnostic, social, rehabilitative, recreational and personal care services on a routine, daily basis.

Since my time in the New York State Assembly when I was the Chair of the Assembly Committee on Alcohol and Drug Abuse, I have been championing for mental health and substance abuse services. I worked to strengthen our capacity to serve people affected by these disorders through Federally Qualified Behavioral Health Centers. My provision will establish national standards of care for persons with serious mental illness and addiction disorders. Furthermore, new reporting and accountability standards for mental health care will better integrate its providers and services within the larger healthcare system.

Many people have a family member, or are friends with someone who has autism. I worked with Rep. DOYLE, the Co-Chairman of the Congressional Caucus on Autism on several provisions dear to me. We ensured that discrimination in benefits against persons with autism are prohibited by including behavioral health treatments as part of the essential benefits package in the House health reform bill.

There is currently a shortage of appropriately-trained personnel who can assess, diagnose, treat and support patients with Autism Spectrum Disorders (ASD). These professionals require the most up-to-date practices to best care for those with autism and their families. And so we included a provision for the training for professionals working with children and adults with autism.

I advocated to improve the healthcare for maternity and newborn care in the Medicaid program. H.R. 3962 will extend important child health quality improvement provisions to traditional-eligible childbearing women and newborns and other covered adults younger than age 65. As a result of my provision, the Secretary of Health & Human Services will collect data and make recommendations on improving care for these key populations.

Finally, I was tireless in my advocacy for the Disproportionate Share Hospital (DSH) program, which assists with the cost of caring for uninsured and underinsured people at hospitals. These payments ensure that hospitals are not in financial distress from serving low-income people.

We stand here as proud Americans determined and ready to transform a broken health care system into a model of care worldwide. The cost of inaction is too great. Today, we answer the call of history, and vote for health insurance reform for America. Our nation's future depends on it.

Mr. SCOTT of Virginia. Mr. Speaker, all afternoon we have heard about the "freedom" to be uninsured. Seniors in my district do not want us to repeal government run Medicare so that they can enjoy a "freedom" to be uninsured, and those without insurance now do not view themselves as enjoying some "freedom"; they want insurance.

The Republican substitute responds to the comprehensive Affordable Health Care for America act with a bill that fails to reduce cost, fails to cover uninsured Americans, and it may study—but it does not help—those with pre-existing conditions. It does, however, attack innocent victims of medical malpractice.

One recent study showed that medical malpractice represents less than one-third of one percent of all health care costs. And yet the Republican substitute seeks to blame our broken health care insurance system on innocent victims of medical malpractice. For those victims, the bill limits the ability to hire a lawyer, complicates the lawsuit, shifts the costs of medical malpractice from the doctor to the victims' own private insurance, and in some cases causes the injured victims to lose the right to sue before they even know they've been injured. I'd like to share some specific examples of the egregious provisions included in the Republican substitute.

Under the Republican substitute, a young child whose life is forever devastated by medical malpractice can lose all right to sue on his



or her eighth birthday—long before he or she reaches legal age to make his or her own decision.

Under the Republican substitute, when two or more wrongdoers act together, and one of them is able to flee or put their assets out of reach, the innocent victim is left short, while the other wrongdoer is shielded from full responsibility. They call this the “fair share rule.”

Under the Republican substitute, it is more difficult for a medical malpractice victim to get a lawyer's help to fight against the insurance companies, because the bill permits a court to reduce the fee paid to the victim's lawyer—after the case has been fought and won. This provision penalizes victims with winning cases. One would think the purpose of this provision is to save the insurance carrier money and thereby reduce malpractice premiums; however, insurance carriers are not responsible for the victim's lawyer's fee. Insurance carriers are responsible for the defendant's lawyer's fee, so permitting the court to reduce fees paid to defendant's lawyers would actually save money and reduce premiums. The substitute does not allow that. This makes no sense. Under current practice, the victim's lawyers already don't get paid if the victim loses. Now they might not get paid even if the victim wins.

Under the Republican substitute, if the victim has health insurance that helps pay for the victim's care while the victim is waiting for the wrongdoer to be held accountable, the wrongdoer can escape legal accountability for that part of the cost entirely. The wrongdoer gets to shift the cost onto the victim's own health insurance. That's the Republican approach to health insurance reform—saddling the victim's insurer with the cost of someone else's negligence, while letting the wrongdoer off the hook.

Under the Republican substitute, the only time punitive damages would ever be available is when the wrongdoer has maliciously injured the victim that is, when the wrongdoer has committed a violent felony. And even then—even in cases of the most heinous violence imaginable—the Republican substitute caps punitive damages.

The Republican substitute is empty of any meaningful health insurance reform, and it is utterly callous to malpractice victims. None of these unfair provisions were passed during previous attempts when the Republicans controlled the House, the Senate and the White House, and they should not be passed now. The substitute should be defeated.

In contrast, the majority's Affordable Health Care for America Act reduces the number of uninsured, increases accessibility of health care, controls skyrocketing costs, and addresses the denial of coverage based on pre-existing conditions. This legislation will put us on a new path where health care will be affordable to all and not just a luxury for some, and I am proud to support this historic health insurance reform legislation.

Ms. NORTON. Mr. Speaker, I support the Affordable Health Care for America Act both because of the extraordinary step forward it brings the nation and my district, the District of Columbia. First, I took steps to assure that the Affordable Health Care for America Act we expect to pass tonight would treat the District

equally with the 50 states (although it does not do so for the territories). Consequently, the bill will provide coverage for 14,000 uninsured D.C. residents and affordable credits to help up to 134,000 D.C. families pay for coverage; will improve employer-based coverage for 363,000 District residents; will improve Medicare for 75,000 D.C. seniors, including closing the prescription drug donut hole for 3,300 seniors, as well as providing free preventative care and wellness check-ups for all seniors; will allow 22,200 D.C. small businesses to obtain affordable health care coverage; and will save about 400 District families from bankruptcy resulting from unaffordable health costs. The bill also will reduce the cost of uncompensated care by \$126 million for the District's besieged hospitals and health care providers.

I am proud of the remarkable advances made by our bill, even though it does not meet all that I pressed to achieve. The Congress, of course, is not known for perfect bills, but the extraordinary diversity of our Democratic Caucus—from right to left—has assured that this bill represents a cross-section of the American public—urban, suburban, and rural. The incredible diversity of the Democratic Caucus, representing Republican, right-leaning, moderate, and progressive areas, meant that we could go to the floor only with a bill that sensitively put all of America together into one convincing bill. That is why we have produced a bill that satisfies deficit hawks, more wary of increasing deficits than of most other issues as well as single-payer advocates, who believe that only Medicare for all can sufficiently reduce costs while providing adequate health care to the middle class and the uninsured. Thus, there can be no doubt that the Affordable Health Care for America Act is a balanced bill.

The bill's greatest achievements are that it will reduce the deficit over the next 10 years and into the future while covering 96 percent of the American people; will end discrimination by insurers who dropped or refused to renew or sell coverage because of health status; and will ensure that coverage is affordable by providing subsidies for people in employer-based health care or through the insurance exchange of private insurers as well as a consumer option to drive down the cost of health care while operating on a level playing field with other insurers.

I particularly support this bill because it will take off the burden that the District of Columbia heroically took on, beginning with the Williams administration, to offer health care to the uninsured, without any assistance from the federal government, rather than subject them, as well as the District, to costly emergency room care, the most expensive available. The District's Health Care Alliance, which provides insurance to more than 50,000 residents lacking health insurance, who do not qualify for Medicaid or Medicare, is collapsing under the weight of increasing requests from individuals without insurance. The city had to cut its Health Alliance budget this year to 46,000 individuals, although a year ago 48,000 individuals had registered and 55,000 were expected to register in the 2010 fiscal year.

At my “Fact Check Town Hall Meeting on Health Care Reform,” which observers said

was notable for its civility and the diversity of residents attending, it was apparent that District residents strongly support the approach taken by today's bill. By September, my office had received 2,000 contacts on health care reform, almost all supporting the reform efforts underway in the House, with only nine residents expressing opposition to any reform. Also, 276 District residents had written in opposition to parts of the proposed bill, and 220 of them opposed the public plan. Most who opposed the public plan, appeared to believe that such a plan would affect their employer-based plans, which this bill ensures cannot happen.

I believe that this bill is strong and compelling enough to offer stiff resilience to those who have been unwilling to take on the special interests and who may now believe their best hope is in the other body. Tonight, this bill provides the best hope for the health care of our nation's long-suffering people.

Mr. PAULSEN. Mr. Speaker, like many of my colleagues on both sides of the aisle, I believe the status quo of our nation's health care is unacceptable. We need real reform in this country that will lower costs and keep health care decisions in the hands of patients and their doctors.

This bill would establish a new government run bureaucracy and a public-plan that will drastically expand the role of government into personal health care, at a massive cost of more than \$1 trillion. And it's important to note, that like nearly every other entitlement program, the costs from this bill will only skyrocket.

The bill raises taxes on small businesses, individuals and medical devices like pacemakers and stents. Indeed, this bill would impose \$729.5 billion in higher taxes. \$135 billion in taxes will be levied on business. \$20 billion in taxes will be levied on medical device manufacturers. Using President Obama's economic measuring stick, as many as 5.5 million jobs could be lost from the taxes in this bill.

We all heard over and over again that, “those of you who like your health care plan can keep it.” What is not mentioned is that every plan will need to meet government requirements for a government seal of approval. This plan cuts \$500 billion in Medicare benefits to seniors, including over \$170 billion in cuts to Medicare Advantage—a plan that is used by more than 19,000 seniors in my district. These seniors will no longer get the same care and coverage that they need.

Mr. Speaker, in the bill before us there is no provision in this bill to allow small businesses to pool together, no protection for those who want keep the coverage they have, and no medical liability reform.

The health care plan I support lowers health care premiums for all Americans, guarantees affordable coverage for patients with pre-existing conditions, protects seniors, Medicare benefits, includes no tax increases, enacts real medical liability reform, empowers the doctor-patient relationship, and reduces the budget deficit.

I also want to point out that I offered five amendments to the healthcare bill, but none were made in order. The first amendment would have removed the onerous medical device tax from the bill and replaced it with unobligated stimulus funding. It makes no sense

to me that this bill taxes innovation and our job creators and takes away funding for life saving technology.

I had another amendment that would have required a study of the harmful effects the innovation tax would have on the medical technology industry. Americans should know the implications of the negative effects on life saving technologies in this nearly 2,000 page bill.

Yet another amendment I offered would have removed the seasonal and temporary workers from the employer mandate. This amendment would have helped to lessen the heavy burden this legislation imposes on small businesses.

In addition, I offered an amendment that would have improved and expanded health savings accounts. This would have helped make health care more affordable for the millions of people covered by high deductible health plans.

Finally, I offered an amendment to clarify that nothing in this bill would have infringed on the healthcare that was promised to our nation's veterans. Unfortunately, this health care bill makes massive changes and our nation's veterans are owed the assurance that they will have adequate care.

Mr. Speaker, I would like to close by saying that I oppose this bill because it puts the government in between the decisions of a patient and their doctor. This is simply unacceptable. Patients should have the right to make their own choices regarding the medical care they need without government interference. Whether it is taking care of your children, parents or grandparents, there is no issue that is more personal to a family than health care. No special interest group, Member of Congress or federal bureaucrat should stand between a patient and their doctor.

Americans continue to lose jobs and faith in their American government each day. This bill is not only the wrong direction for our economy but also the wrong direction for America.

Mr. BISHOP of Georgia. Mr. Speaker, after months of studying the various proposals, listening to feedback from my constituents on both sides of the issue in town hall meetings, informal discussions, letters, e-mails and faxes, and after prayerful reflection, I concluded that I must support the health care reform legislation. I believe it would improve the lives of my constituents by ensuring that they have access to quality, affordable health care. H.R. 3962, while not perfect, makes substantial progress in this regard.

During my town hall meetings on health insurance reform last August, I said that we have a moral obligation to ensure that all Americans receive the health care they need to live healthy and productive lives. I have long been concerned about the poor health indicators among my constituents, and this evening I cast a vote that I believe will have a significant impact on improving the lives of Southwest Georgians now and into the future.

Georgia ranks third in obesity rates for children age 10–17; sixth in the number of tuberculosis cases; seventh in number of low birth-weight babies; ninth in diabetes rates for adults; tenth in the number of uninsured; eleventh in hypertension rates; eleventh in the number of new cancer cases; and fourteenth in obesity rates for adults. These numbers are unacceptable.

H.R. 3962, when signed into law, will immediately bring about reforms that will benefit the citizens of Georgia's Second Congressional District and all Americans. The bill will immediately begin to close the donut hole in the Medicare part D prescription drug coverage for seniors. It will outlaw denial of coverage for people with pre-existing conditions, limit premium discrimination based on gender and age, and prevent insurance companies from dropping coverage when people develop serious illnesses and need it the most.

In addition, the bill increases funding for community health centers and other primary care providers, doubling the number of patients seen over five years. It will extend coverage for young people to stay on their parents' insurance plans up to their 27th birthday. It will extend COBRA health insurance coverage for displaced workers. Furthermore, it will hinder price-gouging by requiring that insurance companies disclose rate increases.

By 2013, when the mandate for coverage and the Exchange are in place, additional provisions will take effect including no more co-pays for routine checkups and preventive care, yearly caps on individuals' out-of-pocket expenses and no lifetime caps on what insurance companies will cover.

In addition to the benefits for Southwest Georgia, the bill will reduce the federal budget deficit by \$104 billion over the next decade. It will allow states to form compacts that will enable consumers to buy policies from insurers across state lines.

With regards to small businesses, the health care legislation will provide tax credits to nearly 14,000 small businesses in the Second Congressional District who offer their employees coverage and exempts 86 percent of small businesses (those with payrolls of less than \$500,000) from having to provide coverage, and continues the business deduction for those who do.

Finally, the House health care bill prohibits the use of federal funds for abortions. It also requires verification of citizenship or lawful presence for undocumented immigrants to receive coverage.

I look forward to further improvements as the bill is considered by the Senate and the Conference Committee, where differences between the House and Senate bills will be resolved. But this evening's vote is a significant step towards affordable, quality health care for all.

Mr. KENNEDY. Today is truly a historic day for all Americans, and as an elected official of this great democracy, it is an extremely proud day for me. It is an occasion to celebrate and thank all those who fought to protect our nation's democratic process. It is also an occasion to recognize and remember all those Americans who have suffered waiting for this day to arrive. We have worked together to achieve this goal of quality, affordable health care for all Americans. To all these people, I express my sincere gratitude, and I rejoice with you today that a new chapter in our history has begun.

The Affordable Health Care for America Act creates basic protections for all Americans seeking access to healthcare. No longer will insurers be able to drop you from your insurance when you get sick, nor can they deny

you coverage for a pre-existing condition. A public option will offer a choice for consumers and provide real competition to keep private insurers honest. Affordability credits will help individuals and small businesses to purchase health insurance. Additionally, these reforms are fully paid for and will actually lower the deficit over the next 10 years.

I am proud that the final version of this legislation includes numerous provisions I have long advocated for and worked with my colleagues to achieve. While the initial draft of the Affordable Health Care for America Act gradually closed the donut hole for Medicare prescription drug coverage over 15 years, I am pleased to have worked with the Speaker to successfully reduce the timeline in which this critical reform will take place. The donut hole will now begin to close immediately and will close completely by 2019, providing much needed assistance and relief to seniors starting next year.

Likewise, I am also pleased that the Affordable Health Care for America Act eliminates lifetime caps, provisions of many health insurance plans that limit the total dollars in benefits that the insurance plan will pay out over the lifetime of an enrollee in the plan. I authored a letter, signed by 23 of my colleagues, urging this lifesaving provision to become effective immediately. I am pleased that the elimination of lifetime caps on insurance has been made effective in 2010, so that none of the 25,000 individuals who reach their lifetime caps each year will die waiting for the provisions to take place.

A key aspect of this legislation that is of particular importance to me is the extension of the mental health parity protections established into law last year by my legislation, the Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act. Not only are these protections extended to all plans in the Health Insurance Exchange, but mental health and substance use benefits are a part of the essential benefits package created by this legislation. For 67 percent of adults and 80 percent of children needing mental health care that do not receive it, this victory cannot be understated. I commend my colleagues and my fellow citizens for their leadership in recognizing that the health of the mind truly cannot be separated from the health of the body. Today marks a new day and a giant leap forward towards our transition from a "sick care" system to one which is preventive, collaborative, and patient-centered.

Along these lines, I have also worked closely with my colleagues to ensure that mental health and substance use screening tools, such as Screening, Brief Intervention and Referral to Treatment (SBIRT), were included in this legislation. Severe mental illnesses are estimated to cost the U.S. hundreds of billions annually in lost wages. Screening for mental health and substance use has proven to be a significant cost saver for our health care system. The Affordable Health Care for America Act establishes a program to provide grants to support these critical services.

I will continue to work with my colleagues to ensure that our health care professionals have the tools that are needed to recognize mental health and substance use in their patients. This means ensuring that mental health and

substance use education be required of all health care professionals and integrated into the medical curricula, continuing medical education, and licensing examinations. It also includes addressing the drastic shortages of child and adolescent mental health professionals by providing loan forgiveness and making grants to professional schools to develop, expand, and improve training programs for professionals who serve children and adolescents. Language to this effect is included in some of the Senate healthcare reform legislation, and I will work with my colleagues to ensure that these critical provisions are retained.

Again, I commend my colleagues, the leadership, and my fellow Americans for their steadfast effort, diligence, and tremendous stewardship towards realizing the dream of quality, affordable health care for all Americans.

Mr. SMITH of New Jersey. Mr. Speaker, like most Americans, I believe we urgently need health care reform to provide every American access to high-quality medical care.

During the long and painful illnesses of both my parents, I had to fight with their health management organization to get them the care they deserved. Their HMO put my family through months of frustration and anguish. I know I'm not alone—tens of millions of Americans have gone through this as well. It's not right, and it's time to change that. Americans need more protection, power, and say in their health care programs, and they need us to reform the system to make it more affordable for everyone.

Regrettably, H.R. 3962, the bill before the House tonight, not only falls short, but it will make most people's health care worse, and it will certainly disempower all of us. For this reason I strongly oppose the bill—H.R. 3962.

After carefully studying H.R. 3962, I am concerned that the bill is actually a step backwards—many patients will have less, not more, access to and say over their health care if H.R. 3962 is enacted. I firmly believe we can and must reform our health care system and provide better solutions for those currently uninsured or underinsured. But we must do so without jeopardizing the quality of health care for these currently insured people and families, many of whom will see their own health care access and quality seriously eroded under the bill.

H.R. 3962 will:

Limit patient access by establishing federal bureaucracies with new authority to determine what medical treatments and services will be covered at, what costs patients will pay—Americans will be so disadvantaged that this bill makes those who don't purchase “acceptable” coverage (as defined by the federal government) subject to fines and imprisonment up to 5 years.

Cause most Americans to lose access to their current health insurance coverage and force them into a nationally uniform public plan. It will do this by subsidizing a government-run “public plan” that will ultimately drive private health plans out of business. Most Americans don't want to lose their current insurance, and they trust the public plan even less than they trust private insurance, which at least has to compete for customers, and permits them to choose their doctors. This would

hit my constituents especially hard—according to the Urban Institute, approximately 90% of the people in my district currently have health coverage;

Slash payments to health-care providers, threatening the continued existence of many hospitals, home health and skilled nursing facilities serving New Jersey residents.

Mr. Speaker, throughout my career in Congress, I have been a steadfast supporter of Medicare for our senior citizens and the disabled. I have voted several times to preserve and protect Medicare even when I stood alone in my own party rejecting a proposal to cut \$270 billion from Medicare in 1995.

That is why I find it absolutely unacceptable that H.R. 3962 cuts Medicare by a whopping \$500 billion. Proponents argue that some funding will be returned through other avenues. But even if that were true, Medicare will still be drastically cut by a net of \$219.4 billion, in their “best case scenario.”

The bill also guts Medicare Advantage plans, which offer additional coverage to over 11 million seniors—15,983 in my district alone—who choose Medicare Advantage plans as the coverage that best meets their needs.

I will not vote for massive cuts in Medicare. These cuts will wreak havoc on our nation's health care system and everyone it serves, particularly the seniors and disabled. We need reform legislation that respects all human life, the most vulnerable among us which includes the frail and the disabled of all ages.

Finally, this bill will hinder economic recovery and job creation during a major recession. Just yesterday the nation's unemployment rate rose above 10 percent for the first time since 1983, and if you include those who have stopped looking for jobs and those who can only find part-time work, the rate is 17.5 percent. The bill does additional harm by:

Raising taxes on individuals and small businesses by \$729.5 billion;

Failing to reform our costly and unfair system of medical liability lawsuits, which inflates health care costs by billions of dollars each year, exceeding 10% of all health care expenditures;

Mandating a \$34 billion expansion of state Medicaid payments—in order to cover this massive increase, financially strapped states like New Jersey will have to cut other services; and

Costing the taxpayer, according to the Congressional Budget Office (CBO), \$1.3 trillion over ten years and using budget gimmicks and tax increases to cover that cost.

I must mention two other serious problems with the bill:

It does not adequately protect the freedom of conscience of health care providers and sets up mechanisms that ration care by creating government “waiting lists” if there are insufficient funds to pay expenses; and

It does not require patients to verify their identity, which, according to the CBO, means that millions of undocumented immigrants will receive free health care, unfairly subsidized by taxpaying citizens.

It is truly unfortunate that the Democratic leadership did not work to put forth a health care reform bill that addressed these concerns. We need a proposal that advances so-

lutions rather than creates new problems. Let me be clear, I take a back seat to no one when it comes to working to ensure that the federal government accepts its role and is doing its part in helping people and providing a health care safety net for those in desperate need of health care support. I am proud of my record, voting to defeat cuts to and expand existing federal health care programs, while working to protect patient rights and the delivery of quality medical care. These efforts include:

Medicare/Medicaid/SCHIP. I support providing our senior citizens a high level of benefits under the Medicare program. On one occasion, I voted against a \$270 billion reduction in Medicare spending. One reason I cannot support the current health care legislation is because it makes over \$500 billion in cuts to Medicare. To expand health insurance to more uninsured low-income children, I voted in 1997 for legislation creating the State Children's Health Insurance Program (SCHIP) and voted last year to expand the program. SCHIP and Medicaid together cover more than 30 million low-income children, as well as 16 million adults, 6 million seniors, and 10 million persons with disabilities. That is why I have been so adamant about protecting those programs.

Community Health Centers. Federally designated community health centers are another effective means to get affordable health care to underserved communities. The health centers program includes community, migrant, homeless, and public housing health centers and provides primary and preventive care to more than 18 million individuals at over 3,700 sites located in every state and U.S. territory. I have been a consistent supporter of increased funding for the community health centers program. A significant factor in the success of community health centers is that they are managed at the community level with a concern for serving their clients in their local neighborhoods.

Veterans Health Care. As former Chairman of the House Committee on Veterans' Affairs, I fought successfully (and sometimes nearly alone) to provide increased medical services and funding for veterans health care programs. I wrote several laws to boost and expand veterans health care, including the Department of Veterans Affairs Health Care Programs Enhancement Act (PL 107–135), which expanded and enhanced veterans' healthcare services and reduced out-of-pocket costs for low income veterans by 80 percent and continues to help disabled veterans obtain the tools they need to live fuller lives. I also wrote the law, the Veterans Health Programs Improvement Act of 2004 (PL 108–422), that created 5 poly-trauma centers within the VA, and an additional 17 networked sites, that specialize in treating complex multi-trauma injuries—including severe brain injury—associated with combat injuries from Iraq and Afghanistan.

Health Care Caucuses. Working with my colleagues across the aisle, I have cofounded and currently co-chair important bipartisan health care working groups, i.e. caucuses, which aim to educate Members of Congress and increase federal resources and research on treatments and cures for specific diseases, some which effect New Jersey residents disproportionately. For instance, I serve as co-

chairman of the bipartisan Congressional Alzheimer's Task Force; the Coalition for Autism Research and Education; the Spina Bifida Caucus; and the Lyme Disease Caucus. Each caucus has served as an effective forum to advance legislation that helps families combating health care challenges;

**Patients Rights.** As far back as 2001, I cosponsored and voted for the Patient Protection Act which contained critical patient protections to help put doctors and patients back in control of their health care decisions, rather than bureaucrats at managed care companies. Unfortunately, while separate bills passed the House and the Senate, they were never signed into law.

**Insurance Reform.** I voted for the Health Insurance Portability and Accountability Act of 1996 (HIPPA), which provided insurability protections for individuals moving between insurance plans in the individual or group markets and reduced or eliminated preexisting medical condition exclusion periods for such individuals. I have also been a strong advocate for allowing small businesses, associations, and non-profit organizations to band together to purchase health insurance. In acquiring health insurance, small businesses do not enjoy the benefits of economies of scale of large businesses, which allows those large businesses to spread administrative costs over a large base and provide significant leverage in negotiating lower premiums. Over 50 percent of the nation's uninsured are employed in a small business or are a dependent of such a worker.

**Medical Malpractice Reform.** The House of Representatives has voted to pass medical liability reform legislation with my support eight times in the past 15 years. These bills—which sought to place a cap on non-economic damages, limit punitive damages, and restrict attorneys' fees—were modeled after a California law that many credited for relatively low malpractice premiums in the state.

While we have had some significant successes in these critical areas expanding—frequently after much toil—it is indisputable that more comprehensive changes are needed, including major reforms of the private health insurance market.

The goal of responsible health care reform should be to provide credible health insurance coverage for everyone, strengthening the health care safety net so that no one is left out, and incentivizing quality and innovation, as well as healthy behaviors and prevention. This means that the current private health insurance market will have to be reformed to put patients first, and to eliminate denials for preexisting conditions and lifetime caps and promoting portability between jobs and geographic areas, including across state lines. The tax code should be modernized to promote affordability and individual control, provide assistance to low-income and middle-class families. Medicare requires reform to be more efficient and responsive, with sustainable payment rates.

Of course responsible health care reform will respect basic principles of justice: it will put patients and their doctors in charge of medical decisions, not insurance companies or government bureaucrats. It will also ensure that the lives and health of all persons are respected regardless of stage of development, age or disability.

The Republican alternative amendment does these things. It focuses on lowering health care premiums for families and small businesses, increasing access to affordable, high-quality care, and promoting healthier lifestyles—without increasing taxes or adding to the crushing debt Washington has placed on our children and grandchildren and without cutting Medicare. It also establishes a real conscience protection for health care providers and it requires verification of citizenship and identity.

I oppose H.R. 3962 because in many ways it jeopardizes coverage for those who already have it, especially seniors and the disabled. At the same time it exercises far too much top-down government control, forcing everyone toward a government plan, controlling exactly what sort of care will be offered. For this reason I support the Republican alternative amendment. It moves significantly in the right direction while applying the wisdom of Hippocrates' first principle of medicine: doing no harm.

Mr. SCHRADER. Mr. Speaker, I am proud to have cast an historic vote to overhaul America's failing health care system today. Controlling escalating health care costs is essential to getting our nation's fiscal picture under control. For the first time in our country's history it has brought consumers, businesses and providers to the table in a united effort to control costs, make health care affordable and improve our health outcomes. I have always said that if you like your current health care you need to be in favor of reform because you will not be able to afford that same level of care if the status quo persists.

H.R. 3962 prohibits exclusions based on preexisting conditions. It forbids the cancellation of your health care because you have suffered an illness or injury. It makes sure that everyone shares appropriately in the benefits and costs of affordable health care reform. Americans will no longer be one illness or job loss away from bankruptcy. It guarantees basic benefits for all Americans and allows competition across state lines to reduce costs.

H.R. 3962 makes major reforms in our health care delivery system that we have not had the political courage to do for years. Major improvements in Medicare and Medicaid save over \$400 billion while still expanding services to our seniors. I am pleased the House bill contains a section on Comparative Effectiveness Research (CER). However, I believe the CER provisions contained within the bill could use significant improvement to ensure the research that is conducted is protected from undue political influence from the government. Earlier this year I introduced H.R. 2502, the Comparative Effectiveness Research Act of 2009. My bill reinforces a core principal of health care that patients and doctors should be making medical decisions. It would establish an independent institute charged with coordinating and guiding comparative effectiveness research programs. By streamlining access to the latest medical research, doctors can make sound decisions that will improve the health of their patients and ultimately lower costs by reducing the number of redundant and ineffective treatments. This is the approach that has guided CER efforts in the Senate and it is my intention to work closely

with the House leadership and the conference committee to ensure any final compromise establishes a public-private institute outside of government to guide the research and ensure it will be independent, credible, and protected from political influence.

It begins to emphasize, and pay for early, intervention and prevention to keep people healthy and reduce costs. H.R. 3962 puts \$34 billion is put into wellness and prevention programs and developing the primary care network needed to provide timely service to all Americans. Rural America also gets particular attention in the bill with loan forgiveness and incentive programs.

America's senior citizens do particularly well under this legislation. In addition to modernizing and reducing costs, Medicare improvements allow seniors to keep more assets and still access subsidies. The new bill fixes the donut hole sooner and allows more drug price negotiation to ensure seniors are getting the best prices for their medication. In a separate bill Congress fixes doctor reimbursement so that a 21 percent rate reduction is avoided and doctors become more willing to take senior Medicare patients again.

Private employer-based health insurance would still constitute 60 percent of the way Americans get their health care. This bill provides a public option with negotiated rates and without tax-payer subsidies that will drive down costs without creating an uneven playing-field with private insurance companies.

H.R. 3962 does better by small businesses too. Small businesses with payrolls below \$500,000 are excluded from having to provide health care or pay penalties. The old bill set that limit at \$250,000. And only individuals earning over \$500,000 and families over \$1 million would be subject to the surcharge for incomes over those amounts.

Oregon does particularly well in the new bill. Not only are many of our pioneering health care delivery systems included in the bill with grants for expanding, but two studies create a Congress proof opportunity for the restructuring of Medicare reimbursement that will reward high-quality low-cost states like Oregon.

Perhaps most significantly H.R. 3962 substantially reduces the cost of the initial reform bill. Almost \$200 billion is trimmed from the costs, with more to come in negotiations with the Senate and President Obama. According to CBO, the bill reduces the deficit both in the short- and long-term. According to leading economists, the bill lowers premiums going forward compared to current law for all income groups, even those without subsidies.

I believe we can do better! I have personal commitments from the President that more cost containment is necessary and will occur as we work with the Senate. The Senate subsidies are much more sustainable over the long-term and strike a better balance between making health care affordable and curbing the overutilization through meaningful cost sharing.

I am excited about reforming our health care system to deliver better health outcomes and more affordable costs for families, businesses and our Nation.

Ms. ESHOO. Mr. Speaker, I come to the floor today to cast one of the most important votes of my congressional career—a vote in

support of H.R. 3962, the Affordable Health Care for America Act.

We are on the threshold of history that has been a half-century in the making.

The promise of America as a land of equality and opportunity that embraces and cares for all of its citizens is but an empty promise without the guarantee of healthcare and the freedom from financial devastation resulting from illness.

For so many of us, this long battle has had a singular, courageous champion who has fought like a lion for the sick, the elderly, the left behind and the left out. Our great achievement today will also be our greatest memorial to our friend, mentor and inspiration, Senator Edward Kennedy.

Like Senator Kennedy, many of us wondered—as the decades marched by—whether our efforts for comprehensive healthcare reform would ever be successful.

His unwavering commitment to decent healthcare for all Americans has paved the way for the bill before us today. It is on the shoulders of this giant that we stand and I pledge my vote as a tribute to the late Senator.

At the heart of this legislation is one simple, indisputable idea: Everyone deserves health insurance they can afford.

Our system is broken. In a nation where health is a daily value and where health care is the finest in the world, I hear daily from constituents who cannot afford to take care of themselves or their families, who are driven out of the system by skyrocketing premiums, who live under the threat of a shuttered business or a bankrupted household, or who simply have to roll the dice and hope they will get better—or not too much worse.

Perhaps most tragically, our current system turns its back on those most in need—those with a pre-existing condition. Health insurance is meaningless if it's only available to the healthy.

H.R. 3962 will cover 96 percent of all Americans.

It prohibits discrimination based on pre-existing conditions.

It eliminates lifetime caps—immediately.

It includes a non-profit public insurance option designed to increase competition and lower prices.

It provides affordability credits to lower-income Americans to help them pay for coverage.

It modernizes and strengthens Medicare, ensuring the program's continued solvency and eliminating the prescription "donut-hole."

And, very importantly, it is budget neutral.

When I return to my constituents in California, I'll be proud to tell them that with this bill: Employer-based health coverage will improve for 461,000 men, women and children who live in my District; 84,000 households in my District will receive affordability credits to help them pay for coverage they otherwise couldn't afford; 9,500 of the seniors in my District will no longer fall victim to the prescription drug "donut-hole"; 17,100 small businesses in my District will be able to obtain affordable healthcare coverage; and that 15,400 small businesses will qualify for tax credits that will help reduce their health insurance costs.

I'm also proud that I joined with Senator Kennedy to author H.R. 3962, to create an

FDA pathway for the approval of biosimilar drugs.

Biotechnology is a complex and emerging field that can harness the power to cure cancer, AIDS, and diabetes, and prevent the onset of deadly and debilitating diseases such as Alzheimer's, heart disease, Parkinson's, multiple sclerosis and arthritis.

My amendment will save the government \$6 billion over the next ten years while continuing to foster innovation and new advancements.

After President Obama signs this bill, millions of Americans who today have no health insurance will have it. Patients who are now denied coverage because of a pre-existing condition will no longer be shut out of the system. Millions more seniors will be able to afford their medications, and the average American family will pay less for their health coverage.

Most importantly, we will be keeping our promise to the American people that they will have affordable health insurance which they cannot lose or have taken away from them if they become ill.

I look forward to passing this landmark piece of legislation and seeing it signed into law by the President.

Mr. ISRAEL. Mr. Speaker, I rise in support of the Affordable Health Care for America Act. I join the American Cancer Society, the American Medical Association, the American Nurses Association, Consumers Union, AARP, and many other organizations in the strong belief that this bill will bring financial relief to middle class families and businesses who have faced skyrocketing costs for health care.

In the past months, I have listened carefully to the families and businesses I represent on Long Island. I held many public forums on health care; visited businesses facing double digit premium increases; met with physicians and toured hospitals; invited protesters into my office to hear their concerns; convened a tele-town hall that attracted 5,000 senior citizens; hosted another tele-town hall meeting with nearly 11,000 people; organized a live town hall meeting at Suffolk Community College with 500 people; made hundreds of personal phone calls to constituents; and much more.

People with strong opinions on opposite sides of this issue have insisted that I listen to them, believing that they represent a majority of our community. And at the end of the day, I believe strongly that we can no longer do business as usual. In the past 10 years, Long Islanders have seen their health insurance premiums increase 80 percent. And if we do nothing, the average Long Islanders' health costs will increase \$1,800 every year.

Employer-sponsored health insurance premiums have increased 80 percent in 10 years for Long Island businesses. As a result, more companies are forced to cut payroll, trim raises, or increase employee contributions. Some have told me if this continues, they will have to begin considering offering no health insurance.

And almost every week, my office in Hauppauge receives complaints from neighbors who were denied insurance coverage due to preexisting conditions. They complain about "sticker shock" when they open their insurance company statement and learn that they'll have to pay for a greater share of services they assumed were covered.

In a region with unacceptably high property taxes and energy costs, we simply cannot afford to allow health care to continue skyrocketing.

The original bill did contain provisions that concerned me. As a result of my town meetings and other visits, I was able to help improve the bill.

For example:

Many Long Islanders complained that the original family income trigger for the surtax that will fund nearly half of this bill was too low. I successfully fought to raise the trigger to \$1 million per family. As a result, no Long Island family with earnings less than \$1 million will see a surtax to pay for this bill.

I worked to increase the trigger for small business health care from \$250,000 to \$500,000 in payroll.

Many seniors in Medicare Part D prescription drug plans asked for faster relief from the so called "donut hole." In 2010, they will receive an immediate \$500 expanded benefit. That will assist 8,000 seniors in our district alone.

To lower drug costs, I fought to include a provision allowing the Department of Health and Human Services to negotiate volume discounts with big drug companies, just like the VA does.

I sought to increase funding for the Family Caregiver Support program to help Americans who take care of their parents or grandparents.

Some argued that insurance should be sold across State lines. This bill would allow companies to sell plans across State lines where States joined together to form interstate compacts to allow it.

Before accessing the newly created Health Insurance Exchange, one's citizenship and immigration status will be verified by the Department of Homeland Security.

Mr. Speaker, I have heard some insist that this bill represents a government takeover of health care. It is simply not true. All the bill does is give Long Islanders the choice to enter into a competitive Health Insurance Exchange to shop for a health insurance plan—just like every Member of Congress. There, private companies will compete for one's business. Among those private businesses will be a "public option" which must be self-sufficient and funded from premiums paid by its enrollees. That option will not need to worry about dividends or profits, CEO salaries or expensive marketing campaigns. It will compete against the private plans: just like public colleges compete against private colleges, just like ExpressMail competes against FedEx, just like Perrier competes against the Suffolk County Water Authority. I haven't heard anyone call the water they drink from their faucets "socialist water". And I've not heard any reasonable person call Medicare socialized health care. The reason the public option is so vital is that its lower costs will incentivize insurance companies who have doubled their premiums to be more price sensitive in order to attract customers.

Finally, Mr. Speaker, a special word for those who have demanded that I "listen to them." We tend to see the world through our own eyes, leaving very little room for what may be outside our vision. People on polar

opposites of this issue have understandably demanded that I “listen to them.” Both claim to represent a majority of Long Islanders. I don’t pay much attention to polls, Mr. Speaker, but a recent poll in *Newsday* indicated that 70 percent of Long Islanders support the public option. I will say that after that poll, some of the same people who demanded I listen to the majority told me the majority doesn’t know what it’s talking about so I should ignore it.

I made a final judgment by listening carefully to everyone. I fought and delivered improvements in this bill. Is it perfect? No. Government can never be perfect, and I’ll continue to demand that it be more competent. But this bill, for the first time, will give Americans more choice and control over a virtual health insurance monopoly and will finally end the days when someone who has faithfully paid their premiums from hearing that their diabetes, their cancer, their children’s autism, are no longer covered.

Mr. SCHOCK. Mr. Speaker, this past Monday night I decided I could better serve the citizens of the 18th district of Illinois by hosting a town hall meeting to listen to their thoughts and concerns with the Speaker’s health care proposal, rather than rush back to Washington to vote on a resolution honoring man’s best friend.

As I participated in a town hall in Washington, Illinois with more than 1,000 people in attendance, I heard a reoccurring theme of concern, outrage, disbelief, frustration and fear for what Speaker Pelosi’s health care proposal could mean.

The final question of the night came from a young man named Joshua. In a room surrounded by those three or four times his age, young Joshua had the courage to ask me the difficult question if I supported what President Obama wants to do with Healthcare.

I told Joshua that I’ve spent my first 9 months in office trying to figure out exactly what the President was actually trying to do with health care. It is this precise confusion of goals, conflicting messages and lack of communication from the Majority which has all Americans still trying to figure out exactly what the President and the Speaker are trying to do.

Unfortunately, we’ve finally learned what they want to do. Tonight, under the cover of darkness, the majority finally passed a health care plan that will raise taxes, raise health care costs, add to our national debt, and hurt America’s seniors, families and small businesses. Over half those covered in the bill are done so by expanding entitlements instead of helping them afford insurance. This only exacerbates insurance premiums for ordinary Americans and dramatically increases our nation’s debt.

The bill tonight was about expanding the size of government and leading us down the road to a no-choice government-run healthcare system. Instead of working across party lines to pass bipartisan reform, Speaker PELOSI has decided to let the votes against this massive entitlement expansion be the only true thing bipartisan about it.

Mr. THOMPSON of Mississippi. Mr. Speaker, I and others have spoken at length on the ways that this bill will improve health care for all of our constituents. Another significant ben-

efit of this legislation which has not received as much attention will be the creation of new high-paying jobs in this country. Let me repeat that for some of my friends on the other side of the aisle, this bill will create high-paying, high-quality jobs in health care delivery, technology, and research in the United States.

First, this bill will create enormous demand for health care workers, especially in the area of primary care. Insuring millions of Americans in this country who currently have no insurance will allow them to see primary care providers and receive the wellness and preventive care they have been denied for too long. This influx of new patients will need doctors, nurses and technicians for their care, while reducing overall health care costs because they will not need much more expensive hospitalizations. I support channeling resources that for too long have been used to treat people once they become sick into jobs and services that will prevent people from getting sick in the first place.

Second, this bill will continue the efforts we began in the stimulus package to deploy new health information technologies that better manage both the quality of care patients receive and the cost at which they receive it. New health care exchanges and new demands on the health system to provide high-quality and cost-effective health care will create new opportunities and markets for our brightest minds in technology. They will be incentivized to create and develop products that will be a win/win for Americans: high-quality health care at an affordable price.

Third, this bill will create high-quality research opportunities in this country. The Energy and Commerce Committee enacted a framework for allowing biosimilar competition in this country. This new class of medicines will help lower costs and bring competition to one area that is key to the future of our health care system. Biotechnology is on the cutting edge of efforts to reduce costly invasive procedures and allow our constituents to live healthier and more productive lives. The creation of this new class of medicines comes with requirements for new clinical research and testing, especially in the area of whether a new biosimilar can be interchangeable with an innovator’s product. This research will create high-quality and high-paying jobs and it is imperative that we keep this research and these jobs in this country. We cannot allow these research opportunities to leave the United States and we must ensure that these new medicines are safe. I intend to work with the Secretary of HHS and the Commissioner of the FDA to ensure that the testing and research on these biosimilars occur in this country to make certain that it is done properly and safely and to benefit our economy.

Mr. Speaker, this bill is an investment and an exciting opportunity to create the kind of jobs we so desperately need in this United States while at the same time improving the lives of all Americans. This bill will improve health care, create jobs, and grow our economy.

Mr. LANGEVIN. Mr. Speaker, I rise in strong support of H.R. 3962, the Affordable Health Care for America Act. Congress has made unprecedented strides this year in the fight to reform our nation’s health insurance system and

provide coverage to all Americans, and today’s vote represents a historic culmination of these vast, collaborative efforts. This transformative bill offers real solutions for Rhode Islanders by providing better access to affordable, quality health care coverage and finally puts America back on the path to an efficient and sustainable health care system.

This summer, I traveled across the district to meet with Rhode Islanders and discuss health reform. I met with constituents who had health insurance all their lives, but then lost it when they were diagnosed with cancer. I met with small business owners who provided coverage for their employees for decades, but were forced to discontinue it when they could no longer keep up with skyrocketing costs. And I met with parents who were desperate to protect their children’s health, but feared they would soon run up against lifetime insurance caps.

All of these stories conveyed the same message—health care costs in the United States are rising at an unsustainable rate, and they are placing a huge burden on Rhode Island families, employers and health care providers. This year alone, over 13,000 Rhode Islanders lost their insurance coverage due to rising unemployment. And those who still have coverage are struggling with rising premiums, co-pays and crushing medical debt. Meanwhile, yearly double-digit premium increases are forcing businesses to choose between keeping their employees’ health coverage and keeping their employees.

As a longtime advocate of universal health care, I made a promise to my constituents to change the status quo of health care in America. The time for inaction is over—we must join together to pass this bill.

H.R. 3962 will institute the changes we need to provide more security and stability to Americans who have health insurance, guarantee insurance to the millions who don’t, and lower health care costs for our families, businesses and the government.

This legislation builds on the strengths of our current employer-based system by encouraging businesses who offer their own coverage to continue doing so. Americans who don’t have coverage through their employer will be able to shop for their choice of a health plan through a new “health insurance exchange,” modeled after the tried and true Federal Employees Health Benefits Program, which successfully provides coverage for over 9 million federal employees, retirees and their dependents.

Unlike the limited options that are available to most consumers today, the exchange will provide a more convenient, transparent and affordable way to choose among a variety of health plans that meets individual needs. Americans who cannot afford to purchase coverage within the exchange will receive financial assistance to ensure that they can obtain comprehensive coverage. Additionally, small businesses will receive tax credits that will make it more affordable to offer insurance to their employees.

I am also pleased that this bill encourages competition by ensuring that Americans will have the ability to choose a public plan alternative. Unlike private insurance carriers, the public option will not be obligated by big profits for shareholders or large salaries for CEOs.

And while it represents just one option for the consumer and one component of health care reform, it will serve as an important tool to increase choice and competition and lower overall insurance costs.

Included in this proposal are a number of important health consumer protections. It will finally end insurance discrimination against people with pre-existing conditions and prevent insurance companies from imposing lifetime limits or dropping coverage when people are sick and need it most. It will cap out-of-pocket expenses so people don't go broke when they get sick; eliminate extra charges for preventive care like mammograms and diabetes tests; and protect Medicare for seniors while working to eliminate the "donut-hole" gap in coverage for prescription drugs. It will also require that insurers reinvest at least 85 percent of their premiums back into health coverage. This will limit the amount of money spent on advertising, underwriting, overhead and profits that do nothing but reduce health benefits for patients.

Improving access to coverage will also require investments in our health care workforce. Our system is strained by a lack of nurses and primary care physicians, particularly in underserved areas. That is why our bill contains important workforce development initiatives like new scholarships and loan repayment programs, grant programs for primary care training and immediate financial support for community health centers. This will strengthen the number of nurses, doctors and other health care professionals necessary to meet the increased demand for services.

This bill also makes historic changes to our antitrust laws by removing exemption enjoyed by insurance companies so that they are no longer shielded from liability for price fixing or dominating their market—all of which reduce competition and increase prices for consumers. It establishes new grant programs designed to encourage states to implement alternatives to traditional medical malpractice litigation with the goal of reducing frivolous lawsuits while allowing legitimate cases to be heard. This bill also has my strong support because every portion will be completely paid for, and it will reduce the deficit by \$109 billion over the next ten years.

Mr. Speaker, I believe it is incumbent on us as policymakers to offer a new vision for health care in America—one that contains costs, improves quality, increases efficiency, promotes wellness, puts health care decisions back in the hands of patients and doctors, and guarantees coverage as a right to our citizens.

Every American deserves the promise of quality, affordable health care. I urge my colleagues to join me in fulfilling that promise today, and support the Affordable Health Care for America Act.

Ms. EDWARDS of Maryland. Mr. Speaker, I strongly support H.R. 3962, the Affordable Health Care for America Act because it eliminates the discriminatory insurance industry practice of charging women higher premium rates than male customers for the same insurance benefits. This practice, known as "gender rating," leaves women burdened by higher insurance costs. In fact, women are charged 25–50 percent more than men for comparable insurance benefits. For decades, insurance

underwriters have tried to justify this disparity by asserting that women use more health care, especially during child-bearing years. This claim is contradicted by the reality that many women are denied insurance coverage for maternity care and even denied coverage based on a history of prior pregnancies. Further, female nonsmokers pay more for health insurance than men who smoke. In a recent study, more than half of women (compared to 39 percent of men) reported delaying needed medical care due to cost. Gender rating is prohibited in the individual market in 10 States (Maine, Massachusetts, Montana, Minnesota, New Hampshire, New Jersey, New York, North Dakota, Oregon, and Washington). Two States have "rate bands" that allow 20 percent variation in charges (Vermont and New Mexico). Twelve States ban gender rating in the small group market, including my home State of Maryland (as well as California, Colorado, Minnesota, Michigan, Montana, Maine, Maryland, Massachusetts, New Hampshire, New York, Oregon, and Washington). H.R. 3962 ends the discriminatory practice of gender rating in all States and ensures that women and men are charged equitable prices for premiums.

As a life-long advocate of women's rights and a domestic violence prevention advocate, I support this ban on gender rating and support equal access to the insurance market for women.

AMENDMENT OFFERED BY MR. STUPAK

Mr. STUPAK. Mr. Speaker, I have an amendment at the desk.

The SPEAKER pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Part C amendment printed in House Report 111–330 offered by Mr. STUPAK:

Page 97, strike line 13 and all that follows through page 98, line 7.

Page 110, strike lines 1 through 7.

Page 114, line 21, strike "consistent with subsection (e) of such section".

Page 118, line 21, strike "(including subsection (e))".

Page 154, after line 18, insert the following new section (and conform the table of contents of division A accordingly):

**SEC. 265. LIMITATION ON ABORTION FUNDING.**

(a) IN GENERAL.—No funds authorized or appropriated by this Act (or an amendment made by this Act) may be used to pay for any abortion or to cover any part of the costs of any health plan that includes coverage of abortion, except in the case where a woman suffers from a physical disorder, physical injury, or physical illness that would, as certified by a physician, place the woman in danger of death unless an abortion is performed, including a life-endangering physical condition caused by or arising from the pregnancy itself, or unless the pregnancy is the result of an act of rape or incest.

(b) OPTION TO PURCHASE SEPARATE SUPPLEMENTAL COVERAGE OR PLAN.—Nothing in this section shall be construed as prohibiting any nonfederal entity (including an individual or a State or local government) from purchasing separate supplemental coverage for abortions for which funding is prohibited under this section, or a plan that includes such abortions, so long as—

(1) such coverage or plan is paid for entirely using only funds not authorized or appropriated by this Act; and

(2) such coverage or plan is not purchased using—

(A) individual premium payments required for a Exchange-participating health benefits plan towards which an affordability credit is applied; or

(B) other nonfederal funds required to receive a federal payment, including a State's or locality's contribution of Medicaid matching funds.

(c) OPTION TO OFFER SEPARATE SUPPLEMENTAL COVERAGE OR PLAN.—Notwithstanding section 303(b), nothing in this section shall restrict any nonfederal QHBP offering entity from offering separate supplemental coverage for abortions for which funding is prohibited under this section, or a plan that includes such abortions, so long as—

(1) premiums for such separate supplemental coverage or plan are paid for entirely with funds not authorized or appropriated by this Act;

(2) administrative costs and all services offered through such supplemental coverage or plan are paid for using only premiums collected for such coverage or plan; and

(3) any nonfederal QHBP offering entity that offers an Exchange-participating health benefits plan that includes coverage for abortions for which funding is prohibited under this section also offers an Exchange-participating health benefits plan that is identical in every respect except that it does not cover abortions for which funding is prohibited under this section.

Page 171, strike line 5 and all that follows through page 172, line 8.

Page 182, line 22, strike "willingness or".

Page 246, strike lines 11 through 14.

The SPEAKER pro tempore. Pursuant to House Resolution 903, the gentleman from Michigan (Mr. STUPAK) and a Member opposed each will control 10 minutes.

The Chair recognizes the gentleman from Michigan.

Mr. STUPAK. Mr. Speaker, I ask unanimous consent that 5 of the 10 minutes granted to our side be controlled by the gentleman from Pennsylvania (Mr. PRITS).

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. STUPAK. Mr. Speaker, our amendment does one very simple thing: It applies the Hyde amendment, which bars Federal funding for abortion except in the case of rape, incest, or life of the mother to the health care reform bill. The Hyde amendment has been law in Federal funding of abortion since 1977 and applies to all other federally funded health care programs, including SCHIP, Medicare, Medicaid, Indian Health Services, veterans health, military health care programs, and the Federal Employees Health Benefits Program.

More specifically, our amendment applies the Hyde amendment to the public health insurance option and private policies purchased using affordability credits. I am not writing a new Federal abortion policy. The Hyde amendment already prohibits Federal funding of abortion and the use of Federal dollars to pay for health care policies that cover abortion. This policy



currently applies to the 8 million Americans, including Members of Congress, covered under the Federal Employees Health Benefits Program, and should apply in this bill.

The amendment has no impact on those individuals with private insurance who do not receive affordability credits and in no way prohibits any individual from purchasing a supplemental abortion coverage policy. Health insurance companies can still offer policies in the exchange that cover abortion; they just can't sell those policies to individuals receiving affordability credits.

I wish to thank Speaker PELOSI for her commitment to trying to reach an agreement between all sides late last night. Unfortunately, at the last minute the deal fell apart. The Speaker then took the only appropriate action remaining, which was to allow a vote on the floor.

So we are asking Members to maintain current law and vote "no" on public funding for abortion. Let me also reassure my colleagues, both Democrats and Republicans, I did not buck my party. I did not buck my party leadership to trade a vote for this amendment. I did it based on principle.

This bill, with the Capps language, is the most direct assault on the Hyde language we have had since 1997. So I ask my colleagues, Democrats and Republicans alike, let us stand together on the principle of no public funding for abortion, no public funding for insurance policies that pay for abortion. Stand with us, protect our role, and let's keep current law.

I reserve the balance of my time.

Ms. DEGETTE. Mr. Speaker, I rise to claim the time in opposition to the Stupak-Pitts amendment.

The SPEAKER pro tempore. The gentlewoman from Colorado is recognized for 10 minutes.

Ms. DEGETTE. I yield myself 3 minutes, Mr. Speaker.

Mr. Speaker, to say that this amendment is a wolf in sheep's clothing would be the understatement of a lifetime. The proponents say it simply extends the Hyde amendment, just a clarification of current law. Nothing could be further from the truth.

If enacted, this amendment will be the greatest restriction of a woman's right to choose to pass in our careers.

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Here is why: The Hyde amendment states that no Federal funds shall be used for abortions. This has been contained in our annual appropriations bills for many years.

In the Energy and Commerce Committee, the pro-choice and some pro-life Democrats came together and compromised and we said no Federal funds in this bill will be used for abortions, the Capps amendment. This bill does not spend one Federal dollar on abortions.

This Stupak-Pitts amendment goes much further. It says that as part of their basic coverage, the public option cannot offer abortions to anyone, even those purchasing the policies with 100 percent private money. The amendment further says that anyone who purchases insurance in the exchange and who receives premium assistance cannot get insurance coverage for a legal medical procedure even with the portion of their premium that is their own private money.

Well, the proponents say women can just purchase supplemental insurance for abortions. This very notion is offensive to women. No one thinks that women will have an unplanned pregnancy or a planned pregnancy that goes terribly wrong. Would we expect to have people buy supplemental insurance for cancer treatment just in case maybe they might get sick? Like it or not, this is a legal medical procedure, and we should respect those who need to make this very personal decision.

Once again, the base bill contains language that preserves the Hyde amendment. Let's keep our eyes on the goal here, providing safe medical treatment for 36 million Americans. Let's not sacrifice reproductive rights today in pursuance of that noble goal.

I reserve the balance of my time.

Mr. PITTS. Mr. Speaker, I yield myself 1¼ minutes.

I rise in support of this bipartisan amendment.

Polls have repeatedly shown that the public does not support Federal funding of abortion, yet that is exactly what is in this bill. Current law actually prevents any Federal health care plan from paying for abortion. It also prevents taxpayer subsidies from flowing to benefit packages that include abortion. However, the Capps amendment included in this legislation would have the opposite effect.

Under this bill, funds will flow from premium payments and affordability credits into the U.S. Treasury account, and that account will then reimburse for abortion services. Every dollar in the public option is a Federal dollar. Let me be clear, if the government plan covers abortion, that amounts to Federal funding for abortion. It's that simple. Our amendment would maintain the principles of the Hyde amendment, something that the large majority of Americans support.

I urge my colleagues to stand with the majority of the American people, to oppose establishing a Federal Government program that will directly fund abortion on demand, to keep the government out of the business of promoting abortion as health care, and support this amendment.

I reserve the balance of my time.

Ms. DEGETTE. I yield 1 minute to the distinguished gentlelady from Connecticut (Ms. DELAURO).

Ms. DELAURO. This amendment undermines the thoughtfully crafted and

balanced language in the bill that already prohibits Federal funds from being used to pay for abortion. It attempts an unprecedented overreach of women's basic rights and freedoms in this country.

Abortion is a matter of conscience on both sides of the debate, and it goes to the very heart of our belief as citizens and as legislators. This amendment takes away that same freedom of conscience from America's women. It prohibits them from access to an abortion even if they pay for it with their own money. It invades women's personal decisions, discriminates against working women, and, put simply, violates the law of the land.

Access to quality, affordable health care coverage is a question of life or death for millions of Americans. We should not be injecting this divisive and polarizing issue into our debate.

The best vote for life we could make today would be to pass the critical reforms American families have asked for and desperately need.

I urge my colleagues to oppose this amendment.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair would remind Members to please heed the gavel.

Mr. STUPAK. Mr. Speaker, I yield 45 seconds to Mrs. DAHLKEMPER from Pennsylvania to speak on the bill. She has been a stalwart on this issue, and I appreciate her support on this issue.

Mrs. DAHLKEMPER. Mr. Speaker, I want to thank Congressman STUPAK.

I rise today to ask my colleagues to support the Stupak-Ellsworth-Pitts-Kaptur-Dahlkemper-Lipinski-Smith amendment which will keep in place current Federal law on abortion funding in H.R. 3962, the Affordable Health Care for America Act.

Mr. Speaker, our amendment does not change current law regarding abortion. It does not outlaw abortion. It does not prohibit women from making a choice to which they are entitled under the law. What this amendment does do is make the House's health care reform legislation consistent with all other Federal health care programs, including Medicaid, Medicare, SCHIP, and veterans care. It prohibits Federal funding for abortions consistent with legislation that has been in place since the 1970s.

Ms. DEGETTE. I am now delighted to yield 1 minute to the gentlelady from California (Mrs. CAPPS).

Mrs. CAPPS. Mr. Speaker, I rise in strong opposition to this amendment.

Contrary to what its sponsors and their supporters say, the underlying bill does prohibit Federal funding for abortion. It is written clearly and plainly on page 246, line 11, "prohibition of use of public funds for abortion coverage." But apparently that isn't good enough for people whose goal really is to strip women of their right to

choose altogether despite purporting to just want to maintain the status quo. So instead we have this amendment which restricts a woman's right to access a legal medical procedure in this country.

It is ironic, actually, because most of the people who support the amendment claim to oppose government interference in health care, yet this amendment is government interference and a decision that should be made between a woman and her physician.

If this amendment passes, it will be the only language in the entire legislation that actually restricts coverage of a legal medical procedure. Not one other legal medical procedure is singled out in this legislation for rationing.

I urge my colleagues to vote "no" on this devastating amendment.

Mr. PITTS. Mr. Speaker, I yield 30 seconds to the gentleman from Indiana, Chairman MIKE PENCE.

Mr. PENCE. Mr. Speaker, I rise in support of this amendment, though it will not change my opposition to the Pelosi health care bill. I am grateful this amendment has been brought to the floor, and I wish to commend Mr. PITTS and Mr. STUPAK for their principled leadership.

Ending an innocent human life is morally wrong, but it's also morally wrong to take the taxpayer dollars of millions of Americans and use them to provide for a procedure that they find morally offensive. In the Congress of the United States, we have a responsibility to respect the moral beliefs of the majority of the American people.

I urge my colleagues to prevent Federal dollars from funding abortions. Take a stand for life, support the Stupak-Pitts amendment, and vote "no" on Pelosi health care.

Ms. DEGETTE. I yield 1 minute to the distinguished gentlelady from New York (Mrs. LOWEY).

Mrs. LOWEY. I rise in strong opposition to this amendment. This is a disappointing distraction from the bill before us.

Under current law, no taxpayer funds can be used to cover abortion. While I believe abortion should be legal and safe, I have worked for years with colleagues on both sides of this issue to also make this procedure rare. If we want to reduce abortions, we should provide women health coverage for reproductive care, contraceptives to prevent unintended pregnancies, and prenatal care to ensure healthy pregnancies.

This amendment threatens the rights and health of women to seek a legal procedure covered by the premiums they will pay out from their own pockets. The underlying bill would uphold current law which states that no Federal funds can support abortion. Therefore, I urge my colleagues to oppose this unnecessary and reprehensible amendment.

Mr. STUPAK. Mr. Speaker, may I inquire as to how much time we have remaining?

The SPEAKER pro tempore. The gentleman from Michigan has 2¼ minutes remaining. The gentlewoman from Colorado has 4½ minutes remaining. The gentleman from Pennsylvania has 3½ minutes remaining.

Mr. STUPAK. Mr. Speaker, I continue to reserve.

Ms. DEGETTE. Mr. Speaker, I reserve.

Mr. PITTS. Mr. Speaker, at this time, I yield 30 seconds to the gentlelady from Washington, Vice Chairwoman CATHY McMORRIS RODGERS.

Mrs. McMORRIS RODGERS. Mr. Speaker, many have stood before me from both sides of the aisle to ensure that Federal taxpayer dollars do not fund abortion, whether it's Medicaid, whether it's the Federal Government's own health program. Today, I stand to ensure that this policy is included in the health care bill that is being rammed through this Congress.

If we are talking about health care reform for women and children, then protection for children should start at the moment their life begins. Two-thirds of women recently polled representing all parties, races, and marital statuses object to government funding of abortion.

I urge my colleagues to support this amendment.

Mr. STUPAK. Mr. Speaker, I yield 1 minute to Mr. ELLSWORTH from Indiana, who has been a champion on this issue and has worked hard to get this amendment to where we are here today.

Mr. ELLSWORTH. Thank you, Mr. STUPAK.

Mr. Speaker, I rise today to urge the passage of this vital amendment.

Since this debate started, my goal has been to ensure Federal taxpayer dollars are not used to pay for abortions and to provide Americans with pro-life options on this exchange. I have been proud to work with Mr. STUPAK and all my colleagues and the Catholic Bishops to make the goal a reality.

Getting to this point has not been very easy, but today we're on the brink of passing health care reform that honors and respects life at every stage, including the unborn. If this amendment passes today, I will support this bill.

It is time to fix what's broken in our health care system and begin to fulfill the promises we've made to Americans that we represent. That's why I urge Members on both sides of the aisle to vote for this amendment.

Ms. DEGETTE. Mr. Speaker, I am delighted to yield 1 minute to the gentlelady from California (Ms. LEE).

Ms. LEE of California. Mr. Speaker, this amendment inserts the Federal Government further directly into the medical decisions that a woman makes with her doctor.

As a person of faith who was raised in the Catholic Church, I have the deepest respect for Mr. STUPAK and Mr. PITTS. I know personally the moral dilemmas women face in making personal decisions about abortion, but I'll tell you one thing, I remember the days of back alley abortions, and this amendment takes us one step back to those dark days.

This amendment goes way beyond the Hyde amendment that denies Federal funds for abortion and attempts to dictate to women how to spend their own money. It is simply outrageous. It is outrageous.

It further places the religious views, mind you, of some into our public policy. Again, we're a democracy; we're not a theocracy. The separation of church and State requires us as legislators to never cross this line and it allows personal religious views to be personal. We should not, as Members of Congress, compromise this separation. And low-income women especially will be hurt by this amendment. Reject it.

Mr. PITTS. Mr. Speaker, at this time, I yield 30 seconds to the ranking member of the Budget Committee, the gentleman from Wisconsin, PAUL RYAN.

Mr. RYAN of Wisconsin. Mr. Speaker, this is perhaps the worst bill I have seen come to the floor in my 11 years of serving in Congress, and what would make this bill worse is if we break with the long-standing law of preventing abortions from being funded with taxpayer dollars.

For those of us who support the protection of and the sanctity of life, the only vote, the right vote, the vote to keep a clean conscience is a "yes" vote for the Stupak amendment.

Ms. DEGETTE. Mr. Speaker, I am now pleased to yield 1 minute to the distinguished gentleman from New York (Mr. NADLER).

Mr. NADLER of New York. Mr. Speaker, I rise in opposition to the Stupak amendment.

Despite significant efforts made by the underlying bill to level the playing field for women and to end discrimination against them in the health insurance market, this amendment adds a new discriminatory measure against women. Under this proposal, if a woman is of low or moderate income and receives tax credits to help her to afford the premiums for a health insurance plan she purchases on the exchange, she cannot choose a plan that covers abortion services. And if she chooses the public option, she cannot receive abortion coverage at all, even if she receives no help of any kind and pays for the plan entirely by herself.

The provision inserted in the underlying bill by our colleague, Representative CAPPS, extends the Hyde amendment in current law by ensuring that no Federal dollars can be used to fund abortions. That should be sufficient.

This is a bill to extend health care to all Americans. It should not be used as

a political football to try to change existing laws regarding abortion coverage.

Mr. Speaker, I reiterate my opposition to this discriminatory amendment and ask my colleagues to vote "no."

Mr. Speaker, I rise in opposition to the Stupak amendment.

Despite significant efforts made by the underlying bill to level the playing field for women and end discrimination against them in the health insurance market, this amendment adds a new discriminatory measure against women. Under the Stupak proposal, if a woman is of low- or moderate income and receives tax credits to help her afford the premiums for a health plan she purchases through the Exchange, she cannot choose a plan that covers abortion services. And if a woman chooses the public option, she cannot receive abortion coverage—even if she receives no help of any kind and pays for the plan entirely by herself.

The Stupak amendment says to women—if you think you might have an unintended pregnancy, you should purchase separate insurance. Put another way, this amendment requires women to plan that they will encounter an unplanned pregnancy. This defies logic and is absurd.

The compromise provision inserted in the underlying bill by our colleague, Representative CAPPs, extends the Hyde Amendment in current law by ensuring that no federal dollars can be used to fund abortions. That should be sufficient.

This is a bill to extend health care to all Americans. It should not be used as a political football to change existing law regarding abortion coverage.

Mr. Speaker, I reiterate my opposition to this discriminatory amendment and ask my colleagues to vote "no."

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Mr. STUPAK. Mr. Speaker, I continue to reserve the balance of my time.

Ms. DEGETTE. Mr. Speaker, I continue to reserve the balance of my time.

Mr. PITTS. Mr. Speaker, I yield 30 seconds to the gentlewoman from Minnesota, MICHELE BACHMANN.

Mrs. BACHMANN. Mr. Speaker, it all begins with life and with protecting the most vulnerable among us, the unborn. Life is the watershed issue of our generation. How can one claim to call the destruction of innocent human life "health care"?

Orwellian statements aside, it is the duty of government to preserve and protect human life. If we do nothing else tonight, let's choose life.

Ms. DEGETTE. I inquire of the Speaker as to the time remaining.

The SPEAKER pro tempore. The gentlewoman has 2½ minutes. The gentleman from Michigan has 1¼ minutes remaining. The gentleman from Pennsylvania has 2 minutes remaining.

Ms. DEGETTE. Mr. Speaker, I yield 30 seconds to the distinguished gentleman from Illinois (Mr. QUIGLEY).

Mr. QUIGLEY. Mr. Speaker, the health care bill we are considering today makes a strong statement that everyone in this country deserves access to health care.

For over 8 months, this body has strived to overcome the health care inequalities in our country, but this amendment disrupts that sense of equality. This amendment says that only women who can afford insurance deserve access to reproductive health care. This amendment says that women who need a little help paying for health care have to surrender their right to privacy.

This amendment will serve only to hurt low-income women, and it will restrict their ability to access reproductive health care even with their own money. It is wrong and we should oppose it.

Mr. PITTS. Mr. Speaker, I yield 30 seconds to the gentleman from Nebraska, JEFF FORTENBERRY.

Mr. FORTENBERRY. Mr. Speaker, the vast majority of Americans oppose—do not want—their government funding abortion.

I want to thank Mr. STUPAK and Mr. PITTS for this amendment to prohibit Federal funding for abortion in the guise of health care reform. Women deserve better.

Last week, we heard a lot of talk about compromise. Well, Mr. Speaker, neither a child in an early phase of life nor an elderly person clinging to each breath in the waning days of this life should ever be subject to a compromise. I hope that, if House has learned anything from this debate, it is this: that we must first do no harm. It is not ours to decide who lives or who dies.

Ms. DEGETTE. Mr. Speaker, I am now delighted to yield 30 seconds to the distinguished Chair of the Rules Committee and the co-Chair of the Congressional Pro-Choice Caucus, the gentlewoman from New York (Ms. SLAUGHTER).

Ms. SLAUGHTER. I thank the gentlewoman for yielding.

Mr. Speaker, for over 30 years, we lived in this House in peaceful co-existence with the pros and cons getting together on the fact that the Hyde amendment said that no Federal money can be spent—the strongest conscience clause in the world—which is now being strengthened, by the way, in this bill. We on our side simply have the law.

I am very concerned about this bill because, in my own case and in the cases of many of my colleagues, it means 30 or 40 years of our life is being canceled out with this amendment. After the things that we have fought for, we are driving now, I am afraid, young women and poor women who cannot afford to buy their own insurance policies out of their pockets back to the back alley. I dread to see that day.

Mr. PITTS. Mr. Speaker, we are prepared to close on our side.

Ms. DEGETTE. Mr. Speaker, I yield for a unanimous consent request to the gentlewoman from Wisconsin (Ms. BALDWIN).

Ms. BALDWIN. Mr. Speaker, I rise in opposition to this amendment.

A journalist asked me a few years ago if I could point to one thing that has contributed the most to the empowerment of women in our society. In answer to that query, I might have pointed to the 19th Amendment to the Constitution giving women the right to vote, or Title VII of the Civil Rights Act of 1964, or laws mandating equal pay for equal work. But instead, I responded to that journalist that it is the array of legal choices a woman now has that make it possible for her to plan her family—to decide whether to have children, and to decide when to have children. We refer to this array of choices as "reproductive freedom."

In the days before women were able to legally access contraception and abortion services, women often had to drop out of school, few could pursue careers in the professions, and too many women in desperate circumstances lost their lives from so-called back-alley abortions.

In 1970 women made up a third of the workforce. Today for the first time in history, women make up half of the U.S. workforce. In 1970, ten women served in the House of Representatives. Today there are 76. In 1970, the percentage of female medical students was 9.6 percent. This year, women are 48 percent of our Nation's medical students. In 1970, the percentage of women in law school was 8 percent. Today, 46.7 percent of law students are female.

These are just some of the changes in the role of women in American society that have occurred over the years during which women have secured the right to a full range of family planning options.

The Stupak/Pitts amendment is an erosion of a woman's reproductive freedom. Access to abortion services in the United States is already severely limited. State laws mandating waiting periods, the lack of insurance coverage of abortion and the scarcity of clinics providing abortion services mean that the right to a safe and legal abortion for many women is already pretty hollow. If this amendment is adopted, a woman's right to choose will be further limited.

I urge my colleagues to oppose this amendment.

Ms. DEGETTE. Mr. Speaker, I yield for a unanimous consent request to the distinguished gentlewoman from New York (Mrs. MALONEY).

Mrs. MALONEY. Mr. Speaker, I rise in strong opposition to this amendment.

Mr. Speaker, it is outrageous that even the historic bill to extend health coverage to 96 percent of Americans includes an abortion fight because of the anti-abortion movement.

The Stupak amendment is a huge step backwards for American women.

Mr. Speaker, I rise in strong opposition to the Stupak/Pitts amendment which plainly discriminates against women, puts women's health at risk, and marks an unprecedented

restriction on people who pay for their own health insurance.

The commonsense Capps Compromise which was agreed to during debate in the Energy and Commerce Committee ensures that taxpayers will not be paying for abortion and reflects the status quo and current law.

It prohibits federal funds from being used for abortion but still allows women to use their own money to buy the coverage they need.

Despite this effort to address concerns raised by pro-life Members, Representatives STUPAK and PITTS decided to further restrict women's access to care by offering their shortsighted, dangerous, and discriminatory amendment to H.R. 3962.

The Stupak/Pitts amendment would make abortion coverage virtually inaccessible for most women in the new exchange.

It does so by:

(1) Banning abortion coverage in the exchange for women who receive subsidies, except by separate rider that they could only purchase with their own, private funds.

(2) Making it highly unlikely that women buying insurance in the exchange with their own money could obtain abortion coverage.

It is an outrage that at time when we are making historic changes—expanding American's access to health care—a group of legislators are bonding together to deprive women of the very health care they both need and deserve.

Ms. DEGETTE. Mr. Speaker, I yield for a unanimous consent request to the distinguished gentlewoman from Maryland (Ms. EDWARDS).

Ms. EDWARDS of Maryland. Mr. Speaker, I rise in opposition to this amendment.

Ms. DEGETTE. Mr. Speaker, I yield 1 minute to the distinguished gentlewoman from Illinois (Ms. SCHAKOWSKY).

Ms. SCHAKOWSKY. No matter how many times it is said, our health reform bill does not allow one Federal dollar for abortions.

This Stupak-Pitts amendment goes way beyond current law. It says a woman cannot purchase, using her own dollars, coverage that includes abortion services. Even middle class women who are using exclusively their own money will be prohibited from purchasing a plan including abortion coverage, and this is in every single public or private insurance plan in the new health care exchange. Her only option is to buy a separate insurance policy that covers an abortion, a ridiculous and unworkable approach since no woman plans an unplanned pregnancy.

This amendment is a radical departure from current law, and it will result in millions of women losing the coverage they already have. Our bill is about lowering health care costs for millions of women and their families. It is not about further marginalizing women by forcing them to pay more for their care.

This amendment is a disservice and an insult to millions of women throughout the country. I urge a "no" vote on this amendment.

The SPEAKER pro tempore. The Chair will remind the gentlewoman from Colorado that she has the right to close.

The gentleman from Michigan has 1¼ minutes remaining. The gentleman from Pennsylvania has 1½ minutes remaining. The gentlewoman from Colorado has 30 seconds remaining.

Mr. STUPAK. Mr. Speaker, I yield 15 seconds to the gentleman from Illinois (Mr. LIPINSKI) to state how current laws are maintained with the Stupak amendment.

Mr. LIPINSKI. Mr. Speaker, I thank my colleagues, especially Mr. STUPAK, for their perseverance as we work together on this amendment. Every year for over three decades, including this past July, we have approved the Hyde amendment.

I ask my colleagues again tonight: do the same thing, and approve the Hyde amendment in this bill.

Ms. DEGETTE. Mr. Speaker, I reserve the balance of my time.

Mr. PITTS. Mr. Speaker, I yield to the gentleman from Texas (Mr. GOHMERT) for a unanimous consent request.

Mr. GOHMERT. Mr. Speaker, I rise in support of the wonderful work in the Stupak-Pitts amendment, addressing things like the money on page 110 for abortions.

Mr. PITTS. Mr. Speaker, I yield the balance of the time to the Chair of the Pro-Life Caucus in support of this bipartisan amendment, the gentleman from New Jersey, CHRIS SMITH.

Mr. SMITH of New Jersey. This week, another Planned Parenthood clinic director resigned after watching an ultrasound of an actual abortion in progress.

Self-described as extremely pro-choice but now pro-life, Abby Johnson said she watched an unborn child "crumple" before her very eyes as the infant was vacuumed and dismembered by a suction device 20 to 30 times more powerful than a household vacuum cleaner.

Ms. Johnson said and told ABC News, "I could see the baby try to move away. I just thought, 'What am I doing?' 'Never again.'"

Mr. Speaker, abortion not only kills children; it harms women physically and psychologically, and it risks significant harm to subsequent children.

Recently, the Times of London reported, "Women who have had abortions have twice the level of psychological problems and three times the level of depression as women who have given birth or never been pregnant." The Times said "senior obstetricians and psychiatrists say new evidence has uncovered a clear link between abortion and mental illness. . . ."

Numerous studies show that the risk of preterm birth to children born to women who have had abortions increases. It skyrockets. One abortion

preterm births goes up by 35 percent, two abortions a staggering 93 percent. One of the the leading causes of mental and motor retardation is prematurity.

We have and are going to have more disabling, because of abortion. If we truly don't want to see more abortions and if we want to reduce them, don't fund it.

The Guttmacher Institute has said, formerly the research arm of Planned Parenthood, that prohibiting Federal funds for abortion reduces abortion by 25 percent.

Millions of people are alive today because of the Hyde amendment, because funding was not there to effectuate their demise. Vote for the Stupak-Pitts amendment. It will save lives.

The SPEAKER pro tempore. The gentleman from Michigan has 1 minute remaining.

Mr. STUPAK. Mr. Speaker, to close on our side, I yield 1 minute to the gentlewoman from Ohio (Ms. KAPTUR).

Ms. KAPTUR. I thank the gentleman.

With respect for all of my colleagues, I rise in support of the Stupak amendment, which maintains existing Federal law, the Hyde amendment, on the compelling issue of abortion.

For 34 years, citizens of conscience have weighed in on this important moral and legal issue. Let me repeat: This amendment reaffirms longstanding, existing law and nothing more. It represents the broad consensus of the American people after 34 years of consideration on this issue. This is what it says:

"No Federal funds 'authorized under this act may be used to pay for any abortion or cover any part of the costs of any health plan that includes coverage of abortion,' except in the cases of the life of the mother, rape or incest."

The amendment does no more, no less. It is similar to language that applies in Federal law on Medicaid, Medicare, Veterans Affairs, the CHIP program, and the Federal Health Employees Program, which is a model for how this language should be applied. It has been tried, tested and proven. The inclusion of this amendment clarifies the bill's language on the potential fungibility of premium dollars.

I urge my colleagues to support the amendment and the bill.

Ms. DEGETTE. Mr. Speaker, I yield for a unanimous consent request to the gentlewoman from California (Mrs. DAVIS).

Mrs. DAVIS of California. Mr. Speaker, I rise in opposition to this amendment.

Ms. DEGETTE. Mr. Speaker, I yield for a unanimous consent request to the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise in strong opposition to this amendment.

This amendment critically threatens women throughout America, and is unquestionably a

ban on abortion coverage. H.R. 3962 already provided for no federal dollars to be used for abortion—now this bill denies women the reimbursement for insurance to provide them good health care.

This amendment acutely threatens the personal liberties of our country's most vulnerable women. It negatively affects these women's health, wellbeing, and financial security. This amendment will disproportionately affect women of color. According to the Center for Disease Control, "the abortion ratio for black women (467 per 1,000 live births) was 2.9 times the ratio for white women (158 per 1,000), and the ratio for women of the heterogeneous "other" race category (319 per 1,000) was 2.0 times the ratio for white women. The abortion rate for black women (28 per 1,000 women) was 3.1 times the rate for white women (nine per 1,000), whereas the abortion rate for women of other races (18 per 1,000 women) was 2.0 times the rate for white women." We should not be so naïve to believe that these statistics represent anything less than the reality that minority women have less financial and personal autonomy. Women who decide to abort a pregnancy are not acting on whim or caprice. Rather, the decision to abort is a painful decision process borne out of necessity. I do not support these higher statistics among minority women, however their lives should not be jeopardized because of botched abortions.

As a woman of faith myself, the issue of abortion is very dear to me. I must begin by saying that I am not pro-abortion, I am pro-choice. The early termination of a fetus is a terribly sad and unfortunate event, and the decision to abort is a long and difficult one. Situations arise in which a woman is forced to make the very tough decision about something very private and personal. In situations like this I believe strongly in a woman's right to choose. It is her body and any law prohibiting woman from having total control over their bodies is in violation of our constitutional rights.

I have always supported a woman's right to choose. The decision to have a baby is something between a woman, her family, her faith and her doctor. This is an instance where the federal government does not need to be involved. It is my hope that society will continue to be progressive in their decisions, and if a woman decides to terminate her pregnancy, there are places that she can go to have the procedure done safely.

The Supreme Court in 1973, in the landmark case of *Roe v. Wade*, ruled that a woman's right to have an abortion is a constitutionally protected right. Judge Blackmon wrote that "a statute that criminalizes abortion is violative of the Due Process Clause of the Fourteenth Amendment and the abortion decision and its effectuation must be left to the medical judgment of the pregnant woman's attending physician."

The Stupak-Pitts amendment effectively reverses a women's control over her body. According to a 2002 study by the Guttmacher Institute, 90 percent of private policies currently cover abortion services. If this amendment is adopted, it will instantly modify the insurance coverage for the millions of women whose current insurance plans include coverage for abortion care. These women entered into their

insurance contracts with the guarantee that potential abortions would be covered. Yet, if this amendment is passed, every woman covered under the new health care system would have to purchase supplemental insurance or pay out of pocket for abortions. It is estimated that one third of Americans will have an abortion in their lifetime. If this amendment is adopted, thousands of women will be unable to afford a procedure for unpredictable and unwanted pregnancies. This would essentially be a ban on abortions for these women.

This is an unacceptable violation of a woman's personal sovereignty. I strongly oppose this amendment.

Ms. DEGETTE. Mr. Speaker, the gentleman from Pennsylvania said exactly what the intention is here. The intention is not simply to expand the Hyde amendment. The base bill does that. The base bill says that no Federal funds will be used in this bill for abortion.

It is the intention of our opponents to effectively stop a legal medical procedure from all plans that are in the exchange, even plans that are paid for with private dollars. This is the first time it would expand the Hyde exceptions to the private sector market. Mr. Speaker, it would not only affect the poor. It would affect the middle class.

Vote "no" on this ill-conceived amendment.

Ms. CHU. Mr. Speaker, I rise today in strong opposition to this amendment.

Ms. HIRONO. Mr. Speaker, I rise today in strong opposition to the Stupak Amendment, an amendment that is anti-choice and anti-women.

Earlier this week, I spoke about the importance of health care reform to women. If there was ever a group that has a lot at stake in reform, it is women. Health insurance companies today essentially treat being a woman as a pre-existing condition and charge them more for it. H.R. 3962 will put an end to the unjustifiable insurance practices of gender-rating—treating pregnancy, domestic violence, and previous c-section as pre-existing conditions—and not covering comprehensive maternity care. The men of this country would rise up in protest if they faced this kind of disparate treatment based on conditions particular to their gender.

The Stupak Amendment would effectively deny low-income women abortion coverage through insurance plans in the health insurance exchange. This is not only discriminatory but dangerous to women's health. Women without abortion coverage will be forced to postpone abortion care while attempting to raise the necessary funds—a delay that can exacerbate both the costs and the health risks of the procedure.

As a woman, I find it frankly insulting that the amendment would make women purchase additional insurance coverage for a legal medical procedure. We aren't asking individuals to purchase additional coverage in case they get cancer or in case they get diabetes. We aren't flagging out any other legal medical procedures to be treated in this manner.

Women do not plan to have unintended pregnancies or pregnancies with complications

that create health risks. And yet unintended pregnancies and complications do arise. This amendment says it's okay to tell women, if you want to guard against these situations, go buy a rider. This is a deeply insulting attitude. An abortion rider policy also raises serious privacy concerns, as it fundamentally undermines the spirit of existing privacy law.

The sponsors of the amendment have consistently failed to highlight that the bill already contains a compromise that stipulates that state laws regarding abortion procedures are not pre-empted. The bill already states that no federal funds—neither tax nor cost sharing tax credits—can be used to pay for abortion procedures.

Before taking this vote, I urge my colleagues who support this amendment to think about the women in their lives, their mothers, sisters, daughters, granddaughters. Would they put the lives of these women at risk? Would they take away their fundamental rights of choice and freedom? Would they want to limit their access to any legal medical procedure? I ask these questions of my colleagues because in voting in support of the Stupak Amendment, they are answering yes to all these questions.

I urge my colleagues to join me in voting "no" on the amendment.

Ms. HARMAN. Mr. Speaker, it is going to be very difficult for me to vote for a health care bill that contains the Stupak amendment on abortion.

Far from codifying the Hyde language, which has been included in House appropriations bills since 1976, the Stupak amendment would essentially make it impossible for most women to use their own funds to purchase insurance to pay for abortions. This is not chipping away at a woman's right to choose, this is an outright assault on my constitutional rights—and it is wrong.

I respect the right of any woman or man to oppose abortion. But, in return, I expect those who are anti-choice to respect my views. My views are that abortion should be safe and rare—but that a woman's constitutional right to privacy as articulated in *Roe v. Wade* is inviolable.

I am old enough to remember the days of back alley abortions. Some women I know had them. I cannot bear the idea that the 111th Congress would restore that horror.

The Stupak amendment is insulting and destructive. Its passage would pair us with the government of Afghanistan in sending women's rights back to the Stone Age. I intend to vote for this bill, but if it contains the Stupak amendment when it emerges from Conference Committee, my conscience demands that I reconsider my support.

Ms. MCCOLLUM. Mr. Speaker, every member of this House has the right to their own opinions and views on issues related to health care reform—including women's reproductive health care issues. However, as comprehensive healthcare legislation reaches the House floor for a vote, Congress must not violate the first tenant of the entire reform effort, which is to ensure that no one loses healthcare coverage they currently have.

Today we have an amendment on the floor that bans legal reproductive health care services for woman who pay for their own health

insurance. This amendment is wrong, it is dangerous, and it should be defeated.

The opportunity to meet the health care needs of all Americans is the strength of the bill we are debating. I want every American to have access to affordable, quality health care. This amendment and the work of many special interest groups to use this amendment to undermine health care reform is a transparent political game that puts millions of Americans at risk. Single issue political games must not be used to deny health care to millions of Americans.

I would like to submit for the RECORD a statement by a broad coalition of Minnesota religious leaders who call health care reform a matter of social justice that should not be undone by a single issue. These religious leaders understand the complex personal decision making that goes into health care choices, but they also know that Americans without access to health care too often have no choice except to suffer and too often endure conditions that result in severe illness or even preventable death.

These religious leaders are an inspiration to me. They are helping to frame the social, economic, moral and spiritual importance of passing health care reform legislation in Congress.

NOVEMBER 7, 2009.

As more Americans lose jobs and insurance coverage, health care reform bills are moving to final votes in Congress. Instead of working toward the reform that is so desperately needed, some groups, including the United States Conference of Catholic Bishops, are working overtime to ensure that women are denied the comprehensive health care they currently have.

With all the hyperbole, we have lost sight of the original goal of health reform: to expand access to health care, improve quality, and reduce costs—not to litigate abortion rights. As Congress works toward health care reform, they must make women's health a priority and guarantee that reproductive health care is covered.

Our faith traditions are abundantly clear about living in community with others and being responsible for them. Our traditions share the common core of serving those most in need. We join with others in expressing the need for us to return to the core of our faith traditions and realize that providing access to safe and quality health care makes sense morally, ethically, spiritually, and financially.

The president has repeatedly stated that no one should lose the coverage she or he currently has under health care reform. But, if dangerous amendments put forth by the vocal minority in Washington aren't defeated, women will lose their benefits, plain and simple.

It's simply untrue that abortion coverage will be mandated under the proposed new health plan. Simply put, Federal money would not pay for abortion care.

In fact, the House bill contains carefully crafted compromise language that allows women to keep the benefits they currently have while also ensuring that no federal funding is used for abortions.

Rep. Lois Capps drafted this provision to address both pro-life and pro-choice concerns around health care reform and balance both sides of the issue. The Capps proposal maintains the current policy of restricting federal funding for abortions and ensures that women won't lose benefits they currently have and will have access to insurance that

covers abortion if they want it. Further, it expressly prohibits the use of federal funds to pay for abortion care.

This is an even-handed compromise supported by people on both sides of the issue. While reasonable people disagree over the issue of abortion, no woman wants her health to be the object of political gamesmanship in this debate. That's why the Capps proposal was created. It's a common sense solution to help health care reform move forward with the support of the mainstream on all sides of the issue.

As religious leaders, we support public policies that are just and compassionate and prioritize the needs of those who are poor and marginalized in our society. In this religiously pluralistic nation, our health care system should be inclusive and respectful of diverse religious beliefs and decisions regarding childbearing. A health care system that serves all persons with dignity and equality will include comprehensive reproductive health services.

Health care reform is far too important a social justice issue to be left to chance and overheated rhetoric. It's time to move forward for the good of American women and families.

Members and Friends of the Minnesota Religious Coalition for Reproductive Choice; Rev. Judith Allen Kim, Presbytery of the Twin Cities Area; The Rev. Norma Burton, Linden Hills United Church of Christ, Minneapolis; Kelli Clement, Candidate for Ministry, UUA; Rev. Doug Donley, University Baptist Church, Minneapolis; Rev. Dr. Rob Eller-Isaacs, and Rev. Dr. Janne Eller-Isaacs, Co-Ministers, Unity Church Unitarian, St. Paul; Rev. Dr. Kendyl Gibbons, Sr. Minister, First Unitarian Society of Minneapolis; Rev. Walter Lockhart IV, Walker Community United Methodist Church, Minneapolis; Rev. Meg Riley, Unitarian Universalist Association; Rev. T. Michael Rock, Robbinsdale United Church of Christ; Kiely Todd Roska, United Church of Christ in New Brighton; Rev. Dr. Christine M. Smith, Cherokee Park United Church, St. Paul; Rev. Victoria Safford, White Bear Unitarian Universalist Church, Mahtomedi; Rabbi Jared Saks, Temple Israel, Minneapolis; Barbara Schmichen, Linden Hills United Church of Christ, Minneapolis; and Rev. Daniel R. Schmichen, Linden Hills United Church of Christ, Minneapolis.

Mr. MORAN of Kansas. Mr. Speaker, I rise in support of the Stupak-Pitts Amendment to H.R. 3962, Speaker PELOSI's health care reform bill. This amendment would maintain the current policy of preventing federal funding for abortion and for health benefits packages that include abortion. I feel a special obligation to protect innocent, young life.

I recently sponsored H. Con. Res. 169, legislation urging members of Congress to eliminate taxpayer-funded abortions from any proposed health care reform package. Directing taxpayer dollars to fund abortions is a clear violation of many Americans' deeply held beliefs and Americans should not be forced to compromise their core moral beliefs as a means to health care reform. Additionally, on September 28, 2009, I urged Speaker PELOSI and Democratic leadership, along with 182 of my House colleagues, to allow members of the House to vote their consciences with regard to abortion and health care reform by allowing consideration of an amendment to prohibit government funding of abortion.

Ms. BORDALLO. Mr. Speaker, I rise today in support of the Stupak-Ellsworth-Pitts-Smith-

Kaptur-Dahlkemper Amendment to H.R. 3962 the "Affordable Health Care for America Act." This amendment, supported by the United States Conference of Catholic Bishops, is important because it ensures that current federal law on abortion funding will apply to the public health care option created by H.R. 3962.

This amendment codifies the Hyde Amendment in H.R. 3962. It will prevent public funds from being used to pay for or subsidize elective abortions, either through the public option or health care affordability tax credits, except in the case of rape, incest, physical injury or physical illness to the women. The Hyde Amendment is already in place in current federal health programs like Medicaid and Medicare and this amendment will make sure that H.R. 3962 is governed in a consistent manner.

I have received numerous letters from my constituents expressing both support for health care reform, but also grave concerns that federal funds would be used to pay for elective abortion under the new law. I am very supportive of the overall goals of H.R. 3962 and particularly its provisions that address the health disparity issues in the territories. The addition of the Stupak-Ellsworth-Pitts-Smith-Kaptur-Dahlkemper amendment will further strengthen this legislation and ensure that no one will need to choose between their conscientious objections to abortion and their desire to work toward more affordable quality health care in America.

I commend Congressman STUPAK for his leadership on this important issue and urge my colleagues to support this amendment.

Mr. FARR. Mr. Speaker, I rise to express my strong opposition to the Stupak-Pitts amendment.

The health care bill before the House tonight retains existing law on the ban on federal dollars being used for abortion services in federal programs. This health care bill does what it promised to do: not to expand abortion services. But the Stupak amendment wants to rewrite current law. This amendment ignores the constitutionally protected right for women to choose their reproductive health care. It makes women, and only women, have to purchase an additional policy with their own money to cover women's reproductive health care.

That we are considering outlawing a medical procedure—one chosen by patients and their doctors—in existing law. This amendment makes it impossible for women to purchase health care insurance to cover a health care procedure that can only be needed at a time of crisis. It would require women to plan for an unplanned pregnancy. That is plain wrong.

When will we stop treating women like second class citizens? When will we admit that they have the right to determine their health care like anyone else? Why are we boxing them in with this amendment that restricts and restrains their ability to act in a manner they deem appropriate for their well-being? Shame on us for being so disrespectful of their humanity and for attempting to disenfranchise them this way.

If we want health care for all Americans then women should be entitled to all health care, not just some aspects of it.

Ms. ESHOO. Mr. Speaker, I come to the floor today to oppose the amendment offered



by my colleague, Representative BART STUPAK. I know that he is following his own conscience, but I want to preserve the right of women nationwide to follow their conscience as well. I support a woman's right to be either for or against abortion. The decision is a private one and it is a matter of faith as well as a matter of conscience, and it is supported by our Constitution.

This amendment is not about federal funding for abortion . . . the current version of the bill and federal law, the Hyde Amendment, already prohibit spending tax dollars to finance abortions. This amendment goes beyond that language. It prohibits private health insurance plans that receive even one dollar of federal funding to offer abortion services to any of their customers. This eliminates coverage for an important health service that millions of women currently have. This amendment leaves women even worse off than they are now. I cannot support such all-encompassing language.

There is a certain irony here that demonstrates how prejudiced this amendment is toward women. Insurance plans would allow a man to obtain Viagra and cause an unwanted pregnancy, but it penalizes women for becoming pregnant.

Insurance is intended to cover the unexpected. Yet, this amendment would deny women the right to purchase their own coverage as part of a regular insurance plan. It will heap an ugly punishment upon those who often times can least afford it, and it will push women into the past of back-alley butchers.

Today women are entitled under the law to a safe abortion. It is estimated that in California before the *Roe v. Wade* decision, about 100,000 illegal abortions were performed each year. Abortion was the most common single cause of maternal deaths in California prior to 1973. We should not turn back the clock. As we work to provide universal health for all our citizens, women should be protected. This amendment does nothing to advance this and I ask my colleagues to defeat it.

Ms. SPEIER. Mr. Speaker, tonight as we prepare to pass a historic health care bill that provides expanded health care coverage to Americans and is more than sixty years in the making, I am concerned that we must first fight to block a direct assault on a woman's right to choose.

America's Affordable Health Choices Act is fair and equitable in its approach to abortion and respects the rights of those who want to purchase a plan that provides abortion coverage and those who do not. It guarantees that no public funds are used to pay for abortion services—codifying the long standing Hyde amendment.

The anti-choice Stupak Amendment seeks to take away a woman's right to pay for her own abortion services, forcing millions of women to retreat to the shadows and an era in which back alley abortions were too often the norm. That is why I will stand up this evening and vote against the Stupak Amendment—ensuring that every woman in this country has the reproductive freedom that she desires and that her mother and mother's mother fought so hard for.

Mr. POLIS. Mr. Speaker, I would like to express my strong opposition to the Stupak/Pitts

Amendment, which unfortunately passed the House by a vote of 240–194. This amendment places a woman's right to choose at risk, for it would place new obstacles in the way of women seeking reproductive health care services. The Stupak Amendment goes further than existing laws. This amendment dictates which medical procedures are offered in the private market.

Health care reform is supposed to increase coverage. This amendment singles out women and reduces their coverage. Women's access to comprehensive reproductive health services is not just about equality between men and women but also equality along economic lines. This amendment sets up a system where only wealthier women could afford a safe abortion. It would prohibit low-income women who receive affordability tax credits from purchasing a private insurance plan that covers abortion, despite the fact that over 80 percent of health insurance plans currently cover abortion. In other words, a woman who happens to be low-income will be denied the right to purchase a health care plan with abortion coverage simply because she qualifies for affordability tax credits. This is discriminatory, plain and simple.

Besides purchasing insurance in the exchange, the primary alternative for low-income individuals is the public option. Not only does this amendment prohibit access to abortion coverage if a low-income woman receives affordability tax credits in the exchange, but this amendment also prohibits the public option from providing abortion care, despite the fact that it would be funded through private premium dollars.

Under the Stupak Amendment, low-income women who either receive affordability tax credits or purchase insurance through the public option have to purchase a separate, single-service "abortion rider" policy. Not only does this idea discriminate against low-income women but it makes no sense either. Women who end up in the tough position of having to seek an abortion never planned on being in that situation. The vast majority of women will not choose to purchase an "abortion rider" policy because they do not plan on ever having an abortion, and when the day arises when they may need abortion coverage, unfortunately it will not be there for them.

The women of America should have access to their fundamental right to choose, regardless of their income level. I urge my colleagues to join me today in defense of that fundamental right.

Ms. EDWARDS of Maryland. Mr. Speaker, I object to the anti-choice amendment brought forward by Reps. BART STUPAK and JOSEPH PITTS. The Stupak-Pitts amendment goes beyond the scope of current law and effectively prohibits private insurers in the health insurance Exchange from offering insurance plans with abortion provisions. This amendment prohibits the use of federal funds from covering any part of the costs of any health care plan that includes coverage of abortion coverage, even if federal dollars do not go towards an abortion procedure. This amendment truly undermines the spirit of health care reform by rationing women's care and taking away current benefits plans that include abortion coverage.

This amendment strips women's legal right to abortion procedures and turns back the

clock on decades of legal precedent and legislation.

This is a procedure that some women must consider in the interest of their health. This is a choice that no one, not a Member of Congress, or government official should make for a woman. This is a woman's choice that must be preserved. A woman's reproductive choice has been recognized by the Supreme Court of this country, and honored by the citizens and lawmakers of this country.

Please oppose this amendment and protect women's health.

Ms. KAPTUR. Mr. Speaker, I rise in support of the Stupak-Ellsworth-Pitts-Smith-Kaptur-Dahlkemper Amendment that maintains existing Federal law on the compelling issue of abortion. For 34 years, citizens of conscience on all sides have weighed in on this important moral and legal question. Lawmakers have attempted to accommodate very divergent views, even on the meaning of life itself. Many lives must be considered—the life of the mother, the life of the child, including the unborn but conceived, and in my opinion the rarely mentioned responsibilities of the father as well.

Our legislative struggle to do what is proper is rooted in interrelated moral, scientific, legal, and yes, theological dissonances. What is right? What should be legal? And what will lead to a just and responsible society for all? I continue to approach this deeply moving issue as a representative from a widely diverse Congressional district in northwestern Ohio, an area of our Nation comprised of people from many different ethnicities, races, faiths, denominations and belief systems. My representation of these varying views embodies the deepest respect for all our people, and for the integrity with which they have arrived at their values.

This amendment reaffirms longstanding, existing law, and nothing more. It represents the broad consensus of the American people after decades of consideration on the issue. Recent Gallup polls show that 51 percent of Americans consider themselves "pro-life" on the issue of abortion. But, this amendment does not resolve all moral questions that face pro choice, prolife, and non-aligned Americans on this issue. All it does is restate existing law.

It states that no Federal funds "authorized under this Act may be used to pay for any abortion, or to cover any part of the costs of any health plan that includes coverage of abortion," except in the cases of the life of the mother, rape or incest.

Effectively, the precedent setting Hyde amendment—which has been in effect for 34 years in our Nation—will apply to the public option, and to any Federal plans which include elective abortion. The amendment does no more, and no less. Further, with the added coverage for all Americans that this bill provides, perhaps the abortion choice will become less attractive for those faced with such a life wrenching choice.

This amendment will not bar any one from purchasing their own private supplemental rider. Our language is the same that applies in current law on Medicaid, Medicare, the Children's Health Insurance Plan, and the Federal Employee Health Benefits Plan, FEHBP, itself which offers many private insurance plans.



The FEHBP is a model for how this language will be applied. It has been tried, tested, and proven.

The inclusion of this amendment clarifies the bill's language on the potential fungibility of premium dollars deposited in Federal accounts that could result in federally sanctioned insurance paid for by taxes, premiums, or Federal subsidies diverted to pay for abortions by those who do not agree with the procedure.

Importantly, for the first time, the base measure itself will help vast scores of women to obtain health coverage and, by so doing limit abortion by enhancing broad coverage options for women's and children's health. The rate of infant mortality, which is fueled by shamefully high rates of premature birth in the United States, shows us that we are not addressing the needs of mother's and their babies. Providing the necessary support for women is the answer. This bill will vastly improve preventive care, double funds available to community health centers including obstetric and gynecological care, and move America fully into this 21st century. No woman, no woman—including poor women, pregnant women, unemployed women, working women, single women, and nursing women—will be left out of health insurance coverage.

I urge my colleagues to support the amendment.

The SPEAKER pro tempore. Pursuant to House Resolution 903, the previous question is ordered on the amendment.

The question is on the amendment offered by the gentleman from Michigan (Mr. STUPAK).

The question was taken; and the Speaker pro tempore announced that the yeas appeared to have it.

Mr. STUPAK. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to section 2 of House Resolution 903, further proceedings on this question will be postponed.

#### AMENDMENT OFFERED BY MR. BOEHNER

Mr. BOEHNER. Mr. Speaker, pursuant to the rule, I call up the amendment in the nature of a substitute printed in the rule.

The SPEAKER pro tempore (Mr. OBEY). The Clerk will designate the amendment.

The text of the amendment is as follows:

Part D amendment in the nature of a substitute printed in House Report 111-330 offered by Mr. BOEHNER:

Strike all after the enacting clause and insert the following:

#### SECTION 1. SHORT TITLE; PURPOSE; TABLE OF CONTENTS.

(a) **SHORT TITLE.**—This Act may be cited as the “Common Sense Health Care Reform and Affordability Act”.

(b) **PURPOSE.**—The purpose of this Act is to take meaningful steps to lower health care costs and increase access to health insurance coverage (especially for individuals with pre-existing conditions) without—

- (1) raising taxes;
- (2) cutting Medicare benefits for seniors;
- (3) adding to the national deficit;
- (4) intervening in the doctor-patient relationship; or

(5) instituting a government takeover of health care.

(c) **TABLE OF CONTENTS.**—The table of contents of this Act is as follows:

Sec. 1. Short title; purpose; table of contents.

#### DIVISION A—MAKING HEALTH CARE COVERAGE AFFORDABLE FOR EVERY AMERICAN

##### TITLE I—ENSURING COVERAGE FOR INDIVIDUALS WITH PREEXISTING CONDITIONS AND MULTIPLE HEALTH CARE NEEDS

Sec. 101. Establish universal access programs to improve high risk pools and reinsurance markets.

Sec. 102. Elimination of certain requirements for guaranteed availability in individual market.

Sec. 103. No annual or lifetime spending caps.

Sec. 104. Preventing unjust cancellation of insurance coverage.

##### TITLE II—REDUCING HEALTH CARE PREMIUMS AND THE NUMBER OF UNINSURED AMERICANS

Sec. 111. State innovation programs.

Sec. 112. Health plan finders.

Sec. 113. Administrative simplification.

#### DIVISION B—IMPROVING ACCESS TO HEALTH CARE

##### TITLE I—EXPANDING ACCESS AND LOWERING COSTS FOR SMALL BUSINESSES

Sec. 201. Rules governing association health plans.

Sec. 202. Clarification of treatment of single employer arrangements.

Sec. 203. Enforcement provisions relating to association health plans.

Sec. 204. Cooperation between Federal and State authorities.

Sec. 205. Effective date and transitional and other rules.

#### TITLE II—TARGETED EFFORTS TO EXPAND ACCESS

Sec. 211. Extending coverage of dependents.

Sec. 212. Allowing auto-enrollment for employer sponsored coverage.

##### TITLE III—EXPANDING CHOICES BY ALLOWING AMERICANS TO BUY HEALTH CARE COVERAGE ACROSS STATE LINES

Sec. 221. Interstate purchasing of Health Insurance.

##### TITLE IV—IMPROVING HEALTH SAVINGS ACCOUNTS

Sec. 231. Saver's credit for contributions to health savings accounts.

Sec. 232. HSA funds for premiums for high deductible health plans.

Sec. 233. Requiring greater coordination between HDHP administrators and HSA account administrators so that enrollees can enroll in both at the same time.

Sec. 234. Special rule for certain medical expenses incurred before establishment of account.

#### DIVISION C—ENACTING REAL MEDICAL LIABILITY REFORM

Sec. 301. Encouraging speedy resolution of claims.

Sec. 302. Compensating patient injury.

Sec. 303. Maximizing patient recovery.

Sec. 304. Additional health benefits.

Sec. 305. Punitive damages.

Sec. 306. Authorization of payment of future damages to claimants in health care lawsuits.

Sec. 307. Definitions.

Sec. 308. Effect on other laws.

Sec. 309. State flexibility and protection of states' rights.

Sec. 310. Applicability; effective date.

#### DIVISION D—PROTECTING THE DOCTOR-PATIENT RELATIONSHIP

Sec. 401. Rule of construction.

Sec. 402. Repeal of Federal Coordinating Council for Comparative Effectiveness Research.

#### DIVISION E—INCENTIVIZING WELLNESS AND QUALITY IMPROVEMENTS

Sec. 501. Incentives for prevention and wellness programs.

#### DIVISION F—PROTECTING TAXPAYERS

Sec. 601. Provide full funding to HHS OIG and HCFA.

Sec. 602. Prohibiting taxpayer funded abortions and conscience protections.

Sec. 603. Improved enforcement of the Medicare and Medicaid secondary payer provisions.

Sec. 604. Strengthen Medicare provider enrollment standards and safeguards.

Sec. 605. Tracking banned providers across State lines.

#### DIVISION G—PATHWAY FOR BIOSIMILAR BIOLOGICAL PRODUCTS

Sec. 701. Licensure pathway for biosimilar biological products.

Sec. 702. Fees relating to biosimilar biological products.

Sec. 703. Amendments to certain patent provisions.

#### DIVISION A—MAKING HEALTH CARE COVERAGE AFFORDABLE FOR EVERY AMERICAN

##### TITLE I—ENSURING COVERAGE FOR INDIVIDUALS WITH PREEXISTING CONDITIONS AND MULTIPLE HEALTH CARE NEEDS

#### SEC. 101. ESTABLISH UNIVERSAL ACCESS PROGRAMS TO IMPROVE HIGH RISK POOLS AND REINSURANCE MARKETS.

(a) **STATE REQUIREMENT.**—

(1) **IN GENERAL.**—Not later than January 1, 2010, each State shall—

(A) subject to paragraph (3), operate—

(i) a qualified State reinsurance program described in subsection (b); or

(ii) qualifying State high risk pool described in subsection (c)(1); and

(B) subject to paragraph (3), apply to the operation of such a program from State funds an amount equivalent to the portion of State funds derived from State premium assessments (as defined by the Secretary) that are not otherwise used on State health care programs.

(2) **RELATION TO CURRENT QUALIFIED HIGH RISK POOL PROGRAM.**—

(A) **STATES NOT OPERATING A QUALIFIED HIGH RISK POOL.**—In the case of a State that is not operating a current section 2745 qualified high risk pool as of the date of the enactment of this Act—

(i) the State may only meet the requirement of paragraph (1) through the operation of a qualified State reinsurance program described in subsection (b); and

(ii) the State's operation of such a reinsurance program shall be treated, for purposes of section 2745 of the Public Health Service Act, as the operation of a qualified high risk pool described in such section.

(B) **STATE OPERATING A QUALIFIED HIGH RISK POOL.**—In the case of a State that is operating a current section 2745 qualified high risk pool as of the date of the enactment of this Act—

(i) as of January 1, 2010, such a pool shall not be treated as a qualified high risk pool under section 2745 of the Public Health Service Act unless the pool is a qualifying State high risk pool described in subsection (c)(1); and

(ii) the State may use premium assessment funds described in paragraph (1)(B) to transition from operation of such a pool to operation of a qualified State reinsurance program described in subsection (b).

(3) APPLICATION OF FUNDS.—If the program or pool operated under paragraph (1)(A) is in strong fiscal health, as determined in accordance with standards established by the National Association of Insurance Commissioners and as approved by the State Insurance Commissioner involved, the requirement of paragraph (1)(B) shall be deemed to be met.

(b) QUALIFIED STATE REINSURANCE PROGRAM.—

(1) IN GENERAL.—For purposes of this section, a “qualified State reinsurance program” means a program operated by a State program that provides reinsurance for health insurance coverage offered in the small group market in accordance with the model for such a program established (as of the date of the enactment of this Act).

(2) FORM OF PROGRAM.—A qualified State reinsurance program may provide reinsurance—

(A) on a prospective or retrospective basis; and

(B) on a basis that protects health insurance issuers against the annual aggregate spending of their enrollees as well as purchase protection against individual catastrophic costs.

(3) SATISFACTION OF HIPAA REQUIREMENT.—A qualified State reinsurance program shall be deemed, for purposes of section 2745 of the Public Health Service Act, to be a qualified high-risk pool under such section.

(c) QUALIFYING STATE HIGH RISK POOL.—

(1) IN GENERAL.—A qualifying State high risk pool described in this subsection means a current section 2745 qualified high risk pool that meets the following requirements:

(A) The pool must provide at least two coverage options, one of which must be a high deductible health plan coupled with a health savings account.

(B) The pool must be funded with a stable funding source.

(C) The pool must eliminate any waiting lists so that all eligible residents who are seeking coverage through the pool should be allowed to receive coverage through the pool.

(D) The pool must allow for coverage of individuals who, but for the 24-month disability waiting period under section 226(b) of the Social Security Act, would be eligible for Medicare during the period of such waiting period.

(E) The pool must limit the pool premiums to no more than 150 percent of the average premium for applicable standard risk rates in that State.

(F) The pool must conduct education and outreach initiatives so that residents and brokers understand that the pool is available to eligible residents.

(G) The pool must provide coverage for preventive services and disease management for chronic diseases.

(2) VERIFICATION OF CITIZENSHIP OR ALIEN QUALIFICATION.—

(A) IN GENERAL.—Notwithstanding any other provision of law, only citizens and nationals of the United States shall be eligible to participate in a qualifying State high risk

pool that receives funds under section 2745 of the Public Health Service Act or this section.

(B) CONDITION OF PARTICIPATION.—As a condition of a State receiving such funds, the Secretary shall require the State to certify, to the satisfaction of the Secretary, that such State requires all applicants for coverage in the qualifying State high risk pool to provide satisfactory documentation of citizenship or nationality in a manner consistent with section 1903(x) of the Social Security Act.

(C) RECORDS.—The Secretary shall keep sufficient records such that a determination of citizenship or nationality only has to be made once for any individual under this paragraph.

(3) RELATION TO SECTION 2745.—As of January 1, 2010, a pool shall not qualify as qualified high risk pool under section 2745 of the Public Health Service Act unless the pool is a qualifying State high risk pool described in paragraph (1).

(d) WAIVERS.—In order to accommodate new and innovative programs, the Secretary may waive such requirements of this section for qualified State reinsurance programs and for qualifying State high risk pools as the Secretary deems appropriate.

(e) FUNDING.—In addition to any other amounts appropriated, there is appropriated to carry out section 2745 of the Public Health Service Act (including through a program or pool described in subsection (a)(1))—

(1) \$15,000,000,000 for the period of fiscal years 2010 through 2019; and

(2) an additional \$10,000,000,000 for the period of fiscal years 2015 through 2019.

(f) DEFINITIONS.—In this section:

(1) HEALTH INSURANCE COVERAGE; HEALTH INSURANCE ISSUER.—The terms “health insurance coverage” and “health insurance issuer” have the meanings given such terms in section 2791 of the Public Health Service Act.

(2) CURRENT SECTION 2745 QUALIFIED HIGH RISK POOL.—The term “current section 2745 qualified high risk pool” has the meaning given the term “qualified high risk pool” under section 2745(g) of the Public Health Service Act as in effect as of the date of the enactment of this Act.

(3) SECRETARY.—The term “Secretary” means Secretary of Health and Human Services.

(4) STANDARD RISK RATE.—The term “standard risk rate” means a rate that—

(A) is determined under the State high risk pool by considering the premium rates charged by other health insurance issuers offering health insurance coverage to individuals in the insurance market served;

(B) is established using reasonable actuarial techniques; and

(C) reflects anticipated claims experience and expenses for the coverage involved.

(5) STATE.—The term “State” means any of the 50 States or the District of Columbia.

#### SEC. 102. ELIMINATION OF CERTAIN REQUIREMENTS FOR GUARANTEED AVAILABILITY IN INDIVIDUAL MARKET.

(a) IN GENERAL.—Section 2741(b) of the Public Health Service Act (42 U.S.C. 300gg-41(b)) is amended—

(1) in paragraph (1)—

(A) by striking “(1)(A)” and inserting “(1)”; and

(B) by striking “and (B)” and all that follows up to the semicolon at the end;

(2) by adding “and” at the end of paragraph (2);

(3) in paragraph (3)—

(A) by striking “(1)(A)” and inserting “(1)”; and

(B) by striking the semicolon at the end and inserting a period; and

(4) by striking paragraphs (4) and (5).

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on the date of the enactment of this Act.

#### SEC. 103. NO ANNUAL OR LIFETIME SPENDING CAPS.

Notwithstanding any other provision of law, a health insurance issuer (including an entity licensed to sell insurance with respect to a State or group health plan) may not apply an annual or lifetime aggregate spending cap on any health insurance coverage or plan offered by such issuer.

#### SEC. 104. PREVENTING UNJUST CANCELLATION OF INSURANCE COVERAGE.

(a) CLARIFICATION REGARDING APPLICATION OF GUARANTEED RENEWABILITY OF INDIVIDUAL HEALTH INSURANCE COVERAGE.—Section 2742 of the Public Health Service Act (42 U.S.C. 300gg-42) is amended—

(1) in its heading, by inserting “, continuation in force, including prohibition of rescission,” after “guaranteed renewability”;;

(2) in subsection (a), by inserting “, including without rescission,” after “continue in force”; and

(3) in subsection (b)(2), by inserting before the period at the end the following: “, including intentional concealment of material facts regarding a health condition related to the condition for which coverage is being claimed”.

(b) OPPORTUNITY FOR INDEPENDENT, EXTERNAL THIRD PARTY REVIEW IN CERTAIN CASES.—Subpart 1 of part B of title XXVII of the Public Health Service Act is amended by adding at the end the following new section:

#### “SEC. 2746. OPPORTUNITY FOR INDEPENDENT, EXTERNAL THIRD PARTY REVIEW IN CERTAIN CASES.

“(a) NOTICE AND REVIEW RIGHT.—If a health insurance issuer determines to nonrenew or not continue in force, including rescind, health insurance coverage for an individual in the individual market on the basis described in section 2742(b)(2) before such nonrenewal, discontinuation, or rescission, may take effect the issuer shall provide the individual with notice of such proposed nonrenewal, discontinuation, or rescission and an opportunity for a review of such determination by an independent, external third party under procedures specified by the Secretary.

“(b) INDEPENDENT DETERMINATION.—If the individual requests such review by an independent, external third party of a nonrenewal, discontinuation, or rescission of health insurance coverage, the coverage shall remain in effect until such third party determines that the coverage may be nonrenewed, discontinued, or rescinded under section 2742(b)(2).”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply after the date of the enactment of this Act with respect to health insurance coverage issued before, on, or after such date.

#### TITLE II—REDUCING HEALTH CARE PREMIUMS AND THE NUMBER OF UNINSURED AMERICANS

##### SEC. 111. STATE INNOVATION PROGRAMS.

(a) PROGRAMS THAT REDUCE THE COST OF HEALTH INSURANCE PREMIUMS.—

(1) PAYMENTS TO STATES.—

(A) FOR PREMIUM REDUCTIONS IN THE SMALL GROUP MARKET.—If the Secretary determines that a State has reduced the average per capita premium for health insurance coverage in the small group market in year 3, in year 6, or year 9 (as defined in subsection (c)) below the premium baseline for such year (as

defined paragraph (2)), the Secretary shall pay the State an amount equal to the product of—

(i) bonus premium percentage (as defined in paragraph (3)) for the State, market, and year; and

(ii) the maximum State premium payment amount (as defined in paragraph (4)) for the State, market, and year

(B) FOR PREMIUM REDUCTIONS IN THE INDIVIDUAL MARKET.—If the Secretary determines that a State has reduced the average per capita premium for health insurance coverage in the individual market in year 3, in year 6, or in year 9 below the premium baseline for such year, the Secretary shall pay the State an amount equal to the product of—

(i) bonus premium percentage for the State, market, and year; and

(ii) the maximum State premium payment amount for the State, market, and year.

(2) PREMIUM BASELINE.—For purposes of this subsection, the term “premium baseline” means, for a market in a State—

(A) for year 1, the average per capita premiums for health insurance coverage in such market in the State in such year; or

(B) for a subsequent year, the baseline for the market in the State for the previous year under this paragraph increased by a percentage specified in accordance with a formula established by the Secretary, in consultation with the Congressional Budget Office and the Bureau of the Census, that takes into account at least the following:

(i) GROWTH FACTOR.—The inflation in the costs of inputs to health care services in the year.

(ii) HISTORIC PREMIUM GROWTH RATES.—Historic growth rates, during the 10 years before year 1, of per capita premiums for health insurance coverage.

(iii) DEMOGRAPHIC CONSIDERATIONS.—Historic average changes in the demographics of the population covered that impact on the rate of growth of per capita health care costs.

(3) BONUS PREMIUM PERCENTAGE DEFINED.—

(A) IN GENERAL.—For purposes of this subsection, the term “bonus premium percentage” means, for the small group market or individual market in a State for a year, such percentage as determined in accordance with the following table based on the State’s premium performance level (as defined in subparagraph (B)) for such market and year:

The bonus premium percentage for a State is—	For year 3 if the premium performance level of the State is—	For year 6 if the premium performance level of the State is—	For year 9 if the premium performance level of the State is—
100 percent	at least 8.5%	at least 11%	at least 13.5%
50 percent	at least 6.38%, but less than 8.5%	at least 10.38%, but less than 11%	at least 12.88%, but less than 13.5%
25 percent	at least 4.25%, but less than 6.38%	at least 9.75%, but less than 10.38%	at least 12.25%, but less than 12.88%
0 percent	less than 4.25%	less than 9.75%	less than 12.25%

(B) PREMIUM PERFORMANCE LEVEL.—For purposes of this subsection, the term “premium performance level” means, for a State, market, and year, the percentage reduction in the average per capita premiums for health insurance coverage for the State, market, and year, as compared to the premium baseline for such State, market, and year.

(4) MAXIMUM STATE PREMIUM PAYMENT AMOUNT DEFINED.—For purposes of this subsection, the term “maximum State premium payment amount” means, for a State for the small group market or the individual market for a year, the product of—

(A) the proportion (as determined by the Secretary), of the number of nonelderly individuals lawfully residing in all the States who are enrolled in health insurance coverage in the respective market in the year, who are residents of the State; and

(B) the amount available for obligation from amounts appropriated under subsection (d) for such market with respect to performance in such year.

(5) METHODOLOGY FOR CALCULATING AVERAGE PER CAPITA PREMIUMS.—

(A) ESTABLISHMENT.—The Secretary shall establish, by rule and consistent with this subsection, a methodology for computing the average per capita premiums for health insurance coverage for the small group market and for the individual market in each State for each year beginning with year 1.

(B) ADJUSTMENTS.—Under such methodology, the Secretary shall provide for the following adjustments (in a manner determined appropriate by the Secretary):

(i) EXCLUSION OF ILLEGAL ALIENS.—An adjustment so as not to take into account enrollees who are not lawfully present in the United States and their premium costs.

(ii) TREATING STATE PREMIUM SUBSIDIES AS PREMIUM COSTS.—An adjustment so as to increase per capita premiums to remove the impact of premium subsidies made directly by a State to reduce health insurance premiums.

(6) CONDITIONS OF PAYMENT.—As a condition of receiving a payment under paragraph (1), a State must agree to submit aggregate, non-individually identifiable data to the Secretary, in a form and manner specified by the Secretary, for use by the Secretary to determine the State’s premium baseline and premium performance level for purposes of this subsection.

(b) PROGRAMS THAT REDUCE THE NUMBER OF UNINSURED.—

(1) IN GENERAL.—If the Secretary determines that a State has reduced the percentage of uninsured nonelderly residents in year 5, year 7, or year 9, below the uninsured baseline (as defined in paragraph (2)) for the State for the year, the Secretary shall pay the State an amount equal to the product of—

(A) bonus uninsured percentage (as defined in paragraph (3)) for the State and year; and

(B) the maximum uninsured payment amount (as defined in paragraph (4)) for the State and year.

(2) UNINSURED BASELINE.—

(A) IN GENERAL.—For purposes of this subsection, and subject to subparagraph (B), the term “uninsured baseline” means, for a State, the percentage of nonelderly residents in the State who are uninsured in year 1.

(B) ADJUSTMENT.—The Secretary may, at the written request of a State, adjust the uninsured baseline for States for a year to take into account unanticipated and exceptional changes, such as an unanticipated migration, of nonelderly individuals into, or out of, States in a manner that does not reflect substantially the proportion of uninsured nonelderly residents in the States involved in year 1. Any such adjustment shall only be done in a manner that does not result in the average of the uninsured baselines for nonelderly residents for all States being changed.

(3) BONUS UNINSURED PERCENTAGE.—

(A) BONUS UNINSURED PERCENTAGE.—For purposes of this subsection, the term “bonus uninsured percentage” means, for a State for a year, such percentage as determined in accordance with the following table, based on the uninsured performance level (as defined in subparagraph (B)) for such State and year:

The bonus uninsured percentage for a State is—	For year 5 if the uninsured performance level of the State is—	For year 7 if the uninsured performance level of the State is—	For year 9 if the uninsured performance level of the State is—
100 percent	at least 10%	at least 15%	at least 20%
50 percent	at least 7.5% but less than 10%	at least 13.75% but less than 15%	at least 18.75% but less than 20%
25 percent	at least 5% but less than 7.5%	at least 12.5% but less than 13.75%	at least 17.5% but less than 18.75%
0 percent	less than 5%	less than 12.5%	less than 17.5%

(B) **UNINSURED PERFORMANCE LEVEL.**—For purposes of this subsection, the term “uninsured performance level” means, for a State for a year, the reduction (expressed as a percentage) in the percentage of uninsured nonelderly residents in such State in the year as compared to the uninsured baseline for such State for such year.

(4) **MAXIMUM STATE UNINSURED PAYMENT AMOUNT DEFINED.**—For purposes of this subsection, the term “maximum State uninsured payment amount” means, for a State for a year, the product of—

(A) the proportion (as determined by the Secretary), of the number of uninsured nonelderly individuals lawfully residing in all the States in the year, who are residents of the State; and

(B) the amount available for obligation under this subsection from amounts appropriated under subsection (d) with respect to performance in such year.

(5) **METHODOLOGY FOR COMPUTING THE PERCENTAGE OF UNINSURED NONELDERLY RESIDENTS IN A STATE.**—

(A) **ESTABLISHMENT.**—The Secretary shall establish, by rule and consistent with this subsection, a methodology for computing the percentage of nonelderly residents in a State who are uninsured in each year beginning with year 1.

(B) **RULES.**—

(i) **TREATMENT OF UNINSURED.**—Such methodology shall treat as uninsured those residents who do not have health insurance coverage or other creditable coverage (as defined in section 9801(c)(1) of the Internal Revenue Code of 1986), except that such methodology shall rely upon data on the nonelderly and uninsured populations within each State in such year provided through population surveys conducted by federal agencies.

(ii) **LIMITATION TO NONELDERLY.**—Such methodology shall exclude individuals who are 65 years of age or older.

(iii) **EXCLUSION OF ILLEGAL ALIENS.**—Such methodology shall exclude individuals not lawfully present in the United States.

(6) **CONDITIONS OF PAYMENT.**—As a condition of receiving a payment under paragraph (1), a State must agree to submit aggregate, non-individually identifiable data to the Secretary, in a form and manner specified by the Secretary, for use by the Secretary in determining the State’s uninsured baseline and uninsured performance level for purposes of this subsection.

(c) **DEFINITIONS.**—For purposes of this section:

(1) **GROUP HEALTH PLAN.**—The term “group health plan” has the meaning given such term in section 9832(a) of the Internal Revenue Code of 1986.

(2) **HEALTH INSURANCE COVERAGE.**—The term “health insurance coverage” has the meaning given such term in section 9832(b)(1) of the Internal Revenue Code of 1986.

(3) **INDIVIDUAL MARKET.**—Except as the Secretary may otherwise provide in the case of group health plans that have fewer than 2 participants as current employees on the first day of a plan year, the term “individual market” means the market for health insurance coverage offered to individuals other than in connection with a group health plan.

(4) **SECRETARY.**—The term “Secretary” means the Secretary of Health and Human Services.

(5) **SMALL GROUP MARKET.**—The term “small group market” means the market for health insurance coverage under which individuals obtain health insurance coverage (directly or through any arrangement) on behalf of themselves (and their dependents)

through a group health plan maintained by an employer who employed on average at least 2 but not more than 50 employees on business days during a calendar year.

(6) **STATE.**—The term “State” means any of the 50 States and the District of Columbia.

(7) **YEARS.**—The terms “year 1”, “year 2”, “year 3”, and similar subsequently numbered years mean 2010, 2011, 2012, and subsequent sequentially numbered years.

(d) **APPROPRIATIONS; PAYMENTS.**—

(1) **PAYMENTS FOR REDUCTIONS IN COST OF HEALTH INSURANCE COVERAGE.**—

(A) **SMALL GROUP MARKET.**—

(i) **IN GENERAL.**—From any funds in the Treasury not otherwise appropriated, there is appropriated for payments under subsection (a)(1)(A)—

(I) \$18,000,000,000 with respect to performance in year 3;

(II) \$5,000,000,000 with respect to performance in year 6; and

(III) \$2,000,000,000 with respect to performance in year 9.

(ii) **AVAILABILITY OF APPROPRIATED FUNDS.**—Funds appropriated under clause (i) shall remain available until expended.

(B) **INDIVIDUAL MARKET.**—

(i) **IN GENERAL.**—Subject to clause (ii), from any funds in the Treasury not otherwise appropriated, there is appropriated for payments under subsection (a)(1)(B)—

(I) \$7,000,000,000 with respect to performance in year 3;

(II) \$2,000,000,000 with respect to performance in year 6; and

(III) \$1,000,000,000 with respect to performance in year 9.

(ii) **AVAILABILITY OF APPROPRIATED FUNDS.**—Of the funds appropriated under clause (i) that are not expended or obligated by the end of the year following the year for which the funds are appropriated—

(I) 75 percent shall remain available until expended for payments under subsection (a)(1)(B); and

(II) 25 percent shall remain available until expended for payments under subsection (a)(1)(A).

(2) **PAYMENTS FOR REDUCTIONS IN THE PERCENTAGE OF UNINSURED.**—

(A) **IN GENERAL.**—From any funds in the Treasury not otherwise appropriated, there is appropriated for payments under subsection (b)(1)—

(i) \$10,000,000,000 with respect to performance in year 5;

(ii) \$3,000,000,000 with respect to performance in year 7; and

(iii) \$2,000,000,000 with respect to performance in year 9

(B) **AVAILABILITY OF APPROPRIATED FUNDS.**—Funds appropriated under subparagraph (A) shall remain available until expended.

(3) **PAYMENT TIMING.**—Payments under this section shall be made in a form and manner specified by the Secretary in the year after the performance year involved.

#### SEC. 112. HEALTH PLAN FINDERS.

(a) **STATE PLAN FINDERS.**—Not later than 12 months after the date of the enactment of this Act, each State may contract with a private entity to develop and operate a plan finder website (referred to in this section as a “State plan finder”) which shall provide information to individuals in such State on plans of health insurance coverage that are available to individuals in such State (in this section referred to as a “health insurance plan”). Such State may not operate a plan finder itself.

(b) **MULTI-STATE PLAN FINDERS.**—

(1) **IN GENERAL.**—A private entity may operate a multi-State finder that operates

under this section in the States involved in the same manner as a State plan finder would operate in a single State.

(2) **SHARING OF INFORMATION.**—States shall regulate the manner in which data is shared between plan finders to ensure consistency and accuracy in the information about health insurance plans contained in such finders.

(c) **REQUIREMENTS FOR PLAN FINDERS.**—Each plan finder shall meet the following requirements:

(1) The plan finder shall ensure that each health insurance plan in the plan finder meets the requirements for such plans under subsection (d).

(2) The plan finder shall present complete information on the costs and benefits of health insurance plans (including information on monthly premium, copayments, and deductibles) in a uniform manner that—

(A) uses the standard definitions developed under paragraph (3); and

(B) is designed to allow consumers to easily compare such plans.

(3) The plan finder shall be available on the internet and accessible to all individuals in the State or, in the case of a multi-State plan finder, in all States covered by the multi-State plan finder.

(4) The plan finder shall allow consumers to search and sort data on the health insurance plans in the plan finder on criteria such as coverage of specific benefits (such as coverage of disease management services or pediatric care services), as well as data available on quality.

(5) The plan finder shall meet all relevant State laws and regulations, including laws and regulations related to the marketing of insurance products. In the case of a multi-State plan finder, the finder shall meet such laws and regulations for all of the States involved.

(6) The plan finder shall meet solvency, financial, and privacy requirements established by the State or States in which the plan finder operates or the Secretary for multi-State finders.

(7) The plan finder and the employees of the plan finder shall be appropriately licensed in the State or States in which the plan finder operates, if such licensure is required by such State or States.

(8) Notwithstanding subsection (f)(1), the plan finder shall assist individuals who are eligible for the Medicaid program under title XIX of the Social Security Act or State Children’s Health Insurance Program under title XXI of such Act by including information on Medicaid options, eligibility, and how to enroll.

(d) **REQUIREMENTS FOR PLANS PARTICIPATING IN A PLAN FINDER.**—

(1) **IN GENERAL.**—Each State shall ensure that health insurance plans participating in the State plan finder or in a multi-State plan finder meet the requirements of paragraph (2) (relating to adequacy of insurance coverage, consumer protection, and financial strength).

(2) **SPECIFIC REQUIREMENTS.**—In order to participate in a plan finder, a health insurance plan must meet all of the following requirements, as determined by each State in which such plan operates:

(A) The health insurance plan shall be actuarially sound.

(B) The health insurance plan may not have a history of abusive policy rescissions.

(C) The health insurance plan shall meet financial and solvency requirements.

(D) The health insurance plan shall disclose—

(i) all financial arrangements involving the sale and purchase of health insurance, such as the payment of fees and commissions; and

(ii) such arrangements may not be abusive.

(E) The health insurance plan shall maintain electronic health records that comply with the requirements of the American Recovery and Reinvestment Act of 2009 (Public Law 111-5) related to electronic health records.

(F) The health insurance plan shall make available to plan enrollees via the finder, whether by information provided to the finder or by a website link directing the enrollee from the finder to the health insurance plan website, data that includes the price and cost to the individual of services offered by a provider according to the terms and conditions of the health plan. Data described in this paragraph is not made public by the finder, only made available to the individual once enrolled in the health plan.

(e) PROHIBITIONS.—

(1) DIRECT ENROLLMENT.—The State plan finder may not directly enroll individuals in health insurance plans.

(2) CONFLICTS OF INTEREST.—

(A) COMPANIES.—A health insurance issuer offering a health insurance plan through a plan finder may not—

(i) be the private entity developing and maintaining a plan finder under subsections (a) and (b); or

(ii) have an ownership interest in such private entity or in the plan finder.

(B) INDIVIDUALS.—An individual employed by a health insurance issuer offering a health insurance plan through a plan finder may not serve as a director or officer for—

(i) the private entity developing and maintaining a plan finder under subsections (a) and (b); or

(ii) the plan finder.

(f) CONSTRUCTION.—Nothing in this section shall be construed to allow the Secretary authority to regulate benefit packages or to prohibit health insurance brokers and agents from—

(1) utilizing the plan finder for any purpose; or

(2) marketing or offering health insurance products.

(g) PLAN FINDER DEFINED.—For purposes of this section, the term “plan finder” means a State plan finder under subsection (a) or a multi-State plan finder under subsection (b).

(h) STATE DEFINED.—In this section, the term “State” has the meaning given such term for purposes of title XIX of the Social Security Act.

#### SEC. 113. ADMINISTRATIVE SIMPLIFICATION.

(a) OPERATING RULES FOR HEALTH INFORMATION TRANSACTIONS.—

(1) DEFINITION OF OPERATING RULES.—Section 1171 of the Social Security Act (42 U.S.C. 1320d) is amended by adding at the end the following:

“(9) OPERATING RULES.—The term ‘operating rules’ means the necessary business rules and guidelines for the electronic exchange of information that are not defined by a standard or its implementation specifications as adopted for purposes of this part.”.

(2) OPERATING RULES AND COMPLIANCE.—Section 1173 of the Social Security Act (42 U.S.C. 1320d-2) is amended—

(A) in subsection (a)(2), by adding at the end the following new subparagraph:

“(J) Electronic funds transfers.”; and

(B) by adding at the end the following new subsections:

“(g) OPERATING RULES.—

“(1) IN GENERAL.—The Secretary shall adopt a single set of operating rules for each

transaction described in subsection (a)(2) with the goal of creating as much uniformity in the implementation of the electronic standards as possible. Such operating rules shall be consensus-based and reflect the necessary business rules affecting health plans and health care providers and the manner in which they operate pursuant to standards issued under Health Insurance Portability and Accountability Act of 1996.

“(2) OPERATING RULES DEVELOPMENT.—In adopting operating rules under this subsection, the Secretary shall rely on recommendations for operating rules developed by a qualified nonprofit entity, as selected by the Secretary, that meets the following requirements:

“(A) The entity focuses its mission on administrative simplification.

“(B) The entity demonstrates an established multi-stakeholder and consensus-based process for development of operating rules, including representation by or participation from health plans, health care providers, vendors, relevant Federal agencies, and other standard development organizations.

“(C) The entity has established a public set of guiding principles that ensure the operating rules and process are open and transparent.

“(D) The entity coordinates its activities with the HIT Policy Committee and the HIT Standards Committee (as established under title XXX of the Public Health Service Act) and complements the efforts of the Office of the National Healthcare Coordinator and its related health information exchange goals.

“(E) The entity incorporates national standards, including the transaction standards issued under Health Insurance Portability and Accountability Act of 1996.

“(F) The entity supports nondiscrimination and conflict of interest policies that demonstrate a commitment to open, fair, and nondiscriminatory practices.

“(G) The entity allows for public review and updates of the operating rules.

“(3) REVIEW AND RECOMMENDATIONS.—The National Committee on Vital and Health Statistics shall—

“(A) review the operating rules developed by a nonprofit entity described under paragraph (2);

“(B) determine whether such rules represent a consensus view of the health care industry and are consistent with and do not alter current standards;

“(C) evaluate whether such rules are consistent with electronic standards adopted for health information technology; and

“(D) submit to the Secretary a recommendation as to whether the Secretary should adopt such rules.

“(4) IMPLEMENTATION.—

“(A) IN GENERAL.—The Secretary shall adopt operating rules under this subsection, by regulation in accordance with subparagraph (C), following consideration of the rules developed by the non-profit entity described in paragraph (2) and the recommendation submitted by the National Committee on Vital and Health Statistics under paragraph (3)(D) and having ensured consultation with providers.

“(B) ADOPTION REQUIREMENTS; EFFECTIVE DATES.—

“(i) ELIGIBILITY FOR A HEALTH PLAN AND HEALTH CLAIM STATUS.—The set of operating rules for transactions for eligibility for a health plan and health claim status shall be adopted not later than July 1, 2011, in a manner ensuring that such rules are effective not later than January 1, 2013, and may allow for

the use of a machine readable identification card.

“(ii) ELECTRONIC FUNDS TRANSFERS AND HEALTH CARE PAYMENT AND REMITTANCE ADVICE.—The set of operating rules for electronic funds transfers and health care payment and remittance advice shall be adopted not later than July 1, 2012, in a manner ensuring that such rules are effective not later than January 1, 2014.

“(iii) OTHER COMPLETED TRANSACTIONS.—The set of operating rules for the remainder of the completed transactions described in subsection (a)(2), including health claims or equivalent encounter information, enrollment and disenrollment in a health plan, health plan premium payments, and referral certification and authorization, shall be adopted not later than July 1, 2014, in a manner ensuring that such rules are effective not later than January 1, 2016.

“(C) EXPEDITED RULEMAKING.—The Secretary shall promulgate an interim final rule applying any standard or operating rule recommended by the National Committee on Vital and Health Statistics pursuant to paragraph (3). The Secretary shall accept public comments on any interim final rule published under this subparagraph for 60 days after the date of such publication.

“(h) COMPLIANCE.—

“(1) HEALTH PLAN CERTIFICATION.—

“(A) ELIGIBILITY FOR A HEALTH PLAN, HEALTH CLAIM STATUS, ELECTRONIC FUNDS TRANSFERS, HEALTH CARE PAYMENT AND REMITTANCE ADVICE.—Not later than December 31, 2013, a health plan shall file a statement with the Secretary, in such form as the Secretary may require, certifying that the data and information systems for such plan are in compliance with any applicable standards (as described under paragraph (7) of section 1171) and operating rules (as described under paragraph (9) of such section) for electronic funds transfers, eligibility for a health plan, health claim status, and health care payment and remittance advice, respectively.

“(B) OTHER COMPLETED TRANSACTIONS.—Not later than December 31, 2015, a health plan shall file a statement with the Secretary, in such form as the Secretary may require, certifying that the data and information systems for such plan are in compliance with any applicable standards and operating rules for the remainder of the completed transactions described in subsection (a)(2), including health claims or equivalent encounter information, enrollment and disenrollment in a health plan, health plan premium payments, and referral certification and authorization, respectively. A health plan shall provide the same level of documentation to certify compliance with such transactions as is required to certify compliance with the transactions specified in subparagraph (A).

“(2) DOCUMENTATION OF COMPLIANCE.—A health plan shall provide the Secretary, in such form as the Secretary may require, with adequate documentation of compliance with the standards and operating rules described under paragraph (1). A health plan shall not be considered to have provided adequate documentation and shall not be certified as being in compliance with such standards, unless the health plan—

“(A) demonstrates to the Secretary that the plan conducts the electronic transactions specified in paragraph (1) in a manner that fully complies with the regulations of the Secretary; and

“(B) provides documentation showing that the plan has completed end-to-end testing for such transactions with their partners, such as hospitals and physicians.

“(3) SERVICE CONTRACTS.—A health plan shall be required to comply with any applicable certification and compliance requirements (and provide the Secretary with adequate documentation of such compliance) under this subsection for any entities that provide services pursuant to a contract with such health plan.

“(4) CERTIFICATION BY OUTSIDE ENTITY.—The Secretary may contract with an independent, outside entity to certify that a health plan has complied with the requirements under this subsection, provided that the certification standards employed by such entities are in accordance with any standards or rules issued by the Secretary.

“(5) COMPLIANCE WITH REVISED STANDARDS AND RULES.—A health plan (including entities described under paragraph (3)) shall comply with the certification and documentation requirements under this subsection for any interim final rule promulgated by the Secretary under subsection (i) that amends any standard or operating rule described under paragraph (1) of this subsection. A health plan shall comply with such requirements not later than the effective date of the applicable interim final rule.

“(6) AUDITS OF HEALTH PLANS.—The Secretary shall conduct periodic audits to ensure that health plans (including entities described under paragraph (3)) are in compliance with any standards and operating rules that are described under paragraph (1).

“(i) REVIEW AND AMENDMENT OF STANDARDS AND RULES.—

“(1) ESTABLISHMENT.—Not later than January 1, 2014, the Secretary shall establish a review committee (as described under paragraph (4)).

“(2) EVALUATIONS AND REPORTS.—

“(A) HEARINGS.—Not later than April 1, 2014, and not less than biennially thereafter, the Secretary, acting through the review committee, shall conduct hearings to evaluate and review the existing standards and operating rules established under this section.

“(B) REPORT.—Not later than July 1, 2014, and not less than biennially thereafter, the review committee shall provide recommendations for updating and improving such standards and rules. The review committee shall recommend a single set of operating rules per transaction standard and maintain the goal of creating as much uniformity as possible in the implementation of the electronic standards.

“(3) INTERIM FINAL RULEMAKING.—

“(A) IN GENERAL.—Any recommendations to amend existing standards and operating rules that have been approved by the review committee and reported to the Secretary under paragraph (2)(B) shall be adopted by the Secretary through promulgation of an interim final rule not later than 90 days after receipt of the committee's report.

“(B) PUBLIC COMMENT.—

“(i) PUBLIC COMMENT PERIOD.—The Secretary shall accept public comments on any interim final rule published under this paragraph for 60 days after the date of such publication.

“(ii) EFFECTIVE DATE.—The effective date of any amendment to existing standards or operating rules that is adopted through an interim final rule published under this paragraph shall be 25 months following the close of such public comment period.

“(4) REVIEW COMMITTEE.—

“(A) DEFINITION.—For the purposes of this subsection, the term ‘review committee’ means a committee within the Department of Health and Human Services that has been designated by the Secretary to carry out this subsection, including—

“(i) the National Committee on Vital and Health Statistics; or

“(ii) any appropriate committee as determined by the Secretary.

“(B) COORDINATION OF HIT STANDARDS.—In developing recommendations under this subsection, the review committee shall consider the standards approved by the Office of the National Coordinator for Health Information Technology.

“(j) PENALTIES.—

“(1) PENALTY FEE.—

“(A) IN GENERAL.—Not later than April 1, 2014, and annually thereafter, the Secretary shall assess a penalty fee (as determined under subparagraph (B)) against a health plan that has failed to meet the requirements under subsection (h) with respect to certification and documentation of compliance with the standards (and their operating rules) as described under paragraph (1) of such subsection.

“(B) FEE AMOUNT.—Subject to subparagraphs (C), (D), and (E), the Secretary shall assess a penalty fee against a health plan in the amount of \$1 per covered life until certification is complete. The penalty shall be assessed per person covered by the plan for which its data systems for major medical policies are not in compliance and shall be imposed against the health plan for each day that the plan is not in compliance with the requirements under subsection (h).

“(C) ADDITIONAL PENALTY FOR MISREPRESENTATION.—A health plan that knowingly provides inaccurate or incomplete information in a statement of certification or documentation of compliance under subsection (h) shall be subject to a penalty fee that is double the amount that would otherwise be imposed under this subsection.

“(D) ANNUAL FEE INCREASE.—The amount of the penalty fee imposed under this subsection shall be increased on an annual basis by the annual percentage increase in total national health care expenditures, as determined by the Secretary.

“(E) PENALTY LIMIT.—A penalty fee assessed against a health plan under this subsection shall not exceed, on an annual basis—

“(i) an amount equal to \$20 per covered life under such plan; or

“(ii) an amount equal to \$40 per covered life under the plan if such plan has knowingly provided inaccurate or incomplete information (as described under subparagraph (C)).

“(F) DETERMINATION OF COVERED INDIVIDUALS.—The Secretary shall determine the number of covered lives under a health plan based upon the most recent statements and filings that have been submitted by such plan to the Securities and Exchange Commission.

“(2) NOTICE AND DISPUTE PROCEDURE.—The Secretary shall establish a procedure for assessment of penalty fees under this subsection that provides a health plan with reasonable notice and a dispute resolution procedure prior to provision of a notice of assessment by the Secretary of the Treasury (as described under paragraph (4)(B)).

“(3) PENALTY FEE REPORT.—Not later than May 1, 2014, and annually thereafter, the Secretary shall provide the Secretary of the Treasury with a report identifying those health plans that have been assessed a penalty fee under this subsection.

“(4) COLLECTION OF PENALTY FEE.—

“(A) IN GENERAL.—The Secretary of the Treasury, acting through the Financial Management Service, shall administer the collection of penalty fees from health plans that

have been identified by the Secretary in the penalty fee report provided under paragraph (3).

“(B) NOTICE.—Not later than August 1, 2014, and annually thereafter, the Secretary of the Treasury shall provide notice to each health plan that has been assessed a penalty fee by the Secretary under this subsection. Such notice shall include the amount of the penalty fee assessed by the Secretary and the due date for payment of such fee to the Secretary of the Treasury (as described in subparagraph (C)).

“(C) PAYMENT DUE DATE.—Payment by a health plan for a penalty fee assessed under this subsection shall be made to the Secretary of the Treasury not later than November 1, 2014, and annually thereafter.

“(D) UNPAID PENALTY FEES.—Any amount of a penalty fee assessed against a health plan under this subsection for which payment has not been made by the due date provided under subparagraph (C) shall be—

“(i) increased by the interest accrued on such amount, as determined pursuant to the underpayment rate established under section 6601 of the Internal Revenue Code of 1986; and

“(ii) treated as a past-due, legally enforceable debt owed to a Federal agency for purposes of section 6402(d) of the Internal Revenue Code of 1986.

“(E) ADMINISTRATIVE FEES.—Any fee charged or allocated for collection activities conducted by the Financial Management Service will be passed on to a health plan on a pro-rata basis and added to any penalty fee collected from the plan.”

(b) PROMULGATION OF RULES.—

(1) UNIQUE HEALTH PLAN IDENTIFIER.—The Secretary shall promulgate a final rule to establish a unique health plan identifier (as described in section 1173(b) of the Social Security Act (42 U.S.C. 1320d-2(b))) based on the input of the National Committee of Vital and Health Statistics. The Secretary may do so on an interim final basis and such rule shall be effective not later than October 1, 2012.

(2) ELECTRONIC FUNDS TRANSFER.—The Secretary shall promulgate a final rule to establish a standard for electronic funds transfers (as described in section 1173(a)(2)(J) of the Social Security Act, as added by subsection (a)(2)(A)). The Secretary may do so on an interim final basis and shall adopt such standard not later than January 1, 2012, in a manner ensuring that such standard is effective not later than January 1, 2014.

(c) EXPANSION OF ELECTRONIC TRANSACTIONS IN MEDICARE.—Section 1862(a) of the Social Security Act (42 U.S.C. 1395y(a)) is amended—

(1) in paragraph (23), by striking the “or” at the end;

(2) in paragraph (24), by striking the period and inserting “; or”; and

(3) by inserting after paragraph (24) the following new paragraph:

“(25) not later than January 1, 2014, for which the payment is other than by electronic funds transfer (EFT) or an electronic remittance in a form as specified in ASC X12 835 Health Care Payment and Remittance Advice or subsequent standard.”

(d) MEDICARE AND MEDICAID COMPLIANCE REPORTS.—Not later than July 1, 2013, the Secretary of Health and Human Services shall submit a report to the Chairs and Ranking Members of the Committee on Ways and Means and the Committee on Energy and Commerce of the House of Representatives and the Chairs and Ranking Members of the Committee on Health, Education, Labor, and Pensions and the Committee on

Finance of the Senate on the extent to which the Medicare program and providers that serve beneficiaries under that program, and State Medicaid programs and providers that serve beneficiaries under those programs, transact electronically in accordance with transaction standards issued under the Health Insurance Portability and Accountability Act of 1996, part C of title XI of the Social Security Act, and regulations promulgated under such Acts.

#### **DIVISION B—IMPROVING ACCESS TO HEALTH CARE**

### **TITLE I—EXPANDING ACCESS AND LOWERING COSTS FOR SMALL BUSINESSES**

#### **SEC. 201. RULES GOVERNING ASSOCIATION HEALTH PLANS.**

(a) IN GENERAL.—Subtitle B of title I of the Employee Retirement Income Security Act of 1974 is amended by adding after part 7 the following new part:

#### **“PART 8—RULES GOVERNING ASSOCIATION HEALTH PLANS**

##### **“SEC. 801. ASSOCIATION HEALTH PLANS.**

“(a) IN GENERAL.—For purposes of this part, the term ‘association health plan’ means a group health plan whose sponsor is (or is deemed under this part to be) described in subsection (b).

“(b) SPONSORSHIP.—The sponsor of a group health plan is described in this subsection if such sponsor—

“(1) is organized and maintained in good faith, with a constitution and bylaws specifically stating its purpose and providing for periodic meetings on at least an annual basis, as a bona fide trade association, a bona fide industry association (including a rural electric cooperative association or a rural telephone cooperative association), a bona fide professional association, or a bona fide chamber of commerce (or similar bona fide business association, including a corporation or similar organization that operates on a cooperative basis (within the meaning of section 1381 of the Internal Revenue Code of 1986)), for substantial purposes other than that of obtaining or providing medical care;

“(2) is established as a permanent entity which receives the active support of its members and requires for membership payment on a periodic basis of dues or payments necessary to maintain eligibility for membership in the sponsor; and

“(3) does not condition membership, such dues or payments, or coverage under the plan on the basis of health status-related factors with respect to the employees of its members (or affiliated members), or the dependents of such employees, and does not condition such dues or payments on the basis of group health plan participation.

Any sponsor consisting of an association of entities which meet the requirements of paragraphs (1), (2), and (3) shall be deemed to be a sponsor described in this subsection.

##### **“SEC. 802. CERTIFICATION OF ASSOCIATION HEALTH PLANS.**

“(a) IN GENERAL.—The applicable authority shall prescribe by regulation a procedure under which, subject to subsection (b), the applicable authority shall certify association health plans which apply for certification as meeting the requirements of this part.

“(b) STANDARDS.—Under the procedure prescribed pursuant to subsection (a), in the case of an association health plan that provides at least one benefit option which does not consist of health insurance coverage, the applicable authority shall certify such plan as meeting the requirements of this part only if the applicable authority is satisfied

that the applicable requirements of this part are met (or, upon the date on which the plan is to commence operations, will be met) with respect to the plan.

“(c) REQUIREMENTS APPLICABLE TO CERTIFIED PLANS.—An association health plan with respect to which certification under this part is in effect shall meet the applicable requirements of this part, effective on the date of certification (or, if later, on the date on which the plan is to commence operations).

“(d) REQUIREMENTS FOR CONTINUED CERTIFICATION.—The applicable authority may provide by regulation for continued certification of association health plans under this part.

“(e) CLASS CERTIFICATION FOR FULLY INSURED PLANS.—The applicable authority shall establish a class certification procedure for association health plans under which all benefits consist of health insurance coverage. Under such procedure, the applicable authority shall provide for the granting of certification under this part to the plans in each class of such association health plans upon appropriate filing under such procedure in connection with plans in such class and payment of the prescribed fee under section 807(a).

“(f) CERTIFICATION OF SELF-INSURED ASSOCIATION HEALTH PLANS.—An association health plan which offers one or more benefit options which do not consist of health insurance coverage may be certified under this part only if such plan consists of any of the following:

“(1) a plan which offered such coverage on the date of the enactment of the Small Business Health Fairness Act of 2009,

“(2) a plan under which the sponsor does not restrict membership to one or more trades and businesses or industries and whose eligible participating employers represent a broad cross-section of trades and businesses or industries, or

“(3) a plan whose eligible participating employers represent one or more trades or businesses, or one or more industries, consisting of any of the following: agriculture; equipment and automobile dealerships; barbering and cosmetology; certified public accounting practices; child care; construction; dance, theatrical and orchestra productions; disinfecting and pest control; financial services; fishing; food service establishments; hospitals; labor organizations; logging; manufacturing (metals); mining; medical and dental practices; medical laboratories; professional consulting services; sanitary services; transportation (local and freight); warehousing; wholesaling/distributing; or any other trade or business or industry which has been indicated as having average or above-average risk or health claims experience by reason of State rate filings, denials of coverage, proposed premium rate levels, or other means demonstrated by such plan in accordance with regulations.

##### **“SEC. 803. REQUIREMENTS RELATING TO SPONSORS AND BOARDS OF TRUSTEES.**

“(a) SPONSOR.—The requirements of this subsection are met with respect to an association health plan if the sponsor has met (or is deemed under this part to have met) the requirements of section 801(b) for a continuous period of not less than 3 years ending with the date of the application for certification under this part.

“(b) BOARD OF TRUSTEES.—The requirements of this subsection are met with respect to an association health plan if the following requirements are met:

“(1) FISCAL CONTROL.—The plan is operated, pursuant to a trust agreement, by a

board of trustees which has complete fiscal control over the plan and which is responsible for all operations of the plan.

“(2) RULES OF OPERATION AND FINANCIAL CONTROLS.—The board of trustees has in effect rules of operation and financial controls, based on a 3-year plan of operation, adequate to carry out the terms of the plan and to meet all requirements of this title applicable to the plan.

“(3) RULES GOVERNING RELATIONSHIP TO PARTICIPATING EMPLOYERS AND TO CONTRACTORS.—

“(A) BOARD MEMBERSHIP.—

“(i) IN GENERAL.—Except as provided in clauses (ii) and (iii), the members of the board of trustees are individuals selected from individuals who are the owners, officers, directors, or employees of the participating employers or who are partners in the participating employers and actively participate in the business.

“(ii) LIMITATION.—

“(I) GENERAL RULE.—Except as provided in subclauses (II) and (III), no such member is an owner, officer, director, or employee of, or partner in, a contract administrator or other service provider to the plan.

“(II) LIMITED EXCEPTION FOR PROVIDERS OF SERVICES SOLELY ON BEHALF OF THE SPONSOR.—Officers or employees of a sponsor which is a service provider (other than a contract administrator) to the plan may be members of the board if they constitute not more than 25 percent of the membership of the board and they do not provide services to the plan other than on behalf of the sponsor.

“(III) TREATMENT OF PROVIDERS OF MEDICAL CARE.—In the case of a sponsor which is an association whose membership consists primarily of providers of medical care, subclause (I) shall not apply in the case of any service provider described in subclause (I) who is a provider of medical care under the plan.

“(iii) CERTAIN PLANS EXCLUDED.—Clause (i) shall not apply to an association health plan which is in existence on the date of the enactment of the Small Business Health Fairness Act of 2009.

“(B) SOLE AUTHORITY.—The board has sole authority under the plan to approve applications for participation in the plan and to contract with a service provider to administer the day-to-day affairs of the plan.

“(C) TREATMENT OF FRANCHISE NETWORKS.—In the case of a group health plan which is established and maintained by a franchiser for a franchise network consisting of its franchisees—

“(1) the requirements of subsection (a) and section 801(a) shall be deemed met if such requirements would otherwise be met if the franchiser were deemed to be the sponsor referred to in section 801(b), such network were deemed to be an association described in section 801(b), and each franchisee were deemed to be a member (of the association and the sponsor) referred to in section 801(b); and

“(2) the requirements of section 804(a)(1) shall be deemed met.

The Secretary may by regulation define for purposes of this subsection the terms ‘franchiser’, ‘franchise network’, and ‘franchisee’.

##### **“SEC. 804. PARTICIPATION AND COVERAGE REQUIREMENTS.**

“(a) COVERED EMPLOYERS AND INDIVIDUALS.—The requirements of this subsection are met with respect to an association health plan if, under the terms of the plan—

“(1) each participating employer must be—

“(A) a member of the sponsor,

“(B) the sponsor, or



“(C) an affiliated member of the sponsor with respect to which the requirements of subsection (b) are met,

except that, in the case of a sponsor which is a professional association or other individual-based association, if at least one of the officers, directors, or employees of an employer, or at least one of the individuals who are partners in an employer and who actively participates in the business, is a member or such an affiliated member of the sponsor, participating employers may also include such employer; and

“(2) all individuals commencing coverage under the plan after certification under this part must be—

“(A) active or retired owners (including self-employed individuals), officers, directors, or employees of, or partners in, participating employers; or

“(B) the beneficiaries of individuals described in subparagraph (A).

“(b) COVERAGE OF PREVIOUSLY UNINSURED EMPLOYEES.—In the case of an association health plan in existence on the date of the enactment of the Small Business Health Fairness Act of 2009, an affiliated member of the sponsor of the plan may be offered coverage under the plan as a participating employer only if—

“(1) the affiliated member was an affiliated member on the date of certification under this part; or

“(2) during the 12-month period preceding the date of the offering of such coverage, the affiliated member has not maintained or contributed to a group health plan with respect to any of its employees who would otherwise be eligible to participate in such association health plan.

“(c) INDIVIDUAL MARKET UNAFFECTED.—The requirements of this subsection are met with respect to an association health plan if, under the terms of the plan, no participating employer may provide health insurance coverage in the individual market for any employee not covered under the plan which is similar to the coverage contemporaneously provided to employees of the employer under the plan, if such exclusion of the employee from coverage under the plan is based on a health status-related factor with respect to the employee and such employee would, but for such exclusion on such basis, be eligible for coverage under the plan.

“(d) PROHIBITION OF DISCRIMINATION AGAINST EMPLOYERS AND EMPLOYEES ELIGIBLE TO PARTICIPATE.—The requirements of this subsection are met with respect to an association health plan if—

“(1) under the terms of the plan, all employers meeting the preceding requirements of this section are eligible to qualify as participating employers for all geographically available coverage options, unless, in the case of any such employer, participation or contribution requirements of the type referred to in section 2711 of the Public Health Service Act are not met;

“(2) upon request, any employer eligible to participate is furnished information regarding all coverage options available under the plan; and

“(3) the applicable requirements of sections 701, 702, and 703 are met with respect to the plan.

**“SEC. 805. OTHER REQUIREMENTS RELATING TO PLAN DOCUMENTS, CONTRIBUTION RATES, AND BENEFIT OPTIONS.**

“(a) IN GENERAL.—The requirements of this section are met with respect to an association health plan if the following requirements are met:

“(1) CONTENTS OF GOVERNING INSTRUMENTS.—The instruments governing the plan

include a written instrument, meeting the requirements of an instrument required under section 402(a)(1), which—

“(A) provides that the board of trustees serves as the named fiduciary required for plans under section 402(a)(1) and serves in the capacity of a plan administrator (referred to in section 3(16)(A));

“(B) provides that the sponsor of the plan is to serve as plan sponsor (referred to in section 3(16)(B)); and

“(C) incorporates the requirements of section 806.

“(2) CONTRIBUTION RATES MUST BE NON-DISCRIMINATORY.—

“(A) The contribution rates for any participating small employer do not vary on the basis of any health status-related factor in relation to employees of such employer or their beneficiaries and do not vary on the basis of the type of business or industry in which such employer is engaged.

“(B) Nothing in this title or any other provision of law shall be construed to preclude an association health plan, or a health insurance issuer offering health insurance coverage in connection with an association health plan, from—

“(i) setting contribution rates based on the claims experience of the plan; or

“(ii) varying contribution rates for small employers in a State to the extent that such rates could vary using the same methodology employed in such State for regulating premium rates in the small group market with respect to health insurance coverage offered in connection with bona fide associations (within the meaning of section 2791(d)(3) of the Public Health Service Act),

subject to the requirements of section 702(b) relating to contribution rates.

“(3) FLOOR FOR NUMBER OF COVERED INDIVIDUALS WITH RESPECT TO CERTAIN PLANS.—If any benefit option under the plan does not consist of health insurance coverage, the plan has as of the beginning of the plan year not fewer than 1,000 participants and beneficiaries.

“(4) MARKETING REQUIREMENTS.—

“(A) IN GENERAL.—If a benefit option which consists of health insurance coverage is offered under the plan, State-licensed insurance agents shall be used to distribute to small employers coverage which does not consist of health insurance coverage in a manner comparable to the manner in which such agents are used to distribute health insurance coverage.

“(B) STATE-LICENSED INSURANCE AGENTS.—For purposes of subparagraph (A), the term ‘State-licensed insurance agents’ means one or more agents who are licensed in a State and are subject to the laws of such State relating to licensure, qualification, testing, examination, and continuing education of persons authorized to offer, sell, or solicit health insurance coverage in such State.

“(5) REGULATORY REQUIREMENTS.—Such other requirements as the applicable authority determines are necessary to carry out the purposes of this part, which shall be prescribed by the applicable authority by regulation.

“(b) ABILITY OF ASSOCIATION HEALTH PLANS TO DESIGN BENEFIT OPTIONS.—Subject to section 514(d), nothing in this part or any provision of State law (as defined in section 514(c)(1)) shall be construed to preclude an association health plan, or a health insurance issuer offering health insurance coverage in connection with an association health plan, from exercising its sole discretion in selecting the specific items and services consisting of medical care to be included

as benefits under such plan or coverage, except (subject to section 514) in the case of (1) any law to the extent that it is not preempted under section 731(a)(1) with respect to matters governed by section 711, 712, or 713, or (2) any law of the State with which filing and approval of a policy type offered by the plan was initially obtained to the extent that such law prohibits an exclusion of a specific disease from such coverage.

**“SEC. 806. MAINTENANCE OF RESERVES AND PROVISIONS FOR SOLVENCY FOR PLANS PROVIDING HEALTH BENEFITS IN ADDITION TO HEALTH INSURANCE COVERAGE.**

“(a) IN GENERAL.—The requirements of this section are met with respect to an association health plan if—

“(1) the benefits under the plan consist solely of health insurance coverage; or

“(2) if the plan provides any additional benefit options which do not consist of health insurance coverage, the plan—

“(A) establishes and maintains reserves with respect to such additional benefit options, in amounts recommended by the qualified actuary, consisting of—

“(i) a reserve sufficient for unearned contributions;

“(ii) a reserve sufficient for benefit liabilities which have been incurred, which have not been satisfied, and for which risk of loss has not yet been transferred, and for expected administrative costs with respect to such benefit liabilities;

“(iii) a reserve sufficient for any other obligations of the plan; and

“(iv) a reserve sufficient for a margin of error and other fluctuations, taking into account the specific circumstances of the plan; and

“(B) establishes and maintains aggregate and specific excess/stop loss insurance and solvency indemnification, with respect to such additional benefit options for which risk of loss has not yet been transferred, as follows:

“(i) The plan shall secure aggregate excess/stop loss insurance for the plan with an attachment point which is not greater than 125 percent of expected gross annual claims. The applicable authority may by regulation provide for upward adjustments in the amount of such percentage in specified circumstances in which the plan specifically provides for and maintains reserves in excess of the amounts required under subparagraph (A).

“(ii) The plan shall secure specific excess/stop loss insurance for the plan with an attachment point which is at least equal to an amount recommended by the plan's qualified actuary. The applicable authority may by regulation provide for adjustments in the amount of such insurance in specified circumstances in which the plan specifically provides for and maintains reserves in excess of the amounts required under subparagraph (A).

“(iii) The plan shall secure indemnification insurance for any claims which the plan is unable to satisfy by reason of a plan termination.

Any person issuing to a plan insurance described in clause (i), (ii), or (iii) of subparagraph (B) shall notify the Secretary of any failure of premium payment meriting cancellation of the policy prior to undertaking such a cancellation. Any regulations prescribed by the applicable authority pursuant to clause (i) or (ii) of subparagraph (B) may allow for such adjustments in the required levels of excess/stop loss insurance as the qualified actuary may recommend, taking

into account the specific circumstances of the plan.

“(b) MINIMUM SURPLUS IN ADDITION TO CLAIMS RESERVES.—In the case of any association health plan described in subsection (a)(2), the requirements of this subsection are met if the plan establishes and maintains surplus in an amount at least equal to—

“(1) \$500,000, or

“(2) such greater amount (but not greater than \$2,000,000) as may be set forth in regulations prescribed by the applicable authority, considering the level of aggregate and specific excess/stop loss insurance provided with respect to such plan and other factors related to solvency risk, such as the plan's projected levels of participation or claims, the nature of the plan's liabilities, and the types of assets available to assure that such liabilities are met.

“(c) ADDITIONAL REQUIREMENTS.—In the case of any association health plan described in subsection (a)(2), the applicable authority may provide such additional requirements relating to reserves, excess/stop loss insurance, and indemnification insurance as the applicable authority considers appropriate. Such requirements may be provided by regulation with respect to any such plan or any class of such plans.

“(d) ADJUSTMENTS FOR EXCESS/STOP LOSS INSURANCE.—The applicable authority may provide for adjustments to the levels of reserves otherwise required under subsections (a) and (b) with respect to any plan or class of plans to take into account excess/stop loss insurance provided with respect to such plan or plans.

“(e) ALTERNATIVE MEANS OF COMPLIANCE.—The applicable authority may permit an association health plan described in subsection (a)(2) to substitute, for all or part of the requirements of this section (except subsection (a)(2)(B)(iii)), such security, guarantee, hold-harmless arrangement, or other financial arrangement as the applicable authority determines to be adequate to enable the plan to fully meet all its financial obligations on a timely basis and is otherwise no less protective of the interests of participants and beneficiaries than the requirements for which it is substituted. The applicable authority may take into account, for purposes of this subsection, evidence provided by the plan or sponsor which demonstrates an assumption of liability with respect to the plan. Such evidence may be in the form of a contract of indemnification, lien, bonding, insurance, letter of credit, recourse under applicable terms of the plan in the form of assessments of participating employers, security, or other financial arrangement.

“(f) MEASURES TO ENSURE CONTINUED PAYMENT OF BENEFITS BY CERTAIN PLANS IN DISTRESS.—

“(1) PAYMENTS BY CERTAIN PLANS TO ASSOCIATION HEALTH PLAN FUND.—

“(A) IN GENERAL.—In the case of an association health plan described in subsection (a)(2), the requirements of this subsection are met if the plan makes payments into the Association Health Plan Fund under this subparagraph when they are due. Such payments shall consist of annual payments in the amount of \$5,000, and, in addition to such annual payments, such supplemental payments as the Secretary may determine to be necessary under paragraph (2). Payments under this paragraph are payable to the Fund at the time determined by the Secretary. Initial payments are due in advance of certification under this part. Payments shall continue to accrue until a plan's assets are distributed pursuant to a termination procedure.

“(B) PENALTIES FOR FAILURE TO MAKE PAYMENTS.—If any payment is not made by a plan when it is due, a late payment charge of not more than 100 percent of the payment which was not timely paid shall be payable by the plan to the Fund.

“(C) CONTINUED DUTY OF THE SECRETARY.—The Secretary shall not cease to carry out the provisions of paragraph (2) on account of the failure of a plan to pay any payment when due.

“(2) PAYMENTS BY SECRETARY TO CONTINUE EXCESS/STOP LOSS INSURANCE COVERAGE AND INDEMNIFICATION INSURANCE COVERAGE FOR CERTAIN PLANS.—In any case in which the applicable authority determines that there is, or that there is reason to believe that there will be: (A) a failure to take necessary corrective actions under section 809(a) with respect to an association health plan described in subsection (a)(2); or (B) a termination of such a plan under section 809(b) or 810(b)(8) (and, if the applicable authority is not the Secretary, certifies such determination to the Secretary), the Secretary shall determine the amounts necessary to make payments to an insurer (designated by the Secretary) to maintain in force excess/stop loss insurance coverage or indemnification insurance coverage for such plan, if the Secretary determines that there is a reasonable expectation that, without such payments, claims would not be satisfied by reason of termination of such coverage. The Secretary shall, to the extent provided in advance in appropriation Acts, pay such amounts so determined to the insurer designated by the Secretary.

“(3) ASSOCIATION HEALTH PLAN FUND.—

“(A) IN GENERAL.—There is established on the books of the Treasury a fund to be known as the ‘Association Health Plan Fund’. The Fund shall be available for making payments pursuant to paragraph (2). The Fund shall be credited with payments received pursuant to paragraph (1)(A), penalties received pursuant to paragraph (1)(B); and earnings on investments of amounts of the Fund under subparagraph (B).

“(B) INVESTMENT.—Whenever the Secretary determines that the moneys of the fund are in excess of current needs, the Secretary may request the investment of such amounts as the Secretary determines advisable by the Secretary of the Treasury in obligations issued or guaranteed by the United States.

“(g) EXCESS/STOP LOSS INSURANCE.—For purposes of this section—

“(1) AGGREGATE EXCESS/STOP LOSS INSURANCE.—The term ‘aggregate excess/stop loss insurance’ means, in connection with an association health plan, a contract—

“(A) under which an insurer (meeting such minimum standards as the applicable authority may prescribe by regulation) provides for payment to the plan with respect to aggregate claims under the plan in excess of an amount or amounts specified in such contract;

“(B) which is guaranteed renewable; and

“(C) which allows for payment of premiums by any third party on behalf of the insured plan.

“(2) SPECIFIC EXCESS/STOP LOSS INSURANCE.—The term ‘specific excess/stop loss insurance’ means, in connection with an association health plan, a contract—

“(A) under which an insurer (meeting such minimum standards as the applicable authority may prescribe by regulation) provides for payment to the plan with respect to claims under the plan in connection with a covered individual in excess of an amount or amounts specified in such contract in connection with such covered individual;

“(B) which is guaranteed renewable; and

“(C) which allows for payment of premiums by any third party on behalf of the insured plan.

“(h) INDEMNIFICATION INSURANCE.—For purposes of this section, the term ‘indemnification insurance’ means, in connection with an association health plan, a contract—

“(1) under which an insurer (meeting such minimum standards as the applicable authority may prescribe by regulation) provides for payment to the plan with respect to claims under the plan which the plan is unable to satisfy by reason of a termination pursuant to section 809(b) (relating to mandatory termination);

“(2) which is guaranteed renewable and noncancellable for any reason (except as the applicable authority may prescribe by regulation); and

“(3) which allows for payment of premiums by any third party on behalf of the insured plan.

“(i) RESERVES.—For purposes of this section, the term ‘reserves’ means, in connection with an association health plan, plan assets which meet the fiduciary standards under part 4 and such additional requirements regarding liquidity as the applicable authority may prescribe by regulation.

“(j) SOLVENCY STANDARDS WORKING GROUP.—

“(1) IN GENERAL.—Within 90 days after the date of the enactment of the Small Business Health Fairness Act of 2009, the applicable authority shall establish a Solvency Standards Working Group. In prescribing the initial regulations under this section, the applicable authority shall take into account the recommendations of such Working Group.

“(2) MEMBERSHIP.—The Working Group shall consist of not more than 15 members appointed by the applicable authority. The applicable authority shall include among persons invited to membership on the Working Group at least one of each of the following:

“(A) a representative of the National Association of Insurance Commissioners;

“(B) a representative of the American Academy of Actuaries;

“(C) a representative of the State governments, or their interests;

“(D) a representative of existing self-insured arrangements, or their interests;

“(E) a representative of associations of the type referred to in section 801(b)(1), or their interests; and

“(F) a representative of multiemployer plans that are group health plans, or their interests.

#### “SEC. 807. REQUIREMENTS FOR APPLICATION AND RELATED REQUIREMENTS.

“(a) FILING FEE.—Under the procedure prescribed pursuant to section 802(a), an association health plan shall pay to the applicable authority at the time of filing an application for certification under this part a filing fee in the amount of \$5,000, which shall be available in the case of the Secretary, to the extent provided in appropriation Acts, for the sole purpose of administering the certification procedures applicable with respect to association health plans.

“(b) INFORMATION TO BE INCLUDED IN APPLICATION FOR CERTIFICATION.—An application for certification under this part meets the requirements of this section only if it includes, in a manner and form which shall be prescribed by the applicable authority by regulation, at least the following information:

“(1) IDENTIFYING INFORMATION.—The names and addresses of—

“(A) the sponsor; and

“(B) the members of the board of trustees of the plan.

“(2) STATES IN WHICH PLAN INTENDS TO DO BUSINESS.—The States in which participants and beneficiaries under the plan are to be located and the number of them expected to be located in each such State.

“(3) BONDING REQUIREMENTS.—Evidence provided by the board of trustees that the bonding requirements of section 412 will be met as of the date of the application or (if later) commencement of operations.

“(4) PLAN DOCUMENTS.—A copy of the documents governing the plan (including any bylaws and trust agreements), the summary plan description, and other material describing the benefits that will be provided to participants and beneficiaries under the plan.

“(5) AGREEMENTS WITH SERVICE PROVIDERS.—A copy of any agreements between the plan and contract administrators and other service providers.

“(6) FUNDING REPORT.—In the case of association health plans providing benefits options in addition to health insurance coverage, a report setting forth information with respect to such additional benefit options determined as of a date within the 120-day period ending with the date of the application, including the following:

“(A) RESERVES.—A statement, certified by the board of trustees of the plan, and a statement of actuarial opinion, signed by a qualified actuary, that all applicable requirements of section 806 are or will be met in accordance with regulations which the applicable authority shall prescribe.

“(B) ADEQUACY OF CONTRIBUTION RATES.—A statement of actuarial opinion, signed by a qualified actuary, which sets forth a description of the extent to which contribution rates are adequate to provide for the payment of all obligations and the maintenance of required reserves under the plan for the 12-month period beginning with such date within such 120-day period, taking into account the expected coverage and experience of the plan. If the contribution rates are not fully adequate, the statement of actuarial opinion shall indicate the extent to which the rates are inadequate and the changes needed to ensure adequacy.

“(C) CURRENT AND PROJECTED VALUE OF ASSETS AND LIABILITIES.—A statement of actuarial opinion signed by a qualified actuary, which sets forth the current value of the assets and liabilities accumulated under the plan and a projection of the assets, liabilities, income, and expenses of the plan for the 12-month period referred to in subparagraph (B). The income statement shall identify separately the plan's administrative expenses and claims.

“(D) COSTS OF COVERAGE TO BE CHARGED AND OTHER EXPENSES.—A statement of the costs of coverage to be charged, including an itemization of amounts for administration, reserves, and other expenses associated with the operation of the plan.

“(E) OTHER INFORMATION.—Any other information as may be determined by the applicable authority, by regulation, as necessary to carry out the purposes of this part.

“(c) FILING NOTICE OF CERTIFICATION WITH STATES.—A certification granted under this part to an association health plan shall not be effective unless written notice of such certification is filed with the applicable State authority of each State in which at least 25 percent of the participants and beneficiaries under the plan are located. For purposes of this subsection, an individual shall be considered to be located in the State in

which a known address of such individual is located or in which such individual is employed.

“(d) NOTICE OF MATERIAL CHANGES.—In the case of any association health plan certified under this part, descriptions of material changes in any information which was required to be submitted with the application for the certification under this part shall be filed in such form and manner as shall be prescribed by the applicable authority by regulation. The applicable authority may require by regulation prior notice of material changes with respect to specified matters which might serve as the basis for suspension or revocation of the certification.

“(e) REPORTING REQUIREMENTS FOR CERTAIN ASSOCIATION HEALTH PLANS.—An association health plan certified under this part which provides benefit options in addition to health insurance coverage for such plan year shall meet the requirements of section 103 by filing an annual report under such section which shall include information described in subsection (b)(6) with respect to the plan year and, notwithstanding section 104(a)(1)(A), shall be filed with the applicable authority not later than 90 days after the close of the plan year (or on such later date as may be prescribed by the applicable authority). The applicable authority may require by regulation such interim reports as it considers appropriate.

“(f) ENGAGEMENT OF QUALIFIED ACTUARY.—The board of trustees of each association health plan which provides benefits options in addition to health insurance coverage and which is applying for certification under this part or is certified under this part shall engage, on behalf of all participants and beneficiaries, a qualified actuary who shall be responsible for the preparation of the materials comprising information necessary to be submitted by a qualified actuary under this part. The qualified actuary shall utilize such assumptions and techniques as are necessary to enable such actuary to form an opinion as to whether the contents of the matters reported under this part—

“(1) are in the aggregate reasonably related to the experience of the plan and to reasonable expectations; and

“(2) represent such actuary's best estimate of anticipated experience under the plan.

The opinion by the qualified actuary shall be made with respect to, and shall be made a part of, the annual report.

#### “SEC. 808. NOTICE REQUIREMENTS FOR VOLUNTARY TERMINATION.

“Except as provided in section 809(b), an association health plan which is or has been certified under this part may terminate (upon or at any time after cessation of accruals in benefit liabilities) only if the board of trustees, not less than 60 days before the proposed termination date—

“(1) provides to the participants and beneficiaries a written notice of intent to terminate stating that such termination is intended and the proposed termination date;

“(2) develops a plan for winding up the affairs of the plan in connection with such termination in a manner which will result in timely payment of all benefits for which the plan is obligated; and

“(3) submits such plan in writing to the applicable authority.

Actions required under this section shall be taken in such form and manner as may be prescribed by the applicable authority by regulation.

#### “SEC. 809. CORRECTIVE ACTIONS AND MANDATORY TERMINATION.

“(a) ACTIONS TO AVOID DEPLETION OF RESERVES.—An association health plan which is

certified under this part and which provides benefits other than health insurance coverage shall continue to meet the requirements of section 806, irrespective of whether such certification continues in effect. The board of trustees of such plan shall determine quarterly whether the requirements of section 806 are met. In any case in which the board determines that there is reason to believe that there is or will be a failure to meet such requirements, or the applicable authority makes such a determination and so notifies the board, the board shall immediately notify the qualified actuary engaged by the plan, and such actuary shall, not later than the end of the next following month, make such recommendations to the board for corrective action as the actuary determines necessary to ensure compliance with section 806. Not later than 30 days after receiving from the actuary recommendations for corrective actions, the board shall notify the applicable authority (in such form and manner as the applicable authority may prescribe by regulation) of such recommendations of the actuary for corrective action, together with a description of the actions (if any) that the board has taken or plans to take in response to such recommendations. The board shall thereafter report to the applicable authority, in such form and frequency as the applicable authority may specify to the board, regarding corrective action taken by the board until the requirements of section 806 are met.

“(b) MANDATORY TERMINATION.—In any case in which—

“(1) the applicable authority has been notified under subsection (a) (or by an issuer of excess/stop loss insurance or indemnity insurance pursuant to section 806(a)) of a failure of an association health plan which is or has been certified under this part and is described in section 806(a)(2) to meet the requirements of section 806 and has not been notified by the board of trustees of the plan that corrective action has restored compliance with such requirements; and

“(2) the applicable authority determines that there is a reasonable expectation that the plan will continue to fail to meet the requirements of section 806,

the board of trustees of the plan shall, at the direction of the applicable authority, terminate the plan and, in the course of the termination, take such actions as the applicable authority may require, including satisfying any claims referred to in section 806(a)(2)(B)(iii) and recovering for the plan any liability under subsection (a)(2)(B)(iii) or (e) of section 806, as necessary to ensure that the affairs of the plan will be, to the maximum extent possible, wound up in a manner which will result in timely provision of all benefits for which the plan is obligated.

#### “SEC. 810. TRUSTEESHIP BY THE SECRETARY OF INSOLVENT ASSOCIATION HEALTH PLANS PROVIDING HEALTH BENEFITS IN ADDITION TO HEALTH INSURANCE COVERAGE.

“(a) APPOINTMENT OF SECRETARY AS TRUSTEE FOR INSOLVENT PLANS.—Whenever the Secretary determines that an association health plan which is or has been certified under this part and which is described in section 806(a)(2) will be unable to provide benefits when due or is otherwise in a financially hazardous condition, as shall be defined by the Secretary by regulation, the Secretary shall, upon notice to the plan, apply to the appropriate United States district court for appointment of the Secretary as trustee to administer the plan for the duration of the insolvency. The plan may appear as a party

and other interested persons may intervene in the proceedings at the discretion of the court. The court shall appoint such Secretary trustee if the court determines that the trusteeship is necessary to protect the interests of the participants and beneficiaries or providers of medical care or to avoid any unreasonable deterioration of the financial condition of the plan. The trusteeship of such Secretary shall continue until the conditions described in the first sentence of this subsection are remedied or the plan is terminated.

“(b) **POWERS AS TRUSTEE.**—The Secretary, upon appointment as trustee under subsection (a), shall have the power—

“(1) to do any act authorized by the plan, this title, or other applicable provisions of law to be done by the plan administrator or any trustee of the plan;

“(2) to require the transfer of all (or any part) of the assets and records of the plan to the Secretary as trustee;

“(3) to invest any assets of the plan which the Secretary holds in accordance with the provisions of the plan, regulations prescribed by the Secretary, and applicable provisions of law;

“(4) to require the sponsor, the plan administrator, any participating employer, and any employee organization representing plan participants to furnish any information with respect to the plan which the Secretary as trustee may reasonably need in order to administer the plan;

“(5) to collect for the plan any amounts due the plan and to recover reasonable expenses of the trusteeship;

“(6) to commence, prosecute, or defend on behalf of the plan any suit or proceeding involving the plan;

“(7) to issue, publish, or file such notices, statements, and reports as may be required by the Secretary by regulation or required by any order of the court;

“(8) to terminate the plan (or provide for its termination in accordance with section 809(b)) and liquidate the plan assets, to restore the plan to the responsibility of the sponsor, or to continue the trusteeship;

“(9) to provide for the enrollment of plan participants and beneficiaries under appropriate coverage options; and

“(10) to do such other acts as may be necessary to comply with this title or any order of the court and to protect the interests of plan participants and beneficiaries and providers of medical care.

“(c) **NOTICE OF APPOINTMENT.**—As soon as practicable after the Secretary's appointment as trustee, the Secretary shall give notice of such appointment to—

“(1) the sponsor and plan administrator;

“(2) each participant;

“(3) each participating employer; and

“(4) if applicable, each employee organization which, for purposes of collective bargaining, represents plan participants.

“(d) **ADDITIONAL DUTIES.**—Except to the extent inconsistent with the provisions of this title, or as may be otherwise ordered by the court, the Secretary, upon appointment as trustee under this section, shall be subject to the same duties as those of a trustee under section 704 of title 11, United States Code, and shall have the duties of a fiduciary for purposes of this title.

“(e) **OTHER PROCEEDINGS.**—An application by the Secretary under this subsection may be filed notwithstanding the pendency in the same or any other court of any bankruptcy, mortgage foreclosure, or equity receivership proceeding, or any proceeding to reorganize, conserve, or liquidate such plan or its prop-

erty, or any proceeding to enforce a lien against property of the plan.

“(f) **JURISDICTION OF COURT.**—

“(1) **IN GENERAL.**—Upon the filing of an application for the appointment as trustee or the issuance of a decree under this section, the court to which the application is made shall have exclusive jurisdiction of the plan involved and its property wherever located with the powers, to the extent consistent with the purposes of this section, of a court of the United States having jurisdiction over cases under chapter 11 of title 11, United States Code. Pending an adjudication under this section such court shall stay, and upon appointment by it of the Secretary as trustee, such court shall continue the stay of, any pending mortgage foreclosure, equity receivership, or other proceeding to reorganize, conserve, or liquidate the plan, the sponsor, or property of such plan or sponsor, and any other suit against any receiver, conservator, or trustee of the plan, the sponsor, or property of the plan or sponsor. Pending such adjudication and upon the appointment by it of the Secretary as trustee, the court may stay any proceeding to enforce a lien against property of the plan or the sponsor or any other suit against the plan or the sponsor.

“(2) **VENUE.**—An action under this section may be brought in the judicial district where the sponsor or the plan administrator resides or does business or where any asset of the plan is situated. A district court in which such action is brought may issue process with respect to such action in any other judicial district.

“(g) **PERSONNEL.**—In accordance with regulations which shall be prescribed by the Secretary, the Secretary shall appoint, retain, and compensate accountants, actuaries, and other professional service personnel as may be necessary in connection with the Secretary's service as trustee under this section.

“**SEC. 811. STATE ASSESSMENT AUTHORITY.**

“(a) **IN GENERAL.**—Notwithstanding section 514, a State may impose by law a contribution tax on an association health plan described in section 806(a)(2), if the plan commenced operations in such State after the date of the enactment of the Small Business Health Fairness Act of 2009.

“(b) **CONTRIBUTION TAX.**—For purposes of this section, the term ‘contribution tax’ imposed by a State on an association health plan means any tax imposed by such State if—

“(1) such tax is computed by applying a rate to the amount of premiums or contributions, with respect to individuals covered under the plan who are residents of such State, which are received by the plan from participating employers located in such State or from such individuals;

“(2) the rate of such tax does not exceed the rate of any tax imposed by such State on premiums or contributions received by insurers or health maintenance organizations for health insurance coverage offered in such State in connection with a group health plan;

“(3) such tax is otherwise nondiscriminatory; and

“(4) the amount of any such tax assessed on the plan is reduced by the amount of any tax or assessment otherwise imposed by the State on premiums, contributions, or both received by insurers or health maintenance organizations for health insurance coverage, aggregate excess/stop loss insurance (as defined in section 806(g)(1)), specific excess/stop loss insurance (as defined in section 806(g)(2)), other insurance related to the provision of medical care under the plan, or any

combination thereof provided by such insurers or health maintenance organizations in such State in connection with such plan.

“**SEC. 812. DEFINITIONS AND RULES OF CONSTRUCTION.**

“(a) **DEFINITIONS.**—For purposes of this part—

“(1) **GROUP HEALTH PLAN.**—The term ‘group health plan’ has the meaning provided in section 733(a)(1) (after applying subsection (b) of this section).

“(2) **MEDICAL CARE.**—The term ‘medical care’ has the meaning provided in section 733(a)(2).

“(3) **HEALTH INSURANCE COVERAGE.**—The term ‘health insurance coverage’ has the meaning provided in section 733(b)(1).

“(4) **HEALTH INSURANCE ISSUER.**—The term ‘health insurance issuer’ has the meaning provided in section 733(b)(2).

“(5) **APPLICABLE AUTHORITY.**—The term ‘applicable authority’ means the Secretary, except that, in connection with any exercise of the Secretary's authority regarding which the Secretary is required under section 506(d) to consult with a State, such term means the Secretary, in consultation with such State.

“(6) **HEALTH STATUS-RELATED FACTOR.**—The term ‘health status-related factor’ has the meaning provided in section 733(d)(2).

“(7) **INDIVIDUAL MARKET.**—

“(A) **IN GENERAL.**—The term ‘individual market’ means the market for health insurance coverage offered to individuals other than in connection with a group health plan.

“(B) **TREATMENT OF VERY SMALL GROUPS.**—

“(i) **IN GENERAL.**—Subject to clause (ii), such term includes coverage offered in connection with a group health plan that has fewer than 2 participants as current employees or participants described in section 732(d)(3) on the first day of the plan year.

“(ii) **STATE EXCEPTION.**—Clause (i) shall not apply in the case of health insurance coverage offered in a State if such State regulates the coverage described in such clause in the same manner and to the same extent as coverage in the small group market (as defined in section 2791(e)(5) of the Public Health Service Act) is regulated by such State.

“(8) **PARTICIPATING EMPLOYER.**—The term ‘participating employer’ means, in connection with an association health plan, any employer, if any individual who is an employee of such employer, a partner in such employer, or a self-employed individual who is such employer (or any dependent, as defined under the terms of the plan, of such individual) is or was covered under such plan in connection with the status of such individual as such an employee, partner, or self-employed individual in relation to the plan.

“(9) **APPLICABLE STATE AUTHORITY.**—The term ‘applicable State authority’ means, with respect to a health insurance issuer in a State, the State insurance commissioner or official or officials designated by the State to enforce the requirements of title XXVII of the Public Health Service Act for the State involved with respect to such issuer.

“(10) **QUALIFIED ACTUARY.**—The term ‘qualified actuary’ means an individual who is a member of the American Academy of Actuaries.

“(11) **AFFILIATED MEMBER.**—The term ‘affiliated member’ means, in connection with a sponsor—

“(A) a person who is otherwise eligible to be a member of the sponsor but who elects an affiliated status with the sponsor,

“(B) in the case of a sponsor with members which consist of associations, a person who

is a member of any such association and elects an affiliated status with the sponsor, or

“(C) in the case of an association health plan in existence on the date of the enactment of the Small Business Health Fairness Act of 2009, a person eligible to be a member of the sponsor or one of its member associations.

“(12) **LARGE EMPLOYER.**—The term ‘large employer’ means, in connection with a group health plan with respect to a plan year, an employer who employed an average of at least 51 employees on business days during the preceding calendar year and who employs at least 2 employees on the first day of the plan year.

“(13) **SMALL EMPLOYER.**—The term ‘small employer’ means, in connection with a group health plan with respect to a plan year, an employer who is not a large employer.

“(b) **RULES OF CONSTRUCTION.**—

“(1) **EMPLOYERS AND EMPLOYEES.**—For purposes of determining whether a plan, fund, or program is an employee welfare benefit plan which is an association health plan, and for purposes of applying this title in connection with such plan, fund, or program so determined to be such an employee welfare benefit plan—

“(A) in the case of a partnership, the term ‘employer’ (as defined in section 3(5)) includes the partnership in relation to the partners, and the term ‘employee’ (as defined in section 3(6)) includes any partner in relation to the partnership; and

“(B) in the case of a self-employed individual, the term ‘employer’ (as defined in section 3(5)) and the term ‘employee’ (as defined in section 3(6)) shall include such individual.

“(2) **PLANS, FUNDS, AND PROGRAMS TREATED AS EMPLOYEE WELFARE BENEFIT PLANS.**—In the case of any plan, fund, or program which was established or is maintained for the purpose of providing medical care (through the purchase of insurance or otherwise) for employees (or their dependents) covered thereunder and which demonstrates to the Secretary that all requirements for certification under this part would be met with respect to such plan, fund, or program if such plan, fund, or program were a group health plan, such plan, fund, or program shall be treated for purposes of this title as an employee welfare benefit plan on and after the date of such demonstration.”

(b) **CONFORMING AMENDMENTS TO PREEMPTION RULES.**—

(1) Section 514(b)(6) of such Act (29 U.S.C. 1144(b)(6)) is amended by adding at the end the following new subparagraph:

“(E) The preceding subparagraphs of this paragraph do not apply with respect to any State law in the case of an association health plan which is certified under part 8.”

(2) Section 514 of such Act (29 U.S.C. 1144) is amended—

(A) in subsection (b)(4), by striking “Subsection (a)” and inserting “Subsections (a) and (d)”;

(B) in subsection (b)(5), by striking “sub-section (a)” in subparagraph (A) and inserting “subsection (a) of this section and subsections (a)(2)(B) and (b) of section 805”, and by striking “subsection (a)” in subparagraph (B) and inserting “subsection (a) of this section or subsection (a)(2)(B) or (b) of section 805”;

(C) by redesignating subsections (d) and (e) as subsections (e) and (f), respectively; and

(D) by inserting after subsection (c) the following new subsection:

“(d)(1) Except as provided in subsection (b)(4), the provisions of this title shall super-

sede any and all State laws insofar as they may now or hereafter preclude, or have the effect of precluding, a health insurance issuer from offering health insurance coverage in connection with an association health plan which is certified under part 8.

“(2) Except as provided in paragraphs (4) and (5) of subsection (b) of this section—

“(A) In any case in which health insurance coverage of any policy type is offered under an association health plan certified under part 8 to a participating employer operating in such State, the provisions of this title shall supersede any and all laws of such State insofar as they may preclude a health insurance issuer from offering health insurance coverage of the same policy type to other employers operating in the State which are eligible for coverage under such association health plan, whether or not such other employers are participating employers in such plan.

“(B) In any case in which health insurance coverage of any policy type is offered in a State under an association health plan certified under part 8 and the filing, with the applicable State authority (as defined in section 812(a)(9)), of the policy form in connection with such policy type is approved by such State authority, the provisions of this title shall supersede any and all laws of any other State in which health insurance coverage of such type is offered, insofar as they may preclude, upon the filing in the same form and manner of such policy form with the applicable State authority in such other State, the approval of the filing in such other State.

“(3) Nothing in subsection (b)(6)(E) or the preceding provisions of this subsection shall be construed, with respect to health insurance issuers or health insurance coverage, to supersede or impair the law of any State—

“(A) providing solvency standards or similar standards regarding the adequacy of insurer capital, surplus, reserves, or contributions, or

“(B) relating to prompt payment of claims.

“(4) For additional provisions relating to association health plans, see subsections (a)(2)(B) and (b) of section 805.

“(5) For purposes of this subsection, the term ‘association health plan’ has the meaning provided in section 801(a), and the terms ‘health insurance coverage’, ‘participating employer’, and ‘health insurance issuer’ have the meanings provided such terms in section 812, respectively.”

(3) Section 514(b)(6)(A) of such Act (29 U.S.C. 1144(b)(6)(A)) is amended—

(A) in clause (i)(II), by striking “and” at the end;

(B) in clause (ii), by inserting “and which does not provide medical care (within the meaning of section 733(a)(2)),” after “arrangement,” and by striking “title.” and inserting “title, and”; and

(C) by adding at the end the following new clause:

“(iii) subject to subparagraph (E), in the case of any other employee welfare benefit plan which is a multiple employer welfare arrangement and which provides medical care (within the meaning of section 733(a)(2)), any law of any State which regulates insurance may apply.”

(4) Section 514(e) of such Act (as redesignated by paragraph (2)(C)) is amended—

(A) by striking “Nothing” and inserting “(1) Except as provided in paragraph (2), nothing”; and

(B) by adding at the end the following new paragraph:

“(2) Nothing in any other provision of law enacted on or after the date of the enact-

ment of the Small Business Health Fairness Act of 2009 shall be construed to alter, amend, modify, invalidate, impair, or supersede any provision of this title, except by specific cross-reference to the affected section.”

(c) **PLAN SPONSOR.**—Section 3(16)(B) of such Act (29 U.S.C. 102(16)(B)) is amended by adding at the end the following new sentence: “Such term also includes a person serving as the sponsor of an association health plan under part 8.”

(d) **DISCLOSURE OF SOLVENCY PROTECTIONS RELATED TO SELF-INSURED AND FULLY INSURED OPTIONS UNDER ASSOCIATION HEALTH PLANS.**—Section 102(b) of such Act (29 U.S.C. 102(b)) is amended by adding at the end the following: “An association health plan shall include in its summary plan description, in connection with each benefit option, a description of the form of solvency or guarantee fund protection secured pursuant to this Act or applicable State law, if any.”

(e) **SAVINGS CLAUSE.**—Section 731(c) of such Act is amended by inserting “or part 8” after “this part”.

(f) **REPORT TO THE CONGRESS REGARDING CERTIFICATION OF SELF-INSURED ASSOCIATION HEALTH PLANS.**—Not later than January 1, 2012, the Secretary of Labor shall report to the Committee on Education and the Workforce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate the effect association health plans have had, if any, on reducing the number of uninsured individuals.

(g) **CLERICAL AMENDMENT.**—The table of contents in section 1 of the Employee Retirement Income Security Act of 1974 is amended by inserting after the item relating to section 734 the following new items:

“PART 8—RULES GOVERNING ASSOCIATION HEALTH PLANS

- “801. Association health plans.
- “802. Certification of association health plans.
- “803. Requirements relating to sponsors and boards of trustees.
- “804. Participation and coverage requirements.
- “805. Other requirements relating to plan documents, contribution rates, and benefit options.
- “806. Maintenance of reserves and provisions for solvency for plans providing health benefits in addition to health insurance coverage.
- “807. Requirements for application and related requirements.
- “808. Notice requirements for voluntary termination.
- “809. Corrective actions and mandatory termination.
- “810. Trusteeship by the Secretary of insolvent association health plans providing health benefits in addition to health insurance coverage.
- “811. State assessment authority.
- “812. Definitions and rules of construction.”

**SEC. 202. CLARIFICATION OF TREATMENT OF SINGLE EMPLOYER ARRANGEMENTS.**

Section 3(40)(B) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(40)(B)) is amended—

(1) in clause (i), by inserting after “control group,” the following: “except that, in any case in which the benefit referred to in subparagraph (A) consists of medical care (as defined in section 812(a)(2)), two or more trades or businesses, whether or not incorporated, shall be deemed a single employer for any plan year of such plan, or any fiscal year of such other arrangement, if such

trades or businesses are within the same control group during such year or at any time during the preceding 1-year period.”;

(2) in clause (iii), by striking “(iii) the determination” and inserting the following:

“(iii)(I) in any case in which the benefit referred to in subparagraph (A) consists of medical care (as defined in section 812(a)(2)), the determination of whether a trade or business is under ‘common control’ with another trade or business shall be determined under regulations of the Secretary applying principles consistent and coextensive with the principles applied in determining whether employees of two or more trades or businesses are treated as employed by a single employer under section 4001(b), except that, for purposes of this paragraph, an interest of greater than 25 percent may not be required as the minimum interest necessary for common control, or

“(II) in any other case, the determination”;

(3) by redesignating clauses (iv) and (v) as clauses (v) and (vi), respectively; and

(4) by inserting after clause (iii) the following new clause:

“(iv) in any case in which the benefit referred to in subparagraph (A) consists of medical care (as defined in section 812(a)(2)), in determining, after the application of clause (i), whether benefits are provided to employees of two or more employers, the arrangement shall be treated as having only one participating employer if, after the application of clause (i), the number of individuals who are employees and former employees of any one participating employer and who are covered under the arrangement is greater than 75 percent of the aggregate number of all individuals who are employees or former employees of participating employers and who are covered under the arrangement.”.

#### **SEC. 203. ENFORCEMENT PROVISIONS RELATING TO ASSOCIATION HEALTH PLANS.**

(a) **CRIMINAL PENALTIES FOR CERTAIN WILLFUL MISREPRESENTATIONS.**—Section 501 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1131) is amended—

(1) by inserting “(a)” after “Sec. 501.”; and

(2) by adding at the end the following new subsection:

“(b) Any person who willfully falsely represents, to any employee, any employee’s beneficiary, any employer, the Secretary, or any State, a plan or other arrangement established or maintained for the purpose of offering or providing any benefit described in section 3(1) to employees or their beneficiaries as—

“(1) being an association health plan which has been certified under part 8;

“(2) having been established or maintained under or pursuant to one or more collective bargaining agreements which are reached pursuant to collective bargaining described in section 8(d) of the National Labor Relations Act (29 U.S.C. 158(d)) or paragraph Fourth of section 2 of the Railway Labor Act (45 U.S.C. 152, paragraph Fourth) or which are reached pursuant to labor-management negotiations under similar provisions of State public employee relations laws; or

“(3) being a plan or arrangement described in section 3(40)(A)(i),

shall, upon conviction, be imprisoned not more than 5 years, be fined under title 18, United States Code, or both.”.

(b) **CEASE ACTIVITIES ORDERS.**—Section 502 of such Act (29 U.S.C. 1132) is amended by adding at the end the following new subsection:

“(n) **ASSOCIATION HEALTH PLAN CEASE AND DESIST ORDERS.**—

“(1) **IN GENERAL.**—Subject to paragraph (2), upon application by the Secretary showing the operation, promotion, or marketing of an association health plan (or similar arrangement providing benefits consisting of medical care (as defined in section 733(a)(2))) that—

“(A) is not certified under part 8, is subject under section 514(b)(6) to the insurance laws of any State in which the plan or arrangement offers or provides benefits, and is not licensed, registered, or otherwise approved under the insurance laws of such State; or

“(B) is an association health plan certified under part 8 and is not operating in accordance with the requirements under part 8 for such certification,

a district court of the United States shall enter an order requiring that the plan or arrangement cease activities.

“(2) **EXCEPTION.**—Paragraph (1) shall not apply in the case of an association health plan or other arrangement if the plan or arrangement shows that—

“(A) all benefits under it referred to in paragraph (1) consist of health insurance coverage; and

“(B) with respect to each State in which the plan or arrangement offers or provides benefits, the plan or arrangement is operating in accordance with applicable State laws that are not superseded under section 514.

“(3) **ADDITIONAL EQUITABLE RELIEF.**—The court may grant such additional equitable relief, including any relief available under this title, as it deems necessary to protect the interests of the public and of persons having claims for benefits against the plan.”.

(c) **RESPONSIBILITY FOR CLAIMS PROCEDURE.**—Section 503 of such Act (29 U.S.C. 1133) is amended by inserting “(a) **IN GENERAL.**—” before “In accordance”, and by adding at the end the following new subsection:

“(b) **ASSOCIATION HEALTH PLANS.**—The terms of each association health plan which is or has been certified under part 8 shall require the board of trustees or the named fiduciary (as applicable) to ensure that the requirements of this section are met in connection with claims filed under the plan.”.

#### **SEC. 204. COOPERATION BETWEEN FEDERAL AND STATE AUTHORITIES.**

Section 506 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1136) is amended by adding at the end the following new subsection:

“(d) **CONSULTATION WITH STATES WITH RESPECT TO ASSOCIATION HEALTH PLANS.**—

“(1) **AGREEMENTS WITH STATES.**—The Secretary shall consult with the State recognized under paragraph (2) with respect to an association health plan regarding the exercise of—

“(A) the Secretary’s authority under sections 502 and 504 to enforce the requirements for certification under part 8; and

“(B) the Secretary’s authority to certify association health plans under part 8 in accordance with regulations of the Secretary applicable to certification under part 8.

“(2) **RECOGNITION OF PRIMARY DOMICILE STATE.**—In carrying out paragraph (1), the Secretary shall ensure that only one State will be recognized, with respect to any particular association health plan, as the State with which consultation is required. In carrying out this paragraph—

“(A) in the case of a plan which provides health insurance coverage (as defined in section 812(a)(3)), such State shall be the State with which filing and approval of a policy type offered by the plan was initially obtained, and

“(B) in any other case, the Secretary shall take into account the places of residence of the participants and beneficiaries under the plan and the State in which the trust is maintained.”.

#### **SEC. 205. EFFECTIVE DATE AND TRANSITIONAL AND OTHER RULES.**

(a) **EFFECTIVE DATE.**—The amendments made by this title shall take effect 1 year after the date of the enactment of this Act. The Secretary of Labor shall first issue all regulations necessary to carry out the amendments made by this title within 1 year after the date of the enactment of this Act.

(b) **TREATMENT OF CERTAIN EXISTING HEALTH BENEFITS PROGRAMS.**—

(1) **IN GENERAL.**—In any case in which, as of the date of the enactment of this Act, an arrangement is maintained in a State for the purpose of providing benefits consisting of medical care for the employees and beneficiaries of its participating employers, at least 200 participating employers make contributions to such arrangement, such arrangement has been in existence for at least 10 years, and such arrangement is licensed under the laws of one or more States to provide such benefits to its participating employers, upon the filing with the applicable authority (as defined in section 812(a)(5) of the Employee Retirement Income Security Act of 1974 (as amended by this subtitle)) by the arrangement of an application for certification of the arrangement under part 8 of subtitle B of title I of such Act—

(A) such arrangement shall be deemed to be a group health plan for purposes of title I of such Act;

(B) the requirements of sections 801(a) and 803(a) of the Employee Retirement Income Security Act of 1974 shall be deemed met with respect to such arrangement;

(C) the requirements of section 803(b) of such Act shall be deemed met, if the arrangement is operated by a board of directors which—

(i) is elected by the participating employers, with each employer having one vote; and

(ii) has complete fiscal control over the arrangement and which is responsible for all operations of the arrangement;

(D) the requirements of section 804(a) of such Act shall be deemed met with respect to such arrangement; and

(E) the arrangement may be certified by any applicable authority with respect to its operations in any State only if it operates in such State on the date of certification.

The provisions of this subsection shall cease to apply with respect to any such arrangement at such time after the date of the enactment of this Act as the applicable requirements of this subsection are not met with respect to such arrangement.

(2) **DEFINITIONS.**—For purposes of this subsection, the terms “group health plan”, “medical care”, and “participating employer” shall have the meanings provided in section 812 of the Employee Retirement Income Security Act of 1974, except that the reference in paragraph (7) of such section to an “association health plan” shall be deemed a reference to an arrangement referred to in this subsection.

#### **TITLE II—TARGETED EFFORTS TO EXPAND ACCESS**

#### **SEC. 211. EXTENDING COVERAGE OF DEPENDENTS.**

(a) **EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.**—

(1) **IN GENERAL.**—Part 7 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 is amended by inserting after section 2714 the following new section:



**"SEC. 715. EXTENDING COVERAGE OF DEPENDENTS."**

"(a) IN GENERAL.—In the case of a group health plan, or health insurance coverage offered in connection with a group health plan, that treats as a beneficiary under the plan an individual who is a dependent child of a participant or beneficiary under the plan, the plan or coverage shall continue to treat the individual as a dependent child without regard to the individual's age through at least the end of the plan year in which the individual turns an age specified in the plan, but not less than 25 years of age.

"(b) CONSTRUCTION.—Nothing in this section shall be construed as requiring a group health plan to provide benefits for dependent children as beneficiaries under the plan or to require a participant to elect coverage of dependent children."

(2) CLERICAL AMENDMENT.—The table of contents of such Act is amended by inserting after the item relating to section 714 the following new item:

"Sec. 715. Extending coverage of dependents through plan year that includes 25th birthday."

(b) PHSA.—Title XXVII of the Public Health Service Act is amended by inserting after section 2707 the following new section: **"SEC. 2708. EXTENDING COVERAGE OF DEPENDENTS."**

"(a) IN GENERAL.—In the case of a group health plan, or health insurance coverage offered in connection with a group health plan, that treats as a beneficiary under the plan an individual who is a dependent child of a participant or beneficiary under the plan, the plan or coverage shall continue to treat the individual as a dependent child without regard to the individual's age through at least the end of the plan year in which the individual turns an age specified in the plan, but not less than 25 years of age.

"(b) CONSTRUCTION.—Nothing in this section shall be construed as requiring a group health plan to provide benefits for dependent children as beneficiaries under the plan or to require a participant to elect coverage of dependent children."

(c) IRC.—

(1) IN GENERAL.—Subchapter B of chapter 100 of the Internal Revenue Code of 1986 is amended by adding at the end the following new section:

**"SEC. 9814. EXTENDING COVERAGE OF DEPENDENTS."**

"(a) IN GENERAL.—In the case of a group health plan that treats as a beneficiary under the plan an individual who is a dependent child of a participant or beneficiary under the plan, the plan shall continue to treat the individual as a dependent child without regard to the individual's age through at least the end of the plan year in which the individual turns an age specified in the plan, but not less than 25 years of age.

"(b) CONSTRUCTION.—Nothing in this section shall be construed as requiring a group health plan to provide coverage for dependent children as beneficiaries under the plan or to require a participant to elect coverage of dependent children."

(2) CLERICAL AMENDMENT.—The table of sections in such subchapter is amended by adding at the end the following new item:

"Sec. 9814. Extending coverage of dependents through plan year that includes 25th birthday."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to group health plans for plan years beginning more than 3 months after the date of the enact-

ment of this Act and shall apply to individuals who are dependent children under a group health plan, or health insurance coverage offered in connection with such a plan, on or after such date.

**SEC. 212. ALLOWING AUTO-ENROLLMENT FOR EMPLOYER SPONSORED COVERAGE.**

(a) IN GENERAL.—No State shall establish a law that prevents an employer from instituting auto-enrollment for coverage of a participant or beneficiary, including current employees, under a group health plan, or health insurance coverage offered in connection with such a plan, so long as the participant or beneficiary has the option of declining such coverage.

(b) AUTOENROLLMENT.—

(1) NOTICE REQUIRED.—Employers with auto-enrollment under a group health plan or health insurance coverage shall provide annual notification, within a reasonable period before the beginning of each plan year, to each employee eligible to participate in the plan. The notice shall explain the employee contribution to such plan and the employee's right to decline coverage.

(2) TREATMENT OF NON-ACTION.—After a reasonable period of time after receipt of the notice, if an employee fails to make an affirmative declaration declining coverage, then such an employee may be enrolled in the group health plan or health insurance coverage offered in connection with such a plan."

(c) CONSTRUCTION.—Nothing in this section shall be construed to supersede State law which establishes, implements, or continues in effect any standard or requirement relating to employers in connection with payroll or the sponsoring of employer sponsored health insurance coverage except to the extent that such standard or requirement prevents an employer from instituting the auto-enrollment described in subsection (a).

**TITLE III—EXPANDING CHOICES BY ALLOWING AMERICANS TO BUY HEALTH CARE COVERAGE ACROSS STATE LINES****SEC. 221. INTERSTATE PURCHASING OF HEALTH INSURANCE.**

(a) IN GENERAL.—Title XXVII of the Public Health Service Act (42 U.S.C. 300gg et seq.) is amended by adding at the end the following new part:

**"PART D—COOPERATIVE GOVERNING OF INDIVIDUAL HEALTH INSURANCE COVERAGE****"SEC. 2795. DEFINITIONS.**

"In this part:

"(1) PRIMARY STATE.—The term 'primary State' means, with respect to individual health insurance coverage offered by a health insurance issuer, the State designated by the issuer as the State whose covered laws shall govern the health insurance issuer in the sale of such coverage under this part. An issuer, with respect to a particular policy, may only designate one such State as its primary State with respect to all such coverage it offers. Such an issuer may not change the designated primary State with respect to individual health insurance coverage once the policy is issued, except that such a change may be made upon renewal of the policy. With respect to such designated State, the issuer is deemed to be doing business in that State.

"(2) SECONDARY STATE.—The term 'secondary State' means, with respect to individual health insurance coverage offered by a health insurance issuer, any State that is not the primary State. In the case of a health insurance issuer that is selling a policy in, or to a resident of, a secondary State,

the issuer is deemed to be doing business in that secondary State.

"(3) HEALTH INSURANCE ISSUER.—The term 'health insurance issuer' has the meaning given such term in section 2791(b)(2), except that such an issuer must be licensed in the primary State and be qualified to sell individual health insurance coverage in that State.

"(4) INDIVIDUAL HEALTH INSURANCE COVERAGE.—The term 'individual health insurance coverage' means health insurance coverage offered in the individual market, as defined in section 2791(e)(1).

"(5) APPLICABLE STATE AUTHORITY.—The term 'applicable State authority' means, with respect to a health insurance issuer in a State, the State insurance commissioner or official or officials designated by the State to enforce the requirements of this title for the State with respect to the issuer.

"(6) HAZARDOUS FINANCIAL CONDITION.—The term 'hazardous financial condition' means that, based on its present or reasonably anticipated financial condition, a health insurance issuer is unlikely to be able—

"(A) to meet obligations to policyholders with respect to known claims and reasonably anticipated claims; or

"(B) to pay other obligations in the normal course of business.

"(7) COVERED LAWS.—

"(A) IN GENERAL.—The term 'covered laws' means the laws, rules, regulations, agreements, and orders governing the insurance business pertaining to—

"(i) individual health insurance coverage issued by a health insurance issuer;

"(ii) the offer, sale, rating (including medical underwriting), renewal, and issuance of individual health insurance coverage to an individual;

"(iii) the provision to an individual in relation to individual health insurance coverage of health care and insurance related services;

"(iv) the provision to an individual in relation to individual health insurance coverage of management, operations, and investment activities of a health insurance issuer; and

"(v) the provision to an individual in relation to individual health insurance coverage of loss control and claims administration for a health insurance issuer with respect to liability for which the issuer provides insurance.

"(B) EXCEPTION.—Such term does not include any law, rule, regulation, agreement, or order governing the use of care or cost management techniques, including any requirement related to provider contracting, network access or adequacy, health care data collection, or quality assurance.

"(8) STATE.—The term 'State' means the 50 States and includes the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Northern Mariana Islands.

"(9) UNFAIR CLAIMS SETTLEMENT PRACTICES.—The term 'unfair claims settlement practices' means only the following practices:

"(A) Knowingly misrepresenting to claimants and insured individuals relevant facts or policy provisions relating to coverage at issue.

"(B) Failing to acknowledge with reasonable promptness pertinent communications with respect to claims arising under policies.

"(C) Failing to adopt and implement reasonable standards for the prompt investigation and settlement of claims arising under policies.

"(D) Failing to effectuate prompt, fair, and equitable settlement of claims submitted in which liability has become reasonably clear.



“(E) Refusing to pay claims without conducting a reasonable investigation.

“(F) Failing to affirm or deny coverage of claims within a reasonable period of time after having completed an investigation related to those claims.

“(G) A pattern or practice of compelling insured individuals or their beneficiaries to institute suits to recover amounts due under its policies by offering substantially less than the amounts ultimately recovered in suits brought by them.

“(H) A pattern or practice of attempting to settle or settling claims for less than the amount that a reasonable person would believe the insured individual or his or her beneficiary was entitled by reference to written or printed advertising material accompanying or made part of an application.

“(I) Attempting to settle or settling claims on the basis of an application that was materially altered without notice to, or knowledge or consent of, the insured.

“(J) Failing to provide forms necessary to present claims within 15 calendar days of a requests with reasonable explanations regarding their use.

“(K) Attempting to cancel a policy in less time than that prescribed in the policy or by the law of the primary State.

“(10) FRAUD AND ABUSE.—The term ‘fraud and abuse’ means an act or omission committed by a person who, knowingly and with intent to defraud, commits, or conceals any material information concerning, one or more of the following:

“(A) Presenting, causing to be presented or preparing with knowledge or belief that it will be presented to or by an insurer, a reinsurer, broker or its agent, false information as part of, in support of or concerning a fact material to one or more of the following:

“(i) An application for the issuance or renewal of an insurance policy or reinsurance contract.

“(ii) The rating of an insurance policy or reinsurance contract.

“(iii) A claim for payment or benefit pursuant to an insurance policy or reinsurance contract.

“(iv) Premiums paid on an insurance policy or reinsurance contract.

“(v) Payments made in accordance with the terms of an insurance policy or reinsurance contract.

“(vi) A document filed with the commissioner or the chief insurance regulatory official of another jurisdiction.

“(vii) The financial condition of an insurer or reinsurer.

“(viii) The formation, acquisition, merger, reconsolidation, dissolution or withdrawal from one or more lines of insurance or reinsurance in all or part of a State by an insurer or reinsurer.

“(ix) The issuance of written evidence of insurance.

“(x) The reinstatement of an insurance policy.

“(B) Solicitation or acceptance of new or renewal insurance risks on behalf of an insurer reinsurer or other person engaged in the business of insurance by a person who knows or should know that the insurer or other person responsible for the risk is insolvent at the time of the transaction.

“(C) Transaction of the business of insurance in violation of laws requiring a license, certificate of authority or other legal authority for the transaction of the business of insurance.

“(D) Attempt to commit, aiding or abetting in the commission of, or conspiracy to commit the acts or omissions specified in this paragraph.

#### “SEC. 2796. APPLICATION OF LAW.

“(a) IN GENERAL.—The covered laws of the primary State shall apply to individual health insurance coverage offered by a health insurance issuer in the primary State and in any secondary State, but only if the coverage and issuer comply with the conditions of this section with respect to the offering of coverage in any secondary State.

“(b) EXEMPTIONS FROM COVERED LAWS IN A SECONDARY STATE.—Except as provided in this section, a health insurance issuer with respect to its offer, sale, rating (including medical underwriting), renewal, and issuance of individual health insurance coverage in any secondary State is exempt from any covered laws of the secondary State (and any rules, regulations, agreements, or orders sought or issued by such State under or related to such covered laws) to the extent that such laws would—

“(1) make unlawful, or regulate, directly or indirectly, the operation of the health insurance issuer operating in the secondary State, except that any secondary State may require such an issuer—

“(A) to pay, on a nondiscriminatory basis, applicable premium and other taxes (including high risk pool assessments) which are levied on insurers and surplus lines insurers, brokers, or policyholders under the laws of the State;

“(B) to register with and designate the State insurance commissioner as its agent solely for the purpose of receiving service of legal documents or process;

“(C) to submit to an examination of its financial condition by the State insurance commissioner in any State in which the issuer is doing business to determine the issuer's financial condition, if—

“(i) the State insurance commissioner of the primary State has not done an examination within the period recommended by the National Association of Insurance Commissioners; and

“(ii) any such examination is conducted in accordance with the examiners' handbook of the National Association of Insurance Commissioners and is coordinated to avoid unjustified duplication and unjustified repetition;

“(D) to comply with a lawful order issued—

“(i) in a delinquency proceeding commenced by the State insurance commissioner if there has been a finding of financial impairment under subparagraph (C); or

“(ii) in a voluntary dissolution proceeding;

“(E) to comply with an injunction issued by a court of competent jurisdiction, upon a petition by the State insurance commissioner alleging that the issuer is in hazardous financial condition;

“(F) to participate, on a nondiscriminatory basis, in any insurance insolvency guaranty association or similar association to which a health insurance issuer in the State is required to belong;

“(G) to comply with any State law regarding fraud and abuse (as defined in section 2795(10)), except that if the State seeks an injunction regarding the conduct described in this subparagraph, such injunction must be obtained from a court of competent jurisdiction;

“(H) to comply with any State law regarding unfair claims settlement practices (as defined in section 2795(9)); or

“(I) to comply with the applicable requirements for independent review under section 2798 with respect to coverage offered in the State;

“(2) require any individual health insurance coverage issued by the issuer to be

countersigned by an insurance agent or broker residing in that Secondary State; or

“(3) otherwise discriminate against the issuer issuing insurance in both the primary State and in any secondary State.

“(c) CLEAR AND CONSPICUOUS DISCLOSURE.—A health insurance issuer shall provide the following notice, in 12-point bold type, in any insurance coverage offered in a secondary State under this part by such a health insurance issuer and at renewal of the policy, with the 5 blank spaces therein being appropriately filled with the name of the health insurance issuer, the name of primary State, the name of the secondary State, the name of the secondary State, and the name of the secondary State, respectively, for the coverage concerned:

THIS POLICY IS ISSUED BY \_\_\_\_\_ AND IS GOVERNED BY THE LAWS AND REGULATIONS OF THE STATE OF \_\_\_\_\_, AND IT HAS MET ALL THE LAWS OF THAT STATE AS DETERMINED BY THAT STATE'S DEPARTMENT OF INSURANCE. THIS POLICY MAY BE LESS EXPENSIVE THAN OTHERS BECAUSE IT IS NOT SUBJECT TO ALL OF THE INSURANCE LAWS AND REGULATIONS OF THE STATE OF \_\_\_\_\_, INCLUDING COVERAGE OF SOME SERVICES OR BENEFITS MANDATED BY THE LAW OF THE STATE OF \_\_\_\_\_. ADDITIONALLY, THIS POLICY IS NOT SUBJECT TO ALL OF THE CONSUMER PROTECTION LAWS OR RESTRICTIONS ON RATE CHANGES OF THE STATE OF \_\_\_\_\_. AS WITH ALL INSURANCE PRODUCTS, BEFORE PURCHASING THIS POLICY, YOU SHOULD CAREFULLY REVIEW THE POLICY AND DETERMINE WHAT HEALTH CARE SERVICES THE POLICY COVERS AND WHAT BENEFITS IT PROVIDES, INCLUDING ANY EXCLUSIONS, LIMITATIONS, OR CONDITIONS FOR SUCH SERVICES OR BENEFITS.”.

“(d) PROHIBITION ON CERTAIN RECLASSIFICATIONS AND PREMIUM INCREASES.—

“(1) IN GENERAL.—For purposes of this section, a health insurance issuer that provides individual health insurance coverage to an individual under this part in a primary or secondary State may not upon renewal—

“(A) move or reclassify the individual insured under the health insurance coverage from the class such individual is in at the time of issue of the contract based on the health-status related factors of the individual; or

“(B) increase the premiums assessed the individual for such coverage based on a health status-related factor or change of a health status-related factor or the past or prospective claim experience of the insured individual.

“(2) CONSTRUCTION.—Nothing in paragraph (1) shall be construed to prohibit a health insurance issuer—

“(A) from terminating or discontinuing coverage or a class of coverage in accordance with subsections (b) and (c) of section 2742;

“(B) from raising premium rates for all policy holders within a class based on claims experience;

“(C) from changing premiums or offering discounted premiums to individuals who engage in wellness activities at intervals prescribed by the issuer, if such premium changes or incentives—

“(i) are disclosed to the consumer in the insurance contract;

“(ii) are based on specific wellness activities that are not applicable to all individuals; and

“(iii) are not obtainable by all individuals to whom coverage is offered;

“(D) from reinstating lapsed coverage; or

“(E) from retroactively adjusting the rates charged an insured individual if the initial rates were set based on material misrepresentation by the individual at the time of issue.

“(e) PRIOR OFFERING OF POLICY IN PRIMARY STATE.—A health insurance issuer may not offer for sale individual health insurance coverage in a secondary State unless that coverage is currently offered for sale in the primary State.

“(f) LICENSING OF AGENTS OR BROKERS FOR HEALTH INSURANCE ISSUERS.—Any State may require that a person acting, or offering to act, as an agent or broker for a health insurance issuer with respect to the offering of individual health insurance coverage obtain a license from that State, with commissions or other compensation subject to the provisions of the laws of that State, except that a State may not impose any qualification or requirement which discriminates against a non-resident agent or broker.

“(g) DOCUMENTS FOR SUBMISSION TO STATE INSURANCE COMMISSIONER.—Each health insurance issuer issuing individual health insurance coverage in both primary and secondary States shall submit—

“(1) to the insurance commissioner of each State in which it intends to offer such coverage, before it may offer individual health insurance coverage in such State—

“(A) a copy of the plan of operation or feasibility study or any similar statement of the policy being offered and its coverage (which shall include the name of its primary State and its principal place of business);

“(B) written notice of any change in its designation of its primary State; and

“(C) written notice from the issuer of the issuer's compliance with all the laws of the primary State; and

“(2) to the insurance commissioner of each secondary State in which it offers individual health insurance coverage, a copy of the issuer's quarterly financial statement submitted to the primary State, which statement shall be certified by an independent public accountant and contain a statement of opinion on loss and loss adjustment expense reserves made by—

“(A) a member of the American Academy of Actuaries; or

“(B) a qualified loss reserve specialist.

“(h) POWER OF COURTS TO ENJOIN CONDUCT.—Nothing in this section shall be construed to affect the authority of any Federal or State court to enjoin—

“(1) the solicitation or sale of individual health insurance coverage by a health insurance issuer to any person or group who is not eligible for such insurance; or

“(2) the solicitation or sale of individual health insurance coverage that violates the requirements of the law of a secondary State which are described in subparagraphs (A) through (H) of section 2796(b)(1).

“(i) POWER OF SECONDARY STATES TO TAKE ADMINISTRATIVE ACTION.—Nothing in this section shall be construed to affect the authority of any State to enjoin conduct in violation of that State's laws described in section 2796(b)(1).

“(j) STATE POWERS TO ENFORCE STATE LAWS.—

“(1) IN GENERAL.—Subject to the provisions of subsection (b)(1)(G) (relating to injunctions) and paragraph (2), nothing in this section shall be construed to affect the authority of any State to make use of any of its powers to enforce the laws of such State with respect to which a health insurance issuer is not exempt under subsection (b).

“(2) COURTS OF COMPETENT JURISDICTION.—If a State seeks an injunction regarding the

conduct described in paragraphs (1) and (2) of subsection (h), such injunction must be obtained from a Federal or State court of competent jurisdiction.

“(k) STATES' AUTHORITY TO SUE.—Nothing in this section shall affect the authority of any State to bring action in any Federal or State court.

“(l) GENERALLY APPLICABLE LAWS.—Nothing in this section shall be construed to affect the applicability of State laws generally applicable to persons or corporations.

“(m) GUARANTEED AVAILABILITY OF COVERAGE TO HIPAA ELIGIBLE INDIVIDUALS.—To the extent that a health insurance issuer is offering coverage in a primary State that does not accommodate residents of secondary States or does not provide a working mechanism for residents of a secondary State, and the issuer is offering coverage under this part in such secondary State which has not adopted a qualified high risk pool as its acceptable alternative mechanism (as defined in section 2744(c)(2)), the issuer shall, with respect to any individual health insurance coverage offered in a secondary State under this part, comply with the guaranteed availability requirements for eligible individuals in section 2741.

**“SEC. 2797. PRIMARY STATE MUST MEET FEDERAL FLOOR BEFORE ISSUER MAY SELL INTO SECONDARY STATES.**

“A health insurance issuer may not offer, sell, or issue individual health insurance coverage in a secondary State if the State insurance commissioner does not use a risk-based capital formula for the determination of capital and surplus requirements for all health insurance issuers.

**“SEC. 2798. INDEPENDENT EXTERNAL APPEALS PROCEDURES.**

“(a) RIGHT TO EXTERNAL APPEAL.—A health insurance issuer may not offer, sell, or issue individual health insurance coverage in a secondary State under the provisions of this title unless—

“(1) both the secondary State and the primary State have legislation or regulations in place establishing an independent review process for individuals who are covered by individual health insurance coverage, or

“(2) in any case in which the requirements of subparagraph (A) are not met with respect to the either of such States, the issuer provides an independent review mechanism substantially identical (as determined by the applicable State authority of such State) to that prescribed in the ‘Health Carrier External Review Model Act’ of the National Association of Insurance Commissioners for all individuals who purchase insurance coverage under the terms of this part, except that, under such mechanism, the review is conducted by an independent medical reviewer, or a panel of such reviewers, with respect to whom the requirements of subsection (b) are met.

“(b) QUALIFICATIONS OF INDEPENDENT MEDICAL REVIEWERS.—In the case of any independent review mechanism referred to in subsection (a)(2)—

“(1) IN GENERAL.—In referring a denial of a claim to an independent medical reviewer, or to any panel of such reviewers, to conduct independent medical review, the issuer shall ensure that—

“(A) each independent medical reviewer meets the qualifications described in paragraphs (2) and (3);

“(B) with respect to each review, each reviewer meets the requirements of paragraph (4) and the reviewer, or at least 1 reviewer on the panel, meets the requirements described in paragraph (5); and

“(C) compensation provided by the issuer to each reviewer is consistent with paragraph (6).

“(2) LICENSURE AND EXPERTISE.—Each independent medical reviewer shall be a physician (allopathic or osteopathic) or health care professional who—

“(A) is appropriately credentialed or licensed in 1 or more States to deliver health care services; and

“(B) typically treats the condition, makes the diagnosis, or provides the type of treatment under review.

“(3) INDEPENDENCE.—

“(A) IN GENERAL.—Subject to subparagraph (B), each independent medical reviewer in a case shall—

“(i) not be a related party (as defined in paragraph (7));

“(ii) not have a material familial, financial, or professional relationship with such a party; and

“(iii) not otherwise have a conflict of interest with such a party (as determined under regulations).

“(B) EXCEPTION.—Nothing in subparagraph (A) shall be construed to—

“(i) prohibit an individual, solely on the basis of affiliation with the issuer, from serving as an independent medical reviewer if—

“(I) a non-affiliated individual is not reasonably available;

“(II) the affiliated individual is not involved in the provision of items or services in the case under review;

“(III) the fact of such an affiliation is disclosed to the issuer and the enrollee (or authorized representative) and neither party objects; and

“(IV) the affiliated individual is not an employee of the issuer and does not provide services exclusively or primarily to or on behalf of the issuer;

“(ii) prohibit an individual who has staff privileges at the institution where the treatment involved takes place from serving as an independent medical reviewer merely on the basis of such affiliation if the affiliation is disclosed to the issuer and the enrollee (or authorized representative), and neither party objects; or

“(iii) prohibit receipt of compensation by an independent medical reviewer from an entity if the compensation is provided consistent with paragraph (6).

“(4) PRACTICING HEALTH CARE PROFESSIONAL IN SAME FIELD.—

“(A) IN GENERAL.—In a case involving treatment, or the provision of items or services—

“(i) by a physician, a reviewer shall be a practicing physician (allopathic or osteopathic) of the same or similar specialty, as a physician who, acting within the appropriate scope of practice within the State in which the service is provided or rendered, typically treats the condition, makes the diagnosis, or provides the type of treatment under review; or

“(ii) by a non-physician health care professional, the reviewer, or at least 1 member of the review panel, shall be a practicing non-physician health care professional of the same or similar specialty as the non-physician health care professional who, acting within the appropriate scope of practice within the State in which the service is provided or rendered, typically treats the condition, makes the diagnosis, or provides the type of treatment under review.

“(B) PRACTICING DEFINED.—For purposes of this paragraph, the term ‘practicing’ means, with respect to an individual who is a physician or other health care professional, that

the individual provides health care services to individual patients on average at least 2 days per week.

“(5) **PEDIATRIC EXPERTISE.**—In the case of an external review relating to a child, a reviewer shall have expertise under paragraph (2) in pediatrics.

“(6) **LIMITATIONS ON REVIEWER COMPENSATION.**—Compensation provided by the issuer to an independent medical reviewer in connection with a review under this section shall—

“(A) not exceed a reasonable level; and

“(B) not be contingent on the decision rendered by the reviewer.

“(7) **RELATED PARTY DEFINED.**—For purposes of this section, the term ‘related party’ means, with respect to a denial of a claim under a coverage relating to an enrollee, any of the following:

“(A) The issuer involved, or any fiduciary, officer, director, or employee of the issuer.

“(B) The enrollee (or authorized representative).

“(C) The health care professional that provides the items or services involved in the denial.

“(D) The institution at which the items or services (or treatment) involved in the denial are provided.

“(E) The manufacturer of any drug or other item that is included in the items or services involved in the denial.

“(F) Any other party determined under any regulations to have a substantial interest in the denial involved.

“(8) **DEFINITIONS.**—For purposes of this subsection:

“(A) **ENROLLEE.**—The term ‘enrollee’ means, with respect to health insurance coverage offered by a health insurance issuer, an individual enrolled with the issuer to receive such coverage.

“(B) **HEALTH CARE PROFESSIONAL.**—The term ‘health care professional’ means an individual who is licensed, accredited, or certified under State law to provide specified health care services and who is operating within the scope of such licensure, accreditation, or certification.

#### **“SEC. 2799. ENFORCEMENT.**

“(a) **IN GENERAL.**—Subject to subsection (b), with respect to specific individual health insurance coverage the primary State for such coverage has sole jurisdiction to enforce the primary State’s covered laws in the primary State and any secondary State.

“(b) **SECONDARY STATE’S AUTHORITY.**—Nothing in subsection (a) shall be construed to affect the authority of a secondary State to enforce its laws as set forth in the exception specified in section 2796(b)(1).

“(c) **COURT INTERPRETATION.**—In reviewing action initiated by the applicable secondary State authority, the court of competent jurisdiction shall apply the covered laws of the primary State.

“(d) **NOTICE OF COMPLIANCE FAILURE.**—In the case of individual health insurance coverage offered in a secondary State that fails to comply with the covered laws of the primary State, the applicable State authority of the secondary State may notify the applicable State authority of the primary State.”

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall apply to individual health insurance coverage offered, issued, or sold after the date that is one year after the date of the enactment of this Act.

(c) **GAO ONGOING STUDY AND REPORTS.**—

(1) **STUDY.**—The Comptroller General of the United States shall conduct an ongoing study concerning the effect of the amendment made by subsection (a) on—

(A) the number of uninsured and under-insured;

(B) the availability and cost of health insurance policies for individuals with pre-existing medical conditions;

(C) the availability and cost of health insurance policies generally;

(D) the elimination or reduction of different types of benefits under health insurance policies offered in different States; and

(E) cases of fraud or abuse relating to health insurance coverage offered under such amendment and the resolution of such cases.

(2) **ANNUAL REPORTS.**—The Comptroller General shall submit to Congress an annual report, after the end of each of the 5 years following the effective date of the amendment made by subsection (a), on the ongoing study conducted under paragraph (1).

### **TITLE IV—IMPROVING HEALTH SAVINGS ACCOUNTS**

#### **SEC. 231. SAVER’S CREDIT FOR CONTRIBUTIONS TO HEALTH SAVINGS ACCOUNTS.**

(a) **ALLOWANCE OF CREDIT.**—Subsection (a) of section 25B of the Internal Revenue Code of 1986 is amended by inserting “aggregate qualified HSA contributions and” after “so much of the”.

(b) **QUALIFIED HSA CONTRIBUTIONS.**—Subsection (d) of section 25B of such Code is amended by redesignating paragraph (2) as paragraph (3) and by inserting after paragraph (1) the following new paragraph:

“(2) **QUALIFIED HSA CONTRIBUTIONS.**—The term ‘qualified HSA contribution’ means, with respect to any taxable year, a contribution of the eligible individual to a health savings account (as defined in section 223(d)(1)) for which a deduction is allowable under section 223(a) for such taxable year.”.

(c) **CONFORMING AMENDMENT.**—The first sentence of section 25B(d)(3)(A) of such Code (as redesignated by subsection (b)) is amended to read as follows: “The aggregate qualified retirement savings contributions determined under paragraph (1) and qualified HSA contributions determined under paragraph (2) shall be reduced (but not below zero) by the aggregate distributions received by the individual during the testing period from any entity of a type to which contributions under paragraph (1) or paragraph (2) (as the case may be) may be made.”.

(d) **EFFECTIVE DATE.**—The amendments made by this section shall apply to contributions made after December 31, 2009.

#### **SEC. 232. HSA FUNDS FOR PREMIUMS FOR HIGH DEDUCTIBLE HEALTH PLANS.**

(a) **IN GENERAL.**—Subparagraph (C) of section 223(d)(2) of the Internal Revenue Code of 1986 is amended by striking “or” at the end of clause (iii), by striking the period at the end of clause (iv) and inserting “, or”, and by adding at the end the following:

“(v) a high deductible health plan if—

“(I) such plan is not offered in connection with a group health plan,

“(II) no portion of any premium (within the meaning of applicable premium under section 4980B(f)(4)) for such plan is excludable from gross income under section 106, and

“(III) the account beneficiary demonstrates, using procedures deemed appropriate by the Secretary, that after payment of the premium for such insurance the balance in the health savings account is at least twice the minimum deductible in effect under subsection (c)(2)(A)(i) which is applicable to such plan.”.

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall apply to premiums for a high deductible health plan for periods beginning after December 31, 2009.

#### **SEC. 233. REQUIRING GREATER COORDINATION BETWEEN HDHP ADMINISTRATORS AND HSA ACCOUNT ADMINISTRATORS SO THAT ENROLLEES CAN ENROLL IN BOTH AT THE SAME TIME.**

The Secretary of the Treasury, through the issuance of regulations or other guidance, shall encourage administrators of health plans and trustees of health savings accounts to provide for simultaneous enrollment in high deductible health plans and setup of health savings accounts.

#### **SEC. 234. SPECIAL RULE FOR CERTAIN MEDICAL EXPENSES INCURRED BEFORE ESTABLISHMENT OF ACCOUNT.**

(a) **IN GENERAL.**—Subsection (d) of section 223 of the Internal Revenue Code of 1986 is amended by redesignating paragraph (4) as paragraph (5) and by inserting after paragraph (3) the following new paragraph:

“(4) **CERTAIN MEDICAL EXPENSES INCURRED BEFORE ESTABLISHMENT OF ACCOUNT TREATED AS QUALIFIED.**—

“(A) **IN GENERAL.**—For purposes of paragraph (2), an expense shall not fail to be treated as a qualified medical expense solely because such expense was incurred before the establishment of the health savings account if such expense was incurred during the 60-day period beginning on the date on which the high deductible health plan is first effective.

“(B) **SPECIAL RULES.**—For purposes of subparagraph (A)—

“(i) an individual shall be treated as an eligible individual for any portion of a month for which the individual is described in subsection (c)(1), determined without regard to whether the individual is covered under a high deductible health plan on the 1st day of such month, and

“(ii) the effective date of the health savings account is deemed to be the date on which the high deductible health plan is first effective after the date of the enactment of this paragraph.”.

(b) **EFFECTIVE DATE.**—The amendment made by this section shall apply with respect to insurance purchased after the date of the enactment of this Act in taxable years beginning after such date.

### **DIVISION C—ENACTING REAL MEDICAL LIABILITY REFORM**

#### **SEC. 301. ENCOURAGING SPEEDY RESOLUTION OF CLAIMS.**

The time for the commencement of a health care lawsuit shall be 3 years after the date of manifestation of injury or 1 year after the claimant discovers, or through the use of reasonable diligence should have discovered, the injury, whichever occurs first. In no event shall the time for commencement of a health care lawsuit exceed 3 years after the date of manifestation of injury unless tolled for any of the following—

(1) upon proof of fraud;

(2) intentional concealment; or

(3) the presence of a foreign body, which has no therapeutic or diagnostic purpose or effect, in the person of the injured person.

Actions by a minor shall be commenced within 3 years from the date of the alleged manifestation of injury except that actions by a minor under the full age of 6 years shall be commenced within 3 years of manifestation of injury or prior to the minor’s 8th birthday, whichever provides a longer period. Such time limitation shall be tolled for minors for any period during which a parent or guardian and a health care provider or health care organization have committed fraud or collusion in the failure to bring an action on behalf of the injured minor.

**SEC. 302. COMPENSATING PATIENT INJURY.**

(a) **UNLIMITED AMOUNT OF DAMAGES FOR ACTUAL ECONOMIC LOSSES IN HEALTH CARE LAWSUITS.**—In any health care lawsuit, nothing in this title shall limit a claimant's recovery of the full amount of the available economic damages, notwithstanding the limitation in subsection (b).

(b) **ADDITIONAL NONECONOMIC DAMAGES.**—In any health care lawsuit, the amount of noneconomic damages, if available, may be as much as \$250,000, regardless of the number of parties against whom the action is brought or the number of separate claims or actions brought with respect to the same injury.

(c) **NO DISCOUNT OF AWARD FOR NONECONOMIC DAMAGES.**—For purposes of applying the limitation in subsection (b), future noneconomic damages shall not be discounted to present value. The jury shall not be informed about the maximum award for noneconomic damages. An award for noneconomic damages in excess of \$250,000 shall be reduced either before the entry of judgment, or by amendment of the judgment after entry of judgment, and such reduction shall be made before accounting for any other reduction in damages required by law. If separate awards are rendered for past and future noneconomic damages and the combined awards exceed \$250,000, the future noneconomic damages shall be reduced first.

(d) **FAIR SHARE RULE.**—In any health care lawsuit, each party shall be liable for that party's several share of any damages only and not for the share of any other person. Each party shall be liable only for the amount of damages allocated to such party in direct proportion to such party's percentage of responsibility. Whenever a judgment of liability is rendered as to any party, a separate judgment shall be rendered against each such party for the amount allocated to such party. For purposes of this section, the trier of fact shall determine the proportion of responsibility of each party for the claimant's harm.

**SEC. 303. MAXIMIZING PATIENT RECOVERY.**

(a) **COURT SUPERVISION OF SHARE OF DAMAGES ACTUALLY PAID TO CLAIMANTS.**—In any health care lawsuit, the court shall supervise the arrangements for payment of damages to protect against conflicts of interest that may have the effect of reducing the amount of damages awarded that are actually paid to claimants. In particular, in any health care lawsuit in which the attorney for a party claims a financial stake in the outcome by virtue of a contingent fee, the court shall have the power to restrict the payment of a claimant's damage recovery to such attorney, and to redirect such damages to the claimant based upon the interests of justice and principles of equity. In no event shall the total of all contingent fees for representing all claimants in a health care lawsuit exceed the following limits:

- (1) 40 percent of the first \$50,000 recovered by the claimant(s).
- (2) 33½ percent of the next \$50,000 recovered by the claimant(s).
- (3) 25 percent of the next \$500,000 recovered by the claimant(s).
- (4) 15 percent of any amount by which the recovery by the claimant(s) is in excess of \$600,000.

(b) **APPLICABILITY.**—The limitations in this section shall apply whether the recovery is by judgment, settlement, mediation, arbitration, or any other form of alternative dispute resolution. In a health care lawsuit involving a minor or incompetent person, a court retains the authority to authorize or approve a fee that is less than the maximum

permitted under this section. The requirement for court supervision in the first two sentences of subsection (a) applies only in civil actions.

**SEC. 304. ADDITIONAL HEALTH BENEFITS.**

In any health care lawsuit involving injury or wrongful death, any party may introduce evidence of collateral source benefits. If a party elects to introduce such evidence, any opposing party may introduce evidence of any amount paid or contributed or reasonably likely to be paid or contributed in the future by or on behalf of the opposing party to secure the right to such collateral source benefits. No provider of collateral source benefits shall recover any amount against the claimant or receive any lien or credit against the claimant's recovery or be equitably or legally subrogated to the right of the claimant in a health care lawsuit involving injury or wrongful death. This section shall apply to any health care lawsuit that is settled as well as a health care lawsuit that is resolved by a fact finder. This section shall not apply to section 1862(b) (42 U.S.C. 1395y(b)) or section 1902(a)(25) (42 U.S.C. 1396a(a)(25)) of the Social Security Act.

**SEC. 305. PUNITIVE DAMAGES.**

(a) **IN GENERAL.**—Punitive damages may, if otherwise permitted by applicable State or Federal law, be awarded against any person in a health care lawsuit only if it is proven by clear and convincing evidence that such person acted with malicious intent to injure the claimant, or that such person deliberately failed to avoid unnecessary injury that such person knew the claimant was substantially certain to suffer. In any health care lawsuit where no judgment for compensatory damages is rendered against such person, no punitive damages may be awarded with respect to the claim in such lawsuit. No demand for punitive damages shall be included in a health care lawsuit as initially filed. A court may allow a claimant to file an amended pleading for punitive damages only upon a motion by the claimant and after a finding by the court, upon review of supporting and opposing affidavits or after a hearing, after weighing the evidence, that the claimant has established by a substantial probability that the claimant will prevail on the claim for punitive damages. At the request of any party in a health care lawsuit, the trier of fact shall consider in a separate proceeding—

- (1) whether punitive damages are to be awarded and the amount of such award; and
- (2) the amount of punitive damages following a determination of punitive liability. If a separate proceeding is requested, evidence relevant only to the claim for punitive damages, as determined by applicable State law, shall be inadmissible in any proceeding to determine whether compensatory damages are to be awarded.

(b) **DETERMINING AMOUNT OF PUNITIVE DAMAGES.**—

(1) **FACTORS CONSIDERED.**—In determining the amount of punitive damages, if awarded, in a health care lawsuit, the trier of fact shall consider only the following—

- (A) the severity of the harm caused by the conduct of such party;
- (B) the duration of the conduct or any concealment of it by such party;
- (C) the profitability of the conduct to such party;
- (D) the number of products sold or medical procedures rendered for compensation, as the case may be, by such party, of the kind causing the harm complained of by the claimant;
- (E) any criminal penalties imposed on such party, as a result of the conduct complained of by the claimant; and

(F) the amount of any civil fines assessed against such party as a result of the conduct complained of by the claimant.

(2) **MAXIMUM AWARD.**—The amount of punitive damages, if awarded, in a health care lawsuit may be as much as \$250,000 or as much as two times the amount of economic damages awarded, whichever is greater. The jury shall not be informed of this limitation.

**SEC. 306. AUTHORIZATION OF PAYMENT OF FUTURE DAMAGES TO CLAIMANTS IN HEALTH CARE LAWSUITS.**

(a) **IN GENERAL.**—In any health care lawsuit, if an award of future damages, without reduction to present value, equaling or exceeding \$50,000 is made against a party with sufficient insurance or other assets to fund a periodic payment of such a judgment, the court shall, at the request of any party, enter a judgment ordering that the future damages be paid by periodic payments. In any health care lawsuit, the court may be guided by the Uniform Periodic Payment of Judgments Act promulgated by the National Conference of Commissioners on Uniform State Laws.

(b) **APPLICABILITY.**—This section applies to all actions which have not been first set for trial or retrial before the effective date of this title.

**SEC. 307. DEFINITIONS.**

In this title:

(1) **ALTERNATIVE DISPUTE RESOLUTION SYSTEM; ADR.**—The term "alternative dispute resolution system" or "ADR" means a system that provides for the resolution of health care lawsuits in a manner other than through a civil action brought in a State or Federal court.

(2) **CLAIMANT.**—The term "claimant" means any person who brings a health care lawsuit, including a person who asserts or claims a right to legal or equitable contribution, indemnity, or subrogation, arising out of a health care liability claim or action, and any person on whose behalf such a claim is asserted or such an action is brought, whether deceased, incompetent, or a minor.

(3) **COLLATERAL SOURCE BENEFITS.**—The term "collateral source benefits" means any amount paid or reasonably likely to be paid in the future to or on behalf of the claimant, or any service, product, or other benefit provided or reasonably likely to be provided in the future to or on behalf of the claimant, as a result of the injury or wrongful death, pursuant to—

(A) any State or Federal health, sickness, income-disability, accident, or workers' compensation law;

(B) any health, sickness, income-disability, or accident insurance that provides health benefits or income-disability coverage;

(C) any contract or agreement of any group, organization, partnership, or corporation to provide, pay for, or reimburse the cost of medical, hospital, dental, or income-disability benefits; and

(D) any other publicly or privately funded program.

(4) **COMPENSATORY DAMAGES.**—The term "compensatory damages" means objectively verifiable monetary losses incurred as a result of the provision of, use of, or payment for (or failure to provide, use, or pay for) health care services or medical products, such as past and future medical expenses, loss of past and future earnings, cost of obtaining domestic services, loss of employment, and loss of business or employment opportunities, damages for physical and emotional pain, suffering, inconvenience, physical impairment, mental anguish, disfigurement, loss of enjoyment of life, loss of

society and companionship, loss of consortium (other than loss of domestic service), hedonic damages, injury to reputation, and all other nonpecuniary losses of any kind or nature. The term “compensatory damages” includes economic damages and non-economic damages, as such terms are defined in this section.

(5) **CONTINGENT FEE.**—The term “contingent fee” includes all compensation to any person or persons which is payable only if a recovery is effected on behalf of one or more claimants.

(6) **ECONOMIC DAMAGES.**—The term “economic damages” means objectively verifiable monetary losses incurred as a result of the provision of, use of, or payment for (or failure to provide, use, or pay for) health care services or medical products, such as past and future medical expenses, loss of past and future earnings, cost of obtaining domestic services, loss of employment, and loss of business or employment opportunities.

(7) **HEALTH CARE LAWSUIT.**—The term “health care lawsuit” means any health care liability claim concerning the provision of health care goods or services or any medical product affecting interstate commerce, or any health care liability action concerning the provision of health care goods or services or any medical product affecting interstate commerce, brought in a State or Federal court or pursuant to an alternative dispute resolution system, against a health care provider, a health care organization, or the manufacturer, distributor, supplier, marketer, promoter, or seller of a medical product, regardless of the theory of liability on which the claim is based, or the number of claimants, plaintiffs, defendants, or other parties, or the number of claims or causes of action, in which the claimant alleges a health care liability claim. Such term does not include a claim or action which is based on criminal liability; which seeks civil fines or penalties paid to Federal, State, or local government; or which is grounded in antitrust.

(8) **HEALTH CARE LIABILITY ACTION.**—The term “health care liability action” means a civil action brought in a State or Federal court or pursuant to an alternative dispute resolution system, against a health care provider, a health care organization, or the manufacturer, distributor, supplier, marketer, promoter, or seller of a medical product, regardless of the theory of liability on which the claim is based, or the number of plaintiffs, defendants, or other parties, or the number of causes of action, in which the claimant alleges a health care liability claim.

(9) **HEALTH CARE LIABILITY CLAIM.**—The term “health care liability claim” means a demand by any person, whether or not pursuant to ADR, against a health care provider, health care organization, or the manufacturer, distributor, supplier, marketer, promoter, or seller of a medical product, including, but not limited to, third-party claims, cross-claims, counter-claims, or contribution claims, which are based upon the provision of, use of, or payment for (or the failure to provide, use, or pay for) health care services or medical products, regardless of the theory of liability on which the claim is based, or the number of plaintiffs, defendants, or other parties, or the number of causes of action.

(10) **HEALTH CARE ORGANIZATION.**—The term “health care organization” means any person or entity which is obligated to provide or pay for health benefits under any health plan, including any person or entity acting

under a contract or arrangement with a health care organization to provide or administer any health benefit.

(11) **HEALTH CARE PROVIDER.**—The term “health care provider” means any person or entity required by State or Federal laws or regulations to be licensed, registered, or certified to provide health care services, and being either so licensed, registered, or certified, or exempted from such requirement by other statute or regulation.

(12) **HEALTH CARE GOODS OR SERVICES.**—The term “health care goods or services” means any goods or services provided by a health care organization, provider, or by any individual working under the supervision of a health care provider, that relates to the diagnosis, prevention, or treatment of any human disease or impairment, or the assessment or care of the health of human beings.

(13) **MALICIOUS INTENT TO INJURE.**—The term “malicious intent to injure” means intentionally causing or attempting to cause physical injury other than providing health care goods or services.

(14) **MEDICAL PRODUCT.**—The term “medical product” means a drug, device, or biological product intended for humans, and the terms “drug”, “device”, and “biological product” have the meanings given such terms in sections 201(g)(1) and 201(h) of the Federal Food, Drug and Cosmetic Act (21 U.S.C. 321(g)(1) and (h)) and section 351(a) of the Public Health Service Act (42 U.S.C. 262(a)), respectively, including any component or raw material used therein, but excluding health care services.

(15) **NONECONOMIC DAMAGES.**—The term “noneconomic damages” means damages for physical and emotional pain, suffering, inconvenience, physical impairment, mental anguish, disfigurement, loss of enjoyment of life, loss of society and companionship, loss of consortium (other than loss of domestic service), hedonic damages, injury to reputation, and all other nonpecuniary losses of any kind or nature.

(16) **PUNITIVE DAMAGES.**—The term “punitive damages” means damages awarded, for the purpose of punishment or deterrence, and not solely for compensatory purposes, against a health care provider, health care organization, or a manufacturer, distributor, or supplier of a medical product. Punitive damages are neither economic nor noneconomic damages.

(17) **RECOVERY.**—The term “recovery” means the net sum recovered after deducting any disbursements or costs incurred in connection with prosecution or settlement of the claim, including all costs paid or advanced by any person. Costs of health care incurred by the plaintiff and the attorneys’ office overhead costs or charges for legal services are not deductible disbursements or costs for such purpose.

(18) **STATE.**—The term “State” means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States, or any political subdivision thereof.

#### SEC. 308. EFFECT ON OTHER LAWS.

(a) **VACCINE INJURY.**—

(1) To the extent that title XXI of the Public Health Service Act establishes a Federal rule of law applicable to a civil action brought for a vaccine-related injury or death—

(A) this title does not affect the application of the rule of law to such an action; and

(B) any rule of law prescribed by this title in conflict with a rule of law of such title XXI shall not apply to such action.

(2) If there is an aspect of a civil action brought for a vaccine-related injury or death to which a Federal rule of law under title XXI of the Public Health Service Act does not apply, then this title or otherwise applicable law (as determined under this title) will apply to such aspect of such action.

(b) **OTHER FEDERAL LAW.**—Except as provided in this section, nothing in this title shall be deemed to affect any defense available to a defendant in a health care lawsuit or action under any other provision of Federal law.

#### SEC. 309. STATE FLEXIBILITY AND PROTECTION OF STATES’ RIGHTS.

(a) **HEALTH CARE LAWSUITS.**—The provisions governing health care lawsuits set forth in this title preempt, subject to subsections (b) and (c), State law to the extent that State law prevents the application of any provisions of law established by or under this title. The provisions governing health care lawsuits set forth in this title supersede chapter 171 of title 28, United States Code, to the extent that such chapter—

(1) provides for a greater amount of damages or contingent fees, a longer period in which a health care lawsuit may be commenced, or a reduced applicability or scope of periodic payment of future damages, than provided in this title; or

(2) prohibits the introduction of evidence regarding collateral source benefits, or mandates or permits subrogation or a lien on collateral source benefits.

(b) **PROTECTION OF STATES’ RIGHTS AND OTHER LAWS.**—(1) Any issue that is not governed by any provision of law established by or under this title (including State standards of negligence) shall be governed by otherwise applicable State or Federal law.

(2) This title shall not preempt or supersede any State or Federal law that imposes greater procedural or substantive protections for health care providers and health care organizations from liability, loss, or damages than those provided by this title or create a cause of action.

(c) **STATE FLEXIBILITY.**—No provision of this title shall be construed to preempt—

(1) any State law (whether effective before, on, or after the date of the enactment of this Act) that specifies a particular monetary amount of compensatory or punitive damages (or the total amount of damages) that may be awarded in a health care lawsuit, regardless of whether such monetary amount is greater or lesser than is provided for under this title, notwithstanding section 302(a); or

(2) any defense available to a party in a health care lawsuit under any other provision of State or Federal law.

#### SEC. 310. APPLICABILITY; EFFECTIVE DATE.

This title shall apply to any health care lawsuit brought in a Federal or State court, or subject to an alternative dispute resolution system, that is initiated on or after the date of the enactment of this Act, except that any health care lawsuit arising from an injury occurring prior to the date of the enactment of this Act shall be governed by the applicable statute of limitations provisions in effect at the time the injury occurred.

#### DIVISION D—PROTECTING THE DOCTOR-PATIENT RELATIONSHIP

##### SEC. 401. RULE OF CONSTRUCTION.

Nothing in this Act shall be construed to interfere with the doctor-patient relationship or the practice of medicine.

**SEC. 402. REPEAL OF FEDERAL COORDINATING COUNCIL FOR COMPARATIVE EFFECTIVENESS RESEARCH.**

Effective on the date of the enactment of this Act, section 804 of the American Recovery and Reinvestment Act of 2009 is repealed.

**DIVISION E—INCENTIVIZING WELLNESS AND QUALITY IMPROVEMENTS**

**SEC. 501. INCENTIVES FOR PREVENTION AND WELLNESS PROGRAMS.**

(a) **EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974 LIMITATION ON EXCEPTION FOR WELLNESS PROGRAMS UNDER HIPAA DISCRIMINATION RULES.**—

(1) **IN GENERAL.**—Section 702(b)(2) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1182(b)(2)) is amended by adding after and below subparagraph (B) the following:

“In applying subparagraph (B), a group health plan (or a health insurance issuer with respect to health insurance coverage) may vary premiums and cost-sharing by up to 50 percent of the value of the benefits under the plan (or coverage) based on participation in a standards-based wellness program.”

(2) **EFFECTIVE DATE.**—The amendment made by paragraph (1) shall apply to plan years beginning more than 1 year after the date of the enactment of this Act.

(b) **CONFORMING AMENDMENTS TO PHSA.**—

(1) **GROUP MARKET RULES.**—

(A) **IN GENERAL.**—Section 2702(b)(2) of the Public Health Service Act (42 U.S.C. 300gg-1(b)(2)) is amended by adding after and below subparagraph (B) the following:

“In applying subparagraph (B), a group health plan (or a health insurance issuer with respect to health insurance coverage) may vary premiums and cost-sharing by up to 50 percent of the value of the benefits under the plan (or coverage) based on participation in a standards-based wellness program.”

(B) **EFFECTIVE DATE.**—The amendment made by subparagraph (A) shall apply to plan years beginning more than 1 year after the date of the enactment of this Act.

(2) **INDIVIDUAL MARKET RULES RELATING TO GUARANTEED AVAILABILITY.**—

(A) **IN GENERAL.**—Section 2741(f) of the Public Health Service Act (42 U.S.C. 300gg-1(b)(2)) is amended by adding after and below paragraph (1) the following:

“In applying paragraph (2), a health insurance issuer may vary premiums and cost-sharing under health insurance coverage by up to 50 percent of the value of the benefits under the coverage based on participation in a standards-based wellness program.”

(B) **EFFECTIVE DATE.**—The amendment made by paragraph (1) shall apply to health insurance coverage offered or renewed on and after the date that is 1 year after the date of the enactment of this Act.

(c) **CONFORMING AMENDMENTS TO IRC.**—

(1) **IN GENERAL.**—Section 9802(b)(2) of the Internal Revenue Code of 1986 is amended by adding after and below subparagraph (B) the following:

“In applying subparagraph (B), a group health plan (or a health insurance issuer with respect to health insurance coverage) may vary premiums and cost-sharing by up to 50 percent of the value of the benefits under the plan (or coverage) based on participation in a standards-based wellness program.”

(2) **EFFECTIVE DATE.**—The amendment made by paragraph (1) shall apply to plan years beginning more than 1 year after the date of the enactment of this Act.

**DIVISION F—PROTECTING TAXPAYERS**

**SEC. 601. PROVIDE FULL FUNDING TO HHS OIG AND HCFAC.**

(a) **HCFAC FUNDING.**—Section 1817(k)(3)(A) of the Social Security Act (42 U.S.C. 1395i(k)(3)(A)) is amended—

(1) in clause (i)—

(A) in subclause (IV), by striking “2009, and 2010” and inserting “and 2009”; and

(B) by amending subclause (V) to read as follows:

“(V) for each fiscal year after fiscal year 2009, \$300,000,000.”; and

(2) in clause (ii)—

(A) in subclause (IX), by striking “2009, and 2010” and inserting “and 2009”; and

(B) in subclause (X), by striking “2010” and inserting “2009” and by inserting before the period at the end the following: “, plus the amount by which the amount made available under clause (i)(V) for fiscal year 2010 exceeds the amount made available under clause (i)(IV) for 2009”.

(b) **OIG FUNDING.**—There are authorized to be appropriated for each of fiscal years 2010 through 2019 \$100,000,000 for the Office of the Inspector General of the Department of Health and Human Services for fraud prevention activities under the Medicare and Medicaid programs.

**SEC. 602. PROHIBITING TAXPAYER FUNDED ABORTIONS AND CONSCIENCE PROTECTIONS.**

Title 1 of the United States Code is amended by adding at the end the following new chapter:

**“CHAPTER 4—PROHIBITING TAXPAYER FUNDED ABORTIONS AND CONSCIENCE PROTECTIONS**

**“SEC. 301. PROHIBITION ON FUNDING FOR ABORTIONS.**

“No funds authorized or appropriated by federal law, and none of the funds in any trust fund to which funds are authorized or appropriated by federal law, shall be expended for any abortion.

**“SEC. 302. PROHIBITION ON FUNDING FOR HEALTH BENEFITS PLANS THAT COVER ABORTION.**

“None of the funds authorized or appropriated by federal law, and none of the funds in any trust fund to which funds are authorized or appropriated by federal law, shall be expended for a health benefits plan that includes coverage of abortion.

**“SEC. 303. TREATMENT OF ABORTIONS RELATED TO RAPE, INCEST, OR PRESERVING THE LIFE OF THE MOTHER.**

“The limitations established in sections 301 and 302 shall not apply to an abortion—

“(1) if the pregnancy is the result of an act of rape or incest; or

“(2) in the case where a woman suffers from a physical disorder, physical injury, or physical illness that would, as certified by a physician, place the woman in danger of death unless an abortion is performed, including a life-endangering physical condition caused by or arising from the pregnancy itself.

**“SEC. 304. CONSTRUCTION RELATING TO SUPPLEMENTAL COVERAGE.**

“Nothing in this chapter shall be construed as prohibiting any individual, entity, or State or locality from purchasing separate supplemental abortion plan or coverage that includes abortion so long as such plan or coverage is paid for entirely using only funds not authorized or appropriated by federal law and such plan or coverage shall not be purchased using matching funds required for a federally subsidized program, including a State’s or locality’s contribution of Medicaid matching funds.

**“SEC. 305. CONSTRUCTION RELATING TO THE USE OF NON-FEDERAL FUNDS FOR HEALTH COVERAGE.**

“Nothing in this chapter shall be construed as restricting the ability of any managed care provider or other organization from offering abortion coverage or the ability of a State to contract separately with such a provider or organization for such coverage with funds not authorized or appropriated by federal law and such plan or coverage shall not be purchased using matching funds required for a federally subsidized program, including a State’s or locality’s contribution of Medicaid matching funds.

**“SEC. 306. NO GOVERNMENT DISCRIMINATION AGAINST CERTAIN HEALTH CARE ENTITIES.**

“(a) **IN GENERAL.**—No funds authorized or appropriated by federal law may be made available to a Federal agency or program, or to a State or local government, if such agency, program, or government subjects any institutional or individual health care entity to discrimination on the basis that the health care entity does not provide, pay for, provide coverage of, or refer for abortions.

“(b) **HEALTH CARE ENTITY DEFINED.**—For purposes of this section, the term ‘health care entity’ includes an individual physician or other health care professional, a hospital, a provider-sponsored organization, a health maintenance organization, a health insurance plan, or any other kind of health care facility, organization, or plan.”

**SEC. 603. IMPROVED ENFORCEMENT OF THE MEDICARE AND MEDICAID SECONDARY PAYER PROVISIONS.**

(a) **MEDICARE.**—

(1) **IN GENERAL.**—The Secretary, in coordination with the Inspector General of the Department of Health and Human Services, shall provide through the Coordination of Benefits Contractor for the identification of instances where the Medicare program should be, but is not, acting as a secondary payer to an individual’s private health benefits coverage under section 1862(b) of the Social Security Act (42 U.S.C. 1395y(b)).

(2) **UPDATING PROCEDURES.**—The Secretary shall update procedures for identifying and resolving credit balance situations which occur under the Medicare program when payment under such title and from other health benefit plans exceed the providers’ charges or the allowed amount.

(3) **REPORT ON IMPROVED ENFORCEMENT.**—Not later than 1 year after the date of the enactment of this Act, the Secretary shall submit a report to Congress on progress made in improved enforcement of the Medicare secondary payer provisions, including recoupment of credit balances.

(b) **MEDICAID.**—Section 1903 of the Social Security Act (42 U.S.C. 1396b) is amended by adding at the end the following new subsection:

“(aa) **ENFORCEMENT OF PAYER OF LAST RESORT PROVISIONS.**—

“(1) **SUBMISSION OF STATE PLAN AMENDMENT.**—Each State shall submit, not later than 1 year after the date of the enactment of this subsection, a State plan amendment that details how the State will become fully compliant with the requirements of section 1902(a)(25).

“(2) **BONUS FOR COMPLIANCE.**—If a State submits a timely State plan amendment under paragraph (1) that the Secretary determines provides for full compliance of the State with the requirements of section 1902(a)(25), the Secretary shall provide for an additional payment to the State of \$1,000,000. If a State certifies, to the Secretary’s satisfaction, that it is already fully compliant

with such requirements, such amount shall be increased to \$2,000,000.

“(3) REDUCTION FOR NONCOMPLIANCE.—If a State does not submit such an amendment, the Secretary shall reduce the Federal medical assistance percentage otherwise applicable under this title by 1 percentage point until the State submits such an amendment.

“(4) ONGOING REDUCTION.—If at any time the Secretary determines that a State is not in compliance with section 1902(a)(25), regardless of the status of the State’s submission of a State plan amendment under this subsection or previous determinations of compliance such requirements, the Secretary shall reduce the Federal medical assistance percentage otherwise applicable under this title for the State by 1 percentage point during the period of non-compliance as determined by the Secretary.”

#### **SEC. 604. STRENGTHEN MEDICARE PROVIDER ENROLLMENT STANDARDS AND SAFEGUARDS.**

(a) PROTECTING AGAINST THE FRAUDULENT USE OF MEDICARE PROVIDER NUMBERS.—Subject to subsection (c)(2)—

(1) SCREENING NEW PROVIDERS.—As a condition of a provider of services or a supplier, including durable medical equipment suppliers and home health agencies, applying for the first time for a provider number under the Medicare program and before granting billing privileges under such title, the Secretary shall screen the provider or supplier for a criminal background or other financial or operational irregularities through fingerprinting, licensure checks, site-visits, other database checks.

(2) APPLICATION FEES.—The Secretary shall impose an application charge on such a provider or supplier in order to cover the Secretary’s costs in performing the screening required under paragraph (1) and that is revenue neutral to the Federal government.

(3) PROVISIONAL APPROVAL.—During an initial, provisional period (specified by the Secretary) in which such a provider or supplier has been issued such a number, the Secretary shall provide enhanced oversight of the activities of such provider or supplier under the Medicare program, such as through prepayment review and payment limitations.

(4) PENALTIES FOR FALSE STATEMENTS.—In the case of a provider or supplier that makes a false statement in an application for such a number, the Secretary may exclude the provider or supplier from participation under the Medicare program, or may impose a civil money penalty (in the amount described in section 1128A(a)(4) of the Social Security Act), in the same manner as the Secretary may impose such an exclusion or penalty under sections 1128 and 1128A, respectively, of such Act in the case of knowing presentation of a false claim described in section 1128A(a)(1)(A) of such Act.

(5) DISCLOSURE REQUIREMENTS.—With respect to approval of such an application, the Secretary—

(A) shall require applicants to disclose previous affiliation with enrolled entities that have uncollected debt related to the Medicare or Medicaid programs;

(B) may deny approval if the Secretary determines that these affiliations pose undue risk to the Medicare or Medicaid program, subject to an appeals process for the applicant as determined by the Secretary; and

(C) may implement enhanced safeguards (such as surety bonds).

(b) MORATORIA.—The Secretary may impose moratoria on approval of provider and supplier numbers under the Medicare pro-

gram for new providers of services and suppliers as determined necessary to prevent or combat fraud a period of delay for any one applicant cannot exceed 30 days unless cause is shown by the Secretary.

(c) FUNDING.—

(1) IN GENERAL.—There are authorized to be appropriated to carry out this section such sums as may be necessary.

(2) CONDITION.—The provisions of paragraphs (1) and (2) of subsection (a) shall not apply unless and until funds are appropriated to carry out such provisions.

#### **SEC. 605. TRACKING BANNED PROVIDERS ACROSS STATE LINES.**

(a) GREATER COORDINATION.—The Secretary of Health and Human Services shall provide for increased coordination between the Administrator of the Centers for Medicare & Medicaid Services (in this section referred to as “CMS”) and its regional offices to ensure that providers of services and suppliers that have operated in one State and are excluded from participation in the Medicare program are unable to begin operation and participation in the Medicare program in another State.

(b) IMPROVED INFORMATION SYSTEMS.—

(1) IN GENERAL.—The Secretary shall improve information systems to allow greater integration between databases under the Medicare program so that—

(A) medicare administrative contractors, fiscal intermediaries, and carriers have immediate access to information identifying providers and suppliers excluded from participation in the Medicare and Medicaid program and other Federal health care programs; and

(B) such information can be shared across Federal health care programs and agencies, including between the Departments of Health and Human Services, the Social Security Administration, the Department of Veterans Affairs, the Department of Defense, the Department of Justice, and the Office of Personnel Management.

(c) MEDICARE/MEDICAID “ONE PI” DATABASE.—The Secretary shall implement a database that includes claims and payment data for all components of the Medicare program and the Medicaid program.

(d) AUTHORIZING EXPANDED DATA MATCHING.—Notwithstanding any provision of the Computer Matching and Privacy Protection Act of 1988 to the contrary—

(1) the Secretary and the Inspector General in the Department of Health and Human Services may perform data matching of data from the Medicare program with data from the Medicaid program; and

(2) the Commissioner of Social Security and the Secretary may perform data matching of data of the Social Security Administration with data from the Medicare and Medicaid programs.

(e) CONSOLIDATION OF DATA BASES.—The Secretary shall consolidate and expand into a centralized data base for individuals and entities that have been excluded from Federal health care programs the Healthcare Integrity and Protection Data Bank, the National Practitioner Data Bank, the List of Excluded Individuals/Entities, and a national patient abuse/neglect registry.

(f) COMPREHENSIVE PROVIDER DATABASE.—

(1) ESTABLISHMENT.—The Secretary shall establish a comprehensive database that includes information on providers of services, suppliers, and related entities participating in the Medicare program, the Medicaid program, or both. Such database shall include, information on ownership and business relationships, history of adverse actions, results

of site visits or other monitoring by any program.

(2) USE.—Prior to issuing a provider or supplier number for an entity under the Medicare program, the Secretary shall obtain information on the entity from such database to assure the entity qualifies for the issuance of such a number.

(g) COMPREHENSIVE SANCTIONS DATABASE.—The Secretary shall establish a comprehensive sanctions database on sanctions imposed on providers of services, suppliers, and related entities. Such database shall be overseen by the Inspector General of the Department of Health and Human Services and shall be linked to related databases maintained by State licensure boards and by Federal or State law enforcement agencies.

(h) ACCESS TO CLAIMS AND PAYMENT DATABASES.—The Secretary shall ensure that the Inspector General of the Department of Health and Human Services and Federal law enforcement agencies have direct access to all claims and payment databases of the Secretary under the Medicare or Medicaid programs.

(i) CIVIL MONEY PENALTIES FOR SUBMISSION OF ERRONEOUS INFORMATION.—In the case of a provider of services, supplier, or other entity that submits erroneous information that serves as a basis for payment of any entity under the Medicare or Medicaid program, the Secretary may impose a civil money penalty of not to exceed \$50,000 for each such erroneous submission. A civil money penalty under this subsection shall be imposed and collected in the same manner as a civil money penalty under subsection (a) of section 1128A of the Social Security Act is imposed and collected under that section.

#### **DIVISION G—PATHWAY FOR BIOSIMILAR BIOLOGICAL PRODUCTS**

##### **SEC. 701. LICENSURE PATHWAY FOR BIOSIMILAR BIOLOGICAL PRODUCTS.**

(a) LICENSURE OF BIOLOGICAL PRODUCTS AS BIOSIMILAR OR INTERCHANGEABLE.—Section 351 of the Public Health Service Act (42 U.S.C. 262) is amended—

(1) in subsection (a)(1)(A), by inserting “under this subsection or subsection (k)” after “biologics license”; and

(2) by adding at the end the following:

“(k) LICENSURE OF BIOLOGICAL PRODUCTS AS BIOSIMILAR OR INTERCHANGEABLE.—

“(1) IN GENERAL.—Any person may submit an application for licensure of a biological product under this subsection.

“(2) CONTENT.—

“(A) IN GENERAL.—

“(i) REQUIRED INFORMATION.—An application submitted under this subsection shall include information demonstrating that—

“(I) the biological product is biosimilar to a reference product based upon data derived from—

“(aa) analytical studies that demonstrate that the biological product is highly similar to the reference product notwithstanding minor differences in clinically inactive components;

“(bb) animal studies (including the assessment of toxicity); and

“(cc) a clinical study or studies (including the assessment of immunogenicity and pharmacokinetics or pharmacodynamics) that are sufficient to demonstrate safety, purity, and potency in 1 or more appropriate conditions of use for which the reference product is licensed and intended to be used and for which licensure is sought for the biological product;

“(II) the biological product and reference product utilize the same mechanism or mechanisms of action for the condition or



conditions of use prescribed, recommended, or suggested in the proposed labeling, but only to the extent the mechanism or mechanisms of action are known for the reference product;

“(III) the condition or conditions of use prescribed, recommended, or suggested in the labeling proposed for the biological product have been previously approved for the reference product;

“(IV) the route of administration, the dosage form, and the strength of the biological product are the same as those of the reference product; and

“(V) the facility in which the biological product is manufactured, processed, packed, or held meets standards designed to assure that the biological product continues to be safe, pure, and potent.

“(ii) DETERMINATION BY SECRETARY.—The Secretary may determine, in the Secretary’s discretion, that an element described in clause (i)(I) is unnecessary in an application submitted under this subsection.

“(iii) ADDITIONAL INFORMATION.—An application submitted under this subsection—

“(I) shall include publicly available information regarding the Secretary’s previous determination that the reference product is safe, pure, and potent; and

“(II) may include any additional information in support of the application, including publicly available information with respect to the reference product or another biological product.

“(B) INTERCHANGEABILITY.—An application (or a supplement to an application) submitted under this subsection may include information demonstrating that the biological product meets the standards described in paragraph (4).

“(3) EVALUATION BY SECRETARY.—Upon review of an application (or a supplement to an application) submitted under this subsection, the Secretary shall license the biological product under this subsection if—

“(A) the Secretary determines that the information submitted in the application (or the supplement) is sufficient to show that the biological product—

“(i) is biosimilar to the reference product; or

“(ii) meets the standards described in paragraph (4), and therefore is interchangeable with the reference product; and

“(B) the applicant (or other appropriate person) consents to the inspection of the facility that is the subject of the application, in accordance with subsection (c).

“(4) SAFETY STANDARDS FOR DETERMINING INTERCHANGEABILITY.—Upon review of an application submitted under this subsection or any supplement to such application, the Secretary shall determine the biological product to be interchangeable with the reference product if the Secretary determines that the information submitted in the application (or a supplement to such application) is sufficient to show that—

“(A) the biological product—

“(i) is biosimilar to the reference product; and

“(ii) can be expected to produce the same clinical result as the reference product in any given patient; and

“(B) for a biological product that is administered more than once to an individual, the risk in terms of safety or diminished efficacy of alternating or switching between use of the biological product and the reference product is not greater than the risk of using the reference product without such alternation or switch.

“(5) GENERAL RULES.—

“(A) ONE REFERENCE PRODUCT PER APPLICATION.—A biological product, in an application submitted under this subsection, may not be evaluated against more than 1 reference product.

“(B) REVIEW.—An application submitted under this subsection shall be reviewed by the division within the Food and Drug Administration that is responsible for the review and approval of the application under which the reference product is licensed.

“(C) RISK EVALUATION AND MITIGATION STRATEGIES.—The authority of the Secretary with respect to risk evaluation and mitigation strategies under the Federal Food, Drug, and Cosmetic Act shall apply to biological products licensed under this subsection in the same manner as such authority applies to biological products licensed under subsection (a).

“(D) RESTRICTIONS ON BIOLOGICAL PRODUCTS CONTAINING DANGEROUS INGREDIENTS.—If information in an application submitted under this subsection, in a supplement to such an application, or otherwise available to the Secretary shows that a biological product—

“(i) is, bears, or contains a select agent or toxin listed in section 73.3 or 73.4 of title 42, section 121.3 or 121.4 of title 9, or section 331.3 of title 7, Code of Federal Regulations (or any successor regulations); or

“(ii) is, bears, or contains a controlled substance in schedule I or II of section 202 of the Controlled Substances Act, as listed in part 1308 of title 21, Code of Federal Regulations (or any successor regulations);

the Secretary shall not license the biological product under this subsection unless the Secretary determines, after consultation with appropriate national security and drug enforcement agencies, that there would be no increased risk to the security or health of the public from licensing such biological product under this subsection.

“(6) EXCLUSIVITY FOR FIRST INTERCHANGEABLE BIOLOGICAL PRODUCT.—Upon review of an application submitted under this subsection relying on the same reference product for which a prior biological product has received a determination of interchangeability for any condition of use, the Secretary shall not make a determination under paragraph (4) that the second or subsequent biological product is interchangeable for any condition of use until the earlier of—

“(A) 1 year after the first commercial marketing of the first interchangeable biosimilar biological product to be approved as interchangeable for that reference product;

“(B) 18 months after—

“(i) a final court decision on all patents in suit in an action instituted under subsection (1)(5) against the applicant that submitted the application for the first approved interchangeable biosimilar biological product; or

“(ii) the dismissal with or without prejudice of an action instituted under subsection (1)(5) against the applicant that submitted the application for the first approved interchangeable biosimilar biological product; or

“(C) 42 months after approval of the first interchangeable biosimilar biological product if the applicant that submitted such application has been sued under subsection (1)(5) and such litigation is still ongoing within such 42-month period; or

“(ii) 18 months after approval of the first interchangeable biosimilar biological product if the applicant that submitted such application has not been sued under subsection (1)(5).

For purposes of this paragraph, the term ‘final court decision’ means a final decision of a court from which no appeal (other than

a petition to the United States Supreme Court for a writ of certiorari) has been or can be taken.

“(7) EXCLUSIVITY FOR REFERENCE PRODUCT.—

“(A) EFFECTIVE DATE OF BIOSIMILAR APPLICATION APPROVAL.—Approval of an application under this subsection may not be made effective by the Secretary until the date that is 12 years after the date on which the reference product was first licensed under subsection (a).

“(B) FILING PERIOD.—An application under this subsection may not be submitted to the Secretary until the date that is 4 years after the date on which the reference product was first licensed under subsection (a).

“(C) FIRST LICENSURE.—Subparagraphs (A) and (B) shall not apply to a license for or approval of—

“(i) a supplement for the biological product that is the reference product; or

“(ii) a subsequent application filed by the same sponsor or manufacturer of the biological product that is the reference product (or a licensor, predecessor in interest, or other related entity) for—

“(I) a change (not including a modification to the structure of the biological product) that results in a new indication, route of administration, dosing schedule, dosage form, delivery system, delivery device, or strength; or

“(II) a modification to the structure of the biological product that does not result in a change in safety, purity, or potency.

“(8) PEDIATRIC STUDIES.—

“(A) EXCLUSIVITY.—If, before or after licensure of the reference product under subsection (a) of this section, the Secretary determines that information relating to the use of such product in the pediatric population may produce health benefits in that population, the Secretary makes a written request for pediatric studies (which shall include a timeframe for completing such studies), the applicant or holder of the approved application agrees to the request, such studies are completed using appropriate formulations for each age group for which the study is requested within any such timeframe, and the reports thereof are submitted and accepted in accordance with section 505A(d)(3) of the Federal Food, Drug, and Cosmetic Act the period referred to in paragraph (7)(A) of this subsection is deemed to be 12 years and 6 months rather than 12 years.

“(B) EXCEPTION.—The Secretary shall not extend the period referred to in subparagraph (A) of this paragraph if the determination under section 505A(d)(3) of the Federal Food, Drug, and Cosmetic Act is made later than 9 months prior to the expiration of such period.

“(C) APPLICATION OF CERTAIN PROVISIONS.—The provisions of subsections (a), (d), (e), (f), (h), (j), (k), and (l) of section 505A of the Federal Food, Drug, and Cosmetic Act shall apply with respect to the extension of a period under subparagraph (A) of this paragraph to the same extent and in the same manner as such provisions apply with respect to the extension of a period under subsection (b) or (c) of section 505A of the Federal Food, Drug, and Cosmetic Act.

“(9) GUIDANCE DOCUMENTS.—

“(A) IN GENERAL.—The Secretary may, after opportunity for public comment, issue guidance in accordance, except as provided in subparagraph (B)(i), with section 701(h) of the Federal Food, Drug, and Cosmetic Act with respect to the licensure of a biological product under this subsection. Any such guidance may be general or specific.

“(B) PUBLIC COMMENT.—

“(i) IN GENERAL.—The Secretary shall provide the public an opportunity to comment on any proposed guidance issued under subparagraph (A) before issuing final guidance.

“(ii) INPUT REGARDING MOST VALUABLE GUIDANCE.—The Secretary shall establish a process through which the public may provide the Secretary with input regarding priorities for issuing guidance.

“(C) NO REQUIREMENT FOR APPLICATION CONSIDERATION.—The issuance (or non-issuance) of guidance under subparagraph (A) shall not preclude the review of, or action on, an application submitted under this subsection.

“(D) REQUIREMENT FOR PRODUCT CLASS-SPECIFIC GUIDANCE.—If the Secretary issues product class-specific guidance under subparagraph (A), such guidance shall include a description of—

“(i) the criteria that the Secretary will use to determine whether a biological product is highly similar to a reference product in such product class; and

“(ii) the criteria, if available, that the Secretary will use to determine whether a biological product meets the standards described in paragraph (4).

“(E) CERTAIN PRODUCT CLASSES.—

“(i) GUIDANCE.—The Secretary may indicate in a guidance document that the science and experience, as of the date of such guidance, with respect to a product or product class (not including any recombinant protein) does not allow approval of an application for a license as provided under this subsection for such product or product class.

“(ii) MODIFICATION OR REVERSAL.—The Secretary may issue a subsequent guidance document under subparagraph (A) to modify or reverse a guidance document under clause (i).

“(iii) NO EFFECT ON ABILITY TO DENY LICENSE.—Clause (i) shall not be construed to require the Secretary to approve a product with respect to which the Secretary has not indicated in a guidance document that the science and experience, as described in clause (i), does not allow approval of such an application.

“(10) NAMING.—The Secretary shall ensure that the labeling and packaging of each biological product licensed under this subsection bears a name that uniquely identifies the biological product and distinguishes it from the reference product and any other biological products licensed under this subsection following evaluation against such reference product.

“(I) PATENT NOTICES; RELATIONSHIP TO FINAL APPROVAL.—

“(1) DEFINITIONS.—For the purposes of this subsection, the term—

“(A) ‘biosimilar product’ means the biological product that is the subject of the application under subsection (k);

“(B) ‘relevant patent’ means a patent that—

“(i) expires after the date specified in subsection (k)(7)(A) that applies to the reference product; and

“(ii) could reasonably be asserted against the applicant due to the unauthorized making, use, sale, or offer for sale within the United States, or the importation into the United States of the biosimilar product, or materials used in the manufacture of the biosimilar product, or due to a use of the biosimilar product in a method of treatment that is indicated in the application;

“(C) ‘reference product sponsor’ means the holder of an approved application or license for the reference product; and

“(D) ‘interested third party’ means a person other than the reference product sponsor

that owns a relevant patent, or has the right to commence or participate in an action for infringement of a relevant patent.

“(2) HANDLING OF CONFIDENTIAL INFORMATION.—Any entity receiving confidential information pursuant to this subsection shall designate one or more individuals to receive such information. Each individual so designated shall execute an agreement in accordance with regulations promulgated by the Secretary. The regulations shall require each such individual to take reasonable steps to maintain the confidentiality of information received pursuant to this subsection and use the information solely for purposes authorized by this subsection. The obligations imposed on an individual who has received confidential information pursuant to this subsection shall continue until the individual returns or destroys the confidential information, a court imposes a protective order that governs the use or handling of the confidential information, or the party providing the confidential information agrees to other terms or conditions regarding the handling or use of the confidential information.

“(3) PUBLIC NOTICE BY SECRETARY.—Within 30 days of acceptance by the Secretary of an application filed under subsection (k), the Secretary shall publish a notice identifying—

“(A) the reference product identified in the application; and

“(B) the name and address of an agent designated by the applicant to receive notices pursuant to paragraph (4)(B).

“(4) EXCHANGES CONCERNING PATENTS.—

“(A) EXCHANGES WITH REFERENCE PRODUCT SPONSOR.—

“(i) Within 30 days of the date of acceptance of the application by the Secretary, the applicant shall provide the reference product sponsor with a copy of the application and information concerning the biosimilar product and its production. This information shall include a detailed description of the biosimilar product, its method of manufacture, and the materials used in the manufacture of the product.

“(ii) Within 60 days of the date of receipt of the information required to be provided under clause (i), the reference product sponsor shall provide to the applicant a list of relevant patents owned by the reference product sponsor, or in respect of which the reference product sponsor has the right to commence an action of infringement or otherwise has an interest in the patent as such patent concerns the biosimilar product.

“(iii) If the reference product sponsor is issued or acquires an interest in a relevant patent after the date on which the reference product sponsor provides the list required by clause (ii) to the applicant, the reference product sponsor shall identify that patent to the applicant within 30 days of the date of issue of the patent, or the date of acquisition of the interest in the patent, as applicable.

“(B) EXCHANGES WITH INTERESTED THIRD PARTIES.—

“(i) At any time after the date on which the Secretary publishes a notice for an application under paragraph (3), any interested third party may provide notice to the designated agent of the applicant that the interested third party owns or has rights under 1 or more patents that may be relevant patents. The notice shall identify at least 1 patent and shall designate an individual who has executed an agreement in accordance with paragraph (2) to receive confidential information from the applicant.

“(ii) Within 30 days of the date of receiving notice pursuant to clause (i), the applicant

shall send to the individual designated by the interested third party the information specified in subparagraph (A)(i), unless the applicant and interested third party otherwise agree.

“(iii) Within 90 days of the date of receiving information pursuant to clause (ii), the interested third party shall provide to the applicant a list of relevant patents which the interested third party owns, or in respect of which the interested third party has the right to commence or participate in an action for infringement.

“(iv) If the interested third party is issued or acquires an interest in a relevant patent after the date on which the interested third party provides the list required by clause (iii), the interested third party shall identify that patent within 30 days of the date of issue of the patent, or the date of acquisition of the interest in the patent, as applicable.

“(C) IDENTIFICATION OF BASIS FOR INFRINGEMENT.—For any patent identified under clause (ii) or (iii) of subparagraph (A) or under clause (iii) or (iv) of subparagraph (B), the reference product sponsor or the interested third party, as applicable—

“(i) shall explain in writing why the sponsor or the interested third party believes the relevant patent would be infringed by the making, use, sale, or offer for sale within the United States, or importation into the United States, of the biosimilar product or by a use of the biosimilar product in treatment that is indicated in the application;

“(ii) may specify whether the relevant patent is available for licensing; and

“(iii) shall specify the number and date of expiration of the relevant patent.

“(D) CERTIFICATION BY APPLICANT CONCERNING IDENTIFIED RELEVANT PATENTS.—Not later than 45 days after the date on which a patent is identified under clause (ii) or (iii) of subparagraph (A) or under clause (iii) or (iv) of subparagraph (B), the applicant shall send a written statement regarding each identified patent to the party that identified the patent. Such statement shall either—

“(i) state that the applicant will not commence marketing of the biosimilar product and has requested the Secretary to not grant final approval of the application before the date of expiration of the noticed patent; or

“(ii) provide a detailed written explanation setting forth the reasons why the applicant believes—

“(I) the making, use, sale, or offer for sale within the United States, or the importation into the United States, of the biosimilar product, or the use of the biosimilar product in a treatment indicated in the application, would not infringe the patent; or

“(II) the patent is invalid or unenforceable.

“(5) ACTION FOR INFRINGEMENT INVOLVING REFERENCE PRODUCT SPONSOR.—If an action for infringement concerning a relevant patent identified by the reference product sponsor under clause (ii) or (iii) of paragraph (4)(A), or by an interested third party under clause (iii) or (iv) of paragraph (4)(B), is brought within 60 days of the date of receipt of a statement under paragraph (4)(D)(ii), and the court in which such action has been commenced determines the patent is infringed prior to the date applicable under subsection (k)(7)(A) or (k)(8), the Secretary shall make approval of the application effective on the day after the date of expiration of the patent that has been found to be infringed. If more than one such patent is found to be infringed by the court, the approval of the application shall be made effective on the day after the date that the last such patent expires.

“(6) NOTIFICATION OF AGREEMENTS.—

“(A) REQUIREMENTS.—

“(i) AGREEMENT BETWEEN BIOSIMILAR PRODUCT APPLICANT AND REFERENCE PRODUCT SPONSOR.—If a biosimilar product applicant under subsection (k) and the reference product sponsor enter into an agreement described in subparagraph (B), the applicant and sponsor shall each file the agreement in accordance with subparagraph (C).

“(ii) AGREEMENT BETWEEN BIOSIMILAR PRODUCT APPLICANTS.—If 2 or more biosimilar product applicants submit an application under subsection (k) for biosimilar products with the same reference product and enter into an agreement described in subparagraph (B), the applicants shall each file the agreement in accordance with subparagraph (C).

“(B) SUBJECT MATTER OF AGREEMENT.—An agreement described in this subparagraph—

“(i) is an agreement between the biosimilar product applicant under subsection (k) and the reference product sponsor or between 2 or more biosimilar product applicants under subsection (k) regarding the manufacture, marketing, or sale of—

“(I) the biosimilar product (or biosimilar products) for which an application was submitted; or

“(II) the reference product;

“(ii) includes any agreement between the biosimilar product applicant under subsection (k) and the reference product sponsor or between 2 or more biosimilar product applicants under subsection (k) that is contingent upon, provides a contingent condition for, or otherwise relates to an agreement described in clause (i); and

“(iii) excludes any agreement that solely concerns—

“(I) purchase orders for raw material supplies;

“(II) equipment and facility contracts;

“(III) employment or consulting contracts; or

“(IV) packaging and labeling contracts.

“(C) FILING.—

“(i) IN GENERAL.—The text of an agreement required to be filed by subparagraph (A) shall be filed with the Assistant Attorney General and the Federal Trade Commission not later than—

“(I) 10 business days after the date on which the agreement is executed; and

“(II) prior to the date of the first commercial marketing of, for agreements described in subparagraph (A)(i), the biosimilar product that is the subject of the application or, for agreements described in subparagraph (A)(ii), any biosimilar product that is the subject of an application described in such subparagraph.

“(ii) IF AGREEMENT NOT REDUCED TO TEXT.—If an agreement required to be filed by subparagraph (A) has not been reduced to text, the persons required to file the agreement shall each file written descriptions of the agreement that are sufficient to disclose all the terms and conditions of the agreement.

“(iii) CERTIFICATION.—The chief executive officer or the company official responsible for negotiating any agreement required to be filed by subparagraph (A) shall include in any filing under this paragraph a certification as follows: ‘I declare under penalty of perjury that the following is true and correct: The materials filed with the Federal Trade Commission and the Department of Justice under section 351(1)(6) of the Public Health Service Act, with respect to the agreement referenced in this certification: (1) represent the complete, final, and exclusive agreement between the parties; (2) include any ancillary agreements that are con-

tingent upon, provide a contingent condition for, or are otherwise related to, the referenced agreement; and (3) include written descriptions of any oral agreements, representations, commitments, or promises between the parties that are responsive to such section and have not been reduced to writing.’.

“(D) DISCLOSURE EXEMPTION.—Any information or documentary material filed with the Assistant Attorney General or the Federal Trade Commission pursuant to this paragraph shall be exempt from disclosure under section 552 of title 5, United States Code, and no such information or documentary material may be made public, except as may be relevant to any administrative or judicial action or proceeding. Nothing in this subparagraph prevents disclosure of information or documentary material to either body of the Congress or to any duly authorized committee or subcommittee of the Congress.

“(E) ENFORCEMENT.—

“(i) CIVIL PENALTY.—Any person that violates a provision of this paragraph shall be liable for a civil penalty of not more than \$11,000 for each day on which the violation occurs. Such penalty may be recovered in a civil action—

“(I) brought by the United States; or

“(II) brought by the Federal Trade Commission in accordance with the procedures established in section 16(a)(1) of the Federal Trade Commission Act.

“(ii) COMPLIANCE AND EQUITABLE RELIEF.—If any person violates any provision of this paragraph, the United States district court may order compliance, and may grant such other equitable relief as the court in its discretion determines necessary or appropriate, upon application of the Assistant Attorney General or the Federal Trade Commission.

“(F) RULEMAKING.—The Federal Trade Commission, with the concurrence of the Assistant Attorney General and by rule in accordance with section 553 of title 5, United States Code, consistent with the purposes of this paragraph—

“(i) may define the terms used in this paragraph;

“(ii) may exempt classes of persons or agreements from the requirements of this paragraph; and

“(iii) may prescribe such other rules as may be necessary and appropriate to carry out the purposes of this paragraph.

“(G) SAVINGS CLAUSE.—Any action taken by the Assistant Attorney General or the Federal Trade Commission, or any failure of the Assistant Attorney General or the Commission to take action, under this paragraph shall not at any time bar any proceeding or any action with respect to any agreement between a biosimilar product applicant under subsection (k) and the reference product sponsor, or any agreement between biosimilar product applicants under subsection (k), under any other provision of law, nor shall any filing under this paragraph constitute or create a presumption of any violation of any competition laws.”.

(b) DEFINITIONS.—Section 351(i) of the Public Health Service Act (42 U.S.C. 262(i)) is amended—

(1) by striking “In this section, the term ‘biological product’ means” and inserting the following: “In this section:

“(1) The term ‘biological product’ means”;

(2) in paragraph (1), as so designated, by inserting “protein (except any chemically synthesized polypeptide),” after “allergenic product,”; and

(3) by adding at the end the following:

“(2) The term ‘biosimilar’ or ‘biosimilarity’, in reference to a biological product

that is the subject of an application under subsection (k), means—

“(A) that the biological product is highly similar to the reference product notwithstanding minor differences in clinically inactive components; and

“(B) there are no clinically meaningful differences between the biological product and the reference product in terms of the safety, purity, and potency of the product.

“(3) The term ‘interchangeable’ or ‘interchangeability’, in reference to a biological product that is shown to meet the standards described in subsection (k)(4), means that the biological product may be substituted for the reference product without the intervention of the health care provider who prescribed the reference product.

“(4) The term ‘reference product’ means the single biological product licensed under subsection (a) against which a biological product is evaluated in an application submitted under subsection (k).”.

(c) PRODUCTS PREVIOUSLY APPROVED UNDER SECTION 505.—

(1) REQUIREMENT TO FOLLOW SECTION 351.—Except as provided in paragraph (2), an application for a biological product shall be submitted under section 351 of the Public Health Service Act (42 U.S.C. 262) (as amended by this Act).

(2) EXCEPTION.—An application for a biological product may be submitted under section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355) if—

(A) such biological product is in a product class for which a biological product in such product class is the subject of an application approved under such section 505 not later than the date of enactment of this Act; and

(B) such application—

(i) has been submitted to the Secretary of Health and Human Services (referred to in this Act as the “Secretary”) before the date of enactment of this Act; or

(ii) is submitted to the Secretary not later than the date that is 10 years after the date of enactment of this Act.

(3) LIMITATION.—Notwithstanding paragraph (2), an application for a biological product may not be submitted under section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355) if there is another biological product approved under subsection (a) of section 351 of the Public Health Service Act that could be a reference product with respect to such application (within the meaning of such section 351) if such application were submitted under subsection (k) of such section 351.

(4) DEEMED APPROVED UNDER SECTION 351.—An approved application for a biological product under section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355) shall be deemed to be a license for the biological product under such section 351 on the date that is 10 years after the date of enactment of this Act.

(5) DEFINITIONS.—For purposes of this subsection, the term “biological product” has the meaning given such term under section 351 of the Public Health Service Act (42 U.S.C. 262) (as amended by this Act).

#### SEC. 702. FEES RELATING TO BIOSIMILAR BIOLOGICAL PRODUCTS.

Subparagraph (B) of section 735(1) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 379g(1)) is amended by inserting “, including licensure of a biological product under section 351(k) of such Act” before the period at the end.

#### SEC. 703. AMENDMENTS TO CERTAIN PATENT PROVISIONS.

(a) Section 271(e)(2) of title 35, United States Code is amended—

(1) in subparagraph (A), by striking “or” after “patent,”;

(2) in subparagraph (B), by adding “or” after the comma at the end;

(3) by inserting the following after subparagraph (B):

“(C) a statement under section 351(l)(4)(D)(ii) of the Public Health Service Act,”; and

(4) in the matter following subparagraph (C) (as added by paragraph (3)), by inserting before the period the following: “, or if the statement described in subparagraph (C) is provided in connection with an application to obtain a license to engage in the commercial manufacture, use, or sale of a biological product claimed in a patent or the use of which is claimed in a patent before the expiration of such patent”.

(b) Section 271(e)(4) of title 35, United States Code, is amended by striking “in paragraph (2)” in both places it appears and inserting “in paragraph (2)(A) or (2)(B)”.

The SPEAKER pro tempore. Pursuant to House Resolution 903, the gentleman from Ohio (Mr. BOEHNER) and a Member opposed each will control 30 minutes.

The Chair recognizes the gentleman from Ohio.

□ 2015

Mr. BOEHNER. Mr. Speaker, all of us know that our health care delivery system needs help. There could be broad bipartisan agreement on the kinds of steps that we need to take in order to lower the cost of health care in America and expand access. The bill before us, in my view, is a big government takeover of our health care system that will replace the current health care that Americans get.

Republicans have offered better solutions all year on the major bills that have come to this floor. I think we had a much better solution on the stimulus bill that would have created twice the jobs at half the cost. I think our better solution on the budget clearly had less spending, less debt and lower deficits.

I think our all-of-the-above American energy plan was a much better solution to the national energy tax, the so-called cap-and-trade bill, that was on this floor in June. I believe that what we have before us, as a Republican substitute, is a commonsense plan that takes steps towards reducing the cost of health insurance in America and expand access. Simple things, like allowing people to buy insurance across State lines, allowing groups of individuals or small businesses to group together for the purposes of buying health insurance like big businesses and unions can today. How about getting rid of junk lawsuits that drive up the cost of health care in America and the defensive medicine that doctors have to practice as a result.

I think what we have before us and the bill that we are offering is a commonsense approach that does take major steps in the right direction to bring down the cost of health care and to expand access.

I reserve the balance of my time.

Mr. WAXMAN. Mr. Speaker, I seek to control the time in opposition, and I ask unanimous consent that the time for opposition speakers on the substitute amendment be divided such that the first 10 minutes is controlled by Chairman MILLER of the Committee on Education and Labor; the second 10 minutes is controlled by Chairman RANGEL of the Committee on Ways and Means; and the final 10 minutes is controlled by Chairman WAXMAN of the Committee on Energy and Commerce.

The SPEAKER pro tempore. The gentleman from California (Mr. WAXMAN) is recognized to control the time in opposition.

Without objection, that time will be so divided, subject to the Chair's discretion as to the order of recognition.

There was no objection.

The SPEAKER pro tempore. The Chair recognizes the gentleman from California (Mr. MILLER).

Mr. GEORGE MILLER of California. Mr. Speaker, I yield 2 minutes to the gentleman from New York (Mr. TONKO).

Mr. TONKO. Mr. Speaker, I am here to speak in support of the Affordable Health Care for America Act, one of the most important pieces of legislation this body has considered since the passage of Medicare in 1965 and Social Security in 1935.

Mr. Speaker, every Member of this body has been listening to her or his constituents, and they are saying that they are ready for health insurance reform. They need health insurance reform.

We listened when seniors said they wanted better care from their doctors, and the doughnut hole eliminated. This bill does that. We listened when young adults told us they were having trouble finding insurance and wanted to stay on their parents' insurance until age 27. This bill does that. We listened when the uninsured told us heart-breaking stories about going without needed health care and asked us to give them affordable, quality health care insurance. This bill does that. We listened when the insured told us they were paying too much for insurance and they needed more protections for their health insurance. This bill does that.

Our colleagues on the other side of the aisle have not listened. They are offering a substitute bill that would not accomplish any of the things our constituents have asked for. Instead, they are offering a bill that does not end the discrimination based on pre-existing conditions; does not reduce the number of uninsured Americans; does not offer assistance to those struggling to afford health insurance; does not repeal the antitrust exemption for health insurers; and does not stop price gouging by insurance companies. Our bill does all these things and more.

Mr. Speaker, the Affordable Health Care for America Act not only brings quality health care within reach of tens of millions of Americans, it enhances the care that those with insurance and Medicare already receive. This bill is as much about the insured as it is about the uninsured. It is a monumental bill. I urge defeat of the Republican substitute and, indeed, encourage passage of H.R. 3962.

The SPEAKER pro tempore. Without objection, the gentleman from Michigan will control the time on the proponent's side.

There was no objection.

Mr. CAMP. Mr. Speaker, I yield myself 4 minutes.

Mr. Speaker, the American people deserve and demand a commonsense approach to health care reform that, one, makes health care more affordable; two, that guarantees all Americans, regardless of preexisting condition, have access to affordable health care; and, three, does so without raising taxes, without increasing the deficit and without the Federal Government making health care decisions that should be made by patients and doctors.

The Common Sense Health Care Reform and Affordability Act, the House Republican health care bill, does that. The plan offered today by the Speaker does not.

Just some of the highlights of the Republicans' Common Sense Health Care Reform and Affordability Act include:

Lowering health care premiums: The Republican plan will lower health care premiums for American families and small businesses, addressing Americans' number-one priority for health care reform.

According to the Congressional Budget Office, the Republican health care reforms would reduce premiums by up to 3 percent for Americans who get insurance through a large business, up to 8 percent for Americans without employer-sponsored insurance, and up to 10 percent for those working for a small business. CBO has not made a claim that the Democrats' bill would lower premiums at all.

What do these numbers mean? It means families who do not have health insurance in 2016 through their job could buy health insurance that is \$5,000 less expensive than the cheapest plan the Democrats offer.

The Republican plan guarantees access to affordable health care for those with preexisting conditions. Republicans create universal access programs that expand and reform high-risk pools and reinsurance programs to guarantee that all Americans, regardless of pre-existing conditions or past illnesses, have access to affordable care, while lowering costs for all Americans.

The Republican plan reduces the number of junk lawsuits, which saves taxpayers' money and lowers premiums, by enacting medical liability

reforms modeled after the successful State laws of California and Texas.

The Republican plan prevents insurers from wrongly canceling a policy unless a person commits fraud.

The Republican plan encourages Small Business Health Plans so these employers can pool together and offer health care at lower prices, just as large corporations and labor unions do today.

The Republican plan encourages innovative programs by rewarding States that reduce premiums and the number of uninsured. In comparison, the Democrat bill adds a new unfunded mandate States cannot afford with their over \$400 billion expansion of Medicaid.

The Republican plan allows Americans to buy insurance across State lines and find the health care plan that best meets their needs at a cost they can afford.

The Republican plan promotes prevention and wellness by more than doubling the financial incentives employers may reward employees who adopt healthier lifestyles.

Republicans enhance health savings accounts by allowing Americans to use HSA funds to pay premiums for high deductible health insurance.

And the Republican plan allows dependents to remain on their parents' policies up to the age of 25.

The health insurance reforms in the Republican bill will significantly reduce health care premiums, insure millions of Americans, guarantee those with preexisting conditions have access to quality, affordable care.

We do all of this without raising taxes, without spending \$1 trillion we don't have, without cutting Medicare and without putting some new health czar in between doctors and patients, which is what the Democrat majority does in their government takeover bill.

Clearly the bill offered by the Speaker is not what the American people want. Americans are clamoring for lower cost health care and that is what the Republican plan offers.

I urge my colleagues to reject the Democrats' government takeover of health care and vote "yes" on the Republican substitute that will lower health care premiums.

I reserve the balance of my time.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair would remind Members not to traffic the well when another Member is under recognition.

Mr. GEORGE MILLER of California. Mr. Speaker, I yield 2½ minutes to the gentleman from Massachusetts (Mr. TIERNEY), a member of the committee.

Mr. TIERNEY. I thank the gentleman.

Since 1995, when our Republican colleagues held the majority in the House of Representatives, until 2007 when they relinquished that and the voters threw them out, they had done exactly

nothing, nothing, with respect to the health care crisis in this country.

Now they want to come in and they want to do something. They want to have you pay less for getting less. This is their great plan.

The one thing they tried to do in 2003 would put pharmaceutical prescription drugs in Medicare which they did by giving seniors a so-called doughnut hole they had to pay for and costing us \$600 billion on our current debt.

My friends, the only ones they made happy then were the pharmaceutical companies, and the only ones they want to make happy now are the private insurance companies. They want to try to kill reform. If they can't kill reform, they want to give them this gift of a Republican substitute.

While they sat idle since 1995, family health insurance policies rose from 7 percent of median income to 17 percent. Sixty percent of families reporting bankruptcies did so in part because of health care costs. Forty-six million Americans went uninsured, 85 percent of those in working families.

Small business premiums went up 129 percent. Twenty-eight million of our uninsured are small business owners, employees or their families. Small businesses are projected to lose \$52.1 billion going forward in the next decade if we continue on the Republican path of do nothing.

The question is, who is on our side? Who is on the side of the consumers, the individuals, the small businesses and the families, and that is the bill that the Democrats have put forward on this floor. It is affordable; it is health care for every American.

If you compare the two bills, you will see the Congressional Budget Office says the Republicans may—may—save you from 0 to 3 percent on 80 percent of the private premiums.

The Democratic bill saves you 12 percent. The Democratic bill covers 96 percent of Americans. The Republicans in 2019 will leave you exactly where you are today, covering only 83 percent of the people, leaving by that time 52 million uninsured.

We will end the discrimination against people with preexisting conditions. They will study it.

We will have an exchange for small businesses and employees so they get better prices comparable to what large companies have now been able to get. They will do nothing of the kind except let you shop for a place, but to get your insurance it might cost you less because you get less, because you will have a race to the bottom, where insurance companies will be able to avoid consumer protections of States and practice fraud almost indiscriminately. There will be no way of cutting it back. You pay less because you get less.

Mr. CAMP. Mr. Speaker, I yield myself 15 seconds.

When Republicans were in the majority, we passed a children's health ini-

tiative; a prescription drug plan for seniors; we put wellness into Medicare; we established portability so people could change jobs and keep their health care; and we established health savings accounts. Our record on health care is strong. What we need is this continuation of this step-by-step approach to comprehensive health care reform.

I would now yield 5 minutes to the distinguished gentleman from Indiana (Mr. PENCE).

Mr. PENCE. Mr. Speaker, I rise in support of the Republican substitute.

After months of overwhelming public opposition to a government takeover of health care, liberal Democrats here in Washington are choosing to ignore the clear voice of the American people, bringing forth a freight train of runaway Federal spending, bloated bureaucracy, mandates and higher taxes.

And even a few courageous Democrats have been willing to speak out. In opposing the bill, the distinguished Democrat chairman of the Armed Services Committee, IKE SKELTON, a man who knew President Truman, said that he, quote, had serious concerns for Missourians who have private insurance plans they like.

And my Democrat colleague, DAN BOREN of Oklahoma, said, and I quote, the worst thing we could do in a recession is raise taxes, and this bill does just that.

□ 2030

As these Democrat colleagues attest, if the Pelosi health care bill passes today, you probably will lose your health insurance, and you might just lose your job. The Pelosi health care plan targets us when we are most vulnerable. Illness, our own, or, more importantly, the illness of a parent, spouse or a child, has the capacity to suspend our priorities. What was important before the crisis grows dim in the harsh light of disease affecting a loved one. The result, little by little, in the midst of a family crisis we yield our freedoms and our resources to the ever-growing appetite of the Federal Government.

But if liberal Democrats think this is what our Nation wants, they don't know the America that I know.

Mike Schwaller is my cousin. He is an extraordinary young man. He has been struggling with cancer, but throughout has maintained his faith in Christ and his courage. He has been an inspiration to us all.

Mike wrote me an email the other day, and he gave me permission to share it. As a cancer patient with limited treatment options, he is awaiting insurance approval for experimental treatment. He seems like just the kind of American that my Democrat colleagues keep telling us want government-run insurance. But they don't know Mike.

As he wrote about his coverage recently, he said, If this was a government bureaucracy, I have no faith that it would be processed in a timely manner, and even then, if it would be approved. The idea of a public health care option, he wrote, as a chronic cancer patient scares the living hell out of me. I feel that at this moment in time you are fighting for me, and my life. Please, please, don't give up or give in.

Michael, we won't.

The truth is, this debate is not just about health care. It is about who we are as a nation. As President Reagan said, it is about "whether we abandon the American revolution and confess that a little intellectual elite in a far distant capital can plan our lives better for us than we can plan them for ourselves."

You know, earlier today I greeted about 50 Hoosiers, mostly in wheelchairs, unit caps and uniforms, down at the World War II Memorial. These heroes were gathered for their first and maybe their only visit to that monument built in their honor.

As I made my way back to the Capitol, I thought about those brave men and what sustained them in those days where the survival of democracy hung in the balance. I believe it must have been because they were fighting for a cause more important than their health or even their lives, and that cause was freedom.

In the coming hours, we are going to take a vote of incalculable significance to the American people, and we will see what our so-called Blue Dog Democrat colleagues are made of. We will see whether Democrats who profess to believe in limited government will take a stand, or whether they will fold under the weight of the Democratic majority in the White House.

Look, I know from personal experience, it is no easy thing to take on your President or your party on a major piece of legislation. But let me assure my colleagues, decent Americans all, if you will take this stand for freedom, for the right to live and work and care for a family without the unnecessary intrusion of the government, I believe with all my heart that you will know for the rest of your lives just what those men in wheelchairs have known every day since they came home, that when freedom hung in the balance, you did freedom's work, and the American people will never forget it.

Mr. GEORGE MILLER of California. I yield 1½ minutes to the gentleman from Virginia (Mr. SCOTT), a member of the committee.

Mr. SCOTT of Virginia. Mr. Speaker, all afternoon we have heard about the freedom to be uninsured. Seniors in my district do not want us to repeal government-run Medicare so that they can enjoy a freedom to be uninsured, and those without insurance now do not

view themselves as enjoying some freedom. They want insurance.

The Republican substitute responds to the comprehensive Affordable Healthcare for America Act with a bill that fails to reduce costs, fails to cover uninsured Americans, and it may study, but it does not help, those with preexisting conditions. It does, however, attack innocent victims of medical malpractice.

One recent study showed that medical malpractice represents less than one-third of one percent of all health care costs, and yet the Republican substitute seeks to blame our broken health care insurance system on innocent victims of malpractice. For those victims, the bill limits the ability to hire a lawyer, complicates the lawsuit, shifts the cost of medical malpractice from the doctor to the victim's own private insurance, and, in some cases, causes the injured victims to lose the right to sue before they even know they have been injured.

None of these unfair provisions were passed during previous attempts when the Republicans controlled the House, the Senate and the White House, and they should not be passed now.

The substitute should be defeated.

Mr. CAMP. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Michigan (Mr. MCCOTTER).

Mr. MCCOTTER. I thank the gentleman.

Mr. Speaker, as the health redistribution bill before us attempts to put its skid marks on history, it further proves Democrats are the party of the past. Their antiquated government-run takeover of Americans' health care is as ill-suited to our times as a leeching is to laser surgery.

We do not live on a government-run globe. We live in a people-powered world, one belatedly awakening to America's revolutionary experiment in human freedom and self-government. Today, from the palms of our hands, we can traverse distant strands of Earth to access friends and goods. Why in the world would we put in the palm of a bureaucrat's hand our health care?

Yet, this is precisely what the hoary voices of hidebound ideologues demand; namely, that our generation's innovation revolution and its unprecedented expansion of human empowerment be buried beneath big government.

They are gravely mistaken. Amidst our constantly changing and challenging times during this age of globalization, our generation's innovation revolution is burying big government in the ash bin of history.

Thus, the public and Republicans oppose the Democrat's fossilized model of a mammoth government-run takeover of Americans' health care. Instead, we embrace and harness our generation's innovation revolution to empower Americans as citizens and consumers and advance patient-centered wellness.

Our plan will increase the supply of health care to meet rising demand and reduce costs through such sensible, affordable, and helpful reforms as ending exclusions for preexisting conditions, reforming medical liability laws, expanding Health Savings Accounts, allowing small businesses to band together to provide coverage for employees, permitting health insurance sales across State lines, and incentivizing preventative health care and wellness.

All this can be achieved without trillions of dollars in new spending, taxes, deficit and debt, and without big government controlling your health care decisions.

Trapped in the past, there are those who ignore behind closed doors the opportunities of our age. If Democrats impose their government-run takeover of health care on the American people, the consequences will be higher costs, lower quality, fewer choices, and lost jobs during this painful recession.

But for those with an abiding faith in our free Republic's people and their future, there is a better way—maximizing America's innovation revolution to advance patient-centered wellness in our people-powered world.

Pray we do.

Mr. GEORGE MILLER of California. I yield 2 minutes to the gentleman from New Jersey (Mr. ANDREWS), a member of the committee.

Mr. ANDREWS. Mr. Speaker, when you can't win an argument on the facts, you resort to emotion. The minority can't win the argument with insured people because they preserve the right of insurance companies to discriminate on the basis of preexisting conditions.

They can't win the argument with senior citizens because they ignore the doughnut hole that they created in 2003 in the Medicare part D.

And they don't ignore the uninsured. I will give them some credit for that. There are going to be 50 million uninsured in 2010. They do change that. Their plan would make it 55 million uninsured 10 years from now.

So they are standing on a motion, and we hear a Member say this: "We cannot stand idly by now, as the Nation is urged to embark on an ill-conceived adventure in government medicine, the end of which no one can see, and from which the patient is certain to be the ultimate sufferer."

But the Member wasn't a current Member, and the time wasn't now, and the issue wasn't this bill. The Member was Durward Hall, the time was 1965, and the issue was Medicare.

They were wrong then, they are wrong now, and their substitute is wrong. You should vote no.

Mr. GEORGE MILLER of California. I yield myself 2 minutes.

Mr. Speaker, if the Republicans' health care plan was a plan for a fire department, they would rush into a

burning building, and they would rush out and leave everybody behind. If their plan was an evacuation plan, it would be like Katrina. When they got all done evacuating people, they left them all behind.

They say their plan is inexpensive. They say their plan saves somebody money. But 10 years from now there are as many uninsured as there are now.

At the end of their watch, after 12 years of control of this Congress, 8 years of control of the White House at the same time, they left behind 37 million Americans without health insurance. That is what they left behind on their watch. Now they come forth with a plan for the future, and over the next decade they are going to leave behind 50 million Americans.

Want to buy it? Want to try it? Want to sell it? Come on, America. Buy this one. You are guaranteed to be left behind if you are left behind today.

What a plan. Ha. God save us.

Mr. CAMP. At this time I yield 3 minutes to the distinguished gentleman from Texas (Mr. BARTON), the ranking member of the Energy and Commerce Committee.

Mr. BARTON of Texas. Mr. Speaker, I asked to go after the distinguished chairman of the Education and Labor Committee because what we have here is a failure to communicate, or perhaps a difference in philosophy.

The Democrats have decided that the bottom line is coverage. By golly, coverage no matter what. Whether you want to be covered or not, you are going to be. We are going to have an employer mandate. We are going to have an employee mandate and an individual mandate. We are going to have a premium mandate.

We are going to have how you cover the insurance, a "comparative research council," to dictate the practice of medicine. We are going to raise Medicaid to 150 percent of poverty, and automatically enroll every individual in this country who is unmarried, whether they want to be or not.

We are going to tell every young American who has decided that they don't want to pay those premiums, they want to save up to get married or to buy a home, that, by golly, they are going to have to take insurance, and they are going to pay three to four times what they would under the current system because there is only a two-to-one ratio. So they are going to get their coverage, at a cost of \$1.2 trillion.

Now, we have a different philosophy. We think you need to control costs, but we also agree that you have to provide access to the private insurance market if you can't get it today and you want it.

Congressman MILLER talks about the 40 to 50 million Americans that are not insured, and he is right. But of those 40

to 50 million, 15 to 20 million are in this country illegally. Ten or 15 million are young Americans who don't want insurance.

When you really boil it down, there are 5 to 10 million Americans who have a preexisting condition or work where insurance is not provided and they can't afford it.

□ 2045

Our plan covers them. It gives them the opportunity. That doesn't give them the money, but it gives them the opportunity. So we have a difference in a philosophy.

We don't believe in mandates and make no apology about it, but we do believe in the individual opportunity. We believe in individual choice. We believe in the American system of free enterprise. We believe in lowered taxes, and we believe in a plan that's going to lower premiums an average of \$5,000 per person per year for the next 10 years. That's what CBO says. That's not me. That's the CBO.

So there is a choice. Bigger government, more mandates, more control, less freedom, or lower costs, more opportunity, more freedom, more choice. I vote for more freedom.

Vote "no" on the Big Government plan. Vote "yes" on the individual opportunity plan.

Mr. RANGEL. At this time, I yield 1 minute to the gentleman from California (Mr. STARK), the chairman of the Ways and Means Subcommittee on Health.

I would like to take this time to thank him for the great work he's done over the years, not just for our committee, but for this Congress, and I would like to thank him publicly.

Mr. STARK. I thank the chairman for yielding.

Mr. Speaker, the Republican substitute is not a substitute on health reform. It substitutes gifts to the wealthy insurance companies for morality and dignity. Their bill spends \$61 billion over the next decade, and what would the American public get for that investment? It would get 5 million more uninsured people than we have in America today. That's not a conservative solution. It's no solution at all.

Our legislation expands coverage to 36 million more Americans, reforms the insurance market to end abusive practices, provides financial assistance to lower-income and middle-income families, creates a public health insurance option that will make health insurance companies compete on quality, provides security for our seniors, and protects our children's futures by not adding one dime to the deficit.

A vote for the Republican substitute is nothing more than a vote for transferring money to wealthy insurance companies. Vote "no" on the Republican substitute and "yes" to provide affordable, quality health care for all Americans.

Mr. CAMP. At this time, I yield 1 minute to the gentleman from South Carolina (Mr. BROWN).

Mr. BROWN of South Carolina. Mr. Speaker, I rise in strong support of the Republican amendment and true health care reform. Our plan makes the cost-saving changes so sorely needed in our health care system without forcing our children and grandchildren into unending debt.

This amendment will allow insurance to be bought across State lines to drive down costs and allow small businesses to band together in order to negotiate fair and affordable coverage. Furthermore, this amendment improves quality, putting you and your doctor in charge of your care by removing the powers of insurance companies and trial lawyers.

Finally, this amendment ensures that the taxpayer dollars my constituents in South Carolina's First Congressional District pay into the Federal Treasury never find their way into abortion clinics.

Mr. Speaker, Republicans have a better plan. I urge all of my colleagues to support this amendment and urge them to vote "no" on final passage.

Mr. RANGEL. Mr. Speaker, I yield 2 minutes to the gentleman from Washington, Dr. McDERMOTT, who worked his whole career down here to improve the quality of health care for all Americans.

Mr. McDERMOTT. Mr. Speaker, the Republican health plan and proposal has been in effect since 1995. A friend of mine came to New York, had some problems, got on the phone to call a doctor, and the first question that is always asked is what kind of insurance do you have. When he said he didn't have any, they said, Well, we can't take care of you unless you come to the office with \$250 in cash. We'll see you if you do that. He said, I don't have that kind of money. They said, Then go to the emergency room. That's where 50 million people in this country are today. Go to the emergency room if you can't come with the cash to hand it to the doctor.

My office phone today has been ringing off the hook with people demanding that we have health care now. The Republican alternative doesn't help anyone, except protects the insurance companies. The bankruptcy of this plan is pretty clear to everybody. Health analysts, the media, The New York Times, the CBO all agree that the Republican plan would leave 42 million people with nothing.

Now, the Republican plan does nothing to help the seniors. It really isn't a plan. It's just a bunch of stuff they scraped up off the floor that they had laying around for 12 years and did nothing.

Now, why don't they put forward a plan? Well, I will tell you. I've cracked the code. This plan they brought out



here, they either haven't read their own bill—because you couldn't keep a straight face and come out here and say it was a plan—or they would rather spend more time hating government than helping people. Remember what they did in New Orleans. That's what their attitude about government is. Don't make it work for the people. Just let people understand, You're on your own, folks. That's our plan. We believe in freedom; you're free to be on your own. But most people can't take care of their health care problems on their own. They're lucky if they can.

Vote against this proposal, and vote for the bill.

The phones in my office have been ringing off the hook because my constituents want secure quality affordable healthcare now. Meanwhile the Republicans have put forward an alternative that doesn't help anyone but protect insurance companies.

The bankruptcy of the Republican plan is not just my opinion—analysts, the media, and the Congressional Budget Office all agree the Republican plan will leave 42 million out in the cold. The Republican plan does nothing to help people with pre-existing conditions or to help seniors. The Republican plan is no plan.

How could they have put forward a plan that doesn't solve any of the healthcare problems Americans face? Well, I may have cracked the code. Either they haven't read their own bill or they'd rather spend more time hating government than helping people.

The Republican approach is just a continuation of the status quo while the Democratic plan covers 96% of Americans. My constituents have demanded action. The time is now.

Mr. RANGEL. No one has worked harder on this bill than Congressman Lloyd Doggett from Texas, and it's my honor to now yield 2 minutes to the gentleman.

Mr. DOGGETT. To help cover huge medical bills in Bastrop, Texas, they held a Main Street pancake supper, an auction at the American Legion. Well, essential health care shouldn't depend on the kindness of strangers or the goodness of neighbors and certainly not on the "just say no" of the Republican Party or the weak TEA parties brewed up by the insurance lobby.

Now, belatedly, they offer a scheme as skimpy as a hospital gown. They do nothing to help seniors. Their proposal is inefficient, it's ineffective, and it's wasteful. Masquerading as reform, their bill authorizes insurers to continue denying coverage for preexisting health conditions, such as acne or a C-section. Republican obstructionism has itself become one giant preexisting condition to meaningful change.

This is a typical old-time Republican medicine show. Do a little bit for 5 percent of the people. Do nothing for the other 95 percent of the uninsured, and leave the portion of American families who are uninsured the same tomorrow as today. The only thing they propose more of is more insurance policy loopholes.

Freedom. They want the freedom to go broke after a medical emergency, the freedom to have more bankruptcies, medical bills—the number one cause of personal bankruptcy in America today. We cannot secure bipartisan support for health insurance reform tonight because they don't support any real solutions for the uninsured.

Our Democratic plan is a lifesaver for 12 times as many Americans, and it's a dollar saver, responsibly reducing the national debt by \$36 billion more than this phony Republican scheme.

Now is the time for a truly historic choice. The Republicans have chosen to side again with the big insurance monopolies. We choose to strengthen Medicare. We chose to stand up for the millions of struggling families who have been denied health care access for too long.

Mr. RANGEL. Could I ask how much time I have remaining, Mr. Speaker?

The SPEAKER pro tempore. The gentleman from New York has 5 minutes remaining.

Mr. RANGEL. I yield 2 minutes of that time to the gentleman from Oregon (Mr. BLUMENAUER) and ask him to share the great contribution he has made and the loopholes we find in the Republican substitute.

Mr. BLUMENAUER. I appreciate the gentleman's courtesy.

I hope every American examines the plan that has been offered to us by the Republicans.

Our citizens are outraged by practices of taking away insurance when you need it or denying coverage for preexisting conditions. Our bill fixes it. You won't find it in the Republican bill. Republicans strip out provisions so important to Oregon and other low-cost, high-quality States. Republicans do not deal with those vast regional disparities.

They ignore the extra costs faced by seniors caught in the prescription drug doughnut hole while Democrats provide financial relief within the next 2 months. If Republicans have their way, there will be more uninsured Americans in 10 years than there are today. Weaker protections ignore the needs of the most vulnerable, yet the CBO says the Republican plan will increase the deficit by \$36 billion more than the Democratic plan.

Mr. Speaker, this is a colossal failure of imagination. The Republicans could have passed this package any time during the 6 years they and George Bush ran everything. They didn't bother because it wasn't worth it.

Last March, Republican Minority Leader BOEHNER famously said that his Members shouldn't legislate. With this package as the best they could do, the Republicans have met the challenge not to legislate.

Mr. CAMP. Mr. Speaker, at this time, I yield 3 minutes to the gentleman from Missouri (Mr. BLUNT).

Mr. BLUNT. Mr. Speaker, I thank the gentleman for yielding.

The Republican Congresses did send important parts of this plan, the House, to the other body. We sent lawsuit abuse reform seven times. We sent associated health plans at least a half dozen times. They didn't get to the floor. We continue to send the elements of this plan that save every taxpayer money and also save every insured American money. This is the only plan that reduces the cost of insurance for every group of insured Americans.

One of the goals that the President set for health care reform was to reduce the cost of premiums. This is the only plan that does that. It does it for individuals. It does it for small businesses. It does it for large groups.

This is a plan where we could provide access to coverage for everyone regardless of preexisting conditions. Now, we don't spend \$1.3 trillion to do that. We spend about \$23 billion to make the risk pools work better and ensure access for everybody. We're for access for everybody to coverage; we're just not for spending \$1 trillion to create that access.

This plan lowers premiums. It prohibits insurance companies from canceling policies. It prohibits insurance companies from capping the lifetime expenditures that those policies might incur.

One of the reasons that there were more people uninsured at the end of the 10 years under this plan is, when our friends on the other side insisted on the children's health insurance plan, they put everybody that goes on that plan in the first 5 years back into no insurance in the last 5 years. Look at the numbers. That's where those numbers go up. You could pretend that our plan puts the numbers up. We're not the one that said we're going to insure all children for 5 years and in the second 5 years they're back to where they are today. Check the numbers. Look at what this does for premiums. Look at what this does for families. Look at what this does for individuals.

This is a plan that truly does keep what works and fixes what's broken. The President repeatedly has said, Everyone, if you like what you have, you should be able to keep it. This is the only plan that would allow that pledge to be made and be kept.

Mr. Speaker, I encourage my colleagues to support this plan. Let's take these first steps that work without bankrupting the American people. I urge support of this plan.

The SPEAKER pro tempore. The gentleman from New York has 3½ minutes remaining.

Mr. RANGEL. Mr. Speaker, I yield 2 minutes to the gentleman from Wisconsin, RON KIND, and thank him for the great contributions he has made to looking at health care the way it should be, and that is value and not volume.

□ 2100

Mr. KIND. Mr. Speaker, let's be clear. We really face three choices here tonight: our plan, their plan, and the consequences of doing nothing.

But we know what inaction will bring already. We will pay more, we will get less, and we will bankrupt ourselves as a Nation due to rising health care costs. So let's just take a moment and compare the two plans before us this evening.

According to the Congressional Budget Office, not only is our health care reform plan completely paid for, but we reduce the national deficit by \$109 billion in the first 10 years alone; they by only \$68 billion. We cover an additional 36 million uninsured Americans in this country; they increase the number of uninsured from 47 million today to over 52 million by 2019. We cover 96 percent of Americans under our plan; they, 83 percent. We give small businesses tax credits to use in the national exchange to make it more affordable for them; they do nothing. We ban the discrimination based on pre-existing conditions; they do nothing. We close the doughnut hole for seniors in Medicare; they do nothing.

But, most importantly, they do nothing to reform how health care is delivered and how we pay for it in this country. We change the fee-for-service payment under Medicare, which is all volume based, to a reimbursement system that rewards quality and the value of care. Why is this important? Because studies show that we are spending over \$800 billion every year on tests and procedures that don't work. They don't improve patient care, and because of overtreatment in too many instances, we're making patients worse off rather than better off.

Our payment reform plan has the best potential of increasing the quality of care for all Americans at a substantially lower price. They do nothing.

Mr. Speaker, just 2 months ago President Obama stood in this Chamber and reminded us what the true character of the American spirit is all about. He reminded us that we did not come here to fear our future, but to shape it. That is the historic opportunity that we have before us this evening.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. RANGEL. I yield the gentleman an additional 30 seconds.

Mr. KIND. I thank the gentleman.

I ask my colleagues to support true reform and provide all Americans with access to affordable and quality care that they all deserve.

Mr. RANGEL. Mr. Speaker, I yield myself the balance of my time.

I'm not going to be as difficult with the Republicans as some of my colleagues because I'm glad at the end of the day they finally understood the problem. And even though it was only Tuesday that they actually put some-

thing together for us to look at, at least we know that some of them are going in the right direction.

It's going to be tragic to explain this to the American people not only now but in the future as to when they had a great opportunity. They lost it on Social Security. They said government would become too big. They lost it on Medicaid. They said that would be too much for the poor folks, that they should have freedom instead of health care. And they certainly lost it in Medicare where they made it appear as though it was going to be a Big Government takeover.

And now it just seems to me that they've proven how well government can do in these programs. And the fact that in lieu of just plain freedom, in lieu of telling people that they can get insurance if they're at risk, the whole idea that they're proud of people who cannot afford to do this at least to have the opportunity to do it.

So, Mr. Speaker, I just hope that some of those on the other side might allow morality to go beyond just party loyalty.

At this time it gives me pleasure to present to this body Chairman WAXMAN, who has done so much to make this a reality.

Mr. CAMP. Mr. Speaker, I reserve the balance of my time.

Mr. WAXMAN. Mr. Speaker, I'm pleased to yield 1 minute to the gentleman from Vermont (Mr. WELCH).

Mr. WELCH. Mr. Speaker, tonight the question before Congress is neither new nor complicated: Will we do what it takes to make health care affordable and available to all Americans?

Our predecessors in Congress faced similar choices when they extended voting rights to all Americans, established Social Security and Medicare for all seniors. Mr. Speaker, Congress faced those challenges and we are the better for it. We did so not without conflict and controversy but with some bipartisan support.

Tonight is different, unique. Our Republican friends have assured us that not a single member of their caucus will vote for health care reform. Every single person will vote "no."

The Republicans' alternative says to Americans with a preexisting condition, you are on your own. To the 47 million Americans without insurance, you're on your own. To the millions of Americans who can't afford the coverage that they have, you're on your own.

Our health care bill has a different philosophy, the one that prevailed when Democrats, and some Republicans, passed Social Security, voting rights, and Medicare: We are in it together.

Mr. WAXMAN. Mr. Speaker, I'm pleased to yield 2 minutes to a very distinguished member of our committee, the chairman of the Energy

Subcommittee, previously chairman of the Telecommunications Subcommittee, and a very highly respected Member of this body, the gentleman from Massachusetts (Mr. MARKEY).

Mr. MARKEY of Massachusetts. The Republican plan is really quite simple: you're on your own.

The Republican plan tells Americans if you get sick and you don't have insurance, you're on your own. The Republican plan tells Americans if you are denied coverage because of a pre-existing condition, you're on your own.

The Republican leaders in Washington seem to be suffering from their own preexisting condition: a heart of stone. If you kicked them in the heart, you would break your toe.

They say that the Democratic plan will put the government between you and your doctor, but the doctors who make up the American Medical Association support the Democratic bill and not the Republican bill. The Republicans claim the Democratic bill will hurt seniors, but AARP has endorsed the Democratic bill and not the Republican bill. Why does AARP support the Democratic bill? Because the Democratic bill will close the Medicare part D doughnut hole for seniors. The Republican bill does not. We provide support for low-income seniors; they do not. We will extend the solvency of Medicare; they do not. Right now 60 percent of all bankruptcies in America are because of medical expenses. The Democratic bill makes sure that never happens again; the Republican bill does not.

You know, the GOP used to stand for Grand Old Party. Now it stands for "grandstand, oppose, and pretend." They grandstand with phony claims about nonexistent death panels. They oppose any real reform. And with this substitute they pretend to offer a solution while really doing nothing. GOP: grandstand, oppose, and pretend.

And make no mistake about it, the Republican substitute is not real reform. It does nothing to curb skyrocketing health care costs. It does nothing to provide real insurance coverage to millions who are now uninsured. It does nothing to stop the unfair practices of insurance companies.

I urge my colleagues to vote "no" on the Republican "do-nothing" substitute.

Mr. CAMP. Mr. Speaker, I yield 1 minute to the gentleman from Florida (Mr. MICA).

Mr. MICA. Mr. Speaker, this is a sad day for the Congress and particularly a sad day for Americans who lack health care coverage. While Democrat efforts to resolve health care problems may be well intended, in fact they totally miss the mark. People want lower premiums, increased access, less cost, and less red tape. They want choice and quality health care.

Instead, the Democrat health care plan dramatically expands government, cuts Medicare, and imposes significant costs to taxpayers. The creation of 118 new Federal programs, agencies, and czars adds bureaucracy and red tape rather than providing a cure to bring health care costs down and accessibility up. The \$729 billion in new taxes on Americans and small businesses will result in a loss of 5.5 million more jobs at a time when our country can least afford it and unemployment has topped a record 10.2 percent.

I oppose the cuts of nearly a half trillion dollars in Medicare. This is the wrong solution at the wrong time.

Mr. WAXMAN. Mr. Speaker, I'm pleased at this time to yield 1 minute to the gentleman from Texas (Mr. GONZALEZ).

Mr. GONZALEZ. Mr. Speaker, I rise in strong opposition to the substitute.

This substitute includes medical liability reforms that draw on the Texas model. I'm from Texas. Let me tell you about the Texas experience.

We were promised that medical malpractice reform in Texas would result in attracting doctors to underserved areas. Today, Texas ranks 43rd out of the 50 States in the number of doctors per capita.

We were promised that it would rein in health costs. Health care costs in Texas with Medicare alone rose 24 percent in the 3 years after Texas tort reform.

We were told that it would reduce the cost of health care insurance for Texans. Premiums actually increased 86.8 percent from the years 2000 to 2007. The average insurance policy for a family in Texas went from \$6,638 to \$12,403.

We were told that it would make health insurance plans more readily available for Texans. Today, Texas has the highest rate of uninsured adults and the highest rate of uninsured children.

If ever there was a time not to mess with Texas, it is tonight. Vote "no" on the substitute.

Mr. WAXMAN. Mr. Speaker, I'm pleased at this time to yield 2 minutes to the gentleman from New York (Mr. WEINER), an important member of our committee and a leader in health care reform.

Mr. WEINER. You know, there are honorable people on both sides of this debate; but there are moments that come along, and they come along about every generation or so, that make it clear why this side of the aisle are Republicans and why we're Democrats.

In 1935 when there was the Social Security Act and we decided we weren't going to allow 30 percent of seniors to slip into poverty, Democrats proposed, Democrats passed; Republicans opposed Social Security.

In 1965 when Medicare was passed, Democrats proposed, Democrats sup-

ported; Republicans opposed, and now Medicare is a fact of life. And the very same arguments that were made against Medicare then are being made tonight.

I hear this talk about the single-payer plan that's going to creep over. I can tell you I wanted a single-payer plan. I would like it to be there, but it's not. But you opposed it then, and now you claim to support it.

There's been a lot of talk about how big the bill is, but here's what it's all about: this is what Members of Congress get. This is a guidebook with affordable health care plans, many choices, deep discounts because we pool people together, minimum standards for each plan. This is what Members of Congress get, but they don't want you, the American people, to get it.

This is what it's about: they say they want to protect Medicare, but it was they who wanted to eliminate it. They say they want to protect Social Security. It was they who wanted to privatize it. Now they say we don't want to cover those who are uninsured because you shouldn't care.

Well, I say to my colleagues, who pay those bills? The bill fairy? Who pays those bills are you, the taxpayer. They say they want you to pay those, too.

When you look at how big the bills are, remember this document. Eight million Americans who work for the Federal Government, including my colleagues, get this document in the mail. They get good health care. We want it for you. They're going to get Medicare at 65. They don't say we don't want Medicare because we don't believe in single-payer. They want it because they want to take and take and take, but they don't want it for you.

The Democrats want this for you and the Republican Party just wants it for themselves.

□ 2115

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair would remind Members to address their remarks to the Chair.

Mr. CAMP. Mr. Speaker, I yield myself 15 seconds.

As a Senator from Maine who voted for the Senate finance bill remarked on the House legislation pending said, I do not know what world they live in, but all I know is it is totally detached from the average person, the average business owner who is struggling to keep their doors open, and to have that level of taxation is breathtaking in its dimension. I just think it is so out of proportion with reality, with Main Street, America, that it is hard to believe, frankly.

I now yield 5 minutes to a distinguished member of the Ways and Means Committee, the distinguished minority whip from Virginia (Mr. CANTOR).

Mr. CANTOR. Mr. Speaker, today brings the culmination of an extensive

and spirited debate over health care reform. Both parties agree that the status quo is unacceptable. Obviously, we disagree on how to fix what is broken. And as the gentleman from New York just said, there are times in this body when we really can tell the difference between us Republicans and you Democrats, and this is certainly one of them.

Mr. Speaker, the Democrat solution is a 1,990-page, trillion-dollar overhaul of the health care system we know, a sweeping new entitlement that raises taxes, cuts benefits to seniors and, Mr. Speaker, it spends over a trillion dollars that we don't have.

Republicans believe there is a better way. We have proposed an alternative approach that offers a stark contrast to the majority's plan. It is a fiscally responsible and reasoned approach.

The majority's proposal overturns the whole system. We keep what works and then try to fix what is wrong.

Their bill puts the government between families and their doctors. Ours doesn't.

Their plan cuts Medicare benefits to seniors. Ours retains them.

Their proposal blows a hole in the deficit. Ours actually saves money.

Their bill imposes penalties and mandates on our small businesses that cost jobs. Ours does not.

Specifically, Mr. Speaker, our bill will help you access health care if you lose or change your job. And it will ensure that you have access to medical care if you have a preexisting condition. And we also, Mr. Speaker, deliver on something that the majority refuses to even talk about, and that's real, meaningful medical liability reform.

And most importantly, Mr. Speaker, we produce cost savings for workers, families, and small businesses. The Congressional Budget Office says that the Democrats' new government-run system won't reduce costs. CBO says our legislation lowers health care costs. In fact, CBO says that the Republican plan cuts premiums by up to 10 percent for employees covered by small businesses, up to 8 percent for those not covered by employers, and up to 3 percent for employees covered by large businesses.

Mr. Speaker, in the face of 10.2 percent unemployment, Americans want jobs. They want less government spending and more economic security. The majority's bill shows they have not listened. Ours shows we have.

Interestingly, Mr. Speaker, the only bipartisanship on Capitol Hill today will be in opposition to Speaker PELOSI's trillion-dollar-plus government overhaul of America's health care system.

With that, Mr. Speaker, I urge passage of this substitute.

Mr. WAXMAN. Mr. Speaker, I ask unanimous consent that the 2 minutes that has been reserved for the Education and Labor Committee debate

time in opposition to the Republican substitute be transferred to the Energy and Commerce Committee's time.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. WAXMAN. Mr. Speaker, at this time I yield 1 minute to the gentlewoman from the District of Columbia (Ms. NORTON).

Ms. NORTON. Mr. Speaker, I thank the gentleman for yielding and for the extraordinary work that he and others have done on this bill.

The extraordinary diversity of our Democratic Caucus, Mr. Speaker, from right to left, has ensured that this bill represents a cross-section of our country, urban, suburban and rural. The incredible diversity of our Democratic Caucus, representing Republicans, right-leaning, moderate, and progressive areas meant that we could not come to this floor today without a bill that sensitively put all of America together into one convincing bill. That is why we have produced a bill that satisfies deficit hawks who are more wary of increasing deficits than of most other issues, as well as single-payer advocates who believe that only Medicare for all can markedly reduce costs while providing adequate health care for the middle class and the uninsured.

Thus, there can be no doubt this evening that the Affordable Health Care for America Act is a balanced bill and the best bill for the citizens of the United States of America.

The extraordinary diversity of our Democratic Caucus—from right to left has ensured that this bill represents a cross-section of the our country—urban, suburban, and rural. The incredible diversity of our Democratic Caucus, representing Republican, right-leaning, moderate, and progressive areas, meant that we could come to this floor today only with a bill that sensitively put all of America together into one convincing bill. That is why we have produced a bill that satisfies deficit hawks, who are more wary of increasing deficits than of most other issues, as well as single-payer advocates, who believe that only Medicare for all can markedly reduce costs while providing adequate health care to the middle class and the uninsured. Thus, there can be no doubt that the Affordable Health Care for America Act is the best bill for the citizens of the United States of America.

The bill's greatest achievements are that it would reduce the deficit over the next 10 years and into the future while covering 96 percent of the American people; would end discrimination by insurers who dropped or refused to renew or sell coverage because of health status and would ensure that coverage is affordable by providing subsidies for people in employer-based health care or through an insurance exchange of private insurers and a consumer option to drive down the cost of health care while operating on a level playing field with other insurers.

#### PARLIAMENTARY INQUIRY

Mr. GOHMERT. Parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state his parliamentary inquiry.

Mr. GOHMERT. Mr. Speaker, my understanding of the rules is that there is required to be a copy of the bill, and since we have a manager's amendment, that is supposed to be somewhere. A number of us have been trying to find a copy of the manager's amendment since we are going to be voting on it. I hear some aahs, but isn't there supposed to be a copy, and if so, where would that copy be, since we are about to do this to the American people?

The SPEAKER pro tempore. The official papers are at the desk.

Mr. GOHMERT. And I was just at the desk, Mr. Speaker, so parliamentary inquiry: If you could direct me to that place on the desk where the 200 pages are, it would be very helpful.

The SPEAKER pro tempore. The Clerk has the official papers. Additional copies are in the lobby and Members have been carrying them around all day.

Mr. GOHMERT. Parliamentary inquiry. Does the Speaker know where a copy, as the rule requires, is at the desk so that we can come up and see it at the desk as a requirement of the rules?

The SPEAKER pro tempore. The Clerk has custody of the official papers.

Mr. GOHMERT. I take that as a "no."

The SPEAKER pro tempore. The gentleman from Michigan has 4 minutes remaining, and the gentleman from California has the right to close.

Mr. CAMP. We will reserve our time.

Mr. WAXMAN. We are ready to close, so use your time. Use it or lose it.

Mr. CAMP. At this time, Mr. Speaker, I yield the customary 1 minute to the distinguished minority leader, the gentleman from Ohio (Mr. BOEHNER).

Mr. BOEHNER. Let me thank my colleague for yielding, and thank him and our ranking members for the job they have done putting our substitute together.

Ladies and gentlemen, before I came here, I ran a small business. While I was running my small business, it became pretty clear to me that government was growing in my view out of control. More regulations, more taxes, more compliance costs, both for my suppliers, for my customers, and for my own little small business. It seemed to me that government was choking the goose that was laying the golden egg.

You know, we were all lucky enough to be raised in America, most of us born in America, the greatest country in the world. And it is a great country because Americans have had the freedom, the freedom to succeed, the freedom of opportunity. But I think all of us can understand that the bigger government gets, the more that it takes

from the American people, the more money that individuals have to spend to comply with all of these regulations, is less money that is left in American families' pockets, small business's pockets, and as a result the opportunities, the opportunities available for our citizens get diminished.

We live in a great country. But it can only be great if we are willing to allow the freedom that Americans have had to succeed to remain. That freedom has been dimming. The bright lights of freedom have been dimming for decades because government continues to grow. One only has to look at what has happened this year to wonder why we are here tonight doing this. We all know we have had a difficult economic shock in our country over the last year.

So we see a stimulus bill that came to this floor with a promise that we were going to create jobs, jobs, jobs. And unemployment wasn't going to exceed 8 percent. Now we have unemployment rates at 10.2 percent and over 3 million Americans have lost their jobs. So all of a sudden we have a budget on the floor, a trillion-and-a-half-dollar deficit this year, and trillion-dollar deficits on average for as far as the eye can see. And I don't think there is a Member on either side of the aisle who doesn't realize that this is unsustainable, that this will wreak havoc on our country and wreak havoc on the future for our kids and our grandkids.

If there is one obligation that we have, it is to ensure that the American dream that is available to all of us is available for our kids and our grandkids. And trillion-dollar deficits for as far as the eye can see are not sustainable and will ruin their future.

But no, it wasn't enough. All of a sudden we have to have this national energy tax on the floor in June. It is called cap-and-trade because no one in America really knows what that means, but it is a giant energy tax. And it would tax anybody who drives a car, anybody who works at a place that uses electricity. Anyone who would have the audacity to flip on a light switch is going to pay a higher tax.

□ 2130

Not only are we going to pay higher taxes and have less energy and higher energy costs in America, it will ship millions of American jobs overseas at a time when Americans are asking, Where are the jobs? And the policies that have been coming down the pike all year have done nothing more than diminish the possibility that we will be creating the jobs that Americans so desperately want. That still wasn't enough. Now we are going to bring this 2,000-page bill to the floor of the House. It's going to cost over \$1.3 trillion and will kill millions more American jobs.

The American people want us to focus on getting our economy moving

again because they are looking for work. They want to make sure that those who have their job can keep it. What has happened here all year is we're moving policies that are going to destroy the ability of the private sector to create those jobs. But I don't think there is anything that will diminish the job prospect in America more, of all the things that have happened this year, than this health care bill.

Now, you just think about this bill that we have in front of us. It is going to raise taxes. It is going to raise insurance premiums for those who have insurance. It's full of mandates. And as if that's not enough, we are going to cut Medicare.

Now, the President said that if you like the health insurance you have, you can keep it. And I know the President was sincere in that, but that is not what this bill represents and there's not a Member in this Chamber that doesn't understand that. Because if you're a Medicare Advantage enrollee, like 27,000 of my constituents, the Congressional Budget Office says that 80 percent of them are going to lose their Medicare Advantage.

If you look at this bill and you look at the employer mandate in this bill, you will find out that if employers don't provide health insurance, there is a tax. And for many employers, the tax will be cheaper than the actual cost of health insurance. A lot of employers in America are going to look up and say, Listen, I'd rather pay the tax, and my employees are going to have to go fend for themselves and end up in the government plan.

But it doesn't stop there. This bill also requires that every employer plan that is offered today has to be approved once again by the Department of Labor and the health choices czar; big compliance cost there. Some employers are going to say, Listen, this isn't worth it. Because it's not just getting the plan reapproved again. It has to go through the health choices czar so that the health choices czar can determine whether your plan is adequate according to some Federal bureaucrat. And so a lot of employers, they're just going to get out of it. They're not going to do it. And what is going to happen to those employees who like the coverage they have today? They are going to end up in the government plan.

But no, no, it doesn't stop there. We have an individual mandate in this bill in front of us that says every American is going to buy health insurance whether you want it or not. And if you don't want it, you're going to pay a tax. And if you don't pay the tax—listen to this. If you don't pay the tax, you're going to be subject to a fine of up to \$250,000 and imprisonment up to 5 years. Now, this is the most unconstitutional thing I've ever seen in my life. The idea that we can tell Americans,

force Americans by some law that they have to buy health insurance or we're going to fine you and send you to jail.

But there has been all this focus on the employer mandate and on the individual mandate, on the government option, but let me tell you where there hasn't been much attention, and that is the giant bureaucracy that is being built here in Washington in the Federal Government to take control of Americans' health care system and force you out of the insurance you have and into some government-run plan.

I know most of my colleagues, they might think this is hyperbole or it might sound political. Let me tell you, it isn't. Well, just listen to this. Most of my colleagues on the left have been down here today. They are for this because it does in fact set up this big infrastructure for the government to eventually take control of all of our health care and just go to a single-payer system.

Now, it starts with the exchange that's in this bill. Once it takes effect, the health exchange, you can't buy private insurance on your own. You can't go out and buy insurance. You have to go to the exchange, and the exchange will decide for you which plans are offered to you. So, if you change your job or you don't like what you have, guess what? You get to go to the government's health exchange to get your insurance.

But it's just not the government option that I'm talking about. When you look at this infrastructure that's there, it is going to require tens of thousands of new Federal employees. The American people want two things from health care reform: They want lower cost and they want more choices. I think the underlying bill here tonight does exactly the opposite. It raises the cost of health insurance and creates this new megabureaucracy to make health care decisions that should be left to doctors and their patients.

So let's talk about this bureaucracy for a moment. If you go to page 131, section 241 provides for an unelected "Health Choices Commissioner" who would run a "Health Choices Administration," an independent agency of the executive branch.

Now, here are some of the examples of the powers of this new health choice commissioner—let's just call him the health czar. On page 167 through 172, in section 303, the health czar will decide which treatment patients could receive and at what cost. Or you can go to page 132, section 242, the health choices czar would decide which private plans would be allowed to participate in the exchange.

Then you go to page 127, section 234. This new health czar will regulate all insurance plans both in and out of the exchange.

Then you go to page 162 to 165, section 302, the health choices czar will

determine which employers are going to be allowed to participate in the exchange.

Then you go to page 174 to 178, section 304(b), the health choices czar will decide which physicians and hospitals get to participate in the government-run plan.

Then you go to page 197 to 202, section 308, the health choices czar will determine which States are allowed to operate their own exchange and to terminate any previously approved State exchange at any time.

Then you go to page 170 and 171, section 303(d), the health choices czar can override State laws regarding covered health benefits. It's in the bill. Go read it.

Page 133, section 242(a)(2). This person will determine how trillions of taxpayer and employer dollars would be spent within the exchange.

And page 133, section 242, "conduct random compliant audits." The person still has more powers here.

Page 183, section 305, automatically enroll Americans into the exchange if they don't have coverage, including potentially forcing these individuals into the government-run plan. Now, this is referred to as "random assignment."

This commissioner is charged with establishing "waiting lists" and defining such terms as "dependent," "service area," "premium rating area," "employee," "part-time employee," and "full-time employee." Let's all be honest, this is the czar to end all czars.

But it doesn't stop there. When you look at this expanding bureaucracy created in the Federal Government, on page 1322, section 2401, it creates a new Center for Quality Improvement to prioritize areas for identification, development, evaluation, and implementation of best practices for quality improvement of best practices for the delivery of health care services. We've already got Centers for Quality Improvement. We've got doctors, nurses, surgeons, hospitals, laboratories, rehab facilities. But no, no, we're going to have more bureaucracy than that. We're not even close to the end of this bureaucracy.

Page 1183, section 1904 provides for \$750 million in Federal funding for a new entitlement program to offer "knowledge of realistic expectations of age-appropriate child behaviors" and "skills to interact with their child." So not only is the Federal Government going to legislate what's good for medical practices, now we're going to put \$750 million into a program to help legislate how parents should parent.

Page 1198, section 1907, we establish a Center for Medicare and Medicaid innovation within the Centers for Medicare and Medicaid Services to legislate innovation as part of a bill that cuts, I think, the most innovative Medicare program we have, that's Medicare Advantage. But we still have more.

Page 25, section 101 authorizes the Secretary of Health and Human Services to reduce benefits, increase premiums, and establish waiting lists to make up for funding in the shortfalls of high-risk pools. That's right there in the bill, "establish waiting lists."

Pages 734, 738, and 1162, sections 1401 and 1802 create the Center for Comparative Effectiveness Research and the Comparative Effectiveness Research Commission and the Comparative Effectiveness Research Trust Fund. These are bureaucracies that will decide which treatments are most effective. But the bill does not provide any protection to doctors and patients that they all get to decide what's in their own best interest.

Then we get into a lot more duplicative Federal programs. Page 1432, section 2531 provides for incentive payments to States that enact new medical liability laws, but only if such laws do "not limit attorneys' fees or impose caps on damages." So we're telling States to solve the problems, but also telling them not to use the tools that work most effectively in the States that are using them.

Page 1624, section 2589 creates a new Personal Care Attendant Workforce Advisory Panel. Let me say that again, a Personal Care Attendant Workforce Advisory Panel made up in part by personal care workers, including their union representatives, to study working conditions and salaries of these workers. What does this have to do with lowering health care costs?

Page 1968, section 3103 establishes a "Committee for the Establishment of the Native American Health and Wellness Foundation." So we're going to set up a committee whose job it is to set up a foundation, and we're going to take half a million dollars of Americans' money to do this.

Page 1330, section 2402 creates a new Assistant Secretary for Health Information. I guess this is another job saved or created.

Page 1391, section 2524 creates a "No Child Left Unimmunized Against Influenza" demonstration grant program to test the feasibility of using the Nation's elementary schools and secondary schools as influenza vaccination centers. Aren't we doing this already?

Page 1253, section 2231 creates a new Public Health Workforce Corps for the purpose of "ensuring an adequate supply of health professionals." The bill also creates a "Public Health Workforce Scholarship Program" and a "Public Health Workforce Loan Forgiveness Program." All of this duplicates the existing National Health Services Corps.

Page 1478, section 2552, the bill creates an Emergency Care Coordination Center in the Office of the Assistant Secretary for Preparedness and Response charged with working in coordi-

nation with the Federal Interagency Committee on Emergency Medical Services. And the Emergency Care Coordinator Center seeks out the advice of a Council of Emergency Care.

We're not finished yet. How about this one? Page 1515, section 2572(b) imposes a labeling requirement on all vending machines nationwide. In addition to that, we require all restaurants with more than 20 locations to post the calorie count exactly next to—and we spell this in the law—right next to the menu, whether it's the drive-in menu, the menu on the board, the one they hand out to you. Oh, yeah. We're going to require every restaurant with more than 20 locations to do this. Oh, but that's not enough.

□ 2145

Page 872, section 1433 requires the director of food services at nursing facilities that participate in Medicare or Medicaid to hold "military, academic, or other qualifications" as determined by Federal bureaucrats. So now we are going to legislate the work requirements in the background of all this off.

But I think this is the best part of the bureaucracy: on page 122, section 233(a)(3) of this 2,032-page bill, it requires the commissioner to "issue guidance on best practices of plain language writing." Oh, yes, it's right here in the bill. Go look at it.

Ladies and gentlemen, we know what's going on here. There are problems in our current health care system that we all want to address. I heard all the criticisms of our bill and the fact that it doesn't do everything that everybody wants it to do.

But do you know what it does do?

It lowers the cost of health insurance, and it solves the problem of those with preexisting conditions, and it begins to insure more Americans. That's what the American people want, a step-by-step approach to making the best health care system in the world better. We can do that. What we don't need to do is to create this giant bureaucracy, spend all of this tax money, and imprison our children's future by passing this 2,000-page bill.

So, I think we do have a better solution, a commonsense solution that Americans will support.

So, tonight, here we are. We have a choice. We can pass the 2,000-page bill. We can raise taxes. We can cut Medicare. We can impose all of these mandates on employers that are going to drive employment down and unemployment up, or we can take some commonsense approach.

As I said during my remarks, our job is to do our best to make sure that our kids and grandkids have a better chance of the American Dream than we did. I understand that we've got some tough choices to make, but that's what the American people sent us here to do is to make those tough choices. I'm not

going to put my kids further in debt. I'm not going to dim the lights of freedom for my kids and theirs nor for anyone's in this country if I can avoid it.

So we have a choice. We can do what's right for the future, or we can continue down this path toward bigger and bigger government. I came here to fight for freedom. I came here to renew the American Dream for our kids and our grandkids.

So I would ask my colleagues to think about that choice. Vote for the Republican alternative, and whatever you do, please vote "no" for the underlying bill.

Mr. WAXMAN. Mr. Speaker, to close the debate on the Democratic side, I yield the balance of my time to the dean of the House, to the lead author of the underlying bill and to a man who has fought longer for national health insurance than anyone in this institution. I yield the balance of my time to Representative JOHN DINGELL from the State of Michigan.

The SPEAKER pro tempore. The gentleman from Michigan is recognized for 5 minutes.

Mr. DINGELL. Mr. Speaker, I am here tonight to urge my colleagues to vote against the Republican substitute and for the bill reported by three committees after long and hard work.

I want to tell the House—all Members—how proud I am of the discussion that has taken place today. I want to commend the three committees and their chairmen, including my good friend, the chairman of our committee, Mr. WAXMAN, for the work they have done.

You, Madam Speaker and the leadership, we thank you for the extraordinary leadership which you have given us in bringing this to the point where we are tonight. Thank you.

I won't begin by spending much time on the bill offered by my Republican colleagues. It is really no substitute for H.R. 3962. According to The New York Times—and I think this sufficiently disposes of the matter—the Republican amendment does "almost nothing to reduce the scandalously high number of Americans who have no insurance, and it makes only a token stab at slowing the relentlessly rising costs of medical care."

Interestingly enough, under the Republican amendment, individuals would pay up to \$2,821 more, and families would pay up to \$8,188 more under the Republican plan when compared with H.R. 3962. It's not in the public interest that we should do that.

Having said that, this is historic legislation. It addresses two of the most terrifying problems we have in this country:

The first is what was the problem when my dad introduced the first legislation in 1943, that there are now some 47 million Americans without health care. This will give many of them adequate health care and a decent choice



of what they will have before them at the best possible price through an exchange, which will make it possible for them to choose without having to worry about understanding the language of Philadelphia lawyers and reading fine print that can only be read with a magnifying glass.

The bill does something more. It takes care of an economic problem that will be visited on us in 2080 when the costs of health care will equal the gross domestic product of the United States. That will bring us to a fine economic mess if we permit that to happen. Health care and GDP costs will be equal.

Now, the bill carries out the President's suggestions: deficit neutral. It provides coverage for 96 percent of Americans. It offers everyone, regardless of income, age, health status, the peace of mind that comes from knowing that they will have real access to affordable health insurance when they need it.

It does away with preexisting conditions, which the bill offered by my friends in the minority does not; and it sees to it that, when you go to bed at night, you're going to wake up knowing in the morning that you're going to have health insurance. It can't have been dropped by your employer, and it can't have been canceled by your insurance.

There is a practice, on which we just had hearings, that is engaged in by the insurance companies. It is called "rescission." They can cancel your insurance policy by the simple device of rescinding your policy because they say you have some preexisting conditions, and they can do it while you're on the gurney, being rolled into the operating amphitheater.

The bill is going to give choice and honest competition. It is going to bring security to our seniors, and it is going to reduce out-of-control health care costs that are crushing American business.

It costs \$4 an hour less to make a car in Canada than it does in Michigan. Why? Because the Canadians have a program of national health insurance which ensures that the manufacturer can compete and out-compete Americans because he doesn't carry that economic burden.

Today, this may be a tough vote, but it was in 1935 when we passed Social Security. I hear my colleagues tell us that the economy, jobs and financial system overhaul, are desperately needed. True. But that was the case in '35 when we passed the Social Security Act.

Now I hear my Republican colleagues tell us this is going to stand between—or permit a government bureaucrat to stand between the insured and the doctor and each other. In point of fact, it is going to permit the government to stand between the insurance bureau-

crat and the insured, and it is going to stand between him and the doctor so that the doctor can provide the care he wants.

The problems this historic legislation aims to address are real and worsening for American citizens, business, and governments. When my Dad introduced this legislation sixty some years ago, it was a simple humanitarian problem. Today it is one of impending economic disaster to America.

H.R. 3962 meets the goals President Obama outlined for us earlier this year: it is deficit neutral; it provides coverage for 96 percent of Americans; and it offers everyone, regardless of income, age or health status, the peace of mind that comes from knowing they will have real access to quality, affordable health insurance when they need it; that pre-existing conditions will not bar them from insurance; that loss of job or dropping of coverage by employer will not deny insurance.

This bill will stop discrimination against people with pre-existing conditions, and it will stop rescission—the practice in which an insurer searches for problems with patients' policies while they are waiting on a gurney for emergency care.

Additionally, this bill will ensure choice and honest competition; bring security to our seniors; and will reduce the out-of-control health care costs that are crushing American businesses.

Now is the time for health care reform. We can't afford to wait. We must offer big solutions for the big problems that face the American people. We must succeed.

Mr. Speaker, I have heard from a number of my colleagues, and I appreciate the fact the vote before us today is a tough vote.

I understand there are numerous competing issues confronting the American people—the economy, jobs, financial system overhaul. That was so in 1935 when we enacted Social Security over just about the same objections.

However, we know that no issue has caused the American people to suffer longer than the issue of inaccessible health care.

History and the American people will ask what we did here this day when presented with a real opportunity to ease the strain of rising health care costs and provide quality, affordable health coverage for all.

Mr. Speaker, the vote for me today will be on behalf of American families who are forced to decide whether they will pay the mortgage or their health insurance premium.

My vote today is for American business—big and small. They are confronted with the real burden of providing quality health care for their workers or fall victim to their foreign competitors.

My vote today is for the federal government, and state and local governments throughout the country which are being stretched to make room for larger and larger health bills.

Mr. Speaker, my vote today is also personal.

It is a vote to fulfill the legacy left by a little, skinny Polack with a broken nose and a mustache who served as a proud Member of this distinguished body.

My father, John D. Dingell, Sr., was a part of the original New Dealers—a brand of big thinking Democrats—who believed that health

care is a right, not a privilege and government had a responsibility to protect it people; provide for their basic rights; and ensure opportunity for all.

So, it is in that tradition that I urge my colleagues to act today to pass this bill.

Join with the AMA, the AARP, the Consumers Union, the American Cancer Society, the different medical specialist groups, the Nurses and others who support this bill.

Mr. Speaker, we have an opportunity today, to do something meaningful for the American people and for American business.

We can take advantage of this opportunity or we can shirk our responsibilities and allow the calamitous situation that faces our people to continue to grow out of hand, overwhelm the federal budget, force more and more families into bankruptcy, and shift more jobs overseas.

Reform is neither easy nor cheap, but the cost of inaction is far greater—in terms of lost lives, quality of life and dollars. If we don't reduce costs we face certain economic disaster.

So, today, we must overcome the naysayers, the loyal opposition, the lies about our plan, the fear that causes us to think the status quo is the safe thing to do.

We must overcome all of these things and we must act boldly, with conviction, and deliberately—not because of our own righteousness—but because there is no other acceptable alternative.

I urge my colleagues to vote "yes" on H.R. 3962 and give the American people the relief they so desperately need.

Ms. RICHARDSON. Mr. Speaker, I rise today to oppose the Boehner amendment and in strong support of H.R. 3962, the Affordable Health Care for America Act of 2009, because this bill is good for seniors, good for women, good for small businesses, and good for all Americans.

President Theodore Roosevelt proposed national health insurance in 1908. Forty years later in 1948, President Truman proposed it again. Under the leadership of Lyndon B. Johnson and a Democratic Congress, Medicare was enacted in 1965 which provided health care for senior citizens.

Today, we write another great chapter in the remarkable history of this country. Today, we extend to tens of millions of our fellow citizens the security that comes from knowing that they will have health care that is there when they need it and won't bankrupt their families.

The health care system we have now is not working for middle and working class families, not working for businesses trying to compete in a global economy, not working for taxpayers or for the uninsured.

There are 54 million Americans who are uninsured who need us to reform this broken system. One in five Californians are uninsured or underinsured. These numbers are staggering and if we do nothing, they will only grow worse.

Mr. Speaker, the Affordable Health Care for Americans Act is the answer to the broken health care system. This bill provides American families with stability and peace of mind. Never again will they have to choose between their health and their livelihood.

This bill provides American families with higher quality health care. It leaves important health decisions up to patients and doctors, not to insurance companies.



Finally, this bill lowers costs for American families. It eliminates co-pays and deductibles for preventive care while putting an annual cap on out-of-pocket expenses for American families.

Now, we need to stop playing politics and focus on actually improving people's lives. H.R. 3962 will reform the health care system so that it provides quality, affordable coverage that cannot be taken away. It eliminates discrimination based on gender and preexisting conditions. It eliminates the prescription drug donut hole for seniors. It ends the era of no and begins the era of yes for millions of Americans seeking coverage.

The hour is late, and the need is great. I urge my colleagues to vote "no" on the Boehner Amendment and "yes" on H.R. 3962.

Mr. GALLEGLY. Mr. Speaker, I rise in support of the amendment offered by Mr. BOEHNER. I have long supported changes to current health care system which reduce health care costs through increased efficiency and provide affordable insurance for people with preexisting conditions. But, at the same time, any changes to our current system should ensure doctors and patients are allowed to make health care decisions—not government bureaucrats.

Therefore, I support real health insurance reform and support the version offered by the Minority Leader, which would:

Lower health care premiums for working families,

Allow small businesses to join together in order to buy reasonably priced health insurance,

Reduce medical costs by limiting frivolous medical malpractice lawsuits,

Prevent insurers from unjustly cancelling health insurance policies, and Establish universal access programs that provide affordable insurance for people with preexisting conditions.

Mr. Speaker, we should not consider changes of this magnitude without a complete report from the nonpartisan Congressional Budget Office, CBO. The preliminary estimate from the CBO puts the cost of H.R. 3962 at more than \$1.05 trillion, but many independent experts believe this bill will actually increase Federal expenditures by more than \$1.3 trillion.

In addition, this bill would impose \$730 billion in new taxes and mandates on individuals and small businesses. Most economists, including CBO experts, have concluded that these requirements could increase unemployment by discouraging businesses from hiring low-wage workers. It could also lead to wage stagnation as payroll is diverted to comply with new Federal mandates on health care coverage.

I am also concerned about the impact of this proposal on Medicare beneficiaries. H.R. 3962 would cut \$400 billion from Medicare over 10 years, including a \$170 billion reduction to Medicare Advantage plans, which provides insurance coverage for many seniors.

Finally, H.R. 3962 does not address the problem of frivolous malpractice lawsuits in a meaningful way. These suits lead to the practice of expensive, defensive medicine and raise the health care expenses of all patients.

I urge my colleagues to reject H.R. 3962 and support the amendment offered by Mr. BOEHNER.

Mr. SAM JOHNSON of Texas. Mr. Speaker, today, I want to add my support for the Republican substitute amendment, the Commonsense Health Care Reform and Affordability Act. This amendment is a patient centered solution to healthcare reform that our country can afford and that members on both sides of the aisle can support. It also addresses the number one concern on the mind of all Americans in this country: the high cost of health care.

The Congressional Budget Office has estimated that this Republican substitute amendment would reduce health insurance premiums by up to 8 percent for those families who currently do not have access to employer-provided coverage. My constituents have told me over and over again that the cost of healthcare is too high. They need healthcare that is more affordable, accessible and available and the Commonsense Health Care Reform and Affordability Act provides just that.

Included in the Republican substitute amendment is my bill, H.R. 2607, the Small Business Health Fairness Act. This legislation allows small businesses to band together to purchase health insurance so they can enjoy the same bargaining power large corporations and labor unions have at the purchasing table. In all parts of our economy we know that buying in bulk reduces the price tag, and healthcare is no different. Government-forced healthcare is not the way to solve our health care problem. We can and have to do better.

With almost 60 percent of the uninsured population tied to a small business, this provision in the Commonsense Health Care Reform and Affordability Act, helps bring access to affordable healthcare to those that currently don't have it. Clearly, there are better ways to make healthcare more accessible for American families—and this Republican substitute is it.

Real healthcare reform should protect doctors and hospitals from frivolous lawsuits, so they can stop practicing defensive medicine and instead focus on practicing patient-focused care. This amendment extends medical liability reform that has been successful in several States to the rest of the Nation, saving lives and saving money.

Another provision in the Republican substitute amendment I am proud to support is the State Innovations Program. The amendment provides incentives to States who adopt reforms that reduce the cost of health insurance and expand coverage to the citizens of their States.

This provision allows States the freedom to solve their health problems on their own. Speaker PELOSI's health-care bill focuses on the Federal Government trying to fix what is broken with our health care. But in my great State of Texas, I believe those that are best equipped to solve our healthcare problems are Texans. It is time for real reform that works and not the same old answers of more money and more government.

Finally, this amendment protects American innovation while ensuring patients will have more cutting edge treatment options in the area called "follow on biologics." The Commonsense Health Care Reform and Affordability Act contains a provision that will create a pathway for new, life saving products while

maintaining the proper incentives for companies to research and strive to discover them. Most importantly, this provision will ensure that many of the jobs created in this industry will stay in the United States.

The Commonsense Health Care Reform and Affordability Act is exactly the solution the American public has asked Congress to pass. It saves money, lowers the cost of health care, protects the patient-doctor relationship and keeps the government out of personal healthcare decisions. I ask my colleagues to join me in supporting this amendment today.

Mr. CAMP. Mr. Speaker, I yield back the balance of my time.

Mr. WAXMAN. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. Pursuant to House Resolution 903, the previous question is ordered on the amendment.

The question is on the amendment offered by the gentleman from Ohio (Mr. BOEHNER).

The question was taken; and the Speaker pro tempore announced that the yeas appeared to have it.

Mr. CAMP. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to section 2 of House Resolution 903, further proceedings on this question will be postponed.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to section 2 of House Resolution 903, proceedings will now resume on the amendments printed in parts C and D of House Report 111-330 on which further proceedings were postponed, in the following order:

Amendment printed in part C by Mr. STUPAK of Michigan.

Amendment printed in part D by Mr. BOEHNER of Ohio.

The Chair will reduce to 5 minutes the time for any electronic vote after the first vote in this series.

AMENDMENT OFFERED BY MR. STUPAK

The SPEAKER pro tempore. The unfinished business is the vote on the amendment offered by the gentleman from Michigan (Mr. STUPAK) on which the yeas and nays were ordered.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

The SPEAKER pro tempore. The question is on the amendment.

The vote was taken by electronic device, and there were—yeas 240, nays 194, answered "present" 1, not voting 0, as follows:

[Roll No. 884]

YEAS—240

Aderholt	Barrett (SC)	Bishop (GA)
Akin	Barrow	Bishop (UT)
Alexander	Bartlett	Blackburn
Altmire	Barton (TX)	Blunt
Austria	Berry	Bocieri
Baca	Biggart	Boehner
Bachmann	Bilbray	Bonner
Bachus	Bilirakis	Bono Mack

Boozman  
Boren  
Boustany  
Brady (TX)  
Bright  
Broun (GA)  
Brown (SC)  
Brown-Waite,  
Ginny  
Buchanan  
Burgess  
Burton (IN)  
Buyer  
Calvert  
Camp  
Campbell  
Cantor  
Cao  
Capito  
Cardoza  
Carney  
Carter  
Cassidy  
Castle  
Chaffetz  
Chandler  
Childers  
Coble  
Coffman (CO)  
Cole  
Conaway  
Cooper  
Costa  
Costello  
Crenshaw  
Cuellar  
Culberson  
Dahlkemper  
Davis (AL)  
Davis (KY)  
Davis (TN)  
Deal (GA)  
Dent  
Diaz-Balart, L.  
Diaz-Balart, M.  
Donnelly (IN)  
Doyle  
Dreier  
Driehaus  
Duncan  
Ehlers  
Ellsworth  
Emerson  
Etheridge  
Fallin  
Flake  
Fleming  
Forbes  
Fortenberry  
Foxy  
Franks (AZ)  
Frelinghuysen  
Gallegly  
Garrett (NJ)  
Gerlach  
Gingrey (GA)  
Gohmert  
Goodlatte  
Gordon (TN)  
Granger  
Graves  
Griffith  
Guthrie

## NAYS—194

Abercrombie  
Ackerman  
Adler (NJ)  
Andrews  
Arcuri  
Baird  
Baldwin  
Bean  
Becerra  
Berkley  
Berman  
Bishop (NY)  
Blumenauer  
Boswell  
Boucher  
Boyd  
Brady (PA)  
Braley (IA)  
Brown, Corrine  
Butterfield

Hall (TX)  
Harper  
Hastings (WA)  
Heller  
Hensarling  
Herger  
Hill  
Hoekstra  
Holden  
Hunter  
Inglis  
Issa  
Jenkins  
Johnson (IL)  
Johnson, Sam  
Jones  
Jordan (OH)  
Kanjorski  
Kaptur  
Kildee  
King (IA)  
King (NY)  
Kingston  
Kirk  
Kline (MN)  
Lamborn  
Lance  
Langevin  
Latham  
LaTourette  
Latta  
Lee (NY)  
Lewis (CA)  
Linder  
Lipinski  
LoBiondo  
Lucas  
Luetkemeyer  
Lummis  
Lungren, Daniel  
E.  
Lynch  
Mack  
Manzullo  
Marchant  
Marshall  
Matheson  
McCarthy (CA)  
McCauley  
McClintock  
McCotter  
McHenry  
McIntyre  
McKeon  
McMorris  
Rogers  
Melancon  
Michaud  
Miller (FL)  
Miller (MI)  
Miller, Gary  
Mollohan  
Moran (KS)  
Murphy, Tim  
Murtha  
Myrick  
Neal (MA)  
Neugebauer  
Nunes  
Oberstar  
Obey  
Olson

Ortiz  
Paul  
Paulsen  
Pence  
Perriello  
Peterson  
Petri  
Pitts  
Platts  
Poe (TX)  
Pomeroy  
Posey  
Price (GA)  
Putnam  
Radanovich  
Rahall  
Rehberg  
Reichert  
Reyes  
Rodriguez  
Roe (TN)  
Rogers (AL)  
Rogers (KY)  
Rogers (MI)  
Rohrabacher  
Rooney  
Ros-Lehtinen  
Roskam  
Ross  
Royce  
Ryan (OH)  
Ryan (WI)  
Salazar  
Scalise  
Schmidt  
Schock  
Sensenbrenner  
Sessions  
Shimkus  
Shuler  
Shuster  
Simpson  
Skelton  
Smith (NE)  
Smith (NJ)  
Smith (TX)  
Snyder  
Souder  
Space  
Spratt  
Stearns  
Stupak  
Sullivan  
Tanner  
Taylor  
Teague  
Terry  
Thompson (PA)  
Thornberry  
Tiahrt  
Tiberi  
Turner  
Upton  
Walden  
Wamp  
Westmoreland  
Whitfield  
Wilson (OH)  
Wilson (SC)  
Wittman  
Wolf  
Young (AK)  
Young (FL)

Green, Al  
Green, Gene  
Grijalva  
Gutierrez  
Hall (NY)  
Halvorson  
Hare  
Harman  
Hastings (FL)  
Heinrich  
Herseth Sandlin  
Higgins  
Himes  
Hinchey  
Hinojosa  
Hirono  
Hodes  
Miller, George  
Holt  
Honda  
Hoyer  
Insee  
Israel  
Jackson (IL)  
Jackson-Lee  
(TX)  
Johnson (GA)  
Johnson, E. B.  
Kagen  
Kennedy  
Kilpatrick (MI)  
Kilroy  
Kind  
Kirkpatrick (AZ)  
Kissell  
Klein (FL)  
Kosmas  
Kratovil  
Kucinich  
Larsen (WA)  
Larson (CT)  
Lee (CA)  
Levin  
Lewis (GA)  
Loeb sack  
Lofgren, Zoe  
Lowey

## ANSWERED “PRESENT”—1

Shadegg

□ 2220

Mr. COHEN and Ms. JACKSON-LEE of Texas changed their vote from “yea” to “nay.”

Messrs. SPRATT and LEWIS of California changed their vote from “nay” to “yea.”

So the amendment was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

## AMENDMENT OFFERED BY MR. BOEHNER

The SPEAKER pro tempore. The unfinished business is the vote on the amendment offered by the gentleman from Ohio (Mr. BOEHNER) on which the yeas and nays were ordered.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

The SPEAKER pro tempore. The question is on the amendment.

This is a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 176, noes 258, not voting 0, as follows:

[Roll No. 885]

## YEAS—176

Aderholt  
Akin  
Alexander  
Austria  
Bachmann  
Bachus

Barrett (SC)  
Bartlett  
Barton (TX)  
Biggert  
Bilbray  
Bilirakis

Bishop (UT)  
Blackburn  
Blunt  
Boehner  
Bonner  
Bono Mack

Rush  
Sánchez, Linda  
T.  
Sanchez, Loretta  
Sarbanes  
Schakowsky  
Schauer  
Schiff  
Schrader  
Schwartz  
Scott (GA)  
Scott (VA)  
Serrano  
Sestak  
Shea-Porter  
Sherman  
Sires  
Slaughter  
Smith (WA)  
Speier  
Stark  
Sutton  
Thompson (CA)  
Thompson (MS)  
Tierney  
Titus  
Tonko  
Towns  
Tsongas  
Van Hollen  
Velázquez  
Visclosky  
Walz  
Wasserman  
Schultz  
Waters  
Watson  
Watt  
Waxman  
Weiner  
Welch  
Wexler  
Woolsey  
Wu  
Yarmuth

Boozman  
Boustany  
Brady (TX)  
Broun (GA)  
Brown (SC)  
Brown-Waite,  
Ginny  
Buchanan  
Burgess  
Burton (IN)  
Buyer  
Calvert  
Camp  
Campbell  
Cantor  
Cao  
Capito  
Carter  
Cassidy  
Castle  
Chaffetz  
Chandler  
Childers  
Coble  
Coffman (CO)  
Cole  
Conaway  
Crenshaw  
Culberson  
Davis (KY)  
Deal (GA)  
Dent  
Diaz-Balart, L.  
Diaz-Balart, M.  
Dreier  
Duncan  
Ehlers  
Emerson  
Fallin  
Flake  
Fleming  
Forbes  
Fortenberry  
Foxy  
Franks (AZ)  
Frelinghuysen  
Gallegly  
Garrett (NJ)  
Gerlach  
Gingrey (GA)  
Gohmert  
Goodlatte  
Granger  
Graves  
Guthrie  
Hall (TX)

Harper  
Hastings (WA)  
Heller  
Hensarling  
Herger  
Hoekstra  
Hunter  
Inglis  
Issa  
Jenkins  
Johnson, Sam  
Jones  
Jordan (OH)  
King (IA)  
King (NY)  
Kingston  
Kirk  
Kline (MN)  
Rooney  
Lamborn  
Lance  
Latham  
LaTourette  
Latta  
Lee (NY)  
Lewis (CA)  
Linder  
LoBiondo  
Lucas  
Luetkemeyer  
Lummis  
Lungren, Daniel  
E.  
Mack  
Manzullo  
Marchant  
McCarthy (CA)  
McCauley  
McClintock  
McCotter  
McHenry  
McKeon  
McMorris  
Rodgers  
Mica  
Miller (FL)  
Miller (MI)  
Miller, Gary  
Moran (KS)  
Murphy, Tim  
Myrick  
Neugebauer  
Nunes  
Olson  
Paul

## NAYS—258

Abercrombie  
Ackerman  
Adler (NJ)  
Altmire  
Andrews  
Arcuri  
Baca  
Baird  
Baldwin  
Barrow  
Bean  
Becerra  
Berkley  
Berman  
Berry  
Bishop (GA)  
Bishop (NY)  
Blumenauer  
Bocchieri  
Boren  
Boswell  
Boucher  
Boyd  
Brady (PA)  
Braley (IA)  
Bright  
Brown, Corrine  
Butterfield  
Capps  
Capuano  
Cardoza  
Carnahan  
Carney  
Carson (IN)  
Castor (FL)  
Chandler  
Childers  
Chu  
Clarke

Paulsen  
Pence  
Petri  
Pitts  
Platts  
Poe (TX)  
Posey  
Price (GA)  
Putnam  
Radanovich  
Rehberg  
Reichert  
Roe (TN)  
Rogers (AL)  
Rogers (KY)  
Rogers (MI)  
Rohrabacher  
Rooney  
Ros-Lehtinen  
Roskam  
Royce  
Ryan (WI)  
Scalise  
Schmidt  
Schock  
Sensenbrenner  
Sessions  
Shadegg  
Shimkus  
Shuster  
Simpson  
Smith (NE)  
Smith (NJ)  
Smith (TX)  
Souders  
Stearns  
Sullivan  
Terry  
Thompson (PA)  
Thornberry  
Tiahrt  
Tiberi  
Turner  
Upton  
Walden  
Wamp  
Westmoreland  
Whitfield  
Wilson (SC)  
Wittman  
Wolf  
Young (AK)  
Young (FL)

Frank (MA)  
Fudge  
Garamendi  
Giffords  
Gonzalez  
Gordon (TN)  
Grayson  
Green, Al  
Green, Gene  
Griffith  
Grijalva  
Gutierrez  
Hall (NY)  
Halvorson  
Hare  
Harman  
Hastings (FL)  
Heinrich  
Herseth Sandlin  
Higgins  
Hill  
Himes  
Hinchey  
Hinojosa  
Hirono  
Hodes  
Holden  
Holt  
Honda  
Hoyer  
Insee  
Israel  
Jackson (IL)  
Jackson-Lee  
(TX)  
Johnson (GA)  
Johnson (IL)  
Johnson, E. B.  
Kagen

Kanjorski	Mollohan	Schiff
Kaptur	Moore (KS)	Schrader
Kennedy	Moore (WI)	Schwartz
Kildee	Moran (VA)	Scott (GA)
Kilpatrick (MI)	Murphy (CT)	Scott (VA)
Kilroy	Murphy (NY)	Serrano
Kind	Murphy, Patrick	Sestak
Kirkpatrick (AZ)	Murtha	Shea-Porter
Kissell	Nadler (NY)	Sherman
Klein (FL)	Napolitano	Shuler
Kosmas	Neal (MA)	Sires
Kratovil	Nye	Skelton
Kucinich	Oberstar	Slaughter
Langevin	Obey	Smith (WA)
Larsen (WA)	Oliver	Snyder
Larson (CT)	Ortiz	Space
Lee (CA)	Owens	Speier
Levin	Pallone	Spratt
Lewis (GA)	Pascarell	Stark
Lipinski	Pastor (AZ)	Stupak
Loeback	Payne	Sutton
Lofgren, Zoe	Perlmutter	Tanner
Lowey	Perriello	Taylor
Lujan	Peters	Teague
Lynch	Peterson	Thompson (CA)
Maffei	Pingree (ME)	Thompson (MS)
Maloney	Pollis (CO)	Tierney
Markey (CO)	Pomeroy	Titus
Markey (MA)	Price (NC)	Tonko
Marshall	Quigley	Towns
Massa	Rahall	Tsongas
Matheson	Rangel	Van Hollen
Matsui	Reyes	Velázquez
McCarthy (NY)	Richardson	Visclosky
McCollum	Rodriguez	Walz
McDermott	Ross	Wasserman
McGovern	Rothman (NJ)	Schultz
McIntyre	Roysal-Allard	Waters
McMahon	Ruppersberger	Watson
McNerney	Rush	Watt
Meek (FL)	Ryan (OH)	Waxman
Meeks (NY)	Salazar	Weiner
Melancon	Sánchez, Linda	Welch
Michaud	T.	Wexler
Miller (NC)	Sanchez, Loretta	Wilson (OH)
Miller, George	Sarbanes	Woolsey
Minnick	Schakowsky	Wu
Mitchell	Schauer	Yarmuth

□ 2228

So the amendment was rejected.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore. Pursuant to House Resolution 903, the previous question is ordered on the bill, as amended.

The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

#### MOTION TO RECOMMIT

Mr. CANTOR. Mr. Speaker, I have a motion to recommit at the desk.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. CANTOR. Yes, Mr. Speaker, in its current form.

The SPEAKER pro tempore. Pursuant to House Resolution 903, the motion is considered as read.

The text of the motion is as follows:

Mr. Cantor moves to recommit the bill, H.R. 3962, to the Committee on Energy and Commerce with instructions to report the same back to the House forthwith with the following amendments:

Page 1209, after line 15, insert the following new title (and conform the table of contents of division B, and the table of divisions, titles and subtitles in section 1(b), accordingly):

## TITLE X—SENIORS PROTECTION AND MEDICARE REGIONAL PAYMENT EQUITY FUND

### SEC. 1911. FINDINGS.

Congress finds the following:

(1) When analyzing the Medicare cuts in division B, The Office of the Actuary (OACT) of the Centers for Medicare & Medicaid Services noted that “The additional demand for health services could be difficult to meet initially with existing health provider resources and could lead to price increases, cost-shifting, and changes in providers’ willingness to treat patients with low-reimbursement health coverage.”.

(2) When analyzing the Medicare cuts contained in division B, OACT predicts that, “Over time, a sustained reduction in payment updates, based on productivity expectations that are difficult to attain, would cause Medicare payment rates to grow more slowly than, and in a way that was unrelated to, the provider’s costs of furnishing services to beneficiaries. Thus, providers for whom Medicare constitutes a substantive portion of their business could find it difficult to remain profitable and might end their participation in the program (possibly jeopardizing access to care for beneficiaries).”.

(3) The Medicare Payment Advisory Commission (MedPAC) found that 28 percent of seniors currently have difficulty finding a new physician to treat them.

(4) Medicare geographic payment inequities are well documented and have been extensively studied.

(5) The Congressional Budget Office states that per capita health care spending varies widely across the United States.

(6) Low-cost, high-quality States are setting the national standard for Medicare yet they are penalized by the current Medicare reimbursement formula.

(7) Geographic payment inequities must be resolved for health care reform to be successful and for Medicare to achieve long-term sustainability.

(8) Rural counties face unique challenges in delivering health care.

(9) MedPAC finds that every senior currently has the ability to enroll in a Medicare Advantage plan instead of the traditional government program. The Commission predicts that because of Medicare cuts contained in division B, 1 in 5 seniors will no longer have this choice and be forced to receive their Medicare benefits from the traditional program.

(10) OACT predicts that the Medicare cuts contained in division B will reduce seniors’ projected enrollment in Medicare Advantage plans by 64 percent.

(11) MedPAC estimates that, on average, Medicare physician reimbursements are 20 percent lower than the reimbursements physicians receive from private health plans.

(12) MedPAC predicts that, on average, Medicare hospital reimbursements will be 6.9 percent below the cost of providing care in 2009.

### SEC. 1912. SENIORS PROTECTION AND MEDICARE REGIONAL PAYMENT EQUITY FUND.

(a) ESTABLISHMENT.—The Secretary of Health and Human Services (in this section referred to as the “Secretary”) shall establish under this title a Seniors Protection and Medicare Regional Payment Equity Fund (in this section referred to as the “Fund”) which shall be available to the Secretary to provide for improvements (described in subsection (b)(1)) under the Medicare program under title XVIII of the Social Security Act.

(b) IMPROVEMENTS MADE BY FUND.—

(1) IN GENERAL.—The improvements described in this paragraph are the following:

(A) CORRECTING PAYMENT INEQUITIES.—In order to correct inequities in Medicare payment policies that punish high-quality, low-cost counties (as defined in paragraph (2)) and to promote high quality, cost effective patient care, by providing additional funding to Medicare providers located in such counties.

(B) PRESERVING SENIORS’ CHOICE.—In order to preserve seniors’ ability to choose the Medicare health benefits that best meet their needs, by providing additional funding to ensure that every Medicare beneficiary continues to have access to at least 1 Medicare Advantage plan under part C of the Medicare program.

(C) ACCESS TO MEDICALLY NECESSARY CARE AND TREATMENT.—By providing such additional funding as may be necessary to ensure access by Medicare beneficiaries to medically necessary care and treatment, including care and treatment furnished by physicians, hospitals, and other health care providers under the Medicare program, without wait lines or coverage determinations based solely on the basis of cost.

(2) HIGH QUALITY, LOW-COST COUNTY DEFINED.—In this subsection, the term “high quality, low-cost county” means a county (or equivalent area) in which, as determined by the Secretary—

(A) the quality of care exceeds the national average; and

(B) the per beneficiary fee-for-service Medicare costs are substantially lower than the national average.

(c) FUNDING.—

(1) IN GENERAL.—There shall be available to the Fund—

(A) \$13,500,000,000 for expenditures from the Fund during 5-year period beginning with 2010; and

(B) \$40,500,000,000 for expenditures from the Fund during the 5-year period beginning with 2015.

Such amounts reflect savings in Federal expenditures and increases in Federal revenues estimated to result from the provisions of division E.

(2) FUNDING LIMITATION.—Amounts in the Fund shall be available in advance of appropriations but only if the total amount obligated from the Fund does not exceed the amount available to the Fund under paragraph (1). The Secretary may obligate funds from the Fund only if the Secretary determines (and the Chief Actuary of the Centers for Medicare & Medicaid Services and the appropriate budget officer certify) that there are available in the Fund sufficient amounts to cover all such obligations incurred consistent with the previous sentence.

Add at the end the following (and conform the table of divisions, titles, and subtitles in section 1(b) accordingly):

## DIVISION E—ENACTING REAL MEDICAL LIABILITY REFORM

### TABLE OF CONTENTS OF DIVISION

Sec. 4101. Encouraging speedy resolution of claims.

Sec. 4102. Compensating patient injury.

Sec. 4103. Maximizing patient recovery.

Sec. 4104. Additional health benefits.

Sec. 4105. Punitive damages.

Sec. 4106. Authorization of payment of future damages to claimants in health care lawsuits.

Sec. 4107. Definitions.

Sec. 4108. Effect on other laws.

Sec. 4109. State flexibility and protection of states’ rights.

Sec. 4110. Applicability; effective date.

**SEC. 4101. ENCOURAGING SPEEDY RESOLUTION OF CLAIMS.**

The time for the commencement of a health care lawsuit shall be 3 years after the date of manifestation of injury or 1 year after the claimant discovers, or through the use of reasonable diligence should have discovered, the injury, whichever occurs first. In no event shall the time for commencement of a health care lawsuit exceed 3 years after the date of manifestation of injury unless tolled for any of the following—

- (1) upon proof of fraud;
  - (2) intentional concealment; or
  - (3) the presence of a foreign body, which has no therapeutic or diagnostic purpose or effect, in the person of the injured person.
- Actions by a minor shall be commenced within 3 years from the date of the alleged manifestation of injury except that actions by a minor under the full age of 6 years shall be commenced within 3 years of manifestation of injury or prior to the minor's 8th birthday, whichever provides a longer period. Such time limitation shall be tolled for minors for any period during which a parent or guardian and a health care provider or health care organization have committed fraud or collusion in the failure to bring an action on behalf of the injured minor.

**SEC. 4102. COMPENSATING PATIENT INJURY.**

(a) **UNLIMITED AMOUNT OF DAMAGES FOR ACTUAL ECONOMIC LOSSES IN HEALTH CARE LAWSUITS.**—In any health care lawsuit, nothing in this division shall limit a claimant's recovery of the full amount of the available economic damages, notwithstanding the limitation in subsection (b).

(b) **ADDITIONAL NONECONOMIC DAMAGES.**—In any health care lawsuit, the amount of noneconomic damages, if available, may be as much as \$250,000, regardless of the number of parties against whom the action is brought or the number of separate claims or actions brought with respect to the same injury.

(c) **NO DISCOUNT OF AWARD FOR NONECONOMIC DAMAGES.**—For purposes of applying the limitation in subsection (b), future noneconomic damages shall not be discounted to present value. The jury shall not be informed about the maximum award for noneconomic damages. An award for noneconomic damages in excess of \$250,000 shall be reduced either before the entry of judgment, or by amendment of the judgment after entry of judgment, and such reduction shall be made before accounting for any other reduction in damages required by law. If separate awards are rendered for past and future noneconomic damages and the combined awards exceed \$250,000, the future noneconomic damages shall be reduced first.

(d) **FAIR SHARE RULE.**—In any health care lawsuit, each party shall be liable for that party's several share of any damages only and not for the share of any other person. Each party shall be liable only for the amount of damages allocated to such party in direct proportion to such party's percentage of responsibility. Whenever a judgment of liability is rendered as to any party, a separate judgment shall be rendered against each such party for the amount allocated to such party. For purposes of this section, the trier of fact shall determine the proportion of responsibility of each party for the claimant's harm.

**SEC. 4103. MAXIMIZING PATIENT RECOVERY.**

(a) **COURT SUPERVISION OF SHARE OF DAMAGES ACTUALLY PAID TO CLAIMANTS.**—In any health care lawsuit, the court shall supervise the arrangements for payment of damages to protect against conflicts of interest that may have the effect of reducing the amount

of damages awarded that are actually paid to claimants. In particular, in any health care lawsuit in which the attorney for a party claims a financial stake in the outcome by virtue of a contingent fee, the court shall have the power to restrict the payment of a claimant's damage recovery to such attorney, and to redirect such damages to the claimant based upon the interests of justice and principles of equity. In no event shall the total of all contingent fees for representing all claimants in a health care lawsuit exceed the following limits:

- (1) 40 percent of the first \$50,000 recovered by the claimant(s).
- (2) 33½ percent of the next \$50,000 recovered by the claimant(s).
- (3) 25 percent of the next \$500,000 recovered by the claimant(s).
- (4) 15 percent of any amount by which the recovery by the claimant(s) is in excess of \$600,000.

(b) **APPLICABILITY.**—The limitations in this section shall apply whether the recovery is by judgment, settlement, mediation, arbitration, or any other form of alternative dispute resolution. In a health care lawsuit involving a minor or incompetent person, a court retains the authority to authorize or approve a fee that is less than the maximum permitted under this section. The requirement for court supervision in the first two sentences of subsection (a) applies only in civil actions.

**SEC. 4104. ADDITIONAL HEALTH BENEFITS.**

In any health care lawsuit involving injury or wrongful death, any party may introduce evidence of collateral source benefits. If a party elects to introduce such evidence, any opposing party may introduce evidence of any amount paid or contributed or reasonably likely to be paid or contributed in the future by or on behalf of the opposing party to secure the right to such collateral source benefits. No provider of collateral source benefits shall recover any amount against the claimant or receive any lien or credit against the claimant's recovery or be equitably or legally subrogated to the right of the claimant in a health care lawsuit involving injury or wrongful death. This section shall apply to any health care lawsuit that is settled as well as a health care lawsuit that is resolved by a fact finder. This section shall not apply to section 1862(b) (42 U.S.C. 1395y(b)) or section 1902(a)(25) (42 U.S.C. 1396a(a)(25)) of the Social Security Act.

**SEC. 4105. PUNITIVE DAMAGES.**

(a) **IN GENERAL.**—Punitive damages may, if otherwise permitted by applicable State or Federal law, be awarded against any person in a health care lawsuit only if it is proven by clear and convincing evidence that such person acted with malicious intent to injure the claimant, or that such person deliberately failed to avoid unnecessary injury that such person knew the claimant was substantially certain to suffer. In any health care lawsuit where no judgment for compensatory damages is rendered against such person, no punitive damages may be awarded with respect to the claim in such lawsuit. No demand for punitive damages shall be included in a health care lawsuit as initially filed. A court may allow a claimant to file an amended pleading for punitive damages only upon a motion by the claimant and after a finding by the court, upon review of supporting and opposing affidavits or after a hearing, after weighing the evidence, that the claimant has established by a substantial probability that the claimant will prevail on the claim for punitive damages. At the request of any party in a health care

lawsuit, the trier of fact shall consider in a separate proceeding—

- (1) whether punitive damages are to be awarded and the amount of such award; and
- (2) the amount of punitive damages following a determination of punitive liability.

If a separate proceeding is requested, evidence relevant only to the claim for punitive damages, as determined by applicable State law, shall be inadmissible in any proceeding to determine whether compensatory damages are to be awarded.

(b) **DETERMINING AMOUNT OF PUNITIVE DAMAGES.**—

(1) **FACTORS CONSIDERED.**—In determining the amount of punitive damages, if awarded, in a health care lawsuit, the trier of fact shall consider only the following—

- (A) the severity of the harm caused by the conduct of such party;
- (B) the duration of the conduct or any concealment of it by such party;
- (C) the profitability of the conduct to such party;

(D) the number of products sold or medical procedures rendered for compensation, as the case may be, by such party, of the kind causing the harm complained of by the claimant;

(E) any criminal penalties imposed on such party, as a result of the conduct complained of by the claimant; and

(F) the amount of any civil fines assessed against such party as a result of the conduct complained of by the claimant.

(2) **MAXIMUM AWARD.**—The amount of punitive damages, if awarded, in a health care lawsuit may be as much as \$250,000 or as much as two times the amount of economic damages awarded, whichever is greater. The jury shall not be informed of this limitation.

**SEC. 4106. AUTHORIZATION OF PAYMENT OF FUTURE DAMAGES TO CLAIMANTS IN HEALTH CARE LAWSUITS.**

(a) **IN GENERAL.**—In any health care lawsuit, if an award of future damages, without reduction to present value, equaling or exceeding \$50,000 is made against a party with sufficient insurance or other assets to fund a periodic payment of such a judgment, the court shall, at the request of any party, enter a judgment ordering that the future damages be paid by periodic payments. In any health care lawsuit, the court may be guided by the Uniform Periodic Payment of Judgments Act promulgated by the National Conference of Commissioners on Uniform State Laws.

(b) **APPLICABILITY.**—This section applies to all actions which have not been first set for trial or retrial before the effective date of this division.

**SEC. 4107. DEFINITIONS.**

In this division:

(1) **ALTERNATIVE DISPUTE RESOLUTION SYSTEM; ADR.**—The term "alternative dispute resolution system" or "ADR" means a system that provides for the resolution of health care lawsuits in a manner other than through a civil action brought in a State or Federal court.

(2) **CLAIMANT.**—The term "claimant" means any person who brings a health care lawsuit, including a person who asserts or claims a right to legal or equitable contribution, indemnity, or subrogation, arising out of a health care liability claim or action, and any person on whose behalf such a claim is asserted or such an action is brought, whether deceased, incompetent, or a minor.

(3) **COLLATERAL SOURCE BENEFITS.**—The term "collateral source benefits" means any amount paid or reasonably likely to be paid in the future to or on behalf of the claimant, or any service, product, or other benefit provided or reasonably likely to be provided in

the future to or on behalf of the claimant, as a result of the injury or wrongful death, pursuant to—

(A) any State or Federal health, sickness, income-disability, accident, or workers' compensation law;

(B) any health, sickness, income-disability, or accident insurance that provides health benefits or income-disability coverage;

(C) any contract or agreement of any group, organization, partnership, or corporation to provide, pay for, or reimburse the cost of medical, hospital, dental, or income-disability benefits; and

(D) any other publicly or privately funded program.

(4) **COMPENSATORY DAMAGES.**—The term "compensatory damages" means objectively verifiable monetary losses incurred as a result of the provision of, use of, or payment for (or failure to provide, use, or pay for) health care services or medical products, such as past and future medical expenses, loss of past and future earnings, cost of obtaining domestic services, loss of employment, and loss of business or employment opportunities, damages for physical and emotional pain, suffering, inconvenience, physical impairment, mental anguish, disfigurement, loss of enjoyment of life, loss of society and companionship, loss of consortium (other than loss of domestic service), hedonic damages, injury to reputation, and all other nonpecuniary losses of any kind or nature. The term "compensatory damages" includes economic damages and non-economic damages, as such terms are defined in this section.

(5) **CONTINGENT FEE.**—The term "contingent fee" includes all compensation to any person or persons which is payable only if a recovery is effected on behalf of one or more claimants.

(6) **ECONOMIC DAMAGES.**—The term "economic damages" means objectively verifiable monetary losses incurred as a result of the provision of, use of, or payment for (or failure to provide, use, or pay for) health care services or medical products, such as past and future medical expenses, loss of past and future earnings, cost of obtaining domestic services, loss of employment, and loss of business or employment opportunities.

(7) **HEALTH CARE LAWSUIT.**—The term "health care lawsuit" means any health care liability claim concerning the provision of health care goods or services or any medical product affecting interstate commerce, or any health care liability action concerning the provision of health care goods or services or any medical product affecting interstate commerce, brought in a State or Federal court or pursuant to an alternative dispute resolution system, against a health care provider, a health care organization, or the manufacturer, distributor, supplier, marketer, promoter, or seller of a medical product, regardless of the theory of liability on which the claim is based, or the number of claimants, plaintiffs, defendants, or other parties, or the number of claims or causes of action, in which the claimant alleges a health care liability claim. Such term does not include a claim or action which is based on criminal liability; which seeks civil fines or penalties paid to Federal, State, or local government; or which is grounded in anti-trust.

(8) **HEALTH CARE LIABILITY ACTION.**—The term "health care liability action" means a civil action brought in a State or Federal court or pursuant to an alternative dispute resolution system, against a health care pro-

vider, a health care organization, or the manufacturer, distributor, supplier, marketer, promoter, or seller of a medical product, regardless of the theory of liability on which the claim is based, or the number of plaintiffs, defendants, or other parties, or the number of causes of action, in which the claimant alleges a health care liability claim.

(9) **HEALTH CARE LIABILITY CLAIM.**—The term "health care liability claim" means a demand by any person, whether or not pursuant to ADR, against a health care provider, health care organization, or the manufacturer, distributor, supplier, marketer, promoter, or seller of a medical product, including, but not limited to, third-party claims, cross-claims, counter-claims, or contribution claims, which are based upon the provision of, use of, or payment for (or the failure to provide, use, or pay for) health care services or medical products, regardless of the theory of liability on which the claim is based, or the number of plaintiffs, defendants, or other parties, or the number of causes of action.

(10) **HEALTH CARE ORGANIZATION.**—The term "health care organization" means any person or entity which is obligated to provide or pay for health benefits under any health plan, including any person or entity acting under a contract or arrangement with a health care organization to provide or administer any health benefit.

(11) **HEALTH CARE PROVIDER.**—The term "health care provider" means any person or entity required by State or Federal laws or regulations to be licensed, registered, or certified to provide health care services, and being either so licensed, registered, or certified, or exempted from such requirement by other statute or regulation.

(12) **HEALTH CARE GOODS OR SERVICES.**—The term "health care goods or services" means any goods or services provided by a health care organization, provider, or by any individual working under the supervision of a health care provider, that relates to the diagnosis, prevention, or treatment of any human disease or impairment, or the assessment or care of the health of human beings.

(13) **MALICIOUS INTENT TO INJURE.**—The term "malicious intent to injure" means intentionally causing or attempting to cause physical injury other than providing health care goods or services.

(14) **MEDICAL PRODUCT.**—The term "medical product" means a drug, device, or biological product intended for humans, and the terms "drug", "device", and "biological product" have the meanings given such terms in sections 201(g)(1) and 201(h) of the Federal Food, Drug and Cosmetic Act (21 U.S.C. 321(g)(1) and (h)) and section 351(a) of the Public Health Service Act (42 U.S.C. 262(a)), respectively, including any component or raw material used therein, but excluding health care services.

(15) **NONECONOMIC DAMAGES.**—The term "noneconomic damages" means damages for physical and emotional pain, suffering, inconvenience, physical impairment, mental anguish, disfigurement, loss of enjoyment of life, loss of society and companionship, loss of consortium (other than loss of domestic service), hedonic damages, injury to reputation, and all other nonpecuniary losses of any kind or nature.

(16) **PUNITIVE DAMAGES.**—The term "punitive damages" means damages awarded, for the purpose of punishment or deterrence, and not solely for compensatory purposes, against a health care provider, health care organization, or a manufacturer, distributor, or supplier of a medical product. Punitive

damages are neither economic nor non-economic damages.

(17) **RECOVERY.**—The term "recovery" means the net sum recovered after deducting any disbursements or costs incurred in connection with prosecution or settlement of the claim, including all costs paid or advanced by any person. Costs of health care incurred by the plaintiff and the attorneys' office overhead costs or charges for legal services are not deductible disbursements or costs for such purpose.

(18) **STATE.**—The term "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States, or any political subdivision thereof.

#### SEC. 4108. EFFECT ON OTHER LAWS.

(a) **VACCINE INJURY.**—

(1) To the extent that title XXI of the Public Health Service Act establishes a Federal rule of law applicable to a civil action brought for a vaccine-related injury or death—

(A) this division does not affect the application of the rule of law to such an action; and

(B) any rule of law prescribed by this division in conflict with a rule of law of such title XXI shall not apply to such action.

(2) If there is an aspect of a civil action brought for a vaccine-related injury or death to which a Federal rule of law under title XXI of the Public Health Service Act does not apply, then this division or otherwise applicable law (as determined under this division) will apply to such aspect of such action.

(b) **OTHER FEDERAL LAW.**—Except as provided in this section, nothing in this division shall be deemed to affect any defense available to a defendant in a health care lawsuit or action under any other provision of Federal law.

#### SEC. 4109. STATE FLEXIBILITY AND PROTECTION OF STATES' RIGHTS.

(a) **HEALTH CARE LAWSUITS.**—The provisions governing health care lawsuits set forth in this division preempt, subject to subsections (b) and (c), State law to the extent that State law prevents the application of any provisions of law established by or under this division. The provisions governing health care lawsuits set forth in this division supersede chapter 171 of title 28, United States Code, to the extent that such chapter—

(1) provides for a greater amount of damages or contingent fees, a longer period in which a health care lawsuit may be commenced, or a reduced applicability or scope of periodic payment of future damages, than provided in this division; or

(2) prohibits the introduction of evidence regarding collateral source benefits, or mandates or permits subrogation or a lien on collateral source benefits.

(b) **PROTECTION OF STATES' RIGHTS AND OTHER LAWS.**—(1) Any issue that is not governed by any provision of law established by or under this division (including State standards of negligence) shall be governed by otherwise applicable State or Federal law.

(2) This division shall not preempt or supersede any State or Federal law that imposes greater procedural or substantive protections for health care providers and health care organizations from liability, loss, or damages than those provided by this division or create a cause of action.

(c) **STATE FLEXIBILITY.**—No provision of this division shall be construed to preempt—

(1) any State law (whether effective before, on, or after the date of the enactment of this Act) that specifies a particular monetary amount of compensatory or punitive damages (or the total amount of damages) that may be awarded in a health care lawsuit, regardless of whether such monetary amount is greater or lesser than is provided for under this division, notwithstanding section 4102(a); or

(2) any defense available to a party in a health care lawsuit under any other provision of State or Federal law.

**SEC. 4110. APPLICABILITY; EFFECTIVE DATE.**

This division shall apply to any health care lawsuit brought in a Federal or State court, or subject to an alternative dispute resolution system, that is initiated on or after the date of the enactment of this Act, except that any health care lawsuit arising from an injury occurring prior to the date of the enactment of this Act shall be governed by the applicable statute of limitations provisions in effect at the time the injury occurred.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Virginia is recognized for 5 minutes in support of the motion.

□ 2230

Mr. CANTOR. Mr. Speaker, any physician in America will tell you that the simplest way to reduce health care costs is to enact real medical liability reform. The fear of being sued by opportunistic trial lawyers is pervasive in the practice of medicine. Our system wastes billions on defensive medicine that should be going to patient care. That's why real medical liability reform is needed. In fact, CBO estimates that as much as \$54 billion can be saved by the Federal Government alone. It is totally unacceptable that this money is being spent in the courtroom instead of the operating room.

At the same time, the majority has promised the American people that their health care bill will lower costs, yet the bill before us today, Mr. Speaker, contains no medical liability reforms. And why not? The truth comes from one of the Democrats' own, no less than former DNC Chair and physician Howard Dean, who said last August, "The reason that tort reform is not in the bill is because the people that wrote it did not want to take on the trial lawyers in addition to everybody else they were taking on, and that is the plain and simple truth."

Mr. Speaker, the Republican motion to recommit adds real meaningful medical liability and reform and uses its \$54 billion in savings to create a fund that will protect seniors, especially those in rural areas, from the steep cuts to Medicare in the Democrats' reform package. It gives Members the chance to prioritize the health of our Nation's seniors instead of lining the bank accounts of trial lawyers. It's time to get trial lawyers out of the clinics and the operating rooms and leave patient care to the people trained to handle it best—our doctors.

Mr. Speaker, to talk about this further, I now yield to the gentlewoman

from Florida, Congresswoman BROWN-WAITE.

Ms. GINNY BROWN-WAITE of Florida. Betty, a constituent of mine, recently told me that if it weren't for Medicare Advantage, she would be dead. You see, Medicare Advantage covers catastrophic costs traditional Medicare does not. The bill before us today seeks to eliminate that coverage for millions of seniors, but you have a chance to make it right here, ladies and gentlemen.

The choice on the motion is simple. You can put your seniors first or your trial lawyer contributors. A Member can vote to open up the coffers of the U.S. Treasury to trial lawyers or restore some of the cuts our seniors will suffer under the Pelosi bill and ObamaCare. Remember, this bill creates 111 new bureaucracies and entitlements, but the only one it cuts, ladies and gentlemen, the only one it cuts is Medicare. It's always been my position that any money cut from Medicare should be used to save Medicare, not to bail out the trial attorneys.

Democrats have denied seniors the protection they promised. They cut Medicare to create new benefits for the young, healthy, and the wealthy. We know where the Democrat leadership stands on this issue. The Speaker put her trial lawyer cash cows ahead of our seniors. AARP put their profits ahead of our seniors.

With this motion, you have a chance to restore some of our cuts. No excuses about this amendment killing the bill can be made. No word games can get you out of this. This has to be a vote for the seniors of America. Please remember your constituents will be watching.

Mr. CANTOR. Mr. Speaker, I now yield to the gentleman from Washington (Mr. REICHERT).

Mr. REICHERT. Thank you.

This motion was and will protect seniors from drastic cuts to Medicare and stop expensive lawsuits that increase the costs of health care for every American. We've heard, if you like it, you can keep it, but the bill before us is a direct assault on America's seniors, cutting \$500 billion from Medicare.

Under this bill, one out of every five seniors will lose the Medicare health plan they chose. Because of regional payment disparities in many parts of this country, Medicare Advantage plans are the only way seniors can receive needed care. It's the only way that seniors can choose their doctors, and it's the only way that seniors can choose the preventive treatment they need.

This motion is about choice. It's about living in a free country. It's about having freedom. Mr. Speaker, this commonsense motion will protect seniors' health care, lower health care costs, and preserve freedom.

Mr. HOYER. Mr. Speaker, I rise in opposition to the motion to recommit.

The SPEAKER pro tempore. The gentleman from Maryland is recognized for 5 minutes.

Mr. HOYER. Mr. Speaker, I yield to the gentleman from Iowa (Mr. BRALEY).

Mr. BRALEY of Iowa. Mr. Speaker, during this entire health care debate, we've heard a lot from our friends on the other side of the aisle about something called medical liability reform, but all day as they've been talking about this point, you have not heard one word about patient safety. If you want to talk about real meaningful health care reform, it's important to talk about the most critical aspect of true, meaningful health care reform—standing up for patients. Who will speak for the patients?

Mr. Speaker, we know who will speak for the patients. We have the reports from the highly respected nonpartisan Institute of Medicine on patient safety. The first one is on patient safety, Achieving a New Standard for Care. The second one, Preventing Medication Errors, and To Err Is Human: Building a Safer Health System.

What did the Institute of Medicine tell us about the state of patient safety? They told us that the most significant way to reduce the costs of medical malpractice is to emphasize patient safety by reducing the number of preventable medical errors. They also told us that's the only way we're going to bring about meaningful health care reform. They also told us that medical errors kill as many as 98,000 Americans every year; and that, if it were ranked by the Centers for Disease Controls, would be the sixth leading cause of deaths in America.

□ 2240

They also told us that every year there are 15 million incidents of medical harm in this country and that patient safety is indistinguishable from the delivery of medical care. That's why they aren't telling you about what the Institutes of Medicine reported the cost of medical errors is in this country.

They reported in their studies that every year medical errors add \$17 billion to \$28 billion of cost, most of it in additional medical care that we end up paying for as consumers of health care. When you multiply that over the 10 years of this bill, that means it's costing us \$170 billion to \$280 billion if we continue to ignore this problem. That's why Democrats and the Institutes of Medicine are standing up for patients, and that's why you should reject this motion to recommit.

You hear our friends talk about what happened in California in 1976 when they put a \$250,000 cap on payments for quality-of-life damages. What they don't tell you is that the value of that cap today in 2009 is \$64,000, and if you

adjust that cap at the same rate of medical inflation, it would be worth \$1.9 million. That's what's wrong.

Mr. HOYER. I thank the gentleman for his comments.

My colleagues, I ask you to reject this amendment. Our colleagues on the other side of the aisle demanded 72 hours' notice for the bill and they've gotten 4 or 5 months' notice. They gave us 72 seconds to consider this amendment.

This amendment deals with some very complicated subjects; and it provides, of course, as we are not surprised that it would, for substantial billions of dollars back to the insurance companies. That's what their objective is. And, yes, they say something about equity of distribution of money. No study.

We set up a very careful study to make sure that the people's money is distributed to the States in an equitable, fair, effective fashion. That is why we ought to reject this amendment for which we received no notice, no consideration, no discussion in the public. The Republicans have been outraged about that.

I ask our party, I ask each one of us, to reject this motion to recommit and pass this bill.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

#### RECORDED VOTE

Mr. CANTOR. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 187, noes 247, not voting 0, as follows:

#### [Roll No. 886]

#### AYES—187

Aderholt	Burton (IN)	Ellsworth
Akin	Buyer	Emerson
Alexander	Calvert	Fallin
Austria	Camp	Flake
Bachmann	Campbell	Fleming
Bachus	Cantor	Forbes
Barrett (SC)	Cao	Fortenberry
Bartlett	Capito	Fox
Barton (TX)	Cardoza	Franks (AZ)
Biggart	Carter	Frelinghuysen
Bilbray	Cassidy	Galleghy
Bilirakis	Castle	Garrett (NJ)
Bishop (UT)	Chaffetz	Gerlach
Blackburn	Childers	Gingrey (GA)
Blunt	Coble	Gohmert
Boehner	Coffman (CO)	Goodlatte
Bonner	Cole	Gordon (TN)
Bono Mack	Conaway	Granger
Boozman	Costa	Graves
Boren	Crenshaw	Griffith
Boustany	Cuellar	Guthrie
Brady (TX)	Culberson	Hall (TX)
Bright	Davis (KY)	Harper
Brown (GA)	Deal (GA)	Hastings (WA)
Brown (SC)	Dent	Heller
Brown-Waite,	Diaz-Balart, L.	Hensarling
Ginny	Diaz-Balart, M.	Herger
Buchanan	Dreier	Hoekstra
Burgess	Ehlers	Hunter

Inglis	McMorris	Royce
Issa	Rodgers	Ryan (WI)
Jenkins	Mica	Scalise
Johnson, Sam	Miller (FL)	Schmidt
Jones	Miller (MI)	Schock
Jordan (OH)	Miller, Gary	Sensenbrenner
King (IA)	Minnick	Sessions
King (NY)	Moran (KS)	Shadegg
Kingston	Murphy (NY)	Shimkus
Kirk	Murphy, Tim	Shuster
Kline (MN)	Myrick	Simpson
Lamborn	Neugebauer	Smith (NE)
Lance	Nunes	Smith (NJ)
Latham	Olson	Smith (TX)
LaTourette	Paulsen	Souder
Latta	Pence	Stearns
Lee (NY)	Petri	Sullivan
Lewis (CA)	Pitts	Terry
Linder	Platts	Thompson (PA)
LoBiondo	Poe (TX)	Thornberry
Lucas	Pomeroy	Tiahrt
Luetkemeyer	Posey	Tiberi
Lummis	Price (GA)	Turner
Lungren, Daniel	Putnam	Upton
E.	Radanovich	Walden
Mack	Rehberg	Wamp
Manzullo	Reichert	Westmoreland
Marchant	Roe (TN)	Whitfield
Matheson	Rogers (AL)	Wilson (SC)
McCarthy (CA)	Rogers (KY)	Wittman
McCaul	Rogers (MI)	Wolf
McClintock	Rohrabacher	Young (AK)
McCotter	Rooney	Young (FL)
McHenry	Ros-Lehtinen	
McKeon	Roskam	

#### NOES—247

Abercrombie	Donnelly (IN)	Kirkpatrick (AZ)
Ackerman	Doyle	Kissell
Adler (NJ)	Driehaus	Klein (FL)
Altmire	Duncan	Kosmas
Andrews	Edwards (MD)	Kratovil
Arcuri	Edwards (TX)	Kucinich
Baca	Ellison	Langevin
Baird	Engel	Larsen (WA)
Baldwin	Eshoo	Larson (CT)
Barrow	Etheridge	Lee (CA)
Bean	Farr	Levin
Becerra	Fattah	Lewis (GA)
Berkley	Filner	Lipinski
Berman	Foster	Loebach
Berry	Frank (MA)	Lofgren, Zoe
Bishop (GA)	Fudge	Lowey
Bishop (NY)	Garamendi	Lujan
Blumenauer	Giffords	Lynch
Boccheri	Gonzalez	Maffei
Boswell	Grayson	Maloney
Boucher	Green, Al	Markey (CO)
Boyd	Green, Gene	Markey (MA)
Brady (PA)	Grijalva	Marshall
Braley (IA)	Gutierrez	Massa
Brown, Corrine	Hall (NY)	Matsui
Butterfield	Halvorson	McCarthy (NY)
Capps	Hare	McCollum
Capuano	Harman	McDermott
Carnahan	Hastings (FL)	McGovern
Carney	Heinrich	McIntyre
Carson (IN)	Hersteth Sandlin	McMahon
Castor (FL)	Higgins	McNerney
Chandler	Hill	Meek (FL)
Chu	Himes	Meeks (NY)
Clarke	Hinchee	Melancon
Clay	Hinojosa	Michaud
Cleaver	Hirono	Miller (NC)
Clyburn	Hodes	Miller, George
Cohen	Holden	Mitchell
Connolly (VA)	Holt	Mollohan
Conyers	Honda	Moore (KS)
Cooper	Hoyer	Moore (WI)
Costello	Inslee	Moran (VA)
Courtney	Israel	Murphy (CT)
Crowley	Jackson (IL)	Murphy, Patrick
Cummings	Jackson-Lee	Murtha
Dahlkemper	(TX)	Nadler (NY)
Davis (AL)	Johnson (GA)	Napolitano
Davis (CA)	Johnson (IL)	Neal (MA)
Davis (IL)	Johnson, E. B.	Nye
Davis (TN)	Kagen	Oberstar
DeFazio	Kanjorski	Obey
DeGette	Kaptur	Oliver
Delahunt	Kennedy	Ortiz
DeLauro	Kildee	Owens
Dicks	Kilpatrick (MI)	Pallone
Dingell	Kilroy	Pascarella
Doggett	Kind	Pastor (AZ)

Paul	Schakowsky	Thompson (CA)
Payne	Schauer	Thompson (MS)
Perlmutter	Schiff	Tierney
Perriello	Schrader	Titus
Peters	Schwartz	Tonko
Peterson	Scott (GA)	Towns
Pingree (ME)	Scott (VA)	Tsongas
Polis (CO)	Serrano	Van Hollen
Price (NC)	Sestak	Velázquez
Quigley	Shea-Porter	Visclosky
Rahall	Sherman	Walz
Rangel	Shuler	Wasserman
Reyes	Sires	Schultz
Richardson	Skelton	Waters
Rodriguez	Slaughter	Watson
Ross	Smith (WA)	Watt
Rothman (NJ)	Snyder	Waxman
Roybal-Allard	Space	Weiner
Ruppersberger	Speier	Welch
Rush	Spratt	Wexler
Ryan (OH)	Stark	Wilson (OH)
Salazar	Stupak	Woolsey
Sánchez, Linda	Sutton	Wu
T.	Tanner	Yarmuth
Sanchez, Loretta	Taylor	
Sarbanes	Teague	

□ 2259

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

#### RECORDED VOTE

Mr. BURTON of Indiana. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, this 15-minute vote on passage of the bill will be followed by a 5-minute vote on the motion to suspend the rules on House Resolution 895.

The vote was taken by electronic device, and there were—ayes 220, noes 215, not voting 0, as follows:

#### [Roll No. 887]

#### AYES—220

Abercrombie	Cooper	Grayson
Ackerman	Costa	Green, Al
Andrews	Costello	Green, Gene
Arcuri	Courtney	Grijalva
Baca	Crowley	Gutierrez
Baldwin	Cuellar	Hall (NY)
Bean	Cummings	Halvorson
Becerra	Dahlkemper	Hare
Berkley	Davis (CA)	Harman
Berman	Davis (IL)	Hastings (FL)
Berry	DeFazio	Heinrich
Bishop (GA)	DeGette	Higgins
Bishop (NY)	Delahunt	Hill
Blumenauer	DeLauro	Himes
Boswell	Dicks	Hinchee
Brady (PA)	Dingell	Hinojosa
Braley (IA)	Doggett	Hirono
Brown, Corrine	Donnelly (IN)	Hodes
Butterfield	Doyle	Holt
Cao	Driehaus	Honda
Capps	Edwards (MD)	Hoyer
Capuano	Ellison	Inslee
Cardoza	Ellsworth	Israel
Carnahan	Engel	Jackson (IL)
Carney	Eshoo	Jackson-Lee
Carson (IN)	Etheridge	(TX)
Castor (FL)	Farr	Johnson (GA)
Chu	Fattah	Johnson, E. B.
Clarke	Filner	Kagen
Clay	Foster	Kanjorski
Cleaver	Frank (MA)	Kaptur
Clyburn	Fudge	Kennedy
Cohen	Garamendi	Kildee
Connolly (VA)	Giffords	Kilpatrick (MI)
Conyers	Gonzalez	Kilroy



Kind Oberstar  
Kirkpatrick (AZ) Obey  
Klein (FL) Oliver  
Langevin Ortiz  
Larsen (WA) Owens  
Larson (CT) Pallone  
Lee (CA) Pascrell  
Levin Pastor (AZ)  
Lewis (GA) Payne  
Lipinski Pelosi  
Loeb sack Perlmutter  
Lofgren, Zoe Perriello  
Lowey Peters  
Luján Pingree (ME)  
Lynch Polis (CO)  
Maffei Pomeroy  
Maloney Price (NC)  
Markey (MA) Quigley  
Matsui Rahall  
McCarthy (NY) Rangel  
McCollum Reyes  
McDermott Richardson  
McGovern Rodriguez  
McNerney Rothman (NJ)  
Meek (FL) Roybal-Allard  
Meeks (NY) Ruppersberger  
Michaud Rush  
Miller (NC) Ryan (OH)  
Miller, George Salazar  
Mitchell Sánchez, Linda  
Mollohan T.  
Moore (KS) Sanchez, Loretta  
Moore (WI) Sarbanes  
Moran (VA) Schakowsky  
Murphy (CT) Schauer  
Murphy, Patrick Schiff  
Murtha Schrader  
Nadler (NY) Schwartz  
Napolitano Scott (GA)  
Neal (MA) Scott (VA)

## NOES—215

Aderholt Crenshaw  
Adler (NJ) Culberson  
Akin Davis (AL)  
Alexander Davis (KY)  
Altmire Davis (TN)  
Austria Deal (GA)  
Bachmann Dent  
Bachus Diaz-Balart, L.  
Baird Diaz-Balart, M.  
Barrett (SC) Dreier  
Barrow Duncan  
Bartlett Edwards (TX)  
Barton (TX) Ehlers  
Biggart Emerson  
Billbray Fallin  
Bilirakis Flake  
Bishop (UT) Fleming  
Blackburn Forbes  
Blunt Fortenberry  
Boccheri Foxx  
Boehner Franks (AZ)  
Bonner Frelinghuysen  
Bono Mack Gallegly  
Boozman Garrett (NJ)  
Boren Gerlach  
Boucher Gingrey (GA)  
Boustany Gohmert  
Boyd Goodlatte  
Brady (TX) Gordon (TN)  
Bright Granger  
Broun (GA) Graves  
Brown (SC) Griffith  
Brown-Waite, Ginny Guthrie  
Buchanan Hall (TX)  
Burgess Harper  
Burton (IN) Hastings (WA)  
Buyer Heller  
Calvert Hensarling  
Camp Herger  
Campbell Herseth Sandlin  
Cantor Hoeckstra  
Capito Holden  
Carter Hunter  
Cassidy Inglis  
Castle Issa  
Chaffetz Jenkins  
Chandler Johnson (IL)  
Childers Johnson, Sam  
Coble Jones  
Coffman (CO) Jordan (OH)  
Cole King (IA)  
Conaway King (NY)  
Kingston Paulsen

Serrano Sestak  
Peterson Shea-Porter  
Sherman  
Sires  
Slaughter  
Smith (WA)  
Snyder  
Space  
Speier  
Spratt  
Stark  
Stupak  
Sutton  
Thompson (CA)  
Thompson (MS)  
Tierney  
Titus  
Tonko  
Towns  
Tsongas  
Van Hollen  
Velázquez  
Visclosky  
Walz  
Wasserman  
Schultz  
Waters  
Watson  
Watt  
Waxman  
Weiner  
Welch  
Wexler  
Wilson (OH)  
Woolsey  
Wu  
Yarmuth

Pence  
Peterson  
Petri  
Pitts  
Platts  
Poe (TX)  
Posey  
Price (GA)  
Putnam  
Radanovich  
Rehberg  
Reichert  
Roe (TN)  
Rogers (AL)  
Rogers (KY)  
Rogers (MI)  
Rohrabacher  
Rooney  
Ros-Lehtinen  
Roskam  
Ross  
Royce  
Ryan (WI)  
Scalise  
Schmidt  
Schock  
Sensenbrenner  
Sessions  
Shadegg  
Shimkus  
Shuler  
Shuster  
Simpson  
Skelton  
Smith (NE)  
Smith (NJ)  
Smith (TX)  
Souder  
Stearns  
Sullivan  
Tanner  
Taylor  
Teague  
Terry  
Thompson (PA)  
Thornberry  
Tiahrt  
Tiberi  
Turner  
Upton  
Walden  
Wamp  
Westmoreland  
Whitfield  
Wilson (SC)  
Wittman  
Wolf  
Young (AK)  
Young (FL)

## ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). The Chair will remind all persons in the gallery that they are here as guests of the House and that any manifestation of approval or disapproval of proceedings or other audible conversation is in violation of the rules of the House.

## ANNOUNCEMENT BY THE SPEAKER

The SPEAKER (during the vote). There are 2 minutes remaining in the vote.

□ 2316

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

## HONORING VICTIMS OF FORT HOOD ATTACK

The SPEAKER pro tempore (Mr. EDWARDS of Texas). The unfinished business is the vote on the motion to suspend the rules and agree to the resolution, H. Res. 895, on which the yeas and nays were ordered.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Missouri (Mr. SKELTON) that the House suspend the rules and agree to the resolution, H. Res. 895.

This is a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 428, nays 0, not voting 7, as follows:

[Roll No. 888]

## YEAS—428

Abercrombie Barton (TX)  
Aderholt Bean  
Adler (NJ) Becerra  
Akin Berkley  
Alexander Berman  
Altmire Berry  
Andrews Biggart  
Arcuri Bilbray  
Austria Bilirakis  
Baca Bishop (GA)  
Bachmann Bishop (NY)  
Bachus Bishop (UT)  
Baird Blackburn  
Baldwin Blumenauer  
Blunt Brady (TX)  
Barrow Boccieri  
Bartlett Boehner

Buchanan  
Burgess  
Burton (IN)  
Butterfield  
Buyer  
Calvert  
Camp  
Campbell  
Cantor  
Cao  
Capito  
Capps  
Capuano  
Cardoza  
Carnahan  
Carney  
Carson (IN)  
Carter  
Cassidy  
Castle  
Castor (FL)  
Chaffetz  
Chandler  
Childers  
Chu  
Clarke  
Clay  
Cleaver  
Clyburn  
Coble  
Coffman (CO)  
Cohen  
Cole  
Conaway  
Connolly (VA)  
Conyers  
Cooper  
Costa  
Costello  
Courtney  
Crenshaw  
Crowley  
Cuellar  
Culberson  
Cummings  
Dahlkemper  
Davis (AL)  
Davis (CA)  
Davis (IL)  
Davis (KY)  
Davis (TN)  
Deal (GA)  
DeFazio  
DeGette  
Delahunt  
DeLauro  
Dent  
Diaz-Balart, L.  
Diaz-Balart, M.  
Dingell  
Doggett  
Donnelly (IN)  
Doyle  
Dreier  
Driehaus  
Duncan  
Edwards (MD)  
Edwards (TX)  
Ehlers  
Ellison  
Ellsworth  
Emerson  
Engel  
Eshoo  
Etheridge  
Fallin  
Farr  
Fattah  
Filner  
Flake  
Fleming  
Forbes  
Fortenberry  
Foster  
Foxx  
Frank (MA)  
Franks (AZ)  
Frelinghuysen  
Fudge  
Gallegly  
Garamendi  
Garrett (NJ)  
Gerlach  
Giffords  
Gingrey (GA)  
Gohmert  
Gonzalez  
Goodlatte  
Gordon (TN)  
Granger  
Graves  
Grayson  
Green, Al  
Green, Gene  
Griffith  
Grijalva  
Guthrie  
Gutierrez  
Hall (NY)  
Hall (TX)  
Halvorson  
Hare  
Harman  
Harper  
Hastings (WA)  
Heinrich  
Heller  
Hensarling  
Herger  
Herseth Sandlin  
Higgins  
Hill  
Himes  
Hinchey  
Hinojosa  
Hirono  
Hodes  
Hoeckstra  
Holden  
Holt  
Honda  
Hoyer  
Hunter  
Inglis  
Inslee  
Israel  
Issa  
Jackson (IL)  
Jackson-Lee  
(TX)  
Jenkins  
Johnson (GA)  
Johnson (IL)  
Johnson, E. B.  
Johnson, Sam  
Jones  
Jordan (OH)  
Kagen  
Kanjorski  
Kaptur  
Kennedy  
Kildee  
Kilpatrick (MI)  
Kilroy  
Kind  
King (IA)  
King (NY)  
Kingston  
Kirk  
Kirkpatrick (AZ)  
Kissell  
Klein (FL)  
Kline (MN)  
Kosmas  
Kratovil  
Kucinich  
Lamborn  
Lance  
Langevin  
Larsen (WA)  
Larson (CT)  
Latham  
Latta  
Lee (CA)  
Lee (NY)  
Levin  
Lewis (CA)  
Lewis (GA)  
Lipinski  
LoBiondo  
Loeb sack  
Lofgren, Zoe  
Lowey  
Lucas  
Luetkemeyer  
Luján  
Lummis  
Lungren, Daniel  
E.  
Lynch  
Mack  
Maffei  
Maloney  
Manzullo  
Marchant  
Markey (CO)  
Markey (MA)  
Massa  
Matheson  
Matsui  
McCarthy (CA)  
McCarthy (NY)  
McCaul  
McClintock  
McCotter  
McHenry  
McIntyre  
McKeon  
McMahon  
McMorris  
Rodgers  
Melancon  
Mica  
Miller (FL)  
Miller (MI)  
Miller, Gary  
Miller, George  
Minnick  
Mitchell  
Mollohan  
Moore (KS)  
Moore (WI)  
Moran (KS)  
Moran (VA)  
Murphy (CT)  
Murphy (NY)  
Murphy, Patrick  
Murphy, Tim  
Murtha  
Myrick  
Nadler (NY)  
Napolitano  
Neal (MA)  
Neugebauer  
Nunes  
Nye  
Oberstar  
Obey  
Olson  
Oliver  
Ortiz  
Owens  
Pallone  
Pascrell  
Pastor (AZ)  
Paul  
Paulsen  
Payne  
Pelosi  
Pence  
Perlmutter  
Perriello  
Peters  
Peterson  
Petri  
Pingree (ME)  
Pitts  
Platts  
Poe (TX)  
Polis (CO)  
Pomeroy  
Posey  
Price (GA)  
Price (NC)  
Putnam  
Quigley  
Radanovich  
Rahall  
Rangel  
Rehberg  
Reichert  
Reyes  
Richardson  
Rodriguez  
Roe (TN)  
Rogers (AL)  
Rogers (KY)  
Rogers (MI)  
Rohrabacher  
Rooney

Ros-Lehtinen	Shimkus	Titus
Roskam	Shuler	Tonko
Ross	Shuster	Towns
Rothman (NJ)	Simpson	Tsongas
Roybal-Allard	Sires	Turner
Royce	Skelton	Upton
Ruppersberger	Slaughter	Van Hollen
Rush	Smith (NE)	Visclosky
Ryan (OH)	Smith (NJ)	Walden
Ryan (WI)	Smith (TX)	Walz
Salazar	Smith (WA)	Wamp
Sánchez, Linda	Snyder	Wasserman
T.	Souder	Schultz
Sanchez, Loretta	Space	Waters
Sarbanes	Speler	Watson
Scalise	Spratt	Watt
Schakowsky	Stark	Waxman
Schauer	Stearns	Weiner
Schiff	Stupak	Welch
Schmidt	Sullivan	Westmoreland
Schock	Sutton	Wexler
Schrader	Tanner	Whitfield
Schwartz	Taylor	Wilson (OH)
Scott (GA)	Teague	Wilson (SC)
Scott (VA)	Terry	Wittman
Sensenbrenner	Thompson (CA)	Wolf
Serrano	Thompson (MS)	Woolsey
Sessions	Thompson (PA)	Wu
Sestak	Thornberry	Yarmuth
Shadegg	Tiahrt	Young (AK)
Shea-Porter	Tiberi	Young (FL)
Sherman	Tierney	

## NOT VOTING—7

Ackerman	LaTourette	Velázquez
Dicks	Linder	
Hastings (FL)	Marshall	

□ 2325

So (two-thirds being in the affirmative) the rules were suspended and the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

## HONORING STAFF WHO WORKED ON HEALTH CARE LEGISLATION

(Mr. WAXMAN asked and was given permission to address the House for 1 minute.)

Mr. WAXMAN. Mr. Speaker, I would like to take a minute to thank the staff that worked so hard on the health bill.

We could not have brought this legislation before the House today without the hard work and the professional standards of the House Legislative Counsel and the Congressional Budget Office. The staffs of these two offices spent many evenings and weekends under relentless deadline pressure helping us to solve the many technical challenges we faced in putting this bill together.

I particularly want to thank the outstanding staff of House Legislative Counsel who worked under the tireless direction of Deputy Legislative Counsel Ed Grossman: Jessica Shapiro, Megan Renfrew, Warren Burke, Henry Christrup, Larry Johnson, and Wade Ballou.

I also want to thank the talented staff of the Congressional Budget Office: Bob Sunshine, Pete Fontaine, Holly Harvey, Phil Ellis, Tom Bradley, and Kate Massey.

Finally, I want to thank the staffs of three committees that worked on this

bill: Energy and Commerce, Ways and Means, and Education and Labor. Their expertise was remarkable, and their efforts—on both the Democratic and Republican side—Herculean.

In particular, I want to commend my committee Health staff, who worked under the direction of the incomparable Karen Nelson: Alvin Banks, Steve Cha, Bobby Clark, Brian Cohen, Alli Corr, Sarah Despres, Jack Ebeler, Tim Gronniger, Ruth Katz, Purvee Kempf, Anne Morris, Andy Schneider, Camille Sealy, Naomi Seiler, and Tim Westmoreland.

I yield at this time to the distinguished chairman of the Ways and Means Committee.

Mr. RANGEL. Thank you, Mr. WAXMAN, and also Chairman MILLER.

As most of you know, the legislation from the three committees was blended, but so were our great staffs blended. We are here to thank them all for the great work that they put in, the countless hours that they put in to make this legislation a reality.

On the staff of the Committee on Ways and Means in the office of the Health Subcommittee, I would like to thank Chairman PETE STARK, who worked on this legislation, Janice Mays, John Buckley, Cybele Bjorklund, Debbie Curtis, Chiquita Brooks-LaSure, Jennifer Friedman, Geoff Gerhardt, Tiffany Swygert, Drew Crouch, Marci Harris, Tom Tsang, Drew Dawson, Ruth Brown, John Barkett, Matthew Beck, Lauren Bloomberg, Brian Cook, and Cameron Branchley.

Because this legislation was the product of the three committees, I would like to thank the Health staffs of the Committee of Energy and Commerce as well as Education and Labor.

We are indebted to our staffs for the work that they have done. We want to thank the capable analysts at the CBO and the Joint Committee on Taxation. We may not always agree with all of the work that we have done, but we have put in a lot of long hours. They've worked day and night for all of us, for the Congress, and for our great country.

Mr. WAXMAN. Reclaiming my time, I also want to single out Virgil Miller and Katie Campbell, who worked on Mr. DINGELL's staff and worked very closely with all of us.

## AUTHORIZING THE CLERK TO MAKE CORRECTIONS IN ENGROSSMENT OF H.R. 3962, AFFORDABLE HEALTH CARE FOR AMERICA ACT

Mr. WAXMAN. Mr. Speaker, I ask unanimous consent that the Clerk be authorized to make technical corrections in the engrossment of H.R. 3962, to include corrections in spelling, punctuation, section numbering and cross-referencing, and the insertion of appropriate headings.

The SPEAKER pro tempore (Mr. MORAN of Virginia). Is there objection to the request of the gentleman from California?

There was no objection.

## RECOGNIZING 30TH ANNIVERSARY OF IRANIAN HOSTAGE CRISIS

The SPEAKER pro tempore. The unfinished business is the question on suspending the rules and agreeing to the concurrent resolution, H. Con. Res. 209.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York (Mr. MCMAHON) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 209.

The question was taken; and (two-thirds being in the affirmative) the rules were suspended and the concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

## HONORING 60TH ANNIVERSARY OF DIPLOMATIC RELATIONS BETWEEN THE U.S. AND JORDAN

The SPEAKER pro tempore. The unfinished business is the question on suspending the rules and agreeing to the resolution, H. Res. 833, as amended.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York (Mr. MCMAHON) that the House suspend the rules and agree to the resolution, H. Res. 833, as amended.

The question was taken; and (two-thirds being in the affirmative) the rules were suspended and the resolution, as amended, was agreed to.

A motion to reconsider was laid on the table.

## CONDITIONAL ADJOURNMENT TO MONDAY, NOVEMBER 9, 2009

Mr. CONNOLLY of Virginia. Mr. Speaker, I ask unanimous consent that when the House adjourns today on a motion offered pursuant to this order, it adjourn to meet at 6 p.m. on Monday, November 9, 2009, unless it sooner has received a message from the Senate transmitting its concurrence in House Concurrent Resolution 210, in which case the House shall stand adjourned pursuant to that concurrent resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Virginia?

There was no objection.

# REVISIONS TO THE 302(a) ALLOCATIONS AND BUDGETARY AGGREGATES ESTABLISHED BY THE CONCURRENT RESOLUTIONS ON THE BUDGET FOR FISCAL YEARS 2010 THRU 2014

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from South Carolina (Mr. SPRATT) is recognized for 5 minutes.

Mr. SPRATT. Madam Speaker, under section 321 of S. Con. Res. 13, the concurrent resolution on the budget for fiscal year 2010, I hereby submit a revision to the budget allocations and aggregates for certain House committees for fiscal year 2010 and the period of fiscal year 2010 through 2014. This adjustment responds to House consideration of the

bill H.R. 3962, the Affordable Health Care for America Act. A corresponding table is attached.

The revision represents an adjustment for the purposes of section 302 and 311 of the Congressional Budget Act of 1974, as amended. For the purposes of the Congressional Budget Act of 1974, as amended, this revised allocation is to be considered as an allocation included in the budget resolution, pursuant to section 427(b) of S. Con. Res. 13.

## BUDGET AGGREGATES (On-budget amounts, in millions of dollars)

	Fiscal Year 2009	Fiscal Year 2010	Fiscal Years 2010–2014
Current Aggregates: <sup>1</sup>			
Budget Authority	3,668,601	2,882,149	n.a

## BUDGET AGGREGATES—Continued (On-budget amounts, in millions of dollars)

	Fiscal Year 2009	Fiscal Year 2010	Fiscal Years 2010–2014
Outlays .....	3,357,164	3,002,606	n.a
Revenues .....	1,532,579	1,653,728	10,500,149
Change for the Affordable Health Care for America Act (H.R. 3962):			
Budget Authority	0	21,260	n.a
Outlays .....	0	5,700	n.a
Revenues .....	0	400	218,000
Revised Aggregates:			
Budget Authority	3,668,601	2,903,409	n.a
Outlays .....	3,357,164	3,008,306	n.a
Revenues .....	1,532,579	1,654,128	10,718,149

n.a. = Not applicable because annual appropriations Acts for fiscal years 2011 through 2014 will not be considered until future sessions of Congress.  
<sup>1</sup> Current aggregates do not include the disaster allowance assumed in the budget resolution, which if needed will be excluded from current level with an emergency designation (section 423(b)).

## DIRECT SPENDING LEGISLATION—AUTHORIZING COMMITTEE 302(a) ALLOCATIONS FOR RESOLUTION CHANGES (Fiscal Years, in millions of dollars)

House Committee	2009		2010		2010–2014 Total	
	BA	Outlays	BA	Outlays	BA	Outlays
Current allocation:						
Education and Labor .....	–187	–202	32	36	–812	–801
Energy and Commerce .....	11	2	10	13	–10	–2
Ways and Means .....	0	0	6,840	6,840	37,000	37,000
Change for the Affordable Health Care for America Act (H.R. 3962):						
Education and Labor .....	0	0	3,000	3,000	10,000	10,000
Energy and Commerce .....	0	0	19,000	3,800	225,500	219,400
Ways and Means .....	0	0	–740	–1,100	–131,900	–132,600
Total .....	0	0	21,260	5,700	103,600	96,800
Revised allocation:						
Education and Labor .....	–187	–202	3,032	3,036	9,188	9,199
Energy and Commerce .....	11	2	19,010	3,813	225,490	219,398
Ways and Means .....	0	0	6,100	5,740	–94,900	–95,600

## SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to: (The following Member (at his own request) to revise and extend his remarks and include extraneous material:)

Mr. SPRATT, for 5 minutes, today.

## ADJOURNMENT

Mr. CONNOLLY of Virginia. Mr. Speaker, pursuant to the order of the House of today, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 11 o'clock and 33 minutes p.m.), under its previous order, the House adjourned until Monday, November 9, 2009, at 6 p.m., unless it sooner has received a message from the Senate transmitting its adoption of House Concurrent Resolution 210, in which case the House shall stand adjourned pursuant to that concurrent resolution.

## OATH FOR ACCESS TO CLASSIFIED INFORMATION

Under clause 13 of rule XXIII, the following Members executed the oath for access to classified information:

Neil Abercrombie, Gary L. Ackerman, Robert B. Aderholt, John H. Adler, W. Todd Akin, Rodney Alexander, Jason Altmire, Robert E. Andrews, Michael A. Arcuri, Steve Austria, Joe Baca, Michele Bachmann, Spencer Bachus, Brian Baird, Tammy Baldwin, J. Gresham Barrett, John Barrow, Roscoe G.

Bartlett, Joe Barton, Melissa L. Bean, Xavier Becerra, Shelley Berkley, Howard Berman, Marion Berry, Judy Biggert, Brian P. Bilbray, Gus M. Bilirakis, Rob Bishop, Sanford D. Bishop Jr., Timothy H. Bishop, Marsha Blackburn, Earl Blumenauer, Roy Blunt, John A. Boccieri, John A. Boehner, Jo Bonner, Mary Bono Mack, John Boozman, Madeleine Z. Bordallo, Dan Boren, Leonard L. Boswell, Rick Boucher, Charles W. Boustany Jr., Allen Boyd, Bruce L. Braley, Kevin Brady, Robert A. Brady, Bobby Bright, Paul C. Broun, Corrine Brown, Ginny Brown-Waite, Henry E. Brown Jr., Vern Buchanan, Michael C. Burgess, Dan Burton, G.K. Butterfield, Steve Buyer, Ken Calvert, Dave Camp, John Campbell, Eric Cantor, Anh Joseph Cao, Shelley Moore Capito, Lois Capps, Michael E. Capuano, Dennis A. Cardoza, Russ Carnahan, Christopher P. Carney, Andre Carson, John R. Carter, Bill Cassidy, Michael N. Castle, Kathy Castor, Jason Chaffetz, Ben Chandler, Travis W. Childers, Judy Chu, Donna M. Christensen, Yvette D. Clarke, Wm. Lacy Clay, Emanuel Cleaver, James E. Clyburn, Howard Coble, Mike Coffman, Steve Cohen, Tom Cole, K. Michael Conaway, Gerald E. Connolly, John Conyers Jr., Jim Cooper, Jim Costa, Jerry F. Costello, Joe Courtney, Ander Crenshaw, Joseph Crowley, Henry Cuellar, John Abney Culberson, Elijah E. Cummings, Kathleen A. Dahlkemper, Artur Davis, Danny K. Davis, Geoff Davis, Lincoln Davis, Susan A. Davis, Nathan Deal, Peter A. DeFazio, Diana DeGette, William D. Delahunt, Rosa L. DeLauro, Charles W. Dent, Lincoln Diaz-Balart, Mario Diaz-Balart, Norman D. Dicks, John D. Dingell, Lloyd Doggett, Joe Donnelly, Michael F. Doyle, David Dreier, Steve Driehaus, John J. Duncan Jr., Chet Edwards, Donna F. Edwards, Vernon J. Ehlers, Keith Ellison, Brad Ellsworth, Jo Ann Emerson, Eliot L. Engel, Anna G. Eshoo, Bob Etheridge, Eni F.H. Faleomavaega, Mary Fallin, Sam Farr,

Chaka Fattah, Bob Filner, Jeff Flake, John Fleming, J. Randy Forbes, Jeff Fortenberry, Bill Foster, Virginia Foxx, Barney Frank, Trent Franks, Rodney P. Frelinghuysen, Marcia L. Fudge, Elton Gallegly, John Garamendi, Scott Garrett, Jim Gerlach, Gabrielle Giffords, Kirsten E. Gillibrand\*, Phil Gingrey, Louie Gohmert, Bob Goodlatte, Charles A. Gonzalez, Bart Gordon, Kay Granger, Sam Graves, Alan Grayson, Al Green, Gene Green, Parker Griffith, Raul M. Grijalva, Brett Guthrie, Luis V. Gutierrez, John J. Hall, Ralph M. Hall, Deborah L. Halvorson, Phil Hare, Jane Harman, Gregg Harper, Alcee L. Hastings, Doc Hastings, Martin Heinrich, Dean Heller, Jeb Hensarling, Wally Herger, Stephanie Herseth Sandlin, Brian Higgins, Baron P. Hill, James A. Himes, Maurice D. Hinchey, Rubén Hinojosa, Mazie Hirono, Paul W. Hodes, Peter Hoekstra, Tim Holden, Rush D. Holt, Michael M. Honda, Steny H. Hoyer, Duncan Hunter, Bob Inglis, Jay Inslee, Steve Israel, Darrell E. Issa, Jesse L. Jackson Jr., Sheila Jackson-Lee, Lynn Jenkins, Eddie Bernice Johnson, Henry C. Hank Johnson Jr., Sam Johnson, Timothy V. Johnson, Walter B. Jones, Jim Jordan, Steve Kagen, Paul E. Kanjorski, Marcy Kaptur, Patrick J. Kennedy, Dale E. Kildee, Carolyn C. Kilpatrick, Mary Jo Kilroy, Ron Kind, Peter T. King, Steve King, Jack Kingston, Mark Steven Kirk, Ann Kirkpatrick, Larry Kissell, Ron Klein, John Kline, Suzanne M. Kosmas, Frank Kratovil Jr., Doug Lamborn, Leonard Lance, James R. Langevin, Rick Larsen, John B. Larson, Tom Latham, Steven C. LaTourette, Robert E. Latta, Barbara Lee, Christopher John Lee, Sander M. Levin, Jerry Lewis, John Lewis, John Linder, Daniel Lipinski, Frank A. LoBiondo, David Loebsack, Zoe Lofgren, Nita M. Lowey, Frank D. Lucas, Blaine Luetkemeyer, Ben Ray Lujan, Cynthia M. Lummis, Daniel E. Lungren, Stephen F. Lynch, Carolyn McCarthy, Kevin McCarthy,

Michael T. McCaul, Tom McClintock, Betty McCollum, Thaddeus G. McCotter, Jim McDermott, James P. McGovern, Patrick T. McHenry, John M. McHugh\*, Mike McIntyre, Howard P. Buck McKeon, Michael E. McMahon, Cathy McMorris Rodgers, Jerry McNerney, Connie Mack, Daniel B. Maffei, Carolyn B. Maloney, Donald A. Manzullo, Kenny Marchant, Betsy Markey, Edward J. Markey, Jim Marshall, Eric J.J. Massa, Jim Matheson, Doris O. Matsui, Kendrick B. Meek, Gregory W. Meeks, Charlie Melancon, John L. Mica, Michael H. Michaud, Brad Miller, Candice S. Miller, Gary G. Miller, George Miller, Jeff Miller, Walt Minnick, Harry E. Mitchell, Alan B. Mollohan, Dennis Moore, Gwen Moore, James P. Moran, Jerry Moran, Christopher S. Murphy, Patrick J. Murphy, Scott Murphy, Tim Murphy, John P. Murtha, Sue Wilkins Myrick, Jerrold Nadler, Grace F. Napolitano, Richard E. Neal, Randy Neugebauer, Eleanor Holmes Norton, Devin Nunes, Glenn C. Nye, James L. Oberstar, David R. Obey, John W. Oliver, Pete Olson, Solomon P. Ortiz, William L. Owens, Frank Pallone Jr., Bill Pascrell Jr., Ed Pastor, Ron Paul, Erik Paulsen, Donald M. Payne, Nancy Pelosi, Mike Pence, Ed Perlmutter, Thomas S.P. Perriello, Gary C. Peters, Collin C. Peterson, Thomas E. Petri, Pedro R. Pierluisi, Chellie Pingree, Joseph R. Pitts, Todd Russell Platts, Ted Poe, Jared Polis, Earl Pomeroy, Bill Posey, David E. Price, Tom Price, Adam H. Putnam, Mike Quigley, George Radanovich, Nick J. Rahall II, Charles B. Rangel, Denny Rehberg, David G. Reichert, Silvestre Reyes, Laura Richardson, Ciro D. Rodriguez, David P. Roe, Harold Rogers, Mike Rogers (AL-03), Mike Rogers (MI-08), Dana Rohrabacher, Thomas J. Rooney, Peter J. Roskam, Ileana Ros-Lehtinen, Mike Ross, Steven R. Rothman, Lucille Roybal-Allard, Edward R. Royce, C.A. Dutch Ruppersberger, Bobby L. Rush, Paul Ryan, Tim Ryan, Gregorio Sablan, John T. Salazar, Linda T. Sanchez, Loretta Sanchez, John P. Sarbanes, Steve Scalise, Janice D. Schakowsky, Adam B. Schiff, Jean Schmidt, Aaron Schock, Kurt Schrader, Allyson Y. Schwartz, David Scott, Robert C. Bobby Scott, F. James Sensenbrenner Jr., José E. Serrano, Pete Sessions, Joe Sestak, John B. Shadegg, Mark Schauer, Carol Shea-Porter, Brad Sherman, John Shimkus, Heath Shuler, Bill Shuster, Michael K. Simpson, Albio Sires, Ike Skelton, Louise McIntosh Slaughter, Adam Smith, Adrian Smith, Christopher H. Smith, Lamar Smith, Vic Snyder, Hilda L. Solis\*, Mark E. Souder, Zachary T. Space, Jackie Speier, John M. Spratt Jr., Bart Stupak, Cliff Stearns, John Sullivan, Betty Sutton, John S. Tanner, Ellen O. Tauscher\*, Gene Taylor, Harry Teague, Lee Terry, Bennie G. Thompson, Glenn Thompson, Mike Thompson, Mac Thornberry, Todd Tiahrt, Patrick J. Tiberi, John F. Tierney, Dina Titus, Paul Tonko, Edolphus Towns, Niki Tsongas, Michael R. Turner, Fred Upton, Chris Van Hollen, Nydia M. Velázquez, Peter J. Visclosky, Greg Walden, Timothy J. Walz, Zach Wamp, Debbie Wasserman Schultz, Diane Watson, Melvin L. Watt, Henry A. Waxman, Anthony D. Weiner, Peter Welch, Lynn A. Westmoreland, Robert Wexler, Ed Whitfield, Charles A. Wilson, Joe Wilson, Robert J. Wittman, Frank R. Wolf, Lynn C. Woolsey, David Wu, John A. Yarmuth, C.W. Bill Young, Don Young

#### EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of Rule XXIV, executive communications were taken from

the Speaker's table and referred as follows:

4638. A letter from the Director, Defense Procurement and Acquisition Policy, Department of Defense, transmitting the Department's final rule — Defense Federal Acquisition Regulation Supplement; Government Rights on the Design of DoD Vessels [DFARS Case 2008-D039] received November 2, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Armed Services.

4639. A letter from the Acting Director, Pension Benefit Guaranty Corporation, transmitting the Corporation's final rule — Benefits Payable in Terminated Single-Employer Plans; Interest Assumptions for Valuing and Paying Benefits received October 29, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Education and Labor.

4640. A letter from the Department Director, Regulations Policy Management Staff, Department of Health and Human Services, transmitting the Department's final rule — Medical Devices; Immunology and Microbiology Devices; Classification of Respiratory Viral Panel Multiplex Nucleic Acid Assay [Docket No.: FDA-2009-N-0119] received October 29, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

4641. A letter from the Acting Archivist of the United States, National Archives and Records Administration, transmitting Administration's FY 2009 Commercial Activities Inventory and Inherently Governmental Inventory, as required by the FAIR Act and OMB Circular A-76; to the Committee on Oversight and Government Reform.

4642. A letter from the Secretary to the Board, Railroad Retirement Board, transmitting the Board's Strategic Plan for 2009 through 2014; to the Committee on Oversight and Government Reform.

4643. A letter from the Administrator, Federal Railroad Administration, Department of Transportation, transmitting a report entitled "Preliminary National Rail Plan" as required by the Passenger Rail Investment and Improvement Act of 2008 (PRIIA); to the Committee on Transportation and Infrastructure.

#### PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions of the following titles were introduced and severally referred, as follows:

By Mr. LIPINSKI (for himself, Mr. McCaul, Mr. Wu, Mr. EHLERS, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. SMITH of Nebraska, Mr. GORDON of Tennessee, Mr. HALL of Texas, Mr. LUJÁN, and Mr. ROTHMAN of New Jersey):

H.R. 4061. A bill to advance cybersecurity research, development, and technical standards, and for other purposes; to the Committee on Science and Technology.

By Mr. ADLER of New Jersey (for himself, Mr. HALL of New York, Mr. FATTAH, Ms. SCHWARTZ, Mr. BRADY of Pennsylvania, Mr. SESTAK, and Mr. WALZ):

H.R. 4062. A bill to amend title 38, United States Code, to make certain improvements in the administration of medical facilities of the Department of Veterans Affairs, and for other purposes; to the Committee on Veterans' Affairs.

By Ms. EDWARDS of Maryland (for herself, Mr. RANGEL, and Mr. BISHOP of Georgia):

H.R. 4063. A bill to grant the Congressional Gold Medal to the members of the messman

and steward branches of United States Navy, Marine Corps, and Coast Guard that served during World War II; to the Committee on Financial Services, and in addition to the Committee on House Administration, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. GIFFORDS:

H.R. 4064. A bill to make certain improvements in the Post-9/11 Educational Assistance Program; to the Committee on Veterans' Affairs.

By Mr. HOLT (for himself, Ms. CORRINE BROWN of Florida, Mr. WU, Mr. MCGOVERN, Mr. CONYERS, Mr. CHANDLER, Mr. LOEBBACH, Mrs. MCMORRIS RODGERS, Mr. VAN HOLLEN, Mr. PRICE of North Carolina, and Mr. BLUMENAUER):

H.R. 4065. A bill to amend the Elementary and Secondary Education Act of 1965 to establish a partnership program in foreign languages; to the Committee on Education and Labor.

By Mr. KAGEN:

H.R. 4066. A bill to amend the Internal Revenue Code of 1986 to make permanent the alternative fuel credit and the alternative fuel mixture credit; to the Committee on Ways and Means.

By Mr. MURPHY of New York (for himself and Mr. JONES):

H.R. 4067. A bill to authorize interest-bearing transaction accounts at depository institutions, and for other purposes; to the Committee on Financial Services.

By Mr. MICA (for himself, Mr. STUPAK, Mr. SCOTT of Georgia, Mr. BILIRAKIS, Mr. BOOZMAN, Mr. WILSON of South Carolina, Mr. INGLIS, Ms. FOXX, Mr. OBERSTAR, Mr. LATHAM, Ms. ROSELEHTINEN, Mr. MACK, Mr. CHAFFETZ, Mr. PETRI, Mr. SHIMKUS, Mr. BRADY of Texas, Mr. SCALISE, Mr. GRAVES, Mr. GUTHRIE, Mr. YOUNG of Alaska, Mr. ROYCE, Mr. FORTENBERRY, Mr. MCCAUL, Mr. CRENSHAW, Mr. CAMP, Mr. FLEMING, Mr. TIBERI, Mr. DAVIS of Kentucky, Mr. BARRETT of South Carolina, Mr. LATTI, Mr. KUCINICH, Ms. KOSMAS, Mr. EHLERS, Mrs. BLACKBURN, Mr. HENSARLING, Mr. OLSON, Mr. RYAN of Wisconsin, Mr. MCCARTHY of California, Mr. SHUSTER, Mr. HINCHEY, Ms. BALDWIN, Mr. NUNES, and Mr. PASCRELL):

H. Con. Res. 212. Concurrent resolution expressing the sense of Congress on the occasion of the 20th anniversary of historic events in Central and Eastern Europe, particularly the Velvet Revolution in Czechoslovakia, and reaffirming the bonds of friendship and cooperation between the United States and the Slovak and Czech Republics; to the Committee on Foreign Affairs.

#### MEMORIALS

Under clause 4 of Rule XXII,

219. The SPEAKER presented a memorial of the Senate of the Commonwealth of Puerto Rico, relative to Senate Resolution 485 urging the United States Congress grant parity in federal funding for Medicaid, Medicare, and SCHIP (State Children's Insurance Programs) healthcare programs, as part of the Federal Health Reform; jointly to the Committees on Ways and Means, Energy and Commerce, and Education and Labor.

## ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 1162: Mr. ROONEY.  
H.R. 1428: Ms. KOSMAS.  
H.R. 1589: Ms. RICHARDSON and Mr. RYAN of Ohio.  
H.R. 2254: Mr. MCINTYRE, Mr. CRENSHAW, Ms. WOOLSEY, Ms. GINNY BROWN-WAITE of Florida, Mr. CALVERT, Ms. WASSERMAN SCHULTZ, Ms. KOSMAS, Mr. FATTAH, Mr. SCOTT of Virginia, and Mr. MEEK of Florida.  
H.R. 2266: Mr. ARCURI.  
H.R. 2607: Mr. CRENSHAW.  
H.R. 2698: Mr. McKEON and Mr. REHBERG.  
H.R. 2710: Mr. ROTHMAN of New Jersey and Mr. BOSWELL.  
H.R. 2737: Mrs. DAHLKEMPER.  
H.R. 2817: Ms. BALDWIN.  
H.R. 3012: Mr. FARR.  
H.R. 3043: Mrs. KIRKPATRICK of Arizona, Mr. AL GREEN of Texas, and Mr. HINCHEY.

H.R. 3044: Mr. FLAKE, Mr. WAMP, and Mr. BISHOP of Georgia.

H.R. 3186: Mr. BISHOP of Utah.  
H.R. 3359: Ms. WOOLSEY, Ms. ESHOO, and Mrs. MCCARTHY of New York.

H.R. 3496: Mr. UPTON.  
H.R. 3640: Mr. CHANDLER.  
H.R. 3688: Mr. CASSIDY and Mr. KRATOVIL.  
H.R. 3948: Mr. MARIO DIAZ-BALART of Florida and Mr. MANZULLO.

H.R. 4022: Mr. CAO and Mr. OLSON.  
H.R. 4034: Mr. WATT.  
H.J. Res. 42: Mrs. BONO MACK and Mr. SHUSTER.

H. Con. Res. 169: Mr. PAULSEN.  
H. Res. 577: Mr. McCAUL, Ms. FALLIN, and Mr. LANCE.

H. Res. 664: Mr. COSTELLO, Ms. CORRINE BROWN of Florida, Mr. PASCRELL, Mr. KILDEE, Mr. WAXMAN, Mr. KAGEN, Mr. MAFFEI, Mrs. CHRISTENSEN, and Mr. KIRK.

## PETITIONS, ETC.

Under clause 1 of Rule XXII, petitions and papers were laid on the clerk's desk and referred as follows:

77. The SPEAKER presented a petition of Board of Education, Hawaii, relative to petitioning the Congress of the United States to support Hawaii House Concurrent Resolution No. 158; to the Committee on Natural Resources.

78. Also, a petition of Board of Education, Hawaii, relative to petitioning the Congress of the United States to support the Hawaii Senate Concurrent Resolution No. 62; to the Committee on Natural Resources.

79. Also, a petition of City Commission of Wilton Manors, Florida, relative to Resolution No. 3460 petitioning the Congress of the United States to support the Employment Non-Discrimination Act (ENDA); jointly to the Committees on Education and Labor, House Administration, Oversight and Government Reform, and the Judiciary.

**SENATE—Monday, November 9, 2009**

The Senate met at 2 p.m. and was called to order by the Honorable MARK R. WARNER, a Senator from the Commonwealth of Virginia.

**PRAYER**

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

Eternal Lord God, Creator and Sustainer of humanity, as we continue to try to understand the tragedy at Fort Hood, our hearts ache for the victims, so we turn toward You, our source of hope. We find solace in knowing that even when right seems defeated, it will ultimately triumph over evil that seems to have won.

Bless this land we love with a righteousness that provides a shield for our Nation, saving us from regrets and shame. Remind us that America's greatness resides in its goodness, for sin is a reproach to any people.

Today, enable our lawmakers to be examples of the integrity and goodness that bring stability and security, as You imbue their minds with Your vision of what we can become when we seek first to do Your will.

We pray in Your loving Name. Amen.

**PLEDGE OF ALLEGIANCE**

The Honorable MARK R. WARNER led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

**APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE**

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. BYRD).

The legislative clerk read the following letter:

U.S. SENATE,  
PRESIDENT PRO TEMPORE,  
Washington, DC, November 9, 2009.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable MARK R. WARNER, a Senator from the Commonwealth of Virginia, to perform the duties of the Chair.

ROBERT C. BYRD,  
President pro tempore.

Mr. WARNER thereupon assumed the chair as Acting President pro tempore.

**RECOGNITION OF THE MAJORITY LEADER**

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

**FORT HOOD SHOOTING**

Mr. REID. Mr. President, our Nation mourns every death of an American servicemember. We grieve alongside the families who sacrifice so much while their loved ones serve and hurt even more when loved ones give the ultimate sacrifice.

I can remember the many calls I have made to Nevadans as a result of the deaths of their loved ones in Iraq and Afghanistan. They are difficult calls to make when that Nevadan does not come home.

I remember the first call. A young man, a star athlete in high school, was killed. I spoke with his coach, his friend who took care of him. That was the first. I remember the last, just a couple of days ago, a death in Afghanistan.

We are especially heartbroken by last week's tragedy that occurred deep in the heart of Texas. The entire Senate sends its deepest condolences to those who have lost mothers and fathers, sons and daughters, husbands and wives at Fort Hood. Our thoughts are with the troops who have lost their friends and fellow soldiers and those who continue to heal as I speak. These men and women died in the Soldier Readiness Processing Center. This is supposed to be the last place our troops go before they are deployed, in this instance to Afghanistan and Iraq. No one ever suspects it will be the last place they would ever go.

As we mourn, we honor the lives of those who died on that base. We hope for the full and speedy recovery of those who have been injured, and we are thankful for the men and women who came to the aid of the wounded and exhibited the kind of heroism that makes our Armed Forces the best in the world. And, of course, we are especially grateful to Kimberly Munley, who stopped the gunman.

The 13 who died at Fort Hood were from 11 different States, States that border the Atlantic, the Pacific, and the Great Lakes, States high in the Rockies and in the Great Plains. These public servants ranged in rank from private to colonel and even included an Army civilian. The oldest was a husband, a father, and a grandfather from Spokane, WA. He was a civilian, a physician assistant who worked in rural clinics and veterans hospitals. He was 4 years away from his retirement. The youngest was just barely 19 years old, a private first class from northern Utah, who was just months away from deploying to Afghanistan. A 29-year-old sergeant from Wisconsin joined her Nation's military after the September 11

attacks. A 21-year-old from outside Chicago enlisted in the Army to help him afford college, where he dreamed of an education studying music. A 22-year-old specialist from Oklahoma had been married for just 2 months. A 21-year-old private first class from Chicago was 3 months pregnant. A 55-year-old lieutenant colonel was the grandmother to six. A 52-year-old major spoke very little English when he came to this country from Mexico in his teens, but he earned a Ph.D. in psychology, became a teacher, and ultimately chose to serve his country in the military. And Kimberly Munley, a woman who was shot several times. Kimberly was a sergeant and a civilian police officer. She took down the alleged shooter with her pistol, even as she suffered wounds of her own from the gunman. Yes, Fort Hood is home to truly remarkable, selfless Americans.

Our Nation misses those who were murdered, and our thoughts are with those who are now healing as a result of having been wounded in that senseless crime. The appropriate officials both inside and outside the Army will continue to investigate how such a tragedy occurred. The Senate will support them in every way we can.

In the meantime, one of the ways we can support the brave Americans who volunteer for duty is to give them the resources they need when they come home. We are trying to move forward on a package of bills that will make wounded veterans' lives a little easier. Sadly, these bills are being inexplicably held up by the minority. We have a number of very important bills that have been reported out of the Veterans' Committee, and we have not been able to move forward on them. Among other things, these bills will help veterans to get access to the caregivers they need for even the smallest task they cannot handle on their own. These bills will support veterans' mental health services and other health benefits, and they will make sure our veterans do not have to live on the streets.

Right now, a Republican Senator is singlehandedly standing in the way of these bills. Under the rules of the Senate, that is what he decided to do, but that doesn't make it right. I hope he will drop his objection so we can put our veterans' health ahead of whatever issues he is concerned about. The same Senator did this for months on a number of very important environmental bills, some lands bills. In that instance, we gathered all the bills together and put them into one bill and on a bipartisan basis got them out of here. We

have done the same with these veterans bills.

These are extremely important, popular pieces of legislation, and we are going to move forward on these as quickly as we can. It would be nice if we could do them before Veterans Day, which is the day after tomorrow. I also look forward to moving ahead the Military Construction-Veterans Affairs appropriations that will fund housing for our military families, improve our bases, and support veterans programs.

Tomorrow morning when the Senate convenes, we will have a moment of silence to honor the fallen at Fort Hood. I encourage all Senators to come to the Senate at the time the Senate opens tomorrow for this most important time.

I have spoken with the Republican leader today. He is going to be as helpful as possible in making sure we move forward on this Military Construction-Veterans Affairs appropriations bill at the earliest possible time. I hope we can do it tomorrow.

#### SCHEDULE

Mr. REID. Mr. President, following leader remarks, the Senate will be in a period for the transaction of morning business until 3 o'clock this afternoon, with Senators permitted to speak for up to 10 minutes each.

Following morning business, the Senate will resume consideration of H.R. 3082, the bill I just talked about, Military Construction. Senators are encouraged to come to the floor to offer their amendments to this legislation.

At 4:30 p.m. today, the Senate will turn to executive session to consider the nomination of Andre Davis to be U.S. circuit judge for the Fourth Circuit, with the time until 5:30 p.m. equally divided and controlled between Senator LEAHY and Senator SESSIONS or their designees. At 5:30 p.m. today, the Senate will proceed to a rollcall vote on confirmation of the nomination. We are also working on an agreement to work on other nominations, in fact, one following the 5:30 p.m. vote. We hope that can be worked out. Senators will be notified if and when any agreement is reached.

#### RECOGNITION OF THE MINORITY LEADER

The ACTING PRESIDENT pro tempore. The Republican leader is recognized.

#### FORT HOOD SHOOTING

Mr. MCCONNELL. Mr. President, I associate myself with the remarks of the majority leader with respect to the shooting, the murdering of our troops in Fort Hood last Thursday. I will have more to say about that later.

#### HOUSE-PASSED HEALTH CARE

Mr. MCCONNELL. Mr. President, last Saturday evening, Democratic leaders in the House passed by the narrowest of margins a massive bill with a simple goal: to vastly expand the Federal Government's role in the health care decisions of every American. This bill is strongly opposed by most Americans, which is why one out of seven Democrats voted against it. These Democrats have gotten the message that Americans are fed up with all the spending and all the debt and that they do not support a so-called health care reform that raises premiums, raises taxes, and slashes Medicare. Americans don't want a 2,000-page, trillion-dollar government experiment in health care. They want commonsense reforms that increase access and lower costs.

Soon, Senate Democrats will propose their version of a health care bill. We don't yet know all the details, but we do know that at its core, this bill would also lead to higher premiums, higher taxes, and massive cuts to Medicare to fund new government programs. This is not the reform the American people were looking for. This is not the reform they were told they could expect.

Americans feel as though they have been taken for a ride in this debate. I don't blame them. It is time we listen to the American people. At a time of double-digit unemployment and record deficits and debt, the views of ordinary Americans should not be cast aside.

#### 20TH ANNIVERSARY OF THE FALL OF THE BERLIN WALL

Mr. MCCONNELL. Mr. President, today marks a very important day in the cause of freedom. On this day 20 years ago, the Berlin Wall, which for decades had divided the free people of West Berlin from the captive Germans in the Soviet-controlled East Berlin, finally came down.

In anticipation of this anniversary, we had the rare honor last Tuesday of hearing German Chancellor Angela Merkel address a joint meeting of Congress. She was the first German Chancellor to do so in more than 50 years. Chancellor Merkel spoke about the experience of growing up with millions of others behind the Iron Curtain. She spoke of how it was impossible for herself and anyone else she knew to travel to America. Yet even as a child she knew that tyranny was wrong and that the answer to tyranny could be found across the ocean in America.

Now decades later, Chancellor Merkel's country has gained that freedom, and a little girl who grew up under a repressive regime is the freely elected leader of a united Germany. Here is what Chancellor Merkel had to say about what made that extraordinary journey possible. She said just last week:

Twenty years have passed since we were given this incredible gift of freedom. But there is still nothing that inspires me more, nothing that spurs me on more, nothing that fills me more with positive feelings than the power of freedom.

Chancellor Merkel also spoke very graciously of her gratitude, of Germany's gratitude to America. "I know, we Germans know," she said, "how much we owe to you, our American friends." She recalls President Kennedy's trip to Berlin shortly after the construction of the Berlin Wall when he declared his solidarity with the people of Germany with his famous words: "Ich Bin ein Berliner." And she recalled President Reagan's 1987 trip to Berlin when he made a clear and direct appeal to the Soviet Premier for openness with the equally famous words "Tear down this wall."

Freedom has its own imperatives. It demanded that the Berlin Wall come down, and 20 years ago it did. It was a remarkable time. After decades of oppression, which the United States met with a sustained strategy of containment, the world witnessed the relatively peaceful liberation of a continent. But for most of us, the most remarkable moment from those days was the moment we saw one of the most potent symbols of the Communist era, the Berlin Wall, come down, piece by piece. We celebrate this great anniversary with all the free peoples of the world, mindful of those who still yearn for the same freedom Chancellor Merkel dreamed of as a young girl. May they all know the freedom that is the birthright of every man and every woman.

Mr. President, I yield the floor.

#### RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

#### MORNING BUSINESS

The ACTING PRESIDENT pro tempore. There will be a period of morning business until 3 p.m. with Senators permitted to speak therein for up to 10 minutes each.

The Senator from Connecticut.

#### VETERANS DAY

Mr. DODD. Mr. President, before the Republican leader leaves the floor, let me thank him for his comments about the Berlin Wall, which are very appropriate. I still have on my desk in my office in the Capitol a large piece of stone from the Berlin Wall. I was there a few weeks after the wall came down. It took a long time for it to come down. The symbol of that I look at every single day as a reminder of what all of us knew for so many years; that is, there is something terribly wrong



about a system that creates a wall to keep in its people.

So I appreciate the comments on the 20th anniversary, and I think it is appropriate to recognize the great achievement that occurred 20 years ago when that wall did come down, much to the surprise of many that something like that could ever occur.

Today, Mr. President, I want to speak, if I may, for a couple of minutes and to share some brief thoughts in honor of our veterans on Veterans Day. It is a day, of course, to acknowledge the sacrifice of those who have served and those who have given their lives to secure the very liberty we enjoy as Americans.

Forty-three members of the U.S. military from my home State of Connecticut have made that ultimate sacrifice in Iraq and Afghanistan over the past several years. They are all deeply missed, and today our thoughts are with them and their families and friends. This Veterans Day, we feel an additional sense of loss in the wake of the shocking slaughter at Fort Hood last week. Our anger and bewilderment at this horrific act of violence are matched only by the sadness of the loss of these young, brave men and women. We keep the wounded and the families of the victims in our prayers and our minds.

Mr. President, we are proud to be a nation with an All-Volunteer military. No one comes to your door and tells you that you have been chosen to shoulder the burden of protecting that which we all hold dear. It is a burden welcomed by our soldiers, sailors, airmen, marines, and coastguardsmen. If all they did was to raise their hands, we would owe them a profound debt of gratitude. But for those who do volunteer, military service isn't just a patriotic obligation, it is an honor, and it is a way of life.

Our men and women in uniform fulfill their duties with unparalleled skill and pride. They represent the greatest fighting force the world has ever known, but also the finest core of infantrymen, pilots, drivers, mechanics, and logistical support staff you will find anywhere in any enterprise. If you visit with our troops, you meet all kinds of men and women: first generation Americans, those with a long family history of service, members of every race, religion, and, yes, even gays and lesbians serve as well, as we all know. Most of them seem impossibly young to me. All of them are unmistakably proud to be serving the United States of America.

Some of them will come home to a hero's welcome, applauded at the airports and greeted by the warm embrace of children who seem to have grown a foot while their mother or father was overseas. Some will come home with wounds that will require a lifetime of recovery; sometimes they are wounds

we cannot see. Some of them will come home to find that the home they once knew is gone, and they will need a tremendous amount of our help and support to get back on their feet. All of them, of course, Mr. President, deserve our gratitude. All of them need our support, and all of them deserve to know, as they risk their lives, that the benefits they have earned will be there for them when they return.

Although I know we all share a deep appreciation for our men and women in uniform, the sad truth is that some in Washington have in previous years treated veterans' benefits as a line item like any other, subject to the political whims of the annual budget battles we have.

Let's be clear, if we can. Those benefits aren't a gift from a generous Congress. Those benefits are earned by our veterans, earned with sweat and blood and tireless duty. They represent the most sacred of promises, and they are promises we must keep.

That is why I have always fought for funding of veterans' benefits, including the best health care we have to offer, so that when our troops incur medical costs in defense of our Nation, they do not have to pay them out of their own pockets. That is why I have supported the post 9/11 GI bill, so that troops can continue their education, and fought to include military families under the Family and Medical Leave Act, so the burden of caring for a loved one doesn't crush a family who has already sacrificed so much.

We make these commitments to our troops in recognition of the commitment they have made to us. Today is a day to celebrate that commitment and to mark the many sacrifices it entails. Today, we think of young men and women across our Nation, just out of high school in many cases, sitting down with their parents to tell them they have heard the call to serve, pushing through the difficult days of basic training, facing that very first deployment to the battlefield. Today we think of those families they leave behind, as they pray for the safe return of their loved ones.

Today we will all think of those who have come home draped in the flag they have sacrificed their lives to defend, and those whose lives have been forever changed by the injuries they have suffered in defense of our liberties and freedoms. These are our sons and daughters, our fathers and mothers. They are neighbors of ours and friends and colleagues. They are truly our fellow heroes.

Today we thank them for their service, we mark their sacrifice, we take pride in their remarkable courage, and we reaffirm our commitment to keeping the promise we made when they raised their hands and volunteered.

Mr. President, I know I am not alone in my gratitude for our soldiers, sail-

ors, airmen, marines and coastguardsmen. I certainly know I am not alone in my pride in our talented and dedicated military. I hope the troops who are away from home this Veterans Day, those who have returned, and the families who have helped carry their burden, will know they are not alone either. We all stand with them.

Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Arizona.

#### COLLAPSE OF THE BERLIN WALL

Mr. KYL. Mr. President, on this 20th anniversary of the Berlin Wall's collapse, I would like to say a few words about the Cold War and the lessons we should take from it.

It is often said that President Ronald Reagan won the Cold War without firing a shot, and that is true. Unfortunately, the current administration seems to have forgotten the overarching lesson of President Reagan's legacy.

Reagan's predecessor had urged Americans to abandon their inordinate fear of communism, but Reagan was determined to infuse U.S. foreign policy with a sense of moral clarity, which had been lost during the 1970s. The Reagan administration championed the cause of democracy activists in Russia and Eastern Europe, and it did not shy away from highlighting the Soviet Union's complete denial of personal freedom.

In 1982, when the United States was mired in its worst recession since World War II, President Reagan defied the pessimism of the day, and he predicted:

The march of freedom and democracy which will leave Marxism-Leninism on the ash heap of history as it has left other tyrannies which stifle the freedom and muzzle the self-expression of their people.

Roughly a year later, he called the Soviet Union what it so obviously was, an "evil empire." The "evil empire" speech drew criticism from many of Reagan's domestic political opponents, and it greatly angered the Kremlin. But it also galvanized Soviet dissidents who were encouraged that a U.S. President had been bold enough to denounce the moral bankruptcy of communism.

One particular Soviet dissident, Natan Sharansky, found Reagan's speech deeply inspiring. Sharansky read about it in the pages of Pravda, the Soviet propaganda newspaper, while he was imprisoned in a gulag prison camp on the Siberian border. Years later, Sharansky described his reaction to the speech and the reaction of his fellow prisoners:

Tapping on walls, word of Reagan's provocation quickly spread throughout the prison. We dissidents were ecstatic. Finally, the leader of the free world had spoken the truth—a truth that burned inside the heart of each and every one of us.

Mr. President, this past June, when prodemocracy rallies broke out in Iran following a fraudulent election, I hoped the current administration would follow President Reagan's example of American leadership and offer strong support for the Iranians who took to the streets and risked their lives to oppose a tyrannical regime. But the President's statement at the time, expressing "deep concerns about the election," lacked the moral fortitude the world has come to expect from America, the world's standard bearer of freedom and democracy.

New antigovernment protests began last week to mark the 30th anniversary of the 1979 takeover of the U.S. Embassy in Tehran. Still, the White House failed to use the opportunity to make the moral case for freedom over totalitarian oppression. In a message to the White House, demonstrators could be heard chanting: "Either you're with them, or you're with us."

The President's decision on how to respond should be easy: the administration should stand with democracy and use this opportunity to underline the moral failings of Iran's dictatorship.

Anthony Dolan, chief speechwriter for President Reagan, wrote in the *Wall Street Journal* today:

Reagan spoke formally and repeatedly of deploying against criminal regimes the one weapon they fear more than military or economic sanction: The publicly spoken truth about their moral absurdity, their ontological weakness—their own oppressed people.

Moral clarity helped Ronald Reagan bring down Soviet totalitarianism during the 1980s, and it can help us bring freedom to Iran today.

The ACTING PRESIDENT pro tempore. The Senator from Illinois.

#### VETERANS DAY

Mr. DURBIN. Mr. President, this morning, I woke up in Chicago, got dressed, came downstairs, met a staffer, went off to a breakfast, out to the airport, and then here to work in Washington on Capitol Hill. It was a fairly normal day for Members of the Senate and Congress. We move about and don't think twice about restrictions on our movement or problems that we might have in getting from place to place except for traffic, perhaps a delayed airplane. But for 6,800 veterans, they woke up this morning in a hospital bed at home or went from that bed to a wheelchair and will stay in that house today and every day.

There are 6,800 seriously disabled veterans who are not in veterans hospitals or in nursing homes but at home—at home with someone who loves them very much.

Yesterday, in Chicago, I had a press conference with a young man named Yuriy Zmysly. Yuriy Zmysly is a veteran of both Iraq and Afghanistan, who came home, and during the course of a

surgery at a Veterans Hospital, after he was home, had a serious complication—a denial of oxygen to his brain—and he has become a quadriplegic. Yuriy has no family, but he had a devoted and loving young woman in his life—Aimee. After he faced quadriplegia, Aimee said she wanted to marry him. So Aimee married Yuriy during his struggle with this health issue and now has given her life to him every day, every minute, every hour. She is a caregiver who is there for her husband, a veteran.

Mr. President, repeat that story 6,800 times, and you will find husbands and wives, parents, brothers and sisters, who are giving their lives every single day to disabled veterans who are at home surviving because of the love and concern of people like Aimee Zmysly.

I think of Ed and Marybeth Edmondson, whose son Eric was the victim of a traumatic brain injury in Iraq. Ed quit his job, his wife gave hers up, and they moved in the house to take care of Eric and his wife and little baby. That is their life, their commitment to them.

I tell you these stories this week as we celebrate Veterans Day because I believe these caregivers deserve something special from us, from the American people, and from our government. That is why I picked up a bill introduced by Senator Hillary Clinton that provides a helping hand for caregivers such as those I have just described.

It isn't a lot, but it could make a big difference. It says we will offer them the very basics in training so that these home caregivers, these family caregivers, know what to do—how to change dressings on wounds, how to administer an intravenous formula or prescription, how to give an injection, how to move a patient from a bed to a chair and back again.

It provides also a monthly stipend for them—not a lot of money but something to help them get by because, for most of them, this is their life, this veteran they are working for every day to keep alive and as comfortable and happy as that person can be. It gives them 2 weeks of respite so they can take off and put themselves back together after all of the stress and strain, fiscally and mentally, of caring for this person they love.

I was so glad that DANNY AKAKA, who is chairman of the Senate Veterans' Committee, not only considered this bill but made it his own, added good things to it and reported it out of his committee and brings it to the floor where it sits on our calendar of business, a bill to help veterans caregivers, some 7,000 veterans caregivers who give each day to these veterans we treasure so much for their service to our country.

Sadly, this bill has been sitting on the calendar for weeks because one Senator objects to it. That is the way

the Senate works—one Senator. This Senator's objection has held up this bill and held up our effort to provide a helping hand to these veterans caregivers. I would say to that Senator or any Senator, if you object to it, vote against it. If you want to offer an amendment, offer an amendment. But for the thousands of people who give this care, who sacrifice so much each day for these veterans who gave our country so much, we owe them a vote. I hope this week, even this short week before Veterans Day, we can move this bill for veterans caregivers across America, to give them a helping hand.

#### HONORING COACH DAN CALLAHAN

Mr. DURBIN. Mr. President, I rise today to honor an outstanding person in Illinois. His name is Dan Callahan. He is the head baseball coach at Southern Illinois University. I have known Dan since he was 3 years old. He is being honored by the Missouri Valley Conference, receiving their "Most Courageous" award.

As Southern Illinois' baseball coach for the last 16 years, Callahan has led his team to more than 414 victories, making him the second winningest coach in the school's history. Clearly, Coach Callahan has the talent to help his players perfect their skills as batters, pitchers and fielders.

But he has also coached them on some of life's harder lessons, showing them what it means to live a life of persistence and commitment.

You see, 3 years ago Coach Callahan was diagnosed with a form of melanoma, a cancer he is still battling today. After receiving his diagnosis, Callahan silently endured the rigors of his treatment while continuing to coach his team. He didn't miss a single game that season.

When the next season rolled around, Callahan was still battling his illness. This time he faced more intense treatment, including a surgery that would take away part of his lower jaw.

It was only then that he went public with his illness and continued to coach as much as his treatment would allow.

While the surgery damaged Callahan's depth perception and hearing, he's still leading his baseball team today. He may not be able to demonstrate a fastball with the same intensity that he once had, but he has certainly shown his players how to face adversity and not give an inch.

Last year, cancer or no cancer, Dan Callahan pushed through to record his 400th win at SIU and 550th victory as a NCAA Division I head coach.

This year Coach Callahan will receive the Missouri Valley Conference's Most Courageous Award, an award that honors those that have demonstrated unusual courage in the face of personal illness, adversity or tragedy.

Mr. President, I congratulate Coach Callahan on this award and wish him

continued success in his recovery as well as another winning season. I salute his wife Stacy, his wonderful daughters Alexa and Carly, Dan's mom and dad, Gene and Anne Callahan, and the whole family who is joining him in this battle.

Now—as a man used to say in Chicago in his radio show—for the rest of the story. One of the reasons Dan Callahan is alive today is because he has extraordinarily good medical care and health insurance. Because of that care, his oncologist recommended a special drug, a biologic drug. It is called Avastin. Avastin is a drug that is used to treat various forms of cancer but it has not been specifically tested for the treatment of cancer that Dan Callahan has. They tried it and it worked. It stopped the spread of the cancer.

Dan, of course, was heartened and relieved, a young man with a young family. Having gone through chemotherapy and radiation, having faced surgery where his jaw was removed, having faced the disability and the discomfort, they found a drug. That is the good news.

The bad news is that his insurance company, WellPoint, announced they would no longer pay for this drug. They decided it was an experimental drug and even though Dan Callahan's oncologist wrote to the company and said: It works, I can show that it works, it stopped the spread of the cancer, they said, no, we won't cover it. The drug costs \$13,000 a month. I need not tell you that a coach at a university in southern Illinois doesn't make the kind of money that he can afford to pay for this drug. So his family and friends rallied and raised enough money, through their own savings and borrowing, to pay for two more administrations of the drug. Washington University in St. Louis decided they would make him part of a trial on this drug as well and added another couple treatments with this expensive drug. But December will be the last time Dan Callahan will be able to receive this drug because WellPoint, his health insurance company, has said that is the end, no more.

You might wonder how WellPoint is doing as a company. They are doing very well. When it comes right down to it, it is one of the most profitable health insurance companies in America. It has the largest membership of any company in the United States. Its enrollment has fallen off a little bit but it didn't stop WellPoint from posting \$730 million in profits for the last 3 months.

Despite their profitability and their strength in the stock market and the increase in the share value, they have decided they will no longer cover the use of this drug for Dan Callahan.

If this is a story that sounds as if it involves something far away, not a part of our lives, stop and think twice.

Each of us is one diagnosis or one illness away from what Dan Callahan is facing today in his battle with WellPoint. If these companies can turn us down for lifesaving drugs and treatments at these critical moments, then we are entirely at their mercy. If you cannot shop for another health insurance company because you have a history of cancer or preexisting illness, you are stuck. You are at the mercy of them.

Is that as good as it gets in America? This still is the only industrialized country in the world where a person can literally die for lack of health insurance. That is what we face in this debate about health care reform. There are lots of opinions. I salute the House for passing the measure, sending it over here. We will hear those opinions expressed in the Senate in the weeks and months to come. As I consider this bill and what it means, I will be thinking about my friend, the coach at Southern Illinois University. I watched him start off as a little kid playing baseball and he turned out to be a terrific coach and, more than that, a terrific person. He is well deserving of his "Most Courageous" award.

The question now is will the Senate summon the courage to change this system and bring fairness to the system for the millions of Americans across this country who run the very risk of this very same challenge.

I ask unanimous consent to have printed in the RECORD an editorial from the St. Louis Post-Dispatch which was published yesterday relating to Dan Callahan's case.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From stltoday.com, Nov. 6, 2009]

**COSTLY NEW DRUGS: A CRISIS FOR ONE FAMILY, A QUAUDRY FOR U.S.**

(By: Editorial Board)

It began with a little black spot on Dan Callahan's lower lip. He didn't think it was anything to worry about. His doctor thought it was cancer. The doctor was right. It was neurotropic melanoma, a very rare—and very serious—type of skin cancer. Even after the little black spot was successfully removed six years ago, the cancer remained. And grew.

Last October, doctors at Barnes-Jewish Hospital began chemotherapy. They used a three-drug cocktail that includes Avastin, one of a new generation of anti-cancer drugs. It works by blocking the formation of new blood vessels that feed and nourish tumors. Until just a few years ago, that kind of treatment was the stuff of science fiction.

For patients battling advanced cancer like Mr. Callahan, Avastin represents something as important as food or water: It is time in a vial.

This is what it cost: \$13,686 per treatment. Mr. Callahan has received six so far. Total price: \$82,116. What's it worth? That's a much more difficult question.

About 10 miles up Illinois Route 13 east of Carbondale, Ill.—just above Crab Orchard Lake—lies a little town called Carterville. Mr. Callahan lives there with his wife, Stacy,

and two daughters. Alexa, 18, is a student at the University of Illinois. Carly, 13, is in eighth grade.

You can buy a three-bedroom house in Carterville for about what Mr. Callahan's six infusions of Avastin cost. For about \$100,000—the price of a year's treatment—you can get a classic bungalow with a screened-in front porch, a long, shaded driveway and a two-bedroom cottage out back.

The Callahans both have good jobs and health insurance. Stacy works for a credit union. Dan is the head baseball coach at Southern Illinois University-Carbondale.

Their insurance paid for minor surgery to remove the little black spot from Mr. Callahan's lip. It paid for more extensive surgery in April, when doctors removed the right side of his jaw trying to stop the cancer's spread.

And it paid for yet another operation in September, when infection forced doctors to remove the prosthetic device they had implanted to replace his missing jaw.

But Mr. Callahan's insurance won't pay for Avastin.

The U.S. Food and Drug Administration approved Avastin in 2004 to treat advanced colon cancer. Since then, it has been cleared for breast and lung cancers. Doctors are free to prescribe it for other forms of cancer. It is being tried on 30 other cancers, including melanoma, but those uses technically are experimental.

Because many experimental treatments don't pan out, insurance companies in Illinois and most other states do not have to cover them. The major health care bills pending in Congress would not change that. For the first time, they allow generic versions of so-called biologic drugs like Avastin. But only after 12 years on the market, twice as long as other drugs.

For thousands of Americans, including the Callahans, that means many newer cancer drugs are out of reach. "When they told me the insurance wouldn't cover it, I said we'll just pay for it ourselves," Mrs. Callahan recalled last week. "Then they told me how much it cost."

The Callahans scraped together about \$27,000 from friends and family members—enough to cover the cost of two treatments. They got a grant from Washington University to pay for four more. They are appealing the insurance company denial, so far without success. The grant expires at the end of December. After that? Mrs. Callahan paused. "We don't know what we'll do."

Despite the high prices and higher hopes, Avastin has been shown to extend cancer patients' lives by only a few months. Many patients and oncologists say it improves quality of life and shrinks tumors—or at least prevents them from growing. Mr. Callahan's doctor said it has slowed the progression of his tumor. That is no small achievement for patients with advanced cancer. But stopping the progression of cancer is not the same as curing it. A study published in January followed 53 melanoma patients who received Avastin. After 18 months, 13 were alive.

The company that makes Avastin, Genentech, spent about \$2.25 billion to develop it. It spends another \$1 billion a year testing it on new cancers. Avastin has been a blockbuster success. It had \$2.7 billion in sales in the United States last year and more than \$3.5 billion worldwide.

Genentech says Avastin's price reflects its value. Another cancer drug, Erbitus, costs even more, and it hasn't been shown to extend life at all. In March, Swiss pharmaceutical giant Roche agreed to buy

Genentech for \$46.8 billion. Avastin is a big reason the company was sold for so much money.

Not everyone agrees that Avastin is worth the price. Experts in Britain recommended against covering it. A drug that costs as much as a house and extends life for just a few months isn't worth the money, they said.

Some people go to pieces when they find out they've got cancer. Mr. Callahan went to work.

He has coached the Salukis for 14 years. "I try to carry on like I'm going to be here next week and next month," he said. "I think about coaching in 2010, about going to my daughters' college graduations and their weddings."

His 2009 team finished with 24 wins and 28 losses. Coach Callahan was too sick to travel to away games. But he was in the dugout each time the Salukis took the field in Carbondale.

From the beginning, the Callahans have made it a point not to ask doctors about his prognosis. "We don't want to know it, and we don't want our kids to know it," Mrs. Callahan said. "We just wanted to live our lives as normally as possible, with no time line."

Coach Callahan thinks it is inherently unfair that patients can be denied treatment simply because of a drug's high price. It's like giving one team an extra at-bat.

But the game is not over. Even with two outs in the ninth inning, even with two strikes against you, there's hope. And a question: Who sets the price of victory?

The ACTING PRESIDENT pro tempore. The Senator from Nebraska is recognized.

#### HEALTH CARE REFORM

Mr. JOHANNES. Mr. President, I rise today to speak about health care and the debate that is heading our way, especially now following the action of the House this last weekend. We all read the articles, we hear the debate, we hear the talk about trying to find a compromise when it comes to the government-run health insurance program. Some oppose it with passion. Some say they will not support reform without it. There is a whole variety of opinions.

One idea that seems to be picking up steam in this effort to find a compromise is the idea of a trigger, whatever that means. Proponents call it a safeguard. They say it will trip only if insurance premiums go up.

Here is the problem with that. Inherent in the underlying legislation is the sure-fire trip that could set off the trigger. You see, we already know that current proposals in this health care reform initiative itself will cause premiums to rise. The government mandates and taxes and all of the other things that are going to be burdened upon health insurance policies are going to cause the premiums to rise. We are saddling policies with huge new fees and taxes and mandates.

The Finance bill piles \$67 billion in new fees on the very policies that the vast majority of Americans have. Can anyone claim with a straight face that

premiums will not go up under these circumstances, caused by governmental action? The nonpartisan Congressional Budget Office—if you have any wonder about this—confirms it. Its analysis of the Finance Committee bill says the fees imposed would, and I am quoting from the CBO, "be passed on to purchasers and would ultimately raise insurance premiums by a corresponding amount."

This idea of a trigger that trips only if premiums rise is an illusory safeguard. It is because the trigger is rigged to shoot.

Further evidence is the fact that the trigger fires if health insurance is deemed, and again I am quoting, "unaffordable." Guess who gets to decide that. The government will decide that. It will decide what affordability is. So bureaucrats pull the trigger by simply labeling premiums "unaffordable" after all of these fees and higher taxes on these policies kick in. This illusory safeguard is meant to appease those of us concerned about making Washington the great czar of health care, but it doesn't work.

I believe the American people see through this. I urge those who support a trigger to be straightforward about what their stance is. If they are for government-run health insurance, say let's go there.

Incidentally, I will passionately debate that position. I don't believe it is in the best interests of our Nation, but I will not criticize them for holding that opinion. After all, that is what the Senate floor is for, to debate opinions. On the other hand, I take issue with disguising a government takeover of health insurance and calling it a trigger. I take issue with laying additional taxes on health insurance policies and then calling a press conference to complain that premiums went up. The implication that the trigger will never fire, quite honestly, gets to be folly.

I gave a speech a week or so ago on the floor and I talked about the opt-in and the opt-out. There is no real option if States will have to face the unfunded mandate's tax and fees. I pointed that out in that speech. The only thing States can opt out of, or choose not to opt in to, I believe, when we see the actual language, will be the benefits. All of the other burdens will fall upon the taxpayers of that State. It is an illusory option. It is a false promise, just like the trigger.

Just like the trigger. Some suggest the trigger is just like the trigger in the part D, the Medicare prescription drug benefit. I have heard that argument too. But, boy, is there a world of difference between what happened there and what is being proposed here.

You see, Part D was designed to ensure competition in an entirely new marketplace. It was measurable. It was not discretionary. It asked this question: Would private insurance compa-

nies enter into this marketplace? Well, they did. The trigger being discussed now is very different. It is set up to shoot. It is based upon the word "affordability," and the government holds the power of deciding that issue. Then the government holds the power to tax policies, and, of course, as the CBO pointed out, that is going to translate into higher premiums.

You see, what I see happening here is that the government is setting itself up to be both the pitcher and the umpire—the pitcher, who throws the ball, and the umpire, who gets to call the strike. I do not think the game is working fairly.

The goal of a trigger is to ensure competition. So let's drop the illusions, and let's enable real competition. Let's allow insurance companies to compete across State lines. The so-called trigger is just camouflaging the true intent: to establish a government-run system.

I can't help but wonder, is the intention to confuse opt-in, opt-out, triggers, co-ops, exchanges? But it all boils down to the same thing: you are going to end up with a government-run health insurance industry and a government-run health care system. Whether it is opt-in, opt out, trigger, co-ops, it really is no real option. There is no free marketplace. Instead, it is government making your health care decisions, forcing you, dictating to you not only to carry insurance but dictating the kind of policy you will have and requiring that your plan be approved in Washington, causing many to be displaced from their private insurance.

Now is not the time to raise taxes, add mandates, and put jobs in jeopardy. This massive, all-at-once approach is a very risky experiment with 16 percent of our economy. It is a huge gamble. It is a dangerous risk being taken with our health care.

Common sense tells us that change is needed in this arena, but how about a step at a time to see if that change works, and then we can move forward to the next step. We can take positive steps. But opt-outs, out-ins, co-ops, exchanges, triggers—they are illusions and not solutions.

I yield the floor, and I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ALEXANDER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ALEXANDER. Mr. President, how much time remains?

The ACTING PRESIDENT pro tempore. There is 5½ minutes remaining in morning business.

Mr. ALEXANDER. I ask the Presiding Officer to inform me when I have 30 seconds remaining.

Mr. President, the House of Representatives passed, by just five votes, a health care reform bill over the weekend. Some said it was historic. It is, indeed, historic. It is a combination of higher premiums, higher taxes, Medicare cuts, and more Federal Government debt.

Millions of Americans, if it were to pass, will be forced into government plans when their employers stop offering health care insurance.

As a former Governor of Tennessee, I simply do not see how Tennessee can pay for its part of the Medicaid expansion without imposing a new State income tax and damaging higher education or both.

Health care reform is supposed to be about reducing costs, not increasing costs. Instead of raising taxes, raising premiums, Medicare cuts, more debt, and transferring new costs to States, we should be taking steps toward reducing health care costs.

On the Republican side, we proposed a number of those, starting with small business health plans which would allow small businesses to pool together their resources and offer insurance to their employees. That would be a good place to start. The Congressional Budget Office has said that the small business health care plan which Senator ENZI has proposed and is waiting for us to pass would reduce the cost of Medicaid, would increase the number of insured by 750,000 at least, and would lower the cost of insurance for 3 out of 4 small business employees.

So instead of this 2,000-page bill that raises premiums, raises costs, cuts Medicare, and increases the debt, why don't we start step by step to reduce costs?

I was privileged to attend the White House fiscal responsibility summit in February. The President invited me, and I was glad to go. He talked then about what is obvious about our country's fiscal situation and said that putting America on a sustainable fiscal course "will require addressing health care."

Then, at the President's White House health reform summit in March, the President himself introduced the "b" word, the "bankruptcy" word, which I am beginning to hear more and more about as these bills come toward us. The President said:

If we don't address costs, I don't care how heartfelt our efforts are, we will not get this done. If people think we can simply take everybody who is not insured and load them up in a system where costs are out of control, it's not going to happen.

This is President Obama talking in March:

We will run out of money. The Federal Government will be bankrupt; state governments will be bankrupt.

Well, that is the "b" word. That is our President talking. I think we should listen to those words and the repeated warnings from careful advisers that the cost of these health care proposals is going to get us in a state of fiscal ruin.

Here in Washington, we hear more about the Federal deficit, not so much about the condition of our States. At one time, maybe half the Senators were former Governors, as the Presiding Officer is and I was. Today, I think it is 12. But those of us who can remember those days remember what it was like trying to control Medicaid costs.

Governor Bredesen, a Democrat of Tennessee, told us over the weekend, our State—he told all of us that the House-passed bill will add \$1.4 billion to the State budget over 5 years. If that is the case—and I know it is hard to put billions, trillions, jillions together up here and make them make sense, but let me try to make sense of what that could mean for our State, which is a conservative, well-run State. I don't see how the State of Tennessee could pay for its State share of the expanded Medicaid Program without instituting a new income tax or without seriously damaging higher education or both. And that is just one part of the new cost.

So what we are saying to the American people is, let's read this bill, let's know what it costs, and let's see how it affects you.

We will be seeing a Senate bill coming out from behind the closed doors of the majority leader within a few days. We look forward to debating it. We look forward to moving ahead with health care reform. But to us, raising premiums, costs, and taxes and cutting Medicare is not health care reform. Reducing costs with small business health plans, competition across State lines, reducing junk lawsuits against doctors—that is the direction we ought to go if we want to avoid seeing that "b" word show up on the front pages of our newspapers more and more.

I yield the floor.

#### CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Morning business is closed.

#### MILITARY CONSTRUCTION, VETERANS AFFAIRS AND RELATED AGENCIES APPROPRIATIONS ACT, 2010

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of H.R. 3082, which the clerk will report.

The legislative clerk read as follows:

A bill (H.R. 3082) making appropriations for military construction, the Department of Veterans Affairs, and related agencies for

the fiscal year ending September 30, 2010, and for other purposes.

Pending:

Johnson/Hutchison amendment No. 2730, in the nature of a substitute.

Udall (NM) amendment No. 2737 (to amendment No. 2730), to make available from Medical Services \$150 million for homeless veterans comprehensive service programs.

The ACTING PRESIDENT pro tempore. The Senator from South Dakota.

Mr. JOHNSON. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GRASSLEY. I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. GRASSLEY. I ask unanimous consent to speak in morning business for 5 minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. GRASSLEY. Mr. President, I am here to discuss a very important matter that I had intended to bring up in the Judiciary Committee last week but the agenda did not allow it. It is about the oversight of the Department of Justice and the responses provided by Attorney General Holder to questions from the Judiciary Committee. Two weeks ago, Chairman LEAHY—and I thank him for participating—and I sent a letter to the Attorney General asking him to stand by his statements made during his confirmation and answer a number of outstanding requests for information. That list includes questions submitted by members of the Judiciary Committee to an FBI oversight hearing over 1½ years ago. We all agreed no committee should have to wait that long to get answers to oversight questions.

Last Friday, the Judiciary Committee received answers from the Attorney General following his June 17, 2009, testimony. I hoped he would uphold his commitment he made during his confirmation hearing to "fully and in a timely fashion" answer Judiciary Committee inquiries.

The questions I submitted to Attorney General Holder addressed a number of important issues, including a series of 24 questions related to the Department's involvement with the termination of Inspector General Walpin at the Corporation for National and Community Service. The answers I received were totally inadequate. Instead of answering the 24 questions, the Department responded with a five-paragraph recitation of publicly available facts and information. The Department also said it would respond under separate cover to the document requests. I appreciate the Department's comments

that it intends to respond to my requests, but I am very concerned this is more of the same problem Chairman LEAHY and I were trying to get at with our letter 2 weeks ago.

My questions were more than just requests for documents and asking for a recitation of public facts. They were serious inquiries about the role the acting U.S. attorney played in the termination of that inspector general. I requested specific answers to questions that have arisen in my investigation. For example, I asked about communications between the U.S. attorney and the Office of Professional Responsibility and whether the referral by the U.S. attorney complied with the ethical requirements outlined in the U.S. Attorneys' manual for misconduct by non-Department of Justice attorneys and judges. While this is only one example of the questions I asked, none of the questions were specifically answered.

While the Department did say it was going to provide the documents I requested under separate cover, the response seems to indicate that all my questions were answered. They were not answered. I intend to get these answers.

This is a prime example of what is wrong with the inadequate responses to all our questions. They avoid the question and filibuster with public facts.

I have previously stated that unless the Department of Justice starts answering our questions completely and in a timely manner, I will start holding up nominees. I have done nothing but patiently work in good faith with the chairman and the Department to get answers. Yet despite these threats, it is business as usual.

This culture of not answering questions timely, in an evasive manner, and punting document requests to future separate cover letters is unacceptable. We have a constitutional duty to oversee the bureaucracy, and the executive branch is thumbing its nose at the Congress. I know Chairman LEAHY agrees oversight is an important part of what the Judiciary Committee does. I hope he will continue to work with all members to get answers from the Attorney General. He has surely helped me.

I am tired of wasting time having to raise these concerns publicly, but shaming the Department seems to be the only way they will respond, and even that doesn't work all the time. This administration rode into town on a campaign of accountability and transparency. Attorney General Holder told all of us he respected congressional oversight. Yet in his first set of oversight questions submitted by the committee, he gave us the same non-response we have seen from the Department. That is not the accountability or transparency the American taxpayers deserve.

This is yet another public warning to the Department. It is time to start re-

sponding fully to our requests in a timely manner or face the consequences. I hope the Attorney General and his staff will hear this and provide complete answers to our questions prior to his scheduled appearance in the Judiciary Committee later this month.

I see my colleague, Senator KYL. I think he has interest in this oversight matter as well.

I yield the floor.

Mr. KYL. Mr. President, I ask unanimous consent to speak for up to 10 minutes to continue the discussion Senator GRASSLEY has commenced.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. KYL. Mr. President, I rise to join in the comments Senator GRASSLEY has offered. I voted for Attorney General Holder, and we had several conversations about being forthcoming in responding to our requests for information. I thought at the time he would be able to work with us and provide those kinds of answers and support. I have been disappointed, as has Senator GRASSLEY.

A couple of examples: June 17, we had a hearing at which Attorney General Holder was present. It was an oversight hearing. He was asked a number of questions. He took many of those questions for the record which, of course, is perfectly fine. But his answers were not submitted to us for another 4½ months. It was October 29 when we received the answers.

I wish to cite two examples of questions and answers which demonstrate the unresponsiveness of the Attorney General.

I asked him to identify the legal basis the Department of Justice could invoke to prevent a Gitmo detainee from being released into the United States if found not guilty in a Federal court—an important question because the administration apparently intends to bring Gitmo detainees to the United States for trial. Here is the response:

Where we have legal detention authority, as the President has stated, we will not release anyone into the United States if doing so would endanger the national security of the American people. There are a number of tools at the government's disposal to ensure that no such detainee is released into the United States, all of which are currently being reviewed by the Special Interagency Task Force on Detention Policy created pursuant to Executive Order 13493.

I asked the Attorney General to identify the operative legal authority that could be used to detain acquitted detainees. He responded by saying the administration probably would not release someone "where we have legal detention authority." It is like a cat chasing its tail. What is legal authority? That was the question. Do you have legal authority? Releasing a detainee into the United States obviously could have grave consequences. I think

we deserve more than just the Attorney General's vague and rather meaningless reference to tools at our disposal.

Similarly, I asked the Attorney General to explain whether the crimes committed by those presently held in U.S. prisons for conviction on terrorism charges are comparable to the terrorist acts of high-value detainees at Gitmo. The reason I asked was, they said we have several convicted terrorists in our prisons here in the United States. My question was, Well, but are those really serious crimes as opposed to the 9/11-related crimes committed by those we are holding at Gitmo?

His response was:

A number of individuals with a history of, or nexus to, international or domestic terrorism are currently being held in federal prisons, each of whom was tried and convicted in an Article III court.

We knew that.

The Attorney General considers all crimes of terrorism to be serious.

Well, so do I. I am glad the Attorney General considers all crimes of terrorism to be serious. But that does not answer my question: How do these crimes compare to the crimes of those high-value detainees at Gitmo?

So these are examples of the kind of nonresponses we get from the Attorney General when we ask questions.

Let me close with one final point, and then if Senator GRASSLEY would have anything else to say, I will certainly yield to him.

We know for several weeks we have had on the Judiciary Committee agenda a bill called the media shield bill. It is a bill that has a lot of problems with it. Many members of the past administration had written in opposition to the bill, pointing out the problem of convicting people who were engaged in espionage or acts of terror against the United States, in the event this legislation were to be passed.

So I was curious about this Attorney General's views on that. He finally got us a views letter last week, and he said "the result of a series of productive and cooperative discussions with the sponsors and supporters of the legislation" is how they put this latest draft together. Obviously, absent is any discussion with those of us who have expressed our longstanding concerns.

This is one of those matters I had raised with the Attorney General at his confirmation hearing, and his reply was:

The concerns you raised are legitimate ones.

So I am glad my concerns were legitimate.

He also said at his hearing that he would—I am quoting now—"work with both Republicans and Democrats on this Committee on a federal media shield law."

Further, during my questioning of Attorney General Holder on the media



shield bill, he again stated his willingness to "work to address the concerns raised in" views letters issued in the 110th Congress.

In response to my questions, he testified:

I want to talk to you and to people who worked on this bill and who might have a contrary view of it.

I never heard from him again. I met with him on May 4 to reaffirm my strong interest in the legislation. I never heard from him after that meeting.

This is despite the fact that in response to a question I asked, Attorney General Holder testified:

I want to talk to you and to people who worked on this bill and who might have a contrary view of it. As I said before, I guess in my opening statement, you know, knowledge doesn't reside only in the executive branch. The experience that you've had with this, the obvious knowledge that you have of these issues are the kinds of things that I need to be educated about. It may change my mind, frankly.

Well, maybe it would have. But by not talking to me, he was able not to change his mind.

I heard that a new version of the bill had been written, and I reviewed it. So, finally, on November 2 I called the Attorney General myself to express my concerns about it. I asked if I could get an explanation of why this version satisfied all of the objections that had been previously raised, and I interpreted his response to be that he would testify before the committee if he were called upon to do so.

Well, 2 days later, as I said, this views letter was sent to us. To put it charitably, it is extraordinarily light on analysis.

I, as I said in the beginning, voted for Attorney General Holder. I thought at the time he would keep the commitments he made to us under oath at his confirmation hearing. He assured us he wanted to work with us and he would be forthcoming and cooperative.

Mr. President, I think it is time for the Attorney General to keep the commitments he made in his confirmation hearing.

The ACTING PRESIDENT pro tempore. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, two things. I thank the Senator from South Dakota for giving us this opportunity to make this point. I hope the Attorney General will respond to our questions. We are just doing our constitutional job of oversight, checks and balances of our system of government.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from South Dakota.

Mr. JOHNSON. Mr. President, the MILCON-VA appropriations bill is very important to America's military forces and veterans.

On Wednesday, the Nation observes Veterans Day. There is no reason this bill should not be completed before

Veterans Day. But if we are to achieve that goal, we cannot wait until Tuesday to start the debate and amendment process.

We have a choice. We can go home for Veterans Day with a speech in our pockets or we can go home for Veterans Day with a solid accomplishment for our veterans: passage of the fiscal year 2010 MILCON-VA appropriations bill, to our credit. I vote for the latter, and I urge my colleagues to join with me in working to make progress on this bill today so we will be able to move to final passage tomorrow.

Mr. President, I ask unanimous consent that the pending amendment be set aside.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

AMENDMENT NO. 2733 TO AMENDMENT NO. 2730

Mr. JOHNSON. Mr. President, I call up amendment No. 2733 and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from South Dakota [Mr. JOHNSON] proposes an amendment numbered 2733 to amendment No. 2730.

Mr. JOHNSON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To increase by \$50,000,000 the amount available for the Department of Veterans Affairs for minor construction projects for the purpose of converting unused Department of Veterans Affairs structures into housing with supportive services for homeless veterans, and to provide an offset)

On page 52, after line 21, add the following:  
SEC. 229. (a)(1) The amount appropriated or otherwise made available by this title under the heading "CONSTRUCTION, MINOR PROJECTS" is hereby increased by \$50,000,000.

(2) Of the amount appropriated or otherwise made available by this title under the heading "CONSTRUCTION, MINOR PROJECTS", as increased by paragraph (1), \$50,000,000 shall be available for renovation of Department of Veterans Affairs buildings for the purpose of converting unused structures into housing with supportive services for homeless veterans.

(b) The amount appropriated or otherwise made available by title I under the heading "HOMEOWNERS ASSISTANCE FUND" is hereby reduced by \$50,000,000.

Mr. JOHNSON. Mr. President, this August I had the opportunity to accompany Secretary Shinseki in South Dakota to meet with the many South Dakotans who have served our Nation. During this trip, the Secretary outlined for me his ambitious plan to end homelessness among veterans and impressed upon me how this is one of his top priorities for the VA.

The fiscal year 2010 MILCON-VA bill before us provides a significant amount

of resources to help him accomplish that goal, including over \$500 million for direct homeless programs. However, after returning from the August recess, I began to look into other efforts the VA could undertake to further address this issue. As many of you know, the VA has 153 hospitals, many on expansive campuses which include numerous buildings, some used and others sitting empty.

The amendment I have just offered would add \$50 million to the VA's minor construction account specifically for the VA to renovate unused, empty buildings sitting on VA campuses for the purpose of providing housing with supportive services for homeless veterans. In today's economic climate, many of the community organizations and nonprofits that run homeless shelters for vets cannot come up with the capital needed to renovate unused VA buildings. This amendment would allow the VA to make those renovations and then pursue public-private ventures that address the problem of homelessness among vets.

The amendment is fully offset and does not exceed the subcommittee's allocation for budget authority or outlays. I would urge all of my colleagues to support this amendment.

Mr. President, I ask unanimous consent that Senators BYRD and FEINSTEIN be added as cosponsors.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. JOHNSON. Mr. President, I yield the floor and suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. FRANKEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

AMENDMENT NO. 2745 TO AMENDMENT NO. 2730

Mr. FRANKEN. Mr. President, I ask unanimous consent to set aside the pending amendment and to call up my amendment No. 2745.

The ACTING PRESIDENT pro tempore. Is there objection?

Without objection, it is so ordered.

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Minnesota [Mr. FRANKEN], for himself and Mr. JOHNSON, proposes an amendment numbered 2745.

Mr. FRANKEN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.



(Purpose: To ensure that \$5,000,000 is available for a study to assess the feasibility and advisability of using service dogs for the treatment or rehabilitation of veterans with physical or mental injuries or disabilities)

On page 52, after line 21, add the following: SEC. 229. Of the amounts appropriated or otherwise made available by this title for the Department of Veterans Affairs, \$5,000,000 shall be available for the study required by section 1077 of the National Defense Authorization Act for Fiscal Year 2010.

Mr. FRANKEN. Mr. President, the amendment I offer today would fund a vital new initiative within the Department of Veteran Affairs that was authorized by the recent National Defense Authorization Act. This initiative is a VA program and study for the provision of service dogs to disabled veterans, which began as an amendment I offered to the Defense authorization bill and is now a provision in the enacted law.

This 3-year program will study the benefit of using service dogs to help treat veterans with physical and mental injuries and disabilities. It is meant to provide the VA with one more tool to raise the quality of life for those who have given so much to our Nation.

Under this program, the VA will partner with nonprofit organizations that provide service dogs free of charge to veterans. The government will offset some of the costs of providing the dogs, which are currently funded largely through private donations. This will allow roughly 200 veterans to be paired with dogs and to participate in the study. In this way, the program will amount to a public-private partnership where donors to those nonprofits will know their money will go further, thanks to public matching funds.

The veterans who participate in the study will be veterans with physical disabilities and with mental disabilities such as PTSD. It was one such veteran, CPT Luis Montalvan, who initially sparked my interest in this effort. I met Luis, who had been injured while serving in Anbar in Iraq, along with his service dog Tuesday, at an inaugural event. Luis explained to me that he could not have been there if it weren't for Tuesday who eases his PTSD in numerous and very impressive ways.

After meeting Luis, I undertook research and learned about all of the benefits that service dogs can provide individuals with disabilities. I saw the wonderful work of the nonprofits which give their time and the donors who give their money to undertake the intensive training and the provision of these dogs. I learned there were more veterans out there who feel they could benefit from such a service dog if they had access to one.

I introduced my legislation shortly after coming to office. The VA program it establishes will study—scientifically—the benefits to veterans of the

service dogs, so we are proceeding based on evidence. The VA will also provide funds to veterans who participate in the study to cover some of the costs of maintaining their service dogs.

Today I am offering this amendment to the Military Construction and Department of Veterans Affairs appropriations legislation so the fully authorized VA initiative may now be fully funded. The amendment is straightforward and reasonable. My amendment today would simply make \$5 million available for this study that passed by unanimous consent. In this way, we can both provide more service dogs to the veterans who want them, and we can study the benefits they can provide to those veterans and the most effective ways to provide those benefits.

Our Nation owes a profound debt to those who have served in the military. For those veterans with disabilities, we need to make sure the VA has as many effective tools for raising their quality of life as possible. My amendment would make sure that one of those tools is funded.

I urge my colleagues to support this amendment.

I yield the floor, and I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. JOHNSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

#### PROVIDING FOR A CONDITIONAL ADJOURNMENT/RECESS OF THE HOUSE AND SENATE

Mr. JOHNSON. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H. Con. Res. 210, the adjournment resolution, received from the House and is at the desk.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

A resolution (H. Con. Res. 210) providing for a conditional adjournment of the House of Representatives and a conditional recess or adjournment of the Senate.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. JOHNSON. Mr. President, I ask unanimous consent that the concurrent resolution be agreed to and the motion to reconsider be laid upon the table.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The concurrent resolution (H. Con. Res. 210) was agreed to, as follows:

H. CON. RES. 210

*Resolved by the House of Representatives (the Senate concurring), That when the House adjourns on any legislative day from Friday, November 6, 2009, through Tuesday, November 10, 2009, on a motion offered pursuant to this concurrent resolution by its Majority Leader or his designee, it stand adjourned until 2 p.m. on Monday, November 16, 2009, or until the time of any reassembly pursuant to section 2 of this concurrent resolution, whichever occurs first; and that when the Senate recesses or adjourns on any day from Friday, November 6, 2009, through Tuesday, November 10, 2009, on a motion offered pursuant to this concurrent resolution by its Majority Leader or his designee, it stand recessed or adjourned until noon on Monday, November 16, 2009, or such other time on that day as may be specified in the motion to recess or adjourn, or until the time of any reassembly pursuant to section 2 of this concurrent resolution, whichever occurs first.*

SEC. 2. The Speaker of the House and the Majority Leader of the Senate, or their respective designees, acting jointly after consultation with the Minority Leader of the House and the Minority Leader of the Senate, shall notify the Members of the House and the Senate, respectively, to reassemble at such place and time as they may designate if, in their opinion, the public interest shall warrant it.

Mr. JOHNSON. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. INOUE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

#### MILITARY CONSTRUCTION, VETERANS AFFAIRS AND RELATED AGENCIES APPROPRIATIONS ACT, 2010—Continued

Mr. INOUE. Mr. President, I ask unanimous consent that the pending amendment be set aside so I may say a few words.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. INOUE. Mr. President, let me begin, first, by thanking Chairman JOHNSON and Senator HUTCHISON for their fine work in preparing this measure before us. Similar to the other appropriations bills for fiscal year 2010, this bill, which provides the necessary funding for military construction and veterans programs, was prepared by the subcommittee on a bipartisan basis.

I am very pleased to advise my colleagues in the Senate that the committee endorsed the bill unanimously and forwarded this matter to the Senate for consideration.

As my colleagues are aware, we are already more than 1 month into the new fiscal year, and we simply need to complete our work on this measure.

Moreover, Wednesday is Veterans Day. It would truly send the right message to our veterans for the Senate to pass this bill before November 11.

Again, I wish to commend the chairman and Senator HUTCHISON for their fine work on this measure and urge its adoption.

AMENDMENT NO. 2754

Mr. President, I rise to discuss amendment No. 2754, which has been cosponsored by Senators JOHNSON and COCHRAN, to reallocate unobligated fiscal year 2009 military construction funding to support President Obama's new European missile defense plan. The funding was appropriated in last year's appropriations bill for the European missile defense sites but can no longer be spent.

This amendment will enable the Missile Defense Agency to meet the President's timelines for defending Europe and the United States sooner against Iranian missiles.

I strongly endorse the President's European missile defense plan. This new approach will enhance the protection of our allies in Europe, U.S. forces and their families deployed abroad, and the U.S. homeland from ballistic missile attack sooner than the previous program.

It is more robust and responsive to the increasingly pervasive short- and medium-range missile threats and is adaptable to longer range threats in the future. The new architecture focuses on using the proven standard missile-3 on Aegis ships and on land, together with additional sensor capability to provide more effective protection for ourselves and our allies.

In order to meet the timelines set out by the President to deploy a capability in Europe in the 2015 timeframe, General O'Reilly, Director of the Missile Defense Agency, has requested the Congress to reprogram \$68.5 million to construct an Aegis ashore test facility at the Pacific Missile Range Facility in Hawaii. This amendment responds to that request.

I ask unanimous consent to have printed in the RECORD the letter from General O'Reilly requesting this transfer of funds.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF DEFENSE,  
MISSILE DEFENSE AGENCY,  
Washington, DC, October 7, 2009.

Hon. DANIEL INOUE,  
Chairman, Committee on Appropriations,  
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: I am writing to request your support for reauthorization and reappropriation of \$68.5 million of unobligated FY2009 MILCON funds, previously appropriated for deployment of missile defense capabilities in Europe, to support near-term requirements for the President's new Phased Adaptive Approach for missile defense in Europe.

Our top priority is the establishment of an Aegis Ashore test facility which could also

provide an operational ballistic missile defense capability when needed. Due to its strategic location and multi-dimensional testing capabilities, the Pacific Missile Range Facility (PMRF) in Hawaii has been selected as the proposed site for this test facility, and placement of a test launcher at this site could also provide continuous protection for this region. Our goal is to complete this project in time to support the first flight test of the land-based Standard-Missile 3 interceptor in FY2012, which would require construction funding to be available for obligation in FY2010.

Your support to make these FY2009 MILCON funds available for the Aegis Ashore test facility is essential if we are to implement the President's new Phased Adaptive Approach in time to counter the growing ballistic missile threat. I am prepared to provide you with any additional information you may require.

Thank you for consideration of this request and your steadfast support for the defense of our Nation.

Sincerely,

PATRICK J. O'REILLY,  
Lieutenant General, USA Director.

Mr. INOUE. Mr. President, in the letter the general says that establishing this test facility is his top priority for the President's new plan for missile defense in Europe. He goes on to state:

Our goal is to complete this project in time to support the first flight test of the land-based standard-missile 3 interceptor in FY 2012, which would require construction funding to be available for obligation in FY 2010.

I offer this amendment with some reservation. It is critical to getting missile defense to Europe sooner, but it circumvents the normal order of business in the Senate under ordinary circumstances. This project should have been authorized in the fiscal year 2010 National Defense Authorization Act and then appropriated in the Military Construction bill. I take that process seriously and wish to explain to my colleagues the special circumstances under which I offer this amendment.

President Obama publicly announced his European missile defense strategy on September 17 of this year. This announcement came well after the House and Senate Armed Services Committees began the conference negotiation process.

In order to implement the President's new plan, General O'Reilly made the request to Congress for an AEGIS ashore test facility on October 7, the same day that the House and Senate completed the conference agreement on the Defense authorization bill. Due to conflicts in timing, the conferees were not able to consider this late request from the administration. Thus, an amendment on the fiscal year 2010 Military Construction appropriations bill is the best path to get the facility started in order to meet the administration's timelines. If there was a better way to proceed, I would do so. Unfortunately, these unusual circumstances have put us in this situation.

The fiscal year 2010 National Defense Authorization Act provided flexibility for the Missile Defense Agency to spend over \$240 million of research and development funding in fiscal years 2009 and 2010 to purchase equipment associated with the AEGIS ashore test facility and begin the development of the new European ballistic missile defense architecture. The military construction funding is needed at this time in conjunction with the research and development funding to begin implementation of the European missile defense plan.

Let me also make clear that this amendment is not asking for additional money. This funding is presently available. The Missile Defense Agency has over \$150 million in fiscal year 2009 unobligated funds that were appropriated for the missile defense sites in the Czech Republic and Poland that are no longer needed. This amendment would use a portion of those funds to begin construction of the AEGIS ashore test facility in fiscal year 2010.

Lastly, let me comment on the site chosen for the AEGIS ashore test facility. According to the Missile Defense Agency, the Pacific Missile Range Facility on the island of Kauai has been the center of excellence for AEGIS ballistic missile defense testing for the last 12 years and will continue in that regard for the next decade. Indeed, just 2 weeks ago, the Pacific Missile Range Facility hosted the successful intercept test of the Japanese AEGIS ballistic missile defense program. To date, the Pacific Missile Range has supported 20 AEGIS tests. In addition, PMRF also has a proud track record of testing the Missile Defense Agency's Theater High Altitude Area Defense System, with five tests at the range since 2007.

The Pacific Missile Range Facility is the world's largest instrumented missile testing and training range. The Department of Defense and the Missile Defense Agency, in particular, utilize this range due to its relative isolation and ideal year-round climate and encroachment-free environment. Furthermore, it is the only range in the world where submarines, surface ships, aircraft, and space vehicles can operate and be tracked simultaneously. For these reasons, the Missile Defense Agency believes the Pacific Missile Range Facility is the ideal location to support AEGIS ashore testing.

I urge my colleagues to support this amendment. If this test facility does not get started in fiscal year 2010, the Missile Defense Agency will not be able to meet the flight test scheduled to demonstrate AEGIS ashore capability prior to the administration's proposed 2015 deployment date to Europe. It is a very important amendment.

AMENDMENT NO. 2754 TO AMENDMENT NO. 2730

Madam President, I now call up amendment No. 2754 and ask for its consideration.

The PRESIDING OFFICER (Mrs. HAGAN). The clerk will report the amendment.

The bill clerk read as follows:

The Senator from Hawaii [Mr. INOUE], for himself, Mr. COCHRAN, and Mr. JOHNSON, proposes an amendment numbered 2754 to amendment No. 2730.

Mr. INOUE. Madam President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To permit \$68,500,000, as requested by the Missile Defense Agency of the Department of Defense, to be used for the construction of a test facility to support the Phased Adaptive Approach for missile defense in Europe, with an offset)

On page 27, between lines 3 and 4, insert the following:

SEC. 128. (a)(1) The amount appropriated or otherwise made available by this title under the heading "MILITARY CONSTRUCTION, DEFENSE-WIDE" is hereby increased by \$68,500,000, with the amount of such increase to remain available until September 30, 2014.

(2) Of the amount appropriated or otherwise made available by this title under the heading "MILITARY CONSTRUCTION, DEFENSE-WIDE", as increased by paragraph (1), \$68,500,000 shall be available for the construction of an Aegis Ashore Test Facility at the Pacific Missile Range Facility, Hawaii. Notwithstanding any other provision of law, such funds may be obligated and expended to carry out planning and design and construction not otherwise authorized by law.

(b) Of the amount appropriated or otherwise made available by title I of the Military Construction and Veterans Affairs Appropriations Act, 2009 (division E of Public Law 110-329; 122 Stat. 3692) under the heading "MILITARY CONSTRUCTION, DEFENSE-WIDE" and available for the purpose of European Ballistic Missile Defense program construction, \$69,500,000 is hereby rescinded.

Mr. INOUE. I suggest the absence of a quorum.

The PRESIDING OFFICER. Will the Senator withhold the request for a quorum call?

Mr. INOUE. I set aside my request.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. COBURN. Madam President, I ask unanimous consent to, No. 1, offer an amendment, which I will do in 3 or 4 minutes, and then spend 3 or 4 minutes on that amendment and then ask unanimous consent for 15 minutes to talk on the Executive Calendar as well as speak in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2757 TO AMENDMENT NO. 2730

Mr. COBURN. Madam President, I ask that the pending amendment be set aside and that amendment No. 2757 be called up.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the amendment.

The bill clerk read as follows:

The Senator from Oklahoma [Mr. COBURN] proposes an amendment numbered 2757 to amendment No. 2730.

Mr. COBURN. I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To require public disclosure of certain reports)

At the appropriate place, insert the following:

SEC. \_\_\_\_\_. (a) Notwithstanding any other provision of this Act and except as provided in subsection (b), any report required to be submitted by a Federal agency or department to the Committee on Appropriations of either the Senate or the House of Representatives in this Act shall be posted on the public website of that agency upon receipt by the committee.

(b) Subsection (a) shall not apply to a report if—

(1) the public posting of the report compromises national security; or

(2) the report contains proprietary information.

Mr. COBURN. Madam President, this is a very straightforward amendment. This is an amendment I have offered on all appropriations bills to date. We passed it on Housing and Urban Development-Transportation. We passed it on Energy and Water. We passed it on Interior. We passed it on the Defense appropriations bill. It is an amendment that says that the reports that are asked for in this appropriations bill, unless there is reason to not yield to the people of this country the information contained in that report for either national security or defense purposes, that those studies will be made available to the American citizens and the rest of the Senate.

Each appropriations bill, in proper fashion and by a good job by the Appropriations Committee, asks for reports and reviews on how the money is spent. All this amendment does is require that the reports that are required to be submitted by a Federal agency in this act be posted on a public Web site of that agency for all Members of Congress and all Americans to see. There is an exception for reports that contain classified or proprietary information.

In the House and Senate version of this bill, the following reports are—I won't go through all of them—what action DOD and the State Department have taken to encourage host countries to assume a greater share of the defense burden—that is something that ought to be shared with the American people; an annual report on operation and maintenance expenditures for each individual general or flag officer quarters at each of our bases around the country during the prior year; a report of the Secretary of Veterans Affairs on approved major construction projects for which funds are not obligated within the timeframe provided for in the act—in other words, to know what we are getting ready to spend, what is obligated; a report detailing the current planned use of property estimated to have greater than \$1 million in annual

rental costs; a detailed report on how the \$3 billion that has already been appropriated for information technology projects at the Veterans Administration is spent, including operations and maintenance costs, salaries, and expenses by individual project; and then finally, a quarterly report on the financial status of the Veterans' Administration, a health status.

This is just plain, good, open government. It creates transparency, and it allows the American people to hold us to account. By requiring that Federal agencies produce reports funded in this bill and publicize them on a Web site, everybody will have easy access to the reports. That is not the case today in the Senate or in the Congress. Evaluating and reading these reports may prompt a congressional hearing, Federal legislation, or even termination of a Federal program or policy.

This is a straightforward amendment. It is my hope our colleagues will accept this amendment and it will become part of this appropriations bill as well.

NOMINATION OF JUDGE ANDRE DAVIS

Madam President, I now wish to spend a few moments talking about Judge Andre Davis, who is the nominee for the Fourth Circuit Court of Appeals.

I sit on the Judiciary Committee, and I voted against Judge Davis's nomination coming out of the Judiciary Committee. I thought the American people ought to know why.

He is definitely an individual of integrity. He is a very pleasant individual. I enjoyed the banter back and forth during the hearing. But as a Federal district judge, Judge Davis has been reversed by the Fourth Circuit Court numerous times. A lot of judges get reversed, but there is a trend with Judge Davis where we have seen the law misapplied. So I have some real concerns. This is a lifetime appointment to this circuit court, No. 1. No. 2, the Supreme Court only hears 80 cases a year, so if a case comes to a circuit court, most often that is a final determination.

Let me spend a little bit of time on characteristics of these reversals because they are very concerning to me. He has been reversed by the Fourth Circuit Court in six different cases where he was noted to suppress evidence. For those of you like me who are not lawyers, let me explain what that means.

Suppressing evidence in a criminal case most often results in a defendant not being convicted of a crime and a victim and their family not receiving justice. Not only do the victim and victim's family not get justice but the government has to spend taxpayer dollars and resources to appeal the case to the next level. Let me give some examples.

In the case of U.S. v. Kimbrough, Judge Davis suppressed the statement

of a defendant who, while in the presence of police, told his mother he had a gun in the room. The officer was trying to give him his Miranda warnings at the time when the mother asked him if there was anything else in the basement, besides the cocaine that was readily visible to her and the officer.

In reversing Judge Davis's decision, the Fourth Circuit offered a harsh rebuke stating that since the mother "is a private citizen, her spontaneous questioning of [the defendant] alone, independent of the police officers, could never implicate the Fifth Amendment." The court further stated that Judge Davis's conclusion that "Miss Kimbrough's involvement in questioning her son was the equivalent of official custodial interrogation," . . . is at best incomplete and, taken literally, is simply erroneous." The Fourth Circuit said that a statement made in these circumstances should "never" be suppressed and Judge Davis's reasoning was "simply erroneous."

In *U.S. v. Siegel*, Judge Davis suppressed evidence of the defendant's 20-year history of scheming and plotting to take money from previous husbands in a case where the defendant was accused of dating the victim, taking his money, and then killing him. The facts of this case are particularly worrisome.

The defendant had met the victim and started dating him, eventually taking his money and trying to have him institutionalized. After failing at having him institutionalized, she killed the victim and hid his body. Although the body was found in 1996, it was not identified until 2003. During that time, the defendant remarried and continued to collect the man's Social Security checks. When the body was identified, Federal agents contacted her and she told them the victim was alive and had run off with some other woman. She was arrested and charged with murdering the victim to prevent him from reporting her fraud. When the prosecution sought to introduce the defendant's prior bad acts at trial, Judge Davis refused. According to the Fourth Circuit, Judge Davis was concerned about the length of the trial. The Fourth Circuit reversed, finding that the evidence was admissible and, because the government charged the defendant with committing murder to prevent being reported for fraud, this evidence was an essential element of the government's case. As for Judge Davis's concern about a lengthy trial, the Fourth Circuit concluded that was an improper basis for excluding wholesale this clearly probative and relevant evidence of other crimes. On remand, the defendant was found guilty.

In the case of *U.S. v. Jamison*, Judge Davis suppressed the confession of a felon who shot himself, called out to police for help, and then gave the confession during the routine police investigation into his injury. He was

charged with being a felon in possession of a firearm. The court of appeals reversed Judge Davis's ruling and said the man's confession was admissible in the case.

In *U.S. v. Custis*, the defendant was prosecuted for several Federal drug and firearm offenses. The evidence used against him included weapons and drugs that were seized by the police from his truck and residence. The police search was based on a warrant obtained with evidence they compiled from an informant who had given them reliable data on the defendant's drug operation. Judge Davis granted the defendant's suppression motion, finding that the search warrant was faulty. The Fourth Circuit reversed, stating that Judge Davis erred in granting the defendant's motion to suppress the evidence, and that if Judge Davis had read the supporting affidavit in a "commonsense, rather than hypertechnical manner, as he was required to do," he would not have excluded the evidence.

There are many other cases where Judge Davis has incorrectly suppressed evidence that I will not go into at this time. There are many other reasons, whether it be violating the sentencing levels according to the Fourth Circuit, an abuse of discretion, remanding for resentencing, or being more than a neutral arbiter in terms of plea arrangements. Here is what the Fourth Circuit said about Judge Davis's role in terms of the plea arrangements:

We have not found a single case in which the extent of judicial involvement in plea negotiations equaled that in the case at hand. The district court repeatedly appeared to be an advocate for the pleas rather than as a neutral arbiter, and any fair reading of the record reveals the substantial risk of coerced guilty pleas. We can only conclude that the district court's role as advocate for the defendant's guilty pleas affected the fairness, integrity, and public reputation of judicial proceedings.

I won't go on, but those six cases I outlined are enough for me to not be able to support this judge, who is obviously a very fine gentleman and a good man, but who I believe has made some significant inexcusable errors on the bench.

Finally, I want to spend a moment talking about a bill several of my colleagues have brought up, and it is the veterans caregivers omnibus bill. Regardless of what the news reports say, and my colleagues say, I am not opposed to us making sure we keep each and every commitment we make to veterans. I think many of the programs that are in this bill are ideally suited for the problems our veterans have. What I object to is the fact we are going to create \$3.7 billion worth of spending—and that is a CBO score, not my score, the \$3.7 billion worth of spending—over the next 5 years and not make any effort whatsoever to eliminate programs that don't have anywhere near the priority this program does.

The other thing I object to is the timing. There is no question we need to do this, especially for our wounded warriors. But we are excluding our Vietnam veterans from having access to this same care, and we are excluding the first gulf war veterans from having the same access. They have the same needs. Nobody can deny they don't have some of the same needs, but we are excluding them, and from a constitutional standpoint, I am not sure we can ever get to the point where we would agree that is fair treatment for our veterans.

Mr. DURBIN. Will the Senator yield for a question?

Mr. COBURN. I wish to finish my statement first. I listened to the Senator's statement earlier today on the floor, so let me finish my statement.

The other thing that is concerning is we have a bill before us right now—this appropriations bill—that has no money for this in it, one, and authorizations aren't required. So \$280 billion of the money we appropriate every year is not authorized. The fact there is no money in this bill for this program tells me something, that the urgency of getting a press release isn't near the urgency of the needs of our veterans. Because if we allow the normal process to happen, it will be 18 months from now before any money comes forward for this bill.

Finally, we have offered up a list of programs we think have much lower priority than our veterans' health care, and so I think of my brother, who is a veteran, and I ask myself: What did he serve for? What did he fight for? Did he fight so we could come back here and undermine the future by not making the same tough choices that are required for every family and, more importantly, not demonstrate the courage in our service that the veterans demonstrate in their service—which is putting yourself at risk to do what is best for our country? That is what they do, but we ought to be doing the same thing.

We ran a very large deficit this last year. Forty-three cents of every dollar we spent this last year was borrowed. None of the people in this room will ever pay a penny toward that debt. It will be our children and grandchildren. And the fact is we will not make the hard choices to pay for this so that tomorrow we can say, we are going to eliminate these programs so this program can go forward, and we are going to take the money that is going for these programs so this program can go forward.

What this appropriations bill does, as a matter of fact, is ask for a study from the Veterans' Administration on the need of this bill. So if this bill is certainly a priority, the funding for it should have been in this appropriations bill, and it is not. Nobody can deny it is not. So I come to the question: When will enough be enough? When will we

stop playing a game on dollars and ultimately make the same hard choices and demonstrate the courage our veterans have demonstrated? I can't think of many veterans who want now what is paid on the backs of their children or grandchildren. What they want to see us do is the hard work, as they do the hard work, to put ourselves at risk by telling some people no so we can tell veterans yes. What we are doing today is we are going to tell veterans yes but we are going to tell our children no.

I can easily outline for my colleagues \$300 billion—that is “B” for billion—of waste, fraud, and duplication in the Federal budget. They may disagree with some of that, but there is no question you could get a consensus on \$3.7 billion of that. On 1 percent of it, you could get a consensus. But there is no effort made on this authorization bill to create priorities. What we hear all the time is: Well, that is not the way it works up here. Authorization bills are simply that, and it has to go through the appropriations, and you are not spending any money.

Well, if we are not spending any money on this bill, then we are not solving the problems for our veterans. And if we don't have any money for this program in this appropriations bill, we are holding out a hollow promise.

I ask my colleagues to work with us. Let's offset the price for this, demonstrate the same courage and the same level of commitment. There has been no secret on who has said we should not pass this by unanimous consent, and there has never been a time that we refused to talk to anybody about that.

My hope is the American people are listening. Sure, we do want to do the right things for our veterans, but there has to come a time when we are forced to make hard choices, and we are not seeing that. We are not seeing that in this bill, and we are not seeing it in the authorization for this veterans and caregivers omnibus bill.

With that, I yield to my colleague from Illinois, and retain the time until he has finished asking whatever question he may have.

Mr. DURBIN. I thank the Senator from Oklahoma.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. I ask the Senator from Oklahoma, is the Senator suggesting we should open this up to caregivers for veterans of all wars?

Mr. COBURN. Yes, sir.

Mr. DURBIN. Would the Senator from Oklahoma join me in that endeavor?

Mr. COBURN. If we are going to do this bill, yes, I would.

Mr. DURBIN. Would the Senator from Oklahoma also agree that this bill was on the calendar long before Veterans Day?

Mr. COBURN. Absolutely, but when was the hold? Less than 3 weeks ago. It wasn't brought to the floor before then.

Mr. DURBIN. It was brought to the floor on September 25.

Mr. COBURN. Okay, 5 weeks. Pardon me.

Mr. DURBIN. Also, I would ask the Senator if he is suggesting we should have included the appropriations for this bill before we authorized it?

Mr. COBURN. I would answer my colleague that we do that 280 billion times a year.

Mr. DURBIN. The Senator would endorse that, and wants us to include the appropriations before we set up authorizing language?

Mr. COBURN. What I would tell my colleague is you do it routinely on the appropriations bill. So why is this any different?

My question to my colleague is: If in fact this is so important to get done today, knowing there is no money in this bill for this—my colleague would agree with that, would he not, that there is no money in this appropriations bill for this act? Is that a correct statement?

Mr. DURBIN. To my knowledge, there is not.

Mr. COBURN. There is not. So we are going to say we are going to authorize something in the hopes that we have to do it right now, knowing that unless we have an omnibus or a supplemental this won't actually happen until we get to this bill again next year.

Mr. DURBIN. So is the Senator from Oklahoma conceding an authorizing bill does not spend money, since the passage of this authorizing bill, as you said, would not spend a penny?

Mr. COBURN. No, I will not concede that. Because what it does is it causes us—and I enjoy debating my colleague from Illinois. Here is my point on authorization bills. We can authorize and authorize and authorize, and when we do, we are telling veterans they are going to get this. That is what we are telling them. We are communicating to every veterans organization and we are telling them we are going to do this. So if we are going to tell them we are going to do it, we ought to put in process the way to do it. And if we are saying it has to happen right now, then where is the money? Show me the money to make it happen right now.

The fact is—and I will reclaim my time—we play games, and the game we are playing is that we can authorize and send out a press release but then we are not held accountable to do what we have authorized. There are a lot of good key components in this bill. My objection is twofold: One, it discriminates against previous veterans, which I think is uncalled for; and two, we don't eliminate any of the waste in terms of authorizations so that we more focus the Appropriations Committee.

There is no question the Appropriations Committee has the power to fund money anywhere they want and they do it whether the bills are authorized or not authorized. I will be glad to give the Senator from Illinois a list of the \$280 billion we spend every year that is not authorized. It is a spurious argument to state that we should not have fiscal accountability when we authorize programs. We should have and we ought to make the tough choices. The problem is, we do not do any oversight, to speak of, to cause us to know the programs that are not working that we could eliminate so we will not have duplicate funding and so we will not spend it.

The question veterans ask me is what is our priority with our money. The first priority has to be defending the country. The second priority ought to be about taking care of veterans. What we do is we have \$300 billion a year in waste, fraud, and duplication on things that do not do either of those and that are extremely wasteful. Nobody with common sense would say they ought to continue. Yet we continue down the process.

I have taken more than my time and I know my colleagues are going to vote. I would tell my colleague from Illinois we have had this debate a large number of times. We have a frank disagreement about the fiscal discipline that should be required of us as Senators. The fact is, we are going to authorize a bill and we are not going to make any tough choices about anything else and we are not going to take away any options from the Appropriations Committee when it comes to funding. To me, that abrogates our responsibility to be good authorizers. I will stand by that conviction as long as I am in the Senate. We had that debate on the bridge to nowhere, which my colleague supported, which was in an authorizing bill—and multiple times.

With that, I yield the floor and I am prepared to listen to my colleague from Illinois.

Mr. DURBIN. Madam President, I know we have a standing order for a trigger to move to the Executive Calendar, but I ask unanimous consent for 5 minutes for the purpose of making a unanimous consent request, a short statement, and then to ask two other amendments which I have introduced to this bill be called and be pending.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DURBIN. Madam President, I will speak briefly to the Senator from Oklahoma. This is not my bill. This was a bill introduced by Senator Hillary Clinton. It has been around for a long time. It is an effort to provide some help to the 6,800 families who have in their homes today a disabled veteran who needs a caregiver, someone who helps that veteran change the dressings on their wounds, provides an

IV change if necessary, injections if necessary, move them from bed to chair and back again. For many of our veterans, that is their lifeline. It is a wife who is giving her life to her husband who has returned injured from a war. It is a mother, a father, a son, a daughter, a loved one in the family. These people are as much a part of our veterans medical system as the great people who serve us at the veterans hospitals and veterans centers across America.

What Senator Clinton wanted to do and what I want to help her do is provide some help for these caregivers. Many of them are giving their lives to this veteran. It is not too much to ask that we help them with a small stipend each month, with training so they know how to do the things that are necessary so they can provide the medical help these veterans need, with 2 weeks of respite so they can have a little time off by themselves and have someone else, such as a visiting nurse, step in for the veteran during that period of time.

We reported the bill out of the Veterans' Committee and brought it to the floor. By custom in the Senate, regardless of what you just heard, we first pass a bill authorizing a program and, if it is passed, we appropriate money to the program. I am trying to follow that regular order.

The Senator from Oklahoma has objected. He is the only person objecting. Because of his objection 6,800 veterans, those who served Iraq and Afghanistan, are unable to get this additional care. I know we cannot give it to every caregiver. I know it will be limited, and we will have to make that decision as part of our deliberation as to what we can do. But to say we should do nothing for these people is to make a mockery of this Veterans Day. If we truly care for these veterans, let us care for these families who are giving their lives to help them.

I hope the Senator from Oklahoma will lift the hold on this bill, give us a chance to debate it, offer his amendments. That is what we are here for. But to merely stand and say: No, stop, I will not allow it, I don't think is what the Senate should be about. Let us debate his point of view, my point of view, other points of view, and try to reach some conclusion.

AMENDMENT NO. 2759 TO AMENDMENT NO. 2730

I ask that the clerk call up my pending amendment No. 2759.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Illinois [Mr. DURBIN] proposes an amendment numbered 2759.

The amendment is as follows:

(Purpose: To enhance the ability of the Department of Veterans Affairs to recruit and retain health care administrators and providers in underserved rural areas)

On page 52, after line 21, add the following:

SEC. 229. (a)(1)(A) Of the amount made available by this title for the Veterans Health Administration under the heading "MEDICAL SERVICES", \$1,500,000 shall be available to allow the Secretary of Veterans Affairs to offer incentives to qualified health care providers working in underserved rural areas designated by the Veterans Health Administration, in addition to amounts otherwise available for other pay and incentives.

(B) Health care providers shall be eligible for incentives pursuant to this paragraph only for the period of time that they serve in designated areas.

(2)(A) Of the amount made available by this title for the Veterans Health Administration under the heading "MEDICAL SUPPORT AND COMPLIANCE", \$1,500,000 shall be available to allow the Secretary of Veterans Affairs to offer incentives to qualified health care administrators working in underserved rural areas designated by the Veterans Health Administration, in addition to amounts otherwise available for other pay and incentives.

(B) Health care administrators shall be eligible for incentives pursuant to this paragraph only for the period of time that they serve in designated areas.

(b) Not later than March 31, 2010, the Secretary of Veterans Affairs shall submit to the Committees on Veterans' Affairs and Appropriations of the Senate and the House of Representatives a report detailing the number of new employees receiving incentives under the pilot program established pursuant to this section, describing the potential for retaining those employees, and explaining the structure of the program.

AMENDMENT NO. 2760 TO AMENDMENT NO. 2730

Mr. DURBIN. Madam President, I ask unanimous consent that the amendment be set aside and the clerk call up amendment No. 2760.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Illinois [Mr. DURBIN] proposes an amendment numbered 2760 to amendment No. 2730.

The amendment is as follows:

(Purpose: To designate the North Chicago Veterans Affairs Medical Center, Illinois, as the "Captain James A. Lovell Federal Health Care Center")

At the end of title II, add the following:

SEC. 229. (a) NAMING OF HEALTH CARE CENTER.—Effective October 1, 2010, the North Chicago Veterans Affairs Medical Center located in Lake County, Illinois, shall be known and designated as the "Captain James A. Lovell Federal Health Care Center".

(b) REFERENCES.—Any reference to the medical center referred to in subsection (a) in any law, regulation, map, document, record, or other paper of the United States shall be considered to be a reference to the Captain James A. Lovell Federal Health Care Center.

Mr. COBURN. Madam Presiding, during today's conversation, the Senator from Illinois stated that S. 1963 had been on the Senate calendar since September 25, 2009. In fact, S. 1963 was read the second time and placed on the calendar on October 29, 2009. A request was not made for unanimous consent to pass the bill on the minority side until Friday, November 6, 2009.

There are currently 35,000 veterans receiving aid and attendance benefits from the Department of Veterans Affairs, which provides funding for veterans who need extra help at home but do not need institutional care. The aid and attendance program assists all disabled veterans of all wars. Out of this population, around 2,000 veterans received their injuries after September 11 and would qualify for extra caregiver assistance in this bill. However, caregivers for tens of thousands of veterans of prior wars would not. Of course, that assumes that the House passes the Caregiver Assistance Act in its Chamber and the President signs it into law. Then it assumes that next year, in the discussion on the fiscal year 2011 budget, the President requests funding for caregiver assistance, or that both appropriations committees include funding, and that the President signs this into law. The absolute earliest that a caregiver would receive assistance is October 1, 2010. However, that date is not likely given the performance of the Department of Veterans Affairs. Right now, the average processing of a disability claim is 162 days at the Department. Given that the Department will have to make rules on this new benefit, it will be well into 2011 before any caregiver benefits from this program. However, passing this bill before Veterans Day will give benefits to politicians, who will have made an empty promise in 2009 that might not be realized until 2011, and even then, would be paid for by our children and grandchildren.

#### EXECUTIVE SESSION

#### NOMINATION OF ANDRE M. DAVIS TO BE UNITED STATES CIRCUIT JUDGE FOR THE FOURTH CIRCUIT

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to executive session to consider the following nomination, which the clerk will report.

The legislative clerk read the nomination of Andre M. Davis, of Maryland, to be United States Circuit Judge for the Fourth Circuit.

The PRESIDING OFFICER. Under the previous order, there will be 60 minutes of debate, equally divided and controlled between the Senator from Vermont, Mr. LEAHY, and the Senator from Alabama, Mr. SESSIONS, or their designees.

The Senator from Maryland is recognized.

Ms. MIKULSKI. Madam President, I am a little confused about the order. Parliamentary inquiry of the pending business: Are we now considering the nomination of Andre Davis?

The PRESIDING OFFICER. The Senator is correct.

Ms. MIKULSKI. Madam President, as the senior Senator from Maryland, I



have been designated as the Democratic representative. Of course, I note on the floor the distinguished ranking member, Senator SESSIONS. I was going to lead off, if that does meet with the Senator's approval.

Mr. SESSIONS. Yes, I say to the Senator from Maryland, I think that would be quite appropriate and fine with me.

The PRESIDING OFFICER. The Senator from Maryland is recognized.

Ms. MIKULSKI. Madam President, this is an exciting day for me. It is an exciting day because I am here to present a distinguished jurist from Maryland to be nominated to sit on the Fourth Circuit Court of Appeals.

Judge Davis is from my hometown of Baltimore. He has been nominated to sit on the Fourth Circuit Court of Appeals. He comes before the Senate for a vote on his confirmation. His nomination has been approved by the Judiciary Committee, and I thank both the chairman of the Judiciary Committee, Senator LEAHY, and the ranking member, Senator SESSIONS, for moving this nomination through the committee process and the majority and minority leaders for bringing this nomination to the floor.

For 8 years as the Senator from Maryland, I have pressed for a qualified Marylander to fill the Maryland vacancy on the Fourth Circuit Court of Appeals. I have worked with my colleague, Senator Sarbanes, and now Senator CARDIN. This seat was once held by the late Judge Francis Murnaghan, a true legal giant, with deep roots of civic engagement as well as a record of extraordinary judicial competence. Today, we are presenting a nominee who is worthy to fill this seat.

I am honored to introduce Andre Davis to serve on the Fourth Circuit Court of Appeals. He is a man of the highest caliber, one of judicial experience, one of great integrity and also outstanding intellect. He has received the American Bar Association's highest ratings.

When I consider a judicial nominee, and particularly one for the circuit court of appeals, I have four criteria. No. 1, that person must be someone of absolute personal integrity. They are, after all, a judge. They must bring judicial competence and a record demonstrating judicial competence and also a record showing judicial temperament. My third criterion is they must have a commitment to core constitutional principles and also a history of civic engagement in Maryland. In other words, they must be a real Marylander, not just a "ZIP Code" Marylander, meaning living in Maryland as a matter of convenience.

Judge Andre Davis passes all these tests with flying colors. When I introduced Judge Davis at the Judiciary Committee hearing, I wished to present to my colleagues then, as I do now,

that he has a compelling personal narrative. He comes from roots of very modest means. His father was a teacher, his stepfather was a steel worker, he grew up in the gritty neighborhood of east Baltimore in a family who valued hard work and also community service.

He earned a scholarship to attend Phillips Academy, Andover, no small feat for an African American. He was 1 of 4 African Americans in a school of over 800 students, and even then, as a young man, he knew that with opportunity came responsibility to help others who were not so fortunate.

He earned his bachelor's degree at the University of Pennsylvania and then graduated from the University of Maryland School of Law. While at the Maryland School of Law, he won the Myerowitz Moot Court Competition. He chaired the Honor Board and the law faculty awarded him the prestigious Roger Howell Award at graduation. He had a distinguished career as an undergraduate and graduate.

He comes before us for this vote as someone who has judicial competence. He was originally nominated by President Clinton in the year 2000 for the Fourth Circuit. At that time, the ABA unanimously gave Judge Davis its highest rating of "well qualified." Why? Because, for the last 22 years that Andre Davis has served as a judge, he served at three different levels—at the State courts and at the Federal courts. He currently sits as a Federal district judge for the Maryland District, nominated by President Clinton and unanimously confirmed by the Senate. So he served in the State courts, where his judicial opinions, judicial behavior, judicial judgment could be observed. People like him, they know him, they respect him.

His judicial record demonstrates an ability to handle difficult situations with a calm, thoughtful, rational temperament. He is known for thorough reasoning. He has not only served as a distinguished judge, but also he came to the courts as an experienced prosecutor. He was with the Civil Rights Division at the Department of Justice and with the U.S. Attorney's Office in Maryland.

In addition to being a judicial leader, he has also been a community leader. He, again, believes for every opportunity there is a responsibility. He served on the board of directors of the Baltimore Urban League, which provides so many vital services to our underserved communities. He was the president of the Legal Aid Bureau and a founding member and chair of the board of the Baltimore Urban Debate League, so that young people in our public schools could learn the excitement of high school debate which, for many of our inner-city youth, was a pathway not only to eloquence and rational argument and the love of com-

bat over the clash of ideas but gave them a taste of a world outside their own community and even put them on the road to scholarships.

He served for 4 years as the president of Big Brothers and Big Sisters of Central Maryland, knowing not everybody had a dad and not everybody has a mom. If we can come up, through the Big Brothers and Sisters, with programs showing a caring adult, it also helps with our young people.

Judge Davis has great integrity, a strong work ethic, and a commitment to public service. He presents uncompromising views on judicial independence. He is an independent thinker, dedicated to the rule of law and core constitutional principles. Well-respected colleagues consider him a first-rate judge, with an unassailable record in the community as a lawyer and as a judge.

I hope the Senate will confirm him. I am proud to be here to speak up for him and to stand for him and I will be proud to cast my vote in support of him.

With deep roots in the Maryland community, distinguished and experienced as a judge, I think he would be an excellent addition to the Fourth Circuit Court of Appeals. I am going to thank my colleagues today for giving this matter their attention.

As I conclude my initial presentation with Judge Davis, I would like to take a moment and speak on personal privilege. This is a big day for me. It is a big day for Andy Davis. He has been waiting a long time since he was first nominated by President Clinton. But now his time will come to be judged by the Senate whether he is deemed worthy of someone on the Fourth Circuit.

But it is a special day for me. Today is the first day in over 124 days since my accident coming out of Catholic Mass where I broke my ankle. This is the first day that I can actually come to the floor of the Senate and stand up for someone in whom I truly believe because I believe he will stand up for the Constitution that made our country great. I come with no space boot; I come with no props to hold me up. It is a very big day. So I am very excited about the fact that I am able to do this.

#### FALL OF THE BERLIN WALL

It is also a special day in world history. Today is the day the Berlin Wall came down. I was filled with excitement on that wonderful day because the roots of my own heritage lie in Poland. We are proud American citizens, but we kept the heritage of the old country alive in our home, particularly because Poland, after World War II, was sold out at Yalta and Potsdam through an agreement that was ill-conceived, and history bore the point.

We watched Poland fall as Hungary and the Czech Republic and others behind the Iron Curtain. They were called



captive nations. Then we saw in Berlin that another wall went up and began the famous Berlin Airlift where America came to the rescue. They themselves in East Berlin were behind another version of the Iron Curtain called the Berlin Wall.

Today we commemorate that 20 years ago—through nonviolent participation and the efforts of people such as Ronald Reagan, Maggie Thatcher, the world's prayers, a strong Democratic United States of America saying, "Mr. Gorbachev, tear down that wall"—that wall came down.

It started when an obscure electrician jumped over a wall in a shipyard in Gdansk. His name was Lech Walesa. It started the Solidarity movement. It sparked all of Central Europe through dissidents such as Havel. It led finally, through political leadership—such as President Reagan, such as Maggie Thatcher, such as all of us here—to bring down that wall.

So today we commemorate bringing down the Berlin Wall, bringing down the Iron Curtain. When we elect Andrew Davis as an African American to the Fourth Circuit, that famous Fourth Circuit with roots deep in the South, we are going to bring down another wall. But is that not what a great democratic nation does? We bring down walls through democratic action, through commitment and resolve, and doing it through nonviolence.

This is indeed a great day for the world and a great day for Andrew Davis and a very special day for me.

I yield the floor.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. CARDIN. Madam President, let me first compliment my colleague, Senator MIKULSKI, for her leadership in bringing forward the nomination of Judge Davis to the circuit court of appeals. I join her in her comments about the fall of the Berlin Wall, the importance that meant not just for Europe. The Berlin Wall represented not only a divided city, a divided country, but a divided continent. And the fall of that wall that we commemorate of 20 years ago has significance well beyond that one city.

I was privileged to be in Berlin as the wall came down and will never forget those moments.

It is also nice to see my colleague on the Senate floor without the need of any aid. She has been a fighter all of her life. She has been a fighter during this episode. She never missed a beat as far as representing the people of Maryland.

But I particularly want to point out to my colleagues how proud I am of Senator MIKULSKI for the manner in which she has handled judicial appointments in our State. She is interested, as I am, in getting the very best on our Federal courts, and in the process that was set up for us to make recommenda-

tions to the President and make recommendations to our colleagues on the confirmation of judges from those who apply from Maryland. This represents an open process, a process that encourages our very interest to apply and become Federal judges, and one that is solely aimed at getting the very best talent onto our Federal courts.

That is certainly true with Judge Davis. It is certainly true with that nomination. Judge Davis had a hearing before the Judiciary Committee in April. In June, our committee reported him out favorably with a strong bipartisan vote of 16 to 3.

I am not going to go through all of the points that Senator MIKULSKI raised as far as his background. But I do want to underscore a few points I think are very important in the filling of this particular judicial position.

Judge Davis has strong roots in Maryland. This is a Maryland seat on the Fourth Circuit. He was born in and raised in Baltimore. He is still a resident of Baltimore. Judge Davis has an exceptional record of legal experience in our State, including working as an assistant U.S. attorney, as a State district court judge, as a State circuit court judge, and now as a U.S. district judge.

He received his bachelor's degree from the University of Pennsylvania and graduated cum laude with his J.D. degree from the University of Maryland School of Law where he still teaches classes as an adjunct faculty member.

He served as a district judge for the U.S. District of Maryland since his Senate confirmation in 1995. You see Judge Davis has deep roots in Maryland and deep roots in the judicial branch of government.

He has a longstanding record that he has demonstrated in protecting civil rights and liberties. I agree with my colleague, Senator MIKULSKI, that one of the principal standards we want to see in judges on our courts is an understanding of our Constitution and the protection it provides our citizens. That is particularly important on our circuit court of appeals.

To give you one example of Judge Davis's record in protecting the rights of our people, this was a landmark decision on civil rights, *Reid v. Glendening*, where Judge Davis ruled that the Baltimore City Courthouses were not wheelchair accessible, in violation of the Americans with Disabilities Act. He then ordered the city and State to create a plan to make the buildings accessible.

I think that is pretty gutsy when we realize that some of the support our judiciary needs comes from local government. Yet Judge Davis did what was required under our Constitution.

He has been praised by lawyers in Maryland as a smart, evenhanded, fair, and open-minded judge. He has served

as a judge for 22 years. He has handled somewhere around 5,300 cases. Judge Davis received a "well qualified" rating from the American Bar Standing Committee on the Federal judiciary.

If confirmed, Judge Davis would be the third African-American judge to serve in the Fourth Circuit, which has one of the highest percentages of minority populations of any circuit in the country.

As my colleague pointed out, the Fourth Circuit has one of the highest vacancy rates of any court, any circuit in our Nation. Five out of the fifteen seats are vacant, which constitutes one-third of the appellate court. Indeed, Judge Davis is a replacement for Judge Francis Murnaghan, who died in August of 2000.

Judge Murnaghan also had a lifelong record as a Maryland resident who served on the Federal bench for 20 years and was one of the most respected lawyers and judges in our State. Judge Davis served as a law clerk for Judge Murnaghan on the Fourth Circuit from 1979 to 1980. So I think this is a very appropriate appointment.

I am proud to join the senior Senator from Maryland, Ms. Mikulski, in recommending to our colleagues the confirmation of Judge Davis. We believe he will continue the great tradition, the great record he has established as a Federal judge, as a State judge, and he will continue that when confirmed by this body to serve on the Circuit Court of Appeals for the Fourth Circuit.

We are proud to recommend his confirmation to our colleagues. With that, I see that the senior Republican on the Judiciary Committee, Senator SESSIONS, is on the Senate floor.

I yield the floor.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SESSIONS. Madam President, I would also like to speak on the Davis nomination and reluctantly I will speak in opposition to that nomination. There has been some discussion on the Senate floor today and previously in more detail about the need for the circuit judges. But I would just point out, having been through this system quite a bit, that during the 110th Congress four highly qualified consensus nominees to that court were presented to the Senate by President Bush and were not confirmed: Judge Robert Conrad, Judge Glen Conrad, Mr. Steve Matthews, and Mr. Rod Rosenstein.

I remember Judge Conrad. He is the presiding judge of his district and had been a U.S. attorney. I remember him testifying during President Clinton's difficulties, and then Attorney General Janet Reno looked all over the U.S. Federal prosecuting ranks to pick a U.S. attorney who would be a special prosecutor whom she would select to prosecute one of the allegations against President Clinton.

She chose Mr. Conrad. He concluded that there were no charges in that matter to be brought against President Clinton and was later appointed a Federal judge in the district and was confirmed, but he was blocked for the court of appeals. I always knew he would be a good decisive judge since he was a point guard on the University of North Carolina basketball team. They have to make decisions. They have to make decisions quickly.

So I would say a lot of effort went into confirming judges for vacancies that are not there today. Mr. Rosenberg was nominated to the seat as a judicial emergency in November of 2007, the very seat to which Judge Davis has been nominated. He was not confirmed. In fact, my colleagues on the other side of the aisle succeeded in holding that vacancy, this vacancy, open for 9 years.

I find it breathtaking that people would suggest that the Republicans, who tried to fill that vacancy for 9 years and had the nominees blocked, were responsible for vacancies which have been there for a long time. I find that quite an odd thing.

The ABA reported Mr. Rosenstein unanimously "well qualified." In 2005 he was confirmed unanimously to be U.S. attorney for Maryland. Prior to his service as U.S. attorney, he held a number of positions in the Department of Justice under both Republican and Democratic administrations. Despite his stellar qualifications, he waited 414 days for a hearing and never got one. So his nomination expired in January of this year.

The reason, one reason, given for blocking his nomination was that he was doing a good job as U.S. attorney in Maryland, and that is where we need to keep him. Well, forgive me if I think that is a bit much, and I certainly do not think we need to have the outrage from the other side about vacancies on this court since they are a direct product of the efforts of my colleagues to keep that vacancy open.

But Judge Davis has fared much better than those four nominees did in the last Congress. He received a hearing a mere 27 days after his nomination. A committee vote occurred just 36 days later. Today the full Senate will vote on his nomination.

I would just say I think we need to take time to look at nominees and ask the tough questions. We are not a rubberstamp. Good nominees ought to be confirmed. Sometimes we just have a disagreement, like we will about Judge Davis, and we will have a vote. They will be confirmed or not confirmed.

I would like to point out, however, that the average time from nomination to confirmation for nominees to the courts of appeals submitted by President Bush was 350 days, and that was the average. The majority of President Bush's first nominees, the first group—

and Judge Davis is part of President Obama's first group—waited years for confirmation.

Some of them never even got a hearing, despite being highly qualified, outstanding nominees. So Judge Davis has done pretty well in getting his case before the Senate and being able to get a vote. The fact is, nominees are moving much faster than they did during the Bush years. But we do have a duty to fulfill in analyzing nominees because they are being considered for a lifetime appointment, an appointment to the court in which the only thing that constrains them in how they conduct their daily business is their personal integrity, their personal restraint, and the only thing that reduces the number of errors they might make is their ability and determination to do the right thing.

Judge Davis is currently a judge on the Federal trial court in Maryland. During his time on the bench, unfortunately, he has been reversed by the Fourth Circuit, the very court to which he is now being nominated, in a number of troubling cases. He has been criticized by that appellate court for misapplying the law, for throwing out relevant and lawfully obtained evidence and wrongfully dismissing cases where there were genuine unresolved issues between the parties.

If Judge Davis did not adequately assess the facts or apply the law in these fairly direct and simple cases, it raises a question as to why he would be qualified to be promoted to the Fourth Circuit, the appellate court, one step below the U.S. Supreme Court.

One of my colleagues on the Judiciary Committee argued that district judges are going to be reversed from time to time and that if we held every reversal against a nominee, no judge would ever be elevated to the court of appeals. That is a fair point. Even the best trial judge occasionally may be reversed by an appellate court. But I felt the responsibility to look at these reversals and ask whether these are normal kinds of reversals that could occur in tough cases. I have to say, I believe the cases reveal a disturbing pattern of mistakes, mistakes that consistently favor criminal defendants and evidence an anti-law enforcement tendency. That, as a former prosecutor in Federal court, makes me a bit nervous. Many of the rulings a Federal judge makes against a Federal prosecutor cannot be appealed. It is an awesome power they have.

These mistakes have real-world consequences for law enforcement officers who are out on the streets doing their best every day to follow the already complex body of law and rules required by the courts. Police train and work hard to try to do the things they are required to do by courts. Sometimes the courts have caused them to do things that are unwise, but they try to

do them anyway. Yet in Judge Davis' courtroom, the rules seem to change from case to case. It is a dangerous thing. It leaves police unsure of how to comply with the law when they are trying to protect citizens from criminal activities. These kinds of mistakes and rulings in effect allow criminals to go free on technicalities.

Not only do the shifting ground rules make a police officer's job nearly impossible, these types of errors require appeals. Appeals cost money. They take time. They delay justice. Not only are many of Judge Davis' decisions wrong as a matter of law, they have an extremely detrimental impact on the workings of the criminal justice system. Within the last 5 years alone, the Fourth Circuit has reversed Judge Davis 13 times for errors that seem to consistently favor criminal defendants. Even more troubling is that those errors are basic errors of law. I have studied the cases and the issues involved. It seems to me these are errors that should not have been made. They raise doubts in my mind about whether he should be elevated—he has a lifetime appointment on the Federal district court—to a lifetime appointment on the court of appeals.

One of the most troubling cases he has ruled on was the case of *United States v. Kimbrough*. There the defendant was arrested in his mother's house. Police found him in the basement cutting cocaine, the "knife on the mirror" type cutting of cocaine. After the arrest and before police could read the defendant his Miranda warnings, the defendant's mother asked him if he had anything else in the basement—not the police, his mother. The defendant said he had a gun. The police went down and found the gun. They charged the defendant with unlawful possession of a firearm and possession of cocaine, both. The firearm charge would normally carry a mandatory penalty in addition to the cocaine possession charge.

Apparently, the judge didn't like that. Judge Davis threw out the defendant's statement that he had a gun because he said he had not been given his Miranda warning: You have a right to remain silent. The case went to the court of appeals, and he was reversed. The court of appeals in *Kimbrough*, the court he wants to sit on, had this to state, which is pretty obvious to me:

The defendant's mother "is a private citizen, her spontaneous questioning of [the defendant] alone, independent of the police officers, could never implicate the Fifth Amendment."

Of course not. The Miranda warning is a court-created rule. It is not in the Constitution. Prior to its creation, police didn't give those warnings. But it is designed to help deter police from incriminating an individual and using the power of their badge to say something they didn't want to voluntarily

say. But this was a question by the mother, not the police. It can, as the court said, never implicate the Fifth Amendment. The case was reversed after how many months and how much expense, we don't know. I do find it difficult to understand how that mistake was made.

Another of Judge Davis' cases that I find extremely troubling is *United States v. McNeill*. In that case, the defendant threatened to kill his girlfriend while in the presence of a police officer. What did the police officers do? They arrested him. At a minimum, this is a harassment charge, I submit, to threaten someone's life in the presence of the police. What would happen if the police officers hadn't arrested the man and they had walked off and left him there with his girlfriend and he had killed her? What would the public say then about the police officers? What would the average citizen say: Did you do your duty? Didn't you have the ability to make an arrest?

Judge Davis said he didn't. Judge Davis said he had no ability to make an arrest, to intervene in that circumstance. This is how it happened. They arrested him. They took him to jail. While he was in jail, he confessed to robbing a bank. Once again, Judge Davis threw out the confession, the whole case. If the arrest was bad and he was in jail, that was a product, I guess, of the poisonous tree and the confession was bad as to the bank robbery. So even though the police officer witnessed the defendant threatening his girlfriend, Judge Davis held the officer did not have probable cause to arrest the defendant. Once again, Judge Davis, however, was reversed by the Fourth Circuit.

The judge's troubling pattern of errors in criminal cases is further reflected in *United States v. Dickey-Bey*. There the defendant was charged with drug trafficking after he picked up packages that contained two kilograms of cocaine. Police had more than enough evidence against the defendant. This is what they had: Before the packages were mailed or when they were being mailed, a drug-sniffing dog detected the cocaine. The police then obtained a warrant, searched the packages and discovered two kilograms of cocaine in the package. The police then resealed the packages and allowed the packages to continue through the mail, apparently to their destination in Maryland. That is what we call—and hundreds of thousands of police officers call—a controlled delivery. The cocaine is not allowed to get out on the street, but they ship it. And let's see who comes up to pick it up. This is a common police procedure.

The defendant fit the description they had of the person who routinely picked up packages such as this from this specific mail box. At the time of his arrest, the defendant had keys in

his pocket to other mailboxes which had also been known to be destinations for packages of cocaine. Pretty good case, it looked like to me. In spite of all this, Judge Davis ruled that the police lacked probable cause. Probable cause to arrest is a low standard. If the defendant had a defense, he could always present it later and go to trial and be acquitted. But it certainly met the probable cause standard to make an arrest. He had two kilos of cocaine in his hands, apparently.

I will quote from the Fourth Circuit court he wants to sit on and what they said about his decision in *Dickey-Bey*:

In reaching its conclusion, . . . the district court failed to step back and look at the totality of the circumstances and the reasonableness of the officers' belief, in light of those circumstances, that Dickey-Bey was a knowing part of a larger drug operation.

Pretty simple case. The impact for every police officer in America who might be listening today, the impact of this ruling, if that is not probable cause, is that controlled deliveries of this kind that occur quite frequently in law enforcement would be eliminated.

How much cocaine is two kilograms? It is a lot. Under the sentencing guidelines, two kilograms of cocaine powder would yield an offense level of 28 which means a 78 to 97 months' sentence for a first-time offender, mandatory. That is the range the judge would have to sentence within the sentencing guidelines, 78 to 97 months.

A bulk package of 2 kilograms of cocaine would sell for anywhere from \$20,000 to \$50,000 on the street, depending on the geographic region. According to the Sentencing Commission's 2007 Cocaine and Federal Sentencing Policy Report, the average ounce of cocaine sold on the streets of America for \$1,150 in 2005. If it is broken into 1-ounce packages for resale, the 2-kilogram package could sell for over \$81,000. So this is not a little bitty deal. That amounts to 10,000 to 20,000 dose units.

I am baffled how anyone could think there was not a crime being committed, how there was not probable cause to believe this individual was involved in a crime. Once again, Judge Davis was reversed by the Fourth Circuit Court of Appeals, fortunately; and, presumably, this case went on to trial.

Judge Davis threw out yet another confession in the case of *United States v. Jamison*. In that case, the defendant, a convicted felon, shot himself. He shot himself. He went to the hospital and called out to the police for help and confessed that it was his gun that he shot himself with. Well, he was a felon. He could not have a gun. So the police charged him with being a felon in possession of a firearm.

Judge Davis, however, threw out his confession, his statement he made to the police based on the finding that the defendant made the statement while in

police custody and without the police having given him Miranda warnings. The Fourth Circuit reversed because the defendant was not in police custody; he was in the hospital. He had pretty good corroboration—the fact that he had a gun—because he had a bullet hole in himself, apparently.

This is what the court said, unanimously reversing this decision—the trial stops. Prosecutors have to appeal. The case is thrown out. They file the appeal. All this money is spent. The court pays for the defendant's lawyer to go up and argue the case. They have to write cases. Months go by.

Madam President, how much time do we have on this side?

The PRESIDING OFFICER. The Senator has 7½ minutes.

Mr. SESSIONS. I thank the Chair.

This is what the court said, in reversing him unanimously:

[The defendant], and the court below, however—

The "court below": Judge Davis—

misunderstand the reach of Miranda. . . . Miranda and its progeny do not equate police investigation of criminal acts with police coercion. This distinction is especially salient when the victim or suspect initiates the encounter with the police.

He asked for them to come and help him.

Of course, this pattern has been noted by the lawyers who appear before Judge Davis. One assistant U.S. attorney—a Federal prosecutor—was quoted as saying:

While Judge Davis is well-respected by the defense bar for his patience and open-minded approach to legal arguments, Assistant United States Attorneys are often frustrated by his rulings in criminal cases . . . and have not hesitated to appeal.

Apparently they have been pretty successful in their appeals.

This assistant U.S. attorney also said that "some prosecutors believe Davis doesn't trust . . . [the] police. . . ."

Well, that is what I would say the record seems to indicate.

As a district court judge, Judge Davis' errors have been reviewed by the Fourth Circuit Court of Appeals. If he is elevated to that court, only the Supreme Court will then be able to review his decisions. But the Supreme Court only hears a small fraction of cases from the appellate courts and cannot continually correct garden variety legal errors.

If confirmed, Judge Davis will be the final avenue of appeal for many litigants. Of all the possible nominees who could have been submitted to this court, is this the one we believe would be best?

Courts of appeal have great power through their rulings and can create serious problems for prosecutors. So I would say, just based on my review of the cases I have mentioned, Judge Davis' decisions, if not reversed—fortunately, they were reversed—would have

seriously damaged, if not eliminated, a police technique of controlled delivery of drugs to persons who would pick them up.

He seems to ignore the requirement that an individual has to be in custody by the police or be interrogated by the police before Miranda has to be given. That is a fundamental principle of universal acceptance. But, apparently, the judge is not one who follows that, and he has altered the standard for probable cause in a case that I think is troubling.

So the types of mistakes Judge Davis has made can indeed be a threat to public safety. Wasn't it fortunate they arrested the man who threatened his girlfriend and then that he blurted out he committed a bank robbery? Aren't we happy? But if his ruling had been upheld, the effect of that would be to tell every police officer if a person threatens their girlfriend in the presence of a police officer, they cannot make an arrest.

Our law enforcement officers work hard under dangerous conditions to investigate crimes and to apprehend and lock up criminals, many of whom are dangerous, carry guns, threaten girlfriends, shoot themselves. It could well have been somebody else who got shot. Yet the President is now seeking to elevate a judge who seems to have a real personal bias against the work that they do. He has nominated Judge Davis for elevation to the Court of Appeals for the Fourth Circuit—one step below the U.S. Supreme Court.

I think he does seem to have, if not a bias against, a lack of respect for clarity and consistency in the enforcement of criminal justice, and his errors tend consistently to favor the criminal defendant.

I am sure this nominee is a fine man. He has been on the bench a number of years. I have nothing against him personally. I am not questioning his integrity. But it does appear to me he has a cavalier or a lack of substantive commitment to get criminal justice matters right and has shown, by specific rulings against police and prosecutors, that he could do harm on the court of appeals.

So, Madam President, for the reasons I have stated, I am reluctantly voting against the nominee and would ask my colleagues to consider doing the same. I yield the floor.

Mr. BUNNING. Madam President, today I rise in opposition to the nomination of Mr. Andre M. Davis to the U.S. Court of Appeals for the Fourth Circuit.

This position has been vacant since 2000, despite the previous administration's best efforts to nominate a qualified candidate. For example, President Bush nominated remarkable candidates when he sent Mr. Rod Rosenstein before the Senate in 2007 for the Fourth Circuit judgeship. At the time,

my colleagues on the other side of the aisle argued that Mr. Rosenstein was "too qualified" to be appointed to this position. Now, President Obama has nominated Mr. Andre Davis, who has made very questionable rulings while enjoying the support from the same Senators who opposed more qualified candidates.

While I do not raise issue with Mr. Davis's character, I find his judicial record very troubling. His rulings have been overturned by the Fourth Circuit numerous times. In over six different cases, Mr. Davis was noted and reversed by the Fourth Circuit because he suppressed evidence. Because of his rulings, criminals could and have been allowed to walk. The U.S. Supreme Court only hears a limited number of cases, which means that the final ruling on many more cases are made at the U.S. Circuit Court of Appeals level.

It is clear that President Obama and my colleagues on the other side of the aisle care less about sending a good candidate to the Fourth Circuit bench and more about pushing their own agendas. After holding up several more qualified candidates for this position, my colleagues in the majority insist on appointing someone who was reported out of the Judiciary Committee just 36 days after being nominated by President Obama. I urge my fellow Senators to oppose this nomination. Our justice system should not be compromised over political agendas.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Madam President, I came over here and listened to the debate, and I was wondering just who was being considered. It is not the description I would have of Judge Andre Davis of Maryland. I will, in a moment, go to that.

But, first, Madam President, I ask unanimous consent that upon confirmation of Executive Calendar No. 185, the Senate remain in executive session and vote immediately on confirmation of Executive Calendar No. 471, the nomination of Charlene Edwards Honeywell to be U.S. district judge for the Middle District of Florida; that upon confirmation, the motion to reconsider be considered made and laid upon the table; no further motions be in order, and any statements relating to the nomination be printed in the RECORD; the President be immediately notified of the Senate's action, and the Senate then resume legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEAHY. Now, Madam President, let me tell you who Judge Andre Davis is because listening to this description, you would not recognize the person. This is a nomination that should not have taken the Senate 5 months to consider—5 months—after it was reported by the Judiciary Committee on

a strong bipartisan vote of 16 to 3. The Republicans who voted for him: Senator HATCH, Senator KYL, Senator GRAMM, and Senator CORNYN—are not people who are apt to give an easy pass to somebody who is not qualified.

In fact, he is a well-respected judge who has served for 14 years on the Federal bench as a district court judge; and before that, 8 years as a Maryland State court judge.

Then, for an impartial review of who this person is—not a partisan review but an impartial review—the American Bar Association's Standing Committee on the Federal Judiciary rated his nomination "well-qualified." That is the highest rating they can give to anybody. So there is no surprise Judge Davis enjoys the strong support of his home State Senators: Senator MIKULSKI and Senator CARDIN. In fact, Senator CARDIN chaired his confirmation hearing back on April 21, and he has been a strong advocate for Senate action on his nomination.

While it is not surprising, it is nonetheless disappointing the Senate has been prevented from considering this nomination for 5 months by Republican objections. I am not surprised because Senate Republicans began this year threatening to filibuster President Obama's judicial nominations before he had made a single one. They have followed through with that threat by obstructing and stalling the process, delaying for months the confirmation of well-qualified, consensus nominees. Last week, the Senate was finally allowed to consider the nomination of Judge Irene Berger, who has now been confirmed as the first African-American Federal judge in the history of West Virginia. The Republican minority delayed consideration of her nomination for more than 3 weeks after it was reported unanimously by the Judiciary Committee. When her nomination finally came to a vote, it was approved by an overwhelming vote of 97-0. That follows the pattern that Republicans have followed all year with respect to President Obama's nominations. I expect Judge Davis to be confirmed by a bipartisan majority, but only after a 5-month stall.

Last year, with a Democratic majority, the Senate reduced circuit court vacancies to as low as 9 and judicial vacancies overall to as low as 34, even though it was the last year of President Bush's second term and a presidential election year. That was the lowest number of circuit court vacancies in decades, since before Senate Republicans began stalling Clinton nominees and grinding confirmations to a halt. In the 1996 session, the Republican-controlled Senate confirmed only 17 judges and not a single circuit court nominee. Because of those delays and pocket filibusters, judicial vacancies grew to over 100, and circuit vacancies rose into the mid-thirties.

When I served as chairman of the Senate Judiciary Committee during President Bush's first term, I did my best to stop this downward spiral that had affected judicial confirmations. Throughout my chairmanship, I made sure to treat President Bush's judicial nominees better than Republicans had treated President Clinton's nominees. In fact, during the 17 months I chaired the Judiciary Committee in President Bush's first term, we confirmed 100 of his judicial nominees. At the end of his Presidency, although Republicans had run the Judiciary Committee for more than half his tenure, more of his judicial nominees were confirmed when I was the chairman than in the more than 4 years when Republicans were in charge.

Instead of building on that progress, Senate Republicans are intent on turning back the clock to the abuses they engaged in during their years of resistance to President Clinton's moderate and mainstream judicial nomination. The delays and inaction we are seeing now from Republican Senators in considering the nominees of another Democratic President are regrettably familiar. Their tactics have resulted in a sorry record of judicial confirmations this year—less than a handful—with 10 judicial nominees currently stalled on the Senate Executive Calendar.

By November 9 in the first year of the Presidency of George W. Bush, the Senate had confirmed 17 circuit and district court judges, four circuit court nominees and 13 district court nominees. By contrast, Judge Davis is only the second circuit court nomination Republicans have allowed to be considered all year. When his nomination is confirmed, it will only bring the total to five—less than one third of what we had accomplished by this time in 2001. I know because in the summer of 2001, I began serving as the chair of the Judiciary Committee. We achieved those results with a controversial and confrontational Republican President after a mid-year change to a Democratic majority in the Senate. We did so in spite of the attacks of September 11; despite the anthrax-laced letters sent to the Senate that closed our offices; and while working virtually around the clock on the PATRIOT Act for 6 weeks. By comparison, this year, the Republican minority has this year allowed action on only four judicial nominations to the Federal circuit and district courts. Judge Davis will be the fifth, and only the second circuit court judge.

Now we face this. Look at the chart I have in the Chamber. It is outrageous what is happening, the few nominees they are allowing through. This is not for lack of qualified nominees. There are 10 such nominees who have been reported by the Judiciary Committee on the Senate Executive Calendar. Had those nominations been considered in

the normal course we would be on the pace I set in 2001 when fairly considering the nominations of our last Republican President.

Even though as Democrats we treated President Bush far more fairly than they had treated President Clinton, even though we tried to turn back the clock from when there were 60 judges Republicans pocket-filibustered during President Clinton's time, even though in 17 months Democrats confirmed 100 of President Bush's nominations, it looks as though, as far as President Obama is concerned: President Obama nominates them, then they have to stall them. Rather than continued progress, we see Senate Republicans resorting to their bag of procedural treats to delay and obstruct. They have ratcheted up the partisanship and seek to impose ideological litmus tests.

The obstruction and delays in considering President Obama's nominations is especially disappointing given the extensive efforts of President Obama to turn away from the divisive approach taken by the previous administration. He has reached out to Members of both parties to select mainstream, well-qualified nominees. I have been at some of those meetings. I know the job he has done in reaching out to both Democrats and Republicans.

In a recent column, Professor Carl Tobias wrote about President Obama's approach:

Obama has emphasized bipartisan outreach, particularly by soliciting the advice of Democratic and Republican Judiciary Committee members, and of high-level party officials from the states where vacancies arise, and by doing so before final nominations. Obama has gradually, but steadily, put forward his nominees, typically naming a few on the same day. This approach compares favorably with the approach of the two prior administrations, which often submitted large packages on the eve of Senate recesses, thus complicating felicitous confirmation. To date, Obama has nominated 23 well-qualified consensus candidates, who are diverse in terms of ethnicity, gender and ideology. This is sufficient quantitatively and qualitatively to foster prompt confirmation.

I will ask that a copy of Professor Tobias's column be printed in the RECORD following my statement.

Professor Tobias makes this point well and it is substantiated by the bipartisan support from Republican home State Senators for the President's nominees. Indeed, since he made these observations the President has nominated two North Carolinians for vacancies on the Fourth Circuit after consulting with both Senator HAGAN and Senator BURR.

His first nomination of Judge David Hamilton of Indiana to the Seventh Circuit came to the Senate with the strong endorsement of Senator LUGAR, the senior Republican in the Senate. Senator LUGAR praised the "thoughtful, cooperative, merit-driven" process he and Senator BAYH took in consulting on that nomination. Despite

the bipartisan endorsement from his home State Senators, Judge Hamilton's nomination is the subject of a Republican filibuster and has been stalled since it was reported to the Senate in June.

Federal judicial vacancies, which had been cut in half while George W. Bush was President have already more than doubled since last year. There are now 98 vacancies on our Federal circuit and district courts, including 22 circuit court vacancies. Justice should not be delayed or denied to any American because of overburdened courts, but that is the likely result of the stalling and obstruction.

Despite the fact that Senate Republicans had pocket filibustered President Clinton's circuit court nominees, Senate Democrats opposed only the most extreme of President Bush's ideological nominees and worked to reduce judicial vacancies. That had led to a reduction in vacancies in nearly every circuit during President Bush's administration. One of the circuits where we succeeded in reducing vacancies was the Fourth Circuit, the circuit to which Judge Davis has been nominated.

After Senate Republicans had refused to consider any of President Clinton's four Fourth Circuit nominees from North Carolina, vacancies on the Fourth Circuit had risen to five. All four of President Clinton's nominees from North Carolina to the Fourth Circuit were blocked from consideration by the Republican Senate majority. These outstanding nominees included United States District Court Judge James Beaty, Jr., United States Bankruptcy Judge J. Richard Leonard, Professor Elizabeth Gibson, and North Carolina Court of Appeals Judge James Wynn. Had either Judge Beaty or Judge Wynn been considered and confirmed, he would have been the first African-American judge appointed to the Fourth Circuit. The failure to proceed on those nominations was never explained. Indeed, Senate Republicans refused to consider any of President Clinton's highly qualified circuit court nominations from any of its States in the Fourth Circuit during the last 3 years of his administration. That resulted in five continuing vacancies.

What followed was an effort by President Bush to pack the Fourth Circuit with ideologues. He nominated a political operative from Virginia for a vacancy in Maryland who was caught stealing from a local store and pleaded guilty to fraud. There was his highly controversial nomination of William "Jim" Haynes II to the Fourth Circuit who as general counsel at the Department of Defense was an architect of many discredited policies on torture and who never fulfilled the pledge he made to me under oath at his hearing to supply the materials he discussed in an extended opening statement regarding his role in developing these policies

and their purported legal justifications.

Mr. Haynes nomination led the Richmond Times-Dispatch to write an editorial in late 2006 entitled "No Vacancies," about President Bush's counterproductive approach to nominations in the Fourth Circuit. The editorial criticized the administration for pursuing political fights at the expense of filling vacancies. According to the Richmond Times-Dispatch:

The president erred by renominating . . . and may be squandering his opportunity to fill numerous other vacancies with judges of right reason.

President Bush insisted on nominating and renominating Terrence Boyle, despite the fact that as a sitting U.S. district judge and while a circuit court nominee, Judge Boyle ruled on multiple cases involving corporations in which he held investments. President Bush should have heeded the call of North Carolina Police Benevolent Association, the North Carolina Troopers' Association, the Police Benevolent Associations from South Carolina and Virginia, the National Association of Police Organizations, the Professional Fire Fighters and the Paramedics of North Carolina. Law enforcement officers from North Carolina and across the country opposed to the Boyle nomination. Civil rights groups opposed the nomination. Those knowledgeable and respectful of judicial ethics opposed the nomination. Ultimately, President Bush withdrew the Boyle nomination.

I mention these ill-advised nominations because so many Republican partisans seem to have forgotten the reasons these ideological nominations did not proceed.

We did break the logjam in North Carolina. I worked to break through the impasse and to confirm Judge Allyson Duncan of North Carolina to the Fourth Circuit when President Bush nominated her. From the summer of 2001 through 2002, I presided over the consideration and confirmation of three Fourth Circuit judges nominated by President Bush. And in the Presidential election year of 2008, one of the final appellate court judges confirmed by the Senate was another Fourth Circuit nominee. Despite the confrontational approach taken by President Bush and additional retirements on the Fourth Circuit, we ended up reducing the vacancies on the Fourth Circuit during the course of his administration.

Despite our good efforts, the right wing seems intent on repeating its mistakes of the past and obstructing President Obama's nominees to the Fourth Circuit. That appears to be why Judge Davis has been delayed for months. That appears to be why they are resisting consideration of the nomination of Justice Barbara Keenan from Virginia. And that appears to be why following the announcement last week

of the nominations of Judge James Wynn and Judge Albert Diaz to Fourth Circuit vacancies, the head of a right wing group urged Republican Senators to obstruct the nominees saying: "I will predict . . . that life will not be made easy for these two nominees" the same way when the heads of the Republican Party said they should block Eric Holder for Attorney General, and they did. They delayed him for weeks. Finally, when we did get to vote, he got more votes than any of the last four Attorneys General.

The Senate is finally being allowed to consider Judge Davis's nomination. He has had a long and distinguished legal career. During the last 14 years, he served as Federal district judge in Maryland. He has been a State judge. He has been a Federal prosecutor. He received his bachelor's degree from the University of Pennsylvania. He graduated cum laude with his JD from the University of Maryland School of Law, where he still teaches classes as an adjunct faculty member.

I congratulate Judge Davis and his family on what I know will be his confirmation. I apologize to him for these unnecessary delays for such a very fine man. I applaud the senior Senator from Maryland, Ms. MIKULSKI, and my Senate partner from Maryland, Mr. CARDIN, a member of the Senate Judiciary Committee, for their work.

Madam President, I ask unanimous consent that a copy of the article by Professor Tobias to which I referred be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

WITH OBAMA PROCEEDING REASONABLY TO FILL FEDERAL JUDGESHIPS, THE BOTTLENECK IS THE SENATE

(By Carl Tobias)

A growing drumbeat of commentary has recently criticized President Barack Obama for not acting quickly enough to fill the 96 present vacancies on the federal appellate and district courts. However, as I shall explain, closer evaluation of the record compiled by President Obama shows that these criticisms are actually unwarranted, and that responsibility should more properly be assigned elsewhere. In particular, blame should now be placed at the Senate's door.

OBAMA'S APPROACH: GENERALLY A WISE AND GOOD ONE

Many observers have voiced numerous criticisms of Obama Administration judicial selection. Some have suggested that the President should nominate candidates more swiftly and in greater numbers. Others have criticized the nominees' age (saying they are too old), experience (saying there are too many judges among them), and ideological perspectives (saying they are too liberal or, in some instances, too conservative). A few observers have also compared the number of nominees (23) whom Obama has submitted with the number (95) whom President George W. Bush had submitted at the identical juncture of his administration.

Yet careful analysis of Obama's record shows that these criticisms lack merit. Before Obama won the election, he had already

started planning for appointments. And when he was elected, Obama quickly installed as White House Counsel Gregory Craig, a respected attorney with much pertinent expertise, who immediately enlisted several talented lawyers to identify judicial designees. The administration also capitalized on Vice President Joseph Biden's four decades of Senate Judiciary Committee experience in the nomination process. Accordingly, the selection group anticipated and carefully addressed contingencies that might arise when choosing judges. For example, it compiled "short lists" of excellent candidates for possible Supreme Court vacancies, should one arise.

Obama has emphasized bipartisan outreach, particularly by soliciting the advice of Democratic and Republican Judiciary Committee members, and of high-level party officials from the states where vacancies arise, and by doing so before final nominations. Obama has gradually, but steadily, put forward his nominees, typically naming a few on the same day. This approach compares favorably with the approach of the two prior administrations, which often submitted large packages on the eve of Senate recesses, thus complicating felicitous confirmation. To date, Obama has nominated 23 well-qualified consensus candidates, who are diverse in terms of ethnicity, gender and ideology. This is sufficient quantitatively and qualitatively to foster prompt confirmation.

Often before, and invariably following, nominations, the administration and senators have cooperated. To facilitate approval of nominees, Obama worked closely with Senators Patrick Leahy (D-Vt.), the Judiciary Committee chair, who schedules hearings and votes, and Harry Reid (D-Nev.), the Majority Leader, who arranges floor consideration, and their GOP analogues, Senators Jeff Sessions (Ala.) and Mitch McConnell (Ky.).

Thus, the committee has swiftly assessed nominees, with thorough questionnaires and hearings and prompt votes. Indeed, Leahy convened hearings so fast that GOP members complained they lacked sufficient preparation time, and he quite reasonably responded with another session for a nominee.

THE REAL PROBLEM HERE LIES MORE WITH THE GOP SENATE MINORITY THAN THE PRESIDENT

The Democratic panel majority, thus, has expedited review, but the Republican minority has delayed processing. For instance, it routinely delays committee votes for a week with no or minimal explanation.

This recently happened with four California District Court nominees, three of whom the panel then unanimously approved. And, last week, Senator Sessions held over Virginia Supreme Court Justice Barbara Keenan, even though he had praised the jurist's qualifications at her hearing two weeks earlier and despite the fact that the U.S. Court of Appeals for the Fourth Circuit, to which she was nominated, desperately needs more judges, as the court is operating with five of its 15 judgeships vacant. In fairness, yesterday, Sessions explained that Keenan's responses to some GOP written questions were inadequate, but that she promptly furnished more complete answers that were satisfactory, again lauded the jurist as a "fine nominee," and supported the panel decision to vote her out without objection.

The committee has approved 14 federal court nominees, and the real bottleneck has been Senate floor action. Of those 14 nominees, only five have received floor debate and confirmation; nine are pending without GOP



consent to consider them. Senator Reid has attempted to cooperate with Senator McConnell and Republicans—but to no avail. For example, McConnell insisted that the Senate consider no lower court nominees until it had confirmed Supreme Court Justice Sonia Sotomayor, which delayed the process until September.

The unanimous consent procedure allows one senator to stop the entire body, and anonymous holds have delayed specific nominees' consideration. Reid has been reluctant to employ cloture, which forces votes, mainly because this practice wastes valuable floor time. However, on Tuesday, Reid took the unusual step of invoking cloture to secure a floor vote on Southern District of West Virginia Judge Irene Berger. She is the third uncontroversial judicial nominee on whom Reid has been forced to seek cloture. Indeed, the GOP has ratcheted up the stakes with the unprecedented action of placing holds on noncontroversial nominees.

#### OBAMA'S NOMINATION RECORD THUS FAR IS STRONG GIVEN UNUSUAL CIRCUMSTANCES

The fact that Obama has nominated only 23 persons thus far to fill federal judgeships is not attributable to the White House or the Senate majority. Nor is the fact that of these, the Senate has confirmed only four lower court nominees. Justice David Souter's May resignation meant that filling his vacancy was a top priority, and that process consumed three months, during which lower court selection had to be temporarily frozen. The administration has, of course, also encountered the "start-up" costs of instituting a new government. Cabinet appointments consumed months, and the Senate has yet to confirm several Assistant Attorneys General nominees and many of the 93 U.S. Attorney nominees. There has also been a pressing need for the Obama Administration to address myriad intractable complications left by earlier administrations, such as the deep, continuing recession; Guantanamo; and the Iraq and Afghanistan conflicts.

For all these reasons, recent criticisms of President Obama for submitting judicial nominees too slowly are unfounded. Nor should the Senate Judiciary Committee majority be blamed: The panel majority has expedited its nominee processing, but the minority's virtually automatic reliance on holds has caused some delay. The true bottleneck, however, has been the nearly complete lack of floor consideration.

Senate Republicans must stop delaying floor action on the President's well-qualified nominees—nominees who typically have the blessing of the relevant states' senators. And, if Republicans in the Senate continue to delay, Senate Democrats should invoke cloture and related practices that will facilitate expeditious approval of Obama's nominees.

Mr. CARDIN. Madam President, I would like to address the concerns stated by the Senator from Oklahoma, Mr. COBURN, and the Senator from Alabama, Mr. SESSIONS, about Judge Davis's record when it comes to criminal cases. His concerns seem primarily rooted in six criminal case reversals that appear in Judge Davis's record. As a Federal judge over the past 14 years, Judge Davis has presided over approximately 5,300 cases. Of that number, Judge Davis has presided over approxi-

mately 4,300 cases that went to verdict or judgment based on a trial or decision he made. My colleagues are focusing on just a handful of cases to argue that Judge Davis should not be elevated to the Fourth Circuit.

While the number of reversals on criminal evidentiary matters appearing in Judge Davis's record that my colleague has mentioned is small, Judge Davis has directly addressed Senators' questions related to each of these reversals, expressing his commitment to applying the law to the facts impartially and fairly, while respecting the role of the appellate courts in our judicial system and their decisions in all cases. Following his confirmation hearing in the Judiciary Committee in April, which I chaired, our committee reported him out favorably with a strong bipartisan vote of 16 to 3. This overwhelming, bipartisan approval indicates that Judge Davis is well-qualified to be a U.S. Circuit Judge for the Fourth Circuit. Out of the 5,300 cases over which Judge Davis has presided, these six cases are hardly cause for the concern my colleagues have expressed. Later I want to also mention some criminal cases in which Judge Davis's stiff criminal sentences were upheld by the Fourth Circuit, along with convictions obtained after jury trials. However, to make the record clear, I will review in detail Judge Davis's responses to some of the half a dozen cases noted by my colleagues.

In *US v. Bradley*, Judge Davis accepted several plea agreements with the defendants, who ultimately pleaded guilty but later, on appeal, argued that their pleas were not voluntary because the court impermissibly participated in plea negotiations. The Fourth Circuit did "not suggest that [Judge Davis] improperly intended to coerce involuntary guilty pleas," but found plain error and remanded the case for assignment to a different district judge. Upon questioning by the committee, Judge Davis said that he became involved with—but did not interfere with the plea process—at the invitation and encouragement of defense counsel. He ultimately concluded that he shouldn't have gotten involved with the process at all. He said he believed, with the benefit of hindsight, that his involvement in facilitating the guilty pleas in this case was inappropriate and that the Fourth Circuit was correct to say so.

In *US v. Custis*, Judge Davis granted the defendant's motion to suppress evidence discovered in a residential search on the grounds that the warrant was defective and insufficient. The Fourth Circuit reversed, holding that probable cause supported the warrant. While Judge Davis told the committee he does believe he read the affidavit in a common sense manner, he fully accepts the appellate court's ruling in this case.

In *US v. Kimbrough*, Judge Davis said he accepts the appellate court's ruling rejecting his legal conclusion that the police permitted the defendant's mother to question him under circumstances which the police couldn't have done so without first administering customary warnings. He agrees that warnings are required only when official interrogation takes place, but not when private interrogation takes place.

In *US v. McNeill*, Judge Davis granted a motion to suppress the defendant's confession on the grounds of an unlawful arrest. Judge Davis explained to the committee that the principal issue before him was whether, for a warrantless misdemeanor arrest, the fourth amendment required that the misdemeanor be committed in the officer's presence. He concluded that the answer was "yes" in this case, and that no misdemeanor had been committed in the officer's presence as of the moment of arrest. While Judge Davis explained that the Fourth Circuit's holding presented an argument and precedent that had not been presented to him, he fully accepted the appellate court's ultimate ruling in this case.

In *US v. Dickey-Bey*, Judge Davis also suppressed evidence arising out of the interception of cocaine by police for lack of probable cause to arrest the defendant. He has told us that he fully accepts the appellate court's rejection of his legal conclusion that the evidence presented at the hearing on the motion to suppress was insufficient, and remains committed to adhering to the fourth amendment requirement to make commonsense assessments of objective facts, taking into account the totality of the circumstances.

I found Judge Davis's responses to the Judiciary Committee's questions about these six criminal cases to be candid, honest, and forthright. Judging by the overwhelming bipartisan support for his approval in the Judiciary Committee, so did many of my colleagues, on both sides of the aisle. Judge Davis has told us that in every case that has ever come before him, and there have been over 5,300 of them, he has done his best to determine the facts and to apply the law to the facts impartially and fairly.

Indeed, among the 5,300 cases that Judge Davis has presided over, he has a clear record of using a moderate and fair approach to criminal cases. He has presided over numerous important criminal trials that have resulted in convictions affirmed by the Fourth Circuit, and he has also granted motions to suppress evidence obtained in violation of the rights of the accused. So let's look at his record more broadly to get a clearer picture of his many years on the bench.

For example, in *US v. Ulrich*, Judge Davis handed down convictions for four defendants for mail fraud in connection



with a real estate flipping scheme, a ruling that was affirmed by the Fourth Circuit in June 2007. In 2001, in *US v. Montgomery*, the Fourth Circuit affirmed his convictions related to a 10-week, multidefendant trial in a narcotics conspiracy prosecution. In 1998, the Fourth Circuit affirmed his conviction handed down in a murder prosecution in *US v. Gray*.

As a Fourth Circuit Judge, Judge Davis has expressed that he will follow the precedents of the Supreme Court and the circuit, and will continue to apply the law to the facts of each case impartially and fairly. His record as a district judge clearly bears out this commitment.

I thank my colleagues for supporting this nomination.

Mr. LEAHY. I yield back the remainder of my time and ask for the yeas and nays.

The PRESIDING OFFICER. The majority leader.

Mr. REID. I will use some leader time here to explain to everyone where we are.

At 10 o'clock in the morning when we come into session, there will be a moment of silence in honor of the soldiers and the civilians who were killed at Fort Hood.

I am working now with the Republicans to see if we can come up with an agreement to finish Military Construction. I would like to finish it tomorrow. It appears that it may not be doable, but we are going to have votes tomorrow unless we can work something out to complete the legislation on Monday.

If we can complete the legislation on Monday, the Military Construction legislation, part of the agreement has to be something with Judge Hamilton. Here is a man who has waited since April. We have agreed to give the Republicans all the time they want—if they want 30 hours to talk about him beforehand or 5 hours before and after—but we can't work out anything that satisfies them. So it appears we can only do cloture, which is such a shame. But that is fine. We are going to have to work something out as an agreement; otherwise, we will have to have some votes tomorrow. I know we have on this side a couple of Senators who, if there are no votes, would go down to Texas. We have KAY BAILEY HUTCHISON, who is the manager of the bill, who will not be here, but there are other people on the subcommittee who could do the bill. I hope we can work something out, but, as we have learned during this Congress, it is very difficult to work things out.

We are going to have votes Monday, a week from today, in the morning. Everyone should understand that. Monday, a week from today, we will have votes in the morning. We have to do that. The next week is Thanksgiving. We are going to get on health care the

week we come back before Thanksgiving. We are going to at least give it our utmost to get on that bill.

We have a number of things that are very important. We have to do the highway bill. The day after tomorrow is Veterans Day. We have a number of veterans bills the Republicans have held up. They are bills dealing with homeless veterans, among other things. They are important pieces of legislation. Four or five of them are being held up. We put those together under rule XIV, and we are going to have a vote on them in the future. It is a shame that on Veterans Day we are not legislating for the veterans, but we have been held up doing lots of things.

I hope we can work something out with the Republicans so we can complete the Military Construction bill, if not tomorrow, then on Monday, but we are not going—this isn't going to go over for many hours. I have asked to work something out. I hope we don't have to file cloture on this bill.

I will tell everyone, I quite doubt that I am going to file cloture on Military Construction. If the Republicans don't want us to do that bill, then we will just do it some other time. It is Military Construction, an extremely important piece of legislation. In years past, we have done that bill in an hour. I can remember when DIANNE FEINSTEIN and KAY BAILEY HUTCHISON were managing that bill and we did that bill in an hour. Over the years—Senator LEAHY is on the floor, a longtime member of the Appropriations Committee—this was not something to send political messages on. It was a bill to do something to help our military, to build new bases, new recreation facilities, to renovate and repair facilities around the world.

So we have the situation here where it doesn't matter what we bring up, the Republicans stall it for time. That is why Senator STABENOW has been here with her charts indicating the—I think we are up to 87 now, or something like that—things they have held up in this Congress.

So I hope we can work something out so we don't have to have votes tomorrow, but I don't need the permission of the Republicans to have votes tomorrow. We can have votes on amendments that are offered by Democrats.

We are going to have a moment of silence. Everyone recognizes the tragedy of the event, and we want to be as positive as possible.

I hope we can work something out. I have two Democrats who have indicated they want to go, both freshman Senators, which doesn't matter—they have a right to go just as do senior Members of the Senate—and three Republicans have indicated they would like to go. I hope that is possible. They can go, I won't stop them from going, but we may have votes.

Mr. LEAHY. Madam President, would the Senator yield?

Mr. REID. I will be happy to yield.

Mr. LEAHY. I agree so much with our leader about the appropriations bills. I see the distinguished chairman of the Appropriations Committee, Senator INOUE of Hawaii, on the Senate floor. He is the only person standing on this floor who has served longer in this Senate than I have. I have been on that committee for 35 years. These are things that are always done. Whether it is a Republican majority or a Democratic majority, they have always been done, almost in a pro forma fashion. If somebody wants to vote against it, they can vote against it. But with all of the tremendous bipartisan work that is done in the Appropriations Committee—nobody has worked harder than the chairman of the Appropriations Committee. Nobody has worked harder than he has to get a bipartisan bill to the floor. To have it delayed, especially Military Construction, especially matters that help our military at a time when they desperately need it, to have that held up just makes no sense. I share the leader's frustration.

I want to note for the record that nobody has worked harder to get a bipartisan bill on the floor than the chairman of the Senate Appropriations Committee. In years past, that would go through in no time at all. I cannot understand this kind of partisanship.

I yield the floor.

Mr. REID. I say to my friend, the distinguished Senator from Vermont, I didn't see the chairman on the floor. Everything my friend from Vermont said about the Senator from Hawaii is true, and then multiply it by 10. Here is a man who has lived the military—a Medal of Honor winner, an amputee. There is not a more bipartisan person in the whole body than Senator INOUE from Hawaii.

In short, everyone here understands: Monday, a week from tomorrow, no matter what happens tomorrow, we are going to have votes in the morning. We have just a short week until Thanksgiving and we have a lot to do, including health care.

I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The Senator from Alabama is recognized.

Mr. SESSIONS. Madam President, I also assume we will soon be voting on Judge Honeywell for the U.S. district court in Florida. I enjoyed the dialog I had with her during the confirmation hearings. I was pleased to see good responses to questions for the record. She has served as an assistant public defender and an assistant city attorney, an associate and partner in a law firm, as well as both a county court judge and a State circuit court judge. I will be supporting her nomination.

I wish to note that when I asked her about what role empathy should play in deciding cases, she said:

Empathy does not play role in my consideration of cases. Presently, I decide cases by applying the law to the facts of the cases pending before me. If confirmed by the Senate to serve as a District Court judge, I will decide cases in the same manner.

I would expect, as I did for President Clinton, to vote for well over 90 percent of the nominees who are submitted by the President. I hope to be able to do that for President Obama. But I will say, for the reasons I gave earlier, I must oppose Judge Davis.

I ask unanimous consent that an article written by Larry Margasak from the Associated Press, dated Monday, November 9, 2009, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DEMOCRATS HAVE SHORT MEMORY ON JUDGE NOMINEES

(By Larry Margasak)

Ten months into Barack Obama's presidency, Democrats are accusing Republicans of creating "a dark mark on the Senate" by delaying confirmation of his federal court nominees.

The mark might not be as dark as Democrats make it seem.

Of the 27 judicial nominations Mr. Obama has made so far, all five brought up for votes in the Senate have won relatively quick confirmations, including new Supreme Court Justice Sonia Sotomayor.

So what is this "dark mark" that Senate Judiciary Committee Chairman Patrick J. Leahy, Vermont Democrat, talks about?

It's primarily two federal judges—one from Indiana, the other Maryland—who've been waiting five months for Senate Majority Leader Harry Reid, Nevada Democrat, to bring their nominations for appeals court promotions to the Senate floor.

Republicans contend that the nominees are activist judges, and Mr. Reid hasn't forced the issue—although he said Wednesday that he might do so by Veterans Day for at least one of the nominees.

One other nominee has been waiting since Sept. 10. But seven others have been waiting from only one to five weeks. That's not a long time for the Senate, which prides itself as a deliberative body, and Republicans say they're ready to vote on most of them.

Democrats have a record of their own that is far from being a bright light. Just three years ago, they were blocking votes on some of President George W. Bush's more conservative judicial nominees.

Several of Mr. Bush's nominees waited for years—two years for eventual Supreme Court Chief Justice John G. Roberts Jr. when he was nominated for an appellate court post.

Priscilla Owen waited through four years of Democratic blocking tactics before she was confirmed for the New Orleans-based federal appeals court. Miguel Estrada withdrew his bid for an appellate seat after a Democratic filibuster lasting more than two years.

As an institution that lets the minority party use rules to block legislation and nominations, the Senate often acts as a filter for preventing the more politically strident bases of each party from tilting the judicial branch too much one way or the other.

Although moderate nominees win confirmation easily, both parties use what is essentially the same argument to block or at least delay action on others: The particular

nominee would substitute his or her own liberal or conservative philosophy for the law and the Constitution.

"It would be wrong for us to be a rubber stamp for each nominee," Sen. Jeff Sessions of Alabama, the senior Republican on the Judiciary Committee, said in a recent confirmation dustup in the Senate.

That sounds familiar.

After Mr. Estrada gave up, Sen. Edward M. Kennedy, Massachusetts Democrat, said, "This should serve as a wake-up call to the [Bush] White House that it cannot simply expect the Senate to rubber-stamp judicial nominations."

The Republican stall at this point is focused on two appellate court judges whose nominations were sent by the Judiciary Committee to the full Senate on June 4:

David Hamilton of Indiana, a U.S. district judge and nephew of former Democratic Rep. Lee H. Hamilton, chosen for the Chicago-based appeals court.

Mr. Reid said he wants a vote on Judge Hamilton by Veterans Day. He'll probably need a supermajority of 60 to get one.

Judge Andre Davis, a district judge in Maryland, nominated for a seat on the appellate court headquartered in Richmond.

Mr. Sessions made it clear that his party will put up a fight against confirming either. He cited Judge Hamilton's position in the late 1980s as a vice president for litigation and board member of the Indiana chapter of the American Civil Liberties Union. Mr. Sessions also complained about Judge Hamilton's judicial rulings.

"Instead of embracing the constitutional standard of jurisprudence, Judge Hamilton has embraced this 'empathy' standard, this 'feeling' standard. Whatever that is, it is not law. It is not a legal standard," Mr. Sessions said.

In Judge Davis' case, Mr. Sessions made the delay sound like a payoff to Democrats, although he denied that was his purpose.

"We have had a number of battles over the failure to fill some of the vacancies on that court," Mr. Sessions said, referring to stalls of Mr. Bush's nominees for the Richmond-based appeals court—once known for its conservatism.

Mr. Sessions said Republicans have a problem with only one other current nominee before the Senate: Edward Chen, chosen for a U.S. district court seat in California. But Mr. Chen's nomination was only approved by the committee on Oct. 15, hardly enough time to make the case for a stall.

"Most of the nominees . . . will go through in an expeditious manner," Mr. Sessions said. He said Republicans are ready to support Beverly Martin, nominated for the Atlanta-based appeals court, but Democrats have not scheduled a vote. Her nomination reached the full Senate Sept. 10.

In the Senate's five judicial confirmation votes this year, only Justice Sotomayor generated significant Republican opposition, and she was approved 68-31.

MR. SESSIONS. I thank the Chair and yield the floor.

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the nomination of Andre M. Davis, of Maryland, to be United States circuit judge for the Fourth Circuit?

The yeas and nays have been ordered.

The clerk will call the roll.

The assistant bill clerk proceeded to call the roll.

MR. DURBIN. I announce that the Senator from West Virginia (Mr.

BYRD), the Senator from North Dakota (Mr. DORGAN), the Senator from Massachusetts (Mr. KERRY), and the Senator from Florida (Mr. NELSON) are necessarily absent.

MR. KYL. The following Senators are necessarily absent: the Senator from Missouri (Mr. BOND), the Senator from North Carolina (Mr. BURR), the Senator from Georgia (Mr. CHAMBLISS), the Senator from Texas (Mr. CORNYN), the Senator from New Hampshire (Mr. GREGG), the Senator from Texas (Mrs. HUTCHISON), the Senator from Georgia (Mr. ISAKSON), and the Senator from Idaho (Mr. RISCH).

Further, if present and voting, the Senator from Texas (Mr. CORNYN) would have voted "yea."

The PRESIDING OFFICER (Mrs. SHAHEEN). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 72, nays 16, as follows:

[Rollcall Vote No. 342 Ex.]

YEAS—72

Akaka	Gillibrand	Merkley
Alexander	Graham	Mikulski
Baucus	Hagan	Murkowski
Bayh	Harkin	Murray
Begich	Hatch	Nelson (NE)
Bennet	Inouye	Pryor
Bennett	Johnson	Reed
Bingaman	Kaufman	Reid
Boxer	Kirk	Rockefeller
Brown	Klobuchar	Sanders
Burris	Kohl	Schumer
Cantwell	Kyl	Shaheen
Cardin	Landrieu	Snowe
Carper	Lautenberg	Specter
Casey	Leahy	Stabenow
Cochran	LeMieux	Tester
Collins	Levin	Udall (CO)
Conrad	Lieberman	Udall (NM)
Corker	Lincoln	Voinovich
Dodd	Lugar	Warner
Durbin	McCain	Webb
Feingold	McCaskill	Whitehouse
Feinstein	McConnell	Wicker
Franken	Menendez	Wyden

NAYS—16

Barrasso	Ensign	Sessions
Brownback	Enzi	Shelby
Bunning	Grassley	Thune
Coburn	Inhofe	Vitter
Crapo	Johanns	
DeMint	Roberts	

NOT VOTING—12

Bond	Cornyn	Isakson
Burr	Dorgan	Kerry
Byrd	Gregg	Nelson (FL)
Chambliss	Hutchison	Risch

The nomination was confirmed.

The PRESIDING OFFICER. Under the previous order, the motion to reconsider is made and laid upon the table.

(At the request of Mr. REID, the following statement was ordered to be printed in the RECORD.)

VOTE EXPLANATION

● MR. KERRY. Madam President, I was necessarily absent for the vote on the confirmation of Andre Davis to the Fourth Circuit. If I were able to attend today's session, I would have voted for his confirmation.●

**NOMINATION OF CHARLENE EDWARDS HONEYWELL TO BE UNITED STATES DISTRICT JUDGE FOR THE MIDDLE DISTRICT OF FLORIDA**

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to the consideration of the Honeywell nomination, which the clerk will report.

The assistant legislative clerk read the nomination of Charlene Edwards Honeywell, of Florida, to be United States District Judge for the Middle District of Florida.

Mr. LEAHY. Madam President, Judge Charlene Edwards Honeywell has been nominated to serve on the U.S. District Court for the Middle District of Florida. Judge Honeywell's confirmation has been needlessly delayed. Judge Honeywell is a longtime State judge, last appointed by former Republican Governor Jeb Bush. She was one of three district court nominees reported by the Judiciary Committee on October 1 without dissent. Yet Senate consideration has been delayed for 5 weeks.

After a 3-week wait, the Senate was allowed to consider the nomination of Roberto Lange, who was confirmed by the Senate 100 to 0—unanimously—to serve on the U.S. District Court for the District of South Dakota after 2 hours of floor debate during which no Senator spoke in opposition. After a 4-week wait, the Senate was allowed to consider the nomination of Irene Cornelia Berger, who was confirmed by a vote of 97 to 0 to serve on the U.S. District Court for the Southern District of West Virginia after an hour of floor debate during which no Senator spoke in opposition. After more than 5 weeks, the Senate today finally considers the nomination of Judge Honeywell, and I expect a similar result.

At the conclusion of the hearing to consider these nominations, Senator SESSIONS, the committee's ranking member, said:

It's a great honor that you've been given to be nominated and I expect things should go forward in a timely manner. I don't believe that any of you need to be held up based on what I know at this time. So, we'd like to see you get your vote as soon as reasonably possible.

I have been disappointed by Republican delays in bringing these well-qualified, noncontroversial nominees to a vote in the full Senate.

Judge Honeywell first served as a State court judge in 1994, and in 2001 was appointed by Gov. Jeb Bush to serve as a State circuit court judge. Her legal career also includes working in private practice, serving as an assistant city attorney and as an assistant public defender. She was unanimously rated "well-qualified" by the American Bar Association's Standing Committee on the Federal Judiciary, the committee's highest rating. She re-

ceived the bipartisan support of Florida Senators BILL NELSON and Mel Martinez.

The Senate must restore its tradition of regularly considering qualified, noncontroversial nominees to fill vacancies on the Federal bench without needless and harmful delays. This is a tradition followed with Republican Presidents and Democratic Presidents.

I congratulate Judge Honeywell and her family on her confirmation today.

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the nomination of Charlene Edwards Honeywell, of Florida, to be United States District Judge for the Middle District of Florida?

Mr. CONRAD. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN: I announce that the Senator from West Virginia (Mr. BYRD), the Senator from North Dakota (Mr. DORGAN), the Senator from Massachusetts (Mr. KERRY), and the Senator from Florida (Mr. NELSON) are necessarily absent.

Mr. KYL. The following Senators are necessarily absent: the Senator from Missouri (Mr. BOND), the Senator from North Carolina (Mr. BURR), the Senator from Georgia (Mr. CHAMBLISS), the Senator from Texas (Mr. CORNYN), the Senator from New Hampshire (Mr. GREGG), the Senator from Texas (Mrs. HUTCHISON), the Senator from Georgia (Mr. ISAKSON), and the Senator from Idaho (Mr. RISCH).

Further, if present and voting, the Senator from Texas (Mr. CORNYN) would have voted: "yea."

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 88, nays 0, as follows:

[Rollcall Vote No. 343 Ex.]

**YEAS—88**

Akaka	DeMint	Lautenberg
Alexander	Dodd	Leahy
Barrasso	Durbin	LeMieux
Baucus	Ensign	Levin
Bayh	Enzi	Lieberman
Begich	Feingold	Lincoln
Bennet	Feinstein	Lugar
Bennett	Franken	McCain
Bingaman	Gillibrand	McCaskill
Boxer	Graham	McConnell
Brown	Grassley	Menendez
Brownback	Hagan	Merkley
Bunning	Harkin	Mikulski
Burr	Hatch	Murkowski
Cantwell	Inhofe	Murray
Cardin	Inouye	Nelson (NE)
Carper	Johanns	Pryor
Casey	Johnson	Reed
Coburn	Kaufman	Reid
Cochran	Kirk	Roberts
Collins	Klobuchar	Rockefeller
Conrad	Kohl	Sanders
Corker	Kyl	Schumer
Crapo	Landrieu	Sessions

Shaheen	Thune	Webb
Shelby	Udall (CO)	Whitehouse
Snowe	Udall (NM)	Wicker
Specter	Vitter	Wyden
Stabenow	Voinovich	
Tester	Warner	

**NOT VOTING—12**

Bond	Cornyn	Isakson
Burr	Dorgan	Kerry
Byrd	Gregg	Nelson (FL)
Chambliss	Hutchison	Risch

The nomination was confirmed.

The PRESIDING OFFICER. Under the previous order, the President will be immediately notified of the Senate's action.

(At the request of Mr. REID, the following statement was ordered to be printed in the RECORD.)

**VOTE EXPLANATION**

• Mr. KERRY. Madam President, I was necessarily absent for the vote on the confirmation of Charlene Edwards Honeywell to be U.S. District Judge for the Middle District of Florida. If I were able to attend today's session, I would have voted for her confirmation.●

**LEGISLATIVE SESSION**

The PRESIDING OFFICER. Under the previous order, the Senate will resume legislative session.

The Senator from Oklahoma.

**MILITARY CONSTRUCTION, VETERANS AFFAIRS, AND RELATED AGENCIES APPROPRIATIONS ACT 2010—Continued**

Mr. INHOFE. Madam President, it was my intention to ask unanimous consent to lay the pending amendment aside for consideration of amendment No. 2758. However, I will not make that request right now. It is my understanding, however, and I ask unanimous consent, that I be recognized for up to 7 minutes as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. INHOFE. Madam President, it is my intention to go ahead in the morning and get this amendment in the queue. This amendment, No. 2758, is a simple, one-page amendment, and I will read the amendment because there has been a lot of confusion as to what is happening down at Guantanamo Bay. Amendments have been introduced to withhold funds from construction, to withhold the opportunities for people to come to the United States, but this is a simple, one-page amendment which states the following:

None of the funds appropriated or otherwise made available by this act or any prior act may be used to construct or modify a facility or facilities in the United States or its territories to permanently or temporarily hold any individual who was detained as of October 1, 2009, at Naval Station Guantanamo Bay.

Some may ask: Why are we adding another Gitmo amendment? Hasn't everything been covered by previous

amendments? The answer is clearly no. In 2007, the Senate voted 94 to 3 on a resolution declaring:

Detainees housed at Guantanamo should not be released into American society, nor should they be transferred stateside into facilities in American communities and neighborhoods.

Then, on May 20, 2009, the Senate passed my bipartisan amendment with Senator INOUE to the war supplemental bill prohibiting the transfer, release or incarceration of Gitmo detainees in the United States or its territories. It passed 90 to 6.

Senator INOUE stated:

We have not provided funding for the closure of Guantanamo because the administration has yet to produce a credible plan.

Unfortunately, the supplemental conference deleted that language, allowing detainees to be transferred or transported to the United States for trial.

Then, in October of 2009, the Senate voted 97 to 3 to pass the fiscal year 2010 Senate Defense appropriations bill that included language that prevents funding for any transfers, releases or incarcerations of Gitmo detainees to the United States through fiscal year 2010. The bill is in conference now, and we don't know what is going to be happening to it.

On October 28, 2009, the fiscal year Defense authorization and Homeland Security bills were signed into law that would allow transfer of detainees 45 days after the President provides a plan.

That is kind of where we are right now. This amendment will put the MILCON-VA bill into sync with previous authorizations and appropriations of the bill. So I will be trying to get this in and trying to get it passed. I will not go into any of the details.

I could probably talk for 3 hours on this floor, explaining why it is we should not give up this valuable asset called Gitmo. There is no place else to send these people, and I cannot imagine why there are some people, including the President, who seem to be bent on bringing those detainees into the United States. They have tried Fort Leavenworth, they have tried Fort Sill in Oklahoma, and some 31 States have now passed legislation saying they are not going to be in any of their facilities. So I don't think it is going to happen, but we need to get language in there that is consistent to make sure we keep that resource open.

By the way, this is one of the rarer resources that is very worthwhile. We have had this since 1907, and there is no place else in the world that is set up to both incarcerate and try detainees in a military court.

With that, I yield the floor.

The PRESIDING OFFICER. The Senator from Hawaii is recognized.

UNANIMOUS-CONSENT REQUEST—S. 1963

Mr. AKAKA. Madam President, I ask unanimous consent that the Senate

proceed to the consideration of Calendar No. 190, S. 1963, at a time to be determined by the majority leader following consultation with the Republican leader, and that when the bill is considered, it be under the following limitations: That general debate on the bill be limited to 60 minutes equally divided and controlled between the chair and the ranking member of the Veterans' Affairs Committee or their designees; that the only amendments in order be six first-degree germane amendments, three each for the majority manager or his designee, and Senator COBURN; that debate on each amendment be limited to 40 minutes, equally divided and controlled in the usual form; that upon disposition of all amendments and the use or yielding back of all time, the bill as amended, if amended, be read a third time and the Senate then proceed to vote on passage of the bill with no further intervening action or debate.

The PRESIDING OFFICER. Is there objection?

Mr. INHOFE. Reserving the right to object, first of all, let me tell my good friend from Hawaii that I personally have no objection to the bill; however, I have been informed there are Members on our side who want to work out something. They feel very confident they will be able to work it out with the Senator, but for the purpose of today, to this unanimous-consent request, I have to object.

The PRESIDING OFFICER. Objection is heard.

The Senator from Rhode Island is recognized.

#### MORNING BUSINESS

Mr. WHITEHOUSE. Madam President, I ask unanimous consent that we go into a period of morning business, with Senators permitted to speak for up to 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### TRIBUTE TO CLAIR EARL

Mr. REID. Madam President, I wish today to honor Clair Earl for his service to the people of Nevada. Very few people enjoy the privilege of servicing their community in both their professional and personal pursuits. Yet Mr. Earl has labored diligently for over 40 years as a dentist and as an ecclesiastical leader in Reno.

Clair was born in Overton, NV, and raised on a farm in Moapa Valley. Clair graduated from the University of Nevada—Reno, where he was the student body president his senior year, and did graduate studies at Brigham Young University. Mr. Earl also has degrees from Portland State University and the University of Oregon Dental School.

Professionally Clair Earl has practiced as a dentist in Reno since 1964.

Over his 45 years of work he has gained a reputation as not only an excellent businessman, but also as a caring health professional to his community. He has spent these many years providing his patients with a high degree of service which has not gone unnoticed.

Clair Earl has a strong love for his family. His wife is the former Mildred Meyer, and they were married in Logan, UT. They have 11 children and 50 grandchildren. All seven sons are Eagle Scouts. Eight of the children and seven of the spouses have served missions for the Church of Jesus Christ of Latter-day Saints. Earl should be proud of the job that he did as a parent raising these future leaders of the country.

Earl's values as a member of the Church of Jesus Christ of Latter-day Saints are the solid foundation for his life and family. Clair has been a force for much good among the LDS community in northern Nevada. He has served as a bishop, a counselor in the Reno Nevada Stake, and also as the church director of public affairs for northern Nevada. Currently, Clair Earl is serving as the president of the Reno Nevada Stake. This is a calling of great magnitude, considering that President Earl leads over 4,000 members of the church and does so without any pay or reimbursement for time. This great act of service is a tribute to the man that President Earl is and the strength of his convictions to bless the lives of others. Clair Earl is to be released from this calling on November 15, 2009, after serving 9 years in this capacity.

Brigham Young, prophet of the Church of Jesus Christ of Latter-day Saints and former Governor of Utah, once said, "We want men to rule the nation who care more for and love better the nation's welfare than gold and silver, fame or popularity." I feel confident that Clair Earl fits Young's definition of men who truly service this great Nation. I wish him all the best as he continues his service to the people of northern Nevada.

#### TRIBUTE TO ROBERT LARSEN BRAY

Mr. REID. Madam President, today I wish before the Senate to honor Robert Larsen Bray. Although he is not a resident of my home State of Nevada, his lifetime of service has been exemplary and is worthy of our attention. On October 30, 2009, Bob officially retired from his position as chief information officer for the Texas Department of Criminal Justice. This retirement marks the end of a career in public service that has been nothing short of monumental.

Bob was blessed to come from a wonderful family. Like me, Bob was born the son of a hard-working man who went to great lengths to provide for his

family. Vern Bray, Bob's father, worked as a blast furnace operator, a gold miner, and also as a builder on the Hoover Dam, which is one of Nevada's prized possessions. Bob's mother, Myrl, instilled in her children a desire to learn and gain education. Three of her children went on to become outstanding educators, two of which did so in Nevada. My friend and Bob's oldest brother, Lawrence, was a longtime teacher in Las Vegas.

Together with his wife and best friend, Maryann, Bob has raised a great family of his own. Over their 43 years of marriage they have raised nine children five girls and four boys. Their seven married children have provided the Brays with 20 grandchildren. Although it was difficult at times to provide and care for such a large family, the Brays fostered in their children an ardent work ethic and firm resolve to help their fellow man. I have witnessed firsthand the good they have bestowed upon their children, as my legislative correspondence manager, Vaughn Bray, is their eighth child.

Much like his father, Bob has worked hard his whole life. At a young age he learned to keep working until the job was finished, an unpleasant notion when faced with the task of picking beets or cleaning irrigation ditches. As a man, Bob worked full-time at night for the defense contractor Hercules in order to pay for his education at the University of Utah. Later, Bob would attain a master's in public administration at Texas Tech University in much the same way.

In order to provide for his family, Bob's work took him from Utah to Texas to New York to New Mexico and, finally, back to Texas. He has worked in some form of government for over 25 years. Most notably, he served as the director of planning at Texas Tech University in Lubbock, TX, and more recently as chief information officer for the Texas Department of Criminal Justice in Huntsville, TX.

Throughout his life Bob has been a dedicated member of the Church of Jesus Christ of Latter-day Saints. As a 19-year-old, he served as a missionary in Canada under the direction of the current president of the LDS Church, Thomas S. Monson. He has gone on to serve in the church as a branch president, bishop, Stake president, and mission president in Nashville, TN. In these years of retirement that are soon to follow, Bob and Maryann are eager to continue to serve in any capacity possible. Bob has stated that if he has his way, the Brays will serve 10 more missions.

Although Bob had many duties at the home, office, and church, he still found time to serve his community. He and his wife labored as PTA presidents while their children were in elementary school. Bob has worked as a leader in the Boy Scouts, as a board member

of the Lubbock, TX, Civic Center, and as a volunteer during Hurricane Rita. Politically, he has been involved on the local level of the Democratic Party, and even worked on the campaign of former Texas Congressman Kent Hance, the only politician ever to defeat former President George W. Bush in an election.

As his career comes to an end, it is safe to say that Robert Bray will not resign himself to a life of golf and afternoon naps. Old habits cannot be broken, and Bob Bray is a worker. I have no doubt that he will continue to labor diligently to improve his community and to make life a little better for those around him. I wish him all the best in his retirement, and sincerely hope that the next generation of Americans contains a few Bob Brays.

#### BICENTENNIAL OF DR. EPHRAIM MCDOWELL'S HISTORIC SURGERY

Mr. MCCONNELL. Madam President, the Commonwealth of Kentucky has many heroes. Yet only two have been granted significant prominence to have their likeness stand on permanent display within the halls of the U.S. Capitol building.

The Great Compromiser, Henry Clay, is one of those who have earned such distinction. And the second statue recognizes the contributions of Dr. Ephraim McDowell to modern medicine. While his might not be a household name, Dr. McDowell's contribution to surgical procedure is nonetheless momentous, making him one of only two Kentuckians in history to be recognized in the Capitol.

It was 200 years ago that Dr. McDowell performed the world's first successful ovariectomy. What Mrs. Jane Todd Crawford of Green County, KY, mistook for twins, Dr. McDowell correctly diagnosed as a 22-pound ovarian tumor.

Mrs. Crawford begged Dr. McDowell to prevent her from dying a slow and painful death. The young doctor explained that her only option was to have experimental surgery, and he went further in explaining that none who had previously undergone such surgery had survived. Undeterred, Mrs. Crawford pressed Dr. McDowell to perform the surgery and made the 60-mile horseback ride to Danville, KY, on December 13, 1809.

By the end of the 25-minute procedure, which was performed without anesthetic, Mrs. Crawford's tumor had been removed and she was able to make an uncomplicated recovery. She would go on to live another 32 years. In time, Dr. McDowell would go on to perform nearly a dozen more such procedures, and his meticulous notes of performing a successful abdominal surgery would be reviewed and taught on two continents.

In those notes, he wrote about his first success:

Having never seen so large a substance extracted, nor heard of an attempt, or success attending any operation such as this required, I gave to the unhappy woman information of her dangerous situation. The tumor appeared full in view, but was so large we could not take it away entire. We took out fifteen pounds of a dirty, gelatinous-looking substance. After which we cut through the fallopian tube, and extracted the sac, which weighed seven pounds and one-half. In five days I visited her, and much to my astonishment found her making up her bed.

Madam President, it is not just Mrs. Crawford who owes a debt of gratitude to Dr. Ephraim McDowell. Indeed, because of his efforts and courage, the entire field of medicine made great advancements and society as a whole is the better. With the bicentennial of this remarkable accomplishment soon approaching, I thought it fitting for us to take a moment and remember this man who Kentucky rightfully honors with a place in the U.S. Capitol.

#### COMMERCE, JUSTICE, SCIENCE APPROPRIATIONS

##### ECONOMIC DEVELOPMENT ADMINISTRATION

Mr. BROWN. Madam President, I would like to engage my colleague, the Senator from New York, in a colloquy.

I would first like to take this opportunity to commend Senator MIKULSKI and Senator SHELBY and their hard working staff for crafting a responsible, commonsense funding measure, the Commerce, Justice, Science, and Related Agencies Appropriations Act, 2010.

I would like to highlight one piece of this bill, and that is the funding allocation for the Economic Development Administration. Madam President, the country is facing the highest unemployment rate we have seen in more than 20 years. There are too many hard-working Americans without a paycheck.

Mrs. GILLIBRAND. That is true in my State, as I know it is in the Senator's. Last week, the Labor Department reported 263,000 more jobs lost in September, leaving 15.1 million workers unemployed. The number of underemployed is even greater.

Funds for EDA are critical to our economic recovery, especially funds for Economic Adjustment Assistance, which is more flexible spending that enables EDA to respond quickly and forcefully to regions hit with an economic catastrophe.

Mr. BROWN. I agree with Senator GILLIBRAND that the Economic Adjustment Assistance account is critical for responding to sudden and severe economic hardship in a region. One proven strategy for economic development in these regions is business incubators.

In Ohio, there are more than 30 business incubators that help foster regional economic development and spur small business expansion. Recent studies show that business incubators are

an effective public-private approach that produces new jobs at a low cost to the government.

Mrs. GILLIBRAND. Yes, I thank the Senator. In fact, a 2008 study conducted for the Economic Development Administration found that for every \$10,000 in EDA funds invested in business incubators, an estimated 47–69 local jobs are generated. In rural areas, business incubator projects are the most effective type of EDA project.

The National Business Incubation Association, NBIA, estimates that in 2005 business incubators supported more than 27,000 start-up companies providing full-time employment to more than 100,000 workers—generating more than \$17 billion in annual revenue.

NBIA also points to research showing that every dollar of Federal funds devoted to a business incubator generates approximately \$30 in local tax revenue.

Mr. BROWN. I was proud to introduce with the Senator the Business Incubator Promotion Act last month, which defines the types of incubator services proven to be most effective, and targets Federal funds to the most economically distressed regions.

It is my understanding that the CJS appropriations legislation provides \$200 million to EDA, with \$90 million of that to Economic Adjustment Assistance. I would like to see an additional \$20 million in this account to promote the revitalization of economically distressed communities and encourage the development of business incubators. This increase would mean jobs—for Ohio, New York, and for other States with high unemployment.

Mrs. GILLIBRAND. I understand the administration would also like to see these funds increased. In fact, in the Statement of Administration Policy issued for the CJS Appropriations measure, the administration urges Congress to provide increased funding to fully implement the administration's proposals to promote regional innovation clusters and create a business incubator network.

Mr. BROWN. I would like to join Senator GILLIBRAND in working with Senator MIKULSKI and Senator SHELBY in boosting these funds. Now more than ever, Congress must give EDA the tools to help entrepreneurs drive the economic revitalization of towns, cities, and regions all across Ohio, New York, and the country. The CJS Appropriations is an important step, one upon which to build.

Again, I commend the work of Senator MIKULSKI and Senator SHELBY and look forward to working with them to increase funding for EDA in conference.

AMENDMENT NO. 2669

Mr. GRAHAM. Madam President, I am disappointed that on November 5, 2009, the Senate voted to table my amendment to prohibit the use of funds

to prosecute individuals involved in the September 11, 2001, attacks in article III courts. As I stated at the time of the vote, it would be a grave mistake to prosecute these detainees in civilian court instead of the newly revamped military commissions.

Two hundred forty-nine family members of the victims of the September 11 attacks wrote a letter in support of my amendment. They know better than anyone that the attacks that took their loved ones were war crimes and that criminalizing this war would be dangerous and unwise.

I would like to submit their letter in support of my amendment for the record, and I would like to give a special thanks to Debra Burlingame for her leadership on this issue. While I am disappointed in the vote on this amendment, I hope that in the future we will heed the counsel of those who lost the most in the terrible attacks on our country—the family members of 9/11 victims.

NOVEMBER 5, 2009.

U.S. SENATE,  
U.S. Capitol,  
Washington, DC.

DEAR SENATORS: On September 11, 2001, the entire world watched as 19 men hijacked four commercial airliners, attacking passengers and killing crew members, and then turned the fully-fueled planes into missiles, flying them into the World Trade Center twin towers, the Pentagon and a field in Shanksville, Pennsylvania. 3,000 of our fellow human beings died in two hours. The nation's commercial aviation system ground to a halt. Lower Manhattan was turned into a war zone, shutting down the New York Stock Exchange for days and causing tens of thousands of residents and workers to be displaced. In nine months, an estimated 50,000 rescue and recovery workers willingly exposed themselves to toxic conditions to dig out the ravaged remains of their fellow citizens buried in 1.8 million tons of twisted steel and concrete.

The American people were rightly outraged by this act of war. Whether the cause was retribution or simple recognition of our common humanity, the words "Never Forget" were invoked in tearful or angry recitation, defiantly written in the dust of Ground Zero or humbly penned on makeshift memorials erected all across the land. The country was united in its determination that these acts should not go unmarked and unpunished.

Eight long years have passed since that dark and terrible day. Sadly, some have forgotten the promises we made to those whose lives were taken in such a cruel and vicious manner.

We have not forgotten. We are the husbands and wives, mothers and fathers, sons, daughters, sisters, brothers and other family members of the victims of these depraved and barbaric attacks, and we feel a profound obligation to ensure that justice is done on their behalf. It is incomprehensible to us that members of the United States Congress would propose that the same men who today refer to the murder of our loved ones as a "blessed day" and who targeted the United States Capitol for the same kind of destruction that was wrought in New York, Virginia and Pennsylvania, should be the beneficiaries of a social compact of which they

are not a part, do not recognize, and which they seek to destroy: the United States Constitution.

We adamantly oppose prosecuting the 9/11 conspirators in Article III courts, which would provide them with the very rights that may make it possible for them to escape the justice which they so richly deserve. We believe that military commissions, which have a long and honorable history in this country dating back to the Revolutionary War, are the appropriate legal forum for the individuals who declared war on America. With utter disdain for all norms of decency and humanity, and in defiance of the laws of warfare accepted by all civilized nations, these individuals targeted tens of thousands of civilian non-combatants, brutally killing 3,000 men, women and children, injuring thousands more, and terrorizing millions.

We support Senate Amendment 2669 (pursuant to H.R. 2847, the Commerce, Justice, Science Appropriations Act of 2010), "prohibiting the use of funds for the prosecution in Article III courts of the United States of individuals involved in the September 11, 2001 terrorist attacks." We urge its passage by all those members of the United States Senate who stood on the senate floor eight years ago and declared that the perpetrators of these attacks would answer to the American people. The American people will not understand why those same senators now vote to allow our cherished federal courts to be manipulated and used as a stage by the "mastermind of 9/11" and his co-conspirators to condemn this nation and rally their fellow terrorists the world over. As one New York City police detective, who lost 60 fellow officers on 9/11, told members of the Department of Justice's Detainee Policy Task Force at a meeting last June, "You people are out of touch. You need to hear the locker room conversations of the people who patrol your streets and fight your wars."

The President of the United States has stated that military commissions, promulgated by congressional legislation and recently reformed with even greater protections for defendants, are a legal and appropriate forum to try individuals captured pursuant to the 2001 Authorization for the Use of Military Force Act, passed by Congress in response to the attack on America. Nevertheless, on May 21, 2009, President Obama announced a new policy that Al-Qaeda terrorists should be tried in Article III courts "whenever feasible."

We strongly object to the President creating a two-tier system of justice for terrorists in which those responsible for the death of thousands on 9/11 will be treated as common criminals and afforded the kind of platinum due process accorded American citizens, yet members of Al Qaeda who aspire to kill Americans but who do not yet have blood on their hands, will be treated as war criminals. The President offers no explanation or justification for this contradiction, even as he readily acknowledges that the 9/11 conspirators, now designated "unprivileged enemy belligerents," are appropriately accused of war crimes. We believe that this two-tier system, in which war criminals receive more due process protections than would-be war criminals, will be mocked and rejected in the court of world opinion as an ill-conceived contrivance aimed, not at justice, but at the appearance of moral authority.

The public has a right to know that prosecuting the 9/11 conspirators in federal courts will result in a plethora of legal and procedural problems that will severely limit



or even jeopardize the successful prosecution of their cases. Ordinary criminal trials do not allow for the exigencies associated with combatants captured in war, in which evidence is not collected with CSI-type chain-of-custody standards. None of the 9/11 conspirators were given the Miranda warnings mandated in Article III courts. Prosecutors contend that the lengthy, self-incriminating tutorials Khalid Sheikh Mohammed and others gave to CIA interrogators about 9/11 and other terrorist operations—called “pivotal for the war against Al-Qaeda” in a recently released, declassified 2005 CIA report—may be excluded in federal trials. Further, unlike military commissions, all of the 9/11 cases will be vulnerable in federal court to defense motions that their prosecutions violate the Speedy Trial Act. Indeed, the judge presiding in the case of Ahmed Ghailani, accused of participating in the 1998 bombing of the American Embassy in Kenya, killing 212 people, has asked for that issue to be briefed by the defense. Ghailani was indicted in 1998, captured in Pakistan in 2004, and held at Guantanamo Bay until 2009.

Additionally, federal rules risk that classified evidence protected in military commissions would be exposed in criminal trials, revealing intelligence sources and methods and compromising foreign partners, who will be unwilling to join with the United States in future secret or covert operations if doing so will risk exposure in the dangerous and hostile communities where they operate. This poses a clear and present danger to the public. The safety and security of the American people is the President's and Congress's highest duty.

Former Attorney General Michael Mukasey recently wrote in the *Wall Street Journal* that “the challenges of terrorism trials are overwhelming.” Mr. Mukasey, formerly a federal judge in the Southern District of New York, presided over the multi-defendant terrorism prosecution of Sheikh Omar Abdel Rahman, the cell that attacked the World Trade Center in 1993 and conspired to attack other New York landmarks. In addition to the evidentiary problems cited above, he expressed concern about courthouse and jail facility security, the need for anonymous jurors to be escorted under armed guard, the enormous costs associated with the use of U.S. marshals necessarily deployed from other jurisdictions, and the danger to the community which, he says, will become a target for homegrown terrorist sympathizers or embedded Al Qaeda cells.

Finally, there is the sickening prospect of men like Khalid Sheikh Mohammed being brought to the federal courthouse in Lower Manhattan, or the courthouse in Alexandria, Virginia, just a few blocks away from the scene of carnage eight years ago, being given a Constitutionally mandated platform upon which he can mock his victims, exult in the suffering of their families, condemn the judge and his own lawyers, and rally his followers to continue jihad against the men and women of the U.S. military, fighting and dying in the sands of Iraq and the mountains of Afghanistan on behalf of us all.

There is no guarantee that Mr. Mohammed and his co-conspirators will plead guilty, as in the case of Zacarias Moussaoui, whose prosecution nevertheless took four years, and who is currently attempting to recant that plea. Their attorneys will be given wide latitude to mount a defense that turns the trial into a shameful circus aimed at vilifying agents of the CIA for alleged acts of “torture,” casting the American government and our valiant military as a force of evil in-

stead of a force for good in places of the Muslim world where Al Qaeda and the Taliban are waging a brutal war against them and the local populations. For the families of those who died on September 11, the most obscene aspect of giving Constitutional protections to those who planned the attacks with the intent of inflicting maximum terror on their victims in the last moments of their lives will be the opportunities this affords defense lawyers to cast their clients as victims.

Khalid Sheikh Mohammed and his co-conspirators are asking to plead guilty, now, before a duly-constituted military commission. We respectfully ask members of Congress, why don't we let them?

Respectfully submitted,  
(Signed by 249 Family members).

#### IRAQ RECONSTRUCTION

Mr. LIEBERMAN. Madam President, I wish to commemorate the sixth anniversary of what is known today as the Office of the Special Inspector General for Iraq Reconstruction. Six years ago, on November 6, 2003, President Bush signed Public Law 108-106, the Emergency Supplemental Appropriations Act for Defense and for the Reconstruction of Iraq and Afghanistan. The reconstruction effort at the time was under the direction of the Coalition Provisional Authority, CPA, and Congress, appropriately, provided for an Inspector General of the Authority to oversee the CPA's expenditures.

As the administration moved toward ending the CPA and transferring sovereignty back to the Iraqi people through its interim government, it became clear that it was important to maintain oversight of the multiagency reconstruction effort underway in Iraq. In Public Law 108-375, the Ronald W. Reagan National Defense Authorization Act for fiscal year 2005, Congress decided to redesignate the CPA IG as the Special Inspector General for Iraq Reconstruction, or SIGIR, with responsibility for reviewing programs funded with amounts appropriated or otherwise made available for the Iraq Relief and Reconstruction Fund.

The law provided, uniquely at the time, that the SIGIR report directly to both the Secretary of Defense and the Secretary of State, and that its quarterly reports be sent directly to the Congress.

As the reconstruction effort for Iraq grew in complexity Congress asked SIGIR to review additional funding streams; it is now responsible for reviewing “all funds appropriated or otherwise made available for the reconstruction of Iraq.”

Since SIGIR reviews reconstruction funds expended by all agencies, it can compare the effectiveness of different agencies' practices and approaches to related problems. In addition, the frequent reorganizations of the reconstruction effort and the widespread pattern of having some agencies carry out work on behalf of others has made

cross-agency reviews critical to providing accountability for expenditures. SIGIR has been able to provide precisely that type of cross-agency scrutiny.

SIGIR's productivity is notable. It has submitted 23 quarterly reports to Congress and published 4 “lessoned learned” reports, including the comprehensive account entitled “Hard Lessons: The Iraq Reconstruction Experience.” It has issued 155 audit reports, 159 project assessments, inspections, and 96 limited onsite assessments.

SIGIR's staff in Baghdad and Arlington, VA, produces timely, useful reporting to program managers, senior Department leadership, and Congress. Its quarterly reports present a comprehensive, closely documented, snapshot of the reconstruction effort and conditions on the ground to provide context for understanding progress, or lack of progress, in Iraq's reconstruction. In recent quarters, reports have included province-by-province descriptions of the status of reconstruction and the pace of political change. The audit and inspections groups work in “real time,” so that managers can improve processes quickly, often before reports are formally published.

SIGIR's reviews have been extremely useful to both the administration and Congress in assessing the many challenges of the reconstruction. The performance by the SIGIR office has also been recognized by the Council of Inspectors General on Integrity and Efficiency, formerly the President's Council on Integrity and Efficiency, PCIE, for demonstrating integrity, determination and courage in providing independent oversight and unbiased review of U.S. reconstruction efforts in Iraq, and for exemplifying the highest ideals of government services as envisioned by the tenets of the Inspector General Act.

SIGIR's auditors and investigators carry out their work under dangerous and difficult circumstances. Its employees in Baghdad, in addition to being separated from their families and living under difficult conditions, are subject to considerable physical danger. Five have been wounded by indirect fire. Today I would especially like to pay tribute to SIGIR auditor Paul Converse, who died of wounds sustained in the Easter 2008 rocket attack on Baghdad's International Zone. Mr. Converse made the ultimate sacrifice in service to his country.

As my colleagues know, the reconstruction effort in Iraq suffered initially from uncoordinated and insufficient planning and has been characterized too often by poor contract oversight. The security situation in Iraq also increased the complexity of executing reconstruction projects. From its audits of specific projects such as the Basrah Children's Hospital and the Mosul Dam, to its broad reviews of thematic issues such as human capital



management and contract administration, the SIGIR reports have provided a frank look at, and a better understanding of, the shortcomings, the successes, and the challenges of reconstruction.

So today I salute all the hard-working current and former staff of SIGIR, SIGIR's long-serving Deputy Inspector General, Ginger Cruz, and, of course, Stuart Bowen, who has ably served as the Special Inspector General for 6 years. Their work has been extremely influential on the evolution of reconstruction efforts in Iraq, and undoubtedly will help inform future U.S. relief and reconstruction efforts. Their efforts are greatly appreciated by this Senator.

#### LAND AND WATER CONSERVATION AUTHORIZATION AND FUNDING ACT

Mr. BAUCUS. Madam President, I rise today to speak about legislation that I introduced on Friday with Senator BINGAMAN—the Land and Water Conservation Authorization and Funding Act of 2009—which would establish permanent funding for the Land and Water Conservation Fund. This bill makes it certain that the funds available in the Land and Water Conservation Fund—LWCF—are not subject to the annual whims of Congress, but instead that these funds are available at a steady, reliable, certain level that will allow us to protect land and water well into our future.

For over 30 years, the LWCF has been used to purchase lands from willing sellers for the purposes of conservation. It is authorized at a spending level \$900 million per year. However, Congress has rarely approved the full \$900 million, and appropriations have varied widely. The result is a program that sometimes moves forward in fits and starts rather than with a consistent level of investment from year to year.

Even with this situation, the LWCF is an incredibly successful and important program for our land conservation needs. In Montana, the LWCF has funded the acquisition of key treasures such as the Sun Ranch in Madison County and the Iron Mask Ranch in Broadwater County. We have areas all over Montana in the pristine ecosystem of the Rocky Mountain Front that are standing in line, just waiting for LWCF funds to be available.

We cannot afford to wait any longer. We need to take steps today, this Congress, to fix this long-standing problem and establish permanent funding for the LWCF to protect Montana's resources well into the future.

#### WYOMING FARM BUREAU FEDERATION

Mr. BARRASSO. Madam President, I wish to recognize the Wyoming Farm

Bureau Federation's 90 years of service. Since its first meeting, the Wyoming Farm Bureau Federation has advocated for Wyoming farm and ranch families in local, State and Federal policy. The organization has been a leader in advocating for low taxes, less government, multiple use, and most of all private property rights for generations. The Wyoming Farm Bureau Federation provides organization, resources, and service to our agriculture community.

Among the strengths of the Wyoming Farm Bureau Federation is the organization of the Farm Bureau Young Farmers & Ranchers Program. This program provides resources and leadership for men and women beginning their careers in agriculture. The program is laying the foundation for future leaders in Wyoming agriculture and our rural communities.

Wyoming Farm Bureau Federation serves as a reliable source of agriculture and business information in Wyoming. Many in Wyoming turn to Wyoming Farm Bureau Federation as the source for up-to-date agricultural news. The organization provides timely information and valuable insight into current issues facing Wyoming and America.

Wyoming Farm Bureau Federation members will celebrate 90 years of service at their annual meeting this week in Casper, WY. They will remember the pioneer spirit that brought together farmers and ranchers from Wyoming's counties 90 years ago. The foresight of those early members has allowed the Wyoming Farm Bureau Federation to be the leading agriculture organization that it is today.

Wyoming Farm Bureau Federation has led the way to preserve individual freedoms and expand opportunities in agriculture for 90 years. I recognize this important milestone, and I wish the organization and all of its members future success.

#### ADDITIONAL STATEMENTS

##### TRIBUTE TO BRIGADIER GENERAL MARK C. ARNOLD

• Mr. VOINOVICH. Madam President, I wish to recognize the promotion of U.S. Army Reserve BG Mark C. Arnold.

On November 14, 2009, Mark Arnold will be promoted to brigadier general. He has more than 32 years of military service including time served in Afghanistan and Iraq. He was commissioned a distinguished military graduate and holds a bachelor of science degree from Ohio University, my alma mater, and he also holds a master of business administration degree from Cleveland State University.

Brigadier General Arnold began his military career as an infantryman and has completed the airborne course, jumpmaster course, pathfinder course,

air assault course, ranger course, special forces qualification course, psychological operations course, civil affairs course, Combined Arms Services Staff School, Command and General Staff College, and the Army War College where he completed his master of strategic studies.

Brigadier General Arnold is presently assigned as the deputy commanding general of the U.S. Army Reserve 81st Regional Support Command at Fort Jackson, SC. He is also the president and chief executive officer of GSE, which is a \$500 million multinational manufacturing firm. He has demonstrated that he is a "Warrior-Citizen" who is equally committed to the defense of our great Nation and the advancement of his community. I applaud his commitment to public service as well as his commitment to his community.

The State of Ohio and all Americans congratulate Brigadier General Arnold for his tireless dedicated duty to protect freedom, ensure liberty, and defend the principles of the United States. Leaders like Brigadier General Arnold will ensure the United States will continue to prosper as the world's greatest Nation.

I want to extend congratulations and my sincere regards and best wishes to Brigadier General Arnold and his family in honor of his promotion.●

##### REMEMBERING MAYOR GEORGE MURRAY SULLIVAN

• Mr. BEGICH. Madam President, I wish to commemorate the life of a very special resident of my home State of Alaska, former Anchorage Mayor George Murray Sullivan.

Mayor George Murray Sullivan passed away September 23, 2009, after an extended battle with lung cancer.

Mayor George Sullivan was the embodiment of a true Alaskan. He was born and raised in Valdez, honorably served in our Nation's Army, and assisted with the completion of the only road leading out of our State, the Alaska Highway. As a devoted public servant, Mr. SULLIVAN served in the Alaska Legislature and as mayor of Anchorage. Today, Alaskans are grateful to this remarkable man for his guidance and pioneering spirit.

On behalf of his family and his many friends I ask we honor George Sullivan's memory. I ask his obituary, published September 27, 2009, in the Anchorage Daily News, be printed into the RECORD.

The information follows:

[From the Anchorage Daily News, Sept. 27, 2009]

Anchorage Mayor George Murray Sullivan, 87, died Sept. 23, 2009, surrounded by his family after a long battle with lung cancer. A funeral Mass will be celebrated at 11 a.m. Saturday at Our Lady of Guadalupe Catholic Church. Burial will be at the Anchorage Memorial Cemetery. George was born March 31,

1922, to Harvey and Viola Sullivan in Portland, Ore.

He was raised in Valdez with sisters Lillian and Marion, and graduated salutatorian from Valdez High School in 1939. His father Harvey was the U.S. district marshal and mother Viola was the first woman mayor in Alaska. George had a wonderful life as a kid in Valdez, playing many sports, engaging in school activities and helping at the family store. In 1937, at the age of 15, George was hired at the Kennecott Mine, although the hiring age at the time was 16. He was strong and eager, so he was put to work on the tram. He navigated 750-pound ore buckets off the tram and into the grizzly crusher for 10 hours a day, seven days a week. He once estimated that he put in about 17 miles a day on the job. In 1938, George drove trucks for the Alaska Road Commission and hauled equipment and supplies to the workers active in the Richardson Highway construction project.

He worked with the military troops to get the Alaska Highway completed and transported military equipment to the Tanacross airport for Bob Reeve to fly to the outlying bases. In July 1944, George was drafted into the U.S. Army for two years and was stationed at Adak in the Aleutian Islands. He married the love of his life, Margaret Eagan Sullivan, on Dec. 30, 1947, and moved to Nenana. George was the U.S. deputy marshal and Margaret was the U.S. commissioner. Aply, George would catch the criminals and Margaret would try them. In 1952, George worked for Al Ghezzi's Alaska Freight Lines, trucking supplies to the DEW Line on the first ice road to the North Slope. He worked for Garrison Fast Freight.

In 1955, he was elected to the Fairbanks City Council. George took a job in management with Consolidated Freightways and in 1959 moved the family to Anchorage, where he lived for the next 50 years. In 1964, he was appointed by Gov. Bill Egan to fill a vacant seat in the Alaska State Legislature. He was in Juneau when the 1964 earthquake occurred; Margaret was at home in Anchorage with seven children. George spent many agonizing hours trying to get on a plane home to his family. George finished his term in the Legislature and, in 1965, was elected to the Anchorage City Council. In 1967, he ran a successful race to become Anchorage mayor, a position he would hold for 15 years. Anchorage grew fast during those years, spurred in large part by the oil boom. In 1975, voters approved the unification of Anchorage's city and borough governments and elected George its mayor. The creation of the Municipality of Anchorage was an incredible undertaking. As mayor, George successfully merged the duplicative departments, boards, utilities, etc., into one government. After unification, the state was awash with money from the oil pipeline revenues. George and his administration had a vision of what Anchorage could become and what was needed to enhance the city's quality of life for its residents. He worked hard to develop what was known as Project '80s.

George lobbied successfully in Juneau and received hundreds of millions of dollars for construction of the Egan Civic and Convention Center, Loussac Library, the Alaska Center for the Performing Arts and the Sullivan Sports Arena. This moved Anchorage into being a modern and vibrant community, which enhanced economic and community growth in the Southcentral area. George finished as mayor of Anchorage in 1982. He then worked for Western Airlines as senior vice president. In 1986, he was a founding member

of the Sullivan Group, a consulting firm. He also worked as the legislative director for Gov. Steve Cowper. He received an honorary doctorate from the University of Alaska in public administration. George was never one to stay still for too long and remained active in community and state boards up until his illness in 2008.

Over the years he was active on the Enstar board, AWWU, state PERS board, Anchorage Senior Center Endowment, TOTE Advisory Board, Military Advisory Board, Anchorage Wellness Court Alumni Group, Alaska Heart Association, Boys and Girls Clubs and many more. He was always willing to lend a helping hand to make Anchorage a little better for those less fortunate or in need. He had a strong faith in the Roman Catholic Church and often assisted at Mass and in the church's organizations, the Knights of Columbus and Knights and Ladies of the Holy Sepulcher. He was a member of the Elks Club, the Veterans of Foreign Wars and the Pioneers of Alaska. George had an incredible love for the community and worked on many projects to enhance the quality of life for all who called Anchorage home.

He was a true public servant and visionary who strived to make Anchorage a better community for future generations while he was mayor and during his retirement. George's family said: "Dad was blessed with a kind and generous heart. He and Mom gave so much to their family and community. Dad had a wonderful way with people. He was a great Alaskan with an Irish charm and humor that would put people at ease when they met him. He and Mom traveled extensively and held lifelong friendships that spanned the globe. He loved people and never forgot a name or face."

George is survived by his sons, Timothy, Daniel (Lynnette), Kevin, George Jr., Michael and Casey (Paige); and daughters, Colleen (Ted Leonard) and Shannon (Christopher Adams). He is also survived by grandchildren, Tim (Terrill), Conor (Carey), Catherine and Moira Sullivan and their mother, Susan; grandchildren, Kelly, Patrick (Julie) and Erin Sullivan and their mother, Jean; grandchildren, Jennifer Sullivan; Matthew, Adam, Molly and Bridget Glenn; Jared Leonard; Declan and Shane Adams, and Tierney and Parker Sullivan; and six great-grandchildren with one on the way. His is also survived by sisters-in-law, Pat Franklin and Marge Eagan of Fairbanks; and many nieces and nephews. George was preceded in death by his parents, Harvey and Viola Sullivan; sisters, Marion and Lillian; son, Harvey; and Margaret, his wife of 59 years.●

#### REMEMBERING MYRON GORDON

● Mr. FEINGOLD. Madam President, it is with great sadness that I mark the passing of an important judicial figure in Wisconsin and a dear family friend, Myron Gordon.

Myron was a good friend of my father, Leon Feingold, for many years, and I was privileged to know him well myself. He was a man of so much integrity, and I admired him tremendously, as my father did. In his obituary in the Milwaukee Journal Sentinel, people describe him as a "giant" of the legal profession and the "king of judges," and he truly was.

His outstanding character served him well in his many years on the bench, on Milwaukee County Civil Court, the

Milwaukee County Circuit Court, the Wisconsin Supreme Court, and, finally, the Eastern District of Wisconsin, where he served as a Federal judge until his retirement in 2001.

Myron had so many wonderful qualities that came through in his work. He was very wise, and he was absolutely fairminded, refusing to play favorites in the courtroom or be swayed by outside opinion. He was an example for us all, and I am so glad that he was able to serve the State he loved so well for so many years. I was fortunate to know him, and Wisconsin is fortunate to have benefited from his lifetime of service and his commitment to the public good. He will be greatly missed.●

#### TRIBUTE TO LORRAINE ANDERSON

● Mr. UDALL of Colorado. Madam President, I wish to pay tribute to a dedicated public servant, Ms. Lorraine Anderson, who on November 9, 2009, is stepping down after 24 years on the Arvada City Council.

Lorraine has been a dedicated public servant who has served her community of Arvada, CO, in innumerable ways and has developed a reputation across the Denver metropolitan area as a leader in the best tradition of bipartisanship and local government service. Her experience and influence have also been recognized at the national level.

I got to know Lorraine while working on issues related to the cleanup and closure of the Rocky Flats nuclear weapons facility near Arvada when I was a Congressman representing this area of Colorado. While she was a strong advocate for a thorough cleanup of this site and a defender of the interests of Arvada, she also worked in a collaborative spirit that was informed by heavy doses of practical common sense. As many of my colleagues will recognize, these cleanups can be complex and the process full of acronyms and scientific jargon. Lorraine would make sure that regulators and State and Federal officials spoke to the public in plain English. She prized understanding and workable solutions in the very complicated process of securing local agreement on the cleanup process.

She was a valuable contributor to this process and helped make it a success. It is the same approach that she brought to all of her public service work.

Let me take a moment to highlight that work and her distinguished and impressive record. She served six terms on the Arvada City Council between 1985 and 2009 and served as mayor pro tem many times over the span of her time with the city. During this time, she also served on the Arvada Planning Commission, was a founding member of both the Arvada Clean Air Advisory Committee and the Arvada Economic Development Association, and served

as a board member of the Forward Arvada Building Corporation.

On issues affecting the Denver metropolitan area, she served on the board of the Colorado Municipal League from 1991 through 2005 and was the president of that board in 2000. She also served on the board of directors of the Denver Regional Council of Governments from 1991 through 2007 and was chair of that organization in 2004. She served on the Regional Air Quality Council from 1993 to 1997 and was president of Colorado Women in Municipal Government from 1991 to 1993. And she served on the Rocky Flats Coalition of Local Governments and the Rocky Flats Stewardship Task Force Steering Committee.

On the national level, Lorraine served on the National League of Cities board of directors from 2003 to 2005 and was a member of many of the league's committees, including Energy, Environment, and Natural Resources and the Clean Air Task Force, and was a board member of the Energy Communities Alliance.

Lorraine is well-known throughout the Denver metropolitan region and is a tireless advocate for local governments in the metro area on growth policies, transportation, both highway and transit, public health, and environmental issues. She has not only worked actively and effectively with her local and State elected colleagues in the region, but she has also advocated and educated her constituents on the importance of their involvement in regional issues. She has been one of only a handful of women who have served on the Arvada City Council, and she is a role model for the community in this regard.

In addition to her public service, Lorraine is the retired co-owner of Anderson Tire Service, Inc., and served as president of the Mountain States Tire Dealers Association in 1988, one of two women first elected to the board of directors and the first woman to serve as president of that organization.

I know that the city of Arvada is sorry to see her step down. But I also know that she will likely stay involved in the important issues affecting her city, region, State and Nation. I wish her all the best in her future endeavors and thank her for her proud service to her community and Nation.●

#### MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mrs. Neiman, one of his secretaries.

#### EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

#### REPORT ON THE CONTINUATION OF THE NATIONAL EMERGENCY WITH RESPECT TO THE PROLIFERATION OF WEAPONS OF MASS DESTRUCTION THAT WAS DECLARED IN EXECUTIVE ORDER 12938 ON NOVEMBER 14, 1994, AS RECEIVED DURING THE ADJOURNMENT OF THE SENATE ON NOVEMBER 6, 2009—PM 38

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Banking, Housing, and Urban Affairs:

*To the Congress of the United States:*

Section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)) provides for the automatic termination of a national emergency unless, prior to the anniversary date of its declaration, the President publishes in the *Federal Register* and transmits to the Congress a notice stating that the emergency is to continue in effect beyond the anniversary date. In accordance with this provision, I have sent to the *Federal Register* for publication the enclosed notice, stating that the national emergency with respect to the proliferation of weapons of mass destruction that was declared in Executive Order 12938, as amended, is to continue in effect for 1 year beyond November 14, 2009.

BARACK OBAMA.

THE WHITE HOUSE, November 6, 2009.

#### MESSAGE FROM THE HOUSE

At 2:03 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following bill, without amendment:

S. 1211. An act to designate the facility of the United States Postal Service located at 60 School Street, Orchard Park, New York, as the "Jack F. Kemp Post Office Building".

The message also announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 1838. An act to amend the Small Business Act to modify certain provisions relating to women's business centers, and for other purposes.

H.R. 1845. An act to amend the Small Business Act to modernize Small Business Development Centers, and for other purposes.

H.R. 2868. An act to amend the Homeland Security Act of 2002 to enhance security and protect against acts of terrorism against chemical facilities, to amend the Safe Drinking Water Act to enhance the security of public water systems, and to amend the Federal Water Pollution Control Act to enhance the security of wastewater treatment works, and for other purposes.

H.R. 3737. An act to amend the Small Business Act to modernize the Microloan Program, and for other purposes.

H.R. 3743. An act to amend the Small Business Act to improve the disaster relief programs of the Small Business Administration, and for other purposes.

H.R. 3788. An act to designate the facility of the United States Postal Service located at 3900 Darrow Road in Stow, Ohio, as the "Corporal Joseph A. Tomci Post Office Building".

The message further announced that the House has agreed to the following concurrent resolutions, in which it requests the concurrence of the Senate:

H. Con. Res. 209. A concurrent resolution recognizing the 30th anniversary of the Iranian hostage crisis, during which 52 United States citizens were held hostage for 444 days from November 4, 1979, to January 20, 1981, and for other purposes.

H. Con. Res. 210. A concurrent resolution providing for a conditional adjournment of the House of Representatives and a conditional recess or adjournment of the Senate.

The message also announced that the House agrees to the amendment of the Senate to the bill (H.R. 1299) to make technical corrections to the laws affecting certain administrative authorities of the United States Capital Police, and for other purposes, with an amendment.

#### MEASURES REFERRED

The following bills were read the first and the second times by unanimous consent, and referred as indicated:

H.R. 1838. An act to amend the Small Business Act to modify certain provisions relating to women's business centers, and for other purposes; to the Committee on Small Business and Entrepreneurship.

H.R. 1845. An act to amend the Small Business Act to modernize Small Business Development Centers, and for other purposes; to the Committee on Small Business and Entrepreneurship.

H.R. 2868. To amend the Homeland Security Act of 2002 to enhance security and protect against acts of terrorism against chemical facilities, to amend the Safe Drinking Water Act to enhance the security of public water systems, and to amend the Federal Water Pollution Control Act to enhance the security of wastewater treatment works, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

H.R. 3737. An act to amend the Small Business Act to improve the Microloan Program, and for other purposes; to the Committee on Small Business and Entrepreneurship.

H.R. 3743. An act to amend the Small Business Act to improve the disaster relief programs of the Small Business Administration, and for other purposes; to the Committee on Small Business and Entrepreneurship.

H.R. 3788. An act to designate the facility of the United States Postal Service located at 3900 Darrow Road in Stow, Ohio, as the "Corporal Joseph A. Tomci Post Office Building"; to the Committee on Homeland Security and Governmental Affairs.

The following concurrent resolution was read, and referred as indicated:

H. Con. Res. 209. Concurrent resolution recognizing the 30th anniversary of the Iranian hostage crisis, during which 52 United States citizens were held hostage for 444 days from November 4, 1979, to January 20, 1981, and for

other purposes; to the Committee on Foreign Relations.

### INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. CORNYN (for himself and Mrs. HUTCHISON):

S. 2751. A bill to designate the Department of Veterans Affairs medical center in Big Spring, Texas, as the George H. O'Brien, Jr., Department of Veterans Medical Center; to the Committee on Veterans' Affairs.

By Mr. VITTER (for himself, Mrs. HUTCHISON, Mr. CORNYN, Mr. NELSON of Florida, Mr. LEMIEUX, and Ms. LANDRIEU):

S. 2752. A bill to ensure the sale and consumption of raw oysters and to direct the Food and Drug Administration to conduct an education campaign regarding the risks associated with consuming raw oysters, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mrs. HAGAN:

S. 2753. A bill to suspend temporarily the suspension of duty on RSD 1235; to the Committee on Finance.

By Mrs. GILLIBRAND:

S. 2754. A bill to amend the Internal Revenue Code of 1986 to encourage teachers to pursue teaching science, technology, engineering, and math subjects to elementary and secondary schools; to the Committee on Finance.

By Mr. MENENDEZ (for himself, Ms. STABENOW, Mr. BENNET, and Mrs. GILLIBRAND):

S. 2755. A bill to amend the Internal Revenue Code of 1986 to provide an investment credit for equipment used to fabricate solar energy property, and for other purposes; to the Committee on Finance.

By Mr. WARNER:

S. 2756. A bill to establish the Financial Services Systemic Risk Oversight Council, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. MENENDEZ (for himself, Mr. DURBIN, Mr. FEINGOLD, Mrs. GILLIBRAND, Mr. INOUE, and Ms. LANDRIEU):

S. 2757. A bill to authorize the adjustment of status for immediate family members of persons who served honorably in the Armed Forces of the United States during the Afghanistan and Iraq conflicts and for other purposes; to the Committee on the Judiciary.

By Ms. STABENOW (for herself, Mrs. GILLIBRAND, Mr. MERKLEY, Mr. SANDERS, Mrs. BOXER, Mr. BINGAMAN, and Mr. LEAHY):

S. 2758. A bill to amend the Agricultural Research, Extension, and Education Reform Act of 1998 to establish a national food safety training, education, extension, outreach, and technical assistance program for agricultural producers, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

### SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mrs. BOXER (for herself, Ms. COLLINS, Mrs. GILLIBRAND, Ms. STABENOW, Mrs. SHAHEEN, Mrs. LINCOLN, Mrs. HUTCHISON, Ms. LANDRIEU, Mrs. FEINSTEIN, Ms. SNOWE, Ms. MIKULSKI, and Mrs. McCASKILL):

S. Res. 345. A resolution deploring the rape and assault of women in Guinea and the killing of political protesters; to the Committee on Foreign Relations.

By Ms. SNOWE (for herself, Mr. KERRY, Mr. KIRK, Mr. REED, Mr. WHITEHOUSE, and Ms. CANTWELL):

S. Res. 346. A resolution expressing the sense of the Senate that, at the 21st Regular Meeting of the International Commission on the Conservation of Atlantic Tunas, the United States should seek to ensure management of the eastern Atlantic and Mediterranean bluefin tuna fishery adheres to the scientific advice provided by the Standing Committee on Research and Statistics and has a high probability of achieving the established rebuilding target, pursue strengthened protections for spawning bluefin populations in the Mediterranean Sea to facilitate the recovery of the Atlantic bluefin tuna, pursue imposition of more stringent measures to ensure compliance by all Members with the International Commission for the Conservation of Atlantic Tunas' conservation and management recommendations for Atlantic bluefin tuna and other species, and ensure that United States' quotas of tuna and swordfish are not reallocated to other nations, and for other purposes; considered and agreed to.

By Mr. SCHUMER (for himself and Mrs. GILLIBRAND):

S. Res. 347. A resolution congratulating the New York Yankees on winning the 2009 World Series; to the Committee on Commerce, Science, and Transportation.

By Mr. CASEY (for himself, Mr. WHITEHOUSE, Mr. SCHUMER, Mr. SPECTER, Mr. CARDIN, Mr. UDALL of Colorado, Mr. LAUTENBERG, Mr. BAYH, and Mr. BEGICH):

S. Res. 348. A resolution supporting the goals and ideals of Pancreatic Cancer Awareness Month; to the Committee on Health, Education, Labor, and Pensions.

### ADDITIONAL COSPONSORS

S. 182

At the request of Mr. DODD, the name of the Senator from Alaska (Mr. BEGICH) was added as a cosponsor of S. 182, a bill to amend the Fair Labor Standards Act of 1938 to provide more effective remedies to victims of discrimination in the payment of wages on the basis of sex, and for other purposes.

S. 461

At the request of Mrs. LINCOLN, the name of the Senator from Virginia (Mr. WEBB) was added as a cosponsor of S. 461, a bill to amend the Internal Revenue Code of 1986 to extend and modify the railroad track maintenance credit.

S. 492

At the request of Mr. JOHNSON, the name of the Senator from North Dakota (Mr. CONRAD) was added as a cosponsor of S. 492, a bill to amend the Social Security Act and the Internal Revenue Code of 1986 to exempt certain employment as a member of a local

governing board, commission, or committee from social security tax coverage.

S. 510

At the request of Mr. DURBIN, the name of the Senator from Utah (Mr. HATCH) was added as a cosponsor of S. 510, a bill to amend the Federal Food, Drug, and Cosmetic Act with respect to the safety of the food supply.

S. 611

At the request of Mr. LAUTENBERG, the name of the Senator from Connecticut (Mr. DODD) was added as a cosponsor of S. 611, a bill to provide for the reduction of adolescent pregnancy, HIV rates, and other sexually transmitted diseases, and for other purposes.

S. 619

At the request of Ms. SNOWE, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of S. 619, a bill to amend the Federal Food, Drug, and Cosmetic Act to preserve the effectiveness of medically important antibiotics used in the treatment of human and animal diseases.

S. 825

At the request of Mrs. LINCOLN, the name of the Senator from Michigan (Mr. LEVIN) was added as a cosponsor of S. 825, a bill to amend the Internal Revenue Code of 1986 to restore, increase, and make permanent the exclusion from gross income for amounts received under qualified group legal services plans.

S. 870

At the request of Mrs. LINCOLN, the name of the Senator from Idaho (Mr. CRAPO) was added as a cosponsor of S. 870, a bill to amend the Internal Revenue Code of 1986 to expand the credit for renewable electricity production to include electricity produced from biomass for on-site use and to modify the credit period for certain facilities producing electricity from open-loop biomass.

S. 1067

At the request of Mr. FEINGOLD, the name of the Senator from New Jersey (Mr. MENENDEZ) was added as a cosponsor of S. 1067, a bill to support stabilization and lasting peace in northern Uganda and areas affected by the Lord's Resistance Army through development of a regional strategy to support multilateral efforts to successfully protect civilians and eliminate the threat posed by the Lord's Resistance Army and to authorize funds for humanitarian relief and reconstruction, reconciliation, and transitional justice, and for other purposes.

S. 1147

At the request of Mr. KOHL, the name of the Senator from Virginia (Mr. WEBB) was added as a cosponsor of S. 1147, a bill to prevent tobacco smuggling, to ensure the collection of all tobacco taxes, and for other purposes.

S. 1160

At the request of Mr. SCHUMER, the name of the Senator from New Mexico

(Mr. BINGAMAN) was added as a cosponsor of S. 1160, a bill to provide housing assistance for very low-income veterans.

S. 1234

At the request of Mr. LIEBERMAN, the name of the Senator from Mississippi (Mr. WICKER) was added as a cosponsor of S. 1234, a bill to modify the prohibition on recognition by United States courts of certain rights relating to certain marks, trade names, or commercial names.

S. 1237

At the request of Mrs. MURRAY, the name of the Senator from Montana (Mr. BAUCUS) was added as a cosponsor of S. 1237, a bill to amend title 38, United States Code, to expand the grant program for homeless veterans with special needs to include male homeless veterans with minor dependents and to establish a grant program for reintegration of homeless women veterans and homeless veterans with children, and for other purposes.

S. 1311

At the request of Mr. WICKER, the name of the Senator from Louisiana (Mr. VITTER) was added as a cosponsor of S. 1311, a bill to amend the Federal Water Pollution Control Act to expand and strengthen cooperative efforts to monitor, restore, and protect the resource productivity, water quality, and marine ecosystems of the Gulf of Mexico.

S. 1382

At the request of Mr. DODD, the names of the Senator from Colorado (Mr. BENNET) and the Senator from Massachusetts (Mr. KIRK) were added as cosponsors of S. 1382, a bill to improve and expand the Peace Corps for the 21st century, and for other purposes.

S. 1518

At the request of Mr. BURR, the name of the Senator from West Virginia (Mr. BYRD) was added as a cosponsor of S. 1518, a bill to amend title 38, United States Code, to furnish hospital care, medical services, and nursing home care to veterans who were stationed at Camp Lejeune, North Carolina, while the water was contaminated at Camp Lejeune.

S. 1520

At the request of Mr. JOHNSON, the name of the Senator from New Mexico (Mr. UDALL) was added as a cosponsor of S. 1520, a bill to grant a Federal charter to the National American Indian Veterans, Incorporated.

S. 1553

At the request of Mr. GRASSLEY, the name of the Senator from Arkansas (Mrs. LINCOLN) was added as a cosponsor of S. 1553, a bill to require the Secretary of the Treasury to mint coins in commemoration of the National Future Farmers of America Organization and the 85th anniversary of the founding of the National Future Farmers of America Organization.

S. 1583

At the request of Mr. ROCKEFELLER, the name of the Senator from Massachusetts (Mr. KIRK) was added as a cosponsor of S. 1583, a bill to amend the Internal Revenue Code of 1986 to extend the new markets tax credit through 2014, and for other purposes.

S. 1584

At the request of Mr. MERKLEY, the name of the Senator from Delaware (Mr. KAUFMAN) was added as a cosponsor of S. 1584, a bill to prohibit employment discrimination on the basis of sexual orientation or gender identity.

S. 1598

At the request of Mr. SCHUMER, the name of the Senator from Ohio (Mr. BROWN) was added as a cosponsor of S. 1598, a bill to amend the National Child Protection Act of 1993 to establish a permanent background check system.

S. 1606

At the request of Mr. WHITEHOUSE, the name of the Senator from Ohio (Mr. BROWN) was added as a cosponsor of S. 1606, a bill to require foreign manufacturers of products imported into the United States to establish registered agents in the United States who are authorized to accept service of process against such manufacturers, and for other purposes.

S. 1628

At the request of Mr. UDALL of Colorado, the name of the Senator from Massachusetts (Mr. KIRK) was added as a cosponsor of S. 1628, a bill to amend title VII of the Public Health Service Act to increase the number of physicians who practice in underserved rural communities.

S. 1646

At the request of Mr. REED, the name of the Senator from Massachusetts (Mr. KIRK) was added as a cosponsor of S. 1646, a bill to keep Americans working by strengthening and expanding short-time compensation programs that provide employers with an alternative to layoffs.

S. 1660

At the request of Ms. KLOBUCHAR, the name of the Senator from Tennessee (Mr. ALEXANDER) was added as a cosponsor of S. 1660, a bill to amend the Toxic Substances Control Act to reduce the emissions of formaldehyde from composite wood products, and for other purposes.

S. 1668

At the request of Mr. BENNET, the name of the Senator from Minnesota (Ms. KLOBUCHAR) was added as a cosponsor of S. 1668, a bill to amend title 38, United States Code, to provide for the inclusion of certain active duty service in the reserve components as qualifying service for purposes of Post-9/11 Educational Assistance Program, and for other purposes.

S. 1730

At the request of Mr. FRANKEN, the names of the Senator from Michigan

(Ms. STABENOW) and the Senator from Vermont (Mr. LEAHY) were added as cosponsors of S. 1730, a bill to provide for minimum loss ratios for health insurance coverage.

S. 1739

At the request of Mr. DODD, the name of the Senator from New York (Mrs. GILLIBRAND) was added as a cosponsor of S. 1739, a bill to promote freedom of the press around the world.

S. 1834

At the request of Mr. AKAKA, the name of the Senator from Missouri (Mrs. MCCASKILL) was added as a cosponsor of S. 1834, a bill to amend the Animal Welfare Act to ensure that all dogs and cats used by research facilities are obtained legally.

S. 1927

At the request of Mr. REID, his name was added as a cosponsor of S. 1927, a bill to establish a moratorium on credit card interest rate increases, and for other purposes.

At the request of Mr. DODD, the name of the Senator from Massachusetts (Mr. KIRK) was added as a cosponsor of S. 1927, *supra*.

S. 1939

At the request of Mrs. GILLIBRAND, the names of the Senator from South Dakota (Mr. JOHNSON) and the Senator from West Virginia (Mr. BYRD) were added as cosponsors of S. 1939, a bill to amend title 38, United States Code, to clarify presumptions relating to the exposure of certain veterans who served in the vicinity of the Republic of Vietnam, and for other purposes.

S. 2097

At the request of Mr. THUNE, the name of the Senator from North Carolina (Mr. BURR) was added as a cosponsor of S. 2097, a bill to authorize the rededication of the District of Columbia War Memorial as a National and District of Columbia World War I Memorial to honor the sacrifices made by American veterans of World War I.

S. 2128

At the request of Mr. LEMIEUX, the names of the Senator from Tennessee (Mr. CORKER) and the Senator from Oklahoma (Mr. COBURN) were added as cosponsors of S. 2128, a bill to provide for the establishment of the Office of Deputy Secretary for Health Care Fraud Prevention.

S. RES. 210

At the request of Mrs. LINCOLN, the name of the Senator from North Dakota (Mr. DORGAN) was added as a cosponsor of S. Res. 210, a resolution designating the week beginning on November 9, 2009, as National School Psychology Week.

S. RES. 278

At the request of Mrs. GILLIBRAND, the name of the Senator from Connecticut (Mr. DODD) was added as a cosponsor of S. Res. 278, a resolution honoring the Hudson River School painters

for their contributions to the United States Senate.

S. RES. 340

At the request of Mr. CRAPO, the names of the Senator from Idaho (Mr. RISCH) and the Senator from Indiana (Mr. LUGAR) were added as cosponsors of S. Res. 340, a resolution expressing support for designation of a National Veterans History Project Week to encourage public participation in a nationwide project that collects and preserves the stories of the men and women who served our Nation in times of war and conflict.

At the request of Mr. ROCKEFELLER, his name was added as a cosponsor of S. Res. 340, *supra*.

AMENDMENT NO. 2733

At the request of Mr. JOHNSON, the names of the Senator from West Virginia (Mr. BYRD) and the Senator from California (Mrs. FEINSTEIN) were added as cosponsors of amendment No. 2733 proposed to H.R. 3082, a bill making appropriations for military construction, the Department of Veterans Affairs, and related agencies for the fiscal year ending September 30, 2010, and for other purposes.

AMENDMENT NO. 2737

At the request of Mr. UDALL of New Mexico, the name of the Senator from West Virginia (Mr. BYRD) was added as a cosponsor of amendment No. 2737 proposed to H.R. 3082, a bill making appropriations for military construction, the Department of Veterans Affairs, and related agencies for the fiscal year ending September 30, 2010, and for other purposes.

## SUBMITTED RESOLUTIONS

### SENATE RESOLUTION 345—DEPLORING THE RAPE AND ASSAULT OF WOMEN IN GUINEA AND THE KILLING OF POLITICAL PROTESTERS

Mrs. BOXER (for herself, Ms. COLLINS, Mrs. GILLIBRAND, Ms. STABENOW, Mrs. SHAHEEN, Mrs. LINCOLN, Mrs. HUTCHISON, Ms. LANDRIEU, Mrs. FEINSTEIN, Ms. SNOWE, Ms. MIKULSKI, and Mrs. MCCASKILL) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 345

Whereas, on December 23, 2008, a group of military officers calling itself the National Council for Democracy and Development (referred to in this preamble as the "CNDD") seized power in a coup in Guinea, installed as interim President Captain Moussa Dadis Camara, and promised to hold elections;

Whereas, on September 28, 2009, tens of thousands of unarmed opposition protesters met in and around an outdoor stadium to protest statements made by Captain Camara that he may run for president, after he said that he would not;

Whereas government security forces killed at least 157 demonstrators, after opening fire

on the crowd, and brutalized and raped dozens of women openly in public;

Whereas, according to Human Rights Watch, these killings and assaults were part of a "premeditated massacre" in which the "level, frequency, and brutality of sexual violence that took place at and after the protests strongly suggests that it was part of a systematic attempt to terrorize and humiliate the opposition, not just random acts by rogue soldiers";

Whereas, according to the humanitarian organization CARE, "What happened in Guinea is an outrage—and a stark reminder of a larger epidemic of violence against women and girls around the world.;"

Whereas members of the United Nations Security Council condemned "the violence that caused reportedly more than 150 deaths and hundreds of wounded and other blatant violations of human rights including rapes in public streets in broad day light, and violence that led to the arrest of opposition party leaders";

Whereas the United Nations High Commissioner for Human Rights characterized the events as a "blood bath" and stated that they "must not become part of the fabric of impunity that has enveloped Guinea for decades";

Whereas Amnesty International reports that violence against women knows few bounds, and that "in armed conflicts, countless women and girls are raped and sexually abused by security forces and opposition groups as an act of war, and often face additional violence in refugee camps. Government sponsored violence also exists in peacetime, with women assaulted while in police custody, in prison, and at the hands of any number of state actors." and that "violence against women is a violation of human rights that cannot be justified by any political, religious, or cultural claim"; and

Whereas, on October 16, 2009, United Nations Secretary-General Ban Ki-moon announced the creation of an international commission of inquiry to investigate the events: Now, therefore, be it

*Resolved*, That the Senate—

(1) deplores the rape and assault of women and the killing of political protestors in Guinea, and calls for an immediate cessation of violence, including gender-based violence and targeted killings by security forces;

(2) strongly supports efforts by the United Nations Security Council's commission of inquiry into the violence, and calls for Captain Moussa Dadis Camara and the National Council for Democracy and Development to abide by their pledge to cooperate with the commission;

(3) urges the identification and prosecution, by the appropriate authorities, of those responsible for orchestrating or carrying out the violence in Guinea;

(4) urges President Barack Obama, in coordination with leaders from the European Union and the African Union, to seriously consider punitive measures that could be taken against senior officials in Guinea found to be complicit in the violence, in particular the atrocities perpetrated against women and other gross human rights violations; and

(5) encourages President Obama to remain actively engaged in the political situation in Guinea, to continue to convey that the blatant abuse of women will not be tolerated, and to continue supporting the efforts of the appointed facilitator, President Blaise Compaore of Burkina Faso, to pave a way forward to credible elections.

SENATE RESOLUTION 346—EXPRESSING THE SENSE OF THE SENATE THAT, AT THE 21ST REGULAR MEETING OF THE INTERNATIONAL COMMISSION ON THE CONSERVATION OF ATLANTIC TUNAS, THE UNITED STATES SHOULD SEEK TO ENSURE MANAGEMENT OF THE EASTERN ATLANTIC AND MEDITERRANEAN BLUEFIN TUNA FISHERY ADHERES TO THE SCIENTIFIC ADVICE PROVIDED BY THE STANDING COMMITTEE ON RESEARCH AND STATISTICS AND HAS A HIGH PROBABILITY OF ACHIEVING THE ESTABLISHED REBUILDING TARGET, PURSUE STRENGTHENED PROTECTIONS FOR SPAWNING BLUEFIN POPULATIONS IN THE MEDITERRANEAN SEA TO FACILITATE THE RECOVERY OF THE ATLANTIC BLUEFIN TUNA, PURSUE IMPOSITION OF MORE STRINGENT MEASURES TO ENSURE COMPLIANCE BY ALL MEMBERS WITH THE INTERNATIONAL COMMISSION FOR THE CONSERVATION OF ATLANTIC TUNAS' CONSERVATION AND MANAGEMENT RECOMMENDATIONS FOR ATLANTIC BLUEFIN TUNA AND OTHER SPECIES, AND ENSURE THAT UNITED STATES' QUOTAS OF TUNA AND SWORDFISH ARE NOT REALLOCATED TO OTHER NATIONS, AND FOR OTHER PURPOSES

Ms. SNOWE (for herself, Mr. KERRY, Mr. KIRK, Mr. REED, Mr. WHITEHOUSE, and Ms. CANTWELL) submitted the following resolution; which was considered and agreed to:

S. RES. 346

Whereas Atlantic bluefin tuna and Atlantic swordfish are valuable historical commercial and recreational fisheries of the United States and many other countries;

Whereas the International Convention for the Conservation of Atlantic Tunas entered into force on March 21, 1969;

Whereas the Convention established the International Commission for the Conservation of Atlantic Tunas to coordinate international research and develop, implement, and enforce compliance of the conservation and management recommendations on the Atlantic bluefin tuna, Atlantic swordfish and other Atlantic highly migratory species in the Atlantic Ocean and the adjacent seas, including the Mediterranean Sea;

Whereas the United States has established for its fisheries a strict regime of conservation, management and compliance for Atlantic highly migratory species and protected living marine resources caught incidentally to such fisheries that is unmatched by other fishing nations;

Whereas the reallocation of United States quotas of Atlantic bluefin tuna and Atlantic swordfish to other nations will cause severe economic impacts, including a loss of United States jobs, and undermine the conservation of populations of protected living marine resources such as Atlantic billfish species, endangered sea turtles, sea birds and marine



mammals caught incidentally in the fisheries of other nations;

Whereas in 1974, the Commission adopted its first conservation and management recommendation to ensure the sustainability of Atlantic bluefin tuna throughout the Atlantic Ocean and Mediterranean Sea, while allowing for the maximum sustainable catch for food and other purposes;

Whereas in 1981, for management purposes, the Commission adopted a working hypothesis of 2 Atlantic bluefin stocks, with 1 occurring west of 45 degrees west longitude (hereinafter referred to as the "western Atlantic stock") and the other occurring east of 45 degrees west longitude (hereinafter referred to as the "eastern Atlantic and Mediterranean stock");

Whereas, despite scientific advice intended to prevent overfishing, rebuild and maintain bluefin tuna populations at levels that will permit the maximum sustainable yield, and ensure the future sustainability of the stocks, the total allowable catch quotas have consistently been set at levels significantly higher than the recommended levels for the eastern Atlantic and Mediterranean stock;

Whereas despite the establishment by the Commission of minimum sizes for Atlantic bluefin tuna with which the United States has fully complied, the Standing Committee on Research and Statistics has repeatedly expressed grave concerns that the flagrant lack of compliance with such size limits by Members fishing in the eastern Atlantic and Mediterranean is seriously undermining the effectiveness of the Commission's bluefin tuna recovery plans;

Whereas despite the ongoing establishment by the Commission of fishing quotas for the eastern Atlantic and Mediterranean bluefin tuna fishery that surpass scientific recommendations, compliance with such quotas by parties to the Convention that harvest that stock has been extremely poor, with harvests exceeding the scientific advice by more than 50 percent in recent years as reported by the Standing Committee on Research and Statistics and other independent sources monitoring the fishery;

Whereas insufficient data reporting in combination with unreliable national catch statistics resulting from inadequate or nonexistent catch monitoring and observer programs has frequently undermined efforts by the Commission to determine the levels of overharvests by specific countries;

Whereas the failure of many Commission members fishing for eastern Atlantic and Mediterranean bluefin tuna east of 45 degrees west longitude to comply with other Commission recommendations to conserve and control the overfished eastern Atlantic and Mediterranean bluefin tuna stock has been an ongoing problem;

Whereas it is widely recognized that some fishing vessels, in particular those participating in illegal, unregulated, and unreported fishing, have little incentive to cease these infractions due to a lack of adequate sanctions;

Whereas the Commission's Standing Committee on Research and Statistics noted in its 2008 stock assessment that the fishing mortality rate for the eastern Atlantic and Mediterranean stock was more than 3 times the level that would permit the stock to stabilize at the maximum sustainable catch level and that unless fishing mortality rates are substantially reduced in the near future, further reduction in spawning stock biomass is likely to occur leading to a risk of fisheries and stock collapse;

Whereas the Commission's Standing Committee on Research and Statistics has recommended that the annual harvest levels for eastern Atlantic and Mediterranean bluefin tuna be reduced to levels between 15,000 and 8,500 metric tons to halt the decline of the resource and initiate rebuilding, and indicated that a total allowable catch of 8,500 has a higher probability of rebuilding the stock within the Commission's established time frame;

Whereas in 2006, the Commission adopted the "Recommendation by ICCAT to Establish a Multi-Annual Recovery Plan for Bluefin Tuna in the eastern Atlantic and Mediterranean" (Recommendation 06-05), which was amended in 2008, containing a wide range of management, monitoring, and control measures designed to facilitate the recovery of the eastern Atlantic and Mediterranean bluefin tuna stock by the year 2023;

Whereas the Recovery Plan is inadequate and allows overfishing and stock decline to continue, and continuing information and repeated warnings by the Standing Committee on Research and Statistics indicate that current implementation of the plan is unlikely to achieve its goals;

Whereas the Principality of Monaco has submitted a petition to list Atlantic bluefin tuna under Appendix I of the Convention on International Trade in Endangered Species of Fauna and Flora, and while the United States did not cosponsor this petition, the Administration has expressed its support for this petition unless the Commission "adopts significantly strengthened management and compliance measures" for countries fishing on the eastern Atlantic and Mediterranean bluefin tuna stock;

Whereas since 1981, the Commission has adopted additional and more restrictive conservation and management recommendations for the western Atlantic bluefin tuna stock, including a closure to directed fishing in the spawning grounds of the Gulf of Mexico, and these recommendations have been fully implemented by Nations fishing west of 45 degrees west longitude;

Whereas despite adopting, fully implementing, and complying with a science-based rebuilding program for the western Atlantic bluefin tuna stock by countries fishing west of 45 degrees west longitude, catches and catch rates remain very low, especially for the United States;

Whereas scientific evidence now provides indisputable evidence from electronic tagging studies and other scientific research that mixing of the eastern and western Atlantic bluefin tuna stocks occurs throughout the Atlantic ocean on feeding and fishing grounds, and the poor management and non-compliance with the Commission's Recovery Plan for the eastern Atlantic stock is having an adverse impact on the western Atlantic stock and United States fisheries;

Whereas additional research on stock mixing will improve the understanding of the relationship between eastern and western bluefin tuna stocks, which will assist in the conservation, recovery, and management of the species throughout its range;

Whereas a 2008 Independent Review of the Commission concluded that the Commission's management of bluefin tuna in the eastern Atlantic and Mediterranean has been "widely regarded as an international disgrace": Now, therefore, be it

*Resolved*, That it is the sense of the Senate that the United States delegation to the 21st Regular Meeting of the International Commission for the Conservation of Atlantic Tunas, should—

(1) seek the adoption of all revisions to the Recovery Plan for eastern Atlantic and Med-

iterranean bluefin tuna that will conform the Plan to the scientific advice provided by the Standing Committee on Research and Statistics and has a high probability of achieving the established rebuilding target within the established time frame, including a strict penalty regime and other appropriate mechanisms to verify and ensure compliance;

(2) seek to expand time and area closures of spawning areas in the Mediterranean in full conformity with the scientific advice provided by the Standing Committee on Research and Statistics;

(3) pursue the continued aggressive review and assessment by the Commission's Committee on Compliance of compliance with conservation and management measures, including data collection and reporting requirements, adopted by the Commission and in effect for the 2009 eastern Atlantic and Mediterranean bluefin tuna fishery, occurring east of 45 degrees west longitude, and other fisheries that are subject to the jurisdiction of the Commission;

(4) aggressively seek to address noncompliance with such measures by all parties to the Convention through all appropriate actions;

(5) pursue the commitment by the Commission and its parties to fund additional research on both the western Atlantic and eastern Atlantic and Mediterranean bluefin tuna stocks including but not limited to the extent to which the stocks mix; and

(6) strenuously defend the interests of United States with regard to Atlantic bluefin tuna, Atlantic swordfish, and other species managed by the Commission, including the protection of U.S. quota shares.

#### SENATE RESOLUTION 347—CONGRATULATING THE NEW YORK YANKEES ON WINNING THE 2009 WORLD SERIES

Mr. SCHUMER (for himself and Mrs. GILLIBRAND) submitted the following resolution; which was referred to the Committee on Commerce, Science, and Transportation:

##### S. RES. 347

Whereas on November 4, 2009, the New York Yankees won the 2009 World Series with a 7-3 victory over the Philadelphia Phillies in Game 6 of the series;

Whereas the Philadelphia Phillies deserve great credit for their remarkable performance in 2009, during both the regular season and the playoffs;

Whereas the New York Yankees are the winningest franchise in the history of professional sports;

Whereas the New York Yankees have won 27 World Series titles, the most by any Major League Baseball franchise;

Whereas the New York Yankees have played for 96 seasons in the city of New York;

Whereas the New York Yankees' dominance was ignited in 1920 with the appearance of the indomitable Babe Ruth in pinstripes;

Whereas the New York Yankees have fielded historic teams, including the famed "Murderers' Row" in 1927;

Whereas the New York Yankees became an iconic baseball franchise during the 1950's by winning 5 World Series titles in a row;

Whereas the New York Yankees won their first championship in 1923, the year that the original Yankee Stadium opened, and won their 27th championship in 2009, the year that the new Yankee Stadium opened;



Whereas the New York Yankees have had a player win the American League batting title 9 times;

Whereas the New York Yankees have retired 16 uniform numbers for 17 baseball legends;

Whereas the New York Yankees are represented in the National Baseball Hall of Fame by 26 players, each of whom was inducted wearing the distinctive New York Yankees cap;

Whereas George Steinbrenner purchased the New York Yankees in 1973 and returned the team to prominence by winning 7 World Series championships under his direction;

Whereas in 2009, the New York Yankees won a total of 114 games and claimed the American League East Division title, the American League championship, and the World Series championship;

Whereas the New York Yankees were led by manager Joe Girardi, future Hall of Famer Derek Jeter and Mariano Rivera, who both continued their legacies of postseason excellence, and Hideki Matsui, the first Japanese-born player to win the World Series Most Valuable Player Award; and

Whereas the New York Yankees are the model franchise in sports for meeting the high standards that they have set for themselves: Now, therefore, be it

*Resolved*, That the Senate—

(1) congratulates the New York Yankees on winning the 2009 World Series; and

(2) recognizes and honors the New York Yankees for—

(A) their storied history;

(B) their many contributions to the national pastime of baseball; and

(C) continuing to carry the standards of character, commitment, and achievement for baseball and the State of New York.

#### SENATE RESOLUTION 348—SUPPORTING THE GOALS AND IDEALS OF PANCREATIC CANCER AWARENESS MONTH

Mr. CASEY (for himself; Mr. WHITEHOUSE, Mr. SCHUMER, Mr. SPECTER, Mr. CARDIN, Mr. UDALL of Colorado, Mr. LAUTENBERG, Mr. BAYH, and Mr. BEGICH) submitted the following resolution; which was referred to the Committee on Health, Education, Labor, and Pensions:

##### S. RES. 348

Whereas approximately 42,470 people will be diagnosed with pancreatic cancer this year in the United States;

Whereas pancreatic cancer is the fourth most common cause of cancer death in the United States and the tenth most commonly diagnosed cancer;

Whereas 76 percent of pancreatic cancer patients die within the first year of their diagnosis and only 5 percent survive more than 5 years, making pancreatic cancer the deadliest form of any major cancer;

Whereas the number of new pancreatic cancer cases is projected to increase by 12 percent this year and by 55 percent by 2030;

Whereas there has been no significant improvement in survival rates for pancreatic cancer during the last 30 years;

Whereas there are no early detection methods and minimal treatment options for pancreatic cancer;

Whereas the symptoms of pancreatic cancer generally present themselves too late for an optimistic prognosis, and the average sur-

vival rate of individuals diagnosed with metastatic pancreatic cancer is only 3 to 6 months;

Whereas the incidence rate of pancreatic cancer is 50 percent higher for African-Americans than for other ethnic groups; and

Whereas it would be appropriate to observe November 2009 as Pancreatic Cancer Awareness Month to educate communities across the Nation about pancreatic cancer and the need for research funding, early detection methods, effective treatments, and treatment programs: Now, therefore, be it

*Resolved*, That the Senate supports the goals and ideals of Pancreatic Cancer Awareness Month.

#### AMENDMENTS SUBMITTED AND PROPOSED

SA 2746. Mr. FEINGOLD submitted an amendment intended to be proposed to amendment SA 2730 proposed by Mr. JOHNSON (for himself and Mrs. HUTCHISON) to the bill H.R. 3082, making appropriations for military construction, the Department of Veterans Affairs, and related agencies for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table.

SA 2747. Mr. FEINGOLD submitted an amendment intended to be proposed to amendment SA 2730 proposed by Mr. JOHNSON (for himself and Mrs. HUTCHISON) to the bill H.R. 3082, supra; which was ordered to lie on the table.

SA 2748. Mr. FEINGOLD (for himself, Mr. SANDERS, and Mr. SCHUMER) submitted an amendment intended to be proposed to amendment SA 2730 proposed by Mr. JOHNSON (for himself and Mrs. HUTCHISON) to the bill H.R. 3082, supra; which was ordered to lie on the table.

SA 2749. Mr. BINGAMAN (for himself and Mr. UDALL, of New Mexico) submitted an amendment intended to be proposed to amendment SA 2730 proposed by Mr. JOHNSON (for himself and Mrs. HUTCHISON) to the bill H.R. 3082, supra; which was ordered to lie on the table.

SA 2750. Ms. MIKULSKI (for herself and Mr. GRASSLEY) submitted an amendment intended to be proposed by her to the bill H.R. 3082, supra; which was ordered to lie on the table.

SA 2751. Mr. COCHRAN submitted an amendment intended to be proposed to amendment SA 2730 proposed by Mr. JOHNSON (for himself and Mrs. HUTCHISON) to the bill H.R. 3082, supra; which was ordered to lie on the table.

SA 2752. Mr. JOHANNIS (for himself and Mr. BENNETT) submitted an amendment intended to be proposed to amendment SA 2730 proposed by Mr. JOHNSON (for himself and Mrs. HUTCHISON) to the bill H.R. 3082, supra; which was ordered to lie on the table.

SA 2753. Mr. JOHNSON (for himself and Mrs. HUTCHISON) submitted an amendment intended to be proposed to amendment SA 2730 proposed by Mr. JOHNSON (for himself and Mrs. HUTCHISON) to the bill H.R. 3082, supra; which was ordered to lie on the table.

SA 2754. Mr. INOUE (for himself, Mr. COCHRAN, and Mr. JOHNSON) submitted an amendment intended to be proposed to amendment SA 2730 proposed by Mr. JOHNSON (for himself and Mrs. HUTCHISON) to the bill H.R. 3082, supra.

SA 2755. Mr. LEVIN submitted an amendment intended to be proposed to amendment SA 2730 proposed by Mr. JOHNSON (for himself and Mrs. HUTCHISON) to the bill H.R. 3082, supra; which was ordered to lie on the table.

SA 2756. Mr. WEBB submitted an amendment intended to be proposed to amendment SA 2730 proposed by Mr. JOHNSON (for himself and Mrs. HUTCHISON) to the bill H.R. 3082, supra; which was ordered to lie on the table.

SA 2757. Mr. COBURN submitted an amendment intended to be proposed to amendment SA 2730 proposed by Mr. JOHNSON (for himself and Mrs. HUTCHISON) to the bill H.R. 3082, supra.

SA 2758. Mr. INHOFE (for himself, Mr. BROWNBACK, Mr. CORNYN, Mr. HATCH, Mr. KYL, Mr. THUNE, Mr. VITTER, Mr. DEMINT, Mr. ENZI, Mr. ROBERTS, and Mr. BENNETT) submitted an amendment intended to be proposed to amendment SA 2730 proposed by Mr. JOHNSON (for himself and Mrs. HUTCHISON) to the bill H.R. 3082, supra; which was ordered to lie on the table.

SA 2759. Mr. DURBIN submitted an amendment intended to be proposed to amendment SA 2730 proposed by Mr. JOHNSON (for himself and Mrs. HUTCHISON) to the bill H.R. 3082, supra.

SA 2760. Mr. DURBIN submitted an amendment intended to be proposed to amendment SA 2730 proposed by Mr. JOHNSON (for himself and Mrs. HUTCHISON) to the bill H.R. 3082, supra.

SA 2761. Ms. MIKULSKI submitted an amendment intended to be proposed to amendment SA 2730 proposed by Mr. JOHNSON (for himself and Mrs. HUTCHISON) to the bill H.R. 3082, supra; which was ordered to lie on the table.

SA 2762. Mrs. GILLIBRAND submitted an amendment intended to be proposed to amendment SA 2730 proposed by Mr. JOHNSON (for himself and Mrs. HUTCHISON) to the bill H.R. 3082, supra; which was ordered to lie on the table.

SA 2763. Mr. COCHRAN submitted an amendment intended to be proposed to amendment SA 2730 proposed by Mr. JOHNSON (for himself and Mrs. HUTCHISON) to the bill H.R. 3082, supra; which was ordered to lie on the table.

SA 2764. Ms. KLOBUCHAR submitted an amendment intended to be proposed to amendment SA 2730 proposed by Mr. JOHNSON (for himself and Mrs. HUTCHISON) to the bill H.R. 3082, supra; which was ordered to lie on the table.

SA 2765. Ms. KLOBUCHAR submitted an amendment intended to be proposed to amendment SA 2730 proposed by Mr. JOHNSON (for himself and Mrs. HUTCHISON) to the bill H.R. 3082, supra; which was ordered to lie on the table.

SA 2766. Mrs. FEINSTEIN submitted an amendment intended to be proposed to amendment SA 2730 proposed by Mr. JOHNSON (for himself and Mrs. HUTCHISON) to the bill H.R. 3082, supra; which was ordered to lie on the table.

SA 2767. Mr. McCAIN submitted an amendment intended to be proposed to amendment SA 2735 submitted by Mr. INOUE (for himself, Mr. COCHRAN, and Mr. JOHNSON) and intended to be proposed to the amendment SA 2730 proposed by Mr. JOHNSON (for himself and Mrs. HUTCHISON) to the bill H.R. 3082, supra; which was ordered to lie on the table.

SA 2768. Mr. REID (for Mr. LIEBERMAN) proposed an amendment to the bill S. 1825, to extend the authority for relocation expenses test programs for Federal employees, and for other purposes.

SA 2769. Mr. REID (for Mr. DODD) proposed an amendment to the resolution S. Res. 312, expressing the sense of the Senate on empowering and strengthening the United States Agency for International Development (USAID).

SA 2770. Mr. REID (for Mr. DODD) proposed an amendment to the resolution S. Res. 312, supra.

#### TEXT OF AMENDMENTS

**SA 2746.** Mr. FEINGOLD submitted an amendment intended to be proposed to amendment SA 2730 proposed by Mr. JOHNSON (for himself and Mrs. HUTCHISON) to the bill H.R. 3082, making appropriations for military construction, the Department of Veterans Affairs, and related agencies to the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table; as follows:

On page 27, between lines 3 and 4, insert the following:

SEC. 128. (a) During each of fiscal years 2010 through 2014, the Secretary of Defense shall submit to the congressional defense committees a report analyzing alternative designs for any major construction projects requested in that fiscal year related to the security of strategic nuclear weapons facilities.

(b) The report shall examine, with regard to each alternative—

(1) the costs, including full life cycle costs; and

(2) the benefits, including security enhancements.

**SA 2747.** Mr. FEINGOLD submitted an amendment intended to be proposed to amendment SA 2730 proposed by Mr. JOHNSON (for himself and Mrs. HUTCHISON) to the bill H.R. 3082, making appropriations for military construction, the Department of Veterans Affairs, and related agencies for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table; as follows:

On page 52, after line 21, add the following:

SEC. 229. (a) CAMPUS OUTREACH AND SERVICES FOR MENTAL HEALTH AND NEUROLOGICAL CONDITIONS.—Of the amounts appropriated or otherwise made available by this title, \$5,000,000 shall be available for readjustment counseling and related mental health services under section 1712A of title 38, United States Code, to conduct outreach to and provide services at institutions of higher education to ensure that veterans enrolled in programs of education at such institutions have information on and access to care and services for neurological and psychological issues.

(b) SUPPLEMENT NOT SUPPLANT.—The amount described in subsection (a) for the purposes described in such subsection is in addition to amounts otherwise appropriated or made available for readjustment counseling and related mental health services under such section 1712A.

**SA 2748.** Mr. FEINGOLD (for himself, Mr. SANDERS, and Mr. SCHUMER) submitted an amendment intended to be proposed to amendment SA 2730 proposed by Mr. JOHNSON (for himself and Mrs. HUTCHISON) to the bill H.R. 3082, making appropriations for military construction, the Department of Veterans Affairs, and related agencies for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table; as follows:

On page 52, after line 21, add the following:

SEC. 229. Of the amounts appropriated or otherwise made available by this title, the Secretary shall award \$5,000,000 in competitively-awarded grants to community-based organizations and State and local government entities with a demonstrated record of serving veterans to conduct outreach to ensure that veterans in under-served areas receive the care and benefits for which they are eligible.

**SA 2749.** Mr. BINGAMAN (for himself and Mr. UDALL of New Mexico) submitted an amendment intended to be proposed to amendment SA 2730 proposed by Mr. JOHNSON (for himself and Mrs. HUTCHISON) to the bill H.R. 3082, making appropriations for military construction, the Department of Veterans Affairs, and related agencies for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table; as follows:

On page 27, between lines 3 and 4, insert the following:

SEC. 128. (a)(1) The amount appropriated or otherwise made available by this title under the heading “MILITARY CONSTRUCTION, AIR FORCE” is hereby increased by \$37,500,000.

(2) Of the amount appropriated or otherwise made available by this title under the heading “MILITARY CONSTRUCTION, AIR FORCE”, as increased by paragraph (1), \$37,500,000 shall be available for construction of an Unmanned Aerial System Field Training Complex at Holloman Air Force Base, New Mexico.

(b) Of the amount appropriated or otherwise made available by title I of the Military Construction and Veterans Affairs Appropriations Act, 2009 (division E of Public Law 110-329; 122 Stat. 3692) under the heading “MILITARY CONSTRUCTION, AIR FORCE” and available for the purpose of Unmanned Aerial System Field Training facilities construction, \$38,500,000 is hereby rescinded.

**SA 2750.** Ms. MIKULSKI (for herself and Mr. GRASSLEY) submitted an amendment intended to be proposed by her to the bill H.R. 3082, making appropriations for military construction, the Department of Veterans Affairs, and related agencies for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

#### SEC. \_\_\_\_ . ADMISSION OF NONIMMIGRANT NURSES.

(a) 1-YEAR EXTENSION FOR ADMISSION OF NONIMMIGRANT NURSES IN HEALTH PROFESSIONAL SHORTAGE AREAS.—Section 2(e)(2) of the Nursing Relief for Disadvantaged Areas Act of 1999 (8 U.S.C. 1182 note) is amended by striking “3 years” and inserting “4 years”.

(b) NURSE SHORTAGE FEE.—Section 212(m)(2) of the Immigration and Nationality Act (8 U.S.C. 1182(m)(2)) is amended by adding at the end the following:

“(G)(i) In addition to the fee authorized under subparagraph (F), the Secretary of Labor shall impose a filing fee of \$1,000 on each petitioning employer who uses a visa under subparagraph (A).

“(ii) Fees collected under this subparagraph shall be deposited as offsetting receipts in a fund established in the Treasury of the United States to support the Nurse

Faculty Loan Program authorized under section 846A of the Public Health Service Act (42 U.S.C. 297n-1).

“(iii) No fee shall be imposed for the use of such visas if the employer demonstrates to the Secretary that the employer is a health care facility that has been designated as a Health Professional Shortage Area facility by the Secretary of Health and Human Services under section 332 of the Public Health Service Act (42 U.S.C. 254e)”.

**SA 2751.** Mr. COCHRAN submitted an amendment intended to be proposed to amendment SA 2730 proposed by Mr. JOHNSON (for himself and Mrs. HUTCHISON) to the bill H.R. 3082, making appropriations for military construction, the Department of Veterans Affairs, and related agencies for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table; as follows:

On page 4, line 6, after the date, insert the following:

Of which \$9,800,000 shall be for an Aircraft Fuel Systems Maintenance Dock at Columbus AFB, Mississippi

**SA 2752.** Mr. JOHANNIS submitted an amendment intended to be proposed to amendment SA 2730 proposed by Mr. JOHNSON (for himself and Mrs. HUTCHISON) to the bill H.R. 3082, making appropriations for military construction, the Department of Veterans Affairs, and related agencies for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table; as follows:

On page 60, after line 24, insert the following:

SEC. 6 \_\_\_\_ . None of the funds made available under this Act may be distributed to the Association of Community Organizations for Reform Now (ACORN) or its subsidiaries.

**SA 2753.** Mr. JOHNSON (for himself and Mrs. HUTCHISON) submitted an amendment intended to be proposed to amendment SA 2730 proposed by Mr. JOHNSON (for himself and Mrs. HUTCHISON) to the bill H.R. 3082, making appropriations for military construction, the Department of Veterans Affairs, and related agencies for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table; as follows:

On page 56, between lines 9 and 10, insert the following:

#### ADMINISTRATIVE PROVISION

SEC. 401. (a)(1) The amount appropriated or otherwise made available by this title under the heading “MILITARY CONSTRUCTION, ARMY” and available for a dining hall project at Forward Operating Base Dwyer is hereby increased by \$4,400,000.

(2) The amount appropriated or otherwise made available by this title under the heading “MILITARY CONSTRUCTION, ARMY” and available for a dining hall project at Forward Operating Base Maywand is hereby reduced by \$4,400,000.

(b)(1) The amount appropriated or otherwise made available by this title under the heading “MILITARY CONSTRUCTION, ARMY” and available for a dining hall project at Forward Operating Base Wolverine is hereby increased by \$2,150,000.

(2) The amount appropriated or otherwise made available by this title under the heading "MILITARY CONSTRUCTION, ARMY" and available for a dining hall project at Forward Operating Base Tarin Kowt is hereby reduced by \$2,150,000.

**SA 2754.** Mr. INOUE (for himself, Mr. COCHRAN, and Mr. JOHNSON) submitted an amendment intended to be proposed to amendment SA 2730 proposed by Mr. JOHNSON (for himself and Mrs. HUTCHISON) to the bill H.R. 3082, making appropriations for military construction, the Department of Veterans Affairs, and related agencies for the fiscal year ending September 30, 2010, and for other purposes; as follows:

On page 27, between lines 3 and 4, insert the following:

SEC. 128. (a)(1) The amount appropriated or otherwise made available by this title under the heading "MILITARY CONSTRUCTION, DEFENSE-WIDE" is hereby increased by \$68,500,000, with the amount of such increase to remain available until September 30, 2014.

(2) Of the amount appropriated or otherwise made available by this title under the heading "MILITARY CONSTRUCTION, DEFENSE-WIDE", as increased by paragraph (1), \$68,500,000 shall be available for the construction of an Aegis Ashore Test Facility at the Pacific Missile Range Facility, Hawaii. Notwithstanding any other provision of law, such funds may be obligated and expended to carry out planning and design and construction not otherwise authorized by law.

(b) Of the amount appropriated or otherwise made available by title I of the Military Construction and Veterans Affairs Appropriations Act, 2009 (division E of Public Law 110-329; 122 Stat. 3692) under the heading "MILITARY CONSTRUCTION, DEFENSE-WIDE" and available for the purpose of European Ballistic Missile Defense program construction, \$69,500,000 is hereby rescinded.

**SA 2755.** Mr. LEVIN submitted an amendment intended to be proposed to amendment SA 2730 proposed by Mr. JOHNSON (for himself and Mrs. HUTCHISON) to the bill H.R. 3082, making appropriations for military construction, the Department of Veterans Affairs, and related agencies for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table; as follows:

On page 60, after line 24, add the following:

SEC. 608. Of the amounts appropriated for the Edward Byrne Memorial Justice Assistance Grant Program under subpart 1 of part E of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3750 et seq.) under the heading "STATE AND LOCAL LAW ENFORCEMENT ASSISTANCE" under the heading "OFFICE OF JUSTICE PROGRAMS" under the heading "STATE AND LOCAL LAW ENFORCEMENT ACTIVITIES" under title II of the Omnibus Appropriations Act, 2009 (Public Law 111-8; 123 Stat. 579), at the discretion of the Attorney General, the amounts to be made available to Genesee County, Michigan for assistance for individuals transitioning from prison in Genesee County, Michigan pursuant to the joint statement of managers accompanying that Act may be made available to My Brother's Keeper of Genesee County, Michigan to provide assistance for individuals transitioning from prison in Genesee County, Michigan.

**SA 2756.** Mr. WEBB submitted an amendment intended to be proposed to amendment SA 2730 proposed by Mr. JOHNSON (for himself and Mrs. HUTCHISON) to the bill H.R. 3082, making appropriations for military construction, the Department of Veterans Affairs, and related agencies for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table; as follows:

On page 60, after line 24, add the following:

SEC. 608. At the discretion of the Attorney General, amounts appropriated under the heading "COMMUNITY ORIENTED POLICING SERVICES" under the heading "OFFICE OF JUSTICE PROGRAMS" under title II of division B of the Omnibus Appropriations Act, 2009 (Public Law 111-8; 123 Stat. 583) for law enforcement technologies and interoperable communications for Southside Virginia law enforcement for technology upgrades may be available to the sheriffs' offices of Pennsylvania, Cumberland, Bedford, Henry, Brunswick, Campbell, and Greene counties in Virginia and the Sheriff's Office of the City of Martinsville, Virginia for law enforcement technology.

**SA 2757.** Mr. COBURN submitted an amendment intended to be proposed to amendment SA 2730 proposed by Mr. JOHNSON (for himself and Mrs. HUTCHISON) to the bill H.R. 3082, making appropriations for military construction, the Department of Veterans Affairs, and related agencies for the fiscal year ending September 30, 2010, and for other purposes; as follows:

At the appropriate place, insert the following:

SEC. \_\_\_\_\_. (a) Notwithstanding any other provision of this Act and except as provided in subsection (b), any report required to be submitted by a Federal agency or department to the Committee on Appropriations of either the Senate or the House of Representatives in this Act shall be posted on the public website of that agency upon receipt by the committee.

(b) Subsection (a) shall not apply to a report if—

(1) the public posting of the report compromises national security; or

(2) the report contains proprietary information.

**SA 2758.** Mr. INHOFE (for himself, Mr. BROWNBACK, Mr. CORNYN, Mr. HATCH, Mr. KYL, Mr. THUNE, Mr. VITTER, Mr. DEMINT, Mr. ENZI, and Mr. ROBERTS) submitted an amendment intended to be proposed to amendment SA 2730 proposed by Mr. JOHNSON (for himself and Mrs. HUTCHISON) to the bill H.R. 3082, making appropriations for military construction, the Department of Veterans Affairs, and related agencies for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table; as follows:

On page 60, after line 24, add the following:

SEC. 608. (a) None of the funds appropriated or otherwise made available by this Act or any prior Act may be used to construct or modify a facility or facilities in the United States or its territories to permanently or temporarily hold any individual who was de-

tained as of October 1, 2009, at Naval Station, Guantanamo Bay, Cuba.

(b) In this section, the term "United States" means the several States and the District of Columbia.

**SA 2759.** Mr. DURBIN submitted an amendment intended to be proposed to amendment SA 2730 proposed by Mr. JOHNSON (for himself and Mrs. HUTCHISON) to the bill H.R. 3082, making appropriations for military construction, the Department of Veterans Affairs, and related agencies for the fiscal year ending September 30, 2010, and for other purposes; as follows:

On page 52, after line 21, add the following:

SEC. 229. (a)(1)(A) Of the amount made available by this title for the Veterans Health Administration under the heading "MEDICAL SERVICES", \$1,500,000 shall be available to allow the Secretary of Veterans Affairs to offer incentives to qualified health care providers working in underserved rural areas designated by the Veterans Health Administration, in addition to amounts otherwise available for other pay and incentives.

(B) Health care providers shall be eligible for incentives pursuant to this paragraph only for the period of time that they serve in designated areas.

(2)(A) Of the amount made available by this title for the Veterans Health Administration under the heading "MEDICAL SUPPORT AND COMPLIANCE", \$1,500,000 shall be available to allow the Secretary of Veterans Affairs to offer incentives to qualified health care administrators working in underserved rural areas designated by the Veterans Health Administration, in addition to amounts otherwise available for other pay and incentives.

(B) Health care administrators shall be eligible for incentives pursuant to this paragraph only for the period of time that they serve in designated areas.

(b) Not later than March 31, 2010, the Secretary of Veterans Affairs shall submit to the Committees on Veterans' Affairs and Appropriations of the Senate and the House of Representatives a report detailing the number of new employees receiving incentives under the pilot program established pursuant to this section, describing the potential for retaining those employees, and explaining the structure of the program.

**SA 2760.** Mr. DURBIN submitted an amendment intended to be proposed to amendment SA 2730 proposed by Mr. JOHNSON (for himself and Mrs. HUTCHISON) to the bill H.R. 3082, making appropriations for military construction, the Department of Veterans Affairs, and related agencies for the fiscal year ending September 30, 2010, and for other purposes; as follows:

At the end of title II, add the following:

SEC. 229. (a) NAMING OF HEALTH CARE CENTER.—Effective October 1, 2010, the North Chicago Veterans Affairs Medical Center located in Lake County, Illinois, shall be known and designated as the "Captain James A. Lovell Federal Health Care Center".

(b) REFERENCES.—Any reference to the medical center referred to in subsection (a) in any law, regulation, map, document, record, or other paper of the United States shall be considered to be a reference to the Captain James A. Lovell Federal Health Care Center.

**SA 2761.** Ms. MIKULSKI submitted an amendment intended to be proposed to amendment SA 2730 proposed by Mr. JOHNSON (for himself and Mrs. HUTCHISON) to the bill H.R. 3082, making appropriations for military construction, the Department of Veterans Affairs, and related agencies for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title II, add the following:

SEC. 229. (a) FUNDING FOR WHITE HOUSE COMMISSION ON THE NATIONAL MOMENT OF REMEMBRANCE.—Of the amount appropriated or otherwise made available by this title under the heading “DEPARTMENTAL ADMINISTRATION” under the heading “GENERAL OPERATING EXPENSES”, \$200,000 shall be available for the White House Commission on the National Moment of Remembrance established by section 5 of the National Moment of Remembrance Act (36 U.S.C. 116 note) for activities under that Act.

(b) SENSE OF SENATE.—It is the sense of the Senate that the budget of the President for each fiscal year after fiscal year 2010 should include a specific request for funds for the White House Commission on the National Moment of Remembrance for activities under that Act during such fiscal year.

**SA 2762.** Mrs. GILLIBRAND submitted an amendment intended to be proposed to amendment SA 2730 proposed by Mr. JOHNSON (for himself and Mrs. HUTCHISON) to the bill H.R. 3082, making appropriations for military construction, the Department of Veterans Affairs, and related agencies for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title II, add the following:

SEC. 229. (a) REPORT ON PLANS FOR EXAMINING ASSOCIATION BETWEEN DISEASES IN CHILDREN AND EXPOSURE OF PARENTS TO HERBICIDE AGENTS USED IN MILITARY OPERATIONS IN VIETNAM.—Not later than six months after the date of the enactment of this Act, the Secretary of Veterans Affairs shall submit to the Committee on Veterans' Affairs of the Senate and the Committee on Veterans' Affairs of the House of Representatives a report on the plans of the Department of Veterans Affairs to examine the association between diseases in children and the exposure of their parents to herbicides used in support of military operations in Vietnam.

(b) ELEMENTS.—The report required by subsection (a) shall include the following:

(1) A description of current efforts of the Department of Veterans Affairs to examine the association between diseases in children and the exposure of their parents to herbicides used in support of military operations in Vietnam.

(2) A plan for a study by the Department to examine potential associations between diseases in children and the exposure of their parents to herbicides used in support of military operations in Vietnam, including a plan to—

(A) review current scientific literature on such associations and identify any gaps in scientific knowledge regarding such associations.

(B) carry out actions to address any gaps identified under subparagraph (A).

(3) A statement of the agencies, organizations, or entities with which the Department

will carry out review and actions set forth under paragraph (2).

(4) A statement of the estimated cost of the study described in paragraph (2).

**SA 2763.** Mr. COCHRAN submitted an amendment intended to be proposed to amendment SA 2730 proposed by Mr. JOHNSON (for himself and Mrs. HUTCHISON) to the bill H.R. 3082, making appropriations for military construction, the Department of Veterans Affairs, and related agencies for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title II, add the following:

SEC. 229. (a) MODIFICATION ON RESTRICTION OF ALIENATION OF CERTAIN REAL PROPERTY IN GULFPORT, MISSISSIPPI.—Section 2703(b) of the Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Hurricane Recovery, 2006 (Public Law 109-234; 120 Stat. 469), as amended by section 231 of the Military Construction and Veterans Affairs and Related Agencies Appropriations Act, 2009 (division E of Public Law 110-329; 122 Stat. 3713), is further amended by inserting after “the City of Gulfport” the following: “, or its urban renewal agency.”.

(b) MEMORIALIZATION OF MODIFICATION.—The Secretary of Veterans Affairs shall take appropriate actions to modify the quitclaim deeds executed to effectuate the conveyance authorized by section 2703 of the Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Hurricane Recovery, 2006 in order to accurately reflect and memorialize the amendment made by subsection (a).

**SA 2764.** Ms. KLOBUCHAR submitted an amendment intended to be proposed to amendment SA 2730 proposed by Mr. JOHNSON (for himself and Mrs. HUTCHISON) to the bill H.R. 3082, making appropriations for military construction, the Department of Veterans Affairs, and related agencies for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table; as follows:

On page 52, after line 21, add the following:

SEC. 229. (a) STUDY ON IMPROVEMENTS TO INFORMATION TECHNOLOGY INFRASTRUCTURE NEEDED TO FURNISH HEALTH CARE SERVICES TO VETERANS USING TELEHEALTH PLATFORMS.—The Secretary of Veterans Affairs shall carry out a study to identify the improvements to the information technology infrastructure of the Department of Veterans Affairs that are required to furnish health care services to veterans using telehealth platforms.

(b) AVAILABILITY OF FUNDS.—The amounts appropriated or otherwise made available by this title under the headings “DEPARTMENTAL ADMINISTRATION” and “INFORMATION TECHNOLOGY SYSTEMS” shall be available to the Secretary of Veterans Affairs to carry out the study required by subsection (a).

**SA 2765.** Ms. KLOBUCHAR submitted an amendment intended to be proposed to amendment SA 2730 proposed by Mr. JOHNSON (for himself and Mrs. HUTCHISON) to the bill H.R. 3082, making appropriations for military construction, the Department of Veterans Affairs, and related agencies for the fis-

cal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table; as follows:

On page 60, after line 24, add the following:

SEC. 608. (a) ADDITIONAL AMOUNT FOR FINANCIAL ASSISTANCE TO FACILITATE FURNISHING OF LEGAL ASSISTANCE TO VETERANS.—The amount appropriated by title III under the heading “UNITED STATES COURT OF APPEALS FOR VETERANS CLAIMS” is hereby increased by \$1,000,000, with the amount of the increase to be available for the provision of financial assistance as described under that heading.

(b) OFFSET.—The amount appropriated or otherwise made available by title III under the heading “AMERICAN BATTLE MONUMENTS COMMISSION” is hereby decreased by \$1,000,000.

**SA 2766.** Mrs. FEINSTEIN submitted an amendment intended to be proposed to amendment SA 2730 proposed by Mr. JOHNSON (for himself and Mrs. HUTCHISON) to the bill H.R. 3082, making appropriations for military construction, the Department of Veterans Affairs, and related agencies for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table; as follows:

On page 60, after line 24, add the following:

SEC. 608. CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE ARMED FORCES.

(a) IN GENERAL.—Section 1259 of title 28, United States Code, is amended—

(1) in paragraph (3), by inserting “or denied” after “granted”; and

(2) in paragraph (4), by inserting “or denied” after “granted”.

(b) TECHNICAL AND CONFORMING AMENDMENT.—Section 867a(a) of title 10, United States Code, is amended by striking “The Supreme Court may not review by a writ of certiorari under this section any action of the Court of Appeals for the Armed Forces in refusing to grant a petition for review.”.

**SA 2767.** Mr. MCCAIN submitted an amendment intended to be proposed to amendment SA 2735 submitted by Mr. INOUE (for himself, Mr. COCHRAN, and Mr. JOHNSON) and intended to be proposed to the amendment SA 2730 proposed by Mr. JOHNSON (for himself and Mrs. HUTCHISON) to the bill H.R. 3082, making appropriations for military construction, the Department of Veterans Affairs, and related agencies for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table; as follows:

On page 2 of the amendment, beginning on line 8, strike “Notwithstanding” and all that follows through line 11.

**SA 2768.** Mr. REID (for Mr. LIEBERMAN) proposed an amendment to the bill S. 1825, to extend the authority for relocation expenses test programs for Federal employees, and for other purposes; as follows:

On page 3, line 5, strike “October 31, 2009” and insert “December 18, 2009”.

**SA 2769.** Mr. REID (for Mr. DODD) proposed an amendment to the resolution S. Res. 312, expressing the sense of

the Senate on empowering and strengthening the United States Agency for International Development (USAID); as follows:

Strike all after the resolving clause and insert the following:

That it is the sense of the Senate that—

(1) a highly capable and knowledgeable individual should be nominated with all expediency and exigency to serve as the Administrator of the United States Agency for International Development;

(2) the Administrator should—

(A) serve as the chief advocate for United States development capacity and strategy in top-level national security deliberations;

(B) serve as a powerful advocate and effective leader of an empowered USAID; and

(C) marshal the resources, knowledge, capacity, and experiences of USAID—

(i) to effectively represent USAID in inter-agency debate and in advancing and executing foreign policy; and

(ii) to improve ultimately the effectiveness and capability of United States foreign assistance;

(3) USAID must be empowered to be the primary development agency of the United States, and the Administrator must serve as the principal advisor to the President and national security organs of the United States Government on the capacity and strategy of United States development assistance;

(4) the Administrator should substantially and transparently increase the total number of full-time Foreign Service Officers employed by USAID, in part by reducing the reliance on outside contractor personnel, in order to enhance the ability of the agency to—

(A) carry out development activities around the world by providing USAID with additional human resources and expertise needed to meet important development and humanitarian needs around the world;

(B) strengthen the institutional capacity of USAID as the lead development agency of the United States; and

(C) more effectively help developing nations to become more stable, healthy, democratic, prosperous, and self-sufficient; and

(5) the Administrator should submit a strategy to Congress that includes—

(A) a plan to create a professional training program that will provide new and current Agency employees with technical, management, leadership, and language skills;

(B) a 5-year staffing plan;

(C) a description of further resources and statutory changes necessary to implement the proposed training and staffing plans; and

(D) a plan to address fraud and corruption in United States development assistance and procedures to safeguard United States foreign assistance funds from going to persons or organizations that advocate or engage in acts of international terrorism.

**SA 2770.** Mr. REID (for Mr. DODD) proposed an amendment to the resolution S. Res. 312, expressing the sense of the Senate on empowering and strengthening the United States Agency for International Development (USAID); as follows:

Strike the eighth whereas clause of the preamble.

In the tenth whereas clause of the preamble, strike “all aid programs are administered by Federal agencies other than USAID, and development funding” and insert “all foreign assistance programs are adminis-

tered by Federal agencies other than USAID, and funding for such programs”.

#### NOTICE OF HEARING

##### COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BINGAMAN. Mr. President, I would like to announce for the information of the Senate and the public that a hearing has been scheduled before the Senate Committee on Energy and Natural Resources. The hearing will be held on Tuesday, November 17, 2009, at 10 a.m. in room SD-366 of the Dirksen Senate Office Building.

The purpose of this hearing is to explore the international aspects of global climate change.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record may do so by sending it to the Committee on Energy and Natural Resources, United States Senate, Washington, D.C. 20510-6150, or by e-mail to Gina\_Weinstock@energy.senate.gov.

For further information, please contact Jonathan Black at (202) 224-6722 or Gina Weinstock at (202) 224-5684.

#### AUTHORITY FOR COMMITTEES TO MEET

##### SUBCOMMITTEE ON WATER AND WILDLIFE

Mr. DURBIN. Mr. President, I ask unanimous consent that the Subcommittee on Water and Wildlife of the Committee on Environment and Public Works be authorized to meet during the session of the Senate on November 9, 2009, at 3 p.m. in room 406 of the Dirksen Senate Office Building.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### PRIVILEGES OF THE FLOOR

Mr. REID. Mr. President, I ask unanimous consent, on behalf of Senator DODD, that CPT Lindsay George, a fellow in his office, be granted the privilege of the floor for the consideration of H.R. 3082.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

#### ORDER OF BUSINESS

Mr. REID. Madam President, we have worked all day to try to come up with some agreement with the Republicans to move forward on the Military Construction bill. We are hopeful tomorrow that we can do that. Today we have been unsuccessful. We have been unsuccessful, of course, in getting an agreement to move forward on the package of bills dealing with veterans. We will continue to work on a finite list of amendments remaining to the

Military Construction and Veterans Affairs Appropriations bill.

In view of the memorial service in Texas, there will be no rollcall votes tomorrow. We have tried to be more definite. I have had a number of Senators who have said they would go if there were no votes. I could not earlier today give them any indication that there would be no votes, but I think at this stage, with the memorial service in Texas taking place and a number of Senators wanting to go, we will have no votes tomorrow. There was some consideration that we would do it after they get back, but we have Veterans Day the next day, so we are going to have no votes until next Monday, a week from today. We will continue to work on the health care legislation and other things that are going to make that week prior to Thanksgiving extremely eventful.

The regular caucus lunch will be held tomorrow, the Democratic lunch at the usual location. President Clinton will be at that lunch to talk to us about health care and certainly he is someone who knows a lot about health care. The Democratic Members are encouraged to attend the caucus luncheon tomorrow. As we know, it starts at 12:30.

#### EXECUTIVE SESSION

##### EXECUTIVE CALENDAR

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider Calendar No. 530, the nomination of David Gompert, to be Principal Deputy Director of National Intelligence; that the nomination be confirmed, and the motion to reconsider be laid upon the table; that no further motions be in order; that any statements relating to the nomination be printed in the RECORD; and that the President be immediately notified of the Senate's action, and the Senate resume legislative session.

The PRESIDING OFFICER (Mr. MERKLEY). Is there objection?

Without objection, it is so ordered.

The nomination considered and confirmed is as follows:

##### OFFICE OF THE DIRECTOR OF NATIONAL INTELLIGENCE

David C. Gompert, of Virginia, to be Principal Deputy Director of National Intelligence.

Mrs. FEINSTEIN. Mr. President, I support the nomination of Mr. David C. Gompert to be the Principal Deputy Director of National Intelligence and urge my colleagues to support this nomination. The Senate Select Committee on Intelligence unanimously approved Mr. Gompert's nomination by voice vote on October 29.

The Principal Deputy DNI is an extremely important position that has two main responsibilities: 1: to assist

the DNI, and 2: to act on behalf of the DNI in his absence or due to a vacancy in the position.

The Director of National Intelligence, Admiral Blair, has made clear to me and to the committee his strong desire to have Mr. Gompert in place to carry out his duties. In fact, Director Blair's predecessor, Admiral Mike McConnell, told the Committee when he was in office that carrying out the DNI function requires a strong and able deputy, and that a lengthy vacancy in the PD-DNI positions was a major problem during his tenure.

Mr. Gompert has made clear that he will assist Director Blair by serving as the lead intelligence official in many policymaking areas, including the numerous National Security Council meetings in which intelligence assessments play a key role.

He will also have an important role to play in assuring that the National Intelligence Program, which was recently disclosed to account for \$49.8 billion in fiscal year 2009, is managed well and provides to the American public the intelligence capability required to keep the nation safe and its policymakers well informed.

Especially given Mr. Gompert's role in the private sector, the committee will look to him to import and insist on strong management practices to reign in troubled acquisitions, improve information sharing, and help run our intelligence apparatus as a true community and not just a collection of agencies.

If confirmed, Mr. Gompert will be the third principal deputy DNI since Congress created the position in 2004. As I mentioned previously, the position has been unfilled for much of the time, so I am pleased that the President has nominated Mr. Gompert and I am also pleased he will be confirmed quickly.

Mr. Gompert was nominated by President Obama on August 6, 2009—the day before Congress broke for the August Recess. After going through the pre-hearing procedures, the Senate Intelligence Committee held a confirmation hearing on the nomination on October 13, 2009. As part of the confirmation process, Mr. Gompert was asked to complete a committee questionnaire, pre-hearing questions, and post-hearing questions for the record. The answers provided by Mr. Gompert have all been posted to our committee website.

From my meeting with Mr. Gompert and based on his answers to the questions put to him by members of the Intelligence Committee, I can say that Mr. Gompert has proven that he will be an excellent addition to help the Office of the Director of National Intelligence carry out all of its important responsibilities and to make continued reforms. His responses to our questions have been thoughtful and thorough.

Mr. Gompert has almost 40 years of experience as a national security pro-

fessional and information technology company executive. He has also served as a national security analyst in senior White House and State Department positions.

Most recently, Mr. Gompert has worked in the Office of the Director of National Intelligence—ODNI—on a short-term assignment to evaluate how the ODNI's mission managers are working in practice. In that informal role, Mr. Gompert worked to identify what additional measures can be taken to facilitate mission management and other forms of cross-agency teaming of analysts and intelligence collectors.

Before his service at the ODNI, Mr. Gompert was a Senior Fellow at the RAND Corporation. Prior to this he was Distinguished Research Professor at the Center for Technology and National Security Policy at the National Defense University.

In 2003 he was a senior advisor for National Security and Defense to the Coalition Provisional Authority in Iraq.

He has also been on the faculty of the RAND Pardee Graduate School, the United States Naval Academy, and the National Defense University.

Mr. Gompert served as President of RAND Europe from 2000 to 2003, during which period he was on the RAND Europe Executive Board and the chairman of RAND Europe-UK. He was vice president of RAND and director of the National Defense Research Institute from 1993 to 2000.

From 1990 to 1993, Mr. Gompert served as special assistant to President George H. W. Bush and senior director for Europe and Eurasia on the National Security Council staff. He has held a number of positions at the State Department, including deputy to the Under Secretary for Political Affairs, 1982-83; deputy assistant secretary for European Affairs, 1981-82; deputy director of the Bureau of Political-Military Affairs, 1977-81; and special assistant to Secretary of State Henry Kissinger, 1973-75.

Mr. Gompert worked as an executive in the private sector from 1983-1990, when he held executive positions at Unisys and at AT&T.

At Unisys, 1989-90, he was president of the Systems Management Group and vice president for Strategic Planning and Corporate Development. At AT&T, 1983-1989, he was vice president, civil sales and programs, and director of international market planning.

Mr. Gompert holds a Bachelor of Science degree in engineering from the United States Naval Academy and a Master of Public Affairs degree from the Woodrow Wilson School, Princeton University.

In sum, Mr. Gompert will be an asset to the Intelligence Community because he has worked at the intersection of intelligence and policy for much of his career.

His background has provided good management experience and a unique

perspective on how to address the challenges lying ahead for the Intelligence Community.

I look forward to the Senate approving Mr. Gompert's nomination and I yield the Floor.

#### LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will resume legislative session.

#### THE CALENDAR

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of the following postal naming bills en bloc: Calendar Nos. 198 through 207: H.R. 955, H.R. 1516, H.R. 1713, H.R. 2004, H.R. 2215, H.R. 2760, H.R. 2972, H.R. 3119, H.R. 3386, and H.R. 3547.

There being no objection, the Senate proceeded to consider the bills en bloc.

Mr. REID. Mr. President, I will make a brief comment. I had the good fortune of serving with Wes Watkins, a Member of the House of Representatives from Oklahoma. It is a very good thing that there is going to be a building named after him.

Finally, Rex Lee was my neighbor when I first came back to Congress. His son and my boy Josh were best friends. They still are. Rex Lee was one of America's all-time great legal minds. He argued numerous cases before the U.S. Supreme Court. He was stricken as a young man with an incurable type of cancer and died at a much too early age. He was first dean of the BYU Law School and then president of BYU. His No. 1 qualification was his legal mind, which was outstanding, and he had such a wonderful family. I think that is wonderful that there is going to be a building named after Rex Lee in Provo, UT. He deserves that.

Mr. HATCH. Mr. President, I rise today to pay tribute to Rex E. Lee, a man whose legacy we recognize today by renaming the post office in Provo, UT in his honor. Supreme Court Justice Sandra Day O'Connor captured my own feelings about Rex when she said:

Knowing him [Rex] was one of the greatest privileges of my life. Remembering him will be one of the easiest.

Graduating first in his class from the University of Chicago Law School in 1963, Rex went on to serve as a law clerk for Byron White on the U.S. Supreme Court. Then, just 4 years out of law school, Rex argued his first case before the Supreme Court in 1967, and went on in 1972 to become the Founding Dean of the J. Reuben Clark Law School at Brigham Young University.

In addition to serving as an Assistant Attorney General in charge of the Civil Division at the Department of Justice in the middle of the 1970s, Rex served as the Solicitor General of the United States from 1981 to 1985. In fact, over the span of his life, Rex argued 59 cases



before the Supreme Court of the United States and his record as the Solicitor General is impressive. Never one to rest, Rex was then named as the 10th president of Brigham Young University in 1989, where he served thousands of students, faculty, and administrators faithfully for over 6 years. As a man, Rex is someone I respected; as a dedicated husband, father, and friend, Rex is someone who is deeply missed.

Anyone who had the privilege of knowing Rex, as I did, well remembers his stellar service to his community, our State, and to the Nation as a whole. Long after his passing, his influence still lingers and is keenly felt everywhere from the classrooms at BYU to the corridors of our government's most revered institutions. Renaming the Provo Post Office in Rex's honor befits a public servant of his stature, and I am pleased to support this legislation in the Senate to honor Rex's legacy.

In short, Rex Lee was a great man and I am proud to see the Provo Post Office named after him. There are thousands of Utahns throughout the State who join me in celebrating this man's great life with this fitting tribute.

Mr. REID. I ask unanimous consent that the bills be read the third time and passed en bloc; that the motions to reconsider be laid upon the table en bloc; and that any statements related to these bills be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### JOHN "BUD" HAWK POST OFFICE

The bill (H.R. 955) to designate the facility of the United States Postal Service located at 10355 Northeast Valley Road in Rollingbay, Washington, as the "John 'Bud' Hawk Post Office," was ordered to a third reading, read the third time, and passed.

#### SERGEANT MARCUS MATHES POST OFFICE

The bill (H.R. 1516) to designate the facility of the United States Postal Service located at 37926 Church Street in Dade City, Florida, as the "Sergeant Marcus Mathes Post Office," was ordered to a third reading, read the third time, and passed.

#### CONGRESSMAN WESLEY "WES" WATKINS POST OFFICE

The bill (H.R. 1713) to name the South Central Agricultural Research Laboratory of the Department of Agriculture in Lane, Oklahoma, and the facility of the United States Postal Service located at 310 North Perry Street in Bennington, Oklahoma, in honor of former Congressman Wesley "Wes" Watkins was ordered to a third reading, read the third time, and passed.

#### AKRON VETERANS MEMORIAL POST OFFICE

The bill (H.R. 2004) to designate the facility of the United States Postal Service located at 4282 Beach Street in Akron, Michigan, as the "Akron Veterans Memorial Post Office," was ordered to a third reading, read the third time, and passed.

#### JOHN J. SHIVNEN POST OFFICE BUILDING

The bill (H.R. 2215) to designate the facility of the United States Postal Service located at 140 Merriman Road in Garden City, Michigan, as the "John J. Shiven Post Office Building," was ordered to a third reading, read the third time, and passed.

#### JOHNNY GRANT HOLLYWOOD POST OFFICE BUILDING

The bill (H.R. 2760) to designate the facility of the United States Postal Service located at 1615 North Wilcox Avenue in Los Angeles, California, as the "Johnny Grant Hollywood Post Office Building," was ordered to a third reading, read the third time, and passed.

#### CONRAD DEROUEN, JR. POST OFFICE

The bill (H.R. 2972) to designate the facility of the United States Postal Service located at 115 West Edward Street in Erath, Louisiana, as the "Conrad DeRouen, Jr. Post Office," was ordered to a third reading, read the third time, and passed.

#### LIM POON LEE POST OFFICE

The bill (H.R. 3119) to designate the facility of the United States Postal Service located at 867 Stockton Street in San Francisco, California, as the "Lim Poon Lee Post Office," was ordered to a third reading, read the third time, and passed.

#### IRAQ AND AFGHANISTAN VETERANS MEMORIAL POST OFFICE

The bill (H.R. 3386) to designate the facility of the United States Postal Service located at 1165 2nd Avenue in Des Moines, Iowa, as the "Iraq and Afghanistan Veterans Memorial Post Office," was ordered to a third reading, read the third time, and passed.

#### REX E. LEE POST OFFICE BUILDING

The bill (H.R. 3547) to designate the facility of the United States Postal Service located at 936 South 250 East in Provo, Utah, as the "Rex E. Lee Post Office Building," was ordered to a third

reading, read the third time, and passed.

#### EXTENDING AUTHORITY FOR RELOCATION EXPENSES

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 196, S. 1825.

The PRESIDING OFFICER. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (S. 1825) to extend the authority for relocation expenses test programs for Federal employees, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. REID. Mr. President, I ask unanimous consent that the Lieberman amendment, which is at the desk, be agreed to, the bill, as amended, be read a third time, passed, the motions to reconsider be laid upon the table, with no intervening action or debate, and that any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 2768) was agreed to, as follows:

(Purpose: To modify the effective date)

On page 3, line 5, strike "October 31, 2009" and insert "December 18, 2009".

The bill (S. 1825), as amended, was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 1825

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. RELOCATION EXPENSES TEST PROGRAMS.

(a) IN GENERAL.—Section 5739 of title 5, United States Code, is amended—

(1) in subsection (a), by striking paragraph (3);

(2) in subsection (b)—

(A) by inserting "or extended" after "approved"; and

(B) by inserting "or extension" after "of the program";

(3) by striking subsection (c) and inserting the following:

"(c)(1) An agency authorized to conduct a test program under subsection (a) shall annually submit a report on the results of the program to date to the Administrator.

"(2) Not later than 3 months after completion of a test program, the agency conducting the program shall submit a final report on the results of the program to the Administrator and the appropriate committees of Congress.";

(4) in subsection (d), by striking "10" and inserting "12"; and

(5) by striking subsection (e) and inserting the following:

"(e)(1) The Administrator may not approve any test program for an initial period of more than 4 years.

"(2)(A) Upon the request of the agency administering a test program, the Administrator may extend the program.

"(B) An extension under subparagraph (A) may not exceed 4 years.



“(C) The Administrator may exercise more than 1 extension under subparagraph (A) with respect to any test program.”.

(b) **EFFECTIVE DATE.**—This section shall take effect on December 18, 2009.

#### EMPOWERING AND STRENGTHENING THE UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT

Mr. REID. Mr. President, I ask unanimous consent that the Foreign Relations Committee be discharged from further consideration of S. Res. 312.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 312) expressing the sense of the Senate on empowering and strengthening the United States Agency for International Development (USAID).

There being no objection, the Senate proceeded to consider the resolution.

Mr. REID. Mr. President, I ask unanimous consent that a Dodd amendment to the resolution be agreed to; that the resolution, as amended, be agreed to; that a Dodd amendment to the preamble be agreed to; that the preamble, as amended, be agreed to; that the motions to reconsider be laid upon the table, with no intervening action or debate; and that any statements relating to the resolution be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 2769) was agreed to, as follows:

Strike all after the resolving clause and insert the following:

That it is the sense of the Senate that—

(1) a highly capable and knowledgeable individual should be nominated with all expediency and exigency to serve as the Administrator of the United States Agency for International Development;

(2) the Administrator should—

(A) serve as the chief advocate for United States development capacity and strategy in top-level national security deliberations;

(B) serve as a powerful advocate and effective leader of an empowered USAID; and

(C) marshal the resources, knowledge, capacity, and experiences of USAID—

(i) to effectively represent USAID in inter-agency debate and in advancing and executing foreign policy; and

(ii) to improve ultimately the effectiveness and capability of United States foreign assistance;

(3) USAID must be empowered to be the primary development agency of the United States, and the Administrator must serve as the principal advisor to the President and national security organs of the United States Government on the capacity and strategy of United States development assistance;

(4) the Administrator should substantially and transparently increase the total number of full-time Foreign Service Officers employed by USAID, in part by reducing the reliance on outside contractor personnel, in order to enhance the ability of the agency to—

(A) carry out development activities around the world by providing USAID with additional human resources and expertise needed to meet important development and humanitarian needs around the world;

(B) strengthen the institutional capacity of USAID as the lead development agency of the United States; and

(C) more effectively help developing nations to become more stable, healthy, democratic, prosperous, and self-sufficient; and

(5) the Administrator should submit a strategy to Congress that includes—

(A) a plan to create a professional training program that will provide new and current Agency employees with technical, management, leadership, and language skills;

(B) a 5-year staffing plan;

(C) a description of further resources and statutory changes necessary to implement the proposed training and staffing plans; and

(D) a plan to address fraud and corruption in United States development assistance and procedures to safeguard United States foreign assistance funds from going to persons or organizations that advocate or engage in acts of international terrorism.

The resolution (S. Res. 312), as amended, was agreed to.

The amendment (No. 2770) was agreed to, as follows:

Strike the eighth whereas clause of the preamble.

In the tenth whereas clause of the preamble, strike “all aid programs are administered by Federal agencies other than USAID, and development funding” and insert “all foreign assistance programs are administered by Federal agencies other than USAID, and funding for such programs”.

The preamble, as amended, was agreed to.

The resolution, as amended, with its preamble, as amended, reads as follows:

(The resolution will be printed in a future edition of the RECORD.)

#### MANAGEMENT OF BLUEFIN TUNA

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of S. Res. 346.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 346) expressing the sense of the Senate that, at the 21st Regular Meeting of the International Commission on the Conservation of Atlantic Tunas, the United States should seek to ensure management of the eastern Atlantic and Mediterranean bluefin tuna fishery adheres to the scientific advice provided by the Standing Committee on Research and Statistics and has a high probability of achieving the established rebuilding target, pursue strengthened protections for spawning bluefin populations in the Mediterranean Sea to facilitate the recovery of the Atlantic bluefin tuna, pursue imposition of more stringent measures to ensure compliance by all Members with the International Commission for the Conservation of Atlantic Tunas' conservation and management recommendations for Atlantic bluefin tuna and other species, and ensure that the United States' quotas of tuna and swordfish are not reallocated to other nations, and for other purposes.

There being no objection, the Senate proceeded to consider the resolution.

Mr. REID. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 346) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

#### S. RES. 346

Whereas Atlantic bluefin tuna and Atlantic swordfish are valuable historical commercial and recreational fisheries of the United States and many other countries;

Whereas the International Convention for the Conservation of Atlantic Tunas entered into force on March 21, 1969;

Whereas the Convention established the International Commission for the Conservation of Atlantic Tunas to coordinate international research and develop, implement, and enforce compliance of the conservation and management recommendations on the Atlantic bluefin tuna, Atlantic swordfish and other Atlantic highly migratory species in the Atlantic Ocean and the adjacent seas, including the Mediterranean Sea;

Whereas the United States has established for its fisheries a strict regime of conservation, management and compliance for Atlantic highly migratory species and protected living marine resources caught incidentally to such fisheries that is unmatched by other fishing nations;

Whereas the reallocation of United States quotas of Atlantic bluefin tuna and Atlantic swordfish to other nations will cause severe economic impacts, including a loss of United States jobs, and undermine the conservation of populations of protected living marine resources such as Atlantic billfish species, endangered sea turtles, sea birds and marine mammals caught incidentally in the fisheries of other nations;

Whereas in 1974, the Commission adopted its first conservation and management recommendation to ensure the sustainability of Atlantic bluefin tuna throughout the Atlantic Ocean and Mediterranean Sea, while allowing for the maximum sustainable catch for food and other purposes;

Whereas in 1981, for management purposes, the Commission adopted a working hypothesis of 2 Atlantic bluefin stocks, with 1 occurring west of 45 degrees west longitude (hereinafter referred to as the “western Atlantic stock”) and the other occurring east of 45 degrees west longitude (hereinafter referred to as the “eastern Atlantic and Mediterranean stock”);

Whereas, despite scientific advice intended to prevent overfishing, rebuild and maintain bluefin tuna populations at levels that will permit the maximum sustainable yield, and ensure the future sustainability of the stocks, the total allowable catch quotas have consistently been set at levels significantly higher than the recommended levels for the eastern Atlantic and Mediterranean stock;

Whereas despite the establishment by the Commission of minimum sizes for Atlantic bluefin tuna with which the United States has fully complied, the Standing Committee on Research and Statistics has repeatedly expressed grave concerns that the flagrant lack of compliance with such size limits by Members fishing in the eastern Atlantic and Mediterranean is seriously undermining the effectiveness of the Commission's bluefin tuna recovery plans;

Whereas despite the ongoing establishment by the Commission of fishing quotas for the eastern Atlantic and Mediterranean bluefin tuna fishery that surpass scientific recommendations, compliance with such quotas by parties to the Convention that harvest that stock has been extremely poor, with harvests exceeding the scientific advice by more than 50 percent in recent years as reported by the Standing Committee on Research and Statistics and other independent sources monitoring the fishery;

Whereas insufficient data reporting in combination with unreliable national catch statistics resulting from inadequate or nonexistent catch monitoring and observer programs has frequently undermined efforts by the Commission to determine the levels of overharvests by specific countries;

Whereas the failure of many Commission members fishing for eastern Atlantic and Mediterranean bluefin tuna east of 45 degrees west longitude to comply with other Commission recommendations to conserve and control the overfished eastern Atlantic and Mediterranean bluefin tuna stock has been an ongoing problem;

Whereas it is widely recognized that some fishing vessels, in particular those participating in illegal, unregulated, and unreported fishing, have little incentive to cease these infractions due to a lack of adequate sanctions;

Whereas the Commission's Standing Committee on Research and Statistics noted in its 2008 stock assessment that the fishing mortality rate for the eastern Atlantic and Mediterranean stock was more than 3 times the level that would permit the stock to stabilize at the maximum sustainable catch level and that unless fishing mortality rates are substantially reduced in the near future, further reduction in spawning stock biomass is likely to occur leading to a risk of fisheries and stock collapse;

Whereas the Commission's Standing Committee on Research and Statistics has recommended that the annual harvest levels for eastern Atlantic and Mediterranean bluefin tuna be reduced to levels between 15,000 and 8,500 metric tons to halt the decline of the resource and initiate rebuilding, and indicated that a total allowable catch of 8,500 has a higher probability of rebuilding the stock within the Commission's established time frame;

Whereas in 2006, the Commission adopted the "Recommendation by ICCAT to Establish a Multi-Annual Recovery Plan for Bluefin Tuna in the eastern Atlantic and Mediterranean" (Recommendation 06-05), which was amended in 2008, containing a wide range of management, monitoring, and control measures designed to facilitate the recovery of the eastern Atlantic and Mediterranean bluefin tuna stock by the year 2023;

Whereas the Recovery Plan is inadequate and allows overfishing and stock decline to continue, and continuing information and repeated warnings by the Standing Committee on Research and Statistics indicate that current implementation of the plan is unlikely to achieve its goals;

Whereas the Principality of Monaco has submitted a petition to list Atlantic bluefin tuna under Appendix I of the Convention on International Trade in Endangered Species of Fauna and Flora, and while the United States did not cosponsor this petition, the Administration has expressed its support for this petition unless the Commission "adopts significantly strengthened management and compliance measures" for countries fishing

on the eastern Atlantic and Mediterranean bluefin tuna stock;

Whereas since 1981, the Commission has adopted additional and more restrictive conservation and management recommendations for the western Atlantic bluefin tuna stock, including a closure to directed fishing in the spawning grounds of the Gulf of Mexico, and these recommendations have been fully implemented by Nations fishing west of 45 degrees west longitude;

Whereas despite adopting, fully implementing, and complying with a science-based rebuilding program for the western Atlantic bluefin tuna stock by countries fishing west of 45 degrees west longitude, catches and catch rates remain very low, especially for the United States;

Whereas scientific evidence now provides indisputable evidence from electronic tagging studies and other scientific research that mixing of the eastern and western Atlantic bluefin tuna stocks occurs throughout the Atlantic ocean on feeding and fishing grounds, and the poor management and non-compliance with the Commission's Recovery Plan for the eastern Atlantic stock is having an adverse impact on the western Atlantic stock and United States fisheries;

Whereas additional research on stock mixing will improve the understanding of the relationship between eastern and western bluefin tuna stocks, which will assist in the conservation, recovery, and management of the species throughout its range;

Whereas a 2008 Independent Review of the Commission concluded that the Commission's management of bluefin tuna in the eastern Atlantic and Mediterranean has been "widely regarded as an international disgrace": Now, therefore, be it

*Resolved*, That it is the sense of the Senate that the United States delegation to the 21st Regular Meeting of the International Commission for the Conservation of Atlantic Tunas, should—

(1) seek the adoption of all revisions to the Recovery Plan for eastern Atlantic and Mediterranean bluefin tuna that will conform to the Plan to the scientific advice provided by the Standing Committee on Research and Statistics and has a high probability of achieving the established rebuilding target within the established time frame, including a strict penalty regime and other appropriate mechanisms to verify and ensure compliance;

(2) seek to expand time and area closures of spawning areas in the Mediterranean in full conformity with the scientific advice provided by the Standing Committee on Research and Statistics;

(3) pursue the continued aggressive review and assessment by the Commission's Committee on Compliance of compliance with conservation and management measures, including data collection and reporting requirements, adopted by the Commission and in effect for the 2009 eastern Atlantic and Mediterranean bluefin tuna fishery, occurring east of 45 degrees west longitude, and other fisheries that are subject to the jurisdiction of the Commission;

(4) aggressively seek to address noncompliance with such measures by all parties to the Convention through all appropriate actions;

(5) pursue the commitment by the Commission and its parties to fund additional research on both the western Atlantic and eastern Atlantic and Mediterranean bluefin tuna stocks including but not limited to the extent to which the stocks mix; and

(6) strenuously defend the interests of United States with regard to Atlantic

bluefin tuna, Atlantic swordfish, and other species managed by the Commission, including the protection of U.S. quota shares.

#### ORDERS FOR TUESDAY, NOVEMBER 10, 2009

Mr. REID. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 10 a.m., Tuesday, November 10; that following the prayer and pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day, and there be a moment of silence to honor the victims of the attack at Fort Hood, TX, that occurred on November 5; that following the moment of silence, the Senate proceed to a period of morning business for 1 hour, with Senators permitted to speak for up to 10 minutes each, with the time equally divided and controlled between the two leaders or their designees, with the majority controlling the first half and the Republicans controlling the second half; that following morning business, the Senate resume consideration of H.R. 3082, and I would hope people would be ready to offer amendments tomorrow; and finally, I ask that the Senate recess from 12:30 until 2:15 p.m. to allow for the weekly caucus luncheons to meet.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### ADJOURNMENT UNTIL 10 A.M. TOMORROW

Mr. REID. Mr. President, if there is no further business to come before Senate, I ask unanimous consent that the Senate stand adjourned under the previous order.

There being no objection, the Senate, at 7:52 p.m., adjourned until Tuesday, November 10, 2009, at 10 a.m.

#### NOMINATIONS

Executive nominations received by the Senate:

##### PENSION BENEFIT GUARANTY CORPORATION

JOSHUA GOTBAUM, OF THE DISTRICT OF COLUMBIA, TO BE DIRECTOR OF THE PENSION BENEFIT GUARANTY CORPORATION, VICE CHARLES E. F. MILLARD.

##### DEPARTMENT OF STATE

EILEEN CHAMBERLAIN DONAHOE, OF CALIFORNIA, FOR THE RANK OF AMBASSADOR DURING HER TENURE OF SERVICE AS THE UNITED STATES REPRESENTATIVE TO THE UN HUMAN RIGHTS COUNCIL.

LAURA E. KENNEDY, OF NEW YORK, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, FOR THE RANK OF AMBASSADOR DURING HER TENURE OF SERVICE AS U.S. REPRESENTATIVE TO THE CONFERENCE ON DISARMAMENT.

##### PEACE CORPS

CAROLYN HESSLER RADELET, OF THE DISTRICT OF COLUMBIA, TO BE DEPUTY DIRECTOR OF THE PEACE CORPS, VICE JOSEPHINE K. OLSEN, RESIGNED.

##### DEPARTMENT OF VETERANS AFFAIRS

RAUL PEREA-HENZE, OF NEW YORK, TO BE AN ASSISTANT SECRETARY OF VETERANS AFFAIRS (POLICY AND PLANNING), VICE PATRICK W. DUNNE.

##### FOREIGN SERVICE

THE FOLLOWING-NAMED PERSONS OF THE AGENCIES INDICATED FOR APPOINTMENT AS FOREIGN SERVICE OFFICERS OF THE CLASSES STATED.

FOR APPOINTMENT AS FOREIGN SERVICE OFFICER OF CLASS FOUR, CONSULAR OFFICER AND SECRETARY IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA,

#### DEPARTMENT OF STATE

JEFFREY D. ADLER, OF CALIFORNIA  
JAMAL ALI AL-MUSSAWI, OF TEXAS  
GARY BRENT APPLGARTH, OF THE DISTRICT OF COLUMBIA  
KATHERINE ARCIERI, OF NEW JERSEY  
MARK ERNEST AZUA, OF ILLINOIS  
JOHN WEIL BARBIAN, OF ILLINOIS  
JEREMY KENT BARNUM, OF THE DISTRICT OF COLUMBIA  
DAVIDA A. BAXTER, OF VIRGINIA  
SHANNON D. BEHAJ, OF DELAWARE  
LYNETTE MARIE BEHNKE, OF CALIFORNIA  
PAMELA J. BENTLEY, OF CALIFORNIA  
ERIK WAYNE BLACK, OF CALIFORNIA  
STEPHEN G. BLACK, OF NEW YORK  
SAAD SYED BOKHARI, OF COLORADO  
MATTHEW HAWES BOLAND, OF VIRGINIA  
MATT BONAUTO, OF THE DISTRICT OF COLUMBIA  
MANOELA GUIDORIZZI BORGES, OF THE DISTRICT OF COLUMBIA  
JAMES MICHAEL BREDECK, OF FLORIDA  
CAREN A. BROWN, OF ARIZONA  
JENNIFER JONES BUCHA, OF VIRGINIA  
JOEL TODD BULLOCK, OF ALABAMA  
DOLORES CANAVAN, OF VIRGINIA  
MELISSA GREER CARLSON, OF GEORGIA  
LEWIS A. CARROLL, OF NORTH CAROLINA  
DAVID RAY CAUDILL, JR., OF OHIO  
JEREMY H. CHEN, OF TENNESSEE  
ERIC M. COLLINGS, OF VIRGINIA  
JENNY CORDELL, OF TEXAS  
MYCA CRAVEN, OF WASHINGTON  
JONATHAN MICHAEL CULLEN, OF VIRGINIA  
ADAM NELSON DAVIS, OF MINNESOTA  
CARLISLE RAGLAND DAVIS III, OF NEW YORK  
CYNTHIA J. DAY, OF MONTANA  
ANTHONY A. DEATON, OF CONNECTICUT  
ANITA KNOPP DOLL, OF NEW YORK  
ERIC EILSKOV, OF TEXAS  
EDWARD F. FINDLAY, OF VIRGINIA  
PATRICK JAY FISCHER, OF PENNSYLVANIA  
GREGORY A. FLOYD, OF CALIFORNIA  
MARCIA HELEN SAMET FRIEDMAN, OF TEXAS  
JANE K. GAMBLE, OF WASHINGTON  
NEWTON J. GASKILL, OF TEXAS  
MATILDA FRANCES GAWF, OF TEXAS  
MEGAN ALANNA CORNEIL GOODFELLOW, OF NEW YORK  
CHARLES R. GOODMAN, OF FLORIDA  
JAMES MICHAEL GREENE, OF NEW MEXICO  
MICHAEL J. GREER, OF TEXAS  
KRISTI L. GRUIZENG, OF MICHIGAN  
CARRIE A. GRYSKIEWICZ, OF MINNESOTA  
EVAN THOMAS HAGLUND, OF TENNESSEE  
ELIZABETH E. HANNY, OF WASHINGTON  
CHRISTOPHER STEPHEN HATTAYER, OF CONNECTICUT  
ALEXANDER HAWKES, OF CALIFORNIA  
KRISTIN J. HAWORTH, OF VIRGINIA  
CHRISTINA JEAN HERNANDEZ, OF TEXAS  
JOHN WILLIAM HICKS III, OF MICHIGAN  
THOMAS CHRISTOPHER HILLEARY, OF MISSOURI  
ELIZABETH M. HOFFMAN, OF OHIO  
STEPHANIE ELIZABETH HOLMES, OF CALIFORNIA  
JOHN THOMAS ICE, OF KENTUCKY  
DAVID JOSEPH JENDRISAK II, OF PENNSYLVANIA  
GAIL R. JOHNSON, OF VIRGINIA  
DOUGLAS E. JOHNSTON, OF NEW HAMPSHIRE  
NATHAN A. JONES, OF UTAH  
BLAINE KALTMAN, OF FLORIDA  
JOHN C. KASTNING, OF NEBRASKA  
DANIEL SETH KATZ, OF WASHINGTON  
SOFIA MARIAM KHILJI, OF VIRGINIA  
KAREN E. KIRCHGASSER, OF THE DISTRICT OF COLUMBIA  
JEFFREY M. KLEM, OF NEW YORK  
DAVID J. KLOESEL, OF TEXAS  
SHAWN A. KOBB, OF VIRGINIA  
ERIKA KUENNE, OF COLORADO  
R. NICHOLAS LARSEN, OF UTAH  
KING SAN LIEN, OF OHIO  
AMANDA JEAN LILLIS, OF FLORIDA  
MARY JO ANN LONG, OF VIRGINIA  
AMY LYNN LORENZEN, OF SOUTH DAKOTA  
JENNIFER L. LUDDERS, OF IDAHO  
CARMELIA C. MACFOY, OF ARKANSAS  
BRETT ALAN MAKENS, OF MICHIGAN  
AMIR PHILLIP MASLIYAH, OF CALIFORNIA  
SUSAN N. MCPTEE, OF NEW JERSEY  
LINDA MCMULLEN, OF WISCONSIN  
CATHERINE CONNELL MCSHERRY, OF FLORIDA  
JEFFREY RYAN MILES, OF PENNSYLVANIA  
DEWEY E. MOORE, JR., OF VIRGINIA  
VINCENT R. MOORE, OF VIRGINIA  
ADAM DAVID MURRAY, OF MICHIGAN  
MENAKA M. NAYYAR, OF NEW YORK  
JAIMEE MACANAS NEEL, OF NEVADA  
JENNIFER J. NEHEZ, OF FLORIDA  
MARIANA LENKOVA NEISULER, OF VIRGINIA  
RICHARD CHARLES NICHOLSON, OF FLORIDA  
MBALLE M. NKEMBE, OF NEW YORK  
AARON A. NUUTINEN, OF TEXAS  
TIMOTHY PATRICK O'CONNOR, OF PENNSYLVANIA  
MAUREEN ANNE O'NEILL, OF CALIFORNIA  
JAMI LYNN PAPA, OF PENNSYLVANIA  
JOAN D. PATTERSON, OF UTAH  
KATRISA BOHNE PEFFLEY, OF MINNESOTA

JOHN MATTHEW PETTE, OF GEORGIA  
KIMBERLY G. PHELAN, OF CALIFORNIA  
JOSIAH THOMAS PIERCE, OF WYOMING  
CRAIG T. PIKE, OF VIRGINIA  
CHRISTOPHER G. PIXLEY, OF NEW HAMPSHIRE  
AMANDA E. PORTER, OF WASHINGTON  
T. KATHARINE REBHOLZ, OF NEW YORK  
CYNTHIA STONE RICHARDS, OF VIRGINIA  
IVAN RIOS, OF FLORIDA  
KRISTIN M. ROBERTS, OF WASHINGTON  
RICHARD MILLER ROBERTS, OF TEXAS  
SILVANA DEL VALLE RODRIGUEZ, OF ILLINOIS  
EMILY VICTORIA RONEK, OF NEW YORK  
LINDA L. ROSALIK, OF MICHIGAN  
BRIAN J. SALVERSON, OF CALIFORNIA  
MOLLY M. SANCHEZ CROWE, OF NEW YORK  
ERIK J. SCHNOTALA, OF ILLINOIS  
JENNIFER M. SCHUELER, OF ILLINOIS  
MIRIAM LYNNE SCHWEDT, OF THE DISTRICT OF COLUMBIA  
SCOTT M. SIMPSON, OF TEXAS  
KATHERINE PARKS SKARSTEN, OF COLORADO  
SCOTT EDWARD SOMMERS, OF ILLINOIS  
TRISTAN M. SPICELAND, OF WASHINGTON  
VIRGINIA LEE STERN, OF ILLINOIS  
REBECCA JANE STEWARD, OF ILLINOIS  
MATTHEW ROLAND STOKES, OF CALIFORNIA  
DAVID J. STRASHNOY, OF CALIFORNIA  
BARBARA RENEE SZCZEPANIAK, OF FLORIDA  
KRISTEN E. THOMPSON, OF OREGON  
JENNIFER MARIE TIERNEY, OF PENNSYLVANIA  
KEVIN JOSEPH TIERNEY, OF VIRGINIA  
JONATHAN C. TURLEY, OF GEORGIA  
CHRISTOPHER DANIEL VOGT, OF COLORADO  
RIMA JANINA VYDMANTAS, OF GEORGIA  
MARY WALZ, OF WASHINGTON  
KAREN WIEBELHAUS, OF VIRGINIA  
JENNIFER L. WILLIAMS, OF TEXAS  
LUKE VARIAN ZAHNER, OF CONNECTICUT  
MIREILLE L. ZIESENIS, OF THE DISTRICT OF COLUMBIA

THE FOLLOWING-NAMED MEMBERS OF THE FOREIGN SERVICE TO BE CONSULAR OFFICERS AND SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

#### DEPARTMENT OF STATE

NAFEESA ALLEN, OF NEW JERSEY  
BRITTANIE KIAH CELESTE ANDERSON, OF MISSOURI  
REBECCA ARCHER-KNEPPER, OF VIRGINIA  
JOHN S. ARMIGER, OF THE DISTRICT OF COLUMBIA  
BRIAN ASMUS, OF VIRGINIA  
WILLIAM P. ASTILLERO, OF NEW JERSEY  
NATHANIEL A. BELL, OF TEXAS  
JESSICA ERIN BERLOW, OF THE DISTRICT OF COLUMBIA  
VICTOR D. BERNARD, OF VIRGINIA  
LISA M. BHOUMIK, OF VIRGINIA  
THOMAS M. BILLS, OF OHIO  
KIM I. BOGART, OF VIRGINIA  
ANTHONY JUNG BONVILLE, OF TEXAS  
VIRGILE GEORGES BORDERIES, OF CALIFORNIA  
MICHAEL C. BRAJA, OF VIRGINIA  
VIRGINIA CLAIRE BREEDLOVE, OF LOUISIANA  
PETER ANDREW BURBA, OF CALIFORNIA  
WILLIAM A. CAMPBELL, OF WISCONSIN  
KATHERINE W. CAMPO, OF MASSACHUSETTS  
CARINA R. CANAAN, OF MASSACHUSETTS  
NATALIA CAPEL, OF FLORIDA  
BETH MARIE CHESTERMAN, OF TEXAS  
JONATHAN B. CHESTNUT, OF GEORGIA  
KEVIN R. CHIASSON, OF VIRGINIA  
GILBERT THOMAS CHIOCKY, OF VIRGINIA  
SARAH JANE CIACCIA, OF THE DISTRICT OF COLUMBIA  
ERIC T. CONNELLY, OF VIRGINIA  
JANE MARIE COOPER, OF THE DISTRICT OF COLUMBIA  
LISA M. COWLEY, OF MARYLAND  
CHRISTOPHER A. CRAWFORD, OF VIRGINIA  
JUSTIN E. DAVIS, OF GEORGIA  
NEIL MICHAEL DIBIASE, OF FLORIDA  
GARRETT B. DUARTE, OF VIRGINIA  
LAUREN DUNN, OF CALIFORNIA  
KIMBERLY K. EKHOLM, OF VIRGINIA  
LELAND B. ERICKSON, OF VIRGINIA  
STEPHEN JOSEPH ESTE, OF TEXAS  
JESSE KYLE FINKEL, OF THE DISTRICT OF COLUMBIA  
KARLY RAE FOLAND, OF VIRGINIA  
PHILIP FOLKEMER, OF MARYLAND  
DAVID E. FOUST, OF WEST VIRGINIA  
MATTHEW A. FULLERTON, OF VIRGINIA  
AMBER M. GARCIA, OF TENNESSEE  
GERALDINE GASSAM, OF VIRGINIA  
ERIC MICHAEL GODFREY, OF VIRGINIA  
CYNTHIA E. GREEN, OF THE DISTRICT OF COLUMBIA  
HOLLYN J. GREEN, OF MASSACHUSETTS  
STEPHEN M. GRIM, OF MARYLAND  
CAREY L. HALE, OF THE DISTRICT OF COLUMBIA  
KRISTY L. HALLER, OF MARYLAND  
CHERYL HARRIS, OF PENNSYLVANIA  
ERIN HARRIS, OF VIRGINIA  
HAKIM J. HASAN, OF OREGON  
JILL A. HUMPHREYS, OF VIRGINIA  
CYNTHIA L. JEFFERIES, OF TEXAS  
JENNIFER JENSEN, OF CALIFORNIA  
MCLAYNE M. JENSEN, OF VIRGINIA  
GYE JOHNSON, OF THE DISTRICT OF COLUMBIA  
MATTHEW B. JONES, OF VIRGINIA  
HELEN ADAMS JUBAR, OF MARYLAND  
RYAN D. KARNES, OF OREGON  
ROWAN B. KELLY, OF CALIFORNIA

WALTER ANTHONY KERR, OF CONNECTICUT  
JOHN P. KILL, OF GEORGIA  
CRAIG P. KIM, OF WASHINGTON  
NATALIE LABER, OF VIRGINIA  
JINGPING LAI, OF CALIFORNIA  
NATHANIEL A. LEVITH, OF MARYLAND  
LINDSEY B. LEWIS, OF VIRGINIA  
SCOTT CARL LUEDERS, OF FLORIDA  
ERIN RUTH MAI, OF VIRGINIA  
NAVEED AHMED MALIK, OF ILLINOIS  
NICHOLAS B. MANSKE, OF WISCONSIN  
TARA LYNN MARIA, OF CALIFORNIA  
GREGORY G. MCELWAIN, OF NEW MEXICO  
AYSA M. MILLER, OF WASHINGTON  
KARL J. MILLER, OF MARYLAND  
JEREMY MONKS, OF VIRGINIA  
NAVARRO MOORE, OF GEORGIA  
PATRICIA RENEE MORALES, OF TEXAS  
STEPHEN GEORGE MRAZ, OF FLORIDA  
W. MARC MURRI, OF UTAH  
KATHERINE A. MUSGROVE, OF KANSAS  
BOBBIE S. NEAL, OF VIRGINIA  
MICHELLE MARIE NESH, OF VIRGINIA  
KIM-THIEN T. NGUYEN, OF THE DISTRICT OF COLUMBIA  
JOHN D. NORDLANDER, OF COLORADO  
ELIZABETH NORMAN, OF WASHINGTON  
VAYRAM A. NYADROH, OF ILLINOIS  
AUTUMN K. OAKLEY, OF WASHINGTON  
MICHELLE R. OSADZCZUK, OF FLORIDA  
JULIE ELIZABETH PARKS, OF VIRGINIA  
XIXALA SANDRA PEREZ, OF VIRGINIA  
JOSHUA RYAN PHELPS, OF THE DISTRICT OF COLUMBIA  
JEAN PHILLIPSON, OF VIRGINIA  
CAITLIN S. PIPER, OF NEW HAMPSHIRE  
NICOLE LOKOMAIIKA'I KIKUE PROBST FOX, OF HAWAII  
MELISSA A. RHODES, OF ARKANSAS  
DOUGLAS B. ROSE, OF MINNESOTA  
TERESA ROTUNNO, OF NEW YORK  
DEVIN WILLIAM RUSSELL, OF VIRGINIA  
LADONNA S. SALES, OF TENNESSEE  
CHRISTOPHER E. SANWICK, OF NEBRASKA  
NADIA DINA M. SBEIH, OF CALIFORNIA  
KATHRYN E. SCHLIEPER, OF THE DISTRICT OF COLUMBIA  
ANISH A. SHAH, OF VIRGINIA  
JAMES P. SHAK, OF ARIZONA  
AARON H. SHEK, OF CALIFORNIA  
LEVI SHEPHERD, OF THE DISTRICT OF COLUMBIA  
JAIMY M. SMITH, OF VIRGINIA  
JEREMY DAVID SPECTOR, OF NEW YORK  
SHANNA DIETZ SURENDRA, OF MINNESOTA  
ETHAN KENT TABOR, OF MARYLAND  
JASON M. TEAGUE, OF THE DISTRICT OF COLUMBIA  
PAUL STANLEY TENTLER, OF VIRGINIA  
TIMOTHY A. TERRY, OF UTAH  
JAY B. THOMPSON, OF THE DISTRICT OF COLUMBIA  
JULIE THOMPSON, OF FLORIDA  
PATRICK ALLARD TILLOU, OF VIRGINIA  
MIRNA R. TORRES, OF NEW MEXICO  
MATTHEW ALAN TOTILO, OF NEW YORK  
MARY ELLEN TSEKOS-VELEZ, OF VIRGINIA  
JACQUELINE L. TURNER, OF VIRGINIA  
JOSEPH B. WATERMAN, OF FLORIDA  
BROOKE WEHRENBERG, OF ILLINOIS  
JOSEPH WELSH, OF CALIFORNIA  
CHAD J. WESEN, OF WASHINGTON  
MORGAN WHITMIRE, OF VIRGINIA  
THERESA CAROL WILLIAMS, OF INDIANA  
KAREN A. WIMBERLEY, OF GEORGIA  
JOHNATHAN PAUL WINSTON, OF TEXAS  
SCOTT B. WINTON, OF MISSOURI  
LEV A. WISMER, OF VIRGINIA  
THOMAS N. WOTKA, OF NEBRASKA  
NIAMBI A. YOUNG, OF GEORGIA  
WILBUR G. ZEHR, OF NEW YORK

THE FOLLOWING-NAMED CAREER MEMBER OF THE SENIOR FOREIGN SERVICE OF THE DEPARTMENT OF STATE FOR PROMOTION INTO THE SENIOR FOREIGN SERVICE TO THE CLASS INDICATED:

CAREER MEMBER OF THE SENIOR FOREIGN SERVICE OF THE UNITED STATES OF AMERICA, CLASS OF COUNSELOR, EFFECTIVE OCTOBER 12, 2008:

CONRAD WILLIAM TURNER, OF VIRGINIA

## CONFIRMATIONS

Executive nominations confirmed by the Senate, Monday, November 9, 2009:

#### OFFICE OF THE DIRECTOR OF NATIONAL INTELLIGENCE

DAVID C. GOMPERT, OF VIRGINIA, TO BE PRINCIPAL DEPUTY DIRECTOR OF NATIONAL INTELLIGENCE.  
THE ABOVE NOMINATION WAS APPROVED SUBJECT TO THE NOMINEE'S COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

#### THE JUDICIARY

ANDRE M. DAVIS, OF MARYLAND, TO BE UNITED STATES CIRCUIT JUDGE FOR THE FOURTH CIRCUIT.  
CHARLENE EDWARDS HONEYWELL, OF FLORIDA, TO BE UNITED STATES DISTRICT JUDGE FOR THE MIDDLE DISTRICT OF FLORIDA.

## EXTENSIONS OF REMARKS

HONORING JP PRITCHARD AND  
LANA HUGHES

HON. KEVIN BRADY

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Saturday, November 7, 2009*

Mr. BRADY of Texas. Madam Speaker, I rise today to honor two great southeast Texans. Every weekday morning for more than a quarter century, Texans have started their mornings off by tuning into JP Pritchard & Lana Hughes for the latest news. These two consummate radio professionals have been there for us through Hurricanes Alicia, Rita and Ike and Tropical Storm Allison, the most destructive tropical storm in U.S. History. They've kept Houston in the know through good economic times and bad—winning more national, state, and local awards than they have time to count or shelf space to display.

Lana Hughes, a native southeast Texan, is a graduate of Conroe High School in the Eighth Congressional District and Baylor University. She got her start in journalism working for the Conroe Courier and KIKR Radio before joining KTRH in the early 1980s. An avid fan of the NASA Human Space Flight Program, Lana can cite stats on every mission, but her greatest passion is saving animals. Her blog, Animal House, has placed numerous pets into loving homes and informed all of southeast Texas about the problems of abused, neglected, and abandoned animals. If Lana is not in the newsroom, she can found volunteering at a local animal shelter or getting one of her many friends to fall in love with a new four-legged family member.

JP Pritchard got to Texas as fast as he could and once here he stayed. A graduate of Drake University and the broadcasting school of hard knocks, JP and his lovely bride, Esther, have three sons and two grandsons who are the apple of their grandfather's eye. His first job in southeast Texas was as reporter/anchor and news director of KULF Radio, now known as KBME, The Sports Animal. From there, he joined the KTRH team where he has been ever since.

While he enjoys anchoring the news, JP is also proud of his documentary work having won top honors for his 2-hour special on the history of Houston. JP has been used to having his name be "JP & Lana" for more than a quarter century.

Together, these two amazingly talented people have become family members to millions in southeast Texans who instinctively tune to NewsRadio 740 AM, KTRH whenever news is breaking.

FLIGHT 93 NATIONAL MEMORIAL  
GROUNDBREAKING

HON. JOHN P. MURTHA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Saturday, November 7, 2009*

Mr. MURTHA. Madam Speaker, on September 11, 2001, I was in the U.S. Capitol, where the House Defense Appropriations Subcommittee was meeting to markup the annual defense spending bill. We watched on television as the two airplanes crashed into the World Trade Center Towers, and soon after, evacuated the building because another plane was headed in our direction.

As I got outside, I saw the billows of black smoke rising in the distance from the Pentagon. The plane had actually hit a section of the Pentagon that had recently undergone significant renovations. I had previously earmarked funds to accelerate the building's renovation project, and I was told that had it not been for those improvements, the building would have suffered far greater damage and more lives would have been lost.

It wasn't until later that morning that I had learned of another plane crashing into the quiet fields of Somerset County within my congressional district. There was little known about that flight, so the following morning, September 12th, I drove back to Pennsylvania and to Stonycreek Township.

Looking out across this field, I saw no sign that an airplane had crashed here. There were no burning buildings or piles of rubble like we saw pictured in New York and at the Pentagon. All that remained in this field was smoldering earth and a charred tree line.

I was quoted as saying, "Somebody here was a hero, a passenger . . . or the pilot who would not fly on. There must have been a struggle. Some heroic individual brought this plane down."

I was right about a struggle, but I was wrong in saying "some heroic individual brought this plane down." In fact, there were 40 heroic individuals aboard United Airlines Flight 93 that morning. Forty ordinary citizens, who together, decided to make an extraordinary sacrifice.

In early 2002, I introduced legislation establishing a national memorial to honor the passengers and crew of Flight 93. Nearly 8 years later, I'm honored that we are breaking ground on a memorial that is both fitting of their sacrifice and contribution to our great Nation.

I want to commend and complement Secretary Salazar and the National Park Service, the Families of Flight 93, our local and state officials, and all those involved with the planning and construction of the Flight 93 National Memorial.

Future generations will look out across this quiet Pennsylvania field and forever be reminded of the story of Flight 93 and the courage and sacrifice of her passengers and crew.

PERSONAL EXPLANATION

HON. LYNN C. WOOLSEY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Saturday, November 7, 2009*

Ms. WOOLSEY. Madam Speaker, on November 6, 2009, I was unavoidably detained and was unable to record my vote for rollcall No. 868. Had I been present I would have voted: rollcall No. 868: "yes"—Jack F. Kemp Post Office Building.

EARMARK DECLARATION

HON. PETER T. KING

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Saturday, November 7, 2009*

Mr. KING of New York. Madam Speaker, pursuant to the Republican Leadership standards on earmarks, I am submitting the following information regarding earmarks I received as part of H.R. 2996—the Department of Interior, Environment, and Related Agencies Appropriations Conference Report, 2010:

Requesting Member: Congressman PETER KING

Bill Number: H.R. 2996

Account: Environmental Protection Agency—STAG

Legal Name of Requesting Entity: Nassau County

Address of Requesting Entity: 1550 Franklin Avenue, Mineola, NY 11501

Description of Request: \$300,000 will be used to complete the technical design report for the relocation of the Bay Park Sewer Treatment outfall from Reynolds Channel to the Atlantic Ocean.

110TH ANNIVERSARY OF THE  
BRONX ZOO

HON. JOSÉ E. SERRANO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Saturday, November 7, 2009*

Mr. SERRANO. Madam Speaker, I rise today to recognize the 110th anniversary of the Bronx Zoo, a milestone in the cultural history of New York City. The Bronx Zoo opened its doors on November 8, 1899, and is the largest metropolitan zoo in the country with approximately 4 million visitors annually and featuring 6,000 animals and 600 species.

The Bronx Zoo continues to win awards for its world class exhibits and is well known for creating naturalistic habitats. Chief among them is the Congo Gorilla Forest which is one of the zoo's most popular exhibits. Spanning more than 6½ acres, the exhibit's main attraction is the western lowland gorillas, making up

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

the species largest breeding group in all of the Americas. The Gorilla Forest is the largest man made rainforest in the world. The rain forest simulation gives visitors the chance to experience the Congo as if they were there. Along with the lowland gorillas, the exhibit is home to white bearded debrazza monkeys, okapis and red river hogs. Since the opening of the exhibit, it has had 7 million visitors. The exhibit fees go to help conservation efforts in Africa which have helped 18 National Parks in such countries as Cameroon, the Democratic Republic of the Congo, Rwanda, and Gabon.

From the zoo grounds, hundreds of conservationists work every day hand-in-hand with more than 3,000 employees located in 65 developing countries around the world. The zoo's first conservation achievement was here in the United States of America, where, by 1905, uncontrolled hunting had reduced the great herds of bison to fewer than 1,000 animals. Theodore Roosevelt, along with William Hornaday, the Bronx Zoo's first director, were founding members of the American Bison Society, ABS, an organization formed at the Bronx Zoo to preserve this icon of the American prairies. In 1907, the Bronx Zoo sent a group of zoo-born bison to Oklahoma, South Dakota, and Montana to help reestablish the species throughout the plains. Along with its broad conservation efforts, the Bronx Zoo's award winning exhibits and pioneering research has garnered world recognition.

In the Bronx, the zoo's impact is felt in yet another way. In addition to being a cultural staple and headquarters for an international conservation organization, it is an economic cornerstone in the Bronx. On average, the Bronx Zoo employs more than 750 full-time staff per year and is the largest employer of youth in the borough, providing employment opportunities, job skills training, and scholarship opportunities for more than 700 teenagers each year. Two years ago, the Bronx Zoo opened the first New York City public school focused on wildlife conservation. At the school, children can learn math, sciences, history, and arts by interacting with the zoo's animals and experts.

Madam Speaker, it is my honor to recognize the Bronx Zoo on its 110th anniversary and to applaud the institution for its efforts in leading the world in wildlife conservation as well as bringing joy to the millions of visitors who have walked through its gates.

#### PERSONAL EXPLANATION

### HON. JOHN R. CARTER

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Saturday, November 7, 2009*

Mr. CARTER. Madam Speaker, on November 6, 2009, I was unable to be present for all rollcall votes due to the tragic event at Fort Hood on November 5, 2009. I had to travel to Fort Hood in order to be briefed on the latest findings in the shootings investigation, and to determine what steps could be taken to help comfort the wounded and the families of those who lost their lives in the tragedy. If present, I would have voted accordingly on the following rollcall votes: Roll No. 865—"nay"; roll

No. 866—"aye"; roll No. 67—"aye"; roll No. 868—"aye"; roll No. 869—"nay"; roll No. 870—"aye"; roll No. 871—"aye"; roll No. 872—"aye"; roll No. 873—"aye"; roll No. 874—"aye"; and roll No. 875—"nay."

#### COMMENDING THE RABUN COUNTY CHAMBER OF COMMERCE FOR HOSTING THE 11TH ANNUAL VETERAN'S APPRECIATION DINNER

### HON. PAUL C. BROWN

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

*Saturday, November 7, 2009*

Mr. BROWN of Georgia. Madam Speaker, on December 23, 1776, just days before the Continental Army won a great victory at the Battle of Trenton, General George Washington asked aides to read passages from Thomas Paine's *The Crisis*. That great book, which lifted the spirits of the army from the darkest depths, famously begins, "These are the times that try men's souls: The summer soldier and the sunshine patriot will, in this crisis, shrink from the service of his country; but he that stands by it now, deserves the love and thanks of man and woman."

On November 11, Veterans Day, many celebrations will be held to honor those who have served this great country. We will honor them and applaud their efforts because they are not "summer soldiers" or "sunshine patriots," but instead they answered the call in many of our Nation's most turbulent times.

At one such event, the Rabun County Chamber of Commerce will honor hundreds of veterans, spouses, and widows/widowers for their service to our Nation. This will be the 11th annual Veteran's Appreciation Dinner, and I believe it is a great testament to the patriotism and love for country that these chamber members have worked so hard to make this event possible. Veterans of every conflict from World War II to Iraq and Afghanistan are expected to attend.

As a marine, I understand how much of a sacrifice it is to serve one's country in the Armed Forces. I know that the many veterans, who will be honored in Rabun County and all across this country, did not join up to be heroes or win medals. Instead, they heard the call of a nation, and they bravely answered. Over the past century, the United States has repeatedly faced overwhelming odds as it has fought to protect liberty at home as well as abroad. Our thanks and gratitude will never be enough to repay the debt this nation owes to all our veterans, but we gratefully offer it anyway.

Because of their service and the grace of God, this country remains the greatest nation on Earth. I urge my colleagues to join me in honoring our Nation's veterans as well as the wonderful members of the Rabun County Chamber of Commerce and all who are honoring those who served.

#### HONORING EL PASO VETERANS

### HON. SILVESTRE REYES

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Saturday, November 7, 2009*

Mr. REYES. Madam Speaker, I rise today to honor our El Paso area veterans. Our nation joins together annually on November 11 to honor our men and women who have served in uniform for their service and for their sacrifices. From speeches to ceremonies, the voices of Americans join in tribute to all veterans, from the patriots who fought for our freedom in the Revolutionary War to the Soldiers, Sailors, Airmen, and Marines who are serving today in Iraq, Afghanistan and around the world.

It is critical that our support for veterans goes beyond words; we must honor those who have served with our actions. As a Vietnam veteran, I came to office knowing that one of my highest duties would be to improve the lives of all of our veterans, particularly those whom I have the privilege to represent here in Congress.

El Paso is a community which embraces our nation's military forces and the families who support them. El Pasoans have demonstrated our support for veterans and the soldiers who live and work on Fort Bliss in many ways, from a new USO center and another in the works, to an annual Freedom Fiesta. Perhaps the most important development for El Paso veterans is the establishment of a new joint Army and Veterans Administration, VA, medical center complex. To meet the needs of the historic expansion of Fort Bliss and the growing number of veterans, these new facilities will bring care to all generations, helping ensure that all veterans get the care that they need and deserve.

Congress has greatly expanded veterans benefits in the last three years, passing historic increases in VA spending. Congress also enacted a new GI Bill to provide a full four-year college education to every military member who served on active duty since September 11, 2001. And Congress added funds to improve the VA's claims processing and decrease wait times for all veterans.

Our veterans swore an oath to serve and defend our nation. They backed this oath with their actions, and in some cases their lives. Our country owes these brave men and women, not just our pledge to honor that service, but tangible benefits which reflect their sacrifices to ensure we remain strong, secure and free.

#### PERSONAL EXPLANATION

### HON. RON KIND

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

*Saturday, November 7, 2009*

Mr. KIND. Madam Speaker, on November 2, 2009, I missed rollcall votes 832, 833, and 834 to attend parent teacher conferences for my two sons. Had I been present, I would have voted "aye" on each of those votes.

## HONORING WILLIAM AVERY

**HON. JERRY MORAN**

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

*Saturday, November 7, 2009*

Mr. MORAN of Kansas. Madam Speaker, I rise today in memory of William Avery, former Governor and Congressman from the state of Kansas. Governor Avery passed away November 4th at the age of 98 in his home state that he served in so many ways. Prior to his passing, he was the oldest living former member of Congress. A lifelong Kansan, Governor Avery deserves to be celebrated as a fine public servant and a good man.

A native of Wakefield, Kansas, he returned to the family farm after graduating from the University of Kansas. Then, Governor Avery did what many young men of his generation did. He left the family farm to serve his country in World War II as a pilot. This would be only the first act of service in what would prove to be a distinguished career serving the people of not only Kansas, but the nation.

Following his service on his local school board, Governor Avery served four years in the Kansas House of Representatives. This preceded his decade long career representing Kansas in the House of Representatives. Governor Avery then added to his already impressive resume by becoming Kansas' 37th Governor serving in 1965 and '66. While he served only one, two-year term, Governor Avery made a series of indelible marks on the cultural and political landscape of Kansas. Governor Avery would see his political career come to a final close following an election loss to Bob Dole in a GOP Senatorial primary.

Today, we see an increasing number of public officials who have lost touch with their constituencies. They move to Washington or their respective state capitals and become someone other than the person who was originally elected. Governor Avery was certainly not one of those men. He was simply a farmer and rancher that was entrusted with providing for the wellbeing of his state and nation. Public servants would do well to use this man as a model for their own service. A true man of the people whose heart stayed on the farm on which he was raised. Yet unselfish enough to leave to serve his state and nation when called upon to do so.

A statesman and a gentleman who pursued the right ends regardless of their popularity, Governor Avery would have undoubtedly had a lifelong political career had he focused on the politically expedient choices rather than the choices that would benefit Kansas. That type of courage is, unfortunately, often a rarity in today's leadership. Yes, the family and friends of Governor Avery have lost an important part of their lives. But everyone who has ever held an elected office in this nation has lost a role model of the highest caliber.

My thoughts and prayers are with the family of Governor Avery during this time of mourning. His children William Avery, Jr., Brad Avery, Barbara Avery, and Sue Avery along with their families have much to be proud of. I am thankful for his service and honored to call him my fellow Kansan.

## H.R. 3854: SMALL BUSINESS FINANCING AND INVESTMENT ACT

**HON. RUSH D. HOLT**

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Saturday, November 7, 2009*

Mr. HOLT. Madam Speaker, I support our Nation's small business and the passage of the "Small Business Financing and Investment Act," H.R. 3854.

Small businesses play an integral role in the United States economy. Small businesses employ more than half of all workers in the private sector and generate 60 to 80 percent of new jobs in this country. The small business financing and lending programs improved by this bill would help small businesses not only survive the current downturn, but help them to expand and create new jobs.

Last month, I brought more than 50 high-tech small business owners to Washington to discuss the issues facing their businesses. Many of these small business owners told me about the struggles they face in finding credit and investment funding, which they need to maintain and expand their businesses. They talked about how reluctant banks were to lend to small businesses in these difficult economic times. This bill would help those small business owners by extending key provisions from the Recovery Act passed earlier this year. First, the legislation would aid small businesses by eliminating fees on Small Business Administration, SBA, loans, in order to make these loans more affordable for small businesses. The bill further would assist these small businesses by providing a Federal guarantee of certain loans, to encourage local banks and credit unions to increase their lending to small businesses.

I appreciate how the Small Business Financing and Investment Act assists high-tech businesses and entrepreneurs. Beginning in the last quarter of 2008, investments in early-stage businesses, such as these, plunged 26 percent. To address this shortage, the bill would establish a new Early-Stage Investment Program at SBA, which would pair SBA grants with private venture capital in order to target investment dollars to promising technology small business startups. The legislation makes improvements to the Renewable Energy Capital Investment program in order to increase investment in small business that are researching alternative and renewable energy technologies to meet our future energy needs.

I am pleased that H.R. 3854 helps veterans interested in starting their own businesses. Our Nation was built by citizen-soldiers, yet too often, our veterans have difficulty finding well-paid, rewarding work in the Nation they served and protected. We need to do more to help our youngest veterans find gainful employment. According to the Department of Labor, veterans between the ages of 18 and 24 had an unemployment rate of 14.1 percent; nearly double the rate of those between the ages of 25 to 34, 7.3 percent. It is unacceptable that hundreds of thousands of veterans who have risked their own lives to defend our country can't find jobs, and many endure homelessness and lives of poverty after they return home. Our brave men and women in

uniform have given so much for this country; it is right that the Congress help ensure that our returning soldiers have jobs when they come home. The legislation helps veterans by offering higher guarantees and lower cost loans, so they can access more affordable capital.

The Small Business Financing and Investment Act builds on the investments that this Congress made through the American Recovery and Reinvestment Act. This bill would provide further aid to our small business and continues our efforts to put the economy back on the track to recovery.

I urge my colleagues to vote in favor of this bill to support our Nation's small businesses.

## MEDIA SLIGHT CONSERVATIVE PROTESTS

**HON. LAMAR SMITH**

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Saturday, November 7, 2009*

Mr. SMITH of Texas. Madam Speaker, the national media give Americans a tale of two protests.

On the one hand, you have liberal protests, to which the media give extensive and positive coverage. On the other hand, you have conservative protests. The media downplay these demonstrations and demonize the protestors.

On Thursday, thousands of people from around the country gathered in front of the Capitol to voice their opposition to a Government takeover of health care. The New York Times buried its coverage of the protest on page A15.

A couple of months ago, the Times buried its coverage of the conservative September 12 protests on page A37.

In contrast, the Times has given much better coverage to protests regarding amnesty, gay rights, and other liberal causes.

The New York Times and the national media should give fair coverage to protests on both sides, not just the ones they agree with.

## PROMOTING INNOVATION AND ACCESS TO LIFE-SAVING MEDICINE ACT

**HON. ROBERT A. BRADY**

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Saturday, November 7, 2009*

Mr. BRADY of Pennsylvania. Madam Speaker, I and others have spoken at length on the ways that this bill improves and will improve health care for all of our constituents. Another significant benefit of this legislation which has not received as much attention will be the creation of new high-paying jobs in this country. Let me repeat that for some of my friends on the other side of the aisle, this bill will create high-paying, high-quality jobs in healthcare delivery, technology, and research in the United States.

First, this bill will create enormous demand for healthcare workers, especially in the area of primary care. Insuring the millions of Americans in this country who currently have no insurance will allow them to see primary care

providers and receive the wellness and preventive care they have been denied for too long. This influx of new patients will need doctors, nurses and technicians for their care, while reducing overall healthcare costs because they will not need much more expensive hospitalizations. I support channeling resources that for too long have been used to treat people once they become sick into jobs and services that will prevent people from getting sick in the first place.

Second, this bill will continue the efforts we began in the stimulus package to deploy new health information technologies that better manage both the quality of care people receive and the cost at which they receive it. New health care exchanges and new demands on the health system to provide high-quality and cost-effective health care will create new opportunities and markets for our brightest technology minds. They will be incentivized to create and develop products that will be a win/win for Americans: high quality health care at an affordable price.

Third, this bill will create high quality research opportunities in this country. The Energy and Commerce Committee enacted a framework for allowing biosimilar competition in this country. This new class of medicines will help lower costs and bring competition to one area that is key to the future of our healthcare system. Biotechnology is on the cutting edge of efforts to reducing costly invasive procedures and allowing our constituents to live healthier and more productive lives. The creation of this new class of medicines comes with requirements for new clinical research and testing, especially in the area of whether a new biosimilar can be interchangeable with an innovator's product. This research will create high quality and high paying jobs and it is imperative that we keep this research and these jobs in this country. We cannot allow these research opportunities to leave this country, and I intend to work with the Secretary of HHS and the Commissioner of the FDA to ensure they stay in the United States.

Madam Speaker, I do not look at this bill as one of cost or drain on the economy of our country like so many of its opponents on the other side of the aisle. I see this bill as an exciting opportunity to create the kind of jobs we so desperately need in this country while at the same time improving the lives of all Americans. This bill will improve health care, create jobs and grow our economy.

#### RECOGNIZING THE REDEDICATION OF THE W.T. WOODSON HIGH SCHOOL

**HON. GERALD E. CONNOLLY**

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

*Saturday, November 7, 2009*

Mr. CONNOLLY of Virginia. Madam Speaker, I rise today to recognize the rededication of the W.T. Woodson High School in Fairfax County, Virginia. The W.T. Woodson High School has consistently been recognized as one of the top ranked schools in the country and continues to educate and shape our future leaders. I am proud to recognize the ac-

complishments of this school and all the students and faculty who have been a part of its storied history.

The W.T. Woodson High School first opened its doors to students in 1962. At this time, Woodson was not only the largest school in Fairfax County but the largest in the Commonwealth of Virginia. Built on a dairy farm, Woodson's campus continues to be the largest high school campus in Fairfax County.

Woodson High School was named in honor of the late superintendent of the Fairfax County Schools Mr. Wilbert Tucker Woodson. Mr. Woodson dedicated himself to his community and to the students of Fairfax County from 1921 to 1961. He inspired a tradition of service to community, and dedication to a well-rounded education that is still shared today. Today, Woodson continues to be recognized for having the best teachers in the county, a distinguished arts program led by their chorale and theater programs, and one of the most competitive sports programs.

While Chairman of the Fairfax County Board of Supervisors, and a parent of a Woodson student, I was proud to be a partner in the renovations to the W.T. Woodson High School. Together with parents, faculty, and community leaders, we were successful in securing funds to start the much needed renovation to this school. Renovations to Woodson began in 2005 and were completed this year. As a result of our community's commitment to investments in education, we were able to create a new fine arts wing, renovate the cafeteria, expand and remodel the auditorium, as well as make improvements to classrooms and athletic facilities.

Woodson is an example of the culmination of the efforts of a community that came together for a common goal. Our community realized the critical investments we must make in our nation's future by providing a positive community oriented learning experience for our children. I ask my colleagues to join me in celebrating the accomplishments of the W.T. Woodson High School and its community's commitment and dedication to our students and the future leaders of our country.

#### PERSONAL EXPLANATION

**HON. LINDA T. SÁNCHEZ**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Saturday, November 7, 2009*

Ms. LINDA T. SÁNCHEZ of California. Madam Speaker, due to illness, I was unable to be present in the Capitol for votes on Thursday, November 5, 2009. However, had I been present I would have voted "yea" on:

(1) H. Con. Res. 210—providing for the House, upon completion of The Affordable Health Care for America Act, to adjourn until November 16, 2009.

(2) H. Res. 893—Congratulating the 2009 Major League Baseball World Series Champions, the New York Yankees.

(3) H.R. 3788—To designate the facility of the United States Postal Service located at 3900 Darrow Road in Stow, Ohio, as the "Corporal Joseph A. Tomci Post Office Building."

(4) S. 1211—To designate the facility of the United States Postal Service located at 60

School Street, Orchard Park, New York, as the "Jack F. Kemp Post Office Building."

(5) Thompson Amendment to H.R. 2868 Chemical Facility Anti-Terrorism Act of 2009. ("aye")

(6) Final Passage of H.R. 2868—Chemical Facility Anti-Terrorism Act of 2009.

Also, I would have voted "no" on:

(1) Barton Amendment to H.R. 2868 Chemical Facility Anti-Terrorism Act of 2009.

(2) Dent (PA)/Olson (TX) Amendment to H.R. 2868 Chemical Facility Anti-Terrorism Act of 2009.

(3) Dent (PA) Amendment to H.R. 2868 Chemical Facility Anti-Terrorism Act of 2009.

(4) McCaul (TX) Amendment to H.R. 2868 Chemical Facility Anti-Terrorism Act of 2009.

(5) Motion to Recommit H.R. 2868 to H.R. 2868 Chemical Facility Anti-Terrorism Act of 2009.

#### AFFORDABLE HEALTH CARE FOR AMERICA ACT (H.R. 3962)

**HON. EARL BLUMENAUER**

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

*Saturday, November 7, 2009*

Mr. BLUMENAUER. Madam Speaker, passage of the Affordable Health Care for America Act marks the most important single step in 100 years in addressing the health care needs of American families. For the first time, the U.S. government has dealt comprehensively with the entire health care system.

Tonight I voted for every Oregonian who has faced bankruptcy when they've lost their care or has been denied coverage because of a pre-existing condition. Tonight, I voted to protect every Oregonian who has health insurance but sees their costs rising every year.

I'm pleased we were successful in the incorporation of major reforms, improving care for all Americans while strengthening the position of Oregon medical care providers.

This critical milestone, while historic, signals more hard work ahead to get the bill to the President's desk. I will work to strengthen the reforms while fighting to lower costs to make health care more affordable for families and the federal treasury.

We must then be prepared to keep working to implement this sweeping change. But tonight we should all pause to celebrate this moment in history.

#### LAYING THE KEEL OF U.S.S. GERALD R. FROD (CVN-78)

**HON. VERNON J. EHLERS**

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Monday, November 9, 2009*

Mr. EHLERS. Mr. Speaker, on November 14, 2009, Northrop Grumman will lay the keel of the first ship of the new *Gerald R. Ford* class of nuclear-powered aircraft carriers, the U.S.S. *Gerald R. Ford* (CVN-78), in Newport News, Virginia. Susan Ford Bales, the daughter of President Ford, is the ship's sponsor and will serve as the keel authenticator for the ceremony.



President Ford was a good friend of mine, and I am honored to hold his former seat in the U.S. House of Representatives. In 2006, I supported an amendment to the 2007 national defense authorization bill, offered by then Senator John Warner, which expressed the sense of Congress that the CVN-78 should be named after President Gerald R. Ford. On January 16, 2007, the U.S. Navy followed Congress's instruction and announced that CVN-78 would be so named. Consequently, CVN-78 and other carriers built to the same design all will be referred to as "*Ford* class carriers."

The *Gerald R. Ford* class carrier design is the successor to the *Nimitz* class design, and it incorporates several improvements, such as allowing more sorties per day and requiring fewer sailors for its operations and maintenance. Expected to enter into service in 2015, the U.S.S. *Gerald Ford*, and its *Ford* class successors, will ensure that the U.S. Navy, and policymakers, will continue to have the assets they need to adequately defend our nation and protect our allies and interests around the globe.

President Ford served his country honorably and faithfully for more than 60 years, first as a Navy officer during World War II, then as a Congressman, Vice President and finally as President and former President. I believe it is fitting that we name this next class of aircraft carriers after President Ford, and I look forward to monitoring the future success of the U.S.S. *Ford*.

#### SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Tuesday, November 10, 2009 may be found in the Daily Digest of today's RECORD.

#### MEETINGS SCHEDULED

NOVEMBER 17

10 a.m.

##### Energy and Natural Resources

To hold hearings to examine the international aspects of global climate change.

SD-366

##### Judiciary

##### Terrorism and Homeland Security Subcommittee

To hold hearings to examine cybersecurity, focusing on preventing terrorist attacks and protecting privacy in cyberspace.

SD-226

10:30 a.m.

##### Foreign Relations

##### African Affairs Subcommittee

To hold hearings to examine United States counterterrorism priorities and strategy across Africa's Sahel region.

SD-419

##### Agriculture, Nutrition, and Forestry

To hold hearings to examine reauthorization of the United States child nutrition programs, focusing on opportunities to fight hunger and improve child health.

SD-562

2:15 p.m.

##### Foreign Relations

Business meeting to consider S. 1524, to strengthen the capacity, transparency, and accountability of United States foreign assistance programs to effectively adapt and respond to new challenges of the 21st century. S. 1739, to promote freedom of the press around the world. S. 1067, to support stabilization and lasting peace in northern Uganda and areas affected by the Lord's Resistance Army through development of a regional strategy to support multilateral efforts to successfully protect civilians and eliminate the threat posed by the Lord's Resistance Army and to authorize funds for humanitarian relief and reconstruction, reconciliation, and transitional justice, proposed legislation deploring the rape and assault of women in Guinea and the killing of political protesters. H. Con. Res. 36, calling on the President and the allies of the United States to raise in all appropriate bilateral and multilateral for a the case of Robert Levinson at every opportunity, urging Iran to fulfill their promises of assistance to the family of Robert Levinson, and calling on Iran to share the results of its investigation into the disappearance of Robert Levinson with the Federal Bureau of Investigation, Hague Convention on the International Recovery of Child Support and Other Forms of Family Maintenance, adopted at The Hague on November 23, 2007, and signed by the United States on that same date (Treaty Doc. 110-21), the nominations of Jose W. Fernandez, of New York, to be Assistant Secretary

for Economic, Energy, and Business Affairs, William E. Kennard, of the District of Columbia, to be Representative of the United States of America to the European Union, with the rank and status of Ambassador, John F. Tefft, of Virginia, to be Ambassador to Ukraine, Michael C. Polt, of Tennessee, to be Ambassador to the Republic of Estonia, and Cynthia Stroum, of Washington, to be Ambassador to Luxembourg, all of the Department of State, and James LaGarde Hudson, of the District of Columbia, to be United States Director of the European Bank for Reconstruction and Development, and routine lists in the Foreign Service.

S-116, Capitol

2:30 p.m.

##### Commerce, Science, and Transportation

To hold hearings to examine aggressive sales tactics on the Internet and their impact on American consumers.

SR-253

##### Foreign Relations

To hold hearings to examine the United States and the G-20, focusing on remaking the international economic architecture.

SD-419

##### Homeland Security and Governmental Affairs

To hold hearings to examine H1N1 flu, focusing on getting the vaccine to where it is needed most.

SD-342

3 p.m.

##### Banking, Housing, and Urban Affairs

To hold hearings to examine protecting consumers from overdraft fees, focusing on the Fairness and Accountability in Receiving Overdraft Coverage Act.

SD-538

NOVEMBER 18

9:30 a.m.

##### Agriculture, Nutrition, and Forestry

To hold hearings to examine reforming the United States financial market regulation.

SD-106

##### Veterans' Affairs

To hold hearings to examine easing the burdens through employment.

SR-418

2:30 p.m.

##### Energy and Natural Resources

##### Public Lands and Forests Subcommittee

To hold hearings to examine managing Federal forests in response to climate change, focusing on natural resource adaptation and carbon sequestration.

SD-366

NOVEMBER 19

10 a.m.

##### Energy and Natural Resources

To hold hearings to examine environmental stewardship policies related to offshore energy production.

SD-366

**SENATE—Tuesday, November 10, 2009**

The Senate met at 10 a.m. and was called to order by the Honorable RICHARD J. DURBIN, a Senator from the State of Illinois.

**PRAYER**

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

God of grace and glory, pour Your power on Your people. Lord, as we again approach our annual honoring of military veterans, we ask You to bless them and their loved ones with the special shield of Your favor. May our gratitude for their service give them the sense of fulfillment that comes from knowing that they will always be remembered for their sacrifices. Bless also their families and loved ones, for they too have contributed much to our liberty.

Today we again ask You to strengthen those still grappling with the Fort Hood tragedy and those who have lost loved ones in combat. Embrace them with Your peace and comfort. As our Senators strive today to fulfill Your purposes, use their labors to produce legislation worthy of the service of those whose devotion to duty help keep America strong.

We pray in the Name of Him who came to set us free. Amen.

**PLEDGE OF ALLEGIANCE**

The Honorable RICHARD J. DURBIN led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

**APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE**

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. BYRD).

The bill clerk read the following letter:

U.S. SENATE,  
PRESIDENT PRO TEMPORE,  
Washington, DC, November 10, 2009.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable RICHARD J. DURBIN, a Senator from the State of Illinois, to perform the duties of the Chair.

ROBERT C. BYRD,  
President pro tempore.

Mr. DURBIN thereupon assumed the chair as Acting President pro tempore.

**RECOGNITION OF THE MAJORITY LEADER**

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

**MOMENT OF SILENCE**

Mr. REID. Mr. President, the prayer, having been led by Admiral Black, who spent his entire life counseling those in the military who had different issues, set the tone this morning for a moment of silence we are going to have.

One of the worst tragedies that has ever taken place on a military installation was at Fort Hood a couple of days ago. Thirteen are dead. We have a number seriously wounded. For the tens of thousands who are at that post and other installations around our country and around the world, certainly it is in keeping with our thoughts for those who have fallen in Iraq and Afghanistan, and certainly the demonstration that we saw with the first responders at Fort Hood and the tragedy that ensued there.

Our thoughts are with those who have been so badly injured in body and mind.

I now ask the Chair to announce a moment of silence.

The ACTING PRESIDENT pro tempore. Under the previous order, there will be a moment of silence to honor the victims of the attack at Fort Hood on November 5.

[Moment of Silence.]

**RESERVATION OF LEADER TIME**

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

The majority leader is recognized.

**SCHEDULE**

Mr. REID. Mr. President, following leader remarks, the Senate will be in a period for the transaction of morning business for 1 hour, with Senators permitted to speak for up to 10 minutes each. The majority will control the first 30 minutes and the Republicans will control the next 30 minutes. Following morning business, the Senate will resume consideration of the Military Construction and Veterans Affairs appropriations bill. The Senate will recess from 12:30 p.m. to 2:15 p.m. today to allow for caucus luncheons. There will be no rollcall votes during today's session. We will continue to work on an agreement to finish the appropriations bill during the day. Senators should ex-

pect the next rollcall vote to occur on Monday.

**RECOGNITION OF THE MINORITY LEADER**

The ACTING PRESIDENT pro tempore. The minority leader, the Senator from Kentucky, is recognized.

**VETERANS DAY**

Mr. McCONNELL. Mr. President, tomorrow is Veterans Day, the day we set aside to honor the service and sacrifice of the heroic men and women who have served in the U.S. Armed Forces. America remains a beacon of freedom throughout the world today because of commitments and sacrifices they have made. Over the years, many brave Americans donned their country's uniform to ensure we would remain safe and free at home. That effort continues today as our fighting forces courageously defend freedom from threats in Afghanistan and Iraq and elsewhere around the world.

My own State of Kentucky has a proud military history, and today is home both to Fort Knox and Fort Campbell, which together house thousands of soldiers. Many have gone from vital training at these two posts to protecting our Nation in the heart of the fight in Afghanistan and Iraq.

So tomorrow, as America takes a moment to thank these brave men and women who fought to preserve our way of life and to remember the heroes who did not return home, we will also give thanks for the men and women in uniform who are currently in harm's way.

I might say, every Veterans Day I remember my own father, who served in World War II. He arrived in Europe after the Battle of the Bulge and was there until his unit met the Russians in Pilsen. One of my treasured possessions is a letter he wrote to my mother on V-E Day. They called it V-E Day at the time. He wrote "V-E Day" at the top of the letter. That began a series of correspondence in that period right after the cease-fire and the Germans' surrender in which he had at one point prophetically—and this was just a foot soldier—prophetically mentioned to my mother after his experience interacting with the Russians in Pilsen that they were going to be a big problem down the road. I thought it was quite noteworthy that a regular foot soldier sort of instinctively understood at the moment that the Russians were an ally of convenience in World War II and not a long-term ally.

Regretfully, both my mother and father are no longer living, but I do remember them fondly and reread their correspondence from time to time of that period when he was overseas.

Later today, the Fort Hood community will honor the victims of the tragic shootings there last week. We were all shocked by the assault on American soldiers right in the heart of a post they call home. We mourn their loss, and we pray for the victims and their families.

In the midst of this terrible tragedy, we also saw the courage of many troops and civilian law enforcement, and we thank these brave men and women for their dedication that they showed in putting themselves in harm's way.

So we honor every American who has fought for this country, and we recognize this country was built on what they have sacrificed.

I yield the floor.

#### MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business for 1 hour, with Senators permitted to speak therein for up to 10 minutes each, with the time equally divided and controlled between the two leaders or their designees, with the majority controlling the first half and the Republicans controlling the second half.

Mr. WHITEHOUSE. Mr. President, I suggest the absence of a quorum and request that the time of the quorum call be charged evenly to both sides under morning business.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DURBIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. WHITEHOUSE). Without objection, it is so ordered.

Mr. DURBIN. Mr. President, I ask unanimous consent to speak in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### FORT HOOD SHOOTING

Mr. DURBIN. Mr. President, of course, the Nation will observe Veterans Day this week, as we have each year, in commemoration of the 11th hour of the 11th day of the 11th month with the end of World War I. This commemoration is one of special importance this year. We are in the midst of two wars where literally tens of thousands of Americans risk their lives each day in service of our country. It gives us a heightened awareness of our military and the men and women who

show such extraordinary courage in serving.

Many of us have taken on the task of reaching out to the families in our States who have lost soldiers in the wars in Iraq and Afghanistan. When I took on this responsibility a few years ago, I had no idea that by 2009, I would still be writing notes of condolence to families in Illinois. But it continues and, of course, other tragedies intervene.

Just last week, there was the tragedy at Fort Hood, claiming two lives of Illinois soldiers, as well as those of 11 others, and another 28 seriously wounded. It is a reminder of the danger of this commitment that each soldier makes. It is a reminder too that each of us needs to have gratitude for their service, not only on this day when we commemorate veterans and their service but around the calendar year.

We seem to be more focused on veterans issues in the midst of war, and that is no surprise. In my office last week, the major veterans organizations came in and talked about the fact that there seems to be more interest in veterans hospitals and veterans benefits and the GI bill than ever before, and it has a lot to do with the fact that we are in the midst of a war.

We also understand this tragedy at Fort Hood has brought a sharpened awareness of the vulnerability and the commitment of our soldiers. All Americans were saddened by this horrific outburst of violence. That the brave men and women who are trained to defend our Nation at war should be cut down on a U.S. Army post on American soil apparently at the hands of an Army doctor is deeply shocking and painful. We grieve for these men and women who died in this despicable act. We pray for their families and the recovery of all those who were injured.

We pray for the soldiers and families stationed at Fort Hood, for the safety of all of our brave men and women in uniform wherever they are stationed. This horrendous attack touches us all deeply. But we know the horror of this tragedy, like the burdens of wars in Afghanistan and Iraq, falls hardest on our servicemembers and their families. We want them to know our entire Nation stands with them.

Among the fallen at Fort Hood were two young soldiers from Chicago: PFC Michael Pearson of Bolingbrook, IL, and PVT Francheska Velez from the West Humboldt Park neighborhood in Chicago. Both of these fallen veterans were 21 years of age.

PFC Michael Pearson was an honor roll student in high school and a talented musician who taught himself to play the piano and was passionate about playing guitar. He joined the Army a little over a year ago. He has been training to defuse explosives and roadside bombs and was scheduled to be deployed to Iraq or Afghanistan this January.

He was a devoted son. When his father was laid off from his job, Michael sent money home to buy new tires for the family car.

He leaves behind his mom and dad, Sheryll and Jeff, a sister and two brothers, including one who serves in the Illinois National Guard.

PVT Francheska Velez joined the Army right out of high school. She had already served a year in South Korea and 10 months in Iraq where she drove fuel tankers and disarmed bombs.

Friends say she wanted to make the military a career and hoped one day to be a psychologist and help soldiers cope with the stress of battle.

Private Velez had just returned from Iraq 3 days earlier, 3 days before the shooting, to begin maternity leave. Her father, Juan Guillermo Velez, a Colombian immigrant who never realized his dream of serving in the U.S. military, said his daughter was living his dream "to be part of the military, part of the United States."

In addition to her father, Private Velez leaves her mother Eileen and two older brothers.

Another young soldier from the Chicago area, PFC Najee Hull, of Homewood, IL, is among those wounded in the Fort Hood tragedy. Private Hull is also 21 years old. He was shot three times, twice in the back, once in the knee, as he was preparing to complete paperwork to be deployed to Afghanistan. He remains hospitalized.

I was meeting with representatives of these veterans service groups and lawyers who donate their time to help veterans when the names of the Fort Hood victims became known. There was a profound sense of sadness in the room.

The men and women who wear America's uniform are some of the finest people our Nation has to offer. They are patriots who are willing to sacrifice to protect each and every one of us. They and their families have endured great hardship during these wars. They are heroes, such as CAPT Russell Seager of Racine, WI. Captain Seager was a nurse practitioner who had worked at a Veterans Affairs hospital in Milwaukee with soldiers suffering from post-traumatic stress disorder. He was 51 years of age. His uncle said he had been a "helper" all his life. Four years ago, he joined the Army Reserve. Captain Seager was scheduled to go to Afghanistan in December. He had gone to Fort Hood for training. He is among the 12 soldiers and one civilian who died there. He leaves a wife and 20-year-old son.

A few months ago, in an interview with Milwaukee's public radio station, Captain Seager explained his decision to enlist. He said:

I've always had a great deal of respect for the military and for service, and I just felt it was time that I stepped up and did it.

That is part of what defines America's military members and veterans.

This Wednesday, we will remember and honor all our veterans, from Bunker Hill to Baghdad. We will remember, in particular, those brave men and women who lost their lives at Fort Hood.

President Obama, Army Chief of Staff General Casey, and Secretary of the Army John McHugh have ordered a thorough investigation into how this tragedy at Fort Hood occurred. The inquiry must happen. We need answers, and we need to do everything possible to ensure it never happens again. While the authorities are investigating, we also need to be thoughtful and reserve judgment about the proper response.

Consider this: One week before the gunman allegedly opened fire on his fellow soldiers at Fort Hood, U.S. military investigators released a report regarding another horrific incident. Last May, an army sergeant, with 15 years in the military, killed five of his fellow soldiers on a military base in Baghdad. The soldiers, including an Army psychiatrist, were killed in a stress clinic where the gunman was being counseled. The soldier who committed the killings was just weeks away from finishing his third tour of duty in Iraq and had served previously in Bosnia and Kosovo. Until the terrible events at Fort Hood, the shooting at Camp Liberty was the worst episode of soldier-on-soldier violence.

The father of the soldier charged with the Camp Liberty killings said his son's job in Iraq was defusing bombs and that he probably saw "a lot of carnage and a lot of things he shouldn't have seen, that nobody should see." The military investigators who looked into those deaths blamed a lack of adequate guidelines on how to handle soldiers under such severe distress.

To rush to judgment based on this new act of violence at Fort Hood is premature, certainly to the 3,500 Muslim Americans who proudly serve in our Nation's Armed Forces today. As you walk through the section of Arlington Cemetery devoted to the wars in Iraq and Afghanistan, you will find headstones with the crescent star alongside the crosses and Stars of David.

As investigators search for answers to what happened last week, we owe it to the brave men and women serving at Fort Hood and throughout our military to think clearly and act thoughtfully. We need a better understanding of what took place. Let us honor those who demonstrated the best our military has to offer when their lives were on the line at Fort Hood.

I yield the floor.

The PRESIDING OFFICER. The Senator from Ohio.

#### HEALTH CARE REFORM

Mr. BROWN. Mr. President, I come to the floor, as I have many times, with Senator WHITEHOUSE, my colleague

from Rhode Island, Senator UDALL of New Mexico, and others to talk about health care and, in many cases, to share letters I have received from people in my State. These letters have several things in common. Typically, they are letters from people who thought they had good health care, if you asked them a year ago. Then they had a child with a preexisting condition and they lost their health insurance or maybe they got sick themselves and found that their health insurance was canceled because of a policy insurance companies use called rescission. Often these are people who were middle class but because of health care expenses due to an illness, coupled with insurance policies that were far less than adequate, it meant they no longer were middle class.

I have read letters from families who were consistently denied care because of a loved one's cancer or asthma. I have read letters from people who pointed out that if a woman is a victim of domestic violence, some insurance companies call that a preexisting condition and they literally can't get insurance because they are deemed to be more likely to again be a victim of domestic violence. I have read letters from small business owners who see double-digit premium increases year after year, especially if 1 of their 15 or 20 employees gets very sick, with very expensive care, and the insurance company raises the rate so much that the small business owner can no longer afford the insurance.

Many of the letters I have read are from individuals in their late fifties or early sixties who have lost their jobs and, therefore, have also lost their insurance. They write of the anxiety they feel and the hope that they can—in their words—make it to 65 so I can get on Medicare because I know Medicare will not deny me for a preexisting condition. I know I can count on Medicare. I know Medicare will be stable.

Last Saturday night, as we all know, a historic vote in the House of Representatives brought us one step closer to passing a law that will finally meet the promise of equality and affordable health care for the American people. We have been trying for 75 years—the last 100 years. Theodore Roosevelt first tried—a Republican—to pass health care. Then Franklin Roosevelt tried, then Harry Truman tried. They were Democrats. Lyndon Johnson was able to push Medicare through Congress, as we know. That was very difficult because of some of the same interest groups—insurance companies and others—that oppose this legislation now. Richard Nixon tried to build a catastrophic health insurance that would have been a major step—a Republican. So we know how long this has been happening, and that makes Saturday night's vote even more important.

Last week, I had the opportunity to be with Ohioans who oppose these

health care changes and who wanted to share their thoughts and concerns. Some don't agree that article 1 of the Constitution permits health care reform. I spoke to a young man who said that all these health care reforms are unconstitutional because article 1 doesn't allow us to do that. I said: Does that mean we should eliminate Medicare? He said: Yes, because article 1 doesn't allow for Medicare. I am not a lawyer, but I certainly don't read the Constitution that way. I don't think many of my colleagues do and I think it is clear Medicare is constitutional and it is clear what we are doing today is equally so.

But I wished to run through the four things that were said with probably the most frequency in my meetings last week with people who are opposed to this health care reform. I know a majority of my State supports it. I know a strong majority in the State supports the public option—people from Findlay to Cleveland to Gallipolis to St. Clairsville to Vandalia support our efforts here. But I also note there is significant opposition.

I will never question the sincerity and genuineness of people who talk to me in opposition, who take off from work to come on a bus to come and protest or who want to talk to me individually. But I do question those who make millions of dollars a year—whether they are insurance executives or radio and talk show people—and who are literally benefiting from trying to kill this health care reform. Their efforts are less sincere and less genuine.

But let me run through several of these myths or the four things I have heard most frequently that simply aren't true about this health plan.

First: If my employer drops my coverage, I will be forced into the public plan.

As the Senator from Illinois knows and Senator WHITEHOUSE and others know, no one is forced into the public plan. If your employer drops your coverage, you can choose private insurance or the public plan through the health insurance exchange. That is the whole point of the public option. The word is "option." It is a total option—the public plan. It means that, whether you have lost your insurance, if you are uninsured or if you have lost your insurance or you are a small businessperson who is looking for a better insurance option, you take your employees or you go individually into the insurance exchange. You can choose Aetna, you can choose WellPoint, you can choose a plan from an Ohio company, Medical Mutual, or you can choose the public option. At no point is there anybody—anybody in this country—who is going to be forced to go into the public plan. As I said, it is an option, and it will remain an option.

The second myth I hear a good deal about, of these four myths, is: After 5

years, I would not be allowed to purchase private insurance.

Mr. WHITEHOUSE. Will the Senator yield for a question?

Mr. BROWN. Sure, I yield to the Senator from Rhode Island.

The ACTING PRESIDENT pro tempore. The Senator from Rhode Island.

Mr. WHITEHOUSE. To go back to the first point about the public option, in fact, being an option, I think everybody here understands the government is going to help pay the costs of health care, particularly for low-income families who can't work to get the funds together to pay for the cost of health care. As the Senator from Ohio knows so well, wages have increased just a tiny bit and health insurance costs have gone through the roof. The result has been that families are getting clobbered, so they need some help.

So the health care reform bill we have before us will help those families who are having such trouble affording their insurance. I think it is worth confirming the help that will come to American families does not require them to join the public option. They will get the same benefit based on their income and their family's health care needs whether they choose the public option or a private insurance carrier that is offering a program through the exchange.

As long as you show up at the exchange, as I understand it—and I would like to have the Senator from Ohio confirm this—you can take that government subsidy that is yours and your family's and you can spend it at the public option, you can spend it with Blue Cross, you can spend it with Aetna, you can spend it with any insurance company—private, for profit, non-profit, public option—that is doing business in the exchange. You can take your subsidy and you can go there and spend it there. You are not tied to the public option by your subsidy.

Mr. BROWN. That is exactly right. Senator WHITEHOUSE and I, his staffers and mine, wrote the language in the Health, Education, Labor, and Pensions Committee on the public option, and the whole point was to create a level playing field.

As Senator WHITEHOUSE said, if you are low income, if you are lower or medium income, making \$30,000 or \$40,000 a year, with a couple children, you and your spouse are required, under this bill, to buy health insurance or, if you obviously choose to, you will get a subsidy from the taxpayers—from the government—to help pay for this insurance. You then take those subsidies, as Senator WHITEHOUSE says, and you have a choice. You can go to WellPoint, you can go to Aetna or you can go to the public option. The public dollars will follow you into any one of these.

The public option gets no special treatment. The public option gets no

special taxpayer subsidies. The public option gets no special government infusion of dollars. The public option gets what any one of the private companies do. As Senator WHITEHOUSE said, it could be a private company, it could be a for profit, a not for profit, it could be a co-op of some sort or it could be a public option. But it is all a level playing field, so people can decide which one of these they want to go into.

I thank Senator WHITEHOUSE for his question.

The second myth: After 5 years I won't be allowed to purchase private insurance.

This is not too different from the first myth we see out there that there is going to be some forcing of people into public insurance and into the public option. When Senator WHITEHOUSE and I and our staffs wrote this language for the Health, Education, Labor and Pensions Committee, it was written in a way not just today for people going into the insurance exchange but 5 years from now, 10 years from now, people will have the option. You can choose a private for-profit or not-for-profit insurance company or you can choose the public option. That is the way this language will continue to be. That is another one of those myths out there that has scared people.

Some people are very distrustful of government in this country. I understand. But I think the experience of Medicare has shown that, in terms of health care, government has been a pretty good delivery vehicle for people getting insurance. In 1965, half of American seniors had no insurance. In health insurance today, 99 percent plus of Americans have health insurance and it is because of Medicare.

We know government can deliver these plans efficiently but we also are not telling people they have to have the public option. In the public plan they continue to have an option.

Mr. WHITEHOUSE. If the Senator will yield again, we are approaching Veterans Day, a time when the Nation takes a moment from our busy lives to pay our respect and our honor to those who wear the uniform of the United States and are willing to put themselves in harm's way. I think there is not a person in this body who does not feel a great loyalty and pride in our Armed Services. We want them to get nothing but the best. What do we give them for health care? If they are active, they get a government plan called TRICARE. Once they retire from active service and become veterans, they go into the Veterans' Administration. So at least one measure of the quality of government health care, in addition to the success of Medicare in reaching a population that had been deprived of adequate care for generations until Medicare came along, our seniors, is that those very people whom we are about to spend the week honoring, and

for whom we insist on the very best, one of the ways we pay them honor and respect is by giving them among the very best health care in the world, government health care, TRICARE and Veterans' Administration care.

Mr. BROWN. That is exactly right. TRICARE you rarely hear a complaint about. The VA is a huge operation. Of course there are sometimes complaints about people having to wait or something that doesn't quite go right all the time, but obviously by and large veterans in this country, soldiers and sailors and marines and active duty, understand their medical needs are taken care of, as they should be. It is one of the things to be proud of in our country, that we have done a decent job of taking care of people who serve the country with TRICARE.

I sit on the Veterans' Committee and all the time we are wrestling with problems in the VA. There has been a problem with people going from active duty in TRICARE into retired status, as Senator WHITEHOUSE said, the VA. To make that transition is not always as smooth as it should be, but it is clear people's medical care works and that is another argument for the option.

Mr. WHITEHOUSE. I suggest to the distinguished Senator from Ohio, who has come to this floor so often to share the stories of Ohioans in our health care system, which are heartbreaking, which are tragic; which involve people being thrown completely out of the program when they have the temerity to get sick, which involve families going broke who had insurance, when they find out the insurance policy had holes in it that they have fallen through, when they find out when they become sick they not only have as their adversary the illness they are fighting but also the insurance company they have to fight on the other side—over and over again you have come here with those stories.

If Senator BROWN's experience is anything like mine in Rhode Island, I don't get those letters about the VA system. I don't get those letters about TRICARE. Sure, there are glitches now and then; any big system has its problems. But the massive cascade of human tragedy the Senator represents so effectively on this floor with the letters he brings from home—that is not coming out of these systems. That is coming out of the private health care system.

Mr. BROWN. That is exactly right. We don't see veterans or we don't see active-duty soldiers or people on Medicare denied because of a preexisting condition. Soldiers who are injured in the line of duty, imagine if they have a preexisting condition if we don't take care of them in Bethesda or Cleveland or Dayton or in Chillicothe in my State, in the Senator's State the same. It is absurd to think that would be the

case. But it is clear these endemic massive problems with people fighting their insurance companies, denied care, come out of the private insurance system.

One of these other myths was one Senator WHITEHOUSE has talked about, that health reform will lead to rationing of health care. It is such a peculiar charge to say about this bill, that health reform will lead to rationing of health care, because we see rationing of health care every day.

Senator WHITEHOUSE pointed out on the floor several times, the model of the health insurance business is this: They hire a lot of bureaucrats to keep people from buying insurance if they are too sick. A large insurance company will have a bunch of employees, a bunch of bureaucrats. When people apply for health insurance, they will check and see if this person going to cost our company too much, so they will deny them, they won't even get insurance with this company—a pre-existing condition or something. Then they have bureaucrats on the other end to challenge the claims once one of their insured customers gets sick. So they have bureaucrats on both ends of this health insurance model, stopping people from getting insurance at the beginning and stopping them from receiving coverage. In fact, 30 percent of the claims on the first go-around are denied. Sometimes when you appeal them you can win. But just the idea, when you are sick or you are taking care of a very sick child or spouse or parent or sister or whatever, and you are fighting with the insurance companies to pay the bill—we remember the President, President Obama, talking about that with his mother, the fights she had with the insurance companies to pay for her cancer care as she was dying. We don't hear about that in the public plans. We don't hear about that in TRICARE or in Medicare.

Mr. WHITEHOUSE. It has happened in my family as well. A member of my family whom I loved very much went to the National Institutes of Health to get the best recommendations he could for a very terrible diagnosis he had received. When he went back to New York, where he lived, and filed his claim and began the treatment that the National Institutes of Health top expert on his diagnosis had recommended, his insurance company came back and said I am sorry, no, that is not the indicated treatment. They dropped—tried to, anyway—dropped a bureaucrat between his doctor, a world expert, and the care he was entitled to.

The Senator and I hear these stories all the time. People are not making them up. They happen to us. They happen to people we know. Unfortunately, unlike my family member who fought back and was able to convince the insurance company to honor what the ex-

pert at the National Institutes of Health indicated was the standard and approved treatment for that type of condition, many people are overwhelmed by the illness, they are overwhelmed by the paperwork, they are overwhelmed by the battle with the insurance company. They believe what they are told and they allow themselves to get rolled over.

If an insurance company only gets 1 in 10, it still saves them money when they deny people that care. It is in their business model to deny their insureds the care that they paid for, once they have the nerve to get sick. That is a recurring and consistent problem that just plain never comes up in the government programs. It is unique to our very unique position as being the one country in the world that turns over our health care to the profit-making private sector for things we cannot negotiate on, for things that are not elective.

If you do not want to buy a bicycle, you have to buy a bicycle. They have to come to you on price. But if you need a heart transplant, there is not a lot of negotiation. We turn that over to the profit sector and as a result we have higher costs and worse results than any country.

Mr. BROWN. I would point out when the Senator said the only country in the world—not every country in the world has a government health care system; not that every country has, or even many of them that have successful health care systems are necessarily socialized medicine or public health care plans. But what they have, when they use private insurance in other countries, they are private but they are not-for-profit private insurance. So they don't have all the bureaucrats in this business model at the beginning keeping people from getting coverage and at the end denying payment for those plans.

The fourth myth we hear so much is related to rationing of care, the myth about rationing of care, and that is that health reform will interfere with decisions that should be between doctors and patients. That is exactly what we are saying again with private insurance now. You don't see that with Medicare.

The ACTING PRESIDENT pro tempore. The time of the majority for morning business has expired.

Mr. BROWN. I ask unanimous consent for 2 more minutes.

Mr. ALEXANDER. Reserving the right to object, I ask to add an equal amount of time, 2 minutes, to the Republican time.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BROWN. That is the fourth myth, that health reform will interfere between doctors and patients. That is what we are seeing now. We are seeing

so many cases where the doctor and the patient—the doctor puts his or her secretary or nurse on the line or the doctor herself calls the insurance company to beg them for coverage. I have heard doctors say to a patient: I will pay it out of my own pocket if I can't get this covered with the insurance company.

All these resources of the system, the patient's time, the family time, the doctor time, the doctor hiring all these people, the insurance companies hiring all these people to prevent you from getting coverage, the insurance companies hiring all these people to prevent you from getting reimbursed for your expenses—all this goes into what? It is waste. Executive salaries, profits, but certainly doesn't go into patient care.

I ask Senator WHITEHOUSE, why don't you wrap up.

Mr. WHITEHOUSE. It provides no health care value at all and it is going in the wrong direction. Insurance company administrative expense is up over 100 percent. I go to Rhode Island and I talk to doctors and community health centers, for whom 50 percent of their personnel are devoted not to providing any health care but to fighting with the insurance company. So the notion that it is the Government that will get between you and your doctor is truly the big lie. It is the insurance companies that are the ones that, day after day—a manner of their business model—get between Americans and their doctors. We are trying to cure that and we will.

I thank the Senator from Ohio.

The ACTING PRESIDENT pro tempore. The Senator from Tennessee is recognized.

#### HONORING ARMY SPECIALIST FREDERICK GREENE

Mr. ALEXANDER. Earlier today the assistant Democratic leader, who is now presiding, delivered some eloquent remarks about the murders at Fort Hood. I believe there were two soldiers from Illinois who were there. One was from Tennessee, from Mountain City, TN, which is a beautiful little part of our State, way up in the northeastern corner near Virginia. Some people have said it looks like Switzerland and that the people there talk in Elizabethan phrases and tones.

SPC Frederick Greene, according to an article in the Washington Post:

... was a Tennessee native so quiet and laid back that he earned the nickname "Silent Soldier" while stationed at Fort Hood preparing to go overseas.

He hoped to spend the months before his deployment to Afghanistan with his wife of less than 2 years. She had made arrangements to leave their home in Mountain City, TN, next week and move to Fort Hood until January, when Greene was to ship out.

Instead, [they] are planning his burial in the northeast corner of the state where he grew up.

This is what Specialist Greene's family had to say about him, and I think it speaks as eloquently about his life and service to our country as anything could. In their words:

Fred was a loved and loving son, husband and father, and often acted as the protector of his family.

Even before joining the Army, he exemplified the Army values of loyalty, duty, respect, selfless service, honor, integrity and personal courage. Many of his fellow soldiers told us he was the quiet professional of the unit, never complaining about a job, and often volunteering when needed. Our family is grateful for the thoughts and prayers from people around the country. We would like to ask for privacy during this emotional time because Fred, too, was a very private person.

We will honor the request for privacy of the family, but we will also honor Fred Greene for his service to our country.

Speaking just for myself, but I am sure most Tennesseans, most Americans, feel the same way—for 8 years now, tens of thousands of men and women from Tennessee have fought in Iraq and Afghanistan to keep terrorism from spreading here.

It is tragic enough when any one of them is wounded or killed in that fight; it is beyond belief when one of them is wounded or killed at home in a terrorist act at Fort Hood. That is hard for us to accept. But in accepting it and asking questions that we inevitably must ask about how this could have happened, we certainly can honor each of those who were killed, each of those who were wounded.

We can respect their service, and I especially want to show my respect for the family of SPC Frederick Greene and for his service.

I ask unanimous consent to have printed following the remarks I just made a brief article from the Washington Post and an article from the Johnson City, TN, Press of Tuesday, November 10.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Nov. 8, 2009]

SPEC. FREDERICK GREENE, 29

Spec. Frederick Greene was a Tennessee native so quiet and laid-back that he earned the nickname "Silent Soldier" while stationed at Fort Hood preparing to go overseas.

He hoped to spend the months before his deployment to Afghanistan with his wife of less than two years. She had made arrangements to leave their home in Mountain City, Tenn., next week and move to Fort Hood until January, when Greene was to ship out.

Instead, Greene's wife and family are planning his burial in the northeast corner of the state where he grew up.

The 29-year-old enlisted in the Army six months after getting married because the military seemed like the best way forward, said Howard Nourse of Kentwood, Mich., who said he considered Greene a grandson. Rural Mountain City offered relatively few opportunities to advance, and he wanted to build a career, perhaps in engineering.

Greene's mother died when he was a boy, and he was raised by her twin sister Karen Nourse, and Karen's husband, Rob Nourse. Family members are leaning on their Christian faith as they grieve, said Howard Nourse, Rob's father. "God is still in control," he said. "Even though we don't understand why something happens, He's still in control."

[From the Johnson City (TN) Press, Nov. 10, 2009]

LOCAL SOLDIER REMEMBERED BY COMMUNITY  
(By Brian Bishop)

One of the 13 killed during Thursday's Fort Hood attack was a local man—29-year-old Army Specialist Frederick Greene.

"Fred was a loved and loving son, husband and father and often acted as the protector of this family," Army Public Affairs Cathy Gramling said in a prepared family statement Sunday outside the Johnson City home of Greene's parents, Karen and Rob Nourse.

"Even before joining the Army, he exemplified the Army values of loyalty, duty, respect, selfless service, honor, integrity and personal courage. Many of his fellow soldiers told us he was the quiet professional of the unit, never complaining about a job given, and often volunteering when needed. Our family is grateful for the thoughts and prayers from people around the country. We would like to ask for privacy during this emotional time as Fred, too, was a very private person."

Greene's family did not participate in the news conference, opting to let the military spokeswoman read the prepared statement.

"I don't have any information about what happened during the shooting," Gramling said. "The Army and other investigators are going through that now. I will say this, regardless of Fred's actions during the shooting, he signed up to serve our country. In my mind, and I believe in the minds of the family, he's already a hero, regardless of what happened that day."

Fred's parents attend River of Life Church just down the road from their home and pastor Donnie Humphrey is making sure the family gets the full support of the church during this emotional time while ministering to the church as well.

"We're doing as much or as little as they want," Humphrey said. "In this situation, what we've got to be really careful about is smothering somebody. We want to be there for them if they need us but not be in the way. In the grieving process, there's anger, hurt and confusion. That's kind of where our congregation is too, in shock this morning because we kept this quiet. They were shocked, hurt, confused and I'm sure some folks are angry as well."

Church members and others in the community speak well of Greene, who joined the military in May 2008, and say it is a loss that will be felt for a long time to come. Those that have known Greene all his life say he was a smart man on his way up in the world.

"I've known Fred and his family his whole life and he was a very fine boy, one of the finest you ever met," family friend Glen Arney said.

"I worked with him at the A.C. Lumber and Truss Company where he worked for a number of years. He went from building trusses to being offered the job of designer, but he turned it down. He was one of those who was smarter and more well-read than he let on. Everybody who met him, loved Fred Greene."

Exact details about the shooting rampage are not known as investigators from mul-

tiple agencies are working out what transpired when officials say suspect Maj. Nidal Malik Hasan opened fire.

## HEALTH CARE REFORM

Mr. ALEXANDER. We are in the middle of the health care debate. We have different points of view. I am sure people are confused by what they hear. I think that would be inevitable with a 2,000-page bill, which is the House-passed bill. That is all we have today while the Democratic majority leader writes his version of whatever we are expecting to act on, behind closed doors.

Earlier this week I talked to a woman in my home town. She expressed what I suppose many people believe. She said: I am very confused by what I hear, but I do not like what I hear. My husband lost his job. He was one of the lucky ones; he got a new job. But it only pays 60 percent of what he was earning doing the same work, and he does not have any benefits.

So, she said: I went back to work. I am a small business woman. We needed the benefits, so I went back to work.

But she said: These proposals I am hearing about do not seem to be working out the way they are supposed to. They are putting more costs on us when we buy our insurance and when, as a small business person, I have to buy insurance.

She said: I do not like what I hear.

I think she is expressing a real concern—it is a complicated bill. There is a lot of concern on both sides. We heard the other side talking about myths and reality. I see the Senator from South Dakota. It looks as though he has the 2,000-page bill with him. It is good that he is young and strong and can carry such things. His eyes are good, and he can read it. It will take a while to do that, which is why, when this bill gets to the Senate floor, we want to make sure we read the bill, we know what it costs, and we help the American people understand how it affects them.

I would ask the Chair if he would please let me know when I have 60 seconds remaining on my 10 minutes.

The ACTING PRESIDENT pro tempore. The Chair will advise the Senator.

Mr. ALEXANDER. What I would like to suggest this morning is that we ought to focus on a forgotten word, and the word is "cost." This is supposed to be about reducing the cost of health care not increasing the cost of health care; reducing the cost of our premiums, which 250 million of us have. We have health care plans upon which we or somebody else pays premiums for us. We would like for those to go down or at least stabilize. That is what this reform is supposed to be about—and reducing the cost of health care to our government because all of us, including



our President, have seen that we are going to go broke if we do not do that.

Here is the President speaking at the White House health summit on March 5 in words I thoroughly agree with:

If people think we simply can take everybody who is not insured and load them up in a system where costs are out of control, it is not going to happen. We will run out of money. The Federal Government will be bankrupt. State governments will be bankrupt.

That is President Obama using the B-word. Yet the bill we have coming toward us is indeed historic. But it is historic in its combination of higher premiums not lower premiums, of higher taxes, of Medicare cuts, and of more Federal debt.

Millions of Americans will be forced into government plans, perhaps including a new one, when their employers look at the option and say: We are out of here. They will write their employees: Congratulations. We are going to write a check to the government. That is better for us as a company, our bottom line, and you are in the government health care plan.

That is going to come as a shock to millions of Americans. We do not hear as much about it here. But one way the House of Representatives plans to pay for this expensive bill, that's going to cost between \$2 trillion and \$3 trillion, according to various estimates when it is fully implemented over 10 years, is to shift some of the cost to the States.

The numbers we throw around here after a while do not have any reality to them, but if you are a Governor—and our Governor, a Democratic Governor, has said that the House-passed bill—now that is not the Senate bill because the Senate bill is still behind closed doors; we have not seen it—but the House-passed bill will add about \$1.3 billion cost to the State of Tennessee over the next 5 years for its share of the Medicaid costs, including reimbursement of physicians.

I have been the Governor of Tennessee. I know how much money that is, and I cannot see how the State of Tennessee can afford to pay for its share of these proposed Medicaid costs unless it institutes a new State income tax or seriously damages higher education or both.

So we should take a different approach. Instead of a 2,000-page bill with higher premiums—people say: Well, that is a myth. Well, it is not a myth. I mean, if you add \$900 billion in taxes over 10 years to insurance companies and medical devices, who do you think is going to pay it? The people who pay for insurance premiums are going to pay it. If you tax the oil companies, who do you think is going to pay the tax? The people who buy gasoline. Taxes are not paid out of thin air; companies pass them on. So premiums are going to go up.

They are also going to go up because of government requirements for an

“approved government policy.” Senator COLLINS of Maine said 87 percent of people in Maine would be paying more for the premiums they have today if they had to buy them new under the House-passed plan. So why do we not take a different direction? Instead of these 2,000-page bills, that cost \$2 or \$3 trillion, and are full of surprises and confusion, why do we not just set a goal of reducing costs? Why do we not go step by step in reducing those costs? I bet we could agree on a lot of things. Going step by step in the right direction is one good way of getting where we want to go. It also provides bipartisan support which would provide bipartisan support of the country, which the President and the majority will need to sustain the program. We want the President to succeed because we want our country to succeed. He is our President. But this bill will not help him succeed. It will not help our country succeed.

Just to conclude with one example of what a step would be is the small business health care plan, which we worked on for a long time. Senator ENZI from Wyoming has been the principal sponsor. It would allow small businesses to combine and offer insurance to a larger number of employees.

According to the Congressional Budget Office, such a plan, as I just described, would add nearly 1 million, 750,000 people would become insured. Three out of four people who are employees of small business would have lower rates, and we would reduce the cost of Medicaid by \$1.4 billion.

That is just a step, but it is a step in the right direction. So I would hope we can focus on costs, reducing costs. Republicans have a series of steps we would like to take in that direction. We reject these 2,000-page bills that raise taxes and premiums and Medicare cuts. We hope we can come to some agreement before we conclude the debate.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from South Dakota is recognized.

Mr. THUNE. Mr. President, I want to commend the Senator from Tennessee. I totally support his approach. I think handling health care reform in a way that reflects a more thoughtful step-by-step approach is the correct way to proceed.

The leadership, the Democratic leadership in the House of Representatives, wanted to pass a health care reform bill in the worst possible way. They succeeded on Saturday, passing it in the worse possible way. It is a 2,000-page bill which was debated for about 4 hours and passed on a party-line vote. It was a partisan bill, very limited amount of debate, very few number of amendments that were offered. I think the Republicans were able to offer one substitute during that entire debate.

They passed out a 2,000-page bill that expands the Federal Government by \$3 trillion over 10 years when it is fully implemented. So you have a 2,000-page bill coming out of the House of Representatives, a \$3 trillion expansion of the Federal Government, and I think what the American people are probably asking in observing this process is, What does it all mean for me?

Well, let me tell you what it means. If you are a taxpayer in this country, if you are someone who currently does not have insurance in this country, you are going to pay higher taxes. If you are somebody who has insurance, you are going to pay higher taxes. If you are a medical device manufacturer, you are going to pay higher taxes. If you are a small business, you are going to pay higher taxes. If you are someone who has a flexible spending account, you are going to pay higher taxes. If you are someone who has a health savings account, you are going to pay higher taxes. If you are someone who itemizes on your tax return and deducts your medical expenses, you are going to pay higher taxes.

So pretty much that kind of covers the gamut. Everybody in this country is going to be hit with higher taxes to pay for this monstrosity, this 2,000-page bill, which, according to the CBO, raises taxes in the first 10 years by three-quarters of \$1 trillion.

What is interesting about that, when I mention that people who do not have insurance are going to pay higher taxes, there is, in this bill, what is called an “individual mandate.” Those who would pay the higher tax under the individual mandate—it would raise taxes by about \$33 billion—are people who currently do not have health insurance coverage. What is interesting about that is that the CBO has looked at who would be impacted by the individual mandate and found that almost half of that tax burden would fall on taxpayers who are making between \$22,800 a year and \$68,400 a year. So about half of the individual mandate, about half of that \$33 billion tax increase, would fall on individuals who, in their incomes, fall into the middle of that category, \$22,800 a year to \$68,400 a year. That is according to the Congressional Budget Office.

Now, it raises taxes by \$135 billion on businesses through what is called a “pay-or-play mandate.” In other words, if you do not offer health insurance, you do not offer insurance that meets the government requirement, then you pay a payroll tax starting at 2 percent, up to 8 percent of payroll. That raises \$135 billion in this bill in additional taxes and taxes that are going to hit small businesses.

There are also taxes on what they call “high-income earners.” That raises about \$460 billion in the bill. It is designed to hit people who make between \$500,000 and up to \$1 million a

year, which is sort of the traditional "tax the rich and pay for this thing."

The dirty little secret in all of that is that tax hits a lot of small businesses. In fact, about one-third of that tax is going to fall on small businesses that file or are organized as subchapter S corporations or LLCs and therefore file on the individual tax return.

So we are going to be faced with a situation where next year a small business—when the tax cuts that were enacted in 2001 and 2003, the top marginal income tax rate—goes from 35 percent to up to 39.6 percent. You will add in this health care, this 2,000-page bill, a 5.4-percent surtax on those high-income earners. So if you can believe this, the top marginal income tax, Federal income tax rate in this country, will go up to 45 percent—45 percent.

That is the highest rate we have seen in 25 years. As I said, it would be one thing if it were just hitting high-income individuals who were making more than  $\frac{3}{4}$  million a year, but it does not. It hits small businesses, small businesses that are organized as partnerships, subchapter S corporations, LLCs, and, therefore, file an individual tax return.

So they have \$460 billion of tax increases there, \$135 billion in the pay-or-play mandate, \$33 billion in tax increases through the individual mandate—all totaled, \$752 billion in new taxes in this 2,000-page bill that are going to be passed on and paid for by the American public.

The Joint Tax Committee said of the Senate bill—by the way, this is the Senate version of the bill. This is only 1,500 pages. We do not know—as the Senator from Tennessee pointed out—what the final Senate bill is going to look like.

All we know is that this is the version that was reported out of the Finance Committee, 1,500 pages also filled with higher taxes on individuals and small businesses.

The argument was made that we will make the people who are wealthy, the affluent, pay for this. What the Joint Tax Committee found was that 87 percent of the tax burden in the Senate Finance Committee bill would be paid by wage earners making less than \$200,000 a year and a little over 50 percent would be paid by those making under \$100,000 a year. If one fits into those categories, there are 46 million Americans who will be hit with higher taxes under the 1,500-page Senate Finance Committee bill as opposed to the 2,000-page House bill that passed on Saturday.

I remind my colleagues that when we talk about a massive \$3 trillion expansion of the Federal Government, it has to be paid for somehow. Of course in this case, it is paid for in the form of higher taxes and by way of Medicare cuts that will hit very hard on seniors, \$170 billion in cuts to Medicare Advan-

tage, cuts to providers such as hospitals, home health agencies, hospices. Everybody gets to have their reimbursements cut in order to finance this \$3 trillion monstrosity of an expansion of the Federal Government.

Having said that, it would be one thing if, in fact, the goal was accomplished, which is to reduce health care costs. Ironically, after a \$3 trillion expansion of the Federal Government and three-quarter trillion dollars in additional taxes in the first 10 years, we don't see any impact on insurance premiums. In fact, they will not go down; they will actually go up.

I want to read what the Congressional Budget Office said about that:

On balance, during the decade following the 10-year budget window, the bill would increase both federal outlays for health care and the federal budgetary commitment to health care, relative to the amounts under current law.

That is consistent with everything we have heard so far from the Congressional Budget Office about the impact this bill would have on overall health care costs and on the premiums average Americans would end up having to pay.

With respect to State governments, because something has been said in this bill about the expansion of Medicaid, in fact, there is a massive expansion of the Medicaid Program, to the point that a decade from now one-quarter of the entire population would be on Medicaid. This was a program that at one time was designed to assist poor, disabled people who really need assistance with health care. A decade from now, with this expansion of Medicaid, we would see one-quarter of the population on Medicaid.

The other component of that, the element I think should be so disturbing to States—as we all know, Medicaid is a State-Federal shared responsibility. I see the Senator from Nebraska, Mr. JOHANNIS, a former Governor, who knows full well about the cost of Medicaid to State budgets. What this bill would do is increase the amount of cost passed on to States by \$34 billion. States are going to have to look at how they are going to finance this thing, probably in the form of additional and higher taxes.

We have a \$3 trillion expansion of the Federal Government, cuts to Medicare that will affect not only seniors but also most providers, and massive increases in taxes which will hit squarely small businesses and individuals, in particular individuals who make less than \$100,000 a year. We need to do what the Senator from Tennessee suggested; that is, start over and do this step by step rather than a massive expansion of the government that raises taxes and increase health care costs.

I yield the floor.

The PRESIDING OFFICER (Mrs. GILLIBRAND). The Senator from Nebraska.

Mr. JOHANNIS. Madam President, if I may start out today and use a portion of my time to ask if the Senator from South Dakota would answer a question or two about Medicaid, the first question I have for the Senator from South Dakota is, when it comes to Medicaid, why would we be putting a mandate on States at a time when every State in the country is going through a difficult budget cycle? In fact, Nebraska literally, as I speak, is in special session to cut the budget by over \$300 million. Why would we do that with this health care bill?

Mr. THUNE. Madam President, that is exactly the point. Why would we pass on \$34 billion in additional cost to States when, as my colleague suggested, in States such as Nebraska and South Dakota, it is on the front page every day about decisions made at the State level, about cuts that will have to occur, looking at revenue increases, with the economy in the difficult situation it is in? I can't imagine complicating that by passing on an additional \$34 billion in cost that every Governor and every State legislature will have to deal with.

Mr. JOHANNIS. Madam President, I begin my comments and thank the Senator from South Dakota for answering that question. Having been a Governor and, for that matter, a mayor, this is a very difficult time back home. When I refer to "back home," I refer to Nebraska, but every Senator could say the same. State budgets are struggling.

Today, I rise because I believe there is another important point to be stressed as Senators on both sides of the abortion issue decide how they want to approach their vote relative to this legislation.

We saw a clear pro-life approach when the House passed what is now being referred to as the Stupak amendment. That amendment is straightforward. It says no Federal tax dollars will pay for abortions, whether that is directly or through subsidies or any other means. Put another way: If you accept a subsidy from the Federal Government, you cannot use that to fund an abortion. It is clear and straightforward. This carries on the long-standing tradition of separating tax dollars from abortions.

Now the focus is on the Senate. The House passed their legislation on Saturday. I have heard very little about the importance of what some have characterized as little more than a procedural vote. In reality, it is an important vote that might well become the deciding factor in the debate over Federal funding of abortion. Let me explain. It all depends on whether the ban on Federal funding of abortions is weakened in the Senate bill compared to the House.

As I speak today, the Senate bill is being written behind closed doors by

the majority leader and others. If their final product includes anything less than the House-passed ban, the critical vote for pro-life Senators will be their vote on cloture on the motion to proceed. Why? Because if the motion to proceed is successful, it will end, in my opinion, any chance to match the House bill's ban on using Federal funds to fund abortion. It is the way the Senate works, according to its rules. Sixty votes would be needed to change the bill once a motion to proceed passes. Let me repeat: 60 votes would be needed to change the bill once a motion to proceed passes. We all know, regretably, that there are not 60 Senators who would support the House provision that bans Federal funding for abortions; therefore, we would lack the votes to close the door on Federal funding of abortions if this bill proceeds to the floor with a weakened approach.

The ban on Federal funding of abortions must be a part of the Senate bill before debate is allowed to proceed. Don't be fooled by the claims that the motion to proceed to the bill is a first step in improving the bill; it will be the final say for the pro-life community.

I applaud my colleagues on both sides of the aisle who have declared they will accept nothing less than a complete separation between Federal funds and abortion services. I wish to express unequivocally, I stand firmly with them. If we are presented with a weakened ban on Federal funding of abortion compared to the House version, we must vote against cloture on the motion to proceed to the bill. In my judgment, this point should be nonnegotiable.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. JOHNSON. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

#### MILITARY CONSTRUCTION, VET- ERANS AFFAIRS, AND RELATED AGENCIES APPROPRIATIONS ACT, 2010

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of H.R. 3082, which the clerk will report by title.

The assistant legislative clerk read as follows:

A bill (H.R. 3082) making appropriations for military construction, the Department of Veterans Affairs, and related agencies for

the fiscal year ending September 30, 2010, and for other purposes.

Pending:

Johnson/Hutchison amendment No. 2730, in the nature of a substitute.

Udall (NM) amendment No. 2737 (to amendment No. 2730), to make available from Medical Services, \$150,000,000 for homeless veterans comprehensive service programs.

Johnson amendment No. 2733 (to amendment No. 2730), to increase by \$50,000,000 the amount available for the Department of Veterans Affairs for minor construction projects for the purpose of converting unused Department of Veterans Affairs structures into housing with supportive services for homeless veterans, and to provide an offset.

Franken/Johnson amendment No. 2745 (to amendment No. 2730), to ensure that \$5,000,000 is available for a study to assess the feasibility and advisability of using service dogs for the treatment or rehabilitation of veterans with physical or mental injuries or disabilities.

Inouye amendment No. 2754 (to amendment No. 2730), to permit \$68,500,000, as requested by the Missile Defense Agency of the Department of Defense, to be used for the construction of a test facility to support the Phased Adaptive Approach for missile defense in Europe, with an offset.

Coburn amendment No. 2757 (to amendment No. 2730), to require public disclosure of certain reports.

Durbin amendment No. 2759 (to amendment No. 2730), to enhance the ability of the Department of Veterans Affairs to recruit and retain health care administrators and providers in underserved rural areas.

Durbin amendment No. 2760 (to amendment No. 2730), to designate the North Chicago Veterans Affairs Medical Center, Illinois, as the "Captain James A. Lovell Federal Health Care Center".

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. JOHNSON. Madam President, I look forward to making progress on the MILCON-VA bill today so we can reach agreement on a finite list of amendments and vote on them next Monday, followed by final passage of the bill. I wish we were in that position today, but since that is not possible, I hope we can at least arrive at a roadmap to final passage next week.

This bill is too important to our military troops and their families and to our Nation's veterans to allow it to become caught up in petty politics. We do not need grandstanding on this bill or message amendments or delaying tactics driven by a political agenda. We just need to get the job done and get this bill to the President.

We will be working throughout the day to try to clear and dispose of non-controversial amendments and to try to come up with a short, finite list of amendments that can be voted on next Monday so we can clear the way for final passage of the bill that same day.

I know the leaders and the cloakrooms, as well as the committee staff, are working hard to clear amendments. I hope we will be at a point to dispose of some of those amendments soon.

I do not need to remind my colleagues that tomorrow is Veterans

Day. If we cannot complete this bill today, let us at least return home with a plan to finish the bill next Monday.

Madam President, I yield the floor.  
The PRESIDING OFFICER. The Senator from Nebraska.

AMENDMENT NO. 2752 TO AMENDMENT NO. 2730

Mr. JOHANNIS. Madam President, I ask unanimous consent that the pending amendment, if there is one, be set aside and that amendment No. 2752 be called up.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The clerk will report the amendment. The assistant legislative clerk read as follows:

The Senator from Nebraska [Mr. JOHANNIS] proposes an amendment numbered 2752 to amendment No. 2730.

Mr. JOHANNIS. Madam President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: Prohibiting use of funds to fund the Association of Community Organizations for Reform Now (ACORN))

On page 60, after line 24, insert the following:

SEC. 6 \_\_\_\_\_. None of the funds made available under this Act may be distributed to the Association of Community Organizations for Reform Now (ACORN) or its subsidiaries.

Mr. JOHANNIS. Madam President, this is an amendment I have offered on several appropriations bills. Each time, it has passed with overwhelming bipartisan support. Additionally, the continuing resolution includes similar language. But, of course, the CR runs out on December 18.

We need to continue passing this amendment; therefore, I need to continue to offer it. It basically says we are blocking all Federal funding under this bill to ACORN. I do have a piece of legislation pending that would take care of this across the Federal system, but that has not come to a vote yet. So I am offering today this amendment on ACORN. This amendment will continue to protect taxpayer dollars.

I do want to indicate to the manager of the bill that, of course, I am happy to work with my colleagues on a voice vote whenever the appropriate time arises for that to occur.

With that, Madam President, I yield the floor.

The PRESIDING OFFICER. The Senator from Alaska.

HONORING OUR ARMED FORCES

Mr. BEGICH. Madam President, I rise today on the eve of Veterans Day to honor all those who have and are now serving to protect our freedoms, especially the service men and women of my State who have such a vital role in our Nation's defense.

At trouble spots across the world—from Afghanistan to Korea, Iraq to Kosovo—Alaskan servicemembers are on the front lines.

Today, I welcome the opportunity to praise Alaska's service men and women, their families who are such a key part of our communities, and the thousands of veterans who have chosen to live in the 49th State.

Nearly 75 years ago, Air Force GEN Billy Mitchell testified before Congress and famously said:

Alaska is the most strategic place in the world.

General Mitchell's pronouncement might have been an eye-opener for Members of Congress in 1935, but the importance of Alaska's strategic location has been well known to Alaskans for centuries.

Shortly after Alaska's purchase from Russia in 1867, the U.S. Army was dispatched to help administer the new American territory. Within 10 years, a significant presence was established in Alaska by both the Navy and the Reserve Service, which later became the U.S. Coast Guard.

The Army helped maintain law and order during the turn of the century Gold Rush, which saw thousands scramble north in search of fame and fortune.

With the buildup to World War II, Alaska's vital role in the Nation's defense grew dramatically. Alaska's Aleutian Islands were the only American territory occupied by the Japanese during the war. Dislodging them in brutal conditions cost American and Japanese troops more than 6,000 casualties combined.

Servicing Alaska's strategic military needs during the war required construction of the 1,400-mile Alaskan-Canadian Highway, known as the ALCAN. This road was built largely by three African-American regiments, and their success helped spur the Army to end segregation among its ranks.

Some of the Nation's most essential eyes and ears during the war were soldiers of the Alaska Territorial Guard. These Eskimo volunteers, capable of living off the land as they guarded against invasion, knew every nook and cranny of Alaska's coastline. Today, some two dozen of these scouts are still with us—most in their eighties and still living largely off the land through subsistence hunting and fishing.

As a member of the Armed Services Committee and working with my colleague, Senator MURKOWSKI, we guaranteed in next year's military budget bill that these brave guardsmen will receive proper Federal benefits and recognition for their service.

Today Alaska is home to some 30,000 Active-Duty service men and women. Another 30,000 Alaskans are the family members of these soldiers and airmen.

Alaska's major military installations include Elmendorf, Eielson, and Clear Air Force Bases, Army Forts Richardson, Wainwright, and Greely, and Kulis Air National Guard Base. Through these bases, about one in five Alaskans has a personal tie to the military.

To maintain these vital posts, the Department of Defense spends in excess of \$1.5 billion a year in our State. That is a huge part of Federal spending in Alaska, which constitutes about 18 percent of the State economy.

Alaska is also proud to have the highest per capita population of veterans of any State. The more than 75,000 veterans who call our State home comprise 11 percent of our population.

Alaska's bases support the latest and greatest in the military's arsenal: from the F-22, the Air Force's latest fifth generation fighter aircraft; the C-17 cargo aircraft; the Army's Stryker vehicle; and the Ground-Based Midcourse element of missile defense.

Today more than 4,000 servicemembers stationed in Alaska are supporting overseas contingency operations around the world.

Just last month, we welcomed home the 1st Stryker Brigade Combat Team of the 25th Infantry Division based at Fort Wainwright. This brigade spent 12 months in Iraq's Diyala Province doing a remarkable job protecting the people of Iraq.

Still in Iraq is the 545th Military Police Company of the Arctic Military Police Battalion that continues to patrol the streets of Baji.

The Alaska National Guard also has a vital role in that theater. The Guard's 207th Aviation Regiment continues to fly C-23 Sherpa military aircraft missions, delivering more than 1 million pounds of cargo throughout Iraq.

Back home, the Guard plays a significant role in the defense of our Nation around the clock. At Fort Greely, they staff the operations center for the Ground-Based Midcourse Defense system, protecting the United States from ballistic missile threats from countries such as North Korea and Iran.

The Guard also provides invaluable search and rescue support and other vital missions to ensure the safety of our citizens in our vast State.

Alaskans continue to serve in harm's way in Afghanistan and Iraq. The 4th Airborne Brigade Combat Team of the 25th Infantry Division operates in Afghanistan's Regional Command-East in support of the International Security Assistance Force.

These soldiers are bravely serving on the front lines, hunting down al-Qaida terrorists, securing the border, and trying to establish governance in this vital part of the world.

Since their arrival in February, the 4-25 BCT has suffered significant casualties. In fact, since the 9/11 attacks on America, 143 servicemembers from Alaskan units deployed in support of the global war on terror have paid the ultimate sacrifice.

Madam President, I would like to honor those based in Alaska who were killed in action since September 11, 2001.

The pictures beside me which I show in the Chamber are of those who have fallen in the past year, just since Veterans Day 2008.

Just 2 weeks ago, a lifelong Alaskan paid the ultimate sacrifice. On October 23, in Afghanistan's Helmand Province, two U.S. aircraft collided in midair in the predawn dark. Marine Corps Cpl Gregory Fleury was the crew chief aboard one of those aircraft.

Corporal Fleury was just 23 years old, a graduate of Anchorage's Service High School. He had already served two tours of duty in Iraq as a combat helicopter mechanic and gunner.

The helicopter crash that took the young corporal's life was a bad one. But the Marines were able to recover one item that belonged to him—an Alaskan flag.

I spoke to Corporal Fleury's grandfather last week to thank him for his grandson's service on behalf of this proud Nation.

Madam President, I ask unanimous consent that the names of all the Alaskan troops who have made the ultimate sacrifice since September 11, 2001, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Following is a list of Alaskan, or Alaska-based, soldiers who have died since 2003. They are presented chronologically.

2009-11-04: Spc. Julian Berisford  
 2009-10-26: Cpl. Gregory Fleury  
 2009-09-19: Spc. Michael S. Cote  
 2009-09-11: Pfc. Matthew M. Martinek  
 2009-09-08: Pfc. Zachary T. Myers  
 2009-09-08: Pfc. Thomas F. Lyons  
 2009-09-08: Staff Sgt. Shannon M. Smith  
 2009-09-06: Staff Sgt. Michael C. Murphrey  
 2009-09-04: Second Lt. Darryn Andrews  
 2009-08-26: Staff Sgt. Kurt R. Curtiss  
 2009-08-18: Pfc. Morris L. Walker  
 2009-08-18: Staff Sgt. Clayton P. Bowen  
 2009-07-29: Staff Sgt. Anthony S. Schmachtenberger  
 2009-07-06: Pfc. Nicolas H.J. Gideon  
 2009-07-04: Pfc. Justin A. Casillas  
 2009-07-04: Pfc. Aaron E. Fairbairn  
 2009-06-25: 1st Lt. Brian N. Bradshaw  
 2009-06-03: Spc. Jarrett P. Griemel  
 2009-03-15: Staff Sgt. Timothy Bowles  
 2009-03-09: Pfc. Patrick DeVoe II  
 2009-02-23: Spc. Michael B. Alleman  
 2009-02-23: Spc. Cpl. Michael L. Mayne  
 2009-02-23: Spc. Zachary F. Nordmeyer  
 2009-01-25: Spc. Cody L. Lamb  
 2008-11-28: Lt. William K. Jernigan  
 2008-11-15: CWO Donald V. Clark  
 2008-11-15: CWO Christian P. Humphreys  
 2008-10-24: Pfc. Cody J. Eggleston  
 2008-10-16: Pfc. Heath Pickard  
 2008-10-09: Cpl. Jason A. Karella  
 2008-09-15: Sgt. 1st Class Daniel R. Sexton  
 2008-02-02: Sgt. Naquan Reinaldo Williams, Jr.  
 2007-11-05: Staff Sgt. Carletta S. Davis  
 2007-11-05: Sgt. Derek T. Stenroos  
 2007-10-14: 1st Lt. Thomas M. Martin  
 2007-10-09: Sgt. Jason Lantieri  
 2007-08-01: CWO Jackie L. McFarlane Jr.  
 2007-08-14: Spc. Steven R. Jewell  
 2007-08-14: Staff Sgt. Stanley B. Reynolds  
 2007-08-14: Staff Sgt. Sean P. Fisher

2007-08-14: Christopher C. Johnson  
 2007-08-04: Pfc. Jaron D. Holliday  
 2007-08-04: Cpl. Jason K. LaFleur  
 2007-08-04: Sgt. Dustin S. Wakeman  
 2007-07-31: Sgt. Bradley W. Marshall  
 2007-07-31: Spc. Daniel F. Reyes  
 2007-07-23: Pfc. Jessie S. Rogers  
 2007-07-22: Sgt. Shawn G. Adams  
 2007-07-05: Michelle R. Ring  
 2007-06-25: Sgt. Trista L. Moretti  
 2007-06-10: Spc. Adam Herold  
 2007-05-22: Sgt. Robert J. Montgomery  
 2007-05-21: Cpl. Michael W. Davis  
 2007-05-21: Sgt. Brian D. Ardron  
 2007-05-21: Staff Sgt. Shannon Weaver  
 2007-05-19: Cpl. Ryan D. Collins  
 2007-05-18: Sgt. Ryan J. Baum  
 2007-05-17: Pfc. Victor M. Fontanilla  
 2007-05-17: Sgt. 1st Class Jesse B. Albrecht  
 2007-05-17: Spc. Coty J. Phelps  
 2007-05-03: Spc. Matthew T. Bolar  
 2007-05-03: First Lt. Colby J. Umbrell  
 2007-04-28: Staff Sgt. Michael R. Hullender  
 2007-04-12: Spc. James T. Lindsey  
 2007-04-12: Spc. John G. Borbonus  
 2007-04-12: Cpl. Cody Putman  
 2007-04-09: Cpl. Clifford A. Spohn  
 2007-04-08: Sgt. Adam P. Kennedy  
 2007-04-03: Staff Sgt. Shane R. Becker  
 2007-03-23: Spc. Lance C. Springer II  
 2007-03-16: Sgt. 1st Class Christopher R. Brevard  
 2007-03-11: Sgt. Daniel E. Woodcock  
 2007-02-19: Pfc. Adare W. Cleveland  
 2007-02-11: Sgt. Russell A. Kurtz  
 2007-01-22: Staff Sgt. Jamie D. Wilson  
 2007-01-20: Spc. Jeffrey D. Bisson  
 2007-01-20: Spc. Toby R. Olsen  
 2007-01-20: 1st Lt. Jacob N. Fritz  
 2007-01-20: Pfc. Shawn Patrick Falter  
 2007-01-20: Sgt. Phillip D. McNeill  
 2007-01-20: Pfc. Johnathon M. Millican  
 2007-01-20: Sgt. Sean Patrick Fennerty  
 2007-01-20: Sgt. Johnathan Bryan Chism  
 2007-01-15: Cpl. Jason J. Corbett  
 2007-01-05: Cpl. Jeremiah J. Johnson  
 2007-01-04: Staff Sgt. Charles D. Allen  
 2006-12-31: Pfc. Alan R. Blohm  
 2006-12-28: Spc. Dustin R. Donica  
 2006-12-26: Spc. Douglas L. Tinsley  
 2006-12-26: Spc. Joseph A. Strong  
 2006-12-20: Staff Sgt. Jacob McMillan  
 2006-12-20: Sgt. Scott Dykman  
 2006-12-10: Pfc. Shawn M. Murphy  
 2006-12-10: Sgt. Brennan C. Gibson  
 2006-12-10: Spc. Philip C. Ford  
 2006-12-07: Staff Sgt. Henry Linck  
 2006-12-07: Spc. Micah Gifford  
 2006-11-04: Spc. James L. Bridges  
 2006-11-02: Cpl. Michael H. Lasky  
 2006-10-30: Sgt. Kraig Foyteck  
 2006-10-11: Sgt. Nicholas Sowinski  
 2006-10-03: Sgt. Jonathan Rojas  
 2006-09-17: Sgt. David J. Davis  
 2006-09-10: Spc. Alexander Jordan  
 2006-09-02: Staff Sgt. Eugene H.E. Alex  
 2006-08-21: Master Sgt. Brad A. Clemmons  
 2006-08-09: Spc. Shane Woods  
 2006-07-12: Sgt. Irving Hernandez  
 2006-06-29: Sgt. Bryan C. Luckey  
 2006-06-07: 2nd Lt. John Shaw Vaughan  
 2006-05-31: Sgt. Benjamin Mejia  
 2006-05-29: Spc. Jeremy Loveless  
 2006-05-09: Spc. Aaron P. Latimer  
 2006-04-27: Staff Sgt. Mark Wall  
 2006-04-25: Pfc. Raymond Henry  
 2006-04-11: Cpl. Kenneth D. Hess  
 2006-04-09: Spc. Joseph I. Love-Fowler  
 2006-04-08: Spc. Shawn Creighton  
 2006-04-06: Spc. Dustin James Harris  
 2006-02-26: Spc. Joshua M. Pearce  
 2006-02-06: Spc. Patrick W. Herried  
 2006-02-05: Spc. Jeremiah J. Boehmer  
 2006-02-05: Staff Sgt. Christopher R.

## Morningstar

2006-01-22: Staff Sgt. Brian McElroy  
 2006-01-22: Tech. Sgt. Jason L. Norton  
 2006-01-07: 1st Lt. Jaime Lynn Campbell  
 2006-01-07: Spc. Michael Ignatius Edwards  
 2006-01-07: Spc. Jacob Eugene Melson  
 2006-01-07: CWO Chester William Troxel  
 2005-11-19: Pvt. Christopher Alcozer  
 2005-11-11: Staff Sgt. Stephen Sutherland  
 2005-10-19: Spc. Daniel D. Bartels  
 2005-10-18: Spc. Lucas Frantz  
 2005-10-02: Staff Sgt. Timothy J. Roark  
 2005-09-11: Sgt. Kurtis Dean Kama-O-Apelila Arcala  
 2005-09-05: Sgt. Matthew Charles Bohling  
 2005-08-16: Lance Cpl. Grant Fraser  
 2005-04-04: Lance Cpl. Jeremiah Kinchen  
 2004-08-29: A1C Carl Anderson, Jr.  
 2003-04-07: Capt. Eric Das  
 2003-07-17: Sgt. Mason Douglas Whetston

Mr. BEGICH. In addition to these fallen heroes, hundreds more servicemembers will forever contend with the physical and mental wounds suffered in service to our Nation.

I have had the honor to visit several of these brave soldiers at Walter Reed Army Medical Center and at the Elmhurst Warrior Transition Unit also. It is critical that the transition of our servicemembers from the care of the Defense Department to Veterans Affairs is as smooth and as comprehensive as possible. We must ensure the VA is funded to meet the current demands of this generation of veterans.

I am proud to have been one of the original cosponsors with Senator AKAKA on a bill signed into law by the President last month which will ensure 2-year advance funding for the VA. This allows the VA to focus on providing care for our veterans instead of worrying annually about their funding.

Today's veteran population is much different from all previous wars. Thanks to improvements in protective gear and equipment, many survive serious wounds which previously would have been fatal. We also have a much greater population of female veterans who have unique needs and require specialized care. Today's veterans often have families with exceptional needs.

In World War II, nearly one in five Americans served in the armed services. Today less than 1 percent of our population currently serves. Still, some 25 million veterans live among us, representing every conflict since World War II. Our commitment to each and every one of these veterans must be full, honorable, and proud.

We honor Veterans Day this week on the anniversary of the armistice that ended World War I. In my State, we also celebrate Women Veterans Day on November 9.

On these occasions, let us rededicate ourselves to our commitment to our Nation's veterans and service men and women so their sacrifice is never taken for granted or forgotten.

Thank you, Madam President. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

The PRESIDING OFFICER (Mr. BEGICH). The Senator from New York is recognized.

Mrs. GILLIBRAND. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

## HEALTH CARE REFORM

Mrs. GILLIBRAND. Mr. President, I rise to speak in support of health care reform and on behalf of greater access to health care for all Americans. This weekend, the House took a historic step, passing a health care reform bill that ensures affordable, quality care for all, including a public plan that will bring real competition to the market and drive down costs. Passing this bill in the House represents a monumental step toward the goal of achieving meaningful reform this year and is the furthest we have come in the decades-long fight for health care reform in this country.

However, there is one aspect of the House bill about which I wish to voice my strong disagreement—the Stupak-Pitts amendment.

While proponents of the measure say this is a continuation of current Federal law, this amendment will, in fact, bring about significant change and dramatically limit reproductive health care in this country. This is government invading the personal lives of many Americans, establishing, for the first time, restrictions on people who pay for their own private health insurance. We all agree it is important to reduce abortions in this country and I have and will continue to work on many ways to reduce unintended pregnancies and to promote adoption. However, the Stupak amendment prohibits the public plan as well as private plans offered through the exchange, if they accept any subsidized customers, from covering abortion services, effectively banning abortion coverage in all health insurance plans in the new system, whether they be public or private. This ban puts the health of women and young girls at grave risk.

Proposing that women instead purchase a separate abortion rider is not only discriminatory but ridiculous. It would require women to essentially plan for an event that occurs in the most unplanned and sometimes emergency situations.

There are currently five States that require a separate rider for abortion coverage, and in these five States it is nearly impossible to find such a private insurance policy. In one State, North Dakota, one insurance company holds 91 percent of the State's health insurance market and refuses to even offer such a rider. A lack of access to full reproductive health care puts the lives of women and girls at grave risk.

This anti-choice measure poses greater restriction on low-income women

and those who are more likely to receive some kind of subsidy and less likely to be able to afford a supplemental insurance policy. Denying low-income women reproductive coverage in this way is discriminatory and dangerous.

Without proper coverage, women will be forced to postpone care while attempting to find the money they need to pay for it—a delay that can lead to increased costs and graver health risks, particularly for younger girls, or these women will be forced to turn to dangerous, back-alley providers. Women and girls deserve better.

In fact, this amendment represents the only place in the entire health care bill where the opponents are actually correct: It limits access to medical care by giving the government, not the patient and the doctor, the power to make medical decisions.

The Senate bill already ensures that no Federal tax dollars may be used to pay for reproductive services in any public or private insurance plan beyond cases of rape, incest, and life endangerment. The House language goes much further and should be removed from the final bill.

This health care package must move us forward, toward quality, affordable health care for all Americans. I ask my colleagues to oppose any similar amendment in the Senate and work to end disparities among race and gender in our health care system.

Thank you. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MERKLEY. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mrs. GILLIBRAND). Without objection, it is so ordered.

Mr. MERKLEY. Madam President, I ask unanimous consent to speak as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### OMNIBUS HEALTH SERVICES

Mr. MERKLEY. Madam President, I rise today in support of our Nation's veterans and in support of their families.

Ninety years ago tomorrow, our Nation marked the very first Armistice Day in recognition of the end of World War I. In 1954, Armistice Day became Veterans Day, and every year since, we have marked the occasion through ceremonies, pageants, parades, and other events designed to honor the men and women who have served this Nation so selflessly in the Armed Forces. I encourage all Americans to use the opportunity of Veterans Day to let those around you who have served our Nation, those in your community, know how thankful we are for their contributions.

I know that across our Nation there will be remembrances of those we have lost and honors to those who have served in the past or who are serving today, but we can and should do more to honor our Nation's veterans. We should make sure they have access to the health care we have promised. We should make sure their caregivers are given the support they need to assist our wounded warriors. We should expand health services for female veterans. We should do more for veterans in hard-to-reach rural areas. We should increase our mental health services for veterans because injuries to the brain deserve the same attention as injuries to the body.

These programs—access to health care, support to caregivers, services for female veterans, services to rural veterans, improved mental health services—are all included in the bills that have been put into the veterans package, the Caregiver and Veterans Omnibus Health Services Act of 2009. I have cosponsored a number of these bills and will passionately support this package. Our servicemembers stand up for America when on duty. America must stand up for our servicemembers when they return home.

The legislation before us has wide bipartisan support. It has been endorsed by organizations, including the Disabled American Veterans and the Paralyzed Veterans of America. It has been endorsed by the American Legion. It has been endorsed by the Iraq and Afghanistan Veterans of America. It has been endorsed by the Veterans of Foreign Wars. It has been endorsed by the Wounded Warrior Project. Each of these groups wants to see a vote on this omnibus package of support for our veterans and to see that vote happen now. But we in the Senate are not here debating this package, we are not here preparing to vote on this bill because a single Senator has objected to having an up-or-down vote. Our veterans deserve to have this Chamber debate this bill. They deserve to have this Chamber vote up or down on this bill.

Tomorrow we will honor our veterans through ceremonies across this Nation. But we should do more than simply honor our veterans; we should act to stand up for our veterans. We need to stand with them and their families as they have stood up for us when on duty. We should move expeditiously, and I encourage all Senators to support the effort to quickly have this bill before us for a debate and an up-or-down vote.

Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. KAUFMAN. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KAUFMAN. Madam President, I ask unanimous consent to speak as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### RECOGNITION OF SERGEANT MAJOR GREGORY SYMES

Mr. KAUFMAN. Madam President, 90 years ago this Wednesday, President Wilson signed a proclamation marking the first anniversary of the Armistice that ended World War I. At the time, many believed the cruelty experienced by the combatants and civilian victims of that war would never be surpassed. Unfortunately, as we learned later, they were mistaken. But it was the tragedy of that conflict and the harrowing stories brought back from the trenches that led to the establishment of a day honoring America's veterans.

Veterans Day is a moment of pause to remember the sacrifices made by those who wore our Nation's uniform. It also presents an opportunity to reflect on the dual nature of our Federal Government.

When average Americans hear "Federal employees," they usually think of the 1.8 million civilian government employees. However, it is all too often forgotten that the 1.4 million men and women serving in uniform are also Federal employees. Our Federal workforce has two legs—the civilian and the military. But they march together in step, because we depend on both and they depend on one another.

Without the military, we could not remain free and secure. Without the civilian Federal workforce, we could not keep America on the path toward prosperity and the continued pursuit of happiness. Civilian Federal employees work closely with the military not only to craft strategies and policies but also to pay, arm, and care for our troops.

While some choose to serve in uniform and others in civilian roles, there are many who do both. According to the 2006 study by the Office of Personnel Management, one out of every four civilian Federal employees is a military veteran. Moreover, a fifth of these are disabled veterans. And that is just in the executive branch. This number doesn't even include those who currently serve in the National Guard or the many veterans working right here on Capitol Hill and in the Federal Judiciary. They work in nearly every department and agency.

Not surprisingly, some of the agencies with the highest percentage of veterans are those that relate to law enforcement. The Pentagon too employs many veterans, as does the Department of Homeland Security. Almost half of the civilian employees in the Veterans Benefits Administration are veterans themselves. However, many Americans



do not realize that roughly one in every three employees at the Department of Transportation is a veteran. The same is true of the Mine Safety and Health Administration at the Department of Labor. Over a third of those working at the U.S. Mint are veterans. I bet most Americans would be surprised to learn veterans make up a quarter of those who work at the Smithsonian's National Gallery of Art.

It would take me a long time to read through all the departments and agencies with large numbers of veterans on staff. But the point I emphasize is that so many of our Federal employees share a tradition of national service that began with their service in the military.

Today, I wish to continue my weekly tradition of recognizing an outstanding Federal employee by sharing the story of a man from my home State of Delaware. Not only does he fill a full-time job as a Federal technician for the Delaware National Guard, but he also recently completed a year of active-duty service.

CSM Gregory Symes had already served in the Delaware Army National Guard for 7 years when he started working as a Federal technician for the Guard in 1989. A graduate of John Dickinson High School in Wilmington, Gregory trained as an automotive mechanic. While he began his Federal employment in that role, he studied telecommunications and in 2001 became a telecommunications specialist for the Delaware Guard's Director of Information Management.

Gregory has served truly as a mentor to those working alongside him and he has risen to become the senior enlisted adviser to the battalion commander for the 722nd Troop Command. In this capacity, he is often given the task of looking after the well-being of other soldiers in the battalion.

Last month, Gregory completed a 1-year deployment on active duty with the 261st Signal Brigade, and he was stationed at Fort Bliss, NM, in support of Iraqi Freedom. Decorated for his service, Gregory has received the Meritorious Service Medal, the Army Service Ribbon, and the Noncommissioned Officers Professional Development Ribbon, among others.

He continues to serve with dedication and distinction in his Federal role with the Guard, staying in the forefront of ever-changing telecommunications technology. For Gregory and all the other veterans and National Guard members who work as Federal employees, sacrifice and service are a life's pursuit. They are a constant reminder of why Veterans Day is so important.

While on Memorial Day we remember those who never made it home, on Veterans Day we dedicate ourselves to the task of caring for those who did. Care and gratitude for our veterans remains a sacred responsibility, and one that

was as relevant to those who fought at Bunker Hill as it is to those stationed in Baghdad today.

George Washington once said:

The willingness with which our young people are likely to serve in any war, no matter how justified, shall be directly proportional as to how they perceive the veterans of earlier wars were treated and appreciated by their country.

I hope all Americans will take the opportunity this week to express their appreciation of all our veterans, especially those who continue to serve in the public as Federal employees. I invite my colleagues to join me in thanking Command Sergeant Major Symes, the Federal employee of the Delaware National Guard, and all who have served our Nation in uniform. They continue to make us all proud.

#### REMEMBERING SAMUEL J. HEYMAN

Madam President, I cannot let this occasion pass without also noting with sadness the passing yesterday of Samuel J. Heyman. Each week, I have been speaking from this desk about our excellent Federal employees. I continue to do so because I believe that Americans need to hear more about the outstanding men and women who serve in government, and we need to do more to encourage our graduates to consider careers in public service.

Samuel J. Heyman was a champion of this cause. Mr. Heyman attended Yale University and Harvard Law School, and he felt called to public service as a young law graduate in 1963. Working at the Justice Department under then Attorney General Robert F. Kennedy, Mr. Heyman served as chief assistant U.S. attorney for his native Connecticut.

After 5 years, he left government service to take over his family's real estate development business, but he would never forget the sense of duty and pride he felt as a Federal employee. Mr. Heyman knew that Federal employees were those who shared his level of determination and work ethic. He knew that the men and women who choose to spend their careers working for the American people not only deserve more credit than they typically receive, but he understood as well that they have the benefit of looking back on their careers with the great satisfaction of having made a difference.

It is for that reason that, in 2001, Mr. Heyman founded the Partnership for Public Service, which promotes Federal employment, and he received the Presidential Citizen Medal last year for his work as its chairman. The partnership also awards annual Service to America Medals in several categories, which have affectionately been called "Sammie" in his honor. I have been privileged to be able to share the stories of Sammie winners from this desk.

It is with deep regret that I share with my colleagues this news of Mr. Heyman's passing. A respected business

leader, philanthropist, and a champion of public service, Mr. Heyman will be truly missed. My thoughts are with his wife Ronnie, their four children, and their nine grandchildren, as well as his mother, who also survives him.

I also extend my condolences to the Partnership for Public Service family. I know they will continue working to carry on Mr. Heyman's legacy. I hope my colleagues will join me in remembering Samuel J. Heyman and his tireless efforts to inspire a new generation to pursue careers in public service and to celebrate the enormous contribution made by Federal employees to our great Nation.

Madam President, I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. CARDIN. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CARDIN. Madam President, I ask unanimous consent to speak as in morning business for up to 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### HEALTH CARE DISPARITIES

Mr. CARDIN. Madam President, this Congress has taken a giant step forward in our effort to reform the Nation's health care system. Saturday evening, the House of Representatives passed its bill, which is estimated by the Congressional Budget Office to provide affordable health coverage to 96 percent of Americans while reducing our deficit by \$109 billion over the next 10 years.

On behalf of the 760,000 uninsured Marylanders and the countless more who are underinsured or facing huge premium increases next year, I am encouraged by my colleagues' success, and I look forward to debating this most important issue here in the Senate in the weeks ahead.

Today, I rise to discuss an issue that has received scant attention on the floor of the Senate, and that is health disparities. It is an issue directly affecting 1 out of every 3 Americans: the 45 million Latinos, 37 million African Americans, 13 million Asians, 2.3 million Native Americans and Alaskan Natives, and 400,000 Hawaiians and Pacific Islanders in our Nation. While they represent one-third of our Nation's population, they are fully one-half of the uninsured. So when we enact legislation that expands access to millions of uninsured Americans, it will make a difference in minority communities, in overall minority health, and in the health of our Nation.

But it is not enough to just get people health insurance coverage. Research tells us that even after accounting for those who lack health insurance, minority racial and ethnic groups



face inequities in access and treatment, and they have adverse health care outcomes at higher rates than Caucasians.

That is right, even when insurance status, income, age, and severity of conditions are comparable, racial and ethnic minorities tend to receive lower quality health care, so coverage is not enough.

Despite many attempts over the years by health policymakers, providers, researchers, and others, wide disparities still persist in many facets of health care. When it comes to equitable care for minorities, low income, geographic, cultural and language barriers, and racial bias have been found to be common obstacles. These inequities carry a high cost in terms of life expectancy, quality of life, and efficiency.

And they cost our Nation billions of dollars each year. Researchers from Johns Hopkins University and the University of Maryland found that between 2003 and 2006, racial and ethnic disparities cost the Nation more than \$229 billion in excess direct medical costs.

Adding in indirect costs reveals a staggering \$1.24 trillion from lost wages and premature and preventable deaths and disabilities. By elevating the focus on health disparities, we can bring down these costs and improve the quality of care across the board. So health disparities should matter to us all, in terms of improved value for our health care dollars, both public and private.

If we are to improve the health care status of America, we must focus on these inequities and make a concerted effort to eliminate them. There is no better place to commit ourselves to that effort than in the health reform legislation that we are about to consider. There is no better time to begin than right now.

Examples of grim health disparities are found in all racial and ethnic minority groups and across a broad range of diseases and conditions. The overall life expectancy for African Americans is 5.3 years less than Whites, but as the Kaiser Family Foundation has reported, health disparities begin even before birth.

The use of prenatal care varies widely by race, with 88 percent of White mothers receiving care in the first trimester of a pregnancy, but only 76 percent of Black mothers and 77 percent of Latino mothers.

This disparity is evident at birth, when Black women experience preterm births at a rate 50 percent higher than White women—18.5 percent compared to 11.7 percent, and the rates of low-birth weight babies are also higher among Black babies—14 percent, compared to the 8.3 percent national average.

In August of 1967, 8 months before his assassination, Martin Luther King ad-

dressed the Southern Christian Leadership Conference's Tenth Anniversary Convention in a speech entitled, "Where Do We Go from Here?"

He said that to answer that question:

We must first honestly recognize where we are now. When the Constitution was written, a strange formula to determine taxes and representation declared that the Negro was sixty percent of a person. Today another curious formula seems to declare that he is fifty percent of a person. "Of the good things in life, the Negro has approximately half those of whites. Of the bad things in life, he has twice those of whites.

He goes on to discuss housing, income, and employment rates, before saying, "the rate of infant mortality among Negroes is double that of whites." Today, in 2009, the Kaiser Family Foundation reports that the overall rate of infant mortality in the United States is 6.9 deaths per 1,000 live births, a white infant mortality rate is at 5.7 deaths, but African Americans have an infant mortality rate more than twice that of Whites at 13.6 infant deaths per 1,000 live births.

So 46 years after Dr. King's "I Have a Dream" speech, and 41 years after his death, we have not made progress in closing the gap in infant mortality.

There is no other way to put it: this is a crisis, it has been a crisis for decades, we have known it, and we have failed in our response.

Health disparities continue through life, and the data cut across diagnoses and conditions. These are just a few of the statistics:

African-American children have a 60 percent higher rate of asthma than White children and visited the emergency room for asthma related services 4.5 times more often than White children in 2004.

The incidence of diabetes is nearly twice as high in African Americans as in Whites. Complications from diabetes and death from the disease are also higher in African Americans, and the rate of hospital admissions for uncontrolled diabetes for African Americans and Latinos is nearly 5 and 3 times, respectively, the rate for Whites and Asians.

High blood pressure accounts for 18 percent of the Nation's overall death rate, but 41 percent of deaths in African-American women and 50 percent of deaths in African-American men are attributed to hypertension.

Regarding early detection of colon cancer, African Americans, Asians, Native Americans and Latinos over age 50 all have lower rates than Whites when it comes to receiving any form of colon cancer screening. This disparity increased between 1999 and 2006.

Incidence of, and death rates from, kidney cancer in Native Americans and Alaska Natives are higher than in any other racial or ethnic group.

Native Americans and Alaska Natives die from heart disease much earlier than the overall population—36

percent are under age 65 compared with only 17 percent for the U.S., according to the American Heart Association's data.

Perhaps the greatest disparities are in the rates of HIV and AIDS. African Americans experience an AIDS case rate nearly 10 times that of Whites: 60.1 per 100,000 adults and adolescents, compared to 6. per 100,000 for Whites. Latinos and Native Hawaiians and other Pacific islanders have an AID case rate nearly 3 times that of Whites, at 20.4 per 100,000.

Disparities also affect oral health care, which—as I have discussed on the floor before—is an integral part of overall health care—and without which, patients cannot have good overall health. Regardless of age, minorities are less likely than Whites to have visited a dentist in the past year. The percentage of people who had untreated dental disease is substantially higher for African Americans and Latinos than for Whites, and the prevalence of periodontal disease is 2.5 times greater for Native Americans and Alaskan Natives than for Whites. We know that periodontal disease leads to heart disease, brain infections, and other serious illnesses.

Last year, the American Journal of Public Health published research showing the vast disparities in mortality rates. Using data for the decade between 1991 and 2000 from the National Center for Health Statistics, the researchers, including Dr. David Satcher, the 16th Surgeon General of the United States, found that the mortality rate for African-American infants and adults aged 25 to 54 years was more than double that of Whites.

Had the mortality rates of the two races been comparable during that decade, the researchers calculate that 886,202 deaths could have been averted.

Let me repeat that—the lives of nearly 900,000 African Americans could have been lengthened and the quality of life improved for many more if we had been able to close the gaps in health disparities.

This chart illustrates the higher death rate observed among African Americans across Maryland and the United States, based on Centers for Disease Control and Prevention data, for the years 1999 to 2003. The striped bar shows that in the U.S., African Americans had a 31.5 percent higher death rate from all causes of disease than Whites.

Maryland has a comparable discrepancy at 30.8 percent, shown by the red bar. The number of excess deaths varies by county, with the lowest discrepancy in death rates in Charles County—4.1%—and the highest discrepancy in Talbot County—64.5%.

We cannot afford to wait. We need action at every level: Local, State, and Federal, but the leadership must come from the Secretary of Health and

Human Services. HHS will need a strengthened institutional capacity to achieve these goals.

Codifying the Office of Minority Health and elevating it to report directly to the Secretary will empower the agency to continue its important work—protecting and improving the health of racial and ethnic minority populations, advising the Secretary of HHS on the needs of minority communities, coordinating and supporting research and demonstration programs, and supporting the community organizations that enhance outreach and education efforts. These offices will be able to promote activities related to disease prevention, wellness, access to care, and research related to racial and ethnic minorities with the goal of reducing and eliminating disparities.

The offices will be authorized to administer grant programs and also help train health professionals to care for diverse populations. The bill passed by the House on Saturday includes a provision to codify the Office of Minority Health.

I will be working to expand that provision in the Senate bill so that it reflects concerns echoed by many health advocates and provider groups across the nation who know that we must marshal the resources necessary to eliminate disparities.

The bill reported by the HELP Committee contains many important provisions, including section 221, which would codify and increase the authority of the Office of Women's Health across several agencies in HHS. I believe strongly that the Office of Minority Health should receive the same prioritization that the Office of Women's Health is set to receive, particularly in light of the vast amount of data documenting racial and ethnic disparities. This is really an issue of equality in the efforts to achieve health equity. As we champion efforts to achieve equity in women's health, let us also do the same for minority health.

I will also be working to ensure the codification of the Office of Minority Health at HHS and the network of minority health offices throughout the Department's various agencies.

I will close with another quote from Dr. King, who said that "of all the forms of inequality, injustice in health care is the most shocking and inhuman." As with other forms of inequality in America, it is within our power to change it, and I ask my colleagues to join me in the quest to do so without further delay.

Mr. TESTER. Madam President, I ask unanimous consent to speak as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### FORT HOOD VICTIMS

Mr. TESTER. Madam President, I rise today in honor of those killed last

week at Fort Hood. They died serving their country, and that means they died as heroes.

Tomorrow, as we honor the service and sacrifice of the brave men and women of America's military on Veterans Day, I ask all Americans to say a prayer for these 13 folks who gave the ultimate sacrifice and the 30 who were injured. Remember them and their families, their friends and the places they called home as we pay our respects.

Today, flags are flying at halfstaff across Montana in honor of the 13 victims killed and 30 wounded. One of the men who died was a veteran of Montana's Army National Guard. Michael Grant Kahill worked throughout Montana for many years as a guardsman and as a physician's assistant. To Michael's wife Joleen and to all of his loved ones, Montana joins the rest of the Nation in saying that our thoughts and prayers are with you.

What happened at Fort Hood doesn't make sense. It never will. But working together, we need to focus on keeping something such as this from happening again. What can we do right now? We can keep working together to live up to the promises we make to all of our troops while serving our country in the field or after they come home, and we can improve access to health care and mental health care that they deserve.

I join in mourning the lives lost at Fort Hood. I ask all Americans to keep those 13 heroes in their thoughts and prayers, and I urge my colleagues to keep working together to better serve all the men and women who have worn our country's uniform, and their families and their communities.

I yield the floor.

The PRESIDING OFFICER. The Senator from Louisiana.

#### THE CLIMATE CHANGE

Mr. VITTER. Madam President, I rise to talk about the Kerry-Boxer climate change bill which, sadly, was reported out of the EPW Committee, contrary to its rules and precedents, without any discussion or amendment.

First of all, let me underscore that I think it is very unfortunate that a 1,000-page bill, a bill with enormous potential impact on our economy—indeed, on our way of life—was pushed out of committee with no Republicans being present, with not a single amendment being considered, and, in my opinion, directly contrary to the very rules and precedents of the committee. But I want to focus on specific provisions of the bill that are particularly troubling to me that underscore how serious a matter this is and what an enormous impact it could have on our economy and, indeed, on our way of life.

I guess in many ways the title of the presentation is "Why Carbon Credits Don't Matter." So many folks, so many companies, so many people particu-

larly within the beltway are concerned about their allocation of carbon credits. But because of these significant sections in the bill which also exist word-for-word in the Waxman-Markey bill, the carbon credits will not matter because sections 705 and 707 will shut down significant economic activity, no matter what carbon credits certain people and certain companies have.

Let me explain what I am talking about. Section 705(e) and section 707 are very important in the bill. Basically, section 705(e) says that we are to track the global measurement of greenhouse gas emissions and specifically to see if they are held below a threshold set in the bill, a goal set in the bill of 450 parts per million carbon dioxide equivalent. Then section 707 says that, beginning July 1, 2015, if the global concentrations are above this 450 parts per million line, then:

... the President shall direct relevant Federal agencies to use existing statutory authority to take appropriate actions identified in the reports submitted under sections 705 and 706 and to address any shortfalls identified in such reports.

What does that mean? That means if you bust this 450 parts per million line, the President does not have authority to take action; he is mandated to take every administrative action possible, to use every agency in the Federal Government under him—he shall direct them to address whatever shortfalls there are between that 450 parts per million line and where the measurements are.

One significant factor in all of this, whether we can ever reach that goal of limiting greenhouse gases to 450 parts per million, is what other countries, particularly the developing world, are going to do.

One thing that is really problematic with this entire plan is the G5 developing countries and Russia have made it crystal clear that they will not accept any hard caps. I cite here a clear quote from a top Chinese Foreign Ministry official, a clear quote from the Minister of State for Environment of India and the top economic adviser of Russia's President about that issue. All of these statements and many more make it crystal clear that the G5 and Russia will not accept any such hard cap.

This is a pretty significant issue. Because of this, I wrote to the EPA on July 15 and asked several questions. One is basic to this issue: What does your modeling say if the G5 and Russia reject hard caps? That is a pretty significant scenario because it seems pretty clear that it is the scenario that will happen based on the statements of those countries. The EPA answered that it has not even analyzed that scenario. These other countries have made it clear they are going to reject hard caps. The EPA has not analyzed this scenario.

Because of that, I then went to the Department of Energy's Pacific Northwest National Laboratory. That is the leading modeling expert in these matters that Federal Government agencies, starting with the EPA, depend upon. In fact, the EPA helped direct us to this laboratory. I asked the same question: What does the modeling say if the G5 and Russia reject hard caps as they have absolutely promised to do? The Pacific Northwest National Laboratory answered that none of the models they use—and they use 10 models—none of those models, under this scenario, produced global concentrations at or below 450 ppm of CO-equivalent greenhouse gases. So under all of those models we break through this goal set in the bill.

This chart shows what DOE's specific Northwest National Laboratory model predicts when the G5 and Russia reject all hard caps. Already we are in the four hundreds. In about 1 year we break through the 450 limit—451. Then it goes up from there.

What does that mean in the context of this legislation and, specifically, the sections I talked about a minute ago? Well, the legislation says that on July 1, 2015, if this green line is above 450, then the President is mandated to take whatever action is necessary: Use all tools available to get us back to this 450 limit.

Under this scenario, the G5 and Russia rejecting hard caps, which is an absolute certainty based on their clear pronouncements, this mandate, under those significant sections of the legislation, both Kerry-Boxer and Waxman-Markey, exactly the same language in both, this mandate goes into effect and would absolutely go into effect.

What does that mean? Well, the first thing it means is carbon credits, which everybody is so focused on, so many people and companies are fixated on, carbon credits will not matter if your project, if your economic activity takes any discretionary Federal permit because, beginning July 1, 2015, the President will be mandated, not authorized, not encouraged, nothing is suggested, he will be mandated to take any action possible to get us down to that limit. That would include denying all discretionary permit requests.

What else does it mean? It means, under that mandate in the law, you can bet that every leftwing environmental group in the world, much less in this country, will sue to block all economic activity that requires discretionary permits. Quite frankly, they will have a very compelling case. They will point to this legislative language, if it is enacted, and say: Time out. The President is not just authorized to do this, the President is not just encouraged to do this, the President is mandated to take every action he can, which clearly would include denying all discretionary permits to push that curve, that green

curve, back down to 450 or as low as it can go.

So what does that mean? That means carbon credits are meaningless if you need a discretionary permit for certain economic activity or for any new economic project. This is a very important aspect of the bill. Again, it is in Kerry-Boxer. Exactly the same language is also in Waxman-Markey as it passed the full House of Representatives.

This gives an enormous mandate to the President of the United States to absolutely take action once those global greenhouse gas emissions get above 450. So my message is clear, particularly to the companies that have supported this legislation because they have been assured certain carbon credits.

The message is clear: Carbon credits will not matter if any of your activities, if any of your new projects or proposed projects requires any discretionary Federal permit. To deliver that message, crystal clear, to those companies, in particular, tomorrow I am writing to a significant leading handful of those companies that so far have supported the legislation, pointing out the enormous impact of those sections, 705 and 707, and asking them to focus very clearly on what it means to their projects, to their economic activity, to their bottom line because, again, carbon credits will not matter once this enormous mandate and authority of the President goes into effect.

The PRESIDING OFFICER. The time is 12:35 p.m.

Mr. VITTER. I yield the floor.

#### RECESS

The PRESIDING OFFICER. Under the previous order, the Senate stands in recess until 2:15 p.m.

Thereupon, the Senate, at 12:35 p.m., recessed until 2:15 p.m., and reassembled when called to order by the Presiding Officer (Mr. UDALL of Colorado).

#### MILITARY CONSTRUCTION, VETERANS AFFAIRS, AND RELATED AGENCIES APPROPRIATIONS ACT, 2010—Continued

The PRESIDING OFFICER. The Senator from Maryland.

Ms. MIKULSKI. Mr. President, I rise to speak on the bill and urge its quick and prompt adoption.

In doing so, I wish to pay tribute to a fallen warrior from the State of Maryland who died in the terrible massacre at Fort Hood. I wish to express my condolences to all families who suffered the loss of life or were injured at that terrible shooting. It was a terrible tragedy for them at Fort Hood, for their families, and for our country.

We know the 13 families are now dealing with the loss of loved ones, and 30 other families have members who

were wounded in the attack. We in Maryland suffered a casualty as well. I am here today to pay my respects and express my condolences to the family of LTC Juanita Warman, a wonderful woman who moved to Maryland 5 years ago as a call to duty. She had a 25-year military career in both the Active and Reserve Army. She devoted her career to serving fellow soldiers.

Lieutenant Colonel Warman was a nurse practitioner. Her field was in psychiatric and emotional counseling. She served in other parts of the country and came as a call to duty to Perry Point Veterans Hospital in Maryland. There she served to help our wounded warriors. Perry Point is the designated facility in Maryland to help wounded warriors, those who bear the permanent injury of war, who bear the wounds of either emotional or mental illness. She was absolutely on their side. She was viewed as a consummate professional by her colleagues and by the people who relied upon her for her talented counseling.

A master's degree in nursing, she was an expert in posttraumatic stress as well as traumatic brain injury. She devoted her career to helping these soldiers as she did her family. Her family saw her as a mother to two, a grandmother to eight, and two stepchildren as well. She was raised in a military family. She understood the bonds between fellow soldiers. She also volunteered as part of a program called the Maryland Yellow Ribbon Program to help soldiers reintegrate into the community. She developed guidelines to dispel myths about PTSD. She particularly would reach out to women soldiers who had unique challenges, both in their own life and the lives of their families.

She provided mental health counseling to soldiers coming out of a war zone trying to come into a family zone so that family zone didn't become a battleground as well. She also was well known for her work at Ramstein Hospital. She traveled there in many instances to help our soldiers make the transition from battlefield to the hospital in Germany to back here. She received an Army commendation medal for her meritorious service at Ramstein. She was a great soldier.

She was at Fort Hood less than 24 hours. She was getting ready to deploy to Iraq. She was ready to go, though she was sad to go. From her last posting on Facebook, she knew she would be away for the holidays from her beloved husband Philip, her children, grandchildren, and stepchildren. But there were no stepchildren; they were all her children to Lieutenant Colonel Warman.

We are going to miss her. Her family is going to miss her. We are going to miss her in Maryland because she was an active member of the community. The Army is going to miss her. Most of

all, those who need mental health counseling will miss her. We are so sorry this happened to her.

There will be those who will want to wear yellow ribbons and black armbands and have flags at half mast. And we should. We should do all the symbols to honor what happened to those who fell at Fort Hood. But the best way to honor the people in the massacre at Fort Hood, to honor the people who have been wounded in Iraq or Afghanistan is to pass this legislation.

The legislation pending is the Military Construction and VA health bill. There is so much good in this bill that will provide medical services to those who bear the permanent and sometimes invisible wounds of war. While we want to salute those who fell at Fort Hood and on the battlegrounds of Iraq and Afghanistan, the way we honor their memory and their service, the service of all who have been abroad, is by making sure when they come home, they get the medical and social services they need, a bridge to get them back into civilian life.

Again, my condolences to the Warman family and to all who fell, but most of all I thank everybody for their service. Let's thank them not only with words but with deeds. Let's pass this bill.

I yield the floor.

AMENDMENT NO. 2740 TO AMENDMENT NO. 2730

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. AKAKA. Mr. President, I ask unanimous consent that the pending amendment be set aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. AKAKA. I call up amendment No. 2740 and ask for its consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Hawaii [Mr. AKAKA] proposes an amendment numbered 2740.

The amendment is as follows:

(Purpose: To extend the authority for a regional office of the Department of Veterans Affairs in the Republic of the Philippines)

On page 52, after line 21, add the following:  
SEC. 229. Section 315(b) of title 38, United States Code, is amended by striking "December 31, 2009" and inserting "December 31, 2010".

Mr. AKAKA. I yield the floor.

The PRESIDING OFFICER. The Senator from Washington.

Mrs. MURRAY. Mr. President, this week, thousands of families across our country are stopping to honor the memory of those who have served for us because of Veterans Day tomorrow and to thank them for all they have done to protect and defend our country. It is a time when many American families are watching what is unfolding at Fort Hood this week. It is a time in my State where today we are having a memorial service at Fort Lewis hon-

oring seven soldiers who lost their lives a few days ago in Afghanistan. Our hearts and condolences go out to those families who have suffered the ultimate loss, especially at this time when everyone is recognizing the tremendous sacrifice so many people have given.

As a Senator from a State with a very large military presence and communities that are heavily populated with the men and women who dedicate their lives to protecting our country, I was particularly saddened by the senseless violence that ripped through our Nation's largest active-duty base last Thursday. As anyone who has ever spent time on a U.S. military base knows well, those are some of our most safe and compassionate communities in the entire country. They are places where a young family plants roots and raises a child and establishes a life for themselves. They are a place where military spouses form bonds that they carry with them throughout their deployments. They are a place where neighbors always lend a hand to those in need. I have seen that firsthand at places such as Fort Lewis Army Base in Tacoma and Fairchild Air Force Base in Spokane. I know the pain of the loss of those 13 public servants extends to everyone at Fort Hood and to the U.S. military community as a whole.

I wish to make special mention today of Michael Grant Cahill who came from Spokane, WA. He was the lone civilian killed in that attack. He was a physician's assistant who worked in rural clinics and veterans hospitals, places where our veterans desperately need care and we desperately need workers. At the time of his death, he was only 4 years from retirement. In an interview with the Spokesman-Review newspaper a day after her father was killed, Cahill's daughter Keely told the paper that her dad was "a wonderful person, that he loved his job and loved working with people and helping them with their physical needs."

My thoughts and prayers are with Keely and the family members of all those who died or were wounded and the U.S. military families who are still reeling from this tragedy.

To the families who have lost soldiers in Iraq and Afghanistan recently, especially those having military services today in my home State of Washington at Fort Lewis as well as many others, I want them to know that we know we are their voice and we need to stand up for them. As we all know, Veterans Day tomorrow is a day we celebrate and honor the great sacrifices all veterans have made. It is because of their sacrifice that we can safely enjoy the freedoms our country offers. It is because of their unmatched commitment that America can remain a beacon for democracy and freedom throughout the world.

Growing up I saw firsthand the many ways military service can affect both

veterans and their families. My father served in World War II. He was among the first soldiers to land in Okinawa. He came home as a disabled veteran and was awarded the Purple Heart. Like many soldiers of my dad's generation, he didn't talk about his experiences during the war. In fact, we only learned about what he did and his heroism when he passed away, and we found his journals and read them. I think that experience offers a larger lesson about veterans in general. They are very reluctant to call attention to their service, and they are reluctant to ask for help. That is why we have to publicly recognize their sacrifices and contributions. It is up to all of us to make sure they get the recognition they have earned and, by the way, not only on Veterans Day. Our veterans held up their end of the deal. We have to hold up ours.

Veterans Day must not only be a day of remembrance, it must also be a day of reflection. It is a chance for all of us to reflect on our own responsibilities to our Nation's veterans. It is a chance to look at what we can do to make sure we are keeping the promise we made to our men and women when they signed up to serve. It is a chance to take stock of where care and benefits have fallen short, where new needs are emerging, and how we can make it easier for veterans to get the care and benefits they deserve.

It is appropriate that on the eve of this very important day, Veterans Day, we are working to pass a bill that takes a hard look at many of the challenges facing veterans and their families. It is a bill that is the product of collaboration with veterans, their families, caregivers, and scores of veterans service organizations.

As a member of the Veterans' Affairs Committee, I am aware we have a lot of work to do for the men and women who serve our country. Not only must we continually strive to keep up our commitment to veterans from all wars, but we also have to respond to the new and different issues facing veterans who are returning from Iraq and Afghanistan, wars that are being fought under conditions that are very different from those of the past. That is precisely what the caregiver and veterans omnibus health bill seeks to do.

One of the changes we have seen in our veterans population recently is the growing number of women veterans who are seeking care at the VA. Today more women are serving in the military than ever before. Over the next 5 years, the amount of women seeking care at the VA is expected to double. Not only are women answering the call to serve at unprecedented levels, they are also often serving in a very different capacity. In Iraq and Afghanistan, we have seen wars that don't have traditional front lines. All of our servicemembers, including women, find

themselves on the front lines. Whether it is working at a checkpoint or helping to search and clear neighborhoods or supporting supply convoys, women servicemembers face many of the same risks from IEDs and ambushes as their male counterparts. But while the nature of their service has changed in these conflicts, the VA has been very slow to change the nature of the care they provide when these women return home.

Today at the VA there is an insufficient number of doctors and staff with specific training and experience in women's health issues. Even the VA's own internal studies have shown that women veterans are underserved. That is why we included in the veterans health bill a bill I have introduced and worked on that will enable the VA to better understand and ultimately treat the unique needs of female veterans. The bill authorizes a number of new programs and studies, including a comprehensive look at the barriers women currently face when they try to get care at the VA. It includes a study of women who have served in Iraq and Afghanistan to assess how those conflicts affected their health. It includes a requirement that the VA implement a program to train and educate and certify VA mental health professionals to care for women with sexual trauma and a pilot program that provides childcare to women veterans who seek mental health care services at the VA because, as we know, women will choose to take care of their kids before they take care of themselves. I believe we need to provide that childcare so those women get the care they need.

This bill I am talking about is the result of many discussions with women veterans on the unique and very personal problems they face when they return home from war. Oftentimes, when I hold veterans meetings in my State, the men who are there speak up and talk to me about some of the barriers they face, and it is not until the meeting closes and everybody is going out the door that the women come up to me and speak silently and as quietly as they can in my ear about the barriers they face. Some of these women have told me they did not even view themselves as a veteran and therefore did not even think of seeking care at the VA. Oftentimes, they have told me they lack privacy at their local VA or they felt intimidated when they walked in the doors. They have told me about being forced into a caregiving role that prevented them from even asking for care because they had to struggle to find a babysitter in order to keep an appointment. They should not have to speak quietly into my ear at the end of a meeting. They have served our country honorably. We should move this women veterans health bill so they get the care they support.

To me and to the bipartisan group of Senators who cosponsored the women

veterans bill, these barriers to care they face are unacceptable. So as we now have more women transitioning back home and stepping back into their careers and their lives as mothers and wives, this VA has to be there for them. So this bill in the omnibus bill in front of us will help the VA to modernize to meet those needs.

Another way this bill meets the changing needs of our veterans is in the area of assisting caregivers in the home.

As we have seen in Iraq and Afghanistan, medical advances have helped save the lives of many of our servicemembers who in previous conflicts would have perished from the severity of their wounds. But these medical miracles mean that many of those who have been catastrophically wounded now need round-the-clock care when they come home.

In many of our rural areas, where access to health care services is very limited, the burden of providing that care often—and most often—falls on the family of that severely injured veteran. For those family members who are providing care to their loved ones, it now becomes a full-time job for them. They often, I have been told, have to quit their current jobs—foregoing not only their source of income but also their own health care insurance at the same time. It is a sacrifice that is far too great, especially for families who have already sacrificed so much.

So this underlying omnibus bill we are trying to bring forward provides caregivers with health care and counseling and support and, importantly, a stipend so they can take care of their loved ones when they come home.

This bill also takes steps to provide dental insurance to veterans and survivors and their dependents and improves mental health care services and eases the transition from Active Duty to civilian life. It expands outreach and technology so we can provide better care for veterans in our rural areas. And it initiates three programs to address homelessness among veterans, which is especially troubling during these economic times.

This is a bill that is supported by numerous veterans service organizations and the VA. It is supported by many leading medical groups. It was passed in our Senate Veterans' Affairs Committee with broad bipartisan support after hearings with health care experts and VA officials and veterans and, importantly, their families.

Like other omnibus veterans health care bills before it—bills that have often been passed on this floor with overwhelming support—it puts veterans before politics. It is a bipartisan bill designed to move swiftly so its programs can be implemented swiftly. It is a bipartisan bill that is designed to make sure our veterans do not become political pawns. Yet here we are today facing delays.

The fact that this bill is now being held hostage by ideology is both a disservice to our veterans and a troubling precedent for our future efforts to meet their needs. Providing for our veterans used to be an area where political affiliation fell by the wayside. But today, because of an effort to score political points on issues that are far removed from the struggles of families who are delivering care to their loved ones with injuries or women veterans who are returning home to an unprepared VA or the mounting toll of this economy on homeless veterans, we are faced with delay on the floor. For our Nation's veterans, it is a delay they cannot afford. Our aging veterans and the brave men and women who are currently serving in Iraq and Afghanistan need our help now. And how we treat them at this critical time will send a signal to a generation of young people who might now be sitting at home considering whether they want to go into the military.

It is imperative that we keep our promise to our veterans—the same promise Abraham Lincoln made to America's veterans 140 years ago—"to care for the veteran who has borne the battle, his widow and his orphan."

Our veterans have waited long enough for many of the improvements in this bill. We should not ask them to wait any longer. So I urge our colleague to withdraw his objection to consideration of this bill and to let us move it quickly through the Senate so the families and the servicemembers who are waiting for its passage—whether it is a family taking care of a veteran who has been seriously injured or a woman veteran or anyone who has served our country—can know we stand behind them when they serve our country.

Mr. President, I yield the floor.

Mr. JOHNSON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. WEBB. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WEBB. Mr. President, may I ask the Chair, are we in morning business?

The PRESIDING OFFICER. The Senate is considering the appropriations bill.

Mr. WEBB. Mr. President, I ask unanimous consent to speak as in morning business.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

FRANK BUCKLES WORLD WAR I MEMORIAL ACT

Mr. WEBB. Mr. President, I actually came to the floor to join with Senator THUNE and to congratulate him on the effort he has undertaken to rededicate

a site in Washington, DC, to become the National World War I Memorial. I am an original cosponsor on that legislation, and apparently he is tied up in some sort of meeting right now, so I will just precede him and give my thoughts and my support for the legislation he has introduced.

#### MARINE CORPS 234TH BIRTHDAY

Before I do that, Mr. President, I would like to point out that this is November 10, and marines around the world stop on this day every year—no matter where they are, no matter what they are doing—to commemorate what we call the Marine Corps birthday, which is the celebration of the initial recruitment and organization of the Marine Corps, at a place called Tun Tavern in Philadelphia in 1775.

This is the 234th anniversary of the founding of the Marine Corps. As one who has proudly served in the U.S. Marines, who has a brother who was a marine, a son who is a marine, and a son-in-law—three of us infantry combat veterans—I would like to extend my congratulations to all of those who served in the Marine Corps in the past and to those who are doing such a fine and difficult job today all around the world. This is the finest fighting organization in the world, and I am very proud to have been a part of it at one point in my life.

We all wish success and the best to our marines.

#### FRANK BUCKLES WORLD WAR I MEMORIAL ACT

Mr. President, tomorrow is Veterans Day, where we will stop as a nation with a national holiday to commemorate the service of all of those who have served our country throughout our history and to thank the 23.4 million veterans in this country for the service they have given in war and in peace, extending all the way back, in terms of living veterans, to World War I, which I am going to talk about in a minute. I think we have one surviving veteran from World War I still alive. We have some 2.6 million World War II veterans who are still with us. And we want to, as so many people have pointed out today, do our best to take care of those who have served our country, to honor that service.

With respect to the legislation Senator THUNE put together and on which I am an original cosponsor, we should stop today and think about those who served in World War I. I think the memorial he is proposing has three important benefits to our country. The first is that it will help us remember a war that I think is not really appropriately remembered in our own history—the importance of it, the incredible carnage that took place, the way it changed the face of the civilized world. The second is to think about our own World War I veterans and the struggles they went through and in terms of putting together the right sort of care and benefits for those who followed them.

The third is to talk about the site itself that Senator THUNE has done such a fine job in discovering and proposing.

We in this country did not get involved in World War I until the very end of the war. I think that is one of the reasons, perhaps, we do not consider in enough detail how much of an impact that war had on the civilized world as it was then known, on the relationships particularly among the European powers, and also the place of the United States in world affairs.

These numbers are rough, but they are fairly close; I think they are accurate enough that I can use them today: In World War I, the German Army lost 1.8 million soldiers, dead; the French lost 1.7 million soldiers, dead; the British Empire lost nearly a million soldiers, dead. The impact on those cultures and on the economy and the health of the communities was enormous. We came in at the end of the war. The United States lost 55,000 soldiers on the battlefield in less than a year. We lost another 55,000 to the Asian flu epidemic that swept through the world and had a very strong impact on those who were serving in the military. We lost 110,000 people in uniform during that war.

The impact it had on the relationships among European countries was enormous, and it is much more fully understood in other countries than it is here in the United States. The Russian Revolution occurred during World War I. The way we negotiated the settlement after World War I brought about, within a short period of time, the rise of fascism and, eventually, of nazism in Germany. The British Empire began to spend itself down in a way that finally had a fairly conclusive impact after the additional carnage of World War II.

All of those things impacted this country in a way that pushed us to the forefront in many ways in terms of our place in the world because of the exhaustion that had happened in these other societies.

Our World War I veterans had a very difficult time in a transitional period in terms of how we define veterans' benefits themselves. Previous to World War I, when soldiers left the military, they got what was called mustering-out pay, and when they reached a certain age, no matter what their service was in terms of disability or those sorts of things, they got a pension, an automatic pension, all the way through our history until World War I. World War I veterans didn't get either of those.

Some of us who are fond of looking at American history in the 1930s will remember the Veterans Bonus March, where World War I veterans literally camped out here in our Nation's Capital, saying they needed to get the same kind of bonuses that those who had preceded them received. They

didn't receive that bonus. They did fight hard and long and were able to bring about the creation of the VA medical system, but they didn't get a GI bill; they didn't get so many things the other veterans who followed them received. Yet when I was much younger and working as a committee counsel in the House on veterans issues, we were still seeing the World War I veterans. They felt a stewardship to those who served in World War II. They helped push through the GI bill. They helped push through compensation packages that were unheard of before. We owe our World War I veterans a great deal, not simply for what they did on the battlefield but for how they helped transform veterans law into today.

The site Senator THUNE proposed—and with which I agree—for a World War I memorial, I believe, is perfectly placed. We are all very sensitive in terms of putting additional memorials and monuments on The National Mall. I was involved in the formulation stages of the Vietnam Veterans Memorial on The Mall. That was one of the big push-backs in Congress, as well as from the National Capital Planning Commission and other entities; that we don't want to put so many memorials on The Mall that you impact the free flow of tourists and people visiting that area.

Right now, here is what we have on The Mall. I wish I had a diagram, but we have the Vietnam Veterans Memorial, just down from the Lincoln Memorial, and to its south we have the Korean War Memorial and further to the east, toward the Washington Monument, we have the World War II Memorial. Almost in a diagrammatic diamond there is an area presently where the District of Columbia was allowed to place a memorial to those who had served in World War I and were residents of the District of Columbia.

What Senator THUNE has proposed, and what I strongly also support, is to take this existing memorial, which is in some disrepair at the moment, quite frankly—I have been by there a number of times—and to upgrade it so it would become the National World War I Memorial, so we would have on The Mall, in a very tasteful way, four sites dedicated to the four major wars our country was involved in, in the 20th century. I can't think of a better way right now for us to recommend and remember the service of those who served in World War I and for the rest of the people in this country also to be encouraged to remember the impact that war had and the sacrifices the people who served in that war made.

So I rise, as I mentioned earlier, to commend the Senator from South Dakota for his recommendation, as well as, as I said, to remember the Marine Corps today and to remember our veterans tomorrow.

With that, I yield the floor.



The PRESIDING OFFICER. The Senator from South Dakota is recognized.

Mr. THUNE. Mr. President, I wish to join my colleague from Virginia in support of this legislation and I thank him for his leadership on this and on so many of the other issues and initiatives that recognize the service and sacrifice of America's veterans. He has been a leader on that, and I appreciate his leadership on this issue because I think, as we prepare to observe Veterans Day tomorrow, it is important to recognize those veterans who served throughout our Nation's history. Along with Senator ROCKEFELLER, Senator WEBB and I have introduced legislation that is known as the Frank Buckles World War I Memorial Act, which recognizes, once and for all, those veterans who served their country during World War I.

Frank Buckles's World War I Memorial Act would rededicate the existing District of Columbia War Memorial as the National and District of Columbia World War I Memorial on The National Mall in Washington, DC. The act is named for Frank Buckles of West Virginia who, at 108 years of age, is the last surviving American World War I veteran.

I appreciate the strong support of Senator ROCKEFELLER who, of course, has Frank Buckles as a constituent, and I appreciate also the strong support of Senator WEBB for this bill. Senator BURR, the ranking member of the Committee on Veterans' Affairs, is also a cosponsor, so it has strong and meaningful support on both sides of the aisle.

As I said, I think it is very fitting to speak on a bill seeking to establish a national World War I memorial because, as many know, Veterans Day was initially known as Armistice Day, which marked the end of World War I on November 11 of 1918.

After America's role in World War II and the Korean war, Congress passed legislation changing Armistice Day to Veterans Day, and President Eisenhower signed the change into law on June 1, 1954. From initially being a day to honor World War I veterans, November 11 became a day to honor all veterans.

We are rapidly nearing a century since the beginning of World War I, which began for most of the world in July of 1914. While World War I has become a distant, fading memory of another era, it still profoundly shapes the world in which we live.

As Oxford historian Hew Strachan concludes in his history of the first World War, the war "forced a reluctant United States onto the world stage" and began to "lay the seeds for the conflict in the Middle East. In short, it shaped not just Europe but the world in the 20th century."

World War I began for the United States when it entered the war in April

of 1917 on the western front because of German submarine attacks on United States shipping and because President Woodrow Wilson concluded that the United States had to wage war if it was to shape the future of international relations, as Hew Strachan states in his history of World War I.

The United States was in World War I for only 18 months. Its Army grew from only 100,000 men to 4 million, with 2 million men sent overseas, 1½ million of whom arrived in Europe in the last 6 months of the war. Forty-two American divisions were in the field by November 11 in 1918, and 29 of them had seen action. Over 100,000 American soldiers died in World War I.

Frank Buckles is the last surviving American World War I veteran. He was born in Missouri and currently lives in West Virginia. He joined the Army at 16 and went to Europe to fight in 1917, driving ambulances and motorcycles for a casualty detachment. He was discharged from the Army in 1919. Mr. Buckles also was extraordinarily affected by World War II. He was in Manila as a civilian on business in December of 1941, when the Japanese attacked, and was captured by the Japanese and spent 4 years in a Japanese prison camp in the Philippines. I strongly urge everyone to track down his interview, where he talks about his war experiences in both World War I and World War II. Transcripts and videos of Frank Buckles' interview can be found on the Library of Congress's Veterans History Project Web site. The Veterans History Project is a great initiative. I have taken advantage of the Veterans History Project myself, to interview my dad about his experiences as a pilot in World War II.

Mr. Buckles is also the honorary chairman of the World War I Memorial Foundation, which is seeking refurbishment of the District of Columbia War Memorial and its establishment as the National World War I Memorial on The National Mall. The Frank Buckles World War I Memorial Act will help to make this vision a reality.

I had the opportunity to meet Mr. Buckles last year. He is certainly an extraordinary individual. Mr. Buckles also traveled to South Dakota in July of 2008 to be honored at Mount Rushmore during their magnificent Fourth of July celebration. It is a great honor for me to support this bill that carries his name.

I wish to briefly describe what the bill does. In 1924, Congress authorized the construction of a war memorial on The National Mall near the Lincoln Memorial to honor the 499 District of Columbia residents who died in World War I. Funded by private donations from organizations and individuals, the memorial was dedicated by President Herbert Hoover on November 11, 1931. The Frank Buckles World War I Memorial Act would rededicate the District

of Columbia Memorial as the National and District of Columbia World War I Memorial. The legislation would also authorize the nonprofit World War I Memorial Foundation to make repairs and improvements to the existing memorial, as well as install new sculptures to underscore the sacrifice of over 4 million Americans who served in World War I.

The bill would not require any taxpayer dollars because the World War I Memorial Foundation would raise the necessary funds through private donations.

All the major wars our Nation has fought in the 20th century are memorialized on The National Mall. Rededicating the District of Columbia World War I Memorial as the National and District of Columbia World War I Memorial fits the narrative of The Mall, with its wonderful memorials to World War II, the Korean war, and the Vietnam war. I think it only makes sense to rededicate a memorial to this 20th century war that established our Nation's path to superpower status among the community of nations.

This Veterans Day will mark the 91st anniversary of the end of World War I. I can think of no better way to honor Mr. Buckles and his departed comrades than by quickly passing this bill to establish a national World War I memorial. This bill would provide timely but long overdue recognition of all World War I veterans in our Nation's capital. I look forward to working with my colleagues to pass this bill as soon as possible.

I yield the floor.

The PRESIDING OFFICER. The Senator from Illinois is recognized.

Mr. DURBIN. Mr. President, let me join the Presiding Officer, the Senator from Virginia, Mr. WEBB, and Senator THUNE in endorsing the concept of this World War I memorial. I am a student—a minor, amateur student of history, and I realize the dramatic impact that war had on the United States. It is amazing to know there is still a surviving veteran from that great conflict.

When I first got involved in politics, I would go to rural counties in Illinois, and there would be a flatbed truck with five or six World War I vets on it. Of course, they are gone. They were a great generation that sacrificed and engaged in a war so far away at such great peril. It is fitting that there be an update of that monument. I have walked by it. In its day, I am sure it was a glorious monument, but it needs attention today for it to be a fitting tribute to the men and women who served our Nation during that great conflict. I heartily support it. I wish to thank Senator JOHNSON, the chairman of this appropriations subcommittee, for entertaining this as part of his legislation.

I will tell my colleagues we had a press conference today on another



issue involving veterans. It is one that means a lot to me, personally, because it involves a family whom I have become very close to. It is the Edmondson family. They live in North Carolina. I met them by chance when Eric Edmondson, who was a veteran of the war in Iraq, was being treated at a hospital in Chicago. Eric was a victim of a traumatic brain injury and in surgery after his injury there was deprivation of oxygen and he has become a quadriplegic and cannot speak. When I first met him 2 years ago, he was 27 years old, a husband and father of a little baby girl. I met his father Ed and his mother Marybeth. They were people who came to a hearing I held on veterans health care. They talked about the journey Eric had made from Iraq to the United States and then to Chicago to the Rehabilitation Institute of Chicago.

They had all but given up on Eric because of his injuries and, at one point, they told his father he would have to be admitted to a nursing home at the age of 27 because there was nothing they could do. It appeared he was headed in that direction until his father said: No, I won't do this to my son.

What followed has been a heroic story—heroism matching, I believe, the courage his son showed in volunteering to serve our country and risk his life—because Eric's father, Ed, started his own personal effort to find the very best place in America for Eric's treatment. He came up with the Rehab Institute of Chicago.

I went to visit Eric at the Rehab Institute, when he was there 2 years ago. When I walked into the room, he was sitting in a wheelchair with a big smile. He cannot speak. We talked a little bit about his treatment there. They invited me to come back. I came back a few weeks later, about 6 weeks later, and they said Eric had a gift for me. I didn't know what they meant by that. His mother and dad each grabbed an elbow, stood him up, and Eric took four steps out of his wheelchair. It was an amazing moment. There wasn't a dry eye in that hospital room that day; that he had made the progress where he could literally take four steps. His father said he would be checking out of the Rehab Institute in Chicago a few weeks after that and invited me to come because, he said: Eric is going to put on his dress uniform and he is going to walk out the front door of this hospital.

I said: I will be there. So was the mayor of Chicago and every other politician who heard about it, and every TV camera in Chicago was there to see Eric make it out the front door, with the help of two attendants by his side. There he was with a big smile on his face in his dress uniform.

Well, Eric returned to North Carolina, and because of the amazing generosity of a lot of local people, they lit-

erally built him and his family a home that was wheelchair accessible. Because of that generosity, he had a place to live but still with a very young wife and a baby girl.

His mother and father decided they would quit their jobs and move in with their son and become full-time caregivers to Eric Edmondson, this veteran of the Iraq war, and that is what happened. His father basically cashed in all his savings, sold his home, sold his business, took what he had and dedicated himself to his son—totally dedicated himself to his son.

Over the period of time that Ed and Marybeth were taking care of Eric, they lost their health insurance. But Eric was still being cared for by the veterans system. I went down to visit them in their home. It was clear they spent every minute of every day caring for their son.

Mr. Edmondson asked me to take a look at a bill that Senator Hillary Clinton had introduced called the Caregivers Assistance Act which said the Veterans' Administration should start off on a demonstration basis to take a look at caregivers, such as the Edmondson family, and give them a helping hand. I asked Senator Clinton as she was leaving the Senate and heading for the State Department if I could take over the bill, and she said I could.

I introduced it in this session of Congress. Senator DANNY AKAKA, the chairman of the Senate Veterans' Affairs Committee, read the bill and called me and said: I want to move this bill. I want to make it a major piece of legislation to help veterans. That bill was considered by the Veterans' Affairs Committee and was reported out unanimously.

What the bill would do is create a program in the Veterans' Administration for caregivers, such as Ed and Marybeth Edmondson. What it would give them is training so they would know how to take care of their son, a disabled veteran—training in basic first aid and health care.

Second, it would provide them with a monthly stipend which the Veterans' Administration would determine is appropriate so they would have some help in getting by with the expenses of keeping their family together and helping their veteran.

It would also give them a respite for a couple weeks so at least they would be able to have some time off and others would come in and take care of the veteran while they went off and recharged their batteries and came back and dedicated themselves again to the veteran.

It would provide basic health insurance for caregivers as well because that is one of the first things they lose when they give up a job or business to take on this responsibility.

This is just one family's story from our recent war that still goes on. There

are others. I met another one in Chicago on Sunday, Aimee Zmysly, who literally married her husband after he came home and became disabled from an operation at a veterans hospital. This 23-year-old woman married this young man who had no family and now is his full-time personal care attendant. Because of it, he can stay home; he is not in a formal facility.

The cost of his care is a fraction of what it would be otherwise, and he has the dignity of being where he wants to be—with someone who loves him very much, who spends every moment of every day helping him.

This is the right thing to do. This caregivers bill is the appropriate thing to do. For at least 6,000 veterans across America, there is a personal family caregiver who makes the difference every day in their lives, a person who will be there for them every second they need them. You cannot buy that kind of help. Even the best medical professionals could not provide the love that comes with that care.

I think the Veterans' Administration, certainly the Senate Veterans' Affairs Committee, recognizes that. That is why this legislation is currently on the calendar of the Senate. It has been here now for over 6 weeks. I had hoped we could pass this before this Veterans Day, tomorrow. But, unfortunately, it is being held by one Senator.

The Senator and I debated it on the floor yesterday. He said he doesn't want us to even consider this bill. We cannot even debate this bill. He would not even offer an amendment to this bill. He wants to stop this bill, he said, because I haven't figured out a way to pay these caregivers.

We reminded him that during the course of this war, we waged this war and paid for it with debt. The former administration did not pay for any of the war expenses. They added them to the debt of the United States. That Senator and others—myself included—voted to continue that war, understanding that it was not being paid for.

Now when it comes to caring for the veterans and the casualties of that war, we have a strict accounting standard, a deficit standard that was not applied to waging a war. Why is it the cost of the war—the bullets and the bombs—does not have to be paid for, but when it comes to the care of our veterans who come home, we have this strict accounting; we cannot consider helping them unless there is some specific way of demonstrating how to pay for it?

I believe we will pay for it, I believe we should have it, and I believe this Senator for veterans in 2009 should lift his hold on this bill and let us consider it on the Senate floor. Let us have this debate. Let us determine who will be covered by it and what kind of coverage they will have.

These caregivers will not quit on us because they will not quit on their veteran. Why should we quit on them? Why should we say we are not going to provide them help when every moment of every day they are helping a man or woman who literally risked their lives for our country and paid a heavy price in doing so?

I also have two other amendments. One of my amendments now pending before the Senate on this appropriations bill is the capstone of a project that I have been working on for a long time.

It seems that right outside of Chicago in Lake County, north of Chicago, is a great veterans hospital known as the North Chicago Veterans Hospital. It is modern. It serves thousands of veterans in the region. It was threatened with closure just a couple years ago, a few years ago now.

Then, coincidentally, not far away, is the Great Lakes Naval Training Center, the training station for all of our new recruits in the U.S. Navy. There is a hospital in the center of the Great Lakes naval training base. It turned out that this hospital needed to be modernized because all of these recruits who once were trained in places such as California and Florida are now coming to the Great Lakes Naval Training Center off Lake Michigan.

I talked with them about combining these two facilities. Can we bring together a Navy hospital and a veterans hospital, put them in one facility and coordinate their activities so they both have the very best?

After years—literally years—of effort, it is going to happen. I thank Senator CARL LEVIN and so many others for making it a reality. This was a dream that many of us had, and it is on its way to completion.

The amendment I have offered is one that will name this first-of-its-kind medical facility in North Chicago the Captain James Lovell Federal Health Care Center. I think this is a fitting name for this facility.

CAPT James Lovell was one of the first humans to travel in space. From his humble beginnings in Cleveland, OH, he loved flight. In 1944, a 16-year-old Lovell and his friends built a little rocket that shot up 80 feet in the air and exploded. But it hooked him. He wanted to be a pilot.

He went on to graduate from the U.S. Naval Academy in 1952 where he wrote his senior thesis on the feasibility of sending a rocket into space. He married his high school sweetheart, Marilyn Gerlach, the day he graduated. He went on to become a test pilot for the Navy. In 1962, NASA chose him as one of our first astronauts.

He distinguished himself among his space flight colleagues, including Neil Armstrong, Buzz Aldrin, and John Glenn. He will be remembered for launching America into the new age of

space. He had success as an astronaut, serving on the early *Gemini 7* and *Gemini 12* missions. In December 1968, he circled the Moon as a member of the *Apollo 8* mission.

Today, the iconic image of the Earth—a world of greens and blues hovering in the vastness of space—is a common sight. But in 1968, the *Apollo 8* brought this image of Earth to the people of the world in a way never before seen, in Captain Lovell's own words, "an oasis in the vastness of space."

Of all his accomplishments in space, Lovell is best known as the commander of the *Apollo 13* mission. In 1970, Lovell and fellow astronauts, Fred Haise and John Swigert, launched what would become one of the most storied flights in NASA history.

The *Apollo 13* mission started as the third attempt at a lunar landing by a manned spacecraft. It ended, in the words of author W. David Compton, as "a brilliant demonstration of the human spirit triumphing under almost unbearable stress."

The crew's mission started with little difficulty, but a few days into the flight, one of the fuel cells on the *Apollo 13* short-circuited, causing a fire that spread to the oxygen tanks.

Lovell radioed back to mission control:

Houston, we've had a problem.

He knew that with the oxygen tanks and the fuel cells compromised, their lunar landing could not be completed.

*Apollo 13* had been on a lunar landing course. NASA made a risky decision. It set the spacecraft on a trajectory around the Moon. NASA engineers hoped the Moon's gravitational pull would whip Lovell and his colleagues back toward Earth with the speed they needed to return.

For days the crew suffered from cold, a lack of oxygen, and little nourishment. The world turned its attention to the three American astronauts and to our government's effort to save them and bring them home.

Seventy-two hours after Lovell and his crew had been in space, the *Apollo 13* shot around the far side of the Moon and lost contact with mission control. But NASA's bet had paid off and the spacecraft headed home for a successful splash landing in the Pacific.

With the safe return of *Apollo 13*, Captain Lovell became a great American hero and a great story in American history. He remained with NASA until he retired in 1973. During his 11 years as an astronaut, he spent more than 715 hours in space.

Today, I am proud to say, he lives in my home State in Lake Forest, IL, just a few minutes from this new health care facility.

The story of *Apollo 13* has been told so many times as a testament to human ingenuity in harrowing circumstances. Captain Lovell's experience reminds us of our excitement in exploring the final frontier of space.

With this amendment, which I hope the committee will accept, and I hope the Senate will accept, his name will embrace a new effort, not as glamorous and exciting as space travel, but an effort that honors his legacy, providing quality health care for Navy recruits, veterans, and military families.

The second amendment which I have pending is one which will allow rural VA centers to be able to offer incentives for recruitment and retention of medical personnel. A little over 2 years ago, at the VA center in Marion, IL, we had a tragic situation where nine veterans lost their lives in surgery. We found later it was the result of mismanagement and medical malpractice. At that point, they closed down the surgical facilities in the Marion VA and started hiring new people to run the institution.

I am sorry to tell you that it still is not where it needs to be. Progress has been made. A recent hygiene report has given us pause. We realize more has to be done. We still are finding there is a difficulty in attracting the kinds of medical professionals we need at this rural VA facility. This is not the only facility facing it. Many others have as well.

What we are doing is taking existing funds in the VA and allowing them to dedicate a small portion to recruit and retain medical professionals. This is the least we can do to make sure we provide our veterans the very best.

I ask unanimous consent that Senators ROCKEFELLER and TESTER be added as cosponsors of my amendment, which I believe is amendment No. 2760.

The PRESIDING OFFICER (Mr. WEBB). Without objection, it is so ordered.

Mr. DURBIN. Mr. President, I have learned the hard way how important it is for rural veterans' hospitals to attract good doctors and administrators.

The VA Medical Center in Marion, IL, has had significant problems with quality management and patient safety.

In an effort to help improve quality at this rural medical center, I have spoken with two VA Secretaries, and one acting Secretary, about these challenges and potential responses. I have also corresponded with numerous VA officials, and met with the employees on the frontline of care at Marion.

One thing I have taken away from all these conversations is how important it is to have the best possible providers and administrators in our veterans' medical facilities. And that is easier for Hines Medical Center in Chicago than it is for Marion and other rural health centers throughout this country.

Many rural counties have the highest concentrations of veterans according to the 2000 census. The VA estimates that 37 percent of all veterans reside in rural areas.

In 2007, we were horrified to learn that nine patients at Marion Veterans Affairs Medical Center had died in what turned out to be a terrible lapse in quality management and accountability.

The hospital administrator, the chief surgeon, and others were relieved of their duties, and the hospital stopped offering in-patient surgeries.

Since then, we have been told time and again, that the VA has addressed quality management structures there and has been trying to restart a full continuum of care at Marion.

Last week, we found out that these efforts have not been enough. The VA's IG reported that patient safety and quality management at the Marion VAMC failed again on several measures.

Many are repeats from what was found at Marion 2 years ago. It is clear that Marion VAMC leadership did not right the ship.

Last week, members of the Illinois congressional delegation met with Secretary Shinseki about this most recent report on Marion.

The Secretary talked about how important quality leadership is at the local level and how hard it is to recruit and retain talented, high-performing administrators and doctors to rural facilities.

This is not the first time we have heard this. In fact, the surgical program at the hospital has been shut down for two years because we don't have the personnel to restart it.

Recruitment and retention of healthcare professionals to serve rural populations is a nationwide problem. It is not limited to the VA. And it is not limited to Illinois.

In February, the Director of VA's Office of Rural Health testified that, "greater travel distances and financial barriers to access can negatively impact care coordination for many rural veterans."

As far back as 2000, the VA recognized that the large proportion of rural veterans has made it harder for those veterans to access care.

My amendment allows the VA to develop and test a pilot program to attract and retain high quality providers and management to rural facilities across the country. It is one of many efforts to address quality of care for our veterans.

These incentives would only be available to the employee for as long as they were serving in the designated rural areas.

The amendment would allow the VA to spend up to \$1.5 million to attract qualified health care providers and another \$1.5 million to attract qualified health care administrators to our neediest, most underserved rural VA facilities.

The amendment would also require VA to report back to Congress on the

structure of the program, the number of individuals recruited through such incentives, and the prospects for retention of these doctors, nurses, and administrators.

Just last month, the Kansas Health Institute reported that financial incentives are an important part of recruiting and retaining providers to rural areas in the civilian sector.

We need to give the VA similar tools. Veterans in Marion and Chicago, IL, New York City and Niagara, NY, Dallas and Temple, TX, deserve the same quality of care. As veterans of current wars leave active duty and return to their hometowns, we must be ready to serve them. It is simply the cost of war.

This amendment would give the VA another tool to use as it works to improve its rural health facilities. I encourage my colleagues to support it.

Mr. President, I yield the floor.

Mr. ROCKEFELLER. Mr. President, along with my colleagues, Senators THUNE and WEBB, I am in strong support of the Frank Buckles World War I Memorial Act. This bill rededicates the site of the District of Columbia War Memorial on the National Mall as a National and DC World War I Memorial in recognition of the upcoming anniversaries of America's entry into World War I, and of the armistice that concluded World War I on November 11, 1918.

The legislation is named in honor of Frank Buckles of West Virginia, the last surviving American World War I veteran. Mr. Buckles, born in 1901 in Harrison County, MO, is a wonderful man and representative of his generation. At the age of 108, he resides in the eastern panhandle of West Virginia, where he lives on his 330-acre farm with his daughter.

His personal story is similar to many young men of his era. As an eager 16-year-old, Frank Buckles tried to enlist in the Army several times and finally succeeded. He then pestered his officers to be sent to France. Mr. Buckles drove motorcycles, cars, and ambulances in England and France, and during the Occupation, he guarded German prisoners. Following the war, he went to work for the White Star steamship line and was in Manila on business in December 1941 when the Japanese attacked the Philippines. Frank Buckles spent over 3 years as a prisoner at the city's Los Banos prison camp. On February 23, 1945, a unit from the 11th Airborne Division freed him and 2,147 other prisoners in a daring raid on the Los Banos prison camp. Mr. Buckles was affected by and has memories of both World War I and World War II.

After his liberation from Los Banos, Frank Buckles returned to the United States. He married Audrey Mayo, a young lady whom he had known before the war, and in 1954 they settled down on the Gap View Farm in West Vir-

ginia. On this same farm, Mr. Buckles has remained mentally sharp and physically active. He worked on his farm with tractors up to the age of 105. Now, he reads from his vast book collection and enjoys the company of his daughter Susannah Flanagan who came to live with him after his wife passed away in 1999.

I had the privilege of listening to Frank Buckles' compelling stories in his home in West Virginia while sitting with his daughter. He generously shares his memories of working to enlist and get to France, as well as meeting French soldiers and guarding German prisoners. Everyone can hear his reflections by visiting the Library of Congress's special Web site for its Veterans History Project. It has personal interviews of Mr. Buckles and thousands of other veterans that have served our Nation both during times of war and peace. Visiting this Web site is an incredible resource for scholars, students and every American, and it reminds us of the compelling personal stories of bravery, commitment, and sacrifice made by our country's veterans and how they shaped our world.

The bill I introduced with Senators WEBB and THUNE is designed to honor and remember over 4.35 million Americans, like Frank Buckles, who answered the call of duty and served from 1914–1918 in World War I. What became known as the Great War claimed the lives of 126,000 Americans, wounded 234,300, and left 4,526 as prisoners of war or missing in action.

At the end of World War I, numerous cities and States erected local and state memorials to honor their citizens who answered the call and proudly served the United States of America. On Armistice Day in 1931, President Hoover dedicated the DC World War I Memorial to honor the 499 District of Columbia residents who gave their lives in the service of our country. Since then, national monuments to commemorate the sacrifice and heroism of those who served in World War II, the Korean war, and the Vietnam war have all been built on the National Mall.

Yet no national monument has yet been created to honor those who served in World War I. As our Nation prepares to celebrate the centennial of World War I, it is time for that to change by creating the National and DC World War I Memorial.

Mr. President, I urge my colleagues in the Senate to cosponsor this legislation to rededicate the site of the District of Columbia War Memorial on the National Mall as a National and District of Columbia World War I Memorial.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. BOND. Mr. President, I ask unanimous consent to proceed as in morning guess.

The PRESIDING OFFICER. Without objection, it is so ordered.

VETERANS DAY

Mr. BOND. Mr. President, tomorrow our Nation will honor the thousands of men and women who have answered the call to support and defend the Constitution of the United States of America against all enemies. Today I rise to pay tribute to these veterans and their commitment to the cause of freedom. These brave men and women are ones throughout ages who have made the contribution, who made the efforts, and some made the ultimate sacrifice to keep our country free. We owe them no less than our heartfelt thanks.

In Kansas City, MO, we are very proud to have a facility called the Liberty Memorial which was set up many years ago as the only memorial to World War I veterans. That facility continues today to be a very proud part of the Kansas City heritage. We want to make sure that as we look back and honor the veterans of World War I, we recognize that this was the first, the best, and the most outstanding memorial to the veterans of World War I. I ask my colleagues to work with us as we appropriately recognize and elevate the Liberty Memorial to the status it deserves in honoring the men and women who served in that very difficult First World War.

But also as we mark this Veterans Day, the massacre of 13 of our servicemembers at Fort Hood Texas is in all of our hearts.

It is unthinkable that the brave men and women in our military, who already sacrifice so much when they go forward on the battlefield to fend off attacks, now find the attacks can come at home. But in the midst of this horrific tragedy, our Nation has also witnessed the courage, the heroism, and the quick thinking we have come to expect from our military personnel and law enforcement.

There are many questions that need to be answered, and as vice chairman of the Senate Intelligence Committee and also as the father of a marine and as an American, I want answers about how this could have happened and whether we could have prevented it. What do we learn from this? How do we take steps to make sure it doesn't happen again? I want to find out the who, what, when, where, if anything, our intelligence community knew and whether such information was shared with the appropriate action agencies.

Whatever those answers turn out to be, we must ensure that our Nation remains vigilant against the threat of terrorism both from within and outside of the United States; that our law enforcement and intelligence agencies and our military have the tools and resources they need to defend and protect us here at home and abroad; and that their vigilance is never hampered by unreasonable restrictions on the use of

those tools that end up aiding only the terrorists. In doing so, we will not only honor the memory of those men and women who died on this horrible day, in this unprovoked attack, but help save future men and women from such a fate.

It is fitting that we honor our veterans and pause to recognize the hardships and sacrifices they have endured throughout wars, conflicts, and many difficult times. We remember especially those men and women who gave their lives so that others—whether comrades, families, total strangers, or the rest of us—could live in freedom. We owe these heroes and their families our eternal gratitude and respect.

As a Senator from Missouri, I offer my very special thanks to the men and women in uniform and the men and women who have served in uniform from our State. In Missouri, the history of service is long and proud. My great State is home to Whiteman Air Force Base, Fort Leonard Wood, and many smaller Guard installations and bases. I am particularly proud of the work being done by the Missouri National Guard's Agricultural Development Team, currently in Afghanistan, where they are helping sow the seeds of peace and providing the security needed to ensure those seeds can grow.

We owe these heroes in Missouri and across the Nation a debt too large ever to repay. At the same time, we recognize the many accomplishments and victories of our military forces. Since the September 11 attacks on our country, we have witnessed their bravery and determination as they fought al-Qaida and other terrorists head-on. Even when naysayers here in Washington were predicting certain defeat in Iraq, these men and women soldiered on and turned the tide toward victory.

Turning to the battle we fight today, the battle in Afghanistan has been described by President Obama and many in this body as a war of necessity. The President has rightly said that we cannot retreat, we cannot fail, we cannot be deterred from our efforts to counter the forces of evil in Afghanistan. But the voices who advocated cutting and running from Iraq, who predicted certain defeat, have been peddling the same pessimism with respect to Afghanistan.

Seven months ago, I was very encouraged when President Obama outlined a strategy—a full-blown strategy—for achieving success in Afghanistan. I strongly supported this strategy, and particularly the appointment of GEN Stanley McChrystal to lead our troops on the ground. Yet here we are, on the eve of Veterans Day, and the latest indications from the President are troubling. Instead of a firm commitment to his own strategy, there is indecision. Instead of trusting the judgment of his own hand-selected commander on the ground, there are endless war councils

and sessions with commanders who are not on the ground. Instead of one strategy, there are now five. Instead of certainty, there is only one possibility; that is, that a decision may be made by November 19. That is no way to run a war, at least not if we want to win the war. Dithering and wavering are not viewed with favor in any situation. When the lives of our men and women are on the line and the threat from al-Qaida and the Taliban grows stronger every day—as General McChrystal said, they are growing stronger—these delays are simply unacceptable. Yet the delays continue, threatening to undo the hard work by our military and intelligence professionals on the battlefields of Afghanistan.

I have heard some congratulate the President for “taking his time” on such an important decision. As a father of a marine who served two tours of duty in Iraq, I agree that whenever we send Americans into battle to risk and possibly lose their lives, the decision must not be a hasty one. But it must not be unnecessarily delayed either. On the eve of Veterans Day, the gravity of this decision is even more moving.

As I said earlier, the President has been advised by General McChrystal that every day we wait, the Taliban is gaining momentum. Our allies are wondering where we are going to come down. Our troops are wondering if they are going to be supported. The people of Afghanistan, who are and must be the target, are wondering if they are ever going to see the troops they need. That is why I applauded the President for making the firm decision on his war strategy in March of this year, months after campaigning on what he called a war “fundamental” to the defense of our people, months after he was sworn in as our Commander in Chief.

As I said earlier, I also applauded President Obama for wisely choosing General McChrystal to implement his strategy for success in Afghanistan. The President was right to wait until hearing from his commander on the ground on what resources were needed before moving forward—an assessment that was delivered in July. Now we are hearing there are four other strategies, and what I want to know is: Who are the other four generals with responsibility for the troops on the ground, with responsibilities for their success, who are coming up with different strategies? We should learn one thing: When you are fighting a war, you need to listen to the commander whom you have selected and who is carrying out your strategy as you announced it. But now, as November goes by, months later, we are simply witnessing dangerous delay. Unfortunately, those in Washington whispering “delay, delay, delay” to the President are really whispering “defeat.”

I urge the President to ignore the pundits peddling pessimism in Washington. Instead, as we honor our veterans for their sacrifices today and in the past, I urge the President to honor our brave troops currently on the battlefield. Mr. President, honor the commander in chief you chose by giving him the resources needed to succeed in Afghanistan. Mr. President, please honor our warfighters in Afghanistan by recommitting to your own strategy, ending this indecision in Afghanistan, and giving our troops the support they need to succeed. That would be the most fitting tribute to our veterans of past, present, and future wars. I hope this opportunity will not pass.

Mr. President, I thank the Chair, and I yield the floor.

The PRESIDING OFFICER. The Senator from Montana.

#### HONORING OUR ARMED FORCES

Mr. BAUCUS. Mr. President, I rise today to honor and pay tribute to Montana's fallen heroes, the dedicated men and women from our great State who have made the ultimate sacrifice in Iraq and Afghanistan since 9/11.

Montanans proudly volunteer for military service at rates higher than any State in the country, higher per capita. Unfortunately, this distinction comes at a great price. To date, 40 Montanans have died and nearly 250 have been wounded in combat in Iraq and Afghanistan. Montana has now suffered more casualties per capita than any other State in the Union. This is staggering. It illuminates just how much our State's citizens have sacrificed in the service of our country.

The famous World War II radio reporter Elmer Davis once said:

This Nation will remain the land of the free only so long as it is the home of the brave.

It is painfully apparent that Montana is home to some of the bravest men and women of all. Who are these fallen heroes? They range in age from 18 to 40. They hailed from places far afield, such as Troy and Glendive, Billings and Missoula, Lame Deer and Colstrip. They grew up in cities and towns, on ranches and farms, and on the reservation. Some heroes were Active-Duty warriors, others part-time citizen soldiers. They held ranks from lance corporal to lieutenant colonel. It amazes me that with such a variety of backgrounds, our heroes all shared the common bond of a desire to serve their country in this time of crisis and need.

The Gospel of John, chapter 15, reads:

Greater love hath no man than this: that a man lay down his life for his friends.

No tribute could possibly express the extent of my gratitude for what these soldiers, sailors, airmen, and marines have done for their country.

During Vietnam, the late Senator Mike Mansfield carried a casualty card in his breast pocket. In that same spirit, I, too, wish to honor their sacrifice

by reading Montana's fallen heroes into the RECORD. The following Montanans were killed while serving in Operation Iraqi Freedom:

Army SGT Travis M. Arndt, 23, Bozeman; Army SSG Travis Atkins, 31, Bozeman; my nephew, Marine Cpl Phillip E. Baucus, 28, Wolf Creek; Army SSG Shane Becker, 35, Helena; Marine PFC Andrew D. Bedard, 19, Missoula; Marine LCpl Nicholas William Bloem, age 20, Belgrade; Army PFC Kyle Bohrsen, 22, Philipsburg; Army LTC Garnet Derby, 44, Missoula; Army SGT Scott Dykman, 27, Helena; Army SPC Michael Frank, 36, Great Falls; Marine LCpl Kane Michael Funk, age 20, Kalispell; Army SSG Yance T. Gray, 26, from Ismay; Army SSG Aaron Holleyman, 26, Glasgow; Army PVT Timothy J. Hutton, 21, Dillon; Navy PO2 Charles Komppa, 35, Belgrade; Army CPL Troy Linden, age 22, Billings; Army CPT Michael McKinnon, 30, Helena; Army SGT James A. McHale, 31, Fairfield; Army MSG Robbie McNary, 42, Lewistown; Marine LCpl Jeremy Scott Sandvick Monroe, 20, Chinook; Army PFC Shawn Murphy, 24, Butte; Marine LCpl Nick J. Palmer, 19, Great Falls; Army CPT Andrew R. Pearson, 32, Billings; Marine Cpl Dean Pratt, 22, Stevensville; Army SPC James Daniel Riekena, 22, Missoula; Army 1LT Edward M. Saltz, 27, Bigfork; Army PVT Daren Smith, 19, Helena; Marine Cpl Raleigh C. Smith, 21, Troy; Marine Cpl Stewart S. Trejo, 25, Whitefish; Army PFC Owen D. Witt, 20, Sand Springs; Army SPC Donald M. Young, 19, Helena; Army PVT Matthew T. Zeimer, 18, Glendive.

The following Montanans were killed while serving in Operation Enduring Freedom:

Navy aviation electronics technician, Andrew S. Charpentier, 21, Great Falls; Army 1LT Joshua Hyland, 31, Missoula; Marine Sgt Trevor Johnson, 23, Colstrip; Army SGT Terry Lynch, 22, Shepherd; Army PFC Kristofer T. Stonesifer, 28, Missoula.

The following Montanans died shortly after returning home from Operation Iraqi Freedom: Army CPL Christopher M. Dana, 23, Helena; and Army SGT George Kellum, 23, Lame Deer.

It pains me dearly to read this list out loud and I cannot begin to imagine how many broken hearts each name represents back home. Our fallen heroes fought and died for our great Nation and all it represents. We owe them a debt of gratitude that can never be fully repaid. We must honor their legacies by remembering their sacrifice as we carry on with our lives.

To all of Montana's families staring at an empty bedroom or an empty chair at the dining room table: You will always be in my thoughts and prayers. I pledge to do all I can to honor your fallen loved ones.

To Montana's fallen warriors: We will never forget.

I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SANDERS. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SANDERS. I ask to speak as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### THE ECONOMY

Mr. SANDERS. Mr. President, I think, as most Americans understand, as a result of the greed, the recklessness, the illegal behavior of a relatively small number of financial institutions, the United States of America is currently in the midst of the worst economic and financial crisis since the Great Depression. Millions of Americans have lost their jobs. Millions of other Americans are working longer hours for lower wages. People have lost their homes, people have lost their savings, people have lost, in many respects, their hope.

On Friday we learned that the official unemployment rate is now 10.2 percent, the highest in over 26 years. But the official unemployment rate tells only half the story. If you add the number of people who are underemployed, if you add the number of people who have given up looking for work, what you find is we have 27 million people in that category of unemployed or underemployed, which is 17.5 percent of the American workforce. That is an astronomical number. Obviously there are areas of our country, in the Midwest and California, where the number is substantially higher than that.

Over a year has come and gone since Congress passed the \$700 billion bailout of Wall Street. In addition, of course, the Federal Reserve has committed trillions of dollars in zero interest loans and other assistance to large financial institutions. Added together, this amounts to the largest taxpayer bailout in the history of the world.

President Bush, former Treasury Secretary Hank Paulson, and Fed Chairman Ben Bernanke told us we needed to bail out Wall Street because we could not allow huge financial institutions and insurance giants to fail. They said if any of these large institutions failed, it would lead to systemic damage to the financial system and, in fact, the entire economy.

One might think, if these institutions then were too big to fail, it doesn't take a Ph.D. in economics to figure out maybe one of the important solutions would be to make them smaller. Too big to fail? Well, let's reduce their size.

Yet in the last several years these financial institutions in many respects did not get smaller but, amazingly enough, they got larger. Too big to fail. What do we do? Make them larger. If that makes sense to somebody, it doesn't actually make sense to me, nor do I think to a majority of Americans.

Last year the Bank of America, the largest commercial bank in this country, which received a \$45 billion taxpayer bailout, purchased Countrywide,

the largest mortgage lender in this country, and Merrill Lynch, the largest brokerage firm in the country. So you had a huge bank—too big to fail. They became larger through the consolidations of Countrywide and Merrill Lynch by the Bank of America.

Last year JPMorgan Chase, which received a \$25 billion bailout from the Treasury Department and a \$29 billion bridge loan from the Federal Reserve, acquired Bear Stearns and Washington Mutual, the largest savings and loan in the country. Too big to fail? Well, what happens if you are JPMorgan Chase? You become bigger.

Last year the Treasury Department provided an \$18 billion tax break to Wells Fargo to purchase Wachovia, allowing that bank to control 11 percent of all bank deposits in this country. Too big to fail? If you are Wells Fargo, make it bigger.

Today these huge financial institutions have become so big that the issue now is not just too big to fail and taxpayer liability, the issue becomes concentration of ownership. According to the Washington Post, the four largest banks in the United States—that is the Bank of America, Wells Fargo, JPMorgan Chase, and Citigroup—now issue one out of every two mortgages. Half of the mortgages in America are issued by four large financial institutions. Two out of every three credit cards in this country are issued by the four largest financial institutions of the country. These same institutions hold \$4 out of every \$10 in bank deposits in the entire country.

What we are looking at here is not just taxpayer liability for when huge financial institutions collapse and the taxpayers have to bail them out; now what we are also looking at is concentration of ownership where a handful—four major financial institutions—controls half of the mortgages, 2 out of 3 credit cards, and 40 percent of bank deposits in the entire country. That is wrong from a competitive point of view, from a point of view that the consumer has to have some choices and has to see some competition in order to get a break.

The face value of over-the-counter derivatives at commercial banks has grown to \$290 trillion—that is an astronomical sum of money—95 percent of which is held in 5 financial institutions in the entire country. Five financial institutions control 95 percent of over-the-counter derivatives. Derivatives are nothing more than side bets by Wall Street gamblers that oil prices will go up or down or that the subprime mortgage market will continue to get worse or betting on the weather or whatever else can make them a quick buck. Risky derivative schemes led to the \$182 billion bailout of AIG, the collapse of Lehman Brothers, the downfall of Bear Stearns, and precipitated the largest bailout in the

history of the world and the severe recession that millions and millions of people are experiencing today through their loss of jobs.

If any of these financial institutions were to get into major trouble again, taxpayers one more time would be on the hook for another substantial bailout. In fact, the next time it might even be bigger than we saw last year. Now is the time to say clearly we cannot allow that to happen. Not only are too-big-to-fail financial institutions bad for taxpayers, the enormous concentration of ownership in the financial sector has led to higher bank fees. Every Member of the Senate has heard from constituents who pay their credit card bills on time every single month, they then bailed out Wall Street, and what they get in return is interest rates which have gone from 10 percent or 15 percent to 25 percent or 30 percent. That is what you get when four large financial institutions control two-thirds of the credit cards in this country.

According to Businessweek, “Bank of America sent letters notifying some responsible card holders that it would more than double their rates to as high as 28 percent.”

That is what we are seeing all over this country. Credit card interest rates went up by an average of 20 percent in the first 6 months of this year, even as banks’ cost of lending declined. We all know this. Here are these guys on Wall Street. We bailed them out. They become bigger. And they say: Thank you, America. Now we are going to raise the interest rates on your credit cards to usurious rates—outrageous, unacceptable. Twenty-five percent or thirty percent interest rates on hard-working people who pay their bills on time is something that should be eliminated and, in fact, on another issue we have legislation to do that.

It seems to me if you add all of that together, the fact that the largest banks that were “too big to fail” have grown larger, that we have a very dangerous concentration of ownership within the financial institution industry, the time is now to do exactly what good Republicans, good Republicans such as Teddy Roosevelt and William Howard Taft, did 100 years ago; that is, to start breaking up those institutions.

That is what we have got to do. We have got to start breaking up these institutions. Last week I introduced S. 2746, the Too Big to Fail, Too Big to Exist Act that would do that. I think the title of that legislation I have introduced says it all: If an institution is too big to fail, it is too big to exist. Let’s break it up.

This legislation is all of two pages long. It is not 2,000 pages like the health care bill. It is two pages. That is all. It is very simple. This legislation would require the Secretary of Treasury to identify within 90 days every

single financial institution and insurance company in this country that is too big to fail. That should not be too hard to do. Which are the institutions that are too big to fail? Tell us who they are. Then within the rest of the year, within 1 year, start the process of breaking them up.

One of the further reasons we have got to break up these institutions is not just that they continue to be a liability for taxpayers, not only that the concentration of ownership leads to higher and higher interest rates, leads to the fact that Wall Street remains an entity unto itself, largely a gambling casino which makes huge amounts of money for the people on Wall Street but ignores the credit needs of small and large businesses in the productive economy, but there is another reason. The other reason is I know some of my friends here say: Well, you know, we have got to regulate Wall Street. That is what we have to do, not break them up, regulate them. But it is not the Congress that is going to regulate Wall Street, it is Wall Street that is going to regulate the U.S. Congress.

I think anybody who knows anything about politics knows that is true. We know that over a 10-year period, Wall Street has spent \$5 billion on lobbying and campaign contributions. Despite their greed and the fiascos which they caused, what they are doing now is spending millions more trying to make sure that Congress allows them to go back to where they were.

I don’t think it is a question of us regulating them, it is them regulating us with so much wealth and so much power. That is what they are capable of doing. What we are beginning to see, not only in the United States but all over the world, are people saying: Enough is enough.

I find it interesting that John S. Reed, who helped engineer the merger that created Citigroup, Inc., apologized for his role in building a company that has taken \$45 billion in direct U.S. aid, and said “banks that big should be divided into separate parts.”

That is what John S. Reed said, the former CEO of CitiGroup. He was one of the people who engineered the deregulation effort. He has apologized to the American people, and I respect that very much; one of the few who has had the guts to come before the United States and say: I made a mistake. I am sorry. I respect him for doing that.

Furthermore, we have Alan Greenspan, who probably more than any other person in this country led the effort to deregulate, to do away with Glass-Steagall, this philosophy that said: If we deregulate, if we allow these titans on Wall Street to do anything they want, they are going to create wealth for the whole economy.

But even Alan Greenspan, whose disastrous leadership helped lead us to where we are right now, even he, I



think, has recognized the error of his ways. According to Bloomberg News on October 15, 2009, former Chairman Greenspan said:

If they're too big to fail, they're too big. In 1911 we broke up Standard Oil—so what happened? The individual parts became more valuable than the whole.

That is Alan Greenspan understanding the errors he made.

I should note, I am grateful Mr. Greenspan's views on the subject have drastically changed. Because when I was in the House, on the Financial Institutions Committee, he would come before that committee. He and I used to have a little bit of a debate on the issue of deregulation. I remember, back in 2000, I asked Mr. Greenspan the following question. I asked him:

Aren't you concerned with such a growing concentration of wealth that if one of these huge institutions fails that it will have a horrendous impact on the national and global economy?

Here is what Mr. Greenspan said in the year 2000:

No, I'm not. I believe that the general growth in large institutions have occurred in the context of an underlying structure of markets in which many of the larger risks are dramatically—I should say fully—hedged.

Well, unfortunately, Mr. Greenspan appeared to be wrong, was wrong, and we have spent \$700 billion bailing out Wall Street and trillions more on low-interest loans. But it is not just Alan Greenspan who has changed his views. According to the Washington Post, we know this to be the case:

The British government announced Tuesday it will break up parts of major financial institutions bailed out by taxpayers . . . The British government—spurred on by European regulators—is forcing the Royal Bank of Scotland, Lloyds Banking Group and Northern Rock to sell off parts of their operations. The Europeans are calling for more and smaller banks to increase competition and eliminate the threat posed by banks so large that they must be rescued by taxpayers, no matter how they conducted their business, in order to avoid damaging the global financial system.

In other words, what the United Kingdom is beginning to say is, we have got to start breaking up these institutions. If they are too big to fail, they are too big to exist.

But it is not just Alan Greenspan, it is not just John Reed, former CEO of CitiGroup, it is Paul Volcker, the former Federal Reserve Chairman and the head of President Obama's Economic Recovery Advisory Board. This is what he said:

Keep [banks] small, so that any failure won't have systematic importance. People say I'm old fashioned and banks can no longer be separated from nonbank activity. That argument brought us to where we are today.

Robert Reich, President Clinton's former Labor Secretary, has said that:

No important public interest is served by allowing giant banks to grow too big to fail

. . . Wall Street giants should be split up—and soon.

That is Robert Reich.

Sheila Bair, the head of the FDIC, has said that:

We need to reduce our reliance on large financial institutions and put an end to the idea that certain banks are too big to fail.

Simon Johnson, the former chief economist of the International Monetary Fund, the IMF, has said:

Banks that are too big to fail must now be considered too big to exist.

I am under no illusions that taking on Wall Street will be an easy task. Generally speaking, Congress is never successful or very rarely successful taking on big money interests. They are too powerful, they have too much sway over this institution.

As I mentioned earlier—this is quite incredible—the banking and insurance industry has spent over \$5 billion on campaign contributions and lobbying activities over the past decade in support of deregulation, and they are spending even more today to try to prevent Congress from seriously regulating their industry.

In 2007 alone—and if people want to know why the rich get richer and everybody else gets poorer, they should understand—the financial sector employed nearly 3,000 separate lobbyists to influence Federal policymaking. Remember, we only have 100 people in the Senate, 435 in the House. They have 3,000 separate lobbyists. So if anyone thinks it is going to be easy to reform the financial services sector, it clearly will not.

But if we are going to turn this economy about, if we are going to try to prevent another disaster by which taxpayers have to bail out some of the wealthiest and most powerful people, if we are going to create a situation where financial institutions provide capital to the productive economy so that we can create decent paying jobs, producing real products and real services, we are going to have to finally stand up to these very powerful institutions.

I think the issue is clear. I think all over this country people, whether they are progressive, whether they are conservative, understand that if an institution is too big to fail, it is too big to exist. Let's break them up.

I yield the floor.

The PRESIDING OFFICER (Mr. NELSON of Nebraska.) The Senator from New Jersey is recognized.

AMENDMENT NO. 2741 TO AMENDMENT NO. 2730

Mr. MENENDEZ. Mr. President, I understand there is a pending amendment before the Senate. I ask unanimous consent to set aside the pending amendment and call up amendment No. 2741.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The bill clerk read as follows:

The Senator from New Jersey [Mr. MENENDEZ] proposes an amendment numbered 2741 to amendment No. 2730.

Mr. MENENDEZ. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To provide, with an offset, an additional \$4,000,000 for grants to assist States in establishing, expanding, or improving State veterans cemeteries)

On page 52, after line 21, add the following: SEC. 229. (a) ADDITIONAL AMOUNT FOR STATE VETERANS CEMETERIES.—The amount appropriated by this title under the heading "GRANTS FOR CONSTRUCTION OF STATE VETERANS CEMETERIES" is hereby increased by \$4,000,000.

(b) OFFSET.—The amount appropriated or otherwise made available by this title under the heading "GENERAL OPERATING EXPENSES" is hereby decreased by \$4,000,000.

Mr. MENENDEZ. Mr. President, we are often reminded of the special sacrifice military families make in service to our country.

Memorial Day and Veterans Day are just two occasions when we as Americans take a moment to acknowledge our military men and women, those who have served in uniform.

We pause for a moment of silence. We bow our head for the fallen. Family members visit the final resting place of those they have lost.

We think of those hallowed grounds, those special places, the lines of crosses at Normandy, the graves at Arlington, the tomb of the unknown soldier, veterans cemeteries across America, and we remember all those who have served this Nation with honor.

One of the ways that we can honor them and their families is by covering the cost of burial for veterans, their spouses, and their dependent children in Federal veterans' cemeteries.

Unfortunately, we have not adequately funded these cemeteries in the past and as the greatest generation ages, our ability to keep the promise of a free resting place for each of them is becoming increasingly difficult to keep.

Across America and in my home State of New Jersey, Federal cemeteries are having problems keeping up with requests for burial. As these cemeteries become overcrowded, veterans and their families are turned away from a benefit they earned through their service. In fact, 10 States do not even have Federal cemeteries, but have managed to set aside State cemeteries.

The very least we can do is provide funding for these State veterans' cemeteries which would be a cost-effective way for the VA to provide veterans with the burial benefits they were promised.

Veterans who have lived their whole lives in one place, a place with special meaning to them and to their families



should have a final resting place based on the veterans cemetery in their location of choice, not the Veterans Administration's funding choice.

My amendment would simply increase Federal funding for State cemeteries by \$4 million so that we can have the resources to keep our promise and provide our heroes with the dignity, respect, and honor they deserve.

Honoring America's veterans is not solely reserved for Memorial Day and Veterans Day.

This commitment to State veterans' cemeteries reinforces America's respect for its veterans and their families. They have already given their service to this country; the least we can do is give them a final resting place with their brothers and sisters who served.

Arlington cemetery is an inspiring place. We have all seen it. We have all been there. We are awed by its majesty and what it says about America, about who we are as a Nation, and what we stand for as a people.

Let us give every State an Arlington to inspire the next generations to live up to the promise of America. We owe our veterans the choice to be buried with their families at a cemetery based on location and not economics.

I urge my colleagues to support this important amendment.

Mr. CONRAD. Mr. President, I rise to offer for the RECORD, the Budget Committee's official scoring of S. 1407, Military Construction and Veterans Affairs and Related Agencies Appropriations Act for fiscal year 2010.

The bill, as reported by the Senate Committee on Appropriations, provides \$78.1 billion in discretionary budget authority for fiscal year 2010, which will result in new outlays of \$48.4 billion. When outlays from prior-year budget authority are taken into account, discretionary outlays for the bill will total \$77.7 billion.

An amendment has been adopted to designate \$1.4 billion in budget authority in the bill as being for overseas deployment and other activities. Pursuant to section 401(c)(4) of the 2010 budget resolution, adjustments to the Appropriations Committee's section 302(a) allocation and to the 2010 discretionary spending limits were made for that amount and for the outlays flowing therefrom.

The bill matches the subcommittee's revised allocation for budget authority and for outlays.

The bill is not subject to any budget points of order.

I ask unanimous consent that the table displaying the Budget Committee scoring of the bill be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1407, MILITARY CONSTRUCTION AND VETERANS AFFAIRS AND RELATED AGENCIES APPROPRIATIONS ACT, 2010

(Spending comparisons—Senate-Reported Bill with Technical Amendment (in millions of dollars))

	Defense	General purpose	Total
Senate-Reported Bill:			
Budget Authority .....	24,632	53,473	78,105
Outlays .....	24,743	52,960	77,703
Senate 302(b) Allocation:—			
Budget Authority .....			78,105
Outlays .....			77,703
House-Passed Bill:—			
Budget Authority .....	24,577	53,328	77,905
Outlays .....	24,691	52,967	77,658
President's Request:—			
Budget Authority .....	24,351	53,315	77,666
Outlays .....	24,643	52,219	76,862
Senate-reported bill with technical amendment compared to:			
Senate 302(b) allocation:—			
Budget Authority .....			0
Outlays .....			0
House-Passed Bill:—			
Budget Authority .....	55	145	200
Outlays .....	52	—7	45
President's Request:—			
Budget Authority .....	281	158	439
Outlays .....	100	741	841

Note: The subcommittee's 302(b) allocation has been adjusted to reflect adoption of an amendment to designate \$1.399 billion in budget authority as being for overseas deployments and other activities pursuant to Sec. 401(c)(4) of S. Con. Res. 13, the 2010 Budget Resolution.

Mr. WEBB. Mr. President, the administration's fiscal year 2010 defense budget request included authorization of an appropriation of \$46.3 million for the dredging of the channel and turning basin at Naval Station Mayport, FL. The Deputy Secretary of Defense and the Secretary of the Navy confirmed that this dredging project is not associated with the Navy's proposal to homeport a nuclear-powered aircraft carrier, CVN, in Mayport. However, advocates for the Navy's homeporting proposal continue to assert that the dredging project is the "first step" in having a carrier homeported in Mayport. It is time to set the record straight.

There is no cause-and-effect linkage between the Navy's homeporting proposal with the authorization and appropriation of fiscal year 2010 military construction funds to dredge the channel at Mayport. The Navy's homeporting scheme is being reviewed separately as part of the Department of Defense's Quadrennial Defense Review. Dredging Mayport's channel will have no influence on its evaluation.

Last April, when Secretary of Defense Gates announced key decisions associated with the President's fiscal year 2010 defense budget request, the Navy called me to confirm that its request for funds for dredging and pier improvement projects at Naval Station Mayport was not associated with its homeporting proposal. The Navy said its military requirement for dredging is to permit safer routine and emergency port visits by an aircraft carrier by lessening the current severe restrictions associated with the existing water depth in Mayport's channel and basin. The Navy acknowledged that the Quadrennial Defense Review would consider its carrier homeporting proposal separately.

In August, Deputy Secretary of Defense Lynn wrote me to reconfirm this point. He said:

Secretary Gates has taken the prudent step of seeking funding for the dredging of the Mayport channel within the fiscal year 2010 budget to provide an alternative port to dock East Coast carriers in the event of a disaster. As you know, the Secretary decided that the larger issue of whether Mayport will be upgraded to enable it to serve as a homeport for CVNs should be objectively evaluated during the Department's Quadrennial Defense Review (QDR). We continue to believe that the QDR will provide the best forum to assess the costs and benefits associated with a strategic move of this scale.

Also in August, the Secretary of the Navy, the Chief of Naval Operations, and the Commandant of the Marine Corps wrote the chairman of the Senate Committee on Armed Services regarding conference action on the Fiscal Year 2010 National Defense Authorization Act. Their letter specifically addressed the reasons why it was necessary to dredge Mayport's channel and basin. They stated the military construction project was necessary regardless of a final decision on aircraft carrier homeporting at Mayport.

The three senior leaders of the sea services stated dredging was needed for the following reasons:

Mayport is currently used as a transient dock for nuclear aircraft carriers, and the current Mayport Channel and turning basin depths impose undesirable restrictions on the safe navigation of an aircraft carrier. Operational readiness is degraded because a nuclear aircraft carrier cannot enter the port with the embarked air wing and full stores and only during certain high-tide conditions. It is prudent to remove these operational limitations. The dredging provided in this project is therefore required irrespective of the final decision on aircraft carrier homeporting at Mayport.

Conferees for the fiscal year 2010 defense authorization bill from the House of Representatives and Senate Armed Services Committees met in September and October to reconcile differences between each Chamber's bill. During their consideration of military construction projects, the conferees recognized that confusion could exist regarding the dredging project owing to the erroneous assertions that it would pave the way for homeporting a carrier in Mayport.

As a result, a manager's statement accompanied the Fiscal Year 2010 National Defense Authorization Act signed into law by President Obama last month. It states, in part, that the conferees authorized funding for the project based on assurances provided by the Secretary of the Navy and the Chief of Naval Operations that the dredging is needed for current operational considerations irrespective of a final decision on carrier homeporting at Mayport. Of note, the manager's statement says:

The conferees emphasize that the inclusion of an authorization for dredging at NS

Mayport is not an indication of conferee support for the establishment of an additional homeport for nuclear aircraft carriers on the East Coast, or intended to influence the ongoing Quadrennial Defense Review, which may include a recommendation on the establishment of a second East Coast homeport for nuclear aircraft carriers. Furthermore, the conferees note that this funding is provided solely to permit use of Mayport as a transient port, and that any potential designation of Mayport as a nuclear carrier homeport will require future authorizations from the Committees on Armed Services of the Senate and House of Representatives.

Last year, the Navy said that the risk of a catastrophic event closing Hampton Roads is "small." Dredging Mayport's channel and turning basin so that it can accommodate a nuclear-powered aircraft carrier for an unlikely emergency port visit clearly obviates the need to invest up to \$1 billion to build duplicative nuclear-support infrastructure for carrier homeporting. During the Department of the Navy's budget testimony last June, Admiral Roughead, the Chief of Naval Operations, stated: "Future shore readiness . . . is at risk." In fact, the Navy's shore readiness is at risk today. In January, the Navy acknowledged it had a \$28 billion backlog in shore facility restoration and modernization.

The need to sustain Naval Station Mayport is clear. Before investing what could be up to \$1 billion to support a nuclear-powered aircraft carrier, however, the Navy should first properly maintain its existing shore facilities. As the Navy's own studies reveal, there are other more fiscally responsible and strategically sound homeporting options for Mayport, including the assignment of a large-deck amphibious ship or Littoral Combat Ship, LCS, surface combatants.

I yield the floor.

I suggest the absence of a quorum.

THE PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

THE PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRASSLEY. Mr. President, I ask unanimous consent to speak as in morning business.

THE PRESIDING OFFICER. Without objection, it is so ordered.

#### THE ECONOMY

Mr. GRASSLEY. Mr. President, last week, we learned that the Nation's unemployment rate has risen to 10.2 percent. That is 1 out of every 10 working Americans being out of a job. But the real number is even higher than that. It is really closer to 1 in 6 workers. When you add in people who are underemployed or have stopped looking for work, the unemployment number is almost 17 percent.

According to a weekend article in the New York Times, that is the highest

this country has seen in unemployment since 1982. The Times also noted: "If statistics went back so far, the measure would almost certainly be at its highest level since the Great Depression"—the Great Depression 80 years ago.

After all the bailouts and a \$1 trillion stimulus bill, there are still 16 million of our constituents who want to work but are unemployed. In fact, despite the White House's fuzzy math, the real statistics show that the unemployment rate has more than doubled since the President signed the stimulus bill in February. And, you remember, that bill was supposed to be passed very quickly so the unemployment rate would not exceed 8 percent, and here we are today at 10.2 percent the way it is officially reported, but taking all the other people into consideration, 17 percent.

So people kind of wonder why there is some question about all the debt we are piling on our future generations through the national debt. Particularly, it is a legitimate question when people were told the stimulus bill had to be passed "right now" or unemployment, then under 8 percent, might exceed 8 percent.

So there are a lot of questions out there, and some of it carries over into the health care reform issues before Congress right now because it is kind of like people were not really concerned about health care legislation in the Congress of the United States even costing \$1 trillion or more until they found out all these other trillions of dollars that were being spent to get us out of a recession were not working. Then it is kind of like the health care reform was kind of the straw that broke the camel's back to cause people to lose confidence in Congress using its own good judgment to solve this problem of the recession.

So we have 10.2 percent unemployment officially, more otherwise. That equates to about 7 million lost jobs since the stimulus bill was passed, and despite the stimulus bill's failings, the White House is pinning its hopes on yet another trillion-dollar effort. Now they are using their "back of the envelope" calculations to say health care reform is going to save the economy. This picked up about 6 months ago, back in March, when the White House chose to focus on health care reform rather than the economic crisis.

I would like to quote President Obama:

Healthcare reform . . . is a fiscal imperative. If we want to create jobs and rebuild our economy, then we must address the crushing cost of healthcare this year, in this administration.

That is a quote from President Obama.

I want to say, to some extent I agree with him. It is true health care costs are rising at twice the rate of inflation,

straining family budgets, and making it difficult for American businesses to remain competitive. Congress should absolutely enact legislation that addresses these issues.

But, unfortunately, the pending health care reform proposals in the House and Senate not only ignore the primary issue of cost, they also put in place policies that are going to cause more Americans to lose their jobs and further damage our struggling economy.

So now to the main point of my coming to the floor to discuss this issue: Whether it is the \$500 billion in tax increases or the growing list of Federal mandates in these pending health care reform bills, the pending bills will take our economy in the wrong direction, contrary to what the President said in that speech several months ago when he said that if you want to fix the economy, you have to do something about health care reform. Maybe if the President had proposed his own bill, maybe he would have proposed something that did it, but what we see evolving in the Congress of the United States is not going to solve that problem.

Back in March, again, when the President turned his attention to health care reform, the head of his Council of Economic Advisers, Christina Romer, said—and I have a chart that has the quote:

We know that small businesses are the engine of growth in the economy, and we absolutely want to do things to help them.

Well, I am not sure how the White House defines the word "help," when it comes to getting small businesses back on track and turning the economy around, but I do know President Obama came up to Capitol Hill this past weekend to pressure House Members to vote for a bill that will have a devastating impact on small business in America. If this is what the administration means when they want to "help" small businesses, the old phrase, "With friends like these, who needs enemies" comes to mind.

The President and Democratic leadership twisted arms and bought support for a bill that the National Federation of Independent Businesses—and that organization tends to be the voice of America's small businesspeople—actively opposed. After the bill passed, the National Federation of Independent Businesses released the following statement about the administration and Congress's efforts to help small business. This is a long quote, so let me read it, but we also have it on a chart here:

Small business owners are outraged.

Let me start over again. This is from the National Federation of Independent Businesses' comments on what happened in the House of Representatives:

Small business owners are outraged. This bill will actually make things worse, not better. With unemployment at a 26-year high,

the punitive employer mandates and atrocious new taxes will force small business owners to eliminate jobs and freeze expansion plans at a time when our Nation's economy needs small business to thrive.

It doesn't sound like the National Federation of Independent Businesses and the thousands of members they have throughout the United States appreciate the administration's efforts to help. With the marginal tax rate on some small businesses, especially those likely to expand, rising by 33 percent under the House bill, it is no wonder. Here we have a chart that says this. The green, present level of taxation; the red, how the President proposes to increase taxes to 39.6 percent in his budget; and then we have other things that are still in the President's budget that are kind of hidden. I will not go into what PEPs and Peases are, but they are a hidden additional tax rate that brings it up almost another 2 percentage points to 41 percent. Then we have the last big bar that has everything in the previous two, plus the 5.4-percent surtax that is in the House bill. It is these increased taxes on individuals—because a lot of small businesses file individually, they don't file corporate tax returns—that kills small business, the engine that creates 70 percent of the new jobs in America.

So we have a situation with these potential tax increases, where any business looking to the capital markets will probably find sources of capital chilled by the 70-percent increase in marginal rates on capital gains that occurs under the House bill. We have this chart over here that shows when you add in the capital gains as well what happens. Because capital gains has a great deal to do with capital formation in America, and higher marginal tax rates tend to discourage that.

Some Members might say the National Federation of Independent Businesses' statement was about the House bill, and it was, but bills we have before the Senate aren't much better. The HELP Committee bill has a similar pay-or-play mandate that will cost American jobs, as does the House bill. The Finance Committee bill is filled with tax increases that will directly affect small business owners and their employees, including families who make less than \$250,000 a year, which would obviously be a violation of the President's campaign promise that he wasn't going to increase taxes for those earning under \$250,000.

So here we have another chart: Health care reform raises taxes on families with more than \$75,000 in income. That is because \$75,000 is below \$250,000, so the President violates his campaign promise. Further analysis by the Congressional Budget Office has shown that small businesses could also face significantly higher health insurance premiums as a result of the new insurance market reforms. We have the con-

sulting firm of Oliver Wyman concluding that the insurance reforms could raise premiums by as much as 20 percent. As more American businesses, big and small, face higher premiums and more taxes, workers will end up suffering.

The Congressional Budget Office has concluded that pending Senate legislation could force about 3 million people out of their employer-based coverage, and that doesn't even include the potential impact of a new entitlement program, a government-run program we call the public option.

All of this doesn't sound like it is helping small businesses or letting people keep what they have, which was another Presidential promise. The bills also make our unemployment situation worse. We are talking about another \$1 trillion in spending—\$1 trillion we can't afford—that will end up costing Americans jobs.

I wish to quote from a recent article jointly published by Health Affairs and the Robert Wood Johnson Foundation. We have that quote right here. I am going to quote a small part of that article:

Small, lower-wage firms could be among the most affected—

Meaning most affected by the pay-or-play mandate.

Firms might respond by firing or declining to hire workers. Several studies projected the loss of anywhere from 224,000 to 750,000 jobs.

That analysis doesn't even take into account the impact of the tax increases and the new Federal mandates. The people who don't lose their jobs, of course, face lower wages because it doesn't matter whether you are an economist to the far right or an economist to the far left, there is agreement that as health insurance costs increase, wages go down.

As all the new Federal mandates and the regulatory requirements drive up premiums, businesses will be forced to respond by lowering wages. All of this doesn't sound like a recipe for getting the economy back on track.

I wish to review what the pending bills mean for the average worker and our struggling economy: higher unemployment, more than 750,000 jobs lost; increased health insurance premiums, maybe by as much as 70 percent; lower wages, less money in your paycheck; \$500 billion in higher taxes for individuals and businesses; more government spending and higher deficits.

The administration and the Democratic leadership can make all the promises they want, but facts are the facts. Congress needs to address health care. We need to bring down costs, improve quality, and create a more competitive market for insurance, but we should do it in a way that makes our economy stronger. Unfortunately, the health care reform bills we have seen so far are bad for the economy and par-

ticularly bad for an American worker and particularly bad at a time when there is, at least officially, 10.2 percent of people unemployed and, if you take other factors into consideration as I have already spoken about, maybe around 17 percent unemployed. As the New York Times said, maybe the highest rate of unemployment going back to the Great Depression. This is bad.

So I can only end by saying, as we look to the debate on health care reform and the analyses of these bills that are done by economists, done by advocates for small business, and the impact it is going to make on the economy, I think we ought to take a second look and not make this situation of the economy worse through a bill that ought to be helping the economy. Everybody agrees we may have the best medical care in the world. We don't have a perfect system, and that system needs to be changed, but in the process of doing it, we have to make sure we do not make a bad situation worse for our economy.

Thank you. I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DEMINT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. KAUFMAN). Without objection, it is so ordered.

Mr. DEMINT. Mr. President, I ask unanimous consent to temporarily set aside the pending amendment so I may call up two amendments.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENTS NOS. 2774 AND 2779 TO AMENDMENT NO. 2730, EN BLOC

Mr. DEMINT. Mr. President, I wish to call up Inhofe amendment No. 2774 and DeMint amendment No. 2779.

The PRESIDING OFFICER. The clerk will report the amendments en bloc.

The assistant legislative clerk read as follows:

The Senator from South Carolina [Mr. DEMINT], for Mr. INHOFE, for himself, and Mr. BARRASSO, Mr. BROWNBACK, Mr. CRAPO, Mr. DEMINT, Mr. ENZI, Mr. JOHANNES, Mr. KYL, Mr. ROBERTS, Mr. THUNE, Mr. VITTER, Mr. BOND, and Mr. HATCH, proposes an amendment numbered 2774 to amendment No. 2730.

The Senator from South Carolina [Mr. DEMINT] proposes an amendment No. 2779 to amendment No. 2730.

The amendments are as follows:

AMENDMENT NO. 2774

(Purpose: To prohibit the use of funds appropriated or otherwise made available by this Act to construct or modify a facility in the United States or its territories to permanently or temporarily hold any individual held at Guantanamo Bay, Cuba)

On page 60, after line 24, add the following: SEC. 608. (a) None of the funds appropriated or otherwise made available by this Act may

be used to construct or modify a facility or facilities in the United States or its territories to permanently or temporarily hold any individual who was detained as of October 1, 2009, at Naval Station, Guantanamo Bay, Cuba.

(b) In this section, the term "United States" means the several States and the District of Columbia.

#### AMENDMENT NO. 2779

(Purpose: To prohibit the use of funds for the transfer or detention in the United States of detainees at Naval Station Guantanamo Bay, Cuba, if certain veterans programs for fiscal year 2010 are not fully funded)

At the end of title II, add the following:

SEC. 229. (a) LIMITATION ON USE OF FUNDS FOR TRANSFER OR DETENTION IN UNITED STATES OF DETAINEES AT GUANTANAMO BAY WITHOUT FULL FUNDING OF CERTAIN VETERANS PROGRAMS.—

(1) LIMITATION.—None of the funds appropriated or otherwise made available by this Act may be used to support, prepare for, or otherwise facilitate the transfer to or the detention in any State or territory of the United States of any individual who was detained as of November 1, 2009, at Naval Station Guantanamo Bay, Cuba, until 15 days after the Secretary of Veterans Affairs certifies to Congress that the programs specified in subsection (b) are fully funded for fiscal year 2010.

(2) CERTIFICATION.—The certification submitted under this subsection shall include a description of the funding available for fiscal year 2010 for each program intended to address a need of veterans specified in subsection (b).

(b) PROGRAMS.—The programs specified in this subsection are the programs of the Department of Veterans Affairs to meet needs of veterans for the following:

- (1) Health care.
- (2) Rehabilitation and reintegration into the community of veterans suffering from traumatic brain injury (TBI).
- (3) Rehabilitation and reintegration into the community of veterans suffering from post-traumatic stress disorder (PTSD).
- (4) Specially adapted housing for disabled veterans.
- (5) Counseling and treatment for service-connected trauma, including trauma associated with sexual assault.

Mr. DEMINT. Mr. President, I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REID. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mrs. SHAHEEN). Without objection, it is so ordered.

#### RECESS SUBJECT TO THE CALL OF THE CHAIR

Mr. REID. Madam President, I ask unanimous consent that the Senate be in recess subject to the call of the Chair.

The PRESIDING OFFICER. Without objection, it is so ordered.

There being no objection, the Senate, at 7:46 p.m., recessed subject to the call

of the Chair and reassembled at 7:57 p.m. when called to order by the Presiding Officer (Ms. LANDRIEU).

#### MILITARY CONSTRUCTION, VETERANS AFFAIRS AND RELATED AGENCIES APPROPRIATIONS ACT, 2010—Continued

The PRESIDING OFFICER. The majority leader.

Mr. REID. Madam President, first, I appreciate very much the Presiding Officer coming to the Chamber and helping us at this time of night.

I ask unanimous consent that other than the Johnson substitute and pending amendments, which are listed in this agreement, the following list be the only first-degree amendments remaining in order to H.R. 3082, the Military Construction, Veterans appropriations; that relevant second-degree amendments be in order to the first degree to which offered; that a managers' amendment, which has been cleared by the managers and leaders, also be in order; and that if offered, the amendment be considered and agreed to, and the motion to reconsider be laid upon the table, with no other amendments in order: Johnson No. 2733; Udall of New Mexico No. 2737; Franken No. 2745; Inouye No. 2754; Coburn No. 2757; Durbin Nos. 2759 and 2760; McCain No. 2776, second degree to Inouye amendment No. 2754; Inhofe No. 2774; Coburn motion to commit with instructions; DeMint No. 2779; Menendez No. 2741; Akaka No. 2740; Johanns No. 2752; Warner/Webb No. 2738; Bingaman No. 2749; Levin No. 2755; Feingold Nos. 2746, 2747, and 2748; Webb No. 2756; Gillibrand No. 2762; Mikulski Nos. 2750 and 2761; McConnell No. 2773; Cochran Nos. 2751 and 2763; Ensign No. 2771; Burr No. 2743; that upon disposition of all amendments, the substitute amendment, as amended, be agreed to; the bill, as amended, be read a third time and the Senate then proceed to vote on passage of the bill, as amended; that upon passage, the Senate insist on its amendment and request a conference with the House on the disagreeing votes of the two Houses and the Chair be authorized to appoint conferees on the part of the Senate, with the subcommittee, plus Senators LEAHY and COCHRAN appointed as conferees; provided further that if a point of order is raised and sustained against the substitute amendment, then it be in order for a new substitute amendment to be offered, minus the offending provision but including any language which had been previously agreed to; that the new substitute be considered and agreed to, and no further amendments be in order, with the provisions of this agreement after adoption of the original substitute amendment remaining in effect; further that on Monday, November 16, after a period of morning business, the Senate resume consideration

of H.R. 3082, with the time until 5:30 p.m. equally divided and controlled between the two managers or their designees; that at 5:30 p.m., the Senate proceed to vote in relation to the following: Coburn No. 2757 and the Coburn motion to commit; further that prior to these two votes, there be 2 minutes of debate equally divided and controlled in the usual form; that no further debate be in order to the bill, except any time specified for debate prior to a vote in relation to any amendment on the list.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### EXECUTIVE SESSION

#### NOMINATION OF DAVID F. HAMILTON TO BE UNITED STATES CIRCUIT JUDGE FOR THE SEVENTH CIRCUIT

Mr. REID. Madam President, I ask unanimous consent that the Senate proceed to executive session to consider Calendar No. 184, the nomination of David F. Hamilton to be a U.S. circuit judge for the Seventh Circuit.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report the nomination.

The legislative clerk read the nomination of David F. Hamilton, of Indiana, to be United States Circuit Judge for the Seventh Circuit.

#### CLOTURE MOTION

Mr. REID. Madam President, I now send a cloture motion to the desk with respect to the nomination of Judge Hamilton.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

#### CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the nomination of David F. Hamilton, of Indiana, to be a United States Circuit Judge for the 7th Circuit.

Harry Reid, Herb Kohl, Sheldon Whitehouse, Richard J. Durbin, Benjamin L. Cardin, Patty Murray, Mark Begich, Kirsten E. Gillibrand, Mark R. Warner, Russell D. Feingold, Al Franken, Roland W. Burris, Dianne Feinstein, Patrick J. Leahy, Barbara Boxer, Charles E. Schumer, Edward E. Kaufman.

Mr. REID. Madam President, I ask unanimous consent that the cloture vote occur upon disposition of H.R. 3082; further, that prior to the cloture vote on the nomination, there be 60 minutes of debate, with the time equally divided and controlled between the chair and ranking member of the Judiciary Committee; and that the mandatory quorum be waived; provided further that the vote not occur prior to 2:15 p.m., Tuesday, November 17; and

that the Senate now resume legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will now resume legislative session.

#### MORNING BUSINESS

Mr. REID. Madam President, we are always glad to see the yellow file at nighttime.

I ask unanimous consent that the Senate now proceed to a period of morning business, with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### EMPOWERING THE U.S. AGENCY FOR INTERNATIONAL DEVELOPMENT

Mr. DURBIN. Mr. President, I was pleased to join with Senators DODD, CARDIN, BOND, KERRY, LUGAR, and many others in passing a resolution on the need to empower and strengthen the U.S. Agency for International Development.

The resolution calls for three important steps—that a USAID Administrator be named without delay, that such Administrator be included in key national security deliberations, and that USAID's staffing and expertise be significantly increased.

Development assistance is part of any comprehensive American approach in foreign policy, whether it responds to regional conflicts, terrorist threats, weapons proliferation, disease pandemics, or persistent widespread poverty. Assistance programs not only provide help to those most in need but also are a symbol of American values.

Our own security depends on the stability of far-flung places beyond our borders. And America's generosity and ability to help other countries is becoming more important to the effectiveness of our foreign policy.

In the United States, the responsibility for development falls largely to the U.S. Agency for International Development.

USAID was founded by the Kennedy administration in 1961, becoming the first U.S. foreign assistance organization with the primary goal of long term economic and social development efforts overseas.

During its first decade, it had more than 5,000 Foreign Service officers serving all over the world, often in the most difficult of conditions.

Today—at a time when the United States is engaged in two wars and needs development expertise more than ever—USAID operates with just 1,000

Foreign Service officers. USAID's managed program budget in real dollars has dropped by more than 40 percent since the mid-1980s. And the Agency still does not have an Administrator.

From the early 1960s until 1992, the Office of Management and Budget enforced a rule mandating that all foreign aid programs and spending must go through USAID, except when USAID chose to contract with other Federal agencies. Today more than half of all foreign assistance programs are administered by Federal agencies other than USAID, and funding for such programs is spread across more than 20 U.S. Government agencies.

This decline in personnel, budgets and coordinating leadership has diminished the capacity of USAID and the U.S. Government to provide development assistance and implement foreign assistance programs.

Quite simply, as the United States works to win hearts and minds around the world, our efforts have been diminished by an underfunded and understaffed lead development agency. USAID has been shortchanged—and America's efforts abroad have suffered as a result.

Secretaries Clinton and Gates both recognize the need to reverse this trend.

During her first month as Secretary of State, Clinton told USAID employees, "I believe in development, and I believe with all my heart that it truly is an equal partner, along with defense and diplomacy, in the furtherance of America's national security."

Secretary of Defense Gates has made a similar case, stating "The problem is that the civil side of our government—the Foreign Service and foreign-policy side, including our aid for international development—[has] been systematically starved of resources for a quarter of a century or more . . . We have not provided the resources necessary, first of all, for our diplomacy around the world; and second, for communicating to the rest of the world what we are about and who we are as a people."

Military and civilian experts agree that the wars in Iran and Afghanistan will only succeed in the long term with a sustained and strategic development program to compliment military efforts. We owe it to the brave men and women serving in those nations to get this piece of our foreign policy right and to so without delay.

That is why earlier this year I introduced the Increasing America's Global Development Capacity Act, which calls for a tripling of USAID's Foreign Service personnel over the next 3 years. The bill seeks to address the considerable personnel loss that USAID has experienced over the course of the last two decades. I have also worked with Senator LEAHY to help appropriate additional funds for USAID.

And that is why I was pleased to support Senator DODD's resolution expressing the Senate's view that we must rebuild USAID, starting with the urgent naming of an empowered Administrator, inclusion of that designee in top-level national security deliberations, and continued long-term investment in USAID staffing and funding. I thank the Senate for adopting this important resolution yesterday.

#### VETERANS DAY

Mr. BURRIS. Madam President, on November 11, 1921, exactly 2 years after the armistice that ended the First World War, a brave soldier was laid to rest at Arlington National Cemetery.

His grave was marked, not with a name, but with the inscription "Here rests in honored glory an American soldier, known but to God."

Like all of his brothers in arms, this soldier left his home and his family to defend his nation in an hour of need.

Perhaps he was a factory worker or a farmer or a businessman.

Perhaps he had a wife and children; perhaps not.

But whoever he was in civilian life, he heard the call—as many have done before and since—and he took up arms in defense of our liberty.

He laid down his life that others might live free.

He gave what Lincoln called "the last full measure of devotion."

And today, although his name has been lost to the ages, the power of his sacrifice endures.

It is a sacrifice that every American veteran has been prepared to make, if duty should require it.

As we observe Veterans Day this November 11, let us express our thanks and appreciation for those brave veterans who are still with us.

And, in doing so, let us remember this man who was brought to his rest exactly 88 years ago.

He reminds us of the dear price of freedom—a price which all veterans must be ready to pay.

These men and women put their lives on the line to defend the United States.

We must recognize and honor the enormity of such patriotic devotion.

So let us celebrate the heroes who walk among us—our grandparents, our parents, and our children. Our friends and our neighbors.

Let us honor their sacrifice. Let us express our support, our friendship, and our gratitude for the service they have rendered to their country and all its citizens.

Their stories are woven into the story of this Nation.

These men and women have become a part of something greater than themselves—greater than all of us.

More than two centuries ago, when a tyrant from across the ocean refused to grant basic freedoms to his subjects, a

brave few decided to claim it for themselves and for their countrymen.

When Europe was consumed by violence and genocide—when a dictator seemed poised to march across an entire continent—a generation of Americans rose to this threat and joined with our allies to save the world from oppression.

From the hallowed fields of Saratoga and Gettysburg, to the muddy trenches of France, to the rugged Korean peninsula—

From the humid jungles of Vietnam, to the arid sands of Afghanistan, and Iraq, and every theater of combat in between—America's veterans are the valiant protectors of American liberty.

We must never forget our servicemen and women—those who fought bravely and returned home, and those who perished on the field of battle.

Our freedom is their legacy.

And, just as we ask them to make great sacrifices for our Nation, so this country owes them a deep debt of gratitude.

We must give our veterans nothing but the very best.

As a member of the Veterans Affairs and Armed Services Committees, I will work with my colleagues to make sure we keep our promises to those who serve.

This means increasing educational benefits through programs like the Post-9/11 G.I. bill.

It means stepping up impact aid support to military communities.

And it means providing high quality healthcare to every single soldier, sailor, airman, and marine who puts on a uniform.

I will not stand for anything but the best. And I urge my colleagues to join me in renewing this commitment.

These men and women answered the call in America's hour of need.

And now America must be ready to answer in their hour of need.

Colleagues, let us see this Veterans Day as a time to remember—a time to celebrate the heroes of all wars, and to honor their service and sacrifice.

But let us also see this Veterans Day as a challenge for the future.

Let us see it as a time to keep our promises, and to fight for those who have fought for us.

Eighty-eight years ago, a brave soldier was laid to rest at Arlington National Cemetery under the inscription "Here rests in honored glory an American soldier, known but to God."

And although we call him the Unknown Soldier, in reality he is anything but unknown.

He is our countryman—our brother—our protector.

He is every American soldier, past and present.

His sacrifice lives in our freedom. His service is carried on by all those who wear the American flag into combat, and all who perish under its standard.

My friends, this Veterans Day is a time for remembrance and celebration. It is a time for American heroes.

Ms. MURKOWSKI. Mr. President, I rise today to take advantage of a unique opportunity to recognize and thank those who hold the distinguished title of "veteran." It is because of their service, their commitment, and their sacrifice, that our country is what it is today, a great nation which stands for freedom and which shines as a beacon of hope and opportunity to the rest of the world.

Ninety-one years ago today, on the 11th hour, of the 11th day, of the 11th month of 1918, the hostilities of World War I between the Allied nations and Germany, ceased. While the commemoration of this day was originally known as Armistice Day, later being renamed as "Veterans Day," the purpose and intent has never changed. President Woodrow Wilson, in 1919, expressed his thoughts of this day, and they ring as true today as they did nine decades ago:

To us in America, the reflections of Armistice Day will be filled with solemn pride in the heroism of those who died in the country's service and with gratitude for the victory, both because of the thing from which it has freed us and because of the opportunity it has given America to show her sympathy with peace and justice in the councils of the nations.

In Alaska we have the distinct pleasure and honor of having the largest per capita percentage of veterans of any State in the Union. We call them our neighbors, our coworkers, and our friends. Our communities benefit from the experience and expertise which they have brought home with them from their time in the service of our Nation. Today, while they may wear different clothing in place of a uniform, their service continues as they provide leadership and skill within the State of Alaska.

As we reflect on the service of heroes who have served our country in conflicts past such as World War I, World War II, Korea, Vietnam, the Persian Gulf war and others, we would be remiss if didn't also pause to honor the dedication of the men and women who are putting their lives on the line today to protect our freedom. This includes not only those serving in Southwest Asia but also those still in Kosovo, those still standing watch of the Korean demilitarized zone, and those serving and sacrificing in countless other countries and regions around the world.

Today, we also mourn. We mourn those veterans who made the ultimate sacrifice in the defense of freedom. This year, Alaska lost several members of our military community in the Afghanistan and Iraq conflicts. I extend my heartfelt sympathy to the families of our fallen service members.

Finally, I would like to recognize a group who often isn't honored enough:

the families and loved ones of America's veterans. These are the folks who have had to see their loved ones sent away to war zones and who worried about their well being every second, of every minute, of every day until they returned. These are the folks who have had to singlehandedly manage the household and deal with the car, the washing machine, or the heater invariably breaking the second that their spouse departed. These are the folks who firsthand deal with the invisible scars and injuries of war, such as PTSD, when their loved one comes home. The family members of our veterans are heroes who bravely serve our Nation and rightfully deserve our recognition.

I am honored to have the opportunity to stand among my colleagues here on the Senate floor and proudly state that while we know that words cannot express the gratitude that a grateful nation has for its veterans, with a common voice we want to say thank you.

#### HAPPY BIRTHDAY TO THE MARINE CORPS

Mr. BURRIS. Mr. President, 234 years ago today, a group of American patriots gathered to found a new branch of the Armed Forces.

They organized and trained a robust fighting force that has distinguished itself time and again in the years since that day.

In 1805, these brave warriors were ordered into battle by President Jefferson. They fought for safe passage of American ships and American citizens, defending our fledgling nation against a grave new threat.

In fact, they carried this fight halfway around the world to the city of Derne, on the shores of Tripoli.

And 40 years later, at the height of the Mexican-American War, this fighting force again proved their bravery.

They charged enemy positions at Chapultepec Castle, eventually capturing the enemy capital, and leading U.S. forces into the very halls of Montezuma.

In these defining moments, from the halls of Montezuma to the shores of Tripoli, the legend of the United States Marine Corps was born.

Since the early days of our Republic, the Marines have been at the forefront of America's defenses.

And in every subsequent conflict from the days of the Revolution to the wars in Iraq and Afghanistan these brave warriors have proven their mettle, and put their lives on the line to defend our freedom.

For their sacrifice, their bravery, and their heroism, they deserve the praise and thanks of a grateful nation.

So, to every man and woman who has worn the uniform of the U.S. Marines: we thank you. And we owe you our very best.



As a member of the Armed Services and Veterans Affairs Committees, I am inspired by stories of those who serve almost on a daily basis.

And I will work with my colleagues to make sure this country keeps its commitment to these fine individuals.

So this Veterans Day, as the Marines celebrate 234 years of distinguished service and brave sacrifice, let us all offer our utmost gratitude and support to all of those in uniform.

Mr. BENNETT. Madam President, as we approach the commemoration of Veterans Day, I rise to speak in recognition of veterans across the country, but particularly those in Utah. In doing this, I wish to be careful to not allow the regularity of this topic diminish its significance or make our veterans seem ordinary. Those who know them best know they are anything but.

When speaking of our veterans, perhaps we remember news clips of heroic jungle rescues, a frozen, rocket-blasted hill, or soldiers fighting bravely in the searing heat of the desert. We rightly celebrate them for what they did, but more than that—let us celebrate them for who they are.

As meaningful as words of praise may be, they often are all we give to our veterans. It is too rare when we can present our veterans with a gift—a concrete reminder that this Nation honors those individuals who fight to keep us free. Today, I am especially pleased to recognize the opening of the George E. Wahlen Veterans' Nursing Home in Ogden, UT. On November 19, officials and the public will gather to commemorate the opening of the nursing home and present this impressive facility to the veterans of northern Utah. As with any major accomplishment, the list of people to thank stretches long, including public officials from local, State, and Federal Government, particularly State Representative Brad Dee and State Senator Pete Knudson who sponsored the legislation that made this all possible. However, I would also like to recognize two Utah veterans, whose contributions made this project a reality.

Terry Schow is a Vietnam veteran and the director of the Utah Department of Veterans Affairs. His efforts to reach out to his fellow veterans are not confined to his professional obligations. Rather, his passion and unmistakable tenacity give power to his fundamental belief that kind words simply are not enough when it comes to caring for our veterans. Determined to make sure that all veterans receive the support they deserve, Terry was instrumental in seeing that no bureaucratic or logistical obstacle prevented the creation of the veterans' nursing home.

Finally, I wish to speak of the late George Wahlen. A World War II veteran and recipient of the Medal of Honor, George passed away on June 5, 2009,

just 5 months before completion of the facility that he fought so hard to establish. Along with several of his colleagues, George made the repeated trek to the Capitol building in Salt Lake City, UT, to persuade legislators of the need to provide funding for a veterans' nursing home in northern Utah. It is noteworthy that in fighting for the needed funding, George never sought any personal benefit. He never knew the nursing home would be named in his honor. Instead, at a time when he could have retired and spent his life in comfort and quiet, he chose to take up this cause, a symbol of his dedication to the service of his fellow veterans. After numerous meetings, phone calls, and hearings, the persistence of George as well as dozens of other veterans paid off when on January 24, 2008, the State House, and later on February 29, 2008, the State Senate voted unanimously to advance all funding for the construction of the facility. This measure was then signed into law by Governor Jon Huntsman, Jr. on March 18, 2008.

For George Wahlen and Terry Schow, their work for their country and fellow servicemen did not end when they became veterans. These two men have inspired many of us in Utah by their integrity, character, and passion to ensure our country returns the favor for the many sacrifices made by our servicemen and women. You see, it is not that George or Terry or any number of veterans did this one single thing or that. What sets them apart is the character which leads them to do it again, and again. When honoring our veterans this Veterans Day, let us not forget their valiant acts of courage—but may we always remember their character.

As a Senator, I am acutely aware of the many issues that face veterans. I am sure each of us would like to give them more. But, while much remains to be done, let the George E. Wahlen Veterans' Nursing Home in Ogden, UT, stand as undeniable evidence that America is a nation that honors its veterans.

#### STATUS OF THE HIGHWAY PROGRAM

Mr. GREGG. Madam President, last month, efforts by Senate Democratic leaders to add roughly \$250 billion to the U.S. debt over the next 10 years by increasing Medicare payments to physicians were put off by arguments from other Democrats that the cost of the proposal should be offset so as not to burden future generations with more debt. A series of press releases, editorials, and op-eds declared the proposal to be fiscally irresponsible and the Democratic leadership foolish for trying to take it up as a standalone bill. And yet, a Senate highway bill that would add roughly \$150 billion to the U.S. debt over the next 10 years remains below the radar and far more likely to be approved.

The last highway bill, SAFETEA-LU expired at the end of September 2009. But highway programs, like much of the rest of government, continue to operate by virtue of the continuing resolution, CR, now in place through December 18, 2009. Until the authorization committees can agree on how to underwrite the \$500 billion over 6 years that they desire in highway spending, a CR or another legislative vehicle will carry a highway programs extension. Meanwhile, the highway trust fund is already insolvent and cannot support baseline spending levels equal to the highway program levels in fiscal year 2009, much less an authorization bill amounting to half a trillion dollars.

The House and Senate authorizing committees advertise they are simply arguing over the length—3 months v. 6 months v. 18 months—of a “clean” extension. A clean extension, however, already exists in law in the CR and can be perpetuated indefinitely. The authorizers really want to combine a highway extension bill with an increase in highway spending authority above the fiscal year 2009 level for contract authority.

The various “clean” extension bills being advocated by the highway authorizers are anything but clean, and they are certainly not extensions. For example, the latest Senate version to be hotlined on October 26 is a massive highway expansion bill—it would increase spending authority by \$20.8 billion over the CBO baseline in 2010 and in every year after that.

Madam President, \$20.8 billion per year over the baseline is a lot of money. Why so much? Because authorizers set, back in 2005, the overall 5-year net level of highway spending in the last authorization bill, SAFETEA-LU, by rescinding \$8.7 billion on the day that bill expired—September 30, 2009. They had always planned to repeal that rescission before it occurred, but failed to do so. They are so irritated by the failure to avert the rescission that they propose to re-enact the funds—twice!

I will ask that a table showing the components of the \$20.8 billion above the CBO baseline be printed in the RECORD at the end of my statement.

CBO projects that limiting highway spending to the fiscal year 2009 program level, as the CR does, will exceed the gas tax revenue to the highway trust fund by \$87 billion over the next 10 years. If Congress continues to cover trust fund shortfalls as it has been—by transferring money from the Treasury's General Fund—then \$87 billion of transfers and debt would be required to continue just this fiscal year 2009 level of spending. The general fund, however, is also broke—incurring a \$1.4 trillion deficit in fiscal year 2009, and the fiscal year 2010 deficit is likely to be about the same. Consequently, when Congress transfers money from the broke general fund to the broke highway trust



fund, the debt of the U.S. Government goes up by exactly that amount and immediately counts against the debt limit.

Despite the unaffordability of the baseline, Congress adopted a 2010 budget resolution in May 2009 that allocated amounts to authorizing committees to write a highway bill that would spend more than current law revenues collected by the trust fund. The Senate highway expansion bill, which would restore the \$8.7 billion rescission twice, would not only enact the levels magically assumed by the 2010 budget resolution but would also increase outlays by another \$62 billion over 10 years, bringing the total draw on the general fund, the debt, and future generations to nearly \$150 billion, just from a so-called 6-month extension bill.

The authorizers brush off any deficit concerns by saying that, under the Byzantine system of split jurisdiction with the appropriators, they don't control outlays and so there is no "pay-go" problem with their expansion bill. But it's too late to raise any objection if you wait to measure highway program outlays for budget enforcement until they are triggered by an appropriations bill, since the outlays are already baked into the baseline and into the allocations of the appropriators. The only point where taxpayers or their watchdogs can measure whether proposed future spending is higher than current law is at the authorization stage. Extra special vigilance is required whenever authorizers claim they just want to enact a "simple clean extension."

When Republicans controlled Congress in 1998, they enacted a bipartisan highway bill dedicated to spending all gas tax revenues only on highways. When they enacted the next highway bill in 2005, it was also a bipartisan goal to spend every penny of gas tax revenue. They succeeded beyond their imaginations. And now that Democrats are responsible for writing the next highway bill, their proposal is to spend all the gas taxes plus an additional \$150 billion. This can only be done by increasing the Nation's debt, in other words—handing the bill to our children so today's politicians can take credit for highway projects.

I ask unanimous consent that the components to which I referred be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

**COMPONENTS OF THE \$20.8 BILLION IN HIGHWAY SPENDING ABOVE THE CBO BASELINE**

The \$20.8 billion consists of 4 pieces:

\$11.9 billion from the highway title of the bill, made up of \$8.7 billion from restoring the funds lost due to the rescission enacted in SAFETEA-LU and \$3.2 billion from restoring the funds lost due to the rescission enacted in the FY09 Transportation/HUD appropriation bill;

Another \$8.7 billion in additional appropriations to again restore the amount that

was rescinded on September 30, 2009, just to make sure;

\$0.1 billion for the safety title of the bill; and

\$0.1 billion for the transit title of the bill.

The \$8.7 billion appears twice in the bill:

In Section 101, which provides highway funding for FY10 and beyond at the FY09 level but defines the FY09 level as if no rescissions occurred in FY09, and

In Section 103, which adds another \$8.7 billion.

**RECOGNIZING NEBRASKA'S ARMY NATIONAL GUARD**

Mr. JOHANNIS. Madam President, I rise today to salute the 313th Medical Company of Nebraska Army National Guard on its upcoming and second deployment to Iraq. The 313th Medical Company is about to embark on an important mission, and I want its members to know how thankful I am for their service and how proud I am of their professionalism and dedication.

Thanks to the sacrifices made by the 313th during previous deployments and those of so many other servicemen and women, 29 million Iraqis are free, Iraq is the most democratic country in the Arab world, and Iraq has become an ally in the war on terror. As conditions continue to improve in Iraq, with Iraqi armed forces and police taking the lead on security, the need for our presence in Iraq is diminishing. However, we must be vigilant in successfully completing the transition. Medical support from the 313th will be vital to ensuring our achievements in Iraq are lasting.

Members of the 313th are some of the best-trained and prepared soldiers in our Nation's history. Some of them have already been deployed one or more times and their experience will undoubtedly be invaluable to mission success. The equipment they use is the best in world. But, ultimately, their individual patriotism and dedication has made and continues to make the difference in Iraq.

I also thank the families of the 313th. They will also endure hardships in the name of freedom and security. Their support will undoubtedly enable the unit to focus on the mission. The Department of Defense and many private organizations have established programs to assist families while their loved ones are fighting overseas. My staff and I stand ready to assist them if they need help accessing these resources.

The thoughts and prayers of all Nebraskans and of grateful citizens across this great Nation go with the 313th. I could not be more proud of them, and look forward to seeing them all back in a year. May God bless the 313th, and protect them and their families as they answer the country's call to duty.

**TRIBUTE TO LAURENCE CAROLIN**

Mr. LEVIN. Madam President, today I would like to tell the story of a young

Michigan man who gives us all great reason to be proud.

Laurence Carolin from Dexter, MI, was only 13 years old when doctors discovered an inoperable tumor in his brain. After intensive radiation and chemotherapy regimens, the tumor still grew. Today Laurence is 15. He has fought the cancer valiantly, but it is the larger fight he has waged for the impoverished around the world that moves me to speak today.

Laurence was born in South Korea, just south of the demilitarized zone. When he was 5 months old he was adopted by Lisa and Patrick Carolin, who brought him to their home a world away in Michigan. There, with access to education and health care, he experienced what he described as "the kind of start that I wish everyone could have."

Warning signs emerged in 2007 when Laurence started to get headaches and began to fatigue easily. Two days after Christmas he and his family received the diagnosis of the glioblastoma multiforme.

Many of us would react to this diagnosis with despair and self-pity. But not Laurence. When he was offered the opportunity to fulfill a dream by the Make-A-Wish Foundation, Laurence did what many 13-year-old boys might do: asked to meet his favorite rock star, U2's lead singer Bono. When told that might not be possible, Laurence asked instead that a donation be made to the United Nations Foundation to combat AIDS, tuberculosis and malaria in Africa. Characteristically, he said, "I should have thought of my next wish as my first wish. It's a much better wish. I have everything I need."

That selfless act was only the start of the great work Laurence has performed in his efforts to help fight poverty in his community and around the world. When a class at Mill Creek Middle School in his hometown wanted to raise donations for him, Laurence instead asked the class to run a food drive for the needy in Michigan. Today Laurence is organizing efforts in his community to support Nothing But Nets, a U.N. Foundation campaign designed to stop the spread of malaria across Africa.

Laurence says that though the cancer has weakened him, it has given him perspective on suffering that is felt around the world. His efforts to fight his cancer make him admirable. His actions to help the world's poor make him nothing less than heroic. His example calls us all to action, reminding us in his words that "it's our ethical and moral obligation to help others who are in need."

An avid guitar player, I am happy to report that Laurence did get that meeting with Bono and the rest of U2 after all, at a concert earlier this fall. Laurence's inspirational work gives new meaning to the band's music,

which helped open his eyes to the problems in this world.

Laurence does not want to leave his work left unfinished. In his words, "Death isn't a big deal to me. It's just another part of life. Some people die earlier than others. . . . I can accept dying, but I don't want to die before there's an end to extreme poverty in Africa."

I thank Laurence for the example he sets, I commend him for his courage in confronting his disease, and I share his hope that someday soon the twin plagues of disease and poverty will be lifted.

#### NOMINATION OF DAVID GOMPERT

Mr. FEINGOLD. Madam President, I voted to confirm David Gompert to be Deputy DNI during the Senate Select Committee on Intelligence's, SSCI, consideration of his nomination. He is highly qualified, and the responses he provided to questions from members of this committee have generally demonstrated a strong grasp of many of the issues he will face. However, one issue—the statutory obligations to notify the full committee of intelligence activities—requires further comment. I voted against the confirmation of Robert Litt to be the ODNI's general counsel and that of Stephen Preston to be CIA's general counsel because of their misinterpretation of the National Security Act. Specifically, they misread the "Gang of Eight" provision, which is included only in section 503 of the act covering covert action, to apply to section 502, which covers all other intelligence activities. When I asked Mr. Gompert about this, he acknowledged that the provision is not in section 502 but nonetheless cited the views of the general counsel.

I have no reason to believe that, as a matter of policy, Mr. Gompert won't elect to notify the full SSCI, regardless of the statutory interpretations of the general counsel. Nonetheless, this confirmation process should serve to remind Mr. Gompert and other leaders of the intelligence community that those clear statutory obligations apply to them, regardless of the general counsels' misinterpretation of the law and regardless of the practices of the previous administration. These obligations are consistent with basic notions of statutory interpretation. They are also consistent with recent testimony before the House Permanent Select Committee on Intelligence by two experts on congressional notifications, both of whom worked on the Church Committee. Frederick "Fritz" Schwarz testified that the "Gang of Eight" provision "should be read as limited to covert action" and noted CIA Director Panetta's testimony at his confirmation hearing supporting this view. Britt Snider's testimony traced the entire history of the provision, describing

amendments passed in 1991 and noting that he was general counsel of the Senate Select Committee on Intelligence at the time of the amendments and was "heavily involved in their development."

Another important change brought about by the 1991 amendments limited the "gang of 8" option to covert actions, rather than making it available to notify the committees of any intelligence activity that was particularly sensitive. This was done for several reasons. First, the gang of 8 option had, to that point, only been used for covert action. Sensitive collection programs had been briefed to the committees as a whole. The view on the two intelligence committees was that if an agency was instituting a new, ongoing program to collect intelligence, they all needed to know about it, regardless of its sensitivity. This was what the committees were set up to do. They had to authorize the funding for these programs. How could they not know of them? Again, the [George H.W.] Bush Administration did not resist the change . . . There have been no major changes to the congressional notification requirements since the 1991 Amendments. But I think it is fair to say that practice under the law has changed over time. It changed, for example, in the late 1990s when the CIA began to disclose more information to the committees about its collection operations, especially those that were experiencing problems. (Emphasis added.)

Both the plain language of the statute and its history are thus clear. Moreover, the practice of violating the statute in this manner is not longstanding; it was limited to the George W. Bush administration. It is therefore particularly dangerous for the current administration and any current leaders of the intelligence community to associate themselves with this misinterpretation of the law.

#### TRIBUTE TO CHAIRMAN SCHAPIRO AND COMMISSIONER AGUILAR

Mr. KAUFMAN. Madam President, I rise today primarily to note for the RECORD two recent speeches: one by Chairman Mary Schapiro and the second by SEC Commissioner Luis Aguilar.

Last year, rapid changes in the markets, opaque practices, and a lack of effective regulation caused a devastating financial debacle from which our Nation is still struggling to recover.

The lesson was simple: when our regulators fail to keep pace with market developments and are taken off the field, the consequences can be disastrous.

With this lesson in mind, I wrote to Chairman Mary Schapiro on August 21 urging the Securities and Exchange Commission to undergo a comprehensive "ground up" review of a broad range of market structure issues in order to ensure our regulatory capacity is up to speed with changes in the market.

I am pleased that the SEC is in the process of conducting such a review and has already acted to address flash

orders and dark pools, two sources of potential unfairness that are opaque and insufficiently regulated. But a few narrowly tailored rule proposals are not enough to restore investor confidence and avert a future disaster. We need regulators, lawmakers, and investors to embrace a new approach to regulation—one that values fairness and transparency over liquidity and nips systemic risks in the bud.

Accordingly, I applaud Chairman Schapiro's speech, entitled "The Road to Investor Confidence," which she delivered at the Securities Industry and Financial Markets Association annual conference on October 27.

Chairman Schapiro outlined the road towards a lasting regulatory framework and a fairer market, asserting:

To me, we don't get there by assuming all is well now, and reverting to the practices that got us to where we are. We don't get there by letting newly engineered financial instruments escape the umbrella of regulation and the natural disinfectant of meaningful market transparency. And, we certainly don't get there by permitting, or even advocating, for gaps in our regulatory landscape. I believe those are the directions that send us back to another financial crisis. And, we cannot afford to let that happen.

Chairman Schapiro also discussed the importance of adopting a forward-looking approach to regulation, particularly with respect to rapid technological developments like high frequency trading.

She said:

I believe we need a deeper understanding of the strategies and activities of high frequency traders and the potential impact on our markets and investors of so many transactions occurring so quickly.

Following the chairman's lead, Commissioner Aguilar also struck a thoughtful chord with respect to upcoming regulatory reform in an impressive speech delivered at George Washington University Law School last Friday.

Commissioner Aguilar underscored the need for meaningful reform, stating:

[T]here is a growing concern that we might miss the opportunity to make the transformational changes required to address the realities of today's financial markets—and to prepare for the unforeseen challenges of tomorrow. Moreover, I fear that we may go down the path of piecemeal changes that give the illusion of regulatory reform but leave us in danger of repeating our recent history. This "false comfort" would be a recipe for disaster.

Commissioner Aguilar also highlighted specific recommendations that should guide financial reform efforts. He asserted the focus of systemic risk regulation should be on investor protection and, should ensure "the continuation of systemically important market functions, not institutions. . . . To that end, systemic risk regulation should facilitate an environment where no institution is indispensable and where other firms can step in to meet the needs of the market."

Commissioner Aguilar went on to endorse the creation of a council of regulators which would better “identify accumulation of risks . . . [provide] for a diversity of perspectives that could make it more likely that a risk will be identified . . . facilitate the free flow of information among regulators . . . [and] avoid the inherent tensions and conflicts that arise when one regulator has combined responsibilities over monetary policy, a vested interest in the safety and soundness of particular institutions, and plenary powers to address systemic risk.”

In addition to laying the foundation for systemic risk regulation, Commissioner Aguilar also maintained that regulators must be empowered to address a broad range of market practices, like hedge funds and asset-backed securities, for example, in order to “not only close today’s gaps but to look ahead and [use] flexible powers that can be deployed as an unknown future unfolds.”

Undoubtedly, reform is long overdue, and so I am pleased this body appears set to undertake financial regulatory reform legislation in the coming months. I look forward to working with my colleagues to enact meaningful reforms.

With Chairman Schapiro and Commissioner Aguilar’s words as a guide, Congress should grant regulators the authority to ensure our markets are fair, stable and transparent in order to prevent another disaster. Mr. President, failure to do so is simply not an option.

Madam President, Chairman Schapiro and Commissioner Aguilar’s speeches may be found at: <http://www.sec.gov/news/speech/2009/spch102709mls.htm> (Schapiro) <http://www.sec.gov/news/speech/2009/spch106091aa.htm> (Aguilar).

#### TRIBUTE TO TIM JOHNSON

Mr. LEAHY. Madam President, a voice familiar to thousands of Vermonters was singled out for special recognition this past weekend.

Tim Johnson, a broadcaster who has long made Brattleboro’s WTSA Radio his home, was honored by the town of Brattleboro and the Vermont Association of Broadcasters.

Tim’s love of radio and community affairs brought him to radio in 1974, and he has faithfully provided local news to listeners in Brattleboro and in Springfield, MA, ever since then. I have enjoyed knowing him and his work for several decades as we often meet at community meetings, conferences and press conferences in the Brattleboro region and across Vermont.

Brattleboro proclaimed Saturday, November 7, 2009, as “Tim Johnson Day” and celebrated with a cake. The same day, at their annual meeting the Vermont Association of Broadcasters

heralded Tim for his distinguished service. Distinguished service helps sum up Tim’s importance to southern Vermont. His contributions to his community and to Vermont broadcasting have been of the highest quality, and they have been steady. His many hours in the studio each week ensure that residents in Brattleboro receive news that is important, relevant and timely. It is regrettable that today’s broadcasting environment sustains less of that kind of community service and community presence.

I know Tim will continue on this path of excellence, and I know that all Vermonters join me in expressing appreciation and admiration for his good work on WTSA.

I ask unanimous consent that a copy of an article from The Rutland Herald be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Rutland Herald, Nov. 8, 2009]

BRATTLEBORO—ON-AIR CELEB JOHNSON  
HONORED

(By Susan Smallheer)

BRATTLEBORO.—Tim Johnson is the Energizer bunny of Brattleboro radio: he’s on the air day and night, whether it’s reporting breaking news, broadcasting local football games and or promoting local food shelf fundraisers.

In fact, Johnson was on the air Saturday morning, not even taking a break on “Tim Johnson Day,” hoping to garner some donations for “Project Feed the Thousands.”

Johnson, 53, a longtime radio newsmen for WTSA AM & FM, was honored by the town of Brattleboro last week with a proclamation and a cake. The proclamation was paired with the Vermont Association of Broadcasters announcement that Johnson was honored yesterday for distinguished service at the organization’s annual meeting.

Kelli Corbeil, owner and general manager of the radio station, nominated Johnson for the award.

“He’s the hardest worker at the radio station,” said Corbeil. “I’m so glad he’s on my team.”

By Johnson’s own estimation, his love of community radio lands him in front of a microphone anywhere from 60 to 80 hours a week.

Corbeil, who along with her late husband Bill purchased the station in 2007, said that Johnson’s devotion to local radio news was obvious to everyone in Brattleboro and deserved to be recognized statewide. “I think he has a love and a passion for it. He loves the community and I think the community is important to him,” she said.

Johnson first got into radio back when he was a senior at Brattleboro Union High School, and as the representative of the Future Farmers of America, appeared on a WTSA talk show by Larry Smith, Johnson’s predecessor at the news desk. He’s been doing radio news ever since, a total of 36 years.

Smith, who left TSA in 1997 for a job at Entergy Nuclear, said that even at 17, Johnson had a noticeable voice.

“Local radio news is a dying art as more stations are purchased by conglomerates,” Smith said.

“If anything, Timmy has expanded the coverage. I don’t know what he doesn’t

cover. Every time I listen, he’s been to a meeting or a community forum. It’s wonderful,” he said.

“With so many stations, you’re lucky if you get the local weather,” Smith said.

After high school, Johnson landed a part-time job as an announcer at cross-town radio rival WKVT in 1973, and eventually left Brattleboro for four years to work at WCFR in Springfield.

Johnson said he came back to his hometown in 1985 to WKVT rather than go to a bigger market because the area was deep in his heart, his parents’ health was failing and then-owner Dave Underhill was “a news junkie just like myself.”

“Bright lights? Big city? This is my home,” he said.

Town Manager Barbara Sondag wrote the proclamation for the Selectboard, and she said until she did the research, she didn’t grasp the scope of Johnson’s community work.

“I had no idea of all the boards he served on,” said Sondag. Johnson is currently working hard on Project Feed the Thousands, the local food drive, as well as the local United Way, Warm Hands Warm Hearts. In addition to that, Johnson is also the town moderator in his hometown of Vernon, and also serves as the moderator for the Brattleboro Union High School annual meeting.

“Tim Johnson has for 36 years continuously provided accurate, reliable, respectful reporting of the issues important to the citizens of Brattleboro,” the proclamation said.

“Tim can be found at all emergencies, celebrations, meetings and buffets across Windham County, regardless of time,” the proclamation went on with a touch of humor.

Johnson has a well-known proclivity for free food, she said, as well as multi-tasking.

While covering selectboard meetings, he also “watches” Red Sox games on his computer, and keeps people posted on the score, Sondag said.

And Johnson, whose real name is Tim Arsenault, has an uncanny ability to report accurately on a meeting despite a predilection for cat naps during late-night meetings, the selectboard couldn’t resist adding.

As the morning show anchor and news director, Johnson gets up at 3 a.m. and heads into WTSA’s studio in “the new north end” of Brattleboro by 4:30 a.m. He is on the air by 5 a.m.

He works at least until mid-afternoon.

On a recent day, Johnson was busy juggling family, news and his community commitments, aided greatly that day by instant messaging.

Johnson and his wife Sue’s 16-year-old granddaughter recently started living with them, and there’s plenty to organize and do.

Smith, who actually hired Johnson to replace himself at WTSA, said that Johnson is a consummate radio professional, and overcame a stutter, as well.

“The first time I ever heard him on the radio, there was no stutter. He does commercials, he overcame that—quite an accomplishment,” said Smith.

In radio, the hardest thing, he said, is doing commercials. “You really have to concentrate and Timmy’s production is unbelievable and his ad libs are great too,” said Smith, himself a 30-year radio news veteran.

“I’m delighted for him,” Smith said.

“This is really what I enjoy doing,” said Johnson, his newscast devoted this day to the local hospital’s reaction to the swine flu epidemic, a major water main break in town, the upcoming Winter Farmer’s Market and Feed the Thousands.

"This is really what I enjoy doing and I want to do it for 50 years," Johnson said. "That's another 14 years."

#### ADDITIONAL STATEMENTS

##### TRIBUTE TO NELSON MICHAEL, JEROME KIM, AND MERLIN ROBB

• Mr. AKAKA. Madam President, today I acknowledge three sons of Hawaii. They are remarkable individuals and leaders in the U.S. Military HIV Research Program. COL Nelson Michael, COL Jerome Kim, and COL Merlin Robb have worked vigorously to develop a safe and effective AIDS vaccine that has become a true glimmer of hope paving the way for significant advances in our fight against this disease.

These three men, along with the entire U.S. Military HIV Research Program worked side by side with the Thai Ministry of Public Health to conduct the largest study worldwide, a 6-year vaccine field trial held in Thailand—historically one of the countries hardest hit by AIDS. And Hawaii became a vital midpoint and meeting place for Thai and U.S. military researchers as experts from both Thailand and the Walter Reed Army Institute of Research in Maryland worked tirelessly to move this initiative forward.

The study consisted of 16,000 volunteers and tested two vaccines, one that prepares the immune system by training cells to recognize and destroy the virus and one that intensifies that response. The study found that the two-vaccine approach proved to be 31-percent effective in preventing HIV infection.

COL Nelson Michael, M.D., Ph.D, is a Punahou High School graduate and his father, Jerrold Michael was dean of the University of Hawaii School of Public Health. Colonel Michael is currently the director of the division of retrovirology at the Walter Reed Army Institute of Research. Prior to serving as director, he was the chief of the department of molecular diagnostics and pathogenesis.

COL Jerome Kim, M.D., is an Iolani High School graduate and a clinical associate professor of medicine at the John A. Burns School of Medicine, University of Hawaii. He is deputy director and chief of the department of molecular virology and pathogenesis, division of retrovirology at the Walter Reed Army Institute of Research.

COL Merlin Robb, M.D., is a Radford High School graduate and a program director for the HJF HIV U.S. Military HIV Research Program. Dr. Robb is a retired lieutenant colonel from the U.S. Army Medical Corps and serves as assistant professor of pediatrics, department of pediatrics, Uniformed Services University of Health Sciences, USU, in Bethesda, MD.

The published study results were presented at the AIDS Vaccine Conference

2009 held in Paris, France, and show great promise as we all look to one day soon make this disease part of our past. Congratulations to all of you for your hard work and continued service.●

##### RECOGNIZING THE NASA GLENN RESEARCH CENTER

• Mr. BROWN. Madam President, I wish to honor the men and women of NASA's Glenn Research Center in Cleveland, OH.

NASA Glenn is a leader in space exploration and scientific discovery, delivering success after success in aeronautics and energy research and development.

The first test launch of the Ares-IX test rocket 2 weeks ago is just one example of the important work of NASA Glenn. The Ares-IX test rocket represents a new era in NASA and American space exploration. Its successful launch is a profoundly important victory for our Nation.

The scientists and engineers at Glenn designed and built the upper stage simulator of the Ares-IX at its Power Systems Facility. For more than 2 years, NASA Glenn engineers and scientists molded the simulator into an 18-foot-wide cylinder that weighed between 18,000 pounds and 60,000 pounds and contained more than 250 cameras and sensors. The upper stage simulator is designed to replicate what will eventually be situated above the main booster rocket. It will also carry liquid oxygen and liquid hydrogen to fuel the second stage propulsion for another NASA Glenn-led effort, the Orion crew ship.

The successful completion of the Ares-IX test launch is a testament to the hard work and dedication of NASA employees everywhere. And the contributions of NASA Glenn will only grow as scientists study the vast data from last week's launch.

As NASA contemplates its future, the men and women of NASA Glenn have once again shown that the research center will excel regardless of the future missions it fulfills. As the only NASA center north of the Mason-Dixon Line, the NASA Glenn Research Center in Cleveland, OH, will continue to work with all of NASA's facilities around the Nation to ensure that America remains the world leader in space and aeronautics.●

##### TRIBUTE TO STEVEN C. McCRAW

• Mr. INHOFE. Madam President, I wish to recognize a gentleman who has served in law enforcement at the State and Federal levels since 1977. Steven C. McCraw is a native of El Paso, TX, and holds a Bachelor of Science degree and a Master of Arts degree from West Texas State University. Mr. McCraw began his career in 1977 as a State Trooper and later a Sergeant Narcotics Investigator for the Texas Department of Public Safety.

Becoming an FBI Special Agent in 1983, Mr. McCraw served in the Dallas, Pittsburgh, Los Angeles, Phoenix and San Antonio Field offices. He worked at FBI headquarters in assignments that included Unit Chief of an Organized Crime Unit; Inspector; Deputy Assistant Director; Assistant Director of the Office of Intelligence, which was established in February 2002; and Assistant Director for the Inspections Division where he was responsible for strategic planning, internal investigations and bureau-wide performance evaluations. He also served as the Inspector-In-Charge of the Southeast Bomb Task Force. After the attacks on our Nation on September 11, 2001, the President created the Foreign Terrorist Tracking Task Force and named Mr. McCraw as the director. At the point when our Nation seemed most vulnerable, Mr. McCraw led the charge to identify and locate additional terrorist threats.

Mr. McCraw retired as an FBI Assistant Director in August 2004. After more than 20 years of exemplary Federal service, he could have simply retired. Instead, he answered the call of Texas Governor Rick Perry and was appointed the Director of the Governor's Office of Homeland Security. Mr. McCraw has been instrumental in leading the State's homeland security efforts, from border security to hurricane response, including the successful humanitarian relocation of hundreds of families left homeless by Hurricane Katrina. His extensive background in law enforcement and intelligence has enabled him to make well-informed decisions in preparing for and responding to all hazards and threats in Texas.

On July 17, 2009, Mr. McCraw was selected as the Director of the Texas Department of Public Safety. He will be leading nearly 8,500 commissioned and non-commissioned personnel in the department where he started his law enforcement career.

On behalf of the Congress and the country, I would like to thank Mr. McCraw for his service to the Nation and wish him well as he continues his contributions to the safety and security of the State of Texas.●

##### RECOGNIZING THE MUDDY RUDDER

• Ms. SNOWE. Madam President, tomorrow, our Nation pauses to honor those brave men and women who have served our country so admirably in the Armed Forces. Veterans Day affords us the tremendous opportunity to reflect on the freedoms we enjoy and to acknowledge those who have sacrificed so much to protect those liberties. Today I wish to recognize a small business in my home State of Maine that is doing its own part to celebrate the contributions that veterans have made to our country.

The Muddy Rudder—which has locations in Yarmouth and Brewer—has been a mainstay on the Maine dining scene since 1976, when it opened its first location overlooking Yarmouth's Cousins River. The restaurant's Brewer location was opened in 2002 at the site of the former Harborside Restaurant, on the town's scenic and revitalized Penobscot River waterfront. Affectionately known to frequent guests and locals as "the Rudder," these remarkable restaurants have gained a solid following in the communities they serve. Noted for its nautical themed decor and picturesque water views, the Muddy Rudder has also gained welcome attention from people near and far for its expertly prepared fresh seafood.

The reason the Muddy Rudder can lay claim to such a delectable menu comes directly from the talent in the restaurants' kitchens. Brewer's Muddy Rudder is home to award-winning executive chef David Smith, an active member of the American Culinary Federation, who makes frequent appearances on local television preparing creative and exciting dishes for people to attempt at home. And the Yarmouth location boasts the expertise of renowned chef Tom Schwarz, a former fisherman who began his culinary journey as a fishmonger for some of New York City's finest restaurants, hotels, and bistros.

But more than just a place to enjoy a hearty meal, the Muddy Rudder is a visible and active member in the communities they serve. As such, in celebration of Veterans Day, both Muddy Rudder restaurants are providing veterans and active military servicemembers with a free meal tomorrow. And unlike many larger national chains that are offering similar incentives, the Muddy Rudder is giving veterans and active duty servicemembers the option to choose a free entrée from any menu item, with no restrictions. From the Rudder's delicious baked stuffed lobster or Fisherman's Platter to meals preferred by landlubbers, including a New York strip steak or chicken marsala, America's bravest can select a wholesome and appetizing meal as a small but meaningful thank you for the commendable service they have given to our Nation.

The Muddy Rudder's cuisine has long been a staple of the culinary landscape in Yarmouth, and more recently in Brewer. And as demonstrated by their actions this week, it is no secret why they are so popular in the community. I am proud that Peter Anastos, the restaurants' owner, and everyone at the Muddy Rudder have set such a thoughtful and timely example as we celebrate those who protect our freedoms. I thank them for their creativity and passion, and wish them success in all of their endeavors.●

#### AUBURN LIONS CLUB COMMEMORATES CHARTER

● Ms. SNOWE, Madam President, today I pay tribute to the Auburn Lions Club which will commemorate the receipt of their charter on November 13th during their magnificent "Charter Night." Although I deeply regret that I am unable to attend in person, I will be there very much in spirit!

I cannot tell this Chamber how inspired and impressed I am by the phenomenal history of the Lions Club and all it has accomplished and exemplifies to this day. For 92 years, the men and women of the Lions Club have been on the front lines of compassion and good will for countless individuals throughout America and the world with their extraordinary commitment to community and humanitarian service that has been the cornerstone of the Lions Club's exceptional mission as well as the impetus behind its founding by Melvin Jones in 1917.

Speaking of the enormous legacy of the legendary Melvin Jones, I want to take a moment to express the profound distinction I felt this past May when I was honored as a Melvin Jones fellow, the most prestigious form of recognition conferred by the Lions Club International Foundation. And I can tell you, receiving that accolade from the Lions Club which I hold in such high esteem as well as from my cousin, Duke Goranites, 1st Vice District Governor of Maine and District Governor-Elect of the Lions Club—who is like a brother to me and is the brother of my wonderful cousin, Georgia Chomas, was truly one of the most gratifying experiences of my life!

And let me just say, Duke has really outdone himself this year! Believe me, we are all well aware of how busy he is these days. His schedule could not be more rigorous as he's traveling around the State, and so I am even more grateful to Duke who not only will emcee the Charter Night event, but has been vital in helping Auburn bring this charter to fruition.

What a truly landmark accomplishment this charter represents—one that is emblematic of the initiative, generosity, and resolve of my hometown of Auburn, ME, where my roots run deep, as well as the enduring purpose of the Lions Club which has a longstanding legacy of contribution on behalf of others in Maine, America, and the world. And let me say, how pleased I was to send an American flag to the Auburn Lions Club that was flown over the U.S. Capitol in honor of this marvelous occasion.

The Auburn Lions Club will be joining the ranks of the largest international service organization in the world which has a presence in more than 200 countries and with 1.3 million members and 45,000 clubs worldwide. They will be committed in word and deed to advancing the Lions Club

motto "we serve." And Melvin Jones' time-honored precept that "you can't get very far until you start doing something for somebody else" will be in good hands in Auburn.

The Auburn Lions Club will not only celebrate their newly acquired charter status but will also install the respective officers, whose leadership throughout the process has been instrumental. In that light, I commend Adam Smith, Auburn chapter president; and Georgia Chomas, vice-president, who coordinated the Charter Night event with Sandy Tassinari. I also commend Celeste Yakawonis, second vice-president, Nicole Andree, treasurer, and Sherry Bonawitz, secretary.

I also convey my immense appreciation for the stewardship and support of Glen Aho, Auburn city manager and charter member of the Auburn Lions Club, as well as to Ron Johnson, international director of the Lions Club, Lewis B. Small, Sr., past international director, and Roger Blackstone, district governor. I also recognize the Gray/New Gloucester Lions Club for their sponsorship of the Auburn Lions Club.

In keeping with the high caliber of individuals who have dedicated their enormous time and talent to this sterling endeavor, I am proud to say, the Auburn Lions Club can already point to community projects its members will be tackling, from addressing challenges confronting Auburn school students with a focus on homeless teens to working with the Lions' statewide effort to raise funds to purchase and install a standby generator for the Good Shepherd Food Bank. The Auburn Lions Club has established a goal of raising \$76,000 to match the Lions Club international grant of \$75,000. To say they will be hitting the ground running is an understatement!

The achievement of this charter is a memorable moment for the Auburn Lions Club, and I have no doubt what is said of Lions Clubs throughout Maine and around the world will be said of the Auburn Lions Club many times over—"whenever we get together, problems get smaller. And communities get better."●

#### MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mrs. Neiman, one of his secretaries.

#### EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

## MESSAGE FROM THE HOUSE

At 11:26 a.m., a message from the House of Representatives, delivered by Ms. Chiappardi, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 3962. An act to provide affordable, quality health care for all Americans and reduce the growth in health care spending, and for other purposes.

## MEASURES READ THE FIRST TIME

The following bill was read the first time:

H.R. 3962. An act to provide affordable, quality health care for all Americans and reduce the growth in health care spending, and for other purposes.

## EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC-3616. A communication from the Under Secretary of Defense (Comptroller), transmitting, pursuant to law, the report of a violation of the Antideficiency Act that was discovered during an audit performed by the Air Force Audit Agency and finalized in their report dated January 30, 2007, and has been assigned Air Force case number 07-07; to the Committee on Appropriations.

EC-3617. A communication from the Deputy Under Secretary of Defense (Plans), transmitting, pursuant to law, a report relative to the Civilian Health Professions Scholarship Program for Mental Health Providers; to the Committee on Armed Services.

EC-3618. A communication from the Secretary, Division of Investment Management, Securities and Exchange Commission, transmitting, pursuant to law, the report of a rule entitled "Regulation S-AM: Limitations on Affiliate Marketing; Extension of Compliance Date" (RIN3235-AJ24) received in the Office of the President of the Senate on November 6, 2009; to the Committee on Banking, Housing, and Urban Affairs.

EC-3619. A communication from the Acting Assistant Secretary for Export Administration, Bureau of Industry and Security, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Revisions to the Export Administration Regulations Based on the 2008 Missile Technology Control Regime Plenary Additions" (RIN0694-AE53) received in the Office of the President of the Senate on November 9, 2009; to the Committee on Banking, Housing, and Urban Affairs.

EC-3620. A communication from the Director of the Minerals Management Service, Department of the Interior, transmitting, pursuant to law, a report entitled "Estimates of Natural Gas and Oil Reserves, Reserves Growth, and Undiscovered Resources in Federal and State Waters off the Coast of Texas, Louisiana, Mississippi, and Alabama"; to the Committee on Energy and Natural Resources.

EC-3621. A communication from the Chief of the Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Further Extension

of Effective Date of Normal Retirement Age Regulations for Governmental Plans" (Notice 2009-86) received in the Office of the President of the Senate on November 5, 2009; to the Committee on Finance.

EC-3622. A communication from the Chief of the Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Section 108 Reduction of Tax Attributes for S Corporations" (RIN1545-BH54) received in the Office of the President of the Senate on November 5, 2009; to the Committee on Finance.

EC-3623. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to the Case-Zablocki Act, 1 U.S.C. 112b, as amended, the report of the texts and background statements of international agreements, other than treaties (List 2009-0198 — 2009-0200); to the Committee on Foreign Relations.

EC-3624. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 18-229, "Anacostia Business Improvement District Amendment Act of 2009"; to the Committee on Homeland Security and Governmental Affairs.

EC-3625. A communication from the Chairman, Board of Trustees, John F. Kennedy Center for the Performing Arts, transmitting, pursuant to law, a financial report relative to fiscal years 2007 and 2008 in accordance with Section 8G(h) of the Inspector General Act of 1978; to the Committee on Rules and Administration.

EC-3626. A communication from the Director of Regulation Policy and Management, Veterans Benefits Administration, Department of Veterans Affairs, transmitting, pursuant to law, the report of a rule entitled "Presumption of Service Connection for Amyotrophic Lateral Sclerosis" (RIN2900-AN05) received in the Office of the President of the Senate on November 6, 2009; to the Committee on Veterans' Affairs.

EC-3627. A communication from the Secretary of the Senate, transmitting, pursuant to law, the report of the receipts and expenditures of the Senate for the period from April 1, 2009 through September 30, 2009 received in the Office of the President of the Senate on November 10, 2009; ordered to lie on the table.

## REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. LEAHY, from the Committee on the Judiciary:

Report to accompany S. 1670, a bill to reform and modernize the limitations on exclusive rights relating to secondary transmissions of certain signals (Rept. No. 111-98).

## INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. BROWN:

S. 2759. A bill to amend titles II and XVI of the Social Security Act to provide for treatment of disability rated and certified as total by the Secretary of Veterans Affairs as disability for purposes of such titles; to the Committee on Finance.

By Mr. UDALL of New Mexico (for himself and Mr. BOND):

S. 2760. A bill to amend title 38, United States Code, to provide for an increase in the annual amount authorized to be appropriated to the Secretary of Veterans Affairs to carry out comprehensive service programs for homeless veterans; to the Committee on Veterans' Affairs.

By Mr. WICKER (for himself, Mr. COCHRAN, Mr. VITTER, and Ms. LANDRIEU):

S. 2761. A bill to amend the Internal Revenue Code of 1986 to extend the bonus depreciation deduction applicable to the Gulf Opportunity Zone for 2 additional years; to the Committee on Finance.

By Mr. UDALL of Colorado (for himself and Mr. BENNET):

S. 2762. A bill to designate certain lands in San Miguel, Ouray, and San Juan Counties, Colorado, as wilderness, and for other purposes; to the Committee on Energy and Natural Resources.

By Ms. CANTWELL (for herself, Mr. WYDEN, and Mr. SANDERS):

S. 2763. A bill to terminate the preemption of State and local laws that prohibit or regulate gaming or the operation of bucket shops, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. ROCKEFELLER (for himself and Mr. KERRY):

S. 2764. A bill to reauthorize the Satellite Home Viewer Extension and Reauthorization Act of 2004, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. KERRY:

S. 2765. A bill to amend the Small Business Act to authorize loan guarantees for health information technology; to the Committee on Small Business and Entrepreneurship.

By Mr. KERRY (for himself and Mr. CASEY):

S. 2766. A bill to provide for the coverage of medically necessary food under Federal health programs and private health insurance; to the Committee on Finance.

By Mr. CORNYN:

S. 2767. A bill to provide additional resources and funding for construction and infrastructure improvements at United States land ports of entry, to open additional inspection lanes, to hire more inspectors, and to provide recruitment and retention incentives for United States Customs and Border Protection officers who serve on the Southern Border; to the Committee on Homeland Security and Governmental Affairs.

By Mr. DORGAN (for himself, Mr. ROCKEFELLER, and Mr. LAUTENBERG):

S. 2768. A bill to amend title 49, United States Code, to authorize appropriations for the National Transportation Safety Board for fiscal years 2010 through 2014, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Ms. KLOBUCHAR (for herself, Mr. JOHANNES, and Mrs. MURRAY):

S. 2769. A bill to amend title 38, United States Code, to provide for the use of entitlement under Post-9/11 Educational Assistance for the pursuit of apprenticeships and on-job training, and for other purposes; to the Committee on Veterans' Affairs.

By Mrs. GILLIBRAND:

S. 2770. A bill to amend the Small Business Act to establish a Veterans Business Center program, and for other purposes; to the Committee on Small Business and Entrepreneurship.

By Mr. DEMINT (for himself, Mr. BROWNBACK, Mr. COBURN, and Mrs. HUTCHISON):



S.J. Res. 21. A joint resolution proposing an amendment to the Constitution of the United States relative to limiting the number of terms that a Member of Congress may serve to 3 in the House of Representatives and 2 in the Senate; to the Committee on the Judiciary.

#### SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. BURR (for himself, Mr. AKAKA, Mr. ISAKSON, and Mr. JOHANNIS):

S. Res. 349. A resolution supporting and encouraging greater support for Veterans Day; considered and agreed to.

By Mr. FEINGOLD (for himself and Ms. LANDRIEU):

S. Res. 350. A resolution recognizing November 14, 2009, as the 49th anniversary of the first day of integrated schools in New Orleans, Louisiana; considered and agreed to.

By Mrs. LINCOLN:

S. Res. 351. A resolution designating the week beginning on November 9, 2009, as National School Psychology Week; considered and agreed to.

By Mr. WARNER (for himself, Ms. LANDRIEU, Mr. VITTER, Mr. WEBB, Mr. NELSON of Florida, and Mr. LEMIEUX):

S. Res. 352. A resolution encouraging banks and mortgage servicers to work with families affected by contaminated drywall to allow temporary forbearance without penalty on payments on their home mortgages; considered and agreed to.

By Mrs. HAGAN (for herself, Mr. JOHANNIS, Mr. BROWN, Mr. LEVIN, Mr. BEGICH, Mr. TESTER, Mr. FEINGOLD, Mr. BURRIS, Ms. MIKULSKI, and Mr. DODD):

S. Res. 353. A resolution supporting the goals and ideals of "American Education Week"; to the Committee on Health, Education, Labor, and Pensions.

#### ADDITIONAL COSPONSORS

S. 21

At the request of Mr. REID, the name of the Senator from Connecticut (Mr. DODD) was added as a cosponsor of S. 21, a bill to reduce unintended pregnancy, reduce abortions, and improve access to women's health care.

S. 252

At the request of Mr. AKAKA, the name of the Senator from Michigan (Ms. STABENOW) was added as a cosponsor of S. 252, a bill to amend title 38, United States Code, to enhance the capacity of the Department of Veterans Affairs to recruit and retain nurses and other critical health care professionals, to improve the provision of health care veterans, and for other purposes.

S. 491

At the request of Mr. WEBB, the name of the Senator from Oklahoma (Mr. INHOFE) was added as a cosponsor of S. 491, a bill to amend the Internal Revenue Code of 1986 to allow Federal civilian and military retirees to pay health insurance premiums on a pretax basis and to allow a deduction for TRICARE supplemental premiums.

S. 658

At the request of Mr. CASEY, his name was added as a cosponsor of S. 658, a bill to amend title 38, United States Code, to improve health care for veterans who live in rural areas, and for other purposes.

S. 753

At the request of Mr. SCHUMER, the name of the Senator from Vermont (Mr. SANDERS) was added as a cosponsor of S. 753, a bill to prohibit the manufacture, sale, or distribution in commerce of children's food and beverage containers composed of bisphenol A, and for other purposes.

S. 801

At the request of Mr. AKAKA, the name of the Senator from Michigan (Ms. STABENOW) was added as a cosponsor of S. 801, a bill to amend title 38, United States Code, to waive charges for humanitarian care provided by the Department of Veterans Affairs to family members accompanying veterans severely injured after September 11, 2001, as they receive medical care from the Department and to provide assistance to family caregivers, and for other purposes.

S. 825

At the request of Mrs. LINCOLN, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 825, a bill to amend the Internal Revenue Code of 1986 to restore, increase, and make permanent the exclusion from gross income for amounts received under qualified group legal services plans.

S. 1029

At the request of Mr. ROCKEFELLER, the name of the Senator from Minnesota (Mr. FRANKEN) was added as a cosponsor of S. 1029, a bill to create a new incentive fund that will encourage States to adopt the 21st Century Skills Framework.

S. 1076

At the request of Mr. MENENDEZ, the name of the Senator from Louisiana (Mr. VITTER) was added as a cosponsor of S. 1076, a bill to improve the accuracy of fur product labeling, and for other purposes.

S. 1153

At the request of Mr. SCHUMER, the name of the Senator from Ohio (Mr. BROWN) was added as a cosponsor of S. 1153, a bill to amend the Internal Revenue Code of 1986 to extend the exclusion from gross income for employer-provided health coverage for employees' spouses and dependent children to coverage provided to other eligible designated beneficiaries of employees.

S. 1160

At the request of Mr. SCHUMER, the names of the Senator from Oregon (Mr. MERKLEY) and the Senator from Massachusetts (Mr. KERRY) were added as cosponsors of S. 1160, a bill to provide housing assistance for very low-income veterans.

S. 1366

At the request of Mrs. BOXER, the name of the Senator from Oregon (Mr. MERKLEY) was added as a cosponsor of S. 1366, a bill to amend the Internal Revenue Code of 1986 to allow taxpayers to designate a portion of their income tax payment to provide assistance to homeless veterans, and for other purposes.

S. 1518

At the request of Mr. BURR, the name of the Senator from Michigan (Ms. STABENOW) was added as a cosponsor of S. 1518, a bill to amend title 38, United States Code, to furnish hospital care, medical services, and nursing home care to veterans who were stationed at Camp Lejeune, North Carolina, while the water was contaminated at Camp Lejeune.

S. 1547

At the request of Mr. REED, the names of the Senator from Washington (Ms. CANTWELL) and the Senator from Oregon (Mr. MERKLEY) were added as cosponsors of S. 1547, a bill to amend title 38, United States Code, and the United States Housing Act of 1937 to enhance and expand the assistance provided by the Department of Veterans Affairs and the Department of Housing and Urban Development to homeless veterans and veterans at risk of homelessness, and for other purposes.

At the request of Mr. TESTER, his name was added as a cosponsor of S. 1547, *supra*.

S. 1612

At the request of Mrs. LINCOLN, the name of the Senator from Washington (Ms. CANTWELL) was added as a cosponsor of S. 1612, a bill to amend the Internal Revenue Code of 1986 to improve the operation of employee stock ownership plans, and for other purposes.

S. 1660

At the request of Ms. KLOBUCHAR, the name of the Senator from Tennessee (Mr. CORKER) was added as a cosponsor of S. 1660, a bill to amend the Toxic Substances Control Act to reduce the emissions of formaldehyde from composite wood products, and for other purposes.

S. 1668

At the request of Mr. BENNET, the name of the Senator from Oregon (Mr. WYDEN) was added as a cosponsor of S. 1668, a bill to amend title 38, United States Code, to provide for the inclusion of certain active duty service in the reserve components as qualifying service for purposes of Post-9/11 Educational Assistance Program, and for other purposes.

S. 1672

At the request of Mr. REED, the name of the Senator from Oregon (Mr. WYDEN) was added as a cosponsor of S. 1672, a bill to reauthorize the National Oilheat Research Alliance Act of 2000.

S. 1752

At the request of Mr. SANDERS, the name of the Senator from Minnesota



(Ms. KLOBUCHAR) was added as a cosponsor of S. 1752, a bill to amend title 38, United States Code, to direct the Secretary of Veterans Affairs to provide wartime disability compensation for certain veterans with Parkinson's disease.

S. 1792

At the request of Mr. ROCKEFELLER, the names of the Senator from North Carolina (Mr. BURR), the Senator from Tennessee (Mr. ALEXANDER) and the Senator from Tennessee (Mr. CORKER) were added as cosponsors of S. 1792, a bill to amend the Internal Revenue Code of 1986 to modify the requirements for windows, doors, and skylights to be eligible for the credit for nonbusiness energy property.

S. 1833

At the request of Mr. UDALL of Colorado, the name of the Senator from Virginia (Mr. WEBB) was added as a cosponsor of S. 1833, a bill to amend the Credit Card Accountability Responsibility and Disclosure Act of 2009 to establish an earlier effective date for various consumer protections, and for other purposes.

S. 1839

At the request of Ms. CANTWELL, the name of the Senator from Kansas (Mr. ROBERTS) was added as a cosponsor of S. 1839, a bill to provide for duty free treatment for certain United States Government property returned to the United States.

S. 1842

At the request of Ms. CANTWELL, the name of the Senator from Kansas (Mr. ROBERTS) was added as a cosponsor of S. 1842, a bill to modify the provisions of the Harmonized Tariff Schedule of the United States relating to returned property.

S. 1933

At the request of Mr. BINGAMAN, the name of the Senator from Colorado (Mr. BENNET) was added as a cosponsor of S. 1933, a bill to establish an integrated Federal program that protects, restores, and conserves natural resources by responding to the threats and effects of climate change, and for other purposes.

S. 1939

At the request of Mrs. GILLIBRAND, the name of the Senator from Oregon (Mr. WYDEN) was added as a cosponsor of S. 1939, a bill to amend title 38, United States Code, to clarify presumptions relating to the exposure of certain veterans who served in the vicinity of the Republic of Vietnam, and for other purposes.

S. 2097

At the request of Mr. THUNE, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 2097, a bill to authorize the rededication of the District of Columbia War Memorial as a National and District of Columbia World War I Memorial to honor the sacrifices made by American veterans of World War I.

S. 2735

At the request of Mr. NELSON of Florida, the name of the Senator from Alabama (Mr. SESSIONS) was added as a cosponsor of S. 2735, a bill to prohibit additional requirements for the control of *Vibrio vulnificus* applicable to the post-harvest processing of oysters.

S. 2748

At the request of Mr. KERRY, the names of the Senator from Michigan (Ms. STABENOW) and the Senator from Florida (Mr. NELSON) were added as cosponsors of S. 2748, a bill to amend the Internal Revenue Code of 1986 to extend for one year the employer wage credit for employees who are active duty members of the uniformed services.

S. 2752

At the request of Mr. VITTER, the names of the Senator from Alabama (Mr. SESSIONS) and the Senator from Oklahoma (Mr. INHOFE) were added as cosponsors of S. 2752, a bill to ensure the sale and consumption of raw oysters and to direct the Food and Drug Administration to conduct an education campaign regarding the risks associated with consuming raw oysters, and for other purposes.

S. CON. RES. 14

At the request of Mrs. LINCOLN, the name of the Senator from Idaho (Mr. RISCH) was added as a cosponsor of S. Con. Res. 14, a concurrent resolution supporting the Local Radio Freedom Act.

S. RES. 334

At the request of Mr. HATCH, the name of the Senator from Pennsylvania (Mr. CASEY) was added as a cosponsor of S. Res. 334, a resolution designating Thursday, November 19, 2009, as "Feed America Day".

S. RES. 340

At the request of Mr. CRAPO, the name of the Senator from New Hampshire (Mrs. SHAHEEN) was added as a cosponsor of S. Res. 340, a resolution expressing support for designation of a National Veterans History Project Week to encourage public participation in a nationwide project that collects and preserves the stories of the men and women who served our Nation in times of war and conflict.

AMENDMENT NO. 2745

At the request of Mr. FRANKEN, the name of the Senator from West Virginia (Mr. BYRD) was added as a cosponsor of amendment No. 2745 proposed to H.R. 3082, a bill making appropriations for military construction, the Department of Veterans Affairs, and related agencies for the fiscal year ending September 30, 2010, and for other purposes.

AMENDMENT NO. 2758

At the request of Mr. INHOFE, the names of the Senator from Nebraska (Mr. JOHANNES), the Senator from Idaho (Mr. CRAPO), the Senator from Wyoming (Mr. BARRASSO), the Senator from Missouri (Mr. BOND) and the Senator

from Alabama (Mr. SESSIONS) were added as cosponsors of amendment No. 2758 intended to be proposed to H.R. 3082, a bill making appropriations for military construction, the Department of Veterans Affairs, and related agencies for the fiscal year ending September 30, 2010, and for other purposes.

AMENDMENT NO. 2760

At the request of Mr. DURBIN, the names of the Senator from West Virginia (Mr. ROCKEFELLER) and the Senator from Montana (Mr. TESTER) were added as cosponsors of amendment No. 2760 proposed to H.R. 3082, a bill making appropriations for military construction, the Department of Veterans Affairs, and related agencies for the fiscal year ending September 30, 2010, and for other purposes.

#### STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. UDALL, of New Mexico (for himself and Mr. BOND):

S. 2760. A bill to amend title 38, United States Code, to provide for an increase in the annual amount authorized to be appropriated to the Secretary of Veterans Affairs to carry out comprehensive service programs for homeless veterans; to the Committee on Veterans' Affairs.

Mr. UDALL of New Mexico. Mr. President, tomorrow we will observe Veterans Day, a day to honor the millions of men and women who put on the uniform to defend our Nation. In communities across the Nation, we will gather to thank all veterans for their service, for their having risked their lives so that the rest of us could enjoy freedom.

I rise to offer legislation that is meant to honor veterans who are too often forgotten. Tonight, on the eve of the day meant to highlight their heroism, more than 130,000 veterans will be homeless, left without a home and without a warm meal. For many, they are on the streets with their families—husbands and wives and children left without any safety net. Perhaps they recently lost their job. Perhaps they recently lost their home to foreclosure. Why they are on the streets matters less than why we have left them on their own.

When coming into office, President Obama set a goal of ending homelessness among veterans within 5 years. This is a goal that I strongly support. VA Secretary Shinseki, himself a decorated veteran, has aggressively taken on this challenge, focusing efforts and funding toward eradicating homelessness.

Last Friday, I rose on this floor to increase funding for the homelessness and grant per diem program to the fully authorized amount of \$150 million. This vital program has produced real results, offering transitional housing to veterans and their families and

allowing organizations to construct and renovate facilities that can provide a multitude of services. I am hopeful that we will see this amendment pass and this level of funding included in the final bill.

However, if we are going to reach the President's goal of ending veterans' homelessness in five years, more will be needed. For that reason, I am joined today by Senator Bond in introducing S. 2760, legislation to increase the authorization of the grant and per diem program to \$200 million. This increased funding can provide hundreds, perhaps thousands, of new beds and facilities for veterans in all 50 States.

Congressman HARRY TEAGUE introduced similar legislation earlier this year in the House where it has been marked up in subcommittee and is awaiting further action. I am hopeful that we will see Congress stand up to this moral obligation and provide the full resources needed for the thousands of veterans who have no home, who have no hope.

Last week, as I offered my amendment, I read a letter from a 15-year-old Boy Scout from Albuquerque. His father and grandfather are veterans and he is planning to follow in their footsteps and join the military himself when he is old enough. This young man wrote to say how angry he is that we are not doing enough to help our homeless veterans. "These men and women are doing what they were called to do by our government," he wrote, "but then they come back and are treated so poorly by everyone. We, as a Nation, need to do more to help our veterans."

To the smart young man who wrote me that letter and to all of America's veterans, this bill builds on efforts to meet our country's moral obligations to the men and women who so bravely served our country. I thank Senator BOND for his support and I urge fast action to move this legislation forward.

By Mr. UDALL of Colorado (for himself and Mr. BENNET):

S. 2762. A bill to designate certain lands in San Miguel, Ouray, and San Juan Counties, Colorado, as wilderness, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. UDALL of Colorado. Mr. President, today I am introducing the San Juan Mountains Wilderness Act of 2009. This bill is the Senate companion to the bill introduced by Representative JOHN SALAZAR in the House of Representatives.

I want to thank Representative SALAZAR for all of his great work in bringing this bill forward. I am proud to sponsor this legislation in the Senate along with my Colorado colleague, Senator BENNET.

The San Juan Mountains Wilderness Act would designate about 33,383 acres in southwestern Colorado as wilder-

ness, and about 21,697 acres as a special management area. It would also withdraw about 6,596 acres from mineral entry lands within the Naturita Canyon.

The bill is the result of the extensive work by many people to develop a collaborative approach to wilderness proposals and land protection designations. Representative SALAZAR and his staff worked with the affected Colorado county commissioners and interested stakeholders in developing this legislation. It is crafted to take into account the various ongoing uses of these lands, such as for water and recreation, while also providing strong managerial protection for these sensitive lands.

These lands are indeed worthy of this designation.

This region of Colorado is blessed with stunning beauty. Much of the land proposed for wilderness and other protections in this legislation are additions to existing wilderness. Those areas include the Mt. Sneffels Wilderness Area and the Lizard Head Wilderness—two areas that contain fourteen thousand foot peaks. They are defined by their rugged beauty or rock and ice surrounded by forests that frame these peaks in summer's vibrant greens and brilliant fall colors.

The bill also establishes a new area called McKenna Peak. This peak presides over imposing sandstone cliffs which rise 2,000 feet above the plain that presents a remarkable opportunity to add a unique landform to the National Wilderness Preservation System. It also provides important winter wildlife habitat for large numbers of deer and elk. The Peak borders North Mountain, now considered to contain one of the largest deer and elk herds in all of Colorado. The Division of Wildlife places winter numbers of deer at 500 to 600, with up to 150 wintering elk. The favorable habitat for deer and elk naturally draws many hunters. Over 30,000 recreation user days are recorded annually during hunting season in the game management unit of which McKenna Peak is a part.

A wild horse herd numbering about 100 roams the western reaches of McKenna Peak within the designated Spring Creek Wild Horse Herd Management Area. Bald eagles winter in the lower reaches of the area, and peregrine falcons have been sighted as well. Mountain lions, bobcats, and black bear are also known to inhabit McKenna Peak. Other natural features of interest include rich fossil beds.

Moreover, the bill would establish the Sheep Mountain Special Management Area. This area is equally as striking as the surrounding mountains and valleys that are already protected or would be protected as wilderness in this legislation. However, since helicopter skiing currently exists in this area, the legislation designates this area in a way that protects its wilder-

ness character, but still allows this use to continue. It is the sort of accommodation that is reflective of sound wilderness and land protection proposals, and I appreciate the compromises that are reflected in this approach.

As many of these lands are in high altitude areas, there should not be any issues related to water or other conflicts. As a result, the legislation does not exert a federally reserved water right, but allows access to existing water facilities and needs while also precluding any federal assistance for any new or expansion of existing water resource facility.

This bill has been carefully crafted and narrowly tailored to apply deserving protections to these lands. I look forward to working with my colleagues in seeing it passed.

Mr. President, I ask unanimous Consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 2762

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE.

This Act may be cited as the "San Juan Mountains Wilderness Act of 2009".

#### SEC. 2. DEFINITIONS.

In this Act:

(1) COVERED LAND.—The term "covered land" means—

(A) lands designated as wilderness under section 3 or section 4; and

(B) lands designated as a special management area under section 4.

(2) NONCONFORMING USE.—The term "nonconforming use" means any commercial helicopter-assisted skiing or snowboarding activities within the lands designated as a special management area under section 4 that have been authorized by the Secretary as of the date of enactment of this Act.

(3) SECRETARY.—The term "Secretary" means the Secretary of the Interior or the Secretary of Agriculture, as appropriate.

(4) STATE.—The term "State" means the State of Colorado.

#### SEC. 3. ADDITIONS TO THE WILDERNESS PRESERVATION SYSTEM.

(a) DESIGNATION.—In accordance with the Wilderness Act (16 U.S.C. 1131 et seq.), the following areas in the State are designated as wilderness areas and as components of the National Wilderness Preservation System:

(1) Certain lands in the Grand Mesa, Uncompahgre, and Gunnison National Forests comprising approximately 3,170 acres, as generally depicted on a map titled "Proposed Wilson, Sunshine, Black Face and San Bernardo Additions to the Lizard Head Wilderness", dated May 2009, and which are hereby incorporated into the Lizard Head Wilderness area.

(2) Certain lands in the Grand Mesa, Uncompahgre, and Gunnison National Forests comprising approximately 8,375 acres, as generally depicted on a map titled "Proposed Liberty Bell and Last Dollar Additions to the Mt. Sneffels Wilderness", dated May 2009, and which are hereby incorporated into the Mt. Sneffels Wilderness area.

(3) Certain lands in the Grand Mesa, Uncompahgre, and Gunnison National Forests comprising approximately 13,224 acres,

as generally depicted on a map titled "Proposed Whitehouse Additions to the Mt. Sneffels Wilderness", dated May 2009, and which are hereby incorporated into the Mt. Sneffels Wilderness area.

(4)(A) Certain lands in the San Juan Resource Area of the Bureau of Land Management comprising approximately 8,614 acres, as generally depicted on a map titled "Proposed McKenna Peak Wilderness", dated May 2009, and which shall be known as the McKenna Peak Wilderness.

(B) The lands designated under subparagraph (A) shall be administered as a component of the National Landscape Conservation System.

(b) MAP AND DESCRIPTION.—

(1) IN GENERAL.—As soon as practicable after the date of the enactment of this Act, the Secretary shall file a map and a legal description of each wilderness area designated by this Act with—

(A) the Committee on Natural Resources of the House of Representatives; and

(B) the Committee on Energy and Natural Resources of the Senate.

(2) FORCE OF LAW.—A map and legal description filed under paragraph (1) shall have the same force and effect as if included in this Act, except that the Secretary may correct clerical and typographical errors in the map and legal description.

(3) PUBLIC AVAILABILITY.—Each map and legal description filed under paragraph (1) shall be filed and made available for public inspection in the Office of the Director of the Bureau of Land Management and in the Office of the Chief of the Forest Service, as appropriate.

#### SEC. 4. SHEEP MOUNTAIN SPECIAL MANAGEMENT AREA.

(a) DESIGNATION.—Certain lands in the Grand Mesa, Uncompahgre, and Gunnison and San Juan National Forests comprising approximately 21,697 acres as generally depicted on a map titled "Proposed Sheep Mountain Special Management Area" and dated May 2009, are hereby designated as the Sheep Mountain Special Management Area.

(b) MAPS AND DESCRIPTIONS.—

(1) IN GENERAL.—As soon as practicable after the date of enactment of this Act, the Secretary shall file maps and legal descriptions of the Federal land described in subsection (a) with—

(A) the Committee on Energy and Natural Resources of the Senate; and

(B) the Committee on Natural Resources of the House of Representatives.

(2) FORCE OF LAW.—The maps and legal descriptions filed under paragraph (1) shall have the same force and effect as if included in this Act, except that the Secretary may correct typographical errors in the maps and legal descriptions.

(3) PUBLIC AVAILABILITY.—Each map and legal description filed under paragraph (1) shall be on file and available for public inspection in the appropriate offices of the United States Forest Service.

(c) MANAGEMENT.—

(1) IN GENERAL.—Until Congress determines otherwise, activities within the area designated in subsection (a) shall be managed by the Secretary of Agriculture so as to maintain the area's presently existing wilderness character and potential for inclusion in the National Wilderness Preservation System.

(2) PROHIBITIONS.—The following shall be prohibited on the Federal land described in subsection (a):

(A) Permanent roads.

(B) Except as necessary to meet the minimum requirements for the administration

of the Federal land and to protect public health and safety—

(i) the use of motorized or mechanized vehicles, except as described in paragraph (3); and

(ii) the establishment of temporary roads.

(3) ALLOWABLE ACTIVITIES.—The Secretary may allow activities, including helisking, that have been authorized as of the date of the enactment of this Act to continue within the area designated in subsection (a). The designation under subsection (a) shall not impact future permit processes relating to such activities.

(4) APPLICABLE LAW.—Any uses of the Federal land described in subsection (a), including activities described in paragraph (3), shall be in accordance with applicable law.

(d) WITHDRAWAL.—Subject to valid existing rights, the Federal land described in subsection (a) is withdrawn from—

(1) all forms of entry, appropriation, or disposal under the public land laws;

(2) location, entry, and patent under the mining laws; and

(3) disposition under all laws relating to mineral and energy leasing.

(e) DESIGNATION AS WILDERNESS.—Lands described in subsection (a) shall be designated as wilderness on the date on which the Secretary publishes in the Federal Register notice that the nonconforming use has terminated.

(f) ADMINISTRATION AS WILDERNESS.—Upon its designation as wilderness under subsection (e), the Sheep Mountain Special Management Area shall be—

(1) known as the Sheep Mountain Wilderness; and

(2) administered in accordance with the Wilderness Act (16 U.S.C. 1133 et seq.) and section 3.

#### SEC. 5. ADMINISTRATIVE PROVISIONS.

(a) IN GENERAL.—

(1) Subject to valid rights in existence on the date of the enactment of this Act, land designated as wilderness under section 3 or section 4 shall be administered by the Secretary in accordance with—

(A) the Wilderness Act (16 U.S.C. 1131 et seq.); and

(B) this Act.

(2) The Secretary may continue to authorize the competitive running event permitted since 1992 in the vicinity of the boundaries of the Sheep Mountain Special Management Area designated by section 4(a) and the Liberty Bell addition to the Mt. Sneffels Wilderness designated by section 3(a)(2) in a manner compatible with the preservation of such areas as wilderness.

(b) EFFECTIVE DATE OF THE WILDERNESS ACT.—With respect to land designated as wilderness under section 3 or section 4, any reference in the Wilderness Act (16 U.S.C. 1131 et seq.) to the effective date of the Wilderness Act shall be deemed to be a reference to the date of the enactment of this Act or the date of the Secretary designating the land as wilderness.

(c) FISH AND WILDLIFE.—Nothing in this Act shall affect the jurisdiction or responsibility of the State with respect to wildlife and fish.

(d) NO BUFFER ZONES.—

(1) IN GENERAL.—Nothing in this Act shall create a protective perimeter or buffer zone around covered land.

(2) ACTIVITIES OUTSIDE WILDERNESS.—The fact that a nonwilderness activity or use can be seen or heard from within covered land shall not preclude the conduct of the activity or use outside the boundary of the covered land.

(e) WITHDRAWAL.—Subject to valid rights in existence on the date of the enactment of this Act, covered land is withdrawn from all forms of—

(1) entry, appropriation, or disposal under public land laws;

(2) location, entry, and patent under mining laws; and

(3) disposition under all laws pertaining to mineral and geothermal leasing or mineral materials.

(f) ACQUIRED LAND.—Any land or interest in land located inside the boundaries of covered land that is acquired by the United States after the date of the enactment of this Act shall become part of the relevant wilderness or special management area and shall be managed in accordance with this Act and other applicable law.

(g) GRAZING.—Grazing in covered land shall be administered in accordance with section 4(d)(4) of the Wilderness Act (16 U.S.C. 1133(d)(4)), as further interpreted by section 108 of Public Law 96-560, and the guidelines set forth in appendix A of the Report of the Committee on Interior and Insular Affairs to accompany H.R. 2570 of the 101st Congress (H. Rept. 101-405).

(h) AMES HYDROELECTRIC PROJECT.—The inclusion in the National Wilderness Preservation System or designation under section 4 of this Act as a Special Management Area as described in section 4 of this Act, shall not be construed to interfere with the operation and maintenance of the Ames Hydroelectric Project, as currently licensed by the Federal Energy Regulatory Commission, or as reauthorized in the future, including reasonable use of National Wilderness Preservation System lands or Special Management Area for any necessary repair or replacement of existing facilities, transport of water and aerial or land access. All means of access to the project that are currently permitted by the Secretary on the date of enactment of this Act shall be maintained.

#### SEC. 6. WATER.

(a) FINDINGS, PURPOSE, AND DEFINITION.—

(1) FINDINGS.—Congress finds that—

(A) the lands designated as wilderness or a Special Management Area by this Act are located at the headwaters of the streams and rivers on those lands, with few, if any, actual or proposed water resource facilities located upstream from such lands and few, if any, opportunities for diversion, storage, or other uses of water occurring outside such lands that would adversely affect the wilderness values of such lands;

(B) the lands designated as wilderness or Special Management Area by this Act are not suitable for use for development of new water resource facilities, or for the expansion of existing facilities; and

(C) therefore, it is possible to provide for proper management and protection of the wilderness value of such lands in ways different from those utilized in other legislation designating as wilderness lands not sharing the attributes of the lands designated as wilderness or Special Management Area by this Act.

(2) PURPOSE.—The purpose of this section is to protect the wilderness values of the lands designated as wilderness or Special Management Area by this Act by means other than those based on a Federal reserved water right.

(3) DEFINITION.—As used in this section, the term "water resource facility" means irrigation and pumping facilities, reservoirs, water conservation works, aqueducts, canals, ditches, pipelines, wells, hydropower

projects, and transmission and other ancillary facilities, and other water diversion, storage, and carriage structures.

(b) **RESTRICTIONS ON RIGHTS AND DISCLAIMER OF EFFECT.**—

(1) **WATER RIGHTS CLAIMS.**—Neither the Secretary of Agriculture nor the Secretary of the Interior, nor any other officer, employee, representative, or agent of the United States, nor any other person, shall assert in any court or agency, nor shall any court or agency consider, any claim to or for water or water rights in the State of Colorado, which is based on any construction of any portion of this Act, or the designation of any lands as wilderness or Special Management Area by this Act, as constituting an express or implied reservation of water or water rights.

(2) **NO AFFECT ON WATER RIGHTS.**—Nothing in this Act shall be construed as a creation, recognition, disclaimer, relinquishment, or reduction of any water rights of the United States in the State of Colorado existing before the date of enactment of this Act.

(3) **NO INTERPRETATION OR DESIGNATION.**—Except as provided in subsection (g), nothing in this Act shall be construed as constituting an interpretation of any other Act or any designation made by or pursuant thereto.

(4) **NO PRECEDENT.**—Nothing in this section shall be construed as establishing a precedent with regard to any future wilderness designations.

(c) **NEW OR EXPANDED PROJECTS.**—Notwithstanding any other provision of law, on and after the date of enactment of this Act neither the President nor any other officer, employee, or agent of the United States shall fund, assist, authorize, or issue a license or permit for the development of any new water resource facility within the areas described in sections 3 and 4 or the enlargement of any water resource facility within the areas described in sections 3 and 4.

(d) **ACCESS AND OPERATION.**—

(1) **ACCESS TO WATER RESOURCE FACILITIES.**—Subject to the provisions of this subsection, the Secretary shall allow reasonable access to water resource facilities in existence on the date of enactment of this Act within the areas described in sections 3 and 4, including motorized access where necessary and customarily employed on routes existing as of the date of enactment of this Act.

(2) **ACCESS ROUTES.**—Existing access routes within such areas customarily employed as of the date of enactment of this Act may be used, maintained, repaired, and replaced to the extent necessary to maintain their present function, design, and serviceable operation, so long as such activities have no increased adverse impacts on the resources and values of the areas described in sections 3 and 4 than existed as of the date of enactment of this Act.

(3) **USE OF WATER RESOURCE FACILITIES.**—Subject to the provisions of subsections (c) and (d), the Secretary shall allow water resource facilities existing on the date of enactment of this Act within areas described in sections 3 and 4 to be used, operated, maintained, repaired, and replaced to the extent necessary for the continued exercise, in accordance with Colorado State law, of vested water rights adjudicated for use in connection with such facilities by a court of competent jurisdiction prior to the date of enactment of this Act. The impact of an existing facility on the water resources and values of the area shall not be increased as a result of changes in the adjudicated type of use of such facility as of the date of enactment of this Act.

(4) **REPAIR AND MAINTENANCE.**—Water resource facilities, and access routes serving such facilities, existing within the areas described in sections 3 and 4 on the date of enactment of this Act shall be maintained and repaired when and to the extent necessary to prevent increased adverse impacts on the resources and values of the areas described in sections 3 and 4.

(e) **EXISTING PROJECTS.**—Except as provided in subsections (c) and (d), the provisions of this Act related to the areas described in sections 3 and 4, and the inclusion in the National Wilderness Preservation System of the areas described in section 3 and 4, shall not be construed to affect or limit the use, operation, maintenance, repair, modification, or replacement of water resources facilities in existence on the date of enactment of this Act within the boundaries of the areas described in sections 3 and 4.

(f) **MONITORING AND IMPLEMENTATION.**—The Secretaries of Agriculture and the Interior shall monitor the operation of and access to water resource facilities within the areas described in sections 3 and 4 and take all steps necessary to implement the provisions of this section.

(g) **INTERSTATE COMPACTS.**—Nothing in this Act, and nothing in any previous Act designating any lands as wilderness, shall be construed as limiting, altering, modifying, or amending any of the interstate compacts or equitable apportionment decrees that apportion water among and between the State of Colorado and other States. Except as expressly provided in this section, nothing in this Act shall affect or limit the development or use by existing and future holders of vested water rights of Colorado's full apportionment of such waters.

#### **SEC. 7. NATURITA CANYON MANAGEMENT PROVISIONS.**

(a) **WITHDRAWAL.**—Subject to valid rights in existence on the date of the enactment of this Act, land described in subsection (b) is withdrawn from all forms of—

(1) entry, appropriation, or disposal under public land laws;

(2) location, entry, and patent under mining laws; and

(3) disposition under all laws pertaining to mineral and geothermal leasing or mineral materials.

(b) **LAND DESCRIBED.**—The land to be protected under subsection (a) is the approximately 6,596 acres depicted on the map titled "Naturita Canyon Mineral Withdrawal Area" and dated May 2009.

By Mr. KERRY:

S. 2765. A bill to amend the Small Business Act to authorize loan guarantees for health information technology; to the Committee on Small Business and Entrepreneurship.

Mr. KERRY. Mr. President, as we move forward in modernizing our health care system, we must not forget the small businesses that simply cannot afford the upfront costs of installing new health information technology. That is why today I am introducing the Small Business Health Information Technology Financing Act. This bill will amend the Small Business Act to allow the administrator of the Small Business Administration to guarantee up to 90 percent of the amount of a loan to small business health professionals to be used for the purchase and installation of health in-

formation technology. The loans can be used for computer hardware, software and other technology that will assist in the use of electronic health records and prescriptions.

A modernized health system using electronic prescribing and electronic health records will help improve patient care while reducing costs. Electronic prescribing not only saves money through improved efficiency, but more importantly, it reduces medical errors and saves lives. According to the Institute of Medicine, 1/3 of written prescriptions require follow-up clarification, with medication mistakes causing 7,000 deaths and 1.5 million injuries per year. The Medicare Improvements for Patients and Providers Act that was enacted into law in July 2008 included provisions from my electronic prescribing bill, providing incentive payments for medical professionals using electronic prescribing. Now we must take an additional step to make health IT accessible to small providers so they can afford to implement new technology such as e-prescribing and electronic health records.

Small businesses employ more than half of all private sector employees and have generated 64 percent of net new jobs in the past 15 years. Access to capital for small health providers not only benefits patients but also boosts small businesses in the medical field. Helping small businesses grow and succeed is critical as we look to create jobs and strengthen the economy.

It is my hope that we can move forward with this bill in a bi-partisan manner. I ask all of my colleagues to support this legislation.

By Mr. KERRY (for himself and Mr. CASEY):

S. 2766. A bill to provide for the coverage of medically necessary food under Federal health programs and private health insurance; to the Committee on Finance.

Mr. KERRY. Mr. President, each year an estimated 2,550 children in the U.S. are diagnosed with an inborn error of metabolism disorder. For the rest of their lives they will need modified foods that are void of the nutrients their body is incapable of processing. They may also require supplementation with pharmacological doses of vitamins and amino acids. The good news is that with treatment they can lead normal, productive lives. But without these foods and supplements, patients can become severely brain-damaged and hospitalized.

Newborn screening has made a tremendous difference in the early diagnosis of metabolic disorders, but affordable and accessible treatment options remain out of reach for too many Americans. Medical foods and supplements which are necessary for treatment may not be covered by insurance policies and can be prohibitively expensive for many families. For those with

a metabolic disorder, medical foods are critical in treatment, just as other conditions are treated with pills or injections. The sporadic insurance coverage of treatment has already been recognized as a problem. Over 30 States have enacted laws to enforce coverage of medical foods, but too many loopholes Thmain and federal legislation is necessary to ensure that these individuals receive what they need to stay well.

The Medical Foods Equity Act follows the April 2009 recommendations of the U.S. Health and Human Services Secretary's Advisory Committee on Heritable Disorders in Newborns and Children. It will ensure coverage of medical foods and necessary supplements for individuals with disorders as recommended by the Advisory Committee and, most importantly, peace of mind for those families affected by inborn errors of metabolism.

The lack of medical food coverage available to families has a significant impact on their lives. With the current situation of varying regulations between States and insurance providers, even families with coverage find themselves living in fear that a change in insurance provider will lead to reduced or nonexistent coverage. Too many Americans across the country are struggling to access the treatment they need for this type of disorder.

Take the story of Donna from Wilmington, MA. Donna has two daughters with phenylketonuria and she speaks eloquently about the frustration she experienced after her employer switched insurance plans. Because medical foods are not listed along with other necessary medicines, Donna was forced to navigate a long list mostly made up of durable medical equipment providers unequipped to help her. Even when she finally found a pharmacy that could order the formula, she was told that they required an upfront payment because they were wary of not being reimbursed by insurance companies. In Donna's own words, she was dismayed at "having that feeling like you're being held hostage every time a change may occur in your insurance or carrier."

Donna's story sharply illustrates the potential pitfalls even for those with insurance that offers some coverage. Too many families face a lack of coverage altogether. Take the case of Gwen of Waltham, Massachusetts. Her son Austen was 36 hours old when his heart stopped for over 20 minutes. Thankfully, he was stabilized but one doctor gave him only 6 months to live. A second opinion brought hope for Austen's family and a diagnosis of Glutaric Acidemia Type Two. Glutaric Acidemia Type Two is an inborn error of metabolism managed almost exclusively through diet. Because of the disorder, Austen cannot metabolize much fat or protein. He relies on supplements and specialty foods. MassHealth, Med-

icaid, covers most of the supplements but not the foods. Gwen pays for his food out of pocket, a significant strain on the family budget at a time when many families can least afford it. That strain is coupled with fears of job security and thoughts of what would happen if she could not pay for Austen's medical foods. No parent should have to see their child recover from a life-threatening trauma only to spend every day worrying about payment for their medical treatment—a treatment just as necessary as insulin for a diabetic or chemotherapy for a cancer patient.

As newborn screening and medical advances continue to improve the ability of those born with an inborn error of metabolism to lead full, healthy lives, we must make sure that the necessary treatments are available. The Medical Foods Equity Act will close existing loopholes in coverage and provide the parity in coverage these families deserve. It is my hope that we can move forward with this bill in a bipartisan manner. I ask all of my colleagues to support this legislation.

#### SUBMITTED RESOLUTIONS

##### SENATE RESOLUTION 349—SUPPORTING AND ENCOURAGING GREATER SUPPORT FOR VETERANS DAY

Mr. BURR (for himself, Mr. AKAKA, Mr. ISAKSON, and Mr. JOHANNES) submitted the following resolution; which has considered and agreed to:

S. RES. 349

Whereas veterans of service in the United States Armed Forces have served the Nation with honor and at great personal sacrifice;

Whereas the people of the United States owe the security of the Nation to those who have defended it;

Whereas on Veterans Day each year, the Nation honors those who have defended democracy by serving in the Armed Forces;

Whereas veterans continue to provide a valuable service in their communities across the Nation and are important members of society;

Whereas we must honor and express our sincere gratitude to all our veterans for their unwavering commitment to country, justice, and democracy;

Whereas the observance of Veterans Day is an expression of faith in democracy, faith in United States values, and faith that those who fight for freedom will defeat those whose cause is unjust;

Whereas major hostilities of World War I were formally ended at the 11th hour of the 11th day of the 11th month of 1918 by the signing of the Armistice near Compiègne, France; and

Whereas section 6103(a) of title 5, United States Code, provides that "Veteran's Day, November 11" is a legal public holiday: Now, therefore, be it

*Resolved*, That the Senate encourages—

(1) the people of the United States to demonstrate their support for veterans on Veterans Day each year by treating that day as a special day of reflection; and

(2) schools and teachers to educate students on the great contributions veterans have made to the United States and its history, both while serving as members of the United States Armed Forces and after completing their service.

##### SENATE RESOLUTION 350—RECOGNIZING NOVEMBER 14, 2009, AS THE 49TH ANNIVERSARY OF THE FIRST DAY OF INTEGRATED SCHOOLS IN NEW ORLEANS, LOUISIANA

Mr. FEINGOLD (for himself and Ms. LANDRIEU) submitted the following resolution; which was considered and agreed to:

S. RES. 350

Whereas, in 1954, the Supreme Court ruled that segregated schools violated the Equal Protection Clause of the 14th amendment to the Constitution;

Whereas Judge J. Skelly Wright, of the United States District Court for the Eastern District of Louisiana, ordered the Orleans Parish School Board to develop a school desegregation plan in 1956 and, after years of delay, in 1960, ordered the Orleans Parish School Board to carry out a plan designed by the United States District Court for the Eastern District of Louisiana;

Whereas 6 years after the Brown v. Board of Education (347 U.S. 483) decision, on November 14, 1960, Ruby Bridges, at the age of 6, became the first African-American student to attend the all-white William Frantz Elementary School in New Orleans, Louisiana;

Whereas, in 1995, Ruby Bridges contributed to "The Story of Ruby Bridges", a book for children, and, in 1999, wrote "Through My Eyes" to help educate children and people of all ages about her experiences and the importance of tolerance;

Whereas Ruby Bridges established the Ruby Bridges Foundation in 1999 to help eliminate racism and improve society by educating students about the experiences of Ruby Bridges, discuss ongoing efforts to promote diversity, and provide lessons students can take back to their own communities; and

Whereas, in 2002, the Ruby Bridges Foundation, along with the Simon Wiesenthal Center's Museum for Tolerance in Los Angeles, launched The Ruby's Bridges Project, a program that brought together students from diverse backgrounds to develop relationship-building skills and promote an appreciation of one another: Now, therefore, be it

*Resolved*, That the Senate—

(1) recognizes November 14, 2009, as the 49th anniversary of the first day of integrated schools in New Orleans, Louisiana;

(2) remembers Judge J. Skelly Wright for his advocacy, support, and lifelong commitment to promoting civil rights, fairness, and equality;

(3) commends Ruby Bridges for her bravery and courage 49 years ago, and for her lifetime commitment to raising awareness of diversity through improved educational opportunities for all children;

(4) supports policies and efforts to—

(A) close the achievement gap in the schools of our Nation;

(B) improve the high school graduation rate for all students;

(C) strengthen the ability of all students to attend and complete post-secondary education; and

(D) promote the benefits of school integration throughout the educational careers of students; and

(5) congratulates all the individuals who have dedicated their lives to the field of education and to promoting equal opportunities for all students regardless of the backgrounds of the students.

# SENATE RESOLUTION 351—DESIGNATING THE WEEK BEGINNING ON NOVEMBER 9, 2009, AS NATIONAL SCHOOL PSYCHOLOGY WEEK

Mrs. LINCOLN submitted the following resolution; which was considered and agreed to:

## S. RES. 351

Whereas all children and youth learn best when they are healthy, supported, and receive an education that meets their individual needs;

Whereas schools can more effectively ensure that all students are ready and able to learn if schools meet all the needs of each student;

Whereas learning and development are directly linked to the mental health of children, and a supportive learning environment is an optimal place to promote mental health;

Whereas sound psychological principles are critical to proper instruction and learning, social and emotional development, prevention and early intervention, and support for a culturally diverse student population;

Whereas school psychologists are specially trained to deliver mental health services and academic support that lower barriers to learning and allow teachers to teach more effectively;

Whereas school psychologists facilitate collaboration that helps parents and educators identify and reduce risk factors, promote protective factors, create safe schools, and access community resources;

Whereas school psychologists are trained to assess barriers to learning, utilize data-based decisionmaking, implement research-driven prevention and intervention strategies, evaluate outcomes, and improve accountability;

Whereas State educational agencies and other State entities credential more than 35,000 school psychologists who practice in schools in the United States as key professionals that promote the learning and mental health of all children;

Whereas the National Association of School Psychologists establishes and maintains high standards for training, practice, and school psychologist credentialing, in collaboration with organizations such as the American Psychological Association, that promote effective and ethical services by school psychologists to children, families, and schools; and

Whereas the people of the United States should recognize the vital role school psychologists play in the personal and academic development of the Nation's children: Now, therefore, be it

*Resolved*, That the Senate—

(1) designates the week beginning on November 9, 2009, as National School Psychology Week;

(2) honors and recognizes the contributions of school psychologists to the success of students in schools across the United States; and

(3) encourages the people of the United States to observe the week with appropriate

ceremonies and activities that promote awareness of the vital role school psychologists play in schools, in the community, and in helping students develop into successful and productive members of society.

# SENATE RESOLUTION 352—ENCOURAGING BANKS AND MORTGAGE SERVICERS TO WORK WITH FAMILIES AFFECTED BY CONTAMINATED DRYWALL TO ALLOW TEMPORARY FORBEARANCE WITHOUT PENALTY ON PAYMENTS ON THEIR HOME MORTGAGES

Mr. WARNER (for himself, Ms. LANDRIEU, Mr. VITTER, Mr. WEBB, Mr. NELSON of Florida, Mr. LEMIEUX) submitted the following resolution; which was considered and agreed to:

## S. RES. 352

Whereas since January 2009, over 1,300 cases of contaminated drywall have been reported in 26 States and the District of Columbia;

Whereas many individuals living in homes with contaminated drywall have reported problems with their health, including bloody noses, rashes, sore throats, burning eyes, and upper respiratory tract conditions;

Whereas some homeowners living with contaminated drywall have reported corrosion of metals inside their homes, such as air conditioning coils and electrical wiring;

Whereas as a result of these problems, many families that have contaminated drywall in their homes have moved out of their residences and into temporary living situations, with few such families being able to afford an additional financial burden;

Whereas because of cases of contaminated drywall, some Americans who pay their mortgages on time are now suffering from financial problems at no fault of their own; and

Whereas banks and mortgage servicers can help families affected by contaminated drywall by providing temporary forbearance with respect to their mortgage payments to help such families afford the costs of an additional residence while they are removed from their primary homes: Now, therefore, be it

*Resolved*, That the Senate encourages banks and mortgage servicers to work with families affected by contaminated drywall to allow temporary forbearance without penalty on payments on their home mortgages.

# SENATE RESOLUTION 353—SUPPORTING THE GOALS AND IDEALS OF "AMERICAN EDUCATION WEEK"

Mrs. HAGAN (for herself, Mr. JOHANNES, Mr. BROWN, Mr. LEVIN, Mr. BEGICH, Mr. TESTER, Mr. FEINGOLD, Mr. BURRIS, Ms. MIKULSKI, and Mr. DODD) submitted the following resolution; which was referred to the Committee on Health, Education, Labor, and Pensions:

## S. RES. 353

Whereas the National Education Association has designated November 15 through November 21, 2009, as the 88<sup>th</sup> annual observance of "American Education Week";

Whereas public schools are the backbone of democracy in the United States, providing

young people with the tools needed to maintain the precious values of freedom, civility, and equality in our Nation;

Whereas by equipping young people in the United States with both practical skills and broader intellectual abilities, public schools give young people hope for, and access to, a productive future;

Whereas people working in the field of public education, including teachers, higher education faculty and staff, custodians, substitute educators, bus drivers, clerical workers, food service professionals, workers in skilled trades, health and student service workers, security guards, technical employees, and librarians, work tirelessly to serve children and communities throughout the Nation with care and professionalism; and

Whereas public schools are community linchpins, bringing together adults, children, educators, volunteers, business leaders, and elected officials in a common enterprise: Now, therefore, be it

*Resolved*, That the Senate—

(1) supports the goals and ideals of "American Education Week"; and

(2) encourages the people of the United States to observe "American Education Week" by reflecting on the positive impact of all those who work together to educate children.

## AMENDMENTS SUBMITTED AND PROPOSED

SA 2771. Mr. ENSIGN submitted an amendment intended to be proposed to amendment SA 2730 proposed by Mr. JOHNSON (for himself and Mrs. HUTCHISON) to the bill H.R. 3082, making appropriations for military construction, the Department of Veterans Affairs, and related agencies for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table.

SA 2772. Mr. VITTER submitted an amendment intended to be proposed by him to the bill H.R. 3082, supra; which was ordered to lie on the table.

SA 2773. Mr. MCCONNELL submitted an amendment intended to be proposed to amendment SA 2730 proposed by Mr. JOHNSON (for himself and Mrs. HUTCHISON) to the bill H.R. 3082, supra; which was ordered to lie on the table.

SA 2774. Mr. INHOFE (for himself, Mr. BARRASSO, Mr. BROWNBACK, Mr. CRAPO, Mr. DEMINT, Mr. ENZI, Mr. JOHANNES, Mr. KYL, Mr. ROBERTS, Mr. THUNE, Mr. VITTER, Mr. BOND, and Mr. HATCH) submitted an amendment intended to be proposed to amendment SA 2730 proposed by Mr. JOHNSON (for himself and Mrs. HUTCHISON) to the bill H.R. 3082, supra.

SA 2775. Mr. WARNER (for himself, Mrs. FEINSTEIN, Mrs. SHAHEEN, Mrs. HAGAN, and Mrs. BOXER) submitted an amendment intended to be proposed to amendment SA 2730 proposed by Mr. JOHNSON (for himself and Mrs. HUTCHISON) to the bill H.R. 3082, supra; which was ordered to lie on the table.

SA 2776. Mr. MCCAIN submitted an amendment intended to be proposed to amendment SA 2754 submitted by Mr. INOUE to the amendment SA 2730 proposed by Mr. JOHNSON (for himself and Mrs. HUTCHISON) to the bill H.R. 3082, supra; which was ordered to lie on the table.

SA 2777. Ms. KLOBUCHAR submitted an amendment intended to be proposed to amendment SA 2730 proposed by Mr. JOHNSON (for himself and Mrs. HUTCHISON) to the bill H.R. 3082, supra; which was ordered to lie on the table.

SA 2778. Mr. DEMINT submitted an amendment intended to be proposed to amendment



SA 2730 proposed by Mr. JOHNSON (for himself and Mrs. HUTCHISON) to the bill H.R. 3082, supra; which was ordered to lie on the table.

SA 2779. Mr. DEMINT proposed an amendment to amendment SA 2730 proposed by Mr. JOHNSON (for himself and Mrs. HUTCHISON) to the bill H.R. 3082, supra.

SA 2780. Mr. REID (for Mrs. MURRAY) proposed an amendment to the bill S. 1422, to amend the Family and Medical Leave Act of 1993 to clarify the eligibility requirements with respect to airline flight crews.

#### TEXT OF AMENDMENTS

**SA 2771.** Mr. ENSIGN submitted an amendment intended to be proposed to amendment SA 2730 proposed by Mr. JOHNSON (for himself and Mrs. HUTCHISON) to the bill H.R. 3082, making appropriations for military construction, the Department of Veterans Affairs, and related agencies for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title II, add the following:

SEC. 229. In administering section 51.210(d) of title 38, Code of Federal Regulations, the Secretary of Veterans Affairs shall permit a State home to provide services to, in addition to non-veterans described in such section, a non-veteran any of whose children died while serving in the Armed Forces.

**SA 2772.** Mr. VITTER submitted an amendment intended to be proposed by him to the bill H.R. 3082, making appropriations for military construction, the Department of Veterans Affairs, and related agencies for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. \_\_\_\_\_. (a) Notwithstanding any other provision of law, no funds appropriated or otherwise made available to the Secretary of Health and Human Services (referred to in this section as the "Secretary") may be used by the Secretary to require that oysters be treated with post-harvest processing or other treatment or cooking requirements that result in a prohibition on selling or consuming raw oysters.

(b)(1) The Secretary, acting through the Commissioner of Food and Drugs, and in cooperation with the oyster industry, the Interstate Shellfish Sanitation Conference, and any other agency such Commissioner deems appropriate, shall conduct an education campaign to increase awareness of the risks associated with consuming raw oysters.

(2) The education campaign conducted under paragraph (1) shall include the following components:

(A) A focus on educating the populations most at risk for harm from eating raw oysters, especially those with liver diseases or weakened immune systems.

(B) Informing oyster harvesters, processors, and distributors of all the requirements for oyster storage and handling and best practices to keep oysters safe for human consumption.

(3) There are authorized to be appropriated such sums as may be necessary to carry out this subsection.

(c) If the Secretary issues a proposed regulation or guidance that affects the har-

vesting, processing, or transportation of seafood harvested in the United States, then in no case may such regulation or guidance become final or take effect until the Secretary submits to the appropriate committees of Congress a report that contains—

(1) a cost-benefit analysis and an economic impact study on such proposed regulation or guidance;

(2) a health impact analysis that describes any alleged health risks that such proposed regulation or guidance seeks to address and an explanation of how such regulation or guidance would address those risks; and

(3) an analysis that compares such proposed regulation or guidance to any similar regulations or guidance with respect to other regulated foods, including a comparison of risks the Secretary may find associated with seafood and the instances of those risks in such other regulated foods.

**SA 2773.** Mr. MCCONNELL submitted an amendment intended to be proposed to amendment SA 2730 proposed by Mr. JOHNSON (for himself and Mrs. HUTCHISON) to the bill H.R. 3082, making appropriations for military construction, the Department of Veterans Affairs, and related agencies for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title II, add the following:

SEC. 229. (a) DESIGNATION OF ROBLEY REX DEPARTMENT OF VETERANS AFFAIRS MEDICAL CENTER.—The Department of Veterans Affairs Medical Center in Louisville, Kentucky, and any successor to such medical center, shall after the date of the enactment of this Act be known and designated as the "Robley Rex Department of Veterans Affairs Medical Center".

(b) REFERENCES.—Any reference in any law, regulation, map, document, record, or other paper of the United States to the medical center referred to in subsection (a) shall be considered to be a reference to the Robley Rex Department of Veterans Affairs Medical Center.

**SA 2774.** Mr. INHOFE (for himself, Mr. BARRASSO, Mr. BROWNBACK, Mr. CRAPO, Mr. DEMINT, Mr. ENZI, Mr. JOHANNES, Mr. KYL, Mr. ROBERTS, Mr. THUNE, Mr. VITTER, Mr. BOND, and Mr. HATCH) submitted an amendment intended to be proposed to amendment SA 2730 proposed by Mr. JOHNSON (for himself and Mrs. HUTCHISON) to the bill H.R. 3082, making appropriations for military construction, the Department of Veterans Affairs, and related agencies for the fiscal year ending September 30, 2010, and for other purposes; as follows:

On page 60, after line 24, add the following:

SEC. 608. (a) None of the funds appropriated or otherwise made available by this Act may be used to construct or modify a facility or facilities in the United States or its territories to permanently or temporarily hold any individual who was detained as of October 1, 2009, at Naval Station, Guantanamo Bay, Cuba.

(b) In this section, the term "United States" means the several States and the District of Columbia.

**SA 2775.** Mr. WARNER (for himself, Mrs. FEINSTEIN, Mrs. SHAHEEN, Mrs.

HAGAN, and Mrs. BOXER) submitted an amendment intended to be proposed to amendment SA 2730 proposed by Mr. JOHNSON (for himself and Mrs. HUTCHISON) to the bill H.R. 3082, making appropriations for military construction, the Department of Veterans Affairs, and related agencies for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title II, add the following:

SEC. 229. (a) STUDY ON CAPACITY OF THE DEPARTMENT OF VETERANS AFFAIRS TO ADDRESS COMBAT STRESS IN WOMEN VETERANS.—The Secretary of Veterans Affairs shall carry out a study to assess the capacity of the Department of Veterans Affairs to address combat stress in women veterans.

(b) ELEMENTS.—In carrying out the study, the Secretary shall consider the following:

(1) Whether women veterans are properly evaluated by the Department for post-traumatic stress disorder (PTSD), traumatic brain injury (TBI), and other combat stress.

(2) Whether women veterans with combat stress are properly assigned disability ratings by the Department for purposes of veterans disability benefits for combat stress.

(3) Whether the staffing and training of mental health professionals in the Department is adequate to properly identify and treat post-traumatic stress disorder in women veterans.

(4) Such other matters as the Secretary considers appropriate.

(c) REPORT.—

(1) IN GENERAL.—Not later than one year after the date of the enactment of this Act, the Secretary shall submit to the appropriate committees of Congress a report on the findings of the Secretary as a result of the study, together with such recommendations for legislative or administrative action as the Secretary considers appropriate in light of such findings.

(2) APPROPRIATE COMMITTEES OF CONGRESS DEFINED.—In this subsection, the term "appropriate committees of Congress" means—

(A) the Committees on Appropriations and Veterans' Affairs of the Senate; and

(B) the Committees on Appropriations and Veterans' Affairs of the House of Representatives.

**SA 2776.** Mr. MCCAIN submitted an amendment intended to be proposed to amendment SA 2754 submitted by Mr. INOUE to the amendment SA 2730 proposed by Mr. JOHNSON (for himself and Mrs. HUTCHISON) to the bill H.R. 3082, making appropriations for military construction, the Department of Veterans Affairs, and related agencies for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table; as follows:

On page 2 of the amendment, beginning on line 8, strike "Notwithstanding" and all that follows through line 11.

**SA 2777.** Ms. KLOBUCHAR submitted an amendment intended to be proposed to amendment SA 2730 proposed by Mr. JOHNSON (for himself and Mrs. HUTCHISON) to the bill H.R. 3082, making appropriations for military construction, the Department of Veterans Affairs, and related agencies for the fiscal year ending September 30, 2010, and



for other purposes; which was ordered to lie on the table; as follows:

On page 52, after line 21, add the following:  
**SEC. 229. (a) STUDY ON IMPROVEMENTS TO INFORMATION TECHNOLOGY INFRASTRUCTURE NEEDED TO FURNISH HEALTH CARE SERVICES TO VETERANS USING TELEHEALTH PLATFORMS.**—The Secretary of Veterans Affairs shall carry out a study to identify the improvements to the infrastructure of the Department of Veterans Affairs that are required to furnish health care services to veterans using telehealth platforms.

(b) **AVAILABILITY OF FUNDS.**—The amounts appropriated or otherwise made available by this title under the headings “DEPARTMENTAL ADMINISTRATION” and “INFORMATION TECHNOLOGY SYSTEMS” shall be available to the Secretary of Veterans Affairs to carry out the study required by subsection (a).

**SA 2778.** Mr. DEMINT submitted an amendment intended to be proposed to amendment SA 2730 proposed by Mr. JOHNSON (for himself and Mrs. HUTCHISON) to the bill H.R. 3082, making appropriations for military construction, the Department of Veterans Affairs, and related agencies for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. \_\_\_\_.** None of the funds appropriated or otherwise made available by this Act may be used to support, prepare for, or otherwise facilitate the transfer to or the detention in any State or territory of the United States any individual who was detained as of October 1, 2009, at Naval Station, Guantanamo Bay, Cuba.

**SA 2779.** Mr. DEMINT proposed an amendment to amendment SA 2730 proposed by Mr. JOHNSON (for himself and Mrs. HUTCHISON) to the bill H.R. 3082, making appropriations for military construction, the Department of Veterans Affairs, and related agencies for the fiscal year ending September 30, 2010, and for other purposes; as follows:

At the end of title II, add the following:

**SEC. 229. (a) LIMITATION ON USE OF FUNDS FOR TRANSFER OR DETENTION IN UNITED STATES OF DETAINEES AT GUANTANAMO BAY WITHOUT FULL FUNDING OF CERTAIN VETERANS PROGRAMS.**—

(1) **LIMITATION.**—None of the funds appropriated or otherwise made available by this Act may be used to support, prepare for, or otherwise facilitate the transfer to or the detention in any State or territory of the United States of any individual who was detained as of November 1, 2009, at Naval Station Guantanamo Bay, Cuba, until 15 days after the Secretary of Veterans Affairs certifies to Congress that the programs specified in subsection (b) are fully funded for fiscal year 2010.

(2) **CERTIFICATION.**—The certification submitted under this subsection shall include a description of the funding available for fiscal year 2010 for each program intended to address a need of veterans specified in subsection (b).

(b) **PROGRAMS.**—The programs specified in this subsection are the programs of the Department of Veterans Affairs to meet needs of veterans for the following:

(1) Health care.

(2) Rehabilitation and reintegration into the community of veterans suffering from traumatic brain injury (TBI).

(3) Rehabilitation and reintegration into the community of veterans suffering from post-traumatic stress disorder (PTSD).

(4) Specially adapted housing for disabled veterans.

(5) Counseling and treatment for service-connected trauma, including trauma associated with sexual assault.

**SA 2780.** Mr. REID (for Mrs. MURRAY) proposed an amendment to the bill S. 1422, to amend the Family and Medical Leave Act of 1993 to clarify the eligibility requirements with respect to airline flight crews; as follows:

On page 2, line 22, insert after “counting” the following “personal commute time or”.

## NOTICE OF HEARING

### COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BINGAMAN. Mr. President, I would like to announce for the information of the Senate and the public that a hearing has been scheduled before the Senate Committee on Energy and Natural Resources. The hearing will be held on Thursday, December 10, 2009, at 10 a.m., in room SD-366 of the Dirksen Senate Office Building.

The purpose of this hearing is to receive testimony on the role of grid-scale energy storage in meeting our energy and climate goals.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record may do so by sending it to the Committee on Energy and Natural Resources, United States Senate, Washington, D.C. 20510-6150, or by e-mail to Abigail\_Campbell@energy.senate.gov.

For further information, please contact Alicia Jackson (202) 224-3607, Abigail Campbell (202) 224-1219, or Kellie Donnelly (202) 224-9360.

## AUTHORITY FOR COMMITTEES TO MEET

### COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. KAUFMAN. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on November 10, 2009, at 10 a.m., to conduct a hearing entitled “ending veterans’ homelessness.”

The PRESIDING OFFICER. Without objection, it is so ordered.

### COMMITTEE ON FINANCE

Mr. KAUFMAN. Mr. President, I ask unanimous consent that the Committee on finance be authorized to meet during the session of the Senate on November 10, 2009, at 10 a.m., in room 215 of the Dirksen Senate Office Building, to conduct a hearing entitled

“Climate Change Legislation: Considerations for Future Jobs.”

The PRESIDING OFFICER. Without objection, it is so ordered.

### COMMITTEE ON FOREIGN RELATIONS

Mr. KAUFMAN. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on November 10, 2009, at 9 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

### COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

Mr. KAUFMAN. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions be authorized to meet, during the session of the Senate, to conduct a hearing entitled “The Cost of Being Sick: H1N1 and Paid Sick Days” on November 10, 2009. The hearing will commence at 10 a.m. in room 430 of the Dirksen Senate Office Building.

The PRESIDING OFFICER. Without objection, it is so ordered.

### COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

Mr. KAUFMAN. Mr. President, I ask unanimous consent that the Committee on Homeland Security, and Governmental Affairs be authorized to meet during the session of the Senate on November 10, 2009, at 10 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

### COMMITTEE ON THE JUDICIARY

Mr. KAUFMAN. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on November 10, 2009, at 10 a.m., in room SD-226 of the Dirksen Senate Office Building, to conduct a hearing entitled “Strengthening Our Criminal Justice System: Extending the Innocence Protection Act.”

The PRESIDING OFFICER. Without objection, it is so ordered.

### COMMITTEE ON INTELLIGENCE

Mr. KAUFMAN. Mr. President, I ask unanimous consent that the Committee on Intelligence be authorized to meet during the session of the Senate on November 10, 2009, at 2:30 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

## PRIVILEGES OF THE FLOOR

Mr. MERKLEY. Madam President, I ask unanimous consent that my military fellow, Nadine Kokolus, be granted the privilege of the floor for the duration of the day.

The PRESIDING OFFICER. Without objection, it is so ordered.

## AIRLINE FLIGHT CREW TECHNICAL CORRECTIONS ACT

Mr. REID. Madam President, I ask unanimous consent that the HELP

Committee be discharged from further consideration of S. 1422 and the Senate proceed to its consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (S. 1422) to amend the Family and Medical Leave Act of 1993 to clarify the eligibility requirements with respect to airline flight crews.

There being no objection, the Senate proceeded to consider the bill.

Mr. ENZI. Madam President, I would like to engage my friend, the Senator from Washington and the chairman of the Subcommittee on Employment and Workplace Safety, with whom I have been pleased to work on many initiatives on behalf of America's workforce, in a conversation about the bill she has just introduced. I would like to take this opportunity to clarify the treatment of workers contained in the Flight Crew Technical Corrections Act before us today that pertains to flight crews. Is it the Senator's understanding that her legislation resolves a problem unique to flight crews—meaning flight attendants and pilots—and that no other group of workers is addressed under this bill?

Mrs. MURRAY. Yes, the Senator is correct. This bill is narrowly constructed to address the unique situation faced by flight attendants and pilots in the calculation of the hours they need to qualify for leave under the Family Medical Leave Act, FMLA. I understand that the FMLA eligibility calculation does not include paid vacation, sick, medical or personal leave unless otherwise agreed to in a collective bargaining agreements or the employers manual. This bill reflects the intent of the FMLA's original sponsors to provide an alternative way to include flight crews that addresses the airline industry's unique time-keeping methods. I am proud that the Flight Crew Technical Corrections Act fixes a technical problem that has left many full-time flight crew members ineligible for family medical leave for many years due to the unique way their work hours are calculated.

Mr. ENZI. In other words, is it the Senator's understanding that the bill should not be construed to apply to other occupational groups that operate under reserve systems such as health care, railway, and emergency services to seek similar treatment?

Mrs. MURRAY. Correct, this bill narrowly deals with flight crews only. The bill is a technical correction for language that was intended to be in the original Family Medical Leave Act, but for some reason or another was left out. Flight crews were specifically mentioned in the FMLA's legislative history. Thus, I believe that the correction is clearly appropriate for flight crews. If other groups were to attempt

an adjustment in their FMLA eligibility requirements, I suggest that their situation and the ramifications of such an adjustment would need to be examined on a case by case basis.

Mr. ENZI. The Senator mentioned the FMLA's legislative history. Is it the Senator's further understanding that this is the only group of employees which was intended to be included with an alternative eligibility standard?

Mrs. MURRAY. The Senator is correct. The original authors stated that they did not intend to exclude flight crews in unique circumstances from the bill's protection simply because of the airline industry's "unusual time keeping methods." They believed that these workers—flight attendants and pilots—were entitled to family and medical leave under the law based upon the situation they specifically faced.

This legislation received overwhelming bipartisan support in the House of Representatives. I am pleased to present it in the Senate with bipartisan support. This language was drafted through a process that included representatives from large and small airline carriers and carrier associations, and organized labor. I need to recognize the work that Senator Clinton did on this bill when she introduced its precursor in the 110th Congress.

Mr. ENZI. I would like to thank the Senator from Washington and the former Senator from New York for the deliberative process they both utilized while drafting this legislation. As the Senator knows, I am a frequent advocate for following Senate committee process so as to create the opportunity for all affected stakeholders to be included in the process. In this case, the Senator has done an admirable job of vetting the legislation with most stakeholders and produced a better product.

Mr. REID. Madam President, I ask unanimous consent that a Murray amendment, which is at the desk, be agreed to; the bill, as amended, be read a third time and passed; the motions to reconsider be laid upon the table, with no intervening action or debate; and any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 2780) was agreed to, as follows:

(Purpose: To clarify a requirement concerning hours of service)

On page 2, line 22, insert after "counting" the following "personal commute time or".

The bill (S. 1422), as amended, was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 1422

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE.

This Act may be cited as the "Airline Flight Crew Technical Corrections Act".

#### SEC. 2. LEAVE REQUIREMENT FOR AIRLINE FLIGHT CREWS.

(a) INCLUSION OF AIRLINE FLIGHT CREWS.—Section 101(2) of the Family and Medical Leave Act of 1993 (29 U.S.C. 2611(2)) is amended by adding at the end the following:

“(D) AIRLINE FLIGHT CREWS.—

“(i) DETERMINATION.—For purposes of determining whether an employee who is a flight attendant or flight crewmember (as such terms are defined in regulations of the Federal Aviation Administration) meets the hours of service requirement specified in subparagraph (A)(ii), the employee will be considered to meet the requirement if—

“(I) the employee has worked or been paid for not less than 60 percent of the applicable total monthly guarantee, or the equivalent, for the previous 12-month period, for or by the employer with respect to whom leave is requested under section 102; and

“(II) the employee has worked or been paid for not less than 504 hours (not counting personal commute time or time spent on vacation leave or medical or sick leave) during the previous 12-month period, for or by that employer.

“(ii) FILE.—Each employer of an employee described in clause (i) shall maintain on file with the Secretary (in accordance with such regulations as the Secretary may prescribe) containing information specifying the applicable monthly guarantee with respect to each category of employee to which such guarantee applies.

“(iii) DEFINITION.—In this subparagraph, the term ‘applicable monthly guarantee’ means—

“(I) for an employee described in clause (i) other than an employee on reserve status, the minimum number of hours for which an employer has agreed to schedule such employee for any given month; and

“(II) for an employee described in clause (i) who is on reserve status, the number of hours for which an employer has agreed to pay such employee on reserve status for any given month,

as established in the applicable collective bargaining agreement or, if none exists, in the employer's policies.”.

(b) CALCULATION OF LEAVE FOR AIRLINE FLIGHT CREWS.—Section 102(a) of the Family and Medical Leave Act of 1993 (29 U.S.C. 2612(a)) is amended by adding at the end the following:

“(5) CALCULATION OF LEAVE FOR AIRLINE FLIGHT CREWS.—The Secretary may provide, by regulation, a method for calculating the leave described in paragraph (1) with respect to employees described in section 101(2)(D).”.

#### NATIONAL VETERANS HISTORY PROJECT WEEK DESIGNATION

Mr. REID. Madam President, I ask unanimous consent that the Veterans' Affairs Committee be discharged from further consideration of S. Res. 340 and the Senate now proceed to its consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 340) expressing support for designation of a National Veterans History Project Week to encourage public participation in a nationwide project that collects and preserves the stories of the men

and women who served our Nation in times of war and conflict.

There being no objection, the Senate proceeded to consider the resolution.

Mr. REID. Madam President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, and the motions to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 340) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 340

Whereas the Veterans History Project was established by a unanimous vote of the United States Congress to collect and preserve the wartime stories of American veterans;

Whereas Congress charged the American Folklife Center at the Library of Congress to undertake the Veterans History Project and to engage the public in the creation of a collection of oral histories that would be a lasting tribute to individual veterans and an abundant resource for scholars;

Whereas there are 17,000,000 wartime veterans in America whose stories can educate people of all ages about important moments and events in the history of the United States and the world and provide instructive narratives that illuminate the meanings of "service", "sacrifice", "citizenship", and "democracy";

Whereas the Veterans History Project relies on a corps of volunteer interviewers, partner organizations, and an array of civic minded institutions nationwide who interview veterans according to the guidelines it provides;

Whereas increasing public participation in the Veterans History Project will increase the number of oral histories that can be collected and preserved and increase the number of veterans it so honors; and

Whereas "National Veterans Awareness Week" commendably preceded this resolution in the years 2005 and 2006: Now, therefore, be it

*Resolved*, That the Senate—

(1) recognizes "National Veterans Awareness Week";

(2) supports the designation of a "National Veterans History Project Week";

(3) calls on the people of the United States to interview at least one veteran in their families or communities according to guidelines provided by the Veterans History Project; and

(4) encourages local, State, and national organizations, along with Federal, State, city, and county governmental institutions, to participate in support of the effort to document, preserve, and honor the service of American wartime veterans.

SUPPORTING AND ENCOURAGING GREATER SUPPORT FOR VETERANS DAY

Mr. REID. Madam President, I ask unanimous consent that the Senate proceed to S. Res. 349.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 349) supporting and encouraging greater support for Veterans Day.

There being no objection, the Senate proceeded to consider the resolution.

Mr. REID. Madam President, I ask unanimous consent the resolution be agreed to, the preamble be agreed to, and the motions to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 349) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 349

Whereas veterans of service in the United States Armed Forces have served the Nation with honor and at great personal sacrifice;

Whereas the people of the United States owe the security of the Nation to those who have defended it;

Whereas on Veterans Day each year, the Nation honors those who have defended democracy by serving in the Armed Forces;

Whereas veterans continue to provide a valuable service in their communities across the Nation and are important members of society;

Whereas we must honor and express our sincere gratitude to all our veterans for their unwavering commitment to country, justice, and democracy;

Whereas the observance of Veterans Day is an expression of faith in democracy, faith in United States values, and faith that those who fight for freedom will defeat those whose cause is unjust;

Whereas major hostilities of World War I were formally ended at the 11th hour of the 11th day of the 11th month of 1918 by the signing of the Armistice near Compiègne, France; and

Whereas section 6103(a) of title 5, United States Code, provides that "Veteran's Day, November 11" is a legal public holiday: Now, therefore, be it

*Resolved*, That the Senate encourages—

(1) the people of the United States to demonstrate their support for veterans on Veterans Day each year by treating that day as a special day of reflection; and

(2) schools and teachers to educate students on the great contributions veterans have made to the United States and its history, both while serving as members of the United States Armed Forces and after completing their service.

RECOGNIZING 49TH ANNIVERSARY OF INTEGRATED SCHOOLS IN NEW ORLEANS, LOUISIANA

Mr. REID. Madam President, I ask unanimous consent to proceed to S. Res. 350.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 350) recognizing November 14, 2009, as the 49th anniversary of the first day of integrated schools in New Orleans, Louisiana.

There being no objection, the Senate proceeded to consider the resolution.

Mr. FEINGOLD. Madam President, last spring, a first grade teacher at Barton Elementary School in Milwaukee contacted my office seeking help in furthering a project her classroom had started. The Ruby Bridges Project began as a modest effort to teach a first grade class in Milwaukee, WI, about the courage and bravery another first grader displayed on November 14, 1960, when she became the first child to integrate a public elementary school in New Orleans, LA. Soon, the Ruby Bridges Project grew and expanded because these first graders at Barton Elementary School wanted to teach other students in Milwaukee about Ruby Bridges. These first graders' efforts were featured in the local media and supported by Milwaukee Mayor Tom Barrett and then State Superintendent of Education Elizabeth Burmaster, who wrote letters of commendation for the project. The class also started a petition which garnered over 2,000 signatures from Wisconsinites, and which was sent to President Obama asking him to designate a national day of recognition honoring Ruby Bridges.

On November 14, 1960, Ruby Bridges became the first African-American child to attend William Frantz Elementary School in New Orleans, LA. While she is forever immortalized in Norman Rockwell's painting as a six-year-old child being escorted to school by U.S. Marshals, with tomatoes splattered in the background, her story is one of courage, bravery and a lifelong commitment to raising awareness of diversity through improved educational opportunities for all children. Even though Ruby Bridges endured riots and protests and retaliations against her family, she attended school at William Frantz every day during the 1960-61 school year. She was supported by her teacher, Ms. Barbara Henry, who herself faced retaliation and was not invited back to teach at William Frantz the following school year. Ruby went on to graduate high school and college, have a career and raise a family.

In 1999, Ruby Bridges established the Ruby Bridges Foundation to help eliminate racism and improve society by educating students around the country about her experiences, discussing ongoing efforts to promote diversity and providing lessons students could take back to their communities. Even today, 49 years after Ruby Bridges became the first child to attend integrated school in New Orleans, LA, her story provides an inspiring example for our young people. The story of Ruby Bridges has affected and influenced the lives of children across the country and one first grade class in Milwaukee, WI, in particular.

I urge my colleagues to join me in supporting this Senate resolution recognizing November 14, 2009, as the 49th

anniversary of the first school integration in New Orleans, LA, and commending Ruby Bridges for her bravery, courage and lifetime commitment to raising awareness of diversity through education.

Mr. REID. Madam President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motions to reconsider be laid upon the table, that there be no intervening action or debate, and any statements relating to this matter be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 350) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

#### S. RES. 350

Whereas, in 1954, the Supreme Court ruled that segregated schools violated the Equal Protection Clause of the 14th amendment to the Constitution;

Whereas Judge J. Skelly Wright, of the United States District Court for the Eastern District of Louisiana, ordered the Orleans Parish School Board to develop a school desegregation plan in 1956 and, after years of delay, in 1960, ordered the Orleans Parish School Board to carry out a plan designed by the United States District Court for the Eastern District of Louisiana;

Whereas 6 years after the *Brown v. Board of Education* (347 U.S. 483) decision, on November 14, 1960, Ruby Bridges, at the age of 6, became the first African-American student to attend the all-white William Frantz Elementary School in New Orleans, Louisiana;

Whereas, in 1995, Ruby Bridges contributed to "The Story of Ruby Bridges", a book for children, and, in 1999, wrote "Through My Eyes" to help educate children and people of all ages about her experiences and the importance of tolerance;

Whereas Ruby Bridges established the Ruby Bridges Foundation in 1999 to help eliminate racism and improve society by educating students about the experiences of Ruby Bridges, discuss ongoing efforts to promote diversity, and provide lessons students can take back to their own communities; and

Whereas, in 2002, the Ruby Bridges Foundation, along with the Simon Wiesenthal Center's Museum for Tolerance in Los Angeles, launched The Ruby's Bridges Project, a program that brought together students from diverse backgrounds to develop relationship-building skills and promote an appreciation of one another: Now, therefore, be it

*Resolved*, That the Senate—

(1) recognizes November 14, 2009, as the 49th anniversary of the first day of integrated schools in New Orleans, Louisiana;

(2) remembers Judge J. Skelly Wright for his advocacy, support, and lifelong commitment to promoting civil rights, fairness, and equality;

(3) commends Ruby Bridges for her bravery and courage 49 years ago, and for her lifetime commitment to raising awareness of diversity through improved educational opportunities for all children;

(4) supports policies and efforts to—

(A) close the achievement gap in the schools of our Nation;

(B) improve the high school graduation rate for all students;

(C) strengthen the ability of all students to attend and complete post-secondary education; and

(D) promote the benefits of school integration throughout the educational careers of students; and

(5) congratulates all the individuals who have dedicated their lives to the field of education and to promoting equal opportunities for all students regardless of the backgrounds of the students.

#### NATIONAL SCHOOL PSYCHOLOGY WEEK

Mr. REID. Madam President, I ask unanimous consent to proceed to S. Res. 351.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 351) designating the week beginning on November 9, 2009 as National School Psychology Week.

There being no objection, the Senate proceeded to consider the resolution.

Mr. REID. Madam President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, and the motions to reconsider be laid upon the table, with no intervening action or debate, and that any statements related to this matter be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 351) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

#### S. RES. 351

Whereas all children and youth learn best when they are healthy, supported, and receive an education that meets their individual needs;

Whereas schools can more effectively ensure that all students are ready and able to learn if schools meet all the needs of each student;

Whereas learning and development are directly linked to the mental health of children, and a supportive learning environment is an optimal place to promote mental health;

Whereas sound psychological principles are critical to proper instruction and learning, social and emotional development, prevention and early intervention, and support for a culturally diverse student population;

Whereas school psychologists are specially trained to deliver mental health services and academic support that lower barriers to learning and allow teachers to teach more effectively;

Whereas school psychologists facilitate collaboration that helps parents and educators identify and reduce risk factors, promote protective factors, create safe schools, and access community resources;

Whereas school psychologists are trained to assess barriers to learning, utilize data-based decisionmaking, implement research-driven prevention and intervention strategies, evaluate outcomes, and improve accountability;

Whereas State educational agencies and other State entities credential more than

35,000 school psychologists who practice in schools in the United States as key professionals that promote the learning and mental health of all children;

Whereas the National Association of School Psychologists establishes and maintains high standards for training, practice, and school psychologist credentialing, in collaboration with organizations such as the American Psychological Association, that promote effective and ethical services by school psychologists to children, families, and schools; and

Whereas the people of the United States should recognize the vital role school psychologists play in the personal and academic development of the Nation's children: Now, therefore, be it

*Resolved*, That the Senate—

(1) designates the week beginning on November 9, 2009, as National School Psychology Week;

(2) honors and recognizes the contributions of school psychologists to the success of students in schools across the United States; and

(3) encourages the people of the United States to observe the week with appropriate ceremonies and activities that promote awareness of the vital role school psychologists play in schools, in the community, and in helping students develop into successful and productive members of society.

#### ENCOURAGING BANKS AND MORTGAGE SERVICERS TO WORK WITH FAMILIES AFFECTED BY CONTAMINATED DRYWALL

Mr. REID. Madam President, I ask unanimous consent that the Senate proceed to the consideration of S. Res. 352.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 352) encouraging banks and mortgage servicers to work with families affected by contaminated drywall to allow temporary forbearance without penalty on payments on their home mortgages.

There being no objection, the Senate proceeded to consider the resolution.

Mr. REID. Madam President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motions to reconsider be laid upon the table, with no intervening action or debate, and that any statements related to the matter be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 352) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

#### S. RES. 352

Whereas since January 2009, over 1,300 cases of contaminated drywall have been reported in 26 States and the District of Columbia;

Whereas many individuals living in homes with contaminated drywall have reported problems with their health, including bloody noses, rashes, sore throats, burning eyes, and upper respiratory tract conditions;

Whereas some homeowners living with contaminated drywall have reported corrosion of metals inside their homes, such as air conditioning coils and electrical wiring;

Whereas as a result of these problems, many families that have contaminated drywall in their homes have moved out of their residences and into temporary living situations, with few such families being able to afford an additional financial burden;

Whereas because of cases of contaminated drywall, some Americans who pay their mortgages on time are now suffering from financial problems at no fault of their own; and

Whereas banks and mortgage servicers can help families affected by contaminated drywall by providing temporary forbearance with respect to their mortgage payments to help such families afford the costs of an additional residence while they are removed from their primary homes: Now, therefore, be it

*Resolved*, That the Senate encourages banks and mortgage servicers to work with families affected by contaminated drywall to allow temporary forbearance without penalty on payments on their home mortgages.

#### MEASURE READ THE FIRST TIME—H.R. 3962

Mr. REID. It is my understanding that H.R. 3962 has been received from the House and is now at the desk. I ask for its first reading.

The PRESIDING OFFICER. The clerk will state the bill by title.

The assistant legislative clerk read as follows:

A bill (H.R. 3962) to provide affordable, quality health care for all Americans and reduce the growth in health care spending, and for other purposes.

Mr. REID. Madam President, I ask for its second reading, but I object to my own request.

The PRESIDING OFFICER. Objection is heard. The bill will receive its second reading on the next legislative day.

#### APPOINTMENTS

The PRESIDING OFFICER. The Chair, on behalf of the President pro tempore, pursuant to Public Law 106-398, as amended by Public Law 108-7, in accordance with the qualifications specified under section 1238(b)(3)(E) of Public Law 106-398, and upon the recommendation of the Republican leader, in consultation with the ranking members of the Senate Committee on Armed Services and the Senate Committee on Finance, appoints the following individuals to the United States-China Economic Security Review Commission: Patrick A. Mulloy of Virginia, for a term beginning January 1, 2010 and expiring December 31, 2011, and William A. Reinsch of Maryland, for a term beginning January 1, 2010 and expiring December 31, 2011.

#### EXECUTIVE SESSION

##### NOMINATION DISCHARGED

Mr. REID. Madam President, I ask unanimous consent that the Senate proceed to executive session and that the Foreign Relations Committee be discharged of Presidential Nomination 933, the nomination of Jeffrey Bleich to be Ambassador to Australia; that the Senate then proceed to the nomination; that the nomination be confirmed and the motion to reconsider be laid upon the table; that no further motions be in order; that the President be immediately notified of the Senate's action; that any statements relating to the nomination be printed in the RECORD, as if read; and that the Senate resume legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nomination considered and confirmed is as follows:

Jeffrey L. Bleich, of California, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Australia.

Mr. REID. Mr. President, I ask unanimous consent that a financial disclosure report be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

##### FEDERAL CAMPAIGN CONTRIBUTION REPORT

Nominee: Jeffrey L. Bleich.

Post: Australia.

Nominated: September 11, 2009.

The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

Contributions, date, amount, and donee:

Self: 9/2/2005, \$400.00, Dianne Feinstein for Senate; 9/14/2005, \$500.00, Evan Bayh Committee; 11/29/2005, \$500.00, Midwest Values PAC; 12/20/2005, \$1,000.00, One America Committee; 12/29/2005, \$250.00, Barbara Lee for Congress; 3/31/2006, \$500.00, Schiff for Congress; 5/18/2006, \$500.00, Steve Filson for Congress; 5/19/2006, \$255.00, Midwest Values PAC; 6/30/2006, \$500.00, Jill Derby for Congress; 6/30/2006, \$250.00, John Cranley for Congress; 6/30/2006, \$250.00, Ellsworth for Congress Committee; 7/5/2006, \$1,000.00, Jerry McNerney for Congress; 8/17/2006, \$500.00, Midwest Values PAC; 8/28/2006, \$250.00, California Victory PAC; 9/12/2006, \$500.00, Sheldon Whitehouse for Senate; 9/28/2006, \$500.00, Friends of Sherrod Brown; 9/29/2006, \$1,000.00, McCaskill for Missouri; 9/30/2006, \$250.00, Dianne Feinstein for Senate; 10/30/2006, \$1,320.00, One America Committee; 11/3/2006, \$500.00, Nebraskans for Kleebs; 1/2/2007, \$1,000.00, John Edwards for President; 1/16/2007, \$2,100.00, Obama for America; 3/18/2007, \$1,000.00, Al Franken for Senate; 3/31/2007, \$1,300.00, John Edwards for President; 5/15/2007, \$1,000.00, Schiff for Congress; 6/30/2007, \$1,300.00, Al Franken for Senate; 10/3/2007, \$2,000.00, Iowa Democratic Party; 10/29/2007, \$1,000.00, Jeff Merkley for Oregon; 11/5/2007, \$250.00, Friends of Barbara Boxer; 11/10/2007, \$500.00, Brown for Congress; 11/30/2007, \$5,000.00, Vote Hope; 12/5/2007, \$1,000.00, Paul Hodes for Congress; 1/25/2008, \$500.00, Mark Pryor for US Senate; 3/19/2008,

\$400.00, Montana Democratic Party; 5/19/2008, \$250.00, Jeff Merkley for Oregon; 5/20/2008, \$1,500.00, Barbara Lee for Congress; 5/23/2008, \$250.00, Nebraskans for Kleebs; 6/22/2008, \$1,000.00, Perriello for Congress; 6/26/2008, \$500.00, Strengthen our Senate Majority; 6/26/2008, \$250.00, Udall for Us All; 6/26/2008, \$250.00, Tom Allen for Senate; 6/30/2008, \$250.00, Nebraskans for Kleebs; 7/25/2008, \$2,300.00, Hillary Clinton for President; 8/31/2008, \$14,250.00, Obama Victory Fund; 8/31/2008, \$2,300.00, Obama for America; 8/31/2008, \$11,950.00, DNC Services Corporation/Democratic National Committee; 9/23/2008, \$500.00, Paul Hodes for Congress; 9/29/2008, \$250.00, Perriello for Congress; 10/12/2008, \$250.00, Obama Victory Fund; 10/12/2008, \$250.00, DNC Services Corporation/Democratic National Committee; 10/15/2008, \$250.00, Brown for Congress; 10/28/2008, \$250.00, Alaskans for Begich; 10/30/2008, \$250.00, Musgrove for U.S. Senate; 10/31/2008, \$250.00, Alaskans for Begich; 1/18/2009, \$1,000.00, Al Franken for Senate; 2/18/2009, \$1,000.00, Leahy for US Senator Committee.

2. Spouse: Rebecca Bleich: 3/19/2007, \$2,300.00, Obama for America.

3. Father: Charles Bleich: 8/8/2007, \$250.00, Obama for America; 11/13/2007, \$200.00, Obama for America.

4. Mother: Linda Bleich: 8/8/2007, \$250.00, Obama for America.

5. Sister: Deborah Cogan: 7/10/2006, \$1,500.00, Evan Bayh Committee; 1/10/2008, \$2,300.00, Obama for America; 7/1/2008, \$1,000.00, Obama Victory Fund; 7/31/2008, \$1,000.00, Obama for America; 11/2/2008, \$1,000.00, Obama Victory Fund; 11/3/2008, \$1,000.00, Obama for America.

6. Brother-in-law: Michael Cogan: 3/21/2007, \$500.00, Friends of Dick Durbin Committee; 8/23/2007, \$500.00, Friends of Gordon Smith; 9/21/2007, \$500.00, DNC Services Corporation/Democratic National Committee; 10/19/2007, \$500.00, Mike Pence Committee; 11/28/2007, \$1,500.00, Friends of Jay Rockefeller; 12/26/2007, \$500.00, Roskam for Congress Committee; 3/29/2008, \$750.00, Hoyer for Congress; 8/4/2008, \$1,000.00, Judy Biggert for Congress.

#### LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will now return to legislative session.

#### ORDERS FOR MONDAY, NOVEMBER 16, 2009

Mr. REID. Madam President, I ask unanimous consent that when the Senate completes its business today, it adjourn under the provisions of H. Con. Res. 210 until 2 p.m., Monday, November 16; that following the prayer and pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day, and the Senate proceed to a period for the transaction of morning business until 3 p.m., with Senators permitted to speak for up to 10 minutes each; that following morning business, the Senate resume consideration of H.R. 3082, the Military Construction and Veterans Affairs appropriations bill, as provided for under the previous order.

The PRESIDING OFFICER. Without objection, it is so ordered.

## PROGRAM

Mr. REID. Madam President, we have worked hard today. We have had a number of Senators go to Fort Hood. We have had a number of speeches today that were extremely good relating to Veterans Day, which is tomorrow. We had a moment of silence for the fallen at Fort Hood. And we arrived at an agreement on a very important bill, the Military Construction and Veterans Affairs bill. I am glad we were able to do that. I wish we didn't have as many amendments as we do, but we have had a number of intervening problems. Senator KAY BAILEY HUTCHISON, who represents the State of Texas, was necessarily detained in Texas. She had to be there, and we understand that. I think a number of amendments listed will be worked out with the two managers. I feel fairly confident we will not have to have all those votes. Senators should expect the next vote, as I indicated, at 5:30 p.m. on Monday.

ADJOURNMENT UNTIL MONDAY,  
NOVEMBER 16, 2009, AT 2 P.M.

Mr. REID. Madam President, if there is no further business to come before

the Senate, I ask unanimous consent that the Senate adjourn under the provisions of H. Con. Res. 210.

There being no objection, the Senate, at 8:09 p.m., adjourned until Monday, November 16, 2009, at 2 p.m.

## NOMINATIONS

Executive nominations received by the Senate:

## UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT

RAJIV J. SHAH, OF WASHINGTON, TO BE ADMINISTRATOR OF THE UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT, VICE HENRIETTA HOLSMAN FORE, RESIGNED.

## DEPARTMENT OF DEFENSE

ERIN C. CONATON, OF THE DISTRICT OF COLUMBIA, TO BE UNDER SECRETARY OF THE AIR FORCE, VICE RONALD M. SEGA, RESIGNED.

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

DOUGLAS A. CRISCITELLO, OF VIRGINIA, TO BE CHIEF FINANCIAL OFFICER, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT, VICE JOHN W. COX, RESIGNED.

## AMTRAK BOARD OF DIRECTORS

ANTHONY R. COSCIA, OF NEW JERSEY, TO BE A DIRECTOR OF THE AMTRAK BOARD OF DIRECTORS FOR A TERM OF FIVE YEARS. (NEW POSITION)

ALBERT DICLEMENTE, OF DELAWARE, TO BE A DIRECTOR OF THE AMTRAK BOARD OF DIRECTORS FOR THE REMAINDER OF THE TERM EXPIRING JULY 26, 2011, VICE R. HUNTER BIDEN.

## OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

CYNTHIA L. ATTWOOD, OF VIRGINIA, TO BE A MEMBER OF THE OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION FOR A TERM EXPIRING APRIL 27, 2013, VICE W. SCOTT RAILTON, TERM EXPIRED.

## NORTHERN BORDER REGIONAL COMMISSION

SANDFORD BLITZ, OF MAINE, TO BE FEDERAL CO-CHAIRPERSON OF THE NORTHERN BORDER REGIONAL COMMISSION. (NEW POSITION)

## DISCHARGED NOMINATION

The Senate Committee on Foreign Relations was discharged from further consideration of the following nomination by unanimous consent and the nomination was confirmed:

JEFFREY L. BLEICH, OF CALIFORNIA, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO AUSTRALIA.

## CONFIRMATION

Executive nomination confirmed by the Senate, Tuesday, November 10, 2009:

## DEPARTMENT OF STATE

JEFFREY L. BLEICH, OF CALIFORNIA, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO AUSTRALIA.

**SENATE—Monday, November 16, 2009**

The Senate met at 2 p.m. and was called to order by the Honorable MARK R. WARNER, a Senator from the Commonwealth of Virginia.

**PRAYER**

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

Eternal Lord, still our busyness that we may take time to hear Your voice. Focus the attention of our lawmakers that they may be attuned to Your special speaking. Silence the noises that distract them, enabling them to hear Your still, small voice. Infuse them also with such courage that they will patiently endure even Your silence, as they seek to fulfill Your purposes by their labors. Lord, visit them with Your presence and power until Your will is done on Earth as it is done in heaven.

We pray in Your righteous Name. Amen.

**PLEDGE OF ALLEGIANCE**

The Honorable MARK R. WARNER led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

**APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE**

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. BYRD).

The legislative clerk read the following letter:

U.S. SENATE,  
PRESIDENT PRO TEMPORE,  
Washington, DC, November 16, 2009.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable MARK R. WARNER, a Senator from the Commonwealth of Virginia, to perform the duties of the Chair.

ROBERT C. BYRD,  
President pro tempore.

Mr. WARNER thereupon assumed the chair as Acting President pro tempore.

**RECOGNITION OF THE MAJORITY LEADER**

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

**SCHEDULE**

Mr. REID. Mr. President, following leader remarks, there will be a period

of morning business until 3 p.m. today, with Senators permitted to speak for up to 10 minutes each. Following morning business, the Senate will resume consideration of the Military Construction and Veterans Affairs Act. At 5:30, the Senate will proceed to two rollcall votes in relation to the bill. The first vote is in relation to the Coburn amendment No. 2757. The second vote is in relation to the Coburn motion to commit the bill.

**MEASURE PLACED ON THE CALENDAR—H.R. 3962**

Mr. REID. Mr. President, H.R. 3962 is at the desk and due for a second reading.

The ACTING PRESIDENT pro tempore. The clerk will read the title of the bill for the second time.

The legislative clerk read as follows:

A bill (H.R. 3962) to provide affordable, quality health care for all Americans and reduce the growth in health care spending, and for other purposes.

Mr. REID. Mr. President, I now object to any further proceedings at this time.

The ACTING PRESIDENT pro tempore. Objection is heard. The bill will be placed on the calendar.

Mr. REID. The Chair will announce morning business, please.

**RESERVATION OF LEADER TIME**

The ACTING PRESIDENT pro tempore. Under the previous order, leadership time is reserved.

**MORNING BUSINESS**

The ACTING PRESIDENT pro tempore. Under the previous order, there will be a period for morning business up to 3 p.m., with Senators permitted to speak for up to 10 minutes each.

Mr. REID. I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ALEXANDER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ALEXANDER. Mr. President, will you please let me know when 10 minutes have expired?

The ACTING PRESIDENT pro tempore. The Chair will do so.

(The remarks of Mr. ALEXANDER and Mr. WEBB pertaining to the introduc-

tion of S. 2776 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

The ACTING PRESIDENT pro tempore. The Senator from Texas.

**TRAIL OF KHALID SHAIKH MOHAMMED**

Mr. CORNYN. Mr. President, I want to speak about the decision announced last Friday by the Attorney General to bring Khalid Shaikh Mohammed and other 9/11 coconspirators to the United States from Guantanamo Bay to stand trial in the Southern District of New York.

Of course, Khalid Shaikh Mohammed is the self-described mastermind of the 9/11 tragedy where 3,000 Americans were killed. This is a terrible—a terrible—decision by the Attorney General and by the administration for any number of reasons, but I would like to explain why I believe this decision should be reconsidered by the Attorney General and the President of the United States—because of the risk at which it puts Americans and because this provides Khalid Shaikh Mohammed, a self-described superterrorist—this gives him everything he could have ever wanted, which is a platform to spew his hate-filled ideology and one in which he can recruit other like-minded individuals all around the world who may be watching.

One of the things I am always amazed by in our great country is how short our memory is. Of course, we are a nation at war after 9/11. But this is a war unlike any other this Nation has ever fought. We are at war with a murderous ideology, with ruthless killers who wear no uniforms and use civilians as human shields. Treating these war crimes like ordinary criminal events and trying these killers in an article III or a Federal court under the Constitution is simply reverting to a pre-9/11 mentality.

What do I mean by that? Mr. President, you will recall that the 9/11 Commission investigated the causes of what happened on September 11, 2001. One of the things they identified was the wall separating the sharing of intelligence which was shared among the intelligence community, and what information was developed during a criminal investigation had to be kept separate from ordinary intelligence collected by our military and our intelligence community. One of the things the 9/11 Commission unanimously said was that we needed to tear down that wall and share information, as we can consistent with the law, in order to protect the American people.



Simply put, the trial of the 9/11 co-conspirators, not in a military commission at Guantanamo Bay but in a Federal district court in Manhattan, one of the most populous portions of our country, is simply forgetting the lessons we should have learned on 9/11, which the 9/11 Commission so eloquently laid out for us and demonstrated.

But let's focus on who Khalid Shaikh Mohammed is, lest we have forgotten. According to the 9/11 Commission Report:

KSM [Khalid Shaikh Mohammed] describes a grandiose original plan: a total of ten aircraft to be hijacked, 9 of which would crash into targets on both coasts.

They included those eventually hit on September 11 plus: CIA and FBI headquarters, nuclear power plants, and the tallest buildings in California and the State of Washington.

Further quoting the report:

KSM [Khalid Shaikh Mohammed] himself was to land the 10th plane at a U.S. airport and—after killing all adult male passengers on board and alerting the media—delivering a speech excoriating U.S. support for Israel, the Philippines, and repressive governments in the Arab world.

The 9/11 Commission report concluded:

This is theater, a spectacle of destruction with KSM [Khalid Shaikh Mohammed] as the self-cast star—the superterrorist.

This is whom the Attorney General announced we will be bringing from Guantanamo Bay to a court in Manhattan to try as a common criminal. But he is anything but a common criminal. He is guilty of nothing less than war crimes against innocent Americans. According to this decision, the Attorney General is going to be providing him the forum he can use in order to proclaim himself as the “superterrorist” and in order to attract like-minded ideologues to his sick and twisted ideas of jihad. A criminal trial only gives Khalid Shaikh Mohammed the platform he has sought for years: a platform to expound his hatred to his would-be followers around the world.

The second reason this is a bad idea is because our civilian courts and procedures are ill-suited for terrorism trials because we cannot put judges in charge of national security.

I have high regard for the men and women who serve on our judicial benches around the country. I myself was a judge for 13 years in Texas. But our experience with terrorist trials shows that civilian courts are an inappropriate forum for a trial of war crimes.

As a result of information—this is one example why—as a result of information disclosed during the trials related to the East Africa Embassy bombings, Osama bin Laden became aware of cell phone intercepts, which prompted his organization to discontinue cell phone conversations. Because of the evidence disclosed in the

trial, they simply realized they were being eavesdropped on and quit using cell phones, denying us that intelligence.

During the trial of Ramzi Yousef, the mastermind of the 1993 World Trade bombing, terrorists became aware of a communications link that provided enormously valuable intelligence to U.S. officials. This link, too, was shut down after the disclosure in that trial.

Then there was the trial of Sheikh Omar Abdel Rahman, the Blind Sheikh. A secret list of unindicted coconspirators in the prosecution wound up in the hands of Osama bin Laden in Sudan.

During the trial of Zacarias Moussaoui, the 20th hijacker, prosecutors inadvertently leaked sensitive material to defense counsel. Here is what the judge had to say about that case, which she characterized as “like a circus.” She said:

[Lawyers] are talking about the contents of sealed hearings [to the media], if I see any more [of] what I think are inappropriate leaks, I'm going to ask the FBI to start an investigation.

But that trial never even made it to a jury. Moussaoui's lawyers tied the court up in knots so he could use the trial as a platform to air his anti-American tirades. The only reason the trial ultimately ended was because at the last minute Moussaoui decided to plead guilty. That plea relieved the government of the choice between allowing a fishing expedition into its intelligence files or dismissing the charges altogether.

One thing we can see with great confidence is that the trial of Khalid Shaikh Mohammed in a Federal district court in Manhattan will become the same kind of media circus times 10. It will give Khalid Shaikh Mohammed a platform to inspire his fellow terrorists.

Prosecutors will be forced to reveal U.S. intelligence on Khalid Shaikh Mohammed, the methods and sources for acquiring that information, and his relationships with fellow al-Qaida operatives around the world. That information will allow al-Qaida to develop more effective plots and to alert operatives whose cover is blown. This information will enable al-Qaida to detect our means of intelligence gathering and to push forward into areas we know nothing about.

Congress has made clear that U.S. civilian courts are not the appropriate venue to bring terrorists to justice. That is why we passed, in 2006, the Military Commissions Act. The military commissions were specifically designed to prevent sensitive disclosures and to protect classified information and sensitive sources and methods. Of course, we know from our work on these military commissions that they have a long history in our Republic—dating back from the Revolutionary War, to the Civil War, and to World

War II—and they are an appropriate forum for Khalid Shaikh Mohammed and other terrorists.

As a matter of fact, the Attorney General made the baffling decision to try some of the worst of the worst—a superterrorist such as Khalid Shaikh Mohammed—in a Federal district court in Manhattan and to leave other terrorists for trial in Guantanamo Bay before military commissions. And I say, if Guantanamo Bay and military commissions are good enough for these other terrorists in the opinion of the Attorney General, they ought to be good enough for terrorists such as Khalid Shaikh Mohammed and his fellow 9/11 coconspirators.

Khalid Shaikh Mohammed and other terrorists, simply put, should not be brought to the United States. They should not be granted the same rights and privileges as American criminal defendants. They should stay at Guantanamo Bay and be prosecuted through the military commissions established by Congress under the terms circumscribed by the U.S. Supreme Court.

I ask my colleagues to remember that on July 19, 2007, we had a vote on this sense-of-the-Senate resolution: It is the sense of the Senate that detainees housed at Guantanamo Bay, Cuba, including senior members of al-Qaida, should not be released into American society, nor should they be transferred stateside into facilities in American communities and neighborhoods. That sense-of-the-Senate resolution passed 94 to 3. Rarely do we see such unanimous, bipartisan opposition for the very acts the Attorney General announced last Friday, and it is with good reasons, some of which I have had the opportunity to discuss today. But there are other reasons that I will look for opportunities to come back and talk about to my colleagues.

I would ask the President of the United States to overrule the decision of his Attorney General because it is ill-advised. It will make America a more dangerous place, and it will allow terrorists such as Khalid Shaikh Mohammed—it will provide them the platform to spew their hateful ideology and encourage others to join them in killing innocent Americans and other individuals.

Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Minnesota.

Ms. KLOBUCHAR. Mr. President, I ask unanimous consent to speak in morning business for up to 10 minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

#### MILITARY TRANSITION

Ms. KLOBUCHAR. Mr. President, this afternoon the Senate will resume consideration of the Military Construction and Department of Veterans Affairs appropriations bill. This critical

legislation will provide full funding for veterans health care and other essential VA services.

Last week, Mr. President, as I am sure you and many of my colleagues did, I had the opportunity to meet with veterans around my State, really for 2 days, and I came back to Washington with a renewed commitment to provide our Nation's veterans with full support and the benefits they so clearly deserve.

Passing this VA appropriations bill is an important step toward fulfilling the promise we make to our veterans when they enlist: that we will take care of them when they return home. I figure, when they signed up for war there was no waiting line, so when they come home to the United States of America and they need a job or they need health care or they need any type of help from this government, there should not be a waiting line.

But funding the VA's health care system—as we are doing this week—and other existing veterans programs is only part of fulfilling that promise. Another critical component of fulfilling that promise is helping our newest generation of veterans make the difficult transition from military to civilian life—and what a difficult transition it is. New figures have recently come out that show that for post-9/11 veterans, their unemployment in October was 11.6 percent—significantly above the national average. But, like many of the national unemployment rate statistics, this statistic conceals the true scope of the problem. Here is the number to remember: 18. Eighteen percent of veterans who left the military in the past 1 to 3 years are unemployed, according to a 2008 Department of Veterans Affairs employment survey. Of those veterans who have found work, 25 percent earn less than \$21,800 per year and only 58 percent of veterans who are employed have been able to find work in the private sector.

These are the people whom I saw when I was at home. One of the things that came to my attention was that a number of them would choose, if they could, to pursue apprenticeships. A lot of them want to go to college for 2-year or 4-year degrees. We have large numbers of returning soldiers in college in Minnesota. One of the things I found from visiting some of our technical colleges is that a number of them would like to choose to pursue a different way to find a job.

A recent VA survey of private sector employers found there is a perception that servicemembers do not perform duties within tightly defined skill sets. The study concluded there should be a greater emphasis placed on business and professional training of veterans coupled with increased efforts to match their skills with available jobs. That is why I introduced bipartisan legislation last week, joined by Senator JOHANNES

of Nebraska and Senator MURRAY of Washington, to help Iraq and Afghanistan veterans obtain the training and experience necessary for full-time employment by allowing them to use their post-9/11 GI bill benefits for job training and apprenticeship programs.

As my colleagues know, last year, under the leadership of Senator WEBB, we passed into law the Post-9/11 Veterans' Educational Assistance Act, which will provide the men and women who served on active duty since September 11, 2001, with comprehensive educational benefits similar to those World War II veterans received. While I believe there is no greater investment we can make in the future of our veterans than granting them the chance to pursue the higher education of their choosing, I also believe we must not limit veterans' opportunities to only the pursuit of academic degrees. Not every returning soldier chooses to go to college, but they still want a job. Job training, from pipefitting to law enforcement, should also be covered by the GI bill.

Our legislation, the Post-9/11 Veterans' Job Training Act, would allow veterans who wish to enter the workforce immediately rather than pursuing an academic degree to use their post-9/11 GI bill benefits to obtain critical training and job skills.

Specifically, veterans enrolled in an on-the-job training or apprenticeship program could use their benefits to pay for a percentage of their monthly housing costs, which would decline over a period of months; certification and testing fees; relocation and travel expenses; and tutoring costs. We put these things together based on our discussion with veterans across the country to see what their exact needs were to make it easier for them to go through the pipefitting apprenticeship programs and others that land them in the workforce more immediately.

In order to qualify under this legislation, veterans must be enrolled in programs that have been approved by their State's accrediting agency. As under the old GI bill, veterans can also receive a salary from their employer during this training. This bill will restore the same eligibility and benefits for job training and apprenticeship programs that were available to veterans under the Montgomery GI bill, but are no longer available under the post-9/11 GI bill.

I talked to Senator WEBB and I know there were some reasons this got changed. He is, in fact, supportive of including this, because we have seen this skyrocketing unemployment rate, in part because of the economy, and we want to find every opportunity we can for our veterans to find work.

According to the VA, up to 10 percent of veterans use their Montgomery GI bill benefits for education other than college or graduate school, including

for on-the-job training and apprenticeship programs. Through this legislation, post-9/11 veterans will be able to use their expanded benefits for the very same purposes. In Minnesota alone, there are over 50 such programs currently providing training and employment opportunities to veterans, including jobs in law enforcement, construction, engineering, and education.

I was at one of these institutions in Minneapolis this last week and met with some of our veterans, some of whom have done multiple tours in Iraq and one who was leaving in a few months, and they found it very helpful to return to these apprenticeship programs—some of which involve incredibly complex subjects—offering them the opportunity to learn those trades, and this will greatly help them so they can better afford these programs. By applying the new GI bill benefits they have earned toward these programs, veterans can acquire the skills and experience they need for success in the civilian workforce.

Last week, President Obama signed an Executive order creating a Council on Veterans Employment and directing each Federal agency and department to establish an office to focus on the hiring of veterans. Like the President, I am committed to ensuring that veterans have a path to stable employment when they leave the military.

One other piece of legislation I wish to mention, because I am hopeful it will be included in our health care reform, is the Veterans to Paramedics Transition Act which I introduced along with Senator ENZI. It helps returning veterans with medical training to pursue further education as paramedics. One of the things I found in our State was that in rural areas of the country—rural areas of Minnesota, rural areas of Virginia, rural areas in Wyoming—there are not enough paramedics. Here we have these returning soldiers who are trained in this area, but for them to have to move again and to go through an entire 2 years of training can be very difficult. The idea is not to say no training is needed but to simply give them some credit; set up rules to make it easy for colleges to give them credit for that on-the-job training they had as paramedics in Iraq and Afghanistan. It involves two problems: the problem of returning veterans who don't have jobs, and the problem of the lack of paramedics in the rural areas. So we are very hopeful, with the help of Senator ENZI and Senator HARKIN, that we will be able to get this bill on the health care reform bill.

I look forward to working with my colleagues to pass not just the Veterans to Paramedics Act but also this bill we introduced last week to make it easier for veterans, when they come home—our soldiers—to choose if they want to go to a pipefitting program or to go to a law enforcement program.

For those veterans, there will probably be 10 percent of them who don't feel at that moment that they want to pursue an academic degree, but they need a job.

Thank you, Mr. President.

I yield the floor, and I note the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. JOHNSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

### CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Morning business is closed.

### MILITARY CONSTRUCTION, VETERANS AFFAIRS AND RELATED AGENCIES APPROPRIATIONS ACT, 2010

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of H.R. 3082, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 3082) making appropriations for military construction, the Department of Veterans Affairs, and related agencies for the fiscal year ending September 30, 2010, and for other purposes.

Pending:

Johnson-Hutchison amendment No. 2730, in the nature of a substitute.

Udall (NM) amendment No. 2737 (to amendment No. 2730), to make available from Medical Services, \$150,000,000 for homeless veterans comprehensive service programs.

Johnson amendment No. 2733 (to amendment No. 2730), to increase by \$50,000,000 the amount available for the Department of Veterans Affairs for minor construction projects for the purpose of converting unused Department of Veterans Affairs structures into housing with supportive services for homeless veterans, and to provide an offset.

Franken-Johnson amendment No. 2745 (to amendment No. 2730), to ensure that \$5,000,000 is available for a study to assess the feasibility and advisability of using service dogs for the treatment or rehabilitation of veterans with physical or mental injuries or disabilities.

Inouye amendment No. 2754 (to amendment No. 2730), to permit \$68,500,000, as requested by the Missile Defense Agency of the Department of Defense, to be used for the construction of a test facility to support the Phased Adaptive Approach for missile defense in Europe, with an offset.

Coburn amendment No. 2757 (to amendment No. 2730), to require public disclosure of certain reports.

Durbin amendment No. 2759 (to amendment No. 2730), to enhance the ability of the Department of Veterans Affairs to recruit and retain health care administrators and providers in underserved rural areas.

Durbin amendment No. 2760 (to amendment No. 2730), to designate the North Chi-

cago Veterans Affairs Medical Center, Illinois, as the "Captain James A. Lovell Federal Health Care Center."

Johanns amendment No. 2752 (to amendment No. 2730), prohibiting use of funds to fund the Association of Community Organizations for Reform Now (ACORN).

Akaka amendment No. 2740 (to amendment No. 2730), to extend the authority for a regional office of the Department of Veterans Affairs in the Republic of the Philippines.

Menendez amendment No. 2741 (to amendment No. 2730), to provide, with an offset, an additional \$4,000,000 for grants to assist States in establishing, expanding, or improving State veterans cemeteries.

DeMint (for Inhofe) amendment No. 2774 (to amendment No. 2730), to prohibit the use of funds appropriated or otherwise made available by this act to construct or modify a facility in the United States or its territories to permanently or temporarily hold any individual held at Guantanamo Bay, Cuba.

DeMint amendment No. 2779 (to amendment No. 2730), to prohibit the use of funds for the transfer or detention in the United States of detainees at Naval Station Guantanamo Bay, Cuba, if certain veterans programs for fiscal year 2010 are not fully funded.

Mr. JOHNSON. Mr. President, as we come back from the Veterans Day recess, the Senate resumes consideration of the MILCON-VA appropriations bill. As I have stated several times on the floor during this debate, this is a vital piece of legislation that needs to be passed as quickly as possible.

As I speak, the VA is operating under a stopgap funding measure. Funding the VA in that manner is far from ideal and interrupts planning and hiring at VA hospitals. The bill before the Senate today protects against this sort of problem in the future by providing \$48.2 billion in advance appropriations for VA medical care. This is something that is supported by both sides of the aisle. In fact, this bill is one of the most bipartisan measures that we take up every year. That is why it mystifies me that we seem to be in a holding pattern.

One of the most critical parts of this bill is medical care for our Nation's vets. The VA is expecting to treat almost 6.1 million patients in fiscal year 2010, an increase of 2.1 percent over last year. Moreover, the Department estimates it will see the number of Iraq and Afghanistan war vets rise to 419,000 this year, a 61-percent increase in patient load since 2008. With these facts in mind, the bill targets the vast majority of discretionary funding for vets' medical care. The bill provides a total of \$44.7 billion for medical care. Additionally, it provides \$580 million for vital medical and prosthetic research. This is one of the many reasons why we need to get this bill passed and sent to conference as soon as possible.

In addition, hundreds of urgent military construction projects are on hold awaiting passage of this bill.

Under a unanimous consent agreement entered into last Monday, there

are 27 amendments in order to this bill and one motion. As I understand it, we will soon be voting on one of the amendments and the motion to commit. Between now and the time of the vote, I wish to try to clear some of the other amendments that are in order to the bill. I have read all these amendments, and the vast majority are not controversial. It seems to me we should be able to clear them. If there are objections to any of these amendments, I urge my colleagues to come to the floor and express what objections they may have.

Taking care of our vets and our military troops and their families is one of the most important tasks of this body. Surely, we can all work together and pass this bill quickly.

AMENDMENT NO. 2781 TO AMENDMENT NO. 2779

Mr. JOHNSON. Mr. President, on behalf of Senator DURBIN, I send a second-degree amendment to the desk.

The ACTING PRESIDENT pro tempore. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from South Dakota [Mr. JOHNSON], for Mr. DURBIN, proposes an amendment numbered 2781 to amendment 2779.

Mr. JOHNSON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

At the end of the amendment, add the following:

The provision of the amendment shall become effective 1 day after enactment.

Mr. JOHNSON. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LEMIEUX. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. LEMIEUX. Mr. President, I ask unanimous consent to speak as in morning business.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

### GUANTANAMO PRISONERS

Mr. LEMIEUX. Mr. President, I am here to speak about the recent decision of the Obama administration to bring five terrorists allegedly responsible and who admitted being responsible for planning and executing the 9/11 attacks and having them tried in a criminal court in New York. This is the group of Khalid Shaikh Mohammed and four other alleged 9/11 plotters.

The reason I stand before you today is to ask you the question: Why? Why are we bringing enemy combatants,

terrorists, to trial in a civil venue in New York? The decision of the Attorney General does not make sense to me. It is not sound in terms of our historical precedent for these types of hearings, and it puts our national security at risk for the future.

Criminal trials for terrorists are different and should be different than criminal trials of those who commit crimes in this country. After all, we afford our citizens who commit crimes the presumption of innocence. It is part of the bargain we have with our citizens, that we will not presume them guilty. We afford them rights—rights that are set forth in our Bill of Rights, rights that are guaranteed constitutionally. We do not guarantee these rights for people who are not U.S. citizens. More importantly, we do not guarantee these rights for terrorists who attack our country in an act of war.

Right now, we are fighting this war in two theaters—in Afghanistan and Iraq. These are enemy combatants. They are not U.S. citizens. They were not resident in the United States when they committed this crime.

I wish to go through the rights we afford the criminally accused in a normal prosecution in this country and show why they are not suited for a terrorist.

We extend the right to remain silent; the right to have that silence not used against you; the right to choose between a public trial before a judge or jury; the right to summon and compel the attendance of witnesses to testify on the accused's behalf; the right to a speedy trial; the right to see all the evidence collected against the accused; the right to learn how the evidence was collected; and the right to appeal not only the verdict but almost every ruling a judge performs in the case.

Why are we extending these rights to enemy combatants who killed nearly 3,000 innocents on 9/11 through an act of war? They did not wear a military uniform, and the planes they flew were not the planes of foreign countries with foreign flags. But there is no difference between the war we are in with them and wars we have had against other countries.

The precedent of what may happen when we afford these rights to these terrorists is not good. Former Attorney General Michael Mukasey talked about what happened when we tried terrorists in U.S. criminal courts. During the trial of Ramzi Yousef, the mastermind of the 1993 World Trade Center bombing, a part of testimony which we thought was innocuous at the time that came out in the public courtroom talked about the delivery of a cell phone battery. It tipped off the terrorists still at large that one of their communication links had been compromised. Mukasey said that link, which had been monitored by the gov-

ernment and provided enormous, valuable intelligence, was immediately shut down and lost in our war on terror.

Mukasey also noted that “In the multidefendant terrorism prosecution of Sheik Omar Abdel Rahman, [also known as “the Blind Sheik” for his role in the 1993 World Trade Center bombings] . . . the government was required to disclose, as it is routinely in conspiracy cases,” the names of the unindicted coconspirators, one of whom was Osama bin Laden.

We are giving information in these public trials, which were never meant for terrorism, which was never meant for people we are at war with, that may be used against us in a future terrorist attack.

Why are we doing this? What is the purpose? We have military tribunals to perform this function. This is not something new to this country. We have been using military tribunals since the time of George Washington. He used it during the American Revolution to deal with British spies. None other than Franklin Delano Roosevelt used them in World War II. We had eight German agents who sneaked ashore with the intent to plant explosives at railroad facilities and bridges. Roosevelt used military tribunals to try and convict those Germans who came across in World War II, and the Supreme Court upheld it. These military tribunals are not something new. They have to be done right. They have to give due process.

We used them against the driver of Osama bin Laden, and one of the charges was dismissed against him. So they are a fair process.

Why are we bringing the 9/11 terrorists to a criminal court in New York? These are not bank robbers. These are people with whom we are at war. Why are we affording them extra rights? Why are we affording them extra rights when the information that is revealed during the discovery process in Federal court may compromise our national security and lead to additional terrorist attacks? Why are we doing this? It doesn't make any sense to me. It defies history, and it is going to present and possibly provide future challenges to our national security.

Finally, let's think about what these trials are going to be like. We are giving these terrorists an international reality show where they are going to be able to have a platform each and every day to talk about their war against our country and our values. I wish to quote from David Brooks in his column in the Washington Post. He said:

Terrorism is an act of propaganda. So now [Khalid Sheik Mohammed] gets to commit the original act of propaganda, which was the attack, and now he's going to have a long trial, an international reality show, which will be followed here, but more importantly, followed around the world. So he's getting a second bite of the apple at spreading his propaganda message.

What happens if because of all of the rights that are afforded to a person who is tried in a criminal court in the United States, what happens if because one of those rights and all of the presumptions there are against being found guilty, presumptions that we afford to our citizens because they are part of our constitutional democracy, what happens if Khalid Shaikh Mohammed, the mastermind of 9/11, is acquitted on a technicality? Then what? What are we going to do with him? Are we going to release him? Are we going to let him off on the streets in New York? I don't think so. Then we are going to hold him again. What does that say to the international community? He had a trial, he was acquitted, but we are still going to hold him because we think he is a threat. That is going to backfire on this administration.

In conclusion, I cannot understand why we are doing this. I cannot understand, when we have a historical precedent of a military tribunal that we have used since the time of George Washington, that we used during World War II, why we are going to bring these terrorists who killed or were responsible for killing nearly 3,000 innocents on September 11, why we are going to try them in Federal court as criminals and not understand what they truly are, which are terrorists with whom we are at war.

Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. FEINGOLD. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

AMENDMENT NO. 2746 TO AMENDMENT NO. 2730

Mr. FEINGOLD. Mr. President, I ask unanimous consent to set aside the pending amendment so I can call up amendment No. 2746.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Wisconsin [Mr. FEINGOLD] proposes an amendment numbered 2746 to amendment No. 2730.

Mr. FEINGOLD. I ask unanimous consent the reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To require reporting on alternatives to major construction projects related to the security of strategic nuclear weapons facilities)

On page 27, between lines 3 and 4, insert the following:

SEC. 128. (a) During each of fiscal years 2010 through 2014, the Secretary of Defense shall submit to the congressional defense committees a report analyzing alternative designs for any major construction projects requested in that fiscal year related to the security of strategic nuclear weapons facilities.

(b) The report shall examine, with regard to each alternative—

(1) the costs, including full life cycle costs; and

(2) the benefits, including security enhancements.

Mr. FEINGOLD. Mr. President, my amendment would enhance the security of our strategic nuclear weapons arsenal and help ensure that the Defense Department makes the best use of taxpayer dollars. I am pleased it has the support of the chairmen of both the Military Construction Appropriations subcommittee and the Armed Services Committee.

The amendment would require the department to submit an analysis of alternative designs for any major military construction projects to secure our nuclear weapons that it plans to initiate. GAO recently found that the Navy initiated two significant new projects without fully analyzing all of the alternatives. Therefore, we cannot be sure that we have found the safest and most cost effective means of protecting our nuclear weapons.

Ensuring the security of our nuclear materials and weapons is more important today than it has ever been. The Commission on the Strategic Posture of the United States recently concluded that the threat posed by the danger of terrorists accessing nuclear materials is greater than the threat that a foreign government would choose to use such weapons against us. Unfortunately, in the face of this new threat, our stewardship of our own arsenal has grown lax in recent years. All of my colleagues are aware of the serious breakdown in leadership which resulted in the unintentional shipment of nuclear-related intercontinental ballistic missile parts to Taiwan. They are likely also aware that a B-52 bomber flew across the continental United States mistakenly loaded with five nuclear warheads. These incidents led to the resignation of the Air Force Chief of Staff and Air Force Secretary. Just recently, a wing commander was relieved of command for substandard performance during several nuclear surety inspections at Minot Air Force Base. Clearly, this is an area that warrants sustained congressional oversight.

I recently wrote to the Assistant Secretary of Defense for Global Strategic Affairs, Dr. Michael Nacht, asking him to include in the Nuclear Posture Review an analysis of the ideal means to secure our domestic nuclear complex from a terrorist attack. Securing nuclear materials is not just about command and control—it is also about ensuring the physical security needed to

ward off an attack. In 2008, the Department of Energy's Office of Independent Oversight conducted an evaluation, including a mock terrorist attack, of a U.S. lab that stores weapons-grade nuclear materials. The oversight office found that the lab's security program had significant weaknesses. In light of these numerous security incidents, Congress must step up its efforts to conduct oversight of our nuclear weapons complex.

This amendment is a small step in that direction. As the Defense Department completes the Nuclear Posture Review and stands up a new command in the Air Force to handle nuclear weapons, it is important that we send a message that we want a careful analysis of the best means to secure our nuclear weapons.

The Defense Department spends roughly a billion dollars annually on nuclear weapons security, including about \$50 million annually on military construction. GAO recently found that "the Navy plans to spend about \$1.1 billion on security improvements to protect ballistic missile submarines while in transit, but selected one alternative without considering the full life cycle costs of the available alternatives." In particular, the "Navy did not consider the military construction costs of building new facilities to support the new security measures. . . ." In another case, the Navy interpreted DOD guidance as "precluding the considerations of costs and benefits." This amendment will ensure that this does not happen again.

GAO also found that DOD occasionally cited costs "as a criterion for deviations from security requirements." This amendment will ensure that the Department conducts a full cost benefit analysis and provides it to Congress. That way we can ensure that DOD is not deviating from security requirements unnecessarily for cost.

I urge my colleagues to support this amendment.

AMENDMENT NO. 2748 TO AMENDMENT NO. 2730

Mr. FEINGOLD. Mr. President, if I could, I would like to move on, set that amendment aside in favor of bringing up amendment No. 2748.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Wisconsin [Mr. FEINGOLD], for himself and Mr. SANDERS, proposes an amendment numbered 2748 to amendment No. 2730.

Mr. FEINGOLD. I ask unanimous consent the reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To make available \$5,000,000 for grants to community-based organizations and State and local government entities to conduct outreach to veterans in underserved areas)

On page 52, after line 21, add the following:

SEC. 229. Of the amounts appropriated or otherwise made available by this title, the Secretary shall award \$5,000,000 in competitively-awarded grants to community-based organizations and State and local government entities with a demonstrated record of serving veterans to conduct outreach to ensure that veterans in underserved areas receive the care and benefits for which they are eligible.

Mr. FEINGOLD. Mr. President, this amendment would establish a pilot program to give grants to community-based organizations to conduct outreach for veterans. Many veterans are not aware of care and benefits available to them through the VA or need help navigating the VA bureaucracy to access those benefits.

The VA has recognized the need to conduct additional outreach to veterans but does not have the presence in certain underserved communities, including rural areas, to do so directly. This amendment would ensure the VA makes grants to organizations, including State and local governmental entities, that have a presence in the community and experience working with veterans.

This amendment is based on my Veterans Outreach Improvement Act, which I first introduced over 5 years ago. That bill has been endorsed by the American Legion; Veterans of Foreign Wars; Paralyzed Veterans of America; Vietnam Veterans of America; National Guard Association of the United States; Wounded Warrior Project; and the National Association of State Directors of Veterans Affairs. The companion bill has already passed the House.

The Senate Veterans Affairs Committee has endorsed the idea of a pilot grant program and has authorized the program in the pending Caregivers and Veterans Omnibus Health Services Act of 2009.

The amendment would set aside \$5 million in funding for the grants. CBO has certified that the amendment has no score and is deficit-neutral.

The grants would be awarded on a competitive basis. A wide variety of groups could apply for the grants. State departments of veterans affairs could apply for the grants. In Wisconsin, the Department of Veterans Affairs runs a "supermarket" of benefits where veterans can come and learn about programs available to them through the VA. In the first several years of the program, over 10,000 Wisconsin veterans learned about VA programs for which they were eligible. If that many veterans in Wisconsin alone were unaware of these programs, you can imagine the need for greater outreach nationwide.

Other groups that may apply for grants include the county veteran service officers who are present in counties throughout most States. These individuals have a presence in many rural communities where the VA's presence is minimal. Rather than hiring contractors that know nothing about veterans issues to conduct outreach by phone to veterans, as the VA has done, this amendment would allow the VA to leverage existing expertise in the community. Both State and local governmental entities are currently conducting outreach notwithstanding the fact that this is a Federal responsibility. Given the current strain on State and local budgets, we cannot assume that they will continue to be able to offer these services.

Community-based nonprofits with experience working with veterans will also be eligible for the grants. These organizations may have special skills for working with underserved veterans, such as expertise in assisting those with mental disabilities.

Given the high number of service members returning from Afghanistan and Iraq, it is essential that we conduct outreach to these veterans now to ensure that they get the services they need from the VA. I urge my colleagues to support this amendment.

I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SESSIONS. I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

#### NOMINATION OF DAVID F. HAMILTON

Mr. SESSIONS. Mr. President, I rise to share some thoughts about the Hamilton nomination in particular and some thoughts about the idea that judges can be subject to a filibuster. It is a matter that has been the subject of discussion in the Senate for a number of years. I wish to share with my colleagues how it all came about, where I think we are today, and why Mr. Hamilton does not deserve to be confirmed as a Federal judge.

I recognize he has many qualities, and I am not saying anything about him personally. But his approach to the law is unacceptable and is activist and evidences a philosophy that indicates he would not be serving under the law and under the Constitution but, as he has said, a judge is free to write footnotes to the Constitution. I don't think judges are empowered to write footnotes to the Constitution. According to their oath, judges serve under the Constitution. They don't get to amend it or footnote it, and they are not above it.

Back when President Clinton was in office, he nominated a number of

judges who were activist. I voted for over 90 percent of his nominees. But I believed a number were activists, and I opposed them. There was much discussion about it. Nominees such as Marsha Berzon and Richard Paez I believed, were not going to be faithful to the law if confirmed. My instincts in that regard have been proven correct. This was in the 1990s.

Regardless, I remember then-majority leader Trent Lott, a Republican, moved for cloture on Berzon and Paez. We had votes. I and an overwhelming number of Republicans voted for cloture; that is, voted to bring up the nominees for a vote. Then a number of us voted against them. We didn't think they should be confirmed. But we didn't adhere to the view that filibustering was appropriate. That is when President Clinton, a Democrat, was in the White House.

Then, my Democratic colleagues in the Senate opposed filibusters and made all kinds of speeches against filibusters and against delaying votes.

Then President Bush, a Republican, got elected. In January, before he actually took office or about the time he took office, my Democratic colleagues had a retreat. At the retreat they met with legal scholars: Laurence Tribe, Cass Sunstein, and Marcia Greenberg. They advised them they should no longer follow tradition but should change the ground rules. In fact, they did so in a lot of areas. The New York Times reported that the decision at this meeting was about changing the ground rules on confirmations.

When President Bush started nominating judges, they were suddenly subject to filibuster—consistent, sustained filibusters, vote after vote. I believe there were 30 different cloture votes filed to move his nominees forward. That is what happened. We ended up with a series of nominees who were fabulous nominees President Bush had submitted, and they couldn't get a vote. Priscilla Owen, a member of the Texas Supreme Court, was given the highest possible rating by the ABA; Judge Bill Pryor, now Justice Bill Pryor from Alabama, a fabulous, brilliant nominee; Miguel Estrada; Janice Rogers Brown, an African-American woman who had been elected to the California Supreme Court and was a fabulous nominee. I remember her particularly since she had been born in Alabama. We couldn't bring them up for a vote. It went on and on.

Finally, the only thing that then-majority leader Bill Frist could do was to change the rules of the Senate to allow us to vote. He finally got the situation to the point that that appeared to be likely to occur.

It was at that point that the Gang of 14—seven Republican and seven Democratic Senators—got together and basically said: Too many nominees are being filibustered. We are abusing the

filibuster rule, but we don't think we ought to eliminate the filibuster altogether, but only in extraordinary circumstances. If you really think this is not a good nominee who should not serve on the bench, vote no. But only if you strongly believe there is some serious flaws in this nominee's background, only then should you participate in a filibuster. It is legitimate if there is extraordinary circumstances. That is what they said.

A number of the judges got through. Several did not. There were 8 or 10 in controversy at that time for the circuit bench. Priscilla Owen, Bill Pryor, and Janice Rogers Brown were confirmed, but several others didn't make it from that group.

Now we have a Democratic President, and his nominees are coming up. Justice Sotomayor, whom he nominated to the Supreme Court, was a nice person, a capable person. She made some speeches that were troubling. We all analyzed that and studied that a good bit. What we concluded was—at least what I concluded, I think most of my colleagues did too—that while we may have serious doubts about whether she should be confirmed for the Supreme Court, we didn't think there were extraordinary circumstances that would justify a filibuster. So she was given an up-or-down vote. I voted against her nomination, but she was confirmed.

That is normally the way things have happened. Robert Bork's nomination failed on an up-or-down vote. Justice Clarence Thomas was confirmed on an up-or-down vote. However, President Bush's nominee for the Supreme Court, Justice Alito, was filibustered. He was a fabulous nominee who was so impressive in committee, almost as impressive as President Bush's other nominee, Chief Justice John Roberts. He should not have been filibustered, but he was. President Obama was one who led the filibuster and participated in it. But it failed, and Justice Alito was confirmed.

In 1997, when a Democratic President was in office and they were trying to move his nominees forward, Senator BOXER said:

It is not the role of the Senate to obstruct the process and prevent numbers of highly qualified nominees from even being given a vote on the Senate floor.

That is being denied an up-or-down vote by filibuster. She opposed that. Yet when President Bush was nominating judges, she voted 35 times to block his nominees by filibuster.

During the Clinton administration, Senator SCHUMER said:

I also plead with my colleagues to move judges with alacrity—vote them up or down. This delay makes a mockery of the Constitution, makes a mockery of the fact that we are here working, and makes a mockery of the lives of very sincere people. . . .

Senator SCHUMER later voted 34 times to keep President Bush's nominees from having an up-or-down vote,



in other words, to filibuster his nominees.

Our distinguished chairman of the Judiciary Committee, Senator LEAHY, likewise made similar statements. I will not go into all of those, but I can do so. I can definitely state time after time, Senator after Senator who opposed filibusters when President Clinton was sending nominees to the Senate led the filibusters against President Bush's nominees.

The Democrats have a clear majority in the Senate, 60 Members. Senator REID recently came to the Chamber to demand a time agreement for Judge David Hamilton's nomination to the Seventh Circuit Court of Appeals. Apparently, he was not happy that some of us wanted to have more debate about it. He said:

We are going to do Judge David Hamilton [for the] Seventh Circuit, who has been waiting since April. We have agreed to time agreements. Do you want an hour, 2 hours, 5 hours, 10 hours of debate? No, we don't want anything.

He is speaking for the Republicans.

They don't want a time agreement. This is so important that we will spend 2 days debating it if we can have a vote. But that is not good enough. No time is sufficient.

That is what he grumbled about. He has a lot on his plate. But Senator REID has a short memory. When Senator REID was in the middle of filibustering Priscilla Owen, a fabulous nominee, and Senator BOB BENNETT made a unanimous consent request that the Senate commit 10 hours to debating her nomination and then give her an up-or-down vote, Senator REID objected. When Senator BENNETT asked how much time would be sufficient for the nomination, Senator REID responded by saying:

[T]here is not a number [of hours] in the universe that would be sufficient.

Later, Senator MCCONNELL sought a time agreement on Judge Owen. Senator REID responded by saying:

We would not agree to a time agreement . . . of any duration.

Majority Leader REID voted 27 times to filibuster President Bush's nominees. There are a number of other statements I could cite that demonstrate how some of my Democratic colleagues have forgotten the factual record.

The truth is, my colleagues on the Democratic side fought against moving to cloture on 17 of President Bush's judicial nominees on 30 separate occasions. In doing so, they changed 214 years of Senate tradition. That is a fact.

I remember, as a new Member of the Senate, when President Clinton was in office. I believed the Senate should abide by those rules. I remember voting for cloture to move two nominations—Berzon and Paez. Although I voted against them, I did not support a filibuster. I did not think we should change the Senate tradition.

Once those debates started—colleagues will remember—it was a pretty hot debate. We believed strongly that there was no basis to block a lot of these nominees. The only thing these judges had in common was that they believed a judge should strictly apply the law, that they should be objective, that they should not allow their personal feelings to enter into their decision-making, or their empathies, and that they would be faithful to the law even if they didn't like the law. If it was passed by some legislature or the Congress, they ought to be enforcing it regardless of what they personally thought. They were not elected to make the law; they were elected to enforce the law. The American people agreed with that overwhelmingly.

One night we debated all night. We went all night long to try to encourage colleagues to give up on the filibusters. But they didn't. That is how we got the Gang of 14 came about and made the rule change.

So my Democratic colleagues are sort of suggesting, it seems to me, that it is somehow improper that on any nominee Republicans would demand they achieve a 60-vote margin to move to an up-or-down vote—what they have been doing time after time. I will just say if we allow that to happen, this is the effect of it. It would mean for a Republican President who nominates a judge to the bench, his nominee would have to get 60 votes in the Senate to be confirmed. But if a Democrat is in office, and Republicans are not able to filibuster, it would only take 51 votes to get them confirmed.

That is the kind of situation we are in. So the answer becomes, to me, pretty obvious, and I think to others on our side. We had a full debate. We had a real battle. We went on for several years. We debated the rules of the Senate, and the Senate, in effect, established a new rule. The new rule is, filibusters are legitimate, but only if there are extraordinary circumstances. I think that is not totally improper. I guess we are stuck with it. That is where we are, and I think that is probably where we are going to stay for a while.

So as we go forward today, we will be asking—maybe each of us—what “extraordinary circumstances” is. There is no exact definition of it. When is it appropriate to vote against cloture on a judicial nominee? What does “extraordinary circumstances” mean? Each Senator will make up their own mind. There is no firm definition.

In my view, Judge Hamilton is an example of a nominee who does fit the “extraordinary circumstances” standard for a number of reasons. It is difficult for Members on this side of the aisle to vote to end debate on a nominee as controversial as Judge Hamilton. Indeed, we have had no debate on him at all on the floor to date. No one

on this side of the aisle has made a statement similar to the one Senator REID made about there not being enough time in the universe to debate the nominee.

If we look back and see how the decision was made on the nominees who came through when the rule was changed, maybe we can get some feeling for the appropriate way to view—based at least on what happened before—the meaning of “extraordinary circumstances.”

As to Judge Bill Pryor, the Democrats forced three cloture votes. They blocked him three times. Many of my colleagues who are now arguing against a filibuster, saying Judge Hamilton should not be filibustered, did not hesitate to vote to block an up-or-down vote on Judge Pryor.

During his confirmation, then Alabama Attorney General Pryor was criticized because he had pro-life personal views, although he had a record of showing that he criticized an Alabama law, as attorney general, that was anti-abortion, when he felt it was unconstitutional. As attorney general, he said it was unenforceable. It was a close question, but the Supreme Court had ruled on it, and Bill Pryor said: I am a man of the law. Even though I am pro-life, I cannot enforce this law.

That was not good enough. They thought he, as a strong and practicing Catholic, was too religious. So now, if we look at Judge Hamilton—I am not sure what his religious beliefs are, and it certainly is not a matter that is important—but in *Hinrichs v. Bosma*, in the district court where he is a Federal district judge, in 2005, Judge Hamilton prohibited prayers in the Indiana House of Representatives that expressly mentioned Jesus Christ, saying they violated the Establishment Clause of the United States. Yet he would have allowed prayers which mentioned Allah. They had an imam pray at the legislature too.

Mr. President, I will wrap up.

In *Grossbaum v. Indianapolis-Marion County Building Authority*, he denied a rabbi's plea to allow a Menorah to be part of the Indianapolis Municipal Building's holiday display. The Seventh Circuit reversed him unanimously.

So I would ask, between the criticism of Judge Pryor and Judge Hamilton, who is out of the mainstream? Where is the extraordinary circumstance?

Then there was Priscilla Owen, some of my Democratic colleagues found extraordinary her dissents in close, split cases, dealing with parental consent. Judge Owen was concerned that a 16-year-old in Texas could get an aspirin at school without parental consent but, under Texas law, could have an abortion without any parental involvement. She voted to uphold the ruling of the lower court judge that parents should be at least notified before their



daughters underwent an operation, and my colleagues did not like that.

Judge Hamilton, on the other hand, succeeded in blocking the enforcement of an Indiana informed consent law for 7 years. In reversing him, the Seventh Circuit noted that Judge Hamilton had abused his judicial discretion. The court of appeals said this:

[F]or seven years Indiana has been prevented from enforcing a statute materially identical to a law held valid by the Supreme Court in *Casey*, by this court in *Karlin*, and by the Fifth Circuit in *Barnes*. No court anywhere in the country (other than one district judge in Indiana)—

They were talking about Judge Hamilton—

has held any similar law invalid in the years since *Casey*. . . . Indiana (like Pennsylvania and Wisconsin)—

According to the Court—

is entitled to put its law into effect and have that law judged by its own consequences.

So between the criticisms of Judge Owen and Judge Hamilton, which one is outside the mainstream?

Well, there are other issues we could talk about and will talk about as the debate goes forward. But I just wanted to share that to say I am not one who believes we should lightly oppose a nominee. I think they should be given some deference, whatever a Senator believes. I believe a President's nominee should be given deference. But we are not a rubberstamp. We are being asked to give this nominee a lifetime appointment. If they believe they have the power to frustrate legislative will and popular will, when what the legislature did is not in violation of the Constitution, they do not need to be on the bench. That is my view and I think a lot of others' view too.

The American people are unhappy with judges who believe they can allow their feelings, their empathies to cause them to render opinions that do not follow the law. The great American heritage is an objective view of the law, and the oath that a judge takes is to be impartial and to serve under the Constitution and the laws of the United States.

Because I am deeply troubled by Mr. Hamilton's record—not by his personal qualities, but his record and his speeches—I will be opposing the nomination and not voting for cloture.

I thank the Chair and yield the floor.  
THE PRESIDING OFFICER (Mrs. HAGAN). The Senator from Indiana.

Mr. LUGAR. Madam President, I ask unanimous consent to speak as in morning business for up to 20 minutes.

THE PRESIDING OFFICER. Without objection, it is so ordered.

#### NOMINATION OF JUDGE DAVID HAMILTON

Mr. LUGAR. Madam President, I rise today to speak on behalf of Judge David Hamilton whom the President has nominated to serve on the U.S. Court of Appeals for the Seventh Circuit.

I first had the pleasure of supporting David Hamilton almost 15 years ago when he was nominated to the Federal district court. I said then that “the high quality of his education, legal experience, and character well prepare him for this position” and expressed my belief that “his keen intellect and strong legal background will make him a great judge.” This confidence in David Hamilton's character and abilities was shared by all who knew him regardless of political affiliation throughout Indiana's legal and civic communities.

I have known David since his childhood. His father, the Reverend Richard Hamilton, was our family's pastor at St. Luke's United Methodist Church in Indianapolis where his mother was the soloist in the choir. Knowing firsthand his family's character and commitment to service, it has been no surprise to me that David's life has borne witness to the values learned in his youth.

David graduated with honors from Pennsylvania's Haverford College, won a Fulbright Scholarship to study in Germany, and then earned his law degree at Yale. After clerking for the Seventh Circuit Court, David joined the Indianapolis office of Barnes & Thornburg where he became a partner and acquired extensive litigation experience in the Indiana and Federal judicial systems.

When our colleague, Senator EVAN BAYH, was elected Governor of Indiana, he asked David to serve as his chief legal counsel. Among other achievements in that role, David supervised the overhaul of State ethics rules and guidelines and coordinated judicial and prosecutorial appointments.

In the latter capacity, David worked closely with Judge John Tinder, then a President Reagan appointee to the district bench, whom President Bush recently appointed to the Seventh Circuit with the unanimous support of the Judiciary Committee and the full Senate.

When David was nominated to the district court, Judge John Tinder wrote to me that David was “meticulous in asking the difficult questions of and about judicial nominees.” He said his approach to these duties “typifies the deliberate and sensitive way in which he approaches matters in his professional life.”

The same is true of David's approach to his judicial duties. Leading members of the Indiana bar testify to his brilliance and, as important, to his character, dedication, and fairness. Geoffrey Slaughter, president of the Indiana Federalist Society, also endorsed Judge Hamilton's nomination, saying:

I regard Judge Hamilton as an excellent jurist with a first-rate intellect. He is unfailingly polite to lawyers. He asks tough questions to both sides, and he is very smart. His judicial philosophy is left of center, but well within the mainstream.

His colleagues on the Southern District of Indiana bench—a talented and

exceptionally collegial group from both parties—unanimously endorse that conclusion.

I recognize some of my colleagues do not share this view. Specific charges have been levied that Judge Hamilton has used his position on the Federal courts to drive a political agenda. I believe a closer look at his record will reveal that Judge Hamilton has not been a judicial activist and has ruled objectively and within the judicial mainstream.

Upon receiving a letter from my good friend and colleague, the ranking member of the Senate Judiciary Committee, I asked Indianapolis attorney and former Associate Counsel to President Ronald Reagan, namely, Peter Rusthoven, to review concerns raised regarding David Hamilton's nomination.

Judge Hamilton has been criticized for a speech delivered in 2003 when he cited that judges “write a series of footnotes to the Constitution.”

It has been suggested that this comment is evidence of a judicial activist philosophy. However, Judge Hamilton never wrote that judicial decisions are an appropriate means to change the Constitution. The footnotes comment means simply that judicial decisions illustrate how the Constitution applies to particular circumstances. For example, Chief Justice Marshall's seminal *Marbury v. Madison* decision, establishing judicial authority to pass on the constitutionality of actions by the political branches, illustrates a vital aspect of how the Constitution applies, but does not assert judicial power to amend the Constitution, much less based on a judge's personal views.

Another charge levied is that Judge Hamilton prohibited public prayers involving Jesus Christ but allowed prayers invoking Allah. However, Judge Hamilton did not say, as some suggest, that prayers in the Indiana Legislature “Allah” as the Muslim deity were permissible while prayers to Jesus Christ were not. He in fact said that using Allah as a generic reference to the deity could theoretically be permissible in nonsectarian prayer, as would be true of using the word for God in any language. Judge Hamilton was clear that legislative prayer advancing the religion of Islam would be prohibited. I support a more permissive approach to public prayer than Judge Hamilton, but clearly his ruling comports with Supreme Court authority. As Justice Antonin Scalia explained, government-sponsored endorsements of religion are sectarian if they “specify details upon which men and women who believe in a benevolent, omnipotent Creator and Ruler of the world are known to differ, for example, the divinity of Jesus Christ.”

Also contrary to certain charges, Judge Hamilton's ruling on the issue was not reversed. The Seventh Circuit's later reversal did not involve the

merits, but the separate, procedural issue of whether the taxpayer plaintiffs had legal standing to challenge the legislative practice. In this case, a subsequent Supreme Court ruling created a new precedent which led to the reversal.

A similar reversal situation occurred regarding an effort to compel local officials to include a Menorah as part of a holiday display in the Indianapolis City-County Building. The Seventh Circuit opinion by Reagan appointee Judge Ripple makes this point in its opening paragraph, saying Judge Hamilton's ruling had been made "without the benefit of the Supreme Court's recent guidance in this area."

There have also been claims, citing the Almanac of the Federal Judiciary, that Judge Hamilton is one of the most lenient judges in his district in criminal matters. However, the Almanac cited extraordinarily high praise for Judge Hamilton. The Almanac summary states: "Hamilton is fair when it comes to sentencing, according to lawyers." Practitioners consistently stated that he is objective and shows no bias.

In demonstrating this alleged leniency, critics have cited a case in which Judge Hamilton "used his opinion to request clemency for a police officer who pled guilty to two counts of producing child pornography." Judge Hamilton in fact imposed the 15-year sentence required by sentencing guidelines even though he believed it excessive in the circumstances. Doing what the law requires even when a judge may personally disagree is a textbook example of judicial restraint. Further, there were, indeed, circumstances in the case that might properly be considered in a later executive clemency request, which is all that the unpublished decision was pointing out. In other cases with different circumstances, Judge Hamilton has imposed rigorous sentences for child pornography as long as 100 years.

Critics also point to another case in which they argue that Judge Hamilton disregarded an earlier conviction in order to avoid imposing a life sentence on a repeat offender. In this particular case, Judge Hamilton made a mistake and has admitted it. Judge Hamilton initially imposed a 25-year sentence for drug and firearms offenses on a 55-year-old man taking into account a 10-year-old prior conviction. The issue was whether the sentence should be further enhanced based on a 35-year-old prior conviction on marijuana charges under the now repealed Federal Youth Corrections Act. Judge Hamilton now believes the Seventh Circuit was correct to apply a sentence enhancement, and he imposed a life sentence on remand.

Another complaint is that Judge Hamilton used his position to purposely delay enforcement of Indiana's informed consent abortion laws for 7

years. Judge Hamilton's analysis in the Indiana case differs from my own, but his actions were defensible in the context of what lower courts must do in the field of abortion law jurisprudence.

As those who believe *Roe v. Wade* was fundamentally mistaken would argue, "undue burden" issues of the sort Judge Hamilton and the Seventh Circuit wrestled with in the Indiana litigation are an unfortunate, inevitable consequence of what Justice Scalia has called the Supreme Court's continued effort to craft an "abortion code" without grounding in the text of the Constitution. Hence, it is hardly surprising that jurists will come out on different sides of undue burden inquiries. They necessarily entail judges weighing what is or is not undue by a standard that is unguided by any constitutional language. The Supreme Court itself continues to struggle to articulate tests that will elucidate this matter of law.

One illustration of that point is that five members of the full Seventh Circuit—including Judge Posner, a Reagan appointee—voted to grant rehearing en banc of the 2-1 decision reversing Judge Hamilton's ruling. Further, even in reversing, the Seventh Circuit did not hold that Judge Hamilton's fact findings were "clearly erroneous," which is the pertinent appellate review standard on evidentiary questions.

The delay assertion unfairly ignores that the delay was due in very large part to litigation decisions made by the State of Indiana itself. Judge Hamilton's preliminary injunction decision in 1995 was immediately appealable by the State as a matter of right; but the State chose not to appeal. The same was true of Judge Hamilton's 1997 decision modifying that injunction; again, the State chose not to appeal. Thereafter, the State as well as the plaintiffs sought continuances of the trial, including to permit further discovery on complex statistical issues that are an aspect of the undue burden analysis. The notion that Judge Hamilton was in any way trying personally to delay the case, whether based on his personal views on any issue or for any other reason, is unfounded.

Allow me to close with a few further thoughts on our nominations process. When I introduced now Chief Justice John Roberts to the Senate Judiciary Committee in 2005, I expressed my concern that the Federal judiciary is seen by many as another political branch. The confirmation process is often accompanied by the same oversimplifications and distortions that are disturbing even in campaigns for offices that are, in fact, political. This phenomenon is most pronounced at the Supreme Court level, and traces to several causes that I will not try to address today. I mention this, however, to underscore my commitment to a dif-

ferent view of judicial nominations, which I believe comports with the proper role of the judiciary in our constitutional framework.

I do not view our Federal courts as the forum for resolving political disputes that the legislative and executive branches cannot, or do not want to, resolve.

This is why I believe our confirmation decisions should not be based on partisan considerations, much less on how we hope or predict a given judicial nominee will rule on particular issues of public moment or controversy. I have instead tried to evaluate judicial candidates on whether they have the requisite intellect, experience, character and temperament that Americans deserve from their judges, and also on whether they indeed appreciate the vital, and yet vitally limited, role of the Federal judiciary faithfully to interpret and apply our laws, rather than seeking to impose their own policy views. I support Judge Hamilton's nomination because he is superbly qualified under both sets of criteria.

Finally, permit me to thank my colleague from Indiana, Senator EVAN BAYH, on the thoughtful, cooperative, merit-driven attitude that has marked his own approach to recommending prospective judicial nominees from our State. The two most recent examples are his strong support for President Bush's nominations of Judge Tinder for the Seventh Circuit and of Judge William Lawrence for the Southern district of Indiana.

Thank you for this opportunity to express my support for Judge David Hamilton. I am hopeful that my colleagues will vote tomorrow to end debate on this important nomination.

Madam President, I yield the floor, and I note the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. JOHNSON. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JOHNSON. I have a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will so state.

Mr. JOHNSON. How much time is remaining on both sides?

The PRESIDING OFFICER. On the minority side, 16½ minutes; on the majority side, 46½ minutes.

Mr. JOHNSON. I thank the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. JOHNSON. Madam President, I note the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. COBURN. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### MOTION TO COMMIT

Mr. COBURN. Madam President, I know we are going to vote at 5:30 on an amendment and on a motion to commit. I send a motion to commit to the desk at this time.

The PRESIDING OFFICER. The clerk will report the motion.

The bill clerk read as follows:

The Senator from Oklahoma [Mr. COBURN] moves to commit the bill H.R. 3082 to the Committee on Appropriations of the Senate with instructions to report the same back to the Senate with changes to reprioritize spending within the bill in order to provide sufficient funding to ensure coverage of medically necessary care and payment of caregivers for disabled veterans, including but not limited to those who fought in World War II, the Korean War, the Vietnam War, Operation Desert Shield, Operation Desert Storm, Operation Enduring Freedom, Operation Iraqi Freedom, and any combat zone in the War on Terrorism, and that such funding for veterans' assistance should be paid for with reductions in spending for earmarks for less urgent projects and other unnecessary programs not requested by the Commander in Chief.

Mr. COBURN. Madam President, I think under the agreement I will have 30 minutes to discuss this and the other amendment I have; is that correct?

The PRESIDING OFFICER. Without objection, the Senator may consume 30 minutes.

Mr. COBURN. I thank the Chair. I will try not to consume that amount of time to move this along.

Last weekend, the Senate, prior to Veterans Day, had the urgency of passing a bill that will, in fact, help a specified group of veterans, but it won't help veterans who have identical needs to that group of veterans because they were excluded from it.

The Caregivers Act also will require, at a minimum, \$3.7 billion in spending over the next 5 years, and none of it—there was no decision to make in terms of that bill on any priorities about what we get rid of. As a matter of fact, the intent, as stated by the majority whip, was that we needed to pass this before last Wednesday so that people could get care. Well, the truth is, no care will come about if there is no money in this bill for that program.

The whole purpose for this motion to commit is to do two things: One, send the committee back and eliminate the discrimination against veterans in the first gulf war, against veterans in the Vietnam war, the Korean war, and World War II who have identical needs that require family caregivers and include them in it. The second aspect of the motion to commit is to find it from the available funds we have today. We suggest some opportunity for that but don't mandate where it comes from. But we should reduce spending some-

where else to pay for this. The reason that is important is, this past year, 43 cents out of every dollar we spent we borrowed from our grandchildren.

So in making a motion to commit this bill, we are doing three essential things. No. 1 is that we are actually being truthful that we really want to take care of this need and will do it in this fiscal year. No. 2 is that we are not discriminating against other veterans who have identical needs. No. 3 is that we are not discriminating against our children and grandchildren by not making hard choices to pay for it without existing funds.

I have no illusions that this motion to commit will succeed. But it doesn't change the very real facts that are in front of this Nation—that we cannot continue to spend money without making choices about what is most important. None of us disagree that taking care of those who have sacrificed for us has to become No. 2 behind the defense of this Nation in terms of the priorities for this country. Nothing else is higher in priority. Yet the bill we have before us doesn't make that a priority and the authorizing language doesn't make that a priority. As a matter of fact, the bill before us asks the VA to study this issue rather than actually go on and fund this issue by making the appropriate changes.

There is a significant increase in this bill, and outside of foreign expenditures, it is over 5.5 percent. It is not objectionable that it would be there, that kind of increase, given the demand our troops have had and their injuries and what they have suffered in terms of defending this country and fighting two ongoing wars. However, some of that money ought to be winnowed down so that we can take care of the very people who protect us.

We have had these tremendous speeches on why we have to do it now. If those speeches aren't going to ring hollow, we ought to commit the bill to make sure we have money for the Veterans Caregiver Act.

#### AMENDMENT NO. 2757

The other area I wish to spend time on is that in this bill we also have various and sundry reports that have been requested by the committee of different branches of the Federal Government. One of the most important ways to build trust in the Congress today is for us to create and increase the level of transparency for the American people to see our actions. This amendment is simply an amendment that says any reports that do not divulge or put at risk national security data should be made available to all the Senators, all the Congress, and all of the American people. This has been in several of the appropriations bills we have passed in the Senate. Unfortunately, rarely has it stayed in the conference report because there are those who don't want the American people to see what we are doing and how we are doing it.

I will sum up. We find ourselves in a big pickle right now as a nation. We soon will be voting in this body to increase the debt limit to \$12.1 trillion. That figures out as a significant amount of money for every individual in this country—well over \$35,000—but it is a very small amount compared to what is getting ready to happen in the next 9 years as our debt triples. Our debt will triple in the next 9 years, which means we will go from 30-some thousand dollars per individual to very close to \$100,000 per individual.

That doesn't compare to the unfunded liability. If you take everybody in this country who is 25 years of age and younger—that is 103 million Americans—and you ask what is the consequence to those young Americans 20 years from now, the consequence is that they are going to be paying for another \$1 million in debt for which they got no benefit, and the interest costs on that alone will be over \$70,000 per year, per individual under age 25 today and under 45 20 years from now and all their kids.

The idea that we ought to pay for the new things we do by eliminating the things that aren't important, that we ought to pay for the new things we do by eliminating some of the \$300 billion worth of waste, fraud, and duplication in the Federal Government every year is not a novel idea outside Washington; it is only a novel idea inside Washington—the very fact that the next generation will be put at a disadvantage because we lack the same courage and clarity of moral character our troops have in terms of making tough choices.

My hope is that with the motion to commit, in fact, the body will look and say we really can fund this and find waste and we can make choices about what is most important versus what is not most important, and not only will we help the veterans who are deserving of our assistance at this time, but we will also help the veterans' children and grandchildren by not plugging a credit card in and saying: Whatever we are going to do for veterans today, we are going to charge to you.

Instead, I hope that we are going to carry the load and that we are going to embrace the heritage of our country, the heritage of sacrifice and of creating opportunity that is better for the generations that follow than the opportunities that were given to us. That is not happening right now in our country. We are going to have a larger deficit next year than we have this year. We are going to take 43 cents out of every dollar we actually spend next year and we are going to charge that all to those two generations that follow us. That is not what made this country strong. That is not what our veterans fought for. That is not the country they want to see in the future. It is time we made some hard choices.

The resistance will be: I don't want to eliminate my earmark; I don't want to eliminate the parochial things I have done for my State to take care of veterans. They will not come out and say that, but that will be the result of the vote. The vote is, take care of the politicians, say you are taking care of the veterans, but undermine the future of the next two generations. That is what the vote is going to be about on the motion to commit—a lot of controversy and emotion associated with not doing things on time. But I would rather do things right and do things that will secure the future rather than destroy it. I would rather do things that honor the sacrifice rather than dishonor the sacrifice.

We can claim all we want when we pass a veterans caregiver bill, but if we don't fund it and there is no money for it, it is an announcement that we care but no action behind it. If we don't cover all the veterans who have the same need, we know it is political only. The motion to commit makes sure that we cover all veterans, that we treat them all equally, and if they have the same kinds of needs, they will get the same kinds of service—not because they are young and served in the war on terror but because they served this great Nation and preserved it with their courage, valor, and commitment.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. JOHNSON. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JOHNSON. Madam President, I ask unanimous consent that no amendments be in order to the Coburn amendment or motion.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JOHNSON. Madam President, the MILCON-VA bill before the Senate today funds critically important programs for our Nation's military forces and their families and for our vets. Most of the funding was requested by the President, but certain programs were enhanced or augmented by the committee after careful consideration and evaluation of the budget request. Let me give two examples of the funding in this bill that was not requested by the President that would be stripped out under the mandate of the motion to commit: \$50 million for community-based outpatient clinics for vets in rural areas underserved by VA medical centers. These clinics serve as medical lifelines for vets in rural areas who do not have ready access to a VA Hospital.

There is \$50 million in a pending amendment to renovate excess build-

ings on VA medical campuses for homeless vets shelters and services. An estimated 131,000 vets are homeless on any given night. Secretary Shinseki has made it a priority to eliminate homelessness among vets, and this bill supports that effort.

There is \$300 million to complete the funding requirement for the expanded Homeowners Assistance Program for military personnel, to protect military families under orders to move during the current mortgage crisis from disastrous losses on home sales and to shield wounded warriors and surviving spouses from the financial ravages of the mortgage crisis.

There is \$7.5 million for a chapel center at Dover Air Force Base, DE, to replace a wood-frame chapel built in 1956. The existing chapel has asbestos in the ventilation system, the roof is too unstable for maintenance personnel to walk on, and the Chaplain Command has rated the current chapel as the worst in the command. Yet this decrepit facility serves as the primary site for hosting families waiting to view the dignified transfer of the fallen from the wars in Iraq and Afghanistan. This project was not included in the President's budget request but was added by the committee.

These are but a few examples of the types of programs and projects funded in the bill that were not requested by the President. They are not, as this motion would suggest, less urgent or unnecessary simply because they were not requested by the President. They are the product of careful analysis and evaluation by the committee of jurisdiction and developed in close consultation with the authorizing committees.

I urge my colleagues to support the committee-passed version of the MILCON-VA bill and reject the motion to commit it to the committee.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mrs. HUTCHISON. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. HUTCHISON. Madam President, I know my colleague, the chairman of the Veterans Affairs and Military Construction Subcommittee, has already spoken on the bill. I rise to make a couple of points.

First, I thank the Senate for not meeting on this bill last Tuesday, when it was scheduled to be taken up and passed and, instead, allowing so many of our colleagues to go to the memorial service at Fort Hood in Killeen. It was a wonderful service. So many of our colleagues were in attendance from all over the country to show their support

for the troops, to show sympathy for the families. There were approximately 200 family members there. Of course, the President and Mrs. Obama were there. There were many House Members. It showed to the base and to the thousands of troops who attended how much we care about them. I am grateful to my colleagues for that gesture.

We have a good bill. My colleague Senator JOHNSON and I have worked together on this bill. We have stayed within our budget. We have tried to make sure we are covering the needs of our veterans.

The emphasis in the veterans section is in health care. We know we must do more for the mental health and getting people who have been in Afghanistan or Iraq back into the mainstream so they can lead normal lives. We have done that. We have put over \$4 billion into mental health funding. We are setting up centers now for mental health excellence. I am pleased we are making that a priority.

In addition, spinal cord and traumatic brain injuries. We know so many of our wounded soldiers suffer traumatic injuries. We need to make sure we have the ability to give them all of the rehabilitation necessary for them to reenter a life of quality. We are adding one more tier 1 polytrauma center. We have four. We are adding one more in San Antonio, TX, in the VA center, which we are very pleased to be able to do.

The homeless veterans program is also being augmented in this bill, and I applaud Senator JOHNSON's efforts for creating the initiative last year to increase the VA footprint in our rural areas for our health care facilities. I think this is very helpful and warranted.

On the military construction side, this morning I was at Dyess Air Force Base, where we broke ground on two incredible facilities. One will be a maintenance facility for both the B-1 bombers and also the C-130s and new C-130Js that are going to be coming into our system next year. It is going to be a great facility, and we are very excited about that. We have a Reserve training headquarters there at Dyess, as well, and we broke ground on that building today.

In addition, our BRAC has been fully funded. That was a priority of mine because I thought it was very important we fully fund our BRAC.

The PRESIDING OFFICER. The Senator's time has expired.

Mrs. HUTCHISON. Thank you, Madam President. I wish to go ahead to the vote because I know it is important. But I will just say, I fully support our bill and look forward to working on the amendments and passing this bill, finally, tomorrow.

AMENDMENT NO. 2757

The PRESIDING OFFICER. There will now be 2 minutes of debate, evenly

divided, on Coburn amendment No. 2757.

The Senator from South Dakota.

Mr. JOHNSON. Madam President, I support the amendment from the Senator from Oklahoma, amendment No. 2757, disclosure of reports. Our side was willing to agree to this amendment by unanimous consent or voice vote.

I urge my colleagues to support this amendment.

I yield back my time.

The PRESIDING OFFICER. The Senator from Texas.

Mrs. HUTCHISON. Madam President, I also support this amendment. I think the reporting requirements are absolutely the right thing to do.

Madam President, I yield back the rest of my time and ask for the vote to commence.

I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The question is on agreeing to the amendment.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from West Virginia (Mr. BYRD), the Senator from Delaware (Mr. KAUFMAN), the Senator from Connecticut (Mr. LIEBERMAN), and the Senator from Rhode Island (Mr. WHITEHOUSE) are necessarily absent.

I further announce that, if present and voting, the Senator from Delaware (Mr. KAUFMAN) would vote "yea."

Mr. KYL. The following Senators are necessarily absent: the Senator from South Carolina (Mr. GRAHAM), the Senator from Georgia (Mr. ISAKSON), and the Senator from Louisiana (Mr. VITTER).

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 93, nays 0, as follows:

[Rollcall Vote No. 344 Leg.]

#### YEAS—93

Akaka	Corker	Klobuchar
Alexander	Cornyn	Kohl
Barrasso	Crapo	Kyl
Baucus	DeMint	Landrieu
Bayh	Dodd	Lautenberg
Begich	Dorgan	Leahy
Bennet	Durbin	LeMieux
Bennett	Ensign	Levin
Bingaman	Enzi	Lincoln
Bond	Feingold	Lugar
Boxer	Feinstein	McCain
Brown	Franken	McCaskill
Brownback	Gillibrand	McConnell
Bunning	Grassley	Menendez
Burr	Gregg	Merkley
Burris	Hagan	Mikulski
Cantwell	Harkin	Murkowski
Cardin	Hatch	Murray
Carper	Hutchison	Nelson (NE)
Casey	Inhofe	Nelson (FL)
Chambliss	Inouye	Pryor
Coburn	Johanns	Reed
Cochran	Johnson	Reid
Collins	Kerry	Risch
Conrad	Kirk	Roberts

Rockefeller	Snowe	Udall (NM)
Sanders	Specter	Voinovich
Schumer	Stabenow	Warner
Sessions	Tester	Webb
Shaheen	Thune	Wicker
Shelby	Udall (CO)	Wyden

#### NOT VOTING—7

Byrd	Kaufman	Whitehouse
Graham	Lieberman	
Isakson	Vitter	

The amendment (No. 2757) was agreed to.

Mr. JOHNSON. Madam President, I move to reconsider the vote.

Mr. LEAHY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

#### MOTION TO COMMIT

The PRESIDING OFFICER. There are now 2 minutes evenly divided on the Coburn motion to commit.

The Senator from Oklahoma is recognized.

Mr. COBURN. Madam President, this motion to commit is based on the fact that we have a need among veterans that has an upcoming authorization bill but there is no money in this bill for it. The motion to commit would instruct the conferees to expand those eligible to all veterans who have the same need, to find the money to pay for the first year of this in that bill and not charge it to the next generation.

The idea behind the motion to commit is that our veterans are a priority, and if they are, we ought to defund things that are less of a priority and make sure we take care of them. The obligation for us to fulfill our commitment to veterans is not obviated by the lack of our obligation to fulfill our commitment to the generation that follows.

I would appreciate the support of my colleagues on the motion to commit.

The PRESIDING OFFICER. Who yields time on the motion? The Senator from South Dakota.

Mr. JOHNSON. Madam President, as I have indicated before, I strongly oppose the motion to commit this bill with instructions.

This bill funds programs that are vitally important to America's military troops and their families and to our Nation's veterans. Most of these programs were funded in the budget request but not all. This bill includes additional funding for such programs as housing for homeless veterans, rural clinics for veterans in underserved areas, mortgage relief for military personnel under orders to move during the current mortgage crisis, and for wounded veterans and surviving spouses and funding for an array of regionally needed military construction projects not included in the budget request.

The MILCON-VA bill before the Senate is a good piece of legislation. Likewise, the veterans caregiver assistance authorization bill is important legislation. The two bills should not be con-

fused. Congress should pass both the MILCON/VA appropriations bill and the caregivers assistance authorization bill without further delay.

Madam President, I yield the floor.

Mr. COBURN. Madam President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There appears to be.

The question is on agreeing to the motion.

The clerk will call the roll.

The bill clerk called the roll.

The PRESIDING OFFICER (Mrs. SHAHEEN). Are there any other Senators in the Chamber desiring to vote?

Mr. DURBIN. I announce that the Senator from West Virginia (Mr. BYRD), the Senator from Delaware (Mr. KAUFMAN), the Senator from Connecticut (Mr. LIEBERMAN), and the Senator from Rhode Island (Mr. WHITEHOUSE) are necessarily absent.

I further announce that, if present and voting, the Senator from Delaware (Mr. KAUFMAN) would vote "nay."

Mr. KYL. The following Senators are necessarily absent: the Senator from South Carolina (Mr. GRAHAM), the Senator from Georgia (Mr. ISAKSON), and the Senator from Louisiana (Mr. VITTER).

The result was announced—yeas 24, nays 69, as follows:

[Rollcall Vote No. 345 Leg.]

#### YEAS—24

Barrasso	Crapo	LeMieux
Bayh	DeMint	McCain
Brownback	Ensign	McCaskill
Bunning	Enzi	McConnell
Burr	Grassley	Risch
Chambliss	Hutchison	Roberts
Coburn	Johanns	Sessions
Cornyn	Kyl	Thune

#### NAYS—69

Akaka	Feinstein	Murkowski
Alexander	Franken	Murray
Baucus	Gillibrand	Nelson (NE)
Begich	Gregg	Nelson (FL)
Bennet	Hagan	Pryor
Bennett	Harkin	Reed
Bingaman	Hatch	Reid
Bond	Inhofe	Rockefeller
Boxer	Inouye	Sanders
Brown	Johnson	Schumer
Burris	Kerry	Shaheen
Cantwell	Kirk	Shelby
Cardin	Klobuchar	Snowe
Carper	Kohl	Specter
Casey	Landrieu	Stabenow
Cochran	Lautenberg	Tester
Collins	Leahy	Udall (CO)
Conrad	Levin	Udall (NM)
Corker	Lincoln	Voinovich
Dodd	Lugar	Warner
Dorgan	Menendez	Webb
Durbin	Merkley	Wicker
Feingold	Mikulski	Wyden

#### NOT VOTING—7

Byrd	Kaufman	Whitehouse
Graham	Lieberman	
Isakson	Vitter	

The motion was rejected.

Mr. JOHNSON. Madam President, I move to reconsider the vote.

Mr. PRYOR. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. JOHNSON. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BARRASSO. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BARRASSO. Madam President, I ask unanimous consent to be allowed to speak as in morning business for up to 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### CONGRESSIONAL AWARD ACT 30TH ANNIVERSARY

Mr. BARRASSO. Madam President, today I rise to recognize the 30th anniversary of Public Law 96-114, which is the Congressional Award Act. My predecessor, Senator Malcolm Wallop of Wyoming, was a champion of this program.

In 1979, the late Congressman James Howard of New Jersey and Senator Wallop introduced the Congressional Award Act legislation.

Thirty years ago, as you recall, America was still living with the Cold War. The country was in the middle of a serious national conversation, one that would require America's young people to participate in a period of national service. It was a controversial concept, in part because the country had eliminated the armed services draft. Legislation to establish the congressional award had been introduced in Congress for several sessions, but no action had yet been taken. When Senator Wallop was approached as someone who might have an interest, he quickly understood and embraced the core of the program.

Our Nation's young people have worthy contributions to make to the world around it, he thought and he said, and the process required to earn an award was a productive path to determine their future. Senator Wallop felt that if America was thinking about requiring national service, then Congress should recognize and thank America's youth for their positive contributions made through the course of their own lives. He saw the congressional award as the perfect opportunity to do this.

When Senator Wallop agreed to serve as a sponsor of the congressional award, he made it a full commitment. The legislation quickly moved through Congress, and it became law in his very first term of the three terms he spent in the Senate.

The congressional award is available to any young person in our country aged 14 to 23, no matter their life circumstances or their current abilities. Through goal setting, participants move from where they are to where they can be, providing service to others and exploring their own interest in the process.

Recipients of the award are not selected for it. The recipients of the

award earn it. It has been my privilege to witness the success of this program both in my home State of Wyoming and around the country. I thank all of the Members of Congress who are involved in the congressional award in their own States and districts. I encourage those who have not yet done so to bring this program to their young constituents. And most of all today, I thank our former colleague, Senator Malcolm Wallop, for his gift—a gift of opportunity for America's young people through the creation of a congressional award, an award that was signed into law 30 years ago today.

Madam President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BROWN. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. MERKLEY). Without objection, it is so ordered.

#### HEALTH CARE REFORM

Mr. BROWN. Madam President, I have come to the Chamber pretty often in the last 3 months, as we continue the debate on health care, to share letters from people from Ohio, from Steubenville, from Wauseon, from Ash-tabula, from Hamilton and Middletown, people who write me concerned with the direction of our health care system.

What I find in almost every one of these letters that have come from Ohioans and people I mostly don't know, although I hear these stories in person—last night I heard them in Cleveland, a few days in Columbus; I have heard them from all over the State—is that so many people, a year ago, if you had asked these same people who wrote the letters, are you happy with your health care plan, they would have said yes. But something happened in the last year.

Maybe they had a child born with a preexisting condition. Maybe they got really sick and their insurance was canceled because it cost the insurance company too much money or their premiums were high or they owned a small business with 20 employees and one of their employees got especially sick and the insurance price spiked and they could no longer afford the insurance for any of their 20 employees.

The other thing I hear over and over is—a lot of people who send me letters who have lost their insurance, they are my age or a little bit older. I turned 57 last week. These are letters from people who are 57 or 62, particularly in their early sixties. They say it is so important to them to turn 65 so they will have insurance. Think of that: I can't wait until I am a little older so I can then have the security and peace of mind and put that anxiety behind me.

We have a health care system now where people think they want to be a little bit older so they can qualify for Medicare, to have the stability of Medicare. Something is wrong with that. Those are the two things I hear over and over: I need to be 65 so I can get Medicare because I know it is reliable and stable or I used to be satisfied with my insurance but look what happened.

Let me share some of these letters. Karen from Mahoning Valley, around Youngstown, Poland, Austintown, that area of Ohio. She writes:

I am a high school art teacher. Last week I was speaking to one of my students who said she had a health issue. I suggested she go see a doctor but she said she can't because her family doesn't have health insurance. I have suggested she at least go see the school nurse but I know she needs regular visits to a physician. I am appalled at the lack of concern shown by many Members of Congress and by the special interests trying to control the health reform process. Please make the changes for the people who elected you and reap the benefit of seeing positive change in our country.

Do you know what will happen? I don't know the student's health problem, but what people would say about this is, if her student gets sick, she can go to the emergency room and get health care. But that is not the best way to deliver health care. But forget about the best way to deliver it. What happens to the student? Maybe the student has asthma. My wife almost died of asthma when she was a teenager, but she had good health insurance because her dad carried a union card and worked for a local utility company and was able to make sure she got the care she needed. This young woman, say she had asthma. She would only get coverage in the emergency room if she had an asthma attack. She wouldn't get any help from the emergency room to manage her asthma or any of the medicines she needs for asthma or any of the kinds of things my wife's insurance pays for for her asthma and so many others who have insurance. So what we are doing is jeopardizing this girl's life and her health, and we are also costing the system more money because instead of managing the asthma, she has to go for acute care.

So the emergency room does not mean everybody has health care coverage in this country. It means they will take care of you if you are really sick and you have some acute attack of something. They will not take care of you to manage your diabetes or manage your asthma or manage your heart disease. They only take care of you—the emergency room—when you have a heart attack, if you are uninsured. What kind of health care system is that? It is not as humane as it should be, and it is way more expensive and it jeopardizes people's lives.

Margaret is from Clermont County, the whole other end of the State.



Clermont County is on the Ohio River, just east of Cincinnati, Batavia, that part of Ohio.

My oral cancer was diagnosed in 2005. It came back in December 2007, September 2008, and February 2009.

We've been lucky and found it early each time, which allowed me to avoid radiation therapy—so far.

I worry all the time that eventually I won't be able to work and would lose my health insurance.

My husband will retire in 2011, when he qualifies for Medicare. But I'm only 61 and have to wait four years before enrolling in Medicare.

I don't understand how opponents of reform can be unsympathetic to the plight of millions of people who have preexisting conditions or have to lose everything to qualify for Medicaid.

We need reform now.

So here is another example. Margaret from southwest Ohio says: I am 4 years away from Medicare. My husband can retire and get Medicare. I am still 4 years away. What are my options? Do we spend everything we have—basically spend whatever their net worth is—to qualify for Medicaid, which is available to many low-income people, or do I just hope my cancer does not act up again before I turn 65? But again, she needs maintenance of care, some medication to help her so she can make it through this time.

Margaret, as Karen's student and Karen's student's family, could benefit from a public option because it would give them more choice.

In Clermont County in southwest Ohio, two insurance companies have 85 percent of the insurance business in that area, that, I believe, four county areas: Hamilton, Clermont, Butler, and Warren Counties. Two companies have 85 percent of the business. That means the quality of insurance is less and the cost of the insurance is more. That always happens when there is no real competition. So that is why it is so important people have the public option, so Margaret can get insurance, she can choose the public option or she can choose Aetna or WellPoint or Cigna or Medical Mutual—any company she wants.

But it also means the public option will keep the price down because more competition means better quality; more competition means keeping the price down. As the Presiding Officer, the Senator from Oregon, said in a meeting I was just in, one of the things the public option does is—we tell people: You need to get insurance. There are a number of people who, I am sure, have come up to him in Eugene or Portland or places in Oregon, as they have come up to me in Mansfield and Ashland and Galion and Crestline, OH, and said: You are going to make me buy insurance. I don't want my insurance dollars to go to a private company. I want the choice of letting them go to the public option, a Medicare-like plan, so I have that choice and I can di-

rect my insurance dollars to the place I want them to go.

A third letter I will read—I have two more to share with my colleagues—is from Bill from Cuyahoga County, which is the Cleveland area. Bill writes:

My spouse was diagnosed with breast cancer over two years ago. She worked for a commercial airline for 36 years, but along with other employees in their mid-50s, she was asked to take early retirement or face the possibility of reduced retirement benefits.

She took the early retirement package and subsequently found a part-time job with a local bank.

The health insurance coverage is inadequate and barely pays any benefits.

We have been together for more than 10 years, and during that time she didn't have so much as a cold.

But boom, the next thing you know she is sick with breast cancer, with chemo and medications that weaken her.

After her treatment sessions, she would then go off to work because she needed to keep her health benefits.

But finally, a few weeks ago, she quit her job. She's on COBRA now which we hope will last until she turns 65 years old and is eligible for Medicare.

My wife paid her [insurance] premiums for 36 years—

When she was with the airline—while she was healthy but now that she is older and needs insurance, the benefits are cut or non-existent.

Bill's story is what we hear over and over, and it is in this same letter. Bill's story is: My wife paid for insurance all these years. We thought we had good insurance, and we did have good insurance until we needed it, until my wife got sick. Then the insurance was not so good. And Bill's story, with his wife, is: She looks forward to being 65 so she can have Medicare coverage.

Again, what kind of health care system does that? The insurance is OK until you really need it, and then they cut you off if you are too expensive, they cut you off if you have a pre-existing condition, or they cut your son or daughter off because a baby is born with a preexisting condition. What kind of health care system says: Boy, I can't wait until I am 3 years older so I can have that good government plan, that Medicare plan that will mean stability and predictability?

We clearly need to help people get through this anxiety that so many Americans have because they just hope they do not get sick before they turn 65 or they hope they do not get too expensively sick, if you will, because they are going to lose their insurance because their insurance company will cut them off. That is why we need the public option. We need insurance reform. We need no more preexisting condition exclusions. We have done that in the bill.

No more discrimination based on gender or disability or race or age or geography. We have done that in the bill. No more disqualifications or an-

nual cap because your health care costs too much, you spent too many days in the hospital, went to too many expensive doctors, had too much treatment. It is so expensive the insurance company is going to cancel your insurance. We are going to say: No more of insurance companies gaming the system.

We know—and the Senator from Oregon was on the floor with me a couple weeks ago and talked then—that insurance companies are making more and more profits, a 400-percent increase from 7 years ago. Insurance company CEOs' salaries—the Aetna CEO makes \$24 million a year. The CEOs of the 10 largest insurance companies in the country average \$11 million in pay.

How are they doing that? They are doing that by cutting off people such as Bill's wife. They are doing that by using preexisting conditions and keeping people from getting insurance. That is why the public option for Bill and his wife would mean they would be in a situation where they could have more choice—those insurance reforms I talked about. The public option would help to enforce those insurance reforms so Aetna and Blue Cross and WellPoint and these companies could not game the system the way they have so they can pay these huge salaries and have these increasingly huge profits. The public option will simply give people more choice. And it is only an option.

Mr. DURBIN. Mr. President, will the Senator yield for a question?

Mr. BROWN. Sure.

Mr. DURBIN. I tell the Senator, I was back home in Illinois during the break and went to southern Illinois, which is an area the Senator would be familiar with in a second. It is a small town, rural area. I love it. That is where my roots are in our State. I stopped at a hotel in the area of Marion, IL, and there is a nice lady who fixes breakfast in the morning for the guests. Her name is Judy. She could not be any kinder and nicer and always has a warm greeting.

She came up to me, as she was getting a cup of coffee, and said: Is this health care thing going to help me?

I said: Do you have health insurance?

She said: Oh, no. I've never had health insurance.

Judy, I am guessing, is about 60 years old.

I said: Well, I can tell you, if you just give me an idea about yourself, I will give you kind of an idea of what you might expect.

She said: Well, they keep cutting our hours at the hotel here. I am down to 30 hours a week, and I get paid about \$8 an hour.

So I said: Well, I'll do a quick calculation. I think you make about \$12,000 a year.

She said: Yeah.

Imagine, living on \$12,000 a year, which is what her gross income is.

I said: By most of the bills that are going through Congress now, unless



you are making over \$14,000 or \$15,000 a year, you will be covered by Medicaid, which means you are going to have health insurance for the first time in your life through Medicaid.

She said: I don't have to pay for it?

I said: No. You're in a low-income situation. You wouldn't have to pay for it at \$12,000 a year.

I say to the Senator, I thought, as the Senator was just speaking, what if she were making \$15,000 a year and her employer did not offer health insurance? As I understand it, at that point, most of the bills say: It is time for you to find a way to find health insurance. And the insurance exchange will give you some options from which to choose.

What the Senator is saying—what I believe, and I think what the vast majority of our people believe—is, one of those options should be a not-for-profit plan, the lowest cost for Judy to buy into. As the Presiding Officer pointed out in an earlier meeting we had, if we were to say we are going to impose an obligation on people to buy health insurance but only give them private health insurance options, I think most people would say: Wait a minute. If you are going to impose an obligation on me to buy health insurance, give me some affordable options.

Our support for a public option is to come up with a not-for-profit plan that is not trying to please shareholders, that is not advertising on radio and television, and that does not hire lots of people, clerks to say no. That, to me, is a sensible outcome for the obligation to buy health insurance because it gives people choices.

I salute Senator HARRY REID because, as our Democratic leader, he said maybe there are some Governors, some States, some people who just do not want a public option. Let them decide to opt out of the system. They can opt out. They are not going to be forced in. They can opt out. I think that is a reasonable way to move.

So I say to the Senator from Ohio, you probably have a lot of your constituents, just like mine—like Judy who works down at this hotel—who are uninsured at the moment. She has diabetes, incidentally. She told me she had some medical issues and could not even go to a doctor, see a doctor, because she just does not make enough money. That is the reality of life for a lot of hard-working people in Illinois, and in Ohio, I am sure.

Mr. BROWN. Mr. President, I thank Assistant Majority Leader DURBIN.

That story is so common. I was in a restaurant in Columbus one day and had breakfast with my daughter, who lives there. The young woman who waited on us, who is working probably about the same number of hours—she is waiting tables. She is doing a little better than that, I think, in terms of her income. She is also tutoring some

music students because she went to college and got a degree in music. She hopes to turn that into a business. She is making more money than what would qualify her for Medicaid. With the legislation, she would get the opportunity.

She said: Are you going to pass this bill?

I said: Yes.

She said: Are you going to have a public option?

I said: Majority Leader REID is putting the public option in the bill. The House passed a bill with the public option. So I believe we are going to have a public option in the bill.

So again, as Senator DURBIN said, depending on their income, people will take their personal money, adding it to help they get from the government, to be able to pay the premiums. Let them decide for themselves. We do not want to tell them they have to go into a Medicare-like public option. We do not want to tell them they have to go to Aetna or Cigna or Blue Cross or WellPoint. Give them that chance and give them that choice. They can compare on cost. They can compare what kind of service they get, what kind of illnesses are covered.

Then, as Senator DURBIN pointed out, one of the things with private health insurance is that a big part of their profits—and their profits have grown, as have their salaries for the top executives—a big part of their profits comes from hiring bureaucrats who deny care. They first try not to insure you by invoking a preexisting condition or something so you cannot get insurance. They hire a bunch of people to deny you even getting the insurance.

Then, if you are able to qualify for insurance because you do not have a preexisting condition, and you get sick, then they hire a bunch of bureaucrats who process your claim and many times turn you down. About a third—almost a third—of claims initially are turned down by an insurance company. More of them are accepted after you appeal.

But, for example, take Judy in Marion, IL, who the Senator just talked about. If she were to have coverage from a private health insurance company—you know how hard people work in hotels, whether cleaning rooms or waiting tables, or being at the front desk or whatever they are doing, and doing maintenance work there. They are working so hard. They are very tired at the end of the day, as are most Americans. They file a health care claim that is legitimate. The insurance company tells them no. Then they have to find the time during the work day, if they work when the insurance companies' lines are open, to call and call and call.

Some of them call their Congressman or Senator, and we try to help people all the time push the insurance compa-

nies. They will talk to us. We are much more likely to be able to help them than they can help themselves when we call in. But why should that be? Why should they have to call their Members of Congress or call Senator DURBIN or Senator MERKLEY or me to help fight an insurance company?

When people are sick, the last thing they want to do is fight an insurance company to get reimbursed.

We know what the President said during the 2008 Presidential race about his own mother, that she was dying from cancer and had to fight with insurance companies. It is simply not the kind of health care system we should have.

I have met so many Judys from Marion, IL, in places such as Steubenville and Cambridge and Lima and Findlay, OH, who work so hard and cannot get insurance and cannot manage their care, cannot manage their health. People like that die younger than people who dress like this and have good insurance. People like that so often—Judy has not been able to take care of her diabetes. My son-in-law has diabetes. He was diagnosed with type I diabetes at the age of 29. That was about 5 years ago. He works for Ohio State. He has a good health care plan. He takes really good care of himself, but he has the support of a health care system to do it. He is in the capital city with great private hospitals and public hospitals, with good insurance, but there are so many who can't go to those hospitals unless they are so acutely sick. Then they go to the emergency room. Why do we want people with diabetes or asthma or a heart condition to wait until they are sick to go to an emergency room instead of managing their care?

Our health care system in this country, as good as it is to so many people who have good insurance, is the worst anywhere. Let me put it this way: We have more people in the hospital who have chronic conditions such as diabetes and heart disease and asthma, conditions that one can manage outside a hospital at a much lower cost. In this country, they are more likely to end up in a hospital than in any other country in the world, and that is one of the things our legislation will fix.

Let me share one last letter, and I appreciate Senator DURBIN joining us. This is from Deborah from Columbiana County, a county just like Marion, IL; a small, rural county; a pretty low-income county, a lot of job loss, just south of Youngstown along the Ohio River. Deborah is a 56-year-old wife of a disabled retiree who suffers from a heart condition, arthritis, and three ruptured discs in his back.

Within 1 month of his retirement, the steel company he worked for filed for bankruptcy and went out of business. This left them with a reduced monthly pension and the loss of all health care

coverage that he worked for 33 years to earn. They went without insurance from 2003 until he qualified for Social Security disability and Medicare in 2008. Deborah doesn't qualify, however, for either Social Security disability or Medicare. She has tried to get private health care coverage, but they can't afford the \$2,400 to \$3,000 a month for premiums.

She says:

My question is this: In the health care reform, will there be a public option that doesn't disqualify me because of my pre-existing condition? Will I have to continue trying to purchase coverage from private insurance companies?

Exactly what Senator DURBIN said: You never hear of Medicare denying somebody coverage because of a pre-existing condition. We are certainly hearing about it from Wellpoint and CIGNA. We certainly hear about it from other private insurance companies. But we are never going to hear about the public option—once we enact it as part of U.S. law, we are never going to hear about the public option disqualifying people because of a pre-existing condition.

So what Deborah wants and needs is the choice. She can choose a private plan or she can choose the public option. But she can be assured the public option will not disqualify her or her husband or anybody else with a pre-existing condition. She knows even if she gets sick and she spends a lot of money for her health care and for hospitals and treatments and doctors visits that her insurance would not be cut off because her care costs so much money. That is the beauty of the public option. It brings in competition, it keeps prices down, and it protects the public from being denied care because of a preexisting condition or illness.

In the next few weeks, Senator REID plans to bring this bill to the Senate floor. It will include a strong public option with a State opt-out, as Senator DURBIN said, so if a State such as Arkansas or Nebraska or wherever decides this is not for them, they can go and talk to their Governor and to their legislature and they can opt out of it. I don't think very many States will because I think the public option will matter for millions and millions of Americans. I believe hundreds of thousands of people in my State will decide they want to be in the public option. But even if they don't, they will understand—people will know their private insurance will be better, it will be a higher quality and less cost because of the competition from the public option.

I thank the President, and I yield the floor.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Mr. President, I ask unanimous consent to speak as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DURBIN. Mr. President, I speak with gratitude to Senator BROWN from Ohio who regularly comes to the Senate floor to address this issue which will be pending soon before the Senate and which may be the most important issue we will face during our lifetime. So I am glad his leadership is demonstrated again this evening on this issue.

#### GUANTANAMO BAY

When people are asked about our troops on Veterans Day, there is a warm feeling about the sacrifice and courage they show by volunteering to serve our country. We were all saddened by the tragedy at Fort Hood. We are saddened to learn that even more soldiers are dying overseas. We are worried about the multiple deployments and the conditions they face overseas. We are worried, when they come home, to keep our promise to them that they get the medical care they need.

One of the issues that relates directly to our troops and their safety is the issue of Guantanamo. Guantanamo is a detention facility that was created by the previous President after 9/11 in an effort to try to gather those we thought were dangerous to the United States and other places and hold them safely. That facility was opened and expanded at considerable expense, but, unfortunately, during the course of its early history it became controversial, particularly overseas. Guantanamo came to symbolize in the minds of many overseas an image of the United States of which they were critical. Whether that was just or unjust, it is a fact.

As a result, GEN Colin L. Powell, who served as Chairman of our Joint Chiefs of Staff, as well as Secretary of State under President George Bush, said—and I paraphrase him—I wouldn't close Guantanamo tomorrow, I would close it this afternoon. Similar statements have been made by Admiral Mullen, who is now Chairman of our Joint Chiefs of Staff, about the danger that Guantanamo poses as long as it is open. GEN David Petraeus, who has served and commanded our troops overseas and knows terrorism, as it has stared him in the face, and who has seen its results, has said Guantanamo should be closed. Former President George W. Bush on eight different occasions called for the closure of Guantanamo. It has been a strongly held position by the former President and many in his Cabinet, a position shared by many of us in Congress, and a position which was the leading position taken by our new President when he was elected earlier this year—the closure of Guantanamo.

The obvious question was, What do we do with the remaining prisoners? Some of them are safe to release; oth-

ers are not. What happens to those who are not? We have had a debate back and forth on the floor of the Senate. The position taken by most on the Republican side of the aisle is to oppose the closure of Guantanamo. They oppose the position taken by General Powell and General Petraeus and so many others, but that is their right to do. Many of them have challenged this President, if he is going to close Guantanamo, to say what he would do with these detainees.

Over the weekend there was a disclosure of a plan the President is developing. They have not made a final decision on where these detainees will go, but one of the options they are considering is in my home State of Illinois. It is in a small community called Thomson, IL, in Carroll County. You will find it on the northwest corner of our State about 50 or 60 miles north of the Quad Cities, Rock Island area, about 50 or 60 miles southwest of Rockford. It is a very rural county. It is a county that has faced enormous difficulties in the past and faces high unemployment today.

About 8 or 9 years ago, the State of Illinois built a state-of-the-art, maximum security prison in Thomson, IL. It holds 1,600 beds and the latest technology to safely contain the prisoners who were sent there. Then my State fell on hard times and couldn't open the prison, and it sat there. The town of Thomson, Carroll County, made infrastructure investments in anticipation of this prison coming and new employment coming to the area. Now, for the last 8 years, they have paid the bills on that infrastructure but have had very few jobs at the prison.

Currently, there are about 100 inmates being held in a minimum security setting. The prison has not been utilized as it should be or could be. So the mayor of the town, who is a very good man—we call him Village President back in Illinois—Jerry "Duke" Hebel, wrote a letter to me and to Governor Patrick Quinn and to the President and said: I hope you will consider our empty prison sitting in Thomson, IL, as a place for Federal prisoners, including the detainees at Guantanamo.

Well, I saw this letter and thought that may be the answer. I submitted the letter to the administration. Governor Quinn hand carried it to the President of the United States and asked him to consider the Thomson facility.

They are now, as of today, on the ground looking at what they would do to convert this into a Federal prison, but also a prison that would house the Guantanamo detainees. It is a little complicated because under the Geneva Convention, those who are arrested in

war have to be held in a setting separate from the ordinary corrections facilities of our government. So the Department of Defense maintains a military prison at Guantanamo and would at Thomson as part of that prison facility, but it is separate. It is run by the Department of Defense, not by the Bureau of Prisons.

So the idea is to take about one-fourth of the Thomson facility and set it aside for the Guantanamo detainees. I don't know the exact number we would have transferred there, but we are told it would be fewer than 100 prisoners. That leaves the rest of the facility with over 1,000 beds to alleviate some of the overcrowding we have in Federal prisons today.

The net result of this would be dramatic in terms of the local economy. It is estimated it would create anywhere between 1,800 to 3,200 jobs, some 1,800 at the prison itself and others in the community for businesses that would support the prison. The economic activity associated with this new prison is estimated to be over \$200 million a year, which means in a 4-year period of time anywhere from \$800 million to \$1 billion will be spent in this community.

I need not tell the Presiding Officer, as you reflect on your own home State of Oregon, what it means for a small town in a rural community to have that kind of influence of people and spending. Twenty percent of the jobs will likely go to people living in Iowa across the river, easily accessible, 80 percent on the Illinois side. That is just the best estimate. But the net result of it would be a positive injection of jobs and economic activity into a very tough environment economically.

When we talk about creating jobs, most of us would turn cartwheels as Senators and Congressmen to announce 100 jobs coming to any town. The notion of 2,000 to 3,000 jobs coming is unimaginable, and it is a once-in-a-lifetime opportunity.

Governor Pat Quinn has endorsed it. I have endorsed it as well. We are working out the details and getting questions answered to see if we can move forward and do it on a timely basis.

Not surprisingly, critics have appeared, some within our own State. The Republican—not all of the Republicans in Congress in our State, but many of them—have held press conferences opposing the sale of the Thomson prison to the Federal Government. They are entitled to their point of view, and I respect them even though we may disagree. But I will tell my colleagues that several of the arguments they are making against the use of the Thomson prison are just plain wrong.

One of them—I think the overriding argument—is that we should be afraid of what it means to bring Guantanamo detainees to the United States, on our soil. What they fail to acknowledge is

that currently we have 340 convicted terrorists in America's prisons today, and 35 in the State of Illinois, some of them convicted for al-Qaida activities. It has not endangered the people living near those prisons. In fact, they may not even be the most dangerous people in these prisons. The fact is, they are there. The idea of bringing in fewer than 100 into the Thomson prison is not going to change this calculus much, if any. There will still be terrorists held in other prisons in our State, and terrorists would be held there, and that is something our prison people do, and do well. The guards and the administrators know how to handle these prisons safely and securely.

When this Thomson prison is reconfigured, if it is chosen, it will be safer than any supermax facility in the United States, and there has never been an escapee from a supermax facility. That is a fact.

The second argument made by one of the Congressmen is one that is troubling because he said he feared that these detainees would be released into the United States. That Congressman should know better. We have passed two bills signed by President Obama which prohibit releasing detainees from Guantanamo into the United States. It is not going to happen. It shouldn't happen. So that is a fear that should be dispelled.

The third argument this Congressman made was that under the rules, every detainee would be entitled to 10 visitors a year, which meant if there is 100 detainees there would be 1,000, as he called them, Islamic followers, jihad followers, coming into the State of Illinois, landing at O'Hare and heading over across our State to the Thomson area.

Well, he is just plain wrong. The detainees currently held at Guantanamo are not entitled to any visits from family and friends. None. The only visits come from attorneys, their legal counsel, and that rule would still apply at the Thomson prison. So this notion of a thousand jihadist visitors coming to Illinois isn't going to happen. It wouldn't happen.

The fourth point that has been raised is one that I really think gets to the heart of the issue. It is the argument that if we brought these detainees to the United States and put them in a prison, there would be retaliation against the United States.

This one Congressman has gone so far as to pinpoint specific buildings in Chicago in which he thinks the terrorists would try to destroy and kill innocent people. I think that kind of designation of specific buildings crosses a line we should not cross. I don't know that it gives ideas to terrorists, but to speak of this so casually is wrong. I wish he hadn't said that. Think about what he is arguing. He argues that if we capture, prosecute, and incarcerate

those who would terrorize the United States, we run the risk of retaliation. His argument is: Let's not make them mad. Well, I couldn't disagree with him more. As heartbreaking as 9/11 was, after that day we came forward with a determination to tell the world that the United States was going to make those responsible answer for the violence of that day and any other violence perpetrated upon the United States. That is what we are doing.

We have 340 terrorists currently incarcerated across America. The fact that we have successfully prosecuted 195 of them since 9/11 says we are going to use our system of justice to bring justice to this situation. If we are going to cower in fear, believing the enforcement of our laws and the incarceration of terrorists will provoke more terrorism, then we will have lost our way as a nation. We need to show the courage of our convictions to let people know the rule of law will be applied in the United States to all who harm us. That is what this incarceration at Thomson would do.

I don't know if President Obama will make the final decision to send these detainees to his home State of Illinois. I believe we can work with the Bureau of Prisons and the Department of Defense to make certain that they are held safely, that they pay the price for what they have done, and that they are held as long as necessary to avoid any danger to people of the United States. We can do this in a humane fashion, and we can do it in a professional fashion. We don't have to apologize or run scared, as some of the critics of this idea are today.

In conclusion, I am proud of the people of Carroll County in Thomson, IL, for stepping up and realizing they desperately need help economically, seeing a great asset in that community that can be utilized to not only serve our State but to serve our Nation and to put our best foot forward to show we will apply standards of justice there that are applied across America—standards that are fair, standards that recognize the basic freedoms we hold dear and the system of justice we hold dear that says those who are guilty of crime will pay a price.

Mr. President, I yield the floor.

#### MORNING BUSINESS

Mr. DURBIN. Mr. President, I ask unanimous consent that the Senate proceed to a period of morning business, with Senators permitted to speak therein for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

DESIGNATING THURSDAY, NOVEMBER 19, 2009, AS "FEED AMERICA DAY"

Mr. DURBIN. Mr. President, I ask unanimous consent that the Judiciary

Committee be discharged from further consideration of and the Senate now proceed to S. Res. 334.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The assistant legislative clerk read as follows:

A resolution (S. Res. 334) designating Thursday, November 19, 2009, as "Feed America Day."

There being no objection, the Senate proceeded to consider the resolution.

Mr. DURBIN. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, and the motions to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 334) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

#### S. RES. 334

Whereas Thanksgiving Day celebrates the spirit of selfless giving and an appreciation for family and friends;

Whereas the spirit of Thanksgiving Day is a virtue upon which the Nation was founded;

Whereas according to the Department of Agriculture, roughly 35,000,000 people in the United States, including 12,000,000 children, continue to live in households that do not have an adequate supply of food; and

Whereas selfless sacrifice breeds a genuine spirit of thanksgiving, both affirming and restoring fundamental principles in our society: Now, therefore, be it

*Resolved*, That the Senate—

(1) designates Thursday, November 19, 2009, as "Feed America Day"; and

(2) encourages the people of the United States to sacrifice 2 meals on Thursday, November 19, 2009, and to donate the money that they would have spent on such food to a religious or charitable organization of their choice for the purpose of feeding the hungry.

#### DRIVE SAFER SUNDAY

Mr. DURBIN. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration and the Senate now proceed to S. Res. 335.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 335) designating November 29, 2009, as "Drive Safer Sunday."

There being no objection, the Senate proceeded to consider the resolution.

Mr. DURBIN. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, and the motions to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 335) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

#### S. RES. 335

Whereas motor vehicle travel is the primary means of transportation in the United States;

Whereas every individual traveling on the roads and highways needs to drive in a safer manner in order to reduce deaths and injuries that result from motor vehicle accidents;

Whereas according to the National Highway Traffic Safety Administration, wearing a seat belt saves more than 15,000 lives each year;

Whereas the Senate wants all people of the United States to understand the life-saving importance of wearing a seat belt and encourages motorists to drive safely, not just during the holiday season, but every time they get behind the wheel; and

Whereas the Sunday after Thanksgiving is the busiest highway traffic day of the year: Now, therefore, be it

*Resolved*, That the Senate—

(1) encourages—

(A) high schools, colleges, universities, administrators, teachers, primary schools, and secondary schools to launch campus-wide educational campaigns to urge students to be focused on safety when driving;

(B) national trucking firms to alert their drivers to be especially focused on driving safely on the Sunday after Thanksgiving, and to publicize the importance of the day through use of Citizen's Band ("CB") radios and truck stops across the Nation;

(C) clergy to remind their members to travel safely when attending services and gatherings;

(D) law enforcement personnel to remind drivers and passengers to drive safely, particularly on the Sunday after Thanksgiving; and

(E) all people of the United States to use the Sunday after Thanksgiving as an opportunity to educate themselves about highway safety; and

(2) designates November 29, 2009, as "Drive Safer Sunday".

#### NATIONAL READING EDUCATION ASSISTANCE DOGS DAY

Mr. DURBIN. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration and the Senate now proceed to S. Res. 338.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 338) designating November 14, 2009, as "National Reading Education Assistance Dogs Day."

There being no objection, the Senate proceeded to consider the resolution.

Mr. DURBIN. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, and the motions to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 338) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

#### S. RES. 338

Whereas reading provides children with an essential foundation for all future learning;

Whereas the Reading Education Assistance Dogs (R.E.A.D.) program was founded in November of 1999 to improve the literacy skills of children through the mentoring assistance of trained, registered, and insured pet partner reading volunteer teams;

Whereas children who participate in the R.E.A.D. program make significant improvements in fluency, comprehension, confidence, and many additional academic and social dimensions;

Whereas the R.E.A.D. program now has an active presence in 49 States, 3 provinces in Canada, Europe, Asia, and beyond with more than 2,400 trained and registered volunteer teams participating and influencing thousands of children in classrooms and libraries across the Nation;

Whereas the program has received awards and recognition from distinguished entities including the International Reading Association, the Delta Society, the Latham Foundation, the American Library Association, and PBS Television; and

Whereas the program has garnered enthusiastic coverage from national media, including major television networks NBC, CBS, and ABC, as well as international television and print coverage: Now, therefore, be it

*Resolved*, That the Senate, in honor of the 10th anniversary of the R.E.A.D. program, designates November 14, 2009, as "National Reading Education Assistance Dogs Day".

#### UNANIMOUS-CONSENT AGREEMENT—APPOINTMENTS

Mr. DURBIN. Mr. President, I ask unanimous consent that the appointments with respect to the United States-China Economic Security Review Commission made on Tuesday, November 10, 2009, be vitiated.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DURBIN. Mr. President, I ask unanimous consent that the appointments at the desk with respect to the United States-China Economic Security Review Commission be considered to have been made on Tuesday, November 10, 2009, and that they appear separately in the RECORD as if made by the Chair.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Chair, on behalf of the President pro tempore, pursuant to Public Law 106-398, as amended by Public Law 108-7, in accordance with the qualifications specified under section 1238(b)(3)(E) of Public Law 106-398, and public the recommendation of the Majority Leader, in consultation with the Chairmen of the Senate Committee on Armed Services and the Senate Committee on Finance, appoints the following individuals to the United States-China Economic Security Review Commission: Patrick A. Mulloy, of Virginia, for a term beginning January 1, 2010 and expiring December 31, 2011, and William

A. Reinsch, of Maryland, for a term beginning January 1, 2010 and expiring December 31, 2011.

**MILITARY CONSTRUCTION, VETERANS AFFAIRS AND RELATED AGENCIES APPROPRIATIONS ACT, 2010—Continued**

Mr. DURBIN. Mr. President, I ask unanimous consent that the Senate now resume consideration of H.R. 3082, the Military Construction-VA appropriations bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DURBIN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. JOHNSON. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JOHNSON. Mr. President, I ask unanimous consent that it be in order for the following amendments to be considered en bloc: 2759, 2760, 2741, 2752, 2738, 2746, 2773, 2740, 2749, 2751, 2743, 2771, 2737, 2747, 2745, 2734, 2753.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENTS NOS. 2741; 2759; 2760; 2740; 2752; 2746; 2737, AS MODIFIED; 2745, AS MODIFIED; 2747, AS MODIFIED, AND 2771, AS MODIFIED

Mr. JOHNSON. Mr. President, I now ask unanimous consent that amendments Nos. 2741, 2759, 2760, 2740, 2752, and 2746, which are pending, be considered and agreed to en bloc and the motion to reconsider be laid upon the table; that amendments Nos. 2737, 2745, 2747, and 2771 be modified with the changes at the desk, and that, as modified, the amendments be agreed to and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments (Nos. 2741, 2759, 2760, 2740, 2752, and 2746) were agreed to.

The amendments (Nos. 2737, as modified; 2745, as modified; 2747, as modified, and 2771, as modified) were agreed to, as follows:

**AMENDMENT NO. 2737, AS MODIFIED**

On page 52, after line 21, add the following: SEC. 229. Of the amounts appropriated or otherwise made available by this title under the heading "MEDICAL SERVICES", \$150,000,000 may be available for the grant program under section 2011 of title 38, United States Code, and per diem payments under section 2012 of such title.

**AMENDMENT NO. 2745, AS MODIFIED**

On page 52, after line 21, add the following: SEC. 229. Of the amounts appropriated or otherwise made available by this title for the Department of Veterans Affairs, up to \$5,000,000 may be available for the study required by section 1077 of the National Defense Authorization Act for Fiscal Year 2010.

**AMENDMENT NO. 2747, AS MODIFIED**

On page 52, after line 21, add the following:

SEC. 229. (a) CAMPUS OUTREACH AND SERVICES FOR MENTAL HEALTH AND NEUROLOGICAL CONDITIONS.—Of the amounts appropriated or otherwise made available by this title, \$5,000,000 may be available to conduct outreach to and provide services at institutions of higher education to ensure that veterans enrolled in programs of education at such institutions have information on and access to care and services for neurological and psychological issues.

(b) SUPPLEMENT NOT SUPPLANT.—The amount described in subsection (a) for the purposes described in such subsection is in addition to amounts otherwise appropriated or made available for readjustment counseling and related mental health services.

**AMENDMENT NO. 2771, AS MODIFIED**

At the end of title II, add the following: SEC. 229. In administering section 51.210(d) of title 38, Code of Federal Regulations, the Secretary of Veterans Affairs may permit a State home to provide services to, in addition to non-veterans described in such section, a non-veteran any of whose children died while serving in the Armed Forces, as long as such services are not denied to a qualified veteran seeking such services.

**AMENDMENTS NOS. 2734, 2738, 2773, 2753, 2749, 2751, 2743**

Mr. JOHNSON. Mr. President, on behalf of various Senators I now call up en bloc amendments Nos. 2734, 2738, 2773, 2753, 2749, 2751, 2743. I ask unanimous consent that the amendments be considered and agreed to, and the motions to reconsider be laid upon the table en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments were considered and agreed to, as follows:

**AMENDMENT NO. 2734**

(Purpose: To require a report on bid savings realized from cost and scope variations for military construction projects)

On page 27, between lines 3 and 4, insert the following:

SEC. 128. Not later than each of April 15, 2010, July 15, 2010, and October 15, 2010, the Secretary of Defense shall submit to the congressional defense committees a consolidated report from each of the military departments and Defense agencies identifying, by project and dollar amount, bid savings resulting from cost and scope variations pursuant to section 2853 of title 10, United States Code, exceeding 25 percent of the appropriated amount for military construction projects funded by this Act, the Supplemental Appropriations Act, 2009 (Public Law 111-32), and the Military Construction and Veterans Affairs Appropriations Act, 2009 (division E of Public Law 110-329), including projects funded through the regular military construction accounts, the Department of Defense Base Closure Account 2005, and the overseas contingency operations military construction accounts.

**AMENDMENT NO. 2738**

(Purpose: To provide for a study on transportation improvements to accommodate installation growth associated with the 2005 Defense Base Closure and Realignment (BRAC) program)

On page 27, between lines 3 and 4, insert the following:

SEC. 128. (a) Of the funds appropriated or otherwise made available by this title under the heading "DEPARTMENT OF DEFENSE BASE CLOSURE ACCOUNT, 2005", \$450,000 shall be

available for the Secretary of Defense to enter into an arrangement with the National Academy of Sciences to conduct a study through the Transportation Research Board of Federal funding of transportation improvements to accommodate installation growth associated with the 2005 Defense Base Closure and Realignment (BRAC) program.

(b) The study conducted pursuant to subsection (a) shall—

(1) examine case studies of congestion caused on metropolitan road and transit facilities when BRAC requirements cause shifts in personnel to occur faster than facilities can be improved through the usual State and local processes;

(2) review the criteria used by the Defense Access Roads (DAR) program for determining the eligibility of transportation projects and the appropriate Department of Defense share of public highway and transit improvements in BRAC cases;

(3) assess the adequacy of current Federal surface transportation and Department of Defense programs that fund highway and transit improvements in BRAC cases to mitigate transportation impacts in urban areas with preexisting traffic congestion and saturated roads;

(4) identify promising approaches for funding road and transit improvements and streamlining transportation project approvals in BRAC cases; and

(5) provide recommendations for modifications of current policy for the DAR and Office of Economic Adjustment programs, including funding strategies, road capacity assessments, eligibility criteria, and other government policies and programs the National Academy of Sciences may identify, to mitigate the impact of BRAC-related installation growth on preexisting urban congestion.

(c) The Secretary of Defense shall enter into an arrangement with the National Academy of Sciences to provide the study conducted pursuant to subsection (a) by not later than 45 days after the date of the enactment of the Act.

(d)(1) Not later than May 15, 2010, the National Academy of Sciences shall provide an interim report of its findings to the Secretary of Defense and the Committees on Armed Services and Appropriations of the Senate and the House of Representatives.

(2) Not later than January 31, 2011, the National Academy of Sciences shall provide a final report of its findings to the Secretary of Defense and the Committees on Armed Services and Appropriations of the Senate and the House of Representatives.

**AMENDMENT NO. 2773**

(Purpose: To designate the Department of Veterans Affairs Medical Center in Louisville, Kentucky, as the "Robley Rex Department of Veterans Affairs Medical Center")

At the end of title II, add the following:

SEC. 229. (a) DESIGNATION OF ROBLEY REX DEPARTMENT OF VETERANS AFFAIRS MEDICAL CENTER.—The Department of Veterans Affairs Medical Center in Louisville, Kentucky, and any successor to such medical center, shall after the date of the enactment of this Act be known and designated as the "Robley Rex Department of Veterans Affairs Medical Center".

(b) REFERENCES.—Any reference in any law, regulation, map, document, record, or other paper of the United States to the medical center referred to in subsection (a) shall be considered to be a reference to the Robley Rex Department of Veterans Affairs Medical Center.

## AMENDMENT NO. 2753

(Purpose: To make a technical correction requested by the Army in the funding of dining projects at forwarding operating bases in Afghanistan)

On page 56, between lines 9 and 10, insert the following:

## ADMINISTRATIVE PROVISION

SEC. 401. (a)(1) The amount appropriated or otherwise made available by this title under the heading "MILITARY CONSTRUCTION, ARMY" and available for a dining hall project at Forward Operating Base Dwyer is hereby increased by \$4,400,000.

(2) The amount appropriated or otherwise made available by this title under the heading "MILITARY CONSTRUCTION, ARMY" and available for a dining hall project at Forward Operating Base Maywand is hereby reduced by \$4,400,000.

(b)(1) The amount appropriated or otherwise made available by this title under the heading "MILITARY CONSTRUCTION, ARMY" and available for a dining hall project at Forward Operating Base Wolverine is hereby increased by \$2,150,000.

(2) The amount appropriated or otherwise made available by this title under the heading "MILITARY CONSTRUCTION, ARMY" and available for a dining hall project at Forward Operating Base Tarin Kowt is hereby reduced by \$2,150,000.

## AMENDMENT NO. 2749

(Purpose: To provide \$37,500,000 requested by the Air Force for construction of an Unmanned Aerial System Field Training Complex at Holloman Air Force Base, New Mexico, as authorized by section 2301(a) of the Military Construction Authorization Act for Fiscal Year 2010 (division B of Public Law 111-84), and to provide an offset)

On page 27, between lines 3 and 4, insert the following:

SEC. 128. (a)(1) The amount appropriated or otherwise made available by this title under the heading "MILITARY CONSTRUCTION, AIR FORCE" is hereby increased by \$37,500,000.

(2) Of the amount appropriated or otherwise made available by this title under the heading "MILITARY CONSTRUCTION, AIR FORCE", as increased by paragraph (1), \$37,500,000 shall be available for construction of an Unmanned Aerial System Field Training Complex at Holloman Air Force Base, New Mexico.

(b) Of the amount appropriated or otherwise made available by title I of the Military Construction and Veterans Affairs Appropriations Act, 2009 (division E of Public Law 110-329; 122 Stat. 3692) under the heading "MILITARY CONSTRUCTION, AIR FORCE" and available for the purpose of Unmanned Aerial System Field Training facilities construction, \$38,500,000 is hereby rescinded.

## AMENDMENT NO. 2751

(Purpose: To make a technical correction for the Air Force at Columbus AFB, Mississippi)

On page 4, line 6, after the date, insert the following:

, Of which \$9,800,000 shall be for an Aircraft Fuel Systems Maintenance Dock at Columbus AFB, Mississippi

## AMENDMENT NO. 2743

(Purpose: To provide, with an offset, an additional \$750,000 for homeless veterans comprehensive service programs and housing assistance and supportive services)

On page 52, after line 21, add the following:

SEC. 229. (a) ADDITIONAL AMOUNT FOR HOMELESS VETERANS COMPREHENSIVE SERVICE PROGRAMS AND HOUSING ASSISTANCE AND SUP-

PORTIVE SERVICES.—The amount appropriated by this title under the heading "MEDICAL SERVICES" under the heading "VETERANS HEALTH ADMINISTRATION" is increased by \$750,000, with the amount of the increase to be available for the following:

(1) The grant program under section 2011 of title 38, United States Code.

(2) Per diem payments under section 2012 of such title.

(3) Housing assistance and supportive services under subchapter V of chapter 20 of such title.

(b) OFFSET.—The amount appropriated or otherwise made available by this title under the heading "GENERAL OPERATING EXPENSES" under the heading "DEPARTMENTAL ADMINISTRATION" is decreased by \$750,000.

Mr. JOHNSON. Mr. President, I ask unanimous consent that on Tuesday, November 17, following a period of morning business, the Senate resume consideration of H.R. 3082, and that the following list of amendments be the only amendments remaining in order, with no second-degree amendments in order to any listed amendments: Johnson amendment No. 2748; Cochran amendment No. 2763, Inhofe amendment No. 2774, Inouye amendment 2754, McCain second-degree amendment No. 2776; that the previous order regarding a managers' amendment remain in effect; that the vote with respect to the Inhofe amendment occur when the Senate resumes consideration of the bill at 2:15, and that upon disposition of the Inhofe amendment, the provisions of the previous order with respect to disposition of the substitute and passage of the bill be in effect; that there be 2 minutes of debate prior to each vote, except that prior to the Inhofe vote there be 5 minutes of debate, with all debate time equally divided and controlled in the usual form; further, that amendment No. 2779 be withdrawn once this agreement is entered into this evening, with any relevant provisions of the order of November 10 in effect.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The amendment (No. 2779) was withdrawn.)

Mr. JOHNSON. Mr. President, as in executive session, I ask unanimous consent that on Tuesday, following the disposition of H.R. 3082, the order with respect to the Hamilton nomination be executed.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Texas.

Mrs. HUTCHISON. Parliamentary inquiry: I did not understand the last unanimous consent request, that we were going to a nomination?

Mr. JOHNSON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mrs. HUTCHISON. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. HUTCHISON. Mr. President, I believe we are now on the glidepath to finishing the Military Construction and Veterans Affairs bill. We have an order. If we can clear some of the further amendments that are listed for a vote, I know we will be able to do that. Some of these are being negotiated at this time. At least we have a way forward.

Our staffs have worked very diligently on this since we started this bill last Tuesday and, for various reasons, we are going to finish it tomorrow, a week later. We could not have done it without a lot of cooperation. I thank my distinguished colleague, the chairman of the subcommittee, Senator JOHNSON, and his staff: Christina Evans, Chad Schulken, and Andy Vanlandingham. My staff also has ably worked through these. When I was called away to Fort Hood, my chief clerk, Dennis Balkham, did a great job with the help of Ben Hammond in our office. I appreciate very much all the cooperation and the help we have had coming to this point.

I am pleased with our bill. I think we have a good bill that will do what all of us want, which is to assure that our veterans have the health care, the benefits, the needed outreach they should have for getting their benefits on a timely basis. This is one of the priorities we are funding in this bill. Secondly, of course, the military construction part of this bill is going to assure many quality-of-life improvements for our military personnel. Also, we will be building in faraway places where our troops are being housed right now. We want to give them every comfort we possibly can as they are fighting for our freedom.

I thank my colleagues and certainly appreciate that we are now moving toward final passage of this bill tomorrow. I appreciate all the cooperation we have had.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DURBIN. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

## EL SALVADOR'S CHALLENGES

Mr. FEINGOLD. Mr. President, on November 16, 1989, six Jesuit Fathers, their housekeeper, and her daughter were brutally murdered by members of the Salvadoran Army. The Senate has passed a resolution remembering and honoring the lives and work of these individuals, and today, as we solemnly mark the 20th anniversary of this tragedy, I am struck by the enduring legacy of those who lived and taught their



commitment to justice, human rights, and peace in the face of violence and oppression.

A New York Times article published on November 17, 1989, a day after their murders, remembered Father Ignacio Ellacuria Bescoetxea as a strong advocate for human rights and a key participant in successful negotiations for the release of the President's daughter in 1985. Father Ignacio Martín-Baró was "a gentle academic type, with an office overflowing with books, papers, everything," and the editor of a widely distributed scholarly journal. Father Segundo Montes worked to collect data on atrocities committed in El Salvador's war so that, some day, justice could be done and victims would not be forgotten. Father Amando López was a committed professor of theology and served the seminary as its rector. Father Juan Ramon Moreno was the assistant director of the university's chapel which also served as an auditorium for lectures making relevant church teachings to the situation in El Salvador. Father Joaquin López y López was the director in El Salvador of Fe y Alegría which organized primary schools for children in the poorest neighborhoods.

These men put their faith and academic expertise in philosophy, political science, sociology, economics, and theology to good use. They maintained a distinct hope for an El Salvador at peace, and a country that respected and protected the rights and well-being of all its people—including the very poorest. These teachers were invaluable educators not only for their students and fellow Salvadorans, but also for the global community, bringing international attention and awareness to the plight of those most deeply affected by the conflict in their country. Though tragic, their deaths, and those of their housekeeper, Julia Elba Ramos, and her daughter, Celina Mariset Ramos, helped bring about the negotiations that ultimately led to peace in 1992, and their work on human rights and social justice is continued today by many in El Salvador and around the world, including the 28 Jesuit colleges and universities in the U.S.

The civil war is long over, and we witnessed a landmark for democracy this spring as El Salvador hosted its first transfer of power between political parties in a relatively peaceful and transparent election. The new government faces many challenges, including widespread poverty, crime, and gang violence, and the work of the six priests remains just as important today—to address these great challenges, El Salvador must commit itself to the causes of education, justice, and human rights that they championed two decades ago.

#### NATIONAL ADOPTION MONTH

Mr. CORNYN. Mr. President, I rise today to voice my support for National Adoption Month and the efforts of those individuals who play a role in foster care and the adoption process.

According to the U.S. Department of Health and Human Services, approximately 51,000 children are adopted in the United States of America each year. This is an encouraging figure and a strong testament to the efficacy of child welfare workers and foster care families around the country. However, this month also provides us with an opportunity to look at the more sobering side of this issue.

Currently, more than 130,000 children await adoption in the United States. This figure represents children who do not yet know the safety and security of loving parents or a home to call their own. This is a dilemma about which we must raise awareness and for which we must find solutions.

As a father myself, I can speak for the sacrifices that most parents willingly make for the well-being of their children. I therefore deeply admire and respect those who make these sacrifices for children who are not their own by birth by providing foster homes or by seeking to adopt.

Many adoptive parents have fought their way through significant obstacles in the legal process in order to adopt, and all have taken risks and made sacrifices in their own lives to create a family where none has been before.

The theme of this year's effort to raise awareness about the adoption of children and youth from foster care, "You don't have to be perfect to be a perfect parent," should help serve as a reminder that, although many would-be adoptive parents feel unequal to the job, they have a great deal to offer these children.

There are many ways to adopt, whether through the public foster care system, domestic adoption through private agencies within the United States, or intercountry adoption, to name a few, and numerous adoption agencies and workers stand ready to assist in the process.

As a Senator, I have seen the statistics of those children for whom no home was made, for whom no parent stepped up to the hard but rewarding job of parenting, and while there are encouraging exceptions, figures make it very clear that society has found no replacement for a stable home and loving parents.

Thus, it is both for the sake of these children and for the welfare of our Nation that I encourage adoption as a way to enhance one's own life and the society in which we all live. As I have said in the past, the act of adoption itself represents the value that Americans place on the worth of each human life, and it is throughout this particular month of the year that we take

time to reaffirm this sacrificial and rewarding act.

#### VOTE EXPLANATIONS

• Mr. LIEBERMAN. Mr. President, I was not present for the votes on Senator COBURN's motion to commit H.R. 3082 to the Senate Committee on Appropriations and amendment No. 2757, which was also introduced by Senator COBURN. Had I been present, I would have voted nay on the motion to commit and voted yea in favor of amendment No. 2757.●

#### ADDITIONAL STATEMENTS

##### REMEMBERING JUANITA HELMS

• Mr. BEGICH. Mr. President, I wish to remember the life of an extraordinary resident from my home State of Alaska, Juanita Lou Helms. Ms. Helms passed away on November 7, 2009, in her hometown of Fairbanks. She was 68.

Ms. Helms was active in local community organizations, politics, and most importantly, was devoted to her husband, their four children, and grandchildren.

Juanita began her public service on the borough assembly in 1980, but she is most well known in the community for becoming the Fairbanks North Star Borough's first female mayor in 1985. During her two terms, Mayor Helms shepherded the Borough through difficult financial times. As an "open door" mayor and terrific listener, she inspired the trust needed to find common ground among her constituents.

Among her accomplishments was the construction of the community's convention center, improving air quality, and helping thaw the "ice curtain" by establishing a sister city relationship with Yakutsk in Eastern Russia.

Away from the political realm, Ms. Helms was involved in innumerable civic endeavors, especially parent-teacher groups in Fairbanks. She also held an assortment of jobs in the community from carhop to court clerk to rental property manager.

In her personal life Juanita was an avid dancer who was loved by her family and all who knew her. She and her husband Sam were devoted to their children Fawn, Selene, Ren, and Karisse. They were so deeply involved in their lives and those of their many grandchildren that the number of events they attended and participated in are virtually countless.

Juanita will be missed by her family, friends, and all of the people she touched in the State of Alaska.●

##### REMEMBERING ANNIE ASHENFELTER

• Mr. BEGICH. Mr. President, I rise today in remembrance of Annie



“Akkuluq” Ashenfelter. I am saddened to announce with her passing on October 8, 2009, the village of White Mountain and the great State of Alaska lost an elder of great cultural knowledge, wisdom, and language. The magnitude of this loss is better understood by recalling the immense contributions she gave her family, community, and region.

Annie was born in White Mountain on January 24, 1913. She spoke Inupiat as her first language and learned English when she went to school. She completed the third grade.

Annie lived a subsistence life, reliant on the land and its resources to sustain her family. Annie's steadfast connection to her Inupiat identity ensured her children, grandchildren and her many generations to follow would remain grounded in those same cultural roots and values. Annie loved to go camping and fishing, living off the land, spending 90 years of her life sharing this love with her family. She enjoyed preparing Native food and sharing what she had with others. Annie was a talented sewer, of both children's clothing and animal skins. She made all 10 of her children's clothing: pants, shirts, parkies, mukluks, and mittens.

Annie was a pillar of her community. She had strength of character, embodied knowledge of the land, and symbolized the resilience of the Inupiat people. Her kind heart has left a permanent mark on the lives of countless individuals. Annie was easy to laugh, had good memories, and enjoyed the simple things in life: getting up in the morning, having her morning cup of coffee, sitting at the window and observing life in White Mountain. Annie never had a bad word to say about anyone, ever. Even during the difficult times, she lived her life with grace, humor, love, strength, joy and understanding. Annie was a strong Fish River Inupiaq woman.

Mr. President and colleagues, please join me in honor and remembrance of Annie “Akkuluq” Ashenfelter, whose love and wisdom will forever be in the memories of those who loved and knew her.●

#### TRIBUTE TO EDEN SUTLEY

● Ms. LANDRIEU. Mr. President, I come to the floor today to honor a very special Louisianian, Eden Sutley, who has served her State and Nation with great distinction. Eden is a Lafayette, LA, native who is currently a junior at the George Washington University in Washington, DC. Just like Louisiana's senior Senator, Eden Sutley is a proud member of the Delta Gamma Fraternity.

Winston Churchill, one of the great figures of World War II, once said: “We make a living by what we do, but we make a life by what we give.”

Eden Sutley may not know what she wants to do to earn a living after col-

lege, but her volunteer spirit and desire to give back to the “greatest generation” precisely highlights the sentiment to which Mr. Churchill refers.

At the urging of her father, 2 years ago Eden became involved with Louisiana HonorAir Program. This group, based in Eden's hometown of Lafayette, honors surviving World War II veterans by giving them an opportunity to see the Washington, DC, memorials dedicated to their service. After flying up from Louisiana, the veterans visit the World War II, Korea, Vietnam and Iwo Jima memorials and travel to Arlington National Cemetery.

Eden Sutley has played an important role during HonorAir's trips to Washington, DC. For each visit, Eden organizes about 40 of her sorority sisters to come out and assist these World War II heroes. They help by pushing wheelchairs, taking pictures, and handing out water as these Louisiana World War II veterans experience the Nation's Capital, many for the first time.

In all, Eden has recruited over 200 sorority sisters to lend a hand to our HonorAir veterans. They have volunteered on more than a dozen Saturdays since 2007, helping over 1,000 veterans. There have been seven different flights this year alone, including the last trip of the year, which occurred October 24.

Volunteering with HonorAir to assist the World War II veterans is so popular among her fellow Delta Gammas that some sisters come back to help out even after they have graduated. Eden has also inspired two other Louisianians, Terricia Soyombo and Brooke Oschner, who are also Delta Gammas at George Washington University, to become part of this effort. Through her role as Delta Gamma president at George Washington, Eden has been instrumental in getting other Greek organizations involved, as well.

Eden has demonstrated a passion for public service that serves as a model for college students across our great country. On behalf of Louisiana HonorAir and our entire State, I thank Eden for her leadership, for her willingness to give back, and for inspiring others to do the same.●

#### TRIBUTE TO LOUISIANA WWII VETERANS

● Ms. LANDRIEU. Mr. President, I am proud to honor a group of 97 World War II veterans from all over Louisiana who travelled to Washington, DC, on October 24 to visit the various memorials and monuments that recognize the sacrifices of our Nation's invaluable servicemembers.

Louisiana HonorAir, a group based in Lafayette, LA, sponsored this trip to the Nation's Capital. The organization is honoring surviving World War II Louisiana veterans by giving them an opportunity to see the memorials dedicated to their service. The veterans

visited the World War II, Korea, Vietnam, and Iwo Jima memorials. They also travelled to Arlington National Cemetery.

This was the last of three flights Louisiana HonorAir made to Washington, DC this fall. It is the 20th flight to depart from Louisiana, which has sent more HonorAir flights than any other State to the Nation's Capital.

World War II was one of America's greatest triumphs but was also a conflict rife with individual sacrifice and tragedy. More than 60 million people worldwide were killed, including 40 million civilians, and more than 400,000 American servicemembers were slain during the long war. The ultimate victory over enemies in the Pacific and in Europe is a testament to the valor of American soldiers, sailors, airmen, and marines. The years 1941 to 1945 also witnessed an unprecedented mobilization of domestic industry, which supplied our military on two distant fronts.

In Louisiana, there remain today about 30,000 living WWII veterans, and each one has a heroic tale of achieving the noble victory of freedom over tyranny. This HonorAir group had 41 veterans who served in the U.S. Army, 11 in the Army Air Corps, 33 in the Navy, 6 in the Marine Corps, 3 in the Merchant Marines, 1 in the Coast Guard, and 2 were a part of Women's Army Corps, WAC.

Our heroes, many of them from Southeast Louisiana, trekked the world for their country. They fought in Germany, Holland, France, Italy, Africa, Guam, Bougainville, Guadalcanal, Iwo Jima, Okinawa, the Philippines, New Guinea, Japan, and Saipan. Their journeys included the invasions of North Africa, Sicily, and Normandy.

One of our Army veterans fought on the front lines in Europe and was held as a prisoner of war. Another Army veteran was wounded in Bastogne and received a Purple Heart for his service.

One Army Air Corps veteran served in 37 combat missions between 1943 and 1945 as a B-24 tail gunner. One Army veteran served in Normandy during D-day.

Another Army veteran received five battle stars for his service. Yet another one of our Army veterans received a Purple Heart and five medals, including the Bronze Star Medal, for his service in Europe.

I am also proud to acknowledge that of the 97 veterans who visited Washington this past weekend, two were women who served our country with honor and distinction during World War II.

I ask the Senate to join me in honoring these 97 veterans, all Louisiana heroes, who visited Washington. We thank Louisiana HonorAir for making these trips a reality.●

TRIBUTE TO DR. WILLIAM  
McCORKLE

• Mr. SHELBY. Mr. President, it is an honor to recognize Dr. William McCorkle, who after 52 years of extraordinary service to our Nation, is retiring from Redstone Arsenal in Huntsville, AL.

In the words of Napoleon Bonaparte, "Victory belongs to the most persevering."

Dr. McCorkle is a person who has used his perseverance, determination, and forthrightness not only to personally succeed in the Army but more importantly to do what is best for our warfighters.

A 1950 graduate of the University of Richmond with a bachelor of science degree in Physics and a Ph.D. in Physics from the University of Tennessee in 1956, Dr. McCorkle came to Redstone in 1957 from a position at Tulane University.

Not since Dr. Wernher von Braun has one man done more to promote rocket development at Redstone than Dr. McCorkle. Since he joined the Aviation and Missile Command, Dr. McCorkle has been a pillar in the aviation and missile research and development fields.

As director of the Aviation and Missile Research, Development, and Engineering Center, Dr. McCorkle is an internationally recognized leader in aviation and missile technology, and has been involved in virtually every Army rocket and missile development program since 1956. He helped build the very foundation that has made the U.S. Army's aviation and missile programs so successful.

Dr. McCorkle's efforts have been instrumental in taking engineering ideas and transforming them into weapon systems. Dr. McCorkle was key in the development of the Prototype Integration Facility which has transformed the Army's rapid response capability to meet the needs of the soldier in the battlefield.

This facility is on the forefront of providing our servicemembers with quick solutions to critical problems they currently face in combat. Dr. McCorkle's work on this initiative has led to the building of a world-class research program at Redstone Arsenal valued at over \$1.2 billion.

More importantly, he has dramatically increased rapid prototyping efforts that have led to significant advancements to unmanned aerial vehicles at use today in combat.

Dr. McCorkle has effectively championed the use and growth of unmanned aerial vehicles and the new capabilities that have increased their value in combat. In conjunction with the Air Force, Dr. McCorkle's team led the development of advanced technology to arm predator unmanned aerial vehicles with Hellfire missiles. This program is now one of the most suc-

cessful weapon systems being used today in Afghanistan and Iraq.

Under Dr. McCorkle's guidance, aviation research has also flourished. The Aviation and Missile Research, Development, and Engineering Center is heavily involved in the research and development initiatives behind many of the most utilized Army helicopter programs, including those on the Apache, Black Hawk, and Chinook helicopters.

After the rapid development of blue force tracking, a new capability that tracks the location of friendly and hostile military forces, units overseas were able to install this technology directly in the field.

Continuously, throughout Operation Iraqi Freedom, it was reported that blue force tracking systems were working flawlessly, even allowing troops to fly in formation during sandstorms and brown-out conditions. This is an invaluable advancement for our soldiers and Dr. McCorkle ensured it was delivered to our servicemembers in the field at a critical time.

Dr. McCorkle's work has significantly improved technology development and reduced the time to field equipment, ensuring our warfighters are the best equipped fighting force in the world. His work has also reduced the cost of these programs for the taxpayer.

Under his direction, the Aviation and Missile Research, Development, and Engineering Center developed the Department of Defense's Best Value Engineering Program, which has consistently achieved 70 percent of the Army Materiel Command's total savings and 30 percent of the Department's total savings. His Service Life Prediction Program has achieved over \$8 billion in cost avoidance.

Dr. McCorkle has been on the forefront of new technology to provide our warfighters with the best equipment and our nation the best defense from those who wish to threaten us.

Under his guidance and leadership, the Aviation and Missile Research, Development, and Engineering Center was consistently recognized as an Army Materiel Command Laboratory of Excellence and formally recognized as the Army's best laboratory eight times.

I thank Dr. McCorkle for his years of service to our Nation, the Army and, most importantly, the warfighter. He has been a genuine asset to both the Service and the warfighter.

In everything he did, Dr. McCorkle strove for excellence in himself and sought to inspire the same in those around him.

His leadership, experience, and expertise have advanced our rocket, missile, and aviation programs beyond what was ever imagined when he first came to work for the Army. I am proud to have worked with Dr. McCorkle for over 30 years, but I am even more honored to call him my friend.

Dr. McCorkle, I wish you and your wife Nancy the very best as you enjoy your well-deserved retirement.●

## TRIBUTE TO GORDON J. JONES

• Mr. THUNE. Mr. President, today I wish to honor the life of Gordon J. Jones of the Flandreau Santee Sioux Tribe, who passed away on October 6. He was a man of great faith in God and had a strong conviction to serve his country, State, city, and Santee Sioux tribal community in many generous and selfless capacities.

After graduating from Oglala Community High School in Pine Ridge, SD, Gordon joined the Armed Forces and served in the Air Force until his discharge in 1954. Eventually, he returned home to Pine Ridge to work as a police officer.

Gordon went on to serve the Flandreau Santee Sioux Tribe in a number of leadership positions, including tribal chairman, treasurer, trustee, and judge. His knowledgeable and competent abilities remained evident throughout his service in each of these official tribal roles. Gordon also fought for the interests of Indian Country during his time with the Bureau of Indian Affairs and as the executive director of the Flandreau Santee Sioux Gaming Commission. His leadership and guidance while with the Commission resulted in greater accountability within Indian gaming in the form of the National Indian Gaming Regulations, which he was instrumental in developing.

Gordon's lifelong service to veterans and citizens of South Dakota is reflected in his membership in the American Indian Veteran Lodge, the American Legion, the Flandreau Bible Church, the Kiwanis, the Shriners, and the VFW. Gordon was the longest serving member of the South Dakota Human Rights Commission which he served on from 1985 and resigned in 2001 due to health issues. He was the legion chaplain for South Dakota from 1997–1998. This type of active and continuous involvement stands as a testament to Gordon's commitment to his community and his fellow South Dakotans. It is this type of selfless volunteerism which makes South Dakota truly great.

Gordon's opinions and actions influenced policies and decisions at all levels of government. His involvement within his local community, his service to his tribe and State, his time in the Armed Forces and his testimony before U.S. congressional leaders all speak to the great devotion and passion which Gordon demonstrated throughout his life. His many accomplishments show the enormous difference a single life can have on so many others. South Dakota is better because of the life and efforts of Gordon. This life of active

service and involved citizenship provides an example for each of us to follow.●

#### MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mrs. Neiman, one of his secretaries.

#### EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

#### MEASURES PLACED ON THE CALENDAR

The following bill was read the second time, and placed on the calendar:

H.R. 3962. An act to provide affordable, quality health care for all Americans and reduce the growth in health care spending, and for other purposes.

#### INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. BAUCUS (for himself, Mr. GRASSLEY, and Mr. CRAPO):

S. 2771. A bill to amend the Internal Revenue Code of 1986 to limit the penalty for failure to disclose reportable transactions based on resulting tax benefits, and for other purposes; to the Committee on Finance.

By Mr. WHITEHOUSE (for himself, Mr. CORNYN, and Mr. LEAHY):

S. 2772. A bill to establish a criminal justice reinvestment grant program to help States and local jurisdictions reduce spending on corrections, control growth in the prison and jail populations, and increase public safety; to the Committee on the Judiciary.

By Ms. COLLINS:

S. 2773. A bill to require the Secretary of Energy to carry out a program to support the research, demonstration, and development of commercial applications for offshore wind energy, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. GRASSLEY:

S. 2774. A bill to amend title XVIII of the Social Security Act to prevent Medicare payments being lost to fraud, waste, or abuse; to the Committee on Finance.

By Mr. SCHUMER (for himself and Mrs. GILLIBRAND):

S. 2775. A bill to provide authority and sanction for the granting and issuance of programs for residential and commuter toll, user fee and fare discounts by States, municipalities, other localities, as well as all related agencies and departments thereof, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. ALEXANDER (for himself and Mr. WEBB):

S. 2776. A bill to amend the Energy Policy Act of 2005 to create the right business environment for doubling production of clean nuclear energy and other clean energy and to create mini-Manhattan projects for clean energy research and development; to the Committee on Energy and Natural Resources.

By Ms. SNOWE:

S. 2777. A bill to repeal the American Recovery Capital loan program of the Small Business Administration; to the Committee on Small Business and Entrepreneurship.

By Mrs. BOXER (for herself, Mr. INHOFE, Mr. BAUCUS, Mr. VOINOVICH, Mr. MERKLEY, and Mr. VITTER):

S. 2778. A bill to amend the Public Works and Economic Development Act of 1965 to reauthorize that Act, and for other purposes; to the Committee on Environment and Public Works.

By Ms. KLOBUCHAR:

S. 2779. A bill to promote Department of the Interior efforts to provide a scientific basis for the management of sediment and nutrient loss in the Upper Mississippi River Basin, and for other purposes; to the Committee on Energy and Natural Resources.

#### ADDITIONAL COSPONSORS

S. 254

At the request of Mrs. LINCOLN, the name of the Senator from Colorado (Mr. BENNET) was added as a cosponsor of S. 254, a bill to amend title XVIII of the Social Security Act to provide for the coverage of home infusion therapy under the Medicare Program.

S. 491

At the request of Mr. WEBB, the name of the Senator from Arkansas (Mrs. LINCOLN) was added as a cosponsor of S. 491, a bill to amend the Internal Revenue Code of 1986 to allow Federal civilian and military retirees to pay health insurance premiums on a pretax basis and to allow a deduction for TRICARE supplemental premiums.

S. 524

At the request of Mr. FEINGOLD, the name of the Senator from Idaho (Mr. RISCH) was added as a cosponsor of S. 524, a bill to amend the Congressional Budget and Impoundment Control Act of 1974 to provide for the expedited consideration of certain proposed rescissions of budget authority.

S. 557

At the request of Mr. KOHL, the name of the Senator from Minnesota (Ms. KLOBUCHAR) was added as a cosponsor of S. 557, a bill to encourage, enhance, and integrate Silver Alert plans throughout the United States, to authorize grants for the assistance of organizations to find missing adults, and for other purposes.

S. 686

At the request of Ms. MIKULSKI, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of S. 686, a bill to establish the Social Work Reinvestment Commission to advise Congress and the Secretary of Health and Human Services on policy

issues associated with the profession of social work, to authorize the Secretary to make grants to support recruitment for, and retention, research, and reinvestment in, the profession, and for other purposes.

S. 727

At the request of Ms. LANDRIEU, the name of the Senator from Maine (Ms. SNOWE) was added as a cosponsor of S. 727, a bill to amend title 18, United States Code, to prohibit certain conduct relating to the use of horses for human consumption.

S. 1057

At the request of Mr. TESTER, the name of the Senator from New Mexico (Mr. BINGAMAN) was added as a cosponsor of S. 1057, a bill to amend the Public Health Service Act to provide for the participation of physical therapists in the National Health Service Corps Loan Repayment Program, and for other purposes.

S. 1067

At the request of Mr. FEINGOLD, the name of the Senator from Tennessee (Mr. CORKER) was added as a cosponsor of S. 1067, a bill to support stabilization and lasting peace in northern Uganda and areas affected by the Lord's Resistance Army through development of a regional strategy to support multilateral efforts to successfully protect civilians and eliminate the threat posed by the Lord's Resistance Army and to authorize funds for humanitarian relief and reconstruction, reconciliation, and transitional justice, and for other purposes.

S. 1076

At the request of Mr. MENENDEZ, the name of the Senator from Minnesota (Ms. KLOBUCHAR) was added as a cosponsor of S. 1076, a bill to improve the accuracy of fur product labeling, and for other purposes.

S. 1130

At the request of Mr. CONRAD, the name of the Senator from North Dakota (Mr. DORGAN) was added as a cosponsor of S. 1130, a bill to provide for a demonstration project regarding Medicaid reimbursements for stabilization of emergency medical conditions by non-publicly owned or operated institutions for mental diseases.

S. 1147

At the request of Mr. KOHL, the name of the Senator from Pennsylvania (Mr. CASEY) was added as a cosponsor of S. 1147, a bill to prevent tobacco smuggling, to ensure the collection of all tobacco taxes, and for other purposes.

S. 1153

At the request of Mr. SCHUMER, the name of the Senator from New Mexico (Mr. BINGAMAN) was added as a cosponsor of S. 1153, a bill to amend the Internal Revenue Code of 1986 to extend the exclusion from gross income for employer-provided health coverage for

employees' spouses and dependent children to coverage provided to other eligible designated beneficiaries of employees.

S. 1160

At the request of Mr. SCHUMER, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 1160, a bill to provide housing assistance for very low-income veterans.

S. 1228

At the request of Mr. AKAKA, the name of the Senator from Washington (Mrs. MURRAY) was added as a cosponsor of S. 1228, a bill to amend chapter 63 of title 5, United States Code, to modify the rate of accrual of annual leave for administrative law judges, contract appeals board members, and immigration judges.

S. 1345

At the request of Mr. REED, the name of the Senator from New Mexico (Mr. BINGAMAN) was added as a cosponsor of S. 1345, a bill to aid and support pediatric involvement in reading and education.

S. 1366

At the request of Mrs. BOXER, the name of the Senator from New York (Mrs. GILLIBRAND) was added as a cosponsor of S. 1366, a bill to amend the Internal Revenue Code of 1986 to allow taxpayers to designate a portion of their income tax payment to provide assistance to homeless veterans, and for other purposes.

S. 1389

At the request of Mr. NELSON of Nebraska, the name of the Senator from Iowa (Mr. GRASSLEY) was added as a cosponsor of S. 1389, a bill to clarify the exemption for certain annuity contracts and insurance policies from Federal regulation under the Securities Act of 1933.

S. 1545

At the request of Mrs. GILLIBRAND, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. 1545, a bill to expand the research and awareness activities of the National Institute of Arthritis and Musculoskeletal and Skin Diseases and the Centers for Disease Control and Prevention with respect to scleroderma, and for other purposes.

S. 1559

At the request of Mr. KERRY, the name of the Senator from Missouri (Mrs. McCASKILL) was added as a cosponsor of S. 1559, a bill to consolidate democracy and security in the Western Balkans by supporting the Governments and people of Bosnia and Herzegovina and Montenegro in reaching their goal of eventual NATO membership, and to welcome further NATO partnership with the Republic of Serbia, and for other purposes.

S. 1608

At the request of Ms. STABENOW, the name of the Senator from Pennsyl-

vania (Mr. CASEY) was added as a cosponsor of S. 1608, a bill to prepare young people in disadvantaged situations for a competitive future.

S. 1646

At the request of Mr. REED, the name of the Senator from Vermont (Mr. LEAHY) was added as a cosponsor of S. 1646, a bill to keep Americans working by strengthening and expanding short-time compensation programs that provide employers with an alternative to layoffs.

S. 1653

At the request of Mr. LEAHY, the name of the Senator from Pennsylvania (Mr. CASEY) was added as a cosponsor of S. 1653, a bill to provide for the appointment of additional Federal circuit and district judges, and for other purposes.

S. 1709

At the request of Mr. THUNE, the name of the Senator from Ohio (Mr. VOINOVICH) was added as a cosponsor of S. 1709, a bill to amend the National Agricultural Research, Extension, and Teaching Policy Act of 1977 to establish a grant program to promote efforts to develop, implement, and sustain veterinary services, and for other purposes.

S. 1798

At the request of Mr. SANDERS, the name of the Senator from Oregon (Mr. WYDEN) was added as a cosponsor of S. 1798, a bill to provide for the automatic enrollment of demobilizing members of the National Guard and Reserve in health care and dental care programs of the Department of Veterans Affairs, and for other purposes.

S. 1963

At the request of Mr. AKAKA, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 1963, a bill to amend title 38, United States Code, to provide assistance to caregivers of veterans, to improve the provision of health care to veterans, and for other purposes.

S. 2736

At the request of Mr. FRANKEN, the name of the Senator from Maryland (Ms. MIKULSKI) was added as a cosponsor of S. 2736, a bill to reduce the rape kit backlog and for other purposes.

S. 2758

At the request of Ms. STABENOW, the name of the Senator from Pennsylvania (Mr. CASEY) was added as a cosponsor of S. 2758, a bill to amend the Agricultural Research, Extension, and Education Reform Act of 1998 to establish a national food safety training, education, extension, outreach, and technical assistance program for agricultural producers, and for other purposes.

S. 2767

At the request of Mr. CORNYN, the name of the Senator from Texas (Mrs. HUTCHISON) was added as a cosponsor of

S. 2767, a bill to provide additional resources and funding for construction and infrastructure improvements at United States land ports of entry, to open additional inspection lanes, to hire more inspectors, and to provide recruitment and retention incentives for United States Customs and Border Protection officers who serve on the Southern Border.

S. RES. 341

At the request of Mr. CARDIN, the name of the Senator from Pennsylvania (Mr. CASEY) was added as a cosponsor of S. Res. 341, a resolution supporting peace, security, and innocent civilians affected by conflict in Yemen.

S. RES. 345

At the request of Mrs. BOXER, the names of the Senator from Tennessee (Mr. CORKER) and the Senator from Vermont (Mr. LEAHY) were added as cosponsors of S. Res. 345, a resolution deploring the rape and assault of women in Guinea and the killing of political protesters.

AMENDMENT NO. 2759

At the request of Mr. DURBIN, the names of the Senator from Illinois (Mr. BURRIS), the Senator from West Virginia (Mr. ROCKEFELLER) and the Senator from Montana (Mr. TESTER) were added as cosponsors of amendment No. 2759 proposed to H.R. 3082, a bill making appropriations for military construction, the Department of Veterans Affairs, and related agencies for the fiscal year ending September 30, 2010, and for other purposes.

AMENDMENT NO. 2760

At the request of Mr. DURBIN, the names of the Senator from West Virginia (Mr. ROCKEFELLER) and the Senator from Montana (Mr. TESTER) were withdrawn as cosponsors of amendment No. 2760 proposed to H.R. 3082, a bill making appropriations for military construction, the Department of Veterans Affairs, and related agencies for the fiscal year ending September 30, 2010, and for other purposes.

AMENDMENT NO. 2774

At the request of Mr. INHOFE, the names of the Senator from Alabama (Mr. SESSIONS), the Senator from Texas (Mr. CORNYN) and the Senator from Georgia (Mr. CHAMBLISS) were added as cosponsors of amendment No. 2774 proposed to H.R. 3082, a bill making appropriations for military construction, the Department of Veterans Affairs, and related agencies for the fiscal year ending September 30, 2010, and for other purposes.

#### STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BAUCUS (for himself, Mr. GRASSLEY, and Mr. CRAPO):

S. 2771. A bill to amend the Internal Revenue Code of 1986 to limit the penalty for failure to disclose reportable transactions based on resulting tax

benefits, and for other purposes; to the Committee on Finance.

Mr. BAUCUS. Today, I am pleased to introduce the Small Business Penalty Relief Act of 2009 with my good friend and Ranking Member of the Finance Committee, CHUCK GRASSLEY.

The bill provides much needed penalty relief to small businesses across America that are being assessed large penalties by the Internal Revenue Service because they unknowingly invested in something called a "listed tax shelter transaction."

Many of these businesses thought they were putting their money into sound investments for the benefit of their employees and learned only after they were audited by the IRS that they instead had invested in something the IRS considers to be a tax shelter.

Most small businesses do not have the resources to pay sophisticated tax lawyers and accountants to review all their business decisions. They have to do the best they can on their own. And that is how they ended up in the middle of a nightmare with the IRS.

When a business invests in a listed tax shelter, the law requires that business to attach a form to the tax return telling the IRS about the shelter. If the business doesn't attach the form, it can be subject to a penalty of \$200,000 per year. If the business has elected Subchapter S status, an additional \$100,000 penalty applies at the individual level. Total penalties can add up to \$300,000 each year. Multiply that by several years, and you can easily approach \$1 million or more in penalties for a tax shelter you didn't even know you had.

In the case of many small businesses, the annual tax benefit from their investment is quite minor—perhaps as small as \$15,000. The \$300,000 penalty plainly is out of whack.

Just to be clear, Senator GRASSLEY and I are not soft on tax shelters. We spearheaded legislation in 2004 that gave the IRS better tools to stop individuals and big companies from cleverly manipulating the tax code to avoid paying the taxes they owed. Our efforts were focused on egregious deals that cheated the U.S. Government out of millions and billions of dollars. Our efforts have made a serious dent in the proliferation of abusive tax scams and schemes.

But we didn't intend that the 2004 legislation would end up threatening the existence of small businesses in Montana and across America, and the livelihoods of their employees who risk losing their jobs if the business goes under.

Small businesses are struggling already. They don't need the added and unfair burden of a penalty that can be as much as 20 times larger than the taxes they saved.

This bill changes the way the penalty is calculated. The penalty is based on a percentage of the tax benefit resulting

from the investment. It is fairer and won't drive these companies out of business.

Small businesses are the backbone of our Nation. Particularly in these tough economic times, we must make sure the tax laws reflect the important role that small business plays in our Nation's economic health and our citizens' economic security.

By Mr. WHITEHOUSE (for himself, Mr. CORNYN, and Mr. LEAHY):

S. 2772. A bill to establish a criminal justice reinvestment grant program to help States and local jurisdictions reduce spending on corrections, control growth in the prison and jail populations, and increase public safety; to the Committee on the Judiciary.

Mr. WHITEHOUSE. Mr. President, I am proud today to join Senators CORNYN and LEAHY in introducing the Criminal Justice Reinvestment Act of 2009, a bill designed to help States and localities approach spending on corrections in a more rational manner, better manage growth in the prison and jail populations, and increase public safety.

Over 2,200,000 American adults are incarcerated in state and local prisons and jails; the prison population alone nearly tripled between 1987 and 2007, from 585,000 to almost 1,600,000 inmates. States, in turn, have increased spending on corrections by \$40 billion in the past 20 years. Despite the continued growth of the inmate population, about half the states plan to cut corrections budgets for fiscal year 2010 amid budget shortfalls.

Most policymakers have limited access to detailed, data-driven explanations about changes in crime, arrests, convictions, and prison and jail population trends. The Criminal Justice Reinvestment Act will provide them with the resources to undergo a thorough analysis of the drivers of growth, and to create and implement policy options to manage that growth.

Specifically, the legislation will create a two-part grant program for governments to analyze criminal justice trends, develop policy options to address growth in the corrections system, and implement and measure the impact of the policy changes. Through Phase 1 grants, government entities will be able to conduct a comprehensive analysis of corrections data, evaluate the cost-effectiveness of state and local spending on corrections, and develop policy options suggested by the analysis. Phase 2 grants will provide funds to help government entities implement those policy options and to measure their effectiveness.

Model programs in several states have already found this kind of data study helpful in managing the costs of a growing inmate population. An analysis of prison data in my home state of Rhode Island, for example, prompted

legislation to standardize the calculation of earned time credits, establish risk reduction program credits, and require the use of risk assessments to inform parole release decisions. In Texas, the home State of one of my cosponsors, Senator CORNYN, the solution was much different but equally effective—following its analysis, the State invested \$227 million on treatment programs and residential facilities to curb population growth, which averted spending \$523 million on new prisons.

The Criminal Justice Reinvestment Act will help state and local governments spend their limited corrections budgets in a more targeted, rational way to both manage inmate population growth and protect public safety. I urge my colleagues to support this legislation.

Mr. LEAHY. Mr. President, I am pleased to join Senators WHITEHOUSE and CORNYN in introducing the Criminal Justice Reinvestment Act of 2009. This important bipartisan legislation would help jurisdictions control the increased costs facing correctional systems across the country, while also improving public safety and reducing recidivism.

In recent years, Federal and State governments have passed many new criminal laws creating more and longer sentences for more and more crimes. As a former prosecutor, I strongly believe in securing tough and appropriate prison sentences for people who break our laws. But while it is important to ensure that serious crimes result in significant sentences, we must also work to make our criminal justice system as effective and efficient as possible. That is why I have long championed legislation like the Second Chance Act, which helps ensure that when people get out of prison, they enter our communities as productive members of society, so we can start to reverse the dangerous cycles of recidivism and violence.

We have an obligation to help states cope with overburdened criminal justice systems and rising recidivism rates. Over the last twenty years, state spending on corrections has risen from \$10 billion to \$45 billion a year by some reports, and that number is expected to rise. Despite mounting expenditures, recidivism rates remain high, and by some measures have actually worsened. The fastest growing category of admissions to prison is people already under some form of community supervision, such as probation or parole. We must learn how to break this cycle. Fixing this problem will make our communities safer, and we must act quickly because states simply cannot continue to spend these enormous sums on corrections, especially in these very difficult economic times.

The Criminal Justice Reinvestment Act provides states with the needed technical and financial resources to

help them take key steps to break the cycle of recidivism. By helping states implement data-driven strategies to more effectively manage their correctional systems and to reinvest the saving in programs to reduce crime, the bill serves the dual purpose of cutting costs and improving public safety. I look forward to working with Senators WHITEHOUSE and CORNYN and others to ensure the passage of this important legislation.

By Ms. COLLINS:

S. 2773. A bill to require the Secretary of Energy to carry out a program to support the research, demonstration, and development of commercial applications for offshore wind energy, and for other purposes; to the Committee on Energy and Natural Resources.

Ms. COLLINS. Mr. President, today I am introducing legislation that requires the Secretary of Energy to carry out a program of research, development, demonstration and commercial application to advance offshore wind turbine technology. This bill will advance the goal of the Department of Energy to produce 20 percent of our Nation's electricity from wind resources by 2030.

Mr. President, 61 percent of U.S. wind resources is in deepwater, greater than 60 meters, 197 feet, depth. Winds at these locations are stronger and more consistent than closer to shore or on land. But, it will take technological advances to harness this energy efficiently and cost-effectively.

This bill will focus national efforts to develop offshore wind technologies. This should be a national priority because it can produce clean, renewable energy for major U.S. population centers. The 28 coastal U.S. States use 78 percent of the electricity in the U.S. For example, Maine's offshore wind resource is close to the 55 million people who live in New England, New York, New Jersey, and Pennsylvania. This is 18 percent of the total U.S. population.

Developing cost-competitive offshore wind technology will require improvements in the efficiency, reliability, and capacity of offshore wind turbines and reductions in the cost of manufacturing, construction, deployment, generation, and maintenance of offshore wind energy systems. That is why my bill directs the Secretary of Energy to support existing university centers and establish new centers to support research, development, demonstration and commercial application. The bill authorizes \$50 million annually for over 10 years for the design, demonstration, and deployment of advanced wind turbine foundations and support structures, blades, turbine systems, components, and supporting land- and water-based infrastructure for application in shallow water, transitional depth, and deep water offshore.

The bill authorizes full-scale testing and establishment of regional demonstrations of offshore wind components and systems to validate technology and performance; assessments of U.S. offshore wind resources, environmental impacts and benefits, siting and permitting issues, exclusion zones, and transmission needs for inclusion in a publically accessible database; design, demonstration, and deployment of integrated sensors, actuators and advanced materials, such as composite materials; advanced blade manufacturing activity, such as automation, materials, and assembly of large-scale components, to stimulate the development of a U.S.-blade manufacturing capacity; methods to assess and mitigate the effects of wind energy systems on marine ecosystems and marine industries; and other research areas as determined by the Secretary.

This bill would support critical renewable energy research that would help reduce our use of fossil fuels and improve our energy security. I urge my colleagues to support the Offshore Wind Energy Research, Development, Demonstration and Commercial Application Act.

By Mr. GRASSLEY:

S. 2774. A bill to amend title XVIII of the Social Security Act to prevent Medicare payments being lost to fraud, waste, or abuse; to the Committee on Finance.

Mr. GRASSLEY. Mr. President, in 2008, Medicare accounted for about \$470 billion of the \$2 trillion spent on health care in the U.S..

Conservative estimates are that as much as \$60 billion of that Medicare spending is lost to fraud, waste, and abuse each year.

News reports today tell us that the Medicare payment error rate for fiscal year 2009 is going to be 12.4 percent. To put it in a different way, last year, Medicare made 47 billion dollars in improper payments. \$47 billion of taxpayer money that by all accounts was wasted by Medicare on payments that shouldn't have been made.

As Medicare spending continues to skyrocket, so will the dollars lost to fraud, waste and abuse.

That problem is bad enough. But it is even worse because it turns out that a rule in the law today makes it easier for crooks to cheat the system and steal money from Medicare.

A recent 60 Minutes segment highlighted how the law as written contributes to the problem and drives this growing danger to the American taxpayer and public coffers.

In this segment, we saw a medical supply company that billed Medicare, \$2 million this past July—despite being empty and having apparently no staff.

Federal agents described the problem as far bigger than the drug business in Miami now. They were told it has

pushed aside cocaine as the biggest criminal enterprise there.

According to those interviewed by 60 Minutes, an entire health care fraud industry exists today that is committed to doing nothing except finding ways to rip off the Medicare program.

Many of these suppliers don't exist. There is no office that exists and nobody who works there. They recruit doctors and patients and use stolen patient lists, and do nothing but figure out how to steal from Medicare.

One man interviewed said he was waking up every day making \$20,000–\$40,000 every day. It was like winning the lottery he said. He was running a fake medical supply company that didn't actually sell any medical equipment to anyone. He says he stole at least 20 million dollars from Medicare. He said it was, quote "real easy."

All he says he needed was someone pretending to run the office and then he just had to check his bank account every day to see how much money he had made. All he did was fill out forms to Medicare and in 15 to 30 days he would have the money in his bank account.

Even more alarming, he says that there are about 2,000 to 3,000 more fake medical suppliers just in Miami billing Medicare fake claims.

They are able to do this because Federal law puts Medicare in a position of having to "pay and chase" health care fraudsters. This is because federal law requires that Medicare pay providers promptly regardless of any risk of fraud, waste, or abuse.

The prompt payment requirement in current law requires payment for a "clean" claim within 14 to 30 days. And that is not enough time for the limited number of Medicare auditors to determine if the claim is legitimate before the payment has to be made.

The result is that this "prompt payment rule" requires that Medicare pay fraudsters first, and ask questions later.

This requirement in current law doesn't make any sense. I am here today to introduce a bill to fix it.

This legislation, the Fighting Medicare Payment Fraud Act of 2009 Act, would provide the government with an important new tool to fight fraud, waste and abuse in Medicare. This bill will stop the cycle of "paying and chasing." This legislation would protect Federal taxpayer dollars from being wasted on suspicious payments that are required to be made because of the prompt payment rule.

Today, the prompt payment rule applies to all payments regardless of the risk that those payments would be to fly-by-night operators. But this legislation ends the policy of pay first and ask questions later.

This legislation gives the Secretary of Health and Human Services the authority to ask questions first and then

and ONLY then to make the payment if the health care provider and the payment for services check out.

This bill accomplishes that by extending the time period in which payments must be made under the prompt payment rule in cases where the Secretary determines there is a likelihood of fraud, waste or abuse.

For categories of providers or suppliers, the payment time period can be extended to up to one year. For individual providers or suppliers, the Secretary would be required to take whatever time is necessary to engage in more in-depth reviews to determine that the claims are supposed to be paid in the first place.

With this additional time, the Secretary would be required to conduct more detailed reviews of suspicious claims to make sure they are supposed to be paid.

This would help ensure that Medicare dollars are in fact going to bona fide providers, instead of fraudsters with empty strip mall medical supply companies.

Finally, this legislation requires the experts in the Office of Inspector General to recommend, on at least an annual basis, categories of providers or suppliers that warrant additional time before payments are made under the prompt payment rule.

To make sure there is action on these recommendations, the Secretary would be required to provide a response to the Inspector General on these recommendations.

With this new authority to fight health care fraud, the Federal Government will be in a better position to protect taxpayer dollars and catch health care crooks.

Crooks are taking advantage of Medicare's prompt payment requirement. They know they can bill Medicare, get their payment, and be gone before they get caught. And Federal law enables it to happen. That has got to end. This legislation takes that step.

By Mr. ALEXANDER (for himself and Mr. WEBB):

S. 2776. A bill to amend the Energy Policy Act of 2005 to create the right business environment for doubling production of clean nuclear energy and other clean energy and to create mini-Manhattan projects for clean energy research and development; to the Committee on Energy and Natural Resources.

Mr. ALEXANDER. Mr. President, Senator WEBB of Virginia, the colleague of the Presiding Officer, and I are introducing legislation today to propose that the United States build its clean energy future upon the lessons of the Manhattan Project of World War II. That helped end the war. It was a millions-of-man-hour effort that the New York Times called "without doubt, the most concentrated intellectual effort in history."

Specifically, we will introduce legislation to create the business and regulatory environment to double our country's nuclear power production within 20 years and to launch five mini-Manhattan Projects to make advanced clean energy technologies effective and cost-competitive.

The most important thing I can say is that the senior Senator from Virginia and the junior Senator from Virginia and I have all talked about this subject before. I think we see there is a great deal of consensus in this body about some steps we can take on clean energy. So what Senator WEBB and I are hoping to do with this framework is to see on a one-on-one basis whether it is the kind of framework that will permit us to work with other Senators who expressed an interest in nuclear power and energy research and development. And while we are contending about economy-wide cap and trade, we could move ahead with these steps that have to do with clean energy, clean air, climate change, low-cost, reliable energy.

In other words, this is a piece of legislation that you can support if you are for an economy-wide cap and trade or if you are against an economy-wide cap and trade. There are some things we can do to help our country that also help us deal with climate change.

In 1942, President Franklin D. Roosevelt asked Senator McKellar, the Tennessean who chaired the Appropriations Committee, to hide \$2 billion in the appropriations bill for a secret project to win World War II. Senator McKellar replied:

That should be no problem, Mr. President. I have just one question: Where in Tennessee do you want me to hide it?

That place in Tennessee turned out to be Oak Ridge, one of the three secret cities that became the principal sites for the Manhattan Project that split the atom and built a bomb before Germany could. Nearly 200,000 people worked on the project in 30 different sites in 3 countries.

President Roosevelt's \$2 billion appropriation would be \$24 billion today.

After World War II, in 1947, ADM Hyman Rickover came to Oak Ridge for training that led to the nuclear Navy that helped to defend our country for half a century. Shortly thereafter, in December 1953, President Eisenhower proposed his Atoms For Peace Program that has grown into the world's most effective supplier of large amounts of reliable, carbon-free, low-cost electricity.

The rest of the world has a new interest in this American success story, as countries seek energy independence, clean air, cheap energy for job creation, as well as carbon-free energy to deal with global warming. The Chinese are starting a new nuclear powerplant every 2 or 3 months. The Japanese obtain a third of their power from nu-

clear plants and build new reactors from start to finish in less than 4 years. France gets 80 percent of its electricity from nuclear power and, as a result, has among the lowest electricity rates and carbon emissions in Western Europe. Russia plans to double its nuclear power capacity. The United Arab Emirates is planning three new reactors by 2020, and just last week the United Kingdom announced it will build 10. Yet the country that invented this remarkable technology, the United States of America, has not started a new nuclear powerplant in 30 years even though we still get 70 percent of our carbon-free electricity and 19 percent of all our electricity from 104 reactors built between 1970 and 1990.

It is true that there are other promising forms of low-carbon and carbon-free renewable energy, but the stark reality is that there is a huge gap between this renewable electricity we would like to have and the reliable, low-cost electricity that a country that uses 25 percent of all the energy in the world has to have.

Today, despite heavy subsidies, wind, solar, geothermal, biomass renewable energy produce only 3 percent of U.S. electricity. The Energy Information Administration forecasts a 22-percent increase in U.S. electricity demand during the next 20 years. For that much electricity, our country simply cannot rely solely on conservation, on windmills and solar panels or even on natural gas. We are fortunate to have a new, massive natural gas set of discoveries in the United States, but a natural gas powerplant still produces about half as much carbon as a new coal plant. And if too many natural gas plants are built, today's low prices could mean high prices tomorrow for farmers, homeowners, and manufacturers.

Add to that a recent Nature Conservancy scientific paper that warned of a coming renewable energy sprawl, especially from biofuels, biomass, and wind turbines, that would consume an area the size of West Virginia. A biomass plant, for example, that would produce as much electricity as one nuclear reactor on 1 square mile would require continuously deforesting an area about 1.5 times the size of the Great Smoky National Park. Producing 20 percent of our electricity from 50-story wind turbines, as some have suggested, would require covering an area the size of West Virginia and building 19,000 miles of new transmission lines.

When these are strung along scenic ridgetops, coastlines, or other treasured landscapes, we will be destroying the environment in the name of saving the environment. Solar and wind installations require between 30 and 270 square miles to duplicate the output of just one nuclear reactor on 1 square mile. Moreover, these energy sources must be backed up by other generation



since they only produce power when the wind blows or the Sun shines, and that electricity cannot be stored in large amounts. There is only one wind farm in the entire Southern United States because the wind doesn't blow enough. In the Tennessee Valley Authority region, solar costs at least four to five times as much as other electricity that TVA buys.

As for green jobs, according to the Department of Energy, there will be 250,000 construction jobs for 100 new nuclear plants. This would compare with 73,000 jobs to construct the 180,000 wind turbines needed to produce 20 percent of our electricity from wind. Of course, producing a lot of cheap, reliable energy is the best way to produce new jobs.

Think of it this way. If we were going to war, we wouldn't mothball our nuclear Navy and start subsidizing sailboats. If climate change, as well as low-cost, reliable energy are national imperatives, we should not stop building nuclear plants and start subsidizing windmills. I am on the side of those who say we need to deal with climate change. The national academies of 11 industrialized countries, including the United States, have said humans probably have caused most of the recent global warming.

If fire chiefs of the same reputation said my house might burn down, I would buy fire insurance, but I would buy insurance that worked and that was not so expensive that I couldn't pay my mortgage or my hospital bill.

Fortunately, there are two steps that will benefit our country in multiple ways—namely, cleaner air; more energy independence; more reliable, low-cost power—and will also help fight global warming. The first is to double production of electricity from carbon-free nuclear power, which would mean building 100 new plants as we did between 1970 or 1990 or a larger number of the new, small, and modular reactors now being discussed. The second is to apply to the promising new technologies, such as the renewable technologies, the same discipline and resources we did with the original Manhattan Project in order to make them effective and cost competitive.

That is why the bill Senator WEBB and I are introducing today, the Clean Energy Act of 2009, proposes the following: No. 1, loan guarantees: \$100 billion to encourage startup of all forms of carbon-free electricity production, expanding the \$47 billion loan guarantee program that exists today, and \$18 billion of those funds are currently available for nuclear projects.

Secretary Chu has suggested it should be in the forties. I believe that number should be closer to the sixties or the seventies. But the purpose of this is to get the first few nuclear plants up and running, and then the money is paid back. The Congressional

Budget Office estimates this could cost up to \$10 billion but might cost much less. New reactor designs, \$1 billion over 5 years to enable the Nuclear Regulatory Commission to review new designs such as the generation 4 reactors that don't isolate plutonium and, therefore, help solve the used nuclear fuel problems, and small modular reactors that can be built in U.S. factories and assembled on site such as LEGO blocks. No. 3, nuclear workforce, \$1 billion over 10 years to ensure a supply of nuclear engineers, operators, and craftsmen such as welders and pipe fitters. Americans have a generation gap in these skilled personnel. No. 4, more power from existing reactors. This would be \$500 million over 10 years to increase the efficiency and develop longer lifetimes for our existing 104 reactors. If we did both of these things, we might create the equivalent production of 20 or 30 more reactors. Then, finally, the five new, what we call mini-Manhattan Projects for clean energy.

Here are the five mini-Manhattan Projects: \$750 million per year over 10 years for research and development on, No. 1, carbon capture emissions from coal plants. In many ways that is the holy grail of energy R&D. If we can find a way to do that, we can have all of the low-cost, clean electricity we can use. No. 2, develop advanced biofuels from crops that we don't eat; No. 3, improve batteries for electric cars so instead of taking us 100 miles without recharging, they might take us 300 or 400 miles; make solar power more cost competitive.

That has the most promise in terms of renewable energy because we have rooftops on which to put the panels. They just cost too much today. Then recycling used nuclear fuel in a way that doesn't isolate plutonium, that reduces by 99.9 percent the radioactive life of what is left, and by 97 percent the mass we have to deal with. The cost to taxpayers over 20 years would be no more than \$20 billion. There would be no new energy taxes or mandates. This \$20 billion would compare with \$170 billion we would spend in taxpayer subsidies, if we were to produce 20 percent of our electricity from wind, not counting the billions more for transmission lines.

By my computation, if we actually did build 100 nuclear plants in 20 years, as well as electrify half our cars and trucks in 20 years, which we should be able to do without building one new powerplant if we plugged them in at night, we would come close to reaching the 1990 Kyoto global warming protocols without expensive new energy taxes. Reaching that goal is even more likely if some of our mini-Manhattan Projects produce results we hope for from new technologies.

The world nuclear power revival is well underway. With our Clean Energy Act of 2009, that revival might finally

reach American shores where it began. The lessons of the Manhattan Project could advance the days when more nuclear power and new forms of clean energy can make us more energy independent, clean our air, help fight global warming, and produce large amounts of reliable, low-cost, clean electricity that will keep American jobs from going overseas looking for cheap energy.

I ask unanimous consent to have printed in the RECORD a one-page summary of the Alexander-Webb legislation, called the Clean Energy Act of 2009.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

ALEXANDER-WEBB—CLEAN ENERGY  
DEPLOYMENT ACT OF 2009

To create the business and regulatory environment to double nuclear production in 20 years and establish 5 Mini-Manhattan projects to make advanced clean energy technologies effective and cost-competitive

1. Carbon-Free Electricity Loan Guarantees: \$100 Billion for technology-neutral carbon-free electricity loan guarantee program. CBO estimates cost at \$10 billion (may cost less). Secretary Chu has suggested doubling the \$18.5 billion available today for nuclear power.

2. New Reactor Designs: \$250 million per year for five years to enable the Nuclear Regulatory Commission (NRC) to review new nuclear reactor designs such as Generation IV or small modular reactors. (Would not impact NRC review of potential sites for nuclear power plants.) Reaffirm the federal government's commitment to dealing with spent nuclear fuel.

3. Nuclear Workforce: \$100 million per year for ten years for education, workforce development and training to ensure a supply of nuclear engineers, operators and craftsmen such as welders and pipefitters.

4. More power from existing reactors: \$50 million per year for ten years for nuclear reactor lifetime-extension and efficiency research. Increased efficiency and longer lifetimes for existing 104 reactors could equal the production of 20-30 new reactors.

5. Five Mini-Manhattan Projects for Clean Energy R&D: (\$750 million per year for ten years). Clean Coal: to make carbon capture and storage a commercial reality (\$150 million per year). Advanced Biofuels: clean fuels from crops we don't eat (\$150 million per year). Advanced Batteries: for electric vehicles (\$150 million per year). Solar Power: to make solar power cost competitive (\$150 million per year). Recycling Used Nuclear Fuel: (\$150 million per year). Support Secretary Chu's Blue-Ribbon Panel on what to do with used nuclear fuel.

Decide upon the best way to recycle used nuclear fuel.

i. Proliferation-resistant (no pure plutonium).

ii. Reduce radioactive lifetime of final used fuel product by 99.97 percent.

iii. Reduce volume and mass of final used fuel by 97 percent of what it is today.

Develop Generation IV reactors that will consume recycled nuclear fuel.

Total 20 year cost would be no more than \$20.25 billion.

\*While the loan guarantee program is scored at 1 percent for nuclear loans and 10 percent for other program participants, this proposal uses a 10 percent score for all loan guarantees.

## ALEXANDER-WEBB—CLEAN ENERGY ACT OF 2009

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1. Carbon-Free Electricity Loan Guarantees: \$100 Billion for technology-neutral carbon-free electricity loan guarantee program. CBO estimates cost at \$10 billion (may cost less). Secretary Chu has suggested doubling the \$18.5 billion available today for nuclear power.

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3. Nuclear Workforce: \$100 million per year for ten years for education, workforce development and training to ensure a supply of nuclear engineers, operators and craftsmen such as welders and pipefitters.

4. More Power from Existing Reactors: \$50 million per year for ten years for nuclear reactor lifetime-extension and efficiency research. Increased efficiency and longer lifetimes for existing 104 reactors could equal the production of 20-30 new reactors.

5. Five Mini-Manhattan Projects for Clean Energy R&D: (\$750 million per year for ten years). Clean Coal: to make carbon capture and storage a commercial reality (\$150 million per year). Advanced Biofuels: clean fuels from crops we don't eat (\$150 million per year). Advanced Batteries: for electric vehicles (\$150 million per year). Solar Power: to make solar power cost competitive (\$150 million per year). Recycling Used Nuclear Fuel: (\$150 million per year).

Support Secretary Chu's Blue-Ribbon Panel on what to do with used nuclear fuel. Decide upon the best way to recycle used nuclear fuel.

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Develop Generation IV reactors that will consume recycled nuclear fuel.

Total 20 year cost would be no more than \$20 billion.

While the loan guarantee program is scored at 1 percent for nuclear loans and 10 percent for other program participants, this proposal uses a 10 percent score for all loan guarantees.

The ACTING PRESIDENT pro tempore. The Senator from Virginia.

Mr. WEBB. Mr. President, I am pleased to be cosponsoring this legislation with the senior Senator from Tennessee. This is a strong attempt by both of us to go toward the area of problem solving rather than political rhetoric that surrounds a lot of this issue when we examine the pieces of legislation that are before us that are making an attempt at solving climate change issues. They are, in some cases, in contradiction to what our energy needs are at large.

On the one hand we stopped building nuclear powerplants 30 years ago because of widespread fears among people

who were in the political process about the technology that was involved. On another level we stopped drilling for oil offshore after some incidents, now 40 years ago. Then on another level, we heard repeatedly that coal was too dirty.

At the same time we consume more and more energy, rightfully so, given the productivity of the country and the state of our economy. But we are in contradiction in terms of what we need versus what we fear. I believe the time has come for us to focus on those areas in terms of energy production that we know are achievable, that we know are safe, where we know we are good and which also can contribute positively in the area of climate change.

We have an enormously complex climate change bill that was passed in the House. We have another enormously complex climate change bill that may be before the Senate. We can't predict whether those bills will pass. If they do pass, we know there are some detriments. What Senator ALEXANDER and I are trying to do on a bipartisan basis, hopefully, with the support of our colleagues, is to put a simple piece of legislation forward that will address the areas that are achievable, that can give us an end result and get this legislation passed, while all of these other issues continue to be examined.

Senator ALEXANDER outlined the major points of this legislation. I would like to emphasize a couple. One is that we will be able to provide \$100 billion in loan guarantees, but that is not \$100 billion in money. That is \$100 billion in guarantees. It depends on the success rate. The basic projection on this is that it will be between 1 and 10 percent of that \$100 billion that our taxpayers actually would be required to pay. So we are going to be able to bring at least a dozen nuclear powerplants online.

When I say "nuclear powerplants," I mean the electrical generation capability of a traditional nuclear powerplant. We may have more than those given the miniaturization of nuclear power that is now underway.

We are going to be able to develop a nuclear workforce. Let me stay on this point for a minute. Senator ALEXANDER was a former Secretary of Education. I have spent all of my life, since I was 18 years old, in and around the naval service from which our nuclear power programs first began. One of the great benefits of the nuclear power program in the United States has been quality individuals whose talents are unmatched around the world.

I first watched this when I was at the Naval Academy many years ago, where among the brightest people at the Naval Academy, many were selected for the nuclear power program. They went through intensive training. But also among the enlisted sailors, the quality of the training was unsur-

passed. We would like to see this take place in terms of workforce development in the United States.

We want to put \$100 million a year in over a 10-year period to develop superb craftsmen as well as nuclear engineers.

We are looking at many mini-Manhattan Projects for alternate energy. This doesn't simply narrow the focus to nuclear energy. But we do know right now, even though we haven't built a new nuclear powerplant in the United States for 30 years, that 70 percent of the carbon-free electrical power in the United States comes from nuclear energy.

This is a good match for what people are trying to do in the area of climate change. I believe the way we have designed this legislation is focused. I am comfortable with the fact that the expansion of nuclear power as an alternate energy is doable. It is reasonable in scope and in cost. It will go a long way toward our eventual goal of dramatically reducing carbon dioxide emissions. As a result, this is legislation that will be beneficial to our economy, to our national health, to our position around the world.

I hope colleagues will join us in moving this legislation forward. We can do it in a timely manner, and we know the results are there.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Tennessee.

Mr. ALEXANDER. I thank the Senator from Virginia, Mr. WEBB, for his leadership. He brings a special knowledge to this because of his background in the Navy as an engineer and as Secretary of the Navy. Thousands of our sailors have lived on top of reactors for 50 years safely. This is an idea that has broad support on both sides of the aisle, I believe. We have gotten so stuck on arguing about the economy-wide cap and trade that we have failed to notice the areas where we may be able to agree. We certainly agree on energy research and development.

The President has strongly supported that. We certainly agree on electrification of cars and trucks. The President also strongly supports that.

I believe there is more agreement on nuclear power than we have seen before. So we are going to work with Democratic and Republican Senators who have already expressed such an interest and others who may be thinking about it over the next few weeks to see if this will form a framework for that kind of discussion.

By Ms. SNOWE:

S. 2777. A bill to repeal the American Recovery Capital loan program of the Small Business Administration; to the Committee on Small Business and Entrepreneurship.

Ms. SNOWE. Mr. President, the current recession has caused unemployment to balloon to 10.2 percent and

with small businesses creating over  $\frac{2}{3}$  of all net new jobs, the road to recovery leads through our Nation's small businesses. For this recovery to occur, we must ensure that our small businesses have access to affordable credit so that they can keep their doors open and start hiring some of the 15.7 million Americans who are currently unemployed.

The Senate Committee on Small Business and Entrepreneurship has been extremely active on this issue, and I thank Chair LANDRIEU for her leadership. The Committee has held a series of hearings on the credit crunch, to explore topics from alternative sources of credit to what policies government can enact that will help small businesses create jobs and weather this recession. In these hearings, the one constant message we have heard is that small businesses need access to capital. This message is borne out by the most recent Federal Reserve's Senior Loan Officer Opinion Survey which shows that banks continue to tighten access to credit for small businesses—and have since the start of this recession.

To help small businesses access credit I have introduced two bills, the 10 Steps for a Main Street Economic Recovery Act, and the Next Steps for a Main Street Economic Recovery Act, which contain provisions that would reduce fees for small business borrowers and lenders, allow refinancing of 7(a) and 504 loans; create a lender platform to give small business borrowers more lending options, and to increase the maximum amount borrowers can take out in 7(a), 504, and microloan loan sizes to give small businesses who have capital needs in excess of the Small Business Administration's current loan sizes more borrowing options.

Many of the key provisions of my 10 steps bill were included in the American Recovery and Reinvestment Act, ARRA, most notably, fee reduction for 7(a) and 504 loans. This provision, along with increasing the guarantee rate on 7(a) loans to 90 percent, has been credited with increasing small business lending by over 70 percent since the passage of the ARRA. I was also pleased that President Obama recently announced his support for the loan limit increases in my Next Steps bill as a part of his plan to expand access to capital for small businesses.

These provisions have helped cushion the shock of the credit crisis for small business borrowers; however, I am concerned with one provision which has not lived up to its initial promise.

The American Recovery Capital, ARC, loan program was included in the American Recovery and Reinvestment Act as a result of a combined effort from both the Chairs and the Ranking Members of the House and Senate with the laudable goal of extending a lifeline to small business borrowers. The program allowed viable small busi-

nesses that were having difficulty paying their existing debts to access a 100 percent SBA-guaranteed bank loan to repay these debts. These small business borrowers would receive payments for up to 6 months, and then have a 1-year grace period before repayments on their ARC loan began.

However, since its implementation in June, the ARC loan program has been plagued with difficulties, most notably, the Office of Management and Budget has estimated that based on the underwriting requirements put forth by the administration, 60 percent of borrowers utilizing this program may default on their loans.

The ARC program was intended to assist viable small businesses that will be able to repay the loan, not to add additional debt to those who will not. Proper stewardship of taxpayer dollars demands that we put a stop to any Federal program which does not achieve its stated goals. ARC loans are one such program. My legislation immediately suspends the ARC loan program and returns all unobligated funds back to the Treasury.

We must ensure that above all else, taxpayer funds are protected.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 2777

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. REPEAL OF AMERICAN RECOVERY CAPITAL LOAN PROGRAM.**

(a) IN GENERAL.—Section 506 of division A of the American Recovery and Reinvestment Act of 2009 (Public Law 111–5; 123 Stat. 157) is repealed.

(b) RETURN OF FUNDS.—Any unobligated balances of the amounts appropriated under the heading “BUSINESS LOANS PROGRAM ACCOUNT” under the heading “SMALL BUSINESS ADMINISTRATION” under title V of division A of the American Recovery and Reinvestment Act of 2009 (Public Law 111–5; 123 Stat. 151) for loan subsidies and loan modifications for loans to small business concerns authorized in section 506 of division A of the American Recovery and Reinvestment Act of 2009 are rescinded.

(c) APPLICABILITY.—Any loan guarantee under section 506 of division A of the American Recovery and Reinvestment Act of 2009 entered into before the date of enactment of this Act, shall remain in full force and effect under the terms, and for the duration, of the loan guarantee.

By Mrs. BOXER (for herself, Mr. INHOFE, Mr. BAUCUS, Mr. VOINOVICH, Mr. MERKLEY, and Mr. VITTER):

S. 2778. A bill to amend the Public Works and Economic Development Act of 1965 to reauthorize that Act, and for other purposes; to the Committee on Environment and Public Works.

Mr. INHOFE. Mr. President, today I am joining some of my colleagues from

the Environment and Public Works Committee in introducing a bill to reauthorize the Economic Development Administration, EDA. EDA works with partners in economically distressed communities to create wealth and minimize poverty by promoting favorable business environments to attract private investment and encourage long-term economic growth.

I have long been a strong supporter of EDA. I believe the agency does an outstanding job of providing relatively small grants that help secure significant amounts of private investment in distressed communities across the country. Contrary to what some people would say, the government itself does not—frankly, cannot—expand the economy and create long-term jobs. That is the role of the private sector.

What the government can do, however, is help provide the right conditions for private sector investments to flourish. EDA does this in a myriad of ways, but primarily through infrastructure investments. I only wish more of the so-called “stimulus” bill enacted earlier this year had been dedicated to programs like EDA that are truly successful at spurring economic development.

Unlike the majority of the spending in the so-called “stimulus” bill, EDA investments actually provide economic benefits. In fact, studies show that EDA uses federal dollars efficiently and effectively, creating and retaining long-term jobs at an average cost that is among the lowest in government.

In my home State of Oklahoma, for example, EDA has worked long and hard with many communities in need to bring in private capital investment and jobs. Durant, Clinton, Tulsa, Oklahoma City, Seminole, Elk City, Muskogee, Woodward, Shawnee, Claremore, Miami and Elgin are just some of the Oklahoma communities that have made good use of EDA assistance. In fact, over the past seven years, EDA grants awarded in my home state have resulted in more than 9,000 jobs being created. With an investment of about \$33 million, we have leveraged another 32.7 million in State and local dollars and more than 625 million in private sector dollars. I would call that a wonderful success story.

Authorization of FDA's programs expired on September 30, 2008. I had introduced a reauthorization bill in July, 2008, and the EPW Committee reported a bipartisan bill in September 2008. Unfortunately the bill was not enacted. I again introduced my own reauthorization bill in February of this year. Today I am happy to join my colleagues in introducing a similar bill that I hope will be approved by the Committee and the full Senate in the very near future. Particularly in these difficult economic times, we should be

doing all we can to ensure the continuation of successful economic development programs, and EDA reauthorization is an important step.

#### AMENDMENTS SUBMITTED AND PROPOSED

SA 2781. Mr. JOHNSON (for Mr. DURBIN) proposed an amendment to amendment SA 2779 proposed by Mr. DEMINT to the amendment SA 2730 proposed by Mr. JOHNSON (for himself and Mrs. HUTCHISON) to the bill H.R. 3082, making appropriations for military construction, the Department of Veterans Affairs, and related agencies for the fiscal year ending September 30, 2010, and for other purposes.

SA 2782. Ms. MIKULSKI submitted an amendment intended to be proposed to amendment SA 2730 proposed by Mr. JOHNSON (for himself and Mrs. HUTCHISON) to the bill H.R. 3082, *supra*; which was ordered to lie on the table.

SA 2783. Mrs. BOXER submitted an amendment intended to be proposed to amendment SA 2730 proposed by Mr. JOHNSON (for himself and Mrs. HUTCHISON) to the bill H.R. 3082, *supra*; which was ordered to lie on the table.

#### TEXT OF AMENDMENTS

**SA 2781.** Mr. JOHNSON (for Mr. DURBIN) proposed an amendment to amendment SA 2779 proposed by Mr. DEMINT to the amendment SA 2730 proposed by Mr. JOHNSON (for himself and Mrs. HUTCHISON) to the bill H.R. 3082, making appropriations for military construction, the Department of Veterans Affairs, and related agencies for the fiscal year ending September 30, 2010, and for other purposes; as follows:

At the end of the amendment, add the following:

The provisions of the amendment shall become effective 1 day after enactment.

**SA 2782.** Ms. MIKULSKI submitted an amendment intended to be proposed to amendment SA 2730 proposed by Mr. JOHNSON (for himself and Mrs. HUTCHISON) to the bill H.R. 3082, making appropriations for military construction, the Department of Veterans Affairs, and related agencies for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. \_\_\_\_ . The Secretary of Veterans Affairs shall coordinate with the Director of the Office of Management and Budget to identify amounts available for fiscal years before fiscal year 2010 for mileage reimbursements of employees of the departments and agencies of the Federal Government that remain available for obligation in order to provide up to \$250,000 to be administered by the Department of Veterans Affairs for the operations of the White House Commission on the National Moment of Remembrance established by section 5 of the National Moment of Remembrance Act (36 U.S.C. 116 note) for activities under that Act in fiscal year 2010.

**SA 2783.** Mrs. BOXER submitted an amendment intended to be proposed to

amendment SA 2730 proposed by Mr. JOHNSON (for himself and Mrs. HUTCHISON) to the bill H.R. 3082, making appropriations for military construction, the Department of Veterans Affairs, and related agencies for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table; as follows:

On page 52, after line 21, add the following:

SEC. 229. Of the amounts appropriated or otherwise made available by this title under the headings "VETERANS HEALTH ADMINISTRATION" and "MEDICAL SERVICES", not less than \$1,000,000 shall be available for education debt reduction under subchapter VII of chapter 76 of title 38, United States Code, for mental health care professionals who agree to employment at the Department of Veterans Affairs.

#### NOTICE OF HEARING

##### COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BINGAMAN. Mr. President, I would like to announce for the information of the Senate, that the hearing scheduled before Senate Committee on Energy and Natural Resources, for Thursday, November 19, 2009, will begin at 10:30 a.m., in room SD-366 of the Dirksen Senate Office Building.

The purpose of this hearing is to receive testimony on environmental stewardship policies related to offshore energy production.

For further information, please contact Linda Lance at (202) 224-7556 or Abigail Campbell at (202) 224-1219.

#### ORDERS FOR TUESDAY, NOVEMBER 17, 2009

Mr. DURBIN. I ask unanimous consent that when the Senate completes its business today, it adjourn until 10 a.m., Tuesday, November 17; that following the prayer and pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day; there then be a period of morning business for 1 hour, with Senators permitted to speak therein for up to 10 minutes each, with the time equally divided and controlled between the two leaders or their designees, with the majority controlling the first half and the Republicans controlling the final half; that following morning business, the Senate resume consideration of H.R. 3082, the Military Construction and Veterans Affairs appropriations. Finally, I ask unanimous consent that the Senate recess from 12:30 until 2:15 p.m. to allow for the weekly caucus luncheons.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### PROGRAM

Mr. DURBIN. When the Senate resumes consideration of the bill tomorrow,

it will dispose of the remaining amendments to the bill. We expect there to be up to three rollcall votes beginning around 11:15 a.m., two votes after the recess for the caucus luncheons. Upon disposition of H.R. 3082, there will be up to 1 hour for debate prior to a cloture vote on the nomination of David Hamilton to be U.S. circuit judge for the Seventh Circuit.

#### ADJOURNMENT UNTIL 10 A.M. TOMORROW

Mr. DURBIN. If there is no further business to come before the Senate, I ask unanimous consent that it adjourn under the previous order.

There being no objection, the Senate, at 8:19 p.m., adjourned until Tuesday, November 17, 2009, at 10 a.m.

#### NOMINATIONS

Executive nominations received by the Senate:

##### AFRICAN DEVELOPMENT BANK

WALTER CRAWFORD JONES, OF MARYLAND, TO BE UNITED STATES DIRECTOR OF THE AFRICAN DEVELOPMENT BANK FOR A TERM OF FIVE YEARS, VICE MIMI ALEMAYEHOU.

##### DEPARTMENT OF STATE

IAN HODDY SOLOMON, OF MARYLAND, TO BE UNITED STATES EXECUTIVE DIRECTOR OF THE INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT FOR A TERM OF TWO YEARS, VICE ELI WHITNEY DEBEVOISE II, TERM EXPIRED.

##### UNITED STATES TRADE AND DEVELOPMENT AGENCY

LEOCADIA IRINE ZAK, OF THE DISTRICT OF COLUMBIA, TO BE DIRECTOR OF THE TRADE AND DEVELOPMENT AGENCY, VICE LARRY WOODROW WALTHER, RESIGNED.

##### IN THE COAST GUARD

THE FOLLOWING NAMED INDIVIDUAL FOR APPOINTMENT AS A PERMANENT COMMISSIONED REGULAR OFFICER IN THE UNITED STATES COAST GUARD IN THE GRADE INDICATED UNDER TITLE 14, U.S.C., SECTION 211(A):

##### To be lieutenant

RICHARD A. MOOMAW

##### IN THE ARMY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT AS PERMANENT PROFESSOR AT THE UNITED STATES MILITARY ACADEMY IN THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTIONS 4333(B) AND 4336(A):

##### To be colonel

LEON L. ROBERT

THE FOLLOWING NAMED INDIVIDUAL TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTION 12203:

##### To be colonel

MICHAEL C. METCALF

THE FOLLOWING NAMED ARMY NATIONAL GUARD OF THE UNITED STATES OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTIONS 12203 AND 12211:

##### To be colonel

TODD E. FARMER  
STEVEN R. WATT

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTION 12203:

##### To be colonel

MARK D. CROWLEY  
RENEE G. JEFFERSON  
ANN M. JOHNSON  
KARL F. KNIGHT  
KENNETH W. KNOPE  
DENNIS J. MALLOY  
NEIL J. OCONNOR  
JOHN M. PITMAN III  
DAVID D. RABB  
SHERRI K. SCHUCHMANN  
BRENDAN E. SQUIRE

MICHAEL J. STEVENSON

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT  
TO THE GRADE INDICATED IN THE UNITED STATES ARMY  
UNDER TITLE 10, U.S.C., SECTION 624:

*To be colonel*

NATHANAEL L. ALLEN  
JOHN M. ALTMAN  
MATTHEW D. ANDERSON  
DAVID W. ASTIN  
CHRISTOPHER M. BADO  
SCOTT D. BAER  
KRISTIN M. BAKER  
CHRISTOPHER L. BALLARD  
MARK J. BENEDICT  
SCOTT J. BERTINETTI  
MAURICE T. BLAND  
JOHN M. BRADSHAW  
DAVID E. BRIGHAM  
PAUL C. BROTZEN  
LYNN K. BYERS  
JAMES D. CARPENTER  
REBECCA CARTER  
ROCKY L. CARTER  
TIMOTHY A. CHAFOS  
DAVID K. CHAPMAN  
CHARLES F. CORSON  
TODD A. CYRIL  
GREGORY A. DADDIS  
PATRICK C. DEDHAM  
KEITH A. DETWILER  
RONALD C. DODGE, JR.  
JAMES E. DODSON  
WADE R. DOENGES  
ROBERT E. DUKE  
RICKY N. EMERSON  
DAVID A. EXTON  
ROBERT J. FAGAN  
STEVEN J. FRENCH  
HARRY M. FRIBERG  
RONALD J. GARNER  
BRADLEY T. GERICKE  
PIERRE D. GERVAIS  
KARL H. GINGRICH  
FRANK J. GONZALES  
BARRY F. GRAHAM  
GREGORY H. GRAVES  
DARRELL R. GREGG, JR.  
RICHARD K. GUFFEY  
RODNEY T. HAGGINS  
JIMMY L. HALL, JR.  
PATRICK R. HAMPTON  
KEITH R. HARRIS  
JEFFREY W. HARTMAN  
CLARK H. HEIDELBAUGH  
ANDREW R. HEPPELMANN  
RALPH G. HIGGINS III  
ARTHUR J. HOFFMANN, JR.  
MATTHEW J. HOLT  
YVETTE C. HOPKINS  
PAUL J. HURLEY, JR.  
THOMAS L. JAMES  
JOHN T. JANISZEWSKI  
LINDA C. JANTZEN  
PHILLIP D. JANZEN  
MARK E. JEFFRIS  
DAVID E. JENKINS  
JEFFREY E. JENNINGS  
WALTER P. JENSEN III  
ROBERT H. KEWLEY, JR.  
JOSEPH B. KING  
ROBERT E. KLINGEISEN  
GERALD C. KOBYSKI  
RANDALL L. KOEHLMOOS  
KAZIMIERZ Z. KOTLOW  
ANN K. KRAMARICH  
DAVID A. LAGRAFFE  
JAMES C. LAUGHREY  
RANDY H. LAWRENCE  
KENNETH A. LENIG  
DOUGLAS D. LILLY  
DAVID M. LOVEJOY  
WILLIAM J. MANGAN  
GEOFFREY S. MANGELSDORF  
PATRICK E. MATHES  
JEFFREY A. MAY  
DANIEL J. MCFARLAND  
BRIAN S. MCNAUGHTON  
JEFFREY L. MEEKER  
CHARLES R. MILLER  
SCOTT A. MILLER  
TIMOTHY D. MITCHELL, JR.  
RICHARD D. MONTIETH II  
JILL M. NEWMAN  
STEVEN M. NORTH  
PAUL R. NORWOOD  
MICHAEL K. OHARA  
JEFFREY T. OPPENHEIM  
RICHARD H. OUTZEN  
RICHARD A. PAQUETTE  
KENDALL T. PARKS  
DORT B. PAYNE  
MARTIN A. PERRYMAN  
JEFFREY C. PREDMORE  
PARKER C. PRITCHARD  
JAMES D. PRUNESKI  
THOMAS A. PUGH  
JOSEPH W. RANK  
JEFFREY S. RANSBOTTOM  
STANLEY E. REEDY  
JAMES O. ROBINSON, JR.  
JOHN M. RODDY

JAMES K. ROSE  
DIANE M. RYAN  
THOMAS A. SALO  
JOSEPH W. SECINO  
JAMES C. SHARKEY  
DAVID A. SHUGART  
IRVING SMITH III  
RANDY J. SMITH  
BRIAN S. SNEDDON  
WILLIAM T. SORRELLS  
BRIAN K. SPERLING  
BRUCE A. STEPHENS  
STEVEN A. STODDARD  
WILLIAM R. STOWMAN  
WALTER S. SWEETSER  
LEMUEL A. THOMAS, JR.  
DAVID M. TOCZEK  
MICHAEL J. VASSALOTTI  
DESMOND D. WALTON  
ROBERT E. WARING  
JOHN W. WASHBURN  
KIRBY E. WATSON  
BENJAMIN E. WEBB  
MAURICE L. WILLIAMS  
DARRELL T. WILSON  
ISAIAH WILSON III  
ALBERT G. ZAKAIB  
RICHARD G. ZOLLER

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT  
TO THE GRADE INDICATED IN THE UNITED STATES ARMY  
UNDER TITLE 10, U.S.C., SECTION 624:

*To be colonel*

SCOTT C. ARMSTRONG  
GLENN C. BACA  
BRENT E. BARNES  
TIMOTHY R. BAXTER  
CHRISTOPHER R. BENOIT  
JONATHAN D. BERRY  
RENT T. BOLANDER  
KARL D. BOPP  
JEFFREY A. BOYER  
LIANA L. BRATLAND  
ANTHONY T. BROWN  
KERK B. BROWN  
SHEILA A. BRYANT  
JOSEPH E. CALISTO  
TERESA L. CAMPBELL  
JOSEPH A. CAPOBIANCO  
MICHAEL J. CASHNER  
DONALD R. CECCONI  
JOHN P. CHADBOURNE  
JORDAN S. CHROMAN  
ANDREW T. CLEMENTS  
RUSSELL E. COLE  
STEVEN A. COOK  
JOHN A. COOPER  
LYLE T. CORDER  
CHRISTOPHER E. CRATE  
PETER D. CREAN  
ORLANDO D. CRITZER  
CHRISTOPHER D. CROFT  
SHARLENE J. DONOVAN  
BRADLEY K. DREYER  
JEFFREY W. DRUSHAL  
MARGARET L. DUNN  
WAYNE E. EPPS  
ANTHONY O. EVANS  
SCOTT D. FABIAN  
STEVEN T. FISCHER  
JEFFREY FLETCHER  
RODNEY D. FOGG  
THEODORE J. FOX  
LORRI A. GOLYA  
JAMES D. GREGORY  
ANTHONY E. HAAGER  
VICTOR S. HAGAN  
JEFFREY E. HAGER  
MECHELLE B. HALE  
CHARLES R. HAMILTON  
FREDRICK J. HANNAH  
JOHN P. HANNON  
THURINTON W. HARVELL  
KRISTI L. HELTON  
PAUL M. HILL  
RUSSELL A. HOLSCHER  
ROBERT C. HORNECK  
LYNN S. JACKSON  
LEWIS A. JOHNSON, JR.  
WINFIELD R. KELLER  
KARL M. KRAUS  
GARY L. LAASE  
DARREL G. LARSON  
JOHN S. LASKODI  
CHARLES D. LASSITTER  
KELLY J. LAWLER  
MICHAEL C. LOPEZ  
LIONEL W. MAGEE, JR.  
CHRISTINE U. MARTINSON  
MICHAEL E. MASLEY  
GREGORY A. MASON  
MICHAEL R. MATTHEWS  
ROGER L. MCCREERY  
WILLIAM R. MCDONOUGH  
NEAL F. MCINTYRE

MARY A. MCPEAK  
ROBERT G. MCVAY  
DONALD E. MEISLER  
MICHAEL C. MILLER  
CHRISTOPHER O. MOHAN  
LESTER C. MOORE  
GERALD M. MUHL, JR.  
ROBERT W. MYLES, JR.  
MICHAEL N. NAHAS  
MICHELLE NASSAR  
JOSEPH R. NOVACK, JR.  
RONALD E. PACHECO, JR.  
PAUL H. PARDEW  
ANDREW C. PETERS  
TAMMIE J. PETTIT  
COLICE D. POWELL  
JEFFREY C. POWELL  
LEVEN R. PRESSLEYSANDERS  
THOMAS G. QUINN, JR.  
JAMES J. RAFTERY, JR.  
MARSHALL N. RAMSEY  
ROBERT A. RASCH, JR.  
QUENTON T. RASHID  
CLYDE E. RICHARDS, JR.  
CHRISTOPHER A. RICHARDSON  
DANE D. RIDEOUT  
MATTHEW RIORDAN  
THOMAS A. RIVARD  
THOMAS J. ROGERS  
STEVEN L. ROHLENA  
JOHN G. ROMERO  
CHRISTOPHER J. ROSCOE  
MICHEL M. RUSSELL, SR.  
JAMES R. RYAN  
LEE H. SCHILLER, JR.  
MATTHEW C. SCHNAIDT  
PATRICIA A. SELLERS  
JOHN E. SENA, JR.  
JOHN E. SHANKLIN  
WILLIAM H. SHEEHY  
RONALD J. SHUN  
MARK T. SIMERLY  
STEPHEN G. SMITH  
MICHAEL C. SNYDER  
THOMAS E. STACKPOLE  
JAMES R. STALEY  
JAMES B. STANFORD  
ALAN T. STATHAM  
EDWARD J. STAWOWCZYK  
GARY D. STEPHENS  
RANDY G. STEVENS  
BRYAN A. STEWART  
JOHN A. STYER  
JOEL T. SUENKEL  
EDWARD J. SWANSON  
BRIAN J. TEMPEST  
RICHARD A. TEOLIS  
DEBORA L. THEALL  
STEVEN G. THOMAS  
WALTER THOMAS II  
JASON H. THORNTON  
ERIC D. TILLEY  
THOMAS H. TODD III  
WILLIAM T. UTROSKA  
SANDRA L. VANNOLEJASZ  
NORBERT E. VERGEZ  
WILLIAM M. VERTREES  
JASON R. VICK  
JOHN T. VOGEL  
JONAS VOGELHUT  
MARTIN S. WAGNER  
GAIL L. WASHINGTON  
ROBERT W. WEAVER  
MARK J. WEINERTH  
JEFFREY R. WILEY  
DAVID A. WILLIAMS  
TRACY L. WINBORNE  
JAMES O. WINBUSH, JR.  
LEAFALNA O. YAHN  
ROBERT J. YOST  
ERIC F. ZELLARS

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT  
TO THE GRADE INDICATED IN THE UNITED STATES ARMY  
UNDER TITLE 10, U.S.C., SECTION 624:

*To be colonel*

MICHAEL W. ANASTASIA  
ERIC J. ANGELI  
KEVIN V. ARATA  
HOWARD E. AREY IV  
GREGORY C. BAINE  
PRENTISS O. BAKER  
STEVEN A. BAKER  
ROBERT M. BALCAVAGE, JR.  
KEITH A. BARCLAY  
DANIEL R. BARNETT  
JAMES E. BARREN  
JAMES L. BARTON, JR.  
DEAN R. BATCHELDER  
CHRISTOPHER H. BECKERT  
BRIAN D. BENNETT  
CARLOS J. BETANCOURT, JR.  
BRIAN R. BISACRE  
MARK R. BLACKBURN  
MICHAEL BLAHOVEC  
MURRAY K. BLANDING, SR.  
BRYAN H. BLUE  
RUSSELL E. BODINE  
EDWARD T. BOHNEMANN  
JAMES E. BONNER

REGINALD J. BOSTICK  
 JAMES H. BRADLEY, JR.  
 SCOTT E. BROWER  
 JAMES C. BROWN  
 LESLIE F. BROWN  
 XAVIER T. BRUNSON  
 DALE R. BUCKNER  
 MARK A. BURGE  
 CHRISTOPHER T. BURGESS  
 DAVID W. BURWELL  
 STEVEN G. CADE  
 DOUGLAS C. CARDINALE  
 BRIAN M. CAVANAUGH  
 DAVID W. CHASE  
 JOHN R. CHAVEZ  
 KEVIN J. CHRISTENSEN  
 NICHOLAS P. CHRONIS  
 CHADWICK W. CLARK  
 WILLIAM J. CLARK  
 THOMAS J. CLOSS  
 ROD A. COFFEY  
 MATTHEW B. COLEMAN  
 KEVIN C. COLYER  
 CHARLES T. CONNETT  
 TODD Z. CONYERS  
 MICHAEL E. CORSON  
 RICHARD D. CREED, JR.  
 JAMES R. CRIDER  
 JOEL R. CROSS  
 TIMOTHY J. DAUGHERTY  
 DAVID S. DAVIDSON  
 ROSS E. DAVIDSON  
 LANCE E. DAVIS  
 EDWIN J. DEEDRICK, JR.  
 DOUGLAS J. DELANCEY  
 DAVID L. DELLINGER  
 SERGIO M. DICKERSON  
 WILLIAM C. DICKEY  
 HEINZ P. DINTER, JR.  
 MICHAEL O. DONNELLY  
 FREDERIC A. DRUMMOND, JR.  
 MICHAEL J. DVORACEK  
 BRIAN S. EIFLER  
 JOHN W. EISENHauer  
 DAVID J. ELL  
 SVEN C. ERICHSEN  
 FREDERICK J. ERST  
 ALLEN S. ESTES  
 BRUCE A. ESTOK  
 JOHN R. EVANS, JR.  
 ADRIAN R. FARRALL  
 WILLIAM O. FISHER  
 DAVID P. FITCHITT  
 ANTONIO M. FLETCHER  
 CHRISTOPHER S. FORBES  
 MICHAEL L. FRANCK  
 BRENTON K. FRASER  
 GREGORY D. GADSON  
 SEAN A. GAINES  
 KIMO C. GALLAHUE  
 MICHAEL A. GETCHELL  
 DANIEL P. GOLDTHORPE  
 BRADLEY W. GRAUL  
 DAVID L. GROSSO  
 BARRY V. HADLEY  
 CHRISTOPHER G. HALL  
 DAVID M. HAMILTON  
 THOMAS A. HARRAGHY  
 DARIEN P. HELMLINGER  
 NEIL S. HERSEY  
 LONNIE G. HIBBARD  
 WILLIAM D. HIBNER  
 DAVID C. HILL  
 MIGUEL B. HOBBS  
 JOHN S. HURLEY  
 JOHN L. HUTTO, JR.  
 THOMAS H. ISOM  
 DAVID O. JERNIGAN  
 JOHNNIE L. JOHNSON  
 JONATHAN A. JOHNSON  
 SCOTT C. JOHNSON  
 ERIC G. KAIL  
 KENNETH L. KAMPER  
 MICHAEL C. KASALES  
 JOHN A. KELLY  
 SCOTT T. KENDRICK  
 DAVID R. KENNEDY  
 KRIS L. KENNER  
 SCOTT D. KING  
 ROBERT D. KIRBY  
 CHARLES H. KLINGE, JR.  
 EVERETT D. KNAPP, JR.  
 DAVID M. KRALL  
 MARK H. LANDES  
 DANIEL S. LARSEN  
 MARK A. LEE

ROBERT E. LEE, JR.  
 GUY A. LEMIRE  
 LUKE T. LEONARD  
 REYNOLDS J. LILLIBRIDGE  
 JOHN J. LINDSAY  
 ANDREW J. LIPPERT  
 ADAM A. LOVELESS  
 ROBERT E. LOWE  
 BRYAN K. LUKE  
 JOHN M. LYNCH, JR.  
 WILLIAM B. MADDOX  
 JOHN E. MARAIA  
 STEPHEN J. MARANIAN  
 PAUL V. MARNON  
 JOHN J. MARR  
 DONNA W. MARTIN  
 MICHELLE L. MARTINING  
 ROBERT J. MCALEER  
 DENNIS J. MCCORMACK  
 DARRYL D. MCDOWELL  
 WILLIAM D. MCGARRITY  
 JOSEPH P. MCGEE  
 RANDALL A. MCINTIRE  
 MATTHEW F. MCKENNA  
 TAMMY S. MCKENNA  
 STUART J. MCRAE  
 STEPHEN L. MICHAEL  
 CHRISTOPHER C. MILLER  
 JOHN M. MORGAN  
 MARK A. MOSER  
 JAMES H. MULLEN  
 WADE L. MURDOCK  
 ALFREDO NAJERA  
 DONALD R. NITTI  
 CARTER A. OATES  
 PAUL A. OTT  
 MICHAEL F. PAPPAL  
 ALLAN M. PEPIN  
 CARLOS PEREZ, JR.  
 TROY D. PERRY  
 PAUL R. PFAHLER  
 RAMONA D. PLEMMONS  
 LEO G. PULLAIR  
 JAMES H. RAYMER  
 BRIAN J. REED  
 SHAWN E. REED  
 MYRON J. REINEKE  
 MARLIN L. REMIGIO  
 TIMOTHY W. RENSCHAW  
 MICHAEL W. RICHARDSON  
 WILLIAM L. RICHARDSON  
 PAUL J. ROBERTS  
 ANDREW M. ROHLING  
 RICHARD D. ROOT  
 LEO J. RUTH II  
 NESTOR A. SADLER  
 CHARLES P. SAMARIS  
 ERIC L. SANCHEZ  
 STEVEN R. SCHWAGER  
 ARTICE SCOTT  
 ROY C. SEVALIA  
 MICHAEL J. SHINNERS  
 ERNESTO L. SIRVAS  
 JAMES A. SKELTON  
 TIMOTHY P. SMALL  
 NICHOLAS R. SNELSON  
 JAYSON M. SPADE  
 BRYAN N. SPARLING  
 ELMER SPEIGHTS, JR.  
 RANDI J. STEFFY  
 MARK L. STOCK  
 DENNIS S. SULLIVAN  
 BRADLY S. TAYLOR  
 GERARD P. TERTYCHNY  
 BOBBY R. THOMAS, JR.  
 MORRIS A. TURNER  
 BRET A. VANCAMP  
 CHRISTOPHER S. VANEK  
 KEVIN VEREEN  
 JOHN L. WARD  
 TARN D. WARREN  
 CLIFFORD E. WHEELER, JR.  
 DANIEL W. WHITNEY  
 MONTY L. WILLOUGHBY  
 ERIC L. WITHERSPOON  
 JONATHAN B. WITTINGTON  
 CHRISTOPHER F. WOLFE  
 DAVID J. WOODS  
 RONALD E. ZIMMERMAN, JR.

## IN THE NAVY

THE FOLLOWING NAMED OFFICER FOR TEMPORARY  
 APPOINTMENT TO THE GRADE INDICATED IN THE

UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION  
 5721:

*To be lieutenant commander*

MATTHEW P. LUFF

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT  
 IN THE GRADE INDICATED IN THE UNITED STATES NAVY  
 RESERVE UNDER TITLE 10, U.S.C., SECTION 12203:

*To be captain*

EVERETT F. MAGANN

THE FOLLOWING NAMED INDIVIDUAL FOR APPOINT-  
 MENT TO THE GRADE INDICATED IN THE UNITED STATES  
 NAVY RESERVE UNDER TITLE 10, U.S.C., SECTION 12203:

*To be captain*

WILLIAM V. DOLAN

THE FOLLOWING NAMED OFFICERS FOR TEMPORARY  
 APPOINTMENT TO THE GRADE INDICATED IN THE  
 UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION  
 5721:

*To be lieutenant commander*

BRIAN D. BARTH  
 KEVIN A. BEATLEY  
 CHADRICK J. BEIDALAH  
 JAYSON L. BEIER  
 CHRISTOPHER BERNOTAVICIUS  
 PHILLIP E. BOICE  
 SCOTT A. BRANON  
 ADAM J. BROCK  
 DARRELL W. BROWN II  
 ANDREW M. CENISOREZ  
 GREGORY R. CHAPMAN  
 DOUGLAS E. COLE  
 JEFFREY B. CORNES  
 PATRICK S. DENNIS  
 PATRICK R. ELLIASON  
 MICHAEL K. FONTAINE  
 TYLER W. FORREST  
 MARK E. GILLASPIE  
 CHRISTOPHER J. GOODSON  
 BENJAMIN P. GRANT  
 SEAN P. GRAY  
 WARREN A. HAKES  
 JOHN M. HALTTUNEN  
 CAMERON J. HAVLIK  
 JAMES M. HENRY  
 MATTHEW G. HORTON  
 MICHAEL B. JENSEN  
 JEREMY M. JOHNSTON  
 ERIC M. LAETTNER  
 ROBERT D. LANE  
 CHARLES C. LITTON  
 ALEXANDER S. MAMIKONIAN  
 KEISHA N. MARABLE  
 ANGEL C. MARTINEZ  
 CARLOS F. MARTINEZ  
 ADAM R. MCLEOD  
 BRIAN D. MERRIMAN  
 LAWRENCE A. MOCNIK  
 MATTHEW L. MUEHLBAUER  
 KURT MUHLER  
 WILLIAM E. PALSROK II  
 DAVID L. REYES  
 JAMES A. RIEHL  
 SEAN A. STEIN  
 MICHAEL A. STOKER  
 HOWARD D. WATT  
 RUSTY J. WILLIAMSON  
 STACY M. WUTHIER

## DISCHARGED NOMINATION

The Senate Committee on Homeland  
 Security and Governmental Affairs was  
 discharged from further consideration  
 of the following nomination pursuant  
 to an order of 01/07/2009 and the nomi-  
 nation was placed on the Executive  
 Calendar:

PAUL K. MARTIN, OF MARYLAND, TO BE INSPECTOR  
 GENERAL, NATIONAL AERONAUTICS AND SPACE ADMIN-  
 ISTRATION.

## HOUSE OF REPRESENTATIVES—Monday, November 16, 2009

The House met at 2 p.m. and was called to order by the Speaker pro tempore (Mr. CONNOLLY of Virginia).

### DESIGNATION OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,  
November 16, 2009.

I hereby appoint the Honorable GERALD E. CONNOLLY to act as Speaker pro tempore on this day.

NANCY PELOSI,  
*Speaker of the House of Representatives.*

### PRAYER

The Chaplain, the Reverend Daniel P. Coughlin, offered the following prayer: Lord of the ages and ever-present to faithful believers, You are our source of life and our strength.

The character of a people is easily fashioned by the typology of their land, the households of their families, and their history. Yet through all the changes of time and space, You, Lord, may step in and make an even greater difference in the lives of individuals and in the life of a nation.

Be with our beloved country and its government leaders today and throughout this coming week. May true goodness and lasting peace radiate from Your people and give You glory now and forever.

Amen.

### THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

### PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from Massachusetts (Mr. LYNCH) come forward and lead the House in the Pledge of Allegiance.

Mr. LYNCH led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

### COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER pro tempore laid before the House the following commu-

nication from the Clerk of the House of Representatives:

HOUSE OF REPRESENTATIVES,  
Washington, DC, November 9, 2009.

Hon. NANCY PELOSI,  
*Speaker, The Capitol, House of Representatives,*  
Washington, DC.

DEAR MADAM SPEAKER: Pursuant to the permission granted in Clause 2(h) of rule II of the Rules of the U.S. House of Representatives, the Clerk received the following message from the Secretary of the Senate on November 9, 2009 at 4:26 p.m.:

That the Senate passed without amendment H. Con. Res. 210.

With best wishes I am,

Sincerely,

LORRAINE C. MILLER,  
*Clerk of the House.*

### COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER pro tempore laid before the House the following communication from the Clerk of the House of Representatives:

HOUSE OF REPRESENTATIVES,  
Washington, DC, November 9, 2009.

Hon. NANCY PELOSI,  
*Speaker, The Capitol, House of Representatives,*  
Washington, DC.

DEAR MADAM SPEAKER: Pursuant to the permission granted in Clause 2(h) of rule II of the Rules of the U.S. House of Representatives, the Clerk received the following message from the Secretary of the Senate on November 9, 2009, at 1:40 p.m.:

That the Senate passed S. 806.

That the Senate passed S. 1860.

Appointments:

Commission on Wartime Contracting in Iraq and Afghanistan.

With best wishes, I am,

Sincerely,

LORRAINE C. MILLER,  
*Clerk of the House.*

### COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER pro tempore laid before the House the following communication from the Clerk of the House of Representatives:

HOUSE OF REPRESENTATIVES,  
Washington, DC, November 10, 2009.

Hon. NANCY PELOSI,  
*Speaker, The Capitol, House of Representatives,*  
Washington, DC.

DEAR MADAM SPEAKER: Pursuant to the permission granted in Clause 2(h) of rule II of the Rules of the U.S. House of Representatives, the Clerk received the following message from the Secretary of the Senate on November 10, 2009, at 9:29 a.m.:

That the Senate passed without amendment H.R. 955.

That the Senate passed without amendment H.R. 1516.

That the Senate passed without amendment H.R. 1713.

That the Senate passed without amendment H.R. 2004.

That the Senate passed without amendment H.R. 2215.

That the Senate passed without amendment H.R. 2760.

That the Senate passed without amendment H.R. 2972.

That the Senate passed without amendment H.R. 3119.

That the Senate passed without amendment H.R. 3386.

That the Senate passed without amendment H.R. 3547.

That the Senate passed S. 1825.

With best wishes, I am,

Sincerely,

LORRAINE C. MILLER,  
*Clerk of the House.*

### HOOR OF MEETING ON TOMORROW

Mr. LYNCH. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at 10:30 a.m. tomorrow for morning-hour debate.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

### BRING OUR TROOPS HOME

(Mr. DUNCAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DUNCAN. Mr. Speaker, there is nothing conservative about the war in Afghanistan. The Center for Defense Information said a few months ago that we had spent over \$400 billion on the war and war-related costs there. Now, the Pentagon says it will cost about \$1 billion for each 1,000 additional troops we send to Afghanistan. One Republican Member from California told me recently that we could buy off every warlord in Afghanistan for \$1 billion.

Fiscal conservatives should be the ones most horrified by all this spending. Conservatives who oppose big government and huge deficit spending at home should not support it in foreign countries just because it is being done by our biggest bureaucracy, the Defense Department.

We have now spent \$1.5 trillion that we did not have—that we had to borrow—in Iraq and Afghanistan. Eight years is long enough. In fact, it is too long. Let's bring our troops home and start putting Americans first once again.

□ This symbol represents the time of day during the House proceedings, e.g., □ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.



# ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, the Chair will postpone further proceedings today on motions to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote incurs objection under clause 6 of rule XX.

Record votes on postponed questions will be taken after 6:30 p.m. today.

## W. HAZEN HILLYARD POST OFFICE BUILDING

Mr. LYNCH. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3767) to designate the facility of the United States Postal Service located at 170 North Main Street in Smithfield, Utah, as the "W. Hazen Hillyard Post Office Building".

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 3767

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

### SECTION 1. W. HAZEN HILLYARD POST OFFICE BUILDING.

(a) DESIGNATION.—The facility of the United States Postal Service located at 170 North Main Street in Smithfield, Utah, shall be known and designated as the "W. Hazen Hillyard Post Office Building".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the "W. Hazen Hillyard Post Office Building".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Massachusetts (Mr. LYNCH) and the gentleman from Tennessee (Mr. DUNCAN) each will control 20 minutes.

The Chair recognizes the gentleman from Massachusetts.

#### GENERAL LEAVE

Mr. LYNCH. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and add any extraneous materials.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

Mr. LYNCH. I now yield myself such time as I may consume.

Mr. Speaker, as the chairman of the House subcommittee with jurisdiction over the United States Postal Service, I present H.R. 3767 for consideration. This legislation will designate the facility of the United States Postal Service located at 170 North Main Street in Smithfield, Utah, as the "W. Hazen Hillyard Post Office Building."

H.R. 3767 was introduced by my friend and colleague Representative ROB BISHOP of Utah on October 8, 2009, and it was favorably reported out of the House Oversight Committee by

voice vote on October 29, 2009. In addition, this legislation enjoys the support of the entire Utah House delegation.

A native of the city of Smithfield, Utah, Mr. W. Hazen Hillyard was born on June 6, 1893, and dedicated his life and career to serving his beloved Smithfield community. Mr. Hillyard began his career in public service as a member of the Smithfield City Council from 1930 to 1933, during which time he sponsored a variety of community projects designed to enhance and revamp the city.

Notably, Mr. Hillyard's tenure on the Smithfield City Council, on which he also served from 1964 to 1968, included his meticulous research effort to verify, upgrade, and catalog the records of the Smithfield City Cemetery. In addition, Mr. Hillyard's lifelong service to his Smithfield community included his active membership in the local Kiwanis Club, a Smithfield service organization, which elected Mr. Hillyard as its president in 1937. Moreover, Mr. Hillyard also served as chairman of the City Library Board, chairman of the Smithfield Historical Heritage Society, and vice chairman of the Cache Valley Council of the Boy Scouts of America for several years. The latter organization presented Mr. Hillyard with its Silver Beaver Award in recognition of his long-time service to the scouting program.

In 1934, Mr. Hillyard began a new career in public service when he was appointed to serve as postmaster of Smithfield. Notably, at the beginning of Mr. Hillyard's tenure, the city of Smithfield did not provide home delivery, and as a result, residents had to call the post office in order to receive their mail. While Mr. Hillyard thoroughly enjoyed his interaction with residents as they stopped by the general delivery window for mail services, he also recognized the need for enhanced postal facilities and services as the population of Smithfield grew over the years. Accordingly, Mr. Hillyard played an instrumental role in obtaining a new and larger post office facility for Smithfield in 1957, and in 1963, he led a successful effort to implement home delivery of the mail to all houses in Smithfield.

During his service as Smithfield's postmaster, Mr. Hillyard was an active member of the Utah chapter of the National Postmasters Association and was eventually elected to serve as president of the Utah chapter in 1952. That same year and in furtherance of his role, Mr. Hillyard visited every single post office in the State of Utah.

In recognition of Mr. Hillyard's service to the Smithfield community, the Smithfield Lion's Club presented Mr. Hillyard with its Outstanding Citizen of the Year Award in 1974.

Regrettably, Mr. Hillyard passed away on April 22, 1992, at the age of 99.

However, while he is no longer with us, Mr. Hillyard's life and legacy of public service will live on through his various accomplishments on behalf of his beloved Smithfield community.

Mr. Speaker, let us take this opportunity to honor Mr. W. Hazen Hillyard through the passage of this legislation to designate the Smithfield post office facility in his honor. I urge my colleagues to join me in supporting H.R. 3767.

I reserve the balance of my time.

Mr. DUNCAN. Mr. Speaker, I yield myself such time as I may consume.

I rise today in support of H.R. 3767, which designates the United States Post Office at 170 North Main Street in Smithfield, Utah, as the "W. Hazen Hillyard Post Office Building."

Mr. Hazen Hillyard of Smithfield, Utah, was born in 1893 and grew up on his family's farm. Always active in his community, he served on the Smithfield City Council twice from 1930 to 1933 and again from 1964 to 1968, being reelected after staying out of office 31 years.

While on the council, he worked tirelessly to upgrade the catalog of the records of Smithfield's city cemetery. He was also instrumental in a number of projects to beautify his hometown.

A member of many civic organizations, Mr. Hillyard served on the Smithfield Historical Heritage Society, was president of the local Kiwanis Club, vice chairman of the Cache Valley Council of the Boy Scouts of America, and was awarded the Silver Beaver Award in recognition of his long service to scouting programs. Mr. Hillyard was also active in the Lion's Club of Smithfield and was awarded their Outstanding Citizen of the Year Award in 1974.

As my colleague, the gentleman from Massachusetts, has mentioned, Mr. Hillyard was appointed postmaster of Smithfield's post office in 1934, and at that time there was no home delivery for citizens of that town. He was so active, as my colleague has mentioned, that he was elected president of the Postmasters Association in 1952. And under his leadership and direction, the Smithfield post office grew in size and was able to start home delivery and other services.

Throughout his life, Mr. Hillyard was a central figure in Smithfield, dedicating his life to the advancement of that city. He did live a long life and passed away in 1992 at the age of 99.

As my colleague has mentioned, this is a very worthwhile and appropriate piece of legislation. I urge my colleagues to join me in supporting H.R. 3767.

Mr. Speaker, I have no other speakers and will yield back the balance of my time.

Mr. LYNCH. Mr. Speaker, I appreciate the gentleman's kind words.

I would ask all our Members to join with Representative ROB BISHOP of

Utah in supporting this very deserving resolution to name this post office on behalf of W. Hazen Hillyard.

Mr. BISHOP of Utah. Mr. Speaker, individuals like Hazen Hillyard deserve to be remembered and honored, and that is why I'm happy to sponsor this legislation to name the Smithfield Post Office after him. His life was a hallmark of dedicated public service, at the level closest to the people where it really matters and makes a difference.

That service included time as President of the Kiwanis Club, many years on the City Library Board, work as Chairman of the Smithfield Historical Heritage Society and multiple terms on the Smithfield City Council.

He was an active member of the Cache Valley Council of the Boy Scouts of America, and in 1961 received the Silver Beaver Award in recognition of his long time service in the scouting program.

The Smithfield Lion's Club honored Hazen in 1974 with its Outstanding Citizen of the Year award.

Hazen Hillyard was appointed Postmaster of Smithfield in 1934. At the time of his appointment, there was no house-to-house mail delivery in the city, so residents were required to go to the Post Office for their mail. Hazen enjoyed interacting with the people as they stopped at the general delivery window for their mail and for other mail services. He was very involved in the Utah chapter of the National Postmasters Association and was even elected President of the state chapter in 1952. He visited all of the post offices in Utah during that year of service.

As the population of Smithfield increased, Mr. Hillyard recognized the need for expanded and better postal facilities. He was successful in getting a new, larger building for the post office in 1957. In 1963 he completed arrangements for city delivery of the mail to houses in Smithfield.

A letter from the city manager of Smithfield says, "The citizens of Smithfield City have long appreciated and admired the legacy of W. Hazen Hillyard. As a city we strongly encourage and support an effort to rename the Smithfield Post Office in recognition of his lifetime of service and achievement."

When Hazen grew older he still was very interested in the improvement and advancement of Smithfield. His life and service clearly prove that he loved the people and the community, and I'm honored to help the United States House of Representatives acknowledge and recognize that.

Mr. LYNCH. I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Massachusetts (Mr. LYNCH) that the House suspend the rules and pass the bill, H.R. 3767.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the ayes have it.

Mr. LYNCH. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the

Chair's prior announcement, further proceedings on this motion will be postponed.

The point of no quorum is considered withdrawn.

□ 1415

#### EXTENDING AUTHORITY FOR RELOCATION EXPENSES

Mr. LYNCH. Mr. Speaker, I move to suspend the rules and pass the bill (S. 1825) to extend the authority for relocation expenses test programs for Federal employees, and for other purposes. The Clerk read the title of the bill.

The text of the bill is as follows:

S. 1825

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. RELOCATION EXPENSES TEST PROGRAMS.

(a) IN GENERAL.—Section 5739 of title 5, United States Code, is amended—

(1) in subsection (a), by striking paragraph (3);

(2) in subsection (b)—

(A) by inserting "or extended" after "approved"; and

(B) by inserting "or extension" after "of the program";

(3) by striking subsection (c) and inserting the following:

"(c)(1) An agency authorized to conduct a test program under subsection (a) shall annually submit a report on the results of the program to date to the Administrator.

"(2) Not later than 3 months after completion of a test program, the agency conducting the program shall submit a final report on the results of the program to the Administrator and the appropriate committees of Congress."

(4) in subsection (d), by striking "10" and inserting "12"; and

(5) by striking subsection (e) and inserting the following:

"(e)(1) The Administrator may not approve any test program for an initial period of more than 4 years.

"(2)(A) Upon the request of the agency administering a test program, the Administrator may extend the program.

"(B) An extension under subparagraph (A) may not exceed 4 years.

"(C) The Administrator may exercise more than 1 extension under subparagraph (A) with respect to any test program."

(b) EFFECTIVE DATE.—This section shall take effect on December 18, 2009.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Massachusetts (Mr. LYNCH) and the gentleman from Tennessee (Mr. DUNCAN) each will control 20 minutes.

The Chair recognizes the gentleman from Massachusetts.

#### GENERAL LEAVE

Mr. LYNCH. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

Mr. LYNCH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, on behalf of the Committee on Oversight and Government Reform, I present Senate bill 1825 for consideration. This legislation will grant the General Services Administration the permanent authority to approve Federal agency requests to operate programs that test alternative methods of compensating employees for relocation and travel expenses.

Senate 1825 was introduced on October 21, 2009, by Senator Joe LIEBERMAN of Connecticut, and it was favorably reported by the Senate Homeland Security and Governmental Affairs Committee on November 4, 2009. In addition, the legislation passed the United States Senate by unanimous consent on November 9, 2009.

Mr. Speaker, the General Services Administration was granted the authority to approve Federal agency travel and relocation expenses test programs via the Travel Transportation Reform Act of 1998. Through the test programs facilitated by the act, Federal agencies have been able to test new and innovative methods of reimbursing relocation and travel expenses in order to enhance cost savings for the Federal Government. Notably, the current authority granted to the General Services Administration is scheduled to expire in December of 2009.

Mr. Speaker, S. 1825 will therefore ensure that agencies will continue to have the flexibility to use the compensation methods with respect to relocation and travel costs that work best for them and that are in the best interests of the Federal Government. In addition, I would like to note that according to the Congressional Budget Office, the net impact of S. 1825 on the Federal budget would not be significant.

Mr. Speaker, I urge my colleagues to join me in supporting Mr. LIEBERMAN and S. 1825.

Mr. Speaker, I reserve the balance of my time.

Mr. DUNCAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of S. 1825, which would make permanent the authority of the U.S. General Services Administration to approve Federal agencies' requests to operate programs to test alternative methods of compensating employees for relocation and travel expenses. This bill passed the Senate on November 9 by unanimous consent. GSA's current authority to authorize such a program would have otherwise expired in December of this year.

By acting now we are allowing successful test programs to continue to operate and are giving GSA authority to approve more of them. Many of these relocation expense test programs have been successful in not only making government run more efficiently but also in achieving cost savings. Other provisions of this bill would expand the number of test programs that

can run at the same time from 10 to 12 and allow them to operate for a maximum of 8 years. Based on information from GSA and the agencies involved, CBO estimates that there would be no cost to the Federal Government if this bill is passed.

Unfortunately, these relocation and travel expense programs have been subject to major scandals over the past few years, and each and every agency should watch these expenses very closely; and, hopefully, these test programs will lead to a closer and more honest accounting of this type of money for the Federal Government and for our taxpayers.

At a time when the Federal deficit is soaring, it is important that we continue successful programs that make the government more efficient and hopefully save money.

I urge my colleagues to support S. 1825.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. LYNCH. Mr. Speaker, I thank my friend for his kind words. Again I ask all the Members from both sides of the aisle to join with Senator LIEBERMAN in supporting Senate 1825.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Massachusetts (Mr. LYNCH) that the House suspend the rules and pass the bill, S. 1825.

The question was taken; and (two-thirds being in the affirmative) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

#### PATRICIA D. MCGINTY-JUHL POST OFFICE BUILDING

Mr. LYNCH. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3539) to designate the facility of the United States Postal Service located at 427 Harrison Avenue in Harrison, New Jersey, as the "Patricia D. McGinty-Juhl Post Office Building".

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 3539

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. PATRICIA D. MCGINTY-JUHL POST OFFICE BUILDING.

(a) DESIGNATION.—The facility of the United States Postal Service located at 427 Harrison Avenue in Harrison, New Jersey, shall be known and designated as the "Patricia D. McGinty-Juhl Post Office Building".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the "Patricia D. McGinty-Juhl Post Office Building".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from

Massachusetts (Mr. LYNCH) and the gentleman from Tennessee (Mr. DUNCAN) each will control 20 minutes.

The Chair recognizes the gentleman from Massachusetts.

#### GENERAL LEAVE

Mr. LYNCH. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and add any extraneous material.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

Mr. LYNCH. Mr. Speaker, I yield myself such time as I might consume.

Mr. Speaker, I am pleased to present H.R. 3539 for consideration. This legislation will designate the facility of the United States Postal Service located at 427 Harrison Avenue in Harrison, New Jersey, as the "Patricia D. McGinty-Juhl Post Office Building."

H.R. 3539 was introduced by my friend and colleague, Representative ALBIO SIRES, on September 8, 2009, and favorably reported out of the House Oversight Committee by unanimous consent on October 29, 2009. In addition, this legislation enjoys the support of the entire New Jersey House delegation.

A native of the town of Harrison, New Jersey, Patricia McGinty-Juhl dedicated the majority of her life to public service as an employee of the United States Postal Service for over 33 years.

Ms. McGinty-Juhl began her distinguished career with the postal service in 1973 as a distribution clerk at the New York International and Bulk Mail Center located in Jersey City, New Jersey. During her more than three decades of service, Ms. McGinty-Juhl also served in a variety of personnel and benefits positions with the Postal Service Human Resources Division, as well as in the Government Relations Department at postal headquarters as a congressional liaison.

Most recently, in recognition of her tremendous talent and admirable dedication to her coworkers, Ms. McGinty-Juhl served as western area manager of human resources from April of 2001 until her unexpected passing on October 16, 2006.

In remembrance of Ms. McGinty-Juhl's life and career, United States Postmaster General Jack Potter offered the following tribute upon the untimely passing of this dedicated postal employee: "Patti will be greatly missed, both as a manager and as a warm and giving person. She made a difference for the postal service and for our employees."

Mr. Speaker, let us take this opportunity to honor Ms. Patricia McGinty-Juhl for her 33 years of public service by designating the Harrison Avenue postal facility in Harrison, New Jersey, in her honor.

I urge my colleagues to join me in supporting H.R. 3539.

Mr. Speaker, I reserve the balance of my time.

Mr. DUNCAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I urge my colleagues to join me in supporting H.R. 3539, which designates the United States postal facility located at 427 Harrison Avenue in Harrison, New Jersey, as the "Patricia D. McGinty-Juhl Post Office Building."

Patricia McGinty-Juhl, a native of Harrison, New Jersey, had an impressive and distinguished career with the United States Postal Service for 3 years as a manager and executive. While working in the human resources office, she was instrumental in overseeing affirmative action issues on behalf of employees as the district women's program coordinator. As a result of her work, she was offered a position at the U.S. Postal Service headquarters in Washington as the national women's program manager.

Once in Washington, Ms. McGinty-Juhl continued to impress those who worked with her. As a result of her work ethic and leadership skills, she was offered the position of government relations liaison to congressional offices. The Postmaster General, Jack Potter, often spoke of Ms. McGinty-Juhl as an outstanding manager and a warm and giving person.

Ms. McGinty-Juhl passed away at her home in 2006.

I urge my colleagues to join me in supporting H.R. 3539 and recognizing Ms. McGinty-Juhl's dedication to the betterment of the United States Postal Service.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. LYNCH. I thank the gentleman from Tennessee for his kind remarks.

Mr. Speaker, again I urge my colleagues to join with Representative ALBIO SIRES from New Jersey in honoring Ms. Patricia McGinty-Juhl to the passage of H.R. 3539.

Mr. SIRES. Mr. Speaker, I rise in support of H.R. 3539 which would designate the U.S. Postal Service building located at 427 Harrison Avenue in Harrison, New Jersey as the "Patricia D. McGinty-Juhl Post Office."

Born and raised in Harrison, New Jersey, Mrs. McGinty-Juhl had a long and distinguished career with the Postal Service that spanned over 33 years. Her professional accomplishments serving New Jersey included clerking at the New York International Bulk Mail Center in Jersey City, a variety of Personnel and Benefits positions within Human Resources, and the District Women's Program Coordinator working on affirmative action activities on behalf of all employees. Later she became the National Women's Program Manager at USPS National Headquarters as National Women's Program Manager.

In recognition of her enormous talent and ability to work with people, Mrs. McGinty-Juhl was offered a position in Government Relations serving as the Government Relations Liaison to Congressional offices. She later

moved over to the Human Resource Department at Postal Service Headquarters as the Program Manager, Research and Communications, where she worked with national leaders on postal issues.

She ended her career as Western Area Manager of Human Resources where she served until her death on October 16, 2006. Speaking on behalf of postal employees everywhere, Postmaster General Jack Potter gave the following tribute to Mrs. McGinty-Juhl: "Patti will be greatly missed, both as a manager and as a warm and giving person. She made a difference for the Postal Service and for our employees."

I am pleased to celebrate this dedicated civil servant through this legislation. I cannot think of a better way to honor Mrs. McGinty-Juhl's legacy than by designating a U.S. Postal Office in her name—a place in which she devoted her life's work.

I urge my colleagues to support this legislation.

Mr. LYNCH. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Massachusetts (Mr. LYNCH) that the House suspend the rules and pass the bill, H.R. 3539.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the yeas have it.

Mr. LYNCH. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

#### FDR DOCUMENTS ACT

Mr. LYNCH. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1506) to provide that claims of the United States to certain documents relating to Franklin Delano Roosevelt shall be treated as waived and relinquished in certain circumstances.

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 1506

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. TREATMENT OF OWNERSHIP OF CERTAIN DOCUMENTS RELATING TO FRANKLIN DELANO ROOSEVELT.

(a) IN GENERAL.—If any person or entity makes a gift of any property described in subsection (b) to the National Archives and Records Administration, then any claim of the United States to such property shall be treated as having been waived and relinquished on the day before the date of such gift.

(b) PROPERTY DESCRIBED.—Property is described in this subsection if such property—

(1) is a part of the collection of documents, papers, and memorabilia relating to Franklin Delano Roosevelt or any member of his family or staff; and

(2) was in the possession of Grace Tully and retained by her at the time of her death.

(c) DATE OF GIFT.—The date of a gift referred to in subsection (a) is any date specified by the donor so long as such date is subsequent to the physical delivery of the property described in subsection (b) to the National Archives and Records Administration.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Massachusetts (Mr. LYNCH) and the gentleman from Tennessee (Mr. DUNCAN) each will control 20 minutes.

The Chair recognizes the gentleman from Massachusetts.

#### GENERAL LEAVE

Mr. LYNCH. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and add any extraneous materials.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

Mr. LYNCH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, on behalf of the Committee on Oversight and Government Reform, I present H.R. 1506 for consideration. This legislation will facilitate the donation of the Grace Tully archive to the National Archives and Records Administration. H.R. 1506 was introduced by my friend and colleague, Representative LOUISE SLAUGHTER of New York, on March 12, 2009, and favorably reported out of the Oversight Committee by voice vote on October 29, 2009. In addition, the Senate companion bill to H.R. 1506, Senate bill 692, introduced by Senator CHARLES SCHUMER of New York, was passed by the United States Senate on October 14, 2009, by unanimous consent.

Mr. Speaker, Ms. Grace Tully served as the personal secretary of President Franklin Delano Roosevelt from June of 1941 to April of 1945. In her capacity as personal secretary to the President, Ms. Tully preserved an assortment of personal papers and other historical items related to President Roosevelt that have come to form a historically significant collection.

While the private owner of the Grace Tully collection would like to donate the materials to the Franklin Delano Roosevelt Presidential Library, the National Archives and Records Administration, which administers the Roosevelt Library, has asserted a claim to a portion of the collection. Notably, the claim asserted by the National Archives impacts whether the private owner may claim a tax deduction for the donation.

In order to facilitate the donation of the Grace Tully archive, H.R. 1506 waives the government's claim to the records and will thereby allow the collection to be gifted to the Roosevelt Library.

Mr. Speaker, the Grace Tully archive represents an important part of American history. Through the passage of H.R. 1506, we will ensure that this col-

lection will be properly preserved and made publicly available through the Roosevelt Library. I would also like to note that this legislation enjoys the support of the National Archives.

As noted by former Acting Archivist Adrienne Thomas in a letter sent to the Oversight Committee last month: "I write to express my strong support for the ongoing legislative effort to facilitate the donation to the Franklin D. Roosevelt Presidential Library of the Tully archive through House bill H.R. 1506 and its Senate companion, Senate 692."

Ms. Thomas went on to say that "it is very important to the National Archives and Records Administration, and for future historians that might want to study these papers, for the Tully archive to be kept intact and made fully accessible to the American people in a public government archive."

Mr. Speaker, I urge my colleagues to join me in supporting H.R. 1506.

Mr. Speaker, I reserve the balance of my time.

□ 1430

Mr. DUNCAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 1506 would waive certain claims of the United States to specific documents relating to Franklin Delano Roosevelt. The papers, known as the Tully Collection, are said to be an important and valuable collection of materials relating to President Roosevelt's time in office. Grace Tully served as part of Franklin Roosevelt's secretarial staff for several decades, and in 1941 became his personal secretary. After her death her collection of personal papers passed on through her niece into the hands of private collectors and finally to the current owners, Sun Times Media, who bought the collection for \$8 million in 2001.

In 2004 the National Archives asserted a claim to a portion of the documents. Sun Times Media wishes to donate the entire collection to President Roosevelt's Presidential Library in Hyde Park, New York. Due to the Archives' formal claim, however, Sun Times Media is prevented from receiving a tax deduction on the donation. This bill aims to alleviate the legal claims of the United States and the Archives, thereby clearing the way for the donation and the deduction.

I understand this bill is a priority for certain Members of the New York delegation. I also understand the Archives has offered its support for this legislation in a letter to the committee. Nevertheless, I want to briefly highlight two points.

First, given the multiple ongoing instances of mismanagement at the Archives, we need to take a close look at all legislation relating to this agency. Second, the majority moved this bill without a hearing. We should have a

better understanding of this legislation, particularly how it relinquishes the Federal Government's claim to certain documents while benefiting certain entities through tax breaks.

Mr. Speaker, I hope we can take a closer look at this bill as it moves through the legislative process.

I have no other speakers, and I yield back the balance of my time.

Mr. LYNCH. On behalf of the sponsor here, Representative LOUISE SLAUGHTER, I encourage my friends from both sides of the aisle to join us in supporting H.R. 1506.

Ms. SLAUGHTER. Mr. Speaker, I rise today in support of H.R. 1506, which will allow for the National Archives to acquire the Grace Tully collection of documents and memorabilia pertaining to President Franklin Delano Roosevelt. The passage of this important legislation could not be timelier, and will allow the American people to have access to historical documents that provide unique insight into the life of one of our nation's greatest Presidents.

Grace Tully was one of the most important figures in President Roosevelt's life. She began her professional career working for Eleanor Roosevelt, and worked for FDR from his time as Governor of New York through his death in 1945. From 1941, Grace Tully served as the President's personal secretary and she frequently traveled with the President. Her collection of documents and personal correspondence from this time span one of the most challenging eras in our nation's history and provide unique insight into the thinking of our nation's longest serving President.

The collection includes a draft copy of President Roosevelt's speech to the 1936 Democratic Convention in which he famously said that "This generation of Americans has a rendezvous with destiny." Much of the collection gives a behind the scenes look at how the President fulfilled his promise to that convention. It includes personal correspondence that discussed the creation of Social Security and other programs that were integral to the New Deal. The collection also includes draft copy of the President's 1941 address to a joint session of Congress. The handwritten notes on the draft discuss the attack on Pearl Harbor and the President's timeless statement that December 7, 1941 was a "date which will live in infamy."

Beyond major statements and addresses, Ms. Tully's collection helps shed light on the important relationship the President had with Winston Churchill. There is personal correspondence between Roosevelt and Churchill which discuss important topics leading up to the Yalta Conference in 1945. But there is also more lighthearted correspondence including scorecards of poker games between the two heads of state.

The passage of this legislation will allow for the public to have access to this valuable collection, which provides important insight into one of the most important and transitional eras in the country's history. I encourage my colleagues to support this legislation.

Mr. LYNCH. I yield back the balance of our time.

The SPEAKER pro tempore. The question is on the motion offered by

the gentleman from Massachusetts (Mr. LYNCH) that the House suspend the rules and pass the bill, H.R. 1506.

The question was taken; and (two-thirds being in the affirmative) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

#### DR. MARTIN LUTHER KING, JR. POST OFFICE

Mr. BLUMENAUER. Mr. Speaker, I move to suspend the rules and pass the bill (S. 1314) to designate the facility of the United States Postal Service located at 630 Northeast Killingsworth Avenue in Portland, Oregon, as the "Dr. Martin Luther King, Jr. Post Office".

The Clerk read the title of the bill.

The text of the bill is as follows:

S. 1314

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. DR. MARTIN LUTHER KING, JR. POST OFFICE.

(a) DESIGNATION.—The facility of the United States Postal Service located at 630 Northeast Killingsworth Avenue in Portland, Oregon, shall be known and designated as the "Dr. Martin Luther King, Jr. Post Office".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the "Dr. Martin Luther King, Jr. Post Office".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Oregon (Mr. BLUMENAUER) and the gentleman from Tennessee (Mr. DUNCAN) each will control 20 minutes.

The Chair now recognizes the gentleman from Oregon.

#### GENERAL LEAVE

Mr. BLUMENAUER. Mr. Speaker, I would ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oregon?

There was no objection.

Mr. BLUMENAUER. I yield myself such time as I may consume. Mr. Speaker, I'm pleased to present Senate bill 1314 for consideration. This legislation would designate the United States postal facility located at 630 Northeast Killingsworth Avenue in Portland as the Dr. Martin Luther King, Jr. Post Office. Hopefully, today we will finish an effort I've been involved with for the last two Congresses to accomplish this honor for Dr. King, but more important, for our community. This legislation passed last Congress, but the Senate somehow didn't get around to acting upon it, and we passed it again this Congress, September 22, by a 411-0 margin. The legislation enjoys the

unanimous support of the entire Oregon House and Senate delegation.

Senate bill 1314 was introduced by my friend and colleague, Senator RON WYDEN, last June, and passed the Senate this summer by unanimous consent. Mr. Speaker, I would thank the Committee on Government Oversight and Reform for their continued partnership in moving the legislation through the House and bringing us to this consideration. I am pleased to have worked with Senator WYDEN to move his identical Senate version of the bill back to the House, as our legislation was held under a procedural hold in the Senate.

Regardless, we have an opportunity now to be able to put a final note on this chapter to make this important link to a postal service in our community. It is appropriate as we think about the United States Postal Service that has been voted for five consecutive years as the most trusted government agency. For Americans, the Postal Service provides a consistent and positive connection between the government and the people. And it's, I think, appropriate that the genesis of this legislation was the result of a community-led effort that was inspired by two local letter carriers from my district.

Back in 2007 Mr. Jamie Partridge and Mr. Isham Harris collected employees' signatures supporting the naming, as well as letters of support from all the surrounding neighborhood associations. These individuals brought the community together to honor not just Dr. King, but also Oregon's somewhat rocky path to racial equality and social justice. While our State ratified the 14th amendment expanding citizenship and providing equal protection under the law back in 1868, our State, sadly, continued to deny African Americans the right to vote under the terms of the original state constitution.

This was an area of great struggle in our community. Oregon had a sad chapter where it had a virulent, powerful, Ku Klux Klan presence, electing elected officials and inspiring some really unfortunate State legislation. In part, inspired by this struggle, in 1914, the NAACP opened a chapter in Portland which continues to this day as the oldest continually chartered chapter of the NAACP west of the Mississippi. They were part of the leadership that finally amended the Oregon Constitution in 1927 to remove the clause denying African Americans the right to vote. For the next 30 years they were involved in efforts with leaders like Dr. Martin Luther King not just to end segregation and racial discrimination, but to promote equality. It was a struggle that we faced continuously in our community in the 1950s, such as battles over open housing.

We are well familiar, all of us, with the remarkable life and legacy of Dr.

King, who provided a face and a voice to the civil rights movement, one of the greatest orators in the history of the United States who provided national leadership and local inspiration in our community. I am pleased to honor this legacy with the full support of the Oregon congressional delegation. This post office will serve as a daily reminder of Dr. King's legacy and of the struggle in Oregon and around the country to reach our objective of individual dreams being fulfilled free of artificial barriers such as skin color, religious affiliation, gender, and sexual orientation.

I urge my colleagues to join me in supporting S. 1314 and achieve that goal.

I reserve the balance of my time.

Mr. DUNCAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to first commend my colleague, the gentleman from Oregon, for bringing this legislation to the floor today, and I rise to express my strong support for this bill designating the post office located at 630 Northeast Killingsworth Avenue in Portland, Oregon, as the "Dr. Martin Luther King, Jr. Post Office." The leadership of Dr. Martin Luther King, Jr., during the civil rights movement helped to make America the country it is today. Because of Dr. King's many accomplishments in the pursuit of justice and liberty, he clearly deserves this simple honor and recognition that we can bestow on him.

Dr. King began his career as a Baptist minister who was also the leading civil rights figure in this country during the 1950s and 1960s. Dr. King's lifelong crusade to end all forms of racial inequity and discrimination was instrumental in enlightening the country with regard to civil rights for all citizens. Dr. King led the Montgomery bus boycott in 1955, helped to found the Southern Christian Leadership Conference in 1957, and was instrumental in orchestrating the famous Birmingham protest.

Dr. King was awarded the Nobel Peace Prize in 1964, which helped show the world that racial discrimination could be ended through nonviolent means. He was also awarded the Presidential Medal of Freedom and a Congressional Gold Medal. In recognition of his many accomplishments for our country, in 1983 Congress established a national holiday as a tribute to his memory. Later in Dr. King's life, he expanded his message of equality to apply to impoverished Americans of all races and cultures. Dr. King dedicated his life to ensuring the principles this country holds so dear, those of liberty and justice for all of our citizens.

Not quite 4 years ago, Mr. Speaker, I was given the honor of being the grand marshal of the Martin Luther King parade in Knoxville, Tennessee. And I believe I have attended all but one of the

many Martin Luther King celebrations at the Greater Warner Church in Knoxville. I'm also very proud of the fact that my father, who served for 6 years as mayor of Knoxville, led the peaceful integration of that city. And in 1962, Look magazine awarded Knoxville an All-America City Award, primarily because of the peaceful integration that we accomplished in our city.

I think this legislation is very fitting and appropriate, and I urge my colleagues to support it.

I have no other speakers, and so I yield back the balance of my time.

Mr. BLUMENAUER. Mr. Speaker, I thank my good friend from Tennessee for his thoughtful words of support, for his concern and his adding historical perspective on how we're all in debt to Dr. King and how it has, in fact, inspired people north, east, west and south to be able to deal with the legacy of promoting a world hopefully free of discrimination. Mr. Speaker, I would hope that the House would join us in approving this measure to honor not just Dr. King, but, as I mentioned, focus on the struggle in our community to reach these ideals, one that continues to this day. The designation of the post office in honor of Dr. King will be an ongoing reminder of what we have to do ahead as well as the progress we've made.

Mr. Speaker, I yield the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Oregon (Mr. BLUMENAUER) that the House suspend the rules and pass the bill, S. 1314.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the ayes have it.

Mr. BLUMENAUER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

## RECESS

The SPEAKER pro tempore. Pursuant to clause 12(a) of rule I, the Chair declares the House in recess subject to the call of the Chair.

Accordingly (at 2 o'clock and 43 minutes p.m.), the House stood in recess subject to the call of the Chair.

□ 1830

## AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mrs. DAHLKEMPER) at 6 o'clock and 30 minutes p.m.

## ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, proceedings will resume on motions to suspend the rules previously postponed.

Votes will be taken in the following order:

S. 1314, by the yeas and nays;

H.R. 3539, by the yeas and nays;

H.R. 3767, de novo.

The first electronic vote will be conducted as a 15-minute vote. Remaining electronic votes will be conducted as 5-minute votes.

## DR. MARTIN LUTHER KING, JR. POST OFFICE

The SPEAKER pro tempore. The unfinished business is the vote on the motion to suspend the rules and pass the bill, S. 1314, on which the yeas and nays were ordered.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Oregon (Mr. BLUMENAUER) that the House suspend the rules and pass the bill, S. 1314.

The vote was taken by electronic device, and there were—yeas 373, nays 0, not voting 61, as follows:

[Roll No. 889]

YEAS—373

Abercrombie	Buyer	Donnelly (IN)
Ackerman	Calvert	Doyle
Aderholt	Camp	Dreier
Adler (NJ)	Campbell	Driehaus
Akin	Cao	Duncan
Altmire	Capito	Edwards (MD)
Andrews	Capps	Edwards (TX)
Arcuri	Cardoza	Ehlers
Austria	Carnahan	Ellison
Baca	Carney	Ellsworth
Bachmann	Carson (IN)	Emerson
Bachus	Carter	Engel
Baird	Cassidy	Eshoo
Baldwin	Castle	Etheridge
Barrow	Castor (FL)	Fallin
Bartlett	Chaffetz	Farr
Barton (TX)	Chandler	Fattah
Bean	Childers	Filner
Becerra	Chu	Flake
Berkley	Clarke	Fleming
Berry	Clay	Forbes
Biggart	Cleaver	Fortenberry
Blibray	Clyburn	Foster
Bilirakis	Coble	Fox
Bishop (GA)	Coffman (CO)	Frank (MA)
Bishop (NY)	Cohen	Franks (AZ)
Bishop (UT)	Cole	Frelinghuysen
Blackburn	Conaway	Fudge
Blumenauer	Connolly (VA)	Gallegly
Blunt	Conyers	Garamendi
Bocchieri	Cooper	Garrett (NJ)
Boehner	Costa	Gohmert
Bono Mack	Courtney	Gonzalez
Boozman	Crowley	Goodlatte
Boren	Cuellar	Gordon (TN)
Boswell	Culberson	Granger
Boucher	Cummings	Grayson
Boustany	Dahlkemper	Green, Al
Boyd	Davis (IL)	Green, Gene
Brady (PA)	Davis (KY)	Griffith
Bright	Davis (TN)	Guthrie
Broun (GA)	DeFazio	Hall (NY)
Brown, Corrine	DeLauro	Hall (TX)
Brown-Waite,	Dent	Halvorson
Ginny	Diaz-Balart, L.	Hare
Buchanan	Diaz-Balart, M.	Harper
Burgess	Dicks	Hastings (FL)
Burton (IN)	Dingell	Heller
Butterfield	Doggett	Hensarling

Hergert McDermott  
 Herseth Sandlin McHenry  
 Higgins McIntyre  
 Hill McMahon  
 Himes McMorris  
 Hinchey Rodgers  
 Hinojosa McNerney  
 Hirono Meek (FL)  
 Hodes Melancon  
 Holden Mica  
 Holt Michaud  
 Honda Miller (FL)  
 Hoyer Miller (MI)  
 Hunter Miller (NC)  
 Inglis Miller, Gary  
 Inslee Miller, George  
 Issa Minnick  
 Jackson (IL) Mollohan  
 Jenkins Moore (KS)  
 Johnson (GA) Moore (WI)  
 Johnson (IL) Moran (KS)  
 Johnson, E. B. Murphy (CT)  
 Johnson, Sam Murphy (NY)  
 Jones Murtha  
 Jordan (OH) Myrick  
 Kagen Nadler (NY)  
 Kanjorski Napolitano  
 Kaptur Neugebauer  
 Kennedy Nunes  
 Kildee Nye  
 Kind Oberstar  
 King (IA) Obey  
 King (NY) Olson  
 Kingston Oliver  
 Kirk Ortiz  
 Klein (FL) Owens  
 Kline (MN) Pallone  
 Kosmas Pascrell  
 Kratovil Pascarell  
 Kucinich Pastor (AZ)  
 Lamborn Paul  
 Lance Paulsen  
 Langevin Payne  
 Larsen (WA) Pence  
 Larson (CT) Perlmutter  
 Latham Perriello  
 Latta Peters  
 Lee (CA) Peterson  
 Lee (NY) Petri  
 Levin Pitts  
 Lewis (CA) Poe (TX)  
 Lewis (GA) Polis (CO)  
 Linder Pomeroy  
 Lipinski Posey  
 LoBiondo Price (GA)  
 Loeb sack Price (NC)  
 Lofgren, Zoe Putnam  
 Lucas Quigley  
 Luetkemeyer Radanovich  
 Lummis Rahall  
 Lungren, Daniel Rangel  
 E. Rehberg  
 Mack Reichert  
 Maloney Reyes  
 Manzullo Richardson  
 Marchant Rodriguez  
 Markey (MA) Roe (TN)  
 Marshall Rogers (AL)  
 Massa Rogers (KY)  
 Matheson Rogers (MI)  
 Matsui Rooney  
 McCarthy (CA) Ros-Lehtinen  
 McCarthy (NY) Rothman (NJ)  
 McCaul Roybal-Allard  
 McClintock Royce  
 McCollum Ruppertsberger  
 McCotter Ryan (OH)

## NOT VOTING—61

Alexander Gerlach  
 Barrett (SC) Giffords  
 Berman Gingrey (GA)  
 Bonner Graves  
 Brady (TX) Grijalva  
 Braley (IA) Gutierrez  
 Brown (SC) Harman  
 Cantor Hastings (WA)  
 Capuano Heinrich  
 Costello Hoekstra  
 Crenshaw Israel  
 Davis (AL) Jackson-Lee  
 Davis (CA) (TX)  
 Deal (GA) Kilpatrick (MI)  
 DeGette Kilroy  
 Delahunt Kirkpatrick (AZ)

Ryan (WI) Salazar  
 Salazar Sanchez, Linda  
 T. Sanchez, Loretta  
 Sarbanes  
 Scalise  
 Schakowsky  
 Schauer  
 Schiff  
 Schmidt  
 Schrader  
 Schwartz  
 Scott (GA)  
 Scott (VA)  
 Sensenbrenner  
 Serrano  
 Sessions  
 Sestak  
 Shadegg  
 Shea-Porter  
 Sherman  
 Shimkus  
 Shuler  
 Shuster  
 Simpson  
 Sires  
 Slaughter  
 Smith (NE)  
 Smith (NJ)  
 Smith (TX)  
 Snyder  
 Souder  
 Space  
 Speier  
 Spratt  
 Stearns  
 Stupak  
 Sullivan  
 Sutton  
 Taylor  
 Terry  
 Thompson (CA)  
 Thompson (MS)  
 Thompson (PA)  
 Thornberry  
 Tiberi  
 Tierney  
 Titus  
 Tonko  
 Towns  
 Tsongas  
 Turner  
 Upton  
 Van Hollen  
 Velázquez  
 Visclosky  
 Walden  
 Walz  
 Wasserman  
 Schultz  
 Waters  
 Watson  
 Watt  
 Weiner  
 Welch  
 Westmoreland  
 Whitfield  
 Wilson (OH)  
 Wilson (SC)  
 Wittman  
 Wolf  
 Woolsey  
 Wu  
 Yarmuth  
 Young (AK)  
 Young (FL)

Platts  
 Rohrabacher  
 Roskam  
 Rush  
 Schock

Skelton  
 Smith (WA)  
 Stark  
 Tanner  
 Teague

□ 1858

So (two-thirds being in the affirmative) the rules were suspended and the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

## PATRICIA D. MCGINTY-JUHL POST OFFICE BUILDING

The SPEAKER pro tempore. The unfinished business is the vote on the motion to suspend the rules and pass the bill, H.R. 3539, on which the yeas and nays were ordered.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Massachusetts (Mr. LYNCH) that the House suspend the rules and pass the bill, H.R. 3539.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 367, nays 0, not voting 67, as follows:

[Roll No. 890]

YEAS—367

Abercrombie  
 Ackerman  
 Aderholt  
 Adler (NJ)  
 Akin  
 Altmire  
 Andrews  
 Arcuri  
 Austria  
 Baca  
 Bachmann  
 Bachus  
 Baird  
 Baldwin  
 Barrow  
 Bartlett  
 Barton (TX)  
 Bean  
 Becerra  
 Berkeley  
 Berry  
 Biggert  
 Bilbray  
 Bilirakis  
 Bishop (GA)  
 Bishop (NY)  
 Bishop (UT)  
 Blackburn  
 Blumenauer  
 Blunt  
 Boccieri  
 Boehner  
 Bono Mack  
 Boozman  
 Boren  
 Boswell  
 Boucher  
 Boustany  
 Boyd  
 Brady (PA)  
 Bright  
 Broun (GA)  
 Brown, Corrine  
 Brown-Waite,  
 Ginny  
 Buchanan  
 Burgess  
 Burton (IN)  
 Butterfield  
 Buyer  
 Calvert

Edwards (MD)  
 Edwards (TX)  
 Ehlers  
 Ellison  
 Ellsworth  
 Emerson  
 Engel  
 Eshoo  
 Etheridge  
 Fallon  
 Farr  
 Fattah  
 Filner  
 Flake  
 Fleming  
 Forbes  
 Fortenberry  
 Foster  
 Foxx  
 Frank (MA)  
 Franks (AZ)  
 Frelinghuysen  
 Fudge  
 Gallegly  
 Garamendi  
 Garrett (NJ)  
 Gohmert  
 Gonzalez  
 Goodlatte  
 Gordon (TN)  
 Granger  
 Grayson  
 Green, Al  
 Green, Gene  
 Griffith  
 Guthrie  
 Hall (TX)  
 Halvorson  
 Hare  
 Harper  
 Hastings (FL)  
 Heller  
 Hensarling  
 Hergert  
 Herseth Sandlin  
 Higgins  
 Hill  
 Himes  
 Hinchey  
 Hinojosa  
 Hirono

Hodes  
 Holden  
 Holt  
 Honda  
 Hoyer  
 Hunter  
 Inglis  
 Inslee  
 Issa  
 Jackson (IL)  
 Jenkins  
 Johnson (GA)  
 Johnson (IL)  
 Johnson, E. B.  
 Johnson, Sam  
 Jones  
 Jordan (OH)  
 Kagen  
 Kanjorski  
 Kaptur  
 Kennedy  
 Kildee  
 Kind  
 King (IA)  
 King (NY)  
 Kingston  
 Kirk  
 Klein (FL)  
 Kline (MN)  
 Kosmas  
 Kratovil  
 Kucinich  
 Lamborn  
 Lance  
 Langevin  
 Larsen (WA)  
 Larson (CT)  
 Latham  
 Latta  
 Lee (CA)  
 Lee (NY)  
 Levin  
 Lewis (CA)  
 Lewis (GA)  
 Linder  
 Lipinski  
 LoBiondo  
 Loeb sack  
 Lofgren, Zoe  
 Lucas  
 Luetkemeyer  
 Lummis  
 Lungren, Daniel  
 E.  
 Mack  
 Maloney  
 Manzullo  
 Marchant  
 Markey (MA)  
 Marshall  
 Massa  
 Matheson  
 Matsui  
 McCarthy (CA)  
 McCarthy (NY)  
 McCaul  
 McClintock  
 McCollum  
 McCotter  
 McDermott  
 McHenry  
 McIntyre  
 McMahon  
 McMorris  
 Rodgers

McNerney  
 Meek (FL)  
 Melancon  
 Mica  
 Michaud  
 Miller (FL)  
 Miller (MI)  
 Miller (NC)  
 Miller, Gary  
 Miller, George  
 Minnick  
 Mollohan  
 Moore (KS)  
 Moore (WI)  
 Moran (KS)  
 Murphy (CT)  
 Murphy (NY)  
 Murtha  
 Myrick  
 Nadler (NY)  
 Napolitano  
 Neugebauer  
 Nunes  
 Nye  
 Oberstar  
 Obey  
 Olson  
 Oliver  
 Ortiz  
 Owens  
 Pallone  
 Pascarell  
 Pastor (AZ)  
 Paul  
 Paulsen  
 Payne  
 Pence  
 Perlmutter  
 Perriello  
 Peters  
 Peterson  
 Petri  
 Pitts  
 Poe (TX)  
 Polis (CO)  
 Pomeroy  
 Posey  
 Price (GA)  
 Price (NC)  
 Putnam  
 Quigley  
 Radanovich  
 Rahall  
 Rangel  
 Rehberg  
 Reichert  
 Reyes  
 Richardson  
 Rodriguez  
 Roe (TN)  
 Rogers (AL)  
 Rogers (KY)  
 Rogers (MI)  
 Ros-Lehtinen  
 Ross  
 Rothman (NJ)  
 Roybal-Allard  
 Royce  
 Ruppertsberger  
 Ryan (OH)  
 Ryan (WI)  
 Salazar  
 Sanchez, Linda  
 T.

## NOT VOTING—67

Alexander  
 Barrett (SC)  
 Berman  
 Bonner  
 Brady (TX)  
 Braley (IA)  
 Brown (SC)  
 Cantor  
 Capuano  
 Costa  
 Costello  
 Crenshaw  
 Davis (AL)  
 Davis (CA)  
 Deal (GA)  
 DeGette  
 Delahunt  
 Gerlach  
 Giffords  
 Gingrey (GA)  
 Graves  
 Grijalva  
 Gutierrez  
 Hall (NY)  
 Harman  
 Hastings (WA)  
 Heinrich  
 Hoekstra  
 Israel  
 Jackson-Lee  
 (TX)  
 Kilpatrick (MI)  
 Kilroy  
 Kirkpatrick (AZ)  
 Kissell  
 LaTourette  
 Lowey  
 Luján  
 Lynch  
 Maffei  
 Markey (CO)  
 McCaul  
 McGovern  
 McKeon  
 Meeks (NY)  
 Mitchell  
 Moran (VA)  
 Murphy, Patrick  
 Murphy, Tim  
 Neal (MA)  
 Pingree (ME)  
 Rohrabacher  
 Rooney  
 Roskam  
 Rush  
 Schock



Skelton  
Smith (WA)  
Souder  
Speier

Stark  
Tanner  
Teague  
Tiahrt

Wamp  
Waxman  
Wexler

Davis (TN)  
DeFazio  
DeLauro  
Dent  
Diaz-Balart, L.  
Diaz-Balart, M.

Dicks  
Dingell  
Doggett  
Donnelly (IN)  
Doyle  
Dreier  
Driehaus  
Duncan  
Edwards (MD)  
Edwards (TX)  
Ehlers  
Ellison  
Ellsworth  
Emerson  
Engel  
Eshoo  
Etheridge  
Fallin  
Farr  
Fattah  
Finer  
Flake  
Fleming  
Forbes  
Fortenberry  
Foster  
Foxy  
Frank (MA)  
Franks (AZ)  
Frelinghuysen  
Fudge  
Gallegly  
Garamendi  
Garrett (NJ)  
Gonzalez  
Goodlatte  
Gordon (TN)  
Granger  
Grayson  
Green, Al  
Green, Gene  
Griffith  
Guthrie  
Hall (NY)  
Hall (TX)  
Halvorson  
Hare  
Harper  
Hastings (FL)  
Heller  
Hensarling  
Herger  
Herseth Sandlin  
Higgins  
Hill  
Himes  
Hinchey  
Hinojosa  
Hirono  
Hodes  
Holden  
Holt  
Honda  
Hoyer  
Hunter  
Inglis  
Inslee  
Issa  
Jackson (IL)  
Jenkins  
Johnson (GA)  
Johnson (IL)  
Johnson, E. B.  
Johnson, Sam  
Jones  
Jordan (OH)  
Kagen  
Kanjorski  
Kaptur  
Kennedy  
Kildee  
Kind  
King (IA)  
King (NY)  
Kingston  
Kirk  
Klein (FL)  
Kline (MN)  
Kosmas  
Kratovil

Kucinich  
Lamborn  
Lance  
Langevin  
Larsen (WA)  
Larson (CT)  
Latham  
Latta  
Lee (CA)  
Lee (NY)  
Levin  
Lewis (CA)  
Lewis (GA)  
Linder  
Lipinski  
LoBiondo  
Loebbeck  
Lofgren, Zoe  
Lucas  
Luetkemeyer  
Lummis  
Lungren, Daniel  
E.

Mack  
Maloney  
Manzullo  
Marchant  
Markey (MA)  
Marshall  
Massa  
Matheson  
Matsui  
McCarthy (CA)  
McCarthy (NY)  
McCaul  
McClintock  
McCollum  
McCotter  
McDermott  
McHenry  
McIntyre  
McMahon  
McMorris  
Rodgers  
McNerney  
Meek (FL)  
Melancon  
Mica  
Michaud  
Miller (FL)  
Miller (MI)  
Miller (NC)  
Miller, Gary  
Miller, George  
Minnick  
Mollohan  
Moore (KS)  
Moran (KS)  
Murphy (CT)  
Murphy (NY)  
Murtha  
Myrick  
Nadler (NY)  
Napolitano  
Neugebauer  
Nunes  
Nye  
Oberstar  
Obey  
Olson  
Olver  
Ortiz  
Owens  
Pallone  
Pascarella  
Pastor (AZ)  
Paul  
Paulsen  
Payne  
Pence  
Perlmutter  
Perriello  
Peters  
Peterson  
Petri  
Pitts  
Poe (TX)  
Polis (CO)  
Pomeroy  
Posey  
Price (GA)  
Price (NC)  
Putnam  
Quigley  
Radanovich  
Rahall

Rangel  
Rehberg  
Reichert  
Reyes  
Richardson  
Rodriguez  
Roe (TN)  
Rogers (AL)  
Rogers (KY)  
Rogers (MI)  
Rooney  
Ros-Lehtinen  
Ross  
Rothman (NJ)  
Roybal-Allard  
Royce  
Ruppersberger  
Ryan (OH)  
Ryan (WI)  
Salazar  
Sanchez, Linda  
T.  
Sanchez, Loretta  
Sarbanes  
Scalise  
Schakowsky  
Schauer  
Schiff  
Schmidt  
Schrader  
Schwartz  
Scott (GA)  
Scott (VA)  
Sensenbrenner  
Serrano  
Sessions  
Sestak  
Shadegg  
Shea-Porter  
Sherman  
Shimkus  
Shuler  
Shuster  
Simpson  
Sires  
Slaughter  
Smith (NE)  
Smith (NJ)  
Smith (TX)  
Snyder  
Souder  
Space  
Speier  
Spratt  
Stearns  
Stupak  
Sullivan  
Sutton  
Taylor  
Terry  
Thompson (CA)  
Thompson (MS)  
Thompson (PA)  
Thornberry  
Tiberi  
Tierney  
Titus  
Tonko  
Towns  
Tsongas  
Turner  
Upton  
Van Hollen  
Velázquez  
Visclosky  
Walz  
Wasserman  
Schultz  
Waters  
Watson  
Watt  
Weiner  
Welch  
Westmoreland  
Whitfield  
Wilson (OH)  
Wilson (SC)  
Wittman  
Wolf  
Woolsey  
Wu  
Yarmuth  
Young (AK)  
Young (FL)

## NOT VOTING—66

Alexander  
Barrett (SC)  
Berman  
Boehner  
Bonner  
Brady (TX)  
Braley (IA)  
Brown (SC)  
Cantor  
Capuano  
Cole  
Costello  
Crenshaw  
Davis (AL)  
Davis (CA)  
Deal (GA)  
DeGette  
Delahunt  
Gerlach  
Giffords  
Gingrey (GA)  
Gohmert  
Graves  
Grijalva  
Gutierrez  
Harman  
Hastings (WA)  
Heinrich  
Hoekstra  
Israel  
Jackson-Lee  
(TX)  
Kilpatrick (MI)  
Kilroy  
Kirkpatrick (AZ)  
Kissell  
LaTourette  
Lowey  
Lujan  
Lynch  
Maffei  
Markey (CO)  
McGovern  
McKeon  
Meeks (NY)  
Mitchell  
Moore (WI)  
Moran (VA)  
Murphy, Patrick  
Murphy, Tim  
Neal (MA)  
Pingree (ME)  
Platts  
Rohrabacher  
Roskam  
Rush  
Schock  
Skelton  
Smith (WA)  
Stark  
Tanner  
Teague  
Tiahrt  
Walden  
Wamp  
Waxman  
Wexler

## ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). There are 2 minutes remaining in this vote.

□ 1906

So (two-thirds being in the affirmative) the rules were suspended and the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Mr. HALL of New York. Madam Speaker, on rollcall No. 890, I was absent due to a telephone interview. Had I been present, I would have voted "yea."

## W. HAZEN HILLYARD POST OFFICE BUILDING

The SPEAKER pro tempore. The unfinished business is the question on suspending the rules and passing the bill, H.R. 3767.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Massachusetts (Mr. LYNCH) that the House suspend the rules and pass the bill, H.R. 3767.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the ayes have it.

## RECORDED VOTE

Mr. TONKO. Madam Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 368, noes 0, not voting 66, as follows:

[Roll No. 891]

AYES—368

Abercrombie  
Ackerman  
Aderholt  
Adler (NJ)  
Akin  
Altmire  
Andrews  
Arcuri  
Austria  
Baca  
Bachmann  
Bachus  
Baird  
Baldwin  
Barrow  
Bartlett  
Barton (TX)  
Bean  
Becerra  
Berkley  
Berry  
Biggart  
Blibray  
Bilirakis  
Bishop (GA)  
Bishop (NY)  
Bishop (UT)  
Blackburn  
Blumenauer  
Blunt  
Boccheri  
Bono Mack  
Boozman  
Boren  
Boswell  
Boucher  
Boustany  
Boyd  
Brady (PA)  
Bright  
Broun (GA)  
Brown, Corrine  
Brown-Waite  
Ginny  
Buchanan  
Burgess  
Burton (IN)  
Butterfield  
Buyer  
Calvert  
Camp  
Campbell  
Cao  
Capito  
Capps  
Cardoza  
Carnahan  
Carney  
Carson (IN)  
Carter  
Cassidy  
Castle  
Castor (FL)  
Chaffetz  
Chandler  
Childers  
Chu  
Clarke  
Clay  
Cleaver  
Clyburn  
Coble  
Coffman (CO)  
Cohen  
Conaway  
Connolly (VA)  
Conyers  
Cooper  
Costa  
Courtney  
Crowley  
Cuellar  
Culberson  
Cummings  
Dahlkemper  
Davis (IL)  
Davis (KY)

Davis (TN)  
DeFazio  
DeLauro  
Dent  
Diaz-Balart, L.  
Diaz-Balart, M.  
Dicks  
Dingell  
Doggett  
Donnelly (IN)  
Doyle  
Dreier  
Driehaus  
Duncan  
Edwards (MD)  
Edwards (TX)  
Ehlers  
Ellison  
Ellsworth  
Emerson  
Engel  
Eshoo  
Etheridge  
Fallin  
Farr  
Fattah  
Finer  
Flake  
Fleming  
Forbes  
Fortenberry  
Foster  
Foxy  
Frank (MA)  
Franks (AZ)  
Frelinghuysen  
Fudge  
Gallegly  
Garamendi  
Garrett (NJ)  
Gonzalez  
Goodlatte  
Gordon (TN)  
Granger  
Grayson  
Green, Al  
Green, Gene  
Griffith  
Guthrie  
Hall (NY)  
Hall (TX)  
Halvorson  
Hare  
Harper  
Hastings (FL)  
Heller  
Hensarling  
Herger  
Herseth Sandlin  
Higgins  
Hill  
Himes  
Hinchey  
Hinojosa  
Hirono  
Hodes  
Holden  
Holt  
Honda  
Hoyer  
Hunter  
Inglis  
Inslee  
Issa  
Jackson (IL)  
Jenkins  
Johnson (GA)  
Johnson (IL)  
Johnson, E. B.  
Johnson, Sam  
Jones  
Jordan (OH)  
Kagen  
Kanjorski  
Kaptur  
Kennedy  
Kildee  
Kind  
King (IA)  
King (NY)  
Kingston  
Kirk  
Klein (FL)  
Kline (MN)  
Kosmas  
Kratovil  
Kucinich  
Lamborn  
Lance  
Langevin  
Larsen (WA)  
Larson (CT)  
Latham  
Latta  
Lee (CA)  
Lee (NY)  
Levin  
Lewis (CA)  
Lewis (GA)  
Linder  
Lipinski  
LoBiondo  
Loebbeck  
Lofgren, Zoe  
Lucas  
Luetkemeyer  
Lummis  
Lungren, Daniel  
E.  
Mack  
Maloney  
Manzullo  
Marchant  
Markey (MA)  
Marshall  
Massa  
Matheson  
Matsui  
McCarthy (CA)  
McCarthy (NY)  
McCaul  
McClintock  
McCollum  
McCotter  
McDermott  
McHenry  
McIntyre  
McMahon  
McMorris  
Rodgers  
McNerney  
Meek (FL)  
Melancon  
Mica  
Michaud  
Miller (FL)  
Miller (MI)  
Miller (NC)  
Miller, Gary  
Miller, George  
Minnick  
Mollohan  
Moore (KS)  
Moran (KS)  
Murphy (CT)  
Murphy (NY)  
Murtha  
Myrick  
Nadler (NY)  
Napolitano  
Neugebauer  
Nunes  
Nye  
Oberstar  
Obey  
Olson  
Olver  
Ortiz  
Owens  
Pallone  
Pascarella  
Pastor (AZ)  
Paul  
Paulsen  
Payne  
Pence  
Perlmutter  
Perriello  
Peters  
Peterson  
Petri  
Pitts  
Poe (TX)  
Polis (CO)  
Pomeroy  
Posey  
Price (GA)  
Price (NC)  
Putnam  
Quigley  
Radanovich  
Rahall

## ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). There are 2 minutes remaining in this vote.

□ 1912

So (two-thirds being in the affirmative) the rules were suspended and the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

## PERSONAL EXPLANATION

Mr. GUTIERREZ. Madam Speaker, I was unavoidably absent from this Chamber today. I would like the RECORD to show that, had I been present, I would have voted "yea" on rollcall votes 889 and, 890, and "aye" on rollcall vote 891.

## PERSONAL EXPLANATION

Mr. BRALEY of Iowa. Madam Speaker, I regret missing floor votes on Monday, November 16, 2009. If I was present, I would have voted: "Yea" on rollcall 889, agreeing to S. 1314, A bill to designate the facility of the United States Postal Service located at 630 Northeast Killingsworth Avenue in Portland, Oregon, as the "Dr. Martin Luther King, Jr. Post Office". "Yea" on rollcall 890, agreeing to H.R. 3539—To designate the facility of the United States Postal Service located at 427 Harrison Avenue in Harrison, New Jersey, as the "Patricia D. McGinty-Juhl Post Office Building". "Aye" on rollcall 891, agreeing to H.R. 3767—To designate the facility of the United States Postal Service located at 170 North Main Street in Smithfield, Utah, as the "W. Hazen Hillyard Post Office Building".

## PERSONAL EXPLANATION

Ms. GIFFORDS. Madam Speaker, today I was absent due to an illness and missed rollcall votes 889, 890 and 891.

Had I been present, I would have voted "yea" on rollcall 889, "yea" on rollcall 890 and "aye" on rollcall 891.

## PERSONAL EXPLANATION

Ms. KILPATRICK of Michigan. Madam Speaker, I was unavailable to vote today. Had

I been present, I would have voted "yea" for S. 1314, "yea" for H.R. 3539, and "aye" for H.R. 3767 on final passage under suspension of the rules.

#### PERSONAL EXPLANATION

Mr. TIM MURPHY of Pennsylvania. Madam Speaker, on rollcall No. 889, 890, and 891, I was unavoidably detained.

Had I been present I would have voted "yea" on rollcall No. 889, "yea" on rollcall No. 890; and "aye" on rollcall No. 891.

#### CONGRATULATING MORRIS AND GERTRUDE SOLOMON

(Mr. TONKO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TONKO. I would like to take a moment to honor a very special 75th anniversary celebrated by two of my constituents, Morris and Gertrude Solomon. Morris and Gertrude were married in New York City on November 16, 1934. Two years later, in 1936, they moved to Albany, where they have resided ever since.

Upon moving to Albany, Morris bought his own pharmacy, where he served mostly the children of immigrants, as Morris himself was an immigrant, and he earned the nickname Doc. His credit plan during World War II and difficult economic times was "pay me when you can."

Gert stayed home raising Harold and Barry. Afterwards, she went to work for the State of New York, retiring in 1976, the same year that Moe sold the drugstore and retired. They have five children and five great grandchildren.

Madam Speaker, this year Gert and Moe both celebrated their 97th birthdays. May their 75th wedding anniversary be an occasion for all of us to reflect on their many extraordinary achievements, and an occasion to celebrate life, love, and a unique closeness between two incredibly strong and caring individuals. Their relationship with one another, their family, and their community is a model to emulate.

Congratulations to this wonderful couple.

□ 1915

#### DIABETES AWARENESS MONTH

(Ms. ROS-LEHTINEN asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. ROS-LEHTINEN. Madam Speaker, Diabetes Awareness Month is our effort to raise awareness of the disease, its prevention, and ways to manage its impact. There are 24 million Americans living with diabetes. That's about 8 percent of our population. There are 1.6 million cases diagnosed every year, and 57 million Americans are at risk with prediabetes.

As encouraged by the American Diabetes Association, we must promote the four-step method of sharing, acting, learning, and giving:

sharing our personal stories of diabetes;

acting to help end the rise of new cases;

learning about the risks and ways to manage and control the disease;

giving of our time and resources to advance diabetes research.

Let's all make an effort to learn about the dangers of diabetes and best prevention practices, let's celebrate, and indeed, let's bring a greater awareness to this terrible disease.

#### HONORING ATLANTIS STS-129 FLIGHT CREW

(Mr. BOCCIERI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BOCCIERI. Madam Speaker, Godspeed to Michael Foreman. It seems like a short time ago we were offering Godspeed to John Glenn. Mr. Foreman is among six members of the space shuttle Atlantis STS-129 flight team which earlier today blasted off at 2:28, took off from NASA's Kennedy Space Center at Cape Canaveral to begin an 11-day mission making repairs to the international space station. The crew includes: Mission Specialist Michael Foreman, Commander Charles Hobaugh, Pilot Barry Wilmore and other Mission Specialists Randy Bresnik, Leland Melvin, and Robert Satcher, Jr.

As a mission specialist aboard this flight, Michael Foreman, from Wadsworth, Ohio, in my district, will participate in two of the mission's three space walks where he will install exterior equipment on the International space station. However, Mr. Foreman is no stranger to space travel. He has logged more than 380 hours in space and completed three previous space walks in other NASA missions.

For his commitment to America's leadership and space exploration, Michael Foreman is a hometown hero, and he brings great pride to the city of Wadsworth and the 16th District. Please join me in wishing him and all members of the Atlantis STS-129 crew the best of luck on this important mission and a safe return on November 27.

#### STILL INDECISIVE

(Mr. POE of Texas asked and was given permission to address the House for 1 minute.)

Mr. POE of Texas. Madam Speaker, here we are after Veterans Day still indecisive. Our soldiers continue to fight in Afghanistan. Winter is setting in. The commander of our Afghan forces laid out the plan to defeat al Qaeda and their Taliban terrorist pals. General

McChrystal says he needs more troops to defeat the terrorists. The response has been months of indecision, doubt and delays that have encouraged the enemy. Losing Afghanistan to radical terrorists hangs in the balance.

So what's the holdup? Vietnam taught us that wars can't be won with political posturing. We owe our troops a commitment to winning when we put them into the valley of the gun.

Churchill once said, "As long as we have faith in our own cause and an unconquerable will to win, victory will not be denied us." It is that dogged determination, the will to win that is essential to victory and freedom's cause.

The courage and capability of America's fighting men and women are unequalled anywhere in the world. The only thing capable of defeating our military is politics.

And that's just the way it is.

#### A TRIBUTE TO THE ARES ROCKET

(Mr. GRIFFITH asked and was given permission to address the House for 1 minute.)

Mr. GRIFFITH. Madam Speaker, I rise today to recognize yet another achievement by north Alabama's Marshall Space Flight Center. Last week, Time magazine named NASA's Ares rocket as the best invention of 2009. We have seen time and again that tireless work and flawless execution breeds brilliant results, and that is exactly what we have seen out of the short history of Ares.

A few weeks after an impressive and successful test-flight, Ares received this review from Time magazine, calling the project "the best and smartest thing built in 2009." The review of Ares said that the finest moments from our space program come when bureaucrats give the designers a clean sheet of drafting paper and let them dream. Our brilliant men and women in the American space program can do just that if they receive the funding they need to bring manned space flight to the outer reaches of our universe.

This recognition and the recent Ares flight further prove that the Constellation program is exactly what our country needs—a safe, innovative, affordable, sustainable human space flight exploration vehicle.

#### WARNINGS FROM THE CENTERS FOR MEDICARE & MEDICAID SERVICES

(Mr. THOMPSON of Pennsylvania asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. THOMPSON of Pennsylvania. Madam Speaker, lately we have heard from the Centers for Medicare & Medicaid Services about the Pelosi health care reform measure. Their 31-page actuarial report, released over the weekend, reads that the bill would increase

costs over the next 10 years by \$289 billion.

This is not a partisan report. It comes from the people who run the Medicare and Medicaid systems in the country. They warn that the provisions of the bill could lead to doctors and hospitals turning away Medicare patients.

They warn that some 18 million Americans will choose to pay a much lower fine than buy expensive health insurance coverage, because when they get sick and truly need insurance, they can buy it, since they won't be turned down for preexisting conditions.

They warn that a crush of new patients would shock the system.

They warn that the plan to cut more than \$500 billion from future Medicare spending would sharply reduce benefits for some seniors and could jeopardize access to care for millions of others.

CMS should not have to issue warnings about the impact of a major piece of legislation that promises to change our entire system of health care and make it worse.

#### NEWSWEEK WINS LAPDOG AWARD AGAIN

(Mr. SMITH of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of Texas. Madam Speaker, for the second time in a row, Newsweek is the winner of the Media Fairness Caucus' highly uncoveted "Lapdog Award" for last week's most glaring example of media bias.

The poster to my left of Newsweek's cover story features former Vice President Al Gore with the caption, "The Thinking Man's Thinking Man." The previous Newsweek cover featured President Obama with the caption, "Yes He Can," a variation of his campaign slogan. Before that, it was Vice President JOE BIDEN, "A Vice President to be Reckoned With." And Newsweek's latest cover features Governor Sarah Palin and says she is, "Bad News." It is no wonder five out of six Americans say the national media are biased, according to a recent public opinion poll.

If you want the liberal slant, read Newsweek. If you want the facts and news, you might want to look elsewhere.

#### WHY, MR. PRESIDENT?

(Mr. DANIEL E. LUNGREN of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DANIEL E. LUNGREN of California. Madam Speaker, I rise to protest the misguided decision by President Obama and his Attorney General to bring Khalid Sheikh Mohammed and four terrorist suspects from Guantanamo Bay to New York City.

What an insult to the memory of those who lost their lives. The very man who masterminded that attack now will get his fondest wish. When he was captured on the battlefield, he said, Let me go to New York, and let me have my attorney. He will have his attorney. He will be in New York, just a stone's throw from the site of death by he and his compatriots.

What reason could we possibly have to bring them to the United States? Why, Mr. President, why, when we have Guantanamo, when we have military tribunals that are not only capable but specifically provided to take care of those who would kill Americans on the battlefield? For what reason are we doing this?

Why, Mr. President? Why, Mr. President? Why?

#### TRY THE TERRORISTS IN GUANTANAMO, NOT NEW YORK CITY

(Mr. GOHMERT asked and was given permission to address the House for 1 minute.)

Mr. GOHMERT. Madam Speaker, to follow up on my friend from California, he is exactly right. There is no good reason for bringing the most dangerous terrorists and terrorist organizers to the most densely populated area in our country. Those of us who have logistically been involved in setting up trials know that every bailiff, every guard, every person involved in the justice system will be at risk, as will their families.

So we know that every President brings their own kinds of experience to the office. This President does not have justice experience. He doesn't have military experience. He doesn't have foreign affairs experience. He doesn't have domestic affairs experience. He voted "present" so often. But what he has is community organizing experience, and that will be invaluable in organizing the communities in New York to get them off the island after the terrorists move in during the trial.

#### COSTS SOAR IN PELOSI'S TAKEOVER BILL

(Mr. WILSON of South Carolina asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WILSON of South Carolina. Madam Speaker, the nonpartisan, independent experts at the Centers for Medicare & Medicaid Services, CMS, released their analysis of the Pelosi takeover. I would like to say it was shocking, but I already had my suspicions that the government takeover of health care was going to cost much more than claimed. The independent report this weekend exposes the truth and the real cost.

The report shows that the Pelosi takeover will increase health care

costs by \$289 billion. This discredits all the assertions we have heard about how a 2,000-page bill, the \$1.3 trillion health care bill, will somehow lower costs. This health care takeover will violate this administration's promise to "bend the cost curve." It will add more than a dime to the deficit and kill jobs.

There are better alternatives that Congress should consider, like H.R. 3400, that will lower health care costs for families and small businesses while creating jobs.

In conclusion, God bless our troops, and we will never forget September the 11th in the global war on terrorism. Mass murderers should be tried at Guantanamo Bay, not in New York City.

#### SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 6, 2009, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

#### SENDING MORE TROOPS IS NOT THE ANSWER

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California (Ms. WOOLSEY) is recognized for 5 minutes.

Ms. WOOLSEY. Madam Speaker, Matthew Hoh, a former Marine captain, recently resigned his job as U.S. Government reconstruction official in Afghanistan. In his letter of resignation, he criticized the American strategy in Afghanistan. He said the presence of large numbers of U.S. troops is making the insurgency stronger because it makes the Afghan people see America as an occupying power, a power that must be opposed.

Now, before anybody accuses Captain Hoh of being a long-haired hippie peacenik, keep in mind that he fought with distinction in Iraq before serving in Afghanistan. He believes in the American military. He supports it with all his heart.

□ 1930

In fact, he says that "no nation has ever known a more dedicated military as the U.S. Armed Forces. The performance of our troops," he says, "is unmatched."

But he also, Madam Speaker, believes that no military force has ever been given such a complex mission as the U.S. military has received in Afghanistan.

Captain Hoh is right. Our troops have been given an impossible job, and now we are seeing the tragic results. Over 1,000 American troops have been wounded in battle in just the past 3 months. That accounts for one-fourth of all the casualties we've taken since the war began in October 2001.

Think about it. The war has been going on for 97 months in Afghanistan, and one-fourth of all the casualties have been suffered in just the last 3 months.

Things have gotten so bad, Madam Speaker, in fact, that the casualty rate in Afghanistan is now actually higher than the casualty rate for American troops at the height of the violence in Iraq. And the spike in the casualty rate occurred after the administration sent 21,000 more troops to Afghanistan in the hope that there is a military solution to the problem.

But relying on military power alone has not done the job, and escalating the war now by sending in tens of thousands more troops won't solve the problem either.

That's why I am calling on President Obama to change our mission in Afghanistan. I have urged him to devote most of our efforts on humanitarian aid, diplomacy, and economic development. These are the elements of "SMART Security." They'll do a much better job of stabilizing Afghanistan than a heavy military footprint.

Without this change in strategy, our troops are likely to face worse, not better, situations. The enemy is learning how to use IEDs more efficiently. Lieutenant Thomas Metz, the director of the Pentagon's effort to reduce IED casualties, has acknowledged that sending more troops to Afghanistan will likely mean more IED deaths and injuries, which include spinal cord damage, traumatic brain injuries, and amputations.

So I urge the administration to move in a new and a different direction for the sake of our country and for the sake of America's troops and their families. And I urge every Member of the House to listen to the words of Matthew Hoh, who wrote the following to a State Department official:

"I trust you understand the sacrifices made by so many thousands of military families whose homes bear the fractures, upheavals, and scars of multiple deployments. Thousands of our men and women have returned home with wounds, some that will never heal. The dead return only in bodily form to be received by families who must be assured that their dead have sacrificed for a purpose worthy of futures lost."

Madam Speaker, the casualty rate in Afghanistan is unacceptable. Continuing the same policies that put our brave troops at risk is unthinkable. That's why it's time to put SMART Security to work in a place where military power alone just isn't the answer.

#### THE TRIAL OF KHALID SHEIKH MOHAMMED

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. Poe) is recognized for 5 minutes.

Mr. POE of Texas. Madam Speaker, the 9/11 terrorist Khalid Sheikh Mohammed and four of his terrorist buddies are getting a trip to New York City to be tried in Federal court for their crimes against America.

Some of the other terrorists, however, are being tried in military courts. So why are we trying Mohammed in Federal court in the United States? Why aren't we treating them all alike, treating them all the same? Is it different strokes for different folks? It appears to be so. So why are these five special individuals being treated this way and brought to the United States for trial?

Military tribunals throughout history have always been used to try captured enemies on the battlefield. They have different rules and standards for evidence and interrogation, and the military courts make allowances for these basic differences. And tribunals won't use classified intelligence material in open court.

The military courts and the prosecutors in the military courts have been preparing for 18 months to try these five terrorists in military court. Now all of that's over, and all of that paperwork now is going to be turned over to Federal prosecutors who know nothing about the case, and they will start over with their investigation.

Now, the way I figure it, it's been 8 years since 9/11 occurred. How long is it going to be before these people are tried? No one knows, because the government is now not prepared and they'll have to start getting prepared.

Military tribunals have always been created in a time of war. War criminals and people on the battlefield who are captured are tried there. And now we're making some exception, and the reason is we don't know. We don't know the reason why they're being tried in New York and why some of them, well, they're going to get their military trials. Maybe those are lower-ranked terrorists. Who knows. Nobody's talking in the Justice Department.

It does make a difference where a person is tried, whether he's tried in a Federal court or a military court, which has the jurisdiction. Let there be no mistake about it: these military courts have the jurisdiction to try these war criminals, but they are giving up their jurisdiction to the Justice Department.

For example, in 1993 in the World Trade Center bombing, prosecutors were required to turn over evidence to defense attorneys that included a large amount of intelligence secret information. Those intelligence documents were never supposed to be provided to anyone outside of the attorneys for each side. But guess what happened, Madam Speaker. Copies of those were later found in al Qaeda caves overseas. So much for secrecy.

We used to have Osama bin Laden's cell phone number, and we used it to track his movements and hundreds of calls he made back in 1998. It helped us to uncover members of the terrorist network prior to 9/11.

But during the Federal trial of four al Qaeda terrorists who blew up two American embassies in East Africa, the extent of our methods of intelligence of tracking the terrorists through using their cell phone numbers were disclosed. And not only were they disclosed; the phone records were made public to the whole world. So guess what. Terrorists quit using their cell phones and shut them off. Now they communicate with each other using different methods. This was the result of trials that took place in Federal court. The rules of evidence are different.

Doesn't anybody know we are at war and the rules of war ought to apply? And when we capture these people on the battlefield, when we capture these people who are at war with America, we ought to try them in military tribunals.

Our anti-terrorist operations depend on secrecy. It makes the job of the FBI and Homeland Security agents harder when the methods they use are publicized in open court. And it doesn't seem to me to make any sense why we would want to make all of the evidence that we have obtained against these five terrorists public record.

One more example: the 20th hijacker, Moussaoui, escaped the death penalty during his Federal trial, and here's the reason why: the court ruled the evidence of his participation in the 9/11 plot from his own computer was not admissible in a Federal courtroom. And without that evidence, the Fed's had to settle for a life sentence. Thus he avoided the death penalty.

Much of the evidence against Khalid Sheikh Mohammed was gathered through interrogations, and now unless the interrogators read this individual his Miranda rights before water-boarding, it makes us wonder whether the evidence obtained against him lawfully under military rules will be admissible in Federal court.

Federal courts were never intended to deal with wartime situations; military courts have always been the reason. And now we're going to allow this individual to have center stage in New York City to be tried and maybe possibly convicted and become an international martyr on the international stage. It makes no sense. They ought to be sent back to Guantanamo.

And that's just the way it is.

#### COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER pro tempore laid before the House the following communication from the Clerk of the House of Representatives:

OFFICE OF THE CLERK,  
HOUSE OF REPRESENTATIVES,  
Washington, DC, November 16, 2009.

Hon. NANCY PELOSI,  
Speaker, The Capitol, House of Representatives,  
Washington, DC.

DEAR MADAM SPEAKER: Pursuant to the permission granted in Clause 2(h) of rule II of the Rules of the U.S. House of Representatives, the Clerk received the following message from the Secretary of the Senate on November 16, 2009, at 12:17 p.m.:

That the Senate passed S. 1422.

Appointments:

United States-China Economic Security Review Commission.

With best wishes, I am

Sincerely,

LORRAINE C. MILLER,  
Clerk of the House.

### HEALTH CARE REFORM

THE SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina (Mr. JONES) is recognized for 5 minutes.

Mr. JONES. Madam Speaker, I submit for the RECORD an editorial by David Broder, Friday, November 13, and the title is "Half Done on Health Reform."

Madam Speaker, I'm reading from this editorial some points that I would like to share with the House tonight:

"At least a dozen health and budget experts have filled the Web and airwaves with warnings that the House bill simply postpones the cost controls needed to finance the vast expansion of insurance coverage and Medicare benefits envisaged by its sponsors.

"One of them speaks with special authority: David Walker, the former head of the Government Accountability Office, the auditing and investigating arm of Congress, told me in an interview on Wednesday that the lawmakers are 'punting on the tough choices rather than making sure they can deliver on the promises they're making.'

"In a speech delivered less than 48 hours after the House acted, Walker, now president of the Peter G. Peterson Foundation, laid out the tests that buttress his conclusion.

"Acknowledging that 'clearly we need radical reconstructive surgery to make our health care system effective, affordable, and sustainable', Walker cautioned that 'what we should not do is merely tack new programs onto a system that is fundamentally flawed and rapidly driving the national budget into ruin.'

I further read from the editorial: "A separate Lewin Group study of the Finance Committee bill from which Majority Leader HARRY REID is working on in the Senate shows it is almost as much of a fiscal failure as the House bill.

"Walker, a close observer and former employee of Congress, calls that assumption 'totally unrealistic.' In reading his analysis and the comments of the many others who have appraised

the House handiwork, it becomes clear that unless something intervenes, Congress is headed toward repeating a familiar pattern. Just as it did under Republican control in the George W. Bush years when it passed but did not pay for a Medicare prescription drug benefit, it is about to hand out the goodies and leave it to the next generation to pick up the bill."

Madam Speaker, before closing, as I always do on the floor because my heart aches for those who have given their lives in Afghanistan and Iraq and those who have been wounded, I ask God to please bless our men and women in uniform. I ask God to please bless the families of our men and women in uniform. I ask God in His loving arms to hold the families who have given a child dying for freedom in Afghanistan and Iraq. And I ask God to please bless the House and Senate, that we would do what is right in the eyes of God. And I ask God to give strength, wisdom, and courage to the President of the United States that he will do what is right in the eyes of God for this country.

I close three times by asking God please, God please, God please continue to bless America.

[From the Washington Post, Nov. 13, 2009]

#### HALF DONE ON HEALTH REFORM

(By David S. Broder)

While House Democrats spent the week congratulating themselves for squeezing out the midnight passage of their version of health-care reform, neutral observers were reminding them: You've left the job half done.

Having watched Hillary and Bill Clinton try and fail even to bring their version of health reform to a vote, I can certainly join in saluting Speaker Nancy Pelosi, her leadership team and the Obama White House for maneuvering the 1,990-page behemoth to harbor.

But, as many sympathetic voices have been telling them: Unless you find more realistic ways of paying for the promises included in the bill, you are simply setting up the public for more frustration—and yourselves for a political backlash.

At least a dozen health and budget experts have filled the Web and the airwaves with warnings that the House bill simply postpones the cost controls needed to finance the vast expansion of insurance coverage and Medicaid benefits envisaged by its sponsors.

One of them speaks with special authority: David Walker, the former head of the Government Accountability Office—the auditing and investigative arm of Congress—told me in an interview on Wednesday that the lawmakers are "punting on the tough choices, rather than making sure they can deliver on the promises they're making."

In a speech delivered less than 48 hours after the House acted, Walker, now president of the Peter G. Peterson Foundation, laid out the tests that buttress his conclusion.

Acknowledging that "clearly, we need radical reconstructive surgery to make our health-care system effective, affordable and sustainable," Walker cautioned that "what we should not do is merely tack new programs onto a system that is fundamentally flawed"—and rapidly driving the national budget into ruin.

He proposes a four-part test of fiscal responsibility for any health reform plan: "First, the reform should pay for itself over 10 years. Second, it should not add to deficits beyond 10 years. Third, it should significantly reduce the tens of trillions of dollars in unfunded health promises that we already have. Fourth, it should bend down—not up—the total health-care cost curve as a percentage of gross domestic product.

An analysis by the Lewin Group shows that the Energy and Commerce Committee bill that was the basic blueprint for the House measure comes close to meeting the first of those tests and fails the other three, according to Walker, "by a wide margin."

A separate Lewin Group study of the Finance Committee bill from which Majority Leader Harry Reid is working on the Senate legislation shows it is almost as much of a fiscal failure. It fails the fourth test, falls short on the third, and passes the first two only by assuming that future Congresses will force reductions in reimbursements to doctors and hospitals that lawmakers in the past have refused to impose.

Walker, a close observer and former employee of Congress, calls that assumption "totally unrealistic."

In reading his analysis—and the comments of the many others who have appraised the House's handiwork—it becomes clear that unless something intervenes, Congress is headed toward repeating a familiar pattern. Just as it did under Republican control in the George W. Bush years, when it passed but did not pay for a Medicare prescription drug benefit, it is about to hand out the goodies and leave it to the next generation to pick up the bill.

The Senate could still reduce the damage. If it began to move away from the fee-for-service payment system that rewards doctors and hospitals on the quantity of procedures they perform, rather than on the results of the treatment, that would help. If it reduced the biggest single loophole in the revenue system—the tax-exempt status of employer-provided health benefits—that would help a lot.

Otherwise, while congratulating one another for an overdue piece of social legislation, lawmakers could end up condemning our children to a far worse financial future than they deserve.

### A TRIBUTE TO LIEUTENANT CHARLES MAGGART

THE SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana (Mr. BURTON) is recognized for 5 minutes.

Mr. BURTON of Indiana. Madam Speaker, I rise tonight to pay the long overdue respects of a grateful Nation to First Lieutenant Charles L. Maggart from Marion, Indiana, who fell serving his country in the U.S. Army Air Force during World War II.

Charles Maggart was born in November of 1919 and attended Marion High School in Indiana, where he was an honor student as well as a football and basketball star. In fact, his outstanding athletic ability earned him scholarship offers in 1938 from both Indiana University and the University of New Mexico. Charles chose the University of New Mexico. However, with the clouds of war looming over Europe,

Charles returned to Indiana to attend Marion College, today Indiana Wesleyan University, where he took flying lessons.

In April of 1941, Charles applied for and was accepted into the Army Air Force. Upon completing basic flight training at Parks Air College in St. Louis and Randolph Air Field in San Antonio, Texas, Charles was assigned to Ellington Field in Houston, Texas, for advanced flight training.

On December 12, 1941, just 5 days after the bombing of Pearl Harbor, Charles Maggart, until then a sergeant major of cadets, earned his pilot's wings and his lieutenant's bars. He also married his wife, then First Lieutenant Yolanda Federico. The next day he departed for Morrison Field, Florida, for assignment to the 49th Pursuit Group, Ninth Pursuit Squadron; but he was fairly quickly reassigned from fighters to bombers, ending up with the 405th Bombardment Squadron, 38th Bomb Group, Fifth Air Force 38th flying out of Australia.

□ 1945

The group shipped out from California for Australia in April of 1942. On December 5, 1942, Lieutenant Charles Maggart's war came to an end. Flying a B-25 bomber known as the "Happy Legend," Lieutenant Maggart and his six-man crew set off to bomb Lae, a critical point along the northeastern coast of Papua, New Guinea. Lieutenant Maggart and his crew were shot down by the Japanese over the Owen Stanley Mountains. In January of 1943, Lieutenant Maggart's wife and family were informed by the War Department that he was missing in action.

Lieutenant Maggart's mother, waiting patiently, had reservations about his fate. After repeated letters to the War Department, in 1947 she was told that the aircraft and crew were never recovered and were probably lost at sea. It wasn't until 1949 that Lieutenant Maggart and his crew was officially declared killed in action. Although a team of Australians reportedly reached the crash site in 1943, the area was still overrun with Japanese units, and little could be done to document the remains of the aircraft and crew. Except for the determination of Charles' brother, Phil Maggart, and the families of the other crewmembers of the "Happy Legend," that might be the end of the story.

Phil Maggart last saw his brother Charles in October of 1941, and for more than six decades, Phil has tried to find his brother and to bring him home. Working through government bureaucrats and private contacts even when he was serving with the U.S. Air Force around the world, including a tour of duty flying search-and-rescue missions in Vietnam, Phil never gave up asking questions, and ultimately he found answers. Thanks to the persistence of Phil Maggart, Lieutenant Charles

Maggart has finally come home. And tomorrow, Tuesday, November 17, 2009, Lieutenant Charles Maggart and his crew will be interred together at Arlington National Cemetery, a fitting place of honor for true American heroes.

Madam Speaker, I respectfully ask that all of my colleagues join me in saluting Lieutenant Maggart and his valiant crew. God bless you, gentlemen, and thank you for your service to America.

#### 100TH OCCASION OF THE THANKSGIVING DAY RACE IN CINCINNATI

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Ohio (Mrs. SCHMIDT) is recognized for 5 minutes.

Mrs. SCHMIDT. Madam Speaker, I rise today to recognize the 100th occasion of the Thanksgiving Day Race in Cincinnati. According to Runner's World magazine, the Thanksgiving Day Race is the sixth-oldest in the Nation. This annual holiday tradition started in 1908 on a course that ran from Fort Thomas Kentucky's gym to the YMCA in downtown Cincinnati. Today the course continues to incorporate much of downtown Cincinnati and northern Kentucky, beginning and ending at Paul Brown Stadium.

The growth of this race has been impressive. The inaugural race in 1908 consisted of 19 participants. Last year there were more than 11,000. To date, over 16,000 have registered for this year's Thanksgiving Day race, and registration doesn't even close until the race morning. According to Running USA, Cincinnati's Thanksgiving Day 10K race is one of our nation's 10 largest. Each year highly skilled athletes run alongside casual runners and seniors run alongside children. For many families the race is an important part of their holiday festivities. While the race is certainly popular, it would not be successful without the sponsorship and support of the local community. Hundreds of folks volunteer along the course aiding the runners. Local businesses and community organizations provide monetary support whose proceeds benefit many local charities, including the Ronald McDonald House and Girls on the Run.

Madam Speaker, I ask you to join me in celebrating the 100th Occasion of the Thanksgiving Day race in Cincinnati and wish this proud Cincinnati tradition continued success.

#### SUFFERING OF THE OPPRESSED PEOPLE OF CUBA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. LINCOLN DIAZ-BALART) is recognized for 5 minutes.

Mr. LINCOLN DIAZ-BALART of Florida. Madam Speaker, the international press, including almost all the press in the United States, continues to ignore the suffering of the oppressed people of Cuba. Yes, there are exceptions, such as the National Review's Jay Nordlinger, the premier defender of human rights in the American press, or The Miami Herald's Juan Tamayo or Wilfredo Cancio, and occasionally there are other dignified exceptions. But the almost totality of the U.S. press systematically ignores what goes on in Cuba.

Despite 50 years of tyranny there, despite Cuba being 90 miles from our shores, despite hundreds of prisoners of conscience languishing in dungeons simply because of their peaceful advocacy for freedoms, including freedom of the press, which should not be denied to any people, and thousands of others imprisoned for crimes which are only illegal in the totalitarian fiefdom of a demented despot—crimes like "dangerousness" or "illegally attempting to leave the country"—the press continues to ignore the reality of Cuba. Their irresponsibility in doing so is absolutely indefensible.

Jewish friends have told me that they understand what I'm talking about when I refer to the concept of the nonperson. For countless generations, for 1,800 years, Jews were subject to exile, to pogroms, persecution, discrimination. And their suffering was ignored in countries throughout the world. They were nonpersons. When their suffering was not ignored it was often minimized or ridiculed. Jews know that the recovery of their homeland, the establishment of their state in 1948 was absolutely necessary. That was the only way to guarantee the end of the nonperson status, to guarantee an end to pogroms, to discrimination, to persecution.

Cubans have been stateless nonpersons for over 51 years. Their suffering is systematically ignored. Their unity of purpose is continuously questioned or ridiculed. Even the torture of their heroes, of the heroic political prisoners, is ignored. Martha Beatriz Roque, a respected economist, leading Cuban dissident and former political prisoner who was only released from prison so that she would not die due to her many illnesses in prison and embarrass Castro, she is close to death in Havana due to complications arising from a hunger strike that she's engaged in.

Dozens of other brave dissidents are also on hunger strikes in the home of one of Cuba's other extremely respected pro-democracy leaders, Vladimiro Roca. Cubans, unlike the Jews, have not yet recovered their state. They will. But they haven't yet.

I ask the press, Madam Speaker, the media to please cease treating Cuba's pro-democracy activists as though they

didn't exist. Stop treating Martha Beatriz Roque as a nonperson. Why do you continue to absolutely ignore Cuba's brave prisoners of conscience? Why don't you at least write about the elderly prisoners of conscience in Cuba, such as Hector Maseda Gutierrez or Arnaldo Ramos Lauzurique, or about the severely handicapped prisoners of conscience such as Miguel Galvan Gutierrez, or most especially about the gravely ill Cuban prisoners of conscience in the gulag such as Ariel Sigler or Normando Hernandez or Dr. Jose Luis Garcia Paneque, or Dr. Alfredo Pulido Lopez, or Pedro Arguelles Moran?

Members of the press, have you no conscience? Do not continue to treat the suffering oppressed people of Cuba and their heroes as nonpersons. Please, do your duty.

#### THE NEEDS OF AMERICAN WOMEN AND THE 111TH CONGRESS' RE- SPONSE TO THOSE NEEDS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 6, 2009, the gentlewoman from Ohio (Ms. FUDGE) is recognized for 60 minutes as the designee of the majority leader.

##### GENERAL LEAVE

Ms. FUDGE. Madam Speaker, I ask unanimous consent that all Members be given 5 legislative days to revise and extend and to enter remarks into the RECORD on this topic.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Ohio?

There was no objection.

Ms. FUDGE. Madam Speaker, the Congressional Black Caucus is proud to offer this special order tonight which will focus on the needs of American women and the response of the 111th Congress to those needs.

The Congressional Black Caucus, the CBC, is chaired by the Honorable BARBARA LEE from the Ninth Congressional District of California. I am Representative MARCIA L. FUDGE from the 11th Congressional District of Ohio. Madam Speaker, we have been joined by our Chairwoman, the gentlelady from California, the Honorable BARBARA LEE. I now yield to our Chair.

Ms. LEE of California. Thank you very much, Madam Speaker. And let me thank again the Representative from Ohio, Congresswoman MARCIA FUDGE, for her leadership and for continuing to voice the concerns of so many who may or may not have a voice in this House. And I want to thank you for tonight's Special Order on the needs of American women, because in this economic downturn, where women still only make about 66 cents to the dollar, women again are feeling the brunt of these very, very desperate times. And so thank you again for continuing to keep our Con-

gressional Black Caucus focused on addressing issues that don't always receive the attention that they deserve. Thank you, Congresswoman FUDGE.

So let me just talk very briefly about the issue of adolescent health and the challenges that many young women and girls face in accessing the tools and information they need to really just take care of themselves. For too long now, our country has led with an abstinence-only policy when it comes to sex education for our young people. Unfortunately, for women, and women of color, and our young girls, that policy has led to an increase in teen pregnancies and in the rate of sexually transmitted infections.

Today, the rate of unintended teen pregnancies in the United States is much higher than most other developed nations. Each year, almost 750,000 women between the ages of 15 and 19 get pregnant. That's 750,000 women. And the vast majority of these pregnancies occur among women of color. The sad reality is that before they turn 20, 53 percent of young Latinas and 51 percent of young African American women will become pregnant at least once. The comparable rate among non-Hispanic white young women is 19 percent. That is just outrageous.

It doesn't end there, though. Each year there are about 19 million new cases of sexually transmitted infections, and almost half of them occur in young people ages 15 to 24. The CDC recently found that young sexually active teenage girls are especially at risk as nearly one in four is living with a common sexually transmitted infection. Among sexually active African American teenage girls, nearly one in two is living a sexually transmitted infection. When it comes to HIV and AIDS, the story gets a heck of a lot worse. African American women are nearly 15 times more likely to have HIV than white women, while Latinas are four times more likely to have HIV than white women. AIDS is also the leading cause of death among African American women between the ages of 24 and 34.

So, clearly, we're not doing our part to provide women and our young people with the tools that they need to protect themselves. That's why I've introduced H.R. 1551, the Responsible Education About Life Act. I call it let's get real, my REAL Act. This bill will create the first Federal funding stream dedicated to teaching our young people about comprehensive sex education. The statistics I just mentioned really warrant this type of a bill to be passed and signed into law. Our young people need to know how to protect themselves.

Yes, we need abstinence, and we need to teach our young people abstinence. But abstinence by itself does not work. We need an abstinence-plus approach that teaches about contraceptive use

and condoms to prevent unplanned pregnancies and to reduce the spread of sexually transmitted infections. And so, once again, we have to look at some of the policies of the past and see exactly how devastating they have been in terms of the impact on our young women.

And I certainly say the abstinence-only policy, based on the statistics I just read you tonight, deserves to be dismantled and abandoned, and we need to allow states to use Federal funding, if they so desire, and if the states think that this is the strategy they want to use, and that is, allow Federal money to be distributed to the states to teach comprehensive sex education to our young people so that they can grow up, go to school, do whatever they want to do without worry of unintended pregnancies or HIV and AIDS or sexually transmitted infections.

So thank you, Congresswoman FUDGE, for allowing me to speak this evening on this very tough issue. Sometimes we try to sweep these issues under the rug. But I think when it comes to our young women, our young girls, we have to be for real, and we have to talk about what we can do to help them protect themselves. Thank you again.

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Ms. FUDGE. Madam Speaker, I just want to say to our Chair how appreciative I am that she has allowed me to anchor this hour for most of this year, and even though I may in fact be biased, I know that we have the most dedicated and hardworking Chair of any caucus in this House. So I thank you, and I thank you for being with me just about every week. I couldn't do it without you.

Madam Speaker, as well I have been joined by my good friend and colleague from the great State of New York, the gentlelady from New York, YVETTE CLARKE.

Ms. CLARKE. Madam Speaker, I would like to start this evening off in my address by thanking my esteemed colleague, the congresswoman from Ohio, MARCIA FUDGE, for giving me a moment to comment on women in small business. As the co-Chair of the Women's Caucus Task Force on Women and Education, Congresswoman FUDGE has constantly demonstrated her leadership on these crucial issues, and you are to be commended.

Ms. FUDGE. Thank you.

Ms. CLARKE. I am especially pleased to be speaking on these issues with you here this evening because of the timeliness of this conversation. Women entrepreneurs have come a long way in recent decades, but more must be done to support them, especially in this dire economic environment.

As the sole member of the Congressional Black Caucus on the Small Business Committee in the House—or the



Senate, for that matter—I am constantly monitoring developments that affect women-owned small businesses, especially those in underserved areas. The impact of small businesses cannot be stated enough. We know the statistics, but it is worth going over it again.

Small businesses are the key to the health of the U.S. economy. They represent 99.7 percent of all employer firms; they employ about half of all private sector employees; pay nearly 45 percent of the U.S. private payroll; and are responsible for more than half of the non-farming private GDP.

Women-owned businesses are an important factor in this economic story. Recent studies show that there are close to 8 million individual women-owned small firms with a \$3 trillion impact on our close to \$14 trillion economy employing close to 23 million people. These are great numbers, but I for one believe that more must be done. Not only do I believe it, but the facts bear it out.

A recent study was released by the Federal Reserve Bank of New York entitled “Gender and the Availability of Credit to Privately Held Firms.” This report relied on data on privately held businesses drawn from the Federal Reserve’s Surveys of Small Businesses Finances covering the period of 1987 through 2003. Authors of the report concluded that when compared to male-owned firms, women-owned firms are significantly smaller as measured by sales, assets, and employment; younger, as measured by age of the firm; more likely to be in retail, trade, or business services, and less likely to be in construction, secondary manufacturing, and wholesale trade industries; and are more inclined to have fewer and shorter banking relationships. Women owners are significantly younger and less experienced and tend to have less formal education than their male counterparts.

The report further found that women firms are significantly more likely to be credit-constrained because they are more likely to be discouraged from applying for credit, though not more likely to be denied credit when they do apply.

This report reflects the fact that women-owned businesses have made great strides in recent years but that challenges to growth, business model diversification, technical capabilities, and ability to access capital remain.

The bottom line is that women entrepreneurs need more support. I have long been an advocate for women-owned businesses, and it is vital that we improve existing programs and explore the need for new ones to narrow this achievement gap.

Most recently, I have been hard at work exploring possible solutions for women entrepreneurs. Last month, I introduced H.R. 3771, the Veteran, Minority, and Women-Owned Construc-

tion Business Mentorship and Grant Assistance Act of 2009. This legislation would establish grant programs for women-owned small business construction companies to help create the internal business systems that are essential for success. Funds would also be made available to local groups and schools to bolster technical assistance to these firms. This bill would create opportunities in the highly competitive construction sector at a time when there has been a stark decline in construction activity due to the housing downturn. This legislation is really about capacity building for small firms so they can better compete for the many stimulus opportunities that are still being developed and deployed.

Most of the total \$787 billion in stimulus funds have yet to go out. Further, most of the remaining funds are targeted to shovel-ready construction projects—projects that our women-owned businesses should and must participate in.

I’d like to take this opportunity to applaud the women builders in this country. So often, the image of the construction industry is a burly man in a hard hat. Well, I’ve got news for you, gentlemen. Women builders face great obstacles and challenges, and in my experience, meet and exceed them consistently in a highly competitive environment. Our Nation’s extraordinary women builders will benefit from this legislation, and I’d like to thank my colleagues, including Congresswoman FUDGE, for supporting this bill. We have, as of today, 23 cosponsors for the legislation. The growing support for this legislation is proof that Washington is waking up to the prominent role that small businesses, including our women-owned businesses, must play in our recovery.

Finally, I have been tirelessly working to find ways to improve access to capital for women-owned businesses. It is no secret that our largest depository institutions are not lending as much as they could but are instead using the excess capital they have to provide capital buffers for their own balance sheet health, retarding any rebounds that could be fueled by small business lending.

I applaud President Obama for announcing that his administration will be seeking low-cost loans to smaller banks and community development financial institutions, known as CDFIs, as a means to address the small business lending gap. I am especially supportive of CDFIs as a means of getting credit to our smaller women-owned firms in underserved and economically distressed areas. For every dollar of CDFI investment, \$15 of non-Federal dollars are leveraged to provide lending to deserving borrowers.

I will be studying how to improve programs like CDFIs to leverage government investment to help people help themselves.

Let us make no mistake, the last great frontier for women entrepreneurs—especially in our communities—will be consistent ability for them to access credit. I will fight tirelessly alongside my colleagues to make this a reality.

As I said earlier, these are but a few of the challenges faced by women-owned businesses. I am always paying attention to the issues affecting our women entrepreneurs and I will for as long as I am a Member of Congress. Much work is left to be done, but with the great leadership of people like Congresswoman FUDGE; the Chair of our CBC, Congresswoman BARBARA LEE; and our Speaker, Speaker NANCY PELOSI, I know we will get to where we need to be and beyond.

Ms. FUDGE. Thank you so much.

Madam Speaker, I’d like to thank my friend for coming this evening and thank her for her support of businesses and for her work on the Small Business Committee.

Thank you again. I hope that you will join me another time.

Ms. CLARKE. I look forward to it.

Ms. FUDGE. Thank you.

Madam Speaker, the CBC is composed of 42 members, including 4 committee Chairs, 15 subcommittee Chairs, and the majority whip. Our members promote the public welfare through legislation designed to meet the needs of millions of neglected citizens. CBC members are tireless advocates who work diligently to be the conscience of the Congress. We stand firm as the voice of the people and provide dedicated, focused service to our constituents.

Madam Speaker, we are proud to anchor this hour to discuss Congress’ responsiveness to an important constituency group, American women. Let’s first understand the current role of women in the legislative process.

Since 1917, when Representative Jeannette Rankin of Montana became the first woman to serve in Congress, a total of 260 women have served as U.S. Representatives or Senators. Currently, more women now serve in Congress than at any time in the Nation’s history. In this year’s Congress, there are 17 women serving in the United States Senate and 74 women serving in the United States House of Representatives. Of those Congresswomen currently serving in Congress, 14 are members of the CBC.

Since the first Congresswoman of color, Representative Patsy Mink of Hawaii, won election to the U.S. House of Representatives in 1964, a total of 39 women of color have served in the U.S. Congress. Roughly three quarters—or 30—of these women were elected after 1990, and a total of 38 have served in the House of Representatives, where Carol Moseley Braun of Illinois is the only woman of color to serve in the U.S. Senate, from 1993 to 1999. The first

African American woman to serve in Congress was Shirley Chisholm of New York who won election in 1968. Twenty-five African American women have followed her.

There are some States who have never elected a woman to Congress. They are Delaware, Iowa, Mississippi, and Vermont. I look forward to having women from those States join us at some point, Madam Speaker.

There are a historic number of women currently serving in Congress, including the first woman Speaker of the House, NANCY PELOSI, who was elected Speaker in 2007. The 111th Congress understands that our Nation's laws must include and respond to all of our citizens, including women.

Women in the Workforce. We addressed that when we looked at Lilly Ledbetter. Congress began this year addressing gender-based pay discrimination. In January, Congress swiftly and decisively passed the Lilly Ledbetter Fair Pay Act. Just days later, President Obama signed the Lilly Ledbetter Fair Pay Act into law and restored an employee's right to challenge unlawful pay discrimination.

The Paycheck Fairness Act passed by the House on January 9 takes further steps to ensure that gender-based pay discrimination does not occur in the first place by closing the loopholes that have allowed employers to avoid responsibility for discriminatory pay. A comprehensive update to the 46-year-old Equal Pay Act, The Paycheck Fairness Act puts gender-based discrimination sanctions on equal footing with other forms of wage discrimination, such as race, disability, or age. It creates a new grant program to help strengthen the salary negotiation skills of girls and women. And it creates strong incentives for employers to equally compensate workers while strengthening correlating Federal enforcement efforts.

In 1963, President John F. Kennedy signed the Equal Pay Act into law. Progress has been slow during the 46 years since passage of the act. After four decades, American women continue to be unfairly compensated for their work. According to the National Organization for Women, when the Equal Pay Act was signed into law, women working full time and year round earned an average of 59 cents for every dollar earned by men; in 2007, women made 78 cents for every dollar earned by men; today, the gap has narrowed by less than a half a cent a year.

The impact of income disparity extends far beyond the individual woman. As such, equal pay is not just a women's issue, it is a family issue.

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The current wage gap hurts everyone. It lowers family income for essentials such as groceries, doctor's visits, and child care. When women earn

more, families benefit. Closing the wage gap is an integral part of strengthening American families and providing hope for a better future.

I stand in support of equal pay for all. I look forward to the day when all women receive equal pay for equal work.

The American Recovery and Reinvestment Act recognized the need to get our people back to work, and that includes women. During the current recession, from December 2007 until September 2009, roughly 2 million women lost their jobs, according to employers across this Nation. As of September, women represented 49.9 percent of all workers, excluding those in the Armed Forces and farmworkers.

The American Recovery and Reinvestment Act contains powerful provisions to retrain workers. The American Recovery and Reinvestment Act has made nearly \$4 billion in new funding available through the Department of Labor for job training programs. Just under \$3 billion of this funding has already gone out to States through formula grants under the Workforce Investment Act.

Speaking with Lori Atkins, the deputy director of workforce training in Cuyahoga County where I live, I learned the county will receive \$14 million for training. The money will help dislocated adult and youth workers, including America's women. Another \$750 million will be allocated through competitive grants to train people in green jobs and health care and other high-demand sectors. While women are underrepresented in many of these high-demand sectors, we can be retrained to compete for these jobs.

I am proud of community organizations that retrain women in nontraditional industries. Hard Hatted Women is one such organization. The nonprofit, located in Cleveland, Ohio, is launching a new program called Tradeswomen TOOLS. This program will link women to opportunities in high-wage, nontraditional fields using the expertise of women working on diversity initiatives in these fields. The goal is to link unemployed women with employment opportunities within the building trades in heavy highway construction, the energy and utility sector, the green building sector, and advanced manufacturing. Tradeswomen TOOLS provides orientation to nontraditional careers, industry specific workshops and presentations, individualized career counseling, one stop center for referrals, and math and physical fitness for the trades. The American Recovery and Reinvestment Act and organizations like Hard Hatted Women provide women the resources to get back to work.

Now I would like to talk a bit about women and education challenges. Madam Speaker, we must ensure that our girls graduate from high school in

order to financially provide for themselves. According to the National Women's Law Center, an estimated 25 percent of female students do not graduate with a high school diploma in 4 years. Girls of color are particularly affected by this trend. Across the Nation, in 2004, 37 percent of Hispanics, 40 percent of black, and 50 percent of American Indian or Alaskan Native female students failed to graduate in 4 years.

While there are many factors that contribute to students dropping out of school, some are unique to girls. Those factors are: first, pregnancy and parenting responsibilities. According to a survey conducted by the Gates Foundation, 33 percent of female dropouts reported that becoming a parent played a major role in their decision to leave school. Specifically, students cited the lack of affordable day care for their children. While some high schools provide subsidized care for student parents, many do not. The school itself then becomes a determinant in whether the student remains in school.

In many schools where a certain number of absences result in students forfeiting a class, teen mothers need child-related absences not counted toward their total number of absences, and most could benefit from counseling in time management, parenting skills, and referrals to services for their children.

Poor attendance rates influenced by a high occurrence of sexual harassment by peers and educators is another reason why young women drop out of school. During the same Gates Foundation survey, 83 percent of girls were victims of sexual harassment in school. Suffering abuse at the hands of peers, teachers, and other school administrators, these girls reported that the abuse caused them not to want to attend school to avoid the teacher responsible for the harassment, to stop participating in the classroom, and to be distracted from their studies.

Unfortunately, when we fail to create a safe space in our schools, we undermine the success of all students, especially girls, their future families, and our Nation. According to the study "When Girls Don't Graduate, We All Fail: A Call to Improve High School Graduation Rates for Girls," female dropouts earn significantly lower wages than male dropouts, are at a greater risk of unemployment, and are more likely to rely on public support programs. Female high school dropouts earn only about 63 cents for every \$1 earned by male high school dropouts. Measured against the Federal poverty line, women without high school diplomas earn an average salary about 7 percent below the family poverty line for a family of three, \$15,520 versus \$16,600. Women with high school diplomas earn an average salary about 32 percent above the Federal poverty line, or \$21,936 to \$16,600.

Female dropouts struggle with worse health conditions and less access to health coverage to address their needs than girls who graduate from high school.

Women under the Affordable Health Care of America Act are among those who stand to gain the most from health insurance reform. Madam Speaker, we pay more, we get less, and some of the ways we are treated by insurance companies is just criminal.

Recently, I met Mrs. Jodie Miller of Maryland, a mother who conceived triplets through in vitro fertilization. Mrs. and Mr. Miller were later denied health coverage because their insurance company declared that they had preexisting conditions. She was denied because of her infertility. The insurance company denied Mr. Miller coverage due to what they deemed "spousal infertility." America's Affordable Health Care Act will outlaw such discrimination based on preexisting conditions.

The Affordable Health Care for America Act would revolutionize health care for women, ending the discrimination we face under our current system. More than 14 million American women who have purchased health insurance in the private market last year paid up to 48 percent more in premium costs than men. Insurance companies routinely practice what they call gender rating, and that permits them to charge men and women different premiums for the very same coverage. The Affordable Health Care for America Act would make gender rating illegal. Never again will insurance companies be able to deny women coverage for C-sections because we are pregnant or because we are victims of domestic violence. Never again, Madam Speaker, will insurance companies be able to deny us coverage just for being women.

The House's health reform proposal would make health care affordable for all of America's women and protect us from high and potentially unimaginable out-of-pocket health care costs. We must and will improve health care for not only women, but for all Americans.

I want to talk about women of color and disproportionately being targeted for high-cost mortgages.

According to a report for the National Council of Negro Women researched by the National Community Reinvestment Coalition, African American and Latino women continue to receive disparate treatment in the mortgage lending process. The report, "Assessing the Double Burden: Examining Racial and Gender Disparities in Mortgage Lending," demonstrates that minorities continue to be much more likely to receive high-cost home mortgage loans than their white counterparts. In many instances, disparities by race widened as income levels increased, indicating that discrimination

remains a reality in home mortgage lending, as reports by the Federal Reserve and others have documented.

The foreclosure epidemic is, in part, rooted in the targeting of communities of color for high-cost loans. The report finds that minorities were first to experience disproportionately high rates of foreclosure. As the foreclosure crisis continued to spread to suburban areas, the study suggests that middle- and upper-income minorities will continue to experience a disproportionate impact, which is especially pronounced for African American women.

Dr. Avis Jones-DeWeever of the National Council of Negro Women commented that, "Given the importance of homeownership to families and entire communities, it becomes clear that we simply cannot rest until every person, regardless of race or gender, is treated fairly at every stage of the mortgage lending process."

The report examined data collected under the Home Mortgage Disclosure Act for the year 2007, which is the latest year for which data is publicly available, for 100 of the largest metropolitan areas in the country. Among the findings, middle- and upper-income African American females were at least twice as likely to receive high-cost loans as middle- and upper-income white females in more than 84 percent of the metropolitan areas examined.

Low- and moderate-income African American females were at least twice as likely to receive high-cost loans as low- and moderate-income white females in 70 percent of the metropolitan areas examined.

Middle- and upper-income Hispanic females were at least twice as likely to receive high-cost loans as middle- and upper-income white females in almost 62 percent of the metropolitan areas examined, and low- and moderate-income Hispanic females were at least twice as likely as low- and moderate-income white females to receive high-cost loans in 32 percent of the metropolitan areas examined.

The foreclosure crisis has definitely affected my congressional district. The Center for Responsible Lending projected that more than 5,500 foreclosures will occur in my district in 2009, and more than 18,500 foreclosures will occur over the next 4 years.

The Mortgage Reform and Anti-Predatory Lending Act is to respond to the foreclosure crisis. In May, the House of Representatives passed the Predatory Mortgage Lending Practices Reduction Act of 2009. If the act passes the Senate, it will strengthen restrictions on compensation paid to mortgage lenders and brokers.

Today, some lenders deceptively pay brokers extra fees for loans if they write loans at a higher interest rate, even when lower rates are available to borrowers. The rates are unreasonable, and borrowers are often subsequently

forced into foreclosure. Such arrangements are an indefensible conflict of interest and must be stopped.

A key element of the act prohibits lenders from underwriting unreasonable loans and prohibits practices that increase the risk of foreclosure.

The act supports lenders making 30-year, fixed rate, fully documented loans rather than the record number of unstable loans marketed today. It also provides greater protections for renters of foreclosed properties, like requiring a mandatory 90-day notice to vacate instead of the arbitrary practices currently being used.

The Mortgage Reform and Anti-Predatory Lending Act is crucial in curbing the predatory practices of the past. Mortgage lending reform is a vital piece of the congressional effort to prevent future financial disasters. Congress cannot, and will not, ignore the fact that lax regulation of this industry has left far too many consumers unprotected. I urge the Senate to pass this measure soon.

In response to the predatory practices of some mortgage brokers and agents, I introduced the Predatory Mortgage Lending Practices Reduction Act of 2009, H.R. 2108. The act is designed to assure consumers that mortgage brokers or agents are thoroughly trained and accountable for predatory practices. It does this by altering the law in three ways.

□ 2030

First, the act requires that brokers and agents issuing subprime loans undertake a rigorous certification program. Second, the legislation streamlines the process for filing complaints against unethical brokers and agents. And, finally, the act creates civil penalties for violations of Federal predatory lending laws.

Madam Speaker, there are honest and decent mortgage brokers and agents in this industry. Then there are a relatively few number of unscrupulous individuals who earn their commission through deception. The Predatory Mortgage Lending Practices Reduction Act of 2009 would help protect consumers from the latter class of lenders by ensuring that all related personnel are properly trained and held accountable.

Madam Speaker, further, I, on a regular basis, host housing clinics within my district. I do this in order to educate women about predatory lending, about housing scams and their rights under foreclosure.

In conclusion, Madam Speaker, I would quote from Susan B. Anthony who said it was "we the people," not we the white male citizens, nor yet we the male citizens, but we the whole people who formed the union; men their rights and nothing more; women their rights and nothing less. By responding to the needs of all Americans,

Congress will address the needs of all women as well.

# REMEMBERING THE EVENTS OF NOVEMBER 5, 2009, AT FORT HOOD, TEXAS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 6, 2009, the gentleman from Texas (Mr. McCAUL) is recognized for 60 minutes as the designee of the minority leader.

Mr. McCAUL. Madam Speaker, tonight we rise during this leadership hour to remember the events of November 5, 2009, one of the largest attacks that was perpetrated at our U.S. military installation at Fort Hood, Texas, just north of my district, a very solemn occasion. Thirteen people were killed, over 30 people wounded, and an unborn child was killed that day. I went to the memorial service, thirteen pairs of combat boots put together with a rifle and a helmet on top, and the pictures of the victims who were killed in cold blood that day by a deranged gunman who, unfortunately, served in the United States military.

In my view, simply put, it was an act of treason. Look, in a time of war, soldiers are killed. But when I visited Fort Hood for the memorial service, they said, Congressman, we never dreamed that they would be killed in our home. This is our home. This man killed his fellow comrades at our home. Very disturbing. And the words that he said as he pointblank shot them one by one, as 100 rounds went off from his semi-automatic pistol, 100 rounds into a crowd of defenseless soldiers and a few civilians, were "Allahu Akbar, God is great." That's one of the most disturbing reports that we got from that tragic day.

Well, I submit that that is not our God. That's not the God of our Founding Fathers. As the President said so eloquently at the memorial service, no religion condones the killing of innocent people. No religion condones that kind of violence. And he went on to say that he will face his punishment here on Earth and in the next world. The President is right.

We went to Veterans Day services the following day and went all across our districts paying tribute to the great veterans, the men and women who have served this country with honor and distinction, to thank them for their service; but the whole day, one could not help but to stop and think about what had just occurred at Fort Hood, these tragic, tragic events. Mr. Hasan will pay for this tragic event. He will be brought to justice. And it is my sincere hope, as the President said, that he will be taken to the next world.

And I want to, at the beginning, pay tribute to the 13, the 13 who were killed in cold blood that day, who died while

serving their country admirably and nobly: Private Francheska Velez, 21, of Chicago, Illinois; Lieutenant Colonel Juanita Warman, 55, from Maryland; Major Libardo Caraveo, 52, of Woodbridge, Virginia; Captain John Gaffney of San Diego, California; Captain Russell Seager, 41, of Racine, Wisconsin; Staff Sergeant Justin DeCrow, 32, of Plymouth, Indiana; Sergeant Amy Krueger, 29, of Kiel, Wisconsin; Specialist Jason Hunt, 22, of Tillman, Oklahoma; Specialist Frederick Greene, 29, of Mountain City, Tennessee; Private 1st Class Aaron Nemelka, 19, of West Jordan, Utah; Private 1st Class, Michael Pearson, 22, of Bolingbroke, Illinois; Specialist Kham Xiong, of Saint Paul, Minnesota, just 23 years old; and, finally, Mr. Michael Cahill, 62, of Cameron, Texas, where he was a civilian employee.

Fort Hood has a special connotation for many of us in Texas. It's the largest military installation in the world. The fact that it was attacked, the fact that these soldiers were killed at home, in my view, is the greatest act of treason and the greatest tragedy of November 5.

But there were heroes that day. There were many heroes that day. Sergeant Kim Munley, the civilian cop employed by the base, described by fellow officers as a tough cookie, pretty much fearless, born and bred to be a police officer, and a very good shot. She was nicknamed "Mighty Mouse" because of her size long before the Fort Hood shooting. Three minutes after Mr. Hasan began shooting, Munley tracked him down outside of the predeployment facility and unloaded on him at close range. Munley was hit in both legs and a wrist during the gun battle, but stayed on her feet bravely and kept firing at the charging gunman. Hasan was eventually apprehended by Sergeant Mark Todd, Sergeant Mark Todd of the Killeen Police Department, who arrived shortly after the scene, and finally brought this man who perpetrated this great act of treason on his fellow officers, his fellow soldiers, to bring him to justice.

I want to talk briefly about my good friend, Congressman JOHN CARTER. He represents Fort Hood. He introduced a bill of which I was proud to be an original cosponsor. And this bill will grant combatant status to those wounded and those families who lost loved ones. It will also allow military personnel to receive the Purple Heart. Civilians will receive the Secretary of Defense Medal of Freedom, and beneficiaries of all military personnel who lost their lives in this horrendous attack will receive the maximum life insurance benefit available. Just today it was announced by the Department of Defense that they will receive the full maximum amount of \$100,000.

But let us focus on this man, Mr. Hasan, the gunman. When I was at Fort

Hood for the ceremony and viewing the 18 combat boots with the rifles and the helmets on top, I looked at the wounded soldiers. I talked to them, who were actually shot by this man, as they saluted their comrades, their friends, at that memorial service, and I said, what did he say as he shot you in cold blood and killed 13 others? "Allahu Akbar, God is great."

When that news was reported to me and when I got that information firsthand by our soldiers serving in uniform, the hair went up on the back of my spine, the back of my head. I knew at that point that we weren't dealing with an ordinary person, obviously a deranged man. Yet this man was on a mission, on a mission that he believed was from his God, a jihadist mission. It is a common terminology in the jihad world to say "Allah Akbar" before you shoot and kill others. I think he fully expected to die that day. He gave away his material possessions. He was seen wearing Pakistani garb at the 7-11 that morning. He was preparing himself. He was premeditating the death of others and preparing himself for his own death.

This man was born of Jordanian immigrants. He was shot many times. He has survived. It is my sincere hope that we can get inside this man's head to answer the question, What was your intent, what was your motivation? Because there have been so many flags raised about this case. It was reported that he said his allegiance was not to the Constitution of the United States but rather to the Koran. He received poor performance reviews at Walter Reed because he was conflicted in the mission. He didn't believe in the mission. He didn't believe in the war on terror. He didn't believe in what we were doing in Iraq and Afghanistan.

ABC News reported just this evening that Hasan tried to get his bosses to prosecute some of his patients as war criminals, soldiers serving in the United States Army, to get them prosecuted as war criminals because they were killing his fellow Muslims. He regularly described the war on terrorism as a war against Islam. This is a man serving in the United States military counseling as a psychiatrist for PTSD soldiers coming out of that theater, a man who was transferred to the largest military installation, United States military installation, in the world.

And while studying for a master's degree in public health in 2007, Hasan used a presentation for environmental health class to argue that Muslims were being targeted by U.S. anti-terror campaigns. A former classmate said he was very vocal about the war, very upfront about being a Muslim first and an American second. He was always concerned that Muslims in the military were being persecuted, a self-proclaimed soldier of Allah on his own

business cards. A man who wore traditional Pakistani garb, a man who attended the mosque in Falls Church, Virginia, with the imam who also preached to two of the hijackers from 9/11, a man convicted of providing material support to al Qaeda and conspiring to assassinate President Bush.

Then we found out that the Joint Terrorism Task Force got information that Mr. Hasan, 6 months ago, was contacting this imam in Yemen. We don't know what those communications were. But why in the world would a major in the United States military, at one of the greatest bases in the world, be talking to an al Qaeda recruiter in Yemen? And yet this information was not shared with Fort Hood.

That is why we are asking for hearings. But this President has said, No, Congress, you will not have hearings on this matter. We need to deal with this issue. Well, I'm not going to stand back and watch this matter being swept under the rug and not allow the American people access to the truth. And the last time I checked, under the Constitution, the Congress is a separate branch of government and the Congress has the power under the Constitution to exercise that oversight authority, and Congress should do that. Congress needs to have hearings in this case.

And we will continue the drumbeat until the truth comes out on this man, Mr. Hasan, and who he was talking to before this happened, and his friend, the imam, who the day of the shootings congratulated him for what he did, congratulated him for killing 13 American soldiers.

□ 2045

With that, I would love to yield to my good friend from Indiana, Mr. BURTON.

Mr. BURTON of Indiana. First of all, let me say thank you for taking this Special Order tonight.

You know, this should never have happened. There are 13 Americans that are dead, their families are suffering tonight, and it need not have happened. This man issued so many warning signs, it wasn't even funny. And, for some reason, his superiors did not investigate this man, call him on the carpet and find out why he was talking about these acts of violence and anti-American sentiments, and because they didn't, and they decided to unload him and send him down to Fort Hood, all those people are suffering—the families—and those people are dead that you alluded to just a few minutes ago.

This is not just an issue about this man committing these terrible atrocities, this terrorist attack. This is about making sure that the people in positions of leadership in the military and in other areas of our government are made aware when people start talking like he did and advocating terrorist

attacks on the United States of America.

Now I understand that people are very concerned about the religious attitude that people have and trampling on their rights as far as their religious beliefs are concerned. But when you're talking about a war on terror—terrorist attacks where they kill almost 3,000 people at the World Trade Center, they blew up embassies over in Africa, they attacked the USS Cole and killed a bunch of Navy personnel—when we know they do that, and that's their goal, to destroy America, these fanatics, then, by golly, when we have somebody in the military or anyplace else in government that's talking like that, they need to be investigated and they need to be removed from a position where they can perpetrate those terrorist attacks.

And this is a tragedy not just because those young people gave their lives down there unnecessarily because of this terrorist, but because the superiors of his did not do their duty in responding to this man and reporting on what he was talking about prior to this thing taking place. If they had stood up and said, This guy's a threat to his fellow soldiers, we might have been able to avoid this.

And so I'd just like to say to my colleague once again, I'm very happy that you have taken this Special Order. I hope you will add me, along with our colleague from Texas, to this bill. I'd like to be a cosponsor. And I just say to any of the military personnel and leadership over at the Pentagon or the people at any of our military bases, if you hear anybody talking like this man did, advocating a terrorist attack on America, then, by golly, tell the people of this country about it and tell your superiors and get them out of there.

Not only should they be removed from the service; they should be watched so they don't perpetrate a terrorist attack once they're removed from the service. But they certainly should not be in a position of leadership in any branch of the service in any part of this country.

We're in a war against terrorism, and we need to make sure that we are vigilant. Thomas Jefferson said, The price of freedom is eternal vigilance. And we need to be that way right now, because this is not something that's just going to go away because we don't want it to happen. We are in a war against people that want to destroy America, want to destroy our way of life and force upon the rest of the world their religious fanatic beliefs. And we can't allow that to happen and go unchallenged.

We have an awful lot of people in all religions that would cringe at thinking that that person was in their church or in their synagogue or in their mosque and shared some of their beliefs, because it casts a pall over every one of

them. It makes every one of them feel like they share in this terrible tragedy that took place, this act of terrorism. And it's unfortunate because there are a lot of people that believe in the Muslim faith that are just horrified that this happened and because of the way that they're looked upon in this country.

And so if we're talking tonight not just about people in the military, but if we're talking to people in mosques around this country, who love this country, they should tell the authorities if there's somebody that's acting like that—that threatens the security of this country and threatens the possibility of a terrorist attack in any part of our society.

With that, let me just say to my colleague once again, thank you very much for taking this Special Order. I really appreciate it. I'm sure people across this country share your views. And I yield back.

Mr. McCAUL. I thank the gentleman from Indiana and your great comments. And you're a true patriot to this country. I mean that very heartfelt.

We've gotten so wrapped up in this political correctness, we're prohibited from calling this the war on terror. That's been taken out of the vernacular. And you wonder how a man like this could be transferred and then promoted. And with all the flags and contacts with al Qaeda recruiters, how did this happen? Why wasn't that information shared? Why, when these flags went up, weren't we able to act upon it?

We know for years that al Qaeda has been targeting bases both in the United States and abroad. It's a homeland security threat, it's a national security threat abroad. They tried to do that with Fort Dix, and we stopped it with good intelligence. They tried to do it with other military installations in the United States.

So when this evidence got out there, the real question I think we in the Congress need to ask is: Why didn't his superiors know about this? Or, when his colleagues heard the ranting and raving by him, having a business card saying he is a soldier of Allah, saying that his loyalty is first and foremost to the Koran, not the Constitution.

And the gentleman from Indiana is right. I worked in the Justice Department, a Federal prosecutor at the Joint Terrorism Task Forces. The National Intelligence Estimate says the most effective weapon we have is a moderate Muslim—the Muslim who will come forward and help us in the mosque to say there is an individual out here that we believe to be a threat to the security of the United States. Obviously, this man was. But, for whatever reason, nothing was done about it, and 13 soldiers are dead and 30 more are wounded.

We in the Congress have a role, an oversight role to get to the answers, to fix the problem, to make sure it didn't happen. The whole point after 9/11 was to make sure that we shared intelligence and information to better protect the American people. And I see no greater homeland security issue than protecting our bases right here in the United States.

As I said at the outset, when I visited the soldiers at Fort Hood for the memorial service, they say, Congressman, we see this in Iraq and Afghanistan, but we don't expect that to happen at home. Not in our home. Not on our base. This was not supposed to happen. And the question is: Is this man—did he infiltrate or was he a "lone wolf" acting on his own without any outside influence?

We don't know the answer to those questions. We have been told that from the very day after this occurred that he was a lone wolf acting on his own. There's a term "rush to judgment." In my view, I think that was a rush to judgment, the idea that he was acting as a lone wolf before we got all the evidence in front of us.

All we are asking in the Congress is that we review the matter. I have great hope that the majority will work with us in a bipartisan way to provide that oversight that this body, this distinguished body, by the Constitution has the authority to: To get to the real answers for the American people as to whether this man had radicalized on his own, which he clearly did—he radicalized—or whether he is being facilitated by people on the outside, and whether al Qaeda had something to do with this. Because they got a playbook, and they go back to the playbook.

They had the World Trade Center bomber. They went back to the World Trade Center. They tried to hit the Capitol. That's their playbook. They will, in my view, try to hit the Capitol again. Chemical explosives. Ramzi Yousef, when he was arrested in Islamabad, a very chilling story. He had multiple baby dolls that he had stuffed with chemical explosives. He was going to take those baby dolls onto airplanes, known as the Bojinka Plot, and blow up 12 commercial airliners simultaneously. They go back to that playbook. We've seen chemical explosives come up over and over again.

Military installations are in their playbook. And we need to take the protection of our military installations both here in the United States and abroad very, very seriously. And when a man like this gets in and gets promoted and perpetrates what he did, one of the greatest acts of violence on a military base since Pearl Harbor, then we need the answers to these questions.

There are so many flags in this case. Not only this individual, but what was he doing with Pakistan. What influence did Pakistan have on this individual.

The American people need to know the truth. We need to know it not as a "gotcha" exercise, but as a way to look forward and say, How can we better protect the American people from individuals like this and our soldiers from people like this? How can we better protect bases here in the United States?

We know he contacted many radical Web sites, posted very radical thoughts on these Web sites. It's time for us to stand up and have hearings on this matter and answer these fundamental questions.

Tonight, to the families of the victims, our heart goes out. We hear the cries. As we saw the 13 combat boots, the rifle, and the helmet portrayed in that picture, it was one of the saddest days and darkest chapters, I think, in American history. As we go forward, I believe we need to get the answers to these many, many questions that are out there.

Probably the hardest thing we have to do as Members of Congress is to comfort families who have lost their loved ones. I will never forget that day at Fort Hood at the memorial service, talking to the survivors, particularly some of the spouses who lost their husbands that day, to the mothers, fathers, and brothers and sisters; talking to the wounded victims who were shot by this man.

As we comfort these families, as we have with soldiers coming back from Iraq and Afghanistan and those who died, it is one of the most difficult things as Members of Congress, one of the most solemn responsibilities that we have. We know that words cannot give them back what they lost. We grieve their loss in the Congress. We stand by the families of the victims. With that, let me say God bless them.

I know we have another colleague from Texas who I know is here. When he is ready to speak, I'd like to yield to my good friend from Texas. Then I will reclaim my time and yield to the gentleman from Indiana.

Mr. BURTON of Indiana. I just hope that all of our colleagues who are in their offices tonight or may be watching this Special Order on television will join with you and the other sponsor of the bill from Texas, our colleague, and push as hard as possible for hearings here in the Congress of the United States.

We have in this body subpoena authority. The only thing that can't be brought before a committee is something that's top secret, classified, and if that is not the case, then we have the authority to subpoena documents and evidence to bring this issue before the Congress, a number of committees here.

I think it's important that people like you and all of our colleagues ask the White House to relent and let us have these hearings, which I think are

extremely important, because the American people want to know about this, because everybody is concerned about the terrorist threat that we face in this country.

So the President can't claim executive privilege. If he does that, then of course they can block us from having a hearing. But even if he does that, they have to prove that there's a reason for executive privilege. And we have subpoena power here in the Congress of the United States. And so the committee chairmen, chairmen of these various committees, if it isn't something that's top secret or highly classified, they can subpoena this information and bring it before the Congress.

I hope that you and the rest of our colleagues will do everything possible—I know you will—everything possible to make sure the American people know everything that happened and everything that led up to this tragedy.

Once again, thank you very, very much for taking this Special Order.

□ 2100

Mr. MCCAUL. I thank the gentleman from Indiana.

Again, reclaiming my time, I think I speak for most Americans, we do not want to see this thing swept under the rug. We don't want to see the rush to judgment that it was the act of one man—and perhaps it was—but the American people need to know the truth, and they need to know who he was talking to. And when the reporting came out that he was talking to the top al Qaeda recruiter in Yemen by emails and that there were communications in Pakistan, that raises big flags in this case. We cannot ignore that.

It is our constitutional duty to ask the tough questions to get to the bottom of this case so that the American people, through their representatives, can find out what really happened that tragic day on November 5. And if we don't do that, and if the majority does not want to do that and bows to the President and his request, I think we are being derelict in our responsibilities.

Again, this is a man who places allegiance more to the Koran than the Constitution, in his own words. "Son of Allah" on his business cards, dressed in the Pakistan garb, classic of the suicide bomber techniques to will your possessions away, wear the dress the morning of. I think he fully expected not to survive the incident. He did. And the best evidence we have is inside his head.

Of course the first thing he did was ask for an attorney, and he is not speaking. That is the same thing Khalid Sheikh Mohammed asked for. When he first got arrested, Khalid Sheikh Mohammed asked for two things: I want a lawyer, and I want to be taken to New York City. And unfortunately, Khalid Sheikh Mohammed



got his wish that day because Khalid Sheikh Mohammed is going to be brought to New York now under the President's new guidelines.

I think getting to the bigger picture of all this, as we've taken "war on terror" out of the vernacular, we are moving back to this Clinton era where these terrorists are treated not as enemies of war but as criminal defendants. We are in a war, like it or not. We are in a war. We need to treat these people who mean to do us harm as enemies of war. The military tribunals are the best way to prosecute. We are going to bring Mr. Khalid Sheikh Mohammed into the United States to the very city where 3,000 people were killed at his hands.

I was a Federal prosecutor. The Southern District of New York is one of the finest U.S. Attorney's offices and is probably best equipped to handle that prosecution, but the Federal rules of evidence are very different from the military tribunals. It's going to withhold evidence from trial. It will not protect classified information. It will turn to a showcase. And as in the case of Moussaoui, whose computer records were ruled inadmissible, he got life imprisonment. Ramsey Yousef, the perpetrator of the '93 World Trade Center got life imprisonment. Khalid Sheikh Mohammed deserves the death penalty. It was an act of war.

Now, I don't know if the administration is saying, you know, basically that the war on terror is over, it's over so let's just go ahead and bring these people in and treat them like criminal defendants, but I think they are making a serious mistake, not only compromising the prosecutions of these terrorists but bringing them into a city that has been a target for quite some time. It's only going to heighten the state of alertness in New York City and become a mecca for jihadists around the world to come to New York to see the spectacle of a show trial. They ought to be tried in Guantanamo. Guantanamo never should have been closed or the order should never have been sent out to close it, and a military tribunal is best equipped to prosecute these individuals.

Just let me say in closing, we've been dealing with the health care legislation. It is very important for the Nation, but we were struck by a heavy blow last week, November 5, at Fort Hood. We never expected it to be one of our own. We never expected an act of treason on that level, killing 13 soldiers and wounding 30 others, firing off 100 rounds, yelling out "Allahu Akbar," talking to known al Qaeda operatives in Yemen and possibly Pakistan. There are too many questions in this case, too many red flags, and the American people deserve the answer. We in the Congress—and I know my good friend from Indiana stands with me—we're not going to sit back and

follow the orders of this President to stand down and not exercise our constitutional responsibility.

There is a separation of branches of government under the Constitution for a good reason. The executive branch can't sweep things under the rug. The American people, through their representatives, need to find out what really happened. The American people deserve the truth in this case. They deserve hearings, a full investigation and the truth to come out.

I commend our great fighting men and women. I have had so many constituents who have gone through Fort Hood on their missions to Iraq and Afghanistan. They were serving very bravely and nobly in a very, very important struggle between radical Islam and freedom, between the jihadists and democracy. We will eventually win that struggle. We pray for the victims' families, and we pray that God holds their loved ones in the palms of his hands.

#### GIVING TERRORISTS A TRIAL BY JURY IN NEW YORK CITY

The SPEAKER pro tempore (Mr. SCHRADER). Under the Speaker's announced policy of January 6, 2009, the gentleman from Texas (Mr. GOHMERT) is recognized for 60 minutes.

Mr. GOHMERT. Thank you, Mr. Speaker.

I want to follow up on what my colleague from Texas was talking about, as the ranking member on the Homeland Security Subcommittee on Terrorism. And actually, I'm the ranking Republican member on the Crime, Terrorism, and Homeland Security Subcommittee under the Judiciary, so we have some overlapping space there.

I know my friends, the gentleman from Indiana (Mr. BURTON) and the gentleman from Texas (Mr. McCAUL), in their hearts are very much concerned about the safety and the well-being of this country. This is some serious stuff that's going on here when the President of the United States says that we need to bring at least some of the most feared terrorists in the world into the most densely populated area in America.

Now, having been a judge and a chief justice, having had to work out logistics for major trials that had a lot of publicity, nothing, nothing like this trial will be—I understand perhaps some of the ramifications that our fine President, with his experience in community organizing, may not quite understand. You can't bring terrorists—and the reason I say "terrorists" instead of "alleged terrorists" is because they've admitted it. You can't bring them to the most densely populated area in our country and not expect there to be terror to follow. I mean, I've tried felony cases, death penalty cases, and I know there are other

friends here in Congress that have also. Death threats arise in those types of cases. I had them. I didn't worry about them when it was me. I worried about them when it was my family, and that happens.

If you think about the consequences logistically of bringing admitted terrorists to the most densely populated area in America, New York City, where they've already struck at least twice. They tried to blow up the World Trade Center. It didn't work the first time. They did some damage, but nothing like the second time, and we're going to bring them right back. We know, thank God, that most Muslims are not jihadists like you find here with Khalid Sheikh Mohammed.

But when you read the six-page pleading that Khalid Sheikh Mohammed, the guy that they want to bring to New York for trial, said in his own pleading—and as I understand it, he did his own interpretation to English. He would make statements, and he would back them up by a reference and a quote in English from the Koran. He says, "We ask to be near to God"—this Khalid Sheikh Mohammed, who our President is inviting to come to New York City. "We fight you and destroy you and terrorize you." Khalid Sheikh Mohammed said this in his pleading. And it wasn't just for him. It was on behalf of the other four defendants in this case.

But he says, "The jihad in God's cause is a great duty in our religion. We have news for you. The news is you will be greatly defeated in Afghanistan and Iraq, and America will fall politically, militarily, and economically. Your end is near, and your fall will be just as the fall of the towers on the blessed 9/11 day. We will raise from the ruins, God willing. We will leave this imprisonment with our noses raised high in dignity as the lion emerges from his den. We shall pass over the blades of the sword into the gates of heaven. We ask from God to accept our contributions to the great attack, the great attack on America, and to place our 19 martyred brethren among the highest peaks in paradise." Now, this is the guy we want to bring to New York.

Now, having logistically set up major cases for trial, I can tell you that you have jailers who are going to be responsible for these people in jail 24 hours a day. Those shifts change constantly. You will have to be very attentive not only to every single jailer, but to every single jailer's family, because these forces will look for weak links in the jailer and the jailer's family.

You will have bailiffs in the courts who will also be responsible for their safekeeping and security. The bailiffs and their families will have to be viewed as potential weak links to be utilized by the terrorists.

You'll have to think about the clerks who may be marshaling evidence. They



and their families will have to worry about being targets.

You will have to think about potential jurors. Even though the names supposedly would be kept secret, you have to worry about them and their families.

And the judge, his name will not be kept secret. The judge and his family will be open targets the rest of their lives.

This is scary stuff from a President who knows how to community organize better than any President we've had, but I don't believe he knows the organizational efforts and the weaknesses that will be brought out.

I would yield to my friend from Arizona (Mr. SHADEGG).

Mr. SHADEGG. I appreciate the gentleman yielding.

I just want to say that I hope Americans are thinking through the various ramifications. I think you just made an excellent point. We are talking about trials of terrorists in civilian courts in the biggest city, or one of the biggest cities in the Nation.

You just made a brilliant point. What about the guards and their families, the court clerks and their families, the bailiffs and their families, and on and on and on, all of whom now will be exposed to perhaps pressure, kidnapping, threats.

But what about, how long will this take? Are these trials that can be concluded in weeks? No, I don't think so. You are a judge. Do you think these trials can be concluded in months? Or perhaps, as our colleague Mr. HOEKSTRA pointed out on *Face the Nation* yesterday, these are trials which, if the defense exploits them, as defense attorneys do in courts in America, could go on for months or years, ripping open the wounds of the people whose family members died in those attacks. Why? Why in God's name are we giving terrorists the protection of trials in American criminal justice courts? It is insane. It absolutely makes no sense.

I believe that we are exposing the people of New York, the people involved in these courts and the people involved in their security all for no reason whatsoever, and it won't just go on for a few days or a few weeks or a few months.

□ 2115

I would like to direct the attention of the listening audience to the points that were made in today's media. This is going to be a field day for al Qaeda to learn how America and the American system of intelligence gathers information, and they'll be able to drag it out in open public court rather than in a military tribunal.

Somebody explain to me—I wish somebody could explain to me—why terrorists deserve the protections of the U.S. Constitution as if they had broken civil laws while they're oper-

ating inside this country. Khalid Shiekh Mohammed was not in the United States when he planned this. This was not a simple murder. This was a terrorist attack by enemy combatants. We may not want to call it war. We may not want to call it a war on terror. We may not want to accept the fact that there are people who hate us, as the quote the gentleman from Texas just read demonstrates; but it's reality. And we ought to be dealing with it as a terrorist threat in the tribunals set up for terrorist threats and for war crimes and crimes committed in the process of combat.

There was no mistaking, absolutely no mistaking, what al Qaeda wanted to accomplish by these attacks, and they were not done for mere criminal purposes. They were done to terrorize a Nation. And we have lost sight of that, and I think this administration has lost sight of it. I think this Attorney General is making a grave, grave mistake. And the damage we have seen in the past when our intelligence community is injured because this kind of information is made public and we are no longer able to operate as an intelligence community protecting a Nation against foreign enemies should act, I think, is a risk which we should never be undertaking under these circumstances.

I thank the gentleman for yielding. I know his years on the bench as a trial judge watching criminal trials makes it painfully clear that that's a procedure designed to protect defendants accused by the Nation of crimes under the laws and statutes of this Nation. That's not what we are dealing with here, and I thank the gentleman for making that point.

Mr. GOHMERT. I appreciate Mr. SHADEGG making the point he does about why would we bring them to trial here in the United States, especially in New York City.

There are a lot of people that have never picked up the Constitution. We've got a little pocket Constitution here. But in article I it talks about the legislative powers. Over in section 8 it says that "Congress shall have power to" and you go down to "constitute tribunals inferior to the Supreme Court." So President Bush made a mistake when he tried to create tribunals by the executive branch without getting Congress involved, and the Supreme Court rightfully struck that down and said you can't do that because article I, section 8 says this is something that Congress must do.

So then Congress did that. We had the Military Commissions Act of 2006, and this is the bill that's been slightly amended here this year, but it still says that, in section 948c, persons subject to military commissions: any alien unprivileged enemy belligerent is subject to trial by military commission as set forth in this chapter.

I am in the process of drafting this legislation right now that we will file this week that will say they must be tried in military commissions so we don't have an inexperienced President that doesn't realize the consequences of his actions.

Mr. McCAUL. Will the gentleman yield?

Mr. GOHMERT. I yield to my friend Mr. McCAUL.

Mr. McCAUL. Are we not in a war on terror, in your view?

Mr. GOHMERT. Pardon?

Mr. McCAUL. Are we not in a war on terror?

Mr. GOHMERT. Some people don't want to call it that and it may be unilateral at this point, but there is a war using terror going on and we either fight it, or we will be overwhelmed by it. So we should be in it, yes.

Mr. McCAUL. My point is that that language has been taken out of the vernacular by this administration for whatever reason. We have our points as to why, but this is not being viewed as a war. What happened by the decision to bring in the mastermind of 9/11 to the very city where 3,000 Americans were murdered basically was a signal by this administration that the war on terror is over, that we are no longer going to treat terrorists as enemies of war; but, rather, we're going to go back to the Clinton administration years where we're going to treat them as criminal defendants, like Ramzi Yousef, the 1993 World Trade Center bomber, a criminal defendant. Not an act of war, but he is a criminal defendant.

By the way, Ramzi Yousef did not get the death penalty. And he went to talk to his Uncle Khalid Shiekh Mohammed about flying airplanes into buildings, and look what happened. Moussaoui did not get the death penalty because a lot of evidence was held to be inadmissible in a Federal court.

If they are true enemies of war, the best venue to try them is, as we did in World War II, by military tribunals. And the rules of evidence, as you know, Judge, I was a Federal prosecutor in the Justice Department, Southern District of New York, U.S. Attorney, one of the finest in the country. But the fact is you bring them on American soil, give them all rights under the Constitution, as my good friend from Arizona stated, why does Khalid Shiekh Mohammed get constitutional rights?

Mr. GOHMERT. Reclaiming my time, that is a very important point. Why does he get American citizens' rights? He has not been to America. He masterminded this. He was captured overseas in a foreign country. He's in Guantanamo right now, and the Constitution gives us in Congress the right to set up a military tribunal commission system, which we did.

But I want to come back and I'm going to keep injecting quotes from

Khalid Shiekh Mohammed's own pleading himself. This is the guy who our President and Eric Holder, the Attorney General, want to bring to the most densely populated area in America. On page 4 he said, "In God's book he ordered us to fight you everywhere we find you, even if you were inside the holiest of all holy cities, the Mosque in Mecca and the holy city of Mecca even during sacred months." He said, "In God's book," verse 9, Al-Tawbah, "then fight and slay the pagans wherever you find them and seize them and besiege them and lie in wait for them in each and every ambush." This is the guy they want to yield American citizens' rights to who will not be able to—

Mr. McCAUL. If the gentleman would yield, what was the first thing that Khalid Shiekh Mohammed said when he was apprehended in Islamabad? It was two things.

Mr. GOHMERT. Take me to New York.

Mr. McCAUL. One, I want an attorney, and, number two, Take me to New York. And you know what? President Obama and this administration gave him his wish.

I just want to end my comments by saying you and I have tried cases. This is going to be a circus, a show trial of the maximum. The motions to transfer venue, the motions to suppress the evidence, none of the information we got from Khalid Shiekh Mohammed using water-boarding, which has protected American lives, which, by the way, this administration wants to investigate and put those CIA and intelligence people in jail. The discovery alone, as the gentleman from Arizona stated, will keep this thing alive for years to come, will involve classified information that will not be properly protected as it would in the military court.

Finally, on the security issue, I think the gentleman from Texas is right: this will become a Mecca for the terrorists, not only to al Qaeda but homegrown, radicalized homegrown, whether Mr. Moussaoui is homegrown, radicalized, or not, people like him will come to New York to blow buildings up and to prey on the jury perhaps or the judges.

Mr. SHADEGG. If the gentleman will yield, I think it's fascinating that we all stand here, all three of us, with backgrounds in prosecution. The gentleman was a Federal prosecutor. I was in the Arizona Attorney General's Office for many years and involved in the prosecutions of a number of cases. You sat on the bench. All three of us come here instinctively tonight because we are so repulsed by the notion that American criminal courts intended to provide a plethora of rights to Americans accused of crimes inside this country are being afforded to someone who is clearly a terrorist, who clearly plotted from outside this country, who clearly plotted acts of war, and who said, as the gentleman just pointed

out, as soon as he was apprehended outside the country, I want an attorney and I want to go to New York. And this administration is going to give him both of those wishes? That's an outrage.

I want to explore the point that my colleague Mr. GOHMERT made earlier. This is supposed to be a Nation of laws. Laws that anticipate that crimes committed by war criminals, enemy combatants, terrorists seeking to attack this Nation and all it stands for, they weren't seeking to attack a random group of people on an airplane or in a building. They wanted to attack this Nation. The law says how that should be dealt with. It's supposed to be dealt with when those terrorists, those war criminals are apprehended, as Khalid Shiekh Mohammed was. They are supposed to be tried in tribunals. You just read us the law.

How does Mr. Holder, how does President Obama get around the law? And do not the people of America have the right to demand that the law be followed and that these individuals be charged and tried in tribunals held by the military because they are war criminals? They are not civilians and they are not U.S. citizens and they are not afforded the protections of the criminal courts of the United States.

Mr. McCAUL. If the gentleman would yield, this was clearly evident early in this administration under their global justice policy that no longer would apprehended terrorists captured on the battlefield be treated as enemies of war.

Mr. SHADEGG. So we're going to read them their Miranda rights? We're going to provide lawyers to them out on the battlefield?

Mr. McCAUL. Precisely. And what came out in a shocking story that has not been told enough, in my view, was that FBI agents were there at the detention facilities reading them the Miranda rights. This is where this administration has shifted towards treating them as criminal defendants in Afghanistan, with full rights of the U.S. Constitution in Afghanistan. And I believe it is a sad day for America when we bring this mastermind of 9/11 to the very city where he killed 3,000 Americans.

Mr. GOHMERT. Reclaiming my time briefly, the gentleman from Arizona asked how do they get around the law. Under section 948h of the Military Commissions Act of 2006, it says the "military commissions under this chapter may be convened by the Secretary of Defense or by any officer or official of the United States designated by the Secretary for that purpose." So the Secretary of the Defense serves at the pleasure of the President. And that "may" word allows them not to convene, which brings them to court.

Mr. SHADEGG. Will the gentleman yield?

Mr. GOHMERT. Yes.

Mr. SHADEGG. So the Secretary of Defense may choose, pressured by the President, not to convene a tribunal. How then does that give the President of the United States the right to bring them to the United States and to try them in a criminal court? Because they did not violate a civilian law of the United States. I submit they committed acts of war. Does he have the power to overrule the law and bring them here and say they are something they are not, say they are not terrorists when their conduct constituted an act of terror? Or is he simply then obligated to hold them if they don't conduct a military tribunal?

Mr. GOHMERT. The gentleman raises a very good question. The problem has been apparently that the Attorney General and the President don't want to charge them with what they've actually done, committed an act of war against this Nation. They want to charge them with a criminal violation and bring that to court. And if they do not charge them with the act of war that brought about the deaths of thousands of Americans, innocent Americans of all walks of life, if they don't want to charge them with the most heinous act of war against this country in our history, and charge them simply with a criminal violation, then they can bring them into the civilians courts.

Mr. SHADEGG. Will the gentleman yield?

Mr. GOHMERT. Yes.

Mr. SHADEGG. Does that then raise the issue of whether their refusal to charge them with the conduct they, in fact, engaged in, which I would argue was clearly an act of war, clearly an act of terrorism against the Nation, if the officials charged with the duty of charging them with that conduct, acts of war against the United States, acts of terrorism against the United States, the Secretary of the Army, the Attorney General, or the President of the United States, are they not then derelict in their duty and are they not then subject to being either punished by the Congress or removed from office for failing to do their duty to charge Khalid Shiekh Mohammed with the conduct he engaged in, which was an act of war against the United States?

□ 2130

Mr. GOHMERT. Well, that's another good question. But as far as a—I think there is a breach of a fiduciary duty when you're more concerned about your image among foreign countries than you are with the safety of individuals in New York City, it would seem to be a breach of the fiduciary duty to protect Americans.

Mr. SHADEGG. If the gentleman will yield, I'll let him make his point.

Mr. GOHMERT. Well, let me inject one more comment by Khalid Sheikh

Mohammed, because I'm going to keep on injecting his own words from his own pleading. We do not—this is Khalid Sheikh Mohammed—we do not possess your military might, not your nuclear weapons, not yet; nevertheless, we fight you with the Almighty God. So if our act of jihad and our fighting with you cause fear and terror, then many thanks to God, because it is Him that has thrown fear into your hearts which resulted in your infidelity, paganism and your statement that God had a son and your trinity beliefs. That's for Christians. He also says, in God's book, He ordered us to fight you everywhere we find you. Oh I've already read that one. But he quotes from the Koran and says, soon shall we cast terror into the hearts of the unbeliever for that they join companies with Allah for which he has sent no authority. Their place will be in the fire, and the evil is the home of the wrongdoers.

This is the guy we're going to bring to New York City. I yield to my friend.

Mr. MCCAUL. And you're going to bring him into New York. And Osama Bin Laden, in the late 1990s, declared war against the United States. He actually declared war against the United States.

Mr. SHADEGG. And if the gentleman would yield, and he took credit for this act, and said it was a part of that war against the United States. How in God's name could Khalid Sheikh Mohammed not be at least charged and tried with an act of terrorism against the United States which, under current law, if we are in fact a Nation of laws, must be tried in a military tribunal? This country, the American people, get it. They see that in the name of political correctness we are placing an imprimatur on these acts that they were not acts of war, and that is not what the American people believe. We will rue the day, we will as a Nation, rue the day that we treat our enemies as criminals and not as enemy combatants who commit war against us.

Mr. GOHMERT. Well, there is a key issue my friend raises. We treat them as criminals instead of as war terrorists and war criminals, because this won't just put New Yorkers at risk. It will not. It will put our soldiers at risk.

Mr. SHADEGG. Absolutely.

Mr. GOHMERT. I mean, having tried so many criminal cases, I can tell you, you know, the best thing they do is roll in, they've got photographers, they've got people with the rubber gloves, they take—the latex gloves—they take DNA evidence, they take fingerprints, they do all of this forensic analysis of the scene as my friends both know because they've used that evidence. Our soldiers cannot afford to bring out a forensic wagon in the middle of a battlefield to check for DNA, to check for fingerprints, to establish a chain of custody. And both of my friends know, if you don't have the chain of custody

on a piece of evidence, it's not coming in. It's one of the reasons you don't charge war criminals as criminals in a civilian court because our soldiers should not be put in harm's way trying to gather that kind of forensic evidence.

Mr. SHADEGG. Every father and every mother and every sister and every brother of a soldier of this Nation needs to be scared because this undercuts our troops. This damages their morale. This undercuts their ability to do their job. This is a betrayal of America's fighting women and America's fighting men, and we need to stand up and we need to speak out and we need to say it's wrong. And it's not just unsafe for the people of New York. It's not just unsafe for the people of Illinois. It's not just unsafe for the people of Texas or Arizona. It is unsafe for every soldier we have engaged in combat. It is a betrayal of them in the name of political correctness.

Mr. MCCAUL. Political correctness. And when has the Constitution of the United States been applied to enemies who are captured on the battlefield outside of the United States? I don't think that's ever been done. I'm not sure if that has ever been done.

Mr. SHADEGG. I would doubt it has ever happened.

Mr. MCCAUL. And this administration again wants to take the vernacular war on terror, they want to just erase the last, you know, 4, 8 years. No, it was never a war. These are just criminal cases that need to be prosecuted and we need to treat them that way.

Mr. SHADEGG. I think the gentleman brings up a great point of history, and I want to add to it. Do you know that in World War II, enemy combatants caught in the United States, and there were some who came into the United States, came ashore or came to our coasts in submarines, then came ashore, could not, under international law, be held in American civilian prisons. The reason for that is they are not, as of that point in time, they're not criminals, and they have not been convicted, and therefore cannot be punished as prisoners in American jails or prisons are being punished.

And so we had to create camps where you could hold prisoners of war. As it turned out, we didn't adjudicate most of them. We released them upon the end of combat. In this case we are actually doing the opposite. We are not just saying that they're not enemy combatants engaged in acts of war and treating them separately and treating them as our colleague from Texas, Mr. GOHMERT, points out, through military tribunals. We're mixing them into the American criminal justice system, a system designed to preserve and protect the rights of the American people. It's insane. And the consequences will mean that, by extension, we have to go

into the battlefield with evidence testing and with defense counsels and, as my colleague from Texas pointed out, the notion that we have to read them their rights. This is lunacy and a betrayal of our military.

Mr. MCCAUL. As the gentleman knows if he will yield, a criminal defense lawyer in a civilian court is going to use discovery at every opportunity to embarrass the United States of America and to blame America first for the acts of a terrorist, Khalid Sheikh Mohammed. And what concerns me the most is that they're going to make a mockery of our criminal justice system here in the United States and use it as a propaganda weapon in what I still refer to as this war on terror. This was one of the biggest mistakes this President has made. The decision to close Guantanamo Bay—I saw Khalid Sheikh Mohammed down in Guantanamo; it was one of the most chilling things I've ever seen, as he prayed, bowed over his prayer rug, to Mecca. We haven't broken his spirit.

And this administration again just granted him his wish. He gets his lawyer now, and he gets to come to New York City, just like his nephew, Ramsay Yusef did, who, by the way, did not get the death penalty. And as I close, as I move on, I sincerely hope that—this was a huge mistake—but I sincerely hope that this man is given the ultimate punishment so he can—not only here on earth but move on to the next world.

Mr. GOHMERT. And the gentleman makes a great point also, that he is not remorseful at all and, in fact, here he has been in prison, and this is filed this year, that Khalid Sheikh Mohammed says, and this is from his pleading that he himself prepared, so our religion is a religion of fear and terror to the enemies of God, the Jews, the Christians and pagans. With God willing, we are terrorists to the bone. So many thanks to God. He went on to say, and he quotes the Arab poet that stated, we will terrorize you as long as we live, with swords, fire and airplanes.

It's unbelievable that you would bring a guy like this into the United States of America, put our soldiers at risk for the future, forcing them to try to gather forensic evidence. While people are shooting at them they're going to have to be worried about fingerprints and DNA evidence and gee, did they have witnesses, getting witnesses' names and addresses, locations so they can come back and perhaps bring them to court in New York some day to testify. We just don't do this. We can't afford to do this when people are at war.

Our President, this administration may not realize we're at war, but there are people at war with us, and we fail to respond at our own risk. This is scary stuff. And we have the Military Commission Act of 2006. We're working on language that will make it a requirement so that it is not an option

for the President. I mentioned article 1, section 8 that gives power to Congress to constitute tribunals inferior to the Supreme Court. As a constitutional law professor mentioned this weekend to me as I was visiting with him about this issue. He said, you know, the Supreme Court is really the only court in the country that has a right to exist under the Constitution. Every other court, tribunal, commission, only has their existence at the will of Congress.

And article 3 and section 1 makes that clear: The judicial power of the United States shall be vested in one Supreme Court and in such inferior courts as the Congress may from time to time ordain and establish. Going over, and it says, even the Supreme Court, it talks about all cases affecting ambassadors, other public ministers and consuls and those in which the State shall be party, the Supreme Court shall have original jurisdiction. In the other cases before mentioned the Supreme Court shall have appellate jurisdiction both as to law, in fact, with such exceptions and under such regulations as the Congress shall make.

We have an obligation in this Congress to rein in a President that is putting New York City, our soldiers, our military at risk, and we fail to do so at the risk of those we are elected to serve and protect from all enemies, foreign and domestic. I yield to my friend from Arizona.

Mr. SHADEGG. I appreciate the gentleman for yielding. I think it's important to note that from the outset there have been some in this body who have tried to stop this moment from occurring. I introduced legislation as soon as I heard that the President intended to bring detainees from Guantanamo Bay to the United States and to close Guantanamo Bay. I introduced legislation back last February to prohibit the President from bringing a single person who had ever been detained at Guantanamo Bay here to the United States. Mine was one of many bills introduced by Republican Members of Congress to try to stop this very point.

Mr. GOHMERT. If the gentleman would yield, that was a good bill he filed as well, and I appreciate the efforts in doing that.

Mr. SHADEGG. Our minority leader, Mr. BOEHNER, introduced a bill identical or very similar to mine. There have been other pieces of legislation. I just want to make it clear that I think that this is a grave error on so many fronts it's hard to explain. And it's worth maybe trying to lay out some of those points for anybody who'd just listen. Number one, I think the gentleman made a good point of this earlier. If you bring terrorists to the United States, there is, first and foremost, the danger that by merely being physically present in the United States, they will acquire rights that they do not have in Guantanamo Bay,

that they do not have in Iraq, or that they did not have in Afghanistan.

Mr. GOHMERT. And I will add that no prisoner of war, no enemy combatant has ever had in the whole history of the world and of mankind.

Mr. SHADEGG. And why are we changing it? For some sense of political correctness, because we doubt ourselves, because we doubt that we were attacked, because we doubt the sincerity of the insane comments you've just read from Khalid Sheikh Mohammed about his intention to kill us, about his bragging, I believe, of beheading Daniel Pearl himself?

Those are shocking things. But that's just like the first of many reasons why this is a terrible policy. The gentleman did, I think, an excellent job earlier, that maybe the average American doesn't think about. But think of the risk that you are imposing upon not just the sworn police officers who will transport the combatants brought here, and the jailers that will jail them and the judges that will preside and the clerks that will be in the room or the bailiffs, but think of every single one of their family members, not just their children, their wives; what about their brothers, their sisters, their cousins, their aunts, all of whom now become targets of terrorism, because if I were a terrorist outside of United States and Khalid Sheikh Mohammed was going on trial in New York, I'd say, why don't I find the judge's cousin? Why don't I find the bailiff's sister? Why don't I find the jailer's brother? And I'll capture them and hold them for ransom until Khalid Sheikh Mohammed is released.

We are placing literally, a countless number of Americans, guards, bailiffs, clerks, judges, jury members, and all their families at risk to afford to avowed terrorists who say the insane hatred things that you just read? We are putting all of them at risk to afford to Khalid Sheikh Mohammed the rights that our Constitution reserves to Americans accused of, Americans simply accused of criminal acts in America? These were not criminal acts in America. This was an act of war.

□ 2145

As our colleague from Texas pointed out earlier, he made no mistake. When Osama bin Laden declared war against the United States, it was not, "I plan to go rob the United States." It was not, "I plan to go kidnap Americans in the United States and hold them for ransom." It was, "I am declaring war against the United States." And here we sit compliant in this process because we want to be politically correct; we want to be perceived as fair.

What did we establish that was unfair about Guantanamo? Soldiers there have been given copies of the Koran. They've been given prayer mats. They are allowed time of prayer. We have

spent \$50 million or more in building and improving that facility.

This is the first time in the course of the history of this Nation that we have doubted ourselves so much as to say we can't deal with enemy combatants who launch a war against us as we have dealt with them throughout history; throughout World War I, World War II, Korea, Vietnam. The tradition, the standards, the equity, the justice of the American military tribunal process has been established. And now, for the sake of political correctness, because somebody is unhappy, maybe somebody who is not a friend of the United States, maybe somebody who is not an ally of the United States, maybe somebody who wants to destroy this Nation, says, "We don't like your system," so we are going to put them into the American criminal justice system? It makes no sense.

If he had been born here, if he had been a domestic terrorist who had begun his activities here, maybe that could be debated, but that is not the case. Not born here, not a U.S. citizen, not here when the crimes were committed, plotted from overseas as an act of war under the command of Osama bin Laden—a man who had already declared war on the United States—and both of them part of an entity, al Qaeda, an entity that, as an institution, declared war against the United States.

We have to stand our ground. This is the time, America, to say enough is enough. We are not going to expose America's citizens—all of those judges, all of those clerks, all of those bailiffs, all of those jailers, all of those police officers who have to transport somebody. And it's easy for them to say, "We are tough." I saw the mayor of New York say, "We are tough. We can do it."

Well, Mayor, how are you going to feel when it is your daughter that is kidnapped at school by a terrorist? How are you going to feel when it is some clerk, some innocent clerk of the court whose daughter or son is kidnapped or the judge's wife or the jailer's little brother or little sister?

This is political correctness run amok.

Mr. GOHMERT. Nothing illustrates my friend's point better than Khalid Sheikh Mohammed's own words on page 6 of his own pleadings where he says, "We fight you and destroy you and terrorize you." He goes on to say, "So we ask from God to accept our contributions to the great attack, the great attack on America." Those are not words of a conspiracy to commit a crime. Those are admissions of participation and an act of war.

I want to direct attention to New York City where I am sure the leaders like Khalid Sheikh Mohammed that are still loose are already planning. Think about the logistics in New York

City. Well, you could provide a safe environment like we have in Guantanamo if you closed all of the tunnels, if you closed all of the bridges, if you closed the area around the court and the area around where these terrorists, these enemy combatants, are being held. You close that area off. Failure to do any of those opens the easy possibility of one car or several cars being filled with explosives and driving near an area and blowing up.

Now, you also have to stop the subways that are running underneath all of these areas. There is no easy way. There is just no way to safeguard the people of New York City.

And my friend brings up the kidnapping of family members of participants in the case, but then there is also the problem of those who are threatened to be kidnapped.

Now, when you have a big trial, normally it's not uncommon to have bomb threats called in. How many bomb threats do you think will be called in during the course of this trial?

Mr. SHADEGG. If the gentleman will yield on that point, I guess in order to figure out how long you'd have to close the subways and how long you'd have to close the bridges and how many bomb threats will be called in during the course of the trial, you'd have to begin by saying, well, how long will the trial last? And that is a pretty interesting question.

In America, if we have a true criminal trial in a multiple murder case, those can last weeks, months, years. I don't know what the longest criminal trial in American history is, but I guarantee you, it is a lot more than a month or two. And then when you add appeals, I presume Khalid Sheikh Mohammed, as Eric Holder envisions and as Barack Obama envisions, is going to get to have appeals. Maybe he'll get to have interlocutory appeals of rulings by the judge which could deny him his now, I guess, constitutionally guaranteed rights, the rights we cherish as citizens of the United States which we've now decided to extend to an avowed terrorist.

I want to suggest that our colleague from Michigan (Mr. HOEKSTRA) was correct yesterday morning on *Face the Nation* when he pointed out that this could turn into a legal circus that goes on for not days, not weeks, not months, but years when you count Khalid Sheikh Mohammed and all of the others that I guess Eric Holder wants to bring here one after another and try in the courts of the United States as if they were criminals.

I am plagued by a question as I stand here. I cannot cite to you—and I challenge someone to let us know—what it is about the criminal—about the military tribunal process that is not adequate. Did Attorney General Holder announce that there was some flaw in the military tribunal process that could

not be remedied? Did the American Civil Liberties Union, have they come forward and said there is a flaw in the tribunal process, because I didn't hear it. It was good enough for prisoners of war during World War I. It was good enough for prisoners of war during World War II. It was good enough, I presume, for prisoners of war in Korea and Vietnam. How is it now that it's not good enough? Why are we doing this?

Does the gentleman know?

Mr. GOHMERT. All I can think of is you have an administration that is willing to bow both personally and as a Nation before other nations, bowing our security, our safety in ways that have never been done before.

Mr. SHADEGG. Are those nations changing their military tribunal processes?

Mr. GOHMERT. There is no one who has ever granted an American citizen the kind of rights that are being afforded—and I am sure my friend has been to Guantanamo, as I have, and, in fact, as you get down there, they utilize brilliant legal minds in conjunction with wonderful engineering minds to create a terrific courtroom setting with security. There is a bulletproof glass between the gallery and where the trial will take place. There are areas where people can consult, defendants can consult with their attorneys and that are completely secure. They don't have to worry about privacy issues or being bugged because of the austerity of those facilities. It is very well thought out. It is very difficult to get there. You couldn't get an attack into that area. You couldn't have a terrorist activity take place that would threaten that facility, it was so well thought out.

Oh, and by the way, with regard to Guantanamo, my friend raised this. The prayer rugs, the arrows pointing which way to Mecca, the Korans that are provided in safekeeping—and as we know it was not a guard that tried to flush a Koran. That was not the case. But I asked our own SAM JOHNSON, who is in this body, who was a POW in Hanoi, if anybody provided him prayer books or prayer rugs or gave him a chance to pray.

Mr. SHADEGG. I think he liked the Bible, if I know SAM JOHNSON.

Mr. GOHMERT. SAM said there were no Bibles provided, but they did give them the chance to drop to their knees. They would put a rod across the floor where, when they were beat in the back and dropped to their knees, their knees would hit on the rod and then they were forced to stay with their knees on that rod. And he said, It may not sound like much, but over a period of hours, it becomes so excruciatingly painful that it's just unbearable and you hope and pray you will pass out. That is what has been afforded to Americans before. And we have seen what happened to Daniel Pearl.

They say, well, gee, they may treat ours more harshly if we don't bring them to a criminal trial in New York. How much more harshly do you treat somebody than cutting their heads off while they are gurgling and trying to beg for help? I don't think that is a problem.

We need to treat these people as the war criminals that they are, that they have admitted to be; otherwise, we put our Nation at great risk.

Mr. SHADEGG. I think the gentleman says it right. I appreciate the opportunity to be here on the floor and chat with him.

I happen to be from Arizona. I happen to be from the home State of JOHN MCCAIN. I happen to believe that there is, in fact, a duty to treat war criminals within the bounds of international law. I believe that they should not be beaten, they should not be tortured. I believe they should be afforded those standards that are accorded to those accused of war crimes through history. I personally believe they can be held without trial as long as the war goes on, and I believe this war is going on.

We, as a Nation, can be in denial as long as we want. We can cleanse from our vernacular every term that the administration finds offensive. Janet Napolitano can say we are no longer going to call it a war on terror. We are no longer going to deal with radical Islam or Islamists or jihadists. We are going to pretend that all goes away. In my life experience, you cannot pretend and, by pretending, change reality.

There are those who hate us. There are those around the world who hate us. There are those like Khalid Sheikh Mohammed, whose works you just read, who despise us and who desire to kill us. If we do not deal with them fairly, but also according to law, then we've betrayed the tradition of this Nation.

Never ever, in the history of this Nation, have we taken war criminals, people who have committed acts of terrorism under the auspices of an organization—here, al Qaeda—led by a leader—here, Osama bin Laden—that has declared war formally and in writing against the United States and said somebody acting on behalf of that organization, having as an organization declared war against the United States, having engaged then in acts of war, shall be tried in American criminal courts designed to deal with criminals who commit common crimes against other citizens of this Nation. This is a betrayal of our soldiers, and it puts our Nation and puts our soldiers at grave risk.

I believe Attorney General Holder will rue the day they made this decision and rue the day when someone is captured or killed in New York or held hostage as a result of this irresponsible

conduct. And even if that doesn't happen, it, alone, is a betrayal of the system we have followed since the founding of this Nation where those accused of war crimes are tried in military tribunals.

Mr. GOHMERT. I appreciate so much my friend's wonderful points.

We understand the President just recently, because of the lack of understanding of our military history and the Nation's history, is perhaps apparently the first President ever to fail to understand and believe that President Truman did the right thing in dropping the two bombs that they did.

And so if you are an apologist for America, you believe that consistently we have done the wrong things, you have never been really proud of America before, you don't know that the Japanese had committed to dig in and had planned to withstand an assault even to the death of every single Japanese person on the island of Japan.

□ 2200

If you don't know these facts, if you don't know the fact that perhaps millions of lives were saved by dropping those two bombs because it brought the war to an end rather than forcing the Japanese, as their leaders intended to do, to die to the last person to repel an invasion, then you would be an apologist, if you simply don't know the facts. But this puts us further at risk. We just simply cannot bow to this.

The answer will be when the American people respond and let the White House know and let the Department of Justice know. Burn up the phone lines. Let them know by constant calls. I'm not sure I would email this White House since they have shown what they do with the list. But at least burn up the phone lines letting them know that the Commander in Chief needs to act as a Commander in Chief, and not an apologist in chief and that we should not put our soldiers at further risk by requiring them to gather forensic evidence, that we should not put the people of New York at further risk, and to leave them at Guantanamo to be tried there.

People who understand about war understand that in the whole history of mankind, the precedent is if you as a group declare war on another nation and you or your fellow warriors are captured, then you are held until such time as your fellow group will cease the war, whether it takes years, a 100-year war, a 7-year war, whatever it takes until you convince your people to quit being at war with us, then we hold you until the war is over, and then bring you to trial. That's what the precedent normally is. Whether it's 4 years as World War II, whatever the length of time, we hold you until your people are no longer at war with us as a Nation.

In this case, if you want to rush them, bring them to trial, fine. Do it

with a military commission set up under the Military Commissions Act of 2006. We are going to try to amend it so that the President has no choice, so that this President learns you do not have the choice to put New Yorkers at risk.

It breaks my heart to think about the families of those victims of 9/11 and what they will be subjected to. As a judge, I saw the faces of family members who struggled with the aspect of going through and reliving the trauma of the terrible crime that was committed against them. I saw those faces. I heard their great suffering. I'm afraid it's not going to be nearly what that will be collectively of a city the size of New York as they have to relive 9/11 on the island. They have to relive the possibility of further terrorist attacks.

Certainly terrorist attacks will be threatened during the course of the trial. And, of course, you would expect the defense attorneys to wait until Khalid Sheikh Mohammed and these other terrorists have actually put their feet on American soil so they will be granted all the rights of an American citizen such as they were trying to kill as many of as they could. You wait until their feet are on American soil, and then you file your motion to change venue, then you file your motion for discovery, then you file your motions to examine experts and drag those things out as long as you can.

I ended up being asked to take over a civil trial in Texas that several judges had worked on prior to me. It was outside my district. But every judge had been recused for one reason or another. It had gone on for 11 years. I was asked to take it over, and it had been a logistical nightmare. And I was deemed to have done an amazing job in wrapping the case up in 2 years when both parties said when I got into it that they wouldn't bring a case to trial for perhaps 5 years.

But even working as quickly as I did and being as forceful as I was as the judge, not taking any extensions, not granting any type of continuances, forcing everything as quickly as could be done, and yet legally, it still took 2 years to wrap that thing up. And that was considered amazing.

With what is at stake here, the City of New York should suffer no more. No more. I went to New York shortly after 9/11. I saw the suffering. We should not do that to New Yorkers again. My goodness, they have suffered enough.

Having spent 4 years in the Army, being familiar with the military justice system, it isn't a slam dunk for anybody under the UCMJ. There are rights afforded individuals who are tried under the UCMJ. But that is the appropriate place to try people like Khalid Sheikh Mohammed who says "We are terrorists to the bone. So many thanks to God." We can also be thankful to God that all Muslims, in

fact, the vast majority, do not feel as Khalid Sheikh Mohammed.

This man does not need to set foot on American soil. We need to have a President that starts acting like a Commander in Chief, not an apologist in chief, so that we can keep America as safe as we have been for the last 8 years and not as the terror will be reintroduced by the reintroduction of these masterminds in America.

With that, Mr. Speaker, I realize my time is now expired, and I would conclude.

#### LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Ms. GIFFORDS (at the request of Mr. HOYER) for today on account of illness.

Mr. HEINRICH (at the request of Mr. HOYER) for today.

Ms. KILPATRICK of Michigan (at the request of Mr. HOYER) for today on account of personal business.

Mr. SKELTON (at the request of Mr. HOYER) for today on account of a codel.

Mr. TANNER (at the request of Mr. HOYER) for today and November 17 on account of presiding over the NATO Parliamentary Assembly's Fall Plenary Session.

#### SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Ms. WOOLSEY) to revise and extend their remarks and include extraneous material:)

Ms. WOOLSEY, for 5 minutes, today.

Mr. GRIFFITH, for 5 minutes, today.

Mr. DEFAZIO, for 5 minutes, today.

Ms. KAPTUR, for 5 minutes, today.

(The following Members (at the request of Mr. BURTON of Indiana) to revise and extend their remarks and include extraneous material:)

Mr. POE of Texas, for 5 minutes, today, November 17, 18, 19 and 20.

Mr. JONES, for 5 minutes, today, November 17, 18, 19 and 20.

Mr. BURTON of Indiana, for 5 minutes, today, November 17, 18, 19 and 20.

Mr. INGLIS, for 5 minutes, today.

Ms. ROS-LEHTINEN, for 5 minutes, November 18.

Mrs. SCHMIDT, for 5 minutes, today.

Mr. MORAN of Kansas, for 5 minutes, today, November 17, 18, 19 and 20.

Mr. LINCOLN DIAZ-BALART of Florida, for 5 minutes, today, November 17 and 18.

#### SENATE BILLS REFERRED

Bills of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 806. An act to provide for the establishment, administration, and funding of Federal Executive Boards, and for other purposes; to the Committee on Oversight and Government Reform.

S. 1860. An act to permit each current member of the Board of Directors of the Office of Compliance to serve for 3 terms; to the Committee on House Administration.

#### BILL PRESENTED TO THE PRESIDENT

Lorraine C. Miller, Clerk of the House, reports that on November 5, 2009 she presented to the President of the United States, for his approval, the following bill:

H.R. 3548. To amend the Supplemental Appropriations Act, 2008 to provide for the temporary availability of certain additional emergency unemployment compensation, and for other purposes.

#### ADJOURNMENT

Mr. GOHMERT. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 10 o'clock and 5 minutes p.m.), under its previous order, the House adjourned until tomorrow, Tuesday, November 17, 2009, at 10:30 a.m., for morning-hour debate.

#### EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of Rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

4644. A letter from the Regulatory Analyst, Department of Agriculture, transmitting the Department's final rule — United States Standards for Rough Rice, Brown Rice for Processing, and Milled Rice (RIN: 0580-AA94) received October 23, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

4645. A letter from the Administrator, Department of Agriculture, transmitting the Department's final rule — Amendments to Mushroom Promotion, Research, and Consumer Information Order [Doc. No.: AMS-FV-08-0047; FV-08-702-FR] (RIN: 0581-AC82) received November 5, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

4646. A letter from the Administrator, Department of Agriculture, transmitting the Department's final rule — Onions Grown in South Texas; Change in Regulatory Period [Doc. No.: AMS-FV-09-0012; FV09-959-1 FIR] received November 5, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

4647. A letter from the Administrator, Department of Agriculture, transmitting the Department's final rule — Oranges, Grapefruit, Tangerines and Tangelos Grown in Florida and Imported Grapefruit; Relaxation of Size Requirements for Grapefruit [Doc. No.: AMS-FV-09-0002; FV09-905-1 FIR] received November 5, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

4648. A letter from the Administrator, Department of Agriculture, transmitting the Department's final rule — Almonds Grown in

California; Revision of Outgoing Quality Control Requirements [Doc. No.: AMS-FV-08-0045; FV08-981-2 FIR] received November 5, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

4649. A letter from the Administrator, Department of Agriculture, transmitting the Department's final rule — Cotton Research and Promotion Program: Designation of Cotton-Producing States; Secretary's Decision and Referendum Order on Proposed Amendments to the Cotton Research and Promotion Order [Doc. #: AMS-CN-09-0032; CN-08-003] received November 5, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

4650. A letter from the Administrator, Department of Agriculture, transmitting the Department's final rule — Pears Grown in Oregon and Washington; Increased Assessment Rate [Doc. No.: AMS-FV-09-0037; FV09-927-1 FR] received November 5, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

4651. A letter from the Administrator, Department of Agriculture, transmitting the Department's final rule — Nectarines and Peaches Grown in California; Decreased Assessment Rates [Doc. No.: AMS-FV-09-0013; FV09-916/917-2 IFR] received November 3, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

4652. A letter from the Administrator, Department of Agriculture, transmitting the Department's final rule — Fresh Prunes Grown in Designated Counties in Washington and in Umatilla County, OR; Increased Assessment Rate [Doc. No.: AMS-FV-09-0040; FV09-924-1 FR] received November 5, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

4653. A letter from the Department Director, Regulations Policy and Management Staff, Department of Health and Human Services, transmitting the Department's final rule — Medical Devices; Plastic Surgery Devices; Classification of Wound Dressing With Poly (Diallyl Dimethyl Ammonium Chloride) Additive [Docket No.: FDA-2009-N-0333] received November 3, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

4654. A letter from the Deputy Assistant Administrator/Office of Diversion Control, Department of Justice, transmitting the Department's final rule — Schedules of Controlled Substances: Placement of Fospropofol into Schedule IV [Docket No.: DEA-327F] received November 3, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

4655. A letter from the Director, Bureau of Economic Analysis, Department of Commerce, transmitting the Department's final rule — International Services Surveys: BE-150, Quarterly Survey of Cross-Border Credit, Debit, and Charge Card Transactions [Docket No.: 0807311000-9272-02] (RIN: 0691-AA67) received November 5, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Foreign Affairs.

4656. A letter from the Senior Advisor, OFAC, Department of the Treasury, transmitting the Department's final rule — Economic Sanctions Enforcement Guidelines received November 3, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Foreign Affairs.

4657. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Fisheries of the Exclusive Economic Zone Off Alaska; Northern Rockfish in the

Bering Sea and Aleutian Islands Management Area [Docket No.: 0810141351-9087-02] (RIN: 0648-XS34) received November 3, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Natural Resources.

4658. A letter from the Director, Regulation Policy and Management, Department of Veterans Affairs, transmitting the Department's final rule — Presumption of Service Connection for Amyotrophic Lateral Sclerosis (RIN: 2009-AN05) received November 3, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Veterans' Affairs.

#### REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

*[Omitted from the Record on November 7, 2009]*

Mr. OBERSTAR: Committee on Transportation and Infrastructure. H.R. 3618. A bill to provide for implementation of the International Convention on the Control of Harmful Anti-Fouling Systems on Ships, 2001, and for other purposes (Rept. 111-331 Pt. 1). Referred to the Committee of the Whole House on the State of the Union.

Mr. OBERSTAR: Committee on Transportation and Infrastructure. H.R. 3360. A bill to amend title 46, United States Code, to establish requirements to ensure the security and safety of passengers and crew on cruise vessels, and for other purposes (Rept. 111-332). Referred to the Committee of the Whole House on the State of the Union.

*[Submitted November 16, 2009]*

Mr. RAHALL: Committee on Natural Resources. H.R. 86. A bill to eliminate an unused lighthouse reservation, provide management consistency by bringing the rocks and small islands along the coast of Orange County, California, and meet the original Congressional intent of preserving Orange County's rocks and small islands, and for other purposes; with an amendment (Rept. 111-334). Referred to the Committee of the Whole House on the State of the Union.

Mr. RAHALL: Committee on Natural Resources. H.R. 118. A bill to authorize the addition of 100 acres to Morristown National Historical Park, with an amendment (Rept. 111-335). Referred to the Committee of the Whole House on the State of the Union.

Mr. RAHALL: Committee on Natural Resources. H.R. 2781. A bill to amend the Wild and Scenic Rivers Act to designate segments of the Molalla River in Oregon, as components of the National Wild and Scenic Rivers System, and for other purposes; with an amendment (Rept. 111-336). Referred to the Committee of the Whole House on the State of the Union.

Mr. RAHALL: Committee on Natural Resources. H.R. 2888. A bill to provide for the designation of the Devil's Staircase Wilderness Area in the State of Oregon, to designate segments of Wasson and Franklin Creeks in the State of Oregon as wild or recreation rivers, and for other purposes; with an amendment (Rept. 111-337). Referred to the Committee of the Whole House on the State of the Union.

Mr. OBERSTAR: Committee on Transportation and Infrastructure. House Resolution 841. Resolution expressing support for designation of November 29, 2009, as "Drive Safer Sunday" (Rept. 111-338). Referred to the House Calendar.



## DISCHARGE OF COMMITTEE

Pursuant to clause 2 of rule XIII the following actions were taken by the Speaker:

*[Omitted from the Record of November 7, 2009]*

The Committee on Science and Technology discharged from further consideration. H.R. 3618 referred to the Committee of the Whole House on the State of the Union, and ordered to be printed.

The Committee on Homeland Security discharged from further consideration. H.R. 3791 referred to the Committee of the Whole House on the State of the Union, and ordered to be printed.

## REPORTED BILL SEQUENTIALLY REFERRED

Under clause 2 of rule XII, bills and reports were delivered to the Clerk for printing, and bills referred as follows:

*[Omitted from the Record of November 7, 2009]*

Mr. GORDON of Tennessee: Committee on Science and Technology. H.R. 3791. A bill to amend sections 33 and 34 of the Federal Fire Prevention and Control Act of 1974, and for other purposes, with an amendment, Rept. 111-333, Pt. 1; referred to the Committee on Homeland Security for a period ending not later than November 7, 2009, for consideration of such provisions of the bill and amendment as fall within the jurisdiction of that committee pursuant to clause 1(i), rule X.

## TIME LIMITATION OF REFERRED BILL

Pursuant to clause 2 of rule XII the following action was taken by the Speaker:

*[The following action occurred on November 13, 2009]*

H.R. 2989. Referral to the Committee on Ways and Means extended for a period ending not later than December 11, 2009.

## PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions of the following titles were introduced and severally referred, as follows:

By Mr. LEWIS of Georgia (for himself and Mr. BOUSTANY):

H.R. 4068. A bill to amend the Internal Revenue Code of 1986 to limit the penalty for failure to disclose reportable transactions based on resulting tax benefits, and for other purposes; to the Committee on Ways and Means.

By Mr. HARE (for himself and Mr. DAVIS of Illinois):

H.R. 4069. A bill to amend the Internal Revenue Code of 1986 to allow S corporations the deduction for charitable contributions of inventory; to the Committee on Ways and Means.

By Mr. POMEROY (for himself and Mr. SHIMKUS):

H.R. 4070. A bill to amend the Internal Revenue Code of 1986 to modify the incentives for the production of biodiesel; to the Committee on Ways and Means.

By Mr. GRAYSON:

H.R. 4071. A bill to require insurers of motor vehicles to provide coverage of bodily injuries in insurance policies; to the Committee on Financial Services.

By Mr. MINNICK (for himself, Mr. KRATOVIL, Mr. BRIGHT, and Mrs. HALVORSON):

H.R. 4072. A bill to require that certain Federal job training and career education programs give priority to programs that provide a national industry-recognized and portable credential; to the Committee on Education and Labor, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. MINNICK (for himself, Mr. SHULER, Mr. BOUCHER, Mr. DAVIS of Tennessee, Mr. KISSELL, Mr. TEAGUE, Mr. THOMPSON of Pennsylvania, Mr. MICHAUD, and Mrs. KIRKPATRICK of Arizona):

H.R. 4073. A bill to amend title 38, United States Code, to increase the payments to certain veterans for certain travel expenses; to the Committee on Veterans' Affairs.

By Mr. BURGESS:

H.R. 4074. A bill to amend the Internal Revenue Code of 1986 to eliminate the temporary increase in unemployment tax; to the Committee on Ways and Means.

By Mr. GRAVES (for himself, Mr. CLAY, Mr. AKIN, Mr. ETHERIDGE, and Mr. MCINTYRE):

H.R. 4075. A bill to amend the Internal Revenue Code of 1986 to extend and expand the deduction for certain expenses of elementary and secondary school teachers; to the Committee on Ways and Means.

By Mr. KINGSTON:

H.R. 4076. A bill to suspend temporarily the duty on mixtures of Chlorsulfuron (2-Chloro-N-[(4-methoxy-6-methyl-1, 3, 5-triazin-2-yl)aminocarbonyl]benzenesulfonamide) and metsulfuron methyl (Methyl 2[[[(4-methoxy-6-methyl-1, 3, 5-triazin-2-yl)amino]carbonyl]amino]sulfonyl] benzoate) and inert ingredients; to the Committee on Ways and Means.

By Mr. MAFFEI:

H.R. 4077. A bill to amend title 49, United States Code, to make it an unfair or deceptive practice for any air carrier, foreign air carrier, or ticket agent to charge a fee for or accept payment from a passenger on a flight segment for the first piece of checked baggage; to the Committee on Transportation and Infrastructure.

By Mr. PERRIELLO:

H.R. 4078. A bill to require the Secretary of Health and Human Services to develop a national model disclosure form to assist consumers in purchasing long-term care insurance; to the Committee on Energy and Commerce.

By Mr. PERRIELLO:

H.R. 4079. A bill to amend title 38, United States Code, to temporarily remove the requirement for employers to increase wages for veterans enrolled in on-the-job training programs; to the Committee on Veterans' Affairs.

By Mr. SCHIFF (for himself and Mr. DANIEL E. LUNGREN of California):

H.R. 4080. A bill to establish a criminal justice reinvestment grant program to help States and local jurisdictions reduce spending on corrections, control growth in the prison and jail populations, and increase public safety; to the Committee on the Judiciary.

By Mr. SCHRADER:

H.R. 4081. A bill to direct the Secretary of the Interior to conduct a study of the suitability and feasibility of establishing the Willamette Falls National Heritage Area in

Oregon, and for other purposes; to the Committee on Natural Resources.

By Mr. WHITFIELD:

H.R. 4082. A bill to authorize the Secretary of Energy to pay affected participants under a pension plan referred to in the USEC Privatization Act for benefit increases not received; to the Committee on Energy and Commerce.

By Ms. LORETTA SANCHEZ of California (for herself, Mrs. DAVIS of California, Mr. LARSEN of Washington, Ms. BORDALLO, Ms. SHEA-PORTER, Mr. ABERCROMBIE, Ms. PINGREE of Maine, Mr. JOHNSON of Georgia, Mr. HEINRICH, Ms. TSONGAS, Ms. GIFFORDS, and Mr. MASSA):

H. Res. 904. A resolution honoring women who have served and women who are currently serving in Operation Iraqi Freedom and Operation Enduring Freedom as members of the Armed Forces and recognizing their increasing and invaluable role to the success of current military operations; to the Committee on Armed Services.

By Mr. YARMUTH:

H. Res. 905. A resolution recognizing the 70th anniversary of the retirement of Justice Louis D. Brandeis from the United States Supreme Court; to the Committee on the Judiciary.

By Mr. LEWIS of Georgia (for himself, Mr. JOHNSON of Georgia, and Mr. GRIJALVA):

H. Res. 906. A resolution expressing the sense of the House of Representatives to encourage continued investment to complete the development of an HIV/AIDS vaccine for the United States; to the Committee on Energy and Commerce.

By Mr. SERRANO:

H. Res. 907. A resolution recognizing the Grand Concourse on its 100th anniversary as the preeminent thoroughfare in the borough of the Bronx and an important nexus of commerce and culture for the City of New York; to the Committee on Transportation and Infrastructure.

## ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 24: Mr. LEWIS of Georgia.

H.R. 156: Mr. MICA.

H.R. 197: Mr. EDWARDS of Texas.

H.R. 211: Mr. BISHOP of Georgia, Mr. DICKS, and Mr. ABERCROMBIE.

H.R. 268: Mr. BLUNT, Mr. MCCARTHY of California, and Mr. PAULSEN.

H.R. 272: Mr. COHEN, Mr. SOUDER, and Mr. CALVERT.

H.R. 275: Mr. OLSON.

H.R. 417: Ms. EDDIE BERNICE JOHNSON of Texas, Mr. GRAYSON, and Mr. CUMMINGS.

H.R. 422: Mr. SCHOCK, Mr. TIAHRT, Mr. AKIN, Mr. POSEY, and Mr. WILSON of South Carolina.

H.R. 571: Ms. MCCOLLUM.

H.R. 644: Mr. HEINRICH and Mr. WU.

H.R. 690: Mr. SPACE, Mr. TANNER, Mr. ROE of Tennessee, and Mr. MCDERMOTT.

H.R. 718: Mr. FORBES.

H.R. 745: Mr. KILDEE.

H.R. 836: Mr. BOREN, Mr. BUTTERFIELD, and Mr. KLEIN of Florida.

H.R. 847: Ms. JACKSON-LEE of Texas.

H.R. 886: Mr. TOWNS, Mr. MORAN of Virginia, Mr. RAHALL, Mr. STARK, Mr. RYAN of Wisconsin, Mr. BOSWELL, Mr. JOHNSON of Georgia, Mr. ROTHMAN of New Jersey, Mr. CONYERS, and Mr. HINCHEY.

- H.R. 930: Mr. BRADY of Pennsylvania, Mr. MCGOVERN, Ms. SUTTON, and Mr. BILBRAY.  
H.R. 932: Mr. TONKO and Ms. SLAUGHTER.  
H.R. 982: Mr. BOUSTANY, Mr. BURTON of Indiana, Mrs. CAPITO, Mr. COFFMAN of Colorado, Mr. KINGSTON, Mr. McKEON, Mr. PLATTS, Mr. PUTNAM, Mr. RADANOVICH, Mr. ROHRBACHER, Mr. SCALISE, and Mr. UPTON.  
H.R. 1032: Ms. SPEIER, Mr. RODRIGUEZ, Mr. LEWIS of Georgia, and Mr. RAHALL.  
H.R. 1086: Mr. SCHOCK.  
H.R. 1126: Mr. MOORE of Kansas.  
H.R. 1132: Mr. GOHMERT, Mr. CULBERSON, Mr. AKIN, Mr. BARRETT of South Carolina, Ms. GINNY BROWN-WAITE of Florida, Mr. CASTLE, Mr. CLEAVER, Mr. DAVIS of Kentucky, Mr. DEAL of Georgia, Mr. DELAHUNT, Mr. LINCOLN DIAZ-BALART of Florida, Mr. FORTENBERRY, Mr. FRANKS of Arizona, Mr. GARRETT of New Jersey, Mr. HALL of Texas, Mr. JOHNSON of Illinois, Mr. LATOURETTE, Mr. MELANCON, Mr. PERLMUTTER, Mr. SESSIONS, Mr. SHADEGG, Mr. SMITH of New Jersey, Mr. TERRY, Mr. THOMPSON of California, Mr. TOWNS, Mr. UPTON, Mr. BAIRD, Mr. TURNER, and Mrs. EMERSON.  
H.R. 1159: Mr. ANDREWS.  
H.R. 1175: Mr. MASSA and Mr. NYE.  
H.R. 1189: Mr. CALVERT and Mr. BAIRD.  
H.R. 1204: Mr. SIMPSON.  
H.R. 1230: Mr. CLAY and Mr. ELLSWORTH.  
H.R. 1242: Mr. HINOJOSA and Mr. SESSIONS.  
H.R. 1250: Mr. RYAN of Ohio and Mr. LANCE.  
H.R. 1278: Ms. SCHAKOWSKY.  
H.R. 1326: Mr. LYNCH, Mr. SARBANES, Mr. OBERSTAR, and Ms. MCCOLLUM.  
H.R. 1351: Mr. INGLIS and Mr. RUPPERSBERGER.  
H.R. 1389: Mr. ANDREWS.  
H.R. 1443: Ms. TSONGAS.  
H.R. 1454: Mr. GRIJALVA, Mrs. MALONEY, and Mr. RADANOVICH.  
H.R. 1517: Mrs. MILLER of Michigan.  
H.R. 1523: Mr. RYAN of Ohio, Mrs. CHRISTENSEN, and Mr. STARK.  
H.R. 1526: Ms. SCHAKOWSKY, Mr. RAHALL, Ms. TITUS, Mr. SCOTT of Virginia, and Mr. HINOJOSA.  
H.R. 1549: Mr. MORAN of Virginia, Mr. LYNCH, and Ms. EDDIE BERNICE JOHNSON of Texas.  
H.R. 1557: Mr. BOREN, Mr. CARNEY, Mr. BRIGHT, Mr. DAVIS of Tennessee, Mr. BARROW, Mr. NYE, Mr. PATRICK J. MURPHY of Pennsylvania, Mr. PETERSON, Mr. FRANKS of Arizona, Ms. GRANGER, and Mr. LIPINSKI.  
H.R. 1766: Mr. FILNER.  
H.R. 1792: Mr. MASSA.  
H.R. 1806: Mr. SESTAK and Mr. LATOURETTE.  
H.R. 1818: Mr. MICHAUD.  
H.R. 1826: Mrs. NAPOLITANO and Mr. FARR.  
H.R. 1829: Mr. KISSELL.  
H.R. 1835: Mr. DOYLE.  
H.R. 1894: Mrs. BIGGERT.  
H.R. 1924: Mr. CALVERT.  
H.R. 1925: Ms. RICHARDSON.  
H.R. 1993: Mr. CONNOLLY of Virginia.  
H.R. 2012: Mr. MEEKS of New York.  
H.R. 2122: Mr. SCHOCK.  
H.R. 2138: Mr. SESTAK.  
H.R. 2149: Mr. POE of Texas and Mr. KILDEE.  
H.R. 2156: Ms. RICHARDSON, Mr. BAIRD, and Mrs. MALONEY.  
H.R. 2159: Mr. RUSH.  
H.R. 2194: Mr. RADANOVICH.  
H.R. 2267: Mr. WEINER.  
H.R. 2377: Mr. McDERMOTT.  
H.R. 2381: Ms. SCHAKOWSKY.  
H.R. 2408: Ms. CLARKE.  
H.R. 2446: Mr. JACKSON of Illinois.  
H.R. 2480: Ms. TSONGAS, Mr. SARBANES, Mr. ABERCROMBIE, Mr. MCCAUL, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. ANDREWS, Mr. ISRAEL, and Mr. OBERSTAR.  
H.R. 2528: Mr. MICHAUD.  
H.R. 2542: Mr. VAN HOLLEN.  
H.R. 2578: Ms. TITUS and Ms. EDWARDS of Maryland.  
H.R. 2624: Mr. JACKSON of Illinois.  
H.R. 2625: Mr. WELCH.  
H.R. 2648: Mr. AUSTRIA and Mr. CLYBURN.  
H.R. 2709: Ms. EDWARDS of Maryland.  
H.R. 2835: Mr. NADLER of New York.  
H.R. 2866: Mr. MCCAUL, Ms. TITUS, Mr. LEE of New York, Mr. MORAN of Kansas, and Mr. HALL of Texas.  
H.R. 2897: Mr. SOUDER, Mr. DONNELLY of Indiana, Mr. CUELLAR, Mr. EDWARDS of Texas, Mr. ELLISON, Mr. STUPAK, Mr. LYNCH, and Mr. POMEROY.  
H.R. 2906: Mr. BRALEY of Iowa and Mr. FORBES.  
H.R. 2941: Mr. STARK.  
H.R. 3019: Ms. MATSUI.  
H.R. 3020: Mr. CHAFFETZ, Mr. PATRICK J. MURPHY of Pennsylvania, and Mr. SIMPSON.  
H.R. 3039: Mr. PAULSEN.  
H.R. 3053: Mr. JOHNSON of Georgia.  
H.R. 3077: Mr. GRAYSON and Mr. FRANK of Massachusetts.  
H.R. 3116: Mr. CARNEY.  
H.R. 3202: Mr. GEORGE MILLER of California, Mr. GUTIERREZ, and Ms. NORTON.  
H.R. 3217: Mr. POE of Texas and Mr. POSEY.  
H.R. 3218: Mr. POSEY.  
H.R. 3245: Ms. BALDWIN.  
H.R. 3286: Mr. GUTHRIE.  
H.R. 3307: Mr. PUTNAM, Ms. GINNY BROWN-WAITE of Florida, Ms. ROS-LEHTINEN, and Mr. WILSON of South Carolina.  
H.R. 3328: Mr. LYNCH and Mr. JACKSON of Illinois.  
H.R. 3355: Mr. MICHAUD.  
H.R. 3359: Ms. FUDGE.  
H.R. 3380: Mrs. NAPOLITANO.  
H.R. 3381: Ms. NORTON.  
H.R. 3439: Mr. McDERMOTT.  
H.R. 3454: Mr. SHADEGG.  
H.R. 3480: Ms. ESHOO and Mr. FILNER.  
H.R. 3493: Mr. HINCHAY.  
H.R. 3508: Mr. WESTMORELAND.  
H.R. 3545: Ms. ROYBAL-ALLARD and Mr. JACKSON of Illinois.  
H.R. 3554: Mr. LYNCH, Mr. BARROW, and Mr. McDERMOTT.  
H.R. 3560: Ms. LEE of California.  
H.R. 3578: Mr. MCINTYRE.  
H.R. 3611: Mr. McCOTTER.  
H.R. 3621: Ms. MCCOLLUM.  
H.R. 3623: Mr. JACKSON of Illinois.  
H.R. 3644: Mr. FALOMAVAEGA and Mr. MORAN of Virginia.  
H.R. 3652: Ms. HERSETH SANDLIN and Mr. FORBES.  
H.R. 3677: Mr. CARTER.  
H.R. 3679: Mr. GRAYSON.  
H.R. 3683: Mr. PASCRELL.  
H.R. 3693: Mrs. BLACKBURN.  
H.R. 3700: Mr. LUETKEMEYER.  
H.R. 3715: Mr. CHANDLER.  
H.R. 3724: Mr. TIBERI.  
H.R. 3728: Mr. GRAYSON.  
H.R. 3749: Mr. KING of Iowa and Mr. WILSON of Ohio.  
H.R. 3765: Mr. WALDEN.  
H.R. 3766: Mr. WATT and Ms. FUDGE.  
H.R. 3790: Mr. POE of Texas, Mr. TIM MURPHY of Pennsylvania, Mr. COHEN, Mrs. MCCARTHY of New York, Mr. RUPPERSBERGER, and Mr. RODRIGUEZ.  
H.R. 3799: Mr. KILDEE and Mr. LEWIS of Georgia.  
H.R. 3800: Ms. ROYBAL-ALLARD.  
H.R. 3821: Mr. POSEY.  
H.R. 3822: Mr. POSEY.  
H.R. 3837: Mr. HOLDEN and Ms. LORETTA SANCHEZ of California.  
H.R. 3904: Mrs. LOWEY, Mrs. DAVIS of California, Mr. SERRANO, and Mr. MORAN of Virginia.  
H.R. 3905: Mr. OLSON and Mr. TIAHRT.  
H.R. 3942: Ms. SCHAKOWSKY and Mr. CULBERSON.  
H.R. 3943: Mr. HALL of New York, Mr. MAFFEI, Mr. MOORE of Kansas, Mr. SPACE, Mr. POLIS of Colorado, and Mr. GRIJALVA.  
H.R. 3966: Mr. GRAYSON.  
H.R. 3991: Ms. CHU and Mr. KUCINICH.  
H.R. 4000: Mr. JOHNSON of Georgia.  
H.R. 4003: Mr. TONKO.  
H.R. 4021: Mr. TONKO and Ms. MATSUI.  
H.R. 4022: Mr. BOUSTANY.  
H.R. 4034: Mr. MINNICK, Ms. BORDALLO, and Mr. WAMP.  
H.R. 4044: Mr. HODES.  
H.R. 4045: Mr. MINNICK, Mr. FARR, and Mr. JOHNSON of Georgia.  
H.R. 4048: Mr. WALZ.  
H.R. 4051: Mr. PASCRELL.  
H.J. Res. 47: Mr. TIBERI.  
H. Con. Res. 67: Ms. JACKSON-LEE of Texas.  
H. Con. Res. 170: Mr. TIM MURPHY of Pennsylvania and Mr. WAMP.  
H. Con. Res. 212: Mr. SCHOCK, Mr. KLEIN of Florida, Mr. BURTON of Indiana, Mr. DOGGETT, and Mr. MANZULLO.  
H. Res. 111: Mr. LATHAM and Mr. POMEROY.  
H. Res. 150: Mr. CONYERS and Ms. JACKSON-LEE of Texas.  
H. Res. 166: Mr. FORBES.  
H. Res. 200: Mr. DELAHUNT and Ms. ROS-LEHTINEN.  
H. Res. 227: Mr. McCOTTER.  
H. Res. 397: Mr. UPTON.  
H. Res. 516: Mr. CALVERT.  
H. Res. 524: Mr. SNYDER.  
H. Res. 611: Mr. BRALEY of Iowa.  
H. Res. 727: Mr. CALVERT.  
H. Res. 803: Mr. MORAN of Kansas and Mr. MCMAHON.  
H. Res. 851: Mr. ROTHMAN of New Jersey.  
H. Res. 861: Mr. CAO and Mr. HOEKSTRA.  
H. Res. 864: Mr. DAVIS of Alabama, Mr. FALOMAVAEGA, Mr. PASTOR of Arizona, Mr. GRIJALVA, Mr. THOMPSON of California, Mr. GARAMENDI, Mr. McNERNEY, Ms. SPEIER, Ms. ESHOO, Mr. HONDA, Mr. FARR, Mr. COSTA, Mrs. CAPPS, Mr. BERMAN, Mr. SCHIFF, Mr. WAXMAN, Ms. CHU, Ms. WATSON, Ms. ROYBAL-ALLARD, Ms. RICHARDSON, Mrs. NAPOLITANO, Ms. MATSUI, Mr. FILNER, Mrs. DAVIS of California, Ms. WOOLSEY, Mr. GEORGE MILLER of California, Ms. DEGETTE, Mr. POLIS of Colorado, Mr. PERLMUTTER, Mr. COURTNEY, Mr. HIMES, Mr. MURPHY of Connecticut, Ms. NORTON, Ms. CASTOR of Florida, Mr. WEXLER, Mr. KLEIN of Florida, Mr. HASTINGS of Florida, Ms. CORRINE BROWN of Florida, Mr. BARROW, Mr. SCOTT of Georgia, Mr. BISHOP of Georgia, Mr. JOHNSON of Georgia, Mr. LEWIS of Georgia, Ms. BORDALLO, Mr. ABERCROMBIE, Ms. HIRONO, Mr. BRALEY of Iowa, Mr. LOEBSACK, Mr. COSTELLO, Mr. HARE, Mr. JACKSON of Illinois, Mr. GUTIERREZ, Mr. QUIGLEY, Mr. DAVIS of Illinois, Ms. SCHAKOWSKY, Mr. DONNELLY of Indiana, Mr. CARSON of Indiana, Mr. YARMUTH, Mr. OLVER, Mr. NEAL of Massachusetts, Mr. MCGOVERN, Ms. TSONGAS, Mr. TIERNEY, Mr. MARKEY of Massachusetts, Mr. LYNCH, Mr. KRATOVIL, Mr. RUPPERSBERGER, Ms. EDWARDS of Maryland, Mr. CUMMINGS, Ms. PINGREE of Maine, Mr. LEVIN, Ms. KILPATRICK of Michigan, Mr. CONYERS, Mr. DINGELL, Mr. KILDEE, Mr. SCHAUER, Mr. PETERS, Mr. WALZ, Ms. MCCOLLUM, Mr. ELLISON, Mr. CLAY, Mr. CARNAHAN, Mr. CLEAVER, Mr. SABLON, Mr. THOMPSON of Mississippi, Mr. BUTTERFIELD, Mr. WATT, Mr. MILLER of North Carolina, Ms. SHEA-PORTER, Mr. ANDREWS, Mr. PAYNE, Mr. HOLT, Mr. SIREN, Mr. FALLONE, Mr. ROTHMAN of New Jersey, Mr.

BISHOP of New York, Mr. TOWNS, Ms. CLARKE, Ms. VELÁZQUEZ, Mr. MCMAHON, Mrs. MALONEY, Mr. RANGEL, Mr. SERRANO, Mr. ENGEL, Mrs. LOWEY, Mr. HINCHEY, Mr. ARCURI, Mr. HIGGINS, Ms. SLAUGHTER, Mrs. MCCARTHY of New York, Mr. ACKERMAN, Mr. MEEKS of New York, Mr. CROWLEY, Mr. NADLER of New York, Mr. WEINER, Mr. RYAN of Ohio, Mr. DRIEHAUS, Mr. KUCINICH, Ms. FUDGE, Ms. KILROY, Mr. BOCCIERI, Mr. WILSON of Ohio, Ms. KAPTUR, Mr. WU, Mr. BLUMENAUER, Mr. BRADY of Pennsylvania, Mr. KANJORSKI, Mr. MURTHA, Ms. SCHWARTZ, Mr. FATTAH, Mrs. DAHLKEMPER, Mr. PIERLUISI, Mr. KENNEDY, Mr. LANGEVIN, Mr. SPRATT, Mr. CLYBURN, Mr. COHEN, Mr. HINOJOSA, Ms. JACKSON-LEE of Texas, Mr. GONZALEZ, Mr. RODRIGUEZ, Mr. DOGGETT, Mr. CUELLAR, Mr. AL GREEN of Texas, Mr. CONNOLLY of Virginia, Mr. SCOTT of Virginia, Mr. PERRIELLO, Mr. WELCH, Mr.

INSLEE, Mr. DICKS, Mr. McDERMOTT, Ms. BALDWIN, Ms. MOORE of Wisconsin, Mr. KAGEN, Mr. MOLLOHAN, Mr. RAHALL, Mr. STARK, Mr. BECERRA, Ms. WATERS, Ms. LINDA T. SÁNCHEZ of California, Mr. BACA, Ms. LEE of California, Mr. SALAZAR, Mr. RUSH, Mr. DELAHUNT, Mr. LUJÁN, Mr. REYES, Mr. ORTIZ, Mr. GENE GREEN of Texas, Ms. EDDIE BERNICE JOHNSON of Texas, and Mrs. CHRISTENSEN.

H. Res. 870: Mr. SIMPSON, Mr. HASTINGS of Washington, Mr. LINCOLN DIAZ-BALART of Florida, Mr. MARIO DIAZ-BALART of Florida, Mr. ROGERS of Michigan, Mr. GOODLATTE, Mr. KIRK, Mr. SMITH of Nebraska, Mr. LEWIS of California, Mr. ROYCE, Mr. CRENSHAW, Mr. UPTON, and Mr. ROGERS of Kentucky.

H. Res. 879: Ms. FUDGE, Mr. HOLT, Mr. HALL of New York, Mr. COURTNEY, Mrs. McMORRIS RODGERS, Ms. CORRINE BROWN of Florida, Ms. RICHARDSON, Mr. KISSELL, Mr. SIMPSON, Ms.

NORTON, Mr. WALZ, Mrs. MALONEY, Mr. KIRK, Mr. CASTLE, Ms. MATSUI, Mr. LOBIONDO, Mr. THOMPSON of Pennsylvania, Ms. CHU, Mr. GRAVES, Mr. PIERLUISI, and Mr. FILNER.

H. Res. 890: Mr. LEWIS of Georgia, Mr. PAL-LONE, Mr. HONDA, Mr. LEVIN, Mr. COSTA, Mr. LARSEN of Washington, Mr. KILDEE, Mr. MCMAHON, Ms. BORDALLO, and Mr. BUTTERFIELD.

H. Res. 891: Mr. HERGER, Ms. BORDALLO, Mr. COOPER, Ms. SHEA-PORTER, Mr. SNYDER, Mr. COFFMAN of Colorado, Ms. PINGREE of Maine, Mr. BRIGHT, Mrs. DAVIS of California, Mr. FORBES, Mr. LANGEVIN, Mr. COBLE, and Mr. DELAHUNT.

H. Res. 900: Mr. BISHOP of New York and Mr. MASSA.

H. Res. 901: Mr. STARK, Ms. FUDGE, Mr. PAYNE, Ms. CORRINE BROWN of Florida, Mr. TOWNS, and Mr. LEWIS of Georgia.

## EXTENSIONS OF REMARKS

## EARMARK DECLARATION

## HON. GREGG HARPER

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Monday, November 16, 2009

Mr. HARPER. Madam Speaker, pursuant to the Republican Leadership standards on earmarks, I am submitting the following information regarding earmarks I received as part of H.R. 2996—Department of the Interior, Environment, and Related Agencies Appropriations Act, 2010.

Requesting Member: Congressman GREGG HARPER

Bill Number: H.R. 2996

Project Name: Mississippi State Natural Resources Economic Enterprises Program

Project Amount: \$350,000

Agency: Fish and Wildlife Service

Account: Research Management

Recipient and Address: Mississippi State University, P.O. Box 9800, Mississippi State, MS 39762

Description of Request: The integrated extension-research program promotes a sustainable/profitable conservation ethic among landowners, managers, and communities that includes recreational enterprises with fish, wildlife, and forest/agricultural land. It is imperative that we (1) have a long-term interdisciplinary research program, (2) monitor economic impact to rural communities, (3) develop educational curricula and training materials, and (4) demonstrate successful integrated wildlife-forest-agricultural business strategies to promote rural development and family farm incomes.

RECOGNIZING THE PASSING OF  
W.A. JAKE JERNIGAN

## HON. JEFF MILLER

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 16, 2009

Mr. MILLER of Florida. Madam Speaker, I rise today to recognize Mr. W.A. "Jake" Jernigan, a Northwest Florida leader who passed away on October 9, 2009. Jake Jernigan spent his life serving our community and our country, and I am proud to honor his lifetime of dedication and service.

Born on October 20, 1919 in Baker, Florida, Jake Jernigan was the second child of Walter and Addie Cobb Jernigan. He lived on the Cobb family farm until moving to Crestview, Florida to attend grade school. In 1937, Jake enrolled at the University of Florida. However, the call of duty interrupted his education, and Jake joined the United States Army to serve during World War II. After his distinguished military service, he returned to the University of Florida where he met the future Senator

George Smathers, working as a volunteer on Smathers' student body president campaign.

After graduating in 1942 with a degree in education, Jake returned to Crestview and taught for a short time at Laurel Hill before founding the Jernigan Insurance Agency and the Jernigan Construction Company. In 1950, he married Claire Covell of DeFuniak Springs, Florida. Jake developed the first affordable housing subdivision in Crestview in 1954 and he also founded the First National Bank of Crestview in 1956, where he served as its first chairman for ten years.

Jake also continued his life of public service as a member of the Crestview City Council and as a founder of the Okaloosa County Island Authority. In 1950 and again in 1960, he served as his old friend George Smathers' Northwest Florida Senate campaign chairman. Later in 1960, he served as John F. Kennedy's Northwest Florida campaign chairman.

Madam Speaker, on behalf of the United States Congress, I am privileged to recognize the life of Jake Jernigan. He will always be remembered by all of us in Northwest Florida as a true community leader. My wife Vicki and I offer our continued prayers for his children, Jill, Jan, Jack, Jenny, Tracey, and George, grandchildren, great-grandchildren, and entire extended family as we remember and honor the life of Jake Jernigan.

CONGRESSMAN BROWN THANKS MEMBERS OF THE CHARLESTON TEA PARTY AND ALL RESIDENTS OF SOUTH CAROLINA'S FIRST DISTRICT WHO PARTICIPATED IN THE HEALTH CARE "HOUSE CALL" ON WASHINGTON

## HON. HENRY E. BROWN, JR.

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 16, 2009

Mr. BROWN of South Carolina. Madam Speaker, I rise today to personally thank members of the Charleston Tea Party and all residents of South Carolina's first district who took time out of their busy schedules and made the long bus trip to Washington to participate in the Health Care "House Call" on Washington on Thursday, November 5, 2009.

I was proud to stand with my constituents on the steps of the Capitol as we voiced our opposition towards the Democrats' health care bill. I greatly appreciate the time and effort of my constituents who are dedicated to the future of health care in South Carolina and I am proud to say I voted no on H.R. 3962.

## ANGELA D'AURIO

## HON. ED PERLMUTTER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Monday, November 16, 2009

Mr. PERLMUTTER. Madam Speaker, I rise today to honor and applaud Angela D'Aurio for her outstanding service to our community.

Angela D'Aurio has served Jefferson County for many years as a politically active citizen. She has managed several local campaigns, and is active in many civic organizations. Angela D'Aurio is also a supporter of the area Kiwanis Denver West Soccer Club.

The dedication demonstrated by Angela D'Aurio directly benefits her community, and is exemplary of her high personal and professional standards. She serves as a leader who inspires those around her to continually strive for a safer environment for America's children through her work protecting children from internet predators.

I extend my deepest congratulations once again to Angela D'Aurio for her recognition by the West Chamber of Jefferson County. I have no doubt she will exhibit the same dedication and character in all her future accomplishments.

## IN HONOR OF VFW POST 3020

## HON. JOHN H. ADLER

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, November 16, 2009

Mr. ADLER of New Jersey. Madam Speaker, it is with great pride that I stand before you today, asking you and my fellow Members of Congress to honor the Veterans of Foreign Wars Post No. 3020. For 75 years they have stood firmly to their commitment to our Nation.

One of the ways we honor our country is to make service a tradition. In south Jersey, this effort has gained substantial support from the VFW, a visible, active, and honorable organization. I often cite the way in which our veterans find ways to continue to serve as a strength to our community. Veterans in south Jersey have been a constant reminder of the pride we take in public service throughout the past 75 years.

VFW Post 3020 has always been supportive of service men and women at any time of need. The members of VFW Post 3020 all served this country once. Now they are serving their country again. And I for one would like to thank them for all they have done, and will continue to do.

Madam Speaker, please join me in wishing the best for the long future ahead for this great organization. Thank you to all of the veterans of VFW Post 3020, and thanks to all of the members of our community who support

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

the VFW in their mission. God bless you all, and God bless America.

#### HONORING LARRY SHEHADEY

### HON. GEORGE RADANOVICH

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Monday, November 16, 2009*

Mr. RADANOVICH. Madam Speaker, I am joined today with Congressmen JIM COSTA and DEVIN NUNES to honor the life of Larry Shehadey for his dedication to his family, business and community. Mr. Shehadey passed away on Saturday, October 10, 2009 at the age of one hundred and two. The life of Mr. Shehadey will be honored on Thursday, October 15, 2009 in Fresno, California.

Larry Shehadey was born on July 2, 1907 to Lebanese immigrants Salem and Sadie. He was raised in the foothills of Northern California. He never missed a day of school, although he did walk or ride his horse five miles one-way to get to school. His family moved to San Francisco, where he graduated from Polytechnic High and excelled in athletics. Upon graduating from high school, he became a salesman in San Francisco and married Elaine.

In 1951, Mr. Shehadey bought a controlling interest in Producer's Dairy and moved his family to Fresno, California. When he became involved with Producer's, the company was one of over seventy dairies in the Fresno area; however, through creative marketing Producer's became the top dairy in just three years. He was innovative and always looking for a better way to do things. He developed his own vertical integration system to make production more efficient. He also started his own herd and added acreage to grow alfalfa to feed his herd. His two sons, John and Richard, became part of the family business.

Growing up during the depression, his goal was always to provide well for his family and to leave a legacy for them. He was also very involved in our community. Mr. Shehadey was generous in giving and donated to Fresno hospitals, Fresno City College and possibly his largest contribution was to California State University, Fresno. He donated to CSU Fresno through his support of the Craig School of Business, the Jordan College of Agricultural Science and Technology and the athletics department. He was honored by CSU Fresno when they named a clock tower after him.

After sixty-three years of marriage, Mrs. Shehadey passed away. Mr. Shehadey is survived by his two sons, John and his wife Mary, and Richard and his wife Sue; eight grandchildren, eighteen great grandchildren and two nephews.

Madam Speaker, we rise today to posthumously honor Larry Shehadey. I invite my colleagues to join me in honoring his life and wishing the best for his family.

#### HONORING BRENDA D. WILLIAMS

### HON. MIKE QUIGLEY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Monday, November 16, 2009*

Mr. QUIGLEY. Madam Speaker, I rise to honor Brenda D. Williams for her many years of service and dedication to the U.S. Postal Service. On October 31, 2009, after 36 years, Brenda retired from her position as Customer Relations/Congressional Liaison for the Chicago District.

Ms. Williams began her career working in the old Chicago Main Post Office Building as a Tour 1 Scheme Qualified/Distribution Clerk. Her hard work and dedication earned her a position in the Regional Office and secretary to the Manager.

After five short years, Ms. Williams was transferred to the Computer Forwarding Site to help train all new clerks. Due to her experience and knowledge of the postal system, Brenda soon became a valuable asset to all CFS Managers. Her institutional knowledge helped ease the transitions of six managers, ensuring that operations never missed a beat.

In 1995, Brenda moved to the Consumer Affairs Department, where she stayed until 2001, when she was transferred to the Congressional Office.

Brenda always went above and beyond to provide assistance to those who were unable to access alternate means of assistance, both in the public sector and as a congressional liaison. She calmly dealt with many difficult circumstances.

Ms. Williams has helped the Postal System in other ways, as well. She has served on numerous committees, including: Multicultural Day, Federal Employee of the Year, Postmaster Installations, Stamp Unveilings, Congressional Briefings, Santa Letters and Employee Recognition Day. In all areas, Brenda's expertise proved invaluable.

Madam Speaker, I join with all of my colleagues in congratulating Brenda D. Williams on her retirement and wish her continued happiness in the future.

#### PERSONAL EXPLANATION

### HON. J. GRESHAM BARRETT

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

*Monday, November 16, 2009*

Mr. BARRETT of South Carolina. Madam Speaker, unfortunately, I missed recorded votes on the House floor on Monday, November 2, 2009 and Tuesday, November 3, 2009.

Had I been present on Monday, November 2, 2009, I would have voted "aye" on rollcall vote No. 832 (on motion to suspend the rules and agree to H.R. 1168), "aye" on rollcall vote No. 833 (on motion to suspend the rules and agree to H. Res. 291), "aye" on rollcall vote No. 834 (on motion to suspend the rules and agree to S. 509).

Had I been present on Tuesday, November 3, 2009, I would have voted "aye" on rollcall vote No. 835 (on motion to suspend the rules and agree to H.R. 3949), "aye" on rollcall vote

No. 836 (on motion to suspend the rules and agree to H. Res. 398), "aye" on rollcall vote No. 837 (on motion to suspend the rules and agree to H. Res. 866), "aye" on rollcall vote No. 838 (on motion to suspend the rules and agree to H. Res. 867), "aye" on rollcall vote No. 839 (on motion to suspend the rules and agree to H.R. 3157), "aye" on rollcall vote No. 840 (on motion to suspend the rules and agree to H. Res. 736).

#### ANN EVANS

### HON. ED PERLMUTTER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Monday, November 16, 2009*

Mr. PERLMUTTER. Madam Speaker, I rise today to honor and applaud Ann Evans for her outstanding service to our community.

Ann Evans exhibits a rare combination of drive, leadership, compassion and generosity. She is a nursing professional with extensive experience in both classroom and hospital settings and is committed to ensuring safe, high quality delivery of care in our community. Ann Evans has worked hard to improve patient care at Lutheran by incorporating a cultural belief model as a foundation for improving patient satisfaction. She has been recognized professionally for her efforts by the American Heart Association and is a fellow of both the American Heart Association and the American Academy of Nursing.

In her dedication to furthering women's issues, Ann introduced a program called Inspire to Jefferson County which focuses on non-traditional approaches which encourage women to practice self care and preventative care. She also introduced the Daisy award, a monthly patient-nominated award for exceptional nurses, and provided the lead gift to the Friends of Nursing Fund dedicated to the advancement of nursing excellence in the community.

In addition to her work in healthcare, Ann Evans serves as Board secretary/treasurer of The Cloud Foundation, a group which focuses on the preservation of wild horses on public lands. She served on the Jefferson County Symphony Board of Directors, has been appointed to the Colorado Center for Nursing Excellence and the Daisy Foundation's Board of Directors, and has served on the Board and as President of the American Association of Critical Care Nurses.

I extend my deepest congratulations once again to Ann Evans for her recognition by the West Chamber of Jefferson County. I have no doubt she will exhibit the same dedication and character in all her future accomplishments.

#### RECOGNIZING THE PICKERING TREATY IN CANANDAIGUA, NY

### HON. ERIC J.J. MASSA

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Monday, November 16, 2009*

Mr. MASSA. Madam Speaker, I rise today to recognize the anniversary of the longest

standing unbroken treaty between the United States government and a sovereign Native People. This Wednesday, the 11th of November, will mark the two hundred and fifteenth anniversary of the signing of the Pickering Treaty in Canandaigua, New York, the treaty which established peace between the people of the Iroquois Confederacy and the United States of America.

Timothy Pickering, representing President George Washington on that historic day in Canandaigua, along with the leaders of the Iroquois Nation, signed the treaty which established peace and friendship on the western frontier of New York while securing lands in New York State for the Iroquois Confederacy. The treaty was signed into law by President Washington in January of 1795, following its ratification by the United States Senate in Philadelphia.

As a veteran, I note the appropriateness of this anniversary falling on Veterans Day. It is significant that Native Americans join the U.S. Armed Forces at a higher per capita rate than members of any other group in our country and have established a record of bravery under fire that stands as a monument to courage and national service. The service of our veterans, regardless of race or ethnicity, all sacrifice for what this treaty has stood for over two hundred years: Peace between peoples, cooperation between neighbors, and friendship among nations.

I stand today to remind this storied chamber that while the bonds of friendship that embody this treaty have been strained, they have never broken. It is an imperative that we, as Americans, keep and celebrate the promises that we make to other nations and that we always recognize the importance of our word. No other treaty signifies this sacred obligation more than the Treaty of Canandaigua.

RECOGNIZING THE HARLEM COUNCIL OF ELDERS, INC., SALUTE TO EGYPTOLOGIST DR. YOSEF A.A. BEN-JOCHANNAN

**HON. CHARLES B. RANGEL**

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Monday, November 16, 2009*

Mr. RANGEL. Madam Speaker, I rise with great pride to join New York Democratic County Leader Keith L.T. Wright and the Harlem Council of Elders to pay tribute to Egyptologist and Pan-Africanist, Dr. Yosef A.A. Ben-Jochannan (Dr. Ben), Harlem's internationally renowned historian and educator of the African Diaspora.

In 1918, Dr. Yosef A.A. Ben-Jochannan, affectionately known as Dr. Ben was born in Gondar, Ethiopia to Krstan ben Jochannan, a lawyer and diplomat, and Tulia Matta, a native of Puerto Rico, who was a homemaker and midwife. Dr. Ben's parents were both of the Jewish faith. His father was a member of the "Falasha," or Beta Israel, and his mother was a descendent of Spanish Sephardic Jews. Krstan ben and Tulia met in Madrid, Spain, where she was attending college and he was working as a diplomatic attaché. Soon after their marriage, they traveled from Spain to Ethiopia where their son, Yosef, was born.

In Ethiopia, he spent the first five years of his life, later on moving to the Americas. He said in later interviews that, in the 1920s, the Ethiopian government sent his father to Brazil to help develop its coffee trade. They lived for about a year in Rio de Janeiro before a 1928 coup in Ethiopia saw the overthrow of Empress Zauditu and the consolidation of power under Emperor Haile Selassie. After the change in political leadership, the family decided not to return to Ethiopia but instead settled permanently in Puerto Rico. Yosef was raised primarily in the town of Fajardo, located on the eastern side of Puerto Rico, and the nearby islands of St. Croix and St. Thomas, where his mother had relatives. He was thus fluent in Spanish and English from an early age.

Dr. Ben attended the University of Puerto Rico at Rio Piedras, where he first studied law, but later switched to civil engineering. He graduated with a Bachelor of Science degree in 1939. In his senior year of college Dr. Ben wrote and self-published a booklet titled *Nosotros los Hebreos Negros* (We the Black Hebrews) about his experience growing up black and Jewish on a predominately Catholic island where at the time people of African ancestry were commonly viewed as inferior. Dr. Ben's father was fluent in several languages and often spoke with his son about the significance of Ethiopia's ancient past. However, at school and in the community, he frequently heard the view that Africa was a backward and wretched continent. In response to this, his father sent him to visit his grandparents in Ethiopia, where he stayed for several months. To get there, Dr. Ben traveled by ship to Egypt, then took a train through that country to Ethiopia, and thus began his lifelong fascination with Africa's 4,000-mile-long Nile Valley.

Upon his return to Puerto Rico, he worked briefly as a lawyer and in 1941 moved to New York City with his maternal uncle, Casper Holstein, a self-made millionaire and philanthropist who had become rich from the Harlem "numbers racket." Holstein was one of the largest contributors to Marcus Garvey's Universal Negro Improvement Association, and was also politically active in his native Virgin Islands. Dr. Ben gained a unique insight into the rich cultural milieu of black New York, including its lively street life, informal "numbers" lotteries, street-corner preachers, and politics. At the time, Harlem was the epicenter of African American activism in support of Ethiopia, which had been invaded and occupied by Italy under Benito Mussolini during World War II. Although the occupation ended the year he arrived in New York, Dr. Ben joined the Ethiopian World Federation and African Nationals in America.

Ben Jochannan initially found work as a draftsman, but he was drawn to the study of Africa and its ancient history. He began to speak on Harlem street corners, mostly about African history, taking part in a tradition of public speechmaking that was one of the neighborhood's unique attributes, joining such noteworthy contemporaries as Arthur Reid, Carlos Cooks, and Wentworth Matthews. He then came to know several members of the Harlem History Club's leading intellectuals and historians such as John Henrik Clarke, J. A. Rogers, John G. Jackson, and Richard B.

Moore. During the late 1940s, Dr. Ben met and befriended a young man known as "Detroit Red," who used to hustle on the corner below his Harlem office. Their friendship deepened after "Detroit Red" joined the Nation of Islam in prison, returning to Harlem as Malcolm X. They remained close up until Malcolm's assassination in 1965.

Through this early period of his life in the United States, Dr. Ben maintained the Jewish faith of his upbringing, attending Harlem's Commandment Keeper's Ethiopian Hebrew Congregation led by Rabbi Wentworth A. Matthew and other synagogues. In New York, he continued to struggle as he had in Puerto Rico, with the prevailing societal presumption that tended to question his identity as an African Jew; while at the same time, his study of ancient Egyptian history and spiritual practices was having an ever increasing impact on his thinking. He later wrote in several of his books, his differences with other Jews and his intense identification with the African American struggle eventually caused his complete break with Western man's Talmudic Judaism.

In the 1950s, Dr. Ben worked as a researcher for UNESCO and with the Zanzibar mission to the United Nations until that country merged with Tanganyika to become Tanzania in 1961. He later began teaching as an adjunct professor in New York, mostly as a lecturer on African history at such schools as Marymount College at Tarrytown and at Columbia Teacher's College. In 1957, Dr. Ben led a group of nine African American educators to Egypt to show evidence of his contention that sites such as Abu Simbel, the temple of Isis at Philae Island, and the royal tombs of the Valley of the Kings were the remains of ancient black civilizations. He began a series of these trips over the years, and by his estimation led several thousand African Americans to Egypt, Sudan, and Ethiopia over the next four decades. The trips not only facilitated his own study and writing, but they came to be a major part of his legacy as a teacher and contributor. In 1960, Dr. Ben self-published his first work produced in the United States, entitled, "Black Man of the Nile," which he sold for \$5 a copy at Lewis Michaux's National Memorial African Bookstore on Lenox Avenue. In 1961, he married Gertrude England, of St. Croix. The couple would go on to have nine daughters and three sons. They also adopted six other children. Throughout his career as a writer and teacher, Dr. Ben remained a fixture of the Harlem community where he raised his family.

When Harlem was engulfed by several days of social unrest during the summer of 1964, after the police slaying of a local teenager, Dr. Ben was one of several Harlem activists who met with New York Mayor Robert Wagner and, later, John Lindsay to address systemic problems facing the black community in New York.

As a historian and anthropologist, Dr. Ben would return to the Nile Valley more than fifty times and self-publish forty-two books on African pre-history; the civilizations of Egypt, Sudan, and Ethiopia; and on religion. His work argued that the creators of ancient Egyptian civilization (the builders of the pyramids, the Sphinx, and cities and lodges) were Black Africans who first migrated north from the Central

Rift Valley of present-day Tanzania and Uganda. He claimed that mainstream publishers refused to publish his work, saying that there was not sufficient public interest in them and that the publishers had no way to fact-check his claims. His books were known for their tendentious tone and crude presentation that included newspaper clippings, hand-drawn maps, and an informal, idiosyncratic writing style. However, these shortcomings did not reflect a disregard for academic standards such as citation, footnotes, and bibliography, which he supplied extensively. Dr. Ben chose to write in a manner that could be readily absorbed by both lay readers and researchers with little more than a middle-school education. He also steadfastly criticized the overall presentation of African history in American universities and museums. In the late 1960s, Dr. Ben worked briefly as a writer for a New York publishing company, W. H. Sadlier, where he wrote textbooks on African history such as Southern Lands.

In 1973, he served as an adjunct professor of History and Egyptology at Cornell University's Africana Research Center, where his longtime friend and colleague John Henrik Clarke was teaching. Dr. Ben taught there for fifteen years, a period during which he also served as a visiting lecturer at the Faculty of Languages at Al Azhar University in Cairo, Egypt. In 1979, he traveled to the South Pacific where he lectured in Papua New Guinea about the native population's origins on the African continent. In 1984, he became one of six founding members of the Association for the Study of Classical African Civilization (ASCAC), an organization of black scholars focusing on the ancient African world. The other founders were John Henrik Clarke, Asa G. Hilliard III, Jacob H. Carruthers, Leonard Jeffries, and Maulana Karenga.

Dr. Ben was a popular and sought-after lecturer on college campuses nationally and internationally, celebrated for his direct, polemical style and wit. In 1993, Mary Lefkowitz, a Wellesley classics professor, mentioned him prominently in a Wall Street Journal editorial that fueled an acerbic national debate about "Afrocentrism" in academia. Dr. Ben, a lifelong bibliophile had amassed a personal library of over 15,000 books chronicling African and African American history. Outside of academia, Dr. Ben's reputation remains high particularly among many African American laypeople. Today, he can be frequently spotted around Harlem where residents greet him warmly as Dr. Ben!

ADELE O'TOOLE

HON. ED PERLMUTTER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Monday, November 16, 2009

Mr. PERLMUTTER. Madam Speaker, I rise today to recognize and applaud Adele O'Toole for her outstanding service to our community.

Adele O'Toole has lived in Jefferson County Colorado for 20 years, and during that time has been very active in PTA, co-founded a local book club, served as a Cub Scout den mother, Girl Scout leader, and a frequent vol-

unteer at her children's school events. She sponsored a team for the Relay for Life event in Wheat Ridge, and frequently participates in Race for the Cure.

The dedication demonstrated by Adele O'Toole directly benefits her community. Not only does she run a multimillion dollar business, O'Toole's Garden Centers but finds time to serve her community. In her service to the area homeless Adele O'Toole frequently organized Thanksgiving and Easter Basket drives for the homeless and regularly prepares meals for families who stay at the JeffCo Action Center's shelter.

I extend my deepest congratulations once again to Adele O'Toole for her recognition by the West Chamber of Jefferson County. I have no doubt she will exhibit the same dedication and character in all her future accomplishments.

HONORING JUNIOR LEAGUE OF  
FRESNO

HON. GEORGE RADANOVICH

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 16, 2009

Mr. RADANOVICH. Madam Speaker, I rise today to congratulate the Junior League of Fresno upon 50 years of community service to Fresno County. The Junior League of Fresno will celebrate their 50th anniversary on Saturday, October 10, 2009, in Fresno, California.

In 1948, the Service League of Fresno was established and in 1959 it was accepted into the Association of Junior Leagues International, Incorporated, and became the Junior League of Fresno. The organization was created as a way for women to promote volunteerism, develop the potential of women and to improve the community through the effective action and leadership of trained volunteers.

Each year the Junior League of Fresno with hundreds of active and sustaining members, contributes over 20,000 hours of volunteer service toward community efforts. Over the years the league has successfully met the needs of many in the community. The league members research, develop, manage and support projects with community partners in the Fresno region where current needs are unmet and existing resources are minimal. Trained volunteers are matched with specific community needs, which has led to successful partnerships with many organizations such as Break the Barriers, Children's Hospital Central California, the Discovery Center, Firefighters Creating Memories, Fresno Art Museum, Marjorie Mason Center, and the Sanctuary Youth Center.

By educating, training and creating a hands-on experience for the volunteers, the Junior League of Fresno has contributed over 1 million hours of service in the community and has raised over \$3 million for community projects for children, health care issues, social services, education, women's issues, and cultural arts.

Madam Speaker, I rise today to congratulate the Junior League of Fresno for 50 years of service to the Fresno community. I encourage

my colleagues to join me in wishing the league many years of continued success.

IN RECOGNITION OF GENE  
SKOROPOWSKI

HON. DORIS O. MATSUI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 16, 2009

Ms. MATSUI. Madam Speaker, I rise today with my esteemed colleagues from California, MIKE THOMPSON, ZOE LOFGREN, PETE STARK, MIKE HONDA, BARBARA LEE, JERRY MCNERNEY and JOHN GARAMENDI as we honor Eugene Skoropowski, who has served the public and private sector of the passenger rail business for more than 40 years. He is retiring this week as the Managing Director of the Capitol Corridor Joint Powers Authority, CCJPA. As his colleagues, friends and family gather together to celebrate the next chapter of his life, we ask all of our colleagues to join us in saluting this outstanding public servant and supporter of passenger rail.

Not long after receiving his degree in architecture, from the Catholic University in Washington, DC, Gene became an active rail advocate in the late 1960s. His passion and desire to improve the passenger rail business has led him to be not only a national leader, but also a forward thinking innovator. Throughout his career he also has been an inspiration to foreign nations looking to enhance passenger rail service.

Before serving as Manager Director of the Capitol Corridor, Gene managed rail projects with Fluor Corporation for ten years in Los Angeles. During his tenure at Fluor, Gene worked closely with both the French National Railways and SYSTRA. He also served with the Philadelphia Regional Transit System and was Chief Railroad Services Officer for Boston's intercity rail system.

When Gene joined Capitol Corridor in 1999, the CCJPA serviced only eight daily trains. In less than a decade the CCJPA service grew to 32 daily trains on weekdays and 22 trains on weekends. As the number of trains grew, so did the ridership and revenue. He has given commuters across Northern California a convenient transportation alternative. Many train stations have benefitted from Gene's assistance. Such projects include the Richmond Intermodal Station, the Berkeley Station Platform Improvements, New Martinez Intermodal Depot and many more. In recent months, he has been intimately involved in the design of a new station in Sacramento.

Gene's efforts to improve the passenger rail business have not gone unnoticed. Since his arrival, Gene's leadership has led the CCJPA to a number of awards. These awards include, but are not limited to: the Regional Award—Project of the year in 2001, presented by Sacramento Area Council of Governments, SACOG, the Graham Clayton, Jr. Award for Distinguished Service to Passenger Transportation, the Partner of the Year, presented by Solano Transportation Authority, STA, and the 2007 President's Service and Safety Award, presented by Amtrak.

Madam Speaker, we are truly honored to pay tribute to our friend and dedicated public



servant. We ask all of our colleagues to join with us in wishing Gene, his wife Joann, daughters June, Julie and Jeannette and grandchildren Nicholas and Samantha continued success and happiness in all of their future endeavors.

**HONORING EDWARD R. ROYBAL  
METRO GOLD LINE EASTSIDE  
EXTENSION**

**HON. GRACE F. NAPOLITANO**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Monday, November 16, 2009*

Mrs. NAPOLITANO. Madam Speaker, I rise to recognize the opening of the Edward R. Roybal Metro Gold Line Eastside Extension project into my 38th Congressional District. This project, which has received \$490 million in federal funding, will be a vital transportation link for the communities of East Los Angeles and sometime in the future continue through San Gabriel Valley cities. The project has already begun to spur economic development in this historic Mexican-American section of Southern California.

I congratulate my neighboring colleague, Congresswoman LUCILLE ROYBAL-ALLARD for her great work on behalf of this Eastside Extension. She has led the East Los Angeles County delegation in the fight for federal funding for this project over the years. She has continued a tradition of dedicated service to this community begun many years ago by her father, Edward R. Roybal, and we are honoring him here today by naming the Edward R. Roybal Metro Gold Line Eastside Extension in his memory.

This is only the beginning of bringing this important rail extension project to a working class area. Planning and design for phase 2 of this project continues, as it extends the metro line to the cities of Eastern Los Angeles County. Los Angeles Metropolitan Transit Authority and my colleagues must continue to pursue a full funding grant agreement for this project with the Federal Transit Administration in an effort to provide Metro access to the millions of people living in Eastern Los Angeles County. Major cities have great rail transit and the East Los Angeles community should be no exception!

Madam Speaker, my constituency welcomes the metro service finally connecting East Los Angeles to the greater Los Angeles community. This will go a long way to encourage the citizens of East Los Angeles to continue their push for cityhood and will allow the residents of this area to be involved in critical projects, such as the Eastside Extension, that will impact their neighborhood and way of life.

Madam Speaker and colleagues please join me in congratulating the Los Angeles Metropolitan Transit Authority, the Eastern Los Angeles Congressional Delegation, Supervisor Molina, the Review Advisory Committee and the residents of East Los Angeles for their involvement in making this historic moment a reality.

**EARMARK DECLARATION**

**HON. HAROLD ROGERS**

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

*Monday, November 16, 2009*

Mr. ROGERS of Kentucky. Madam Speaker, pursuant to the House Republican standards on congressionally-directed funding, I am submitting the following information regarding funding included in H.R. 2996, the Department of the Interior, Environment, and Related Agencies Appropriations Act of 2010.

Requesting Member: Congressman HAROLD ROGERS

Bill Number: H.R. 2996

Account: Department of the Interior—National Forest Service—Land Acquisition

Legal Name of Recipient: Daniel Boone National Forest

Address of Recipient: 1700 Bypass Road, Winchester, KY 40391

Description of Request: Provide directed funding of \$900,000 for the Daniel Boone National Forest to acquire additional land from willing sellers in the Red River Gorge area, as well as the Rockcastle River and Horse Lick Creek watersheds. Acquisition of these available tracts of land will minimize fragmentation and help ensure consistent management of the forest. Between 2.5 and 5 million people visit the forest every year.

**DR. WANDA BEDINGHAUS**

**HON. ED PERLMUTTER**

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Monday, November 16, 2009*

Mr. PERLMUTTER. Madam Speaker, I rise today to honor and applaud Dr. Wanda Bedinghaus for her outstanding service to our community.

The dedication demonstrated by Dr. Wanda Bedinghaus directly benefits her community in countless ways. A Jefferson County resident since 1992, Dr. Bedinghaus has made significant efforts to improve the health of individuals in the community. She founded and served as senior minister of Lakewood Unity Church, a center for creative spirituality, as well as Harmonia Center for Healing and co-founded Healing Unleashed.

A pediatrician by training, Dr. Bedinghaus was recently made an assistant professor of pediatrics at the University of Colorado's Health Science Center, Department of Pediatrics. She works steadfastly to transform our current medical system into a true system of prevention and wellness.

Currently, Dr. Bedinghaus is studying clinical nutrition in order to better serve the health needs of Jefferson County residents. In addition, Dr. Bedinghaus is bringing wellness workshops to area businesses, helping improve the health of their employees.

I extend my deepest congratulations once again to Dr. Wanda Bedinghaus for her recognition by the West Chamber of Jefferson County. I have no doubt she will exhibit the same dedication and character in all her future accomplishments.

**RESOLUTION OF THE HAMILTON  
COUNTY COUNCIL ENCOURAGING  
THE PRESERVATION OF INDIANA  
JOBS**

**HON. DAN BURTON**

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

*Monday, November 16, 2009*

Mr. BURTON of Indiana. Madam Speaker, in October the national unemployment rate reached 10.2 percent, the highest level of unemployment our country has seen since April 1983. Clearly, the stimulus package rushed into law earlier this year has failed to create the jobs that President Obama, Vice President BIDEN, and the Democrat Congressional Leadership promised it would. And, I fear that the full extent of the unfulfilled promises of job creation and economic stimulus are just beginning to surface.

Under the circumstances, as policymakers one of the first questions we should ask when evaluating any bill that comes before this House is "Will enacting the policies embodied by this bill potentially jeopardize American jobs?" If the answer is yes, in my opinion, we have a responsibility to the American people to reject that bill. Unfortunately, it appears that my colleagues on the other side of the aisle take a different view. Rather than seeking to preserve and grow private sector jobs they seem determined to kill those jobs in favor of the Federal government assuming control over a larger and larger percentage of our economy.

I would like to briefly discuss one example of the Majority's drive to replace private sector jobs with government jobs that, if enacted into law, will potentially put thousands of Hoosiers out of work. Recently, the House of Representative voted on the "Student Aid and Fiscal Responsibility Act of 2009", H.R. 3221, which sets the stage for the elimination of the Federal Family Education Loan, FFEL, program leaving parents, schools, and students with no choice for obtaining student loans except for the Federal government's Direct Lending Program. Supporters of the proposal contend that consolidating student loans under the Federal umbrella will actually save the Federal government money. They cite as evidence a Congressional Budget Office, CBO, estimate that nationalizing the whole Federal student loan program would save nearly \$90 billion in direct spending over ten years. However, what they fail to mention is that the CBO also found that President Obama's plan to reform the Pell Grant program would increase direct spending by \$293 billion over that same 10-year period. In other words, any potential savings to the taxpayer, real or not, from federalizing the student loan industry will actually be spent many times over. More importantly, whether the plan to federalize the student loan industry is good fiscal policy or not fails to take into account the real world question of jobs.

Moving to a one hundred percent Direct Lending system would kill jobs in the private student loan industry. Make no mistake about it, it is not a question of if jobs will be lost; it is a question of how many jobs will be lost. The FFEL program supports more than 30,000

private sector jobs nationwide. In Indiana alone about 2,300 jobs are in the FFEL industry, and in Indiana's 5th Congressional District, killing off the FFEL program could result in the loss of more than 1,500 jobs.

As you can imagine, the possibility has many of my constituents worried, and for good reason. In Fishers, Indiana, Sallie Mae—the Nation's largest private student loan lender—operates a Loan Service and Data Center and employs 647 Hamilton County residents. The Hamilton County Council—which represents the people of Fishers—is following this issue closely and has taken note of what the end of the FFEL program could mean for hundreds of its residents. I would like to ask unanimous consent to place into the CONGRESSIONAL RECORD a copy of the Hamilton County Council resolution encouraging the preservation of Indiana jobs, which was passed on November 4.

RESOLUTION No. 11-04-09-02

Whereas, the Congress of the United States is debating the President's plan to make college more affordable; and,

Whereas, among many issues involved in said debate is the issue of eliminating private student lenders; and,

Whereas, Sallie Mae and its 8,500 employees across the country including 2,300 in Indiana are "at risk" in said debate; and,

Whereas, Sallie Mae employees 647 Hamilton County Residents and,

Whereas, Sallie Mae, its employees and leadership have been significant supporters of the community in many ways; and,

Whereas, the Hamilton County Council on behalf of all residents of Hamilton County is supportive of responsible actions by the Congress which will recognize appropriate cost saving measures while protecting valuable jobs for Hoosier families; and,

Whereas, Sallie Mae and a broad coalition representing various stakeholders in the student loan community have proposed a responsible alternative which should be seriously considered and adopted as the best way of achieving the goals and objectives of both the President and Congress, without sacrificing tens of thousands of jobs across the country and here in Indiana: Now, therefore, be it

*Resolved by the Hamilton County Council, meeting in regular session, as follows:*

Section 1. That the Congress of the United States is hereby encouraged to adopt a student loan reform proposal that makes college more affordable and achieves significant taxpayer savings while also protecting Hoosier jobs and our families and communities.

Section 2. That a copy of this Resolution be provided to all members of the Indiana Congressional delegation forthwith as an expression of the concern and desires of the entire County of Hamilton, Indiana.

Section 3. This Resolution shall be in full force and effect from and upon its adoption.

All of which is resolved this 4th day of November, 2009.

Hamilton County Council.

I support the FFEL program and believe that H.R. 3221 will lead to its extinction, which is why I voted against the bill. Additionally, on two separate occasions during this Congress I have proposed amendments to help preserve the FFEL program, and the jobs associated with the program. Disappointingly, the Majority has used their control of the House Rules Committee to kill those amendments and prevent the full House of Representatives from debating and voting to protect these jobs.

I have not given up the fight to preserve the FFEL program or the jobs associated with it though. Could improvements be made to the program? Sure, but there is more to lose than gain by eliminating the program in its entirety. Since 1965, the FFEL program has provided access to higher education for tens of millions of Americans, and it has done so with private capital and private labor. I believe we have a responsibility to the American people to preserve the FFEL program and the good-paying jobs associated with the program.

IN HONOR OF WILLIAM R.  
GIFFORD

HON. JOHN H. ADLER

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, November 16, 2009

Mr. ADLER of New Jersey. Madam Speaker, I stand today before the House to recognize an important member of New Jersey's 3rd District, Mr. William R. Gifford who is celebrating his 90th birthday on December 20, 2009.

Mr. Gifford is a graduate of the Ohio State University. During World War II, he served with distinction with the rank of captain, as a bombardier in the 15th Army Air Force's 484th Bombardment Group. After the war, Mr. Gifford became employed at Pricewaterhouse in New York City where he was made partner.

Now retired, he enjoys spending time with his sons, William R. Gifford, Jr., Russell M. Gifford and Gregory Gifford and their families.

Madam Speaker, I ask that you please join me in wishing Mr. Gifford a happy 90th birthday.

JO ANN RZEPPA

HON. ED PERLMUTTER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Monday, November 16, 2009

Mr. PERLMUTTER. Madam Speaker, I rise today to honor and applaud Sergeant Jo Ann Rzeppa for her outstanding service to our community.

Sergeant Rzeppa's career in the field of law enforcement began over 30 years ago, in what was then a male-dominated profession. She earned respect among her co-workers while serving as a patrol officer, in under-cover narcotics, and as a detective. She is a symbol of the Arvada Police Department's desire to maintain a strong relationship with area schools by serving as the sergeant in charge of School Resource Officers for Arvada schools.

Sergeant Rzeppa's participation in the after school club "Police Pals" allows her to provide an excellent example for young women interested in pursuing careers in law-enforcement.

The dedication demonstrated by Sergeant Jo Ann Rzeppa directly benefits her community, and is exemplary of her high personal and professional standards. Those who know Sergeant Jo Ann Rzeppa personally comment on her passion for living, enthusiasm for her work, and confident, friendly manner.

I extend my deepest congratulations once again to Sergeant Jo Ann Rzeppa for her recognition by the West Chamber of Jefferson County. I have no doubt she will exhibit the same dedication and character in all her future accomplishments.

EARMARK DECLARATION

HON. GREG WALDEN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Monday, November 16, 2009

Mr. WALDEN. Madam Speaker, consistent with the House Republican Leadership's policy on earmarks, to the best of my knowledge the request I have detailed below is (1) not directed to an entity or program that will be named after a sitting Member of Congress; and (2) not intended to be used by an entity to secure funds for other entities unless the use of funding is consistent with the specified purpose of the earmark. As required by earmark standards adopted by the House Republican Conference, I submit the following information on a project I requested and was included in the Conference Report for H.R. 2996, the Interior, Environment, and Related Agencies Appropriations Act, 2010.

Account: EPA—STAG Water and Wastewater Infrastructure Project

Project Name: Umatilla County for Milton-Freewater Stormwater System Improvements

Legal Name and Address of Requesting Entity: Umatilla County, 216 SE 4th Street, Pendleton, OR 97801

Project Location: The City of Milton-Freewater, Oregon

Description of Project: The Conference Report for H.R. 2996 appropriates \$300,000 for the Milton-Freewater Stormwater System project. According to the requesting entity, this funding will be used by Umatilla County to assist in the development of a stormwater treatment system for the city of Milton-Freewater, Oregon. This is a beneficial use of taxpayer funding because it will enable the community to construct a holding pond to catch silt-laden storm and winter water runoff which currently clogs the drainage system and deposits silt into drinking water wells.

COMMEMORATING THE 50TH ANNIVERSARY OF THE SOCIETY HILL PLAYHOUSE IN PHILADELPHIA, PA

HON. ROBERT E. ANDREWS

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, November 16, 2009

Mr. ANDREWS. Madam Speaker, I rise today to commemorate the 50th anniversary of the Society Hill Playhouse in Philadelphia. Under the leadership of Deen and Jay Kogan, who founded the theater in 1959, the Society Hill Playhouse has become a home for important works by contemporary American and European playwrights.

The Kogans met while students at Temple University and married soon after graduation.

Deen carried a lifelong passion for the theater, and Jay, a former World War II prisoner of war, was soon bitten by the theater bug. After a year working in theaters in Milan and Zurich, the Kogans set out to create their vision of a theater community in Philadelphia.

Over the last 50 years, the Society Hill Playhouse has delighted Philadelphia audiences with productions including *Nunsense*, *Lafferty's Wake*, and *Menopause: The Musical*. In addition to its contributions to the Philadelphia theater community, the Society Hill Playhouse created the Philadelphia Youth Theater, which for 25 years opened its doors to allow Philadelphia youth to have access to the arts and develop their skills.

The Society Hill Playhouse prides itself on its appeal to "people who don't like theater . . . or who think they don't." As Philadelphia's original public theater, the Society Hill Playhouse has made a lasting contribution to the design of new theaters throughout the Delaware Valley. Rarely does a theater extend beyond a location and become an integral member of the arts community, but the Playhouse has done exactly that. The Society Hill Playhouse brought a new generation into the theater, while producing hits and entertaining crowds for 50 years.

Madam Speaker, the Society Hill Playhouse has made immeasurable cultural contributions to the Philadelphia area. I congratulate Deen Kogan and her late husband Jay on accomplishing their vision of a premiere arts institution in Philadelphia, and wish the Society Hill Playhouse many more years of success.

JO LYNN OSBORNE

### HON. ED PERLMUTTER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Monday, November 16, 2009*

Mr. PERLMUTTER. Madam Speaker, I rise today to honor and applaud Jo Lynn Osborne for her outstanding service to our community.

Jo Lynn Osborne has served as an advocate for the rights of the disabled since 1980. She began her career as a secretary at the Arc in Jefferson County where she quickly moved into program development. In 1989 she created the Mobilizing Families program, which has won national awards and has been translated into several languages.

The dedication demonstrated by Jo Lynn Osborne directly benefits her community, and is exemplary of her high personal and professional standards. Through individualized advocacy, Jo Lynn Osborne has personally helped thousands of individuals and families achieve greater levels of independence.

Today Jo Lynn Osborne is interim executive director for the Arc in Jefferson County, an active member of the Alameda West Kiwanis Club, and a strong community leader.

I extend my deepest congratulations once again to Jo Lynn Osborne for her recognition by the West Chamber of Jefferson County. I have no doubt she will exhibit the same dedication and character in all her future accomplishments.

### TRIBUTE TO LANDSTUHL REGIONAL MEDICAL CENTER HOSPITAL PERSONNEL

### HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

*Monday, November 16, 2009*

Mr. SKELTON. Madam Speaker, I rise today to personally thank and commend the 2,837 personnel—including Army, Air Force, Navy, Marine Corps, and Department of Defense civilians and contractors, and coalition liaisons from Canada, Poland, Jordan, and Australia—of the Landstuhl Regional Medical Center in Germany.

These dedicated folks do yeoman's work in providing world class comprehensive care to our warriors wounded in Operation Iraqi Freedom and Operation Enduring Freedom and to more than 52,000 American military personnel and their families in the Kaiserslautern Military Community. They also provide specialized care to nearly 245,000 American military personnel and their families throughout the European Theater.

I can personally attest to the phenomenal work done at Landstuhl. During a visit to Iraq over Thanksgiving 2005, Congressman TIM MURPHY and I were injured in a motor vehicle accident. After receiving excellent care at the Combat Support Hospital in Baghdad, we were moved by C-17 to Landstuhl. I spent several days in room 7 of the Intensive Care Unit there. It is not an understatement to say that the care I received was outstanding. I am sure any of our troops who have been treated there and their families would attest to the same.

Along with my committee's ranking member, BUCK MCKEON, I will soon be leading a congressional delegation to visit wounded servicemembers and all who care for them at Landstuhl for Thanksgiving dinner. Given the spirit of that holiday, this statement—which I will frame to present to the personnel there—is a fitting tribute to the excellence they deliver every day.

Landstuhl averages over 1,000 total inpatients per month, with a daily average of 20 surgical cases, and 21 admissions and discharges per day. They also bring new life into the world, with an average of three live births per day. They provide specialized care in fields ranging from cardiology to infectious disease to neurology. If it is medically possible, the professionals at Landstuhl make it happen. Our servicemembers know that they and their families will be taken care of.

Perhaps most importantly, though, Landstuhl plays a critical role in caring for our warriors wounded in combat and bringing them back home. After initial treatment in theater, critical care air transport teams bring wounded servicemembers to Landstuhl for stabilization and treatment before being transported to Andrews Air Force Base. The folks at Landstuhl see the vast majority of our wounded and injured in Operation Enduring Freedom and Operation Iraqi Freedom, and they administer the best that modern medicine has to offer.

I also praise the nonmedical services offered at Landstuhl, including liaisons for fi-

nance and personnel issues, invitational travel orders for family members and transportation from the airport, issuance of basic civilian clothing and sundry items, and AAFES vouchers and personal shoppers, among other services. This comprehensive care provides the right environment to begin the healing process.

Here, I must also thank those who embody the giving spirit of our Nation. I speak, of course, of the selfless service of the American Red Cross volunteers, Fisher House volunteers and staff, and the members of the USO who make themselves available to our servicemembers and their families 24 hours a day, 365 days a year. No need is too big or too small and no problem too difficult for this group. Their perseverance, creativity, and unyielding commitment to helping others have humbled many a hardened warrior, and we are indeed fortunate to have their support.

Madam Speaker, I am proud to know that we have such an immensely capable group of people looking after the health and well-being of servicemembers and their families. As chairman of the Armed Services Committee and as a former patient, I pay great tribute to the excellence and sacrifice of all who serve at Landstuhl Regional Medical Center. They all deserve our thanks and support.

### HONORING BREAK THE BARRIERS

### HON. GEORGE RADANOVICH

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Monday, November 16, 2009*

Mr. RADANOVICH. Madam Speaker, I rise today to commend and congratulate Break the Barriers upon celebrating its 25th anniversary. The organization's anniversary will be celebrated on Wednesday, October 21, 2009, in Fresno, CA.

Ken and Carrie Mullen, Ice Capades performers, had two daughters, Deby and Kathy. Deby was a phenomenal athlete, and at the age of ten began taking gymnastics at the Fresno Gymnastics Club. By the time Deby was sixteen, she had become a regional, state and national gymnastics champion. Kathy also excelled in gymnastics. Although she was born with Down Syndrome, she was able to emulate Deby and competed in the Special Olympics. Deby was beginning to look toward international competition when her gymnastics dreams were cut short by a devastating ankle injury. The injury did not stop her love for the sport. Inspired by her sister Kathy, Deby recognized her calling and began to coach adults who had different physical, neurological and mental abilities.

Deby married Steve Hergenrader, a former New York Yankees baseball player. The couple worked on Steve's grandfather's 20-acre grape vineyard and started a club called, The Tri-City Olympiads. Eventually, they created the Fresno District Special Olympics Gymnastics Program.

Deby and Steve moved away from the family vineyard and found a house that was large enough to house a dance studio inside and gymnastics equipment in the back yard, including old bed mattresses, a trampoline, balance beam, and a vaulting horse with a spring

board. This new enterprise was Gymnastics by Deby.

After many years of working with people with various abilities, Deby began to recognize that the barriers that separate one person's ability from another is the lack of opportunity to do anything in common together. Through Deby and Steve's integrated sports and performing arts classes, the students found common ground. The students began learning from one another and all of the students were successful. Without any advertising, the combined classes grew to include 200 children from the age of 3 through adult. A survey conducted of local dance studios, gyms, self-defense classes and baton twirling studios determined that there were no successful programs that integrated students of various abilities. With this knowledge, student's parents helped to form a board of directors and Break the Barriers was created. The organization was officially incorporated as a nonprofit in October 1985, with the mission to "Break all barriers experienced by people with different abilities."

In 1987 the performing group, the Barrier Breakers, was established. The team is a combination of performers, each with amazing abilities, and range in age from 6 to adult. There are currently 58 performers on the team and they perform around the world. There are over 3,000 students that participate in the programs including aquatics, dance, gymnastics, martial arts and sign language. Break the Barriers also provides a buddy program, day camps and health and fitness classes. The programs are made up of students from eight different school districts.

Today at Break the Barriers Steve and Deby, along with their children Jared and Tyler, continue to be dedicated to their original purpose; to break down barriers through a common purpose.

Madam Speaker, I rise today to commend and congratulate Break the Barriers on 25 years of breaking all barriers and allowing people with different abilities to perform together. I invite my colleagues to join me in wishing Break the Barriers many years of continued success.

#### RECOGNIZING THE KOREAN AMERICAN COMMUNITY SERVICES

#### HON. MIKE QUIGLEY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Monday, November 16, 2009*

Mr. QUIGLEY. Madam Speaker, I rise today in recognition of the Korean American Community Services and its 32nd Annual Health Fair. The Korean American Community Services has partnered with many health organizations over the past 32 years in holding its Annual Health Fair. Through the fair, the Korean American Community Services reaffirms its strong commitment to individual and family health and has become a celebration of the collective well-being of the community.

The Korean American Community Services organizes and coordinates Federal, State and community-based health services. These services aim to ensure that immigrant families who are often uninsured are able to gain access to

necessary health services. In order to do this the Korean American Community Service offers referral services, case management, interpretation, outreach and public benefit workshops. Annually, more than 8,000 people benefit from these services as they continue to promote and protect health in the community.

It is my honor to recognize the Korean American Community Services and its 32nd Annual Health Fair. The Annual Health Fair is significant as it continues to recognize and uphold the importance of health in the community. I thank the Korean American Community Services for its Annual Health Fair and its continued dedication to strengthening the community.

#### GENERAL ARTHUR J. LICHTER RETIRES AFTER 38 YEARS' SERVICE WITH THE UNITED STATES AIR FORCE

#### HON. CATHY McMORRIS RODGERS

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

*Monday, November 16, 2009*

Mrs. McMORRIS RODGERS. Madam Speaker, I rise today to recognize General Arthur J. Lichte on the occasion of his retirement from the United States Air Force.

General Lichte grew up in Bronx, N.Y., where he graduated from Cardinal Spellman High School. In 1971, he entered the Air Force as a distinguished graduate of the ROTC program at Manhattan College. General Lichte's Air Force career includes command positions at squadron, group, and wing levels and as a command pilot; he has logged more than 5,000 flying hours in various aircraft. In addition to his command experience, General Lichte has held headquarters-level assignments at Strategic Air Command, Air Mobility Command, United States Air Forces Europe, U.S. Air Force and U.S. Transportation Command. His latest assignment as Commander of the Air Mobility Command began in September 2007.

General Lichte's journey to Air Mobility Command includes many notable achievements. As the 9th Air Refueling Commander at March Air Force Base, he led Strategic Air Command's first mission to the People's Republic of China, and as the acting Second Wing Commander at Barksdale Air Force Base, he launched and recovered a historic B-52 and KC-10 flight to Russia. It was also at Barksdale that General Lichte, then a Colonel serving as the 458th Operations Group Commander, deployed and commanded a large KC-10 contingent at an austere Middle East location to support Operations SOUTHERN WATCH and RESTORE HOPE.

By August 1995, then Colonel Arthur J. Lichte became Commander of the 92nd Air Refueling Wing (ARW) at Fairchild Air Force Base in Spokane, WA, which was at the time the largest air refueling wing in the Air Force. That year, aircraft from Fairchild flew in support of its first Strategic Arms Reduction Treaty (START) mission, transporting Russian inspectors to sites in the Western U.S. The wing has flown START missions in the U.S. every year since. Successful leadership of the 92nd

ARW at Fairchild also led to his promotion to brigadier general.

Brigadier General Lichte soon after was sent to command the 89th Airlift Wing at Andrews Air Force Base, which represents the Air Force to the American people in meetings with presidents and other world dignitaries. In between his successful stint at the 89th Airlift Wing and taking command of the Air Mobility Command, General Lichte served as AMC's Director of Plans and Programs, USAFE's Vice Commander, and an Assistant Vice Chief of Staff of the Air Force.

Notwithstanding an illustrious career with the United States Air Force, General Lichte counts his family and 40-year marriage to his wife Chris, as well as being a grandfather, as his proudest achievements.

Madam Speaker, General Arthur J. Lichte's selfless dedication to the service of his country is honorable and worthy of recognition. I believe I can speak for the Airmen of Air Mobility Command and the United States Air Force in saying that his dedication has positively impacted those with whom he has served during his years with the Air Force and I join them in congratulating him on his retirement and a job well done.

#### KATHLEEN ALLEN

#### HON. ED PERLMUTTER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Monday, November 16, 2009*

Mr. PERLMUTTER. Madam Speaker, I rise today to honor and applaud Kathleen Allen for her outstanding service to our community.

Kathleen Allen is an incredible tri-athlete who has overcome a severe injury to again compete in her sport and win. Kathleen's work with Girls on the Run furthers women's issues by "educating and preparing girls for a lifetime of self respect and healthy living."

The dedication demonstrated by Kathleen Allen directly benefits her community, and is exemplary of high personal and professional standards. Kathleen has spent countless hours volunteering with JeffCo Parents Focus on School Nutrition, a group which lobbies for improved school nutrition. In addition, Kathleen has volunteered abroad, spending time in Tanzania bringing technology to hospitals and schools in that country.

I extend my deepest congratulations once again to Kathleen Allen for her recognition by the West Chamber of Jefferson County. I have no doubt she will exhibit the same dedication and character in all her future accomplishments.

#### HONORING EDWARD C. BLOMMEL OF DADE CITY, FLORIDA

#### HON. GINNY BROWN-WAITE

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Monday, November 16, 2009*

Ms. GINNY BROWN-WAITE of Florida. Madam Speaker, I rise today to recognize Edward C. Blommel of Dade City, Florida. After

40 years of dedicated service to Tampa Electric Company and Pasco County, Edward has gracefully retired.

Born in Dade City on February 25, 1949, Mr. Blommel attended Pasco Hernando Community College. Today he is married to his wife of 35 years, Libby, and they have two grown children, Nancy and Nicholas.

Beginning his career with Tampa Electric at the age of 20 as a meter reader, Mr. Blommel eventually worked his way into management positions in customer service, energy services, and marketing. Later his responsibilities grew to include community relations, governmental affairs, and economic development for Pasco County in the areas of Dade City, San Antonio, and the town of St. Leo.

Mr. Blommel has been very active in Pasco County, having served on the boards of United Way of Pasco, Pasco Regional Medical Center, Jobs, Education and Partnership Boards in Pasco and Hernando Counties, Downtown Dade City Main Street, East Pasco Habitat for Humanity, and Pasco Education Foundation.

He has served on the Pasco Hernando Community College Foundation Board of Directors since 1998, which he chaired from 2006 to 2008. He also serves on the Dade City Redevelopment Advisory Committee and Pasco County MPO Citizens Advisory Council. In addition, he is the past president and an active member of the Dade City Rotary Club.

Mr. Blommel has championed county-wide economic development, always encouraging being locally united, as exhibited through his service to Pasco Economic Development Council, serving on its board since 1995, including its presidency in 1998.

Madam Speaker, it is public servants like Edward C. Blommel that keep our communities and towns running strong. His dedication and willingness to serve are admired and stand as a model to others. We thank Mr. Blommel for his service and wish him the best in his retirement.

#### OUR UNCONSCIONABLE NATIONAL DEBT

#### HON. MIKE COFFMAN

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Monday, November 16, 2009*

Mr. COFFMAN of Colorado. Madam Speaker, this morning our national debt was \$11,991,506,876,413.07. We have added \$2,628,074,721.89 to the national debt since Friday, the 6th.

On January 6, 2009, the start of the 111th Congress, the national debt was \$10,638,425,746,293.80.

This means the national debt has increased by \$1,353,081,130,119.27 so far this year.

According to the nonpartisan Congressional Budget Office, the forecast deficit for this year is \$1.6 trillion. That means that so far this year, we have borrowed and spent an average \$4.4 billion a day more than we have collected, passing that debt and its interest payments to our children and all future Americans.

#### PERSONAL EXPLANATION

#### HON. J. GRESHAM BARRETT

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

*Monday, November 16, 2009*

Mr. BARRETT of South Carolina. Madam Speaker, unfortunately, I missed the following recorded votes on the House floor on Wednesday, November 4, 2009.

Had I been present on Wednesday, November 4, 2009, I would have voted "no" on rollcall vote No. 841 (on ordering the previous question on H. Res. 884), "no" on rollcall vote No. 842 (on agreeing to H. Res. 884, which provides for consideration of H.R. 3639), "aye" on rollcall vote No. 843 (on motion to suspend the rules and agree to H. Res. 858), "aye" on rollcall vote No. 844 (on motion to suspend the rules and agree to H. Res. 839).

#### PERSONAL EXPLANATION

#### HON. ELEANOR HOLMES NORTON

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

*Monday, November 16, 2009*

Ms. NORTON. Madam Speaker, on November 4, 2009, I was not able to be present for votes on amendments to H.R. 3639, the Expedited CARD Reform for Consumers Act of 2009. Had I been present, I would have voted "aye" on: rollcall 845, rollcall 846, rollcall 847, rollcall 848, and rollcall 849.

On November 6, 2009, I was not able to be present for votes on amendments to H.R. 2868, the Chemical Facility Anti-Terrorism Act of 2009. Had I been present, I would have voted "aye" on rollcall 869, and I would have voted "no" on: rollcall 870, rollcall 871, rollcall 872, and rollcall 873.

#### KRISTEN ANDERSON

#### HON. ED PERLMUTTER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Monday, November 16, 2009*

Mr. PERLMUTTER. Madam Speaker, I rise today to honor and applaud Kristen Anderson for her outstanding service to our community.

Kirsten Anderson is Senior Vice President and Business Banking Manager for Wells Fargo in the metropolitan area of Denver. She has worked with Wells Fargo for 22 years and has filled many positions in the company.

Kirsten Anderson's dedication to her community is demonstrated by her sense of social responsibility and the many organizations she is affiliated with, including the Executive Committees of Red Rocks Community College Foundation Board and the Jefferson Economic Council. In addition, she is the 2009 Board of Directors Chair for the Jefferson Economic Council, and is an active member of the Kiwanis Club of Denver West.

Kirsten Anderson's passion lies in her two daughters and is always very supportive of her daughters' success, spending countless hours cheering them on and helping to coach their teams.

I extend my deepest congratulations once again to Kristen Anderson for her recognition by the West Chamber of Jefferson County. I have no doubt she will exhibit the same dedication and character in all her future accomplishments.

#### HONORING CORNING, NEW YORK, VETERANS OF FOREIGN WARS, POST #524

#### HON. ERIC J. MASSA

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Monday, November 16, 2009*

Mr. MASSA. Madam Speaker, I rise today to honor the Corning, New York, Veterans of Foreign Wars Post #524, who this Wednesday will be celebrating Veteran's Day with a ceremony in my district. This year, however, will be a special year, as they will be rededicating the POW-MIA monument in that town which I call home. Though obligations throughout my district will keep me from being able to attend this ceremony with my home post, my thoughts will be with them and with the millions of veterans across our Nation who served our country in times of war, and who even today work to protect our freedoms.

In 1998, Doug Herbert, a marine and Vietnam veteran had a plan. He wanted to build a POW-MIA monument to memorialize and honor the POW's and MIA personnel of all of our Nation's wars. Doug and his wife Jackie designed and drew plans for the monument, and they worked for over a year to raise the funds necessary to see Doug's dream become a reality. Indeed, this original monument was even built in their backyard, and on November 11, 1999, the Herbert's and their comrades at Post #524 dedicated this unique memorial to our Nation's heroes.

This year, on November 11, 2009, a new monument will be dedicated in the place where the original once stood. Doug Herbert's dream is now complete and a new monument of granite and will stand in place forever. For Doug, this was a labor of love as well as a personal journey, but for his comrades and his community, it is an incredible gift. The commitment and hard work of Doug and Jackie Herbert, as well as that of their fellow volunteers, make the rededication of this monument a poignant moment in the proud history of Post #524. And it is through this selfless commitment that the memory of those who served our Nation—the POW's, those missing in action, and those who made the ultimate sacrifice—will be enshrined forever in the hearts of all Americans.

#### RECOGNIZING THE HARLEM COUNCIL OF ELDERS, INC., SALUTE TO FLORENCE M. RICE

#### HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Monday, November 16, 2009*

Mr. RANGEL. Madam Speaker, I rise with great pride to join New York Democratic

County Leader Keith L.T. Wright and the Harlem Council of Elders to pay tribute to the Harlem Consumer Education Council's founder and president Florence M. Rice.

Florence M. Rice was born on March 22, 1919, in Buffalo, New York. During her childhood, Rice spent several years in the Colored Orphan Asylum and in several foster homes in New York. Upon completion of the eighth grade, Rice left school for work as a domestic seamstress where she became a member of the International Ladies Garment Workers Union. Rice spoke out against the discriminatory practices against African American and Latino workers. She participated in a congressional hearing held by my predecessor Adam Clayton Powell, Jr., in 1962, which probed dressmaker union's policies. After testifying, Ms. Rice was blacklisted in that industry.

In the 1960s, Rice founded the Harlem Consumer Education Council, waging a war against corporations who discriminated against African Americans and other minorities. The council organized many successful New York City boycotts and picket lines against grocery stores, furniture stores, and individuals found to be overcharging minorities. Rice's biggest victory was against the New York State Public Service Commission, forcing New York Telephone to stop charging low income residents pre-installation fees. The Harlem Consumer Education Council investigated over 100,000 complaints.

During the 1970's, Florence was appointed Special Consultant to the Consumer Advisory Council of the Federal Reserve Board. She also taught consumer education at Malcolm-King College and has lectured to thousands at her workshops and seminars. In the 1990s, Rice was responsible for the Bell Atlantic Technology Center in Harlem. Today, the center, Verizon, is dedicated to educating business people, students, senior citizens and other customers about the latest advances in telecommunication technologies. She has lectured in several different countries, including South Africa, where she was named a delegate in the first World Consumer Congress. She has held a number of state, national and international positions. In 1975, Florence served as the Official Member of the United States Delegation to the World Congress of the International Women's Year in Berlin, and in 1976 she served as a representative to the United Nations Congress of Non-governmental Organizations.

Florence Rice is the recipient of the Lane Bryant Award for Volunteer Service, the Sojourner Truth Award, and the Ophelia DeVore Award for Community Service, the National Urban League Frederick Douglass Award, the Consolidated Edison Better Business Award, the Josephine Shaw Lowell Award, the New York Consumer Assembly Prestigious Special Award and the Harold C. Burton Republican Club's 1977 Woman of the Year Award. On June 29, 2006, Florence Rice was interviewed by The HistoryMakers.

Florence M. Rice is a very dear friend and indeed a National Treasure.

# SALUTING THE STUDENTS OF THE PLANO WEST SENIOR HIGH SCHOOL, SHEPTON HIGH SCHOOL AND JASPER HIGH SCHOOL FUTURE FARMERS OF AMERICA PROGRAM

## HON. SAM JOHNSON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Monday, November 16, 2009*

Mr. SAM JOHNSON of Texas. Madam Speaker, I rise to congratulate the students of the Plano West Senior High School, Shepton High School and Jasper High School joint FFA chapter on the achievement of Two-Star recognition in the 2009 Future Farmers of America National Chapter Award program.

According to the National FFA Organization, "The National Chapter Award program is designed to award FFA chapters who actively implement the mission and strategies of the organization. Based on a chapter's Program of Activities (POA) local FFA chapters are recognized for working in established areas called "quality standards." The standards are organized into three divisions: Student development; Chapter development and Community development."

The PWSH-SHS-JHS Chapter has had a tremendous year of competition and community service leading up to this award.

The group received its Two-Star award at the 82nd National FFA Convention, October 21-24, 2009 in Indianapolis, Indiana. Six students and the program advisor, Cristen Fowler, were able to attend.

Congratulations one and all. I salute you. The names of the 2009 PWSH-SHS-JHS Future Farmers of America follow:

Syed Akhtar; Ethan Alexander; Sydney Alto; Will Baker; Kristen Barg; Lauren Beyer; Seneca Bottom; Nick Brandon; Mackenzie Brotzman; Chandler Buning; John Bunker; Alicia Cardena; Catherine Carroll; Fernando Carvallo; Claire Caudall; Heather Cook; Riley David; Jessica Davis; Sebra Debrecht; Caroline Deville; and Brittany Diamond.

Ashton Doeringsfeld; Paige Doherty; Thomas Dubis; Blair Edwards; Natalie Fears; Beth Fortner; Dimitri French; Allee Gargillio; Amanda Goldstein; Marie Gowan; Bronte Hampton; Erik Hansen; Riley Harmon; McKenzie Hearn; Haley Henning; Sarah Herigon; Kyra Hochberg; Alyssa Horan; Jordan Hunt; Brandon Jacques; and Tanvi Jaiswal.

Jordan Johnson; Brook Johnson; Nick Kirkwood; Addison Lancaster; Max Leader; Tiffany Lee; Brian Lee; Brady Martin; Robyn McCaffrey; Molly McClellan; Robby McDermott; Molly McLaine; Shedan Medhnie; Madeline Minchillo; Francine Moise; Trevor Mouton; Dardan Neziraz; Melissa Ng; Morgan Nussbaum; Haley Olberg; and Carolyn Pereira.

Haley Price; Brooke Ramsier; Molly Raymond; Morgan Reosenfeld; Ana Reyes; Luke Rivera; Jacob Rizo; Moses Rodriguez; Mark Rule; Dodge Salisbury; Stacy Samuels; Garrett Shepherd; Nia Stewart; Emma Strand; Alison Sutherland; Ore Vangruber; JT Wade; Austin Webster; Kelsey Webster; Claire Wheatly; Ryan Winchester; and Sam Young.

M.L. RICHARDSON

## HON. ED PERLMUTTER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Monday, November 16, 2009*

Mr. PERLMUTTER. Madam Speaker, I rise today to honor and applaud M.L. Richardson for her outstanding service to our community.

M.L. Richardson has served the Jefferson County community in numerous ways since 1994. Currently, M.L. is serving as the Director of Strategy and Sustainable Development for two area corporations.

M.L. Richardson's dedication directly benefits her community with continued service to Jefferson County through countless volunteer hours spent for area organizations, serving on area Chambers of Commerce and boards including the Jefferson County School District's Bond-oversight committee, the Jefferson Economic Council, Community First Foundation, the Golden Civic Foundation and many others. Additionally, M.L. works to raise funds for area charities such as the Mother Cabrini Shrine.

In the words of one of her colleagues, "M.L. is a woman who exhibits leadership through her everyday actions and has a professional and entrepreneurial spirit that has been proven over and over through countless accomplishments."

I extend my deepest congratulations once again to M.L. Richardson for her recognition by the West Chamber of Jefferson County. I have no doubt she will exhibit the same dedication and character in all her future accomplishments.

## CONGRATULATING SSGT. SHAWN MICHAEL ROBERTS, UNITED STATES ARMY FOR HIS INDUCTION INTO THE SGT. AUDIE MURPHY AWARD PROGRAM

## HON. DON YOUNG

OF ALASKA

IN THE HOUSE OF REPRESENTATIVES

*Monday, November 16, 2009*

Mr. YOUNG of Alaska. Madam Speaker, I rise to congratulate a fine Alaskan soldier—SSgt. Shawn Michael Roberts. SSgt. Roberts has recently been inducted into the Sgt. Audie Murphy Award program in the Army. Sgt. Audie Murphy, for whom this award was named, was a famous Hollywood actor, as well as the most decorated American combat soldier of World War II. Sgt. Murphy was a courageous warrior and received every decoration of valor our country has to offer, including two Silver Stars, three Purple Hearts, the Distinguished Service Cross and the Medal of Honor. In short, this induction is one of the highest honors in the Army and reflects the comparable level of commitment and dedication that has been exemplified in SSgt. Roberts' performance.

It is little wonder, in light of his many accomplishments, that Shawn has received this award. Since entering active duty in December 2001 SSgt. Roberts has served two tours in support of Operation Iraqi Freedom, as well as one tour in Bosnia. During his tenure with the

U.S. Army, Roberts has received numerous medals of commendation, including the Iraq Campaign Medal with three campaign stars.

Alaskans are proud of our military heritage and I am proud that our country has such noble defenders. I thank SSgt. Roberts for his service to our country and I congratulate him on his induction into this award program.

#### HONORING PHILLIP MALIK

#### HON. GEORGE RADANOVICH

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Monday, November 16, 2009*

Mr. RADANOVICH. Madam Speaker, I rise today to honor the life of Phillip Malik. Mr. Malik passed away on October 8, 2009, at the age of 94. His life was remembered by friends and family on Tuesday, October 13, 2009.

Phillip Malik was born January 1, 1915, in a region of Iran known as Urmia, in the small village of Gengachi. His father was a leader in the village, which was being pursued by marauders with intentions of persecuting all villagers based on their Christian beliefs. They would eventually end their journey in Habbaniya near Baghdad, Iraq. As a young man he survived the Assyrian Genocide and was a manager of the British Officers Club in Baghdad. Mr. Malik set his eyes on the United States, and in 1953 he settled in Chicago, Illinois. Five months later his wife, Maria, and their five children joined him in the United States. They did not like the cold of Chicago, and with a short visit to San Francisco, California, they decided to head west.

When he first moved to California's Central Valley, Mr. Malik worked as a janitor. In 1954, Mr. Malik purchased a 20-acre almond ranch in Keyes, California and later moved to a 40-acre almond and walnut ranch in Ceres. In the late 1950's he began a job selling Airstream trailers. Many years later he started his own mobile-home dealership and eventually branched out into real-estate development and farming. Today, several projects in the greater Modesto area are due to Mr. Malik's work.

Mr. Malik worked 7 days a week; never wanting to rely on others to take care of his family. He believed in helping others, and sponsored 67 extended family members, and assisted about 400 people in immigrating to the United States.

Mr. Malik was preceded in death by two children; Gina Marie and Don, as well as his wife of 65 years, Maria. He is survived by two daughters, Diane Pedota and Linda Glynn; three sons, Ron Malik, Bob Malik and Philip Malik Jr.; eight grandchildren and seven great-grandchildren.

Madam Speaker, I rise today to posthumously honor Phillip Malik. I invite my colleagues to join me in honoring his life and wishing the best for his family.

RECOGNIZING MR. JACK DARIN ON HIS 20 YEARS OF ADMIRABLE SERVICE TO THE ILLINOIS SIERRA CLUB

#### HON. MIKE QUIGLEY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Monday, November 16, 2009*

Mr. QUIGLEY. Madam Speaker, I rise today in recognition of Mr. Jack Darin, Director of the Illinois Sierra Club and a powerful advocate for the environment, both in Illinois and across the nation. Mr. Darin has admirably served the Illinois Sierra Club for 20 years and throughout his tenure he has worked selflessly to promote causes including safeguarding our community's health, protecting the great outdoors, and finding viable energy solutions for the 21st century.

Madam Speaker, I recognize Jack today not only because he is a personal friend of mine, but because he is an example for all that one person can have a substantial impact on the future on the environment. Jack has successfully advocated for nutrient standards in sewage treatment plants, encouraged Illinois to adopt the toughest mercury limits for coal-burning power plants and led the fight for Illinois to possess robust anti-degradation rules for streams and rivers. His efforts have resulted in greater protection for Americans against health hazards and expanded access to the most basic human needs: clean water and clean air.

Since its founding in 1892, The Sierra Club has worked to protect and promote our great outdoors. Jack Darin has taken this mission to heart and is a true champion of conservation. Under his leadership, the Sierra Club prevented the destruction of thousands of acres of the Lake Calumet wetlands and in the process preserved the natural habitat of hundreds of plants and animals. The Illinois Sierra Club has also helped restore another natural treasure for the people of Illinois, the Midewin Tall Grass Prairie. Midewin is a unique resource because it both protects wildlife and provides opportunities for education and recreation, such as twenty-two miles of public trails for hiking, biking, and horseback riding.

Despite these successes, Mr. Darin continues to find creative solutions to Illinois's complex environmental issues. Mr. Darin helped establish the Renewable Energy Portfolio for Illinois requiring 25% of state power to come from renewable sources by 2025. As a result, Illinois legislators are an example for the nation because all electricity for the Springfield Capitol Complex is now derived solely from wind power. Jack work has also extended well beyond Illinois as he serves as a consultant on environmental issues for the President Obama's campaign in 2008.

Madam Speaker, the work of Mr. Darin, the Illinois Sierra Club and like minded individuals have placed environmental issues at the crux of our nation's political debate. Their work helps our society expand and grow in a responsible fashion and improve our quality of life. Thank you, Mr. Darin, for your 20 years of service to the Sierra Club, to Illinois and to your country.

PEGGY HALDERMAN

#### HON. ED PERLMUTTER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Monday, November 16, 2009*

Mr. PERLMUTTER. Madam Speaker, I rise today to honor applaud Peggy Halderman for her outstanding service to our community.

The dedication demonstrated by Peggy Halderman directly benefits her community, and is exemplary of her high personal and professional standards. She started the Golden Backpack Program which currently feeds 242 children in 3 area schools by providing packs of food for the children to take home on weekends.

In addition to Peggy Halderman's dedicated efforts to feed hungry local children, as a professional chef she volunteers and supervises members of the Golden Rotary Club as they provide monthly luncheons at one of the two subsidized housing complexes located in Golden.

I extend my deepest congratulations once again to Peggy Halderman for her recognition by the West Chamber of Jefferson County. I have no doubt she will exhibit the same dedication and character in all her future accomplishments.

#### STATEMENT REGARDING H. RES. 867

#### HON. ZOE LOFGREN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Monday, November 16, 2009*

Ms. ZOE LOFGREN of California. Madam Speaker, after careful consideration of House Resolution 867, I joined 22 other Members of Congress in voting "Present" on November 3rd. This resolution denounces the "Report of the United Nations Fact Finding Mission on the Gaza Conflict," also known as the "Goldstone Report," and calls on the President to oppose any further consideration of the report.

While I agree that the Goldstone Report is biased, in my view, the harsh tone employed by both this resolution and the U.N. does nothing productive for the ultimate goal of peaceful reconciliation, and this entire discussion suffers as a result. There are some conclusions in the Goldstone Report itself worthy of our consideration and H. Res. 867 does all parties a disservice by ignoring that fact.

This Resolution contained inaccuracies and was rushed to the floor without Congressional hearings. Investigations should be conducted before such harsh criticisms are leveled. Israel itself, a positive example of democracy in the Middle East, has previously conducted internal investigations of its military operations that were both transparent and constructive.

I have always been a strong supporter of Israel, which has long been one of our most loyal allies. I believe that we must lead in the effort of bringing peace to the Middle East, but at the same time, we must ultimately allow the Israeli people, who are committed to democratic rule, to determine their own course.



IN RECOGNITION OF THE PASSING  
OF DR. BERT SUTTON

**HON. JEFF MILLER**

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Monday, November 16, 2009*

Mr. MILLER of Florida. Madam Speaker, I rise today to recognize Dr. Bert Sutton, a Northwest Florida leader who passed away on November 12, 2009. Dr. Sutton spent his life serving our community, and I am proud to honor his lifetime of dedication and service.

Dr. E.W. "Bert" Sutton was born in Tuscaloosa, Alabama and grew up in Port St. Joe, Florida. After graduating from the University of Alabama and then Tulane Medical School, Bert opened his first practice in 1960 in Santa Rosa County, Florida. In 1979, Bert was appointed Director of the Santa Rosa County Health Department, where he served for over 24 years until his retirement in 2003. He oversaw public health in the county for more than two decades.

In addition to his day-to-day duties at the Department of Health, Dr. Sutton was instrumental in the opening of the Rehabilitation Institute of West Florida in 1978, now a part of the West Florida Hospital System. The institute serves people recovering from accidents and those suffering from neurological or orthopedic conditions. He also helped found the Rehabilitation Foundation of Northwest Florida which provides financial support for disabled people to receive physical therapy and prosthetics. In 2001, Dr. Sutton helped establish the Santa Rosa Community Clinic providing medical services to the poor and uninsured. He always put service to others first, and he will be missed by all of us in Northwest Florida.

Madam Speaker, on behalf of the United States Congress, I am privileged to recognize the life of Dr. Bert Sutton. With close to 50 years of faithful service to Northwest Florida, Bert will be forever remembered as a part of the fabric of our community. My wife Vicki and I offer our prayers for his wife, Fran, children, Karen, Sherman, Steven, Patsy, Erin, Stacy, and Tracey, grandchildren, great-grandchildren, and entire extended family as we remember and honor the life of Bert Sutton.

RECOGNIZING THE SUCCESS OF  
THE ST. CHARLES GOLF TEAM

**HON. PATRICK J. TIBERI**

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Monday, November 16, 2009*

Mr. TIBERI. Madam Speaker, I rise today to honor and pay tribute to St. Charles Preparatory School in Columbus, Ohio. St. Charles is in my congressional district, and I am proud to recognize a school that not only excels in academics but also distinguishes itself in athletics. The St. Charles Golf Team recently won the 2009 Division I Ohio State Golf Championship. In the championship meeting, St. Charles came from behind to defeat Cincinnati St. Xavier, Cleveland St. Ignatius and Columbus Dublin Coffman. This was

the first ever state title for the school's golf program.

The golf team exemplifies outstanding hard work, determination and perseverance. Such a win stands as a reflection of the many hours of practice and level of commitment exhibited by all team members.

Their victory was directed by such talented golfers as Senior Andrew Steffensmeier, Juniors Alex Carpenter, Michael Ricaurte and Daniel Wiegandt, and Sophomore Nate Yankovich.

Coached by Anthony Mampieri, this St. Charles alumnus helped instill in his team a commitment to excellence and culture of teamwork.

It is an honor to represent such a fine group of young people who have a strong dedication to teamwork and academics. I know each one of them will treasure the memories of their championship season and I commend them, and the St. Charles community, for this truly great achievement.

EMERALD PEOPLE'S UTILITY  
BOARD

**HON. PETER A. DeFAZIO**

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

*Monday, November 16, 2009*

Mr. DeFAZIO. Madam Speaker, at a time when our economy is focused on recovery, adopting renewable sources of electricity will spur job creation and economic growth, save consumers money, and reduce greenhouse gas pollution. People's Utility Districts (PUDs) have consistently been at the forefront of this effort.

Emerald PUD, in my congressional district, is an excellent example of People's Utility Districts that have consistently demonstrated a commitment to delivering clean energy and conservation resources to their customers. Due to their relatively small size and local consumer ownership, PUDs are able to meet the unique energy needs of their community while also investing in local renewable energy resources.

For more than a decade Emerald PUD has offered clean renewable energy options to their customers. Their customers have the option to purchase a percentage—or all—of their energy from clean wind power sources. In addition, Emerald PUD regularly assists customers in gaining access to solar energy. Through generous assistance programs they have helped numerous area schools, businesses, and homes to install solar energy systems.

Beyond this investment in sustainable energy, Emerald PUD has made a priority of aiding local residents, industry, and businesses with energy conservation efforts. These projects range from weatherization of homes to the large-scale installation efficient lighting in industrial facilities. Through this sort of individually tailored energy consultation, Emerald PUD has facilitated significant energy savings for many customers who otherwise may not have had access to such resources.

Emerald PUD has demonstrated an extraordinary dedication to bringing clean energy and

energy conservation resources to all of their customers. Notably, Emerald—and other PUDs—have shown that this can be done while still holding energy costs well below the national average.

RECOGNIZING THE RETIREMENT  
OF DENNIS SHUMAN FROM THE  
OFFICE OF THE PUBLIC DE-  
FENDER FOR THE FIRST JUDI-  
CIAL CIRCUIT OF FLORIDA

**HON. JEFF MILLER**

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Monday, November 16, 2009*

Mr. MILLER of Florida. Madam Speaker, I rise today to recognize Mr. Paul Dennis Shuman, a Northwest Florida leader who is retiring after a lifetime of public service to his country and his community. Dennis spent his career serving others, and I am proud to honor this dedication and service.

After graduating from the Naval Academy in 1965, Dennis Shuman began a career in the United States Navy. He earned his Naval Aviator Wings of Gold in December of 1966, and his first operation was as a bombardier in Observation Squadron Sixty-Seven in Vietnam. Subsequent Navy tours took Dennis across the globe in service of his country. For his efforts, Dennis earned the Meritorious Service Medal, three Air Medals, the Navy Commendation Medal with Combat V, the Navy Achievement Medal, the Navy Expeditionary Medal, and the Vietnam Service Medal with four stars. In May of 2008, Dennis and the other surviving members of Observation Squadron Sixty-Seven were presented with the Presidential Unit Citation at the Navy Memorial in Washington, DC for their actions over the jungles of Southeast Asia in 1967 and 1968. This is the highest award given to a United States military unit.

Dennis retired from the Navy in 1985 after twenty distinguished years. He graduated from the Florida State University College of Law in 1989 and began his second career as a public servant by joining the Office of the Public Defender in Pensacola, Florida. For twenty years he served the people of Northwest Florida, and he retires as the Chief Assistant Public Defender for the First Judicial Circuit.

In addition to his professional life, Dennis serves on the Juvenile Justice and Delinquency Prevention State Advisory Committee, a governor-appointed position. He is also actively involved in several local community service organizations including the Boy Scouts of America and First Baptist Church.

Madam Speaker, on behalf of the United States Congress, I am honored to recognize Dennis Shuman for his service to Northwest Florida and the United States of America. He has been a dedicated public servant for over forty years. My wife Vicki and I wish all the best for Dennis and his family as they embark on this next journey in their lives.

HONORING THE LIFE OF DR. JULIAN K. QUATTLEBAUM, JR.: BELOVED PHYSICIAN, HUSBAND, FATHER AND GRANDFATHER

### HON. JACK KINGSTON

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

*Monday, November 16, 2009*

Mr. KINGSTON. Madam Speaker, I rise today to honor the life of Dr. Julian Killen Quattlebaum, Jr. who died today at Candler Hospital in Savannah, Georgia.

Dr. Quattlebaum was born in Savannah on January 16, 1926, attended Charles Ellis School, Richard Arnold Jr. High School, Savannah High School, and graduated cum laude from the Taft School in Watertown, Connecticut. He entered the University of Georgia in September 1943 and was accepted as a member of Phi Eta Sigma freshman honor society and Sigma Chi social fraternity.

His formal education was interrupted when Dr. Quattlebaum was drafted into the Army during World War II. He served as an infantryman in the Western Pacific Theater, and as a surgical tech in the medical department after the surrender of Japan, where he was stationed in the Philippines.

In 1947, Dr. Quattlebaum returned to the University of Georgia, graduating as a member of the Phi Beta Kappa honorary scholastic society in 1948. He was also a member of the Gridiron Society.

Dr. Quattlebaum graduated summa cum laude from the Medical College of Georgia in 1951 and was president of the Alpha Omega Alpha honorary scholastic society chapter there. He then pursued six years of surgical training at the Johns Hopkins Hospital in Baltimore, Maryland. In addition to general surgery, Dr. Quattlebaum's residency provided valuable experience in a wide variety of fields including plastic, head and neck, and cardiothoracic surgery. Johns Hopkins was known for its pyramid residencies in which a number of physicians began their training but only one or two progressed to the level of chief resident and completed the program. Dr. Quattlebaum became one of those prestigious few during his residency, serving as Chief Resident Surgeon from July 1956 to July 1957.

Dr. Quattlebaum next completed a one-year surgical fellowship at the Mayo Clinic in Rochester, Minnesota—educating himself always with a vision of bringing the benefits of that gained knowledge home to Savannah. He returned to that city in July 1957 and practiced general, cardiothoracic and laparoscopic surgery here until his retirement in July 2001.

While practicing initially in all nine hospitals in Savannah, Dr. Quattlebaum dedicated himself especially to the creation of the surgical training program at Memorial Hospital. As one of the premiere cardiac surgeons at Memorial, he trained at the National Heart Institute and then raised money in order to establish Savannah's first Cardiac Catheterization Laboratory there. He served as Chief of Surgery at Memorial from 1965 to 1967. He served also in that same capacity at Candler Hospital concurrently and for a total of ten years, as well as the State Board of Health on behalf of Gov-

ernor Carl Sanders. A massive heart attack in 1967 forced a reduction in Dr. Quattlebaum's schedule; however, he continued to host a monthly Journal Club for the surgical house staff at Memorial for many years.

Among the countless innovations he oversaw, and which advanced the practice of medicine in Savannah, Dr. Quattlebaum introduced the technique of surgery under hypothermia (to allow surgical interruption of blood flow during surgery), this prior to the availability of cardiopulmonary bypass. In January 1990, he performed Savannah's first laparoscopic cholecystectomy, and he was active in advancing use of the laparoscopic technique in numerous procedures of general surgery. Shortly thereafter, he performed the world's first laparoscopic removal of a common bile duct stone.

Dr. Quattlebaum was active also as an administrator: he served on the Board of Trustees of Candler Hospital, was a member of the Candler Foundation Board, and served as the Chairman of Candler's Institutional Review Board for ten years. As well, he was a member of the Georgia Medical Society and the Medical Association of Georgia, serving on its Professional Standards Review Organization Committee's founding committee; and he was a member of the Johns Hopkins Medical and Surgical Society, the First District Medical Society, the Georgia Surgical Society and the Southern Surgical Association.

On October 20, 2009, Dr. Quattlebaum received the Physician Legends of St. Joseph's/Candler Health System award for innovations defining new frontiers and greatly enhancing the quality of patient care. In his acceptance speech before the assembled medical staff, he shared highlights from his career, which began during his teenage years when he regularly assisted his father in surgery.

Outside of the academic world, Dr. Quattlebaum was active in sports car racing. He was an enthusiast, hobbyist and historian, being Regional Executive (President) of the Savannah Region of the Sports Car Club of America. He held Sports Car Club of America (SCCA) national and Fédération Internationale de l'Automobile (FIA) international competition licenses and raced throughout the area, including at Daytona. He qualified twice for the interdivisional races in California and was an instructor for SCCA driving schools. He was steward for SCCA and FIA races, and he organized and participated with the medical team in several such events.

Dr. Quattlebaum was also a charter member of both the Savannah Sports Fishing Club and the German Heritage Society, of which he was a past President. He served as President of the Cotillion Club and was a member of the Savannah Yacht Club and the Oglethorpe Club. He was a member of the Isle of Hope United Methodist Church and the Seekers Sunday School class, as well as a devoted member of the Rotary Club of Savannah South.

Before and during his retirement, Dr. Quattlebaum spent time gardening and growing fruits and vegetables, including an abundance of raspberries, on his farm in Springfield, Georgia. He particularly enjoyed harvest time, when he shared his fruits and vegetables and visited with family and friends throughout the community.

Dr. Julian K. Quattlebaum, Jr. was predeceased by his parents, Dr. Julian Killen Quattlebaum and Helen Burkhalter Quattlebaum; a sister, Helen Quattlebaum Artley; and a daughter, Christie Elaine Quattlebaum.

He is survived by his loving wife of 38 years, Ruth Allen Quattlebaum; by three sons, Julian Killen Quattlebaum III (Kanittha), David Martin Quattlebaum (Adrian) and John Thomas Quattlebaum (Louise); three daughters, Tracey Quattlebaum McMillan (Gregory), Laura Quattlebaum Gower (Austin) and Katherine Quattlebaum Harper (Benjamin); a sister, Barbara Quattlebaum Parr; and eleven grandchildren.

### CENTRAL LINCOLN PEOPLE'S UTILITY BOARD

### HON. PETER A. DeFAZIO

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

*Monday, November 16, 2009*

Mr. DeFAZIO. Madam Speaker, at a time when our economy is focused on recovery, adopting renewable sources of electricity will spur job creation and economic growth, save consumers money, and reduce greenhouse gas pollution. People's Utility Districts (PUDs) have consistently been at the forefront of this effort.

Central Lincoln PUD, in my congressional district, is an excellent example of People's Utility Districts that have consistently demonstrated a commitment to delivering clean energy and conservation resources to their customers. Due to their relatively small size and local consumer ownership, PUDs are able to meet the unique energy needs of their community while also investing in local renewable energy resources.

With the assistance of a nearly \$10 million federal grant, Central Lincoln PUD is poised to implement an energy saving smart grid system. Central Lincoln will contribute an additional \$9 million to the endeavor. A portion of these funds will go toward the installation of smart meters in home and business. These advanced meters will empower consumers to more effectively manage their energy use, leading to significant savings.

In addition to the smart grid project, Central Lincoln PUD has made a priority of aiding local residents, industry, and businesses with energy conservation efforts. These projects range from weatherization advice for homes to the large-scale implementation of energy saving measures at local businesses. Through this sort of individually tailored energy consultation, Central Lincoln PUD has facilitated significant energy savings for many customers who otherwise may not have had access to such resources.

Capitalizing on their coastal location, Central Lincoln PUD has become a significant player in the development of wave energy technology. As a platinum sponsor of Oregon State University's Wallace Energy Systems & Renewable Facility, Central Lincoln PUD directly contributes to research into this clean and renewable technology.

Central Lincoln PUD has demonstrated an extraordinary dedication to bringing clean energy and energy conservation resources to all

of their customers. Notably, Central Lincoln—and other PUDs—have shown that this can be done while still holding energy costs well below the national average.

**CONGRESSMAN BROWN HONORS  
WORLD WAR II VETERANS FROM  
SOUTH CAROLINA'S FIRST DIS-  
TRICT WHO PARTICIPATED IN  
THE LOWCOUNTRY HONOR  
FLIGHT**

**HON. HENRY E. BROWN, JR.**

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

*Monday, November 16, 2009*

Mr. BROWN of South Carolina. Madam Speaker, I rise today in honor of the 94 World War II Veterans from South Carolina's First District that participated in the Lowcountry Honor Flight on Saturday, November 7, 2009.

The Honor Flight Network brings America's senior veterans to Washington, DC to visit the memorials dedicated to their service and sacrifice. Today I had the honor to meet with World War II Veterans from my district and I felt privileged to shake the hands of some of our greatest heroes as they gathered around the World War II Memorial.

This month we are reminded of the selflessness and sacrifice of many of our uniformed men and women and I was grateful to have the opportunity to personally thank World War II Veterans from South Carolina's First District for their dedicated service to our country.

**HONORING THE LIFE OF STAFF  
SERGEANT JUSTIN M. DECROW  
OF PLYMOUTH, INDIANA**

**HON. JOE DONNELLY**

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

*Monday, November 16, 2009*

Mr. DONNELLY of Indiana. Madam Speaker, I rise today to remember and honor the life and service of Staff Sergeant Justin M. DeCrow, a native son of Plymouth, Indiana, and a proud member of the United States Army. The servicemen and women of the United States Armed Forces serve with a selfless willingness to make the ultimate sacrifice for the country they love and protect. A career soldier with 13 years of honorable and dedicated service, Justin's life was tragically cut short in a senseless act of violence when a gunman opened fire at a Soldier Readiness Processing facility at Fort Hood in Texas on the 5th of November.

Justin always wanted to be a soldier. He graduated from Plymouth High School in 1996, married his high school sweetheart that spring, and enlisted in the United States Army immediately thereafter. He pursued a career as a soldier in the Army out of an unflinching love of country and a desire to make a better life for his family.

In the early part of his 13 year career as a soldier, he performed light vehicle maintenance. In 2000, Justin and his family moved to Evans, Georgia, after he was assigned to

nearby Fort Gordon, where he underwent training as a communications satellite operator. He was stationed in that capacity in South Korea from September 2008 to August of this year. In September, he was stationed with the 16th Signal Company at Fort Hood, Texas. He had hoped to return eventually to Fort Gordon, when an opening became available, to be with his wife and daughter.

At Fort Hood, Justin was involved in training new soldiers. He will be remembered by his fellow soldiers in the United States Army as a mentor with an undeniable charm and quick wit, and by friends and family as a loving and devoted father and husband. He is survived by his wife of 14 years, Marikay, their 13-year old daughter, Kylah, and two proud parents: Daniel DeCrow and Rhonda Thompson. He will be missed by all.

It is my solemn duty, and humble privilege, to honor the life, service, and memory of Staff Sergeant Justin M. DeCrow, which stand as a testament to the great honor possessed, and sacrifices made, by our men and women in the armed forces and their families. We mourn his loss and offer solemn gratitude for his service.

**IN RECOGNITION OF THE MARTY  
MAJORS FAMILY AS THE 2009  
HOLMES COUNTY FARM FAMILY  
OF THE YEAR**

**HON. JEFF MILLER**

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Monday, November 16, 2009*

Mr. MILLER of Florida. Madam Speaker, it is a privilege for me to rise today to extend congratulations to the Marty Majors family for being selected the 2009 Holmes County, Florida Farm Family of the Year. The Majors family is an integral part of the Northwest Florida community, and I am proud to honor their achievements.

Marty and Tiffany Majors married in 1992. They have been farming full-time since 1996, but the land on which they farm has been owned by the Majors family for over 100 years. Their son, Blake Majors, is a 7th grader at Bethlehem High School and a member of the Future Farmers of America. Together, the family grows soybeans, peanuts, corn, oats, and wheat. By using strip till farming practices, the Majors are one of the area's best soil conservationists. The family also manages a significant acreage of timberland and does custom grain harvesting as part of their agricultural enterprise.

Madam Speaker, on behalf of the United States Congress, I would like to offer my congratulations to the Majors family's tireless work and dedication to family, faith and trade. They are an outstanding example of the farm families that make up the backbone of our nation. My wife Vicki and I wish Marty, Tiffany, and Blake best wishes for continued success.

**PERSONAL EXPLANATION**

**HON. K. MICHAEL CONAWAY**

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Monday, November 16, 2009*

Mr. CONAWAY. Madam Speaker, on rollcall No. 865, Democrat Adjournment Resolution, had I been present, I would have voted "nay"; on rollcall No. 866, H. Res. 893—Congratulating the 2009 Major League Baseball World Series Champions, the New York Yankees, had I been present, I would have voted "yea"; on rollcall No. 867, H.R. 3788—To designate the facility of the United States Postal Service located at 3900 Darrow Road in Stow, Ohio, as the "Corporal Joseph A. Tomci Post Office Building," had I been present, I would have voted "yea"; on rollcall No. 868, S. 1211—To designate the facility of the United States Postal Service located at 60 School Street, Orchard Park, New York, as the "Jack F. Kemp Post Office Building," had I been present, I would have voted "yea"; on rollcall No. 869, Thompson (D-MS) Amendment, had I been present, I would have voted "nay"; on rollcall No. 870, Barton (R-TX) Amendment, had I been present, I would have voted "nay"; on rollcall No. 871, Dent (R-PA) Amendment No. 4, had I been present, I would have voted "yea"; on rollcall No. 872, Dent (R-PA) Amendment No. 5, had I been present, I would have voted "yea"; on rollcall No. 873, McCaul (R-TX) Amendment, had I been present, I would have voted "yea"; on rollcall No. 874, Motion to Recommit, had I been present, I would have voted "yea"; and on rollcall No. 875, H.R. 2868—Chemical Facility Anti-Terrorism Act of 2009, had I been present, I would have voted "nay."

**EARMARK DECLARATION**

**HON. DEAN HELLER**

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

*Monday, November 16, 2009*

Mr. HELLER. Madam Speaker, pursuant to the Republican Leadership standards on earmarks, I am submitting the following information regarding earmarks I received as part of H.R. 2996 the Department of the Interior, Environment, and Related Agencies Appropriations Act, 2010:

Requesting Member: Congressman DEAN HELLER

Bill Number: H.R. 2996

Account: Environmental Protection Agency—STAG Water and Wastewater Infrastructure Project

Legal Name of Requesting Entity: City of Fernley, Nevada

Address of Requesting Entity: 595 Silver Lace Blvd., Fernley, NV 89408

Description of Request: \$300,000. This project will replace the current tank-based solids handling method with the construction of mechanical dewatering facilities. This facility's microfiltration design for arsenic removal includes solids handling storage tanks. Rehabilitation for mechanical dewatering of the residuals handling would allow the City of Fernley to

provide its residents with higher quality and safer water for the long term. This project also falls in line with the mission of the EPA by protecting and safeguarding Fernley residents' health and environment.

IN RECOGNITION OF THE 50TH  
WEDDING ANNIVERSARY OF MR.  
AND MRS. RICHARD K.  
RAISANEN

### HON. MIKE ROGERS

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

*Monday, November 16, 2009*

Mr. ROGERS of Alabama. Madam Speaker, I respectfully request the attention of the House to pay recognition to an important day in the lives of two constituents and friends of mine, Mr. and Mrs. Rick Raisanen.

On December 4, 2009, Rick and Molly Raisanen will celebrate their 50th wedding anniversary. Rick was born on November 27, 1939, and his wife, Molly, was born on July 7, 1940.

The couple met at the skating rink at Fort McClellan. They married on December 4, 1959 at Centurion Chapel at Fort McClellan.

Over the years, Rick and Molly have been blessed with two children, Keith and Kelli; and four grandchildren, Molly Kristen, Olivia, Emma Grace and Braden. Rick retired from Bell South and Molly retired from Jacksonville State University.

On Saturday, December 5, the couple along with their family and friends will celebrate their anniversary at Saks Baptist Church.

I would like to congratulate my friends, Rick and Molly, for reaching this important milestone in their lives. They are shining examples of love and dedication for us all, and I wish them and their family all the best at this important occasion.

IN APPRECIATION OF BURLINGAME CITY COUNCILWOMAN ROSALIE O'MAHONY

### HON. JACKIE SPEIER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Monday, November 16, 2009*

Ms. SPEIER. Madam Speaker, for twenty years, the people of Burlingame, California have depended on Rosalie O'Mahony's intelligence, hard work and love for her adopted city. First elected in 1989, Rosalie O'Mahony has served five terms on the City Council, including five separate stints as Burlingame's mayor.

To know Rosalie is to know her passion for her community. For the more than three decades that I have had the immense pleasure of Rosalie's friendship, we have never had a conversation where she did not speak about a person or group in need or an intersection that could be safer. Rosalie lives and breathes community service and our entire region has benefited greatly by her inspired decision to move to Burlingame in 1965.

The reason for her move was so that Rosalie could accept a job on the faculty of the Col-

lege of San Mateo's mathematics department. For more than forty years she has shared her knowledge with generations of students and continues to do so now as an adjunct instructor. In a region where some of the best jobs are in technological fields, excellent math instruction in our local colleges is vital to our area's economic success and Rosalie O'Mahony certainly has been a big part of that success.

Madam Speaker, one mention in the CONGRESSIONAL RECORD could not possibly hold all of the accomplishments of this incredible woman. Her community service includes being chair of The American Cancer Society and board member of The Easter Seal Society and The Suicide and Crisis Prevention Center. She also served on the San Mateo County Grand Jury and has been—or continues to be—a member of The Burlingame Newcomers Club, The Irish Literary and Historical Society, the Burlingame Historical Society, Burlingame Beautification Commission, the San Mateo County Transportation Citizens' Advisory Committee and the Burlingame Aquatic Foundation.

As part of her official duties, Rosalie has represented her city on the Airport Roundtable, the County Emergency Services Committee, the San Mateo County Investment Oversight Committee, City and County Association of Governments, Bay Area Water Supply and Conservation Agency and the San Mateo County Transportation Authority.

In recognition of her years of service to her community, earlier this year Councilwoman O'Mahony was chosen as Burlingame's Citizen of the Year for 2009.

Madam Speaker, any day that includes a chat with Rosalie O'Mahony is a day where I learn something new. Burlingame won't be quite the same without Rosalie on the City Council but, without a doubt, Burlingame would not be the city it is today had Rosalie not moved here and volunteered to serve.

### PERSONAL EXPLANATION

#### HON. CAROLYN MCCARTHY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Monday, November 16, 2009*

Mrs. MCCARTHY of New York. Madam Speaker, on November 4, I missed one vote. Had I been present, I would have voted as follows.

Rollcall No. 844, on the Motion to Suspend the Rules and Agree, as Amended, to H. Res. 839, I would have voted "yea."

IN HONOR OF "TEACHER OF THE YEAR" VALERIE ZIEGLER

#### HON. JACKIE SPEIER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Monday, November 16, 2009*

Ms. SPEIER. Madam Speaker, I rise today to honor a special woman who goes above and beyond the call of duty to educate the children of our fine city of San Francisco.

Valerie Ziegler was one of only five teachers—out of the more than 310,000 who serve in California public schools—to be honored as a 2009 Teacher of the Year. She is the first teacher ever from the San Francisco Unified School District to receive this honor. Perhaps most impressive is that she gave up a more lucrative career, as a technology consultant, so that she could teach. In just her sixth year in the profession, Ms. Ziegler carries an impressive load, teaching U.S. History, Economics and Advanced Placement U.S. Government at San Francisco's Lincoln High School. In addition to her course-work, she partnered with other Lincoln teachers to start the "green academy" to prepare students for careers in the new clean-energy economy.

Praise for Ms. Ziegler from parents, administrators, fellow teachers and—in particular—her students, is virtually unanimous. Tales abound of her devotion to those she teaches and the extra effort she puts in to not only teach but instill a lifelong love of learning in her students.

But Madam Speaker, Ms. Ziegler will be the first to say that the credit doesn't belong solely to her. Valerie is the daughter of a 30 year public school teacher who worked primarily with hearing-impaired students. Valerie spoke glowingly about the examples her mother set—how she spent her own money on hearing aid batteries for her students, drove them to appointments, even visited former students in jail.

We hear a lot about family values in our line of work, but the Ziegler family lives it. With the daunting challenges facing public education in San Francisco, California, and indeed the nation, teachers like Valerie Ziegler must be encouraged and rewarded. Society as a whole is benefited by these special people who choose to devote their lives so that our children have every opportunity to achieve all that they set their sights on.

### SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Tuesday, November 17, 2009 may be found in the Daily Digest of today's RECORD.

## MEETINGS SCHEDULED

NOVEMBER 18

Time to be announced

Homeland Security and Governmental Affairs

Business meeting to consider the nomination of Daniel I. Gordon, of the District of Columbia, to be Administrator for Federal Procurement Policy.

S-216, Capitol

9:30 a.m.

Agriculture, Nutrition, and Forestry

To hold hearings to examine reforming the United States financial market regulation; to be immediately followed by a hearing to examine the nomination of Jill Long Thompson, of Indiana, to be a Member of the Farm Credit Administration Board, Farm Credit Administration.

SD-106

Environment and Public Works

Business meeting to consider an original bill entitled "Economic Development Revitalization Act of 2009".

SD-406

Judiciary

To hold an oversight hearing to examine the Department of Justice.

SDG-50

Veterans' Affairs

To hold hearings to examine easing the burdens through employment.

SR-418

10 a.m.

Health, Education, Labor, and Pensions

Business meeting to consider S. 510, to amend the Federal Food, Drug, and Cosmetic Act with respect to the safety of the food supply, and the nominations of David Morris Michaels, of Maryland, to be Assistant Secretary of Labor, and Pamela S. Hyde, of New Mexico, to be Administrator of the Substance Abuse and Mental Health Services Administration, Department of Health and Human Services, any pending nominations, and subcommittee assignments.

SD-430

10:15 a.m.

Foreign Relations

To hold hearings to examine the nominations of Mary Burce Warlick, of Virginia, to be Ambassador to the Republic of Serbia, James B. Warlick, Jr., of Virginia, to be Ambassador to the Republic of Bulgaria, and Eleni Tsakopoulos Kounalakis, of California, to be Ambassador to the Republic of Hungary, all of the Department of State.

SD-419

2:30 p.m.

Homeland Security and Governmental Affairs

Contracting Oversight Subcommittee

To hold hearings to examine accountability for foreign contractors, focusing on the Lieutenant Colonel Dominic "Rocky" Baragona Justice for American Heroes Harmed by Contractors Act.

SD-342

Commerce, Science, and Transportation

To hold hearings to examine the nominations of Mark R. Rosekind, of California, to be a Member of the National Transportation Safety Board, Scott Boyer Quehl, of Pennsylvania, to be Assistant Secretary, and to be Chief Financial Officer, and Suresh Kumar, of New Jersey, to be Assistant Secretary and Director General of the

United States and Foreign Commercial Service, both of the Department of Commerce, Philip E. Coyle, III, of California, to be an Associate Director of the Office of Science and Technology Policy, and Anthony R. Coscia, of New Jersey, and Albert DiClemente, of Delaware, both to be a Director of the Amtrak Board of Directors.

SR-253

Judiciary

To hold hearings to examine the nominations of Denny Chin, of New York, to be United States Circuit Judge for the Second Circuit, Rosanna Malouf Peterson, to be United States District Judge for the Eastern District of Washington, William M. Conley, to be United States District Judge for the Western District of Wisconsin, and Susan B. Carbon, of New Hampshire, to be Director of the Violence Against Women Office, and John H. Laub, of the District of Columbia, to be Director of the National Institute of Justice, both of the Department of Justice.

SD-226

Energy and Natural Resources

Public Lands and Forests Subcommittee

To hold hearings to examine managing Federal forests in response to climate change, focusing on natural resource adaptation and carbon sequestration.

SD-366

## NOVEMBER 19

9:30 a.m.

Armed Services

To hold hearings to examine the nominations of Clifford L. Stanley, of Pennsylvania, to be Under Secretary for Personnel and Readiness, and Erin C. Conaton, of the District of Columbia, to be Under Secretary of the Air Force, both of the Department of Defense, and Lawrence G. Romo, of Texas, to be Director of the Selective Service.

SH-216

10 a.m.

Banking, Housing, and Urban Affairs

Business meeting to consider an original bill entitled "Restoring American Financial Stability Act of 2009".

SR-325

Commerce, Science, and Transportation

Business meeting to consider S. 592, to implement the recommendations of the Federal Communications Commission report to the Congress regarding low-power FM service, S. 850, to amend the High Seas Driftnet Fishing Moratorium Protection Act and the Magnuson-Stevens Fishery Conservation and Management Act to improve the conservation of sharks, S. 1224, to reauthorize the Chesapeake Bay Office of the National Oceanic and Atmospheric Administration, S. 2764, to reauthorize the Satellite Home Viewer Extension and Reauthorization Act of 2004, and S. 2768, to amend title 49, United States Code, to authorize appropriations for the National Transportation Safety Board for fiscal years 2010 through 2014.

SR-253

Finance

To hold hearings to examine United States preference programs, focusing on options for reform.

SD-215

Health, Education, Labor, and Pensions

To hold hearings to examine nominations for Commissioner and for General

Counsel of the Equal Employment Opportunity Commission.

SD-430

Homeland Security and Governmental Affairs

To hold hearings to examine the Fort Hood Attack, focusing on a preliminary assessment.

SD-342

Judiciary

Business meeting to consider S. 448, to maintain the free flow of information to the public by providing conditions for the federally compelled disclosure of information by certain persons connected with the news media, S. 714, to establish the National Criminal Justice Commission, S. 1624, to amend title 11 of the United States Code, to provide protection for medical debt homeowners, to restore bankruptcy protections for individuals experiencing economic distress as caregivers to ill, injured, or disabled family members, and to exempt from means testing debtors whose financial problems were caused by serious medical problems, S. 1147, to prevent tobacco smuggling, to ensure the collection of all tobacco taxes, S. 1765, to amend the Hate Crime Statistics Act to include crimes against the homeless, S. 1353, to amend title 1 of the Omnibus Crime Control and Safe Streets Act of 1986 to include nonprofit and volunteer ground and air ambulance crew members and first responders for certain benefits, S. 678, to reauthorize and improve the Juvenile Justice and Delinquency Prevention Act of 1974, and the nominations of Jane Branstetter Stranch, of Tennessee, to be United States Circuit Judge for the Sixth Circuit, Thomas I. Vanaskie, of Pennsylvania, to be United States Circuit Judge for the Third Circuit, Christina Reiss, to be United States District Judge for the District of Vermont, Louis B. Butler, Jr., to be United States District Judge for the Western District of Wisconsin, Abdul K. Kallon, to be United States District Judge for the Northern District of Alabama, Victoria Angelica Espinel, of the District of Columbia, to be Intellectual Property Enforcement Coordinator, and Benjamin B. Tucker, of New York, to be Deputy Director for State, Local, and Tribal Affairs, Office of National Drug Control Policy.

SD-226

Joint Economic Committee

To hold hearings to examine financial regulatory reform, focusing on protecting taxpayers and the economy.

210, Cannon Building

10:30 a.m.

Energy and Natural Resources

To hold hearings to examine environmental stewardship policies related to offshore energy production.

SD-366

2:15 p.m.

Indian Affairs

Business meeting to consider pending calendar business; to be immediately followed by an oversight hearing to examine drug smuggling and gang activity in Indian country.

SD-628

2:30 p.m.

Homeland Security and Governmental Affairs

To hold hearings to examine the nomination of Alan C. Kessler, of Pennsylvania, to be a Governor of the United States Postal Service.

SD-342

Intelligence

To hold closed hearings to consider certain intelligence matters.

S-407, Capitol

3:30 p.m.

Foreign Relations

To hold hearings to examine the nominations of Leslie V. Rowe, of Washington, to be Ambassador to the Republic of Mozambique, Alberto M. Fernandez, of Virginia, to be Ambassador to the Republic of Equatorial Guinea, Mary Jo Wills, of the District of Columbia, to be

Ambassador to the Republic of Mauritius, and to serve concurrently and without additional compensation as Ambassador to the Republic of Seychelles, and Philip S. Goldberg, of the District of Columbia, to be Assistant Secretary for Intelligence and Research, all of the Department of State.

SD-419

NOVEMBER 20

10 a.m.

Finance

To hold hearings to examine the nominations of Mary John Miller, of Maryland, to be Assistant Secretary, and Charles Collins, of Maryland, to be Deputy Under Secretary, both of the Department of the Treasury.

SD-215

DECEMBER 2

2:30 p.m.

Homeland Security and Governmental Affairs

Disaster Recovery Subcommittee

To hold hearings to examine disaster case management, focusing on developing a comprehensive national program focused on outcomes.

SD-342

DECEMBER 10

10 a.m.

Energy and Natural Resources

To hold hearings to examine the role of grid-scale energy storage in meeting our energy and climate goals.

SD-366

**SENATE—Tuesday, November 17, 2009**

The Senate met at 10 a.m. and was called to order by the Honorable ROLAND W. BURRIS, a Senator from the State of Illinois.

**PRAYER**

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Eternal God, source of our strength, we come before You today remembering that Your presence and power sustain us during life's rigorous demands. Lord, it is comforting to know that in every situation You are always present to empower us with Your love.

Today, use our lawmakers as instruments of Your peace and love. Examine their hearts and minds, providing them with the courage to walk continually in Your truth. Look favorably upon their efforts to build a better nation and world, guiding them with Your wisdom.

Lord, lead our Nation also. May our efforts at home and abroad reflect Your character and grace.

We pray in Your Holy Name. Amen.

**PLEDGE OF ALLEGIANCE**

The Honorable ROLAND W. BURRIS led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

**APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE**

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. BYRD).

The legislative clerk read the following letter:

U.S. SENATE,  
PRESIDENT PRO TEMPORE,  
WASHINGTON, DC, NOVEMBER 17, 2009.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable ROLAND W. BURRIS, a Senator from the State of Illinois, to perform the duties of the Chair.

ROBERT C. BYRD,  
*President pro tempore.*

Mr. BURRIS thereupon assumed the chair as Acting President pro tempore.

**RECOGNITION OF THE MAJORITY LEADER**

The ACTING PRESIDENT pro tempore. The Republican leader.

Mr. MCCONNELL. Mr. President, pending the arrival of the majority leader, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The majority leader is recognized.

**SCHEDULE**

Mr. REID. Mr. President, I apologize to my counterpart, the distinguished Senator from Kentucky, for not being here, but I was occupied outside the Chamber.

Mr. President, following leader remarks, there will be a period for morning business for 1 hour, with Senators permitted to speak for up to 10 minutes each. The majority will control the first 30 minutes, the Republicans will control the final 30 minutes.

Following morning business, the Senate will resume consideration of H.R. 3082, the Military Construction-Veterans Affairs appropriations bill. Several amendments are still in order to the bill. We expect a vote for up to three of those amendments prior to lunch. Following the recess, we will have a number of votes we have to take. It is important that we do that. The Senate will recess from 12:30 to 2:15 for the weekly party caucuses, but following the recess the Senate will proceed to vote in relation to the Inhofe amendment, No. 2774, to be followed by a vote on passage of the bill, as amended.

Upon disposition of H.R. 3082, there will be 1 hour of debate prior to a cloture vote on the nomination of David Hamilton to be U.S. circuit judge for the Seventh Circuit.

**RECOGNITION OF THE MINORITY LEADER**

The ACTING PRESIDENT pro tempore. The Republican leader is recognized.

**HEALTH CARE REFORM**

Mr. MCCONNELL. Mr. President, we know the House-passed health care bill will cut Medicare, raise taxes, and raise premiums. We also know the bill being developed by the majority leader will do the same. This morning, I want to focus on the \$½ trillion cuts in Medicare—\$½ trillion over 10 years.

We have here the House-passed health care bill in its entirety. This is

a 2,000-page, as the Wall Street Journal called it, "monstrosity." In the area of the Medicare cuts, what does that mean? When you say you are going to cut Medicare by \$½ trillion over 10 years, what does it mean? It means cuts to hospitals, cuts to Medicare Advantage, cuts to nursing homes, cuts to home health care, and cuts to hospice. Those vital programs would be collectively subjected to \$½ trillion in cuts over 10 years.

Focusing on hospice, this is the section of the bill that deals with hospice. The legalese is a little bit mind-boggling, but to give you a sense of how these things are written, it says, "Subclause (VII) of section"—and it goes on:

... 1814(i)(1)(c)(ii) of the Social Security Act ... is amended by inserting after "the market basket percentage increase" the following: "(which is subject to the productivity adjustment ...)"

Described in another section.

You would have to be steeped in legalese and minutia to understand what that means, so I am going to interpret it for our colleagues so they will know what that means. It means an \$8 billion cut to hospice. That is what that language means, an \$8 billion cut to hospice.

What does that mean for seniors? According to Victoria Scarborough, who is a nurse in Danville, KY, it means sacrificing patient care. Here is what she had to say about the prospect of an \$8 billion cut to hospice:

We are able to do this—provide excellent health care at low cost—because we are present at the bedside with the patient, sitting at the kitchen table, holding a spouse's hand. We depend upon our highly skilled personnel; our "services" are our people. For hospices the productivity adjustment makes little sense, we need our people.

That illustrates the impact of an \$8 billion cut in hospice.

On the chart behind me, I mention the other areas that are being cut: hospitals, Medicare Advantage, nursing homes, home health, and hospice, which I just described.

Another cut would be to Medicare Advantage. The section of the bill—this is the front page—dealing with the Medicare Advantage reforms, they are called, says "Phase-In Of Payment Based On Fee-For-Service Costs." What does that mean? What does "Phase-In Of Payment Based On Fee-For-Service Costs" mean? It means that \$236 billion in cuts to Medicare will occur—\$236 billion in this program out here, Medicare Advantage, that will occur as a result of this bill. What does that mean, the \$236 billion of cuts to Medicare Advantage? The Congressional Budget Office has said it means fewer benefits for



seniors. That is the Congressional Budget Office that says it means fewer benefits for seniors.

Norma Hylton of Lexington, KY, recently wrote:

Mr. Obama says he'll take away the Medicare Advantage plans. . . . This makes us very concerned about the healthcare plans being debated. I truly believe all seniors (maybe others) will suffer.

We know the overall bill raises taxes, raises health insurance premiums for the 85 percent of Americans who already have health insurance, and cuts Medicare by  $\frac{1}{2}$  trillion. This morning, what I tried to do is point out what some of those cuts mean; what taking \$8 billion out of hospice means, this important program dealing with folks who are at the end of life; and what taking \$236 billion out of Medicare Advantage means, as a practical matter, to constituents in my State and across the country.

I yield the floor.

#### RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

#### MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will be a period of morning business for 1 hour, with Senators permitted to speak therein for up to 10 minutes each, with the time equally divided and controlled between the two leaders or their designees, with the majority controlling the first half and the Republicans controlling the second half.

The Senator from Illinois is recognized.

#### HEALTH CARE REFORM

Mr. DURBIN. Mr. President, the Republican leader just came to the floor, as he has with regularity, to speak to the issue of health care reform. We are all addressing it because it is a major issue we are facing in this Congress, a major opportunity for this country to deal with a health care system that needs to be fixed. There are parts of it that are very strong but parts of it that need to be fixed.

The cost of health care today in America is going up so fast that it is stripping the ability of individuals and businesses to buy health insurance coverage. We have seen the cost of premiums go up three times faster than wages. The story is obvious. For most workers across America, the choice each year is take-home pay or increased costs for health insurance, and they understand it is unsustainable.

Just 10 years ago, the cost of a health insurance plan for a family of four was \$6,000. This year, it is \$12,000, on average. Ten years from now, it will be

\$24,000. To think that 10 years from now people will have to work to earn \$2,000 a month just to pay for the health care for a small family tells you we have to make a change.

The Senator from Kentucky on the Republican side came to the floor to criticize not the Senate bill but the House bill. I would say to the Senator from Kentucky, in all fairness, let's address the Senate bill which will be reported this week. It has literally been reviewed by the Congressional Budget Office for the last 3 or 4 weeks, and it will come out this week and be posted on the Internet for everyone to read in its entirety. At that point, I think the criticisms leveled by the Senator from Kentucky will be put in context. Let's look at the Senate bill.

I would also like to stand here and wave before you a copy of the Republican bill on health care reform, but it does not exist. There is no Republican alternative to health care reform. They are satisfied with the current system. They want to keep the status quo. Like the health insurance companies, they are happy with what exists. But most Americans, and certainly those I represent in Illinois, know better. They know we are at a distinct disadvantage when it comes to health care if we have to rely on health insurance companies for permission for coverage because they are going to say no. Repeatedly, they say no. They deny you coverage when you need it the most, because of a preexisting condition. They deny you coverage because they say it costs too much. They deny you coverage because they don't want to cover a certain drug and they want to challenge you to fight them and appeal that decision. They deny coverage when you decide to change a job or lose a job. They deny coverage when a child reaches the age of 23 and is so-called emancipated and on his own. That is the existing system which the Republicans are supporting. They can support it if they wish, but most Americans do not. Most Americans want to see real health care reform.

Let's spend a moment speaking about Medicare, which the Senator from Kentucky addressed. Our goal is not only to preserve Medicare. As a political party, it was Democrats who created Medicare. It was Republicans who called it socialized medicine and opposed it. Over the years, they have tried to trim back on Medicare benefits, to reduce coverage and turn Medicare over to private insurers. That effort was called Medicare Advantage. When private health insurance companies came before Congress and said: We can do a better job than the government, we can offer Medicare coverage at a lower cost and do it more efficiently because we are the private sector, Republicans accepted that premise and tried to take away Medicare coverage from the government and offer it to private health insurance companies.

What happened? Some private health insurance companies did do it at a lower cost but not all of them. In fact, when it was all said and done, Medicare Advantage, this so-called private rescue of the Medicare Program, ended up costing 14 percent more than the Medicare Program itself. In other words, the Medicare Program was subsidizing private health insurance companies that couldn't keep their promise to deliver Medicare at a lower cost.

The Senator from Kentucky comes to the Chamber to defend those private health insurance companies, defend the subsidy they receive at the expense of Medicare. That is unacceptable and indefensible. Medicare offers the basic plan most Americans trust when they reach the age of 65. We are going to find a way to make sure we put Medicare on sound footing. The future of Medicare is in doubt if we don't deal with the underlying problems in our health care system today.

The Senator from Kentucky and his Republican side have no alternative. They are not offering health care reform or change. They are standing with the health insurance companies, defending Medicare Advantage, which enjoys this healthy subsidy from the Federal Government, and, frankly, not supporting our efforts to bring real reform to health insurance.

I can tell my colleagues the Medicare provisions in the House bill referred to by the Senator from Kentucky were supported by AARP. They have been supported by other organizations: The Leadership Council of Aging Organizations, the National Committee to Preserve Social Security and Medicare. How does the Senator from Kentucky explain that; that they would endorse this approach to Medicare while he says it would destroy Medicare. Frankly, he happens to be mistaken. What we are doing is putting Medicare on a sound financial footing, reducing the increase in cost in medical procedures so Medicare isn't stripped of the basic funds it has.

In fact, when it is all said and done, we find that the House bill, the bill the Senator from Kentucky references, extends the life of the Medicare trust fund by an additional 5 years. How does the Senator from Kentucky explain that? If this is destroying Medicare, how does this health care reform extend its life?

Under the bill, overall national spending on health care would increase by only .8 percent over the next 10 years, compared to current law, even though 34 million Americans would be gaining coverage. Under the bill, out-of-pocket spending on health care would decline by more than \$200 billion over what it would have been by the year 2019.

When it comes to Medicare Advantage, the Senator from Kentucky says it offers more benefits for seniors. I am

not opposed to offering more benefits for seniors, but I wish to make sure each and every senior under Medicare has a basic Medicare package they can count on and afford and that Medicare is put on a permanent, sound financial footing. Unfortunately, on the Republican side, they have offered no alternative.

#### MILCON APPROPRIATIONS

Mr. DURBIN. Mr. President, there is a proposal by the Federal Government that relates to a small town in the State I represent. The town is Thomson, IL. It is in Carroll County. It is 150 miles from Chicago in the northwestern portion. Carroll County is one of the small, rural counties which has been struggling because a lot of employers have gone and a lot of people have moved. Those who remain are hit hard by the recession and desperate for employment. The mayor of Thomson, Jerry "Duke" Hebel, wrote a letter to me and Governor Quinn and others asking for us to consider a prison which had been opened there for expansion as a Federal prison, and the administration is now looking at that possibility. If the Federal Government moves to take over this prison, it could create up to 3,000 jobs in the area, good-paying jobs with benefit packages. It would be a dramatic infusion into the local economy. In fact, it is estimated it would increase growth in the local economy by over \$200 million a year, almost \$1 billion over 4 years.

There is nothing that could be brought more quickly to have that kind of positive impact on a local economy. Part of this is to transfer the detainees from Guantanamo to this new prison and basically close Guantanamo. Guantanamo detainees cost the Government about \$430,000 a year per detainee. It is an extremely expensive facility, manned by the Department of Defense. Of course, we have to provide barracks and accommodations and creature comforts that we want our men and women in uniform to have at Guantanamo. Moving it to Thomson, IL, will dramatically reduce that cost.

There are those who resist this and do not want to see us move forward. I say they don't understand these detainees would be placed in a portion of this Thomson facility run by the Department of Defense. They would be in what is virtually the most secure prison in America today, where there has, incidentally, never been an escape from the supermax facility since it was built. They would be housed in this situation with no visitors. In military prisons, there is no requirement for visitation, even though some critics have said otherwise. They would not be released into the general population under any conditions because we have passed laws saying that will never happen, prohibiting release of these de-

tainees into America. The net result is to create a dramatic number of new jobs.

Today we are going to consider amendment No. 2774 to the Military Construction appropriations bill, offered by Senator INHOFE of Oklahoma. It prohibits any funds in this bill from being used to construct or modify a facility to hold a detainee from Guantanamo. The Obama administration strongly opposes this amendment, and I hope my colleagues will join. This morning Senators REID and MCCONNELL received a letter from Defense Secretary Robert Gates, Homeland Security Secretary Janet Napolitano, and Attorney General Eric Holder, expressing strong opposition to the Inhofe amendment. It reads, in part:

Like the President and numerous others, both Republicans and Democrats, we are convinced that closing the Guantanamo Bay detention center is in the national security interests of the United States. . . . We acknowledge that closing Guantanamo has proven difficult, but that is not a reason for the Congress to preclude this important national security objective. . . . We need to get on with the work of enhancing our national security by finally closing the Guantanamo Bay detention center. The Inhofe amendment would have the opposite effect and would likely prevent further progress on this important issue. We ask that you join us in opposing the Inhofe amendment.

Let me be clear. This amendment would not prevent Guantanamo detainees from being transferred to the United States. Under current law, detainees can be transferred to the United States to be prosecuted. The Inhofe amendment does not change this. Here is what it would do: It would prohibit the Obama administration from upgrading security at any facility in the United States where Guantanamo detainees would be held. That is unwise and unprecedented. It certainly is not in the best interests of homeland security in the United States.

Let's take a hypothetical situation. In fact, let's move beyond a hypothetical. Let's take a real-life example. Last Friday, Attorney General Eric Holder announced five Guantanamo detainees who were allegedly involved in the 9/11 terrorist attack will be prosecuted in Federal court in the Southern District of New York. They include Khalid Shaikh Mohammed, the alleged mastermind of the 9/11 attacks. I agree with Michael Bloomberg, the Republican mayor of New York, who recently said:

I support the Obama Administration's decision to prosecute 9/11 terrorists here. It is fitting that 9/11 suspects face justice near the World Trade Center where so many New Yorkers were murdered. . . . I have great confidence that the [New York Police Department], with federal authorities, will handle security expertly.

Federal courts are clearly capable of prosecuting terrorists. Since 9/11, we have successfully prosecuted 195 terrorists in our article III Federal courts. I

strongly support the Attorney General's decision to prosecute these suspects in Federal court. But regardless of how one feels about the issue, every Member of Congress should know what the Inhofe amendment means. Under the Inhofe amendment, the government could not spend any money to upgrade security facilities in New York City to make certain any of these terrorist suspects are held safely. We would be prohibited from spending money because Guantanamo detainees are involved. How much sense does that make? If there is the need to upgrade security so they can be tried in a safe environment with no danger to the people of New York City, we want to spend that money, if necessary. The Inhofe amendment stops us, precludes us from spending that money. Why would the Senator from Oklahoma want to tie the President's hands?

In his zeal to keep open Guantanamo, he is trying to limit this administration. I think that is a mistake. He believes—others do as well—we should not close Guantanamo. I agree with GEN Colin Powell. He said: If I had my way, I wouldn't close Guantanamo tomorrow. I would close it this afternoon. He knows, and we know, it has become a dangerous symbol to the world, a dangerous symbol being used by terrorist organizations to recruit more for their ranks. That is why GEN Colin Powell has called for the closure of Guantanamo. That is why it has also been called on to close by former President George W. Bush, who on eight different occasions called for its closure. GEN David Petraeus has also called for its closure, as has ADM Mike Mullen, Chairman of the Joint Chiefs of Staff, as well as Robert Gates, Secretary of Defense under Presidents Bush and Obama. I urge colleagues to oppose the Inhofe amendment, give this administration the tools it needs to keep America safe. Let us not second-guess them when it comes to safety and security for America's people. That is what the Inhofe amendment would do. That, in and of itself, would be a serious mistake.

#### FOOD SAFETY MODERNIZATION ACT

Mr. DURBIN. Mr. President, tomorrow, Chairman TOM HARKIN will lead the Health, Education, Labor, and Pensions Committee in the markup of a food safety bill, S. 510, the FDA Food Safety Modernization Act. I introduced this bill with Senator JUDD GREGG of New Hampshire and a broad coalition of Senators from both sides of the aisle. I thank those Senators—especially the late Senator Ted Kennedy, who joined as a cosponsor of the bill, and Senators DODD, BURR, ISAKSON, ALEXANDER, KLOBUCHAR, and CHAMBLISS—for joining me to fight for

America's food safety. Since we introduced this bill, a number of other Members have signed on, including Senators HATCH, GILLIBRAND, TOM UDALL, and Senator BURRIS. We are pleased to have their support. There is bipartisan support for the FDA Food Safety Modernization Act because food safety is not a partisan issue. The safety of our food supply affects everybody every day.

As we learned from recent events, eating unsafe food—whether it is spinach contaminated with *E. coli*, peanut butter laced with salmonella or melamine-spiked candy—can lead to serious illness and death. Every year 76 million Americans suffer from preventable foodborne illness; 325,000 are hospitalized each year and 5,000 will die. Every 5 minutes, three people are rushed to the hospital because the food they ate made them sick. At the end of each day, 13 will die. The tragedy of these deaths is clear. We certainly recognize the anguish of loved ones who lose someone to food contamination. What is less understood are the long-term consequences for those who do survive. Victims are affected for months, sometimes years, after they leave the hospital.

Last week, the Center for Foodborne Illness, Research & Prevention released a report on the long-term health consequences of foodborne illness. The report shows it is often the lasting damage that causes more pain and suffering than the immediate effects felt right after eating contaminated food. That means that after the initial stomach aches and diarrhea have run their course, many foodborne illness victims will suffer from a lifetime of paralysis, kidney failure, seizures and mental disability and sometimes premature death. What is worse, children, pregnant women, and elderly Americans are among the most vulnerable.

I wish to show you a photo of this lovely young girl. Her name is Rylee. She knows the story of foodborne illness personally. On the morning of her ninth birthday, Rylee learned her family would celebrate by taking a road trip to an aquarium. Rylee couldn't have been more excited. Similar to many 9-year-olds, this cute little girl loved to sing and dance. On the morning of her birthday, she was doing both. Before the end of the day, Rylee was rushed to the hospital, where she was hospitalized for a month. Before she got to the aquarium, Rylee ate a salad. What she didn't know was the salad contained spinach that was laced with *E. coli*. The next day, Rylee had a stomach ache and severe diarrhea.

Her condition continued to worsen. Days later she was in excruciating pain. Her blood pressure was abnormally low. She was dehydrated, and her kidneys began to fail. As her parents watched in horror, Rylee began to hallucinate on the hospital bed. Rylee

and her family were suffering more pain than they ever thought imaginable—all because Rylee had eaten a salad she thought was safe.

She escaped this incident with her life. But she, like millions of foodborne illness victims, will endure health complications indefinitely. She will need multiple kidney transplants over the course of her life. She had to endure a painful surgery and challenging speech therapy, so she can no longer sing or speak with a loud voice.

Rylee has not given up hope. She was recently walking the Halls of Congress advocating for food safety reform. I heard her share her story with hundreds of parents, victims, and other supporters of the Make Our Food Safe Coalition.

Although her voice is now permanently softer and lower than it was before her illness, we heard Rylee's message loudly and clearly: All Americans deserve food that is safe.

Mr. President, I would like to show you another photo I have in the Chamber. This is a picture of Mary Ann of Mendota, IL. She is 80 years old. Mary Ann is pictured with her young grandson. I shared her story with the HELP Committee just a few weeks ago.

Mary Ann was planning a big Labor Day family celebration, and she decided to make a spinach salad. She used spinach which she did not know was contaminated with *E. coli*.

Hours after eating the spinach, Mary Ann was sprawled across her bathroom floor—vomiting violently and experiencing uncontrollable diarrhea. Then her kidneys failed.

Instead of spending time with her family on that holiday, she spent it in the hospital, staying there for 6 weeks, receiving medical treatment intravenously. Thankfully, Mary Ann is alive, but the quality of her life is never going to be the same.

This country has a good system, and most of our food is safe. But there are far too many lives—such as Mary Ann's and Rylee's—that have been compromised by the long-term effects of foodborne illness.

Parsing the FDA Food Safety Modernization Act is an important step toward ensuring that the food we eat is safe and that we no longer hear these heartbreaking stories. This act will finally provide the FDA with the authority and resources it needs to prevent, detect, and respond to food safety problems.

The bill will increase the frequency of inspection at all food facilities, according to the risk they present. Because FDA does not currently have the resources or statutory mandate to inspect more frequently, most facilities are only inspected by the FDA about once every decade. The FDA Food Safety Modernization Act will require high-risk facilities to be inspected annually. Lower risk facilities would be inspected every 4 years.

The bill gives the FDA long-overdue authority to conduct mandatory recalls of contaminated food. Most people are stunned to know that the Federal Government does not have the authority to recall contaminated food. This bill will change that when it is signed into law.

Most companies cooperate with the FDA's recall efforts, but we have to make sure those who hesitate and are uncooperative are called into line.

Some—such as the Peanut Corporation of America, which distributed thousands of pounds of peanuts and peanut paste contaminated with salmonella—did not fully or quickly recall the food that was on the markets that made people sick. The food safety bill in HELP will change that by ensuring that the FDA can compel a company to recall food.

Experts agree that individual businesses are in the best position to identify and prevent food safety hazards. People who run these facilities know where the vulnerabilities are on their assembly lines, and they know which hazards the food products they work with are most at risk for. That is why the bill asks each business to identify the food safety hazards at each of its locations and then implement a plan that addresses the hazards.

The bill gives FDA the authority to review and evaluate those food safety hazard prevention plans and to hold companies accountable for not complying with the requirements of the plan.

Finally, the bill gives the FDA the authority to prevent contaminated food from other countries from entering the United States. Importers will have to verify the safety of foreign suppliers and imported food so we know the food we are bringing into our country is safe. If a foreign facility refuses U.S. food safety inspections, the FDA will then have the authority to deny entry to imports from that facility.

The FDA Food Safety Modernization Act employs these and other common-sense approaches to help the FDA do its job of ensuring the food we eat is safe. The bill is balanced, bipartisan, and it is supported by a broad coalition of not just consumer advocates but the major business interests in food production and marketing.

I thank Chairman TOM HARKIN of Iowa and Senator MIKE ENZI of Wyoming for leading the markup of S. 510. I hope this bill will come to the Senate floor. I know my Republican colleagues who have joined me as cosponsors believe, as I do, this is a step in the right direction of ensuring the food supply in America is even safer.

Mr. President, I yield the floor.

I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant bill clerk proceeded to call the roll.

Mr. ALEXANDER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ALEXANDER. Mr. President, would you kindly let me know when 9 minutes have expired in my remarks?

The ACTING PRESIDENT pro tempore. The Senator will be notified.

Mr. ALEXANDER. Thank you, Mr. President.

### HEALTH CARE REFORM

Mr. ALEXANDER. Mr. President, not long ago, eight Democratic Senators wrote to the majority leader and said what all 40 Republican Senators have expressed and what most Americans—I think maybe 99 percent of Americans—would say we need to do. They said: Before we proceed to a vote on the health care bill that is so much in discussion across this country today, that we, No. 1, have a complete legislative text; that we, No. 2, have a complete estimate of its costs from the Congressional Budget Office; and, No. 3, it be on the Internet for 72 hours so the American people can read it—read the text, know what it costs, have time to consider both.

We are looking forward to that bill. What we know is, we have a 2,000-page bill that has been passed by the House of Representatives narrowly. The majority leader has had in his office a secret bill that he is working on which we have not seen yet.

This morning, I would like to talk about one of the reasons it is important we be able to read the text, know what it costs, and know how it affects each American. We have talked a lot about how the bills we have seen so far have the effect of raising insurance premiums, increasing taxes, cutting Medicare, and increasing the Federal debt, when what we are supposed to be doing is reducing the cost of health care for individuals and families and reducing the cost of health care to the government which is spiraling out of control in terms of deficit spending.

But all of that obscures an even more serious problem with the health care bills we have seen so far; that is, the effect on the States. As a former Governor of Tennessee, that is what I want to address for a few minutes this morning.

I picked up my newspaper in Nashville on Sunday morning, and here was the headline: “[Governor] Bredeesen Faces Painful Choices as [Tennessee] Begins Budget Triage.” “Triage”—that is a sort of talk usually reserved for an emergency room.

I have said several times—and some people, I am sure, thought I was being facetious—that any Senator who votes to expand Medicaid and transfer enormous costs to the States ought to be

sentenced to go home and serve as Governor for 2 terms and try to implement the Medicaid Program, which is bankrupting States and ruining public higher education. I am not facetious when I say that because if we have a chance to read these bills and know what they cost, they have the potential to literally bankrupt States and ruin public higher education.

But do not take my word for it. Here is the Nashville Tennessean and the Knoxville News Sentinel writing about Governor Bredeesen of Tennessee. Knoxnews.com reports: “relentless bad news.” Now, Tennessee is “fiscally better off than many States.” The “short-fall is less severe than the Bredeesen administration estimate[d].” “But there is no quarrel,” according to the State’s largest newspapers, that Tennessee’s State government “faces a grim situation”—“\$750 million in cuts.” Then things got worse because the money coming in this year is less than was expected. The Governor “has told his department heads to present him with suggestions for budget cuts of 6 percent and to include contingency plans for adding another 3 percent.”

Those are real cuts. We talk about cuts in Washington. We talk about reducing the rate of growth. Those are not real cuts. In Tennessee and in California and in Illinois, and all across this country, cuts are cuts. You spend less this year than you did the year before.

“Layoffs . . . are likely, the Governor says.” “This will be my toughest budget year.”

Charles Sisk, writing in the Tennessean of November 16, says:

Tennessee might release as many as 4,000 non-violent felons, possibly even including people convicted of drug dealing and robbery, under a plan outlined Monday by the Department of Correction to deal with the state’s budget crisis.

The National Governors Association, in an analysis last week, points out a combination of the economic downturn—the deepest since the Great Depression—and the increase in State Medicaid—now, this is not Medicare for seniors we are talking about; this is the largest program for low-income Americans, 60 million Americans for which States pay about one-third of that cost, which the health care plans we have seen intend to dump about 14 million more Americans into—spending for those programs average 8 percent growth this year, while Governors such as Governor Bredeesen are making actual cuts. Well, you can imagine what that is doing to other important State programs and tuition.

The Washington Post reported what the Office of the Actuary at the Centers for Medicare and Medicaid Services said over the weekend; which is, generally speaking, when we add more people to the Medicaid Program the doctors and the hospitals who are ex-

pected to serve them will not be willing to serve them. I will say more about that in a minute.

So how in the world, in the light of these conditions, could we even be thinking about a provision in this health care bill that would add tens of billions of new costs to the States? We decide in Washington that it is a great idea to expand health care, but we send the bill to the Governors and the legislators who are in their worst fiscal condition since the Great Depression.

That is called an unfunded mandate. If we think it is such a great idea to dump 14 million more Americans into a low-income program called Medicaid—for which 50 percent of doctors will not see new patients because they are so under-reimbursed—then we should pay for it somehow in the Federal budget instead of dumping the bill onto the States.

For Tennessee, the costs will be, according to Governor Bredeesen, who is a Democrat and the cochairman of the National Governors Association health care caucus—he says this will cost our State \$1.4 billion over the next 5 years.

This is real money. How much money? Well, based on my experience as Governor, I do not see how the State of Tennessee could afford to pay that without instituting a new State income tax or without doing serious damage to higher education in Tennessee or both. And I believe it is true of every State in America. The majority leader thought it was true of his State, so he fixed it for his State and three others, but for just 5 years. Then what happens after the 5 years? Well, you put the bridge out on the chasm a little further and you fall off as far or maybe farther than you already would.

Forty percent of physicians, according to a 2002 Medicare Payment Advisory Committee survey, restrict access for Medicaid patients. So we are saying here we have a great health care reform bill and not only is it going to bankrupt States but it doesn’t do any favors for a great many low-income Americans, because we are putting them in a system where 40 percent of doctors won’t see them freely, and 50 percent of doctors won’t see new Medicaid patients at all. In some States, the number of doctors who will see babies, who will see children, is as low as 20 or 30 or 40 percent. So as a way of partially dealing with that, the House bill says, OK, States are going to be required to pay primary care doctors who see Medicaid patients as much as Medicare doctors are paid. That adds another big new bill to the State, runs up the State taxes, runs up the college tuition payments when the States are unable to properly fund the colleges and the universities and the community colleges. So my colleagues can see why this is so much trouble: billions more for the Federal Government; billions more for the States. Then it is

like giving the low-income Americans who end up in this government program, which is expanding, a ticket to a bus line that doesn't operate half the time, because half the doctors won't see new Medicaid patients.

The ACTING PRESIDENT pro tempore. The Senator has 1 minute remaining.

Mr. ALEXANDER. Thank you very much, Mr. President.

Add to all of that the idea of dumping 14 million more low-income Americans into the Medicaid Program not only ruins States fiscally, hurts public higher education in the States, puts these patients in programs that doctors won't see; it is a program where \$1 out of \$10 is wasted by fraud and abuse, according to the Government Accountability Office.

Republicans suggest that instead of these comprehensive, sweeping, 2,000-page bills that raise taxes, raise premiums, raise the debt, add to State taxes, hurt higher education because of what I described, and put low-income Americans into a program that half the doctors won't see, we should move step by step to reduce costs. We should start with small business health plans that allow businesses to pool their resources and insure more people at a lower cost; allow purchasing of health insurance across State lines; reduce the number of junk lawsuits against doctors; create health insurance exchanges so more Americans can shop for cheaper health insurance; and do something about waste, fraud, and abuse. If we were to take those steps, that would be real health care reform because it would be reducing costs to the American people and to our government.

Mr. President, I ask unanimous consent that the articles I referred to earlier be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From *knoxnews.com*, Nov. 15, 2009]

#### NEWS ON STATE BUDGET GRIM

(By Tom Humphrey)

NASHVILLE—Phil Bredesen, preparing the last state budget he will present as Tennessee's governor, will begin on Monday hearing recommendations from his most trusted advisers on how to cut spending plans to account for relentless bad news.

Tennessee, according to a nationwide study released last week, is fiscally better off, than many states. Further, according to a legislative committee's staff calculations, the current state revenue shortfall is less severe than the Bredesen administration estimates.

But there is no quarrel with the general proposition that Tennessee state government faces a grim situation.

The budget plan adopted in June and now in place for the present fiscal year, which began July 1, includes the anticipation that about \$750 million in cuts will be needed for the fiscal year beginning July 1, 2010—most of that amount in reductions avoided this year by using federal stimulus money.

And that was before things got worse. According to the state Department of Finance and Administration, which is part of Bredesen's administration, state tax collections are already \$101.3 million less than assumed when this year's budget was enacted.

"The stimulus has kind of concealed what's been going on in terms of revenues," Bredesen said.

Overall, federal funding provides about \$12.1 billion of the \$29.6 billion state budget this year. General state taxes provide about \$12.6 billion—the shrinking portion that funds general state government—with the rest coming from earmarked revenues such as college tuition and license fees.

The Legislature's Fiscal Review Committee staff has calculated that the state revenue shortfall currently is just \$7.2 million below what it was projected back when the current budget was presented to lawmakers. An explanation of the differences gets pretty complex, including a committee estimate that the state's tax take will decline more dramatically in the next few months than does the Bredesen administration's projection of a rebound.

#### A VERY DEEP HOLE

But there is uniform agreement that the state's budget picture is grim.

"The state remains in a very deep hole that it is not going to climb out of in this budget year," said Jim White, executive director of the Fiscal Review Committee. "That hole is going to require very painful and drastic budget reductions across much of state government. The only question is how bad it will be."

White says \$290 million in cuts will be needed in addition to the programmed \$750 million in cuts.

Bredesen, accepting his staff calculations, has told his department heads to present him with suggestions for budget cuts of 6 percent and to include contingency plans for adding another 3 percent in cuts if things go even worse than expected. That process begins Monday with the Department of Education.

The state funds public schools statewide through the Basic Education Program. The governor and the Legislature avoided cuts to the BEP for the current year.

Avoiding them again, Bredesen said, will be a priority. But any increase in education funding, such as needed for making more children eligible for pre-kindergarten programs, is forgotten.

Another priority is honoring commitments to economic development projects, Bredesen has said.

Keeping education and economic development commitments whole, of course, requires deep cutting in other areas, such as the Department of Children's Services or the Department of Mental Health, which were aided by federal stimulus money this year.

#### EMPLOYEE FURLOUGHS AN OPTION

Layoffs of state employees are likely, the governor says, though he will look at alternatives such as furloughs.

"This will be my toughest budget year," said Bredesen, who will leave office in January 2011, after his successor is elected next year. "I hate to go out that way, but that's the way it is."

Bredesen has taken some partisan criticism for the budget situation. Senate Republican leader Mark Norris, for example, recently declared Bredesen should have made deeper cuts in the current budget in accord with a GOP proposal that the Democratic governor branded "stupid" during the legislative session.

But Senate Speaker Ron Ramsey, a Republican who is seeking his party's nomination for election as governor next year, said he generally agrees with the Bredesen approach.

"The governor is doing exactly as I'll do when I'm governor," he told reporters last week.

"It's going to be a tough budget year. The only upside is that people realize we're in tough times and it's not going to be easy."

Tennessee is apparently in better shape, fiscally speaking, than many other states.

In a rating of all 50 states' fiscal status last week, the Pew Center for the States declared that there are 10 states threatened with "economic disaster," with California leading the list. The rating assigned a score for each state, with the higher scores indicating a more dangerous financial situation.

California had a 30, and all the others in the top 10 problem states had a score of 22 or greater.

Tennessee's score was 15, the same as North Carolina. Other border states have lower scores, including Arkansas at 14 and Virginia at 13, while others had higher scores, including Kentucky at 21 and Mississippi at 20.

[From the Washington Post, Nov. 15, 2009]

#### REPORT: BILL WOULD REDUCE SENIOR CARE

(By Lori Montgomery)

A plan to slash more than \$500 billion from future Medicare spending—one of the biggest sources of funding for President Obama's proposed overhaul of the nation's health-care system—would sharply reduce benefits for some senior citizens and could jeopardize access to care for millions of others, according to a government evaluation released Saturday.

The report, requested by House Republicans, found that Medicare cuts contained in the health package approved by the House on Nov. 7 are likely to prove so costly to hospitals and nursing homes that they could stop taking Medicare altogether.

Congress could intervene to avoid such an outcome, but "so doing would likely result in significantly smaller actual savings" than is currently projected, according to the analysis by the chief actuary for the agency that administers Medicare and Medicaid. That would wipe out a big chunk of the financing for the health-care reform package, which is projected to cost \$1.05 trillion over the next decade.

More generally, the report questions whether the country's network of doctors and hospitals would be able to cope with the effects of a reform package expected to add more than 30 million people to the ranks of the insured, many of them through Medicaid, the public health program for the poor.

In the face of greatly increased demand for services, providers are likely to charge higher fees or take patients with better-paying private insurance over Medicaid recipients, "exacerbating existing access problems" in that program, according to the report from Richard S. Foster of the Centers for Medicare and Medicaid Services.

Though the report does not attempt to quantify that impact, Foster writes: "It is reasonable to expect that a significant portion of the increased demand for Medicaid would not be realized."

The report offers the clearest and most authoritative assessment to date of the effect that Democratic health reform proposals would have on Medicare and Medicaid, the nation's largest public health programs. It analyzes the House bill, but the Senate is also expected to rely on hundreds of billions

of dollars in Medicare cuts to finance the package that Majority Leader Harry M. Reid (D-Nev.) hopes to take to the floor this week. Like the House, the Senate is expected to propose adding millions of people to Medicaid.

The Centers for Medicare and Medicaid Services administers the two health-care programs. Foster's office acts as an independent technical adviser, serving both the administration and Congress. In that sense, it is similar to the nonpartisan Congressional Budget Office, which also has questioned the sustainability of proposed Medicare cuts.

In its most recent analysis of the House bill, the CBO noted that Medicare spending per beneficiary would have to grow at roughly half the rate it has over the past two decades to meet the measure's savings targets, a dramatic reduction that many budget and health policy experts consider unrealistic.

"This report confirms what virtually every independent expert has been saying: [House] Speaker [Nancy] Pelosi's health-care bill will increase costs, not decrease them," said Rep. Dave Camp (Mich.), the senior Republican on the House Ways and Means Committee. "This is a stark warning to every Republican, Democrat and independent worried about the financial future of this nation."

Democrats focused Saturday on the positive aspects of the report, noting that Foster concludes that overall national spending on health care would increase by a little more than 1 percent over the next decade, even though millions of additional people would gain insurance. Out-of-pocket spending would decline more than \$200 billion by 2019, with the government picking up much of that. The Medicare savings, if they materialized, would extend the life of that program by five years, meaning it would not begin to require cash infusions until 2022.

"The president has made it clear that health insurance reform will protect and strengthen Medicare," said White House spokeswoman Linda Douglass. "And he has also made clear that no guaranteed Medicare benefits will be cut."

Republicans argued that the report forecasts an increase in total health-care spending of more than \$289 billion.

[From the Knoxville News Sentinel, Nov. 15, 2009]

#### BREDESEN FACES PAINFUL CHOICES AS TN BEGINS BUDGET TRIAGE

(By Tom Humphrey)

Phil Bredesen, preparing his last state budget as Tennessee's governor, will begin on Monday hearing recommendations from his most trusted advisers on how to cut spending to account for relentless bad news.

Tennessee, according to a nationwide study released last week, is fiscally better off than many states. Further, according to a legislative committee's staff calculations, the current state revenue shortfall is less severe than the Bredesen administration estimates.

But there is no quarrel with the general proposition that Tennessee state government faces a grim situation.

The budget plan adopted in June and now in place for the present fiscal year, which began July 1, includes the anticipation that about \$750 million in cuts will be needed for the fiscal year beginning July 1, 2010—most of that amount in reductions avoided this year by using federal stimulus money.

And that was before things got worse. According to the state Department of Finance and Administration, which is part of

Bredesen's administration, state tax collections are already \$101.3 million less than assumed when this year's budget was enacted.

[From the Tennessean, Nov. 16, 2009]

#### STATE MAY RELEASE PRISONERS TO CUT COSTS

(By Chas Sisk)

Tennessee might release as many as 4,000 non-violent felons, possibly even including people convicted of drug dealing or robbery, under a plan outlined Monday by the Department of Correction to deal with the state's budget crisis.

Correction Commissioner George Little said the department would have no choice but to recommend early release of inmates if it were to implement the budget cuts called for by Gov. Phil Bredesen. The department has already squeezed out savings and left more than 300 positions unfilled, and it is relying heavily on federal stimulus funding in its current budget, he said.

"This isn't scare tactics," he said. "We've got to make ends meet. . . . We would not propose these sorts of very serious and weighty options if we were not in such dire circumstances."

Bredesen, who does not have to submit his budget plan until Feb. 1, did not commit to the plan.

"If you were going to take that dramatic step, I would only want to do it with the assurance that I got the budget savings I would expect," Bredesen said.

The plan, which Little described on the first day of state budget hearings, would involve releasing prisoners from local jails, saving the department in per diem expenses.

To meet Bredesen's goal of cutting 6 percent, or \$35 million, from the Department of Correction's budget, as many as 2,155 inmates held in local jails would need to be released, Little said. Another 1,078 prisoners would need to be released from the state's jails if Bredesen were to call for an additional cut of 3 percent, as the governor has indicated he might do.

Alternatively, the department could close one or two of the state's 14 prisons, a move that would result in the release of about 4,000 felons. Such a move would likely result in the release of more dangerous criminals, but it would prevent local sheriffs, judges and district attorneys from replacing inmates who were released with other criminals.

In either scenario, the department would aim to release inmates who had committed Class C, D or E property crimes. Class C felonies include crimes such as drug dealing, bribery and simple robbery and carry a sentence of three to 15 years. Class D and Class E felonies are less serious crimes.

The state currently has about 19,700 in its prisons, but the department already had plans to reduce that population to 18,500 inmates with the closure of the state prison in Whiteville at the end of next year. Most of the budget for that facility had come from the \$48 million in federal funding that the department is getting during the current fiscal year—money that will largely disappear once the stimulus program has run its course.

"We've, frankly, exhausted all of our options other than, frankly, prison population management," Little said.

#### THE STATE FISCAL SITUATION: THE LOST DECADE

The fiscal condition of states deteriorated dramatically over the last two years because

of the depth and length of the economic downturn, and state officials do not expect this situation to improve any time soon. Previous downturns have proven that the worst budget years for a state are the two years after the national recession is declared over. States' recoveries from the current recession, however, may be prolonged with most economists projecting a slow and potentially jobless national recovery. Moreover, even when recovery begins, states will continue to struggle because they will need to replenish retiree pension and health care trust funds and finance maintenance, technology and infrastructure investments that were deferred during the crisis. They will also need to rebuild contingency or rainy day funds. The bottom line is that states will not fully recover from this recession until late in the next decade.

**The Current Situation**—The recent economic downturn started in December 2007 and likely ended in August or September 2009, making it one of the deepest and longest since the Great Depression. State revenues were down 4.0 percent in the last quarter of calendar year 2008, and 11.7 and 16.6 percent in the first two quarters of 2009, respectively. These findings are consistent with the Fiscal Survey of States estimate that state revenues declined 7.5 percent in fiscal year (FY) 2009, which for most states ended June 30, 2009.

Revenues will likely continue down for another one or two quarters before turning up slowly. This precipitous drop in state revenues is consistent with past recessions in which the trough in state revenue generally coincides with the peak in unemployment. Most economists forecast that unemployment will continue to increase for several months and possibly into the first quarter of 2010.

Similarly, Medicaid spending, which is about 22 percent of state budgets, averaged 7.9 percent growth in FY 2009, its highest rate since the end of the last downturn six years ago. Medicaid enrollment is also spiking, with projected growth of 6.6 percent in FY 2010 compared with 5.4 percent in 2009. The combination of falling revenues, which accompany high unemployment, and an explosion in Medicaid enrollment, which occurs very late in an economic downturn, explain why a recession's greatest impact on state budgets occurs one to two years after the downturn is over. States' budget problems are reflected in the latest Fiscal Survey of States, which shows states closed budget gaps of \$72.7 billion in FY 2009 and \$113.1 billion in FY 2010. This includes tax and fee increases of \$23.8 billion in 2010. Even with cuts and tax increases, states are experiencing new budget shortfalls totaling \$14.5 billion for 2010 and \$21.9 billion for 2011. Given projected revenue shortfalls, however, these shortfalls will increase dramatically over the next several months.

**The American Recovery and Reinvestment Act (ARRA)**—Of the \$878 billion in ARRA funds, about \$246 billion came to or through states in more than 40 programs. Most importantly, the \$87 billion in Medicaid funds and the \$48 billion in state stabilization funds were flexible and allowed states to offset planned budget cuts and tax increases. The Medicaid funds allowed states to reprogram state funds that were originally to fund Medicaid expansions, while the education money was targeted for elementary, secondary and higher education, which represents about one-third of state spending. If Congress had not made these funds available, state budget cuts and tax increases would



have been much more draconian and devastating to state governments, their employees and citizens. Both the ARRA Medicaid and education funds expire at the end of December 2010. States must plan for the serious cliff in revenues they will face at that time.

The Recovery Period—While there is still uncertainty regarding the shape of the recovery, there seems to be a growing consensus that it will be slow. Numerous studies project that state revenues will likely not recover until 2014 or 2015. A recent forecast by Mark Zandi at Economy.com showed that the national unemployment rate, which straddled 5.5 percent during the 2001–2007 period, will not attain that level again until 2014. Similarly Zandi's latest forecast indicated that state revenues will not return to the 2008 level in real terms until FY 2013. As mentioned above, until employment improves, state revenues will continue to struggle. Work by the Nelson A. Rockefeller Institute of Government similarly indicates that per capita real revenues will not reach the 2007 level until 2014. Making matters worse, economist Robert Kuttner has indicated that the states' fiscal shortfalls will be about \$350 billion over the next several years.

Deferred Investments—Even when recovery begins in the 2014–2015 period, states will be faced with a huge “over hang” in needs and will have to accelerate payments into their retiree pension and health care trust funds, as well as fund deferred maintenance and technology and infrastructure investments. They will also have to rebuild contingency or rainy day funds. All of these needs were postponed or deferred during the 2009–2011 period and will have to be made up toward the end of the decade. According to a 2007 Pew Center on the States report, states have an outstanding liability of about \$2.73 trillion in employee retirement, health and other benefits coming due over the next several decades, of which more than \$731 billion is unfunded.

The bottom line is that states will continue to struggle over the next decade because of the combination of the length and depth of this economic downturn and the projected slow recovery. Even after states begin to see the light, they will face the “over-hang” of unmet needs accumulated during the downturn. The fact is that the biggest impact on states is the one to two years after the recession is over. With states having entered the recession in 2008, revenue shortfalls persisting into 2014 and a need to backfill deferred investments into core state functions, it will take states nearly a decade to fully emerge from the current recession.

Mr. ALEXANDER. I thank the Chair and yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Nebraska is recognized.

Mr. JOHANNIS. Mr. President, thank you. I rise today to also speak about health care. I will tell my colleagues when the Senator from Tennessee was talking about Medicaid, we former Governors can relate to what he was saying. I had the opportunity, as the Presiding Officer knows, to be Governor of Nebraska for 6 years, and Medicaid was an enormous challenge. It is eating up State budgets. States are struggling. My own State, which has done better than just about every other State in the country, is in special session today trying to figure out how to find cuts of about \$330 billion, which is

a lot of money in our State. Plus, there are these tremendous access problems, how to get people into Medicaid. So I wish to associate myself with his comments.

I wish to speak today, if I could, about some townhall meetings I had back home in Nebraska this last week. As soon as we recessed, I headed home. In about 48 hours we had four townhall meetings. Boy, if I were to give some advice, I would say whenever this bill comes out we should call a recess for a week. We should all agree upon it in a bipartisan way, and we should go home, and we should listen to the people. I got so much good prairie wisdom, as I call it, from the folks back home. I wish to talk about that today.

One of the things I talked about as I was making my presentation is the proposed Medicare cuts and the impact it has on Nebraskans, real people. The impact on the current Nebraska health care delivery system cannot be denied. DSH hospitals we estimate today—and again we will see the final bill and we will figure out what the exact numbers are—but the estimate is there will be \$142 million in cuts to those hospitals. Our nursing homes across the State that do such a great job with our senior population estimate cuts of about \$93.2 million. Home health is a program I have always respected and what they do. The idea is, if we can keep people in their home longer versus a nursing home, that saves money. So I promoted it as a Governor and I promote it now. They are projecting \$126 million in cuts. By 2016, it is estimated that 66 percent of Nebraska home health agencies will be operating in the red. Then, hospice estimates they will have a 12-percent payment reduction. That is a real impact on services because in our hospice systems, oftentimes people are driving long distances to provide that service. Then Medicare Advantage, which is a popular program back home, especially with poor citizens in rural areas—about 35,000 Nebraskans currently have plans, and as my colleagues know, that has a big bull's-eye on it for cuts. Some say that wasn't a very good program, but I will tell my colleagues the people who have that program like it.

Citizens came to me and they shared concerns about access to care. They shared concerns such as: Is this going to bring down the cost of health care? Those are promises that have been made as this health care debate has unfolded. Our President has made those promises. Questions were raised such as: How about Medicare? What impact will it have? Are there going to be negative impacts? Today, as I did during the townhalls, I wish to try to address these questions.

In fact, I wrapped up my townhalls on Friday in Lincoln, NE, and then the experts over at the Center for Medicare and Medicaid Services actually an-

swered these questions for us. On Saturday, the following day, the chief actuary of the Obama administration's CMS released a report that analyzed the recently passed House legislation. Why is that important? It is important because the House has finished its work for now and, ultimately, if the Senate were to pass a bill, it is the House bill and the Senate bill that will be conferenced. It concluded this: There are decreases in access to health care services. Medicare payments to hospitals and nursing homes are reduced over time based on certain productivity targets.

The idea is that by paying institutions less money, they will be forced to become more productive. I will tell my colleagues that in Nebraska, if you have a critical access hospital in a rural area and it is serving 25 patients, today they are as productive as they can possibly get. If you have a nursing home in a small community and your idea as the Governor or as the family is that a loved one can stay close to home, they are about as productive as they can get.

Congress could intervene and say, well, we are not going to make those cuts in the years to come, but the actuary said, and I am quoting: “So doing would likely result in significantly smaller actual savings.”

So there we have it. We have experience in this area where every year Congress doesn't take the action, and it doesn't bend the cost curve, according to this expert.

Earlier this year the President said—and I am quoting—that this “will slow the growth of health care costs for our families, our businesses, and our government.”

Yet CMS forecasts an actual increase in total health care spending of more than \$289 billion over the next 10 years. I am quoting here again from that report:

With the exception of the proposed reductions in Medicare payment updates for institutional providers, the provisions of H.R. 3962 would not have a significant impact on future health care cost growth rates. In addition, the longer-term viability of the Medicare update reductions is doubtful.

In other words, Health and Human Service experts don't believe it is even viable to make the kinds of cuts that are proposed long term. Even if Congress has the will to make the cuts, health care costs are going up, not down. Let me repeat this. This bill drives up the cost of health care, not down. Astounding, absolutely astounding.

It doesn't allow you to keep the plan if you like it. How many times was that promise made? By 2014, Medicare Advantage enrollment would drop 64 percent from 13.2 million to 4.7 million because benefits would be cut. Every single advocacy group for senior citizens should be on the phone today calling Senators to say, Don't go there.



This hurts seniors. Also, insurance plans will have to be government approved. In our State, I saw an estimate that said 61 percent of our plans are not going to be in compliance and would have to be changed.

When it comes to health care, it is often suggested to get a second opinion. Well, I think here in the Senate we should follow this advice. Before we perform major surgery, very high-risk surgery on the Nation's health care system—16 percent of our economy—we should get a second opinion. That is why I sent a letter to the majority leader last Thursday and I asked for a CMS actuary to analyze the Senate bill before it is voted on so we can determine if the legislation bends the cost curve, and I am proud to report today that already I have 24 colleagues joining me in signing that letter. All we are doing is asking the majority leader: Please get a second opinion before you perform this high-risk surgery on our health care system.

I will tell one last story from a town-hall meeting that occurred in Grand Island, NE. This will be my last thought. A young man gets up and he says this, and I am quoting:

What will you do to me and my generation, to me and my child? Will you ransom my future for your own?

Our best intentions might end up destroying his American dream and the dream of his child. This is high risk, what we are doing here. Let's get the best opinions we can before we act.

Thank you, Mr. President. I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from South Dakota is recognized.

Mr. THUNE. Mr. President, how much time remains on our side?

The ACTING PRESIDENT pro tempore. There is 9 minutes 15 seconds remaining.

Mr. THUNE. Mr. President, I wish to say to my colleague from Nebraska, former Governor and now Senator from that State, that I am one of the signatories on the letter he has sent requesting we get cost data before we move forward with this and what the impact is going to be, because that is the issue.

I have listened to some of the discussion that has occurred on the floor this morning. The Senator from Illinois was down here earlier, Mr. DURBIN, saying that the Republicans are attacking the House bill. Why are they attacking the House bill? Why aren't they talking about the Senate bill? Well, it is very simple. There is no Senate bill. It is being written behind closed doors. We have not been included in any of that. We have not been privy to any of the discussions that are occurring behind closed doors. So when we come down here and talk about health care reform, we are confined to talking about the House-passed bill because there isn't a Senate bill.

There are two Senate versions that have passed Senate committees. The Finance Committee has passed a bill. The Health, Education, Labor and Pensions Committee has passed a bill. But the merger of those bills is occurring behind closed doors in direct contradiction of what was promised earlier about health care reform. President Obama said when we do health care reform, it is going to be an open, transparent process. The American people are going to be able to observe this. In fact, it is going to be done on C-SPAN. Well, nothing could be further from the truth, because it is all happening behind closed doors.

So when we come out here and talk about health care reform, we are left with talking about a House bill because there is no Senate bill. We are told that this week we are going to see it, and I hope that is the case, because we would love to be able to react to the Senate bill and we would love to know what it is going to cost, and the American people would love to know what it is going to cost. We would also love to have some time to look at it before we start voting on it in the Senate.

My understanding is this is going to be a compressed schedule. They are going to try to get a vote this week on a motion to proceed to this bill, and come back after Thanksgiving and try to rush this through the Senate before the Christmas holiday, a bill that represents one-sixth of the American economy. The House bill was 2,200 pages long and the Republicans were allowed 1 amendment, 1 amendment in the House. I think we are going to have to make sure, in the Senate, this gets done right. That will take some time.

When the No Child Left Behind legislation was debated in the Senate, it took 7 weeks on the floor. We had a comprehensive energy bill a few years ago that took 8 weeks on the floor of the Senate. The farm bill that passed in the last session took 4 weeks on the floor of the Senate. We need to make sure this gets done in the right way for the American people. We don't even have a bill yet. That is why we are down here talking about the bills that were so far out there.

The Senator from Illinois also said the main concern the American people have is cost—costs keep going up. I had a roundtable in my State, in Sioux Falls, last week. The Governor, Governor Rounds, participated, as did several small business owners, including a restaurant owner, a retail pharmacy, a chain drugstore manager, and a small business owner who manufactures wood products.

They were all concerned about the same thing—costs. They said: How are we going to provide good coverage to our employees? What are we going to do if this massive expansion of the Federal Government—\$3 trillion, when it is fully implemented—passes and when

all the costs are going to be passed on to business? How are we going to be able to continue to cover our employees? What will that mean for people in terms of coverage?

I agree with the Senator from Illinois, who said cost is the issue. That is what I care about, and that is what the people in South Dakota care about. How do we get the cost for health care and health care coverage down?

The ironic thing we have seen about all these bills so far is none of them does anything to get costs down. All of them increase costs. So the so-called curve we talk about—bending the cost curve down—isn't happening under any of these bills. We have not seen the Senate bill because it is still being written behind closed doors. The House-passed bill—the 2,200-page monstrosity that passed the House of Representatives earlier—and the Senate bills we have seen so far that have been produced by committees all have the same basic characteristics about them. The first one is, they raise taxes substantially. They raise taxes—in a contradiction of promises made by the President—on people making less than \$200,000 and those making less than \$100,000. In fact, because of the individual mandate in the House-passed bill, people making \$22,800 a year and up to \$68,400 a year will see a huge tax increase that will hit them. Small businesses, because of the pay-or-play mandate, which under the House bill supposedly raises \$135 billion, are going to see their taxes go up. The high-income earners making \$500,000 and above will see their taxes go up because there will be a surtax applied to the high-income earners.

The problem with that is, this doesn't just hit high-income earners, it hits small businesses because of the way they are organized, as subchapter S corporations or LLCs, to file on their individual tax returns. CBO has said one-third of the tax increases targeted at the so-called rich will hit small businesses, which are the job creators in our economy, the engine of economic recovery in America. They say three-quarters to two-thirds of our jobs are created by small businesses. We are going to raise taxes on them. In fact, the highest marginal income tax rate, if this passes, next year, with the expiration of tax cuts that were enacted in 2001 and 2003, will go from 35 percent to 46.4 percent. That is the highest marginal income tax rate we have seen in 25 years. It is going to hit squarely small businesses that we are relying on to try to get us out of this recession and create jobs. This health care reform is all financed with higher taxes, with Medicare cuts.

I talked about the characteristics consistent with regard to all these proposals: You have higher taxes, and you have Medicare cuts to the tune of one-half trillion dollars a year, which, as

my colleagues already pointed out this morning, are going to hit not only providers but also seniors. Medicare Advantage Program seniors will see benefits cut. So you have the individuals impacted, the providers impacted, and, of course, you have most Americans impacted in one way or another by the tax increases.

The final point is the most important; that is, the other characteristics these plans have in common, in addition to higher taxes and Medicare cuts, are higher health care costs and higher premiums. The CMS actuary came out last week with a report describing the House-passed bill, and it says it is going to increase the cost of health care in this country by \$289 billion. We spend 17 percent of our GDP on health care today. Under that bill, it would go up to 21.1 percent, if we did nothing. We would be better off in terms of the costs that will be passed on to people in the form of higher health care expenses. It said we are going to see increased costs and that we are going to see, the chief actuary concluded, 12 million people lose their employer-sponsored coverage because small employers would be inclined to terminate coverage so workers would qualify for heavy subsidies through the exchange.

The biggest number of people who will be covered will be those who are pushed into Medicaid, which, under this proposal, does expand significantly. The problem with that is, it passes on enormous costs to the States. You heard the former Governor of Nebraska and the former Governor of Tennessee talk about that. My Governor, Governor Rounds, in South Dakota, said we are going to be faced with \$134 million in increased costs to the States to pay for this because Medicare is a partnership between the States and the Federal Government. So any benefit we get—about 60 percent of the people who will get coverage because of the bill will get it through Medicaid at an enormous additional cost to the States, which will be passed on to the taxpayers in the individual States.

So you will have higher taxes on small businesses, higher taxes on individuals, and you will have Medicare cuts that will impact seniors and providers. The amazing thing about all this is you are going to have higher health care costs when it is all said and done. It is remarkable that anything could be called health care reform that raises costs the way these proposals would do.

Finally, in response to what the other side has said, which is that Republicans don't have alternatives, that is wrong again. Republicans have proposed step-by-step solutions that would do this right, so it would drive down the costs, such as interstate competition, allowing people to buy insurance across State lines; small business group health plans, which would give

businesses the advantage of group purchasing power, tort reform. We have a range of things we hope we have an opportunity to get to. We have to defeat this \$3 trillion monstrosity.

I yield the floor.

The PRESIDING OFFICER (Mr. BEGICH). The Senator from Oklahoma is recognized.

Mr. INHOFE. Mr. President, during the course of the day today—and I feel I can do this since it is my birthday—I had five different subjects I wish to cover. I will make one comment about the talk just given—the eloquent speech just given by the Senator from South Dakota.

I think the thing that surprises most people is, we will have meetings and people will say: Wait a minute, you don't even know what is in the Senate bill being written up behind closed doors. The comments we are making—most of them—refer to the bill passed in the House. The reason for that is, that is the only thing we have to talk about.

I ask unanimous consent that I be recognized until such time as we move on, and I understand that is 11:20.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### GUANTANAMO BAY

Mr. INHOFE. First of all, right after the conference luncheon, we are going to have my amendment having to do with Gitmo. This is a very simple one-page amendment that states that none of the funds appropriated, or otherwise made available by this act—on MILCON—or any prior act may be used to construct or modify a facility or facilities in the United States or its territories, to permanently or temporarily hold any individual who is detained as of October 1 of 2009 at Gitmo.

You might wonder, we have been talking about this, and I have actually had pass two amendments that do almost the same thing. We passed an amendment to the 2007 resolution 94 to 3—a bipartisan amendment to the war supplemental offered by me and Senator INOUE from Hawaii. It passed 90 to 6 in the current Senate Defense appropriations bill. It is in conference. My concern is, in conference, it may be removed. Keep in mind, we sent this language to conference once before, and it came back and merely said that if the President announces a plan of what to do with those individuals who are incarcerated at Gitmo, we would have 45 days to discuss that. It doesn't say we have to agree with the plan he gives.

Consequently, there are no teeth in that. This may be our only chance. This is an issue that has always passed by over 90 votes. So I will have that amendment. I hope people will understand the whole country was upset when they found out on Friday the

13th—and that was kind of an interesting day for this—when Khalid Shaikh Mohammed, as announced by the President, was going to be tried in New York City, and they were going to move five terrorists into the New York City area. I will not debate this thing. It has been worn out in the press.

People realize that if we are going to bring these terrorists to the United States, they will become targets for terrorist activities. Besides that, you cannot try someone under our court system who should be tried under a tribunal. The rules of evidence are different, and we have a perfect place for that down in Gitmo. Again, I will be offering that amendment.

#### PRESIDENTIAL TRIP TO CHINA

Mr. INHOFE. Mr. President, I wish to talk about the President's trip to China. It appears evident—which we have known all along—that we are not going to be passing anything in this country on cap and trade. We have the bill that is up right now by Senators KERRY and BOXER, who have talked about this now for 8 years. Every time they talk about it, there is more and more opposition to it. Right now, the interesting thing is that the most recent polling shows that only 4 percent of the American people think this is a problem. Four percent are wrong and the 96 percent are right.

Nonetheless, in China, keep in mind, their output of CO<sub>2</sub> emissions could amount to twice the combined emissions of the world's richest nations, including the United States, the European Union, and Japan. Consequently, the problem there is China, India, Mexico, and the developing countries. We all know nothing will pass this body that doesn't treat the developing countries as developed nations.

I will not dwell on this. At a later time, I will. I plan to make a very long—well over an hour—talk. I am trying to get some time now to do that. This will be the fifth time I have done this in the last 6 years concerning this particular subject, which is the alleged global warming attached to the CO<sub>2</sub> emissions.

I will say this: As far as what is going on right now in China, the Chinese are not going to line up and agree, in Copenhagen or anyplace, to start reducing their own emissions. Frankly, they are the ones who are the big beneficiaries. This is kind of interesting, because even if we did it and the developed nations did it, it still wouldn't have any material reduction in CO<sub>2</sub>. Even if you believed CO<sub>2</sub> or anthropogenic gases caused global warming or climate change, it is still not going to work, as Tom Quigley said it would back when Senator Gore—Vice President Gore at that time—tried to do a study to determine what wonderful things would happen if we joined the

Kyoto treaty. The question was, to his own scientists: If all nations, all developed nations, including the United States, the European Union, and all of them, were to sign the Kyoto treaty and live by its emission requirements, how much would it reduce the temperature? Tom Quigley, a renowned scientist, came out with this report and said it would reduce it by less than seven one-hundredths of 1 degree Celsius by 2050. So all of the pain, all of the taxes, the largest tax increase in the history of America, and it does not reduce anything. Consequently, I don't think it is necessary to belabor that. China is not going to do it, no matter what the President does on his trip to China.

#### HAMILTON NOMINATION

Mr. INHOFE. As I am rounding third and heading home, I am concerned that we are going to be voting this afternoon on the nomination of David Hamilton to be a judge on the Seventh Circuit Court of Appeals. I think Hamilton is, without question, a liberal activist judge. He believes judges do not simply interpret the Constitution of the United States but that judges have the power to actually change the Constitution when deciding cases, stating that—this is his quote, Mr. President—“part of our job here as judges is to write a series of footnotes to the Constitution.” This is exactly what our Founding Fathers did not want us to do. Judges are supposed to interpret what we do in this Chamber.

When he was nominated to the district court in 1994, the American Bar Association rated him as not qualified. I voted against him for a number of reasons back in 1994. I don't very often agree with Vice President BIDEN, but I have to say this. Vice President BIDEN made a statement some time ago with which I do agree. That is, if you are in the Senate and you have a judge who is coming up for confirmation by the Senate, and if you oppose that judge when he comes up to be a Federal judge, then later on when he wants to become a circuit judge or even a Justice of the U.S. Supreme Court, if you opposed him at a lower position, you have to oppose him at the next position because the bar necessarily goes up. For that reason and many other reasons, I will be opposing him.

I think it is important that in 2003, in *A Woman's Choice v. Newman*, Hamilton issued an injunction against an Indiana law that required abortion clinics to give women information about alternatives to abortions in the presence of a physician, nurse, or somebody else—just to have that information. This is inconceivable to me this could happen.

Let's keep in mind also this is the same judge who had a ruling—perhaps the most infamous because of his 2005

decision while presiding over the case of *Hinrichs v. Bosma* in which he enjoined the Speaker of Indiana's House of Representatives from permitting sectarian prayers to be offered as a part of that body's official proceedings, meaning that the chaplain or whoever opened the proceedings with a prayer could not invoke the name of Jesus Christ in his prayer.

In his conclusion, Hamilton wrote:

If the Speaker chooses to continue any form of legislative prayer, he should advise persons offering such a prayer (a) that it must be nonsectarian and must not be used to proselytize or advance any one faith over another. This is the first time and only time I believe this has happened in a nomination. This will be coming up for confirmation. I hope all of America will be aware of the fact this is happening.

#### UGANDA

Mr. INHOFE. Mr. President, I understand my colleagues are getting very close. I want a couple more minutes and that is to mention something that is happening today in the Foreign Relations Committee. Senator FEINGOLD has an amendment with which I wholeheartedly agree. It is actually not an amendment. It is a bill having to do with the LRA. Let me explain quickly what that is.

The LRA, the Lord's Resistance Army, has for about 25 years, led by a guy named Joseph Kony in the northern part of Uganda, been mutilating kids. We have heard of the Child's Army. They go into the villages and kidnap these kids, take them out, teach them how to be warriors, and once they join up, they send them back to the village to murder their own parents, their own family.

This has been going on for a long period of time. This bill is something about which I am very excited. Finally, we have the attention of the people in the United States, and that is to join in and go after this animal named Joseph Kony.

In the last 18 years, the LRA has captured over 20,000 kids. I have been to northern Uganda. I have been up Guru. I have watched these kids after they have been dismembered, after they cut their lips off, cut their ears off, and all of this.

When this bill first came out, I was opposed to it because Senator FEINGOLD had to pay for this bill with a reduction in some of the funds that would otherwise go to the U.S. Air Force. That has been taken out. So I join him now in saying this is something that has to take place. This is the first time we have actually had the opportunity to bring up this issue, to let it surface.

I personally talked with President Museveni in Uganda, President Kagame of Rwanda, and President of the eastern part of Congo. I have been to Goma where Joseph Kony has kidnaped these

kids, murdered these kids, mutilated these kids. I can tell from personal experience this is something we need to get involved in, and we are doing it by virtue of this bill.

I have gone 1 minute past. I apologize to the managers of the bill. I yield the floor.

#### CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

#### MILITARY CONSTRUCTION, VETERANS AFFAIRS AND RELATED AGENCIES APPROPRIATIONS ACT, 2010

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of H.R. 3082, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 3082) making appropriations for military construction, the Department of Veterans Affairs, and related agencies for the fiscal year ending September 30, 2010, and for other purposes.

Pending:

Johnson/Hutchison amendment No. 2730, in the nature of a substitute.

Johnson amendment No. 2733 (to amendment No. 2730), to increase by \$50,000,000 the amount available for the Department of Veterans Affairs for minor construction projects for the purpose of converting unused Department of Veterans Affairs structures into housing with supportive services for homeless veterans, and to provide an offset.

Inouye amendment No. 2754 (to amendment No. 2730), to permit \$68,500,000, as requested by the Missile Defense Agency of the Department of Defense, to be used for the construction of a test facility to support the Phased Adaptive Approach for missile defense in Europe, with an offset.

DeMint (for Inhofe) amendment No. 2774 (to amendment No. 2730), to prohibit the use of funds appropriated or otherwise made available by this Act to construct or modify a facility in the United States or its territories to permanently or temporarily hold any individual held at Guantanamo Bay, Cuba.

Feingold/Sanders amendment No. 2748 (to amendment 2730), to make available \$5,000,000 for grants to community-based organizations and State and local government entities to conduct outreach to veterans in underserved areas.

Mrs. HUTCHISON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. JOHNSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JOHNSON. Mr. President, I am pleased to report that we are getting into the home stretch for the MILCON-VA appropriations bill. We have been

on this bill 6 days now—I believe a record for the MILCON/VA bill. I thank my ranking member, Senator HUTCHISON, for her help in clearing amendments last evening which has put us within striking distance of completing this bill today.

The first amendment we are scheduled to vote on today is an amendment I have offered that will provide \$50 million for the VA to renovate and use empty buildings sitting on VA medical campuses to provide housing with supportive services for our homeless vets.

The VA Secretary and the President have made eliminating homelessness among vets a top priority. The amendment is fully offset by redirecting \$50 million over the President's budget request provided in this bill for DOD's Homeowners Assistance Program which the Pentagon has determined is not currently required.

This amendment is supported by 16 vets and homeless service organizations, including the VFW, the Vietnam Veterans of America, and Iraq and Afghanistan Veterans of America.

I ask unanimous consent to have letters in support of my amendment printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

NOVEMBER 13, 2009.

Senator TIM JOHNSON,  
*Chairman, Senate Appropriations Subcommittee on Military Construction, Veterans Affairs and Related Agencies, Washington, DC.*

SENATOR JOHNSON: As organizations working to end homelessness among veterans in America, we are writing to express our strong support and gratitude for your Amendment (SA 2733) to the Fiscal Year 2010 Military Construction, Veterans Affairs and Related Agencies Appropriations Act. The amendment would shift \$50 million to renovate and convert Department of Veterans Affairs' buildings into housing with supportive services for homeless veterans. We believe this proposed allocation is greatly needed, will be well spent, and ultimately will help save the lives of many brave veterans who have fallen upon hard times.

Far too many veterans are homeless in America: approximately 131,000 on any given night, which represents between one-fourth and one-fifth of all homeless people. Convergent sources estimate that between 23 and 40 percent of homeless adults are veterans. The U.S. Department of Veterans Affairs estimates that over the course of the year, 336,627 veterans experience homelessness.

Community organizations around the country are eager to assist homeless veterans achieve stability, but a shortage of capital, operating and supportive services funding restricts the amount of good work they can do. The allocation provided in your amendment will help provide critical capital funding for housing homeless veterans on VA campuses. We also commend the Committee's proposed funding for the HUD-VASH program, the Grant and Per Diem program and for homeless prevention. Combined, these investments will allow the Department to increase its efforts to ensure every veteran has a safe place to sleep and call home.

We are heartened by the Administration's stated commitment to zero tolerance for vet-

erans' homelessness and strong Congressional support for programs that will help accomplish this goal. While the funding allocated by your amendment is an important contribution to fight against homelessness, we encourage your leadership in doing even more to provide safe and affordable housing for all the men and women who wore the uniform.

Sincerely,

Corporation for Supportive Housing.  
AMVETS.  
Common Ground.  
Disabled American Veterans.  
Iraq and Afghanistan Veterans of America.  
Jewish War Veterans of the USA.  
National Alliance to End Homelessness.  
National Association of Black Veterans.  
National Coalition for Homeless Veterans.  
National Health Care for the Homeless Council.  
National Law Center on Homelessness and Poverty.  
National Leased Housing Association.  
National Policy and Advocacy Council on Homelessness.  
Paralyzed Veterans of America.  
Vietnam Veterans of America.

VETERANS OF FOREIGN WARS  
OF THE UNITED STATES,  
*Washington, DC, November 13, 2009.*

Hon. TIM JOHNSON,  
*U.S. Senate,  
Washington, DC.*

DEAR CONGRESSMAN JOHNSON: On behalf of the 2.2 million members of the Veterans of Foreign Wars of the United States and our Auxiliaries, I would like to offer our support for SA 2733, the Military Construction, Veterans Affairs and Related Appropriations Act.

Your important amendment would provide \$50,000,000 to VA for the construction of housing with supportive services for homeless veterans. This construction would take unused VA buildings and convert them into housing for our homeless veterans.

Your important amendment provides housing and supportive services, two crucial things that our homeless veterans desperately need. A man or woman who has selflessly served in the armed forces should never have to sleep on the streets of the country they fought for. Your legislation looks to address this tragedy in our country and we applaud your efforts.

We thank you for introducing this valuable legislation that would greatly assist our nation's heroes. We look forward to working with you to help pass this legislation into law.

Sincerely,

ERIC A. HILLEMANN,  
*Director, National Legislative Service.*

Mr. JOHNSON. Mr. President, according to the VA, there are 131,000 homeless vets on any given night. This is shameful. This amendment will allow the VA to put to good use buildings on VHA campuses currently sitting empty. It would allow private and nonprivate groups to operate homeless vet shelters in close proximity to the medical and mental health services these vets need in order to rebuild their lives.

I urge my colleagues to support this amendment.

Mr. President, I yield to Senator HUTCHISON for any remarks she has.

The PRESIDING OFFICER. The Senator from Texas.

Mrs. HUTCHISON. Mr. President, I thank Senator JOHNSON.

We have worked very well to accommodate the requests of our colleagues to the extent we could. We will have the first vote on his amendment. I am going to support Senator JOHNSON's amendment on homeless veterans. Secretary Gates and Secretary Shinseki are at this very moment practically working on a way to better accommodate veterans who are homeless. It is not right for there ever to be a homeless veteran in our country because every one of them has done so much to protect our freedom.

We do have \$500 million in the bill. This would take \$50 million that the Department says they do not need for other housing assistance for veterans and put it into the homeless sector so there can be a concerted effort to build facilities that would give care, as well as shelter, to these veterans. I support that.

I hope in conference we will be able to consolidate all of this into a program that will meet the needs of our veterans.

It has been great working on this bill. I am very pleased we could do it today rather than last week when so many of us in the Senate were at Fort Hood trying to show the great respect and sympathy for the community at Fort Hood and for all of our armed services, which meant we had to delay the bill from last Tuesday to this Tuesday. I think that was the right thing to do. I thank my colleague.

I thank our great staffs who worked all this week to clear amendments. To the extent we could, I think we have certainly accommodated our other colleagues in the Senate for their priorities.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. JOHNSON. Mr. President, I ask unanimous consent that the vote sequence prior to the caucus recess period, with respect to amendments remaining in order to H.R. 3082, be as follows: Johnson amendment No. 2733; Feingold amendment No. 2748; Cochran amendment No. 2763; that the Inouye amendment No. 2754 be modified with changes at the desk, and once modified, the McCain amendment No. 2776 be withdrawn, the Inouye amendment, as modified, be agreed to, and the motion to reconsider be laid upon the table; further, that an Inouye-Levin colloquy be inserted in the RECORD upon the adoption of the amendment; that after the first vote in any sequence of votes today, the remaining votes be 10 minutes in duration; and that prior to the vote on passage of H.R. 3082, each manager control 2 minutes; provided further, that the other provisions of the November 16 order remain in effect.

The PRESIDING OFFICER. Is there objection?

The Senator from Texas.

Mrs. HUTCHISON. Mr. President, I wish to ask the Senator if we could voice vote Senator COCHRAN before we take up the record vote we will take on Senator JOHNSON's amendment.

Mr. JOHNSON. That would be very good.

Mrs. HUTCHISON. I have no objection.

The PRESIDING OFFICER. With that qualification, without objection, it is so ordered.

The amendment (No. 2754), as modified, is as follows:

AMENDMENT NO. 2754, AS MODIFIED

On page 27, between lines 3 and 4, insert the following:

SEC. 128. (a)(1) The amount appropriated or otherwise made available by this title under the heading "MILITARY CONSTRUCTION, DEFENSE-WIDE" is hereby increased by \$68,500,000, with the amount of such increase to remain available until September 30, 2014.

(2) Of the amount appropriated or otherwise made available by this title under the heading "MILITARY CONSTRUCTION, DEFENSE-WIDE", as increased by paragraph (1), \$68,500,000 shall be available for the construction of an Aegis Ashore Test Facility at the Pacific Missile Range Facility, Hawaii.

(b) Of the amount appropriated or otherwise made available by title I of the Military Construction and Veterans Affairs Appropriations Act, 2009 (division E of Public Law 110-329; 122 Stat. 3692) under the heading "MILITARY CONSTRUCTION, DEFENSE-WIDE" and available for the purpose of European Ballistic Missile Defense program construction, \$69,500,000 is hereby rescinded.

The amendment (No. 2754), as modified, was agreed to.

EUROPEAN MISSILE DEFENSE

Mr. INOUE. Mr. President, I rise to engage in a colloquy with Senator LEVIN, chairman of the Armed Services Committee to discuss amendment No. 2754, which has been cosponsored by Senators JOHNSON and COCHRAN, to reallocate unobligated fiscal year 2009 military construction funding to support President Obama's new European missile defense plan.

Mr. LEVIN. I would be pleased to enter into a colloquy with the distinguished chairman of the Appropriations Committee.

Mr. INOUE. I thank the chairman. Funding was appropriated in last year's MILCON/VA appropriations bill for the European missile defense sites but now can no longer be spent. This amendment will enable the Missile Defense Agency to meet the President's timelines for defending Europe and the United States sooner against Iranian missiles. In order to meet the timelines set out by the President to deploy a capability in Europe in the 2015 timeframe, General O'Reilly, Director of the Missile Defense Agency, MDA, has requested the Congress support the use of \$68.5 million to construct an AEGIS Ashore Test Facility at the Pacific Missile Range Facility in Hawaii. The funding would come from the now unneeded funds for the two sites in Eu-

rope. Mr. LEVIN. I want the chairman to know that I am also fully supportive of the administration's new approach to defending Europe from the threat of shorter range Iranian missiles based on the standard missile-3 both on ships and ashore, as well as the use of fiscal year 2009 funding that is no longer required for this purpose.

Mr. INOUE. This amendment responds to that request from MDA, but was originally offered with some reservation because it would circumvent the normal order of business in the Senate. Under ordinary circumstances this project should have been authorized in the fiscal year 2010 National Defense Authorization Act and then appropriated in the Military Construction bill. But, President Obama only publicly announced his European missile defense strategy on September 17 of this year. This announcement came well after the House and Senate Armed Services Committees began the conference negotiation process. In order to implement the President's new plan, General O'Reilly made the request to Congress for an AEGIS Ashore Test Facility on October 7, the same day that the House and Senate completed the conference agreement on the Defense authorization bill. The conferees were not able to consider this late request from the administration. Thus, an amendment on the fiscal year 2010 Military Construction appropriations bill was the best path to get the facility started in order to meet the administration's timelines.

Mr. LEVIN. While I agree that the funding previously authorized and appropriated for the European sites in fiscal year 2009 should be the source of funding for this project, I also feel that the project should be vetted in a manner similar to any other MILCON request. I believe we also have the time to authorize the project. As I understand the current timeline the Missile Defense Agency has sufficient planning and design funding to initiate design of the project and also has sufficient funding to begin the required environmental work. It is also my understanding that construction won't actually begin until late summer of 2010. I would expect that the preliminary nature of the current funding request would mature in time to support a timely authorization.

Mr. INOUE. I understand that the chairman intends to introduce a separate authorization bill for this project that will precede the normal fiscal year 2011 national Defense authorization bill process.

Mr. LEVIN. That is correct. I will introduce a separate bill today along with Senator MCCAIN. The committee will expedite consideration of this bill provided that we can get the normal assurances that the project is supported by the Secretary of Defense and that the proposed construction costs

and timelines are accurate and up to the standards we would normally expect in a similar MILCON project request.

AMENDMENT NO. 2763 TO AMENDMENT NO. 2730

Mr. JOHNSON. Mr. President, I understand there is no objection to the Cochran amendment No. 2763. Therefore, on behalf of Senator COCHRAN, I call up his amendment and ask that the amendment be considered and agreed to and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from South Dakota [Mr. JOHNSON], for Mr. COCHRAN, proposes an amendment numbered 2763 to amendment No. 2730.

The amendment is as follows:

AMENDMENT NO. 2763

(Purpose: To provide for the modification of a restriction of alienation of certain real property in Gulfport, Mississippi)

At the end of title II, add the following:

SEC. 229. (a) MODIFICATION ON RESTRICTION OF ALIENATION OF CERTAIN REAL PROPERTY IN GULFPORT, MISSISSIPPI.—Section 2703(b) of the Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Hurricane Recovery, 2006 (Public Law 109-234; 120 Stat. 469), as amended by section 231 of the Military Construction and Veterans Affairs and Related Agencies Appropriations Act, 2009 (division E of Public Law 110-329; 122 Stat. 3713), is further amended by inserting after "the City of Gulfport" the following: " , or its urban renewal agency."

(b) MEMORIALIZATION OF MODIFICATION.—The Secretary of Veterans Affairs shall take appropriate actions to modify the quitclaim deeds executed to effectuate the conveyance authorized by section 2703 of the Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Hurricane Recovery, 2006 in order to accurately reflect and memorialize the amendment made by subsection (a).

The PRESIDING OFFICER. Without objection, the amendment is agreed to and the motion to reconsider is laid upon the table.

The amendment (No. 2763) was agreed to.

Mr. JOHNSON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. JOHNSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2733

Mr. JOHNSON. Mr. President, I ask for the yeas and nays on the Johnson amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

If all time is yielded back, the question is on agreeing to the amendment. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from West Virginia (Mr. BYRD) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 98, nays 1, as follows:

[Rollcall Vote No. 346 Leg.]

YEAS—98

Akaka	Feingold	Menendez
Alexander	Feinstein	Merkley
Barrasso	Franken	Mikulski
Baucus	Gillibrand	Murkowski
Bayh	Graham	Murray
Begich	Grassley	Nelson (NE)
Bennet	Gregg	Nelson (FL)
Bennett	Hagan	Pryor
Bingaman	Harkin	Reed
Bond	Hatch	Reid
Boxer	Hutchison	Risch
Brown	Inhofe	Roberts
Brownback	Inouye	Rockefeller
Bunning	Isakson	Sanders
Burr	Johanns	Schumer
Burr	Johnson	Sessions
Cantwell	Kaufman	Shaheen
Cardin	Kerry	Shelby
Carper	Kirk	Snowe
Casey	Klobuchar	Specter
Chambliss	Kohl	Stabenow
Cochran	Kyl	Tester
Collins	Landrieu	Thune
Conrad	Lautenberg	Udall (CO)
Corker	Leahy	Udall (NM)
Cornyn	LeMieux	Vitter
Crapo	Levin	Voinovich
DeMint	Lieberman	Warner
Dodd	Lincoln	Webb
Dorgan	Lugar	Whitehouse
Durbin	McCain	Wicker
Ensign	McCaskill	Wyden
Enzi	McConnell	

NAYS—1

Coburn

NOT VOTING—1

Byrd

The amendment (No. 2733) was agreed to.

Mr. JOHNSON. Mr. President, I move to reconsider the vote.

Mr. CARDIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2748, AS MODIFIED

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. FEINGOLD. I ask unanimous consent that my amendment be modified with the modifications I send to the desk.

The PRESIDING OFFICER. Without objection, the amendment is so modified.

The amendment, as modified, is as follows:

On page 52, after line 21, add the following: SEC. 229. Of the amounts appropriated or otherwise made available by this title, the Secretary shall award \$5,000,000 in competitively-awarded grants to State and local government entities or their designees with a demonstrated record of serving veterans to conduct outreach to ensure that veterans in under-served areas receive the care and benefits for which they are eligible.

Mr. FEINGOLD. Mr. President, I understand the amendment will now be accepted.

Mr. JOHNSON. It is accepted.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2748), as modified, was agreed to.

Mr. JOHNSON. Mr. President, I move to reconsider the vote.

Mr. LEAHY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Texas.

AMENDMENT NO. 2763

Mrs. HUTCHISON. Mr. President, to comply with rule XLIV, I ask unanimous consent to have printed in the RECORD a letter from Senator COCHRAN in relation to his amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE,

Washington, DC, November 5, 2009.

Hon. DANIEL INOUE,  
Chairman, Committee on Appropriations, U.S. Senate, Washington, DC.

DEAR DAN: In my letter to Senators Johnson and Hutchison dated May 21, 2009, regarding the Fiscal Year 2010 Military Construction, Veterans Administration, and Related Agencies Appropriations Bill, it was my intent that the item titled "Aircraft Maintenance Administration Facility" read as follows:

Name: Aircraft Fuel Systems Maintenance Facility

Location: Columbus Air Force Base, MS

Purpose: To provide adequate facilities for aircraft fuel systems maintenance, conforming with applicable safety and environmental standards. (\$10,000,000)

I certify that neither I nor my immediate family has pecuniary interest in the congressionally directed spending item that I have requested, consistent with the requirements of paragraph 9 of Rule XLIV of the Standing Rules of the Senate. I also certify that I have posted this request on my website.

Please feel free to call on me if you have any questions about this request. Adam Telle, a member of my staff, is also available as the committee staff considers this issue.

Thank you for your consideration.

Sincerely,

THAD COCHRAN,  
U.S. Senator.

Mrs. HUTCHISON. I thank the Chair and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. JOHNSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JOHNSON. Mr. President, I note that the second vote has been voiced, and so Members are free to leave.

The PRESIDING OFFICER. The Senator from Texas.

Mrs. HUTCHISON. Mr. President, we are working on the managers' package,

and probably in the next 15 minutes we will clear what has been cleared for the managers' package. There are a couple of people working with objections. But by 12:15, we will clear the managers' package so that following that, in accordance with the previous unanimous consent agreement, at 2:15 we will vote on the Inhofe amendment, after which we will then vote on final passage. So we will have two votes starting at 2:15, and the second vote will be the final vote on Veterans Affairs-Military Construction.

I yield the floor.

The PRESIDING OFFICER (Mrs. GILLIBRAND). The Senator from Maryland.

Ms. MIKULSKI. Madam President, I ask unanimous consent to speak as in morning business for the purposes of introducing a very poignant bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The remarks of Ms. MIKULSKI pertaining to the introduction of S. 2781 are printed in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Ms. MIKULSKI. I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. JOHNSON. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENTS NOS. 2775, AS MODIFIED; 2777; AND 2783, AS MODIFIED

Mr. JOHNSON. Madam President, we have agreed to a final group of amendments in a managers' package.

I ask unanimous consent that the following amendments be called up en bloc and that the amendments be considered and agreed to and, if modified, that the amendment as modified be agreed to and the motions to reconsider be laid upon the table en bloc:

Amendment No. 2775, to be modified; amendment No. 2777; and amendment No. 2783, to be modified.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. HUTCHISON. Madam President, I have no objections to those amendments. I want to clarify that for amendment No. 2775, the modifications are at the desk. The same goes for amendment No. 2783; am I correct?

The PRESIDING OFFICER. The Senator is correct.

Mrs. HUTCHISON. Again, I have no objection.

The amendments (No. 2775, as modified; No. 2777; and No. 2783, as modified) were agreed to, as follows:

AMENDMENT NO. 2775, AS MODIFIED

(Purpose: To require a study on the capacity of the Department of Veterans Affairs to address combat stress in women veterans) At the end of title II, add the following:



SEC. 229. (a) STUDY ON CAPACITY OF DEPARTMENT OF VETERANS AFFAIRS TO ADDRESS COMBAT STRESS IN WOMEN VETERANS.—The Inspector General of the Department of Veterans Affairs shall carry out a study to assess the capacity of the Department of Veterans Affairs to address combat stress in women veterans.

(b) ELEMENTS.—In carrying out the study required by subsection (a), the Inspector General shall consider the following:

(1) Whether women veterans are properly evaluated by the Department for post-traumatic stress disorder (PTSD), military-related sexual trauma, traumatic brain injury (TBI), and other combat-related conditions.

(2) Whether women veterans with combat stress are being properly adjudicated as service-connected disabled by the Department for purposes of veterans disability benefits for combat stress.

(3) Whether the Veterans Benefits Administration has developed and disseminated to personnel who adjudicate disability claims reference materials that thoroughly and effectively address the management of claims of women veterans involving military-related sexual trauma.

(4) The feasibility and advisability of requiring training and testing on military-related sexual trauma matters as part of a certification of Veterans Benefits Administration personnel who adjudicate disability claims involving post-traumatic stress disorder.

(5) Such other matters as the Inspector General considers appropriate.

(c) REPORTS.—

(1) INTERIM REPORT.—Not later than 180 days after the date of the enactment of this Act, the Inspector General shall submit to the Secretary of Veterans Affairs, and to the appropriate committees of Congress, a report setting forth the plan of the Inspector General for the study required by subsection (a), together with such interim findings as the Inspector General has made as of the date of the report as a result of the study.

(2) FINAL REPORT.—Not later than one year after the date of the enactment of this Act, the Inspector General shall submit to the Secretary, and Congress, then the Secretary shall make recommendations for legislative or administrative action.

(3) APPROPRIATE COMMITTEES OF CONGRESS DEFINED.—In this subsection, the term “appropriate committees of Congress” means—

(A) the Committees on Appropriations and Veterans’ Affairs of the Senate; and

(B) the Committees on Appropriations and Veterans’ Affairs of the House of Representatives.

#### AMENDMENT NO. 2777

(Purpose: To require a study to identify the improvements to the information technology infrastructure of the Department of Veterans Affairs that are required to furnish health care services to veterans using telehealth platforms)

On page 52, after line 21, add the following:

SEC. 229. (a) STUDY ON IMPROVEMENTS TO INFORMATION TECHNOLOGY INFRASTRUCTURE NEEDED TO FURNISH HEALTH CARE SERVICES TO VETERANS USING TELEHEALTH PLATFORMS.—The Secretary of Veterans Affairs shall carry out a study to identify the improvements to the infrastructure of the Department of Veterans Affairs that are required to furnish health care services to veterans using telehealth platforms.

(b) AVAILABILITY OF FUNDS.—The amounts appropriated or otherwise made available by this title under the headings “DEPARTMENTAL ADMINISTRATION” and “INFORMATION

TECHNOLOGY SYSTEMS” shall be available to the Secretary of Veterans Affairs to carry out the study required by subsection (a).

#### AMENDMENT NO. 2783, AS MODIFIED

(Purpose: To make available from Medical Services, \$1,000,000 for education debt reduction for mental health care professionals who agree to employment at the Department of Veterans Affairs)

On page 52, after line 21, add the following:

SEC. 229. Of the amounts appropriated or otherwise made available by this title under the headings “VETERANS HEALTH ADMINISTRATION” and “MEDICAL SERVICES”, \$1,000,000 may be available for education debt reduction under subchapter VII of chapter 76 of title 38, United States Code, for mental health care professionals who agree to employment at the Department of Veterans Affairs.

### RECESS

The PRESIDING OFFICER. Under the previous order, the Senate stands in recess until 2:15 p.m.

Thereupon, the Senate, at 12:34 p.m., recessed and reassembled at 2:15 p.m. when called to order by the Presiding Officer (Mr. CARPER).

### MILITARY CONSTRUCTION, VETERANS AFFAIRS, AND RELATED AGENCIES APPROPRIATIONS ACT, 2010—Continued

#### AMENDMENT NO. 2774

The PRESIDING OFFICER. Under the previous order, there will now be 5 minutes of debate, equally divided, on amendment No. 2774, offered by the Senator from Oklahoma, Mr. INHOFE.

Who seeks recognition? The Senator from Michigan is recognized.

Mr. LEVIN. Mr. President, I yield myself 1 minute.

The Inhofe amendment would actually make us less secure by restricting our ability to improve security at facilities that house detainees who have been transferred from Guantanamo to the United States for their trials. Our communities will be less safe because money cannot be spent to make more secure the places where these detainees are being kept. It seems to me this is kind of a “cutting off your nose to spite your face” approach. Regardless of how people voted on whether we should have trials in the United States, the decision has been made that there are going to be trials in the United States. There already have been trials in the United States. There are detainees who are awaiting trial in the United States. It would seem to me it is in everybody’s interest that the places where these detainees are being kept should be as secure as possible. It makes no sense, regardless of what one’s position is on the question of where the trial should be held, not to have them kept in the most secure possible facilities.

I hope the Inhofe amendment is defeated. It is counterproductive, no mat-

ter what position one takes on the location of trials.

Mr. LEAHY. Mr. President, the amendment sponsored by Senator INHOFE is one of a series of amendments that have recently been offered in the Senate that would put political interests ahead of our national interests. This amendment would prohibit any funds from being used to construct or modify any facility in the United States to hold any individual who is currently being held at the Guantanamo Bay detention facility.

This goal of this amendment is to ensure that the detainees being held at Guantanamo Bay, some for years without charge, cannot be tried in our Federal courts and that the detention facility at Guantanamo Bay cannot close. This is harmful to our national security and devastating to our reputation as a model justice system throughout the world. As a former prosecutor, I find it deeply troubling that the Senate would be asked to prohibit the administration from trying even dangerous terrorists in our Federal courts. As a Senator, I find it shameful that Congress is being asked to help keep open a facility that has been a stain on our reputation throughout the world and has given ammunition to our enemies. GEN Colin Powell was correct when he said, “Guantanamo has become a major problem for America’s perception as it’s seen; the way the world perceives America.”

President Obama addressed that problem in the first days of his Presidency by announcing that he would close Guantanamo Bay, and he has affirmed that commitment by announcing that the administration will have a preference for trying detainees in our proven Federal courts. Just last week, the Attorney General announced that, in consultation with the Secretary of Defense, the U.S. Government will begin to move toward federal criminal trials against five of these detainees, including Khalid Sheikh Mohammed. I have supported President Obama and the Attorney General in these steps, and I will continue to do so. That is why I have voted against amendments that would withhold funding to close the Guantanamo detention facility and prohibit any Guantanamo detainees from being brought to the United States. These amendments undermine the good work the President is doing, and they make us less safe, not safer.

Two weeks ago, the Senate defeated another amendment that would have restricted the authority and the options of our military and law enforcement. Secretary Gates and Attorney General Holder sent us a joint letter opposing that amendment. They reminded us that we should not prohibit the Government from being able to “use every lawful instrument of national power . . . to ensure that terrorists are brought to justice and can no



longer threaten American lives." That is exactly what this amendment would do by tying the administration's hands in the event that they need to upgrade any facility in order to securely house these detainees. I will ask that a copy of the administration's letter be printed in the RECORD.

Again, this week, joined by Secretary Napolitano, Attorney General Holder and Secretary Gates wrote to the Senate in opposition, this time to the Inhofe amendment we consider today. I will ask that the administration's letter be printed in the RECORD.

Instead of closing Guantanamo and moving toward a lawful and effective national security policy, this amendment would say to the world that we refuse to face what we did at Guantanamo and instead would continue the legacy of a place that was created in an effort to lock people up for years without charge and not face the consequences. This amendment would say to the world that we are not strong enough, that our over 200-year-old superior legal tradition is not flexible enough, to allow us to deal with those who attack us. Refusing to close Guantanamo also means we lose our ability to respond with moral authority if other countries should mistreat American soldiers or civilians.

Much debate has focused on keeping Guantanamo detainees out of the United States. In this debate, political rhetoric has entirely drowned out reason and reality. Our criminal justice system handles extremely dangerous criminals, and more than a few terrorists, and it does so safely and effectively. We try very dangerous people in our courts and hold very dangerous people in our jails throughout the country. I know; I put some of them there. We do it every day in ways that keep the American people safe and secure, and I have absolute confidence that we can do it for even the most dangerous terrorism suspects.

The facts speak for themselves. The Judiciary Committee has held several hearings on the issue of how to best handle detainees, and experts and judges from across the political spectrum have agreed that our courts and our criminal justice system can handle this challenge and indeed has handled it many times already. Since January of this year alone over 30 terrorism cases have been either successfully tried or sentenced using our Federal courts. No one has ever escaped from a Supermax facility. In fact terrorists are routinely and securely held at our prisons, including Zacharias Moussaoi, one of the plotters behind the September 11 attacks and Ramzi Yousef, the World Trade Center bomber.

Why would the Senate pass an amendment that suggests that our country and the brave men and women who staff these prisons cannot handle these prisoners, or that they are not up

to the task? And why would we pass an amendment that simultaneously makes it harder for the government to securely detain terrorism suspects in our prisons by making any necessary adjustments to hold them? This amendment would ironically make us less safe by making our prisons less secure. This is playing games with national security.

It is not only President Obama who believes that closing Guantanamo will make us a more secure and honorable nation. I agree with the conviction expressed by Senator GRAHAM and Senator MCCAIN who said, "[w]e support President Obama's decision to close the prison at Guantanamo, reaffirm America's adherence to the Geneva Conventions, and begin a process that will, we hope, lead to the resolution of all cases of Guantanamo detainees."

It is time to act on our principles and our constitutional system. It is time to close Guantanamo and try and convict those who seek to do us harm. Where the administration decides to try them in Federal courts, our courts and our prisons are more than up to the task.

Mr. President, I ask unanimous consent to have printed in the RECORD a copy of the administration's letter to which I referred.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

OCTOBER 30, 2009.

Hon. HARRY REID,  
Majority Leader, U.S. Senate,  
Washington, DC.

Hon. MITCH MCCONNELL,  
Minority Leader, U.S. Senate,  
Washington, DC.

DEAR SENATORS REID AND MCCONNELL: We write to oppose the amendment proposed by Senator Graham (on behalf of himself and Senators McCain and Lieberman) to H.R. 2847, the Commerce, Justice, Science, and Related Agencies Appropriations Act of 2010. This amendment would prohibit the use of Department of Justice funds "to commence or continue the prosecution in an Article III court of the United States of an individual suspected of planning, authorizing, organizing, committing, or aiding the attacks on the United States and its citizens that occurred on September 11, 2001."

As you know, both the Department of Justice (in Article III courts) and the Department of Defense (in military commissions, reformed under the 2010 National Defense Authorization Act) have responsibility for prosecuting alleged terrorists. Pursuant to a joint prosecution protocol, our departments are currently engaged in a careful case-by-case evaluation of the cases of Guantanamo detainees who have been referred for possible prosecution, to determine whether they should be prosecuted in an Article III court or by military commission. We are confident that the forum selection decisions that are made pursuant to this process will best serve our national security interests.

We believe that it would be unwise, and would set a dangerous precedent, for Congress to restrict the discretion of either department to fund particular prosecutions. The exercise of prosecutorial discretion has always been and should remain an Executive Branch function. We must be in a position to

use every lawful instrument of national power—including both courts and military commissions—to ensure that terrorists are brought to justice and can no longer threaten American lives.

For these reasons, we respectfully request that you oppose this amendment.

ROBERT M. GATES,  
Secretary of Defense.

ERIC H. HOLDER, Jr.,  
Attorney General.

NOVEMBER 17, 2009.

Hon. HARRY REID,  
Majority Leader, U.S. Senate,  
Washington, DC.

Hon. MITCH MCCONNELL,  
Minority Leader, U.S. Senate,  
Washington, DC.

DEAR SENATORS REID AND MCCONNELL: We write to oppose Senator Inhofe's amendment (No. 2774) to H.R. 3082, the Military Construction, Department of Veterans Affairs, and Related Agencies Appropriations Act for Fiscal Year 2010. This amendment would prohibit the use of funds appropriated or otherwise made available in H.R. 3082 to "construct or modify a facility or facilities in the United States or its territories to permanently or temporarily hold any individual who was detained as of October 1, 2009, at Naval Station, Guantanamo Bay, Cuba."

Like the President and numerous others, both Republicans and Democrats, we are convinced that closing the Guantanamo Bay detention center is in the national security interests of the United States. Al Qaeda has repeatedly used the existence of the facility as a recruitment tool. We are convinced that as long as the Guantanamo Bay detention center remains open, our enemies will continue to exploit its existence for this purpose.

We acknowledge that closing Guantanamo has proven difficult, but that is not a reason for the Congress to preclude this important national security objective. At present, we are making progress toward this goal. An interagency team is assessing the suitability of a maximum security prison in Thomson, Illinois, to serve as a detention center for certain Guantanamo Bay detainees who may be transferred to the United States. On Friday, the Department of Justice announced that it will prosecute the alleged 9/11 conspirators in federal court, while the Department of Defense will resume other cases against those allegedly responsible for the USS Cole bombing and other acts of terrorism in military commissions, which have been reformed as a result of the bipartisan passage of the Military Commissions Act of 2009.

We need to get on with the work of enhancing our national security by finally closing the Guantanamo Bay detention center. The Inhofe amendment would have the opposite effect and would likely prevent further progress on this important issue. We ask that you join us in opposing the Inhofe amendment.

ERIC H. HOLDER, Jr.,  
ROBERT M. GATES,  
JANET NAPOLITANO.

I yield the floor.

The PRESIDING OFFICER. Who seeks recognition? The Senator from Oklahoma is recognized.

Mr. INHOFE. Mr. President, inquiry. Is this the final argument before the vote on the Inhofe amendment?

The PRESIDING OFFICER. Yes; the Senator has 2½ minutes remaining.

Mr. INHOFE. Mr. President, this amendment has been here three times before. In fact, this amendment has been supported with over 90 votes each time it came through. Unfortunately, once one of the bills went into conference, it was taken out. They replaced it with a 45-day provision.

What this does—it is a one-sentence amendment, very easy to understand. It says:

None of the funds appropriated or otherwise made available by this Act may be used to construct or modify a facility or facilities in the United States [to house terrorists].

If you want terrorists here, then vote against this amendment. This may be the last shot you have at it. We have the Inouye-Inhofe amendment already passed in the Defense authorization bill, but it is in conference. We do not know whether it will come out. This is the second shot we have to try to keep terrorists from coming into the United States.

I retain the remainder of my time.

The PRESIDING OFFICER. Who seeks recognition? The Senator from Virginia is recognized.

Mr. WEBB. Mr. President, I would like to speak quickly in opposition to this amendment.

It has been my strong belief—

Mrs. HUTCHISON. Is the Senator from Virginia speaking on the 2½ minutes of the majority?

Mr. WEBB. That is correct. It has been my strong belief that individuals who were charged with international terrorism should be classified as enemy combatants, and I stated many times I do not believe they belong in our country. They don't belong in our courts. They don't belong in our prisons. At the same time, I recognize that the President retains the constitutional authority to bring charges against these individuals in article III courts. The Graham amendment did resolve that issue in terms of their transfer to U.S. soil.

This amendment, unfortunately, would not address that issue. It prohibits appropriation of funds to modify facilities in the United States in order to hold such individuals. I believe that would prevent law enforcement officials from taking the steps that are necessary to improve security in our local communities and that it would put our security at risk. It is for this reason I oppose the amendment and I yield the floor.

The PRESIDING OFFICER. The minority has 9 minutes 30 seconds remaining, the majority has about 25 seconds remaining.

Mr. INHOFE. Let me repeat. We have voted on this amendment before. We voted three different times. This was actually structured as the Inouye-Inhofe amendment once and the Inhofe-Inouye amendment once. It has passed overwhelmingly. This is the only way we can see that we can assure we are

not going to have those individuals who are now at Gitmo in the United States. I think we have discussed this several times. I strongly support this amendment.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mrs. HUTCHISON. Mr. President, how much time is remaining?

The PRESIDING OFFICER. There remains 56 seconds.

Mrs. HUTCHISON. Mr. President, I wish to speak in favor of the amendment. I do not think these prisoners from Guantanamo Bay should be in our country. I think we should stand firm, we should stand clear that this Senate, as we have voted before, does not want prisoners from Guantanamo Bay transferred to American soil. It will be a security risk to America. We do not need to do it. This would be a way to stop this and do what is right for our country; that is, keep these prisoners where they are secure, away from any ability to harm America. I urge a vote for the Inhofe amendment.

The PRESIDING OFFICER. The majority has 23 seconds.

Mr. DURBIN. Neither the Senator from Oklahoma nor the Senator from Texas has addressed the amendment before us. This is not an amendment about transferring from Guantanamo to the United States. It is about whether we will spend the money to make sure, when these detainees are under trial in the United States, which they can be legally, they will be held safely. The Inhofe amendment precludes the expenditure of funds to improve the security of law enforcement facilities to contain these Guantanamo detainees.

Mrs. HUTCHISON. Mr. President, if we don't want to house those prisoners here, we should not try them here. That is the answer for this. Vote for the Inhofe amendment.

The PRESIDING OFFICER. All time has expired.

Mr. JOHNSON. I move to table the amendment. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The question is on agreeing to the motion.

The clerk will call the roll.

The legislative clerk called the roll.

The result was announced—yeas 57, nays 43, as follows:

[Rollcall Vote No. 347 Leg.]

YEAS—57

Akaka	Casey	Kaufman
Baucus	Conrad	Kerry
Bayh	Dodd	Kirk
Begich	Dorgan	Klobuchar
Bennet	Durbin	Kohl
Bingaman	Feingold	Landrieu
Boxer	Feinstein	Lautenberg
Brown	Franken	Leahy
Burris	Gillibrand	Levin
Byrd	Hagan	McCaskill
Cantwell	Harkin	Menendez
Cardin	Inouye	Merkley
Carper	Johnson	Mikulski

Murray  
Nelson (NE)  
Nelson (FL)  
Reed  
Reid  
Rockefeller

Sanders  
Schumer  
Shaheen  
Specter  
Stabenow  
Tester

Udall (CO)  
Udall (NM)  
Warner  
Webb  
Whitehouse  
Wyden

NAYS—43

Alexander  
Barraso  
Bennett  
Bond  
Brownback  
Bunning  
Burr  
Chambliss  
Coburn  
Cochran  
Collins  
Corker  
Cornyn  
Crapo  
DeMint

Ensign  
Enzi  
Graham  
Grassley  
Gregg  
Hatch  
Hutchison  
Inhofe  
Isakson  
Johanns  
Kyl  
LeMieux  
Lieberman  
Lincoln  
Lugar

McCain  
McConnell  
Murkowski  
Pryor  
Risch  
Roberts  
Sessions  
Shelby  
Snowe  
Thune  
Vitter  
Voinovich  
Wicker

The motion was agreed to.

Mr. DURBIN. Mr. President, I move to reconsider the vote and to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. FEINGOLD. Mr. President, I voted against the amendment offered by Senator INHOFE, No. 2774. It is time for Congress to allow the administration to work toward the goal that so many of us support: closing the detention facility at Guantanamo Bay once and for all. The administration has provided its plan to Congress, and has provided individualized reports on each detainee before any transfer occurs. While closing Guantanamo may not be easy, it is vital to our national security that we close this prison, which is a recruiting tool for our enemies. In particular, I oppose this amendment because it would prohibit the executive branch from spending money to upgrade security at U.S. detention facilities where Guantanamo detainees might be held, thereby making the American people less safe.

AMENDMENT NO. 2743

Mr. BURR. Mr. President, I wish to speak to amendment No. 2743 which would reallocate \$750,000 from the general operating expense account to fund programs to end veterans' homelessness, including the Department of Veterans Affairs' Homeless Provider Grant and Per Diem Program, and VA's Supportive Services Grants Program.

This money will help more than 131,000 veterans who are homeless on any given night including the estimated 1,659 homeless veterans in my home state. Many veterans are considered homeless or at risk due to their poverty, lack of support systems, and poor living conditions.

Homeless veterans are comprised of middle-age and elderly veterans, as well as younger veterans returning from Iraq and Afghanistan. The VA has identified 1,500 homeless veterans who fought during the current wars and of those, only 400 have participated in programs specifically targeting homelessness.

Sadly, homelessness among the ranks of recently separated combat veterans

is not a new phenomenon, and their plight for the Nation's compassionate assistance is just as strong today as it was centuries ago. According to Todd DePastino, a historian at Penn State, homeless veterans of the post-Civil War era sang old Army songs to dramatize their need for work.

After World War I, thousands of veterans marched and camped in the Nation's Capital to express their frustration over bonus money. Many of these veterans were either homeless or at risk of becoming homeless.

After the Vietnam war, returning veterans were faced with serious physical, mental, and socio-economic problems that put them at serious risk of becoming homeless. According to VA the number of homeless male and female Vietnam era veterans is greater than the number of servicemembers who died during the Vietnam war.

It is important that Congress and VA remember the lessons learned from previous wars. We must work together to prevent homelessness before it begins with the goal of eliminating homelessness. Much progress has been made, but we can do better.

My amendment targets two specific areas within VA's medical care budget for more funding. The Homeless Provider Grant and Per Diem Program offers funding to community agencies that provide services to homeless veterans. The purpose of the program is to promote the development and provision of supportive housing and/or supportive services with the goal of helping veterans achieve and maintain residential stability.

The supportive services programs allow veterans who are at risk or who are reentering the workforce to receive services that will reduce their likelihood of becoming homeless. Supportive services include health care services; daily living services; personal financial planning; transportation services; income support services; fiduciary and representative payee services; legal services; child care; housing counseling; and other services necessary for maintaining independent living.

In short, these programs are comprehensive and they work.

My original intention was to offer an amendment that would reallocate \$43,387,240, on top of the money in this amendment, for homeless programs. Ten years ago that money was originally appropriated for the Multifamily Transitional Housing Loan Guarantee Program. Since that program has been suspended, I believe this money could be put to a better use. However, the Congressional Budget Office tells me that rescinding the \$43 million and spending it on this bill would run afoul of our budget rules. I will therefore look for another opportunity to put this unused money to a better use in the near future. In the meantime, CBO has informed me that the amendment

is compliant. I thank my colleagues for their support of my amendment.

Mrs. BOXER. Mr. President, I am so pleased that today the Senate will pass the fiscal year 2010 Military Construction and Veterans Affairs and Related Agencies Appropriations Act. This legislation provides \$133.9 billion in critical funding to ensure that our Nation's veterans have the care and services that they have earned and deserve. Specifically, it includes for the first time advance appropriations for veterans medical services—ensuring that the Department of Veterans Affairs receives funds in a timely and predictable manner. It also provides \$45 billion for veterans' health care, including \$4.6 billion for mental health treatment and programs.

In addition, the bill includes \$23.2 billion for military construction and family housing, including \$9.9 million to replace the 144th Squadron's current operations facilities at Fresno-Yosemite International Air National Guard Base. The squadron currently operates across several outdated facilities that are not sufficient for modern day operations. The facility will ultimately be used to house F-15C Eagle aircraft squadron operations. F-15Cs are expected to arrive at the base in 2012 to replace the aging F-16C fleet. The 144th Fighter Wing provides air defense for California from Oregon to the Mexican border and is vital to the Nation's security.

The Senate voted on a number of amendments to this bill that have important consequences and I want to provide some additional information on two of my votes.

Last night, the Senate rejected a motion to send this bill back to the Appropriations Committee. I joined 68 of my colleagues in voting against this motion because I believe that this is a strong, bipartisan bill. By sending this bill back to committee, we would be unfairly asking our Nation's veterans to wait even longer for care. The men and women who have served our country so honorably should not be forced to wait for critical services.

And today, the Senate voted to reject an amendment that would prohibit the use of funds in this bill to build or make security improvements to a facility in the United States to hold a detainee who is transferred here from Guantanamo Bay. What it would have done is prevent the administration from making vital security improvements to our detention facilities. Ensuring that detention facilities have the highest possible security is critical to our national security and this amendment would have restricted that ability unnecessarily.

Mr. AKAKA. Mr. President, this Military Construction and Veterans Affairs Appropriations Act for 2010 rightfully prioritizes the health care of the Nation's wounded warriors by substan-

tially increasing discretionary health care spending for fiscal year 2010. This bill includes a \$45.1 billion appropriation for the Veterans Health Administration that will enable VA to treat an estimated 6.1 million patients in 2010, including \$533 million to support the enrollment of 266,000 nondisabled, modest-income veterans. This funding furthers the Administration's goal of enrolling more than 500,000 of these previously ineligible veterans by 2013. In addition to enrolling more veterans of modest means, this bill provides for \$440 million to improve the health of rural veterans.

The 2010 Milcon-VA Appropriations Act includes a total of \$34.7 billion for medical services, \$4.8 billion for construction, and \$580 million for medical and prosthetic research. Total discretionary spending will be increased over \$3.9 billion above the fiscal year 2009 enacted level.

I am delighted that for the first time VA will receive advance appropriations—an additional \$48.2 billion in for fiscal year 2011—for three VA medical care accounts. This coincides with the landmark legislation, Veterans Health Care Budget Reform and Transparency Act of 2009, which was signed into law as Public Law 111-81 by the President on October 22, 2009. Funding VA health care in advance will go a long way toward rectifying the chronic underfunding of VA health care, which has left so many of the Nation's veterans with unmet health care needs.

This bill fully funds VA's research programs. The \$580 million appropriation for VHA research represents a \$70 million increase from the fiscal year 2009 enacted level and an amount equal to the budget request. Through these funds, VA will be able to pursue targeted research goals like developing better prosthetic devices for the younger veterans returning from the Iraq and Afghanistan wars. VA can continue research into conditions like post-traumatic stress disorder, traumatic brain injury, and gulf war illness. In addition, VA can continue to recruit and retain quality health care providers, as over three-quarters of VA's researchers also provide direct patient care.

I am pleased that this bill contains an amendment I offered that will extend VA's authority to operate the Manila VA Regional Office.

Earlier this year, over 60 years after the end of the World War II, surviving Filipino World War II veterans finally received a measure of compensation for their service in the form of a one-time lump sum payment. These past months have demonstrated that dispersing these payments has been an enormous challenge, with multiple steps to authenticate the service of these World War II veterans.

Unfortunately, VA's authority to operate the Manila VA Regional Office will expire on December 31, 2009. There

remains much work to be done in order to continue processing claims and ensuring these veterans are awarded benefits they have waited six long decades to receive. For this and other purposes, the operational authority of the Manila Regional Office must be extended.

The Manila Regional Office currently administers compensation, pension, vocational rehabilitation and employment, and education benefits to over 18,000 beneficiaries. In addition, VA also administers Social Security in the Philippines. Keeping this facility fully functioning is necessary for these deserving individuals to receive critical veterans' benefits as well to carry out an integral part of the U.S. mission to the Republic of the Philippines.

I extend my deepest thanks to the staff of the Manila Regional Office who have continued to demonstrate unwavering dedication to their duty to assist Filipino World War II veterans and indeed all veterans who apply for benefits from VA.

Finally, I mention Senator BURR's amendment, included in the underlying bill, that would directly support efforts to address homelessness among our Nation's veterans. His provisions, of which I am a cosponsor, are offset by funds currently allocated for administrative costs for an existing homeless program that is essentially defunct—the Multifamily Transitional Housing Loan Guarantee Program.

I will be working with Senator BURR in the future to ensure that the unspent money for this program—\$43 million—can be used for more active homeless programs, such as the Grant and Per Diem Program.

In closing, I thank Senators JOHNSON and HUTCHISON, the chair and ranking member of the Subcommittee on Military Construction and Veterans Affairs; Senators INOUE and COCHRAN, the chair and ranking member of the Appropriations Committee; and their staffs for their hard work in putting this bill together and for working to incorporate important veterans-related provisions in the package. Additionally, I thank the Members who filed VA-related amendments who worked with the Veterans' Affairs Committee to come to agreement on issues that could be addressed in this bill.

The PRESIDING OFFICER (Mr. UDALL of Colorado). The substitute, as amended, is agreed to.

The question is on the engrossment of the amendments and third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill pass?

Mrs. HUTCHISON. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The clerk will call the roll.

The legislative clerk called the roll.

The result was announced—yeas 100, nays 0, as follows:

[Rollcall Vote No. 348 Leg.]

YEAS—100

Akaka	Enzi	Menendez
Alexander	Feingold	Merkley
Barrasso	Feinstein	Mikulski
Baucus	Franken	Murkowski
Bayh	Gillibrand	Murray
Begich	Graham	Nelson (NE)
Bennet	Grassley	Nelson (FL)
Bennett	Gregg	Pryor
Bingaman	Hagan	Reed
Bond	Harkin	Reid
Boxer	Hatch	Risch
Brown	Hutchison	Roberts
Brownback	Inhofe	Rockefeller
Bunning	Inouye	Sanders
Burr	Isakson	Schumer
Burriss	Johanns	Sessions
Byrd	Johnson	Shaheen
Cantwell	Kaufman	Shelby
Cardin	Kerry	Snowe
Carper	Kirk	Specter
Casey	Klobuchar	Stabenow
Chambliss	Kohl	Tester
Coburn	Kyl	Thune
Cochran	Landrieu	Udall (CO)
Collins	Lautenberg	Udall (NM)
Conrad	Leahy	Vitter
Corker	LeMieux	Voinovich
Cornyn	Levin	Warner
Crapo	Lieberman	Webb
DeMint	Lincoln	Whitehouse
Dodd	Lugar	Wicker
Dorgan	McCain	Wyden
Durbin	McCaskey	
Ensign	McConnell	

The bill (H.R. 3082), as amended, was passed, as follows:

(The bill will be printed in a future edition of the RECORD.)

Mr. JOHNSON. Mr. President, I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Under the previous order, the Senate insists on its amendment, requests a conference with the House, and the Chair appoints the following conferees.

The Presiding Officer appointed Mr. JOHNSON, Mr. INOUE, Ms. LANDRIEU, Mr. BYRD, Mrs. MURRAY, Mr. REED, Mr. NELSON of Nebraska, Mr. PRYOR, Mr. LEAHY, Mrs. HUTCHISON, Mr. BROWNBACK, Mr. MCCONNELL, Ms. COLLINS, Ms. MURKOWSKI, and Mr. COCHRAN.

Mr. JOHNSON. Mr. President, I note the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. JOHNSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JOHNSON. Mr. President, I wish to thank my colleagues for their help in getting this bill completed. It was a long and slow process, but I am thankful we were able to dispose of a majority of the amendments that were offered.

This is a good bill. It is truly a bipartisan bill and contains some good programs that will help out military men and women and our Nation's vets. The bill provides investments in infrastructure for our military, including barracks and family housing, training and operational facilities, and childcare and family support centers. In addition, it fulfills the Nation's promise to our vets by providing the resources needed for the medical care and benefits that our vets have earned through their service.

As I have mentioned, for the first time the bill contains advance funding for vets' medical care for fiscal year 2011. This funding will ensure that the VA has a predictable stream of funding and that medical services will not be adversely affected should another stop-gap funding measure be needed in the future.

I wish to thank my ranking member, Senator HUTCHISON, for her work on this bill. She was critical in getting the amendments cleared on her side of the aisle. I wish to thank her staff, Dennis Balkham and Ben Hammond, for their hard work. I also wish to thank the majority staff, Chad Schulken and Andy Vanlandingham, for their hard work on this important bill. I would especially like to thank the subcommittee clerk, Christina Evans, for her hard work and leadership on this subcommittee.

I also wish to acknowledge the hard work of the floor staff and the cloakroom staffs. Thank you, Dave and Lula, for helping us get to this point.

Mr. President, let me again thank my colleagues. Thank you.

I yield the floor, and I note the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

The PRESIDING OFFICER. The Senator from Indiana is recognized.

Mr. BAYH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### EXECUTIVE SESSION

NOMINATION OF DAVID F. HAMILTON TO BE UNITED STATES CIRCUIT JUDGE FOR THE SEVENTH CIRCUIT—Resumed

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to executive session to consider the following nomination, which the clerk will report.

The assistant legislative clerk read the nomination of David F. Hamilton, of Indiana, to be United States Circuit Judge for the Seventh Circuit.

The PRESIDING OFFICER. Under the previous order, there will now be 60

minutes of debate divided between the Senator from Vermont, Mr. LEAHY, and the Senator from Alabama, Mr. SESSIONS.

The Senator from Indiana is recognized.

Mr. BAYH. Mr. President, I wish to begin by thanking our colleague, Chairman LEAHY, for his leadership in this area. He has been a model of decorum and patience, and I am personally grateful for his leadership.

My father, as my colleagues may recall, served for 18 years on the Judiciary Committee. I lack his patience and therefore never have, but I admire very much Senator LEAHY and those who help shepherd these judicial nominations, which, unfortunately, are all too frequently unnecessarily contentious.

Secondly, I note the presence—I am sure he will be speaking shortly—of our colleague, Senator SESSIONS. Although Senator SESSIONS and I have a disagreement over this nomination, we have worked well in many areas, and I look forward to collaborating with him in the future in those many areas where we do find ourselves in agreement.

Today, I find myself in agreement with my friend and colleague from my home State of Indiana, Senator LUGAR, who yesterday on this floor issued a compelling statement in support of the nomination of David Hamilton for the Seventh Circuit Court of Appeals. For all those Members of this body or those viewing us from afar who have questions about Judge Hamilton, I strongly recommend they read Senator LUGAR's very eloquent statement in his behalf. He went through every suggested controversy point by point, debunking those who raised concerns about Judge Hamilton, and ended up by noting his 40 years of acquaintance with both the nominee and his family and his strong support for Judge Hamilton's nomination.

I rise today to speak in favor of the nomination of Judge David Hamilton. I join with Senator LUGAR to recommend Judge Hamilton because I know firsthand that he is a highly capable lawyer who understands the limited role of the Federal judiciary.

In recent days, some of Judge Hamilton's critics have unfairly characterized his record and even suggested that his nomination should be filibustered. I rise today to set the record straight and hope my colleagues will join Senator LUGAR and me in supporting this superbly qualified nominee.

Before I speak to Judge Hamilton's qualifications, I wish to briefly comment on the state of the judicial confirmation process generally. In my view, this process has too often become consumed by ideological conflict and partisan acrimony. I believe this is not how the Framers intended us to exercise our responsibility to advise and consent.

During the last Congress, I was proud to work with Senator LUGAR to recommend Judge John Tindler as a bipartisan, consensus nominee for the Seventh Circuit. Judge Tindler was nominated by President Bush and unanimously confirmed by the Senate by a vote of 93 to 0.

It was my fervent hope Judge Tindler's confirmation would serve as an example of what could happen when two Senators from different parties work together to recommend qualified, nonideological jurists to the Federal bench.

I know President Obama agrees with this approach. His decision to make Judge Hamilton his first judicial nominee was proof that he wanted to change the tone and follow the "Hoosier approach" of working across party lines to select consensus nominees.

On the merits, Judge Hamilton is an accomplished jurist who is well qualified to be elevated to the appellate bench. He has served with distinction as a U.S. district judge for over 15 years, presiding over approximately 8,000 cases. He is now the chief judge of the Southern District of Indiana, where he has been widely praised for his effective leadership. Throughout his career, Judge Hamilton has demonstrated the highest ethical standards and a firm commitment to applying our country's laws fairly and faithfully.

In recommending Judge Hamilton, I have the benefit of being able to speak from personal experience, because he was my legal counsel when I had the privilege of serving as Indiana's Governor.

If you ask Hoosiers about my 8 years as Governor, you will find widespread agreement that we charted a moderate, practical, and bipartisan course. As my counsel, David Hamilton helped me craft bipartisan solutions to some of the most pressing problems facing our State.

He helped resolve several major lawsuits that threatened our State's financial condition. He wrote a tough new ethics policy to ensure that our State government was operating openly and honestly.

In addition to his insightful legal analysis, I could always count on David Hamilton for his sound judgment and the commonsense Hoosier values he learned growing up in southern Indiana. Like most Hoosiers, David Hamilton is not an ideologue.

During his service in State government, he also developed a deep appreciation for the separation of powers and the appropriate role of the different branches of government. If confirmed, he will bring to the seventh circuit a unique understanding of the important role of the States in our Federal system and will be ever mindful of the appropriate role of the Federal judiciary. He understands the appropriate role for a judge is to interpret our laws, not to write them.

Despite Judge Hamilton's long record as a thoughtful, nonideological jurist, his critics have sought to portray him as an "activist" judge hostile to religion. I have no doubt these attacks come as a surprise to his father, the Reverend Richard Hamilton, who is the former pastor of St. Luke's United Methodist Church in Indianapolis.

It is only in the upside-down, hyperpartisan world of Washington, DC, that the humble son of an Indiana pastor can be turned into a partisan zealot hostile to religion, which David Hamilton is not. To my mind, such outrageous attacks say more about the sad status of our judicial confirmation process than they do about Judge Hamilton.

Some of Judge Hamilton's critics have even suggested his nomination reaches the level of "extraordinary circumstances" justifying a filibuster. This is a nominee jointly recommended to the President by a moderate Democrat and the Senate's senior Republican. If this nomination constitutes "extraordinary circumstances," then that phrase has ceased to have any meaning whatsoever. I sincerely hope that all involved will agree to give Judge Hamilton the up-or-down vote he so clearly deserves. If not, I fear that filibusters will become routine regarding judicial nominees. That is not the way our Framers intended us to operate, nor the way that we should.

On a personal note, I have known Judge David Hamilton for over 20 years. I know him to be a devoted husband to his wife Inge, and a loving father to his two daughters, Janet and Devney. He is the nephew of former Congressman Lee Hamilton, a man whose integrity is beyond reproach.

As someone who personally knows and trusts Judge Hamilton, I say to my colleagues he is the embodiment of good judicial temperament, intellect, and evenhandedness. If confirmed, he will be a superb addition to the Seventh Circuit Court of Appeals.

I urge my colleagues to join me and Senator LUGAR in supporting this extremely well-qualified and deserving nominee.

Before I end, let me say a couple of additional things. David Hamilton has been subjected to a number of unfounded attacks, probably the most ludicrous of which is that he is anti-religion in general and hostile to Jesus Christ in particular. His father was a 40-year Methodist pastor. David Hamilton was baptized and married by his father. Before he served as a Federal district court judge, he placed his hand upon the Bible—the Old and New Testament alike—and pledged loyalty to our Nation and devotion to our laws. He is not hostile to religion or to Jesus Christ. That charge is unfounded.

Likewise, it has been suggested that he is, in some way, soft on crime. A particular case has been cited involving child pornography. I find this to be

ironic since he sentenced the accused to the sentence required by the sentencing guidelines, not 1 day less. Judge Hamilton has had the responsibility of handing down 700 criminal sentences in his time on the bench. The Justice Department has appealed two—a mere fraction of 1 percent. Judge Hamilton is not soft on crime.

Finally, it has been suggested that Judge Hamilton is a judicial activist. A case in our State involving abortion rights has been cited in that regard. I find that to be ironic, as well, because the president of the Indiana Federalist Society, an organization not known for embracing activist judges, strongly endorsed Judge Hamilton's nomination, saying:

I regard Judge Hamilton as an excellent jurist with a first-rate intellect. He is unfailingly polite to lawyers and asks tough questions to both sides, and he is very smart—to the left of center, but well within the mainstream.

That is the position of Geoffrey Slaughter, president of the Indiana Federalist Society.

I find this set of circumstances to be most unfortunate. David Hamilton is superbly qualified. I think this is, more than anything else, a comment on the sad state of our judicial nominating process, where this individual has been caricatured as out of sorts with reality, and if extraordinary circumstances are found with regard to David Hamilton, I am afraid that filibusters of judicial nominations will become routine on the floor of the Senate. That would not be good for this body or our country. I hope we don't go there today.

Again, I urge my colleagues to join with me and Senator LUGAR in strongly invoking cloture on this nomination and voting to confirm him to the court of appeals.

I am glad to see Senator SESSIONS. I noted our many areas of agreement and it has been my pleasure working with the Senator from Alabama in the past—even as we have a difference of opinion about this nomination today.

I ask unanimous consent that the time for any quorum calls be charged equally to both sides.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAYH. I yield the floor.

The PRESIDING OFFICER. The Senator from Alabama is recognized.

Mr. SESSIONS. I thank Senator BAYH for his comments and admire his support for a friend, the nominee under consideration today. He is an excellent Senator who continues to strive for fairness and good policy in the Senate.

Certainly, no one likes to oppose a nominee for the Federal bench. It is not a very pleasant thing to do. Having seen that process from both sides, I particularly don't relish the thought. But judges are seeking lifetime appointments to the Federal bench, and they would hold their office for life,

without the ability of the public to review, even if the judge conducts himself in a way that is not appropriate. The American people may vote us out of office, and they do from time to time. They can vote their Governors out, as well as others. But Federal judges are not subject to that. Therefore, I think it is critically important that before we bestow that lifetime appointment, that power to define the meaning of words in our laws and our Constitution, we be certain that the nominee is a person who is committed, as the oath says, to serving under the Constitution and the laws and not above them.

This nominee has some problems. Unfortunately, it is not totally an isolated matter. There is indeed a philosophy prevalent among many judges in law schools that has led to, I think, an abuse of office by certain judges. In recent years, they have developed an idea that the Constitution is not a changeless contract with the American people, but a "living document," they say—in other words, a malleable instrument that they are free to massage, so that it is made to read as they would like it to read, or as they wish it had been written rather than doing their duty, which is to follow the document as it was in fact written.

I believe this disrespects the Constitution, weakens the Constitution. If it is not respected by this judge today, what would prohibit a judge tomorrow with a different philosophy from violating it at that point? I think it is indeed a dangerous philosophy, one that Judge Hamilton has bought into. That is part of his approach to law.

I do think judges must be committed to their oath and to the Constitution, and that they are not empowered to amend the Constitution, or write footnotes to it. Judge Hamilton has been nominated by the President for the U.S. Court of Appeals for the Seventh Circuit. He is now a Federal district judge. In that capacity, he is one step below the Supreme Court, and he would have considerably more power to define words in our laws and Constitution than he does as a district judge. During his campaign, the President promised to seek a bipartisan administration, but we have had a number of candidates, I think, for the judiciary, and efforts on matters such as health care, that demonstrate otherwise. Some time ago, a number of us—I think all 40 Republicans—wrote and suggested that he re-nominate some outstanding candidates for the circuit court, who President Bush had submitted and were not confirmed, just as President Bush re-nominated some of President Clinton's nominees when he took office. We suggested it would be a good first step in showing that kind of commitment to openness. But the White House never even acknowledged that letter.

With Judge Hamilton, his first judicial nominee, I think we have a prob-

lem. According to some press reports, Judge Hamilton's nomination was intended to send a pacifying signal to the Republicans, and they indicated—some of the Administration's spokesmen—that future nominees would be more ideologically provocative. I am at a loss to think that we would have someone with greater ideological commitment than Judge Hamilton. Perhaps we will see that in the future. I don't think we have seen that to date. I have voted for most of the President's nominees, but some I have not supported.

To begin with, Mr. Hamilton was a board member and vice president of the ACLU chapter of Indiana. They take some very strong positions on constitutional questions that I think are unjustified. He signed onto that organization fully knowing what they stood for. He previously worked for and has been associated with ACORN, which is certainly not a mainstream organization but a real left-wing group. Investigations and reports of their activities have not made us feel good about ACORN, that is for sure.

There is a theory that Judge Hamilton's views are outside the mainstream of President Obama's other nominees, the vast majority of whom have openly rejected the President's so-called empathy standard, and have stated that empathy should not play a role in a judge's consideration of a case. Associate Justice Sotomayor rejected this notion explicitly at her confirmation.

However, instead of embracing the constitutional historic standard of jurisprudence that Justice Sotomayor said she believed in, one that says judges must faithfully adhere to the rule of law as written, Judge Hamilton has embraced openly the empathy standard which, I submit, is no standard at all. It is not a legal standard.

In response to a follow-up question after his hearing, Judge Hamilton said empathy was "important in fulfilling judicial oaths." He further stated, and this was in answer to a question, I believe, by Senator HATCH—he further stated:

A judge needs to empathize with parties in the case, plaintiff and defendant, crime victim and accused defendant, so that the judge can better understand how the parties came to be before the court and how rules affect those parties and others in similar situations.

I disagree with that. It is a pretty significant disagreement, actually. Whenever a judge empathizes with a party, whenever a judge uses or allows his personal beliefs, biases, or experiences to inform or influence a decision in favor of one party, he would then necessarily disfavor the other party. Empathy directly conflicts with the judicial oath which requires judges to faithfully and impartially "administer justice without respect to persons, and do equal right to the poor and the rich . . . under the Constitution and laws of the United States."



Judge Hamilton has said he believes a judge will “reach different decisions from time to time . . . taking into account what happened and its effect on both parties, what are the practical consequences.”

But this is an outcome-determinative philosophy of law, and outcomes are to be considered by the legislative branch, the policymaking branch, when they pass the law. We pass laws and we do our best to figure out what impact they will have and how they should be enforced, and we draw the lines at this and that. It goes to a judge. Then a judge now is empowered to say: I know they wrote this, but I don't like the effect it is going to have on party A, so I am not going to enforce it. I don't want to be harsh. I don't want to be a strict constructionist. I believe I have the ability to empathize with the parties. The way I feel today I empathize with this party and not that party.

You see, that is not law. It is not law in the great American tradition of law. It is more akin to politics. Judges put on robes, they take oaths, they conduct themselves—the judges I have known over the years—in every way possible to send a message that they follow their oath and they do their duty and they treat people fairly, without bias or prejudice or empathy. Is empathy not a form of prejudice for one party or another?

I think this is a big deal. These are big issues, and I think Judge Hamilton's position is incorrect. He is a good person; I do not dispute that. But we are talking about whether he should be empowered to be an appellate judge, one step below the U.S. Supreme Court.

His view of the role of a judge troubles me. In a 2003 speech he said the role of a judge includes “writing a series of footnotes to the Constitution.”

In explaining this answer to a question Senator HATCH submitted to him after the hearing, he wrote that he believes the Framers intended for judges to be able to amend the Constitution through evolving case law, in effect saying:

Both the process of case-by-case adjudication and the Article V amendment processes are constitutionally legitimate, and were both, in my view, expected by the Framers, provided that case-by-case interpretation follows the usual methods of legal reasoning and interpretation.

I think that is a pretty strong statement. He says the process of case-by-case adjudication and Article V amendment processes are constitutionally legitimate—in effect, constitutionally legitimate ways to alter the document.

Article V is the amendment process. That is how we amend the Constitution. I am troubled by his statements. That was just recently when he submitted a written answer to questions. That is not a sound view of judging, in my opinion.

I would say, indeed, it is the essence of an activist judicial philosophy. That

philosophy has impacted a number of his rulings as a Federal district court judge. His rulings show a lack of appreciation for the popular will of the people, of the State and Federal Government, and the elected branches. In more than a few instances he has used his position to drive a political agenda, it seems clear to me. Some can say it is not. We all make our best judgment about those matters. I think in this case he has a political agenda that is guided by personal beliefs and not the rule of law.

He has been reversed quite a number of times by the Seventh Circuit Court of Appeals, the very court for which he has now been nominated.

I would like to next look at the *Hinrichs v Bosma* case. I do not contend, and it is not right to say, Judge Hamilton is hostile to religion. It does appear he is hostile to the free expression of religion in certain circumstances and has been reversed as a result of it.

I want to be fair to him. In the *Hinrichs* case, he enjoined or issued an order to the speaker of the Indiana House of Representatives, telling the speaker that he cannot allow sectarian prayers, ruling that the prayers being said violated the Establishment Clause of the Constitution because many of the prayers expressly mentioned Jesus Christ. Yet in a post-judgment motion, Judge Hamilton permitted the use of Allah by a Muslim imam who was invited to pray at the legislature because he found there was “little risk” that such prayers “would advance a particular religion or disparage others.”

I don't think that is a sound legal approach. But that is exactly what he said. People can say he did not mean that. But that is what happened. Judge Hamilton concluded in that case:

When government prayers are expressly and consistently sectarian, i.e., when they express faith of a particular religion, then the opportunity for prayers is being used to advance a particular religion contrary to the mandate of the Establishment Clause.

I don't think that is accurate because the law is, indeed, difficult in this area. But this is one of the more dramatic rulings I have seen in this area of the law.

In addition to prohibiting such sectarian prayers, as he defined it, Judge Hamilton held that the speaker of the house must advise any officiant who opens the legislature with a prayer that a prayer must be nonsectarian, must not advance any one faith, or disparage another, and must not use “Christ's name or any other denominational appeal.”

The Seventh Circuit initially denied the speaker's request for a stay of that injunction, finding that the ruling was supported by some precedent. However, after full briefing and oral argument, they reversed and remanded with instructions to dismiss, finding that the plaintiffs lacked standing.

I would just note for my colleagues that every day this Senate opens with a prayer. We have a Chaplain on the payroll of the U.S. Government who walks up those steps and stands behind the Speaker's chair and opens the session with a prayer and periodically mentions Jesus's name in that process. So I don't know how we get to this. Nobody, I assume, would challenge what we do here—at least they have not done so effectively yet.

In *Grossbaum v Indianapolis-Marion County Building Authority*, Judge Hamilton denied a rabbi's plea to allow a menorah to be part of a municipal building's holiday display. The Seventh Circuit unanimously reversed that erroneous opinion, finding that Judge Hamilton failed to acknowledge the rabbi's right to display the menorah as symbolic religious speech protected by the Constitution.

As we know, in the Constitution's first amendment it says Congress—us—Congress shall make no law respecting the establishment of a religion, or prohibiting the free exercise thereof. That is all the Constitution says about religion. It just as strongly prohibits limitations on free exercise of religion as it clearly prohibits the government from establishing a church and making it preferable over others.

It is interesting. The results reached in these decisions are strikingly similar to the positions consistently advocated by the ACLU, the organization with which Judge Hamilton has been associated prior to becoming a judge.

Judge Hamilton's problematic rulings are not limited to cases involving religion. Lawyers quoted in the *Almanac of the Federal Judiciary* describe him as one of the most lenient judges in his district in criminal matters. His rulings on the bench have lived up to that reputation.

In the *Rinehart* case, Judge Hamilton, I think inappropriately, acted and used his opinion in the case to request clemency—that is either elimination of the penalty he imposed pursuant to the mandatory Federal guidelines, at least within that range—for a police officer who had pled guilty to two counts, not of seeing pornography or possessing pornography but producing child pornography. A 32-year-old officer had engaged in “consensual”—consensual sex with two teenagers and videotaped the activity.

In *United States v Woolsey*, the Seventh Circuit faulted Judge Hamilton for disregarding an earlier felony drug conviction in order to avoid imposing a life sentence on a repeat offender. He didn't want to do that so he ignored the prior conviction that would have called for that.

In reversing his decision, the Seventh Circuit reminded Judge Hamilton that he was not free to ignore prior convictions, regardless of whether he deemed the penalty for recidivists to be appropriate.



Judge Hamilton's most activist decision may be a series of rulings in *A Woman's Choice v. Newman*. Through the rulings in this case, Judge Hamilton succeeded in blocking the enforcement of an Indiana informed consent law for 7 years. In reversing, the Seventh Circuit court noted that Judge Hamilton had abused his discretion. This is how they described it.

This is a strong condemnation, from my experience, as to how appellate judges deal with lower court judges who make errors. They know judges make errors from time to time. They just reverse it and try not to be too critical. But this is what they said in this case:

For seven years Indiana has been prevented from enforcing a statute materially identical to a law held valid by the Supreme Court in *Casey*, by this court in *Karlin*, and by the Fifth Circuit in *Barnes*. No court anywhere in the country (other than one district judge in Indiana) has held any similar law invalid in the years since *Casey*. . . . Indiana (like Pennsylvania and Wisconsin) is entitled to put its law into effect and have that law judged by its own consequences.

They were referring to Judge Hamilton. In other words, if the judge didn't like the consequences of it and if his empathy made him believe this was not a good policy, he is not empowered to do that. The legislature passed a constitutional statute that simply said: Before a person has an abortion, they must be given notice of what the ramifications are so they can be informed when they make their decision. Apparently, he didn't like that. For 7 years, through a series of rulings, he kept it from being enforced. This case is a blatant example of him allowing his personal views to frustrate the will of the people and the popularly elected representatives of the government of Indiana. The people of Indiana went through a lot as a result. There were multiple appeals and lawsuits and attorneys. They were forced to expend great sums of money to overcome what appeared to me to be obstructionism.

Chief Justice Roberts said it best when he said judges should be neutral umpires, calling balls and strikes based on the law and the evidence. Unfortunately, Judge Hamilton disagrees with the idea that a judge should be a neutral umpire. This is what he said:

Judges reach different decisions from time to time. In that sense, the call is not was that a ball or a strike. But taking into account what happened and its effects on both parties, what are the practical consequences.

We don't want a baseball umpire who says: If I call this a strike, that will be the third out and the game will be over. I believe, with all sincerity, these views represent a results-oriented, activist philosophy that is hostile to the great American role of a judge in our constitutional system. I believe it disqualifies him for elevation to the court of appeals.

This is one of those extraordinary circumstances where the President

should be informed of that fact by a vote of the Senate. That is why I will not be able to support cloture.

It will be the first time I have voted against cloture in a matter of this kind. I take this seriously. I talked about it some yesterday. If we could reach an agreement with my colleagues, Senator LEAHY and others, to not follow the filibuster rule, I think the Senate would probably be better. But under President Bush, some 30 filibusters against his nominees were effected. Eventually, we had a political brouhaha here for several years that culminated in a decision that the filibuster would be acceptable if you believed there were extraordinary circumstances justifying that against a nominee. This judge's history and background reach that level. That is why I will not be voting for him.

I don't think we should abuse this policy. I think we would be better off if we did not. But that is what the Senate basically decided when the Gang of 14 reached their agreement in the midst of a debate, for those who said you shouldn't filibuster and for those who said you can, and they reached that agreement. I think that is probably the state of the situation in the Senate. Based on that standard, I will oppose cloture.

I yield the floor.

Mr. HATCH. Mr. President, today the Senate takes up the nomination of David Hamilton to the U.S. Court of Appeals for the Seventh Circuit. This controversial nominee's record including his decisions, speeches, and testimony before the Judiciary Committee reflects an activist judicial philosophy that is inconsistent with the proper role of judges in our system of government. As a result, while I voted for cloture, I will vote against confirmation.

Even with control of both the White House and Senate, and with the largest Senate majority in 30 years, Democrats are still complaining about the slow judicial appointment pace. But we have nominees for only 19 of the current 99 judicial vacancies. Twenty-four of the 80 current vacancies for which there are no nominees are more than 1 year old. And yet one of the nominees we have received and who will have a hearing tomorrow would fill a seat on the U.S. district court that is not vacant at all.

At this point in 2001, President George W. Bush had sent nearly twice as many judicial nominees to the Senate despite dealing with the aftermath of the 9/11 terrorist attacks and a Senate controlled by the other political party. And nominees to the U.S. district court this year have been confirmed nearly 15 percent faster than President Bush's district court nominees during the 107th Congress.

Democrats have nonetheless accused the minority of engaging in filibusters. If the word "filibuster" is used any-

time the Senate does not blindly and immediately rubberstamp nominees, then the word no longer means anything at all. Democrats have circulated their talking points to reporters and commentators, who in some cases repeat outright falsehoods. Last week, the Judiciary Committee chairman placed in the Record a commentary by a law professor claiming that there had already been cloture votes on three judicial nominees. The CONGRESSIONAL RECORD is supposed to be a nonfiction work.

On the one hand, Democrats claim the Senate is not confirming nominees and then, on the other hand, complain that Senators actually must vote on them. This no doubt baffles many Americans, who probably think that voting is one of the things Senators come here to do. But the practice of using a rollcall vote to confirm noncontroversial judicial nominees was already firmly established, and not by Republicans. The percentage of district court nominees confirmed by rollcall vote during the administration of George W. Bush was 26 times higher than during the previous 50 years. You heard that right, 26 times higher. And the percentage of those rollcall votes without any opposition skyrocketed as well. The majority today has no one to blame but themselves for forcing such changes in confirmation tradition and practice.

If Republicans really wanted to obstruct President Obama's nominees, I suppose we could have followed the Democrats' example from 2001. Under Senate rules, pending nominations expire and return to the President when the Senate adjourns or recesses for more than 30 days. We routinely waive that rule to carry pending nominations over the August recess. But on August 3, 2001, Democrats objected to that traditional practice in order to send 45 judicial nominees back to the President. Some had been nominated literally the day before. Some had been nominated to life-tenured Federal courts, but others to term-limited courts such as the U.S. Court of Claims or the District of Columbia Superior Court. It did not matter to my Democratic friends, they did anything and everything they could to keep nominees from any consideration at all, including inventing entirely new forms of obstruction.

And then, of course, there were the first filibusters in American history used to defeat majority-supported judicial nominees. My Democratic friends invented that one too during the previous administration. Their scorched-earth campaign changed many long-established confirmation traditions and practices. So it is little wonder that today, with such a controversial nominee before us, many on this side of the aisle feel justified in following the Democrats' playbook. I do not blame them for that. I voted for cloture today

because I continue to believe that the Constitution's assignment of roles in the judicial selection process counsels against using the filibuster to defeat majority-supported nominees. Democrats should not have dragged the Senate across that line, and I fear that doing so may have unalterably changed how this body fulfills its role in the judicial selection process. Yet, for now at least, I still believe that the Senate fulfills its advice and consent role best by voting up or down on nominees that have been reported to the floor. That is why I voted for cloture on this nomination.

That said, I must vote against confirmation of this controversial nominee. Qualifications for judicial office include not only legal experience but also judicial philosophy. I define judicial philosophy as an understanding of the power and proper role of judges in our system of government. Judge Hamilton's activist record fails that standard.

Turning to that record, Judge Hamilton has rendered a pattern of decisions that evidence a willful assertion of personal views over the requirements of the law. Now I know we will hear that only a fraction of Judge Hamilton's decisions as a U.S. district judge are controversial. Most of any judge's decisions make no waves and raise no flags. When he served in this body, President Obama himself said that only 5 percent of the Supreme Court's decisions are truly the hard cases, and this percentage may shrink with each step down the judicial pyramid. I need not recount the few cases that my friends on the other side found more than sufficient to oppose so many nominees in the past. The cases that matter are the ones that tell us what we need to know about a judge and his judicial philosophy. I know other Senators will be speaking about a number of these and I want to highlight two of them.

In one notorious case, Judge Hamilton for 7 years blocked enforcement of Indiana's law requiring informed consent before a woman can obtain an abortion. The Supreme Court had 5 years earlier upheld a Pennsylvania informed consent law that the seventh circuit would later describe as "materially identical" to the one before Judge Hamilton. That was the precedent he should have followed. Instead, he turned a minor factual distinction into a constitutional difference and issued a preliminary injunction in 1995. Following the Supreme Court, the Seventh Circuit upheld a virtually identical Wisconsin statute in 1999, but Judge Hamilton also ignored that precedent and issued a permanent injunction in 2001 against the Indiana law. I do not see any way to explain his decisions in this case except as a willful assertion of his own opinion over what the law required. When the Sev-

enth Circuit finally reversed him in 2002, it said that no court anywhere in America had done what Judge Hamilton had done.

In another case, Judge Hamilton chose to ignore one of a defendant's prior drug convictions so that he did not have to impose a life sentence. In Judge Hamilton's personal opinion, a court in another state—where Judge Hamilton, of course, had no jurisdiction whatsoever should have set aside that earlier conviction and so he was simply going to ignore it. Mind you, even the defendant himself had not denied the earlier conviction, but Judge Hamilton was still going to substitute his own judgment. In one of the most stunning statements I have ever read in a judicial opinion, Judge Hamilton wrote that he "ought to treat as having been done what should have been done." In other words, he would not let the law, the facts, rulings of other courts with proper jurisdiction, or anything else stand in the way of how he wanted things to be. That is perhaps the ultimate mark of the activist judge, driven by results and finding whatever means necessary to get there. When the Seventh Circuit reversed Judge Hamilton, it cited its own precedents that Judge Hamilton should have followed and concluded: "Furthermore, we have admonished district courts that the statutory penalties . . . are not optional, even if the court deems them unwise or an inappropriate response to repeat drug offenders."

A judge should not have to be told that statutory requirements are not optional. A judge should not have to be told that he must decide cases based on the law rather than on his personal sense of justice or his belief about what should have been done at other times by other courts. A judge who must be told that he has an activist approach to judging that, in my opinion, should not be rewarded with promotion to the federal appeals court.

Those are just two of Judge Hamilton's decisions which I found fit a disturbing pattern of deciding cases based on his own views rather than the law. I also found that the rest of Judge Hamilton's record reflected the same activist view of judicial power. In speeches, for example, Judge Hamilton has endorsed the view that "part of our job here as judges is to write a series of footnotes to the Constitution." He has said that those supporters to the equal rights amendment to the Constitution "lost the battle but have won the war" because the Supreme Court changed the Constitution in substantially the same way that the ERA would have.

This latter view that judges may amend the Constitution through their decisions is particularly troubling. I asked Judge Hamilton about this statement in written questions following his hearing. Judge Hamilton stated that both the process of case-by-case adju-

dication and the article V amendment process are constitutionally legitimate means of changing the Constitution and both were expected by America's Founders. He is wrong on both counts. If judges may change the Constitution through their decisions, they literally can make the law they use to decide cases. The Constitution cannot control judges if judges control the Constitution.

America's Founders flatly and explicitly rejected that view. In his farewell address, President George Washington said that if the Constitution must be changed, "let it be corrected by an amendment in the way which the Constitution designates. But let there be no change by usurpation." By his own words, the Father of our Country disputed Judge Hamilton's assertion about the judiciary's proper role. In *Marbury v. Madison*, Chief Justice Marshall wrote that America's Founders intended the Constitution to govern courts as well as legislatures. This notion that constitutional amendments by judges are as legitimate as those by the people is completely inconsistent with the proper role of judges in our system of government but completely consistent with the activist approach evidenced by Judge Hamilton's decisions.

Well, I have said enough here to indicate the basis for my opposition to this controversial judicial nominee. I regret that President Obama chose someone with such an activist judicial philosophy as his first judicial nominee. I had hoped that he would take a more balanced approach to judicial selection, choosing consensus nominees that most Senators could support. I hope the nominee before us today does not set a pattern to be followed in the future and I will vote against his confirmation.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, I wish to respond to some of the things the distinguished Senator from Alabama has said. To call this the first filibuster of a judicial matter this year is not totally accurate. We have people who are confirmed unanimously after being blocked for month after month by the Republican side, who then says: But we didn't filibuster.

Mr. SESSIONS. Will the Senator yield for a question?

Mr. LEAHY. Yes.

Mr. SESSIONS. Will the Senator cite a single vote prior to this where this Senator has voted against cloture?

Mr. LEAHY. That is not what I said. I am saying we have had several nominees who were approved, not only judicial but others, overwhelmingly—80, 90, 100 votes. They had to wait month after month because the Republican side would not allow us to even proceed to them by filibustering or threatening a filibuster. You have *de facto de jure*

filibusters. During President Clinton's time, the Republicans pocket-filibustered 60 of President Clinton's nominees.

I yield up to 5 minutes to the distinguished senior Senator from Pennsylvania.

The PRESIDING OFFICER (Mr. KAUFMAN). The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I have sought recognition to speak in favor of the nomination. Speaking candidly, perhaps bluntly, Judge Hamilton is a pawn in partisan political warfare. That is the long and short of it. This is the 90th filibuster in the past several months. This follows a pattern, regrettably, that goes back almost two decades, when both sides, Democrats and Republicans at various times, have engaged in filibusters against judicial nominees where there was no justification to do so. It occurred extensively during the Clinton administration. At that time, on the other side of the aisle, I supported many of President Clinton's nominees. It occurred during the Bush administration, when I chaired the Judiciary Committee, and there were repeated filibusters by Democrats against President Bush's nominees.

At that time, this Chamber was almost torn apart with the ferocity and intensity of the partisanship, with serious consideration being given to what was called the nuclear or constitutional option, when there was serious consideration given to altering the traditional requirement of 60 votes to end a filibuster. There was a tactic devised to challenge the ruling of the Chair, which could be overruled by or upheld by only 51 votes, and thereby move the judicial nominees without the traditional 60 votes. Fortunately, sanity and tradition prevailed and we worked out a compromise with the so-called Gang of 14 to confirm some and to reject others. Now we find the pattern continues.

It is my hope that at some point we can declare a truce, an armistice, and stop the partisan political warfare. The nomination of Judge Hamilton would be a good occasion to do that.

Senator LUGAR, in his mild manner, in a floor statement in support of the nomination, has said:

The confirmation process is often accompanied by the same oversimplification and distortions that are disturbing even in campaigns for offices that are, in fact, political.

Having worked with Senator LUGAR in this Chamber for the better part of three decades, I have observed his modesty, his circumspection, and his understatement. But those soft words about oversimplification and distortions give a clue to what is going on today.

Regrettably, this is part of a broader picture, a broader picture of partisan political warfare. On the major issues

of the day, the stimulus package, not one Member of 170-plus in the House of Representatives, not one Republican Member was for the stimulus package. Only three Republicans in this Chamber would even talk to Democrats. In the House of Representatives, on comprehensive health care reform, only one Republican out of 170-plus stood in favor of the bill. He became a hero or, perhaps more accurately, an oddity. In the Senate, only one Republican in the Finance Committee would stand and vote in favor of reform. Is it any wonder why the Congress of the United States is held in such low esteem by the American public? Is it any wonder why approval ratings across the board are dropping in practically free-fall, with a dull thud, because the American people see what is going on in this Chamber and in the Chamber across the Rotunda and are, frankly, disgusted with it. They are sick and tired of seeing the partisan politics at play.

A great deal has been said about the qualifications of David Hamilton. Beyond any doubt, he is well qualified for the job. During my tenure on the Judiciary Committee, some three decades, part of which I served as chairman, I have seldom seen a better qualified candidate. I am reminded of the objections raised by Democrats to Judge Southwick, picking a couple lines from a couple opinions. Fortunately, sanity prevailed and Judge Southwick was confirmed. This is an outstanding man.

One additional note. His uncle is Lee Hamilton, the very distinguished former Member of the House of Representatives.

I address all my colleagues: Let's call a truce. Let's end the partisan political warfare. Let's start with the confirmation of Judge Hamilton.

Mr. LEAHY. I thank the distinguished Senator from Pennsylvania.

I yield up to 4 minutes to the Senator from Michigan.

The PRESIDING OFFICER. The Senator from Michigan.

Ms. STABENOW. I thank the distinguished chairman of the Judiciary Committee, not only for his commitment but his patience as he has had to labor through objection after objection, stalling tactic after stalling tactic, to fill these critical judgeships. On March 17, President Obama nominated his first judge to the Federal bench, David Hamilton, whose nomination the Republicans are now filibustering. He nominated him on March 17. Judge Hamilton is not a partisan judge. He has an excellent record. He has upheld the law. He has been an impartial umpire of cases before him. For 15 years, he has served with distinction on the Federal district court, and he has the strong support of his two home State Senators, a distinguished Republican and a distinguished Democrat. He has the highest rating from the American Bar Association. Yet the Republicans

are still stalling his confirmation vote. Again, he was nominated on March 17.

This fair and impartial judge is being blocked for no other reason than to stop us from filling a critical seat on the appeals court with President Obama's nominee.

As we know, and as the distinguished Senator from Pennsylvania spoke about a moment ago, this is not a first. In fact, 90 times so far this year—I am going to have to get a bigger chart soon—90 times we have seen Republicans come to the floor and object in some manner to moving our country forward, to moving the people's agenda forward.

Over and over again, we are seeing tactics to simply slow the Senate down, and a majority of these objections, as the Presiding Officer knows, have ended actually in unanimous votes once we have actually gotten through all of the process, all of the strategies, and actually gotten to a vote. Almost in every case, people have been confirmed overwhelmingly, if not unanimously, and the same is true with legislation.

We are at a point where the stalling has to stop. We have two wars happening. We have the highest unemployment in a generation. We have an economy to worry about, financial reform to worry about, and certainly health care, which is about jobs, which is in front of us now.

The time is now to stop. Every Senator has the right to vote yes or no on a nominee or on legislation. But 90 times—and counting—we have simply seen objections and stalling tactics to slow down the business of this country. I hope we are going to see that stop in the interest of everything we need to get done.

I strongly support this nominee.

Thank you, Mr. President.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, I ask the distinguished Presiding Officer to notify me when I have 3 minutes remaining.

The PRESIDING OFFICER. The Chair will do so.

Mr. LEAHY. Mr. President, today, the Senate finally turns to the Republican filibuster against the nomination of Judge David Hamilton of Indiana to the Seventh Circuit. Republican Senators who, just a few years ago, protested that such filibusters were unconstitutional. Republican Senators who joined in a bipartisan memorandum of understanding to head off the "nuclear option" that the Republican Senate leadership was intent on activating. Republican Senators who agreed that nominees should only be filibustered under "extraordinary circumstances." Those same Republican Senators are now abandoning all that they said they stood for, and are instead joining together in an effort to

prevent an up-or-down vote on the nomination of a good man and a good judge, David Hamilton of Indiana.

The American people should see this for what it is: more of the partisan, narrow, ideological tactics that Senate Republicans have been engaging in for decades as they try to pack the courts with ultraconservative judges. What is at stake for the American people are their rights, their access to the courts, their ability to seek redress for wrongdoing.

I thank the distinguished Senator from Michigan for pointing out these 90 delays just in this year alone. In evaluating this nomination, the nonpartisan American Bar Association's Standing Committee on the Federal Judiciary unanimously rated Judge Hamilton "well qualified," the highest rating possible. He has served as a Federal district Judge for 15 years and is now the chief judge in his district. His nomination is supported by the senior Republican in the Senate, his senior home State Senator, Senator LUGAR, and by Senator BAYH. That is correct: Judge Hamilton has the support of both of his home state Senators, the longest-serving Republican in the Senate, and a well-respected moderate Democrat.

Unlike his predecessor, President Obama has reached across the aisle to work with Republican Senators in making judicial nominations. The nomination of Judge Hamilton is an example of that consultation. Other examples are the recently confirmed nominees to vacancies in South Dakota, who were supported by Senator THUNE, and the nominee confirmed to a vacancy in Florida, supported by Senators MARTINEZ and LEMIEUX. Still others are the President's nomination to the Eleventh Circuit from Georgia, supported by Senators ISAKSON and CHAMBLISS, his recent nominations to the Fourth Circuit from North Carolina, which I expect will be supported by Senator BURR, and the recent nomination to a vacancy in Alabama supported by Senators SHELBY and SESSIONS on which the Judiciary Committee held a hearing 2 weeks ago.

I remind those Republican Senators who endorsed the Memorandum of Understanding on Judicial Nominations in 2005 of what they wrote when there was a Republican President in the White House. How quickly they seem to forget. They said:

We believe that, under Article II, Section 2, of the United States Constitution, the word "Advice" speaks to consultation between the Senate and the President with regard to the use of the President's power to make nominations. We encourage the Executive branch of government to consult with members of the Senate, both Democratic and Republican, prior to submitting a judicial nomination to the Senate for consideration.

Such a return to the early practices of our government may well serve to reduce the rancor that unfortunately accompanies the advice and consent process in the Senate.

We firmly believe this agreement is consistent with the traditions of the United States Senate that we as Senators seek to uphold.

How easy it was for them to say at a time when we had a Republican President. Now we have a Democratic President who has done exactly what these Republican Senators recommended. He has consulted with home state Senators from both sides of the aisle regarding his judicial nominees. And yet Republican Senators still say: Whoops, no. We are going to stall. We are going to filibuster. We are going to make you wait 6 months to get a nominee through, in one instance, who then got a unanimous vote.

In the last administration, with a Republican President, they condemned filibusters of judicial nominations as "unconstitutional," "obstructionist," and "offensive." They issued a threat, though, to filibuster before President Obama made a single nomination. They wrote in a March 2 letter to the President:

If we are not consulted on, and approve of, a nominee from our states, the Republican Conference will be unable to support moving forward on that nominee.

Well, of course, they were consulted. The President, in his first nomination, went to the senior most member of the Republican Party, Senator LUGAR, for his approval and his support. He ended up doing every single thing the Republicans demanded that he do, and their response was: Whoops, never thought you would do what we asked for. We are still going to filibuster.

The American people and the Senate need to understand that Judge Hamilton was nominated with the support and strong endorsement of Senator LUGAR, the longest-serving Republican in the Senate. At Judge Hamilton's hearing over 7 months ago Senator LUGAR described Judge Hamilton as "an exceptionally talented jurist" and "the type of lawyer and the type of person one wants to see on the Federal bench." He knows David Hamilton and said of him at his hearing:

I have known David since his childhood. His father, Reverend Richard Hamilton, was our family's pastor at St. Luke's United Methodist Church in Indianapolis, where his mother was the soloist in the choir. Knowing first-hand his family's character and commitment to service, it has been no surprise to me that David's life has borne witness to the values learned in his youth.

Senator LUGAR gave a brilliant speech on the Senate floor just yesterday, speaking in favor of Judge Hamilton. I encourage every member of the Senate to review his well-considered statement in which he rebuts the thin, partisan attacks on Judge Hamilton and his record. As Senator LUGAR said, a fair review of his judicial record "will reveal that Judge Hamilton has not been a judicial activist and has ruled objectively and within the judicial mainstream."

Senator LUGAR is one of the finest Senators to have ever served in the Senate. First elected in 1976, he is the longest serving U.S. Senator in Indiana history. He is a strong man with strong views, a conservative Republican. He is no one's shill.

Instead of praising the President for consulting with the senior Republican in the Senate, the Republican leadership has doubled back on their demands when a Republican was in the White House. No more do they talk about each nominee being entitled to an up-or-down vote. That position is abandoned and forgotten. Instead, they now seek to filibuster this judicial nomination and engage is the very act that Republican leaders used to contend that they never do. They have also abandoned the new position they took only months ago when they threatened to filibuster if not consulted. We are forced to overcome a filibuster of this nomination despite the President's bipartisan consultation with Senator LUGAR.

When President Bush worked with Senators across the aisle, I praised him and expedited consideration of his nominees. When President Obama reaches across the aisle, the Senate Republican leadership delays and obstructs his qualified nominees.

Today is November 17. By November 17 of the first year of George W. Bush's Presidency, the Senate had confirmed 18 district and circuit court judges. By contrast, once cloture is invoked and the Republican filibuster ended, Judge Hamilton will be just the seventh lower court nomination the Senate has considered all year. We achieved those results in 2001 with a controversial and confrontational Republican President after a mid-year change to a Democratic majority in the Senate. We did so in spite of the attacks of September 11; despite the anthrax-laced letters sent to the Senate that closed our offices; and while working virtually around the clock on the USA PATRIOT Act for six weeks. By comparison, the Republican minority this year has allowed action on only one-third that many judicial nominations to the Federal circuit and district courts as were confirmed by this date in 2001.

Charlie Savage made this point in *The New York Times* this past Sunday when he wrote:

By this point in 2001, the Senate had confirmed five of Mr. Bush's appellate judges . . . and 13 of his district judges. Mr. Obama has received Senate approval of just two appellate and four district judges.

David Savage of the *Los Angeles Times* wrote if even starker terms yesterday:

So far, only six of Obama's nominees to the lower federal courts have won approval. By comparison, President George W. Bush had 28 judges confirmed in his first year in office, even though Democrats held a narrow majority for much of the year.

This is not for lack of qualified nominees. There are eight judicial nominees, including Judge Hamilton who have been reported by the Judiciary Committee on the Senate Executive Calendar. Had those nominations been considered in the normal course, we would be on the pace Senate Democrats set in 2001 when fairly considering the nominations of our last Republican President.

Another aspect of the Republican obstruction is its refusal to consider the nomination of Professor Christopher Schroeder to serve as the Assistant Attorney General for the Office of Legal Policy at the Justice Department. Professor Schroeder has been stalled on the Senate Executive Calendar by Republican objection since July 28 since it was reported by the Judiciary Committee without a single dissenting vote. Professor Schroeder is a distinguished scholar and public servant who has served with distinction on the staff of the Senate Judiciary Committee and in the Justice Department. He has support across the political spectrum.

I can only imagine that the reason his confirmation is being delayed is part of the partisan effort to slow progress on judicial nominees. The Office of Legal Policy is traditionally involved in the vetting of those nominees. So when Republican Senators excuse their obstruction by suggesting that the President has not sent the Senate enough nominees, they are wrong on at least two counts. They have not allowed the Senate to act on the nominees he has sent, and they are delaying appointment of the Assistant Attorney General who contributes to that process.

President Bush's first nominee to head that division, Viet Dinh, was confirmed 96 to 1 only 1 month after he was nominated, and only a week after he his nomination was reported by the committee. The three nominees to that office that succeeded Mr. Dinh—Daniel Bryant, Rachel Brand, and Elisebeth Cook—were each confirmed by voice vote in a shorter time than Professor Schroeder's nomination has been pending. As Charlie Savage wrote in *The New York Times* this weekend:

In addition, no one has been confirmed as head of the Justice Department's Office of Legal Policy, which helps vet judges; Mr. Obama's nomination of Christopher Schroeder for the position remains stalled in the Senate.

As chairman of the Judiciary Committee, I treated President Bush's nominees better than the Republicans had treated President Clinton's. That effort has made no difference; Senate Republicans are now treating this President's nominees worse still. During the 17 months I chaired the Judiciary Committee in President Bush's first term, we confirmed 100 of his judicial nominees. At the end of his Presidency, although Republicans had run

the Judiciary Committee for more than half his tenure, more of his judicial nominees were confirmed when I was the chairman than in the more than 4 years when Republicans were in charge.

Last year, with a Democratic majority, the Senate reduced circuit court vacancies to as low as 9 and judicial vacancies overall to as low as 34, even though it was the last year of President Bush's second term and a Presidential election year. That was the lowest number of circuit court vacancies in decades, since before Senate Republicans began stalling Clinton nominees and grinding confirmations to a halt. In the 1996 session, the Republican-controlled Senate confirmed only 17 judges, and not a single circuit court nominee. Because of those delays and pocket filibusters, judicial vacancies grew to over 100, and circuit vacancies rose into the mid-thirties.

Rather than continued progress, we see Senate Republicans resorting to their bag of procedural tricks to delay and obstruct. They have ratcheted up the partisanship and seek to impose ideological litmus tests. If partisan, ideological Republicans will filibuster David Hamilton's nomination, the nomination of a distinguished judge supported by his respected home State Republican Senator, they will filibuster anybody. This is partisanship gone rampant.

Senate Republicans are intent on turning back the clock to the abuses they engaged in during their years of resistance to President Clinton's moderate and mainstream judicial nominations. The delays and inaction we are seeing now from Republican Senators in considering the nominees of another Democratic President are regrettably familiar. Their tactics have resulted in a sorry record of judicial confirmations this year. There are more judicial nominees recommended to the Senate and sitting on the Executive Calendar awaiting consideration than the Senate has confirmed all year.

Last week, the Senate was finally allowed to consider the nomination of Judge Charlene Honeywell of Florida, but only after 4 weeks of unexplained delays. She was confirmed without a single negative vote, 88-0. The week before, the Senate was finally allowed to consider the nomination of Irene Berger, who has now been confirmed as the first African-American Federal judge in the history of West Virginia. The Republican minority delayed consideration of her nomination for more than 3 weeks after it was reported unanimously by the Judiciary Committee. When her nomination finally came to a vote, it was approved without a single negative vote, 97-0. The week before that the Senate was finally allowed to consider the nomination of Roberto A. Lange to the District of South Dakota. The Republican

minority required 3 weeks before allowing consideration of that nomination after it was unanimously reported by the Judiciary Committee to the Senate. They also required 2 hours of debate before allowing the Senate to vote on that nomination. They, in fact, used less than 5 minutes of the time they demanded to discuss that nomination and that came when the ranking Republican on the Judiciary Committee spoke to endorse the nominee. That nomination had the support of both Senator JOHNSON and Senator THUNE, a member of the Senate Republican leadership. Ultimately, Judge Lange's nomination was confirmed 100-0. That follows the pattern that Republicans have followed all year with respect to President Obama's nominations.

Last week, the Senate finally debated the nomination of Judge Andre Davis of Maryland to a seat on the Fourth Circuit. He was confirmed 72-16. Sixteen Republican Senators voted in favor of the nomination and 16 were opposed. As Senators, they may vote as they see fit. What was wrong was that they delayed Senate consideration of that nomination for 5 months.

The obstruction and delays in considering President Obama's judicial nominations is especially disappointing given the extensive efforts by President Obama to turn away from the divisive approach taken by the previous administration and to reach out to Senators from both parties as he selects mainstream, well-qualified nominees. The President has done an admirable job of working with Senators from both sides of the aisle, Democrats and Republicans.

Professor Carl Tobias wrote about President Obama's approach recently in a column that appeared in *McClatchy* newspapers across the country on October 30. He wrote:

Obama has emphasized bipartisan outreach, particularly by soliciting the advice of Democratic and Republican Judiciary Committee members, and of high-level party officials from the states where vacancies arise, and by doing so before final nominations.

He had it right when he wrote that the real problem lies not with President Obama or with his nominations but with the Republican Senate minority. They are the principle cause of the current, sorry record regarding Senate confirmation of this President's outstanding nominees.

Federal judicial vacancies, which had been cut in half while George W. Bush was President, have already more than doubled since last year. There are now 98 vacancies on our Federal circuit and district courts, including 22 circuit court vacancies. There are another 23 future judicial vacancies already announced. Justice should not be delayed or denied to any American because of overburdened courts, but that is the

likely result of the stalling and obstruction.

Despite the fact that Senate Republicans had pocket filibustered President Clinton's circuit court nominees, Senate Democrats opposed only the most extreme of President Bush's ideological nominees and worked to reduce judicial vacancies. This is not an extreme nominee. This is a nominee in the mold of Judge John Tinker, President Bush's nominee to the Seventh Circuit, also a well-respected district court judge in Indiana who was unanimously rated "well-qualified" by the American Bar Association. His nomination was supported by both Senator LUGAR and Senator BAYH and was confirmed 93-0 just 84 days after the Judiciary Committee held a hearing on his nomination.

When he testified in support of Judge Hamilton, Senator LUGAR thanked Senator BAYH for "the thoughtful, cooperative, merit-driven attitude that has marked his own approach to recommending prospective judicial nominees" and his "strong support for President Bush's nominations of Judge Tinker for the Seventh Circuit and of Judge William Lawrence for the Southern District of Indiana." I supported both of those nominees with the endorsement of both of Indiana's Senators and both were easily confirmed. This nomination should be no different.

I hope that Senators now considering whether to even allow this nomination to be considered by the full Senate heed the advice of Senator LUGAR, which he reiterated yesterday when he said:

[I] believe our confirmation decisions should not be based on partisan considerations, much less on how we hope or predict a given judicial nominee will rule on particular issues of public moment or controversy. I have instead tried to evaluate judicial candidates on whether they have the requisite intellect, experience, character and temperament that Americans deserve from their judges, and also on whether they indeed appreciate the vital, and yet vitally limited, role of the Federal judiciary faithfully to interpret and apply our laws, rather than seeking to impose their own policy views.

As other editorial pages across the country have already done, the Washington Post today urges Senate Republicans to reject the distortions of Judge Hamilton's record, and to heed Senator LUGAR's "words of praise for Judge Hamilton's record, intellect and character and allow a vote, and then vote in favor of confirmation." I could not agree more.

Mr. President, I ask unanimous consent that a copy of today's editorial be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From The Washington Post, Nov. 17, 2009]  
GIVING HYPOCRISY A BAD NAME

During the Bush administration, Republicans decried Democratic attempts to fili-

buster judicial nominees. Some went so far as to label such filibuster attempts unconstitutional and threatened to exercise the "nuclear option" to ban the procedural tool in nomination matters.

Yet now Republicans are threatening to filibuster in an attempt to thwart confirmation of President Obama's first judicial nominee, Indiana federal Judge David F. Hamilton. The Senate is scheduled to vote on cloture Tuesday on Judge Hamilton's nomination to the U.S. Court of Appeals for the 7th Circuit. The prospect of a filibuster is made all the more ridiculous because Judge Hamilton has been rated "well-qualified" by the American Bar Association, enjoys the support of both home state senators, including Republican Richard G. Lugar, and even wins praise from the conservative Federalist Society of Indiana.

Sen. Jeff Sessions of Alabama, ranking Republican on the Judiciary Committee, has distorted Judge Hamilton's record on the trial court in an effort to rally the GOP caucus. For example, Mr. Sessions, arguing that Judge Hamilton is too liberal, cites a case in which Judge Hamilton struck down as unconstitutional sectarian Christian prayers in the Indiana state house but allowed those that referred to Allah. Mr. Sessions points out that the decision was overturned by the court of appeals that Judge Hamilton now hopes to join.

But the senator fails to explain that Judge Hamilton documented that 41 of the 53 invocations during the 2005 session of the Indiana House were given by Christian clergy; nine were delivered by elected officials; one each was said by a Muslim imam, a Jewish rabbi and a layperson. Such a lopsided tally, Judge Hamilton reasoned, could leave the constitutionally unacceptable impression that Indiana lawmakers favored one religion above all others. Judge Hamilton explained in his written opinion that the ruling did not "prohibit the House from opening its session with prayers if it chooses to do so, but will require that any official prayers be inclusive and non-sectarian, and not advance one particular religion." Mr. Sessions also fails to note that the 7th Circuit reversed Judge Hamilton on procedural grounds and not because it disagreed.

There are probably not the 40 votes needed to block Judge Hamilton's nomination from reaching the floor. We hope that Republicans in large numbers heed Mr. Lugar's words of praise for Judge Hamilton's record, intellect and character and allow a vote—and then vote in favor of confirmation. In this instance, a vote for Judge Hamilton will be a vote to restore much needed comity and integrity to the process—qualities that the next Republican president will greatly appreciate when his nominees are considered.

Mr. LEAHY. Senator LUGAR believes Judge Hamilton "is superbly qualified under both sets of criteria." I agree. I urge the Senate to reject these efforts and end this filibuster with a bipartisan vote.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. SESSIONS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SESSIONS. Mr. President, how much time remains on this side?

The PRESIDING OFFICER. The Senator has a minute and a half remaining.

Mr. SESSIONS. All right. I will briefly say that for the first time, I believe, in the history of the Senate, a number of President Bush's nominees were systematically filibustered. At 30 different times, cloture votes were required, and some failed, so the nominee did not go forward. That was unprecedented in the history of the Senate.

Now my colleagues say the dispute over that eventually got settled by the fact that a group of 14 Senators said: We need a compromise, and this is the compromise. You should not filibuster a Presidential judicial nomination unless there are extraordinary circumstances.

I opposed that. I have opposed filibusters before. But I do think since we have had no debate on this nominee to date, and this nominee has extraordinary statements in cases, and a record that indicates to me a lack of commitment to following the law—even though he is a person with whom I have no problem as to character and intelligence and ability, but I do not agree with his judicial philosophy—therefore, I believe this side cannot acquiesce to a precedent that says Democratic Presidents can get their judges confirmed with 51 votes; but if a Republican President nominates a nominee, he has to have 60 votes.

The PRESIDING OFFICER. The time is expired.

Mr. SESSIONS. So I think we have changed the rule, unfortunately. I think based on this situation, I will ask my colleagues not to support cloture.

I yield the floor.

Mr. LEAHY. Mr. President, I ask for the yeas and nays.

Mr. REID. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Mr. President, I am going to use some leader time now to speak on a matter that will shortly be before the Senate.

As I indicated to you, the Chair, we will vote on advancing the nomination of a man named David Hamilton, a supremely qualified individual who is already a district court judge from the State of Indiana. He has been an outstanding trial court judge, and he has been nominated by President Obama to be a judge in the Seventh Circuit. But, as many have heard here over this last hour or so—and you might have guessed simply if you have followed the Senate over the last 2 years—Republicans would rather we didn't vote on



this man, ever. They would rather that a critical seat such as this remain empty, but not because of who was nominated to fill that seat; Judge Hamilton's professional performance has been exceptional. His qualifications are stupendous. He is widely admired on all sides because of his stellar judicial performance and his fair judicial philosophy. Senators from that State, Democrat EVAN BAYH and the Republican, the long-serving Senator RICHARD LUGAR, strongly urge confirmation. He is a man who is respected.

It is unusual that we would have the Republicans focus on one opinion he wrote dealing with religion. No one should ever second-guess this man's religious capacity.

He served as the attorney for Gov. EVAN BAYH. His father is a 40-year minister of a large Methodist Church in Indianapolis in which Judge Hamilton was baptized. Senator LUGAR, the Republican senior Senator from Indiana, has called Judge Hamilton exactly the kind of person one would want to see on the Federal bench. He has called him brilliant, fair, and committed to the law. I agree.

I have had the good fortune to serve in Congress with his uncle, Lee Hamilton, a longtime-serving Member of the House of Representatives from Indiana, the chairman of the Foreign Affairs Committee—really a good person. Being a good person and being involved in public service runs in that family, obviously, because of Judge Hamilton and Chairman Lee Hamilton.

The Federalist Society of Indiana, a strongly conservative institution—and that is an understatement—acknowledges that Judge Hamilton is well within the mainstream of the law. The American Bar Association has rated him as high as anyone can be rated.

The solitary decision of his, that is, Judge Hamilton, with which the Republicans claim to find fault is one in which Judge Hamilton stood for the separation of church and state, a principle protected by the first words of our Constitution's first amendment.

The reason most Republicans object to advancing his nomination has nothing to do with Judge Hamilton himself and everything to do with pure partisanship. Such shortsightedness is the reason why, even though the Judiciary Committee approved Judge Hamilton back in early June—he was nominated in April—he has had to wait 166 days for this procedural vote and it has had to be forced upon the Senate. We have a lot of things to do here in this body. It is very unfortunate we had to file cloture on a judge.

Judge Hamilton is far from the first victim of this partisan strategy to slow and stall the Senate. We have had that happen over 90 times already this year. In fact, Republican Senators have made a habit of objecting to the least

objectionable nominees of President Obama's. The Senate has so far confirmed six judges for the court of appeals and the district court. Five of them were reported out of committee by voice vote. That means they were so obviously qualified that the committee didn't even feel the need to have a roll-call vote. When they reached the Senate floor, four of those five passed unanimously by votes of 88 to 0, 97 to 0, 99 to 0, and 100 to 0. Yet Republicans forced us to wait, wait, and wait for all of those votes in the first place. They did so for no other reason than to waste the American people's time.

I was stunned to hear my friend from Alabama say we haven't had enough time to debate this man. We have offered consent agreements, we have talked to everyone: How much time do you want? You can have it. We haven't had a debate on this nominee because we had to file cloture. The Republicans didn't want a debate on it. This is how the Republicans have forced the Senate to operate. It is not how it always works or how it should work. When President Bush was in office, as we have heard the distinguished chairman of the committee say on many occasions, the Democratic majority in the Senate confirmed three times as many nominees as we have been able to confirm in the same amount of time under President Obama.

Let's be clear. We are not yet voting on whether to confirm Judge Hamilton for this important position. Our votes today simply indicate whether we believe the judge, Judge Hamilton, deserves an up-or-down vote before the full Senate.

The votes of each Senator today will demonstrate whether he or she believes in the Senate's power as outlined in our Constitution to advise and give its consent to the President's nominations to the Federal bench.

Going to law school was a very good experience for me. It was not like undergraduate school. It wasn't how much you could memorize. For those of us who endured law school, we did more than learn about obscure facts and learn rigid legal rules; we analyzed the abstract thinking behind our laws and the logic out of which our great judicial system grew. That is what law school is all about. That is what lawyers train to do—think abstractly lots of times.

One of the very first principles I learned in law school—and I still have it in my mind—was following precedent. I believe in what we call stare decisis. It is how we maintain consistency in our court rulings, and it is a cornerstone of the common law we brought over from Great Britain when we became a country. Precedent is a simple notion: Once a rule has been established, we must apply that standard to all future cases in which the facts are similar to the first. This concept

predates our courts, our Constitution, and even our country. Every aspiring lawyer studied it and every judge considers it when deciding a case.

The future of that same legal system rests before the Senate today. In the Senate, as in the law, what we say in this Chamber and in the public record should set the precedent for our own actions. That is why the Parliamentarians who serve us so well understand the precedents. We ask them a question, and they follow the precedent.

Here is what has been decided in the Senate previously. The record is replete with my Republican colleagues—including Members of the Republican leadership today and the Judiciary Committee—speaking about the solemn responsibility of the Senate to confirm judges. In other words, the record is replete with precedent.

For example, my counterpart, the distinguished Senator from Kentucky, the Republican leader, has argued strongly that the present judicial nomination deserves a simple up-or-down vote. He reminded the Senate of that not long ago; in fact, it was May of 2005. He said that our job is to give our advice and consent and not, as he put it in May 2005, and I quote, "advise and obstruct." I agree. Two years earlier, my distinguished counterpart said that filibustering judges—which is exactly what is happening right now at a record pace—is "a terrible precedent." I sincerely hope the Republican leader heeds his own words and doesn't repeat the very obstruction he condemned in the past.

The ranking member of the Judiciary Committee, the junior Senator from Alabama, has also rightly called the filibustering of judicial nominations "obstructionism," and that is his word. He has said it is "very painful," and he has described it as "a very, very grim thing." He is right.

The Senator from Alabama went further to say the following:

We ought to be pleased that a nominee has cared enough about his or her country to speak out about issues that come before the country.

I agree. I share the belief that those who have chosen to serve our Nation must be able to get to work without delay. I hope the gratitude of the Senator from Alabama will be reflected in his vote this afternoon.

The Republican whip, the junior Senator from Arizona, has expressed similar disgust with judicial filibusters such as the one we are seeing today. In November of 2003, he said:

It is time to take politics out of the confirmation process, give nominees the up-or-down vote they deserve, and move the orderly process of justice forward.

He, too, is right. I hope the Senator from Arizona will consider that orderly process when he votes on advancing Judge Hamilton's nomination a few minutes from now.



The senior Republican Senator from Utah, who has served as chairman of the Judiciary Committee three separate times and still sits on that distinguished panel, also spoke out strongly against filibustering judges. He said in 2005 that doing so “undermines democracy, the judiciary, the Senate, and the Constitution.” And it does. I hope the Senator from Utah doesn’t contribute to such affronts by voting no today.

Another Republican Senator, the senior Senator from Iowa, who also serves on the Judiciary Committee, warned in 2003 that filibustering judges would lead to “a constitutional crisis.” I agree with him. I hope he helps us avert a filibuster and avoids a crisis by voting yes today for Judge Hamilton.

Another Republican Senator, the junior Senator from Texas, who served on the Judiciary Committee and was a supreme court justice in Texas, said in 2006 he hopes the filibuster of judicial nominees “should never happen again, and that all nominees of a President are entitled to an up-or-down vote.” That was a few years ago. He called what Republicans are doing today “an abomination” and “the most virulent form of unnecessary delay one can imagine.” The same Senator also said on the Senate floor that he finds it “simply baffling that a Senator would vote against even voting on a judicial nomination.” I find it baffling, also. I sincerely hope the Senator from Texas will not delay us unnecessarily by supporting his party’s filibuster. I could go on with a lot more quotes. It was interesting this morning. I listen to National Public Radio. There was a nice piece on there talking about what the Republicans are doing here, and it had the actual voices of the Senators. I cannot give the voices, but that was done on public radio, where they had the voices of the Senators saying things such as I have read today.

I could go on and on. For example, another Republican Senator, the senior Senator from Kansas, has said that forcing supermajorities to confirm nominees—which is what a filibuster does—is inappropriate.

Another Republican Senator, the senior Senator from Idaho—and by the way, his brother was a law school professor at Brigham Young University, where my son-in-law went to law school. My son-in-law has a wonderful mind, and he said he was the best professor he ever had and the smartest he ever had. Unfortunately, he died as a very young man. The senior Senator from Idaho said: “It turns the Constitution on its head and begins a very dangerous precedent with regard to how the nominees for the judicial branch are treated by the Senate.”

He talked about what a filibuster does. Again, my Republican friends are right. I hope the Senators from Idaho and Kansas will make sure filibusters still have no place in the confirmation

process, and I hope they don’t make such a practice precedent. They can do so by voting yes today.

Every single Senator may vote either for or against the nomination as he or she sees fit. That right will never be in jeopardy. But that is not the issue before us today. The question before us is whether the President of the United States deserves to have his nominees reviewed by the Senate, as the Constitution demands he does.

I feel so strongly about what took place a few years ago. We could go back and debate whether President Bush’s nominations—whether he should have gotten more than what he did. We know he got hundreds of them. As I said on the floor, the point is, what the Republicans were going to do—a very slight majority—is they were going to do away with precedent, with filibusters in the Senate. I said at that time, if they did that and I ever came into a position of authority, I would never reverse it. I felt that strongly about it. If the Republicans would make us do what I think is wrong—that is, vote on cloture on all these nominations—it will take a lot of time and it is not fair. We should not do that.

I only say to my friends that very few judges were held up by the Democrats when we were in the minority. Some were held up. Regardless, when I took this job in 1998—when I was elected to a leadership position—I said we should treat the Republicans as we would like to be treated, which is the Golden Rule. When we got the majority, I said the same thing. That is how I feel about it. Let’s go by the Golden Rule in the Senate. Let’s treat judicial nominees the way they would want them treated if the roles were reversed. I hope we can do that.

That is not the issue before us today. The issue today is whether the President of the United States deserves to have his nominees get a vote up or down. The question before us is whether the President deserves to have his nominees reviewed by the Senate, as the Constitution demands he does.

The question before the Senate is whether the nominees themselves deserve to be confirmed or rejected based on their judicial philosophy, their experience, moral turpitude, and whatever else people decide they don’t like—their looks or they are too old or too young, whatever. But it should be on that person’s qualifications as seen by the individual Senators.

The question is whether Senators who publicly demand up-or-down votes when it is politically convenient will follow the precedents they set for themselves, even when it is not. The vote we are about to hold will give us that answer. I hope we will have a large vote on being able to proceed to this nomination, and I hope we don’t get into this situation where, out of spite—because there has always been

plenty of time to debate this man—postcloture we have to wait 30 hours to confirm the nomination. That would not look good for this body, and I hope it is not necessary.

Mr. President, have the yeas and nays been ordered?

The PRESIDING OFFICER. They have not.

Mr. REID. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

#### CLOTURE MOTION

The PRESIDING OFFICER. Under the previous order, the clerk will report the motion to invoke cloture.

The bill clerk read as follows:

#### CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the nomination of David F. Hamilton, of Indiana, to be a United States Circuit Judge for the 7th Circuit.

Harry Reid, Herb Kohl, Sheldon Whitehouse, Richard J. Durbin, Benjamin L. Cardin, Patty Murray, Mark Begich, Kirsten E. Gillibrand, Mark R. Warner, Russell D. Feingold, Al Franken, Roland W. Burris, Dianne Feinstein, Patrick J. Leahy, Barbara Boxer, Charles E. Schumer, Edward E. Kaufman.

The PRESIDING OFFICER. By unanimous consent, the mandatory quorum call is waived.

The question is, Is it the sense of the Senate that debate on the nomination of David F. Hamilton, of Indiana, to be a U.S. circuit judge for the Seventh Circuit, shall be brought to a close?

The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The bill clerk called the roll.

Mr. KYL. The following Senator is necessarily absent: the Senator from Texas (Mrs. HUTCHISON).

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 70, nays 29, as follows:

[Rollcall Vote No. 349 Ex.]

#### YEAS—70

Akaka	Durbin	Lincoln
Alexander	Feingold	Lugar
Baucus	Feinstein	McCaskill
Bayh	Franken	Menendez
Begich	Gillibrand	Merkley
Bennet	Gregg	Mikulski
Bingaman	Hagan	Murkowski
Boxer	Harkin	Murray
Brown	Hatch	Nelson (NE)
Burris	Inouye	Nelson (FL)
Byrd	Johnson	Pryor
Cantwell	Kaufman	Reed
Cardin	Kerry	Reid
Carper	Kirk	Rockefeller
Casey	Klobuchar	Sanders
Chambliss	Kohl	Schumer
Collins	Landrieu	Shaheen
Conrad	Lautenberg	Snowe
Cornyn	Leahy	Specter
Dodd	Levin	Stabenow
Dorgan	Lieberman	Tester

Thune  
Udall (CO)  
Udall (NM)

Warner  
Webb  
Whitehouse

Wyden

# NAYS—29

Barrasso  
Bennett  
Bond  
Brownback  
Bunning  
Burr  
Coburn  
Cochran  
Corker  
Crapo

DeMint  
Ensign  
Enzi  
Graham  
Grassley  
Inhofe  
Isakson  
Johanns  
Kyl  
LeMieux

McCain  
McConnell  
Risch  
Roberts  
Sessions  
Shelby  
Vitter  
Voinovich  
Wicker

# NOT VOTING—1

Hutchison

The PRESIDING OFFICER. On this vote the yeas are 70, the nays are 29. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

Mr. CARDIN. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. REED. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

## UNANIMOUS CONSENT AGREEMENT—S. 1963

Mr. REED. Mr. President, I ask unanimous consent that upon disposition of the nomination of Judge David Hamilton and the Senate resuming legislative session that the Senate then proceed to the consideration of Calendar No. 190, S. 1963, Veterans Health Care Initiatives, and that the bill be considered under the following limitations: that general debate on the bill be limited to 30 minutes equally divided and controlled between Senators AKAKA and BURR or their designees; that the only amendment in order be a Coburn amendment regarding funding priorities which is at the desk and that it be printed in the RECORD once this agreement is entered; that debate on the amendment be limited to 3 hours, with 2 hours under the control of Senator COBURN and 60 minutes under the control of Senator AKAKA or his designee; that upon the use or yielding back of all time, the Senate proceed to vote in relation to the Coburn amendment; that upon disposition of the Coburn amendment, the bill, as amended, if amended, be read a third time, and the Senate then proceed to vote on passage of the bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The amendment (No. 2785) is printed in today's RECORD under "Text of Amendments.")

Mr. REED. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BURRIS. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BURRIS. I ask unanimous consent to speak as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

## HEALTH CARE REFORM

Mr. BURRIS. Mr. President, as I address this Chamber today, there is a broad consensus across the country that our health care system is broken. It simply doesn't work for Americans anymore. Everyone agrees that we need real comprehensive health care reform. In order to accomplish this, I believe we must include a strong public option to restore competition, cost savings, and accountability to the health care insurance industry. In fact, I have stated before that I will not vote for any reform measure that fails to include a strong public option.

A few of my colleagues are still not convinced. Some have honest questions. But there are others who are not interested in winning this argument on the merits. A few of my colleagues across the aisle are trying to stop this Congress from passing any health care reform at all. Some of my distinguished Republican friends have said our proposals are simply too expensive. They say a trillion dollars is too high a price to pay for a better health care system.

I beg to differ. We already pay far too much for health care. Our reform bill would reduce costs over the long term. It would allow consumers to hold insurance companies accountable for the first time in many years. It would restore real competition to markets that are currently monopolized by a few big corporations. It would accomplish all of that without adding to the budget deficit. Yet my colleagues continue to insist that health care reform would be too expensive. Despite the number of Americans suffering under our broken system, they want to talk about fiscal responsibility instead of health care reform. My Republican friends have simply lost their credibility when it comes to this issue. They say they would not support reform that will save lives and improve health outcomes for millions because it costs too much. Yet under a Republican President, they were willing to write bigger and bigger checks to benefit the wealthy.

In 2001, when President Bush asked Congress to pass tax cuts that mostly helped the super rich, the total cost came to \$1.35 trillion over 10 years. That is more than \$300 billion more than our health care reform bill, and it provided significant benefits to far fewer Americans.

More than half of the current Republican caucus was serving in the Senate at the time of this vote. Did they try to block the bill? Did they stand up and say: \$1.3 trillion for the super rich—that is wasteful, irresponsible, and far too costly? No, they did not.

When President Bush called, they answered. My Republican friends voted in favor of this massive spending program, even though it added more than \$1 trillion to the deficit.

Many of the same people now want to put the brakes on a deficit-neutral health care reform bill designed to help millions of ordinary Americans.

Later in 2003, just as this country began to spend hundreds of billions of dollars to conduct two wars, President Bush asked for yet another tax cut. This tax cut also benefited the richest of the rich and added \$330 billion more to the deficit.

But did my distinguished Republican colleagues urge fiscal responsibility? Did they demand that the President explain how he would finance the wars or balance the budget before they voted on another massive tax cut? No, they did not. Their vocal support for fiscal responsibility was nowhere to be found. Once again, they voted overwhelmingly for the second round of tax cuts.

Yet as I address this Chamber today, a few of the same Senators are doing everything they can to stop us from passing health care reform.

I would urge the American people to consult the record for themselves. The same voices that now oppose extending health care coverage actually supported spending significantly more money to pad the bank accounts of the richest people in this country.

It is the same story for expensive programs such as Medicare Part D. More than half of the Republicans still in the Senate voted for \$400 billion of new spending back in 2003. Almost all of these distinguished Senators voted time and again to fund the ongoing wars in Iraq and Afghanistan, which have cost the American taxpayers more than \$1 trillion and far too many American lives.

I do not mean to suggest every single one of these spending programs was a bad idea. But I would like to point out that when my Republican colleagues talk about "fiscal responsibility," they are talking about an issue on which they have lost their credibility. They recklessly added trillions of dollars to the deficit under a Republican President, but today they oppose health care reform even though it will be paid for by cost offsets. Their actions simply do not match their words. They are placing cynical politics ahead of good policy.

So I have a question for my Republican friends who have been Members of this Senate since 2001: If they supported almost \$2 trillion of deficit spending for tax relief for the rich, then, I ask them, exactly how much are we allowed to spend for health care that will benefit millions of people across this country?

Mr. President, 45,000 Americans die every single year because they do not have insurance and cannot get the

quality care they need. Without competition in the industry, insurance companies have raised premiums, denied benefits, and refused coverage to millions. So I ask my colleagues: How much is too much for this Congress to spend to save these lives?

My colleagues like to talk about responsibility, so I put it to them that the only responsible course of action is to pass this health care bill, and pass it now. That is the reaction we need.

Unfortunately, there are some in this Chamber who are not interested in addressing the issue of health care reform. There are some who do not want to have an honest, open debate on the subject. They want to kick the can further down the road, as our predecessors have done time and time again for the last 100 years.

That would be the easy answer—to leave it to someone else to solve the difficult problem of health care reform after the problem has gotten even worse, to settle for the status quo or put a band-aid on a gaping wound and hope that future legislators will muster the political will that a century of lawmakers has lacked. There are some in this body who would settle for this.

But I believe the American people deserve better. Especially in difficult times, they demand better of their representatives in Congress. So I say to my colleagues, as great leaders have said to us time and time again throughout our history: Let's seize this moment to do what is right, not what is easy. Let's summon the will to succeed where others have failed.

It is time to deliver on meaningful health care reform. It is time for competition, cost savings, and accountability in the insurance industry. It is time to be honest with the American people.

Friends, colleagues—Republicans and Democrats—this is no time for partisan games and empty rhetoric. This is time for action. Millions of Americans are counting on us to make health care reform a reality, and we must not let them down. I will say that again. We must not let them down.

Mr. President, I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRASSLEY. Mr. President, I oppose the nomination of Judge David Hamilton to be a Seventh Circuit Appeals Court judge. I have serious concerns about this nomination and will be voting not to confirm him.

During his time as a Federal judge on the U.S. District Court for the Southern District of Indiana, Judge Ham-

ilton has issued a number of highly controversial rulings and, more importantly, has been reversed in some very prominent cases. In my opinion, these decisions strongly indicate that Judge Hamilton is an activist judge who will ignore the law in favor of his own personal ideology and beliefs.

For example, in one case, Judge Hamilton succeeded in blocking enforcement of an informed consent law for 7 years. In that case, called *A Woman's Choice v. Newman*, Judge Hamilton struck down an Indiana law requiring that certain medical information be given to a woman in person before an abortion can be performed. The Seventh Circuit overruled Judge Hamilton's decision, stating:

For 7 years, Indiana law has been prevented from enforcing a statute materially identical to a law held valid by the Supreme Court in *Casey*, by this court in *Karlin*, and by the Fifth Circuit in *Barnes*. No court anywhere in the country (other than one district judge in Indiana) has held any similar law invalid in the years since *Casey* . . . Indiana (like Pennsylvania and Wisconsin) is entitled to put its law into effect and have that law judged by its own consequences.

That was the circuit court overturning Judge Hamilton. It seems to me that Judge Hamilton went out of his way to make his finding and actually block the Indiana law. That is not the proper role of a judge.

In addition, Judge Hamilton has shown hostility against the expression of religion in the public square. In two prominent cases, he ruled against public prayer in the State legislature and religious displays in public buildings, and in both cases he was reversed. In the case of *Hinrichs v. Bosma*, Judge Hamilton enjoined the speaker of the Indiana house of representatives from permitting sectarian prayer. Judge Hamilton ruled that the Indiana State legislature was prohibited from starting its session with prayers, specifically those that expressly mentioned Jesus Christ, but that it would be permissible for a prayer to mention Allah. The Seventh Circuit overturned Judge Hamilton's decision in *Hinrichs*, and subsequently the Indiana house passed a resolution 85-to-0 opposing Judge Hamilton's ruling.

Then in *Grossbaum v. Indianapolis-Marion County Building Authority*, Judge Hamilton ruled that a county could prohibit the display of a menorah in a nonpublic forum. The Seventh Circuit unanimously reversed Judge Hamilton, noting that the judge disregarded relevant Supreme Court precedent to reach his ruling and that he failed to recognize a rabbi's first amendment right to display the menorah as symbolic religious speech.

Judge Hamilton also ignored clear statutory mandate so he could impose his own personal beliefs when sentencing criminal defendants. Example: In the 2008 case *U.S. v. Woolsey*, Judge Hamilton disregarded an earlier con-

viction in order to avoid imposing a life sentence on a repeat drug offender. The Seventh Circuit reversed the decision, admonishing Judge Hamilton, specifically stating that he was "not free to ignore" prior conviction because "statutory penalties for recidivism . . . are not optional, even if the court deems them unwise or an inappropriate response to repeat drug offenders."

In another case, *U.S. v. Rinehart*, Judge Hamilton used his court opinion to request clemency for a police officer who pled guilty to two counts of producing child pornography. In this case, the police officer had engaged in and videotaped "consensual" sex with two teenagers.

In addition, in writings and speeches, Judge Hamilton has indicated that he approves of the concept that judges should make policy from the bench. For example, he has embraced President Obama's empathy standard, a standard so radical that even the new Supreme Court Justice Sotomayor had to rebuke it at her confirmation hearings. In response to written questions for his confirmation hearing, Judge Hamilton answered this way:

Federal judges take an oath to administer justice without respect to persons, and to do equal right to the poor and to the rich. Empathy—to be distinguished from sympathy—is important in fulfilling that oath. Empathy is the ability to understand the world from another person's point of view. A judge needs to empathize with all parties in cases—plaintiff and defendant, crime victims and accused defendant—so that the judge can better understand how the parties came to be before the court and how legal rules affect those parties and others in similar situations.

To empathize with the parties is not the proper role of a judge. Rather, the proper role of a judge is to apply the law to the facts in an impartial manner, and that is what we refer to as blind justice.

Further, in a 2003 speech, Judge Hamilton endorsed the idea that the role of a judge includes "writing footnotes to the Constitution" through evolving case law. He said:

Judge S. Hugh Dillin of this court has said that part of our job here as judges is to write a series of footnotes to the Constitution. We all do that every year in cases large and small.

Oddly enough, the last time I checked, it was the role of Congress to write laws, not the judicial branch. Judge Hamilton's personal bias has been noted by lawyers who practice before him. In fact, statements of local practitioners in the *Almanac of the Federal Judiciary* described Judge Hamilton as "the most lenient of any judges in the district." Another quote: "One of the more liberal judges of the district." Another quote: "Goes out of his way to make the defendant comfortable." Another quote: "He is your best chance for downward departures."

Lastly, "in sentencing, he tends to be very empathetic to the downtrodden, or to those who commit crimes due to poverty."

Contrary to how the White House has tried to characterize Judge Hamilton, I believe that the record amply demonstrates that Judge Hamilton is an activist judge. He has taken radical positions, and a number of his rulings indicate that Judge Hamilton will impose his own personal beliefs and values in cases. We should not promote an individual whose track record clearly demonstrates that he will carry out an outside-of-the-mainstream personal agenda on the Federal appeals court. For these reasons, I will oppose the nomination of Judge Hamilton to the Seventh Circuit. If he was going to serve on a circuit, as many times as he has been overruled, it would be more appropriate for him to be on the Ninth Circuit, where a lot of those decisions on appeal are overturned by the Supreme Court—about 9 times out of 10.

I yield the floor.

The PRESIDING OFFICER. The Senator from Florida is recognized.

Mr. LEMIEUX. Mr. President, I ask unanimous consent to speak as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### NATIONAL DEBT

Mr. LEMIEUX. Mr. President, the clock has struck 12 on a \$12 trillion debt. Like Cinderella when she was revealed when the clock struck 12, this Congress is now revealed—revealed for the problem it has in spending more than we can afford. We are being a body and an institution that spends money without thinking about the future of this great country. It spends the money of our children and our grandchildren.

It took this country 193 years to spend a trillion dollars and to get a trillion dollars into debt. We are now \$12 trillion into debt as of today. That \$12 trillion is the equivalent of \$40,000 per person, \$107,000 per household. This is what American families are now responsible for, because unlike American families who sit around their kitchen tables and try to make ends meet, and unlike the States that have to balance their budgets, this Congress spends more than it has. There is no evaluation in this Congress about how much money is being taken in versus how much money we spend.

Instead, we raised this year \$1.4 trillion in debt, more debt in a single year than the past 4 years combined.

Outside this Chamber, outside the main entrance, is a clock, called the Ohio Clock—the fabled clock that has been in this institution for more than a hundred years. It stands there to tell the time. I suggest that standing next to that clock should be the debt clock to remind the Members of this Senate, and perhaps our friends in the House,

that we are spending money we cannot afford to spend, and it is risking the future of our children and grandchildren.

As you know, I have three small boys, Max, Taylor, and Chase, 6, 4, and 2, and a baby on the way. We worry for their future—just like Americans across this country and my fellow Floridians are worrying for the future of their children. How can we afford this and continue to spend more than we have?

I have been coming to the floor weekly to talk about the various appropriation bills I have been voting on—and, frankly, voting against—because they spend more and more of the people's money and put this country further into debt.

Today, we have marked this occasion with \$12 trillion in debt—an amount of money that is hard to fathom, an amount of money that is so large it is hard to comprehend. But we know that every family in America is now responsible—every household—for \$107,000. That debt now rides upon their shoulders.

In a week—perhaps even this week—Democrats in the Chamber are going to introduce a health care reform bill that is estimated to spend another \$1 trillion. This bill will raise taxes, cut Medicare, and increase premiums—another large governmental program, when we cannot afford the programs we have. We should focus on spending the money we have, spending it more efficiently and effectively, before we go on to create a new program, a new bureaucracy, and more obligations than we can afford.

The Congressional Budget Office estimates that the health care plan being brought forth by the Democrats in this Chamber will spend 24.5 percent of GDP, 19 percent in revenue only. So we have 19 percent in revenue, but 24.5 percent of GDP, which is a huge unsustainable gap. It was recently reported that the deficit for October alone is \$176 billion—\$26 billion more than estimates by economists. In fact, the debt increased by \$40 billion just over this past weekend.

Our spending is out of control. The Federal Government does not recognize it. This Congress cannot afford the programs it has, let alone the programs it wants. So I am here to sound the alarm. I could not let this day pass as we hit this \$12 trillion mark in national debt.

I look forward to coming back to the floor to explain again and again to the American people that this is a problem that must be solved. We cannot continue to spend our children's and grandchildren's future.

I yield the floor.

The PRESIDING OFFICER (Mr. TESTER). The Senator from Delaware is recognized.

Mr. KAUFMAN. Mr. President, I ask to speak as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### IN PRAISE OF ANN AZEVEDO

Mr. KAUFMAN. Mr. President, I rise once more to honor an outstanding Federal employee.

Next week, American families will gather around dinner tables in celebration of Thanksgiving.

Thanksgiving is a time for coming together. In earlier ages, members of an extended family usually resided in close proximity to one another. Today, however, the typical American family is spread across the country, with members far in distance even if close in spirit.

Americans of all backgrounds and from all walks of life will be travelling long distances to be with their loved ones. It is no wonder that Thanksgiving weekend is one of the busiest travel periods of the year.

Tens of millions of us will be driving, flying, and taking trains or ferries next week. For some it will be stressful, for others exciting. Most, though, will do it without even realizing how much work goes into keeping American travelers safe.

The Department of Transportation employee whose story I will share today has been instrumental in ensuring the safety of those who travel. But before I tell you about this outstanding public servant, I want to reflect on how important transportation is for America.

From its humble beginnings, ours has been a Nation on the move. In George Washington's day, their mercantile spirit drove our founding generation to dig canals and clear roads across the Appalachians. Steamships and railroads fueled the expansion across the West and helped close the frontier. Air travel in the last century brought every corner of our 50 States ever closer and opened new opportunities for the growth of business and tourism.

This march of progress in transportation technology has not been a smooth ride. When the railroads were new, train wrecks were fairly common. In fact, President-Elect Franklin Pierce was en route to Washington for his inauguration when his train derailed, tragically killing his 11-year-old son.

Travel by ferry or steamship on our rivers and lakes was far from safe in those days. For pioneer families, roads were often impassable during winter-time, and many lost their lives just trying to get to the West. While air travel is the safest form of transportation in our day, it was not always the case.

Making sure that our Nation's "planes, trains, and automobiles" are safe remains one of our highest priorities. My home State of Delaware, like

every other State—like Montana—depends on a top-notch transportation infrastructure to facilitate economic activity, moving people and goods across markets.

Travel can and should be a safe and fun experience. No one should ever have to worry that the vehicles on our roads, rails, rivers, or in our skies are unsafe. That is where the hardworking men and women of the Department of Transportation excel. They set and enforce regulations upholding the strictest standards in transportation safety.

The great Federal employee I have chosen to recognize this week has been a leader on safety issues at the Transportation Department's Federal Aviation Administration for 12 years.

Ann Azevedo came to the department in 1997 with nearly two decades of experience in the private sector. Working from the FAA facility in Burlington, MA, when she first started at the FAA, Ann served as the risk analysis specialist for the Engine and Propeller Directorate.

In her current role as chief scientific and technical adviser for aircraft safety analysis, Ann focuses on safety, risk management, and analyzing accidents. From the data she gathers, Ann is able to develop solutions to help prevent future incidents.

Regularly representing the FAA at national and international air safety round-tables, Ann has become a respected voice among those engaged in risk management analysis. She helped write the training manuals for turbofan and turboprop aircraft used across the industry, and she continues to teach risk analysis at the FAA Academy.

Ann holds a bachelor's degree in systems planning and management in applied mathematics and a master's of science in mechanical engineering. When she was once asked how she ended up in her chosen career field, Ann cited her love of math and an influential physics teacher in high school.

Ann was awarded the Arthur S. Flemming Award for public service in 2002 for developing safety solutions that resulted in a 64 percent decrease in the commercial aviation fatality rate between 1998 and 2002. She also was honored as Distinguished Engineer of the Year by the American Society of Mechanical Engineering in 1996.

Her work, and that of all her colleagues at the FAA and other Transportation Department agencies, helps ensure that travel in our country continues to be as safe as possible.

Most importantly, they facilitate the smiles of those arriving safely at a journey's end and seeing their loved ones for the first time after weeks, months, or even years apart.

That remains a central element of Thanksgiving, and I hope all Americans will join me in thanking Ann

Azevedo and all the men and women of the Department of Transportation for their hard work keeping American travelers safe.

They keep us, whether on the road, on the rails, at sea, or in the sky, moving ever forward.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mrs. MURRAY. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### MORNING BUSINESS

Mrs. MURRAY. Mr. President, I ask unanimous consent that the Senate proceed to a period of morning business, with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### FORT HOOD ATTACK

Mr. FEINGOLD. Mr. President, it is with great sadness that I wish to remember victims of the horrific shootings at Fort Hood. This was a senseless attack on innocent people who were serving their country. To know that these people, 12 servicemembers and 1 civilian, were taken from their families in this way is very difficult to accept. I join with people across the country in mourning these tragic deaths. My thoughts are with each and every one of their families.

As a Senator from Wisconsin, I do feel a special duty to remember the two Wisconsinites who were killed. Both were extraordinary members of our Armed Forces, and their deaths are a terrible blow to all who knew them, and to our State. Wisconsin takes so much pride in its long tradition of military service, and in the Wisconsinites who serve so bravely in the Armed Forces today. Wisconsin has already lost so many servicemembers in recent years—90 in Operation Iraqi Freedom and 12 in Operation Enduring Freedom. We recently honored our veterans by celebrating Veterans Day, and we are thinking of these men and women and the sacrifice they made, so to suffer these additional losses at this time is simply tragic.

SSG Amy Krueger from Kiel, WI, and CPT Russell Seager from Mount Pleasant, WI, were both outstanding servicemembers, and their families and communities are heartbroken by their deaths.

Staff Sergeant Krueger, who was just 29, joined the Army after the 2001 terrorist attacks. She had deployed previously to Afghanistan in 2003 and helped soldiers dealing with combat

stress. Staff Sergeant Krueger arrived at Fort Hood on November 3 and was scheduled to be redeployed to Afghanistan in December. She graduated from Kiel High School in 1998 and was very proud to serve her country. About 500 family and friends gathered recently at the Veterans Memorial Park in Kiel to remember and pay tribute to Sergeant Krueger.

CPT Russell Seager, 47, was a registered nurse and advanced practice nurse prescriber who was with the primary care mental health integration program at Zablocki VA Medical Center in Milwaukee. He also taught classes at Bryant and Stratton College in Milwaukee. As part of the combat stress control unit, Seager was tasked with watching for warning signs among soldiers on the front lines that could signal long-term mental health problems. He is survived by his wife and adult son.

It is so tragic to think that these two people, who were trained to help fellow servicemembers cope with the stress of combat, were struck down when their help is needed the most. These servicemembers are really unsung heroes of our military today—the men and women who help other servicemembers deal with post traumatic stress disorder, which has skyrocketed since the start of the wars in Iraq and Afghanistan. Both Staff Sergeant Krueger and Captain Seager were truly selfless people who helped their fellow servicemembers through some very tough times. Both were part of the 467th Medical Detachment, which is based in Madison, WI. It is an outstanding unit doing much-needed work, and it is terrible that the unit suffered these losses.

I also want to say a few words about the four Wisconsinites who were injured at Fort Hood. At the recent memorial at Fort Hood, which was such a moving tribute to those who were killed, I had the privilege of meeting Specialist John Pagel, 28, of North Freedom, WI, who was also with the 467th Medical Detachment. Specialist Pagel is married and has two children.

I also had the privilege of meeting SPC Grant Moxon, 23, of Lodi, WI, another member of the 467th, who is a mental health specialist. Specialist Moxon graduated from UW-La Crosse. He joined the military just last year and had arrived in Texas one day before the shooting incident.

Both Sergeant Pagel and Specialist Moxon were shot but are now both doing well.

CPT Dorothy "Dorrie" Carskadon, 47, of Madison, WI, is also a member of the 467th. Carskadon fought with the Army in Iraq during Operation Desert Storm and then enlisted in the Army Reserve 2 years ago. She is a clinical social worker with the U.S. Army Reserve. She was set to deploy to Iraq to counsel troops suffering from PTSD. She

was shot twice in the hip and underwent an all-night surgery. Fortunately, she is expected to make a full recovery.

Army PFC Amber Bahr, 19, of Random Lake, WI, with the 187th medical battalion, has been at Fort Hood for a year working as an Army nutritionist. She was scheduled to deploy for the first time in January. In the midst of the shootings, Bahr was putting a tourniquet onto another soldier and helping him out of harm's way before she discovered that she was shot herself. She was released Friday night from the hospital.

I think the conduct of Private First Class Bahr, and everyone at the base who responded to the attack with such heroism, says volumes about the men and women who serve today. I am so proud of them, and so profoundly saddened by this attack. As the nation grieves, we offer heartfelt thanks to all the brave servicemembers who so selflessly serve our country.

I yield the floor.

#### VOTE EXPLANATIONS

Mr. ISAKSON. Mr. President, I was unavoidably detained and not present for rollcall vote No. 341 on November 5, 2009, rollcall votes Nos. 342 and 343 on November 9, 2009, and rollcall votes Nos. 344 and 345 on November 16, 2009. I ask that the record reflect that had I been present I would have voted as follows: 1. Rollcall vote No. 341 on the confirmation of Ignacia S. Moreno, of New York, to be an Assistant Attorney General: "yea"; 2. Rollcall vote No. 342 on the confirmation of Andre M. Davis of Maryland, to be U.S. Circuit Judge for the Fourth Circuit: "nay"; 3. Rollcall vote No. 343 on the confirmation of Charlene Edwards Honeywell, of Florida, to be U.S. District Judge for the Middle District of Florida: "yea"; 4. Rollcall vote No. 344 on the Coburn amendment No. 2757, to require public disclosure of certain reports: "yea"; and 5. Rollcall vote No. 345 on the Coburn motion to commit H.R. 3082 to the Committee on Appropriations; Military Construction and Veterans Affairs Appropriations Act, 2010: "yea".

#### FEED AMERICA DAY

Mr. UDALL of New Mexico. Mr. President, I am pleased to have worked with Senator HATCH, and my other colleagues in the Senate to unanimously pass the Feed America Day resolution.

Over the past several years, States, cities, and communities throughout the country have declared the Thursday before Thanksgiving as Feed America Day. In observance of this day, citizens are encouraged to sacrifice two meals and donate the money they would have spent on food to a local religious or charitable organization for the purpose of feeding the hungry.

As the economic downturn has struck our nation, employment rates

have dropped and more and more families have had to turn to food banks and other emergency food services to meet their day-to-day needs. Our emergency food providers are being stretched to their limits to try to meet the current demand for assistance. Vicki Metheny, a constituent of mine who has run the food bank in San Juan County, NM for the last 18 years, told my office earlier this week that this is the first time in her years of service that she has been really worried about whether the food bank will be able to keep up with the unprecedented need in local communities. A similar message is coming from food pantries and emergency food providers across the country.

As we approach the Thanksgiving festivities, it is my hope that individuals will take the time to think of those in their community who may be struggling to keep food on the table. To miss a few meals and make a modest donation to a local food pantry is a small thing, but if many of us join together in this effort, we can have a large impact. And a large impact is what we must have if we are to keep our families and food pantries afloat this year.

According to the U.S. Department of Agriculture, last year more than 49 million Americans, including almost 17 million children, live in households with either "low" or "very low" food security, meaning that these households cannot keep healthy food on the table without the assistance of Federal programs or local emergency food providers. In my home State of New Mexico, food insecurity impacts over 14 percent of the population.

There are many efforts underway at the Federal level and at the local level to build up the economy and create opportunities for families to become more financially stable. This resolution is just one reminder that there is a need for assistance in each of our communities, and that each of us can and should take steps to confront hunger locally.

#### ADDITIONAL STATEMENTS

##### HONORING JERRY AND ANITA ZUCKER

• Mr. GRAHAM. Mr. President, I ask my colleagues to join me in honoring the memory of a dedicated public servant and leader, Jerry Zucker. I also ask that we pay tribute to Jerry's wife Anita. After a lifetime of unprecedented service to his State and Nation as a businessman and philanthropist, Mr. Zucker passed away in Charleston, SC, on April 12, 2008, at the age of 58. His death was a loss to Charleston and the Nation.

While he will be remembered by most as a successful businessman, I will remember him as a larger-than-life fig-

ure who donated generously and quietly to many causes. Born in Tel-Aviv, Israel, Mr. Zucker came to the United States with his family in 1952. He grew up in Charleston, SC, and Jacksonville, FL, and graduated from the University of Florida with a triple major in mathematics, chemistry, and physics. He later received a masters in electrical engineering from Florida State University in Tallahassee, FL. Zucker was a scientist and inventor before becoming a businessman. Over his lifetime he had more than 350 inventions and patents, including his development of the pacemaker.

In 1983, he founded the InterTech Group, a global conglomerate specializing in fabrics and plastics for a range of uses. As founder, chairman, and chief executive officer of the company, he helped grow the InterTech Group into one of the country's largest privately held businesses. Jerry was also CEO of Toronto-based Hudson's Bay Company, Canada's largest department store chain. He was the first American citizen to lead the company. After his death, Anita took over as chairwoman and chief executive officer of Hudson's Bay Company. She became the first woman to hold the position in the company's 338-year history.

Jerry is greatly admired for what he did outside of the business world. Jerry was a humble philanthropist. He gave millions of dollars to a wide range of charities, from his synagogue in Charleston to international medical missions. Anyone who reached out to him for help never went away with an empty hand. And for every charitable check Zucker wrote, he invested numerous behind-the-scenes volunteer hours. He quietly and unassumingly delivered goodie baskets to holiday volunteers, helped the local Boy Scouts of America's Coastal Carolina Council, and served as chairman of the South Carolina Aquarium. Because of his impact on the Charleston community, North Charleston recently dedicated their newest middle school to Zucker's memory, naming it the Jerry Zucker Middle School of Science.

Together with his wife Anita, he is celebrated in South Carolina and around the Nation for his philanthropic and community endeavors, as well as quiet leadership. His personal mission was "repairing the world," which he implied to be a work in progress. I am confident Anita will continue this mission. Through Anita and the Zucker Family Foundation, through his countless gifts of wisdom, ingenuity, dollars, and time, Jerry Zucker will continue to repair the world.

I ask that the Senate join me in commemorating Mr. Zucker's lifelong dedication to the service of our country and to the State of South Carolina. The best tribute we can give to Jerry is to continue his vision and follow in his humble footsteps.●



## SIX BRAVE OKLAHOMANS

• Mr. INHOFE. Mr. President, I would like to take a moment to recognize the courageous actions of six brave Oklahomans. On August 25, 2009, in the evening hours of the day, these six men, Daniel Richards, David Cox, Nick Niemann, Cody Click, Luck Tucker, and Casey Johnson, saved a life. That evening a call came in about a man having severe chest pains and possibly a heart attack at a residence in a rural area east of the town of Roland, OK. Roland Fire Department first responders were paged to respond, and upon their arrival they found a male subject lying on the ground not breathing. The six first responders immediately started CPR and hooked the individual up to an automated external defibrillator and delivered a resuscitating shock from the AED. The first responders continued CPR and working with the patient for 12 minutes until an EMS unit arrived on scene. When the patient was placed in the ambulance he was breathing and had a pulse. The patient was transported to Spark's Medical Center in Fort Smith, AR, where the emergency room doctor stated that the "firefighters saved this man's life." The patient needed to have a stint placed in the main artery of the heart and suffered some-short term memory loss, but he recovered and went home from the hospital in about 7 days. These men are true heroes. The town of Roland, the State of Oklahoma, and I are extremely thankful to them for their service and honored to have them serving one of Oklahoma's finest communities.●

## TRIBUTE TO ROBERT ALTMAN

• Mr. NELSON of Florida. Mr. President, today I honor the life and service of SGT Robert Altman, United States Army. Sergeant Altman is a member of the greatest generation that selflessly served our Nation during a time of perhaps the world's greatest turmoil.

He risked his life and endured almost unbearable pain and suffering as a prisoner of the Japanese during World War II.

He gave so much—so that all of us might be free.

Sergeant Altman was a crew member on a B-17 stationed at Clark Field in the Philippines. It was just 3 days after the attack on Pearl Harbor that his bomber, commanded by another Floridian, CPT Colin P. Kelly, Jr., loaded three 600-pound bombs and took off with orders to attack airfields on what is now Taiwan.

On the way, the crew spotted a large Japanese invasion force landing on the north coast of Luzon in the Philippines.

Captain Kelly radioed Clark Field for permission to attack. But two calls brought only a response to stand by. Kelly and the crew made two practice

runs at 20,000 feet, and then the bombardier released the bombs in a line from the carrier's stern to its bow. According to Sergeant Altman, two of the three bombs bracketed the ship; one was a direct hit. The enemy boat began to sink and was scuttled by its captain.

On the way home to Clark Field, their lone B-17 was attacked and set aflame by Japanese Zeros. Kelly stayed with the plane long enough to allow everyone else to bail out, before he went down within miles of the airfield. Captain Kelly's body was found near the site.

Sergeant Altman suffered serious injuries and soon after was offered a flight to safety. But he turned it down believing he could better serve his country by staying. He was subsequently captured and taken to Japan, where he was held as a POW for 40 months. During that time, he was forced into slave labor for the Japanese until his release from Omori Prison, Tokyo Bay on August 29, 1945.

But it was the early report of his and his crew's heroism in that attack after Pearl Harbor that inspired a nation reeling in shock. Alone and far from friendly territory, Sergeant Altman and his fellow heroes served their country well.

Today, Bob is an avid Florida Gator fan and I will have the honor of presenting him this statement before the game on November 21. Captain Kelly's younger sister, Emmy, and her children, Mary and Colin, will be there, too.

I would hope Bob gets to see many more games. Today, I send best wishes from the U.S. Senate to SGT Robert Altman and his family and friends, including the family of CPT Colin P. Kelly, Jr.●

## MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mrs. Neiman, one of his secretaries.

## EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

## MESSAGE FROM THE HOUSE

At 10:13 a.m., a message from the House of Representatives, delivered by Mrs. Cole, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 1506. An act to provide that claims of the United States to certain documents relating to Franklin Delano Roosevelt shall be treated as waived and relinquished in certain circumstances.

H.R. 3539. An act to designate the facility of the United States Postal Service located at 427 Harrison Avenue in Harrison, New Jersey, as the "Patricia D. McGinty-Juhl Post Office Building".

H.R. 3767. An act to designate the facility of the United States Postal Service located at 170 North Main Street in Smithfield, Utah, as the "W. Hazen Hillyard Post Office Building".

The message also announced that the House passed the following bills, without amendment:

S. 1314. An act to designate the facility of the United States Postal Service located at 630 Northeast Killingsworth Avenue in Portland, Oregon, as the "Dr. Martin Luther King, Jr. Post Office".

S. 1825. An act to extend the authority for relocation expenses test programs for Federal employees, and for other purposes.

## MEASURES REFERRED

The following bills were read the first and the second times by unanimous consent, and referred as indicated:

H.R. 3539. An act to designate the facility of the United States Postal Service located at 427 Harrison Avenue in Harrison, New Jersey, as the "Patricia D. McGinty-Juhl Post Office Building"; to the Committee on Homeland Security and Governmental Affairs.

H.R. 3767. An act to designate the facility of the United States Postal Service located at 170 North Main Street in Smithfield, Utah, as the "W. Hazen Hillyard Post Office Building"; to the Committee on Homeland Security and Governmental Affairs.

## EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC-3628. A communication from the Under Secretary of Defense (Acquisition, Technology and Logistics), transmitting, pursuant to law, a report relative to the implementation of earned value management (EVM); to the Committee on Armed Services.

EC-3629. A communication from the Deputy Secretary of Defense, transmitting the report of (3) officers authorized to wear the insignia of the grade of rear admiral in accordance with title 10, United States Code, section 777; to the Committee on Armed Services.

EC-3630. A communication from the Under Secretary of Defense (Comptroller), transmitting, pursuant to law, the report of a violation of the Antideficiency Act that occurred within the Defense Information Systems Agency in fiscal years 2003 and 2004, and has been assigned Defense Systems Information Systems Agency case number 06-01; to the Committee on Appropriations.

EC-3631. A communication from the Secretary of the Treasury, transmitting, pursuant to law, a six-month periodic report on the national emergency with respect to Syria that was declared in Executive Order



13338 of May 11, 2004; to the Committee on Banking, Housing, and Urban Affairs.

EC-3632. A communication from the President of the United States, transmitting, pursuant to law, a report on the continuation of the national emergency with respect to Iran that was declared in Executive Order 12170 on November 14, 1979; to the Committee on Banking, Housing, and Urban Affairs.

EC-3633. A communication from the Director of the Regulatory Management Division, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Technical Amendment of Cross-Media Electronic Reporting Rule" (FRL No. 8980-7) received in the Office of the President of the Senate on November 10, 2009; to the Committee on Environment and Public Works.

EC-3634. A communication from the Director of the Regulatory Management Division, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Oil Pollution Prevention; Spill Prevention, Control, and Countermeasure (SPCC) Rule—Amendments" (FRL No. 8979-8) received in the Office of the President of the Senate on November 10, 2009; to the Committee on Environment and Public Works.

EC-3635. A communication from the Chief of the Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Tier I Field Directive—The Use of Estimates from Probability Samples" (LMSB-4-0809-032) received in the Office of the President of the Senate on November 13, 2009; to the Committee on Finance.

EC-3636. A communication from the Chief of the Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Industry Director's Directive No. 2—Super Completed Contract Method" (LMSB-4-0209-006) received in the Office of the President of the Senate on November 13, 2009; to the Committee on Finance.

EC-3637. A communication from the Chief of the Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Update for Weighted Average Interest Rates, Yield Curves, and Segment Rates" (Notice 2009-88) received in the Office of the President of the Senate on November 13, 2009; to the Committee on Finance.

EC-3638. A communication from the Chief of the Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Effective Date of Regulations Under Section 411(b)(5)(B)(i); Relief Under Section 411(d)(6); and Notice to Pension Plan Participants" (Announcement 2009-82) received in the Office of the President of the Senate on November 13, 2009; to the Committee on Finance.

EC-3639. A communication from the Chief of the Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Withholding on Wages of Nonresident Alien Employees Performing Services Within the United States" (Notice 2009-91) received in the Office of the President of the Senate on November 16, 2009; to the Committee on Finance.

EC-3640. A communication from the Assistant Secretary, Bureau of Legislative Affairs,

Department of State, transmitting, pursuant to law, status reports relative to Iraq for the period of August 15, 2009, through October 15, 2009; to the Committee on Foreign Relations.

EC-3641. A communication from the Assistant Secretary, Bureau of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification of a proposed amendment to a manufacturing license agreement for the export of defense articles, including, technical data, and defense services to Australia relative to the manufacture and service of F/A-18 Trailing Edge Flaps, Trailing Edge Flap Shrouds, Ailerons, and Aileron Shrouds and their associated minor components and parts in the amount of \$100,000,000 or more; to the Committee on Foreign Relations.

EC-3642. A communication from the Assistant Secretary, Bureau of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification of a proposed amendment to a manufacturing license agreement for the export of defense articles, including, technical data, and defense services to Japan relative to the overhaul and manufacture of SIIS-3XT4/T4 ejection seats for the XT4/T4 trainer aircraft in the amount of \$100,000,000 or more; to the Committee on Foreign Relations.

EC-3643. A communication from the Assistant Secretary, Bureau of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification of a proposed amendment to a manufacturing license agreement for the manufacture of significant military equipment abroad relative to the Laser Target Designator/Range Finders and Gated Laser illuminators for Night Television for the AC-130U Gunship for end-use by the United States of America; to the Committee on Foreign Relations.

EC-3644. A communication from the Assistant Secretary, Bureau of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification of a proposed manufacturing license agreement for the manufacture of significant military equipment abroad relative to the manufacture of Modified 20mm 102mm PELE Ammunition for end-use by the United States of America; to the Committee on Foreign Relations.

EC-3645. A communication from the Assistant Secretary, Bureau of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification of a proposed manufacturing license agreement for the manufacture of significant military equipment abroad relative to the manufacture of the GAU-19 Gun for end-use by the United States of America; to the Committee on Foreign Relations.

EC-3646. A communication from the Assistant Secretary, Bureau of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification of a proposed manufacturing license agreement for the manufacture of significant military equipment abroad relative to the modification CH-47SD Chinook Helicopters to the CH-47F configuration for end-use by Singapore in the amount of \$50,000,000 or more; to the Committee on Foreign Relations.

EC-3647. A communication from the Director, Directorate of Standards and Guidance, Occupational Safety and Health Administration, transmitting, pursuant to law, the report of a rule entitled "Revising Standards Referenced in the Acetylene Standard; Final Rule" (RIN1218-AC08) received in the Office of the President of the Senate on November

10, 2009; to the Committee on Health, Education, Labor, and Pensions.

EC-3648. A communication from the Assistant General Counsel of the Division of Regulatory Services, Office of Postsecondary Education, Department of Education, transmitting, pursuant to law, the report of a rule entitled "Institutions and Lender Requirements Relating to Education Loans, Student Assistance General Provisions, Federal Perkins Loan Program, Federal Family Education Loan Program, and William D. Ford Federal Direct Loan Program" (RIN1840-AC95) received in the Office of the President of the Senate on November 10, 2009; to the Committee on Health, Education, Labor, and Pensions.

EC-3649. A communication from the Deputy Director of Regulations and Policy Management Staff, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "New Animal Drug Applications" (Docket No. FDA-2009-N-0436) received in the Office of the President of the Senate on November 10, 2009; to the Committee on Health, Education, Labor, and Pensions.

EC-3650. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report entitled "Fiscal Year 2008 Medical Device User Fee and Modernization Act of 2002 (MDUFMA) Financial Report"; to the Committee on Health, Education, Labor, and Pensions.

EC-3651. A communication from the Director, Congressional Affairs, Federal Election Commission, transmitting, pursuant to law, a report entitled "Federal Election Commission 2009 Performance and Accountability Report"; to the Committee on Homeland Security and Governmental Affairs.

EC-3652. A communication from the Acting Director, Pension Benefit Guaranty Corporation, transmitting, pursuant to law, the Corporation's Annual Management Report for fiscal year 2009; to the Committee on Homeland Security and Governmental Affairs.

EC-3653. A communication from the Acting General Counsel, National Indian Gaming Commission, transmitting, pursuant to law, the report of a rule entitled "Amendments to Various National Indian Gaming Commission Regulations" (RIN3141-0001) received in the Office of the President of the Senate on November 12, 2009; to the Committee on Indian Affairs.

EC-3654. A communication from the Director of Legislative Affairs, Office of the Director of National Intelligence, transmitting, pursuant to law, a report relative to the vacancy in the position of Principal Deputy Director of National Intelligence, received in the Office of the President of the Senate on November 13, 2009; to the Select Committee on Intelligence.

EC-3655. A communication from the General Counsel, Executive Office for Immigration Review, Department of Justice, transmitting, pursuant to law, the report of a rule entitled "Application of Immigration Regulations to the Commonwealth of the Northern Mariana Islands" (RIN1125-AA67) received in the Office of the President of the Senate on November 12, 2009; to the Committee on the Judiciary.

#### EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of nominations were submitted:

By Mr. KERRY for the Committee on Foreign Relations.

\*James LaGarde Hudson, of the District of Columbia, to be United States Director of the European Bank for Reconstruction and Development.

\*Jose W. Fernandez, of New York, to be an Assistant Secretary of State (Economic, Energy, and Business Affairs).

\*Frederick D. Barton, of Maine, to be Representative of the United States of America on the Economic and Social Council of the United Nations, with the rank of Ambassador.

\*Daniel W. Yohannes, of Colorado, to be Chief Executive Officer, Millennium Challenge Corporation.

\*Gustavo Arnavat, of New York, to be United States Executive Director of the Inter-American Development Bank for a term of three years.

\*Frederick D. Barton, of Maine, to be an Alternate Representative of the United States of America to the Sessions of the General Assembly of the United Nations, during his tenure of service as Representative of the United States of America on the Economic and Social Council of the United Nations.

\*Robert R. King, of Virginia, to be Special Envoy on North Korean Human Rights Issues, with the rank of Ambassador.

\*William E. Kennard, of the District of Columbia, to be Representative of the United States of America to the European Union, with the rank and status of Ambassador Extraordinary and Plenipotentiary.

Nominee: William E. Kennard.  
Post: Chief of Mission—USEU.

(The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.)

Contributions, amount, date, and donee:

1. Self: \$2300, 2/27/07, Obama for America; —\$2300, 2/27/07, Obama for America; \$2300, 2/27/07, Obama for America; \$2300, 3/29/07, Obama for America; \$2300, 3/29/07, Obama for America; \$1000, 9/28/07, Udall for Colorado; \$2300, 9/30/07, Chris Dodd for President; \$5000, 11/30/07, DNC Campaign; \$500, 5/22/08, Friends of Jay Rockefeller; \$1000, 6/16/08, Patrick Murphy for Congress; \$250, 6/30/08, Brad Miller for U.S. Congress; \$28500, 6/30/08, Obama Victory Fund-DNC; \$2000, 8/26/08, Richard Neal for Congress; \$5000, 9/26/08, Democratic Senatorial Campaign Committee; \$1000, 10/3/08, Committee for Change; \$500, 10/24/08, Patrick Murphy for Congress.

2. Spouse: Deborah Kennedy: \$2300, 6/18/07, Obama for America; \$2300, 3/27/07, Obama for America.

3. Children and Spouses: Robert James Kennard: \$0.

4. Parents: Helen Z. Kennard: \$0; Robert A. Kennard—Deceased.

5. Grandparents: James L. Kennard—Deceased; Marie Kennard—Deceased; Arthur King—Deceased; Grace D. King—Deceased.

6. Brothers and Spouses: None.

7. Sisters and Spouses: Lydia H. Kennard: \$250, 3/5/08, Woodrow Myers, candidate For U.S. Congress from Indiana; Sammi Reeves (brother in-law): \$2300, 12/7/07, Romney for President; \$500, 4/19/09, Gary Miller for Congress; Gail M. Kennard: \$30, 11/12/08, Democratic National Committee; \$25, 10/16/08, Obama for America; \$25, 10/8/09, Obama for America; \$25, 8/25/08, Obama for America; \$25, 7/17/08, Obama for America; \$25, 5/29/08, Obama for America; \$25, 3/26/08, Woodrow Myers, candidate for U.S. Congress from In-

diana; \$25, 3/6/08, Obama for America; \$50, 2/18/09, Obama for America.

\*Carmen Lomellin, of Virginia, to be Permanent Representative of the United States of America to the Organization of American States, with the rank of Ambassador.

Nominee: Carmen Lomellin.

Post: Ambassador, U.S. Permanent Representative to the Organization of American States.

(The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.)

Contributions, amount, date, and donee:

1. Self: \$500, 3/31/2006, Menendez for Senate; \$1,000, 12/27/07, Hillary Clinton for President; \$250, 12/13/2007, Hillary Clinton for President; \$800, 1/27/2008, Hillary Clinton for President; \$1,000, 3/20/2008, Udall for Us All; \$250, 07/28/2008, Judy Feder for Congress; \$250, 08/12/2008, Poder PAC; \$250, 09/12/2008, Poder PAC; \$250, 10/12/2008, Poder PAC; \$250, 11/12/2008, Poder PAC; \$250, 10/24/2008, and Obama Victory Fund.

1. Spouse: None.

1. Children and spouses: None.

2. Parents: Vincent M. Lomellin—Deceased; Esther Lomellin—Deceased.

3. Grandparents: Florentino Martinez—Deceased; Elvira Martinez Garcia—Deceased; Jesus Lomellin—Deceased; Susana Lucio Lomellin—Deceased.

4. Brothers and spouses: David Lomellin—No spouse, None.

5. Sisters and Spouses: Theresa Muñoz, None; David Munoz, None; Martha Gonzalez, None; R. Luis Gonzalez, \$1,000, 7/23/07, Bill Richardson for President; Lucia Lomellin, None; Martin Nava, None.

\*Cynthia Stroum, of Washington, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Luxembourg.

Nominee: Cynthia Stroum.

Post: Ambassador to Luxembourg.

(The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.)

Contributions, amount, date, and donee:

1. Cynthia Stroum: —\$1,000, 09/24/09, Democratic National Committee (refunded 02/19/08 contribution); 250, 05/29/09, Citizens For Arlen Specter; 1,800, 03/06/09, People For Patty Murray U.S. Senate; 10,000, 12/25/08, Presidential Inaugural Committee; 100 10/29/08 Darcy Burner for Congress; 1,000, 08/04/08, Friends of Rahm Emanuel; 500, 07/10/08, Darcy Burner for Congress; 1,500, 06/21/08, AIPAC (paid by Stroum Enterprises); 28,500, 05/28/08, Democratic White House Victory Fund (see below); Democratic National Committee (rcvd funds); 1,000, 05/12/08, Adam Smith for Congress; 1,000, 03/11/08, Friends of Maria (Cantwell 2006); 1,000, 02/23/08, Inslee for Congress; 1,000, 02/19/08, Democratic National Committee; 250, 02/18/08, Tester for U.S. Senate; 70, 11/18/07, AIPAC; 1,000, 11/13/07, People For Patty Murray U.S. Senate; 1,000, 11/15/07, Democratic National Committee; 5,000, 06/14/07, Democratic Senatorial Campaign Committee; 1,500, 05/24/07, AIPAC (paid by Stroum Enterprises); 1,000, 04/04/07, Friends For Barbara Boxer; 2,500, 03/29/07, Obama For America; 500, 03/25/07, People For Patty Murray

U.S. Senate; 2,300, 03/01/07, John Edwards for President; 2,100, 01/16/07, Obama For America (Exploratory Committee); 500, 10/25/06, Washington State Democratic Central Committee (Victory 2006); 65, 10/23/06, AIPAC; 250, 10/12/06, Adam Smith for Congress; 100, 09/29/06, Darcy Burner for Congress; 1,500, 09/11/06, AIPAC (paid by Stroum Enterprises); 5,000, 07/31/06, Washington Senate Victory (see below); Washington State Democratic Central Committee (rcvd funds); 1,000, 03/31/06, Stabenow for Senate; 1,000, 03/21/06, People For Patty Murray U.S. Senate; 1,000, 03/20/06, Hopefund; 1,000, 01/24/06, Friends of Hillary (Senate 2006); 2,000, 12/11/05, Friends of Joe Lieberman; 250, 11/07/05, Citizens For Harkin; 250, 10/26/05, Friends for McDermott; 1,500, 09/14/05, AIPAC (paid by Stroum Enterprises); 65, 09/13/05, AIPAC; 55, 09/01/05, AIPAC; 500, 05/07/05, People For Patty Murray U.S. Senate; 5,000, 03/23/05, Washington Senate 2006 (see split below); Democratic Senatorial Campaign Committee \$3,800; Friends of Maria (Cantwell Senate 2006) \$1,200.

2. Spouse: None.

3. Children and Spouses: Courtney Stroum Meagher: 2,300, 08/21/07, Obama For America.

4. Parents: Samuel N. Stroum—Deceased; Althea Stroum: 1,000, 06/09/08, Obama For America; 500, 10/20/06, Friends of Maria Cantwell; 1,000, 12/06/05, Friends of Maria Cantwell; 500, 12/01/05, Friends of Joe Lieberman.

5. Grandparents: Nathan Stroum—Deceased; Ethel Stroum—Deceased; George Diesenhaus—Deceased; Esther Diesenhaus—Deceased.

6. Brothers and Spouses: None.

7. Sisters and Spouses: Marsha Glazer: 2,300, 01/08/08, Obama For America; 2,300, 01/08/08, Obama For America; Jay Glazer: 13,500, 10/02/08, DNC Services Corporation/DNC; 13,500, 10/02/08, Obama Victory Fund; 15,000, 09/30/08, Committee For Change; 1,042, 09/30/08, Georgia Federal Elections Committee; 1,330, 09/30/08, North Carolina Democratic Party—Federal; 969, 09/30/08, Indiana Democratic Congressional Victory Committee; 15,000, 09/23/08, Obama Victory Fund; 15,000, 09/23/08, DNC Services Corporation/DNC; 4,600, 01/01/08, Obama For America; 2,000, 10/31/06, Democratic Congressional Campaign Committee.

\*Michael C. Polt, of Tennessee, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Estonia.

Nominee: Michael C. Polt.

Post: Tallinn, Estonia.

(The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.)

Contributions, amount, date, and donee:

1. Self: 0.

2. Spouse: 0.

3. Children and Spouses: Nicholas M. Polt; Lindsay M. Polt: 0.

4. Parents: Karl H. Polt (deceased); Margaret R. Reed: 0.

5. Grandparents: Adalbert Riedl (deceased); Theresia Riedl (deceased); Karl Polt (deceased); Maria Polt (deceased): 0.

6. Brothers and Spouses: None: 0.

7. Sisters and Spouses: Martina C. Polt: 0.

\*John F. Tefft, of Virginia, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Ukraine.

Nominee: John Francis Tefft.

Post: Ukraine.

(The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.)

Contributions, amount, date, and donee:

1. Self: None.
2. Spouse: Mariella C. Tefft: None.
3. Children and Spouses: Christine M. Tefft: \$100, 2008, Obama/Biden Campaign; Cathleen M. Tefft: None; Andrew Horowitz: None.
4. Parents: Floyd F. Tefft—Deceased; Mary J. Tefft—Deceased.
5. Grandparents: Floyd B. Tefft—Deceased; Lucy B. Tefft—Deceased; James Durkin—Deceased; Julia Durkin—Deceased.
6. Brothers and Spouses: Thomas M. Tefft: None; Julie C. Tefft: None; James F. Tefft: None; Victoria Tefft: None.
7. Sisters and Spouses: Patricia M. Tefft—Deceased; Sheila L. Tefft: None; Rajiv Chandra: None.

\*David Huebner, of California, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to New Zealand, and to serve concurrently and without additional compensation as Ambassador Extraordinary and Plenipotentiary of the United States of America to Samoa.

Nominee: David Huebner.

Post: Ambassador to New Zealand and Samoa.

(The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.)

Contributions, amount, date, and donee:

1. Self: N/A.
2. Spouse: N/A.
3. Children and Spouses: N/A.
4. Parents: Elizabeth P. Huebner, None; David Huebner, None.
5. Grandparents: N/A; deceased.
6. Brothers and Spouses: Richard L. Huebner, none; Christie Huebner, None.
7. Sisters and Spouses: N/A.

\*Peter Alan Prahar, of Virginia, a Career Member of the Senior Foreign Service, Class of Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Federated States of Micronesia.

Nominee: Peter Alan Prahar.

Ambassador to the Federal States of Micronesia.

(The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.)

Donee, amount, date, and donee:

1. Self: \$105, 01/31/2005, Democratic National Committee (DNC); \$100, 05/10/2005, Democratic Congressional Campaign Committee (DCCC); \$100, 01/06/2006, DNC; \$100, 01/10/2006, DCCC; \$110, 07/21/2006, DNC; \$100, 01/22/2007, DNC; \$100, 12/17/2007, DNC; \$100, 01/24/2008, DNC; \$100, 08/13/2008, DNC; \$100, 04/13/2009, DCCC.
2. Spouse: Amy Prahar: \$100, 01/22/2009, DCCC; \$100, 04/21/2009, DNC.
3. Father: Louis B. Prahar: None; Mother: Ruth Prahar: Deceased.

4. Father-in-law: Choi Che Wing: None; Mother-in-law: Deceased.

5. Brother: John P. Prahar: None; Sister-in-law: Rista Prahar: None.

6. Sister: Barbara A. Kranick: None; Brother-in-law: Gordon Kranick: None.

7. Sister: Joan E. Prahar: Deceased.

Mr. KERRY. Mr. President, for the Committee on Foreign Relations I report favorably the following nomination lists which were printed in the RECORD on the dates indicated, and ask unanimous consent, to save the expense of reprinting on the Executive Calendar that these nominations lie at the Secretary's desk for the information of Senators.

The PRESIDING OFFICER. Without objection, it is so ordered.

\*Foreign Service nomination of Terence Jones.

\*Foreign Service nominations beginning with Andrea M. Cameron and ending with Aleksandra Paulina Zittle, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on September 10, 2009.

\*Foreign Service nominations beginning with Laurie M. Major and ending with Maria A. Zuniga, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on September 17, 2009.

\*Nomination was reported with recommendation that it be confirmed subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

## INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. LEVIN:

S. 2780. A bill to amend the Small Business Act to establish a small business intermediary lending pilot program; to the Committee on Small Business and Entrepreneurship.

By Ms. MIKULSKI (for herself, Mr. ENZI, Mr. HARKIN, Mr. BROWN, Mr. CARDIN, Mr. ALEXANDER, Mr. BARRASSO, Mr. BURR, Mr. GREGG, Mr. THUNE, and Mr. DODD):

S. 2781. A bill to change references in Federal law to mental retardation to references to an intellectual disability, and to change references to a mentally retarded individual to references to an individual with an intellectual disability; to the Committee on Health, Education, Labor, and Pensions.

By Mrs. McCASKILL (for herself, Ms. COLLINS, Mr. BENNETT, Mr. BROWN, Mr. NELSON of Florida, Mr. LEMIEUX, and Mr. CASEY):

S. 2782. A bill to provide personal jurisdiction in causes of action against contractors of the United States performing contracts abroad with respect to members of the Armed Forces, civilian employees of the United States, and United States citizen employees of companies performing work for the United States in connection with contractor activities, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

By Mr. BAYH (for himself, Mr. LUGAR, and Ms. CANTWELL):

S. 2783. A bill to amend the Internal Revenue Code of 1986 to provide incentives for used oil re-refining, and for other purposes; to the Committee on Finance.

By Mr. CARPER (for himself and Mr. VOINOVICH):

S. 2784. A bill to amend the Internal Revenue Code of 1986 to permanently extend the estate tax as in effect in 2009, and for other purposes; to the Committee on Finance.

By Mrs. LINCOLN (for herself and Mr. FRANKEN):

S. 2785. A bill to provide grants to improve after-school interdisciplinary education programs, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. LEAHY (for himself and Mr. HATCH):

S. 2786. A bill to amend titles 18 and 28 of the United States Code to provide incentives for the prompt payments of debts owed to the United States and the victims of crime by imposing late fees on unpaid judgments owed to the United States and to the victims of crime, to provide for offsets on amounts collected by the Department of Justice for Federal agencies, to increase the amount of special assessments imposed upon convicted persons, to establish an Enhanced Financial Recovery Fund to enhance, supplement, and improve the debt collection activities of the Department of Justice, to amend title 5, United States Code, to provide to assistant United States attorneys the same retirement benefits as are afforded to Federal law enforcement officers, and for other purposes; to the Committee on the Judiciary.

By Mr. THUNE (for himself, Mr. VITTER, Mr. BENNETT, Mr. INHOFE, Mr. JOHANNES, Mr. BARRASSO, Mr. GRASSLEY, Mr. CORNYN, Mr. ENSIGN, Mr. CRAPO, Mr. ROBERTS, Mr. ENZI, Ms. MURKOWSKI, Mr. BURR, Mr. COBURN, and Mr. BOND):

S. 2787. A bill to repeal the authority of the Secretary of the Treasury to extend the Troubled Asset Relief Program; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. LEVIN (for himself and Mr. MCCAIN):

S. 2788. A bill to amend the Military Construction Authorization Act for Fiscal Year 2010 to authorize construction of an Aegis Ashore Test Facility at Pacific Missile Range Facility, Hawaii; to the Committee on Armed Services.

By Mr. VOINOVICH (for himself, Mrs. GILLIBRAND, and Mr. KAUFMAN):

S. 2789. A bill to establish a scholarship program to encourage outstanding undergraduate and graduate students in mission-critical fields to pursue a career in the Federal Government; to the Committee on Finance.

By Mr. DODD (for himself, Mr. HARKIN, Mr. FRANKEN, Mr. BROWN, and Mr. MERKLEY):

S. 2790. A bill to allow Americans to receive paid sick time so that they can address their own health needs, and the health needs of their families, related to a contagious illness; to the Committee on Health, Education, Labor, and Pensions.

## ADDITIONAL COSPONSORS

S. 332

At the request of Mrs. FEINSTEIN, the name of the Senator from North Carolina (Mrs. HAGAN) was added as a cosponsor of S. 332, a bill to establish a

comprehensive interagency response to reduce lung cancer mortality in a timely manner.

S. 456

At the request of Mr. DODD, the name of the Senator from New Hampshire (Mrs. SHAHEEN) was added as a cosponsor of S. 456, a bill to direct the Secretary of Health and Human Services, in consultation with the Secretary of Education, to develop guidelines to be used on a voluntary basis to develop plans to manage the risk of food allergy and anaphylaxis in schools and early childhood education programs, to establish school-based food allergy management grants, and for other purposes.

S. 584

At the request of Mr. HARKIN, the names of the Senator from Maryland (Mr. CARDIN) and the Senator from Illinois (Mr. DURBIN) were added as cosponsors of S. 584, a bill to ensure that all users of the transportation system, including pedestrians, bicyclists, transit users, children, older individuals, and individuals with disabilities, are able to travel safely and conveniently on and across federally funded streets and highways.

S. 593

At the request of Mrs. FEINSTEIN, the name of the Senator from New Hampshire (Mrs. SHAHEEN) was added as a cosponsor of S. 593, a bill to ban the use of bisphenol A in food containers, and for other purposes.

S. 611

At the request of Mr. LAUTENBERG, the name of the Senator from Minnesota (Mr. FRANKEN) was added as a cosponsor of S. 611, a bill to provide for the reduction of adolescent pregnancy, HIV rates, and other sexually transmitted diseases, and for other purposes.

S. 619

At the request of Mrs. FEINSTEIN, the name of the Senator from Washington (Ms. CANTWELL) was added as a cosponsor of S. 619, a bill to amend the Federal Food, Drug, and Cosmetic Act to preserve the effectiveness of medically important antibiotics used in the treatment of human and animal diseases.

S. 850

At the request of Mr. KERRY, the name of the Senator from Indiana (Mr. BAYH) was added as a cosponsor of S. 850, a bill to amend the High Seas Driftnet Fishing Moratorium Protection Act and the Magnuson-Stevens Fishery Conservation and Management Act to improve the conservation of sharks.

S. 1067

At the request of Mr. FEINGOLD, the names of the Senator from Oklahoma (Mr. INHOFE) and the Senator from Alaska (Mr. BEGICH) were added as cosponsors of S. 1067, a bill to support stabilization and lasting peace in northern Uganda and areas affected by

the Lord's Resistance Army through development of a regional strategy to support multilateral efforts to successfully protect civilians and eliminate the threat posed by the Lord's Resistance Army and to authorize funds for humanitarian relief and reconstruction, reconciliation, and transitional justice, and for other purposes.

S. 1147

At the request of Mr. KOHL, the name of the Senator from Iowa (Mr. HARKIN) was added as a cosponsor of S. 1147, a bill to prevent tobacco smuggling, to ensure the collection of all tobacco taxes, and for other purposes.

S. 1152

At the request of Mr. DODD, the names of the Senator from Massachusetts (Mr. KIRK) and the Senator from Oregon (Mr. MERKLEY) were added as cosponsors of S. 1152, a bill to allow Americans to earn paid sick time so that they can address their own health needs and the health needs of their families.

S. 1156

At the request of Mr. HARKIN, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 1156, a bill to amend the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users to reauthorize and improve the safe routes to school program.

S. 1183

At the request of Mr. DURBIN, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. 1183, a bill to authorize the Secretary of Agriculture to provide assistance to the Government of Haiti to end within 5 years the deforestation in Haiti and restore within 30 years the extent of tropical forest cover in existence in Haiti in 1990, and for other purposes.

S. 1194

At the request of Ms. CANTWELL, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of S. 1194, a bill to reauthorize the Coast Guard for fiscal years 2010 and 2011, and for other purposes.

S. 1317

At the request of Mr. LAUTENBERG, the names of the Senator from California (Mrs. FEINSTEIN) and the Senator from New York (Mr. SCHUMER) were added as cosponsors of S. 1317, a bill to increase public safety by permitting the Attorney General to deny the transfer of firearms or the issuance of firearms and explosives licenses to known or suspected dangerous terrorists.

S. 1341

At the request of Mr. MENENDEZ, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. 1341, a bill to amend the Internal Revenue Code of 1986 to impose an excise tax on certain proceeds received on SILO and LILO transactions.

S. 1402

At the request of Mr. MERKLEY, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. 1402, a bill to amend the Internal Revenue Code of 1986 to increase the amount allowed as a deduction for start-up expenditures.

S. 1559

At the request of Mr. KERRY, the name of the Senator from Ohio (Mr. VOINOVICH) was added as a cosponsor of S. 1559, a bill to consolidate democracy and security in the Western Balkans by supporting the Governments and people of Bosnia and Herzegovina and Montenegro in reaching their goal of eventual NATO membership, and to welcome further NATO partnership with the Republic of Serbia, and for other purposes.

S. 1589

At the request of Ms. CANTWELL, the name of the Senator from New Hampshire (Mrs. SHAHEEN) was added as a cosponsor of S. 1589, a bill to amend the Internal Revenue Code of 1986 to modify the incentives for the production of biodiesel.

S. 1612

At the request of Mrs. LINCOLN, the name of the Senator from Georgia (Mr. ISAKSON) was added as a cosponsor of S. 1612, a bill to amend the Internal Revenue Code of 1986 to improve the operation of employee stock ownership plans, and for other purposes.

S. 1646

At the request of Mr. REED, the name of the Senator from Washington (Mrs. MURRAY) was added as a cosponsor of S. 1646, a bill to keep Americans working by strengthening and expanding short-time compensation programs that provide employers with an alternative to layoffs.

S. 1765

At the request of Mr. CARDIN, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. 1765, a bill to amend the Hate Crime Statistics Act to include crimes against the homeless.

S. 1790

At the request of Mr. DORGAN, the name of the Senator from Washington (Ms. CANTWELL) was added as a cosponsor of S. 1790, a bill to amend the Indian Health Care Improvement Act to revise and extend that Act, and for other purposes.

S. 1792

At the request of Mr. ROCKEFELLER, the name of the Senator from Oregon (Mr. WYDEN) was added as a cosponsor of S. 1792, a bill to amend the Internal Revenue Code of 1986 to modify the requirements for windows, doors, and skylights to be eligible for the credit for nonbusiness energy property.

S. 1938

At the request of Mr. ROCKEFELLER, the name of the Senator from Pennsylvania (Mr. CASEY) was added as a cosponsor of S. 1938, a bill to establish a

program to reduce injuries and deaths caused by cellphone use and texting while driving.

S. 2128

At the request of Mr. LEMIEUX, the names of the Senator from Texas (Mrs. HUTCHISON), the Senator from Georgia (Mr. ISAKSON) and the Senator from Wyoming (Mr. BARRASSO) were added as cosponsors of S. 2128, a bill to provide for the establishment of the Office of Deputy Secretary for Health Care Fraud Prevention.

S. 2607

At the request of Mr. REID, the name of the Senator from Nevada (Mr. ENSIGN) was added as a cosponsor of S. 2607, a bill to amend the Department of the Interior, Environment, and Related Agencies Appropriations Act, 2010 to repeal a provision of that Act relating to geothermal energy receipts.

S. 2730

At the request of Mr. BROWN, the name of the Senator from Rhode Island (Mr. WHITEHOUSE) was added as a cosponsor of S. 2730, a bill to extend and enhance the COBRA subsidy program under the American Recovery and Reinvestment Act of 2009.

S. 2755

At the request of Mr. MENENDEZ, the names of the Senator from Indiana (Mr. BAYH) and the Senator from Oregon (Mr. WYDEN) were added as cosponsors of S. 2755, a bill to amend the Internal Revenue Code of 1986 to provide an investment credit for equipment used to fabricate solar energy property, and for other purposes.

S. 2758

At the request of Ms. STABENOW, the name of the Senator from Ohio (Mr. BROWN) was added as a cosponsor of S. 2758, a bill to amend the Agricultural Research, Extension, and Education Reform Act of 1998 to establish a national food safety training, education, extension, outreach, and technical assistance program for agricultural producers, and for other purposes.

S. RES. 334

At the request of Mr. HATCH, the name of the Senator from Georgia (Mr. ISAKSON) was added as a cosponsor of S. Res. 334, a resolution designating Thursday, November 19, 2009, as "Feed America Day".

S. RES. 353

At the request of Mrs. HAGAN, the name of the Senator from Michigan (Ms. STABENOW) was added as a cosponsor of S. Res. 353, a resolution supporting the goals and ideals of "American Education Week".

#### STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. LEVIN:

S. 2780. A bill to amend the Small Business Act to establish a small busi-

ness intermediary lending pilot program; to the Committee on Small Business and Entrepreneurship.

Mr. LEVIN. Mr. President, today I introduce the Small Business Intermediary Lending Pilot Program Act of 2009.

As a member of the Small Business and Entrepreneurship Committee I have been concerned about access to affordable financing for small businesses.

The need to help small businesses find flexible credit sources has become more urgent than ever during this economic and credit crisis. The problem is serious. I have heard from numerous small businesses from across Michigan facing serious financial difficulties. Too many creditworthy businesses are having trouble procuring a loan, getting their loans renewed, or are facing higher rates or are having their lines of credit withdrawn altogether. This is happening even when the business never missed a payment.

The difficulty of finding bank financing is both a symptom and a cause of our economic troubles. The crisis that nearly toppled our economy in late 2008 and early 2009 was largely the result of a shutdown in lending by banks worried that they would be overwhelmed by bad loans. And as the lack of available credit rippled through the economy, it hit more businesses, cost them more customers, forced them to lay off more workers, and slowed economic activity even more, making banks all the more reluctant to lend and setting off a downward spiral.

The search for solutions to these problems has been intense, and we have taken some steps in Congress to alleviate them, including acting to reduce Small Business Administration lending fees, increasing the dollar amount of those loans the government would guarantee, and offering short-term loans to businesses facing immediate financial hardship. But it hasn't been enough.

In May, I told members of the Senate Small Business and Entrepreneurship Committee, on which I serve, of just one Michigan example of the problem: A small manufacturer based in the Thumb. The company's longtime bank lender told the company it could not renew the firm's 5-year loan, instead offering 90-day renewals at a much higher interest rate. The company, with 77 workers and 150 customers, sought a loan elsewhere, but other banks—28 of them—rejected its application. The company has an excellent payment history. That story can be repeated 100 times throughout the state.

With the steep decline in the availability of credit from conventional financial institutions, demand is increasing for community-based financial institutions, including Community Development Corporations, Micro-lenders, Community Development Financial Institutions and other non-

profit lenders to fill the gap created by the reluctance of private financial institutions to provide capital to businesses. As demand on these non-profit institutions to fill the gap has increased, these institutions' sources of capital are also drying up.

To address this problem, I am introducing legislation to help get financing to those small businesses that are not being served by the conventional loan programs currently available through the Small Business Administration.

The Small Business Intermediary Lending Program that I am introducing today is a three-year pilot program which authorizes the SBA in each of the three years to make 20-year loans, on a competitive basis, to up to 20 non-profit lending intermediaries around the country, with a maximum amount of \$3 million per loan. Under this proposal, intermediaries would use these SBA loans to capitalize revolving loan funds through which loans of up to \$200,000 would be made to small businesses in need of flexible debt financing. In addition, these intermediaries would assist borrowers in leveraging the SBA funds to obtain additional capital from other sources. The intermediaries would also work closely with the small business to provide technical assistance during the life of the loan.

The program would be structured along the lines of the SBA's Microloan program and USDA's Intermediary Relending Program, both of which have demonstrated the success of using intermediary lenders to improve the flow of credit to small businesses that are unable to satisfy the underwriting requirements of a congenial bank.

The program is designed to fill the lending gap that exists between SBA's Microloan program that lends up to \$35,000 and its 7(a) loan program that makes larger traditional loans to small businesses through participating banks. Many start-up and expanding small businesses may have graduated from the Microloan Program and need larger loans but cannot get 7(a) loans because they lack adequate collateral necessary for traditional loans. These small businesses may also still need technical assistance to help them succeed that would be provided by the intermediary lender under this bill.

Even before the severe economic downturn and resulting credit crunch, 7(a) lenders were not making the sorts of midsize loans the Intermediary Lending Program seeks to make. In fact, several years ago a representative for the National Association of Government Guaranteed Lenders, the 7(a) lenders' trade association, told a Small Business and Entrepreneurial Committee roundtable that 7(a) lenders are not making these midsize loans because they are not cost effective, and that the Intermediary Lending Program would fill an important niche not being filled by any existing SBA program.

We have been taking some important steps to encourage banks to lend to businesses, with varying degrees of success. Clearly more needs to be done to get credit into the hands of the small businesses that are going to create the jobs necessary to lead us out of this economic downturn. The Intermediary Lending Program I am introducing today proposes a way to get financing into the hands of those viable businesses that conventional banks are currently not lending to so that they can hire employees and grow their businesses. I urge its swift enactment.

By Ms. MIKULSKI (for herself, Mr. ENZI, Mr. HARKIN, Mr. BROWN, Mr. CARDIN, Mr. ALEXANDER, Mr. BARRASSO, Mr. BURR, Mr. GREGG, Mr. THUNE, and Mr. DODD):

S. 2781. A bill to change references in Federal law to mental retardation to references to an intellectual disability, and to change references to a mentally retarded individual to references to an individual with an intellectual disability; to the Committee on Health, Education, Labor, and Pensions.

Ms. MIKULSKI. Mr. President, today I rise to introduce legislation that I am calling "Rosa's Law." It began by listening to the people in my own State. It began when a mother told me a compelling story about her own daughter, her family's efforts to give her daughter an opportunity for an education and to be treated with respect and with dignity. And, at the same time, it began with the advocacy of not only she and her husband but of her entire family, including her 14 year old son, Nick, who testified at the Maryland General Assembly.

As a result of their effort, I am introducing Rosa's Law. But I want to tell you about the family. I want to tell you about the Marcellinos—two determined parents with four children: Nick, age 14; Madeleine, age 12; Gigi, age 10; and Rosa, age 8. I wish you could have been with me in my office as I met with them, as I met with the parents and talked with the family.

Last year, at a roundtable on special education, I met Nina Marcellino. She told me about her daughter Rosa and the fact that Rosa had been labeled at her school some years ago as "mentally retarded" and told me of the stigma, the pain, the anguish it caused both Nina and her husband, Rosa's brother and sisters as well as Rosa herself.

The mother and father reached out to the advocacy organization, the Arc, to see what could be done to change the law. They then reached out to a member of the Maryland General Assembly in our own Maryland Legislature—a wonderful representative named Ted Sophocleus.

Mr. Sophocleus introduced legislation in the Maryland General Assembly

that would change the words "mentally retarded" and substitute that with the phrase "an individual with an intellectual disability."

That is why I stand on the Senate floor today to introduce, at the request of this family, legislation on behalf of this little girl and on behalf of all of the children of the United States of America who are labeled, stigmatized, and bear a burden the rest of their lives because of the language we use in the law books.

My law simply changes the phrase "mentally retarded" to an "individual with an intellectual disability." We do it in health, education, and labor policy without in any way negatively impinging upon either the educational or other benefits to which these children are entitled.

When it came time to bring the bill before the General Assembly, the family was there. And who spoke up for Rosa? Well, her mom and dad had been speaking up for her. Her brother Nick and her sisters Madeleine and Gigi had been speaking up for her. This wonderful boy, Nick, at the time 13 testified before the general assembly and said:

What you call people is how you treat them.

"What you call people is how you treat them." What you call my sister is how you will treat her. If you believe she is "retarded," it invites taunts, it invites stigmas, it invites bullying, and it also invites the slammed doors of not being treated with respect and dignity.

Nick's words were far more eloquent that day than mine are today. I want to salute Nick for standing up for his sister. But I think we need to stand up for all because in changing the language we believe it will be the start of new attitudes toward people with intellectual disabilities. Hopefully, people will associate these new words with the very able and valuable people that go to school, work, play soccer, or live next door.

Eunice Shriver believed in this when she created the Special Olympics. She knew special needs children need special attention, but they can do very special things and look what she started.

This bill has gotten unanimous support in the Maryland legislative body. It passed in Annapolis. A few weeks before this bill swept through the General Assembly, I had the opportunity to talk to Rosa's mom, Nina. I promised her then that if that bill passed the Maryland Legislature, I would bring it to the floor of the Senate. Well, it passed unanimously, Governor O'Malley has signed it, and today I stand before you introducing the legislation.

It makes nominal changes to policy. It gets into Federal education, health, and labor law. It simply substitutes "intellectual disability" for "mental

retardation," "individual with an intellectual disability" for "mentally retarded."

This bill, as I can assure all who might be concerned, will not expand nor diminish services, rights, or educational opportunities. We vetted it with legal counsel. We reached out to the very wonderful advocacy groups in this field, and they concur that this legislation would be acceptable.

The Senate has changed terminology for this population before. In the 1960s, Congress passed legislation where we took—I am almost embarrassed to say our law once referred to boys and girls as "feeble-minded." We thought we were being advanced when we changed it to "mentally retarded." Now, 40 years later, let's take another big step and change it to "intellectual disability."

This bill makes language used in the Federal Government consistent. The President's Committee on Mental Retardation was changed by Executive order so it is now the Committee on Individuals with Intellectual Disabilities. The CDC uses "intellectual disability." The World Health Organization uses "intellectual disability."

I have always said the best ideas come from the people. "Rosa's Law" is a perfect example of effective citizen advocacy—a family that pulled together for their own, and in pulling together they are pulling us all along to a new way of thinking.

I want to recognize the Marcellino family who is here with us in the gallery, and the namesake of the law, Rosa, whose picture is behind me, and she is also up there in the gallery today.

It was indeed an honor to represent this family. I believe in our country people have a right to be heard, and we listen. They have a right to be represented, which I have tried to do. Now let's try to change the law.

I also want to take this opportunity to thank my colleagues. It is a pleasure to work with Senators HARKIN and ENZI, the chair and ranking member of the HELP Committee. I have their wholehearted support in working together.

This is going to be a bipartisan bill. It is going to be a nonpartisan bill. We are going to check our party hats at the door and move ahead and tip our hats to these boys and girls. This bill is driven by passion for social justice and compassion for the human condition. We have done a lot to come out of the dark ages of institutionalization and exclusion when it comes to people with intellectual disabilities.

I urge my colleagues to join me in going a step further. Cosponsor the legislation I offer on a bipartisan basis. Help me pass the law and know that each and every one of us can make a difference. When we work together, we can make change. I look forward to



working with my colleagues in moving this bill forward in our legislative process.

Mr. ENZI. Mr. President, I am pleased to have this opportunity to join my colleague from Maryland, Senator MIKULSKI, in introducing Rosa's law. I would like to thank her for her leadership and her commitment on this issue. Simply put, this legislation will make an important change in the words we use to refer to those with intellectual disabilities. It is a much needed change in the law that is fully deserving of our support.

For far too long we have used words like "mental retardation" in our Federal statutes to refer to those with intellectual disabilities. This has been unfortunate because when we use such a term we send a message throughout our society that someone "is" their disability, instead of someone like us who is facing a challenge in their life. Such a term creates the unwanted impression that growth is impossible and their disability will lock them into a certain lifestyle forever.

As an example, imagine a friend with cancer. When you refer to him or her you would probably say they have cancer, or are going through cancer treatment. You wouldn't say they "are" cancer like this term says that someone "is" their disability. It's a distinction that makes a big difference for anyone facing such a difficult period of their lives.

This is not a unique situation. Historically, this and other unfortunate terms have been used to refer to people with disabilities of all kinds for many years.

Prior to the 1960's, people who were viewed as having intellectual limitations were shunned from society and placed in institutions. The American dream of self-determination, independent living, and the pursuit of freedom and happiness was thought to be impossible for them to achieve. We let the limitations we helped to create with our words and our attitudes slowly take away their hopes and dreams for a better life and a brighter future.

We know now that words have meaning, sometimes far beyond what we intend. Therefore, we must be very careful about the way we describe the people we see every day, including those with disabilities, or those who are undergoing treatment for a variety of health issues. Unfortunately, the Federal Government has not dropped this term from our laws and it still appears in the regulations and statutes that come before our legislative bodies and our courts.

With this legislation we are taking a giant step forward, as we acknowledge that times have changed and we live in a much different world. Clearly this term was not developed from malice. It came from a lack of understanding of what it was like to be labeled with

such a term and then left virtually alone in the effort to overcome it.

Over the years, Congress has made it known that community living, educational opportunities that lead to success in the workplace, and equal opportunity without discrimination will be available to people who are living with intellectual limitations under appropriate Federal statutes.

That was a good start. Unfortunately, several key Federal disability statutes, including the Individuals with Disabilities Education Act, the Rehabilitation Act, the Developmental Disabilities Act, and the Genetic Information Nondiscrimination Act, still use the outmoded term. It is time for Congress to be proactive and join the States of New Hampshire, Maryland, and my home State of Wyoming by ending the use of this pejorative term and replacing it with a more carefully chosen word.

To paraphrase a quote I have heard about cancer, a disability is a word, not a sentence. We have put that philosophy into practice over the years for other disabilities. It is time we adapted it to provide support to those living with intellectual disabilities as well.

Some will ask if we are being overly sensitive, or if we are just trying to make a change to be politically correct. The answer to that question is clearly "no."

It is no secret. When we put a "label" like that on someone we often find ourselves dealing with the label as if it is not a description of the challenges someone faces in their lives but a reflection of who that person really is. That puts them in a group with a label for a name and tells them that they are not worthy of being treated as an individual, with individual needs and interests.

I have heard from people with intellectual disabilities over the years. They have asked us to put an end to the use of that outdated term. Self-advocacy groups such as Self-Advocates Becoming Empowered and local People First Organizations as well as organizations such as the Arc of the United States, Special Olympics International, and others have already stopped using this archaic terminology and dropped the term from their agency names. The American Psychiatric Association, which publishes the Diagnostic and Statistical Manual of Mental Disorders, has already voted to use the term "Intellectual Disability" in the next publication of their manual.

I have always believed that the law is a great teacher. That is why we need to join in this effort and express our support for the efforts of those with disabilities of all kinds to live to their full potential. We can do that by eliminating the use of negative archaic terms to refer to those with intellectual limitations. Such an action on our part starts with this bill that uses the

term intellectual disability in laws that are in the jurisdiction of the Senate Committee on Health, Education, Labor and Pensions. This bill makes our intent clear throughout our Nation that this term will never again be used in Congress or in any Federal office.

When I came to the Senate 13 years ago, my staff and I met almost immediately to work on our mission statement. When it was completed, one of the most important clauses we had written was our commitment that we would treat others not as we would wish to be treated, but as they would wish to be treated. There is a difference.

Today, with the passage of this important legislation, we are reaching out to those with intellectual disabilities to assure them that their government will treat them as they would wish to be treated. By so doing, we will also be directing our staffs and the staffs of federal offices throughout the U.S. that the best way for them to refer to those with disabilities or to anyone who comes into their office is by the term they have carried with them throughout their lives—their name.

By Mr. LEAHY (for himself and Mr. HATCH):

S. 2786. A bill to amend titles 18 and 28 of the United States Code to provide incentives for the prompt payments of debts owed to the United States and the victims of crime by imposing late fees on unpaid judgments owed to the United States and to the victims of crime, to provide for offsets on amounts collected by the Department of Justice for Federal agencies, to increase the amount of special assessments imposed upon convicted persons, to establish an Enhanced Financial Recovery Fund to enhance, supplement, and improve the debt collection activities of the Department of Justice, to amend title 5, United States Code, to provide to assistant United States attorneys the same retirement benefits as are afforded to Federal law enforcement officers, and for other purposes; to the Committee on the Judiciary.

Mr. LEAHY. Mr. President, today I am pleased to join with Senator HATCH to introduce a bill that will take steps to enhance the retirement benefits granted to Assistant U.S. Attorneys who serve all Americans in a critical law enforcement role. Representative DELAHUNT is introducing companion legislation in the House. I would like to acknowledge the significant efforts made by the National Association of Assistant United States Attorneys in developing this legislation.

There are approximately 5,500 Assistant U.S. Attorneys in 93 offices throughout the U.S. all of whom are serving on the front lines to uphold the rule of law. Having served as a prosecutor for many years in Vermont, I



know well the integral role prosecutors play in the administration of justice and keeping our communities safe. Federal prosecutors are a crucial component of our justice system, and this legislation recognizes the important contributions these men and women make in the enforcement of our Federal laws.

Probation officers, deputy marshals, corrections officers, and even corrections employees not serving in a law enforcement role receive benefits greater than those received by Assistant U.S. Attorneys. This is a disparity that should be remedied. By making the appropriate adjustments provided in this legislation, Congress would also help the Federal justice system retain experienced prosecutors. Of all the prosecutors who leave the government for the private sector, 60 to 70 percent do so with experience of between 6 and 15 years. With the Department of Justice's rapidly expanding role in combating terrorism, financial fraud, and other pressing national law enforcement challenges, we cannot afford to lose the experienced men and women who serve in this vital position. And by enhancing the retirement benefits for these prosecutors, we make service as an Assistant U.S. Attorney a more attractive path for talented young lawyers who are considering public service.

This legislation also makes substantial efforts to defray the cost to the Federal Government of providing enhanced retirement benefits to Assistant U.S. Attorneys and to make our justice system operate more efficiently. The bill includes important provisions that would assist the Department of Justice in recovering money owed to the Federal Government as a result of judgments and other fines. By bolstering the Department's ability to collect the funds it is rightfully owed, resources would be made more available to provide the parity in retirement benefits sought by Assistant U.S. Attorneys. The result of this innovative effort to fund these benefits in an alternative manner is that the Department of Justice will, through its duties as the Nation's law enforcement agency, be able to provide the benefits its employees deserve at little or no cost to the taxpayer.

With the introduction of this legislation, we signal that prosecutors in our society fulfill a critical and valuable role. By enacting it, Congress can send the message that the service of these prosecutors is an indispensable component of our Federal justice system. I hope all Senators will join us in supporting this legislation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 2786

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE.

This Act may be cited as the "Enhanced Restitution Enforcement and Equitable Retirement Treatment Act of 2009".

#### SEC. 2. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

Sec. 1. Short title.

Sec. 2. Table of contents.

#### TITLE I—ENHANCED FINANCIAL RECOVERY

Sec. 101. Unpaid fines and restitution.

Sec. 102. Remission of criminal monetary penalties.

Sec. 103. Prioritization of restitution efforts.

Sec. 104. Imposition of civil late fee.

Sec. 105. Increase in the amount of special assessments.

Sec. 106. Enhanced financial recovery fund.

Sec. 107. Effective dates.

#### TITLE II—EQUITABLE RETIREMENT TREATMENT OF ASSISTANT UNITED STATES ATTORNEYS

Sec. 201. Retirement treatment of assistant United States attorneys.

Sec. 202. Provisions relating to incumbents.

Sec. 203. Agency share contributions.

Sec. 204. Effective date.

#### TITLE I—ENHANCED FINANCIAL RECOVERY

##### SEC. 101. UNPAID FINES AND RESTITUTION.

(a) IN GENERAL.—Section 3612 of title 18, United States Code, is amended—

(1) by striking subsections (d), (e), (g), (h), and (i); and

(2) by inserting after subsection (c) the following:

“(d) IMPOSITION OF LATE FEE.—

“(1) IN GENERAL.—A late fee shall be imposed upon a defendant if fines or restitution obligations of the defendant totaling not less than \$2,500 unpaid as of the date specified in subsection (f)(1). The late fee imposed under this paragraph shall be 5 percent of the unpaid principal balance for an individual and 10 percent for any other person.

“(2) ALLOCATION OF PAYMENTS.—

“(A) FINE.—Subject to subparagraph (C), if a late fee is imposed under paragraph (1) for a fine—

“(i) an amount equal to 95 percent of each payment made by a defendant shall be credited to the Crime Victims Fund established under section 1402 of the Victims of Crime Act of 1984 (42 U.S.C. 10601) or as otherwise provided in that section; and

“(ii) an amount equal to 5 percent of each payment shall be credited to the Department of Justice Enhanced Financial Recovery Fund established under section 106 of the Enhanced Restitution Enforcement and Equitable Retirement Treatment Act of 2009.

“(B) RESTITUTION.—Subject to subparagraph (C), if a late fee is imposed under paragraph (1) for a restitution obligation—

“(i) an amount equal to 95 percent of each payment shall be paid to any victim identified by the court; and

“(ii) an amount equal to 5 percent of each payment shall be credited to the Department of Justice Enhanced Financial Recovery Fund established under section 106 of the Enhanced Restitution Enforcement and Equitable Retirement Treatment Act of 2009.

“(C) ORDER OF PAYMENTS.—Payments for fines or restitution shall be applied first to the principal and, if any, the late fee under paragraph (1). If the amount due on either

the principal or the late fee has been paid in full and the other amount due remains unpaid, all payments for fines or restitution shall then be applied to the other unpaid obligation. If the principal and the late fee have been paid in full, all payments for fines or restitution shall then be applied to interest.

“(3) DEFINITIONS.—In this subsection—

“(A) the term ‘fines or restitution obligations’ does not include any amount that is imposed as interest, costs, or a late fee;

“(B) the term ‘principal’ does not include any amount that is imposed as interest, penalty, or a late fee; and

“(C) the term ‘restitution’ includes any unpaid balance due to a person identified in any judgment, or order of restitution, entered in any criminal case.

“(e) WAIVER OF INTEREST, PENALTY, OR LATE FEES.—

“(1) IN GENERAL.—The Attorney General may waive all or part of any interest or late fee under this section or any interest or penalty imposed under any other provision of law if the Attorney General determines that reasonable efforts to collect the interest, late fee, or penalty are not likely to be effective.

“(2) WAIVER BY COURT.—The court may waive the uncollected portion of a late fee, upon the motion of the defendant, and a showing, by a preponderance of the evidence, that—

“(A) the defendant has made a good faith effort to satisfy all unpaid fines or restitution obligations;

“(B) despite the good faith efforts of the defendant, the defendant is not likely to satisfy the obligations within the time provided for under section 3613 of this title; and

“(C) the continued collection of a late fee would constitute an undue burden upon the defendant.”.

(b) REPEAL OF DELINQUENCY AND DEFAULT PROVISIONS.—Section 3572 of title 18, United States Code, is amended by striking subsections (h) and (i).

##### SEC. 102. REMISSION OF CRIMINAL MONETARY PENALTIES.

Section 3573 of title 18, United States Code, is amended to read as follows:

##### “§ 3573. Petition of the Government for modification or remission

“(a) IN GENERAL.—Upon petition of the Government showing that reasonable efforts to collect a fine, restitution obligation, or special assessment are not likely to be effective, the court may, in the interest of justice, remit all or any part of the fine, restitution obligation, or special assessment, including interest, penalty, and late fees.

“(b) VICTIMS OTHER THAN THE UNITED STATES.—In the case of a restitution obligation owed to a victim other than the United States, the express and clearly voluntary consent of the victim is required before the court may grant such petition. No defendant shall initiate contact with a victim for the purpose of securing consent to a possible remission except through counsel, the United States attorney, or in such a manner as first approved by the court as safe and noncoercive.”.

##### SEC. 103. PRIORITIZATION OF RESTITUTION EFFORTS.

Section 3771 of title 18, United States Code, is amended by adding the following subsection:

“(g) GUIDELINES.—

“(1) IN GENERAL.—The Attorney General shall promulgate guidelines to ensure the effective and efficient enforcement of all criminal and civil obligations which are

owed to the United States and enforced by the Department of Justice.

“(2) **CONTENTS.**—The guidelines promulgated under paragraph (1) shall require consideration, in making decisions relating to enforcement of criminal and civil obligations which are owed to the United States, of the amount due, the amount collectible, and whether the amount is due to individuals who are not likely to be able to enforce the obligation without assistance from the Department of Justice.”.

#### SEC. 104. IMPOSITION OF CIVIL LATE FEE.

(a) **IN GENERAL.**—Section 3011 of title 28, United States Code, is amended to read as follows:

##### “§ 3011. Imposition of late fee

“(a) **IN GENERAL.**—A late fee shall be imposed on a defendant if there is an unpaid balance due to the United States on any money judgment in a civil matter recovered in a district court as of—

“(1) the fifteenth day after the date of the judgment; or

“(2) if the day described in paragraph (1) is a Saturday, Sunday, or legal public holiday, the next day that is not a Saturday, Sunday, or legal holiday.

“(b) **AMOUNT OF LATE FEE.**—A late fee imposed under subsection (a) shall be 5 percent of the unpaid principal balance for an individual and 10 percent for any other person.

“(c) **ALLOCATION OF PAYMENTS.**—Subject to subsection (d), if a late fee is imposed under subsection (a)—

“(1) an amount equal to 95 percent of each principal payment made by a defendant shall be credited as otherwise provided by law; and

“(2) an amount equal to 5 percent of each principal payment shall be credited to the Department of Justice Enhanced Financial Recovery Fund established under section 106 of the Enhanced Financial Recovery and Equitable Retirement Treatment Act of 2007.

“(d) **ORDER OF PAYMENTS.**—Payments for a money judgment in a civil matter shall be applied first to the principal and, if any, the late fee under subsection (a). If the amount due on either the principal or the late fee has been paid in full and the other amount due remains unpaid, all payments for a money judgment in a civil matter shall be applied to the other unpaid obligation. If the principal and the late fee have been paid in full, all payments for a money judgment in a civil matter shall then be applied to interest.

“(e) **DEFINITIONS.**—In this section—

“(1) the term ‘principal’ does not include any amount that is imposed as interest, penalty, or a late fee; and

“(2) the term ‘unpaid balance due to the United States’—

“(A) includes any unpaid balance due to a person that was represented by the Department of Justice in the civil matter in which the money judgment was entered; and

“(B) does not include interest, costs, penalties, or late fees.”.

(b) **TECHNICAL AND CONFORMING AMENDMENT.**—The table of sections for subchapter A of chapter 176 of title 28, United States Code, is amended by striking the item relating to section 3011 and inserting the following:

“3011. Imposition of late fee.”.

#### SEC. 105. INCREASE IN THE AMOUNT OF SPECIAL ASSESSMENTS.

Section 3013 of title 18, United States Code, is amended by striking subsection (a) and inserting the following:

“(a) The court shall assess on any person convicted of an offense against the United States—

“(1) in the case of an infraction or a misdemeanor—

“(A) if the defendant is an individual—

“(i) the amount of \$10 in the case of an infraction or a class C misdemeanor; and

“(ii) the amount of \$25 in the case of a class B misdemeanor; and

“(iii) the amount of \$100 in the case of a class A misdemeanor; and

“(B) if the defendant is a person other than an individual—

“(i) the amount of \$100 in the case of an infraction or a class C misdemeanor; and

“(ii) the amount of \$200 in the case of a class B misdemeanor; and

“(iii) the amount of \$500 in the case of a class A misdemeanor; and

“(2) in the case of a felony—

“(A) the amount of \$100 if the defendant is an individual; and

“(B) the amount of \$1,000 if the defendant is not an individual.”.

#### SEC. 106. ENHANCED FINANCIAL RECOVERY FUND.

(a) **ESTABLISHMENT.**—There is established in the Treasury a separate account known as the Department of Justice Enhanced Financial Recovery Fund (in this section referred to as the “Fund”).

(b) **DEPOSITS.**—Notwithstanding section 3302 of title 31, United States Code, or any other law regarding the crediting of collections, there shall be credited as an offsetting collection to the Fund an amount equal to—

(1) 2 percent of any amount collected pursuant to civil debt collection litigation activities of the Department of Justice (in addition to any amount credited under section 11013 of the 21st Century Department of Justice Appropriations Authorization Act (28 U.S.C. 527 note));

(2) 5 percent of all amounts collected as restitution due to the United States pursuant to the criminal debt collection litigation activities of the Department of Justice; and

(3) any late fee collected under section 3612 of title 18, United States Code, as amended by this Act, or section 3011 of title 28, United States Code, as amended by this Act.

(c) **AVAILABILITY.**—The amounts credited to the Fund shall remain available until expended.

(d) **PAYMENTS FROM THE FUND TO SUPPORT ENHANCED ENFORCEMENT OF JUDGMENTS.**—

(1) **USE FOR COLLECTION.**—

(A) **IN GENERAL.**—Except as provided in paragraph (2), the Attorney General shall use not less than \$20,000,000 of the Fund in each fiscal year, to the extent that funds are available, for the collection of civil and criminal judgments by the Department of Justice, including restitution judgments where the beneficiaries are the victims of crime.

(B) **ALLOCATION.**—The funds described in subparagraph (A) shall be used to enhance, supplement, and improve the civil and criminal judgment enforcement efforts of the Department of Justice first, and primarily for such activities by United States attorneys’ offices. A portion of the funds described in subparagraph (A) may be used by the Attorney General to provide legal, investigative, accounting, and training support to the United States attorneys’ offices in carrying out civil and criminal debt collection activities.

(C) **LIMITATION.**—The funds described in subparagraph (A) may not be used to determine whether a defendant is guilty of an offense or liable to the United States, except incidentally for the provision of assistance necessary or desirable in a case to ensure the preservation of assets or the imposition of a

judgment, which assists in the enforcement of a judgment, or in a proceeding directly related to the failure of a defendant to satisfy the monetary portion of a judgment.

(2) **ADJUSTMENT OF AMOUNT.**—In each fiscal year following the first fiscal year in which deposits into the Fund are greater than \$20,000,000, the amount to be used under paragraph (1)(A) shall be increased by a percentage equal to the change in the Consumer Price Index published by the Bureau of Labor Statistics of the Department of Labor for the calendar year preceding that fiscal year.

(3) **LIMITATION.**—In any fiscal year, amounts in the Fund shall be available to the extent that the amount appropriated in that fiscal year for the purposes described in paragraph (1) is not less than an amount equal to the amount appropriated for such activities in fiscal year 2006, adjusted annually in the same proportion as increases reflected in the amount of aggregate level of appropriations for the Executive Office of United States Attorneys and United States Attorneys.

(e) **CURRENT AGENCY SHARE CONTRIBUTIONS.**—After expending amounts in the Fund as provided under subsection (d), the Attorney General may use amounts remaining in the Fund to offset additional agency share contributions made by the Department of Justice for personnel benefit expenses incurred as a result of this Act or the amendments made by this Act relating to service as an assistant United States attorney on or after the date of enactment of this Act. The availability of amounts from the Fund shall have no effect on the implementation of title II or the amendments made by title II.

(f) **RETROACTIVE AGENCY SHARE CONTRIBUTIONS.**—After expending amounts in the Fund as provided under subsection (e), the Attorney General may use amounts remaining in the Fund to offset agency share contributions made by the Department of Justice for personnel benefit expenses incurred as a result of this Act or the amendments made by this Act relating to service as an assistant United States attorney before the date of enactment of this Act.

(g) **REBATE OF AGENCY OFFSETS.**—After expending amounts in the Fund as provided under subsection (f), all amounts remaining in the Fund shall be credited, proportionally, to the Federal agencies on behalf of which debt collection litigation activities were conducted that resulted in deposits under paragraph (1) or (2) of subsection (b) during that fiscal year.

(h) **PAYMENTS TO THE GENERAL FUND.**—After expending amounts in the Fund as provided under subsection (g), all amounts remaining in the Fund shall be deposited with the General Fund of the United States Treasury.

(i) **DEFINITION.**—In this section, the term “United States”—

(1) includes—

(A) the executive departments, the judicial and legislative branches, the military departments, and independent establishments of the United States; and

(B) corporations primarily acting as instrumentalities or agencies of the United States; and

(2) except as provided in paragraph (1), does not include any contractor of the United States.

#### SEC. 107. EFFECTIVE DATES.

(a) **IN GENERAL.**—Except as provided in this section, this title and the amendments made by this title shall take effect 30 days after the date of enactment of this Act.

(b) **CRIMINAL CASES.**—The amendments made by section 105 and subsection (d) of section 3612 of title 18, United States Code, as

added by section 101 of this Act, shall apply to any offense committed on or after the date of enactment of this Act, including any offense which includes conduct that continued on or after the date of enactment of this Act.

(c) CIVIL CASES.—The amendments made by section 104 shall apply to any case pending on or after the date of enactment of this Act.

## TITLE II—EQUITABLE RETIREMENT TREATMENT OF ASSISTANT UNITED STATES ATTORNEYS

### SEC. 201. RETIREMENT TREATMENT OF ASSISTANT UNITED STATES ATTORNEYS.

(a) CIVIL SERVICE RETIREMENT SYSTEM.—

(1) ASSISTANT UNITED STATES ATTORNEY DEFINED.—Section 8331 of title 5, United States Code, is amended—

(A) in paragraph (30), by striking “and” at the end;

(B) in paragraph (31), by striking the period and inserting “; and”; and

(C) by adding at the end the following:

“(32) ‘assistant United States attorney’—

“(A) means an assistant United States attorney appointed under section 542 of title 28; and

“(B) includes an individual—

“(i) appointed United States attorney under section 541 or 546 of title 28;

“(ii) who has previously served as an assistant United States attorney; and

“(iii) who elects under section 202 of the Enhanced Restitution Enforcement and Equitable Retirement Treatment Act of 2009 to be treated as an assistant United States attorney and solely for the purposes of this title.”.

(2) RETIREMENT TREATMENT.—Chapter 83 of title 5, United States Code, is amended by adding after section 8351 the following:

#### “§ 8352. Assistant United States attorneys

“An assistant United States attorney shall be treated in the same manner and to the same extent as a law enforcement officer for purposes of this chapter, except as follows:

“(1) Section 8335(b)(1) of this title (relating to mandatory separation) shall not apply.

“(2) Section 8336(c)(1) of this title (relating to immediate retirement at age 50 with 20 years of service as a law enforcement officer) shall apply to assistant United States attorneys except the age for immediate retirement eligibility shall be 57 instead of 50.”.

(3) TECHNICAL AND CONFORMING AMENDMENTS.—

(A) TABLE OF SECTIONS.—The table of sections for chapter 83 of title 5, United States Code, is amended by inserting after the item relating to section 8351 the following:

“Sec. 8352. Assistant United States attorneys.”.

(B) MANDATORY SEPARATION.—Section 8335(a) of title 5, United States Code, is amended by striking “8331(29)(A)” and inserting “8331(30)(A)”.

(b) FEDERAL EMPLOYEES’ RETIREMENT SYSTEM.—

(1) ASSISTANT UNITED STATES ATTORNEY DEFINED.—Section 8401 of title 5, United States Code, is amended—

(A) in paragraph (35), by striking “and” at the end;

(B) in paragraph (36), by striking the period and inserting “; and”; and

(C) by adding at the end the following:

“(37) ‘assistant United States attorney’—

“(A) means an assistant United States attorney appointed under section 542 of title 28; and

“(B) includes an individual—

“(i) appointed United States attorney under section 541 or 546 of title 28;

“(ii) who has previously served as an assistant United States attorney; and

“(iii) who elects under section 202 of the Enhanced Restitution Enforcement and Equitable Retirement Treatment Act of 2009 to be treated as an assistant United States attorney and solely for the purposes of this title.”.

(2) RETIREMENT TREATMENT.—Section 8402 of title 5, United States Code, is amended by adding at the end the following:

“(h) An assistant United States attorney shall be treated in the same manner and to the same extent as a law enforcement officer for purposes of this chapter, except as follows:

“(1) Section 8425(b)(1) of this title (relating to mandatory separation) shall not apply.

“(2) Section 8412(d) of this title (relating to immediate retirement at age 50 with 20 years of service as a law enforcement officer) shall apply to assistant United States attorneys except the age for immediate retirement eligibility shall be 57 instead of 50.”.

(c) MANDATORY SEPARATION.—Sections 8335(b)(1) and 8425(b)(1) of title 5, United States Code, are each amended by adding at the end the following: “This subsection shall not apply in the case of an assistant United States attorney.”.

### SEC. 202. PROVISIONS RELATING TO INCUMBENTS.

(a) DEFINITIONS.—In this section—

(1) the term “assistant United States attorney” means an assistant United States attorney appointed under section 542 of title 28, United States Code; and

(2) the term “incumbent” means an individual who, on the date of enactment of this Act—

(A) is serving as an assistant United States attorney;

(B) is serving as a United States Attorney appointed under section 541 or 546 of title 28, United States Code; or

(C) is employed by the Department of Justice and has served at least 10 years as an assistant United States attorney.

(b) NOTICE REQUIREMENT.—Not later than 180 days after the date of enactment of this Act, the Department of Justice shall take measures reasonably designed to provide notice to incumbents on—

(1) their election rights under this title; and

(2) the effects of making or not making a timely election under this title.

(c) ELECTION AVAILABLE TO INCUMBENTS.—

(1) IN GENERAL.—An incumbent may elect, for all purposes, to be treated—

(A) in accordance with the amendments made by this title; or

(B) as if this title had never been enacted.

(2) TIME LIMITATION.—An election under this subsection shall not be effective unless the election is made not later than the earlier of—

(A) 180 days after the date on which the notice under subsection (b) is provided; or

(B) the date on which the incumbent involved separates from service.

(3) FAILURE TO ELECT.—Failure to make a timely election under this subsection shall be deemed—

(A) for an assistant United States attorney, as an election under paragraph (1)(A); and

(B) for any other incumbent, as an election under paragraph (1)(B).

(d) LIMITED RETROACTIVE EFFECT.—

(1) EFFECT ON RETIREMENT.—In the case of an incumbent who elects (or is deemed to have elected) the option under subsection (c)(1)(A), all service performed by that indi-

vidual as an assistant United States attorney shall—

(A) to the extent performed on or after the effective date of that election, be treated in accordance with applicable provisions of subchapter III of chapter 83 or chapter 84 of title 5, United States Code, as amended by this title; and

(B) to the extent performed before the effective date of that election, be treated in accordance with applicable provisions of subchapter III of chapter 83 or chapter 84 of title 5, United States Code, as if the amendments made by this title had then been in effect.

(2) CREDITABLE SERVICE.—All service performed by an incumbent under an appointment under section 515, 541, 543, or 546 of title 28, United States Code and while concurrently employed by the Department of Justice shall be credited in the same manner as if performed as an assistant United States attorney.

(3) NO OTHER RETROACTIVE EFFECT.—Nothing in this title (including the amendments made by this title) shall affect any of the terms or conditions of an individual’s employment (apart from those governed by subchapter III of chapter 83 or chapter 84 of title 5, United States Code) with respect to any period of service preceding the date on which such individual’s election under subsection (c) is made (or is deemed to have been made).

(e) INDIVIDUAL CONTRIBUTIONS FOR PRIOR SERVICE.—

(1) IN GENERAL.—An individual who makes an election under subsection (c)(1)(A) shall, with respect to prior service performed by such individual, deposit, with interest, to the Civil Service Retirement and Disability Fund the difference between the individual contributions that were actually made for such service and the individual contributions that would have been made for such service if the amendments made by this title had then been in effect.

(2) EFFECT OF NOT CONTRIBUTING.—If the deposit required under paragraph (1) is not paid, all prior service of the incumbent shall remain fully creditable as law enforcement officer service, but the resulting annuity shall be reduced in a manner similar to that described in section 8334(d)(2)(B) of title 5, United States Code.

(3) PRIOR SERVICE DEFINED.—In this subsection, the term “prior service” means, with respect to any individual who makes an election (or is deemed to have made an election) under subsection (c)(1)(A), all service credited as an assistant United States attorney, but not exceeding 20 years, performed by such individual before the date as of which applicable retirement deductions begin to be made in accordance with such election.

(f) REGULATIONS.—The Office of Personnel Management shall prescribe regulations necessary to carry out this title, including provisions under which any interest due on the amount described under subsection (e) shall be determined.

### SEC. 203. AGENCY SHARE CONTRIBUTIONS.

(a) IN GENERAL.—The cost for current agency share contributions for personnel benefits incurred as a result of this Act or the amendments made by this Act may be paid from the Enhanced Financial Recovery Fund. If in any fiscal year the Fund does not have a sufficient amount on deposit to satisfy the cost for current agency share contributions for personnel benefits incurred as a result of this Act or the amendments made by this Act, the amount of the insufficiency shall be due the next fiscal year.

(b) RETROACTIVE AGENCY SHARE.—The cost for retroactive agency share contributions

for personnel benefits incurred as a result of this Act or the amendments made by this Act may be paid from the Enhanced Financial Recovery Fund. Notwithstanding section 8348(f) or section 8423(b) of title 5, United States Code, an amount equal to the amount remaining in the Enhanced Financial Recovery Fund in any fiscal year, after the amounts credited to the Fund have been expended to satisfy the requirements of subsections (d) and (e) of section 106 of this Act, shall be credited toward the cost for retroactive agency share contributions for personnel benefits incurred as a result of this Act or the amendments made by this Act until such cost, along with accumulated interest, has been satisfied in full.

(c) **USE OF FUNDS.**—Funds appropriated for the Department of Justice shall not be used to pay for the additional cost for current or retroactive agency share contributions for personnel benefits incurred as a result of this Act or the amendments made by this Act except as directed by the Attorney General.

#### SEC. 204. EFFECTIVE DATE.

(a) **IN GENERAL.**—This title shall take effect on the date of enactment of this Act.

(b) **INCUMBENTS.**—In the case of an incumbent who elects (or is deemed to have elected) the option under section 202(c)(1)(A) of this title, the election shall not take effect until 24 months after the date of enactment of this Act, except as follows:

(1) An incumbent with at least 30 years of service as an assistant United States attorney may choose to have the election take effect at any time between 6 and 24 months after the date of enactment of this Act.

(2) An incumbent with at least 25 years of service credited as an assistant United States attorney may choose to have the election take effect at any time between 12 and 24 months after the enactment of this Act;

(3) An incumbent with at least 20 years of service credited as an assistant United States attorney may, with the approval of the Attorney General, choose to have the election take effect at any time between 6 and 24 months after the date of enactment of this Act; and

(4) An incumbent with at least 20 years service credited as an assistant United States attorney and who is currently serving under an appointment under section 541 or 546 of title 28, United States Code, may choose to have the election take effect at any time between the enactment of this Act and 24 months after the date of enactment of this Act.

By Mr. VOINOVICH (for himself,  
Mrs. GILLIBRAND, and Mr.  
KAUFMAN):

S. 2789. A bill to establish a scholarship program to encourage outstanding undergraduate and graduate students in mission-critical fields to pursue a career in the Federal Government; to the Committee on Finance.

Mr. VOINOVICH. Mr. President, since arriving in the Senate in 1999, I have made improving the Federal workforce a priority. In that time, I have served as both chairman and ranking member of the Subcommittee on Oversight of Government Management, the Federal Workforce, and the District of Columbia, and have participated in many hearings to examine the personnel needs of the Federal Government. In fact, I recently attended my 52nd hearing examining Federal human capital issues.

As my colleagues surely know, over the next several years the Federal workforce will experience an unprecedented demographic transition. By December 2012, 250,000 Federal employees are expected to retire. To maintain current staff levels amidst the impending wave of Baby Boomer retirements, and to cope with the increasing workload being placed on civil servants by Congress and the administration, more than 600,000 positions will need to be filled over this time period.

This hiring challenge will be particularly significant for those positions designated by Federal agencies as “mission-critical,” or necessary for carrying out basic agency responsibilities. In its recently released survey of the coming hiring challenge, Where the Jobs Are, the Partnership for Public Service estimates that 273,000 new public servants—from doctors to intelligence analysts, program managers to police officers—will need to be brought on board to maintain current staffing levels, a 40 percent increase from the previous 3-year period.

Successfully meeting this human capital challenge will require a sustained, multi-pronged effort addressing a host of issues. The Federal hiring process needs streamlining, improvements must continue in the processing of security clearances, and agencies will need to approach future hiring decisions in a strategic fashion rather than a tactical, reactive one.

No matter how effectively the Federal hiring process is planned for and managed, however, an effective workforce cannot be built in the absence of talented individuals willing to pursue careers in public service. The need for well-qualified young people with aspirations to careers in public service is particularly important for mission-critical occupations, which tend to require highly specialized skill sets that too often are in short supply.

At the same time, the average debt load undergraduate and graduate students must bear to finance their education continues to increase. As a result, many young Americans who would otherwise be eager to join the civil service are prevented from doing so.

In an effort to help established a talent pipeline for such mission-critical positions, today I join with the distinguished Senator from New York, Senator GILLIBRAND, and the distinguished Senator from Delaware, Senator KAUFMAN, to introduce legislation aimed at encouraging and enabling young people with valuable, mission-critical skills to pursue careers in public service.

The Roosevelt Scholars Act of 2009 would establish a foundation named in honor of our 26th President and a principal architect of the modern civil service, Theodore Roosevelt. The Theodore Roosevelt Scholarship Foundation would be charged with awarding schol-

arships to outstanding undergraduate and graduate students pursuing fields of study identified by Federal agencies as mission-critical. In return for tuition support and a small stipend, selected students—dubbed Roosevelt Scholars—would be required to engage in 3 to 5 years of service with a Federal agency in need of an individual with a Roosevelt Scholar's unique skill set. Scholarships would be provided through the Theodore Roosevelt Memorial Scholarship Trust Fund, whose endowment would eventually provide a self-sustaining funding mechanism for Roosevelt Scholarships.

I am pleased to be joined in offering this legislation by enthusiastic partners. Senator GILLIBRAND is a strong supporter of encouraging Americans to pursue careers in public service, and I am thankful for her diligent work in advancing this legislation. Likewise, Senator KAUFMAN has demonstrated his strong support of our Nation's civil servants by his frequent appearances on the floor of this chamber to recognize the accomplishments of outstanding Federal employees. And on the other side of the Capitol Rotunda, Representatives DAVID PRICE and MICHAEL CASTLE are already hard at work promoting this important legislation.

The higher education community has been quick to see the promise offered by the Roosevelt Scholars Act. More than 100 public and private universities have endorsed this legislation, and the list continues to grow.

I will be the first to tell my colleagues that problems as daunting as those facing the Federal workforce are not solved overnight. I have learned from 18 years as a public executive—first as mayor of Cleveland, then as Governor of Ohio—that progress on such challenges is made incrementally. Opportunities offered by legislation like the Roosevelt Scholars Act are important components in a larger strategy.

I urge my colleagues to join in co-sponsoring the Roosevelt Scholars Act, and look forward to working with my colleagues in the House and Senate to provide young people the opportunity to pursue a career in public service as Roosevelt Scholars.

#### AMENDMENTS SUBMITTED AND PROPOSED

SA 2784. Mr. VITTER submitted an amendment intended to be proposed by him to the bill H.R. 3082, making appropriations for military construction, the Department of Veterans Affairs, and related agencies for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table.

SA 2785. Mr. COBURN submitted an amendment intended to be proposed by him to the bill S. 1963, to amend title 38, United States Code, to provide assistance to caregivers of veterans, to improve the provision of health care to veterans, and for other purposes; which was ordered to lie on the table.

## TEXT OF AMENDMENTS

**SA 2784.** Mr. VITTER submitted an amendment intended to be proposed by him to the bill H.R. 3082, making appropriations for military construction, the Department of Veterans Affairs, and related agencies for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. \_\_\_\_\_. At the discretion of the Attorney General, funds appropriated under the heading "Byrne Discretionary grants" under funding for the Department of Justice in the Commerce, Justice, Science, and Related Agencies Appropriations Act, 2009 (Public Law 111-8) to the Louisiana District Attorney's Association for the purpose to support an early intervention program for at-risk elementary students may be available to the University of Louisiana-Lafayette for the same purpose.

**SA 2785.** Mr. COBURN submitted an amendment intended to be proposed by him to the bill S. 1963, to amend title 38, United States Code, to provide assistance to caregivers of veterans, to improve the provision of health care to veterans, and for other purposes; which was ordered to lie on the table; as follows:

On page 177, after line 10, add the following:

**SEC. 1003. REQUIREMENT TO TRANSFER FUNDING FOR UNITED NATIONS CONTRIBUTIONS TO OFFSET COSTS OF PROVIDING ASSISTANCE TO FAMILY CAREGIVERS OF DISABLED VETERANS.**

The Secretary of State shall transfer to the Secretary of Veterans Affairs, out of amounts appropriated or otherwise made available in a fiscal year for "Contributions to International Organizations" and "Contributions for International Peacekeeping Activities", such sums as the Secretaries jointly determine are necessary to carry out the provisions of this Act and the amendments made by this Act.

**SEC. 1004. MODIFICATION OF ELIGIBILITY FOR FAMILY CAREGIVER ASSISTANCE.**

(a) LIMITATION.—Section 1717A(b), as added by section 102 of this Act, is amended—

(1) in paragraph (1), by striking "and" at the end;

(2) in paragraph (2)(C), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(3) who, in the absence of personal care services, would require hospitalization, nursing home care, or other residential care.".

(b) EXPANSION.—Such section 1717A(b) is further amended, in paragraph (1), by striking "on or after September 11, 2001".

## NOTICE OF HEARING

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BINGAMAN. Mr. President, I would like to announce for the information of the Senate and the public that a hearing has been rescheduled before the Senate Committee on Energy and Natural Resources. The hearing will be held on Wednesday, December 2,

2009, at 10 a.m., in room SD-366 of the Dirksen Senate Office Building.

The purpose of this hearing is to receive testimony on policy options for reducing greenhouse gas emissions.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record may do so by sending it to the Committee on Energy and Natural Resources, United States Senate, Washington, D.C. 20510-6150, or by e-mail to Gina.Weinstock@energy.senate.gov

For further information, please contact Jonathan Black at (202) 224-6722 or Gina Weinstock at (202) 224-5684.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Ms. MIKULSKI. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition, and Forestry be authorized to meet during the session of the Senate on November 17, 2009, at 10:30 a.m., in room 562 of the Russell Senate Office Building.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Ms. MIKULSKI. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on November 17, 2009, at 3 p.m., to conduct a hearing entitled "Protecting Consumers From Abusive Overdraft Fees: The Fairness and Accountability in Receiving Overdraft Coverage Act."

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Ms. MIKULSKI. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet during the session of the Senate on November 17, 2009, at 2:30 p.m., in room 253 of the Russell Senate Office Building.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Ms. MIKULSKI. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on November 17, 2009, at 10 a.m., in room SD-366 of the Dirksen Senate Office Building.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Ms. MIKULSKI. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be author-

ized to meet during the session of the Senate on November 17, 2009, at 2:15 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Ms. MIKULSKI. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on November 17, 2009, at 3 p.m., to hold a hearing entitled "The U.S. and the G-20: Remaking the International Economic Architecture."

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

Ms. MIKULSKI. Mr. President, I ask unanimous consent that the Committee on Homeland Security and Governmental Affairs be authorized to meet during the session of the Senate on November 17, 2009, at 2:30 p.m., to conduct a hearing entitled "H1N1 Flu: Getting the Vaccine to Where It Is Most Needed."

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Ms. MIKULSKI. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on November 17, 2009, at 2:30 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON AFRICAN AFFAIRS

Ms. MIKULSKI. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on November 17, 2009, at 10:30 a.m., to hold a Subcommittee on African Affairs hearing entitled "Counterterrorism in the Trans-Sahel: Examining U.S. Strategy."

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON TERRORISM AND HOMELAND SECURITY

Ms. MIKULSKI. Mr. President, I ask unanimous consent that the Committee on the Judiciary, Sub Committee on Terrorism and Homeland Security, be authorized to meet during the session of the Senate, on November 17, 2009, at 10 a.m. in room SD-226 of the Dirksen Senate Office Building, to conduct a hearing entitled "Cybersecurity: Preventing Terrorist Attacks and Protecting Privacy in Cyberspace."

The PRESIDING OFFICER. Without objection, it is so ordered.

PRIVILEGES OF THE FLOOR

Mr. MERKLEY. Mr. President, I ask unanimous consent that a member of my team, Jeanne Atkins, be granted the privileges of the floor for the duration of the day.

The PRESIDING OFFICER. Without objection, it is so ordered.

## APPOINTMENT

The PRESIDING OFFICER. The Chair, on behalf of the majority leader, in consultation with the Republican leader, pursuant to Public Law 95-277, as amended by Public Law 102-246, appoints the following individuals as members of the Library of Congress Trust Fund Board for 5-year terms: Elaine Wynn of Nevada, vice Bernard Rapoport, and Tom Girardi of California, vice Leo Hindery.

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ORDERS FOR WEDNESDAY,  
NOVEMBER 18, 2009

Mrs. MURRAY. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 9:30 a.m., Wednesday, November 18; that following the prayer and pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day, and the Senate proceed to a period of morning business, with Senators permitted to speak for up to 10 minutes each, and that Senator ROCKEFELLER be recognized to speak; that following his remarks, there be a period of morning business for 2 hours, with the time equally divided and controlled between the two leaders or their designees, with the majority controlling the first hour and the Republicans controlling the next hour; that following morning business, the Senate proceed to executive session and resume consideration of the nomination of David Hamilton to be U.S. circuit judge for the Seventh Circuit. Finally, I ask that the postcloture time count during any adjournment, recess, or period of morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

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PROGRAM

Mrs. MURRAY. Mr. President, tomorrow the Senate will resume the postcloture debate time on the Hamilton nomination. If all time is used, the Senate would vote on confirmation of the nomination around 11 p.m. tomorrow.

ADJOURNMENT UNTIL 9:30 A.M.  
TOMORROW

Mrs. MURRAY. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that it adjourn under the previous order.

There being no objection, the Senate, at 6:24 p.m., adjourned until Wednesday, November 18, 2009, at 9:30 a.m.

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NOMINATIONS

Executive nominations received by the Senate:

## FEDERAL TRADE COMMISSION

JULIE SIMONE BRILL, OF VERMONT, TO BE A FEDERAL TRADE COMMISSIONER FOR THE TERM OF SEVEN YEARS FROM SEPTEMBER 26, 2009, VICE PAMELA HARBOUR, TERM EXPIRED.

EDITH RAMIREZ, OF CALIFORNIA, TO BE A FEDERAL TRADE COMMISSIONER FOR THE TERM OF SEVEN YEARS FROM SEPTEMBER 26, 2008, VICE DEBORAH P. MAJORAS, TERM EXPIRED.

## APPALACHIAN REGIONAL COMMISSION

EARL F. GOHL, JR., OF THE DISTRICT OF COLUMBIA, TO BE FEDERAL COCHAIRMAN OF THE APPALACHIAN REGIONAL COMMISSION, VICE ANNE B. POPE, RESIGNED.

## DEPARTMENT OF STATE

SCOTT H. DELISI, OF MINNESOTA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE FEDERAL DEMOCRATIC REPUBLIC OF NEPAL.

BEATRICE WILKINSON WELTERS, OF VIRGINIA, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF TRINIDAD AND TOBAGO.

## FOREIGN SERVICE

THE FOLLOWING-NAMED CAREER MEMBERS OF THE SENIOR FOREIGN SERVICE OF THE DEPARTMENT OF AGRICULTURE FOR PROMOTION WITHIN AND INTO THE SENIOR FOREIGN SERVICE TO THE CLASSES INDICATED: CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF CAREER MINISTER:

SUZANNE E. HEINEN, OF MICHIGAN

CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR:

HOLLY S. HIGGINS, OF IOWA

CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR:

BERNADETTE BORRIS, OF NEW JERSEY

## IN THE COAST GUARD

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES COAST GUARD RESERVE UNDER TITLE 10, U.S.C., SECTION 12203(A):

*To be captain*

ANDREW G. LISKE

## IN THE AIR FORCE

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

*To be lieutenant general*

MAJ. GEN. JANET C. WOLFENBARGER

THE FOLLOWING AIR NATIONAL GUARD OF THE UNITED STATES OFFICER FOR APPOINTMENT IN THE RESERVE

OF THE AIR FORCE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTIONS 12203 AND 12212:

*To be brigadier general*

COL. FRANK J. SULLIVAN

## IN THE NAVY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

*To be vice admiral*

REAR ADM. WILLIAM R. BURKE

## IN THE AIR FORCE

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE GRADE INDICATED IN THE RESERVE OF THE AIR FORCE UNDER TITLE 10, U.S.C., SECTION 12203(A):

*To be colonel*

ELISHA T. POWELL IV

## IN THE ARMY

THE FOLLOWING NAMED INDIVIDUAL TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTION 12203:

*To be colonel*

SCOTT E. MCNEIL

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTION 12203:

*To be colonel*

SCOTT E. ZIPPRICH

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTION 12203:

*To be colonel*

MARY B. MCQUARY

THE FOLLOWING NAMED ARMY NATIONAL GUARD OF THE UNITED STATES OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTIONS 12203 AND 12211:

*To be colonel*

MARVIN R. MANIBUSAN

BRENDA F. MASON

FRANCISCO J. NEUMAN

THE FOLLOWING NAMED ARMY NATIONAL GUARD OF THE UNITED STATES OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTIONS 12203 AND 12211:

*To be colonel*

PATRICK S. CALLENDER

JEFFREY A. MORTON

JOEL M. PULL

STEVEN L. SHUGART

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTION 12203:

*To be colonel*

MICHAEL A. BENNETT

BERNARD J. BERCIK

JOSEPH N. CROSSWHITE

ROBERTO D. DIBELLA

GREGORY C. FEWER

THOMAS A. GAUZA

STEVEN P. HESTER

WILLIAM R. HINTZE

PATRICK A. KEEN

JEFFREY D. RAEBER

RONALD D. RALLIS

PETER B. RIES

GARY M. SALADINO

KEVIN M. WALKER

## HOUSE OF REPRESENTATIVES—Tuesday, November 17, 2009

The House met at 10:30 a.m. and was called to order by the Speaker pro tempore (Mr. DRIEHAUS).

### DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,  
November 17, 2009.

I hereby appoint the Honorable STEVE DRIEHAUS to act as Speaker pro tempore on this day.

NANCY PELOSI,  
*Speaker of the House of Representatives.*

### MORNING-HOUR DEBATE

The SPEAKER pro tempore. Pursuant to the order of the House of January 6, 2009, the Chair will now recognize Members from lists submitted by the majority and minority leaders for morning-hour debate.

The Chair will alternate recognition between the parties, with each party limited to 30 minutes and each Member, other than the majority and minority leaders and the minority whip, limited to 5 minutes.

### HOUSEHOLD FOOD SECURITY IN THE UNITED STATES

The SPEAKER pro tempore. The Chair recognizes the gentleman from Massachusetts (Mr. MCGOVERN) for 5 minutes.

Mr. MCGOVERN. Mr. Speaker, yesterday the U.S. Department of Agriculture released the annual Household Food Security in the United States report for 2008. The findings of this report are nothing short of alarming and frightening. This report found the highest level of food insecurity since the study began in 1995. While just over 85 percent of U.S. households were food secure in 2008, the bad news, the frightening news, is that 14.6 percent, 17 million households, were food insecure in 2008. This means that at some point during 2008, these households “had difficulty providing enough food for all their members due to a lack of resources.”

According to the USDA, over 49 million people lived in those 17 million households. In other words, Mr. Speaker, according to this report, 49 million Americans went hungry in 2008. We should be ashamed of ourselves. In the richest, most prosperous nation in the world, a country where we have the

means to end hunger, a country where we have the food readily available, we continue to allow 49 million people to be hungry in this country. And if that weren't bad enough, food insecurity is likely to get worse, not better, next year.

Mr. Speaker, this report also found that 17 million children, more than one in five, went without food at some point during the year. That's an increase of 5 million children over the previous year. Even worse, the number of children living in very low food insecure households—the hungriest of the hungry—rose from 323,000 in 2007 to 506,000 in 2008. That means that almost 2 million children are among the hungriest of the hungry in America.

Race and gender are also factors. About 37 percent of single mothers struggled for food in 2008. And more disturbing, more than one in seven said that someone in their household had been hungry. The report found that African Americans and Hispanics were more than twice as likely as whites to report food insecurity at home.

Mr. Speaker, we can do better. We must do better. I want to thank President Obama and Secretary Vilsack for their dedication to combating hunger in America. Secretary Vilsack personally released this report yesterday, and President Obama released a statement, two actions that the previous administration declined to make. I don't say this to place blame, but rather to say that admitting there is a problem is the first step towards addressing that problem. President Obama has committed his administration to ending child hunger by 2015. That's something we can and should do. Continuing to raise awareness of this issue is critical, no matter how bad the statistics may be.

Mr. Speaker, we are fortunate to have in place a safety net system that prevents more people from going without food. Undoubtedly, even more Americans would go hungry if it weren't for SNAP—formerly known as food stamps—WIC, school and summer meals, and the other Federal anti-hunger programs.

Later this week, I will be introducing legislation that will expand these programs to better combat hunger in the United States. The End Childhood Hunger by 2015 Act will not only expand the purchasing power of SNAP, but it will increase the number of people who are eligible for these Federal anti-hunger programs. For example, under this bill, every child who goes to school, re-

gardless of income, will receive a quality, nutritious breakfast and lunch. We know that children learn better and develop properly when they eat nutritious meals. Unfortunately, many children don't have access to nutritious meals either at home or at school. We provide textbooks for all children. Why shouldn't we provide at least two nutritious meals too?

Now is the time for us to refocus our energy on ending hunger once and for all, and it will require Presidential leadership. I introduced legislation calling for a White House Conference on Food and Nutrition. I will be working with Speaker PELOSI, Chairman PETERSON and Chairman MILLER to pass this important legislation, and I encourage my colleagues to cosponsor H.R. 2297.

Mr. Speaker, we may not be able to end all war and disease in our lifetimes, but we can end hunger if we muster the political will to do so. This report should be a rallying point report for Congress and the administration. While this Congress focuses on the Nation's economic recovery and job creation, we must not forget about those who are going without food. Let's commit ourselves once and for all to ending hunger as we know it in America.

I would like to insert into the RECORD the statement by President Obama and news articles from The New York Times and Washington Post on the release of this report.

THE WHITE HOUSE,  
OFFICE OF THE PRESS SECRETARY,  
Washington, DC, November 16, 2009.

### STATEMENT BY THE PRESIDENT ON THE RELEASE OF THE ANNUAL HOUSEHOLD FOOD SECURITY REPORT

As American families prepare to gather for Thanksgiving, we received an unsettling report from the U.S. Department of Agriculture that found that hunger rose significantly last year. This trend was already painfully clear in many communities across our nation, where food stamp applications are surging and food pantry shelves are emptying.

It is particularly troubling that there were more than 500,000 families in which a child experienced hunger multiple times over the course of the year. Our children's ability to grow, learn, and meet their full potential—and therefore our future competitiveness as a nation—depends on regular access to healthy meals.

My Administration is committed to reversing the trend of rising hunger. The first task is to restore job growth, which will help relieve the economic pressures that make it difficult for parents to put a square meal on the table each day. But we are also taking

□ This symbol represents the time of day during the House proceedings, e.g., □ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.



targeted steps to prevent Americans from experiencing hunger. Earlier this year, we extended help to those hit hardest by this economic downturn by boosting SNAP benefits. And Secretary Vilsack is working hard to make sure eligible families are able to access those benefits as well as the School Lunch and Breakfast Program. In addition, a bill I signed into law last month invests \$85 million in new strategies to prevent children from experiencing hunger in the summer.

Hunger is a problem that we can solve together, and I look forward to working with Congress to pass a strong child nutrition bill that will help children get the healthy meals they need to grow and succeed—and help keep America competitive in the decades to come.

The full USDA Household Food Security report can be viewed here: [www.ers.usda.gov/features/householdfoodsecurity/](http://www.ers.usda.gov/features/householdfoodsecurity/)

[From the New York Times, Nov. 17, 2009]

#### HUNGER IN U.S. AT A 14-YEAR HIGH

(By Jason DeParle)

WASHINGTON—The number of Americans who lived in households that lacked consistent access to adequate food soared last year, to 49 million, the highest since the government began tracking what it calls “food insecurity” 14 years ago, the Department of Agriculture reported Monday.

The increase, of 13 million Americans, was much larger than even the most pessimistic observers of hunger trends had expected and cast an alarming light on the daily hardships caused by the recession’s punishing effect on jobs and wages.

About a third of these struggling households had what the researchers called “very low food security,” meaning lack of money forced members to skip meals, cut portions or otherwise forgo food at some point in the year.

The other two-thirds typically had enough to eat, but only by eating cheaper or less varied foods, relying on government aid like food stamps, or visiting food pantries and soup kitchens.

“These numbers are a wake-up call for the country,” said Agriculture Secretary Tom Vilsack.

One figure that drew officials’ attention was the number of households, 506,000, in which children faced “very low food security”: up from 323,000 the previous year. President Obama, who has pledged to end childhood hunger by 2015, released a statement while traveling in Asia that called the finding “particularly troubling.”

The ungainly phrase “food insecurity” stems from years of political and academic wrangling over how to measure adequate access to food. In the 1980s, when officials of the Reagan administration denied there was hunger in the United States, the Food Research and Action Center, a Washington advocacy group, began a survey that concluded otherwise. Over time, Congress had the Agriculture Department oversee a similar survey, which the Census Bureau administers.

Though researchers at the Agriculture Department do not use the word “hunger,” Mr. Obama did. “Hunger rose significantly last year,” he said.

Analysts said the main reason for the growth was the rise in the unemployment rate, to 7.2 percent at the end of 2008 from 4.9 percent a year earlier. And since it now stands at 10.2 percent, the survey might in fact understate the number of Americans struggling to get adequate food.

Rising food prices, too, might have played a role.

The food stamp rolls have expanded to record levels, with 36 million Americans now collecting aid, an increase of nearly 40 percent from two years ago. And the American Recovery and Reinvestment Act, passed last winter, raised the average monthly food stamp benefit per person by about 17 percent, to \$133. Many states have made it easier for those eligible to apply, but rising applications and staffing cuts have also brought long delays.

Problems gaining access to food were highest in households with children headed by single mothers. About 37 percent of them reported some form of food insecurity compared with 14 percent of married households with children. About 29 percent of Hispanic households reported food insecurity, compared with 27 percent of black households and 12 percent of white households. Serious problems were most prevalent in the South, followed equally by the West and Midwest.

Some conservatives have attacked the survey’s methodology, saying it is hard to define what it measures. The 18-item questionnaire asks about skipped meals and hunger pangs, but also whether people had worries about getting food. It ranks the severity of their condition by the number of answers that indicate a problem.

“Very few of these people are hungry,” said Robert Rector, an analyst at the conservative Heritage Foundation. “When they lose jobs, they constrain the kind of food they buy. That is regrettable, but it’s a far cry from a hunger crisis.”

The report measures the number of households that experienced problems at any point in the year. Only a “small fraction” were facing the problem at a given moment. Among those with “very low food security,” for instance, most experienced the condition for several days in each of seven or eight months.

James Weill, the director of the food center that pioneered the report, called it a careful look at an underappreciated condition. “Many people are outright hungry, skipping meals,” he said. “Others say they have enough to eat but only because they’re going to food pantries or using food stamps. We describe it as ‘households struggling with hunger.’”

[From The Washington Post, Nov. 17, 2009]

#### AMERICA'S ECONOMIC PAIN BRINGS HUNGER PANGS

(By Amy Goldstein)

The nation’s economic crisis has catapulted the number of Americans who lack enough food to the highest level since the government has been keeping track, according to a new federal report, which shows that nearly 50 million people—including almost one child in four—struggled last year to get enough to eat.

At a time when rising poverty, widespread unemployment and other effects of the recession have been well documented, the report released Monday by the U.S. Department of Agriculture provides the government’s first detailed portrait of the toll that the faltering economy has taken on Americans’ access to food.

The magnitude of the increase in food shortages—and, in some cases, outright hunger—identified in the report startled even the nation’s leading anti-poverty advocates, who have grown accustomed to longer lines lately at food banks and soup kitchens. The findings also intensify pressure on the White House to fulfill a pledge to stamp out childhood hunger made by President Obama, who called the report “unsettling.”

The data show that dependable access to adequate food has especially deteriorated among families with children. In 2008, nearly 17 million children, or 22.5 percent, lived in households in which food at times was scarce—4 million children more than the year before. And the number of youngsters who sometimes were outright hungry rose from nearly 700,000 to almost 1.1 million.

Among Americans of all ages, more than 16 percent—or 49 million people—sometimes ran short of nutritious food, compared with about 12 percent the year before. The deterioration in access to food during 2008 among both children and adults far eclipses that of any other single year in the report’s history.

Around the Washington area, the data show, the extent of food shortages varies significantly. In the past three years, an average of 12.4 percent of households in the District had at least some problems getting enough food, slightly worse than the national average. In Maryland, the average was 9.6 percent, and in Virginia it was 8.6 percent.

The local and national findings are from a snapshot of food in the United States that the Agriculture Department has issued every year since 1995, based on Census Bureau surveys. It documents Americans who lack a dependable supply of adequate food—people living with some amount of “food insecurity” in the lexicon of experts—and those whose food shortages are so severe that they are hungry. The new report is based on a survey conducted in December.

Several independent advocates and policy experts on hunger said that they had been bracing for the latest report to show deepening shortages, but that they were nevertheless astonished by how much the problem has worsened. “This is unthinkable. It’s like we are living in a Third World country,” said Vicki Escarra, president of Feeding America, the largest organization representing food banks and other emergency food sources.

“It’s frankly just deeply upsetting,” said James D. Weill, president of the Washington-based Food and Action Center. As the economy eroded, Weill said, “you had more and more people getting pushed closer to the cliffs edge. Then this huge storm came along and pushed them over.”

Obama, who pledged during last year’s presidential campaign to eliminate hunger among children by 2015, reiterated that goal on Monday. “My Administration is committed to reversing the trend of rising hunger,” the president said in a statement. The solution begins with job creation, Obama said. And he ticked off steps that Congress and the administration have taken, or are planning, including increases in food stamp benefits and \$85 million Congress just freed up through an appropriations bill to experiment with feeding more children during the summer, when subsidized school breakfasts and lunches are unavailable.

In a briefing for reporters, Agriculture Secretary Tom Vilsack said, “These numbers are a wake-up call . . . for us to get very serious about food security and hunger, about nutrition and food safety in this country.”

Vilsack attributed the marked worsening in Americans’ access to food primarily to the rise in unemployment, which now exceeds 10 percent, and in people who are underemployed. He acknowledged that “there could be additional increases” in the 2009 figures, due out a year from now, although he said it is not yet clear how much the problem might be eased by the measures the administration and Congress have taken this year to stimulate the economy.

The report's main author at USDA, Mark Nord, noted that other recent research by the agency has found that most families in which food is scarce contain at least one adult with a full-time job, suggesting that the problem lies at least partly in wages, not entirely an absence of work.

The report suggests that federal food assistance programs are only partly fulfilling their purpose, although Vilsack said that shortages would be much worse without them. Just more than half of the people surveyed who reported they had food shortages said that they had, in the previous month, participated in one of the government's largest anti-hunger and nutrition programs: food stamps, subsidized school lunches or WIC, the nutrition program for women with babies or young children.

Last year, people in 4.8 million households used private food pantries, compared with 3.9 million in 2007, while people in about 625,000 households resorted to soup kitchens, nearly 90,000 more than the year before.

Food shortages, the report shows, are particularly pronounced among women raising children alone. Last year, more than one in three single mothers reported that they struggled for food, and more than one in seven said that someone in their home had been hungry—far eclipsing the food problem in any other kind of household. The report also found that people who are black or Hispanic were more than twice as likely as whites to report that food in their home was scarce.

In the survey used to measure food shortages, people were considered to have food insecurity if they answered "yes" to several of a series of questions. Among the questions were whether, in the past year, their food sometimes ran out before they had money to buy more, whether they could not afford to eat nutritionally balanced meals, and whether adults in the family sometimes cut the size of their meals—or skipped them—because they lacked money for food. The report defined the degree of their food insecurity by the number of the questions to which they answered yes.

#### ANIMAL WELFARE IS IMPORTANT FOR THE ENTIRE NATION

The SPEAKER pro tempore. The Chair recognizes the gentleman from Oregon (Mr. BLUMENAUER) for 5 minutes.

Mr. BLUMENAUER. Mr. Speaker, it seems the issues that face Congress fall into two categories: the issues that are so great, so expensive, so contentious, so complex that they seem almost beyond our ability to influence—war and peace, the economy, climate change and, more recently, health care—too big and too controversial for effective, quick, meaningful congressional action. The other category seems to be the simple and the mundane, almost too routine—housekeeping, like renaming

a post office. The truth is, we pursue both because they're an important part of our job and are important to the American public. We're not going to give up on the big issues of the day no matter how complex, controversial and frustrating because, after all, they are the big issues of the day. That's why we're

here when even modest impact can have a huge ripple effect on lives around the world, the safety of Americans, protecting the public Treasury and our soldiers. A post office may seem mundane and trivial to some, but to the family of that fallen hero and community, it's very important indeed, as it is to all Americans who honor and respect that sacrifice. There is a reason for these items, low cost but high impact. Then there are vast numbers of issues that are sort of in between. Animal welfare is often put in that category, seemingly at times unimportant or trivial, tangential—except, of course, when it has a devastating impact on human health, safety and environmental balance.

I was recently touring the Everglades with my colleague DEBBIE WASSERMAN SCHULTZ. Part of the briefing materials dealt with the problem of up to 100,000 pythons that started out as pets or exotic curiosities and ended up in that environment. Pets, farm animals, even whole alligators have been attacked and ingested. Earlier this summer, an infant in its crib was strangled by a python. Too expensive? Secondary? What's the price of that baby's life? And how much are we going to try to spend to reclaim the Everglade habitat from tens of thousands of pythons that have been described as the most lethal killing machine ever?

Earlier this year, I had legislation that overwhelmingly passed this House to ban the interstate transport of primates. It had been derided by one of my colleagues as a "monkey bite bill," ironically at just the same time a woman in Connecticut had her face ripped off by a neighbor's pet chimpanzee. I don't use that term metaphorically. Her face was literally ripped off. Indeed, Mr. Speaker, the woman who was so horribly disfigured had the courage to take her story and her mangled face to the public on The Oprah Winfrey Show this week. I simply cannot bring myself to display the picture on the floor of the House, but millions of viewers saw the tragic evidence for themselves.

It's too late for this woman and her family, but it's not too late for the other body to act so that we can make events like this less likely. It's a symbol of the dysfunctionality of the other body that one Member—ironically a doctor, of all people—has put a hold on this legislation, refusing to allow the Senate to even consider it, and inexplicably, the other body goes along. The reason, we're told, is cost. The Senator is concerned about cost. Well, what is the cost to a woman whose eyes were torn out of her head so she couldn't see her daughter on prom night? What is the cost of the unbelievable reconstructive surgery, taking flesh from her leg to try to replace part of the missing face?

Mr. Speaker, animal welfare is about much more than concern for God's

creatures. It's about human welfare. It's about environmental balance. And yes, to the good doctor from Oklahoma, it's about saving money.

The millions of Americans who watched The Oprah Winfrey Show saw the tragic case and its consequences. They should ask themselves why their Senators are not speaking out, why the other body is not passing this simple bill that can have such significant consequences. It may not change the world, but if it prevents just a few cases like this, it will be another example of simple legislation that we cannot afford not to pass.

#### SUPPORT FOR THE AFFORDABLE HEALTH CARE FOR AMERICA ACT

The SPEAKER pro tempore. The Chair recognizes the gentleman from Virginia (Mr. CONNOLLY) for 5 minutes.

Mr. CONNOLLY of Virginia. I rise today to commend those who have endeavored to improve the provision of quality, affordable health care for all Americans and to refute those who use scare tactics to derail essential health insurance reform.

During the more than 12 hours of debate on the House floor on November 7, we heard a number of speeches from some forecasting various doom and gloom scenarios. Some of the material focused more on scaring the American public than on presenting actual facts. We heard preposterous stories of death panels and prisons, denial of care and dramatic cuts in services, but the purveyors of fear ignored the hundreds of groups across the Nation that saw through the scare tactics and who support responsible health insurance reform. Those groups aren't driven by partisan ideology. They're focused on the well-being of their members. I would like to highlight just a few.

The scare tactic said this bill will harm seniors. In actuality, the Affordable Health Care for America Act will help seniors by closing the Medicare part D prescription drug loophole that currently causes many seniors to pay thousands of dollars out of pocket, and it will help keep Medicare solvent and able to continue paying benefits well into the future. Without reform, Medicare part A will be insolvent by 2017. If we do nothing, Medicare hospital reimbursements will be cut by 2017. Without reform, premiums for Medicare part D doctor reimbursements are projected to increase an average of 8.5 percent every year through 2013. That's why the National Committee to Preserve Social Security and Medicare supports this bill. The Alliance for Retired Americans and the Center for Medicare Advocacy both support this bill. The National Council on Aging and the Medicare Rights Center both support this bill, as does the AARP.

The scare tactic said this bill would harm the ability of caregivers to provide lifesaving care. In actuality, doctors and medical providers know that this bill will preserve their ability to properly treat their patients and be fairly compensated. That's why the American Academy of Family Physicians and the Federation of American Hospitals support this bill. The American Academy of Physicians Assistants and the American College of Surgeons support this bill. The American Nurses Association and the American College of Physicians support this bill. And the American Medical Association supports this bill.

The scare tactic says this bill will deny care to those with life-threatening conditions, like cancer. In actuality, the Affordable Health Care for America Act will safeguard those with previous existing medical conditions and those in need of lifesaving procedures. That's why the American Heart Association and the American Stroke Association support this bill. The American Cancer Society's Cancer Action Network and the American Diabetes Association both support this bill. The Consortium for Citizens With Disabilities and the National Alliance on Mental Illness both support this bill. The National Breast Cancer Coalition and the Depression and Bipolar Support Alliance both support this bill, and the Paralyzed Veterans of America support this bill.

The scare tactic said this will wreck the economy. In actuality, this bill will help businesses—especially small businesses—control the spiraling cost of health care in America. Mr. Speaker, the Business Roundtable recently released a report that found that without reform, by 2019, employer-based health insurance payments will rise 166 percent. Without reform, those dramatic cost increases will endanger the economy, leaving employers and employees facing the untenable option of dropping coverage or laying off employees. The Business Roundtable's report found that the legislative reforms in the current health insurance bills could reduce employer costs by \$3,000 per employee by 2019. That's why the Main Street Alliance supports the Affordable Health Care for America Act. The National Farmers Union supports the bill. The U.S. Women's Chamber of Commerce supports the bill, as does the Small Business Majority.

The scare tactics said that the American people would suffer. In actuality, consumer advocacy groups know that this bill will provide Americans with their choice of affordable health care options. That's why the Consumers Union supports it, the Consumer Health Coalition supports it, and the National Patient Advocate Foundation supports it.

Mr. Speaker, there are hundreds more State and national organizations

that refused to fall prey to diversionary scare tactics and supported this ground-breaking legislation on health care. The focus on these individual groups is disparate, but they share a common agenda with the majority of Americans and the majority of this House: Delivery now on the long overdue need for responsible health insurance reform.

□ 1045

#### WE CAN DO BETTER

The SPEAKER pro tempore. The Chair recognizes the gentleman from Oregon (Mr. DEFAZIO) for 5 minutes.

Mr. DEFAZIO. Too many Americans are out of work. The stimulus certainly preserved some public sector jobs and was of benefit to public education and filled in some other gaps. But the rest of the spending has not been of great impact, particularly the \$340 billion in tax cuts insisted upon by three Republican Senators. And unfortunately, the Obama administration, at the urging of its chief economist, Larry Summers, caved in to those demands for yet more ineffective tax cuts, something that failed miserably during the Bush era to put the economy back on track, and failed again.

If you don't have a job, a tax cut doesn't do you much good and doesn't put you back to work, does it? So it's time for a new approach, considered, unfortunately by some, old school. That would be rebuilding the infrastructure of America.

According to the American Society of Civil Engineers, we have a \$2.2 trillion infrastructure deficit in this country. One hundred sixty thousand bridges on the Federal highway system are either load-limited or functionally obsolete. Our transit agencies across America have an \$80 billion backlog.

Now, the chief economist for the President, Mr. Larry Summers, an academic, doesn't think that infrastructure investment's a good thing. He cut it back in the stimulus last spring. But you know, actually, the 4 percent of that huge bill that went to infrastructure created 25 percent of the jobs. So perhaps Mr. Summers was wrong yet again, like he was when he prevented the Clinton administration from regulating derivatives, which caused our world collapse of the economy.

But he thinks that infrastructure takes too long to spend out. What he doesn't understand is, when you have a massive backlog, you have projects that can be put on the ground or to work immediately.

I'll use an example that's kind of close to home for the President. The Chicago Transit Authority, they have a \$6.8 billion backlog in their transit system. They testified before my committee that they could spend \$500 million tomorrow, tomorrow, produc-

tively, bringing that system back toward a state of good repair. It would still take another \$6.5 billion, \$6.3 billion, and it would take quite some time.

Now, they got out of the stimulus \$240.2 million for their transit backlog. They spent that money productively in 30 days. They bought buses. Guess what? You buy a bus, people who make buses have jobs. People who make parts for the buses have jobs. We have a "Buy America" rule. Those jobs are actually here in the United States of America, and then those people work and they pay taxes and there's revenues to the government; sort of a good old-fashioned way of stimulating the economy and helping the deficit. Unfortunately, the President's chief economist doesn't believe in this. It's time for him to reorient his thinking.

We need a massive investment in our infrastructure. It is so degraded that we have projects ready to go all across the country in transit districts, in States with bridge replacement. These aren't things that require five to 10 years of planning and a long spend-out and those things that those ethereal academic economists think about when they think about transportation infrastructure.

No, when you're in deficit, like the United States of America is today, when you're headed toward a Third World transportation infrastructure, while our competitors like China are spending hundreds of billions of dollars for high speed rail, what are we doing? We're struggling to keep Amtrak running at 19th century speeds. That's kind of pathetic.

We can do better. But it will take a commitment, a push by the White House, a reorientation in the thinking down there, or perhaps ignoring some bad advice they're getting, and have the President champion the creation of jobs and the rebuilding of our infrastructure. And you know, we can do this a way that actually wouldn't have to add to the deficit.

They've done a great job of bailing out Wall Street. Goldman Sachs is going to be paying bonuses that average \$700,000 this year. Whoa, good times are here again, except not for an America that is suffering very high unemployment. So maybe it's time that Wall Street just gave back a little bit. We could reinstitute a tax we had from 1916 to 1966, a modest transaction tax. Congress, in the last Great Depression, they had the guts to actually double that tax. Disaster was predicted on Wall Street. Guess what? The economy only went up from there, and tens of thousands, hundreds of thousands of people were put to work building a new America, an infrastructure that needs rebuilding today.

## RECESS

The SPEAKER pro tempore. Pursuant to clause 12(a) of rule I, the Chair declares the House in recess until noon today.

Accordingly (at 10 o'clock and 51 minutes a.m.), the House stood in recess until noon.

□ 1200

## AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. BLUMENAUER) at noon.

## PRAYER

The Chaplain, the Reverend Daniel P. Coughlin, offered the following prayer:

Lord, some days we do not know how to pray. What are the greatest needs of the Nation? Who needs Your attention? To whom should we individually offer our slippery dollar?

You alone know our personal needs. You see the depths I dare not confess to another. My most severe wounds are buried in my own fear. The whole truth is difficult for us to face, humanly, so we will live another day on the margins.

Lord, help Congress to do what it is able to do. Anything more would be fictitious. You alone know us through and through. So, by placing all our trust in You, we can now work as hard as we can and rest in peace.

Amen.

## THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Ms. ROS-LEHTINEN. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The SPEAKER pro tempore. The question is on the Speaker's approval of the Journal.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Ms. ROS-LEHTINEN. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 8, rule XX, further proceedings on this question will be postponed.

The point of no quorum is considered withdrawn.

## PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from North Carolina (Mr.

COBLE) come forward and lead the House in the Pledge of Allegiance.

Mr. COBLE led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

## CONGRATULATING EMBRY RIDDLE UNIVERSITY

(Mrs. KIRKPATRICK of Arizona asked and was given permission to address the House for 1 minute.)

Mrs. KIRKPATRICK of Arizona. Mr. Speaker, on November 5, Embry Riddle University held their annual symposium dedicated to issues in homeland security on its Prescott, Arizona, campus. Unfortunately, the House held votes that day and I could not attend, but I heard that it was a fantastic event.

This year's theme was "Challenges for Homeland Security in the 21st Century," and panelists came from the FBI, the CIA, and TSA, the Arizona Department of Public Safety, and from the world of academia, among other places. Topics covered a wide range of issues, such as cybersecurity, public-private partnerships, and coordination between Federal, State, and local law enforcement.

I congratulate the faculty and administration of the Embry Riddle Prescott campus for putting together the event and working to develop a new generation of homeland security professionals.

## FIREFIGHTERS

(Ms. ROS-LEHTINEN asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. ROS-LEHTINEN. I rise today to commend some of our country's finest heroes—our firefighters. These caring individuals at our local fire departments in the Florida Keys and Miami-Dade are first-rate examples of the selflessness and commitment required to be a firefighter. Every day, these brave folks work to better protect and care for our communities. Their outstanding work allows all of us to live with a greater peace of mind for the safety of our families.

The Miami-Dade Fire Rescue motto is: "Always Ready, Proud to Serve." Recently, they were named Florida's 2009 EMS Provider of the Year. My heartfelt congratulations go out to each of these remarkable heroes who made this distinction possible.

A bit further south in my district, in the Florida Keys, the Monroe County firefighters just opened up their new facility in Big Pine Key. This newly renovated fire station will help them better serve the needs of our community.

I truly appreciate the hard work and dedication of all of our firefighters. Their professional and humanitarian services are essential to the public health, safety, and well-being of all south Florida. Congratulations to all.

## PUTTING PATIENTS' NEEDS FIRST

(Mr. WALZ asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WALZ. I'm here today to applaud this House for fighting for working Americans by last weekend passing comprehensive welfare reform. I want to recognize this legislation takes a huge step forward in addressing the issue of paying for value in our health care system.

The current payment system rewards volume and quantity of care rather than quality of care. We spend hundreds of billions of dollars every year on unnecessary tests and procedures that do not improve a patient's health. We need to change the incentive system. We need doctors and hospitals to work together to coordinate care, putting the patients' needs first.

In my district of southern Minnesota, the Mayo Clinic has created such a culture where doctors coordinate and look for the best quality results. There are other institutions around the country who also provide high-quality, efficient care at low costs. These organizations all do it differently, but the one thing they have in common is a culture of patient-centered care.

This culture needs to be replicated in every hospital across the country, and the way we get there is by changing the incentive system. I'm very proud that the provisions in this bill will address this very issue. If we're to reform any part of health care this year, this is the key.

## PROGRESSIVE BUT NOT PARTISAN?

(Mr. COBLE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COBLE. Mr. Speaker, much has been spoken and written about the White House snub of Fox News. We have heard little, however, about MSNBC. Anita Dunn, the departing White House Communications Director, was quoted in a recent New York Times article claiming that Rachel Maddow and Keith Olbermann, MSNBC hosts, are "progressive but not partisan." Well, they surely fooled me.

Some may agree with Ms. Dunn by concluding that these two are not merely partisan, but rather fiercely partisan, and Ms. Dunn insults our intelligence by claiming otherwise.

### BRINGING DOWN HEALTH CARE COSTS

(Mr. YARMUTH asked and was given permission to address the House for 1 minute.)

Mr. YARMUTH. Mr. Speaker, critics of the Affordable Health Care for America Act have said we're not doing enough to control costs. In fact, a great deal of what we have done in this legislation is aimed at reducing costs in the system—not just costs to Medicare and Medicaid, but also to the private system as well.

For instance, one of the things we do is move toward standardized forms, standardized billing forms. One estimate is that this could save the system \$30 billion a year. That's just one of the things that we put into motion to try and change the cost structure of health care in this country.

As my colleague from Minnesota mentioned, we're talking about changing the way we pay physicians so that we pay for the quality of care and not the quantity of care. In addition, we move to reduce readmissions to hospitals, because this is one of the greatest factors in high medical care costs.

Time after time in this bill, from comparative effectiveness research to investments in health care information technology, we do things that will bring costs down in health care, and that is our commitment to the American people. We will bring down costs and make health care affordable for every American.

### GREAT LAKES GITMO?

(Mr. KIRK asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KIRK. Recently, the administration announced it may move up to 215 al Qaeda terrorists to Illinois. This proposal imposes an unnecessary new risk. We should slow it down and answer some basic questions.

The facility is only 22 miles from a nuclear reactor. What precautions are being taken? Commissions will be held in Illinois. How do we protect the families of jurors and prosecutors?

Since the facility will replicate Gitmo's military administration, how will Great Lakes Gitmo improve American PR?

Yesterday, we learned that two-thirds of the jobs claimed to be created will be active duty military. The Bureau of Prisons will hire no one over 37 years old and will hire nationwide, not just in Illinois.

It's ironic that the administration promised \$200 million to Palau to accept six terrorists—\$33 million a terrorist. But for 215 terrorists, Illinois would only get \$120 million—\$500,000 a terrorist. That's 66 times less than the rate paid to Palau.

The people of Illinois deserve to know a lot more about this proposal and how it would affect our safety.

### WHAT'S IN IT FOR SMALL BUSINESSES?

(Ms. WATSON asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. WATSON. Mr. Speaker, I am so proud of this House for getting the health reform bill out. And what is in it for small business? No entity fares better under reform than small business. That's because the current health insurance system is rigged against small business, which now faces fewer choices, higher costs and, as a consequence, less stable coverage for their workers.

Health insurance reform will level the playing field and provide more stability and security to small business. Small business then will be able to cover all of their employees. It's all about jobs, and the reform will lead towards jobs.

### ADMINISTRATION DITHERS ON AFGHANISTAN

(Mr. WILSON of South Carolina asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WILSON of South Carolina. Back in March, the President made it clear we need a comprehensive approach to secure stability in Afghanistan. He stated that the safety of people around the world is at stake. I issued a statement in support. General McChrystal has requested more troops and resources in Afghanistan to do just that, but this administration continues to dither.

Several weeks ago, former Vice President Dick Cheney used the term "dithering" to describe the President's indecision. I agreed with the former Vice President because "dithering" means to hesitate and waste time.

In the Los Angeles Times on Saturday, Doyle McManus highlighted that now some of the President's own supporters are beginning to wonder whether Cheney was right. For the sake of American families at home, Congress and the President should not dither, but listen to the commanders in the field.

In conclusion, God bless our troops, and we will never forget September the 11th in the global war on terrorism.

### SUCCESSFUL HEALTH CARE PROGRAM

(Mr. COURTNEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COURTNEY. Mr. Speaker, yesterday, AARP, an organization of 40 million Americans over the age of 50, announced the results of a poll regarding the Affordable Health Care for America Act. It found that by a two-to-one margin AARP supports this bill. And what's not to support?

This is a bill, for those who care about Medicare, which will close the doughnut hole, the infamous 100 percent deductible for seniors who are paying for the part D benefit that doesn't pay benefits after hitting \$2,300 in care. It eliminates copayments for preventive services, cancer screenings. But, most importantly, the actuaries for the Center for Medicare Services found on Friday that it extends the solvency of the Medicare trust fund by 5 years. So instead of going in a negative direction, we are strengthening the Medicare trust fund, which will ensure that Americans will have one of the most successful health programs ever created—Medicare for themselves, their children, and their grandchildren.

AARP, the American Heart Association, the American Cancer Society all support this bill, and the Senate should do the same and pass this measure and send it to President Obama for his signature.

### CMS REPORT

(Mr. PITTS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PITTS. Mr. Speaker, just a week after the House passed Speaker PELOSI's health care reform bill, we've received a report from the Centers for Medicare and Medicaid Services showing what this bill will do to health care in America. If this bill were to become law, health care costs would increase by \$289 billion over the next 10 years. Rising costs are devastating families and businesses, but this trillion-dollar health care bill does nothing to stem the flood.

The same CMS report shows that proposed cuts to Medicare would reduce benefits for seniors. The \$571 billion in cuts could cause many doctors and hospitals to stop taking Medicare patients, leading to lines for service and degraded care. Further cuts to the program mean a greater burden on private insurance, a higher rate for businesses and individuals, higher costs, more government control, more taxes, and less competition.

Here we have more evidence that Speaker PELOSI's bill is the wrong kind of health care reform.

□ 1215

### HOLDING WALL STREET ACCOUNTABLE

(Mr. CARNAHAN asked and was given permission to address the House

for 1 minute and to revise and extend his remarks.)

Mr. CARNAHAN. Policies of poor regulation and lax oversight of our financial system came to a head 1 year ago, greatly contributing to the worst financial crisis this country has experienced since the Great Depression. Over the past year, we have made tough choices and taken firm steps to bring our economy back from the brink, but there is still much more work to do on the path to recovery, including enacting comprehensive reform on how Wall Street works, to protect Main Street and American families.

As we move forward, we must hold Wall Street accountable by making commonsense reforms to our financial regulatory system that will help prevent such a crisis from ever happening again. As we rebuild our economy, we must assure Wall Street can't take risks that jeopardize the whole economy: businesses, large and small, and family budgets, savings and retirements.

Financial regulatory reform will put procedures in place to make sure taxpayers will never again have to bail out too-big-to-fail institutions who take on irresponsible risk. It also restores accountability and transparency so that the problems are recognized and fixed before they threaten the entire economy as well as outlaw many of the egregious practices that led to the worst financial crisis in decades.

#### LIEUTENANT COLONEL RAYMOND ERIC JONES, A MEMBER OF THE GREATEST GENERATION

(Mr. POE of Texas asked and was given permission to address the House for 1 minute.)

Mr. POE of Texas. Mr. Speaker, Raymond Eric Jones got married at the tender age of 19 to Lucille, and then he was off to serve his country 2 years later in the great World War II. Raymond flew B-17s over Germany, including bombing Normandy to prepare for the D-day invasion. In 1944, before his 25th mission, he was informed that upon completion of that mission, he would be taken back home to America as a hero and do public relations for the Air Force.

But that was not meant to be. His B-17 on that 25th mission was shot up and quickly crashed in a German field. Four members died on impact. Even though he was wounded, Lieutenant Colonel Jones pulled the remaining two from the wreckage, and he would remain in a German prisoner of war camp for the next 11 months. Fifty-eight years later, Lieutenant Colonel Jones received the distinguished Flying Cross for saving his two crew members. He has also received the Purple Heart, the Air Medal with six oak leaf clusters, the POW medal and the Presidential Unit Citation.

Monday, in the presence of his family, Taps will be played at Arlington National Cemetery, where Lieutenant Colonel Raymond Jones will be buried with full military honors, another member of the Greatest Generation who made America proud. Amazing breed—a rare breed, these World War II veterans.

And that's just the way it is.

#### HEALTH CARE FOR CHILDREN

(Mr. GENE GREEN of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GENE GREEN of Texas. Mr. Speaker, Members, recently this House passed by 220-215 the historic health care reform bill, H.R. 3962, the Affordable Health Care for America Act. This legislation will have profound impact on the uninsured children in our country. In 2008, an estimated 64.1 percent of all children in the Nation had private coverage, 28.3 percent had public coverage, and 9.9 percent were uninsured.

But in Texas, we have 1.5 million children uninsured, giving us the distinction of having the highest number of uninsured children in the country. This is largely due to the State's refusal to fund State matching funds for the Children's Health Insurance Program, or CHIP. In 2008, 26.8 percent of the children in our district were uninsured, the third highest for uninsured children in the Nation.

H.R. 3962 provides sliding scale subsidies to families with incomes of up to 400 percent of the poverty line, which would not be dependent upon State budget decisions, as in the case of SCHIP. Funding for the affordability credits would not be capped and would rise automatically when needed.

We have an obligation to provide health benefits to our children and H.R. 3962 will ensure that all plans provide an essential benefits package that includes comprehensive benefits such as vision, hearing and dental care for children as well as well-baby and well-child care.

#### WHERE ARE THE JOBS?

(Mr. REHBERG asked and was given permission to address the House for 1 minute.)

Mr. REHBERG. When Congress passed the trillion-dollar so-called stimulus, the national unemployment rate was 7.6 percent. Some politicians warned that without the stimulus, unemployment could pass 8 percent. This month, unemployment blew past 10 percent; and like you, I am wondering where the jobs are.

In the infinite wisdom of the government, \$18 million was spent on a Web site to track jobs. The just-released job figures for Montana are listed by con-

gressional district. Montana, of course, has only one district. Yet the Federal Government spent \$372,000 to create one single job in Montana's nonexistent 8th Congressional District. Our imaginary 16th Congressional District did better, with 32.5 jobs. Only a bureaucrat would count half a job in a district that does not exist. The government spent \$1 trillion to save and create jobs, and the opposite has happened. Millions more Americans have lost their jobs, and now they want to fix health care like they've fixed the economy.

#### CLEAN ENERGY JOBS FOR NEVADA

(Ms. TITUS asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. TITUS. Mr. Speaker, for far too long Nevada's economy has primarily been dependent on gaming and mining for job creation. Now it's time to diversify and take action to create clean energy jobs in Nevada, the sunniest State in the country with abundant geothermal and wind resources. We need jobs in southern Nevada, and the key is to focus on innovative new clean energy technologies.

Just yesterday, a major solar developer in Nevada, Solar Millennium, announced that it plans to dry-cool its plant in the Amargosa Valley. That means it will use 90 percent less water than originally anticipated. This is very exciting. I have offered a number of amendments on the floor to improve the water efficiency of solar technology, which is important because many of the sunniest States are also some of the driest. This smart, innovative decision to use less water for this major solar project will speed the approval process, help stimulate the local economy, and create needed jobs in southern Nevada.

#### TERRORIST DETAINEES IN GUANTANAMO BAY

(Mr. BILIRAKIS asked and was given permission to address the House for 1 minute.)

Mr. BILIRAKIS. Mr. Speaker, I rise to express my outrage at President Obama's decision to bring terrorists being held at Gitmo to American soil for prosecution in our criminal justice system. This dangerous decision will grant these detainees, including the admitted mastermind behind 9/11, constitutional rights to which they most certainly are not entitled.

Prosecuting these detainees in our criminal courts also will raise the risk that they could be released on technicalities and will force our soldiers to worry about such things as reading captured combatants their so-called rights and preserving the chain of evidence.

Mr. Speaker, President Obama's decision is a gamble that we simply do not need to take. These detainees are enemy fighters who should be tried in the military justice system, not in American courts.

#### HEALTH CARE REFORM'S IMPACT ON AMERICA'S SENIORS

(Mr. SIREs asked and was given permission to address the House for 1 minute.)

Mr. SIREs. Mr. Speaker, we have heard how reforming our health care system will benefit both those with and without coverage. But what does reform mean for millions of our seniors? It will mean a stronger and more improved Medicare program. More services will be covered under the program, including free preventive services. The safety and quality of care will also be improved through payment and delivery system reforms to encourage better care.

In addition, reform will bring tighter oversight by creating new tools to fight waste, fraud and abuse within Medicare, as well as save costs by eliminating gross overpayments. Medicare itself will be protected by extending the solvency of the Medicare trust fund by 5 years.

Most importantly, our bill will mean lower drug costs for seniors by allowing the government to negotiate drug prices on behalf of Medicare beneficiaries and by closing the doughnut hole that thousands of seniors just in my district alone hit each year.

Mr. Speaker, security and stability is what reform means for seniors and why most recently 63 percent of AARP members support the House version of health care reform.

#### HEALTH CARE BILL WILL NEGATIVELY AFFECT SENIORS

(Mr. BUCHANAN asked and was given permission to address the House for 1 minute.)

Mr. BUCHANAN. Mr. Speaker, a new report says the health care bill that just passed the House will sharply reduce benefits to seniors. This report was done by President Obama's own administration. The Washington Post says it all. You can see it right here: "This bill would sharply reduce benefits for some senior citizens and could jeopardize access to care for millions of others."

My district has more than 267,000 seniors, the oldest congressional district in the country. I will not stand by while we devastate Medicare and raise taxes on individuals and small businesses. The report also warns that hospitals and nursing homes could stop taking Medicare all together.

I urge every Member of Congress to read this report so we can focus on real reform that does not punish our seniors.

#### SCHOOL-BASED HEALTH CLINICS

(Mrs. CAPPS asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. CAPPS. Mr. Speaker, I rise today to remind my colleagues of just one of the essential programs included in the Affordable Health Care for America Act. This bill includes the first dedicated Federal funding for school-based health clinics. School-based clinics garner strong bipartisan support, and this provision is one of the many bipartisan initiatives included in our health reform legislation. Today clinics in our schools are providing comprehensive and easily accessible health care to nearly 2 million students across the country.

Students spend 5 days a week in school. It's the most logical place to offer primary and preventive care. Without this legislation, some students may have no access to health education, screenings and other primary services. At the height of the flu season, there is a need for supporting these clinics, these school-based health clinics, now more than ever. This is just one more reason of why I urge my colleagues to help pass real health reform now.

#### TRIBUTE TO LIEUTENANT THOMAS CLAIBORNE, UNITED STATES MARINE CORPS

(Mr. COFFMAN of Colorado asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COFFMAN of Colorado. Mr. Speaker, there are many heroes who have served our Nation from the Sixth Congressional District of Colorado. Today I rise to pay tribute to one hero in particular. Marine Corps First Lieutenant Thomas Claiborne of Parker, Colorado. On October 29, 2009, First Lieutenant Claiborne was lost when his Marine Super Cobra collided with a Coast Guard C-130 during an escort mission off the coast of California. The lives of the crew of both aircraft were lost in this tragic training accident.

First Lieutenant Claiborne graduated from the University of Colorado magna cum laude on a full Navy ROTC scholarship in May 2006 with a degree in aerospace engineering and later earned his wings as a pilot in the United States Marine Corps. He is remembered as a fine young man, an outstanding student and a dedicated Marine Corps officer who had always dreamed of flying. First Lieutenant Thomas Claiborne was a shining example of the Marine Corps traditions. As a fellow marine, my deepest sympathies go out to his family and to all that knew him.

#### FINANCIAL SERVICES REFORM

(Mr. ELLISON asked and was given permission to address the House for 1

minute and to revise and extend his remarks.)

Mr. ELLISON. Mr. Speaker, President Bush's policies of deregulation, poor regulation, and lack of oversight of our financial system came to a head a little more than a year ago, and they brought us the worst financial crisis since the Great Depression. As my friends on the other side of the aisle talk about unemployment and the stimulus package, it is their policies that made all of this necessary in the first place.

But the Democratic Congress is roaring back to protect consumers, to make our financial system more safe and sound, and to provide an orderly resolution of financial firms that have failed. Legislation being proposed right now will provide unprecedented protections for American consumers through the Consumer Financial Protection Agency, put procedures in place to make sure taxpayers will never again have to bail out too-big-to-fail institutions, restore accountability and transparency so that problems are recognized and fixed before they threaten the entire economy, outlaw many of the most egregious practices, like subprime lending, and put our economy on a stable footing.

#### HEALTH CARE REFORM

(Mr. BACA asked and was given permission to address the House for 1 minute.)

Mr. BACA. Congress is only a few steps away from passing a health care reform bill that is much needed for the American people. If we lose sight of our main goal to provide access coverage to everyone, especially the poor and the middle class that have already sacrificed or contributed so much so this country, I say, Ask not what you can do for the insurance companies but ask what you can do for the American people.

This is a humanitarian issue about responsible parents trying to provide for their families. The House bill ends the doughnut hole prescription drug coverage, ends copayment for preventive care, ends discrimination based on preexisting conditions, and provides more health care for our youth. The health bill means less red tape and less paperwork, more time with your families and doctors, lower premiums for older Americans.

This is extremely important at a time that the American families are stretching their budgets to the brink to make ends meet their needs and may have lost their jobs. Access to health care is not a privilege. It's a human right. I urge my colleagues to fight for the American family and pass real health care reform.



□ 1230

**FINANCIAL REGULATORY REFORM**

(Mr. LANGEVIN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LANGEVIN. Mr. Speaker, I rise in strong support of the Financial Services Committee's work to overhaul our financial system. Across the Nation, including my home State of Rhode Island, predatory lending and unregulated mortgage brokers led to unsustainable home loans and a drain on our economy. Now, with unemployment at 13 percent, my constituents, like many across the country, have had no other choice but to turn to credit cards to support their families and small businesses. Now what's happening is these struggling Rhode Islanders are subjected to the deceptive practices of credit card companies greedily generating more profit before new regulations go into effect. We've all seen it. These practices include rising minimum payment amounts and interest rates, decreasing limits and closing accounts without proper notification. For these reasons and many more, consumer protection must be the cornerstone of financial reform. Further, we must restore accountability and transparency of financial institutions and eliminate risks that contributed to the financial collapse.

I look forward to voting on legislation which will address these past failures, strengthen regulation and oversight and put our country back on a path to economic stability.

**HOW QUICKLY WE FORGET**

(Ms. EDWARDS of Maryland asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. EDWARDS of Maryland. Mr. Speaker, how quickly we forget. Last year at this time the Nation faced the worst financial crisis in decades, shedding over 600,000 jobs a month. We knew that unemployment was going to get worse before it got better. This is little consolation to the millions of Americans who are currently unemployed, facing foreclosure, or forced to take multiple low-paying jobs to make ends meet.

Earlier this year, we took unprecedented action by passing the American Recovery and Reinvestment Act. The impact of this legislation is growing more evident each day across this country, but it's not enough, especially if you don't have a job.

It's time for us to focus on creating jobs that enable Americans to take care of themselves and their families. We must engage in long-term job creation, continuing the Recovery Act to rebuild our roads, bridges, water, sewer, and energy infrastructure to

compete in a global economy. We must open credit markets to enable the real job creators, small businesses, to grow and hire.

Mr. Speaker, as millions of Americans continue to suffer, I ask us to get busy creating jobs and move quickly to pass a bill that will create hundreds of thousands of new jobs and make critical investments in our infrastructure.

**HEALTH CARE REFORM**

(Mr. MURPHY of Connecticut asked and was given permission to address the House for 1 minute.)

Mr. MURPHY of Connecticut. Mr. Speaker, there are a lot of special interests out there that are making noise about what the House health care bill means for seniors. But seniors that I met with yesterday in Meriden, Connecticut, they're not falling for the scare tactics. That's because for years they've been dealing with the rising cost of health insurance, and they're the ones that have been paying for the prescription drug doughnut hole that was created by the Republicans and their drug industry allies. The seniors that I talked to yesterday, they support the health care reform bill because it lowers their out-of-pocket expenses in Medicare. It eliminates the doughnut hole, and it extends the life of Medicare to make sure that it will be around for their kids and their grandkids.

And that's why AARP supports the bill as well, with polling showing that their members also support health care reform by a 2-1 margin. Mr. Speaker, seniors out there support health care reform because they, better than anybody, know what the status quo is, and they don't like it.

**ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE**

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, the Chair will postpone further proceedings today on motions to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote incurs objection under clause 6 of rule XX.

Record votes on postponed questions will be taken later.

**CLEAN HULL ACT OF 2009**

Mr. CUMMINGS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3618) to provide for implementation of the International Convention on the Control of Harmful Anti-Fouling Systems on Ships, 2001, and for other purposes, as amended.

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 3618

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Clean Hull Act of 2009".

**TITLE I—GENERAL PROVISIONS****SEC. 101. DEFINITIONS.**

In this Act:

(1) **ADMINISTRATOR.**—The term "Administrator" means the Administrator of the Environmental Protection Agency.

(2) **ANTIFOULING SYSTEM.**—The term "antifouling system" means a coating, paint, surface treatment, surface, or device that is used or intended to be used on a vessel to control or prevent attachment of unwanted organisms.

(3) **CONVENTION.**—The term "Convention" means the International Convention on the Control of Harmful Anti-Fouling Systems on Ships, 2001, including its annexes, and including any amendments to the Convention or annexes which have entered into force for the United States.

(4) **FPSO.**—The term "FPSO" means a floating production, storage, or offloading unit.

(5) **FSU.**—The term "FSU" means a floating storage unit.

(6) **GROSS TONNAGE.**—The term "gross tonnage" as defined in chapter 143 of title 46, United States Code, means the gross tonnage calculated in accordance with the tonnage measurement regulations contained in annex 1 to the International Convention on Tonnage Measurement of Ships, 1969.

(7) **INTERNATIONAL VOYAGE.**—The term "international voyage" means a voyage by a vessel entitled to fly the flag of one country to or from a port, shipyard, offshore terminal, or other place under the jurisdiction of another country.

(8) **ORGANOTIN.**—The term "organotin" means any compound or additive of tin bound to an organic ligand, that is used or intended to be used as biocide in an antifouling system.

(9) **PERSON.**—The term "person" means—

(A) any individual, partnership, association, corporation, or organized group of persons whether incorporated or not;

(B) any department, agency, or instrumentality of the United States, except as provided in section 3(b)(2); or

(C) any other government entity.

(10) **SECRETARY.**—The term "Secretary" means the Secretary of the department in which the Coast Guard is operating.

(11) **SELL OR DISTRIBUTE.**—The term "sell or distribute" means to distribute, sell, offer for sale, hold for distribution, hold for sale, hold for shipment, ship, deliver for shipment, release for shipment, import, export, hold for import, hold for export, or receive and (having so received) deliver or offer to deliver.

(12) **VESSEL.**—The term "vessel" has the meaning given that term in section 3 of title 1, United States Code, including hydrofoil boats, air cushion watercraft, submersibles, floating craft, fixed or floating platforms, floating storage units, and floating production, storage, and offloading units.

(13) **TERRITORIAL SEA.**—The term "territorial sea" means the territorial sea as described in Presidential Proclamation No. 5928 on December 27, 1988.

(14) **UNITED STATES.**—The term "United States" means the several States of the United States, the District of Columbia, Puerto Rico, Guam, American Samoa, the Virgin Islands, the Commonwealth of the Northern Marianas, and any other territory or possession over which the United States has jurisdiction.

(15) USE.—The term “use” includes application, reapplication, installation, or any other employment of an antifouling system.

#### SEC. 102. COVERED VESSELS.

(a) INCLUDED VESSEL.—Except as provided in subsection (b), after the Convention enters into force for the United States, the following vessels are subject to the requirements of this Act:

(1) A vessel documented under chapter 121 of title 46, United States Code, or one operated under the authority of the United States, wherever located.

(2) Any vessel permitted by a Federal agency to operate on the Outer Continental Shelf.

(3) Any other vessel when—

(A) in the internal waters of the United States;

(B) in any port, shipyard, offshore terminal, or other place in the United States;

(C) lightering in the territorial sea; or

(D) to the extent consistent with international law, anchoring in the territorial sea of the United States.

(b) EXCLUDED VESSELS.—

(1) IN GENERAL.—The following vessels are not subject to the requirements of this Act:

(A) Any warship, naval auxiliary, or other vessel owned or operated by a foreign state, and used, for the time being, only on government noncommercial service.

(B) Except as provided in paragraph (2), any warship, naval auxiliary, or other vessel owned or operated by the United States and used for the time being only on government noncommercial service.

(2) APPLICATION TO UNITED STATES GOVERNMENT VESSELS.—

(A) IN GENERAL.—The Administrator may apply any requirement of this Act to one or more classes of vessels described in paragraph (1)(B), if the head of the Federal department or agency under which those vessels operate concurs in that application.

(B) LIMITATION FOR COMBAT-RELATED VESSEL.—Paragraph (1) shall not apply to combat-related vessels.

#### SEC. 104. ADMINISTRATION AND ENFORCEMENT.

(a) IN GENERAL.—Unless otherwise specified in this Act, with respect to a vessel, the Secretary shall administer and enforce the Convention and this Act.

(b) ADMINISTRATOR.—Except with respect to section 301 (b) and (c), the Administrator shall administer and enforce title III of this Act.

(c) REGULATIONS.—The Administrator and the Secretary may each prescribe and enforce regulations as may be necessary to carry out their respective responsibilities under this Act.

#### SEC. 105. COMPLIANCE WITH INTERNATIONAL LAW.

Any action taken under this Act shall be taken in accordance with treaties to which the United States is a party and other international obligations of the United States.

#### SEC. 106. UTILIZATION OF PERSONNEL, FACILITIES OR EQUIPMENT OF OTHER FEDERAL DEPARTMENTS AND AGENCIES.

The Secretary and the Administrator may utilize by agreement, with or without reimbursement, personnel, facilities, or equipment of other Federal departments and agencies in administering the Convention, this Act, or any regulations prescribed under this Act.

### TITLE II—IMPLEMENTATION OF THE CONVENTION

#### SEC. 201. CERTIFICATES.

(a) CERTIFICATE REQUIRED.—On entry into force of the Convention for the United

States, any vessel of at least 400 gross tons that engages in one or more international voyages (except fixed or floating platforms, FSUs, and FPSOs) shall carry an International Antifouling System Certificate.

(b) ISSUANCE OF CERTIFICATE.—On entry into force of the Convention, on a finding that a successful survey required by the Convention has been completed, a vessel of at least 400 gross tons that engages in at least one international voyage (except fixed or floating platforms, FSUs, and FPSOs) shall be issued an International Antifouling System Certificate. The Secretary may issue the Certificate required by this section. The Secretary may delegate this authority to an organization that the Secretary determines is qualified to undertake that responsibility.

(c) MAINTENANCE OF CERTIFICATE.—The Certificate required by this section shall be maintained as required by the Secretary.

(d) CERTIFICATES ISSUED BY OTHER PARTY COUNTRIES.—A Certificate issued by any country that is a party to the Convention has the same validity as a Certificate issued by the Secretary under this section.

(e) VESSELS OF NONPARTY COUNTRIES.—Notwithstanding subsection (a), a vessel of at least 400 gross tons, having the nationality of or entitled to fly the flag of a country that is not a party to the Convention, may demonstrate compliance with this Act through other appropriate documentation considered acceptable by the Secretary.

#### SEC. 202. DECLARATION.

(a) REQUIREMENTS.—On entry into force of the Convention for the United States, a vessel of at least 24 meters in length, but less than 400 gross tons engaged on an international voyage (except fixed or floating platforms, FSUs, and FPSOs) must carry a declaration described in subsection (b) that is signed by the owner or owner's authorized agent. That declaration shall be accompanied by appropriate documentation, such as a paint receipt or a contractor invoice, or contain an appropriate endorsement.

(b) CONTENT OF DECLARATION.—The declaration must contain a clear statement that the antifouling system on the vessel complies with the Convention. The Secretary may prescribe the form and other requirements of the declaration.

#### SEC. 203. OTHER COMPLIANCE DOCUMENTATION.

In addition to the requirements under sections 201 and 202, the Secretary may require vessels to hold other documentation considered necessary to verify compliance with this Act.

#### SEC. 204. PROCESS FOR CONSIDERING ADDITIONAL CONTROLS.

(a) ACTIONS BY ADMINISTRATOR.—The Administrator may—

(1) participate in the technical group described in Article 7 of the Convention, and in any other body convened pursuant to the Convention for the consideration of new or additional controls on antifouling systems;

(2) evaluate any risks of adverse effects on nontarget organisms or human health presented by a given antifouling system such that the amendment of annex 1 of the Convention may be warranted;

(3) undertake an assessment of relevant environmental, technical, and economic considerations necessary to evaluate any proposals for new or additional controls of antifouling systems under the Convention, including benefits in the United States and elsewhere associated with the production and use in the United States and elsewhere, of the subject antifouling system; and

(4) develop recommendations based on that assessment.

(b) REFERRALS TO TECHNICAL GROUP.—

(1) CONVENING OF SHIPPING COORDINATING COMMITTEE.—On referral of any antifouling system to the technical group described in article 7 of the Convention for consideration of new or additional controls, the Secretary of State shall convene a public meeting of the Shipping Coordinating Committee for the purpose of receiving information and comments regarding controls on such antifouling system. The Secretary of State shall publish advance notice of such meeting in the Federal Register and on the State Department's Web site. The Administrator shall assemble and maintain a public docket containing notices pertaining to that meeting, any comments responding to those notices, the minutes of that meeting, and materials presented at that meeting.

(2) REPORT BY TECHNICAL GROUP.—The Administrator shall promptly make any report by the technical group described in the Convention available to the public through the docket established pursuant to subsection (b) and announce the availability of that report in the Federal Register. The Administrator shall provide an opportunity for public comment on the report for a period of not less than 30 days from the time the availability of the report is announced in the Federal Register.

(3) CONSIDERATION OF COMMENTS.—To the extent practicable, the Administrator shall take any comments into consideration in developing recommendations under subsection (a).

#### SEC. 205. SCIENTIFIC AND TECHNICAL RESEARCH AND MONITORING; COMMUNICATION AND INFORMATION.

The Secretary, the Administrator, and the Administrator of the National Oceanic and Atmospheric Administration may each undertake scientific and technical research and monitoring pursuant to article 8 of the Convention and to promote the availability of relevant information concerning—

(1) scientific and technical activities undertaken in accordance with the Convention;

(2) marine scientific and technological programs and their objectives; and

(3) the effects observed from any monitoring and assessment programs relating to antifouling systems.

#### SEC. 206. COMMUNICATION AND EXCHANGE OF INFORMATION.

(a) IN GENERAL.—Except as provided in subsection (b), with respect to those antifouling systems regulated by the Administrator, the Administrator shall provide to any party to the Convention that requests it, relevant information on which the decision to regulate was based, including information provided for in annex 3 to the Convention, or other information suitable for making an appropriate evaluation of the antifouling system.

(b) LIMITATION.—This section shall not be construed to authorize the provision of information the disclosure of which is otherwise prohibited by law.

### TITLE III—PROHIBITIONS AND ENFORCEMENT AUTHORITY

#### SEC. 301. PROHIBITIONS.

(a) IN GENERAL.—Notwithstanding any other provision of law, it is unlawful for any person—

(1) to act in violation of this Act, or any regulation prescribed under this Act;

(2) to sell or distribute in domestic or international commerce organotin or an antifouling system containing organotin;

(3) to manufacture, process, or use organotin to formulate an antifouling system;

(4) to apply an antifouling system containing organotin on any vessel to which this Act applies; or

(5) after the Convention enters into force for the United States, to apply or otherwise use in a manner inconsistent with the Convention, an antifouling system on any vessel that is subject to this Act.

(b) **VESSEL HULLS.**—Except as provided in subsection (c), no vessel shall bear on its hull or outer surface any antifouling system containing organotin, regardless of when such system was applied, unless that vessel bears an overcoating which forms a barrier to organotin leaching from the underlying antifouling system.

(c) **LIMITATIONS.**—

(1) **EXCEPTED VESSEL.**—Subsection (b) does not apply to fixed or floating platforms, FSUs, or FPSOs that were constructed prior to January 1, 2003, and that have not been in dry dock on or after that date.

(2) **SALE, MANUFACTURE, ETC.**—This section does not apply to—

(A) the sale, distribution, or use pursuant to any agreement between the Administrator and any person that results in an earlier prohibition or cancellation date than specified in this Act; or

(B) the manufacture, processing, formulation, sale, distribution, or use of organotin or antifouling systems containing organotin used or intended for use only for sonar domes or in conductivity sensors in oceanographic instruments.

**SEC. 302. INVESTIGATIONS AND INSPECTIONS BY SECRETARY.**

(a) **IN GENERAL.**—The Secretary may conduct investigations and inspections regarding a vessel's compliance with this Act or the Convention.

(b) **VIOLATIONS; SUBPOENAS.**—In any investigation under this section, the Secretary may issue subpoenas to require the attendance of witnesses and the production of documents and other evidence. In case of refusal to obey a subpoena issued to any person, the Secretary may request the Attorney General to invoke the aid of the appropriate district court of the United States to compel compliance.

(c) **FURTHER ACTION.**—On completion of an investigation, the Secretary may take whatever further action the Secretary considers appropriate under the Convention or this Act.

(d) **COOPERATION.**—The Secretary may cooperate with other parties to the Convention in the detection of violations and in enforcement of the Convention. Nothing in this section affects or alters requirements under any other laws.

**SEC. 303. EPA ENFORCEMENT.**

(a) **INSPECTIONS, SUBPOENAS.**—

(1) **IN GENERAL.**—For purposes of enforcing this Act or any regulation prescribed under this Act, officers or employees of the Environmental Protection Agency or of any State designated by the Administrator may enter at reasonable times any location where there is being held or may be held organotin or any other substance or antifouling system regulated under the Convention, for the purpose of inspecting and obtaining samples of any containers or labeling for organotin or other substance or system regulated under the Convention.

(2) **SUBPOENAS.**—In any investigation under this section the Administrator may issue subpoenas to require the attendance of any witness and the production of documents and other evidence. In case of refusal to obey such a subpoena, the Administrator may request the Attorney General to compel compliance.

(b) **STOP MANUFACTURE, SALE, USE, OR REMOVAL ORDERS.**—Consistent with section 104, whenever any organotin or other substance or system regulated under the Convention is found by the Administrator and there is reason to believe that a manufacturer, seller, distributor, or user has violated or is in violation of any provision of this Act, or that such organotin or other substance or system regulated under the Convention has been or is intended to be manufactured, distributed, sold, or used in violation of this Act, the Administrator may issue a stop manufacture, sale, use, or removal order to any person that owns, controls, or has custody of such organotin or other substance or system regulated under the Convention. After receipt of that order the person may not manufacture, sell, distribute, use, or remove the organotin or other substance or system regulated under the Convention described in the order except in accordance with the order.

**SEC. 304. ADDITIONAL AUTHORITY OF THE ADMINISTRATOR.**

The Administrator, in consultation with the Secretary, may establish, as necessary, terms and conditions regarding the removal and disposal of antifouling systems prohibited or restricted under this Act.

**TITLE IV—ACTION ON VIOLATION, PENALTIES, AND REFERRALS**

**SEC. 401. CRIMINAL ENFORCEMENT.**

Any person who knowingly violates paragraph (2), (3), (4), or (5) of section 301(a) or section 301(b) shall be fined under title 18, United States Code, or imprisoned not more than 6 years, or both.

**SEC. 402. CIVIL ENFORCEMENT.**

(a) **CIVIL PENALTY.**—

(1) **IN GENERAL.**—Any person who is found by the Secretary or the Administrator, as appropriate, after notice and an opportunity for a hearing, to have—

(A) violated the Convention, this Act, or any regulation prescribed under this Act is liable to the United States Government for a civil penalty of not more than \$37,500 for each violation; or

(B) made a false, fictitious, or fraudulent statement or representation in any matter in which a statement or representation is required to be made to the Secretary under the Convention, this Act, or any regulations prescribed under this Act, is liable to the United States for a civil penalty of not more than \$50,000 for each such statement or representation.

(2) **RELATIONSHIP TO OTHER LAW.**—This subsection shall not limit or affect the authority of the Government under section 1001 of title 18, United States Code.

(b) **ASSESSMENT OF PENALTY.**—The amount of the civil penalty shall be assessed by the Secretary or Administrator, as appropriate, by written notice.

(c) **LIMITATION FOR RECREATIONAL VESSEL.**—A civil penalty imposed under subsection (a) against the owner or operator of a recreational vessel, as that term is defined in section 2101 of title 46, United States Code, for a violation of the Convention, this Act, or any regulation prescribed under this Act involving that recreational vessel, may not exceed \$5,000 for each violation.

(d) **DETERMINATION OF PENALTY.**—For purposes of penalties under this section, each day of a continuing violation constitutes a separate violation. In determining the amount of the penalty, the Secretary or Administrator shall take into account the nature, circumstances, extent, and gravity of the prohibited acts committed and, with respect to the violator, the degree of culpa-

bility, any history of prior offenses, the economic impact of the penalty on the violator, the economic benefit to the violator and other matters as justice may require.

(e) **REWARD.**—An amount equal to not more than one-half of any civil penalty assessed by the Secretary or Administrator under this section may, subject to the availability of appropriations, be paid by the Secretary or Administrator, respectively, to any person who provided information that led to the assessment or imposition of the penalty.

(f) **REFERRAL TO ATTORNEY GENERAL.**—If any person fails to pay a civil penalty assessed under this section after it has become final, or comply with an order issued under this Act, the Secretary or Administrator, as appropriate, may refer the matter to the Attorney General of the United States for collection in any appropriate district court of the United States.

(g) **COMPROMISE, MODIFICATION, OR REMISSION.**—Before referring any civil penalty that is subject to assessment or has been assessed under this section to the Attorney General, the Secretary, or Administrator, as appropriate, may compromise, modify, or remit, with or without conditions, the civil penalty.

(h) **NONPAYMENT PENALTY.**—Any person who fails to pay on a timely basis a civil penalty assessed under this section shall also be liable to the United States for interest on the penalty at an annual rate equal to 11 percent compounded quarterly, attorney fees and costs for collection proceedings, and a quarterly nonpayment penalty for each quarter during which such failure to pay persists. That nonpayment penalty shall be in an amount equal to 20 percent of the aggregate amount of that person's penalties and nonpayment penalties that are unpaid as of the beginning of that quarter.

**SEC. 403. LIABILITY IN REM.**

A vessel operated in violation of the Convention, this Act, or any regulation prescribed under this Act, is liable in rem for any fine imposed under section 18, United States Code, or civil penalty assessed pursuant to section 402, and may be proceeded against in the United States district court of any district in which the vessel may be found.

**SEC. 404. VESSEL CLEARANCE OR PERMITS; REFUSAL OR REVOCATION; BOND OR OTHER SURETY.**

If any vessel that is subject to the Convention or this Act, or its owner, operator, or person in charge, is liable for a fine or civil penalty under section 402 or 403, or if reasonable cause exists to believe that the vessel, its owner, operator, or person in charge may be subject to a fine or civil penalty under section 402 or 403, the Secretary may refuse or revoke the clearance required by section 60105 of title 46, United States Code. Clearance may be granted upon the filing of a bond or other surety satisfaction to the Secretary.

**SEC. 405. WARNINGS, DETENTIONS, DISMISSALS, EXCLUSION.**

(a) **IN GENERAL.**—If a vessel is detected to be in violation of the Convention, this Act, or any regulation prescribed under this Act, the Secretary may warn, detain, dismiss, or exclude the vessel from any port or offshore terminal under the jurisdiction of the United States.

(b) **NOTIFICATIONS.**—If action is taken under subsection (a), the Secretary, in consultation with the Secretary of State, shall make the notifications required by the Convention.

**SEC. 406. REFERRALS FOR APPROPRIATE ACTION BY FOREIGN COUNTRY.**

Notwithstanding sections 401, 402, 403, and 405, if a violation of the Convention is committed by a vessel registered in or of the nationality of a country that is a party to the Convention, or by a vessel operated under the authority of a country that is a party to the Convention, the Secretary, acting in coordination with the Secretary of State, may refer the matter to the government of the country of the vessel's registry or nationality, or under whose authority the vessel is operating, for appropriate action, rather than taking the actions otherwise required or authorized by this title.

**SEC. 407. REMEDIES NOT AFFECTED.**

(a) IN GENERAL.—Nothing in this Act limits, denies, amends, modifies, or repeals any other remedy available to the United States.

(b) RELATIONSHIP TO STATE AND LOCAL LAW.—Nothing in this Act limits, denies, amends, modifies, or repeals any rights under existing law, of any State, territory, or possession of the United States, or any political subdivision thereof, to regulate any antifouling system. Compliance with the requirements of a State, territory, or possession of the United States, or political subdivision thereof related to antifouling paint or any other antifouling system does not relieve any person of the obligation to comply with this Act.

**SEC. 408. REPEAL.**

The Organotin Antifouling Paint Control Act of 1988 (33 U.S.C. 2401 et seq.) is repealed.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Maryland (Mr. CUMMINGS) and the gentleman from New Jersey (Mr. LOBIONDO) each will control 20 minutes.

The Chair recognizes the gentleman from Maryland.

**GENERAL LEAVE**

Mr. CUMMINGS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and to include extraneous material on H.R. 3618.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Maryland?

There was no objection.

Mr. CUMMINGS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as chairman of the Subcommittee on Coast Guard and Maritime Transportation, I rise today in strong support of the Clean Hull Act of 2009, H.R. 3618, as amended, which would institute the legal changes needed to bring the United States into full compliance with the International Convention on the Control of Harmful Anti-Fouling Systems on Ships. I commend the chairman of the full Committee on Transportation and Infrastructure, Congressman OBERSTAR, for his hard work on this legislation, and for his tireless commitment to ensuring that we do all that we can to minimize the impact of our transportation systems on our environment. I also commend the ranking member of the full committee, Mr. MICA, and the ranking member of the Coast Guard Subcommittee, Congressman LOBIONDO, for their work on this legislation.

On June 10, I convened the subcommittee to examine the impact on the marine environment of the use of coatings on the hulls of ships containing the compound tributyltin, better known as TBT. Such coatings are applied to prevent hull fouling. In the maritime world, the term "fouling" is defined as the unwanted growth of biological material, such as barnacles and algae, on a surface immersed in water. Because such material can slow a ship's movement through the water and can be transferred from one body of water to another, ship owners and operators have attempted throughout the history of maritime transportation to eliminate the accumulation of such materials through a variety of methods.

In the 1960s and 70s, hull coatings were developed that had as their main ingredient the compound TBT. At that time, TBT was hailed as the best anti-fouling agent ever developed. Unfortunately, as so often happened in that period, a product that showed promise was rushed to market before the full range of its impacts on the environment was understood. Over the years, it has become clear that TBT is highly toxic to marine life, including crustaceans, fish and even marine mammals. TBT has caused alterations in oyster shells, and has caused female dogwhelks, a type of snail, to begin developing male sexual characteristics. There's even some evidence that TBT is bio-accumulative, meaning that larger animals can ingest it as they consume smaller animals on the food chain. Thus, the IMO reports that traces of TBT contamination have now been found even in whales.

I note that the use of TBT is already strictly regulated by U.S. law, specifically, under the Organotin Anti-Fouling Paint Control Act of 1998. Under this Act, the sale and most applications of TBT coatings are already prohibited in the United States. However, the best way of controlling the use of TBT is by the U.S. accession to the International Convention on the Control of Harmful Anti-Fouling Systems on Ships. The Convention was adopted by the International Maritime Organization in October of 2001 to ban the use of hull coatings that contain TBT. The Convention came into force internationally on September 17, 2008. The United States Senate gave its consent to the Convention just a few days later, in September of 2008.

H.R. 3618 would finally implement in the United States the laws that will bring our Nation into full compliance with the Convention, thus completing our ratification of the Convention. By enacting H.R. 3618, the United States can prohibit ships with TBT coatings from entering U.S. waters unless the ships have overcoatings that prevent TBT from leaching from one underlying anti-fouling system.

I also note that in order to prevent a compound like TBT from ever again entering the environment through an anti-fouling coating, the International Convention on the Control of Harmful Anti-Fouling Systems on Ships also established a system under which new anti-fouling coatings can be tested to assess the effects on the marine environment. Coatings can be added to the list of prohibited anti-fouling systems under the Convention if they are found to be harmful. H.R. 3618 authorizes the Environmental Protection Agency to participate in international technical bodies convened to assess the safety of new anti-fouling systems.

I strongly believe that it is time for us to fully implement the International Convention on the Control of Harmful Anti-Fouling Systems on Ships, and I urge the adoption of H.R. 3618 by the House today.

HOUSE OF REPRESENTATIVES,  
COMMITTEE ON HOMELAND SECURITY,

Washington, DC, November 12, 2009.

Hon. JAMES L. OBERSTAR,  
Chairman, Committee on Transportation and  
Infrastructure, House of Representatives,  
Washington, DC.

DEAR CHAIRMAN OBERSTAR: I write to you regarding H.R. 3618, the "Clean Hull Act of 2009."

H.R. 3618 contains provisions that fall within the jurisdiction of the Committee on Homeland Security. I recognize and appreciate your desire to bring this legislation before the House in an expeditious manner and, accordingly, I will not seek a sequential referral of the bill. However, agreeing to waive consideration of this bill should not be construed as the Committee on Homeland Security waiving, altering, or otherwise affecting its jurisdiction over subject matters contained in the bill which fall within its Rule X jurisdiction.

Further, I request your support for the appointment of an appropriate number of Members of the Committee on Homeland Security to be named as conferees during any House-Senate conference convened on H.R. 3618 or similar legislation. I also ask that a copy of this letter and your response be included in the legislative report on H.R. 3618 and in the Congressional Record during floor consideration of this bill.

I look forward to working with you as we prepare to pass this important legislation.

Sincerely,

BENNIE G. THOMPSON,  
Chairman.

HOUSE OF REPRESENTATIVES, COM-  
MITTEE ON TRANSPORTATION AND  
INFRASTRUCTURE,

Washington, DC, November 12, 2009.

Hon. BENNIE G. THOMPSON,  
Chairman, Committee on Homeland Security,  
Ford House Office Building, Washington,  
DC.

DEAR CHAIRMAN THOMPSON: I write to you regarding H.R. 3618, the "Clean Hull Act of 2009."

I agree that provisions in H.R. 3618 are of jurisdictional interest to the Committee on Homeland Security. I acknowledge that by forgoing a sequential referral, your Committee is not relinquishing its jurisdiction and I will fully support your request to be represented in a House-Senate conference on those provisions over which the Committee on Homeland Security has jurisdiction in H.R. 3618.

This exchange of letters will be inserted in the Committee Report on H.R. 3618 and in the Congressional Record as part of the consideration of this legislation in the House.

I look forward to working with you as we prepare to pass this important legislation.

Sincerely,

JAMES L. OBERSTAR,  
*Chairman.*

HOUSE OF REPRESENTATIVES, COMMITTEE ON SCIENCE AND TECHNOLOGY.

Washington, DC, September 28, 2009.

Hon. JAMES L. OBERSTAR,  
*Chairman, Committee on Transportation and Infrastructure, House of Representatives, Rayburn House Office Building, Washington, DC.*

DEAR CHAIRMAN OBERSTAR: I write to you regarding H.R. 3618, the Clean Hull Act of 2009. This legislation was initially referred to both the Committee on Transportation and Infrastructure and the Committee on Science and Technology.

I recognize and appreciate your desire to bring this legislation before the House in an expeditious manner, and, accordingly, I will waive further consideration of this bill in Committee. However, agreeing to waive consideration of this bill should not be construed as the Committee on Science and Technology waiving its jurisdiction over H.R. 3618, or any similar legislation.

Further, I request your support for the appointment of Science and Technology Committee conferees during any House-Senate conference convened on this, or any similar legislation. I also ask that a copy of this letter and your response be placed in the legislative report on H.R. 3618 and the CONGRESSIONAL RECORD during consideration of this bill.

I look forward to working with you as we prepare to pass this important legislation.

Sincerely,

BART GORDON,  
*Chairman.*

HOUSE OF REPRESENTATIVES, COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE.

Washington, DC, September 29, 2009.

Hon. BART GORDON,  
*Chairman, Committee on Science and Technology, House of Representatives, Rayburn House Office Building, Washington, DC.*

DEAR CHAIRMAN GORDON: I write to you regarding H.R. 3618, the "Clean Hull Act of 2009".

I appreciate your willingness to waive rights to further consideration of H.R. 3618, notwithstanding the jurisdictional interest of the Committee on Science and Technology. Of course, this waiver does not prejudice any further jurisdictional claims by your Committee over this or similar legislation. Further, I will support your request to be represented in a House-Senate conference on those provisions over which the Committee on Science and Technology has jurisdiction in H.R. 3618.

This exchange of letters will be placed in the Committee Report on H.R. 3618 and inserted in the CONGRESSIONAL RECORD as part of the consideration of this legislation in the House. Thank you for the cooperative spirit in which you have worked regarding this matter and others between our respective committees.

I look forward to working with you as we prepare to pass this important legislation.

Sincerely,

JAMES L. OBERSTAR,  
*Chairman.*

Mr. Speaker, I reserve the balance of my time.

Mr. LOBIONDO. Mr. Speaker, I yield myself such time as I may consume.

I'd like to start off by saying that I strongly support H.R. 3618, the Clean Hull Act of 2009. I want to thank Mr. CUMMINGS and Mr. OBERSTAR for their help and cooperation in putting this bill together. The Committee on Transportation and Infrastructure first considered the topics addressed by this bill in June, and I'm very pleased to see that we're considering legislation to implement these international rules so quickly.

The bill would adopt the requirements of the International Convention on the Control of Harmful Anti-Fouling Systems on Ships for purposes of U.S. law. Under the bill, use of toxic tin-based anti-fouling paints would be prohibited. These compounds have had a very negative significant impact on marine environments when they are leached into the water column from vessels' hulls. The United States has already taken steps to prohibit the use of these compounds by prohibiting the manufacture or sale of such marine paints. The bill would complete the process by allowing the United States to join as a party to the Convention in preventing foreign vessels treated with tin-based paints from entering U.S. waters.

I appreciate the assistance that has been provided by the Coast Guard and the EPA during the process to craft this bill, and I urge all Members to support the bill.

I reserve the balance of my time.

Mr. CUMMINGS. Mr. Speaker, I now yield 5 minutes to the distinguished chairman of the Transportation Committee, Congressman OBERSTAR of Minnesota.

Mr. OBERSTAR. Mr. Speaker, I thank the Chair of the subcommittee, Mr. CUMMINGS, for his leadership on this issue, and Mr. LOBIONDO for his participation in the hearings that we've held and the markup in the crafting of this very important legislation. It's an issue that I've been dealing with for 35 years, since I've served in the House.

I started my service, of course, on the Public Works Committee, as it was called then, but also on the Merchant Marine and Fisheries Committee, which has jurisdiction over our waters and the water environment and the ocean environment. Many years ago I gave a talk to a maritime group and quoted the poet Coleridge, citing our ocean environment and the ocean itself as deep, dark, heaving, endless and mysterious.

□ 1245

Deep it is. Deeper than perhaps the Himalaya chain.

Dark in its greatest depths, heaving in the worst of storms, mysterious, and

we are beginning to unlock the mysteries of the ocean.

Endless it is not. Endless has given rise to the notion we can discharge whatever refuge we have of humanity into the ocean because it is endless. It is not. The drift nets that continue to kill with no social redeeming purpose; the trash of plastic that we discharge into the oceans and that gather in a swirl where Pacific Ocean currents meet and gather thousands of square miles of plastics that are ingested by whales, and one was found starving because it had ingested so much Styrofoam it couldn't process food. It is not endless. And neither are the chemicals that we discharge into it. They don't just fall harmlessly into the bottom and go out of sight. They enter into the food chain.

I learned in my earliest service on the Merchant Marine and Fisheries Committee and on the Merchant Marine Subcommittee the need to protect the hull and vessels from fouling, that our large, deep, draft merchant vessels can accumulate up to 6,000 tons of plants—yes, plants that will grow and the accumulation on the hulls—and creatures and shellfish and, of course, the well-known and oft-referenced barnacles. And that accumulation can slow down the vessel, can cause up to a 40-percent reduction in speed and 40-percent increase in fuel.

And science was enlisted to find a coating for hulls that would inhibit plant growth, and they found one: tributyltin. And like so many of these great discoveries, it has terrible side effects. It is causing shell deformation in oysters, neurotoxic and genetic effects in other marine species, and it's been found in the fatty tissue of whales and dolphins and sharks and other sea creatures. And it just goes on into the food chain. It is like PCB on land. We have to stop this.

There is happily an international convention on toxics in the marine environment, and we need to be a part of that. We need to be a leader, even though our merchant fleet has gone downhill. From the time I was elected and took office in 1975, we had 800 merchant vessels in the fleet. We were eighth in the world's fleets. That was dead last.

But at one time we had 25 million dead weight tons of shipping, we had 5,500 merchant vessels. We were number one in the world. Well, now the Cosco, the Chinese shipping company, is the number one, they have the greatest number of vessels. They have 25 million dead weight tons of merchant shipping.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. CUMMINGS. I grant the gentleman an additional 3 minutes.

Mr. OBERSTAR. I thank the gentleman.

And the Maersk fleet of Denmark now carrying 13,000 containers on vessels a thousand feet in length, and other behemoths that ply the waters. And they are all accumulating these organisms and this tributyltin material being applied to the hulls. And it's all being sloughed off into the oceans.

So while we are, as a flag-carrier nation, small in the picture, our leadership is still huge. We have to take this step, this important step to prevent the continued pollution of the oceans and of their marine life within it so that some day we can return to Coleridge and find the ocean deep, dark, heaving, endless, and mysterious; and clean, inhabitable, useful for itself and for humanity.

Mr. Speaker, I rise today in strong support of H.R. 3618, the "Clean Hull Act of 2009". I thank the gentleman from Florida (Mr. MICA), the Ranking Member of the Committee on Transportation and Infrastructure, and Coast Guard and Maritime Transportation Subcommittee Chairman CUMMINGS and Ranking Member LOBIONDO for their bipartisan support of this much needed legislation.

Enacting H.R. 3618 will make the necessary changes in U.S. law to comply with the requirements of the International Convention on the Control of Harmful Antifouling Systems on Ships (Convention), which was adopted by the International Maritime Organization in October 2001 and entered into force on September 17, 2008.

Biological fouling is the unwanted accumulation of microorganisms, plants, and animals on structures that are exposed to the marine environment. Fouling can accelerate corrosion on a vessel's hull and on offshore and coastal marine structures. Antifouling is the process of removing or preventing the accumulation of biological fouling organisms.

In less than six months, a deep draft tank vessel's hull can accumulate up to 6,000 tons of fouling material if it is not treated with an antifouling application. Such fouling can cause significant economic and environmental impacts by increasing a vessel's fuel consumption by up to 40 percent. Biological fouling has also been a conduit for the transfer of invasive species into ecosystems.

Over the past 50 years, there have been a number of antifouling substances used to treat structures, but the most toxic to date has been tributyltin (TBT). Over time, TBT has been found in marine animals (including dolphins and whales) and in the waters of marinas, ports, harbors, open seas, and oceans. TBT has caused significant environmental and monetary impact by causing shell deformations in oysters, and neurotoxic and genetic effects in other marine species.

Since 2000, the Environmental Protection Agency has prohibited the sale or application of paints containing TBT in the United States by enforcing the Organotin Anti-Fouling Paint Control Act of 1988 (OAPCA). In OAPCA, organotin-based antifouling paints are prohibited on some vessels less than 25 meters and the leaching rate of antifouling paints on larger vessels is limited.

H.R. 3618 will ban all vessels using antifouling paint containing TBT from entering

the United States, further protecting our marine environment from this dangerous chemical. It also prohibits a person from selling or distributing organotin or an antifouling system containing organotin and from applying an antifouling system containing organotin on any ship to which H.R. 3618 applies.

H.R. 3618 will give the Coast Guard and Environmental Protection Agency the authority to ban foreign-flag ships from entering the United States if they have their hulls covered with paint containing TBT. The Convention will ultimately replace the OAPCA.

I urge my colleagues to join me in supporting H.R. 3618, the "Clean Hull Act of 2009".

Mr. LOBIONDO. Mr. Speaker, I yield back the balance of my time.

Mr. CUMMINGS. I yield myself such time as I may consume.

Mr. Speaker, first of all, I want to just comment and associate myself with the words of Chairman OBERSTAR and add to them that this is our watch, this is a time that we have responsibility for this environment and it is our duty to make it even better than what we found it. I want to thank the chairman for his words. They were very inspiring.

With that, I urge the Members to vote for H.R. 3618.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Maryland (Mr. CUMMINGS) that the House suspend the rules and pass the bill, H.R. 3618, as amended.

The question was taken; and (two-thirds being in the affirmative) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

#### DRIVE SAFER SUNDAY

Mr. BISHOP of New York. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 841) expressing support for designation of November 29, 2009, as "Drive Safer Sunday".

The Clerk read the title of the resolution.

The text of the resolution is as follows:

#### H. RES. 841

Whereas motor vehicle travel is the primary means of transportation in the United States;

Whereas the National Highway Traffic Safety Administration (NHTSA) estimates that 37,313 people, or more than 100 drivers a day, were killed in motor vehicle traffic crashes in 2008;

Whereas the term "distracted driving" refers to anything that takes your eyes, hands, or mind away from driving, including food and beverages, traffic accidents, adjusting the radio, children, pets, objects moving in the vehicle, talking or texting on a cell phone, smoking, putting on makeup, shaving, and reading;

Whereas the NHTSA researched driver distraction with respect to both behavioral and vehicle safety countermeasures in an effort to understand and mitigate crashes associated with distracted driving;

Whereas, on September 30, 2009, the Department of Transportation (DOT) Secretary Ray LaHood announced new research findings by the NHTSA that show nearly 6,000 people died in 2008 in crashes involving a distracted or inattentive driver, and more than half a million were injured;

Whereas distracted driving was reported to have been involved in 16 percent of all fatal crashes in 2008 according to data from the Fatality Analysis Reporting System (FARS);

Whereas the age group with the greatest proportion of distracted drivers was the under-20 age group, 16 percent of all under-20 drivers in fatal crashes were reported to have been distracted while driving;

Whereas an estimated 22 percent of injury crashes were reported to have involved distracted driving, according to data from the General Estimates System (GES);

Whereas crashes in which the critical reason for the crash was attributed to the driver, approximately 18 percent involved distraction, according to the National Motor Vehicle Crash Causation Survey (NMVCCS);

Whereas during the 100-Car Naturalistic Driving Study, driver involvement in secondary tasks contributed to over 22 percent of all crashes;

Whereas everyone traveling on the roads and highways needs to drive safer to reduce deaths and injuries resulting from motor vehicle accidents;

Whereas driver behavior can be effectively changed through education and awareness; and

Whereas the Sunday after Thanksgiving is the busiest highway traffic day of the year and would be appropriate to designate as "Drive Safer Sunday": Now, therefore, be it

*Resolved*, That the House of Representatives—

(1) encourages—

(A) high schools, colleges, universities, administrators, teachers, primary schools, and secondary schools to launch campus-wide educational campaigns to urge students to be careful about safety when driving;

(B) national trucking firms to alert their drivers to be especially focused on driving safely during the heaviest traffic day of the year, and to publicize the importance of the day using Citizen's Band (CB) radios and in truck stops across the Nation;

(C) clergy to remind their members to travel safely when attending services and gatherings;

(D) law enforcement personnel to remind drivers and passengers to drive safer; and

(E) all people of the United States to use this as an opportunity to educate themselves about the dangers of distracted driving and highway safety; and

(2) supports the designation of "Drive Safer Sunday".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New York (Mr. BISHOP) and the gentleman from New Jersey (Mr. LOBIONDO) will each control 20 minutes.

The Chair recognizes the gentleman from New York.

#### GENERAL LEAVE

Mr. BISHOP of New York. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their



remarks and include extraneous material on H. Res. 841.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. BISHOP of New York. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of H. Res. 841, a resolution that supports the designation of November 29, 2009, as Drive Safer Sunday, and encourages the greater education and awareness of the growing dangers caused by distracted driving on the Nation's roadways. I thank the gentleman from Pennsylvania (Mr. GERLACH) for introducing this resolution ahead of the Thanksgiving holiday as part of a growing effort to combat this dangerous trend.

Improving roadway safety is a top priority of our national transportation policy. Through the coordinated efforts of the Congress, the Department of Transportation, States, local governments, and community leaders, we can—and we must—take steps to reduce the alarming numbers of fatalities on the Nation's roadways each year.

On average over the past 5 years, over 41,500 people annually have lost their lives in vehicle crashes resulting in yearly costs of \$289 billion to the United States economy. Despite these startling statistics, the public has in many ways come to accept traffic fatalities as unavoidable.

Recently, a number of high-profile accidents have brought public scrutiny on the dangers of distracted driving, particularly texting while driving. This attention has led to a growing consensus that tasks that require drivers to divert attention from the road—such as dialing of a cell phone or sending text messages—undermine driver performance and must be combated.

According to the National Highway Traffic Safety Administration, in 2008, 5,870 people lost their lives and an estimated 515,000 people were injured in police-reported crashes in which at least one form of driver distraction was cited on the crash report. Driver distraction was reported to have been involved in 16 percent of all fatal crashes in 2008, increasing from 12 percent in 2004.

Addressing this troubling number of fatalities on our roadways will require a comprehensive approach to highway safety. That is why it is important during periods of above-average risk that we do everything in our power to inform the driving public about the importance of driving safety, remaining focused on the primary task at hand of operating a vehicle, and avoiding the many distractions that have caused so many unnecessary accidents.

This resolution brings much-needed awareness to the threats posed by roadway fatalities, particularly around the

busy Thanksgiving holiday. With drivers from every region of the U.S. traveling for the holidays, the Sunday after Thanksgiving is one of the busiest highway traffic days of the year, and one of the deadliest as well.

During the 2008 Thanksgiving season alone, 389 passenger vehicle occupants were killed in motor vehicle accidents nationwide. This Thanksgiving we can all play a role in reducing these numbers through the commonsense recommendations in this resolution.

I again thank the gentleman from Pennsylvania (Mr. GERLACH) for highlighting this important issue, and I urge my colleagues to join me in supporting H. Res. 841.

I reserve the balance of my time.

Mr. LOBIONDO. Mr. Speaker, I rise in strong support of the resolution but at this point I would like to yield to the gentleman from Pennsylvania (Mr. GERLACH) such time as he may consume.

Mr. GERLACH. Mr. Speaker, I thank the gentleman for his support of the resolution and for yielding his time.

A special thank you to my good friend from New York (Mr. BISHOP) for his leadership on this issue and also for his words this afternoon in support of this resolution, and also thanks to the chairman, Chairman OBERSTAR; the ranking member, Mr. MICA; the subcommittee chair, Mr. DEFAZIO; and subcommittee ranking member, Mr. DUNCAN, for their support of this resolution as well.

As my colleagues on the Transportation and Infrastructure Committee and I have heard at recent hearings, the issue of distracted driving has been gaining a lot of attention recently, and rightfully so. On September 30, 2009, Secretary Ray LaHood announced new research findings by the National Highway Traffic Safety Administration that show nearly 6,000 people died in 2008 in crashes involving a distracted or inattentive driver, and more than half a million were injured.

While the most recognized form of distracted driving is talking or texting on the cell phone, the term “distracted driving” actually refers to anything that takes your eyes, hands, or mind away from driving—including food and beverages, traffic accidents, adjusting the radio, children and pets in the vehicle, smoking, putting on makeup, shaving and reading—all of these behaviors need highlighting.

As my colleague from Oregon, Chairman DEFAZIO, said during our committee's hearing on distracted driving, “More research needs to be done so we can fully understand the extent of this problem, but the research that has been done shows a growing consensus the tasks that require the driver to divert their eyes from the road and/or their hands from the steering wheel pose a serious distraction that undermines driver performance.”

The Department of Transportation's recent distracted driving summit put a spotlight on this issue as well. Most car accidents are caused by drivers not paying attention according to the administration.

Improving roadway safety is a top priority not only for the Transportation and Infrastructure Committee but the House of Representatives as well. While we are still in the formative stages of establishing a Federal legislative policy consensus, it is important that we do not delay in deploying important educational and awareness outreach efforts, and this resolution attempts to do just that.

This resolution, which we have called the Drive Safer Sunday resolution, simply designates November 29, the Sunday after Thanksgiving and the busiest highway traffic day of the year, as Drive Safer Sunday and encourages all people in the country to use this as an opportunity to educate themselves and others about the dangers of distracted driving and highway safety. This resolution would encourage schools, trucking firms, clergy, and law enforcement to launch educational campaigns to urge students, members, and citizens to be careful about safety and driving.

Motor vehicle travel is the primary means of travel in the United States, and the administration estimates that 37,315 people—or more than 100 drivers a day—were killed in motor vehicle crashes in 2008. As we approach the busiest traffic day of the year, everyone traveling on the roads and highways needs to be aware of the risks associated with distracted driving and drive safer to reduce deaths and injuries resulting from motor vehicle accidents.

This resolution is a reminder of the personal responsibility each driver accepts every time they put their key in the ignition, and we can all do little things to make the roads safer and be more considerate of the other motorists.

I thank the gentleman from New York (Mr. BISHOP) for his kind support of this resolution.

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Mr. BISHOP of New York. Mr. Speaker, I yield such time as he may consume to the chairman of the Transportation Committee, the gentleman from Minnesota (Mr. OBERSTAR).

Mr. OBERSTAR. Mr. Speaker, I thank the gentleman for yielding.

I want to thank Mr. BISHOP for his leadership on this issue, but especially the gentleman from Pennsylvania (Mr. GERLACH) who had the foresight and the tenacity of concern to draft this resolution and call national attention to the subject of safe driving, particularly on this busiest travel weekend of the year, the Thanksgiving holiday time.



It is particularly poignant to me as nearly every year our daughter, Noelle; her husband, Todd; granddaughters, Emma, Lily, and Coryn, drive from Kenosha, Wisconsin, to Washington for Thanksgiving and back, 13-plus hours on the road. This year they are flying. My daughter Corrine and her husband, Steve, will come down from Pennsylvania near Mr. GERLACH's district and drive back, and it always bothers me there is so much traffic in the I-95 corridor which is so heavily traveled.

It takes me back to the beginning of the interstate highway system, the driving force behind the interstate. Far more than congestion on the Nation's roadways, movement of goods and people, was the prospect in 1955, the rising number of highway fatalities, that if we didn't do something, in less than a decade, more than 100,000 people would be dying on the Nation's roadways.

My predecessor, John Blatnik, who was one of the five coauthors of the interstate highway system, told me repeatedly when I was his administrative assistant that that was the driving force, the fear that we would continue to have carnage on the Nation's roadways, that drove the Congress, that pushed the Eisenhower administration to taking action to revive the study initiated under then-President Roosevelt just before the end of World War II that resulted in a recommendation of a 44,000-mile highway network for the continental United States.

Eisenhower then designated General Lucius Clay to resurrect that study. The Clay Commission came back and reported what became the National System of Interstate and Defense Highways.

Fatalities were in the range of 55,000 a year. We brought that down over 50 years to 43,000. Half of those are related to alcohol. Half of the fatal accidents are urban residents driving on rural roads not accustomed to obstructed line of sight, to blind intersections, to ground fog, to whiteouts at intersections during winter months. So half of the fatalities occur in rural areas. Half of those who die in rural areas are from urban centers.

We are all engaged together in the need for a safer driving environment. It was bad enough to have alcohol and drug abuse, but now distracted driving.

Mr. BISHOP referenced the Secretary's summit, as did Mr. GERLACH, on distracted driving just a few weeks ago. The Secretary is on his way to a conference in Moscow on safe driving. He left yesterday to lead the way among industrialized nations of the world to develop better information and take stronger action to improve safety on our roadways.

The European Commission, in 5 years, has reduced their highway fatality from 55,000 a year to 43,000 in just 5 years. A centerpiece of their action in the European Transport Ministry was

to ban cell phone use. In Portugal, it is a crime to use a cell phone while driving. Whether you are involved in an accident or not, traffic police are authorized to arrest persons who can then be prosecuted as criminals for using cell phones while driving. The European community is serious about this, and we need to get serious as well.

This resolution will move us into a greater awareness, a broader general awareness of the need for improved attention to safety.

Our transportation bill that has been reported from subcommittee and ready to come to the House floor will double the investment, over 6 years, in highway safety to \$12-plus billion over 6 years. That is what we need to do. We have funding for awareness programs and we have funding for increased driver training and driver education responsibility and more truck safety. There are a whole range of initiatives that need to be undertaken and need to be funded. We need a 6-year transportation bill to do that. This administration needs to get on board with us, not spend the next year dithering about what kind of bill we need to have. We have got the bill. We have the ideas. We have the initiatives and the public support. We need to move ahead with this bill.

Thank heavens for this resolution that will increase public awareness in this very critical time of year. Many millions of our fellow citizens take to the highways. They need to take to the highways safely and come home safely.

Mr. LOBIONDO. Mr. Speaker, again I rise in strong support of the resolution and remind my colleagues that during this holiday season we have an opportunity to help remind drivers of the harmful consequences of distracted driving and that harmful consequence on loved ones and others. So I encourage all Members of Congress to join me in supporting this resolution.

I would like to insert into the CONGRESSIONAL RECORD correspondence received from the AAA organization.

TRIPLE A,

Washington, DC, November 2, 2009.

Hon. JIM GERLACH,  
House of Representatives,  
Washington, DC.

DEAR CONGRESSMAN GERLACH: AAA supports your resolution on distracted driving, H. Res. 841, to designate November 29, 2009, as "Drive Safer Sunday." Your effort is in line with our own work to raise public awareness of the dangers posed by distracted driving.

Recently, AAA and the AAA Foundation for Traffic Safety encouraged all drivers to participate in "Heads Up Driving Week" from October 5-11. We asked drivers to take a first step toward driving distraction-free by trying it for one week, and then continuing that good habit for life. Drivers were urged to sign a pledge committing to distraction-free driving, and were provided 10 tips on how to eliminate distractions from their daily travel. For your information, I am enclosing the 10 tips that support the campaign.

AAA has also launched a state legislative campaign to pass laws banning text messaging while driving in all 50 states by 2013. Enacting texting while driving bans is an important step in reducing the incidence of this dangerous practice among motorists nationwide. We'll also continue our work through public education, driver training, and other safety programs to discourage motorists from engaging in the broad range of distractions that tempt them while behind the wheel.

AAA and a number of other safety groups recently sent a letter urging Congress to take a comprehensive approach to the issue of distracted driving. We urge Congress to support funding for research, data collection, public education, law enforcement and roadway countermeasures.

We support your goal of drawing public attention to the dangers of distracted driving and the importance of traffic safety. Thank you for your leadership on this important issue.

Sincerely,

JILL INGRASSIA,  
Managing Director, Government Relations  
and Traffic Safety Advocacy.

#### AAA 10 TIPS TO MINIMIZE DISTRACTED DRIVING

AAA and the AAA Foundation for Traffic Safety will be asking motorists to participate by making Heads Up Driving Week a distraction-free week of driving.

Using a cell phone, text messaging, or emailing are just some of many possible distractions that divert drivers' attention. Eating, talking with passengers, reading maps or the newspaper, writing, personal grooming, and looking at things outside the vehicle are among countless activities that could create a substantial crash risk.

Below are 10 quick and easy ways drivers can minimize distractions.

1. Plan Ahead. Read maps and check traffic conditions before you get on the road.
2. Stow Electronic Devices. Turn off your phone before you drive so you won't be tempted to use it while on the road. Pull over to a safe place to talk on the phone or to send and receive text messages or emails.
3. Prepare Kids and Pets for the Trip. Get the kids safely buckled in and situated with snacks and entertainment before you start driving. If they need additional attention during the trip, pull off the road safely to care for them. Similarly, prepare and secure pets appropriately in your vehicle before getting underway.
4. Satisfy that Craving Off the Road. Eat meals and snacks before getting behind the wheel, or stop to eat and take a break if driving long-distance.
5. Store Loose Gear and Possessions. Stash away loose objects that could roll around and take your attention away from driving.
6. Get Your Vehicle Road-Ready. Adjust seat positions, climate controls, sound systems and other devices before you leave or while your vehicle is stopped. Make sure your headlights are spotless so you can see everything on the road and every other driver can see you better.
7. Dress for Success Before You Get in the Car. Your car isn't a dressing room. Brush your hair, shave, put on make-up, and tie your necktie before you leave or once you reach your destination.
8. Get Your Brain in the Game. Focus on the task at hand—driving safely. Scan the road, use mirrors and practice commentary driving, identifying orally events and conditions you may have to react to. Really focusing on maintaining your thoughts about the

road, when you're on the road, can help enhance your engagement, your overall awareness and behavior as a driver, and help you see the importance of "being in the game."

9. Evaluate Your Own Behavior From the Other Side of the Road. When you're on the road as a passenger or a pedestrian, take a look around and honestly evaluate whether you might have some of the same driving behaviors as those who you're a little worried about as a passenger or pedestrian.

10. Enlist Passengers. Ask a passenger to help you with activities that may be distracting.

These tips and further information about distracted driving are available at [www.AAAFoundation.org/HeadsUp](http://www.AAAFoundation.org/HeadsUp).

I yield back the balance of my time.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise today in support of H. Res 841, which will designate November 29, 2009, as "Drive Safer Sunday". I strongly support the passage of this resolution because at some point in time, all of our lives have been or will be in the hands of a driver. Motor vehicle travel is the primary means of transportation for most of us here in the United States. Advocating safer driving methods will help save the lives of countless mothers, daughters, fathers and sons. Losing the people we love due to another drivers' lack of attention, carelessness or belligerent intoxication while driving is inexcusable.

According to the U.S. Census Bureau's American Community Survey, in 2005, Americans now spend more than 100 hours a year commuting to work. The National Highway Traffic Safety Administration, NHTSA, estimates that in 2009, 37,313 people, an average of more than 100 drivers a day, were killed in motor vehicle traffic crashes. Throughout the first half of this year, the National Highway Traffic Safety Administration, NHTSA, has reported over 16,000 deaths. Throughout 2008 in Houston, my home district, the 18th District of Texas, there were an estimated 74 fatalities according to the Texas Department of Transportation, TxDOT.

Between driving to work, taking our kids to school, running to the grocery store and various other errands; for many of us, our highways and byways become a home away from home. Unfortunately, distracted drivers have endangered us all with careless antics. 'Distracted driving' includes anything that takes your eyes, hands, or mind away from driving, including food and beverages, traffic accidents, adjusting the radio, children, pets, objects moving in the vehicle, talking or texting on a cell phone, smoking, putting on or make-up, shaving, and reading.

The National Highway Traffic Safety Administration, NHTSA, conducted a study on driver distraction with respect to both behavioral and vehicle safety countermeasures in an effort to understand and mitigate crashes associated with distracted driving. In September of this year, the Department of Transportation, DOT, Secretary Ray LaHood announced research findings by the National Highway Traffic Safety Administration, NHTSA, that showed nearly 6,000 people died in 2008 in crashes involving a distracted or inattentive driver, and more than half a million were injured. Distracted driving was reported to have been involved in 16 percent of all fatal crashes in 2008, according to data from the Fatality Analysis Report-

ing System, FARS. The age group with the greatest proportion of distracted drivers was the under-20 age group, 16 percent of all under-20 drivers in fatal crashes were reported to have been distracted while driving. Crashes in which the critical reason for the crash was attributed to the driver, approximately 18 percent involved distraction, according to the National Motor Vehicle Crash Causation Survey, NMVCCS.

While traveling on our roads and highways, we all need to drive safer to reduce deaths and injuries resulting from motor vehicle accidents. Driver behavior can be effectively changed through education and awareness. The Sunday after Thanksgiving is the busiest highway traffic day of the year and would be appropriate to be designated as "Drive Safer Sunday."

Mr. BISHOP of New York. Mr. Speaker, let me just close by thanking the gentleman from Pennsylvania (Mr. GERLACH) for his leadership on this issue. Let me also thank the chairman of the committee, Mr. OBERSTAR, for moving this resolution through the committee so rapidly and bringing it to the floor so quickly. Let me also echo the chairman's comments with respect to the urgency and the desirability of passing a robust reauthorization of the highway transportation bill as quickly as we possibly can.

I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York (Mr. BISHOP) that the House suspend the rules and agree to the resolution, H. Res. 841.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the ayes have it.

Mr. BISHOP of New York. Mr. Speaker, on that I demand the yeas and nays. The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

#### CRUISE VESSEL SECURITY AND SAFETY ACT OF 2009

Mr. CUMMINGS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3360) to amend title 46, United States Code, to establish requirements to ensure the security and safety of passengers and crew on cruise vessels, and for other purposes, as amended.

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 3360

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Cruise Vessel Security and Safety Act of 2009".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

Sec. 2. Findings.

Sec. 3. Cruise vessel security and safety requirements.

Sec. 4. Study and report on the security needs of passenger vessels.

#### SEC. 2. FINDINGS.

The Congress makes the following findings:

(1) There are approximately 200 overnight ocean-going cruise vessels worldwide. The average ocean-going cruise vessel carries 2,000 passengers with a crew of 950 people.

(2) In 2007 alone, approximately 12,000,000 passengers were projected to take a cruise worldwide.

(3) Passengers on cruise vessels have an inadequate appreciation of their potential vulnerability to crime while on ocean voyages, and those who may be victimized lack the information they need to understand their legal rights or to know whom to contact for help in the immediate aftermath of the crime.

(4) Sexual violence, the disappearance of passengers from vessels on the high seas, and other serious crimes have occurred during luxury cruises.

(5) Over the last 5 years, sexual assault and physical assaults on cruise vessels were the leading crimes investigated by the Federal Bureau of Investigation with regard to cruise vessel incidents.

(6) These crimes at sea can involve attacks both by passengers and crew members on other passengers and crew members.

(7) Except for United States flagged vessels, or foreign flagged vessels operating in an area subject to the direct jurisdiction of the United States, there are no Federal statutes or regulations that explicitly require cruise lines to report alleged crimes to United States Government officials.

(8) It is not known precisely how often crimes occur on cruise vessels or exactly how many people have disappeared during ocean voyages because cruise line companies do not make comprehensive, crime-related data readily available to the public.

(9) Obtaining reliable crime-related cruise data from governmental sources can be difficult, because multiple countries may be involved when a crime occurs on the high seas, including the flag country for the vessel, the country of citizenship of particular passengers, and any countries having special or maritime jurisdiction.

(10) It can be difficult for professional crime investigators to immediately secure an alleged crime scene on a cruise vessel, recover evidence of an onboard offense, and identify or interview potential witnesses to the alleged crime.

(11) Most cruise vessels that operate into and out of United States ports are registered under the laws of another country, and investigations and prosecutions of crimes against passengers and crew members may involve the laws and authorities of multiple nations.

(12) The Coast Guard has found it necessary to establish 500-yard security zones around cruise vessels to limit the risk of terrorist attack. Recently piracy has dramatically increased throughout the world.

(13) To enhance the safety of cruise passengers, the owners of cruise vessels could upgrade, modernize, and retrofit the safety and security infrastructure on such vessels by installing peep holes in passenger room doors, installing security video cameras in targeted areas, limiting access to passenger rooms to select staff during specific times, and installing acoustic hailing and warning

devices capable of communicating over distances.

### SEC. 3. CRUISE VESSEL SECURITY AND SAFETY REQUIREMENTS.

(a) IN GENERAL.—Chapter 35 of title 46, United States Code, is amended by adding at the end the following:

#### “§ 3507. Passenger vessel security and safety requirements

“(a) VESSEL DESIGN, EQUIPMENT, CONSTRUCTION, AND RETROFITTING REQUIREMENTS.—

“(1) IN GENERAL.—Each vessel to which this subsection applies shall comply with the following design and construction standards:

“(A) The vessel shall be equipped with ship rails that are located not less than 42 inches above the cabin deck.

“(B) Each passenger stateroom and crew cabin shall be equipped with entry doors that include peep holes or other means of visual identification.

“(C) For any vessel the keel of which is laid after the date of enactment of the Cruise Vessel Security and Safety Act of 2009, each passenger stateroom and crew cabin shall be equipped with—

“(i) security latches; and

“(ii) time-sensitive key technology.

“(D) The vessel shall integrate technology that can be used for capturing images of passengers or detecting passengers who have fallen overboard, to the extent that such technology is available.

“(E) The vessel shall be equipped with a sufficient number of operable acoustic hailing or other such warning devices to provide communication capability around the entire vessel when operating in high risk areas (as defined by the Coast Guard).

“(2) FIRE SAFETY CODES.—In administering the requirements of paragraph (1)(C), the Secretary shall take into consideration fire safety and other applicable emergency requirements established by the Coast Guard and under international law, as appropriate.

“(3) EFFECTIVE DATE.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), the requirements of paragraph (1) shall take effect 18 months after the date of enactment of the Cruise Vessel Security and Safety Act of 2009.

“(B) LATCH AND KEY REQUIREMENTS.—The requirements of paragraph (1)(C) take effect on the date of enactment of the Cruise Vessel Security and Safety Act of 2009.

“(b) VIDEO RECORDING.—

“(1) REQUIREMENT TO MAINTAIN SURVEILLANCE.—The owner of a vessel to which this section applies shall maintain a video surveillance system to assist in documenting crimes on the vessel and in providing evidence for the prosecution of such crimes, as determined by the Secretary.

“(2) ACCESS TO VIDEO RECORDS.—The owner of a vessel to which this section applies shall provide to any law enforcement official performing official duties in the course and scope of an investigation, upon request, a copy of all records of video surveillance that the official believes may provide evidence of a crime reported to law enforcement officials.

“(c) SAFETY INFORMATION.—The owner of a vessel to which this section applies shall provide in each passenger stateroom, and post in a location readily accessible to all crew and in other places specified by the Secretary, information regarding the locations of the United States embassy and each consulate of the United States for each country the vessel will visit during the course of the voyage.

“(d) SEXUAL ASSAULT.—The owner of a vessel to which this section applies shall—

“(1) maintain on the vessel adequate, in-date supplies of anti-retroviral medications and other medications designed to prevent sexually transmitted diseases after a sexual assault;

“(2) maintain on the vessel equipment and materials for performing a medical examination in sexual assault cases to evaluate the patient for trauma, provide medical care, and preserve relevant medical evidence;

“(3) make available on the vessel at all times medical staff who have undergone a credentialing process to verify that he or she—

“(A) possesses a current physician's or registered nurse's license and—

“(i) has at least 3 years of post-graduate or post-registration clinical practice in general and emergency medicine; or

“(ii) holds board certification in emergency medicine, family practice medicine, or internal medicine;

“(B) is able to provide assistance in the event of an alleged sexual assault, has received training in conducting forensic sexual assault examination, and is able to promptly perform such an examination upon request and provide proper medical treatment of a victim, including administration of anti-retroviral medications and other medications that may prevent the transmission of human immunodeficiency virus and other sexually transmitted diseases; and

“(C) meets guidelines established by the American College of Emergency Physicians relating to the treatment and care of victims of sexual assault;

“(4) prepare, provide to the patient, and maintain written documentation of the findings of such examination that is signed by the patient; and

“(5) provide the patient free and immediate access to—

“(A) contact information for local law enforcement, the Federal Bureau of Investigation, the Coast Guard, the nearest United States consulate or embassy, and the National Sexual Assault Hotline program or other third party victim advocacy hotline service; and

“(B) a private telephone line and Internet-accessible computer terminal by which the individual may confidentially access law enforcement officials, an attorney, and the information and support services available through the National Sexual Assault Hotline program or other third party victim advocacy hotline service.

“(e) CONFIDENTIALITY OF SEXUAL ASSAULT EXAMINATION AND SUPPORT INFORMATION.—The master or other individual in charge of a vessel to which this section applies shall—

“(1) treat all information concerning an examination under subsection (d) confidential, so that no medical information may be released to the cruise line or other owner of the vessel or any legal representative thereof without the prior knowledge and approval in writing of the patient, or, if the patient is unable to provide written authorization, the patient's next-of-kin, except that nothing in this paragraph prohibits the release of—

“(A) information, other than medical findings, necessary for the owner or master of the vessel to comply with the provisions of subsection (g) or other applicable incident reporting laws;

“(B) information to secure the safety of passengers or crew on board the vessel; or

“(C) any information to law enforcement officials performing official duties in the course and scope of an investigation; and

“(2) treat any information derived from, or obtained in connection with, post-assault

counseling or other supportive services confidential, so no such information may be released to the cruise line or any legal representative thereof without the prior knowledge and approval in writing of the patient, or, if the patient is unable to provide written authorization, the patient's next-of-kin.

“(f) CREW ACCESS TO PASSENGER STATEROOMS.—The owner of a vessel to which this section applies shall—

“(1) establish and implement procedures and restrictions concerning—

“(A) which crew members have access to passenger staterooms; and

“(B) the periods during which they have that access; and

“(2) ensure that the procedures and restrictions are fully and properly implemented and periodically reviewed.

“(g) LOG BOOK AND REPORTING REQUIREMENTS.—

“(1) IN GENERAL.—The owner of a vessel to which this section applies shall—

“(A) record in a log book, either electronically or otherwise, in a centralized location readily accessible to law enforcement personnel, a report on—

“(i) all complaints of crimes described in paragraph (3)(A)(i),

“(ii) all complaints of theft of property valued in excess of \$1,000, and

“(iii) all complaints of other crimes, committed on any voyage that embarks or disembarks passengers in the United States; and

“(B) make such log book available upon request to any agent of the Federal Bureau of Investigation, any member of the Coast Guard, and any law enforcement officer performing official duties in the course and scope of an investigation.

“(2) DETAILS REQUIRED.—The information recorded under paragraph (1) shall include, at a minimum—

“(A) the vessel operator;

“(B) the name of the cruise line;

“(C) the flag under which the vessel was operating at the time the reported incident occurred;

“(D) the age and gender of the victim and the accused assailant;

“(E) the nature of the alleged crime or complaint, as applicable, including whether the alleged perpetrator was a passenger or a crew member;

“(F) the vessel's position at the time of the incident, if known, or the position of the vessel at the time of the initial report;

“(G) the time, date, and method of the initial report and the law enforcement authority to which the initial report was made;

“(H) the time and date the incident occurred, if known;

“(I) the total number of passengers and the total number of crew members on the voyage; and

“(J) the case number or other identifier provided by the law enforcement authority to which the initial report was made.

“(3) REQUIREMENT TO REPORT CRIMES AND OTHER INFORMATION.—

“(A) IN GENERAL.—The owner of a vessel to which this section applies (or the owner's designee)—

“(i) shall contact the nearest Federal Bureau of Investigation Field Office or Legal Attache by telephone as soon as possible after the occurrence on board the vessel of an incident involving homicide, suspicious death, a missing United States national, kidnapping, assault with serious bodily injury, any offense to which section 2241, 2242, 2243, or 2244 (a) or (c) of title 18 applies, firing or tampering with the vessel, or theft of money

or property in excess of \$10,000 to report the incident;

“(ii) shall furnish a written report of the incident to the Secretary via an Internet based portal;

“(iii) may report any serious incident that does not meet the reporting requirements of clause (i) and that does not require immediate attention by the Federal Bureau of Investigation via the Internet based portal maintained by the Secretary of Transportation; and

“(iv) may report any other criminal incident involving passengers or crew members, or both, to the proper State or local government law enforcement authority.

“(B) INCIDENTS TO WHICH SUBPARAGRAPH (A) APPLIES.—Subparagraph (A) applies to an incident involving criminal activity if—

“(i) the vessel, regardless of registry, is owned, in whole or in part, by a United States person, regardless of the nationality of the victim or perpetrator, and the incident occurs when the vessel is within the admiralty and maritime jurisdiction of the United States and outside the jurisdiction of any State;

“(ii) the incident concerns an offense by or against a United States national committed outside the jurisdiction of any nation;

“(iii) the incident occurs in the Territorial Sea of the United States, regardless of the nationality of the vessel, the victim, or the perpetrator; or

“(iv) the incident concerns a victim or perpetrator who is a United States national on a vessel during a voyage that departed from or will arrive at a United States port.

“(4) AVAILABILITY OF INCIDENT DATA VIA INTERNET.—

“(A) WEBSITE.—The Secretary of Transportation shall maintain a statistical compilation of all incidents described in paragraph (3)(A)(i) on an Internet site that provides a numerical accounting of the missing persons and alleged crimes recorded in each report filed under paragraph (3)(A)(i) that are no longer under investigation by the Federal Bureau of Investigation. The data shall be updated no less frequently than quarterly, aggregated by—

“(i) cruise line, with each cruise line identified by name; and

“(ii) whether each crime was committed by a passenger or a crew member.

“(B) ACCESS TO WEBSITE.—Each cruise line taking on or discharging passengers in the United States shall include a link on its Internet website to the website maintained by the Secretary under subparagraph (A).

“(h) ENFORCEMENT.—

“(1) PENALTIES.—

“(A) CIVIL PENALTY.—Any person that violates this section or a regulation under this section shall be liable for a civil penalty of not more than \$25,000 for each day during which the violation continues, except that the maximum penalty for a continuing violation is \$50,000.

“(B) CRIMINAL PENALTY.—Any person that knowingly fails to record in a log book or to make a log book available in accordance with subsection (g)(1), or to report in accordance with subsection (g)(3), shall be fined not more than \$250,000 or imprisoned not more than 1 year, or both.

“(2) DENIAL OF ENTRY.—The Secretary may deny entry into the United States to a vessel to which this section applies if the owner of the vessel—

“(A) commits an act or omission for which a penalty may be imposed under this subsection; or

“(B) fails to pay a penalty imposed on the owner under this subsection.

“(i) PROCEDURES.—Within 6 months after the date of enactment of the Cruise Vessel Security and Safety Act of 2009, the Secretary shall issue guidelines, training curricula, and inspection and certification procedures necessary to carry out the requirements of this section.

“(j) REGULATIONS.—The Secretary of Transportation and the Commandant shall each issue such regulations as are necessary to implement this section.

“(k) APPLICATION.—

“(1) IN GENERAL.—This section and section 3508 apply to a passenger vessel (as defined in section 2101(22)) that—

“(A) is authorized to carry at least 250 passengers;

“(B) has onboard sleeping facilities for each passenger;

“(C) is on a voyage that embarks or disembarks passengers in the United States; and

“(D) is not engaged on a coastwise voyage.

“(2) FEDERAL AND STATE VESSELS.—This section and section 3508 do not apply to a vessel that is owned and operated by the United States Government or a vessel that is owned and operated by a State.

“(l) OWNER DEFINED.—In this section and section 3508, the term ‘owner’ means the owner, charterer, managing operator, master, or other individual in charge of a vessel.

**“§ 3508. Crime scene preservation training for passenger vessel crew members**

“(a) IN GENERAL.—Within 1 year after the date of enactment of the Cruise Vessel Security and Safety Act of 2009, the Secretary, in consultation with the Director of the Federal Bureau of Investigation and the Maritime Administrator, shall develop training standards and curricula to allow for the certification of passenger vessel security personnel, crew members, and law enforcement officials on the appropriate methods for prevention, detection, evidence preservation, and reporting of criminal activities in the international maritime environment. The Administrator of the Maritime Administration may certify organizations in the United States and abroad that offer the curriculum for training and certification under subsection (c).

“(b) MINIMUM STANDARDS.—The standards established by the Secretary under subsection (a) shall include—

“(1) the training and certification of vessel security personnel, crew members, and law enforcement officials in accordance with accepted law enforcement and security guidelines, policies, and procedures, including recommendations for incorporating a background check process for personnel trained and certified in foreign countries;

“(2) the training of students and instructors in all aspects of prevention, detection, evidence preservation, and reporting of criminal activities in the international maritime environment; and

“(3) the provision or recognition of off-site training and certification courses in the United States and foreign countries to develop and provide the required training and certification described in subsection (a) and to enhance security awareness and security practices related to the preservation of evidence in response to crimes on board passenger vessels.

“(c) CERTIFICATION REQUIREMENT.—Beginning 2 years after the standards are established under subsection (b), no vessel to which this section applies may enter a United States port on a voyage (or voyage segment) on which a United States citizen is a passenger unless there is at least 1 crew

member onboard who is certified as having successfully completed training in the prevention, detection, evidence preservation, and reporting of criminal activities in the international maritime environment on passenger vessels under subsection (a).

“(d) INTERIM TRAINING REQUIREMENT.—No vessel to which this section applies may enter a United States port on a voyage (or voyage segment) on which a United States citizen is a passenger unless there is at least 1 crew member onboard who has been properly trained in the prevention, detection, evidence preservation and the reporting requirements of criminal activities in the international maritime environment. The owner of such a vessel shall maintain certification or other documentation, as prescribed by the Secretary, verifying the training of such individual and provide such documentation upon request for inspection in connection with enforcement of the provisions of this section. This subsection shall take effect 1 year after the date of enactment of the Cruise Vessel Safety and Security Act of 2009 and shall remain in effect until superseded by the requirements of subsection (c).

“(e) CIVIL PENALTY.—Any person that violates this section or a regulation under this section shall be liable for a civil penalty of not more than \$50,000.

“(f) DENIAL OF ENTRY.—The Secretary may deny entry into the United States to a vessel to which this section applies if the owner of the vessel—

“(1) commits an act or omission for which a penalty may be imposed under subsection (e); or

“(2) fails to pay a penalty imposed on the owner under subsection (e).”.

(b) CLERICAL AMENDMENT.—The table of contents for such chapter is amended by adding at the end the following:

“3507. Passenger vessel security and safety requirements.

“3508. Crime scene preservation training for passenger vessel crew members.”.

**SEC. 4. STUDY AND REPORT ON THE SECURITY NEEDS OF PASSENGER VESSELS.**

(a) IN GENERAL.—Within 3 months after the date of enactment of this Act, the Secretary of the department in which the Coast Guard is operating shall conduct a study of the security needs of passenger vessels depending on number of passengers on the vessels, and report to the Congress findings of the study and recommendations for improving security on those vessels.

(b) REPORT CONTENTS.—In recommending appropriate security on those vessels, the report shall take into account typical crew member shifts, working conditions of crew members, and length of voyages.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Maryland (Mr. CUMMINGS) and the gentleman from New Jersey (Mr. LOBIONDO) each will control 20 minutes.

The Chair recognizes the gentleman from Maryland.

**GENERAL LEAVE**

Mr. CUMMINGS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous material on H.R. 3360.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Maryland?

There was no objection.

Mr. CUMMINGS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today in strong support of the Cruise Vessel Security and Safety Act of 2009, H.R. 3360, as amended.

This legislation, authored by Congresswoman DORIS MATSUI, would require that cruise vessels calling on the United States take reasonable steps to improve the physical safety and security of their vessels. The legislation also would require cruise vessels to report to U.S. authorities allegations of specific crimes on cruise ships.

Almost all of the nearly 200 cruise vessels embarking and disembarking passengers in the United States are registered in foreign countries. As a result, U.S. laws apply directly to these vessels and to those sailing on these vessels only when they are sailing in U.S. waters.

While available statistics suggest that crime is infrequent on cruise vessels, many Americans do not realize, when they step on a cruise ship, they are stepping on what becomes a floating piece of some other country's jurisdiction as soon as it is more than 12 miles from United States shores.

Unfortunately, for those who are the victims of crime on cruise vessels, the implications of this reality become clear only after they learn that the laws applying to the cruise vessels may not and often do not extend to them the kinds of protections United States laws would extend.

Additionally, the unique circumstances of life at sea, particularly if a vessel is far from the kinds of law enforcement resources that are available on land, often make the prosecution of those accused of committing a crime on a cruise ship very difficult. As a result, though crime is infrequent on cruise vessels, so are prosecutions of those accused of crimes.

As chairman of the Subcommittee on Coast Guard and Maritime Transportation, I held two hearings to examine the issue of crime on cruise ships. I believe H.R. 3360 responds directly to the problems we examined in our hearings by requiring reasonable alteration in vessel design, equipment, and construction standards to increase the physical safety and security of passengers. For example, H.R. 3360 requires that cruise vessels install peepholes or similar features in cabin doors so passengers can identify who is at their door without having to open it. H.R. 3360 also requires that cruise vessels have railings that are at least 42 inches high to help prevent passengers from falling overboard.

To ensure that those who are victims of sexual assaults have immediate access to state-of-the-art medical care, H.R. 3360 requires that cruise ships have onboard trained personnel who can provide treatment to assault victims, collect evidence to support prosecutions, and administer antiretroviral medications as soon as possible. The

legislation also requires that a store of such medications be maintained on cruise vessels.

H.R. 3360 also specifies certain crimes that must be reported to U.S. authorities, and it requires the Secretary of Transportation to maintain an Internet site that provides a numerical accounting of the crimes reported to U.S. authorities. Such statistics will be aggregated by individual cruise lines, and cruise lines will be required to maintain a link to the site on their own Web pages.

Again, Mr. Speaker, I applaud the work of the gentlewoman from California (Ms. MATSUI) who has worked tirelessly on this issue and given it just a tremendous, tremendous effort. I applaud her and thank her on behalf of the Congress and a grateful Nation.

I urge all of the Members of the House to join me in passing H.R. 3360, as amended.

HOUSE OF REPRESENTATIVES,  
COMMITTEE ON HOMELAND SECURITY,  
Washington, DC, November 12, 2009.

Hon. JAMES L. OBERSTAR,  
Chairman, Committee on Transportation and  
Infrastructure, Washington, DC.

DEAR CHAIRMAN OBERSTAR, I write to you regarding H.R. 3360, the "Cruise Vessel Security and Safety Act of 2009."

H.R. 3360 contains provisions that fall within the jurisdiction of the Committee on Homeland Security. I recognize and appreciate your desire to bring this legislation before the House in an expeditious manner and, accordingly, I will not seek a sequential referral of the bill. However, agreeing to waive consideration of this bill should not be construed as the Committee on Homeland Security waiving, altering, or otherwise affecting its jurisdiction over subject matters contained in the bill which fall within its Rule X jurisdiction.

Further, I request your support for the appointment of an appropriate number of Members of the Committee on Homeland Security to be named as conferees during any House-Senate conference convened on H.R. 3360 or similar legislation. I also ask that a copy of this letter and your response be included in the legislative report on H.R. 3360 and in the Congressional Record during floor consideration of this bill.

I look forward to working with you as we prepare to pass this important legislation.

Sincerely,  
BENNIE G. THOMPSON,  
Chairman.

HOUSE OF REPRESENTATIVES, COM-  
MITTEE ON TRANSPORTATION AND  
INFRASTRUCTURE  
Washington, DC, November 12, 2009.

Hon. BENNIE G. THOMPSON,  
Chairman, Committee on Homeland Security,  
Washington, DC.

DEAR CHAIRMAN THOMPSON, I write to you regarding H.R. 3360, the "Cruise Vessel Security and Safety Act of 2009."

I agree that provisions in H.R. 3360 are of jurisdictional interest to the Committee on Homeland Security. I acknowledge that by forgoing a sequential referral, your Committee is not relinquishing its jurisdiction and I will fully support your request to be represented in a House-Senate conference on those provisions over which the Committee on Homeland Security has jurisdiction in H.R. 3618.

This exchange of letters will be inserted in the Committee Report on H.R. 3360 and in the Congressional Record as part of the consideration of this legislation in the House.

I look forward to working with you as we prepare to pass this important legislation.

Sincerely,  
JAMES L. OBERSTAR, M.C.,  
Chairman.

I reserve the balance of my time.

Mr. LOBIONDO. Mr. Speaker, I rise in support of H.R. 3360, the Cruise Vessel Security and Safety Act of 2009, and yield myself such time as I may consume.

I would like to state that I believe this language is a significant improvement over legislation that was considered by the House in the 110th Congress and mirrors language currently awaiting final action in the Senate.

□ 1315

The provisions of this legislation were also included as part of H.R. 3619, the Coast Guard Authorization Act of 2010, which the House overwhelmingly approved last month.

For several years the Committee on Coast Guard and Maritime Transportation has closely examined the factors impacting the safety and security of American citizens aboard cruise ships that operate in and out of U.S. ports. H.R. 3360 makes commonsense improvements which will enhance safeguards for passengers during a cruise. While no level of procedural or structural modifications can prevent all incidents from occurring, I believe this bill will significantly enhance the capabilities of both passengers and cruise lines in the future.

The bill will also codify an agreement between the FBI and cruise lines which will require cruise operators to immediately notify Federal law enforcement agencies of major incidents that occur aboard a vessel.

I support the bill.

Mr. Speaker, I reserve the balance of my time.

Mr. CUMMINGS. Mr. Speaker, I yield 4 minutes to the gentlewoman from California (Ms. MATSUI), who is the sponsor of the bill and who has been so helpful to our committee and our subcommittee on this issue.

Ms. MATSUI. I thank the gentleman from Maryland, who has been such a leader in all of this.

Mr. Speaker, I rise today in support of H.R. 3360, the Cruise Vessel Safety and Security Act, legislation that I introduced earlier this year. I want to thank both Chairman OBERSTAR and Chairman CUMMINGS for the good work their committees have done on this bill and for their tremendous support to enact this critical legislation.

There is an urgent need for the reform I have outlined in the Cruise Vessel Safety and Security Act. For far too long, American families have unknowingly been at risk when embarking on cruise vacations. Unfortunately,

the status quo has allowed cruise ships to operate under foreign flags of convenience, and they are not required under U.S. law to report crimes occurring outside of our territorial waters. But leaving our territorial waters does not mean that cruise ships should be allowed to operate without basic laws that protect American citizens.

My legislation requires that all crimes that occur aboard cruise ships be reported to the Coast Guard and to the FBI. Without proper screening processes and accountability, these reprehensible and violent acts will be allowed to continue. Unclear lines of jurisdiction are no longer an excuse for risking the safety of millions of Americans who board cruise ships each year.

I first became aware of the need for increased protections for Americans when one of my constituents, Laurie Dishman, wrote to me for help in April of 2006. Laurie was a victim of a sexual assault while on a cruise vacation. She was given no assistance by the cruise line in properly securing evidence of the assault, no assistance in identifying her attacker, no assistance in prosecuting the crime once back on shore.

Devastated, Laurie reached out to me, and I immediately called for hearings on this issue and began to work on this legislation. Our hearings made apparent the gross inadequacies of current cruise safety provisions; and with ongoing news coverage of recent rapes on cruise ships, it is clear that this legislation is urgent and necessary.

My legislation establishes stringent new standards to ensure the safety and security of passengers on cruise vessels. Its reforms include reporting that vessel personnel be able to preserve evidence of crimes committed on the vessels and provide appropriate medical treatment to the victims of sexual assaults. Security, safety, and accountability must all be strengthened to hold criminals accountable and end the cycle of serious crimes on cruise ships.

This has been a long, difficult road for all cruise victims and their families, and this legislation is truly a result of their courage, their dedication, and their conviction to prevent further crimes from happening. These reforms are long overdue, common sense, and are supported by the Cruise Line Industry Association and was included in the Coast Guard Authorization Act that passed this year.

I urge my colleagues to vote in support of this important legislation and join me in paving a path for a safer future for all cruise passengers.

Mr. LOBIONDO. Mr. Speaker, I am very happy to yield 5 minutes to my colleague from Arizona (Mr. SHADEGG).

Mr. SHADEGG. I thank the gentleman for yielding.

Mr. Speaker, I rise in very strong support of this critically needed legislation, the Cruise Vessel Security and

Safety Act; and I want to compliment the author of the legislation, Ms. MATSUI, for her efforts. Like her, I have a tragic story that has been brought to my attention which will be addressed by this legislation, and I want to make it clear how important I believe this legislation is to millions of potential victims who go unknowingly onto cruise ships.

Merrian Carver, the daughter of one of my constituents, Ken Carver, was a vibrant young woman who had her entire life ahead of her. Tragically, at the age of 40, she disappeared from a cruise ship in August of 2004 and was never found. That would be bad enough in itself, but it is the outrageous conduct afterward which this legislation addresses. There have already been comments about the lack of supervision or safety or the lack of protection of the law, but in this instance there was calous disregard.

The steward of the ship knew she was onboard and that she had used her room the first night, and he conscientiously reported that she did not use her room again any of the subsequent nights. She had gone missing on the second day of the cruise, and nothing was done. No law enforcement officials were contacted. No family members were contacted. Nothing was done. In essence, the steward was told, Be quiet and mind your own business.

At the end of the trip, Merrian's personal effects were simply boxed up. The FBI was not notified. The family was not notified.

Ultimately, Merrian's family, in a desperate effort, was forced to hire a law firm and a private investigator. Again, however, they met with resistance and unnecessary delays in response by the cruise ship. It took days to confirm that Merrian had, in fact, boarded the ship, and video confirmed that she had boarded the ship. And it took even more time to get permission to interview the steward.

She had not been in her room for 5 days, and her absence had simply gone unreported and unacted upon. Her family hired a private investigator, and he was resisted in his efforts to talk to people on the ship. Ultimately, the law firm that they retained obtained a court order to interview the steward and other personnel responsible.

This simply should not happen on ships that call on American ports. It should never happen, and Americans need to be aware. Again, I compliment Ms. MATSUI.

This legislation takes important and reasonable steps to protect Americans and all citizens when they board these ships. Cruise ships have a duty of responsibility to the people who board them. This will make those cruise ships more accountable and safer. It will, as has been mentioned, require some video surveillance to monitor crime onboard. It will require crime

scene investigation training and certification for some cruise vessel crew members. It will require other provisions to ensure that if one of our loved ones goes missing on a cruise ship, they are notified.

Importantly, it will require the preservation of evidence. Like Ms. MATSUI's constituent who was the victim of a rape, this legislation will require that rape kits be kept onboard in case such a tragic event happens again.

This is critically needed legislation. It has followed somewhat of a tortured path. It came across this floor once before, and its ultimate enactment into law was jeopardized by being coupled with other legislation.

I compliment the chairman of the subcommittee and the chairman of the full committee and the ranking member. I think it is essential that this legislation be enacted, and I compliment you for separating it for a stand-alone vote.

Mr. CUMMINGS. Mr. Speaker, I yield 2½ minutes to the gentlewoman from California (Ms. RICHARDSON). She is a strong member of our subcommittee and certainly one who has championed this cause too.

Ms. RICHARDSON. Mr. Speaker, I rise in strong support of H.R. 3360, the Cruise Vessel Security and Safety Act of 2009, which will address cruise safety in many of our communities. I would like to thank Chairmen OBERSTAR and CUMMINGS and my colleague Ms. MATSUI from California for bringing forward this issue that we've all talked about and are now glad to see finally come to the floor again.

Cruise ships are enjoyed by approximately 10 million Americans every year, and many of them come to my district in the Ports of Long Beach and Los Angeles. This bill will take many steps towards preventing crimes on cruise ships and ensuring that those crimes that are committed, the people who do those deeds, will find justice.

By enacting measures such as installing peepholes on doors, basic things like increasing video surveillance, and keeping better records of incidents that do occur will make our seas safer and really cause the cruise to be a vacation as advertised.

I applaud the bill's emphasis on safety and health. It will ensure that a sufficient number of physicians are aboard every ship and that ships have appropriate up-to-date supplies of antiretroviral medications. Just a few weeks ago, I met with some of the members of the cruise ship industry and talked to them about what they're doing to prepare for the H1N1 virus.

Now is the time. We have long put people in jeopardy of not really having the appropriate safety regulations and measures, and I applaud this Congress and our chairmen for bringing it forward today.

Mr. LOBIONDO. Mr. Speaker, I am now pleased to yield 5 minutes to my colleague from Texas (Mr. POE).



Mr. POE of Texas. Mr. Speaker, I appreciate the gentleman from New Jersey yielding time and his work on this legislation and, of course, the chairman from Maryland and his work as well, but also the gentlewoman from California (Ms. MATSUI), who has been a relentless advocate of protecting citizens that are on cruise lines.

I recently was a cosponsor of similar legislation, H.R. 1485, the Cruise Vessel Security Act of 2009, that was passed by this House. And this bill, H.R. 3360, the Cruise Vessel Security and Safety Act of 2009, makes cruise lines more accountable when passengers become victims of crime at sea.

Every year cruise line companies carry over 10 million American citizens to and from America's ports, and these cruise lines promise Americans safety, security, fun, relaxation aboard their ships. But sometimes that is not the whole story.

In 2007 the Los Angeles Times published an article disclosing sexual assault data that was provided by Royal Caribbean International as part of a civil lawsuit. The article's disturbing and startling report showed that over a 32-month period, Royal Caribbean reported over 250 incidents of sexual assault, battery, and harassment. Cruise companies have been forced to pay millions of dollars in order to settle civil lawsuits filed in American courts for failing to protect American passengers. Congressional testimony by victims of sexual assault on cruise ships exposes so much more than the cruise lines have really told us.

Most disturbing from this testimony were from female victims that were sexually assaulted by crew members on the high seas. Almost 40 percent of the crimes were committed by cruise company employees. And as the gentlewoman from California has pointed out, her constituent Laurie Dishman in 2006 was sexually assaulted by a man on the cruise ship who was a security officer.

This individual, Laurie Dishman, reported the incident, and the cruise line did absolutely nothing. When the cruise was over with, she met with the FBI and explained her case, and after several days she later received a phone call saying that the Department of Justice would not prosecute her case and that the FBI had closed the investigation and gave her no explanation.

So then she wrote a letter to Royal Caribbean Cruise Lines, and they wrote her back, Mr. Speaker, thanking her for her business and even had the audacity to send her a coupon for future trips on their cruise line.

I commend Ms. Dishman for bringing this whole issue before Congress and especially Ms. MATSUI, her Representative from California, for exposing these atrocities to the American public and to this Congress. If these U.S.-based cruise ship companies who own and op-

erate foreign flag passenger vessels want to access the millions of Americans who travel their cruise ships every year, they should be required to implement proper safety and security improvements for all travelers.

The U.S. Government also needs to ensure that American citizens and American families are safe when they travel on cruise ships departing from our ports. And when crimes are reported on the high seas, the perpetrators should be accountable.

As chairman of the Victims' Rights Caucus, I strongly support this legislation.

□ 1330

Mr. CUMMINGS. Mr. Speaker, I yield 5 minutes to the distinguished chairman of our committee, the gentleman from Minnesota (Mr. OBERSTAR). I want to thank him as he rises for all of his hard work.

Mr. OBERSTAR. Mr. Speaker, I thank the chairman, Mr. CUMMINGS, for the prodigious work done, the hearing preparation, not just the hearing, but preparation for the hearing, gathering the information and steeping himself in the subject of the hearing and gathering all the data, and then working to shape the ultimate legislation. He has done a superb job, as has Mr. LOBIONDO, our ranking member, and former chairman of the subcommittee.

I especially want to thank Ms. MATSUI for her work at the behest of her constituent, having heard this terrible experience her constituent went through on that cruise experience. She then had the courage to testify at our committee hearing. That's really extraordinary. So determined was she to see justice done, to change the culture aboard cruise ships, the indifference we saw in this particular case, the indifference spread throughout this industry, to the plight of the rare but nonetheless experiences that cruise passengers go through. Some 10.5 million took a cruise vacation in 2007. That's a very sizable number of our constituency nationwide.

There is only one U.S.-flagged cruise line, cruise vessel, I should say. There are over 200 cruise vessels that are registered under foreign flags. When crime occurs aboard those vessels, as was said earlier by both Mr. CUMMINGS and Mr. LOBIONDO, it's on the high seas, beyond the jurisdiction of the United States. But when that vessel comes into port, it is under our law.

This is a law enforcement bill. And the gentleman from Arizona (Mr. SHAD-EGG) very well and thoughtfully and with great feeling described the experience of his constituent, the family of constituents of a woman who was actually lost. This legislation, as he pointed out, and as Mr. CUMMINGS pointed out, provides a pathway to correcting those problems out into the future. But we have to get a bill passed. That is

why we separated this bill from other legislation.

There is already a hold on this bill in the other body. A Member of the other body is holding this bill up and insisting that a fee be imposed on cruise line passengers to pay for any Federal Government involvement. This is law enforcement. We don't ask our fellow citizens to pay a fee for their homes to be protected against burglary. We don't ask victims of rape to pay a fee to be protected against future rape. That is just—well, it's beyond description. I shouldn't say anything further.

But we have to get a bill passed. And the Member of the other body who is insisting on those conditions needs to have a visit with reality. And the reality are those victims of violence aboard cruise ships. And this legislation will bridge the gaps between the rights of victims and the actual experiences they encounter, provide protection, provide access to assistance to victims of crime and give them the protection of U.S. law, extend that to those 10.5 million of our fellow citizens who take a cruise vacation so it will be a pleasant experience and not a nightmare.

Mr. Speaker and colleagues, I just want to observe and thank the ranking member of the subcommittee, Mr. LOBIONDO, that this particular bill, is the 200th bill of our committee in the 110th and now the 111th Congress, the 200th bill that we have moved through committee, and I expect soon through the House and one veto override, in the 2½ years under my chairmanship.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. CUMMINGS. I yield the gentleman 1½ additional minutes.

Mr. OBERSTAR. I want to thank my colleagues on the Democratic side and particularly my colleagues on the Republican side for the splendid participation we have had and the partnership we have enjoyed in moving together a legislative agenda for America, for the good of this country, a partnership that we extended during the years of the Republican majority from 1995 onward. It is a record of accomplishment that I think sets the standard for this body. And I appreciate the partnership that we have had, in particular Mr. MICA, who is the leader on the Republican side, and all of our colleagues on the committee, the 200th bill or resolution. It is a good day, a good day for America, a good day for our committee.

Mr. LOBIONDO. Mr. Speaker, I am pleased to yield 5 minutes to my colleague from Indiana (Mr. SOUDER).

Mr. SOUDER. I thank the distinguished subcommittee Chair.

I rise today in support of this bill and not just because of the tragic cases that we have been discussing, but specifically, in support of a more obscure section in the bill that requires passenger vessels to be equipped with



acoustic hailing devices. The Long Range Acoustical Devices, LRADS, are the next generation of nonlethal countermeasure devices. These acute, long-range acoustic hailing devices are important for both civilian and military vessels.

Following the suicide attack on the USS *Cole* while it was at port in Yemen in 2000, the United States Navy established a requirement for an acoustic hailing device. The intent of this AHD was to provide the Navy with a means to establish the intent of an approaching vessel at a distance such that defensive measures could be taken should the vessel not heed a warning.

These hailing devices are not only used as an identifier of intent but also can be used to repel possible attackers or to disperse unlawful mobs. An LRAD was used for this purpose for the first time in the United States in Pittsburgh during the time of the G-20 summit on September 24–25 of 2009.

Last week I had the opportunity to witness an LRAD in action. Ultra Electronics, a high-tech manufacturer near Columbia City, Indiana, demonstrated their acoustic device, the Hyperspike, both as a hailer and as a deterrent. The thumping pulsating sounds were impressive, and I now understand why the crowds were dispersed so quickly in Pittsburgh. I was also impressed with the range of the Hyperspike. It is capable of emitting crystal clear audible messages at distances of over 3 miles across the water.

This act is intended to improve the overall safety of cruise ship passengers. It not only improves capabilities to thwart external threats such as pirate attacks, but also to increase internal passenger safety through increased security measures.

It has been well publicized that pirate attacks on cargo vessels are continuing. As these vessels improve their security against such attacks, it is very likely that the pirates will look for other vulnerable targets, such as cruise ships. This legislation will provide these vessels with the capability to establish vessel intent earlier and escalate security measures to protect the ship, crew and passengers.

Mr. CUMMINGS. May I inquire as to how much time we have remaining?

The SPEAKER pro tempore. The gentleman from Maryland has 4½ minutes.

Mr. CUMMINGS. We have no additional speakers. I yield to the gentleman.

Mr. LOBIONDO. Mr. Speaker, I am pleased to support the legislation, congratulate the sponsor, thank Mr. OBERSTAR and Mr. CUMMINGS, and yield back the balance of my time.

Mr. CUMMINGS. Mr. Speaker, I yield myself such time as I may consume.

I want to make it very clear, Mr. Speaker, that this was an effort of the victim groups and the cruise ship industry. As Chairman OBERSTAR said,

there was a lot of work that went into this legislation with folks actually sitting down and coming up with reasonable and balanced solutions to these problems.

I want to thank all of the folks that did that. And I also take a moment to thank Mr. LOBIONDO and certainly Mr. MICA and definitely our chairman, Mr. OBERSTAR. This is one of those bipartisan efforts that has yielded a win-win-win, a win certainly for this Congress, a win for those people who find themselves taking a vacation on cruise ships, and certainly a win for law enforcement as they try to make sure that they address any kind of issues that may come up, and the industry. It's a win-win-win-win.

So I think that what we have done is approach this in a very balanced way, a very measured way, but a way which addresses all of the issues that we attempted to address. And certainly we thank Ms. Dishman and the other victims who have had difficult circumstances happen to them for bringing their testimony. As Chairman OBERSTAR said, this kind of testimony is very difficult for someone to present themselves, not only to the Congress but on C-SPAN and for the world to hear what they went through. But yet and still, the fact is that they sacrificed so that we can have this kind of legislation.

With that, I would urge our colleagues to vote for this legislation.

Mr. MITCHELL. Mr. Speaker, as a member of the House Committee on Transportation and Infrastructure, I rise today on behalf of H.R. 3360, the Cruise Vessel Security and Safety Act of 2009.

This is important legislation that will significantly improve the safety and security of cruise passengers.

A Senate version of this bill has earned committee approval earlier this year, and in October, the House overwhelmingly approved this measure by a bipartisan vote of 385–11, as part of the Coast Guard Reauthorization Act of 2010.

The bill will bring many of the same, commonsense security measures to cruise ships that a lot of us take for granted in major hotels—things like latches and peep holes for guest rooms and video surveillance to document criminal activity.

In addition, the bill will ensure that cruise ships are equipped to provide emergency assistance to victims of sexual assaults.

Finally, and perhaps most significantly, the bill will require that serious criminal incidents on board are reported to the proper authorities.

I want to thank Representative DORIS MATSUI for her leadership on this legislation.

I also want to thank Kendall Carver, an Arizonan whose tireless efforts on this issue have been truly incredible.

As many of you know, in 2004, Ken's daughter, Merrian, mysteriously and tragically disappeared aboard a cruise to Alaska. And, as the Arizona Republic recently reported, "In-

stead of reporting her absence, the ship's staffers packed up her belongings and cleaned up her cabin. They did nothing for five weeks and only filed a missing-persons report with the FBI after being questioned by a private detective."

This is not just wrong—it's beyond wrong.

Cruise passengers deserve better. Their families deserve better.

That's why I want to encourage my colleagues to support this legislation.

Mr. CUMMINGS. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Maryland (Mr. CUMMINGS) that the House suspend the rules and pass the bill, H.R. 3360, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the ayes have it.

Mr. CUMMINGS. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

#### HONORING COAST GUARD AND MARINE CORPS AIRCRAFT PILOTS LOST IN CALIFORNIA

Mr. CUMMINGS. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 891) expressing the gratitude of the House of Representatives for the service to our Nation of the Coast Guard and Marine Corps aircraft pilots and crewmembers lost off the coast of California on October 29, 2009, and for other purposes, as amended.

The Clerk read the title of the resolution.

The text of the resolution is as follows:

##### H. RES. 891

Whereas on the evening of October 29, 2009, a Coast Guard C-130 aircraft with two pilots and five crewmembers on board was involved in a search and rescue mission off the coast of California;

Whereas at the same time, a Marine Corps AH-1W Super Cobra carrying two pilots was involved in a military escort mission nearby;

Whereas the two aircraft are suspected to have collided while traveling east of San Clemente Island, California;

Whereas the following crew members of the Coast Guard C-130 are missing and presumed to have lost their lives in the line of duty: Lt. Cmdr. Che J. Barnes of Capay, California; Lt. Adam W. Bryant, of Crewe, Virginia; Chief Petty Officer John F. Seidman of Stockton, California; Petty Officer 2nd Class Carl P. Grigoris of Mayfield Heights, Ohio; Petty Officer 2nd Class Monica L. Beacham of Decaturville, Tennessee; Petty Officer 2nd Class Jason S. Moletzsky of Norristown, Pennsylvania; and Petty Officer 3rd Class Danny R. Kreder II, of Elm Mott, Texas;

Whereas the following crew members of the Marine Corps helicopter are missing and presumed to have lost their lives in the line of duty: Maj. Samuel Leigh of Kennebec,

Maine, and 1st Lt. Thomas Claiborne of Douglas County, Colorado;

Whereas the men and women of the Coast Guard are "Always Ready" to safeguard the United States against all hazards and threats at our ports, at sea, and around the world; and

Whereas the men and women of the Marine Corps are "Always Faithful" to their mission of defending the United States on the ground, in the air, and by sea, in every corner of the globe: Now, therefore, be it

*Resolved*, That the House of Representatives expresses its gratitude for the service to our Nation of the Coast Guard and Marine Corps aircraft pilots and crewmembers lost off the coast of California on October 29, 2009, and extends its condolences to their family, friends, and loved ones.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Maryland (Mr. CUMMINGS) and the gentleman from New Jersey (Mr. LOBIONDO) each will control 20 minutes.

The Chair recognizes the gentleman from Maryland.

#### GENERAL LEAVE

Mr. CUMMINGS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and to include extraneous material on H. Res. 891.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Maryland?

There was no objection.

Mr. CUMMINGS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, today I rise in strong support of H. Res. 891, as amended, a resolution expressing the gratitude of the House of Representatives for the service of the air crewmembers of Coast Guard aircraft 1705 and a Marine Corps AH-1 Super Cobra helicopter who were lost when these aircraft collided near San Clemente Island, California, on October 29 of this year.

On board the Coast Guard C-130 were seven Coast Guard members who were conducting a search-and-rescue mission at the time of the terrible accident. These crewmembers were Lieutenant Commander Che J. Barnes, a 17-year Coast Guard veteran who commanded Coast Guard 1705 and is survived by his father and three brothers, including a twin brother; Lieutenant Adam W. Bryant, the copilot of CG-1705 and a 2003 graduate of the Coast Guard Academy who is survived by his parents and brother; Chief Petty Officer John F. Seidman, the flight engineer who had served more than 20 years in the Coast Guard and is survived by his wife, parents and brother; Petty Officer 2nd Class Carl P. Grigonis, the CG-1705 navigator who was the father of a young son and whose wife is expecting a daughter; Petty Officer 2nd Class Monica L. Beacham, the flight's radio operator, who leaves a husband and a young daughter to mourn; Petty Officer 2nd Class Jason S. Moletzsky, an air crewmember survived by his fiancée, parents and two sisters; and Petty Offi-

cer 3rd Class Danny R. Kreder, II, drop master, survived by his wife, parents and two brothers.

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On board the Marine Corps AH-1 Super Cobra were two pilots: Major Samuel Leigh, who had served two tours in Iraq and whose service in the Marine Corps maintained his family's long tradition of military service; and First Lieutenant Thomas Claiborne, a magna cum laude graduate of the University of Colorado.

These individuals dedicated their lives to serving the United States of America. They protected our Nation from the many threats we face, and they selflessly placed their lives in harm's way to aid those in distress. Their terrible loss is a reminder of the risks that the members of our Armed Forces face while conducting their many missions.

Our thoughts and our prayers are with the families of each of these servicemembers and with all the colleagues they have left behind in the United States Coast Guard and the Marine Corps. Our thoughts and prayers are also with all of the members of our Armed Forces who are serving our Nation now on the front lines in Iraq and Afghanistan and with the families of the thousands who have given their lives in defense of our great Nation's freedom on those two battlefields in each of our Nation's conflicts.

I commend Congresswoman SÁNCHEZ, the Chair of the Committee on Homeland Security's Subcommittee on Border, Maritime, and Global Counterterrorism, for her work on H. Res. 891. I urge its adoption by the House today, and I express my gratitude for the service of the members of the Coast Guard and Marine Corps recognized by this resolution.

COMMITTEE ON ARMED SERVICES,  
HOUSE OF REPRESENTATIVES,  
Washington, DC, November 13, 2009.

Hon. JAMES L. OBERSTAR,  
Chairman, House Committee on Transportation and Infrastructure, Rayburn House Office Building, Washington, DC.

DEAR MR. CHAIRMAN: On November 5, 2009, the House Resolution 891, "Expressing the gratitude of the House of Representatives for the service to our Nation of the Coast Guard and Marine Corps aircraft pilots and crewmembers lost off the coast of California on October 29, 2009, and for other purposes," was introduced in the House. As you know, this measure was referred to the Committee on Transportation and Infrastructure, and in addition to the Committee on Armed Services, for a period to be subsequently determined by the Speaker.

Our Committee recognizes the importance of H. Res. 891 and the need for the legislation to move expeditiously. Therefore, while we have a valid claim to jurisdiction over this legislation, the Committee on Armed Services will waive further consideration of H. Res. 891. I do so with the understanding that by waiving further consideration of the resolution, the Committee does not waive any future jurisdictional claims over similar measures.

I would appreciate the inclusion of this letter and a copy of your response in the Congressional Record during consideration of the measure on the House floor.

Very truly yours,

IKE SKELTON,  
Chairman.

HOUSE OF REPRESENTATIVES, COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE,  
Washington, DC, November 13, 2009.

Hon. IKE SKELTON,  
Chairman, Committee on Armed Services, House of Representatives, Rayburn House Office Building, Washington, DC.

DEAR CHAIRMAN SKELTON: I write to you regarding H. Res. 891, expressing the gratitude of the House of Representatives for the service to our Nation of the Coast Guard and Marine Corps aircraft pilots and crewmembers lost off the coast of California on October 29, 2009, and for other purposes.

I agree that provisions in H. Res. 891 are of jurisdictional interest to the Committee on Armed Services. I acknowledge that by foregoing further consideration, your Committee is not relinquishing its jurisdiction.

This exchange of letters will be inserted in the Congressional Record as part of the consideration of this legislation in the House.

I look forward to working with you as we prepare to pass this important legislation.

Sincerely,  
JAMES L. OBERSTAR, M.C.,  
Chairman.

Mr. Speaker, I reserve the balance of my time.

Mr. LOBIONDO. Mr. Speaker, I yield myself such time as I may consume.

I rise in strong support of this resolution, H. Res. 891, and thank the sponsor for the introduction. Our Nation suffered a tragic loss last month when seven coastguardsmen and two marines were killed when their military aircraft collided off the coast of California. These men and women died while performing critically important missions for our Nation.

Mr. Speaker, this is a very tragic reminder to the entire Nation of the sacrifices that our men and women are making for all the rest of us. They put their lives on the line each and every day. Some people think that only happens in the theater of war, but in reality it happens every day with every man and woman who is serving our Nation.

We join their families and their friends and their loved ones in mourning their passing and we pay tribute to the ultimate sacrifice they have made in service to our country, another reminder that as they put on the uniform, this is an all-volunteer Army, Navy, Air Force, and Coast Guard and Marines that serve our Nation so adequately and so well, putting the Nation first, putting the Nation before themselves. I can't imagine the loss the families must be feeling with what should have been just a routine mission.

The investigation into the cause of the accident has just begun, but I hope we will have the results soon and that we can take appropriate actions to ensure that our armed services have the

tools they need to prevent a similar tragedy from ever occurring again.

I will now reserve the balance of my time.

Mr. CUMMINGS. Mr. Speaker, I yield 3 minutes to the distinguished sponsor of this legislation, the gentlewoman from California (Ms. LORETTA SANCHEZ).

Ms. LORETTA SANCHEZ of California. I thank both chairmen. Thank you so much for allowing me to put forward this resolution and to pass it today on the House floor.

Mr. Chairman, as a member of both the Homeland Security Committee and the Armed Forces Committee here in the House of Representatives, I introduced this resolution on the 1-week anniversary of the tragic events that occurred off our coast of California. Let me remind you where this occurred was maybe, at the most, an hour's drive from where I live.

On Thursday, October 29, the Federal Aviation Administration reported that a Coast Guard C-130 plane and a Marine Corps AH-1W Cobra helicopter crashed off the coast while they were both conducting separate missions. We honor the nine men and women who lost their lives in that crash and we send our condolences to their families and their friends and their loved ones.

As the motto states, "Always Ready," the Coast Guard defends the shores of this great country daily, and we sometimes forget our unsung heroes. Tasked with multiple missions every day, the Coast Guard relies on its skills and the expertise of the personnel to stop drug runners, to perform search and rescue operations, and to secure our ports and our waterways.

It saddens me that we lost seven of these brave men and women last week while on duty as they were conducting a search and rescue effort. In addition, the two Marine Corps pilots that lost their lives fully lived their Corps motto of "Always Faithful." Their sacrifice while on a military training exercise off the coast of California echoes the sacrifice and the risk that all our men and women in uniform face in the armed services.

Both the Coast Guard and the Marine Corps serve globally and, let us not forget, locally to protect our communities and to provide humanitarian aid when it's necessary. We must not forget those sacrifices, their missions, and that at any time anything can go wrong. And we must always remember those that we have lost during their time of service.

I know the Coast Guard had a memorial service Friday in Sacramento which, unfortunately, I was unable to go to, but I felt that it was important to introduce this resolution at this time to honor those that died. These brave individuals fulfilled their commitment to serve and to defend the United States at any cost. Of course,

they sacrificed and gave the biggest cost, so our eternal gratitude and respect go to them.

I urge my colleagues to join me in honoring these brave individuals by supporting this resolution.

Mr. LOBIONDO. Mr. Speaker, I am pleased to yield such time as he may consume to my colleague, the gentleman from California (Mr. HERGER).

Mr. HERGER. I thank the gentleman from New Jersey.

Mr. Speaker, I rise today to express my support for House Resolution 891, which honors the two marines and seven members of the Coast Guard who lost their lives during a rescue mission off the coast of California on October 29. We're grateful for their service and sacrifice and express our heartfelt condolences to all of their loved ones.

One of the fallen members of the Coast Guard was Che Barnes. Che grew up on a family farm in Capay Valley, northern California, located in my district that I represent. From an early age, Che was fascinated with planes. He worked hard to earn money to pay for flight lessons. He flew his first solo flight at the young age of 16. He joined the Coast Guard so that he could use his love of flying to rescue those stranded at sea.

It is tragic but fitting that he lost his life doing something he loved—flying in the Coast Guard and serving his Nation and fellow man. By all accounts, he was an excellent pilot and an even better person.

May God bless and comfort his family and friends.

Mr. CUMMINGS. I yield 5 minutes to the chairman of the committee, the gentleman from Minnesota (Mr. OBERSTAR).

Mr. OBERSTAR. I thank the gentleman from Maryland again, the Chair of the Coast Guard Subcommittee, for his diligent work on this very tragic resolution. It is very important to pay recognition to those who lost their lives. I was very deeply touched by the remarks of the gentlewoman from California, the gentleman from New Jersey (Mr. LOBIONDO) and Chairman CUMMINGS.

These are courageous servicemen and -women, those in the U.S. Coast Guard, those in the U.S. Marine Corps, our oldest service unit, which predates the establishment of our own Nation. The Coast Guard itself was the third act of the first session of the first Congress by this committee, the Committee on Rivers and Harbors, that established the Revenue Cutter Service to collect duties on inbound cargoes and repay the debts of the Revolutionary War.

The Revenue Cutter Service later became the U.S. Coast Guard. That Coast Guard every year responds to over 60,000 calls for help, every year saves over 5,000 lives. It is tragic that in the course of their search and rescue service that Coast Guard men and women should have lost their lives.

Now there is an investigation underway by the Navy and the Coast Guard jointly inquiring into the causes of this tragedy, hopefully for the purpose of unraveling that collision, but also to learn lessons to avoid such incidents in the future. This incident occurred in military-controlled airspace, airspace controlled by the U.S. Navy from an onshore facility at San Diego.

The Coast Guard's C-130 had a data recorder on board. Search is underway to hopefully locate that data recorder and gain useful information about the circumstances under which the collision occurred. It was at twilight, it was at dusk. Very hard to distinguish and effectively operate under the rules of see and avoid. But there must be more at stake here. That C-130 was loaded with electronic equipment for detection of vessels or persons in the water, and one has to assume it had equipment to detect proximity of another aircraft.

We have to unravel those facts and understand what occurred in order to avoid such circumstances in the future and engage the necessary training for personnel or install on board both helicopters and C-130-type aircraft traffic collision avoidance systems, which the Navy initiated 40 years ago and which is now aboard all commercial airliners.

Unfortunately, the National Transportation Safety Board, at least at the outset, will not be engaged in the investigation. I'm of the view that the NTSB should be a partner in any such investigations of military aircraft in U.S. territorial airspace. That is a matter for another time, but as we pay tribute to and acknowledge those who gave their lives in service of this country in pursuance of their mission, I think it's important to recall that there is more we can and must do to improve safety in the domestic airspace, including safety under the control of our military units.

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There will be further attention paid to this issue. We will pursue the safety issues engaged in this tragedy. But for the moment, we must mourn the loss of those crew members whom Mr. CUMMINGS already noted in his remarks.

Mr. LOBIONDO. Mr. Speaker, I am pleased to yield such time as he may consume to the gentleman from North Carolina (Mr. COBLE).

Mr. COBLE. I thank my friend from New Jersey for yielding, and I commend the gentlelady from California for having introduced this very significant resolution.

Mr. Speaker, I would like to take a moment or two to express our condolences to the families, friends and members of our Armed Forces associated with the crew of the Coast Guard C-130 and the Marine Corps AH-1W Super Cobra who collided on October 29, 2009, off the California coast.

Mr. Speaker, it's difficult to lose servicemembers under any circumstances, and this accident is no exception. The seven members of the Coast Guard C-130 crew were in the midst of a search-and-rescue mission while the Marine Corps Super Cobra was involved in a military escort mission. These servicemembers were answering the call of duty to protect and serve others and paid the ultimate sacrifice. As a former Coast Guardsman and a Member of Congress, I believe it is appropriate to recognize their service and honor their lives. This resolution is a significant gesture of expression to show our gratitude for their service and sacrifice.

Mr. CUMMINGS. Madam Speaker, we have no other speakers, so I will continue to reserve the balance of my time.

Mr. LOBIONDO. Once again, Madam Speaker, we join with the Nation in our thoughts and prayers for the families and for those who have lost their lives in honoring all those who serve. I urge all of my colleagues to support the resolution.

I yield back the balance of my time.

Mr. CUMMINGS. Madam Speaker, I yield myself as much time as I may consume.

Once again, I urge all of our Members to vote in favor of this very, very important resolution. And I will say to the families of these service persons that they are in our prayers. We thank all of our personnel for what they do every day, so often putting their lives on the line so that we might enjoy the freedoms that we do enjoy.

Mr. RICHARDSON. Madam Speaker, I rise today in strong support of H. Res. 891 which recognizes and honors the Coast Guard and Marine Corps aircraft pilots and crewmembers who lost their lives off the coast of Southern California on October 29, 2009.

Let me take a moment to commend Congresswoman LORETTA SANCHEZ, who hails from my home state of California, for her leadership in bringing this resolution to the floor and giving us the opportunity both to mourn our loss of these individuals and to thank the Coast Guard and the Marine Corps for their brave service to this country.

I was truly devastated when I heard the news on October 29, 2009, of a collision between a Coast Guard transport plane and a Marine Corps helicopter off the coast of Southern California, not far from my district. At the same time, I was deeply grateful for those members of the Coast Guard and the Navy who immediately went out and conducted an intense search and rescue mission to locate any possible survivors of the crash.

We are indebted to the men and women who dedicate their lives to the Coast Guard and the Marine Corps. Even in the face of a tragedy such as this one, one that affects members of their own community, these brave men and women are ready and willing to serve their country in whatever way necessary. I support this resolution and urge my colleagues to do the same.

Mr. ISSA. Madam Speaker, today the House of Representatives recognizes the service and sacrifice of the members of the United States Coast Guard and the United States Marine Corps who were tragically killed during exercises off the coast of California three weeks ago.

On October 29, 2009, a Coast Guard C-130 plane and a Marine AH-1 Cobra helicopter collided off the coast of Southern California. The Marine pilots were conducting training about 15 miles off San Clemente Island when they collided with the U.S. Coast Guard plane, which was based out of the Coast Guard Air Station in Sacramento, CA.

These brave Marines and Coast Guardsmen dedicated their lives to protecting our freedom and safety. Such tragedies are a reminder of the dangers all men and women of our armed forces face, whether they are stationed in Afghanistan, California, or anywhere else in the world.

H. Res. 891 offers Members of the House of Representatives an appropriate opportunity to express our thoughts and prayers to families and friends of these service members. Our hearts are with them during this difficult period.

Ms. JACKSON-LEE of Texas. Madam Speaker, I rise today in support of H. Res. 891, "Expressing the gratitude of the House of Representatives for the service to our Nation of the Coast Guard and Marine Corps aircraft pilots and crewmembers lost off the coast of California on October 29, 2009, and for other purposes." The safety of American citizens lies in the hands of our service men and women on a daily basis. With honor and respect our service men and women devote their lives to their duty and time and time again they prove to be faithful servants. We in the Gulf Coast region will never forget their bravery in saving 22,000+ lives during Hurricane Katrina.

On the evening of October 29, 2009, a Coast Guard C-130 aircraft with two pilots and five crewmembers on board was involved in a search and rescue mission off the coast of California. Unfortunately at the same time, a Marine Corps AH-1W Super Cobra carrying two pilots was involved in a military escort mission nearby. The two aircraft are suspected to have collided while traveling east of San Clemente Island, California. The following crew members of the Coast Guard C-130 are missing and presumed to have lost their lives in the line of duty: Lt. Cmdr. Che J. Barnes of Capay, California; Lt. Adam W. Bryant, of Crewe, Virginia; Chief Petty Officer John F. Seidman of Stockton, California; Petty Officer 2nd Class Carl P. Grigonis of Mayfield Heights, Ohio; Petty Officer 2nd Class Monica L. Beacham of Decaturville, Tennessee; Petty Officer 2nd Class Jason S. Moletzsky of Norristown, Pennsylvania; and Petty Officer 3rd Class Danny R. Kreder II, of Elm Mott, Texas. The following crew members of the Marine Corps helicopter are missing and presumed to have lost their lives in the line of duty: Maj. Samuel Leigh of Kennebec, Maine, and 1st Lt. Thomas Claiborne of Douglas, Colorado.

The men and women of the Coast Guard are "Always Ready" to safeguard the United States against all hazards and threats at our ports, at sea, and around the world. As the

men and women of the Marine Corps are "Always Faithful" to their mission of defending the United States on the ground, in the air, and by sea, in every corner of the globe. These individuals lost their lives in service to their country and I, as well as every other Member of Congress, should support this resolution in their honor.

Mr. CUMMINGS. Madam Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Ms. CHU). The question is on the motion offered by the gentleman from Maryland (Mr. CUMMINGS) that the House suspend the rules and agree to the resolution, H. Res. 891, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the ayes have it.

Mr. CUMMINGS. Madam Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

#### H. DALE COOK FEDERAL BUILDING AND UNITED STATES COURTHOUSE

Mr. CUMMINGS. Madam Speaker, I move to suspend the rules and pass the bill (H.R. 3305) to designate the Federal building and United States courthouse located at 224 South Boulder Avenue in Tulsa, Oklahoma, as the "H. Dale Cook Federal Building and United States Courthouse".

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 3305

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. DESIGNATION.

The Federal building and United States courthouse located at 224 South Boulder Avenue in Tulsa, Oklahoma, shall be known and designated as the "H. Dale Cook Federal Building and United States Courthouse".

#### SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the Federal building and United States courthouse referred to in section 1 shall be deemed to be a reference to the "H. Dale Cook Federal Building and United States Courthouse".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Maryland (Mr. CUMMINGS) and the gentleman from Florida (Mr. MARIO DIAZ-BALART) each will control 20 minutes.

The Chair recognizes the gentleman from Maryland.

#### GENERAL LEAVE

Mr. CUMMINGS. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous material on H.R. 3305.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Maryland?

There was no objection.

Mr. CUMMINGS. Madam Speaker, I yield myself such time as I may consume.

I rise in support of H.R. 3305, a bipartisan bill supported by the entire Oklahoma delegation that would designate the United States courthouse at 224 South Boulder Avenue in Tulsa, Oklahoma, as the H. Dale Cook Federal Building United States Courthouse.

H. Dale Cook was a veteran of World War II who served as a flight instructor. After the war, he studied law at the University of Oklahoma and then embarked on a long legal career in electoral politics. After being twice elected the chief prosecuting attorney in his county, he went on to serve as assistant U.S. attorney. He subsequently alternated between government service and private practice for several years before being nominated to the Federal judiciary by President Gerald Ford in 1974. Judge Cook served as a district court judge for some 34 years until his death on September 23, 2008.

Judge Cook was an honorable and well-respected civil servant and had a long and distinguished record of public service. The designation of the United States courthouse at 224 South Boulder Avenue in Tulsa, Oklahoma, in his honor is a fitting memorial to his service, and I urge the House to adopt H.R. 3305.

With that, Madam Speaker, I reserve the balance of my time.

Mr. MARIO DIAZ-BALART of Florida. Madam Speaker, at this time I would like to recognize the impassioned advocate and the sponsor of this legislation for 5 minutes, the gentleman from Oklahoma (Mr. SULLIVAN), who has been pushing for this resolution.

Mr. SULLIVAN. Madam Speaker, it is with great pleasure that I rise today to honor Judge H. Dale Cook. Judge Cook was a World War II veteran who spent nearly 50 years in public service and more than 33 years as a United States district judge in Oklahoma. Judge Cook began his career in public service in 1951 when he was elected county attorney for Logan County and Guthrie. He would hold several other positions in public service in Oklahoma, including first assistant U.S. attorney, chief trial attorney and legal counsel and adviser to Governor Henry Bellmon.

In the early 1970s, Judge Cook worked in Washington, D.C., for the Social Security Administration until beginning his career as a Federal judge in 1974 when he was sworn in as U.S. district judge in the Northern, Eastern and Western Districts of Oklahoma. Five years later in 1979, Judge Cook became chief judge of the Northern District of Oklahoma and served in that capacity for 13 years.

In 1992, Judge Cook took senior status to enable the appointment of an ad-

ditional judge to the Northern District. As a senior judge, he continued to be active and carried a full court docket for the next 12 years until a few months before his death on September 22, 2008.

Judge Cook was adamantly committed to his belief that politics should play no role in the dispensing of justice and demonstrated that belief in his judicial rulings and the administration of his responsibilities as chief judge. He was a man of fairness and integrity who opened each court session with "God bless the United States and save this honorable court."

Judge Cook's greatest legacy may be the restoration and the reopening of the original Federal courthouse in Tulsa, Oklahoma. When the Federal courts were moved to another building about 45 years ago, the old Federal building sat largely unused. Judge Cook saw this building as a solution when there became a need for additional court space. He spearheaded the effort to restore it to its original splendor. Judge Cook used his powers of persuasion and his influence as chief judge of the Northern District to insist on conforming the courthouse to its original design and decorum. Without his involvement, the building would have never been used for its current purpose, and the beauty of a lost era would not be visible as it is today in Tulsa, Oklahoma.

By his direct efforts, the building is now included in the National Register of Historic Places and is currently used for the courtrooms, judicial chambers, the bankruptcy court and affiliated Federal offices of the Northern District of Oklahoma. Due to the vision and hard work of Judge Cook, the building is now being used for its original purpose, as a Federal judicial courthouse.

Preserving the beauty of a lost era as a Federal judge, he conducted his duties in a nonpartisan manner. It is my hope that the naming of this Federal building will be an equally bipartisan effort to honor this exceptional man for his exemplary career in public service and bringing the Federal courthouse back to its original grandeur.

I urge the adoption of H.R. 3305.

Mr. OBERSTAR. Madam Speaker, I rise in support of H.R. 3305, a bill introduced by the gentleman from Oklahoma (Mr. SULLIVAN), which designates the United States courthouse at 224 South Boulder Avenue in Tulsa, Oklahoma, as the "H. Dale Cook Federal Building and United States Courthouse."

Judge Cook was a well respected jurist who served as a Federal judge for well over 30 years. Judge Cook served as a lieutenant in the U.S. Army Air Corps during World War II and later as member of the U.S. Air Force Reserve. During his long legal career, Judge Cook served as an attorney in private practice, chief prosecuting attorney in his county, as an assistant U.S. attorney, counsel to the Governor of Oklahoma, and finally as a member of the Federal judiciary.

Judge Cook was nominated to the Federal judiciary by President Gerald Ford in 1974. He initially served as a visiting Federal judge with a seat on the bench of each of Oklahoma's Federal judicial districts. Judge Cook later became Chief Judge of the Northern District in 1979 and served in that position until 1992. In addition, Judge Cook sat several times by designation with the U.S. Court of Appeals for the Tenth Circuit.

Judge Cook succumbed to cancer just over a year ago, on September 23, 2008. He continued to hear cases on the Federal bench until only a few months before he passed away. Judge Cook was held in high esteem by his peers and served with distinction as a Federal judge. It is both proper and fitting to honor his civic contributions with this designation.

I urge my colleagues to join me in supporting H.R. 3305.

Mr. MARIO DIAZ-BALART of Florida. Madam Speaker, at this time, I yield back the balance of my time.

Mr. CUMMINGS. Madam Speaker, I urge the Members to vote in favor of this resolution, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Maryland (Mr. CUMMINGS) that the House suspend the rules and pass the bill, H.R. 3305.

The question was taken; and (two-thirds being in the affirmative) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

#### RESERVE OFFICERS ASSOCIATION MODERNIZATION ACT OF 2009

Ms. CHU. Mr. Speaker, I move to suspend the rules and pass the bill (S. 1599) to amend title 36, United States Code, to include in the Federal charter of the Reserve Officers Association leadership positions newly added in its constitution and bylaws.

The Clerk read the title of the bill.

The text of the bill is as follows:

S. 1599

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE.

This Act may be cited as the "Reserve Officers Association Modernization Act of 2009".

#### SEC. 2. INCLUSION OF NEW LEADERSHIP POSITIONS IN THE FEDERAL CHARTER OF THE RESERVE OFFICERS ASSOCIATION.

(a) NATIONAL EXECUTIVE COMMITTEE.—Section 190104(b)(2) of title 36, United States Code, is amended—

(1) by inserting "the president elect," after "the president,";

(2) by inserting "a minimum of" before "3 national executive committee members,"; and

(3) by striking "except the executive director," and inserting "except the president elect and the executive director,".

(b) OFFICERS.—Section 190104(c) of such title is amended—

(1) in paragraph (1)—

(A) by inserting "a president elect," after "a president,";

(B) by inserting "a minimum of" before "3 national executive committee members,";

(C) by striking "a surgeon, a chaplain, a historian, a public relations officer,"; and

(D) by striking "as decided at the national convention" and inserting "specified in the constitution of the corporation"; and

(2) in paragraph (2)—

(A) by inserting "and take office" after "be elected"; and

(B) by striking "and the national public relations officer," and inserting "the judge advocate, and any other national officers specified in the constitution of the corporation,".

(c) VACANCIES.—Section 190104(d)(1) of such title is amended by striking "president and last past president," and inserting "president, president elect, and last past president,".

(d) RECORDS AND INSPECTION.—Section 190109(a)(2) of such title is amended by striking "national council," and inserting "other national entities of the corporation,".

The SPEAKER pro tempore (Mr. CUMMINGS). Pursuant to the rule, the gentlewoman from California (Ms. CHU) and the gentleman from North Carolina (Mr. COBLE) each will control 20 minutes.

The Chair recognizes the gentlewoman from California.

#### GENERAL LEAVE

Ms. CHU. I ask unanimous consent that all Members have 5 legislative days to revise and extend their remarks and include extraneous material on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from California?

There was no objection.

Ms. CHU. I yield myself such time as I may consume.

Mr. Speaker, S. 1599 amends the nearly 60-year-old Federal charter of the Reserve Officers Association to reflect simple changes that have already been made to the organization's structure. The Reserve Officers Association was founded in 1922 and received a Federal charter by Congress in 1950.

As Congress observed at the time, the purpose of the corporation is to support and promote the development and execution of a military policy for the United States that will provide adequate national security. The ROA represents the Reserve Components officers for the Army, Air Force, Navy, Marine Corps, Coast Guard, the Air and Army National Guard, Public Health Service and the officers of the National Oceanic and Atmospheric Administration.

This bill makes a number of technical changes to the ROA's Federal charter. For instance, the charter will now include the newly created position of president-elect and there would be more positions on the ROA's National Executive Committee. S. 1599 was introduced by Senators LEAHY, CHAMBLISS and PRYOR and passed the Senate in September. Identical legislation was introduced in the House by Representative HOWARD COBLE, my colleague on the Judiciary Committee, and Rep-

resentatives CARNEY and GARY G. MILLER.

I commend the House sponsors as well as Chairman CONYERS and Ranking Member SMITH for their leadership in moving this bill swiftly to the floor. It is important to point out that this bill does not run afoul of the Immigration Subcommittee's policy to not create any new Federal charters. Rather than create a new Federal charter, it merely amends a nearly 60-year-old existing charter.

This policy against new charters was first adopted by the subcommittee of jurisdiction 20 years ago in the 101st Congress and has strong bipartisan support. It is based on the considered judgment that a congressional charter is unnecessary to the operation of any charitable organization and may falsely imply to the public that an organization and its activities carry a congressional seal of approval.

Moreover, this policy reflects the subcommittee's judgment that the investigation and monitoring of a chartered organization takes congressional time and resources that are better spent on important policy and oversight efforts. That we are taking up this body's valuable time today to ratify simple changes to the ROA's leadership structure is evidence in itself that Congress should not be increasing the number of chartered organizations.

□ 1415

That having been said, because S. 1599 makes only technical amendments to an existing charter and does nothing to create a new charter, I support this legislation.

I reserve the balance of my time.

Mr. COBLE. Mr. Speaker, I yield myself such time as I may consume.

The gentlelady from California (Ms. CHU) pretty well touched very thoroughly on this subject matter, and I'll add somewhat to that. I rise in strong support of S. 1599. The Reserve Officers Association is well known and respected in Washington, D.C. It was founded in 1922 by General "Black Jack" Pershing with a mission to "support and promote the development and execution of a military policy for the United States that will provide adequate national defense."

The Reserve Officers Association has as its goal to ensure adequate resources for the National Guard and the various reserve components and ensure that these entities play a key role in the national defense. The Association also is dedicated to the support of the interests of our citizen soldiers, their families and their survivors. Membership is open to all federally commissioned military officers and warrant officers and their spouses. There are currently about 65,000 members.

The Reserve Officers Association received a Federal charter in 1950. The Association would like to modify its

charter to reflect technical changes made to its Constitution and bylaws, such as the addition of the position of "president elect" and the allowance for more than three executive committee members. That is what this legislation accomplishes. The Senate passed the bill in September by unanimous consent, and I've introduced a companion House version in this body.

I urge my colleagues to support this meritorious legislation, which will allow the Reserve Officers Association to continue to play a vital role here in Washington.

Mr. Speaker, I reserve the balance of my time.

Ms. CHU. Mr. Speaker, I reserve the balance of my time.

Mr. COBLE. I have one speaker remaining, Mr. Speaker. I yield to the distinguished gentleman from California (Mr. GARY G. MILLER) such time as he may consume.

Mr. GARY G. MILLER of California. Mr. Speaker, I want to thank Chairman CONYERS and Ranking Member SMITH for allowing S. 1599 to come to the floor today. I want to also thank my colleague, HOWARD COBLE, who just previously spoke before me, a retired U.S. Coast Guard captain, and CHRIS CARNEY, an active reservist Navy commander, for introducing the House companion bill. I also wish to thank the committee staff for working so diligently behind the scenes to bring the bill to the floor today.

Founded in 1922, then chartered by Congress in 1950, the Reserve Officers Association's mission is to "support and promote development and execution of a military policy for the United States that will provide adequate national security." ROA is a first-class, member-oriented association which provides the men and women who serve our Nation in the cause of freedom a voice in creating government policy.

ROA has a long list of policy accomplishments and an ambitious long-range program for the coming decade and beyond. Today ROA is still proudly serving our Nation's soldiers, sailors, airmen, and Marines in so many ways. This legislation, once enacted into law, will allow ROA to make the necessary technical changes within its organization to stay effective as an association.

In 2010, ROA will be celebrating its 60th year as a congressionally chartered organization. I wish them continued success and thank them for their service to our country.

Mr. COBLE. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise today to speak in support of the Reserve Officers Association Modernization Act. As a member of the Homeland Security Committee, I understand the role of the brave men and women of the National Guard and the Reserves and I strongly support legislation that facilitates their ability to continue to provide an excellent service to the United States.



The Reserve Officers Association was founded in 1922 by several hundred military officers, many of whom were veterans of World War I. The Association was concerned that in the wake of World War I, the complacency and isolationism that was sweeping across the political landscape would lead to a return to America's pre war unpreparedness. In June 1950, President Truman signed the Reserve Officers Association's charter into law. Today, over 80 years after the Association's founding, the complacency that its founders feared is long gone, yet the Reserve Officers Association remains committed to its mission: "... [to] support and promote the development and execution of a military policy for the United States that will provide adequate National Security."

Today, the Reserve Officers Association is organized into 55 departments with one department in each of the 50 states, and 5 additional departments located in Latin America, Puerto Rico, Europe, the District of Columbia and the Far East. Each department is further divided into chapters. There are over 550 chapters around the world.

The Reserve Officers Association helped to establish the bipartisan Reserve Component Caucus in the House of Representatives, of which, of course, I am a member, to provide congressional oversight of Reserve issues and programs.

Since the events of September 11, 2001, our country has relied more heavily on the National Guard and the Reserves than at any other time in recent history. The National Guard and the Reserves play a significant role in the United States military, national security and disaster relief efforts. The Reserves and the National Guard have stepped forward to answer the call of duty in both Iraq and Afghanistan. Furthermore, they have each played pivotal roles in homeland security and disaster relief. These new, demanding responsibilities of the National Guard and the Reserves require an update of policies, and of the Reserves Officers Association charter.

This legislation is designed to update the Reserve Officers Association's Federal Charter to reflect the current operations of the Association. The bill extends the Association's National Executive Committee, its governing body, to include the Association's president-elect. It also names the president-elect as an officer of the Association. Furthermore, it provides for the possibility of having more than 3 national executive committee members as officers and on the National Executive Committee. The bill also provides for one vote for each member of the Committee except the president elect and the executive director. The bill also provides for certain officers to be decided in accordance with the Association's Constitution.

It is our responsibility to provide for the needs of the National Guard and the Reserves. They each contribute to our Nation's military, our national security and disaster relief efforts. I am proud and honored to support the brave men and women of the Reserves and the National Guard by endorsing this legislation. I encourage all of my colleagues to vote in support of this bill to bring the Reserve Officers Association Federal Charter up to date so that the organization can continue to

provide a valuable and honorable service to the United States of America.

Ms. CHU. I urge my colleagues to support S. 1599, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from California (Ms. CHU) that the House suspend the rules and pass the bill, S. 1599.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the ayes have it.

Mr. COBLE. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

#### HONORING 40TH ANNIVERSARY OF SEARCH

Ms. CHU. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 851) recognizing and honoring the 40th anniversary of SEARCH, The National Consortium for Justice Information and Statistics, headquartered in Sacramento, California.

The Clerk read the title of the resolution.

The text of the resolution is as follows:

##### H. RES. 851

Whereas the Department of Justice's Law Enforcement Assistance Administration created SEARCH in 1969 as a 10-State project to demonstrate whether it was feasible to exchange criminal history records on an automated and nationwide basis;

Whereas SEARCH not only demonstrated the feasibility of an automated nationwide system of sharing criminal records, but also, through partnership with the Department of Justice, the Federal Bureau of Investigation, State agencies and other organizations, helped to establish the national criminal history record information system;

Whereas SEARCH is a nonprofit organization created by and for the States, governed by a Membership Group comprised of one gubernatorial appointee from each of the States and territories;

Whereas SEARCH's guiding vision is to ensure "Accurate and timely information, supported by well-deployed information and identification technology, enables the justice and public safety decision-maker to administer justice in a manner that promotes individual rights and public safety";

Whereas SEARCH provides training and technical assistance to help the criminal justice community combat high-technology crimes, gather valuable information in investigations, and link the Nation's law enforcement agencies through policy and technical solutions;

Whereas SEARCH helps agencies effectively implement information sharing technology to make accurate, more informed, immediate, and appropriately secured decisions about criminal justice and security issues, and to administer justice in an efficient and effective manner;

Whereas SEARCH has pioneered the development of both technology and policy solutions for justice implementation of biometric technologies, thereby enabling electronic fingerprints to become a rapid, reliable, and cost-effective identification authentication process and further supporting information sharing and collaboration among and between agencies;

Whereas SEARCH has made a profound contribution, working with the Department of Justice, to develop successive generations of privacy and security policies that are now reflected in both Department of Justice regulations and Federal legislation;

Whereas SEARCH has played a critical role in the development of systems such as the Interstate Identification Index (III), the National Instant Criminal Background Check System (NICS), commonly called the Brady check system, the National Fingerprint File (NFF), the Integrated Automated Fingerprint Identification System (IAFIS), and key standards for information sharing and interoperability, such as the National Information Exchange Model (NIEM);

Whereas SEARCH's work with the Departments of Justice and Homeland Security helps the Nation's justice and public safety communities plan, develop, implement, test, and manage interoperable communications solutions; and

Whereas SEARCH has had many accomplishments over its 40-year history to help practitioners in criminal justice, public safety, and first response use information to plan for, predict, prevent, and interdict criminal events, terrorism, and disasters: Now, therefore, be it

*Resolved*, That the House of Representatives recognizes and honors SEARCH, The National Consortium for Justice Information and Statistics, on the occasion of its 40th anniversary for accomplishments to promote information sharing and identification solutions for first responders and law enforcement officers, and for the protection of privacy and citizens' rights.

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from California (Ms. CHU) and the gentleman from North Carolina (Mr. COBLE) each will control 20 minutes.

The Chair recognizes the gentlewoman from California.

##### GENERAL LEAVE

Ms. CHU. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days to revise and extend their remarks and include extraneous material on the resolution under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from California?

There was no objection.

Ms. CHU. I yield myself such time as I may consume.

Mr. Speaker, House Resolution 851 recognizes SEARCH, the National Consortium For Justice Information and Statistics' 40th anniversary. SEARCH is a nonprofit membership organization dedicated to improving the criminal justice system through better information management and effective application of information and identification technology. SEARCH members are primarily State criminal justice officials responsible for the management of



criminal justice information, particularly criminal history information.

SEARCH was founded in 1969 when the Federal Law Enforcement Assistance Administration created Project SEARCH to explore the feasibility, practicality, and cost effectiveness of developing a computerized criminal history record system. Since its founding, SEARCH has sought to balance the individual's right to privacy with society's need for criminal history information. In 1970, for example, SEARCH first published findings and recommendations regarding the security, privacy and confidentiality of information contained in computerized criminal history files. SEARCH has a long history of involvement with criminal background checks, and has been invaluable to the formulation of national and State policies that guide the scope and use of criminal records.

In 2005, SEARCH published the report of the National Task Force on the Commercial Sale of Criminal Justice Record Information. This report was a comprehensive look at the role that commercial background screening companies play in the collection, maintenance, sale, and dissemination of criminal history record information for employment screening and other purposes. SEARCH concluded the work of the National Task Force on the Criminal Backgrounding of America in 2006. This task force report was relied upon by the Department of Justice for its own report on criminal history background checks.

SEARCH has played a critical role in the development of systems such as the Interstate Identification Index, the National Instant Criminal Background Check System, also known as the Brady check system, the National Fingerprint File and the Integrated Automated Fingerprint Identification System. Over its 40-year history, SEARCH's work has helped criminal justice, public safety and first-response professionals use information to combat crimes, acts of terrorism and disasters.

For all these reasons, I urge my colleagues to support this important resolution.

I reserve the balance of my time.

Mr. COBLE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, in a post-9/11 world, we understand the importance of technology- and information-sharing between law enforcement agencies in keeping this country safe. That is why I support H. Res. 851, which recognizes and honors the 40th anniversary of SEARCH, the National Consortium for Justice Information and Statistics.

SEARCH was created by the Department of Justice's Law Enforcement Assistance Administration in 1969 as a 10-State project. Members of the nonprofit organization are primarily state-level justice officials appointed by the

respective State governors. The group's original goal was to see whether it was possible to exchange and share criminal history records on an automated and nationwide basis. SEARCH not only succeeded in demonstrating the possibility of such an information-sharing program, but also, through partnership with the Department of Justice, the Federal Bureau of Investigation, State agencies and other organizations helped to establish the national criminal history record information system.

Specifically, SEARCH has played a major part in developing programs such as biometric technologies like electronic fingerprinting, the Interstate Identification Index, National Instant Criminal Background Check System, National Fingerprint File, the Integrated Automated Fingerprint Identification System, and the National Information Exchange Model. SEARCH also provides training and technical assistance to law enforcement agencies when dealing with high-technology crimes and information gathering.

Through these various technologies, SEARCH has helped agencies do their jobs in a more thorough manner. Offenders often have criminal histories that cross state jurisdictional lines. Law enforcement officials having quick access to a suspect's complete history means less missing pieces of the puzzle. And through these technologies, SEARCH has also helped agencies to do their jobs in a more time- and resource-efficient manner. This increase in efficiency and decrease in time wasted has proved critical in helping our law enforcement agencies keep America safe.

I support this resolution.

I reserve the balance of my time.

Ms. CHU. Mr. Speaker, I yield 4 minutes to the sponsor of this resolution, the gentlelady from California (Ms. MATSUI).

Ms. MATSUI. Mr. Speaker, I rise in support of House Resolution 851, which would recognize and honor the 40th anniversary of SEARCH, the National Consortium For Justice Information and Statistics, an organization that's headquartered in my hometown of Sacramento. For the last 40 years, SEARCH has been dedicated to administering justice and enhancing public safety, and has been involved in numerous facets of our criminal justice system.

In 1969, SEARCH was established as a 10-state pilot project by the United States Department of Justice to investigate the feasibility of exchanging criminal history records on an automated and nationwide basis. Using the information gathered from this demonstration project and utilizing its partnership with the department, the FBI, and various state agencies and organizations, SEARCH helped create the national criminal history record infor-

mation system. This framework has enabled State and local governments to collect, maintain and disseminate valuable criminal justice information.

Today, SEARCH continues to provide law enforcement with the necessary tools to combat high-technology crimes. Specifically, the organization partners with the justice and public safety communities to provide quality training programs and hands-on assistance, and ensure that law enforcement agencies are well equipped to gather key intelligence to effectively protect, investigate and respond to such criminal actions.

For example, SEARCH recently assisted local authorities in northern California to apprehend a band of criminals after a reported crime. By employing cyber technology to track cell phone usage and location faster than ever before, these innovative tools help prevent further crimes from occurring.

Time and time again, Mr. Speaker, SEARCH has not only demonstrated its effectiveness in helping solve crimes that have already been committed but has also helped reduce the number of crimes being perpetrated in our neighborhoods. Its unwavering commitment to ensuring our safety and the safety of our children is truly impressive, and I commend the organization's tireless efforts toward this goal.

□ 1430

SEARCH employs 29 professional staff in my district and has representatives in every State across this country.

I ask that my colleagues join me today in celebrating the 40th anniversary of the National Consortium for Justice Information and Statistics and in honoring its incredible contributions to our criminal justice system.

Mr. COBLE. Mr. Speaker, I have no requests for time, and I yield back the balance of my time.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I am pleased today to offer my support of House Resolution 851 recognizing and honoring the 40th Anniversary of SEARCH, the National Consortium for Justice Information and Statistics. For the past 40 years, SEARCH has worked to identify and solve information management problems of law enforcement agencies across the United States.

Accurate, efficient and effective communications between and among Federal, State and local agencies have posed challenges to effective public service since the beginning of organized governments in America. Thus, in 1969, the Department of Justice's Law Enforcement Assistance Administration developed SEARCH, a 10-State project designed to test the feasibility of an interstate automated exchange of criminal history records. The program was a success, and over the past 40 years, SEARCH has maintained a leading role in providing solutions to information management challenges nationwide.

SEARCH is a nonprofit organization created by and for the States and governed by a

membership group that includes one appointee from each of the 50 States, Puerto Rico and the U.S. Virgin Islands. Its mission is "to improve the quality of justice and public safety through the use, management and exchange of information; application of new technologies; and responsible law and policy; while safeguarding security and privacy." SEARCH has succeeded in using information sharing technology to help agencies to make accurate, informed, immediate and well-secured decisions about criminal justice and security issues.

SEARCH has played a crucial role in developing systems of collaboration for law enforcement agencies across the Nation. A few examples include: the Interstate Identification, a national index of criminal histories maintained by the Federal Bureau of Investigation; the National Instant Criminal Background Check System, a mechanism for determining eligibility to buy a firearm; the National Fingerprint File, a tool that allows States to maintain their own fingerprint records while still sharing information with Federal and State law enforcement agencies around the country; and the Integrated Automated Fingerprint Identification System, a national fingerprint identification and criminal history system maintained by the Federal Bureau of Investigation. Such systems have been critical in sharing data to enhance law enforcement capabilities nationwide.

It is important to recognize, however, that accuracy in law enforcement is as important as vigilance. Accurate law enforcement requires strict focus on privacy rights especially when sharing information. SEARCH has been instrumental in championing privacy and civil rights in law enforcement. SEARCH has addressed the need to protect privacy, civil rights and civil liberties while promoting public and individual safety.

For example, in its "Guide to Conducting Privacy Impact Assessments for State, Local, and Tribal Information Sharing Initiatives," SEARCH identifies the potential risks of law-enforcement agency information-sharing. It writes: "[Data Sharing's] inappropriate or reckless use may irreparably damage reputations, threaten individual liberty, place personal safety at risk, or deny individuals access to some of life's most basic necessities such as employment, housing, and education. Greater information-sharing capabilities and opportunities are accompanied by equally greater responsibilities for protecting the privacy of the information being used and exchanged." In that document, SEARCH goes on to instruct agencies on how to assess the potential privacy risks of their information-sharing programs, and how to develop policies to help mitigate some of those risks.

I further congratulate SEARCH on its cutting edge technological advancements. Who could have guessed at the inception of SEARCH in 1969 that communications systems would evolve as far as they have? Over the years, SEARCH has managed not only to keep up with the remarkable technological advances of the past 40 years, but to be at the cutting edge. The original purpose of the SEARCH project was to examine the possibility of an automated system for exchanging information about criminals.

Today, it uses a variety of technological tools ranging from biometric technologies to

cellular device data recovery tools to aid in crime prevention. SEARCH also trains and equips law enforcement agencies nationwide on issues of high-tech crime. It provides courses through its outreach training program on topics including: systems security, digital data recovery, and computer forensics. Further, SEARCH provides resources for investigators investigating crimes involving the internet such as online child exploitation. Such focus on technological advances is part of the reason for the success of SEARCH over the past 40 years and will certainly be an important component of its continued success over the next 40.

In addition to those SEARCH activities designed to aid law enforcement, I think it is important to recognize and applaud SEARCH's impact on public safety through its communications interoperability training programs. Information sharing and agency collaboration plays an important role, not just in crime prevention, but also in disaster relief. In August 2008, SEARCH was instrumental in enhancing Texas' communications response to Hurricane Gustav.

Gustav approached the State of Texas as a SEARCH All-Hazards Type III Communications Unit Leader, COML, training course was being conducted in my home town of Houston. As the hurricane bore down, the SEARCH instructors immediately mobilized the State emergency managers along with their students to construct the State's emergency communications response to Gustav. The instructors then deployed some students from the course to use the course's teachings to coordinate interoperable communications for emergency first responders. This is just one example of how SEARCH's programs have benefited, not only the people of my home State of Texas, but people all across the country. Efficient emergency response communications are an important part of keeping Americans safe.

Providing 40 years of effective information management tools to Federal, State and local agencies across the Nation is a wonderful accomplishment. Indeed, SEARCH has managed to stay at the forefront of communications technology as it pertains to law enforcement and public safety. It has effectively navigated America's transition to the information age of the 21st century and provided services to aid governments in saving lives.

Mr. Speaker, I encourage all my colleagues to vote in favor of this resolution to salute SEARCH, the National Consortium for Justice Information and Statistics, for its success in providing quality tools for law enforcement and public safety across the United States of America.

Ms. CHU. Mr. Speaker, I urge my colleagues to support House Resolution 851, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from California (Ms. CHU) that the House suspend the rules and agree to the resolution, H. Res. 851.

The question was taken; and (two-thirds being in the affirmative) the rules were suspended and the resolution was agreed to.

A motion to reconsider was laid on the table.

## ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, proceedings will resume on questions previously postponed.

Votes will be taken in the following order:

H.R. 3360, by the yeas and nays;

H. Res. 841, by the yeas and nays;

The Speaker's approval of the Journal, de novo;

H. Res. 891, by the yeas and nays.

The first electronic vote will be conducted as a 15-minute vote. Remaining electronic votes will be conducted as 5-minute votes.

## CRUISE VESSEL SECURITY AND SAFETY ACT OF 2009

The SPEAKER pro tempore. The unfinished business is the vote on the motion to suspend the rules and pass the bill, H.R. 3360, as amended, on which the yeas and nays were ordered.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Maryland (Mr. CUMMINGS) that the House suspend the rules and pass the bill, H.R. 3360, as amended.

The vote was taken by electronic device, and there were—yeas 416, nays 4, not voting 14, as follows:

[Roll No. 892]

YEAS—416

Abercrombie	Bright	Cuellar
Ackerman	Brown, Corrine	Culberson
Aderholt	Brown-Waite,	Cummings
Adler (NJ)	Ginny	Dahlkemper
Akin	Buchanan	Davis (CA)
Alexander	Burgess	Davis (KY)
Altmire	Burton (IN)	Davis (TN)
Andrews	Butterfield	DeFazio
Arcuri	Buyer	DeGette
Austria	Calvert	DeLauro
Baca	Camp	Dent
Bachmann	Campbell	Diaz-Balart, L.
Bachus	Cantor	Diaz-Balart, M.
Baird	Cao	Dicks
Baldwin	Capito	Dingell
Barrow	Capps	Doggett
Bartlett	Cardoza	Donnelly (IN)
Barton (TX)	Carnahan	Doyle
Bean	Carney	Dreier
Becerra	Carson (IN)	Driehaus
Berkley	Carter	Duncan
Berman	Cassidy	Edwards (MD)
Berry	Castle	Edwards (TX)
Biggert	Castor (FL)	Ehlers
Bilbray	Chaffetz	Ellison
Bilirakis	Chandler	Ellsworth
Bishop (GA)	Childers	Emerson
Bishop (NY)	Chu	Engel
Bishop (UT)	Clarke	Eshoo
Blackburn	Clay	Etheridge
Blumenauer	Cleaver	Fallin
Blunt	Clyburn	Farr
Boccieri	Coble	Fattah
Boehner	Coffman (CO)	Finer
Bonner	Cohen	Fleming
Bono Mack	Cole	Forbes
Boozman	Conaway	Fortenberry
Boren	Connolly (VA)	Foster
Boswell	Conyers	Fox
Boucher	Cooper	Frank (MA)
Boustany	Costa	Franks (AZ)
Boyd	Costello	Frelinghuysen
Brady (PA)	Courtney	Fudge
Brady (TX)	Crenshaw	Gallegly
Braley (IA)	Crowley	Garamendi

Garrett (NJ)  
Gerlach  
Giffords  
Gingrey (GA)  
Gohmert  
Gonzalez  
Goodlatte  
Gordon (TN)  
Granger  
Graves  
Grayson  
Green, Al  
Green, Gene  
Griffith  
Grijalva  
Guthrie  
Gutierrez  
Hall (NY)  
Hall (TX)  
Halvorson  
Hare  
Harman  
Harper  
Hastings (FL)  
Hastings (WA)  
Heinrich  
Heller  
Hensarling  
Herger  
Herseth Sandlin  
Higgins  
Hill  
Himes  
Hinchey  
Hinojosa  
Hirono  
Hodes  
Hoekstra  
Holden  
Holt  
Honda  
Hoyer  
Hunter  
Inglis  
Inslee  
Israel  
Issa  
Jackson (IL)  
Jenkins  
Johnson (GA)  
Johnson (IL)  
Johnson, E. B.  
Johnson, Sam  
Jones  
Jordan (OH)  
Kagen  
Kanjorski  
Kaptur  
Kennedy  
Kildee  
Kilpatrick (MI)  
Kilroy  
Kind  
King (IA)  
King (NY)  
Kingston  
Kirk  
Kirkpatrick (AZ)  
Kissell  
Klein (FL)  
Kline (MN)  
Kosmas  
Kratovil  
Kucinich  
Lamborn  
Lance  
Langevin  
Larsen (WA)  
Larson (CT)  
Latham  
LaTourette  
Latta  
Lee (CA)  
Lee (NY)  
Levin  
Lewis (CA)  
Linder  
Lipinski  
LoBiondo  
Loeb sack  
Lofgren, Zoe  
Lowey  
Lucas  
Luetkemeyer  
Luján

Lungren, Daniel  
E.  
Lynch  
Mack  
Maffei  
Maloney  
Manzullo  
Marchant  
Markey (CO)  
Markey (MA)  
Marshall  
Massa  
Matheson  
Matsui  
McCarthy (CA)  
McCarthy (NY)  
McCaul  
McClintock  
McCollum  
McCotter  
McDermott  
McGovern  
McHenry  
McIntyre  
McKeon  
McMahon  
McMorris  
McMorris  
Rodgers  
McNerney  
Meek (FL)  
Meeks (NY)  
Melancon  
Mica  
Michaud  
Miller (FL)  
Miller (MI)  
Miller (NC)  
Miller, Gary  
Miller, George  
Minnick  
Mitchell  
Mollohan  
Moore (KS)  
Moore (WI)  
Moran (KS)  
Moran (VA)  
Murphy (CT)  
Murphy (NY)  
Murphy, Patrick  
Murphy, Tim  
Myrick  
Nadler (NY)  
Napolitano  
Neal (MA)  
Neugebauer  
Nunes  
Nye  
Oberstar  
Obey  
Olson  
Oliver  
Ortiz  
Owens  
Pallone  
Pascarell  
Pastor (AZ)  
Paulsen  
Payne  
Pence  
Perlmutter  
Perriello  
Peters  
Peterson  
Petri  
Pitts  
Platts  
Poe (TX)  
Polis (CO)  
Pomeroy  
Posey  
Price (GA)  
Price (NC)  
Putnam  
Quigley  
Radanovich  
Rahall  
Rangel  
Rehberg  
Reichert  
Reyes  
Richardson  
Rodriguez  
Roe (TN)  
Rogers (AL)  
Rogers (KY)

Rogers (MI)  
Rooney  
Ros-Lehtinen  
Roskam  
Ross  
Rothman (NJ)  
Roybal-Allard  
Royce  
Ruppersberger  
Rush  
Ryan (OH)  
Ryan (WI)  
Salazar  
Sánchez, Linda  
T.  
Sanchez, Loretta  
Sarbanes  
Scalise  
Schakowsky  
Schauer  
Schiff  
Schmidt  
Schock  
Schrader  
Schwartz  
Scott (GA)  
Scott (VA)  
Sensenbrenner  
Serrano  
Sessions  
Sestak  
Shadegg  
Shea-Porter  
Sherman  
Shimkus  
Shuler  
Shuster  
Simpson  
Sires  
Skelton  
Slaughter  
Smith (NE)  
Smith (NJ)  
Smith (TX)  
Smith (WA)  
Snyder  
Souder  
Space  
Speier  
Spratt  
Stark  
Stearns  
Stupak  
Sullivan  
Sutton  
Taylor  
Teague  
Terry  
Thompson (CA)  
Thompson (MS)  
Thompson (PA)  
Thornberry  
Tiberi  
Tierney  
Baca  
Bachmann  
Bachus  
Baird  
Baldwin  
Barrow  
Bartlett  
Barton (TX)  
Bean  
Becerra  
Berkley  
Berry  
Biggart  
Billray  
Bilirakis  
Bishop (GA)  
Bishop (NY)  
Bishop (UT)  
Blackburn  
Blumenauer  
Blunt  
Bocieri  
Boehner  
Bonner  
Bono Mack  
Boozman  
Boren  
Boswell  
Boucher  
Boustany  
Boyd  
Brady (PA)

Broun (GA)  
Flake  
Barrett (SC)  
Brown (SC)  
Capuano  
Davis (AL)  
Davis (IL)

NAYS—4  
Lummis  
Paul  
Deal (GA)  
Delahunt  
Jackson-Lee  
(TX)  
Lewis (GA)

## NOT VOTING—14

Pingree (ME)  
Rohrabacher  
Tanner  
Tiahrt  
Young (FL)

□ 1458

Mr. CONAWAY changed his vote from “nay” to “yea.”

So (two-thirds being in the affirmative) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

## DRIVE SAFER SUNDAY

The SPEAKER pro tempore. The unfinished business is the vote on the motion to suspend the rules and agree to the resolution, H. Res. 841, on which the yeas and nays were ordered.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York (Mr. BISHOP) that the House suspend the rules and agree to the resolution, H. Res. 841.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 413, nays 1, not voting 20, as follows:

[Roll No. 893]

## YEAS—413

Abercrombie  
Ackerman  
Aderholt  
Adler (NJ)  
Akin  
Alexander  
Altmire  
Andrews  
Arcuri  
Austria  
Baca  
Bachmann  
Bachus  
Baird  
Baldwin  
Barrow  
Bartlett  
Barton (TX)  
Bean  
Becerra  
Berkley  
Berry  
Biggart  
Billray  
Bilirakis  
Bishop (GA)  
Bishop (NY)  
Bishop (UT)  
Blackburn  
Blumenauer  
Blunt  
Bocieri  
Boehner  
Bonner  
Bono Mack  
Boozman  
Boren  
Boswell  
Boucher  
Boustany  
Boyd  
Brady (PA)

Brady (TX)  
Braley (IA)  
Bright  
Broun (GA)  
Brown, Corrine  
Brown-Waite,  
Ginny  
Buchanan  
Burgess  
Burton (IN)  
Butterfield  
Buyer  
Calvert  
Camp  
Campbell  
Cantor  
Cao  
Capito  
Capps  
Carnahan  
Carney  
Carson (IN)  
Carter  
Cassidy  
Castle  
Castor (FL)  
Chaffetz  
Chandler  
Childers  
Chu  
Clarke  
Clay  
Cleaver  
Clyburn  
Coble  
Coffman (CO)  
Cohen  
Cole  
Conaway  
Connolly (VA)  
Conyers  
Cooper

Costa  
Costello  
Courtney  
Crenshaw  
Crowley  
Cuellar  
Culberson  
Cummings  
Dahlkemper  
Davis (CA)  
Davis (KY)  
Davis (TN)  
DeFazio  
DeGette  
DeLauro  
Dent  
Diaz-Balart, L.  
Diaz-Balart, M.  
Dicks  
Dingell  
Doggett  
Donnelly (IN)  
Doyle  
Dreier  
Driehaus  
Duncan  
Edwards (MD)  
Edwards (TX)  
Ehlers  
Ellison  
Ellsworth  
Emerson  
Engel  
Eshoo  
Etheridge  
Fallin  
Farr  
Fattah  
Filner  
Flake  
Fleming  
Forbes

Fortenberry  
Foster  
Foxy  
Frank (MA)  
Franks (AZ)  
Frelinghuysen  
Fudge  
Gallegly  
Garamendi  
Garrett (NJ)  
Gerlach  
Giffords  
Gingrey (GA)  
Gohmert  
Gonzalez  
Goodlatte  
Gordon (TN)  
Granger  
Graves  
Grayson  
Green, Al  
Green, Gene  
Griffith  
Grijalva  
Guthrie  
Gutierrez  
Hall (NY)  
Hall (TX)  
Halvorson  
Hare  
Harman  
Harper  
Hastings (FL)  
Hastings (WA)  
Heinrich  
Heller  
Hensarling  
Herger  
Herseth Sandlin  
Higgins  
Hill  
Himes  
Hinchey  
Hinojosa  
Hirono  
Hodes  
Hoekstra  
Holden  
Holt  
Honda  
Hoyer  
Hunter  
Inglis  
Inslee  
Israel  
Issa  
Jackson (IL)  
Jenkins  
Johnson (GA)  
Johnson (IL)  
Johnson, E. B.  
Johnson, Sam  
Jones  
Jordan (OH)  
Kagen  
Kanjorski  
Kaptur  
Kennedy  
Kildee  
Kilpatrick (MI)  
Kilroy  
Kind  
King (IA)  
King (NY)  
Kingston  
Kirk  
Kirkpatrick (AZ)  
Kissell  
Klein (FL)  
Kline (MN)  
Kosmas  
Kratovil  
Kucinich  
Lamborn  
Lance  
Langevin  
Larsen (WA)  
Latham  
LaTourette  
Latta  
Lee (CA)  
Lee (NY)  
Levin  
Lewis (GA)  
Linder  
Lipinski

LoBiondo  
Loeb sack  
Lofgren, Zoe  
Lowey  
Lucas  
Luetkemeyer  
Luján  
Lummis  
Lungren, Daniel  
E.  
Lynch  
Mack  
Maffei  
Maloney  
Manzullo  
Marchant  
Markey (CO)  
Markey (MA)  
Marshall  
Massa  
Matheson  
Matsui  
McCarthy (CA)  
McCarthy (NY)  
McCaul  
McClintock  
McCollum  
McCotter  
McDermott  
McGovern  
McHenry  
McIntyre  
McKeon  
McMahon  
McMorris  
McMorris  
Rodgers  
McNerney  
Meek (FL)  
Meeks (NY)  
Melancon  
Mica  
Michaud  
Miller (FL)  
Miller (MI)  
Miller (NC)  
Miller, Gary  
Miller, George  
Minnick  
Mitchell  
Mollohan  
Moore (KS)  
Moore (WI)  
Moran (KS)  
Moran (VA)  
Murphy (CT)  
Murphy (NY)  
Murphy, Patrick  
Murphy, Tim  
Myrick  
Nadler (NY)  
Napolitano  
Neal (MA)  
Neugebauer  
Nunes  
Nye  
Oberstar  
Olson  
Ortiz  
Owens  
Pallone  
Pascarell  
Pastor (AZ)  
Paulsen  
Payne  
Pence  
Perlmutter  
Perriello  
Peterson  
Petri  
Pitts  
Platts  
Poe (TX)  
Polis (CO)  
Pomeroy  
Posey  
Price (GA)  
Price (NC)  
Putnam  
Quigley  
Radanovich  
Rahall  
Rangel  
Rehberg  
Reichert

Reyes  
Richardson  
Rodriguez  
Roe (TN)  
Rogers (AL)  
Rogers (KY)  
Rogers (MI)  
Rooney  
Ros-Lehtinen  
Roskam  
Ross  
Rothman (NJ)  
Roybal-Allard  
Royce  
Ruppersberger  
Rush  
Ryan (OH)  
Ryan (WI)  
Salazar  
Sánchez, Linda  
T.  
Sanchez, Loretta  
Sarbanes  
Scalise  
Schakowsky  
Schauer  
Schiff  
Schmidt  
Schock  
Schrader  
Schwartz  
Scott (GA)  
Scott (VA)  
Sensenbrenner  
Serrano  
Sessions  
Sestak  
Shadegg  
Shea-Porter  
Sherman  
Shimkus  
Shuler  
Shuster  
Simpson  
Sires  
Skelton  
Slaughter  
Smith (NE)  
Smith (NJ)  
Smith (TX)  
Smith (WA)  
Snyder  
Souder  
Space  
Speier  
Spratt  
Stark  
Stearns  
Stupak  
Sullivan  
Sutton  
Taylor  
Teague  
Terry  
Thompson (CA)  
Thompson (MS)  
Thompson (PA)  
Thornberry  
Tierney  
Titus  
Tonko  
Towns  
Tsongas  
Turner  
Upton  
Van Hollen  
Velázquez  
Peters  
Visclosky  
Walden  
Walz  
Wamp  
Wasserman  
Schultz  
Waters  
Watson  
Watt  
Waxman  
Weiner  
Welch  
Westmoreland  
Wexler  
Whitfield  
Wilson (OH)  
Wilson (SC)

Wittman Woolsey Yarmuth  
Wolf Wu Young (AK)

## NAYS—1

Paul

## NOT VOTING—20

Barrett (SC) Deal (GA) Olver  
Berman Delahunt Pingree (ME)  
Brown (SC) Jackson-Lee Rohrabacher  
Capuano (TX) Tanner  
Cardoza Larson (CT) Tiahrt  
Davis (AL) Lewis (CA) Tiberi  
Davis (IL) Obey Young (FL)

## ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). Members have 2 minutes remaining in this vote.

□ 1505

So (two-thirds being in the affirmative) the rules were suspended and the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Mr. TIBERI. Mr. Speaker, on rollcall No. 893, I was meeting with a constituent here in the Capitol but was not able to make it back to the floor to cast a vote before time expired. Had I been present, I would have voted "yea."

## THE JOURNAL

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, the unfinished business is the question on agreeing to the Speaker's approval of the Journal, which the Chair will put de novo.

The question is on the Speaker's approval of the Journal.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

## RECORDED VOTE

Mr. CULBERSON. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This is a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 243, noes 177, answered "present" 1, not voting 13, as follows:

[Roll No. 894]

## AYES—243

Abercrombie Brown, Corrine Dahlkemper  
Ackerman Butterfield Davis (CA)  
Adler (NJ) Capito Davis (TN)  
Andrews Capps DeFazio  
Baca Carnahan DeGette  
Baird Carson (IN) DeLauro  
Baldwin Castle Dent  
Barrow Castor (FL) Dicks  
Bean Chaffetz Dingell  
Becerra Chandler Doggett  
Berkley Chu Doyle  
Berman Clarke Dreier  
Berry Clay Driehaus  
Bishop (GA) Cleaver Edwards (MD)  
Bishop (NY) Clyburn Edwards (TX)  
Blumenauer Cohen Ellison  
Bocieri Conyers Engel  
Boswell Cooper Eshoo  
Boucher Costello Etheridge  
Boyd Courtney Farr  
Brady (PA) Crowley Fattah  
Braley (IA) Cummings Filner

Foster Lofgren, Zoe  
Frank (MA) Lowey  
Fudge Lujan  
Garamendi Lynch  
Gerlach Maffei  
Gonzalez Maloney  
Goodlatte Markey (MA)  
Grayson Massa  
Green, Al Matheson  
Green, Gene Matsui  
Grijalva McCarthy (NY)  
Gutierrez McClintock  
Hall (NY) McCollum  
Halvorson McDermott  
Hare McGovern  
Harman McHenry  
Harper McIntyre  
Hastings (FL) McMahon  
Heinrich McNerney  
Heller Meek (FL)  
Herseht Sandlin Meeks (NY)  
Higgins Michaud  
Hill Miller (NC)  
Hinche Miller, George  
Hinojosa Mollohan  
Hirono Moore (KS)  
Hodes Moore (WI)  
Holden Moran (VA)  
Holt Murphy (CT)  
Honda Murphy, Patrick  
Hoyer Murtha  
Inslee Nadler (NY)  
Israel Napolitano  
Jackson (IL) Neal (MA)  
Johnson (GA) Oberstar  
Johnson (IL) Obey  
Johnson, E. B. Olver  
Jones Ortiz  
Kagen Owens  
Kanjorski Pallone  
Kaptur Pascrell  
Kennedy Pastor (AZ)  
Kildee Paul  
Kilpatrick (MI) Paulsen  
Kilroy Payne  
Kind Perlmutter  
Kirk Perriello  
Kissell Peters  
Klein (FL) Pitts  
Kosmas Polis (CO)  
Kucinich Pomeroy  
Lance Posey  
Langevin Price (NC)  
Larsen (WA) Putnam  
Larson (CT) Quigley  
Latham Radanovich  
Lee (CA) Rahall  
Levin Rangel  
Lewis (GA) Reyes  
Loeb sack Richardson

## NOES—177

Aderholt Campbell Gallegly  
Akin Cantor Garrett (NJ)  
Alexander Cao Giffords  
Altmire Cardoza Gingrey (GA)  
Arcuri Carney Gordon (TN)  
Austria Carter Granger  
Bachmann Cassidy Graves  
Bachus Childers Griffith  
Bartlett Coble Guthrie  
Barton (TX) Coffman (CO)  
Biggett Cole Hastings (WA)  
Bilbray Conaway Hensarling  
Bilirakis Connolly (VA)  
Bishop (UT) Costa Herger  
Blackburn Crenshaw Himes  
Blunt Cuellar Hoekstra  
Boehner Culberson Hunter  
Bonner Davis (KY) Inglis  
Bono Mack Diaz-Balart, L. Issa  
Boozman Diaz-Balart, M. Jenkins  
Boren Donnelly (IN) Johnson, Sam  
Boustany Duncan Jordan (OH)  
Brady (TX) Ehlers King (IA)  
Bright Ellsworth King (NY)  
Broun (GA) Emerson Kingston  
Brown-Waite, Fallin Kirkpatrick (AZ)  
Ginny Flake Kline (MN)  
Buchanan Fleming Kratochvil  
Burgess Forbes Lamborn  
Burton (IN) Fortenberry LaTourette  
Buyer Foxx Latta  
Calvert Franks (AZ) Lee (NY)  
Camp Frelinghuysen Lewis (CA)  
Linder

Lipinski Murphy, Tim  
LoBiondo Myrick  
Lucas Neugebauer  
Luetkemeyer Nunes  
Lummis Nye  
Lungren, Daniel Olson  
E. Pence  
Mack Peterson  
Manzullo Petri  
Marchant Platts  
Markey (CO) Poe (TX)  
Marshall Price (GA)  
McCarthy (CA) Rehberg  
McCaul Reichert  
McCotter Roe (TN)  
McKeon Rogers (AL)  
McMorris Rogers (KY)  
Rodgers Rogers (MI)  
Melancon Ros-Lehtinen  
Mica Roskam  
Miller (FL) Royce  
Miller (MI) Ryan (WI)  
Miller, Gary Scalise  
Minnick Schmidt  
Mitchell Sensenbrenner  
Moran (KS) Sessions  
Murphy (NY) Shadegg

## ANSWERED "PRESENT"—1

Gohmert

## NOT VOTING—13

Barrett (SC) Deal (GA) Rohrabacher  
Brown (SC) Delahunt Tanner  
Capuano Jackson-Lee Tiahrt  
Davis (AL) (TX) Young (FL)  
Davis (IL) Pingree (ME)

## ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). There are 2 minutes remaining in this vote.

□ 1513

Mr. LAMBORN changed his vote from "aye" to "no."

So the Journal was approved.

The result of the vote was announced as above recorded.

## HONORING COAST GUARD AND MARINE CORPS AIRCRAFT PILOTS LOST IN CALIFORNIA

The SPEAKER pro tempore. The unfinished business is the vote on the motion to suspend the rules and agree to the resolution, H. Res. 891, as amended, on which the yeas and nays were ordered.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Maryland (Mr. CUMMINGS) that the House suspend the rules and agree to the resolution, H. Res. 891, as amended.

This is a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 419, nays 0, not voting 15, as follows:

[Roll No. 895]

## YEAS—419

Abercrombie Bachmann Berry  
Ackerman Bachus Biggett  
Aderholt Baird Bilbray  
Adler (NJ) Baldwin Bilirakis  
Akin Barrow Bishop (GA)  
Alexander Bartlett Bishop (NY)  
Altmire Barton (TX) Bishop (UT)  
Andrews Bean Blackburn  
Arcuri Becerra Blumenauer  
Austria Berkley Blunt  
Baca Berman Bocieri

Boehner  
Bonner  
Bono Mack  
Boozman  
Boren  
Boswell  
Boucher  
Boustany  
Boyd  
Brady (PA)  
Brady (TX)  
Braley (IA)  
Bright  
Broun (GA)  
Brown, Corrine  
Brown-Waite,  
Ginny  
Buchanan  
Burgess  
Burton (IN)  
Butterfield  
Buyer  
Calvert  
Camp  
Campbell  
Cantor  
Cao  
Capito  
Capps  
Cardoza  
Carnahan  
Carney  
Carson (IN)  
Carter  
Cassidy  
Castle  
Castor (FL)  
Chaffetz  
Chandler  
Childers  
Chu  
Clarke  
Clay  
Cleaver  
Clyburn  
Coble  
Coffman (CO)  
Cohen  
Cole  
Conaway  
Connolly (VA)  
Conyers  
Cooper  
Costa  
Costello  
Courtney  
Crenshaw  
Crowley  
Cuellar  
Culberson  
Cummins  
Dahlkemper  
Davis (CA)  
Davis (KY)  
Davis (TN)  
DeFazio  
DeGette  
DeLauro  
Dent  
Diaz-Balart, L.  
Diaz-Balart, M.  
Dicks  
Dingell  
Doggett  
Donnelly (IN)  
Doyle  
Dreier  
Driehaus  
Duncan  
Edwards (MD)  
Edwards (TX)  
Ehlers  
Ellison  
Ellsworth  
Emerson  
Engel  
Eshoo  
Etheridge  
Fallin  
Farr  
Fattah  
Filner  
Flake  
Fleming  
Forbes  
Fortenberry

Foster  
Foxy  
Frank (MA)  
Franks (AZ)  
Frelinghuysen  
Fudge  
Gallegly  
Garamendi  
Garrett (NJ)  
Gerlach  
Giffords  
Gingrey (GA)  
Gohmert  
Gonzalez  
Goodlatte  
Granger  
Graves  
Grayson  
Green, Al  
Griffith  
Grijalva  
Guthrie  
Gutierrez  
Hall (NY)  
Hall (TX)  
Halvorson  
Hare  
Harman  
Harper  
Hastings (FL)  
Hastings (WA)  
Heinrich  
Heller  
Hensarling  
Herger  
Herseht Sandlin  
Higgins  
Hill  
Himes  
Hinchey  
Hinojosa  
Hirono  
Hodes  
Hoekstra  
Holden  
Holt  
Honda  
Hoyer  
Hunter  
Inglis  
Inslee  
Issa  
Jackson (IL)  
Jenkins  
Johnson (GA)  
Johnson (IL)  
Johnson, E. B.  
Johnson, Sam  
Jones  
Jordan (OH)  
Kagen  
Kanjorski  
Kapoor  
Kennedy  
Kildee  
Kilpatrick (MI)  
Kilroy  
Kind  
King (IA)  
King (NY)  
Kingston  
Kirk  
Kirkpatrick (AZ)  
Kissell  
Klein (FL)  
Kline (MN)  
Kosmas  
Kratovil  
Kucinich  
Lamborn  
Lance  
Langevin  
Larsen (WA)  
Larson (CT)  
Latham  
LaTourette  
Latta  
Lee (CA)  
Lee (NY)  
Levin  
Lewis (CA)  
Lewis (GA)  
Linder  
Lipinski  
LoBiondo  
Loeb sack

Lofgren, Zoe  
Lowey  
Lucas  
Luetkemeyer  
Lujan  
Lummis  
Lungren, Daniel  
E.  
Lynch  
Mack  
Maffei  
Maloney  
Manzullo  
Marchant  
Markey (CO)  
Markey (MA)  
Marshall  
Massa  
Matheson  
Matsui  
McCarthy (CA)  
McCarthy (NY)  
McCaul  
McClintock  
McCollum  
McCotter  
McDermott  
McGovern  
McHenry  
McIntyre  
McKeon  
McMahon  
McMorris  
Rodgers  
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Meek (FL)  
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Michaud  
Miller (FL)  
Miller (MI)  
Miller (NC)  
Miller, Gary  
Miller, George  
Minnick  
Mitchell  
Mollohan  
Moore (KS)  
Moore (WI)  
Moran (KS)  
Moran (VA)  
Murphy (CT)  
Murphy (NY)  
Murphy, Patrick  
Murphy, Tim  
Murtha  
Myrick  
Nadler (NY)  
Neal (MA)  
Neugebauer  
Nunes  
Nye  
Oberstar  
Obey  
Olson  
Oliver  
Ortiz  
Owens  
Pallone  
Pascarella  
Pastor (AZ)  
Paul  
Paulsen  
Payne  
Pence  
Perlmutter  
Perrillo  
Peters  
Peterson  
Petri  
Pingree (ME)  
Pitts  
Platts  
Poe (TX)  
Polis (CO)  
Pomeroy  
Posey  
Price (GA)  
Price (NC)  
Putnam  
Quigley  
Radanovich  
Rahall  
Rangel  
Rehberg

Reichert  
Reyes  
Richardson  
Rodriguez  
Roe (TN)  
Rogers (AL)  
Rogers (KY)  
Rogers (MI)  
Rooney  
Ros-Lehtinen  
Roskam  
Ross  
Rothman (NJ)  
Roybal-Allard  
Royce  
Ruppersberger  
Rush  
Ryan (OH)  
Ryan (WI)  
Salazar  
Sanchez, Linda  
T.  
Sanchez, Loretta  
Sarbanes  
Scalise  
Schakowsky  
Schauber  
Schiff  
Schmidt  
Schock  
Schradner  
Schwartz  
Scott (GA)  
Scott (VA)  
Sensenbrenner

Serrano  
Sessions  
Sestak  
Shadegg  
Shea-Porter  
Sherman  
Shinkus  
Shuler  
Shuster  
Simpson  
Sires  
Skelton  
Slaughter  
Smith (NE)  
Smith (NJ)  
Smith (TX)  
Smith (WA)  
Snyder  
Souder  
Space  
Speier  
Spratt  
Stark  
Stearns  
Stupak  
Sullivan  
Sutton  
Taylor  
Teague  
Terry  
Thompson (CA)  
Thompson (MS)  
Thompson (PA)  
Thornberry  
Tiberi

## NOT VOTING—15

Barrett (SC)  
Brown (SC)  
Capuano  
Davis (AL)  
Davis (IL)  
Deal (GA)  
Delahunt  
Gordon (TN)  
Green, Gene  
Israel  
Jackson-Lee  
(TX)

## ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). There are 2 minutes remaining in this vote.

□ 1520

So (two-thirds being in the affirmative) the rules were suspended and the resolution, as amended, was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

REMOVAL OF NAME OF MEMBER  
AS COSPONSOR OF H.R. 3904

Mr. HINOJOSA. Mr. Speaker, I ask unanimous consent to have my name removed as a cosponsor of H.R. 3904.

The SPEAKER pro tempore (Mr. JACKSON of Illinois). Is there objection to the request of the gentleman from Texas?

There was no objection.

INTERNATIONAL ATOMIC ENERGY  
AGENCY REPORT ON IRAN

(Mr. QUIGLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. QUIGLEY. Mr. Speaker, today the International Atomic Energy Agency released disturbing new information about Iran. The U.N. watchdog said Iran could be constructing several more covert nuclear installations. The report also said that Iran lied about the facility we do know about, saying

construction began in 2007 when satellite photos prove it was started in 2002.

Most disturbing of all, the report indicates that Tehran has now produced 1¾ tons of low-enriched uranium. That is enough for two bombs if enriched further. Four weeks ago, Iran was offered a deal to ship its uranium overseas for processing, but instead of accepting, it gave us more delays. Today's report makes it clear that we can't afford to offer any more deals or accept any more delays.

This House took full action when it passed the Iran Sanctions Enabling Act and must now pass the Iran Refined Petroleum Sanctions Act. The time for action is now.

## AMERICANS OPPOSE AMNESTY

(Mr. SMITH of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of Texas. Mr. Speaker, with 15 million people unemployed, it's no wonder that Americans increasingly are concerned about illegal immigration. A CNN/Opinion Research poll found that only 36 percent of Americans now approve of the President's handling of illegal immigration, and 58 percent disapprove.

The poll also found that 73 percent of Americans want to see the number of illegal immigrants in the U.S. decreased. This is the highest percentage since the question was first asked in 2006. In addition, Gallup reported that a percentage of Americans supporting a decrease in overall immigration levels increased from 39 percent to 50 percent in the last year.

The Obama administration should put the interests of Americans ahead of those of illegal immigrants.

## NEW YORKERS DEMAND JUSTICE

(Mr. WEINER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WEINER. Mr. Speaker, earlier today, in an effort to scare people and to frighten them, a Member of this House came to the floor and suggested that the idea of having the trial of Khalid Sheikh Mohammed in New York might jeopardize the family of the mayor of the city of New York.

Now putting aside for a moment that we have an opportunity in New York to have New Yorkers stand before the bar of justice and serve on a jury to finally put Khalid Sheikh Mohammed to death, and that is exactly the way it should be, for any Member of this House to suggest that somehow to support the decision to have a trial would jeopardize family members of the mayor of the city of New York is outrageous. Now that Member knows who

he is. That Member should apologize. That Member then should be quiet.

It is one thing to bring a baby to the floor of Congress and use it as a prop during the health care debate and quite another to suggest that the family of the mayor of the city of New York might be in danger because they have a different political view of how to carry out justice.

#### CONFERRING U.S. CONSTITUTIONAL RIGHTS ON FOREIGN SOLDIERS

(Mr. CULBERSON asked and was given permission to address the House for 1 minute.)

Mr. CULBERSON. Mr. Speaker, for the first time in American history, foreign soldiers captured on foreign battlefields are being given U.S. constitutional rights. The bigger issue for me and my constituents and the people of Texas, what outrages us most about these terrorists being tried in New York, is that now for the first time, this administration and this liberal Congress are giving U.S. constitutional rights to foreign soldiers captured on foreign battlefields.

They are going to lawyer up at taxpayer expense. They are going to all ask for every constitutional right that a regular U.S. criminal defendant gets, and they are going to get off on technicalities. Now think about that for a minute. Khalid Sheikh Mohammed and these terrorists are going to be freed on technicalities.

No U.S. soldier should be held to the same standard as a police officer on the streets of New York. It's wrong. It violates our core principles as a Nation, and it endangers our military. We cannot give U.S. constitutional rights to enemy soldiers captured on foreign battlefields, especially these murderers, these terrorists held at Guantanamo.

#### SPECIAL ORDERS

The SPEAKER pro tempore (Mr. BRIGHT). Under the Speaker's announced policy of January 6, 2009, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

#### NIDAL HASAN, TERRORIST—AKA "ALIEN UNLAWFUL BELLIGERENT"

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. POE) is recognized for 5 minutes.

Mr. POE of Texas. Mr. Speaker, Major Nidal Malik Hasan is a terrorist. If anyone needs confirmation, it says on his own business cards, Soldier of Allah, and those business cards were found in his apartment. Within an hour of his terrorist attack on Fort Hood,

the FBI quickly told us he is not a terrorist. The authorities told us not to jump to conclusions while they jump to conclusions.

The news media has called Hasan everything but a terrorist. Hasan was called a "lone gunman" or a "troubled individual" who somehow suffered from post-traumatic stress disorder. The main problem with that is he hadn't been deployed overseas, so how could he have post-traumatic stress disorder? Maybe it should be called pre-post-traumatic stress disorder.

They said Hasan's terrorist rampage was an "isolated incident," a "random act of violence." Hasan was "under stress," "harassed" and was somehow forced to "snap." And they even blame it on guns. But don't call him a terrorist.

The day after Hasan's terrorist attack, reports leaked out that he had yelled the standard terrorist "Allahu Akbar," Arabic for "God is great," while gunning down innocent people.

According to The Dallas Morning News, authorities are investigating whether Hasan wired money to Pakistan terrorist groups in recent months.

□ 1530

His apartment cost \$350 a month and didn't have much furniture in it. He drove an old car, but he made over \$100,000 a year. Now people are asking, Where did all that money go?

According to a colleague at Walter Reed Hospital, Hasan gave an hour-long lecture there on what he called the "Koranic View of Military Service, Jihad, and War." Instead of the medical lecture he was supposed to talk about, Hasan talked about punishment visited upon infidels—consignment to hell, decapitation, and having hot oil poured down your throat. According to his colleague at the hospital, this "freaked a lot of doctors out." Well, no kidding. But apparently not enough for anyone to break their politically correct silence and report him. Why have the politically correct police made those who report crime so timid?

Hasan's colleagues said that he was the kind of guy who the staff actually stood around in the hallway saying, Do you think this guy is a terrorist or is he just odd? Nothing was done. And why wasn't he formally reported by colleagues? There are no answers.

Hasan exchanged emails with an al Qaeda recruiter in Yemen 20 times. According to the Wall Street Journal, the Pentagon said they were never told by intelligence agencies about the emails, which raises even more questions.

The FBI, Army Intelligence, the CIA, apparently they're still not talking to each other. So we need congressional investigations on this entire situation. I've asked that the Terrorism Subcommittee, which I serve on in Congress, investigate this situation.

There were warning signs that were ignored because he was a Muslim. Is

this a reflection on all Muslims in the Army? Absolutely not. We have those in the Muslim faith loyally serving in Iraq and Afghanistan. Many speak Farsi and help our troops in combat. But it is a reflection on one person who radicalized.

There were warning signs, and interventions should have occurred much earlier. It's a reflection on the Army's ability to be decisive and take care of business, take care of a threat when they see it. They missed the obvious. The question is: Is this continuing to happen in the military? Are they going to continue to ignore the obvious? Hasan had murdered 14 people, including a pregnant soldier and her unborn child. She was sent back home from Iraq out of the war zone to have her baby.

Mr. Speaker, when it gets to the point where political correctness puts the lives of our troops in danger on American soil at their home base, it's well past time to stop playing preposterous PC games.

By the way, Mr. Speaker, do you know what the military officially calls terrorists? We don't use that term "terrorist" anymore. They are officially called alien unlawful belligerents. Now, isn't that lovely. We can't call them terrorist or killers or criminals because that might hurt their feelings.

The American military, the FBI, and the media must deal with the facts and the truth without trying to mislead the American public.

And that's just the way it is.

#### SMART POWER CAN SUCCEED WHERE MILITARY POWER ALONE HAS FAILED

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Ms. WOOLSEY) is recognized for 5 minutes.

Ms. WOOLSEY. Mr. Speaker, last week on Veterans Day the American people paid tribute to the heroic men and women who have and are serving in our military. Fortunately, most veterans return home safe and sound. They devote themselves to their families. They become leaders in their communities. I know many veterans in my district. They are among the most respected and beloved neighbors. But too many veterans, Mr. Speaker, never get the chance to resume their lives. They die in battle or they return home with terrible wounds that will never heal. Their loving families feel scars of war, too—especially the children.

Today, American soldiers continue to face danger in Afghanistan and in Iraq. Nearly 5,300 have already died in those two conflicts. About 35,000 have been wounded. And when the wounded return home, they often face many challenges.

According to a study by the Harvard Medical School, over 130,000 veterans

are homeless. Over 2,200 veterans died last year because they didn't have health insurance. And, Mr. Speaker, many veterans are out of work in this recession.

This Congress and President Obama and his administration recognize these problems and we made some good progress in addressing them. This House has passed new legislation that helps veterans. We have passed a strong health insurance reform bill that will help veterans. In addition, General Shinseki, the Secretary of Veterans Affairs, has promised an all-out effort to end veterans' homelessness. He has also launched a new effort to strengthen housing, education, employment, and medical care opportunities for our veterans.

We need to do all of this, Mr. Speaker, and we need to do more. But I have always believed that the best way to serve our veterans is to do everything we can to keep them out of harm's way in the first place. That means sending our troops to war only as a last resort, when we have explored every other alternative.

In Afghanistan, we haven't met that test. We have relied almost exclusively on the military solution for over 8 long years. And we see where that's gotten us—absolutely nowhere.

Mr. Speaker, we have learned that there is no military solution to Afghanistan, and we've learned that lesson the hard way. We have learned it through the number of dead and wounded. That's why I urge President Obama to say "no" to sending more troops to Afghanistan. Our troops have already been stretched to the limit by repeated deployments. Their families have already suffered enough on the homefront. Escalating the war will only help the violent extremists in Afghanistan to recruit more violent extremists to attack our troops.

Instead of pursuing the same failed strategy of the past, I have called for a new strategy that relies on all the effective tools of smart security. These tools include diplomacy, humanitarian aid, economic development, education, civil affairs, and better intelligence and police work to search out and capture extremists. At least 80 percent of all further funding for Afghanistan should be devoted to these smart power efforts.

Mr. Speaker, the casualty figures are growing in Afghanistan. We owe it to our courageous troops to protect their lives before we have another Iraq on our hands. Smart security must be used because it can get us a lot farther in Afghanistan, much further than military power alone.

Mr. Speaker, let's change our strategy before it's too late. Let's bring our troops home. Let's bring them home safe, sound, and successful.

#### ASTRONAUT ROBERT SATCHER

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. DAVIS) is recognized for 5 minutes.

Mr. DAVIS of Illinois. Yesterday, as STS-129 lifted off, there was a very definite glint of pride in my eyes and spring in my step because one of the astronauts on board was Mission Specialist Robert Satcher, doctor, chemical engineer, and native of Oak Park, Illinois, and the Seventh Congressional District.

Dr. Satcher is the second astronaut to hail from Oak Park on the western border of Chicago. Any community to boast of such a record of producing astronauts deserves a second look, but for a community with just over 50,000 residents to accumulate such a record, something must be going on that is very right. But, of course, in the end, it is up to the individual to determine what to do with the circumstances of their lives.

Dr. Robert Satcher has done some amazing things with his life. An orthopedic surgeon who practices at Northwestern Memorial and Children's Memorial hospitals, teaches at Northwestern University Medical School, does research at the Lurie Comprehensive Cancer Center of Northwestern and the Institute for Bioengineering and Nanotechnology in Advanced Medicine at Northwestern, Dr. Satcher is a nephew of former U.S. Surgeon General David Satcher. He is married to Dr. D'Juanna Satcher, and they have a daughter, Daija.

Dr. Satcher was a Schweitzer Fellow at the Albert Schweitzer Hospital in Lambarene, Gabon, completed numerous medical missions for outreach care to underserved areas in Nicaragua, Venezuela, Nigeria, Burkina Faso, and Gabon. He held internships at DuPont in the Textile Fibers Research Group and the Polymer Products Division.

Growing up, he was a National Merit Scholar and received the Monsanto Award and the Albert G. Hill Award from MIT, fellowships from both the Robert Wood Johnson Foundation and the UNCF/Merck Research Foundation, and is a member of the Tau Beta Pi Engineering Honor Society. He is a Leadership Fellow of the American Academy of Orthopedic Surgeons, ABC Fellow of the American Orthopedic Association, Bloomberg Leadership Fellow, and has completed 12 research grants and has 15 peer-review publications and over 25 presentations at national and international research meetings.

He has been active in the Big Brother for Youth at Risk Counseling Program; Department of Corrections, San Francisco, California; a tutor for the Black Student Union tutorial program at MIT; the National Society of Black Engineers; the American Institute of Chemical Engineering; a supervising adult for Cub Scout Camp for Boys in

Nashville, Tennessee; and he is a lay Episcopal minister with primary responsibility for visiting the sick and shut-in members of the church at St. Edmonds Episcopal Church in Chicago and St. James Episcopal Church in Houston.

He was selected for Astronaut Candidate training by NASA in May of 2004 and completed training in February of 2006. On STS-129, Dr. Satcher is scheduled to perform two EVAs—space walks—among other assignments. For those who want to follow Dr. Satcher on Twitter, he will be tweeting as *astro\_bones* and *ZeroG\_MD*.

Godspeed to you, Dr. Satcher. Bobby, you have a lot of fans back on Earth, and especially those in Oak Park, Illinois.

#### THE SPOILS OF WAR

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Ms. KAPTUR) is recognized for 5 minutes.

Ms. KAPTUR. In Iraq, after thousands upon thousands of lost lives and hundreds of thousands of disabling injuries, after a trillion dollars of U.S. treasure added to our Nation's debt, after an incalculable amount of U.S. prestige being lost, one aspect about Iraq remains defining: It's all about oil and the spoils of oil across that region.

Exxon, the largest U.S. oil company, with profits totaling \$40.6 billion in 2008—a record—just got its first contract inside Iraq. Foreign oil companies like Exxon were thrown out of that country four decades ago when Saddam Hussein nationalized Iraq's oil fields.

Michael Klare, in his prescient book about resource wars, "Blood and Oil," connects the dots. What a shame our world is so primitive, people brutally fight over diminishing resources as global energy extraction giants advantage themselves, far from home, in the wake of our soldiers, tapping largesse these oil giants covet.

Iraq ranks fourth in global oil reserves behind Saudi Arabia, Canada, and Iran. Iraq's central government is now picking winners in the great oil prize bonanza—the "Iraqi Oil Contracting Rush of 2009." Oil has dominated Iraq's economy for generations. Oil has traditionally provided more than 90 percent of that country's exchange earnings, and that is likely to be the case for a few decades to come until it's all sucked dry.

According to the Washington Post, the oil ministry is expected to hold a new bidding round in December for undeveloped fields. Those are also for service agreements. Oil giants hope the deals could one day lead to production-sharing deals, long a goal of energy firms that have been shut out of the Middle East for years.



□ 1545

The oil giants, Exxon-Mobil and Royal Dutch/Shell, signed a \$50 billion deal with Iraq to extract oil from the Western Qurna oil field, one of Iraq's largest oil fields located north of Rumaila field, west of Basra in southern Iraq. Western Qurna is believed to hold 11 to 15 billion barrels of recoverable reserve. This prize of a deal gives Exxon-Mobil, Shell and their partners \$1.90 per barrel above the current production rate of 2.5 million barrels per day, and they hope to increase production to 7 million per day over the next 6 years, meaning a windfall of \$3.1 billion per year.

Are the lives of our soldiers worth it? The giant Exxon Mobil/Shell consortium beat out the other oil giant consortiums, led by Russia's LUKOIL, France's Total and a consortium led by China's CNPC. Dictators have come and gone, foreign armies have come and gone, some still remain.

One thing remains constant about Iraq. Oil is still the big prize. That is why American and European oil company giants going all the way back to the Ottoman Empire have coveted control of their crude. Cynics would even say they have been willing to go to war over it. As we observe the continuing rush to the oil fields by a world that must transition to a greener and sustainable energy future, one must ask the tough question, Are the lives of our noble military going to be expended—for how long?—far away from home to access a resource that is diminishing globally while America's Treasury is emptied, supporting wars in foreign places to tap a resource that, by 2050, will be gone, never to return again.

Civilized people should demand more than fighting resource wars of the past for an oil giant's prizes, for limited remaining time on this planet. It's time to think hard about where we have extended our most precious assets and to say, It's time to come home.

#### HEALTH CARE REFORM

The SPEAKER pro tempore. Under the Speaker's announced policy of January 6, 2009, the gentleman from Louisiana (Mr. CASSIDY) is recognized for 60 minutes as the designee of the minority leader.

Mr. CASSIDY. Thank you, Mr. Speaker. Although you called me "mister," I am actually a physician; and so in my other life—I actually saw patients just yesterday at a public hospital in Louisiana, a safety net hospital where I have worked for the last 20 years. So caring for the uninsured has been my life's work since completing my residency and returning home. I've learned that if you don't pay attention to costs that it doesn't matter how passionate you are for the uninsured; the fact is that you are unable to achieve your goals.

There are three goals of health reform, and they're commonly said to be controlling cost to provide access to high-quality care. In the hospital where I work, a safety net hospital, they are committed, they are so passionate for the underserved folks who are med techs, physical therapists, ward clerks, physicians and nurses. But the problem is, if there is a budget shortfall, then inevitably, services suffer.

So it doesn't matter how passionate we are in our service. The fact is that if there are insufficient resources in the State at the end of the budget year, then services suffer. It may be that the nurse staffing has decreased and hospital beds are closed so that if somebody comes to the emergency room, they have to wait in the emergency room before they're admitted. And inevitably when that happens, the hospital goes into what is called divert, whereas instead of coming to our hospital, they will be diverted to another hospital. That's because if you don't control cost, inevitably, access and quality suffer.

Now, I was struck that President Obama agrees with this. President Obama continually speaks about the need to bend the cost curve down, the need to control costs because if we do not control costs, then our economy suffers and the ability to provide care suffers. Now, it's one thing to say that we're going to control cost in order to expand access to quality care, but you've got to have a plan on how to get there.

There is a company called McKinsey & Company, and on their Web site, they have a great article that you can download called "The Three Imperatives of Health Care Reform." Without achieving these three imperatives, then, we cannot control cost in a way which expands access to quality care. Now the three imperatives that they list are decreasing administrative costs, how much money we put into the bureaucracy as opposed to patient care, incentivizing healthy lifestyle. Put differently, if people insist on smoking and drinking and if they're too heavy, it doesn't matter how much we throw at health care; we will never control cost because we are always try to catch up with the disease as opposed to preventing it. And, lastly, cost transparency. Someone going in for knee surgery needs to know how much her bill will be before she goes in as opposed to learning about it 2 months later when she gets the bill.

It is important for us, therefore, to achieve our goals of cost containment to provide access to quality care to work through these three imperatives. Now, the bill we just passed, H.R. 3962, on the face of it does not achieve these three imperatives. As an example, if you are going to decrease administrative costs, you don't achieve a decrease

in administrative costs by creating 111 new bureaucracies, boards, and commissions. It is just laughable to think that we are going to put that much more money into administration, build that many more buildings, hire that many more people and at the same time say we're decreasing administrative costs.

There is very little in the bill that incentivizes a healthy lifestyle. You can argue that those provisions in the bill that address this weaken the current provisions that we're finding effective. And, lastly, there is not a whole lot that provides cost transparency. Indeed, one of the things that has been used to encourage cost transparency is the use of health savings accounts, and now health savings accounts are being taxed, as they have not been before.

So it's not surprising if these three imperatives are not addressed that we can say that cost is not being controlled. Now, by the way, it's not just me who says that costs are not being controlled. We have here a quote from The Washington Post, and we also have a quote from The Washington Times. The Post article says, speaking of this bill: "It does not do enough to control costs, and it is not funded in a sustainable way." The headline from The New York Times—I think this was November 10—"Democrats raise alarms over health bill costs." Democrats are raising alarms over the cost of this health bill. That's so important because if you can look in any health care system, if you don't effectively control costs, eventually access to quality care suffers.

I have been living this for 20 years. In my life, I know this to be true. So here we see from a couple different sources, The Post and The Times, that this bill does not do enough to control costs.

Now, it turns out it isn't just The Post and The Times that have such concerns. There is an article in Reuters, and Reuters says that China is now questioning the cost of our U.S. health care reform. Since China buys so much of our debt, it turns out they have a vested interest in making sure that we have our financial house in order. So to read the article from Reuters: "Guess what? It turns out the Chinese are kind of curious about how President Barack Obama's health care reform plans would impact America's huge fiscal deficit. Government officials are using his Asian trip as an opportunity to ask the White House questions. Detailed questions. Boilerplate assurances that America won't default on its debt or inflate the shortfall away are apparently not cutting it."

I think it's important for us as an American people and our country to look at the bill that was just passed that is going over to the Senate and to analyze how well does it control costs. Are the Chinese correct? The Washington Post, The New York Times, are

their articles correct? Or does it, indeed, actually control costs and everyone else is a little bit confused about it?

Well, let's go into that. First, remember our three imperatives: you have to decrease administrative costs, you have to incentivize healthy lifestyles, and you have to put in cost transparency. Let's talk about incentivizing healthy lifestyles and how you do so. Now, as it turns out, when the President talks about preventive medicine, one of the kinds of dirty little secrets of this—and as a physician, I can say this—if you are talking about things such as colonoscopy, actually, if we did a colonoscopy on everybody over 50, as per the current recommendation, it actually costs the system a little bit more. Now, it's a good cost. If you find a polyp, remove it, and prevent cancer, that is actually a very good thing; but it doesn't save money.

But there are some things you can do that will save money. If you can get someone to stop smoking, it actually saves the system money. It also helps them in terms of their health. If you can get someone to lose weight, it actually saves the system money. General Motors did a study—they have got so many employees, they can do this sort of thing—and they found that for every 10 pounds that an employee lost, that their health care costs went down significantly. If the person had high blood pressure, and they lost 10 pounds, their blood pressure got better. They required less medicine. If they had diabetes, the diabetes became easier to control or in some cases the diabetes would go completely away.

Now, there are ways that you can incentivize a healthy lifestyle. Under current law, companies are allowed to decrease by up to 20 percent the premiums they charge their employees if the employee participates in a wellness program. So, for example, Safeway, which is a large grocery store chain across the United States, had a program where they will decrease their premiums by 20 percent for those employees who participate and attend a smoking cessation program. When they do so, they find that people—surprise, surprise—stop smoking.

Similarly, if someone joins an exercise program or a dietary program if they are overweight and they lose weight—now, frankly, as I recall the way it's structured, is that the person just has to join the smoking cessation program. They don't actually have to stop smoking. But just as it turns out, people, if exposed to information, act on that information, and they adjust their lifestyles. So either by an exercise program, a dietitian or by smoking cessation programs, by participating in these, they will lose weight. And Safeway has kept their costs for their health insurance constant, whereas

there has been about a 7 to 10 percent inflation rate over the United States.

I just met with a company based in my hometown of Baton Rouge, Edelmayer, and Edelmayer has been having about a 10 percent inflation rate. But 2 years ago, they instituted a program where they first had all their employees come in for a health assessment. Last year they had all their employees come in for a health assessment—for example, do you smoke, are you overweight, but also a physical exam. Next year they are putting in, as a covered benefit, a smoking cessation program.

Then 2 years from now—this is a 4-year process—they are going to decrease premiums for those that participate in these smoking cessation programs. Their premium costs, which have been increasing 7 percent to 10 percent per year, are projected to only rise 3 percent per year when they institute the full program. So by putting in or incentivizing healthy lifestyles, they're going to lower their inflation rate to 3 percent per year.

Now, H.R. 3962 actually weakens these provisions. Republican amendments offered in committee would have increased the amount an employee could save if she participated in a wellness program, but these were defeated basically on party-line votes. Similarly, there is a disassociation in H.R. 3962 from what a company can do to incentivize healthy lifestyles and how this provision works.

As an example, H.R. 3962 requires that a company pay at least 72.5 percent of an employee's insurance premium. Well, if you've got to pay at least 72.5 percent, that limits the amount you can decrease in order to incentivize somebody to participate in a wellness program. Now, the way you could say it is, if someone participates in a wellness program, you would pay 72.5 percent, but if they do not, you are allowed to decrease your contribution to 68 percent.

□ 1600

Now, remember, I'm not saying they have to stop smoking; I'm just saying they have to participate in the wellness program to stop smoking. So there's a key difference. Some people will not be able to, but most people, if given the facts, will be able to do so. So if one of our three imperatives of lowering health care cost is to incentivize healthy lifestyles, we actually see some of the programs which are now working well are gutted or made less able to work effectively under the bill that we just passed.

Now, we're never going to control cost if we do not incentivize a healthy lifestyle. As a physician, I will tell you that part of what is driving the cost of health care in the United States is the cost associated with diabetes, high blood pressure, heart attack and

stroke. The prevalence of these diseases is so much more in our country relative to Europe that there's at least one article out there that suggests that the entirety of the cost differential between the United States and Europe is because the increased expense of treating these diseases such as diabetes, hypertension, high cholesterol, stroke, heart disease; they all kind of go under the term of a metabolic syndrome, if I'm allowed to speak like a physician.

And so if we're not going to get a handle on these, if we're not going to incentivize a healthy lifestyle so that we're not treating the disease on the back end, as opposed to preventing it on the front end, then we will never achieve one of our principle three goals, which is to control cost, because, again, working in a public hospital for 20 years, I've learned, if you do not control cost, you do not have the adequate resources to expand access to quality care. And according to the independent sources, The Washington Post, The New York Times, China, this cost, this bill before us has significant issues as regards its ability to control costs.

Indeed, Centers for Medicare and Medicaid Services, called CMS, the Federal government's already paying for Medicare, which is the health care program for folks 65 and above, and a large amount of money for Medicaid, which is the State Federal program for the poor in each State. And there is a new study, the Centers For Medicare and Medicaid Services, that finds that the health care reform bill recently passed in the House of Representatives will increase health care spending to 21.3 percent of our Gross Domestic Product, compared to 20.8 percent under current law, bending the curve the wrong way.

If the President says that if we do nothing the status quo is such that costs will double, as it turns out, under the reform package passed a week ago in this Chamber, costs more than double. As crazy as it sounds, the reform bill we passed, according to the independent Centers For Medicare and Medicaid Services, the reform bill costs more than the status quo. And I keep saying that because the President said we've got to have reform to control costs. And according to the Federal Government, our reform costs more than the status quo. At a minimum, reform should not cost more than the status quo. We shouldn't bend the curve the wrong way. We should bend the curve the right way.

In addition, the CMS study gives a clearer cost estimate than the one previously given by the Congressional Budget Office. According to the CBO, the 10-year cost of the plan was \$894 billion. But the analysis included earlier years of very little government spending. According to the Center for Medicaid and Medicare Services, the

House approach will cost \$1 trillion from 2013 to 2019, or some \$140 billion a year when put into effect.

So, in 7 years, it will cost \$1 trillion. Clearly, if the goals of health care reform are to control costs so that we can expand access to quality care, according to our government, the Chinese government, two prestigious newspapers, this bill did not do so. What does it do? Well, one thing it does is it takes power away from patients and it turns it over to the Federal Government. Now, it's going to sound like rhetoric, so let me elaborate. Again, as a physician who's worked for 20 years with the uninsured, I've learned that when you put the patient in the middle of process, if you say the most important person here is the patient, then actually, you tend to lower costs and have healthier patients.

If you think about it, that program which lowers someone's premiums 20 percent if she participates in a wellness program, it puts the responsibility for someone's health on the person with the greatest ability to make a change—that is the patient. If she is financially rewarded for having a healthier lifestyle, as it turns out she'll have a healthier lifestyle. We, as a society—not only will she be healthier, she will have lower costs and, frankly, those lower costs, among millions of patients, if you will, lowers the cost for the system.

There's one way to explain this. There's something in the Republican proposals called health savings accounts. Now, in a health savings account, you put the patient in the middle of the process in the following fashion: A health savings account takes the money that a family would normally spend for a health care premium. It sluices off a portion of it and puts it into a bank account. So if with a traditional insurance policy, at the beginning of the year, a family of four puts up \$12,000, if at the end of the year they've not seen a doctor, well, they've put up another \$12,000 for the next year. At the end of the year they put up another 12,000, and every year they put up another 12,000. In a health savings account you sluice off a portion, and you put it into an account.

Now, that money comes from the money you'd ordinarily be spending for a premium. But instead of spending it for a premium, you put it in this bank account. And instead of asking the insurance company to pay for a flu shot, you pay for it out of your bank account. Instead of asking for the insurance company to pay for your arthritis medicine, you'd pay for it out of your bank account. The advantage is, at the end of the year, if you have money left over, instead of losing it, it rolls over until the next year. Or, if you have a family member whose costs are excessive, you can donate portions of your health savings account to your family member.

And so, with that money, it is money that you are incentivized to spend wisely. I'll give you an example. Two patients come to mind, or three patients. There's one patient who's got a traditional insurance policy, and a very nice woman. And she's got an expensive policy but she's a woman of means and she can afford it. And she says, I never look at the bill. If the doctor writes me a generic or a name brand drug I don't care. My insurance pays for it. When I get a bill from the hospital, I don't look at it. The insurance pays for it.

And so, because the insurance pays for everything, she likes her insurance policy, but she's got the money to pay for it. Contrast that with someone like the gentleman I'm about to describe. We're talking about health savings accounts. He goes, I have a health savings account. I went to my doctor and my doctor wrote me a prescription for a medicine that I knew by experience would cost \$159. Now, notice, he didn't say \$160. He said \$159, because he's paying for this out of his account. And he said, my doctor wrote me for this medicine for \$159. I said, Doc, I have a health savings account. Do you mind writing me for something cheaper? And the physician said, I'm sorry. You have an HSA, and he tore up that prescription and he wrote him for a generic.

Now, you can say, why didn't the doctor write for the generic in the first place? He probably should have. On the other hand, who is most responsible for an individual's health? The person most responsible for an individual's health is that individual. And so, just like if I were to go to Target or Wal-Mart and say, okay, I'm going to buy school uniforms for my children, it's really not Target's responsibility to prove to me that they are cheaper than Wal-Mart. It's my responsibility to see who's cheaper and then to go to the place that gives me the best value for my money.

So it puts the responsibility where probably it most rightfully should be. And frankly, with that responsibility, the man responded. Instead of getting a medicine that costs \$159, he got a medicine that cost \$20. The system saved \$139. If you multiply that across the millions of transactions, then this system saves millions and even billions of dollars.

Now, we have just gone from the anecdote of an individual patient. Let's talk about a study. Kaiser Family Foundation, a little bit of a left of center group, but a good group, did a study where they compared the cost for a family of four which had a health savings account with a catastrophic policy on top, so if they have a terrible illness like a liver transplant that exceeded the amount of money in their account, the catastrophic policy picks it up on the top end. They compared it with the cost of a traditional insurance policy

for a family of four. They found that the family of four, with the HSA, the health savings account, and the catastrophic policy on top, they found that that family's cost of that HSA and catastrophic policy was 30 percent cheaper than the cost of the traditional insurance policy for a family of four. And they found that both families used preventive services as frequently.

So what we have here, if our goals of health care reform are to control cost, to expand access to quality care by lowering premiums, the Kaiser Family Foundation found that the family with the HSA and catastrophic policy, their policy costs were 30 percent cheaper compared to traditional insurance.

They also found that 27 percent of those people who had an HSA and a catastrophic policy were previously uninsured; that 50 percent of people with these sorts of policies had family incomes of \$50,000 or less, and that about 60 percent of such families had family incomes of \$70,000 or less.

So, by controlling cost, the HSA catastrophic policy, 30 percent cheaper, by controlling cost, those people who were previously uninsured, 27 percent of the folks with these HSAs were previously uninsured, were able to now purchase insurance, and with this insurance they access preventive services as frequently as those with traditional policies. So the goals of reform were achieved. Lowered cost, expanded access to quality care.

I've been joined by a colleague of mine who is also a physician, a family physician, also a small businessman. And Dr. FLEMING, we're discussing costs and how control of cost is so essential to expanding access to quality care. Do you mind sharing the anecdote of that employee, when your group went to HSAs, because I want to show how the two things I've discussed so far have been how you can incentivize healthy lifestyles and control costs by decreasing premiums, if you will, and also how health savings accounts, by directly connecting people with costs, can also be cost savings. Your anecdote combines those two. Can I ask you to share that?

Mr. FLEMING. Sure. I thank the gentleman, Dr. CASSIDY, my colleague from Louisiana for doing a Special Order today, an opportunity to speak on that very subject. Yes. What you're referring to is a case in which my companies, my nonmedical companies, seeing health care premiums rising an average of 10 to 15 percent per year, we found that to be an unsustainable increase. And we began to analyze what are the choices, what are the options. Maybe we would pay less of the premiums, perhaps we would just stop insurance all together. We really weren't sure what we could do.

And then I recall something that at that time was a brand new concept, and that is a health savings account,

where you lift the deductible of the policy to a higher level, saving a premium cost, but then, in turn, put the incremental increase that comes up to what the premium would be into a health savings account. So we began that about 6 years ago. We brought the deductible up to about \$3,000. And employees would get as much as \$50 a month put into their health savings accounts where they could purchase any health care service or item they needed, pretax.

□ 1615

In explaining this to my employees, however, as we gathered together, I wanted to make sure everyone was on the same page. I suggested to them that this was the way we probably would want to go, but I wanted to get the input as to what their concerns might be.

We had a lady who said, "Well, you know, the problem with this is my inhalers. If I have to pay for them out of my pocket or my health savings account each month, it is going to cost me \$100, maybe \$150 a month. And true enough, this would come out of my health savings account, but I don't know that my health savings account would be able to withstand that."

So I said to her, "Well, let's think this through. Perhaps you should consider doing a smoking cessation program, stop smoking altogether. You could throw away all of your inhalers; you would save money on the cigarettes; you would save money on the money accumulating in your health savings account."

Mr. CASSIDY. If the gentleman will yield.

Mr. FLEMING. Sure.

Mr. CASSIDY. By connecting her with costs, if you will, you are incentivizing a healthy lifestyle.

Mr. FLEMING. Basically, you're absolutely right, Dr. CASSIDY. What we are really doing is saving her money and saving her life because there is no question there is direct correlation, an inverse correlation, between the use of tobacco and health. By the same context, if you stop smoking, then life span increases.

So we found in very real terms that it saved premium costs—both to the employer and to the patient—by instilling the health savings account and attaching behavior with costs. And even today, we received notice on our most recent new policy for the coming year. The increase was 3½ percent, which is really amazing when it comes to health insurance policies.

Mr. CASSIDY. If the gentleman will yield.

You said that all of your employees in your group are on health savings accounts now?

Mr. FLEMING. Yes.

Mr. CASSIDY. We sometimes hear that health savings accounts are only

for the wealthy, yet you've heard me quote that study that found that 27 percent of people with HSAs and catastrophic policies were previously uninsured.

And so as I know—and I'll yield back now—your business is a service business so I assume that people are of moderate income, and yet this is the policy that they have all chosen. So unless you tell me that all of these folks are wealthy, I will assume indeed this is something that works for middle America.

Mr. FLEMING. This is a fast food business. It's a steep pyramid which means you have a wide base of entry-level employees and then middle management and then just a few high-income folks. Remember, the employer is putting the money into the health savings account. That doesn't mean that the patient or employee can't also put some money in, but the lion's share was put in by us. And now after 6 years or so, those who have taken good care of their health and not wasted the health care dollars now have saved as much as \$15- to \$20,000 in their family health savings account which is triple, if not quadruple, what the deductible is on their health policy.

Mr. CASSIDY. So what you've told me is that families have been incentivized to be wise with their health care dollars, and at the end of every year, instead of losing that dollar, it rolls over and it accumulates. Now they put that much less money for the following year. For those particular families, their cost of insurance, if you will, is decreasing annually, I would assume.

Mr. FLEMING. Of course the premiums stay even. But what happens is the cash accumulates and it accumulates to the point where there is essentially no deductible, no copayment. Whatever health care needs you have, there is always plenty of money in the bank.

What's also interesting is for whatever reason you get out of that plan and went to something else—let's say you hit 65, you went to Medicare; let's say you just decided you didn't want to have insurance anymore, whatever reason—you still keep that money. It is still there for you for health care needs. And you can use it indefinitely no matter what other health plan you might be on.

Mr. CASSIDY. If I can contrast your patient-centered approach where you put the patient responsible, the person most responsible—the patient, your employee—in charge of the dollars she would spend for her health care and in so doing she responded in rational economic way. She didn't want to spend money on inhalers so she stopped smoking, so therefore she stopped needing inhalers and the whole system saved money.

Contrast that with the bill that we passed a week ago in which now there

is going to be a tax on health savings accounts.

So the example I gave, if I may continue, is where the patient asked for an over-the-counter generic instead of the prescription medicine knowing that the one was as good as the other, and one costs \$20, one cost \$39, and yet now by the bill that was passed by our colleagues on the Democratic side of the aisle, we are now going to tax the purchase of over-the-counter medicines when that purchase is made with a health savings account. It seems like we're going backwards in terms of incentivizing people to use less costly drugs.

I yield to the gentleman.

Mr. FLEMING. Congressman CASSIDY, I have looked at this for many years in terms of being a family physician figuring out how to get the best cost care to a patient delivered—and I am sure you have in your specialist role—but also as a business. And I have concluded over the years there are only two ways to control costs in a health care system: either you do as we just discussed, you have the doctor and the patient have a stake in the cost controls for themselves or at least particularly for the patient, in which case as a dividend; you have cost savings throughout the system; or you create a giant, highly bureaucratic system that engineers, micromanages life behaviors from top to bottom in which there is no connection between a patient and his or her behavior—or cost, for that matter—and for that system to be effective—because we see an exponential growth in consumer purchase behavior—and the infinite desire for value coming out of the system, whoever is putting the money in it, we as consumers always want to get as much out of a system as we can, especially when we are not putting anything into it.

When you have that scenario, then it puts an intense demand on the controlling entity which in this case is the Federal Government. It puts an intense pressure and burden to figure out ways of controlling costs, and there is only one way at that point to do it: that is long lines and rationing. That is the only way any system of that size has been able to control costs.

Mr. CASSIDY. Now, on the other hand—let's be fair to this bill—it does attempt to pay for its exploding costs.

Before you walked in, I mentioned the Centers for Medicare and Medicaid Services found that the bill that was passed—although 39 Democrats joined Republicans in opposing it, it still passed on basically a party-line vote—that because of that bill, health care spending will increase to 21.3 percent of our GDP compared to current law; 20.8 percent would be under current law. And bending the cost curve the wrong way, if you will, or bending the cost curve up, we are yanking on that thing. But on the other hand, they do attempt to pay for it.

If the gentleman will allow me to go forward. They are creating \$730 billion in tax hikes. Some people have called this a tax bill disguised as a health care bill: \$460 billion tax on small businesses and high earners; \$135 billion employer-mandate tax; \$33 billion individual mandate tax. You mentioned how you are a small businessman as well as a physician.

I am going to yield to you and ask you if you can comment on how these taxes would affect you as a small business person.

Mr. FLEMING. It would have a tremendous negative impact. First of all, if for whatever reason—let me back up a second.

This health care bill provides that whether it is a public option, a government-run insurance, or whether it's a private insurance plan, they all have to go through an exchange and meet certain minimum requirements and certifications. Every constituency out there is going to be knocking on our doors in Washington wanting their aroma therapies, their massage therapies, and everything else which is going to make the minimum requirements go up and, therefore, the cost.

I, as a small business owner, when I am having to decide about purchasing these required minimums and mandates, at some point I may say I can't afford it, in which case I will have to opt out of the health care plan but I will still have to pay an 8 percent of payroll tax or up to 8 percent payroll tax.

So even not covering my employees will lead to higher costs. And as soon as my costs go up, my profits go down, my ability to sustain business will fade, and the first thing I will have to do is lay people off or certainly not hire people.

Mr. CASSIDY. So lay people off. It is projected, I see, using the methodology of the White House Council on Economic Advisors, that the tax hike, \$730 billion in tax hikes to address this cost—which, by the way, inadequately addresses it—would kill 5.5 million American jobs.

Mr. FLEMING. If the gentleman would yield for one other point on that.

The taxes on the business doesn't stop there. With the Bush tax cuts expiring very soon, the marginal tax rates will go up from 35 to 39 percent and then this bill provides for another excise tax of over 5 percent. So marginal tax rates on small business owners will increase from 35 percent to 45 percent plus the 8 percent that we talked about, taxes that will occur on payroll even if the employer does not have or are able to purchase health care insurance.

So just an explosion of costs without any return on investment. And therefore, the business owner, in order to remain competitive, will have to reduce his workforce.

Mr. CASSIDY. So there's mandates on businesses and individuals, there is a loss of freedom; there's \$730 billion in new taxes, and there's 5.5 million American jobs lost.

Mr. FLEMING. Yes.

Mr. CASSIDY. That is a trifecta of disaster.

Mr. FLEMING. Absolutely.

Mr. CASSIDY. I see we've been joined by Congressman SCALISE. I will yield to the gentleman from Louisiana.

Before doing so, I'll say we have been discussing costs; how the Washington Post, New York Times, the Chinese Government, Centers for Medicare & Medicaid Services have all expressed doubts that this bill will control costs. And frankly in fairness there were 39 Democrats that voted against this bill. Some of them also expressed concerns regarding this cost.

I'd like to yield to you for your thoughts, please.

Mr. SCALISE. I want to thank my colleague from Baton Rouge—in fact, both doctors from Louisiana who have exhibited so much leadership on this broader issue of health care reform. But I think, as you've pointed out, what so many Americans are finding out now as they are looking at more and more of the details of that 1,990-page bill that we opposed but unfortunately passed the House a week and a half ago, is they're realizing not only all of the taxes, as you pointed out, over \$700 billion new taxes that would cripple small businesses and families, the \$500 billion in cuts to Medicare that our seniors know will lead ultimately to rationing of health care and other devastating consequences.

When this whole debate started, it was about lowering costs of health care. Now they're realizing that Speaker PELOSI's 1,990-page government takeover of health care will actually lead to increased cost for health care, which is the ultimate irony and really the ultimate kick in the teeth to the American people who want—as we want—real health care reform to lower cost.

In fact, the alternative bill that we presented here on the House floor where we had a record vote here on the House floor that same day that Speaker PELOSI's bill passed, our bill actually would have reduced health care cost by 10 percent scored by the Congressional Budget Office, would have had no absolutely no tax increases, no cuts to Medicare; but on the other side, we're seeing more and more now how many costs are now increasing. In fact, we just saw a report come out earlier this week that showed that prescription drug prices have increased this year by 10 percent because some of these drug companies that supposedly are going to help out with lowering costs, what they did was they jacked up their costs 10 percent this year to accommodate for the increased cost

down the road by Speaker PELOSI's government takeover.

So not only are all of our families across this country that have health care that they like, realizing that the bill will actually take away, potentially, their health care, it will also lead to higher health care costs overall and even higher prescription drug costs. So it is really a double whammy for American families who were expecting something completely different from this Democratically controlled Congress.

Unfortunately what they're seeing is a 1,990-page government takeover of health care that raises taxes, cuts Medicare, and they'll increase costs for health care, which is just the opposite of what Americans were promised.

So it is a very big disappointment as more details come out. Hopefully, we can stop this from actually becoming law so that we can do real health care reform to address pre-existing conditions, to bring in more competition so families can buy across State lines, have true competition, have portability to take their health care with them, and have medical liability reform which we actually put in our bill which would have reduced costs saving American families millions and millions of dollars every year.

□ 1630

Mr. CASSIDY. There are a couple of ironies here. One irony is that we were told we had to do this to control costs, yet we see it does not do enough to control costs. The GDP amount going to health care will be more under this bill.

The other irony, we were told we had to do this to preserve jobs, yet it is estimated that we will lose 5.5 million jobs related to the \$730 billion in taxes in this bill.

Mr. SCALISE. On that issue of jobs, we are seeing more and more on the stimulus bill, the so-called stimulus bill that we also opposed, a bill that added another \$787 billion to our national debt, was completely financed on the backs of our children and grandchildren. I noticed and I am sure my colleagues from Louisiana will be happy to find out, when you go to the White House's Web site, Louisiana has 15 different congressional districts and they talk about the jobs that were created by the stimulus bill in Louisiana's Eighth Congressional District, and the only problem, and you are laughing and it is almost comical, while they talk about on the White House's Web site all of the jobs created by the stimulus bill in Louisiana's Eighth Congressional District, Louisiana only has seven congressional districts. In fact, when we looked across other States, we were seeing the same exact thing.

So there is a whole lot of not only deception, but fraudulent numbers being reported on the White House's own Web

site about jobs that were created in districts that don't even exist in this country. And it was using money that doesn't exist because it was borrowed from our children and grandchildren.

Mr. FLEMING. I want to add that apparently Puerto Rico and, I believe, Guam or Northern Mariana Islands had the 99th District, which I don't think they have but one district, but they are already up to 99th District with all of the jobs, the fake jobs, the artificial jobs that were created.

There is really, again, a two-tiered approach to increasing aspects to care. One is to do what this bill that just passed does, and that is to say we are going to cover as many people as we can and we will worry about costs later on. Another would be to attack cost first, create a more efficient system, such as we talked about a little earlier, and then organically you are able to cover more people because there is more money to go around.

So I really am concerned that we have started off in the wrong direction here. Of course, the Senate has some kind of bill, although we haven't seen the details of it from the majority leader, but I think it still attacks this whole problem in a sort of government takeover way.

If you look at the statistics, Mr. Speaker, what you find is that the American people oppose, and it depends on which poll you look at, but either by a slim margin or by a large margin, they oppose the government takeover of health care. The American people get it. Republicans in the House and in the Senate get it, so why can't the White House and the Democrats in Congress get that government has never proven to run anything well when it comes to a business-like, cost-effective, and efficient manner. So why are we going to take over one-sixth of the economy and do just that?

Mr. CASSIDY. I think that was the message from the town hall meetings in August. In August, the people spoke. They came out in droves to say we want reform, but we want reform that doesn't concentrate power in Washington, DC, doesn't raise taxes by \$737 billion and still does not do enough to control costs, doesn't kill 5.5 million jobs. No, we want something which you and I would call patient centered, something which recognizes there is a heck of a lot of money in the system now. If we just create the economic model in which people are incentivized, as your employee was, to live a healthier lifestyle, thereby saving her and the system money, thereby saving small businesses money, we can accomplish something.

So I think the American people spoke loudly and clearly in August. The only question is will they be heard.

I will compliment my Democratic colleagues. Thirty-nine of them heard and joined with Republicans voting

against this bill which sacrifices personal freedom, which increases taxes by \$737 billion, which is estimated to cost 5.5 million jobs and still does not control costs. So I think the American people are, frankly, where you and I are.

Mr. FLEMING. We covered the cost that is going to occur to small businesses and to individuals, perhaps those who opt out of insurance, having to pay 2.5 percent of their adjusted gross income or a \$250,000 fine or 5 years in prison. But what about the States? You know, the States, Mr. Speaker, cannot have legal counterfeiting of money the way we in Congress do. They can't create a currency that doesn't exist. And all of a sudden we have a mandate by increasing Medicaid from 100 percent of poverty to 150 percent of poverty.

Mr. CASSIDY. Reclaiming my time, just for those watching who are not familiar with Medicaid, Medicaid is the program where States put up some money and the Federal Government puts up other money and it covers the poor. Right now in many States they are either having to raise taxes to cover the cost of it or cut back services to the poor. And yet what this bill does is says that you shall, the States shall increase the percent of their population that they are paying for medical services with Medicaid. The Federal Government will pay for a portion of that, but not all, and the State taxpayer has to pay the rest.

In our State, Louisiana, it is estimated that will cost \$610 million extra State dollars that will come out of roads and highways and schools. I think Schwarzenegger in California said \$6 billion for California.

Mr. FLEMING. Yes, and that money is not going to come off the backs of our children and grandchildren as it does here in Washington. That is going to come directly out of taxpayer pockets. That is going to be roads that aren't going to be built, bridges that aren't going to be built, projects that aren't going to go forward, things that would stimulate job production. That is money sucked out of the economy.

And remember, as you expand Medicaid to higher and higher income levels, you are pulling people off of private insurance where premiums are being paid by employers and the families, to some extent. You are pulling them into Medicaid which is now 100 percent government paid for. And again, we are concentrating power in the government and cost on top of the taxpayer, really a terrible combination of things in an era where we are looking at pushing above a \$12 trillion limit where our deficit spending has quadrupled within 1 year, where even the Chinese who lend us the money we live off, our credit card, if you will, have become terrified of our spending as well. I don't know where this ends, Mr. Speaker.

Mr. CASSIDY. I think people back home are concerned that in this Chamber we are too partisan. That is why I am trying to make it a point to not speak from a Republican viewpoint, but to quote The Washington Post and The New York Times, which says that this bill does not do enough to control costs. To quote the Centers for Medicare & Medicaid Services, which is a Federal agency: In aggregate, we estimate that for the calendar years 2010 through 2019, national health expenditures will increase by almost \$290 billion.

Most of the provisions in H.R. 3962 that were designed in part to reduce the rate of growth and health care costs would have relatively small savings.

Again, some of my colleagues, Democrats, said: I fear this bill will not reduce long-term costs and our debt and deficits will suffer and balloon in the years ahead.

Another Democrat colleague: My primary concerns have been that the legislation does little to bring down out-of-control health care costs, which is what burdens families and small businesses and also leads to our skyrocketing budget deficits.

The Congressional Budget Office, an independent agency, says that the cost has grown at about 8 percent per year, which more than doubles cost. If you compound 8 percent per year, when the President says the cost of doing nothing is that the cost will double, in this case the cost of doing this something, costs will more than double, according to the Congressional Budget Office.

On balance, during the decade following the 10-year period, the bill would increase Federal outlays for health care and the Federal budgetary commitment to health care relative to the current amount. That does not include the State dollars that we have been referring to.

Mr. FLEMING. What we are talking about may sound theoretical, but we actually have a model by which, on a much more microscopic level—we actually have many, but one that I think is the best is Medicare itself. Medicare is a government-run health care program. Those who are served by it like it, but there is a good reason why they like it, because they get a lot more out of it than what they actually put into it. It is heavily subsidized in different ways. It is running out of money. I believe the estimate today is that it will be completely out of money in 8 years. The cost today, the annual cost of Medicare is exponentially greater, magnitudes greater than the estimates ever were in the past. It has always run much higher in cost than was ever predicted. And yet, we somehow think we are going to be able to take a much larger health care system controlled by a much larger governmental set of agencies, 111 new bureaucracies and

mandates, and that what we couldn't do with a much smaller system that was a lot less complex, somehow we are going to miraculously do with a much bigger, more costly system. And even if it didn't, we don't have the money as it is. We are living on our future, our descendants, if you will. We are living off their dime at this point.

Mr. CASSIDY. We have spoken about the irony, about how the bill we have to pass in order to control costs is more expensive than status quo. We spoke about the irony about the bill we had to pass to rescue jobs will cost 5.5 million American jobs.

There is another irony here. Medicare, a great program but going bankrupt in 7 years, according to the folks that run it; Medicaid, another Federal program which is bankrupting States, is now going to be rescued by a third public program which is based upon the one and expands the other. So two going bankrupt or bankrupting will be saved by a third which builds upon those first two.

To go back to Scripture, you are building a house upon a foundation of sand. In this case, it is a fiscal foundation of sand which should concern us, as it concerns newspapers like the Post and the Times which wonder if it does enough to control costs.

Mr. FLEMING. It is clear that all of these things—Medicare that exists today, running out of money; Social Security that exists today, running out of money; Medicaid already out of money and bankrupting States; jobs, killing jobs, and jobs are what keep our current health plans in place; \$13 trillion in debt and rising—many, many dollars spent right here in this House that we have absolutely no way of paying for, and we see a confluence of events here, costs that are coming rapidly together that very quickly just the interest alone will begin to squeeze out all of the other services that we look to government to help us with, like common defense.

What are we going to do when we don't have the money to protect our country both internally and externally? What are we going to do when we don't have money for some of the programs that we use as kind of a safety net for Americans today who don't make enough to live off of, or used to be employed but became unemployed because of our spending? What are we going to do? We have to change direction.

I just spoke at a TEA party this weekend, and people are absolutely—they are past angry. They are actually terrified at this point.

You mentioned, Dr. CASSIDY, this summer, all of the town halls, and of course TEA parties have sprung up during that period of time. I think we have to look at that as sort of the canary in the mine shaft. That is the early warning sign that the citizenry out there is

fed up with the irresponsible spending that we are doing here. It is time we begin to look at reinstating individual choice and individual freedom rather than the government controlling and micromanaging our individual lives and taking our own money away from us to give back to us in order to control us.

Mr. CASSIDY. I think the point just hit upon, we all want reform and we know the goals of reform are to control cost and to expand access to quality care.

Now, there are some who think that to do that you have to sacrifice freedoms, you have to raise taxes, kill jobs and still not control costs.

□ 1645

But you and I know from our practice and our life experience that you can do it differently. You can actually increase freedom by giving that person the ability to control her account that she can use to spend or not spend, to seek value. In so doing, you lower the administrative costs. You kind of cut the insurance company out of the deal because now she has her own account, and she doesn't have to submit a payment claim. She just pays for it with a debit card.

You can control costs in a patient-centered way, one that incentivizes a healthy lifestyle. And in so doing, the patient becomes healthier; and by becoming healthier, you control costs, not by 111 different bureaucracies, boards, and commissions. It stays with conservative values of individual responsibility, limited government, and free enterprise. It actually works in this segment of our economy as it does in every other segment.

I yield.

Mr. FLEMING. I thank the gentleman. I absolutely agree. And, again, it looks like, from what you've presented today, The New York Times, The Washington Post, and I read today from Reuters, and CMS just came out—all of these groups, very nonpartisan in many cases, and certainly no one can say that The New York Times is a Republican or even conservative publication—all of these groups, these publications, these boards, editors are coming out with great anxiety over the cost of this.

And you might say, well, why are they complaining after the fact? Well, remember that we debated for weeks on H.R. 3200, but we only had 1 day really to vote on H.R. 3962, which really doubled in size and doubled the number of bureaucracies virtually overnight. And I think now that all the celebration is over in the House, we may have a little hangover going forward.

Mr. CASSIDY. I think that people are waking up. Again, if we're going to achieve our goals of reform for all, health care accessible and at affordable

costs, you can't have it with a program which drives up costs and drives up costs despite the high taxes and the loss of jobs. So we're not through yet. The American people still have time to weigh in on this, to weigh in as the bill goes through the Senate side and then comes back to conference.

But what I challenge the American people to do is to do as they did in August, to contact those Representatives that voted for this bill and express their concern regarding the cost, the taxes, the loss of jobs, but also to contact their Senators and to say that they want reform, but they want reform that doesn't kill jobs, raise taxes, or deprive us of personal freedom. I think in that way we can have a bill which serves the American people without sacrificing our values.

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#### REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 2781, MOLALLA RIVER WILD AND SCENIC RIVERS ACT

Mr. ARCURI, from the Committee on Rules (during the Special Order of Mr. CASSIDY), submitted a privileged report (Rept. No. 111-339) on the resolution (H. Res. 908) providing for consideration of the bill (H.R. 2781) to amend the Wild and Scenic Rivers Act to designate segments of the Molalla River in Oregon, as components of the National Wild and Scenic Rivers System, and for other purposes, which was referred to the House Calendar and ordered to be printed.

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#### REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 3791, FIRE GRANTS REAUTHORIZATION ACT OF 2009

Mr. ARCURI, from the Committee on Rules (during the Special Order of Mr. CASSIDY), submitted a privileged report (Rept. No. 111-340) on the resolution (H. Res. 909) providing for consideration of the bill (H.R. 3791) to amend sections 33 and 34 of the Federal Fire Prevention and Control Act of 1974, and for other purposes, which was referred to the House Calendar and ordered to be printed.

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#### HEALTH CARE REFORM

The SPEAKER pro tempore (Mr. McMAHON). Under the Speaker's announced policy of January 6, 2009, the gentleman from Ohio (Mr. RYAN) is recognized for 60 minutes as the designee of the majority leader.

Mr. RYAN of Ohio. Mr. Speaker, I appreciate the opportunity to try to clear the record here a bit and talk a little bit about our health care reform proposal that passed the House of Representatives a little more than a week ago and talk about the benefits to the American people.



I would like to respond to a couple of the concerns that were made by the other side over the course of the last hour. It's very interesting to me because I was here over the last 7 years and was here during the last part of the Bush administration. I was here 2002, 2003, 2004, 2005, 2006, 2007, 2008 and watched as our friends on the Republican side cut taxes for the top 1 percent, the wealthiest 1 percent of Americans, continued to spend money with a reckless disregard for the national debt, for deficits, started two wars, borrowed the money from China to pay for the wars, borrowed money from China to compensate for tax cuts that went to the top 1 percent of the wealthiest Americans. And here we are a couple of years later, and our friends on the other side are concerned about the deficit and the debt.

It was President Bush's appointees to the SEC that gave a blind eye to what was happening on Wall Street. Wall Street collapses, and the \$780 billion and \$800 billion that we had to spend to stabilize the economy was under President Bush's watch. It wasn't under President Obama's watch. We've spent the last 9 months cleaning up the mess that was made over the last 8 years.

Now, this is not to assess blame. We're all in this boat together. We're all in this together. I recognize that. But you can't cause all these problems, because the Republicans controlled the House, Republicans controlled the Senate, Republicans controlled the White House, Republicans controlled the Supreme Court. They pulled every lever of government, ran up the deficit, ran up the debt, started two wars, blowing money left and right, giving tax cuts to the wealthiest, and then we wonder why we ended up where we are today. No regulation of Wall Street. The economy collapses. Tax revenues go down.

Now, I'm not saying that what we have done over the last 8 or 9 months has been to wave some magic wand and all of these problems have gone away. I represent northeast Ohio. Our unemployment rate is at 15 percent in some of our cities. But we can say very objectively that the money that was spent going to Wall Street, the stimulus package has at least stepped us away from the cliff that we were on—and we were on a cliff ready to fall off as a country—as an economy we have been able to stabilize that.

Now, I'm not happy with what the banks are doing. I don't think anybody is. I think it's important to move more money back to community banks and let's stimulate lending at the local level. That's how we're going to recharge and revive our economy. And that would be the direction that ultimately we need to go in.

But you certainly can see that we were losing jobs at 700,000 a month and now we're still losing jobs, still too many; but it's at 200,000-plus a month.

So we're at least trending in the right direction.

But I've got to tell you, Mr. Speaker, I get a real kick out of these fellows on the other side who caused all of these problems and then now complain how we're trying to fix them.

And make no mistake: this discussion about health care, as our friends earlier were talking about, their assumption and presumption was that the health care system is working just fine. It's not costing us a lot of money, not really hurting many people, everyone has access, no rationing today, all of which is not true.

We have health care growing at a 9 percent clip. We have the GDP growing at a 3 percent clip. You continue to do the math, and you'll find out that in 10 years, \$1 of every \$5 in our economy will be spent on health care. You will find out that if you take that out another couple of decades, 30 years, \$1 in every \$3 will be spent on health care. That is unsustainable. Unsustainable. And to think if we do nothing, which is basically what the Republican proposal was, to just keep kind of doing what we're doing, it doesn't cover more people, doesn't take care of a lot of the human rights issues that were involved here—if we continue doing what we're doing, the average family in America will pay another \$1,800 a year in health care next year and then another \$1,800 the following year and another \$2,000 the following year. And we will continue down a road where this continues to eat up the whole family budget.

I have a member of my staff who has an Aetna 7-D health care plan. In 2007 his copay was \$237 a month. In 2008 it went up 22 percent. In 2009 it went up 9.7 percent. And in 2010 it went up 80 percent. Now, this is a Federal employee; and this is happening all throughout our economy, all throughout our country. So from 2007 to 2010, a 142 percent increase for Gene Crockett from Niles, Ohio.

Now, our friends on the other side: just keep doing what we're doing, things are okay, things are fine, we'll get to it.

This is change. And this is obviously a difficult process, but we are moving forward, and it passed the House in a historic vote here a couple of weeks ago, and we will continue moving in that direction so that the Gene Crocketts of the world and the average people around the country who see this eating up more and more of their budget will get some relief.

I was amazed over the last week I was home when I'd be at a restaurant and people, real quiet, would kind of look at me and say, Thanks for your vote on health care, Congressman. You know, real quiet. And that's how this debate has been in this country. And the polls are bearing it out. The AARP poll that just came out showed significant support for this. Another poll I

was just looking at a little bit earlier, significant support for some of these provisions, because we take care of the bread-and-butter issues of the health care situation we have in this country.

If you're a kid or you're 27 years old or younger, if this reform passes, if some of these provisions in the House version stay in, if you're 27 years old or under, you can stay on your parents' insurance. If you have ever been denied insurance coverage because you have some preexisting condition, this reform will end that practice. That will no longer happen to anyone in the United States of America ever again. And our friends on the other side voted against it.

I was getting my hair cut last week and was talking to the owner of the hair salon, and she said, you know, you need to pass this health care reform. We need help. I heard the story about her daughter who just started working with her and the daughter had asthma growing up, went to get insurance, and she had to sign basically an agreement with the insurance company saying that if she goes to the hospital because of asthma that the insurance company will not pay for that hospital visit. So the girl has asthma. She's paying a lot of money a month, hundreds and hundreds and hundreds of dollars a month, to get insurance. And the one thing that she is probably going to need her insurance for the insurance won't cover.

Now, does that make any sense, to continue with a system that takes your money but will not cover you? That doesn't sound very fair. And that process, that provision, that practice will be eliminated. Done. No more. My friends on the other side voted against that.

Also in the House version, the 27 years old and the preexisting condition provisions happen as the bill is passed; so that will start immediately. The exchange and some other things start in 2013, but those two provisions start immediately. So the American people will see the benefits of that rather quickly.

Another provision in this bill says that there will be limits to the amount of money a person or family can spend a year. In the House bill it was about 12 percent of your income, which is still a lot. So if you make \$50,000 or \$60,000 a year, if you have a health care catastrophe in your family, after you pay \$5,000 or \$6,000 out of pocket in health care, you're done paying for the rest of that year. So families in America will no longer go bankrupt because they have a health care catastrophe in their family.

□ 1700

Now, if that is not a human rights issue, I don't know what a human rights issue is. And that is exactly what this bill does. So, no matter what, families in this country will not

go bankrupt because of health care situations in their family.

And if you look at my district alone, 17th Congressional District, it stretches from Akron through Kent, Ravenna in Portage County, Warren and Niles in Trumbull County, and Youngstown, Ohio, in Mahoning County, the old Steel Belt. Just last year, in my district, 1,700 families went bankrupt because of health care, 1,700 families. And what this provision will do is eliminate that. That will no longer happen as it happens here today in the United States of America.

So, our friends on the other side are three for three now. They voted against extending insurance to kids or allowing kids to stay on their parents' insurance until they are 27 years old, they voted against that. We said that you can no longer be denied coverage because of a preexisting condition, diabetes, cancer, heart disease, asthma. We put an end to that practice. Republicans on the other side, except for one courageous soldier down in Louisiana, all voted against it. And those two provisions will start immediately upon this bill's going into effect. The limiting of 12 percent of your income that could be paid out of pocket per year on health care expenses, so that we don't have people go bankrupt, passed in the health care reform. Every Republican, save one courageous soldier down in Louisiana, voted against it.

Our friends on the other side were talking about small business, small businesses being affected by this. Eighty-six percent of small businesses will be exempted from this legislation. But they will be able to go in to the health insurance exchange and all of a sudden have a lot more bargaining power than they had before, because they would call their health care folks up and say, what do you got? What's the package? How many employees do you have? Ten, 15, 20. An average increase, or the increase over the last 6 or 7 years, has been about 120 percent increase for small businesses. This allows these small businesses, Mr. MURPHY, to go into the exchange, to pool their numbers, to get better negotiating power, more negotiating power and better rates, because of their ability to pool with each other. And that will reduce health care costs for small businesses.

At the end of the day, it's going to be the small business folks who will see this health care reform as a real step into trying to help them control health care costs so they can reinvest back into their company.

I yield to the gentleman from Connecticut.

Mr. MURPHY of Connecticut. Thank you, Mr. RYAN. I thank you for convening us down here again. And I think you're right to focus on the issue of small businesses because that is where the problem has laid for a very long

time. Small business men and women with a couple of employees, maybe 10, 15, 20 employees, they want to do the right thing. They want to provide insurance for their employees, but with the kind of margins that they face normally, and in particular with the kind of margins they are facing in this tough economy, combined with their inability to access capital from the lenders in their community who might be providing them with loans, means they don't have the room to provide health care.

In my district, it prompted one individual, a brave small businessman named Kevin Galvin who had had his own experience with confronting our very backwards health care system when his daughter got very sick, and it forced that family to go through layers of bureaucracy and layers of appeals to try to get their own insurance company to cover her. He runs a small business in Connecticut, a maintenance company that employs a handful of people. And their margins are so small that he can't afford to provide insurance for his employees. Now he has gone through it, the tragedy of trying to cobble together the money and the insurance claims in order to pay for the care of a sick loved one. And so, it has ripped him apart that he can't provide insurance for his employees.

So he decided to go out and do something about it. He decided to go out in Connecticut and organize small businesses around the State for health care reform. And his group, Small Businesses for Health Care Reform, centered in Connecticut, has thousands, thousands of members amongst the Connecticut small-business community, all rallied around our effort to provide relief for those small employers that desperately want to get health care for their employees but they can't.

They can't in part of because of the margins that they have. They can't also because they, on average, as you pointed out, Mr. RYAN, are paying about 15 to 20 percent more in premiums than large businesses are. It is just a matter of simple economics. If you're bargaining with the insurance companies on premiums for only a handful of employees, you're just going to get a worse deal and have to pay a higher price than you will if you're a big business that has a couple hundred employees.

And so he and his group see the genius in what we are trying to do here, which is to not erase the private market, not substitute our current health care system with some other country's health care system, not engage in what the cable news talk show hosts claim is a government takeover, but simply to make the existing market work better, to allow Kevin Galvin and his handful of employees to join together with all of those other small businesses who are

in the same position with all of those other uninsured individuals and sole proprietors who are negotiating on behalf of only themselves, to put them all in a pool and to allow them to negotiate for lower premiums against the insurance companies with the kind of bulk purchasing power that we know works.

So we have small businesses throughout Connecticut that are standing up and screaming for health care reform because they want to provide health care for their employees. And those that already are being crushed by the weight of those premiums. So when they look at this bill, when they see the health care exchange pooling all of their purchasing power together, when they see the tax credits in the bill, that in my district alone, Mr. RYAN, are going to mean that 17,000 small businesses will now pay lower taxes because they are going to be able to offset their health care expenses against their tax obligation, they see a tremendous benefit.

And if we want to point the way forward on the economic revitalization of this country, if we want to start to plot a real strategy about how we grow jobs, jobs in this country, small businesses are the solution. And picking up off of their shoulders the crushing weight of health care costs is one of the most effective strategies in allowing them to start growing jobs again, Mr. RYAN.

Mr. RYAN of Ohio. I appreciate that. The gentleman makes the point that what this is all about is jobs. This is an economic development bill. This is about allowing these businesses to reinvest back into their small businesses. It is not a coincidence that as health care is eating up more and more of the businesses' budget, that wages have been stagnant over the last decade or two because the small business owner does not have the ability to both eat the increases in health care and give the requisite amount of pay increases to the workers. It's either or.

So over the last decade, it has been all health care, all the time. And sometimes they have passed on a smaller portion of that on to their employees where they are asking for more of a co-pay, higher premiums and the whole nine yards. But now, what we are saying is if we can get these costs under control, those small businesses can reinvest back into technology, back into the new machines, back into the wages, back into the training, back into more benefits and other kinds of benefits, maybe retirement benefits, for their workers instead of being stuck in this cycle of health care, health care, health care, health care and no reinvestment back into the business.

Mr. MURPHY of Connecticut. Mr. RYAN, in Connecticut alone, our largest insurer, which insures over half the individuals in the State, announced earlier this year that they were going to

be passing down a 30 percent premium increase to small businesses, small group plans and individuals—30 percent. It's beyond me to figure out how on Earth health care costs changed so much from last year to this year that you can justify a 30 percent increase, but from a small business standpoint, that causes thousands of small businesses to walk away and say, that's too much.

My business in a recession is dropping, and you're asking me to pay 30 percent for one of my biggest line items? It causes individuals who were just being able to cobble together the money that they could to pay for insurance to walk away and say, listen, I have had my wages held flat this year. I can't go out and pay a 30 percent increase.

And it causes our Republican friends to shutter their ears and close their eyes and pretend that all of those people and all of these employees who lose their health care because of the 30 percent increase are going to suddenly spend the rest of the year really, really super healthy and never need to get health care. They are going to get sick. Those employees are going to get sick. Those individuals who had to walk away from care because the premium increase was too high are going to get sick. And they are going to get so sick that they are going to end up in our emergency rooms. And then we are all going to pay for it. We are going to pay for it in higher taxes to subsidize emergency room care. We are going to pay for it in higher private premiums to make up for the uninsured that walk into the doors of those hospitals. And we are going to end up perpetuating our current system of sick care where we force people to go without insurance, wait until they are so sick that they show up at the emergency room for the most expensive, and frankly, most inhumane type of care, crisis care, which costs us all a lot more money in the long run, Mr. RYAN.

Mr. RYAN of Ohio. Yes. And it has all been fear-based. One of our colleagues on the other side said the tea baggers are beyond, they're beyond scared; they're terrified now. They are terrified because of the budget. Where were these people when President Bush and the Republican Congress and House and Senate were cutting taxes for millionaires and starting two wars and spending money left and right and running up the deficit? And now they're terrified because we're saying we want to help small businesses, we want to help citizens in the United States be able to afford health care?

We're taking on the insurance industry, Mr. Speaker. What is so difficult about this to understand? They have been ruling the roost in the country for how long? And we're stepping in after an election in 2006 where the American people were fed up, an election in 2008

where President Obama won, and basically, a huge election, and he talked as a centerpiece of his campaign about health care reform. And here we are.

I'm sure our districts aren't that much different, manufacturing, a lot of immigrants came over the last 100, 150 years to our States, and a lot of middle class people, and our people don't get on a bullhorn and scream about their problems that they have in their family. They have a lot of pride, but they just want to muscle through it. But they want an element of fairness in the system. And so they will, as I said, and I don't know if you were here or not, they will grab me at the restaurant and thank me for my vote and say, I hope it passes, or I hope it pulls through.

But they are not going to call Rush Limbaugh and call in and talk about how their daughter is sick and the problems they had and go on and on. But when I stood at the Canfield Fair or, this weekend, going into a restaurant or getting my hair cut, whatever the situation was, they would grab me and they would quietly say, thank you. God, is this going to pass? Is this really going to happen? That's what average people are saying here today.

These situations that go on all across our country, and to turn a blind eye to it, and the Republican proposal doesn't even cover everybody. It was like, here is our proposal. Great. You cover another million people. Boy, that is really going to bring down the pressure on the emergency rooms.

And this is pretty simple. I talked about the reforms. If you make \$89,000 a year or less, you are going to get credits, subsidies, to help you pay for your insurance so that family will have more money to spend in other parts of the economy. Instead of health care eating a huge chunk of the economy up, they will have money to pay for their kids' college education, to make investments to buy a new car, to keep the auto industry going, buy a new refrigerator, buy a new house.

Literally, if you think about just an \$1,800 increase next year in health care bills, if we get health care costs under control, imagine the amount of money these families and small businesses are going to have to spend in buying durable industrial goods.

Mr. MURPHY of Connecticut. This is not my line; I think others have said this, but this is a consumer takeover of the health care system. That is what this is. This is putting consumers and patients and regular, average, ordinary Americans back in charge. And people were angry about a lot of things when President Bush was in charge and the Republicans controlled the House and Senate. They were angry that it seemed like the oil companies were running our energy policy. They were angry that the banks seemed to get whatever they wanted when it came to

financial policy. And they were angry that the insurance companies and drug companies seemed to get everything they wanted when it came to health care policy.

And they had a pretty good example, Mr. RYAN, why that happened. I will add to your list of all of the deficit increases over the course of the Republican control of this Congress. Medicare part D, the one time that this House of Representatives woke up and decided to legislate on health care, they did it in a way that guaranteed enormous profits for the insurance and drug industry, in particular by inserting a provision into the Medicare part D law that specifically prohibited the Federal Government from negotiating deep discounts on behalf of all Medicare beneficiaries against the drug companies. And they paid for it all by borrowing.

So this sudden conversion to fiscal responsibility by the Republicans is pretty transparent to people that have been caring about health care for long enough to remember when Republicans came here, proposed and passed a Medicare drug benefit that was written by the drug and insurance industry and paid for by borrowing.

□ 1715

So for all of those TEA baggers out there and all of those non-TEA partiers who are concerned about the deficits, this health care bill isn't just deficit neutral; it brings down the deficit by \$30 billion over the course of 10 years. You can argue about the policy, but you can't argue with the CBO score. The Congressional Budget Office says that this bill, over the course of 10 years, will bring down the deficit, and actually tells us that in the second 10 years will bring down the deficit by even more, standing in contrast to the Republicans' sole effort at health care reform when they controlled this place, which handed more power to the industries that were running the joint to begin with, and did it all by borrowing.

So, Mr. RYAN, it's the war, it's the tax cuts, but it's also the Republicans' policy on health care. And I don't have a lot of sympathy for our Republican friends who come down here and talk to us about the health care implications for the deficit. Our bill lowers the deficit. Their one attempt at health care reform massively increased the deficit.

Mr. RYAN of Ohio. It's not just CHRIS MURPHY from Connecticut or me or NANCY PELOSI. Here's from the Business Roundtable. CEOs of the Nation's largest businesses released a report on the impact of health care legislation moving through Congress and that, "Key components of health care reform could slow the growth of health care costs and offer real savings for companies and their employees."

According to the Business Roundtable Hewitt study, many of the legislative reforms currently in the health

reform bill could reduce costs by as much as \$3,000 per employee by 2019. This is the Business Roundtable. This is not the Democrats. This is the CEOs of the Nation's largest businesses.

As you said, CBO, Business Roundtable, this is what we're trying to fix. And when you have the CEOs of the Nation's largest businesses saying that this reform will save us \$3,000 per employee by 2019, and you have hundreds and hundreds and hundreds, if not thousands of employees, that money is going to go to wages, investments, technology. On and on and on these investments will be made, not sit around and do nothing.

Republicans just came—in the last week, finally, they had a proposal. We've been debating about health care for all this time and they were in control of every major branch of government from 2000 to 2006. Didn't do anything about health care. Now we're coming to try to fix it.

Mr. KING of Iowa. Will the gentleman yield?

Mr. RYAN of Ohio. I'd be happy to yield.

Mr. KING of Iowa. I thank the gentleman from Ohio.

I just recall that we were here together when we passed the litigation lawsuit abuse reform out of the House and it got stalled up in the Senate. That would be one thing I would point out that I think is important from an objective standpoint.

Mr. RYAN of Ohio. Reclaiming my time, litigation has been projected to have only 1 percent effect on the costs of overall health care spending.

Mr. KING of Iowa. If the gentleman would yield, \$54 billion was the score on the bill introduced this year.

Mr. RYAN of Ohio. Over 10 years.

Mr. KING of Iowa. Yes.

Mr. RYAN of Ohio. One percent of cost. And there is no real way to quantify—reclaiming my time—no real way to quantify this number. But when you're talking about billions and billions and billions of dollars, again, that's to my point, is that the Republican plan is to just kind of nibble around the edges and maybe we'll try to do this a little bit here and a little bit there, but at the end of the day here's the reality.

Since we have gotten in office and with President Obama, but before that, we took on the banks and yanked them out of the student loan business because they had a sweetheart deal. As you said, with Medicare part D, where all of this money is going to the pharmaceutical companies, we are reforming that provision as well. Now we're taking on the insurance companies.

With the energy bill, we took on the oil companies, where they're getting subsidies. And just a couple of years ago we spent \$115 or \$120 billion dollars in escorting ExxonMobil ships in and out of the Middle East so that they

would be safe to further supplement and subsidize the oil industry. We took on the oil industry.

Increased minimum wage, increased Pell Grants. We made steps to make investments. But the bottom line is this health care reform bill is about economic development in the United States of America.

Mr. MURPHY of Connecticut. And people have been crying out for it, Mr. RYAN, and I think that's why you and I both have families coming up to us and, as you said, kind of quietly expressing to us their stories. Folks in my district do it the same way. But you find them. You hear from them.

I remember knocking on somebody's door this summer as I was going around a couple of neighborhoods to check in and hearing a guy talk about his illness. He had actually, I think, been injured, and his worker's comp didn't pay for the entirety of the care that he needed, so he had to go to his primary insurer. He had to pay for some of it out of his own pocket.

It got so bad and his expenses got so high that the only place he could go without losing his house was the one main savings account he did own, and that was his child's college fund. And so he planned at first to only take a little bit out from his child's college fund because he figured he could get his insurer to pitch in a little bit, figured the economy might turn, he might be able to get a little better job, and then he had to go back again. And he had to go back again. By the time I saw him this summer, that college fund was gone. He had no money saved for college. The only way that his son, who by this time was in his teenage years and only a few years from going to college, the only way he was going to be able to go to college was if he got a full ride somewhere. His son's dreams have evaporated because of health care costs, because of illnesses.

Now, this particular family had that money saved away for college and so it's not one of the thousands of families that went into bankruptcy. So we should remind ourselves that when we hear all these statistics about the thousands and thousands of families who go into bankruptcy every year just because Mom got cancer, that doesn't count all the families who did the responsible thing and were able to squirrel away a little bit of money and exhausted all of it, changing their plans forever. So layer on top of all of the bankruptcies the hundreds of thousands of families who were ruined without bankruptcy because of the crippling cost of medical care.

So this is being celebrated by all of these families out there who have had their lives change for so many different reasons, because they do see that they're actually going to get some wages back from their employer who doesn't have to spend every dime on

health care. But they also see that this bill is going to give them some security that a lot of people thought just came with being a citizen of the most powerful, the most affluent country in the world.

You're right, Mr. RYAN. That does involve taking on the insurance industry. That does involve stepping up to the plate and telling them that they're wrong. For the life of me, it's beyond me why this Congress hasn't been able to do that. And I get that that invites the ire of the health care industry that has had their way for so long. I get that that means there's going to be a lot of commercials on the air criticizing Members who voted in favor of this and those that might vote in favor of it in the Senate. But it's been a long time coming for those families that we both know and those small businesses that have been calling for it.

Mr. RYAN of Ohio. Think about it. Just in the 17th Congressional District, 14,000 small businesses will now be better off because they're going to be negotiating with more and other small businesses to try to bring down prices. And 12,300 small businesses in my congressional district will be getting tax credits as an incentive to compensate for this; 43,000 people will now have insurance that didn't have insurance.

We have, in Youngstown, a hospital that just filed bankruptcy. Now all of a sudden every single person that walks through that door will have health insurance instead of that cost being passed on to everyone else.

I can't help but to think about the gentleman that you were just talking about who had to spend through his kid's college fund. If these reforms were in place, that person's amount of out-of-pocket expenditures would be limited to 10 or 12 percent of that family's income. So they wouldn't have had to go into the college fund. Our friends on the other side voted against that.

So we have got to go back to our constituents and defend every vote that we have made here. And that is, to me, significant. The preexisting condition, not being kicked off your insurance because you get sick, being able to stay on your parents' insurance until you're 27 years old, all of those are significant steps in the right direction, not to mention on Medicare part D by extending and having consistent drug coverage throughout the course of the entire year instead of interrupted coverage, which is happening now.

I got a letter from a doctor this summer who was telling me about a patient that he had that met her limit on part D. And I can't remember at this point exactly what the issue was with her, but they had to take her from the drug of choice to a cheaper drug because she couldn't afford it. So, in June or July when she met her cap, they had to switch prescriptions because she

couldn't afford the one that he had her on. She ended up getting sick. They switched prescriptions again and again, and she ended up in the hospital for a week or two.

It's the perfect example of why would you not just—how much cheaper would it have been for the taxpayer to consistently pay for those prescriptions throughout the course of the year instead of her going into the hospital for a week or 10 days or 2 weeks and having Medicare pay for that? It just doesn't seem like a very smart investment on behalf of the taxpayer.

Mr. MURPHY of Connecticut. Listen, it's the reason, Mr. RYAN, why AARP has come out so strongly in favor of this bill, because they know that this is a good bill for seniors. Now, a lot of Democrats disagreed with the fact that AARP came out and supported the Medicare prescription drug bill when it did, but it, frankly, shows that this is a group that, when they think it's right for seniors, is going to support it whether it's a Republican or Democrat proposal. Because I've heard a lot of Republicans and conservative talk show hosts come out and say, Well, the AARP endorsement doesn't mean anything. They're friendly to Democrats. Well, they endorsed the Medicare prescription drug benefit, which was, I think, voted on almost solely by Republicans. So whether we agree or disagree with their support for that, they've played both sides of this debate.

But AARP supports this bill because it gets rid of the doughnut hole. Now it takes a little while to fully get rid of it, but on day one after this bill is passed, the size of the doughnut hole gets reduced by \$500, and for every senior that walks into the pharmacy when you're in that moment of exposure, the cost of a brand name drug is going to be cut in half. Every single brand name drug for seniors in the doughnut hole gets cut by 50 percent immediately with the passage of this bill.

When you walk in to get your check-up, no longer does any senior have to come up with money out of their pocket. Medicare is going to pay for that now, because we know it just makes sense to have no barriers to preventative health care for seniors.

So AARP, joining the American Medical Association, joining Consumer Reports, joining dozens of other specialty physician groups out there, has supported this legislation because they see the benefit for that senior that you're talking about on Medicare part D and millions more.

□ 1730

Mr. RYAN of Ohio. The idea here is that this is how this bill will extend Medicare's life an additional 5 years, in part because of cost savings and a variety of others. But we are going to have healthier people going into the Medi-

care program. Right now we have people that are 55, 60 years old, and we see a lot of them in our communities, the older manufacturing communities. You work until you're 55, you work until you're 60, and then all of a sudden, the company goes bankrupt or they lay you off or they move the factory to Mexico or to China or whatever the case may be.

I have met several of them, have talked to them on telephone town halls. One woman I remember in particular was 60 years old. She did not lose her job, but lost her health care coverage. The company could no longer afford it. So now she is 60. She makes \$32,000, \$35,000 a year, can't make it, can't afford health care coverage. She said, I'm going to wait until I get on Medicare. So here you have someone who is 60 years old, probably has some issues because everybody at 60 has issues. Now a physician won't manage those problems that she has. She is going to go without any care, any treatment, any kind of management whatsoever. So she is going to go into Medicare at 65 much sicker than she would have went in if she had decent health care where her problems could have been managed and not become chronic to the point where they could cost the Medicare system thousands and thousands, tens of thousands of dollars, hundreds of thousands possibly, depending on what the issue is.

So you have a healthier person going into the Medicare program that's going to extend the life of Medicare. What kind of system is this, 60 years old, you have worked your whole life, and they say, Sorry, you're on your own; we will pick you up at 65. Thanks for everything. You lost your health care. That is not right. That is not right, Mr. Speaker, and that is what this whole program is trying to fix.

Mr. MURPHY of Connecticut. I will just add one last thing, Mr. RYAN. The people we're talking about—you know, the stories that we're telling, I don't think you or I know whether these people that have approached us are Republicans or Democrats. I have no idea whether that guy who had to drain his entire college savings watches MSNBC or watches FOX News. I have no idea because health care crises, health care-caused bankruptcies strike Republicans and Democrats, liberals and conservatives, people on the left and people on the right. This is a nonpartisan, nonpolitical issue.

Maybe I was naive when I came here a couple of years ago, but I just thought that there was going to be a way with 50 million people uninsured, with health care costs rising 120 percent for the average small business in this country over the last 10 years, with bankruptcies caused by medical costs on the rise. I just figured that there would be a way for Republicans and Democrats to get together on this

to say, Let's do something. I think for the longest time, I believed that there was still going to be a chance for Republicans to come to the table here. I don't want to believe that the Republicans' opposition to this bill is just about political gain. I don't want to believe that the reason that Members come down here and oppose every single thing the Democrats want to do and then propose an alternative bill that was a joke—which actually left more people uninsured at the end of its life than had the bill not gone into effect—I just don't want to believe that, but there is mounting evidence of that case.

So listen, this thing is not over, Mr. RYAN. We're going to continue to come down here and press the case for reform. We're going to continue to come down here and press the need for both parties to be part of this compromise, to be part of this solution. But it is increasingly apparent that there is only one piece of this House and one piece of the Senate that is really pushing to get this done for the American people. I wish that wasn't the case, and we'll continue to try to press for a change, Mr. RYAN.

Mr. RYAN of Ohio. The bottom line is this, the Business Roundtable, the top CEOs in the United States, say that our provisions in this bill will save them as much as \$3,000 per employee by 2019. The top CEOs in our country are saying that this is going to be the case.

But as we wrap things up here, Mr. MURPHY, let's use some good common sense here. We're going to take 30 million people who wait until they get absolutely deathly sick and then go to the emergency room off and out of the emergency room rolls, get them preventive care, solve problems of \$20 prescriptions instead of nights in the hospital, and reduce health care costs overall. Eliminate costs for preventive coverage so people in Medicare and others actually get preventive coverage as well.

Help by raising taxes on millionaires and take some of that money to give health care credits and subsidies to middle class people so that they can afford their health care, get preventive care, stay healthier and become more productive. It all makes a great deal of sense. We're saying to parents that your children can stay on your insurance until they're 27 years old. We're saying that you can never be denied insurance coverage because you have a preexisting condition. You can't be kicked off your insurance because you get sick. You can only spend out of pocket 12 percent of your annual income so that you don't go bankrupt like 1,700 families went bankrupt in the 17th Congressional District of Ohio last year.

Extend prescription drug coverage to seniors throughout the year, not any kind of stoppage in the middle of the

year, and make sure that we extend the life of Medicare by 5 more years because of these reforms. This is basic bread-and-butter commonsense reform. This is not the radical kind of reform our friends on the other side want people to believe. It's not what Glenn Beck and Rush Limbaugh and all the scare tactics, "The government is coming to take you over."

It's not any of that. It's basic reforms that the American people want. And, lastly, let me just say that people still continue to talk about this being an issue of freedom, and our friends on the other side keep saying that this is about liberty and freedom. You know what, I agree with them. The person that goes bankrupt because they can't afford health care is not free in the United States of America, and the person who pays tons of money into the insurance industry and doesn't get any coverage, that doesn't seem like you're very free. When you're sick and you can't afford a doctor, you are not free.

Let's talk about freedom in 2009 and 2010. It means being healthy, productive, getting what you pay for and being able to support your family and your business. That's freedom. How free is a businessman who has got to pay a 30-percent increase in health care costs every year? It doesn't seem very free to me.

So, Mr. Speaker, we'll continue to talk about this and jobs and other issues that are facing this country. We appreciate the opportunity to be here.

#### HEALTH CARE

The SPEAKER pro tempore (Mr. TEAGUE). Under the Speaker's announced policy of January 6, 2009, the gentleman from Iowa (Mr. KING) is recognized for 60 minutes.

Mr. KING of Iowa. Thank you, Mr. Speaker. It's my privilege to be recognized to address you on the floor of the House of Representatives here tonight along with my colleagues that I have had this great honor and privilege to serve with throughout these years and this 111th Congress. I sat and listened to my friends on the other side of the aisle as they began to talk through this health care debate, which we have addressed, I think, quite a great deal over the last couple of months. No longer is it a legitimate point that we haven't had an adequate time to debate, although I don't know that there is anyone in this Congress that can read and digest 1,990 pages and then read the amendment that was 40 pages long that turns this into a 2,030 pages national health care act that affects every aspect of our lives.

This is not just nanny state, cradle to grave. This is conception to natural death or euthanasia, depending on which component of the bill one chooses to apply. There are carve-outs for euthanasia. There is at this point a

Stupak amendment that is part of the bill, a Stupak-Pitts-Chris Smith amendment that is a pro-life amendment and is very valuable to me and many others.

However, there are grave concerns about the broad implications of this bill and the components of it that run anathema to the American Dream.

I will just address some of the things that the gentlemen spoke of in the previous hour. One of them is that Republicans allegedly sat around and did nothing while they were in the majority. We had a narrow majority, and we did something. We pushed an agenda that was seeking to improve health care in this country and reduce or eliminate the necessary burden on health care.

I made the point that we passed lawsuit abuse reform in this Congress. I believe the year was 2005. The lawsuit abuse that was passed was worked through the Judiciary Committee where I sat and where I participated in that language, and we modeled this after, of all places, a California initiative. Since that time, Texas has taken up the charge of reducing lawsuit abuse on medical malpractice in Texas. The doctors that were exiting the State have now turned around, and many of them have moved back to Texas and started their practices and other medical providers and practitioners have come into Texas.

Now they do have an adequate supply of doctors, nurses and other medical practitioners that are there. But the cost that was diminished by the gentleman from Ohio, the cost of lawsuit abuse, even though the bill that was offered by leadership scored at only \$54 billion, to the gentleman from Ohio—1 percent, he said, of the overall health care costs—I don't know about that number. I didn't run those numbers. It doesn't seem to me, Mr. Speaker, that \$54 billion is a minuscule amount. It doesn't seem to me that \$54 billion is loose change. It doesn't seem to me that \$54 billion is pencil dust.

Mr. Speaker, \$54 billion is real money, and \$54 billion is, though, a small percentage of the overall cost of lawsuit abuse when it comes to providing health care in America. Here are the numbers that emerged when one looks into the underlying costs of the lawsuit abuse. And the score that could come from the Congressional Budget Office cannot include all of this because they simply can't score some of the actual costs that don't index directly into the lawsuits themselves.

It works like this: there are high costs in premiums that doctors and providers are paying, especially OB/GYN doctors, and access to those doctors and services is getting more and more limited. There are also costs involved with the litigation, costs involved with the settlements, whether they are in-court or out-of-court settlements.

One might think that that's all the costs of the lawsuit abuse that is part and parcel of the overall costs of health care. But an even greater cost is the cost of unnecessary tests and procedures that are undergone by patients in this country directed by doctors in this country to avoid lawsuits, to protect themselves in the event of lawsuits, to minimize the risk and to also hold down their premiums for malpractice. So the cost overall of medical malpractice, the abuse of lawsuits for medical malpractice in America, the cost of the malpractice premiums coupled with the cost of the litigation, coupled with the cost of settlements both in and out of court, coupled with the unnecessary test tests, the defensive medicine that nearly every practitioner practices, whether it is something they can actually identify or whether it's a subliminal shift in their policy, all of those things together, the lowest number that can be applied is not 1 percent, to the gentleman from Ohio. The lowest number I can find out there by anyone's logical representation is 5.5 percent. The number that I trust the most is the 8.5 percent number that comes from the health insurance underwriters representative. And 8.5 percent is a low number.

Some of those numbers go up to 10.1 percent and on up into the 20s, 24, 25, 28 and even 35 percent of overall health care costs. Now I won't range up in there into that one-fourth to one-third of the overall costs because I think that's a harder number to defend, although it may be true. But I do believe that I'm on very solid ground defending 8.5 percent of overall health care costs going to either premiums for malpractice, trial lawyers, those settlements or defensive medicine. Out of the overall costs of providing health care to America, 8.5 percent comes to \$203 billion a year. That's only 1 year. This bill gets scored over 10 years.

□ 1745

So, that \$203 billion over 10 years exceeds \$2 trillion, \$2 trillion in the aggregate costs of premiums and litigation and settlements, unnecessary settlements. We're going to keep everybody whole. Those who are the unfortunate who are, I'll say, victims of medical malpractice, we're going to keep them whole. We're going to make sure that their medical costs are paid for and their loss of income are paid for and there's pain and suffering there, but not the noneconomic damages, not that component that goes off into \$7 million for spilling a cup of coffee on one's lap at McDonald's as happened, and I understand that that was negotiated down and reduced after the fact.

So, 8½ percent of our overall health care costs going for lawsuit abuse. And we can reform a lot of that. We can reform a lot more than \$54 billion of it, and it totals in its aggregate over \$2

trillion, which in and of itself is enough to, according to the CBO, pay for NANCY PELOSI's socialized medicine plan, Mr. Speaker.

I think this puts it in a perspective that's far more legitimate than was offered by the previous gentlemen in the previous hour, who also announced that if you make less than \$89,000 a year, you're going to get a subsidy for your health insurance; \$89,000 a year. And we're going to subsidize health insurance for people making \$89,000 a year? Are they also going to be paying the alternative minimum tax, I wonder, Mr. Speaker? I suspect there will be many families if that is the case.

We saw what happened when the majority sought to change the SCHIP legislation, that State Children's Health Insurance Program that provides health insurance premiums for low income—kids in low-income families. That passed in about 1997. I remember implementing it in about 1998, when I was in the Iowa State Senate, at 200 percent of poverty. The States could have adjusted that to some degree. Two hundred percent of poverty is the part that I supported. And I come to this Congress and the first effort on the part of Speaker PELOSI was to change the SCHIP program to 400 percent of poverty, to fund health insurance premiums for children in families of four that are earning at 400 percent of poverty in my State, with the exemptions that were directed by Governor Culver, that meant that families of four making \$102,000 a year could have their health insurance paid for by the taxpayers, the taxpayers who presumably, many of them are making less than \$102,000 a year.

And that seemed to me to be an outrageously high income to have the health insurance premium subsidized by the taxpayers and the Federal Government. Since that time this voracious appetite to share the wealth, to take from those who have earned and invested and established capital, those, a lot of them whose investments are the investments that facilitate the creation of jobs, or they create the jobs themselves, scoop from that capital and distribute that to those who make less, takes away the incentive from those who make less to make more.

Why would anyone go out and take a risk and invest capital and start a business and employ people and create goods and services that have value to this economy, if they're just going—the Federal Government's just going to go in and tax your income, keep you from establishing a capital base so that you could grow that kind of a business and grow the jobs and take the money that you earn and funnel it over here, and to take the position that if you make \$88,999 a year, Uncle Sam will cut you a check. And that check will go to—as long as you invest it in health insurance for your family, health in-

surance for your kids—they're already covered, aren't they? Because this Congress passed ultimately at 300 percent of poverty, so that lowered that number down to \$70,000, something like that, in my State.

But speaking of 70,000, that happens to be exactly the number of families in America that would qualify for Federal funding for the health insurance premiums for their children who also paid the rich man's tax, the alternative minimum tax; 70,000 families in America would have health insurance premiums for their children paid for by the taxpayer.

Meanwhile, they're writing an extra check for the alternative minimum tax because they make too much money in the eyes of Uncle Sam. Seem a little paradoxical, Mr. Speaker? Does it seem a little bit inconsistent? Does it seem a little bit illogical? Well, it is government, after all, and it's getting more and more illogical as time unfolds. But the statement that Republicans did nothing is not a factual statement. It's not even an opinion. It's a fact that Republicans in this House passed reform legislation in several different categories, and it was fought every step of the way by Democrats.

And by the way, when it did get out of this House, in spite of them, then it was blocked in the Senate. I said at the time on the malpractice, the lawsuit abuse reform, that the block that took place in the Senate was the result of the Senate being a wholly owned subsidiary, presumably, of the Trial Lawyers Association in America. Since that time, that investment seems to have paid off in the House of Representatives, and today, we have a House of Representatives that does not have one dollar worth of lawsuit abuse reform in a 1 to \$2 trillion socialized medicine plan.

Now, how could any group have such influence on the House of Representatives and presumably still, and I think even more so, in the United States Senate, that \$2 trillion in the aggregate of abuse and cost in our health care in America, over this period of 10 years, more than \$2 trillion, and we can't find one dollar worth of savings in lawsuit abuse reform, not one dollar in this bill that is a bill that was sent to this floor by Speaker PELOSI. Not one dollar. And yet, the same people can advocate for cutting Medicare reimbursement rates by half a trillion dollars, almost \$500 billion, taken out of our Medicare reimbursements, Medicare reimbursements that only pay 80 percent of the cost of delivering the services.

And the cost of delivering the services is not a cost that's calculated by the providers, by the health care practitioners, by the doctors and the nurses and the hospitals and the clinics. No, this cost of delivering the services is a number that's produced by Medicare itself. And then it gets a .8 multiplier

across that number, and that's what they pay at Medicare. And so the White House has taken the position that there is waste, fraud, and abuse in our Medicare, and they're going to ferret that out. And they found some 10s and 20s and more billion dollars they've said of savings.

These billions of dollars of savings that they can provide to reduce and eliminate waste, fraud, and abuse in Medicare seem to be a bit amorphous. It's hard to identify this and, in fact, the White House has said, well, we know it's there. We are going to go in and help pay for socialized, I put that in quotes when I say it, Mr. Speaker, "their socialized medicine plan," by reducing and perhaps eliminating waste, fraud and abuse in Medicare reimbursement.

So what do they do? They cut \$500 billion, a skosh less, but \$500 billion, half a trillion dollars, out of Medicare reimbursement rates, and then have not put their finger on where the abuse is, where the fraud is, where the waste is. It's just, trust us, we know what we're doing.

It reminds me of a Saturday night sitcom that I used to watch occasionally. And it was called Sledge Hammer! Sledge Hammer was a detective, and he had a sidekick named Dori Doreau. And they would go through a half-hour routine of criminals doing bad things, investigating them, and near the end of the show, something would happen such as Sledge Hammer would fall down the escalator, something would go up the escalator, tip off the railing, and it would go through this Rube Goldberg menagerie of calamities, and when the dust had settled, somehow Sledge Hammer was laying on top of the criminal and somehow there was a miraculous ending. And he would get up and say, Well, I told you, trust me; I knew what I was doing.

Well, I have about that level of confidence in an administration that would tell us they're going to find tens of billions of dollars in waste, fraud and abuse, but they can't point their finger at it. And they just simply say, Trust us, we know what we're doing. And if you pass this national health care act then we will go into action and save this money to pay for it. But if we don't, do we actually have an administration that's willing to tolerate tens of billions of dollars on their alleged waste, fraud and abuse in Medicare? Are they holding the right to a legitimate integrity and fiscal responsibility in our government? Are they holding that right to a legitimate responsible government hostage to a bill, a bill that's socialized medicine?

And so if we pass this socialized medicine bill, the Senate and the conference report, and it goes to the President, whom I believe will sign anything that says national health care in the title—if we do all of that, then we get



to find out this great secret in the White House: Where is all this waste, fraud and abuse in Medicare? I can tell you it's not in any significant amount in my district, Mr. Speaker. And I can tell you that because the providers that I have are getting significantly less than it costs to deliver that service.

In Iowa, we not only are the lowest State in the union in Medicare reimbursements rates, but we also provide consistently some of the highest quality outcomes by the consistent measures that come out. Iowa ranks in the top five time after time after time in practice after practice and then in the aggregate and the composite. Often number one, more often number two. But we're in the top five consistently in the outcomes, medical outcomes.

And yet, we're the lowest in the Nation in reimbursement rates. And Iowa is, and I can say this with great confidence, the very best combination of cost and quality of health care delivered in the State, but the lowest reimbursements rates in the Nation. And now the White House wants to cut half a trillion dollars from Medicare reimbursement rates. And my State, I believe, is the most senior State in the union. We have the highest percentage of our population over the age of 85 of all of the States in the union. That includes my mother.

And in my district, the 32 counties in western Iowa, of the 99 counties in Iowa, and among the 32 that I represent, 10 of the 12 most senior counties in Iowa are in the Fifth Congressional district, the district I represent. And so I believe I represent the most senior congressional district in America. Punished, presumably, by a half a trillion dollar cut in Medicare, based upon the very questionable and doubtful allegation that there are tens of billions of dollars of waste, fraud, and abuse in Medicare.

I'm convinced it exists, Mr. Speaker. I think it exists in some of the large cities in the country, and I think it should be relentlessly and persistently rooted out. And we should take those criminals and we should do the perp walk with them, and we ought to get them locked up in prison where they belong. But you don't hold a principle that the American people have a right to, which is legitimate law enforcement and the elimination of waste, fraud, and abuse, you don't hold that hostage to an ultimatum that we've got to pass a national health care act, socialized medicine, in order to have good government.

Good government is a right of the American people, and the American people need to demand that right. With the promise that, or the allegation, made by the gentlemen in the previous hour, that Republicans don't have any solutions—in fact the President himself has said Republicans don't have so-

lutions. That statement was never supportable by fact. There have been at least 42 pieces of legislation, some of them comprehensive, introduced by Republicans in this 111th Congress alone. And the difference is we have logical, rational, free market freedom solutions that do not interfere and, in fact, heal up to some degree, the relationship between doctors and patients.

And here are some of them. I talked about ending lawsuit abuse. The next one is to provide for people to buy health insurance across state lines. For example, a young man, 25 years old in New Jersey, would pay approximately \$6,000 for a health insurance policy that, if he could buy it in Kentucky, across the state lines, would cost him around \$1,000. And yes there is a difference in mandates. And that's part of the difference. But they have put so many mandates on the health insurance premiums in New Jersey that you don't have those kind of options. And because of the regulations and the burden and the cost, and maybe, just maybe, the White House could be right on some waste, fraud, and abuse up there. I'm looking forward to working with their Governor-elect as he becomes Governor and maybe we can help root out some of the waste, fraud, and abuse. And I'd like to see New Jersey rewarded for doing that.

But, if people in America can buy insurance across state lines, and that \$6,000 policy for the 25-year old man in New Jersey becomes a \$1,000 policy for the 25-year old man in Kentucky, that dramatically reduces the cost of health insurance premiums in America.

Another thing that dramatically reduces the cost of health insurance premiums in America is when people have access to, and can afford to purchase safely, catastrophic health insurance. Catastrophic is an essential component of health insurance, and that works in this way, especially when we have health savings accounts. Those health savings accounts that when we passed the HSAs in 2003 in this Congress, and it was enacted into law, if a young couple—and I did this in round numbers—so at age 20 had invested the maximum amount into their HSA for that annual year, \$5,150 for a couple, say, at age 20, and they maxed out each year—it's indexed to inflation—and spent \$2,000 in real dollars out of that in legitimate health care costs and accrued that at 4 percent, and when I did this math it was a logical thing, and it will be a logical thing again to accrue those investment HSAs at 4 percent.

□ 1800

Throughout the 45 years of their working life when they arrived at Medicare eligibility rate having invested the maximum into the HSAs for that period of time and spent \$2,000 a year out, they arrive at retirement with a health savings account of

\$950,000. Maybe it accrues it a little bit better. Maybe they spend a little bit less. But I am thinking in terms of well, sure, \$1 million; a million dollars in an HSA.

And what is the Federal Government's investment in that, Mr. Speaker? Well, the Federal Government wants to tax that million dollars. The government doesn't want people to have that money for any use of their own discretion when they arrive at Medicare eligibility age.

I will submit that we want people to invest in a retirement account. We want them to manage that retirement account to include the whole continuum of their life, through an HSA, into a pension fund. I'd like to see them make that investment and manage their health and watch their diet, get their exercise, do the annual checkups, and be able to save those costs, those high costs of health maintenance by good health practices, see their premiums lowered because of it and see them rewarded by a growing health savings account so they can arrive at retirement with, let's just say, \$950,000 in that account.

Now, the liability that the Federal Government has today in today's dollars, to be fair, Mr. Speaker, when someone arrives at Medicare eligibility age, that means the cost of that entitlement for the balance of their life actuarially is about \$72,000 per individual.

So, if you have a couple that arrive at retirement today, the liability that the government accepts—which is taxpayers' money in Medicare costs—is about \$144,000 for that couple to take care of their health care needs for the balance of their life starting at age 65. So the difference is roughly \$800,000 and then adjusted for inflation of that liability itself.

But Mr. Speaker, why wouldn't this Congress want to encourage people to invest in their health savings account and grow that health savings account and provide incentives for healthy practices, both exercise and diet and checkups, so that that health savings account became a retirement fund? And why wouldn't we at least, at a minimum, offer them that if you can arrive at retirement and Medicare eligibility and be able to purchase a Medicare replacement policy that would take that individual or couple off of the entitlement rolls, why wouldn't we then tell them, Keep the change, Mr. Speaker? Why wouldn't we say to the American people, Take this nest egg that you have managed and earned throughout your working life and use it to travel the world, retire on, give yourself a monthly pension to add to the other pension plans you might have—presuming Social Security is still there—add that to Social Security or will it to your children. You own it.

Why would we want to keep people dependent upon a government program that will end up rationing health care?

By the way, we are already there, Mr. Speaker. It was announced today that there's a government directive that went out. A panel, a health care advisory panel, that women should delay their mammograms until age 50 and then have those mammograms not every year but every other year, because there's too much anxiety involved in having those tests done every year and that anxiety is a factor that factors in.

Think about this, Mr. Speaker. Is that really it? Or is this a Federal directive that ends up rationing health care? What about that 41-year old woman who ends up with breast cancer and doesn't get a test until its too late? What about the difficulty of treating that disease of breast cancer when it goes beyond that point where it can be handled without radical surgery?

We have a directive that came out from the Federal Government that delayed by 10 years a recommendation that women get mammograms and spaced those mammograms out from 1 year to 2 years. So now 50-year-olds getting a mammogram on their 50th birthday, their 52nd, 54th, 56th, and on. That cuts more than half of the costs of the mammogram tests, breast cancer tests, that are going on in this country if everybody follows that directive.

I would suggest that the Federal Government ought not be giving those kinds of recommendations. But I will submit, Mr. Speaker, that this is a little preview, a little window into what the Federal Government would be doing if this socialized medicine bill should find its way through the Senate, through conference, and off the floor of the House and Senate and to the President's desk, where I am convinced he will sign anything that has a title on it that says "national health care." This is just a little preview of what we will see.

We will also see rules and regulations that will come down that are hard rules, not just recommendations. It will be the Federal Government is paying for this so that means you don't get a hip replacement if you're over a certain age, or a knee replacement, or certain tests, or certain cancer treatments. They will declare "end of life" to be something different than the families and the individuals consider it to be. It has happened in every country that has socialized medicine. And many of the people there just simply capitulate.

A number was published the other day that 4,000 babies are born in Great Britain in the hallway and not in the OB section because they don't have room because the rationing of health care and the lack of practitioners

causes women in labor to back up in the hallways and have their babies there rather than in the delivery room. That is just one piece of data for one country that is significantly lower in population than we are here in the United States.

So I have suggested two things the Republicans are for: ending lawsuit abuse, allowing for the purchase of insurance across State lines.

The third thing is to provide for portability. Let people own their policy so when they leave their job or move from their State or whatever that change in their life might be, that it is their policy, they get to take it with them, and they own it, and that will give them the freedom and mobility from job to job; freedom to be independent, to start a business, freedom to manage their own health care.

Another component of this, Mr. Speaker, is 100 percent full deductibility of everybody's health insurance premiums. That's also something that I'm confident would be ridiculed by the other side of this argument. A hundred percent full deductibility.

Now, why would it be that in America, a corporation that's hiring people can offer them a package of salary and benefits plan, write off that salaries and benefits plan as if it were wages, 100 percent before taxes, an above-the-line write-off. I mean, that's all right. But why, then, would it not be the case for a sole proprietor, for a partnership, for an LLC—unless they took a salary out and incorporated in order to take a salary out and deduct those premiums—an individual or partnership cannot deduct in the same fashion 100 percent of the overall health insurance premiums like a corporation that has employees can?

Now I am going to suggest—and I think it is a fundamental principle here in America—that if anything is deductible for any entity, it ought to be deductible for every entity. I can't think of a single exception that tells me that that would be wrong.

So I will take this position—and I have—that if corporation X, Y, or Z can deduct a premium for a Cadillac plan or an average run-of-the-mill health insurance plan, if they can deduct a hundred percent of that premium, so should self-employed Joe the plumber, or John and Mary the farm operation, or the gas station people, anybody else that's out there; or an individual who is working for a wage for an employer that's not providing health insurance and wants to go out on the market and buy their own. I believe that that premium should be 100 percent deductible. If we did that, just simply provided full deductibility, that, Mr. Speaker, will insure another million Americans. And that gives us equity in this deductibility.

I talked about HSA expansion. We also need, Mr. Speaker, transparency in billing.

We have today cost-shifting going on in the health insurance industry and the health care industry, and when you have Medicare reimbursements that are coming in at significantly less than the cost of delivering that service, the cost of delivering the service at a minimum, along with some profit from profit margin—which is a good thing; it's an incentive for people to do well and a reward for those who are out there providing some of the best services and especially the innovative services—but the cost-shifting takes place when Medicare doesn't pay it all, it goes off onto some other entity, whether it be a private health insurance provider or whether it be an individual that might be self-insured. There are also the cases, I understand, of those that are uninsured.

But we need transparency. We need to be able to take a look at these billings, and I am not interested in the names of the patients. But I am interested in the names of the institutions and the consistency or lack of consistency in the billing procedures.

I believe that if you're going to get a hip replacement in San Francisco, then those people who would get that hip replacement from that provider in San Francisco should pay the same price. They should be billed the same price and there should be a legitimate attempt to collect the same price. I believe that if Bill Gates goes into the hospital and gets a hip replacement and Steve King goes in and gets a hip replacement, and Joe the Plumber goes in and gets a hip replacement, it's all the same procedures from all of the same providers; it all ought to be the same bill.

If we did that, if we had transparency, that will bring together and reduce the cost-shifting because the American people will understand that they have to go shopping, they have to negotiate, they have to advocate, and if they have their health savings account that they're managing, they will have an incentive then to negotiate for a health care cost and outcome that's favorable to them and consistent.

But instead, we patients in America, we are a lot like sheep. We get led into health care, and when we get sick, most of the time, much of the time, the patient in America doesn't pay the bill. They're not concerned about the cost. They simply show up at the clinic and the doctor examines them and says, All right. Now you need to go to a specialist here, here, and here. Run these tests. You show up at the hospital, the surgery is performed, if that happens to be what is ordered. And they generally heal up, they get great care and go home. And some don't address the bill at all. Some of them look at it but they know somebody else is paying the lion's share of that bill, and they're not concerned about the overall cost of their health care.

Therefore, if an aspirin costs 20 bucks, they're not going to raise the issue. But if it is coming out of their pocket, if they're negotiating this, if they're trying to hold together the nest egg of a health savings account, then they're going to look at the cost; and they will look at the transparency in billing, and just the transparency itself will be a restraint from the cost-shifting. And the cost-shifting is kind of a big, not much spoken—not completely unspoken—but not much spoken problem that we have with health care in America.

Four, association health care plans. This is Republicans. And this is legislation that we moved also through this Congress—that was blocked by Democrats—that allows people of professions to join together and bargain and negotiate and buy insurance packages within their professions. So let's say the plumbers get together and they negotiate; the accountants get together and they negotiate. In a similar fashion where credit unions exist and they have a membership that fits the definition, we can let people buy health insurance in the same way, by associating and buying health insurance.

And a piece of this that I have briefly mentioned that needs to also be strongly sustained in this health insurance debate is catastrophic insurance. Catastrophic insurance is that insurance that as our health savings accounts grow, we end up with a nest egg.

I gave you a description, Mr. Speaker, of how a young couple arrives at \$950,000 in their HSA at the age of retirement. But let's just manage this in terms of \$5,000, \$10,000, \$20,000, maybe \$50,000 in an HSA. Now, if I am a young family and I happen to have been maybe working for 5 years and have been able to accumulate \$20,000 in my health savings account, I am pretty comfortable to negotiate the lower premium with a \$5,000 deductible or even a \$10,000 or a \$15,000 or a \$20,000 deductible. That takes the premiums down dramatically and it provides an incentive for an individual to pay out-of-pocket for their minor health care costs, or pay out of the health savings account for the minor health care costs but to keep that nest egg intact. And instead of paying that higher premium, that premium that, by the way, if you're 40 years old in a family of four in Indianapolis, for example, that family would today be paying about \$535 a month for their health insurance.

Now, if you could raise that deductible and raise the copayment component of it, then that premium would go down and the savings would be something that goes back into—and at least figuratively if not literally and may be literally—the health savings account.

The incentive for people to manage their health insurance premiums and the incentive for people to grow their health savings account needs to be expanded, not eliminated.

But I haven't met anybody who can point to this health care bill, this 1,990-page monstrosity with a 40-page amendment, that can tell me that health savings accounts can even survive this bill in itself.

□ 1815

Mr. Speaker, I have listed through here Republican solutions, and STEVE KING solutions for health care. Some of these we have passed out of this House. It is false to say Republicans have done nothing. The record is replete with legislation that has passed the House of Representatives and legislation that has been introduced into the House of Representatives, at least 42 bills in this Congress, all blocked by Democrats, all blocked by the Speaker of the House.

These logical solutions that I have listed, including ending lawsuit abuse, buying insurance across State lines, providing for portability, providing for full, 100 percent deductibility of health insurance premiums, expanding health savings accounts, providing for transparency in billing, providing for association health care plans, and protecting catastrophic insurance, all of those are Republican principles. Many of those have been blocked by this Democrat Congress.

And I think it is not a question of whether Republicans have ideas. We have all kinds of ideas. We have moved some of them. Democrats have blocked all of them. Why did they do that? Why did Democrats block logical, free market, freedom-loving solutions to health care? Because their crown jewel is socialized medicine, 1,990 pages of socialized medicine that took months to leverage and arm-twist to get just barely enough votes to squeak by in the House of Representatives.

Those are the facts. And this bill provides some really ugly things that happen to the American people. For example, here are some real numbers, Mr. Speaker. A healthy, 25-year-old male in Indianapolis today would pay about \$84 for a health insurance plan. This is a typical plan. The same plan under the bill that passed the House, the premium would go to \$252 a month. That is a 300 percent increase in the premium. It triples the premium for that young man.

Now, why would we triple the cost for people who don't have a lot of risk and a lot of liability, especially if they are at the entry level of their income? And we are raising the costs on people at the lowest level of their income. You go around to the other end of this, and if you take a couple that is roughly 60 years old that have some marginal health, I will say a less healthy 60-year-old couple in Indianapolis, they would be paying about \$1,169 a month for a similar health insurance plan. That adds up pretty good over a year. And their premium under this bill would actually be reduced about 11 per-

cent down to \$1,043. Now maybe that makes a difference to that older couple. Presumably, though, someone at 60, they will be making more money than they did when they were 25. They will be making more money than that 25-year-old that sees his premiums tripled so we can reduce the 60 year olds by 11 percent.

This is a transfer of wealth in America, a transfer of risk and liability. And by the way, that 40-year-old family with two children, a family of four, mom and dad around 40 years old that are paying \$535 today in Indianapolis, would be paying \$1,187 under this new bill. That is a 221 percent increase in the premium.

That should tell us what is going on, Mr. Speaker. These are bad things for America.

I am going to go down through a little bit of this. Here are the principles that have been laid out by the President.

He argues that the economy has been and remains and he would argue that it has stabilized somewhat in a downward spiral, that we are in an economic crisis. This is part of the dialogue that we have heard over the last year and a half or so. He has said that we can't fix the economy unless we first fix health care. Does anybody remember that? We can't fix the economy unless we first fix health care.

What is the problem with health care? Two things. According to the President, we spend too much money and we have too many uninsured. Now, we spend too much money is the allegation because it is being pointed out that a lot of the industrialized world will spend an average of about 9.5 percent of their gross domestic product on health care. We will spend about 14.5 percent. Some will give you a number that it goes up to 16 percent and maybe a little more. I am comfortable with the 14.5 percent number.

I am not here to argue that we do not spend too much on health care. I think we spend somewhere around \$203 billion a year unnecessarily when it comes to lawsuit abuse in America. So that is a number that I would subtract a large share of that from the cost of our overall health care before I get down to we are not spending too much. But we also make more than those countries that are spending 9.5 percent.

We have the best health insurance industry in the world, and we have the best health care delivery system in the world with the best individual outcomes for practices in the world. And they will argue that there are civilizations, societies, countries, cultures with policies where people live longer than they do in the United States. They don't seem to want to dig down and ask why.

First, just a couple of months ago we got the announcement that the life expectancy of Americans has been readjusted upwards 2 years. Two years. Now

the numbers that are being quoted by the other side, by the Democrats that are pushing socialized medicine, they don't take into account that adjustment in the extension of the life expectancy.

They will argue that our infant mortality rates are higher than a lot of the rest of the industrialized world. I will argue, Mr. Speaker, that we count the babies that die. We have a more accurate data system and reporting system than most, if not all, of the other countries, so our infant mortality is going to be higher than it is going to be in countries that don't record the infant deaths.

These are not measures of the health care system unless you drill down into it and come up with a reason as to why, if there is a society that lives longer, who are they and why. Do they abuse substances less? When you subtract the fatalities from car accidents and suicides, perhaps, and those that are dying from other kinds of accidents, are we a more active society? Once you make those adjustments, I don't believe it holds that Americans don't have the kind of life expectancy that competes with any country in the world. I believe we do.

And I believe we have, again, the best health insurance industry in the world and the best health care delivery system in the world. But the President has been very critical of our costs and our uninsured.

So aside from the costs, the other point is too many uninsured. Well, the uninsured in America are on this chart, Mr. Speaker. It comes out to be this. Their number is 47 million; 47 million uninsured.

Now, if we just accept that number, that sounds like a lot. We have to ask the question: Who are these 47 million? Well, first of all, it does include 9.7 million who qualify for a government health insurance program, mostly Medicaid, but don't bother to sign up. So that is 9.7 million.

The second number are there are those who qualify for an employer-based plan but don't bother to sign up. That number is somewhere around 6 million.

And then those who make over \$75,000 a year, that is around 6 million.

Those eligible for government programs, 9.7 million. It shows 10 here.

Eligible for employer-sponsored, 6 million.

Then you have those undocumented, noncitizens, about 6 million, and then there is another 4 million who are legal immigrants but are barred by law from government programs. So altogether, illegal aliens and immigrants are around 10.1 million.

When you subtract these numbers, illegal aliens and immigrants, from the 47 million, those who qualify for Medicaid from the 47 million, those who qualify under their employer and don't

sign up, and those who make over \$75,000 and don't bother to buy any kind of health insurance program, now you are down to Americans without insurance who do not have affordable options. That is 12.1 million. I like my other chart better. The number is 12.1 million.

So 12.1 million Americans without health insurance and those without affordable options is less than 4 percent of the overall population of the United States. This is how this breaks down in these categories, and this yellow-orange segment is the segment of the overall 47 million uninsured that don't have affordable options.

Now, this piece right here, Mr. Speaker, I will put this on the broader chart of the overall American population. This is the population of the United States at about 306 million. You can see that 84 percent of Americans are insured, and 85 percent of Americans are happy with the policy and the program that they have.

So it is the vast majority of Americans, these little pie slivers up here go down through this category. The yellow and black are illegal immigrants and aliens. And, Mr. Speaker, I am not for providing health insurance programs for illegals. If they broke into the United States and violated our laws, I am not going to set a carrot out there and reward them for breaking our laws and giving them taxpayers' money and handing them a health insurance policy. That is what some people like LUIS GUTIERREZ and others are for, and MIKE HONDA of California are for. STEVE KING is opposed, and I will stand in opposition of socialized medicine and funding illegals under that program. But that is what these slivers are here, the yellow and the black.

Then this orange piece here, these are the individuals earning over \$75,000 a year. I think they can find another solution other than a subsidy from taxpayers in the market system.

And the green are those eligible for a government program, these 9.7 million who just didn't bother to sign up for Medicaid. We don't need to provide for them. It is already there. They will get coverage whether they sign up or whether they don't, but we can't solve it with this solution.

Then those eligible for employer-sponsored plans, about 6 million, and they don't bother to sign up or opted out.

So you are down to this 4 percent. This red one here is the only one that I am concerned about, 12.1 million Americans out of 306 million, less than 4 percent of our population, and for that, for this red sliver, Mr. Speaker, Democrats have a magical solution for too many uninsured. Socialized medicine, a single-payer plan, incrementally imposed upon America by setting up a health choices administration czar that writes new rules. And in the bill,

the result is, reading the language, the cancellation of every health insurance policy in America, whether it be 2011 or 2013, they all have to go back and reboot, push the reset button, push control, alt, delete and see if they can write a health insurance policy that would comply with the new regulations that will be written by the new health choices administration czar. That's where we are. So 1,300 companies, 100,000 policies, none of them can be guaranteed under this bill that a single policy qualifies with the whims or the regulations that would be written by the new czar yet to be appointed even though he would be confirmed by the Senate.

I see my friend from Texas has arrived. Congressman MIKE BURGESS is a medical doctor. He has lived this. He sees this agenda and sees how this actually happens in real life. He has been a fighter for freedom, and I yield to the gentleman from Texas.

Mr. BURGESS. I thank the gentleman for leading this important discussion tonight because it is critical that people understand not only what is at stake but what realistically is possible.

The programs that are talked about in the bill that was passed here late on Saturday night by the slimmest of margins, none of those programs are going to be available the day after the bill is signed, or the day after the day after the bill is signed. In fact, it is going to take time to construct this massive new government entitlement program/insurance program. And as a consequence, it will be some 4 years before those programs are available to help the people that were in the 4 percent margin of folks who are uninsured.

Now, the gentleman talked about the health benefit czar, whatever we are going to call that person that is yet to be named, and we don't know what that office will do, what their responsibilities will be, but here is what we do know. We do know we passed a 2,000-page bill and it goes over to the appropriate Federal agencies and all of the rulemaking starts.

□ 1830

Think back to 1996 when this Congress passed a bill called HIPAA, and HIPAA was supposed to give us portability in health insurance. And it was a good thing. People needed to have portability in health insurance. But a little paragraph in the bill that required some privacy provisions to be included in the bill turned into, what, 10,000 pages in the Federal Register, and every doctor's office across the land in early 2000 had to start complying with these.

You know, you go to the doctor's office now and the first thing you've got to do is sign three forms. You've got to sign them every time you go in, and

they are the HIPAA disclosure forms. Congress, your Congress, required your doctor to do that. And to be perfectly honest, doctors' offices were never the problem with disclosure of sensitive information in the first place. But we are the recipients of that.

Okay. Now we've got a 2,000-page bill. It is going to go over to the Department of Health and Human Services, and all of the rules and regulation are going to be written regarding that 2,000-page bill. Remember a single paragraph led to thousands of pages in the Federal Register and thousands of comments on the rule-making.

Well, we do have a Secretary of Health and Human Services, Secretary Sebelius. Part of that agency that will be charged with writing these rules and regulations is the Center for Medicare and Medicaid Services. We do not have an administrator in the Center for Medicare and Medicaid Services. CMS has lacked an administrator since a week before inauguration when the previous administrator who was under the Bush administration said thank you very much and left. And that agency has been without an administrator since that time.

Now, why is that important? Because this is the individual who is going to have to sift through all of the legislative language in this bill, match it up with the Social Security Act and Medicare Act, put all of these things together and write the rules and regulations under which your doctor's office will have to practice. And we don't even know who that individual is. It may be someone quite competent. It may be someone who is just a political appointee. We don't know, and therein is the problem.

Now, the gentleman has done a very eloquent job of talking about the 4 percent of the people that we actually likely set out to help when we started down this road. And I'm sure the gentleman heard it in Iowa during the summer. I certainly heard it in north Texas in my town halls. At that time it was only a 1,000-page bill. I can only imagine what they're saying about a 2,000-page bill. We don't want a 1,000-page bill to take care of a problem that actually could be taken care of with simple reform within the insurance industry.

The problem that needed to be corrected was the individual who had a tough medical diagnosis, a preexisting condition, who loses their job, loses their insurance, doesn't get coverage within the appropriate timeframe and therefore is excluded from coverage for time immemorial because of this tough medical diagnosis.

Someone my age loses their job, has a heart attack, their insurance coverage lapses. They're going to have a tough time getting back in. These are the people we heard from during the summer. Yes, we didn't want the

Democrats' bill, but we do need some help for this segment of population who falls into that category. They want insurance. They would even be willing to pay a little more for the insurance because they recognize their human vulnerability is now on display. Yet they cannot find it at any price.

And some of the things that we could have talked about, had we been reasonable about this, had we been truly bipartisan about this, is we could have talked about what type of insurance reform. And, in fact, the President, when he stood here before the House of Representatives in September acknowledging that it's going to be 4 years before any of this stuff becomes available, he referenced JOHN MCCAIN's discussion during the campaign a year ago where perhaps something like an upper-limits policy or a high-risk policy would possibly bridge that gap during those few years until their new policies are available. Well, I would just simply submit if we would have spent the effort working on that bridge policy, if you will, maybe the rest of this stuff would not have been necessary.

There are ways to get at this, with high-risk pools, with reinsurance, subsidize those States that are willing to participate in that. The Congressional Budget Office estimated it would cost \$20 billion over the 10-year budgetary cycle in order to beef up those high-risk plans to be able to accommodate those individuals who are involved, even make it a little more generous than that if you want. For heaven's sakes, \$20 billion over 10 years is a far sight less than a trillion-plus dollars over that same 10-year interval.

And I would suggest that this Congress, if they were willing to pass the liability reform the gentleman referenced, save that \$54 billion that the Congressional Budget Office said we could save, and put all of that money toward helping those people with pre-existing conditions, we could go a long way towards solving these problems.

Mr. KING of Iowa. Reclaiming my time, I would like to pose a question and ask your response.

In the previous hour, the gentleman from Ohio alleged that that \$54 billion that would be saved by the lawsuit abuse reform would only be 1 percent of the overall cost of our health care; therefore, it's of small consequence and apparently not worth the trouble to take on the trial lawyers for that 1 percent. And I've made a response to that, but I would offer to the gentleman for his viewpoint since that is a field of your expertise.

Mr. BURGESS. Well, in fact, that is a fairly narrow window that they're looking at. They're only looking at in the Federal system Medicare, Medicaid, SCHIP, Indian Health Service. The Federal Government pays about 50 cents out of every health care dollar

that's spent in this country; so in effect you could double that number to \$100 billion that you would save over all persons who are insured, covered, cash customers, and those covered by Federal programs.

In Texas we did pass significant liability reforms back in 2003. It has made a substantial difference in Texas. I will just tell you from the standpoint of a practicing OB/GYN doctor, in 1999 the cost of a policy for a million dollars of liability coverage in the Dallas/Fort Worth market was around \$25,000. It had more than doubled to \$57,000 by 2002. It is back down now to \$35,000 in the years since this bill was passed. So there is an immediate substantial benefit in premiums, but the big savings come in the backing out of defensive medicine that is practiced.

Mr. KING of Iowa. Reclaiming my time, I thank the gentleman from Texas.

In the minute or so that we have left, I have in here in my hand a list of the new Federal agencies that are created by this bill.

This is the old chart for H.R. 3200. That's pretty scary. This is the new chart, and in the middle of that is the old chart. Now, here are all the new agencies that are created. Well, actually maybe not all of them. I've just highlighted a few of them on the front.

The program of administrative simplification, I think they know they've got something complicated. Health choices administration, that is the scary part, this guy right here. That's the new commissar-isioner, referenced by the gentleman from Texas. The qualified health benefits plan ombudsman, which tells you no one can deal with this bureaucracy so you have to have an intermediary already written into the bill. I don't know if you have to have somebody to deal with the ombudsman.

The health insurance exchange, where all of these policies and insurance companies would have to be approved. The State-based health insurance exchanges as well. Public health insurance option, well, that's the one that will squeeze out the private insurance companies.

The list of the colossal magnitude of this socialized medicine bill goes on and on: 111 new agencies, 2,030 pages altogether, and the bottom line of it is, Mr. Speaker, the dramatic reduction of Americans' choices and thereby our freedom and liberty under assault by people who believe that we have to have a nanny state and live under socialized medicine. And I stand in opposition and I will fight this all the way. And I do believe the American people will rise up and kill this socialized medicine bill.

Kill the bill, Mr. Speaker.

COMMUNICATION FROM THE  
CLERK OF THE HOUSE

The SPEAKER pro tempore (Mr. KISSELL) laid before the House the following communication from the Clerk of the House of Representatives:

OFFICE OF THE CLERK,  
HOUSE OF REPRESENTATIVES,  
Washington, DC, November 12, 2009.

Hon. NANCY PELOSI,  
Office of the Speaker, H232 Capitol, Washington, DC.

DEAR MADAM SPEAKER: Pursuant to section 1(k)(2) of H.Res. 895, One Hundred Tenth Congress, and section 4(d) of H.Res. 5, One Hundred Eleventh Congress, I transmit to you notification that Paul J. Solis, Nathaniel Wright, Kedric L. Payne, and Jon Steinman have signed an agreement to not be a candidate for the office of Senator or Representative in, or Delegate or Resident Commissioner to, the Congress for purposes of the Federal Election Campaign Act of 1971 until at least 3 years after they are no longer a member of the board or staff of the Office of Congressional Ethics.

Copies of the signed agreements shall be retained by the Office of the Clerk as part of the records of the House. Should you have any questions regarding this matter, please contact Ronald Dale Thomas at (202) 226-0394 or via email at Ronald.Thomas@mail.house.gov.

Sincerely,

LORRAINE C. MILLER.

AFGHANISTAN

The SPEAKER pro tempore. Under the Speaker's announced policy of January 6, 2009, the gentleman from California (Mr. ROHRBACHER) is recognized for 60 minutes.

Mr. ROHRBACHER. President Obama will soon make a decision that will chart the course for America's involvement in Afghanistan for years to come.

I personally am not upset that it has taken President Obama this long to determine his response to General McChrystal's request for an additional 35,000 U.S. combat troops to be sent to Afghanistan. This is a monumental decision, and it comes when the radical Islamic Taliban and al Qaeda movements seem to be gaining momentum. It also comes when our troops throughout the world are stretched to the breaking point and when our economy is frayed. It comes when the debt that America is piling up is not just alarming but suicidal. This is not the time for business as usual, nor is it the time for brash decision-making. A decision to send U.S. troops to Afghanistan will cost money, lots of it; and it will cost lives.

In the past, powerful nations were humbled in the rugged terrain of that desolate country. Yes, a desolate country, dotted by thousands of small villages, populated by tribal people so independent and so ferocious that they have never been conquered. Throughout history, attempts to conquer Afghanistan have met with bloody failure. War there is not defeating an

enemy; it is conquering a people. And these people have never been conquered.

British writer Rudyard Kipling once wrote: "When you lie wounded on the Afghan plain and the women are coming to cut the remains, roll to your right and blow out your brains and go to your God like a soldier."

The British Army dominated vast expansions of India for two centuries, but it was never able to subdue the Afghans. Thousands of British troops lost their lives trying to do just that. In 1842 a British force of 16,000 withdrew from their fortress in Kabul. That force was then beset upon by Afghan tribesmen who cut them to pieces. Only one member of the original contingent of 16,000 made it to the city of Jalalabad. That one person who survived was the regimental surgeon, Dr. W. Brydon. It was thought that perhaps he was permitted to survive.

Russia too has had its comeuppance in the hostile Afghan countryside. It was one of the Soviet Union's most telling chapters, and it was also one of the Soviet Union's last chapters.

After America's inglorious conclusion of its military operations in Vietnam, our Soviet global adversary was emboldened. Then with the fall of the Shah of Iran, a power vacuum was created that the Soviets hoped to fill. They were then engaged in a post-Vietnam War offensive throughout the world. So when chaos and volatility erupted in Afghanistan as a result of a blood rift between two Afghan communist factions, Soviet leaders sent in the Red Army. They did that to unify the communist factions and to pacify the countryside in Afghanistan, which was already hostile to the communist ideology and very hostile to foreign troops. Perhaps as a payback for the massive Soviet aid provided the North during our conflict in Vietnam or perhaps just as a means of weakening the Soviet global military power, during Ronald Reagan's administration, during his Presidency, our government provided weapons and other support for the Afghan insurgent forces who were battling Soviet occupation troops.

□ 1845

As compared with other 20th-century Presidents, Reagan rarely depended on a policy of deploying U.S. troops to solve problems and to combat enemies. I know that goes against what a lot of people think about Ronald Reagan. U.S. forces under Ronald Reagan, yes, were sent in to the small island nation of Grenada, which was in the throes of a Marxist military clique's murderous rampage. Grenada was a limited operation, but it was significant because it proved America was willing to use its military forces after suffering a demoralizing national malaise which is best remembered in history as the "Vietnam Syndrome."

Another deployment President Reagan agreed to make was sending marines into Lebanon, which resulted in a catastrophic attack on our marines which left 290 of them dead and many others severely injured. After that, Reagan was reluctant to deploy our troops. And during his administration, if you take a look at the records, he deployed troops into combat many fewer times than most other Presidents did during the last century. Yet, he is portrayed as a Cold Warrior and is branded, and was branded then, by the liberal left as a warmonger. Yet, he deployed our troops fewer times than most other American Presidents.

Yes, Ronald Reagan, more than any other leader, was one who we should basically praise for the defeat of Soviet communism. That enemy threatened our security and the freedom of our people and the freedom of people throughout the world, yet he did not send our troops into hostile action after the Beirut debacle resulted in the death of so many of our marines. Well, if he didn't send in our troops to various places, how, then, was our country so well defended during that time, and how was the evil power of Soviet communism defeated?

Well, the answer is what is called the "Reagan Doctrine." This strategy was based on the concept of helping others fight their battles when their foe was our foe. Rather than sending U.S. troops into Central America, for example, when the Soviets armed its stooges who were in the process of establishing a Marxist dictatorship in Nicaragua, and the Soviet Union sent a billion and a half dollars worth of military equipment to back up that Marxist regime, no, Reagan didn't send U.S. troops down there to fight the Sandinistas. He armed those Nicaraguans who were resisting that regime, the so-called "Contras."

In Africa, America helped arm Jonas Savimbi and his Unita group as they fought a Soviet-backed regime in Angola. And neither of these two groups were perfect. They had many imperfections. These were flawed allies. But they were fighting for their own country, and they were fighting their own countrymen. We did not rely on sending in U.S. troops. We supported those people locally who were fighting their adversary as long as their adversary was our adversary as well.

And, of course, most importantly, we armed and we supported the Mujahedeen in Afghanistan who directly took on the military might of the Soviet Union. Again, many of the Mujahedeen were people who were totally inconsistent with our outlook and our views on respect and on freedom and individual rights. Many of them were, by the way, very, very supportive of treating people decently and were not radical Muslims in that regard. But they were flawed people who we supported

to fight the Soviet Union that we brought down. That's how the Soviet Union was brought down, not by sending in U.S. troops, but not trying to be perfectionists in who we would then support, but to try to defeat our primary enemy.

During those years, I worked in the Reagan White House as a senior speech writer and, yes, as a special assistant to President Reagan. I worked with a small cadre of patriots who made the Reagan Doctrine real. In fact, the speech-writing department is actually given credit by many to actually have developed that doctrine and made it into a doctrine rather than a loose strategy.

Well, those people in the White House who made it real and turned it into a policy, into actual strategies that were being put in place and put to use during the Cold War were a very, as I say, small group of patriots; Constantine Menges, who came from the CIA and then over into the National Security Council, Bill Casey of the CIA, Colonel Oliver North, Admiral Poindexter, Dr. Paula Dobriansky, Vince Canistrano, Ken DeKrafferty, all of those on the White House team, on Reagan's team, the administration team, who played a crucial war role in defeating Soviet communism, not by orchestrating moves to send more troops here or more U.S. troops here, but instead to try to support those people throughout the world who were fighting against Soviet tyranny themselves.

And, of course, we had support, and we had an initiation of such ideas and concepts and support of the policy by Dr. Jack Wheeler, who is also a person who worked with us in the White House but was independent and went into these various places around the world and met the leaders of various anti-Soviet insurgencies throughout the world and reported directly back to us and the White House as to what was going on in those insurgencies.

Yes, of course, we need also to thank Members of Congress who were supportive of those efforts. Let us note that Ronald Reagan has often said that it was bipartisanship that ended the Cold War. But I remember very clearly Ronald Reagan being called a warmonger. I remember very clearly those efforts to defeat the expansion of Soviet power in Central America being undermined directly by people in this Congress who wanted to label Ronald Reagan as the problem rather than communist tyranny as the problem.

But there were other people on the other side of the aisle and on the Republican side of the aisle who were active in support of the Reagan Doctrine, the concept of helping freedom fighters throughout the world instead of sending U.S. troops.

The most prominent name nowadays is Charlie Wilson. Yes, Charlie Wilson as an appropriator, who helped get the

money for the Afghan freedom fighters, played a significant role, as his book and subsequent movie suggests. But he was not the only one. Charlie deserves credit, but so do those other people, some of the ones I just mentioned, and others, people who made sure that those people who are fighting for freedom in various countries did get those supplies and that the Reagan Doctrine, the concept was implemented.

We made sure that the Russians learned the lesson that we learned in Vietnam. The introduction of U.S. combat troops in Vietnam did not work. And it was that war that tremendously weakened us. But it was the introduction of combat troops, I believe, into Vietnam that weakened us because the dynamics were changed. Having massive troops deployed in a totally foreign culture did not work for our side in Afghanistan. And here we had our troops in a totally foreign land on the other side of the planet, and by introducing those troops, rather than focusing perhaps on helping the people in Vietnam to fight their battle, we set up a dynamic that worked itself out, yes, and as it worked itself out, it defeated our efforts and left the United States with 50,000 dead, a world humiliation and a country in retreat.

I spent some time in Vietnam in 1967, although I was not in the military. Part of my experience was in the Central Highlands, where I hooked up with a special forces unit that was operating out of an old French fort near the Vietnamese city in the Central Highlands by the name of Pelku. It was there that I first saw a strategy that worked. Our special forces teams had turned the montagnards, Vietnam's indigenous mountain people, into an American ally in this bloody, elongated conflict. Yes, our military forces in Vietnam were never defeated—our military likes to say that. They were never defeated on the battlefield, not in one major battle. But we lost the war. The strategy was wrong.

In the Central Highlands, the montagnards were with us. In fact, I felt very secure, and I knew the montagnards would put a high priority on protecting me while I was with them, even though I was an American. Yes, in the Highlands, the montagnards were with us. Those were the people that occupied the Highlands in Vietnam. And had the war been decided there, with those montagnards and those people, our enemies would have been defeated instead of an American defeat.

In Afghanistan, America gave the people of Afghanistan the weapons they needed to fight the Soviet Army. And when we provided them Stinger missiles, we gave them the means not just to fight, but to win. By the way, we also promised to help rebuild their torn country as we encouraged them to fight, bleed and sacrifice in order to defeat the Soviet Army.

The Afghans paid a monstrous price for their victory: 1 million killed, even more wounded, and devastation throughout their society. These brave and heroic people stood up and defeated our mutual enemy.

I was blessed with not just meeting the leaders of the anti-Soviet Mujahedeen when they visited Washington back in the 1980s. I actually went into Afghanistan with a Mujahedeen combat unit and participated for a short time in the battle of Jalalabad, which was the last major battle in which Soviet troops were present.

I do not recount these moments in history to bring praise upon myself, but instead to lend personal authority to the battles we endured then and to the issues that confront us today. That weeklong exposure to that Afghan battle gave me a lasting admiration for these unconquered people. It was the courage of the Afghan people, more than any others, that broke the will of the communist leadership in Moscow and, yes, brought about the collapse of the Soviet communist threat that had loomed over our heads for decades.

When Soviet troops moved out of Afghanistan, instead of fulfilling our promise to help rebuild their war-torn land, we left those brave people to sleep wounded in the rubble. We did not even provide them the resources they needed to clear their country of land mines that we had given them during their war against the Soviet Army. Thus, we left them with a country in which, for a decade, the legs were blown off their children as they walked through the countryside. We didn't even provide them the help to clear their mines at that time.

Now that decision to walk away from Afghanistan was the decision not of Ronald Reagan, but of President George Herbert Walker Bush. And, of course, as we walked away, the anti-Soviet Mujahedeen broke into warring factions. The chaos and misery was predictable. But, of course, we just walked away. We let them just go down into the depths of misery and of conflict and of self-mutilation of that society.

Eventually, during the Clinton years, our government made a secret pact with Saudi Arabia and Pakistan to end the chaos in Afghanistan by introducing a new force called the Taliban. Now I had seen the strategies before of assisting forces in Afghanistan who are radical Islamists. I, in fact, spent considerable time in the White House pounding on people's desks saying, why are we providing military support for people like Hekmatyar Gulbuddin, Sayaff and others of the radical Islamists, who were fighting, yes, the Soviets, but who were also killing other elements within the anti-Soviet Mujahedeen, killing them because they were not as radical in their Islamic tradition?



That backfired on us then, and, in fact, during the gulf war, the first gulf war, it is significant that the Mujahedeen radicals that we had supported, Hekmatyar Gulbuddin in particular, sided with Saddam Hussein. This after we had provided him with more than a mountain of weapons. No. I argued against this stupid strategy based on empowering religious fanatics. It was totally unjustified, especially when there was a moderate alternative. During the war with the Soviets, there was a moderate alternative in that we had groups of Mujahedeen fighters who were not the radical Islamists that eventually became the Taliban.

□ 1900

It is a mistake many people make. They think the Mujahedeen were the Taliban. The Taliban came later. But I could see that empowering religious fanatics when there was a moderate alternative was not the right way to go. And after the Soviets had been driven out, there was a moderate alternative. The moderate alternative was King Zahir Shah. He was an exiled king right before the Soviets took over. The fact is he had ruled that country for 40 years. He was the only leader who ever gave Afghanistan a time of tranquility and progress. And he did that by not trying to impose his rule on the rest of the people of Afghanistan, but instead ruled as a monarch, as a symbol, as a father of his country.

Well, he was available. He was living in exile in Rome. I argued that case that he should be the one brought back to unify the country, not some radical Muslim sect like the Taliban, but the Saudis and the Pakistanis were insistent. They thought they could control the Taliban and they would use the Taliban—control of the Taliban to control Afghanistan. Of course, America just went long with it.

President Bill Clinton and his administration signed on to that deal. Well, it is was an easy way out. We're going to provide so much money and assistance, and the Pakistanis were there. Of course, then people didn't realize that the Pakistani military and the ISI, who we have since proven were actually radical Islamists themselves, they were the allies of the worst anti-American radicals in that region.

So, in reality, America, in the mid-1990s, was covertly supporting the Taliban. We covertly supported its creation and we made sure that our aid was channeled into those areas that supported the Taliban, but we short-changed all the other nonradical Islamists like Masood and others who were there and didn't get that same level of aid.

Most importantly, the people of Afghanistan believed then, as they do now, that the United States helped create and was behind the Taliban. If they believed it, and they are living with it,

the American people should know this as well.

Well, the fact that the Clinton administration was covertly supporting the Taliban did not stop a number of us from doing something else, from trying to create another alternative. Ben Gilman, chairman of the House Foreign Affairs Committee, along with a small team of activists—and I'm very proud to have been one of them—struggled to change U.S. policy and went out to support those who opposed the Taliban.

I was in and out of Afghanistan personally. Our team was working to build an anti-Taliban coalition by uniting ethnic and tribal leaders, especially those in the non-Pashtun areas of Afghanistan. It should be noted that we also worked with Pashtuns who are anti-Taliban; leaders like Abdul Haq, who was a terrific leader and one of the great leaders in the Mujahedeen effort to fight the Soviet army during their occupation. He was a Pashtun leader that we were working with.

Yes, there was King Zahir Shah, who was also Pashtun, but by and large we were trying at the very least to get those in the northern part of the country and those ethnic groups other than Pashtuns, because in Afghanistan, yes, not all Pashtuns are Taliban, but almost all Taliban are Pashtuns.

During that time, during the 1990s when we were working trying to create that coalition, I met with General Dostum, Commander Masood, Ishmael Khan, and many others. Our team brought together all the leaders of the ethnic groups of the Afghan ethnic groups and the significant tribes. We brought them together in Frankfurt and Bonn in 1997, and Istanbul in 1998.

Then, in December of 2000, I and Chairman Gilman brought the key Afghan players right here to Washington, D.C., to our Foreign Affairs Committee room in the Rayburn Building. As a result of that meeting, organized by Chairman Gilman and myself, what resulted from that meeting was a phone call made during that meeting from the participants here, who were anti-Taliban people that we brought here. That telephone call was made to King Zahir Shah, who was then living in exile in Rome.

During that phone call an agreement was reached that the king would return to Afghanistan into Masood's territory and lead a *loya jirga*, which is a gathering of leaders of Afghanistan, in July of 2001. When that agreement did not bear fruit, when that meeting did not occur, Ben Gilman and I dispatched committee staff in late August and early September of 2001 to Rome and to Pakistan to find out why that *loya jirga* had failed to materialize.

So whatever the Clinton administration was doing, whatever their tilt to the Taliban, there were others of us trying to do what was right, and, yes, all of that activity paid off. Eventu-

ally, after 9/11, the Afghan tribal and ethnic leaders on our team and basically those people that we had been encouraging to get together and form a coalition, that coalition emerged after 9/11 as the Northern Alliance.

Most important for Americans to understand now, it was the Northern Alliance—Afghans themselves, not U.S. combat troops—that drove the Taliban out of Afghanistan after 9/11. Many people now are very loose in their words when they discuss how the Taliban was defeated and driven out after 9/11. When we drove them out. You can hear that over and over again. Well, it was a magnificent victory, but America only had 200 troops on the ground, Special Forces, when the Taliban were driven out of Afghanistan.

So when you hear people say, Oh, well, the only thing wrong in Iraq was we didn't come in with enough boots on the ground, we only had 200 boots on the ground in Afghanistan, and, in fact, those 200 boots gave us a tremendous victory, and it also gave us a tremendous opportunity to rebuild that nation and to demonstrate the benefit of being America's friend. It gave us the opportunity to make up for breaking our word after the war with the Soviets and to regain the trust and admiration of moderate Muslims throughout the world. We had that chance.

Afghanistan, which, by the way, is about the same size as Iraq, we had driven out a force of tens of thousands of Taliban soldiers and their al Qaeda allies, not by U.S. troops—only 200 U.S. troops were there—but instead by providing air support and supplies and communications to those people in Afghanistan who were fighting against this radical Islamic gangsters who had oppressed them.

Well, after the Taliban was defeated, instead of focusing on Afghanistan, instead of keeping our promise, going back to keep our word, which we had given so long ago—and, I might say, we renewed that promise when we asked them to drive out the Taliban—instead, President Bush rushed the United States into an invasion/liberation attack of Iraq. The battle for Iraq, however, was fought by U.S. combat troops, a totally different strategy from what had worked in Afghanistan.

By the way, we could well have implemented a similar strategy in Iraq by arming the Kurds and the Shiites, by making deals and cutting deals with Shiite leaders, by reaching out to different people in their military and in their government. Instead, no, we sent in large numbers of U.S. troops in combat units. Only when we pulled our forces back and used our financial resources to buy the goodwill of people in Iraq did the Iraq war turn in the right direction.

We have heard a lot about the surge. I voted for the surge and I have tried to

be as supportive as I could, realizing a defeat in Iraq would have been a horrible and demoralizing event for the people of the United States, and it would have emboldened terrorists and radical Islamists throughout the world. I tried to be supportive, but we were obviously doing the wrong thing. We obviously used the wrong strategy. The competence of the last administration in carrying out that war and building peace was abysmal. We could have done what we did in Afghanistan and let the Iraqis liberate themselves from Saddam Hussein's tyranny.

The human and financial cost of the Iraq liberation and how it was accomplished, all of the incompetence that went with it, will be the subject of scrutiny for years to come. However, we have moved forward and there are some signs or every sign of success in Iraq. That success—it's clear that that success was brought about not necessarily by large numbers of U.S. troops, but instead, not just the surge of troops, but General Petraeus's ability to use financial resources to win the loyalty of Sunnis and other tribal leaders in Iraq.

But what is also clear is that our Iraq focus after the defeat of the Taliban prevented us from doing what was right by the Afghan people. And there is a cost to that as well. There is a cost that we will pay for not doing what was right to the Afghan people and just rushing off to commit our treasure and our troops into Iraq by stretching ourselves too thin so we couldn't do the right thing in Afghanistan.

Now, what is that price that we're paying? Now, after years after the initial success of driving the Taliban out, the Taliban's radical Islamic threat is growing. And the response to this threat? Send in more U.S. combat troops. Whenever that's been tried as just a simple answer, it's failed. Whenever there's been unconventional warfare that we have had to deal with, that strategy of sending in more U.S. combat units has not worked, whether in Vietnam or Afghanistan or anywhere else. Foreign troops in a foreign land fighting as combat units will almost always end up in hostile territory, and even those locals inclined otherwise will eventually turn against foreign troops to side with their own countrymen. That dynamic is very easy to identify.

President Obama is being asked by General McChrystal, who I deeply admire, to send 35,000 more U.S. combat troops into Afghanistan. If my experience tells me anything, it is that the introduction of more U.S. combat units into Afghanistan will be counterproductive and perhaps disastrous. And the likely downside to sending more U.S. combat troops is recognized by our own U.S. Ambassador, General Eikenberry, who is now our U.S. Ambassador to Afghanistan. General

Eikenberry is a career military officer with impeccable credentials and an exemplary record. He has told President Obama that more U.S. troops will mean that the Afghans will remain dependent on our military rather than stepping forward and fighting their own battle.

By sending more U.S. combat troops, we will encourage exactly the wrong behavior by the Afghans. And, obviously, the Afghans have proved time and again that they are willing to fight. They're willing to fight for their families, for their villages, for their way of life. And, yes, they're willing to fight for Afghanistan.

□ 1915

Well, that is so obvious. Yet the easy answer for America's decision-makers is to send more U.S. combat troops. Well, easy answers have a great deal of appeal to power brokers, but easy answers usually don't solve the problems.

Yes, sending more U.S. combat troops sounds less complicated than having to deal with Afghan ethnic, tribal, and village leaders on the ground. Sending more troops sounds a lot easier and less complicated than undoing the horrendous strategic mistakes our State Department has made in forcing a foreign structure onto Afghan society since 9/11.

In short, our government has tried to force the people of Afghanistan to accept centralized rule from Kabul. And even if that government wasn't corrupt, even if Karzai's brother wasn't a drug dealer, the centralized power and decision-making that we have tried to force on the Afghan people—or at least supported that being put on them—is totally contrary to the Afghan history and culture. These people are brave. They will not be subdued and pacified by a Kabul army or especially by a foreign army, even if it's our Army.

No, we must make allies of the brave people of Afghanistan, not send in more U.S. combat troops to fight them. Even if our troops fight against their enemies, it is still wrong because even if we're fighting against the Taliban, who are our enemies, it is still wrong because it creates a dependency of the other Afghans on us to do their fighting. And in the long run, the brave, courageous people of Afghanistan will not appreciate that we have made them dependent upon us. That will not be appreciated.

They are a people of tremendous integrity. I walked through Afghanistan that one week that I spent at the battle of Jalalabad, and I remember seeing these people. If they got wounded, if they were wounded, they were gone. There was no medical evacuation there. If they stepped on a land mine, they were gone. And when they were wounded, they didn't cry out in pain. You had young people there fighting right alongside elderly people.

These people were a country, a brave and courageous country. I remember as we walked through the countryside, the southern part of that country had been blown asunder by Soviet airplanes. People were living in caves, and they would come out. They didn't know that I wasn't an Afghan. They didn't know that I was American. I had a beard and an AK-47 strapped across my shoulder, and they came and they would say, Please let us, Mujahedeen, our brothers, let us give you some tea and bread. The people would come out of their caves where their families were living to give us tea and bread. And as we left, some of the Mujahedeen leaders that were with me said, You know, that's all the bread they had. Their family is not going to have that bread tonight.

What kind of people are these? These are wonderfully courageous people of integrity, sharing their bread because they were part of this national effort. We do not want that power and strength and integrity turned against us. We want them on our side, and we must be on their side. Sending more U.S. combat troops will not accomplish that mission.

U.S. Army Major Jim Gant has written a booklet entitled "One Tribe At A Time." In it, he details his account of being embedded with Afghan villagers, and he lays out a strategy to defeat the Taliban from the bottom up, not from the top down. Certainly we will defeat them not by sending in more American combat units to do the fighting but, instead, let these ferocious people do their own fighting with our support.

It's a cost-effective plan; and even though it's more complex than simply sending more troops, it's the only plan that can succeed. It's focused on sending our teams, combat teams, to live with the Afghans in their villages, helping them build their militia structure, providing them guns and ammo and, yes, buying goodwill of their leaders and perhaps helping them rebuild their country's infrastructure. Perhaps a clinic in a region, perhaps helping them get a clean water supply.

Afghanistan has the third highest infant mortality rate of any country in the world. Yet we want to spend our money sending troops. After we promised we would help them rebuild their society, they still lose their children not just to land mines that weren't cleared off but to dirty water that destroys their children's lives, makes them sick and makes them die of diarrhea. It's a terrible, terrible thing.

And what is the cost of the 35,000 troops that is being suggested that we send to Afghanistan? Already I am saying that the strategy doesn't work. But what is the actual financial cost? The cost is \$35 billion, \$1 billion for every 1,000 troops annually. We can buy all the goodwill we need, and we can help rebuild Afghanistan for far less than it

will cost for just 1 year's worth of 35,000 combat troops. For \$1 billion, we could buy the goodwill of the tribal and ethnic leaders.

For a very small amount of money, we can help them build up their own militias by which they can then defend themselves and not worry. Is the U.S. going to go away and leave us vulnerable? Americans cannot patrol, subdue and pacify every area of the globe where hostile forces lurk, especially in Afghanistan. It will break our bank. Our young men and women in our services will be unnecessarily killed and maimed; and in the end, the same thing will happen to us that happened to the Soviet empire: it will break our bank, and the American people will not be willing to shoulder responsibility anywhere in the world because of the horrendous complications that have arisen from our jumping in to doing the battle for everyone in Afghanistan and other places of the world.

Yes, we do need to use our military forces in places; but if we do this, if we send them off to missions that can't be accomplished, we are not doing our duty by them. And how do we know that? If there are two military truisms, history lessons that should have been learned in the last century, they are: Don't march on Moscow, and don't invade Afghanistan.

Afghanistan will not fall to the Taliban if we support those brave people who defeated the Taliban. Our State Department, in their rush to centralize power in Kabul, actually organized the effort and pushed the policy of disarming the anti-Taliban Northern Alliance after their initial victory. They have then pushed not to develop the militias. Every village in Afghanistan, every male child is considered to be part of the militia and is expected to learn how to use the weapons of the day.

Now through that militia, we can mobilize that. And when they say to us—and I have read these accounts over and again. They are afraid that America might abandon them again. Well, why are they afraid? Because we haven't given them the means to defend themselves. We should not only give them the means, but we should help them, support them, provide them the air support, give them the financial resources, the communication gear so that they will win a victory against radical Islam.

That is the only way that radical Islam will be defeated—not by sending U.S. troops all over the world and especially into Afghanistan. Yet our foreign service continues to rely on more U.S. troops and, yes, on building a national army in Afghanistan that will be controlled by the government in Kabul, a corrupt government that is not trusted by the people of Afghanistan and is not even trusted by our own leaders.

This is exactly the wrong approach. Instead, as I say, we should arm every

village militia which will align with us. Any village militia that will align with us, we should be on their side. We should give them guns, ammo, supplies, and communications gear. We should back them up with air support, and, yes, let's have Special Forces teams embedded in the villages, like Major Jim Gant has told us would be an effective strategy.

That strategy and buying the goodwill of tribal leaders, people who were there leading their—this is a naturally democratic society from the bottom up. By the way, our country would have failed had we insisted that all the political power in our country would have been decided by the central government. It's the States in our country that control the education. It's the States that basically control the police and the justice of our people. Had we not had that policy from day one, our country would not have succeeded.

Yet we've been trying to push on people who are even more protective of their rights to make their own decisions for their own villagers—we're trying to push a simple government on them which they don't even know. Well, that strategy of buying the goodwill of tribal leaders will carry the day. We can go in and identify with these leaders there, work with them, work with their people. That is the strategy.

Yes, as Major Gant says, there is risk in this; but the greater risk is a strategy of sending more combat units which rumble through the countryside. I met with a group of Afghan veterans just last week, and they told me that what they were told to do by their commanding officers was, you just take hikes through the countryside until they get shot at, and then they start firing back. Or they drive their trucks and their vehicles through the Afghan countryside and through Afghan villages until they are either shot at or they run over some kind of an explosive device, and then they retaliate.

That is not a strategy for victory, and that's what happens when you send major combat units into a country rather than trying to defeat the enemy in that country from the bottom up, rather than inserting something from the top down. Such a strategy of helping the villagers there in Afghanistan who have lived under the Taliban—they hate the Taliban. They have seen their schoolteachers beheaded. They have seen their young girls being treated like dirt and like animals. They do not want to live that way, and they will not submit to the Taliban—unless, of course, they aren't given any chance to defend themselves.

The strategy of helping those people who are willing to fight against that form of radical Islam that they know and despise, that is a cost-effective way of dealing with the challenges that we confront in Afghanistan. It will cost less in blood. We won't be putting our

people in harm's way. And, yes, some teams that go there—yes, some of these teams that will be embedded with those villagers, some members of those teams will lose their lives.

But I would dare say, and Major Gant says so as well, that far fewer American military personnel will lose their lives that way than if we continue the strategy, which is basically alienating the people of Afghanistan who eventually will rise up against us because the strategy is not something that takes into account their own needs at the village and tribal level. It will cost us less in blood. It will cost us less in treasure than sending more combat troops to use Major Gant's strategy and a strategy of working at the bottom level rather than just sending in more troops.

And to help them rebuild their country at long last. Rebuild their country after we promised them what we would do after they defeated the Soviet Army and after they kicked out the Taliban. But we owe it not only to the Afghan people to look very serious about this; we owe it to our troops not to send them on a mission that they cannot accomplish. We have an opportunity at this time to do the right thing and not just to place ourselves in a position to end up with a military, diplomatic, financial, and human embarrassment that we will have lost so many people and so many lives for nothing, for an outcome, another quagmire.

I have one last story that I would like to end my speech on tonight, and it is a story that I want to make sure people understand. What I am saying today is not in any way a bad reflection on our military. The fact is, I met with our veterans from Afghanistan last week in my office. They support this strategy. Just because I'm saying they can't do everything and fight every battle doesn't mean that I don't respect them. In fact, I believe they are heroes. Every one of those people willing to put their lives on the line, they are heroes. They are willing to risk their lives for us. We owe them our best judgment not just an easy answer of sending more military people into a conflict.

My family was a military family. I grew up in a Marine family. My father was a lieutenant colonel in the Marines. We were stationed in Marine bases until I was 16.

□ 1930

My brother graduated from Camp Lejeune High School in 1963. His best buddy, his very best buddy, graduated from high school with him and immediately joined the Marine Corps when he was 17 years old, David Battle. David Battle joined the Marine Corps right after he graduated with my brother, and he was my brother's best friend. Well, years later, when I went to the White House with Ronald

Reagan, I went to the inaugural ceremony, and then I had off for about a week before, or a couple of weeks before, I would actually start on the payroll in the White House. My family, my mother and my father and my brother, came to the inauguration in 1980, and then we rented a car and traveled down to Camp Lejeune to see where we used to live, to see if we could remake old acquaintances.

And we found my brother's best and dearest friend, Sergeant David Battle. He was well on his way to retirement. He'd already bought himself—only a couple of years away, and he'd bought himself a boat that he was going to dig clams and mussels out in the inlets in North Carolina and sell it to the local fish markets. He would have his retirement. He had served two tours of duty in Vietnam, a wonderful man with a wonderful family. His parents were there. His lovely wife was there with their two children, and we had an evening that I will never forget, a great North Carolina evening.

And then the next day my family drove to Washington, and I entered the White House and took my place on President Reagan's staff. President Reagan, as I have mentioned, sent the marines, deployed our American marines, into Beirut. It was not a good decision. It was something that was a risky proposition and had very little chance of success. I knew that, and I actually mentioned it to a lot of people.

But what especially caught my eye when I was looking at that was that the State Department had initiated a policy, a rule of engagement, that was accepted by the military, forced on them by the State Department, that the marines would not be permitted to have bullets in their guns. Their clips would not be in their rifles, would be in pouches because the State Department was so afraid they might get trigger happy if they were shot at. Yeah. So we sent our marines in. I went around to offices in the White House and I pounded on the desk and I said, what are we doing here? How could we send our people in to try to defend us and tell them they can't, our soldiers, our marines, can't have bullets in their guns? This is insane.

And I was told over and over again, don't worry, Dana. Don't worry. Bud McFarlane, George Schultz, Jim Baker, they're all former marines. They're going to take care of this. And it didn't get taken care of because after I left and was assured it would be taken care of, that piece of paper ended up on the bottom of the stack, on the bottom of the stack, and our troops, our marines continued for weeks to be in harm's way, without bullets in their guns.

And again, I assumed that these people were going to handle it. I was told that they would. And then that horrible day when an Islamic terrorist

drove a truck filled with explosives through the guard gate outside our Marine compound, and the Islamic terrorist smiling because he knew our guards could not stop him because their guns were unloaded, and he drove that truck into the Marine barracks and blew 290 marines to hell—290 marines. And I looked desperately. I looked to see who it was, and the first name on the list of casualties was Sergeant David Battle, my brother's best friend. I went into my office and wept that day.

And then I stopped crying because I said, I'm going to make a resolution right here and now that I will never cease to be pushing and pushing and trying to correct a situation that I know is wrong. If it takes me being obnoxious, I will do that, because we owe it to the people who defend us, the Sergeant David Battles, they salute and march off and put themselves in harm's way. They are doing their duty. It is up to us to do our duty by them, and not send them on a mission that they cannot accomplish, and not send them into harm's way to lose their lives for nothing.

Today, we have a major decision to make in Afghanistan. It is up—I would call on all of my colleagues to stand up and be counted on this issue, seriously consider what the chances of success are, and if they agree with me that the approach being taken of sending more troops in, that we stand up and we prevent this policy, like the policy of sending our troops into Beirut without bullets in their guns. And we should not assume that just sending those guys there will be accomplished because other people will watch over and make sure the job's done correctly and that our troops are safe.

It is up to us, each and every one of us, to insist that this strategy of simply sending in more troops, at \$35 billion, a strategy that's more likely to work and accomplish what we want to accomplish, is put into place, a strategy that will keep faith with the Afghan people, instead of just simply relying on Americans doing more of the fighting, help them rebuild their country, rearm them, arm them so they can do their own fighting. We owe it to our troops. We owe it to our marines, we owe it to the Sergeant David Battles who have given their lives over the years for our country, to make sure we do our duty by them as they do their duty by us.

#### 9/11 CHANGED EVERYTHING

The SPEAKER pro tempore. Under the Speaker's announced policy of January 6, 2009, the gentleman from Texas (Mr. GOHMERT) is recognized for 60 minutes.

Mr. GOHMERT. Mr. Speaker, it's a pleasure to be here on the House floor, especially when you know the history

of this floor and all that's been done to keep Americans safe, the reactions on this floor by great American leaders after tragedies such as we had after Pearl Harbor, when the President of the United States spoke from that lectern right there after Pearl Harbor. Before 9/11 that was the worst attack on American soil. But 9/11 changed things substantially. For one thing, I never thought during my 4 years in the Army, going back to the 1970s, that we'd ever see patriotism at a level that it is today, where people actually appreciate people being in the service. The Vietnam Vets knew what it was like to come home and to be spit at and ridiculed. I know when I went through basic at Fort Riley, there was an order not to wear our uniforms off post because there was supposedly violence that was done. There were people beat up who were in the service.

But somehow, for a while there, 9/11 brought this Nation together, where people began to take notice and care about first responders, and they began to care about each other. And on September 12, there on our courthouse square in Smith County, Texas, we had people of all walks of life join together, a huge group came, and it culminated in everyone holding hands and singing God Bless America. And as I looked around, there was not one single hyphenated American. We were all just Americans, all kinds of races, genders, creed, colors, national origins. But we were just Americans.

Well, after 9/11 we realized that for the first time in our history the oceans did not provide the protection that they once did. As an old history major at Texas A&M, and continuing to be a student of history since, I don't know of another Nation in the history of the world that has been so blessed and protected as we were with the Atlantic and the Pacific oceans. Even Australia, which was surrounded by water, always had to fear invasions. But after the War of 1812, for the most part, we didn't have to worry about external threats so much as we were able to think about Manifest Destiny, moving and settling the continent, the Industrial Revolution, having the effort to make the Constitution mean the same for all people, no matter what race, creed, color, gender.

But 9/11 sent a message that the oceans no longer protected us, that we were going to have to take more measures to protect ourselves. I recall back in the 1980s it being said that one of the great things about the Atlantic and Pacific, if somebody intended to be a suicide bomber, they would lose their nerve crossing the ocean. And certainly, anybody that moved here and lived among the American people would begin to see how much freedom we had here, and they would come to love America as we do, and they would not want to blow up their friends and neighbors. Again, 9/11 changed all that.

So if someone doesn't know the lessons from history, then they are destined to repeat it, as the old saying goes. Well, the Constitution, and I have a pocket Constitution here, article one, section 8, says that Congress shall have power to—and one of the things that we have the power to do in Congress is constitute tribunals inferior to the Supreme Court. And you get over to article three, section one, the judicial power of the United States shall be vested in one Supreme Court, and in such inferior courts as the Congress may from time to time ordain and establish.

Even the Supreme Court, over in section two, where it's talked about, it says in all of the other cases before mentioned the Supreme Court shall have appellate jurisdiction, but it's the law in fact, with such exceptions and under such regulations as the Congress shall make. So the Supreme Court owes its existence to the Constitution. Every single other court in America, Federal court that is, owes its existence to the Congress. We create the courts. We establish their jurisdictions. We have the right to establish their venues. And when we dealt with this issue back in 2005 and 2006, of having to deal with terrorists who are captured on the foreign battlefield, what do you do with them? You certainly don't want to bring them onto American soil, because if you did that, there'd be some court that would say, well, they have all the rights and privileges of an American citizen, which shouldn't be true, but until some court says it's true, and at that time, since we believe in following the law, even though some courts do not, they create it instead of follow it, we follow even the renegade courts when it's the law of the land.

So, we had to deal with this issue. Following all of the precedents, and I believe Justice Scalia does a phenomenal job of discussing precedents, as does Chief Justice Roberts in the *Bimidian* case. But we had to deal with people like Khalid Sheikh Mohammed. Khalid Sheikh Mohammed was captured in Pakistan on March 1, 2003, by the Pakistani ISI. It may have been a joint action with agents of the American Diplomatic Security Service, but he's been in U.S. custody ever since that time. In September of 2006 the U.S. government announced it had moved Mohammed from a secret prison to the facility at Guantanamo Bay detention camp.

Now, some came to believe that Guantanamo is such a horrible place. That is where we waterboard people and things like that. The waterboarding that apparently occurred, never occurred at Guantanamo. That was elsewhere. Guantanamo Bay is a place I've been a couple of times. And, having been a judge, I've had the opportunity to explore and tour many different types of prisons.

□ 1945

Attending a tour of the Guantanamo Bay facility was not unusual except that it is unusual to get there. You don't take a commercial flight to Guantanamo Bay, which is one of the reasons it's such an ideal spot for people who are a threat to our way of life.

We have also Ramzi bin Al-Shib who was captured by Pakistani forces in Pakistan around September of 2002. He was transferred to Guantanamo Bay, Cuba, on or about September 26 where he also has remained.

You have other people being detained there that we know have been self-confessed terrorists and under the pleading that was filed by Khalid Sheikh Mohammed, as he said, "We're terrorists to the bone, and if we terrorize you, kill you," basically, "thanks be to God."

These are people who do not believe we should have the freedoms that we do in America because they think freedom ultimately leads to degradation of the individual and the country. Therefore, people should not be allowed freedom, they should be told what they can or can't do; and they believe that they get a special place in Paradise if they are able to go out in this life having destroyed and killed what we consider innocents and what they consider infidels.

So we come to the announcement by the U.S. Attorney General when he announced that the Department of Justice will pursue prosecution in Federal court of five individuals accused of conspiring to commit 9/11 attacks. He said further, "I've decided to refer back to the Department of Defense five defendants to face military commission trials, including the detainee who was previously charged in the USS *Cole* bombing. The 9/11 cases that will be pursued in Federal court have been jointly assigned to prosecutors from the Southern District of New York and the Eastern District of Virginia and will be brought in Manhattan in the Southern District of New York."

He goes on and ends up saying, "In each case, my decision as to whether to proceed in Federal court or military commissions was based on a protocol that the Department of Justice and Defense developed, and it was announced in July. Because many cases could be prosecuted in either Federal courts or military commissions, that protocol sets forth a number of factors, including the nature of the offense, the location in which the offense occurred, the identity of the victims, and the manner in which the case was investigated that must be considered. In consultation with the Secretary of Defense, I have looked at all of the relevant factors and made case-by-case decisions for each detainee."

Well, it wouldn't seem that he has considered the safety and the best interests of the people that survived the

attack on 9/11 in New York City, the most densely populated area in our country.

In 2005, 2006, this Congress considered these issues—and I would submit gave it better consideration than our current Attorney General—and when the Bush administration had formulated a military tribunal system without the input from Congress, it was struck down, and rightfully so. So Congress got involved. Now we have the Military Commissions Act that was passed in 2006.

The Obama administration did not like the term applied to the enemy combatants that were captured on the battlefield around the world who had made efforts and participated in the murder and destruction of American lives and American property. So, the way that bill was amended, it now reads "any alien unprivileged enemy belligerent is subject to trial by military commission as set forth in this chapter."

You have to look back.

Alien. The term "alien" means an individual who is not a citizen of the United States. You look at unprivileged enemy belligerent. The term "unprivileged enemy belligerent" means an individual other than a privileged belligerent who, A, has engaged in hostilities against the United States or its coalition partners; B, has purposefully and materially supported hostilities against the United States or its coalition partners; or C, was a part of al Qaeda at the time of the alleged offense under this chapter.

The term "hostilities" means any conflicts subject to the laws of war.

As it says in 948(h), Military commissions under this chapter may be convened by the Secretary of Defense or by any officer or official of the United States designated by the Secretary for that purpose. Unfortunately, the Attorney General has elected to bring self-confessed terrorists to New York City.

I did want to walk people through what it takes to prepare a case for trial from a judge's standpoint, from a logistical standpoint. All evidence has to be transported by different individuals, whoever may have it, to the courthouse so it can be used as evidence there—sometimes it's held in different places—but eventually to the courthouse. Normally you have to keep a very careful chain of custody on any evidence, but unfortunately, this is from a battlefield where in order to get the official chain of custody started, our soldiers in harm's way would have to walk out in the middle of hostilities—perhaps there are bullets flying—and say, "Time out. I want to gather evidence that we may need to use some day in a civilian court because we have a President or Attorney General who wants me to go out in harm's way and gather fingerprint, the forensic evidence that may be used in

establishing the chain of custody, never mind that it may get me killed trying to gather such evidence forensically on a battlefield," which we have never done before. It's never been necessary because people who were leaders in this country knew enough about the history of the country to avoid putting our men and women at additional risk in order to try people who wanted to kill us and destroy our way of life into a civil court, a civilian court. It just hasn't been done. It was not appropriate.

Now this is an unusual war, of course, because although the individuals who have planned, participated in killing American citizens through the 9/11 terrorist attacks, they declared war on us but we didn't officially declare war on them because they're not actually a country, which makes it more difficult. But make no mistake, war has been declared on the United States, and either we respond by fighting back in this war or the war with terror goes on from the terrorists until they win. It becomes a very one-sided war until eventually we either lose the country out of fear or terror or the American citizens decide, Gee, the risk is so great, let's just make our President king and go to a dictatorship because so often in history, people prefer a dictatorship or a king or a Caesar if they can assure that they're going to be better protected.

That is why I decided since it didn't appear that the best of judgment had been used in wanting to bring terrorists who said they participated and planned the 9/11 attacks—they just hoped to kill a lot more than 3,000 people and perhaps had hoped to kill tens of thousands of people if the buildings had collapsed sooner—it seems to me we needed to fix this.

So we are working on the language—hope to file it tomorrow, no later than Thursday—that will make this mandatory: that any alien unprivileged enemy belligerent shall be exclusively subject to trial by military commission as set forth in this chapter, words along that line, so that it is not an option for people who do not understand the risk to which they put American citizens.

Once you gather the evidence, once you have the terrorists in New York City, I would expect that is probably strategically when the defense attorneys would file a motion to change venue. Of course, the terrorists may want to keep it in New York City even though they might allege they couldn't get a fair trial because perhaps every single person in New York City eligible for jury duty might have heard about 9/11 and may have drawn opinions about what happened that day, it is a better place for terrorists to remain and be held and drag out a very long, sustained trial. Because as you find if you have been around the judicial system,

if a defendant has access to tremendous amounts of money, then you can expect them to call expert after expert after expert. And yes, Federal judges can rein in the number of experts, but if they're creative enough, they may be able to come up with enough experts to drag this thing out.

And, of course, we have the rules in Federal court as State courts as well that the judge has to be the gatekeeper of what experts will be allowed to testify. They have to be found to be competent in the area to which they are going to testify. And so the judge may have weeks and weeks and weeks of hearings on whether an expert will be allowed to testify. There may be weeks and weeks and weeks of hearings regarding change of venue evidence and whether the case should be transferred, and if so, where it could be transferred where a fair trial could be had.

Amazing, but some of these things I do not believe got adequate consideration before action was taken.

So we have terrorists who are going to be brought to New York, perhaps some to Illinois. As they're awaiting trial, the thing gets dragged out, perhaps the friends of the terrorists—because we know people can get into this country illegally. We know people have come in legally, overstayed their visas, and we are not enforcing visa terminations adequately. So they could have friends here illegally. They could have people here legally. But you can bet they are going to be testing out the adequacy of the court system in which their terrorist buddies are being tried. And having read the pleading by Khalid Sheikh Mohammed that they intend to terrorize us, they intend to defeat us, to destroy us, then their friends will be looking for such a way to do that.

What better way than in the most densely populated area in this country to have some terrorist threats go on? And what you normally have when the terrorist threats go on is evacuations, and that's when it is extremely helpful to have a community organizer in the White House because you will need lots of community organization in order to adequately evacuate massive areas of the most densely populated area in America, as the threats will likely be coming.

I have seen them happen in my own courthouse when I was a judge. I normally didn't evacuate. I had that luxury since I could order the deputies to leave me alone. But you will have those types of things.

Can we be sure that there will not be a truck, a vehicle, loaded with explosives to perhaps commit some act of terrorism in one of the tunnels? Or a vehicle. You could have a number of vehicles coming through the tunnel, coming across the bridges, loaded with explosives. Things to instill fear in the minds of American citizens.

□ 2000

Apparently these terrorists enjoy seeing Americans flee in fear. We have had an evacuation here a couple of times since I have been in Congress. My brother called after the first time since I have been here and said, I didn't see you running out of the Capitol on video. I said, Perhaps that is because I was the last one out. I would rather be killed by a terrorist than to have them see legislators running in fear because there is some terrorist threat to the Capitol. Just take me out. I know where I am going when this life is over, so I am not terribly worried about what happens in the interim.

Back to the trial. Those kinds of acts, those kinds of threats could normally be expected during the course of a trial. And as the trial goes on, you think about the jailers who are maintaining a watch on the terrorists in New York City. Think about their families. Maybe their immediate family, their wife, their children, or if it is a female, their husband and their children. Think about perhaps even their mother or father, siblings. Who will be safe, because you know as much research as went in so carefully to the planning and the destruction of the World Trade Centers, that planning will likely go into the next terrorist attack, and what better time than when terrorists are on trial in New York, because to their warped, distorted way of thinking, what a great time to be blown up with all of these infidels surrounding them in New York City—infidels to them, innocents who deserve protection to the rest of us.

So as you get through the trial, you have not only the jailers, you have bailiffs, you have jailers who transport them. You have people working on the vehicles that will transport them. You have people working on perhaps air cover and working on the aircraft that will provide air cover, if any. You will have people who will be in those vehicles and aircraft. You have people all along the way, and every single person is a potential link that may be exploited by terrorists, either of their families or of those individuals, because these individuals intend to scare us and to show that we can do them no harm, but they can sure scare us. So what better opportunity.

During the course of the trial, of course, it is a daily thing to transport prisoners back and forth from the courtroom. You have people all over the courthouse. It may be more restricted during the trial, but it is really difficult to restrict the ongoing business in New York City. And especially since, as I read, the Attorney General says they intend to have them brought in Manhattan in the Southern District of New York, to Manhattan itself. Unbelievable. Unbelievable.

So there are a lot of people who are at risk, including the people in New



York City. And in case someone, Mr. Speaker, is tempted to think, "Well, this is 2009; that occurred September of 2001. I am sure those people have gotten over the panic, the fear, the trauma, the tragedy of that horrible day on 9/11," well, you don't have to go very far back and recall the insensitivity of this administration in having Air Force One fly over New York, accompanied by a fighter jet, which caused a sheer panic, as some may have seen on YouTube, among citizens in New York because they thought it is happening again and a fighter may have to shoot down Air Force One. It was unbelievable insensitivity, and as some may recall, at least one person lost their job over it.

It won't take much to start the panic all over again. The insensitivity is just amazing, just amazing.

So we are told, in addition, not only should we bring these terrorists to New York City, the most densely populated area in the country, but we should keep in mind that we are one of the largest Muslim Nations in the world, that we are not a Christian Nation.

I can't help but in this hallowed Hall, this incredible historic building, go back to the painting of George Washington down the hall as he extended his resignation, and the end of it, the resignation, after he had won the revolution, as he resigned, which was something which had never before or since been done in the history of mankind, lead a revolution and military, win, and then just go home after you did your job. Washington was an extraordinary man.

At the end of his resignation, he says, "I now make it my earnest prayer"—that's right, prayer—"that God would have you and the State over which you preside, in his holy protection, that he would incline the hearts of the citizens to cultivate a spirit of subordination and obedience to Government, to entertain a brotherly affection and love for one another, for their fellow citizens of the United States at large, and particularly for their brethren who have served in the field," which is what we just did on Veterans Day. These are Washington's own words that he wrote in his resignation at the end. "And finally, that he would most graciously be pleased to dispose us all, to do justice, to love mercy, and to demean ourselves with charity, humility and pacific temper of mind, which were the characteristics of the divine author of our blessed religion, and without an humble imitation of whose example in these things, we can never hope to be a happy Nation."

And he signed, "I have the honor to be with great respect and esteem Your Excellency's most obedient and very humble servant, George Washington."

That was our first President, our first Commander in Chief. Those were his words. That is what he thought. He

thought we had a divine author of our blessed religion. He didn't know what our current President knows, apparently.

Out here we have a painting right outside, a massive painting of the Constitutional Convention. After nearly 5 weeks of accomplishing virtually nothing, Benjamin Franklin, 80 years old, about 2 and a half years away from meeting his maker, brilliant, witty, charming, quite the man, stood up and he was recognized.

He said we have been going for nearly 5 weeks. We have more noes than ayes know. He said, "In this situation of this assembly," and we know these were his words taken by James Madison, "groping as it were in the dark to find political truth, and scarce able to distinguish it when presented to us, how does it happen, sir, that we have not hitherto once thought of humbly applying to the Father of Lights to illuminate understanding? In the beginning contest with Great Britain, when we were sensible of danger, we had daily prayer in this room for the divine protection. Our prayers, sir, were heard and they were graciously usually answered.

"All of us who were engaged in the struggle must have observed frequent instances of a superintending providence in our favor. To that kind of providence we owe this happy opportunity of consulting in peace on the means of establishing our future national felicity. And have we now forgotten that powerful friend? Or do we imagine we no longer need his assistance?"

See, this was during the founding, the creation of the Constitution. The Founders felt like it was okay to pray to God for divine protection and they were not worried if that insulted someone because it is what they believed.

Franklin stated, "All of us who were engaged in the struggle must have observed frequent instances of a superintending providence in our favor." He believed God was answering our prayers.

Anyway he goes on and says, "I have lived, sir, a long time, and the longer I live, the more convincing proofs I see of this truth—that God governs in the affairs of men. And if a sparrow cannot fall to the ground without his notice, is it probable that an empire can rise without his aid? We have been assured, sir, in the sacred writing, that 'except the Lord build the house, they labor in vain that build it.'"

"Firmly believe this," Benjamin Franklin said. He went on and said, "I also believe that without his concurring aid we shall succeed in this political building no better than the Builders of Babel. We shall be divided by our little partial local interest; our projects will be confounded, and we ourselves shall become a reproach and by word down to future ages. I there-

fore beg leave to move that henceforth prayers imploring the assistance of Heaven, and its blessings on our deliberations, be held in the assembly every morning."

It was seconded and unanimously adopted. From that day to this, we do not begin in this Chamber, or prior when the Congress met in other chambers, we don't meet without starting with prayer, without apologies.

You go on to Abraham Lincoln, one of the greatest theological discussions, and this came from a man who basically was self-educated, well read, self-taught, voracious reader, but he loved reading the Bible. He believed in God as indicated throughout his writings. And as he tried to reconcile the horrible, bloody Civil War that had gone on, profound words he wrote. As he wrestled—you can feel the inner conflict in himself when he tries to reconcile the North and South fighting, brother against brother, family member against family member—he said these words that are inscribed on the north side of the Lincoln Memorial, "Both read the same Bible and prayer to the same God, and each invokes His aid against the other. It may seem strange that any men should dare to ask a just God's assistance in wringing their bread from the sweat of other men's faces, but let us judge not, that we be not judged. The prayers of both could not be answered. That of neither has been answered fully. The Almighty has His own purpose. 'Woe unto the world because of offenses; for it must needs be that offenses come, but woe to that man by whom the offense cometh.'"

"If we shall suppose," Lincoln said "that American slavery is one of those offenses which, in the providence of God, must needs come, but which, having continued through His appointed time, He now wills to remove, and that He gives to both North and South this terrible war as the woe due to those by whom the offense came, shall we discern therein any departure from those divine attributes which the believers in a living God always ascribe to Him?"

"Fondly do we hope, fervently do we pray, that this mighty scourge of war may speedily pass away."

□ 2015

Lincoln continued: "Yet, if God wills that it continue, until all the wealth piled by the bondman's two hundred and fifty years of unrequited toil shall be sunk, and until every drop of blood drawn with the lash shall be paid by another drawn with the sword, as was said three thousand years ago, so still it must be said 'the judgments of the Lord are true and righteous altogether.'"

"With malice toward none, with charity for all, with firmness in the right as God gives us to see the right, let us strive on to finish the work we are in, to bind up the Nation's wounds,



to care for him who shall have borne the battle and for his widow and his orphan, to do all which may achieve and cherish a just and lasting peace among ourselves and with all nations."

"To bind up the Nation's wounds"? Does anyone think that we do that by bringing terrorists back to instill more terror in an area where the wounds have not yet been bound up and have not yet healed? It's a terrible mistake being made. A terrible mistake being made. And it may gain some knowing nods and smiles at some international cocktail party where members of this administration may go and say, see, we brought terrorists back to New York City, back to the most densely populated area. We inflicted upon ourselves even more terror. Aren't we wonderful? Self-flagellation, aren't we great? We beat ourselves up. Don't you love us?

We've seen there is no appreciation in the world when the United States hurts itself either by spending too much money or by opening its doors to terrorists who want to destroy our way of life and we do nothing about it until it's too late.

We're dealing with the PATRIOT Act. And I've had severe concerns about the national security letters when we found out that they were being abused under Director Mueller's watchful eye. But it needs to be reauthorized. There needs to be greater oversight than there was. There have been corrections made, but there are some protections in that act that have afforded us the ability to stay without a major terrorist attack for 8 years. This is no time to open ourselves up to additional terror by bringing terrorists on our soil, potentially allowing them to go free on our soil, potentially allowing them to go free anywhere.

They declared war. The tradition and the history of mankind is when you are from a group that declares war on another people, another country, and you're captured, you remain captured. You remain a prisoner until such time as your friends cease the war. And there is no intent to cease the war on behalf of the terrorists, as we have seen.

There are those who think that this administration is trying to create a situation where there is more damage and destruction financially, perhaps, through terrorists so they have to declare martial law and take over. I don't believe that for a moment. I just think there is a terrible lapse in judgment that may allow those things to happen.

But you go back to Thomas Jefferson. He said, "The natural progress of things is for liberty to yield and government to gain ground." You had John Adams, who said, "Property must be secured or liberty cannot exist."

We helped secure property when we kept the terrorists who want to destroy our way of life off of American soil over in the Middle East and then in the last 2 or 3 years at Guantanamo Bay.

Of course, Washington said, "Government is not reason. It is not eloquence. It is force. Like fire, it is a dangerous servant and a fearful master."

Of course, Abraham Lincoln went on to say, "We have been the recipients of the choicest bounties of heaven." Lincoln went on and he said, "We have grown in numbers, wealth, and power as no other nation." Lincoln finished his comment by saying, "But we have forgotten God."

We are creating self-inflicted wounds and it's time to stop. And hopefully we will have enough people on both sides of the aisle who will sign on to this bipartisan bill. I'm hoping it will be very bipartisan because Congress, as I have already read, has the obligation to set up all the courts inferior to the Supreme Court to set out their jurisdiction, set out their venue in the collective wisdom of this place.

And if we have a Chief Executive who's not aware of the coming damage and destruction that may occur by bringing people to the most densely populated area in the country in which to try them and have their friends try to destroy the trial itself, then it is the duty of this body to step up and say, you know, hey, under the Constitution this is our job. We're supposed to create the courts so you know where to try them. And we're going to eliminate the choice that you now have so that you put them in the right place. That's what should be done. That's what we need to pass. That's what the Congress was supposed to do according to the Constitution.

But we have already seen this year when Congress punted and when the Supreme Court punted. And so unelected, unconfirmed people meeting in secret as part of the White House decided what businesses would fall in the auto business, what would gain. They destroyed all the years of bankruptcy law, all the incredible wisdom that came together in the bankruptcy law, and turned it upside down.

Secured creditors were treated like dirt. Unsecured creditors were catapulted, because it involved unions, to the top. Turned the law upside down.

Well, that shouldn't have been allowed to stand. The Founders wanted us to step up and utilize the power that they gave this body. So you had dealerships, and in some places they had borrowed millions of dollars to buy the dealership, and all of a sudden some people that didn't even own cars were saying, you know what, close their dealership, maybe even give it to somebody down the road. And those people were left owing their banks the money they borrowed because some unelected, unconfirmed bureaucrat said this is the way we're going to do it. Oh, yes, well, of course, they did have to run into a lazy bankruptcy court's judge. Maybe he's not lazy; maybe he's just ambitious, who would sign off on that and give it the color of law.

But some may not know bankruptcy judges have to stand for reappointment, and many bankruptcy judges hope that they will invoke the favor of a President who will elevate them to a Federal district bench for life rather than on the bankruptcy court. And that has happened before many, many times.

But Congress stood mute and let the Constitution be turned upside down, let the laws that this body passed be turned upside down. So then the last hope of all the checks and balances put in place by our Founders was the Supreme Court. And Justice Ruth Bader Ginsberg, to her credit, put a 24-hour hold on that fiasco, that abomination under the laws of the United States and the Constitution. But she withdrew it, or it died at the end of the 24 hours, and all checks and balances on power were avoided, and we did exactly what the Founders hoped would never happen: we ignored the power of all the different branches so that one unelected, unappointed group could just run things as they wanted.

We can't let that type of action happen again here. We created the military commissions in this Congress under our authority of the Constitution. It is our obligation as a Congress to step in and protect the people of New York from the terrorism that will in all likelihood flow. And if you don't believe it, then go read the unclassified pleading filed by Khalid Sheikh Mohammed. If you don't believe that they mean harm, then you can check out the accounts of what goes on at Guantanamo.

What we have seen, found out in trips to Guantanamo Bay, shows that these guys are being treated better than prisoners I've ever seen in State or Federal prison in Texas and in other Federal prisons in the country, maximum security prisons, that is. They're fed well. They get several hours a day outside. They are given movie hours to watch movies.

In fact, one of the biggest problems at Guantanamo is not for the prisoners but comes from the prisoners. They are so brilliant and innovative, they figure out ways to throw urine and feces on our guards. But the standing order at Guantanamo, as told by the commander to me, the standing order is whoever has urine or feces thrown on them from one of the inmates may go and shower and change and take the rest of the day off. But to my knowledge, nobody has taken the rest of the day off. They go shower, clean up, and then they come back to duty.

I was told that there was one service-member who, from having feces thrown on him, actually lost his temper and yelled at the inmate, and for that he received an article 15 punishment for losing his temper after he had body excrement thrown on him.

When I have tried to find out if there wasn't some way to punish the prisoners who commit those types of assaults on our guards, I'm told that because there are so many international visitors, including Red Cross or whatever groups, come, Amnesty International, the groups that come, they come often enough that the people at Guantanamo did not want for these groups to come and find they put somebody in solitary confinement, despite the physical assaults. So there is no real punishment that is inflicted upon inmates that commit assaults on guards.

But, in fact, they may take a couple of their 4 hours of movie watching away; and if it's a bad enough assault on one of our guards, they may take away some of their time outside, which the inmates enjoy, of course, very much, and they get more of than most any prison that I've been to, maximum security prison.

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A maximum security prison, that is what we are dealing with in Guantanamo. People are well taken care of. But they are dangerous, and they want to destroy our way of life. And until their buddies declare that the war is over, we ought to continue to maintain them and keep them locked up away from American soil. And if the administration is absolutely intent on trying them before their buddies cease this war upon America, then it ought to be before a military commission, as Congress created in 2006 and has been amended even this year at the request of this administration.

So that's why I'm going to be filing a bill and asking, Mr. Speaker, colleagues on both sides of the aisle to please join in. Let's protect the families of victims of 9/11 in New York from having to endure this insufferable blow of having smirking, happy terrorists come to New York and gloat over this destruction and death they caused there. They do not deserve to gloat over the deaths and destruction they brought to New York City. They do not deserve to gloat over the destruction and death in Washington, D.C.

They deserve to be kept confined for the rest of their natural lives, but at least until their buddies say they are no longer at war, and they all give up, and then we can pound our swords into plowshares. Until that time, this body owes a duty to American citizens to protect it, to see that the administration doesn't subject it to unnecessary harm.

So with that, Mr. Speaker, I will yield back the balance of my time.

#### LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. YOUNG of Florida (at the request of Mr. BOEHNER) for from 2 p.m. until

3:15 p.m. today on account of official business.

#### SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Ms. WOOLSEY) to revise and extend their remarks and include extraneous material:)

Ms. WOOLSEY, for 5 minutes, today.

Mr. DAVIS of Illinois, for 5 minutes, today.

Mr. DEFAZIO, for 5 minutes, today.

Ms. KAPTUR, for 5 minutes, today.

#### ENROLLED BILLS SIGNED

Lorraine C. Miller, Clerk of the House, reported and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 955. An act to designate the facility of the United States Postal Service located at 10355 Northeast Valley Road in Rollingbay, Washington, as the "John 'Bud' Hawk Post Office".

H.R. 1516. An act to designate the facility of the United States Postal Service located at 37926 Church Street in Dade City, Florida, as the "Sergeant Marcus Mathes Post Office".

H.R. 1713. An act to name the South Central Agricultural Research Laboratory of the Department of Agriculture in Lane, Oklahoma, and the facility of the United States Postal Service located at 310 North Perry Street in Bennington, Oklahoma, in honor of former Congressman Wesley "Wes" Watkins.

H.R. 2004. An act to designate the facility of the United States Postal Service located at 4282 Beach Street in Akron, Michigan, as the "Akron Veterans Memorial Post Office".

H.R. 2215. An act to designate the facility of the United States Postal Service located at 140 Merriman Road in Garden City, Michigan, as the "John J. Shiven Post Office Building".

H.R. 2760. An act to designate the facility of the United States Postal Service located at 1615 North Wilcox Avenue in Los Angeles, California, as the "Johnny Grant Hollywood Post Office Building".

H.R. 2972. An act to designate the facility of the United States Postal Service located at 115 West Edward Street in Erath, Louisiana, as the "Conrad DeRouen, Jr. Post Office".

H.R. 3119. An act to designate the facility of the United States Postal Service located at 867 Stockton Street in San Francisco, California as the "Lim Poon Lee Post Office".

H.R. 3386. An act to designate the facility of the United States Postal Service located at 1165 2d Avenue in Des Moines, Iowa, as the "Iraq and Afghanistan Veterans Memorial Post Office".

H.R. 3547. An act to designate the facility of the United States Postal Service located at 936 South 250 East in Provo, Utah, as the "Rex E. Lee Post Office Building".

#### SENATE ENROLLED BILLS SIGNED

The Speaker announced her signature to enrolled bills of the Senate of the following titles:

S. 748. An act to redesignate the facility of the United States Postal Service located at 2777 Logan Avenue in San Diego, California, as the "Cesar E. Chavez Post Office".

S. 1211. To designate the facility of the United States Postal Service located at 60 School Street, Orchard Park, New York, as the "Jack F. Kemp Post Office Building".

S. 1314. An act to designate the facility of the United States Postal Service located at 630 Northeast Killingsworth Avenue in Portland, Oregon, as the "Dr. Martin Luther King, Jr. Post Office".

S. 1825. An act to extend the authority for relocation expenses test programs for Federal employees, and for other purposes.

#### ADJOURNMENT

Mr. GOHMERT. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 8 o'clock and 32 minutes p.m.), the House adjourned until tomorrow, Wednesday, November 18, 2009, at 10 a.m.

#### EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of Rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

4659. A letter from the Congressional Review Coordinator, Department of Agriculture, transmitting the Department's final rule — Importation of Tomatoes From Souss-Massa-Draa, Morocco [Docket No.: APHIS-2008-0017] (RIN: 0579-AC77) received November 6, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

4660. A letter from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting the Agency's final rule — Ulocladium oudemansii (U3 Strain); Exemption from the Requirement of a Tolerance [EPA-HQ-OPP-2008-0760; FRL-8436-6] received October 29, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

4661. A letter from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting the Agency's final rule — Certain Polyurethane Polymer; Tolerance Exemption [EPA-HQ-OPP-2009-0478; FRL-8796-3] received November 2, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

4662. A letter from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting the Agency's final rule — Methamidophos; Tolerance Actions [EPA-HQ-OPP-2007-0261; FRL-8796-1] received November 2, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

4663. A letter from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting the Agency's final rule — Pesticide Inert Ingredients; Revocation of Tolerance Exemption for Sperm Oil [EPA-HQ-OPP-2007-1125; FRL-8350-6] received November 2, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

4664. A letter from the Director, Defense Procurement and Acquisition Policy, Department of Defense, transmitting the Department's final rule — Defense Federal Acquisition Regulation Supplement; Competition Requirements for Purchases from Federal Prison Industries (DFARS Case 2008-

D015) (RIN: 0750-AG03) received November 2, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Armed Services.

4665. A letter from the Director, Defense Procurement and Acquisition Policy, Department of Defense, transmitting the Department's final rule — Defense Federal Acquisition Regulation Supplement; Steel for Military Construction Projects (DEFARS Case 2008-D038) (RIN: 0750-AG16) received November 2, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Armed Services.

4666. A letter from the Director, Defense Procurement and Acquisition Policy, Department of Defense, transmitting the Department's final rule — Defense Federal Acquisition Regulation Supplement; Senior DoD Officials Seeking Employment with Defense Contractors (DFARS Case 2008-D007) (RIN: 0750-AG07) received November 4, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Armed Services.

4667. A letter from the Director, Defense Procurement and Acquisition Policy, Department of Defense, transmitting the Department's final rule — Defense Federal Acquisition Regulation Supplement; Pilot Program for Transition to Follow-On Contracting After Use of Other Transaction Authority (DFARS Case 2008-D030) (RIN: 0750-AG17) received November 4, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Armed Services.

4668. A letter from the Deputy Secretary of Defense, Department of Defense, transmitting authorization of 19 officers to wear the authorized insignia of the grade of brigadier general, pursuant to 10 U.S.C. 777; to the Committee on Armed Services.

4669. A letter from the Chief Counsel, Department of Homeland Security, transmitting the Department's final rule — Suspension of Community Eligibility [Docket ID: FEMA-2008-0020; Internal Agency Docket No. FEMA-8097] received October 29, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

4670. A letter from the Chairman and President, Export-Import Bank, transmitting a report on transactions involving U.S. exports to Dominican Republic pursuant to Section 2(b)(3) of the Export-Import Bank Act of 1945, as amended; to the Committee on Financial Services.

4671. A letter from the Secretary, Department of Education, transmitting the Department's final rule — American Recovery and Reinvestment Act of 2009 (ARRA); Title 1, Part A of the Elementary and Secondary Education Act of 1965, as Amended (ESEA); Part B, Section 611 of the Individuals With Disabilities Education Act (IDEA) [Docket ID: ED-2009-OESE-0011] (RIN: 1819-AB05) received November 6, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Education and Labor.

4672. A letter from the Secretary, Department of Education, transmitting the Department's final "Major" rule — General and Non-Loan Programmatic Issues [Docket ID: ED-2009-OPE-0005] (RIN: 1840-AC99) received November 6, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Education and Labor.

4673. A letter from the Assistant General Counsel for Legislation, Regulation and Energy Efficiency, Department of Energy, transmitting the Department's final rule — Energy Conservation Program: Test Procedures for Fluorescent Lamp Ballasts (Standby Mode) [Docket No.: EERE-2008-BT-TP-0007] (RIN: 1904-AB77) received November 2, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

4674. A letter from the Program Manager, Department of Health and Human Services, transmitting the Department's final rule — HIPAA Administrative Simplification: Enforcement (RIN: 0991-AB55) received November 5, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

4675. A letter from the Secretary, Department of Health and Human Services, transmitting a report entitled "FDA Amendments Act of 2007 Section 904: Communicating to the Public on the Risks and Benefits of New Drugs"; to the Committee on Energy and Commerce.

4676. A letter from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Air Quality Implementation Plans; Maryland; Clean Air Interstate Rule [EPA-R03-OAR-2009-0034; FRL-8975-2] received October 29, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

4677. A letter from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Implementation Plans; Corrections to the Arizona and Nevada State Implementation Plans [EPA-R09-OAR-2009-0435; FRL-8976-3] received October 29, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

4678. A letter from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting the Agency's final rule — Revisions to the California State Implementation Plan, California Air Resources Board Consumer Products Regulations [EPA-R09-OAR-2009-00353; FRL-8979-9] received October 29, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

4679. A letter from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting the Agency's final rule — Revisions to the California State Implementation Plan, Northern Sierra Air Quality Management District and San Joaquin Valley Unified Air Pollution Control District [EPA-R09-OAR-2009-0371; FRL-8970-6] received October 29, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

4680. A letter from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting the Agency's final rule — Lead; Amendment to the Opt-out and Recordkeeping Provisions in the Renovation, Repair, and Painting Program [EPA-HQ-OPPT-2005-0049; FRL-8795-9] (RIN: 2070-AJ55) received October 29, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

4681. A letter from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting the Agency's final rule — National Priorities List, Final Rule No. 48 [EPA-HQ-SFUND-2009-0062, EPA-HQ-SFUND-2009-0066, EPA-HQ-SFUND-2008-0584; FRL-8977-5] (RIN: 2050-AD75) received November 2, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

4682. A letter from the Secretary of the Commission, Federal Trade Commission, transmitting the Commission's final rule — Fair Credit Reporting Affiliate Marketing Regulations; Identity Theft Red Flags and Address Discrepancies Under the Fair and Accurate Credit Transactions Act of 2003 (RIN: 3084-AA94) received November 6, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Foreign Affairs.

4683. A letter from the Under Secretary of Defense, Department of Defense, transmitting notice that the Department's Fiscal Year 2009 Agency Financial Report will be published electronically; to the Committee on Oversight and Government Reform.

4684. A letter from the Management Analyst, Regulatory Products Division, Department of Homeland Security, transmitting the Department's final rule — Commonwealth of the Northern Mariana Islands Transitional Worker Classification [CIS No. 2459-08; DHS Docket No. USCIS-2008-0038] (RIN: 1615-AB76) received October 29, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on the Judiciary.

4685. A letter from the Management Analyst, Regulatory Products Division, Department of Homeland Security, transmitting the Department's final rule — Application of Immigration Regulations to the Commonwealth of the Northern Mariana Islands [EOIR Docket No.: 169 AG Order No. 3120-2009] (RIN: 1125-AA67) received November 2, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on the Judiciary.

4686. A letter from the Clerk of the House of Representatives, transmitting annual compilation of financial disclosure statements of the members of the board of the Office of Congressional Ethics, pursuant to Rule XXVI, clause 3, of the House Rules; (H. Doc. No. 111-76); to the Committee on Standards of Official Conduct and ordered to be printed.

4687. A letter from the Chief, Publications and Regulations Branch, Department of Treasury, transmitting the Department's final rule — LMSB Division Director Memorandum — Industry Director Directive IDD U.S. Outer Continental Shelf Activity [LMSB-4-0909-037] received November 3, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

#### REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. CARDOZA: Committee on Rules. House Resolution 908. A resolution providing for consideration of the bill (H.R. 2781) to amend the Wild and Scenic Rivers Act to designate segments of the Molalla River in Oregon, as components of the National Wild and Scenic Rivers System, and for other purposes (Rept. 111-339). Referred to the House Calendar.

Ms. PINGREE of Maine: Committee on Rules. House Resolution 909. A resolution providing for consideration of the bill (H.R. 3791) to amend sections 33 and 34 of the Federal Fire Prevention and Control Act of 1974, and for other purposes (Rept. 111-340). Referred to the House Calendar.

#### PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions of the following titles were introduced and severally referred, as follows:

By Mr. DENT:

H.R. 4083. A bill to suspend temporarily the duty on polyoxethylene-alkyletherphosphate; to the Committee on Ways and Means.

By Mr. DENT:

H.R. 4084. A bill to suspend temporarily the duty on alkylated amino resin solution,

formaldehyde; to the Committee on Ways and Means.

By Mr. THOMPSON of California (for himself, Mr. DOGGETT, Mr. CAMP, Mr. TIBERI, Mrs. BONO MACK, Ms. ESHOO, Mr. HONDA, Ms. GIFFORDS, Mr. MCCAUL, Mr. SMITH of Texas, Mr. MEEKS of New York, Mr. CARTER, Ms. LINDA T. SANCHEZ of California, Mr. SCHAUER, and Ms. ZOE LOFGREN of California):

H.R. 4085. A bill to amend the Internal Revenue Code of 1986 to allow an investment credit for property used to fabricate solar energy property, and for other purposes; to the Committee on Ways and Means, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. KIRK:

H.R. 4086. A bill to require that certain conditions be met before the transfer of an individual detained at Naval Station, Guantanamo Bay, Cuba; to the Committee on Armed Services.

By Mr. NUNES (for himself, Mr. CONAWAY, and Mr. REHBERG):

H.R. 4087. A bill to extend temporarily the suspension of duty on nylon woolpacks used to package wool; to the Committee on Ways and Means.

By Mr. CARTER (for himself, Mr. PETRI, Mr. CONNOLLY of Virginia, Mr. RUPPERSBERGER, Mr. HUNTER, Mr. ROE of Tennessee, Ms. MCCOLLUM, Mr. RYAN of Wisconsin, Mr. COLE, Ms. BALDWIN, Mr. KIND, Mr. DOYLE, Mrs. BIGGERT, Ms. FALLIN, Mr. DONNELLY of Indiana, Mr. HOLDEN, Mr. ELLISON, Mr. CONAWAY, Ms. ROS-LEHTINEN, Mr. OLSON, Mrs. LUMMIS, Mr. PIERLUISI, Mrs. BLACKBURN, Ms. CHU, Mr. EDWARDS of Texas, Mr. MCCAUL, Ms. NORTON, Ms. GRANGER, Mr. THORNBERRY, Mrs. MCMORRIS RODGERS, Mr. NEUGEBAUER, Mr. FRANKS of Arizona, Mr. BRADY of Texas, Mr. SMITH of Texas, Mr. DAVIS of Tennessee, Mr. KING of New York, Mr. WESTMORELAND, Mr. WAMP, Mr. BROUN of Georgia, Mr. AL GREEN of Texas, Mr. CANTOR, Mr. PRICE of Georgia, Mr. LAMBORN, Mr. HENSARLING, Mr. GOHMERT, Mr. KING of Iowa, and Mr. DAVIS of Kentucky):

H.R. 4088. A bill to ensure that the members of the Armed Forces and civilian employees of the Department of Defense who were killed or wounded in the shootings at Fort Hood are treated in the same manner as members who are killed or wounded in combat zones or civilian employees who are killed or wounded in a terrorist attack or while serving with the Armed Forces in a contingency operation; to the Committee on Armed Services, and in addition to the Committees on Ways and Means, Oversight and Government Reform, and Veterans' Affairs, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. COSTA (for himself, Ms. KAPTUR, Mr. MOORE of Kansas, Ms. HIRONO, Mr. ABERCROMBIE, Mr. MCNERNEY, Mr. RYAN of Ohio, Mr. TERRY, and Ms. SUTTON):

H.R. 4089. A bill to create and extend certain temporary district court judgeships; to the Committee on the Judiciary.

By Mr. DAVIS of Illinois (for himself, Mr. LEWIS of Georgia, and Mr. TIBERI):

H.R. 4090. A bill to amend the Internal Revenue Code of 1986 to modify the rate of the excise tax on investment income of private foundations, and for other purposes; to the Committee on Ways and Means.

By Mr. DELAHUNT (for himself, Mr. GOHMERT, Mr. JOHNSON of Georgia, Mr. FRANKS of Arizona, Mr. MORAN of Virginia, Mr. CAO, Mr. HASTINGS of Florida, Mr. MCCAUL, Mrs. DAVIS of California, Mr. SCHIFF, Mr. DANIEL E. LUNGREN of California, Mr. PIERLUISI, Ms. BALDWIN, Mr. DAVIS of Alabama, and Mr. FRANK of Massachusetts):

H.R. 4091. A bill to amend titles 18 and 28 of the United States Code to provide incentives for the prompt payments of debts owed to the United States and the victims of crime by imposing late fees on unpaid judgments owed to the United States and to the victims of crime, to provide for offsets on amounts collected by the Department of Justice for Federal agencies, to increase the amount of special assessments imposed upon convicted persons, to establish an Enhanced Financial Recovery Fund to enhance, supplement, and improve the debt collection activities of the Department of Justice, to amend title 5, United States Code, to provide to assistant United States attorneys the same retirement benefits as are afforded to Federal law enforcement officers, and for other purposes; to the Committee on the Judiciary, and in addition to the Committee on Oversight and Government Reform, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. DELAURO:

H.R. 4092. A bill to allow Americans to receive paid sick time so that they can address their own health needs, and the health needs of their families, related to a contagious illness; to the Committee on Education and Labor, and in addition to the Committees on House Administration, and Oversight and Government Reform, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. MANZULLO:

H.R. 4093. A bill to authorize the Director of the Bureau of Prisons to purchase the Thomson Correctional Center in Thomson, Illinois, and for other purposes; to the Committee on the Judiciary.

By Mr. MELANCON:

H.R. 4094. A bill to prohibit insurers from canceling or refusing to renew homeowners insurance policies because of the presence of certain types of drywall in the home; to the Committee on Financial Services.

By Mr. MOORE of Kansas (for himself, Mr. TIAHRT, Mr. MORAN of Kansas, and Ms. JENKINS):

H.R. 4095. A bill to designate the facility of the United States Postal Service located at 9727 Antioch Road in Overland Park, Kansas, as the "Congresswoman Jan Meyers Post Office Building"; to the Committee on Oversight and Government Reform.

By Mr. PERRIELLO:

H.R. 4096. A bill to amend the Public Health Service Act to extend the deadlines applicable to filing petitions for compensation under the National Vaccine Injury Compensation Program; to the Committee on Energy and Commerce.

By Mr. SCHOCK (for himself, Mr. KIRK, Mr. SHIMKUS, Mr. JOHNSON of Illinois, Mrs. BIGGERT, Mr. ROSKAM, and Mr. MANZULLO):

H.R. 4097. A bill to prohibit the use of funds to transfer individuals detained by the United States at Naval Station, Guantanamo Bay, Cuba, to Thomson Correctional Center, Thomson, Illinois; to the Committee on Armed Services.

By Mr. TOWNS:

H.R. 4098. A bill to require the Director of the Office of Management and Budget to issue guidance on the use of peer-to-peer file sharing software to prohibit the personal use of such software by Government employees, and for other purposes; to the Committee on Oversight and Government Reform.

By Mr. MACK (for himself and Mr. TOWNS):

H. Con. Res. 213. Concurrent resolution expressing the sense of Congress for and solidarity with the people of El Salvador as they persevere through the aftermath of torrential rains which caused devastating flooding and deadly mudslides; to the Committee on Foreign Affairs.

By Ms. WATERS (for herself, Mr. WOLF, Ms. BORDALLO, Mrs. CHRISTENSEN, Ms. ROS-LEHTINEN, Ms. CORRINE BROWN of Florida, Ms. RICHARDSON, Mr. LEWIS of Georgia, and Ms. DELAURO):

H. Res. 910. A resolution supporting the goals and ideals of National Alzheimer's Disease Awareness Month and National Memory Screening Day, including the development of a national health policy on dementia screening and care; to the Committee on Energy and Commerce.

## MEMORIALS

Under clause 4 of rule XXII,

220. The SPEAKER presented a memorial of the House of Representatives of the State of Tennessee, relative to House Joint Resolution No. 546 urging the Department of Veterans Affairs to Accept Rhea County's proposed donation of its old hospital building, facilities, and campus to the VA; to the Committee on Veterans' Affairs.

## ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 205: Mrs. BONO MACK.  
H.R. 211: Mr. TIERNEY and Ms. NORTON.  
H.R. 333: Mr. GRAYSON.  
H.R. 483: Ms. PINGREE of Maine.  
H.R. 510: Mr. SCHOCK.  
H.R. 537: Mr. JACKSON of Illinois, Mr. RANGEL, Mr. TIM MURPHY of Pennsylvania, and Mr. DUNCAN.  
H.R. 571: Mr. NEUGEBAUER, Mr. FLEMING, and Mrs. MALONEY.  
H.R. 574: Mr. FORTENBERRY.  
H.R. 616: Mr. LIPINSKI and Mr. HEINRICH.  
H.R. 648: Mr. BOSWELL.  
H.R. 690: Mr. BARTON of Texas.  
H.R. 808: Mr. GRAYSON.  
H.R. 855: Mr. GRIFFITH.  
H.R. 868: Mr. BISHOP of New York and Mr. VAN HOLLEN.  
H.R. 948: Mr. MARSHALL.  
H.R. 988: Mr. GERLACH and Mr. DAVIS of Tennessee.  
H.R. 1177: Mr. CLEAVER and Mr. WESTMORELAND.  
H.R. 1308: Ms. BALDWIN.  
H.R. 1347: Mr. CONYERS and Mr. PAYNE.  
H.R. 1362: Mr. CALVERT, Mr. STARK, and Mr. MASSA.  
H.R. 1378: Mr. KAGEN, Mr. YARMUTH, Mr. WELCH, Mr. GUTHRIE, and Mr. HELLER.

H.R. 1412: Ms. SCHAKOWSKY.  
H.R. 1423: Mr. NADLER of New York and Mrs. MCCARTHY of New York.  
H.R. 1479: Ms. RICHARDSON.  
H.R. 1520: Mrs. LUMMIS.  
H.R. 1522: Mr. HILL.  
H.R. 1557: Ms. KOSMAS, Mrs. BACHMANN, and Mr. FATTAH.  
H.R. 1616: Mr. BAIRD.  
H.R. 1707: Mr. SCHOCK.  
H.R. 1718: Mr. FORTENBERRY.  
H.R. 1784: Ms. KOSMAS.  
H.R. 1826: Ms. SUTTON.  
H.R. 1891: Mr. POSEY.  
H.R. 1974: Mr. MCCOTTER.  
H.R. 2068: Mr. MICHAUD.  
H.R. 2103: Mr. SPRATT and Mr. BLUMENAUER.  
H.R. 2112: Mr. MCGOVERN, Mr. KILDEE, Mr. OLVER, and Mr. TIERNEY.  
H.R. 2149: Mr. WILSON of Ohio.  
H.R. 2246: Mr. MASSA.  
H.R. 2279: Mr. FILNER and Ms. SLAUGHTER.  
H.R. 2296: Mr. EDWARDS of Texas.  
H.R. 2298: Mr. CONYERS.  
H.R. 2324: Ms. CLARKE, Mr. ANDREWS, Mr. CROWLEY, and Mr. PASCRELL.  
H.R. 2360: Mr. CASTLE.  
H.R. 2408: Ms. CHU.  
H.R. 2452: Ms. RICHARDSON and Mr. KENNEDY.  
H.R. 2480: Mr. KILDEE, Mr. BRADY of Pennsylvania, Ms. MCCOLLUM, Mr. COFFMAN of Colorado, Mr. BISHOP of New York, and Mr. JACKSON of Illinois.  
H.R. 2523: Ms. RICHARDSON and Mr. CALVERT.  
H.R. 2570: Ms. CHU.  
H.R. 2573: Mr. HINCHEY, Mr. MCCOTTER, and Ms. TITUS.  
H.R. 2598: Mr. SABLAN and Mr. HOLT.  
H.R. 2607: Mr. POE of Texas.  
H.R. 2611: Ms. CLARKE and Ms. RICHARDSON.  
H.R. 2614: Mr. COHEN.  
H.R. 2628: Mr. LUCAS.  
H.R. 2690: Mr. AL GREEN of Texas.  
H.R. 2698: Mr. THORNBERRY, Ms. BORDALLO, Mr. COURTNEY, Mr. JOHNSON of Georgia, Mr. CHANDLER, Mr. CHILDERS, and Mr. HODES.  
H.R. 2699: Ms. BORDALLO, Mr. COURTNEY, Mr. JOHNSON of Georgia, Mr. CHANDLER, Mr. CHILDERS, and Mr. HODES.  
H.R. 2730: Mr. JACKSON of Illinois.  
H.R. 2766: Mr. ENGEL, Mr. SMITH of Washington, and Mrs. NAPOLITANO.  
H.R. 2788: Mr. CRENSHAW, Mr. MICHAUD, Mr. FOSTER, and Mrs. DAHLKEMPER.  
H.R. 2799: Mr. MICA, Mr. CULBERSON, Mr. ARCURI, Mr. YOUNG of Alaska, Ms. NORTON, Mr. HERGER, and Mr. WALZ.

H.R. 2829: Mr. RANGEL.  
H.R. 2840: Mr. HEINRICH.  
H.R. 2849: Mr. ROTHMAN of New Jersey and Mr. PASCRELL.  
H.R. 2887: Mr. PAUL.  
H.R. 3017: Mr. BOCCIERI.  
H.R. 3020: Mr. MURPHY of New York, Mr. MASSA, and Mr. SCHAUER.  
H.R. 3053: Mr. RANGEL.  
H.R. 3077: Mr. WU.  
H.R. 3147: Mr. RANGEL and Ms. KAPTUR.  
H.R. 3149: Ms. LORETTA SANCHEZ of California.  
H.R. 3251: Mr. MILLER of Florida.  
H.R. 3259: Mr. BAIRD, Mr. EHLERS, Ms. RICHARDSON, Mr. GRIJALVA, and Mrs. MCMORRIS RODGERS.  
H.R. 3339: Ms. BORDALLO.  
H.R. 3402: Mr. HODES.  
H.R. 3431: Mr. TIM MURPHY of Pennsylvania.  
H.R. 3468: Mr. CRENSHAW.  
H.R. 3471: Ms. SHEA-PORTER.  
H.R. 3511: Mr. SCOTT of Georgia.  
H.R. 3553: Mr. HEINRICH.  
H.R. 3577: Mr. WALZ, Mr. CARNEY, Ms. FUDGE, Mr. PLATTS, and Mr. BACA.  
H.R. 3613: Mr. JOHNSON of Illinois, Mr. SMITH of Texas, Ms. GRANGER, Mr. BACHUS, and Mr. OLSON.  
H.R. 3627: Mr. MASSA, Mr. BOUCHER, and Mr. REHBERG.  
H.R. 3644: Mr. HOLT, Mr. PALLONE, Mr. HINCHEY, Mrs. MILLER of Michigan, Mr. SARBANES, Mr. INSLEE, and Mrs. NAPOLITANO.  
H.R. 3646: Mr. DOYLE.  
H.R. 3657: Mr. WALZ and Ms. FUDGE.  
H.R. 3664: Mr. ROTHMAN of New Jersey.  
H.R. 3799: Mr. MOORE of Kansas.  
H.R. 3810: Mr. LIPINSKI.  
H.R. 3839: Mr. SHUSTER.  
H.R. 3844: Mr. BARROW.  
H.R. 3852: Mrs. MALONEY, Mr. TONKO, and Mr. HINCHEY.  
H.R. 3943: Mr. GERLACH, Ms. CLARKE, Mr. TAYLOR, Ms. FUDGE, Mr. DENT, Mrs. BIGGERT, Mrs. MILLER of Michigan, Mr. UPTON, Mrs. EMERSON, Mr. SCHOCK, Ms. GIFFORDS, Ms. CASTOR of Florida, Mr. TIBERI, and Mr. LANCE.  
H.R. 3966: Ms. WATSON.  
H.R. 3991: Mr. HINOJOSA and Mr. HOLT.  
H.R. 4022: Mr. MEEK of Florida.  
H.R. 4036: Ms. RICHARDSON, Mrs. CHRISTENSEN, Mr. DAVIS of Illinois, and Mrs. MALONEY.  
H.R. 4047: Mr. MELANCON.  
H.R. 4052: Mr. SENSENBRENNER.  
H.R. 4063: Ms. BORDALLO.  
H. Con. Res. 18: Mr. MCHENRY.

H. Con. Res. 40: Mr. CALVERT.  
H. Con. Res. 160: Mrs. BLACKBURN, Mr. BRALEY of Iowa, and Mr. CAMPBELL.  
H. Con. Res. 203: Mr. BUTTERFIELD and Ms. FOX.  
H. Res. 200: Mr. POE of Texas.  
H. Res. 267: Mr. CULBERSON.  
H. Res. 510: Mr. KIRK, Mrs. HALVORSON, and Ms. SCHAKOWSKY.  
H. Res. 771: Mr. ALTMIRE.  
H. Res. 812: Mr. ADLER of New Jersey, Mr. PALLONE, and Mr. HOLT.  
H. Res. 840: Mr. WOLF.  
H. Res. 852: Mr. WESTMORELAND.  
H. Res. 860: Ms. SCHAKOWSKY, Mr. SHULER, Ms. BERKLEY, Mr. WALZ, Mr. BLUMENAUER, Mr. MINNICK, and Mr. MOORE of Kansas.  
H. Res. 861: Mr. DICKS, Mr. BISHOP of New York, Mr. MCMAHON, Mr. ADLER of New Jersey, Mr. BOCCIERI, Mr. LEE of New York, Mr. CHAFFETZ, Mr. LANGEVIN, and Ms. KOSMAS.  
H. Res. 870: Mr. FRELINGHUYSEN and Mr. BUYER.  
H. Res. 900: Mr. ACKERMAN, Mr. TONKO, Mr. HALL of New York, Mr. TOWNS, Mr. ARCURI, Mr. HIGGINS, Mr. MEEKS of New York, Mr. HINCHEY, Mr. TAYLOR, Mr. ABERCROMBIE, Mr. SNYDER, Mr. SMITH of Washington, Ms. LORETTA SANCHEZ of California, Mr. ANDREWS, Ms. HARMAN, Mr. CONNOLLY of Virginia, Mr. CROWLEY, Mr. WEINER, Mr. MURPHY of New York, Mr. COURTNEY, Mr. LARSEN of Washington, Mrs. DAVIS of California, Mr. LANGEVIN, Mr. ROSS, Ms. ESHOO, Mr. HEINRICH, Mr. SESTAK, and Mr. LOEBACK.

#### DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 7 of rule XII, sponsors were deleted from public bills and resolutions as follows:

H.R. 3904: Mr. HINOJOSA.

#### PETITIONS, ETC.

Under clause 1 of rule XXII,

80. The SPEAKER presented a petition of City of Lauderdale Lakes, Florida, relative to Resolution No. 09-98 urging the Congress of the United States to extend the first-time home buyer a tax credit under the Housing and Economic Recovery Act of 2008; which was referred to the Committee on Ways and Means.

## EXTENSIONS OF REMARKS

RECOGNIZING THE RETIREMENT  
OF PETTY OFFICER JOHN M.  
COOPER III

**HON. TRAVIS W. CHILDERS**

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, November 17, 2009*

Mr. CHILDERS. Madam Speaker, I rise today to honor Petty Officer John M. Cooper III, United States Navy. Petty Officer Cooper III is retiring from the Navy after 20 years of service to our nation.

In 1990, Petty Officer Cooper III, enlisted in the United States Navy. In his career as Hull Technician, Petty Officer Cooper III was responsible for helping to keep the fleet operational and ensuring that the navy vessels are in good condition.

During his time in the United States Navy, Petty Officer Cooper III traveled the world and received many medals and ribbons for his service. He was certified as a Quality Assurance Officer, Safety Supervisor, and Gas Free Engineer.

Petty Officer Cooper III has dedicated years of service to this nation, and for that, we thank him. I ask my colleagues to join me today in honoring Petty Officer John M. Cooper III on the occasion of his retirement from the United States Navy.

IN HONOR AND RECOGNITION OF  
SISTER DONNA L. HAWK

**HON. DENNIS J. KUCINICH**

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, November 17, 2009*

Mr. KUCINICH. Madam Speaker, I rise today in honor and recognition of Sister Donna L. Hawk of Cleveland, Ohio, as she is named the West Side Catholic Center's Walk in Faith recipient of 2009.

Throughout her life, Sister Donna Hawk has turned her faith into action, uplifting the lives of those living on the streets. Sister Donna has become a nationally-known leader by creating and operating transitional housing for the homeless, especially for women and their children fleeing domestic violence. While working for many years as a volunteer at the West Side Catholic Shelter, Sister Donna developed a special compassion for women, many of whom had young children, who sought refuge from abusive situations.

In 1986, without funding, Sister Donna teamed with Sister Loretta Schulte to rally community leaders and developers in order to transform a motel on Cleveland's west side into Transitional Housing, Inc.—a place of shelter and source of counseling and resources for women and children in need. For more than twenty years, Transitional Housing,

Inc. has served as a model for similar programs throughout the nation and across the world.

Madam Speaker, please join me in honoring and recognizing of Sister Donna L. Hawk, whose faith in action, unwavering belief in the possibility of transformation, and staunch advocacy has given strength and hope to countless women and children.

### EARMARK DECLARATION

**HON. AARON SCHOCK**

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, November 17, 2009*

Mr. SCHOCK. Madam Speaker, in accordance with the Republican adopted standards on earmarks, I submit the below detailed explanation of the Biotechnology Research and Development Corporation in Peoria, Illinois.

Bill Number: H.R. 2997—FY 2010 Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act.

Provisions/Account: Agriculture Research Service—Salaries and Expenses.

Name and Address of Requesting Entity: The entity to receive funding for this project is the Biotechnology Research and Development Corporation at 1815 North University Street, Peoria, Illinois 61604.

Description of Request: This funding will be used to find new market opportunities for commodity agricultural products, improve efficiency of production, develop new methods of disease control for both plant and animal commodities, and facilitate communication between the government and academic scientists and American Industry.

### LISTEN TO THE DISSIDENTS

**HON. FRANK R. WOLF**

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, November 17, 2009*

Mr. WOLF. Madam Speaker, I would like to share with our colleagues an editorial from the November 8 Washington Post by columnist Jim Hoagland. Hoagland's piece is aptly titled "Listen to the Dissidents." Hoagland points out the limits of "engagement" as pursued by the Obama administration—particularly engagement that relegates human rights issues to the back-burner.

It is tragic that, as Hoagland points out, "the dissident—a hero and catalyst for enormous change in the Soviet empire, China, the Philippines and elsewhere only two decades ago—has become a largely neglected and absent figure in this administration's diplomacy."

I join the growing chorus of voices in urging the President to listen to the dissidents.

[From the Washington Post, Nov. 8, 2009.]

LISTEN TO THE DISSIDENTS

(By Jim Hoagland)

Barack Obama's extended hand was whacked across the knuckles by the leaders of Iran, Syria and assorted other thuggeries last week. But the Obama administration did manage a good demonstration in Burma of how its brand of engagement can and should work.

Kurt Campbell, the State Department's top Asia official, traveled to the isolated military dictatorship to talk with its corrupt junta. But Campbell also insisted on having a highly visible meeting with the leader of the country's democracy movement, Aung San Suu Kyi, and then publicly called on her persecutors to grant her party more freedoms.

This is the balance that has been missing in Obama's outreach to other authoritarian states. Demonstrators on the streets of Tehran underlined the president's missing link Wednesday by chanting: "Obama, Obama—either you're with them or you're with us," as Iranian police beat them, according to news accounts. Obama and his advisers need to take the dissidents' message to heart.

The dissident—a hero and catalyst for enormous change in the Soviet empire, China, the Philippines and elsewhere only two decades ago—has become a largely neglected and absent figure in this administration's diplomacy. Media coverage of political protest globally also seems to have waned since the end of the Cold War.

True, Obama and Secretary of State Hillary Clinton have made symbolic gestures toward the politically oppressed on their travels and in pro forma statements. But, as the president's coming visit to China will again show, dissident political movements have not been incorporated into his strategy for changing the world. The president believes so strongly in his powers of persuasion that the transformative work once done by Lech Walesa, Alexander Solzhenitsyn, Corazon Aquino, Wei Jingsheng and others now falls largely on his shoulders. Campbell's meeting with Suu Kyi provided a useful corrective, for one country at least, to this tendency.

George W. Bush proved that it is possible to overdo support for dissident movements and the vilification of their tormentors, just as his father demonstrated that it can be underdone (see Bush 41's effort to keep the Soviet Union and Yugoslavia from disintegrating). The Bush 43 administration, in fact, bears some of the responsibility for the eclipse of the dissident in the public mind. The focus of many journalists' and political activists has recently been on U.S. human rights abuses rather than those of much more brutal foreign regimes.

So Obama's decision to reach out and encourage hostile regimes to relax their grip internally made initial tactical sense, especially in Iran. The administration deserves some credit for the current political fluidity there. Removing the United States as a heavy-handed, threatening enemy helped expose President Mahmoud Ahmadinejad's

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

manifest failures of governance and helped meaningful dissent to surface and spread.

But the extended-hand tactic may have run its course there. Ayatollah Ali Khamenei, the country's highest authority, used inflammatory language to denounce Obama and the U.S.-originated proposal on uranium reprocessing given to Iran on Oct. 1 in Geneva. Even though U.S. officials claimed at the time that Iran had "accepted" the proposal—which effectively drops the long-standing U.S. demand for Iran to suspend its enrichment of uranium as a condition for negotiations—Khamenei said that its terms were unacceptable.

Meanwhile, protesters were voicing concern that Obama's single-minded pursuit of a nuclear deal is conveying legitimacy to Khamenei and Ahmadinejad—at the dissidents' expense. They did not seem to have been impressed by the general words of support contained in a message issued by Obama to mark not this political uprising but the 30th anniversary of the seizure of the U.S. Embassy in Tehran, an event celebrated in Iran but not here.

Syria also served notice that its priorities have not been influenced by Team Obama's repeated blandishments for better relations. Israel intercepted a major clandestine Iranian arms shipment destined for Syria and the Hezbollah guerrillas it supports in Lebanon. And As-Safir, a Syrian-controlled newspaper in Beirut, launched a vitriolic, sexist attack on Michele Sison, the able U.S. ambassador to Lebanon, that concluded by calling on its readers to "silence this chatterbox"—an ominous statement in a country where U.S. and European diplomats have been murdered.

Friendly, principled engagement is a useful tool—up to a point. It is probably worth exploring in Burma with new steps. But there also has to be a workable Plan B—something Obama will now have to demonstrate that he has developed for Iran and Syria.

HONORING FERNANDO C.  
MACHADO

HON. JIM COSTA  
OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES  
*Tuesday, November 17, 2009*

Mr. COSTA. Madam Speaker, I rise today to pay special tribute to a man whose life and pursuits exemplify the spirit of fortitude, entrepreneurship, virtues of family and citizenship demonstrated by so many of those who strive to provide food and fiber to the citizens of this great nation. Many things have contributed to California's bountiful agriculture industry and economic well-being, but one significant underlying factor in California's agricultural success has been the presence of agricultural leaders such as Fernando C. Machado. A veteran farmer and former dairyman, Mr. Fred Machado is being honored on November 18, 2009 in Fresno, California as the 2009 Agriculturist of the Year by the Greater Fresno Area Chamber of Commerce.

Fred Machado, born an American citizen on the Azores Island of Portugal in 1932, moved back to the United States with his family in 1949. After a four-year tour in the United States Navy during the Korean War, Mr. Machado returned to California in 1955 where he began to farm twenty-six acres of rented

land near Easton. To make ends meet, he also worked on dairies, at cotton gins and at various other odd jobs. Today, Fred continues to farm, but on his own 800 acres of almonds, grapes, orchards and feed crops.

Fred and his family have always been involved in the San Joaquin Valley agricultural industry in a variety of capacities over the years. He was quoted recently as saying, "I will always be in farming as long as I can, I cannot get away from the dirt." Machado continued, "It's been great for us. We've made a good living, we've raised our family there . . . We're just real happy to be involved in agriculture."

A past president of the Fresno County Farm Bureau, Mr. Machado has also served on the board of directors of the National Milk Producers Federation, Challenge Dairy and Danish Creamery and several other agriculture committees in the Valley. He has extensive community service in organizations such as Veterans of Foreign Wars Post #84, Knights of Columbus #153 of Easton, Fraternal Order of Eagles Fresno Aerie #39, and the Portuguese Fraternal Organizations—I.D.E.S.S., S.E.S., and U.P.E.C.

Fred Machado has also been the recipient of a number of other awards, among which are Fresno County Farm Bureau's Distinguished Service Award, the California Farm Bureau's Distinguished Service Award, and California State University Fresno, Ag One Community Salute Award. The award Mr. Machado is receiving this November 18th is indeed a high honor in Fresno County. Fred is truly deserving of this award. It is especially fitting to congratulate and salute Mr. Fred Machado for his outstanding service to agriculture, the people of California and our nation.

LEONID NEVZLIN

HON. ROBERT WEXLER  
OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES  
*Tuesday, November 17, 2009*

Mr. WEXLER. Madam Speaker, I would like to bring to my colleagues' attention the achievements of Leonid Nevzlin, a person who deserves recognition as a champion of the humanities in Russia, a civic leader in his adopted homeland Israel, and a philanthropist across three continents. I am proud to pay tribute to this extraordinary man, who has dedicated his life and his resources to supporting important social efforts and has provided leadership to the Jewish Diaspora around the world. His generous support for numerous organizations has made him an example to his countrymen for taking a social stand and making giving and sharing a way of life.

Mr. Nevzlin has been instrumental in introducing democratic reforms and social responsibility to the former Soviet Union. He was directly involved in a number of projects to support Russian President Boris Yeltsin in an effort to boost civil society and democratic freedoms during the Russian Federation's transition from communism. In June 2003, after helping to establish several foundations and

pro-democracy organizations, Mr. Nevzlin was elected President of the Russian National Humanities University. This university, which was created to foster the country's new liberal-minded elite, has received an unprecedented \$10 million in financial support. In the autumn of 2003, Mr. Nevzlin was forced to leave Russia, at which time he became a citizen of Israel and began to expand his efforts on behalf of the Jewish people.

Mr. Nevzlin's private manner belies the fact that he is one of the most important international Jewish leaders today. His continuous efforts to give a contemporary meaning to the concept of "Jewish peoplehood"—primarily through his deep involvement in the Museum of Jewish Diaspora in Tel Aviv—has re-energized Jewish communities and organizations around the world. Mr. Nevzlin is also one of the largest and earliest supporters of the Tom Lantos Foundation for Human Rights, established to honor our distinguished colleague's memory and to carry on his work for human rights around the world. In recognition of his activism and leadership, Mr. Nevzlin was recently named this year's chairperson of the General Assembly of the United Jewish Communities, the largest gathering of the Jewish community, which will take place in Washington, DC in the fall.

It is for all these reasons, Madam Speaker, that I believe it is fitting that we recognize Leonid Nevzlin's commitment to advancing the cause of civil society and human rights and his leadership and generous support of organizations dedicated to serving the needs of others.

RECOGNIZING THE ACCOMPLISHMENTS AND CONTRIBUTIONS OF  
MS. ANTHONETTE PEÑA

HON. ALCEE L. HASTINGS  
OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES  
*Tuesday, November 17, 2009*

Mr. HASTINGS of Florida. Madam Speaker, I rise today to honor an outstanding educator and devoted mentor, Ms. Anthonette Peña. Anthonette teaches eighth grade science at Howell L. Watkins Middle School in Palm Beach Gardens, FL and is indeed among Florida's best and brightest. A standout among her colleagues with a passion for teaching and shaping educational policy, Anthonette has earned an esteemed Albert Einstein Distinguished Educator Fellowship for a second year in a row.

I welcome Anthonette to Washington and am certain that her time at the office of the Division of Research on Learning in Formal and Informal Settings at the National Science Foundation (NSF) will be an enriching learning experience for all involved. Anthonette hopes to use this fellowship year to raise awareness about the importance of community organizations and government in motivating students to excel in science and mathematics. I laud her commitment to creating more scholarships for students of under-served populations so they, too, may benefit from science, technology, engineering, and mathematics (STEM) opportunities.



In her home state of Florida, Anthonette is very active in her local community. In addition to securing several grants for science related programs, she also dedicates her time as a mentor for beginning teachers. Anthonette believes that employing cross-curricular lessons is key to developing well-rounded, critical thinkers. When she organized her school's first Girl Scout troop, she not only incorporated STEM activities, but brought learning opportunities from inside the classroom into the community.

Anthonette has worked hard to earn this distinction, and exemplifies the possibilities that a good education offers. She earned her B.A. in Liberal Studies at California Polytechnic State University, San Luis Obispo and her M.S. in Education at Nova Southeastern University. Recognizing the importance of a well-balanced education in today's ever-shrinking world, Anthonette also studied abroad at The University of Valladolid in Spain, while also participating in the Japan Fulbright Memorial Fund Teacher program and the Toyota International Teacher Program in Costa Rica.

Madam Speaker, I truly appreciate the work that Anthonette Peña and Florida's teachers do every single day in preparing our nation's leaders of tomorrow. She has long demonstrated excellence and dedication to teaching worthy of the Albert Einstein Distinguished Educator Fellowship, and I congratulate her double on this achievement.

IN HONOR OF JOHN TIMOTHY  
"JACK" MULHALL, SR.

**HON. DENNIS J. KUCINICH**

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, November 17, 2009*

Mr. KUCINICH. Madam Speaker, I rise today in honor of John Timothy "Jack" Mulhall, Sr., for his lifelong dedication to the service of others, and especially for his commitment to helping tens of thousands of people build lives based on a platform of hope, strength and sobriety.

Mr. Mulhall grew up in Cleveland and graduated from Holy Name High School. He joined the Army, and in July, 1944 at a USO dance in Natchez, Mississippi, he met the love of his life, Estelle Jones. They married three months later on October 28th, 1944 at St. Mary Basilica Church in Natchez. He was later deployed overseas, surviving battles in both Germany and France, and suffering severe frostbite while there. Before his honorable discharge in 1946, he achieved the rank of Master Sergeant and was awarded several commendations, including the Presidential Citation, the Good Conduct Medal, and the Overseas Service Medal. He returned to Cleveland and began building a new life with his wife. He played semi-professional baseball during his twenties, worked at Republic Steel and Standard Oil, then General Tire and Rubber. Together, he and Estelle raised eleven children. Married for nearly 65 years, the joy of their lives are their eleven grown children, 31 grandchildren and 16 great-grandchildren.

Mr. Mulhall discovered what would become his life's work in 1972, when he began reach-

ing out to help individuals, young and old, break free from the pain of alcohol and chemical addiction. For nearly forty years, he has remained steadfast in his focus. From 1972 to 1991, Mr. Mulhall served as the director of Stella Maris Detox Hospital. He later co-founded the Freedom House, Inc., a sober living facility—established to fill the critical need to provide a sober environment and treatment for any individual, regardless of their ability to pay. He left Freedom House in 1998 to co-establish the Ed Keating Center, Inc., an organization with the same mission and the dedication to providing service as Freedom House. The Ed Keating Center relied entirely on private donations from individuals and corporations, receiving no public assistance. The Center continues to serve the Cleveland community restoring lives, re-connecting families, and giving people, especially those without health insurance or those unable to afford treatment, the tools to live sober, healthy, happy and productive lives. Over the years, Mr. Mulhall positively impacted the lives of more than 60,000 women and men.

Madam Speaker and Colleagues, please join me in honor of John Timothy "Jack" Mulhall Sr., for his efforts, vision and work creating havens of strength, comfort, hope and healing. Because of Mr. Mulhall's compassion and unwavering focus, institutions like the Ed Keating Center exist as a lifeline, providing vulnerable citizens the treatment they need to end the devastating cycle of addiction. These people become free to live happy, productive, drug and alcohol free lives, which in turn uplifts and strengthens our entire community.

A TRIBUTE TO DEACON WILLIE  
JAMES

**HON. EDOLPHUS TOWNS-**

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, November 17, 2009*

Mr. TOWNS. Madam Speaker, I rise today in recognition of Deacon Willie James, an extraordinary community organizer who will be missed by Brooklyn.

Deacon Willie James a native New Yorker, was born in Harlem Hospital on April 28th, 1936. When he was 18 years old he entered the Air Force and served 4 years doing a stint in Maine and Morocco. Of his many accomplishments, he was a very proud member of the 80th Supply Squadron and received the Good Conduct Medal for his demonstration of honor, efficiency and fidelity.

Willie had a true love of music and was an accomplished Baritone. While in the service, he and a few other airmen formed a doo-wop vocal group that covered songs by the Platters as well as other groups. Willie would often say that the group was so good that the people in Morocco actually thought they were the real Platters!

Later in life he would return to Harlem finding work as a shipping clerk. What Willie considered the highest point in his life, was when he met and married his late wife of 41 years, Rosabelle Moyd. It would prove to be a blessed union of love. Shortly after marriage, he joined the New York City Police Depart-

ment and then in 1967 began his career with the Transport Workers Union (TWU) Local 100 under the Manhattan and Bronx Surface Transit Operating Authority (MABSTOA). He started with a metal-plating company where he was assigned to a unit with workers who were perceived by some to be derelict workers beset by alcohol and laziness.

Never one to look down upon anyone, but seeing the opportunity to help others; he discovered his masterful skill of organizing workers. He told workers if they worked with him he would make a case to management to get them higher wages. After a series of meetings and negotiations with the bosses, he won raises for the workers and developed a promotional ladder for himself.

He rose through the ranks of TWU Local 100 and held a series of positions; MABSTOA DIVISION II Bus Operator, Division II Recording Secretary, Vice Chairman, Chairman at Amsterdam Garage, Executive Board as Director of Education and Training and Financial Secretary Treasurer. As he continued climbing the ladder of TWU he recalled how he continuously endured blatant racism; but in February 1996 he defied the odds to become the first black President of TWU Local 100. He was quoted as saying "The members don't care what color I am as long as I protect their jobs".

In addition to his roles with TWU Local 100 he was Vice President of New York AFL-CIO, Vice President of the New York City Central Labor Council and Vice President of international TWU. He also held the title of Chairman for one of the oldest and largest Credit Unions in the State of New York, the Municipal Credit Union. Willie would further his accomplishments by attaining the post of Executive Board Member of the New York Branch of the NAACP.

I could continue to list all of Deacon Willie James' accomplishments, because they go on and on. I will just say that the world will truly miss this deeply involved civic community organizer. I am happy that I had the opportunity to work with him on many special projects and to live during his lifetime.

Madam Speaker, I urge my colleagues to join me in recognizing Deacon Willie James.

REVITALIZING THOMSON, ILLINOIS

**HON. DONALD A. MANZULLO**

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, November 17, 2009*

Mr. MANZULLO. Madam Speaker, I rise today in strong opposition to the Administration's plan to link economic development in the district that I have the honor to represent to the transfer of dangerous terrorists from Guantanamo Bay, Cuba.

The hardworking people of northern Illinois have waited too long for the promise of economic stimulus and are looking for good paying employment opportunities. It is absolutely unnecessary to condition job creation with the wholesale importation of over 200 battle-hardened terrorists that could dampen long-term economic growth in that region.

Today, I am introducing legislation to authorize the federal government to purchase

the maximum security correctional facility located in Thomson, Illinois for the purpose of alleviating an already overcrowded federal penal system while prohibiting the transfer of terrorist detainees from Guantanamo Bay, Cuba. If passed, my legislation would bring good jobs to northern Illinois while keeping our communities safe. Thomson and the surrounding rural areas of Carroll County suffer from chronic high unemployment and population loss. Currently, Carroll County has an unemployment rate of 10.5 percent. Thomson has an unemployment rate of 11.8 percent and has unfortunately experienced a negative population growth rate of 4.5 percent since 2000. Fulfilling the promise of the Thomas Correctional Center will bring eagerly anticipated economic activity to the region.

For years, I have been encouraging the State of Illinois to utilize this prison after so much was invested to build the facility. Unfortunately, my requests went unheeded. Now, we have a unique opportunity to help both the federal government with its need to reduce prison overcapacity and the local community with its need for economic development.

The Federal Bureau of Prisons estimates that purchasing the facility near Thomson will cost approximately \$120 million. My legislation provides sufficient flexibility in funding to purchase and transfer federal prisoners to this facility. However, the legislation specifically prohibits the federal government from housing any terrorist detainees currently at Guantanamo Bay, Cuba, at this site or any other federal, state, or local facility in Illinois.

Madam Speaker, the good people of Thomson and the rest of Illinois' 16th Congressional District have waited too long for this government to fulfill its promise to "save or create" jobs. Given the overcrowding in America's prison system, let's use the Thomson correctional facility to house non-terrorist prisoners and create the jobs so vital for our families. Now is the time to stop linking job creation to the transfer of terrorist detainees and work towards a sensible compromise on this issue. I urge my colleagues to support this bill.

RECOGNIZING MAJOR NANCY J. JOHNSON—SCOTTSDALE HEALTHCARE'S "SALUTE TO MILITARY" HONOREE

**HON. HARRY E. MITCHELL**

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, November 17, 2009*

Mr. MITCHELL. Madam Speaker, I rise today to recognize an outstanding member of the Armed Forces from my home state of Arizona. Each month, Scottsdale Healthcare honors military personnel who perform exceptionally in the medical field in defense of our country. Scottsdale Healthcare has recognized Major Nancy J. Johnson for the month of November.

I commend Scottsdale Healthcare for paying tribute to Major Johnson for her life-saving expertise and honorable service to our country.

Major Johnson distinguished herself through her outstanding performance as a Chief Nurse in Qatar. She led her team and provided super-

rior medical support to more than 8,000 deployed military members. Her clinical expertise and management skills guaranteed expeditious transport of critically wounded soldiers to higher levels of care that saved lives, limbs and eyesight.

Madam Speaker, please join me in recognizing this courageous Air Force Nurse Corps leader for serving our country and protecting the lives of her fellow service men and women in combat.

JOHN L. RAY

**HON. SHELLEY MOORE CAPITO**

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, November 17, 2009*

Mrs. CAPITO. Madam Speaker, I rise today to honor John L. Ray, in celebration of the 100 years since the Charleston Public Library opened in 1909.

John V. Ray Sr., a library patron, held the position as president of the library board for more than 30 years, where he helped write the Kanawha County Public Library Act that would see its way through the West Virginia Legislature. This guaranteed that libraries would be granted a share of the property taxes which came to the Kanawha County Board of Education, the Kanawha County Commission and the city of Charleston. It was a key piece of legislation that kept a stream of funding for libraries.

His son, John L. Ray followed in family tradition when he took over as Kanawha County Public Library board president in 1988. An avid library supporter himself, John had a vision for the county and what purpose libraries would serve. His plan brought new buildings to Cross Lanes, Sissonville, a combined public/school library at Riverside High, and a designed replacement for the downtown Charleston library.

An institution that serves all people, libraries remain a beacon for communities because of the more than twenty years John has spent as board president. He led the rapid development as card catalogs were replaced by electronic catalogs. He came up with a long-range plan that would bring new buildings to the county to ensure that libraries could continue to serve their public function.

It is an honor to recognize John L. Ray. With his hard work and leadership, we are able to celebrate 100 years since the opening of the Charleston Public Library. It says great things about West Virginia to have people like you represent our great state.

EARMARK DECLARATION

**HON. AARON SCHOCK**

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, November 17, 2009*

Mr. SCHOCK. Madam Speaker, in accordance with the Republican adopted standards on earmarks, I submit the below detailed explanation of the Peoria Riverfront Development, Peoria, Illinois.

Bill Number: H.R. 3183—Energy and Water Development and Related Agencies Appropriations Act, 2010

Provisions/Account: U.S. Army Corps of Engineers—Investigations

Name and Address of Requesting Entity: The entity to receive funding for this project is the Rock Island District of the U.S. Army Corps of Engineers located at Clock Tower Building, P.O. Box 2004, Rock Island, IL 61204.

Description of Request: The funding would be used to enhance aquatic habitat in the Peoria Lake.

CONGRATULATING "THE WAVE"

**HON. ANTHONY D. WEINER**

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, November 17, 2009*

Mr. WEINER. Madam Speaker, I rise to recognize the extraordinary work of the journalists, editors, and staff of the Wave, a neighborhood newspaper in Rockaway, Queens that was recently named "The Best Neighborhood Paper" in New York City by New York's Village Voice.

The Wave has been serving the many communities of the Rockaway peninsula for 116 years. Each Friday, residents read this venerable publication not only to stay informed about the peninsula, but also to make sure their voices are heard and not forgotten by City Hall, Albany, and our nation's capital.

The Wave's managing editor Howard Schwach, and all its reporters have been instrumental in turning this local weekly into the most widely read newspaper in Rockaway. Through their work these journalists remind us all of the essential role that the neighborhood press play in telling the stories often missed in the commotion of cable television and the twenty-four hour news cycle.

This outstanding newspaper has covered everything from shootings and burglaries to the mystery surrounding the abrupt shuttering of a long-time Catholic high school. Furthermore, it provides a crucial forum for residents to express their opinions on happenings in their community, problems affecting their city, and issues of concern throughout the country.

It is the stories that they tell which should remind us all of the "facts on the ground"—the stories to inform and inspire our policy and legislative work. It can change the world by making seen the invisible, teaching the unknown, and challenging the conventional wisdom.

We all should commend The Wave; its publisher, Susan B. Locke; its general manager, Sanford M. Bernstein; its managing editor, Howard Schwach; its art director, Felicia Scarola-Edwards; its sports editor, Elio Velez; its staff reporter, Nicholas Briano; its contributing editor, Miriam Rosenberg; art assistants James Corbin, Carolina Cohen, Mike Delia, Judy Gardonyi, Colleen Mulvey, Janette Rappo, and Don Rodriguez; and columnists Erin Baumann, Nancy Brady, Jon Paul Culotta, Dorothy Dunne, Dr. Nancy Gahles, Marilyn Gelfand, James Glasser, Liz Guarino, Susan Hartenstein, Emil R. Lucev, Linda

Marshak, Stuart Mirsky, Dr. Tim Rohrs, Mornam Scott, Robert Snyder, Robin Shapiro, and Stephen Yaegar for their incredible work and congratulate them all for this honor.

A TRIBUTE TO ELAINE ARM-  
STRONG VALL-SPINOSA COCH-  
RAN DUNKLE

**HON. STENY H. HOYER**

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, November 17, 2009*

Mr. HOYER. Madam Speaker, I rise today to recognize Mrs. Elaine Armstrong Vall-Spinosa Cochran Dunkle for her inspiring leadership and devoted service to both her community and country. For the past 54 years she has applied her considerable skill to promoting civil discourse and civic engagement across both state and party lines. She has served, and continues to serve, as a bastion of inspiration for those who adhere to the principle that democracy is not an idle state, but a work in progress that expects our involvement should it seek to endure.

On May 14, 1915, Elaine was born into a society that did not permit women to vote. Five years later, Congress ratified the 19th Amendment, giving women the right to vote under the U.S. Constitution. Elaine can recall her father giving her mother instructions on how the voting process worked. It was a memory she carried with her when, at age 21, Elaine cast her first ballot for Franklin Delano Roosevelt in the 1936 Presidential election.

After college, Elaine became a history teacher, and it was at the helm of a classroom that she first experienced a deep connection with politics. She felt a tremendous sense of responsibility to the children she taught, and to honor that, took the time to educate herself and them on the great issues of their day, such as Roosevelt's "New Deal" and the Marshal Plan. She left teaching, however, to raise her own family and it was shortly thereafter that Elaine was invited to a life-changing meeting of Virginia's League of Women Voters.

Rising the ranks within Virginia's delegation, Elaine soon found herself guiding the League in an attempt to prevent Congress from dismantling price controls in the midst of the Great Depression. Believing that price controls were crucial to keeping household staples affordable for the average Depression-stricken family, she led a motorcade with League representatives from all 48 states to the Capitol. Together, they succeeded in convincing Congress to delay the dismantling of those controls.

Years later, Elaine was still active within the League of Women Voters. Now residing in Maryland, she played a vital role in a countless number of the League's Calvert County endeavors. As President of the Calvert County unit, she oversaw a number of initiatives aimed to increase public awareness of political issues. These included the hugely popular "Know Who's in Charge" pamphlet and the Calvert County Voter's Guide. One of her reigning achievements was her League's invaluable role in building the Chesapeake Bay

Coalition—a union of five states joined in the fight to preserve and protect America's largest estuary. With the use of independently-funded studies, Elaine and her League members poured endless hours into persuading policymakers that it was the right action to take for our country. They succeeded.

Madam Speaker, Thomas Jefferson once wrote that "we in America do not have government by the majority—we have government by the majority of those who participate." Elaine Cochran Dunkle has spent her life participating and as a consequence has left a lasting mark on our country. I extend my sincerest thanks for her tireless commitment to our nation and for all the many accomplishments that commitment has engendered.

CONGRATULATING THE UNIVER-  
SITY OF SOUTH CAROLINA'S  
WOMEN'S SOCCER TEAM

**HON. JOE WILSON**

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, November 17, 2009*

Mr. WILSON of South Carolina. Madam Speaker, I would like to congratulate the University of South Carolina's Women's Soccer team for winning their first Southeastern Conference tournament title. The Gamecocks had only three regular season losses and beat Georgia, Florida and LSU to clench their first SEC title.

On Sunday, the Gamecocks not only recorded their second shutout in the first two rounds of the NCAA tournament, but USC Coach Shelly Smith also claimed her 100th win at USC. Now the team will advance to the round of 16 for the first time in program history.

With leaders like defender Blakely Mattern, forwards Kayla Grimsley and Brooke Jacobs, co-captain Kim Miller, and goalkeeper Mollie Patton, I'm confident the USC women's soccer team will make us all proud.

Congratulations to the student athletes and their families—we wish them luck as they make their run for a national title.

In conclusion, God bless our troops, and we will never forget September 11th in the Global War on Terrorism.

HONORING GEORGE ELLMAN

**HON. LYNN C. WOOLSEY**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, November 17, 2009*

Ms. WOOLSEY. Madam Speaker, I rise today to honor George Ellman of Sonoma, California, who died on September 27, 2009, after a lifetime of community activism, leadership, and dedication to protecting the environment which included promoting public transit in Marin and Sonoma Counties.

Born in Chicago in 1923, Mr. Ellman received a degree in biochemistry at the University of Illinois and completed a master's degree at the University of Washington where he met his future wife, Phyllis. The Ellmans

moved to Pasadena where George earned a Ph.D. at Cal Tech. In 1957, as a young scientist at Dow Chemical Co. in Michigan, he developed the Ellman Reagent, which became the standard clinical lab procedure for measuring enzymes and proteins. Moving to Tiburon in 1958, George was the chief research biochemist at the Langley Porter Neuropsychiatric Institute and professor in the Department of Biochemistry at UC Medical Center.

With a passion for public service, George served on the Tiburon Parks and Recreation Committee and was elected to the Tiburon City Council, serving as Mayor, and representing the city of Tiburon on the Bay Conservation and Development Commission and the influential Bay Area-wide Metropolitan Transportation Commission, where he developed a lifelong interest in transportation issues. While living in Tiburon, George and Phyllis were active in the effort to keep Richardson Bay from being filled and developed. They helped preserve and protect Blackie's Pasture and Lyford House, which kept them from becoming part of a proposed 4-lane expansion of Tiburon Boulevard.

After moving to Sonoma County in 1980, George devoted himself to helping the environment. He served for 28 years on the board of "People for Open Space" which became Greenbelt Alliance, and used this experience to help forge the Sonoma County Agricultural Preservation and Open Space District in 1990. George also served as a board member of the National Audubon Society and went on to help establish the Sonoma Ecology Center.

Mild mannered and good humored, George was a respected activist with an unrelenting persistence to do the right thing. With a passion for public transit, George worked tirelessly to bring back passenger rail service linking Sonoma and Marin Counties. The biggest booster for the Sonoma Marin Area Rail Transit, SMART, George lived to see voters pass the quarter-cent SMART sales tax measure last November, which will help fund the 70-mile rail service through the two counties. Scheduled to roll down the tracks in 2014, the SMART board has agreed to honor his request that his ashes ride on the first SMART train out of the station.

Dr. Ellman was also a classically-trained pianist and co-founded the Sonoma Classical Music Society. Dedicated to the environment, environmental education and bringing music to the community, to sustain this, the Ellmans established the Ellman Fund at the Community Foundation of Sonoma County.

George was a devoted husband and father. His wife of 60 years, Phyllis, died last June. He is survived by his daughter, Judy Ellman of San Francisco; brother, Charles of Georgetown, Kentucky, and many nieces and nephews.

Madam Speaker, George Ellman will be missed by so many who shared in his work and dreams. He believed that creating a better world was both necessary and possible. It is fitting to recognize his dedicated efforts to preserve open space in Marin and Sonoma Counties as well as his tireless leadership to help reduce carbon emissions, promote smart growth, and bring back commuter rail service. I join the many people who will miss George

Ellman's inspiration, friendship and bright spirit.

CONGRATULATING THE MESA  
FIRE DEPARTMENT VOLUNTEER  
CORPS ON RECEIVING THE FIRE  
CORPS AWARD OF EXCELLENCE

**HON. HARRY E. MITCHELL**

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, November 17, 2009*

Mr. MITCHELL. Madam Speaker, I rise today to congratulate the Mesa Fire Department Volunteer Corps for winning the 2009 Award of Excellence. Sponsored by the International Fire Service Training Association, this award recognizes the department's outstanding performance in delivering fire and emergency services.

The Mesa Fire Department created the Volunteer Corps in 1998 in order to better connect residents to vital community services after recognizing a gap in their own service. After emergency personnel responded to an initial 9-1-1 call and left the scene, residents were often unaware of further resources available to them. What began as a small cadre of 10 committed volunteers has since grown into a far-reaching program of 130 volunteers responding to over 3,800 calls every year.

The Volunteer Corps is made up of several programs which provide services such as emergency scene transport, grief support, and home safety inspections. In 2008, the Corps provided 29,000 hours of service and saved the community \$585,599.

Particularly during these tough economic times, it is heartening to see so many members of our community devoting their time and energy toward serving one another. I think these volunteers should be proud of what they have accomplished, and know that we are all grateful for their service.

PERSONAL EXPLANATION

**HON. JIM GERLACH**

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, November 17, 2009*

Mr. GERLACH. Madam Speaker, unfortunately, on Monday, November 16, 2009, I missed three recorded votes on the House floor. Had I been present, I would have voted "yea" on rollcall 889, "yea" on rollcall 890, and "aye" on rollcall 891.

HONORING ED EAMES

**HON. ROBERT J. WITTMAN**

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, November 17, 2009*

Mr. WITTMAN. Madam Speaker, I rise today to pay tribute to Mr. Ed Eames.

Ed Eames was a resident of Fresno, California and was a committed advocate for individuals with disabilities. At the age of 42, Mr.

Eames lost his sight and this life-altering circumstance motivated him to strive for the improvement of services for the disabled.

Ed was a devoted husband to his beloved wife, Toni, who is also blind. They met when he was writing a book on guide dog schools and asked her to be a co-author. Ed and Toni co-authored two books, numerous magazine columns and articles, and even scripted the award-winning video, "Partners in Independence". The couple also co-taught a class on the sociology of disabilities at California State University, Fresno. Furthermore, along with their guide dogs, Latrell and Keebler, Ed and Toni traveled the world to further their joint commitment to assistance dog programs for the disabled.

Mr. Eames was active in his community and was a fervent supporter of the addition of sidewalks for wheelchair ease and accessibility in the Fresno area. Mr. Ed Eames was the founder and President of the International Association of Assistance Dog Partners. He served on the Americans With Disabilities Act Advisory Committee for Fresno Area Express and was also a member and former president of the North Fresno Lions Club.

On October 25, 2009 at the age of 79, Ed Eames passed away. He will be greatly missed by all who knew him and the work that he did for the disabled will never be forgotten.

HONORING THE LIFE AND SERVICE  
OF MORRIS BENJAMIN ZEIDMAN

**HON. PETE OLSON**

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, November 17, 2009*

Mr. OLSON. Madam Speaker, I rise today to honor the life of a great American—a man who gave much for his community and country, Morris Benjamin Zeidman, who passed away on November 13.

Mr. Zeidman was born on February 21, 1909 in Brooklyn, New York. He met and married Beatrice Schwartz, who he accompanied back to Wharton, Texas. It was in Wharton that Mr. Zeidman got his start in business by joining the Schwartz family's dry goods store. He ran the store until his retirement in 1992. In 1990, he lost his wife Beatrice. In 1994, Mr. Zeidman married his second wife Marjorie Franklin. They shared eleven joyous years until her death in 2005.

Morris Zeidman served his country in World War II and fought in the D-Day Invasion on June 6, 1944. Throughout his life, Mr. Zeidman served his community as a leader in numerous organizations, including the Lions Club, the Shriners, the Chamber of Commerce, the American Legion, the Wharton Industrial Foundation, and the Boy Scouts of America. He also served as president of the Shearith Israel Synagogue and was active with B'nai B'rith.

Morris Zeidman led a life that was truly admirable and that placed service to country and others above self. Our thoughts, prayers, and sympathy go out to all the family members of this truly great American.

CONGRATULATIONS LEE COLLEGE  
75TH ANNIVERSARY

**HON. TED POE**

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, November 17, 2009*

Mr. POE of Texas. Madam Speaker, congratulations to Baytown's Lee College on entering its 75th academic year. It is one of the fastest growing community colleges in the nation with over 9,000 enrolled students. Furthermore, Lee College offers over 130 degrees and certificates, and is 6th in the nation for degrees awarded in science and technologies.

In 1931, the Board of Trustees of the Goose Creek Independent School District agreed that a local junior college should be established. Three years later, in 1934, Lee Junior College was founded to serve that purpose. Since its creation, Lee College has seen significant expansion. Enrollment for Lee College's opening semester was a mere 177 students, but current enrollment is more than 50 times that initial number, with over 9000 students enrolled in academic, technical education, and non-credit continuing education programs at the college.

With Lee College students going on to contribute in vital areas of our society, this college has become a very valuable institution of education for my district and for Texas.

TRIBUTE TO AMY ELIZABETH  
CORWIN

**HON. BRAD SHERMAN**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, November 17, 2009*

Mr. SHERMAN. Madam Speaker, I rise today to honor the life of Amy Elizabeth Corwin, who tragically passed away on July 2, 2009 after a long battle with a brain tumor. Amy served as an intern in my District Office during the summers of 2004 and 2005. Her intellect, warm and engaging personality, and enduring strength have left an indelible impact upon me and my staff.

Amy was born on January 26, 1984 to Joel and Linda Corwin of Westlake Village, California. She had one younger sister, Diana Corwin. From an early age, Amy expressed a love of cultures and travel and a keen aptitude for learning foreign languages. She enjoyed learning about history and architecture, attending the theatre, and exploring museums. While a student at Emory University, Amy spent a semester abroad in Salamanca, Spain, where she immersed herself in the local culture. In Salamanca, Amy stayed with a host family who spoke no English, and she took classes given strictly in Spanish that were attended by Spaniards and students from all over the world. Amy would go on to graduate from Emory in 2006 with her Bachelor of Arts degrees in Political Science, Spanish and Portuguese.

During her internship, Amy served as an invaluable member of my District Office team. On numerous occasions she effectively assisted my Spanish-speaking constituents. In

addition to her constituent-service skills, Amy acted as a mentor to new interns. Her warmth, ability to relate to people, and knowledge of public policy issues were evident. Amy effortlessly and ably engaged in political discussions and it became clear that Amy was indeed wiser than her years.

More than anything else, Amy loved spending time with her family and friends. She was a warm and loving daughter, sister, and friend. She was intelligent, compassionate and wanted to find a way to make the world a better place for everyone she encountered. Amy was a terrific athlete and a fierce competitor on the tennis court, and she applied this mentality to all areas of her life. When confronted with a terrible illness, she fought valiantly and she never lost hope that she would beat the disease. Amy was a selfless and caring individual who never wanted to burden others with concerns about her health. She never allowed her illness to change who she was; she remained optimistic and upbeat throughout her life. She wished to be remembered for the person she was, not the illness she endured.

Although Amy's years on this planet were short, her life, nevertheless, was rich. And for all those who had the privilege of meeting or knowing Amy, our lives were made richer as a result. I offer my deepest condolences to Joel, Linda, Diana and to the rest of Amy's family and friends. She will be greatly missed.

HONORING PAM HEAVENS FOR  
HER TWENTY YEARS OF SERVICE  
AS EXECUTIVE DIRECTOR OF  
THE WILL-GRUNDY CENTER FOR  
INDEPENDENT LIVING

### HON. DEBORAH L. HALVORSON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, November 17, 2009*

Mrs. HALVORSON. Madam Speaker, this fall Pam Heavens celebrates her twentieth year as Executive Director of the Will-Grundy Center for Independent Living. On behalf of the 11th Congressional District of Illinois, I would like to commend Pam for her years of selfless service on behalf of disabled Illinoisans.

As Executive Director, Pam has fought on behalf of thousands of disabled Will and Grundy County residents. The Center serves disabled citizens young and old, including our brave veterans. By offering services ranging from the Low Vision Loan Center to the Home Ownership Program, the Will-Grundy Center for Independent Living helps people with disabilities achieve their goals.

Pam has successfully led the Center through challenging times. The Center has increased services in the midst of a financial climate that has forced many organizations to cut services as they lose important funding sources.

Aside from her duties running the Center, Pam has worked with non-profits and governmental agencies at the local and state level to improve the lives of disabled persons. For example, through the Accessible Cities Alliance, Pam worked to ensure disabled consumers had access to local businesses through such

efforts as the creation of accessible indoor walkways and the construction of wheelchair ramps.

Pam knows firsthand the importance of fighting for disability rights because she lives with cerebral palsy. Despite this challenge, Pam routinely works a sixty-hour work week on behalf of disabled individuals. Pam's dedication and perseverance should serve as an inspiration to all of us.

### TRIBUTE TO MIDLAND DOW BOYS TENNIS TEAM

### HON. DAVE CAMP

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, November 17, 2009*

Mr. CAMP. Madam Speaker, I rise today to commend the team members of the Midland Dow High School Boys Tennis Team. They have represented the town of Midland well with their perseverance and athleticism, and we are very proud of their accomplishments.

The Chargers won the Division Two Boys State Tennis Championship on Saturday, November 17, 2009, after defeating Battle Creek-Lakeview High School: 30-23. This win gives Midland Dow their first Boys Tennis state championship since 1984.

Additionally, this Chargers team was the embodiment of both teamwork and determination. Led by Coach Terry Schwartzkopf, these boys were also models of sportsmanship and set good examples on and off the court.

Team members include: Juan Guerra, Alekzander Davila, Santiago Guerra, Jonathan Gurnee, J.P. Gurnee, Jon Templeman, Austin Woody, Kevin Winegar, Jacob Poliskey, Nate Karsten, Brandon LaFreniere, Alex Haslam, David Read, and Scott Kendall.

I am honored today to recognize the Midland Dow Boys Tennis Team for their accomplishments, and congratulate them on their state championship.

### HONORING ANGEL TORRES

### HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, November 17, 2009*

Ms. ROS-LEHTINEN. Madam Speaker, I rise to congratulate Angel Torres, distinguished journalist and member of my South Florida community, for receiving the 2009 National Award for Journalism given by the National Journalists Association of Cuba in Exile. It is with great pride that I recognize his exemplary work and dedication to sports and journalism throughout the years. Angel, born in La Havana, Cuba, always shared a great passion and interest for baseball. He started playing in the Free Amateur Tournaments of the Stadium with San Pedro and later became manager-player in the Winter Amateur Championships of Octavio Diviñó at Arroyo Naranjo supervising Nebraska, where he received a medal for his distinguished handwork of the immortal Martin Dihigo.

Torres graduated from the Cuban-American Institute and the English Special Center at

Jesús del Monte in 1947. By 1952 he graduated of Broadcasting and Journalism sponsored by the National Broadcasting School of Cuba in Radio Progreso. Throughout his sterling service to journalism, he wrote commentaries on sports and jazz for numerous programs like "Pequeños Conjuntos de Grandes Músicos" and "Bandas Innovadoras de Jazz", among many others. After arriving to the United States this inspiring journalist became the only Latin-American and Cuban author with five books in the Baseball Hall of Fame at Cooperstown, New Jersey. His sports literature served as a renewed hope for Cubans in exile to remember and restart Cuban baseball in the veteran games in New Jersey and Miami. At the same time his work created awareness about Cuban baseball players and about the extinct Professional Cuban Baseball League. As a journalist and member of the Cuban community, Angel Torres was presented in January 28, 2007 by the Patronato José Martí in California, with the most prestige recognition to a Cuban in exile, the White Rose of the commemoration to Apostle José Martí.

Once again, I would like to express how proud I am of Angel for his dedication to journalism, baseball and the Cuban community. His legacy in sports and journalism will serve as an example for our community and as inspiration for everyone to pursue their goals and dreams with commitment and passion.

### 20TH ANNIVERSARY OF THE FALL OF THE BERLIN WALL

### HON. FRANK R. WOLF

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, November 17, 2009*

Mr. WOLF. Madam Speaker, "Mr. Gorbachev, tear down this wall."

Against the counsel of the State Department and others in Washington's foreign policy establishment, President Reagan uttered these six words standing at the Brandenburg Gate June 12, 1987—words that marked his presidency and defined an era.

Former Soviet spy Whittaker Chambers famously said when he defected that he believed he was joining the right side by rejecting communism, but that he was leaving "the winning side for the losing side."

Reagan however, who was himself indelibly shaped by Chambers' account of his defection in the historic book *Witness*, always believed he was on the winning side.

Unbothered by those who cautioned that he would offend the Soviets, Reagan, the eternal optimist, felt compelled to issue this challenge to Gorbachev believing what seemed to be unimaginable at the time—that one day the wall would in fact fall.

Erected in 1961 the Berlin Wall was an enduring symbol of communism—a physical manifestation of the divide between East and West, free and captive.

With rapt attention, many Americans gathered around their televisions 20 years ago as scenes emerged of East Berliners pouring across the border, tearfully embracing strangers, and raising glasses of champagne as they

rejoiced with West Berliners in their newfound liberty—the free world rejoiced with them.

For decades an epic struggle had been underway between two vastly different ideologies. Then, in the span of a year, three giants converged on the world scene and human history was forever changed. England's Iron Lady, Margaret Thatcher, Poland's native son, Pope John Paul II, and our own Ronald Reagan boldly championed freedom, inspired hope in millions and gave those living behind the Iron Curtain the courage to imagine a world transformed.

While the Soviet Union is relegated to the history books, today there remain ideologies that threaten human freedom and dignity. There remain governments who rule by fear. There remain people held captive in their own nation.

Similarly, there are those who still warn that America ought not meddle in other countries' internal affairs. There are still those who caution against disrupting bilateral relations. There are still those who maintain that the desire for freedom and basic human rights is not universal.

But the events of 20 years ago teach us something very, very different.

Ask the Sharanskys and Solzhenitsyns whose lives in prison improved when leaders in the West spoke out on their behalf. Ask the thousands of East Berliners who, facing certain death if caught, dug tunnels, constructed hot air balloons and built pulleys in their desperate attempts to escape a literal prison.

There are lessons to be drawn from this anniversary—lessons which must inspire our foreign policy today. People yearn for freedom, they crave dignity. These things are not bestowed by the government and as such cannot forever be denied by the government. People are inspired by words. Dictators cower when their lies are exposed. And seemingly impenetrable regimes can find themselves on "ash heap of history."

#### COMMENDING THE WINNERS OF THE 2009 NOBEL PRIZE IN MEDICINE

### HON. JOHN P. SARBANES

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, November 17, 2009*

Mr. SARBANES. Madam Speaker, I would like to commend the winners of the 2009 Nobel Prize in Medicine, particularly Dr. Carol W. Greider, a professor of molecular biology and genetics at Johns Hopkins University School of Medicine, for discovering how chromosomes are protected by telomeres and the enzyme telomerase. The research of Dr. Greider, along with her colleagues Dr. Elizabeth H. Blackburn and Dr. Jack W. Szostak, has created a greater understanding of how chromosomes protect themselves from degrading when cells divide. This has unlocked mysteries about the human aging process and will have an enormous impact on fighting cancer and many other inherited diseases caused by telomerase defects.

I applaud Dr. Greider's outstanding achievement as it reflects many years of study and

hard work, a deep commitment to scientific innovation, and a desire to have a positive impact on peoples' lives. Her achievement is all the more significant in that only 8 of the 192 individuals to receive this prize have been women. I hope her success will inspire young women to enter the field of science.

Congratulations to these scientists for their groundbreaking work in the field of medicine and for their extraordinary contributions to humankind.

#### HONORING ERROTABERE RANCHES

### HON. JIM COSTA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, November 17, 2009*

Mr. COSTA. Madam Speaker, I rise today to pay special tribute to a family farming operation whose owners exemplify the spirit of fortitude, entrepreneurship, and advocacy demonstrated by so many of those who strive to provide food and fiber to our great Nation. Much has contributed to California's bountiful agriculture industry and economic well-being, but one significant underlying factor in California's agricultural success has been the presence of families such as the Errotabere family. A diversified family farming operation in Fresno County, Errotabere Ranches is being honored on November 18, 2009 in Fresno, California as the 2009 Baker, Peterson & Franklin Ag Business Award recipient.

Though the Errotabere story didn't begin in the United States, the Errotabere family has clearly added strength to the fabric of this great Nation since coming to America. Jean Errotabere was born in a French-Basque village in France called Aldudez just two miles from the Spanish-French border. He came to Riverdale, California in the late 1940s to work with his brother on their ranch which was started in the late 1920s. Georgianne, a native of Vancouver, Canada, also came to the Central Valley of California to look for work. While waitressing at the Santa Fe Basque Restaurant in downtown Fresno, now known as the Sheppard's Inn, she met Jean Errotabere and their life together began.

Over the next 3 decades, their family and their business continued to grow and at the time of Jean's death, in 1979, their sons Dan, Jean and Remi, took over the ranch operations. Together with their wives Susan, Colleen, and Maureen the Errotaberes have developed a diversified family farming operation that now spans over 5,500 acres throughout western Fresno County. Among the crops the operation grows are almonds, pistachios, processing tomatoes, garlic, pima cotton, alfalfa, wheat, safflower, Romaine lettuce, processing onions, seed lettuce, cantaloupes and honeydew melons.

Errotabere Ranches has been actively involved in Agricultural Organizations, Riverdale schools, the Jordan College of Agriculture Sciences and Technology at California State University, Fresno and the Fresno County Farm Bureau. Errotabere Ranches President Dan Errotabere has been recognized and praised as a crusader for agricultural water issues, including his role in negotiating the his-

torical treaty between Westlands Water District and the Friant Water Users Authority in 2004.

"This great Valley that we have is certainly the envy of the world," Errotabere was recently quoted as saying. "It's a promising story for California that agriculture can do as much as it can."

It is a pleasure to honor and congratulate the Errotabere's "can-do" attitude and repeated earnest advocacy for Agriculture. The Errotaberes are truly deserving of this great honor and I salute the entire family for their accomplishments and contributions to Agriculture in California and the Nation.

#### WORLD DAY OF REMEMBRANCE FOR ROAD CRASH VICTIMS AND THEIR FAMILIES

### HON. ROBERT WEXLER

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, November 17, 2009*

Mr. WEXLER. Madam Speaker, I rise today in observance of the World Day of Remembrance for Road Crash Victims and their Families, which was observed on Sunday, November 15, 2009, as well as to offer my heartfelt condolences to all those who have lost loved ones to road crashes.

The third Sunday in November was designated as World Day of Remembrance for Road Crash Victims by the United Nations earlier this decade, and in support of this effort, both the House of Representatives and Senate unanimously passed concurrent resolutions during the 110th Congress. This day allows us all to reflect upon the more than 1.3 million people worldwide who die on the world's roads each year, as well as the more than 50 million who are injured. An estimated 44,000 of those deaths occur in the United States, and the global death and injury toll is rising precipitously. At the current rate of growth, road crashes will be the fifth leading cause of death by the year 2030, rivaling the top global health epidemics.

Road crashes do not discriminate; they know no bounds of age, class, gender, race, nationality, or geography. Globally, more than 40 percent of all road traffic deaths occur among individuals under 25 years old, and crashes are the leading cause of death for children and young adults aged 10–25 years old. Over the next decade, this is estimated to become the leading cause of death for children 5 and older worldwide.

In some African countries, up to half of all hospital surgical beds are occupied by road crash victims, while in others the fatalities rank second only to HIV/AIDS. Here in the U.S., road crashes are the leading cause of death for Hispanics under 34 years of age. The human cost of this problem is unfathomable: 1.3 million deaths per year is the equivalent of 10 jumbo jets crashing each day.

Road crashes also come at a great cost to the global economy. It is estimated that road crashes cost \$518 billion globally each year. In developing countries, road crashes have a dramatic impact on their fragile economies, costing an estimated \$100 billion, often exceeding the total amount received by these

countries in development assistance. Furthermore, road crashes affect first responder services, health care services, and health insurance services, as many victims require extensive, and expensive, critical care, as well as follow-up care and rehabilitation. In countries where a primary bread winner is killed or injured, or must care for the injured, this can destroy livelihoods and devastate communities.

Road crashes are predictable and can be prevented, however, and America is playing a critical, active role domestically and internationally to address this epidemic. Earlier this year, the Congressional Caucus on Global Road Safety, which I am privileged to co-chair along with Congressman CHRIS VAN HOLLEN of Maryland and Congressman DAN BURTON of Indiana, introduced House Concurrent Resolution 74, supporting a decade of action for road safety with a global target to reduce by 50 percent the predicted increase in global road deaths between 2010 and 2020. This resolution also urged the Obama Administration to take a leadership role at the First Ministerial Conference on Road Safety, to be held in Moscow later this week. The House of Representatives heeded the call to action on road safety and achieved a significant step toward reversing the increase in road deaths and injuries by unanimously passing H. Con. Res. 74 on September 23 of this year.

As more Americans travel abroad and more of our college students participate in study abroad programs in developing countries, many of them will be at risk of injury or death due to hazardous road conditions. Now is the time to foster the courageous initiatives building around the world to keep our citizens and our loved ones safe, and Madam Speaker, as we commemorate World Day of Remembrance for Road Crash Victims this year and look forward to the First Global Ministerial Conference on Road Safety in Moscow later this week, I urge my colleagues to work with the Obama Administration toward enacting meaningful policy reform, both at home and abroad.

**CELEBRATING 80 YEARS OF SERVICE OF THE SEEING EYE IN MORRISTOWN, NEW JERSEY**

**HON. RODNEY P. FRELINGHUYSEN**

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, November 17, 2009*

Mr. FRELINGHUYSEN. Madam Speaker, I rise today to honor the very dedicated employees, volunteers, and graduates of The Seeing Eye in Morristown, New Jersey, on their 80 years of service.

Dorothy Harrison Eustis and Morris Frank had a dream to make the world completely accessible to the blind and visually impaired, and in 1929, The Seeing Eye was established to make their dream a reality. Since its inception, The Seeing Eye has enhanced the independence and self-confidence of the blind and visually impaired. The Seeing Eye pioneered the use of dogs to guide the blind, and today, the organization has successfully trained over 15,000 Seeing Eye dogs and matched them

with more than 8,000 blind or visually impaired owners. Additionally, many area families have volunteered to rear generations of Seeing Eye puppies—nurturing them to accomplish their special destiny.

Twelve times every year, up to 24 visually impaired students from the United States and Canada come to Morristown to enter a twenty-seven day instructional program and are matched with a dog. The instruction includes traveling through high traffic and residential streets, shopping malls, and bus routes. Upon the completion of the program, the graduates are able to safely navigate their hometowns with the support of their Seeing Eye dogs. In fact, most every day on Morristown streets, The Seeing Eye trainers, students and their remarkable dogs can be seen training where pedestrians and drivers alike respect their presence. The Seeing Eye also provides follow-up care and even visit graduates' home to aid them in adjusting to their new accessibility to their environments.

Today, The Seeing Eye is a pioneer in canine genetics and medical research. It also advocates for the concerns of those with visual impairments—such as pedestrian safety and the dangers of quiet cars—by working with legislators, writing letters on behalf of those experiencing discrimination, and researching technologies to make crosswalks safer.

Madam Speaker, for the past 80 years, The Seeing Eye has provided an unprecedented service to the blind and visually impaired community, and I hope it can continue its invaluable service for many years to come. I urge you, Madam Speaker, and my colleagues to join me in congratulating all of those involved with The Seeing Eye on its 80th Anniversary.

**PERSONAL EXPLANATION**

**HON. J. GRESHAM BARRETT**

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, November 17, 2009*

Mr. BARRETT of South Carolina. Madam Speaker, unfortunately, I missed the following recorded votes on the House floor on Monday, November 16, 2009.

Had I been present I would have voted "aye" on rollcall vote No. 889, on motion to suspend the rules and agree to S. 1314; "aye" on rollcall vote No. 890, on motion to suspend the rules and agree to H.R. 3539; "aye" on rollcall vote No. 891, on motion to suspend the rules and agree to HR. 3767.

**PERSONAL EXPLANATION**

**HON. ADAM SMITH**

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, November 17, 2009*

Mr. SMITH of Washington. Madam Speaker, on Monday, November 16, 2009, I was unable to be present for recorded votes. Had I been present, I would have voted "yes" on rollcall vote No. 889 (on the motion to suspend the rules and pass S. 1314), "yes" on rollcall vote

No. 890 (on the motion to suspend the rules and pass H.R. 3539), and "yes" on rollcall vote No. 891 (on the motion to suspend the rules and pass H.R. 3767).

**H. RES. 866, VETERANS HISTORY PROJECT**

**HON. RON KIND**

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, November 17, 2009*

Mr. KIND. Madam Speaker, I rise today in support of House Resolution 866 which encourages the designation of a National Veterans History Project Week. This resolution encourages increased public participation in the Veterans History Project.

As you may know, the Veterans History Project collects and saves the stories of America's veterans who have bravely served this country from World War I to today's conflicts in Iraq and Afghanistan. This project provides Americans an important way to honor our soldiers: by preserving the story of their service, in their own words, for the use and benefit of future generations.

In 2000, I authored and Congress unanimously passed legislation creating the Veterans History Project. Since its inception, the project has collected more than 66,000 stories and documents. In addition, the Veterans History Project was honored by Harvard University as one of the finalists for the Innovations in American Government Award competition in 2005.

Since the beginning of our Nation, the soldiers, sailors, airmen, and marines of the Armed Forces have been called on to risk their lives and fight for the ideals that make America great. Regardless of what one thinks about the wars that they fought in, all Americans must agree that the men and women of our Armed Forces have responded to the call of their country and performed with honor and dignity. War veterans and the civilians who have supported them all across this Nation have stepped forward once again, this time answering the call of civic duty by recording their stories and contributing personal documents for the Veterans History Project. Their participation ensures that their accounts are recorded and preserved, becoming a part of this Nation's memory and history.

By passing this resolution today, we can encourage more participation in this important program and ensure that this vital collection of American history continues to grow even further. Capturing the stories of our war veterans is more important now than ever before. We are losing more than 1,700 veterans every day and with them, their firsthand accounts of that war. It is imperative that we capture the stories and personal histories of those veterans before it is too late. The Veterans History Project is instrumental in accomplishing this important goal.

I call upon all members of this body to publicize and promote the Veterans History Project in their own districts and communities. I cannot think of a better way to honor our veterans than by trying to preserve as many of their memories and stories as possible. I urge my colleagues to support this measure.



IN HONOR OF DR. ANGELO  
ARMENTI, JR.

**HON. JOHN P. MURTHA**

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, November 17, 2009*

Mr. MURTHA. Madam Speaker, I rise today to honor Dr. Angelo Armenti, Jr., the president of California University of Pennsylvania. His dedication to education as a professor, dean and university president, in addition to his commitment to philanthropy, has had a great impact on the people of Pennsylvania.

Dr. Armenti received his Bachelor of Science in Physics from Villanova University and his Master's and Ph.D. from Temple University in Special Relativity and General Relativity, respectively. He returned to Villanova as a professor where he remained for 20 years. He subsequently became chair of the physics department, Dean of University College, and Director of Planning at Villanova.

Over the course of his career, Dr. Armenti received the Lindback Foundation Award for Distinguished Teaching and in 1992 was one of only 32 individuals in the nation named an American Council on Education Fellow. He has published many journal articles and the book, *The Physics of Sports*.

Madam Speaker, on May 19, 1992, Dr. Armenti became the 6th president of California University of Pennsylvania. Since then, applications have increased by 90 percent, the average SAT score rose by 95 points and four-year graduation rates rose by 80 percent. The university adopted new academic programs, a general education curriculum, the University Bill of Rights and Responsibilities, and a new governance structure.

During his tenure as president, California University has constructed new buildings including the Eberly Science and Technology Center, the Kara Alumni House, the Duda Classroom Building and six residence halls, as well as renovating several older structures. This construction significantly enhanced the educational and living environments of California University. It also created two major off-campus sites at the Southpointe Business Park in Canonsburg and at the Regional Enterprise Tower in downtown Pittsburgh.

The Washington County Community Foundation named Dr. Armenti and his wife, Mrs. Barbara Armenti, the 2009 Philanthropists of the Year for the scholarships they established at California University and for developing a philanthropic atmosphere throughout the school and community. Dr. & Mrs. Armenti have inspired many students to serve their communities.

In addition, Dr. Armenti serves the educational field by working with the Commission on Higher Education of the Middle States Association of Colleges and Schools. He also serves southwestern Pennsylvania as the Campaign Chair and President of the Mon Valley United Way. Madam Speaker, I conclude my remarks by commending Dr. Angelo Armenti, Jr. for his lifelong dedication to education and philanthropy. I wish him the best as he continues to serve his students and the people of Pennsylvania.

100TH ANNIVERSARY OF THE  
SAINT PAUL'S BAPTIST CHURCH

**HON. ROBERT C. "BOBBY" SCOTT**

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, November 17, 2009*

Mr. SCOTT of Virginia. Madam Speaker, I rise today to celebrate the enduring legacy of a faith institution in the city of Richmond. On Saturday, November 28, 2009, The Saint Paul's Baptist Church will celebrate its 100th anniversary, and in recognition of this milestone I would like to take a moment to reflect on the history of this esteemed church and its contributions to the greater Richmond community.

The Saint Paul's Baptist Church began, fittingly, on Thanksgiving night in 1909, when a group of congregants of First Union Baptist Church received a letter of release to form their own Church. The newly organized Church elected Rev. George Pinkney as its first Pastor. Reverend Pinkney's years were dedicated to establishing the new parish on a firm footing. Under his leadership, the first sanctuary with a seating capacity greater than 50 was constructed on Botetourt Street.

The Saint Paul's family grew considerably in a short period of time under Reverend Pinkney and the church's second pastor and Reverend Pinkney's son, Timothy Pinkney. During the service of Saint Paul's third pastor, Rev. Isaiah Hines (1913–1928), a second sanctuary was built that accommodated the growing church's 200 worshippers.

Saint Paul's underwent significant change under the leadership of their fourth and longest serving pastor, Rev. Journey A. Mosby. During his 40 year tenure, the church expanded its commitment to the development of young people, especially aspiring theological students from nearby Virginia Union University. Reverend Mosby was also responsible for many ministries that still exist in the church today. A new building was once again needed to accommodate the growing congregation. Reverend Mosby launched an expansion campaign on Thanksgiving Day 1950 and by 1957, the church was able to buy an existing facility on the corner of 26th and Marshall Streets in the Church Hill neighborhood. This served as the Church's home for 45 years, and the Parish House is now listed on the National Park Service's National Register of Historic Places.

The Church's fifth pastor, Rev. James Leary, was installed in 1969. Under his direction, the Saint Paul's Baptist Federal Credit Union, the Saint Paul's Housing Corporation, the Saint Paul's Manor, and the J.A. Mosby Scholarship fund were all initiated.

Saint Paul's sixth and current pastor is Rev. Lance Watson, installed in 1985. Under his leadership, Saint Paul's has continued to thrive and expand. Over the last 30 years, the congregation has grown to over 12,000 members. The church has instituted many more ministries including a bookstore, multiple schools, a counseling service, a community development corporation, and a media company that produces weekly recordings of Saint Paul's services and broadcasts them nationally.

In 2002, the Church moved into its present facility on Creighton Road. Although this is

now the heart of Saint Paul's, the church has multiple locations throughout Greater Richmond including the Marshall Avenue facility, which is under development to become a performing arts center. Saint Paul's has been such a positive spiritual influence on the Richmond community that since 2005, two churches faced with the prospect of selling their property on the open market elected instead to give their physical plants to Saint Paul's to help expand its ministry. The church's dedication to "finding needs and meeting them, finding hurts and healing them, finding problems and solving them" has made it an indispensable institution of faith in the Greater Richmond area.

I would like to commend Pastor Watson and the congregation of The Saint Paul's Baptist Church as they celebrate their 100th anniversary. I hope that their next 100 years of service will be as fruitful as their first 100 years.

**OUR UNCONSCIONABLE NATIONAL  
DEBT**

**HON. MIKE COFFMAN**

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, November 17, 2009*

Mr. COFFMAN of Colorado. Madam Speaker, this morning our national debt was \$12,031,299,186,290.07. I should note this is the first time the debt has broken the 12 trillion level. We have added \$39,792,309,877.00 to the national debt since yesterday.

On January 6th, 2009, the start of the 111th Congress, the national debt was \$10,638,425,746,293.80.

The national debt has increased by \$1,392,873,439,996.27 so far this year.

According to the non-partisan Congressional Budget Office, the forecast deficit for this year is \$1.6 trillion. That means that so far this year, we borrowed and spent \$4.4 billion a day more than we have collected, passing that debt and its interest payments to our children and all future Americans.

**PERSONAL EXPLANATION**

**HON. SUSAN A. DAVIS**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, November 17, 2009*

Mrs. DAVIS of California. Madam Speaker, I was absent for three rollcall votes on Monday, November 16, 2009. Had I been present, I would have voted "yea" on rollcall vote Nos. 889 and 890, and "aye" on rollcall vote No. 891. The items of legislation I would have voted on are as follows:

Yea on S. 1314—A bill to designate the facility of the United States Postal Service located at 630 Northeast Killingsworth Avenue in Portland, Oregon, as the "Dr. Martin Luther King, Jr. Post Office".

Yea on H.R. 3539—To designate the facility of the United States Postal Service located at 427 Harrison Avenue in Harrison, New Jersey, as the "Patricia D. McGinty-Juhl Post Office Building".

Aye on H.R. 3767—To designate the facility of the United States Postal Service located at 170 North Main Street in Smithfield, Utah, as the "W. Hazen Hillyard Post Office Building".

RECOGNIZING THE 100TH  
BIRTHDAY OF MORRIS FEIN

**HON. GARY L. ACKERMAN**

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, November 17, 2009*

Mr. ACKERMAN. Madam Speaker, I rise today in recognition of the 100th birthday of Morris Fein on Saturday, November 28, 2009.

Morris Fein is more than a friend; he is an inspiration and a living testament to the American Dream.

Frank and Kate Feintuch migrated from Poland and arrived at Ellis Island aboard the *Polonia* in 1911 with two-year-old Morris. A product of the New York City public school system, Morris began his education at PS 13 and graduated from Stuyvesant High School at the age of 16. Becoming the first member in his family to graduate both high school and college, Morris obtained his Bachelors Degree in History from the City College of New York and graduated with a commission as Second Lieutenant of the ROTC.

In 1936, Morris met and married Vera Rothman, with whom he celebrated his seventy-second wedding anniversary in 2008 before her passing. Morris and Vera lived in Astoria, Queens, in a one-bedroom apartment. They not only raised their three children—Sheldon, Benjamin and Roselyn—there, but Morris also operated his tax practice from the apartment on the weekends. In 1954, the family moved to a three-bedroom single-family home in Flushing, Queens.

To support his family, Morris worked in excess of sixty hours per week, holding at minimum three jobs at any given time. For over 40 years he served as an Investigator/Inspector for the New York State Department of Agriculture, spearheading many investigations of major consequence in the Jewish and secular communities throughout New York State.

Through out his life, Morris has always strongly identified with his Jewish heritage. A strong believer in "giving back" to the community, he played a vital role in creating and maintaining the Queensborough Hill Jewish Center, a house of worship and education for his community. He served as a member of the Executive Board and Board of Trustees, including President and Treasurer, at the Synagogue. He also served as the long-term Financial Secretary and then President of the Hrubishower Sick & Benevolent Society; and was a member of the Queensborough Hill Synagogues Men's Club.

After suffering a hip injury in 2002, Morris and his wife moved to an independent living facility in Huntington Terrace, NY, where he currently resides. A member of the South Huntington Jewish Center in Melville, he serves as President of the "Residents Board" at Huntington Terrace/Brandywine Senior Living.

Morris will be celebrating his 100th birthday with his children, Sheldon, Benjamin and his wife Judy Sharmat, Roselyn and her husband

Edward Rudofsky; with his grandchildren and their spouses, Lee Rudofsky, Gayle Rudofsky, Steven Fein, Leonard Fein, Dr. Samuel Sharmat, Soraya, Juliana and Alissa; and with his great grandchildren, Ethan Fein, Jim Fein, and Sophia Sharmat.

Madam Speaker, I call on all my colleagues in the House of Representatives to rise and join me now in extending our congratulations to Morris Fein on the grand occasion of his 100th birthday.

IN HONOR OF AQUILINO ZARAZÚA

**HON. SAM FARR**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, November 17, 2009*

Mr. FARR. Madam Speaker, I rise today to honor the memory of Aquilino Zarazúa of Carmel Valley, California. Aquilino was an extraordinary man whose infectious smile and peaceful demeanor comforted all those who came into contact with him. Aquilino passed away on September 12, 2009, at age 91, leaving behind an inspiring success story for many immigrant families to emulate.

Aquilino was born on January 4, 1918, in the small town of Santa Catarina, Guanajuato, in central Mexico. When Aquilino was quite young, his mother passed away leaving six children without their mother. Aquilino was the eldest sibling and so he became his father Quintil's trusted companion in raising the family. Aquilino eventually left Santa Catarina to search for other opportunities in neighboring towns and cities and years later made his way to the United States.

In 1945 Aquilino arrived in Chualar, California, as part of the Bracero or guest worker program. The work was arduous and strenuous but Aquilino was determined to persevere and succeed. Aquilino would often state that he would never return to his home town in worse shape than when he left; to do so would be shameful. Later Aquilino would travel to Jalisco, Mexico, with his friend Angel De León, the cook from the labor camp. Some time thereafter Aquilino decided to marry the cook's daughter, Ampelia De León.

Aquilino and Ampelia had three daughters in the United States, all of whom graduated from college. Aquilino instilled in his daughters the value of a formal education and was extremely proud to attend their college graduations. One of his biggest fears was that his daughters would be relegated to toiling in agricultural fields or undertaking menial labor to earn a living. He taught them that a formal education was the only path out of the poverty and limited employment options which many immigrant families had endured.

Aquilino could speak little English, yet he was precise in communicating his thoughts and feelings. His generous and sincere smile would always welcome you and make you feel significant and strong. Aquilino will be remembered for his gentle manner and honesty; his devotion to his family and friends; and his keen ability to impart compassion and understanding to everyone he met.

Madam Speaker, Aquilino Zarazúa has left a legacy in Monterey County and has inspired

many immigrant fathers and families to seek a better life for their children. Thanks to Aquilino we know that the greatest inheritance a child can receive is a father's sense of values and compassion for others. I am certain I speak for the entire House in extending our heartfelt sympathy to Aquilino's wife Ampelia and his daughters Albertina, Blanca and Gladys.

LIEUTENANT COLONEL JUANITA  
WARMAN

**HON. C. A. DUTCH RUPPERSBERGER**

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, November 17, 2009*

Mr. RUPPERSBERGER. Madam Speaker, I rise before you today to honor the life of Lieutenant Colonel Juanita Warman who died honorably serving her country.

Since 2008, LTC Warman has volunteered with the Maryland National Guard's reintegration program, a program designed to help soldiers returning from Iraq and Afghanistan with a variety of issues. She served a year overseas at Landstuhl Regional Medical Center in Germany, the Army facility where those injured in Afghanistan and Iraq are treated before being sent stateside for further medical care. She regularly volunteered for round-trip flights to Iraq to care for soldiers being sent to Landstuhl. Warman was preparing for deployment to Iraq at the time of her death.

A graduate of the University of Pittsburgh, Warman was a certified psychiatric nurse practitioner whose military career spanned more than two decades in active duty and Army reserves. Prior to her exceptional work with the Maryland National Guard, LTC Warman had a civilian practice at University of Pittsburgh Medical Center. She was an expert in post-traumatic stress disorder and traumatic brain injury. Warman also worked at a Veterans Administration facility in Perryville, Maryland.

I commend LTC Warman for her extraordinary commitment to both our country and her fellow service members. She touched the lives of many due to her outstanding sense of volunteerism, unwavering bravery, and dedication to making a difference.

Madam Speaker, I ask that you join with me today to honor the life of Lieutenant Colonel Juanita Warman. The distinguished service Lieutenant Colonel Warman has shown to our country will forever reverberate in our memories. It gives me great pride to honor one of our nation's fallen heroes.

RECOGNIZING THE COURAGE AND  
STRENGTH OF MICHAEL BREWER

**HON. ALCEE L. HASTINGS**

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, November 17, 2009*

Mr. HASTINGS of Florida. Madam Speaker, I rise today to honor 15-year-old Michael Brewer of Deerfield Beach, Florida, whose courage and strength defy the atrocious attack he has endured. Michael sustained burns to

over 65 percent of his body after a group of schoolmates set him on fire in an act of cruel revenge. On October 12, 2009, neighborhood bullies Matthew Bent, 15; brothers Denver and Jeremy Jarvis, 15 and 13 respectively; Steven Shelton, 15; and Jesus Mendez, 15; surrounded Michael in the parking lot of Limetree Village Apartments, poured rubbing alcohol on him, and set him on fire with a lighter. Led by Bent, the bullies sought him out and terrorized him for not paying back \$40 borrowed to buy a video game. Michael had called the police the night before the encounter when Bent attempted to steal a \$500 custom bike from Michael's father at their home.

I am truly shocked and outraged by this heinous crime. Michael still remains in critical condition at the University of Miami-Jackson Memorial Hospital Burn Center and will have to endure a long and painful recovery process. A 7th grader at Deerfield Beach Middle School, he has since received hundreds of cards and letters of support from fellow classmates and well-wishers from around the world. My thoughts and prayers go out to Michael, his family, and friends during this most difficult time. It is heartening to hear that Michael's first surgery went well and that his doctors are cautiously optimistic about his recovery.

In addition, I want to commend the South Florida community for coming together to raise money in order to help the Brewer family pay for Michael's medical expenses. During these difficult economic times, these Floridians have shown their true colors by extending a helping hand to a neighbor in need. In particular, I would like to recognize Neighbors 4 Neighbors for raising more than \$10,000 for Michael, and Broward Sheriff's detective Joe Kessling for his leadership and community activism.

Madam Speaker, we must stop the dangerous values of bullying and violence from being perpetuated in our schools and communities. Young people like Michael deserve a safe educational environment in which they can reach their full potential and become respectful, contributing members of our society.

## TWO NEIGHBORS COME TOGETHER

### HON. STEVE COHEN

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, November 17, 2009*

Mr. COHEN. Madam Speaker, for almost two decades, the Republics of Turkey and Armenia have been meeting to discuss a pathway for normalization of relations. These diplomatic discussions were not easy and often involved complicated multi-dimensional implications. However, on October 10th, the two neighbors signed a historic rapprochement, a ceremony which was followed around the globe.

In the two protocols signed, the two nations agreed to establish diplomatic relations, normalize their bilateral relations in all aspects, open their border and create a framework to determine their joint history. This agreement would not only bring stability to the region, it will also provide an example for other nations to come together to resolve their past disputes.

At their signing ceremony, the Turkish and Armenian foreign ministers were joined by foreign dignitaries from the United States, France, Switzerland, Russia, the European Union, and the Council of Europe. While each country's parliament must now ratify these protocols, we should acknowledge the significant progress for these two neighbors.

The U.S. administrations of the past, as well as the current Obama administration, all support the diplomatic discussions between Turkey and Armenia. I want to commend both countries as they move this historic agreement through their respective parliaments.

## KOREA-UNITED STATES FREE TRADE AGREEMENT

### HON. LYNN A. WESTMORELAND

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, November 17, 2009*

Mr. WESTMORELAND. Madam Speaker, when President Obama meets tomorrow with South Korean President Lee Myung-bak, I encourage him to express his strong support for the Korea-U.S. Free Trade Agreement.

Deepening the important economic ties between our countries benefits both sides. Already, Georgia does billions of dollars in trade with Korea each year. For Georgians in the 3rd Congressional District, this relationship with Korea has yielded tangible benefits: thousands of good-paying jobs.

Korean automaker Kia has opened up a production facility in West Point, GA, and eventually will employ nearly 2,500 people in a region devastated by textile mill closings over the past 30 years. New jobs are always welcome, but they're a lifesaver for many Georgia families as our State suffers with an unemployment rate above 10 percent.

The plant will have a \$6.5 billion economic impact on the local economy, creating up to 20,000 new jobs as a result. Direct Korean investment is bolstering our economy and paying the bills for thousands of families in west Georgia.

Lowering trade barriers between South Korea and the United States will produce more positive outcomes like the Kia plant for communities throughout this nation. Not only will American consumers benefit from cheaper, duty-free products from Korea, but also American businesses will sell more of our products in the Korean market.

In 2007, Georgia businesses exported \$397 million worth of goods to Korea. Removing tariffs on U.S. goods, particularly those competing against protected Korean industries, could significantly increase that number. Agriculture remains my State's No. 1 industry and KORUS FTA would eliminate tariffs and barriers to Georgia farm products such as peanuts, poultry and cotton.

Madam Speaker, for my constituents in Georgia's 3rd Congressional District, the KORUS FTA isn't some academic lecture with line graphs. For Georgians, the benefits are tangible and observable. For the people in West Point, GA, Korean economic investment means jobs. Good jobs. Lots of jobs.

The Congress has dragged its feet on passing this trade deal even though we've seen

previous agreements work. In the first four years of the U.S.-Singapore FTA, Georgia's exports to Singapore have grown 212 percent. Since NAFTA went into effect in 1994, Georgia's combined exports to Canada and Mexico have increased by 194 percent and since entry into force of the U.S.-Chile Agreement in 2004, the State's exports to Chile have grown 93 percent.

I encourage President Obama to keep these numbers—these numbers that represent real jobs for real Americans—in mind when he shakes hands with President Lee tomorrow.

## GUANTANAMO DETAINEE TRANSFER IMPACT ASSESSMENT ACT

### HON. MARK STEVEN KIRK

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, November 17, 2009*

Mr. KIRK. Madam Speaker, recently, the administration announced it may move up to 215 Al Qaeda terrorists to Illinois. This proposal imposes an unnecessary new risk. We should slow down and answer basic questions.

The facility is only 22 miles from a nuclear reactor. What precautions are taken?

Commissions will be in Illinois—how will we protect the families of judges and jurors?

We learned yesterday that two-thirds of the jobs claimed will be active-duty military. The Bureau of Prisons will hire no one over 37 years old and will hire nationwide, not just Illinois.

The United States spent more than \$50 million to build the state-of-the-art Guantanamo Bay detention facility to keep terrorists from U.S. soil. Al Qaeda terrorists should stay where they cannot endanger Americans.

Today I introduced the Guantanamo Detainee Transfer Impact Assessment Act of 2009. My legislation prohibits the transfer of terrorists held at Guantanamo Bay to any location in the United States unless the President presents to the State's legislature a "Homeland Insecurity Impact Statement" conducted by the Government Accountability Office, in consultation with the Inspectors General of the Department of Homeland Security, Federal Bureau of Investigation, and Office of the Director of National Intelligence, and the legislature then approves the transfer by a majority vote.

I encourage my colleagues to join me in ensuring that a thorough threat and risk assessment is conducted and shared with the elected representatives of the American people before any terrorist from Guantanamo Bay is brought to the United States.

## EARMARK DECLARATION

### HON. AARON SCHOCK

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, November 17, 2009*

Mr. SCHOCK. Madam Speaker, in accordance with the Republican adopted standards on earmarks, I submit the below detailed explanation to Replace a Combined Sewer in Peoria, Illinois.

Bill Number: H.R. 2996—Department of the Interior, Environment, and Related Agencies Appropriations Act, 2010

Provisions/Account: STAG Water and Wastewater Infrastructure Project

Name and Address of Requesting Entity: entity to receive funding for this project is the City of Peoria, located at 419 Fulton Street, Peoria, Illinois 61602.

Description of Request: This project is intended to control combined sewer overflows along Spring Street. This is part of a larger community initiative which the City of Peoria has committed \$127 million towards.

**A TRIBUTE TO THE COAST GUARD AND MARINE CORPS PILOTS AND CREWMEMBERS LOST ON OCTOBER 29, 2009**

**HON. DANIEL E. LUNGREN**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, November 17, 2009*

Mr. DANIEL E. LUNGREN of California. Madam Speaker, I rise today to pay tribute to the Coast Guard and Marine Corps pilots and crewmembers lost off the coast of California on October 29, 2009.

On the evening of October 29, 2009, a Coast Guard C-130 based out of Sacramento in California's Third Congressional District was suspected to have collided with a Marine Corps AH-1W Super Cobra.

The following crew members of the Coast Guard C-130 are missing and presumed to have lost their lives in the line of duty: Lt. Cmdr. Che J. Barnes of Capay, California; Lt. Adam W. Bryant, of Crewe, Virginia; Chief Petty Officer John F. Seidman of Stockton, California; Petty Officer 2nd Class Carl P. Grigonis of Mayfield Heights, Ohio; Petty Officer 2nd Class Monica L. Beacham of Decaturville, Tennessee; Petty Officer 2nd Class Jason S. Moletzsky of Norristown, Pennsylvania; and Petty Officer 3rd Class Danny R. Kreder II, of Elm Mott, Texas.

The following crew members of the Marine Corps helicopter are missing and presumed to have lost their lives in the line of duty: Maj. Samuel Leigh of Kennebec, Maine, and 1st Lt. Thomas Claiborne of Douglas, Colorado.

Today we consider House Resolution 891, which expresses the gratitude of the House of Representatives for the service to our Nation that these pilots and crewmembers provided, and extends its condolences to their family, friends, and loved ones.

I also thank the men and women of the Coast Guard and Marine Corps on behalf of my fellow Californians for the untold impact that they have had on the security of our home.

**ARNO HOTT**

**HON. SHELLEY MOORE CAPITO**

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, November 17, 2009*

Mrs. CAPITO. Madam Speaker, I rise today to honor Arno Hott, who is stepping down from

the Hampshire County Commission on Aging after 35 years; 25 served as board chairman.

Arno Hott was born in Kirby, WV, on November 13, 1924. On his 85th birthday we honor him for all the work he has done for Hampshire County. His wife, Dorothy, and four children should be extremely proud as Arno was one of the first board members on the Commission on Aging. What started with just three employees has grown to employ 110 people, making it among the top ten employers in Hampshire County.

We honor him for his time with the Commission on Aging, but his service to Hampshire County reaches much further. A graduate of Shepherd College, Arno taught in Hampshire County Schools for 36 years. He is very active with the community choir, the county fair, as well as the Ruritan Club, where he has been a member for 50 years. An instrumental part in starting a day care for seniors, Arno's involvement in the community has benefited so many and it is only right he receive acknowledgement in return for all his public service.

Having received the Distinguished West Virginian Award from four different Governors as well as the Outstanding West Virginian Award, it is an honor to recognize Arno Hott. It says great things about West Virginia to have people like you representing our great State.

**IN RECOGNITION OF THE 100TH ANNIVERSARY OF THE EQUAL SUFFRAGE LEAGUE AND THE LEAGUE OF WOMEN VOTERS OF VIRGINIA**

**HON. GERALD E. CONNOLLY**

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, November 17, 2009*

Mr. CONNOLLY of Virginia. Madam Speaker, I rise today to recognize the 100th anniversary of Equal Suffrage League and its successor organization, the League of Women Voters of Virginia.

On November 20, 1909, at 4:00 in the afternoon, a meeting was held in the Richmond home of Mrs. Anne Clay Crenshaw. The purpose of this meeting was to lay the groundwork for an organization that would dedicate its efforts to the women's suffrage movement in Virginia. This organization was called the Equal Suffrage League (ESL).

The ESL was not the first organization formed in Virginia with the goal of granting voting rights to women; at least two and perhaps three other organizations had been formed in prior years between 1870 and 1900. But where the prior organizations faded, the Equal Suffrage League was able to maintain its passion and direction and continue the battle for women's suffrage.

The Nineteenth Amendment granting women the right to vote was ratified in August, 1920. Mrs. Anne Clay Crenshaw, at whose home the first ESL was held, wasted no time and registered to vote just days later on September 9, 1920.

On November 20, 1920, exactly 11 years after its founding, the Equal Suffrage League officially changed its name to the League of Women Voters of Virginia. Since that time, the

League of Women Voters of Virginia has continued to expand its involvement and increase the involvement and participation of women in many areas including candidate and issue information, voting guides and laws, advocacy and public issues. There are now 12 local leagues and three Member at Large Units in the Commonwealth of Virginia, all of which continue the work of involving women and ensuring that their voices are heard.

The League of Women Voters of Virginia understands and promotes the fact that when women are informed, they become engaged; when they become engaged, they vote; and when women vote, they get results.

Madam Speaker, I ask my colleagues to join me in congratulating the League of Women Voters of Virginia on the occasion of this anniversary and also to thank the League of Women Voters of Virginia for their tireless work on behalf of the citizens of the Commonwealth of Virginia.

**HONORING THE 100TH ANNIVERSARY OF LOCAL 360 OF THE UNITED ASSOCIATION OF PLUMBERS AND GASFITTERS**

**HON. JERRY F. COSTELLO**

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, November 17, 2009*

Mr. COSTELLO. Madam Speaker, I rise today to ask my colleagues to join me in honoring the 100th anniversary of Local 360 of the United Association of Plumbers and Gasfitters, headquartered in Collinsville, Illinois.

The Plumbers and Gasfitters Local 360 was chartered in 1909 in East St. Louis, Illinois. Situated on the Mississippi River, across from St. Louis and with a number of rail lines passing through it, the East St. Louis area early in the 20th Century was developing into a major industrial center. With commercial and residential development booming as families came to the region in search of work in the factories and stockyards, there was a need for skilled labor and for unions to represent those workers.

Under the original charter, Local 360 represented plumbers, steamfitters, gasfitters, and steamfitter helpers. The original officer was William J. Stewart, who served as secretary for the new local until November 20, 1909.

Local 360 has grown through the years and now represents 230 members in Madison and St. Clair counties. In addition to providing a strong voice for its members and providing the highest quality of labor, Local 360 also is committed to giving back to the communities where its members live and work. The Local provides support for a number of charitable organizations, such as the Shriners, Salvation Army and the Special Olympics.

In 1994, Local 360 moved its headquarters to Collinsville, Illinois. Current leadership is provided by William Hayes, business manager/financial secretary-treasurer; Matthew Popov, recording secretary; Paul Koehne, president; and Thomas Kowalski, vice president. Through their continued commitment to

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quality representation for their members and community involvement, Local 360 is a positive example of organized labor in southwestern Illinois.

Madam Speaker, I ask my colleagues to join me in congratulating the leadership and members of Local 360 of the United Association of

Plumbers and Gasfitters as they celebrate their 100th anniversary.